[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Tuesday, May 16, 2006 11:10 AM
To: Gorsuch, Neil M
Subject: RE: Tried to give you a ring but your mailbox was full! Could you try me next week? 305 1434 Thanks!

I was [redacted] Left you a vm. My cell is [redacted] desk is [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, May 12, 2006 5:45 PM
To: [redacted] (Republican-Conf)
Subject: Tried to give you a ring but your mailbox was full! Could you try me next week? 305 1434 Thanks!

D

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 11:52 AM
To: Shaw, Aloma A
Cc: Bob Hoyt (rhoyt@who.eop.gov)
Subject: FW: Current draft of Cookeville letter to Sen. Frist

Please include Bob in our bicameralism mtg

-----Original Message-----
From: Robert_F._Hoyt@who.eop.gov [mailto:Robert_F._Hoyt@who.eop.gov]
Sent: Tuesday, May 16, 2006 11:07 AM
To: Gorsuch, Neil M
Subject: RE: Current draft of Cookeville letter to Sen. Frist

Neil,

Thanks for sending this along. As for the meeting on Friday, I'd be very happy to attend provided it wouldn't be intruding in any way on your business. If it works, just let me know the time and place.

Bob

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, May 15, 2006 10:37 AM
To: Hoyt, Robert F.
Subject: FW: Current draft of Cookeville letter to Sen. Frist

Just received from CIV. I have set up a mtg for this Friday to discuss all of the bicameralism cases and dig in. Is this something you'd like to attend?

From: Calvert, Chris (CIV)
Sent: Monday, May 15, 2006 10:36 AM
To: Gorsuch, Neil M
Subject: RE: Current draft of Cookeville letter to Sen. Frist

Neil - The incoming letters are attached.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice

Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

From: Gorsuch, Neil M
Sent: Friday, May 12, 2006 5:20 PM
To: Calvert, Chris (CIV)
Subject: RE: Current draft of Cookeville letter to Sen. Frist

please can you send me Frist's letter too?

From: Calvert, Chris (CIV)
Sent: Friday, May 12, 2006 12:01 PM
To: Gorsuch, Neil M
Subject: Current draft of Cookeville letter to Sen. Frist

Neil - Carl asked me to send a copy of the (attached) current draft to you.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 16, 2006 12:24 PM
To: Gorsuch, Neil M
Subject: Re: May 22

Do it. No problem. You've been doing double duty for the last three weeks. Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
CC: Gunn, Currie (SMO)
Sent: Tue May 16 12:05:55 2006
Subject: May 22

If you're going to be in and have no objection, I'd like to take next Monday off. [redacted] and I'd like to take some family time while they're here. But if that poses a problem, please don't hesitate to let me know.

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, May 16, 2006 12:37 PM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 5.16.06
Attachments: CRS AG Weekly 5- 16- 06.doc

Attached, please find the CRS Weekly Report to the Attorney General for May 16, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

May 16, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Monitor Memorial Day Black Bike Weekend in Myrtle Beach, SC***
  On May 26-28, 2006, CRS will be onsite in Myrtle Beach, SC, to monitor and provide conciliation services as necessary for the 2006 Memorial Day Weekend Black Bike Event. CRS assistance has been requested by the City of Myrtle Beach and event volunteers known as "The Friendship Team" and the "god squad" to provide conflict management training for event organizers and volunteers. CRS will also be onsite to monitor the event, which is expected to draw over 350,000 participants. In the past, there have been reports of heightened racial tensions between law enforcement, African American community leaders, and Myrtle Beach community members, as well as allegations of disparate treatment directed towards African American event participants.

- ***CRS to Monitor Black Beach Weekend in Miami, FL***
  On May 27-31, 2006, CRS will be onsite in Miami, FL, to monitor and provide conciliation services as necessary for the 2006 Black Beach Weekend. CRS will provide conflict management training for event organizers and volunteers known as "Goodwill Ambassadors" and the "god squad". CRS will also be onsite to monitor the event, which is expected to draw between 200,000-300,000 participants. In the past, there have been reports of racial tensions between minority event participants and local community members. CRS will provide conciliation services as necessary to ensure a safe event.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

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B. This Week

- ***CRS Assessing Community Racial Tensions in Oneida, NY***
  During the week of May 15, 2006, CRS will meet with the United States Attorney for the Northern District of New York, the Oneida County District Attorney, and Tribal Public Safety officials in response to community racial tensions surrounding a recent incident in which the Sherrill City Police Chief reportedly recommended to the Oneida County District Attorney that two Oneida Nation Tribal Police officers, who are also commissioned federal officers, be arrested after they arrested two youths. The incident has raised community concerns and tensions between local and tribal law enforcement regarding policing practices. CRS will continue to assess the situation and will provide follow-up services as necessary.

- ***CRS Assessing Community Racial Tensions in New Orleans, LA***
  Since May 8, 2006, CRS has been in communication with New Orleans community leaders, city officials, Vietnamese community members, and Louisiana Department of Environmental Quality officials in response to community racial tensions surrounding a recent decision to dump Hurricane Katrina debris in an identified landfill near a Vietnamese community. CRS services were requested by the Dallas Regional Environmental Protection Agency, following reports of planned demonstrations to be held by Vietnamese community members to protest the dumping. CRS has since conducted "shuttle diplomacy" between affected parties, including the Army Corp of Engineers, Vietnamese community members, legal counsel for the Vietnamese community, the New Orleans' Mayor's office, the Director of Sanitation for the City of New Orleans, and representatives of the Louisiana Department of Environmental Quality (LEDQ) and the Louisiana Environmental Action Network (LEAN). On April 28, 2006, the Vietnamese community requested that the Federal District Court issue a Temporary Restraining Order to stop the Army Corp of Engineers from dumping the debris. The Federal District Court refused to issue the order and subsequently, on May 11, 2006, Mayor Nagin then issued an Executive Order to halt all dumping activity for 72 hours to allow for toxicity testing of the debris and a site assessment of the landfill. Site assessments and testing by LEAN and Waste Management are being conducted on May 15-16, 2006. CRS will coordinate closely with the Environment and Natural Resources Division regarding this issue and will continue to facilitate discussions among affected parties in an effort to defuse immediate tensions.

- ***CRS to Conduct Arab, Muslim, and Sikh Cultural Awareness Program in St. Louis, MO***
  On May 18, 2006, CRS will be onsite in St. Louis, MO to conduct is Arab, Muslim, and Sikh (AMS) Cultural Awareness Program for area law enforcement officials and local community members. The training is designed to promote cultural competency and positive relationships among government officials, law enforcement, and members of Arab, Muslim, and Sikh communities.

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- ***CRS Monitored Planned Minutemen Rally in Washington, DC***
  On May 12, 2006, CRS was onsite in Washington, DC to provide conciliation services as needed in monitoring a planned rally held by the Minutemen Project. The rally was held at the Capitol lawn to reportedly protest immigration legislation. The event was attended by approximately 100 Minutemen and 60-70 counter-demonstrators and proceeded without any major incident.

- ***CRS to Facilitate Community Dialogue in Edgewater, MD***
  On May 16, 2006, CRS will assist in facilitating a community dialogue at a town hall meeting in Edgewater, MD. The meeting is being held in response to community racial tensions following the distribution of racially charged hate literature throughout the county over the past months. CRS has been in previous communication with several groups from Anne Arundel County, MD, including the United States Attorneys Office, the County Executive's Office, the Ministerial Alliance, educators, law enforcement, and other local community groups. CRS will continue to provide conciliation services as appropriate.

- ***CRS to Conduct Student Problem Identification and Resolution of Issues Together (SPIRIT) Program in Westminster, MD***
  On May 16-17, 2006, CRS will be onsite in Westminster, MD to conduct its School Problem Identification and Resolution of Issues Together (SPIRIT) program at Winters Mill High School in response to community racial tensions surrounding reports of racially derogatory graffiti and exchanges of racial slurs between African American and White students. This intervention program is designed to enhance students' cultural awareness and promote a multicultural learning environment.

C. Last Week

No new entries to report.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0160007

Mansour, Linda

From: Mansour, Linda
Sent: Tuesday, May 16, 2006 1:25 PM
To: Davis, Deborah J
Cc: McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Gorsuch, Neil M; Todd, Gordon (SMO); Goodling, Monica; Shaw, Aloma A; Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Kaplan, April; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Viera, Denise; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty
Subject: OJP Submission for the AG Weekly Report for May 14 - 20
Attachments: 514A.06.wpd

Hi Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for the week of May 14 - 20, 2006. Please let me know if you have any questions.

Thank you.
Linda

Linda Mansour
Office of Communications
Office of Justice Programs
U.S. Department of Justice
email: linda.mansour@usdoj.gov
phone: 202/616-3534

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of May 14-20, 2006

NEXT WEEK

· ***Congressional Testimony***
On May 23 in Washington, DC, Assistant Attorney General Schofield will testify before the House Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources hearing on the Byrne Justice Assistance Grant Program and High Intensity Drug Trafficking Areas Program. She will discuss OJP's commitment to combating substance abuse.

· ***Missing Children***
On May 25 in Washington, DC, Assistant Attorney General Schofield will join the Attorney General in participating in the National Missing Children's Day Ceremony. Also on May 25 in Arlington, TX, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will provide remarks at the Missing Children's Day event commemorating Amber Hagerman, the young girl for whom the AMBER Alert program was named. Mr. Flores will commend the strong support of law enforcement professionals across the country who generously give of their time and efforts to the AMBER Alert program. He also will emphasize DOJ's strong commitment to keeping the nation's children safe and will give an overview of the Attorney General's Project Safe Childhood Initiative. At both events, the U.S. Postal Service will unveil and issue a commemorative stamp honoring the AMBER Alert program.

· ***Statistics***

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In May 21, the Bureau of Justice Statistics (BJS) is scheduled to release *Prison and Jail Inmates at Midyear 2005*, which presents data on prison and jail inmates, collected from National Prisoner Statistics counts and the Census of Jail Inmates 2005. This annual report provides for each State and the Federal system, the number of inmates and the overall incarceration rate per 100,000 residents. It offers trends since 1995 and percentage changes in prison populations since midyear and yearend 2004. The midyear report presents the number of prison inmates held in private facilities and the number of prisoners under 18 years of age held by State correctional authorities. It includes total numbers for prison and jail inmates by gender, race, and Hispanic origin as well as counts of jail inmates by conviction status and confinement status. The report also provides findings on rated capacity of local jails, percent of capacity occupied, and capacity added.

On May 22 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff will attend a meeting with Justice Research and Statistics Association (JRSA) staff and the JRSA Executive Committee to discuss BJS programs and priorities.

On May 23 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff will attend a Justice Research and Statistics Association (JRSA)/BJS-sponsored roundtable discussion of crime and the media.

· ***Pandemic***

On May 25 in Chicago, IL, Deputy Assistant Attorney General Hagy will give remarks at a Justice Pandemic Symposium, sponsored by the Bureau of Justice Assistance.

· ***AMBER Alert***

On May 24 in Washington, DC, Assistant Attorney General Schofield will chair the next meeting of the AMBER Alert Working Group.

· ***Victims***

On May 24 in Rockville, MD, Office for Victims of Crime (OVC) Director Gillis will give welcoming remarks at a meeting convened by the International Association of Chiefs of Police (IACP) in connection with the IACP's OVC-funded project "Enhancing Police Response to Victims: Designing a 21st Century Strategy for State and Local Law Enforcement." The three pilot sites selected (Charlotte-Mecklenberg Police Department, the Beaverton, Oregon Police Department, and the Mundelein, IL Police Department) will discuss their strategy concepts developed in the first phase of the project.

On May 23 in Linthicum Heights, MD, Office for Victims of Crime Director Gillis will give remarks at the Hope II Grantees Meeting, sponsored by the Maryland Crime Victims' Resource Center.

· ***Mental Health***

On May 21-24 in New Orleans, LA, Office of Juvenile Justice and Delinquency

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Prevention staff will participate in the Substance Abuse and Mental Health Services Administration's (SAMHSA) Spirit of Recovery Conference. SAMHSA will convene this national summit to assess the progress the states and territories have made in developing their disaster behavioral health plans in the aftermath of Hurricanes Katrina, Rita, and Wilma. Progress reports will include identifying opportunities to consolidate ongoing responses to behavioral health concerns resulting from the 2005 hurricanes and strategies for all-hazards preparedness efforts for future disasters.

· ***Anti-Terrorism/Gangs***
On May 23 in Chicago, IL, Bureau of Justice Assistance (BJA) Director Herraiz will keynote the "Solid Foundations: Building Partnerships to Combat Gangs, Violence, and Terrorism" conference. The Institute for Public Safety Partnerships at the University of Illinois at Chicago, in conjunction with BJA, the Office of Community Oriented Policing Services, and the National Criminal Justice Association, is sponsoring the conference that will provide participants an opportunity to learn from one another and from national leaders in the fields of anti-terrorism and gang prevention/suppression about best practices and the latest initiatives. Attendees will include criminal justice system practitioners, community members, researchers, and representatives of community-based organizations.

On May 22-23 in Kansas City, MO, National Institute of Justice (NIJ) Acting Director Schmitt will give opening remarks at an Agroterrorism Regional Planning Meeting, hosted by NIJ. The meeting will convene top law enforcement, animal health, and homeland security/emergency management officials from nine Midwestern states. The impetus for the meeting was the NIJ-funded research project "Defining the Role of Law Enforcement in Protecting American Agriculture from Bioterrorism."

· ***Juvenile Justice***
On May 22 in Washington, DC, Assistant Attorney General Schofield will give the keynote luncheon address at the National Children's Alliance Leadership Conference.

THIS WEEK

· ****Police Week***
On May 15 in Washington, DC, Assistant Attorney General Schofield participated with the President and Attorney General in the National Peace Officers' Memorial Service.

· ****Missing and Exploited Children***
On May 18 in Washington, DC, Assistant Attorney General Schofield and Deputy Assistant Attorney General Daley will participate in a breakfast briefing sponsored by the House and Senate Caucuses on Missing and Exploited Children.

· ***Corrections***
On May 19 in Washington, DC, Assistant Attorney General Schofield will give remarks at the National Committee on Community Corrections meeting.

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- ***Victims***
  On May 19 in Charlotte, NC at the International Association of Chiefs of Police National Strategy to Prevent and Respond to Identity Crimes Advisory Committee meeting, Office for Victims of Crime staff will give a presentation on OJP efforts in dealing with identity theft. The committee, which includes representatives from banking, law enforcement, and victim services, will discuss its charter and ways to reduce the compromising of victims' identities. The committee also will discuss ways that law enforcement and the banking industry may better respond to victims once their identities have been compromised.

- ***Information Sharing***
  On May 18-19 in Reston, VA, Bureau of Justice Assistance Director Herraiz and staff will participate in the DOJ Global Justice Information Sharing Initiative Intelligence Working Group meeting, which will include a plenary session and task team meetings.

- ***Statistics***
  On May 17-18 in Baltimore, MD, Bureau of Justice Statistics staff will participate in a meeting of the National Crime Prevention and Privacy Compact Council. Staff will present a status report on the National Criminal History Improvement Program and criminal record improvement efforts. Attendees will include representatives of federal and state criminal and noncriminal justice agencies.

  On May 17, the Bureau of Justice Statistics will pre-test the *2006 Census of Law Enforcement Training Academies* data collection. This survey will collect data on personnel, facilities and resources, trainees, and training curricula of law enforcement academies in the United States. Selective findings from this data collected will include training issues, training policies as it relates to terrorism, community policing, and racial profiling.

- ***Reentry***
  On May 17 in Fairfax, VA, Bureau of Justice Assistance (BJA) Director Herraiz will speak to county executives about OJP and BJA reentry initiatives at the Opportunities, Alternatives, and Resources (OAR) of Fairfax County, Inc. 35th Anniversary Celebration, Recognition and Volunteer Awards Ceremony.

- ***Tribal***
  On May 17 in Keshena, WI, Bureau of Justice Assistance staff will participate in the Law Enforcement Cooperative Jurisdictional Meeting for Northeast Wisconsin. Hosted by the Menominee Indian Tribe and funded through BJA's Indian Alcohol and Substance Abuse Program, representatives of BJA's technical assistance partner, Fox Valley Technical College, will coordinate this meeting for tribal, state, and local officials to better bridge the gap between tribal and nontribal governments and enhance lines of communication to help resolve issues that may arise in Wisconsin's justice systems.

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- ***Technology***
  On May 16 in Washington, DC, National Institute of Justice (NIJ) Acting Director Schmitt will participate in the NIJ-sponsored meeting of DOJ's Technology Policy Council (TPC) on the topic of federal government programs for explosive and improvised explosive devices (IEDs) technologies. In the 1990s, the Attorney General formed the TPC to provide a forum for federal agencies involved in the research and development of law enforcement technology to share their program information. The TPC provides an opportunity for member agencies to leverage projects in an attempt to avoid duplication of effort and to maximize the return on investment. The Deputy Attorney General serves as the TPC chair and NIJ is the Council's Executive Agent. Topic areas for the meetings, which occur every three or four months, are nominated by TPC members.

LAST WEEK

- ****Law Enforcement***
  On May 13 in Alexandria, VA, Deputy Assistant Attorney General Daley addressed the National Police Survivors Conference, sponsored by Concerns of Police Survivors. Bureau of Justice Assistance Counsel to the Director Hope Janke offered a session to participants on the Public Safety Officers' Benefits Program.

  On May 10 in Fairfax, VA, Bureau of Justice Assistance Director Herraiz and Office of Community Policing Services Director Peed co-hosted a Taser/Conducted Energy Devices (CEDs) meeting to discuss policies, practices, and issues regarding less lethal issues in law enforcement and correctional agencies. Created as a result of the successful Less Lethal Technology Symposium held in April 2005, the working group is composed of representatives of major law enforcement organizations including the Fraternal Order of Police, International Association of Chiefs of Police, Police Executive Research Forum, and National Sheriffs' Association.

- ****Missing Children***
  On May 10 in Washington, DC, Assistant Attorney General Schofield gave remarks at the Missing Children's Congressional Breakfast.

- ***DNA***
  On May 11-13 in Boston, MA, National Institute of Justice Acting Director Schmitt gave remarks at the DNA Fingerprinting and Civil Liberties National Symposium, which was the culmination of a three-year NIH-funded project that has brought together experts from a variety of disciplines and perspectives to study the impact of forensic DNA collection, databanking, and use on civil liberties. The symposium also highlighted areas of consensus and controversy with regard to this important issue. The results of the three-year project were disseminated, along with presentations by a faculty of experts, many of whom have worked with the American Society of Law, Medicine, and Ethics on this project for the past three years.

- ***Victims***

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On May 10-12 in Portland, OR, Office for Victims of Crime staff provided opening remarks at the National SANE (Sexual Assault Nurse Examiner) Coordinator Symposium.

- ***Statistics***

On May 11 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick attended a meeting of the Committee on National Statistics. Attendees included the U.S. Chief Statistician and the heads of all federal statistical agencies.

On May 8 in Clarksburg, WV, Bureau of Justice Statistics staff met with representatives of the FBI's Criminal Justice Information Services Division to discuss criminal history records quality research and the potential for expending electronic access to records to facilitate recidivism analyses.

On May 8, the Bureau of Justice Statistics (BJS) posted the Tribal Criminal History Record Improvement Program solicitation. BJS plans to continue the support to federally recognized tribes and state criminal records repositories to promote participation in and improve data sharing among tribal, state, and national criminal records systems. The application deadline is June 15.

- ***Grants Workshop***

On May 9 in New Orleans, LA at the Navigating the Federal Funding Process: Federal Grants Application Training Workshop, sponsored by the Department's Justice Management Division and Office of Juvenile Justice and Delinquency Prevention (OJJDP), Deputy Assistant Attorney General Hagy gave opening remarks, and Office for Victims of Crime Deputy Director Greenhouse participated on a panel. OJJDP Administrator Flores served as co-host with Dr. Paul Corts, Director, JMD. Mr. Flores and Dr. Corts provided welcoming and closing remarks, respectively. The goal of the workshop was to promote a better understanding of the federal grants application process while building a representative pool of applicants to better serve the nation. Representatives of community-based, faith-based, and nonprofit organizations, including primarily non-Christian faiths; independent, secular, and faith-based colleges and universities; and federal agency representatives participated.

- ***Drug Courts***

On May 9 in Las Vegas, NV at the Graduated Sanctions in Juvenile Justice National Training Conference, sponsored by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the National Council of Juvenile and Family Court Judges, OJJDP Deputy Administrator Roberts gave luncheon remarks regarding the drug court movement with emphasis on juvenile and family drug courts. Ms. Roberts also emphasized the importance of appropriate incentives and sanctions to effectively implement the drug court strategy.

- ***Justice Information***

On May 7-9 in Philadelphia, PA, Bureau of Justice Assistance (BJA) staff attended the

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"Intelligent Transportation Society of America" meeting, which was hosted by BJA's technical assistance partner, the Integrated Justice Information Systems Institute. The meeting brought together representatives of federal, state, and local agencies, transit authorities, systems integrators, and public safety officials to discuss transportation safety and security.

- ***Juvenile Justice***
  On May 8 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores addressed the members of the Federal Advisory Committee on Juvenile Justice, created by the OJJDP Act to advise the Administrator. Mr. Flores gave an overview of OJJDP priorities, the White House Initiative on Helping America's Youth (HAY), and the HAY Community Guide.

LONG-RANGE EVENTS

- In May 30, the Bureau of Justice Statistics (BJS) is scheduled to release *Characteristics of Drivers Stopped by Police, 2002*, which presents data on the nature and characteristics of traffic stops, as collected in the 2002 Police Public Contact Survey, a supplement to the National Crime Victimization Survey. Detailed demographic information is presented on the 16.8 million drivers stopped by police in 2002. The report provides statistics about various outcomes of traffic stops, including searches conducted by police, tickets issued to drivers stopped for speeding, arrests of stopped drivers, and police use of force during a traffic stop. The report also discusses the relevance of the survey findings to the issue of racial profiling and provides comparative analysis with prior survey findings.

- On May 31 in San Jose, CA, Deputy Assistant Attorney General Daley will speak at the Silicon Valley Internet Crimes Against Children Conference.

- On May 31-June 2 in Tempe, AZ, the Office for Victims of Crime will host the annual Tribal Victim Assistance Conference. About 30 American Indian and Alaska Native tribes will attend the conference, which will focus on improving collaboration between tribal law enforcement and Tribal Victim Assistance grant programs.

- On June 1 in Miami, FL, Assistant Attorney General Schofield will give luncheon keynote remarks at the National Conference on Preventing Crime in the Black Community. On June 2, Office for Victims of Crime Director Gillis will give remarks.
- On June 2 in Albuquerque, NM, Deputy Assistant Attorney General Hagy will give remarks at the National Association of State Alcohol and Drug Abuse Directors conference.

- On June 2 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention.

- On June 5-6 in Indianapolis, IN, Assistant Attorney General Schofield will participate in

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the Helping America's Youth Initiative event.

- On June 8 in San Diego, CA at the National Network of Youth Ministries' (NNYM) Board of Directors annual meeting, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks emphasizing the urgency of NNYM's Mentor Recruitment Campaign to reach community organizations and faith-based groups to enroll their members to become mentors.

- On June 8-9 in Tampa, FL, Deputy Assistant Attorney General Daley will speak at the regional cold case training for investigators to solve cold cases using DNA technology. This training is part of the President's DNA Initiative.

- On June 12-13 in Denver, CO, National Institute of Justice (NIJ) Acting Director Schmitt will make opening remarks at NIJ's Terrorism Research Symposium. The symposium is NIJ's first conference for state and local law enforcement practitioners focused exclusively on terrorism research.

- On June 20 in Orlando, FL at the National Sheriffs' Association annual conference, Assistant Attorney General Schofield will keynote the National Sheriffs' Institute Luncheon.

- On June 22 in Nashville, TN, Deputy Assistant Attorney General Daley will address the American Professional Society on Abuse of Children.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Improving Criminal History Records for Background Checks, 2005,* which describes the achievements of the National Criminal History Improvement Program (NCHIP), its authorizing legislation, and program history. This annual bulletin summarizes NCHIP-funded criminal record improvement efforts, including improved accessibility of records, full participation in the Interstate Identification Index, the automation of records and fingerprint data, and improvements in the National Instant Criminal Background Check, National Sex Offender Registry, and domestic violence and protection order systems. The report provides examples of projects aimed at enhancing the involvement of the courts and system integration in improving disposition reporting. The report also discusses BJS efforts to improve performance measurement including the development and use of a Records Quality Index.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed, convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

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- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Citizen Complaints about Police Use of Force*, which presents data on citizen complaints about police use of force received by large general purpose state and local law enforcement agencies, as well as complaint dispositions. Findings presented are from new questions on formal citizen complaints about police use of force added to the Law Enforcement Management and Administrative Statistics survey. Detail is presented on the policies and procedures of large municipal police departments relating to the processing of citizen complaints and other administrative features. The report also discusses the limitations of complaints data and the use of sustained complaints as a measure of police use of excessive force.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Interstate Recidivism of Murderers and Sex Offenders Released from Prison in 1994*, which documents interstate recidivism among the 9,007 murderers, rapists, and sexual assaulters released from prison in 13 states in 1994 who were tracked for three years after their release. This report provides the percentage of these 9,007 who were subsequently convicted of another murder or sex offense in another state. It also gives the percentage of the 9,007 who had been previously convicted of one of these offenses in another state. The report also analyzes the terms to which these prisoners were sentenced and the time served on the sentence. This is the first of the Congressionally mandated reports that are to provide statistics relevant to the implementation of Aimee's Law.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Appeals from General Civil Trials in 46 Large Counties, 2001-2005*, which presents information on general civil cases concluded by bench or jury trial in 2001 that were subsequently appealed to a state's intermediate appellate court or court of last resort. Information presented includes the flow of civil cases through the appeals process and the effect of appeals on trial court outcomes. The report describes the types of civil bench and jury trials appealed, the characteristics of litigants filing an appeal, the frequency in which appellate courts affirm, reverse, or modify trial court outcomes, and the percentage of appeals that produced a published opinion. Cases further appealed from an intermediate appellate court to a state court of last resort and the impact of that final level of appeal on litigation outcomes are also described. This report is part of a series examining civil litigation in the United States.

DOJ_NMG_ 0160017

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors' offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information is also available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff.

- On July 2-7 in Boston, MA at the International Association for Identification conference, National Institute of Justice staff will provide a briefing on the status of the Fast Capture Initiative for Biometrics.

- On July 12-14 in Dallas, TX, Office for Victims of Crime Director Gillis will give remarks at the 7th Annual Gulf States Victim Witness Conference sponsored by the U.S. Attorney's Offices of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

- On July 14 in Nashville, TN, Deputy Assistant Attorney General Daley will give remarks at the National Forensic Science Academy graduation.

- On July 17-19 in Washington, DC, the National Institute of Justice (NIJ) will host the 2006 NIJ Conference, formerly known as the Annual Research and Evaluation Conference. For 14 years, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from the research and evaluation field. This year's conference marks the first year in which the science and technology fields will participate. The 2006 NIJ Conference will provide emphasis on the benefits to researchers and practitioners who work together to make effective evidence-based policies and practices. The Bureau of Justice Assistance will sponsor and host several panel discussions at the conference.

- On July 17-19 in Albuquerque, NM, OJP will sponsor the National AMBER Alert Conference. Assistant Attorney General Schofield will participate.

- On July 19 in St. Louis, MO, Bureau of Justice Statistics Director Sedgwick will speak at the Annual National Consortium of Justice Information and Statistics (SEARCH) Membership Meeting.

DOJ_NMG_ 0160018

- On July 26-28 in Palm Springs, CA, the Gang Resistance Education and Training (G.R.E.A.T.) Conference, "G.R.E.A.T. and Beyond: Preventing Gangs and Youth Violence in America's Communities," will take place. The Bureau of Justice Assistance is helping to organize this year's training that will address the needs of individuals currently implementing G.R.E.A.T. and those who want to become involved with the program. Deputy Assistant Attorney General Daley will participate in the conference.

- On July 30 - August 2 in Santa Fe, NM, Bureau of Justice Statistics Director Sedgwick and staff will attend the National District Attorneys' Association summer conference.

- On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give remarks at the Parents of Murdered Children conference.

- On September 6-8 in Atlanta, GA, the National Institute of Justice, the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for participation in discussions with national and international experts.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications
202/307-5933

DOJ_NMG_ 0160019

Full Name: Jody Hunt
Last Name: Hunt
First Name: Jody
Company: CIV

Business Address: 20 Massachusetts Avenue, NW.
Washington, DC 20530
10053616

Business: 202-514-1259
Business Fax: 202-616-0222

E-mail: JHunt@CIV.USDOJ.GOV
E-mail Display As: JHunt@CIV.USDOJ.GOV

DOJ_NMG_ 0160020

Full Name:
Last Name:
First Name:
Job Title:
Company:

Business Address:

Business:

E-mail:
E-mail Display As:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 1:52 PM
To: Taylor, Jeffrey (OAG)
Subject: Pentago Video
Importance: High

Just tried you back. The video, taken by a security camera at a nearby gas station, has long been public and available on the Internet. Nonetheless, USG withheld its copies on 7a grounds (ongoing law enforcement efforts), citing the Moussaui case and the possibility of showing the tape to the jury (which we did). With the Moussaui trial over, the basis for the govt's 7a objections dissipated and DOD agreed to release its copy unilaterally. Judicial Watch is one of the entities that had made a FOIA request for this. (B/c DOD had decided to release unilaterally, this wasn't previously raised to OASG). If you need anything more, don't hesitate to ring.

Taylor, Jeffrey (OAG)

From: Taylor, Jeffrey (OAG)
Sent: Tuesday, May 16, 2006 1:52 PM
To: Gorsuch, Neil M
Subject: RE: Pentago Video

That's perfect. Thanks.

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 1:52 PM
To: Taylor, Jeffrey (OAG)
Subject: Pentago Video
Importance: High

Just tried you back. The video, taken by a security camera at a nearby gas station, has long been public and available on the Internet. Nonetheless, USG withheld its copies on 7a grounds (ongoing law enforcement efforts), citing the Moussaui case and the possibility of showing the tape to the jury (which we did). With the Moussaui trial over, the basis for the govt's 7a objections dissipated and DOD agreed to release its copy unilaterally. Judicial Watch is one of the entities that had made a FOIA request for this. (B/c DOD had decided to release unilaterally, this wasn't previously raised to OASG). If you need anything more, don't hesitate to ring.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 1:58 PM
To: Seidel, Rebecca
Subject: RE: sorry

No worries at all - we are good.

From: Seidel, Rebecca
Sent: Tuesday, May 16, 2006 1:02 PM
To: Gorsuch, Neil M
Subject: sorry

I think both Will and I missed the Associate's meeting - I was running frantic with immigration and an interview and Will is on Hill with Wainstein's nom, and I forgot! I think you have our hearing list for upcoming hearings. Did anyone have any questions for OLA?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 2:28 PM
To: Nichols, Carl (CIV)
Subject: RE: Bicameralism Meeting

Do you not want Bob at our meeting?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Fw: Bicameralism Meeting

I don't think we should do this mtg before an internal DOJ mtg that I'm setting up for Friday (consistent with our discussion yesterday).

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
Subject: Bicameralism Meeting

Are you both available to meet with Neil on Friday, May 19th at 2:00?

Aloma Shaw

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:29 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

I was envisioning this as an internal DOJ mtg to make sure we are considering all arguments, etc. I'm inclined not to have him attend such a mtg.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:27:56 2006
Subject: RE: Bicameralism Meeting

Do you not want Bob at our meeting?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Fw: Bicameralism Meeting

I don't think we should do this mtg before an internal DOJ mtg that I'm setting up for Friday (consistent with our discussion yesterday).

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
Subject: Bicameralism Meeting

Are you both available to meet with Neil on Friday, May 19th at 2:00?

Aloma Shaw

Shaw, Aloma A

Subject:	[redacted] IT Computer Check
Location:	5708
Start:	Wednesday, May 17, 2006 1:30 PM
End:	Wednesday, May 17, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 2:37 PM
To: Nichols, Carl (CIV)
Subject: RE: Bicameralism Meeting

I'll proceed however you like, but what's the downside of letting Bob join?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:29 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

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-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:27:56 2006
Subject: RE: Bicameralism Meeting

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Sent: Tuesday, May 16, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Fw: Bicameralism Meeting

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-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
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Aloma Shaw

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

I think he will be unhappy if he thinks our discussion is less final/polished than he would like.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:37:19 2006
Subject: RE: Bicameralism Meeting

I'll proceed however you like, but what's the downside of letting Bob join?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:29 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

I was envisioning this as an internal DOJ mtg to make sure we are considering all arguments, etc. I'm inclined not to have him attend such a mtg.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:27:56 2006
Subject: RE: Bicameralism Meeting

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-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
Subject: Bicameralism Meeting

Are you both available to meet with Neil on Friday, May 19th at 2:00?

Aloma Shaw

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 2:44 PM
To: Nichols, Carl (CIV)
Subject: RE: Bicameralism Meeting

Fair enough.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

I think he will be unhappy if he thinks our discussion is less final/polished than he would like.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:37:19 2006
Subject: RE: Bicameralism Meeting

I'll proceed however you like, but what's the downside of letting Bob join?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:29 PM
To: Gorsuch, Neil M
Subject: Re: Bicameralism Meeting

I was envisioning this as an internal DOJ mtg to make sure we are considering all arguments, etc. I'm inclined not to have him attend such a mtg.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 14:27:56 2006
Subject: RE: Bicameralism Meeting

Do you not want Bob at our meeting?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Fw: Bicameralism Meeting

I don't think we should do this mtg before an internal DOJ mtg that I'm setting up for Friday (consistent with our discussion yesterday).

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
Subject: Bicameralism Meeting

Are you both available to meet with Neil on Friday, May 19th at 2:00?

Aloma Shaw

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 16, 2006 2:44 PM
To: Shaw, Aloma A
Subject: FW: Bicameralism Meeting

Let's keep Bob off the meeting schedule for now. Thanks.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Tuesday, May 16, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Fw: Bicameralism Meeting

I don't think we should do this mtg before an internal DOJ mtg that I'm setting up for Friday (consistent with our discussion yesterday).

-----Original Message-----
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To: rhoyt@who.eop.gov <rhoyt@who.eop.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Tue May 16 13:53:35 2006
Subject: Bicameralism Meeting

Are you both available to meet with Neil on Friday, May 19th at 2:00?

Aloma Shaw

Elwood, Courtney

Subject:	Re-issuing Guidance on Political Activities
Location:	Room 5110
Start:	Thursday, May 18, 2006 11:00 AM
End:	Thursday, May 18, 2006 11:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Elwood, Courtney
Required Attendees:	Elwood, Courtney; Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Gorsuch, Neil MElwood, Courtney; Sampson, Kyle; Goodling, Monica; Elston, Michael (ODAG); Gorsuch, Neil M

Elwood, Courtney

Subject:	Accepted: Re-issuing Guidance on Political Activities
Location:	Room 5110
Start:	Thursday, May 18, 2006 11:00 AM
End:	Thursday, May 18, 2006 11:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Elwood, Courtney

Shaw, Aloma A

Subject:	CRT Initiatives Roll Out
Location:	5710
Start:	Thursday, May 18, 2006 3:30 PM
End:	Thursday, May 18, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT); Pacold, Martha M; Swenson, Lily F; Scolinos, Tasia; Roehrkasse, Brian; Jezierski, Crystal

When: Thursday, May 18, 2006 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Poc: Aloma Shaw

Shaw, Aloma A

Subject:	CRT Initiatives Roll Out
Location:	5710
Start:	Thursday, May 18, 2006 3:30 PM
End:	Thursday, May 18, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT); Pacold, Martha M; Swenson, Lily F; Scolinos, Tasia; Roehrkasse, Brian; Jezierski, CrystalGorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT); Pacold, Martha M; Swenson, Lily F; Scolinos, Tasia; Roehrkasse, Brian; Jezierski, Crystal

Poc: Aloma Shaw

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, May 16, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: FW: Archive Files that are Not Federal Records.

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, May 16, 2006 3:08 PM
To: Weathers, Theresa (CRT)
Subject: FW: Archive Files that are Not Federal Records.

Theresa:

This is my response to [redacted] before Ron Plavchan told me that the files were not [redacted] personal files and could not be returned to [redacted]
Aloma Shaw

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, May 09, 2006 2:15 PM
To: [redacted] (DHS)
Cc: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: RE: Archive Files that are Not Federal Records.

[redacted]
There are 8 boxes of your personal files. Where do I send them?
Aloma

-----Original Message-----
From: [redacted] (DHS)
Sent: Monday, May 08, 2006 3:56 PM
To: Shaw, Aloma A
Cc: Gorsuch, Neil M
Subject: RE: Archive Files that are Not Federal Records.

Of course. As I told Currie when I left, those papers are my personal records and are not subject to the Federal Records Act. They are copies of records that were used for personal reference. All federal records that I handled while in CRT were been appropriately archived by CRT BEFORE I left there.

The Federal Records Act, 44 U.S.C. Section 3301, covers "federal" records only. It does not cover personal papers, nor does it include non-records, which would include copies of records such as these that were to be used as reference material. The integrity of any DOJ files of mine, or files upon which I worked, remains undisturbed and all materials covered under the Federal Records Act that I may have

worked, remains undisturbed and all materials covered under the Federal Records Act that I may have used or possessed while at DOJ stayed with CRT/DOJ upon my departure from there.

I have always fully intended on keeping personal records in my possession, as well as any reference material that I may use in the performance of my duties at the Department of Homeland Security.

Accordingly, I again state that I would like my personal papers returned to me. Thanks.

-----Original Message-----
From: Aloma.A.Shaw@usdoj.gov [mailto:Aloma.A.Shaw@usdoj.gov]
Sent: Monday, May 08, 2006 2:57 PM
To: [redacted]@dhs.gov
Subject: Archive Files

After review of the files, from your office, that I submitted to Exec Secy for archiving, the examiner noted that all your files are related to CRT matters. Are these files related to your duties within the Associate's office? Did you bring them with you from CRT? Please advise.

I know you mentioned some time ago that your files should not have been submitted for archiving. What should be done with them?

Monheim, Thomas

From: Monheim, Thomas
Sent: Tuesday, May 16, 2006 4:20 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Henry, Terry (CIV); Katerberg, Robert (CIV); Hunt, Jody (CIV); Letter, Douglas (CIV); Loeb, Robert (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); White, Ned (CIV)
Cc: Gorsuch, Neil M
Subject: Kudos

FYI, at a lunch with the Attorney General today, the DOD General Counsel and the military service Judge Advocate Generals were very complimentary of the outstanding service they receive from DOJ lawyers -- and specifically commented on the excellent representation they get from the Civil Division.

On a related note, I recently visited GTMO and just got back from Geneva, where I received numerous compliments from other grateful USG personnel about the Department's efforts in the War on Terror.

Thanks -- keep up the great work.

Tom

Thomas A. Monheim
Associate Deputy Attorney General
950 Pennsylvania Ave, NW
Washington, DC 20530
202-514-8086
202-616-1239 (fax)

Keisler, Peter D (CIV)

From: Keisler, Peter D (CIV)
Sent: Tuesday, May 16, 2006 4:24 PM
To: Monheim, Thomas; Nichols, Carl (CIV); Henry, Terry (CIV); Katerberg, Robert (CIV); Hunt, Jody (CIV); Letter, Douglas (CIV); Loeb, Robert (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); White, Ned (CIV)
Cc: Gorsuch, Neil M
Subject: RE: Kudos

Tom: Thanks a lot for passing that on. It means a lot to all of us. Peter

---

From: Monheim, Thomas
Sent: Tuesday, May 16, 2006 4:20 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Henry, Terry (CIV); Katerberg, Robert (CIV); Hunt, Jody (CIV); Letter, Douglas (CIV); Loeb, Robert (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); White, Ned (CIV)
Cc: Gorsuch, Neil M
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On a related note, I recently visited GTMO and just got back from Geneva, where I received numerous compliments from other grateful USG personnel about the Department's efforts in the War on Terror.

Thanks -- keep up the great work.

Tom

Thomas A. Monheim
Associate Deputy Attorney General
950 Pennsylvania Ave, NW
Washington, DC 20530
202-514-8086
202-616-1239 (fax)

@ca9.uscourts.gov

From: @ca9.uscourts.gov
Sent: Tuesday, May 16, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: DOJ Review
Attachments: tmp.htm

Are you in a position to advise when the courts might hear anything about the DOJ review of immigration courts and BIA? Just trying to get some idea of timing. Or perhaps you are now out of that in light of your new job.

If you can't, or you don't know, not a problem. Thanks.

Are you in a position to advise when the courts might hear anything about the DOJ review of immigration courts and BIA? Just trying to get some idea of timing. Or perhaps you are now out of that in light of your new job.

If you can't, or you don't know, not a problem. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 8:06 AM
To: [redacted]@ca9.uscourts.gov'
Subject: RE: DOJ Review

[redacted] There is no definitive announcement date set but, as you can imagine, we are anxious in completing this review as expeditiously as possible consistent with the AG's direction to make sure our work is thorough and complete. While there is no deadline per se, I would expect that you'd hear again from us rather soon. I'm sorry this is so vague but please do stay in touch -- we very much want to hear any additional thoughts/ideas/concerns as they emerge. Thanks so much, Neil

-----Original Message-----
From: [redacted]@ca9.uscourts.gov [mailto: [redacted]@ca9.uscourts.gov]
Sent: Tuesday, May 16, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: DOJ Review

Are you in a position to advise when the courts might hear anything about the DOJ review of immigration courts and BIA? Just trying to get some idea of timing. Or perhaps you are now out of that in light of your new job.

If you can't, or you don't know, not a problem. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 9:06 AM
To: Swenson, Lily F
Subject: RE: CIV meeting

I'll be there and, better yet, Robert is back!

From: Swenson, Lily F
Sent: Wednesday, May 17, 2006 9:05 AM
To: Gorsuch, Neil M
Subject: CIV meeting

Are you alright to run the CIV meeting. I have 2 different conflicts at that time -- JMD stuff.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 9:17 AM
To: Jaffer, Jamil N
Subject: RE: Are we having lunch today?

Absolutely if it works for you. Shall I stop by your office around noon?

From: Jaffer, Jamil N
Sent: Wednesday, May 17, 2006 9:16 AM
To: Gorsuch, Neil M
Subject: Are we having lunch today?

Jamil N. Jaffer
Counsel
United States Department of Justice - Office of Legal Policy
(202) 307-0120 (direct)
(202) 514-2424 (fax)
Jamil.N.Jaffer@usdoj.gov

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, May 17, 2006 9:30 AM
Cc: Washington, Tracy T
Subject: The Morning Update: 5/17/06

Good morning. There will be a Marine One departure tomorrow morning at 9 a.m. If you are interested in attending, please let me know by noon today (please cc Tracy Washington on your request). I will need the full name, SS, DOB, and confirmation of citizenship for you and any guests you may be interested in bringing. Attendees will need to be at the SW gate by 8 a.m. tomorrow. Best, Monica

****

<http://www.whitehouse.gov/>
MAY 17, 2006

This morning, President Bush will make remarks to the 2006 United States Winter Olympic and Paralympics Teams. In the afternoon, he will sign the Tax Relief Extension Reconciliation Act of 2005. This legislation extends the President's 2003 tax cuts on dividends and capital gains. In the evening, President Bush will attend the Republican National Committee Gala.

10:20 am EDT

THE PRESIDENT participates in a Photo Opportunity and makes Remarks to the 2006 United States Winter Olympic and Paralympics Teams
The White House | Washington, DC

1:50 pm EDT THE PRESIDENT signs H.R. 4297, Tax Relief Extension Reconciliation Act of 2005
The White House | Washington, DC

7:05 pm EDT THE PRESIDENT attends the Republican National Committee Gala
DAR - Constitution Hall | Washington, DC

President Bush And Australian Prime Minister Howard Express Unity In War On Terror. "Australian Prime Minister John Howard pledged to President Bush Tuesday that his country remains committed to supporting a lengthy war on terror. 'The war against terror will go on a long time,' Howard said in a joint White House news conference. 'I think we have to accept that.' ... Five years ago, Bush and Howard met each other at the White House on Sept. 10, 2001 - the day before America's worst terrorist attack. 'Our nations have stood together on every day afterwards,' Bush told Howard earlier at an elaborate welcoming ceremony on the South Lawn <http://news.yahoo.com/s/ap/20060516/ap_on_go_pr_wh/us_australia&printer=1;_ylt=ArPTxNdw6V2i_kIOwV5P_RkGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE->

." (Foster Klug, "Bush, Howard United In War On Terrorism," The Associated Press, 5/16/06)

Senate Takes Step Toward Passing Comprehensive Immigration Reform. "The Senate today rejected an amendment backed by Republican conservatives seeking to make border security the first step in any debate on immigration policy. The vote, 55 to 40, was seen as a sign that there were enough votes to protect a comprehensive, bipartisan compromise on immigration that includes a path toward citizenship for many of the estimated 12 million undocumented workers in the United States <http://www.latimes.com/news/nationworld/nation/la-051606immig_lat,0,1668618.story?coll=la-home-headlines> ." (Joel Havemann And Michael Muskal, "Senate Rejects Border Security Amendment," Los Angeles Times, 5/17/06)

Rep. Luis Gutierrez (D-IL) Calls President Bush's Comprehensive Immigration Reform Proposals "Refreshing." GUTIERREZ: "Last night was really refreshing to hear the president take on a holistic, comprehensive approach, which includes English classes, getting their fingerprints and making sure we don't let anybody who's violated the law get in the program, paying a penalty and making sure that the penalty fits the violation of the law." (CNN's "Lou Dobbs Tonight," 5/16/06)

Wall Street Journal Advises Congress To Embrace President Bush's Immigration Proposals. "The President is offering Congress a way out of this box canyon. His proposal for a guest-worker program is a serious attempt to reduce the incentives that immigrants have to enter the U.S. illegally <http://online.wsj.com/article/SB114782555778454843.html?mod=opinion_main_review_and_outlooks> . He also realizes that, for the illegals already here, mass deportations are impractical and would spell political suicide for the GOP. ... If Republicans want to emerge with their majority intact, they'll take Mr. Bush's advice and support reform that does more about immigration than pretending that more border police will solve the problem." (Editorial, "Rational Middle Ground," The Wall Street Journal, 5/17/06)

Senate Finance Committee Chairman Chuck Grassley (R-IA) Praises Tax Relief Bill. "The tax bill continues capital gains and dividends relief. It gives taxpayers the certainty and confidence to make investment decisions and keep the economy growing. Allowing people to keep more of their money to invest in the economy will do a lot more good than giving it to the government to spend <http://www.usatoday.com/news/opinion/editorials/2006-05-16-opposing-budget_x.htm> . ... Economic growth and steps toward tax reform are very good reasons to enact the tax bill on the president's desk." (Sen. Chuck Grassley, Op-Ed, "Right Kind Of Tax Relief," USA Today, 5/17/06)

White House Agrees To Expand Congressional Briefings On NSA Surveillance Program. "Yesterday the White House agreed to brief all 21 members of the House intelligence committee and all 16 of the Senate panel's members. The Senate committee briefing will be today, placing the panel's nine Republicans and seven Democrats on equal footing when they question Hayden in open and then closed confirmation hearings tomorrow. ... White House spokeswoman Dana M. Perino said the two chairmen 'felt we would benefit from briefing the entire committees, so we accepted and welcomed their judgment. <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/16/AR20060

51601609.html> '" (Charles Babington And Dafna Linzer, "More Lawmakers To Be Privy To Classified Briefings," The Washington Post, 5/17/06)

Treasury Secretary Snow Says President Bush's Goal Of Halving Deficit Will Be Met Early. "The Bush administration's goal of cutting the federal budget deficit in half by 2009 will be accomplished sooner, Treasury Secretary John Snow said Tuesday. With tax revenues improving, 'it's clear the deficit is getting into a better posture,' Snow said during a briefing on the economy. ... 'One thing is pretty clear. With these strong revenues and the continuing attention to spending, the deficit is getting on the right path,' Snow said. 'The president's target of cutting the deficit in half is going to be met - is going to be exceeded - and that will be done ahead of schedule <http://news.yahoo.com/s/ap/20060516/ap_on_go_ca_st_pe/snow_deficit&printer=1;_ylt=AjUBrQtXUrVOLh.miSbhrWGWwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE -> .'" (Jeannine Aversa, "Snow: Budget Deficit Cut Will Happen Soon," The Associated Press, 5/16/06)

Health And Human Services Secretary Leavitt Says Medicare Prescription Drug Enrollment A "Remarkable American Success." "A day after the Monday deadline for enrolling in the new prescription-drug program, officials pronounced it an unqualified success. They said about 11 million seniors and people with disabilities signed up. Another 27 million had coverage as a result of their low-income status or through HMOs, current or former employers, government agencies or the military. 'In a relatively short period of time, we've seen a remarkable American success,' Health and Human Services Secretary Michael Leavitt said." <http://www.usatoday.com/printedition/news/20060517/a_capcol17.art.htm> (Richard Wolf, "Medicare Drug Sign-Up A 'Remarkable Success,'" USA Today, 5/17/06)

Iraqi Prime Minister Poised To Announce Cabinet Before Deadline. "U.S. and Iraqi officials said Tuesday that Iraq's prime minister-designate was likely to reveal the composition of his cabinet ahead of a Monday deadline, a step they hope will allow the new government to begin seriously addressing the country's problems. ... 'The government is in its final form now. Maliki will absolutely meet the constitutional deadline and will announce the government before it <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/16/AR20060 51601775.html> ,' Dhafir al-Ani, the Sunni politician, told Reuters. 'Nobody wants him to fail. Even those who oppose the political process will not put up obstacles.'" (Nelson Hernandez, "Officials Hopeful On Iraqi Cabinet," The Washington Post, 5/17/06)

Stronger Economy Creates "Best College Hiring Market In Years." "College graduates are landing fat salaries and signing bonuses again as a stronger economy leads to the best college hiring market in years. Employers expect their college hiring for 2005-06 to surpass that of the year before by nearly 14%, according to a study by the National Association of Colleges and Employers (NACE). ...'It's the best (college job market) in four years,' says Andrea Koncz at NACE, a Bethlehem, Pa.-based provider of information on the college job market. 'With the economy improving, there is more demand for college grads. It's across the board.' <http://www.usatoday.com/printedition/news/20060517/1a_lede17_dom.art.htm> " (Stephanie Armour, "College Grads Back In Demand," USA Today, 5/17/06)

President Bush Welcomes Prime Minister Howard of Australia in Arrival Ceremony at the White House
<http://www.whitehouse.gov/news/releases/2006/05/20060516.html>

* Official Visit of the Prime Minister of Australia
<http://www.whitehouse.gov/visit/australia/>
* In Focus: Global Diplomacy
<http://www.whitehouse.gov/infocus/globaldiplomacy/>

President Bush and Prime Minister John Howard of Australia Participate in Joint Press Availability
<http://www.whitehouse.gov/news/releases/2006/05/20060516-1.html>

President Bush and Prime Minister Howard of Australia Exchange Toasts
<http://www.whitehouse.gov/news/releases/2006/05/20060516-13.html>

President Bush Welcomes WNBA Champion Sacramento Monarchs to the White House <http://www.whitehouse.gov/news/releases/2006/05/20060516-3.html>

Interview of the Vice President by Rush Limbaugh, The Rush Limbaugh Show
<http://www.whitehouse.gov/news/releases/2006/05/20060516-8.html>

Prayer for Peace, Memorial Day, 2006
<http://www.whitehouse.gov/news/releases/2006/05/20060516-5.html>

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/05/20060516-7.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/05/20060516-6.html>

<http://www.whitehouse.gov/news/releases/2006/05/20060515-4.html>

Jackson, Marjorie L

Subject:	Updated: Immigration Court Review
Location:	Main 4111
Start:	Wednesday, May 17, 2006 4:30 PM
End:	Wednesday, May 17, 2006 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Jackson, Marjorie L
Required Attendees:	Gorsuch, Neil M; Todd, Gordon (SMO)

When: Wednesday, May 17, 2006 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main 4111

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

Attendees: Bill Mercer, Mike Elston, Lee Otis, AAG Brand, Ryan Bounds, Lily Swenson, Martha Pacold, Courtney Elwood, Neil Gorsuch and Gordon Todd
POC: Lee Otis

McNulty, Paul J

Subject:	Updated: Immigration Court Review
Location:	Main 4111
Start:	Wednesday, May 17, 2006 4:30 PM
End:	Wednesday, May 17, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McNulty, Paul J
Required Attendees:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Otis, Lee L; Swenson, Lily F; Pacold, Martha M; Brand, Rachel; Bounds, Ryan W (OLP); Elwood, Courtney; Gorsuch, Neil M; Todd, Gordon (SMO)Mercer, Bill (ODAG); Elston, Michael (ODAG); Otis, Lee L; Swenson, Lily F; Pacold, Martha M; Brand, Rachel; Bounds, Ryan W (OLP); Elwood, Courtney; Gorsuch, Neil M; Todd, Gordon (SMO)

Attendees: Bill Mercer, Mike Elston, Lee Otis, AAG Brand, Ryan Bounds, Lily Swenson, Martha Pacold, Courtney Elwood, Neil Gorsuch and Gordon Todd
POC: Lee Otis

Boente, Dana J. (TAX)

From: Boente, Dana J. (TAX)
Sent: Wednesday, May 17, 2006 9:44 AM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: Telephone Excise Tax

Neil/Gordon: There is a meeting at the IRS tomorrow with Treasury, Tax, the SG, and perhaps OMB. Treasury has decided to concede the issue and is looking for the the agreement of the other parties. Secretary Snow plans to make the announcement on May 24. Please call if you need more details. Dana

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 9:47 AM
To: Boente, Dana J. (TAX); Gorsuch, Neil M
Subject: Re: Telephone Excise Tax

Thanks Dana.

-----Original Message-----
From: Boente, Dana J. (TAX)
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Sent: Wed May 17 09:44:06 2006
Subject: Telephone Excise Tax

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Dana

[redacted]@ca9.uscourts.gov

From: [redacted]@ca9.uscourts.gov
Sent: Wednesday, May 17, 2006 10:14 AM
To: Gorsuch, Neil M
Subject: RE: DOJ Review
Attachments: tmp.htm

I understand how these things work. Our Court Executive Committee meets next Wed. May 24. In the event anything might happen before that date or on that date, I'd appreciate a heads up. The committee only meets six times a year, and pretty much everything the court does has to go through that body. Thanks much.

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
05/17/2006 05:05 AM

To
[redacted]@ca9.uscourts.gov"
[redacted]@ca9.uscourts.gov>(Receipt Notification Requested) (IPM Return Requested)
cc

Subject
RE: DOJ Review

[redacted] There is no definitive announcement date set but, as you can imagine, we are anxious in completing this review as expeditiously as possible consistent with the AG's direction to make sure our work is thorough and complete. While there is no deadline per se, I would expect that you'd hear again from us rather soon. I'm sorry this is so vague but please do stay in touch -- we very much want to hear any additional thoughts/ideas/concerns as they emerge. Thanks so much, Neil

-----Original Message-----
From: [redacted]@ca9.uscourts.gov
[mailt[redacted]@ca9.uscourts.gov]
Sent: Tuesday, May 16, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: DOJ Review

Are you in a position to advise when the courts might hear anything about the DOJ review of immigration courts and BIA? Just trying to get some idea of timing. Or perhaps you are now out of that in light of your new job.

If you can't, or you don't know, not a problem. Thanks.

I understand how these things work. Our Court Executive Committee meets next Wed. May 24. In the event anything might happen before that date or on that date, I'd appreciate a heads up. The committee only meets six times a year, and pretty much everything the court does has to go through that body. Thanks much.

"Neil.Gorsuch@usdoj.gov"
<Neil.Gorsuch@usdoj.gov>

05/17/2006 05:05 AM

To [redacted]@ca9.uscourts.gov" <[redacted]@ca9.uscourts.gov>
(Receipt Notification Requested) (IPM Return Requested)

cc

Subject RE: DOJ Review

[redacted]There is no definitive announcement date set but, as you can imagine, we are anxious in completing this review as expeditiously as possible consistent with the AG's direction to make sure our work is thorough and complete. While there is no deadline per se, I would expect that you'd hear again from us rather soon. I'm sorry this is so vague but please do stay in touch -- we very much want to hear any additional thoughts/ideas/concerns as they emerge. Thanks so much, Neil

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Sent: Tuesday, May 16, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: DOJ Review

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If you can't, or you don't know, not a problem. Thanks.

Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, May 17, 2006 10:37 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 5/17/06 Civil Division News

AT&T loses bid for a closed court : At issue are papers the company calls trade secrets

Phone giants raise doubts on NSA story; Agency didn't get local call data, Verizon says

Military releases videos of 9/11 Pentagon crash

Boeing chief says settlement over ethics investigation is fair

Lumber groups unhappy

Press Release: Tenet Announces Civil Settlement in San Diego Hospital Case

EDITORIAL: The EBay effect - Supreme Court ruling on auction pioneer could usher in long-overdue patent reform.

San Francisco Chronicle (CA)

May 17, 2006

AT&T loses bid for a closed court : At issue are papers the company calls trade secrets

Bob Egelko

AT&T was turned down by a federal judge Tuesday in its 11th-hour attempt to bar the public from a San Francisco court hearing today about documents that allegedly show the company's involvement in a secret government electronic surveillance program.

The telecommunications company opposes disclosure of the documents, which a former employee

supplied to a privacy-rights group suing the firm, and wants them back. An AT&T lawyer sent a letter by fax to Chief U.S. District Judge Vaughn Walker on Tuesday asking that the courtroom be closed "during any discussion of its trade secrets or confidential information."

Less than an hour later, Walker notified the company's lawyer that the request was denied and that today's hearing would remain open, said the judge's court clerk, Cora Delfin.

AT&T spokesman Marc Bien said the company's lawyers may still seek to close the hearing after it starts.

The hearing is the first in a lawsuit filed in January by the Electronic Frontier Foundation on behalf of AT&T customers. The suit accuses the company of illegally giving the National Security Agency access to its voice and data network and its databases of customers' calls and e-mails, without a court warrant or evidence of wrongdoing.

President Bush has acknowledged ordering the agency shortly after the terrorist attacks of Sept. 11, 2001, to intercept phone calls and e-mails between U.S. residents and terrorist suspects abroad without seeking court approval, as required by a 1978 federal law.

The lawsuit, which seeks damages and a ban on AT&T participating in the program, was accompanied by documents obtained by Mark Klein, a technician with the company for 22 years. Klein said in a statement through his lawyers that while he was assigned to a San Francisco Internet facility in 2003, he saw equipment installed that would allow the National Security Agency to sweep up huge amounts of data from the company's worldwide network and scan it for selected information.

AT&T says the documents, which have been filed under seal at the company's request, contain trade secrets and should be returned. Bien said AT&T's effort to close the courtroom was consistent with that position.

"The subject matter (of the hearing) gets into proprietary and confidential information," he said. "In the wrong hands, (the documents) could help hackers or potential terrorists\l "I" who would want to injure our communications network, or commercial competitors who would want to obtain an unfair advantage.''

The Electronic Frontier Foundation opposed closing the courtroom. "It's important that people who are interested in this case should be able to hear about it," spokeswoman Rebecca Jeschke said. "We believe the hearing can be held without putting any trade secrets in jeopardy."

Bush administration lawyers have asked Walker to dismiss the suit, saying it could expose military secrets and endanger national security if allowed to proceed. The judge will consider that request at a future hearing.

END

CHICAGO TRIBUNE

May 17, 2006

Phone giants raise doubts on NSA story; Agency didn't get local call data, Verizon says

Jon Van and Michael Oneal, Tribune staff reporters. The Associated Press contributed to this report.

America's three largest phone companies have sought to minimize their roles in providing customer phone records to the National Security Agency, with two of them denying the wholesale information sharing suggested last week in a story published by USA Today.

In doing so, the companies, which were singled out as having provided massive amounts of calling records to the NSA, raised questions about whether the newspaper was wholly accurate in its descriptions of the companies' relationship with the NSA.

The three companies, AT&T Inc., Verizon Communications Inc. and BellSouth Corp., were reported by USA Today as having turned over phone records without court-approved warrants to the NSA after the 9/11 terrorist attacks.

The allegations stirred immediate protests in Congress, putting President Bush on the defensive and setting off a national debate about balancing the need for homeland security against preserving privacy rights.

But because the story was centered on the secret activities of a government surveillance organization engaged in counterterrorism, the firestorm ignited without any details or even confirmation of what happened being made public.

Last week the phone companies declined to comment on the story's specifics, saying only that they protect customer privacy and don't violate laws. That changed beginning Monday, when BellSouth issued a statement saying that after reviewing its records, the company concluded that it doesn't have any contract with the NSA and that "we have not provided bulk customer calling records to the NSA."

Then on Tuesday, Verizon issued a statement citing specific aspects of the USA Today story that it claimed are false.

The statement said the article was false in stating that "data on local calls is being turned over to NSA and that simple `calls across town' are being `tracked.'" Verizon also said it's not true that Verizon's traditional businesses were asked to participate in any NSA project, or that they did so.

But the statement's precise wording leaves open the possibility that MCI Inc., which Verizon acquired in January, may have been cooperating with the NSA.

AT&T issued a vaguely worded statement Tuesday that neither confirmed nor denied its participation. The company said it "does not allow wiretapping without a court order nor has it otherwise given customer information to law enforcement authorities or government agencies without legal authorization."

Leslie Cauley's front-page story in USA Today on Thursday stated that "AT&T, which at the time was headed by C. Michael Armstrong, agreed to help the NSA. So did BellSouth, headed by F. Duane Ackerman; SBC, headed by Ed Whitacre; and Verizon, headed by Ivan Seidenberg."

SBC acquired AT&T in November and took its name.

Cauley also wrote that "for the customers of these companies, it means that the government has detailed records of calls they made--across town or across the country--to family members, co-workers, business contacts and others."

Verizon's comment Tuesday specifically contradicted the claim that its local calls were being tracked. One scenario that could explain the denial is if it were the MCI side of Verizon's business that had cooperated with the NSA. That would mean USA Today's description of what happened was exaggerated, because MCI was primarily in the long-distance business.

Reached at her office for comment, Cauley referred a reporter to the newspaper's spokesman, Steven Anderson.

In a statement Anderson said, "USA Today reported last week that calling records from BellSouth and Verizon are part of a National Security Agency database, according to sources with direct knowledge of

the program. We've read the statements by BellSouth and Verizon. We will continue to investigate and pursue the story.

"We're confident in our coverage ... but we won't summarily dismiss BellSouth's and Verizon's denials without taking a closer look."

President Bush reiterated Tuesday that the government does not "listen to domestic phone calls without court approval." But he appeared to acknowledge the NSA\l "I" sweep of phone records indirectly, saying that the program referred to by a questioner "is one that has been fully briefed to members of the United States Congress in both political parties."

Meanwhile, the White House agreed Tuesday to brief all members of the House and Senate intelligence committees on a separate controversial wiretapping operation, the Los Angeles Times reported.

In speaking out this week, the phone companies may have been prodded by several factors. On Tuesday lawyers held a news conference to announce they are suing BellSouth and AT&T as well as Verizon in a suit\l "I" that seeks as much as $200 billion for allegedly violating laws that protect customers' privacy.

Some members of Congress have called for hearings where phone executives would be questioned about their involvement with the NSA\l "I" under oath.

"They're in a difficult situation," said Jim Speta, a Northwestern University law professor. "They don't want to talk about these programs and the government doesn't want them to talk."

The lawsuits filed against the phone companies are worrisome to them, said Frank Pasquale, associate law professor at Seton Hall Law School in Newark, N.J. But the people bringing suit\l "I" will have difficulty establishing in court that they have a case, he said, because the government considers any information the NSA\l "I" holds to be protected as state secrets.

Phone companies have many reasons not to work at cross purposes with the government, said Speta. AT&T's proposal to buy BellSouth, for example, will require approval of government agencies, he said. "Each of the companies has a strong interest in keeping the government happy with them," he said.

END

AP**Error! Hyperlink reference not valid.**May 17, 2006

Military releases videos of 9/11 Pentagon crash

Robert BurnsAssociated Press

Washington - The Pentagon on Tuesday released the first video images of American Airlines Flight 77 crashing into the military headquarters building during the Sept. 11, 2001, terrorist attacks.

The images, recorded by Pentagon security cameras outside the building, were made public in response to a December 2004 Freedom of Information Act request by Judicial Watch, a public interest group. Some still images from the video had previously been leaked and publicly circulated, but this was the first official release.

The airplane is a thin white blur on the video as it slams into the Pentagon at ground level.

Almost instantly a white flash and a huge orange fireball appear on the video, followed by a tower of gray-black smoke. One of the videos shows a Pentagon police car driving in the direction of the impact point shortly after the plane hit.

Traveling at an estimated 530 mph, the hijacked plane plowed into the southwest side of the Pentagon at 9:38 a.m. EDT. The attack set off fires in a portion of the Pentagon and killed 125 people inside, in addition to the 59 passengers and crew members and the five men who hijacked the plane after it took off from nearby Dulles International Airport.

Debra Burlingame, whose brother Charles was the pilot of the American Airlines plane, said in a telephone interview that the images provide no new information about what happened that day.

Burlingame said she doubted that release of the videos would do anything to dispel the many conspiracy theories, including the claim by some that the Pentagon was hit by a missile. The Pentagon videos provide only the briefest glimpse of the plane as it hits the building; the images were recorded on cameras designed to record license plates of vehicles entering the Pentagon grounds and were too slow to capture the airplane's approach.

The Pentagon previously had refused to release the videos, saying they had been provided to the Justice Department as evidence in any criminal proceedings.

END

AP

May 17, 2006

Boeing chief says settlement over ethics investigation is fair

By CHRISTOPHER LEONARD

AP Business Writer

ST. LOUIS_Boeing Co.'s president and chief executive officer said a tentative $615 million settlement with the Justice\l "l" Department\l "l" is fair.

While expensive, Jim McNerney said Tuesday that the settlement will benefit the company by prohibiting the U.S. government from prosecuting Boeing after a three-year ethics investigation. He answered question from reporters after a speech at Saint Louis University.

McNerney said Boeing will strengthen its internal ethics controls, an effort that will be supported by one of the firm's newest hires _ Fourth U.S. Circuit Court of Appeals Judge J. Michael Luttig.

McNerney said the goal is to make sure no corruption is "hiding in the bureaucracy" at Boeing, the nation's second-biggest defense contractor after Lockheed Martin Corp.

"Judge Luttig, as I have gotten to know him, supports that ... very strongly," McNerney said.

Boeing's defense contracting division is based in St. Louis, and the speech was McNerney's first public appearance here since he took over as chairman and CEO in July.

Boeing's settlement, which is expected to be signed within a few weeks, could help the company move past ethics probes that have damaged its reputation.

Chicago-based Boeing has been under investigation for allegedly improperly obtaining secret documents from Lockheed in the late 1990s, using some of them to help win government contracts. A separate investigation examined the company's efforts to recruit former Air Force official Darleen Druyun while she was still overseeing contracts involving prospective Boeing deals.

McNerney spent the bulk of his speech Tuesday talking about the need for transnational companies to innovate in the face of increasingly stiff global competition. He said just cutting costs isn't enough to succeed. Companies must constantly innovate to win customers.

He cited Boeing's commercial aircraft division, which has been competing fiercely with European archrival Airbus.

Although Airbus won a lot of attention when it announced plans for its A380 superjumbo with room for 700 to 800 passengers, Boeing didn't play follow-the-leader, McNerney said. Instead, the company built smaller planes that require less fuel and are cheaper to maintain.

"Everyone's buying our shares (of stock) and everyone's selling theirs," he said.

END

Winnipeg Free Press (Manitoba, CA)

May 17, 2006

Lumber groups unhappy

TORONTO -- Two Ontario lumber industry organizations are seeking legal action to force a final ruling under the North American Free Trade Agreement that Canadian lumber is not unfairly subsidized.

The Ontario Lumber Manufacturers Association and the Ontario Forest Industries Association said yesterday they are filing actions in the U.S. Court of International Trade and U.S. Court of Appeals challenging the suspension by the Canadian and U.S. governments of NAFTA panel proceedings on the issue.

"The two federal governments have conspired to prevent Canadian private industry from finalizing a decision of a NAFTA panel for which we fought for four long years," stated Jamie Lim, president of the Forest Industries Association.

END

Business Wire

May 17, 2006

Press Release: Tenet Announces Civil Settlement in San Diego Hospital Case

DALLAS--(BUSINESS WIRE)--May 17, 2006--Tenet Healthcare Corporation (NYSE:THC) announced today that it has reached a civil settlement with the U.S\l "l". Attorney\l "l" in San Diego to resolve the long-running criminal case entitled United States of America v. Barry Weinbaum, Tenet HealthSystem Hospitals Inc. and Alvarado Hospital Medical Center Inc.

Two separate federal juries deadlocked and were unable to reach a verdict on criminal charges first brought by a grand jury in mid-2003 regarding certain physician relocation agreements at Alvarado

Hospital, a 311-bed Tenet hospital in eastern San Diego County.

To avert a third criminal trial as well as potential civil liabilities that could still result, the company agreed to a civil settlement that includes a payment of $21 million to resolve potential civil claims by the government. The payment will be recorded as a charge in Tenet's financial results for the second quarter ended June 30, 2006. Tenet has been informed that the U.S\I "I". Attorney\I "I" in San Diego will now move to dismiss all criminal charges against all three defendants and will not file any civil litigation in the case.

In order to conclude the settlement, Tenet acceded to the demand of the Office of Inspector General in the U.S. Department of Health and Human Services that the company sell or close the hospital within a specified period of time or have the hospital face exclusion from federal health care programs such as Medicare. The OIG had announced the potential exclusion of the hospital on May 8. Tenet will classify the operating results of Alvarado in discontinued operations beginning in the second quarter of 2006. Tenet said it may incur impairment and restructuring charges as a result of the sale or closure of the hospital.

"It has always been our strong desire to keep this hospital and continue providing needed health care to the residents of East San Diego County, as we have at Alvarado for more than 30 years. Unfortunately, we were given no choice by the government except to sell or close the hospital if we wanted to settle this matter," said Peter Urbanowicz, Tenet's general counsel.

As part of the civil settlement, Alvarado and the Tenet subsidiary that owns the hospital denied the government's allegations in the indictments. In both trials, they strongly maintained that physician relocation agreements are a common practice in the hospital industry as a means to bring needed health care resources to communities. However, Alvarado and the Tenet subsidiary agreed to include this explanatory statement as part of the settlement agreement:

"The Alvarado case has been a sobering event for Tenet, and it has led to significant reforms and strengthening of compliance standards for physician relocation agreements at all Tenet hospitals, and at hospitals across the country.

"Between 1992 and 2002, the hospital and its former chief executive officer, Barry Weinbaum, recruited approximately 100 physicians to East San Diego County. The hospital's relocation program provided money to these physicians to assist them in starting new practices in the area.

"Several of the relocated doctors joined 'host practices' of established physicians who were already affiliated with Alvarado and who referred patients to Alvarado. We were distressed to learn that certain host physicians had obtained excessive payments by representing that they needed money to make tenant improvements to accommodate new physicians when, in fact, they never made improvements. We regret that the hospital did not take adequate steps to assure that money provided to relocated doctors, including money earmarked for tenant improvements and office overhead was in fact used for those purposes and in all instances was justified. We were also distressed to learn as a result of the government's investigation that Mina Nazaryan, a former Alvarado hospital employee, received payments from certain host doctors who received financial assistance from the hospital.

"We have always had a disagreement with the government over whether anyone at Alvarado knowingly set out to violate the law in connection with these physician recruitments, but we have never disputed that there are aspects of how the recruitment program operated that are troubling."

Tenet Healthcare Corporation, through its subsidiaries, owns and operates acute care hospitals and related health care services. Tenet's hospitals aim to provide the best possible care to every patient who comes through their doors, with a clear focus on quality and service. Tenet can be found on the World Wide Web at www.tenethealth.com.

END

Los Angeles Times

May 17, 2006

EDITORIAL: The EBay effect - Supreme Court ruling on auction pioneer could usher in long-overdue patent reform.

THE SUPREME COURT'S RULING on patent law came a few weeks too late to help the company that makes the BlackBerry, but it is all the buzz among the BlackBerry set. And with any luck, the decision, announced Monday, will create some buzz in Congress for patent reform.

The case pitted auction giant EBay Inc. against MercExchange, a defunct e-commerce company. Inconveniently for the former, MercExchange holds patents related to EBay's bread and butter: online auctions and fixed-price consignment sales. In 2003, a U.S. District Court jury found that the patents had been violated, and two years later, an appeals court ruled that MercExchange was automatically entitled to an injunction against EBay.

In a unanimous ruling, the justices disagreed — not only with the appeals court but with a nearly 100-year-old Supreme Court precedent on patent law. That case, which stemmed from a dispute over paper-bag manufacturing techniques, held that an injunction was mandatory in almost all cases of patent infringement. Thus the scales were tilted in favor of patent holders, who could use the threat of an injunction to win disproportionately rich licensing deals.

The new decision relies on a more literal interpretation of federal patent law, which says courts "may" impose an injunction when appropriate. The standards for applying injunctions in patent cases are no different from any other case, Justice Clarence Thomas wrote in the decision. Courts will have to consider the facts and balance the interests involved.

The ruling won't necessarily spare EBay from an injunction; that's up to the lower courts to decide. But the balancing tests laid out for the courts will significantly reduce the negotiating leverage of firms whose sole business is amassing obscure patents and collecting fees from potential infringers.

Two months ago, the likelihood of an injunction helped prod Research in Motion Ltd., the maker of the BlackBerry, to pay patent-holder NTP Inc. (whose main business is collecting patents and suing over them) a $612.5-million settlement for violating patents related to wireless e-mail. Without a credible threat of its BlackBerry service being shut down, Research in Motion probably would have kept trying to get NTP's patents revoked, as the U.S. Patent and Trademark Office had tentatively agreed to do.

The patent office is second-guessing itself on some MercExchange patents as well, which points to a fundamental problem that the Supreme Court didn't address. The system yields too many bad patents, particularly when business methods are concerned. Proposals that would significantly strengthen the process have been bottled up in Congress. Now that the Supreme Court has started fixing the patent morass, lawmakers need to finish the job.

END

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 10:51 AM
To: Todd, Gordon (SMO); Boente, Dana J. (TAX)
Subject: RE: Telephone Excise Tax

Agreed!

-----Original Message-----
From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 9:47 AM
To: Boente, Dana J. (TAX); Gorsuch, Neil M
Subject: Re: Telephone Excise Tax

Thanks Dana.

-----Original Message-----
From: Boente, Dana J. (TAX)
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Sent: Wed May 17 09:44:06 2006
Subject: Telephone Excise Tax

Neil/Gordon: There is a meeting at the IRS tomorrow with Treasury, Tax, the SG, and perhaps OMB. Treasury has decided to concede the issue and is looking for the the agreement of the other parties. Secretary Snow plans to make the announcement on May 24. Please call if you need more details.
Dana

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 11:02 AM
To: [redacted]@ca9.uscourts.gov'
Subject: RE: DOJ Review

Thanks. I would not count on any annoucement before next Wednesday.

-----Original Message-----
From: [redacted]@ca9.uscourts.gov [mailto [redacted]@ca9.uscourts.gov]
Sent: Wednesday, May 17, 2006 10:14 AM
To: Gorsuch, Neil M
Subject: RE: DOJ Review

I understand how these things work. Our Court Executive Committee meets next Wed. May 24. In the event anything might happen before that date or on that date, I'd appreciate a heads up. The committee only meets six times a year, and pretty much everything the court does has to go through that body. Thanks much.

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
05/17/2006 05:05 AM

To
[redacted]@ca9.uscourts.gov"
<[redacted]@ca9.uscourts.gov>(Receipt Notification Requested) (IPM Return Requested)
cc

Subject
RE: DOJ Review

[redacted] There is no definitive announcement date set but, as you can imagine, we are anxious in completing this review as expeditiously as possible consistent with the AG's direction to make sure our work is thorough and complete. While there is no deadline per se, I would expect that you'd hear again from us rather soon. I'm sorry this is so vague but please do stay in touch -- we very much want to hear any additional thoughts/ideas/concerns as they emerge. Thanks so much, Neil

-----Original Message-----
From: [redacted]@ca9.uscourts.gov
[mailto [redacted]@ca9.uscourts.gov]
Sent: Tuesday, May 16, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: DOJ Review

Are you in a position to advise when the courts might hear anything about the DOJ review of immigration courts and BIA? Just trying to get some idea of timing. Or perhaps you are now out of that in light of your new job.

If you can't, or you don't know, not a problem. Thanks.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:08 AM
To: Boente, Dana J. (TAX); Gorsuch, Neil M
Subject: RE: Telephone Excise Tax

Dana - I'd like to attend. Can you shoot me the details?

Thx.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 11:11 AM
To: Todd, Gordon (SMO); Boente, Dana J. (TAX)
Subject: RE: Telephone Excise Tax

I won't be able to make it but sure would appreciate a report. Thanks.

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:08 AM
To: Boente, Dana J. (TAX); Gorsuch, Neil M
Subject: RE: Telephone Excise Tax

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Thx.

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Luckinbill, Trent W.

From: Luckinbill, Trent W.
Sent: Wednesday, May 17, 2006 11:28 AM
To: Gorsuch, Neil M
Subject: IP Task Force Report

Neil-

I am in the process of finding quotes for use in the IP Task Force report and it was mentioned to me that the Associate recently gave an IP-related speech that might provide some material for this purpose. If so, would you have a copy of that speech and would there be any issues in pulling a quote for use in the report?

P.S. - Congratulations on your nomination to the 10th circuit. [redacted] I wish you the best of luck through the rest of the process.

Trent

_____
Trent W. Luckinbill
Counsel to the Assistant Attorney General, Antitrust Division
Deputy Executive Director, DOJ Task Force on Intellectual Property
950 Pennsylvania Avenue, NW
Room 3414
Washington, DC 20530
(202) 514-3426

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:45 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Excise Tax Update

Robert/Neil:

Here is the state of play regarding the Excise Tax. Treasury has decided to cease collecting the tax, and is confessing legal error with regard to the interstate portion thereof. Their plan is for Secretary Snow to announce this on May 24, and to stop collecting the tax effective the end of July (the late date is necessary so that all phone companies can stop collecting at the same time - some can move faster than others). Then, the IRS will refund the interstate portion of collected excise taxes paid after March 31, 2003. The refund mechanism will be included on the 2006 tax return (filed in 2007), and will allow the tax payer either to provide an exact amount of tax paid, or a safe harbor standard claim.

Tomorrow, Treasury will meet with the SGs office and the Tax Division, as well as the IRS, to discuss the mechanics of withdrawing from the litigation. While the SG has not formally made a decision, he has recommendations from all the interested parties and is prepared to decide to stop litigation when the appropriate time arises. When that decision will be made formally will be discussed at tomorrow's meeting. I have spoken to Tom Hungar, and confirmed that the SGs office is set to move by the May 24 announcement.

In addition to the litigation side, Treasury and the White House will brief the relevant Congressional Committee staffs, as well as work with members to drop in legislation to repeal the entire excise tax (not just the interstate portion on which we're confessing error).

I will attend tomorrow's meeting. The Tax Division is appraised of Treasury's decision.

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, May 17, 2006 11:49 AM
To: Gorsuch, Neil M; Nichols, Carl (CIV); Brett_C._Gerry@who.eop.gov; Shannen_W._Coffin@ovp.eop.gov
Subject: FW: Guantanamo
Attachments: tmp.htm; ctonlineptrfriendly.gif; clear.gif; 4.0%20(compatible%3B%20MSIE%206.0%3B%20Windows%20NT%205.0),TID,26bidqe11tuhgb&random=pnyqdk,bcgwkghbdylrk; NSci=703&di=d004&pg=&ai=; -0605170139may17,0,1661432,print.storycoll=chi-newsop&ot=A&oi=179&s=1024x768&c=32&j=1.3&v=Y&k=Y&bw=850&bh=626&ct=lan&hp=N&[AQE]

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, May 17, 2006 09:52
Subject: Guantanamo

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http://www.chicagotribune.com/news/opinion/chi-0605170139may17,0,1971612.story?coll=chi-newsopinioncommentary-hed
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Inside Guantanamo Bay

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<http://www.chicagotribune.com/images/clear.gif>
By Navy Rear Adm. Harry B. Harris Jr., commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp

May 17, 2006

GUANTANAMO BAY, Cuba -- On Sunday, the Tribune editorial page asked readers: What should the U.S. do with the Guantanamo Bay detention camp? Harry B. Harris Jr., the commander of the Joint Task Force Guantanamo, offered this essay in response.

I lead the soldiers, sailors, airmen, Marines, Coast Guardsmen and civilians responsible for the safe and humane care and custody of the unlawful enemy combatants held here at Guantanamo--a responsibility we take very seriously.

The question of what to do with enemy combatants--committed jihadists and terrorists--is relevant and

important. As the person responsible for the detention of our nation's enemies held here, I appreciate and applaud the Chicago Tribune's posing of this serious question to your readership Sunday. Col. Robert McCormick would be pleased with the Tribune's efforts to address the pressing issues of our day.

The Tribune's characterization of Guantanamo as a "detention camp" is precisely correct. Despite our persistent efforts to correct the record, many mainstream outlets--print, voice and electronic--persist in referring to this facility as a "prison camp." This is not mere parsing of words or semantic folderol. Prisons are about punishment and rehabilitation; Guantanamo is about neither. What we are about is the detention of unlawful enemy combatants--dangerous men associated with Al Qaeda or the Taliban captured on the battlefield waging war on America and our allies, running from that battlefield, or otherwise closely associated with Al Qaeda and the Taliban--and, as you correctly pointed out, preventing them from returning to the fight. We hold men who proudly admit membership at the leadership level in Al Qaeda and the Taliban, many with direct personal contact and knowledge of the Sept. 11, 2001, attackers. We are keeping terrorist recruiters, facilitators, explosives trainers, bombers and bombmakers, Osama bin Laden bodyguards and financiers from continuing their jihad against America.

Virtual tour

I do reject out of hand, however, the Tribune's notion that we are somehow delinquent in our moral responsibility to transform the camp and that the camp is "unsatisfactory." This is simply not true. Your editorial is either misleading or ill-informed. Conditions have improved dramatically for detainees since they first arrived in 2002. More important, we aggressively look for ways to build on the "safe and humane care and custody" mission with which I opened this dialogue.

Today, a large number of detainees live in Camp 4, a communal-living facility where they are housed in a barracks setting with access to 12 hours of recreation and exercise per day. We provide ample exercise areas and equipment for them. Additionally, work is nearly complete on our new Camp 6, a $30 million modern medium-security facility that will make life even better for the detainees, while adding safeguards for the troops and civilians who work here. The design of Camp 6 is based on a medium-security facility in the U.S.

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In good faith

Detainees enjoy broad opportunities to practice their Muslim faith, including the requisite calls to prayer five times per day, prayer beads, rugs and copies of the Koran in their native languages from some 40 countries. Directional arrows pointing to Mecca have been painted in every cell and camp. The American guard force is specifically prohibited from touching detainees' Korans. Some detainees have attempted to use this restriction to their advantage by secreting messages, contraband and the like within their Korans. When prayer call is sounded, the guards set out "prayer cones"--traffic cones stenciled with the letter "P"--for the 30 minutes of prayer call, as a visible reminder for the guards to

avoid noise and disruption. This procedure was implemented after it was suggested by a detainee.

We have other camps where detainees who fail to follow camp rules are housed. As with Camp 4, these detainees are provided fair and humane treatment, have ample access to recreation time and equipment, equal access to medical and dental care, equal opportunity to practice their religion and other privileges. As are their colleagues in Camp 4, they are well-cared for and protected from inhumane treatment.

Detainees have sent and received more than 44,000 pieces of mail since February 2002, and our fully staffed detainee library has thousands of books and magazines for their use. Our library team just returned from a book-buying trip, adding nearly 2,000 Arabic titles to the library.

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Two weeks ago, a detainee broke his ankle playing soccer--what makes his case extraordinary is that he is a one-legged man! The quality of the prosthetic device he was given and the therapy he receives enabled him to play soccer. I have every confidence that he will soon return to that playing field. That said, many detainees persist in mixing a blood-urine-feces-semen cocktail and throwing this deadly concoction into the faces of the American men and women who guard them, feed them and care for them. Most of the time after such an assault, our guards decline the opportunity to take a day off. After a quick medical checkup and a shower, they prefer to put on a clean uniform and return to duty. And the only retribution they exact on the detainees is to simply continue to serve with pride, dignity and humanity.

Passing inspections

The International Committee of the Red Cross, which enjoys full diplomatic status, has unfettered access to the detainees. Their reports are useful, meaningful and confidential. They have helped us improve conditions here. I will note that, on April 25, Reuters reported that "detainees are enjoying better treatment at the U.S. prison camp at Guantanamo Bay, and the Red Cross is satisfied with its access to them ... Jakob Kellenberger, president of the International Committee of the Red Cross, said detention conditions at Guantanamo had `improved considerably' over the past four years ... He called it `extremely regrettable' that the intense media focus on Guantanamo seemed to distract from troubled sites in places like Chechnya and Myanmar, where the ICRC has suspended prison visits over disagreements with local authorities."

The Organization for Security and Cooperation in Europe had positive remarks to say about us based on its visit here this past March. As reported by Reuters, Alain Grignard, deputy head of Brussels' federal police anti-terrorism unit, at a press conference following an OSCE visit, said, "At the level of the

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Danger within

The U.S. government remains committed to not detaining any person any longer than is absolutely required. We are, in fact, outright releasing or transferring detainees to their home countries and other nations willing to accept them. In my reading of history, simply releasing enemy combatants during the course of an ongoing war is unprecedented.

Despite articles written by defense attorneys and young translators arguing the contrary, these are, in fact, dangerous men in our custody. Make no mistake about it--we are keeping enemies of our nation off the battlefield.
This is an enormous challenge. These terrorists are not represented by any nation or government. They do not adhere to the rules of war. That said, we treat them humanely, in full compliance with all laws and international obligations.

The young Americans serving here in Guantanamo are upholding the highest ideals of honor and duty in a remote location, face to face with some of the most dangerous men on the planet. Your readers should be proud of them. I am proud to be their commander.

Navy Rear Adm. Harry B. Harris Jr. is commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp.

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Image not available for this document, ID: 0.7.10316.16940-000002

Chicago Tribune
ONLINE EDITION

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, May 17, 2006 09:52
Subject: Guantanamo

http://www.chicagotribune.com/news/opinion/chi-0605170139may17,0,1971612.story?coll=chi-newsopinioncommentary-hed

Inside Guantanamo Bay

By Navy Rear Adm. Harry B. Harris Jr., commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp

Advertisement

May 17, 2006

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Danger within

The U.S. government remains committed to not detaining any person any longer than is absolutely required. We are, in fact, outright releasing or transferring detainees to their home countries and other nations willing to accept them. In my reading of history, simply releasing enemy combatants during the course of an ongoing war is unprecedented.

Despite articles written by defense attorneys and young translators arguing the contrary, these are, in fact, dangerous men in our custody. Make no mistake about it--we are keeping enemies of our nation off the battlefield. This is an enormous challenge. These terrorists are not represented by any nation or government. They do not adhere to the rules of war. That said, we treat them humanely, in full compliance with all laws and international obligations.

The young Americans serving here in Guantanamo are upholding the highest ideals of honor and duty in a remote location, face to face with some of the most dangerous men on the planet. Your readers should be proud of them. I am proud to be their commander.

Navy Rear Adm. Harry B. Harris Jr. is commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp.

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Gorsuch, Neil M

Subject:	Lunch with [redacted]
Start:	Friday, June 02, 2006 11:30 AM
End:	Friday, June 02, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 11:51 AM
To: Luckinbill, Trent W.
Subject: RE: IP Task Force Report
Attachments: Conference Board Remarks-March 2-Ver 3.wpd

Trent - Robert's speech, which touched on IP issues among several others, is attached. Thank you so much for the kind words about ca10; we will see what happens in the confirmation process… Bestm NMG

From: Luckinbill, Trent W.
Sent: Wednesday, May 17, 2006 11:28 AM
To: Gorsuch, Neil M
Subject: IP Task Force Report

Neil-

I am in the process of finding quotes for use in the IP Task Force report and it was mentioned to me that the Associate recently gave an IP-related speech that might provide some material for this purpose. If so, would you have a copy of that speech and would there be any issues in pulling a quote for use in the report?

P.S. - Congratulations on your nomination to the 10th circuit. [redacted] I wish you the best of luck through the rest of the process.

Trent

Trent W. Luckinbill
Counsel to the Assistant Attorney General, Antitrust Division
Deputy Executive Director, DOJ Task Force on Intellectual Property
950 Pennsylvania Avenue, NW
Room 3414
Washington, DC 20530
(202) 514-3426

Remarks of
Associate Attorney General Robert McCallum
Delivered to the
Council of Chief Legal Officers
The Conference Board
March 2, 2006
Boca Raton, Florida

Thank you for that kind invitation to join you here in Florida. It is a pleasure to be with you this evening. And not just because it is currently ___ degrees in Washington, D.C. I very much appreciate the opportunity to discuss with you various issues that are of importance to Attorney General Alberto Gonzales and which may be of particular interest to you as leaders of some of America's most significant corporations.

This visit also gives me the opportunity to listen to you as representatives of corporate America and to report back to the AG about your concerns. The AG certainly recognizes that the role of corporate counsel has never been more challenging. Corporations today are adapting to new statutory and regulatory regimes and face increased scrutiny of all sorts. At the same time, American businesses are presented with unprecedented opportunities, both here and abroad, for growth and expansion. President Bush is committed to a low tax, pro-growth economic policy. He has actively addressed barriers to competition here at home and around the globe. And he has sought to enhance

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opportunities for Americans to reap the benefits of their innovation and efficiency through competition on a level global playing field. The AG is certainly interested in your views in all of these areas, although there will undoubtedly be differences in perspectives and emphasis.

Discussing these issues is also timely because last month marked the one year anniversary of Judge Gonzales' assumption of responsibility as our nation's chief law enforcement officer. He took that opportunity to reflect on what the Department has accomplished over the last year and to define our goals and set our priorities for the next year. That sort of annual assessment and planning is something that is very familiar to you in the business community.

Our DOJ priorities will not, for the most part, be any surprise to you: first and foremost, we are charged with combating and interdicting terrorism as part of the ongoing war on terror. Other priorities include reducing violent crime with particular emphasis on gangs and gun crime, attacking drug trafficking, especially the new scourge of methamphetamine; prosecuting cyber crime including the internet exploitation of children and enhancing the protection of intellectual property rights; enforcing civil rights and preserving civil liberties with a focus on voting rights, human trafficking, and fair housing; and, finally restoring and maintaining confidence in the integrity and ethics of both our public and private institutions through the

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prosecution of corruption and fraud at all levels.

Today, rather than discussing generally those broad priorities with you, I would like to get down in the weeds a little bit by touching briefly on a few more detailed issues that impact, or are part of, these six overarching areas and which I think might be of particular interest to you.

<u>Judicial Appointments</u>

Let me start with what many view as the most significant events in the legal world this past year, something that indirectly can impact each of these priorities, the confirmation of Chief Justice John Roberts and Associate Justice Samuel Alito to the Supreme Court of the United States.

These two men are widely recognized – even by their ideological detractors – as ranking among the preeminent legal minds of our generation.

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Each previously served this nation with distinction in a variety of positions in the White House and the Department of Justice. Prior to his confirmation, Chief Justice Roberts was regarded as one the foremost appellate advocates in the country, having argued a remarkable 39 cases before the Supreme Court. I happened to be on a panel with Justice Sandra Day O'Connor the day his nomination was announced by the President. She praised his nomination and told me that John was one of the five best advocates to appear before the Court during her entire tenure. High praise indeed. Justice Alito, for his part, served for fifteen years on the Third Circuit Court of Appeals, where he developed a record of careful and restrained judicial craftsmanship, and his law clerks over those many years, liberal Democrats and conservative Republican alike, turned out in droves to attest to Sam's remarkable legal mind and his even-handed objective, non-partisan, analytical approach to deciding every case.

President Bush has made clear his commitment to appointing highly-qualified men and women to the federal judiciary, who will interpret and apply the law rather than legislate from the bench. This philosophy of judicial restraint respects the rule of law, which in turn permits stability and predictability in the social and economic fabric of our nation, a matter of vital importance to all Americans.

This development is good news for corporate counsel as well. Businesses operate best when they can understand and

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predict their legal obligations. The rules governing areas such as labor and employment, tax, and the environment should be clear and consistently applied, as enacted by the legislative branch and signed into law by the executive branch, the two branches that are accountable to the governed through the political process.

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The importance of these nominations led some business groups to participate in the judicial confirmation process for the first time. The Administration was gratified by the support Justices Roberts and Alito received, for example, from the United States Chamber of Commerce and the National Association of Manufacturers. To those of you who were involved in that process, I say thank you for making your voices heard as concerned citizens. For those of you who were not involved, I ask you to consider being involved not only in such matters but also in the other great issues of the day whatever they may be. As leaders of your communities, it can and does make a difference.

Opening Markets & Promoting Fair Competition: Antitrust and Intellectual Property

The Department of Justice also remains focused on expanding opportunities for businesses to compete, both here and abroad, by leveling playing fields and lowering barriers to commerce. We know that given a fair shake, American companies can compete with anyone, anytime, anywhere. Two areas in particular I would like to highlight are our efforts fighting antitrust cartels and expanding protections for intellectual property.

Antitrust Efforts to Fight International Cartels

You may have seen news reports recently of a criminal investigation into an alleged international price fixing cartel in the air cargo market. This market includes both private and national air carriers. As this is an ongoing criminal

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investigation, I cannot say much about it. However, one remarkable item noted in the press reports is the involvement of foreign law enforcement and regulators in both Europe and Asia. One would have to question whether, a decade ago, foreign regulators would have joined the United States in a criminal investigation into a cartel that possibly included nationalized companies. This multi-national action reflects a lot of hard work in developing cooperative law enforcement relationships and educating other cultures about the benefits of open markets and fair, robust competition.

International cartels that target U.S. markets inflict significant injury on American businesses and consumers. Currently, there are more than 50 sitting grand juries investigating suspected international cartel activity, which accounts for almost half of the Antitrust Division's grand jury investigations. The subjects and targets of the Department's international antitrust investigations are located in roughly 25 different countries on six continents. Our investigations have uncovered meetings of international cartels in well over 100 cities in more than 35 countries, including most of the Far East and nearly every country in Western Europe.

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This Administration has prosecuted a remarkable range of international cartels covering markets including vitamins, textiles, construction, food and feed additives, chemicals, fine arts auctions, ocean tanker shipping, marine construction, and computers. The cartel activity uncovered in these cases has cost U.S. businesses and consumers billions of dollars annually.

In the last few years, the Department has prosecuted foreign executives from Austria, Belgium, Canada, France, Germany, Italy, Japan, Korea, Mexico, Norway, the Netherlands, Sweden, Switzerland, and the United Kingdom for engaging in cartel activity, resulting in heavy fines and, in some cases, imprisonment.

This growing worldwide consensus that international cartel activity victimizes businesses and consumers everywhere and the increased cooperation among law enforcement authorities around the world allows us to investigate and prosecute more effectively international cartels. It has provided us with increased access to foreign-located evidence and witnesses, which has been instrumental in the break-up of a number of international cartels. Let me give you one example.

Our investigation of bid-rigging on wastewater treatment plant construction contracts in Egypt, which were funded by USAID, was assisted by the execution of search warrants by foreign authorities. In that investigation, over

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100 German police officers assisted in the simultaneous execution of search warrants on multiple companies at several locations across Germany. In the past few years, foreign authorities from five different countries have executed search warrants at our request in more than a half-dozen of our international cartel investigations. This is a remarkable development in international cooperation.

Another significant improvement has been an expansion of international agreements addressing cartel activity. The Department has reached cooperation agreements with a number of foreign governments, including Brazil, Israel, Japan, and Mexico.

The bottom line here: safe harbors for international antitrust offenders are rapidly shrinking. And that can only be good for competition by American business.

Intellectual Property Protections

Turning to a different but related topic, one of the Department's priorities is the recognition and protection of intellectual property rights, both domestically and internationally. The American legal system has long recognized the salutary effects and economic benefits of such protections. Indeed, the protection of intellectual property is among the powers expressly delegated to Congress by Article I of the Constitution in 1789. Those benefits are undermined, however, when other nations permit, whether overtly or tacitly, infringement on intellectual property rights.

IP infringement is often ignored or marginalized in the public consciousness as not being a real crime that causes harm. After all, which is more reprehensible: murder, aggravated assault, robbery, or a heinous counterfeiting of the latest music CD? We think of violations of IP rights as producing only pure economic loss: i.e. lost sales of designer clothes or bags, counterfeit DVD movies etc. But the

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aggregate economic impact those violations can be astounding. And we should also never forget that those same IP rights that protect against counterfeit CDs can, when violated in other contexts have serious and lasting real world impact in terms of personal injury and property damage.

For example, in March 2002, a boy living in New York underwent a life saving liver transplant. After the operation, he began a regimen for recovery, which included a weekly injection to treat anemia. While the operation had appeared successful, his anemia did not improve. In fact, after receiving his weekly injection, he began to feel excruciating painful spasms in his legs. The doctors were baffled, and it took eight painful weeks to determine the cause. The medicine was counterfeit, and did not contain the dosage required to treat his condition.

Nor was this an isolated event. In another case, a pharmaceutical company discovered in circulation a counterfeit version of its pills made with a combination of floor wax and a yellow, lead-based paint normally used to mark roads.

And, during 2004, another child could have been killed one night when his cell phone battery exploded, setting fire to his desk, computer monitor and bedroom carpet. An investigation discovered that the battery had been counterfeit.

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Intellectual property violations are widespread. Criminals target highly identifiable, commonly used and respected trademarked items. Besides CDs, DVDs, watches, and designer purses, consider prescription drugs, automobile and airplane parts, batteries, insecticides, baby food, and satellite signals, just to name a few.

Misappropriation of intellectual property has a dramatic impact on the national economy. The Office of the United States Trade Representative estimates that intellectual property theft worldwide costs American companies some $250 billion a year. That's Billion with a "B". This in turn costs the American economy hundreds of millions of dollars in lost wages, investment dollars, and taxes, as well thousands of jobs.

To take a more narrow focus, the International Intellectual Property Association commissioned a recently-released study on the value of copyright industries. That study estimated that during 2002, American copyright industries accounted for 6 percent of the nation's gross domestic product. This $626 billion contribution exceeded the GDPs of nations including Taiwan and Australia. Also during 2002, these industries employed 5.48 million workers, or 4 percent of the workforce, and sold $89.26 billion to foreign nations.

The Department has committed substantial resources to fight intellectual property crime. The Criminal Division

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includes a Computer Crime and Intellectual Property Section, or CCIPS. CCIPS attorneys prosecute IP cases and provide specialized guidance and training to prosecutors around the country. CCIPS attorneys also develop relationships with foreign prosecutors to strengthen the global response to IP theft. From 2002 through 2004, CCIPS was expanded by more than 50 percent (22 to 35 attorneys).

In addition to CCIPS, which is housed in Washington, each United States Attorney's Office now includes at least one, if not more, Computer and Telecommunications Coordinator, or "CTC." These prosecutors are specially trained to prosecute computer and IP cases, and can coordinate and train their colleagues in these efforts.

In July 2001, the Department also established 12 CHIPS – Computer Hacking and Intellectual Property – Units. These teams, which are located around the country, work closely with local law enforcement and prosecutors to prosecute and prevent computer crime and intellectual property offenses.

These efforts have had dramatic results. For instance:

- **In September 2004, in Operation Digital Marauder, over $56 million in counterfeit software was seized, resulting in charges against 11 individuals in California, Washington, and Texas.**

- **In August 2004, in Operation Digital Gridlock, more than 40 terabytes of illegally copyrighted**

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materials was sized from computers in Texas, New York, and Wisconsin in the first federal action against "peer-to-peer" networks. For those of you who, like me, have no idea what 40 terabytes represents: consider for a moment that it is the equivalent of 60,000 movies or 10.5 million songs.

In 2004, the Department also took the extraordinary step of convening a task force to determine areas where we might enhance our enforcement efforts. The task force gave a number of recommendations designed to increase the Department's effectiveness. Attorney General Gonzales has accepted the Task Force's recommendations, and the Department is now working to implement them. These include:

- **Expanding the number of prosecutors deployed to fight intellectual property crimes, including setting up additional CHIPS units in key regions, and increasing the resources available to the CCIPS unit in Washington;**

- **Recommending increases in FBI resources devoted to IP investigations;**

- **And, focusing on international criminal organizations involved in intellectual property crimes.**

This last recommendation is particularly interesting, because it recognizes that IP crime is largely unlimited by

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national borders. In fact, as global interconnectivity grows through computers and satellite communications, intellectual property crimes can be committed transnationally, with a criminal in one country stealing property from another, and sending it to a third in mere minutes. Moreover, without the cooperation of local authorities, clandestine (or in some cases not-so-clandestine) factories can produce infringing products at a tremendous rate. These goods can then be injected into the global commerce stream where they become harder to detect.

The task force also made several recommendations on international cooperation, such as deploying personnel to key United States embassies (Hong Kong is one example) to serve as "Intellectual Property Law Enforcement Coordinators." These individuals would coordinate intellectual property enforcement efforts in the region and serve as a liaison with local law enforcement. Another example is the Department's negotiation of agreements to ensure cooperation on intellectual property crimes with all EU member countries.

The AG's report also stressed the need to train foreign prosecutors and law enforcement in handling these crimes, in essence to spread a culture of respect for intellectual property. During the last year, CCIPS prosecutors met with more than 2,000 prosecutors, investigators, judges and intellectual property experts from 94 countries to provide training and technical assistance, to study criminal intellectual property offenses in foreign countries, and to

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develop law enforcement contacts necessary for international protection of IP rights. The Department has already provided training on intellectual property enforcement for government officials from Brazil, Brunei, Cambodia, Chile, Colombia, Indonesia, Korea, Philippines, Malaysia, Mexico, Myanmar, Singapore, Thailand, and Vietnam.

At a time when many areas of the DOJ are facing resource cuts and reallocations, this increase in resources in this area is a very real indication of the AG's commitment to this important priority. The DOJ takes these IP issues seriously, and we are doing something about them, both criminally and civilly.

Corporate Cooperation & Waiver of Privilege

Also of interest to you all, I know, is the Department's effort to promote and enforce appropriate ethical and professional standards of integrity and responsibility in both the public and private sector. In the wake of corporate scandals like Enron and WorldCom and of public corruption scandals like the recent guilty plea of Congressman Randall "Duke" Cunningham, President Bush made clear that the nation cannot tolerate fraud and corruption which damages the confidence of our citizens and the world community in the fairness, honesty, and reliability of our public and private institutions.

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One issue with regard to the Department's enforcement of appropriate corporate conduct that has drawn significant comment and provoked much discussion has been the Department's consideration of a corporation's cooperation in making criminal charging decisions and sentencing recommendations - and more specifically waivers by corporation of applicable privileges as part of that cooperation.

In a memorandum dated January 20, 2003, then-Deputy Attorney General Larry Thompson set out the elements prosecutors should consider in determining whether to charge a corporation with a crime. Among these was cooperation and voluntary disclosure.

As was set out in the memo, a prosecutor may consider -- quote -- "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

This last point has raised concern in the private bar and in the business community, and we at DOJ have been actively engaged in a dialogue with the bar and representatives of business. For instance, last year at this time, we invited Bill Ide and others to come to a national conference of US Attorneys, not only to explain their perspective but also to listen to the views of the US

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Attorneys. There are definitely two important interests that all sides in this dialogue recognize and embrace: on the one hand, the societal benefits from the preservation of certain confidential communications under various legal privileges and, on the other hand, the societal benefits from the vigorous enforcement of the criminal laws establishing norms and standards for corporate and public conduct. Neither is absolute, and the real issue is determining the right balance when those important goals are or perhaps seem to be in conflict one with the other.

We have heard the claim that federal prosecutors abuse their prosecutorial discretion described in the Thompson memo by routinely demanding inappropriate waivers of privilege at the very outset of an investigation. Others have argued that, even if waivers are not routinely sought, the mere risk that a waiver might be sought will discourage corporate employees from seeking legal advice from their corporate counsel and from being truly candid with counsel about the factual circumstances surrounding their need or desire for the legal advice. It has been asserted that corporate counsel will be deterred from undertaking internal investigations or putting advice in writing based upon the mere perception, even if inaccurate, that waivers of privilege could possibly be sought. Let me take these in turn.

First, the concern of the overzealous prosecutor. The Thompson memorandum itself makes clear several factors to be considered regarding a charging decision, one of which is the corporation's cooperation with the investigation, and the

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waiver of privileges is not an absolute requirement in establishing a corporation's cooperation. Rather, the Thompson memo states that prosecutors should consider waiver "where necessary to provide timely and complete information" and then only as "one factor in evaluating the corporation's cooperation."

Second, the memo makes clear that a cooperative "disclosure" (note that I am not calling it a "waiver") may, under many circumstances, be limited and precisely defined so as not to constitute a technical waiver of some established legal privilege. The purpose of any waiver or disclosure is to provide the government with timely access to complete and accurate information necessary to its inquiry. This standard may be satisfied by factual information, the identification of witnesses, and the production of non-privileged documents. Other investigations may require more, including possibly redacted notes of witness interview's or even contemporaneous advice given to the corporation concerning the conduct at issue. Each investigation is unique, and each has aspects to it that are inherently dependent on the discretion of the prosecutor. I often describe this process with the peeling an onion analogy; prosecutors generally start with the least intrusive disclosures that don't involve any waiver of legal privileges and go further in a layered approach only as and when necessary, Indeed, absent appropriate circumstances, the Thompson memo suggests: "prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation."

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Thus, the Thompson memo is itself quite balanced and deferential to legal privileges, subject to the timely, accurate and complete information needs of the prosecutor. We at the Department continue to embrace the Thompson memo as appropriate guidance to federal prosecutors, and we do not believe that it has been or is being misapplied through "routine" requests for privilege waivers.

While we at DOJ remain committed to the standards set forth in the Thompson memo, we did want to be responsive to what I will call the "perception concern" I mentioned: that is the claim that even if waivers are not being inappropriately sought, there is a risk that they might be and so attorney client communication is "chilled". In October 2005, during a time when I was serving as Acting Deputy Attorney General, I issued additional guidance which I intended to address this issue in part. That guidance required each United States Attorney's Office, and each DOJ component, to develop written review procedures when waivers of privilege were necessary to obtain timely, complete, and accurate information from business organizations. While the review process may vary from office to office in order to accommodate local needs, a necessary element is that a prosecutor must have the approval of the United States Attorney or a supervisor-level AUSA before seeking a waiver of the attorney-client or work product privilege. This process ensures that waiver requests are based upon a deliberate and considered evaluation of all

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of the circumstances affecting the exercise of the prosecutor's discretion in that case.

The real issue, to my mind, regarding these waiver and disclosure issues is the issue of whether there can be a limited waiver or disclosure to regulators or prosecutors that does not necessarily result in the protected information becoming available to civil litigants in claims against the corporation. That is an issue on which we need to have much more discussion since there is no defined DOJ position on that concept at this time. The waiver rule generally has been that waiver of a privileged communication to one party waives the privilege as to all other parties. However, at least one court of appeals, the Eighth Circuit, has taken the contrary view with regard to disclosures to the government. Of course, other courts have disagreed with the Eighth Circuit. A number of proposals have been floated to address the problem. Bills have been introduced into Congress that would create a federal rule of privilege under which waiver to the government would not constitute a waiver in subsequent private civil litigation, and a Federal Rules Advisory Committee of the Judicial Conference has also discussed a proposal that would amend the Federal Rules of Evidence to achieve this same goal.

Let me assure you that the Department is actively engaged in this issue. We understand the importance of legal privileges in ensuring the free flow of candid communications between corporate counsel and their clients,

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and we understand that such appropriate communications can contribute to sound corporate governance. At the same time, we take very seriously our duty to enforce the criminal law as prosecutors, and we will use all of the appropriate prosecutorial tools to do so. Both factors benefit our society and our economy. The devil is, of course, always in the details, and so we at DOJ are interested in continuing this discussion on the civil litigation issue with all interested parties, including but not limited to representatives of the ABA and the business community.

Again, let me thank you very much for the invitation to join you this evening. Judge Gonzales very much values the Department's relationship with groups like yours within the private sector, and he is committed to developing and maintaining those relationships in order to allow for candid communication and the open exchange of ideas on issue of common interest, whether we agree on every point or not.

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Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:56 AM
To: Gorsuch, Neil M
Subject: RE: Excise Tax Update

Neil - I've been dealing with Jenny on this - I can confirm that OMB is in the loop easily enough.

From: McCallum, Robert (SMO)
Sent: Wednesday, May 17, 2006 11:54 AM
To: Elwood, Courtney; Elston, Michael (ODAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Excise Tax Update

FYI on major $$$ impact cases for the fed. fisc. Neil: Will you make sure that Raul and OMB are aware of this decision. Robt.

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:45 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Excise Tax Update

Robert/Neil:

Here is the state of play regarding the Excise Tax. Treasury has decided to cease collecting the tax, and is confessing legal error with regard to the interstate portion thereof. Their plan is for Secretary Snow to announce this on May 24, and to stop collecting the tax effective the end of July (the late date is necessary so that all phone companies can stop collecting at the same time - some can move faster than others). Then, the IRS will refund the interstate portion of collected excise taxes paid after March 31, 2003. The refund mechanism will be included on the 2006 tax return (filed in 2007), and will allow the tax payer either to provide an exact amount of tax paid, or a safe harbor standard claim.

Tomorrow, Treasury will meet with the SGs office and the Tax Division, as well as the IRS, to discuss the mechanics of withdrawing from the litigation. While the SG has not formally made a decision, he has recommendations from all the interested parties and is prepared to decide to stop litigation when the appropriate time arises. When that decision will be made formally will be discussed at tomorrow's meeting. I have spoken to Tom Hungar, and confirmed that the SGs office is set to move by the May 24 announcement.

In addition to the litigation side, Treasury and the White House will brief the relevant Congressional Committee staffs, as well as work with members to drop in legislation to repeal the entire excise tax (not just the interstate portion on which we're confessing error).

I will attend tomorrow's meeting. The Tax Division is appraised of Treasury's decision.

Gordon

****
Gordon D. Todd, Esq.
Deputy Associate Attorney General

United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Shaw, Aloma A

Subject:	Voting Matters
Location:	5710
Start:	Friday, May 19, 2006 11:30 AM
End:	Friday, May 19, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT)

When: Friday, May 19, 2006 11:30 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Wan Kim and Rena Comisac requested this meeting.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 12:00 PM
To: Elwood, Courtney; Monheim, Thomas; McCallum, Robert (SMO)
Subject: FW: Guantanamo
Attachments: tmp.htm; ctonlineptrfriendly.gif; clear.gif; 4.0%20(compatible%3B%20MSIE%206.0%3B%20Windows%20NT%205.0),TID,26bidqe11tuhgb&random=pnyqdk,bcgwkghbdylrk; NSci=703&di=d004&pg=&ai=; -0605170139may17,0,1661432,print.storycoll=chi-newsop&ot=A&oi=179&s=1024x768&c=32&j=1.3&v=Y&k=Y&bw=850&bh=626&ct=lan&hp=N&[AQE]

Thought you'd find this of interest.

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, May 17, 2006 11:49 AM
To: Gorsuch, Neil M; Nichols, Carl (CIV); Brett_C._Gerry@who.eop.gov; Shannen_W._Coffin@ovp.eop.gov
Subject: FW: Guantanamo

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, May 17, 2006 09:52
Subject: Guantanamo

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<http://www.chicagotribune.com/news/opinion/chi-0605170139may17,0,1971612.story?coll=chi-newsopinioncommentary-hed>

Inside Guantanamo Bay

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By Navy Rear Adm. Harry B. Harris Jr., commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp

May 17, 2006

GUANTANAMO BAY, Cuba -- On Sunday, the Tribune editorial page asked readers:

What should the U.S. do with the Guantanamo Bay detention camp? Harry B. Harris Jr., the commander of the Joint Task Force Guantanamo, offered this essay in response.

I lead the soldiers, sailors, airmen, Marines, Coast Guardsmen and civilians responsible for the safe and humane care and custody of the unlawful enemy combatants held here at Guantanamo--a responsibility we take very seriously.

The question of what to do with enemy combatants--committed jihadists and terrorists--is relevant and important. As the person responsible for the detention of our nation's enemies held here, I appreciate and applaud the Chicago Tribune's posing of this serious question to your readership Sunday. Col. Robert McCormick would be pleased with the Tribune's efforts to address the pressing issues of our day.

The Tribune's characterization of Guantanamo as a "detention camp" is precisely correct. Despite our persistent efforts to correct the record, many mainstream outlets--print, voice and electronic--persist in referring to this facility as a "prison camp." This is not mere parsing of words or semantic folderol. Prisons are about punishment and rehabilitation; Guantanamo is about neither. What we are about is the detention of unlawful enemy combatants--dangerous men associated with Al Qaeda or the Taliban captured on the battlefield waging war on America and our allies, running from that battlefield, or otherwise closely associated with Al Qaeda and the Taliban--and, as you correctly pointed out, preventing them from returning to the fight. We hold men who proudly admit membership at the leadership level in Al Qaeda and the Taliban, many with direct personal contact and knowledge of the Sept. 11, 2001, attackers. We are keeping terrorist recruiters, facilitators, explosives trainers, bombers and bombmakers, Osama bin Laden bodyguards and financiers from continuing their jihad against America.

Virtual tour

I do reject out of hand, however, the Tribune's notion that we are somehow delinquent in our moral responsibility to transform the camp and that the camp is "unsatisfactory." This is simply not true. Your editorial is either misleading or ill-informed. Conditions have improved dramatically for detainees since they first arrived in 2002. More important, we aggressively look for ways to build on the "safe and humane care and custody" mission with which I opened this dialogue.

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Chicago Tribune
ONLINE EDITION

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From: [redacted] DoD OGC
Sent: Wednesday, May 17, 2006 09:52
Subject: Guantanamo

http://www.chicagotribune.com/news/opinion/chi-0605170139may17,0,1971612.story?coll=chi-newsopinioncommentary-hed

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 12:00 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Guantanamo

Thanks for passing this along.

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From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, May 17, 2006 11:49 AM
To: Gorsuch, Neil M; Nichols, Carl (CIV); Brett_C._Gerry@who.eop.gov; Shannen_W._Coffin@ovp.eo
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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, May 17, 2006 12:00 PM
To:	Scolinos, Tasia; Moschella, William; Roehrkasse, Brian
Subject:	FW: Guantanamo
Attachments:	tmp.htm; ctonlineptrfriendly.gif; clear.gif; 4.0%20(compatible%3B%20MSIE%206.0%3B%20Windows%20NT%205.0),TID,26bidqe11tuhgb&random=pnyqdk,bcgwkghbdylrk; NSci=703&di=d004&pg=&ai=; -0605170139may17,0,1661432,print.storycoll=chi-newsop&ot=A&oi=179&s=1024x768&c=32&j=1.3&v=Y&k=Y&bw=850&bh=626&ct=lan&hp=N&[AQE]

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Detainees have sent and received more than 44,000 pieces of mail since February 2002, and our fully staffed detainee library has thousands of books and magazines for their use. Our library team just returned from a book-buying trip, adding nearly 2,000 Arabic titles to the library.

Doctors in the house

We provide outstanding medical care to every detainee, the same quality as what our service members receive. We are improving the health and extending the life span of the detainee population in our charge. Last year, we completed building a $2.4 million camp hospital to treat detainees. To date, we have completed more than 300 surgeries, including an angioplasty, and more than 5,000 dental procedures. We provide eye care and issued almost 200 pairs of glasses last year. We have given nearly 3,000 voluntary vaccinations, including diphtheria, tetanus, mumps, measles and rubella--in many cases they are the first immunizations detainees have ever received--as well as treatment for hepatitis, influenza and latent tuberculosis. We offer complete colon cancer screenings to all of our detainees who are more than 50 years old, and a variety of medical specialists provide preventive and restorative care.

Two weeks ago, a detainee broke his ankle playing soccer--what makes his case extraordinary is that he is a one-legged man! The quality of the prosthetic device he was given and the therapy he receives enabled him to play soccer. I have every confidence that he will soon return to that playing field. That said, many detainees persist in mixing a blood-urine-feces-semen cocktail and throwing this deadly concoction into the faces of the American men and women who guard them, feed them and care for them. Most of the time after such an assault, our guards decline the opportunity to take a day off. After a quick medical checkup and a shower, they prefer to put on a clean uniform and return to duty. And the only retribution they exact on the detainees is to simply continue to serve with pride, dignity and humanity.

Passing inspections

The International Committee of the Red Cross, which enjoys full diplomatic status, has unfettered access to the detainees. Their reports are useful, meaningful and confidential. They have helped us improve conditions here. I will note that, on April 25, Reuters reported that "detainees are enjoying better treatment at the U.S. prison camp at Guantanamo Bay, and the Red Cross is satisfied with its

access to them ... Jakob Kellenberger, president of the International Committee of the Red Cross, said detention conditions at Guantanamo had `improved considerably' over the past four years ... He called it `extremely regrettable' that the intense media focus on Guantanamo seemed to distract from troubled sites in places like Chechnya and Myanmar, where the ICRC has suspended prison visits over disagreements with local authorities."

The Organization for Security and Cooperation in Europe had positive remarks to say about us based on its visit here this past March. As reported by Reuters, Alain Grignard, deputy head of Brussels' federal police anti-terrorism unit, at a press conference following an OSCE visit, said, "At the level of the detention facilities, it is a model prison, where people are better treated than in Belgian prisons." Anne-Marie Lizin, chairwoman of the Belgian Senate, told reporters at this same press conference that she saw no point in calling for the immediate closure of Guantanamo.

Danger within

The U.S. government remains committed to not detaining any person any longer than is absolutely required. We are, in fact, outright releasing or transferring detainees to their home countries and other nations willing to accept them. In my reading of history, simply releasing enemy combatants during the course of an ongoing war is unprecedented.

Despite articles written by defense attorneys and young translators arguing the contrary, these are, in fact, dangerous men in our custody. Make no mistake about it--we are keeping enemies of our nation off the battlefield.
This is an enormous challenge. These terrorists are not represented by any nation or government. They do not adhere to the rules of war. That said, we treat them humanely, in full compliance with all laws and international obligations.

The young Americans serving here in Guantanamo are upholding the highest ideals of honor and duty in a remote location, face to face with some of the most dangerous men on the planet. Your readers should be proud of them. I am proud to be their commander.

Navy Rear Adm. Harry B. Harris Jr. is commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp.

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Image not available for this document, ID: 0.7.10316.16909-000002

Chicago Tribune
ONLINE EDITION

-----Original Message-----
From: [redacted] DoD OGC
Sent: Wednesday, May 17, 2006 09:52
Subject: Guantanamo

http://www.chicagotribune.com/news/opinion/chi-0605170139may17,0,1971612.story?coll=chi-newsopinioncommentary-hed

Inside Guantanamo Bay

By Navy Rear Adm. Harry B. Harris Jr., commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp

Advertisement

May 17, 2006

GUANTANAMO BAY, Cuba -- *On Sunday, the Tribune editorial page asked readers: What should the U.S. do with the Guantanamo Bay detention camp? Harry B. Harris Jr., the commander of the Joint Task Force Guantanamo, offered this essay in response.*

I lead the soldiers, sailors, airmen, Marines, Coast Guardsmen and civilians responsible for the safe and humane care and custody of the unlawful enemy combatants held here at Guantanamo--a responsibility we take very seriously.

The question of what to do with enemy combatants--committed jihadists and terrorists--is relevant and important. As the person responsible for the detention of our nation's enemies held here, I appreciate and applaud the Chicago Tribune's posing of this serious question to your readership Sunday. Col. Robert McCormick would be pleased with the Tribune's efforts to address the pressing issues of our day.

The Tribune's characterization of Guantanamo as a "detention camp" is precisely correct. Despite our persistent efforts to correct the record, many mainstream outlets--print, voice and electronic--persist in referring to this facility as a "prison camp." This is not mere parsing of words or semantic folderol. Prisons are about punishment and rehabilitation; Guantanamo is about neither. What we are about is the detention of unlawful enemy combatants--dangerous men associated with Al Qaeda or the Taliban captured on the battlefield waging war on America and our allies, running from that battlefield, or otherwise closely associated with Al Qaeda and the Taliban--and, as you correctly pointed out, preventing them from returning to the fight. We hold men who proudly admit membership at the leadership level in Al Qaeda and the Taliban, many with direct personal contact and knowledge of the Sept. 11, 2001, attackers. We are keeping terrorist recruiters, facilitators, explosives trainers, bombers and bombmakers, Osama bin Laden bodyguards and financiers from continuing their jihad against America.

Virtual tour

I do reject out of hand, however, the Tribune's notion that we are somehow delinquent in our moral responsibility to transform the camp and that the camp is "unsatisfactory." This is simply not true. Your editorial is either misleading or ill-informed. Conditions have improved dramatically for detainees since they first arrived in 2002. More important, we aggressively look for ways to build on the "safe and humane care and custody" mission with which I opened this dialogue.

Today, a large number of detainees live in Camp 4, a communal-living facility where they are housed in a barracks setting with access to 12 hours of recreation and exercise per day. We provide ample exercise areas and equipment for them. Additionally, work is nearly complete on our new Camp 6, a $30 million modern medium-security facility that will make life even better for the detainees, while adding safeguards for the troops and civilians who work here. The design of Camp 6 is based on a medium-security facility in the U.S.

All detainees at Guantanamo are provided with three meals a day that meet cultural (halal) dietary requirements--meals which, incidentally, cost three times what meals for our servicemen and -women here cost. We fully meet special dietary needs (e.g., Type 2 diabetics, vegetarians, fish-but-not-red-meat-eaters etc.) of many of our detainees. We provide safe shelter and living areas with beds, mattresses, sheets and running-water toilets. We also provide adequate clothing, including shoes and uniforms, and the normal range of hygiene items, such as a toothbrush, toothpaste, soap and shampoo. Even so, many detainees have taken advantage of this--crafting killing weapons from toothbrushes and garrotes from food wrappers, for example.

In good faith

Detainees enjoy broad opportunities to practice their Muslim faith, including the requisite calls to prayer five times per day, prayer beads, rugs and copies of the Koran in their native languages from some 40 countries. Directional arrows pointing to Mecca have been painted in every cell and camp. The American guard force is specifically prohibited from touching detainees' Korans. Some detainees have attempted to use this restriction to their advantage by secreting messages, contraband and the like within their Korans. When prayer call is sounded, the guards set out "prayer cones"--traffic cones stenciled with the letter "P"--for the 30 minutes of prayer call, as a visible reminder for the guards to avoid noise and disruption. This procedure was implemented after it was suggested by a detainee.

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The young Americans serving here in Guantanamo are upholding the highest ideals of honor and duty in a remote location, face to face with some of the most dangerous men on the planet. Your readers should be proud of them. I am proud to be their commander.

Navy Rear Adm. Harry B. Harris Jr. is commander of Joint Task Force Guantanamo, which is responsible for detainee operations and intelligence gathering at the camp.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 12:03 PM
To: Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: Excise Tax Update

Thanks. I spoke with Jenny about this earlier this wk and I believe OMB is fully in the loop, but if you want to call Marc to confirm that'd be great.

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:56 AM
To: Gorsuch, Neil M
Subject: RE: Excise Tax Update

Neil - I've been dealing with Jenny on this - I can confirm that OMB is in the loop easily enough.

From: McCallum, Robert (SMO)
Sent: Wednesday, May 17, 2006 11:54 AM
To: Elwood, Courtney; Elston, Michael (ODAG); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Excise Tax Update

FYI on major $$$ impact cases for the fed. fisc. Neil: Will you make sure that Raul and OMB are aware of this decision. Robt.

From: Todd, Gordon (SMO)
Sent: Wednesday, May 17, 2006 11:45 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Excise Tax Update

Robert/Neil:

Here is the state of play regarding the Excise Tax. Treasury has decided to cease collecting the tax, and is confessing legal error with regard to the interstate portion thereof. Their plan is for Secretary Snow to announce this on May 24, and to stop collecting the tax effective the end of July (the late date is necessary so that all phone companies can stop collecting at the same time - some can move faster than others). Then, the IRS will refund the interstate portion of collected excise taxes paid after March 31, 2003. The refund mechanism will be included on the 2006 tax return (filed in 2007), and will allow the tax payer either to provide an exact amount of tax paid, or a safe harbor standard claim.

Tomorrow, Treasury will meet with the SGs office and the Tax Division, as well as the IRS, to discuss the mechanics of withdrawing from the litigation. While the SG has not formally made a decision, he has recommendations from all the interested parties and is prepared to decide to stop litigation when the appropriate time arises. When that decision will be made formally will be discussed at tomorrow's meeting. I have spoken to Tom Hungar, and confirmed that the SGs office is set to move by the May 24 announcement.

In addition to the litigation side, Treasury and the White House will brief the relevant Congressional Committee staffs, as well as work with members to drop in legislation to repeal the entire excise tax (not

just the interstate portion on which we're confessing error).

I will attend tomorrow's meeting. The Tax Division is appraised of Treasury's decision.

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 2:06 PM
To: [redacted]
Subject: RE: Yesterday

[redacted] It was a pleasure to meet you finally. Warm regards, NMG

-----Original Message-----
From: [redacted]
Sent: Wednesday, May 17, 2006 1:45 PM
To: Gorsuch, Neil M
Subject: Yesterday

Hi Neil -

It was great to finally meet you yesterday. I'm sorry that I was a bit behind the times - I'll blame the fact that I was in Nebraska for the past month - it wasn't until I had lunch with Susan Courtwright in the WH Counsel's office yesterday that I heard about your nomination. Congratulations and best of luck for a swift and smooth confirmation.

All my best,
[redacted]

Calvert, Chris (CIV)

Subject:	Updated: Deficit Reduction Act Litigation Meeting
Location:	3143
Start:	Friday, May 19, 2006 2:00 PM
End:	Friday, May 19, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Calvert, Chris (CIV)
Required Attendees:	Calvert, Chris (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Rivera, Jennifer (CIV); Lieber, Sheila (CIV); Stern, Mark (CIV); Elwood, John; Boardman, Michelle; Klein, Alisa (CIV); Hungar, Thomas G; Joseffer, Daryl

When: Friday, May 19, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 3143

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

POC: Chris Calvert, 4.3301

ATTN: **John Elwood and Michelle Boardman** - only one of you needs to attend.

The meeting needed to be moved to Friday afternoon.

Calvert, Chris (CIV)

Subject:	Updated: Deficit Reduction Act Litigation Meeting
Location:	3143
Start:	Friday, May 19, 2006 3:00 PM
End:	Friday, May 19, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Calvert, Chris (CIV)
Required Attendees:	Nichols, Carl (CIV); Gorsuch, Neil M; Rivera, Jennifer (CIV); Lieber, Sheila (CIV); Stern, Mark (CIV); Elwood, John; Boardman, Michelle; Klein, Alisa (CIV); Hungar, Thomas G; Joseffer, Daryl

POC: Chris Calvert, 4.3301

ATTN: **John Elwood and Michelle Boardman** - only one of you needs to attend.

The meeting needed to be moved to a later time Friday afternoon.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, May 17, 2006 4:54 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER RNC NEW ENGLAND REGIONAL DIRECTOR SENTENCED IN NEW HAMPSHIRE PHONE JAMMING CASE

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, MAY 17, 2006
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TDD (202) 514-1888

FORMER RNC NEW ENGLAND REGIONAL DIRECTOR SENTENCED IN NEW HAMPSHIRE PHONE JAMMING CASE

WASHINGTON, D.C.—James Tobin, the former New England Regional Director of the Republican National Committee, was sentenced today by Chief U.S. District Judge Steven McAuliffe of the District of New Hampshire to 10 months in prison, to be followed by two years of supervised release, and a fine of $10,000, the Department of Justice announced today.

In December 2005, a federal jury convicted Tobin, 45, of two charges stemming from a scheme to disrupt phone service to five Democratic Party offices and a firefighters' ride-to-the-polls program on Election Day 2002. Tobin, a resident of Bangor, Maine, was convicted on one count of conspiracy to commit telephone harassment in violation of 18 U.S.C. § 371 and 47 U.S.C. § 223 (a)(1)(D), and one count of aiding and abetting of telephone harassment in violation of 47 U.S.C. § 223(a)(1)(D) and 18 U.S.C. § 2. The jury acquitted Tobin on a charge of conspiracy to injure the free exercise of the right to vote; an additional charge relating to telephone harassment was dismissed prior to submission to the jury.

At trial, the government presented the testimony of Charles McGee, former Executive Director of the New Hampshire Republican State Committee, and Allen Raymond of GOP Marketplace, who testified that Tobin had put them in touch with each other to conduct the scheme. Both McGee and Raymond, who previously pleaded guilty and had been sentenced for related charges, testified that the phone jamming would not have gone forward without Tobin's involvement.

Another defendant, Shaun Hansen, is presently under indictment on related charges. Trial in the Hansen matter is scheduled for October 2006.

"This case underscores the Justice Department's commitment to protecting the integrity of our election system," said Assistant Attorney General Alice S. Fisher of the Criminal Division. "As today's sentencing demonstrates, any attempt to undermine that integrity through illegal Election Day schemes will be prosecuted and punished appropriately."

DOJ_NMG_ 0160146

"A clean election is fundamental to the American democratic process," stated Kenneth W. Kaiser, FBI Special Agent in Charge of the Boston Division. "Any attempts to interfere with an election will continue to be aggressively investigated by the FBI."

The investigation was conducted by the Bedford, NH, resident agency of the Federal Bureau of Investigation's Boston Division. The prosecution was jointly handled by the Criminal Division's Computer Crime and Intellectual Property Section (CCIPS) and the Public Integrity Section. The trial team included Andrew Levchuk and Lily Chinn of CCIPS and Nicholas Marsh of the Public Integrity Section. The team was supported by Aubrey Rupinta and Stephen Brannon of CCIPS.

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06-301

DOJ_NMG_ 0160147

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Image not available for this document, ID: 0.7.10316.16784-000002

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Wednesday, May 17, 2006 6:04 PM
To: Gorsuch, Neil M
Subject: FYI - Rachel will not be in until Friday

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

Calvert, Chris (CIV)

Subject:	Accepted: Updated: Deficit Reduction Act Litigation Meeting
Location:	3143
Start:	Friday, May 19, 2006 3:00 PM
End:	Friday, May 19, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Calvert, Chris (CIV)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 6:05 PM
To: Jaffer, Jamil N
Subject: RE: FYI - Rachel will not be in until Friday

thx

-----Original Message-----
From: Jaffer, Jamil N
Sent: Wednesday, May 17, 2006 6:04 PM
To: Gorsuch, Neil M
Subject: FYI - Rachel will not be in until Friday

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Wednesday, May 17, 2006 6:10 PM
To: Gorsuch, Neil M
Subject: Read: FYI - Rachel will not be in until Friday

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, May 17, 2006 6:33 PM
To: Gorsuch, Neil M
Subject: Pls call Ken Wainstein 4-6600

Swenson, Lily F

Subject:	Meeting to Discuss Immigration Courts and Board of Immigration Appeals
Location:	DOJ Main -- Assoc. AG Conf. Room 5710
Start:	Friday, May 19, 2006 11:00 AM
End:	Friday, May 19, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Swenson, Lily F
Required Attendees:	'Allyson_N._Ho@who.eop.gov'; Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Todd, Gordon (SMO); Pacold, Martha M; Bounds, Ryan W (OLP); Seidel, Rebecca

When: Friday, May 19, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: DOJ Main -- Assoc. AG Conf. Room 5710

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

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 17, 2006 6:50 PM
To: Elwood, Courtney; McCallum, Robert (SMO)
Subject: Tomorrow

I will likely miss tomorrow's morning meeting but should be in circa 9.

Jackson, Marjorie L

From: Jackson, Marjorie L
Sent: Wednesday, May 17, 2006 7:18 PM
To: Gorsuch, Neil M
Subject: Not read: Updated: Immigration Court Review

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, May 17, 2006 8:00 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
May 17, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Operation Safe Childhood Formally Implemented (OPA)
Today, the Attorney General implemented the Project Safe Childhood Initiative aimed at protecting children from online exploitation and abuse. He toured the FBI Innocent Images Unit in Calverton, Maryland, participated in a roundtable meeting and held a press conference. He was joined by FBI Director Robert Mueller; Assistant Secretary Julie Myers, U.S. Immigration and Customs Enforcement; Ernie Allen, President and Chief Executive Office, NCMEC; and representatives from the U.S. Secret Service, Internet Crimes Against Children, and the U.S. Postal Service.

Enron Jurors Begin Deliberations (OPA)
The Government concluded its closing arguments today, and the jury began deliberations in the criminal trial of former Enron executives Kenneth Lay and Jeffrey Skilling.

Judge Rules Against AT&T (OPA)
AT&T lost a court battle to retrieve evidence allegedly showing that it gave telephone and email records to intelligence agencies. Today, U.S. District Judge Vaughn Walker rejected AT&T's argument that the records contained trade secrets and had to be returned for safeguarding. The judge ruled that the Electronic Freedom Foundation lawyers could continue to use the documents for a lawsuit against AT&T, but they must keep the contents secret.

***New York Times* Story in Iraq Police Training (Criminal)**
The *New York Times* is planning to run a story tomorrow or Friday about Iraq police training in the post-conflict theatre. The story will assert that there were far too few trainers on the ground to be effective after the invasion; that plans to put more trainers on the ground were rejected by senior officials; and that the military is now embracing a large field training effort. The story will likely be a front-page, two-part article over the next two days. Senior DOJ official Carr Trevillian met with the *New York Times* to highlight what DOJ has done to support law enforcement training efforts.

Talking Points:

- Hundreds of DOJ employees and contractors have put their lives on the line to help establish the rule of law in Iraq.

- Since May 2003, DOJ has developed and provided training for the Iraqi Police Service, Commission on Public Integrity, Iraqi Ministry of Justice and Iraqi Corrections Service.

- DOJ efforts, in partnership with the Departments of State and Defense, resulted in the establishment of the Baghdad Police Service Academy, Jordan International Police Training College and seven provincial police training academies, as well as the Iraqi Corrections Service Academy.

- DOJ also assisted in the establishment of the Central Criminal Court of Iraq. DOJ personnel are serving as the Rule of Law Coordinators in the Provisional Reconstruction Teams in and outside of Baghdad.

- Specialized and advanced law enforcement training and mentoring to Iraqi law enforcement has been provided by the FBI, ATF, DEA and the U.S. Marshals Service.

As of May 6, 2006, more than 109,000 Iraqis have graduated from a Basic Police Academy (JIPTC, BPC and the regional academies) serving Iraq. Additionally, nearly 15,000 Iraqi policemen have graduated from an advanced and/or specialized police training course of instruction.

Money Laundering Indictment Against Major Internet Gambling Site Operators (Criminal)

The U.S. District Court for the District of Columbia unsealed an indictment yesterday against William Scott, Jessica Davis, Soulbury Ltd. and WorldWide Telesports, Inc., (WWTS) for offenses related to the laundering of an estimated $250 million worth of Internet gambling wagers. The 12-count indictment, filed April 7, 2005, alleges that from April 1998 through the date of the indictment, Scott and Davis operated WWTS, one of several entities through which they illegally enticed gamblers to send funds from the United States to Antigua with the intent that these funds would be used for wagers on Internet casino games and sporting events, such as the National Football League's Super Bowl and the National Collegiate Athletic Association's men's basketball championship tournament, as well as baseball, hockey and other sporting events.

Taiwanese National Pleads Guilty to Being a Covert Agent (Criminal)

Ko-Suen Moo, of Taipei, Taiwan, pleaded guilty early this morning in Federal District Court in Miami to being a covert agent of the People's Republic of China, conspiracy to broker and to export defense articles to the People's Republic of China, including one F-16 aircraft engine, Blackhawk helicopter engines, cruise missiles and air-to-air missiles, and bribery of a public official. According to in-court statements during the change of plea hearing, since at least February 2004, Moo and others had been negotiating for the acquisition of numerous defense articles for illegal delivery to the People's Republic of China.

Former RNC New England Regional Director Sentenced in New Hampshire Phone Jamming Case (Criminal)
James Tobin, the former New England Regional Director of the Republican National Committee, was sentenced today by Chief U.S. District Judge Steven McAuliffe of the District of New Hampshire to 10 months in prison, to be followed by two years of supervised release, and a fine of $10,000. In December 2005, a federal jury convicted Tobin, 45, of two charges stemming from a scheme to disrupt phone service to five Democratic Party offices and a firefighters' ride-to-the-polls program on Election Day 2002. Tobin, a resident of Bangor, Maine, was convicted on one count of conspiracy to commit telephone harassment, and one count of aiding and abetting of telephone harassment.

Sex Offender Charged with Producing, Possessing Child Pornography (Criminal)
A federal grand jury has charged a Boise sex offender with producing a pornographic video of a baby boy and sharing it on the Internet. Jerry L. Banks, Sr., 53, is also charged with possessing child pornography on CDs, three computers and a portable memory device, distributing child pornography in interstate and foreign commerce, and attempting to entice a minor to engage in sexual activity. Banks was arraigned in U.S. District Court in Boise this morning and entered a plea of not guilty.

Media Inquriy into National Security Letters (FBI)
USA Today's Kathy Chu is working on a story regarding money laundering, terrorist financing, and the use of national security letters. It is unclear when this story is set to run.

Neil Volz Turns Himself over to FBI (FBI)
Yesterday, Neil G. Volz, former Chief of Staff for Congressman Bob Ney (R-OH), and close associate to Jack Abramoff, turned himself in to the FBI Washington field office for booking and processing. Volz pleaded guilty on May 8, 2006 to one count of Criminal Conspiracy to Commit Honest Services Wire Fraud and Mail Fraud and one count of violating post employment restrictions for former Congressional staff members.

THURSDAY'S EXPECTED EVENTS/RELEASES:

In Dallas, Texas, the Attorney General will make remarks at the National Methamphetamine and Chemicals Initiative Strategy Conference with John Walters, ONDCP, Karen Tandy, DEA, Julie Myers, ICE, and Mexican Attorney General Daniel Cabeza De Vaca. He will also speak with students at a gang-effected high school and hold a press conference regarding the Administration's anti-gang strategy.

Regina Schofield, Assistant Attorney General, Office of Justice Programs, will give opening remarks at the House and Senate Caucuses on Missing and Exploited Children Breakfast Briefing. (Open Press)

Shaw, Aloma A

Subject:	Updated: Voting Matters
Location:	5706 (Neil's Office)
Start:	Friday, May 19, 2006 11:30 AM
End:	Friday, May 19, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT)

When: Friday, May 19, 2006 11:30 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5706 (Neil's Office)

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

Note change of room number

Wan Kim and Rena Comisac requested this meeting.

Shaw, Aloma A

Subject:	Updated: Voting Matters
Location:	5706 (Neil's Office)
Start:	Friday, May 19, 2006 11:30 AM
End:	Friday, May 19, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT)Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT)

Note change of room number

Wan Kim and Rena Comisac requested this meeting.

Swenson, Lily F

Subject:	Meeting to Discuss Immigration Courts and Board of Immigration Appeals
Location:	DOJ Main -- Assoc. AG Conf. Room 5710
Start:	Friday, May 19, 2006 11:00 AM
End:	Friday, May 19, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Tentative
Organizer:	Swenson, Lily F
Required Attendees:	'Allyson_N._Ho@who.eop.gov'; Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Todd, Gordon (SMO); Pacold, Martha M; Bounds, Ryan W (OLP); Seidel, Rebecca'Allyson_N._Ho@who.eop.gov'; Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Todd, Gordon (SMO); Pacold, Martha M; Bounds, Ryan W (OLP); Seidel, Rebecca

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, May 18, 2006 1:02 PM
To: Gorsuch, Neil M
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

I'll be at this, if you want to pop by. No pressure.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Thursday, May 18, 2006 12:37
To: [redacted] DoD OGC; [redacted] OGC; [redacted]
SES SAF/GCN; [redacted] AFLOA/JACE; [redacted] OTJAG;
[redacted] OGC
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

FYI

-----Original Message-----
From: Heather.Gange@usdoj.gov [mailto:Heather.Gange@usdoj.gov]
Sent: Thursday, May 18, 2006 11:00
To: [redacted]@dodgc.osd.mil
Subject: DOJ Meeting with the AAG Sue Ellen Wooldridge

[redacted]

As a recap of my voicemail, the meeting has been confirmed for 4:00 today, in the conference room adjoining Rm 2143, Main Justice Building, 950 Pennsylvania Ave., NW. Security screening may take as long as 10-15 minutes for your group, but the conference room should be relatively easy to locate after that.

Take care, and feel free to call with any questions,

Heather

Heather E. Gange
U.S. Department of Justice
Environment & Natural Resources Division Environmental Defense Section (202) 514-4206 (202) 514-8865 (fax)

U.S. Mail:
P.O. Box 23986
Washington, DC 20026-3986
FedEx Address:
601 D St. N.W., Suite 8000

601 D St, N.W., Suite 8000
Washington, DC 20004

This message, including any attachments, is an attorney-client communication and/or attorney work product intended only for review and use by its designated recipients. Therefore, it is privileged and confidential. If you have received this message in error, please immediately notify the sender by reply e-mail and destroy the message and any attachments.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 1:32 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: DOJ Meeting with the AAG Sue Ellen Wooldridge

Afraid I won't be able to make it after all - have a 4pm mtg here on an AG civil rights initiative. But if you want to stop by to catch up after yours, it'd be great to see you (though no pressure at all!).

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Thursday, May 18, 2006 1:02 PM
To: Gorsuch, Neil M
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

I'll be at this, if you want to pop by. No pressure.

-----Original Message-----
From: [redacted] COL, DoD OGC
Sent: Thursday, May 18, 2006 12:37
To: [redacted] DoD OGC; [redacted] OGC; [redacted]
SES SAF/GCN; [redacted] AFLOA/JACE; [redacted] OTJAG;
[redacted] OGC
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

FYI

-----Original Message-----
From: Heather.Gange@usdoj.gov [mailto:Heather.Gange@usdoj.gov]
Sent: Thursday, May 18, 2006 11:00
To: [redacted]@dodgc.osd.mil
Subject: DOJ Meeting with the AAG Sue Ellen Wooldridge

[redacted]

As a recap of my voicemail, the meeting has been confirmed for 4:00 today, in the conference room adjoining Rm 2143, Main Justice Building, 950 Pennsylvania Ave., NW. Security screening may take as long as 10-15 minutes for your group, but the conference room should be relatively easy to locate after that.

Take care, and feel free to call with any questions,

Heather

Heather E. Gange

Heather L. Gange
U.S. Department of Justice
Environment & Natural Resources Division Environmental Defense Section (202) 514-4206 (202) 514-8865 (fax)

U.S. Mail:
P.O. Box 23986
Washington, DC 20026-3986
FedEx Address:
601 D St, N.W., Suite 8000
Washington, DC 20004

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 2:49 PM
To: Palmer, David (CRT)
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Swenson, Lily F

From:	Swenson, Lily F
Sent:	Thursday, May 18, 2006 3:07 PM
To:	Jezierski, Crystal; Cohn, Jonathan (CIV); Pacold, Martha M; Otis, Lee L; Ohlson, Kevin (EOIR); Neal, David L. (EOIR); Scolinos, Tasia
Cc:	Elwood, Courtney; Gorsuch, Neil M; Seidel, Rebecca; Bounds, Ryan W (OLP); Todd, Gordon (SMO)
Subject:	Philadelphia City Council Resolution
Attachments:	AR-M550U_20060518_121419.pdf

This correspondence is on its way to each of you. Talk about being run out of town. Does anyone think we need to discuss? I defer to OIPL/OPA.

MP

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

DATE OF DOCUMENT: 05/05/2006
DATE RECEIVED: 05/12/2006

WORKFLOW ID: 1002593
DUE DATE: 05/31/2006

FROM: [redacted]
Councilman-At-Large
City of Philadelphia City Council
Room 330 City Hall
Philadelphia, PA 19107

TO: AG

MAIL TYPE: Priority VIP Correspondence-Policy/Issue

SUBJECT: Enclosing a resolution that was unanimously adopted by the Philadelphia City Council on 5/4/06, calling on the AG to immediately remove Judge Donald V. Ferlise from his position as an immigration judge in Philadelphia, PA, due to alleged misconduct and abuse. Advising that he applauds the AG for initiating a comprehensive review of all immigration courts. See WF 946026 and other related corres in ES.

DATE ASSIGNED	ACTION COMPONENT & ACTION REQUESTED
05/16/2006	For appropriate handling. Advise ES of any action taken. Office of the Associate Attorney General

INFO COMPONENT: OAG, ODAG, OIPL, EOIR, CIV, PAO

COMMENTS: To OASG (Swenson) for handling. Advise ES if corres should be reassigned to EOIR for handling.

FILE CODE:

EXECSEC POC: Shirley McKay: 202-514-5305

1002593

CITY OF PHILADELPHIA
CITY COUNCIL

[redacted]
Room 330 City Hall
Philadelphia, Pennsylvania 19107
[redacted]
Fax No. (215) 686-2013

COUNCILMAN-AT-LARGE

[redacted]

May 5, 2006

Alberto R. Gonzales, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Gonzales,

On May 4, 2006, I introduced a resolution calling on you, as Attorney General, to immediately remove Judge Donald V. Ferlise from his Philadelphia immigration judge position. The resolution was unanimously adopted by the Philadelphia City Council.

As an elected official in the City of Philadelphia, who is very involved in a number of immigrant issues, I cannot ignore the behavior of Judge Ferlise inside his courtroom. For this reason I introduced the attached resolution, which highlights Judge Ferlise's history of misconduct. As stated by the Third Circuit Court, in an opinion pertaining to Judge Ferlise, "It is a hallmark of the American system of justice that anyone who appears as a litigant in an American courtroom is treated with dignity and respect. That expectation must be met regardless of the citizenship of the parties or the nature of the litigation."

Your commitment to these standards is clear and I applaud you for initiating a comprehensive review of all immigration courts. Certainly, misconduct and abuse cannot be tolerated. Therefore, I respectfully ask that consider removing Judge Ferlise from his current position.

Thank you for your consideration.

Respectfully,

[redacted]

attachment

RECEIVED
MAY 12 2006
OFFICE OF THE ATTORNEY GENERAL

RESOLUTION

Calling upon the Attorney General of the United States to immediately remove Donald V. Ferlise from his immigration judge position in Philadelphia due to his documented history of inappropriate treatment of those appearing before him.

WHEREAS, The Third Circuit Court wrote, "It is a hallmark of the American system of justice that anyone who appears as a litigant in an American courtroom is treated with dignity and respect. That expectation must be met regardless of the citizenship of the parties or the nature of the litigation;" and

WHEREAS, Judge Donald V. Ferlise's courtroom conduct has been condemned on multiple occasions in opinions of the United States Court of Appeals for the Third Circuit; and

WHEREAS, On April 28, 2006, federal appeals panel ruled that Judge Ferlise prejudged cases and bullied asylum-seekers by denying them a right to fair hearings; and

WHEREAS, One of these cases involved petitioner Abou Cham of The Gambia who filed an application for asylum due to his relationship with his uncle, Dawda K. Jawara, who was president of The Gambia until he was ousted by a military coup on July 22, 1994; and

WHEREAS, During the hearing, Judge Ferlise intimidated Cham into a state of confusion with "abusive" comments; and

WHEREAS, Judge Maryanne Trump Barry of 3rd U.S. Circuit Court of Appeals wrote, "Judge Ferlise continually abused an increasing distraught petitioner (Cham), rendering him unable to coherently respond to Judge Ferlise's questions . . . . The belligerence of the questioning and the tension in the courtroom fairly leap off the pages of the record;" and

WHEREAS, According to a 2000 study published by the San Jose *Mercury News*, Judge Ferlise is ranked among the 10 toughest asylum judges in the country. Between 1995 and 1999, Ferlise granted only 74 of 715 asylum requests; and

WHEREAS, Currently, the Attorney General is conducting a comprehensive review of the immigration courts citing concerns that certain immigration judges fail to treat persons appearing before them with appropriate respect and consideration and therefore fail to produce the quality of work expected from employees of the Department of Justice; now, therefore, be it

RESOLVED BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That we call upon the Attorney General of the United States to immediately remove Donald V. Ferlise from his immigration judge position in Philadelphia due to his documented history of inappropriate treatment of persons appearing before him.

Councilman-At-Large

Councilman-At-Large

May 4, 2006

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

DATE OF DOCUMENT: 01/09/2006 **WORKFLOW ID:** 946026
DATE RECEIVED: 01/31/2006 **DUE DATE:** 06/26/2007

FROM: The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

TO: Members of the Board of Immigration Appeals & Immigration Judges

MAIL TYPE: Priority VIP Correspondence-Policy/Issue

SUBJECT: (Copies rec'd from OAG) Two memos expressing concern regarding the treatment of aliens appearing before immigration judges.

DATE ASSIGNED **ACTION COMPONENT & ACTION REQUESTED**
Controlled for search purposes only.

INFO COMPONENT:

COMMENTS: 1/31/2006: AG signed letters (2) dated 1/9/06. Originals handled by OAG and OAG provided ES with copies.

FILE CODE: AG FILE: AG MEMORANDA General, AG Chron AS-01-09-06

EXECSEC POC: Leilani Hannie: 202-616-0082

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Re:

Neil -

Like all government meetings, this one is running long. I'll not be able to make it to your office in time. Let's try for a day next week or after your 330 if your calendar allows.

Dp
2026165570

-----Original Message-----
From: Palmer, David (CRT)
To: Gorsuch, Neil M
Sent: Thu May 18 14:50:38 2006
Subject: Re:

Great. I'll email as the meeting draws to a close. If it runs past 315 or so I'll advise and we'll reschedule.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 14:48:31 2006
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:23 PM
To: Palmer, David (CRT)
Subject: RE:

No problem! Any afternoon next week looks fine.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
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David

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:25 PM
To: Wainstein, Kenneth (USADC)
Subject: Lunch

Ken - I'm very sorry but Monday's now looking tough for me; could we try Weds or Thurs? My apologies for the inconvenience. Neil

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

Thanks. Tuesday or Wenesday work for me. Let me know what works best for you.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 15:23:01 2006
Subject: RE:

No problem! Any afternoon next week looks fine.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Re:

Neil -

Like all government meetings, this one is running long. I'll not be able to make it to your office in time. Let's try for a day next week or after your 330 if your calendar allows.

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To: Gorsuch, Neil M
Subject:

Neil -

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David

Otis, Lee L

From:	Otis, Lee L
Sent:	Thursday, May 18, 2006 3:27 PM
To:	Swenson, Lily F; Jezierski, Crystal; Cohn, Jonathan (CIV); Pacold, Martha M; Ohlson, Kevin (EOIR); Neal, David L. (EOIR); Scolinos, Tasia
Cc:	Elwood, Courtney; Gorsuch, Neil M; Seidel, Rebecca; Bounds, Ryan W (OLP); Todd, Gordon (SMO)
Subject:	RE: Philadelphia City Council Resolution

Thanks. Am checking with Margolis as well given the personnel aspect to it.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, May 18, 2006 3:07 PM
To: Jezierski, Crystal; Cohn, Jonathan (CIV); Pacold, Martha M; Otis, Lee L; Ohlson, Kevin (EOIR); Neal, David L. (EOIR); Scolinos, Tasia
Cc: Elwood, Courtney; Gorsuch, Neil M; Seidel, Rebecca; Bounds, Ryan W (OLP); Todd, Gordon (SMO)
Subject: Philadelphia City Council Resolution

This correspondence is on its way to each of you. Talk about being run out of town. Does anyone think we need to discuss? I defer to OIPL/OPA.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:36 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that [redacted] received my Senate questionnaire and waiver forms. [redacted] also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

Wainstein, Kenneth (USADC)

From: Wainstein, Kenneth (USADC)
Sent: Thursday, May 18, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: RE: Lunch
Attachments: tmp.htm

I can't make it Thursday, and on Wednesday I've got to speak to a group from 12:30 to about 1:45. I could meet for a late lunch at 2.
Otherwise, May 29, 30 or 31 all look good for me.

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:25 PM
To: Wainstein, Kenneth (USADC)
Subject: Lunch

Ken - I'm very sorry but Monday's now looking tough for me; could we try Weds or Thurs? My apologies for the inconvenience. Neil

I can't make it Thursday, and on Wednesday I've got to speak to a group from 12:30 to about 1:45. I could meet for a late lunch at 2. Otherwise, May 29, 30 or 31 all look good for me.

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:25 PM
To: Wainstein, Kenneth (USADC)
Subject: Lunch

Ken - I'm very sorry but Monday's now looking tough for me; could we try Weds or Thurs? My apologies for the inconvenience. Neil

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

It is customary to provide writing samples. Briefs are fine. I am not sure about the law review article - is that the assisted suicide? They will read all of your published materials anyway.
Payton is one of the people that did Brett's review the third time around.
They usually call you - David, do you know when they reach out? You should make sure you have your list of contacts ready so that you can offer it up immediately.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
CC: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu May 18 15:35:55 2006
Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that [redacted] received my Senate questionnaire and waiver forms. [redacted] also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:13 PM
To: Shaw, Aloma A
Cc: Todd, Gordon (SMO)
Subject: CRT Initiatives

Please could you schedule another mtg like today's on CRT initiatives with the following group: Wan Kim, Rena Comisac (CRT); Crystal Jezierski (OIPL); Tasia Scolinos, Brian Roherkasse (OPA); me and Gordon? Thanks!

Gorsuch, Neil M

Subject:	Brett Gerry
Location:	Cafe Atlantic reserv
Start:	Thursday, May 25, 2006 12:00 PM
End:	Thursday, May 25, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:52 PM
To: Wainstein, Kenneth (USADC)
Subject: RE: Lunch

The 29th works great for me; shall we meet same place and time (noon/Navy Mem)? My sincere apologies for the inconvenience.

-----Original Message-----
From: Wainstein, Kenneth (USADC)
Sent: Thursday, May 18, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

I can't make it Thursday, and on Wednesday I've got to speak to a group from 12:30 to about 1:45. I could meet for a late lunch at 2.
Otherwise, May 29, 30 or 31 all look good for me.

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:25 PM
To: Wainstein, Kenneth (USADC)
Subject: Lunch

Ken - I'm very sorry but Monday's now looking tough for me; could we try Weds or Thurs? My apologies for the inconvenience. Neil

Gorsuch, Neil M

Subject:	Ken Wainstein - Jamil Jaffer
Start:	Monday, May 29, 2006 12:00 PM
End:	Monday, May 29, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Best, David T

From: Best, David T
Sent: Thursday, May 18, 2006 4:53 PM
To: Macklin, Kristi R; Gorsuch, Neil M; Cook, Elisebeth C
Subject: RE: ABA

I do not know the timing of when the ABA investigators reach out to the nominee. I have heard some nominees were contacted early while in some other nominations the nominee was last on the list. If Mr. Tober has invited you to call them, then do so and make yourself available. With regard to the writing samples, I wouldn't get too concerned about this - just pick five that reflect your best work.

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

It is customary to provide writing samples. Briefs are fine. I am not sure about the law review article - is that the assisted suicide? They will read all of your published materials anyway.
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Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that [redacted] received my Senate questionnaire and waiver forms. [redacted] also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

NMG

Wainstein, Kenneth (USADC)

From: Wainstein, Kenneth (USADC)
Sent: Thursday, May 18, 2006 4:55 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

No problem at all. See you at noon on the 29th at the Navy Memorial.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:52 PM
To: Wainstein, Kenneth (USADC)
Subject: RE: Lunch

The 29th works great for me; shall we meet same place and time (noon/Navy Mem)? My sincere apologies for the inconvenience.

-----Original Message-----
From: Wainstein, Kenneth (USADC)
Sent: Thursday, May 18, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

I can't make it Thursday, and on Wednesday I've got to speak to a group from 12:30 to about 1:45. I could meet for a late lunch at 2.
Otherwise, May 29, 30 or 31 all look good for me.

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 3:25 PM
To: Wainstein, Kenneth (USADC)
Subject: Lunch

Ken - I'm very sorry but Monday's now looking tough for me; could we try Weds or Thurs? My apologies for the inconvenience. Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:55 PM
To: Palmer, David (CRT)
Subject: RE:

How about Weds at 1.30?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

Thanks. Tuesday or Wenesday work for me. Let me know what works best for you.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 15:23:01 2006
Subject: RE:

No problem! Any afternoon next week looks fine.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Re:

Neil -

Like all government meetings, this one is running long. I'll not be able to make it to your office in time. Let's try for a day next week or after your 330 if your calendar allows.

Dp
2026165570

-----Original Message-----
From: Palmer, David (CRT)
To: Gorsuch, Neil M
Sent: Thu May 18 14:50:38 2006
Subject: Re:

Great. I'll email as the meeting draws to a close. If it runs past 315 or so I'll advise and we'll reschedule.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 14:48:31 2006
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:56 PM
To: Swenson, Lily F
Subject: RE: Philadelphia City Council Resolution

WOW

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, May 18, 2006 3:07 PM
To: Jezierski, Crystal; Cohn, Jonathan (CIV); Pacold, Martha M; Otis, Lee L; Ohlson, Kevin (EOIR); Neal, David L. (EOIR); Scolinos, Tasia
Cc: Elwood, Courtney; Gorsuch, Neil M; Seidel, Rebecca; Bounds, Ryan W (OLP); Todd, Gordon (SMO)
Subject: Philadelphia City Council Resolution

This correspondence is on its way to each of you. Talk about being run out of town. Does anyone think we need to discuss? I defer to OIPL/OPA.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:57 PM
To: Best, David T
Subject: RE: ABA

Thanks David

-----Original Message-----
From: Best, David T
Sent: Thursday, May 18, 2006 4:53 PM
To: Macklin, Kristi R; Gorsuch, Neil M; Cook, Elisebeth C
Subject: RE: ABA

I do not know the timing of when the ABA investigators reach out to the nominee. I have heard some nominees were contacted early while in some other nominations the nominee was last on the list. If [redacted] has invited you to call them, then do so and make yourself available. With regard to the writing samples, I wouldn't get too concerned about this - just pick five that reflect your best work.

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

It is customary to provide writing samples. Briefs are fine. I am not sure about the law review article - is that the assisted suicide? They will read all of your published materials anyway.
Payton is one of the people that did Brett's review the third time around.
They usually call you - David, do you know when they reach out? You should make sure you have your list of contacts ready so that you can offer it up immediately.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
CC: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu May 18 15:35:55 2006
Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that he's received my Senate questionnaire and waiver forms. He also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

From: [redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Gorsuch, Neil M; [redacted]@khhte.com
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To: [redacted]@khhte.com
Subject: ANOTHER Favor...

[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

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Anschutz - our appeal in California IN QWEST CASE ROOM ACROSS FROM DCF, INDEX TO PLEADINGS IS ON PC DOCS

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Ztel - our motion to dismiss; the reply; our motion for discovery sanctions SHOULD BE ON PC DOCS AS PDF, IF NOT, THEY ARE OFFSITE

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Goff v. Bickerstaff - our opp to the motion for class cert; our motions to dismiss OFFSITE

[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE:

Perfect. Thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:55 PM
To: Palmer, David (CRT)
Subject: RE:

How about Weds at 1.30?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

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Sent: Thu May 18 15:23:01 2006
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Great. I'll email as the meeting draws to a close. If it runs past 315 or so I'll advise and we'll reschedule.

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Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

@khhte.com

From: @khhte.com
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M;
Subject: RE: ANOTHER Favor...

Hey, no problem. see you tomorrow.

Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036
@khhte.com

-----Original Message-----
From [mailto
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov;
Subject: RE: ANOTHER Favor...

see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To: @khhte.com
Subject: ANOTHER Favor...

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[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 5:40 PM
To: [redacted]@khhte.com'[redacted]
Subject: RE: ANOTHER Favor...

Thank you both so much!

-----Original Message-----
From: [redacted]@khhte.com [mailto[redacted]@khhte.com]
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M;[redacted]
Subject: RE: ANOTHER Favor...

Hey, no problem [redacted] see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036[redacted]
[redacted]@khhte.com

-----Original Message-----
From: [redacted][mailto[redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov; Murphy, Bernadette M.
Subject: RE: ANOTHER Favor...

Bernie: see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To:[redacted]@khhte.com
Subject: ANOTHER Favor...

[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

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Gorsuch, Neil M

Subject: [redacted]

Start: Wednesday, May 24, 2006 1:30 PM
End: Wednesday, May 24, 2006 2:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 5:41 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Your VM

I didn't receive the email but did get your recent vm. Congratulations to you and the whole team. Well done!

From: [redacted]
Sent: Thursday, May 18, 2006 5:45 PM
To: Gorsuch, Neil M
Subject: RE: ANOTHER Favor...

And may I offer my congratulations . . . I plan on sending letters supporting your nomination to the Senate Judiciary Committee, and would like to attend the hearing, which I hear is open to the public. If there's anything else I can do, please don't hesitate to let me know.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 5:39 PM
To [redacted]@khhte.com [redacted]
Subject: RE: ANOTHER Favor...

Thank you both so much!

-----Original Message-----
From: [redacted]@khhte.com [mailto [redacted]@khhte.com]
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M [redacted]
Subject: RE: ANOTHER Favor...

Hey, no problem. [redacted] see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 [redacted]
[redacted]@khhte.com

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov [redacted]
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To [redacted]@khhte.com
Subject: ANOTHER Favor...

[redacted]

[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

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[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 6:11 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: DOJ Meeting with the AAG Sue Ellen Wooldridge

Agreed

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Thursday, May 18, 2006 5:52 PM
To: Gorsuch, Neil M
Subject: Re: DOJ Meeting with the AAG Sue Ellen Wooldridge

Gotta run, but tell the AAG he's got a good Asst. AG/Environmental.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>
Sent: Thu May 18 13:31:26 2006
Subject: RE: DOJ Meeting with the AAG Sue Ellen Wooldridge

Afraid I won't be able to make it after all - have a 4pm mtg here on an AG civil rights initiative. But if you want to stop by to catch up after yours, it'd be great to see you (though no pressure at all!).

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: [redacted] May 18, 2006 1:02 PM
To: Gorsuch, Neil M
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

I'll be at this, if you want to pop by. No pressure.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Thursday, May 18, 2006 12:37
To: [redacted] DoD OGC; [redacted] OGC; [redacted]
SES SAF/GCN; [redacted] AFLOA/JACE; [redacted] OTJAG;

SES SAF/GCN; [redacted] FLOA/JACE; [redacted] OTJAG;
[redacted] DGC
Subject: FW: DOJ Meeting with the AAG Sue Ellen Wooldridge

FYI

-----Original Message-----
From: Heather.Gange@usdoj.gov [mailto:Heather.Gange@usdoj.gov]
Sent: Thursday, May 18, 2006 11:00
To [redacted]@dodgc.osd.mil
Subject: DOJ Meeting with the AAG Sue Ellen Wooldridge

[redacted]

As a recap of my voicemail, the meeting has been confirmed for 4:00 today, in the conference room adjoining Rm 2143, Main Justice Building, 950 Pennsylvania Ave., NW. Security screening may take as long as 10-15 minutes for your group, but the conference room should be relatively easy to locate after that.

Take care, and feel free to call with any questions,

Heather

Heather E. Gange
U.S. Department of Justice
Environment & Natural Resources Division Environmental Defense Section (202) 514-4206 (202) 514-8865 (fax)

U.S. Mail:
P.O. Box 23986
Washington, DC 20026-3986
FedEx Address:
601 D St, N.W., Suite 8000
Washington, DC 20004

This message, including any attachments, is an attorney-client communication and/or attorney work product intended only for review and use by its designated recipients. Therefore, it is privileged and confidential. If you have received this message in error, please immediately notify the sender by reply e-mail and destroy the message and any attachments.

Gorsuch, Neil M

Start:	Friday, May 19, 2006 9:30 AM
End:	Friday, May 19, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 6:12 PM
To: [redacted]
Subject: RE: ANOTHER Favor...

You're very kind. If and when there's a hearing I will let you know!

-----Original Message-----
From [redacted] [mailto [redacted]
Sent: Thursday, May 18, 2006 5:45 PM
To: Gorsuch, Neil M
Subject: RE: ANOTHER Favor...

And may I offer my congratulations . . . I plan on sending letters supporting your nomination to the Senate Judiciary Committee, and would like to attend the hearing, which I hear is open to the public. If there's anything else I can do, please don't hesitate to let me know.

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To: Gorsuch, Neil M [redacted]
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Hey, no problem [redacted] see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 [redacted]
[redacted]@khhte.com

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To: Neil.Gorsuch@usdoj.gov; [redacted]
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

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[redacted]

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Teachers v Regal - our opp to the motion for preliminary injunction SHOULD BE ON PC DOCS, IF NOT, OFFSITE

Goff v. Bickerstaff - our opp to the motion for class cert; our motions to dismiss OFFSITE

[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Thursday, May 18, 2006 6:50 PM
To: Gorsuch, Neil M
Subject: FW: NOMINATION SENT TO THE SENATE
Attachments: tmp.htm

Neil: This all happened while I was in [redacted] and I only learned about it from Robert McCallum. Congratulations. Great news. And fast too!
I've been in the Administration for [redacted] and I'm still not a judge! And I assume there will be [redacted]

From: bounce-222581-255175@list.whitehouse.gov
[mailto:bounce-222581-255175@list.whitehouse.gov] On Behalf Of White House Press Releases
Sent: Wednesday, May 10, 2006 4:17 PM
To: [redacted](Legal)
Subject: NOMINATION SENT TO THE SENATE

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release May 10, 2006

NOMINATION SENT TO THE SENATE:

Neil M. Gorsuch, of Colorado, to be United States Circuit Judge

for the Tenth Circuit, vice David M. Ebel, retired.

# # #

You are currently subscribed to News White House Agency Misc as:
[redacted]@state.gov.
To unsubscribe send a blank email to:
leave-whitehouse-press-releases-agency-misc-255175E@list.whitehouse.gov

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 7:02 PM
To: [redacted]@state.gov'
Subject: RE: NOMINATION SENT TO THE SENATE

Thanks so much, John. It was sudden and unexpected for me, too! But the prospect of getting home to [redacted] is mighty tempting. And you've hit the nail on the head on how I pitched this to [redacted]! We shall see what happens in the Senate, but I very much appreciate your good wishes.

-----Original Message-----
From: [redacted]@state.gov [mailto: [redacted]@state.gov]
Sent: Thursday, May 18, 2006 6:50 PM
To: Gorsuch, Neil M
Subject: FW: NOMINATION SENT TO THE SENATE

Neil: This all happened while I was in [redacted] and I only learned about it from Robert McCallum. Congratulations. Great news. And fast too!
I've been in the Administration for [redacted] and I'm still not a judge! And I assume there will be [redacted]

From: bounce-222581-255175@list.whitehouse.gov [mailto:bounce-222581-255175@list.whitehouse.gov] On Behalf Of White House Press Releases
Sent: Wednesday, May 10, 2006 4:17 PM
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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release May 10, 2006

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 7:16 PM
To: Cruden, John (ENRD)
Subject: Thank You
Attachments: Senate Questionnaire final.pdf

John, Thank you very much for agreeing to speak with the ABA folks. As promised, the Senate questionnaire is attached. Neil

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

Neil McGill Gorsuch

2. Address: List current place of residence and office address(es).

Residence: [redacted]

Office: U.S. Department of Justice, Room 5706, Washington, D.C. 20530

3. Date and place of birth.

August 29, 1967 in Denver, Colorado

4. <u>Marital Status</u> (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

[redacted]

5. <u>Education</u>: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

College:
Columbia University (1985-1988); BA with honors, 1988
University of Colorado at Denver (summer 1986, no degree)

Law School:
Harvard Law School (1988-1991); JD with honors, 1991

Doctorate:
Oxford University (1993-1995); D.Phil., 2004

6. <u>Employment Record</u>: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

United States Department of Justice, Office of the Associate Attorney General, 2005 to the present (Principal Deputy to the Associate Attorney General)

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Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1995-2005 (partner 1998-2005; associate, 1995-1997)

Supreme Court of the United States, 1993-94 (law clerk to Hon. Byron R. White and Hon. Anthony M. Kennedy)

U.S. Court of Appeals, D.C. Circuit, 1991-92 (law clerk to Hon. David B. Sentelle)

Sullivan & Cromwell, summer 1991 (summer associate)

Harvard Government Department, 1990-91 (Head Teaching Fellow for political philosophy course)

Cravath, Swaine & Moore, summer 1990 (summer associate)

Harvard Government Department, 1989-90 (Teaching Fellow for political philosophy course)

Davis, Graham & Stubbs, summer 1989 (summer associate)

Walden Group, LLC, 2005 to the present (part owner of Grand County, Colorado property)

7. <u>Military Service</u>: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

I have not served in the military.

8. <u>Honors and Awards</u>: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Marshall Scholarship to Oxford University

Harry S. Truman Scholar at and cum laude graduate of Harvard Law School

Phi Beta Kappa and cum laude graduate of Columbia University

Council on Foreign Relations

Harry S. Truman 2006 Scholarship Selection Committee

DOJ_NMG_ 0160222

Listed in Who's Who in America, Who's Who in American Law, Who's Who in the World

9. **<u>Bar Associations</u>: List all bar associations, legal or judicial-related committees or conferences of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.**

American Bar Association (since approx. 2002), including its Litigation and Antitrust sections

American Trial Lawyers Association (since approx. 2002)

American Inns of Court (approx. 1997-1999)

I occasionally represent the Department of Justice before judicially-related groups and committees with respect to the Department's initiatives, including for example the federal rules of appellate procedure advisory committee, the federal judicial conference, and various federal circuit courts. I have also periodically attended the D.C. Circuit Judicial Conference.

10. **<u>Other Memberships</u>: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.**

I know of no organizations to which I belong, other than those listed above, which are active in lobbying before public bodies. Other organizations to which I belong include:

Phi Beta Kappa

Columbia University Alumni Representative Committee

Harry S. Truman Scholarship 2006 Selection Committee

Association of Marshall Scholars

Holy Comforter Parish

Republican National Lawyers Association

Trout Unlimited

Westwood Country Club

University Club

DOJ_NMG_ 0160223

Walden Group, LLC

11. <u>Court Admission</u>: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

New York (1992)
Colorado (1994)
District of Columbia (1997)
Supreme Court of the United States (1998)
U.S. Court of Appeals for the Second Circuit (2004)
U.S. Court of Appeals for the Third Circuit (1998)
U.S. Court of Appeals for the Fourth Circuit (1997)
U.S. Court of Appeals for the Sixth Circuit (2000)
U.S. Court of Appeal for the Seventh Circuit (2006)
U.S. Court of Appeals for the Tenth Circuit (2005)
U.S. District Court for the District of Colorado (1996)
U.S. District Court for the District of Washington, D.C (2001)
U.S. District Court for the Southern District of New York (2002)
U.S. District Court for the Eastern District of New York (2002)

12. <u>Published Writings</u>: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

I have written or co-authored the following materials since law school:

Author -

<u>The Future of Assisted Suicide and Euthanasia</u> (book forthcoming from Princeton University Press 2006)

<u>Ensuring Class Action Fairness</u>, Federal Trade Commission Workshop (Sept. 2004)

<u>Justice White and Judicial Excellence</u>, distributed by UPI (May 2002)

<u>The Legalization of Assisted Suicide and the Law of Unintended Consequences</u>, 2004 Wisconsin Law Review 1347 (2004)

DOJ_NMG_ 0160224

Letter to the Editor, Washington Post, March 18, 2004.

Liberals and Lawsuits, National Review Online (Feb. 2005)

The Right to Assisted Suicide and Euthanasia, 23 Harvard Journal of Law and Public Policy 599 (2000)

Co-author -

No Loss, No Gain, The Legal Times (2005)

Settlements in Securities Fraud Class Actions: Improving Investor Protections, Washington Legal Foundation (April 2005) and Andrews Class Action Litigation Reporter (August 2005)

Letter to the Editor, The Legal Times (Sept. 2004)

Will the Gentlemen Please Yield? A Defense of the Constitutionality of State-Imposed Term Limits, 20 Hofstra Law Review 341 (1991) and Policy Analysis on Term Limits, Cato Institute Policy Analysis No. 178 (1992)

The Constitutional Case for Term Limits, Wall Street Journal (Nov. 1992)

Prior to law school, I wrote for student newspapers in college and high school. I have given remarks or made presentations before the following organizations:

National White Collar Crime Center
American Association for the Advancement of Science
Washington, D.C. Bar Association
Wisconsin Bar Association
Federal Trade Commission workshop
Common Good
Prime Time Radio
British Marshall Scholarship Commission

Some of these remarks have touched on a legal issue; others have not. Generally I have not made a practice of keeping copies of my remarks and often have spoken from handwritten notes rather than a prepared text.

13. Health: What is the present state of your health? List the date of your last physical examination.

[redacted]

DOJ_NMG_ 0160225

14. <u>Judicial Office</u>: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held a judicial office.

15. <u>Citations</u>: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, please provide copies of the opinions.

I have not been a judge.

16. <u>Public Office</u>: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

I have never been a candidate for or held an elective public office. Since law school, I have held the following appointed positions:

Law clerk for the U.S. Court of Appeals, D.C. Circuit, Hon. David B. Sentelle, from 1991 to 1992.

Law clerk for the Supreme Court of the United States, Hon. Byron R. White and Hon. Anthony M. Kennedy, from 1993 to 1994.

United States Department of Justice, Principal Deputy to the Associate Attorney General, 2005-present.

17. <u>Legal Career:</u>

a. Describe chronologically your law practice and experience after graduation from law school including:

1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;

Law clerk for the U.S. Court of Appeals, D.C. Circuit, Hon. David B. Sentelle, from 1991 to 1992.

Law clerk for the Supreme Court of the United States, Hon. Byron R. White and Hon. Anthony M. Kennedy, from 1993 to 1994.

2. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

Sullivan & Cromwell, 1701 Pennsylvania Ave., NW, Washington, D.C. 20006, summer associate, summer 1991.

Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Washington, D.C. 20036, associate from 1995 to 1997 and partner from 1998 to 2005.

U.S. Department of Justice, Principal Deputy to the Associate Attorney General, Washington, D.C. 20530, from 2005 to present.

b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

Immediately after law school, I spent the summer working for the law firm of Sullivan & Cromwell where I assisted with corporate transactional work while studying for the bar. Thereafter, I served as a law clerk to the U.S. Court of Appeals for the D.C. Circuit with Judge David Sentelle, from 1991 to 1992. In that capacity, I wrote bench briefs and assisted with the preparation of opinions and dissents in matters ranging from criminal law to constitutional and administrative law. It was an intensive immersion into federal appellate law and practice. In addition, during the summer of 1992, Judge Sentelle sat by designation on the U.S. District Court for the Western District of North Carolina. There I assisted the Court with several criminal trials and the disposition of civil district court matters.

From 1993 to 1994, I was fortunate to serve as law clerk to the Hon. Byron R. White. Justice White had just resigned from the Supreme Court and I served as his first law clerk in retirement and his only law clerk that year. Despite his "retirement," Justice White

DOJ_NMG_ 0160227

took on a heavy load of appellate cases, sitting by designation on the Tenth Circuit. I assisted Justice White with his work on the Tenth Circuit, preparing bench briefs prior to argument and helping with opinions. Justice White also asked me to assist another sitting Justice, and Justice Kennedy kindly agreed to allow me to help in his chambers. During my clerkships, approximately half of the cases I worked on were civil matters and half were criminal matters. Most involved federal appeals but, of those that involved trials, all were criminal trials.

Between my clerkships and again after them (1992-93, 1994-95), I attended Oxford University as a British Marshall Scholar studying for a doctorate in legal philosophy. My academic research and writing involved both criminal and civil law issues in proportions of roughly 60% criminal and 40% civil.

In 1995, I joined Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC. In 1998, I became a partner at the firm and I remained there through May 2005. During my time in private practice, I was involved in matters large and small for clients ranging from individuals to non-profits to corporations; my cases ranged from simple breach of contract disputes to complex antitrust, RICO, and securities fraud matters. I tried cases, participated in substantial injunctive and evidentiary hearings, and argued motions of all kinds, including case dispositive motions to dismiss and for summary judgment, discovery disputes, in limine motions in preparation for trial, post-trial motions, etc. I also took and defended depositions regularly, worked on appeals before federal and state courts of appeals across the country, and provided antitrust and other legal counsel to clients. I estimate that, during my time in private practice, roughly 70% of my litigated matters were in federal court and 30% in state courts. Approximately 90% of these matters involved civil disputes, with the remainder involving criminal matters.

Since June 2005, I have served as Principal Deputy to the Associate Attorney General, the number three officer at the Department of Justice. In that capacity I assist in managing the Department's civil litigating components (antitrust, civil, civil rights, environment, and tax). Major litigation decisions in certain significant cases -- such as whether to file suit, what motions and defenses to bring, whether and how to settle significant cases on advantageous terms -- are reviewed by the Office of the Associate Attorney General. I also spend a substantial amount of time reviewing and editing trial and appellate court legal briefs and plotting case strategy. Virtually all of these matters are civil, though there are occasional criminal matters. I act as Associate Attorney General during periods when the Associate Attorney General is unavailable or recused and assist in the development and implementation of a variety of civil justice initiatives and policies.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

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I have consciously sought to maintain a general litigation practice and avoid specialization. While in private practice, my matters ranged from complex antitrust, securities, and class actions to relatively straightforward breach of contract and breach of fiduciary duty disputes. I sought to and enjoyed representing plaintiffs and defendants in roughly equal proportions and my clients ranged from individuals to non-profits to small and large corporations. My work at the Department of Justice is, if anything, even more varied, involving cases and issues arising from each of the Department's civil litigating components.

c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I appeared in court frequently throughout my years in private practice and have appeared more occasionally in my current position.

2. What percentage of these appearances was in:

(a) federal courts; Overall, 70%
(b) state courts of record; 30%
(c) other courts.

3. What percentage of your litigation was:

(a) civil; Overall, 85%
(b) criminal. 15%

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

While in private practice, I tried four jury trials to verdict, two as chief counsel and two as associate counsel. Two of the trials involved damages claims in excess of $1 billion; three were reported as among the top 100 verdicts for the years in which they were tried; all lasted between 2 and 6 weeks. I participated in three other jury trials, including one as lead counsel, which settled. I participated in at least five non-jury injunctive proceedings that involved substantial evidentiary hearings.

5. What percentage of these trials was:

(a) jury; 100%
(b) non-jury.

DOJ_NMG_ 0160229

18. <u>Litigation</u>: Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

(a) the date of representation;
(b) the name of the court and the name of the judge or judges before whom the case was litigated; and
(c) the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Some of my more significant matters while in private practice included the following:

1. *NCRIC v. Columbia Hospital for Women*, No. 00-7308 (D.C. Super.) (Judge Anna Blackburne-Rigsby) (trial 2004)

NCRIC, an insurance company that provided medical malpractice insurance to doctors, sued my client, Columbia Hospital for Women. NCRIC claimed that Columbia failed to pay certain insurance premiums owed by the hospital on behalf of the hospital's ob/gyn physicians, and NCRIC sought recovery of approximately $3 million dollars. Columbia denied NCRIC's allegations and counterclaimed, contending that NCRIC, not Columbia, owed money under the parties' contract. Columbia also contended that, when Columbia brought this to NCRIC's attention and threatened to move its business to another insurance carrier, NCRIC began a multi-faceted campaign designed to induce doctors at Columbia to move their practices other area hospitals where NCRIC was the exclusive malpractice insurance carrier. Columbia contended that NCRIC's conduct amounted to tortious interference with its business relations with its attending physicians, many of whom had served at the hospital for decades, and that the loss of so many doctors contributed to the closure of the hospital, a non-profit with more than 130 years of community service. After a 2 week trial in which I served as lead counsel, the jury rejected NCRIC's breach of contract claim and found for Columbia on both its contract and its tortious interference counterclaims, awarding Columbia $18.2 million. The matter was one of the top 100 reported verdicts of 2004.

Co-counsel included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted] as well as [redacted] formerly of Kellogg Huber. Lead opposing counsel: [redacted] Bryan Cave, LLP, 700 Thirteenth Street N.W., Washington, DC 20005-3960, [redacted] Williams & Connolly LLP, 725 Twelfth St., N.W., Washington, DC 20005, [redacted]

2. *Conwood v. UST*, Case No. 5:98-CV 00108 (W.D. Ky), 290 F.3d 768 (6th Cir. 2002), *cert. denied*, 537 US 1148 (2003) (Judge Thomas Russell, W.D. Ky.) (1997- 2003)

The U.S. Court of Appeals for the Sixth Circuit upheld a $1.05 billion treble damages award on behalf of my client, Conwood, against United States Tobacco Company ("UST") after a jury concluded that UST had engaged in illegal monopolization. Conwood alleged that UST, which controlled nearly 80% of the U.S. market for moist snuff smokeless tobacco, had attempted to exclude competing products by entering into exclusive deals with retailers, removing competitors' sales racks, burying competitors' products in UST racks, and destroying point-of-sale advertising, the industry's primary marketing medium. The verdict, reached after a four week jury trial, is believed to be the largest affirmed private damages award in the history of U.S. antitrust laws as of 2002; in its verdict, the jury also rejected UST's counterclaims seeking millions of dollars in damages. After trial, the court took additional evidence, conducted additional motions practice, and granted a four year injunction against certain anticompetitive conduct by UST, a result also affirmed on appeal. UST petitioned for review in the Supreme Court, we opposed, and the Supreme Court ultimately denied review. The case involved scores of depositions and massive discovery, as well as ancillary proceedings in several jurisdictions. I helped manage and run the case at all stages, from the pre-suit investigation through the drafting of the complaint; the discovery process; pre-trial motions practice; trial, where I served as second chair and handled many witnesses on direct and cross; post-trial motions practice; and the preparation of appellate briefs.

Co-counsel included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Todd, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted], formerly of Kellogg Huber and now [redacted] of the Conwood Company, 813 Ridge Lake Blvd., #100, Memphis, TN 38120, [redacted] of the Pritzker Organization, 71 South Wacker Drive Suite 4700, Chicago, IL 60606, [redacted] Houston & Straub, PLLC, Old National Bank Building, 300 Broadway, Paducah, KY 42001, [redacted] Taft, Stettinius & Hollister, LLP, 425 Walnut St., Suite 1800, Cincinnati, OH 45202, [redacted] Counsel for third parties included Alice Fisher, formerly of Latham & Watkins and currently Assistant Attorney General for the Criminal Division, U.S. Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D.C. 20530, (202) 514-7200. Lead counsel for defendants was [redacted] Skadden Arps, 4 Times Square, New York, NY, 10036, [redacted]

3. *Zachair, Ltd. v. Driggs Corp. et al.*, 762 A.2d 991, 1003 (Md. Ct. Spec. App. 2000), cert. denied, 768 A.2d 524 (2001) (Judge Steven I. Platt) (1997-2001)

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Defendants owned a valuable airport and mining facility. According to my client, plaintiff Zachair, defendants deliberately loaded the property with debt and ran it into bankruptcy. Zachair contended that defendants schemed to purchase the property fraudulently out of bankruptcy for an artificially low price, thereby "washing" the property of the debt associated with it. Zachair, unaware of this plan at the time, attended the bankruptcy auction as the only bidder unaffiliated with defendants, and won the auction when it bid the highest price. Zachair contended that defendants then proceeded to engage in a pattern of conduct designed to defeat Zachair's purchase and wrest control of the property from Zachair. According to Zachair, defendants maliciously used and abused legal process by filing multiple baseless proceedings against Zachair; improperly refused to vacate the property after the auction was consummated and they were legally obliged to leave; and proceeded to denude the property of valuable minerals resources and airport revenues. The case involved substantial dispositive motions practice and discovery which I handled. A 2 ½ week trial in which I served as lead counsel followed and the jury returned a verdict in favor of Zachair on counts including abuse of process, misuse of process, conversion, and tortious interference. The jury awarded approximately $4.8 million in compensatory damages as well as punitive damages of approximately the same amount (substantially more in punitive damages than Zachair sought at trial). In post-trial motions practice, the trial judge affirmed the compensatory award of approximately $4.8 million but granted the defendants' motion to reduce the punitive award to $775,000. On appeal, where I also briefed and argued, the court of appeals affirmed the trial court's judgment in all respects. Defendants then petitioned for review in the state Supreme Court and I prepared an opposition brief; the state Supreme Court denied review, thus sustaining Zachair's award.

Co-counsel: [redacted] formerly of Kellogg Huber and now with the U.S. Department of Justice Antitrust Division, (202) 353-3491 and [redacted] formerly of Kellogg Huber. Lead counsel for defendants: [redacted] Baker & Hostetler, Suite 1100, 1050 Connecticut Ave., N.W., Washington, D.C. 20036, [redacted].

4. *Automall v. American Express*, Civil Action No. 01-1705-A (E.D. Va.) (Chief Judge Hilton) (trial in 2002)

In this case, I was retained by defendant American Express approximately two weeks before trial to supplement existing lawyers from another firm and serve as lead counsel in a breach of contract jury trial. Prior to my firm's involvement, the Court had decided under *Daubert* to permit plaintiff's expert to testify to damages in excess of $70 million. After our involvement, we crafted a new theory for exclusion of the expert witness and presented it to the Court during trial toward the close of plaintiff's case. After reviewing our new theory for exclusion, the Court encouraged the plaintiff to settle, something which subsequently occurred on satisfactory terms.

Co-counsel included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted])

DOJ_NMG_ 0160232

[redacted], American Express Chief Litigation Counsel, American Express Tower, 200 Vesey St., New York, NY 10385, [redacted], [redacted], Quagliano & Seeger, 2620 P Street, N.W., Washington, D.C. 20007, [redacted]. Lead counsel for plaintiff: [redacted] Cohen, Milstein, Hausfeld, & Toll, P.L.L.C., 1100 New York Ave., N.W., Suite 500 West, Washington, D.C. 20005, [redacted].

5. (a) *California Public Employees' Retirement System v. Felzen*, 525 U.S. 215 (1999)
   (b) *Devlin v. Scardelletti*, 536 U.S. 1 (2002)

My involvement in these two cases arose as a result of the desire of the Council of Institutional Investors and various of its state public employee pension fund members to establish the right of class members to object to class action and derivative suit settlements and pursue those objections on appeal. The Council and its members claimed that, due to dynamics associated with the class action mechanism, class action settlements sometimes benefit lead class members, their counsel, and defendants at the expense of other class members. Council members CalPERS and the Florida State Board of Administration (SBA), together with the United States Government, first pursued the issue before the U.S. Supreme Court in the *Felzen*. In that case, I wrote the successful petition for certiorari on behalf of CalPERS and SBA, helped convince the U.S. Government to participate in the case on the merits on the side of our clients, and helped prepare the merits briefs. *Felzen* resulted in a tie 4-4 vote, leaving the question of objector participation unresolved, but the issue emerged again 3 years later in *Devlin*. This time the Council participated as amicus and I wrote the Council's brief. The question of objector standing to appeal was resolved in *Devlin* in favor of the Council and its members by a vote of 6 to 3.

Co-counsel in *Felzen* included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted]. Lead counsel for respondent in the *Felzen* was [redacted], Williams & Connolly LLP, 725 Twelfth St., N.W., Washington, DC 20005, [redacted]; counsel for the government in *Felzen* was [redacted], now with Kellogg, Huber. Lead counsel for petitioner in *Devlin* was [redacted] 4607 Asbury Pl., N.W., Washington, D.C., 20016, [redacted]; counsel for respondent in *Devlin* was [redacted], Bredhoff & Kaiser, PLLC, 805 15th St., Suite 1000, Washington, D.C. 20005, [redacted].

6. *Z-Tel v. SBC Communications*, No. 5:03-CV-229 (E.D. Tex.) (Judge David Folsom and Magistrate Judge Caroline Craven) (2003-05)

This case involved antitrust allegations against my client, SBC Communications. Plaintiff Z-Tel alleged that SBC sought to drive Z-Tel and other competitive local exchange carriers (CLECs) out of business by refusing to share certain allegedly essential

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elements of its network. Z-Tel sought damages in excess of $1 billion under federal antitrust laws, federal communications laws, and various tort theories. In turn, SBC counterclaimed, alleging that Z-Tel was ailing financially due to a poor business plan and that it had sought to avoid failure by improperly shifting certain of its operating costs onto SBC. Certain portions of Z-Tel's complaint were dismissed at the outset of the case but other portions survived into discovery. Substantial discovery ensued with multiple rounds of motions practice as well as depositions and ancillary proceedings across the country before the case was settled on satisfactory terms. I directed the defense of the case on a day-to-day basis, drafting or editing extensive pleadings, arguing many motions, and taking and defending key depositions.

Co-counsel included: [redacted], [redacted], [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted]; [redacted] of SBC Communications (now AT&T), 175 E. Houston, PO Box 2933, San Antonio, TX, 78299-2933, [redacted], of Young, Pickett & Lee, 4122 Texas Boulevard, Texarkana, TX 75504, [redacted]; [redacted], Provost & Umphrey, Dallas, TX, 3232 McKinney Avenue, Suite 700, Dallas, Texas 75204, [redacted]. Counsel for plaintiff included [redacted] of Patton, Tidwell & Schroeder, LLP, 4605 Texas Boulevard, Texarkana, TX 75505, [redacted].

7. (a) *Dura Pharmaceuticals v. Broudo*, 544 U.S. 336 (2005)
   (b) *Lentell v. Merrill Lynch & Co.*, 396 F.3d 161 (2d Cir. 2003)

In these two cases, I prepared amicus briefs in the U.S. Supreme Court and Second Circuit, respectively, on behalf of the Chamber of Commerce. While the facts and question presented in the two cases differed somewhat, broadly speaking both raised the question whether plaintiffs are permitted to sue in securities fraud class actions for losses not proximately caused by the fraud they allege. Our client's position, that such claims are not viable as a matter of law, prevailed before both the Second Circuit and Supreme Court in unanimous opinions.

Co-counsel in *Dura* and *Lentell* included Paul Matey, formerly of Kellogg Huber and now with the U.S. Attorney's Office in New Jersey, 790 Broad Street, Newark, NJ 07102, (973) 645-2930; [redacted], the U.S. Chamber of Commerce, 1615 H Street, N.W., Washington, D.C. 20062, [redacted]. In *Lentell* counsel for defendant was [redacted], Skadden Arps, 4 Times Square, New York, NY, 10036, [redacted]; counsel for plaintiff was [redacted], Cohen, Milstein, Hausfeld, & Toll, P.L.L.C., 1100 New York Ave., N.W., Suite 500 West, Washington, D.C. 20005 [redacted]. In *Dura* counsel for petitioner was [redacted] 3579 Valley Centre Drive, San Diego, CA 92130, [redacted]; counsel for respondent was [redacted], Lerach, Coughlin, Stoia, Geller, Rudman & Robbins, 655 W. Broadway, Suite 1900, San Diego, CA 92101, [redacted].

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8. *Teachers Retirement System of Louisiana v. Regal Entertainment*, No. 444 (Del. Chanc.) (Hon. William Chandler) (2004)

In this case, plaintiff filed a shareholder derivative suit and motion for injunction challenging a $710 million special dividend and concomitant capital restructuring by my client, a leading movie theater chain. Plaintiff contended that the dividend and restructuring amounted to a breach of fiduciary duty and self-dealing. The Court set the case on an expedited discovery schedule and then held an extensive evidentiary hearing on the injunction motion before ruling on the merits in my client's favor. I directed our client's defense, wrote the briefs, defended and took depositions, and argued. After the hearing, plaintiff dropped the remainder of its suit.

Co-counsel included: [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Todd, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted]; [redacted] General Counsel of Regal Entertainment, 7132 Regal Lane, Knoxville, Tennessee 37918, [redacted]; [redacted], Morris, Nichols, Arsht & Tunnell, LLP, 1201 N. Market St., Wilmington, DE 19899, [redacted]. Lead counsel for plaintiff: [redacted], Grant & Eisenhofer, PA, 1201 North Market St., Wilmington, DE 19801, [redacted].

9. *Ashley v. Coopers & Lybrand Deloitte*, Law No. CL95-6466 (Albermarle Co., VA) (Judge Paul Peatross) (1995-1998)

With his late wife, Sir Bernard Ashley co-founded the Laura Ashley company. As an outgrowth of that enterprise, Sir Bernard started a Laura Ashley inspired country house hotel business and hired his longtime consultants, Coopers & Lybrand UK, to advise him on prospective hotel acquisitions and to manage the business. Sir Bernard alleged that his advisors eventually became more interested in their own financial advancement than his interests and led him into a hotel deal that they knew was not feasible in order to enrich themselves. He sued for breach of fiduciary duty and fraud, among other things, claiming damages of approximately $50 million. I was responsible for the prosecution of this case on a day-to-day basis, arguing various motions regularly; taking and defending depositions; responding to, preparing, and arguing case dispositive motions; and preparing the matter for trial. Among other things, during discovery the Court barred defendant from presenting much of its case at trial after, the Court found, defendant repeatedly refused to supply appropriate witnesses for deposition. After defendant's motion for mandamus to overturn the trial court's order barring its ability to put on evidence was denied by the Virginia Supreme Court, the case settled at the outset of trial on undisclosed terms.

Co-counsel included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted]; Richard Milnor, Zunka, Milnor, Carter & Inigo, Ltd. 414 Park Street, P.O. Box 1567, Charlottesville, Virginia 22902, [redacted]. Lead counsel for defendants were [redacted]

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[redacted] Arnold & Porter, LLP, 555 12th Street, N.W., Washington, D.C. 20004, [redacted].

10. *Goff v. Ford Motor Company and David Bickerstaff*, No. 2:97-0341 (S.D.W.Va.) (Judge John Copenhaver) (1997-2000)

In this case, we represented a former car designer and expert witness for Ford Motor Company against charges that he conspired with Ford to provide false testimony in prior cases brought by product liability plaintiffs, thereby improperly securing verdicts in Ford's favor. This individual, along with Ford, was charged with violations of RICO, subject to class action allegations, and alleged to be personally liable for multiple millions of dollars in damages. We defeated the class action allegations early in the case but the case was permitted to proceed to trial. I wrote and edited various dispositive motions, the opposition to the motion for class certification, as well as motions in limine I argued prior to trial. Our client was dismissed from the case at the outset of the trial. During the ensuing trial against Ford, I provided strategic legal advice to defense counsel.

Co-counsel included [redacted] of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, [redacted], Allen Guthrie McHugh & Thomas PLLC, 500 Lee St. East, Suite 800, Charleston, WV 25301, [redacted]. Counsel for the other defendant included [redacted], Wheeler, Trigg & Kennedy, LLP, 1801 California St., Suite 3600, Denver, CO 80202, [redacted]. Lead counsel for plaintiff included [redacted], Lewis & Babcock, 1513 Hampton St., Columbia, SC 29211, [redacted].

19. <u>Legal Activities</u>: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

I have devoted a significant amount of time to legal matters that do not involve court appearances, including by way of example:

(a) In my current job I help oversee all of the Department of Justice's civil litigating units. Major litigation decisions in certain significant cases -- such as whether to file suit, what motions and defenses to bring, whether and how to settle significant cases on advantageous terms -- are reviewed by the Office of the Associate Attorney General. I also spend a substantial amount of time reviewing and editing trial and appellate court legal briefs, plotting case strategy, and assisting in the development and implementation of a wide variety of civil justice initiatives and policies.

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(b) While in private practice, I provided a substantial amount of antitrust counseling for small and large companies, including: (1) assessing the antitrust implications of contemplated mergers and acquisitions; (2) analyzing the antitrust consequences of certain proposed and existing courses of business (e.g., sales and marketing techniques); and (3) assisting my clients with efforts before federal antitrust authorities, including the Department of Justice and the Federal Trade Commission, to contest acquisitions made by rival companies as violations of federal antitrust law.

(c) In private practice I advised a wide array of clients faced with potential civil and criminal liability seeking to mitigate or avoid those issues short of litigation. These matters included, among others, assisting with the representation of a member of the Administration of President William J. Clinton in connection with a then-pending investigation.

(d) While in private practice I was engaged to conduct a top to bottom internal review of a client's legal department and litigation docket, as well as to assess the legality of certain management practices under federal law.

(e) I obtained a doctorate in legal philosophy at Oxford and have devoted a significant amount of time to the academic research and legal writings discussed above.

(f) I served as a law clerk to two federal appellate judges where my responsibilities included preparing bench memos analyzing cases prior to argument; preparing draft opinions; analyzing draft opinions written by others; and, in the case of the Supreme Court, assessing petitions for certiorari.

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II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

I retain an interest in certain contingency matters with my former law firm. Under an agreement reached when I left the firm, I will be compensated according to certain predetermined rules if and when those matters result in recoveries for the firm.
In addition, I have an agreement with Princeton University Press concerning royalties arising from the sale of my book. Any sums received above certain costs I incurred in connection with the book I intend to donate to hospice charities.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

If confirmed, I intend to abide by the Code of Conduct for United States Judges and applicable statutes. I also intend to consult the practices employed by my colleagues, as appropriate. While I cannot predict all of the potential conflicts that might emerge, I would include among the potential conflicts that could arise during my initial service the following: cases argued by my former partners, close friends, or family members; cases involving the clients I represented in private practice; and matters on which I worked while at the Department of Justice.

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no such commitments or agreements, though I cannot rule out the possibility that I might seek opportunities to provide volunteer services to appropriate charitable causes, teach young persons, or otherwise participate in the life of my community. I would do so, however, within the limits of the Code of Conduct for United States Judges.

4. List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items

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exceeding $500 or more (If you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here.)

Please see the attached Financial Disclosure Report.

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

Please see the attached Net Worth Statement.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have volunteered in various political campaigns, and participated in groups such as "Lawyers for Bush-Cheney," but have not managed or held a formal position of significance in any campaign.

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III. GENERAL (PUBLIC)

1. **An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.**

   I began pro bono legal work in law school, participating in the Harvard Prison Legal Assistance Project, assisting with the representation of inmates in Massachusetts state prisons with respect to, among other things, hearings on disciplinary actions taken against them. I later participated in the Harvard Defenders program, representing defendants in criminal proceedings in Massachusetts state courts. While in private practice, I took on matters for non-profit organizations and individuals who could not pay my firm's normal hourly rates. In these matters, fees were reduced, modified in unconventional ways, or waived to allow the client to obtain legal representation. These clients included the Columbia Hospital for Women, the Council of Institutional Investors, as well as private individuals. In addition, I have spent more than three years of my career in public service for the U.S. Government. Since I began at the Department of Justice, I have sought to foster efforts to encourage pro bono work by Department lawyers despite concerns that have historically served to discourage government lawyers from engaging in pro bono activities; I have, for example, spoken on the issue and participated in the District of Columbia's legal aid clinic with other Department lawyers. Beyond my legal work, I have volunteered for our children's schools, my college, and for the Harry S. Truman Scholarship Foundation which seeks to encourage university students' to become change agents in our society and government. I have assisted the Truman foundation by interviewing applicants, serving as a mentor to a recent college student, and arranging opportunities for college age scholars doing public service summer internships in Washington, D.C. to meet and hear from government leaders. I have not attempted to keep records of the hours devoted to the matters described above.

2. **The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

   No, other than an all male fraternity during college.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please**

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describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

There is no applicable selection commission. I was interviewed by individuals from the White House Counsel's Office and the Department of Justice. I also reached out to speak with both of the Senators from Colorado. After completing nomination paperwork and undergoing a background investigation, I was notified that I would be nominated.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue,or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped-many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;

b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;

c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;

d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and

e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

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The Constitution requires federal judges to strike a delicate balance. The separation of powers embodied in our founding document provides the judiciary with a defined and limited charter. Judges must allow the elected branches of government to flourish and citizens, through their elected representatives, to make laws appropriate to the facts and circumstances of the day. Judges must avoid the temptation to usurp the roles of the legislative and executive branches and must appreciate the advantages these democratic institutions have in crafting and adapting social policy as well as their special authority, derived from the consent and mandate of the people, to do so.

At the same time, the founders were anxious to ensure that the judicial branch never becomes captured by or subservient to the other branches of government, recognizing that a firm and independent judiciary is critical to a well-functioning democracy. The Constitution imposes on the judiciary the vital work of settling disputes, vindicating civil rights and civil liberties, ensuring equal treatment under law, and helping to make real for all citizens the Constitution's promise of self-government.

There may be no firmly fixed formula on how to strike the balance envisioned by the Constitution in specific cases, but there are many guideposts discernable in the best traditions of our judiciary. A wise judge recognizes that his or her own judgment is only a weak reed without being fortified by these proven guides. For example:

A good judge recognizes that many of the lawyers in cases reaching the court of appeals have lived with and thought deeply about the legal issues before the court for months or years. A lawyer in the well is not to be treated as a cat's paw but as a valuable colleague whose thinking is to be mined and tested and who at all times deserves to be treated with respect and common courtesy. A good judge will diligently study counsel's briefs and the record and seek to digest them fully before argument and then listen with respectful discernment to the arguments made by his or her colleagues at the bar.

A good judge will recognize that few questions in the law are truly novel, that precedents in the vast body of federal law reflect the considered judgment of those who have come before us and embody the settled expectations of those in our own generation. A good judge will seek to honor precedent and strive to avoid its disparagement or displacement.

A good judge will also listen to his or her colleagues and strive to reach consensus with them. Every judge takes the same judicial oath; every judge brings a different and valuable perspective to the office. A good judge will appreciate the different experiences and perspective of his or her colleagues and know that reaching consensus is not always easy but that the process of getting there often tempers the ultimate result, ensuring that the ultimate decision reflects the collective wisdom of multiple individuals of disparate backgrounds who have studied the issue with care.

Throughout the process of adjudicating an appeal, a good judge will question not only the positions espoused by the litigants but also his or her own perceptions and tentative

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conclusions as they evolve. And a good judge will critically examine his or her own ideas as readily and openly as the ideas advanced by others. A good judge will never become so wedded to any view of any case as to preclude the possibility of changing his or her mind at any stage -- from argument through the completion of a written opinion. Pride of position, fear of embarrassment associated with changing one's mind, along of course with personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do.

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IV. CONFIDENTIAL

1. Full name (include any former names used).

Neil McGill Gorsuch
(birth name Cornelius McGill Gorsuch)

2. Address: List current place of residence and office addresses). List all office and home telephone numbers where you may be reached.

Home:
[redacted]

Office:
U.S. Department of Justice
Room 5706
Washington, D.C. 20530
(202) 305-1434

3. Have you ever been discharged from employment for any reason or have you ever resigned after being informed that your employer intended to discharge you?

No.

4. Have you and your spouse filed and paid all taxes (federal, state and local) as of the date of your nomination? Please indicate if you filed "married filing separately". Did you make any back tax payments prior to your nominations? If so, give full details.

Taxes have been paid as of the date of my nomination. We have filed jointly.

5. Has a tax lien or other collection procedure (to include receipt of computer balance due notices) ever been instituted against you by federal, state, or local authorities? If so, give full details.

No.

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6. **Have you or your spouse ever been the subject of any audit, investigation, or inquiry for either federal, state, or local taxes? If so, give full details.**

No.

7. **Have you or your spouse ever declared bankruptcy? If so, give particulars.**

No.

8. **Have you to your knowledge ever been under federal, state, or local investigation for a possible violation of either a civil or criminal statute or administrative agency regulation? If so, give full details. Has any organization of which you were an officer, director, or active participant ever been the subject of such an investigation with respect to activities within your responsibility? If so, give full details.**

No.

9. **Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for a breach of ethics, unprofessional conduct or a violation of any rule of practice? If so, give particulars.**

No.

10. **Have you ever been a party (whether plaintiff, defendant or in any other capacity) to any litigation?**

No, other than in response to speeding tickets.

11. **Please advise the Committee of any unfavorable information that may affect your nomination.**

None, to the best of my knowledge.

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AFFIDAVIT

I, _____, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

_____ _____

(DATE) (NAME)

_____

(NOTARY)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 7:20 PM
To: Cook, Elisebeth C
Subject: FW: ABA

Beth - I've worked up a draft list of names for the ABA as Kristi advised. I'd appreciate the chance to run the draft by you for your thoughts/reactions. Might you be free around 10.30 tomorrow? Many thanks, NMG

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

It is customary to provide writing samples. Briefs are fine. I am not sure about the law review article - is that the assisted suicide? They will read all of your published materials anyway.
Payton is one of the people that did Brett's review the third time around.
They usually call you - David, do you know when they reach out? You should make sure you have your list of contacts ready so that you can offer it up immediately.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
CC: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu May 18 15:35:55 2006
Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that [redacted] received my Senate questionnaire and waiver forms. [redacted] also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 7:20 PM
To: [redacted]
Subject: RE: ANOTHER Favor...

Can't tell you how much this means to me; let's talk when you have some time.

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Thursday, May 18, 2006 5:45 PM
To: Gorsuch, Neil M
Subject: RE: ANOTHER Favor...

And may I offer my congratulations . . . I plan on sending letters supporting your nomination to the Senate Judiciary Committee, and would like to attend the hearing, which I hear is open to the public. If there's anything else I can do, please don't hesitate to let me know.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 5:39 PM
To: [redacted]@khhte.com; [redacted]
Subject: RE: ANOTHER Favor...

Thank you both so much!

-----Original Message-----
From [redacted]@khhte.com [mailto [redacted]@khhte.com]
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M [redacted]
Subject: RE: ANOTHER Favor...

Hey, no problem. [redacted] see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 [redacted]
[redacted]@khhte.com

-----Original Message-----
From [redacted] [mailto [redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov; [redacted]
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

[redacted] see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To: [redacted]@khhte.com
Subject: ANOTHER Favor...

[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

CalPERS v Felzen - the petition for certiorari AND the brief on the merits (printed SCOTUS booklet form) THIS SHOULD BE ON PC DOCS AS A PDF

Devlin v. Scardelleti - amicus brief (printed SCOTUS booklet form) SAME

Dura v. Broudo - amicus brief (printed SCOTUS booklet form) SAME

Conwood - CA6 brief; our opp to summary judgment; and our opp to the post-trial motions CA6 BRIEF ON PC DOCS; SJ BRIEFS, NOT SO SURE.
CONWOOD PLEADINGS ARE NOW OFFSITE, BUT YOU CAN FIND THE PLEADINGS INDEX AT 80191 AND USE THAT TO PULL THE BOXES

Anschutz - our appeal in California IN QWEST CASE ROOM ACROSS FROM DCF, INDEX TO PLEADINGS IS ON PC DOCS

Columbia - our opp to the post-trial motions IN CASEROOM BY CAROL'S BAY [redacted] KNOWS), INDEX IS ON PC DOCS

Ashley - our opp to the motion for summary judgment OFFSITE

Zachair - our opp to the motion for summary judgment; our appellate brief OFFSITE, BUT MAY BE ON PC DOCS, ESP. APPELLATE BRIEF

Ztel - our motion to dismiss; the reply; our motion for discovery sanctions SHOULD BE ON PC DOCS AS PDF, IF NOT, THEY ARE OFFSITE

Teachers v Regal - our opp to the motion for preliminary injunction SHOULD BE ON PC DOCS, IF NOT, OFFSITE

Goff v. Bickerstaff - our opp to the motion for class cert; our motions to dismiss OFFSITE

[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 7:35 PM
To: Gorsuch, Neil M
Subject: C a7

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, May 18, 2006 8:11 PM
To: Gorsuch, Neil M
Subject: Re: ABA

10:30 is fine--I'll swing by.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu May 18 19:19:57 2006
Subject: FW: ABA

Beth - I've worked up a draft list of names for the ABA as Kristi advised. I'd appreciate the chance to run the draft by you for your thoughts/reactions. Might you be free around 10.30 tomorrow? Many thanks, NMG

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From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

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From: Gorsuch, Neil M
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
CC: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu May 18 15:35:55 2006
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Many thanks.

NMG

[redacted]

From: [redacted]
Sent: Thursday, May 18, 2006 9:29 PM
To: Gorsuch, Neil M
Subject: RE: ANOTHER Favor...

A buddy of mine works on the Senate judiciary committee, and promised to give me a heads up on the scheduling of your hearing!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 6:13 PM
To: [redacted]
Subject: RE: ANOTHER Favor...

You're very kind. If and when there's a hearing I will let you know!

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Thursday, May 18, 2006 5:45 PM
To: Gorsuch, Neil M
Subject: RE: ANOTHER Favor...

And may I offer my congratulations . . . I plan on sending letters supporting your nomination to the Senate Judiciary Committee, and would like to attend the hearing, which I hear is open to the public. If there's anything else I can do, please don't hesitate to let me know.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 5:39 PM
To: [redacted]@khhte.com; [redacted]
Subject: RE: ANOTHER Favor...

Thank you both so much!

-----Original Message-----
From: [redacted]@khhte.com [mailto [redacted]@khhte.com]
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M; [redacted]
Subject: RE: ANOTHER Favor...

Hey, no problem. [redacted], see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 [redacted]

20056[redacted]
[redacted]@khhte.com

-----Original Message-----
From [redacted] [mailto[redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov; [redacted]
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To: [redacted]@khhte.com
Subject: ANOTHER Favor...

[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

CalPERS v Felzen - the petition for certiorari AND the brief on the merits (printed SCOTUS booklet form) THIS SHOULD BE ON PC DOCS AS A PDF

Devlin v. Scardelleti - amicus brief (printed SCOTUS booklet form) SAME

Dura v. Broudo - amicus brief (printed SCOTUS booklet form) SAME

Conwood - CA6 brief; our opp to summary judgment; and our opp to the post-trial motions CA6 BRIEF ON PC DOCS; SJ BRIEFS, NOT SO SURE.
CONWOOD PLEADINGS ARE NOW OFFSITE, BUT YOU CAN FIND THE PLEADINGS INDEX AT 80191 AND USE THAT TO PULL THE BOXES

Anschutz - our appeal in California IN QWEST CASE ROOM ACROSS FROM DCF, INDEX TO PLEADINGS IS ON PC DOCS

Columbia - our opp to the post-trial motions IN CASEROOM BY CAROL'S BAY [redacted] KNOWS), INDEX IS ON PC DOCS

Ashley - our opp to the motion for summary judgment OFFSITE

Zachair - our opp to the motion for summary judgment; our appellate brief OFFSITE, BUT MAY BE ON PC DOCS, ESP. APPELLATE BRIEF

Ztel - our motion to dismiss; the reply; our motion for discovery sanctions SHOULD BE ON PC DOCS AS PDF, IF NOT, THEY ARE OFFSITE

Teachers v Regal - our opp to the motion for preliminary injunction SHOULD BE ON PC DOCS, IF NOT, OFFSITE

Goff v. Bickerstaff - our opp to the motion for class cert; our motions to dismiss OFFSITE

[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 7:52 AM
To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and Peter's and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 7:53 AM
To: Cook, Elisebeth C
Subject: Re: ABA

Great - thanks.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu May 18 20:10:38 2006
Subject: Re: ABA

10:30 is fine--I'll swing by.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu May 18 19:19:57 2006
Subject: FW: ABA

Beth - I've worked up a draft list of names for the ABA as Kristi advised. I'd appreciate the chance to run the draft by you for your thoughts/reactions. Might you be free around 10.30 tomorrow? Many thanks, NMG

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, May 18, 2006 4:10 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Cc: Brand, Rachel; 'Leslie_Fahrenkopf@who.eop.gov'
Subject: Re: ABA

It is customary to provide writing samples. Briefs are fine. I am not sure about the law review article - is that the assisted suicide? They will read all of your published materials anyway.
Payton is one of the people that did Brett's review the third time around.
They usually call you - David, do you know when they reach out? You should make sure you have your list of contacts ready so that you can offer it up immediately.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T

To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
CC: Brand, Rachel; Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu May 18 15:35:55 2006
Subject: ABA

I received today a letter dated May 15 from [redacted] of the ABA Standing Committee on Federal Judiciary. [redacted] indicates that [redacted] received my Senate questionnaire and waiver forms. [redacted] also indicates that [redacted] will be conducting the investigation of me. [redacted] says it would be "a help" if I'd provide [redacted] with "five samples of my writing" and invites me to call [redacted] with any questions.

Sorry to bug you with this, but I would appreciate your thoughts and guidance on a few questions: Do people traditionally provide such samples? Are briefs ok? Would it be good/bad/indifferent to mix in some academic work (eg my Wisconsin L Rev article)? Also, I'd be inclined to call [redacted] to introduce myself, let them know I'm working on the samples, and offer to be otherwise helpful -- but I want to make sure that's ok before I do so.

Many thanks.

NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 8:09 AM
To: Gorsuch, Neil M; [redacted]@khhte.com'; '[redacted]
Subject: RE: ANOTHER Favor...

Sorry to add to the list but here's one more -

Lentell (CA2 amicus)

Please feel free to email items as you unearth them, and thank you again!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 5:40 PM
To: [redacted]@khhte.com'; [redacted]
Subject: RE: ANOTHER Favor...

Thank you both so much!

-----Original Message-----
From [redacted]@khhte.com [mailto [redacted]@khhte.com]
Sent: Thursday, May 18, 2006 5:16 PM
To: Gorsuch, Neil M; [redacted]
Subject: RE: ANOTHER Favor...

Hey, no problem. [redacted] see you tomorrow.

[redacted] Paralegal Manager
Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 [redacted]
[redacted]@khhte.com

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Thursday, May 18, 2006 4:57 PM
To: Neil.Gorsuch@usdoj.gov [redacted]
Subject: RE: ANOTHER Favor...

[redacted] see my notes in CAPS below

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 18, 2006 4:51 PM
To: [redacted]@khhte.com
Subject: ANOTHER Favor...

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[redacted]

I am so sorry to impose on you but the ABA committee reviewing my nomination has asked for five writing samples asap. I'm not sure which ones to pick yet but many possibilities obviously come to mind from my time at KHHTEF and I wonder whether I might impose on you to track them down? Here are the items I have in mind; obviously, I need the final as-filed versions.

CalPERS v Felzen - the petition for certiorari AND the brief on the merits (printed SCOTUS booklet form) THIS SHOULD BE ON PC DOCS AS A PDF

Devlin v. Scardelleti - amicus brief (printed SCOTUS booklet form) SAME

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Conwood - CA6 brief; our opp to summary judgment; and our opp to the post-trial motions CA6 BRIEF ON PC DOCS; SJ BRIEFS, NOT SO SURE.
CONWOOD PLEADINGS ARE NOW OFFSITE, BUT YOU CAN FIND THE PLEADINGS INDEX AT 80191 AND USE THAT TO PULL THE BOXES

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Columbia - our opp to the post-trial motions IN CASEROOM BY CAROL'S BAY [redacted] KNOWS), INDEX IS ON PC DOCS

Ashley - our opp to the motion for summary judgment OFFSITE

Zachair - our opp to the motion for summary judgment; our appellate brief OFFSITE, BUT MAY BE ON PC DOCS, ESP. APPELLATE BRIEF

Ztel - our motion to dismiss; the reply; our motion for discovery sanctions SHOULD BE ON PC DOCS AS PDF, IF NOT, THEY ARE OFFSITE

Teachers v Regal - our opp to the motion for preliminary injunction SHOULD BE ON PC DOCS, IF NOT, OFFSITE

Goff v. Bickerstaff - our opp to the motion for class cert; our motions to dismiss OFFSITE

[redacted] AFTER A 1015 AM APPT, I AM FREE TOMORROW, SO I WILL STOP IN AND HELP PULL THIS STUFF.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 8:19 AM
To: Nichols, Carl (CIV)
Subject: Deficit Reduction Act

For some reason I have 2 mtgs listed on my calendar for today on this topic - one at 2pm in oasg and one at 3pm in civ. I don't know whether you have the same snafu. Am I right in thinking the 3pm is the operative one? Sorry for any confusion we've created.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 9:03 AM
To: Shaw, Aloma A
Subject: RE: CRT Initiatives

Absolutely; thank you

From: Shaw, Aloma A
Sent: Friday, May 19, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: RE: CRT Initiatives

Should I add Martha Pacold?

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:13 PM
To: Shaw, Aloma A
Cc: Todd, Gordon (SMO)
Subject: CRT Initiatives

Please could you schedule another mtg like today's on CRT initiatives with the following group: Wan Kim, Rena Comisac (CRT); Crystal Jezierski (OIPL); Tasia Scolinos, Brian Roherkasse (OPA); me and Gordon? Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 9:10 AM
To: [redacted]@state.gov'[redacted]
Subject: RE:

Just confirming we are on for noon at the Monocle today. All the best, NMG

-----Original Message-----
From:[redacted]@state.gov [mailto:[redacted]@state.gov]
Sent: Wednesday, May 17, 2006 10:09 AM
To: Gorsuch, Neil M;[redacted]
Subject:

Just checking to see if this Friday is still OK for us all for lunch. L

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, May 19, 2006 9:48 AM
To: Gorsuch, Neil M
Subject: 7th Circuit Admittance

You were admitted to the 7th Circuit on 5/5/06. It takes 6-8 weeks from the date of admittance to receive the actual certificate.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 9:55 AM
To: Shaw, Aloma A
Subject: Re: 7th Circuit Admittance

Great. Thanks.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Fri May 19 09:47:34 2006
Subject: 7th Circuit Admittance

You were admitted to the 7th Circuit on 5/5/06. It takes 6-8 weeks from the date of admittance to receive the actual certificate.

Shaw, Aloma A

Subject:	CRT Initiatives Meeting
Location:	5710
Start:	Friday, June 02, 2006 3:00 PM
End:	Friday, June 02, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Todd, Gordon (SMO); Kim, Wan (CRT); Comisac, Rena (CRT); Jezierski, Crystal; Scolinos, Tasia; Roehrkasse, Brian; Pacold, Martha MGorsuch, Neil M; Todd, Gordon (SMO); Kim, Wan (CRT); Comisac, Rena (CRT); Jezierski, Crystal; Scolinos, Tasia; Roehrkasse, Brian; Pacold, Martha M

Yang, Debra Wong (USACAC)

From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 12:43 PM
To: Gorsuch, Neil M
Subject: RE: Tenet
Attachments: tmp.htm

how about 2pm my time? should i have my auditor with me?

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 4:52 AM
To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and [redacted] and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

how about 2pm my time? should i have my auditor with me?

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 4:52 AM
To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and [redacted] and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

Gunn, Currie (SMO)

Subject:	Updated: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Tuesday, May 30, 2006 10:00 AM
End:	Tuesday, May 30, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	O'Connor, Eileen J. (AAG/TAX); Swenson, Lily F; White, Clifford; Jezierski, Crystal; Gorsuch, Neil M; Barnett, Thomas O.; Cohen, Brian; Bounds, Ryan W (OLP); Gorsuch, Neil M; Oldham, Jeffrey L; Pacold, Martha M; Kim, Wan (CRT); McKeown, Matt (ENRD); Wooldridge, Sue Ellen (ENRD); Korn, Jennifer; Seidel, Rebecca; Wright, Paula N; Barnett, Thomas O.; Todd, Gordon (SMO); Hertling, Richard
Optional Attendees:	Saull, Bradley (CRT); Alvarez, Michelle M. (TAX); O'Connor, Eileen J. (AAG/TAX); Bradbury, Steve; Moschella, William; Senger, Jeffrey M; Keisler, Peter D (CIV); Freeman, Sharee; 'Friedman, Lawrence A'; Brand, Rachel; Catapano, Debbie; Boente, Dana J. (TAX); Martinson, Wanda

When: Tuesday, May 30, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Monday, May 29 holiday meeting moved to Tuesday.

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

POC: Currie Gunn 4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 2:12 PM
To: Yang, Debra Wong (USACAC)
Subject: RE: Tenet

I could do 430 my time, 130 yours, but need to head into another meeting here at 5pm. Alternatively, I could do next Tuesday at 3pm Eastern, noon Pacific. Sorry for the inconvenience; please do feel free to rope in whomever you wish.

-----Original Message-----
From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 12:43 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

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To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and Peter's and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 2:16 PM
To: Pustay, Melanie A
Subject: Your vm

Melanie - I received your vm and just tried you back but missed you. Sorry about that. If you just want to email the results of your noodling on the questions we discussed this morning at your convenience, that'd be great (no rush). Many thanks! NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 4:06 PM
To: Shaw, Aloma A
Subject: Re: ?

Driiving

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Fri May 19 15:10:42 2006
Subject: ?

Are you driving or flying to Farmington, PA for the judicial conference?

Yang, Debra Wong (USACAC)

From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

Neil:

I just want to make sure I can answer any questions that you might have.
If you give me some ideas of what you want covered, I can have them available. Otherwise, to have the entire team here is cumbersome. Next week Tuesday at noon.

Have a great weekend.
deb

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 11:12 AM
To: Yang, Debra Wong (USACAC)
Subject: RE: Tenet

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Subject: Tenet

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:10 PM
To: Yang, Debra Wong (USACAC)
Subject: RE: Tenet

Debra, Let's just you and I chat then; I don't mean to burden the entire team. Does Tues at 3pm Eastern/noon Pacific work? Best, NMG

-----Original Message-----
From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

Neil:

I just want to make sure I can answer any questions that you might have.
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From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 11:12 AM
To: Yang, Debra Wong (USACAC)
Subject: RE: Tenet

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-----Original Message-----
From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 12:43 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

how about 2pm my time? should i have my auditor with me?

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 4:52 AM
To: Yang, Debra Wong (USACAC)

To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and Peter's and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

Keisler, Peter D (CIV)

From: Keisler, Peter D (CIV)
Sent: Friday, May 19, 2006 5:18 PM
To: Gorsuch, Neil M
Subject: RE: tenet

That's fine. Thanks.

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:18 PM
To: Keisler, Peter D (CIV)
Subject: tenet

Just to let you know that I've had a hard time connecting with Debra, in part due to time differences and in part due to our respective schedules. It looks like the first time we will be able to speak will be Tuesday afternoon. I hope to resolve the issue then. Is this schedule ok on your end?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:18 PM
To: Keisler, Peter D (CIV)
Subject: tenet

Just to let you know that I've had a hard time connecting with Debra, in part due to time differences and in part due to our respective schedules. It looks like the first time we will be able to speak will be Tuesday afternoon. I hope to resolve the issue then. Is this schedule ok on your end?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:25 PM
To: Gorsuch, Neil M
Subject: Not read: ANOTHER Favor...

Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, May 19, 2006 5:28 PM
To: Gorsuch, Neil M
Subject: Read: Monday

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, May 19, 2006 5:30 PM
To: Gorsuch, Neil M
Subject: Read: Monday

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:31 PM
To: Gorsuch, Neil M
Subject: Wisc I review

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:31 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Wisc I review

I will be out of the office Monday, May 22. If you require immediate assistance, please call Aloma Shaw at 514-9500, or try my cell phone, [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 5:34 PM
To: Todd, Gordon (SMO); Swenson, Lily F
Subject: Monday

If the spirit moves one of you, feel free to attend the 130 strategic initiatives or 4 terrorism mtgs in my stead. Aloma has the details But please don't feel any pressure to go. If you do go, I'd be grateful for an after action email just to keep up to speed. Thanks!

JCON Security Alert (JMD/SMO JCON)

From: JCON Security Alert (JMD/SMO JCON)
Sent: Friday, May 19, 2006 5:43 PM
Subject: SMO/JMD JCON Computer Security Alert: Email Messages Containing Attachments

Computer Security Alert

There is a possibility of a Trojan Horse Attack reaching the Department of Justice Computer Network via DOJ Email system by way of an attachment. The attachments identified in the Security Alert **only** come in the form of Microsoft Word (*.doc) attachment. At this time, we are unable to patched the JCON Computer Systems, sofware vendors are not offering protection from this attack **. If you ever feel that your computer has been compromised or infected at anytime, please perform the following steps listed below under "Required Action" at once:**

So please be advised that even if you receive an email message from a known source, the attachment could be masking an underlining intrusion. Even if:

- The attachment is of a subject that is current.
- The subject matter that is in line with a typical correspondences or project.
- Attachment name is one that is of a known document

Please be advised that JCON Operations is working on safeguards and work-a-rounds at this time. We are also working closely with software vendors to ensure that the preventive patches are applied as soon as they become available. Please remember, If you ever feel you have receive an Email from a suspicious or unknown source and you're suspicious of the content, do not open the Email. Please report any incidents to the JCON SMO/JMD Help Desk immediately at 202-616-7100.

Required Action: Please "Shutdown" your workstation at once. To shutdown your desktop:

1. Save documents you are currently working on and close **ALL** applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to "Shut Down" and click the right button.
4. Choose the "Shutdown" option. This will log your workstation out of the JMD/SMO JCON network.
5. If PC doesn't completely shutdown - please press the main power button located on the front panel of the PC case
6. Please contact the JMD/SMO JCON Help Desk at 202-616-7100.

Check the Intranet, DOJNet, at <http://10.173.2.12/> for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, May 19, 2006 5:47 PM
To: Gorsuch, Neil M
Subject: Read: Monday

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, May 19, 2006 6:04 PM
To: Gorsuch, Neil M
Subject: Read: Monday

From: USDOJ- Office of Public Affairs
Sent: Friday, May 19, 2006 8:11 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR MAY 20 - 26, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
OPA
FRIDAY, MAY 19, 2006 (202) 514-2008
WWW.USDOJ.GOV TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR May 20 - 26, 2006

Saturday, May 20

7:00 P.M. CDT Attorney General Alberto R. Gonzales will be honored at Leadership Houston's 25th anniversary gala.
InterContinental Hotel Ballroom
2222 West Loop South
Houston, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca in the Office of Public Affairs at 202-532-3486.

Monday, May 22

11:30 A.M. EDT Attorney General Alberto R. Gonzales will hold a press conference with Pennsylvania Senator Rick Santorum on the Department of Justice anti-gang initiative.
Allentown City Hall
435 W. Hamilton St
Allentown, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Ames in the Office of Public Affairs at. 202-305-5938

DOJ_NMG_ 0160291

Tuesday, May 23

TBD Time Wan Kim, Assistant Attorney General for the Civil Rights Division will participate in a joint press conference with interim United States Attorney Brad Schlozman to roll out a Human Trafficking Task Force in the Western District of Missouri.
United States Attorney's Office
400 East 9th Street
Kansas City, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to Tobi Longwitz at 202-514-3865.

Wednesday, May 24

12:00 P.M. EDT Deputy Attorney General Paul J. McNulty will make remarks to the American Enterprise Institute regarding the Justice Department's challenges and successes in prosecuting terrorists.
Wohlstetter Conference Center
Twelfth Floor
1150 Seventeenth Street, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Thursday, May 25

9:45 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the National Missing Children's Day Ceremony. Regina Schofield, Assistant Attorney General for the Office of Justice Programs will introduce the Attorney General.
The Great Hall
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca in the Office of Public Affairs at 202-514-2007.

Friday, May 26

Events TBD

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DOJ_NMG_ 0160292

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Image not available for this document, ID: 0.7.10316.14081-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, May 19, 2006 8:49 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
May 19, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Held Press Conference on Immigration Reform (OPA)
The Attorney General took part in a roundtable with law enforcement officials and community leaders regarding immigration reform. The roundtable was followed by a press conference in which the Attorney General outlined the President's new plans for immigration reform.

Attorney General Participated in the Houston Forum (OPA)
Attorney General Alberto R. Gonzales made remarks and participated in a question and answer session with audience members at The Houston Forum.

Three Sentenced in Internet Piracy Crackdown: (Criminal)
The first members of pre-release music piracy groups from Operation FastLink were sentenced today. Derek A. Borchardt, age 22, of Charlotte, NC, Aaron O. Jones, age 30, of Hillsboro, Ore., and George S. Hayes, age 31, of Danville, Va. were sentenced for their involvement with Internet music piracy groups. Borchardt and Jones each pleaded guilty to a single felony count of conspiracy to commit copyright infringement for their involvement in the pre-release music group "Apocalypse Crew" or "APC." Jones was sentenced to six months in prison/six months home confinement and Borchardt was sentenced to six months home confinement by United States District Court Judge Claude M. Hilton. Hayes who previously pleaded guilty to one count of criminal copyright infringement related to his involvement in another pre-release music group called "Chromance" or "CHR" was sentenced to 15 months in prison by United States District Court Judge Leonie M. Brinkema.

Justice Department to Monitor Elections in Louisiana: (Civil Rights)
The Justice Department announced that tomorrow it will monitor the municipal and parochial general elections for New Orleans. Justice Department personnel will watch and record activities during voting hours at various polling locations in the city to ensure compliance with the Voting Rights Act.

Talking Points

- A Civil Rights Division attorney will coordinate the federal activities and maintain contact with local election officials.

- Each year, the Justice Department deploys hundreds of federal observers from the Office of Personnel Management, as well as Departmental staff, to monitor elections across the country. In 2004, a record 1,463 federal observers and 533 Department personnel were sent to monitor 163 elections in 105 jurisdictions in 29 states. Last year for off-year elections there were 640 federal observers and 191 Department personnel sent to monitor 47 elections in 36 jurisdictions in 14 states.

Prosecutors, Judge to Discuss Wiretapping in Sami Khoshaba Latchin Case (FBI)
In Chicago, federal prosecutors will reveal to the Judge in a closed-door meeting as to whether Sami Khoshaba Latchin, a Des Plaines, Ill. man accused of being an Iraqi spy, was the subject of NSA wiretapping.

Pete Williams Interview on Vail eco-terrorism (FBI)
NBC reporter Pete Williams will interview Special Agent Rick Powers for a weekend piece on the recently unsealed indictments relating to eco-terrorisms in Vail. A Federal Grand Jury indicted four people in a 1998 firebombing of the Vail Ski Resort leading to $12 million in damages. Two of the subjects, Chelsea Gerlach and Stanislas Meyerhoff, are in custody in Oregon on arson charges; meanwhile the whereabouts of the other two subjects, Joseph Sunshine Overaker and Rebecca Rubin, are unknown.

Continued Searches in Public Corruption Case (FBI)
Searches will continue in the investigation of Congressman William Jefferson. Court documents from cases involving Jefferson's associates, who have pled guilty in a bribery investigation, indicate that Jefferson lobbied high-level government officials in Nigeria, including the president and vice president, on behalf of a Kentucky technology firm that paid bribes to the Congressman. Last week, attorneys for Jefferson submitted an appeal of a judge's opinion to unseal a majority of the affidavit for a search the FBI conducted on the Maryland home of the Vice President of Nigeria.

UPCOMING EXPECTED EVENTS/RELEASES:

SATURDAY:
Attorney General to be Honored at Houston Gala (OPA)
Attorney General Alberto R. Gonzales will be honored at the Leadership Houston's 25th Anniversary Gala. After speaking at the event, the Attorney General will be presented with the "Distinguished Leadership Award."

MONDAY
Attorney General to Hold Press Conference on Anti-Gang Initiative (OPA)
Attorney General Alberto R. Gonzales and U.S. Senator Rick Santorum will hold a press conference on at 11:30 A.M. EDT regarding the Department of Justice anti-gang initiative in Pennsylvania's "222 Corridor." The open press event will be at the Allentown City Hall in Allentown, PA.

Safavian Trial to Begin (Criminal)
In U.S. District Court in D.C., jury selection will begin in the trial of David Safavian.

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, May 19, 2006 9:39 PM
To: Gorsuch, Neil M
Subject: Read: Monday

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Saturday, May 20, 2006 10:59 AM
To: Gorsuch, Neil M
Subject: Read: Monday

rkeen@truman.gov

From: [redacted]@truman.gov
Sent: Saturday, May 20, 2006 3:31 PM
To: Gorsuch, Neil M
Subject: update on the State Dept.

Hi Neil,

We received a response from State saying that Secretary Rice is unable to meet with us. I was disappointed but am currently working with the Public Affairs Office at State to organize a briefing on the 31st of May. I will keep you posted on who they plan to have meet with us...I get the sense that they are still trying to gage what type of an agency we are since they've asked for notable Trumans, etc. I'm encouraged by being able to at least get in the door on this!

Thank you for your contacts!
[redacted]

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Mon 5/15/2006 5:37 PM
To: [redacted]
Subject: RE: DOJ visit

[redacted]

I'm glad it's coming together. Robert McCallum, the Associate AG (the number 3 officer at DOJ and my boss), will be there on the 30th. Unfortunately, the AG is traveling that day. After Robert speaks, Bill Mercer and I are happy to field questions if you'd like, but we are by no means lobbying to do so!

I trust all is on track with Aloma and Currie of our office. But if any hiccups emerge please do let me know.

As to State, I haven't heard back from [redacted] He was in Europe all last week. I will ping him now to remind him.

If there's anything else I can do to make the summer institute a success, please let me know. Did the WH tour get scheduled?

Best,

NMG

-----Original Message-----
From: [redacted]@truman.gov [mailt[redacted]@truman.gov]

From: [redacted]@truman.gov [mailto: [redacted]@truman.gov]
Sent: Monday, May 15, 2006 5:33 PM
To: Gorsuch, Neil M
Subject: RE: DOJ visit

Hi Neil,

We are in the midst of another Truman Scholar Leadership Week, out in Liberty, Missouri. This new group of scholars is just packed with enthusiasm. Thanks again for helping to select several of them in March. [redacted] and [redacted] are all here thanks to the D.C. Panel. We are enjoying having the opportunity to get to know them better.

I was just hoping to touch base to let you know that things are rolling both with our DOJ visit and with our possible visit to the State Department. Both Aloma Shaw and Currie Gunn have been outstanding with helping me to get all of the details ironed out for our visit to Justice. Do you know if the Attorney General may be able to join us at all that afternoon?

Also, I have recently heard back from [redacted] (who is in the Bureau of Public Affairs at State) and she is putting together our request to move forward to the Secretary's staff. Have you by any chance heard anything back from John on this one? I just thought I'd keep you informed that things are moving forward and they are close to making a decision for us.

Thanks again for all of your efforts. We are truly looking forward to seeing you on the 30th!

Take care,
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, May 21, 2006 4:44 PM
To: Horvath, Jane (ODAG)
Subject: Emergent issue

Jane - if you should get this message in the next hour or two please could you call me on my cell? [redacted] Thanks!

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Sunday, May 21, 2006 5:07 PM
To:	Horvath, Jane (ODAG)
Cc:	'bgerry@who.eop.gov'
Subject:	Brett gerry- privacy act issue

Jane - I just spoke w Brett and he asked if you or Kirsten M could plse call him by 545 or so in advance of a 6 pm conf call on which hed also like one of you to participate. Thanks again. And plse don't hesitate to call my cell if I can be of any help - [redacted]

Horvath, Jane (ODAG)

From: Horvath, Jane (ODAG)
Sent: Sunday, May 21, 2006 5:12 PM
To: Gorsuch, Neil M
Subject: Re: Brett gerry- privacy act issue

I just talked to Kirsten. She is calling him right now.
---------- Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Horvath, Jane (ODAG)
CC: 'bgerry@who.eop.gov'
Sent: Sun May 21 17:07:24 2006
Subject: Brett gerry- privacy act issue

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, May 21, 2006 5:14 PM
To: 'bgerry@who.eop.gov'
Subject: Fw: Brett gerry- privacy act issue

Fyi.

-----Original Message-----
From: Horvath, Jane (ODAG)
To: Gorsuch, Neil M
Sent: Sun May 21 17:12:11 2006
Subject: Re: Brett gerry- privacy act issue

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, May 22, 2006 5:27 AM
To: Elwood, Courtney; Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Gorsuch, Neil M
Subject: Will miss 8:30 meeting

Both Neil and I will miss this mornings meeting. State has scheduled me for an early am meeting at the NSA. I will be in after 2 pm and will circle back at that time. Robt.

Sampson, Kyle

From:	Sampson, Kyle
Sent:	Monday, May 22, 2006 5:35 AM
To:	McCallum, Robert (SMO); Elwood, Courtney; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc:	Gorsuch, Neil M
Subject:	Re: Will miss 8:30 meeting

Thx, Robt. No worries.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Elwood, Courtney; Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG)
CC: Gorsuch, Neil M
Sent: Mon May 22 05:27:07 2006
Subject: Will miss 8:30 meeting

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, May 22, 2006 9:02 AM
To: [redacted]@truman.gov'
Subject: Re: update on the State Dept.

Thanks so much for the update. Sorry we weren't able to land the Secretary but that's always hit or miss and, as you say, we've now got a foot in the door at State. Looking forward to seeing you on the 30th. If there's anything more Bill or I can do to help just let us know.

-----Original Message-----
From: [redacted]@truman.gov
To: Gorsuch, Neil M
Sent: Sat May 20 15:30:34 2006
Subject: update on the State Dept.

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Thanks again for all of your efforts. We are truly looking forward to seeing you on the 30th!

Take care,
[redacted]

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, May 22, 2006 10:31 AM
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); McNulty, Paul J; Sampson, Kyle; McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Congratulations to Mr. McNulty

Paul deserves our hearty congratulations today, having prevailed in his first Supreme Court argument in a unanimous opinion written by the Chief Justice.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) [redacted]
(fax) 202.305.9687

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Monday, May 29, 2006 8:30 AM
End:	Monday, May 29, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica
Importance:	High

When: Monday, May 29, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

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Start: Monday, May 29, 2006 8:30 AM
End: Monday, May 29, 2006 9:00 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Not yet responded

Organizer: Otus2005, Ag
Required Attendees: McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; Gorsuch, Neil M; McNulty, Paul J; Elston, Michael (ODAG); Goodling, MonicaMcCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; Gorsuch, Neil M; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica

Importance: High

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, May 22, 2006 11:58 AM
To: Gorsuch, Neil M
Subject: DC Circuit Conference

Neil:

I've spoken to the conference coordinator regarding purchase of the additional meal ticket for [redacted]. When you return, please write a check payable to D.C. Circuit Judicial Conference in the amount of $225.00.

Aloma

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 24, 2006 9:30 AM
End:	Wednesday, May 24, 2006 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Wednesday, May 24, 2006 9:30 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Monica Goodling DOJ: Paul McNulty, Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mike Elston, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

McAtamney, James A

From: McAtamney, James A
Sent: Monday, May 22, 2006 1:09 PM
To: Metzger, C. Michael; Augustine, Donald P.; [redacted](USMS); [redacted] [redacted](USMS); Johnson, Kevin
Cc: Allen, Michael (JMD); Bouchard, Michael R.; Bradbury, Steve; Burton, Faith; [redacted](USPC); Conley, Joyce; Ferber, Alan L; Freeman, Sharee; [redacted]@ic.fbi.gov; Gillis, John; Gorsuch, Neil M; Hagy, David; Hart, Rosemary; Jezierski, Crystal; [redacted]@ic.fbi.gov; McIntosh, Brent; McManamon, Michael J; Mercer, Bill (ODAG); [redacted]@ic.fbi.gov; Palma, Josephine; [redacted](USMS); Rybicki, James E; Schmitz, Fran (CTS); Schofield, Regina; Scolinos, Tasia; [redacted](USMS); Stoller, Stacy (ENRD); Taylor, Jeffrey (OAG); [redacted](USMS); Tzitzon, Nicholas; Vanyur, John; Vasaio, Tony; Wulf, David M.
Subject: FW: Teleconference Today @ 4:15pm RE: Current Louisiana EVAC Plan
Attachments: tmp.htm; HHS_assets_1530may21.doc
Importance: High

FYI.

As the principal addressees have worked with the ESF-8 planning family, wanted to let you know of this call. One issue to consider, taking a page out of the Katrina after-action process, is to coordinate necessary security-related issues into the various plans. In the case of evacuation, for example, what is the point at which we -- or the state/local agencies -- identify persons subject to some form of "constraint", e.g., parolees, sexual offenders, etc., so that they can be accounted for? Has that come up in the planning discussions? It's not reflected in the read-ahead.

This is the initial HHS concept, but it has to be coordinated across the board -- DoD will likely provide transportation support. Would ask that, at a minimum, USMS have a rep on the call to raise the above issue and report any additional issues that may affect DOJ equities.
Mac

-----Original Message-----
From [redacted]@HHS.GOV [mailto [redacted]@HHS.GOV]
Sent: Monday, May 22, 2006 10:26 AM
To: McAtamney, James A; [redacted]@hhs.gov; [redacted]@NIH.GOV; [redacted]@aphis.usda.gov; [redacted]@osd.mil; [redacted]@orau.gov; [redacted]@dhs.gov; [redacted]@ios.doi.gov; [redacted]@dol.gov; [redacted]@state.gov; [redacted]@dot.gov; [redacted]@va.gov; [redacted]@epamail.epa.gov; [redacted]@usaid.gov; [redacted]@usps.gov; [redacted]@usa.redcross.org
Cc: [redacted]@hhs.gov
Subject: Teleconference Today @ 4:15pm RE: Current Louisiana EVAC Plan
Importance: High

Invited Participant -

There will be a 4:15pm conference call today regarding the attached.
Please dial [redacted] and the Participant Code: [redacted] The Leader will be [redacted] and his code is [redacted]

Thank you.

<<HHS_assets_1530may21.doc>>

ESF #8 summary statement

What follows are ESF #8 missions that would result from full evacuation of the 12 coastal parishes in Louisiana. Each mission is identified and described, and the requirements needed to complete the mission are stated. Remaining gaps and their potential solutions are discussed.

However, it is crucial to understand that the evacuation parameters render the mission impossible to support federally. With a maximum effort of all ESF #8 partners, there is still a gap in resources for a full-scale evacuation. Furthermore, if the gap *could* be filled for the first evacuation, there would be no additional resources for subsequent evacuation efforts during hurricane season 2006. Finally, the effort would deplete valuable resources during the evacuation stage, impeding response and recovery.

The solution lies in changing the parameters. Difficult decisions must be made regarding those actions taken pre-landfall to prevent loss of life versus actions needed post-landfall to ensure that institutions and individuals that were affected by the storm are supported. The post-storm federal support must be fully integrated into state plans, and must be scenario driven once the event has occurred.

Pre-storm, ESF #8 partners must resolve to:

- Identify the population most at risk due to storm conditions or due to their high level of medical needs
- Work with the state of Louisiana to safeguard those most at risk by creating viable plans for state medical response at the operational and tactical levels
- Create tactical plans to move those who are most vulnerable (due to storm risks or medical risks) to alternate locations within Louisiana or to out-of-state facilities
- Muster and stage federal assets early, committing resources (financial and otherwise) 72 hours before hurricane landfall
- Identify medical/special needs facilities that have traditionally made it through storms and turn them into safe-havens with redundant communication, redundant water sources, economic resources for continuity of operations, additional staffing, etc.

Post-storm, ESF #8 partners will

- Assist the state to assess damage and courses of action to get special needs residents out of harm's way
- Deliver resources where needed immediately after the storm
- Provide personnel, equipment and supplies to augment/replace state medical infrastructure

Mission 1: Federal Medical Stations (FMS)

Provide medical personnel and support staff to support the medical special needs populations in Federal Medical Stations.

Given the evacuation scenario, there are approximately 5,300 evacuees coming out of the general population that will have medical needs. The medical care requirements of this group will exceed the medical capabilities of the state-run Special Needs Shelters (SpNS). Some will be put through medical evacuation processes and evacuated out. Approximately 4,500 will need spaces in special needs facilities. HHS could support 2,500 people in 10 FMS, including staffing, supplies and equipment.

- Five (5) Rapid Deployment Teams of 105 each (525 pax)
- Ten (10) kitted FMS including all equipment and supply for first 72 hours of operations
- Potential use of three (3) DMAT teams to support urgent care needs if present

Key issues surround the capability to logistically support the FMS personnel. The first deployment of five 105-member teams will deplete the cache of equipment that is currently available to the FMS program. It has been determined that the best solution to this issue –given proper funding - is to contract with a private company to provide these services.

Mission 2: Support surge for evacuees with medical special needs

There are approximately 28,000 special needs spaces still needed (about 2,000 Red, and 26,000 Yellow)[1]. Given that the state can support 1,500 of this population, there is a gap of 26,500. The mission might take place in co-located shelters, stand-alone shelters, or mega-shelters. It would take approximately 7,200 medical personnel (doctors, RNs, PA/LPNs, paramedics, social workers, psyche nurses/docs, etc) to accomplish this mission.

- 2000+ PHS officers
    - 5 applied public health teams
    - 5 mental health teams
    - Tier 3 personnel
    - Inactive reserve corps
    - VA personnel

[1] Please see Appendix A for definitions and examples of medical special needs levels

- Currently, DoD medical personnel are not available for shelter mission.

To make this mission viable, the following strategies are recommended:

a) Co-locate (or keep in close proximity) special needs evacuees with a general population shelter in order to share shelter management and contracting efforts and to allow for the proximity of family members to their relative with special medical needs.

b) Co-location should take place at the fewest number of large/Mega shelters possible to make their logistical support viable.

Given the strategies listed above, this plan requires massive structures like convention centers or complexes of buildings such as college or other campuses. This will decrease pressure on the initial triage at Parish Pickup Points and on transportation options by creating greater flexibility at the shelter destination. It also assumes high levels of buy-in at the Parish and state level, which is not assured. The result of poor coordination is a higher number of medical personnel needed over a larger number of shelters, which is logistically unsupportable.

Mission 3: Support for state/Red Cross/faith based shelters

Outside of medical special needs requirements, general population shelters will also need some medical support. Many of these shelters will use local and state personnel, along with volunteers listed with Office of Public Health and through EMAC agreements. Most of these shelters will not need imbedded support, but rather small strike teams of personnel that can run clinic-like operations in several shelters. They will need to be able to write prescriptions and give any care that exceeds what Red Cross nurses are legally allowed to do.

- VA Clinic Vans and personnel
- FQHC Clinic Vans and personnel. Those willing to deploy need to be prospectively rostered by HRSA
- State has Adopt-A-Shelter Program with LHCA providers, but has not quantified extent of expected participation

Mission 4: Urgent care

DMAT teams will be used to supplement the state capacity for urgent care capability. To best perform this mission, every attempt must be

made to limit the use of DMATs for primary care or triage of general population evacuees.

- There are a total of 9 DMAT teams that can be committed to Louisiana evacuation mission
  - Three (3) for FMS support
  - Six (6) for supplemental mega-shelter support

Mission 5: Medical triage

There is a request for support with medical triage at the Parish Pickup Points. Use of personnel will be most effective supporting the largest marshalling points rather than sending small groups out to the smaller parishes. Jefferson and Orleans are the areas with the most population, and would amount to a total of 150 medical personnel split between two parishes.

- 150 medical personnel (nurses, doctors, EMT, etc…)
  - PHS officers (that will later be reassigned to another ESF #8 mission)
  - DMAT should be used only as last resort
  - The use of MRC out of other states, plus the use of ESARVP, is unclear and this time and can not be planned on for evacuation missions.

Although there may be deployable ESF #8 personnel available for this mission, the first option should be EMS providers. When ambulances are contracted for the evacuation mission, additional personnel for triage teams should be deployed in transportation that allows access to the parish pick up point and provides an evacuation vehicle when the mission is complete.

It is important to note that if general population, special needs evacuees and FMS are co-located (or in close proximity), sorting at collection points needs only determine appropriate care and type of transport. Proper shelter can be determined on arrival at co-located shelter sites. As true for other missions, this mission needs a high level of coordination with the state. State plans for medical operations should clearly address triage and sheltering strategies.

Mission 6: Medical evacuation oversight

The state lacks tactical level plans about how medical evacuation of nursing homes, hospitals, and general population medically fragile citizens will operate. There will be federal support to the state to write this mission as an annex to the general state ESF#8 plan. This plan will

include transportation assets, triage and care personnel, destination shelter sites, communication plans, as well as command, control, and coordination plans.

Mission 7: Hospital evacuation

DoD has committed to move 3,500 patients in the timeline given by Department of Health and Hospitals from the medical marshalling points out through the NDMS system. Of these 3,500, approximately 600 patients will be neonatal or pediatric intensive care or obstetrics patients that will be moved directly to other in-state facilities. The rest (approximately 2,900) will move to out of state facilities. Finally, although the responsibility is intended to rest with the state, hospitals will also need support to move some patients from hospitals to the medical marshaling points via air and ground.

- Point to point transportation of 600 neonatal, pediatric intensive care, and obstetric) by land ambulance, ambu-bus and rotary wing aircraft.
    - These assets have not yet specifically been identified. In some ways, it is waiting for the outcome of the ESF1 versus ESF8 debate.
    - If there are Guard air assets available, this might be the best place to use them. It would keep DoD mission (hospital to medical marshalling point and medical marshalling point out of state) and Guard mission separate.
- 1,200 high risk patients (ICU, CCU, Dialysis) must move from hospitals to medical marshalling points in a combination of land and air
    - DoD in process of outsourcing with two medevac companies can obtain 24 Blackhawks with a capacity of 4 stretcher patients each
    - Contracting mechanisms using the American Ambulance Association to identify assets for ambulance service are under development.
    - The state has somewhere between 120-167 ambulances available for special needs evacuation.
    - Guard/other Rotary wing aircraft

Louisiana Department of Health and Hospitals has stated that they need assistance with 3,500 hospital and medical unstable nursing home patients. This number could increase, however, if: a Category 5 hurricane heading for the west of Louisiana, and/or hospital evacuation

plans don't flow as anticipated. The concern is heightened by the fact that some assets have not yet been identified (like air assets to move from hospitals to other hospitals instate) or have been double counted (ambulances will be needed for hospital, nursing home, and general population urgent care). However, higher capacity for the NDMS evacuation is not feasible. The limit that can be evacuated during a max effort - based on temporal assumptions and limited airspace/staging space for air evacuation - is 3,500 patients. It cannot realistically be increased given the restraints that the mission is working under.

The solution is two-fold.
First, to pre-identify both hospitals and patients that are at the most risk, and make plans to evacuate them first. Hospitals most at risk should be identified based on previous history with storm surge, flooding, and wind damage. Patients most at risk are PICU/NICU/OB and ICU/dialysis. Second, adult medical surge in hospitals that remained dry last year should be sheltered in place. The magnitude of the requirement may be safely reduced by Federal assistance to key hospitals for hurricane mitigation. This includes but is not limited to:

a) Redundant back-up generator systems
b) Back-up water sources
c) Evaluation for safe haven areas within hospital
d) Financial guarantees that offset losses related to staying open through disaster
e) Augmented staffing
f) Redundant communications
g) Guarantee of immediate post-storm assistance, including evacuation if necessary

Mission 8: Nursing home evacuation
Nursing homes are supposed to be responsible for evacuating their own residents to pre-arranged facilities. There is evidence at the state level that a substantial number of nursing homes will not be able to comply with this mandate. Transportation assets are not available, and there is a shortage of personnel to accomplish such evacuations. It is anticipated that in the face of imminent threat, the nursing homes will contact Parish emergency management officials or will simply call 911. The state will then be asked to intervene.

However, even when the state's entire special needs transportation assets are applied to the scenario, there is still a gap that will need to be filled federally. For those that are medically unfit to evacuate, 330 ambulances could be needed to bring them to the Belle Chase, Lakefront, Lafayette, or Chennault (Lake Charles) medical marshalling points. 225 of these ambulances will be required for Region 1 (Jefferson and Orleans) alone.

- State will have 120 staged at Zephyr Field for nursing home and hospital evacuation
- 160-400 ambulances will be available through AAA for both nursing home AND hospital evacuation

These numbers assume only one trip per vehicle (worst case scenario, but not unreasonable based on travel times) with two patients per trip. It also assumes that all ambulances are applied against the nursing home need. This would force all hospital evacuation to use air rather than ground support that might not be feasible or desirable. The gap will be dependent on the number of ambulances obtained through AAA.

Medically fit to evacuate will potentially need long haul buses to help with the evacuation. To transport all nursing home patients that are medically able to evacuate, the state will need 133 long haul buses, with the majority of the need in Orleans, Jefferson, and St Tammany parishes.

- State will have 220 buses designated as “special needs” staged at Zephyr Field

Although there is not a gap in numbers of transportation assets needed for this population, there is a lack of transparency into the command and control of these vehicles. The state will receive federal support to help clarify this mission, and the product will be an annex in the state ESF #8 plan.

Attachment A: Triage system of medical special needs

Triage color	Green	Yellow	Red
Shelter Type	General population with some medical support	Co-located in/in close proximity to general population shelters, or in special needs facilities (state or federal)	FMS if stable, into the NDMS system if not
Type of medical needs	Prescription refills, colds/allergies, digestive ailments, minor behavioral health issues	Chronic medical needs, including severe mobility issues, diabetics that need medical supervision, respiratory therapy recipients, those recently discharged from hospitals, etc	Those in FMS will include elderly with medical needs, O2 dependent, hospice patients that are currently stable, etc

Invited Participant -

There will be a **4:15pm conference call today** regarding the attached. Please dial [redacted] and the Participant Code: [redacted] The Leader will be [redacted] and his code is [redacted]

Thank you.

<<HHS_assets_1530may21.doc>>

Pustay, Melanie A

From: Pustay, Melanie A
Sent: Monday, May 22, 2006 2:04 PM
To: Gorsuch, Neil M
Subject: Read: Your vm

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, May 22, 2006 2:45 PM
To: Gorsuch, Neil M
Subject: FW: Gorsuch - guest fee to be mailed

FYI

-----Original Message-----
From [redacted]@cadc.uscourts.gov [mailto [redacted]@cadc.uscourts.gov]
Sent: Monday, May 22, 2006 1:29 PM
To: Shaw, Aloma A
Subject: Gorsuch - guest fee to be mailed

Thank you very much! We will include [redacted] in the roles and I'll watch for the check in the coming week.

[redacted]
Conference Coordinator

"Aloma.A.Shaw@usd
oj.gov"
<Aloma.A.Shaw@usd To
oj.gov> [redacted]@cadc.uscourts.gov"
<[redacted]@cadc.uscourts.gov>
05/22/2006 12:38 (Receipt Notification Requested)
PM (IPM Return Requested)

cc

Subject
Meal Ticket for Spouse

[redacted]
Per our conversation on May 22, I will mail to you a check payable to the "D.C. Circuit Judicial Conference" from Neil Gorsuch in the amount of $225.00 for a meal ticket package for his spouse, [redacted] for the upcoming D.C. Circuit Judicial Conference in Farmington, PA

[redacted] for the upcoming D.C. Circuit Judicial Conference in Farmington, PA.

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Room 5706
Washington, DC 20530
(202) 616-9474

Pustay, Melanie A

From: Pustay, Melanie A
Sent: Monday, May 22, 2006 2:48 PM
To: Gorsuch, Neil M
Subject: RE: Your vm

Hi Neil -- By any chance did the questions that came to you about the VA come from Jack Thompson, the Deputy General Counsel there? By coincidence I had a call from him directly myself, and I have a return call in to him now. If it was not him, do you have another contact I could call at VA? The reason I'm asking is that the consensus of all my noodling thus far is that we need to know more specifics about the info at stake and the actual incident before we can decide what our answers should be. Thanks -- Melanie

---

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 2:16 PM
To: Pustay, Melanie A
Subject: Your vm

Melanie - I received your vm and just tried you back but missed you. Sorry about that. If you just want to email the results of your noodling on the questions we discussed this morning at your convenience, that'd be great (no rush). Many thanks! NMG

Beach, Andrew

Subject:	Strategic Initiatives
Location:	OAG Conf Rm 5228
Start:	Tuesday, May 23, 2006 3:15 PM
End:	Tuesday, May 23, 2006 3:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG)

When: Tuesday, May 23, 2006 3:15 PM-3:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

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

Noronha, Preeya (CIV)

From: Noronha, Preeya (CIV)
Sent: Monday, May 22, 2006 2:59 PM
To: [redacted]@ic.fbi.gov; Henry, Terry (CIV); Gorsuch, Neil M; Melanie.Pustay@usdoj.gov; Lily.Swenson@usdoj.gov; Hunt, Jody (CIV); Todd, Gordon (SMO); Nichols, Carl (CIV); [redacted]@whs.mil; [redacted]@ic.fbi.gov; [redacted]@ic.fbi.gov; [redacted]@dodgc.osd.mil
Subject: GTMO FOIA request
Attachments: [redacted]PDF

Please be advised that DOJ has received the attached FOIA request from a reporter from the Miami Herald, seeking "a copy of a list that Preeya Noronha (CIV) or her team likely keep related to Guantanamo habeas suits in U.S. District Court, Washington, D.C., in which the Government asks the judges to dismiss or moot them because the detainees have either been transferred or released from custody of the Joint Task Force Guantanamo Bay."

We are presently considering how to respond to this request, which could be construed as asking us to compile publicly-available records, or to generate a report from our litigation database. If you have any thoughts or suggestions as to a response, please let me know.

Thanks.
Preeya

Preeya M. Noronha
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W., Rm. 7226
Washington, D.C. 20530
Tel: (202) 514-3338
Fax: (202) 616-8202
E-mail: preeya.noronha@usdoj.gov

The Miami Herald

A Knight-Ridder Newspaper

One Herald Plaza, Miami, Florida 33132-1693 (305) 350-2111

Melanie Ann Pustay, Deputy Director
Office of Information and Privacy
Department of Justice
Suite 11,050
1425 New York Avenue, N.W.
Washington, DC 20530-0001
(202) 514-FOIA

11 May 2006

Ms. Pustay,

I asked a routine question of a DOJ attorney today and to my complete surprise was told to file for the answer under the Freedom of Information Act. It seems a bit bizarre, but per Brian Roehrkasse, Deputy Director of Public Affairs, U.S. Department of Justice, (202) 514-2007, here you go:

Under the Freedom of Information Act, I respectfully ask for a copy of a list that Preeya Noronha (CIV) or her team likely keep related to Guantanamo habeas suits in U.S. District Court, Washington D.C., in which The Government asks the judges to dismiss or moot them because the detainees have either been transferred or released from custody of the Joint Task Force Guantanamo Bay.

I consider this a routine request, which should not require a formal FOIA. So I would ask that you contact Preeya Noronha and staff to see whether they would like to provide the list.

If all or any part of my request is denied, please list the specific exemption(s) upon which you are relying to withhold the information. If you determine that portions of the requested material are exempt from release, I will expect, as the FOIA requires, that you provide me with the remaining, non-exempt portions.

As a reporter for the Miami Herald, I respectfully request that you waive the search and copying fees as this information is in the public interest. Should you have any questions about the nature or content of this request, please call me during business hours at work [redacted]

Thank you for your assistance.

Very truly yours,

[redacted]

The Miami Herald
1 Herald Plaza
Miami FL 33132
[redacted]
305-376-5287 fax
[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, May 22, 2006 3:28 PM
To: Elwood, Courtney; Elston, Michael (ODAG); Mercer, Bill (ODAG); McNulty, Paul J; Sampson, Kyle; Gorsuch, Neil M
Subject: RE: Congratulations to Mr. McNulty

All right Paul!!!!!! Robt.

From: Elwood, Courtney
Sent: Monday, May 22, 2006 10:31 AM
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); McNulty, Paul J; Sampson, Kyle; McCallum, Robert (SMO); Gorsuch, Neil M
Subject: Congratulations to Mr. McNulty

Paul deserves our hearty congratulations today, having prevailed in his first Supreme Court argument in a unanimous opinion written by the Chief Justice.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) [redacted]
(fax) 202.305.9687

Pustay, Melanie A

From: Pustay, Melanie A
Sent: Monday, May 22, 2006 4:12 PM
To: Gorsuch, Neil M
Subject: RE: Your vm

Neil -- I just spoke with Jane Horvath and Kirsten Moncada and learned that the VA matter heated up over the weekend and the news is already on the Washington Post front page this afternoon. It's all very unfortunate, obviously --- just let me know if you need anything -- Melanie

---

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 2:16 PM
To: Pustay, Melanie A
Subject: Your vm

Melanie - I received your vm and just tried you back but missed you. Sorry about that. If you just want to email the results of your noodling on the questions we discussed this morning at your convenience, that'd be great (no rush). Many thanks! NMG

From: USDOJ- Office of Public Affairs
Sent: Monday, May 22, 2006 4:58 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT TO MONITOR ELECTION IN ARKANSAS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY MAY 22, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT TO MONITOR ELECTION IN ARKANSAS

WASHINGTON—The Justice Department today announced that it will monitor the May 23, 2006 primary election in Pulaski County, Ark.

The Department will monitor voting procedures in polling places and in the Clerk's office to ensure compliance with federal law. The Department has authority to monitor the elections pursuant to a consent decree entered on April 19, 2004, in *U.S. v. Pulaski County, et al.*, to resolve the Department's allegations that the county had violated the National Voter Registration Act ("NVRA").

The consent decree requires county officials to develop and implement uniform and nondiscriminatory rules and policies governing the maintenance of an accurate and current voter registration roll for elections for federal office, as well as ensure that eligible applicants be registered to vote in a timely and effective manner.

Each year, the Justice Department deploys hundreds of federal observers from the Office of Personnel Management, as well as Departmental staff, to monitor elections across the country. In 2004, a record 1,463 federal observers and 533 Department personnel were sent to monitor 163 elections in 105 jurisdictions in 29 states. In 2002, the last comparable year in the four year election cycle, there were 608 federal observers and 221 Department personnel deployed to 60 elections in 40 jurisdictions in 17 states. Last year for off-year elections there were 640 federal observers and 191 Department personnel sent to monitor 47 elections in 36 jurisdictions in 14 states.

To file complaints about voting practices in this election, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

More information about the NVRA and other federal voting laws is available on the Department of Justice Web site at www.usdoj.gov/crt/voting.

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06-319

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DOJ_NMG_ 0160337

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Image not available for this document, ID: 0.7.10316.13622-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 8:54 AM
To: Yang, Debra Wong (USACAC)
Subject: Fw: Tenet

Debra - might noon your time/3pm mine work?

-----Original Message-----
From: Gorsuch, Neil M
To: Yang, Debra Wong (USACAC)
Sent: Fri May 19 17:10:24 2006
Subject: RE: Tenet

Debra, Let's just you and I chat then; I don't mean to burden the entire team. Does Tues at 3pm Eastern/noon Pacific work? Best, NMG

-----Original Message-----
From: Yang, Debra Wong (USACAC)
Sent: Friday, May 19, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

Neil:

I just want to make sure I can answer any questions that you might have.
If you give me some ideas of what you want covered, I can have them available. Otherwise, to have the entire team here is cumbersome. Next week Tuesday at noon.

Have a great weekend.
deb

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From: Gorsuch, Neil M
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Subject: RE: Tenet

I could do 430 my time, 130 yours, but need to head into another meeting here at 5pm. Alternatively, I could do next Tuesday at 3pm Eastern, noon Pacific. Sorry for the inconvenience; please do feel free to rope in whomever you wish.

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Sent: Friday, May 19, 2006 12:43 PM

Sent: Friday, May 19, 2006 12:45 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

how about 2pm my time? should i have my auditor with me?

From: Gorsuch, Neil M
Sent: Friday, May 19, 2006 4:52 AM
To: Yang, Debra Wong (USACAC)
Subject: Tenet

Debra, I've now had a chance to study your memo and Peter's and was hoping you and I might have a chance to speak. Is there a good time today when I might ring you? Many thanks, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 9:04 AM
To: Sampson, Kyle; Alikhan, Arif (ODAG)
Cc: Chemtob, Stuart
Subject: RE: Progress Report of the IP Task Force

I'm not sure this captures all of the changes we've suggested and USTR has made in our free trade agreements. Is this something you wish to capture? If so, Stuart Chemtob could probably give Arif a useful summary.

From: Sampson, Kyle
Sent: Monday, May 22, 2006 5:41 PM
To: Alikhan, Arif (ODAG); Barnett, Thomas O.; Battle, Michael (USAEO); Brand, Rachel; Clement, Paul D; Fisher, Alice; Gorsuch, Neil M; Keisler, Peter D (CIV); Moschella, William; Reigel, Louis M (LEO); Yang, Debra Wong
Subject: Progress Report of the IP Task Force
Importance: High

IP Task Force Members,

Just wanted to let you know that final edits to the Progress Report are proceeding apace. Attached is the current version for your review (note: the executive staff has this version and is working to fill some of the holes). Please submit any comments or concerns to me or Arif no later than COB on Wednesday. We now are targeting 6/20 as the day the AG will issue the Report. Thanks again to you and your staffs for really excellent work.

Kyle

<< File: MASTER DOCUMENTMay 21a.pdf >>

Alikhan, Arif (ODAG)

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 9:20 AM
To: Gorsuch, Neil M; Sampson, Kyle
Cc: Chemtob, Stuart
Subject: RE: Progress Report of the IP Task Force

Neil:
I believe the USTR Free Trade suggestions were part of the Internal Report. We will definitely capture those accomplishments in the Internal Report we will prepare once we are finished with the published report. If you have any questions, please let me know. Thanks.
AA

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Yang, Debra Wong (USACAC)

From: Yang, Debra Wong (USACAC)
Sent: Tuesday, May 23, 2006 9:23 AM
To: Gorsuch, Neil M
Subject: RE: Fw: Tenet

Yes, and I should have one attorney with me shd we need it. Call 213 894 4600. Look forward to it.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tue May 23 08:53:31 2006
To: Yang, Debra Wong (USACAC)
Subject: Fw: Tenet

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 9:30 AM
To: Alikhan, Arif (ODAG)
Subject: RE: Progress Report of the IP Task Force

Is there a reason why they wouldn't be part of the public report?

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 9:20 AM
To: Gorsuch, Neil M; Sampson, Kyle
Cc: Chemtob, Stuart
Subject: RE: Progress Report of the IP Task Force

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Subject: RE: Fw: Tenet

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Alikhan, Arif (ODAG)

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 9:31 AM
To: Gorsuch, Neil M
Subject: RE: Progress Report of the IP Task Force

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From: Gorsuch, Neil M
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To: Alikhan, Arif (ODAG)
Subject: RE: Progress Report of the IP Task Force

Is there a reason why they wouldn't be part of the public report?

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 9:20 AM
To: Gorsuch, Neil M; Sampson, Kyle
Cc: Chemtob, Stuart
Subject: RE: Progress Report of the IP Task Force

Neil:
I believe the USTR Free Trade suggestions were part of the Internal Report. We will definitely capture those accomplishments in the Internal Report we will prepare once we are finished with the published report. If you have any questions, please let me know. Thanks.
AA

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 9:04 AM
To: Sampson, Kyle; Alikhan, Arif (ODAG)
Cc: Chemtob, Stuart
Subject: RE: Progress Report of the IP Task Force

I'm not sure this captures all of the changes we've suggested and USTR has made in our free trade agreements. Is this something you wish to capture? If so, Stuart Chemtob could probably give Arif a useful summary.

From: Sampson, Kyle
Sent: Monday, May 22, 2006 5:41 PM
To: Alikhan, Arif (ODAG); Barnett, Thomas O.; Battle, Michael (USAEO); Brand, Rachel; Clement, Paul D; Fisher, Alice; Gorsuch, Neil M; Keisler, Peter D (CIV); Moschella, William; Reigel, Louis M (LEO); Yang, Debra Wong
Subject: Progress Report of the IP Task Force
Importance: High

IP Task Force Members,

Just wanted to let you know that final edits to the Progress Report are proceeding apace. Attached is the current version for your review (note: the executive staff has this version and is working to fill some of the holes). Please submit any comments or concerns to me or Arif no later than COB on Wednesday. We now are targeting 6/20 as the day the AG will issue the Report. Thanks again to you and your staffs for really excellent work.

Kyle

<< File: MASTER DOCUMENTMay 21a.pdf >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 9:32 AM
To: Alikhan, Arif (ODAG)
Subject: RE: Progress Report of the IP Task Force

Thanks very much.

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Kyle

<< File: MASTER DOCUMENTMay 21a.pdf >>

Otus2005, Ag

Subject:	Strategic Initiatives with the Attorney General re: National Terrorism Prevention Strategy
Start:	Monday, June 19, 2006 10:30 AM
End:	Monday, June 19, 2006 11:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Friedrich, Matthew; Elston, Michael (ODAG)

When: Monday, June 19, 2006 10:30 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Kyle Sampson DOJ: Paul McNulty, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Alice Fisher, Ken Masugi, Mike Battle, Matt Friedrich, Mike Elston

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 10:13 AM
To: 'Karan_Bhatia@ustr.eop.gov'
Subject: Could you give me a ring when you have a moment? [redacted] Thanks!

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Alikhan, Arif (ODAG)

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 10:52 AM
To: Gorsuch, Neil M
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: USTR Recommendation

Neil:
I spoke with Kyle and we thought the work re USTR could be included as an additional accomplishment. What do you think of including the following language in Chapter VII -- How has the Department Enforced and Protected IPR?

F. International Efforts - Free Trade Agreements

Since the 2004 Report was issued, the Department of Justice has worked closely with the Office of the United States Trade Representative ("USTR") on interagency development of trade policy issues that affect competition and intellectual property rights, and to participate in negotiations concerning U.S. Free Trade Agreements with new foreign trading partners. The most recent negotiations concerned Free Trade Agreements with Australia, Thailand, and South Korea. To enhance the Department of Justice's involvement in the process, Department of Justice attorneys in the Antitrust, Civil, and Criminal Divisions have undertaken a comprehensive review of existing Free Trade Agreements, and proposed a series of recommendations to USTR to strengthen support for intellectual property rights enforcement in the intellectual property rights chapters of Free Trade Agreements and other trade pacts. After a series of discussions, USTR adopted several of the Department of Justice's recommendations, including (1) revising language to ensure that foreign courts have the authority to order infringers to provide intellectual property owners with access to information relevant to an infringement; (2) adding language to ensure that our FTA partners adopt policies or guidelines that encourage their courts to impose penalties, including sentences of actual imprisonment, at levels sufficient to constitute a deterrent to intellectual property theft; (3) expanding language to ensure that our FTA partners provide for presumptions in civil, criminal and administrative proceedings that intellectual property rights are valid and enforceable; (4) ensuring that foreign courts have the authority to order the infringer to pay the intellectual property rightholder's attorneys fees and other litigation costs; and (5) restricting the ability of our FTA partners to order compulsory licensing of patents, and clarifying that patents should not be presumed to create antitrust market power. The Department of Justice recognizes the importance of strenghtening intellectual property rights through international agreements and will continue to work closely with USTR on an ongoing basis.

Owens, Angela (ENRD)

From: Owens, Angela (ENRD)

Sent: Tuesday, May 23, 2006 10:53 AM

To: Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)

Subject: Attached is ENRD's Weekly Report to the AG...

Attachments: WILDLIFE-#113747-v1-ENRD's_AG_Weekly_--_May_23__2006.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

May 23, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

- ***Oral Argument in Challenge to Operations on the Federal Columbia River Power System***

On June 1, Division attorneys will present oral argument in the Ninth Circuit in National Wildlife Federation v. National Marine Fisheries Service on the National Marine Fisheries Service's appeal from a district court's invalidation of the agency's 2004 biological opinion governing operations on the Federal Columbia River Power System.

- ***Oral Argument in New Source Review Clean Air Act Enforcement Action***

On June 2, Division attorneys will present oral argument in the Seventh Circuit in United States v. Cinergy Corp. The United States brought this Clean Air Act action to enforce the New Source Review ("NSR") requirements. The district court granted the government's motion for partial summary judgment on what constitutes a "net emissions increase" for purposes of deciding whether a project constitutes a "modification" that subjects a source to NSR. The district court held that a net emissions increase does not require an hourly emissions increase, but occurs whenever annual emission increase, which would include consideration of increased hours of operation. The Fourth Circuit reached a contrary conclusion in Environmental Defense v. Duke Energy Corp., and the Supreme Court announced last week that it had granted certiorari in the appeal from that decision.

THIS WEEK

Nothing to report.

LAST WEEK

- ***Favorable Decision in Clean Water Act Coal Mining Point Source Category Rule Revision***

On May 15, the Sixth Circuit *en banc* issued a favorable ruling upholding the Environmental Protection Agency's ("EPA") Clean Water Act rule revision entitled, "Coal Mining Point Source Category; Amendments to Effluent Limitations Guidelines and New Source Performance Standards. The United States petitioned for *en banc* review after a Sixth Circuit panel held that EPA had failed to apply statutory factors. The *en banc* court affirmed the panel's decision that the Rahall amendment did not bar EPA from promulgating additional regulations to provide for broader exceptions for remining. The *en banc* court upheld EPA's use of best management practices instead of numerical effluent limits, its treatment of remining discharges that are commingled with other waste streams, and its decision to set the effluent reduction attainable at remining areas at zero. Finally, the *en banc* court held that the panel erred in holding that the rule violated procedures required by the Clean Water Act because petitioners had not raised the issue in their opening merits brief.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0160358

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 10:54 AM
To: Alikhan, Arif (ODAG)
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: RE: USTR Recommendation

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 11:02 AM
To: Chemtob, Stuart
Subject: FW: USTR Recommendation

Stuart - Would you mind confirming with USTR that it's ok with this? I can call Karan if you think that'd be a better way to go.

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To: Gorsuch, Neil M
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Gorsuch, Neil M

Subject:	[redacted]
Location:	caucus rm
Start:	Tuesday, May 30, 2006 12:00 PM
End:	Tuesday, May 30, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, May 23, 2006 11:12 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 5-23-06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 5-23-06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

May 23, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending May 19, 2006

NEXT WEEK

· No entries this period.

THIS WEEK

· ***AAG Kim Attending Kansas City Human Trafficking Conference:***
On May 24, AAG Kim will attend the Kansas City Human Trafficking Conference press conference and Division staff will give presentations at the conference. The U.S. Attorney's Office in Kansas City is sponsoring this event. Attendees will include AUSAs, local and federal law enforcement officers as well as officials from non-government organizations.

· ***Sentencing Scheduled in Trafficking Case:***
On May 25 and 26, in *United States v. Carreto, et al.*, (Eastern District New York), defendants Eliu Carreto Fernandez and Eloy Carreto Reyes are scheduled to be sentenced. Both defendants entered guilty pleas to violating 18 U.S.C. §1591 (sex trafficking). On April 27, defendants Josue Flores Carreto and Gerardo Flores Carreto were sentenced to

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

50 years in prison and defendant Daniel Perez Alonso was sentenced to 25 years in prison for their guilty pleas to human trafficking related offenses. The defendants forced young Mexican women into prostitution in brothels throughout the New York City metropolitan area, including Queens and Brooklyn.

LAST WEEK

- ***Division Monitored New Orleans Elections:***
  On May 20, the Division monitored the municipal and parochial general elections for New Orleans.

- ***Division Monitored Elections in Massachusetts and Pennsylvania:***
  On May 16, the Division monitored a special municipal preliminary election in Boston, Massachusetts and primary elections in Reading and Philadelphia, Pennsylvania, to ensure compliance with the Voting Rights Act.

LONG RANGE EVENTS

Division Contact: Tobi Longwitz – (202) 514-3845

[redacted]@truman.gov

From: [redacted]@truman.gov
Sent: Tuesday, May 23, 2006 11:24 AM
To: Gorsuch, Neil M
Subject: RE: update on the State Dept.

Hi Neil,

Do you and Bill each have a current biography? I am trying to pull those together this week so that they're ready to go for next week.

thanks,
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, May 22, 2006 9:02 AM
To: [redacted]
Subject: Re: update on the State Dept.

Thanks so much for the update. Sorry we weren't able to land the Secretary but that's always hit or miss and, as you say, we've now got a foot in the door at State. Looking forward to seeing you on the 30th. If there's anything more Bill or I can do to help just let us know.

-----Original Message-----
From: [redacted]@truman.gov
To: Gorsuch, Neil M
Sent: Sat May 20 15:30:34 2006
Subject: update on the State Dept.

Hi Neil,

We received a response from State saying that Secretary Rice is unable to meet with us. I was disappointed but am currently working with the Public Affairs Office at State to organize a briefing on the 31st of May. I will keep you posted on who they plan to have meet with us...I get the sense that they are still trying to gage what type of an agency we are since they've asked for notable Trumans, etc. I'm encouraged by being able to at least get in the door on this!

Thank you for your contacts!
[redacted]

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Mon 5/15/2006 5:37 PM
To: Ruth Keen
Subject: RE: DOJ visit

Ruth,

I'm glad it's coming together. Robert McCallum, the Associate AG (the number 3 officer at DOJ and my boss), will be there on the 30th. Unfortunately, the AG is traveling that day. After Robert speaks, Bill Mercer and I are happy to field questions if you'd like, but we are by no means lobbying to do so!

I trust all is on track with Aloma and Currie of our office. But if any hiccups emerge please do let me know.

As to State, I haven't heard back from [redacted] He was in Europe all last week. I will ping him now to remind him.

If there's anything else I can do to make the summer institute a success, please let me know. Did the WH tour get scheduled?

Best,

NMG

-----Original Message-----
From: [redacted]@truman.gov [mailto[redacted]@truman.gov]
Sent: Monday, May 15, 2006 5:33 PM
To: Gorsuch, Neil M
Subject: RE: DOJ visit

Hi Neil,

We are in the midst of another Truman Scholar Leadership Week, out in Liberty, Missouri. This new group of scholars is just packed with enthusiasm. Thanks again for helping to select several of them in March. [redacted] and [redacted] are all here thanks to the D.C. Panel. We are enjoying having the opportunity to get to know them better.

I was just hoping to touch base to let you know that things are rolling both with our DOJ visit and with our possible visit to the State Department. Both Aloma Shaw and Currie Gunn have been outstanding with helping me to get all of the details ironed out for our visit to Justice. Do you know if the Attorney General may be able to join us at all that afternoon?

Also, I have recently heard back from [redacted] (who is in the Bureau of Public Affairs at State) and she is putting together our request to move forward to the Secretary's staff. Have you by any chance heard anything back from John on this one? I just thought I'd keep you informed that things are moving forward and they are close to making a decision for us.

Thanks again for all of your efforts. We are truly looking forward to seeing you on the 30th!

Take care,

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 11:27 AM
To: Mercer, Bill (ODAG)
Subject: Fw: update on the State Dept.

Can you or charles forward something I can give to ruth?

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From: [redacted]@truman.gov
To: Gorsuch, Neil M
Sent: Tue May 23 11:23:33 2006
Subject: RE: update on the State Dept.

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[redacted]

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Mon 5/15/2006 5:37 PM
To: [redacted]
Subject: RE: DOJ visit

[redacted]

I'm glad it's coming together. Robert McCallum, the Associate AG (the number 3 officer at DOJ and my boss), will be there on the 30th. Unfortunately, the AG is traveling that day. After Robert speaks, Bill Mercer and I are happy to field questions if you'd like, but we are by no means lobbying to do so!

I trust all is on track with Aloma and Currie of our office. But if any hiccups emerge please do let me know.

As to State, I haven't heard back from [redacted] He was in Europe all last week. I will ping him now to remind him.

If there's anything else I can do to make the summer institute a success, please let me know. Did the WH tour get scheduled?

Best,

NMG

-----Original Message-----
From: [redacted]@truman.gov [mailto[redacted]@truman.gov]
Sent: Monday, May 15, 2006 5:33 PM
To: Gorsuch, Neil M
Subject: RE: DOJ visit

Hi Neil,

We are in the midst of another Truman Scholar Leadership Week, out in Liberty, Missouri. This new group of scholars is just packed with enthusiasm. Thanks again for helping to select several of them in March. [redacted] and [redacted] are all here thanks to the D.C. Panel. We are enjoying having the opportunity to get to know them better.

I was just hoping to touch base to let you know that things are rolling both with our DOJ visit and with our possible visit to the State Department. Both Aloma Shaw and Currie Gunn have been outstanding

with helping me to get all of the details ironed out for our visit to Justice. Do you know if the Attorney General may be able to join us at all that afternoon?

Also, I have recently heard back from [redacted] (who is in the Bureau of Public Affairs at State) and she is putting together our request to move forward to the Secretary's staff. Have you by any chance heard anything back from John on this one? I just thought I'd keep you informed that things are moving forward and they are close to making a decision for us.

Thanks again for all of your efforts. We are truly looking forward to seeing you on the 30th!

Take care,
[redacted]

Henderson, Charles V

From: Henderson, Charles V
Sent: Tuesday, May 23, 2006 11:32 AM
To: Gorsuch, Neil M
Subject: Mercer Biographical Information
Attachments: Bio Mercer.wpd

Neil:
Attached is the information that Bill asked me to send to you.
Thanks,
-Charles

William Mercer

Biographical Information

William Mercer has served as United States Attorney for the District of Montana since April 20, 2001. At the request of Attorney General Gonzales, he assumed a dual assignment in Washington in June 2005 where he serves as Principal Associate Deputy Attorney General. He served as an Assistant U.S. Attorney in the District of Montana from August 1994 through April 2001. Before returning to Montana, he was Counselor to the Assistant Attorney General and Senior Policy Analyst in the Office of Policy Development in the U.S. Department of Justice between November 1989 and July 1994.

He is a graduate of the University of Montana and received a Master of Public Administration from the John F. Kennedy School of Government at Harvard University in 1988. He received his law degree from George Mason University School of Law in 1993.

In 2004, Attorney General Ashcroft appointed him to be Chairman of the Attorney General's Advisory Committee (AGAC), a group of 15 U.S. Attorneys who advise the Attorney General on policy matters. In 2003, Governor Martz appointed him as Chairman of the Montana Board of Crime Control, a position he held for two years.

Brantley, Bill

From: Brantley, Bill
Sent: Tuesday, May 23, 2006 11:33 AM
To: Davis, Deborah J
Cc: McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Gorsuch, Neil M; Todd, Gordon (SMO); Goodling, Monica; Shaw, Aloma A; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Viera, Denise; Stuart, Diane; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty
Subject: OJP Weekly Report for May 21-27, 2006
Attachments: 521A.06.wpd

Hi Deborah,

Attached is OJP's Weekly Report for May 21-27, 2006, which I'm submitting in Linda Mansour's absence. Please let me know if you have any questions.

Thanks,
Bill Brantley, OCOM

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of May 21-27, 2006

NEXT WEEK

· ***Statistics**
In May 30, the Bureau of Justice Statistics (BJS) is scheduled to release *Characteristics of Drivers Stopped by Police, 2002*, which presents data on the nature and characteristics of traffic stops, as collected in the 2002 Police Public Contact Survey, a supplement to the National Crime Victimization Survey. Detailed demographic information is presented on the 16.8 million drivers stopped by police in 2002. The report provides statistics about various outcomes of traffic stops, including searches conducted by police, tickets issued to drivers stopped for speeding, arrests of stopped drivers, and police use of force during a traffic stop. The report also discusses the relevance of the survey findings to the issue of racial profiling and provides comparative analysis with prior survey findings.

· ***Crime Prevention**
On June 1 in Miami, FL, Assistant Attorney General Schofield will give luncheon keynote remarks at the National Conference on Preventing Crime in the Black Community. Bureau of Justice Assistance Director Herraiz will give remarks on OJP and BJA initiatives. On June 2, Office for Victims of Crime Director Gillis will give remarks.

· ***Drugs**
On June 2 in Albuquerque, NM, Deputy Assistant Attorney General Hagy will give

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remarks at the National Association of State Alcohol and Drug Abuse Directors conference.

- ***Juvenile Justice***
  On June 2 in Hartford, CT, Deputy Assistant Attorney General Daley will participate in a ribbon-cutting ceremony for a new Boys and Girls Club.

  On June 2 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention.

  On May 31 in San Jose, CA, Deputy Assistant Attorney General Daley will speak at the Silicon Valley Internet Crimes Against Children Conference.

- ***Victims***
  On May 31-June 2 in Tempe, AZ, the Office for Victims of Crime will host the annual Tribal Victim Assistance Conference. About 30 American Indian and Alaska Native tribes will attend the conference, which will focus on improving collaboration between tribal law enforcement and Tribal Victim Assistance grant programs.

THIS WEEK

- ****Congressional Testimony***
  On May 23 in Washington, DC, Assistant Attorney General Schofield will testify before the House Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources hearing on the Byrne Justice Assistance Grant Program and High Intensity Drug Trafficking Areas Program. She will discuss OJP's commitment to combating substance abuse.

- ****Missing Children***
  On May 25 in Washington, DC, Assistant Attorney General Schofield will join the Attorney General in participating in the National Missing Children's Day Ceremony. Also on May 25 in Arlington, TX, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will provide remarks at the Missing Children's Day event commemorating Amber Hagerman, the young girl for whom the AMBER Alert program was named. Mr. Flores will commend the strong support of law enforcement professionals across the country who generously give of their time and efforts to the AMBER Alert program. He also will emphasize DOJ's strong commitment to keeping the nation's children safe and will give an overview of the Attorney General's Project Safe Childhood Initiative. At both events, the U.S. Postal Service will unveil and issue a commemorative stamp honoring the AMBER Alert program.

- ****Statistics***
  On May 21, the Bureau of Justice Statistics (BJS) released *Prison and Jail Inmates at Midyear 2005*, which presents data on prison and jail

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inmates, collected from National Prisoner Statistics counts and the Census of Jail Inmates 2005. This annual report provides for each State and the Federal system, the number of inmates and the overall incarceration rate per 100,000 residents. It offers trends since 1995 and percentage changes in prison populations since midyear and yearend 2004. The midyear report presents the number of prison inmates held in private facilities and the number of prisoners under 18 years of age held by State correctional authorities. It includes total numbers for prison and jail inmates by gender, race, and Hispanic origin as well as counts of jail inmates by conviction status and confinement status. The report also provides findings on rated capacity of local jails, percent of capacity occupied, and capacity added. The study found that, in the year ending June 30, 2005, the number of state prison inmates rose by 1.3 percent, compared to an average rise of 2.5 percent per year since 1995. The federal prison population rose at three times the rate of state prisons (up 3.9 percent), but below the average annual rate of 7.4 percent since 1995. On June 30, 2005, local jails were operating at 5 percent below their rated capacity. In contrast, at yearend 2004, state prison systems were between 1 percent below capacity and 15 percent above capacity; the federal prison system was operating at 40 percent above rated capacity.

On May 22 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff will attend a meeting with Justice Research and Statistics Association (JRSA) staff and the JRSA Executive Committee to discuss BJS programs and priorities.

On May 23 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff will attend a Justice Research and Statistics Association (JRSA)/BJS-sponsored roundtable discussion of crime and the media.

On May 24, Bureau of Justice Statistics staff will observe a pretest of the National Inmates Survey on Sexual Assault at a BOP facility. The survey will consist of an Audio Computer-Assisted Self Interview (ACASI) in which respondents interact with a computer assisted questionnaire using a touch-screen and follow audio instructions delivered via headphones. In September 2006, a sample of 10 percent of the nation's prison and jail facilities will be selected for the survey as required under the Prison Rape Elimination Act of 2003. Full-scale national implementation of the survey will begin in November 2006.

- ***Law Enforcement***

On May 25-26 in Washington, DC, National Institute of Justice Acting Director Schmitt will participate in the Police Executive Research Forum's conference on Effective and Innovative Homicide Investigation Strategies. Supported by COPS, this conference will bring together chiefs, commanders, detectives, forensic personnel, and attorneys to discuss the successes and challenges that exist in today's homicide investigations.

- ***Victims***

On May 24-26 in New Orleans, LA, Office for Victims of Crime Director Gillis and staff

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will meet with U.S. Attorney James Letten, Eastern District of Louisiana, District Attorney Eddie Jordan, and additional law enforcement and criminal justice representatives to discuss crime victim issues and other criminal justice matters.

On May 24 in Rockville, MD, Office for Victims of Crime (OVC) Director Gillis will give welcoming remarks at a meeting convened by the International Association of Chiefs of Police (IACP) in connection with the IACP's OVC-funded project "Enhancing Police Response to Victims: Designing a 21st Century Strategy for State and Local Law Enforcement." The three pilot sites selected (Charlotte-Mecklenberg Police Department, the Beaverton, Oregon Police Department, and the Mundelein, IL Police Department) will discuss their strategy concepts developed in the first phase of the project.

On May 23 in Linthicum Heights, MD, Office for Victims of Crime Director Gillis will give remarks at the Hope II Grantees Meeting, sponsored by the Maryland Crime Victims' Resource Center.

- ***Pandemic***

On May 25 in Chicago, IL, Deputy Assistant Attorney General Hagy will give opening remarks at the "Justice and Public Health Systems Planning: Confronting a Pandemic Outbreak" symposium, sponsored by the Bureau of Justice Assistance (BJA). BJA Director Herraiz will facilitate the symposium, which will provide justice system leaders with an overview of the pandemic threat, an update on promising planning and response approaches, and a forum for strategic, cross-discipline discussions.

- ***AMBER Alert***

On May 24 in Washington, DC, Assistant Attorney General Schofield will chair the next meeting of the AMBER Alert Working Group.

- ***Interoperability***

On May 24 in Austin, TX, National Institute of Justice staff will participate in the National Interoperability Summit. Sponsored by DOJ and DHS, this summit will include 150 leaders from across the nation who will share lessons learned with their communications interoperability projects and recommend best practices for future projects.

- ***Mental Health***

On May 21-24 in New Orleans, LA, Office of Juvenile Justice and Delinquency Prevention staff will participate in the Substance Abuse and Mental Health Services Administration's (SAMHSA) Spirit of Recovery Conference. SAMHSA will convene this national summit to assess the progress the states and territories have made in developing their disaster behavioral health plans in the aftermath of Hurricanes Katrina, Rita, and Wilma. Progress reports will include identifying opportunities to consolidate ongoing responses to behavioral health concerns resulting from the 2005 hurricanes and strategies for all-hazards preparedness efforts for future disasters.

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- ***Anti-Terrorism/Gangs***
  On May 23 in Chicago, IL, Bureau of Justice Assistance (BJA) Director Herraiz will keynote the "Solid Foundations: Building Partnerships to Combat Gangs, Violence, and Terrorism" conference. The Institute for Public Safety Partnerships at the University of Illinois at Chicago, in conjunction with BJA, the Office of Community Oriented Policing Services, and the National Criminal Justice Association, is sponsoring the conference that will provide participants an opportunity to learn from one another and from national leaders in the fields of anti-terrorism and gang prevention/suppression about best practices and the latest initiatives. Attendees will include criminal justice system practitioners, community members, researchers, and representatives of community-based organizations.

  On May 22-23 in Kansas City, MO, National Institute of Justice (NIJ) Acting Director Schmitt will give opening remarks at an Agroterrorism Regional Planning Meeting, hosted by NIJ. The meeting will convene top law enforcement, animal health, and homeland security/emergency management officials from nine Midwestern states. The impetus for the meeting was the NIJ-funded research project "Defining the Role of Law Enforcement in Protecting American Agriculture from Bioterrorism."

- ***Juvenile Justice***
  On May 22 in Washington, DC, Assistant Attorney General Schofield will give the keynote luncheon address at the National Children's Alliance Leadership Conference.

- ***Information Sharing***
  On May 22 in Albuquerque, NM at the Global JXDM Executive Briefing, Bureau of Justice Assistance (BJA) Associate Deputy Director McCreary gave opening remarks regarding DOJ, OJP, and BJA information sharing initiatives. Sponsored by DOJ's Global Justice Information Sharing Initiative (Global) and the Global JXDM Training and Technical Assistance Committee, this national public training workshop provided practical implementation strategies for data exchanges and methodologies for using Global JXDM. Attendees included executives, managers, information officers, and policymakers.

LAST WEEK

- ****Police Week***
  On May 15 in Washington, DC, Assistant Attorney General Schofield participated with the President and Attorney General in the National Peace Officers' Memorial Service.

- ****Missing and Exploited Children***
  On May 18 in Washington, DC, Assistant Attorney General Schofield and Deputy Assistant Attorney General Daley participated in a breakfast briefing sponsored by the House and Senate Caucuses on Missing and Exploited Children.

- ****Corrections***

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On May 19 in Washington, DC, Assistant Attorney General Schofield gave remarks at the National Committee on Community Corrections meeting.

- ***Victims***
  On May 19 in Charlotte, NC at the International Association of Chiefs of Police National Strategy to Prevent and Respond to Identity Crimes Advisory Committee meeting, Office for Victims of Crime staff gave a presentation on OJP efforts in dealing with identity theft. The committee, which includes representatives from banking, law enforcement, and victim services, discussed its charter and ways to reduce the compromising of victims' identities. The committee also discussed ways that law enforcement and the banking industry may better respond to victims once their identities have been compromised.

- ***Information Sharing***
  On May 18-19 in Reston, VA, Bureau of Justice Assistance Director Herraiz and staff participated in the DOJ Global Justice Information Sharing Initiative Intelligence Working Group meeting, which included a plenary session and task team meetings.

- ***Statistics***
  On May 17-18 in Baltimore, MD, Bureau of Justice Statistics staff participated in a meeting of the National Crime Prevention and Privacy Compact Council. Staff presented a status report on the National Criminal History Improvement Program and criminal record improvement efforts. Attendees included representatives of federal and state criminal and noncriminal justice agencies.

  On May 15 in Helena, MT, Bureau of Justice Statistics (BJS) staff participated in a conference sponsored by Montana State University on combating methamphetamine. Participants included state and local government officials, Indian Country representatives, the Bureau of Indian Affairs, and the state statistical analysis center. This activity was part of BJS' effort to improve justice-related data collection and statistics in Indian Country, specifically relating to methamphetamine.

- ***Reentry***
  On May 17 in Fairfax, VA, Bureau of Justice Assistance (BJA) Director Herraiz spoke to county executives about OJP and BJA reentry initiatives at the Opportunities, Alternatives, and Resources (OAR) of Fairfax County, Inc. 35th Anniversary Celebration, Recognition and Volunteer Awards Ceremony.

- ***Tribal***
  On May 17 in Keshena, WI, Bureau of Justice Assistance staff will participate in the Law Enforcement Cooperative Jurisdictional Meeting for Northeast Wisconsin. Hosted by the Menominee Indian Tribe and funded through BJA's Indian Alcohol and Substance Abuse Program, representatives of BJA's technical assistance partner, Fox Valley Technical

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College, coordinated this meeting for tribal, state, and local officials to better bridge the gap between tribal and nontribal governments and enhance lines of communication to help resolve issues that may arise in Wisconsin's justice systems.

- ***Research***
  On May 17 in Newark, NJ at Rutgers University, National Institute of Justice International Center Chief Albanese delivered the commencement address at the first commencement ceremony of the School of Criminal Justice. [redacted] was the first Ph.D. recipient from the School of Criminal Justice at Rutgers.

- ***Technology***
  On May 16 in Washington, DC, National Institute of Justice (NIJ) Acting Director Schmitt participated in the NIJ-sponsored meeting of DOJ's Technology Policy Council (TPC) on the topic of federal government programs for explosive and improvised explosive devices (IEDs) technologies. In the 1990s, the Attorney General formed the TPC to provide a forum for federal agencies involved in the research and development of law enforcement technology to share their program information. The TPC provides an opportunity for member agencies to leverage projects in an attempt to avoid duplication of effort and to maximize the return on investment. The Deputy Attorney General serves as the TPC chair and NIJ is the Council's Executive Agent. Topic areas for the meetings, which occur every three or four months, are nominated by TPC members.

LONG-RANGE EVENTS

- On June 5-6 in Indianapolis, IN, Assistant Attorney General Schofield will participate in the Helping America's Youth Initiative event.

- On June 8 in San Diego, CA at the National Network of Youth Ministries' (NNYM) Board of Directors annual meeting, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks emphasizing the urgency of NNYM's Mentor Recruitment Campaign to reach community organizations and faith-based groups to enroll their members to become mentors.

- On June 8-9 in Tampa, FL, Deputy Assistant Attorney General Daley will speak at the regional cold case training for investigators to solve cold cases using DNA technology. This training is part of the President's DNA Initiative.

- On June 12-13 in Denver, CO, National Institute of Justice (NIJ) Acting Director Schmitt will make opening remarks at NIJ's Terrorism Research Symposium. The symposium is NIJ's first conference for state and local law enforcement practitioners focused exclusively on terrorism research.

- On June 20 in Orlando, FL at the National Sheriffs' Association annual conference, Assistant Attorney General Schofield will keynote the National Sheriffs' Institute Luncheon.

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- On June 22 in Nashville, TN, Deputy Assistant Attorney General Daley will address the American Professional Society on Abuse of Children.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Improving Criminal History Records for Background Checks, 2005,* which describes the achievements of the National Criminal History Improvement Program (NCHIP), its authorizing legislation, and program history. This annual bulletin summarizes NCHIP-funded criminal record improvement efforts, including improved accessibility of records, full participation in the Interstate Identification Index, the automation of records and fingerprint data, and improvements in the National Instant Criminal Background Check, National Sex Offender Registry, and domestic violence and protection order systems. The report provides examples of projects aimed at enhancing the involvement of the courts and system integration in improving disposition reporting. The report also discusses BJS efforts to improve performance measurement including the development and use of a Records Quality Index.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed, convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Citizen Complaints about Police Use of Force*, which presents data on citizen complaints about police use of force received by large general purpose state and local law enforcement agencies, as well as complaint dispositions. Findings presented are from new questions on formal citizen complaints about police use of force added to the Law Enforcement Management and Administrative Statistics survey. Detail is presented on the policies and procedures of large municipal police departments relating to the processing of citizen complaints and other administrative features. The report also discusses the limitations of complaints data and the use of sustained complaints as a measure of police use of excessive force.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Interstate Recidivism of Murderers and Sex Offenders Released from Prison in 1994*, which documents interstate recidivism among the 9,007 murderers, rapists, and sexual assaulters released from prison in 13 states in 1994 who were tracked for three years after their release. This report provides the percentage of these 9,007 who were subsequently convicted of another murder or sex offense in another state. It also gives the percentage of the 9,007 who had been previously convicted of one of these offenses in another state.

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The report also analyzes the terms to which these prisoners were sentenced and the time served on the sentence. This is the first of the Congressionally mandated reports that are to provide statistics relevant to the implementation of Aimee's Law.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Appeals from General Civil Trials in 46 Large Counties, 2001-2005*, which presents information on general civil cases concluded by bench or jury trial in 2001 that were subsequently appealed to a state's intermediate appellate court or court of last resort. Information presented includes the flow of civil cases through the appeals process and the effect of appeals on trial court outcomes. The report describes the types of civil bench and jury trials appealed, the characteristics of litigants filing an appeal, the frequency in which appellate courts affirm, reverse, or modify trial court outcomes, and the percentage of appeals that produced a published opinion. Cases further appealed from an intermediate appellate court to a state court of last resort and the impact of that final level of appeal on litigation outcomes are also described. This report is part of a series examining civil litigation in the United States.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors' offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information is also available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff.

- On July 2-7 in Boston, MA at the International Association for Identification conference,

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National Institute of Justice staff will provide a briefing on the status of the Fast Capture Initiative for Biometrics.

- On July 12-14 in Dallas, TX, Office for Victims of Crime Director Gillis will give remarks at the 7th Annual Gulf States Victim Witness Conference sponsored by the U.S. Attorney's Offices of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

- On July 14 in Nashville, TN, Deputy Assistant Attorney General Daley will give remarks at the National Forensic Science Academy graduation.

- On July 17-19 in Washington, DC, the National Institute of Justice (NIJ) will host the 2006 NIJ Conference, formerly known as the Annual Research and Evaluation Conference. For 14 years, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from the research and evaluation field. This year's conference marks the first year in which the science and technology fields will participate. The 2006 NIJ Conference will provide emphasis on the benefits to researchers and practitioners who work together to make effective evidence-based policies and practices. The Bureau of Justice Assistance will sponsor and host several panel discussions at the conference.

- On July 17-19 in Albuquerque, NM, OJP will sponsor the National AMBER Alert Conference. Assistant Attorney General Schofield will participate.

- On July 19 in St. Louis, MO, Bureau of Justice Statistics Director Sedgwick will speak at the Annual National Consortium of Justice Information and Statistics (SEARCH) Membership Meeting.

- On July 26-28 in Palm Springs, CA, the Gang Resistance Education and Training (G.R.E.A.T.) Conference, "G.R.E.A.T. and Beyond: Preventing Gangs and Youth Violence in America's Communities," will take place. The Bureau of Justice Assistance is helping to organize this year's training that will address the needs of individuals currently implementing G.R.E.A.T. and those who want to become involved with the program. Deputy Assistant Attorney General Daley will participate in the conference.

- On July 30 - August 2 in Santa Fe, NM, Bureau of Justice Statistics Director Sedgwick and staff will attend the National District Attorneys' Association summer conference.
- On July 31-August 2 in Baltimore, MD at the National Forum on Criminal Justice and Public Safety, Bureau of Justice Assistance (BJA) senior management and staff will present on several OJP and BJA programs and initiatives. The Forum, sponsored by BJA, the National Criminal Justice Association, and the Integrated Justice Information Systems Institute, will highlight program and enforcement strategies to confront challenges such as gangs, drug trafficking and abuse, methamphetamine, and identity theft. Federal, state, tribal, and local criminal justice and public safety officials will be brought together with corporate representatives to study past successes and eliminate future threats by examining promising practices, technologies, and strategies.

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- On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give remarks at the Parents of Murdered Children conference.

- On September 6-8 in Atlanta, GA, the National Institute of Justice, the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for participation in discussions with national and international experts.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications
202/307-5933

DOJ_NMG_ 0160387

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 11:37 AM
To: Henderson, Charles V
Subject: RE: Mercer Biographical Information

Thanks!

From: Henderson, Charles V
Sent: Tuesday, May 23, 2006 11:32 AM
To: Gorsuch, Neil M
Subject: Mercer Biographical Information

Neil:
Attached is the information that Bill asked me to send to you.
Thanks,
-Charles

<< File: Bio Mercer.wpd >>

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 11:46 AM
To: Brand, Rachel; Moschella, William; Bradbury, Steve; Wooldridge, Sue Ellen (ENRD)
Cc: Gorsuch, Neil M; Senger, Jeffrey M
Subject: Native Hawaiian Government Reorganization

Heads up. Just noticed that this bill is scheduled for Senate debate during the week June 5. It was previously of interest to OLP, OLA, OLC, and ENRD because of constitutional issues. Robt.

Chemtob, Stuart

From: Chemtob, Stuart
Sent: Tuesday, May 23, 2006 11:53 AM
To: Gorsuch, Neil M
Subject: Re: USTR Recommendation

Neil,
I've sent it to USTR and am awaiting their review. I assume this language is for the public report? If so, I'm a little concerned that this discloses too much, but we'll see what USTR thinks and I'll let you know.

By the way, I understand congratulations are in order. Do you have a hearing date scheduled yet?
Stu

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Chemtob, Stuart <Stuart.Chemtob@ATR.USDOJ.gov>
Sent: Tue May 23 11:01:46 2006
Subject: FW: USTR Recommendation

Stuart - Would you mind confirming with USTR that it's ok with this? I can call Karan if you think that'd be a better way to go.

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 10:56 AM
To: Gorsuch, Neil M
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: RE: USTR Recommendation

Please do so. Thanks.

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 10:54 AM
To: Alikhan, Arif (ODAG)
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: RE: USTR Recommendation

This looks great to me. I assume USTR will be fine with this, but suggest we call to make sure. If you'd like me or Stuart to do so, just let me know. Thanks!

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 10:52 AM
To: Gorsuch, Neil M

To: Gorsuch, Neil M
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: USTR Recommendation

Neil:
I spoke with Kyle and we thought the work re USTR could be included as an additional accomplishment. What do you think of including the following language in Chapter VII -- How has the Department Enforced and Protected IPR?

F. International Efforts - Free Trade Agreements

Since the 2004 Report was issued, the Department of Justice has worked closely with the Office of the United States Trade Representative ("USTR") on interagency development of trade policy issues that affect competition and intellectual property rights, and to participate in negotiations concerning U.S. Free Trade Agreements with new foreign trading partners. The most recent negotiations concerned Free Trade Agreements with Australia, Thailand, and South Korea. To enhance the Department of Justice's involvement in the process, Department of Justice attorneys in the Antitrust, Civil, and Criminal Divisions have undertaken a comprehensive review of existing Free Trade Agreements, and proposed a series of recommendations to USTR to strengthen support for intellectual property rights enforcement in the intellectual property rights chapters of Free Trade Agreements and other trade pacts. After a series of discussions, USTR adopted several of the Department of Justice's recommendations, including (1) revising language to ensure that foreign courts have the authority to order infringers to provide intellectual property owners with access to information relevant to an infringement; (2) adding language to ensure that our FTA partners adopt policies or guidelines that encourage their courts to impose penalties, including sentences of actual imprisonment, at levels sufficient to constitute a deterrent to intellectual property theft; (3) expanding language to ensure that our FTA partners provide for presumptions in civil, criminal and administrative proceedings that intellectual property rights are valid and enforceable; (4) ensuring that foreign courts have the authority to order the infringer to pay the intellectual property rightholder's attorneys fees and other litigation costs; and (5) restricting the ability of our FTA partners to order compulsory licensing of patents, and clarifying that patents should not be presumed to create antitrust market power. The Department of Justice recognizes the importance of strenghtening intellectual property rights through international agreements and will continue to work closely with USTR on an ongoing basis.

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, May 23, 2006 12:28 PM
To: CRS AG Weekly Report Recipients
Subject: CRS AG Weekly 5.23.06
Attachments: CRS AG Weekly 5- 23- 06.doc

Attached, please find the CRS Weekly Report to the Attorney General for May 23, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

May 23, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

No new entries to report.

B. This Week

- ***CRS Monitored Immigration Demonstration in Los Angeles, CA***
  On May 21, 2006, CRS was onsite in Los Angeles, CA to monitor and provide contingency planning services, in coordination with the Los Angeles Police Department and event organizers, for a planned demonstration held by local African American activists of the Crispus Attucks Brigade to reportedly protest illegal immigration and the perceived adverse impact of Latino workers on the African American community. The march proceeded through the heart of one of the major concentrations of Latino businesses in Los Angeles and was attended by hundreds of protestors and counter-protestors. Aside from three arrests and the vandalism of a protestor's vehicle, no major incidents occurred.

- ***CRS Conducted Hate Crimes Program in Bristol, RI***
  On May 22, 2006, CRS was onsite in Bristol, RI to conduct a Hate Crimes Program for command level law enforcement supervisors from across the state, in coordination with the Rhode Island United States Attorney's Office, the State of Rhode Island Commission on Prejudice and Bias, and other agencies. The program was conducted in response to lingering community racial tensions following reports of several racially motivated incidents across the state over the past year, including appearances of racially derogatory graffiti and usage of racial slurs directed towards African American and Jewish community members. CRS will provide follow-up services as appropriate.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0160393

- ***CRS to Conduct Racial Profiling Program in Springettsbury, PA***
  On May 24, 2006, CRS will be onsite in Springettsbury, PA to conduct its national bias-based policing program entitled, "Responding to Allegations of Racial Profiling: Building Trust Between the Police and Community," to York County Chiefs of Police Association and local community leaders. The program is being conducted as follow-up to previous CRS casework in the area, in accordance with a Memorandum of Agreement facilitated by CRS in early 2005 among the National Association for the Advancement of Colored People, the American Civil Liberties Union, the York County Task Force Against Hate, and the Southern York County Chiefs of Police Association, in response to concerns and allegations of racial profiling following the fatal police shooting of a local African American youth. The program is specifically designed for audiences of both law enforcement and community members to find common ground toward enhancing their understanding and awareness of racial profiling.

- ***CRS to Monitor Memorial Day Black Bike Weekend in Myrtle Beach, SC***
  On May 26-28, 2006, CRS will be onsite in Myrtle Beach, SC, to monitor and provide conciliation services as necessary for the 2006 Memorial Day Weekend Black Bike Event. CRS assistance has been requested by the City of Myrtle Beach and event volunteers known as "The Friendship Team" and the "god squad" to provide conflict management training for event organizers and volunteers. CRS will also be onsite to monitor the event, which is expected to draw over 350,000 participants. In the past, there have been reports of heightened racial tensions between law enforcement, African American community leaders, and Myrtle Beach community members, as well as allegations of disparate treatment directed towards African American event participants.

- ***CRS to Monitor Black Beach Weekend in Miami, FL***
  On May 27-31, 2006, CRS will be onsite in Miami, FL, to monitor and provide conciliation services as necessary for the 2006 Black Beach Weekend. CRS will provide conflict management training for event organizers and volunteers known as "Goodwill Ambassadors" and the "god squad". CRS will also be onsite to monitor the event, which is expected to draw between 200,000-300,000 participants. In the past, there have been reports of racial tensions between minority event participants and local businesses. CRS will provide conciliation services as necessary to ensure a safe event.

C. Last Week

- ***CRS Assessed Community Racial Tensions in Baraboo, WI***
  On May 17, 2006, CRS was onsite in Baraboo, WI to meet with Tomaha School District administrators, Ho-Chunk Community Relations Department representatives, and local tribal members in response to community racial tensions surrounding allegations of disparate treatment directed towards Native American students. Both parties have expressed an interest in an open dialogue to discuss Ho-Chunk community concerns, including the establishment of a uniform discipline police for students, a protocol for reporting complaints within the school systems, and efforts to educate teachers and

DOJ_NMG_ 0160394

administrators on Native American culture. CRS will be in continued communication with the parties and will meet on June 8, 2006, to discuss pre-mediation services.

- ***CRS Conducted Racial Profiling Program in Waterloo, IA***
  On May 17, 2006, CRS was onsite in Waterloo, IA to conduct its national bias-based policing program entitled, "Responding to Allegations of Racial Profiling: Building Trust Between the Police and Community," for members of the Waterloo Police Department. The Waterloo Police Department decided to incorporate the program into its training for patrol staff and community leaders following heightened racial tensions within the African American community related to concerns and allegations of racial profiling. The program is specifically designed for audiences of both law enforcement and community members to find common ground toward enhancing their understanding and awareness of racial profiling.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0160395

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 24, 2006 9:15 AM
End:	Wednesday, May 24, 2006 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Wednesday, May 24, 2006 9:15 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Monica Goodling DOJ: Paul McNulty, Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mike Elston, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 1:26 PM
To: Chemtob, Stuart
Subject: RE: USTR Recommendation

Thanks for pushing this; if you need my involvement, just let me know. On the other matter, thanks for the kind words but there's no hearing date yet so it's nose to the grind stone here.

-----Original Message-----
From: Chemtob, Stuart
Sent: Tuesday, May 23, 2006 11:53 AM
To: Gorsuch, Neil M
Subject: Re: USTR Recommendation

Neil,
I've sent it to USTR and am awaiting their review. I assume this language is for the public report? If so, I'm a little concerned that this discloses too much, but we'll see what USTR thinks and I'll let you know.

By the way, I understand congratulations are in order. Do you have a hearing date scheduled yet?
Stu

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Chemtob, Stuart <Stuart.Chemtob@ATR.USDOJ.gov>
Sent: Tue May 23 11:01:46 2006
Subject: FW: USTR Recommendation

Stuart - Would you mind confirming with USTR that it's ok with this? I can call Karan if you think that'd be a better way to go.

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 10:56 AM
To: Gorsuch, Neil M
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: RE: USTR Recommendation

Please do so. Thanks.

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 10:54 AM
To: Alikhan, Arif (ODAG)
Cc: Sampson, Kyle; Luckinbill, Trent W.

Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: RE: USTR Recommendation

This looks great to me. I assume USTR will be fine with this, but suggest we call to make sure. If you'd like me or Stuart to do so, just let me know. Thanks!

From: Alikhan, Arif (ODAG)
Sent: Tuesday, May 23, 2006 10:52 AM
To: Gorsuch, Neil M
Cc: Sampson, Kyle; Luckinbill, Trent W.
Subject: USTR Recommendation

Neil:
I spoke with Kyle and we thought the work re USTR could be included as an additional accomplishment. What do you think of including the following language in Chapter VII -- How has the Department Enforced and Protected IPR?

F. International Efforts - Free Trade Agreements

Since the 2004 Report was issued, the Department of Justice has worked closely with the Office of the United States Trade Representative ("USTR") on interagency development of trade policy issues that affect competition and intellectual property rights, and to participate in negotiations concerning U.S. Free Trade Agreements with new foreign trading partners. The most recent negotiations concerned Free Trade Agreements with Australia, Thailand, and South Korea. To enhance the Department of Justice's involvement in the process, Department of Justice attorneys in the Antitrust, Civil, and Criminal Divisions have undertaken a comprehensive review of existing Free Trade Agreements, and proposed a series of recommendations to USTR to strengthen support for intellectual property rights enforcement in the intellectual property rights chapters of Free Trade Agreements and other trade pacts. After a series of discussions, USTR adopted several of the Department of Justice's recommendations, including (1) revising language to ensure that foreign courts have the authority to order infringers to provide intellectual property owners with access to information relevant to an infringement; (2) adding language to ensure that our FTA partners adopt policies or guidelines that encourage their courts to impose penalties, including sentences of actual imprisonment, at levels sufficient to constitute a deterrent to intellectual property theft; (3) expanding language to ensure that our FTA partners provide for presumptions in civil, criminal and administrative proceedings that intellectual property rights are valid and enforceable; (4) ensuring that foreign courts have the authority to order the infringer to pay the intellectual property rightholder's attorneys fees and other litigation costs; and (5) restricting the ability of our FTA partners to order compulsory licensing of patents, and clarifying that patents should not be presumed to create antitrust market power. The Department of Justice recognizes the importance of strenghtening intellectual property rights through international agreements and will continue to work closely with USTR on an ongoing basis.

Beach, Andrew

Subject:	Updated: Strategic Initiatives
Location:	OAG Conf Rm 5228
Start:	Wednesday, May 24, 2006 3:00 PM
End:	Wednesday, May 24, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG)Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG)

When: Wednesday, May 24, 2006 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

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

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, May 23, 2006 1:55 PM
To: Gorsuch, Neil M
Subject: FW: Travel Question

FYI

-----Original Message-----
From: Martinson, Wanda
Sent: Thursday, May 18, 2006 11:11 AM
To: Shaw, Aloma A
Subject: FW: Travel Question

FYI: All attendees are cleared to stay at [redacted] Travel authorization should request actual subsistence not to exceed 300%, which is justified per JMD's Lee Lofthus. See below.

-----Original Message-----
From: Parent, Steve (USAEO)
Sent: Thursday, May 18, 2006 10:33 AM
To: Martinson, Wanda
Subject: RE: Travel Question

Sounds right. A contact at the Courts or conference could probably get the value of the meals by meal. I'm not sure how we would know everyone going. I guess Lori could email all the Executive Officers and CAO for the leadership offices. I'll get back to Mary Ellen to suggest that to Lori.

-----Original Message-----
From: Martinson, Wanda
Sent: Thursday, May 18, 2006 10:31 AM
To: Parent, Steve (USAEO)
Subject: RE: Travel Question

Thanks so much. I'll include this email with travel authorization to David Margolis in ODAG so that he can see that Lee Lofthus has weighed in. I REALLY appreciate your assistance with this. Do you know who will answer Lori's question about names and offices of all attendees?

I'm not sure how we "itemize each meal" when a $225 meal package is paid for the conference? But I don't need to know the answer to that until I do the voucher.

Thanks!
Wanda

-----Original Message-----
From: Parent, Steve (USAEO)
Sent: Thursday, May 18, 2006 7:56 AM
To: Martinson, Wanda

To: Martinson, Wanda
Subject: Fw: Travel Question

Fyi

-----Original Message-----
From: Kline, Mary Ellen (USAEO) <MKline@usa.doj.gov>
To: Parent, Steve (USAEO) <SParent@usa.doj.gov>
CC: Bevels, Lisa (USAEO) <LBevels@usa.doj.gov>
Sent: Thu May 18 07:41:53 2006
Subject: FW: Travel Question

Steve,
Spoke to Lori. We are good to go with actual subsistence for meals and lodging. She said Lee wants everyone to be claiming the same thing so I sent her the spreadsheet again.

ME
-----Original Message-----
From: Armold, Lori
Sent: Thursday, May 18, 2006 7:04 AM
To: Kline, Mary Ellen (USAEO)
Subject: RE: Travel Question

No, this is not correct. Let's talk.

I spoke to Lee and he clarified some things for me. My understanding now is that the DOJ attendees must stay at the conference location due to late night meetings/networking, etc. When Sharron spoke to her POC she did not explain the need to stay at that location and in fact said staying there was not required.

Actual may be authorized at the discretion of the authorizing official. Please be aware that the standard CONUS rate applies for [redacted] which is $60 lodging + $39 M&IE. As you know, if you authorize actual for both lodging and M&IE, all expenses must be itemized including each meal. Do you intend to authorize actual subsistence or actual lodging only? (You already know that the per diem rate even at 300%

Lee wants me to make sure all DOJ attendees are authorized the same. Do you know the names and offices of all of the attendees? Lori

-----Original Message-----
From: Kline, Mary Ellen (USAEO)
Sent: Wednesday, May 17, 2006 11:46 AM
To: Armold, Lori
Subject: FW: Travel Question

Lori,
Based on the email traffic below, it seems we can not authorize actual subsistence for our USAs as a mission requirement (FTR 301-11.300) because there is lodging at per diem within a 50 mile radius. Is this correct?

Our participation before, during and after conference hours is vital to our our mission. The judiciary,

along with law enforcement components, is a primary client agency.

If we are permitted to authorize actual subsistence despite lodging at an alternate site, we can minimize the participants out of pocket expenses. ME

From: Parent, Steve (USAEO)
Sent: Wednesday, May 17, 2006 9:40 AM
To: Kline, Mary Ellen (USAEO)
Subject: FW: Travel Question

FYI

From: Martinson, Wanda
Sent: Tuesday, May 16, 2006 5:42 PM
To: Parent, Steve (USAEO)
Subject: FW: Travel Question

FYI ...

From: Hicks, Sharron D
Sent: Friday, May 12, 2006 4:45 PM
To: Martinson, Wanda
Cc: Armold, Lori; Brown, Karen P; Derouin, Kevin P; Power, Charles RL; Roper, Matthew (JMD-FS)
Subject: RE: Travel Question

Hi Wanda,

Per our conversation today and via this email, you asked for me to please advise what I need to do -- regarding "actual subsistence" in order to have an employee seek lodging at a [redacted] You also stated that there is also a $195 registration fee and a $225 meal package fee for the conference. You also asked do I also do "actual subsistence" for that? From the information you provided, as well as the information that was provided via Omega regarding lodging, unfortunately, there is no way actual subsistence can be justified. There is a hotel within per diem that is only 15.85 miles from the conference location. The name of the hotel is the [redacted] It is located at [redacted] Their phone number is (724) 437-2816. The government rate is $60.00 per day. As you know, the M&IE is $39.00 for [redacted] Since the $225.00 meal package fee is not a mandatory charge for attending the conference, there is no justification for actual subsistence for meals.

I hope this answers your questions.

Thanks,
Sharron

From: Martinson, Wanda
Sent: Wednesday, April 26, 2006 10:03 AM
To: Hicks, Sharron D
Subject: RE: Travel Question

Continental breakfast each morning (she'll be there for June 8 and 9 - arriving after June 7 breakfast)
All conference receptions
All coffee breaks
Wednesday (June 7) night group dinner
Thursday (June 8) night banquet

From: Hicks, Sharron D
Sent: Wednesday, April 26, 2006 9:25 AM
To: Martinson, Wanda
Subject: FW: Travel Question

Hi Wanda,

Before I can provide you a more accurate answer, could you please answer the following?

1. Which meals are provided?
2. How many meals are provided?

Thanks,
Sharron

From: Martinson, Wanda
Sent: Monday, April 24, 2006 4:34 PM
To: Hicks, Sharron D
Subject: Travel Question

You were so helpful the last time I had a complicated travel question. Now I'm back with another!

Rachel Brand is traveling t[redacted], to attend the DC Circuit Judicial Conference June 7-9. Travel Authorization fo[redacted] does not have an option for that city or county, so I filled out "ZZ-other city" which allocates $60 for hotel. Nearby (50 miles) Pittsburgh allocates $90. The actual hotel "special conference rate" is $226 per night (least expensive of the four hotels!). Please advise what I need to do -- "actual subsistence?" She will stay 2 nights, rather than 3, to keep costs at a minimum.

There is also a $195 registration fee and a $225 meal package fee for the conference. I expect that this far exceeds the M&IE, as well. Do I also do "actual subsistence" for that?

Do I need to have this reviewed and approved via memo format in addition to the travel authorization form?

Thanks,

Wanda
Wanda Martinson
Special Assistant to
AAG Rachel Brand
Office of Legal Policy
202-514-9148

Saull, Bradley (CRT)

From: Saull, Bradley (CRT)
Sent: Tuesday, May 23, 2006 2:34 PM
To: Saull, Bradley (CRT)
Subject: A new opportunity

Dear Friends & Colleagues,

This Friday, May 26th, is my last day at the Department of Justice. I am pleased to inform you that I have accepted the position as Deputy White House Liaison for the Department of Homeland Security. My new e-mail starting Tuesday, May 30th will be [redacted]@dhs.gov and my phone number will be [redacted]

Personal cell: [redacted]
Personal e-mai[redacted]

Of course, if you have any matters pending with CRT, please contact me asap so that I may work on it before the end of the week. After Friday, my duties will be temporarily divided among others. General scheduling inquiries for Wan can be directed to Anna Benjamin or Nathaniel Gamble at (202) 514-2151.

It has been a pleasure working with you. I have been honored in my two short years here at the Department to serve President George W. Bush, two Attorneys General, and two confirmed Assistant Attorneys General.

Best wishes,

Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Phone: (202) 514-2151
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 2:50 PM
To: Saull, Bradley (CRT)
Subject: RE: A new opportunity

Congratulations! That should be a very exciting post and Homeland is lucky to get you. I wish you all the best.
NMG

From: Saull, Bradley (CRT)
Sent: Tuesday, May 23, 2006 2:34 PM
To: Saull, Bradley (CRT)
Subject: A new opportunity

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Personal e-mail: [redacted]

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Bradley J. Saull

Confidential Assistant to the Assistant Attorney General
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Phone: (202) 514-2151
Fax: (202) 514-0293
E-Mail: Bradley.Saull@usdoj.gov

Gorsuch, Neil M

Subject:	Report to [redacted]
Start:	Wednesday, May 24, 2006 2:00 PM
End:	Wednesday, May 24, 2006 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, May 23, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: http://www.usnews.com/usnews/news/articles/060529/29addington.htm

[redacted]

E-mail: [redacted]@dodgc.osd.mil

Catlett, Susanne S. (TAX)

From:	Catlett, Susanne S. (TAX)
Sent:	Tuesday, May 23, 2006 3:33 PM
To:	Davis, Deborah J
Cc:	Shaw, Aloma A; Gorsuch, Neil M; Magnuson, Cynthia
Subject:	Final Tax Division AG Weekly Report for 05-23-2006
Attachments:	1719307_7.DOC

May 23, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Tax Division to Defend Government Victory in Multi-Million Dollar Tax Shelter Case***
  On June 2, the Tax Division will file the government's brief defending the Tax Court's opinion upholding the IRS's disallowance of $379 million in losses and its imposition of penalties amounting to 40% of the resulting tax. The case arises out of the sale of Metro-Goldwyn-Mayer by the French bank Credit Lyonnais, but it is the tax liabilities of the principals of entities formed to acquire the movie company that are at issue. The IRS contended, and the Tax Court agreed, among other things, that the transactions purportedly giving rise to the claimed losses lacked economic substance. [*Santa Monica Pictures, et al. v. Commissioner* (United States Court of Appeals for the Second Circuit)]

B. THIS WEEK

- ***Nothing significant to report.***

C. LAST WEEK

- ***Business General Manager Sentenced to 78 Months in Prison***
  On May 18, U.S. District Court Judge James E. Gritzner sentenced Andrew Mark Armstrong to a total of 78 months in prison for five counts of willful failure to account for and pay employment tax and embezzlement. Armstrong was the former general manager of All Tech, Inc., a small company in the business of repairing hydraulic parts and selling furnaces that employed about 40 people in Elkhart, Iowa. Prior criminal conduct enhanced Armstrong's sentence; he received 60 months for the tax charges and

18 months for embezzlement. [*United States v. Andrew Mark Armstrong* (Southern District of Iowa)]

- ***Tax Scam Promoter Sentenced to Eight Years in Prison***
  On May 18, U.S. District Judge Ronald Leighton sentenced David C. Stephenson to 96 months in prison and ordered him to pay $8.5 million in restitution for conspiring to defraud the United States and failing to file a federal income tax return for 1998 to 2000. Stephenson, with his partner Michael J. Shanahan, promoted "pure equity trust" organizations, the purpose of which was to conceal clients' assets and income from the IRS and to illegally reduce or eliminate clients' income tax liabilities. A federal jury convicted Stephenson on February 21, 2006. Shanahan pleaded guilty to failure to file on the eve of the trial, and pleaded guilty to conspiracy to defraud the United States during the trial. [*United States v. David C. Stephenson and Michael J. Shanahan* (Western District of Washington)]

- ***Ford Motor Company Concedes $4.4 million Tax Case***
  On May 17, Ford Motor Company conceded a tax case in which it had sought $4.4 million in overpayment interest arising out of an alleged error by the IRS in computing the company's final tax liability for tax year 1976. Administratively, the IRS had acknowledged the error and was prepared to refund all but $1.2 million of the amount claimed by Ford. The company nevertheless sued for a refund. Subsequent research and analysis by the Tax Division uncovered additional errors in the government's favor, and, consequently, the Tax Division argued in a motion for summary judgment that Ford was entitled to zero recovery. [*Ford Motor Co. & Affiliates v. United States* (United States Court of Federal Claims)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-5326.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 3:36 PM
To: Sampson, Kyle; Elwood, Courtney; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Gorsuch, Neil M
Subject: FW: DAG travel: 5/29 - 6/13

FYI: I had also scheduled to be out of the office for a week's vacation in [redacted] from Friday June 2 until Monday June 12. I was unaware that the DAG was gone as well. Does that work for me to be out at the same time. Robt.

From: [redacted]
Sent: Tuesday, May 23, 2006 3:28 PM
To: Beach, Andrew; Sampson, Kyle; Schreiber, Jayne; Goodling, Monica; Sellers, Kiahna (OAG); McCallum, Robert (SMO); Gunn, Currie (SMO); JCC; Baker, James; Skelly-Nolen, Peggy; Bradley, Mark A; Dawkins, Iris M; Davis, Tracey Y; Arif Alikhan; Betenia Bennett; Bill Mercer; Brinkley, Winnie; Caballero, Luis (ODAG); Charles Henderson; Christine Cardwell; David Margolis; Epley, Mark D; Fridman, Daniel (ODAG); Grider, Mark (ODAG); Horvath, Jane (ODAG); James McAtamney; James Rybicki; Jeff John; John Irving; Lee Otis; Linda Long; Marjorie Jackson; Mark Connor; Meyer, Joan E (ODAG); Michael Elston; Michael Purpura; Monica Keasley; Moye, Pam; Patrick Rowan; Paulose, Rachel (ODAG); Robyn Thiemann; Ronald Tenpas; Saovaluck Im; Scudder, Michael (ODAG); SeLena Powell; Shults, Frank (ODAG); Sonya Sesker; Steven McFarland; Stuart Nash; Theodore Cooperstein; Thomas Monheim; Tyler, Joyce (OLP); Uttam Dhillon
Subject: DAG travel: 5/29 - 6/13

DAG will be on personal travel to [redacted] starting 5/29 and will return to the office on 6/14.

Please let me know if you have any questions.

[redacted]
Deputy Attorney General
U.S. Department of Justice
202-514-2101 - office
202-514-1904 - direct
202-514-0467 - fax

Gorsuch, Neil M

Subject:	Decision on tenet
Start:	Wednesday, May 24, 2006 12:00 PM
End:	Wednesday, May 24, 2006 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 3:43 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: http://www.usnews.com/usnews/news/articles/060529/29addington.htm

Scary

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Tuesday, May 23, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: http://www.usnews.com/usnews/news/articles/060529/29addington.htm

[redacted]

E-mail: [redacted]@dodgc.osd.mil

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 24, 2006 10:00 AM
End:	Wednesday, May 24, 2006 10:45 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Wednesday, May 24, 2006 10:00 AM-10:45 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
AO: Monica Goodling DOJ: Paul McNulty, Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mike Elston, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, May 24, 2006 2:30 PM
End:	Wednesday, May 24, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)

When: Wednesday, May 24, 2006 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Note time change for mtg. This meeting only.

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:27 PM
To: [redacted]@state.gov'; [redacted]@src.senate.gov
Subject: RE: cyber introduction

I really enjoyed lunch and it was a pleasure to meet [redacted]. In order to keep my promise on the Human Trafficking report, what addresses should I use for you? Warm regards, NMG

-----Original Message-----
From: [redacted]@state.gov [mailto: [redacted]@state.gov]
Sent: Wednesday, March 22, 2006 12:04 PM
To: Gorsuch, Neil M; [redacted]@src.senate.gov
Subject: RE: cyber introduction

Lunch on the 14th is perfect. We'll do the details later. [redacted] it would be great if you could come.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, March 21, 2006 7:08 PM
To: [redacted]@src.senate.gov; [redacted]
Subject: RE: cyber introduction

[redacted] Absolutely! I'm headed out for the [redacted] Might lunch on April 14 work? [redacted] would you be interested in joining?

-----Original Message-----
From: [redacted]@state.gov [mailto [redacted]@state.gov]
Sent: Tuesday, March 21, 2006 11:36 AM
To: Gorsuch, Neil M; [redacted]@src.senate.gov
Subject: RE: cyber introduction

Thanks [redacted] for the introduction. Neil, if you have some time in the next couple of weeks, I would love to have a cup of coffee and compare notes. [redacted]

From: [redacted] (Republican-Conf)
[mailto: [redacted]@src.senate.gov]
Sent: Friday, March 17, 2006 4:40 PM
To: Neil.Gorsuch@usdoj.gov; [redacted]
Subject: cyber introduction

Neil and [redacted]

You are both unaware of each other's work and I would like to introduce you to each other so you can speak. [redacted] is an internationally recognized expert on issue's surrounding the trafficking of human beings. [redacted] is a political appointee at State (poor thing) and has managed to be there for [redacted] I think you will find each other very informative and helpful.

I apologize for intruding on you both but this is the easiest way to get the introduction accomplished considering everyone's work schedule!

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:28 PM
To: [redacted]
Subject: FW: lebanese
Attachments: tmp.htm

If we want to send stuff to a US soldier in Iraq, here's a superb young man I know who could use it...

And [redacted] address is:

[redacted]

I think that is it. And I will call Peter!

Dear Neil,

Thank you for lunch today. I always enjoy your company! I was left with some tasks as I remember:

The people who know about the [redacted] in Detroit are:
[redacted] who is [redacted] His phone is [redacted] and his email is [redacted]

[redacted] who is here from Lebanon. His email is [redacted] and his mobile phone is [redacted]

And [redacted] address is:
[redacted]

I think that is it. And I will call [redacted]

Klein, Laura F

From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:38 PM
To: Gorsuch, Neil M; Mathews-Novelli, Scott; Goldsmith, Scott J; Shore, Elise (CRT); Ashworth, Jennifer H; Newton, Cullen (ENRD); Hewitt, Kim (ENRD); Ivanova, Anna; Smith, Justin (ENRD-LPS Attorney); [redacted] (CRM) (OCDETF); Tisi, Andrea; Peritz, Leslie; Slates, Sue Ann; Rudolph, Maureen (ENRD); Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); Draughn, Barbara; McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; [redacted] @usmc.mil'; Rusch, Jonathan; Pavlov, Nicholas J. (TAX); Perez, Marc (CIV); De Yampert, John (CIV); Henderson, Brian-Eric (CIV); Powell, Amy (CIV); Hussey, Olivia; Moser, Kelly (ENRD); Mayer, Kate (ENRD); [redacted] @ic.fbi.gov'; Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Lane, Sandra; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD); [redacted] @sec.gov'; Johnson, Joanne (CIV); Dhillon, Uttam; Hamilton, Dorian (CIV); Abbate, Julie (CRT); Mlynar, Maria (EOIR); Bain, Quynh (CIV); Schneider, Todd; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); Stephan, Sherri; Haag, Mark (ENRD); Smith, Dan (ENRD); Sobota, Luke; Rikhye, Evan; Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); [redacted] @PBGC.GOV'; Bollock, Jamon (ENRD); Eisenstein, Ilana H; Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
Subject: DC Bar Pro Bono Advice & Referral Clinic on June 10

Dear Volunteers -
DOJ will be staffing the DC Bar Pro Bono Program Advice & Referral Clinic again on Saturday, June 10 from 9:30 a.m.-12:30 p.m. at Bread for the City SE. Come have a bagel and help people with their problems. You don't take a case, so what could be easier? If you would like to join us for this great activity, please let me know as soon as possible. Start you summer off right by helping those in need in our community!
Thanks -
Laura Klein
DOJ Pro Bono Program Manager

Gorsuch, Neil M

Subject:	Pro bono clinic
Start:	Saturday, June 10, 2006 9:00 AM
End:	Saturday, June 10, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:41 PM
To: Klein, Laura F
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

Laura, I hope to and think I probably will be able to make it. Thanks, NMG

From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:38 PM
To: Gorsuch, Neil M; Mathews-Novelli, Scott; Goldsmith, Scott J; Shore, Elise (CRT); Ashworth, Jennifer H; Newton, Cullen (ENRD); Hewitt, Kim (ENRD); Ivanova, Anna; Smith, Justin (ENRD-LPS Attorney); [redacted] CRM) (OCDETF); Tisi, Andrea; Peritz, Leslie; Slates, Sue Ann; Rudolph, Maureen (ENRD); Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); Draughn, Barbara; McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; [redacted]@usmc.mil'; Rusch, Jonathan; Pavlov, Nicholas J. (TAX); Perez, Marc (CIV); De Yampert, John (CIV); Henderson, Brian-Eric (CIV); Powell, Amy (CIV); Hussey, Olivia; Moser, Kelly (ENRD); Mayer, Kate (ENRD); 'Lubaina.Qaiyumi@ic.fbi.gov'; Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Lane, Sandra; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD); [redacted]@sec.gov'; Johnson, Joanne (CIV); Dhillon, Uttam; Hamilton, Dorian (CIV); Abbate, Julie (CRT); Mlynar, Maria (EOIR); Bain, Quynh (CIV); Schneider, Todd; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); Stephan, Sherri; Haag, Mark (ENRD); Smith, Dan (ENRD); Sobota, Luke; Rikhye, Evan; Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); [redacted]@PBGC.GOV'; Bollock, Jamon (ENRD); Eisenstein, Ilana H; Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
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Thanks -
Laura Klein
DOJ Pro Bono Program Manager

Klein, Laura F

From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:41 PM
To: Gorsuch, Neil M
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

Great, Neil, I look forward to seeing you there. By the way, congratulations on your nomination! Best, Laura

---

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:41 PM
To: Klein, Laura F
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

Laura, I hope to and think I probably will be able to make it. Thanks, NMG

From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:38 PM
To: Gorsuch, Neil M; Mathews-Novelli, Scott; Goldsmith, Scott J; Shore, Elise (CRT); Ashworth, Jennifer H; Newton, Cullen (ENRD); Hewitt, Kim (ENRD); Ivanova, Anna; Smith, Justin (ENRD-LPS Attorney); [redacted] (CRM) (OCDETF); Tisi, Andrea; Peritz, Leslie; Slates, Sue Ann; Rudolph, Maureen (ENRD); Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); Draughn, Barbara; McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; [redacted]@usmc.mil'; Rusch, Jonathan; Pavlov, Nicholas J. (TAX); Perez, Marc (CIV); De Yampert, John (CIV); Henderson, Brian-Eric (CIV); Powell, Amy (CIV); Hussey, Olivia; Moser, Kelly (ENRD); Mayer, Kate (ENRD); [redacted]@ic.fbi.gov'; Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Lane, Sandra; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD) [redacted]@sec.gov'; Johnson, Joanne (CIV); Dhillon, Uttam; Hamilton, Dorian (CIV); Abbate, Julie (CRT); Mlynar, Maria (EOIR); Bain, Quynh (CIV); Schneider, Todd; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); Stephan, Sherri; Haag, Mark (ENRD); Smith, Dan (ENRD); Sobota, Luke; Rikhye, Evan; Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); [redacted]@PBGC.GOV'; Bollock, Jamon (ENRD); Eisenstein, Ilana H; Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
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Thanks -
Laura Klein
DOJ Pro Bono Program Manager

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:44 PM
To: Klein, Laura F
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

We'll see what does or doesn't happen on that front, but thank you for the good wishes.

From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:41 PM
To: Gorsuch, Neil M
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

Great, Neil, I look forward to seeing you there. By the way, congratulations on your nomination! Best, Laura

---

From: Gorsuch, Neil M
Sent: Tuesday, May 23, 2006 4:41 PM
To: Klein, Laura F
Subject: RE: DC Bar Pro Bono Advice & Referral Clinic on June 10

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From: Klein, Laura F
Sent: Tuesday, May 23, 2006 4:38 PM
To: Gorsuch, Neil M; Mathews-Novelli, Scott; Goldsmith, Scott J; Shore, Elise (CRT); Ashworth, Jennifer H; Newton, Cullen (ENRD); Hewitt, Kim (ENRD); Ivanova, Anna; Smith, Justin (ENRD-LPS Attorney); [redacted] (CRM) (OCDETF); Tisi, Andrea; Peritz, Leslie; Slates, Sue Ann; Rudolph, Maureen (ENRD); Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); Draughn, Barbara; McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; [redacted]@usmc.mil'; Rusch, Jonathan; Pavlov, Nicholas J. (TAX); Perez, Marc (CIV); De Yampert, John (CIV); Henderson, Brian-Eric (CIV); Powell, Amy (CIV); Hussey, Olivia; Moser, Kelly (ENRD); Mayer, Kate (ENRD); [redacted]@ic.fbi.gov'; Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Lane, Sandra; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD); [redacted]@sec.gov'; Johnson, Joanne (CIV); Dhillon, Uttam; Hamilton, Dorian (CIV); Abbate, Julie (CRT); Mlynar, Maria (EOIR); Bain, Quynh (CIV); Schneider, Todd; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); Stephan, Sherri; Haag, Mark (ENRD); Smith, Dan (ENRD); Sobota, Luke; Rikhye, Evan; Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); [redacted]@PBGC.GOV'; Bollock, Jamon (ENRD); Eisenstein, Ilana H; Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
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Thanks -
Laura Klein
DOJ Pro Bono Program Manager

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Thursday, May 25, 2006 11:15 AM
End:	Thursday, May 25, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Thursday, May 25, 2006 11:15 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
AO: Monica Goodling DOJ: Paul McNulty, Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mike Elston, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, May 24, 2006 10:00 AM
End:	Wednesday, May 24, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)

When: Wednesday, May 24, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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Meeting rescheduled to original time.

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, May 23, 2006 5:45 PM
To: McCallum, Robert (SMO); Elwood, Courtney; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Gorsuch, Neil M
Subject: RE: DAG travel: 5/29 - 6/13

No worries.

From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 3:36 PM
To: Sampson, Kyle; Elwood, Courtney; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Gorsuch, Neil M
Subject: FW: DAG travel: 5/29 - 6/13

FYI: I had also scheduled to be out of the office for a week's vacation in [redacted] from Friday June 2 until Monday June 12. I was unaware that the DAG was gone as well. Does that work for me to be out at the same time. Robt.

From: [redacted]
Sent: Tuesday, May 23, 2006 3:28 PM
To: Beach, Andrew; Sampson, Kyle; Schreiber, Jayne; Goodling, Monica; Sellers, Kiahna (OAG); McCallum, Robert (SMO); Gunn, Currie (SMO); JCC; Baker, James; Skelly-Nolen, Peggy; Bradley, Mark A; Dawkins, Iris M; Davis, Tracey Y; Arif Alikhan; Betenia Bennett; Bill Mercer; Brinkley, Winnie; Caballero, Luis (ODAG); Charles Henderson; Christine Cardwell; David Margolis; Epley, Mark D; Fridman, Daniel (ODAG); Grider, Mark (ODAG); Horvath, Jane (ODAG); James McAtamney; James Rybicki; Jeff John; John Irving; Lee Otis; Linda Long; Marjorie Jackson; Mark Connor; Meyer, Joan E (ODAG); Michael Elston; Michael Purpura; Monica Keasley; Moye, Pam; Patrick Rowan; Paulose, Rachel (ODAG); Robyn Thiemann; Ronald Tenpas; Saovaluck Im; Scudder, Michael (ODAG); SeLena Powell; Shults, Frank (ODAG); Sonya Sesker; Steven McFarland; Stuart Nash; Theodore Cooperstein; Thomas Monheim; Tyler, Joyce (OLP); Uttam Dhillon
Subject: DAG travel: 5/29 - 6/13

DAG will be on personal travel to [redacted] starting 5/29 and will return to the office on 6/14.

Please let me know if you have any questions.

[redacted]
Deputy Attorney General
U.S. Department of Justice
202-514-2101 - office
202-514-1904 - direct
202-514-0467 - fax

@truman.gov

From: @truman.gov
Sent: Tuesday, May 23, 2006 6:06 PM
To: Gorsuch, Neil M
Subject: RE: update on the State Dept.

Thank you ever so much, Neil. I truly appreciate your response. Congratulations on your nomination...I will stay tuned for additional details as you find them out.

I'll look forward to visiting with you next Tuesday.

Regards,

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, May 23, 2006 11:41 AM
To:
Subject: RE: update on the State Dept.

Here you go.... Best, NMG

PS - earlier this month I was nominated for slot on the US Court of Appeals for the 10th Circuit back home in Colorado; b/c I've not been confirmed, this isn't on my bio and it's not particularly relevant for the visiting Trumans, but I thought you may want to know.

-----Original Message-----
From: @truman.gov [mailto: @truman.gov]
Sent: Tuesday, May 23, 2006 11:24 AM
To: Gorsuch, Neil M
Subject: RE: update on the State Dept.

Hi Neil,

Do you and Bill each have a current biography? I am trying to pull those together this week so that they're ready to go for next week.

thanks,

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, May 22, 2006 9:02 AM
To:

To: [redacted]
Subject: Re: update on the State Dept.

Thanks so much for the update. Sorry we weren't able to land the Secretary but that's always hit or miss and, as you say, we've now got a foot in the door at State. Looking forward to seeing you on the 30th. If there's anything more Bill or I can do to help just let us know.

-----Original Message-----
From: [redacted]@truman.gov
To: Gorsuch, Neil M
Sent: Sat May 20 15:30:34 2006
Subject: update on the State Dept.

Hi Neil,

We received a response from State saying that Secretary Rice is unable to meet with us. I was disappointed but am currently working with the Public Affairs Office at State to organize a briefing on the 31st of May. I will keep you posted on who they plan to have meet with us...I get the sense that they are still trying to gage what type of an agency we are since they've asked for notable Trumans, etc. I'm encouraged by being able to at least get in the door on this!

Thank you for your contacts!
[redacted]

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Mon 5/15/2006 5:37 PM
To: [redacted]
Subject: RE: DOJ visit

[redacted]

I'm glad it's coming together. Robert McCallum, the Associate AG (the number 3 officer at DOJ and my boss), will be there on the 30th. Unfortunately, the AG is traveling that day. After Robert speaks, Bill Mercer and I are happy to field questions if you'd like, but we are by no means lobbying to do so!

I trust all is on track with Aloma and Currie of our office. But if any hiccups emerge please do let me know.

As to State, I haven't heard back from [redacted] He was in Europe all last week. I will ping him now to remind him.

If there's anything else I can do to make the summer institute a success, please let me know. Did the WH tour get scheduled?

Best,

NMG

-----Original Message-----
From: [redacted]@truman.gov [mailto[redacted]@truman.gov]
Sent: Monday, May 15, 2006 5:33 PM
To: Gorsuch, Neil M
Subject: RE: DOJ visit

Hi Neil,

We are in the midst of another Truman Scholar Leadership Week, out in Liberty, Missouri. This new group of scholars is just packed with enthusiasm. Thanks again for helping to select several of them in March. [redacted] and [redacted] are all here thanks to the D.C. Panel. We are enjoying having the opportunity to get to know them better.

I was just hoping to touch base to let you know that things are rolling both with our DOJ visit and with our possible visit to the State Department. Both Aloma Shaw and Currie Gunn have been outstanding with helping me to get all of the details ironed out for our visit to Justice. Do you know if the Attorney General may be able to join us at all that afternoon?

Also, I have recently heard back from [redacted] (who is in the Bureau of Public Affairs at State) and she is putting together our request to move forward to the Secretary's staff. Have you by any chance heard anything back from John on this one? I just thought I'd keep you informed that things are moving forward and they are close to making a decision for us.

Thanks again for all of your efforts. We are truly looking forward to seeing you on the 30th!

Take care,
[redacted]

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Tuesday, May 23, 2006 6:44 PM
To:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Sampson, Kyle; Elwood, Courtney
Cc:	Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject:	FW: June 14, 2006 A Day in Kentucky!

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Sent: Tuesday, May 23, 2006 6:40 PM
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Subject: RE: June 14, 2006 A Day in Kentucky!

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Elwood, Courtney

From:	Elwood, Courtney
Sent:	Tuesday, May 23, 2006 7:14 PM
To:	Sampson, Kyle; McCallum, Robert (SMO); Mercer, Bill (ODAG); Elston, Michael (ODAG); Oldham, Jeffrey L
Cc:	Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject:	Re: June 14, 2006 A Day in Kentucky!

Yes, Jeff has been working on some things related to the KY roll-out, and he can give a good assessment of this.

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From: Sampson, Kyle
To: McCallum, Robert (SMO); Mercer, Bill (ODAG); Elston, Michael (ODAG); Elwood, Courtney; Oldham, Jeffrey L
CC: Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Sent: Tue May 23 18:51:14 2006
Subject: RE: June 14, 2006 A Day in Kentucky!

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From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 6:44 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG); Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject: FW: June 14, 2006 A Day in Kentucky!

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Cohn, Jonathan (CIV)

From: Cohn, Jonathan (CIV)
Sent: Tuesday, May 23, 2006 7:57 PM
To: Gorsuch, Neil M
Subject: Read: Arguments -- per your voice mail

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Tuesday, May 23, 2006 8:37 PM
To: Gorsuch, Neil M
Subject: Read: Arguments -- per your voice mail

Oldham, Jeffrey L

From:	Oldham, Jeffrey L
Sent:	Tuesday, May 23, 2006 10:21 PM
To:	Elwood, Courtney; Sampson, Kyle; McCallum, Robert (SMO); Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc:	Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject:	Re: June 14, 2006 A Day in Kentucky!

I do have some information on this event (which I will separately forward). It looks to be a comprehensive event and a very integrated effort by federal, state, and local officials--what PSC is all about. Pls let me know what else I can do.

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From: Elwood, Courtney
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CC: Gorsuch, Neil M; Senger, Jeffrey M; Todd, Gordon (SMO)
Sent: Tue May 23 19:14:25 2006
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Sent:	Tuesday, May 23, 2006 10:40 PM
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Cc:	Mercer, Bill (ODAG); Elwood, Courtney; Epley, Mark D
Subject:	Fw: Kentucky Project Safe Childhood
Attachments:	tmp.htm; Kids-in-school-modified.JPG

This string of emails came through EOUSA last week and has lots of info on the planned KY event.

From your other email, it appears the Lt. Gov. is now participating, and not the Gov., which is a change from this email and obviates any concern on that score. There are a few other issues coming out of this email that ODAG or EOUSA are checking on, relating to what USAs can and cannot do as part of PSC (in terms of accepting resources and endorsing state laws), but nothing that appears to preclude participation. Looks like an event with a lot of community support.

Jeff

-----Original Message-----
From: Voris, Natalie (USAEO)
To: Oldham, Jeffrey L; Goodling, Monica
Sent: Thu May 18 15:55:26 2006
Subject: Kentucky Project Safe Childhood

Monica and Jeff,
I received this message from ED/KY earlier this afternoon. I don't understand if they are seeking our guidance on the CD - perhaps you two have some insight on this? Also, I wanted to see if there were plans to send a senior DoJ official to the press event in June. Thanks for your assistance on this.

nv

From: Wohlander, Mark
Sent: Thursday, May 18, 2006 2:20 PM
To: Voris, Natalie (USAEO)
Cc: Thapar, Amul (USAKYE)
Subject: Project Safe Childhood Kentucky

Natalie,
It was great to see the launch of the national initiative on Project Safe Childhood yesterday. I received a copy of the booklet this morning. You folks have done an outstanding job with the initiative. Although I realize you are likely very busy preparing for August, I was hoping I could take a walk over to Main Justice in the next couple of days and talk with you about a couple of our proposals. As you saw from my earlier email, we have an offer on the table from Director [redacted] of the Rural Law Enforcement Technology Center to assist us with training and some equipment in support of Project Safe Childhood.

Director [redacted] would also like to see what we can do to produce a best practices CD-Rom for distribution to rural law enforcement agencies around the country. I would love to see if we could utilize his generous offer and get several experienced prosecutors and law enforcement officers together to put together a highly professional CD. This would be a fantastic way to better partner with the growing number of small departments that are beginning to put together child exploitation initiatives.

On another note, I am certain you have seen the Kentucky headlines regarding the indictment of Governor Fletcher on misdemeanor charges related to a very political investigation by the Democrat Attorney General. I am certain this is a consideration for Attorney General Gonzales as it relates to our proposed press conference on June 12th. With that said, even if Attorney General Gonzales is unable to attend we would still like to have someone from the Department of Justice at the press conference. Possibly Alice Fisher would agree to attend, especially since she is from Louisville, Kentucky. We are meeting with Lt. Gov. Pence on Friday May 26, 2006, to finalize plans for the conference. As such, I would really appreciate knowing whether we might be able to count on someone from DOJ to attend. As someone who has been involved in the issue for a very long time as both a former FBI special agent and as a federal prosecutor, I want to leverage the momentum that appears to be growing in support of child exploitation matters.

I look forward to having an opportunity to meet with you. Thanks in advance for all you have done and everything I know you will be doing in the future.

Mark Wohlander
202-353-7408

P.S. I have attached a preliminary drawing of one of the proposed logos for Kentucky Project Safe Childhood.

> _____
> From: Wohlander, Mark (USAKYE)
> Sent: Thursday, May 11, 2006 12:28 PM
> To: Voris, Natalie (USAEO)
> Cc: Thapar, Amul (USAKYE); Huber, David L. (USAKYW); Zerhusen, Jim (USAKYE); Ford, Marisa (USAKYW); Murphy, Mike; Lawless, Jo (USAKYW); Catron, Frances (USAKYE)
> Subject: Kentucky Project Safe Childhood
>
> Kentucky Project Safe Childhood Press Conference, June 12, 2006
>
> Natalie,
>
> Mr. Thapar asked me to forward to you some details of our proposed launch of Kentucky> '> s Project Safe Childhood initiative. As such, I have put together some general themes for the proposed press conference. Although the press conference is tentatively scheduled for June 12, 2006, the date is not set in stone. As I am certain you understand, there are still a large number of details which must be worked out. However, the most important aspect of the event is getting a firm date on the calendar.>
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> I wanted you to know that the reason Kentucky will be able to roll out our initiative so quickly is based on the history of law enforcement in Kentucky. As a mostly rural state, we have traditionally worked in partnership with members of the law enforcement community. The relationship encompasses the United States Attorneys Offices in the Eastern and Western Districts, our federal law enforcement partners, the Kentucky State Police, and other state and local law enforcement agencies and prosecutors.
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> Approximately 3 years ago, those of us who are involved in investigating and prosecuting child exploitation matters, realized the need to better coordinate investigations involving the exploitation of

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>
> If you need additional information, please feel free to contact me at (859) 338-5883, or leave a message for me at (859) 233-2661, ext. 126. Also, I am currently on detail to the Obscenity Prosecution Task Force in Washington, D.C. I have an office in the Bond Building and my office number is (202) 353-7408. Finally, if you need to respond by email, please ensure that a copy is sent to both Mark.Wohlander@usdoj.gov and Mark.Wohlander2@usdoj.gov.
>
> Respectfully,
>
> Mark A. Wohlander
> Eastern District of Kentucky
<<Kids-in-school-modified.JPG>>

Kentucky
Kares about its'
Kids
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Subject: Kentucky Project Safe Childhood

Kentucky Project Safe Childhood Press Conference, June 12, 2006

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E) A representative from the Kentucky Center for School Safety (the KCSS has partnered with isafe.org which provides the educational curriculum to Kentucky schools on internet safety).

Although we realize the implementation of many of our proposals will require a long term commitment from all of our partners, those of us involved in the daily battle against the exploitation of our greatest resource, our children, are willing to do whatever is necessary to protect our children.

If you need additional information, please feel free to contact me at (859) 338-5883, or leave a message for me at (859) 233-2661, ext. 126. Also, I am currently on detail to the Obscenity Prosecution Task Force in Washington, D.C. I have an office in the Bond Building and my office number is (202) 353-7408. Finally, if you need to respond by email, please ensure that a copy is sent to both Mark.Wohlander@usdoj.gov and Mark.Wohlander2@usdoj.gov.

Respectfully,

Mark A. Wohlander
Eastern District of Kentucky
<<Kids-in-school-modified.JPG>>

Karan_Bhatia@ustr.eop.gov

From: Karan_Bhatia@ustr.eop.gov
Sent: Wednesday, May 24, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment? [redacted] Thanks!

Neil - apologies ... didn't get your email until [redacted] Will try to give you a buzz from here. If we miss each other, know that I will have email access (which is more secure than open lines anyway). Best - K.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Tue May 23 10:13:22 2006
Subject: Could you give me a ring when you have a moment? [redacted] Thanks!

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 9:21 AM
To: 'Karan_Bhatia@ustr.eop.gov'
Subject: RE: Could you give me a ring when you have a moment? [redacted] Thanks!

Karan, I actually had a personal favor I'm slightly embarrassed to ask. The ABA is performing its investigation of me and apparently will ask for a list of references who can attest to my abilities, character, and temperament. Given that one of those leading the review of me is [redacted] I was hoping I might include you on the list. But I wanted also to make perfectly clear that you need not feel the slightest obligation. No is a perfectly fine answer, and I hate even to have to ask (esp. by e-mail, but the process seems to be moving ahead). I do hope we can catch up for a lunch or some such; when you return perhaps pass along a date or two that might work? Warm regards, NMG

-----Original Message-----
From: Karan_Bhatia@ustr.eop.gov [mailto:Karan_Bhatia@ustr.eop.gov]
Sent: Wednesday, May 24, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment? [redacted] Thanks!

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-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Tue May 23 10:13:22 2006
Subject: Could you give me a ring when you have a moment? 305-1434. Thanks!

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Wednesday, May 24, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Remarks for Students
Attachments: RobertPresClassroomSpRev1.wpd

Robt.: Here are the remarks you gave to high school students at the Presidential Classroom program, which you thought might be useful for the Truman group.
Jeff

Remarks to the 2006 Truman Scholars
Robert D. McCallum, Jr.
May 30, 2006

Introduction

I am delighted to be with you today. As Truman scholars, you've been recognized for your many talents and your promise as future leaders of our communities, our cities, our states and our nation. You will have many choices, many opportunities to contribute to our society and the world as a whole.

I would like to talk with you about some of these opportunities that exist through public service directly. Of course, there are many ways to serve the public interest – including in the NGO and private sectors. And I understand that many of these other modes of service are increasingly popular with Truman scholars and other young people. But today I want to encourage each of you not to overlook the opportunities and important work that can only be found in public office, whether at the federal, state, or local level. I will, of course, do so with an admitted focus on my area of activity and expertise: the Department of Justice and the Law. But what I have to say is applicable generally across all areas of public service.

DOJ_NMG_ 0160452

The country is faced with serious issues, and we will need your talents and your energy in addressing them, in participating in a process over an extended period of time not only to find the best answers and solutions to our current problems but also those that we will face in the future. Our system of government provides for, in fact depends upon, a lot of discussion and debate as we grapple with the issues facing our nation at any given time. The ideas and passion of all our citizens, including yours, are the critical elements in that debate. Our Republic is based upon a faith in the free market place of ideas, that through robust public confrontation of differing views and perspectives from all quarters, the best ideas are likely to emerge and to be embraced by the governed in the political process. It is not a perfect system. There is always the risk of a tyranny of the majority, but with our constitutional checks and balances to protect the fundamental rights and liberties of those holding views differing from those of the majority, it is the best system ever devised by man.

Overview

I said that I would necessarily have to discuss these opportunities to make a real difference through public from my perspective as a lawyer because that what I know, that's my experience and arena of activity. Let me start by

DOJ_NMG_ 0160453

explaining a little bit about who I am, what the Department of Justice does, and what I do within the Department of Justice.

I am the Associate Attorney General, which means I am the third-ranking official at the Department of Justice. I work on the leadership team of the Department, advising and assisting the Attorney General and the Deputy Attorney General in defining and executing policies on a broad range of legal and law enforcement matters. Earlier in the Administration, I was the Assistant Attorney General of the Civil Division, which means that I headed the largest legal division in the Department with over 700 lawyers and thousands of court cases in which the federal government was a party.

I started with DOJ on Sept 17, 2001 one week after the 9/11 terrorist attacks. Prior to joining DOJ, I had been in private law practice in Atlanta, trying law suits and arguing appeals as a trial lawyer for 30 years. My focus in every case during those years was, as it should have been, on what was in my client's best interest for that is the trial lawyer's ethical and professional obligation. It is that focus that makes our adversarial system of solving disputes in our courts work.

The focus is different when one becomes a government

DOJ_NMG_ 0160454

lawyer and joins DOJ because your client is the nation and all of our citizens, and even your opposing party in court is most often a citizen. Think about the name of my Department: the Department of Justice. There is a moral imperative in the name unlike that of any other government agency: Justice. Our mission at DOJ has always been to uphold justice and to defend the rights and liberties of all Americans. There is a frieze engraving in the Attorney General's Rotunda that Whenever Justice is done in the courts, the United States wins its case. The men and women who work at DOJ believe that.

On the criminal side, Department attorneys are prosecutors only. On the civil side, Department attorneys both initiate and defend court cases involving an incredible variety of legal issues. We represent the more than 100 federal agencies in court which is why we are often referred to as the Nation's Litigator. With almost 10,000 attorneys around the country and the world, we are the largest law firm in the world and I like to think that we are the best one as well.

We also have thousands of law enforcement agents in the Federal Bureau of Investigation, the Bureau of Prisons, the Drug Enforcement Agency, and the U.S. Marshals service. Our total workforce includes more than 100,000

DOJ_NMG_ 0160455

people.

Challenges

Terrorism

As you well know, the top priority of the Department of Justice is and remains protecting our citizens from terrorist attacks while preserving and protecting our civil liberties. Recent events remind us that we live in an era in which the values we hold as Americans -- the values of freedom, equality, personal dignity, opportunity, and justice under the rule of law -- are under assault in the world. In the not too distant past, the Department of Justice was charged with the responsibility of prosecuting crimes after they had occurred. Now we are charged with disruption and prevention of terrorist attacks against the United States before they occur. As Attorney General Gonzales has stated, "without security, there can be no real freedom, and we cannot relent in fulfilling this most basic obligation of government." Our mission is to protect the people of the United States and to enforce the rule of law without sacrificing any of the civil rights and liberties that make the United States the bastion of freedom to the world.

Associate Attorney General's Office

As Associate Attorney General, I am personally responsible for supervising the "civil" litigation or court

DOJ_NMG_ 0160456

cases involving the federal government, its agencies, or officers and employees. The civil court cases range from mergers and competition matters in the Antitrust Division; to Clean Water, Clean Air, toxic contamination clean-up cases in the Environment and Natural Resources Division; to employment discrimination, voting rights, disability access, and human trafficking issues in the Civil Rights Division; to tax shelter frauds and tax enforcement and collection in the Tax Division; to contract disputes, tort claims for personal injury, and , injunctive and regulatory claims in the Civil Division.

I also supervise various non-litigation but programmatic divisions such as the Office of Justice Programs which assists local, state and tribal law enforcement agencies with grants and training programs to enhance crime prevention across the entire nation at all levels of government. For instance, OJP, as we call it, has provided grants and training in the President's Project Safe Neighborhoods program, which leads the efforts of Federal, state, and local law enforcement to reduce crimes committed with guns. This program has been one reason for a major reduction in violent crimes in recent years. In connection with this program, the Attorney General has announced the formation of an ANTI GANG Coordination Committee to focus on resources and to develop an integrated, advanced

DOJ_NMG_ 0160457

training regimen for law enforcement and social and community service organizations in dealing with gang activities.

What does DOJ offer you?

Based upon my experience at the DOJ, what exactly is it that makes public service at DOJ or elsewhere something that I recommend for you to consider as you plan what you want to do along life's journey? Why would it be worthwhile for you?

1) Most interesting work;

Work that matters; direct connection to real world problems and demonstrable impact

Fascinating - size, complexity, reconcile various views so government speaks with one voice in litigation

2) Immediate Responsibility whether you are on the Hill, or at an agency in the Exec Branch

3) Superb Training National Advocacy Center (NAC)

4) Big Firm Expertise

Finest Lawyers

5) Variety or Speciality:

6) Career Flexibility - life style issues

What public service doesn't offer

Money

DOJ_NMG_ 0160458

Fringes - no free coffee, no country club memberships, no sky box at the Wizards games

One thing we at DOJ are doing to help our employees financially is the Attorney Student Loan Repayment Program. Implemented in 2003, the Attorney Student Loan Repayment Program provides loan repayments for qualified Federal student loans. All attorneys with qualifying federal student loans are eligible. Selected attorneys have up to $6,000 of their student loan repaid each year. Other agencies are trying to do the same to provide assistance to young people who have financial obligations from the education.

What public service does offer: Challenge and a whole lot of young people like a challenge because they see it as an opportunity. It offers real substance and a whole lot of young people like that because it infuses their work every day with meaning beyond just themselves.

Justice O'Connor: what she saw in public service for young lawyers

Challenge to meet a higher standard expected of government lawyers: the greater good requires it

Opportunity to see and appreciate the true

DOJ_NMG_ 0160459

complexity, breadth and scope of the issues facing our nation and the world
Music lover;
Opportunity to hear entire variety
Not a cacophony if you listened with a trained ear.
Opportunity to appreciate something truly beautiful by virtue of its diversity because the strength of our nation lies in its diversity
Opportunity to contribute meaningfully to the debate if you have faith in the process

What we look for in hiring

Some of you may wonder how we decide whom to hire at the Justice Department. We truly look at the whole person, "the complete package," when evaluating candidates. Like most legal employers, we pay attention to academic achievement, particularly as it speaks to a candidate's legal abilities, but we are also interested in your activities, your community service, and your life and work experience, your energy and commitment to things that are important to you. We want and value diverse perspectives because we want to have vigorous internal debates on all aspects of the legal issues in our cases so that when we decide on the government's legal position, we have considered it from every legal direction.

DOJ_NMG_ 0160460

DOJ interns and attorneys work with highly sensitive information so it is not surprising that the Department also devotes energy to insure that individuals joining the Department are worthy of the public trust. The Department conducts extensive background checks before people are hired. So let me be very direct. If you want to work with DOJ and many federal agencies, don't do drugs of any sort. You shouldn't do drugs for lots of other more important reasons, but you should know that if you want to work at DOJ, you are going to be asked about prior drug use. So just say NO.

We offer internships and summer jobs where you can get involved with the Department's mission even before law school. Specific information on the work of all of these organizations is available on our web site at www.usdoj.gov.

Let me close by asking you to think about one more thing. Very early in my days here at DOJ just after 9/11, a friend of mine turned to me after the singing of our National Anthem and repeated the last line to me: Oh say does that star spangled banner yet wave o'er the land of the free and the home of the brave" He reminded me that the last line is not a statement but a question: an important question to which an affirmative answer is never a foregone conclusion. I had never thought about it in that light. He was right. It isn't a foregone conclusion. At the Justice Department and

DOJ_NMG_ 0160461

through public service generally, you have the opportunity to do your part to ensure that the answer is always in the affirmative.

I marvel at the range of challenges — I mean OPPORTUNITIES that now lie before you and wish you luck and Godspeed in the exciting journey and adventure that lies before you. With that in mind, God bless each of you and each family represented here and God bless America

DOJ_NMG_ 0160462

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Wednesday, May 24, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Remarks for Students
Attachments: RobertPresClassroomSpRev1.wpd

Robt.: Here are the remarks you gave to high school students at the Presidential Classroom program, which you thought might be useful for the Truman group.
Jeff

Presidential Classroom Remarks
Robert D. McCallum, Jr.
March 13, 2006

Introduction

I am delighted to be with you today as part of the Presidential Classroom program. This is an exciting time for all of you. You are at the threshold of your adult lives and your careers. You have many talents, and you will be the leaders of our communities, our cities, our states and our nation. You will have many choices, many opportunities to contribute to our society and the world as a whole.

I would like to talk with you about some of these opportunities that exist through public service, whether on the local, state or federal level, to have a positive influence for the greater good on society, our country and our world. I will, of course, do so today with an admitted focus on my area of activity and expertise: the Department of Justice and the Law. But what I have to say is applicable generally across all areas of public service.

The country is faced with serious issues, and we will need your talents and your energy in addressing them, in participating in a process over an extended period of time not only to find the best answers and solutions to our current

DOJ_NMG_ 0160464

problems but also those that we will face in the future. Our system of government provides for, in fact depends upon, a lot of discussion and debate as we grapple with the issues facing our nation at any given time. The ideas and passion of all our citizens, including yours, are the critical elements in that debate. Our Republic is based upon a faith in the free market place of ideas, that through robust public confrontation of differing views and perspectives from all quarters, the best ideas are likely to emerge and to be embraced by the governed in the political process. It is not a perfect system. There is always the risk of a tyranny of the majority, but with our constitutional checks and balances to protect the fundamental rights and liberties of those holding views differing from those of the majority, it is the best system ever devised by man.

Overview

I said that I would necessarily have to discuss these opportunities to make a real difference through public from my perspective as a lawyer because that what I know, that's my experience and arena of activity. Let me start by explaining a little bit about who I am, what the Department of Justice does, and what I do within the Department of Justice.

I am the Associate Attorney General, which means I am

DOJ_NMG_ 0160465

the third-ranking official at the Department of Justice. I work on the leadership team of the Department, advising and assisting the Attorney General and the Deputy Attorney General in defining and executing policies on a broad range of legal and law enforcement matters. Earlier in the Administration, I was the Assistant Attorney General of the Civil Division, which means that I headed the largest legal division in the Department with over 700 lawyers and thousands of court cases in which the federal government was a party.

I started with DOJ on Sept 17, 2001 one week after the 9/11 terrorist attacks. Prior to joining DOJ, I had been in private law practice in Atlanta, trying law suits and arguing appeals as a trial lawyer for 30 years. My focus in every case during those years was, as it should have been, on what was in my client's best interest for that is the trial lawyer's ethical and professional obligation. It is that focus that makes our adversarial system of solving disputes in our courts work.

The focus is different when one becomes a government lawyer and joins DOJ because your client is the nation and all of our citizens, and even your opposing party in court is most often a citizen. Think about the name of my Department: the Department of Justice. There is a moral imperative in the name unlike that of any other government

DOJ_NMG_ 0160466

agency: Justice. Our mission at DOJ has always been to uphold justice and to defend the rights and liberties of all Americans. There is a frieze engraving in the Attorney General's Rotunda that Whenever Justice is done in the courts, the United States wins its case. The men and women who work at DOJ believe that.

What does DOJ do? The Department handles both criminal and civil cases. On the criminal side, Department attorneys are prosecutors only. On the civil side, Department attorneys both initiate and defend court cases involving an incredible variety of legal issues. We represent the more than 100 federal agencies in court which is why we are often referred to as the Nation's Litigator. With almost 10,000 attorneys around the country and the world, we are the largest law firm in the world and I like to think that we are the best one as well. .

We also have thousands of law enforcement agents in the Federal Bureau of Investigation, the Bureau of Prisons, the Drug Enforcement Agency, and the U.S. Marshals service. Our total workforce includes more than 100,000 people.

Challenges

Terrorism

DOJ_NMG_ 0160467

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DOJ_NMG_ 0160468

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DOJ_NMG_ 0160469

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4) Big Firm Expertise

Finest Lawyers

5) Variety or Speciality:

6) Career Flexibility - life style issues

What public service doesn't offer

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DOJ_NMG_ 0160470

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Challenge to meet a higher standard expected of government lawyers: the greater good requires it
Opportunity to see and appreciate the true complexity, breadth and scope of the issues facing our nation and the world
Music lover;
Opportunity to hear entire variety

DOJ_NMG_ 0160471

Not a cacophony if you listened with a trained ear.
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DOJ_NMG_ 0160472

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DOJ_NMG_ 0160473

I marvel at the range of challenges — I mean OPPORTUNITIES that now lie before you and wish you luck and Godspeed in the exciting journey and adventure that lies before you. With that in mind, God bless each of you and each family represented here and God bless America

DOJ_NMG_ 0160474

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 9:38 AM
To: Senger, Jeffrey M
Cc: Gorsuch, Neil M
Subject: RE: Remarks for Students

Jeff: Thanks for finding it. Neil: This is what I had in mind for the Truman scholars with less about me and what I do in DOJ but still focused on public service and public involvement. Robt.

From: Senger, Jeffrey M
Sent: Wednesday, May 24, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Remarks for Students

Robt.: Here are the remarks you gave to high school students at the Presidential Classroom program, which you thought might be useful for the Truman group.
Jeff

<< File: RobertPresClassroomSpRev1.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 9:44 AM
To: McCallum, Robert (SMO); Senger, Jeffrey M
Subject: RE: Remarks for Students

I will give it a polish and pass it along for your review.

From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 9:38 AM
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Cc: Gorsuch, Neil M
Subject: RE: Remarks for Students

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Jeff

<< File: RobertPresClassroomSpRev1.wpd >>

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 9:59 AM
To: Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: Remarks for Students

Neil: No need to spend too much time on it as I can do it more or less extemporaneously. Only spend your time if you think it too basic for them or sounds the wrong note, then we can certainly retool. Robt.

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 9:44 AM
To: McCallum, Robert (SMO); Senger, Jeffrey M
Subject: RE: Remarks for Students

I will give it a polish and pass it along for your review.

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<< File: RobertPresClassroomSpRev1.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 10:12 AM
To: 'John_B._Wiegmann@nsc.eop.gov'
Subject: FW: http://www.usnews.com/usnews/news/articles/060529/29addington.htm

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Tuesday, May 23, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: http://www.usnews.com/usnews/news/articles/060529/29addington.htm

[redacted]

E-mail: [redacted]@dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 10:26 AM
To: [redacted]
Subject: RE: Gorsuch/Future of Assisted Suicide

The official US reports tend to lag behind the unofficial SCt reports. This is the proper citation form when there is, to date, no official US reporter cite available.

-----Original Message-----
From: [redacted]
Sent: Wednesday, May 24, 2006 10:04 AM
To: Gorsuch, Neil M
Subject: FW: Gorsuch/Future of Assisted Suicide

Dear Neil,

Please see the compositor's query below. Is the indicated endnote incomplete?

Many thanks,
[redacted]

-----Original Message-----
From: [redacted]
Sent: Wednesday, May 24, 2006 9:48 AM
To: [redacted]
Subject: RE: Gorsuch/Future of Assisted Suicide

1 ___ U.S. __, 126 S. Ct. 904 (2006).
2 Id. at 924, 914.
3 Id.
etc.....

Hi [redacted] it looks like above endnote 1 may be incomplete? Please advise

[redacted]

Shaw, Aloma A

Subject: D.C. Circuit Judicial Conference
Location: Farmington, PA

Start: Tuesday, June 06, 2006 5:00 PM
End: Saturday, June 10, 2006 6:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Shaw, Aloma A

POV to Farmington, PA
Nemacolin Woodlands Resort
1001 Lafayette Drive
Farmington, PA
(conference ref. no. 4541713)
(hotel confirmation no. R6MGD)
Check in June 6 - Check out June 9

Conference pocs:
[redacted] Group Reservations Manager [redacted]
[redacted] Conference Coordinator [redacted]

[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Wednesday, May 24, 2006 11:17 AM
To: Gorsuch, Neil M
Subject: RE: cyber introduction

You can reach me at [redacted] Look forward to reading the report. Thanks!!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, May 23, 2006 4:27 PM
To: [redacted]@state.gov; [redacted] (Republican-Conf)
Subject: RE: cyber introduction

I really enjoyed lunch and it was a pleasure to meet [redacted] In order to keep my promise on the Human Trafficking report, what addresses should I use for you? Warm regards, NMG

-----Original Message-----
From: [redacted]@state.gov [mailto[redacted]@state.gov]
Sent: Wednesday, March 22, 2006 12:04 PM
To: Gorsuch, Neil M; [redacted]@src.senate.gov
Subject: RE: cyber introduction

Lunch on the 14th is perfect. We'll do the details later. Barbara, it would be great if you could come.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, March 21, 2006 7:08 PM
To: [redacted]@src.senate.gov; [redacted]
Subject: RE: cyber introduction

[redacted] Absolutely! I'm headed out for the [redacted] Might lunch on April 14 work? Barbara, would you be interested in joining?

-----Original Message-----
From: [redacted]@state.gov [mailto[redacted]@state.gov]
Sent: Tuesday, March 21, 2006 11:36 AM
To: Gorsuch, Neil M; [redacted]@src.senate.gov
Subject: RE: cyber introduction

Thanks [redacted], for the introduction. Neil, if you have some time in the next couple of weeks, I would love to have a cup of coffee and compare notes. [redacted]

From: [redacted] (Republican-Conf)

From: [redacted] (Republican-Conf)
[mailto: [redacted] @src.senate.gov]
Sent: Friday, March 17, 2006 4:40 PM
To: Neil.Gorsuch@usdoj.gov; [redacted]
Subject: cyber introduction

Neil and [redacted].

You are both unaware of each other's work and I would like to introduce you to each other so you can speak. [redacted] is an internationally recognized expert on issue's surrounding the trafficking of human beings. [redacted] is a political appointee at State (poor thing) and has managed to be there for [redacted]. I think you will find each other very informative and helpful.

I apologize for intruding on you both but this is the easiest way to get the introduction accomplished considering everyone's work schedule!

[redacted]

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, May 24, 2006 12:23 PM
To: Otis, Lee L; Gorsuch, Neil M
Subject: FW:

From: Creppy, Michael J. (EOIR)
Sent: Wednesday, May 24, 2006 10:50 AM
To: Swenson, Lily F
Subject: RE:

Dear Ms. Swenson:

It is my understanding that the comprehensive review is complete and that your team has either briefed or is scheduled to brief the Attorney General and Deputy Attorney General or their delegates and other appropriate officials about the review. While I appreciate your offer to interview me, I view this offer of a belated interview as perfunctory and unnecessary. Since you have completed your review what would you hope to gain from interviewing me at this stage.

As you know the review of the Immigration Court was commenced sometime in February 2006 when I was still the Chief Immigration Judge. At that time there was a opening /entrance meeting with the Deputy Director, my two deputies and myself for the purpose of telling us what the review team intended to do. In addition, you indicated that the team would be scheduling individual interview for my deputies, Assistant Chief Immigration Judges, immigration judges and other court personnel in the field, and myself once the review team figured out how they wanted to approach this matter. This opening meeting lasted no more than 20 minutes. Subsequently, you ascheduled and interviewed my two deputies, Assistant Chief Immigration Judges, numerous immigration judges and other court personnel around the country, but for some reason felt it unnecessary to interivew me about the Immigration Court, although I was the Chief Immigration Judge.

Moreover, you contacted my former staff assistant, Vicki Butler, on at least three separate occasions, after I had been reassigned, stating that you were going to interview me during a particular week; however, in each instance the interview never materialized nor did you have the courtesy call and let me know the interview would not take place.

Since so much time has elapsed and I am no longer the Chief Immigration JUdge, I questioned what you hope to gain from interviewing me at this stage of the process, given that the review is complete. I respectfully decline your offer to be interviewed at this stage of the process.

Thanks, Judge Creppy

-----Original Message-----
From: Swenson, Lily F
Sent: Monday, May 22, 2006 11:16 AM
To: Creppy, Michael J. (EOIR)
Cc: Otis, Lee L
Subject:

Judge Creppy,
Lee Otis and I would now like to schedule our interview with you in connection with the

comprehensive review of EOIR, if you are still interested in talking with us. If so, please let us know your availability over the next week. Just to let you know, in case you don't already -- as a courtesy we alerted your lawyer, [redacted], of our intention to interview you. That letter is attached.

We look forward to speaking with you. Thanks.
Lily

<< File: AR-M550U_20060522_094750.pdf >>

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Wednesday, May 24, 2006 12:57 PM
To: Gorsuch, Neil M
Subject: RE:

130 still work for you?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE:

Perfect. Thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:55 PM
To: Palmer, David (CRT)
Subject: RE:

How about Weds at 1.30?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

Thanks. Tuesday or Wenesday work for me. Let me know what works best for you.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 15:23:01 2006
Subject: RE:

No problem! Any afternoon next week looks fine.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Re:

Neil

Neil -

Like all government meetings, this one is running long. I'll not be able to make it to your office in time. Let's try for a day next week or after your 330 if your calendar allows.

Dp
2026165570

-----Original Message-----
From: Palmer, David (CRT)
To: Gorsuch, Neil M
Sent: Thu May 18 14:50:38 2006
Subject: Re:

Great. I'll email as the meeting draws to a close. If it runs past 315 or so I'll advise and we'll reschedule.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 14:48:31 2006
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 1:05 PM
To: Palmer, David (CRT)
Subject: RE:

Absolutely

-----Original Message-----
From: Palmer, David (CRT)
Sent: Wednesday, May 24, 2006 12:57 PM
To: Gorsuch, Neil M
Subject: RE:

130 still work for you?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE:

Perfect. Thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:55 PM
To: Palmer, David (CRT)
Subject: RE:

How about Weds at 1.30?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

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To: Gorsuch, Neil M
Subject: Re:

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Dp
2026165570

-----Original Message-----
From: Palmer, David (CRT)
To: Gorsuch, Neil M
Sent: Thu May 18 14:50:38 2006
Subject: Re:

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-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 14:48:31 2006
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Otus2005, Ag

Subject:	Accepted: Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:00 PM
End:	Friday, May 26, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Wednesday, May 24, 2006 1:07 PM
To: Gorsuch, Neil M
Subject: Re:

Great. I'll swing by. I have a 2pm down the hall from you so the timing is perfect.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Wed May 24 13:04:43 2006
Subject: RE:

Absolutely

-----Original Message-----
From: Palmer, David (CRT)
Sent: Wednesday, May 24, 2006 12:57 PM
To: Gorsuch, Neil M
Subject: RE:

130 still work for you?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: RE:

Perfect. Thanks Neil.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:55 PM
To: Palmer, David (CRT)
Subject: RE:

How about Weds at 1.30?

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:26 PM
To: Gorsuch, Neil M
Subject: Re:

Thanks. Tuesday or Wednesday work for me. Let me know what works best for you.

Thanks. Tuesday or Wednesday work for me. Let me know what works best for you.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 15:23:01 2006
Subject: RE:

No problem! Any afternoon next week looks fine.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Re:

Neil -

Like all government meetings, this one is running long. I'll not be able to make it to your office in time. Let's try for a day next week or after your 330 if your calendar allows.

Dp
2026165570

-----Original Message-----
From: Palmer, David (CRT)
To: Gorsuch, Neil M
Sent: Thu May 18 14:50:38 2006
Subject: Re:

Great. I'll email as the meeting draws to a close. If it runs past 315 or so I'll advise and we'll reschedule.

-----Original Message-----
From: Gorsuch, Neil M
To: Palmer, David (CRT)
Sent: Thu May 18 14:48:31 2006
Subject: RE:

I have a 330, but am free till then.

-----Original Message-----
From: Palmer, David (CRT)
Sent: Thursday, May 18, 2006 2:43 PM
To: Gorsuch, Neil M
Subject:

Neil -

I happen to be at a meeting down the hall from you. It should break in about 45 minutes. Will you have time for coffee around 315?

David

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 2:02 PM
To: Palmer, David (CRT)
Subject: Just spoke with Lu; expect a call; if you don't get one in the next few days please let me know; I have a call in to Monica

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Wednesday, May 24, 2006 2:04 PM
To: Gorsuch, Neil M
Subject: Read: Just spoke with Lu; expect a call; if you don't get one in the next few days please let me know; I have a call in to Monica

McNulty, Paul J

Subject:	Updated: EOIR Review -- Recommendations
Location:	Main 4111
Start:	Thursday, May 25, 2006 3:00 PM
End:	Thursday, May 25, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McNulty, Paul J
Required Attendees:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Otis, Lee L; McCallum, Robert (SMO); Swenson, Lily F; Pacold, Martha M; Gorsuch, Neil M; Brand, Rachel; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elwood, Courtney; Rooney, Kevin (EOIR); Ohlson, Kevin (EOIR); Cohn, Jonathan (CIV); Scialabba, Lori (EOIR); Neal, David L. (EOIR)

Attendees: Bill Mercer, Mike Elston, Lee Otis, ASG McCallum, Neil Gorsuch, Lily Swenson, Martha Pacold, AAG Brand, AAG Moschella, Rebecca Seidel, Tasia Scolinos, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Jon Cohn, Lori Scialabba, David Neal
POC: Lee Otis

Gorsuch, Neil M

Subject:	matt bester lunch
Start:	Friday, June 16, 2006 12:00 PM
End:	Friday, June 16, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

McNulty, Paul J

Subject:	Accepted: Updated: EOIR Review -- Recommendations
Location:	Main 4111
Start:	Thursday, May 25, 2006 3:00 PM
End:	Thursday, May 25, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 24, 2006 3:18 PM
To: Gorsuch, Neil M
Subject: Don't forget to give me the check for [redacted] meal package.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 3:21 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Re: CRT Initiatives

Is this set up? Need to get it done tom, fri or next tues at latest.

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
Sent: Fri May 19 09:02:40 2006
Subject: RE: CRT Initiatives

Absolutely; thank you

From: Shaw, Aloma A
Sent: Friday, May 19, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: RE: CRT Initiatives

Should I add Martha Pacold?

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:13 PM
To: Shaw, Aloma A
Cc: Todd, Gordon (SMO)
Subject: CRT Initiatives

Please could you schedule another mtg like today's on CRT initiatives with the following group: Wan Kim, Rena Comisac (CRT); Crystal Jezierski (OIPL); Tasia Scolinos, Brian Roherkasse (OPA); me and Gordon? Thanks!

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 24, 2006 3:24 PM
To: Gorsuch, Neil M
Subject: RE: CRT Initiatives

Neil:
This is set for June 2 at 3:00. This is the meeting that everyone told me you requested to be rescheduled in 2 weeks. I'll reschedule for either of the days you mentioned below.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 3:21 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Re: CRT Initiatives

Is this set up? Need to get it done tom, fri or next tues at latest.

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
Sent: Fri May 19 09:02:40 2006
Subject: RE: CRT Initiatives

Absolutely; thank you

From: Shaw, Aloma A
Sent: Friday, May 19, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: RE: CRT Initiatives

Should I add Martha Pacold?

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:13 PM
To: Shaw, Aloma A
Cc: Todd, Gordon (SMO)
Subject: CRT Initiatives

Please could you schedule another mtg like today's on CRT initiatives with the following group: Wan Kim, Rena Comisac (CRT); Crystal Jezierski (OIPL); Tasia Scolinos, Brian Roherkasse (OPA); me and Gordon? Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 3:30 PM
To: Shaw, Aloma A
Subject: Re: CRT Initiatives

June 2 is good enough - thanks

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed May 24 15:24:02 2006
Subject: RE: CRT Initiatives

Neil:
This is set for June 2 at 3:00. This is the meeting that everyone told me you requested to be rescheduled in 2 weeks. I'll reschedule for either of the days you mentioned below.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 3:21 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Re: CRT Initiatives

Is this set up? Need to get it done tom, fri or next tues at latest.

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
Sent: Fri May 19 09:02:40 2006
Subject: RE: CRT Initiatives

Absolutely; thank you

From: Shaw, Aloma A
Sent: Friday, May 19, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: RE: CRT Initiatives

Should I add Martha Pacold?

From: Gorsuch, Neil M
Sent: Thursday, May 18, 2006 4:13 PM
To: Shaw, Aloma A
Cc: Todd, Gordon (SMO)
Subject: CRT Initiatives

Please could you schedule another mtg like today's on CRT initiatives with the following group: Wan Kim, Rena Comisac (CRT); Crystal Jezierski (OIPL); Tasia Scolinos, Brian Roherkasse (OPA); me and Gordon? Thanks!

Gunn, Currie (SMO)

Subject:	Updated: [redacted] Letter
Location:	Call - 219-937-5601
Start:	Friday, May 26, 2006 9:30 AM
End:	Friday, May 26, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Capp, David (USAINN); Gorsuch, Neil MMcCallum, Robert (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Capp, David (USAINN); Gorsuch, Neil M

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Jeff Bucholtz-Civil, David Capp-FAUSA ND Indiana

POC: Currie Gunn (202) 514-9500

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, May 24, 2006 3:45 PM
To: Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Pacold, Martha M; Bounds, Ryan W (OLP); Seidel, Rebecca
Subject: Meeting to Discuss Immigration Courts and Board of Immigration Appeals

All,
I'm looking to reschedule our meeting with Allyson Ho. What's everyone's availability Tues or Weds of next week? Some of us I see cannot do the 10-12 slot on either day but what other times work?
Thanks.
Lily

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 3:55 PM
To: Swenson, Lily F; Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Pacold, Martha M; Bounds, Ryan W (OLP)
Subject: RE: Meeting to Discuss Immigration Courts and Board of Immigration Appeals

My only restriction on Wed is 10 am, I am open other times.

From: Swenson, Lily F
Sent: Wednesday, May 24, 2006 3:45 PM
To: Elwood, Courtney; Elston, Michael (ODAG); Gorsuch, Neil M; Otis, Lee L; Pacold, Martha M; Bounds, Ryan W (OLP); Seidel, Rebecca
Subject: Meeting to Discuss Immigration Courts and Board of Immigration Appeals

All,
I'm looking to reschedule our meeting with Allyson Ho. What's everyone's availability Tues or Weds of next week? Some of us I see cannot do the 10-12 slot on either day but what other times work?
Thanks.
Lily

Eisenberg, John

From: Eisenberg, John
Sent: Wednesday, May 24, 2006 4:42 PM
To: Gorsuch, Neil M
Attachments: Presidential Signing Statements (5-24-2006).doc

Here's signing statements. It's long. I am still trying to collect others.

PRESIDENTIAL SIGNING STATEMENTS

Like most Presidents before him, President Bush has issued statements on signing legislation into law. Presidents have used these "signing statements" for a variety of purposes. Sometimes Presidents use signing statements to explain to the public, and more particularly to interested constituencies, what the President understands to be the likely effects of the bill.

Presidents throughout history also have issued what some have called "constitutional" signing statements, and it is this use of the signing statement that has recently been the subject of public attention. Presidents are sworn to "preserve, protect, and defend the Constitution," and thus are responsible for ensuring that the manner in which they enforce acts of Congress is consistent with America's founding document. Presidents have long used signing statements for the purpose of "informing Congress and the public that the Executive believes that a particular provision would be unconstitutional in certain of its applications," Office of Legal Counsel, *The Legal Significance of Presidential Signing Statements*, 17 Op. O.L.C. 131, 131 (1993) (*available at* http://www.usdoj.gov/olc/signing.htm); Office of Legal Counsel, *Presidential Authority to Decline to Execute Unconstitutional Statutes*, 18 Op. O.L.C. 199, 202 (1994) ("[E]very President since Eisenhower has issued signing statements in which he stated that he would refuse to execute unconstitutional provisions") (*available at* http://www.usdoj.gov/olc/nonexcut.htm), or for stating that the President will interpret or execute provisions of a law in a manner that would avoid constitutional infirmities. As Assistant Attorney General Walter Dellinger noted early during the Clinton Administration, "[s]igning statements have *frequently* expressed the President's intention to construe or administer a statute in a particular manner (*often* to save the statute from unconstitutionality)." 17 Op. O.L.C. at 132 (emphasis added).

President Bush, like many of his predecessors dating back at least to President James Monroe, has issued constitutional signing statements. The constitutional concerns identified in these statements often concern provisions of law that could be read to infringe explicit constitutional provisions (such as the Recommendations Clause, the Presentment Clauses, and the Appointments Clause) or to violate specific constitutional holdings of the Supreme Court. Common examples are provided below.

President Bush's use of "signing statements" is consistent with tradition.

- Presidents have issued constitutional signing statements since the early years of the Republic. One scholar identifies President James Monroe as the first to issue a constitutional signing statement, when he stated that he would construe a statutory provision in a manner that did not conflict with his prerogative to appoint officers. *See* Christopher Kelley, *A Comparative Look at the Constitutional Signing Statement* 5 (2003) (*available at* http://mpsa.indiana.edu/conf2003papers/1031858822). Louis Fisher of the Congressional Research Service notes that in 1830, Andrew Jackson "signed a bill and simultaneously sent to Congress a message" setting forth his interpretation "that restricted the reach of

the statute." 17 Op. O.L.C. at 138 (quoting Louis Fisher, *Constitutional Conflicts between Congress and the President* 128 (3d ed. 1991)). Assistant Attorney General Dellinger conducted a thorough study and concluded that "signing statements of this kind can be found as early as the Jackson and Tyler Administrations, and later Presidents, including Lincoln, Andrew Johnson, Theodore Roosevelt, Wilson, Franklin Roosevelt, Truman, Eisenhower, Lyndon Johnson, Nixon, Ford and Carter, also engaged in the practice." 17 Op. O.L.C. at 138.

- In recent presidencies, the use of the constitutional signing statement has become more common. While the task of counting signing statements is inexact because of difficulties in characterizing some statements, Presidents Reagan, George H.W. Bush, Clinton, and George W. Bush have issued constitutional signing statements with respect to similar numbers of laws. According to one scholar, President Reagan issued constitutional signing statements with respect to 71 laws; George H.W. Bush, 146; Clinton, 105. *See* Kelley, *supra*, at 18. By our count, President Bush has issued such statements with respect to 108 laws as of May 12 of this year.

The practice of issuing signing statements does not, as some critics have charged, mean that a President has acted contrary to law.

- The practice is consistent with, and derives from, the President's constitutional obligations, and is an ordinary part of a respectful constitutional "dialogue" between the Branches.

- The Constitution requires the President to take an oath to "preserve, protect, and defend the Constitution," and directs him to "take care that the Laws be faithfully executed." When Congress passes legislation containing provisions that could be construed or applied in certain cases in a manner as contrary to well settled constitutional principles, the President can and should take steps to ensure that such laws are interpreted and executed in a manner consistent with the Constitution.

    - The Constitution contemplates that Presidents interpret laws in the course of implementing them. The Supreme Court specifically has stated that the President has the power to "supervise and guide [Executive officers'] construction of the statutes under which they act in order to secure that unitary and uniform execution of the laws which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone," *Myers v. United States*, 272 U.S. 52, 135 (1926); *see also Bowsher v. Synar*, 478 U.S. 714, 733 (1986) ("Interpreting a law enacted by Congress to implement the legislative mandate is the very essence of 'execution' of the law.").

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- Employing signing statements to advise Congress of constitutional objections is actually *more respectful* of Congress's role as an equal branch of government than the alternatives proposed by some critics.

    - Recent administrations, including the Reagan, George H.W. Bush, and Clinton Administrations, consistently have taken the position that "the Constitution provides [the President] with the authority to decline to enforce a clearly unconstitutional law." 17 Op. O.LC. at 133 (opinion of Assistant Attorney General Dellinger) (noting that understanding is "consistent with the view of the Framers" and has been endorsed by many members of the Supreme Court); 18 Op. O.L.C. at 199 (opinion of Assistant Attorney General Dellinger) (noting that "consistent and substantial executive practice" since "at least 1860 assert[s] the President's authority to decline to effectuate enactments that the President views as unconstitutional"); *Attorney General's Duty to Defend and Enforce Constitutionally Objectionable Legislation*, 4A Op. O.L.C. 55, 59 (1980) (opinion of Benjamin R. Civiletti, Attorney General to President Carter) ("the President's constitutional duty does not require him to execute unconstitutional statutes"); *see also* 2 Debates in the Several State Conventions on the Adoption of the Federal Constitution 446 (2d ed. 1836) (noting that just as judges have a duty "to pronounce [an unconstitutional law] void . . . In the same manner, the President of the United States could . . . refuse to carry into effect an act that violates the Constitution.") (statement of James Wilson, signer of Constitution from Pennsylvania). Rather than tacitly placing limitations on the enforcement of provisions (or declining to enforce them), as has been done in the past, signing statements promote a constitutional dialogue with Congress by openly stating the interpretation that the President will give certain provisions.

    - It is not the case, as some have suggested, that the President's only option when confronting a bill containing a provision that is constitutionally problematic is to veto the bill. Presidents Jefferson (*e.g.*, the Louisiana Purchase), Lincoln, Theodore Roosevelt, Wilson, Franklin Roosevelt, Truman, Eisenhower, Kennedy, Lyndon Johnson, Ford, and Carter have signed legislation rather than vetoing it despite concerns that the legislation posed constitutional concerns. *See* 17 Op. O.L.C. at 132 nn.3 & 5, 134, 138; *see INS v. Chadha*, 462 U.S. 919, 942 n.13 (1983) ("it is not uncommon for Presidents to approve legislation containing parts which are objectionable on constitutional grounds").

DOJ_NMG_ 0160509

- Compared to vetoing a bill, giving constitutionally infirm provisions a "saving" interpretation through a signing statement gives fuller effect to the wishes of Congress by giving complete effect to the vast majority of a law's provisions. This approach is not, as some have suggested, an affront to Congress. Instead, it gives effect to the well established legal presumption that Congress did not enact an unconstitutional provision. As Assistant Attorney General Dellinger explained, this practice is "analogous to the Supreme Court's practice of construing statutes, where possible, to avoid holding them unconstitutional." A veto, by comparison, would render all of Congress's work a nullity, even if, as is often the case, the constitutional concerns involve relatively minor provisions of major legislation.

- This approach is also fully consistent with past practice. As Assistant Attorney General Dellinger explained early during the Clinton Administration: "In light of our constitutional history, we do not believe that the President is under any duty to veto legislation containing a constitutionally infirm provision." Rather, giving problematic provisions a "saving" construction in a signing statement "serve[s] legitimate and defensible purposes." 17 Op. O.L.C. at 137; *see also* 18 Op. O.L.C. at 202-203 ("the President has the authority to sign legislation containing desirable elements while refusing to execute a constitutionally defective position").

Many of President Bush's constitutional signing statements have sought to preserve three specific constitutional provisions that are sometimes overlooked in the legislative process: the Recommendations Clause; the Presentment Clauses; and the Appointments Clause. While critics claim that the President has used signing statements in "unprecedented fashion," his constitutional signing statements are completely consistent with those of his predecessors.

- **Recommendations Clause**. Presidents commonly have raised objections when Congress purports to *require* the President to submit legislative recommendations, because the Constitution vests the President with discretion to do so when he sees fit, stating that he "shall from time to time . . . recommend to [Congress's] Consideration such Measures as he shall judge necessary and expedient." U.S. Const., Art. II, § 3, cl. 1.

  - President Bush raised this objection 55 times in his 108 constitutional signing statements.
  - Bush: "To the extent that provisions of the Act, such as sections 614 and 615, purport to require or regulate submission by executive branch officials of legislative recommendations to the Congress, the executive branch shall construe such provisions in a manner consistent with the President's constitutional authority to

DOJ_NMG_ 0160510

supervise the unitary executive branch and to submit for congressional consideration such measures as the President judges necessary and expedient." *Statement on Signing the Intelligence Authorization Act for Fiscal Year 2005* (Dec. 23, 2004).

- Clinton: "Because the Constitution preserves to the President the authority to decide whether and when the executive branch should recommend new legislation, Congress may not require the President or his subordinates to present such recommendations (section 6). I therefore direct executive branch officials to carry out these provisions in a manner that is consistent with the President's constitutional responsibilities." *Statement on Signing the Shark Finning Prohibition Act* (Dec. 26, 2000).

- **Presentment Clauses/Bicameralism/*INS v. Chadha.*** Presidents commonly raise objections when Congress purports to authorize a single House of Congress to take action on a matter in violation of the well established rule, embodied in the Supreme Court's decision in *INS v. Chadha*, 462 U.S. 919, 958 (1983), that Congress can act only by "passage by a majority of both Houses and presentment to the President." *See* U.S. Const., Art. I, § 7 (requiring that bills and resolutions pass both Houses before being presented to the President).

  - President Bush raised this objection 44 times in his 108 constitutional signing statements.
  - Bush: "The executive branch shall construe certain provisions of the Act that purport to require congressional committee approval for the execution of a law as calling solely for notification, as any other construction would be inconsistent with the constitutional principles enunciated by the Supreme Court of the United States in *INS v. Chadha*." *Statement on Signing the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act* (Dec. 30, 2005).
  - Clinton: "There are provisions in the Act that purport to condition my authority or that of certain officers to use funds appropriated by the Act on the approval of congressional committees. My Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*." *Statement on Signing the Consolidated Appropriations Act, FY 2001* (Dec. 21, 2000).

- **Appointments Clause.** The Appointments Clause of the Constitution, U.S. Const., Art. II, § 2, provides that the President, with the advice and consent of the Senate, shall appoint principal officers of the United States (heads of agencies, for example); and that "inferior officers" can be appointed *only* by the President, by the heads of "Departments" (agencies), or by the courts. Presidents commonly raise an objection when Congress purports to restrict the President's ability to

DOJ_NMG_ 0160511

appoint officers, or to vest entities other than the President, agency heads, or courts with the power to appoint officers.

- President Bush raised this objection 19 times in his 108 constitutional signing statements.
- Bush: "The executive branch shall construe the described qualifications and lists of nominees under section 4305(b) as recommendations only, consistent with the provisions of the Appointments Clause of the Constitution." *Statement on Signing the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (Aug. 10, 2005).
- Clinton: "Under section 332(b)(1) of the bill, the President would be required to make such appointments from lists of candidates recommended by the National Association of Insurance Commissioners. The Appointments Clause, however, does not permit such restrictions to be imposed upon the President's power of appointment. I therefore do not interpret the restrictions of section 332(b)(1) as binding and will regard any such lists of recommended candidates as advisory only." *Statement on Signing Legislation To Reform the Financial System* (Nov. 12, 1999).

Many of President Bush's constitutional signing statements have sought to preserve the confidentiality of national security information.

- The Supreme Court has held that the Constitution gives the President authority to control the access of Executive Branch officials to classified information. The President's "authority to classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position in the Executive Branch that will give that person access to such information flows primarily from this constitutional investment of power in the President and *exists quite apart from any explicit congressional grant*." *Dep't of Navy v. Egan*, 484 U.S. 518, 527 (1988). Presidents commonly have issued signing statements when newly enacted provisions might be construed to involve the disclosure of sensitive information.

  - President Bush raised this objection 60 times in his 108 constitutional signing statements.
  - Bush: "Sections 2(5) and 2(6) of the Act purport to require the annual report of the Secretary of the Treasury to include a description of discussions between the United States and Mexican governments. In order to avoid intrusion into the President's negotiating authority and ability to maintain the confidentiality of diplomatic negotiations, the executive branch will not interpret this provision to require the disclosure of either the contents of diplomatic communications or specific plans for particular negotiations in the future." *Statement on Signing Legislation on*

DOJ_NMG_ 0160512

Amendments to the Mexico-United States Agreement on the Border Environment Cooperation Commission and the North American Development Bank (Apr. 5, 2004).

- Clinton: "A number of other provisions of this bill raise serious constitutional concerns. Because the President is the Commander in Chief and the Chief Executive under the Constitution, the Congress may not interfere with the President's duty to protect classified and other sensitive national security information or his responsibility to control the disclosure of such information by subordinate officials of the executive branch (sections 1042, 3150, and 3164) . . . . To the extent that these provisions conflict with my constitutional responsibilities in these areas, I will construe them where possible to avoid such conflicts, and where it is impossible to do so, I will treat them as advisory. I hereby direct all executive branch officials to do likewise." *Statement on Signing the National Defense Authorization Act for Fiscal Year 2000* (Oct. 5, 1999).
- Eisenhower: "I have signed this bill on the express premise that the three amendments relating to disclosure are not intended to alter and cannot alter the recognized Constitutional duty and power of the Executive with respect to the disclosure of information, documents, and other materials. Indeed, any other construction of these amendments would raise grave Constitutional questions under the historic Separation of Powers Doctrine." Pub. Papers of Dwight D. Eisenhower 549 (1959).

President Bush also has used signing statements to safeguard the President's well-established role in the Nation's foreign affairs and the President's wartime power. These signing statements also are in keeping with the practice of his predecessors.

- While some critics have argued that President Bush has increased the use of Presidential signing statements, any such increase must be viewed in light of current events and the legislative response to those events. While President Bush has issued numerous signing statements of this sort, the significance of legislation affecting national security has increased markedly since the September 11th attacks and Congress's authorization of the use of military force against the terrorists who perpetrated those attacks. Even before the War on Terror, President Clinton issued numerous such statements. One scholar identified this objection as the most common use of the constitutional signing statements by Presidents Clinton and George H.W. Bush, because it is in this area "where presidential power is at its zenith." Kelley, *supra*, at 18.

    - Bush: "Section 107 of the Act purports to direct negotiations with foreign governments and international organizations. The executive branch shall implement section 107 in a manner consistent with the Constitution's grant to the President of the

DOJ_NMG_ 0160513

authority to conduct the foreign affairs of the United States." *Statement on Signing the North Korean Human Rights Act of 2004* (Oct. 18, 2004).

- Bush: "The executive branch shall construe subsection 1025(d) of the Act, which purports to determine the command relationships among certain elements of the U.S. Navy forces, as advisory, as any other construction would conflict with the President's constitutional authority as Commander in Chief." *Statement on Signing the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005* (May 11, 2005).
- Clinton: "Section 610 of the Commerce/Justice/State appropriations provision prohibits the use of appropriated funds for the participation of U.S. armed forces in a U.N. peacekeeping mission under foreign command unless the President's military advisers have recommended such involvement and the President has submitted such recommendations to the Congress. The 'Contributions for International Peacekeeping Activities' provision requires a report to the Congress prior to voting for a U.N. peacekeeping mission. These provisions unconstitutionally constrain my diplomatic authority and my authority as Commander in Chief, and I will apply them consistent with my constitutional responsibilities." *Statement on Signing the Omnibus Consolidated and Emergency Supplemental Appropriations Act* (Oct. 23, 1998).
- Clinton: "I also oppose language in the Act related to the Kyoto Protocol. . . . My Administration's objections to these and other language provisions have been made clear in previous statements of Administration policy. I direct the agencies to construe these provisions to be consistent with the President's constitutional prerogatives and responsibilities and where such a construction is not possible, to treat them as not interfering with those prerogatives and responsibilities." *Statement on Signing the Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act* (Dec. 21, 2000).
- Carter: Congress "cannot mandate the establishment of consular relations at a time and place unacceptable to the President." *Statement on Signing the FY 1980-81 Department of State Appropriations Act*, *see* 2 Pub. Papers of Jimmy Carter 1434 (1979).
- Nixon: Mansfield Amendment setting a final date for the withdrawal of U.S. Forces from Indochina was "without binding force or effect." Pub. Papers of Richard Nixon 1114 (1971).
- Truman: "I do not regard this provision [involving loans to Spain] as a directive, which would be unconstitutional, but instead as an authorization, in addition to the authority already in existence under which loans to Spain may be made." *Statement on Signing*

DOJ_NMG_ 0160514

the General Appropriations Act of 1951, Pub. Papers of Harry S. Truman 616 (1950).

- Wilson: Expressed an intention not to enforce a provision on the grounds it was unconstitutional because doing so "would amount to nothing less than the breach or violation" of some thirty-two treaties. Louis Fisher, *Constitutional Conflicts between Congress and the President* 134 (4th ed. 1997).

DOJ_NMG_ 0160515

[redacted]@ca9.uscourts.gov

From: [redacted]@ca9.uscourts.gov
Sent: Wednesday, May 24, 2006 4:46 PM
To: Gorsuch, Neil M
Cc: [redacted]@ca9.uscourts.gov; [redacted]@ca9.uscourts.gov
Subject: RE: DOJ Review
Attachments: tmp.htm

Neil,

Do you think it might be possible for someone from DOJ and possibly EOIR and / or BIA to meet with the Circuit Judges at their business meeting at the Ninth Circuit Judicial Conference in Huntington Beach, CA?
Preferable date would be Monday, July 10, 2006 at about 1:00 p.m. or so.
Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted]

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Thanks.

[redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, May 24, 2006 5:00 PM
To:	Elwood, Courtney; Otis, Lee L; Swenson, Lily F; Jezierski, Crystal; McCallum, Robert (SMO)
Subject:	FW: DOJ Review
Attachments:	tmp.htm

What think you of this request? As we discussed, we need a sound roll out program to get "buy in" from affected constituencies. If we're in a position to talk by July 10, this seems to me to be as important a constituency as any to meet with. Of course, if we're not ready for prime time, this isn't the stage to start on.

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If we should direct this to someone else, please holler.

Thanks.

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 5:02 PM
To: [redacted]@ca9.uscourts.gov'
Subject: RE: DOJ Review

[redacted] Thanks for your request. I don't know whether we will be in a position to make a presentation by then, but I will make sure this gets fully considered and will be in touch. NMG

-----Original Message-----
From: [redacted]@ca9.uscourts.gov [mailto [redacted]@ca9.uscourts.gov]
Sent: Wednesday, May 24, 2006 4:46 PM
To: Gorsuch, Neil M
Cc [redacted]@ca9.uscourts.gov; [redacted]@ca9.uscourts.gov
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If we should direct this to someone else, please holler.

Thanks.

[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 5:22 PM
To: Gorsuch, Neil M; Elwood, Courtney; Otis, Lee L; Swenson, Lily F; Jezierski, Crystal
Subject: RE: DOJ Review

It seems to me that even if we aren't ready for a roll out, we could describe the work done, some of the results, all the while omitting the likely proposals, and get a foundation laid in terms of personal relationships that could help us on getting their buy in to our proposals. I think that we should not miss this opportunity to be responsive to and interface with the 9th Cir if possible. The issue would be who to send and the answer may depend on where we are in terms of a roll out. I am not sure that we want folks from the BIA or EOIR to be the attendees as much as front office leadership at DOJ. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 5:00 PM
To: Elwood, Courtney; Otis, Lee L; Swenson, Lily F; Jezierski, Crystal; McCallum, Robert (SMO)
Subject: FW: DOJ Review

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Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted]

Eisenberg, John

From: Eisenberg, John
Sent: Wednesday, May 24, 2006 6:24 PM
To: Gorsuch, Neil M

Did you get what you need (and then some)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 6:24 PM
To: Eisenberg, John
Subject: RE:

Digesting now, but plenty for this evening for sure! Thanks!

From: Eisenberg, John
Sent: Wednesday, May 24, 2006 6:24 PM
To: Gorsuch, Neil M
Subject:

Did you get what you need (and then some)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 6:44 PM
To: McKeown, Matt (ENRD)
Subject: Thanks

Thanks for your vm! Tomorrow mid-morning is fine; please don't burn any midnight oil! Like the $9.6B - what does that cover exactly and for what period?

McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Wednesday, May 24, 2006 6:59 PM
To: Gorsuch, Neil M
Subject: Re: Thanks

We will get you something by mid-morning that explains that number--including examples. We will also provide a blurb on the recent convictions in the Atlantic States criminal case.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McKeown, Matt (ENRD) <MMcKeown2@ENRD.USDOJ.GOV>
Sent: Wed May 24 18:44:14 2006
Subject: Thanks

Thanks for your vm! Tomorrow mid-morning is fine; please don't burn any midnight oil! Like the $9.6B - what does that cover exactly and for what period?

Oldham, Jeffrey L

From: Oldham, Jeffrey L
Sent: Wednesday, May 24, 2006 7:50 PM
To: Gorsuch, Neil M
Subject: Fw: Kentucky Project Safe Childhood

I told Natalie to hold off on inviting others for now. Can you pls let her (and I) know when Robert confirms his plans as to this event?

The "red flags" Natalie refers to are just the issues I mentioned in my email last night--ethics questions regarding what USAs can do in the way of accepting donations of equipment and CD-ROMs, and in supporting state or federal statutory or rules changes. Also, we are developing a national PSC logo and so we are discouraging them from creating a KY PSC logo. None of those issues, in my view, should affect Robert's decision because they relate more to long-term PSC issues and less to the roll-out event (which sounds excellent). But I mention them so you are fully aware.

If you have any questions about these issues, Monica has been talking to Natalie about them, and Mark Epley in ODAG is working on the logo issue.

Thx,
Jeff

-----Original Message-----
From: Voris, Natalie (USAEO)
To: Epley, Mark D; Oldham, Jeffrey L
Sent: Wed May 24 19:04:55 2006
Subject: RE: Kentucky Project Safe Childhood

Thanks, Jeff. I relayed our concerns to Amul this evening. His [redacted] so he has been out of the office over the past few days. If Kentucky is able to address all the red flags, then how should we go about inviting a senior DoJ official? I know we've talked about inviting Alice, but I don't know that anyone has formally invited her on behalf of the USAO.

Thanks,
nv

-----Original Message-----
From: Oldham, Jeffrey L
Sent: Friday, May 19, 2006 4:34 PM
To: Goodling, Monica; Voris, Natalie (USAEO)
Cc: Epley, Mark D
Subject: RE: Kentucky Project Safe Childhood

Natalie,

Wanted to give you a heads up that the AG won't be able to do this event. But Mark's suggestion to

wanted to give you a heads up that the AG won't be able to do this event. But Mark's suggestion to have Alice there (a native Kentuckian) seems good. Also cc'ing Mark Epley in case there is any ODAG interest.

Jeff

-----Original Message-----
From: Voris, Natalie (USAEO)
Sent: Thursday, May 18, 2006 3:55 PM
To: Oldham, Jeffrey L; Goodling, Monica
Subject: Kentucky Project Safe Childhood

Monica and Jeff,
I received this message from ED/KY earlier this afternoon. I don't understand if they are seeking our guidance on the CD - perhaps you two have some insight on this? Also, I wanted to see if there were plans to send a senior DoJ official to the press event in June. Thanks for your assistance on this.

nv

From: Wohlander, Mark
Sent: Thursday, May 18, 2006 2:20 PM
To: Voris, Natalie (USAEO)
Cc: Thapar, Amul (USAKYE)
Subject: Project Safe Childhood Kentucky

Natalie,
It was great to see the launch of the national initiative on Project Safe Childhood yesterday. I received a copy of the booklet this morning. You folks have done an outstanding job with the initiative. Although I realize you are likely very busy preparing for August, I was hoping I could take a walk over to Main Justice in the next couple of days and talk with you about a couple of our proposals. As you saw from my earlier email, we have an offer on the table from Director [redacted] of the Rural Law Enforcement Technology Center to assist us with training and some equipment in support of Project Safe Childhood. Director [redacted] would also like to see what we can do to produce a best practices CD-Rom for distribution to rural law enforcement agencies around the country. I would love to see if we could utilize his generous offer and get several experienced prosecutors and law enforcement officers together to put together a highly professional CD. This would be a fantastic way to better partner with the growing number of small departments that are beginning to put together child exploitation initiatives.
On another note, I am certain you have seen the Kentucky headlines regarding the indictment of Governor Fletcher on misdemeanor charges related to a very political investigation by the Democrat Attorney General. I am certain this is a consideration for Attorney General Gonzales as it relates to our proposed press conference on June 12th. With that said, even if Attorney General Gonzales is unable to attend we would still like to have someone from the Department of Justice at the press conference. Possibly Alice Fisher would agree to attend, especially since she is from Louisville, Kentucky. We are meeting with Lt. Gov. Pence on Friday May 26, 2006, to finalize plans for the conference. As such, I would really appreciate knowing whether we might be able to count on someone from DOJ to attend. As someone who has been involved in the issue for a very long time as both a former FBI special agent and as a federal prosecutor, I want to leverage the momentum that appears to be growing in support of child exploitation matters.
I look forward to having an opportunity to meet with you. Thanks in advance for all you have done and everything I know you will be doing in the future.

Mark Wohlander
202-353-7408
P.S. I have attached a preliminary drawing of one of the proposed logos for Kentucky Project Safe Childhood.

> _____
> From: Wohlander, Mark (USAKYE)
> Sent: Thursday, May 11, 2006 12:28 PM
> To: Voris, Natalie (USAEO)
> Cc: Thapar, Amul (USAKYE); Huber, David L. (USAKYW); Zerhusen, Jim (USAKYE); Ford, Marisa (USAKYW); Murphy, Mike; Lawless, Jo (USAKYW); Catron, Frances (USAKYE)
> Subject: Kentucky Project Safe Childhood
>
> Kentucky Project Safe Childhood Press Conference, June 12, 2006
>
> Natalie,
>
> Mr. Thapar asked me to forward to you some details of our
> proposed launch of Kentucky> '> s Project Safe Childhood initiative.
> As such, I have put together some general themes for the proposed
> press conference. Although the press conference is tentatively
> scheduled for June 12, 2006, the date is not set in stone. As I am
> certain you understand, there are still a large number of details
> which must be worked out. However, the most important aspect of the
> event is getting a firm date on the calendar.>
>
> I wanted you to know that the reason Kentucky will be able to roll out our initiative so quickly is based on the history of law enforcement in Kentucky. As a mostly rural state, we have traditionally worked in partnership with members of the law enforcement community. The relationship encompasses the United States Attorneys Offices in the Eastern and Western Districts, our federal law enforcement partners, the Kentucky State Police, and other state and local law enforcement agencies and prosecutors.
>
> Approximately 3 years ago, those of us who are involved in investigating and prosecuting child exploitation matters, realized the need to better coordinate investigations involving the exploitation of children. As a result, the Kentucky State Police agreed to apply for a grant to establish an Internet Crimes Against Children Task Force. Immediately upon receiving the grant, our statewide initiative was implemented to better prepare to investigate and prosecute those involved in the exploitation of children. In June of 2004, Kentucky hosted its first annual statewide Crimes Against Children training conference in Richmond, Kentucky. The conference was attended by state and federal prosecutors, law enforcement, child advocates, and victim specialists from around the state. The conference focused on bringing a multi-disciplinary approach to cases involving the exploitation of children. As this is being written, we are already preparing for a 3rd conference to be held in Louisville, Kentucky in January of 2007 which will be co-hosted within conjunction with the National Law Center for Children and Families. The third conference will include discussions on the relationship between obscenity and child sexual exploitation, internet forensics, trafficking signs, on-line enticement, zoning regulations, nuisance law and local sex offender regulations, and various other topics to prepare law enforcement and prosecutors to more aggressively address issues involving the exploitation of children.
>
> As a result of Attorney General Gonzales> '> announcement of Project Safe Childhood initiative, we held a planning session involving representatives from the various law enforcement entities

we held a planning session involving representatives from the various law enforcement entities involved in keeping Kentucky children safe. A proposal was circulated among the attendees for a proposed launch of Kentucky's Project Safe Childhood initiative at a press conference on June 12, 2006 in the rotunda of the state capitol building in Frankfort, Kentucky. The agenda for the press conference would be as follows:

>

> 1) We anticipate a proclamation by Governor Ernie Fletcher declaring Kentucky a Project Safe Childhood state. We anticipate Governor Fletcher (or Lt. Gov. Steve Pence) will highlight the passage of HB3 which provides stronger penalties for possession of child pornography and stronger penalties for registered sex offenders who fail to comply with registration requirements.

>

> 2) We anticipate an announcement by Lt. Gov. Stephen Pence regarding a continuation of his legislative task force to continue to revise Kentucky laws to respond to the explosion of cases involving the exploitation of Kentucky> '> s children and children around the world. The legislative task force will review the Criminal Rules of Procedure and Kentucky Revised Statutes. The legislative task force will consider both criminal and civil remedies. For example, the legislative task force will consider proposing the addition of Rules 414 and 414 of the Federal Rules of Evidence which allows for the introduction of similar crimes in both criminal and civil child molestation cases; the addition of a Kentucky Revised Statute similar to 18 U.S.C. § 2255 which provides a civil remedy for child victims; mandatory restitution similar to § 2259; and increased penalties for other crimes against children.

>

> 3) We anticipate an announcement from [redacted] Kentucky State Police regarding specialized training for post detectives and state officers in matters involving the sexual exploitation of children. Announcement of the formation and training of regional Missing Child Rapid Response Teams (training will be coordinated at the earliest dates available through Fox Valley Technical College). Training and certification of additional state and local officers in computer forensics. Announcement of 3rd annual statewide Crimes Against Children training conference (the conference will be held in Louisville, Kentucky in January of 2007; the National Law Center for Children and Families will be co-hosting the conference).

>

> 4) We anticipate an announcement from our federal law enforcement partners including the Federal Bureau of Investigation, United States Postal Inspection Service, United States Secret Service, United States Immigration Enforcement and the United States Marshal> '> s Service regarding a joint partnership to better coordinate matters involving the exploitation of children. (We would also like to highlight the Regional Computer Forensic Laboratory which will be housed at the University of Louisville; the United States Attorney's Office for the Western District of Kentucky and the FBI Office in Louisville have spearheaded this effort to bring much needed computer forensic resources to Kentucky).

>

> 5) We anticipate an announcement from Director [redacted] of the Rural Law Enforcement Technology Center to provide funding for both training and equipment for Project Safe Childhood Kentucky. Anticipate Director [redacted] providing equipment to implement the National Center For Missing and Exploited Children> '> s > "> LOCATER> "> resource (Lost Child Alert Technology). Anticipate Director [redacted] will announce that the Rural Law Enforcement Technology Center in Hazard, Kentucky will open up its training facility for various regional training events to better prepare rural law enforcement agencies to respond to child exploitation matters. Director [redacted] will announce a project to prepare a best practices CD-Rom for rural law enforcement agencies to better respond to child exploitation matters.

>

> 6) In addition to the above general announcements, we anticipate unveiling a special logo for Kentucky Project Safe Childhood (the logo is being designed and donated to the state by a forensic

artist from the FBI> '> s Structural Design Unit).
>
> 7) We anticipate inviting a representatives the following organizations to join us at the press conference:
> A) A representative from the National Center from Missing and Exploited Children (possibly [redacted] who is from Kentucky).
> B) A representative from the National Law Center for Children and Families (most likely [redacted] executive Director and Senior Counsel).
> C) A representative from ikeepsafe.org to emphasize education of children and parents in issues relating to internet safety (First Lady Laura Bush just did the voice over for the a new cartoon on internet safety for children; we hope to have a representative from ikeepsafe.org join us later this year during America> '> s Safe Schools week as we present a statewide pledge for internet safety).
> D) A representative from the Kentucky Sheriff> '> s Association and Kentucky Chief> '> s of Police Association to show support for Project Safe Childhood Kentucky.
> E) A representative from the Kentucky Center for School Safety (the KCSS has partnered with isafe.org which provides the educational curriculum to Kentucky schools on internet safety).
>
> Although we realize the implementation of many of our proposals will
> require a long term commitment from all of our partners, those of us
> involved in the daily battle against the exploitation of our greatest
> resource, our children, are willing to do whatever is necessary to
> protect our children. >
>
> If you need additional information, please feel free to contact me at (859) 338-5883, or leave a message for me at (859) 233-2661, ext. 126. Also, I am currently on detail to the Obscenity Prosecution Task Force in Washington, D.C. I have an office in the Bond Building and my office number is (202) 353-7408. Finally, if you need to respond by email, please ensure that a copy is sent to both Mark.Wohlander@usdoj.gov and Mark.Wohlander2@usdoj.gov.
>
> Respectfully,
>
> Mark A. Wohlander
> Eastern District of Kentucky
<<Kids-in-school-modified.JPG>>

Karan_Bhatia@ustr.eop.gov

From: Karan_Bhatia@ustr.eop.gov
Sent: Thursday, May 25, 2006 5:24 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment? [redacted] Thanks!

Neil - I'd be delighted to attest on your behalf. Please do list me. And I will tell my office to make sure they track me down on the road if [redacted] or whoever it is) calls. Best - K.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Wed May 24 21:11:34 2006
Subject: RE: Could you give me a ring when you have a moment? [redacted] Thanks!

Karan, I actually had a personal favor I'm slightly embarrassed to ask. The ABA is performing its investigation of me and apparently will ask for a list of references who can attest to my abilities, character, and temperament. Given that one of those leading the review of me is your [redacted] I was hoping I might include you on the list. But I wanted also to make perfectly clear that you need not feel the slightest obligation. No is a perfectly fine answer, and I hate even to have to ask (esp. by e-mail, but the process seems to be moving ahead). I do hope we can catch up for a lunch or some such; when you return perhaps pass along a date or two that might work? Warm regards, NMG

-----Original Message-----
From: Karan_Bhatia@ustr.eop.gov [mailto:Karan_Bhatia@ustr.eop.gov]
Sent: Wednesday, May 24, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment? [redacted] Thanks!

Neil - apologies ... didn't get your email until [redacted] Will try to give you a buzz from here. If we miss each other, know that I will have email access (which is more secure than open lines anyway). Best - K.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Tue May 23 10:13:22 2006
Subject: Could you give me a ring when you have a moment? 305-1434. Thanks!

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW

Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Thursday, May 25, 2006 5:43 AM
To:	Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
Cc:	Gorsuch, Neil M
Subject:	Fw: June 14, 2006 A Day in Kentucky!

FYI re Proj Safe Childhood matter in Kentucky. Will circle back with Jeff when I get to DOJ around noon after meeting at For Ser Inst. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
To: McCallum, Robert (SMO)
Sent: Wed May 24 18:47:22 2006
Subject: RE: June 14, 2006 A Day in Kentucky!

Robert,

Can I get back with you tomorrow? I really appreciate the responsiveness, and I really want you to participate; your schedule placing you in Kentucky is a gift from God. but now Natalie Voris (sp?) Someone from the AG's staff has some questions for our USA before scheduling any appearances. The questions concern the press conference, the AG and the Kentucky Governor's level of participation. Seems the AG himself, may (or may not but no decision) want to use Kentucky as a platform.

But our Governor seems to have got himself indicted on some state misdemeanor hiring practices violations. So I am speculating that some power some where in the AG's office is trying to decide whether Kentucky state government is a good thing or a not so good thing to be on a podium with. I hate to put you off, particularly since I extended the invite, but I'm being put off right now. I admit I assumed that your office knew what was going on. I should have told you right away.
You know what assuming will do. I really don't know the issue and I don't think it is a big one. But until I get a yea or nay from the AG's staff, I'm in a holding pattern on any final scheduling. I am sorry if this messes up your scheduling. Frances Catron

----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 6:03 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Things are looking like a go for me to participate. I will have the airlines alternatives tomorrow. What time would be best for you and exactly where: i.e. travel time to or from the speech location? Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 6:40 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Frances: Let me get back to you on it in the next day or so as I determine my schedule for that day. I am currently thinking of flying down that morning and so it depends on flight times. However, I am likely to be able to do it before or immediately after the remarks which are scheduled for 12:45. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
Sent: Monday, May 22, 2006 2:26 PM
To: McCallum, Robert (SMO)
Subject: June 14, 2006 A Day in Kentucky!

Dear Robert:

Looking forward to having you in Kentucky at the Bar Convention on June 14th. My district, in conjunction with USA David Huber in the Western District of Kentucky, is looking to roll out the Kentucky Project Safe Childhood effort with the Kentucky Internet Crimes Against Children Task Force and our state law enforcement partners that same week. We were looking at Monday or Tuesday but having you in the state on Wednesday the 14th presents a great opportunity.

Is there any time in your schedule either earlier in the day on the 14th, or that same afternoon after your speech to the Bar, to join us for a press conference to make the Kentucky Project Safe Childhood announcement? I am sure we would be very willing to accommodate your schedule to be able to have you representing the Department for this national priority program. The plans call for presentation in the Kentucky Capitol Rotunda with state, regional and local press, the Kentucky Lieutenant Governor Steve Pence (a former U.S. Attorney by the way), the U.S. Attorneys from Kentucky, Mr. Thapar and Mr. Huber, and the various federal and state law enforcement partners participating in Project Safe Childhood.

I know this is a shot in the dark, but hey, if you don't ask, the answer is a forgone conclusion! Mark Wohlander of our office is on a detail in D.C. right now and I know he has been trying to get a contact into Alice Fisher's office. While we would be pleased to have our native daughter return to Kentucky, I shared with Mark that maybe we could set our sights a bit higher! I appreciate your consideration of the request. Frances Catron, ED of Kentucky.

Oldham, Jeffrey L

From: Oldham, Jeffrey L
Sent: Thursday, May 25, 2006 7:45 AM
To: McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Goodling, Monica
Cc: Gorsuch, Neil M
Subject: Re: June 14, 2006 A Day in Kentucky!

Robert,

I am not sure where this confusion came from--we already told EOUSA the AG would not participate in this. I am including Monica, who talked to Natalie yesterday about the event. I am leaving town at noon today, so perhaps it's best if you and Monica can catch up when you get back to DOJ. In the meantime Monica or I will clarify the confusion on this with EOUSA and EDKY. Sorry about the mix-up.

Jeff

-----Original Message-----
From: McCallum, Robert (SMO)
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
CC: Gorsuch, Neil M
Sent: Thu May 25 05:42:35 2006
Subject: Fw: June 14, 2006 A Day in Kentucky!

FYI re Proj Safe Childhood matter in Kentucky. Will circle back with Jeff when I get to DOJ around noon after meeting at For Ser Inst. Robt.

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To: McCallum, Robert (SMO)
Sent: Wed May 24 18:47:22 2006
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But our Governor seems to have got himself indicted on some state misdemeanor hiring practices violations. So I am speculating that some power some where in the AG's office is trying to decide whether Kentucky state government is a good thing or a not so good thing to be on a podium with. I hate to put you off, particularly since I extended the invite, but I'm being put off right now. I admit I assumed that your office knew what was going on. I should have told you right away.

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I know this is a shot in the dark, but hey, if you don't ask, the answer is a forgone conclusion! Mark Wohlander of our office is on a detail in D.C. right now and I know he has been trying to get a contact into Alice Fisher's office. While we would be pleased to have our native daughter return to Kentucky, I shared with Mark that maybe we could set our sights a bit higher! I appreciate your consideration of the request. Frances Catron, ED of Kentucky.

Sours, Raquel

From: Sours, Raquel
Sent: Thursday, May 25, 2006 7:52 AM
To: McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Gorsuch, Neil M; McNulty, Paul J; Elston, Michael (ODAG); Goodling, Monica; Jezierski, Crystal
Cc: Beach, Andrew
Subject: CANCELED: Senior Management Meeting
Importance: High

Today's SMM is canceled

Subject: Senior Management Meeting

Start: Thur 5/25/2006 8:30 AM
End: Thur 5/25/2006 9:00 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Meeting organizer

Required Attendees:

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 8:03 AM
To: 'Karan_Bhatia@ustr.eop.gov'
Subject: RE: Could you give me a ring when you have a moment? [redacted] Thanks!

Thanks so very much, Karan. I hated to ask.

-----Original Message-----
From: Karan_Bhatia@ustr.eop.gov [mailto:Karan_Bhatia@ustr.eop.gov]
Sent: Thursday, May 25, 2006 5:24 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment [redacted] Thanks!

Neil - I'd be delighted to attest on your behalf. Please do list me. And I will tell my office to make sure they track me down on the road if [redacted] (or whoever it is) calls. Best - K.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Wed May 24 21:11:34 2006
Subject: RE: Could you give me a ring when you have a moment? 305-1434. Thanks!

Karan, I actually had a personal favor I'm slightly embarrassed to ask. The ABA is performing its investigation of me and apparently will ask for a list of references who can attest to my abilities, character, and temperament. Given that one of those leading the review of me is your [redacted] I was hoping I might include you on the list. But I wanted also to make perfectly clear that you need not feel the slightest obligation. No is a perfectly fine answer, and I hate even to have to ask (esp. by e-mail, but the process seems to be moving ahead). I do hope we can catch up for a lunch or some such; when you return perhaps pass along a date or two that might work? Warm regards, NMG

-----Original Message-----
From: Karan_Bhatia@ustr.eop.gov [mailto:Karan_Bhatia@ustr.eop.gov]
Sent: Wednesday, May 24, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: Re: Could you give me a ring when you have a moment? 305-1434. Thanks!

Neil - apologies ... didn't get your email until [redacted] Will try to give you a buzz from here. If we miss each other, know that I will have email access (which is more secure than open lines anyway). Best - K.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov

From: Neil.Gorsuch@usdoj.gov
To: Bhatia, Karan K.
Sent: Tue May 23 10:13:22 2006
Subject: Could you give me a ring when you have a moment? 305-1434. Thanks!

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Full Name: Debra Yang
Last Name: Yang
First Name: Debra

Business Address: Courthouse 312 North Spring Street
Los Angeles, CA 90012

Business: 213-894-2363

E-mail: Debra.Yang@usdoj.gov
E-mail Display As: Debra.Yang@usdoj.gov

DOJ_NMG_ 0160541

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 8:16 AM
To: '[redacted]@alum.emory.edu'
Subject: Do you have [redacted] and [redacted]'s phone nos?

Much love, N

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 8:16 AM
To: [redacted]@firstdatacorp.com'
Subject: FW: Do you have [redacted] and [redacted]'s phone nos?

Or do you?

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 8:16 AM
To: [redacted]@alum.emory.edu'
Subject: Do you have [redacted] and [redacted]'s phone nos?

Much love, N

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 8:21 AM
To: [redacted]@tac-denver.com'
Subject: RE: Please call [redacted]

[redacted] Do you have a contact no. for [redacted]? Many thanks! Neil

-----Original Message-----
From [redacted]@tac-denver.com [mailto [redacted]@tac-denver.com]
Sent: Monday, May 15, 2006 6:56 PM
To: Gorsuch, Neil M
Subject: Please call [redacted]

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:11 AM
To: Cook, Elisebeth C
Subject: ABA
Attachments: ABA letter.doc; ABA2.doc

Beth, I wound up speaking to [redacted] and [redacted] yesterday evening. I can give you a full down load of those discussions, if you'd like, at your convenience. In response those conversations, I'd like to send the attached letter and list of references (somewhat revised since we spoke) along with the writing samples we discussed yesterday. If you have any thoughts about the letter or list, though, please do let me know. As always, many thanks. NMG

May __, 2006

[redacted]
Parsons Behle & Latimer
201 South Main Street
Suite 1800
Salt Lake City, UT 84111

[redacted]
Wilmer Hale
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear [redacted] and [redacted]:

Thank you very much for your guidance the other day and for taking the time out of your practices to review my nomination. Pursuant to your request, I am sending along some samples of my writing, including: (1) a brief responding to post-trial motions for a new trial, judgment as a matter of law, and remittitur in the *Columbia Hospital* litigation; (2) a Supreme Court amicus brief from the *Devlin* matter; (3) a Delaware Chancery Court brief in *Regal* opposing a motion for preliminary injunction in a shareholder derivate suit; (4) an appellate brief from the *Conwood* case; (5) a brief from an appeal I picked up and wrote last year at DOJ; and (6) a Wisconsin Law Review article.

Of course, these are just samples; if you'd like additional materials please just let me know. Also, the briefs from my days in private practice naturally reflect not just my work but also the thoughts and efforts of valued colleagues and clients. In selecting the enclosed briefs, I do not mean to diminish these contributions in any way. I have tried, however, to pick briefs where I was the primary author. I tried the *Columbia Hospital* case, was counsel of record in *Devlin*, coordinated the defense and argued together with local counsel in *Regal*, and was counsel of record in *Wei*. The *Conwood* brief was a particularly expansive team effort because so much was at stake in that litigation. I include it, however, because it also represents so many hours of my own sweat and toil over such a long period.

Separately and as we discussed, I am enclosing a list of references. Some are personal references, as [redacted] suggested, while others are fellow lawyers and clients

the Senate questionnaire did not capture. I've tried to select something of a cross-section of people from different parts of my life and located in different parts of the country. To address [redacted]'s specific request, I've noted Coloradans with an asterisk. Once again, however, this list is only representative; if you wish additional names, I'd be happy to supply them.

Very many thanks again for taking the time to speak with me, and for agreeing to review my nomination. If you have any questions of me as your work continues, my direct dial number at the office is 202-305-1434.

Warm regards,

Neil M. Gorsuch

Enclosures

DOJ

John Cruden, Deputy Assistant Attorney General, Environment & Natural Resources Division; President of the DC Bar, [redacted]

Alice Fisher, Assistant Attorney General, Criminal Division (also someone whom I litigated with in private practice and known for many years), [redacted]

Alberto Gonzales, Attorney General, [redacted]

Greg Katsas, Deputy Assistant Attorney General for the Civil Division, Appellate, [redacted]

Wan Kim, Assistant Attorney General, Civil Rights, [redacted]

Robert McCallum, Associate Attorney General, [redacted]

Steve Murphy, US Attorney, Eastern District of Michigan, [redacted]

Luis Reyes, former Deputy Associate Attorney General; currently Special Assistant to the President, [redacted]

Kyle Sampson, Chief of Staff to the Attorney General, [redacted]

Lily Fu Swenson, Deputy Associate Attorney General; former partner, Mayer Brown, [redacted]

Clients

[redacted]

Other people familiar with me professionally or personally:

[redacted]

DOJ_NMG_ 0160548

Judges

Something of a sample of judges in front of whom I've appeared or who know me well:

Anna Blackburne-Rigsby, DC Superior Court,
Jeb Boasberg, DC Superior Court, or
Caroline Craven, Magistrate Judge, US District Court, Eastern District of Texas,
Douglas Ginsburg, US Court of Appeals, DC Circuit, or
Paul Peatross, Circuit Judge, Virginia,
Thomas Russell, US District Court, Western District of Kentucky,
David Sentelle, US Court of Appeals, DC Circuit,

Legal Academics

A sample that includes people who have reviewed my written work (including for publication decisions and book cover blurbs) or who know me personally, or both:

DOJ_NMG_ 0160550

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:11 AM
To: Goodling, Monica
Subject: RE: Steelers Fans Unite! (And the Morning Update: 5/25/06)

Egad. Go Broncos.

From: Goodling, Monica
Sent: Thursday, May 25, 2006 8:46 AM
To: Goodling, Monica
Cc: Washington, Tracy T
Subject: Steelers Fans Unite! (And the Morning Update: 5/25/06)

Next Friday, June 2, the President will welcome the Pittsburgh Steelers to the White House. For those of you who hail from the Commonwealth of Pennsylvania (like the DAG and I do!) or who are otherwise fans of the Steelers, please let me know if you are interested in attending and how many guests you would like to bring by 3 p.m. today (please cc Tracy Washington with your request). We will have a limited number of tickets, but will try to accommodate as many requests as possible.
Best, Monica

****

<http://www.whitehouse.gov/>
MAY 25, 2006

This morning, President Bush will make remarks at the Change of Command Ceremony for the Commandant of the United States Coast Guard. In the evening, the President will participate in a greeting with Prime Minister Tony Blair of the United Kingdom. President Bush will later participate in a joint press availability with the Prime Minister.

11:00 am EDT

THE PRESIDENT makes Remarks at the Change of Command Ceremony for the Commandant of the United States Coast Guard
Fort Lesley J. McNair | Washington, DC

5:50 pm EDT

THE PRESIDENT participates in a Greeting with the Prime Minister of the United Kingdom
The White House | Washington, DC

7:30 pm EDT

THE PRESIDENT participates in a Joint Press Availability with the Prime Minister of the United Kingdom
The White House | Washington, DC

President Bush Discusses The Advanced Energy Initiative. "President Bush promoted nuclear power Wednesday as part of his answer to energy and environmental problems as more companies consider taking advantage of government incentives to build the nation's first new nuclear plant in decades. ... 'Nuclear power helps us protect the environment. And nuclear power is safe,' he said to loud applause from workers at the Limerick Generating Station, about 40 miles from Philadelphia. He added: 'For the sake of economic security and national security, the United States must aggressively move forward with construction of nuclear power plants. <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/24/AR2006052402072.html> ' <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/24/AR2006052402072.html> " (Peter Baker and Steven Mufson, "Bush Calls For New Nuclear Plants," The Washington Post, 5/25/06)

Secretary Of State Condoleezza Rice Discusses Progress In Iraq. SEC. RICE: "I certainly see that the Iraqis have now developed a political process and a political system that means that Iraqis are going to be in control of their future. ... I see a very big change in the way that we have to support them. Now, we've been through interim governments, and transitional governments, and provision governments, and now they finally have a permanent government." (Fox News' "Hannity And Colmes," 5/24/06)

Deputy Attorney General Paul McNulty Says Justice Department Has "Strong Record Of Success In The War On Terrorism." "Deputy Attorney General Paul J. McNulty yesterday said the Justice Department, in the wake of the September 11 attacks, has harnessed its full resources here and abroad to 'prevent such destruction and devastation from happening again. ... The Department of Justice has developed a strong record of success in the war on terrorism. Our prosecutions have run the gamut and affirmed that the fight against terrorism is the department's highest priority,' Mr. McNulty said during a speech at the American Enterprise Institute in Washington. 'We have prosecuted and convicted violent terrorists; supporters and financiers of terrorism; and persons who came to our shores and used our freedoms to advance terrorist causes <http://www.washingtontimes.com/functions/print.php?StoryID=20060524-114710-9221r> .'" (Jerry Serper, "Terror War Justice's 'Highest Priority,'" The Washington Times, 5/25/06)

First Wave Of National Guard Troops To Be Deployed To Border Next Week. "The first wave of about 800 National Guard soldiers will head to the U.S-Mexico border next week, including planners and leadership personnel who will stay longer than the planned 21-day missions, the National Guard chief told lawmakers Wednesday. ... The troops represent the launch of President Bush's plan to dispatch up to 6,000 National Guard members to states bordering Mexico to support the Border Patrol and help stem the flow of illegal immigrants across the border. <http://news.yahoo.com/s/ap/20060524/ap_on_go_ot/immigration_national_guard&printer=1;_ylt=AmsfSxLjXIBqAt1CNtaM2vx2wPIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> " (Lolita C. Baldor, "National Guard To Head To The Border," The Associated Press, 5/24/06)

President Bush's Immigration Reform Plan "Devoted To Action." WHITE

HOUSE PRESS SECRETARY TONY SNOW: "The President is trying to get the resources to the border. Rather than sitting around and having the extended debate - and this is what I like about the plan - it's devoted to action <http://transcripts.cnn.com/TRANSCRIPTS/0605/24/ldt.01.html> . He's already put in the budget request. He wants Congress to act. Pretty soon that's going to happen so that they can get started. ... There are going to be some places where it's just flat impassable - you don't need fences. There are road sensors, surveillance techniques we'll do. And in some places where maybe folks are going to move away from fences but toward other areas, you're going to need to beef up your Border Patrol presence. The real stress point here for the President is, put the appropriate resources in the appropriate places." (CNN's "Lou Dobbs Tonight," 5/24/06)

President Bush Names Karl Zinsmeister Chief Domestic Policy Adviser. "President Bush on Wednesday named Karl Zinsmeister, the founding editor of The American Enterprise magazine, as his chief domestic policy adviser. ... 'He's probably exactly what the White House needs, which is fresh blood and an endless supply of ideas,' said Kevin A. Hassett, a colleague of Mr. Zinsmeister's and the director of economic policy studies at the American Enterprise Institute, a conservative policy group. ... In a statement released by the White House, Mr. Bush called Mr. Zinsmeister 'an innovative thinker' and said he would lead the White House domestic policy team 'with energy and a fresh perspective.' <http://www.nytimes.com/2006/05/25/washington/25adviser.html?_r=1&oref=slogin> " (Elisabeth Bumiller, "Bush Names Chief Domestic Adviser," The New York Times, 5/25/06)

President Discusses Energy During Visit to Nuclear Generating Station in Pennsylvania
<http://www.whitehouse.gov/news/releases/2006/05/20060524-5.html>

* Fact Sheet: The Advanced Energy Initiative: Ensuring A Clean, Secure Energy Future
<http://www.whitehouse.gov/news/releases/2006/05/20060524-4.html>

* Advanced Energy Initiative
<http://www.whitehouse.gov/stateoftheunion/2006/energy/>

* In Focus: Energy <http://www.whitehouse.gov/infocus/energy/>

President Attends Pennsylvania Congressional Victory Committee Dinner
<http://www.whitehouse.gov/news/releases/2006/05/20060524-9.html>

President Bush to Welcome Prime Minister Junichiro Koizumi of Japan
<http://www.whitehouse.gov/news/releases/2006/05/20060524-1.html>

President Announces Karl Zinsmeister as Domestic Policy Advisor
<http://www.whitehouse.gov/news/releases/2006/05/20060524.html>

National Homeownership Month, 2006
<http://www.whitehouse.gov/news/releases/2006/05/20060524-6.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/05/20060524-2.html>

Israeli Prime Minister Visit Discussed on "Ask the White House"
<http://www.whitehouse.gov/ask/20060524.html>

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting - CANCELLED FOR MONDAY, MAY 29
Location:	Room 5228
Start:	Monday, May 29, 2006 4:00 PM
End:	Monday, May 29, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); McIntosh, Brent
Optional Attendees:	Reyes, Luis (SMO)

When: Monday, May 29, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, May 25, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: RE: ABA

Would love a full download. Let me know if you have a few minutes this afternoon.

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:11 AM
To: Cook, Elisebeth C
Subject: ABA

Beth, I wound up speaking to [redacted] and [redacted] yesterday evening. I can give you a full down load of those discussions, if you'd like, at your convenience. In response those conversations, I'd like to send the attached letter and list of references (somewhat revised since we spoke) along with the writing samples we discussed yesterday. If you have any thoughts about the letter or list, though, please do let me know. As always, many thanks. NMG

<< File: ABA letter.doc >> << File: ABA2.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:13 AM
To: Cook, Elisebeth C
Subject: RE: ABA

How abt 2pm? I can stop by your office.

From: Cook, Elisebeth C
Sent: Thursday, May 25, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: RE: ABA

Would love a full download. Let me know if you have a few minutes this afternoon.

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:11 AM
To: Cook, Elisebeth C
Subject: ABA

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<< File: ABA letter.doc >> << File: ABA2.doc >>

Brett_C._Gerry@who.eop.gov

From:	Brett_C._Gerry@who.eop.gov
Sent:	Thursday, May 25, 2006 9:52 AM
To:	Gorsuch, Neil M
Subject:	Lunch
Attachments:	tmp.htm

Sorry, Neil, I'm going to have to cancel on you. My apologies -- is there a day next week that works for you?

Sorry, Neil, I'm going to have to cancel on you. My apologies -- is there a day next week that works for you?

McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Thursday, May 25, 2006 9:58 AM
To: Gorsuch, Neil M
Cc: Wooldridge, Sue Ellen (ENRD)
Subject: Breaking Down $9.6 Billion in Enforcement Actions for '05

Neil: This is the first of two emails responding to your request from yesterday afternoon. We report actions occurring in fiscal years. So, the $9.6 billion figure represents activity from 10/01/04 through 9/30/05.

Nine cases account for almost $7.4 billion of the nearly $9.6 billion annual figure. Five enforcement actions against municipalities under the Clean Water Act [Baltimore County, MD, Louisville, KY, the D.C. Water and Sewer Authority (WASA), Orange County,CA, and City of Los Angeles*] resulted in agreements by those municipalities to spend collectively an estimated $5.4 billion [$.8, .5, 1.4, .64 and 2. billion, respectively] to meet their obligations under the Clean Water Act. And four settlements under the Clean Air Act (Ohio Edison, Illinois Power, Chevron and Citgo) require the defendants to spend approximately $2 billion to come into compliance with that Act. The balance of our enforcement cases (a large number) contributed the remaining $2.2 billion in injunctive relief.

*Please note that the City of Los Angeles settlement was reached in late 2004 and is, therefore, included in the $9.6 billion total. The remainder of the large settlements referenced above were reached during calendar year 2005.

The second email will highlight some specific examples of pollution law enforcement that occurred during calendar '05.

Let me know if you have questions.

Matt

Coughlin, Robert

From: Coughlin, Robert
Sent: Thursday, May 25, 2006 10:02 AM
To: Gorsuch, Neil M
Subject: FW: Information for Neil Gorsuch
Attachments: tmp.htm; RE: Information for Neil Gorsuch.msg

Neil,

Attached, please find some of the information you requested.
We are still trying to track down the rest. As soon as I have anything further I will forward it to you.

Bob

Sierra, Bryan

From:	Sierra, Bryan
Sent:	Thursday, May 25, 2006 9:55 AM
To:	Coughlin, Robert
Subject:	RE: Information for Neil Gorsuch
Attachments:	tmp.htm; bob.doc

Start with the attached, partial transcript from Tuesday's AG news conference. There's also the Sunday show transcripts, which I'll dig up (I have a Public Affairs component meeting at 10 a.m., I'll get you those afterwards).

--Bryan

From: Coughlin, Robert
Sent: Wednesday, May 24, 2006 6:46 PM
To: Sierra, Bryan
Subject: Information for Neil Gorsuch

Bryan,

In the morning can you please run down all the AG's quotes on the potential prosecutions of journalists? Neil is writing the response to the bs editorial from the NYT this morning and wants to use the careful language we have used when discussing this recently. Thanks and let me know if you have any questions.

Attorney General Gonzales News Conference, Tuesday, May 23, 2006

QUESTION: Judge Gonzales, as long as we are talking about the concerns of veterans and lawmakers today and everybody who owns a telephone, can you tell us about the concerns that were raised after your remarks on Sunday where it appeared that you were burning to jail journalists for receiving and publishing classified information.

ATTORNEY GENERAL GONZALES: I as glad you asked this question.
QUESTION: Did you really foresee approving cases like that going forward of prosecuting journalists?

ATTORNEY GENERAL GONZALES: I was responding to a question about is there a possibility, is there a statute that would seem to allow the prosecution and the publishing of certain kinds of classified information. And such a statute exists. So the possibility is there. But let me just, let me try to reassure journalists. My primary focus quite frankly is on leakers who share the information with journalists and, of course, I would much prefer to deal directly with responsible journalists and try to persuade them that writing or publishing a story that jeopardizes or compromises national security, secret programs of the United States which been very effective in protecting America against terrorist groups like al Quaeda that it would be better not to publish those kind of stories.

I would prefer, much prefer to work with the press and try to prevent those kinds of stories from running as opposed to doing something else.

Start with the attached, partial transcript from Tuesday's AG news conference. There's also the Sunday show transcripts, which I'll dig up (I have a Public Affairs component meeting at 10 a.m., I'll get you those afterwards).

--Bryan

From: Coughlin, Robert
Sent: Wednesday, May 24, 2006 6:46 PM
To: Sierra, Bryan
Subject: Information for Neil Gorsuch

Bryan,

In the morning can you please run down all the AG's quotes on the potential prosecutions of journalists? Neil is writing the response to the bs editorial from the NYT this morning and wants to use the careful language we have used when discussing this recently. Thanks and let me know if you have any questions.

Neil,

Attached, please find some of the information you requested. We are still trying to track down the rest. As soon as I have anything further I will forward it to you.

Bob

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 10:15 AM
To: Cook, Elisebeth C
Subject: RE: ABA

thanks

From: Cook, Elisebeth C
Sent: Thursday, May 25, 2006 10:12 AM
To: Gorsuch, Neil M
Subject: RE: ABA

Before I forget--slight grammatical issue on the description for Alice.

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 9:11 AM
To: Cook, Elisebeth C
Subject: ABA

Beth, I wound up speaking to [redacted] and [redacted] yesterday evening. I can give you a full down load of those discussions, if you'd like, at your convenience. In response those conversations, I'd like to send the attached letter and list of references (somewhat revised since we spoke) along with the writing samples we discussed yesterday. If you have any thoughts about the letter or list, though, please do let me know. As always, many thanks. NMG

<< File: ABA letter.doc >> << File: ABA2.doc >>

McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Thursday, May 25, 2006 10:46 AM
To: Gorsuch, Neil M
Subject: Fw: Final Version of Enforcement Highlights

Note the correction identified below.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Katz, Maureen (ENRD) <Maureen.Katz@usdoj.gov>
To: McKeown, Matt (ENRD) <MMcKeown2@ENRD.USDOJ.GOV>; Gustafson, Kristen (ENRD) <KGustafson@ENRD.USDOJ.GOV>
CC: Milius, Pauline (ENRD) <Pauline.Milius@usdoj.gov>; Cruden, John (ENRD) <John.Cruden@usdoj.gov>; Gelber, Bruce (ENRD) <Bruce.Gelber@usdoj.gov>; Fisherow, Benjamin (ENRD) <Benjamin.Fisherow@usdoj.gov>; Mahan, Ellen (ENRD) <Ellen.Mahan@usdoj.gov>; Dworkin, Karen (ENRD) <Karen.Dworkin@usdoj.gov>; Stoller, Stacy (ENRD) <SStoller@ENRD.USDOJ.GOV>; Wardzinski, Karen (ENRD) <Karen.Wardzinski@usdoj.gov>
Sent: Thu May 25 10:23:49 2006
Subject: RE: Final Version of Enforcement Highlights

One correction - the consent decree with Sunoco Refinery, Inc. was entered March 21, 2006.

From: McKeown, Matt (ENRD)
Sent: Thursday, May 25, 2006 10:10 AM
To: Gustafson, Kristen (ENRD)
Cc: Milius, Pauline (ENRD); Cruden, John (ENRD); Gelber, Bruce (ENRD); Fisherow, Benjamin (ENRD); Mahan, Ellen (ENRD); Katz, Maureen (ENRD); Dworkin, Karen (ENRD); Stoller, Stacy (ENRD); Wardzinski, Karen (ENRD)
Subject: Final Version of Enforcement Highlights

Here is the final version of what I sent based on everyone's input. Let me know if you find any more mistakes. Thanks a lot for all the effort.

Matt

<< File: #36902-v1-Pollution_Enforcement_Efforts_in__05.WPD >>

From: Gustafson, Kristen (ENRD)
Sent: Wednesday, May 24, 2006 6:41 PM

Sent: Wednesday, May 24, 2006 6:41 PM
To: McKeown, Matt (ENRD)
Cc: Milius, Pauline (ENRD); Cruden, John (ENRD); Gelber, Bruce (ENRD); Fisherow, Benjamin (ENRD); Mahan, Ellen (ENRD); Katz, Maureen (ENRD); Dworkin, Karen (ENRD); Stoller, Stacy (ENRD); Gustafson, Kristen (ENRD); Wardzinski, Karen (ENRD)
Subject: Per your request

<< File: #113818-v1-Matt_s_Testimony.WPD >>

Matt,

Attached is, I hope, something close to what you were looking for. I reordered your 3 items a bit because they seemed to flow better in this order. EES informs me that the consent decree with the City of Los Angeles was in 2004. If you want to substitute a 2005 settlement, EES has provided LPS with some informational blurbs on other cases you could use. Just let me know.

I am about to head home, but Karen Wardzinski will be around for another 30 minutes or so, if you need to revise these entries tonight.

Kristen

Kristen L. Gustafson
Law and Policy Section
Environment and Natural Resources Division United States Department of Justice 950 Pennsylvania Avenue NW Washington, DC 20530 Phone: 202-305-0211 Fax: 202-514-4231

Shaw, Aloma A

Subject:	EOIR Briefing w/ Allyson Ho
Location:	5710
Start:	Wednesday, May 31, 2006 2:00 PM
End:	Wednesday, May 31, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Swenson, Lily F; Gorsuch, Neil M; Elwood, Courtney; Elston, Michael (ODAG); Pacold, Martha M; Seidel, Rebecca; Otis, Lee L; Bounds, Ryan W (OLP)

When: Wednesday, May 31, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Attendees: Neil Gorsuch, Lily Fu Swenson, Courtney Elwood, Martha Pacold, Lee Otis, Ryan Bounds, Allyson Ho

Mike Elston and Rebecca Seidel are not available to attend this meeting.

Shaw, Aloma A

Subject:	EOIR Briefing w/ Allyson Ho
Location:	5710
Start:	Wednesday, May 31, 2006 2:00 PM
End:	Wednesday, May 31, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Swenson, Lily F; Gorsuch, Neil M; Elwood, Courtney; Elston, Michael (ODAG); Pacold, Martha M; Seidel, Rebecca; Otis, Lee L; Bounds, Ryan W (OLP)

When: Wednesday, May 31, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Attendees: Neil Gorsuch, Lily Fu Swenson, Courtney Elwood, Martha Pacold, Lee Otis, Ryan Bounds, Allyson Ho

Mike Elston and Rebecca Seidel are not available to attend this meeting.

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, May 25, 2006 11:19 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 5/25/06 Civil Division News

NSA's secrecy blocks investigation, FCC says

ACLU files complaints over reports of government phone snooping

Analysis & Commentary: SURVEILLANCE - THE SNOOPING GOES BEYOND PHONE CALLS; How the government sidesteps the Privacy\l "l" Act\l "l" by purchasing commercial data

FDA chief took over Plan B; In deposition, Crawford says he bypassed usual approval process

SAN LEANDRO : Gun shop tries to keep U.S. from closing store Trader Sports losing license over weapons that can't be found

Chicago Sun Times (IL)

May 25, 2006

NSA's secrecy blocks investigation, FCC says

William M. Welch ; Gannett News Service

The Federal Communications Commission declined on Tuesday to investigate whether a spy agency has access to millions of Americans' telephone records. It cited the secrecy of the National Security Agency.

The decision drew a call for congressional hearings from a Democratic congressman who had requested a probe. "The FCC has abdicated its responsibility to protect Americans' privacy to the National Security Agency without even asking a single question about it," Rep. Ed Markey of Massachusetts said.

Markey had asked the regulatory panel to look into a report in USA Today that the NSA has been secretly

collecting the phone call records with the help of telecommunications companies.

FCC Chairman Kevin Martin wrote Markey that "the classified nature of the NSA's activities make us unable to investigate the alleged violations" of privacy.

Martin cited written testimony by John Negroponte, the director of national intelligence, and Lt. Gen. Keith Alexander, the NSA's director, that disclosure of any information could "cause exceptionally grave damage to the national security of the United\l "l" States\l "l"."

Their declarations were made in response to a lawsuit in federal court in California. AT&T was sued\l "l" there in January by the privacy rights group Electronic Frontier Foundation for violating customer privacy by turning over telephone data to the government. The Justice Department has asked that the case be dismissed.

'A CODE OF SILENCE'

Martin said that while the FCC has authority to investigate violations of federal communications law, the spy agency is beyond its reach. "The statutory privilege applicable to NSA activities also effectively prohibits any investigation by the commission," he wrote.

Markey said the FCC "has taken a pass at investigating what is estimated to be the nation's largest violation of consumer privacy ever to occur."

"Congress should have hearings that get to the bottom of how the Bush administration has created a code of silence amongst the agencies responsible for protecting American privacy," he said.

END

AP

May 25, 2006

ACLU files complaints over reports of government phone snooping

By LARRY NEUMEISTER

Associated Press Writer

NEW YORK_A civil rights group filed complaints in more than 20 states Wednesday over allegations that phone companies shared customer records with the government's biggest spy agency.

The American Civil Liberties Union believes the phone program was the latest example of "a longer-term abuse of power by the executive branch," said executive director Anthony D. Romero.

The ACLU filed complaints with state utility commissions and attorneys general, and demanded the Federal Communications Commission look into the matter.

The group also placed full-page ads in eight large-city newspapers asking the public to join the complaints, saying in bold type: "AT&T, Verizon and Other Phone Companies May Have Illegally Sent Your Phone Records to the National Security Agency." Readers were urged to add their names to complaints on the ACLU Web site.

Romero said the ACLU sought to pressure the FCC and its chairman, Kevin Martin, to investigate the

telephone records program even though Martin has said the agency does not have the power to review classified information.

Romero said the investigations were necessary because Congress has been "curiously silent."

President Bush and other administration officials have neither confirmed nor denied a USA Today report that the NSA is collecting the calling records of ordinary Americans in its effort to detect the plans of al-Qaida and other terrorist organizations.

Bush has said the administration's anti-terrorism surveillance programs are legal and constitutional.

Megan Gaffney, a spokeswoman for government\l "l" lawyers\l "l" in New York, declined to comment on the subject Wednesday.

Carol Rose, executive director of the ACLU in Massachusetts, said four mayors had complained to the state's utility regulatory board. State law requires the board to conduct public hearings when a mayor complains.

Chicopee, Mass., Mayor Michael D. Bissonnette said he joined the requests because privacy was fast becoming the key civil rights issue.

"This is likely the greatest invasion of consumer privacy in our nation's history," he said.

The ACLU said its complaints were filed in Arizona, Colorado, Connecticut, Delaware, Florida, Iowa, Kansas, Massachusetts, Missouri, Nebraska, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia and Washington.

The ads were taken out in newspapers in Portland, Ore., Seattle, New York, Philadelphia, Chicago, Miami, Boston and San Francisco.

END

BusinessWeek

May 29, 2006

Analysis & Commentary: SURVEILLANCE - THE SNOOPING GOES BEYOND PHONE CALLS; How the government sidesteps the Privacy\l "l" Act\l "l" by purchasing commercial data

By Lorraine Woellert and Dawn Kopecki

Furor and confusion over allegations that major phone companies have surrendered customer calling records to the National Security Agency continue to roil Washington. But if AT&T Inc. and possibly others have turned over records to the NSA, the phone giants represent only one of many commercial sources of personal data that the government seeks to ``mine" for evidence of terrorist plots and other threats.

The Departments of Justice, State, and Homeland Security spend millions annually to buy commercial databases that track Americans' finances, phone numbers, and biographical information, according to a report last month by the U.S. Government Accountability Office, the investigative arm of Congress. Often, the agencies and their contractors don't ensure the data's accuracy, the GAO found.

Buying commercially collected data allows the government to dodge certain privacy rules. The Privacy\l "l" Act\l "l" of 1974 restricts how federal agencies may use such information and requires disclosure of

what the government is doing with it. But the law applies only when the government is doing the data collecting.

``Grabbing data wholesale from the private sector is the way agencies are getting around the requirements of the Privacy\l "l" Act\l "l" and the Fourth Amendment," says Jim Harper, director of information policy studies at the libertarian Cato Institute in Washington and a member of the Homeland Security Dept.'s Data Privacy & Integrity Advisory Committee.

The Justice Dept. alone, which includes the FBI, spent $19 million in fiscal 2005 to obtain commercially gathered names, addresses, phone numbers, and other data, according to the GAO. The Justice Dept. obeys the Privacy\l "l" Act\l "l" and ``protects information that might personally identify an individual," a spokesman says. Despite the GAO's findings, a Homeland Security spokesman denies that his agency purchases consumer records from private companies. The State Dept. didn't respond to requests for comment.

A number of lawmakers from both parties are calling for investigations of the role of phone companies and the NSA in domestic surveillance. BellSouth Corp. and Verizon Communications have denied turning over bulk call records to the agency, although their carefully worded statements contained some ambiguities. AT&T said that when it helps the government, it does so strictly within the law. On May 11, USA Today reported that the three telecom titans cooperated with NSA surveillance efforts.

But in the face of the uproar over the issue, others on Capitol Hill are pushing for more government data collection. House Judiciary Committee Chairman F. James Sensenbrenner (R-Wis.) is drafting legislation to require ISPs to amass information about users' Web-surfing habits to assist government investigations. Executives at companies that fail to comply could be subject to up to a year in prison.

Other players in the information world that could get more attention in coming days are little-known firms that help telecom industry clients comply with government investigations. That's a small part of what a company called NeuStar Inc. does.

INCREASED PRESSURE

Based in Sterling, Va., NeuStar has developed a lucrative niche in the routing of millions of phone calls a day from one carrier to the next. ``Nearly every telephone call placed is routed using NeuStar's system, and every telecommunications service provider is one of NeuStar's customers," the company's Web site states. NeuStar doesn't keep records of the calls it handles, a spokeswoman says.

Now NeuStar is seeking to profit from increased post-September 11 government pressure on telecoms to turn over data. Last year it acquired Fiducianet Inc., which helps phone company clients comply with ``subpoenas, court orders, and law enforcement agency requests under electronic surveillance laws," according to a February, 2005, NeuStar press release. NeuStar says this part of its business accounts for less than 1% of total revenue. The company went public last June and reported 2005 revenue of $242.5 million.

NeuStar also provides services to federal agencies, but CEO Jeff Ganek says it hasn't done so for the NSA. The company has ``absolutely nothing to do with any of the surveillance that's currently being discussed on Capitol Hill," Ganek stresses. All told, government contracts provide less than 2% of NeuStar's revenue, the company spokeswoman says. Government agencies sometimes seek NeuStar's help in identifying phone carriers that investigators plan to subpoena, she says, adding, ``We do not provide any other information."

END

Baltimore Sun

May 25, 2006

FDA chief took over Plan B; In deposition, Crawford says he bypassed usual approval process

By Jonathan D. Rockoff
Sun reporter

WASHINGTON -- Circumventing normal practices, the nation's top drug regulator seized control of a request to sell the "morning-after" pill without a prescription and delayed the drug's approval, two senior Food and Drug Administration officials told lawyers suing the agency over the decision.

Lester M. Crawford, then acting commissioner of the FDA, intervened in early 2005 as the agency's staff was preparing to authorize over-the-counter sales to women 17 years and older, the two FDA officials said in sworn depositions last month.

The two officials, Dr. Janet B. Woodcock and Dr. Steven Galson, said Crawford effectively cut them out of a process they normally participate in and handled the matter by himself. The two were interviewed for a suit filed by the New York-based Center for Reproductive Rights.

Barbara van Gelder, Crawford's lawyer, said he confirmed yesterday in his deposition for the suit that Plan B "was his decision."

After being appointed permanent FDA commissioner, Crawford announced last August that the agency was indefinitely delaying approval to further study the effectiveness of allowing some women to buy the pill over the counter but not others.

Crawford said the pill could be sold safely to women over 17, but he needed to be sure younger girls would not be able to obtain it without a prescription. He has since left the agency.

Abortion foes praised the Plan B delay for protecting teenage girls from promiscuous behavior and sexually transmitted diseases, but abortion supporters said what should have been a decision based on medical science had been politicized.

A nonpartisan congressional investigation reported in November the "unusual" involvement of the commissioner's office, but the nature of his role in the decision was not clear until yesterday.

As part of the lawsuit, Woodcock, an FDA deputy commissioner, testified that she had asked Crawford why she wasn't involved in the Plan B approval process. "He said he was, you know, going to take this decision by himself," she said, according to the deposition.

Galson, who heads the FDA's drug evaluation division, said he "saw a clear path to approve" Plan B, but Crawford expressed concern and said "he was going to make the decision on what to do with the application."

Galson said he recommended approval, and there was no scientific basis for Crawford's decision. Galson told Woodcock that Crawford might have been acting under pressure from Congress, the Bush administration or both, Woodcock testified.

Simon Heller, a staff lawyer at the Center for Reproductive Rights, said in a statement that the testimony of Woodcock and Galson bolstered the lawsuit's claim that the FDA departed from its own standard practices and violated the rights of women.

But David Christensen, director of congressional affairs at the conservative Family Research Council, criticized the Center for Reproductive Rights for ignoring the impact of over-the-counter sales on teenage

girls. "They don't care about the safety of young women," said Christensen, who has not seen the testimony.

The new details about Crawford's role are the latest revelations to emerge from the suit, filed in January 2005 in New York federal court. Last month, Crawford's lawyer asked to delay his deposition because of federal investigations into statements he made on his financial disclosure forms and to Congress about Plan B. Van Gelder said Crawford answered all questions yesterday.

Democratic senators have blocked the nomination of President Bush's choice to replace Crawford, Dr. Andrew C. von Eschenbach, until the agency takes action on Plan B. The drug is designed to prevent pregnancy if taken within 72 hours after sex.

END

San Francisco Chronicle (CA)

May 25, 2006

SAN LEANDRO : Gun shop tries to keep U.S. from closing store Trader Sports losing license over weapons that can't be found

Demian Bulwa

The owner of the Bay Area's biggest firearms store will ask a judge today to stop regulators from shutting him down at the end of the month, in a case that is being watched on both sides of the gun debate.

The hearing before U.S. District Judge Vaughn Walker in San Francisco will center on federal agents' 2003 inspection of Trader Sports, which has operated on East 14th Street near downtown San Leandro for more than 35 years. It sells more than 3,500 revolvers, pistols, shotguns and rifles a year, along with fishing tackle and other goods.

Regulators from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives ordered Tony Cucchiara to surrender his firearms license because he allegedly could not account for 1,723 guns, among other bookkeeping problems that officials argued could endanger public safety and hinder police investigating gun crimes.

His lawyer sued\l "l" U.S\l "l". Attorney General Alberto Gonzales and other federal officials in an effort to overturn the revocation, saying agents had found only "hyper-technical" violations.

Cucchiara is asking the judge to postpone the revocation, which is scheduled to take effect June 1, and hold a full hearing.

Those who have been watching the fight between Cucchiara and the firearms bureau said it carries implications beyond the plight of a San Leandro gun shop. Trader Sports has a history of run-ins with regulators and is a high-profile target of gun-control groups.

"Trader Sports is one of the worst of the worst," Daniel Vice, a staff attorney for the pro-gun-control Brady Campaign in Washington, D.C., said Wednesday. He said license revocations are significant because the government issues them so rarely.

Malcolm Segal, an attorney for the store, said regulators had pushed too far in the other direction. In a

legal filing, he said the federal agency is "engaged in an unfair campaign to intimidate firearm purchasers and remove the licenses of firearms dealers based on hyper-technical and inadvertent violations."

The U.S. attorney's office, which is defending the firearms bureau in the lawsuit, said the inspection of Trader Sports in September 2003 found 3,659 firearms on hand, even though store records showed 9,100 guns in inventory.

Cucchiara and the federal inspectors had tried to reconcile the discrepancy and found that an additional 2,036 guns could not be accounted for, bringing the total to 7,477, Assistant U.S. Attorney Jonathan Lee wrote in a legal filing.

Most of those weapons were eventually tracked down, Lee said. But when the firearms bureau issued its final notice of revocation in December, 1,723 guns still had not been found.

Lee said the firearms bureau also found that the shop routinely filed faulty sales records and failed to properly document the sale of high-powered guns to police.

Authorities also suggested that the store's guns show up too often at crime scenes. They said police asked Trader Sports last year to trace 447 guns that had been recovered -- the second-highest number among more than 100,000 licensed gun dealers in the country.

On 19 occasions in the past three years, Trader Sports was unable to produce a weapon's history, authorities said.

Segal said guns end up in police custody for many reasons other than use by a criminal. "The fact that a firearm is found at a crime scene could mean that it is a firearm that a victim had, trying to protect themselves," he said.

The attorney wrote in a court filing that Cucchiara and Trader Sports had received a disproportionate number of trace requests because the store sold a lot of guns and had been in business for more than 35 years.

END

McHenry, Teresa

From: McHenry, Teresa
Sent: Thursday, May 25, 2006 11:20 AM
To: Gorsuch, Neil M
Subject: FW: Gun Prosecution Stats

Neil,
Greetings. I fear that there may be miscommunication/misunderstanding here, but to extent these numbers are helpful to you,

DSS has pending, or has closed within the last year, approximately 6 cases involving gun offenses.

Exact statistics would take more digging and pls let me know if that is necessary, or whether we have missed the boat entirely. If so, pls let me know what it is you are looking for, and we'll see what we can do to help.

Thank you
Teresa

-----Original Message-----
From: McHenry, Teresa
Sent: Thursday, May 25, 2006 9:43 AM
To: Coughlin, Robert
Subject: Re: Gun Prosecution Stats

I presume you want gun prosecution stats that dss did, not that doj as whole did (opl and eousa genly have overall numbers, but we may have also from various psn documents).

Dss numbers shld be. Relatively easy but will be extremely small number. I also presume that we not worried abt double counting in gang or other cases we may be doing jointly w usao.

Thks
T

----- Original Message -----
From: Coughlin, Robert
To: McHenry, Teresa
Sent: Thu May 25 09:29:55 2006
Subject: Gun Prosecution Stats

Teresa,

Would you please send Neil Gorsuch in Civil whatever gun prosecution stats we have from the past year or so. He needs this information this morning if possible. Sorry for the late notice but whatever we can send him would be very helpful. Thank you

whatever we can send him would be very helpful. Thank you.

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, May 25, 2006 12:28 PM
To: McNulty, Paul J; Mercer, Bill (ODAG); Rooney, Kevin (EOIR); Ohlson, Kevin (EOIR); Scialabba, Lori (EOIR); Neal, David L. (EOIR); Cohn, Jonathan (CIV); Elwood, Courtney; Pacold, Martha M; Otis, Lee L; Elston, Michael (ODAG); Brand, Rachel; Bounds, Ryan W (OLP); Corts, Paul R; Moschella, William; Seidel, Rebecca; Scolinos, Tasia
Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: ASG Options for Reform.ppt
Attachments: ASG Options for Reform.ppt

Thanks for everyone's comments this morning. Attached is the final version of the Associate's list of EOIR reform options for today's meeting. Looking forward to seeing everyone.

EOIR COMPREHENSIVE REVIEW

OPTIONS FOR REFORM

U.S. Department of Justice, May 26, 2006

IMMIGRATION COURTS

Increase IJ Accountability

- Implement 10-year renewable appointment terms for IJs
  - √ Make use of 2-year probationary period
  - √ Statutory authority likely needed to impose terms on incumbent IJs
- Performance evaluations
- Require new IJs to pass an immigration law exam demonstrating familiarity with key legal principles before taking the bench
- Identify and transfer currently sitting IJs who are unsuited for the bench
- Offer professional advancement opportunities
  - √ Committee positions
  - √ Temporary Board positions
  - √ Details to other courts

Improve Detection of Poor IJ Conduct or Quality

- Increase Director oversight and management of OCIJ
- Formalize mechanisms at BIA and OIL to track and report poor IJ decisions
  - √ Note decisions that exhibit temperament or quality problems
  - √ Submit periodic reports to Director and OCIJ
  - √ Include in caption of every BIA decision the name of the IJ below
- Formalize mechanisms at EOIR to track and report statistics that may signal poor IJ performance
  - √ Unusually high reversal rates, complaints, backlogs
  - √ Submit periodic reports to Director and OCIJ
- Increase Director and OCIJ openness to complaints and suggestions
  - √ Outreach to attorneys, groups, BIA and OIL
- Restructure OCIJ to promote greater contact with field
  - √ Disperse ACIJs to regions and/or establish supervisory judge in each court
  - √ Assign OCIJ managers to policy portfolios rather than regional responsibilities

Strengthen and Publish IJ Complaint Procedures

- Adopt a Code of Judicial Conduct for IJs
- Reform OCIJ/OPR complaint handling procedures
  - √ Increase OCIJ oversight and management
  - √ Standardize OCIJ complaint handling; develop proportionate scale of consequences for serious or repeated misbehavior; ensure timely response
  - √ Allow OPR to focus primarily on professional conduct
  - √ Establish a clearance process to determine whether OCIJ, OPR or both will handle a particular complaint
- Increase disciplinary transparency
  - √ Publish codes, standards, and discipline provisions applicable to IJs
  - √ Disclose discipline imposed to the extent possible under privacy laws

Enhance Courtroom Control

- Publish a Practice Manual for immigration courts (akin to rules of civil procedure)
- Give IJs better tools to control attorneys and litigants
  - √ Promulgate a regulation that grants IJs a limited and strictly defined form of contempt power that empowers them, with substantial oversight, to address frivolous submissions and egregious courtroom misconduct
  - √ Alternatively, revise frivolity standards to more closely resemble Rule 11
  - √ Strengthen current EOIR headquarters bar counsel process
- Formalize mechanism by which IJs will refer cases of immigration fraud and abuse to USAOs
- Tailor case completion goals to individual courts and dockets; assure IJs of goal flexibility for complex cases

Increase and Target Resources

- Replace tape recording with digital recording as soon as feasible
- Appoint more IJs to overloaded courts; consider strategies to appoint former or retired IJs to serve as temporary IJs for 6-month periods
- Hire more judicial law clerks; consider using volunteers
- Improve IJ training
  - √ Consider expanding new judge course in Reno
  - √ Continuing education to experienced IJs
  - √ Training in dictating opinions
  - √ Explore opportunities for outside training (FJC, DHS, Asylum Office)
- Implement electronic filing/docket management system that optimizes functionality with DHS information management systems
- Strengthen interpreter screening and certification
- Reevaluate transcription and interpreter contracts; consider regional contracts; develop a quality control plan for reviewing transcripts

Form Committees to Oversee Critical Need Areas

- Improve, update and adapt on-bench reference materials to conform to Circuit law
- Develop standard decision templates adapted to Circuit
- Expand EOIR-sponsored pro bono programs
- Assist BIA to identify areas in need of precedential decisions
- Reconvene EOIR/DHS technology working group
- Create Director, OCIJ, BIA, OIL, DHS, AILA, and federal court liaison committees chaired by leadership to facilitate coordination and communication

BOARD OF IMMIGRATION APPEALS

Enhance Review Processes

- Leave proportion of 3-member, 1-member and AWO decisions roughly the same
  - √ Implement new management strategies to improve quality
  - √ Refine streamlining regulations and BIA culture to encourage dedication of more time and care to "correcting" poor/intemperate IJ decisions, and to complex cases
- Alter publication practices to result in more 3-member published decisions, especially precedential decisions
  - √ Revise rules to provide for publication if a majority of panel members or a majority of permanent BIA members votes to publish, or if the AG directs publication
- Enhance consistency of opinions with improved "decision review"
- Create mechanism that enables OIL to return cases to BIA for reopening without court remand

Refine Management Strategies

- Increase Director oversight and management of BIA
- Develop plan to improve staff attorney screening and drafting quality
- Improve the guidance BIA members give staff attorneys, especially on major recurring issues (*e.g.*, correct screening standards, proper standards of review)
- Increase staff attorney training
- Give Chairman discretion to ease case completion requirements on a case-by-case basis in complex cases

Increase and Target Resources

- Increase the number of BIA members
  - √ Add 3 to 6 permanent members
  - √ Use more temporary BIA members; widen the pool of attorneys qualified to serve as temporary BIA members
- Increase the number of staff attorneys
- Implement fees for appeals, transcripts and records of proceedings (ROPs)

Increase BIA Member Accountability

- Create 10-year renewable appointment terms for BIA members
  - √ Make use of 2-year probationary period
  - √ Statutory authority likely needed to impose terms on incumbent BIA members
- Performance evaluations
- Identify and transfer currently sitting BIA members who are unsuited for the job
- Refine mechanism at OIL to track and report BIA decisions exhibiting quality issues to Director and Chairman
- Formalize mechanisms at EOIR to track and report to Director and Chairman statistics that may signal poor BIA member performance
  - √ Unusually high reversal rates, complaints, backlogs
- Establish BIA complaint handling system

Improve Appellate Advocacy

- Establish mechanisms to address frivolous appeals and boilerplate filings
  - √ Expedited dismissals of appeal for inadequate briefing; consider other sanctions
  - √ Note deficiencies in briefing in decisions
  - √ Increase EOIR headquarters bar counsel involvement

NADARAJAH REFORMS

- Develop plan to resolve detained cases that have been pending in EOIR for over 6 months
- Coordinate with DHS to continue to track and monitor detained and special interest cases to ensure they are completed in a timely manner
- Shorten case completion goals in detained cases at immigration court and BIA levels
- Establish "rocket docket" style practice rules in detained courts; shorten BIA briefing schedules for detained appeals; include habeas waiver language in orders granting alien continuances and extensions
- Implement processes nationwide to facilitate voluntary stipulations of removal without alien appearance
- Ensure sufficient IJs and increase judicial law clerks in detained courts

- Implement bar coding of ROPs at immigration court level
- Segregate Institutional Hearing Program (IHP) cases from other detained cases

EOIR COMPREHENSIVE REVIEW

FACTUAL FINDINGS

U.S. Department of Justice, April 24, 2006
Draft Version

FOCUS OF THE REVIEW

- **IJ Temperament** (especially toward aliens)
- **BIA and IJ Legal Quality**

COMPONENT OVERVIEW

ORGANIZATION

- EOIR, created in 1983, is charged under the authority of the Attorney General with adjudicating immigration violations cases
- EOIR consists of
  - √ Trial-level immigration courts
  - √ An appellate Board
- These two tribunals report to the Director's office in Falls Church, VA

IMMIGRATION COURTS

- **225 IJs in 53 Immigration Courts**
- **Overseen in Falls Church by OCIJ**
  - √ 1 Chief Immigration Judge
  - √ 2 Deputies
  - √ 7 Assistants with regional oversight duties
- **IJs**
  - √ Appointed for indefinite terms by the DAG
  - √ Exempt from annual performance reviews
  - √ Otherwise subject to the rights and obligations of other DOJ attorneys

BIA

- **11 Members (size limited by a 2002 regulation), 120 staff attorneys**
- **Managed by the Chairman and Vice-Chairman who are themselves Board Members**
- **Members**
  - √ Appointed for indefinite terms by the DAG
  - √ EOIR Director has discretion to appoint temporary Board members who can serve up to 6 months
- **BIA decides appeals through**
  - √ 3-member panels
  - √ 1-member panels
  - √ 1-member affirmances without opinion (AWOs)
- **Staff attorneys**
  - √ Screen cases for 3-Member, 1-Member, and 1-Member AWO dispositions
  - √ Prepare first drafts of BIA opinions

2005 CASELOADS

- **Immigration Court completions: ~ 350,000 matters**
  - √ ~ 1,500 per IJ
  - √ DHS-initiated
- **BIA completions: ~ 46,000 appeals**
  - √ ~ 4,200 per BIA Member, 380 per staff attorney
  - √ DHS- or alien-initiated
- **Court of Appeals receipts: 12,000 petitions for review**
  - √ ~ 48 per active Court of Appeals judge
  - √ Alien-initiated
- **Substantial recent increase in the caseloads of Immigration Courts and Courts of Appeals**

METHODOLOGY

A team of approximately 12 attorneys from Senior Management, OIL, ATR and CRT conducted a 3-month comprehensive review.

- **Over 200 personal interviews**

  √ Leadership: EOIR, BIA, OCIJ, DHS, AILA

  √ BIA: all 11 Members and 2 staff attorney focus groups; DHS appellate counsel

  √ Immigration Courts: visited 21 Districts
    - IJs, Court Administrators & staff
    - DHS Regional Counsel
    - AILA Chapter Presidents; Pro Bono Programs

  √ Courts of Appeals: Judicial Conference Exec. Committee, 9th Cir. Judges & staff

  √ Congress: House and Senate staff briefings

- **An online survey**
  - √ All BIA staff attorneys
  - √ All IJs
  - √ Selected DHS, OIL and private bar counsel
- **Dozens of document requests**
  - √ Samples of troublesome IJ and BIA decisions from 2005
  - √ IJ complaints and disciplinary records; peer evaluations of courts
  - √ Case Completion Goal program
- **Statistical and comparative analyses**
  - √ Workloads
  - √ Appeal and reversal rates
  - √ SSA and immigration systems of other Western nations

REPORT CARD FOR THE IMMIGRATION COURTS

TEMPERAMENT

- Most are reported to have acceptable temperament nationwide, except for a few "bad apples"
- An estimated 5-10% (10 to 20 IJs) habitually exhibit unacceptably poor temperament
- Many reports of intemperance toward DHS and aliens' counsel; fewer reports of intemperance toward aliens, although some IJs are generally intemperate to all who appear before them
- Problem exists, but is likely not systemic, and should not be overstated
  - √ Review of records in cases where the Courts of Appeals explicitly criticized an IJ in 2005 revealed that, in many instances, the IJ did not behave improperly
  - √ OPR records reveal that many intemperance complaints against IJs were resolved without findings of substantial misconduct

LEGAL QUALITY

- **Broader problems with legal quality reported**
  - √ Few IJ decisions are truly excellent
  - √ A substantial proportion are substandard and are vulnerable to reversal by the BIA or the Courts of Appeals.
- **An estimated 15-20% of IJ decisions are unacceptably poor quality**
- **Up to 5% of IJs have serious difficulty rendering acceptable quality opinions; and a larger percentage lack an appropriate level of familiarity with immigration law**
- **The poorest IJ decisions are**
  - √ "thought pieces" that fail to cite the relevant law but focus instead on facts
  - √ those that fail to address necessary issues or fail to specify the ground on which holdings rest

SURVEY RESULTS FOR IMMIGRATION COURTS

REPORT CARD FOR THE BIA

LEGAL QUALITY

- **General consensus that legal quality of BIA needs substantial improvement**
  - √ Some report that BIA is "never excellent" and is "typically substandard"
  - √ Others report that BIA is "much improved" now than when it was larger and produced a multiplicity of inconsistent opinions
- **Members do not lack talent**
  - √ Poor work commonly attributed to large caseloads and uneven work by BIA Staff Attorneys.
- **The Poorest BIA Decisions**
  - √ Short opinions with little analysis (these can be even more confusing to review than the IJ's opinion itself)
  - √ Opinions where the BIA misses issues, engages in poor reasoning, fails to specify the ground on which holdings rest, or rests its holdings on infirm grounds

SURVEY RESULTS FOR BOARD OF IMMIGRATION APPEALS

CAUSES

FACTORS AFFECTING IJ TEMPERAMENT

- "Bad apples" – IJs who lack the requisite patience and judicial demeanor
- "Article III mentality" – no consequences for intemperate behavior, no OCIJ oversight
- Cultural insensitivity
- Frustration/burnout; difficult or repetitive subject matter – judges who have been on the bench longer are more susceptible
- Large workloads and case completion pressures
- Bad lawyering by aliens' and DHS counsel
- Large caseloads, case completion pressures
- Chaotic, overcrowded courtrooms
- Widespread alien fraud and abuse

- Some reports of intemperate behavior may be subjective to the listener

FACTORS AFFECTING IJ LEGAL QUALITY

- "Bad apples" – IJs who lack the requisite legal talent (estimated up to 20%)
- Inherent limitation of oral decisions
- Bad lawyering by aliens' and DHS counsel
- Large workloads and case completion pressures
- Lack of judicial law clerks
- Insufficient training and on-bench reference materials
- Failure of some judges to dictate oral decisions properly; bad habits
- Faulty tape recorders and poor transcription of decisions

FACTORS AFFECTING BIA LEGAL QUALITY

- Lapses by staff attorneys during screening (some cases should not qualify for 1-member panel or AWO)
- Lapses by staff attorneys in drafting opinions, BIA Members fail to improve them
- "Decision review" process is insufficient to ensure consistency, especially among 1-Member decisions
- Large workloads – some evidence that staff attorneys may not read entire record; BIA unable to render a sufficient number of well-reasoned, 3-member opinions
- Weakness in AWO regulation that disallows BIA from opting out of an AWO and writing a corrective opinion when it discovers that an IJ's decision, although correct, is of poor quality or exhibits intemperance

EFFECT OF STREAMLINING

- Some suggest that AWOs cause IJ oral opinions that are "not ready for prime time" to be reviewed by Courts of Appeals; BIA review is needed to "polish" these decisions prior to federal court review
- Others suggest that the Courts of Appeals are not accustomed to reviewing oral decisions and have unreasonable expectations about quality
- All agree that streamlining has resolved BIA backlogs
- But that aliens are filing more appeals, both from streamlined and non-streamlined cases
- Courts of Appeals affirmance rates, however, remain high before and after streamlining
- Circuits that have experienced the largest growth in immigration appeals may be the most generous in granting asylum claims

COMMON SUGGESTIONS FOR IMPROVEMENT

IMPROVEMENTS FOR THE IMMIGRATION COURTS

- **IJ Discipline and Removal**

  √ Institute renewable 5- or 10-year appointment terms for IJs

  √ Adopt an Immigration Court Code of Conduct enforceable by EOIR and OPR that includes provisions for courtroom civility

  √ Consider developing IJ performance standards

  √ Develop increasing scale of disciplinary consequences for violations of codes and standards

  √ Publish codes, standards, and disciplinary provisions applicable to IJs

- **Managerial Reform**

√ Increase OCIJ's role in oversight and management of IJs

√ Disperse ACIJs to the field

√ Develop systems at BIA & OIL to identify & track poor IJ decisions, intemperance, and submit reports to OCIJ

√ Reform IJ disciplinary procedures to reduce role of OPR and increase speed

- **Rules Reform**

  √ Implement uniform court rules and procedures; adopt "best practices" nationwide

  √ Strengthen fivolity standards or grant IJs contempt power

- **Selection**

  √ Strengthen IJ selection criteria and screening processes

  √ Require all new IJs to pass an immigration law exam demonstrating familiarity w/ key legal principles

- **Resources**

  √ Replace tape recording system

  √ Increase resources in courts w/ highest caseload

  √ Improve IJ training; provide continuing legal education

  √ Improve and standardize on-bench reference materials such as bench books and decisions templates; adapt materials to conform to circuit law

IMPROVEMENTS FOR THE BIA

- Increase number of BIA Members
- Improve staff attorney screening and drafting quality
- Publish more 3-member precedential decisions
- Ensure consistency of 1- and 3-Member opinions
- Refine AWO regulation to enable BIA to correct poor IJ decisions that should otherwise be affirmed

[redacted]@usich.gov

From: [redacted]@usich.gov
Sent: Thursday, May 25, 2006 1:05 PM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING
Attachments: tmp.htm; image001.jpg; 2006-7-10 CONFIRMATION OF ATTENDANCE Form.doc

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD [redacted] will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.

A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development [redacted] Please respond to the [redacted] invitation with the designation of the most senior level leadership of your agency for this important discussion on a key issue for our nation and priority of this Administration.

As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.

Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work with the Council on this matter to achieve the maximum interagency coordination and visibility of results from the Administration's initiatives.

Thank you, and have a good holiday.

[redacted]

[redacted]

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: [redacted]

FAX: 202/708-1216

www.usich.gov

CONFIRMATION OF ATTENDANCE

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS
FULL COUNCIL MEETING

MONDAY, JULY 10, 2006 - 10:30 A.M. – 12:00 P.M.

EISENHOWER EXECUTIVE OFFICE BUILDING, ROOM 350

Please FAX this completed clearance form to USICH at 202-708-1216 no later than June 30 COB.
All agency designees must complete this form.

Secretary [Administrator, etc.] _____
_____ will attend the meeting. _____ is unable to attend the meeting.

The following Deputy Secretary will attend: (Please print all required information.)

Full Name _____

Title _____

Agency _____

Contact _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Also attending will be:

(2) Full Name _____

Title _____

Agency _____

Telephone _____

Fax _____

E-Mail _____

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Please return this form by FAX to the U.S. Interagency Council on Homelessness at (202) 708-1216 no later than June 30 COB.

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United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: [redacted]

FAX: 202/708-1216

www.usich.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 2:26 PM
To: Shaw, Aloma A
Subject: ABA letter.doc
Attachments: ABA letter.doc

Please could you put this in final form and print out 2 copies on letterhead?

May 25, 2006

[redacted]
Parsons Behle & Latimer
201 South Main Street
Suite 1800
Salt Lake City, UT 84111

[redacted]
Wilmer Hale
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Dear[redacted]:

Thank you very much for your guidance yesterday and for taking the time out of your practices to review my nomination.

Pursuant to your request, I am sending along some samples of my writing, including: (1) a brief responding to post-trial motions for a new trial, judgment as a matter of law, and remittitur in the *Columbia Hospital* litigation; (2) a Supreme Court amicus brief from the *Devlin* class action matter; (3) a Delaware Chancery Court brief in *Regal* addressing a motion for preliminary injunction in a shareholder derivate suit; (4) an appellate brief from the *Conwood* antitrust case; (5) a brief from an appeal I wrote last year at DOJ; (6) a California state supreme court petition for review on an issue of personal jurisdiction; (7) a Wisconsin Law Review article.

Of course, these are just samples; if you'd like additional materials please just let me know. Also, the briefs from my days in private practice naturally reflect not just my work but also the collaborative efforts of my colleagues and clients. In selecting the enclosed briefs, I do not mean to diminish their contributions in any way. I have tried, however, to pick a representative cross-section of matters and sought to focus on briefs where I was the primary author, directed the case's prosecution or defense, and argued at any oral presentation. The *Conwood* brief is an exception to this rule; that particular brief involved a particularly expansive team effort because so much was at stake in that single

appellee brief. I include it, however, because the case generally and the brief in particular also represents so many hours of my own work.

Separately and as we discussed, I am enclosing a list of references. Some are personal references, as [redacted] suggested, while others are fellow lawyers and clients who were not necessarily captured by the Senate questionnaire. I've tried to identify people from different parts of my life and located in different parts of the country. To address a specific request by [redacted], I've noted Coloradans with an asterisk. Once again, however, this list is only a representative sample; if you would like additional names, I'd be happy to supply them.

Very many thanks again for taking the time to speak with me, and for agreeing to review my nomination. If you have any questions of me as your work continues, my direct dial number at the office is 202-305-1434.

Warm regards,

Neil M. Gorsuch

Enclosures

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 2:41 PM
To: 'Brett_C._Gerry@who.eop.gov'
Subject: RE: Lunch

No worries. Let's chat Tuesday and see when works.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Thursday, May 25, 2006 9:52 AM
To: Gorsuch, Neil M
Subject: Lunch

Sorry, Neil, I'm going to have to cancel on you. My apologies -- is there a day next week that works for you?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 2:43 PM
To: McHenry, Teresa
Subject: RE: Gun Prosecution Stats

Thanks very much but I'd actually love to have overall doj numbers if they're available.

-----Original Message-----
From: McHenry, Teresa
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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, May 25, 2006 2:44 PM
To:	Swenson, Lily F
Cc:	McCallum, Robert (SMO)
Subject:	FW: REMINDER: JULY 10 FULL COUNCIL MEETING
Attachments:	tmp.htm; image001.jpg; 2006-7-10 CONFIRMATION OF ATTENDANCE Form.doc

Have you been attending these?

-----Original Message-----
From: [redacted]@usich.gov [mailto: [redacted]@usich.gov]
Sent: Thursday, May 25, 2006 1:05 PM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.

A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development Secretary Alphonso Jackson. Please respond to the Secretary's invitation with the designation of the most senior level leadership of your agency for this important discussion on a key issue for our nation and priority of this Administration.

As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.

Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work

with the Council on this matter to achieve the maximum interagency coordination and visibility of results from the Administration's initiatives.

Thank you, and have a good holiday.

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: 202/708-4663

FAX: 202/708-1216

www.usich.gov

CONFIRMATION OF ATTENDANCE

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS
FULL COUNCIL MEETING

MONDAY, JULY 10, 2006 - 10:30 A.M. – 12:00 P.M.

EISENHOWER EXECUTIVE OFFICE BUILDING, ROOM 350

Please FAX this completed clearance form to USICH at 202-708-1216 no later than June 30 COB.
All agency designees must complete this form.

Secretary [Administrator, etc.] _____
_____ will attend the meeting. _____ is unable to attend the meeting.

The following Deputy Secretary will attend: (Please print all required information.)

Full Name _____

Title _____

Agency _____

Contact _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Also attending will be:

(2) Full Name _____

Title _____

Agency _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Please return this form by FAX to the U.S. Interagency Council on Homelessness at (202) 708-1216 no later than June 30 COB.

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

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Thank you, and have a good holiday.

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: 202/708-4663

FAX: 202/708-1216

www.usich.gov

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, May 25, 2006 3:19 PM
To: Goodling, Monica
Cc: Washington, Tracy T
Subject: Marine One Departure tomorrow

Folks -- There will be a Marine One departure tomorrow at 2:50 p.m. If anyone has guests in town for the holiday weekend, I'd be happy to see if we can get them in to see this. They would need to arrive at the SW gate of the WH at no later 1:50 p.m. tomorrow afternoon. Please email me their full name (including middle), SS, DOB, and country of citizenship by 5 p.m. today (cc Tracy Washington).

Best, Monica

****
Monica M. Goodling
White House Liaison & Senior Counsel to the Attorney General
Department of Justice
950 Pennsylvania Ave N.W.
Washington, D.C. 20530
202.353.4435 (phone)
202.305.9687 (fax)

"[W]e rededicate ourselves to the ideals that inspired our founders. During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve, or our way. But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage." - President George W. Bush, July 4, 2005

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 3:20 PM
To: Gunn, Currie (SMO)
Subject: This pm

Spoke w robt. Plse move crt and cancel staff. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 3:21 PM
To: [redacted]@hotmail.com'
Subject: Fw: Marine One Departure tomorrow

[redacted] and [redacted] nterested? An hour worth of standing around in advance but the standing is on the wh lawn.....

-----Original Message-----
From: Goodling, Monica
To: Goodling, Monica
CC: Washington, Tracy T
Sent: Thu May 25 15:19:20 2006
Subject: Marine One Departure tomorrow

Folks -- There will be a Marine One departure tomorrow at 2:50 p.m. If anyone has guests in town for the holiday weekend, I'd be happy to see if we can get them in to see this. They would need to arrive at the SW gate of the WH at no later 1:50 p.m. tomorrow afternoon. Please email me their full name (including middle), SS, DOB, and country of citizenship by 5 p.m. today (cc Tracy Washington).

Best, Monica

****

Monica M. Goodling
White House Liaison & Senior Counsel to the Attorney General Department of Justice 950 Pennsylvania Ave N.W.
Washington, D.C. 20530
202.353.4435 (phone)
202.305.9687 (fax)

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Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	5710
Start:	Friday, May 26, 2006 4:00 PM
End:	Friday, May 26, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kim, Wan (CRT); King, Loretta (CRT); Schlozman, Brad (CRT); King, Loretta (CRT); Gorsuch, Neil M; Pacold, Martha M; Comisac, Rena (CRT); Schlozman, Brad (CRT); Swenson, Lily F; Todd, Gordon (SMO); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT)
Optional Attendees:	Saull, Bradley (CRT); 'Todd, Gordon (CRT)'

When: Friday, May 26, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Note time change for this meeting only 5/26/2006.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Brad Schlozman-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz

POC: Currie Gunn x4-9500

Amber.JMD

From: Amber.JMD
Sent: Thursday, May 25, 2006 4:04 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] Endagered Missing: [redacted] (ND)

-----Original Message-----
From: Amberalert-doj@usdoj.go [mailto:Amberalert-doj@usdoj.go] On Behalf Of AmberAlert-DOJ
Sent: Thursday, May 25, 2006 12:47 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USTP, AmberAlert; AmberAlert USNCB; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; Amberalert-doj@usdoj.go
Cc: Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] Endagered Missing: [redacted] (ND)

[redacted] If you have any information about this child please contact Minot Police Department (North Dakota) 1-701-852-0111.

Missing Children Alert Cases
http://www.missingkids.com/missingkids/servlet/PubCaseSearchServlet?act=viewChildDetail&LanguageCountry=en_US&searchLanguage=en_US&caseLang=en_US&orgPrefix=NCMC&caseNum=1044761&seqNum=1

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, May 25, 2006 4:04 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] Non-Family Abduction: [redacted] (GA)

-----Original Message-----
From: Amberalert-doj@usdoj.go [mailto:Amberalert-doj@usdoj.go] On Behalf Of AmberAlert-DOJ
Sent: Thursday, May 25, 2006 12:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); /CN=IGNITE (EVERYONE)/OU=OIGWASH06/O=OIG2K/P=GOV+DOJ/A=TELEMAIL/C=US/; BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USTP, AmberAlert; AmberAlert USNCB; Amberalert USMS; AmberAlert (NDIC); USAEO-AdminOfficers@usa.doj.gov; USAEO-Sysmgr@usa.doj.gov; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; Amberalert-doj@usdoj.go
Cc: Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] Non-Family Abduction [redacted] GA)

[redacted] If you have any information about this child please contact Brunswick Police Department (Georgia) - Missing Persons Unit 1-912-267-5559.

Missing Children
http://www.missingkids.com/missingkids/servlet/PubCaseSearchServlet?act=viewChildDetail&LanguageCountry=en_US&searchLanguage=en_US&caseLang=en_US&orgPrefix=NCMC&caseNum=781975&seqNum=1

THIS IS A TEST OF THE DOJ AMBER ALERT SYSTEM

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 4:09 PM
To: Goodling, Monica
Subject: [redacted]

Neglected to mention that he also expressed interest in serving as an immig judge or bia member.

Gunn, Currie (SMO)

Subject:	Canceled: OASG Staff Meeting
Location:	Main Room 5710
Start:	Thursday, May 25, 2006 5:00 PM
End:	Thursday, May 25, 2006 6:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)
Importance:	High

When: Thursday, May 25, 2006 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Today's mtg canceled 5/25/2006.
Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Marsh, Samuel

From:	Marsh, Samuel
Sent:	Thursday, May 25, 2006 4:29 PM
To:	Gorsuch, Neil M
Cc:	McHenry, Teresa; Delaplaine, Bruce
Subject:	Federal firearm violations

Neil,
Teresa asked me to provide you with the following information related to federal gun cases filed in fiscal year 2005. If you need additional information, please let me know. Sam

10,841 federal firearms cases were charged in federal court (cases refer to the aggregate number of indictments and informations filed where at least one count involved a firearm violation). Approximately 91 percent of offenders charged with federal firearm violations were convicted and over 93 percent of those offenders received prison terms. Further, 73 percent of the offenders who were sentenced for firearm and violent crime convictions received at least three or more years in prison and 52 percent received five or more years in prison.

Sam Marsh
US Department of Justice
Domestic Security Section
202-514-3270

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 4:51 PM
To: Shaw, Aloma A
Subject: Tomorrow please could

You get from the library the bios for judges from the third and tenth circuits? Thanks!

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, May 25, 2006 4:52 PM
To:	Marsh, Samuel
Cc:	McHenry, Teresa; Delaplaine, Bruce
Subject:	RE: Federal firearm violations

Thanks v much. Do you happen to know how that compares with fy 2004?

From: Marsh, Samuel
Sent: Thursday, May 25, 2006 4:29 PM
To: Gorsuch, Neil M
Cc: McHenry, Teresa; Delaplaine, Bruce
Subject: Federal firearm violations

Neil,
Teresa asked me to provide you with the following information related to federal gun cases filed in fiscal year 2005. If you need additional information, please let me know. Sam

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Sam Marsh
US Department of Justice
Domestic Security Section
202-514-3270

Delaplaine, Bruce

From: Delaplaine, Bruce
Sent: Thursday, May 25, 2006 5:07 PM
Subject: Read: Federal firearm violations

From: USDOJ- Office of Public Affairs
Sent: Thursday, May 25, 2006 5:20 PM
To: USDOJ- Office of Public Affairs
Subject: 26 ORLANDO AREA PEOPLE CHARGED WITH FEMA FRAUD

Department of Justice

United States Attorney Paul I. Perez
Middle District of Florida

FOR IMMEDIATE RELEASE
THURSDAY, MAY 25, 2006
WWW.USDOJ.GOV/USAO/FLM

CONTACT:
STEVE COLE
PHONE: (813) 274-6352
FAX: (813) 274-6300

26 ORLANDO AREA PEOPLE CHARGED WITH FEMA FRAUD

ORLANDO – Twenty-six individuals have been charged in "Operation Storm Chaser" that is aimed at detecting and prosecuting instances of fraud in Central Florida related to Hurricanes Katrina and Rita, U.S. Attorney Paul I. Perez of the Middle District of Florida announced today. The charges are set forth in 23 separate indictments and in one information and include conspiracy, submission of a false claim to a governmental agency, theft of government property, mail fraud, wire fraud and making a false statement to a government agency. If convicted, the defendants face a maximum sentence of five years' imprisonment for conspiracy, five years' imprisonment for submission of a false claim to a governmental agency, 10 years' imprisonment for theft of government property, 20 years' imprisonment for mail fraud, 20 years' imprisonment for wire fraud, and five years' imprisonment for making a false statement to a government agency.

Local, state and federal law enforcement officers began arresting the defendants this morning and they will be making their first appearance in Orlando federal court this afternoon. As of noon today 18 of the 26 were in custody. (See attached list of defendants).

On Aug. 29, 2005, Hurricane Katrina made landfall in the Gulf Coast Region of the United States. On that date, President George W. Bush declared that a major disaster existed in portions of Alabama, Louisiana, and Mississippi. Less than a month later, on Sept. 24, 2005, Hurricane Rita made landfall near the Louisiana-Texas border. On that day, President Bush declared that a major disaster existed in portions of Louisiana and Texas.

After those disaster declarations were made, people in the affected areas became eligible to apply for disaster assistance from the Federal Emergency Management Agency (FEMA). Different forms of disaster assistance were made available by FEMA for those people located in the affected areas. Because many people were displaced by Hurricanes Katrina and Rita, FEMA provided a streamlined process for victims to receive expedited assistance in the form of a $2,000 disbursement. To obtain such expedited assistance, a person could apply by calling a toll-free telephone number for FEMA, by sending an application by using the Internet, or by applying in person. Each applicant for expedited assistance was asked to provide their name, Social Security

DOJ_NMG_ 0160655

number, current and pre-disaster addresses, and telephone numbers, among other things. If approved, an applicant could choose whether to receive their FEMA disaster assistance by a check that would be mailed to an address selected by the applicant or by a wire transfer that would be sent to a bank account selected by the applicant.

The only people entitled to receive disaster assistance from FEMA for Hurricanes Katrina or Rita were those people whose primary residence was located in one of the areas that was designated as being affected adversely by one of those major declared disasters. At no time was any county in the Middle District of Florida included in the areas of the country for which residents were eligible to obtain disaster assistance from FEMA for Hurricanes Katrina or Rita.

During the investigative phase of Operation "Storm Chaser," federal agents discovered a number of applications for FEMA disaster assistance that appeared to have been submitted on behalf of Central Florida residents who did not live in any of the affected areas that were eligible to apply for disaster assistance from FEMA for Hurricanes Katrina and Rita. Further investigation revealed that the 26 individuals charged in Operation "Storm Chaser" submitted fraudulent claims to FEMA totaling more than $170,000. Of that amount, they were successful in obtaining more than $150,000 in FEMA funds. The 26 charged in Operation "Storm Chaser" were involved in fraudulent claims as little as $2,000 and as much as over $100,000.

"As announced by Attorney General Alberto R. Gonzales when he visited New Orleans on October 20th of last year, the Justice Department has a 'zero tolerance' policy for FEMA fraud," said U.S. Attorney Perez. "In the aftermath of Hurricanes Katrina and Rita, our nation came together to support the people whose lives were devastated by those disasters. People who took advantage of that generosity by engaging in fraud can not be allowed to get away with it. As we enter a new hurricane season next week, we will aggressively pursue anyone who attempts to take advantage of a natural disaster to defraud FEMA or anyone else."

These case were investigated by the United States Secret Service, the United States Postal Inspection Service, and the Department of Homeland Security Office of Inspector General, with assistance from the U.S. Marshal's Service. The cases are being prosecuted by Assistant United States Attorney Roger B. Handberg.

These cases are part of the effort by the Hurricane Katrina Fraud Task Force to prosecute disaster-related crimes from last year's hurricanes. The Task Force was created in September 2005 by Attorney General Alberto R. Gonzales to deter, investigate, and prosecute federal crimes arising from Hurricanes Katrina and Rita. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, includes members of the Secret Service, the Postal Inspector's Office, and the Executive Office for United States Attorneys, among others.

An indictment or information is merely a formal charge that a defendant has committed a violation of the federal criminal laws, and every defendant is presumed innocent until, and unless, proven guilty.

Names of Defendants Charged in Operation Storm Chaser

*Ronald R. Tarver, 42, Eustis, Florida, 15 checks and 4 wire transfers totaling $46,749.51

Ronnie Lee McNeil, 42, Apopka, Florida, 5 checks totaling $10,000

*Preston Angelo Williams, 38, Orlando, Florida, 4 checks totaling $16,858

DOJ_NMG_ 0160656

*Jacqueline M. Collington, 29, Apopka, Florida, 6 checks totaling $12,000
William Lewis Clark, 43, Orlando, Florida, 5 checks totaling $10,000
Marvin Lee Williams, 61, Plymouth, Florida, 3 checks totaling $6,358
Dedrick Delano Franks, 41, Plymouth, Florida, 3 checks totaling $6,000
*Fredrick Deon Harrell, 26, Plymouth, Florida, 3 checks totaling $6,000
Lorenzo Vanlenoor Moody, 36, Apopka, Florida, 3 checks totaling $4,554
Leroy Rufus Scarlett, 21, Plymouth, Florida, 2 checks totaling $4,000
Anthony George Cherry, 37, Plymouth, Florida, 2 checks totaling $4,000
Herbert Neal, 35, Plymouth, Florida, 2 checks totaling $4,000
Clarence Malcom Williams, 39, Mount Dora, Florida, 2 checks totaling $4,000
Antwan Derrell Harper, 21, Plymouth, Florida, 1 check totaling $2,000
*Karen Rachel Smith, 31, Zellwood, Florida, 1 check totaling $2,000
*Katrina Rachelle Smith, 31, Plymouth, Florida, 1 check totaling $2,000
*Sabrina Seline Smith, 28, Zellwood, Florida, 1 check totaling $2,000
Annette Harrell, 41, Plymouth, Florida, 1 check totaling $2,000
Darrell Lamont Harrell, 22, Plymouth, Florida, 1 check totaling $2,000
*Felicia Lafaye Harrell, 24, Plymouth, Florida, 1 check totaling $2,000
Rodney Lamar Bridges, 38, Apopka, Florida, 1 check totaling $2,000
Samuel J. Scarlett, 20, Plymouth, Florida, 1 check totaling $2,000
Donna Lynette Simmons, 41, Apopka, Florida, 1 check totaling $2,000
Monica Martres Simmons, 25, Apopka, Florida, 1 check totaling $2,000
Timothy Lofton Mosley, 35, Apopka, Florida, 1 check totaling $2,000
Melani Jamianicole Brown, 18, Apopka, Florida, 1 check totaling $2,000

*** Not in Custody as of noon today.**

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DOJ_NMG_ 0160657

Image not available for this document, ID: 0.7.10316.11804-000001

Image not available for this document, ID: 0.7.10316.11804-000002

Otus2005, Ag

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:00 PM
End:	Friday, May 26, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)

When: Friday, May 26, 2006 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Will Moschella, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, May 25, 2006 6:07 PM
To: Gorsuch, Neil M
Subject: Read: REMINDER: JULY 10 FULL COUNCIL MEETING

From: USDOJ- Office of Public Affairs
Sent: Thursday, May 25, 2006 6:08 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL JURY CONVICTS FORMER ENRON CHIEF EXECUTIVES KEN LAY, JEFF SKILLING ON FRAUD, CONSPIRACY AND RELATED CHARGES

Attached is the full statement from Deputy Attorney General Paul J. McNulty.

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, MAY 25, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FEDERAL JURY CONVICTS FORMER ENRON CHIEF EXECUTIVES KEN LAY, JEFF SKILLING ON FRAUD, CONSPIRACY AND RELATED CHARGES

WASHINGTON, D.C. – A federal jury in Houston has convicted former Enron Chief Executive Officers Kenneth L. Lay and Jeffrey K. Skilling on charges including conspiracy, securities fraud, wire fraud, and making false statements, the Department of Justice announced today. The eight-woman, four-man jury returned its verdict today on its sixth day of deliberations, following 56 days of trial proceedings before U.S. District Judge Sim Lake.

Lay, 64, was convicted on all of the six counts with which he was charged: conspiracy, two counts of wire fraud and three counts of securities fraud. Lay was also convicted at a separate bench trial before Judge Lake of one count of bank fraud and three counts of making false statements to banks. The judge announced his verdict immediately after reading the jury verdict in the other case. Skilling, 52, was convicted on 19 of the 28 counts pending against him: conspiracy, 12 counts of securities fraud, one count of insider trading, and five counts of making false statements to auditors. Skilling was acquitted of nine insider trading counts.

Sentencing for both defendants is scheduled for Sept. 11, 2006, before Judge Lake at 1:30 p.m. CST. Potential maximum terms of imprisonment on the charges are as follows: five years on conspiracy, 10 years on each of the securities fraud charges, 10 years on each of the false statements to auditors charges, five years on the wire fraud charges, and 10 years on the insider trading charge. The defendants also face tens of millions of dollars in fines.

"The message of today's verdict is simple: our criminal laws will be enforced just as vigorously against corporate executives as they will be against street criminals," said Deputy Attorney General Paul J. McNulty, chairman of the President's Corporate Fraud Task Force. "No one – including the heads of Fortune 500 companies – is above the law."

"The jury has spoken. Enron's top executives perpetrated a series of lies designed to mislead analysts and the investing public," said Assistant Attorney General Alice S. Fisher of the Criminal Division. "People have the right to expect honesty and integrity in the marketplace. Today's verdict is the culmination of more

DOJ_NMG_ 0160662

than four years of hard work and dedication by the prosecutors and investigators, whose tireless efforts demonstrate the finest qualities of public service."

"Today's verdicts speak loudly about the right of investors and employees to be told the truth by their corporate leaders," said FBI Director Robert S. Mueller. "I want to commend the FBI Agents who worked on this case and on other Enron prosecutions for their unwavering commitment and dedication to get to the truth. The FBI and its partners will continue to aggressively pursue corporate fraud and other crimes – wherever we find it and at every level."

Today's convictions stem from a wide-ranging scheme that Lay, Skilling and other Enron executives engaged in at various times between at least 1999 and 2001, to deceive the investing public, the U.S. Securities and Exchange Commission and others about the true performance of Enron's businesses. The scheme was designed to make it appear that Enron was growing at a healthy and predictable rate, consistent with analysts' published expectations, that Enron did not have significant write-offs or debt and was worthy of investment-grade credit rating, that Enron was comprised of a number of successful business units, and that the company had an appropriate cash flow. It had the effect of inflating artificially Enron's stock price, which increased from approximately $30 per share in early 1998 to over $80 per share in January 2001, and artificially stemming the decline of the stock during the first three quarters of 2001.

The ongoing investigation into Enron's collapse is being conducted by the Enron Task Force, a team of federal prosecutors supervised by the Justice Department's Criminal Division and Special Agents from the FBI and IRS Criminal Investigation. The Task Force also has coordinated with and received considerable assistance from the Securities and Exchange Commission. The Enron Task Force is part of President Bush's Corporate Fraud Task Force, created in July 2002 to investigate allegations of fraud and corruption at U.S. corporations. To date, the efforts of the Corporate Fraud Task Force have resulted in 1,063 convictions, including the convictions of 167 corporate presidents and chief executive officers, and 36 chief financial officers.

# # #

06-328

McNulty.Enron.doc

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Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, MAY 25, 2006
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TDD (202) 514-1888

TRANSCRIPT OF STATEMENT BY DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ON THE CONVICTIONS OF FORMER ENRON CHIEF EXECUTIVE OFFICERS KEN LAY AND JEFF SKILLING

"The collapse of the Enron Corporation put thousands of employees out of work and cost investors billions in losses. Enron has become the leading symbol of the corporate scandal.

"Today, a jury in Houston convicted former Enron executives Kenneth Lay and Jeffrey Skilling on multiple counts of fraud, conspiracy, and related offenses. The judge also convicted Lay of bank fraud and false statements in a separate case tried to the bench.

"Lay, Skilling, and their numerous co-conspirators perpetrated an elaborate scheme to mislead analysts and investors about Enron's true financial picture. Their efforts to mislead the markets were protracted, deliberate and dishonest. At a time when the company was floundering, these defendants perpetrated a lie – that Enron was a robust and growing company in the strongest financial condition it had ever been in. As they knew, the truth was something very different. Enron faced significant financial difficulties that had been systematically masked by a series of deceptive accounting tricks.

"The message of today's verdict is simple: our criminal laws will be enforced just as vigorously against corporate executives as they will be against street criminals. No one— including the heads of Fortune 500 companies—is above the law.

"We understand the importance of our efforts here to fight corporate fraud. The President's Corporate Fraud Task Force has worked several years now with great effort to try to focus on this kind of corporate corruption. We've done it because we care about the victims of this corporate criminal behavior. Employees who lose their jobs and lose their pensions. Investors who lose their savings. And so this verdict encourages us. It encourages us to continue to combat corruption wherever we find it.

"The Enron Task Force was formed in late 2001. It involves multiple agencies, including the FBI, the SEC, and the IRS. And this task force that has worked on this Enron debacle has worked thousands and thousands of hours. They've gone over millions

of pages of documents. They have devoted years of their professional life, sacrificing time from families, all in the effort to try to hold individuals accountable for corruption.

"I want to thank, on behalf of the Department of Justice, I want to thank the investigators and particularly the leaders who have made this possible. Alice Fisher, the Assistant Attorney General for the Criminal Division, who is with me here today; Sean Berkowitz, the head of the Enron Task Force; Kathy Ruemmler, she is the task force Deputy Director; the prosecution team, Sean and Kathy, and John Hueston, Cliff Stricklin, Leo Wise, Rob Adkins, Doug Wilson, John Drennan and Andrew Stolper. These individuals, along with the FBI—and I want to thank the FBI for its efforts—have done a great service to the American people with their hard work, their dedication, and this tremendous win in bringing these important convictions. I also want to thank Matt Friedrich for his work on this task force and his service in the Criminal Division. We will continue to pursue relentlessly this type of corruption and thank you very much."

# # #

06-330

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Image not available for this document, ID: 0.7.10316.11790-000003

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, May 25, 2006 6:09 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: REMINDER: JULY 10 FULL COUNCIL MEETING

Gordon has been handling these. Copying him.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 2:44 PM
To: Swenson, Lily F
Cc: McCallum, Robert (SMO)
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING

Have you been attending these?

-----Original Message-----
From: [redacted]@usich.gov [mailto [redacted]@usich.gov]
Sent: Thursday, May 25, 2006 1:05 PM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.

A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development Secretary Alphonso Jackson. Please respond to the Secretary's invitation with the designation of the most senior level leadership of your agency for this

important discussion on a key issue for our nation and priority of this Administration.

As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.

Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work with the Council on this matter to achieve the maximum interagency coordination and visibility of results from the Administration's initiatives.

Thank you, and have a good holiday.

[redacted]

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: 202/708-4663

FAX: 202/708-1216

www.usich.gov

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, May 25, 2006 6:33 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
May 25, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Search of Congressman Jefferson's Office and Speaker Hastert's Accusations (OPA)
Media continue to cover the search of Congressman Jefferson's office. House Speaker Dennis Hastert accused DOJ of trying to intimidate him by allegedly leaking information in retaliation for criticizing the FBI's search of Congressman Jefferson's office. House Judiciary Committee Chairman James Sensenbrenner announced a hearing for next week, "Reckless Justice: Did the Saturday Night Raid of Congress Trample the Constitution?" DOJ provided the following statement in response to Hastert's accusations.

Talking Points:

- The Department of Justice was extremely clear in its statements yesterday that Speaker Hastert is not under investigation and we are not going to dignify and speculate about the motives of unnamed sources providing inaccurate information.

Temporary Sealing of Documents Found in Jefferson's Office (OPA)
The Attorney General issued the following statement regarding the President's order to temporarily seal the documents found in Congressman Jefferson's office.

Talking Points:

- Throughout this discussion period with the Congress over the court authorized search of Congressman Jefferson's office, the Justice Department has sought to protect the integrity of this important ongoing public corruption investigation. The President's order does that and provides additional time to reach a permanent solution that allows this investigation to continue while accommodating the concerns of certain members of Congress.

Enron Verdict (OPA/Criminal)
After six days of jury deliberations, former Enron chiefs Kenneth Lay and Jeffrey Skilling were convicted of conspiracy to commit securities and wire fraud. The eight-woman, four-man jury returned its verdict following 56 days of trial proceedings before U.S. District Judge Sim Lake. Skilling was convicted on 19 of the 28 fraud and conspiracy counts and all but one of the insider trading charges. Lay was convicted on all 6 counts against him, including conspiracy, wire fraud and securities fraud. In a separate trial, Lay was also convicted of bank fraud involving

corporate loans. Sentencing for both defendants is scheduled for September 2006. Deputy Attorney General Paul McNulty made brief remarks to the media regarding the verdict.

Talking Points:

- The message of today's verdict is simple: our criminal laws will be enforced just as vigorously against corporate executives as they will be against street criminals. No one – including the heads of Fortune 500 companies – is above the law.

National Missing Children's Day (OPA)
The Attorney General participated in the Department's National Missing Children's Day awards ceremony and joined the U.S. Postal Service in issuing a new AMBER Alert stamp.

VA Stolen Laptop (OPA/FBI)
Media continues to report on the Veteran's Affairs stolen laptop. CBS News is working on a story regarding the possibility of social security numbers being sold online.

Media Inquiry into Financial Crimes Report (FBI)
Wall Street Journal's Paul Davies is working on a story regarding the FBI's Financial Crimes Report, specifically clarification of the corporate crime fines, restitutions, and the number of cases investigated.

Missing Ernst & Young Laptop (FBI)
A laptop is missing, presumed stolen, that belonged to an auditor from Ernst & Young. On the laptop was 280,000 Hotels.com (owned by Expedia) customers account information, some including credit card numbers and billing address. The information was from an audit done of Hotels.com from 2 years ago.

FRIDAY'S EXPECTED EVENTS/RELEASES:

No expected events or releases.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 6:49 PM
To: Gorsuch, Neil M
Subject: Fonseca

Full Name:
Last Name:
First Name:

Business:

Full Name:
Last Name:
First Name:

Business:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 8:06 AM
To: Gunn, Currie (SMO)
Cc: McCallum, Robert (SMO)
Subject: CRT Weekly

Is there any chance Wan can meet earlier in the day? If not, let's cancel CRT - as Robert pointed out, by 4pm it may be hard to corral folks! Thanks.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, May 26, 2006 8:08 AM
To: Gorsuch, Neil M
Subject: Read: CRT Weekly

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 8:11 AM
To: McKeown, Matt (ENRD)
Subject: RE: Breaking Down $9.6 Billion in Enforcement Actions for '05

How does this number compare with prior years?

From: McKeown, Matt (ENRD)
Sent: Thursday, May 25, 2006 9:58 AM
To: Gorsuch, Neil M
Cc: Wooldridge, Sue Ellen (ENRD)
Subject: Breaking Down $9.6 Billion in Enforcement Actions for '05

Neil: This is the first of two emails responding to your request from yesterday afternoon. We report actions occurring in fiscal years. So, the $9.6 billion figure represents activity from 10/01/04 through 9/30/05.

Nine cases account for almost $7.4 billion of the nearly $9.6 billion annual figure. Five enforcement actions against municipalities under the Clean Water Act [Baltimore County, MD, Louisville, KY, the D.C. Water and Sewer Authority (WASA), Orange County,CA, and City of Los Angeles*] resulted in agreements by those municipalities to spend collectively an estimated $5.4 billion [$.8, .5, 1.4, .64 and 2. billion, respectively] to meet their obligations under the Clean Water Act. And four settlements under the Clean Air Act (Ohio Edison, Illinois Power, Chevron and Citgo) require the defendants to spend approximately $2 billion to come into compliance with that Act. The balance of our enforcement cases (a large number) contributed the remaining $2.2 billion in injunctive relief.

*Please note that the City of Los Angeles settlement was reached in late 2004 and is, therefore, included in the $9.6 billion total. The remainder of the large settlements referenced above were reached during calendar year 2005.

The second email will highlight some specific examples of pollution law enforcement that occurred during calendar '05.

Let me know if you have questions.

Matt

McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Friday, May 26, 2006 8:37 AM
To: Gorsuch, Neil M
Subject: Read: Breaking Down $9.6 Billion in Enforcement Actions for '05

Marsh, Samuel

From:	Marsh, Samuel
Sent:	Friday, May 26, 2006 9:23 AM
To:	Gorsuch, Neil M
Cc:	Irving, John (ODAG); McHenry, Teresa; Delaplaine, Bruce
Subject:	RE: Federal firearm violations

Neil,
Glad to help. I talked to John Irving – national PSN Coordinator - this morning to obtain gun prosecution numbers for FY '2004. John offered to contact you directly with those stats – and he may have some additional information that might be helpful to you. If you need anything else from me, please let me know. Sam

---

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 25, 2006 4:52 PM
To: Marsh, Samuel
Cc: McHenry, Teresa; Delaplaine, Bruce
Subject: RE: Federal firearm violations

Thanks v much. Do you happen to know how that compares with fy 2004?

From: Marsh, Samuel
Sent: Thursday, May 25, 2006 4:29 PM
To: Gorsuch, Neil M
Cc: McHenry, Teresa; Delaplaine, Bruce
Subject: Federal firearm violations

Neil,
Teresa asked me to provide you with the following information related to federal gun cases filed in fiscal year 2005. If you need additional information, please let me know. Sam

10,841 federal firearms cases were charged in federal court (cases refer to the aggregate number of indictments and informations filed where at least one count involved a firearm violation). Approximately 91 percent of offenders charged with federal firearm violations were convicted and over 93 percent of those offenders received prison terms. Further, 73 percent of the offenders who were sentenced for firearm and violent crime convictions received at least three or more years in prison and 52 percent received five or more years in prison.

Sam Marsh
US Department of Justice
Domestic Security Section
202-514-3270

Irving, John (ODAG)

From: Irving, John (ODAG)
Sent: Friday, May 26, 2006 9:29 AM
To: Gorsuch, Neil M
Subject: Gun Prosecution #s
Attachments: ca_fire922-924.pdf; da_fire922-924.pdf

Neil --

Hope these help. Good talking to you -- I'll work on a date for the off-site conference.

-- John

United States Attorneys--Criminal Caseload Statistics*

18 U.S.C. 922, 924**

Cases Filed - Fiscal Years 1994-2005***

Listing Sorted: Alphabetically by District

	District	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1	Alabama, Middle	24	21	19	13	15	8	15	20	31	92	83	114
2	Alabama, Northern	39	25	32	26	34	48	98	136	186	218	171	165
3	Alabama, Southern	31	39	21	22	29	33	46	48	81	87	82	109
4	Alaska	17	10	4	13	9	17	18	18	21	33	35	30
5	Arizona	85	86	90	36	110	117	137	154	165	227	230	268
6	Arkansas, Eastern	42	36	47	30	36	27	26	28	53	59	70	107
7	Arkansas, Western	23	12	13	12	6	13	11	18	13	19	23	32
8	California, Central	110	109	103	74	65	70	88	147	154	108	144	131
9	California, Eastern	51	57	66	48	28	46	48	55	70	78	119	126
10	California, Northern	60	33	50	37	43	119	120	96	89	114	92	102
11	California, Southern	34	40	24	28	25	17	16	19	24	17	18	12
12	Colorado	51	66	59	38	36	44	109	110	108	146	149	132
13	Connecticut	30	36	40	41	27	43	44	53	55	58	71	59
14	Delaware	11	14	13	18	20	10	6	13	67	41	41	29
15	District of Columbia	95	45	104	141	107	133	136	165	190	246	271	170
16	Florida, Middle	66	125	90	119	92	93	96	93	128	162	179	179
17	Florida, Northern	59	57	62	51	45	61	53	66	64	93	67	77
18	Florida, Southern	147	163	146	143	153	131	120	162	156	167	159	152
19	Georgia, Middle	43	31	14	25	18	19	29	70	42	64	63	96
20	Georgia, Northern	69	111	103	83	49	108	115	135	105	167	188	129
21	Georgia, Southern	15	15	17	14	30	30	42	75	77	89	100	107
22	Guam	25	14	13	19	13	7	8	8	15	8	2	9
23	Hawaii	11	21	7	8	23	12	10	11	31	86	84	66
24	Idaho	15	18	10	12	17	10	12	16	43	58	46	52
25	Illinois, Central	23	42	32	24	42	38	47	38	53	63	67	63
26	Illinois, Northern	41	27	23	33	28	43	46	45	103	104	105	114
27	Illinois, Southern	38	63	38	19	43	42	61	34	48	85	41	68
28	Indiana, Northern	28	31	22	43	44	81	117	116	127	111	120	171
29	Indiana, Southern	36	46	30	29	25	49	24	27	48	61	60	59
30	Iowa, Northern	22	27	23	36	25	32	73	81	58	94	65	83
31	Iowa, Southern	17	32	28	19	32	41	47	27	53	76	89	91
32	Kansas	59	82	42	54	66	73	101	93	103	147	186	135
33	Kentucky, Eastern	54	39	36	27	43	71	64	84	96	114	115	127
34	Kentucky, Western	30	34	24	24	32	36	38	89	83	86	74	87
35	Louisiana, Eastern	31	40	29	33	23	74	74	68	91	98	92	80
36	Louisiana, Middle	5	13	5	8	16	92	65	46	47	61	58	88
37	Louisiana, Western	16	39	27	17	17	25	26	39	50	82	124	93
38	Maine	19	17	23	45	32	41	48	33	62	69	76	58
39	Maryland	79	100	105	111	118	154	229	197	137	175	176	164
40	Massachusetts	46	80	65	27	47	51	35	56	81	90	72	75
41	Michigan, Eastern	137	141	102	89	147	127	86	127	216	252	171	148
42	Michigan, Western	35	16	17	28	13	31	42	58	80	99	72	109
43	Minnesota	39	31	30	42	50	47	55	41	34	65	71	62
44	Mississippi, Northern	17	26	21	8	8	16	22	31	35	24	61	30
45	Mississippi, Southern	38	33	14	11	34	22	77	61	63	96	80	69
46	Missouri, Eastern	88	91	68	83	99	116	121	119	152	256	255	248
47	Missouri, Western	53	56	40	50	46	60	171	184	222	306	323	341
48	Montana	30	28	38	27	18	28	34	36	55	95	84	86
49	Nebraska	17	22	23	23	46	32	35	54	95	166	157	171

	District	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
50	Nevada	50	39	24	30	61	71	74	72	168	192	171	138
51	New Hampshire	18	7	9	10	6	16	14	12	13	28	46	37
52	New Jersey	48	55	34	51	52	88	108	60	83	96	86	96
53	New Mexico	50	52	50	28	47	61	72	101	103	96	123	164
54	New York, Eastern	85	96	74	79	67	79	75	96	133	129	143	83
55	New York, Northern	13	19	10	10	18	15	20	38	40	42	40	51
56	New York, Southern	89	90	109	104	114	128	122	108	177	234	246	185
57	New York, Western	20	34	30	25	30	86	91	101	107	125	153	110
58	North Carolina, Eastern	52	48	31	24	57	52	84	108	155	282	272	250
59	North Carolina, Middle	57	53	35	35	43	79	104	108	117	154	187	161
60	North Carolina, Western	55	71	37	52	56	74	107	82	90	98	220	248
61	North Dakota	21	15	24	22	26	29	29	22	44	34	29	47
62	Northern Mariana Islands	2	1	3	1	0	6	2	0	6	2	0	1
63	Ohio, Northern	104	96	76	34	60	59	81	84	116	134	153	190
64	Ohio, Southern	48	56	33	18	32	34	50	52	71	99	128	156
65	Oklahoma, Eastern	7	11	10	9	6	13	21	23	21	45	50	29
66	Oklahoma, Northern	27	38	24	23	24	28	32	29	48	53	62	86
67	Oklahoma, Western	29	26	27	26	29	30	36	32	41	69	41	37
68	Oregon	50	75	47	52	108	126	103	92	132	150	152	134
69	Pennsylvania, Eastern	58	123	81	87	80	210	165	183	215	223	250	231
70	Pennsylvania, Middle	49	49	26	23	20	35	39	40	42	49	101	64
71	Pennsylvania, Western	31	29	24	16	20	13	36	49	50	41	111	99
72	Puerto Rico	37	33	44	26	16	41	23	38	35	35	48	36
73	Rhode Island	20	21	15	14	18	24	17	20	29	36	36	37
74	South Carolina	128	123	90	85	110	133	89	144	268	243	242	283
75	South Dakota	16	24	27	25	18	22	27	26	30	28	33	31
76	Tennessee, Eastern	67	78	41	57	70	77	105	172	145	181	215	210
77	Tennessee, Middle	8	12	12	21	29	31	38	37	60	94	66	92
78	Tennessee, Western	50	55	39	40	38	86	46	84	194	233	283	192
79	Texas, Eastern	81	66	50	62	60	61	84	100	101	147	150	211
80	Texas, Northern	117	86	77	70	119	100	176	154	126	158	182	214
81	Texas, Southern	75	96	65	65	115	138	199	292	176	193	252	223
82	Texas, Western	115	107	107	57	129	127	161	150	190	248	280	285
83	Utah	32	29	27	32	34	61	90	185	224	337	274	208
84	Vermont	20	12	12	13	12	12	18	37	28	29	43	33
85	Virgin Islands	20	28	21	5	13	26	19	15	16	4	20	12
86	Virginia, Eastern	84	81	70	166	312	297	263	292	260	311	291	271
87	Virginia, Western	80	60	43	44	53	91	68	75	129	173	160	171
88	Washington, Eastern	68	71	54	48	28	37	48	38	88	92	74	82
89	Washington, Western	29	42	38	32	35	35	27	20	43	60	64	89
90	West Virginia, Northern	17	19	25	18	17	22	32	21	54	51	49	65
91	West Virginia, Southern	28	38	20	35	25	43	51	45	73	61	72	47
92	Wisconsin, Eastern	38	37	25	39	21	31	57	70	65	56	90	87
93	Wisconsin, Western	11	11	5	13	4	6	13	13	24	28	38	32
94	Wyoming	19	12	16	16	35	29	24	21	44	71	60	60
	All Districts	4,274	4,564	3,793	3,703	4,391	5,500	6,281	7,041	8,534	10,556	11,067	10,841

*Caseload data extracted from the United States Attorneys' Case Management System.

**Includes any and all criminal cases where 18 U.S.C. 922 or 924 was brought as any charge against a defendant. However, both statutes were run together to eliminate any double counting of cases/defendants when more than one subsection of Section 922 or 924 was charged against the same defendant, or both Sections 922 and 924 were charged against the same defendant.

***FY 2005 numbers are actual data through the end of September 2005.

07-Nov-05

United States Attorneys--Criminal Caseload Statistics*

18 U.S.C. 922, 924**

Defendants in Cases Filed - Fiscal Years 1994-2005***

Listing Sorted: Alphabetically by District

	District	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1	Alabama, Middle	39	33	31	18	26	10	21	30	40	103	86	119
2	Alabama, Northern	47	38	45	32	37	63	104	146	203	234	190	172
3	Alabama, Southern	41	61	27	27	45	40	65	69	105	96	93	129
4	Alaska	18	14	4	16	12	18	29	22	37	45	41	33
5	Arizona	122	115	140	45	156	167	211	193	243	302	283	376
6	Arkansas, Eastern	58	44	66	49	62	35	30	38	61	72	81	131
7	Arkansas, Western	27	13	21	12	9	14	11	18	14	20	23	36
8	California, Central	172	146	172	145	116	116	147	219	213	141	198	183
9	California, Eastern	92	97	102	77	43	66	78	84	109	116	129	154
10	California, Northern	78	41	118	46	64	163	143	123	118	139	93	118
11	California, Southern	48	66	38	38	36	24	29	25	30	23	18	14
12	Colorado	56	82	71	59	52	60	139	129	116	157	158	146
13	Connecticut	41	47	52	46	35	51	51	64	64	60	76	66
14	Delaware	12	15	21	21	23	12	8	13	73	42	42	30
15	District of Columbia	127	64	129	153	118	161	157	202	224	282	291	197
16	Florida, Middle	89	163	121	154	115	115	126	129	155	207	196	198
17	Florida, Northern	77	72	76	62	69	78	63	80	81	110	72	88
18	Florida, Southern	184	202	170	196	202	182	174	231	228	228	230	221
19	Georgia, Middle	59	45	21	44	26	28	36	96	53	81	70	103
20	Georgia, Northern	110	135	142	109	69	156	159	196	157	268	260	197
21	Georgia, Southern	21	24	33	22	49	45	54	93	95	111	114	129
22	Guam	32	14	13	20	15	7	8	9	19	8	2	11
23	Hawaii	12	23	8	12	28	19	12	14	35	97	87	72
24	Idaho	19	24	13	15	23	17	12	26	60	65	48	62
25	Illinois, Central	26	46	34	25	43	46	55	39	58	69	71	64
26	Illinois, Northern	62	72	33	54	35	58	65	63	149	137	144	164
27	Illinois, Southern	59	82	41	22	47	47	74	46	58	106	48	71
28	Indiana, Northern	38	34	25	56	69	106	139	133	145	143	137	207
29	Indiana, Southern	51	59	33	42	30	58	27	34	58	65	68	67
30	Iowa, Northern	27	37	29	48	29	37	82	96	63	112	74	85
31	Iowa, Southern	24	51	44	23	43	58	63	47	64	89	99	97
32	Kansas	71	101	57	73	93	93	124	105	123	171	233	157
33	Kentucky, Eastern	70	49	42	32	59	105	115	134	121	151	141	155
34	Kentucky, Western	39	41	41	34	51	41	49	104	97	112	82	112
35	Louisiana, Eastern	59	60	35	44	46	92	83	75	100	119	102	85
36	Louisiana, Middle	5	17	5	10	17	93	70	48	50	65	59	89
37	Louisiana, Western	34	50	42	27	20	34	27	45	65	96	138	108
38	Maine	24	20	24	48	35	48	50	36	67	75	81	59
39	Maryland	108	126	142	137	147	173	245	224	171	206	223	195
40	Massachusetts	83	103	87	51	63	59	63	65	102	114	98	92
41	Michigan, Eastern	294	286	168	115	189	154	111	149	261	282	193	184
42	Michigan, Western	44	19	19	36	17	42	48	66	87	110	79	120
43	Minnesota	54	45	49	59	65	53	67	44	43	81	78	76
44	Mississippi, Northern	21	37	28	10	8	23	30	42	49	35	66	33
45	Mississippi, Southern	47	41	17	13	45	25	93	74	79	112	85	71
46	Missouri, Eastern	98	110	81	92	112	121	128	127	170	283	269	265
47	Missouri, Western	73	81	56	59	51	81	200	203	255	330	352	373
48	Montana	31	35	64	49	37	61	64	43	65	107	104	99
49	Nebraska	28	35	29	39	54	41	41	63	111	191	168	196

	District	FY 1994	FY 1995	FY 1996	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
50	Nevada	79	56	34	34	85	95	83	82	178	218	219	143
51	New Hampshire	19	8	15	14	6	17	15	12	13	30	48	37
52	New Jersey	65	63	41	65	59	89	118	66	88	99	91	111
53	New Mexico	63	70	83	36	57	77	85	117	117	114	133	178
54	New York, Eastern	211	252	166	163	179	177	164	183	256	189	229	238
55	New York, Northern	19	37	17	14	21	15	35	53	54	61	49	61
56	New York, Southern	206	172	248	175	190	187	180	153	243	328	333	292
57	New York, Western	27	35	35	31	32	98	104	114	121	146	171	130
58	North Carolina, Eastern	88	92	64	40	108	86	141	129	191	334	314	287
59	North Carolina, Middle	80	77	42	46	58	93	148	128	148	164	206	174
60	North Carolina, Western	113	146	64	81	78	97	170	142	131	159	264	304
61	North Dakota	22	28	32	23	31	44	30	26	55	37	36	54
62	Northern Mariana Islands	2	1	3	3	0	6	2	0	7	2	0	1
63	Ohio, Northern	125	127	88	43	73	69	91	101	138	175	165	218
64	Ohio, Southern	63	106	56	25	56	45	67	66	83	110	139	183
65	Oklahoma, Eastern	8	13	16	11	7	15	27	28	26	51	59	32
66	Oklahoma, Northern	29	51	32	32	32	40	36	36	53	56	66	100
67	Oklahoma, Western	75	33	62	52	40	42	49	36	48	90	49	43
68	Oregon	58	89	54	69	120	144	111	101	149	164	159	146
69	Pennsylvania, Eastern	89	165	113	130	120	263	221	232	283	305	310	296
70	Pennsylvania, Middle	52	62	33	30	22	46	53	57	56	76	141	90
71	Pennsylvania, Western	39	43	24	18	21	15	44	58	66	43	119	105
72	Puerto Rico	111	145	148	164	28	107	54	126	71	142	80	84
73	Rhode Island	30	36	15	14	20	26	20	23	30	39	36	40
74	South Carolina	251	238	129	144	169	176	140	191	345	346	302	379
75	South Dakota	20	27	34	26	22	23	33	31	31	31	37	44
76	Tennessee, Eastern	80	102	50	68	85	84	127	200	186	238	244	249
77	Tennessee, Middle	12	16	15	25	33	42	54	49	95	118	87	115
78	Tennessee, Western	70	76	40	54	57	113	68	113	212	263	322	213
79	Texas, Eastern	116	101	67	90	87	76	102	135	124	215	179	259
80	Texas, Northern	150	131	94	94	150	117	213	200	178	203	216	258
81	Texas, Southern	113	155	99	86	144	150	220	318	196	223	279	262
82	Texas, Western	156	148	134	75	146	146	192	183	224	327	334	347
83	Utah	38	35	38	37	40	72	99	202	250	376	304	232
84	Vermont	20	16	15	19	14	14	22	47	38	37	52	39
85	Virgin Islands	25	40	27	8	15	33	32	16	23	4	25	13
86	Virginia, Eastern	121	111	114	199	353	358	350	357	339	459	387	357
87	Virginia, Western	135	70	72	74	71	127	88	103	195	229	215	215
88	Washington, Eastern	68	71	54	48	28	37	48	38	88	92	74	83
89	Washington, Western	34	54	50	36	45	46	34	25	50	75	68	107
90	West Virginia, Northern	21	22	33	22	18	26	40	42	64	62	51	84
91	West Virginia, Southern	33	55	21	39	33	50	61	51	81	68	75	47
92	Wisconsin, Eastern	52	48	34	41	46	37	62	79	82	64	100	97
93	Wisconsin, Western	15	11	5	16	4	6	13	18	26	29	38	32
94	Wyoming	21	18	20	20	38	35	28	24	58	78	84	74
	All Districts	6,275	6,667	5,489	5,150	5,876	7,057	8,054	8,845	10,634	13,037	12,962	13,062

*Caseload data extracted from the United States Attorneys' Case Management System.

**Includes any and all criminal cases where 18 U.S.C. 922 or 924 was brought as any charge against a defendant. However, both statutes were run together to eliminate any double counting of cases/defendants when more than one subsection of Section 922 or 924 was charged against the same defendant, or both Sections 922 and 924 were charged against the same defendant.

***FY 2005 numbers are actual data through the end of September 2005.

07-Nov-05

Sours, Raquel

From: Sours, Raquel
Sent: Friday, May 26, 2006 9:33 AM
To: Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Cc: Beach, Andrew; Schreiber, Jayne
Subject: Brown Bag Lunch: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Importance: High

Please note that the Comprehensive Review of EOIR meeting that was scheduled for this afternoon will now be a brown bag lunch meeting at 12:15pm.

Thanks

Subject: Brown Bag Lunch: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations

Start: Fri 5/26/2006 12:15 PM
End: Fri 5/26/2006 1:15 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Otus2005, Ag; Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)

Importance: High

AG's Dining Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Will Moschella, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, May 26, 2006 9:36 AM
To:	Bucholtz, Jeffrey (CIV)
Subject:	Fw: Peter's office indicated that he cannot participate in the call re: Jaskolski Letter. I believe Jeff Bucholtz will.
Importance:	High

Are you headed this way?

-----Original Message-----
From: Gunn, Currie (SMO)
To: McCallum, Robert (SMO); Gorsuch, Neil M
Sent: Fri May 26 09:27:01 2006
Subject: Peter's office indicated that he cannot participate in the call re: Jaskolski Letter. I believe Jeff Bucholtz will.

McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Friday, May 26, 2006 9:43 AM
To: Gorsuch, Neil M
Cc: Wooldridge, Sue Ellen (ENRD)
Subject: FW: Enforcement Figures
Attachments: Money chart.xls

Neil:

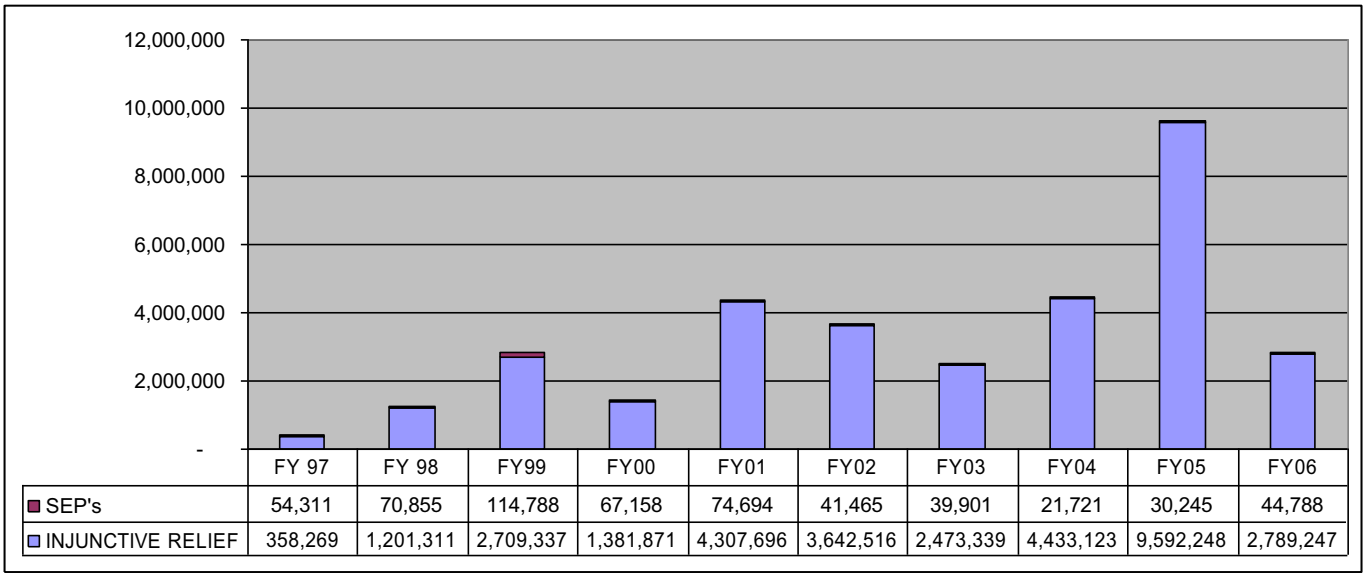
You asked for some information about how $9.6 billion in fiscal '05 compares to prior years. As the chart below demonstrates, '05 was a record enforcement year. I think it is also notable that the figures from prior years in this decade compare favorably to the figures from the late 1990's. Also note that the figures for fiscal '06 are low partially because we are still in the middle of it.

The spreadsheet that is attached to the message below contains the information set out in the chart, plus a lot of other details that are probably unnecessary for your purposes. The acronyms "EES" and "EDS" refer to this Division's Environmental Enforcement (EES) and Environmental Defense (EDS) Sections. Let me know what else you need.

Matt

From: Bruffy, Robert (ENRD)
Sent: Friday, May 26, 2006 9:19 AM
To: McKeown, Matt (ENRD)
Cc: Milius, Pauline (ENRD); Katz, Maureen (ENRD); Wardzinski, Karen (ENRD)
Subject: RE: Enforcement Figures

Matt -- Here's a graph of injunctive relief & SEPS over the past 10 years for comparison. I've also enclosed the spreadsheet with these and all the other numbers we track (e.g., cost recovery, fines, etc.). Please note that 99%+ of this amount was generated by EES, but that a small fraction resulted from EDS cases. Give me a buzz if you have questions or need more. Bob



	FY 97	FY 98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06
SEP's	54,311	70,855	114,788	67,158	74,694	41,465	39,901	21,721	30,245	44,788
INJUNCTIVE RELIEF	358,269	1,201,311	2,709,337	1,381,871	4,307,696	3,642,516	2,473,339	4,433,123	9,592,248	2,789,247

-----Original Message-----
From: McKeown, Matt (ENRD)
Sent: Friday, May 26, 2006 8:29 AM
To: Bruffy, Robert (ENRD)
Subject: Fw: Enforcement Figures

Any assistance you can provide the others would be appreciated. I am trying to compare the '05 total to prior years. Thanks.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: McKeown, Matt (ENRD) <MMcKeown2@ENRD.USDOJ.GOV>
To: Milius, Pauline (ENRD) <Pauline.Milius@usdoj.gov>; Katz, Maureen (ENRD) <Maureen.Katz@usdoj.gov>; Wardzinski, Karen (ENRD) <Karen.Wardzinski@usdoj.gov>
Sent: Fri May 26 08:17:15 2006
Subject: Enforcement Figures

Can I please have the total enforcement dollar figures for the past ten years so I have something to compare the $9.6 billion against? Thanks.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

Updated 12-15-03 Backup Reports in H Drive (FY 04 updated 10/4/03, FY 05 updat

FY 97-06 ALL ENRD MONIES A

		FY 97	FY 98	FY99	FY00
1	COST RECOVERY	$337,133,762.05	$306,220,715.67	$369,391,072.63	$157,009,657.55
2	OVERSIGHT COSTS	$1,099,420.50	$1,689,472.66	$310,000.00	$25,000.00
3	NATURAL RESOURCES DAMAGES	$14,241,060.30	$7,993,943.27	$65,125,384.15	$14,243,094.54
4	CIVIL & STIPULATED PENALTIES	$59,027,707.37	$65,182,697.34	$124,560,586.75	$58,646,648.25
5	COURT COSTS	$77,355.49	$6,995.57	$6,270.20	$3,029.64
6	INTEREST	$3,450,276.45	$1,686,424.78	$2,650,570.30	$2,955,671.87
7	ATTORNEYS FEES	$9,007.75	$2,745.34	$0.00	$0.00
8	SANCTION	$930.97	$0.00	$0.00	$1,532.35
9	JUST COMPENSATION	$0.00	$0.00	$0.00	$0.00
10	DAMAGES	$23,655.18	$445,000.00	$1,250,000.00	$0.00
11	ROYALTIES	$5,894,156.15	$3,449,399.49	$699,427.75	$0.00
SUBTOTAL		**$420,957,332.21**	**$386,677,394.12**	**$563,993,311.78**	**$2,028,450,863.67**
CRIMINAL MONEY:					
12	FINES	$13,136,070.94	$67,775,956.00	$16,950,989.00	$41,489,813.00
13	RESTITUTION	$4,447,838.28	$3,394,707.06	$4,141,915.75	$25,682,198.96
14	SPECIAL ASSESSMENTS	$21,874.00	$23,675.00	$23,365.00	$18,195.00
15	COURT COSTS	$1,175.00	$1,328.00	$0.00	$0.00
16	SUPPLEMENTAL SENTENCE	$0.00	$500,000.00	$2,800,000.00	$20,000,000.00
17	ATTORNEYS FEES	$0.00	$0.00	$0.00	$0.00
18	ASSET FORFEITURE	$250.00	$32,421.00	$12,500.00	$20,000.00
19	SANCTION	$0.00	$0.00	$400.00	$0.00
SUBTOTAL		**$17,607,208.22**	**$71,728,087.06**	**$23,929,169.75**	**$87,210,206.96**
SOFT MONEY:					
21	INJUNCTIVE RELIEF	$358,269,382.00	$1,201,311,250.00	$2,709,336,899.00	$1,381,870,910.00
21	SEP's	$54,311,004.00	$70,855,150.00	$114,788,058.00	$67,158,251.42
SUBTOTAL		**$412,580,386.00**	**$1,272,166,400.00**	**$2,824,124,957.00**	**$1,449,029,161.42**
Monies Owed to States,					
Civil & Stipulated Penalties,		$7,653,423.57	$13,788,836.15	$21,788,000.00	$41,076,099.62
Cost Recovery		$12,288,064.64	$15,726,683.27	$9,610,281.32	$3,328,884.88
Injunctive Relief		$700,000.00	$0.00	$0.00	$5,000.00
SEP's		$847,745.00	$2,499,800.00	$6,811,955.87	$1,894,500.00
TOTAL STATE MONEY		**$21,489,233.21**	**$32,015,319.42**	**$38,210,237.19**	**$46,304,484.50**
MONIES SAVED THE					
Sanctions and USAO Cases		n/a	n/a	**$31,991,583,494.63**	**$3,824,910,486.32**

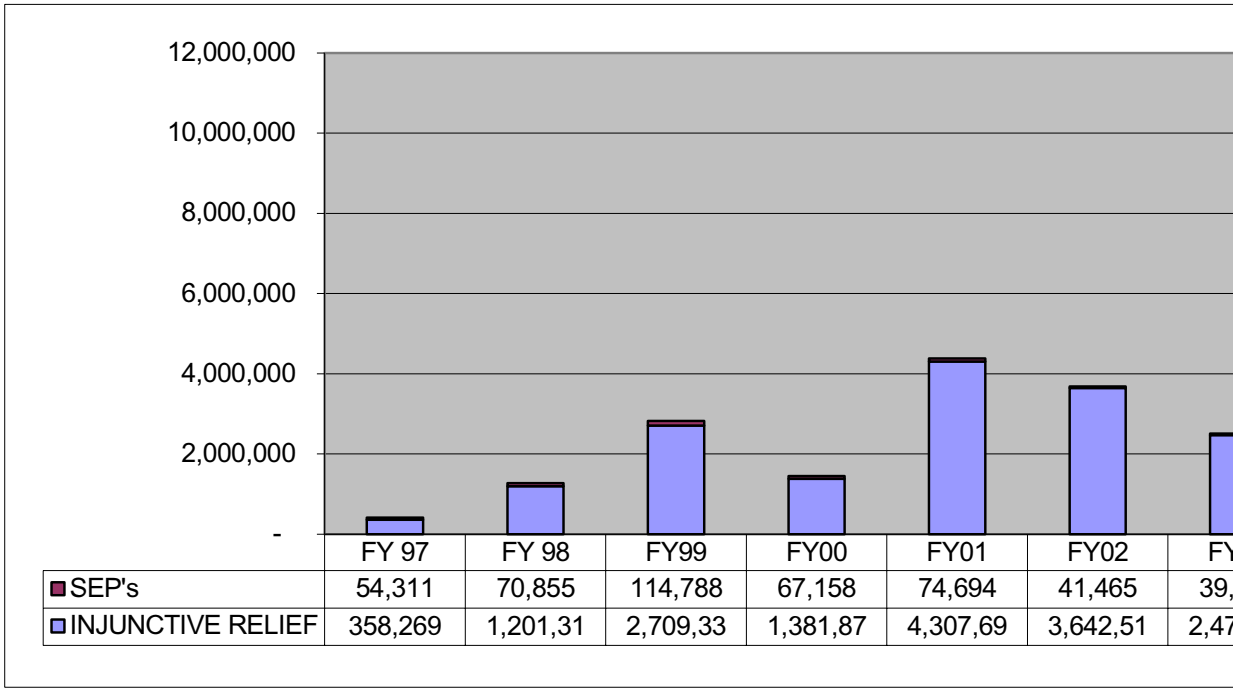
ed 11/14/05)

ASSESSED (OWED TO UNITED STATES)

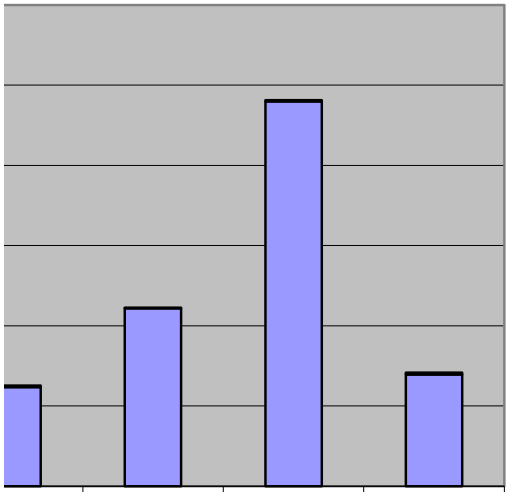
FY01	FY02	FY03	FY04	FY05
$564,327,791.35	$289,671,110.01	$185,136,967.30	$113,552,815.32	$268,044,959.76
$1,561,145.40	$5,723,000.00	$0.00	$1,600,000.00	$0.00
$106,631,801.00	$31,087,751.09	$15,331,167.14	$19,496,357.97	$66,496,882.25
$101,724,862.00	$63,136,500.97	$214,816,824.03	$181,720,971.79	$136,656,822.02
$37,619.38	$786.95	$34,424.45	$45.00	$2,706.55
$14,444,635.60	$4,353,624.94	$760,253.11	$2,923,371.46	$2,381,053.76
$45,123.79	$8,781.63	$0.00	$0.00	$0.00
$0.00	$2,000.00	$0.00	$0.00	$0.00
$0.00	$0.00	$0.00	$0.00	$0.00
$0.00	$247,911,999.42	$0.00	$341,903.00	$0.00
$34,103,532.34	$1,653,016.35	$7,025,000.00	$17,322,000.00	$10,638,685.47
$822,876,510.86	**$643,548,571.36**	**$423,104,636.03**	**$336,957,464.54**	**$484,221,109.81**
$49,745,600.00	$24,576,829.00	$43,258,900.00	$36,680,700.00	$49,387,992.78
$6,537,775.60	$1,070,467.00	$27,923,175.53	$3,459,255.00	$1,903,518.10
$63,711.00	$39,580.00	$36,005.00	$20,535.00	$28,945.00
$100.00	$0.00	$500,000.00	$0.00	$0.00
$11,154,500.00	$10,200,000.00	$300,000.00	$237,500.00	$11,475,000.00
$0.00	$0.00	$0.00	$0.00	$0.00
$1,000,000.00	$1,956,000.00	$36,000.00	$0.00	$0.00
$0.00	$0.00	$0.00	$0.00	$0.00
$68,501,686.60	**$37,842,876.00**	**$72,054,080.53**	**$40,397,990.00**	**$62,795,455.88**
$4,307,696,100.00	$3,642,515,931.00	$2,473,339,318.00	$4,433,122,994.00	$9,592,247,756.00
$74,693,981.00	$41,464,895.00	$39,900,550.00	$21,720,815.00	$30,245,363.00
$4,382,390,081.00	**$3,683,980,826.00**	**$2,513,239,868.00**	**$4,454,843,809.00**	**$9,622,493,119.00**
$55,361,869.93	$14,961,350.00	$4,288,756.43	$5,079,435.47	$9,520,226.25
$49,579,072.34	$13,065,677.62	$2,898,621.36	$10,590,398.79	$671,432.57
$5,375,000.00	$1,444,000.00	$1,316.96	$1,000,000.00	$1,750,000.00
$2,811,500.00	$6,654,450.00	$5,846,700.00	$611,290.00	$3,015,800.00
$113,127,442.27	**$36,125,477.62**	**$13,035,394.75**	**$17,281,124.26**	**$14,957,458.82**
$1,832,951,363.92	**$2,204,437,956.84**	**$4,944,989,453.61**	**$782,576,813.13**	**$805,742,201.40**

FY06	GRAND TOTAL
$91,969,710.37	**$2,682,458,562.01**
$2,100,000.00	**$14,108,038.56**
$4,501,153.40	**$345,148,595.11**
$31,837,638.18	**$1,037,311,258.70**
$709.26	**$169,942.49**
$325,345.38	**$35,931,227.65**
$212.40	**$65,870.91**
$0.00	**$4,463.32**
$0.00	**$0.00**
$0.00	**$249,972,557.60**
$0.00	**$80,785,217.55**
$130,734,768.99	**$6,241,521,963.37**
$50,001,413.00	**$393,004,263.72**
$4,838,636.00	**$83,399,487.28**
$43,960.00	**$319,845.00**
$0.00	**$502,603.00**
$7,172,000.00	**$63,839,000.00**
$0.00	**$0.00**
$0.00	**$3,057,171.00**
$0.00	**$400.00**
$62,056,009.00	**$544,122,770.00**
$2,789,246,837.00	**$32,888,957,377.00**
$44,787,803.00	**$559,925,870.42**
$2,834,034,640.00	**$33,448,883,247.42**
$14,041,583.71	**$187,559,581.13**
$2,066,194.19	**$119,825,310.98**
$0.00	**$10,275,316.96**
$3,000,000.00	**$33,993,740.87**
$19,107,777.90	**$351,653,949.94**
$516,075,825.23	**$46,903,267,595.08**

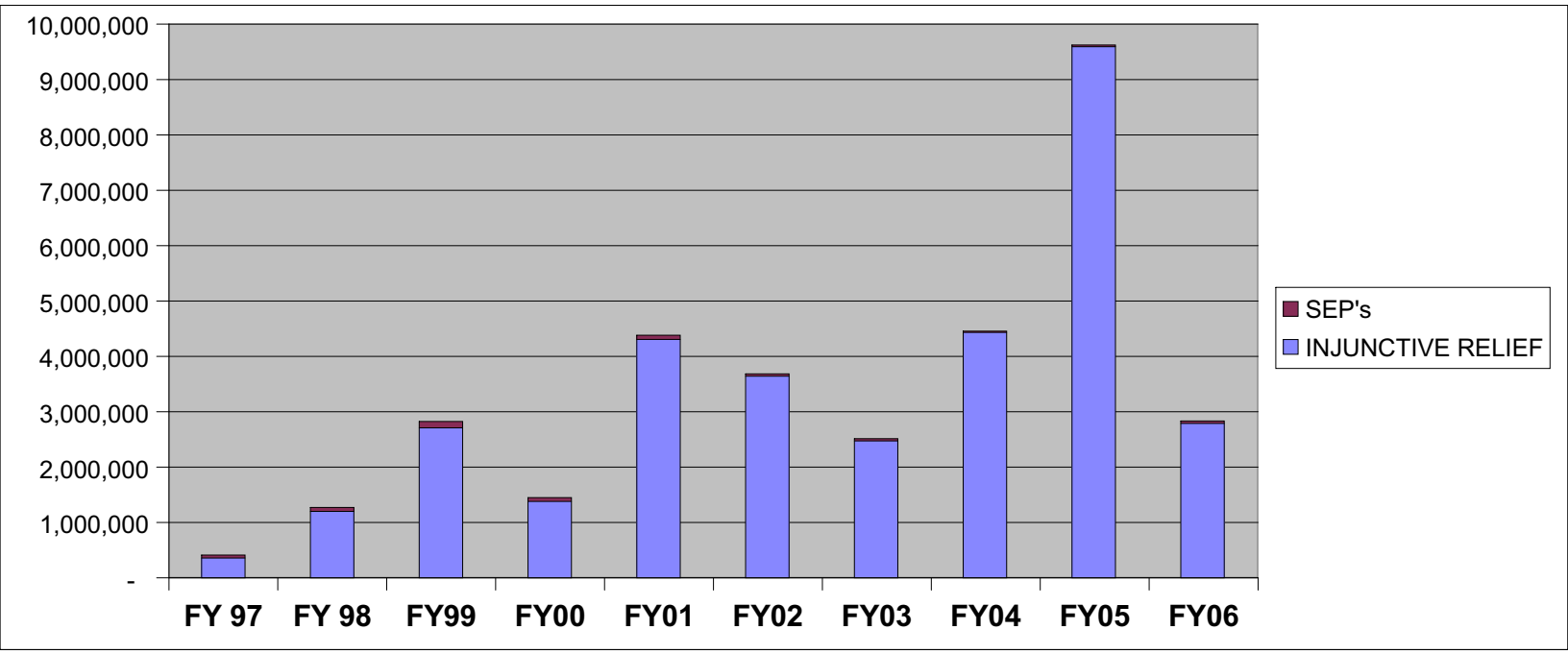
	FY 97	FY 98	FY99	FY00	FY01	FY02	FY03	FY04
INJUNCTIVE RELIEF	358,269	1,201,311	2,709,337	1,381,871	4,307,696	3,642,516	2,473,339	4,433,123
SEP's	54,311	70,855	114,788	67,158	74,694	41,465	39,901	21,721
TOTAL	**412,580**	**1,272,166**	**2,824,125**	**1,449,029**	**4,382,390**	**3,683,981**	**2,513,240**	**4,454,844**



FY05	FY06
9,592,248	2,789,247
30,245	44,788
9,622,493	**2,834,035**



Y03	FY04	FY05	FY06
,901	21,721	30,245	44,788
73,33	4,433,12	9,592,24	2,789,24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FY 97
FY 98
FY99
FY00
FY01
FY02
FY03
FY04
FY05
FY06
SEP's
INJUNCTIVE RELIEF

Updated 12-15-03 Backup Reports in H Drive (FY 04 updated 10/4/03, FY 05 updated 11/14

FY 97-06 ALL ENRD MONIES ASSESS

		FY 97	FY 98	FY99	FY00
1	COST RECOVERY	$337,133,762.05	$306,220,715.67	$369,391,072.63	$157,009,657.55
2	OVERSIGHT COSTS	$1,099,420.50	$1,689,472.66	$310,000.00	$25,000.00
3	NATURAL RESOURCES DAMAGES	$14,241,060.30	$7,993,943.27	$65,125,384.15	$14,243,094.54
4	CIVIL & STIPULATED PENALTIES	$59,027,707.37	$65,182,697.34	$124,560,586.75	$58,646,648.25
5	COURT COSTS	$77,355.49	$6,995.57	$6,270.20	$3,029.64
6	INTEREST	$3,450,276.45	$1,686,424.78	$2,650,570.30	$2,955,671.87
7	ATTORNEYS FEES	$9,007.75	$2,745.34	$0.00	$0.00
8	SANCTION	$930.97	$0.00	$0.00	$1,532.35
9	JUST COMPENSATION	$0.00	$0.00	$0.00	$0.00
10	DAMAGES	$23,655.18	$445,000.00	$1,250,000.00	$0.00
11	ROYALTIES	$5,894,156.15	$3,449,399.49	$699,427.75	$0.00
SUBTOTAL		**$420,957,332.21**	**$386,677,394.12**	**$563,993,311.78**	**$2,028,450,863.67**
CRIMINAL MONEY:					
12	FINES	$13,136,070.94	$67,775,956.00	$16,950,989.00	$41,489,813.00
13	RESTITUTION	$4,447,838.28	$3,394,707.06	$4,141,915.75	$25,682,198.96
14	SPECIAL ASSESSMENTS	$21,874.00	$23,675.00	$23,365.00	$18,195.00
15	COURT COSTS	$1,175.00	$1,328.00	$0.00	$0.00
16	SUPPLEMENTAL SENTENCE	$0.00	$500,000.00	$2,800,000.00	$20,000,000.00
17	ATTORNEYS FEES	$0.00	$0.00	$0.00	$0.00
18	ASSET FORFEITURE	$250.00	$32,421.00	$12,500.00	$20,000.00
19	SANCTION	$0.00	$0.00	$400.00	$0.00
SUBTOTAL		**$17,607,208.22**	**$71,728,087.06**	**$23,929,169.75**	**$87,210,206.96**
SOFT MONEY:					
21	INJUNCTIVE RELIEF	$358,269,382.00	$1,201,311,250.00	$2,709,336,899.00	$1,381,870,910.00
21	SEP's	$54,311,004.00	$70,855,150.00	$114,788,058.00	$67,158,251.42
SUBTOTAL		**$412,580,386.00**	**$1,272,166,400.00**	**$2,824,124,957.00**	**$1,449,029,161.42**
Monies Owed to States,					
Civil & Stipulated Penalties,		$7,653,423.57	$13,788,836.15	$21,788,000.00	$41,076,099.62

Cost Recovery	$12,288,064.64	$15,726,683.27	$9,610,281.32	$3,328,884.88
Injunctive Relief	$700,000.00	$0.00	$0.00	$5,000.00
SEP's	$847,745.00	$2,499,800.00	$6,811,955.87	$1,894,500.00
TOTAL STATE MONEY	**$21,489,233.21**	**$32,015,319.42**	**$38,210,237.19**	**$46,304,484.50**
GOVERNMENT: Cost, Sanctions and USAO Cases	n/a	n/a	**$31,991,583,494.63**	**$3,824,910,486.32**

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D STATES)

FY01	FY02	FY03	FY04	FY05
$564,327,791.35	$289,671,110.01	$185,136,967.30	$113,552,815.32	$268,044,959.76
$1,561,145.40	$5,723,000.00	$0.00	$1,600,000.00	$0.00
$106,631,801.00	$31,087,751.09	$15,331,167.14	$19,496,357.97	$66,496,882.25
$101,724,862.00	$63,136,500.97	$214,816,824.03	$181,720,971.79	$136,656,822.02
$37,619.38	$786.95	$34,424.45	$45.00	$2,706.55
$14,444,635.60	$4,353,624.94	$760,253.11	$2,923,371.46	$2,381,053.76
$45,123.79	$8,781.63	$0.00	$0.00	$0.00
$0.00	$2,000.00	$0.00	$0.00	$0.00
$0.00	$0.00	$0.00	$0.00	$0.00
$0.00	$247,911,999.42	$0.00	$341,903.00	$0.00
$34,103,532.34	$1,653,016.35	$7,025,000.00	$17,322,000.00	$10,638,685.47
$822,876,510.86	**$643,548,571.36**	**$423,104,636.03**	**$336,957,464.54**	**$484,221,109.81**
$49,745,600.00	$24,576,829.00	$43,258,900.00	$36,680,700.00	$49,387,992.78
$6,537,775.60	$1,070,467.00	$27,923,175.53	$3,459,255.00	$1,903,518.10
$63,711.00	$39,580.00	$36,005.00	$20,535.00	$28,945.00
$100.00	$0.00	$500,000.00	$0.00	$0.00
$11,154,500.00	$10,200,000.00	$300,000.00	$237,500.00	$11,475,000.00
$0.00	$0.00	$0.00	$0.00	$0.00
$1,000,000.00	$1,956,000.00	$36,000.00	$0.00	$0.00
$0.00	$0.00	$0.00	$0.00	$0.00
$68,501,686.60	**$37,842,876.00**	**$72,054,080.53**	**$40,397,990.00**	**$62,795,455.88**
$4,307,696,100.00	$3,642,515,931.00	$2,473,339,318.00	$4,433,122,994.00	$9,592,247,756.00
$74,693,981.00	$41,464,895.00	$39,900,550.00	$21,720,815.00	$30,245,363.00
$4,382,390,081.00	**$3,683,980,826.00**	**$2,513,239,868.00**	**$4,454,843,809.00**	**$9,622,493,119.00**
$55,361,869.93	$14,961,350.00	$4,288,756.43	$5,079,435.47	$9,520,226.25

$49,579,072.34	$13,065,677.62	$2,898,621.36	$10,590,398.79	$671,432.57
$5,375,000.00	$1,444,000.00	$1,316.96	$1,000,000.00	$1,750,000.00
$2,811,500.00	$6,654,450.00	$5,846,700.00	$611,290.00	$3,015,800.00
$113,127,442.27	**$36,125,477.62**	**$13,035,394.75**	**$17,281,124.26**	**$14,957,458.82**
$1,832,951,363.92	**$2,204,437,956.84**	**$4,944,989,453.61**	**$782,576,813.13**	**$805,742,201.40**

FY06	GRAND TOTAL
$91,969,710.37	**$2,682,458,562.01**
$2,100,000.00	**$14,108,038.56**
$4,501,153.40	**$345,148,595.11**
$31,837,638.18	**$1,037,311,258.70**
$709.26	**$169,942.49**
$325,345.38	**$35,931,227.65**
$212.40	**$65,870.91**
$0.00	**$4,463.32**
$0.00	**$0.00**
$0.00	**$249,972,557.60**
$0.00	**$80,785,217.55**
$130,734,768.99	**$6,241,521,963.37**
$50,001,413.00	**$393,004,263.72**
$4,838,636.00	**$83,399,487.28**
$43,960.00	**$319,845.00**
$0.00	**$502,603.00**
$7,172,000.00	**$63,839,000.00**
$0.00	**$0.00**
$0.00	**$3,057,171.00**
$0.00	**$400.00**
$62,056,009.00	**$544,122,770.00**
$2,789,246,837.00	**$32,888,957,377.00**
$44,787,803.00	**$559,925,870.42**
$2,834,034,640.00	**$33,448,883,247.42**
$14,041,583.71	**$187,559,581.13**

$2,066,194.19	**$119,825,310.98**
$0.00	**$10,275,316.96**
$3,000,000.00	**$33,993,740.87**
$19,107,777.90	**$351,653,949.94**
$516,075,825.23	**$46,903,267,595.08**

Updated 12-15-03 Backup Reports in H Drive (FY 04 updated 10/4/03, FY 05 updated 11/14

FY 97-06 ALL ENRD MONIES ASSESSED (OWED TO UNIT

		FY 97	FY 98	FY99	FY00	FY01	FY02	FY03
1	COST RECOVERY	337,134	306,221	369,391	157,010	564,328	289,671	185,137
2	OVERSIGHT COSTS	1,099	1,689	310	25	1,561	5,723	-
3	NATURAL RESOURCES DAMAGES	14,241	7,994	65,125	14,243	106,632	31,088	15,331
4	CIVIL & STIPULATED PENALTIES	59,028	65,183	124,561	58,647	101,725	63,137	214,817
5	COURT COSTS	77	7	6	3	38	1	34
6	INTEREST	3,450	1,686	2,651	2,956	14,445	4,354	760
7	ATTORNEYS FEES	9	3	-	-	45	9	-
8	SANCTION	1	-	-	2	-	2	-
9	JUST COMPENSATION	-	-	-	-	-	-	-
10	DAMAGES	24	445	1,250	-	-	247,912	-
11	ROYALTIES	5,894	3,449	699	-	34,104	1,653	7,025
SUBTOTAL		**420,957**	**386,677**	**563,993**	**232,886**	**822,878**	**643,550**	**423,104**
CRIMINAL MONEY:								
12	FINES	13,136	67,776	16,951	41,490	49,746	24,577	43,259
13	RESTITUTION	4,448	3,395	4,142	25,682	6,538	1,070	27,923
14	SPECIAL ASSESSMENTS	22	24	23	18	64	40	36
15	COURT COSTS	1	1	-	-	-	-	500
16	SUPPLEMENTAL SENTENCE	-	500	2,800	20,000	11,155	10,200	300
17	ATTORNEYS FEES	-	-	-	-	-	-	-
18	ASSET FORFEITURE	-	32	13	20	1,000	1,956	36
19	SANCTION	-	-	-	-	-	-	-
SUBTOTAL		**17,607**	**71,728**	**23,929**	**87,210**	**68,503**	**37,843**	**72,054**
		FY 97	FY 98	FY99	FY00	FY01	FY02	FY03
21	INJUNCTIVE RELIEF	358,269	1,201,311	2,709,337	1,381,871	4,307,696	3,642,516	2,473,339
21	SEP's	54,311	70,855	114,788	67,158	74,694	41,465	39,901
SUBTOTAL	SUBTOTAL	**412,580**	**1,272,166**	**2,824,125**	**1,449,029**	**4,382,390**	**3,683,981**	**2,513,240**
Monies Owed to States, Territories,								
Civil & Stipulated Penalties, Interest,		7,653	13,789	21,788	41,076	55,362	14,961	4,289
Cost Recovery		12,288	15,727	9,610	3,329	49,579	13,066	2,899
Injunctive Relief		700	-	-	5	5,375	1,444	1
SEP's		848	2,500	6,812	1,895	2,812	6,654	5,847
TOTAL STATE MONEY		**21,489**	**32,016**	**38,210**	**46,305**	**113,128**	**36,125**	**13,036**
GOVERNMENT:								
Excludes Atty Fees, Court Cost, Sanctions and USAO Cases		n/a	n/a	31,991,583	3,824,910	1,832,951	2,204,438	4,944,989

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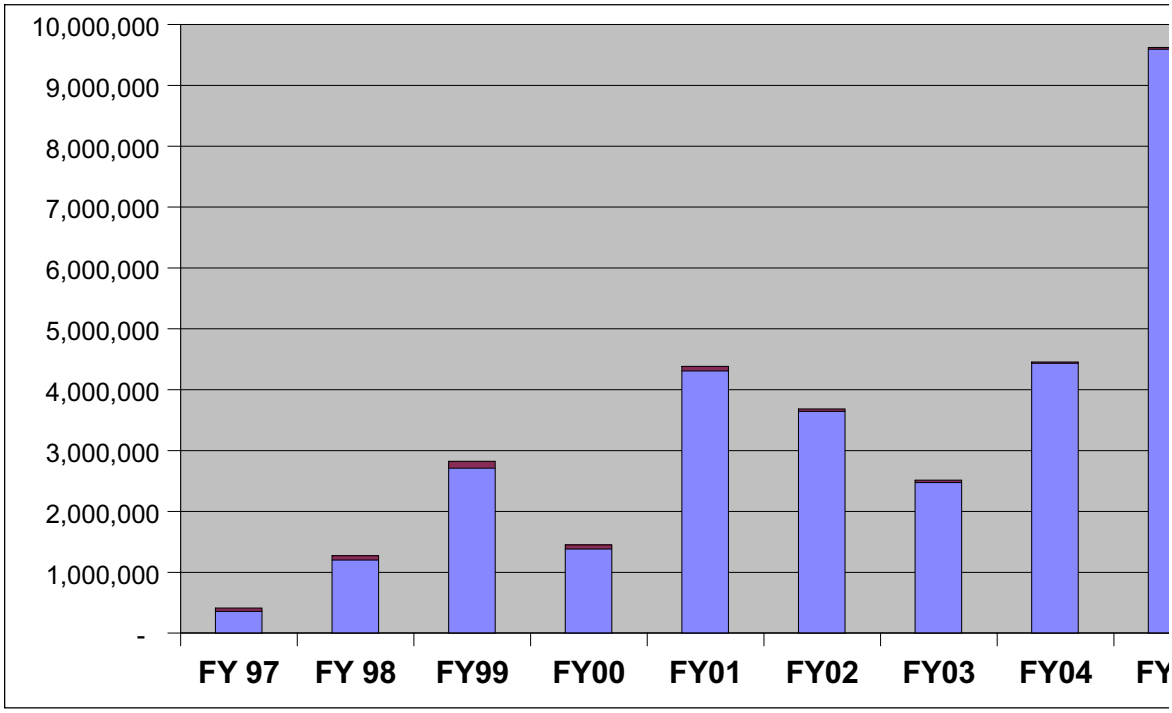
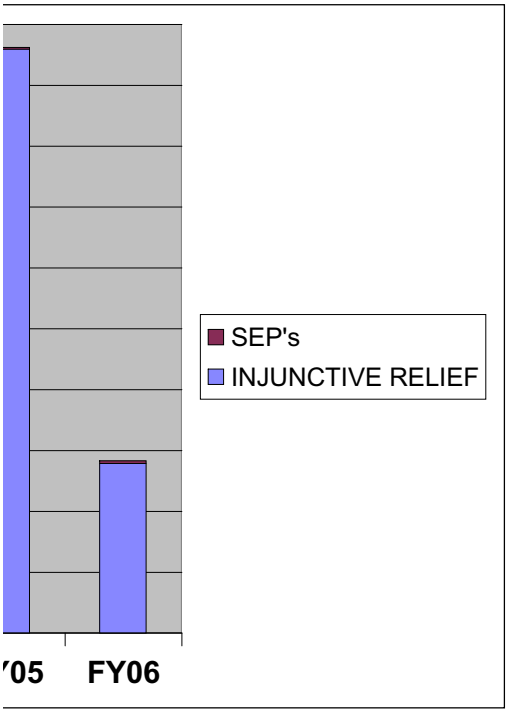
FY04	FY05	FY06
113,553	268,045	91,970
1,600	-	2,100
19,496	66,497	4,501
181,721	136,657	31,838
-	3	1
2,923	2,381	325
-	-	-
-	-	-
-	-	-
342	-	-
17,322	10,639	-
336,957	**484,222**	**130,735**
36,681	49,388	50,001
3,459	1,904	4,839
21	29	44
-	-	-
238	11,475	7,172
-	-	-
-	-	-
-	-	-
40,399	**62,796**	**62,056**

FY04	FY05	FY06
4,433,123	9,592,248	2,789,247
21,721	30,245	44,788
4,454,844	**9,622,493**	**2,834,035**
5,079	9,520	14,042
10,590	671	2,066
1,000	1,750	-
611	3,016	3,000
17,280	**14,957**	**19,108**
782,577	805,742	516,076

	FY 97	FY 98	FY99	FY00	FY01	FY02	FY03	FY04
INJUNCTIVE RELIEF	358,269	1,201,311	2,709,337	1,381,871	4,307,696	3,642,516	2,473,339	4,433,123
SEP's	54,311	70,855	114,788	67,158	74,694	41,465	39,901	21,721
TOTAL	**412,580**	**1,272,166**	**2,824,125**	**1,449,029**	**4,382,390**	**3,683,981**	**2,513,240**	**4,454,844**



FY05	FY06
9,592,248	2,789,247
30,245	44,788
9,622,493	**2,834,035**



McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Friday, May 26, 2006 10:05 AM
To:	Oldham, Jeffrey L
Cc:	Gorsuch, Neil M; Elwood, Courtney; Goodling, Monica; Sampson, Kyle
Subject:	RE: June 14, 2006 A Day in Kentucky!

Jeff: Monica and I got together today and I am no longer expected to participate unless I hear from her that I need to do it. The new USA is making arrangements for Alice or someone else to do it. Robt.

-----Original Message-----
From: Oldham, Jeffrey L
Sent: Thursday, May 25, 2006 7:45 AM
To: McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Goodling, Monica
Cc: Gorsuch, Neil M
Subject: Re: June 14, 2006 A Day in Kentucky!

Robert,

I am not sure where this confusion came from--we already told EOUSA the AG would not participate in this. I am including Monica, who talked to Natalie yesterday about the event. I am leaving town at noon today, so perhaps it's best if you and Monica can catch up when you get back to DOJ. In the meantime Monica or I will clarify the confusion on this with EOUSA and EDKY. Sorry about the mix-up.

Jeff

-----Original Message-----
From: McCallum, Robert (SMO)
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
CC: Gorsuch, Neil M
Sent: Thu May 25 05:42:35 2006
Subject: Fw: June 14, 2006 A Day in Kentucky!

FYI re Proj Safe Childhood matter in Kentucky. Will circle back with Jeff when I get to DOJ around noon after meeting at For Ser Inst. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
To: McCallum, Robert (SMO)
Sent: Wed May 24 18:47:22 2006
Subject: RE: June 14, 2006 A Day in Kentucky!

Robert,

Can I get back with you tomorrow? I really appreciate the responsiveness, and I really want you to participate; your schedule placing you in Kentucky is a gift from God. but now Natalie Voris (sp?) Someone from the AG's staff has some questions for our USA before scheduling any appearances. The questions concern the press conference, the AG and the Kentucky Governor's level of participation. Seems the AG himself, may (or may not but no decision) want to use Kentucky as a platform.

But our Governor seems to have got himself indicted on some state misdemeanor hiring practices violations. So I am speculating that some power some where in the AG's office is trying to decide whether Kentucky state government is a good thing or a not so good thing to be on a podium with. I hate to put you off, particularly since I extended the invite, but I'm being put off right now. I admit I assumed that your office knew what was going on. I should have told you right away.
You know what assuming will do. I really don't know the issue and I don't think it is a big one. But until I get a yea or nay from the AG's staff, I'm in a holding pattern on any final scheduling. I am sorry if this messes up your scheduling. Frances Catron

----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 6:03 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Things are looking like a go for me to participate. I will have the airlines alternatives tomorrow. What time would be best for you and exactly where: i.e. travel time to or from the speech location? Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 6:40 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Frances: Let me get back to you on it in the next day or so as I determine my schedule for that day. I am currently thinking of flying down that morning and so it depends on flight times. However, I am likely to be able to do it before or immediately after the remarks which are scheduled for 12:45. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
Sent: Monday, May 22, 2006 2:26 PM
To: McCallum, Robert (SMO)
Subject: June 14, 2006 A Day in Kentucky!

Dear Robert:

Looking forward to having you in Kentucky at the Bar Convention on June 14th. My district, in conjunction with USA David Huber in the Western District of Kentucky, is looking to roll out the Kentucky Project Safe Childhood effort with the Kentucky Internet Crimes Against Children Task Force and our state law enforcement partners that same week. We were looking at Monday or Tuesday but having you in the state on Wednesday the 14th presents a great opportunity.

Is there any time in your schedule either earlier in the day on the 14th, or that same afternoon after your speech to the Bar, to join us for a press conference to make the Kentucky Project Safe Childhood announcement? I am sure we would be very willing to accommodate your schedule to be able to have you representing the Department for this national priority program. The plans call for presentation in the Kentucky Capitol Rotunda with state, regional and local press, the Kentucky Lieutenant Governor Steve Pence (a former U.S. Attorney by the way), the U.S. Attorneys from Kentucky,

Mr. Thapar and Mr. Huber, and the various federal and state law enforcement partners participating in Project Safe Childhood.

I know this is a shot in the dark, but hey, if you don't ask, the answer is a forgone conclusion! Mark Wohlander of our office is on a detail in D.C. right now and I know he has been trying to get a contact into Alice Fisher's office. While we would be pleased to have our native daughter return to Kentucky, I shared with Mark that maybe we could set our sights a bit higher! I appreciate your consideration of the request. Frances Catron, ED of Kentucky.

Gorsuch, Neil M

Subject:	[redacted]
Location:	
Start:	Thursday, June 1, 2006 12:00 PM
End:	Thursday, June 1, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, May 26, 2006 10:18 AM
To: McNulty, Paul J; McCallum, Robert (SMO); Rooney, Kevin (EOIR); Ohlson, Kevin (EOIR); Elwood, Courtney; Brand, Rachel; Bounds, Ryan W (OLP); Cohn, Jonathan (CIV); Gorsuch, Neil M; Todd, Gordon (SMO); Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Otis, Lee L; Pacold, Martha M; Santangelo, Mari (JMD)
Cc: Washington, Alicia N (SMO)
Subject: Options for Reform.ppt
Attachments: Options for Reform.ppt

All --
Attached is the slide presentation for today's brown bag lunch with the AG. We will provide hard copies at the meeting. Thanks.
Lily

EOIR COMPREHENSIVE REVIEW

OPTIONS FOR REFORM

U.S. Department of Justice, May 26, 2006

IMMIGRATION COURTS

Increase IJ Accountability

- Consider 10-year renewable appointment terms for IJs
  - √ Make use of 2-year probationary period
  - √ Statutory authority likely needed to impose terms on incumbent IJs
- Performance evaluations
- Require new IJs to pass an immigration law exam demonstrating familiarity with key legal principles before taking the bench
- Develop plan to address sitting IJs who are underperforming
  - √ Improvement plans, intensive training and monitoring
  - √ Assess transfer or removal options where appropriate
- Offer professional advancement opportunities
  - √ Committee positions
  - √ Temporary Board positions
  - √ Details to other courts

DOJ_NMG_ 0160712

Improve Detection of Poor IJ Conduct or Quality

- Increase Director oversight and management of OCIJ
- Formalize mechanisms at BIA and OIL to track and report poor IJ decisions
  - √ Note decisions that exhibit temperament or quality problems
  - √ Submit periodic reports to Director and OCIJ
  - √ Include in caption of every BIA decision the name of the IJ below
- Formalize mechanisms at EOIR to track and report statistics that may signal poor IJ performance
  - √ Unusually high reversal rates, complaints, backlogs
  - √ Submit periodic reports to Director and OCIJ
- Increase Director and OCIJ openness to complaints and suggestions
  - √ Outreach to attorneys, groups, BIA and OIL
- Restructure OCIJ to promote greater contact with field
  - √ Disperse ACIJs to regions and/or establish supervisory judge in each court
  - √ Assign OCIJ managers to policy portfolios rather than regional responsibilities

Strengthen and Publish IJ Complaint Procedures

- Adopt a Code of Judicial Conduct for IJs
- Reform OCIJ/OPR complaint handling procedures
  - √ Increase OCIJ oversight and management
  - √ Standardize OCIJ complaint handling; develop proportionate scale of consequences for serious or repeated misbehavior; ensure timely response
  - √ Allow OPR to focus primarily on professional conduct
  - √ Establish a clearance process to determine whether OCIJ, OPR or both will handle a particular complaint
- Increase disciplinary transparency
  - √ Publish codes, standards, and discipline provisions applicable to IJs
  - √ Disclose discipline imposed to the extent possible under privacy laws

DOJ_NMG_ 0160714

Enhance Courtroom Control

- Publish a Practice Manual for immigration courts (akin to rules of civil procedure)
- Give IJs better tools to control attorneys and litigants
  - √ Promulgate a regulation that grants IJs a limited and strictly defined form of contempt power that empowers them, with substantial oversight, to address frivolous submissions and egregious courtroom misconduct
  - √ Alternatively, revise frivolity standards to more closely resemble Rule 11
  - √ Strengthen current EOIR headquarters bar counsel process
- Formalize mechanism by which IJs will refer cases of immigration fraud and abuse to USAOs
- Tailor case completion goals to individual courts and dockets; assure IJs of goal flexibility for complex cases

DOJ_NMG_ 0160715

Increase and Target Resources

- Replace tape recording with digital recording as soon as feasible
- Appoint more IJs to overloaded courts; consider strategies to appoint former or retired IJs to serve as temporary IJs for 6-month periods
- Hire more judicial law clerks; consider using volunteers
- Improve IJ training
  - √ Consider expanding new judge course in Reno
  - √ Continuing education to experienced IJs
  - √ Training in dictating opinions
  - √ Explore opportunities for outside training (FJC, DHS, Asylum Office)
- Implement electronic filing/docket management system that optimizes functionality with DHS information management systems
- Strengthen interpreter screening and certification
- Reevaluate transcription and interpreter contracts; consider regional contracts; develop a quality control plan for reviewing transcripts

Form Committees to Oversee Critical Need Areas

- Improve, update and adapt on-bench reference materials to conform to Circuit law
- Develop standard decision templates adapted to Circuit
- Expand EOIR-sponsored pro bono programs
- Assist BIA to identify areas in need of precedential decisions
- Reconvene EOIR/DHS technology working group
- Create Director, OCIJ, BIA, OIL, DHS, AILA, and federal court liaison committees chaired by leadership to facilitate coordination and communication

DOJ_NMG_ 0160717

BOARD OF IMMIGRATION APPEALS

Enhance Review Processes

- Retain streamlining fundamentals
  - √ Implement new management strategies to improve quality
  - √ Adjust streamlining regulations and practices to encourage dedication of more time and care to correcting poor or intemperate IJ decisions, and to complex cases
  - √ Commit to reevaluate the effectiveness of these reforms in 2 years
- Alter publication practices to result in more 3-member precedential decisions
  - √ Revise rules to provide for publication if a majority of panel members or a majority of permanent BIA members votes to publish, or if the AG directs publication
- Enhance consistency of opinions with improved "decision review"
- Create mechanism that enables OIL to return cases to BIA for reopening without court remand

DOJ_NMG_ 0160719

Refine Management Strategies

- Increase Director oversight and management of BIA
- Develop plan to improve staff attorney screening and drafting quality
- Improve the guidance BIA members give staff attorneys, especially on major recurring issues (*e.g.*, correct screening standards, proper standards of review)
- Increase staff attorney training
- Give Chairman discretion to ease case completion requirements on a case-by-case basis in complex cases

Increase and Target Resources

- Increase the number of BIA members
  - √ Add 3 to 6 permanent members
  - √ Use more temporary BIA members; widen the pool of attorneys qualified to serve as temporary BIA members
- Increase the number of staff attorneys
- Implement fees for appeals, transcripts and records of proceedings (ROPs)

DOJ_NMG_ 0160721

Increase BIA Member Accountability

- Create 10-year renewable appointment terms for BIA members
  - √ Make use of 2-year probationary period
  - √ Statutory authority likely needed to impose terms on incumbent BIA members
- Performance evaluations
- Evaluate whether sitting BIA members are underperforming; address where appropriate
- Refine mechanism at OIL to track and report BIA decisions exhibiting quality issues to Director and Chairman
- Formalize mechanisms at EOIR to track and report to Director and Chairman statistics that may signal poor BIA member performance
  - √ Unusually high reversal rates, complaints, backlogs
- Establish BIA complaint handling system

DOJ_NMG_ 0160722

Improve Appellate Advocacy

- Establish mechanisms to address frivolous appeals and boilerplate filings
  - √ Expedited dismissals of appeal for inadequate briefing; consider other sanctions
  - √ Note deficiencies in briefing in decisions
  - √ Increase EOIR headquarters bar counsel involvement

DOJ_NMG_ 0160723

NADARAJAH REFORMS

- Develop plan to resolve detained cases that have been pending in EOIR for over 6 months
- Coordinate with DHS to continue to track and monitor detained and special interest cases to ensure they are completed in a timely manner
- Shorten case completion goals in detained cases at immigration court and BIA levels
- Establish "rocket docket" style practice rules in detained courts; shorten BIA briefing schedules for detained appeals; include habeas waiver language in orders granting alien continuances and extensions
- Implement processes to facilitate nationwide voluntary stipulations of removal; work to ensure that stipulations are entered knowingly and voluntarily; raise IJ confidence
- Ensure sufficient IJs and increase judicial law clerks in detained courts

DOJ_NMG_ 0160725

- Implement bar coding of ROPs at immigration court level
- Segregate Institutional Hearing Program (IHP) cases from other detained cases

DOJ_NMG_ 0160726

EOIR COMPREHENSIVE REVIEW

FACTUAL FINDINGS

U.S. Department of Justice, April 24, 2006
Draft Version

FOCUS OF THE REVIEW

- **IJ Temperament** (especially toward aliens)
- **BIA and IJ Legal Quality**

COMPONENT OVERVIEW

ORGANIZATION

- EOIR, created in 1983, is charged under the authority of the Attorney General with adjudicating immigration violations cases
- EOIR consists of
  - √ Trial-level immigration courts
  - √ An appellate Board
- These two tribunals report to the Director's office in Falls Church, VA

IMMIGRATION COURTS

- **225 IJs in 53 Immigration Courts**
- **Overseen in Falls Church by OCIJ**
  - √ 1 Chief Immigration Judge
  - √ 2 Deputies
  - √ 7 Assistants with regional oversight duties
- **IJs**
  - √ Appointed for indefinite terms by the DAG
  - √ Exempt from annual performance reviews
  - √ Otherwise subject to the rights and obligations of other DOJ attorneys

BIA

- **11 Members (size limited by a 2002 regulation), 120 staff attorneys**
- **Managed by the Chairman and Vice-Chairman who are themselves Board Members**
- **Members**
  - √ Appointed for indefinite terms by the DAG
  - √ EOIR Director has discretion to appoint temporary Board members who can serve up to 6 months
- **BIA decides appeals through**
  - √ 3-member panels
  - √ 1-member panels
  - √ 1-member affirmances without opinion (AWOs)
- **Staff attorneys**
  - √ Screen cases for 3-Member, 1-Member, and 1-Member AWO dispositions
  - √ Prepare first drafts of BIA opinions

2005 CASELOADS

- **Immigration Court completions: ~ 350,000 matters**
  - √ ~ 1,500 per IJ
  - √ DHS-initiated
- **BIA completions: ~ 46,000 appeals**
  - √ ~ 4,200 per BIA Member, 380 per staff attorney
  - √ DHS- or alien-initiated
- **Court of Appeals receipts: 12,000 petitions for review**
  - √ ~ 48 per active Court of Appeals judge
  - √ Alien-initiated
- **Substantial recent increase in the caseloads of Immigration Courts and Courts of Appeals**

METHODOLOGY

A team of approximately 12 attorneys from Senior Management, OIL, ATR and CRT conducted a 3-month comprehensive review.

- **Over 200 personal interviews**

  √ Leadership: EOIR, BIA, OCIJ, DHS, AILA

  √ BIA: all 11 Members and 2 staff attorney focus groups; DHS appellate counsel

  √ Immigration Courts: visited 21 Districts
    - IJs, Court Administrators & staff
    - DHS Regional Counsel
    - AILA Chapter Presidents; Pro Bono Programs

  √ Courts of Appeals: Judicial Conference Exec. Committee, 9th Cir. Judges & staff

  √ Congress: House and Senate staff briefings

- **An online survey**
  - √ All BIA staff attorneys
  - √ All IJs
  - √ Selected DHS, OIL and private bar counsel
- **Dozens of document requests**
  - √ Samples of troublesome IJ and BIA decisions from 2005
  - √ IJ complaints and disciplinary records; peer evaluations of courts
  - √ Case Completion Goal program
- **Statistical and comparative analyses**
  - √ Workloads
  - √ Appeal and reversal rates
  - √ SSA and immigration systems of other Western nations

REPORT CARD FOR THE IMMIGRATION COURTS

TEMPERAMENT

- Most are reported to have acceptable temperament nationwide, except for a few "bad apples"
- An estimated 5-10% (10 to 20 IJs) habitually exhibit unacceptably poor temperament
- Many reports of intemperance toward DHS and aliens' counsel; fewer reports of intemperance toward aliens, although some IJs are generally intemperate to all who appear before them
- Problem exists, but is likely not systemic, and should not be overstated
  - √ Review of records in cases where the Courts of Appeals explicitly criticized an IJ in 2005 revealed that, in many instances, the IJ did not behave improperly
  - √ OPR records reveal that many intemperance complaints against IJs were resolved without findings of substantial misconduct

LEGAL QUALITY

- **Broader problems with legal quality reported**
  - √ Few IJ decisions are truly excellent
  - √ A substantial proportion are substandard and are vulnerable to reversal by the BIA or the Courts of Appeals.
- **An estimated 15-20% of IJ decisions are unacceptably poor quality**
- **Up to 5% of IJs have serious difficulty rendering acceptable quality opinions; and a larger percentage lack an appropriate level of familiarity with immigration law**
- **The poorest IJ decisions are**
  - √ "thought pieces" that fail to cite the relevant law but focus instead on facts
  - √ those that fail to address necessary issues or fail to specify the ground on which holdings rest

SURVEY RESULTS FOR IMMIGRATION COURTS

REPORT CARD FOR THE BIA

LEGAL QUALITY

- **General consensus that legal quality of BIA needs substantial improvement**
  - √ Some report that BIA is "never excellent" and is "typically substandard"
  - √ Others report that BIA is "much improved" now than when it was larger and produced a multiplicity of inconsistent opinions
- **Members do not lack talent**
  - √ Poor work commonly attributed to large caseloads and uneven work by BIA Staff Attorneys.
- **The Poorest BIA Decisions**
  - √ Short opinions with little analysis (these can be even more confusing to review than the IJ's opinion itself)
  - √ Opinions where the BIA misses issues, engages in poor reasoning, fails to specify the ground on which holdings rest, or rests its holdings on infirm grounds

SURVEY RESULTS FOR BOARD OF IMMIGRATION APPEALS

CAUSES

FACTORS AFFECTING IJ TEMPERAMENT

- "Bad apples" – IJs who lack the requisite patience and judicial demeanor
- "Article III mentality" – no consequences for intemperate behavior, no OCIJ oversight
- Cultural insensitivity
- Frustration/burnout; difficult or repetitive subject matter – judges who have been on the bench longer are more susceptible
- Large workloads and case completion pressures
- Bad lawyering by aliens' and DHS counsel
- Large caseloads, case completion pressures
- Chaotic, overcrowded courtrooms
- Widespread alien fraud and abuse

- Some reports of intemperate behavior may be subjective to the listener

FACTORS AFFECTING IJ LEGAL QUALITY

- "Bad apples" – IJs who lack the requisite legal talent (estimated up to 20%)
- Inherent limitation of oral decisions
- Bad lawyering by aliens' and DHS counsel
- Large workloads and case completion pressures
- Lack of judicial law clerks
- Insufficient training and on-bench reference materials
- Failure of some judges to dictate oral decisions properly; bad habits
- Faulty tape recorders and poor transcription of decisions

FACTORS AFFECTING BIA LEGAL QUALITY

- Lapses by staff attorneys during screening (some cases should not qualify for 1-member panel or AWO)
- Lapses by staff attorneys in drafting opinions, BIA Members fail to improve them
- "Decision review" process is insufficient to ensure consistency, especially among 1-Member decisions
- Large workloads – some evidence that staff attorneys may not read entire record; BIA unable to render a sufficient number of well-reasoned, 3-member opinions
- Weakness in AWO regulation that disallows BIA from opting out of an AWO and writing a corrective opinion when it discovers that an IJ's decision, although correct, is of poor quality or exhibits intemperance

EFFECT OF STREAMLINING

- Some suggest that AWOs cause IJ oral opinions that are "not ready for prime time" to be reviewed by Courts of Appeals; BIA review is needed to "polish" these decisions prior to federal court review
- Others suggest that the Courts of Appeals are not accustomed to reviewing oral decisions and have unreasonable expectations about quality
- All agree that streamlining has resolved BIA backlogs
- But that aliens are filing more appeals, both from streamlined and non-streamlined cases
- Courts of Appeals affirmance rates, however, remain high before and after streamlining
- Circuits that have experienced the largest growth in immigration appeals may be the most generous in granting asylum claims

COMMON SUGGESTIONS FOR IMPROVEMENT

IMPROVEMENTS FOR THE IMMIGRATION COURTS

- **IJ Discipline and Removal**

  √ Institute renewable 5- or 10-year appointment terms for IJs

  √ Adopt an Immigration Court Code of Conduct enforceable by EOIR and OPR that includes provisions for courtroom civility

  √ Consider developing IJ performance standards

  √ Develop increasing scale of disciplinary consequences for violations of codes and standards

  √ Publish codes, standards, and disciplinary provisions applicable to IJs

- **Managerial Reform**

√ Increase OCIJ's role in oversight and management of IJs

√ Disperse ACIJs to the field

√ Develop systems at BIA & OIL to identify & track poor IJ decisions, intemperance, and submit reports to OCIJ

√ Reform IJ disciplinary procedures to reduce role of OPR and increase speed

- **Rules Reform**

  √ Implement uniform court rules and procedures; adopt "best practices" nationwide

  √ Strengthen fivolity standards or grant IJs contempt power

- **Selection**

  √ Strengthen IJ selection criteria and screening processes

  √ Require all new IJs to pass an immigration law exam demonstrating familiarity w/ key legal principles

- **Resources**

  √ Replace tape recording system

  √ Increase resources in courts w/ highest caseload

  √ Improve IJ training; provide continuing legal education

  √ Improve and standardize on-bench reference materials such as bench books and decisions templates; adapt materials to conform to circuit law

IMPROVEMENTS FOR THE BIA

- Increase number of BIA Members
- Improve staff attorney screening and drafting quality
- Publish more 3-member precedential decisions
- Ensure consistency of 1- and 3-Member opinions
- Refine AWO regulation to enable BIA to correct poor IJ decisions that should otherwise be affirmed

Goodling, Monica

From: Goodling, Monica
Sent: Friday, May 26, 2006 10:27 AM
To: McCallum, Robert (SMO); Oldham, Jeffrey L
Cc: Gorsuch, Neil M; Elwood, Courtney; Sampson, Kyle
Subject: Re: June 14, 2006 A Day in Kentucky!

The USA has been notified that Robert will not be attending. When they get a little further along in resolving their plans, we can assess whether or not it would be appropriate to invite Alice. Thanks.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Oldham, Jeffrey L
CC: Gorsuch, Neil M; Elwood, Courtney; Goodling, Monica; Sampson, Kyle
Sent: Fri May 26 10:05:08 2006
Subject: RE: June 14, 2006 A Day in Kentucky!

Jeff: Monica and I got together today and I am no longer expected to participate unless I hear from her that I need to do it. The new USA is making arrangements for Alice or someone else to do it. Robt.

-----Original Message-----
From: Oldham, Jeffrey L
Sent: Thursday, May 25, 2006 7:45 AM
To: McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Goodling, Monica
Cc: Gorsuch, Neil M
Subject: Re: June 14, 2006 A Day in Kentucky!

Robert,

I am not sure where this confusion came from--we already told EOUSA the AG would not participate in this. I am including Monica, who talked to Natalie yesterday about the event. I am leaving town at noon today, so perhaps it's best if you and Monica can catch up when you get back to DOJ. In the meantime Monica or I will clarify the confusion on this with EOUSA and EDKY. Sorry about the mix-up.

Jeff

-----Original Message-----
From: McCallum, Robert (SMO)
To: Elwood, Courtney; Sampson, Kyle; Oldham, Jeffrey L
CC: Gorsuch, Neil M

Sent: Thu May 25 05:42:35 2006
Subject: Fw: June 14, 2006 A Day in Kentucky!

FYI re Proj Safe Childhood matter in Kentucky. Will circle back with Jeff when I get to DOJ around noon after meeting at For Ser Inst. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
To: McCallum, Robert (SMO)
Sent: Wed May 24 18:47:22 2006
Subject: RE: June 14, 2006 A Day in Kentucky!

Robert,

Can I get back with you tomorrow? I really appreciate the responsiveness, and I really want you to participate; your schedule placing you in Kentucky is a gift from God. but now Natalie Voris (sp?) Someone from the AG's staff has some questions for our USA before scheduling any appearances. The questions concern the press conference, the AG and the Kentucky Governor's level of participation. Seems the AG himself, may (or may not but no decision) want to use Kentucky as a platform.

But our Governor seems to have got himself indicted on some state misdemeanor hiring practices violations. So I am speculating that some power some where in the AG's office is trying to decide whether Kentucky state government is a good thing or a not so good thing to be on a podium with. I hate to put you off, particularly since I extended the invite, but I'm being put off right now. I admit I assumed that your office knew what was going on. I should have told you right away.
You know what assuming will do. I really don't know the issue and I don't think it is a big one. But until I get a yea or nay from the AG's staff, I'm in a holding pattern on any final scheduling. I am sorry if this messes up your scheduling. Frances Catron

----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, May 24, 2006 6:03 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Things are looking like a go for me to participate. I will have the airlines alternatives tomorrow. What time would be best for you and exactly where: i.e. travel time to or from the speech location? Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, May 23, 2006 6:40 PM
To: Catron, Frances (USAKYE)
Subject: RE: June 14, 2006 A Day in Kentucky!

Frances: Let me get back to you on it in the next day or so as I determine my schedule for that day. I am currently thinking of flying down that morning and so it depends on flight times. However, I am likely to be able to do it before or immediately after the remarks which are scheduled for 12:45. Robt.

-----Original Message-----
From: Catron, Frances (USAKYE)
Sent: Monday, May 22, 2006 2:26 PM
To: McCallum, Robert (SMO)
Subject: June 14, 2006 A Day in Kentucky!

Dear Robert:

Looking forward to having you in Kentucky at the Bar Convention on June 14th. My district, in conjunction with USA David Huber in the Western District of Kentucky, is looking to roll out the Kentucky Project Safe Childhood effort with the Kentucky Internet Crimes Against Children Task Force and our state law enforcement partners that same week. We were looking at Monday or Tuesday but having you in the state on Wednesday the 14th presents a great opportunity.

Is there any time in your schedule either earlier in the day on the 14th, or that same afternoon after your speech to the Bar, to join us for a press conference to make the Kentucky Project Safe Childhood announcement? I am sure we would be very willing to accommodate your schedule to be able to have you representing the Department for this national priority program. The plans call for presentation in the Kentucky Capitol Rotunda with state, regional and local press, the Kentucky Lieutenant Governor Steve Pence (a former U.S. Attorney by the way), the U.S. Attorneys from Kentucky, Mr. Thapar and Mr. Huber, and the various federal and state law enforcement partners participating in Project Safe Childhood.

I know this is a shot in the dark, but hey, if you don't ask, the answer is a forgone conclusion! Mark Wohlander of our office is on a detail in D.C. right now and I know he has been trying to get a contact into Alice Fisher's office. While we would be pleased to have our native daughter return to Kentucky, I shared with Mark that maybe we could set our sights a bit higher! I appreciate your consideration of the request. Frances Catron, ED of Kentucky.

[redacted]@tac-denver.com

From: [redacted]@tac-denver.com
Sent: Friday, May 26, 2006 10:29 AM
To: Gorsuch, Neil M
Subject: RE: Please cal[redacted]

Sorry, I was out yesterday so maybe you already have this information; but if not, [redacted] still comes in the office about 2 days a week at this address, phone: [redacted]s [redacted] assistant:
[redacted] [redacted] cell phone is: [redacted] Let me know if you need more than this.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 25, 2006 6:21 AM
To: [redacted]
Subject: RE: Please call [redacted]

[redacted] Do you have a contact no. for [redacted] Many thanks! Neil

-----Original Message-----
From: [redacted]@tac-denver.com [mailto: [redacted]@tac-denver.com]

Sent: Monday, May 15, 2006 6:56 PM
To: Gorsuch, Neil M
Subject: Please cal[redacted]

[redacted]

Otus2005, Ag

Subject:	Accepted: Updated: Brown Bag Lunch: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 12:15 PM
End:	Friday, May 26, 2006 1:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 10:40 AM
To: McKeown, Matt (ENRD)
Cc: Wooldridge, Sue Ellen (ENRD)
Subject: RE: Enforcement Figures

Perfect; thanks!

From: McKeown, Matt (ENRD)
Sent: Friday, May 26, 2006 9:43 AM
To: Gorsuch, Neil M
Cc: Wooldridge, Sue Ellen (ENRD)
Subject: FW: Enforcement Figures

Neil:

You asked for some information about how $9.6 billion in fiscal '05 compares to prior years. As the chart below demonstrates, '05 was a record enforcement year. I think it is also notable that the figures from prior years in this decade compare favorably to the figures from the late 1990's. Also note that the figures for fiscal '06 are low partially because we are still in the middle of it.

The spreadsheet that is attached to the message below contains the information set out in the chart, plus a lot of other details that are probably unnecessary for your purposes. The acronyms "EES" and "EDS" refer to this Division's Environmental Enforcement (EES) and Environmental Defense (EDS) Sections. Let me know what else you need.

Matt

From: Bruffy, Robert (ENRD)
Sent: Friday, May 26, 2006 9:19 AM
To: McKeown, Matt (ENRD)
Cc: Milius, Pauline (ENRD); Katz, Maureen (ENRD); Wardzinski, Karen (ENRD)
Subject: RE: Enforcement Figures

Matt -- Here's a graph of injunctive relief & SEPS over the past 10 years for comparison. I've also enclosed the spreadsheet with these and all the other numbers we track (e.g., cost recovery, fines, etc.). Please note that 99%+ of this amount was generated by EES, but that a small fraction resulted from EDS cases. Give me a buzz if you have questions or need more. Bob

<< OLE Object: Microsoft Office Excel Chart >>

<< File: Money chart.xls >>

-----Original Message-----
From: McKeown, Matt (ENRD)
Sent: Friday, May 26, 2006 8:29 AM
To: Bruffy, Robert (ENRD)
Subject: Fw: Enforcement Figures

Any assistance you can provide the others would be appreciated. I am trying to compare the '05 total to prior years. Thanks.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: McKeown, Matt (ENRD) <MMcKeown2@ENRD.USDOJ.GOV>
To: Milius, Pauline (ENRD) <Pauline.Milius@usdoj.gov>; Katz, Maureen (ENRD) <Maureen.Katz@usdoj.gov>; Wardzinski, Karen (ENRD) <Karen.Wardzinski@usdoj.gov>
Sent: Fri May 26 08:17:15 2006
Subject: Enforcement Figures

Can I please have the total enforcement dollar figures for the past ten years so I have something to compare the $9.6 billion against? Thanks.

Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, May 26, 2006 11:02 AM
To: Gorsuch, Neil M
Subject: Speech

Hi, Neil. Do you have any materials on the Patriot Act, the detainees, and NSA surveillance I could use for Robert's Kentucky Bar Association remarks?
Thanks,
Jeff

Sours, Raquel

From: Sours, Raquel
Sent: Friday, May 26, 2006 11:03 AM
To: Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Cc: Schreiber, Jayne
Subject: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Importance: High

CHANGE ---This will no longer be a brown bag lunch but the meeting will move back to 3pm this afternoon.

Thanks

Subject: Brown Bag Lunch: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations

Start: Fri 5/26/2006 3:00 PM
End: Fri 5/26/2006 4:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Otus2005, Ag; Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)

Importance: High

AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Will Moschella, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Otus2005, Ag

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:00 PM
End:	Friday, May 26, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Importance:	High

When: Friday, May 26, 2006 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Will Moschella, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:08 AM
To: Macklin, Kristi R
Subject: Might you have 5 mins today?

In Beth's absence, Richard H suggested I chat briefly w you about a development.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:09 AM
To: Senger, Jeffrey M
Subject: RE: Speech

I will forward you some recent emails I've received for another purpose that should be helpful.

From: Senger, Jeffrey M
Sent: Friday, May 26, 2006 11:02 AM
To: Gorsuch, Neil M
Subject: Speech

Hi, Neil. Do you have any materials on the Patriot Act, the detainees, and NSA surveillance I could use for Robert's Kentucky Bar Association remarks?
Thanks,
Jeff

Otus2005, Ag

Subject:	Accepted: Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:00 PM
End:	Friday, May 26, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:22 AM
To: Nichols, Carl (CIV); Robert_F._Hoyt@who.eop.gov
Subject: RE: DRA Mtg

Weds at 1130?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Friday, May 26, 2006 10:19 AM
To: Gorsuch, Neil M; Robert_F._Hoyt@who.eop.gov
Subject: RE: DRA Mtg

Can't do Thursday but can do Weds. Sorry for rescheduling -- multiple state secrets filings today.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 10:16 AM
To: Robert_F._Hoyt@who.eop.gov; Nichols, Carl (CIV)
Subject: DRA Mtg

Tues is rotten for me, but Weds after 11 or TH work well. Any chance those work for you?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:23 AM
To: Irving, John (ODAG)
Subject: RE: Gun Prosecution #s

Thanks!

From: Irving, John (ODAG)
Sent: Friday, May 26, 2006 9:29 AM
To: Gorsuch, Neil M
Subject: Gun Prosecution #s

Neil --

Hope these help. Good talking to you -- I'll work on a date for the off-site conference.

-- John

<< File: ca_fire922-924.pdf >> << File: da_fire922-924.pdf >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:33 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: CONGRATULATIONS!

Brett,

What a spectacular day! Congratulations on reaching the finish line! I'm very, very happy for you, the court, and the country. Well done!

Any chance you will be at the DC Cir Jud Conf early next month? If so, we will have to make a celebratory toast.

Warmest wishes,

NMG

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov [mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, May 12, 2006 3:48 PM
To: Gorsuch, Neil M
Subject: RE: CONGRATULATIONS!

I would love to catch up, perhaps in early June after the next two weeks are done (which will be make or break for me). Thanks for the kind words about the hearing [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 11, 2006 6:51 PM
To: Kavanaugh, Brett M.
Subject: RE: CONGRATULATIONS!

Brett, Thanks so much and congratulations to you for clearing the committee hurdle today! You did a splendid job. We need to catch up someday soon - perhaps a lunch later this month? By the way, [redacted] Warmest wishes, NMG

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 10, 2006 7:07 PM
To: Gorsuch, Neil M
Subject: CONGRATULATIONS!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:34 AM
To: Berkowitz, Sean
Subject: Congratulations!

Sean, Many, many congratulations on the verdict yesterday! I'm thrilled for you and for the country. You've done a great service. I now hope you manage to get some sleep! Best regards, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Monheim, Thomas

From: Monheim, Thomas
Sent: Friday, May 26, 2006 11:41 AM
To: Gorsuch, Neil M
Subject: NLECs

Right now, my best windows of opportunity to discuss the NLEC issues are:
Wed, May 31, 8:00 - 10:00 am or after 4:00 pm
Thurs, June 1, 10:00 - 11:30 am or 2:00 - 3:00 pm

(Still working on the other participation issue we discussed)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 11:59 AM
To: [redacted]@dodgc.osd.mil'
Cc: Monheim, Thomas
Subject: FW: NLECs

[redacted] - Tom can't do the time we tentatively selected; how do these times work for you and your team?

From: Monheim, Thomas
Sent: Friday, May 26, 2006 11:41 AM
To: Gorsuch, Neil M
Subject: NLECs

Right now, my best windows of opportunity to discuss the NLEC issues are:
Wed, May 31, 8:00 - 10:00 am or after 4:00 pm
Thurs, June 1, 10:00 - 11:30 am or 2:00 - 3:00 pm

(Still working on the other participation issue we discussed)

Sours, Raquel

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:30 PM
End:	Friday, May 26, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Importance:	High

When: Friday, May 26, 2006 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Sprouse, Connie S

From: Sprouse, Connie S
Sent: Friday, May 26, 2006 1:32 PM
To: Gorsuch, Neil M
Cc: Vasaio, Tony; EPG; McNally, Dan
Subject: June Reminder
Attachments: OASGVisitCertifications Database.xls

Neil,

Attached please find the Cadre members from your component that HAVE NOT completed Orientation and Training during the January 1, 2006-June 30,2006 time frame. Any member of our staff will be happy to set up an appointment in June for your cadre member(s) to complete this requirement.

If any of your cadre members currently have an appointment scheduled, please see the column entitled "Visit Scheduled" for the schedule date. If you have any questions or would like to schedule an appointment please feel free to contact us at 202-616-2288. Thank you for your assistance……Connie

Connie Sprouse
Telecommunications Manager

CADRE/SUPPORT
ALT CADRE

2/15/2017 5:00 PM

	A	B	C	D	E	F	G	H
1	**Last Name**	**First Name**	**M. I.**	**POSITION**	**ORG**	**Date of Last Visit**	**Prior visit**	**Visit Scheduled**
2	McCallum, Jr	Robert	D.	Core Cadre	OASG	6/15/2005	05/18/05	

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, May 26, 2006 1:33 PM
To: Mercer, Bill (ODAG); Henderson, Charles V
Cc: Gorsuch, Neil M
Subject: Truman Visit on May 30

I was able to have the my security contact agree to open the AG's visitor's entrance for this group since this is a large group and they will all be coming at once. Our office (OASG) will be short staffed that day with Aloma being out. It will just be Deborah Davis and myself. Would it be possible to have someone from your office assist with getting them in the building, to the conference center and out of the building.

Thanks

Currie

Henderson, Charles V

From: Henderson, Charles V
Sent: Friday, May 26, 2006 1:37 PM
To: Gunn, Currie (SMO); Mercer, Bill (ODAG)
Cc: Gorsuch, Neil M
Subject: RE: Truman Visit on May 30

Currie:
I would be glad to help, but I will be away on Tuesday. I will check with SeLena regarding assistance.
Many thanks for all you have done in arranging this.
-Charles

From: Gunn, Currie (SMO)
Sent: Friday, May 26, 2006 1:33 PM
To: Mercer, Bill (ODAG); Henderson, Charles V
Cc: Gorsuch, Neil M
Subject: Truman Visit on May 30

I was able to have the my security contact agree to open the AG's visitor's entrance for this group since this is a large group and they will all be coming at once. Our office (OASG) will be short staffed that day with Aloma being out. It will just be Deborah Davis and myself. Would it be possible to have someone from your office assist with getting them in the building, to the conference center and out of the building.

Thanks

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 1:43 PM
To: McCallum, Robert (SMO)
Subject: FW: June Reminder
Attachments: OASGVisitCertifications Database.xls

Robert, If this is accurate, you may be due for a cadre visit…

From: Sprouse, Connie S
Sent: Friday, May 26, 2006 1:32 PM
To: Gorsuch, Neil M
Cc: Vasaio, Tony; EPG; McNally, Dan
Subject: June Reminder

Neil,

Attached please find the Cadre members from your component that HAVE NOT completed Orientation and Training during the January 1, 2006-June 30,2006 time frame. Any member of our staff will be happy to set up an appointment in June for your cadre member(s) to complete this requirement.

If any of your cadre members currently have an appointment scheduled, please see the column entitled "Visit Scheduled" for the schedule date. If you have any questions or would like to schedule an appointment please feel free to contact us at 202-616-2288. Thank you for your assistance……Connie

Connie Sprouse
Telecommunications Manager

CADRE/SUPPORT
ALT CADRE

2/15/2017 5:00 PM

	A	B	C	D	E	F	G	H
1	**Last Name**	**First Name**	**M. I.**	**POSITION**	**ORG**	**Date of Last Visit**	**Prior visit**	**Visit Scheduled**
2	McCallum, Jr	Robert	D.	Core Cadre	OASG	6/15/2005	05/18/05	

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 1:44 PM
To: Gunn, Currie (SMO)
Subject: RE: Truman Visit on May 30

I can help too

From: Gunn, Currie (SMO)
Sent: Friday, May 26, 2006 1:33 PM
To: Mercer, Bill (ODAG); Henderson, Charles V
Cc: Gorsuch, Neil M
Subject: Truman Visit on May 30

I was able to have the my security contact agree to open the AG's visitor's entrance for this group since this is a large group and they will all be coming at once. Our office (OASG) will be short staffed that day with Aloma being out. It will just be Deborah Davis and myself. Would it be possible to have someone from your office assist with getting them in the building, to the conference center and out of the building.

Thanks

Currie

jimenezf@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, May 26, 2006 2:20 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas; [redacted]@dodgc.osd.mil
Subject: RE: NLECs

Let's say 4:30 Wed.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, May 26, 2006 11:59
To: [redacted]@dodgc.osd.mil
Cc: Thomas.Monheim@usdoj.gov
Subject: FW: NLECs

[redacted] Tom can't do the time we tentatively selected; how do these times work for you and your team?

From: Monheim, Thomas
Sent: Friday, May 26, 2006 11:41 AM
To: Gorsuch, Neil M
Subject: NLECs

Right now, my best windows of opportunity to discuss the NLEC issues are:
Wed, May 31, 8:00 - 10:00 am or after 4:00 pm Thurs, June 1, 10:00 - 11:30 am or 2:00 - 3:00 pm

(Still working on the other participation issue we discussed)

Sours, Raquel

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:35 PM
End:	Friday, May 26, 2006 4:35 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Importance:	High

When: Friday, May 26, 2006 3:35 PM-4:35 PM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, May 26, 2006 2:37 PM
To: Gorsuch, Neil M
Subject: Read: ABA letter re attorney client privilege

Gorsuch, Neil M

Subject:	[redacted] call
Start:	Wednesday, May 31, 2006 4:30 PM
End:	Wednesday, May 31, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 2:40 PM
To: [redacted]@dodgc.osd.mil'
Cc: Monheim, Thomas; [redacted]@dodgc.osd.mil
Subject: RE: NLECs

Great. We will call you then. (Tom, I'm happy to come down to your office.)

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Friday, May 26, 2006 2:20 PM
To: Gorsuch, Neil M
Cc: Monheim, Thomas; [redacted]@dodgc.osd.mil
Subject: RE: NLECs

Let's say 4:30 Wed.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, May 26, 2006 11:59
To: [redacted]@dodgc.osd.mil
Cc: Thomas.Monheim@usdoj.gov
Subject: FW: NLECs

[redacted] Tom can't do the time we tentatively selected; how do these times work for you and your team?

From: Monheim, Thomas
Sent: Friday, May 26, 2006 11:41 AM
To: Gorsuch, Neil M
Subject: NLECs

Right now, my best windows of opportunity to discuss the NLEC issues are:
Wed, May 31, 8:00 - 10:00 am or after 4:00 pm Thurs, June 1, 10:00 - 11:30 am or 2:00 - 3:00 pm

(Still working on the other participation issue we discussed)

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, May 26, 2006 2:40 PM
To: Gunn, Currie (SMO)
Cc: Gorsuch, Neil M
Subject: RE: June Reminder

Currie: Set me up for a training session in June during the week of the 19th. Robt.

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 1:43 PM
To: McCallum, Robert (SMO)
Subject: FW: June Reminder

Robert, If this is accurate, you may be due for a cadre visit…

From: Sprouse, Connie S
Sent: Friday, May 26, 2006 1:32 PM
To: Gorsuch, Neil M
Cc: Vasaio, Tony; EPG; McNally, Dan
Subject: June Reminder

Neil,

Attached please find the Cadre members from your component that HAVE NOT completed Orientation and Training during the January 1, 2006-June 30,2006 time frame. Any member of our staff will be happy to set up an appointment in June for your cadre member(s) to complete this requirement.

If any of your cadre members currently have an appointment scheduled, please see the column entitled "Visit Scheduled" for the schedule date. If you have any questions or would like to schedule an appointment please feel free to contact us at 202-616-2288. Thank you for your assistance……Connie

<< File: OASGVisitCertifications Database.xls >>

Connie Sprouse
Telecommunications Manager

From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, May 26, 2006 2:48 PM
To: [redacted]
Subject: RE: Have you met with [redacted] yet?

[redacted] They don't start the meet/greet rounds until I have a hearing date. But you're suggestion is a good and very kind one and, obviously, anything you might be able to do with the Senator is gratefully appreciated. Look forward to seeing you next Weds at the Caucus Rm. Best, NMG

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

Sours, Raquel

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:30 PM
End:	Friday, May 26, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Importance:	High

When: Friday, May 26, 2006 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Otus2005, Ag

Subject:	Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations
Start:	Friday, May 26, 2006 3:30 PM
End:	Friday, May 26, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Pacold, Martha M; McNulty, Paul J; McCallum, Robert (SMO); Otis, Lee L; Swenson, Lily F; Elwood, Courtney; Ohlson, Kevin (EOIR); Rooney, Kevin (EOIR); Brand, Rachel; Cohn, Jonathan (CIV); Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Scolinos, Tasia; Elston, Michael (ODAG); Mercer, Bill (ODAG); Santangelo, Mari (JMD)
Importance:	High

AG's Conference Room
AO: Martha Pacold DOJ: Paul McNulty, Lee Otis, Lily Swenson, Courtney Elwood, Kevin Rooney, Kevin Ohlson, Robert McCallum, Rachel Brand, Jon Cohn, Neil Gorsuch, Rebecca Seidel, Tasia Scolinos, Mike Elston, Bill Mercer, Mari Santangelo (JMD)

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, May 26, 2006 3:40 PM
To: Gorsuch, Neil M
Subject: Read: Updated: Comprehensive Review of the Executive Office for Immigration Review -- Recommendations

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Friday, May 26, 2006 3:46 PM
To: Gorsuch, Neil M
Subject: Read: NYT Letter to the Editor

Gorsuch, Neil M

Subject:	[redacted]
Start:	Wednesday, May 31, 2006 11:30 AM
End:	Wednesday, May 31, 2006 12:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	[redacted]
Start:	Tuesday, May 30, 2006 2:30 PM
End:	Tuesday, May 30, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, May 26, 2006 5:50 PM
To: Gorsuch, Neil M
Subject: Read: Letter to Editor

Thiemann, Robyn (ODAG)

From: Thiemann, Robyn (ODAG)
Sent: Friday, May 26, 2006 5:53 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Letter to the Editor

I will be out of the office on Friday, May 26th, returning to the office on Tuesday, May 30th. I hope to have blackberry access during my absence. If you need to reach me, please feel free to call me at either [redacted] or [redacted] Thanks, and have a great weekend!

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, May 26, 2006 5:56 PM
To: Gorsuch, Neil M
Subject: Read: Speech

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, May 26, 2006 5:56 PM
To: Gorsuch, Neil M
Subject: Read:

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, May 26, 2006 5:56 PM
To: Gorsuch, Neil M
Subject: Read: Civil Division successes in terrorism-related litigation

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, May 26, 2006 6:41 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
May 26, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Meets with Senator Frist (OPA)
Attorney General Alberto R. Gonzales met with Senate Majority Leader Bill Frist regarding the search of Congressman Jefferson's office. Media continue to cover the alleged public corruption activities involving Congressman Jefferson and the President's recent announcement ordering the documents seized from the search of the Congressman's office to be sealed and moved to the Solicitor General's office.

Presidential Signing Statements (OPA)
The Boston Globe's Charlie Savage is working on a story for the weekend regarding presidential signing statements and the legal theories the Administration has allegedly advanced within them. The piece will focus on how the President's signing statements seem to have been crafted behind the scenes and examines to what extent the Office of the Vice President is involved. Savage interviewed Douglas Kmiec, former head of President Reagan's Office of Legal Counsel, who is critical of the Administration's use of signing statements. OPA provided extensive background information about the historical use of signing statements and provided the following statement.

Talking Points:

- The Constitution requires the President to take an oath to preserve, protect and defend the Constitution; and President Bush's use of signing statements is lawful and indistinguishable from those issued on hundreds of occasions by past Presidents.

Government Surveillance Program Lawsuits (Civil)
Tonight, the government is filing an assertion of the state secrets privilege and a motion to dismiss or for summary judgment in the ACLU (District of Michigan) and Center for Constitutional Rights (Southern District of New York) cases challenging the Terrorist Surveillance Program.

Talking Points:

- The state secrets privilege is well-established in federal law. It has been recognized by U.S. courts as far back as the 19th century, and allows the Executive Branch to safeguard vital information regarding the nation's security or diplomatic relations. The

modern-day description of the privilege was set forth over 50 years ago by the Supreme Court in United States v. Reynolds, 345 U.S. 1 (1953). The privilege has been asserted many times to protect our nation's secrets from disclosure. It is an absolute privilege that renders the information unavailable in litigation and may, depending on the circumstances, require dismissal of the case.

Former Congressional Aide Sentenced in Bribery Charge (Criminal)
A former legislative assistant to a member of the U.S. Congress was sentenced to 96 months in prison on charges of conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress. Brett M. Pfeffer, 37, of Herndon, Virginia, was sentenced this morning at U.S. District Court in the Eastern District of Virginia. Pfeffer pleaded guilty in January 2006 and agreed to cooperate with law enforcement officials in an ongoing criminal investigation. In his plea, Pfeffer admitted to facts contained in a two-count criminal information. From 1995 through 1998, Pfeffer was employed as a legislative assistant by a member of the U.S. Congress, referred to in the information as "Representative A," and by 2004, he began work as president of an investment company based in McLean, Virginia, which was controlled by an individual who later became a cooperating witness for the government, referred to in the information as the "CW." Pfeffer, as a representative of the CW, admitted that he was solicited by Representative A for bribes in return for Representative A's agreement to perform various official acts.

Wisconsin Couple Convicted on Human Trafficking Charges (Civil Rights)
The Justice Department announced the conviction of a Wisconsin couple, Jefferson and Elnora Calimlim, on human trafficking charges for using threats of serious harm and physical restraint against a Philippine woman to obtain her services as their domestic servant for nineteen years. Jefferson and Elnora Calimlim, both doctors in Milwaukee, held the victim in a condition of servitude for nineteen years, requiring her to work long hours, seven days a week, as a domestic servant for the Calimlim family.

Talking Points:

- Preying on this woman's hope for a better life, this couple instead forced her into a life of involuntary servitude. The Justice Department takes these crimes seriously and is committed to prosecuting those involved in the systematic abuse and degradation of others.

- The defendants Jefferson N. Calimlim and Elnora M. Calimlim were convicted of violating one count of conspiracy to commit forced labor, one count of forced labor, and one count of attempted forced labor. Additionally, the defendants and their son, Jefferson M. Calimlim, were convicted of violating two counts of harboring an undocumented alien.

- Jefferson and Elnora Calimlim each face a maximum sentence of up to 65 years in prison, mandatory restitution, and $1,250,000 in fines. The government is also seeking forfeiture of the Calimlims' house as an instrumentality of the crime.

- Combating human trafficking is a priority of the Department of Justice and the Administration. In the past five years, the Civil Rights Division and United States Attorneys' Offices have prosecuted a record number of human trafficking cases opening 480 new investigations into allegations of human trafficking – approximately 325% more than were opened in the previous five-year period. So far, in the first 8 months of FY 2006, we have convicted more trafficking defendants than in any other prior year.

Indictment Unsealed in Illegal Firearms Purchases (ATF)
A 28-count indictment returned by a federal grand jury has been unsealed against Isaac Feerman-Rodriguez, 21, of Imperial Beach, California, Noel Gomez-Araujo, 28, of Calexico, California, and Rafael Alcantar-Banda, 22, of Tijuana, Mexico, charging them with possession of unregistered firearms. The indictment, unsealed on May 12, 2006, alleges that the three were in possession of 26 unregistered firearms including fully automatic machine guns, as well as three hand grenades and a grenade launcher. The investigation preceding the indictment was conducted by the ATF and other state and federal law enforcement agencies.

Media Inquiry into Executive Turnover (FBI)
Time Magazine's Brian Bennett interviewed FBI Executive Assistant Director Chris Swecker and FBI Executive Assistant Director Mike Mason on FBI executive turnover. This story is expected to run next week.

TUESDAY'S EXPECTED EVENTS/RELEASES:

No expected events or releases.

Sampson, Kyle

From: Sampson, Kyle
Sent: Saturday, May 27, 2006 11:00 PM
To: Schofield, Regina
Cc: Elwood, Courtney; Mercer, Bill (ODAG); Gorsuch, Neil M
Subject: Weekly Strategic Initiatives Meeting
Importance: High

Regina,

When I became Chief of Staff, I established a weekly "Strategic Initiatives" meeting. The purpose of this meeting is to ensure that, as a Department, we are well-coordinated in our efforts to carry forward the Attorney General's priorities and initiatives. Participants in the meeting include representatives of OAG, ODAG, OASG, OLP, OLA, OIPL, OPA, EOUSA, and CRM. The meeting is held in the OAG conference room (5228) every Monday at 1:30pm (though next week it will be on Tuesday, due to the holiday). I have asked that you be invited to the meeting; we need to better synchronize our efforts on the policy/communications/legislative/coalitions/operatiosn (i.e., strategic initiatives) front with your efforts on the grantmaking side. We'll look forward to seeing you on Tuesday!

Kyle

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Monday, May 29, 2006 12:42 PM
To: Keisler, Peter D (CIV); Nichols, Carl (CIV); Gorsuch, Neil M
Subject: FW: 1pm Meeting Tuesday at DOJ

FYI, in case anyone wants to join us.

-----Original Message-----
From: [redacted]@usaid.gov [mailto: [redacted]@usaid.gov]
Sent: Monday, May 29, 2006 10:22 AM
To: [redacted]@HHS.GOV; [redacted]@HHS.GOV [redacted]@state.gov
Cc: Swingle, Sharon (CIV); Bhattacharyya, Rupa (CIV); Katsas, Gregory (CIV); [redacted]@usaid.gov; Rosberger, Richard (USANYS); [redacted]@usaid.gov; [redacted]@usaid.gov
Subject: RE: 1pm Meeting Tuesday at DOJ

H[redacted] -- We wanted to let you know about a meeting at 1pm on Tuesday, May 30th at DOJ. [redacted] had requested a meeting with Greg Katsas and Sharon Swingle of DOJ to discuss the appeal of the decision in the [redacted] case. Greg Katsas was speaking with Melissa Pardue about the two cases, and she plans to attend the meeting. As the meeting will probably go beyond the [redacted] case to discuss the [redacted] case, we wanted to invite you to attend as well. Your principals may wish to attend if their schedules permit.

Thanks. [redacted]

Brett_M._Kavanaugh@who.eop.gov

From:	Brett_M._Kavanaugh@who.eop.gov
Sent:	Monday, May 29, 2006 3:20 PM
To:	Gorsuch, Neil M
Subject:	RE: CONGRATULATIONS!

Thanks for the kind email. I will be at the conference and look forward to seeing you there. Thanks again.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, May 26, 2006 11:32 AM
To: Kavanaugh, Brett M.
Subject: CONGRATULATIONS!

Brett,

What a spectacular day! Congratulations on reaching the finish line!
I'm very, very happy for you, the court, and the country. Well done!

Any chance you will be at the DC Cir Jud Conf early next month? If so, we will have to make a celebratory toast.

Warmest wishes,

NMG

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, May 12, 2006 3:48 PM
To: Gorsuch, Neil M
Subject: RE: CONGRATULATIONS!

I would love to catch up, perhaps in early June after the next two weeks are done (which will be make or break for me). Thanks for the kind words about the hearing [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, May 11, 2006 6:51 PM
To: Kavanaugh, Brett M.
Subject: RE: CONGRATULATIONS!

Brett, Thanks so much and congratulations to you for clearing the committee hurdle today! You did a splendid job. We need to catch up someday soon - perhaps a lunch later this month? By the way, you

splendid job. We need to catch up someday soon - perhaps a lunch later this month? By the way, you [redacted] Warmest wishes, NMG

-----Original Message-----
From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, May 10, 2006 7:07 PM
To: Gorsuch, Neil M
Subject: CONGRATULATIONS!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, May 30, 2006 8:11 AM
Subject: JCON BROADCAST, WEEK OF MAY 30, 2006

JCON BROADCAST, WEEK OF MAY 30, 2006

1. **Blood Drive – June 8, 2006**
2. **Temporary Closure of Constitution Avenue on June 3, 2006**
3. **HUD Headquarters to Host Homeownership Fair**
4. **Research Classes Offered by Library**

Blood Drive -- June 8, 2006

Give the gift of life! The American Red Cross will conduct a blood drive from **8:30 a.m. to 2:00 p.m., on Thursday, June 8, 2006, in the Great Hall of the RFK Main Justice Building**. Please contact your component's blood drive coordinator or call Lynn Sutton on (202) 305-8986 to schedule your appointment.

Volunteers who donate blood may be granted up to four hours of excused absence for recuperative purposes. All blood donors in the region will also be entered into a random drawing held by the American Red Cross, offering a prize gift of a $100 gas card. (This random drawing will not be held on Government property; does not involve the purchase of any item, monetary transaction, or other consideration; and is solely a voluntary benefit offered by the American Red Cross.)

Temporary Closure of Constitution Avenue on June 3, 2006

Constitution Avenue will be temporarily closed between 10th and 18th Streets from 6:00 am until approx. 11:00 am on Saturday, June 3, 2006. The annual Komen Race for the Cure will have starting points located on Constitution Avenue at 12th Street for runners and at 10th Street for walkers. During this time, access to the Main Justice Building for pedestrians and vehicles at the 10th Street entrance will be from Pennsylvania Avenue only.

HUD Headquarters to Host Homeownership Fair

The Federal Housing Administration (FHA) invites all Government employees to attend "FHA Celebrates Homeownership" fair from 10:00 a.m. to 2:00 p.m., Tuesday, June 6, 2006, in the Department of Housing and Urban Development (HUD) headquarters cafeteria, located on the

first floor of 451 Seventh Street SW. Intended to help potential homeowners by providing insight into the process of buying a home, the fair will showcase workshops from 11:00 a.m. to 1:00 p.m. that include "The ABCs of Home Buying" and "Spotlighting House Options – From Reverse Mortgages to Financing a Fixer-Upper."

The fair will offer refreshments, door prizes provided by Home Depot and Lowe's, and remarks from HUD Secretary Alphonso Jackson, Housing Assistant Brian D. Montgomery and FHA Commissioner John C. Weicher. Also, FHA will display exhibits from sponsors such as the National Association of Real Estate Brokers, National Association of Mortgage Brokers, National Association of Hispanic Real Estate Professionals and Mortgage Bankers Association, and National Association of Realtors.

For more information concerning this event, please contact Dustee Tucker at (202) 321-6798

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

rkeen@truman.gov

From: [redacted]@truman.gov
Sent: Tuesday, May 30, 2006 8:53 AM
To: Gorsuch, Neil M
Subject: we're looking forward to our visit today...

Good morning, Neil.

I'm about ready to head out the door to meet our group and head on over to the White House tour. I was just hoping to check in with you briefly to see if you'd be willing to introduce Robert McCallum to our group (I wasn't sure what the exact program would look like)? If you'd like me to make the introduction, please feel free to let me know.

Thanks again so much for setting this all up...we are extremely grateful for your contributions to our Summer Institute. If you need to reach me at any point prior to our arrival, please feel free to call my cell at [redacted] Thanks!

best,
[redacted]

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, May 30, 2006 9:09 AM
To: Gorsuch, Neil M
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING

Could you send me the original with the attachment?

Thx.

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, May 25, 2006 6:09 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: REMINDER: JULY 10 FULL COUNCIL MEETING

Gordon has been handling these. Copying him.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, May 25, 2006 2:44 PM
To: Swenson, Lily F
Cc: McCallum, Robert (SMO)
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING

Have you been attending these?

-----Original Message-----
From: [redacted]@usich.gov [mailto:[redacted]@usich.gov]
Sent: Thursday, May 25, 2006 1:05 PM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.

A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development Secretary Alphonso Jackson. Please respond to the Secretary's invitation with the designation of the most senior level leadership of your agency for this important discussion on a key issue for our nation and priority of this Administration.

As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.

Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work with the Council on this matter to achieve the maximum interagency coordination and visibility of results from the Administration's initiatives.

Thank you, and have a good holiday.

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: 202/708-4663

FAX: 202/708-1216

www.usich.gov

Beach, Andrew

Subject:	Canceled: Strategic Initiatives Staff Meeting
Location:	OAG Conf Rm 5228
Start:	Monday, July 03, 2006 1:30 PM
End:	Monday, July 03, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Accepted
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Beach, Andrew

From: Beach, Andrew
Sent: Friday, July 07, 2006 2:39 PM
To: Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina; Card, Jean; McNeil, Tucker (OPA)
Subject: Canceled: Strategic Initiatives Staff Meeting
Importance: High

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Jean Card, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Beach, Andrew

From: Beach, Andrew
Sent: Friday, July 07, 2006 2:39 PM
To: Beach, Andrew; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina; Card, Jean; McNeil, Tucker (OPA)
Subject: Canceled: Strategic Initiatives Staff Meeting
Importance: High

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Jean Card, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:13 AM
To: Todd, Gordon (SMO)
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING
Attachments: tmp.htm; image001.jpg; 2006-7-10 CONFIRMATION OF ATTENDANCE Form.doc

Here you go

-----Original Message-----
From: [redacted]@usich.gov [mailto [redacted]@usich.gov]
Sent: Thursday, May 25, 2006 1:05 PM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.

A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development Secretary Alphonso Jackson. Please respond to the Secretary's invitation with the designation of the most senior level leadership of your agency for this important discussion on a key issue for our nation and priority of this Administration.

As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.

Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work with the Council on this matter to achieve the maximum interagency coordination and visibility of

results from the Administration's initiatives.

Thank you, and have a good holiday.

[redacted]

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: [redacted]

FAX: 202/708-1216

www.usich.gov

CONFIRMATION OF ATTENDANCE

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS
FULL COUNCIL MEETING

MONDAY, JULY 10, 2006 - 10:30 A.M. – 12:00 P.M.

EISENHOWER EXECUTIVE OFFICE BUILDING, ROOM 350

Please FAX this completed clearance form to USICH at 202-708-1216 no later than June 30 COB.
All agency designees must complete this form.

Secretary [Administrator, etc.] _____
_____ will attend the meeting. _____ is unable to attend the meeting.

The following Deputy Secretary will attend: (Please print all required information.)

Full Name _____

Title _____

Agency _____

Contact _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Also attending will be:

(2) Full Name _____

Title _____

Agency _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Please return this form by FAX to the U.S. Interagency Council on Homelessness at (202) 708-1216 no later than June 30 COB.

Greetings:

Your Secretary or agency head was today sent by FAX the following reminder announcement of the scheduled July 10 Full Council Meeting. The text of this letter appears below. A formal invitation form HUD Secretary Jackson will follow.

Senior Policy designees are asked to note the June 30 submission date for agency announcements. This will help the Council with planning amid the July 4 holiday week.

Attached is a Confirmation of Attendance form for your agency to submit the RSVP response of your Secretary or department head.

> The next Full Council Meeting of the United States Interagency Council on Homelessness will be held on Monday, July 10, 2006, at 10:30 a.m. The Council will convene in the Eisenhower Executive Office Building, Room 350.
>
> A formal invitation to the Full Council Meeting is forthcoming from the Council's Chair, United States Department of Housing and Urban Development Secretary Alphonso Jackson. Please respond to the Secretary's invitation with the designation of the most senior level leadership of your agency for this important discussion on a key issue for our nation and priority of this Administration.
>
> As we have for each of the prior Full Council Meetings, we will look to Council member agencies to announce investment and policy developments and to report on results and outcomes in support of the Administration's goal of ending chronic homelessness.
>
> Due to the scheduled time of this meeting, any planned announcement for the Council meeting must be submitted by close of business on Friday, June 30 for inclusion in briefing documents. Please work with the Council on this matter to achieve the maximum interagency coordination and visibility of results from the Administration's initiatives.

Thank you, and have a good holiday.

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: [redacted]

FAX: 202/708-1216

www.usich.gov

Beach, Andrew

Subject:	Accepted: Strategic Initiatives Staff Meeting
Location:	OAG Conf Rm 5228
Start:	Monday, July 3, 2006 1:30 PM
End:	Monday, July 3, 2006 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Beach, Andrew

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:14 AM
To: [redacted]@truman.gov'
Subject: RE: we're looking forward to our visit today...

I'm happy to do the intro. Look forward to seeing you soon!

-----Original Message-----
From: [redacted]@truman.gov [mailto: [redacted] @truman.gov]
Sent: Tuesday, May 30, 2006 8:53 AM
To: Gorsuch, Neil M
Subject: we're looking forward to our visit today...

Good morning, Neil.

I'm about ready to head out the door to meet our group and head on over to the White House tour. I was just hoping to check in with you briefly to see if you'd be willing to introduce Robert McCallum to our group (I wasn't sure what the exact program would look like)? If you'd like me to make the introduction, please feel free to let me know.

Thanks again so much for setting this all up...we are extremely grateful for your contributions to our Summer Institute. If you need to reach me at any point prior to our arrival, please feel free to call my cell at [redacted] Thanks!

best,
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:14 AM
To: McCallum, Robert (SMO)
Subject: FW: we're looking forward to our visit today...

FYI.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:14 AM
To: [redacted]@truman.gov'
Subject: RE: we're looking forward to our visit today...

I'm happy to do the intro. Look forward to seeing you soon!

-----Original Message-----
From: [redacted]@truman.gov [mailto[redacted]@truman.gov]
Sent: Tuesday, May 30, 2006 8:53 AM
To: Gorsuch, Neil M
Subject: we're looking forward to our visit today...

Good morning, Neil.

I'm about ready to head out the door to meet our group and head on over to the White House tour. I was just hoping to check in with you briefly to see if you'd be willing to introduce Robert McCallum to our group (I wasn't sure what the exact program would look like)? If you'd like me to make the introduction, please feel free to let me know.

Thanks again so much for setting this all up...we are extremely grateful for your contributions to our Summer Institute. If you need to reach me at any point prior to our arrival, please feel free to call my cell at [redacted] Thanks!

best,
[redacted]

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 31, 2006 9:15 AM
End:	Wednesday, May 31, 2006 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Wednesday, May 31, 2006 9:15 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Monica Goodling DOJ: Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 31, 2006 10:20 AM
End:	Wednesday, May 31, 2006 11:05 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; Goodling, Monica; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee JOtus2005, Ag; Goodling, Monica; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, ShaliniParameswaran, Shalini

AG's Conference Room
AO: Monica Goodling DOJ: Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Goodling, Monica

From: Goodling, Monica
Sent: Tuesday, May 30, 2006 9:44 AM
To: Goodling, Monica
Subject: The Morning Update: 5/30/06

Good morning! Today, the Department welcomes two new appointees: David Meyer, who joins the Antitrust Division as a new Deputy Assistant Attorney General, and Steve Engle, who joins the Office of Legal Counsel as Counsel to the Assistant Attorney General. In addition, please congratulate Asheesh Agarwal, who has moved from the Civil Division to the Civil Rights Division as a new Deputy Assistant Attorney General. If you have a chance, please take a minute to congratulate them. Have a great day.

****

<http://www.whitehouse.gov/>

MAY 30, 2006

11:05 am EDT

THE PRESIDENT participates in a Credentials Ceremony for the Ambassador of Iraq to the United States
The White House | Washington, DC

On Memorial Day, President Bush Honors Military. "President Bush, delivering a Memorial Day message surrounded by the graves of thousands of military dead, said Monday that the United States must continue fighting the war on terror in the name of those have already given their life in the cause. ...'I am in awe of the men and women who sacrifice for the freedom of the United States of America <http://abcnews.go.com/Politics/wireStory?id=2018380&CMP=OTC-RSSFeeds0312> ,' the president declared, drawing a long standing ovation from the troops, families of the fallen and others gathered at the cemetery's 5,000-seat white marble amphitheater. ... The nation can best honor the dead by 'defeating the terrorists. ... and by laying the foundation for a generation of peace,' Bush said." (Nedra Pickler, "Bush Says U.S. Must Honor War Dead," The Associated Press, 5/30/06)

President Bush Signs Legislation Helping Military Personnel And Their Families. "Bush also used Memorial Day to sign two pieces of legislation aimed at helping military personnel and their families. <http://www.nytimes.com/2006/05/30/us/30veterans.html?_r=1&hp&ex=1148961600&en=7673ef2a9faba999&ei=5094&partner=homepage&oref=slogin> One bill revises the Internal Revenue Service code to allow service members to deposit tax-free combat pay into individual retirement accounts, and the other bans some demonstrations at government-run cemeteries." (Sheryl Gay Stolberg and Michael R. Gordon, "Bush Invokes The Fallen, Past And

Present," The New York Times, 5/30/06)

Sen. John McCain (R-AZ) Believes Immigration Reform Bill Will Be Passed By Congress. CNN'S JOHN KING: "Are you going to get a bill this year?" SEN. MCCAIN: "I believe so. I believe that the voices of - of understanding and appreciation, that one thing that those critics that you just quoted agree with me on, and we're all in agreement on, is that the system is broken and must be fixed <http://transcripts.cnn.com/TRANSCRIPTS/0605/29/sitroom.01.html> . And, by the way, we are taking serious steps to beef up the border ... in every respect." (CNN's "The Situation Room," 5/29/06)

Profits Increase In U.S. Manufacturing Sector. "Profits are increasing far faster for U.S. manufacturers than for U.S. companies as a whole, aided by a wave of consolidation that has wiped out weaker players, unrelenting cost cutting and a revival of pricing power in some sectors. ... A surge in U.S. exports, dominated by manufactured goods, also is helping. The Commerce Department reported this month that exports jumped 13.8% to $76.5 billion in March, compared with a year ago <http://online.wsj.com/article_print/SB114895027577165852.html> ." (Timothy Aeppel, "Cost Cutting, Export Surge Bolster U.S. Companies," The Wall Street Journal, 5/30/06)

The Wall Street Journal Supports Repeal Of Telephone Excise Tax. "The Spanish-American War was fought in 1898 and lasted less than eight months, but Americans still pay an excise tax on phone service that was imposed to finance it. Last week, a mere 108 years after the end of that conflict, the Bush Administration moved to terminate the levy. ... Treasury Secretary John Snow said the Internal Revenue Service will no longer collect the 3% federal excise tax on long-distance phone calls and will offer refunds for the past three years. <http://online.wsj.com/article/SB114894015305465661.html?mod=opinion_main_review_and_outlooks> " (Editorial, "Adios To A Phone Tax," The Wall Street Journal, 5/30/06)

President Bush Honors Memorial Day at Arlington National Cemetery
<http://www.whitehouse.gov/news/releases/2006/05/20060529-1.html>

President Signs H.R. 1499 and H.R. 5037
<http://www.whitehouse.gov/news/releases/2006/05/20060529.html>

President Delivers Commencement Address at the United States Military Academy at West Point
<http://www.whitehouse.gov/news/releases/2006/05/20060527-1.html>

President's Radio Address
<http://www.whitehouse.gov/news/releases/2006/05/20060527.html>

President's Statement on Indonesian Earthquake
<http://www.whitehouse.gov/news/releases/2006/05/20060527-2.html>

Interview of the Vice President and Mrs. Cheney by KCWY News-13
<http://www.whitehouse.gov/news/releases/2006/05/20060527-3.html>

Vice President Delivers the Commencement Address at Natrona County High School <http://www.whitehouse.gov/news/releases/2006/05/20060527-4.html>

Joint Statement by President Bush and Prime Minister Blair <http://www.whitehouse.gov/news/releases/2006/05/20060526-5.html>

President Commends Nigeria on Call for 2007 Elections <http://www.whitehouse.gov/news/releases/2006/05/20060526-2.html>

President Bush to Welcome Prime Minister Harper of Canada <http://www.whitehouse.gov/news/releases/2006/05/20060526-3.html>

Vice President Delivers Commencement Address at the United States Naval Academy <http://www.whitehouse.gov/news/releases/2006/05/20060526-4.html>

* Photo Essay: U.S. Naval Academy Graduation <http://www.whitehouse.gov/vicepresident/photoessays/naval-academy/01.html>

Memorandum for the Secretary of State and the OMB Director <http://www.whitehouse.gov/news/releases/2006/05/20060526-6.html>

Memorandum for Secretary of State, Secretary of Defense, Secretary of Energy, and Director of National Intelligence <http://www.whitehouse.gov/news/releases/2006/05/20060526-7.html>

President Commends Senate for Approval of Michael Hayden as Director of Central Intelligence Agency <http://www.whitehouse.gov/news/releases/2006/05/20060526.html>

President's Statement on Senate Confirmation of Brett Kavanaugh to the U.S. Court of Appeals <http://www.whitehouse.gov/news/releases/2006/05/20060526-1.html>

President Commends Senate on Confirmation of Rob Portman as Director of the Office of Management and Budget <http://www.whitehouse.gov/news/releases/2006/05/20060526-9.html>

President Applauds Senate on Confirmation of Dirk Kempthorne as Secretary of the Interior <http://www.whitehouse.gov/news/releases/2006/05/20060526-8.html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:53 AM
To: Meyer, David L.; Engel, Steve; Agarwal, Asheesh (CIV)
Cc: Goodling, Monica; McCallum, Robert (SMO)
Subject: FW: The Morning Update: 5/30/06

David and Steve, Welcome aboard! Delighted to have you both here. If there's anything I can do to help make the transition easier, just let me know. And, Asheesh: Well done and congratulations! Best regards, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

From: Goodling, Monica
Sent: Tuesday, May 30, 2006 9:44 AM
To: Goodling, Monica
Subject: The Morning Update: 5/30/06

Good morning! Today, the Department welcomes two new appointees: David Meyer, who joins the Antitrust Division as a new Deputy Assistant Attorney General, and Steve Engle, who joins the Office of Legal Counsel as Counsel to the Assistant Attorney General. In addition, please congratulate Asheesh Agarwal, who has moved from the Civil Division to the Civil Rights Division as a new Deputy Assistant Attorney General. If you have a chance, please take a minute to congratulate them. Have a great day.

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<http://www.whitehouse.gov/>

MAY 30, 2006

11:05 am EDT

THE PRESIDENT participates in a Credentials Ceremony for the Ambassador of Iraq to the United States
The White House | Washington, DC

On Memorial Day, President Bush Honors Military. "President Bush, delivering a Memorial Day message surrounded by the graves of thousands

of military dead, said Monday that the United States must continue fighting the war on terror in the name of those have already given their life in the cause. ...'I am in awe of the men and women who sacrifice for the freedom of the United States of America <http://abcnews.go.com/Politics/wireStory?id=2018380&CMP=OTC-RSSFeeds0312> ,' the president declared, drawing a long standing ovation from the troops, families of the fallen and others gathered at the cemetery's 5,000-seat white marble amphitheater. ... The nation can best honor the dead by 'defeating the terrorists. ... and by laying the foundation for a generation of peace,' Bush said." (Nedra Pickler, "Bush Says U.S. Must Honor War Dead," The Associated Press, 5/30/06)

President Bush Signs Legislation Helping Military Personnel And Their Families. "Bush also used Memorial Day to sign two pieces of legislation aimed at helping military personnel and their families. <http://www.nytimes.com/2006/05/30/us/30veterans.html?_r=1&hp&ex=1148961600&en=7673ef2a9faba999&ei=5094&partner=homepage&oref=slogin> One bill revises the Internal Revenue Service code to allow service members to deposit tax-free combat pay into individual retirement accounts, and the other bans some demonstrations at government-run cemeteries." (Sheryl Gay Stolberg and Michael R. Gordon, "Bush Invokes The Fallen, Past And Present," The New York Times, 5/30/06)

Sen. John McCain (R-AZ) Believes Immigration Reform Bill Will Be Passed By Congress. CNN'S JOHN KING: "Are you going to get a bill this year?" SEN. MCCAIN: "I believe so. I believe that the voices of - of understanding and appreciation, that one thing that those critics that you just quoted agree with me on, and we're all in agreement on, is that the system is broken and must be fixed <http://transcripts.cnn.com/TRANSCRIPTS/0605/29/sitroom.01.html> . And, by the way, we are taking serious steps to beef up the border ... in every respect." (CNN's "The Situation Room," 5/29/06)

Profits Increase In U.S. Manufacturing Sector. "Profits are increasing far faster for U.S. manufacturers than for U.S. companies as a whole, aided by a wave of consolidation that has wiped out weaker players, unrelenting cost cutting and a revival of pricing power in some sectors. ... A surge in U.S. exports, dominated by manufactured goods, also is helping. The Commerce Department reported this month that exports jumped 13.8% to $76.5 billion in March, compared with a year ago <http://online.wsj.com/article_print/SB114895027577165852.html> ." (Timothy Aeppel, "Cost Cutting, Export Surge Bolster U.S. Companies," The Wall Street Journal, 5/30/06)

The Wall Street Journal Supports Repeal Of Telephone Excise Tax. "The Spanish-American War was fought in 1898 and lasted less than eight months, but Americans still pay an excise tax on phone service that was imposed to finance it. Last week, a mere 108 years after the end of that conflict, the Bush Administration moved to terminate the levy. ... Treasury Secretary John Snow said the Internal Revenue Service will no longer collect the 3% federal excise tax on long-distance phone calls and will offer refunds for the past three years. <http://online.wsj.com/article/SB114894015305465661.html?mod=opinion_main_review_and_outlooks> " (Editorial, "Adios To A Phone Tax," The Wall Street Journal, 5/30/06)

President Bush Honors Memorial Day at Arlington National Cemetery
<http://www.whitehouse.gov/news/releases/2006/05/20060529-1.html>

President Signs H.R. 1499 and H.R. 5037
<http://www.whitehouse.gov/news/releases/2006/05/20060529.html>

President Delivers Commencement Address at the United States Military Academy at West Point
<http://www.whitehouse.gov/news/releases/2006/05/20060527-1.html>

President's Radio Address
<http://www.whitehouse.gov/news/releases/2006/05/20060527.html>

President's Statement on Indonesian Earthquake
<http://www.whitehouse.gov/news/releases/2006/05/20060527-2.html>

Interview of the Vice President and Mrs. Cheney by KCWY News-13
<http://www.whitehouse.gov/news/releases/2006/05/20060527-3.html>

Vice President Delivers the Commencement Address at Natrona County High School <http://www.whitehouse.gov/news/releases/2006/05/20060527-4.html>

Joint Statement by President Bush and Prime Minister Blair
<http://www.whitehouse.gov/news/releases/2006/05/20060526-5.html>

President Commends Nigeria on Call for 2007 Elections
<http://www.whitehouse.gov/news/releases/2006/05/20060526-2.html>

President Bush to Welcome Prime Minister Harper of Canada
<http://www.whitehouse.gov/news/releases/2006/05/20060526-3.html>

Vice President Delivers Commencement Address at the United States Naval Academy
<http://www.whitehouse.gov/news/releases/2006/05/20060526-4.html>

* Photo Essay: U.S. Naval Academy Graduation
<http://www.whitehouse.gov/vicepresident/photoessays/naval-academy/01.html>

Memorandum for the Secretary of State and the OMB Director
<http://www.whitehouse.gov/news/releases/2006/05/20060526-6.html>

Memorandum for Secretary of State, Secretary of Defense, Secretary of Energy, and Director of National Intelligence
<http://www.whitehouse.gov/news/releases/2006/05/20060526-7.html>

President Commends Senate for Approval of Michael Hayden as Director of Central Intelligence Agency
<http://www.whitehouse.gov/news/releases/2006/05/20060526.html>

President's Statement on Senate Confirmation of Brett Kavanaugh to the U.S. Court of Appeals
<http://www.whitehouse.gov/news/releases/2006/05/20060526-1.html>

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President Applauds Senate on Confirmation of Dirk Kempthorne as Secretary of the Interior
<http://www.whitehouse.gov/news/releases/2006/05/20060526-8.html>

Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Tuesday, May 30, 2006 9:56 AM
To:	Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Cohn, Jonathan (CIV); Gorsuch, Neil M
Subject:	FW: New staff sec
Attachments:	tmp.htm

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Tuesday, May 30, 2006 9:50 AM
To: Katsas, Gregory (CIV);[redacted]
Subject: New staff sec

is Raul Yanes.

is Raul Yanes.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, May 30, 2006 10:45 AM
To: Gorsuch, Neil M
Subject: Pls call Ken Wainstein 4-6600

Owens, Angela (ENRD)

From: Owens, Angela (ENRD)

Sent: Tuesday, May 30, 2006 10:53 AM

To: Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Oppenheimer, Peter (ENRD); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)

Subject: Attached is ENRD's Weekly Report to the AG...

Attachments: #113879-v1-ENRD_s_AG_Weekly_--_May_30__2006.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

May 30, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

- ***Oral Argument in Challenge to Operations on the Federal Columbia River Power System***

On June 1, Division attorneys will present oral argument in the Ninth Circuit in National Wildlife Federation v. National Marine Fisheries Service on the National Marine Fisheries Service's appeal from a district court's invalidation of the agency's 2004 biological opinion governing operations on the Federal Columbia River Power System.

- ***Oral Argument in New Source Review Clean Air Act Enforcement Action***

On June 2, Division attorneys will present oral argument in the Seventh Circuit in United States v. Cinergy Corp. The United States brought this Clean Air Act action to enforce the New Source Review ("NSR") requirements. The district court granted the government's motion for partial summary judgment on what constitutes a "net emissions increase" for purposes of deciding whether a project constitutes a "modification" that subjects a source to NSR. The district court held that a "net emissions increase" does not require an hourly emissions increase, but occurs whenever annual emissions increase, which would include consideration of increased hours of operation. The Fourth Circuit reached a contrary conclusion in Environmental Defense v. Duke Energy Corp. The Supreme Court has granted *certiorari* in the appeal from that decision.

- ***Oral Argument in City of Dallas Storm Water Management Program Case***

On June 2, Division attorneys will present oral argument opposing the City of Dallas's motion to consolidate the Government's case with a previously-filed citizen suit challenging the City's storm water management program. We will support the City's motion to stay the citizen suit. The State of Texas will appear in support of our position. The United States filed a complaint alleging violations of the Clean Water Act in connection with the City of Dallas's storm water management program and lodged a consent decree to resolve those violations on May 10, 2006.

LAST WEEK

Nothing to report.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0160839

[redacted]dodgc.osd.mil

From: [redacted]dodgc.osd.mil
Sent: Tuesday, May 30, 2006 10:57 AM
To: Gorsuch, Neil M
Subject: You around?

[redacted]
Deputy General Counsel (Legal Counsel)
U.S. Department of Defense
1600 Defense Pentagon, Room 3B688
Washington, D.C. 20301-1600
[redacted] (703)614-6745 (fax)
E-mail: [redacted]@dodgc.osd.mil

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Tuesday, May 30, 2006 11:03 AM
Subject: Read: Letter to the Editor

McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, May 30, 2006 11:14 AM
To:	Agarwal, Asheesh (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Dan (CIV); Davis, Deborah J; Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hudson, Lewis (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina E. (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shannen Coffin; Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	5/30 CIV Weekly Report to the AG
Attachments:	CivDivWkly0530.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

May 30, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- No items to report.

B. THIS WEEK

- No items to report.

C. LAST WEEK

- ***Eighth Circuit Holds that District Court Lacks Jurisdiction to Consider Habeas Challenge***
  Ochoa-Carrillo v. Gonzales [8th Cir.]. On May 1, in a published decision, the Eighth Circuit dismissed a habeas petition converted into a petition for review. The Court had denied the alien's prior petition for review of her reinstated expedited removal order. The Court held that the limited habeas review of expedited removal orders may not occur in connection with review of expedited reinstatement proceedings, as the statute provides that the prior order of removal is not subject to being reopened or reviewed in appeals of reinstatement orders.

- ***Second Circuit Affirms Adverse Credibility Determination Based on Material Inconsistencies***

Ye v. Ashcroft [2d Cir.]. On May 2, in a published *per curiam* decision, the Second Circuit affirmed the denial of asylum, withholding of removal, and protection under Convention Against Torture. The Court determined that where the Board adopts the Immigration Judge's conclusions on credibility, but does so for other reasons then those cited by the Immigration Judge, the Court will review both decisions. The Court held that the material inconsistencies within the alien's testimony and written asylum application sufficed to support the adverse credibility decision.

- ***Tenth Circuit Holds that Finding of Persecution Was not Rebutted by Changed Country Conditions***

  Amadou Diallo v. Gonzales, [10th Cir.]. On May 4, in an unpublished decision (No. 05-9538), the Tenth Circuit reversed the Board's denial of asylum. The Court held that because the Board held that the alien no longer had a well-founded fear of persecution, the Board "implicitly" determined that the alien had shown past persecution due to his ethnicity. The Court further held that substantial evidence did not support the conclusion that a change in country conditions had occurred sufficient to overcome the alien's past persecution, as this finding was based on generalized information in the Department of State Country Reports.

- ***First Circuit Determines that the Board Acted Within Its Discretion in Denying a Late Motion to Reopen***

  Joumaa v. Gonzales [1st Cir.]. On May 5, the First Circuit affirmed the Board's denial of a motion to reopen as untimely. The Court held that a new decision of law issued after the 90-day filing deadline was not a congressionally recognized exception to the filing deadline for motions to reopen and, therefore, the Board acted within its discretion in denying the alien's late motion to reopen.

- ***First Circuit Upholds Denial of Motion to Reopen to Apply for Waiver of Inadmissibility***

  Lawrence v. Gonzales [1st Cir.]. On May 5, in a published decision, the First Circuit denied the petition for review in a mixed habeas/direct appeal. The Court affirmed the Board's holding that the alien was not entitled to a retroactive waiver of inadmissibility, as his guilty plea occurred after the repeal of the waiver. The Court determined that the alien's "continued detention here occurred pursuant to his own procuring of stays incident to his legal challenges to the removal order; it is beyond dispute that this period of time

was necessary to bring about [the alien's] removal, which -- now that the current litigation is resolved -- is presumably imminent."

- ***Eighth Circuit Affirms Asylum Denial Based on Adverse Credibility***
  Fofanah v. Gonzalez [8th Cir]. On May 11, in a published opinion, the Eighth Circuit affirmed the denial of asylum. The Court held that the Immigration Judge's adverse credibility determination was supported by specific, cogent reasons, as it was based on the alien's failure to mention any past persecution in his asylum petition, credible fear interview, or statements to the medical doctors who had been treating him since his arrival in the country for alleged depression and post traumatic stress disorder, and the alien failed to corroborate some of his claims.

- ***Third Circuit Reverses Denial of Motion to Reopen Based on Changed Country Conditions***
  Filja v. Gonzales [3d Cir.]. On May 12, in a published decision, the Third Circuit reversed the Board's denial of a motion to reopen based on changed country conditions in Albania. While the alien's appeal was pending before the Board, a change in Albania's government occurred. Six months after the Board's denial of his appeal, the alien filed a motion to reopen with the Board alleging changed country conditions in Albania and ineffective assistance of counsel. The Court held that the requirement that changed country conditions occur subsequent to the "prior hearing" could only refer to the prior proceeding before the Immigration Judge, not the period the administrative appeal was pending before the Board.

- ***Eighth Circuit Remands for Consideration of Changed Country Conditions***
  Bah v. Gonzales [8th Cir.]. On May 15, in a published decision, the Eighth Circuit reversed the denial of asylum and withholding of removal. The Court held that the alien's evidence compelled a finding of past persecution, and remanded to the agency to assess changed country conditions with the burden of proof placed on the government.

- ***Second Circuit Holds that Government Must Establish Firm Resettlement Before Shifting Burden of Proof to Alien.***
  Wangchuck v. DHS [2d Cir.]. On May 15, in a published decision, the Second Circuit vacated the denial of asylum, withholding of removal and protection under the Convention Against Torture and remanded for further proceedings. As a threshold matter, the Court concluded that the determination of the alien's nationality was a necessary precursor to adequately assessing an asylum claim. The Court held that the Immigration Judge and the Board thus incorrectly placed the burden of proof on the alien to establish that he was not firmly resettled, and applied the wrong legal standard to the evaluation of fear of persecution.

- ***Ninth Circuit Denies Attorneys' Fees Under Equal Access to Justice Act to Prevailing Party in Case Regarding Prescription of Controlled Substances to Assist Suicide***
  Gonzales v. Oregon [United States Court of Appeals for the Ninth Circuit; United States District Court for the District of Oregon]. On May 15, the Ninth Circuit denied without comment a request for over $1.25 million in attorneys' fees and expenses sought under the Equal Access To Justice Act by terminally ill patients in Oregon who had successfully challenged the Attorney General's determination that the federal Controlled Substances

Act barred the prescription of controlled substances for the purpose of assisting suicide. The federal government had opposed the request in its entirety on the bases that: (1) it was untimely; (2) it was not accompanied by adequate proof that the parties seeking fees met the statutory net worth requirement ($2 million or less); (3) the government's position was substantially justified; and (4) the terminally ill patients were free riders in the litigation, which was commenced and prosecuted by the State of Oregon, an entity not entitled to receive fees under the Equal Access to Justice Act.

- ***Ninth Circuit Upholds Board of Immigration Appeals' Decision Denying Indian Citizen's Application for Asylum and Other Relief***
  Tejinder Singh v. Gonzales [United States Court of Appeals for the Ninth Circuit; Board of Immigration Appeals]. On May 18, the Ninth Circuit (B. Fletcher, Trott, & Callahan, JJ.), in a memorandum decision, upheld the Board of Immigration Appeals' denial of an application for asylum, withholding of removal, and relief under the Convention Against Torture based on alleged persecution in India on account of the applicant's political opinion. The appeals court held that the Board of Immigration Appeals' adverse credibility finding was supported by substantial evidence showing that Singh's evidence concerning matters going to the heart of his claim was inconsistent and that nothing in the record compelled a contrary finding.

- ***Ninth Circuit Upholds Board of Immigration Appeals Dismissal of Polish Citizens' Untimely Appeal of Removal Order***
  Rus v. Gonzales [United States Court of Appeals for the Ninth Circuit; Board of Immigration Appeals]. In this immigration case, Grazyna and Ilona Rus appealed their *in absentia* removal order to the Board of Immigration Appeals (B. Fletcher, Trott, Callahan, JJ.), which dismissed the appeal as untimely; a motion to reopen the Board of Immigration Appeals' dismissal on ineffective assistance grounds was subsequently denied both as untimely and on its merits. Petitioners sought review of both rulings in the Ninth Circuit. On May 18, the Ninth Circuit, in a memorandum decision, denied the petitions in part and dismissed them in part, holding in agreement with the government's position that petitioners had waived any arguments as to the untimeliness of their initial appeal; that the Board of Immigration Appeals did not abuse its discretion in denying the motion to reopen on timeliness grounds; and that the court of appeals lacked jurisdiction to consider a newly raised due process challenge to the *in absentia* removal order.

- ***Third Circuit Determines that General Allegations of Prison Conditions in Haiti Do not Establish Probability of Torture for Removed Criminal Aliens***
  Francois v. Gonzales [3d Cir.]. On May 19, 2006, in a published decision, the Third Circuit vacated the district court's published opinion (343 F. Supp. 2d 327) on the alien's habeas corpus petition and denied the converted petition for review. The Court concluded that the alien's allegations of general prison conditions in Haiti, although inhumane and deplorable, did not constitute torture.

- ***D.C. Circuit Holds that Default by Democratic Republic of Congo on Motion to Execute Against its Diplomatic Properties was "Excusable Neglect" and Remands for***

Consideration of its Rule 60(b) Motion, which Asserted that the Properties were Immune

FG Hemisphere Associates, LLC v. Democratic Republic of Congo [United States Court of Appeals for the District of Columbia; United States District Court for the District of Columbia]. On May 19, the District of Columbia Circuit (Randolph, Tatel, C.J. Williams, S.C.J.) reversed the district court's denial of a Rule 60(b) motion by the Democratic Republic of Congo, which had defaulted on a motion to execute against two real properties that were formerly used as diplomatic residences but that had been occupied for approximately ten years by former diplomats who refused to vacate the premises. We argued as amicus in support of the Congo that it had not received proper notice of the motion to execute and that, under both the Foreign Sovereign Immunities Act and the Vienna Convention On Diplomatic Relations, it was entitled to an opportunity to assert that the properties were immune from execution, as we believed they were. In deciding that the Congo's default constituted excusable neglect, the court of appeals agreed that the notice that was actually provided precluded a timely response by the Congo, that political uproar in that country explained the Congo's failure to respond sooner than it did, and that the existing record provided no evidence to support the conclusion that the properties were being used for commercial purposes and were therefore no longer entitled to immunity under the Foreign Sovereign Immunities Act or the Vienna Convention.

Two Civil Suits Against Gun Manufacturers and Dealers Dismissed Under Protection of Lawful Commerce in Arms Act

District of Columbia v. Beretta U.S.A. Corp. [District of Columbia Superior Court]. On May 22, Judge Brooke Hedge granted defendants' motion to dismiss, on the basis of the Protection of Lawful Commerce in Arms Act. The Act provides that "[a] qualified civil liability action" against the manufacturers or sellers of firearms "may not be brought in any Federal or State court" and further that "[a] qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending." In the underlying action, the District of Columbia and several of its residents brought an action against manufacturers and dealers of firearms under the District's Assault Weapon Manufacturing Strict Liability Act to Strict Liability firearms law to recoup costs associated with gun violence. We took no position on whether the federal Act required dismissal, but intervened in the action when plaintiffs raised constitutional challenges to the Act's application. Plaintiffs argued that the Act violated the separation of powers insofar as it required the "immediate" dismissal of pending cases. Plaintiffs also argued that they had a property claim in their pending tort cause of action and that abrogating a pending tort claim violated their substantive and procedural due process rights, or alternatively constituted a taking, and violated their right to equal protection. The superior court's ruling adopted our arguments in rejecting the constitutional challenges to the Act. The court concluded that Congress had not violated the separation of powers by requiring the immediate dismissal of certain classes of civil actions. The ruling concluded that any interest in a pending tort claim under federal due process principles is inherently inchoate and that the only limit on Congress' abrogating a pending claim was that it be rational in doing so. The court also rejected claims that the retroactive nature of the Act violated plaintiffs' procedural due process rights. Finally, the court concluded that Congress was rational in its concern over protecting the firearms industry from suit and the undue burden upon commerce that such "predatory" suits cause.

At oral argument on May 19, Judge Charles Stoll granted defendants' motion to dismiss in *Pavelka v. Beretta U.S.A. Corp* (California Superior Court) also on the basis of the Protection of Lawful Commerce in Arms Act. The *Pavelka* case arose out of the murder of a Los Angeles police officer by gang members during a routine traffic stop, and was filed approximately one week before passage of the Act. We took no position on whether the Act applied to require dismissal, but intervened in the action when plaintiffs' raised constitutional challenges to the Act's application. Plaintiffs argued that they had a property claim in their pending tort cause of action and that abrogating a pending tort claim violated their substantive and procedural due process rights, constituted a Bill of Attainder, and violated their right to equal protection. The California superior court adopted all of our arguments in rejecting the constitutional challenges to the Act. It concluded that any interest in a pending tort claim under federal due process principles is inherently inchoate and that the only limit on Congress' abrogating a pending claim is that it be rational in doing so. The court also rejected claims that the retroactive nature of the Act violated plaintiffs' procedural due process rights, or that it was an impermissible Bill of Attainder. Finally, the ruling concluded that Congress was rational in its concern over protecting the firearms industry from suit and the undue burden upon commerce that such "predatory" suits cause.

- ***Court Dismisses Flight Attendants' Action to Compel Promulgation of Safety Standards***

  Association of Flight Attendants v. Chao [District of Columbia]. On May 22, Judge Royce C. Lamberth granted defendants' motion to dismiss. Plaintiff unions alleged that flight attendants were being denied safe and healthy working conditions under the Occupational Safety and Health Act because the Federal Aviation Administration (FAA), which had asserted complete and exclusive jurisdiction over crew member health and safety on civilian aircraft in 1975, had neglected to promulgate comprehensive regulations. Plaintiffs sought not only a declaration that the FAA had failed to meet its statutory obligations, but also injunctive relief requiring that the Occupational Safety and Health Administration (OSHA) assume responsibility for crewmember safety issues. The court agreed with the government that plaintiffs' claims were not ripe for review because they had not availed themselves of regulatory processes, pursuant to which plaintiffs could have petitioned either the FAA or OSHA for rulemaking. The court observed that the filing of such a petition could either have spurred the agencies to promulgate the health and safety standards plaintiffs sought, or, if denied, have served as the basis for judicial review by the court of appeals.

- ***Challenge to Telephone Consumer Protection Act Rejected***

  Tabass v. Castle Screen Print [Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois]. On May 23, Judge Terence M. Sheen denied defendants' motion to dismiss. This action involves a challenge under the First, Fifth, Eighth, and Fourteenth Amendments to the Telephone Consumer Protection Act of 1991 (TCPA), which requires advertisers to secure advance consent from the owners of facsimile machines before sending advertisements to their machines. Defendants also claimed that the TCPA is unconstitutionally vague. The United States, on behalf of itself and the Federal Communications Commission, intervened in the action to defend the constitutionality of the TCPA. The court ruled from the bench and

found that the TCPA does not violate the First, Fifth, Eighth, or Fourteenth Amendments and is not unconstitutionally vague.

- ***Eleventh Circuit Denies Petition for Review of Board of Immigration Appeals' Order Rejecting Asylum Claim of Colombian Couple***
  Valderrama v. Attorney General [United States Court of Appeals for the Eleventh Circuit; Board of Immigration Appeals]. On May 23, the Eleventh Circuit (Anderson, Birch, and Hull, JJ. (per curiam)), in an unpublished decision, denied a petition seeking review of a Board of Immigration Appeals' order that denied asylum to a Colombian national (who also petitioned on her husband's behalf), and also rejected their claims for withholding of removal and relief under the Convention Against Torture. The court concluded that substantial evidence in the record supported the Immigration Judge's and Board of Immigration Appeals' adverse credibility findings, based on numerous inconsistencies in the testimony and documentation, so that the petitioner's claim of a fear of persecution had no basis.

- ***Philippine Court of Appeals Affirms Dismissal of Takings Claim against United States Base Commanders***
  Gozun v. Chief of Staff of the Armed Forces of the Philippines, et al. [Court of Appeals, Manila]. On May 23, The Court of Appeals of Manila affirmed the dismissal of a claim alleging a taking and other damages in the amount of $500,000, arising from construction of a petroleum pipeline between Clark Air Force Base and Subic Bay Naval Station. The pipeline was constructed by the United States on land obtained by a Philippine Government agency on our behalf. Ownership of both the pipeline and the land rights has since been transferred to the Bases Conversion and Development Authority, another Philippine Government agency. The complaint, filed while the United States was operating military bases in the Philippines, named the Chief of Staff of the Philippine Armed Forces, other Philippine officials, and the base commanders of Clark and Subic as defendants. The Philippine court dismissed this action as to all named defendants on the grounds that the proper defendant is the current owner.

- ***Honeywell International Inc. Agrees to Settle False Claims Case***
  U.S. ex rel Caltex Plastics v. Honeywell International, No. 04-4948 [D. N.J.] (Judge Debevoise). On May 23, Honeywell's Specialty Materials Division, of Morristown, New Jersey, will pay the United States $2,625,000 to resolve a *qui tam* complaint. The complaint alleged that Honeywell knowingly provided specialized packaging materials, used on Department of Defense and NASA contracts, that did not meet the required specifications.

- ***Court Refuses to Enjoin Closure of Farm Service Agency Office***
  Kenai Peninsula Chapter-Alaska Farm Bureau, Inc. v. Johanns [District of Alaska]. On May 24, Judge Ralph R. Beistline denied plaintiff's motion for a temporary restraining order and preliminary injunctive relief. Plaintiff, a private organization whose members participate in programs administered by the Farm Service Agency (FSA) of the U.S. Department of Agriculture (USDA) alleged that USDA violated the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for Fiscal Year 2006 by failing to conduct a "rigorous analysis" before deciding to close

the FSA office located in Homer, Alaska. Defendants opposed plaintiff's motion and moved for dismissal, arguing that none of the statutes cited in the complaint waived the government's sovereign immunity and that the Administrative Procedure Act's waiver of sovereign immunity, although not cited by plaintiff, was inapplicable because USDA decisions regarding which FSA offices to close are committed to agency discretion by law. Defendants also argued that they complied with the procedural requirements of the Appropriations Act by holding public meetings and notifying certain congressional committees and members of their plans to close local FSA offices before the decisions were finalized. The Court found that plaintiff had not satisfied any of the criteria for preliminary injunctive relief and denied plaintiff's motion. The Court did not, however, rule on defendants' motion to dismiss, which remains pending.

· ***Third Circuit Dismisses Petition for Review of Asylum Claim and Affirms Denial of Withholding of Removal***

Agusalim v. Attorney General [United States Court of Appeals for the Third Circuit; Board of Immigration Appeals]. On May 24, the Third Circuit (Barry, Smith, Tashima), in an unpublished opinion and without oral argument, upheld the Board of Immigration Appeals' affirmance of the immigration judge's denial of asylum, withholding of removal, and relief under the Convention Against Torture. Petitioner, a native of Indonesia, alleged that he was persecuted on account of his ethnicity (Chinese) and his religion (Christianity), but did not file an application for asylum until more than one year after he arrived in the United States. The Third Circuit held that it lacked jurisdiction to review the Board of Immigration Appeals' determination that petitioner's asylum application was untimely, and found that there was substantial evidence to support the Immigration Judge's denial of withholding of removal.

Contact: Daniel Davis, Counsel, 305.9334

[redacted]

From: [redacted]
Sent: Tuesday, May 30, 2006 11:40 AM
To: Gorsuch, Neil M
Subject: Term Member Trip to Norfolk
Attachments: Norfolk Invite and Draft Itinerary.doc

Dear Neil-

I'd like to inform you that a spot has become available on the Term Membr Trip to Norfolk, VA on June 22-23. If you'd like to attend, please let me know at your earliest convenience. I have attached the draft itinerary for your reference.

Sincerely,
[redacted]

(See attached file: Norfolk Invite and Draft Itinerary.doc)

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

COUNCIL ON FOREIGN RELATIONS

58 EAST 68TH STREET • NEW YORK • NEW YORK 10021
Tel 212 434 9600 Fax 212 434 9804

Stephen M. Kellen Term Member Program

Presents

Term Member Trip to

Norfolk, Virginia

June 22 – June 23, 2006

Please RSVP to Term_Membership@cfr.org
Participants will be signed up on a first-come, first-served basis.

2006 CFR Term Member Norfolk Familiarization Trip

U. S. Navy Contributions to Maritime Homeland Defense and the War on Terror

Joint Forces Command Familiarization

Draft Proposed Itinerary

Wednesday, June 21th

TBD- Depart DC/NYC travel to Norfolk

TBD- Arrive Naval Operating Base, Norfolk, meet with Public Affairs at Tours Office, Escort to Visitors Quarters- Check in.
For those arriving via air, van pick up will be arranged from Norfolk Int'l Airport to Naval Operating Base, Norfolk.

Thursday, June 22nd

0700-	Breakfast
0830-1030	US Fleet Forces Command Briefing/Meet with Commander/Deputy Commander
1030	Depart For Piers
1045- 1300	Ship Tour- Aircraft Carrier (request lunch on board with CO/XO)
1300-1315	Debark/transit to second tour
1330-1530	Ship Tour- Submarine
1530-1545	Debark/transit to third Tour
1600-1730	Ship Tour- Surface Combatant (CG/DDG)
1730-1800	Debark/Transit to Visitors Quarters
1800-1830	Personal Time at Visitors Quarters
1830	Transit to Pennsylvania House
1900-2030	Reception Pennsylvania House

2030	End program Day One-Return to Visitors Quarters

Friday, June 23rd

0700-0800	Breakfast/Check out of Visitors Quarters
0800-0830	Transit to Naval Amphibious Base, Little Creek
0830-0930	Briefings/Static Displays Naval Special Warfare Command (Seal Team TBD)
0930-0945	Transit to Naval, Network Warfare Command
1000-1130	Overview Briefing/Meeting with Commander/Deputy Commander Naval Network Warfare Command
1130-1300	Transit to Joint Forces Command (Lunch *en route*-TBD)
1300-1500	Arrive Joint Forces Command- Briefing/Meeting with Commander/Deputy Commander
1500-1630	Tour Joint Forces Command Headquarters-TBD
1630	Depart Joint Forces Command Pick up Personal Autos/Return to DC/Airport Drop Off

**__Please note__: Participants are responsible for their own travel arrangements to and from Norfolk. Also, participants will be responsible for their meal and lodging costs at the naval base visitors' quarters and partially responsible for transport costs while on the trip. CFR will cover the other half of transport costs and fully cover the lunch on June 22nd.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 11:57 AM
To: [redacted]@dodgc.osd.mil'
Subject: FW: Term Member Trip to Norfolk
Attachments: Norfolk Invite and Draft Itinerary.doc

Is this worth my attending do you think?

-----Original Message-----
From: [redacted]
Sent: Tuesday, May 30, 2006 11:40 AM
To: Gorsuch, Neil M
Subject: Term Member Trip to Norfolk

Dear Neil-

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Sincerely,
[redacted]

(See attached file: Norfolk Invite and Draft Itinerary.doc)

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
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Fax: (212) 434-9801
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Draft Proposed Itinerary

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1530-1545	Debark/transit to third Tour
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1300-1500	Arrive Joint Forces Command- Briefing/Meeting with Commander/Deputy Commander
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1630	Depart Joint Forces Command Pick up Personal Autos/Return to DC/Airport Drop Off

****Please note**: Participants are responsible for their own travel arrangements to and from Norfolk. Also, participants will be responsible for their meal and lodging costs at the naval base visitors' quarters and partially responsible for transport costs while on the trip. CFR will cover the other half of transport costs and fully cover the lunch on June 22nd.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Tuesday, May 30, 2006 12:00 PM
To: Gorsuch, Neil M
Subject: Read: [redacted]

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Tuesday, May 30, 2006 12:01 PM
To: Gorsuch, Neil M
Subject: Read: [redacted]

[redacted]

From: [redacted]
Sent: Tuesday, May 30, 2006 12:07 PM
To: Gorsuch, Neil M
Subject: Re: Have you met with [redacted] yet?

Actually wasn't lunch tomorrow?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Fri May 26 14:47:02 2006
Subject: RE: Have you met with [redacted] yet?

[redacted] They don't start the meet/greet rounds until I have a hearing date. But you're suggestion is a good and very kind one and, obviously, anything you might be able to do with the Senator is gratefully appreciated. Look forward to seeing you next Weds at the Caucus Rm. Best, NMG

-----Original Message-----
From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 12:11 PM
To: [redacted]
Subject: Re: Have you met with [redacted] yet?

Egad. I marked down the wrong day on my calendar. My apologies. What prefer you - tomorrow better?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:06:37 2006
Subject: Re: Have you met with [redacted] yet?

Actually wasn't lunch tomorrow?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Fri May 26 14:47:02 2006
Subject: RE: Have you met with [redacted] yet?

[redacted] They don't start the meet/greet rounds until I have a hearing date. But you're suggestion is a good and very kind one and, obviously, anything you might be able to do with the Senator is gratefully appreciated. Look forward to seeing you next Weds at the Caucus Rm. Best, NMG

-----Original Message-----
From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

[redacted]

From: [redacted]
Sent: Tuesday, May 30, 2006 12:16 PM
To: Gorsuch, Neil M
Subject: Re: Have you met with [redacted] yet?

If u can wait, ill be there in a few

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Tue May 30 12:10:20 2006
Subject: Re: Have you met with [redacted] yet?

Egad. I marked down the wrong day on my calendar. My apologies. What prefer you - tomorrow better?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:06:37 2006
Subject: Re: Have you met with [redacted] yet?

Actually wasn't lunch tomorrow?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Fri May 26 14:47:02 2006
Subject: RE: Have you met with [redacted] yet?

[redacted] They don't start the meet/greet rounds until I have a hearing date. But you're suggestion is a good and very kind one and, obviously, anything you might be able to do with the Senator is gratefully appreciated. Look forward to seeing you next Weds at the Caucus Rm. Best, NMG

-----Original Message-----
From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 12:19 PM
To: [redacted]
Subject: Re: Have you met with [redacted] yet?

Can do. I'm very sorry for the snafu.

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:15:47 2006
Subject: Re: Have you met with [redacted] yet?

If u can wait, ill be there in a few

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Tue May 30 12:10:20 2006
Subject: Re: Have you met with [redacted] yet?

Egad. I marked down the wrong day on my calendar. My apologies. What prefer you - tomorrow better?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:06:37 2006
Subject: Re: Have you met with Sen. Kohl yet?

Actually wasn't lunch tomorrow?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Fri May 26 14:47:02 2006
Subject: RE: Have you met with [redacted] yet?

Subject: RE: Have you met with [redacted] yet?

[redacted] They don't start the meet/greet rounds until I have a hearing date. But you're suggestion is a good and very kind one and, obviously, anything you might be able to do with the Senator is gratefully appreciated. Look forward to seeing you next Weds at the Caucus Rm. Best, NMG

-----Original Message-----
From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

[redacted]

From: [redacted]
Sent: Tuesday, May 30, 2006 12:24 PM
To: Gorsuch, Neil M
Subject: Re: Have you met with [redacted] yet?

No worries whatsover. I am 2 min away

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Tue May 30 12:18:05 2006
Subject: Re: Have you met with [redacted] yet?

Can do. I'm very sorry for the snafu.

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:15:47 2006
Subject: Re: Have you met with [redacted] yet?

If u can wait, ill be there in a few

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Tue May 30 12:10:20 2006
Subject: Re: Have you met with [redacted] yet?

Egad. I marked down the wrong day on my calendar. My apologies. What prefer you - tomorrow better?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Tue May 30 12:06:37 2006
Subject: Re: Have you met with [redacted] yet?

Subject: Re: Have you met with [redacted] yet?

Actually wasn't lunch tomorrow?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]
Sent: Fri May 26 14:47:02 2006
Subject: RE: Have you met with [redacted] yet?

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-----Original Message-----
From: [redacted]
Sent: Friday, May 26, 2006 2:43 PM
To: Gorsuch, Neil M
Subject: Have you met with [redacted] yet?

[redacted]

Sent from my BlackBerry Wireless Handheld

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, May 30, 2006 1:18 PM
To: Gorsuch, Neil M
Subject: RE: Term Member Trip to Norfolk

If you've never been on a carrier or sub or talked to Navy Seals, yes. If you have, go only if you have nothing better to do.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, May 30, 2006 11:57
To: [redacted]@dodgc.osd.mil
Subject: FW: Term Member Trip to Norfolk

Is this worth my attending do you think?

-----Original Message-----
From: [redacted]
Sent: Tuesday, May 30, 2006 11:40 AM
To: Gorsuch, Neil M
Subject: Term Member Trip to Norfolk

Dear Neil-

I'd like to inform you that a spot has become available on the Term Membr Trip to Norfolk, VA on June 22-23. If you'd like to attend, please let me know at your earliest convenience. I have attached the draft itinerary for your reference.

Sincerely,
[redacted]

(See attached file: Norfolk Invite and Draft Itinerary.doc)

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

Otus2005, Ag

Subject:	Updated: JMD Budget Overview
Start:	Wednesday, May 31, 2006 10:20 AM
End:	Wednesday, May 31, 2006 11:05 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J
Optional Attendees:	Parameswaran, Shalini

When: Wednesday, May 31, 2006 10:20 AM-11:05 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Monica Goodling DOJ: Robert McCallum, Neil Gorsuch, Kyle Sampson, Bill Mercer, Mark Epley, Jolene Lauria-Sullens, Lee Lofthus

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, May 30, 2006 1:49 PM
To: CRS AG Weekly Report Recipients
Subject: CRS AG Weekly 5.30.2006
Attachments: CRS AG Weekly 5- 30- 06.doc

Attached, please find CRS' Weekly Report to the Attorney General for May 30, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

May 30, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Conduct Arab, Muslim, and Sikh Cultural Awareness Program in New York, NY***
  On June 6, 8, 13, and 15, 2006, CRS will be onsite in New York, NY to conduct its Arab, Muslim, and Sikh (AMS) Cultural Awareness program for National Park Service Police and Security staff. The program is being conducted in response to community racial tensions surrounding an incident earlier in the year in which a group of Sikh community members were allegedly harassed and racially profiled by National Park Service police. The program is designed to promote cultural competency and positive relationships among government officials, law enforcement, and members of Arab, Muslim, and Sikh communities.

B. This Week

- ***CRS to Monitor Protest Demonstration in Panama City, FL***
  On June 1, 2006, CRS will be onsite in Panama City, FL to provide technical assistance and self-marshaling training for event organizers and volunteers in anticipation of a planned demonstration to be held to reportedly protest the death of a 14-year-old African American male youth after he was allegedly beaten by security officers at Bay County Boot Camp. CRS will also be onsite to monitor the demonstration on June 3, 2006, at which 2,000-3,000 participants are expected to attend. This work follows previous CRS case involvement, dating back to January of 2006 when the alleged incident occurred.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0160874

- ***CRS to Convene Mediation in Page, AZ***
  On May 31-June 9, 2006, CRS will be onsite in Page, AZ to convene mediation between the Navajo Nation community and the Page Unified School District. The mediation is being held in response to racial tensions surrounding a lawsuit filed by the Navajo Nation, alleging segregation in two Page Unified elementary schools. CRS will provide continued assistance as necessary.

C. Last Week

- ***CRS Monitored Memorial Day Black Bike Weekend in Myrtle Beach, SC***
  On May 26-28, 2006, CRS was onsite in Myrtle Beach, SC, to monitor and provide conciliation services as necessary for the 2006 Memorial Day Weekend Black Bike Event. Prior to the event, CRS provided conflict management training for event organizers and volunteers. In the past, there have been reports of heightened racial tensions between law enforcement, African American community leaders, and Myrtle Beach community members, as well as allegations of disparate treatment directed towards African American event participants. The event proceeded without any major incidents.

- ***CRS Monitored Black Beach Weekend in Miami, FL***
  On May 27-31, 2006, CRS was onsite in Miami, FL, to monitor and provide conciliation services as necessary for the 2006 Black Beach Weekend. Prior to the event, CRS provided conflict management training for event organizers and volunteers known as "Goodwill Ambassadors" and the "god squad". In the past, there have been reports of racial tensions between minority event participants and local businesses. Aside from nearly 900 arrests, the event proceeded without any major incidents.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0160875

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, May 30, 2006 2:08 PM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 5-30-06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 5-30-06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

May 30, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending May 26, 2006

NEXT WEEK

- ***Division to Monitor Primary Elections in California, New Jersey, New Mexico, and South Dakota:***
  On June 6, the Justice Department will send monitors to primary elections in Alameda, Orange, San Benito, San Diego, San Mateo, Santa Clara and Ventura Counties, California; Bergen and Essex Counties, New Jersey; Cibola and Sandoval Counties, New Mexico; and Bennett, Dewey, Mellette, Shannon, Todd and Ziebach Counties, South Dakota, to ensure compliance with the Voting Rights Act.

THIS WEEK

- ***Division Sends Notice of Intent to File Voting Rights Lawsuit against Cochise County, Arizona:***
  On May 22, the Division sent a notice letter to Cochise County, AZ, alleging that the County has violated Section 203 of the Voting Rights Act of 1965 and Section 302 of the Help America Vote Act. The Division alleges that Cochise County violated Section 203 by failing to provide for an adequate number of bilingual poll workers trained to assist

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

limited-English proficient voters in Spanish on election day, and by failing to translate written election materials and information into Spanish. In addition, the Division alleges that the County repeatedly failed to post information during federal elections required by the Help America Vote Act. The Division is seeking to negotiate a settlement before filing the complaint.

LAST WEEK

- ***Milwaukee Couple Convicted on Trafficking Charges:***
  On May 26, defendants Jefferson N. Calimlim and Elnora M. Calimlim, affluent doctors in Milwaukee, were convicted of violating one count of 18 U.S.C. §371 (conspiracy to commit forced labor), one count of 18 U.S.C. §1589 (forced labor), and one count of 18 U.S.C. §1594 (attempted forced labor). Additionally, the defendants and their son, Jefferson M. Calimlim, were convicted of violating two counts of 8 U.S.C. §1324 (harboring an undocumented alien). Since 1984, the defendants coerced Erma Martinez, a thirty-eight-year-old Filippina national, into providing domestic labor and services for them. Jefferson and Elnora Calimlim each face a maximum sentence of up to 65 years in prison, mandatory restitution, and $1,250,000 in fines. The government is also seeking forfeiture of the Calimlims' house as an instrumentality of the crime.

- ***Former Memphis Police Officers Pleaded Guilty to Civil Rights Violations:***
  On May 22, in *United States v. Fetter* (Western District Tennessee), three former Memphis police officers pleaded guilty to various civil rights, conspiracy and fraud violations. Defendant James Fetter pleaded guilty to violating two counts of 18 U.S.C. §241 (conspiracy) and one count of 18 U.S.C. §242; defendant Gagnier pleaded guilty to conspiring to deprive individuals of their civil rights and mail fraud; and defendant Vickery pleaded guilty to conspiring to deprive individuals of their civil rights and accessory after the fact. Defendant Fetter and his partner, defendant Gagnier, conspired to steal money from individuals they stopped for traffic violations. Additionally, defendant Fetter acknowledged that he conspired with Gagnier to falsely arrest and imprison his wife, with whom he had experienced marital problems, and her friend.

- ***Division Filed Motion for Contempt Against the District of Columbia in CRIPA Case:***
  On May 24, the Division filed a motion asking the Court in *Evans & United States v. Williams*, its longstanding case involving the services provided to the former residents of the now-closed Forest Haven, to issue an order to show cause why the District of Columbia should not be held in contempt of longstanding court orders. The Division cited numerous life-threatening conditions in the District's community system in support of its motion.

LONG RANGE EVENTS

- Nothing to report

Division Contact: Tobi Longwitz – (202) 514-3845

Mansour, Linda

From: Mansour, Linda
Sent: Tuesday, May 30, 2006 2:36 PM
To: Davis, Deborah J
Cc: McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Gorsuch, Neil M; Todd, Gordon (SMO); Goodling, Monica; Shaw, Aloma A; Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Kaplan, April; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Greenhouse, Dennis; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty
Subject: OJP Submission for the AG Weekly Report for May 28 - June 3
Attachments: 528A.06.wpd

Hi Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for the week of May 28 - June 3, 2006. Please let me know if you have any questions.

Thank you.
Linda

Linda Mansour
Office of Communications
Office of Justice Programs
U.S. Department of Justice
email: linda.mansour@usdoj.gov
phone: 202/616-3534

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of May 28 - June 3, 2006

NEXT WEEK

· ***Helping America's Youth***
On June 6 in Indianapolis, IN, Assistant Attorney General Schofield will give remarks at the Helping America's Youth Conference.

· ***DNA***
On June 8-9 in Tampa, FL, Deputy Assistant Attorney General Daley will speak at the regional cold case training for investigators to solve cold cases using DNA technology. This training is part of the President's DNA Initiative.

· ***Information Sharing***
On June 5-9 in Grapevine, TX at the International Association of Chiefs of Police Law Enforcement Information Management Conference, Bureau of Justice Assistance staff will present on information sharing initiatives. Law enforcement executives and information management specialists will discuss systems integration and interoperability, information technology standards, records management, and federal funding initiatives.

· ***Juvenile Justice***
On June 8 in San Diego, CA at the National Network of Youth Ministries' (NNYM) Board of Directors annual meeting, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks emphasizing the need for mentors and the importance of the Network's Mentor Recruitment Campaign to reach community organizations and faith-based groups.

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· ***Statistics/Prison Rape***
On June 8 in Atlanta, GA, Bureau of Justice Statistics staff will meet with CDC officials to discuss entering into an agreement to develop and implement a national prison rape surveillance system for the detection and reporting of incidents of sexual violence in correctional facilities.

THIS WEEK

· ****Statistics***
In May 30, the Bureau of Justice Statistics (BJS) is scheduled to release *Characteristics of Drivers Stopped by Police, 2002*, which presents data on the nature and characteristics of traffic stops, as collected in the 2002 Police Public Contact Survey, a supplement to the National Crime Victimization Survey. Detailed demographic information is presented on the 16.8 million drivers stopped by police in 2002. The report provides statistics about various outcomes of traffic stops, including searches conducted by police, tickets issued to drivers stopped for speeding, arrests of stopped drivers, and police use of force during a traffic stop. The report also discusses the relevance of the survey findings to the issue of racial profiling and provides comparative analysis with prior survey findings.

· ****Crime Prevention***
On June 1 in Miami, FL, Assistant Attorney General Schofield will give luncheon keynote remarks at the National Conference on Preventing Crime in the Black Community. Bureau of Justice Assistance Director Herraiz and Community Capacity Development Office Deputy Director Viera will participate on a federal resources panel. On June 2, Office for Victims of Crime Director Gillis will give remarks. The conference is a collaborative effort sponsored by the Florida and Georgia Attorneys General to address issues relating to the disproportionate number of African-Americans who are under the supervision of the criminal justice system.

· ****Drugs***
On June 2 in Albuquerque, NM, Deputy Assistant Attorney General Hagy will give remarks at the National Association of State Alcohol and Drug Abuse Directors conference.

· ***Juvenile Justice***
On June 2 in Hartford, CT, Deputy Assistant Attorney General Daley will participate in a ribbon-cutting ceremony for a new Boys and Girls Club.

On June 2 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention. Meeting topics will include a report by HHS' Children's Bureau regarding child and family service reviews with results on the

status of foster care youth aging out of the foster care system, mentoring coordination efforts, and legislative and program updates.

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On May 31 in San Jose, CA, Deputy Assistant Attorney General Daley will speak at the Silicon Valley Internet Crimes Against Children Conference. While in San Jose, she will participate in meetings and site visits to the Web Wise Kids and Vanished Children's Alliance programs.

· ***Victims***
On May 31-June 2 in Tempe, AZ, the Office for Victims of Crime will host the annual Tribal Victim Assistance Conference. About 30 American Indian and Alaska Native tribes will attend the conference, which will focus on improving collaboration between tribal law enforcement and Tribal Victim Assistance grant programs.

LAST WEEK

· ***Congressional Testimony***
On May 23 in Washington, DC, Assistant Attorney General Schofield testified before the House Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy, and Human Resources hearing on the Byrne Justice Assistance Grant Program and High Intensity Drug Trafficking Areas Program. She discussed OJP's commitment to combating substance abuse.

· ***Missing Children***
On May 25 in Washington, DC, Assistant Attorney General Schofield joined the Attorney General and Postmaster General in participating in the National Missing Children's Day Ceremony. Also on May 25 in Arlington, TX, Office of Juvenile Justice and Delinquency Prevention Administrator Flores provided remarks at the Missing Children's Day event commemorating Amber Hagerman, the young girl for whom the AMBER Alert program was named. Mr. Flores commended the strong support of law enforcement professionals across the country who generously give of their time and efforts to the AMBER Alert program. He also emphasized DOJ's strong commitment to keeping the nation's children safe and gave an overview of the Attorney General's Project Safe Childhood Initiative. At both events, the U.S. Postal Service unveiled and issued a commemorative stamp honoring the AMBER Alert program.

· ***Statistics***
On May 24 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff met with representatives of the National Center for Missing and Exploited Children to discuss measures of missing children and BJS participation in producing such measures.

On May 24, Bureau of Justice Statistics staff observed a pretest of the National Inmates Survey on Sexual Assault at a BOP facility. The survey will consist of an Audio Computer-Assisted Self Interview (ACASI) in which respondents interact with a computer assisted questionnaire using a touch-screen and follow audio instructions delivered via headphones. In September 2006, a sample of 10 percent of the nation's

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prison and jail facilities will be selected for the survey as required under the Prison Rape Elimination Act of 2003. Full-scale national implementation of the survey will begin in November 2006.

On May 23 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff attended a Justice Research and Statistics Association (JRSA)/BJS-sponsored roundtable discussion of crime and the media.

On May 22 in Washington, DC, Bureau of Justice Statistics (BJS) Director Sedgwick and staff attended a meeting with Justice Research and Statistics Association (JRSA) staff and the JRSA Executive Committee to discuss BJS programs and priorities.

On May 21, the Bureau of Justice Statistics (BJS) released *Prison and Jail Inmates at Midyear 2005*, which presents data on prison and jail inmates, collected from National Prisoner Statistics counts and the Census of Jail Inmates 2005. This annual report provides for each State and the Federal system, the number of inmates and the overall incarceration rate per 100,000 residents. It offers trends since 1995 and percentage changes in prison populations since midyear and yearend 2004. The midyear report presents the number of prison inmates held in private facilities and the number of prisoners under 18 years of age held by State correctional authorities. It includes total numbers for prison and jail inmates by gender, race, and Hispanic origin as well as counts of jail inmates by conviction status and confinement status. The report also provides findings on rated capacity of local jails, percent of capacity occupied, and capacity added. The study found that, in the year ending June 30, 2005, the number of state prison inmates rose by 1.3 percent, compared to an average rise of 2.5 percent per year since 1995. The federal prison population rose at three times the rate of state prisons (up 3.9 percent), but below the average annual rate of 7.4 percent since 1995. On June 30, 2005, local jails were operating at 5 percent below their rated capacity. In contrast, at yearend 2004, state prison systems were between 1 percent below capacity and 15 percent above capacity; the federal prison system was operating at 40 percent above rated capacity.

- ***Law Enforcement***

On May 25-26 in Washington, DC, National Institute of Justice Acting Director Schmitt participated in the Police Executive Research Forum's conference on Effective and Innovative Homicide Investigation Strategies. Supported by COPS, this conference brought together chiefs, commanders, detectives, forensic personnel, and attorneys to discuss the successes and challenges that exist in today's homicide investigations.

- ***Victims***

On May 24-26 in New Orleans, LA, Office for Victims of Crime Director Gillis and staff met with U.S. Attorney James Letten, Eastern District of Louisiana, District Attorney Eddie Jordan, and additional law enforcement and criminal justice representatives to discuss crime victim issues and other criminal justice matters.

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On May 24 in Rockville, MD, Office for Victims of Crime (OVC) Director Gillis gave welcoming remarks at a meeting convened by the International Association of Chiefs of Police (IACP) in connection with the IACP's OVC-funded project "Enhancing Police Response to Victims: Designing a 21st Century Strategy for State and Local Law Enforcement." The three pilot sites selected (Charlotte-Mecklenberg Police Department, the Beaverton, Oregon Police Department, and the Mundelein, IL Police Department) discussed their strategy concepts developed in the first phase of the project.

On May 24, the Office for Victims of Crime (OVC) hosted a Web Forum discussion with Lucy Berliner and Dr. Dean Kilpatrick on assisting crime victims with post traumatic stress disorder. Ms. Berliner serves as Director of the Harborview Center for Sexual Assault and Traumatic Stress. She has a clinical practice serving child and adult victims of trauma and crime, performs research on the impact of trauma and the effectiveness of clinical and societal interventions, and participates in local and national social policy initiatives to promote the interests of trauma and crime victims. Dr. Kilpatrick serves both as Professor in the Department of Psychiatry and Behavioral Sciences and Director of the National Crime Victims Research and Treatment Center at the Medical University of South Carolina. He is also President of the International Society for Traumatic Stress Studies. His research focuses primarily on the prevalence of violent crime, including rape and other potentially traumatic events, and the impact on victims' mental health.

On May 23 in Linthicum Heights, MD, Office for Victims of Crime Director Gillis gave keynote remarks at the Hope II Grantees Meeting, sponsored by the Maryland Crime Victims' Resource Center.

- ***Pandemic***

  On May 25 in Chicago, IL, Deputy Assistant Attorney General Hagy gave opening remarks at the "Justice and Public Health Systems Planning: Confronting a Pandemic Outbreak" symposium, sponsored by the Bureau of Justice Assistance (BJA). BJA Director Herraiz facilitated the symposium, which provided justice system leaders with an overview of the pandemic threat, an update on promising planning and response approaches, and a forum for strategic, cross-discipline discussions.

- ***Trafficking***

  On May 25 in Washington, DC, Office for Victims of Crime (OVC) staff briefed a delegation from Kazakhstan and Turkmenistan regarding OVC's trafficking and other programs. The visit was sponsored by the Justice Department's Overseas Prosecutorial Development, Assistance, and Training Team, and the State Department's International Visitor Program.

- ***AMBER Alert***

  On May 24 in Washington, DC, Assistant Attorney General Schofield chaired the next meeting of the AMBER Alert Working Group.

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- ***Interoperability***
  On May 24 in Austin, TX, National Institute of Justice staff participated in the National Interoperability Summit. Sponsored by DOJ and DHS, this summit included 150 leaders from across the nation who shared lessons learned with their communications interoperability projects and recommended best practices for future projects.

- ***Mental Health***
  On May 21-24 in New Orleans, LA, Office of Juvenile Justice and Delinquency Prevention staff participated in the Substance Abuse and Mental Health Services Administration's (SAMHSA) Spirit of Recovery Conference. SAMHSA convened this national summit to assess the progress of states and territories in developing disaster behavioral health plans in the aftermath of Hurricanes Katrina, Rita, and Wilma.

- ***Anti-Terrorism/Gangs***
  On May 23 in Chicago, IL, Bureau of Justice Assistance (BJA) Director Herraiz gave keynote remarks at the "Solid Foundations: Building Partnerships to Combat Gangs, Violence, and Terrorism" conference. The Institute for Public Safety Partnerships at the University of Illinois at Chicago, in conjunction with BJA, the Office of Community Oriented Policing Services, and the National Criminal Justice Association, sponsored the conference that provided participants an opportunity to learn from one another and from national leaders in the fields of anti-terrorism and gang prevention/suppression about best practices and the latest initiatives. Attendees included criminal justice system practitioners, community members, researchers, and representatives of community-based organizations.

  On May 22-23 in Kansas City, MO, National Institute of Justice (NIJ) Acting Director Schmitt gave opening remarks at an Agroterrorism Regional Planning Meeting, hosted by NIJ. The meeting convened top law enforcement, animal health, and homeland security/emergency management officials from nine Midwestern states. The impetus for the meeting was the NIJ-funded research project "Defining the Role of Law Enforcement in Protecting American Agriculture from Bioterrorism."

- ***Juvenile Justice***
  On May 22 in Washington, DC, Assistant Attorney General Schofield gave the keynote luncheon address at the National Children's Alliance Leadership Conference.

  On May 22 in Cincinnati, OH, Office of Juvenile Justice and Delinquency Prevention Administrator Flores attended the Coalition for a Drug-Free Greater Cincinnati 10th Anniversary Luncheon at which Ohio First Lady Taft was recognized for her strong leadership on drug prevention.

- ***Information Sharing***
  On May 22 in Albuquerque, NM at the Global JXDM Executive Briefing, Bureau of Justice Assistance (BJA) Associate Deputy Director McCreary gave opening remarks regarding DOJ, OJP, and BJA information sharing initiatives. Sponsored by DOJ's

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Global Justice Information Sharing Initiative (Global) and the Global JXDM Training and Technical Assistance Committee, this national public training workshop provided practical implementation strategies for data exchanges and methodologies for using Global JXDM. Attendees included executives, managers, information officers, and policymakers.

LONG-RANGE EVENTS

- On June 12-13 in Denver, CO, National Institute of Justice (NIJ) Acting Director Schmitt will make opening remarks at NIJ's Terrorism Research Symposium. The symposium is NIJ's first conference for state and local law enforcement practitioners focused exclusively on terrorism research.

- On June 19 in Washington, DC, Assistant Attorney General Schofield and Deputy Assistant Attorney General Daley will participate in the Wireless Foundation's Awards Ceremony.

- On June 20 in Orlando, FL at the National Sheriffs' Association annual conference, Assistant Attorney General Schofield will keynote the National Sheriffs' Institute Luncheon. Deputy Assistant Attorney General Daley and Bureau of Justice Assistance Director Herraiz also will participate in the conference, which will be held on June 17-21.

- On June 20 in Washington, DC, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks at the National Parent Corps annual conference, sponsored by National Families in Action.

- On June 22 in Nashville, TN, Deputy Assistant Attorney General Daley will address the American Professional Society on Abuse of Children.

- On June 23 in Seattle, WA at the Annual Drug Court Training Conference, Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores will give opening remarks regarding the importance of the relationship between OJJDP and the drug court field. The conference is sponsored by the National Association of Drug Court Professionals.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Improving Criminal History Records for Background Checks, 2005,* which describes the achievements of the National Criminal History Improvement Program (NCHIP), its authorizing legislation, and program history. This annual bulletin summarizes NCHIP-funded criminal record improvement efforts, including improved accessibility of records, full participation in the Interstate Identification Index, the automation of records and fingerprint data, and improvements in the National Instant Criminal Background Check, National Sex Offender Registry, and domestic violence and protection order systems. The report provides examples of projects aimed at enhancing the involvement of the courts and system integration in improving disposition reporting. The report also

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discusses BJS efforts to improve performance measurement including the development and use of a Records Quality Index.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Citizen Complaints about Police Use of Force*, which presents data on citizen complaints about police use of force received by large general purpose state and local law enforcement agencies, as well as complaint dispositions. Findings presented are from new questions on formal citizen complaints about police use of force added to the Law Enforcement Management and Administrative Statistics survey. Detail is presented on the policies and procedures of large municipal police departments relating to the processing of citizen complaints and other administrative features. The report also discusses the limitations of complaints data and the use of sustained complaints as a measure of police use of excessive force.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Interstate Recidivism of Murderers and Sex Offenders Released from Prison in 1994*, which documents interstate recidivism among the 9,007 murderers, rapists, and sexual assaulters released from prison in 13 states in 1994 who were tracked for three years after their release. This report provides the percentage of these 9,007 who were subsequently convicted of another murder or sex offense in another state. It also gives the percentage of the 9,007 who had been previously convicted of one of these offenses in another state. The report also analyzes the terms to which these prisoners were sentenced and the time served on the sentence. This is the first of the Congressionally mandated reports that are to provide statistics relevant to the implementation of Aimee's Law.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Appeals from General Civil Trials in 46 Large Counties, 2001-2005*, which presents information on general civil cases concluded by bench or jury trial in 2001 that were subsequently appealed to a state's intermediate appellate court or court of last resort. Information presented includes the flow of civil cases through the appeals process and the effect of appeals on trial court outcomes. The report describes the types of civil bench and jury trials appealed, the characteristics of litigants filing an appeal, the frequency in which appellate courts affirm, reverse, or modify trial court outcomes, and the percentage of appeals that produced a published opinion. Cases further appealed from an intermediate appellate court to a state court of last resort and the impact of that final level of appeal on litigation outcomes are also described. This report is part of a series examining civil

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litigation in the United States.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

- In June 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors' offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information is also available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff.

- On June 2006, the Bureau of Justice Statistics is scheduled to update *Criminal Victimization in the United States, 2004 Statistical Tables*. The tables present detailed information from the National Criminal Victim Survey on the crime of violence, theft, demographic characteristics of the victims, characteristics of crime victimizations, and crimes reported to the police, as well as those that were not reported.

- On July 2-7 in Boston, MA at the International Association for Identification conference, National Institute of Justice staff will provide a briefing on the status of the Fast Capture Initiative for Biometrics.

- On July 12-14 in Dallas, TX, Office for Victims of Crime Director Gillis will give remarks at the 7th Annual Gulf States Victim Witness Conference sponsored by the U.S. Attorney's Offices of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

- On July 14 in Nashville, TN, Deputy Assistant Attorney General Daley will give remarks at the National Forensic Science Academy graduation.

- On July 17-19 in Washington, DC, the National Institute of Justice (NIJ) will host the 2006 NIJ Conference, formerly known as the Annual Research and Evaluation Conference. For 14 years, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from the research and evaluation field. This year's conference marks the first year in which the science and technology fields will participate. The 2006 NIJ Conference will provide emphasis on the benefits to researchers and practitioners

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who work together to make effective evidence-based policies and practices. The Bureau of Justice Assistance will sponsor and host several panel discussions at the conference.

- On July 17-19 in Albuquerque, NM, OJP will sponsor the National AMBER Alert Conference. Assistant Attorney General Schofield will participate.

- On July 19 in St. Louis, MO, Bureau of Justice Statistics Director Sedgwick will speak at the Annual National Consortium of Justice Information and Statistics (SEARCH) Membership Meeting.

- On July 26-28 in Palm Springs, CA, the Gang Resistance Education and Training (G.R.E.A.T.) Conference, "G.R.E.A.T. and Beyond: Preventing Gangs and Youth Violence in America's Communities," will take place. The Bureau of Justice Assistance is helping to organize this year's training that will address the needs of individuals currently implementing G.R.E.A.T. and those who want to become involved with the program. Deputy Assistant Attorney General Daley will participate in the conference.

- On July 30 - August 2 in Santa Fe, NM, Bureau of Justice Statistics Director Sedgwick and staff will attend the National District Attorneys' Association summer conference.

- On July 31-August 2 in Baltimore, MD at the National Forum on Criminal Justice and Public Safety, Bureau of Justice Assistance (BJA) senior management and staff will present on several OJP and BJA programs and initiatives. The Forum, sponsored by BJA, the National Criminal Justice Association, and the Integrated Justice Information Systems Institute, will highlight program and enforcement strategies to confront challenges such as gangs, drug trafficking and abuse, methamphetamine, and identity theft. Federal, state, tribal, and local criminal justice and public safety officials will be brought together with corporate representatives to study past successes and eliminate future threats by examining promising practices, technologies, and strategies.

- In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed,

  convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

- On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give remarks at the Parents of Murdered Children conference.

- On September 6-8 in Atlanta, GA, the National Institute of Justice, the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for

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Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for participation in discussions with national and international experts.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications
202/307-5933

DOJ_NMG_ 0160891

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 2:51 PM
To: McCallum, Robert (SMO)
Subject: Trumans are getting settled in

We are in 7th fl conf room

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 2:52 PM
To: Mercer, Bill (ODAG)
Subject: Fw: Trumans are getting settled in

Ready when you are chief

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
Sent: Tue May 30 14:50:45 2006
Subject: Trumans are getting settled in

We are in 7th fl conf room

Meyer, David L.

From: Meyer, David L.
Sent: Tuesday, May 30, 2006 2:55 PM
To: Gorsuch, Neil M
Subject: Read: The Morning Update: 5/30/06

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 30, 2006 2:55 PM
To: Gorsuch, Neil M
Subject: RE: Trumans are getting settled in

On the way. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 2:51 PM
To: McCallum, Robert (SMO)
Subject: Trumans are getting settled in

We are in 7th fl conf room

Engel, Steve

From: Engel, Steve
Sent: Tuesday, May 30, 2006 3:03 PM
To: Gorsuch, Neil M
Subject: Read: The Morning Update: 5/30/06

Engel, Steve

From: Engel, Steve
Sent: Tuesday, May 30, 2006 3:03 PM
To: Gorsuch, Neil M
Subject: RE: The Morning Update: 5/30/06

Many thanks! I look forward to seeing you in person.

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 9:53 AM
To: Meyer, David L.; Engel, Steve; Agarwal, Asheesh (CIV)
Cc: Goodling, Monica; McCallum, Robert (SMO)
Subject: FW: The Morning Update: 5/30/06

David and Steve, Welcome aboard! Delighted to have you both here. If there's anything I can do to help make the transition easier, just let me know. And, Asheesh: Well done and congratulations! Best regards, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
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950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

From: Goodling, Monica
Sent: Tuesday, May 30, 2006 9:44 AM
To: Goodling, Monica
Subject: The Morning Update: 5/30/06

Good morning! Today, the Department welcomes two new appointees: David Meyer, who joins the Antitrust Division as a new Deputy Assistant Attorney General, and Steve Engle, who joins the Office of Legal Counsel as Counsel to the Assistant Attorney General. In addition, please congratulate Asheesh Agarwal, who has moved from the Civil Division to the Civil Rights Division as a new Deputy Assistant Attorney General. If you have a chance, please take a minute to congratulate them. Have a great day.

****

<http://www.whitehouse.gov/>

MAY 30, 2006

11:05 am EDT

THE PRESIDENT participates in a Credentials Ceremony for the Ambassador

of Iraq to the United States
The White House | Washington, DC

On Memorial Day, President Bush Honors Military. "President Bush, delivering a Memorial Day message surrounded by the graves of thousands of military dead, said Monday that the United States must continue fighting the war on terror in the name of those have already given their life in the cause. ...'I am in awe of the men and women who sacrifice for the freedom of the United States of America <http://abcnews.go.com/Politics/wireStory?id=2018380&CMP=OTC-RSSFeeds0312> ,' the president declared, drawing a long standing ovation from the troops, families of the fallen and others gathered at the cemetery's 5,000-seat white marble amphitheater. ... The nation can best honor the dead by 'defeating the terrorists. ... and by laying the foundation for a generation of peace,' Bush said." (Nedra Pickler, "Bush Says U.S. Must Honor War Dead," The Associated Press, 5/30/06)

President Bush Signs Legislation Helping Military Personnel And Their Families. "Bush also used Memorial Day to sign two pieces of legislation aimed at helping military personnel and their families. <http://www.nytimes.com/2006/05/30/us/30veterans.html?_r=1&hp&ex=1148961600&en=7673ef2a9faba999&ei=5094&partner=homepage&oref=slogin> One bill revises the Internal Revenue Service code to allow service members to deposit tax-free combat pay into individual retirement accounts, and the other bans some demonstrations at government-run cemeteries." (Sheryl Gay Stolberg and Michael R. Gordon, "Bush Invokes The Fallen, Past And Present," The New York Times, 5/30/06)

Sen. John McCain (R-AZ) Believes Immigration Reform Bill Will Be Passed By Congress. CNN'S JOHN KING: "Are you going to get a bill this year?" SEN. MCCAIN: "I believe so. I believe that the voices of - of understanding and appreciation, that one thing that those critics that you just quoted agree with me on, and we're all in agreement on, is that the system is broken and must be fixed <http://transcripts.cnn.com/TRANSCRIPTS/0605/29/sitroom.01.html> . And, by the way, we are taking serious steps to beef up the border ... in every respect." (CNN's "The Situation Room," 5/29/06)

Profits Increase In U.S. Manufacturing Sector. "Profits are increasing far faster for U.S. manufacturers than for U.S. companies as a whole, aided by a wave of consolidation that has wiped out weaker players, unrelenting cost cutting and a revival of pricing power in some sectors. ... A surge in U.S. exports, dominated by manufactured goods, also is helping. The Commerce Department reported this month that exports jumped 13.8% to $76.5 billion in March, compared with a year ago <http://online.wsj.com/article_print/SB114895027577165852.html> ." (Timothy Aeppel, "Cost Cutting, Export Surge Bolster U.S. Companies," The Wall Street Journal, 5/30/06)

The Wall Street Journal Supports Repeal Of Telephone Excise Tax. "The Spanish-American War was fought in 1898 and lasted less than eight months, but Americans still pay an excise tax on phone service that was imposed to finance it. Last week, a mere 108 years after the end of that conflict, the Bush Administration moved to terminate the levy. ... Treasury Secretary John Snow said the Internal Revenue Service will no

longer collect the 3% federal excise tax on long-distance phone calls and will offer refunds for the past three years. <http://online.wsj.com/article/SB114894015305465661.html?mod=opinion_main_review_and_outlooks> " (Editorial, "Adios To A Phone Tax," The Wall Street Journal, 5/30/06)

President Bush Honors Memorial Day at Arlington National Cemetery <http://www.whitehouse.gov/news/releases/2006/05/20060529-1.html>

President Signs H.R. 1499 and H.R. 5037 <http://www.whitehouse.gov/news/releases/2006/05/20060529.html>

President Delivers Commencement Address at the United States Military Academy at West Point <http://www.whitehouse.gov/news/releases/2006/05/20060527-1.html>

President's Radio Address <http://www.whitehouse.gov/news/releases/2006/05/20060527.html>

President's Statement on Indonesian Earthquake <http://www.whitehouse.gov/news/releases/2006/05/20060527-2.html>

Interview of the Vice President and Mrs. Cheney by KCWY News-13 <http://www.whitehouse.gov/news/releases/2006/05/20060527-3.html>

Vice President Delivers the Commencement Address at Natrona County High School <http://www.whitehouse.gov/news/releases/2006/05/20060527-4.html>

Joint Statement by President Bush and Prime Minister Blair <http://www.whitehouse.gov/news/releases/2006/05/20060526-5.html>

President Commends Nigeria on Call for 2007 Elections <http://www.whitehouse.gov/news/releases/2006/05/20060526-2.html>

President Bush to Welcome Prime Minister Harper of Canada <http://www.whitehouse.gov/news/releases/2006/05/20060526-3.html>

Vice President Delivers Commencement Address at the United States Naval Academy <http://www.whitehouse.gov/news/releases/2006/05/20060526-4.html>

* Photo Essay: U.S. Naval Academy Graduation <http://www.whitehouse.gov/vicepresident/photoessays/naval-academy/01.html>

Memorandum for the Secretary of State and the OMB Director <http://www.whitehouse.gov/news/releases/2006/05/20060526-6.html>

Memorandum for Secretary of State, Secretary of Defense, Secretary of Energy, and Director of National Intelligence <http://www.whitehouse.gov/news/releases/2006/05/20060526-7.html>

President Commends Senate for Approval of Michael Hayden as Director of Central Intelligence Agency
<http://www.whitehouse.gov/news/releases/2006/05/20060526.html>

President's Statement on Senate Confirmation of Brett Kavanaugh to the U.S. Court of Appeals
<http://www.whitehouse.gov/news/releases/2006/05/20060526-1.html>

President Commends Senate on Confirmation of Rob Portman as Director of the Office of Management and Budget
<http://www.whitehouse.gov/news/releases/2006/05/20060526-9.html>

President Applauds Senate on Confirmation of Dirk Kempthorne as Secretary of the Interior
<http://www.whitehouse.gov/news/releases/2006/05/20060526-8.html>

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, May 30, 2006 3:50 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Fallon, Claire (TAX); Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Fowler, Liane; Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 053006
Attachments:	AG_Report_05_30_2006.DOC

May 30, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Nothing significant to report.***

B. THIS WEEK

- ***Nothing significant to report.***

C. LAST WEEK

- ***Government Follows Appellate Rulings in Telephone Excise Tax Cases***
  On May 25, the Treasury Department announced that the Government would follow the holdings of five United States Courts of Appeals and no longer litigate the federal excise taxability of certain long distance telephone services. Tax Division attorneys then filed motions to dismiss our appeals in the four cases still pending before appellate courts, and, in 30 cases where the Government has filed its answer in District Court, our attorneys filed a status report and notice of change of position. In the cases where we have not filed an answer, we will contact opposing counsel or have done so already. Tax Division attorneys will continue to oppose telephone excise tax refund claims not controlled by Notice 2006-50, and efforts by opposing counsel in a small number of cases to certify a class of plaintiffs. [Four appellate cases and more than 40 cases pending in United States District Courts and the U.S. Court of Federal Claims]

- ***Virgin Islands Resident Files Suit Challenging IRS Information Return***
  On May 23, we received notice of a suit filed in the Virgin Islands seeking class action status and challenging the requirement that U.S. citizens who are residents of the Virgin Islands and who move to the United States must answer questions on an IRS information return (Form 8898). The questions concern factors used to establish *bona fide* residence. Among other matters the form inquires about the location of social, cultural, religious, professional and political organizations in which the taxpayer participated during the past year, and about the location of charitable organizations to which the taxpayer contributed. The complaint alleges that Virgin Islands residents are treated differently than citizens who move from state to state, and it seeks to enjoin the IRS from requiring U.S. citizens to file the information return. [*Joel Holt v. United States* (District of the Virgin Islands)]

- ***Sixth Circuit Denies Petition for Rehearing in Significant Tax Shelter Case***
  On May 24, the U.S. Court of Appeals for the Sixth Circuit denied Dow Chemical's petition for rehearing *en banc*. On January 23, the Sixth Circuit had concluded that a Corporate Owned Life Insurance (COLI) program "did not have any practicable economic effects other than the creation of income tax losses." Twenty-two million in taxes were at issue in this case; the IRS has estimated that more than **$5 billion is at stake** in COLI tax shelter litigation, nation-wide. [*The Dow Chemical Company v. United States* (United States Court of Appeals for the Sixth Circuit)]

- ***Tax Shelter Participants to Appeal Government Win in Lease Stripping Case***
  On May 23, the plaintiffs filed a notice of appeal in this important tax shelter case involving a lease-stripping tax shelter transaction. In March 2006, the Western District of Texas decided the case in favor of the government. At issue is a so-called lease-stripping transaction through which taxpayers attempt to allocate the tax benefits and burdens of a lease in a manner that lacks economic substance. While this case involves $11 million in tax deductions and a $4 million tax deficiency, the IRS estimates that as much as **$1 billion is at stake** in these transactions nationwide. In addition to this case, the Tax Division has five other cases pending involving this type of shelter. [*Transcapital Leasing Assoc's 1990-II, L.P. et al. v. United States* (United States Court of Appeals for the Fifth Circuit)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-5326.

@dodgc.osd.mil

From: @dodgc.osd.mil
Sent: Tuesday, May 30, 2006 3:51 PM
To: Gorsuch, Neil M
Subject: Please call to discuss

1. my replacement

Deputy General Counsel (Legal Counsel)
U.S. Department of Defense
1600 Defense Pentagon, Room 3B688
Washington, D.C. 20301-1600
/ (703)614-6745 (fax)
E-mail: @dodgc.osd.mil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 4:04 PM
To: McCallum, Robert (SMO)
Subject: Re: Trumans are getting settled in

Thank you so very much for taking the time and trouble. You were wonderful.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
Sent: Tue May 30 14:50:45 2006
Subject: Trumans are getting settled in

We are in 7th fl conf room

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 30, 2006 4:08 PM
To: Swenson, Lily F
Cc: Gorsuch, Neil M
Subject: FW: EO implementation guidance

Did you get a copy of this? Just want to make sure that you are in the loop on all things going on. Robt.

From: List Names
Sent: Tuesday, May 30, 2006 3:42 PM
To: Abbott, Marilyn; Baker, Richard; Barnes, Janet L.; Bartholow, Steven; Boling, Edward; Booker, Carol; Bryant, Wil; Buffon, Kathleen; Cantor, Jonathan; Carson, David; Cerveny, John; Clark, Mitchell; Conley, Michael; Cooney, Maureen; Coulter, Frank; Cragg, Scott; Crawley, Thomas; Crumpacker, Jill; Danker, Deborah; DeFrancis, Suzy; Discenza, Michael; Duncan, Thomasenia; Eyre, Jane; Feder, Samuel; Fernandez, Alexander; Flahavan, Richard; Ford, Delorice; Fortuno, Victor; Fried, Maria; Garfinkel, Mark; Glah, Janeen; Glynn, M.L.; Gottfried, Keith; Grafeld, Margaret; Hackett, John; Halbert, Gary; Hawkins, Donald; Hertz, Philip; Hill, Beverly; Hughes, Inez; Inman, Kathryn; Johnson, Jennifer L.; Johnson, Mary; Jones, Douglas; Jordan, Mosina; Jurith, Edward; Kammer, William; Kaye, Janice; Kearney, Barry; Keats, Craig; Killette, Delores; Knapp, Lindy; Kolb, Ingrid; Laponsky, Mark; Le, William; Levitt, Marilyn; Luttner, Mark; Mallon, Thomas; Mantini, John; Mason, Eileen; Mastroianni, Peggy; McCallum, Robert; McConnell, Stephen; McDonnell, Erin; McKenna, Michael; McLaughlin, Jeanne; Melendy, Rosemary; Monroig, Emma; Moye, Melba; NASA FOIA; Nichols, Dorothy; Ogbazghi, Joan; Oliver, Ramona; Oliveri, Medaris; Pack, Sandra; Petrick, James; Pizzella, Mary Joy; Powell, D. Matthew; Pusateri, Kenneth; Reynolds, Kate; Roberts, Bentley; Roberts, Keith; Schiffer, Lois; Shanks, Margie; Shapiro, Robert; Shonka, David; Silber, Jacqueline; Sokul, Stanley; Stern, Gary; Stevenson, Todd; Suro-Bredie, Carmen; Tarasiuk, Aldolfo; Thomas, Peter; Thro, Alison; Tipton, W. Hord; Travers, Linda; Trinity, Frank; Valandra, Joseph; VanBrakle, Bryant; Verreau, Rebecca; Wallace, Sally; Warner, Christopher; Webb, Jean; Weiss, Nancy; Whitenton, Mark; Wiliams, Steven; Williams, Tracy; Wilson, Leon; Winter, Celia; Zak, Leocadia
Subject: EO implementation guidance

This is a reminder to all agency points of contact on the implementation of Executive Order 13,392 (i.e., Chief FOIA Officers, FOIA Public Liaisons, and other principal agency FOIA personnel) that OIP's third and final open house on EO plan development will be held at OIP's offices (1425 New York Ave., N.W., 11th floor) from 10:00 to 12:00 on Monday, June 5. At the first open house, held on April 27, a copy of the EO implementation guidance was distributed. That guidance is available on OIP's FOIA Web site (at the following link: http://www.usdoj.gov/oip/foiapost/2006foiapost6.htm); please see both footnotes 1 and 26 of this guidance memorandum regarding governmentwide EO implementation meetings. The second open house, held on May 17, served as a further forum for the discussion of EO-related matters. This third open house will be the final opportunity for agencies to gather together to discuss the EO's requirements before their June 14 deadline for the submission of all EO improvement plans. Any question can be posed to the head of OIP's EO implementation team, Pam Maida, at 514-3642.

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, May 30, 2006 4:13 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: RE: EO implementation guidance

I didn't, but thanks. I did know that the third open house was coming up on 6/5.

From: McCallum, Robert (SMO)
Sent: Tuesday, May 30, 2006 4:08 PM
To: Swenson, Lily F
Cc: Gorsuch, Neil M
Subject: FW: EO implementation guidance

Did you get a copy of this? Just want to make sure that you are in the loop on all things going on. Robt.

From: List Names
Sent: Tuesday, May 30, 2006 3:42 PM
To: Abbott, Marilyn; Baker, Richard; Barnes, Janet L.; Bartholow, Steven; Boling, Edward; Booker, Carol; Bryant, Wil; Buffon, Kathleen; Cantor, Jonathan; Carson, David; Cerveny, John; Clark, Mitchell; Conley, Michael; Cooney, Maureen; Coulter, Frank; Cragg, Scott; Crawley, Thomas; Crumpacker, Jill; Danker, Deborah; DeFrancis, Suzy; Discenza, Michael; Duncan, Thomasenia; Eyre, Jane; Feder, Samuel; Fernandez, Alexander; Flahavan, Richard; Ford, Delorice; Fortuno, Victor; Fried, Maria; Garfinkel, Mark; Glah, Janeen; Glynn, M.L.; Gottfried, Keith; Grafeld, Margaret; Hackett, John; Halbert, Gary; Hawkins, Donald; Hertz, Philip; Hill, Beverly; Hughes, Inez; Inman, Kathryn; Johnson, Jennifer L.; Johnson, Mary; Jones, Douglas; Jordan, Mosina; Jurith, Edward; Kammer, William; Kaye, Janice; Kearney, Barry; Keats, Craig; Killette, Delores; Knapp, Lindy; Kolb, Ingrid; Laponsky, Mark; Le, William; Levitt, Marilyn; Luttner, Mark; Mallon, Thomas; Mantini, John; Mason, Eileen; Mastroianni, Peggy; McCallum, Robert; McConnell, Stephen; McDonnell, Erin; McKenna, Michael; McLaughlin, Jeanne; Melendy, Rosemary; Monroig, Emma; Moye, Melba; NASA FOIA; Nichols, Dorothy; Ogbazghi, Joan; Oliver, Ramona; Oliveri, Medaris; Pack, Sandra; Petrick, James; Pizzella, Mary Joy; Powell, D. Matthew; Pusateri, Kenneth; Reynolds, Kate; Roberts, Bentley; Roberts, Keith; Schiffer, Lois; Shanks, Margie; Shapiro, Robert; Shonka, David; Silber, Jacqueline; Sokul, Stanley; Stern, Gary; Stevenson, Todd; Suro-Bredie, Carmen; Tarasiuk, Aldolfo; Thomas, Peter; Thro, Alison; Tipton, W. Hord; Travers, Linda; Trinity, Frank; Valandra, Joseph; VanBrakle, Bryant; Verreau, Rebecca; Wallace, Sally; Warner, Christopher; Webb, Jean; Weiss, Nancy; Whitenton, Mark; Wiliams, Steven; Williams, Tracy; Wilson, Leon; Winter, Celia; Zak, Leocadia
Subject: EO implementation guidance

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, May 30, 2006 4:28 PM
To: Todd, Gordon (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Tax Budget Submission

I don't plan on slogging through it so would appreciate any significant changes you note. Robt.

From: Todd, Gordon (SMO)
Sent: Tuesday, May 30, 2006 12:23 PM
To: McCallum, Robert (SMO)
Subject: Tax Budget Submission

Robert - I have back from Tax their final budget submission. I've taken a quick look at it and it is substantially the same as what they presented when Lee visited with you a couple of weeks ago. I don't see any reason why you should slog through this, but if you want to, I have it. I'll read it more closely and alert you to any significant changes. [redacted]

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 4:32 PM
To: Gunn, Currie (SMO)
Subject: Were ready to go on 7th fl

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 5:39 PM
To: Cook, Elisebeth C
Subject: [redacted] Letter
Attachments: 8216_1.DOC

As discussed.

Direct Phone
Direct Fax

FILE NO.:

May 30, 2006

The Honorable Ken Salazar
United States Senator
702 Hart Senate Office Building
Washington, DC 20510

Re: Judicial Nomination of Neil M. Gorsuch, Esquire

Dear Senator Salazar:

As a former trial attorney and prosecutor for the U.S. Department of Justice, former judicial clerk to the Chairman of the Executive Committee of the U.S. Judicial Conference, and a life-long Democrat, I respectfully ask your support for the confirmation of my friend and colleague, Neil M. Gorsuch, Esquire, to the Tenth Circuit Court of Appeals. I understand and share the Senate Leadership's concern over the nomination of individuals to judicial posts whose political ideology and credentials, rather than judicial temperament and legal acumen, are the touchstone of their selection. It is partly for this reason that I resigned from the U.S. Department of Justice . Neil Gorsuch, however, is different, and I ought to know.

, I lived in Washington, D.C. and went to high school with Neil. Neil and I forged a friendship which lasted throughout college, law school and graduate school. Indeed, he is one of the few classmates with whom I have had regular contact, and our discussions have ranged from the professional to the political and personal. I have never found, nor thought, Neil's views or opinions to be tainted or swayed by any partisan leanings. Quite the contrary, his approach to all things professional and personal has always been moderate and practical.

As a practicing trial lawyer who is concerned for the future and the integrity of our judiciary, I can unequivocally state that Neil is the type of attorney we need and want on our Circuit Courts of Appeal. From his clerkships on the Circuit Court of Appeal and the U.S. Supreme Court, as well as his continuing legal education at Oxford University, Neil offers a perspective of jurisprudence philosophy and practical application that few judicial candidates offer. Indeed, his mentors, who have included both Justices White and Kennedy, cannot be accused of being bastions of the über-conservative judicial movement.

Furthermore, Neil's ten-years' of private practice is exactly the type of practical experience that trial lawyers yearn to see in their judiciary. On more than one occasion, I have sought, and received, Neil's sound advice on questions I have had relating to my cases. His insight into Constitutional issues is brilliant and – based on my personal experience – is grounded on a practical approach rooted in over two hundred years' of jurisprudence. His love and respect for the law and our constitutional democracy is, and has always been, paramount.

Accordingly, I respectfully urge your support for Neil's confirmation. His academic credentials and legal clerkships have earned him the consideration he has received thus far, and his accomplishments utilizing those credentials warrant his confirmation to the Tenth Circuit Court of Appeals. If you should require any additional information, please do not hesitate to contact me.

Very truly yours,

[redacted]

[redacted]
cc: [redacted], Esquire

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 8:08 PM
To: Gorsuch, Neil M
Subject: Loudermilk

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, May 30, 2006 8:25 PM
To: 'Violet.Graham@SMOJMD.USDOJ.gov'
Subject: Allott

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 7:32 AM
To: Shaw, Aloma A
Subject: Welcome back!

Hope you had a great break. Today, I have an 1130 at the WH. Could you please get a car at 11.15 and let Carl Nichols (CIV) know as he'll be going with me? A return around 1 would be great. Also, my govt id has been "de-magnetized." Can you help me figure out how to get it fixed/replaced?

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, May 31, 2006 8:07 AM
To: Goodling, Monica
Cc: Washington, Tracy T
Subject: The Morning Update: 5/31/06

Good morning! There is a Marine One departure today at 4:50 p.m. If you are interested in attending (or have family in town who would enjoy this event), please let me know asap. In order to participate, I'll need the security clearance information no later than 10 a.m. in order to arrange their attendance (full name including middle, SS, DOB, and country of citizenship). Attendees will need to be at the SW gate by 3:50 p.m. this afternoon. Please let Tracy and I know if you are interested in attending. Thank you.

****

<http://www.whitehouse.gov/>
MAY 31, 2006

10:50 am
EDT THE PRESIDENT meets with the President of Rwanda
The White House | Washington, DC

1:50 pm
EDT THE PRESIDENT participates in a Swearing-in Ceremony
for the Director of the Central Intelligence Agency
CIA Headquarters | Langley, Virginia

6:05 pm
EDT THE PRESIDENT attends Maryland Victory 2006 Reception
BWI Airport Marriott | Baltimore, Maryland

President Bush Nominates Henry Paulson As Treasury Secretary. "President Bush looked to Wall Street for a new Treasury Secretary on Tuesday, nominating Goldman Sachs Chairman Henry Paulson for the government's top economic job. ... 'The American economy is powerful, productive and prosperous, and I look forward to working with Hank to keep it that way,' Bush said in announcing his choice. 'Hank will be my principal adviser on the broad range of domestic and international economic issues that affect the well-being of all Americans.' <http://www.realcities.com/mld/krwashington/14701038.htm> " (Ron Hutcheson and Kevin G. Hall, "Bush Taps Wall Street 'Rock Star' To Take Over As Treasury Secretary," Knight Ridder, 5/30/06)

Paulson Expected To Receive Quick Confirmation. "Senators from both parties predicted quick confirmation for Paulson <http://www.time.com/time/nation/article/0,8599,1199374,00.html> , who has deep expertise in China policy and since 2004 has been chairman of the Nature Conservancy, an environmental non-profit organization. Sen. Charles E. Schumer (D-N.Y.), who sits on the Senate Finance and Banking

committees and talked to Paulson shortly after the announcement, called him 'the best pick America could have hoped for to deal with the difficult economic problems the country faces.'" (Mike Allen, "How Bush Landed A Wall Street Titan For Treasury ," TIME.com, 5/31/06)

President Bush Welcomes Iraq's New Ambassador To The United States. "Iraq's ambassador to the United States presented his credentials to President Bush yesterday and said the president was right in saying terrorists cannot stop Iraq from forming a free and democratic country. Ambassador Samir Sumaidaie told Mr. Bush that Iraqis want to 'remove the scourge of terrorism from our land and help others remove it from theirs.' ... 'Although there's been some very difficult times for the Iraqi people, I am impressed by the courage of the leadership, impressed by the determination of the people, and want to assure you, sir, that the United States stands ready to help the Iraqi democracy succeed,' <http://www.washingtontimes.com/national/20060530-114508-3800r.htm> Mr. Bush told Mr. Sumaidaie as he received the ambassador in the Oval Office." (Stephen Dinan, "President Welcomes New Iraqi Diplomat," The Washington Times, 5/31/06)

President And Mrs. Bush View "United 93" With Victims' Families. " President and Laura Bush saw the movie 'United 93' in the White House family theater last night with relatives of many of the 40 passengers and crew who died on the hijacked flight nearly five years ago. <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/30/AR2006053001515.html> This is the first time the president has seen the harrowing film, which dramatizes the struggle to retake the plane from terrorists aimed at the Capitol or White House. The relatives are leading a campaign to raise money for a $58 million memorial at the crash site near Shanksville, Pa., which is scheduled to open in 2011. At the president's urging, the House approved $5 million two weeks ago to buy the land." (Amy Argetsinger and Roxanne Roberts, "The Reliable Source," The Washington Post, 5/31/06)

Mitt Romney (R-MA) Discusses Progress Of Iraqi Security Forces. GOV. ROMNEY: "It is very difficult to assess what the level of readiness is, but clearly they are more ready every day by virtue of the training that they are undergoing. And the assessment on the part of their new prime minister with the new unity government he's formed that he believes they will be ready within 18 months to take the primary responsibility for security, that is very encouraging. I think that is possible, if he says it is. ... I actually think that at this stage the prospects for a positive outcome are more real than they have been in sometime." (Fox News' "Your World With Neil Cavuto," 5/30/06)

Michael Hayden Sworn In As CIA Director. "Gen. Michael Hayden was sworn in as CIA director Tuesday and told the officers at the embattled agency they must be competent and cooperative to keep the 'central' in Central Intelligence Agency. ... Hayden addressed the work force for under an hour, taking questions and getting a standing ovation, <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/30/AR2006053000864_pf.html> said agency spokeswoman Jennifer Millerwise Dyck. ... Hayden -the former NSA chief who served as the No. 2 intelligence official for the last year - was sworn-in by National Intelligence Director John Negroponte. President Bush plans to come to the CIA's Langley, Va., campus Wednesday afternoon for a second, presidential swearing-in." (Katherine Shrader, "New CIA Chief Gen. Michael Hayden

Sworn In," The Associated Press, 5/30/06)

President Bush Nominates Henry Paulson as Treasury Secretary
<http://www.whitehouse.gov/news/releases/2006/05/20060530.html>

President Bush Welcomes Iraq's Ambassador to the United States
<http://www.whitehouse.gov/news/releases/2006/05/20060530-2.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/05/20060530-3.html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 8:56 AM
To: Shaw, Aloma A
Subject: Bradbury mtg

Is/when is this mtg set down?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 31, 2006 8:59 AM
To: Gorsuch, Neil M
Subject: RE: Bradbury mtg

Friday, June 2 @ noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 8:56 AM
To: Shaw, Aloma A
Subject: Bradbury mtg

Is/when is this mtg set down?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:00 AM
To: Shaw, Aloma A
Subject: Re: Bradbury mtg

Thanks

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed May 31 08:58:47 2006
Subject: RE: Bradbury mtg

Friday, June 2 @ noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 8:56 AM
To: Shaw, Aloma A
Subject: Bradbury mtg

Is/when is this mtg set down?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 31, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: RE: Welcome back!

The car is reserved. I'll notify Carl Nichols. Regarding your badge, go up to room 6228 (Credentials Office), anytime after 9:30, and they will issue you a new badge.

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 7:32 AM
To: Shaw, Aloma A
Subject: Welcome back!

Hope you had a great break. Today, I have an 1130 at the WH. Could you please get a car at 11.15 and let Carl Nichols (CIV) know as he'll be going with me? A return around 1 would be great. Also, my govt id has been "de-magnetized." Can you help me figure out how to get it fixed/replaced?

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 9:05 AM
To: Gorsuch, Neil M

I filled [redacted] in on our conversation from yesterday. Answers to your two questions (per [redacted]):

1) Please do not reach out to [redacted] again
2) Calls to Senator Salazar should wait until after a hearing has been scheduled

Thanks,
Beth

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:10 AM
To: Shaw, Aloma A
Subject: Re: Bradbury mtg

Actually don't I have a lunch already on the calendar that day?

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed May 31 08:58:47 2006
Subject: RE: Bradbury mtg

Friday, June 2 @ noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 8:56 AM
To: Shaw, Aloma A
Subject: Bradbury mtg

Is/when is this mtg set down?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 31, 2006 9:14 AM
To: Gorsuch, Neil M
Subject: RE: Bradbury mtg

We've rescheduled for Friday at 10:00.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:10 AM
To: Shaw, Aloma A
Subject: Re: Bradbury mtg

Actually don't I have a lunch already on the calendar that day?

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed May 31 08:58:47 2006
Subject: RE: Bradbury mtg

Friday, June 2 @ noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 8:56 AM
To: Shaw, Aloma A
Subject: Bradbury mtg

Is/when is this mtg set down?

Shaw, Aloma A

Subject:	Car en route to WH
Start:	Wednesday, May 31, 2006 11:15 AM
End:	Wednesday, May 31, 2006 11:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Car en route to DOJ
Start:	Wednesday, May 31, 2006 1:00 PM
End:	Wednesday, May 31, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Mtg w/ Steve Bradbury
Location:	5706
Start:	Friday, June 02, 2006 10:00 AM
End:	Friday, June 02, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:18 AM
To: Roehrkasse, Brian
Subject: Bradbury mtg is at 10 on Fri in my office; thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Wednesday, May 31, 2006 9:45 AM
To: Gorsuch, Neil M
Subject: Read: [redacted] mtg is at 10 on Fri in my office; thanks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:58 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

What dates are the conference? On my calendar, it says it begins the 5th but for some reason I had thought it started on the 6th. Do you have the printed materials handy that I can review?

From: Gorsuch, Neil M
Sent: Friday, May 12, 2006 4:40 PM
To: Shaw, Aloma A
Subject: RE: Conference Registration

I don't know.

From: Shaw, Aloma A
Sent: Friday, May 12, 2006 4:13 PM
To: Gorsuch, Neil M
Subject: FW: Conference Registration

Neil:
I'm assuming you have not received any type of email confirmation about this registration? It looks to me that our Admin has screwed this up. Please advise.
Aloma

From: Mohamed, Kathy FB
Sent: Wednesday, May 10, 2006 9:57 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

Good morning Aloma, I am checking with Carol and Lisa on this, I will get back with you regarding.

thanks

From: Shaw, Aloma A
Sent: Tuesday, May 09, 2006 3:31 PM
To: Mohamed, Kathy FB
Subject: RE: Conference Registration

Kathy:
By the way, is Neil Gorsuch registered for the D.C. Circuit Judicial Conference on June 6 in PA?

Thank you,
Aloma

From: Mohamed, Kathy FB
Sent: Tuesday, April 11, 2006 9:08 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

Good morning Aloma, yes, bring it to me.

Thanks

From: Shaw, Aloma A
Sent: Tuesday, April 11, 2006 8:41 AM
To: Mohamed, Kathy FB
Subject: Conference Registration

Kathy:

Do you handle conference registrations for the Associates office? The Principal Deputy in the office wants to attend a conference in PA. I've prepared the registration form and need to bring it up to CEO.

Aloma

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Wednesday, May 31, 2006 10:06 AM
To: Gorsuch, Neil M
Subject: RE: Just spoke with Lu; expect a call; if you don't get one in the next few days please let me know; I have a call in to Monica

Neil -

I spoke with Luis Reyes last week. I am going to call him back today but was hoping to share his comments with you before I did. Do you have a minute to talk?

David

6165570

From: Gorsuch, Neil M
Sent: Wednesday, May 24, 2006 2:02 PM
To: Palmer, David (CRT)
Subject: Just spoke with Lu; expect a call; if you don't get one in the next few days please let me know; I have a call in to Monica

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, May 31, 2006 10:11 AM
To: Monheim, Thomas; Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: Call in number for 1630 phone call today re NLECs
Attachments: tmp.htm

As it turns out I will be out of office at that time, I set up a call in number so I can be part of it. Call [redacted] and enter passcode [redacted]

We have the line for one hour.

[redacted]
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

As it turns out I will be out of office at that time, I set up a call in number so I can be part of it. Call [redacted] and enter passcode [redacted]

We have the line for one hour.

[redacted]
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

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Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, May 31, 2006 10:21 AM
To: Gorsuch, Neil M
Subject: RE: Conference Registration

Your travel dates are June 5-9. The conference starts on the afternoon of June 6. Your reservations are for June 5-9. There is a 10 day cancellation policy on hotel rooms. Also, I will need the check for you wife's meals as soon as possible.

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 9:59 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

What dates are the conference? On my calendar, it says it begins the 5th but for some reason I had thought it started on the 6th. Do you have the printed materials handy that I can review?

From: Gorsuch, Neil M
Sent: Friday, May 12, 2006 4:40 PM
To: Shaw, Aloma A
Subject: RE: Conference Registration

I don't know.

From: Shaw, Aloma A
Sent: Friday, May 12, 2006 4:13 PM
To: Gorsuch, Neil M
Subject: FW: Conference Registration

Neil:
I'm assuming you have not received any type of email confirmation about this registration? It looks to me that our Admin has screwed this up. Please advise.
Aloma

From: Mohamed, Kathy FB
Sent: Wednesday, May 10, 2006 9:57 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

Good morning Aloma, I am checking with Carol and Lisa on this, I will get back with you regarding.

thanks

From: Shaw, Aloma A
Sent: Tuesday, May 09, 2006 3:31 PM
To: Mohamed, Kathy FB
Subject: RE: Conference Registration

Kathy:
By the way, is Neil Gorsuch registered for the D.C. Circuit Judicial Conference on June 6 in PA?

Thank you,
Aloma

From: Mohamed, Kathy FB
Sent: Tuesday, April 11, 2006 9:08 AM
To: Shaw, Aloma A
Subject: RE: Conference Registration

Good morning Aloma, yes, bring it to me.

Thanks

From: Shaw, Aloma A
Sent: Tuesday, April 11, 2006 8:41 AM
To: Mohamed, Kathy FB
Subject: Conference Registration

Kathy:
Do you handle conference registrations for the Associates office? The Principal Deputy in the office wants to attend a conference in PA. I've prepared the registration form and need to bring it up to CEO.
Aloma

Monheim, Thomas

From: Monheim, Thomas
Sent: Wednesday, May 31, 2006 10:31 AM
To: [redacted]@dodgc.osd.mil'; Gorsuch, Neil M; [redacted]@dodgc.osd.mil'
Subject: Re: Call in number for 1630 phone call today re NLECs

Okay, thanks.

Neil, there's a chance I'll be elsewhere at 4:30 pm too, so we should plan on calling in separately.

-----Original Message-----
From: [redacted]@dodgc.osd.mil
To: Monheim, Thomas; Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Sent: Wed May 31 10:10:31 2006
Subject: Call in number for 1630 phone call today re NLECs

As it turns out I will be out of office at that time, I set up a call in number so I can be part of it. Call [redacted] and enter passcode [redacted]

We have the line for one hour.

[redacted]
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

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Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, May 31, 2006 11:03 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Otis, Lee L; Elwood, Courtney; Pacold, Martha M
Cc: Swenson, Lily F
Subject: FW: the positive

See below for a refreshingly different tone on immigration from one federal appeals panel . . .

Gordon

From: Cohn, Jonathan (CIV)
Sent: Wednesday, May 31, 2006 10:56 AM
To: Keller, Mary Beth (EOIR)
Cc: Swenson, Lily F; Todd, Gordon (SMO)
Subject: RE: the positive

Mary b, thank you very much. I think we should be getting out in front and highlighting decisions like this one.

Cc: lily, gordon

From: Keller, Mary Beth (EOIR)
Sent: Wednesday, May 31, 2006 10:46 AM
To: Cohn, Jonathan (CIV)
Subject: the positive

Know you've probably seen this but I love this language from the decision issued on May 30, 2006--in rejecting a challenge to a Board decision dismissing a motion to reopen and reconsider an affirmance of an IJ's denial of adjustment of status. Guyadin v. Gonzales, -- F.3d -- , 2006 WL 1461135 (2d Cir., May 30, 2006). Second Circuit Judge Jose A. Cabranes, joined by Judges Winter and Raggi, writes:

"The BIA's 'streamlining' regulations were enacted in response to a crushing backlog of immigration appeals, the continuing existence of which prevents the speedy resolution of proceedings vitally important to thousands of aliens, and we will not cripple the BIA's procedures by subjecting to appellate review internal case-management decisions far removed from the actual substantive rights of aliens. **The BIA's members and the dedicated corps of immigration judges under the Board's supervision should be applauded for their continuing diligence, their integrity, and -- as is shown in the records of nearly all immigration cases we encounter in this Court -- their earnest desire to reach fair and equitable results under an almost overwhelmingly complex legal regime. Statutes, regulations, and case law regularly change, and the cases before IJs require subtle legal analysis as well as robust factfinding generally dependent on credibility assessments that a reviewing court cannot duplicate.** See Zhou Yun Zhang v. INS, 386 F.3d 66, 73-74 (2d Cir. 2004). **IJs and the BIA are to be commended for their efforts in which the 'streamlining' policy plays an important role."**

Just focusing on the "positive story" we were discussing yesterday.

mtk

MaryBeth Keller
General Counsel, EOIR
703/305-0470
Mary.Beth.Keller@usdoj.gov

[redacted]

From: [redacted]
Sent: Wednesday, May 31, 2006 11:10 AM
To: Gorsuch, Neil M
Subject: FW: Security Violation

FYI

From: Moss, Gerald
Sent: Wednesday, May 31, 2006 7:20 AM
To: [redacted] (SMO)
Cc: Mikulich, David R; Avery, Charles W; Hilliard, Everett R
Subject: Security Violation

[redacted] and [redacted],

On May 30, 2006, JPSOs discovered an unescorted visitor, [redacted] ([redacted] attempting to exit the MJB Constitution Avenue Visitor Center. Investigation revealed that the visitor was sponsored into the MJB by [redacted] and [redacted]. [redacted] was issued an ESCORT REQUIRED access badge. DOJ policy requires those visitors who have been issued an ESCORT REQUIRED badge to be escorted by a DOJ employee at all times while inside the MJB, and it is the sponsor's responsibility to ensure compliance with this requirement.

Please feel free to contact me at 514-2357, if [redacted] have any questions.

Gerald Moss
Inspector
SEPS/FPPG

Otus2005, Ag

Subject:	Accepted: Updated: Senior Management Meeting
Start:	Friday, June 02, 2006 9:00 AM
End:	Friday, June 02, 2006 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

@dodgc.osd.mil

From: @dodgc.osd.mil
Sent: Wednesday, May 31, 2006 11:14 AM
To: Monheim, Thomas; Gorsuch, Neil M @dodgc.osd.mil
Subject: RE: Call in number for 1630 phone call today re NLECs

I have enough lines for all of us to call in from whatever bar you happen to be in....

Office of the DoD General Counsel (Legal Counsel)

Room 3B652

(703) 614-6745 (fax)

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-----Original Message-----
From: Thomas.Monheim@usdoj.gov [mailto:Thomas.Monheim@usdoj.gov]
Sent: Wednesday, May 31, 2006 10:30
To: Neil.Gorsuch@usdoj.gov; @dodgc.osd.mil; @dodgc.osd.mil
Subject: Re: Call in number for 1630 phone call today re NLECs

Okay, thanks.

Neil, there's a chance I'll be elsewhere at 4:30 pm too, so we should plan on calling in separately.

-----Original Message-----
From: @dodgc.osd.mil
To: Monheim, Thomas; Gorsuch, Neil M @dodgc.osd.mil
Sent: Wed May 31 10:10:31 2006
Subject: Call in number for 1630 phone call today re NLECs

As it turns out I will be out of office at that time, I set up a call in number so I can be part of it. Call and enter passcode

We have the line for one hour.

Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

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Otus2005, Ag

Subject: Declined: Updated: Senior Management Meeting

Start: Friday, June 02, 2006 9:00 AM
End: Friday, June 02, 2006 9:30 AM

Recurrence: (none)

Meeting Status: No response required

Organizer: Otus2005, Ag
Optional Attendees: Gorsuch, Neil M

As previously reported, I will be out of the office [redacted] beginning Friday June 2nd and continuing the next week. I will be back in the office on Monday June 12th. I will miss all the Sen. Mang meetings next week as well as the one this Friday. Neil will cover for OASG. Robt.

Gormsen, Eric T

From: Gormsen, Eric T
Sent: Wednesday, May 31, 2006 12:29 PM
To: Miller, Wendy (ENRD); Seidel, Rebecca; Otis, Lee L; Nichols, Carl (CIV); Gorsuch, Neil M; Daley, Cybele; Meyer, Joan E (ODAG); Garrett, Judi; Avergun, Jodi L.
Cc: Jones, Kevin R; Hinchman, Robert; Bounds, Ryan W (OLP); Hart, Rosemary
Subject: EPA General Conformity Rule
Attachments: General ConformityFRNotice.doc

May 31, 2006

TO ALL:

OMB is scheduling a conference call with EPA to get an overview of EPA's proposed revisions to general conformity and to answer questions on the rulemaking.

They have proposed the following dates and times:

Tuesday, June 6:
10:30 - 11:30
2:00 - 3:00
3:00 - 4:00

Wednesday, June 7:
10:30 - 11:30

Please let me know if you want to participate and what times would be acceptable.

[redacted]?

Thanks for your attention to this matter,

Eric

--- Eric Taylor Gormsen ---

Office of Legal Policy

Department of Justice

(202) 514-4087

Fax: 353-2374

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 93

[OAR-2004-0491; FRL-]

[RIN 2020-AH93]

Proposed Revisions to the General Conformity Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The EPA is proposing to revise its regulations relating to the Clean Air Act (CAA) requirement that Federal actions conform to the appropriate State, Tribal or Federal implementation plan for attaining clean air ("general conformity").

DATES: Comments on the revisions proposed today must be received on or before **[insert date 60 days after publication in the Federal Register]**.

ADDRESSES: Submit comments, identified by Docket ID No. OAR-2004-0491, by one of the following methods:

- Federal eRulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.
- Agency Web site: http://www.epa.gov/edocket. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving

DOJ_NMG_ 0160948

comments. Follow the on-line instructions for submitting comments.

- E-mail: A-and-R-Docket@epa.gov attention Docket No. OAR-2004-0491.
- Fax: 202-566-1741.
- Mail: General Conformity Revisions, Docket ID No. OAR-2004-0491, Environmental Protection Agency Docket Center, Mail Code: 6102T, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Please include duplicate copies, if possible. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.
- Hand Delivery: General Conformity Revisions, Docket ID No. OAR-2004-0491., Environmental Protection Agency Docket Center, EPA West, Room B-102, 1301 Pennsylvania Avenue, N.W., Washington, D.C. Please include duplicate copies, if possible. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct comments to Docket ID No. OAR-

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2004-0491. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at http://www.epa.gov/edocket, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and

DOJ_NMG_ 0160950

cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the Federal Register of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at http://www.epa.gov/edocket. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

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FOR FURTHER INFORMATION CONTACT: Mr. Thomas Coda, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-02, Research Triangle Park, NC 27711, phone number (919) 541-3037 or by e-mail at coda.tom@epa.gov.

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J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Background

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A. What is General Conformity and How Does it Affect Air Quality?

The intent of the General Conformity requirement is to prevent the air quality impacts of Federal actions from causing or contributing to a violation of the national ambient air quality standards (NAAQS) or interfering with the purpose of a State implementation plan (SIP), Tribal implementation plan (TIP) or Federal implementation plan(FIP).

In the CAA, Congress recognized that actions taken by Federal agencies could affect State, Tribe, and local agencies' ability to attain and maintain the NAAQS. Congress added section 176(c) (42 USC 7506) to the CAA to ensure Federal agencies= proposed actions conform to the applicable SIP, TIP or FIP for attaining and maintaining the NAAQS. That section requires Federal entities to find that the emissions from the Federal action will not exceed emissions budgets established in the SIP, TIP or FIP or not otherwise interfere with the State=s or Tribe's ability to attain and maintain the NAAQS.

The CAA Amendments of 1990 clarified and strengthened the provisions in section 176(c). Because

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certain provisions of section 176(c) apply only to highway and mass transit funding and approvals actions, EPA published two set of regulations to implement section 176(c). The Transportation Conformity Regulations, first published on November 24, 1993 (58 FR 62188) and recently revised on July 1, 2004 at 69 FR 40004 and May 6, 2005 at 70 FR 24280, address Federal actions related to highway and mass transit funding and approval actions. The General Conformity Regulations, published on November 30, 1993 (58 FR 63214), cover all other Federal actions.

B. Why is EPA Proposing Revisions to These Regulations at This Time?

The EPA has recently proposed to revise the General Conformity Regulations to include de minimis emission levels for particulate matter with an aerodynamic diameter equal to or less than 2.5 microns ($PM_{2.5}$) and its precursors. Otherwise, EPA has not revised the General Conformity Regulations since they were promulgated in 1993. Since that time, EPA and other Federal agencies have gained experience with the implementation of the existing regulations and have identified several issues with their implementation.

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Therefore, EPA initiated a process to review, revise and streamline the regulations. In addition, EPA has recently issued regulations to implement the revised ozone standard (69 FR 23951, April 30, 2004) and proposed regulations to implement the new particulate matter standard (70 FR 65984, November 1, 2005). These regulations could affect the timing and process for general conformity determinations. State and local air quality agencies are in the process of developing revised SIPs to attain the new standards and knowledge of the proposed revisions to the General Conformity Regulations may be helpful to the State, Tribe, and local agencies as well as the Federal agencies in developing and commenting on the proposed SIP revisions.

II. How are the Existing Regulations Implemented?

The existing regulations do not specifically identify the roles of Indian Tribes nor the applicability of the regulations to TIPs.

Federal agencies and other parties involved in the conformity process have found that in implementing the existing General Conformity Regulations their process falls in to three phases: (A) Applicability analysis, (B) Conformity determination, and (C) Review process.

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Besides ensuring that the Federal actions are in conformance with the SIP, the regulations encourage consultation between the Federal agency and the State or local air pollution control agencies before and during the environmental review process.

A. Applicability Analysis

The National Highway System Designation Act of 1995, (Public Law 104-59) added section 176(c)(5) to the CAA to limit applicability of the conformity programs to areas designated as nonattainment under section 107 of the CAA and maintenance areas under section 175A of the CAA only. Therefore, only actions in designated nonattainment and maintenance areas are subject to the regulation. In addition, the regulations recognize that the vast majority of Federal actions do not result in significant increase in emissions and, therefore, include a number of exemptions such as de minimis emission levels based on the type and severity of the nonattainment problem.

In the applicability analysis phase, the Federal agency determines:

1. Whether the action will occur in a nonattainment or maintenance area;

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2. Whether one of the specific exemptions apply to the action;

3. Whether the Federal agency has included the action on its list of "presumed to conform" actions; or

4. Whether the total direct and indirect emissions are below or above the de minimis levels.

Under the current regulations, the applicability analysis phase requires Federal agencies to determine if the action is considered "regionally significant," i.e., equal to or greater than ten percent of the area's emission inventory for the pollutant. If the action is regionally significant, Federal agencies must conduct a conformity determination for the action even though the emissions caused by the action are below the de minimis levels, the action is presumed to conform or the action is otherwise exempt.

B. Conformity Determination

When the applicability analysis shows that the action must undergo a conformity determination, Federal agencies must first show that the action will meet all SIP control requirements such as reasonably available control measures, and the emissions from the action will not interfere with the timely attainment of the

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standard, the maintenance of the standard or the area's ability to achieve an interim emission reduction milestone. Federal agencies then must demonstrate conformity by meeting one or more of the methods specified in the regulation for determining conformity:

1. Demonstrating that the total direct and indirect emissions are specifically identified and accounted for in the applicable SIP,

2. Obtaining written statement from the State or local agency responsible for the SIP documenting that the total direct and indirect emissions from the action along with all other emissions in the area will not exceed the SIP emission budget,

3. Obtaining a written commitment from the State to revise the SIP to include the emissions from the action,

4. Obtaining a statement from the metropolitan planning organization (MPO) for the area documenting that any on-road motor vehicle emissions are included in the current regional emission analysis for the area's transportation plan or transportation improvement program,

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5. Fully offset the total direct and indirect emissions by reducing emissions of the same pollutant or precursor in the same nonattainment or maintenance area, or

6. Conducting air quality modeling that demonstrates that the emissions will not cause or contribute to new violations of the standards, or increase the frequency or severity of any existing violations of the standards. Air quality modeling cannot be used to demonstrate conformity for emissions of ozone precursors or nitrogen dioxide (NO_2). As stated in EPA's proposal of the current regulations (58 FR 13845), due to the complex interaction of the ozone precursors, the regional nature of the ozone and NO_2 problems, and limitations of current air quality models, it is not generally appropriate to use an air quality model to determine the impact on ozone or NO_2 concentrations from a single emission source or a single Federal action.

C. Review Process

As public bodies, Federal agencies must make their conformity determinations through a public process. The General Conformity Regulations require Federal agencies

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to provide notice of the draft determination to the applicable EPA Regional Office, the State and local air quality agencies, the local MPO and, where applicable, the Federal land manager(s). In addition, the regulations require Federal agencies to provide at least a 30-day comment period on the draft determination and make the final determination public. State agencies and the public can appeal the final determination in the U.S. Courts system. Failure by a Federal agency to follow the technical and procedural requirements can result in an adverse court decision.

III. Summary of The Proposed Revisions to the General Conformity Regulations

A. Categories of Proposed Revisions to the General Conformity Regulations

In accordance with the requirements of section 176(c)(4)(C) of the CAA, when EPA promulgated General Conformity Regulations in 1993 it also promulgated regulations at 40 CFR 51 subpart W (§§850-860) which required States to adopt and submit SIPs for General Conformity. In August 2005, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) which eliminated

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the requirement for States to adopt and submit General Conformity SIPs. Therefore, EPA is proposing to revise its regulations to make the adoption and submittal of the General Conformity SIP or TIP optional for the State or Tribe.

Because 40 CFR 50 subpart W (§§850 - 860) essentially duplicate the regulations promulgated at 40 CFR 93 subpart B (§§150-160), EPA is proposing to delete all of subpart W except for §851. In the proposed revision to §51.851, EPA would require that if a State or Tribe submits a General Conformity SIP or TIP that it be consistent with the requirements of 40 CFR 93 subpart B. In addition, EPA is proposing to add a provision to 40 CFR 51.851 to allow the States and Tribes more flexibility to streamline the conformity process conducted under their SIP or TIP.

In 40 CFR 93 subpart B, EPA is proposing to make only specific revisions to the regulations which (1) clarify the process, (2) delete outdated or unnecessary requirements, (3) authorize innovative and flexible approaches, (4) streamline the process and reduce the paperwork burden, (5) provide transition tools for implementing new standards, (6) incorporate revisions

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requested by other agencies, and (7) provide a better explanation of regulations and policies.

Several of the proposed revisions encourage both the Federal agencies and the States or Tribes to take actions in advance of the project environmental review. Such advance action should speed the review process for the individual projects and reduce the delays for the project without impairing the environmental review. The EPA invites comment on this approach.

B. What Innovative and Flexible Approaches are Being Proposed?

1. The EPA is proposing to add a new section (40 CFR 93.161) to allow for a facility-wide emission budget approach. Under this approach, Federal facilities, in anticipation of future action, could negotiate a facility-wide emission budget with the appropriate State, Tribal or local air quality agency responsible for the SIP or TIP. The State, Tribe or local agency would incorporate the facility-wide emission budget into the applicable SIP or TIP and submit it to EPA for approval. If the Federal agency demonstrates that the emissions from the proposed action along with all other emissions at the facility are within the EPA approved

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facility-wide emission budget, the action would be presumed to conform and a conformity determination would not be necessary.

2. The EPA is proposing a new section (40 CFR 93.165) to explicitly incorporate the use of early emission reduction credits into the regulations. The proposal reflects the provisions of the Airport Early Emission Reduction (AERC) guidance developed in consultation with the Federal Aviation Administration (FAA) and provides a similar framework for other Federal agencies.

3. The EPA is proposing a new section (40 CFR 93.164) to allow, with certain limitations, the emission of one precursor of a criteria pollutant to be mitigated or offset by the reduction in the emissions of another precursor of that pollutant.

4. The EPA is proposing a new section (40 CFR 93.163) to allow alternate schedules for mitigating emissions increases. The mitigation timing approach could allow some flexibility for Federal agencies and States or Tribes to negotiate a program for some emissions mitigation to occur in future years. States or Tribes could consider this approach to accommodate

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short-term increases in emissions if there is a substantial long-term reduction in emissions.

C. What Streamlining and Burden Reduction Measures are Being Proposed?

1. The EPA is proposing to delete the provision in the existing regulation which required Federal agencies to conduct a conformity determination for regionally significant actions even though the total direct and indirect emissions from the action were below the de minimis emission levels.

2. The EPA is proposing additional categories of actions that Federal agencies can include in their "presume to conform" lists and EPA is also proposing to permit States or Tribes to establish in their General Conformity SIPs or TIPs "presume to conform" lists for actions within their State or Tribal area.

3. The EPA is proposing to exempt the emissions from stationary sources permitted under the minor source new source review (NSR) programs as EPA's existing regulation already provides for exemptions for emissions from major NSR sources.

D. What Revisions Provide Tools and Guidance for Transitioning to New or Revised NAAQS?

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1. The EPA is proposing to revise the language in the regulation concerning conformity evaluations for existing action during a transition to new nonattainment designations or to the revised regulations.

2. The EPA is proposing requirements for the implementation of the grace period for newly designated nonattainment areas.

3. The EPA is proposing alternate methods to demonstrate conformity for time periods beyond those covered by the SIP or TIP.

4. The EPA is proposing to allow States or Tribes to include an enforceable commitment in the SIP or TIP to address future emissions from a Federal action.

E. What Revisions are Being Proposed at The Request of Other Agencies?

1. Based on EPA's Interim Air Quality Policy on Wildland and Prescribed Fires, which was developed in consultation with Federal land managers, EPA is proposing to include a presumption of conformity for prescribed fires that are in compliance with approved smoke management plans (SMPs).

2. The EPA is proposing to allow Federal agencies to obtain emission offsets for general conformity

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purposes from another nearby nonattainment or maintenance area of equal or higher nonattainment classification provided the emissions from that area contribute to violation of the NAAQS in the area where the Federal action is located or in the case of maintenance areas, the emissions from the nearby area contributed in the past to the violations in the area where the Federal action is occurring.

3. At the request of the Department of Defense (DoD), EPA is proposing to clarify the language in the regulation that states that nothing in these regulations requires the release of classified materials. Also, EPA is proposing to include a similar clarification for CBI.

4. Several Federal agencies and other parties involved in the process suggested that EPA should consider exempting construction activity emissions from the conformity regulations requirements. Although the existing General Conformity Regulations do not specifically mention construction emissions, they implicitly require Federal agencies to include emissions from construction activities in the conformity evaluation.

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The EPA understands the concerns of the other Federal agencies and in the discussion about the revision to the definition of "caused by," has identified a number of ways that Federal agencies can work with the State, Tribe, and local agencies to ease the burden of reviewing construction emissions. In addition, EPA is seeking comment on the possibility of exempting short term (one to two years) construction projects from the General Conformity Regulations.

F. What are Some of the Clarifications to the Existing Regulations That are Being Proposed?

1. The EPA is proposing to clarify that if the action would result in emissions in more than one nonattainment or maintenance area, the emissions in each area would be treated as if they result from a separate action.

2. The EPA is proposing to establish procedures to follow in extending the 6-month conformity exemption for actions taken in response to an emergency.

3. The EPA is proposing to revise the procedures that can be used to demonstrate conformity with the applicable SIP.

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4. The EPA is proposing to revise the review process to require Federal agencies to notify Tribal governments in the nonattainment or maintenance area.

5. The EPA is proposing to clarify the definition of several terms used in the regulations.

6. The EPA is proposing to include specific language to identify the role of Indian Tribes and TIPs.

IV. Detailed Discussion of the Proposed Revisions

A. 40 CFR 51 Subpart W – Determining Conformity of General Federal Actions to State or Federal Implementation Plans

Section 176(c)(4) of the CAA specifies that EPA conformity regulations include a requirement for a State to adopt and submit to EPA for approval, a SIP to implement the provisions of section 176(c). Section 6011 of SAFETEA-LU revised the conformity requirements in section 176(c) of the CAA. Although most of the revisions affected the Transportation Conformity requirements, section 6011(f) and (g) also revised the General Conformity requirements. Specifically, section 6011(f) revised section 176(c)(4)(A) of the CAA by including a requirement that the regulations must be periodically updated and by deleting the requirement for

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the States to adopt and submit a General Conformity SIP. Section 6011(g) requires EPA to revise its conformity regulations by August 2007 to meet the revised requirements. The EPA does not interpret this provision as prohibiting States or Tribes from voluntarily adopting and submitting General Conformity implementation plans. Therefore, EPA is proposing to revise 40 CFR 51.851 to make the adoption and submittal of the General Conformity SIP optional for the State and eligible federally-recognized Tribal governments.

In promulgating the General Conformity Regulations in 1993, EPA published two sets of regulations: 40 CFR 51 subpart W (§§850 through 869) directed States to adopt and submit General Conformity SIPs to EPA for approval and 40 CFR 93 subpart B (§§150 through 160) provided the requirements for Federal agencies to follow in conducting their conformity evaluations before EPA approved the General Conformity SIP for the area. Section 40 CFR 51.851 directed States to adopt SIPs meeting the requirements of 40 CFR 51 subpart W. The other sections in subpart W repeat the requirements found in 40 CFR 93 subpart B. The EPA is proposing to delete §§40 CFR 51.850, and 51.852 through 860 since

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those sections merely repeat the language in §§40 CFR 93.150 and 93.152 through 160 and include a requirement in 40 CFR 51.851(a) that the General Conformity SIP or TIP must meet the requirements in 40 CFR 93 subpart B.

In addition, EPA is proposing several revisions to §51.851.

1. The EPA is proposing to divide paragraph (b) of 40 CFR 51.851 into four paragraphs (b, c, d, and e):

a. Paragraph (b) stating that until EPA approves the SIP revision, Federal agencies must meet the requirements of 40 CFR part 93 subpart B.

b. Paragraph (c) stating that after EPA approves a SIP or TIP meeting the requirement of 40 CFR 93 subpart B, or portion thereof, the Federal agencies must meet the requirements of the SIP or TIP and portions of 40 CFR 93 subpart B if not included in the approved SIP or TIP. In addition, the proposed paragraph (c) states that the previous SIPs remain in effect until EPA approves a revision.

c. Paragraph (d) contains the requirement that the SIP or TIP can be no less stringent than 40 CFR 93 subpart B.

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d. Paragraph (e) contains the requirement that the SIP or TIP can be no more stringent that the requirement in 40 CFR 93 subpart B unless the provisions apply to non-Federal as well as Federal entities.

2. The EPA is proposing to add a new provision in §51.851, which allows States or Tribes to include in their SIP or TIP a list of actions that are presumed to conform.

Since §§40 CFR 51.850, 852 through 860 merely repeats the language in §§40 CFR 93.150, 152 through 160, deleting §§51.850, 852 though 860 and requiring the SIP or TIP to meet the requirements in part 93 subpart B will not change the SIP or TIP requirements. However, deleting the sections will reduce the confusion on the requirements in the regulations by removing the duplicative language. In addition, EPA can revise the general conformity requirements by revising only one set of regulations. Although States or Tribes would have to revise any SIPs or TIPs which are in place when EPA revises part 93 subpart B regulations, this would not be an additional burden since they would have to revise their SIP or TIP if EPA revised the part 51 subpart W regulations.

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By dividing paragraph (b) into four smaller paragraphs, EPA is attempting to simplify the language to make the requirements more understandable. The EPA did not change the requirements in paragraph (b) of the existing regulations.

The proposal to allow the States or Tribes the flexibility to adopt as part of the General Conformity SIP or TIP a list of actions that are presumed to conform resulted from the desire of some States to reduce the need to spend resources on reviewing actions which are known to conform. Although States and Tribes are not obligated to adopt a "presume to conform" list as part of their General Conformity SIP, if they do adopt a list they must include a list in their SIP or TIP.

B. 40 CFR 93.150 – Prohibition

Section 93.150 establishes the general prohibition against Federal agencies taking actions that do not conform with the SIP and requirements for the Federal agencies to make the conformity determinations following the procedures of subpart B of part 93. The EPA is proposing to make two revisions to §93.150. First, EPA is proposing to delete the language in paragraph (c) of

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that section and reserves that paragraph. Second, EPA is proposing to add a new paragraph (e) to the section to state that if an action occurs in more that one nonattainment area that each area must be evaluated separately.

In paragraph (c) of the existing regulations, EPA identified categories of actions that were not subject to the regulations based on environmental review for the action that was either completed or underway at the time the regulations were promulgated. The paragraph was based on the environmental reviews (either the conformity determination or the National Environmental Policy Act (NEPA) analysis) being completed in early 1994. Therefore, paragraph (c) is outdated and is not necessary at this time.

In the new paragraph (e) in §93.150, EPA is specifically proposing that conformity determinations must be made for each nonattainment or maintenance area. The emissions from most Federal actions or projects occur within one nonattainment or maintenance area, however, some actions or projects could extend across area boundaries, causing emissions in more than one area. A facility (for example, a national park,

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military installation or an airport) could be located in multiple counties or even in multiple States. Emissions from an action at such facilities could extend across the nonattainment or maintenance area boundaries. Some Federal actions, such as rulemaking or rail merger approvals, could result in emissions in non-contiguous areas, or even nationwide, affecting multiple nonattainment or maintenance areas. The existing regulations do not specify how actions or projects affecting multiple areas should be addressed. Therefore, EPA is proposing that emissions from actions or projects be treated separately for each nonattainment and maintenance area for the following reasons:

1. Federal agencies demonstrate conformity to a SIP, TIP or FIP that are developed on an area-specific basis and SIPs requirements may vary from one area to another.

2. The General Conformity Regulations exemptions are also area-specific. For example, the de minimis levels are based upon the type and classification of the nonattainment or maintenance area.

3. Section 176(c)(5) of the CAA limits the applicability of the conformity regulations to actions

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in nonattainment and maintenance areas. Therefore, actions, which affect broad regions encompassing several nonattainment, maintenance or attainment areas, must be evaluated based only on the portions of the emissions in the nonattainment and maintenance areas.

C. 40 CFR 93.151 – State Implementation Plan (SIP) Revision

The main purpose of §93.151 is to specify that the regulations in part 93 subpart B apply to Federal actions unless the State or Tribe adopts and EPA approves a General Conformity SIP or TIP for the area. The EPA is not proposing to change the purpose of the section, but is proposing to revise the section to clarify its wording. The existing regulations included statements about the stringency of the SIP compared to the requirements in subpart B of part 93. The EPA is proposing to delete those statements because they duplicate statements in 40 CFR 51.851 which specifies the requirements for the SIP and TIP.

D. 40 CFR 93.152 – Definitions

Section 93.152 provides the definition of terms used in the regulations. The EPA is proposing to revise

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twelve of the definitions, add eleven new terms and delete one term as follows:

Applicable implementation plan or applicable SIP. The EPA is proposing two minor revisions to the definition. First, EPA is proposing to correct the citation for the SIP approval and second, EPA is proposing to clarify the definition by adding a parenthetical phrase to clarify that the term includes an approved Tribal implementation plan (TIP). The requirements for eligible Tribes are found in 40 CFR 49.6.

Applicability analysis. The EPA is proposing to add this new term to describe the process of determining if the Federal agency must conduct a conformity determination for its action.

Areawide air quality modeling analysis. The EPA is proposing to clarify this definition by making a minor wording change and by including photochemical grid model in the definition. Also, EPA is proposing to add an example of the type of models that could be used for the areawide air quality modeling analysis.

Caused by. The EPA is not proposing to revise the definition of "caused by." The basic test established

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by the existing definition of "caused by" is that the emissions would not have occurred in the absence of the Federal action. Since the general conformity regulations were promulgated in 1993, EPA has interpreted the regulations to require a Federal agency to include construction emissions in its conformity analysis. The EPA believes that emissions from construction activities initiated by, approved or funded by a Federal agency meets this test and should be included in the conformity evaluation.

Some Federal agencies have argued that since construction emissions are generally excluded from consideration under the transportation conformity and EPA's NSR programs, they should not be included in the general conformity evaluation. Furthermore, some agencies pointed out that the emissions from construction activities are not always explicitly included in some SIPs, so it is difficult to demonstrate conformity for the emissions and should not factor into the agencies' demonstrations of conformity to those SIPs. Finally, the agencies argued that construction emissions are temporary and not long-term contributors to the NAAQS violations and are, therefore, not truly

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reflective of a completed project's contribution to a nonattainment or maintenance area's emissions budget.

In EPA's Transportation Conformity program (40 CFR 93.100-135), construction emissions are generally not included in the conformity evaluation. The Transportation Conformity Regulations (40 CFR 93.122(e)) do require the consideration of PM_{10} from construction-related fugitive dust only in PM_{10} nonattainment and maintenance areas where the SIP identifies those emissions as a contributor to the nonattainment problem. In such a case, the regional PM_{10} emissions analysis must consider the construction-related fugitive PM_{10} emissions and account for them in the determination. The Transportation Conformity Regulations (40 CFR 93.122(f)) do not require the consideration of $PM_{2.5}$ unless the area's SIP identifies construction-related fugitive $PM_{2.5}$ as a significant contributor to the area's $PM_{2.5}$ problem. In addition, the Transportation Conformity Regulations (40 CFR 93.123(c)(5)) do not require construction-related carbon monoxide (CO) and PM_{10} emissions to be considered in hot-spot analyses (i.e., estimations of future localized CO and PM_{10} concentrations) unless those emissions will last for

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more than 5 years at an individual site. In the NSR program, only operational emissions from the source are required to be evaluated for the permit and construction emissions are not generally included.

Since the General Conformity Regulations cover a wide variety of actions and projects, the regulations were drafted to be general enough to cover the differing circumstances. While a majority of Federal actions and projects may not involve long-term construction activities, some do. For example, increasing the depth of the navigable channel in New York Harbor is expected to take 9 to 10 years to complete. In addition, the States and local agencies can reasonably anticipate and plan for construction emissions from highway and mass transit activities based upon regional transportation plans and historic activities. However, the States, Tribes and local agencies may not be aware of other Federal activities requiring construction or may not be easily able to estimate the emissions from the construction activities. Therefore, the SIPs or TIPs may not adequately account for the emissions from those activities.

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In drafting and adopting a SIP and TIP, States, Tribes and local agencies generally allow for some emissions from construction activities either in a construction emission category or as part of another category, such as off-road mobile sources. The emission estimates for these categories are usually based upon historic activity levels or on projected future activity levels. Therefore, if at the time the SIP or TIP is being developed, the State, Tribe or local agency knows about the future actions or projects at the facility, the construction emissions can be incorporated into the SIP or TIP.

For the above reasons, EPA believes that emissions from construction activities can interfere with the SIP or TIP and is proposing to explicitly include construction emissions in the definition of emissions "caused by" the Federal action. However, EPA is providing several options to allow Federal agencies and the States or Tribes to list construction emissions as "presume to conform" or to exempt the emissions.

1. Once included in a SIP-approved facility-wide emission budget, the construction emissions could be

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identified as exempt from the general conformity requirements.

2. Under the new provisions for developing a list of "presume to conform" actions, Federal agencies, States, or Tribes can demonstrate that emissions from certain types of construction activities at a facility would conform to the SIP.

3. Some States issue permits for construction emissions. These permits are essentially minor source NSR permits and emissions covered by them would be exempt.

Also, EPA is clarifying that conformity is based on annual emissions. Therefore, Federal agencies should estimate construction emissions on an annual basis and would only have to demonstrate conformity of construction emissions during the years when the emissions occurred.

The, EPA recognizes that construction activities are only temporary and for some projects occur for less than a year or two, therefore, EPA is also seeking comment on whether it should revise the regulations to exempt emissions from short-term (for example less than 1 or 2 years) construction projects from the

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regulations. The EPA solicits comments on and justification for the concept of exempting emissions from short-term construction activities and the definition of a short-term project.

Classified information. As discussed in §§93.155 and 156 on reporting and public participation, EPA, at the request of the DoD, is proposing to specify how classified information used in the conformity determination is to be handled. To support those revisions, EPA is also proposing to add a definition of classified information. The definition is based upon applicable Executive Orders, regulations and statutes pertaining to classified materials.

Confidential business information (CBI). In §§93.155 and 156, EPA is also proposing to specify how CBI used in the conformity determination is to be handled. To support those revisions, EPA is also proposing to add a definition of CBI. The definition is based upon that used to define CBI under the Freedom of Information Act.

Conformity determination. The EPA is proposing to add a new term to describe the decision that a Federal

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agency official makes in determining that the action will conform with the SIP or TIP.

Conformity evaluation. The EPA is proposing to add a new definition to describe the entire conformity process from the applicability analysis through the conformity determination, if necessary.

Continuing program responsibility. In the existing regulations, EPA defined the term "emissions that a Federal agency has a continuing program responsibility for." That term was awkward and confusing. The EPA is proposing to shorten the term to the "continuing program responsibility" and to reformat the definition to make it clearer.

Continuous program to implement. This term was used in the existing regulations but was not defined. Therefore, EPA is proposing to add a definition for this term. The definition would require the Federal agency to have a program to implement the action. That program can include a number of steps such as preparation of final design plans and can also allow for seasonal shutdowns. The definition includes a requirement that the action does not stop for more than 18 months unless

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such a delay is included in the original plans for the action.

Direct emissions. The EPA is proposing to revise the definition of direct emissions to include a requirement that the emissions must be reasonably foreseeable. This requirement was unintentionally left out of the definition when it was promulgated in 1993.

Emergency. The EPA is proposing to make a minor wording change to the definition of emergency. Actions in response to an emergency do not require a conformity determination if they occur with 6 months of the emergency. The existing regulation provides the following as examples of events that can be considered as emergencies:

1. Natural disasters such as hurricanes and earthquakes,

2. Civil disturbances such as terrorist acts, and

3) Military mobilizations.

The EPA believes that a military mobilization is a response to an emergency, not the emergency itself. Therefore, EPA is proposing to substitute the term "acts of war" for the term military mobilizations. "Acts of war" include aggressive action by foreign governments or

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groups that threaten the security of the United States.

Emission Inventory. This term is used but not defined in the existing regulations. Therefore, EPA is proposing to add this term to the list.

EPA. Since some States have Environmental Protection Agencies, EPA is proposing to add "U.S." in the definition to clarify that the regulations refer to the U.S. Environmental Protection Agency.

Local air quality modeling analysis. The EPA is proposing to revise the definition to include an example of the type of models that are used in the local air quality modeling analysis.

Maintenance area. The EPA is proposing to make a minor wording change to clarify the definition by citing the regulations and the section of the CAA used to identify maintenance areas.

Mitigation measure. The existing regulations used the term "mitigation measure" and even had a section specifying the requirements for a mitigation measure, however the regulations did not define the term. The EPA is proposing to define a mitigation measure as a method of reducing emissions of the pollutant at the

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location of the action. This definition would distinguish a mitigation measure from an offset.

National ambient air quality standards. In 1997, EPA promulgated new national ambient air quality standards (NAAQS) for both ozone and for fine particles. The definition in the existing regulations is broad enough to cover the new ozone standard. But, the definition did not cover the fine particle standard known as $PM_{2.5}$. Therefore, EPA is revising the definition of NAAQS to include $PM_{2.5}$.

National security. As part of the provisions for handling classified materials, EPA is proposing to use the term "national security." Therefore, EPA is proposing to add a definition for that term.

Precursors of criteria pollutants. The existing regulations define precursors for both ozone and PM_{10}. Since the $PM_{2.5}$ standard was promulgated after the General Conformity Regulations, the existing regulations do not include the precursors for $PM_{2.5}$. Therefore, EPA is proposing to add $PM_{2.5}$ precursors, consistent with the proposed implementation program for the $PM_{2.5}$ standard (70 FR 65984).

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1. Sulfur dioxide is a regulated pollutant in all $PM_{2.5}$ nonattainment and maintenance areas.

2. Nitrogen oxides are a regulated pollutant in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State/Tribe and EPA determine that it is not.

3. Volatile organic compounds (VOC) and ammonia are not regulated pollutants in any $PM_{2.5}$ nonattainment or maintenance area unless either the State/Tribe or EPA determines that they are.

Reasonably foreseeable emissions. As discussed above, under "direct emissions," EPA is proposing to qualify the term direct emissions by stating that those emissions must be reasonably foreseeable. Therefore, EPA is proposing to revise the term "reasonably foreseeable" to include "direct emissions."

Regionally significant action. As discussed in the revisions to paragraph 93.153(i) below, EPA is proposing to delete the regionally significant requirement. Therefore, if EPA's proposed revision is promulgated, there is no need to retain this definition.

Take or start the Federal action. The EPA is proposing to add a new term to define the date when an action occurs or starts. This date is important in

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determining what, if any, conformity requirements apply when an area is designated or re-designated as nonattainment. The EPA is proposing to define this term as the date of the decision-maker signs a document such as a grant, permit, license or approval. Otherwise, EPA is proposing to define the term as the date the Federal agency physically starts the action that requires the conformity evaluation.

Tribal implementation plan (TIP). The EPA is proposing to add a definition for Tribal implementation plan to mean plans adopted and submitted by Federally recognized Indian Tribes. Under the Tribal Authority Rule (40 CFR part 49), certain Tribal bodies can adopt and submit implementation plans to attain and maintain the NAAQS. Therefore, EPA is proposing to add this definition to the regulation.

E. 40 CFR 93.153 – Applicability Analysis

1. The EPA is proposing to revise the title of the section to include the word "analysis." The EPA believes that adding the word would make the title more descriptive of the section's content.

2. The EPA is proposing to make a minor wording change to paragraph (b) of §93.153. The EPA is

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proposing to add the word "criteria" before the word "pollutant" and "or precursor" after the word to clarify the paragraph.

3. The EPA is proposing to revise the table in sub-paragraph (b)(1) to include all nonattainment areas in the Ozone Transport Regions. In 1993, when the General Conformity Regulations were promulgated, all nonattainment areas in the Ozone Transport Region were classified as marginal or above for the 1-hour ozone NAAQS. However, in designating areas for the 8-hour ozone NAAQS, some nonattainment areas were identified as needing to meet only the requirements in subpart 1 of Part D of Title I of the CAA and were not classified. Therefore, EPA is proposing to revise the table in 93.153(c)(1) to cover the subpart 1 areas by changing the category from "Marginal and moderate NAA's inside an ozone transport region" to "other NAA inside an ozone transport region."

4. In a separate notice EPA proposed to revise the tables in sub-paragraphs (b)(1) and (b) (2) by adding the de minimis emission levels for $PM_{2.5}$. In July 1997, EPA promulgated two new NAAQS (62 FR 38652) one for an 8-hour ozone standard and one for fine particulate

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matter known as $PM_{2.5}$. The new 8-hour and old 1-hour ozone NAAQS address the same pollutant but differ with respect to the averaging time, therefore, EPA retained the existing de minimis emission levels for ozone precursors. Although $PM_{2.5}$ is a subset of PM_{10}, it differs from the rest of PM_{10}. While, the majority of ambient PM_{10} results from direct emissions of the pollutant, a significant amount of the ambient $PM_{2.5}$ can result not only from direct emissions but also from transformation of precursor and condensing of gaseous pollutants in the atmosphere. Therefore, EPA is proposing to add new de minimis emission levels for the direct emissions and precursors of $PM_{2.5}$. The EPA proposed to establish 100 tons per year as the de minimis emission level for direct $PM_{2.5}$ and each of its precursors. Since EPA did not propose any classifications for the $PM_{2.5}$ nonattainment areas, EPA did not propose $PM_{2.5}$ de minimis emission levels for higher classified nonattainment areas. If in the future, EPA classifies the $PM_{2.5}$ nonattainment areas, it will establish de minimis emission levels for the areas based upon the classifications. This proposal, if adopted, would maintain the consistency between the de

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minimis emission levels and the size of a major stationary source under the NSR program (70 FR 65984).

5. In sub-paragraph (c)(2)(iii), EPA is proposing to clarify that the exemption for "rulemaking and policy development and issuance" applies to the process of those actions and not to the substance of the action. The U.S. Court of Appeals for the Ninth Circuit has stated that "…the categorical exception encompasses on the 'development and issuance' of the Federal regulations, not the substantive results of their promulgation and implementation."(*Public Citizen v. Department of Transportation,* 316 F.3d 1002 (9th Cir. January 16, 2003); reversed on other grounds *Department of Transp. V. Public Citizen* 541 U.S. 752, 124 S.Ct. 2204 (June 7, 2004)) Although this decision was appealed to the U.S. Supreme Court, the court's holding concerning the exemption for rulemaking was not challenged. The EPA is proposing to add "Procedures for" before rulemaking to clarify that the exemption applies to the process of the rulemaking and not to the substance of the regulation.

6. The EPA is proposing to revise sub-paragraph (d)(1) of §93.153 to exempt emissions covered by a NSR

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permit for minor sources. The existing regulations exempt emissions covered by a NSR permit for major sources but not for minor sources. Since the purpose of the conformity program is to ensure that Federal actions do not interfere with the SIP, TIP or FIP, in promulgating the existing regulations EPA recognized that emissions covered by a major source NSR or prevention of significant deterioration (PSD) permit already had been reviewed to ensure that the emissions did not interfere with the SIP. Therefore, the existing regulations exempt the emissions from sources permitted under major source NSR or PSD programs. Since 1993, when the existing regulations were promulgated, States and local agencies have adopted NSR programs for minor sources as required by section 110(a)(2)(C) of the CAA. These NSR programs for minor sources also ensure that emissions from the sources (individually and collectively) will not interfere with the SIP. Therefore, EPA is proposing to revise the regulation to exempt emissions permitted under the EPA-approved NSR programs for minor sources. The EPA believes this approach will reduce the duplicate review of emissions

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under both minor source NSR and conformity programs and treat all NSR permitted emissions the same way.

Although operating permits issued under title V of the CAA meet some of the same requirements, EPA is not proposing to exempt the emissions covered by those permits. The conformity program is similar to the NSR program in that it evaluates new or modified sources prior to construction, while the "title V" program is basically for operating emissions at existing sources. Therefore, the conformity evaluations for any project that also requires a title V permit should occur before the title V permit is issued. The EPA does note that if for some reason an operating permit covers the emissions, a Federal agency may be able to use the permit to document that the emissions are accounted for in the SIP.

7. The EPA is proposing to delete "natural disaster such as hurricanes, earthquakes, etc.," and "or disaster" from sub-paragraph (d)(2) of §93.153 because they are unnecessary words. In §93.152, EPA defined emergency to cover natural disasters (e.g., hurricanes or earthquakes), civil disturbances (e.g., riots or terrorist attacks) and acts of war. Therefore, the

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words describing an "emergency" are not necessary and may be confusing since they do not include all types of emergencies.

8. The EPA is proposing to amend sub-paragraph (e)(2) of §93.153 to provide procedures for reviewing an extension of the exemption from making a conformity determination for actions related to responding to an emergency. A Federal agency, in responding to an emergency event such as a natural disaster, terrorist attack, or act of war, may find it impractical to conduct a conformity evaluation on the action before it must take the action. To address this situation, section 40 CFR 93.153(e) of the existing regulations provides Federal agencies with a 6-month exemption from the requirement to undertake a conformity analysis for actions taken in response to an emergency. The EPA recognizes that in rare situations it may be impractical, even after 6 months, to conduct a conformity evaluation and is proposing to amend §93.153(e) to allow the agencies to extend the exemption for another 6 months. This section requires Federal agencies to make a finding that it is impractical to conduct an evaluation for the action. The existing

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regulations are unclear about the number of additional extensions permitted nor do the regulations provide any procedures for agencies to follow in deciding on the extension.

The only time that the extension of the 6-month exemption has been used was in New York following the terrorist attack of September 11, 2001. In responding to the shutdown of the Port Authority Trans-Hudson line between New Jersey and New York, certain Federal agencies sponsored a ferry service across the Hudson River. The service lasted 2 years until the mass transit service was restored. The Federal agencies continued with a series of 6-month extensions of the General Conformity exemption. The Federal agencies did not know what they had to do to invoke the provision and EPA and the State agencies had to request permission to review the decision. In addition, the public was not given notice of the decision to extend the exemption.

The EPA is not proposing to revise requirements for the initial exemption for actions in response to emergencies. The initial governmental action in response to emergencies would still be exempt from the General Conformity requirements for 6 months from the

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date of the emergency. However, EPA is proposing requirements for Federal agencies that want to extend the exemption beyond the initial 6-month period. First, EPA is proposing to require the Federal agencies to allow EPA and the State 15 days to review the draft decision to extend the exemption. Next, EPA is proposing to require Federal agencies to publish a notice within 30 days of making the decision. The notice must be published in a daily general circulation newspaper for the affected area. Finally, EPA is proposing to limit the maximum number of 6-month extensions to three. The EPA believes an agency should be able to plan for and conduct a conformity evaluation for actions that extend beyond 2 years.

9. The EPA is proposing to revise paragraphs (f), (g), and (h) of §93.153 to permit Federal agencies more flexibility in developing their list of actions that are "presumed to conform" and provide requirements for the materials that must be included in the documentation and draft list. Specifically, EPA is proposing to add a new sub-paragraph (g)(3) to specify that Federal agencies can list actions that are for individual areas or SIPs or TIPs, to add a sentence to sub-paragraph (h)(1) to

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specify the information that must be included in the documentation, and to add a sentence to sub-paragraph (h)(2) to allow the Federal agencies to notify EPA headquarters when the presumed to conform actions would have multi-regional or national impacts. In addition, EPA is proposing to revise paragraphs (f) and (h) to include a reference to the new sub-paragraph (g)(3).

In promulgating the existing regulations, EPA identified a number of actions that were "presumed to conform." The regulations also allow Federal agencies to establish their own lists of actions that are "presumed to conform." Under the existing regulations, Federal agencies must justify the inclusion of the actions on their "presumed to conform" list by either demonstrating: (1) that the actions will not cause or contribute to an air quality problem or otherwise interfere with the SIP, TIP, or FIP, or (2) that the actions will have emissions below the de minimis levels. The Federal agencies must provide copies of the proposed list to EPA, affected State and local air quality agencies and MPOs. In addition, the agencies must provide at least a 30-day public comment period and document its response to all comments. The notice of

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the proposed and final list must be published in the Federal Register.

Although EPA has worked with one Federal agency on its "presumed to conform" list, no Federal agency has published such a list. The EPA believes that the use of a "presumed to conform" list could be an important tool for Federal agencies in reducing the review time for Federal actions. Also, EPA believes that an additional option could be added to the regulations to aid Federal agencies in adopting their list. The EPA is proposing to add sub-paragraph (g)(3) to clarify that the presumption could be for one facility or for facilities in a specified area and does not have to be nationally applicable. For example, if the nonattainment area's SIP includes a sector emission budget for construction activities, a facility may be able to demonstrate that construction activities of a certain size or type fits within the SIP's emission budget. With the concurrence of the State or Tribe, the Federal agencies could publish a "presumed to conform" list that includes the construction emissions at the specific facility.

10. The EPA is proposing to delete the regionally significant test included in paragraph (i) of §93.153.

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The existing regulations in §93.152 define "regionally significant" as "a Federal action for which the direct and indirect emissions of any pollutant represent 10 percent or more of a nonattainment or maintenance area's emissions inventory." Paragraphs 93.153(i) and (j) require conformity determinations for all regionally significant actions, regardless of any exemptions or presumptions of conformity based on other provisions in the regulations.

The "regionally significant" action concept was proposed in the 1993 Notice of Proposed Rulemaking (58 FR13836) in order to "capture those actions that fall below the de minimis emission levels, but have the potential to impact the air quality of the region." At that time, EPA requested comments on whether the 10 percent level was appropriate. In the discussion of comments in the preamble to the Final Rule (58 FR 63214), EPA reported that it received comments both in favor of and in opposition to the "regionally significant" action concept. While many respondents supported the concept, there was a diversity of opinions regarding whether 10 percent was the most appropriate level. However, EPA reported that no documentation was

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provided to support a different level. Some respondents felt that the de minimis cut offs would suffice. The EPA decided to retain both the concept and 10 percent level in the final rule.

For a regionally significant action, the Federal agency must conduct a full conformity determination even if the action would cause total direct and indirect emissions below the de minimis levels. In over 12 years since promulgation of the existing regulations, no action has been determined to be regionally significant. The main reason that actions with emissions below de minimis levels are not regionally significant is that the emission inventory for almost all nonattainment and maintenance areas greatly exceeds ten times the de minimis emission levels. Review of the 1999 emission inventory shows that only six (one ozone, two lead and three sulfur dioxide) of over 200 nonattainment areas had emission inventories less than ten times the de minimis levels.(See Evaluation of Potential Regionally Significant Areas Under the General Conformity Regulations, Science Applications International Corporation, March 2005, Docket Number OAR-2004-0491). In other words, except for those six areas, an action

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with emissions below de minimis levels would never be considered regionally significant.

Federal agencies have expressed concern that, in many, cases demonstrating that a project is not regionally significant is difficult and time consuming. First, the future total emission inventory for an area may not be readily available since the SIP may not cover the time period when the emissions will occur. In addition, most national emission inventories are published 2 to 3 years after the "inventory" year, so if a Federal agency is comparing the action's emissions against the most recent inventory they may be looking at an inventory that is 3 to 5 years old.

The EPA is proposing to eliminate the provision. The EPA believes that since Federal agencies have expended resources to demonstrate that actions are not regionally significant and the existing provision has not been triggered, eliminating the provision would streamline the conformity regulations and have little or no environmental impact.

11. The EPA is proposing to replace paragraph (i) of §93.153 with a new paragraph to identify three additional groups of actions that are presumed to

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conform.First, EPA is proposing to allow installations with a facility-wide emission budget to presume that an action at the installation will conform provided that the emissions from that action along with all other emissions from the facility will not exceed the budget. A more detailed discussion of the emission budget concept is found in §93.161.

Second, EPA is proposing to allow Federal agencies to presume that the emissions from prescribed burns will conform provided the burning is conducted under an approved SMP. In May 1998, EPA worked with States and other Federal agencies to develop and publish an interim policy on prescribed fires on Federal lands. (See Interim Air Quality Policy on Wildland and Prescribed Fires, U.S.EPA, May 1998). To comply with the requirements in the interim policy, Federal land managers must develop a certified SMP through regional coordination, and include real-time air quality monitoring. The SMPs establish procedures and requirements for minimizing emissions and managing smoke dispersion. The goals of SMPs are to mitigate the nuisance and public safety hazards (e.g., on roadways and at airports) posed by smoke intrusions into

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populated areas; to prevent deterioration of air quality and NAAQS violations; and to address visibility impacts in mandatory Class I Federal areas.

Given the fundamental purpose of the SMP, EPA believes that it is reasonable to assume that any action in compliance with the certified SMP would be in conformance with the applicable SIP. Therefore, EPA is proposing to designate these actions as actions presumed to conform. Federal agencies would not have to conduct a conformity determination for those actions.

Finally, as discussed above, EPA is also proposing to allow a State or eligible Tribe, on its own, to adopt in their SIP or TIP a list of actions for facilities in its borders that it "presumes to conform."

12. The EPA is proposing to revise paragraph (j) of §93.153 by deleting the reference to regionally significant emissions, by adding a reference to paragraph (i) and by describing the criteria for requiring a conformity determination for an action that otherwise would be presumed to conform. The existing regulations state that an action cannot be presumed to conform if it was regionally significant or did not in fact meet the requirements of sub-paragraph (g)(1). As

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discussed above, EPA has proposed to delete the regionally significant test, therefore reference to it is proposed to be deleted from this paragraph. For clarity, instead of referring to sub-paragraph (g)(1), EPA is proposing to repeat the requirements in this paragraph.

13. The EPA is proposing to revise paragraph (k) of §93.153 to incorporate the provisions of section 176(c)(6) of the CAA. (42 U.S.C. 7506(c)(6)). In November 2000 (Public Law 106-377), Congress added section 176(c)(6) to the CAA to allow for a conformity transition period for newly designated nonattainment areas. That section establishes a 1-year grace period following designation before the conformity requirements must be met in the area. If an agency takes or starts the Federal action before the end of the grace period, it must comply with the applicable pre-designation conformity requirements. If an agency takes or starts the Federal action after the end of the grace period, it must comply with the post-designation conformity requirements. As discussed above in describing the new term "take or start the Federal action," EPA is proposing to define the term to mean that a Federal

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agency takes an action when it signs a permit, license, grant or contract or otherwise starts the Federal action. From the time that an area is designated as nonattainment, agencies will have a year to take or start the Federal action. If the agency fails to take or start the Federal action during the grace period, then it must re-evaluate conformity for the project based on the requirements for the new designation and classification.

F. 40 CFR 93.154 – Federal Agencies Responsibility for a Conformity Determination

1. The EPA is proposing to revise the title of this section to clarify the purpose of the section. In the existing regulations this section is entitled broadly "Conformity Analysis." Since the short section only discusses the requirement for each Federal agency to make its own determination, EPA is proposing to revise the title of the section to more closely describe the section's content.

2. The EPA is proposing to add language to this section to specifically state that the conformity determination must meet the requirements of this subpart.

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G. 40 CFR 93.155 - Reporting Requirements

1. Since EPA is proposing to add additional sections to subpart B, it is proposing to revise the references to those sections in §93.155.

2. Consistent with EPA Tribal Authority Rule (63 FR 7253), EPA is proposing to provide federally-recognized Indian Tribal governments the same opportunity to comment on draft conformity determinations as given to States. Therefore, EPA is proposing to require the Federal agencies to notify all the federally-recognized Indian Tribal governments in the nonattainment or maintenance area. To assist other Federal agencies in this notification, EPA is planning to place a list of the federally-recognized Indian Tribal governments in each nonattainment or maintenance areas on its General Conformity web site.

3. The EPA is proposing to add an alternative procedure for notifying EPA when the action would result in emissions in nonattainment or maintenance areas in three or more EPA regions. Specifically, EPA is proposing to allow the agencies to notify the EPA Office of Air Quality Planning and Standards rather than each individual Regional Office. A single contact point for

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EPA should be more efficient for the other Federal agencies than notifying up to ten Regional Offices.

4. At the request of the DoD, EPA is proposing to add a new paragraph to §93.155 to describe how classified materials used to support conformity determinations should be handled when provided to EPA, States and Tribal governments. The existing General Conformity Regulation does not contain an explicit statement about protecting classified information from public release. The interagency review and public participation provisions in the existing regulation require Federal agencies to make available for review the draft conformity determination with supporting materials which describe the analytical methods and conclusions relied upon in making the determination. Disclosure of classified information by a Federal employee is a criminal offense (18 U.S.C. §1905). Therefore, DoD wanted to ensure that the General Conformity Regulations clearly state that no agency or individual was required to release classified materials. Therefore, EPA is proposing to revise the regulation to add explicit language concerning the protection of classified material. In addition, conformity

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determinations could, in part, be based upon confidential information received from business sources. The EPA is proposing to add specific language to the regulation to protect CBI in accordance with each Federal agencies' policy and regulations for the handling of classified materials and CBI. The regulations would allow State or EPA personnel with the appropriate security clearances to be able to view the classified or confidential business materials.

H. 40 CFR 93.156 – Public Participation

1. The EPA is proposing to correct the section referenced in §93.156. The existing regulations refers to §93.158. The correct reference should be §93.154. Section 93.158 prescribes the criteria for conducting a conformity analysis, while §93.154 requires Federal agencies to make the determination and references the requirements in the other sections of subpart B.

2. The EPA is proposing to provide an alternative public notification procedure for actions that cause emissions above the de minimis levels in more than three nonattainment or maintenance areas. The existing regulations require that the Federal agency publish a notice in a daily newspaper of general circulation in

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the nonattainment or maintenance area. Some Federal actions, such as rulemaking, affect a large number of nonattainment and maintenance areas. The notification procedure for such an action could be burdensome and inefficient. Therefore, EPA is proposing to allow the Federal agencies to publish a notice in the Federal Register if the action would cause emissions above the de minimis levels in more than three nonattainment or maintenance areas.

3. The EPA is proposing to also add a new paragraph to §93.156 to describe how classified materials and CBI used to support conformity determinations should be handled in providing the information to the public.

I. 40 CFR 93.157 - Re-evaluation of Conformity

1. The EPA is proposing to revise the title of this section to more appropriately describe the section's content. The existing section is entitled "Frequency of Conformity Determinations." That title implies that the general conformity requirements for Federal actions must be reevaluated on a regular basis. However, the section states that conformity must be reevaluated only if the determination lapses or the

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action is modified resulting in an increase in emissions.

2. If an action's emissions are below the de minimis levels or the action is not located in a nonattainment or maintenance area, a conformity determination is not required. Therefore, the Federal agency would not have a date for the conformity determination. The EPA is proposing minor wording changes in paragraphs (a) and (b) to clarify that the date of a completed NEPA analysis, as evidenced by a signed finding of no significant impact (FONSI) for an environmental assessment or a record of decision (ROD) for an environmental impact statement, can be used when a conformity determination is not required.

3. The EPA is proposing to add two new paragraphs (d and e) to §93.157 to clarify the requirements for needing to conduct a conformity determination when the action is modified. Paragraph (d) deals with modifying an action for which the Federal agency made a conformity determination. In order to make the determination, the Federal agency had to demonstrate that all the emissions caused by the action conformed to the SIP. Therefore, the Federal agency does not have to revise its

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conformity determination unless the modification would result in an increase that equals or exceeded the de minimis emission levels for the area. Paragraph (e) deals with modifying an action that the Federal agency determined had emissions below the de minimis level. Since the emissions from the unmodified action were not evaluated, the Federal agency must conduct a conformity determination if the total emissions (the emissions from the unmodified action plus the increased emissions resulting from the modification) equal or exceed the de minimis levels for the area.

J. 40 CFR 93.158 – Criteria for Determining Conformity for General Federal Actions

1. In sub-paragraph 93.158(a)(1), EPA is proposing to add "precursor" after "any criteria pollutant" to clarify that Federal agencies can demonstrate conformity for the precursors of the criteria pollutants if the precursors are specifically identified and accounted for in the applicable SIP TIP or FIP.

2. In sub-paragraphs 93.158(a)(2) and (a)(5)(iii), EPA is proposing to allow Federal agencies to obtain emission offsets for the General Conformity requirements from a nearby nonattainment or maintenance area of equal

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or higher classification, provided that the emissions from the nearby area contribute to the violations of the NAAQS in the area where the Federal action is located or, in the case of a maintenance area, the emissions from the nearby area have contributed in the past to the violations in the area where the Federal action is located. This revision to the offset requirements would make the General Conformity offset requirements consistent with the offset requirements in section 173(c)(1) of the CAA for the Federal NSR program. It would also provide the Federal agencies more flexibility in obtaining the offsets, especially in areas impacted by transport from nearby areas. In light of increased knowledge concerning transport of pollutants into areas, EPA solicits comments on the appropriateness of limiting the offsets to nonattainment or maintenance areas of equal or higher classifications.

3. In sub-paragraphs 93.158(a)(2), (a)(3) and (a)(4), EPA is proposing to revise the regulations to address the precursors of $PM_{2.5}$. The EPA does not believe that the current models are adequate to reasonably predict the impact of individual precursor sources of ozone or $PM_{2.5}$. Therefore, EPA is proposing

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to allow Federal agencies to use modeling to demonstrate conformity only for directly-emitted pollutants. Precursors of $PM_{2.5}$ will be treated the same as precursors of ozone and direct emissions of $PM_{2.5}$ will be treated the same as CO and PM_{10}. The EPA solicits comment on this treatment of the precursors of $PM_{2.5}$.

4. In sub-paragraphs 93.158(a)(3) and (5), EPA is proposing to correct two typographical errors. In sub-paragraph (3), EPA is proposing to correct "meet" to "meets" and in sub-paragraph (5), EPA is proposing to change "paragraph (a)(3(11)" to "paragraph (a)(3)(ii)."

5. In sub-paragraph 93.158(a)(5)(i), EPA is proposing to delete the reference to the year 1990 and replace it with a generic reference to a year in which the area was designated as nonattainment. In addition to requiring the conformity regulations, the CAA Amendments of 1990 required the designation of areas as nonattainment based on the existing air quality data. Therefore, when EPA promulgated the existing regulations in 1993, all the designations were based on a 1990 date. Since EPA promulgated the conformity regulations, it has promulgated two new standards and designated a number of areas as nonattainment. By changing the

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regulations to reference the date when the area was designated as nonattainment, EPA is allowing for the new designations and any future designations.

6. Also in 93.158(a)(5)(i), EPA is proposing to revise the sub-paragraph to allow Federal agencies to make conformity determination based upon a State's or Tribe's determination that the emissions from the action along with all other emissions in the area would not exceed the emission budget in the applicable SIP or TIP. Under the existing regulations, States could only make such a determination if they had an approved attainment demonstration or maintenance SIP. This revision would allow the State or Tribe to make its determination based upon a post-designation applicable SIP or TIP even though the plan does not include an attainment demonstration. For example, the State or Tribe could base their determination on an emission budget in an EPA approved "Reasonable Further Progress" plan. By adopting the budget and submitting it as part of the SIP or TIP, the State or Tribe is treating the Federal action like any other source in the area. When the State or Tribal agency adopts the attainment or maintenance SIP or TIP, it will have to consider the

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emissions, and if necessary require additional controls on the sources. Specifically, EPA solicits comment on whether demonstrating conformity to a budget in a milestone plan (in the absence of an attainment demonstration) is adequate to ensure that the emissions from the action will not interfere with the timely attainment of the NAAQS.

7. Although not specified in the regulations, EPA believes that a State operating permit under title V of the CAA or other air quality operating permit can serve as documentation of the State's or Tribe's determination.

8. The EPA is proposing to revise sub-paragraph 93.158(a)(5)(i)(C) to allow the State or Tribe to commit to including the emissions from the Federal action in future SIPs. Under the existing regulations, Federal agencies can demonstrate conformity by having the State commit to revising the applicable SIP to include the emissions. If a State or Tribe agrees to such a commitment, the State or Tribe must submit a SIP revision within 18 months to include the emissions from the action and to make other necessary adjustments in the SIP to accommodate those emissions. However, the

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existing SIP or TIP, or a SIP or TIP required to be submitted in 18 months, may not cover the same timeframe covered by the conformity determination. For example, a SIP for a nonattainment area that demonstrates attainment may only cover the period until the attainment date while the conformity determination may cover emissions for many years beyond that date. The State or Tribe may be submitting future SIPs or TIPs to address either maintenance of the standard or to address a continuing nonattainment problem that would cover the time period of the emissions. The EPA's proposed revision to sub-paragraph 93.158(a)(5)(i)(C) would continue to require States to revise the SIP within 18 months of the conformity determination based upon a State's or Tribe's commitment. However, if the existing SIP or TIP, or a SIP or TIP due within 18 months, does not cover the time period of the emissions, then the State or Tribe, in the SIP revision, can include an enforceable commitment to account for the emissions in future SIP revisions. This approach will allow States and Tribes flexibility in committing to include the emissions from the Federal action in the SIP.

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9. The EPA is proposing to revise sub-paragraph 93.158(a)(5)(iv) to delete the use of 1990 as the baseline year. As discussed above, when EPA promulgated the existing General Conformity Regulations in 1993, the designations and classifications were based upon the 1990 air quality and emissions. Since 1993, EPA has promulgated new standards and designated additional areas as nonattainment. Therefore, in many cases the 1990 date for the baseline emission inventory is inappropriate. The EPA is proposing to set the baseline year as the calendar year for the most recent designation or classification.

In some cases, when EPA establishes a new level for a standard, an area will have an existing SIP or TIP for the pollutant which serves as the applicable SIP or TIP until a revised SIP or TIP is submitted by the State or Tribe and approved by EPA. For example, in transition from the 1-hour ozone standard to the 8-hour ozone standard, EPA revoked the 1-hour standard 1 year after the effective date of the 8-hour ozone designation. Although EPA revoked the 1-hour standard, the existing ozone SIP remains largely in place until it is replaced

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by the 8-hour ozone SIP. The 1-hour ozone SIP is considered the applicable SIP until it is replaced.

K. 40 CFR 93.159 – Procedures for Conformity Determinations for General Federal Actions

1. The EPA is proposing to revise sub-paragraphs 93.159(b)(2) and (c) to update the reference to the Compilation of Air Pollutant Emission Factors and for the Guideline on Air Quality Modeling. EPA has released updated versions of these documents since it promulgated the existing regulations in 1993.

2. The EPA is proposing to revise sub-paragraph (d)(1) to clarify that analysis is first required for the attainment year specified in the SIP. If the SIP or TIP does not specify an attainment year, then the analysis is required for the CAA mandated attainment year. Since the CAA requires the SIP demonstrate attainment as expeditiously as possible but no later than the CAA mandated attainment date, it is possible that a SIP or TIP could have an earlier attainment date. That earlier date would be the appropriate year for the conformity analysis.

3. The EPA is proposing a minor wording revision to sub-paragraph (d)(2) to clarify the paragraph. The

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EPA is proposing to replace the word "farthest" with "last." The maintenance plans are developed for a 10-year period and revised as necessary for the next 10-year period. The purpose is for conformity to be evaluated for the last year of the maintenance plan. The word "last" conveys that meaning.

L. 401 CFR 93.160 – Mitigation of Air Quality Impacts

The EPA is proposing to revise paragraph §93.160(f) to clarify its meaning. The regulations were meant to require that the mitigation measures include a written commitment from the person or organization reducing the emissions and those commitments must be fulfilled.

M. 40 CFR 93.161 – Conformity Evaluations for Installations With Facility-Wide Emission Budget

The EPA is proposing to add a new section to the regulations to facilitate the use of a facility-wide emission budget in evaluating conformity. Federal agencies have stated that they would like to streamline the conformity process for individual actions or projects, while States have expressed a desire for the conformity process to help identify and reduce emissions at Federal installations. Although the existing

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regulations do not preclude States and Federal agencies from using this approach, the regulations do not specifically authorize its use. For example, States can currently adopt a facility-wide budget for a Federal installation as part of the SIP. With such a budget, a Federal agency could easily demonstrate conformity for an action at the installation provided the emissions caused by the action along with all of the other emissions at the installation stays within the budget. If the State or Tribe includes the emission budget in the SIP or TIP, the emissions would be identified and accounted for in the SIP or TIP. Alternatively a State or Tribe could provide a letter to the Federal agency stating that the emissions from the installation that are within the budget conform to the SIP or TIP. This proposed section for developing such a budget would in conjunction with a new paragraph 93.153(j) provide a mechanism for presuming that the emissions are in conformance with the SIP or TIP. This approach allows State or Tribe and Federal agencies to identify acceptable levels of emissions from the installation before starting the environmental review for the actions

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and for the agencies to expedite the review of the Federal actions at the facilities.

Under this approach, a State, Tribe or local air quality agency could work with the Federal agency or third party (e.g., an airport authority) who volunteers to develop a facility-wide emission budget for an installation. In principle, at the time the States or Tribes agree to a budget, they assume responsibility for ensuring that the emissions within the budget will not interfere with the purpose of the SIP or TIP, and will be included in future SIPs or TIPs. The budget would be for a set period of time and near the end of that time the State, Tribe or local agency and Federal agencies could revise the budget for the next time period. For example, the State, Tribe or local agency and Federal agency could develop annual budgets covering a 10-year period. Two years before the end of the period, the budget would be reviewed and updated to cover the next 10-year period. (This is the same procedure used for maintenance plans under section 175A of the CAA. A maintenance plan is developed for 10-years and 8 years into that plan a new plan is developed for the next 10 years.) The budgets would be developed based upon the

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latest estimates of emissions and growth in the activities at the facility.

The State or Tribe would include the emission budget in the existing SIP or TIP and use the budget for any future SIP or TIP development. In including the emissions in the existing SIP or TIP, States or Tribes can either identify categories in the existing SIP or TIP that cover the emissions or can submit a revision to the SIP or TIP to include the emissions. If unusual or unforeseen circumstances warrant a revision, the State, Tribe or local agency and Federal agency could agree to revise the budget. For example, if the State, Tribe or local agency requires additional reductions to meet their attainment objective or if the facility has unexpected growth, a revised budget could be adopted into the SIP or TIP.

The EPA believes that the proposed program would encourage the State, Tribe or local air quality agency and the Federal facilities to develop an upfront emission budget for the facility, and the action or project environmental review would be streamlined as long as the facility remains within an established budget.

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The program would be voluntary on the part of the facility, State, Tribe and local air quality agency. No party would be required to participate. If the parties agreed to participate, an emission budget would be established based upon specific guidance and documented growth projections for the facility.

The emission budget approach would not be applicable to all situations. For example, not all Federal actions or projects occur on installations suitable for emission budgets (e.g., one-time actions on non-Federal lands such as permit approval or a short-term construction project may not have facilities to have a budget). In addition, some installations with budgets may on occasion take actions or have projects that would result in the budget being exceeded. In these cases, the Federal agencies would need to demonstrate conformity under the other requirements of the regulations.

In developing the facility emission budget, the Federal agency generally would share its plans for construction at the facility. As a result the State, Tribe or local agency could consider the emissions from the construction in its SIP or TIP and they would have

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three options for handling the construction emissions under the general conformity program. First, they could include the emissions in a facility-wide emission budget. Second, they could determine that the construction emissions at the facility would be covered elsewhere in the SIP or TIP (e.g., in the non-road mobile source budget or the area source budget), and thus the emissions could be presumed to conform. Finally, they could cover the construction emissions separately from the emission budget and conduct a separate conformity evaluation for those emissions.

Since the emission budget would be used to develop the SIP or TIP for the area, any Federal action at the installation that remains within its budget would not interfere with the SIP or TIP. By developing a budget for the installation, the Federal agency would generate a more accurate emission inventory for the activities at the installations and provide the State, Tribe or local agency with realistic growth projections for the installations. The emission budgets would encourage operators to identify ways of reducing emissions and adopt control measures when possible in order to allow for unforeseen growth.

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N. 40 CFR 93.162 – Emissions Beyond the Time Period Covered by The Applicable SIP or TIP

The EPA is proposing to add a new section to address how Federal agencies can demonstrate conformity for an action that causes emissions beyond the time period covered by the SIP or TIP. First, EPA is proposing to allow Federal agencies to demonstrate conformity using the last emission budget in the SIP or TIP. If it is not practicable to demonstrate conformity using that technique, then the Federal agency can request the State or Tribe to adopt a SIP or TIP budget for the future years. If a State or Tribe adopts such a budget, it would be required to submit a SIP revision within 18 months to include the emissions in the SIP or TIP or committing to account for the emissions in future SIPs or TIPs.

O. 40 CFR 93.163 – Timing of Offsets and Mitigation Measures

The EPA is proposing to add a new section to address the timing of offset and mitigation measures. First, the section generally requires that the emission reductions for the offset and mitigation measures must occur in the same calendar year as the emission

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increases caused by the Federal action and that the reductions are equal to the emissions increases. As an alternative, the proposed section would allow, under special conditions, the State or Tribe to approve other schedules for offsets or mitigation measures.

Mitigation measures and offsets are used to reduce the impact of emission increases from a project or action. To minimize the impact of the project's emissions, the emissions reductions from offsets or mitigation measures should occur at the same time as the emission increases from the project. In general, EPA has interpreted the existing regulations to mean that the reductions must occur in the same calendar year as the emission increases caused by the action because the total direct and indirect emissions from an action are collated on an annual basis. Therefore, EPA is proposing to include this interpretation in the regulations.

For certain projects, however, it may be beneficial for the State or Tribe to approve mitigation measures or offsets that do not provide for emissions reductions equal to the emission increases for the specific years, but provide net long-term air quality benefits. For

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example, a project with relatively high short-term emissions, such as a construction project, could be mitigated by converting older equipment to electric or alternate fuels. The State or Tribe may find it advantageous to allow a short period when the emissions are not fully mitigated in return for permanent or the long-term emissions reductions. Therefore, EPA is proposing to allow, under certain conditions, the State and Federal agency to negotiate alternate schedules for the implementation of the offsets and mitigation measures. However, EPA believes that such emissions reductions should have substantial long-term attainment and maintenance benefits. The EPA is proposing to require that the offset or mitigation ratios be no less than the NSR offset ratios for the area. These ratios are simple, available, and are based on the severity of the nonattainment problem for the area. In addition, EPA seeks comment on other mechanisms that could be used to require greater than one-for-one reductions for the offsets and mitigation measures that occur in later years. Also, EPA believes that the mitigation or offset compensation period should not last indefinitely and is proposing that the period should not exceed two times

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the period of the under-mitigated emissions. For example, a Federal agency may be approving a construction project lasting 3 years in a serious nonattainment area and that project will cause 150 tons per year of increased emissions; the State or Tribe can approve mitigation measures or offsets which reduce emissions by less than 150 tons per year provided the total reduction over a 6-year period is equal to or more than 540 tons (150 tons per year times 3 years equals 450 tons times the offset/mitigation ratio of 1.2 to 1 for serious nonattainment areas equals 540 tons). Besides requesting comment on the concept of allowing the States or Tribes to approve a longer time period for offsetting or mitigating the emission increases, EPA is also seeking comment on the mechanism and procedures used to permit/implement the concept. In addition, EPA is seeking comment on the appropriate time period for the Federal agencies to offset or mitigate the increased emissions. The EPA is requesting comments on using longer compensation periods in excess of two times the project period.

Agreeing to allow the use of offset or mitigation measures in later years does not exempt the State or

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Tribe from meeting any of its SIP or TIP obligations, such as reasonable further progress milestones or attainment deadlines. Emissions reductions which accrue beyond the compensation period should be properly reflected in the SIP or TIP, e.g. through a SIP revision.

P. 40 CFR 93.164 - Inter-Precursor Offsets and Mitigation Measures

EPA is proposing to add a new section to the regulations to allow the use of inter-precursor offset and mitigation measures where they are allowed by the SIP. For example, some States and local air districts have SIP-approved NSR regulations that allow new or modified stationary sources to offset the increase in emissions of one criteria pollutant precursor by reducing the emissions of another precursor of the same criteria pollutant, provided there is an environmental benefit to such an exchange. The existing General Conformity regulations does not specifically allow or prohibit inter-precursor offsets and mitigation measures. Therefore, EPA is proposing to allow such offsets or mitigation measures if they are allowed by a

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State or Tribe NSR or trading program approved in the SIP; provided they:

1. are technically justified; and
2. have a demonstrated environmental benefit.

The ratio for the offsets must be consistent with SIP or TIP requirements and EPA guidance.

The EPA recognizes that the evaluation of the inter-precursor offsets may in some cases be difficult and seeks comments on how such offsets or mitigation measures should be evaluated. The EPA expects to use these comments in developing future guidance documents.

Q. 40 CFR 93.165 – Early Emission Reduction Credit Program

The EPA is proposing to add a new section to the regulations to establish an early emission reduction credit program for facilities subject to the General Conformity Regulations. The existing regulations require that the offsets and mitigation measures be in place before the emissions increases caused by the Federal action occur. However, emission reduction programs undertaken before the conformity determination is made could be considered as part of the baseline

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emissions and not available as offsets or mitigation measures. To expedite the project level conformity process, Federal agencies and project sponsors could benefit from the ability to reduce emissions in advance of the time that the reductions are needed for a conformity evaluation. Although the existing regulations do not address the concept, The Port of Seattle and the Puget Sound Clean Air Agency developed a program to implement early emissions reductions. In addition, Congress authorized such a program for the General Conformity program in the FAA reauthorization act signed in December 2003 (Vision 100 -- A Century of Aviation Reauthorization Act, Public Law 108-176). That Act authorized FAA to approve funding of programs to reduce emissions at the airports provided the State would issue emission reduction credits that can be used for General Conformity determinations and NSR offsets. On September 30, 2004, EPA issued guidance on the Airport Emission Reduction Credit (AERC) program to implement the requirements of the December 2003 Act (Guidance on Airport Emission Reduction Credits for Early Measures Through Voluntary Airport Low Emission Programs, U.S. EPA, Office of Air Quality Planning and

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Standards, September 2004). Other Federal agencies may like to have the opportunity to reduce emissions prior to when the reductions are needed to offset emission increases covered by the General Conformity program.

To clarify EPA's intent that this program be allowed for other Federal actions, EPA is proposing to add a new section, §93.165, to the General Conformity Regulations to define the requirements of this program. Under the program, Federal agencies or interested third parties (such as airport authorities) could identify emission control measures and present the proposed reduction to the State, Tribe or local air quality agency. If the measure met the criteria for an offset (quantifiable; consistent with the applicable SIP attainment and reasonable further progress demonstrations; surplus to the reductions required by and credited to other applicable SIP provisions; enforceable at both the State and Federal levels; and permanent within the timeframe specified by the program) as well as all State, Tribe or local requirements, the State, Tribe or local agency can, but is not obligated to, approve the measure as eligible to produce emission reduction credits. If credits are issued, then a

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Federal agency can use the credits to reduce the total of direct and indirect emissions from a proposed action. At the time the credits are used the State, Tribe or local agency must certify that the reductions still meet the criteria listed above. The credits must be used in the same calendar year in which they are generated.

In proposed paragraph (a), EPA would establish the ability for the State or Tribe and Federal agency to create and use the emission reduction credits.

In proposed paragraph (b), EPA identifies the criteria for creating the credits. The criteria are the same requirements that apply to any offset or mitigation measure used to compensate for the increased emissions caused by the action. First, the Federal agency must be able to quantify the reductions using reliable techniques. In some cases, however, it may not be possible to quantify the reductions until after the measure has been implemented. For example, a facility may adopt a strategy calling for the purchase and use of alternate-fueled vehicles. Although the agency could calculate the difference in the emissions between the alternate-fueled vehicle and the standard vehicle, it may not know the amount the vehicles will be used. In

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this case, the State or Tribe and Federal agency could agree on an emission factor and determine the use at a later time. The reductions must be quantified before the credit is used to support a conformity determination.

In proposed paragraph (c), EPA would establish the requirements for the use of the credits. If the strategy used to produce the credit is reasonably connected to the Federal action, the reductions can be added into the net total direct and indirect emissions caused by the action. In other words, the credits can be used in determining if the action would cause emissions above the de minimis levels. If the strategy is not reasonably connected to the action, then the credits can be used as offset or mitigation measures for the emissions caused by the action. By reasonably connected, EPA means that it would be likely that had the emission reduction strategy not been implemented early it would have been implemented at the time of the Federal action. For example, an airport could install equipment to supply power and conditioned air to airplanes parked at a gate to reduce the use of diesel generators and auxiliary power units. Those reductions

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could probably be considered reasonably connected to an airport expansion project to improve the terminal. However, they probably would not be considered reasonably connected to construction of an aircraft repair facility on the airport property. Since the general conformity program is based on annual emissions, EPA is proposing to require that the credits be used in the same year as they are generated. Such a restriction would ensure consistency with the other parts of the general conformity program. This does not mean that an emission reduction strategy can not produce an annual stream of credits, but does mean that the reduction credits can not be carried over to another year.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is Asignificant@ and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines Asignificant regulatory action@ as one that is likely to result in a regulation that may:

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1. Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

4. Raise novel legal or policy issues arising out of legal mandates, the President=s priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that these revisions to the regulations are considered a Asignificant regulatory action@ because they may interfere with actions taken or planned by other Federal agencies. As such, this action was submitted to the Office of Management and Budget (OMB) for review. Changes made in response to OMB

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suggestions or recommendations can be found in the public docket.

B. Paperwork Reduction Act

This action does not directly impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., on non-Federal entities. The General Conformity Regulations require Federal agencies to determine that their actions conform to the SIPs or TIPs. However, depending upon how Federal agencies implement the regulations, non-Federal entities seeking funding or approval from those Federal agencies may be required to submit information to that agency.

Although the present proposed revisions to the regulations do not establish any specific new information collection burden, it would establish alternative voluntary approaches that may result in a different burden. For example, the proposed facility-wide emission budget would allow Federal agencies or operators of facilities subject to the General Conformity Requirements such as commercial service airports to work with the State, Tribe or local air quality agency to develop an emission budget for the

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facility. The State, Tribe or local agencies and Federal agencies or third party facility operators would incur the burden of developing the budget. However, those entities would be relieved of the burden of conducting and reviewing some, if not all, the general conformity determinations for the facility.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently

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valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an Agency to prepare a regulatory flexibility analysis of any regulation subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today=s proposed regulations revisions on small entities, small entity is defined as:

1. A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.);

2. A governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and

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3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Today=s proposed revisions to the regulations, if promulgated will not impose any requirements on small entities and therefore, will not have a significant economic impact on a substantial number of small entities. The General Conformity Regulations require Federal agencies to conform to the appropriate State, Tribal of Federal implementation plan for attaining clean air. We continue to be interested in the potential impacts of the regulations on small entities and welcome comments on issues related to related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final regulationss with AFederal mandates@

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that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA regulations for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and to adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the regulation. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final regulations an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely

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input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that these revisions to the regulations do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. Thus, today=s proposed regulations revisions are not subject to the requirements of section 202 and 205 of the UMRA.

The EPA has determined that these proposed regulation revisions contain no regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments. Nonetheless, EPA carried out consultations with governmental entities affected by this regulation.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled AFederalism@ (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure Ameaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.@

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APolicies that have Federalism implications@ is defined in the Executive Order to include regulations that have Asubstantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.@

This action does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Previously, EPA determined the costs to States to implement the General Conformity Regulations to be less than $100,000 per year. Thus, Executive Order 13132 does not apply to these proposed regulation revisions.

Although section 6 of Executive Order 13132 does not apply to these proposed regulation revisions, EPA held meetings with the Federal agencies and organizations that prepare technical support for Federal agencies determinations at which it described the approaches it was considering and provided an

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opportunity for States, Federal agencies and other stakeholders to comment on the options being considered.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled AConsultation and Coordination with Indian Tribal Governments@ (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure Ameaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.@ This determination is stated below.

These proposed regulation revisions do not have Tribal implications as defined by Executive Order 13175. They do not have a substantial direct effect on one or more Indian Tribes, since no Tribe has to demonstrate conformity for their actions. Furthermore, except for allowing the Tribes to comment on draft conformity determinations, these proposed regulation revisions do not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the Tribal Air Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and

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these revisions to the regulations do nothing to modify that relationship. Because these proposed regulations revisions do not have Tribal implications, Executive Order 13175 does not apply.

Although Executive Order 13175 does not apply to these regulations, EPA did consult with some Tribal officials in developing these proposed regulations revisions and encouraged Tribal input at an early stage. The EPA specifically solicits additional comment on the revisions to the regulations from Tribal officials.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

Executive Order 13045: AProtection of Children from Environmental Health and Safety Risks@ (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be Aeconomically significant@ as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other

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potentially effective and reasonably feasible alternatives considered by the Agency.

These proposed revisions to the regulations are not subject to Executive Order 13045 because they are not economically significant as defined in Executive Order 12866 and because EPA does not have reason to believe the environmental health or safety risk addressed by the General Conformity Regulations present a disproportionate risk to children. The General Conformity Regulations ensure that Federal agencies comply with the SIP, TIP or FIP for attaining and maintaining the NAAQS. The NAAQSs are promulgated to protect the health and welfare of sensitive population, including children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These revisions to the regulations are not considered a Asignificant energy action@ as defined in Executive Order 13211, AActions That Significantly Affect Energy Supply, Distribution, or Use,@ (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

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I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This revisions to the regulations do not involve technical standards. Therefore, EPA is not considering the use of any VCS.

However, EPA will encourage the Federal agencies to consider the use of such standards, where appropriate, in the implementation of the General Conformity Regulations.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

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Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionate high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations.

The EPA believes that these proposed revisions to the regulations should not raise any environmental justice issues. The proposed revisions to the regulations would, if promulgated revise procedures for other Federal agencies to follow. As such, they do not affect the health or safety of minority or low income populations. The EPA encourages other agencies to carefully consider and address environmental justice in their implementation of their evaluations and conformity determinations.

LIST OF SUBJECTS in 40 CFR Parts 51 and 93

Environmental protection, Administrative practice and procedures, Air pollution control, Carbon monoxide,

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Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

AUTHORITY

42 U.S.C. 7401-7671q

Dated:

_____
Stephen L. Johnson
Administrator

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For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

Part 51- Requirements for Preparation, Adoption, and Submittal of Implementation Plans

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart W -[Amended]

2. Remove and reserve §51.850 and §§51.852 through 51.860

3. Section 51.851 is amended by revising paragraph (a); by revising and dividing paragraph (b) into paragraphs (b), (c), (d), and (e); and by adding paragraph (f); to read as follows:

<u>§51.851 State implementation plan (SIP) or Tribal implementation plan (TIP) revision.</u>

(a) A State or eligible Tribe (a Federally recognized Tribal government determined to be eligible to submit a TIP under 40 CFR 49.6) may submit to the Environmental Protection Agency (EPA) a revision to its applicable implementation plan which contains criteria and procedures for assessing the conformity of Federal

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actions to the applicable implementation plan, consistent with this section and part 93, subpart B.

(b) Until EPA approves the conformity implementation plan revision permitted by this section, Federal agencies shall use the provisions of 40 CFR part 93, subpart B in addition, to any existing applicable State or Tribal requirements, to demonstrate conformity with the applicable SIP or TIP as required by section 176(c) of the CAA (42 USC 7506).

(c) Following EPA approval of the State or Tribal conformity provisions (or a portion thereof) in a revision to the applicable SIP, conformity determinations shall be governed by the approved (or approved portion of) State criteria and procedures. The Federal conformity regulations contained in 40 CFR 93, subpart B would apply only for the portion, if any, of the State's or Tribe's conformity provisions that is not approved by EPA.

(d) The State or Tribal conformity plan criteria and procedures cannot be any less stringent than the requirements in 40 CFR part 93, subpart B.

(e) A State's or Tribe's conformity provisions may contain criteria and procedures more stringent than the

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requirements described in this subpart and part 93, subpart B, only if the State's or Tribe's conformity provisions apply equally to non-Federal as well as Federal entities.

(f) In its SIP or TIP, the State or Tribe may identify a list of Federal actions or type of emissions that it presumes will conform. The State or Tribe may place whatever limitations on that list that it deems necessary. The State or Tribe must demonstrate that the action will not interfere with attainment or maintenance of the standard, meeting the reasonable further progress milestones or other requirements of the Clean Air Act. For example, the State may identify the emissions from a certain type and size of construction activities that it presumes will conform. Federal agencies can use the list to determine their "presumed to conform" emissions.

(g) Any previously applicable SIP or TIP requirements relating to conformity remain enforceable until EPA approves the revision to the SIP or TIP to specifically remove them.

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For the reasons stated in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

Part 93- Determining Conformity of Federal Actions to State or Federal Implementation Plans

1. The authority citation for part 93 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart B – [Amended]

2. Section 93.150 is amended by removing and reserving paragraph (c) and by adding paragraph (e) to read as follows:

§93.150 Prohibition

* * * * *

(c) Remove and Reserved.

* * * * *

(e) If an action would result in emissions in more than one nonattainment or maintenance area, the conformity must be evaluated for each area separately.

3. Section 93.151 is amended by revising the section to read as follows:

§93.151 State implementation plan (SIP) revision.

The provisions and requirements of this subpart to

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demonstrate conformity required under section 176(c) of the Clean Air Act (CAA) apply to all Federal actions in designated nonattainment and maintenance areas where EPA has not approved the SIP required under 40 CFR 51.851. When EPA approves a State's conformity provisions (or a portion thereof) in a revision to an applicable implementation plan, a conformity evaluation is governed by the approved (or approved portion of) the State criteria and procedures. The Federal conformity regulations contained in this subpart apply only for the portions, if any, of the State's conformity provisions that are not approved by EPA. In addition, any previously applicable implementation plan conformity requirements remain enforceable until the EPA approves the revision to the applicable SIP to specifically include the revised requirements.

4. Section 93.152 is amended as follows:

a. After the definition for "Affected Federal land manager," add the definition for "Applicability analysis."

b. Revise the definition of "Applicable implementation plan or applicable SIP."

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c. Revise the definition for "Areawide air quality modeling analysis."

d. Following the definition of "Caused by," add the following definitions: "Classified information," "Confidential business information," "Conformity determination," "Conformity evaluation," "Continuing program responsibility," and "Continuous program to implement."

e. Revise the definition of "Direct emissions."

f. Revise the definition of "Emergency."

g. After the definition for "Emission budget," add a new definition for "Emission inventory."

h. Delete the definition for "Emissions that a Federal agency has a continuing program responsibility for."

i. Revise the definition of "EPA."

j Revise the definition of "Local air quality modeling analysis."

k. After the definition of "Milestone," add a definition for "Mitigations measure."

l. Revise the definition of "Maintenance area."

m. Revise the definition for "National ambient air quality standards" to include $PM_{2.5}$.

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n. After the definition of "National ambient air quality standards," add the definition for "National security."

o. Revise definitions for "Precursors of a criteria pollutant are:" by adding sub-paragraphs (3)(i), (3)(ii) and (3)(iii).

p. Revise the definition for "Reasonably foreseeable emissions."

q. Delete the definition for "Regionally significant action."

r. After the definition of "regional water and/or wastewater project," add a definition for "take or start the Federal action:"

The additions and revisions read as follows:

§93.152 Definitions

* * * * *

Applicability analysis is the process of determining if your Federal action must be supported by a conformity determination.

Applicable implementation plan or applicable SIP means the portion (or portions) of the SIP or most recent revision thereof, which has been approved under section 110(k) of the Act, a Federal implementation plan

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promulgated under section 110(c) of the Act, or a plan promulgated or approved pursuant to section 301 (d) of the Act (Tribal implementation plan or TIP) and which implements the relevant requirements of the Act.

Areawide air quality modeling analysis means an assessment on a scale that includes the entire nonattainment or maintenance area using an air quality dispersion model or photochemical grid model to determine the effects of emissions on air quality, for example, an assessment using EPA's community multilayer air quality (CMAQ) model.

* * * * *

Classified Information as defined by Classified Information Procedures Act 18 U.S.C.A. App. 3, §1(a) means information or materials subject to the including of any information or material that has been determined by the United States Government pursuant to an Executive Order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)(b)).

Confidential business information (CBI) is

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information that has been determined by a Federal agency, in accordance with its applicable regulations, to be a trade secret—or commercial or financial information obtained from a person and privileged or confidential; it is exempt from required disclosure under the Freedom of Information Act (5 U.S.C.552(b)(4)).

Conformity determination is the evaluation made after an applicability analysis is completed that a Federal action conforms to the applicable implementation plan and meets the requirements of this subpart.

Conformity evaluation is the entire process from the applicability analysis through the conformity determination demonstrating that the Federal action conforms to the requirements of this subpart.

Continuing program responsibility means a Federal agency has responsibility for emissions caused by:

1. Actions it takes itself, or

2. Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits; provided the agency can impose conditions on any portion of the action that could affect the emissions.

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Continuous program to implement means that the Federal agency has started the action identified in the plan and does not stop the actions for more than an 18-month period, unless it can demonstrate that such a stoppage was included in the original plan.

* * * * *

Direct emissions means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action and are reasonably foreseeable.

Emergency means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this subpart, because of events such as natural disasters (e.g., hurricanes or earthquakes), civil disturbances (e.g., riots and terrorist acts), or acts of war.

Emission Inventory is a listing of information on the location, type of source, type and quantity of pollutant emitted as well as other parameters of the emissions.

* * * * *

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EPA means the U.S. Environmental Protection Agency.

. * * *

Local air quality modeling analysis means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model, e.g., Industrial Source Complex Model or Emission and Dispersion Model System, to determine the effects of emissions on air quality.

Maintenance area means an area that was designated as nonattainment and has been re-designated in 40 CFR part 81 to attainment, meeting the provisions of section 107(d)(3)(E) of the Act and has a maintenance plan approved under section 175A of the Act.

* * * * *

Mitigation measure means any method of reducing emissions of the pollutant or its precursor taken at the location of the Federal action and used to reduce the impact of the emissions of that pollutant caused by the action.

National ambient air quality standards (NAAQS) are those standards established pursuant to section 109 of

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the Act and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone, particulate matter (PM-10 and $PM_{2.5}$), and sulfur dioxide (SO_2).

National Security means activities for the national defense, homeland security and foreign relations of the United States.

* * * * *

Precursors of a criteria pollutant are:

(1) * * *

(2) * * *

(3) For $PM_{2.5}$:

(i) Sulfur dioxide (SO_2) in all $PM_{2.5}$ nonattainment and maintenance areas,

(ii) Nitrogen oxides in all $PM_{2.5}$ nonattainment and maintenance areas unless both the State and EPA determine that it is not a significant precursor, and

(iii) Volatile organic compounds (VOC) and ammonia (NH_3) only in $PM_{2.5}$ nonattainment or maintenance areas where either the State or EPA determines that they are significant precursors.

Reasonably foreseeable emissions are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the

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location of such emissions is known and the emissions are quantifiable; as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

* * * * *

Take or start the Federal action means the date that the Federal agency signs or approves the permit, license, grant or contract or otherwise begins the Federal action that requires a conformity evaluation under this subpart.

Tribal implementation plan (TIP) means a plan to implement the national ambient air quality standards adopted by a federally-recognized Indian Tribal government determined to be eligible under 40 CFR 49.9 and the plan has been approved by EPA.

* * * * *

5. Section 93.153 is amended by revising the title of the section; revising paragraphs (b), (c)(1), (c)(2)(iii), (d), (e)(2), (f), (g)(1), (g)(3), (h), (i) (j), and (k),.

<u>§93.153 Applicability analysis.</u>

* * * * *

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(b) For Federal actions not covered by paragraph (a) of this section, a conformity determination is required for each criteria pollutant or precursor where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in paragraphs (b)(1) or (2) of this section.

(1) For purposes of paragraph (b) of this section, the following rates apply in nonattainment areas (NAA's):

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	Tons/year
Ozone (VOC's or NOx):	
Serious NAA's	50
Severe NAA's	25
Extreme NAA's	10
Other ozone NAA's outside an ozone transport region	100
Other ozone NAA's inside an ozone transport region:	
VOC	50
NOx.	100
Carbon monoxide: All NAA's.	100
SO_2 or NO_2: All NAA's	100
PM-10:	
Moderate NAA's	100
Serious NAA's	70
$PM_{2.5}$	
Direct emissions	100
SO_2	100
NOx (unless determined not to be significant precursors)	100
VOC or ammonia (if determined to be significant precursors)	100
Pb: All NAA's	25

(c) The requirements of this subpart shall not apply to the following Federal actions:

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(1) Actions where the total direct and indirect emissions are below the emissions levels specified in paragraph (b) of this section.

(2) * * *

(iii) Procedures for rulemaking and policy development and issuance.

* * * * *

(d) * * *

(1) The portion of an action that includes major or minor new or modified stationary sources that require a permit under the new source review (NSR) program (section 173 of the Act) or the prevention of significant deterioration program (title I, part C of the Act).

(2) Actions in response to emergencies which are commenced on the order of hours or days after the emergency and, if applicable, which meet the requirements of paragraph (e) of this section.

* * * * *

(e) * * *

(1) * * *

(2) For actions which are to be taken after those actions covered by paragraph (e)(1) of this section, the

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Federal agency makes a new determination as provided in paragraph (e)(1) of this section and:

(i) provides a draft copy of the written determinations required to affected EPA Regional office(s), the affected State(s) and/or air pollution control agencies, and any Federal recognized Indian Tribal government in the nonattainment or maintenance area. Those organizations must be allowed 15 days to comment on the draft determination, and

(ii) Within 30 days after making the determination, publish a notice of the determination by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action.

(3) If additional actions are necessary beyond the specified time period in (2) above, a Federal agency can make a new written determination as described in (2) above, but in no case shall this exemption extend beyond 2 years from the date of the emergency.

(f) Notwithstanding other requirements of this subpart, actions specified by individual Federal agencies that have met the criteria set forth in either paragraphs (g)(1) (g)(2) or (g)(3) of this section and

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the procedures set forth in paragraph (h) of this section are presumed to conform, except as provided in paragraph (j) of this section.

(g) The Federal agency must meet the criteria for establishing activities that are presumed to conform by fulfilling the requirements set forth in either paragraphs (g)(1), (g)(2), or (g)(3) of this section:

(1)* * *

(2) * * *

(3) The Federal agency must clearly demonstrate that the emissions from the type or category of actions and the amount of emissions from the action are included in the applicable SIP and the State or local air quality agencies responsible for the SIP(s) provide written concurrence that the emissions from the actions along with all other expected emissions in the area will not exceed the emission budget in the SIP.

(h) In addition to meeting the criteria for establishing exemptions set forth in paragraphs (g)(1) (g)(2) or (g)(3) of this section, the following procedures must also be complied with to presume that activities will conform:

(1) The Federal agency must identify through

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publication in the Federal Register its list of proposed activities that are presumed to conform and the basis for the presumptions. The notice must clearly identify the type and size of the action that would be presumed to conform and provide criteria for determining if the type and size action qualifies it for the presumption;

(2) The Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies and, where applicable, the agency designated under section 174 of the Act and the MPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform. If the presumed to conform action has regional or national application (e.g., the action will cause emission increases in excess of the de minimis levels identified in §93.153 (b) in more than three of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can send the draft conformity determination to U.S. EPA, Office of Air Quality Planning and Standards;

(3) * * *

(4) The Federal agency must publish the final list of such activities in the Federal Register.

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(i) Emissions from the following actions are presumed to conform:

(1) Actions at installations with facility-wide emission budgets meeting the requirements in §93.161 provided that the State has included the emission budget in the EPA approved SIP and the emissions from the action along with all other emissions from the installation will not exceed the facility-wide emission budget.

(2) Prescription fires conducted in accordance with approved smoke management plan which meets the requirements of EPA's Interim Air Quality Policy on Wildland and Prescribed Fires.

(3) Emissions for actions that the State identifies in the EPA approved SIP as presumed to conform.

(j) Even though an action would otherwise be presumed to conform under paragraph (f) or (i) of this section, an action shall not be presumed to conform and the requirements of §§ 93.150, §93.151, §§93.154 through §93.160 and §§93.162 through 93.164 shall apply to the action if EPA or a third party shows that the action would:

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(i) Cause or contribute to any new violation of any standard in any area;

(ii) Interfere with provisions in the applicable SIP for maintenance of any standard;

(iii) Increase the frequency or severity of any existing violation of any standard in any area; or

(iv) Delay timely attainment of any standard or any required interim emissions reductions or other milestones in any area including, where applicable, emission levels specified in the applicable SIP for purposes of:

(A) A demonstration of reasonable further progress;

(B) A demonstration of attainment; or

(C) A maintenance plan.

(k) The provisions of this subpart shall apply in all nonattainment and maintenance areas except conformity requirements for newly designated nonattainment areas are not applicable until 1 year after the effective date of the designation in accordance with section 176(c)(6) of the Act.

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6. Section 93.154 is amended by revising the title of the section and revising the section to read as follows:

§93.154 Federal agency conformity responsibility.

Any department, agency, or instrumentality of the Federal government taking an action subject to this subpart must make its own conformity determination consistent with the requirements of this subpart. In making its conformity determination, a Federal agency must follow the requirements in §§93.155 through 93.160 and §§93.162 through 93.165 and must consider comments from any interested parties. Where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

7. Section 93.155 is amended by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§93.155 Reporting requirements.

(a) A Federal agency making a conformity determination under §§93.154 through 93.160 and §§93.162 through 93.164 must provide to the appropriate EPA

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Regional Office(s), State and local air quality agencies, any federally-recognized Indian Tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal land managers, the agency designated under section 174 of the Act and the MPO a 30-day notice which describes the proposed action and the Federal agency's draft conformity determination on the action. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the de minimis levels identified in §93.153 (b) in three or more of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can provide the notice to EPA's Office of Air Quality Planning and Standards.

(b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian Tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal land managers, the agency designated under section 174 of the Clean Air Act and the MPO within 30 days after making a final conformity determination under this subpart.

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(c) The draft and final conformity determination shall exclude any classified information or confidential business information. The disclosure of classified information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect classified information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a classified annex to the determination for review by Federal and State representatives who have received appropriate security clearances.

8. Section 93.156 is amended by revising paragraphs (a), (b), (c), and (d) and adding paragraph (e) to read as follows:

<u>§93.156 Public participation.</u>

(a) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in (e) of this section, for review its draft conformity determination under §93.154 with supporting materials which describe

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the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(b) A Federal agency must make public its draft conformity determination under §93.154 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the National Environmental Policy Act (NEPA) process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the de minimis levels identified in §93.153 (b) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the Federal Register.

(c) A Federal agency must document its response to all the comments received on its draft conformity determination under §93.154 and make the comments and responses available, subject to the limitation in paragraph (e) of this section, upon request by any

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person regarding a specific Federal action, within 30 days of the final conformity determination.

(d) A Federal agency must make public its final conformity determination under §93.154 for a Federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts the Federal agency, as an alternative, can publish the notice in the Federal Register.

(e) The draft and final conformity determination shall exclude any classified information or confidential business information. The disclosure of classified information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials.

9. Section 93.157 is amended by revising the title of the section , adding introductory text; revising paragraphs (a) and (b) and adding paragraph (d), to read as follows:

§93.157 Reevaluation of conformity.

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Once a conformity evaluation is completed by a Federal agency, that determination is not required to be re-evaluated if the agency has (1) maintained a continuous program to implement the action; (2) the determination has not lapsed as specified in paragraph (a) of this section; or (3) any modification to the action does not result in an increase in emissions above the levels specified in subparagraphs (c) and (d) of this section. If a conformity determination is not required for the action at the time NEPA analysis is completed, the date of the finding of no significant impact (FONSI) for an Environmental Assessment, or a record of decision (ROD) for an Environmental Impact Statement, can be used as a substitute date for the conformity determination date.

(a) The conformity status of a Federal action automatically lapses 5 years from the date a final conformity determination is reported under §93.155, unless the Federal action has been completed or a continuous program to implement the Federal action has been commenced.

(b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do

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not require periodic re-determinations so long as such activities are within the scope of the final conformity determination reported under §93.155 or the NEPA analysis.

* * * * *

(d) If the Federal agency determines through the applicability analysis that a conformity determination was not necessary because the emissions for the action were below the limits in §93.153(b) and changes to the action would result in the total emissions from the action being above the limits in §93.153(b), then the Federal agency must make a conformity determination.

10. Section 93.158 is amended as follows:

a. Revising sub-paragraphs (a)(1), (a)(2), (a)(3) and (a)(4);

b. Correcting the sub-paragraph citation in (a)(5);

c. Revising sub-paragraphs (a)(5)(i), and (a)(5)(i)(C), and

d. Revising sub-paragraphs (a)(5)(iii), (a)(5)(iv); (a)(5)(iv)(A)(1), (a)(5)(iv)(A)(2) and paragraph (a)(5)(iv)(A)(3).

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The revised and new paragraphs in §93.158 read as follows:

<u>§93.158 Criteria for determining conformity of general Federal actions</u>

(a) An action required under §93.153 to have a conformity determination for a specific pollutant or precursor, will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in §93.153(b), or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of paragraph (c) of this section, and meets any of the following requirements:

(1) For any criteria pollutant or precursor, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration or reasonable further progress milestone;

(2) For precursors of ozone, nitrogen dioxide, or PM, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area

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contribute to the violations, or have contributed to violation in the past, in the area with the Federal action) through a revision to the applicable SIP or a similarly enforceable measure that effects emissions reductions so that there is no net increase in emissions of that pollutant;

(3) For any directly-emitted criteria pollutant, the total of direct and indirect emissions from the action meets the requirements:

* * *

(4) For CO or directly emitted PM—

(i)* * *

(ii)* * *

(5) For ozone or nitrogen dioxide, and for purposes of paragraphs (a)(3)(ii) and (a)(4)(ii) of this section, each portion of the action or the action as a whole meets any of the following requirements:

(i) Where EPA has approved a revision to the applicable implementation plan after the area was designated as nonattainment and the State makes a determination as provided in paragraph (a)(5)(i)(A) of this section or where the State makes a commitment as provided in paragraph (a)(5)(i)(B) of this section:

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* * * * *

(C) Where a Federal agency made a conformity determination based on a State commitment under paragraph (a)(5)(i)(B) of this section and the State has submitted a SIP to EPA covering the time period during which the emissions will occur or is scheduled to submit such a SIP within 18 months of the conformity determination, the State commitment is automatically deemed a call for a SIP revision by EPA under section 110(k)(5) of the Act, effective on the date of the Federal conformity determination and requiring response within 18 months or any shorter time within which the State commits to revise the applicable SIP;

(D) Where a Federal agency made a conformity determination based on a State commitment under paragraph (a)(5)(i)(B) of this section and the State has not submitted a SIP covering the time period of the emissions will occur or is not scheduled to submit such a SIP within 18 months of the conformity determination, the State must, within 18 months, submit to EPA a revision to the existing SIP committing to include the emissions in the future SIP revision.

(ii) * * *

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(iii) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area (or nearby area of equal or higher classification provided the emissions from that area contribute to the violations, or have contributed to violation in the past, in the area with the Federal action) through a revision to the applicable SIP or an equally enforceable measure that effects emissions reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

(iv) Where EPA has not approved a revision to the relevant SIP since the area was designated or reclassified, the total of direct and indirect emissions from the action for the future years (described in §93.159(d)) do not increase emissions with respect to the baseline emissions:

(A) * * *

(1) The calendar year that is the basis for the most recent designation or classification;

(2) The emission budget in the applicable SIP;

(B) The baseline emissions are the total of direct and indirect emissions calculated for the future years

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(described in §93.159(d)) using the historic activity levels (described in paragraph (a)(5)(iv)(A) of this section) and appropriate emission factors for the future years; or

* * * * *

11. Section 93.159 is amended by:

a. Adding the section symbol to the title; correcting typographical errors in paragraphs (b) and (b)(1)(ii);

b. Revising paragraphs (b)(2) and (c); and

c. Deleting the footnotes in those paragraphs, and revising paragraph (d) including adding sub-paragraph (d)(4).

The revisions and additions read as follows:

<u>§93.159 Procedures for conformity determinations of general Federal actions.</u>

* * * * *

(b) The analyses required under this subpart must be based on the latest and most accurate emission estimation techniques available as described below, unless such techniques are inappropriate. If such techniques are inappropriate, the Federal agency may obtain written approval from the appropriate EPA

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Regional Administrator for a modification or substitution, of another technique on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program.

(1) * * *

(i) * * *

(ii) A grace period of 3 months shall apply during which the motor vehicle emissions model previously specified by EPA as the most current version may be used. Conformity analyses for which the analysis was begun during the grace period or no more than 3 years before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by EPA.

(2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors" (AP-42, www.epa.gov/ttn/chiefs/efpac) must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

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(c) The air quality modeling analyses required under this subpart must be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the 'Guideline on Air Quality Models." (Appendix W to 40 CFR part 51. The latest revision was on April 15, 2003, at 68 FR 18440).

* * * * *

(d) The analyses required under this subpart must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases:

(1) The attainment year specified in the SIP, or if the SIP does not specify an attainment year, the Act mandated attainment year, or

(2) The last year for which emissions are projected in the maintenance plan;

(3) The year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

(4) Any year for which the applicable SIP specifies an emissions budget.

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12. Section 93.160 is amended by:

a. Adding the section symbol to the title;

b. Correcting a typographical error in paragraphs (e) and (g); and

c. Revising paragraph (f).

The revised paragraphs in 93.160 read as follows:

§93.160 Mitigation of air quality impacts.

* * * * *

(e) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of §93.156 and the public participation requirements of §93.157.

(f) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled.

(g) After a State revises its SIP to adopt its general conformity regulations and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and Federally enforceable. Enforceability through

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the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

Subpart B is further amended by adding §§93.161 through 93.165 to read as follows:

<u>§93.161 Conformity evaluation for Federal installations with facility-wide emission budgets.</u>

(a) State or local agency responsible for implementing and enforcing the SIP can in cooperation with Federal agencies or third parties that operate installations subject to Federal oversight (e.g., a military base or a commercial service airport) develop and adopt a facility-wide emission budget to be used for demonstrating conformity. The budget must meet the following criteria:

(1) Be for a set time period;

(2) Cover the pollutants or precursors of the pollutants for which the area is designated nonattainment or maintenance;

(3) Include specific quantities allowed to be emitted on an annual or seasonal basis;

(4) The emissions from the facility along with all other emissions in the area will not exceed the emission

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budget for the area;

(5) Include specific measures to ensure compliance with the budget such as periodic reporting requirements or compliance demonstration when the Federal agency is taking an action that would otherwise require a conformity determination;

(6) Be submitted to EPA as a SIP revision;

(7) The SIP revision must be approved by EPA.

(b) The budget developed and adopted in accordance with section (a) above can be revised by following the requirements in section (a) above.

(c) Total direct and indirect emissions from Federal actions in conjunction with all other emissions from the facility that do not exceed the facility budget adopted pursuant to section (a) above are presumed to conform to the SIP and do not require a conformity analysis.

(d) If the total direct and indirect emissions from the Federal actions in conjunction with the other emissions from the facility exceed the budget adopted pursuant to paragraph (a) above, the action must be evaluated for conformity. A Federal agency can use the compliance with the emissions budget as part of the

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demonstration of conformity, i.e., the agency would have to mitigate or offset the emissions that exceed the emission budget.

(e) If the SIP for the area includes a category for construction emissions, the negotiated budget can exempt construction emissions from further conformity analysis.

§93.162 Emissions beyond the time period covered by the SIP.

If a Federal action would result in total direct and indirect emissions which would be emitted beyond the time period covered by the SIP, the Federal agency can:

(a) Demonstrate conformity with the last emission budget in the SIP; or

(b) Request the State to adopt an emissions budget for the action for inclusion in the SIP. The State must submit a SIP revision to EPA within 18 months either including the emissions in the SIP or establishing an enforceable commitment to include the emissions in future SIP revisions.

§93.163 Timing of offsets and mitigation measures.

(a) The emissions reductions from an offset or mitigation measure used to demonstrate conformity must occur during the same calendar year as the emission

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increases from the action except as provided in paragraph (b) of this section.

(b) The State may approve reductions in other years provided:

(1) The reductions are greater than the emission increases by the following ratios:

(i) Extreme nonattainment areas.....1.5:1

(ii) Severe nonattainment areas.....1.3:1

(iii) Serious nonattainment areas.....1.2:1

(iv) Moderate nonattainment areas.....1.15:1

(v) All other areas.....1.1:1

(2) The time period for completing the emissions reductions must not exceed twice the period of the emissions.

(3) The offset or mitigation measure with emissions reductions in another year will not:

(i) Cause or contribute to a new violation of any air quality standard,

(ii) Increase the frequency or severity of any existing violation of any air quality standard, or

(iii) Delay the timely attainment of any standard or any interim emissions reductions or other milestones in any area.

DOJ_NMG_ 0161090

(c) The approval by the State of an offset or mitigation measure with emissions reductions in another year, does not relieve the State of any obligation to meet any SIP or Clean Air Act milestone or deadline.

§93.164 Inter-precursor mitigation measures and offsets

Federal agencies must reduce the same type pollutant as being increased by the Federal action except the State may approve offsets or mitigation measures of different precursors of the same criteria pollutant, if such trades are allowed by a State in a SIP approved new source review regulation, is technically justified, and has a demonstrated environmental benefit.

§93.165 Early emission reduction credit programs at Federal facilities and installation subject to Federal oversight.

(a) Federal facilities and installation subject to Federal oversight can, with the approval of the State agency responsible for the SIP in that area, create an early emissions reductions credit program. The Federal agency can create the emission reduction credits in accordance with the requirements in paragraph (b) below and can used them in accordance with paragraph (c)

DOJ_NMG_ 0161091

below.

(b) Creation of emission reduction credits

(1) Emissions reductions must be quantifiable through the use of standard emission factors or measurement techniques. If non-standard factors or techniques to quantify the emissions reductions are used, the Federal agency must receive approval from the State agency responsible for the implementation of the SIP and from EPA's Regional Office. The emission reduction credits do not have to be quantified before the reduction strategy is implemented, but must be quantified before the credits are used.

(2) The emission reduction methods must be consistent with the applicable SIP attainment and reasonable further progress demonstrations.

(3) The emissions reductions can not be required by or credited to other applicable SIP provisions.

(4) Both the State and Federal air quality agencies must be able to take legal action to ensure continued implementation of the emission reduction strategy. In addition, private citizens must also be able to initiate action to ensure compliance with the control requirement.

DOJ_NMG_ 0161092

(5) The emissions reductions must be permanent or the timeframe for the reductions must be specified.

(6) The Federal agency must document the emissions reductions and provide a copy of the document to the State air quality agency and the EPA regional office for review. The documentation must include a detailed description of the strategy and a discussion of how it meets the requirements of sub-paragraphs (1) through (5) of this section.

(c) Use of emission reduction credits.

The emission reduction credits created in accordance with paragraph (b) above can be used, subject to the following limitations, to reduce the emissions increase from a Federal action at the facility for the conformity evaluation.

(1) If the technique used to create the emission reduction is reasonably connected to the Federal action and could have occurred in conjunction with the Federal action, then the credits can be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in §93.153 and as offsets or mitigation measures required by §93.158.

DOJ_NMG_ 0161093

(2) If the technique used to create the emission reduction is not reasonably connected to the Federal action or could not have occurred in conjunction with the Federal action, then the credits cannot be used to reduce the total direct and indirect emissions used to determine the applicability of the regulation as required in §93.153, but can be used to offset or mitigate the emissions as required by §93.158.

(3) Emissions reductions credits must be used in the same year in which they are generated.

(4) Once the emission reduction credits are used, they cannot be used as credits for another conformity evaluation. However, unused credits from a strategy used for one conformity evaluation can be used for another conformity evaluation as long as the reduction credits are not double counted. For example, emission reduction credits from a control measure could be used in one year as offset for construction emission increases and in another year to mitigate operational emission increases.

(5) Federal agencies must notify the State air quality agency and EPA Regional Office when the emission reduction credits are being used.

DOJ_NMG_ 0161094

Gormsen, Eric T

From: Gormsen, Eric T
Sent: Thursday, June 1, 2006 9:52 AM
To: Miller, Wendy (ENRD); Seidel, Rebecca; Otis, Lee L; Nichols, Carl (CIV); Gorsuch, Neil M; Daley, Cybele; Meyer, Joan E (ODAG); Garrett, Judi; Avergun, Jodi L.; Cohn, Jonathan (CIV)
Cc: Jones, Kevin R; Hinchman, Robert; Bounds, Ryan W (OLP); Hart, Rosemary
Subject: EPA General Conformity Rule -- Conference Call

June 1, 2006

TO ALL:

OMB has scheduled two conference calls with EPA to get an overview of EPA's proposed revisions to general conformity and to answer questions on the rulemaking.

The calls are scheduled for the following times:

Tuesday, June 6: 10:30 - 11:30 AM
Tuesday, June 6: 2:00 - 3:00 PM

Please let me know if and when you intend to participate. I will forward the call-in information before the conference call.

Thanks for your attention to this matter,

Eric

--- Eric Taylor Gormsen ---

Office of Legal Policy

Department of Justice

(202) 514-4087

Fax: 353-2374

Otus2005, Ag

Subject:	Updated: JMD Budget Decision Meeting
Start:	Friday, August 11, 2006 11:00 AM
End:	Friday, August 11, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Goodling, Monica; McNulty, Paul J; McCallum, Robert (SMO); Sampson, Kyle; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Gorsuch, Neil M; Lauria-Sullens, Jolene; Lofthus, Lee J; Jenkins, Linda A; Schultz, Walter H; O'Leary, Karin
Optional Attendees:	Parameswaran, Shalini

When: Friday, August 11, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Monica Goodling DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Bill Mercer, Mike Elston, Mark Epley, Neil Gorsuch, Jolene Lauria-Sullens, Lee Lofthus
Karin O'Leary; Walter Schultz

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 1:42 PM
To: Tenpas, Ronald J (ODAG)
Subject: Refco

Just to let you know that I don't seem to have anything yet in my office.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

[redacted]@hotmail.com

From:	[redacted]@hotmail.com
Sent:	Wednesday, May 31, 2006 1:45 PM
To:	elisabeth.c.cook@usdoj.gov
Cc:	Gorsuch, Neil M
Subject:	FW: Re: Thank You
Attachments:	NeilGorsuch.doc

Beth - FYI. From a former Colo congressman and former chief judge of the US court of veterans appeals. NMG

>From: [redacted]@yahoo.com>
>To: Neil Gorsuch [redacted]@hotmail.com>
>Subject: Re: Thank You
>Date: Wed, 31 May 2006 10:21:49 -0700 (PDT)
>
>Hi Neil, Here it is. I have made handwritten comments on Specter's and
>Allard's letters. Good luck. Keep me advised and let me know if I can
>help further [redacted]
>

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May 31, 2006

6 S. Montana St.
Arlington, Va., 22204

Honorable Arlen Specter
Chairman, Senate Judiciary Committee
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman,

It is my true privilege to add my voice to so many others in endorsing the nomination of Neil M. Gorsuch as a Circuit Judge on the U.S. Court of Appeals for the 10th Circuit. I can without abashment say that Neil is the perfect choice, a fourth generation Coloradan who provides the exactingly correct balance between youth and intellect and enthusiasm tempered by wisdom.

I have known the Gorsuch family for almost 35 years-from the time Neil was a small boy. I have seen him progress into a man of superb capabilities to which his resume quite readily attests. He graduated with honors from my own alma mater, Harvard Law, after accumulating a brilliant undergraduate record at Columbia University. But even Harvard wasn't enough, going on to obtain a Doctor of Philosophy degree from Oxford University as a British Marshall Scholar.

He has served as a law clerk on first the D.C. Circuit and then the Supreme Court of the United States. He is a published author and has been in private practice at the highest levels of both trial and appellate work. And he now continues to serve his country at the highest levels of the Justice Department.

Perhaps most important is the integrity that he will bring to the bench.

As a retired Chief Judge of a Federal appellate court, I urge that Neil be confirmed at the earliest possible time. One of the great concerns of the judiciary is the timely processing of cases. There is nothing worse for our court system than endless backlogs resulting in justice delayed and at times denied because of the death of a party or other changes in circumstance. So for the good of all including Neil's future colleagues, I hope that he will soon be receiving his own cases.

Thank you for the opportunity to be heard.

Warmest Regards,

Cc. Honorable Patrick Leahy, Ranking Member, Senate Judiciary Committee
Honorable Wayne Allard
Honorable Ken Salazar

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:35 PM
To: [redacted] Cook, Elisebeth C
Subject: RE: CV

Sorry for this imposition. Am adding Beth Cook who has all the relevant info. Many thanks!

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Wednesday, May 31, 2006 2:24 PM
To: Gorsuch, Neil M
Subject: RE: CV

Thank you very much. One more quick question - I believe you spoke with [redacted] about letters from colleagues, and we are just wondering where we should address them to?

Thanks again,
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, May 31, 2006 2:22 PM
To: [redacted]
Subject: RE: CV

Here you go. Hope all is well with you.

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Wednesday, May 31, 2006 10:32 AM
To: Gorsuch, Neil M
Subject: CV

Neil-

Would it be possible to send over a copy of your latest CV?

Thanks,
[redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, May 31, 2006 2:36 PM
To:	Cook, Elisebeth C
Subject:	FW: Re: Thank You
Attachments:	NeilGorsuch.doc

Beth - FYI. From a former Colo congressman and former chief judge of the US court of veterans appeals. NMG

>From [redacted]
>To: Neil Gorsuch [redacted]
>Subject: Re: Thank You
>Date: Wed, 31 May 2006 10:21:49 -0700 (PDT)
>
>Hi Neil, Here it is. I have made handwritten comments on Specter's and
>Allard's letters. Good luck. Keep me advised and let me know if I can
>help further. [redacted]
>

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May 31, 2006

[redacted]

Honorable Arlen Specter
Chairman, Senate Judiciary Committee
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman,

It is my true privilege to add my voice to so many others in endorsing the nomination of Neil M. Gorsuch as a Circuit Judge on the U.S. Court of Appeals for the 10th Circuit. I can without abashment say that Neil is the perfect choice, a fourth generation Coloradan who provides the exactingly correct balance between youth and intellect and enthusiasm tempered by wisdom.

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Perhaps most important is the integrity that he will bring to the bench.

[redacted] I urge that Neil be confirmed at the earliest possible time. One of the great concerns of the judiciary is the timely processing of cases. There is nothing worse for our court system than endless backlogs resulting in justice delayed and at times denied because of the death of a party or other changes in circumstance. So for the good of all including Neil's future colleagues, I hope that he will soon be receiving his own cases.

Thank you for the opportunity to be heard.

Warmest Regards,

[redacted]

Cc. Honorable Patrick Leahy, Ranking Member, Senate Judiciary Committee
Honorable Wayne Allard
Honorable Ken Salazar

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:40 PM
To: Cook, Elisebeth C
Subject: RE: CV

I'd like to give this to the Kellogg folks, along with the [redacted] contact info, if possible.

-----Original Message-----
From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: RE: CV

Neil--this one also has Salazar information--for the Colorado folks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:35 PM
To: [redacted]@khhte.com'; Cook, Elisebeth C
Subject: RE: CV

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From: [redacted]@khhte.com [mailto[redacted]@khhte.com]
Sent: Wednesday, May 31, 2006 2:24 PM
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[redacted]

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From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, May 31, 2006 2:22 PM
To: [redacted]
Subject: RE: CV

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-----Original Message-----
From: [redacted]@khhte.com [mailt[redacted]@khhte.com]

From [redacted]@krinte.com [mailto [redacted]@krinte.com]
Sent: Wednesday, May 31, 2006 10:32 AM
To: Gorsuch, Neil M
Subject: CV

Neil-

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Thanks,
[redacted]

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 2:42 PM
To: Gorsuch, Neil M
Subject: RE: CV

Checking with [redacted]-I think we generally focus on the Committee.

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From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:40 PM
To: Cook, Elisebeth C
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[redacted]

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Sent: Wednesday, May 31, 2006 2:22 PM
To: [redacted]
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From: [redacted]@khhte.com [mailto:[redacted]@khhte.com]
Sent: Wednesday, May 31, 2006 10:32 AM
To: Gorsuch, Neil M
Subject: CV

Neil-

Would it be possible to send over a copy of your latest CV?

Thanks,
[redacted]

McIntosh, Brent

From: McIntosh, Brent
Sent: Wednesday, May 31, 2006 4:33 PM
To: Tenpas, Ronald J (ODAG); Gorsuch, Neil M; Cook, Elisebeth C; Brand, Rachel; Fisher, Alice; Friedrich, Matthew; Elston, Michael (ODAG)
Subject: FW: ABA Task Force - FYI; Opposing Selective Waiver
Attachments: tmp.htm; Bank Regulatory Authority_Summary.doc; FSRRA_HR3505_Section-620(9March06).doc
Importance: Low

Thought you might be interested in the underlined discussion below.

-----Original Message-----
From: BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG
[mailto:BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG]
Sent: Tuesday, May 30, 2006 11:50 PM
To: BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG
Subject: Re: ABA Task Force - FYI; Opposing Selective Waiver
Importance: Low

All -

I believe my public testimony at the Salt Lake City hearings in February 2005 on behalf of the Calbar Corporations Committee was one of the early statements received by the TF in opposition to "selective waiver." The basis of that opposition was that selective waiver would only encourage the DoJ and others to do exactly what the TF should (and does) oppose: the granting or withholding of a benefit based on whether a target organization waives the protection of the attorney-client privilege or the attorney work product doctrine. I believe that the actual dynamic inflection point on the views of the TF with respect to this topic was when representatives of the DoJ acknowledged (as I recall, to Jan Handzlik who then reported it to the TF) that they would be very pleased if selective waiver were recognized and that a demand for it (not even a wink or nod) would immediately become item #1 in the standard play-book.

I would still oppose selective waiver in any context that would provide cover for such demands, much less facilitate or induce them. But that is not the case with respect to regulated banks. The fact is that the OCC/OTS/FDIC/FRB already have statutory bases for access to all information and records of the regulated bank, whether or not otherwise protected by the attorney-client privilege or attorney-work product doctrine. As an analytical matter, that changes everything. Selective waiver in that context will not encourage the regulators to ask for more information than they currently get and will not facilitate a waiver process as all of the information is already being provided. Instead, it serves to secure the privilege and the protection of confidentiality even within compliance with existing laws requiring disclosure. With the assistance of representatives of each of the regulators, I have prepared the attached summary of statutory and regulatory provisions upon which such access is based.

The mere fact that selective waiver might or even does increase the protections of attorney-client privilege or attorney work product is by no means outcome determinative. It would apply equally in the context of regulated banks and organizations not otherwise required to provide access to protected materials. Thus, any such increase simply cannot achieve the mandate of the TF if it comes at the expense of increased demands for waiver. But it appears to me that will not, and cannot, occur in the realm of regulated banks and similar financial institutions because they currently have access to everything anyway. Indeed, it appears to me from communications with OCC/OTS/FDIC/FRB personnel identified below that the regulators themselves are very concerned about the potential loss of confidentiality of internal bank communications with counsel if the provisions of Section 620 are not adopted. The decision in In re Bank One Securities Litigation referenced in my memorandum of March 28 (209 FRD 418; 2002U.S.Dist. Lexis 14253, July 31, 2002) is at least as much disconcerting to the regulators as it is to the regulated banks. I believe the reason for that is relatively straight-forward: (1) protecting the financial stability of regulated banks is inconsistent with facilitating class action or other lawsuits against them, and (2) loss of confidentiality with bank counsel is likely to impede the ability of bank counsel to assist self-compliance as it has done pre-Bank One.

And it is important to note that the access granted to the regulators does not extend to matters in which there is a pending, threatened or possible suit by the regulator against the regulated bank. Permitting "waiver" with respect to the regulator (making it a "selective waiver") is thus irrelevant in the banking context. It is the crown jewels in the DoJ/enforcement context.

Press reports state that the Financial Services Regulatory Reform [redacted] (HR 3505) was reported out of the Senate Judiciary Committee and then approved by the full Senate on Thursday or so of last week. I understand that there are differences between the [redacted] as passed the House and as passed by the Senate and thus there will be a conference committee process. My understanding is that proposed Section 620, however, is identical. The text of it as last published is also attached.

Regards,
[redacted]

Note: the "regulators" referenced in this message consist of the following (listed alphabetically), to whom a copy of this message will be forwarded separately: [redacted], GC of the FRB; [redacted], Acting GC of the FDIC; [redacted], Deputy Chief Counsel, Enforcement of the OTS; and [redacted], Deputy Chief Counsel of the OCC. That circle of communications was facilitated by [redacted], former Deputy Chief Counsel of the OCC, who is acknowledged in my memo of March 28 and who will attend the June 14 meeting of the TF. [redacted] participated in that circle of communications and, as GC of the NY Fed, certainly qualifies as a "regulator". He did so, however, primarily in his role as a Liaison to the TF. [redacted], Executive Director and General Counsel of the Financial Services Roundtable also participated in that circle of communications ([redacted] is the designated Liaison to the TF from the FS Roundtable).

<<Bank Regulatory Authority_Summary.doc>>
<<FSRRA_HR3505_Section-620(9March06).doc>>
-----Original Message-----
From: Task Force Discussion
[mailto:BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG] On Behalf Of [redacted]
Sent: Wednesday, May 24, 2006 5:47 AM
To: BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG
Subject: Re: ABA Task Force - FYI; Opposing Selective Waiver

[redacted],

Thank you for sharing the Citigroup letter favoring the protection of selective waiver for financial institutions and adoption of Sec. 620 of FSRRA. The Task Force should urge the ABA to oppose this.

While we all appreciate that various constituents are dealing with this issue as best they can, each from their own perspective and interests, it remains incumbent on the Task Force to continue its focus on the protection and preservation of the privilege, and its value to the profession, as a whole. That is our charge.

At the beginning of this journey, now almost two years ago for me, I looked on selective waiver as an easy and likely effective solution to many of the challenges presented to us. Since then, and with the benefit of the Task Force process, my view has changed. Protecting selective waiver, in any context, will harm the privilege, and, more importantly, will reduce the higher degree of voluntary legal compliance achieved by the privilege.

One of our touchstones must be the effect of all this on the "average" ABA lawyer and his or her clients. These lawyers usually do not represent Fortune 500 Corporations, large financial institutions, big CPA firms, or publicly -held businesses. They are lawyers for the "mom and pops," the folks needing a divorce, a home purchase, or defense of a driving charge. If those clients (or potential clients) continue to read and see in the media the rising "culture of waiver," with lawyers and their files appearing in high profile cases as evidence against their "clients" and the clients' (usually then-former) employees, they will not be candid with their lawyer; many will just not consult a lawyer in the first place.

The ACCA survey confirmed the chilling effect of the "culture of waiver" upon corporate America. There is no reason to believe that it does not have a similarly adverse effect upon all clients (or potential clients) of all lawyers. Our focus should continue to be the elimination (or at least the restriction) of the "culture of waiver" on all fronts.

Supporting or protecting selective waivers will only lead to their increased use, and increased demands for their use by government agencies, auditors, and others. If adopted, proposals like the Amendment to FRE 502 will be too tempting for judges faced with time-consuming and unsavory discovery disputes; every assertion of privilege in every discovery dispute could be met with a demand, order (or "suggestion" as DOJ likes to term it) for "protected" selective

waiver!

The repeated suggestion for "federal" remedies also portends a move for preemption which would only subject the privilege to the political whims of Congress each election season. That could never be viewed as a positive development.

For all of these reasons, the Task Force should urge the ABA to oppose the protection of selective waiver, whether through proposals like Amended FRE 502, or by categorical business groups.

Thank you for listening.

Regards,
[redacted]

If you have any questions, please contact us.

God Bless America,

[redacted]

Direct: [redacted]
Fax: 269.382.2382
Mobile: [redacted]
Home: [redacted]

Email: [redacted]

>>> "[redacted]" <[redacted]> 5/23/2006 11:26 AM >>>
T
FYI
> _____
>
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STATUTORY BASES
BANK REGULATORY ACCESS TO PRIVILEGED INFORMATION

All Statutory References are to 12 U.S.C.

Office of the Comptroller of the Currency
(contact: [redacted], Deputy Chief Counsel)

The OCC's view is that, under it examination statute (12 USC 481), it has complete and unfettered access to all of a bank's books and records. This includes privileged as well as non-privileged documents. In other words, the OCC believes that id does not need the legislative fix of HR 3505 to get access to privileged materials -- it already has that -- rather, the purpose of the legislation is to ensure that when a bank gives us a privileged document, they are not waiving that privilege with respect to third-parties.

+ + + + +

Sec. 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports

The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary. The examiner making the examination of any national bank shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of said bank to the Comptroller of the Currency: *Provided*, That in making the examination of any national bank the examiners shall include such an examination of the affairs of all its affiliates other than member banks as shall be necessary to disclose fully the relations between such bank and such affiliates and the effect of such relations upon the affairs of such bank; and in the event of the refusal to give any information required in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, all the rights, privileges, and franchises of the bank shall be subject to forfeiture in accordance with sections 141, 222 to 225, 281 to 283, 285, 286, 501a and 502 of this title. *****

The examiner making the examination of any affiliate of a national bank shall have power to make a thorough examination of all the affairs of the affiliate, and in doing so he shall have power to administer oaths and to examine any of the officers, directors, employees, and agents thereof under oath and to make a report of his findings to the Comptroller of the Currency. *****

12 CFR PART 4 ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM, POST-EMPLOYMENT RESTRICTIONS FOR SENIOR EXAMINERS

Sec. 4.12 Information available under the FOIA.
(a) General. In accordance with the FOIA, OCC records are available to the public, except the exempt records described in paragraph (b) of this section.
(b) Exemptions from availability. The following records, or portions thereof, are exempt from disclosure under the FOIA:
*****

(8) A record contained in or related to an examination, operating, or condition report prepared by, on behalf of, or for the use of the OCC or any other agency responsible for regulating or supervising financial institutions; *****

Sec. 4.32 Definitions.
*****

(b) Non-public OCC information. Non-public OCC information:

(1) Means information that the OCC is not required to release under the FOIA (5 U.S.C. 552) or that the OCC has not yet published or made available pursuant to 12 U.S.C. 1818(u) and includes:

(i) A record created or obtained by the OCC in connection with the OCC's performance of its responsibilities, such as a record concerning supervision, licensing, regulation, and examination of a national bank, a bank holding company, or an affiliate;

(ii) A record compiled by the OCC in connection with the OCC's enforcement responsibilities;

(iii) A report of examination, supervisory correspondence, an investigatory file compiled by the OCC in connection with an investigation, and any internal agency memorandum, whether the information is in the possession of the OCC or some other individual or entity;
*****

(2) Is the property of the Comptroller. A report of examination is loaned to the bank or holding company for its confidential use only.

Sec. 4.36 Disclosure of non-public OCC information.
*****

(b) OCC policy. It is the OCC's policy regarding non-public OCC information that such information is confidential and privileged. Accordingly, the OCC will not normally disclose this information to third parties.
*****

(d) Unauthorized disclosures prohibited. All non-public OCC information remains the property of the OCC. No supervised entity, government agency, person, or other party to whom the information is made available, or any officer, director, employee, or agent thereof, may disclose non-public OCC information without the prior written permission of the OCC, except in published statistical material that does not disclose, either directly or when used in conjunction

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with other publicly available information, the affairs of any individual, corporation, or other entity. Except as authorized by the OCC, no person obtaining access to non-public OCC information under this section may make a copy of the information and no person may remove non-public OCC information from the premises of the institution, agency, or other party in authorized possession of the information.

DOJ_NMG_ 0161115

Federal Reserve System
(contact: [redacted], General Counsel)

The Bank Holding Company Act authorizes the Fed to examine any bank holding company and any subsidiary of a bank holding company, with some requirements to defer to other supervisors that are not relevant to the attorney-client privilege debate. Those authorities can be found at 12 USC 1844(c)(2) and (f).

The Fed's authority to examine state member banks and their affiliates comes from the Federal Reserve Act and can be found at 12 USC 325 and 338.

The Fed has other exam authorities, for example, authority to make special exams (12 USC 483), and authority to conduct exams in connection with discount window lending (12 USC 248(n)), but they are not often used.

+ + + + +

Sec. 1844. Administration
*****
(c) Reports and examinations
*****
(2) Examinations
(A) Examination authority for bank holding companies and subsidiaries
Subject to subparagraph (B) ["functionally regulated subsidiaries"; omitted here], the Board may make examinations of each bank holding company and each subsidiary of such holding company in order -
(i) to inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;
(ii) to inform the Board of -
(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any depository institution subsidiary of such holding company; and
(II) the systems for monitoring and controlling such risks; and
(iii) to monitor compliance with the provisions of this chapter or any other Federal law that the Board has specific jurisdiction to enforce against such company or subsidiary and those governing transactions and relationships between any depository institution subsidiary and its affiliates.
*****
(f) Powers of Board respecting applications, examinations, or other proceedings
In the course of or in connection with an application, examination, investigation or other proceeding under this chapter, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this chapter, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from

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any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this chapter may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith.*****

Sec. 325. Examinations

As a condition of membership ... [state] banks shall likewise be subject to examinations made by direction of the Board of Governors of the Federal Reserve System or of the Federal reserve bank by examiners selected or approved by the Board of Governors of the Federal Reserve System.

Sec. 338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense

In connection with examinations of State member banks, examiners selected or approved by the Board of Governors of the Federal Reserve System shall make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. The expense of examination of affiliates of any State member bank may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against such bank and, when so assessed, shall be paid by such bank. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, or in the event of the refusal to pay any expenses so assessed, the Board of Governors of the Federal Reserve System may, in its discretion, require any or all State member banks affiliated with such affiliate to surrender their stock in the Federal Reserve bank and to forfeit all rights and privileges of membership in the Federal Reserve System, as provided in this subchapter.

Sec. 248. Enumerated powers

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a) Examination of accounts and affairs of banks; publication of weekly statements; reports of liabilities and assets of depository institutions; covered institutions

(1) To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary.

*****

DOJ_NMG_ 0161117

(n) Board's authority to examine depository institutions and affiliates

To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this chapter.

Sec. 483. Special examination of member banks; information of condition furnished to Board of Governors of the Federal Reserve

In addition to the examinations made and conducted by the Comptroller of the Currency, every Federal reserve bank may, with the approval of the Federal reserve agent or the Board of Governors of the Federal Reserve System, provide for special examination of member banks within its district. The expense of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined. Such examinations shall be so conducted as to inform the Federal reserve bank of the condition of its member banks and of the lines of credit which are being extended by them. Every Federal reserve bank shall at all times furnish to the Board of Governors of the Federal Reserve System such information as may be demanded concerning the condition of any member bank within the district of the said Federal reserve bank.

DOJ_NMG_ 0161118

Office of Thrift Supervision
(contact: [redacted], Deputy Chief Counsel Enforcement)

1. Savings associations and their subs (who are not functionally regulated by another government regulator) are required to give examiners prompt, full access to all records during any exam, 12 USC 1464(d)(1)(B)(ii), and for any regulatory purpose, 12 USC 1464(d)(1)(B)(iii).

2. Savings associations, their subs, and holding companies are required to maintain complete records of their business and make them available wherever they are located. 12 USC 1467a(b)(3); 12 CFR 563.170(c).

+ + + + +

Sec. 1464. Federal savings associations
*****
(d) Regulatory authority
(1) In general
*****
(B) Ancillary provisions

(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term "affiliate" has the same meaning as in section 2(b) of the Banking Act of 1933 [12 U.S.C. 221a(b)], except that the term "member bank" in section 2(b) shall be deemed to refer to a savings association.

(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

(v) In connection with examinations of savings associations and affiliates thereof, the Director may -

(I) administer oaths and affirmations and examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

(II) issue subpenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act [12 U.S.C. 1820(c)], and such courts shall have jurisdiction and power to order and require compliance therewith. *****

Sec. 1467a. Regulation of holding companies
*****
(b) Registration and examination
*****

(3) Books and records

Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

(4) Examinations

Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Director to the appropriate State supervisory authority. The Director shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

12 CFR PART 563 SAVINGS ASSOCIATIONS OPERATIONS
*****
Sec. 563.170 Examinations and audits; appraisals; establishment and maintenance of records.
(a) Examinations and audits.

Each savings association and affiliate thereof shall be examined periodically, and may be examined at any time, by the Office, with appraisals when deemed advisable, in accordance with general policies from time to time established by the Office. *****
*****

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(c) Establishment and maintenance of records.

To enable the Office to examine savings associations and affiliates and audit savings associations, affiliates, and service corporations pursuant to the provisions of paragraph (a) of this section, each savings association, affiliate, and service corporation shall establish and maintain such accounting and other records as will provide an accurate and complete record of all business it transacts. This includes, without limitation, establishing and maintaining such other records as are required by statute or any other regulation to which the savings association, affiliate, or service corporation is subject. The documents, files, and other material or property comprising said records shall at all times be available for such examination and audit wherever any of said records, documents, files, material, or property may be.

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Federal Deposit Insurance Corporation
(contact: [redacted])

The FDIC's basic examination authority is found at 12 USC 1819(a) - Eighth and 1820(b),(c), and (d).

+ + + + +

Sec. 1819. Corporate powers
(a) In general
Upon June 16, 1933, the Corporation shall become a body corporate and as such shall have power -
*****
Eighth. To make examinations of and to require information and reports from depository institutions, as provided in this chapter.
*****

Sec. 1820. Administration of Corporation
*****
(b) Examinations
(1) Appointment of examiners and claims agents
The Board of Directors shall appoint examiners and claims agents.
*****
(6) Power and duty of examiners
Each examiner appointed under paragraph (1) shall -
(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), (4), or (5); and
(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.
*****
(c) Administration of oaths and affirmations; evidence; subpena powers
In connection with examinations of insured depository institutions and any State nonmember bank, savings association, or other institution making application to become insured depository institutions, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 1818(n) of this title.
(d) Annual on-site examinations of all insured depository institutions required
(1) In general
The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

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*****

Sec. 1818. Termination of status as insured depository institution
*****

(n) Ancillary provisions; subpena power, etc.

In the course of or in connection with any proceeding under this section, or in connection with any claim for insured deposits or any examination or investigation under section 1820(c) of this title, the agency conducting the proceeding, examination, or investigation or considering the claim for insured deposits, or any member or designated representative thereof, including any person designated to conduct any hearing under this section, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and such agency is empowered to make rules and regulations with respect to any such proceedings, claims, examinations, or investigations. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any such agency or any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an insured depository institution or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the depository institution or from its assets. Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.

DOJ_NMG_ 0161123

Financial Services Regulatory Relief Act
H.R. 3505
As Referred to the Senate Committee on Banking, Housing and Urban Affairs
March 9, 2006

Section 620

SEC. 620. NONWAIVER OF PRIVILEGES.

(a) Insured Depository Institutions- Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

'(x) Privileges not Affected by Disclosure to Banking Agency or Supervisor-

'(1) IN GENERAL- The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

'(2) RULE OF CONSTRUCTION- No provision of paragraph (1) may be construed as implying or establishing that--

'(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

'(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection.'.

(b) Insured Credit Unions- Section 205 of the Federal Credit Union Act (12 U.S.C.1785) is amended by adding at the end the following new subsection:

'(j) Privileges not Affected by Disclosure to Banking Agency or Supervisor-

'(1) IN GENERAL- The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

'(2) RULE OF CONSTRUCTION- No provision of paragraph (1) may be construed as implying or establishing that--

'(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

'(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.'.

All -

I believe my public testimony at the Salt Lake City hearings in February 2005 on behalf of the Calbar Corporations Committee was one of the early statements received by the TF in opposition to "selective waiver." The basis of that opposition was that selective waiver would only encourage the DoJ and others to do exactly what the TF should (and does) oppose: the granting or withholding of a benefit based on whether a target organization waives the protection of the attorney-client privilege or the attorney work product doctrine. I believe that the actual dynamic inflection point on the views of the TF with respect to this topic was when representatives of the DoJ acknowledged (as I recall, to Jan Handzlik who then reported it to the TF) that they would be very pleased if selective waiver were recognized and that a demand for it (not even a wink or nod) would immediately become item #1 in the standard play-book.

I would still oppose selective waiver in any context that would provide cover for such demands, much less facilitate or induce them. But that is not the case with respect to regulated banks. The fact is that the OCC/OTS/FDIC/FRB already have statutory bases for access to all information and records of the regulated bank, whether or not otherwise protected by the attorney-client privilege or attorney-work product doctrine. As an analytical matter, that changes everything. Selective waiver in that context will not encourage the regulators to ask for more information than they currently get and will not facilitate a waiver process as all of the information is already being provided. Instead, it serves to secure the privilege and the protection of confidentiality even within compliance with existing laws requiring disclosure. With the assistance of representatives of each of the regulators, I have prepared the attached summary of statutory and regulatory provisions upon which such access is based.

The mere fact that selective waiver might or even does increase the protections of attorney-client privilege or attorney work product is by no means outcome determinative. It would apply equally in the context of regulated banks and organizations not otherwise required to provide access to protected materials. Thus, any such increase simply cannot achieve the mandate of the TF if it comes at the expense of increased demands for waiver. But it appears to me that will not, and cannot, occur in the realm of regulated banks and similar financial institutions because they currently have access to everything anyway. Indeed, it appears to me from communications with OCC/OTS/FDIC/FRB personnel identified below that the regulators themselves are very concerned about the potential loss of confidentiality of internal bank communications with counsel if the provisions of Section 620 are not adopted. The decision in *In re Bank One Securities Litigation* referenced in my memorandum of March 28 (209 FRD 418; 2002U.S.Dist. Lexis 14253, July 31, 2002) is at least as much disconcerting to the regulators as it is to the regulated banks. I believe the reason for that is relatively straight-forward: (1) protecting the financial stability of regulated banks is inconsistent with facilitating class action or other lawsuits against them, and (2) loss of confidentiality with bank counsel is likely to impede the ability of bank counsel to assist self-compliance as it has done pre-*Bank One*.

And it is important to note that the access granted to the regulators does not extend to matters in which there is a pending, threatened or possible suit by the regulator against the regulated bank. Permitting "waiver" with respect to the regulator (making it a "selective waiver") is thus irrelevant in the banking context. It is the crown jewels in the DoJ/enforcement context.

Press reports state that the Financial Services Regulatory Reform bill (HR 3505) was reported out of the Senate Judiciary Committee and then approved by the full Senate on Thursday or so of last week. I understand that there are differences between the bill as passed the House and as passed by the Senate and thus there will be a conference committee process. My understanding is that proposed Section 620, however, is identical. The text of it as last published is also attached.

Regards,

[redacted]

Note: the "regulators" referenced in this message consist of the following (listed alphabetically), to whom a copy of this message will be forwarded separately: [redacted] GC of the FRB; [redacted] Acting GC of the FDIC; [redacted] Deputy Chief Counsel, Enforcement of the OTS; and [redacted] Deputy Chief Counsel of the OCC. That circle of communications was facilitated by [redacted] former Deputy Chief Counsel of the OCC, who is acknowledged in my memo of March 28 and who will attend the June 14 meeting of the TF. [redacted] participated in that circle of communications and, as GC of the NY Fed, certainly qualifies as a "regulator". He did so, however, primarily in his role as a Liaison to the TF. [redacted] Executive Director and General

Counsel of the Financial Services Roundtable also participated in that circle of communications [redacted] is the designated Liaison to the TF from the FS Roundtable).

<<Bank Regulatory Authority_Summary.doc>> <<FSRRA_HR3505_Section-620(9March06).doc>>

-----Original Message-----

From: Task Force Discussion [mailto:BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG] On Behalf Of [redacted]

Sent: Wednesday, May 24, 2006 5:47 AM

To: BL-ATTORNEYCLIENTPRIVILEGE@MAIL.ABANET.ORG

Subject: Re: ABA Task Force - FYI; Opposing Selective Waiver

[redacted]

Thank you for sharing the Citigroup letter favoring the protection of selective waiver for financial institutions and adoption of Sec. 620 of FSRRA. The Task Force should urge the ABA to oppose this.

While we all appreciate that various constituents are dealing with this issue as best they can, each from their own perspective and interests, it remains incumbent on the Task Force to continue its focus on the protection and preservation of the privilege, and its value to the profession, as a whole. That is our charge.

At the beginning of this journey, now almost two years ago for me, I looked on selective waiver as an easy and likely effective solution to many of the challenges presented to us. Since then, and with the benefit of the Task Force process, my view has changed. Protecting selective waiver, in any context, will harm the privilege, and, more importantly, will reduce the higher degree of voluntary legal compliance achieved by the privilege.

One of our touchstones must be the effect of all this on the "average" ABA lawyer and his or her clients. These lawyers usually do not represent Fortune 500 Corporations, large financial institutions, big CPA firms, or publicly - held businesses. They are lawyers for the "mom and pops," the folks needing a divorce, a home purchase, or defense of a driving charge. If those clients (or potential clients) continue to read and see in the media the rising "culture of waiver," with lawyers and their files appearing in high profile cases as evidence against their "clients" and the clients' (usually then-former) employees, they will not be candid with their lawyer; many will just not consult a lawyer in the first place.

The ACCA survey confirmed the chilling effect of the "culture of waiver" upon corporate America. There is no reason to believe that it does not have a similarly adverse effect upon all clients (or potential clients) of all lawyers. Our focus should continue to be the elimination (or at least the restriction) of the "culture of waiver" on all fronts.

Supporting or protecting selective waivers will only lead to their increased use, and increased demands for their use by government agencies, auditors, and others. If adopted, proposals like the Amendment to FRE 502 will be too tempting for judges faced with time-consuming and unsavory discovery disputes; every assertion of privilege in every discovery dispute could be met with a demand, order (or "suggestion" as DOJ likes to term it) for "protected" selective waiver!

The repeated suggestion for "federal" remedies also portends a move for preemption which would only subject the privilege to the political whims of Congress each election season. That could never be viewed as a positive development.

For all of these reasons, the Task Force should urge the ABA to oppose the protection of selective waiver, whether through proposals like Amended FRE 502, or by categorical business groups.

Thank you for listening.

Regards,

[redacted]

If you have any questions, please contact us.

If you have any questions, please contact us.

God Bless America,

[redacted]

Direct: [redacted]
Fax: 269.382.2382
Mobile: [redacted]
Home: [redacted]

Email: [redacted]

>>> [redacted] 5/23/2006 11:26 AM >>>

FYI
> _____
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Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 5:30 PM
To: Gorsuch, Neil M
Subject: Go ahead and call him back

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, May 31, 2006 5:58 PM
To: Flores, Robert
Cc: Schofield, Regina; Gorsuch, Neil M; Todd, Gordon (SMO); Gunn, Currie (SMO)
Subject: Nat Campaign to Stop Violence, July 17th

Bob: Currie got a request from [redacted] to give remarks at this year's Do the Write Thing recognition program on July 17th. What is your rec on doing this? I participated a couple of years ago and am willing to do so again subject to everyone recognizing that I might have to provide a substitute at the last minute given uncertainties in my schedule. Would you be able to draft the remarks and work with Gordon on them? Also, are you assisting them in reserving the Press Center here on the 7th floor, which is where they want to hold the event? What do we need to do here in OASG to be helpful to you? Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 5:59 PM
To: Cook, Elisebeth C
Subject: RE: Go ahead and call him back

Done. Uneventful but happy to share details if you like.

-----Original Message-----
From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 5:30 PM
To: Gorsuch, Neil M
Subject: Go ahead and call him back

Jezierski, Crystal

From:	Jezierski, Crystal
Sent:	Thursday, June 01, 2006 7:07 AM
To:	Seidel, Rebecca; Otis, Lee L; Roehrkasse, Brian; Gorsuch, Neil M
Cc:	Swenson, Lily F; Pacold, Martha M
Subject:	Re: Meeting on possible approaches to announcing possible EOIR review recommendations

I have to rearrange my aftewrnoon due to a conflict not related to this meeting so I can now attend a 1 pm meeting to discuss this.

Crystal

-----Original Message-----
From: Seidel, Rebecca
To: Jezierski, Crystal; Otis, Lee L; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 21:53:01 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Does morning work for folks?

-----Original Message-----
From: Jezierski, Crystal
To: Otis, Lee L; Seidel, Rebecca; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 21:01:46 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

I can't do 1 pm, 4 pm worked for me. If I can connect with you, Lee, later that day I'll be fine though.

-----Original Message-----
From: Otis, Lee L
To: Seidel, Rebecca; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 20:24:38 2006
Subject: RE: Meeting on possible approaches to announcing possible EOIR review recommendations

1:00 works for Martha. If it also works for Lily let's go with that. I have to move something but I will do so.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, May 31, 2006 8:02 PM

To: Otis, Lee L; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Is there any way we can do earlier? 1pm? I am driving to Pittsburgh Fri and hope to be on road by 2pm.

-----Original Message-----
From: Otis, Lee L
To: Otis, Lee L; Seidel, Rebecca; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 19:06:53 2006
Subject: RE: Meeting on possible approaches to announcing possible EOIR review recommendations

How about 4:00? Martha can't do 3:00 and I can' t do 2:00. Also adding Neil.

From: Otis, Lee L
Sent: Wednesday, May 31, 2006 6:27 PM
To: Seidel, Rebecca; Roehrkasse, Brian; Jezierski, Crystal
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Meeting on possible approaches to announcing possible EOIR review recommendations

Are you free around 3:00 this Friday for a meeting to discuss possible approaches to announcing a slate of potential recommendations resulting from the EOIR review? We don't have decisions yet on the final content of the recommendations, but one question that has come up is how we might announce them, and related timing issues.

Otis, Lee L

From:	Otis, Lee L
Sent:	Thursday, June 01, 2006 7:40 AM
To:	Jezierski, Crystal; Seidel, Rebecca; Roehrkasse, Brian; Gorsuch, Neil M
Cc:	Swenson, Lily F; Pacold, Martha M
Subject:	Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Great. Thanks.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Jezierski, Crystal
To: Seidel, Rebecca; Otis, Lee L; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Thu Jun 01 07:06:34 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

I have to rearrange my aftewrnoon due to a conflict not related to this meeting so I can now attend a 1 pm meeting to discuss this.

Crystal

-----Original Message-----
From: Seidel, Rebecca
To: Jezierski, Crystal; Otis, Lee L; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 21:53:01 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Does morning work for folks?

-----Original Message-----
From: Jezierski, Crystal
To: Otis, Lee L; Seidel, Rebecca; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 21:01:46 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

I can't do 1 pm, 4 pm worked for me. If I can connect with you, Lee, later that day I'll be fine though.

-----Original Message-----

From: Otis, Lee L
To: Seidel, Rebecca; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 20:24:38 2006
Subject: RE: Meeting on possible approaches to announcing possible EOIR review recommendations

1:00 works for Martha. If it also works for Lily let's go with that. I have to move something but I will do so.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, May 31, 2006 8:02 PM
To: Otis, Lee L; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

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How about 4:00? Martha can't do 3:00 and I can' t do 2:00. Also adding Neil.

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Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 01, 2006 8:09 AM
To: Otis, Lee L; Jezierski, Crystal; Roehrkasse, Brian; Gorsuch, Neil M
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Thanks!

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From: Otis, Lee L
To: Jezierski, Crystal; Seidel, Rebecca; Roehrkasse, Brian; Gorsuch, Neil M
CC: Swenson, Lily F; Pacold, Martha M
Sent: Thu Jun 01 07:40:19 2006
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Great. Thanks.

Sent from my BlackBerry Wireless Handheld

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To: Otis, Lee L; Roehrkasse, Brian; Jezierski, Crystal; Gorsuch, Neil M
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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, June 1, 2006 8:15 AM
To:	Seidel, Rebecca; Otis, Lee L; Jezierski, Crystal; Roehrkasse, Brian
Cc:	Swenson, Lily F; Pacold, Martha M
Subject:	RE: Meeting on possible approaches to announcing possible EOIR review recommendations

I will try to join you in progress circa 130; please don't wait on me.

-----Original Message-----
From: Seidel, Rebecca
Sent: Thursday, June 01, 2006 8:09 AM
To: Otis, Lee L; Jezierski, Crystal; Roehrkasse, Brian; Gorsuch, Neil M
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Re: Meeting on possible approaches to announcing possible EOIR review recommendations

Thanks!

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CC: Swenson, Lily F; Pacold, Martha M
Sent: Wed May 31 19:06:53 2006
Subject: RE: Meeting on possible approaches to announcing possible EOIR review recommendations

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Sent: Wednesday, May 31, 2006 6:27 PM
To: Seidel, Rebecca; Roehrkasse, Brian; Jezierski, Crystal
Cc: Swenson, Lily F; Pacold, Martha M
Subject: Meeting on possible approaches to announcing possible EOIR review recommendations

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Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 01, 2006 8:50 AM
To: Gorsuch, Neil M
Subject: RE: CV
Attachments: SJC contact info May 2006 (with Colorado).doc

That is fine, although it is not clear how much influence DC lawyers will have with Colorado Senators. I've attached a revised contact sheet with both Salazar and Allard, with Allard first (senior and alphabetical). We suggest two letters (same text is fine)--one to Specter/Leahy, one to Allard/Salazar.

BTW--did you figure out why [redacted] did not get your materials the first time around?

P.S. Nice car--I was totally coveting the convertible the other day.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:40 PM
To: Cook, Elisebeth C
Subject: RE: CV

I'd like to give this to the Kellogg folks, along with the Allard contact info, if possible.

-----Original Message-----
From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: RE: CV

Neil--this one also has Salazar information--for the Colorado folks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:35 PM
To: [redacted] Cook, Elisebeth C
Subject: RE: CV

Sorry for this imposition. Am adding Beth Cook who has all the relevant info. Many thanks!

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Wednesday, May 31, 2006 2:24 PM
To: Gorsuch, Neil M
Subject: RE: CV

Thank you very much. One more quick question - I believe you spoke with [redacted] about letters from colleagues, and we are just wondering where we should address them to?

Thanks again,
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, May 31, 2006 2:22 PM
To: [redacted]
Subject: RE: CV

Here you go. Hope all is well with you.

-----Original Message-----
From: [redacted] [mailto [redacted]]
Sent: Wednesday, May 31, 2006 10:32 AM
To: Gorsuch, Neil M
Subject: CV

Neil-

Would it be possible to send over a copy of your latest CV?

Thanks,
[redacted]

Senate Judiciary Committee Contact Info.

Main Addressee: The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

"Dear Mr. Chairman:" or "Dear Chairman Specter:"

fax for Specter Nomination Staff: (202) 228-1698

cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510

fax for Leahy Nomination staff: (202) 224-9516

cc: Office of Legal Policy
Fax for OLP: (202) 514-5715

Main Addressees: The Honorable Wayne Allard
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Fax: (202) 224-6471

The Honorable Ken Salazar
United States Senate
702 Hart Senate Office Building
Washington, D.C. 20510

Fax: (202) 228-5036

cc: Office of Legal Policy
Fax for OLP: (202) 514-5715

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 9:04 AM
To: Elwood, John
Subject: Do you have ten mins this am when I might stop by?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 9:16 AM
To: Cook, Elisebeth C; [redacted]
Subject: RE: CV
Attachments: SJC contact info May 2006 (with Colorado).doc

[redacted] - The list you received yesterday doesn't have the info for both Colo Senators. Here's a corrected version. My apologies for the inconvenience. NMG

-----Original Message-----
From: Cook, Elisebeth C
Sent: Wednesday, May 31, 2006 2:38 PM
To: Gorsuch, Neil M; [redacted]
Subject: RE: CV

[redacted]

I am attaching a list of the relevant contact information. Please let me know if you have any questions.

Beth

Elisebeth Collins Cook
Counselor to the Assistant Attorney General Office of Legal Policy Department of Justice 202-514-6131

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, May 31, 2006 2:35 PM
To: [redacted] Cook, Elisebeth C
Subject: RE: CV

Sorry for this imposition. Am adding Beth Cook who has all the relevant info. Many thanks!

-----Original Message-----
From: [redacted] mailto [redacted]
Sent: Wednesday, May 31, 2006 2:24 PM
To: Gorsuch, Neil M
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Thank you very much. One more quick question - I believe you spoke with [redacted] about letters from colleagues, and we are just wondering where we should address them to?

Thanks again,
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, May 31, 2006 2:22 PM
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Here you go. Hope all is well with you.

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Would it be possible to send over a copy of your latest CV?

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cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510

fax for Leahy Nomination staff: (202) 224-9516

CC: The Honorable Wayne Allard
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Fax: (202) 224-6471

The Honorable Ken Salazar
United States Senate
702 Hart Senate Office Building
Washington, D.C. 20510

Fax: (202) 228-5036

Office of Legal Policy
Fax for OLP: (202) 514-5715

Gorsuch, Neil M

Subject:	EOIR Mtg
Start:	Friday, June 2, 2006 1:30 PM
End:	Friday, June 2, 2006 2:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Moschella, William

From: Moschella, William
Sent: Thursday, June 01, 2006 9:31 AM
To: Gorsuch, Neil M
Subject: Frist Letter

Do we have a draft response yet?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 9:32 AM
To: Moschella, William
Subject: RE: Frist Letter

CIV was supposed to send it to you weeks ago. It's very perfunctory. I understand from WH that there's none of the expected heat on this issue and can explain why if you want to talk. I will ping CIV now.

From: Moschella, William
Sent: Thursday, June 01, 2006 9:31 AM
To: Gorsuch, Neil M
Subject: Frist Letter

Do we have a draft response yet?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 9:34 AM
To: Nichols, Carl (CIV)
Subject: Cookeville Letter

Seems Will hasn't received the draft letter responding to Frist; could you check on where that is?

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Thursday, June 01, 2006 9:38 AM
To: Gorsuch, Neil M
Subject: Re: Cookeville Letter

I think we were waiting for you (and WHCO) to bless the draft before sending it to Will -- since it may get sent out when OLA gets it.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Thu Jun 01 09:33:37 2006
Subject: Cookeville Letter

Seems Will hasn't received the draft letter responding to Frist; could you check on where that is?

Full Name:
Last Name:
First Name:

Business Address:

Business:

E-mail:
E-mail Display As:

,
>
>
>
>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 10:11 AM
To: Nichols, Carl (CIV)
Subject: RE: Cookeville Letter

I had thought (perhaps mistakenly) that I okayed the letter some time ago. I admit, however, that I didn't run it past Hoyt. If you want to resend it I will be happy to do so.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, June 01, 2006 9:38 AM
To: Gorsuch, Neil M
Subject: Re: Cookeville Letter

I think we were waiting for you (and WHCO) to bless the draft before sending it to Will -- since it may get sent out when OLA gets it.

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Subject: Cookeville Letter

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autoreply@cod.uscourts.gov

From: autoreply@cod.uscourts.gov
Sent: Thursday, June 1, 2006 10:39 AM
To: Gorsuch, Neil M
Subject: Local Rules Changes - Effective June 1, 2006

Good Morning,

Thank you for registering for the District of Colorado's Electronic Case Filing (ECF) system. As an ECF User, you will be sent periodic e-mail updates from the court regarding issues we consider important.

Changes have been made to Appendix F, the standard Scheduling Order, of the Local Rules of Practice for the United States District Court for the District of Colorado. The changes are effective June 1, 2006. You may review the changes by following the link below:

http://www.cod.uscourts.gov/rules_frame.htm

The changes include:

Section 2. STATEMENT OF JURISDICTION - Include a statement of the basis for subject matter jurisdiction.

Section 6.f. REPORT OF PRECONFERENCE DISCOVERY - Include a statement regarding discovery as to electronically stored information.

Section 8.e. CASE PLAN AND SCHEDULE (Deposition Schedule) - Reminds the parties that they must comply with D.C.COLO.LCivR 30.1.

Section 8.h.(4) CASE PLAN AND SCHEDULE (Discovery Limitations) - Reminds the parties the court will adopt limitations in accordance with Fed.R. Civ. P. 30(a)(2)(A), 33.

Section 8.h.(5) CASE PLAN AND SCHEDULE (Discovery Limitations) - Encourages the parties to consider establishing deadlines regarding protentive orders and motions to compel.

Counsel are strongly encouraged to review Appendix F and incorporate the changes into their case management plans. Appendix F to the Local Rules and the instructions of the Magistrate Judge and/or District Judge control when preparing a sheduling order in a case. This e-mail is informational only.

Please contact the court's ECF Help Desk toll free at 1-866-365-6381 or 303-335-2050 with any questions or concerns. You may also e-mail the court at cod_cmecf@cod.uscourts.gov.

Thanks,

[redacted]
ECF Project Manager
United States District Court
District of Colorado

District of Colorado

Im, Saovaluck

Subject:	Approaches to Announcing Possible EOIR Review Recommendations
Location:	4133
Start:	Friday, June 2, 2006 1:00 PM
End:	Friday, June 2, 2006 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Im, Saovaluck
Required Attendees:	Seidel, Rebecca; Jezierski, Crystal; Roehrkasse, Brian; Swenson, Lily F; Pacold, Martha M; Bounds, Ryan W (OLP); Gorsuch, Neil M

When: Friday, June 02, 2006 1:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4133

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

POC: Saovaluck 616-0663

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, June 1, 2006 11:01 AM
Subject: JCON Service Interruption Justice Command Center

JCON Service Interruption
Justice Command Center

The Justice Command Center will be unable to send or receive JCON email messages between the hours listed below. Please consider this service window when planning communications to Justice Command Center employees.

When: Friday, June 2, 2006, 10:00am to 12:00pm

Users Affected: Department of Justice Command Center

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Elwood, John

From: Elwood, John
Sent: Thursday, June 1, 2006 11:09 AM
To: Gorsuch, Neil M
Subject: RE: Do you have ten mins this am when I might stop by?

If you can come by before 11:30 am. Otherwise, I could probably do it about noon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 9:04 AM
To: Elwood, John
Subject: Do you have ten mins this am when I might stop by?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 11:10 AM
To: Elwood, John
Subject: Re: Do you have ten mins this am when I might stop by?

I'm now stuck in a mtg. How abt 2?

-----Original Message-----
From: Elwood, John
To: Gorsuch, Neil M
Sent: Thu Jun 01 11:08:38 2006
Subject: RE: Do you have ten mins this am when I might stop by?

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 11:14 AM
To: Elwood, John
Subject: Re: Do you have ten mins this am when I might stop by?

Think thatll work - thanks. Ill stop by then.

-----Original Message-----
From: Elwood, John
To: Gorsuch, Neil M
Sent: Thu Jun 01 11:10:50 2006
Subject: RE: Do you have ten mins this am when I might stop by?

I'm in a meeting from 2-3. 3:10?

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-----Original Message-----
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To: Elwood, John
Subject: Do you have ten mins this am when I might stop by?

Amber.JMD

From: Amber.JMD
Sent: Thursday, June 01, 2006 11:23 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Howard City, MI (MI)

-----Original Message-----
From: AmberAlert-DOJ
Sent: Wednesday, May 31, 2006 9:54 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USTP, AmberAlert; AmberAlert USNCB; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Howard City, MI (MI)

http://www.missingkids.com/missingkids/servlet/AmberServlet

AMBER ALERT:Howard City,MI VEH:2003 White Oldsmobile Alero TAG:MI YGS446 CHILD:3 White F SUSPECT:35 White M 5FT7 190LBS Eyes:Brown Hair:Black CALL 616-866-4411 ----------
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THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Ames, Andrew

From: Ames, Andrew
Sent: Thursday, June 1, 2006 11:25 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brett Gerry; Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennifer Brosnahan; Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 6/1/06 Civil Division News

Judge Rules Associate Attorney General Must Undergo Questioning Related to Tobacco Suit

Gabelli, U.S. in talks to settle fraud case -WSJ

Farmer who turned to law reaps 2nd win against lender

Whistleblower claims PennDOT case on hold

Off-label prescribing of prescription drugs: Pfizer embroiled in massive lawsuit over off-label use of Neurontin

Justice Department appeals in teen firefighter case

Hanging Up on AT&T

AP

June 1, 2006

Judge Rules Associate Attorney General Must Undergo Questioning Related to Tobacco Suit

WASHINGTON (AP) _ A judge ruled Thursday that Associate Attorney General Robert McCallum must undergo questioning in a lawsuit, a decision that is helpful to a private group seeking records about the Justice Department's conduct in a landmark case against the tobacco industry.

The action by U.S. District Judge Emmet Sullivan is the latest problem related to McCallum's nomination as the Bush administration's choice to become ambassador to Australia.

Democratic Sen. Dick Durbin of Illinois is blocking McCallum's nomination over allegations the No. 3 official at the Justice Department improperly influenced the government's lawsuit against cigarette manufacturers.

Citizens for Responsibility and Ethics in Washington sued last year after the department ignored the testimony of one of its own witnesses in the tobacco trial and reduced the amount the Bush administration is seeking from the tobacco industry from $130 billion to $10 billion.

CREW says the department has failed to produce a single responsive document to demands for information under the Freedom of Information Act.

Sullivan said the private organization is entitled to delve into the department's handling of the document requests by questioning McCallum, who is at the center of the controversy over whether the administration caved into the tobacco industry in reducing the amount of money it is seeking.

The judge said statistical data the department sends to Congress every year belies the government's argument that there is nothing unusual or out of the ordinary in the amount of time it has taken to respond to CREW's lawsuit.
In its lawsuit filed last October, CREW asked for records of all contacts between Justice Department officials and the White House concerning the tobacco litigation and records of all contacts between McCallum and his old law firm in Atlanta which has done work in the past for the tobacco industry.

END

Reuters

June 1, 2006

Gabelli, U.S. in talks to settle fraud case -WSJ

NEW YORK, June 1 (Reuters) - Lawyers for money manager Mario Gabelli are in talks to resolve civil fraud charges stemming from the alleged use of sham small-business affiliates to acquire cellphone spectrum rights in federal auctions, The Wall Street Journal reported on Thursday.

The settlement is expected to exceed $100 million, though the parties have not agreed on an amount, the newspaper said, citing unnamed people who had been briefed on the talks.

Lanny Breuer, an attorney for Lynch Interactive Corp. <LICT.PK>, a company Gabelli controls, said the government and defendants in the case are involved in "serious settlement negotiations," the Journal reported.

Calls placed to a spokesman for Gabelli and to his office were not immediately returned.

In a quarterly earnings report last week, Lynch said it and other defendants in the case, which stems from a 2001 lawsuit, were in "serious settlement negotiations." Gabelli and other defendants allegedly swindled the government by obtaining small business discounts they were not entitled to.

Gabelli had denied any wrongdoing and vowed to fight the case. Lynch said although it has contested the case vigorously, it had entered talks to avoid further litigation costs and uncertainties that a trial and possible appeals could present.

Lynch said any settlement, while eliminating significant litigation costs, would have a substantial adverse effect on the company. Lynch also said last week that the defendants have not agreed among themselves as to sharing the costs of litigation, the settlement or possible judgment amounts.

A defendant who is affiliated with Gabelli has funded about $3 million of the legal costs that are not directly attributable to any particular defendant, Lynch said.

The government joined the case, which was filed under the False Claims Act, in March. Gabelli, along with friends, family and companies he controls, and his affiliates could be forced to return as much as $206 million in profit they made from turning around and selling the licenses, the Journal said.

A settlement would follow the resolution last month of another dispute involving Gabelli and a man who helped the money manager launch his career in the 1970s.

END

Enid, OK, News

June 1, 2006

Farmer who turned to law reaps 2nd win against lender

A farmer-turned-lawyer has settled a second case involving an agricultural lender accused of abusing the provisions of a federal farm loan program.
Roger L. Ediger, now a lawyer with the firm of Mitchell & DeClerck — along with lawyers Michael C. Bigheart and Larry D. Lahman — successfully represented farmers Ronald Jenlink, of Jet, and Greg Boruff, of Reynolds, Ill., against Farmers Bancorporation, of Cherokee.
The bank — which operates under the name Farmers Exchange Bank and is headquartered in Cherokee with branches in Tonkawa, Helena and Wakita — was ordered to pay $2.127 million.

“I see the pained look of betrayal in the faces of farmers when they discover banks they trusted as partners have cheated them,” Ediger said. “People have an aversion to lawyers and lawsuits, but it’s important to stand up when actions by a few bad actors are hurting others.

“Many farmers are not aware of the fraud that has occurred and the impact it might have had on their business enterprise. Farmers are already operating on very thin profit margins, and a couple of percentage points in interest can make a huge difference.”

In February 2002, Ediger launched a similar case against Gold Banc Corp., ultimately collecting in excess of $16 million. At the time, the bank was believed to be the largest Farm Service Agency guaranteed lender in Oklahoma.

Both cases accused the banks of improperly charging excessive interest rates and fees on federally guaranteed FSA agricultural loans.
The suits were filed under the whistleblower provisions of the Civil False Claims Act. As a result of these cases, the lawyers at Mitchell & DeClerck have recovered more than $18 million for the U.S. government.

Ediger was a young farmer and leader in several prominent farm organizations when he entered law school at the University of Oklahoma in 1999 after rising debt made it difficult for him to continue farming. As a law clerk, he discovered he might be able to launch a case against his former lender when he stumbled across the federal False Claims Act and studied it closely for the first time.

“No one else had ever used this particular law to address this issue,” he said.

After successfully suing Gold Banc, he and other members of the law firm formed the Center for False Claims, which continues to provide resources for other farmers who may have questions concerning fraudulent lending activities.

END

Pittsburgh Tribune-Review

June 1, 2006

Whistleblower claims PennDOT case on hold

By Jim Ritchie
TRIBUNE-REVIEW

August "Bill" Arnold is waiting for state Auditor General's investigators to interview him and thinks the office is no longer interested in investigating overbilling by consultants at PennDOT's Collier office.

Arnold, a former PennDOT construction manager who revealed overbilling problems in a whistleblower lawsuit, said agents have yet to interview him five months after beginning an investigation. He said an investigator assigned to the case told him last week that the agency was canceling its investigation because another, unnamed agency might take over.

"The investigation is continuing," said Steve Halvonik, spokesman for Auditor General Jack Wagner, but he refused to say more.

Arnold, 62, of South Strabane, Washington County, is proceeding with a federal False Claims Act lawsuit seeking to recover some of the overbilled money for taxpayers.

PennDOT paid Arnold $500,000 in December to settle his 2001 whistleblower lawsuit, which claimed companies overcharged PennDOT for inspection and engineering services with the knowledge of District 11 managers the companies befriended with gifts. The Pittsburgh Tribune-Review first reported the problems in September.

According to Arnold, investigator Andrew Brinker -- who left the Auditor General's office last week -- told him the office was dropping the case. No one from any other agency has contacted him, said Arnold, who declined further comment. Investigators can get information from PennDOT without Arnold's involvement.

Brinker could not be located Wednesday.

Court records from the lawsuits showed PennDOT managers agreed to more than $800,000 in overpayments to consultants from March 2000 to June 2001. The agency obtained $217,013 in reimbursements from consulting firms after asking them to self-audit their billings.

In the lawsuit filed under the False Claims Act, Arnold names nine consulting companies he claims should repay PennDOT for overbillings. He filed the lawsuit -- originally naming 22 companies -- on behalf of the U.S. Department of Transportation, which could intervene in the case. The department last week filed a legal motion to counter defendants' requests to dismiss the case.

If Arnold wins or settles, the Department of Transportation would collect 75 percent of any award. Arnold would take up to 25 percent.

END

Online Journal

June 1, 2006

Off-label prescribing of prescription drugs: Pfizer embroiled in massive lawsuit over off-label use of Neurontin

By Evelyn Pringle
Journal Contributing Writer

Pfizer is currently engaged in multi-district litigation (MDL). On October 26, 2004, the Judicial Panel on Multidistrict Litigation consolidated nearly all Neurontin off-label cases in the US District Court for the District of Massachusetts.

The JPML is a panel of seven federal judges chosen by the Chief Justice of the US Supreme Court that decides on the appropriateness of establishing an MDL, and where the MDL should reside. The MDL brings together lawsuits with common claims to determine pretrial matters.

The MDL primarily involves cases of consumers who purchased Neurontin for off-label uses that Pfizer knew showed no efficacy but more lawsuits have been filed on behalf of persons who suffered adverse effects when Neurontin was prescribed for off-label uses. The first Neurontin trial is expected to take place later this year or early 2007.

In 2004, the New York law firm of Finkelstein & Partners filed several lawsuits and announced plans to file many more. At the time, the firm's senior partner, Andrew Finkelstein, said he had gathered the names of 160 people who committed suicide and 2,000 more who attempted suicide while taking Neurontin.

In addition to handling lawsuits, for more than two years Mr Finkelstein's law firm has been warning the FDA about patients committing suicide while taking Neurontin and asked the FDA numerous times to add a black box warning to Neurontin's label about the risk of suicide in patients taking the drug. As of October 2005, Mr Finkelstein has been contacted by the relatives of 425 people who committed suicide while on Neurontin.

After a year of inaction by the FDA, on March 21, 2005, Mr Finkelstein wrote a letter to the FDA's Dr Russell Katz and said in part: "Enclosed you will find two hundred fifty eight MedWatch forms . . . Each represents a suicide of an American who was on Neurontin when he or she took his or her own life."

Mr Franelstein told Dr Katz the "complete inaction by the FDA to warn an unknowing population that was relying upon the FDA to require warnings for potential adverse events from off-label usage is deplorable."

"Since our conversation of March 31, 2004," he wrote, "my firm has learned of seventy four additional suicides that occurred after that date."

"Many of these suicides likely could have been prevented," he said, "had both the treating physician and unsuspecting families been armed with full knowledge of the risks of suicide that was known to both the FDA and the manufacturer."

Neurontin was recommended for approval by the Neuropharmacolgical Drug Products Division of the FDA in 1992, and according to Mr Finkelstein, at that time, Mr Katz oversaw the FDA's analysis of the clinical data supplied by the sponsor seeking approval to sell Neurontin.

Mr Finkelstein obtained the FDA's 1992 analysis of the New Drug Application for Neurontin, and in reviewing the data, he told Dr Katz he found "shocking information."

"During your evaluation of serious adverse events that occurred during original clinical trials," he advised Dr Katz in the letter, "the risk of Neurontin causing suicide was both known and a major concern."

"The FDA reviewer from your Division," Mr Finkelstein pointed out, "specifically stated in December,

1992: Serious adverse events may limit the drug's widespread usefulness. Depression, while it

may not be an infrequent occurrence in the epileptic population, may become worse and

require intervention or lead to suicide, as it has resulted in some suicidal attempts during

clinical trials.

"In fact, during the clinical trials . . . Neurontin was attributable to four people actually attempting suicide, two more having depression with suicidal ideations and twenty two participants reporting depression so severe it required pharmacologic intervention.

"Additionally," he said, "nineteen of the seventy eight participants who reported depression during the clinical trials had no prior history of depression."

"Clearly," Mr Finkelstein wrote, "the FDA did not approve this drug with any expectation of use beyond the approved indication."

"Even though the FDA knew Neurontin caused depression that may lead to suicide and that Neurontin's effects were never fully tested on people who suffered from chronic pain, bipolar disorder or other psychiatric conditions," he told Dr Katz, "the FDA acted with no urgency."

Mr Finkelstein reminded Dr Katz of the company's 2004 conviction for fraud in the DOJ case and said: "The complicity by the FDA in Parke-Davis's scheme to defraud physicians and consumers is more egregious than the underlying fraud itself."

"The governmental body charged with the responsibility of protecting the health and safety of Americans has done absolutely nothing to prevent entirely preventable deaths," he continued. "Such complicity borders on criminality," he added.

On October 14, 2005, Mr Finkelstein wrote another letter to Dr Katz and summarized the efforts by his law firm to get the FDA to warn people about the risk of suicide. He began by saying: "Due to the continued public danger facing a substantial class of prescription drug users, I am compelled to write to you regarding the FDA's ineffective oversight related to appropriate warnings for Neurontin."

"On March 31, 2004," he reminded Mr Katz, "you were advised of thousands of serious psychiatric adverse events that occurred while Americans were taking Neurontin."

"At that time," he said, "the FDA recognized a potential imminent health crisis existed, yet nothing was done to require enhanced warning labels."

"Due to the FDA's inaction," Mr Finkelstein continued, "my firm filed a citizen's petition on May 17, 2004, with the hope that the FDA would investigate the potential for Neurontin contributing to self-injurious behavior."

In addition to the black box warning, the petition asked that a Dear Doctor letter be sent to health care providers cautioning them to be on alert for increased depression in patients taking Neurontin.

"The FDA took six (6) months to respond," Mr Finkelstein told Dr Katz, "and stated no decision had been reached and more time was needed to investigate."

"All investigations, if any," he wrote, "have been couched in secrecy and not open to public scrutiny while the same serious health crisis continues."

"Regrettably," the letter concluded, "this is an example of why the American people have lost faith in the FDA's ability to protect them from unsafe drugs."

"While your real motivations are not known at this time," he advised, "it is clear your interest is not in

discovering the truth or protecting the health and safety of the American people."

Author, Dr Marcia Angell, also recognizes the massive influence that drug companies exert over the FDA, Congress and doctors, and how this influence is harming Americans.

After she resigned as interim editor-in-chief of the New England Journal of Medicine in 2000, Dr Angell decided to write a book about the biases in clinical trials but in doing her research, says she discovered that "all roads led back to drug companies."

Her book, "The Truth about Drug Companies: How They Deceive Us and What to Do About It," provides an in depth account of the entanglements between Big Pharma and every area of the health care field including government agencies, doctors, medical journals, Congress, and universities, as well as how these relationships harm the public.

During an August 18, 2004, interview with Business Week Online, Dr Angell told reporter Amy Tsao, that she saves her harshest criticism for her fellow physicians and the medical profession as a whole. "After all," she said, "the industry is in business to make money, but that isn't what doctors and medical schools should be doing."

"They don't have to be in bed with the drug companies," she said. "But they are."

Dr Angell explained how drug companies finance most of the continuing education seminars for doctors, as well as meetings of professional societies, and how they lavish all kinds of gifts on doctors including dinners in fancy restaurants and trips to exotic resorts.

"And they provide speakers and meals for interns and residents in teaching hospitals," she told Business Week.

All of which, she says, adds to the high cost of prescription drugs. "The profession should acknowledge that this is all a form of marketing," she said, "which adds to the prices of prescription drugs."

"Doctors should take responsibility for their own education and buy their own meals," Dr Angell said.

The most perverse examples of off-label marketing involve drugging children. In 2001, Dr Stefan Kruszewski, a Harvard-trained psychiatrist working for the Pennsylvania Department of Public Welfare, began investigating the widespread off-label use of psychotropic drugs and found cases of what he calls "horrendous polypharmacy."

The first disturbing pattern he noticed was that an overwhelming number of patients were being prescribed Neurontin to treat conditions like anxiety, depression, psychosis and impotence. "The FDA had not approved using that drug for mental illnesses," he noted.

Dr Kruszewski found patients on as many as five medications at the same time, something he says is "hard to justify."

One of the most disturbing cases he found was a mentally retarded 15-year-old girl who was supposedly being treated for defiance and sexual promiscuity.

Dr Kruszewski discovered that the girl was on 11 different drugs, including five anti-psychotics, even though she had no diagnosis of a psychiatric disorder. "She was so overmedicated," he said, "that she had trouble getting out of bed or standing up by herself."

"Although physicians can choose to prescribe virtually any medication for any condition," he explains, "the promotion of Neurontin remains the subject of intense scrutiny since Pfizer's off-label promotion was previously the subject of civil and criminal penalties by the US Department of Justice."

"In my opinion as a clinical and academic psychiatrist," Dr Kruszewski says, "Neurontin's link to severe emotional and cognitive disturbances, including mania, depression, suicide and memory loss, continues

to be the most egregious aspect of Neurontin's promotion."

"It causes suffering, morbidity and death," he noted, "problems that Pfizer and the current generic makers of Neurontin have failed to make known to consumers and potential victims," he said.

Attorney Zena Crenshaw, Executive Director for National Judicial Conduct and Disability Law Project, agrees that off-label prescribing is a major problem and says any drug manufacturer even suspected of such "market expansion" should be called on the carpet.

"The idea of salesmen hyping drugs to doctors," she says, "for conditions beyond those for which the products were approved is unnerving."

"Considering that even dire prescription drug warnings probably reflect a minimum level of adequate care," she warns, "prescribing drugs off-label should seem universally hazardous."

When Dr Kruszewski warned his superiors that off-label use of the drugs was not only harmful to patients but could also expose the state to liability from lawsuits by injured patients, he was told "it's none of your business."

When Dr Kruszewski continued to voice his concerns he was told to quit digging up dirt and when he refused to let go he was fired. He has since filed a whistleblower lawsuit against state officials and six drug companies, including Pfizer, alleging among other things, that the defendants: "through the use of political friendships, money and other emoluments, effectively achieved a level of influence with Pennsylvania's state government that allowed them to abuse state finances and state citizens with impunity."

The Government Accountability Project (GAP) is a nonprofit public interest group that promotes government and corporate accountability by advancing occupational free speech, defending whistleblowers, and empowering citizen activists.

The GAP is assisting Dr Kruszewski with his lawsuit against the drug giants. Mark Cohen, an attorney with the GAP, describes whistleblowers like Dr Kruszewski as "regular people who have been pushed beyond the limits their consciences can bear."

"They feel a moral duty to set the situation right," he says.

"They can no longer 'go along to get along' in the face of wrongdoing," he explains. "And they can't simply opt out -- take another job and keep their lips sealed -- and ignore the wrongdoing," he says.

"But if 'right' and 'wrong' mean anything," Mr Cohen says, "they feel they don't really have a choice but to blow the whistle."

"Of course, they do so at great personal risk," he says. He recognizes, "Speaking up puts their current job in jeopardy and it threatens to brand them as troublemakers with other employers."

In fact, people who do expose the highly profitable Medicaid fraud or off-label practices often find themselves fired like Dr Kruszewski. However, the False Claims Act now provides a cause of action for whistleblowers with remedies that include reinstatement to their job, three times the wages lost, compensatory damages, and attorney's fees.

END

Philadelphia Inquirer (PA)

June 1, 2006

Justice Department appeals in teen firefighter case

The U.S. Justice Department has appealed a judge's decision that a 14-year-old Delaware County junior firefighter killed while answering an alarm was entitled to death benefits and a place on the National Fallen Firefighters Memorial.

Christopher Kangas' mother hoped to see his name added to that memorial in October, but unless the Justice Department drops its appeal, "the dream is deferred again," lawyer Frank W. Daly said yesterday.

Kangas was struck and killed by a car four years ago while racing on his bicycle to Brookhaven Fire Co. No. 52. Local and state officials awarded death benefits to Kangas' mother, Julie Amber-Messick, but the Justice Department said Kangas did not qualify as a public safety officer.

A U.S. Court of Federal Claims judge ruled in Amber-Messick's favor on March 27. Daly said the government had 60 days to appeal and did so at the last minute Tuesday.

END

Austin Chronicle

June 1, 2006

Hanging Up on AT&T

By Michael King

I never thought I'd get to use the names Studs Terkel and Louis Black in the same sentence.

Now, thanks to those stalwart friends of liberty at the National Security Agency and AT&T Inc., the legendary 94-year-old Chicago writer and the notorious fiftysomething *Austin Chronicle* editor are linked in legal and perhaps civil liberties history. A couple of weeks ago each of them became named plaintiffs in separate class-action lawsuits filed against the giant phone company. In the Texas lawsuit, Black, the *Chronicle*, Texas Civil Rights Project director James Harrington, local attorney Richard Grigg, and local financial adviser Michael Kentor brought suit ("on their behalf and on behalf of all others similarly situated") to stop telecommunications giant AT&T from providing detailed phone records to the NSA – "to enjoin this activity, recover damages, and hold AT&T accountable for its violations of federal and state law." The Illinois lawsuit, filed a few days later by the state ACLU, includes doctors, clerics, and elected officials as well as attorneys and reporters, and is argued in much the same terms – that the NSA program reportedly analyzing data from millions of domestic phone calls, and the AT&T cooperation with that program, violates both federal and state laws intended to protect the privacy of U.S. citizens in their personal business.

Austin attorney Jim George, who is representing the Texas plaintiffs, points out that each of their professions has either legal or professional obligations to protect the privacy of their clients or sources. "We have federal and state laws designed to protect those people's rights to do what the law imposes on them" – that is, to protect the privacy of those they represent or talk to. "We want to know if the phone company effectively gave [the NSA] the keys to the warehouse where all this information is stored" – i.e., as the legal complaint describes it, "a complete listing of customer's calling history, including the phone numbers of customers, the phone numbers customers dial, the location from which each call originates, the length of each call, and the location where each call terminates."

The lawsuits spring initially from a May 11 report in *USA Today* that several national phone companies were paid by the NSA to provide the phone records, supposedly suitable for "data-mining" for potential patterns. Some of the companies have since denied cooperating with the feds. AT&T has been relatively

coy, refusing to address the lawsuits directly, instead issuing a general statement: "We have an obligation to assist law enforcement and other government agencies responsible for protecting the public welfare, whether it be an individual or the security interests of the entire nation," the AT&T statement read. "It would be as irresponsible for AT&T to refuse to assist in protecting the country when the law allows or requires it[,] as it would be for AT&T to provide such assistance when the law forbids it."

Follow the Law

The problem for AT&T, according to Jim George, is that – absent a warrant or a court order – several federal and state laws indeed do "forbid" the sort of data transfer that the company apparently made to the NSA. For example, the 1986 Electronic Communications Privacy Act specifically declares that phone companies "shall not knowingly divulge a record or other information pertaining to a subscriber or customer ... to any government entity," with financial penalties for each and every violation. "Congress and the Legislature said, 'You can't do that,'" said George. "If they think that law is wrong, they need to do what everybody else has to do – go to Congress and the Legislature and get it changed." Concerning similar lawsuits – there are a slew of these accumulating across the country – the NSA is pleading "state secrets," but the Texas plaintiffs are not asking for details of the NSA program or indeed even to reveal what information has been provided. "We don't need to know that," says George, "that's not relevant. If somebody was given the keys to the warehouse, that's all we need to know, because that violates the law."

AT&T's case is also undermined by the reported refusal of Seattle-based Qwest Communications to provide phone records on its customers when asked by the NSA, because the agency refused to request a court order.

"Everybody in the U.S. is required to follow the laws as written," said George. "If the president and the NSA think they need this information, then they need to ask a FISA [Foreign Intelligence Surveillance Act] court, or some court, to grant them the authority to get it. Everybody has to play by the same rules."

Enough Is Too Much

Of course, the Bush administration has made a major industry of devising self-defined "legal" ways of evading the law as written – attorney general opinions, legislation "signing statements," peremptory executive orders, and so on. Most are simply elaborate variations on the classic Nixonian definition of the imperial presidency: "If the president does it, it's not against the law." Just as Nixon (and his bipartisan successors) have used "national security" to excuse the steady erosion of constitutionally guaranteed liberties, Bush has used the boundless "war on terror" to excuse any and all assaults on personal privacy. If the information is available, they want it – whether or not it will actually produce useful intelligence, and whether or not it is legal to obtain.

Since the pending lawsuit asks for financial damages regarding every single phone call monitored, some of us at the *Chronicle* are dreaming what we will do with all that moolah AT&T will have to fork over when it loses the suit. (Actually, split several million ways, it wouldn't amount to much per person.) More seriously, we're honored to stand with Louis Black, Jim Harrington, Robert Scheer, Studs Terkel, the Electronic Frontier Foundation, the ACLU, and hundreds of other citizens who are telling the phone company and the government that enough is enough. You wanna know who I'm talking to on the phone? Get a warrant.

END

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 1, 2006 12:19 PM
To: Gorsuch, Neil M
Subject: FYI

I spoke to the Group Reservations Manager, Dawn Bodes, who has revised your hotel arrival date from June 5 to June 6.

Calvert, Chris (CIV)

From:	Calvert, Chris (CIV)
Sent:	Thursday, June 1, 2006 12:44 PM
To:	Gorsuch, Neil M
Cc:	Nichols, Carl (CIV)
Subject:	FW: Current draft of Cookeville letter to Sen. Frist
Attachments:	frist2.wpd; CalvertChris_657a5d050017.pdf

Neil - Carl said you need the draft letter. It is attached, along with a copy of the incoming correspondence.

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

From: Calvert, Chris (CIV)
Sent: Friday, May 12, 2006 12:01 PM
To: Gorsuch, Neil M
Subject: Current draft of Cookeville letter to Sen. Frist

Neil - Carl asked me to send a copy of the (attached) current draft to you.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

Congress of the United States

Washington, DC 20510

March 10, 2006

The Honorable Alberto Gonzales
Department of Justice
Robert F. Kennedy Building
Tenth Street and Constitution Avenue, N.W.
Washington, DC 20530

Dear Attorney General Gonzales,

We are writing to express our deep concern regarding the recent Motion filed by the Department of Health and Human Services (HHS) to alter the judgment in the case of *Cookeville v. Thompson* based on Section 5002 of the Deficit Reduction Act of 2005 (DRA). As you will recall, the U.S. District Court decision in this case awarded 15 Tennessee hospitals up to $100 million in Medicare Disproportionate Share Hospital (DSH) payments.

The U.S. District Court's ruling, which is now being challenged, was based on its rejection of the Centers for Medicare and Medicaid Services (CMS) DSH policy as a violation of the Medicare statute. In CMS' 2000 policy statement announcing the inclusion of certain expansion population individuals in the DSH formula, CMS stated that these individuals would only be included in the DSH calculation prospectively. Hospitals challenged the prospective nature of the policy and were awarded compensation for patients treated prior to 2000.

At the recommendation of CMS, Congress included a provision in the DRA ratifying the 2000 policy and its prospective application. Tennessee hospitals expressed concern that court decisions directing CMS to pay retroactively could be appealed with the new law. During the reconciliation process, however, CMS continually assured Congressional staff verbally, and by electronic communication, that hospitals which had been successful in litigation would still receive payment. CMS asserted that the new provision would not affect decided cases and would only be applied prospectively.

In its Motion, however, HHS cites the DRA as support for the reversal of the *Cookeville* decision. There is no mention that the regulation should only apply prospectively. In fact, HHS' position suggests that recalculation of the DSH formula should not have been required. Congress intended that this provision would only be used prospectively. Thus, hospitals that had been successful in litigation prior to passage of the DRA would still receive payment. Considering the argument made by HHS rests upon the DRA, and that it was our understanding that this provision would not be used to appeal decided cases, we request further explanation of what we believe to be a serious miscommunication by CMS.

Thank you for your time and attention. We look forward to your prompt response.

Sincerely,

William H. Frist, M.D.
Majority Leader
United States Senate

Lamar Alexander
United States Senate

Zach Wamp
United States House of Representatives

William L. Jenkins
United States House of Representatives

John J. Duncan, Jr.
United States House of Representatives

Lincoln Davis
United States House of Representatives

Jim Cooper
United States House of Representatives

Bart Gordon
United States House of Representatives

Marsha Blackburn
United States House of Representatives

John Tanner
United States House of Representatives

Harold Ford
United States House of Representatives

Congress of the United States

Washington, DC 20510

March 10, 2006

The Honorable Michael O. Leavitt
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Leavitt,

We are writing to express our deep concern regarding the recent Motion filed by the Department of Health and Human Services (HHS) to alter the judgment in the case of *Cookeville v. Thompson* based on Section 5002 of the Deficit Reduction Act of 2005 (DRA). As you will recall, the U.S. District Court decision in this case awarded 15 Tennessee hospitals up to $100 million in Medicare Disproportionate Share Hospital (DSH) payments.

The U.S. District Court's ruling, which is now being challenged, was based on its rejection of the Centers for Medicare and Medicaid Services (CMS) DSH policy as a violation of the Medicare statute. In CMS' 2000 policy statement announcing the inclusion of certain expansion population individuals in the DSH formula, CMS stated that these individuals would only be included in the DSH calculation prospectively. Hospitals challenged the prospective nature of the policy and were awarded compensation for patients treated prior to 2000.

At the recommendation of CMS, Congress included a provision in the DRA ratifying the 2000 policy and its prospective application. Tennessee hospitals expressed concern that court decisions directing CMS to pay retroactively could be appealed with the new law. During the reconciliation process, however, CMS continually assured Congressional staff verbally, and by electronic communication, that hospitals which had been successful in litigation would still receive payment. CMS asserted that the new provision would not affect decided cases and would only be applied prospectively.

In its Motion, however, HHS cites the DRA as support for the reversal of the *Cookeville* decision. There is no mention that the regulation should only apply prospectively. In fact, HHS' position suggests that recalculation of the DSH formula should not have been required. Congress intended that this provision would only be used prospectively. Thus, hospitals that had been successful in litigation prior to passage of the DRA would still receive payment. Considering the argument made by HHS rests upon the DRA, and that it was our understanding that this provision would not be used to appeal decided cases, we request further explanation of what we believe to be a serious miscommunication by CMS.

Thank you for your time and attention. We look forward to your prompt response.

Sincerely,

William H. Frist, M.D.
Majority Leader
United States Senate

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William L. Jenkins
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John J. Duncan, Jr.
United States House of Representatives

Lincoln Davis
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Jim Cooper
United States House of Representatives

Bart Gordon
United States House of Representatives

Marsha Blackburn
United States House of Representatives

John Tanner
United States House of Representatives

Harold Ford
United States House of Representatives

The Honorable William H. Frist
Majority Leader
United States Senate
Washington, D.C. 20510

Dear Mr. Leader:

This responds to your letter of March 10, 2006, to the Attorney General regarding the case of Cookeville v. Thompson. A similar response is being sent to the other signatories on your letter.

Specifically, you express concern as to the recent Motion filed by the Department of Health and Human Services based on Section 5002 of the Deficit Reduction Act of 2005. Since this matter is in litigation, it would be inappropriate for the Department of Justice to comment on or address the matters raised in your correspondence.

Thank you for your inquiry. Please do not hesitate to contact this office if we may be of further assistance on any other matter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable Harry M. Reid
Minority Leader
United States Senate

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 2:12 PM
To: Gorsuch, Neil M
Subject: Dan

Let me know when you have 1/2 hour or so to discuss Mr. Metcalfe.

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Full Name:
Last Name:
First Name:

Business Address:

Business:

E-mail:
E-mail Display As:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 3:09 PM
To: Todd, Gordon (SMO)
Subject: RE: Dan

4pm?

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 2:12 PM
To: Gorsuch, Neil M
Subject: Dan

Let me know when you have 1/2 hour or so to discuss Mr. Metcalfe.

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 3:10 PM
To: Nichols, Carl (CIV)
Subject: RE: Current draft of Cookeville letter to Sen. Frist

My apologies but I double checked and I did already send this to Hoyt and he had no objection. Please could you get it to OLA? Many thanks.

From: Calvert, Chris (CIV)
Sent: Thursday, June 01, 2006 12:44 PM
To: Gorsuch, Neil M
Cc: Nichols, Carl (CIV)
Subject: FW: Current draft of Cookeville letter to Sen. Frist

Neil - Carl said you need the draft letter. It is attached, along with a copy of the incoming correspondence.

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

From: Calvert, Chris (CIV)
Sent: Friday, May 12, 2006 12:01 PM
To: Gorsuch, Neil M
Subject: Current draft of Cookeville letter to Sen. Frist

Neil - Carl asked me to send a copy of the (attached) current draft to you.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 1, 2006 3:31 PM
To: Todd, Gordon (SMO)
Subject: Re: Dan

Actually just freed up from a mtg early. You can call me anytime.

-----Original Message-----
From: Todd, Gordon (SMO)
To: Gorsuch, Neil M
Sent: Thu Jun 01 15:20:34 2006
Subject: Re: Dan

Ok. I'll call you - working from home while dealing with the plumber.

-----Original Message-----
From: Gorsuch, Neil M
To: Todd, Gordon (SMO)
Sent: Thu Jun 01 15:08:37 2006
Subject: RE: Dan

4pm?

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 2:12 PM
To: Gorsuch, Neil M
Subject: Dan

Let me know when you have 1/2 hour or so to discuss Mr. Metcalfe.

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 4:49 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Cc: Ansell, Frederick
Subject: FW: speech

Does this ring any bells with you? I don't recall such a speech since I've been here.

From: Ansell, Frederick
Sent: Thursday, June 01, 2006 3:15 PM
To: Gorsuch, Neil M
Subject: speech

Neil --

I am trying to locate a speech that Mr. McCallum gave on the subject of crime. I was not told the date or group involved. The content that would be useful to a project I am working on is the benefits of a reduction in violent crime that are real but nonetheless not obvious and difficult to see -- people who are not killed, work days that are spent on the job and not recuperating from injuries, people who are not mourning the loss of loved ones, and that there are no statistics on these real benefits of preventing violent crime. I appreciate whatever help you can provide.

Fred

Calvert, Chris (CIV)

From: Calvert, Chris (CIV)
Sent: Thursday, June 01, 2006 4:51 PM
To: Nichols, Carl (CIV); Gorsuch, Neil M
Subject: RE: Cookeville Letter

Neil and Carl - I double-checked and found out the letter went to our Communications office on May 26. The additional letters were run and the letters went to Exec Sec yesterday. As soon as they process them, they will forward the letters to OLA.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, June 01, 2006 10:11 AM
To: Calvert, Chris (CIV)
Subject: Fw: Cookeville Letter

Can you resend to Neil the draft letter to Sen. Frist? Thx

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Thu Jun 01 10:11:08 2006
Subject: RE: Cookeville Letter

I had thought (perhaps mistakenly) that I okayed the letter some time ago. I admit, however, that I didn't run it past Hoyt. If you want to resend it I will be happy to do so.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Thursday, June 01, 2006 9:38 AM
To: Gorsuch, Neil M
Subject: Re: Cookeville Letter

I think we were waiting for you (and WHCO) to bless the draft before sending it to Will ... since it may

I think we were waiting for you (and WHCO) to bless the draft before sending it to Will -- since it may get sent out when OLA gets it.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Thu Jun 01 09:33:37 2006
Subject: Cookeville Letter

Seems Will hasn't received the draft letter responding to Frist; could you check on where that is?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, June 1, 2006 4:57 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Ansell, Frederick
Subject: Re: speech

I believe it may be my remarks to the ABA convention in Atlanta two years ago about the ABA position against mandatory min sentences. They argued on a cost basis as one point but did no benefit analysis of lives saved, rapes that did not occur, etc. It was only one point of several objections I made to the ABA resolution. Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
CC: Ansell, Frederick
Sent: Thu Jun 01 16:49:13 2006
Subject: FW: speech

Does this ring any bells with you? I don't recall such a speech since I've been here.

From: Ansell, Frederick
Sent: Thursday, June 01, 2006 3:15 PM
To: Gorsuch, Neil M
Subject: speech

Neil --

I am trying to locate a speech that Mr. McCallum gave on the subject of crime. I was not told the date or group involved. The content that would be useful to a project I am working on is the benefits of a reduction in violent crime that are real but nonetheless not obvious and difficult to see -- people who are not killed, work days that are spent on the job and not recuperating from injuries, people who are not mourning the loss of loved ones, and that there are no statistics on these real benefits of preventing violent crime. I appreciate whatever help you can provide.

Fred

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 5:07 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Ansell, Frederick; McCallum, Robert (SMO)
Subject: RE: speech

Could you please forward a copy to Fred?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, June 01, 2006 4:57 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Ansell, Frederick
Subject: Re: speech

I believe it may be my remarks to the ABA convention in Atlanta two years ago about the ABA position against mandatory min sentences. They argued on a cost basis as one point but did no benefit analysis of lives saved, rapes that did not occur, etc. It was only one point of several objections I made to the ABA resolution. Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
CC: Ansell, Frederick
Sent: Thu Jun 01 16:49:13 2006
Subject: FW: speech

Does this ring any bells with you? I don't recall such a speech since I've been here.

From: Ansell, Frederick
Sent: Thursday, June 01, 2006 3:15 PM
To: Gorsuch, Neil M
Subject: speech

Neil --

I am trying to locate a speech that Mr. McCallum gave on the subject of crime. I was not told the date or group involved. The content that would be useful to a project I am working on is the benefits of a reduction in violent crime that are real but nonetheless not obvious and difficult to see -- people who are not killed, work days that are spent on the job and not recuperating from injuries, people who are not mourning the loss of loved ones, and that there are no statistics on these real benefits of preventing violent crime. I appreciate whatever help you can provide.

Fred

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 5:34 PM
To: Calvert, Chris (CIV); Nichols, Carl (CIV); Moschella, William
Subject: RE: Cookeville Letter

Will, FYI

-----Original Message-----
From: Calvert, Chris (CIV)
Sent: Thursday, June 01, 2006 4:52 PM
To: Nichols, Carl (CIV); Gorsuch, Neil M
Subject: RE: Cookeville Letter

Neil and Carl - I double-checked and found out the letter went to our Communications office on May 26. The additional letters were run and the letters went to Exec Sec yesterday. As soon as they process them, they will forward the letters to OLA.

Chris

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 5:35 PM
To: Gorsuch, Neil M
Subject: Travel Request - CRS Event in NYC

Neil:

Next Thursday, CRS is putting on its Arab/Muslim/Sikh train-the-trainers program at Ellis Island, NY, and took the unusual step of inviting me. I had been planning on attending one of these anyway, both just to see what CRS is up to, but also because I have heard mixed reviews of the program. Given that Sharee reached out on this one, and my separate interest, I think there is merit to my going. We would be on the hook for travel costs however, as CRS declined to cover them (unless we can require them to do so – I'm not sure what the protocol for this is). Thoughts?

Gordon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 5:36 PM
To: Todd, Gordon (SMO)
Subject: RE: Travel Request - CRS Event in NYC

Sounds sensible to me. Run it by Robert.

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 5:35 PM
To: Gorsuch, Neil M
Subject: Travel Request - CRS Event in NYC

Neil:

Next Thursday, CRS is putting on its Arab/Muslim/Sikh train-the-trainers program at Ellis Island, NY, and took the unusual step of inviting me. I had been planning on attending one of these anyway, both just to see what CRS is up to, but also because I have heard mixed reviews of the program. Given that Sharee reached out on this one, and my separate interest, I think there is merit to my going. We would be on the hook for travel costs however, as CRS declined to cover them (unless we can require them to do so – I'm not sure what the protocol for this is). Thoughts?

Gordon

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, June 01, 2006 5:37 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Travel Request - CRS Event in New York

Robert:

Next Thursday, CRS is putting on its Arab/Muslim/Sikh train-the-trainers program at Ellis Island, NY, and took the unusual step of inviting me. I had been planning on attending one of these anyway, both just to see what CRS is up to, but also because I have heard mixed reviews of the program. Given that Sharee reached out on this one, and my separate interest, I think there is merit to my going. We would be on the hook for travel costs however, as CRS declined to cover them. Thoughts?

Gordon

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, June 1, 2006 5:59 PM
To: Gorsuch, Neil M
Subject: Fw: (5:40PM) CALL NEIL GORSUCH, [redacted]

Should we talk tonight?

-----Original Message-----
From: Bennett, Catherine T
To: Elwood, Courtney
Sent: Thu Jun 01 17:41:22 2006
Subject: (5:40PM) CALL NEIL GORSUCH, [redacted]

Catherine T. Bennett
Staff Assistant
Office of the Attorney General
202-514-2107

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 01, 2006 6:00 PM
To: Elwood, Courtney
Subject: RE: (5:40PM) CALL NEIL GORSUCH, [redacted]

If you have 5 mins now it might be to the good, but tomorrow morning is fine too.

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, June 01, 2006 5:59 PM
To: Gorsuch, Neil M
Subject: Fw: (5:40PM) CALL NEIL GORSUCH, [redacted]

Should we talk tonight?

-----Original Message-----
From: Bennett, Catherine T
To: Elwood, Courtney
Sent: Thu Jun 01 17:41:22 2006
Subject: (5:40PM) CALL NEIL GORSUCH, [redacted]

Catherine T. Bennett
Staff Assistant
Office of the Attorney General
202-514-2107

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, June 1, 2006 6:11 PM
To: Todd, Gordon (SMO)
Cc: Gorsuch, Neil M
Subject: Re: Travel Request - CRS Event in New York

Get with Currie and see if OASG has the funds. I think you should go. Robt.

-----Original Message-----
From: Todd, Gordon (SMO)
To: McCallum, Robert (SMO)
CC: Gorsuch, Neil M
Sent: Thu Jun 01 17:37:14 2006
Subject: Travel Request - CRS Event in New York

Robert:

Next Thursday, CRS is putting on its Arab/Muslim/Sikh train-the-trainers program at Ellis Island, NY, and took the unusual step of inviting me. I had been planning on attending one of these anyway, both just to see what CRS is up to, but also because I have heard mixed reviews of the program. Given that Sharee reached out on this one, and my separate interest, I think there is merit to my going. We would be on the hook for travel costs however, as CRS declined to cover them. Thoughts?

Gordon

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 01, 2006 6:18 PM
To: USDOJ- Office of Public Affairs
Subject: FBI, STATE AND LOCAL AUTHORITIES ARREST FOUR ON CHILD PORNOGRAPHY CHARGES

Department of Justice

United States Attorney Terrance P. Flynn
District of Western New York

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 1, 2006
WWW.USDOJ.GOV/USAO/NYW

CONTACT:
PEGGY McFARLAND
PHONE: (716) 843-5814
FAX: (716) 551-3051

FBI, STATE AND LOCAL AUTHORITIES ARREST FOUR ON CHILD PORNOGRAPHY CHARGES

BUFFALO, N.Y. — Four New York men were arrested on child pornography charges, United States Attorney Terrance P. Flynn and Special Agent in Charge Laurie J. Bennett of the FBI Buffalo Field Office announced today. Two of those arrested are registered sex offenders. These investigations are unrelated and were conducted by the FBI Buffalo Cyber Task Force undercover initiative that targets online child predators.

Assistant U.S. Attorney Allison P. Gioia stated that among those arrested was registered sex offender Jeffrey John Frazier, 40, of North Tonawanda, N.Y. Frazier was arrested and charged in a criminal complaint with the transmission, receipt and possession of child pornography. Frazier was convicted in 2003 of sexual abuse and endangering the welfare of a child and was sentenced to 60 days imprisonment and 5 years probation. During a home visit by Niagara County Probation Officers and based on a preview of his computer by Probation Officers, Frazier was suspected of being in possession of child pornography. Further investigation confirmed, and Frazier later admitted, that he sent, received and possessed child pornography using five email addresses found on his home computer. If convicted, Frazier faces a mandatory minimum of 15 years in prison and a maximum of 40 years in prison on the transmission and receipt of child pornography charges. Frazier also faces a mandatory minimum of 10 years in prison and a maximum of 20 years in prison on the possession charge. On each of the charges, Frazier also faces a $250,000 fine and a term of supervised release of up to life.

Gioia added that another registered sex offender, Timothy W. Brenon, 56, of North Tonawanda, N.Y., was also arrested and was charged with possessing child pornography. As alleged in the criminal complaint, Brenon was convicted in August 2002 of possessing a sexual performance by a child and was sentenced to 5 years probation. Brenon was found to be in possession of pornography in violation of the terms of his probation. Thereafter, Brenon admitted to detectives of the City of North Tonawanda Police Department that he possessed child pornography, including images of young children engaged in oral sex and intercourse in

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different poses. If convicted, Brenon faces a mandatory minimum of 10 years in prison, a fine of $250,000 and a term of supervised release of up to life.

Lackawanna resident William D. Baker, 63, was arrested and charged in a criminal complaint with possessing child pornography. As alleged in the criminal complaint, a computer repair technician, while attempting to perform certain repairs on Baker's computer, discovered what appeared to be images of children engaged in sex acts. The computer repair technician contacted the Lackawanna Police Department who thereafter contacted the FBI. When he was confronted by the FBI, Baker admitted to downloading child pornography for approximately two to three years. Baker further admitted to sending and receiving child pornography through email. Of the images Baker admitted to possessing, Baker estimated that the youngest boy depicted in the images is four years old. If convicted, Baker faces a maximum penalty of 10 years in prison, a $250,000 fine and a term of supervised release of up to life.

Finally, Buffalo resident Michael P. Buckley, 41, was arrested and charged in a criminal complaint with possession of child pornography. Buckley came to the attention of the FBI based on information obtained during the execution of a search warrant on a Santa Clara, Calif., credit card processing company. The information revealed and Buckley later admitted that he had purchased access to Internet Web sites containing child pornography. In two visits to Buckley's residence, FBI agents seized over 50 CD Roms, well over 100 floppy disks and over 10 binders of suspected child pornography. Buckley admitted to FBI agents that he had a preference for pictures of young female children ages 10-11, and that he possessed many images of children between those ages, including nude images. Buckley faces a maximum term of 10 years in prison, a $250,000 fine and a term of supervised release of up to life.

Each of the defendants made his initial appearance today before United States Magistrate Judge Hugh B. Scott. Defendants Frazier, Brenon, and Buckley were detained pending detention hearings to be held before Judge Scott as follows: June 6 at 10:00 a.m. for defendant Frazier; June 5, 2006 at 2:00 p.m. for defendant Buckley; and June 2, 2006 at 2:00 p.m. for defendant Brenon. Defendant Baker was released on bail and will be back before Judge Scott on June 5, 2006 at 11:00 a.m. for an attorney appearance.

It should be noted that the fact that a defendant has been charged with a crime is merely an accusation, the defendant is presumed innocent unless and until proven guilty.

These four arrests were coordinated by the FBI Buffalo Field Office under the direction of Special Agent in Charge Laurie J. Bennett and with the assistance of the following state and local agencies: the Buffalo, New York Police Department; the Erie County, New York Sheriff's Office; the Lackawanna, New York Police Department; the New York State Attorney General's Office; the New York State Police; Niagara County, New York Probation Office; Niagara County, New York Sheriff's Office and the North Tonawanda, New York Police Department.

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Image not available for this document, ID: 0.7.10316.9753-000002

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 02, 2006 7:16 AM
To: Gorsuch, Neil M; Shaw, Aloma A; Shaw, Aloma A; Gunn, Currie (SMO)
Subject: Fax to [redacted] at Alston firm.

Neil, Aloma, and Currie: I am going to be visiting my former secretary at A&B this morning. Can you get a copy of the OPR letter printed along with a copy of [redacted] speech and then faxed to [redacted] attention? I will call in the fax number when I get there around 9 am. [redacted] doesn't get in until about that time so don't fax it until I call. Thanks. Robt.

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Friday, June 2, 2006 7:55 AM
To:	Todd, Gordon (SMO)
Cc:	Gorsuch, Neil M
Subject:	Re: Nat Campaign to Stop Violence, July 17th

Have not heard back yet. I am also inclined to do it. Also run it by Crystal, OAG and ODAG for input. Keeping Neil in loop as well. Robt.

-----Original Message-----
From: Todd, Gordon (SMO)
To: McCallum, Robert (SMO)
Sent: Fri Jun 02 07:40:26 2006
Subject: Re: Nat Campaign to Stop Violence, July 17th

Robert - have you heard back privately from Bob Flores on this inquiry? OJP OAAG thinks you should do it, apparently, but you had asked OJJDP for a recommendation.

-----Original Message-----
From: Daley, Cybele
To: Todd, Gordon (SMO)
Sent: Fri Jun 02 06:56:54 2006
Subject: Fw: Nat Campaign to Stop Violence, July 17th

Gordon - I'll have our Communications folks work on remarks and check 7th floor availability.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Wed May 31 19:48:02 2006
Subject: Fw: Nat Campaign to Stop Violence, July 17th

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@usdoj.gov>
To: Flores, Robert <Robert.Flores@usdoj.gov>
CC: Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>;

Todd, Gordon (SMO) <Gordon.Todd2@usdoj.gov>; Gunn, Currie (SMO) <Currie.Gunn@usdoj.gov>
Sent: Wed May 31 17:57:18 2006
Subject: Nat Campaign to Stop Violence, July 17th

Bob: Currie got a request from [redacted] to give remarks at this year's Do the Write Thing recognition program on July 17th. What is your rec on doing this? I participated a couple of years ago and am willing to do so again subject to everyone recognizing that I might have to provide a substitute at the last minute given uncertainties in my schedule. Would you be able to draft the remarks and work with Gordon on them? Also, are you assisting them in reserving the Press Center here on the 7th floor, which is where they want to hold the event? What do we need to do here in OASG to be helpful to you? Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 8:06 AM
To: Swenson, Lily F
Subject: Ca9

Could you raise the [redacted] email request at the 1 pm mtg today and then get back to [redacted] w our response toay as well? I may not make the mtg but we owe her a response. Thanks.

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, June 02, 2006 8:25 AM
To: Gorsuch, Neil M
Subject: Re:[redacted]

OK

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Fri Jun 02 08:06:03 2006
Subject:[redacted]

Could you raise the[redacted]email request at the 1 pm mtg today and then get back to[redacted]w our response toay as well? I may not make the mtg but we owe her a response. Thanks.

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Friday, June 02, 2006 9:05 AM
End:	Friday, June 02, 2006 9:35 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; Goodling, Monica; Roehrkasse, Brian

When: Friday, June 02, 2006 9:05 AM-9:35 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Brian Roehrkasse, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, June 02, 2006 9:02 AM
To: Gorsuch, Neil M
Subject: Phone: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 9:52 AM
To: Gunn, Currie (SMO)
Cc: Davis, Deborah J
Subject: FW: Fax to [redacted] at Alston firm.

Have you sent this?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, June 02, 2006 7:16 AM
To: Gorsuch, Neil M; Shaw, Aloma A; Shaw, Aloma A; Gunn, Currie (SMO)
Subject: Fax to [redacted] at Alston firm.

Neil, Aloma, and Currie: I am going to be visiting my former secretary at A&B this morning. Can you get a copy of the OPR letter printed along with a copy of [redacted] speech and then faxed to [redacted] attention? I will call in the fax number when I get there around 9 am. [redacted] doesn't get in until about that time so don't fax it until I call. Thanks. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 10:02 AM
To: Bradbury, Steve
Subject: Mtg

Don't know where we were planning on mtg but I will just head on down your way. OPA asked to join and is heading over w me.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, June 02, 2006 10:34 AM
To: Gorsuch, Neil M
Subject: FW: ODAG

Neil,
What do you think? I am thinking that if the EOIR/OJP swap is going to occur at all, it should occur soon -- in whatever form the two offices prefer (DAG memo that temporarily assigns EOIR to us and OJP to them? org chart change? something in between?). I would hate for EOIR to be continued to be mismanaged by the ADAG because the DAG can't devote the time given his other responsibilities, esp as we head into implementation of the EOIR review reforms. Already the ADAG has a number of strategems afoot to undermine, reverse or stall the recommendations that the ASG and the DAG sent up to OAG, while EOIR and the DASG sits by and watches powerlessly. Perhaps ODAG already assumes that OASG will coordinate all matters EOIR for it. If so, then I need some clarification of my authority to represent myself as the POC for certain things -- e.g., Kevin's inquiry below; DHS/OGC wants to set up a meeting next week with DOJ to discuss EOIR -- they assume I'm the POC (because they can't stand the other potential POC), but am I? Et cetera.
Sorry to add to your pile of annoyances.
Thanks.
Lily

From: Ohlson, Kevin (EOIR)
Sent: Friday, June 02, 2006 9:57 AM
To: Swenson, Lily F
Subject: ODAG

Lily -

The DAG's office sure knows how to make us feel wanted. We were officially notified this morning that instead of the DAG meeting with Rooney for 30 minutes every month, McNulty will meet with Rooney for 30 minutes every **SIX** months. Considering the AG's focus on the immigration courts, this development is nothing less than bizarre.

Are we going to start reporting to the Associate (i.e., you) now?

Kevin

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 10:55 AM
To: Swenson, Lily F
Subject: FW: DOJ Review
Attachments: tmp.htm

-----Original Message-----
From: [redacted]@ca9.uscourts.gov [mailto [redacted]@ca9.uscourts.gov]
Sent: Wednesday, May 24, 2006 4:46 PM
To: Gorsuch, Neil M
Cc: [redacted]@ca9.uscourts.gov; [redacted]@ca9.uscourts.gov
Subject: RE: DOJ Review

Neil,

Do you think it might be possible for someone from DOJ and possibly EOIR and / or BIA to meet with the Circuit Judges at their business meeting at the Ninth Circuit Judicial Conference in Huntington Beach, CA?
Preferable date would be Monday, July 10, 2006 at about 1:00 p.m. or so.
Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted] USCA9

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If we should direct this to someone else, please holler.

Thanks.

[redacted] USCA9

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 10:57 AM
To: Swenson, Lily F
Subject: RE: ODAG

Let's talk at your convenience

From: Swenson, Lily F
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Are we going to start reporting to the Associate (i.e., you) now?

Kevin

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 11:11 AM
To: 'brenda.cook@usdoj.gov'
Subject: [redacted]

Ms. Cook,

Thank you for the recent invititation. As much as I'd love to attend, I'm afraid I will not be able to attend [redacted] Warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 11:13 AM
To: Cook, Brenda L. (EOIR)
Subject: FW: [redacted]

Ms. Cook,

Thank you for the recent invititation. As much as I'd love to attend, I'm afraid I will not be able to attend [redacted]. Warm regards, Neil Gorsuch

Neil M. Gorsuch
Principal Deputy Associate Attorney General
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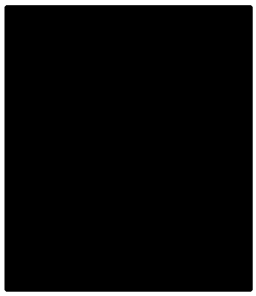
e-mail: neil.gorsuch@usdoj.gov

Full Name:
Last Name:
First Name:

Home:

E-mail:
E-mail Display As:



Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Friday, June 02, 2006 11:56 AM
To: Eisenberg, John; Gorsuch, Neil M; Henry, Terry (CIV); Hunt, Jody (CIV); Johansen, Janine (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Letter, Douglas (CIV); Loeb, Robert (CIV); Monheim, Thomas; Nichols, Carl (CIV); Rowan, Patrick (ODAG)
Cc: Miller, Charles S; Blomquist, Kathleen M
Subject: New Public Affairs Contact

We have hired a new Senior Counsel in Public Affairs. Her name is Kat Blomquist and she comes to us from DOJ's Office of Intergovernmental and Public Liaison. She will be your primary point person on detainees issues as they attract press attention and require communications assistance. However, as always, please feel free to contact Tasia, Charles or me, especially in instances when you can't reach Kat.

Please add her to your email distribution lists for important items to which public affairs needs to be apprised.

Thanks,
Brian

Her contact information is as follows:

Kat Blomquist
Senior Counsel
Office of Public Affairs
U.S. Department of Justice
(202) 616-2777 main
(202) 353-1561 direct

Brian Roehrkasse
Deputy Director of Public Affairs
U.S. Department of Justice
(202) 514-2007

From: [redacted]
Sent: Friday, June 02, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: FW: Letter for Neil
Attachments: tmp.htm

[redacted] letter. I think you made partner at Kellogg after 2 years, right?
My letter will follow a bit later. Please let us know if there is anything that can make this better. Do not be shy. Our support for you and respect for your skills, conscience, and temperament must come through loud and clear.
-----Original Message-----
From: [redacted]
Sent: Friday, June 02, 2006 11:46 AM
To [redacted]
Subject: Letter for Neil

Hi [redacted] - Here is my draft. Pass it along to Neil if you think it's OK.

Dear Senators:

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I am certain that Neil would be an excellent judge. It is apparent from Neil's resume that he is an extremely intelligent person and a talented lawyer. His education is first-rate; he was elected a partner within only 3 years of joining a highly selective and demanding Washington law firm; and he currently holds an important and sensitive position in the U.S. Department of Justice. What I would like to convey to you, however, from my personal experience, are those attributes I have observed in Neil over a long period of time that are more difficult to find in the legal community than scholarship and professional success.

Neil is, first and foremost, a thoughtful person. He does not assume that he knows the answers to difficult questions in law and in life generally. Rather, he seeks out and appreciates other viewpoints. For as a long as I have known Neil, he has been a strong supporter of the Republican Party. Nevertheless, he has the courage to disagree, when he believes it important, with the opinions of party leaders. Neil is also an ethical and even-tempered person - in short, a true "gentleman" in the old-fashioned sense of the word. He is deeply concerned with living his life in a way that demonstrates kindness to friends, courtesy to colleagues, love for family, and respect for the law. He is particularly well suited to serve on the Tenth Circuit; he has strong family roots in Colorado and an obvious affinity with the American west.

I realize that the confirmation of a federal judge is a very serious matter, and I hope that you will consider me qualified to comment in this regard. [redacted]

Thank you for your time and consideration in reading this letter. I trust that you will agree with my high opinion of Neil Gorsuch and appoint him to the Tenth Circuit.

Sincerely,

[redacted]

Emerging Markets Management, L.L.C.

1001 19th Street North, 17th Floor

Arlington, VA 22209

[redacted]

ph: [redacted]

letter. I think you made partner at Kellogg after 2 years, right? My letter will follow a bit later. Please let us know if there is anything that can make this better. Do not be shy. Our support for you and respect for your skills, conscience, and temperament must come through loud and clear.

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To:

Subject: Letter for Neil

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Thank you for your time and consideration in reading this letter. I trust that you will agree with my high opinion of Neil Gorsuch and appoint him to the Tenth Circuit.

Sincerely,

Arlington, VA 22209

ph

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 2, 2006 1:06 PM
To: [redacted]
Subject: RE: Letter for Neil

[redacted] Thanks so much for your help. Folks handling my nomination have compiled the following addresses. Fax nos. are included b/c of the penchant by govt buildings for delaying and frying mail, but any you want to send a letter is great by me. Many thanks again, Neil

Letters go to Sen. Specter with the balance as cc's --

Main Addressee: The Honorable Arlen Specter Chairman, Committee on the Judiciary United States Senate 224 Dirksen Senate Office Building Washington, D.C. 20510

"Dear Mr. Chairman:" or "Dear Chairman Specter:"

fax for Specter Nomination Staff: (202) 228-1698

cc:

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary United States Senate 152 Dirksen Senate Office Building
Washington, D.C. 20510

fax for Leahy Nomination staff: (202) 224-9516

The Honorable Wayne Allard
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Fax: (202) 224-6471

The Honorable Ken Salazar
United States Senate
702 Hart Senate Office Building
Washington, D.C. 20510

Fax: (202) 228-5036

Office of Legal Policy
Fax for OLP: (202) 514-5715

Original Message

-----Original Message-----
From: [redacted]
Sent: Friday, June 02, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: FW: Letter for Neil

[redacted] letter. I think you made partner at Kellogg after 2 years, right?
My letter will follow a bit later. Please let us know if there is anything that can make this better. Do not be shy. Our support for you and respect for your skills, conscience, and temperament must come through loud and clear.
-----Original Message-----
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Gorsuch to serve as a judge on the U.S. Court of Appeals for the Tenth Circuit. I have known Neil for approximately 16 years, beginning when we were classmates at the Harvard Law School. Since then, we have been in frequent contact, and I have had the opportunity to observe both his personal and professional demeanor.

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I realize that the confirmation of a federal judge is a very serious matter, and I hope that you will consider me qualified to comment in this regard. [redacted]

Thank you for your time and consideration in reading this letter. I trust that you will agree with my high opinion of Neil Gorsuch and appoint him to the Tenth Circuit.

Sincerely,

[redacted]

Emerging Markets Management, L.L.C.

1001 19th Street North, 17th Floor

Arlington, VA 22209

[redacted]

ph[redacted]

[redacted]

From: [redacted]
Sent: Friday, June 2, 2006 1:12 PM
To: Gorsuch, Neil M
Subject: RE: Letter for Neil
Attachments: tmp.htm

-----Original Message-----
From: [redacted]
Sent: Friday, June 02, 2006 11:46 AM
To: [redacted]
Subject: Letter for Neil

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Sincerely,

[redacted]

[redacted]

Arlington, VA 22209

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Sincerely,

[redacted]
Arlington, VA 22209
[redacted]
ph: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 2, 2006 1:52 PM
To: Cook, Elisebeth C
Subject: FW: Letter for Neil
Attachments: tmp.htm

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Sent: Friday, June 02, 2006 1:12 PM
To: Gorsuch, Neil M
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[redacted]

Emerging Markets Management, L.L.C.

1001 19th Street North, 17th Floor

Arlington, VA 22209

[redacted]

ph: [redacted]

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Sincerely,

[redacted]
Arlington, VA 22209
[redacted]
ph: [redacted]

MOHLHAUSEN@ftc.gov

From: [redacted]@ftc.gov
Sent: Friday, June 02, 2006 1:55 PM
To: Gorsuch, Neil M
Subject: I hear it's public!

Congratulations on your official nomination. You are, however, taking a lot of trouble to get out of hosting the BBQ next year!

[redacted]

Swenson, Lily F

From:	Swenson, Lily F
Sent:	Friday, June 2, 2006 2:22 PM
To:	Jezierski, Crystal; Seidel, Rebecca; Roehrkasse, Brian; Otis, Lee L; Pacold, Martha M
Cc:	Gorsuch, Neil M
Subject:	FW: DOJ Review
Attachments:	tmp.htm

So what is our best judgment as to whether or not we should commit to doing this, given the timing. We owe [redacted] an RSVP. The Ninth Circuit (and the other fed cts, for that matter) are among our biggest stakeholders. I guess our options are (1) accept the invitation and make a presentation pursuant to our roll-out plan, which may or may not already be underway on July 10; (2) accept the invitation with the understanding that we may not be ready to say very much -- we can simply present what we've done for the review, and say reforms TBA; or (3) decline the invitation on the ground that we won't have anything to say.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 10:55 AM
To: Swenson, Lily F
Subject: FW: DOJ Review

-----Original Message-----
From: [redacted]@ca9.uscourts.gov [mailto [redacted]@ca9.uscourts.gov]
Sent: Wednesday, May 24, 2006 4:46 PM
To: Gorsuch, Neil M
Cc: [redacted]@ca9.uscourts.gov; [redacted]@ca9.uscourts.gov
Subject: RE: DOJ Review

Neil,

Do you think it might be possible for someone from DOJ and possibly EOIR and / or BIA to meet with the Circuit Judges at their business meeting at the Ninth Circuit Judicial Conference in Huntington Beach, CA?
Preferable date would be Monday, July 10, 2006 at about 1:00 p.m. or so.
Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted]
[redacted], USCA9

Neil,

Do you think it might be possible for someone from DOJ and possibly EOIR and / or BIA to meet with the Circuit Judges at their business meeting at the Ninth Circuit Judicial Conference in Huntington Beach, CA? Preferable date would be Monday, July 10, 2006 at about 1:00 p.m. or so. Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted]
USCA9

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 2:37 PM
To: [redacted]@ftc.gov'
Subject: RE: I hear it's public!

I don't want to count any chickens - and may be hosting the picnic forever - but I figure if I'm lucky I'll only have to do it once!

-----Original Message-----
From: [redacted]@ftc.gov [mailto [redacted]@ftc.gov]
Sent: Friday, June 02, 2006 1:55 PM
To: Gorsuch, Neil M
Subject: I hear it's public!

Congratulations on your official nomination. You are, however, taking a lot of trouble to get out of hosting the BBQ next year!

[redacted]

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Tuesday, August 01, 2006 8:30 AM
End:	Tuesday, August 01, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica

When: Occurs every weekday effective 8/1/2006 until 8/31/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Friday, September 1, 2006 8:30 AM
End:	Friday, September 1, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica

When: Occurs every weekday effective 9/1/2006 until 9/30/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 2, 2006 4:56 PM
To: Cook, Elisebeth C
Subject: [redacted] Letter
Attachments: [redacted].pdf

From a leading Kansas lawyer

SHARP, McQUEEN, McKINLEY, McQUEEN & DODGE, P.A.

LAWYERS

419 NORTH KANSAS - P.O. BOX 2619
LIBERAL, KANSAS 67905-2619
TELEPHONE (620) 624-2548
FAX (620) 624-9526

KERRY E. McQUEEN
SHIRLA R. McQUEEN
JAMES C. DODGE
STEPHEN C. GRIFFIS**

MARK L. KOVARIK

* ADMITTED IN KANSAS AND OKLAHOMA
** ADMITTED IN KANSAS, OKLAHOMA AND TEXAS
ALL OTHERS ADMITTED IN KANSAS

GENE H. SHARP*
OF COUNSEL

ARTHUR B. McKINLEY
RETIRED

CHAS VANCE
(1904-1979)

H. HOBBLE, JR.
(1909-1996)

REX A. NEUBAUER
(1918-1997)

June 2, 2006

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Neil Gorsuch to the 10th U.S. Circuit Court of Appeals

Dear Chairman Specter:

I have recently learned of President Bush's nomination of Neil Gorsuch to fill a vacancy on the 10th U.S. Circuit Court of Appeals. I write this letter in support of Mr. Gorsuch's nomination.

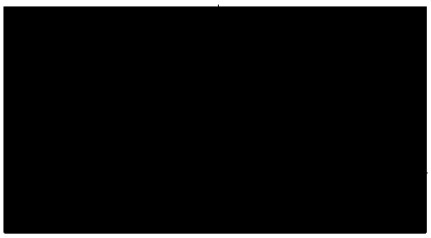
By way of introducing myself, I am enclosing a copy of my Martindale-Hubbell profile. In addition to the information contained therein, [redacted]

I first became acquainted with Mr. Gorsuch in approximately March of 2004 when my firm and two other firms with which my firm was associated, associated Mr. Gorsuch's firm, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C., to assist our client in certain antitrust litigation which in many ways was a mirror-image of the *Conwood vs UST* federal litigation in which Mr. Gorsuch and his firm had previously been involved. As a result of this association, I became very well acquainted with Mr. Gorsuch on both a professional and personal basis.

Mr. Gorsuch's academic and professional skills are of the highest caliber. He is well published and his rich and varied professional background and experience will serve him in good stead on the bench. On a more personal note, and the points I really want to emphasize are that, based upon my acquaintance with Mr. Gorsuch, albeit for only a relative short period of time, I have complete confidence that he is an extremely bright student of the law, a man of patience, a diligent worker with excellent verbal and written articulation skills, and a person of the highest moral character. Additionally, in my interaction with Mr. Gorsuch and my observations of his comportment with co-counsel, adverse counsel, and the Court, he demonstrated excellent litigation skills and the capacity to listen courteously, consider carefully, answer wisely, decide matters analytically, and objectively, and has an uncommon ability to "get to the point" in clear and concise language.

Much more could be said about Mr. Gorsuch, and probably will be by others. However, upon confirmation of Mr. Gorsuch's nomination there should be no occasion for anyone to speculate on what may be expected of him as a Judge on the 10th Circuit Court of Appeals or whether he will be an excellent Judge. Accordingly, I have no hesitancy in encouraging the Committee on the Judiciary to recommend to the United States Senate confirmation of Neil Gorsuch's nomination to the U.S. Court of Appeals for the 10th Circuit.

Sincerely,



Enclosure

c (w/ enc) The Honorable Patrick J. Leahy
The Honorable Wayne Allard
The Honorable Ken Salazar
Specter Nomination Staff by Facsimile
Leahy Nomination Staff by Facsimile

Private Practice Lawyer Profile for [redacted]

[redacted]
Member
Sharp, McQueen, McKinley, McQueen
& Dodge, P.A.
419 North Kansas Avenue, P.O. Box 2619
Liberal, Kansas 67905-2619
(Seward Co.)

Telephone: [redacted]
Fax: 620-624-9526

AV Peer Review Rated

[redacted]

Pacold, Martha M

From: Pacold, Martha M
Sent: Friday, June 2, 2006 4:58 PM
To: Swenson, Lily F; Jezierski, Crystal; Seidel, Rebecca; Roehrkasse, Brian; Otis, Lee L
Cc: Gorsuch, Neil M
Subject: RE: DOJ Review

I vote for #2. More outreach is good, even if the package isn't final yet.

-----Original Message-----
From: Swenson, Lily F
Sent: Friday, June 02, 2006 2:22 PM
To: Jezierski, Crystal; Seidel, Rebecca; Roehrkasse, Brian; Otis, Lee L; Pacold, Martha M
Cc: Gorsuch, Neil M
Subject: FW: DOJ Review

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Cc: [redacted]@ca9.uscourts.gov; [redacted]@ca9.uscourts.gov
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Obviously the idea would be to discuss the DOJ review assuming that it something ready for discussion by that time.

If we should direct this to someone else, please holler.

Thanks.

[redacted] USCA9

From: [redacted]
Sent: Friday, June 02, 2006 5:57 PM
To: Gorsuch, Neil M
Subject: FW: Letter for Neil
Attachments: tmp.htm; N.pdf

FYI. I like the change. I hope you like it as well.
-----Original Message-----
From: [redacted]
Sent: Friday, June 02, 2006 3:16 PM
To [redacted]
Subject: Letter for Neil

I don't know if you want to pass this along to Neil, but I am attaching a pdf of the signed letter along with fax confirmations that they reached the intended recipients.

[redacted]

Arlington, VA 22209

[redacted]

ph: [redacted]

June 2, 2006

BY FACSIMILE
The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Specter:

I am writing to offer my strongest support for the nomination of Neil M. Gorsuch to serve as a judge on the U.S. Court of Appeals for the Tenth Circuit. I have known Neil for approximately 16 years, beginning when we were classmates at the Harvard Law School. Since then, we have been in frequent contact, and I have had the opportunity to observe both his personal and professional demeanor.

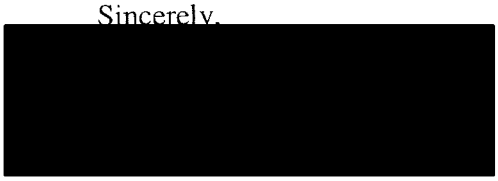
I am certain that Neil would be an excellent judge. It is apparent from Neil's resume that he is an extremely intelligent person and a talented lawyer. His education is first-rate; he was elected a partner within only 2 years of joining a highly selective and demanding Washington law firm; and he currently holds an important and sensitive position in the U.S. Department of Justice. What I would like to convey to you, however, from my personal experience, are those attributes I have observed in Neil over a long period of time that are more difficult to find in the legal community than scholarship and professional success.

Neil is, first and foremost, a thoughtful person. He does not assume that he knows the answers to difficult questions in law and in life generally. Rather, he seeks out and appreciates other viewpoints. Neil is not beholden in thought or deed to the viewpoints of any organization, group or party. I have always known Neil to have the courage to disagree, and express his disagreement (in a respectful fashion), when disagreement with organization or party leaders is warranted. Neil is also an ethical and even-tempered person - in short, a true "gentleman" in the old-fashioned sense of the word. He is deeply concerned with living his life in a way that demonstrates kindness to friends, courtesy to colleagues, love for family, and respect for the law. He is particularly well suited to serve on the Tenth Circuit; he has strong family roots in Colorado and an obvious affinity with the American west.

I realize that the confirmation of a federal judge is a very serious matter, and I hope that you will consider me qualified to comment in this regard.

Thank you for your time and consideration in reading this letter. I trust that you will agree with my high opinion of Neil Gorsuch and appoint him to the Tenth Circuit.

Sincerely,



cc:

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510
(by facsimile at: (202) 224-9516)

The Honorable Wayne Allard
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510
(by facsimile at: (202) 224-6471)

The Honorable Ken Salazar
United States Senate
702 Hart Senate Office Building
Washington, D.C. 20510
(by facsimile at: (202) 228-5036)

Office of Legal Policy
(by facsimile at: (202) 514-5715)

Confirmation Report - Memory Send

Page : 001
Date & Time: Jun-02-06 02:15pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number	:	670
Date	:	Jun-02 02:03pm
To	:	☎92022281698
Number of pages	:	003
Start time	:	Jun-02 02:09pm
End time	:	Jun-02 02:10pm
Pages sent	:	003
Status	:	OK

Job number : 670 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Arlen Specter	From:	[redacted]
Fax:	(202) 228-1698	Pages:	3 (including cover)
Phone:		Date:	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	cc:	

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Confirmation Report — Memory Send

Page : 001
Date & Time: Jun-02-06 02:16pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number	:	671
Date	:	Jun-02 02:04pm
To	:	☎92022249516
Number of pages	:	003
Start time	:	Jun-02 02:11pm
End time	:	Jun-02 02:11pm
Pages sent	:	003
Status	:	OK

Job number : 671 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Patrick Leahy	**From:**	[redacted]
Fax:	(202) 224-9516	**Pages:**	3 (including cover)
Phone:		**Date:**	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	**cc:**	

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Confirmation Report - Memory Send

Page : 001
Date & Time: Jun-02-06 02:16pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number	:	672
Date	:	Jun-02 02:05pm
To	:	☎92022246471
Number of pages	:	003
Start time	:	Jun-02 02:11pm
End time	:	Jun-02 02:12pm
Pages sent	:	003
Status	:	OK

Job number : 672 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Wayne Allard	From:	[redacted]
Fax:	(202) 224-6471	Pages:	3 (including cover)
Phone:		Date:	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	cc:	

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Confirmation Report — Memory Send

Page : 001
Date & Time: Jun-02-06 02:17pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number	:	673
Date	:	Jun-02 02:06pm
To	:	☎92022285036
Number of pages	:	003
Start time	:	Jun-02 02:12pm
End time	:	Jun-02 02:13pm
Pages sent	:	003
Status	:	OK

Job number : 673 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Ken Salazar	**From:**	[redacted]
Fax:	(202) 228-5036	**Pages:**	3 (including cover)
Phone:		**Date:**	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	**cc:**	

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Confirmation Report - Memory Send

Page : 001
Date & Time: Jun-02-06 02:17pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number	:	674
Date	:	Jun-02 02:06pm
To	:	☎92025145715
Number of pages	:	003
Start time	:	Jun-02 02:17pm
End time	:	Jun-02 02:17pm
Pages sent	:	003
Status	:	OK

Job number : 674 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Office of Legal Policy	**From:**	[redacted]
Fax:	(202) 514-5715	**Pages:**	3 (including cover)
Phone:		**Date:**	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	**cc:**	

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

FYI. I like the change. I hope you like it as well.

-----Original Message-----

From: [redacted]

Sent: Friday, June 02, 2006 3:16 PM

To: [redacted]

Subject: Letter for Neil

I don't know if you want to pass this along to Neil, but I am attaching a pdf of the signed letter along with fax confirmations that they reached the intended recipients.

[redacted]

Arlington, VA 22209

[redacted]

ph: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 2, 2006 6:38 PM
To: [redacted]
Subject: Re: Letter for Neil

It is beyond kind. Thank you so very much.

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Fri Jun 02 17:57:05 2006
Subject: FW: Letter for Neil

FYI. I like the change. I hope you like it as well.
-----Original Message-----
From: [redacted]
Sent: Friday, June 02, 2006 3:16 PM
To: [redacted]
Subject: Letter for Neil

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Arlington, VA 22209

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ph: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 02, 2006 6:39 PM
To: Cook, Elisebeth C
Subject: Fw: Letter for Neil
Attachments: tmp.htm; N.pdf

Fyi

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From: [redacted]
To: Gorsuch, Neil M
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ph[redacted]

June 2, 2006

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Job number	:	670
Date	:	Jun-02 02:03pm
To	:	☎92022281698
Number of pages	:	003
Start time	:	Jun-02 02:09pm
End time	:	Jun-02 02:10pm
Pages sent	:	003
Status	:	OK

Job number : 670 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Arlen Specter	From:	[redacted]
Fax:	(202) 228-1698	Pages:	3 (including cover)
Phone:		Date:	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	cc:	

☐ Urgent ☑ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

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Job number	:	671
Date	:	Jun-02 02:04pm
To	:	☎92022249516
Number of pages	:	003
Start time	:	Jun-02 02:11pm
End time	:	Jun-02 02:11pm
Pages sent	:	003
Status	:	OK

Job number : 671 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Hon. Patrick Leahy	From:	[redacted]
Fax:	(202) 224-9516	Pages:	3 (including cover)
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Start time	:	Jun-02 02:11pm
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[redacted]

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Fax:	(202) 224-6471	Pages:	3 (including cover)
Phone:		Date:	June 2, 2006
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[redacted]

[redacted]

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To:	Hon. Ken Salazar	**From:**	[redacted]
Fax:	(202) 228-5036	**Pages:**	3 (including cover)
Phone:		**Date:**	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	**cc:**	

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Confirmation Report - Memory Send

Page : 001
Date & Time: Jun-02-06 02:17pm
Line 1 : 7032430340
Machine ID : EMI OPERATIONS (B)

Job number : 674

Date : Jun-02 02:06pm

To : ☎92025145715

Number of pages : 003

Start time : Jun-02 02:17pm

End time : Jun-02 02:17pm

Pages sent : 003

Status : OK

Job number : 674 *** SEND SUCCESSFUL ***

[redacted]

[redacted]

Fax

To:	Office of Legal Policy	**From:**	[redacted]
Fax:	(202) 514-5715	**Pages:**	3 (including cover)
Phone:		**Date:**	June 2, 2006
Re:	Nomination of Neil Gorsuch to 10th Cir.	**cc:**	

☐ **Urgent** ☑ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

FYI. I like the change. I hope you like it as well.

-----Original Message-----

From: [redacted]

Sent: Friday, June 02, 2006 3:16 PM

To: [redacted]

Subject: Letter for Neil

I don't know if you want to pass this along to Neil, but I am attaching a pdf of the signed letter along with fax confirmations that they reached the intended recipients.

[redacted]

Arlington, VA 22209

[redacted]

ph: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 8:07 AM
To: Cook, Elisebeth C
Subject: [redacted]etter
Attachments: [redacted] letter.doc

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

DARBY &
DARBY
PROFESSIONAL
CORPORATION

INTELLECTUAL PROPERTY LAW

NEW YORK
805 THIRD AVENUE
NEW YORK, NY 10022
TEL 212.527.7700
FAX 212.753.6237

SEATTLE
1191 SECOND AVENUE
SEATTLE, WA 98101
TEL 206.262.8900
FAX 206.262.8901

June 4, 2006

Reference: 10188/9080188-000

VIA FACSIMILE

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: **Neil M. Gorsuch**
Nominee to U.S. Court of Appeals for the 10th Circuit

Dear Senator Specter:

I am writing in support of the nomination of Neil Gorsuch to be United States Circuit Judge for the 10th Circuit.

I have respected and admired Neil for nearly twenty years. He will be a tremendous addition to the federal bench.

Neil and I met as students at Columbia College and immediately became friends. I had the opportunity to take classes with Neil and to work with him as writers and editors of a campus newspaper. Neil is one of those genuinely brilliant people that you occasionally have the opportunity to meet. I was immediately impressed by his intelligence and work ethic, but what I found even more impressive was the critical thinking that he brought to course material and to issues of the day. Even then, he had the confidence and wisdom to test what he saw around him and to test his own views based on new learning and experience. I did not think of it as a judicial temperament at the time, but that is certainly what it was.

Neil and I each went to law school and remained in touch. His clerkships for the United States Court of Appeals for the District of Columbia Circuit and for the United States Supreme Court gave him outstanding insight into the role and operation of the federal appellate courts. When Neil went into private practice, my law partners and I called on him several times for advice concerning our clients' appeals; he quickly distilled the key issues from complex disputes and was always a great help to us. Neil has also called on me from time to time on matters of intellectual property law, which is [redacted] ach time I have been struck, or more accurately reminded, how quick a study he is. He wastes no time in finding the policy

underlying the law and in each case asks all the right questions to assess his client's position in relation to the law. He is a great counselor when playing the role of counselor and a great advocate when playing the role of advocate. There is not a doubt in my mind that he will be a great jurist when assuming the responsibility of the bench.

Finally, I have been very lucky to get to know Neil's family, his wife [redacted] and their children. They have a warm, comfortable way about them that is undoubtedly a respite from the demands of professional life. I have spoken with Neil since his nomination, and I know how excited he is about the opportunity to move home to Colorado with them.

It is my sincere hope that the Committee and the Senate will look favorably on the nomination of Neil Gorsuch. He will truly be a great credit to the judiciary.

Please do hesitate to contact me if I may provide any additional information or be of any further assistance. Thank you for your kind consideration.

Respectfully submitted,

[redacted]

cc: The Honorable Patrick J. Leahy (via facsimile)
The Honorable Ken Salazar (via facsimile)
The Honorable Wayne Allard (via facsimile)
Office of Legal Policy, Department of Justice (via facsimile)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 5, 2006 9:37 AM
To: Shaw, Aloma A
Subject: RE: Where would you and Mercer like to have lunch?

Cosi?

From: Shaw, Aloma A
Sent: Monday, June 05, 2006 9:26 AM
To: Gorsuch, Neil M
Subject: Where would you and Mercer like to have lunch?

Shaw, Aloma A

Subject:	mercer Lunch
Location:	Cosi
Start:	Tuesday, June 13, 2006 12:00 PM
End:	Tuesday, June 13, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	Meeting organizer
Organizer:	Shaw, Aloma A
Required Attendees:	Mercer, Bill (ODAG)

Sampson, Kyle

Subject:	Accepted: Upcoming Release of Uniform Crime Report Statistics
Location:	OAG Conference Room
Start:	Monday, June 5, 2006 4:00 PM
End:	Monday, June 5, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Sampson, Kyle

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 10:50 AM
To: Swenson, Lily F
Subject: Morning Mtgs

Can you cover the OAG morning meetings for me the rest of this week? 830-9 am?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Sampson, Kyle

Subject:	Accepted: Updated: Upcoming Release of Uniform Crime Report Statistics
Location:	ODAG Conf Room 4133
Start:	Monday, June 05, 2006 4:00 PM
End:	Monday, June 05, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Sampson, Kyle

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 11:01 AM
To: Todd, Gordon (SMO)
Subject: Use of Police Force publication

Please could you prepare an email for us to send OAG and ODAG alerting them to this publication as outlined in your cover memo to the report?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 5, 2006 11:29 AM
To: Cook, Elisebeth C
Subject: mtg

Would 3pm work?

Gorsuch, Neil M

Subject:	[redacted]
Start:	Monday, June 5, 2006 3:00 PM
End:	Monday, June 5, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 11:30 AM
To: Swenson, Lily F
Subject: RE: Morning Mtgs

Great; thanks. Are you going to cover today's UST mtg?

From: Swenson, Lily F
Sent: Monday, June 05, 2006 10:56 AM
To: Gorsuch, Neil M
Subject: RE: Morning Mtgs

sure thing.

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 10:50 AM
To: Swenson, Lily F
Subject: Morning Mtgs

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Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
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direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 11:34 AM
To: Swenson, Lily F
Subject: RE: Morning Mtgs

Ag conf room

From: Swenson, Lily F
Sent: Monday, June 05, 2006 11:30 AM
To: Gorsuch, Neil M
Subject: RE: Morning Mtgs

yes to UST. where do I go for morning OAG meetings?

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Sent: Monday, June 05, 2006 11:30 AM
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Subject: RE: Morning Mtgs

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To: Swenson, Lily F
Subject: Morning Mtgs

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Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Walker, Shelia M

Subject:	Updated: Upcoming Release of Uniform Crime Report Statistics
Location:	OAG Conf Room 5228
Start:	Monday, June 5, 2006 5:30 PM
End:	Monday, June 5, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Walker, Shelia M
Required Attendees:	Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Epley, Mark D; Gorsuch, Neil M; Brand, Rachel; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian

When: Monday, June 05, 2006 5:30 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Room 5228

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

UPDATE: MEETING LOCATION CHANGE: Meeting will be held in OAG Conf Room 5228

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 5, 2006 11:53 AM
To: Scott, Willie J (JMD)
Subject: Test

Test

Sampson, Kyle

Subject:	Updated: Upcoming Release of Uniform Crime Report Statistics
Location:	OAG Conf Room 5228
Start:	Monday, June 5, 2006 5:30 PM
End:	Monday, June 5, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sampson, Kyle
Required Attendees:	Sampson, Kyle; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Epley, Mark D; Gorsuch, Neil M; Brand, Rachel; Hertling, Richard; Scolinos, Tasia; Roehrkasse, BrianSampson, Kyle; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Epley, Mark D; Gorsuch, Neil M; Brand, Rachel; Hertling, Richard; Scolinos, Tasia; Roehrkasse, Brian

UPDATE: MEETING LOCATION CHANGE: Meeting will be held in OAG Conf Room 5228

Gorsuch, Neil M

Subject:	[redacted]
Location:	
Start:	Tuesday, June 13, 2006 2:30 PM
End:	Tuesday, June 13, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted] and [redacted]

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, June 05, 2006 1:44 PM
Subject: JCON BROADCAST, WEEK OF JUNE 5, 2006

JCON BROADCAST, WEEK OF JUNE 5, 2006

1. **Blood Drive – June 8, 2006**
2. **Candlelight Vigil to Be Held by DEA for "Lost Promise"**
3. **College Savings Plans**
4. **Research Classes Offered by Library Staff**

Blood Drive -- June 8, 2006

Give the gift of life! The American Red Cross will conduct a blood drive from **8:30 a.m. to 2:00 p.m., on Thursday, June 8, 2006, in the Great Hall of the RFK Main Justice Building**. Please contact your component's coordinator for the blood drive or call Lynn Sutton on (202) 305-8986 to schedule your appointment.

Volunteers who donate blood may be granted up to four hours of excused absence for recuperative purposes. All blood donors in the region will also be entered into a random drawing held by the American Red Cross, offering a prize gift of a $100 gas card. (This random drawing will not be held on Government property; does not involve the purchase of any item, monetary transaction, or other consideration; and is solely a voluntary benefit offered by the American Red Cross.)

Candlelight Vigil to Be Held by DEA for "Lost Promise"

The Drug Enforcement Administration (DEA) will hold the first-ever Candlelight Vigil starting at **6:30 p.m., Thursday, June 8, 2006, at DEA Headquarters in Arlington, Virginia.**

The "Vigil for Lost Promise" will be a first of its kind remembrance, and the first of its kind of hope – hope and confidence that our work is shielding others from the great tragedy of drugs. The DEA along with its partners will bring together those who have lost loved ones, and their promise, to stop drug use and abuse.

"Every 20 minutes, drugs take another life in this country. Every 20 minutes, the dreams, promise, and talent of another American is snuffed out—leaving families and friends to suffer the darkness of grief," said DEA Administrator Karen Tandy. "In honor of those lost and in support of those left behind, DEA illuminates the harsh reality of drugs and their tragic consequences. This vigil gives hope for an America without drugs."

The "Vigil for Lost Promise" will bring together all the important stakeholders -- those who have lost loved ones and those involved in drug prevention, treatment, and education – so that they can unite and make progress together in fighting drug abuse.

The "Vigil for Lost Promise" will be cosponsored by CADCA, National Institute on Drug Abuse (NIDA), and [redacted], President of the Courage to Speak Foundation, who will act as the Honorary Chairperson, and the event will be hosted by WRC's [redacted]. Eight families who have suffered the loss of a loved one to drugs will also attend the Vigil, representing all of those who have lost family members, friends, and children.

For more information about the Vigil, or to register for the event, please log on to: www.vigilforlostpromise.com

College Savings Plans

College tuition rates are rising at record levels. Get a head start with Section 529 state college savings plans and help your children achieve their dreams. By starting to save today, parents and grandparents can help their loved ones have the resources necessary to attend college.

Most Section 529 state college savings plans allow parents, grandparents, other relatives, and friends to contribute to a child's higher education fund. The contributor makes decisions concerning pre-paying tuition or choosing investment options, and retains ownership of the contract or account until it is used to pay the child's college expenses.

All 50 states and the District of Columbia offer 529 Plans. Now, no matter what state you live in, there is a 529 program available for you to begin investing in now.

To learn more, please plan to attend a session on "Learning about College Savings Plans" from **11:30 a.m. to 12:30 p.m., Tuesday, June 13, 2006, in room 1160 of the National Place Building**. Bring your lunch and enjoy a presentation from Mr. Laurent Ross of the Calvert Group on college savings plans. Space is limited to the first 60 registrants. To register, please send your name, component, and phone number to Jamie.A.Higgins@usdoj.gov.

Supervisors are encouraged to grant official time to employees to attend this training. Sign language interpreter available upon request.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Monday, June 05, 2006 2:14 PM
To: Gorsuch, Neil M
Subject: Haven't forgotten about you

Just waiting on some additional info from BJS.

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 2:15 PM
To: Todd, Gordon (SMO)
Subject: Re: Haven't forgotten about you

Thanks. Sooner better than later.

-----Original Message-----
From: Todd, Gordon (SMO)
To: Gorsuch, Neil M
Sent: Mon Jun 05 14:14:15 2006
Subject: Haven't forgotten about you

Just waiting on some additional info from BJS.

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Monday, June 05, 2006 2:48 PM
To: Gorsuch, Neil M
Subject: Case HD0000000103802 has been opened.

The JMD/SMO JCON Help Desk has opened a ticket in your name. Your ticket number is HD0000000103802. If you need further assistance, please call 616-7100.

Summary : User would like to Sync his Blackberry. (ngorsuch/JMDMAIN-OOASG063/JMD-MAIN-FPS01)

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, June 5, 2006 2:53 PM
To:	Senger, Jeffrey M; Gorsuch, Neil M
Subject:	Emailing: ag_speech_060206
Attachments:	ag_speech_060206.url

AG's testimony on the TSP

The message is ready to be sent with the following file or link attachments:

Shortcut to: http://www.usdoj.gov/ag/speeches/2006/ag_speech_060206.html

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

[InternetShortcut]
URL=http://www.usdoj.gov/ag/speeches/2006/ag_speech_060206.html
Modified=A0AB3241D188C601DE

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, June 5, 2006 2:54 PM
To:	Senger, Jeffrey M; Gorsuch, Neil M
Subject:	Emailing: ag_speech_060307
Attachments:	ag_speech_060307.url

Another relevant AG speech

The message is ready to be sent with the following file or link attachments:

Shortcut to: http://www.usdoj.gov/ag/speeches/2006/ag_speech_060307.html

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

[InternetShortcut]
URL=http://www.usdoj.gov/ag/speeches/2006/ag_speech_060307.html
Modified=403A0856D188C601F8

Moschella, William

From:	Moschella, William
Sent:	Monday, June 5, 2006 3:29 PM
To:	Tenpas, Ronald J (ODAG); Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc:	Cook, Elisebeth C; McIntosh, Brent; Oldham, Jeffrey L; Blank, Kelly
Subject:	Re: Attorney-client privilege issue

Do we have the Enron info?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
To: Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
CC: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Sent: Mon Jun 05 15:26:39 2006
Subject: RE: Attorney-client privilege issue

Jim:

Any idea where we stand on this? Is a hearing still likely for late June? Should we be pro-active in trying to get up to the Hill staff, both Specter's and others?

Ron

From: Clinger, James H
Sent: Monday, May 15, 2006 11:55 AM
To: Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

Per Brett Tolman, Chairman Specter is looking to do a hearing (not a markup) on the attorney-client privilege waiver issue "at the end of June, possibly June 28," although that date is very tentative at this point. Brett indicated that he would be interested in having representatives of the Department brief relevant Committee staff on our policy sometime in early June.

-----Original Message-----
From: Moschella, William
To: Gorsuch, Neil M

Sent: Tue May 09 17:23:40 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

We probably should brief his staff because I bet he would take the ABA's position.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Moschella, William; Seidel, Rebecca
CC: McIntosh, Brent; Cook, Elisebeth C; Oldham, Jeffrey L
Sent: Tue May 09 16:08:16 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Jeff Oldham raises the good question whether we have any idea where Sen Specter is on this issue and what the chances are that he might seek to do something legislatively. Adding Will and Rebecca.

-----Original Message-----
From: Brand, Rachel
To: McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew
CC: McIntosh, Brent; Cook, Elisebeth C
Sent: Tue May 09 16:01:04 2006
Subject: FW: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Thought you might want to see this letter.

At my little talk last week to the ABA group that was in town to lobby the Congress, [redacted] made some pretty scathing remarks about DOJ's "corrosive" policy on attorney-client privilege before launching into a very gracious introduction of me.

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Tuesday, May 09, 2006 3:56 PM
To: [redacted]
Subject: FW: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver
Importance: Low

Attached is a copy of the letter that ABA President [redacted] sent to Senate Judiciary Committee Chairman Arlen Specter today as a follow-up to their meeting on May 3, 2006 (along with my transmittal e-mail to Senator Specter's Chief of Staff below). In the attached letter, President [redacted] provides the additional information regarding erosion of the attorney-client privilege that Sen. Specter requested during the meeting and he reiterates the ABA's earlier request that the Senate Judiciary

Committee hold a hearing on this general subject in the near future.

Regards,

Senior Legislative Counsel
American Bar Association
Governmental Affairs Office
740 15th Street, N.W.
Washington, D.C. 20005
(telephone) ~ (202) 662-1762 (fax) email:

> _____
> From:
> Sent: Tuesday, May 09, 2006 3:36 PM
> To:
> Cc:
>
>
> Subject: Letter from ABA President to Sen. Arlen
> Specter Regarding Privilege Waiver
>
> May 9, 2006
>
> William Reynolds
> Chief of Staff and Communications Director > to Sen. Arlen Specter > United States Senate >
Washington, D.C. 20510
>
> Dear Mr. Reynolds:
>
> Attached is a letter from our president, to Sen.
> Specter regarding their meeting on May 3, 2006. In this letter,
> hanks Sen. Specter for the meeting and provides additional > information regarding
government-coerced waiver of the attorney-client > privilege that the Senator requested. Please give a copy of this > letter to Sen. Specter. Also, please forward a copy of the letter to > the two staff people who attended the meeting, Michael O'Neill and > Hannibal Kemerer. By copy of this e-mail, I am providing copies of > this letter to the other ccs listed at the end of the letter, other > than Mr. O'Neill and Mr. Kemerer.
>
> Thank you very much for your assistance. If you have any questions, > please let me know.
>
> Sincerely,
>
> Senior Legislative Counsel
> American Bar Association
> Governmental Affairs Office

> 740 15th Street, N.W.
> Washington, D.C. 20005
> [redacted] telephone) ~ (202) 662-1762 (fax) > email: [redacted]
>
> <<attyclientprivissue(abalettertosenspecter,may9,2006).pdf>>

Clinger, James H

From: Clinger, James H
Sent: Monday, June 5, 2006 3:48 PM
To: Tenpas, Ronald J (ODAG); Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

After Chairman Specter raised the a/c privilege issue during a May 25 meeting with USA-EDPA Pat Meehan and Bill Mercer on an unrelated matter, I told Brett Tolman and Matt Miner, who were staffing the meeting for Specter, that we were happy to come up and brief at their convenience. They have not gotten back to me as yet. Based upon Chairman Specter's comments in the meeting, the issue remains very much on Senate Judiciary's agenda.

From: Tenpas, Ronald J (ODAG)
Sent: Monday, June 05, 2006 3:27 PM
To: Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

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To: Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

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-----Original Message-----
From: Moschella, William
To: Gorsuch, Neil M
Sent: Tue May 09 17:23:40 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter
Regarding Privilege Waiver

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Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Moschella, William; Seidel, Rebecca
CC: McIntosh, Brent; Cook, Elisebeth C; Oldham, Jeffrey L
Sent: Tue May 09 16:08:16 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Jeff Oldham raises the good question whether we have any idea where Sen Specter is on this issue and what the chances are that he might seek to do something legislatively. Adding Will and Rebecca.

-----Original Message-----
From: Brand, Rachel
To: McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew
CC: McIntosh, Brent; Cook, Elisebeth C
Sent: Tue May 09 16:01:04 2006
Subject: FW: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Thought you might want to see this letter.

At my little talk last week to the ABA group that was in town to lobby the Congress, [redacted] made some pretty scathing remarks about DOJ's "corrosive" policy on attorney-client privilege before launching into a very gracious introduction of me.

-----Original Message-----
From: [redacted]
[mailto: [redacted]
Sent: Tuesday, May 09, 2006 3:56 PM
To: [redacted]
Subject: FW: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver
Importance: Low

Attached is a copy of the letter that ABA President [redacted] sent to Senate Judiciary Committee Chairman Arlen Specter today as a follow-up to their meeting on May 3, 2006 (along with my transmittal e-mail to Senator Specter's Chief of Staff below). In the attached letter, President Greco provides the additional information regarding erosion of the attorney-client privilege that Sen. Specter requested during the meeting and he reiterates the ABA's earlier request that the Senate Judiciary Committee hold a hearing on this general subject in the near future.

Regards,

Senior Legislative Counsel
American Bar Association
Governmental Affairs Office
740 15th Street, N.W.
Washington, D.C. 20005
(telephone) ~ (202) 662-1762 (fax)
email:

> _____
> From:
> Sent: Tuesday, May 09, 2006 3:36 PM
> To: '
> Cc:
> Subject: Letter from ABA President to Sen. Arlen
> Specter Regarding Privilege Waiver
>
> May 9, 2006
>
> William Reynolds
> Chief of Staff and Communications Director
> to Sen. Arlen Specter
> United States Senate
> Washington, D.C. 20510
>
> Dear Mr. Reynolds:
>
> Attached is a letter from our president, , to Sen.
> Specter regarding their meeting on May 3, 2006. In this letter,
> thanks Sen. Specter for the meeting and provides additional
> information regarding government-coerced waiver of the attorney-client
> privilege that the Senator requested. Please give a copy of this
> letter to Sen. Specter. Also, please forward a copy of the letter to
> the two staff people who attended the meeting, Michael O'Neill and
> Hannibal Kemerer. By copy of this e-mail, I am providing copies of
> this letter to the other ccs listed at the end of the letter, other
> than Mr. O'Neill and Mr. Kemerer.
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> Thank you very much for your assistance. If you have any questions,
> please let me know.
>
> Sincerely,
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> Governmental Affairs Office
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> (telephone) ~ (202) 662-1762 (fax)
> email:
>

> <<attyclientprivissue(abalettertosenspecter,may9,2006).pdf>>

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, June 5, 2006 4:32 PM
To:	Moschella, William; Tenpas, Ronald J (ODAG); Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; McCallum, Robert (SMO)
Cc:	Cook, Elisebeth C; McIntosh, Brent; Oldham, Jeffrey L; Blank, Kelly
Subject:	RE: Attorney-client privilege issue

Robert has an upcoming speech to the KY bar assn (June 14) and would be happy to include reference to Enron if we have it by then and you think it'd be helpful to get it out there.

-----Original Message-----
From: Moschella, William
Sent: Monday, June 05, 2006 3:29 PM
To: Tenpas, Ronald J (ODAG); Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Cook, Elisebeth C; McIntosh, Brent; Oldham, Jeffrey L; Blank, Kelly
Subject: Re: Attorney-client privilege issue

Do we have the Enron info?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Tenpas, Ronald J (ODAG)
To: Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO)
CC: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Sent: Mon Jun 05 15:26:39 2006
Subject: RE: Attorney-client privilege issue

Jim:

Any idea where we stand on this? Is a hearing still likely for late June? Should we be pro-active in trying to get up to the Hill staff, both Specter's and others?

Ron

From: Clinger, James H
Sent: Monday, May 15, 2006 11:55 AM
To: Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG)

Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

Per Brett Tolman, Chairman Specter is looking to do a hearing (not a markup) on the attorney-client privilege waiver issue "at the end of June, possibly June 28," although that date is very tentative at this point. Brett indicated that he would be interested in having representatives of the Department brief relevant Committee staff on our policy sometime in early June.

-----Original Message-----
From: Moschella, William
To: Gorsuch, Neil M
Sent: Tue May 09 17:23:40 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

We probably should brief his staff because I bet he would take the ABA's position.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Moschella, William; Seidel, Rebecca
CC: McIntosh, Brent; Cook, Elisebeth C; Oldham, Jeffrey L
Sent: Tue May 09 16:08:16 2006
Subject: Re: Letter from ABA President [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

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Sent: Tuesday, May 09, 2006 3:56 PM
To:
Subject: FW: Letter from ABA President to Sen. Arlen Specter Regarding Privilege Waiver
Importance: Low

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Regards,

Senior Legislative Counsel
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Governmental Affairs Office
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(telephone) ~ (202) 662-1762 (fax) email:

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> American Bar Association
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> Washington, D.C. 20005
>[redacted](telephone) ~ (202) 662-1762 (fax) > email:[redacted]
>
> <<attyclientprivissue(abalettertosenspecter,may9,2006).pdf>>

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, June 05, 2006 5:26 PM
To:	Friedrich, Matthew
Subject:	RE: we are set for thursday afternoon

Looking forward to it; good luck with your Hill appearance.

From: Friedrich, Matthew
Sent: Monday, June 05, 2006 5:16 PM
To: Gorsuch, Neil M
Subject: we are set for thursday afternoon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 05, 2006 5:30 PM
To: Cook, Elisebeth C
Subject: [redacted] letter
Attachments: N. Gorsuch Letter.pdf

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.
SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3209
(202) 326-7900
FACSIMILE:
(202) 326-7999

June 5, 2006

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Specter:

I write in support of the nomination of Neil M. Gorsuch, Esquire, to the United States Court of Appeals for the Tenth Circuit.

I have known Neil for more than a decade. I met him while he served as a law clerk to Justice White on the United States Supreme Court. He then spent a year at Oxford completing work on his Doctorate in Law. He came back to the United States in 1995 and started work at our firm as an associate. From the very beginning of his work here, Neil demonstrated the qualities that have made him so successful: he worked extremely hard, he was bright and insightful, and he held himself to the highest standards. He rapidly advanced, gaining more and more responsibility on significant cases around the country. These cases were many and varied. He represented consumers injured by unscrupulous lending practices in a class action in Georgia. He represented small competitors that were harmed by the conduct of large firms. But he also represented large firms in major commercial cases.

Neil excelled in the courtroom. He became a recognized trial lawyer, with significant victories in cases tried around the country. For example, Neil was lead trial counsel for a hospital (Columbia Hospital for Women) that was damaged by the actions of an insurance company, and for a small company that was deprived of its mining and other rights. He won record

verdicts in both cases. In these and other cases he performed admirably and even brilliantly in many instances. Moreover, he did so in a professional manner that won him many friends among co-counsel, opposing counsel and clients. He demonstrated fairness and sound judgment, in addition to his manifest skill as an advocate.

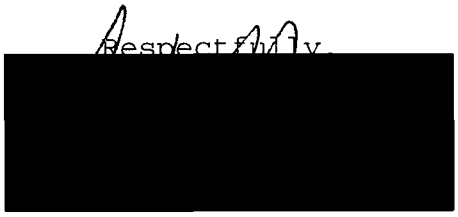
In many other ways, Neil exhibited the kind of temperament that makes him a wise choice for the appellate bench. He is mature and even-tempered. He gets along with and understands people. He has a long-standing commitment to public service that is supported by deep and guiding values. If confirmed Neil will be, in my judgment, a distinguished judge. He values precedent and the opinions of his colleagues. He will not "legislate" from the bench. He will give to every case the impartial, searching and principled review that litigants expect from the federal courts of appeals. His extraordinary intellect, coupled with his great energy and diligence, make him an almost ideal candidate for the bench.

Neil's agreement to accept the President's nomination comes at a sacrifice. If he returned to private practice, he could expect substantial financial rewards. Neil has chosen the path of public service instead.

I think I speak on behalf of all of Neil's former colleagues here at Kellogg Huber in stating to the distinguished members of the Committee that we support unequivocally Neil's nomination. Please let me know if there is anything more that I or others at the firm can do to assist the Committee as it considers his nomination. I would be honored to provide any assistance that might be useful to the Committee.

Thank you for considering this letter in support of Neil's nomination.

Respectfully,



cc: The Honorable Patrick J. Leahy
The Honorable Wayne Allard
The Honorable Ken Salazar
Office of Legal Policy

Goodling, Monica

From: Goodling, Monica
Sent: Tuesday, June 6, 2006 8:50 AM
To: Goodling, Monica
Subject: The Morning Update: 6/6/06

<http://www.whitehouse.gov/>
JUNE 6, 2006

This morning, President Bush will participate in a tour of a Federal Law Enforcement Training Center in Artesia, New Mexico, followed by remarks on border security and comprehensive immigration reform. In the afternoon, the President will participate in a briefing at Laredo Border Patrol Sector Headquarters.

10:25 am:
MDT THE PRESIDENT participates in a Tour of Federal Law Enforcement Training Center
Federal Law Enforcement Training Center | Artesia, New Mexico

11:00 am:
MDT THE PRESIDENT makes Remarks on Border Security and Comprehensive Immigration Reform
Federal Law Enforcement Training Center | Artesia, New Mexico

3:30 pm:
CDT THE PRESIDENT participates in a Briefing at Laredo Border Patrol Sector Headquarters
Laredo Border Patrol Sector Headquarters | Laredo, Texas

President Bush Discusses His Support For The Marriage Protection Amendment. "
<file:///H:/FACT%20SHEETS%20%26%20TALKING%20POINTS/2006%20Morning%20Update/Knight%20Ridder> For the second time in three days, President Bush implored the Senate to pass a constitutional amendment banning gay marriage, saying Monday that the issue needs to be wrestled away from 'overreaching judges' and placed in the hands of the American people <http://www.realcities.com/mld/krwashington/14747220.htm> .'Marriage is the most fundamental institution of civilization and it should not be redefined by activist judges,' Bush said following a meeting with amendment supporters in the White House. 'Our policies should aim to strengthen families, not undermine them. And our changing the definition of marriage would undermine the family structure.'" (William Douglas, "Bush Reiterates Support For Amendment Banning Gay Marriage," Knight Ridder, 6/5/06)

President Bush Discusses Darfur With The President Of The Republic Of Congo. "Bush met at the White House with Denis Sassou-Nguesso, president of the Republic of Congo and head of the 53-nation African Union, to discuss Darfur, AIDS and other issues. 'We talked about our common commitment to help end the genocide in Darfur,' Bush said in the Oval

Office. 'I appreciate the president's leadership in helping negotiate a peace agreement, and I appreciate his leadership in working with the United Nations so we can get the AU forces blue-helmeted as quickly as possible.'
<http://news.yahoo.com/s/ap/20060605/ap_on_go_pr_wh/bush_congo&printer=1;_ylt=Aisup_e4779.8wuZGCEC6MoGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> " ("Bush, President Of Congo Discuss Darfur," The Associated Press, 6/5/06)

President Bush Discusses Immigration Reform With Honduran President Zelaya. "'I assured him that my administration supports a comprehensive immigration bill that treats people with respect, and at the same time upholds our laws
<http://news.yahoo.com/s/ap/20060605/ap_on_go_pr_wh/bush_honduras&printer=1;_ylt=Asv3nPw9CqhSu.dGUdzFaJ4Gw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE>
,' Bush said. ... Zelaya, speaking through a translator to reporters brought in at the end of the meeting, thanked Bush for 'the frankness with which he has spoken about the solutions to the common problems we face in the Western Hemisphere.'" (Nedra Pickler, "Bush Hears Concerns From Honduran Leader," The Associated Press, 6/5/06)

Enhanced Border Enforcement Leads To An Increase In Arrests. "The Border Patrol says apprehensions of illegal immigrants along the Mexican border are up nearly 4% so far this year because of increased enforcement.
<http://www.usatoday.com/news/nation/2006-06-05-immigrants_x.htm> ... Border Patrol Chief David Aguilar said Monday there has been no surge in the number of illegal crossings since President Bush announced in May that 6,000 National Guard troops would be sent to the border. Aguilar expects a decrease as more agents and Guard members are deployed. Border Patrol spokesman Richard Rojas says apprehensions at the southern border are up this year to 826,109, from 795,218 at this point in 2005. 'We're enforcing more; therefore, we're apprehending more,' he says." (Judy Keen, "More Migrants Apprehended Along Border," USA Today, 6/6/06)

National Guard Will Have 800 Troops Supporting Border Patrol At Southern Border By Mid-June. "The National Guard will have 800 troops along the U.S.-Mexican border by mid-June, and the 6,000 troops President Bush pledged to send to the southern border will be in place by Aug. 1, Lt. Gen. H. Steven Blum said Monday. ... The troops are being sent to augment the Homeland Security Department's Border Patrol while the agency recruits 6,000 additional agents. If the Border Patrol can meet that goal, set by Bush in a speech May 15, it will have 18,000 agents by the end of 2008, a doubling since the Sept. 11 attacks prompted tighter border security. 'It's going to be a very dynamic operation over the next two years,' Border Patrol Chief David Aguilar said. 'As a force multiplier, it will be tremendous' to have the Guard's help, he said.
<http://www.usatoday.com/printedition/news/20060606/a_border06.art.htm>
" (Mimi Hall, "800 Guard Members To Be Added To Border Soon," USA Today, 6/6/06)

New York Times Columnist John Tierney Says A Temporary Worker Program Is Necessary To Border Security. "Today President Bush and the Senate are trying to apply that lesson by expanding the number of legal immigrants and temporary workers.
<http://select.nytimes.com/gst/tsc.html?URI=http://select.nytimes.com/2006/06/06/opinion/06tierney.html&OQ=_rQ3D1Q26nQ3DTopQ252fOpinionQ252fEditorialsQ2520andQ2520OpQ252dEdQ252fOpQ252dEdQ252fColumnists&OP=4f41ddc9Q2F

Q27lcQ3FQ27hiHpphQ27Q2F,,Q5CQ27,Q5CQ27,Q5> These visiting workers would have more rights than braceros, which is why the reforms are supported by the United Farm Workers and other unions. But Republicans in the House are resisting. They say they won't expand legal opportunities until the border is first secured - which will never happen if they have their way." (John Tierney, "Securing The Border (Again)," The New York Times, 6/6/06)

Homeland Security Advisor Frances Townsend Discusses Border Security. TOWNSEND: "Well, you know, Wolf, we're vulnerable at all of our ports of entry. For that reason, particularly on the northern border, the president since 2001 has tripled the number of Border Patrol agents, he's - we've invested over $120 million in advanced technology along the northern border. <http://transcripts.cnn.com/TRANSCRIPTS/0606/05/sitroom.02.html> We're working with the Canadian government on a Western Hemisphere travel card that is biometrically enabled so we can facilitate legitimate travel but be sure that we understand and know who's coming in and exiting our country." (CNN's "The Situation Room," 6/5/06)

Senate Finance Committee Chairman Charles Grassley (R-IA) Predicts Quick Confirmation For Treasury Secretary Nominee Henry Paulson. "Henry Paulson Jr. met Monday with the head of the Senate Finance Committee, who predicted that President Bush's selection as Treasury secretary could be confirmed and on the job by early July. Committee Chairman Charles Grassley, R-Iowa, said he and Paulson had a productive meeting and that he believed the nomination could win Senate approval before Congress leaves for the July 4 break <http://news.yahoo.com/s/ap/20060605/ap_on_go_ca_st_pe/treasury_nomination&printer=1;_ylt=AvXBy57EUNi81zfEftZKpdaWwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> . Grassley praised Paulson, chief executive of the Wall Street investment firm Goldman Sachs, for the 'vast amount of experience' he will bring to the job." (Martin Crutsinger, "Grassley Sees Quick Paulson Confirmation," The Associated Press, 6/6/06)

Pentagon Report Finds Iraqis Have Confidence In New Government. "Attacks and casualty levels against civilians and military personnel in Iraq have risen 'substantially' since the December elections, but Iraqis have confidence the new Baghdad government will improve the situation, according to the Defense Department's quarterly report to Congress. 'The formation of the new, permanent Iraqi government that addresses key sectarian and political concerns could help reverse the attack trend,' states the report, which measured progress in Iraq through May <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/05/AR2006060501188.html> ." (Walter Pincus, "Iraqis Believe Violence Will Abate, New Report Says," The Washington Post, 6/6/06)

President Discusses Marriage Protection Amendment <http://www.whitehouse.gov/news/releases/2006/06/20060605-2.html>

President Bush Welcomes President Sassou Nguesso of the Republic of Congo to the White House <http://www.whitehouse.gov/news/releases/2006/06/20060605.html>

* In Focus: Africa <http://www.whitehouse.gov/infocus/africa/>

* In Focus: Global Diplomacy
<http://www.whitehouse.gov/infocus/globaldiplomacy/>

President Bush Welcomes President Zelaya of Honduras to the White House
<http://www.whitehouse.gov/news/releases/2006/06/20060605-1.html>

Statement on Federal Disaster Assistance for California
<http://www.whitehouse.gov/news/releases/2006/06/20060605-7.html>

Statement on Federal Disaster Assistance for Minnesota
<http://www.whitehouse.gov/news/releases/2006/06/20060605-8.html>

Statement on Federal Disaster Assistance for South Dakota
<http://www.whitehouse.gov/news/releases/2006/06/20060605-9.html>

Statement on Federal Disaster Assistance for North Dakota
<http://www.whitehouse.gov/news/releases/2006/06/20060605-10.html>

Caribbean-American Heritage Month, 2006
<http://www.whitehouse.gov/news/releases/2006/06/20060605-6.html>

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/06/20060605-5.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/06/20060605-3.html>

Ask the White House: Deputy United States Trade Representative Karan Bhatia <http://www.whitehouse.gov/ask/20060605.html>

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 6, 2006 9:29 AM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF MATTHEW W. FRIEDRICH, CHIEF OF STAFF AND PRINCIPAL DEPUTY ATTORNEY GENERAL OF THE CRIMINAL DIVISION, BEFORE THE SENATE JUDICIARY COMMITTEE
Attachments: friedrich.press.pdf

Attached please find Matthew Friedrich's testimony before the Senate Judiciary Committee on "Unauthorized Disclosures of Classified Information by the Press."

Statement of

Matthew W. Friedrich
Chief of Staff and Principal Deputy Assistant Attorney General
Criminal Division
Department of Justice

Before the

Committee on the Judiciary
United States Senate

Concerning

"Unauthorized Disclosures of Classified Information by the Press"

Presented on

June 6, 2006

Mr. Chairman and Members of the Committee, thank you for the opportunity to discuss with you today the difficult issue of unauthorized disclosures of classified information sometimes referred to as "leaks." I intend to explain the position of the Department of Justice with respect to the scope of the relevant statutes as they relate to the press and the willful dissemination of classified information. In doing so, I cannot comment on any pending investigation or litigation.

In response to recent serious leaks of classified information, President Bush has stated that such leaks have damaged our national security, hurt our ability to pursue terrorists, and put our citizens at risk. Porter Goss, then-Director of the Central Intelligence Agency, stated in February of this year that leaks have alerted our enemies to intelligence collection technologies and operational tactics, and "cost America hundreds of millions of dollars" to repair the damage

DOJ_NMG_ 0161314

caused by leaks. Members of Congress in both the Senate and the House have repeatedly acknowledged the damage caused by leaks, particularly in this post-September 11th environment.

The Department of Justice is committed to investigating and prosecuting leaks of classified information, and Congress has given the Department the statutory tools to do so. Several statutes prohibit the unauthorized disclosure of certain categories of classified information, the broadest of which is Section 793 of Title 18, which prohibits the disclosure of information "relating to national defense." Also, Section 798 of Title 18 prohibits the unauthorized disclosure of information relating to communications intelligence activities.

On May 21st, 2006, Attorney General Gonzales was asked about the possibility of prosecuting members of the press for publishing classified information and he stated in part as follows: "There are some statutes on the books which, if you read the language carefully, would seem to indicate that that is a possibility." There has been considerable attention paid to the Attorney General's remarks. It is critical to note, however, that the Attorney General is not the first one to recognize the possibility that reporters are not immune from potential prosecution under these statutes. Many judges and commentators have reached this same conclusion. For example, in the Pentagon Papers case, the United States sought to restrain the New York Times from publishing classified documents relating to the Vietnam War. While the Supreme Court did not decide the question of whether the First Amendment immunizes the press from prosecution for publishing national defense information given to them by a leaker, five concurring Justices questioned the existence of such blanket immunity. *See New York Times v. United States*, 403 U.S. 713 (1971). In his concurring opinion, Justice White stated: "[F]rom the face of [the statute] and from the context of the Act of which it was a part, it seems undeniable

DOJ_NMG_ 0161315

that a newspaper, as well as others unconnected with the Government, are vulnerable to prosecution under § 793(e) if they communicate or withhold the materials covered by that section." *Id.* at 740. Further, the Court of Appeals for the Fourth Circuit has affirmed that the First Amendment does not prevent prosecutions under Section 793 for unauthorized disclosures of classified information and did so over the objections of various news organizations that appeared in the case as *amici* to support the defendant's First Amendment arguments. *United States v. Morison*, 844 F.2d 1057 (4th Cir. 1988). Likewise, it is the conclusion of legal commentators, with respect to Section 798, that reporters are not exempt from the reach of this statute if its elements are otherwise met.

I would emphasize that there is more to consider here beyond the mere question of the reach of the laws as written. The Department recognizes that freedom of the press is both vital to our nation, and protected by the First Amendment.

The Department has never in its history prosecuted a member of the press under Section 793, 798, or other sections of the Espionage Act of 1917 for the publication of classified information, even while recognizing that such a prosecution could be possible under the law. As a policy matter, the Department has taken significant steps to protect as much as possible the role of the press in our society. This policy is embodied in Section 50.10 of Title 28, Code of Federal Regulations which requires that the Attorney General approve not only prosecutions of members of the press but also investigative steps aimed at the press, even in cases where the press is not itself the target of the investigation. This policy – voluntarily adopted by the Department – ensures that any decision to proceed against the press in a criminal proceeding is made at the very highest level of the Department. In a press conference last week, the Attorney General

DOJ_NMG_ 0161316

stated that the Department's "primary focus" is on the leakers of classified information, as opposed to the press. The strong preference of the Department is to work with the press not to run stories containing classified information, as opposed to other alternatives. The Attorney General has consistently made clear that he believes the country's national security interests and First Amendment interests are not mutually exclusive and can both be accommodated.

I appreciate the opportunity to appear before you and would be happy to answer your questions.

DOJ_NMG_ 0161317

Gunn, Currie (SMO)

Subject:	Canceled: OASG Staff Meeting
Location:	Main Room 5710
Start:	Tuesday, June 06, 2006 5:00 PM
End:	Tuesday, June 06, 2006 6:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)
Importance:	High

When: Tuesday, June 06, 2006 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Tuesday, June 6, 2006 10:15 AM
To: Gorsuch, Neil M
Subject: Case HD0000000103746 has been closed.

The JMD/SMO JCON Help Desk has closed your ticket HD0000000103746. If you need further assistance, please call 616-7100.

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Tuesday, June 06, 2006 10:15 AM
To: Gorsuch, Neil M
Subject: Case HD0000000103802 has been closed.

The JMD/SMO JCON Help Desk has closed your ticket HD0000000103802. If you need further assistance, please call 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 06, 2006 10:46 AM
To: USDOJ- Office of Public Affairs
Subject: CHANGE IN BILATERAL SETTLEMENT AGREEMENT CREATES OPPORTUNITY FOR AMERICANS TO FILE CLAIMS AGAINST ALBANIA

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 6, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

CHANGE IN BILATERAL SETTLEMENT AGREEMENT CREATES OPPORTUNITY FOR AMERICANS TO FILE CLAIMS AGAINST ALBANIA

WASHINGTON –The Albanian government accepted a proposal made by the United States government to amend the 1995 claims settlement agreement between the two countries, Chairman Mauricio Tamargo announced today.

The Foreign Claims Settlement Commission will notify all claimants with claims against Albania that the Albanian government accepted the proposed amendment on April 27, 2006, and that claimants are no longer required to establish that they were residing in the United States on any specific date. Claimants must still establish that the claimed property was owned by a United States citizen at the time it was confiscated.

Chairman Tamargo noted that the Commission has received and adjudicated a total of 335 claims in its Albanian claims program, and that of these, approximately 50 had been denied because of the residency requirement. These claims will now be eligible for re-opening and re-evaluation as a result of this amendment of the settlement agreement. In addition, the Commission will accept any new claims that claimants may wish to submit. The Chairman said that approximately $1 million still remains in the settlement fund established under the 1995 agreement, and although it is difficult to estimate the value of the claims now eligible for reconsideration, he believes the remaining monies should be sufficient to cover those claims in full, without a pro rata reduction.

All inquiries concerning the filing of a claim should be forwarded directly to the Foreign Claims Settlement Commission of the United States at 600 E Street N.W., Suite 6002, Washington, D.C. 20579, Phone: (202) 616-6975, Fax: (202) 616-6993.

The Foreign Claims Settlement Commission of the United States is a quasi-judicial, independent agency within the Justice Department which adjudicates claims of U.S. nationals against foreign governments. More information about the Commission is available at http://www.usdoj.gov/fcsc/.

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06-350

DOJ_NMG_ 0161321

Image not available for this document, ID: 0.7.10316.9105-000001

Image not available for this document, ID: 0.7.10316.9105-000002

From: Tamargo, Mauricio J
Sent: Tuesday, June 06, 2006 11:24 AM
To: Tamargo, Mauricio J
Subject: FW: CHANGE IN BILATERAL SETTLEMENT AGREEMENT CREATES OPPORTUNITY FOR AMERICANS TO FILE CLAIMS AGAINST ALBANIA

FYI

Mauricio Tamargo
Chairman
Foreign Claims Settlement Commission
Department of Justice
600 E Street, NW, Suite 6002
Washington, DC 20579
202-616-6985
Fax 202-616-6993
mauricio.j.tamargo@usdoj.gov

Department of Justice

FOR IMMEDIATE RELEASE OPA
[DATE] (202) 514-2008
WWW.USDOJ.GOV TDD (202) 514-1888

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DOJ_NMG_ 0161324

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06-xxx

press release
6-02revd.wpd

DOJ_NMG_ 0161325

Image not available for this document, ID: 0.7.10316.9100-000001

Image not available for this document, ID: 0.7.10316.9100-000002

Department of Justice

FOR IMMEDIATE RELEASE OPA
[DATE] (202) 514-2008
WWW.USDOJ.GOV TDD (202) 514-1888

DRAFT XII

CHANGE IN BILATERAL SETTLEMENT AGREEMENT CREATES OPPORTUNITY FOR AMERICANS TO FILE CLAIMS AGAINST ALBANIA

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06-xxx

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, June 06, 2006 11:34 AM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 6.6.2006
Attachments: CRS AG Weekly 6-6-06.doc

Attached, please find the CRS Weekly Report to the Attorney General for June 6, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

June 6, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

No new entries to report.

B. This Week

- ***CRS to Monitor Klu Klux Klan Rally in Sharpsburg, MD***
  On June 10, 2006, CRS will be onsite in Sharpsburg, MD to monitor a planned rally to be held by the Klu Klux Klan at Antietam National Park. CRS has also been in continued communication with local community leaders and local, state, and federal law enforcement officials to provide technical assistance and contingency planning in an effort to coordinate a safe event.

- ***CRS Convening Mediation in Page, AZ***
  On May 31-June 9, 2006, CRS will be onsite in Page, AZ to convene mediation between the Navajo Nation community and the Page Unified School District. The mediation is being held in response to racial tensions surrounding a lawsuit filed by the Navajo Nation, alleging segregation in two Page Unified elementary schools. CRS has met with Page Unified School District administrators, Navajo elected officials, Navajo school district staff, equal education leadership, and concerned parents to identify and discuss parties' concerns. CRS will convene formal mediation among the parties on June 7 and 8, 2006. CRS will provide continued assistance as necessary.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0161331

- ***CRS to Conduct Mediation in School Desegregation Case in Little Rock, AR***
  On June 8, 2006, CRS will be onsite in Little Rock, AR to convene mediation among the attorneys of the Pulaski Community Special School District (PCSSD) and attorneys of the Joshua Interveners in relation to an ongoing school desegregation case entitled, *Little Rock School District v. Pulaski County Special School District of Arkansas.* CRS services were requested to mediate concerns regarding compliance issues with respect to a revised desegregation and education plan for PCSSD developed in 1999 by the two parties. The plan set forth a provision by which CRS will provide services to assist parties in reaching an agreement if the Joshua Interveners were dissatisfied with written responses by PCSSD to inquiries regarding compliance issues to the desegregation and education plan. CRS will provide continued assistance as necessary.

C. Last Week

- ***CRS Monitored Protest Demonstration in Panama City, FL***
  On June 3, 2006, CRS was onsite in Panama City, FL to monitor a planned demonstration held to reportedly protest the death of a 14-year-old African American male youth after he was allegedly beaten by security officers at Bay County Boot Camp. Prior to the event, CRS provided technical assistance and self-marshalling training for event organizers, volunteers, and law enforcement. The event was attended by approximately 600 persons and proceeded without any major incidents. This work follows previous CRS case involvement, dating back to January of 2006 when the initial incident occurred.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0161332

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, June 6, 2006 11:51 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 6-06-06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 6-06-06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

June 6, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending June 2, 2006

NEXT WEEK

- ***Division to Monitor Boston, Massachusetts Elections:***
  On June 13, the Division will monitor a special municipal general election in Boston, Massachusetts to ensure compliance with the Voting Rights Act. Federal observers will be assigned to monitor polling place activities in Boston pursuant to a federal court order entered on October 18, 2005.

- ***Sentencing to Occur against Former Tennessee Corrections Officers:***
  On June 16, sentencing is scheduled to occur in *United States v. Westmoreland* and *United States v. McKinney* (Middle District Tennessee). Defendant William Westmoreland, a correctional officer at the Wilson County Jail, previously pleaded guilty to violating 18 U.S.C. § 242 admitting that he assaulted an inmate in July 2001, and defendant John Wesley McKinney, also a Wilson county Jail officer, pleaded guilty to a felony charge of 18 U.S.C. § 4 (misprision of a felony), admitting that he witnessed corrections officers assault another inmate but that he failed to report the assault in an internal jail incident report that he prepared.

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[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

THIS WEEK

- ***Division to Monitor Primary Elections in Alabama, California, New Jersey, New Mexico, and South Dakota:***
  On June 6, the Division will monitor primary elections in Hale County, Ala.; Alameda, Orange, San Benito, San Diego, San Mateo, Santa Clara and Ventura Counties, Calif.; Bergen and Essex Counties, N.J.; Cibola and Sandoval Counties, N.M.; and Bennett, Dewey, Mellette, Shannon, Todd and Ziebach Counties, S.D., to ensure compliance with the Voting Rights Act. Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act or by a federal court order.

- ***Division to File Amicus Brief on RLUIPA Case:***
  On June 7, the Division expects to file a brief as amicus curiae in support of appellant in *Lighthouse Institute for Evangelism* v. *City of Long Branch* (3d Cir.). The City denied Lighthouse Mission's ("the Mission") application for a Zoning Permit to use its property as a church because that proposed use was not specifically permitted in the zone. In granting the city summary judgment, the district court addressed the Mission's "equal terms" claim under RLUIPA. The Division would file for the limited purpose of arguing that plaintiff is not required to prove that the land use regulation at issue substantially burdened its religious exercise in order to prove a violation of RLUIPA's "equal terms" provision**.**

- ***Sentencing to Occur in Chicago Bias Crime Case:***
  On June 8, sentencing is scheduled to occur in *United States v. Nix* (Northern District Illinois). On March 6, defendant Eric Nix entered a guilty plea to violating one count of 42 U.S.C. §3631 (housing interference with the use of fire) for igniting an explosive device inside a van owned by a Palestinian family while the van was parked in front of their home.

LAST WEEK

- ***Division Reached Project Civic Access Agreement with City of Newark, N.J. on ADA compliance :***
  On May 31, the Division reached a settlement agreement with the City of Newark, N.J., under Project Civic Access, a Department initiative to bring communities into compliance with the Americans with Disabilities Act (ADA). This agreement with Newark marks the 146th settlement agreement reached under Project Civic Access.
  The City agreed to make physical modifications to its facilities so that parking, routes into the buildings, entrances, public telephones, restrooms, service counters, and drinking fountains and wheelchair seating at multiple city facilities, including recreation centers and fire and police departments are accessible to people with disabilities. The City also agreed to designate an ADA Coordinator and to make its 9-1-1 emergency services

accessible to persons with disabilities.

LONG RANGE EVENTS

- Nothing to report

Division Contact: Tobi Longwitz – (202) 514-3845

mailings@heritage.org

From:	mailings@heritage.org
Sent:	Tuesday, June 06, 2006 12:01 PM
To:	Gorsuch, Neil M
Subject:	FEATURES: FAA negotiations, Native Hawaiian Legislation and Haditha: June 6, 2006
Attachments:	tmp.htm

<http://www.heritage.org/emails/hidden/HeritageExecutive.jpg>
<http://www.heritage.org/> <http://www.heritage.org/research/> <http://www.heritage.org/press/dailybriefing/> June 6, 2006
FEATURES: FAA negotiations and Native Hawaiian Legislation and Haditha

A Costly Delay: Air Traffic Controllers' Expensive New Strategy <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1493>
by Ronald D. Utt, Ph.D.

On Wednesday, the House of Representatives will vote on fiscal responsibility and the integrity of the existing federal statutes that bind and guide them. At issue is legislation (H.R. 5449) from a bipartisan group of Members to change federal law to boost the salaries and benefits of the Federal Aviation Administration's (FAA) air traffic controllers. The controllers seek a new contract that will further increase their already substantial salaries and benefits, but have rejected the FAA's final offer. According to the FAA, controllers now average $173,000 per year in pay and benefits, and under the agency's final and best offer the average wage and benefit package would rise to $187,000 within five years.

The 'Native Hawaiian' Bill: An Unconstitutional Approach in Furtherance of a Terrible Idea
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1492>
by Edwin Meese III and Todd Gaziano

The U.S. Senate is scheduled to begin debate as early as June 7, 2006, on the misleadingly named "Native Hawaiian Government Reorganization Act of 2005" (S.147). The proponents of this bill, some motivated by seemingly benign purposes and others by a desire to benefit from special preferences, argue that it redresses ancient wrongs done to early Hawaiians by various powers, including the United States. The bill purports to authorize the creation of an exclusively race-based government of "native" Hawaiians to exercise sovereignty over native Hawaiians living anywhere in the United States. This "Native Hawaiian Government" could allegedly exempt these Hawaiians from whatever aspects of the United States Constitution and state authority it thought undesirable.

Haditha's Aftermath: What's Next?
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1495>
by James Jay Carafano, Ph.D.

Allegations that U.S. Marines murdered Iraqi civilians in Haditha are deeply troubling. The American government bears a grave responsibility to fully meet its obligations to investigate and dispense justice without reservation. At the same time, the United States must continue to pursue the vital

national interest of building an independent and stable Iraq.

<http://www.heritage.org/emails/hidden/pda.gif> You are subscribed as Neil.Gorsuch@usdoj.gov. To unsubscribe, please reply with "unsubscribe" in the subject line.
For a PDA-friendly version or to receive this as a text-only e-mail, please reply with "Text" in the subject line.
Domestic Policy<http://www.heritage.org/emails/hidden/domesticpolicy.gif>
Regulation <http://www.heritage.org/research/regulation/>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Broadband Regulation: Will Congress Neuter the Net?
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1455>
by James L. Gattuso
This week, the House is scheduled to vote on telecommunications reform.
The bill would provide the Federal Communications Commission (FCC) with the authority to enforce so-called "network neutrality" rules on Internet providers. While more limited than what some have proposed, this would be a dangerous step towards complete federal regulation of the Internet.
Policymakers should reject this approach and any other proposal that would force anti-competitive "network neutrality" rules.

Energy and Environment
<http://www.heritage.org/Research/EnergyandEnvironment/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> An energy lesson from Cuba
<http://www.heritage.org/Press/Commentary/ed060106d.cfm>
by Ben Lieberman
An unlikely political figure is willing to fight for lower gas prices.
His name: Fidel Castro.
He's working with foreign investors, including China, to find oil off the Cuban coast, close to American waters.

<http://www.heritage.org/emails/hidden/bluebullet.gif> The Real Culprit Behind Price-Gouging: OPEC <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1446>
by Ariel Cohen and William Schirano
Last week, OPEC announced that it will maintain its current output level-a decision that will do little to ease oil prices that have reached more than $70 a barrel. If Congress is serious about alleviating the price-gouging that contributes to high gas prices, it ought to begin by allowing the federal government to sue OPEC.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Congress Should Streamline Regulatory Impediments to Refinery Expansions <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1494>
by Ben Lieberman
High oil prices, currently triple the average of the 1990s, are the main cause of today's high gasoline prices. But they are not the only cause.
The cost of refining oil into gasoline has also risen, due in part to unnecessarily costly and onerous federal refinery regulations. One pending bill, The Refinery Permit Process Schedule Act (H.R. 5254), takes steps to streamline the regulatory process.

Economy <http://www.heritage.org/research/economy>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Blair and Bush <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1468>

by Helle Dale
While Mr. Blair's eventual departure will obviously affect British domestic politics and the fortunes of the Labor and Tory Parties, it will certainly also have an impact on U.S.-U.K. relations.

<http://www.heritage.org/emails/hidden/bluebullet.gif> U.S. Economy Strong Despite High Oil Prices <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1452>
by James Sherk and Samuel Hyman
Many Americans worry that that high energy costs combined with rising interest rates will plunge the U.S. economy into economic doldrums. The latest data, however, reveal that the economy continues to grow steadily despite these potential pitfalls. While a great deal of news analysis hypes weaknesses in the economy, the facts suggest otherwise.

Health Care <http://www.heritage.org/Research/HealthCare/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Patients' Freedom of Conscience: The Case for Values-Driven Health Plans <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1498>
by Robert E. Moffit, Ph.D., Jennifer A. Marshall,
While concerns over health care have been deepening- driven by anxieties over costs, access to health care coverage, and quality of care-more and more Americans are becoming concerned about the impact of ongoing biomedical research on embryonic stem cells, human cloning, genetic engineering, and government policy on end-of-life care. Every American has a stake in these issues.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Putting Patients in the Game <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1497>
by Rebecca Hagelin
Pushing the freedom to choose a health plan that reflects one's moral values.

Upcoming Events<http://www.heritage.org/emails/hidden/upcomingevents-redgrey.gif>
* A New Look at China's Military <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1422>
  Daniel Blumenthal, Commissioner, U.S.-China Economic and Security Review Commission
  Randall Schriver, Former Deputy Assistant Secretary of State for East Asian and Pacific Affairs
  Professor Wang Yuan-kang, Brookings Institute
  Wednesday, June 7, 2006, 10:00 a.m. - 12:00 noon | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1422>
* TV From The OC to DC: Anaheim, Congress and Cable Television Competition <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1427> The Honorable Curt Pringle, Mayor of Anaheim, California
  Thomas W. Hazlett, Professor of Law and Economics, George Mason University
  Michael Sullivan, Senior Technology Policy Advisor to Senator John Ensign (R-NV)
  Thursday, June 8, 2006, 11:00 a.m. | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1427>
* America: The Last Best Hope - Volume 1: From the Age of Discovery to a World at War <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1423>
  William J. Bennett, Author and Host, Bill Bennett's Morning in America
  Thursday, June 8, 2006, 12:00 noon | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1423>
* The Shanghai Pact: The SCO and Implications for America in Eurasia <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1424>

Leland R. Miller, Associate, Sidley Austin LLP
Martin Sieff, Defense Correspondent, UPI
Richard Weitz, Ph.D., Senior Fellow, Center for Future Security Strategies, The Hudson Institute
Friday, June 9, 2006, 11:00 a.m. | RSVP
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1424>
* Commemorating the Tenth Anniversary of Welfare Reform: Marriage and the Welfare of America
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1464>
The Honorable Mike Leavitt, Secretary of Health and Human Services
Tuesday, June 13, 2006, 12:00 noon | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1464>
* A Discussion Featuring Eduardo Montealegre, Presidential Candidate for Nicaragua
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1465>
Eduardo Montealegre, Presidential Candidate for Nicaragua
Ambassador Roger Noriega, Visiting Fellow, AEI
Eric Farnsworth, Vice President, Council of the Americas
Wednesday, June 14, 2006, 11:30 a.m. - 12:30 p.m. | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1465>
* The U.S. Commitment to Refugee Protection and Assistance: A Humanitarian and Strategic Imperative <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1466>
Ambassador Ellen R. Sauerbrey, Assistant Secretary of State for Population, Refugees, and Migration
Tuesday, June 20, 2006, 12:00 noon | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1466>
* Is Freedom for Everyone?
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1499>
Natan Sharansky, Israeli Political Leader, Former Soviet Dissident, and Author of "The Case for Democracy: The Power of Freedom to Overcome Tyranny and Terror"
Thursday, June 15, 2006, 2:00 p.m. | RSVP <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1499>

Foreign Policy<http://www.heritage.org/emails/hidden/foreignpolicy.gif>
Russia and Eurasia
<http://www.heritage.org/Research/RussiaandEurasia/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Putin's Legacy and United Russia's New Ideology <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1449>
by Ariel Cohen
Vladislav Surkov's February 2006 speech to a United Russia political seminar combines democratic and market rhetoric with deliberate actions of power centralization and ideological and economic nationalism bordering on protectionism. It also provides a number of reasons for the United States to reevaluate its policies toward Russia on the basis of what is realistic and possible.

National Security
<http://www.heritage.org/Research/NationalSecurity/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> The spies among us
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1447>
by Peter Brookes
A recently-released FBI report about the compromising ties between a Chinese-American Mata Hari and her FBI-agent lover is a stark reminder that after terrorism, the greatest threat to our national security at home is espionage.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Military Readiness and the National Guard: A Crisis in the Making?
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1457>
by James Jay Carafano, Ph.D.
The term "hollow force" describes the situation when military readiness declines because of a lack of adequate funding. A hollow force lacks the resources to provide trained and ready forces, to support ongoing operations, and to modernize. In the past, when America's military has begun to hollow, the strain showed first in the National Guard. The same warning signs are here now. It will take a concerted effort from Congress and the administration to address the issue.

<http://www.heritage.org/emails/hidden/bluebullet.gif> The FBI's failure <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1460>
by Peter Brookes
This weekend's arrest of 17 homegrown al Qaeda wannabes just across the border in Canada is a nightmarish reminder of the horrors that have been - and could be - right here at home again if we don't fully get our counterterrorism act together soon.

Middle East <http://www.heritage.org/Research/MiddleEast/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> U.S. Policy and Iran's Nuclear Challenge
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1454>
by James Phillips
While pressing the diplomatic case against Tehran's nuclear ambitions at the U.N., the U.S. should discreetly support Iran's democratic opposition and boost security cooperation with regional states.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Iran's friends prevent progress
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1463>
by James Phillips and Peter Brookes
Tehran's choice of friends also helps explain why it's so difficult for the United States to use the United Nations to curb Iran's nuclear ambitions. Russia and China not only provide Iran with diplomatic protection at the U.N. Security Council -- where both enjoy veto power -- but they assist Iran's nuclear power program, which masks Iran's efforts to attain a nuclear-weapons capability.

Immigration <http://www.heritage.org/Research/HomelandDefense/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Border Security and Immigration: Building a Principled Consensus for Reform <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1453>
by The Honorable Mike Pence
The proposed Border Integrity and Immigration Reform Act is tough on border security and tough on employers who hire illegal aliens. It recognizes the need for a guest worker program that operates without amnesty and without growing into a huge new government bureaucracy.

<http://www.heritage.org/emails/hidden/bluebullet.gif> The Spanish Trap: More Evidence on Pitfalls of Senate Immigration Amnesty Proposal <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1456>
by James Jay Carafano, Ph.D.
Learn better from Spain's four amnesties for illegal immigrants and deny amnesty. It will send a powerful signal that the United States is serious about enforcing immigration laws and deter further illegal border crossings.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Response to Cato on Immigration Numbers <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1461>

Numbers <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1461>
by Robert Rector
By a ratio of three to one, Americans prefer to decrease rather than increase immigration into the U.S. But the immigration bill passed by the Senate ("The Comprehensive Immigration Reform Act," S.2611) contained a vast increase in legal immigration. This enormous increase in legal immigration has been effectively concealed from the public.

Asia and the Pacific
<http://www.heritage.org/Research/AsiaandthePacific/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Local Elections in the ROK: What It Means for the U.S.
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1450>
by Balbina Hwang
In nationwide local elections held in May in South Korea, the main opposition Grand National Party (GNP) achieved an overwhelming victory.
The ruling Uri Party's resounding defeat is a setback for President Roh Moo Hyun, and while it may be tempting for Roh's critics to view these election results as a rebuke of his leadership, particularly in the foreign policy arena, South Korea's orientation towards North Korea and the United States is unlikely to change dramatically.

<http://www.heritage.org/emails/hidden/bluebullet.gif> Bringing Burma to the U.N. Security Council <http://www.heritage.org/Research/AsiaandthePacific/wm1104.cfm>
by Dana R. Dillon
In May, the State Department announced that the United States would "pursue a U.N. Security Council resolution that will underscore the international communities concerns about the situation in Burma." The junta's arbitrary and secretive decisions cause vast human suffering across Asia. The State Department's effort, if it succeeds, would be the first time that the U.N. Security Council has taken action on Burma.

Trade and Foreign Aid
<http://www.heritage.org/Research/TradeandForeignAid/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> The Free Trade Future of AGOA
<http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1458>
by Brett D. Schaefer and Daniella Markheim
This week Washington hosts the fifth Sub-Saharan Africa Trade and Economic Cooperation Forum, bringing together governments and representatives of the private sector and civil society to discuss how the African Growth and Opportunity Act (AGOA) "can continue to be a vehicle to increase trade, investment and economic cooperation between the United States and sub-Saharan African eligible countries." AGOA contributes to that goal of increasing the competitiveness of African businesses and entrepreneurs by providing duty-free access to the U.S.
market for most imports from the region. However, trade preferences are not the best long-term solution.

Homeland Defense
<http://www.heritage.org/Research/HomelandDefense/index.cfm>
<http://www.heritage.org/emails/hidden/bluebullet.gif> Congress Questions Homeland Security Grants <http://cf3.heritage.org/Admin/EmailTracking/rd.cfm?id=1496>
by James Jay Carafano, Ph.D.
Members of Congress have raised concerns over the recently announced distribution of Urban Area Security Initiative (UASI) grants. DHS has spent over two years developing a process to allocate grants in a manner that meets national priorities.

Mike Franc <mailto:mike.franc@heritage.org>
Vice President, Government Relations
Contact: 202-608-6064 Virginia Thomas
<mailto:ginni.thomas@heritage.org>
Director, Executive Branch Relations
Contact: 202-608-6240 Abigail Dowd <mailto:abigail.dowd@heritage.org> Deputy Executive Branch Liaison
Contact: 202-608-6058
<http://www.heritage.org/emails/hidden/pda.gif> You are subscribed as Neil.Gorsuch@usdoj.gov. To unsubscribe, please reply with "unsubscribe" in the subject line. For a PDA-friendly version or to receive this as a text-only e-mail, please reply with "Text" in the subject line.

<http://cf3.heritage.org/Admin/EmailTracking/mail.cfm?Email=Neil.Gorsuch@usdoj.gov&MailingID=2388>

June 6, 2006

FEATURES: FAA negotiations and Native Hawaiian Legislation and Haditha

A Costly Delay: Air Traffic Controllers' Expensive New Strategy

by Ronald D. Utt, Ph.D.

On Wednesday, the House of Representatives will vote on fiscal responsibility and the integrity of the existing federal statutes that bind and guide them. At issue is legislation (H.R. 5449) from a bipartisan group of Members to change federal law to boost the salaries and benefits of the Federal Aviation Administration's (FAA) air traffic controllers. The controllers seek a new contract that will further increase their already substantial salaries and benefits, but have rejected the FAA's final offer. According to the FAA, controllers now av! erage $17

Regulation

Broadband Regulation: Will Congress Neuter the Net?
by James L. Gattuso
This week, the House is scheduled to vote on telecommunications reform. The bill would provide the Federal Communications Commission (FCC) with the authority to enforce so-called "network neutrality" rules on Internet providers. While more limited than what some have proposed, this would be a dangerous step towards complete federal regulation of the Internet. Policymakers should reject this approach and any other proposal that would force anti-competitive "network neutrality" rules.

Energy and Environment

An energy lesson from Cuba
by Ben Lieberman
An unlikely political figure is willing to fight for lower gas prices. His name: Fidel Castro. He's working with foreign investors, including China, to find oil off the Cuban coast, close to American waters.

The Real Culprit Behind Price-Gouging: OPEC
by Ariel Cohen and William Schirano
Last week, OPEC announced that it will maintain its current output level-a decision that will do little to ease oil prices that have reached more than $70 a barrel. If Congress is serious about alleviating the price-gouging that contributes to high gas prices, it ought to begin by allowing the federal government to sue OPEC.

Congress Should Streamline Regulatory Impediments to Refinery Expansions
by Ben Lieberman
High oil prices, currently triple the average of

Russia and Eurasia

Putin's Legacy and United Russia's New Ideology
by Ariel Cohen
Vladislav Surkov's February 2006 speech to a United Russia political seminar combines democratic and market rhetoric with deliberate actions of power centralization and ideological and economic nationalism bordering on protectionism. It also provides a number of reasons for the United States to reevaluate its policies toward Russia on the basis of what is realistic and possible.

National Security

The spies among us
by Peter Brookes
A recently-released FBI report about the compromising ties between a Chinese-American Mata Hari and her FBI-agent lover is a stark reminder that after terrorism, the greatest threat to our national security at home is espionage.

Military Readiness and the National Guard: A Crisis in the Making?
by James Jay Carafano, Ph.D.
The term "hollow force" describes the situation when military readiness declines because of a lack of adequate funding. A hollow force lacks the resources to provide trained and ready forces, to support ongoing operations, and to modernize. In the past, when America's military has begun to hollow, the strain showed first in the National Guard. The same warning signs are here now. It will take a concerted effort from Congress and the administration to address the issue.

The FBI's failure
by Peter Brookes
This weekend's arrest of 17 homegrown al

the 1990s, are the main cause of today's high gasoline prices. But they are not the only cause. The cost of refining oil into gasoline has also risen, due in part to unnecessarily costly and onerous federal refinery regulations. One pending bill, The Refinery Permit Process Schedule Act (H.R. 5254), takes steps to streamline the regulatory process.

Economy

Blair and Bush
by Helle Dale
While Mr. Blair's eventual departure will obviously affect British domestic politics and the fortunes of the Labor and Tory Parties, it will certainly also have an impact on U.S.-U.K. relations.

U.S. Economy Strong Despite High Oil Prices
by James Sherk and Samuel Hyman
Many Americans worry that that high energy costs combined with rising interest rates will plunge the U.S. economy into economic doldrums. The latest data, however, reveal that the economy continues to grow steadily despite these potential pitfalls. While a great deal of news analysis hypes weaknesses in the economy, the facts suggest otherwise.

Health Care

Patients' Freedom of Conscience: The Case for Values-Driven Health Plans
by Robert E. Moffit, Ph.D., Jennifer A. Marshall,
While concerns over health care have been deepening- driven by anxieties over costs, access to health care coverage, and quality of care-more and more Americans are becoming concerned about the impact of ongoing biomedical research on embryonic stem cells, human cloning, genetic engineering, and government policy on end-of-life care. Every American has a stake in these issues.

Putting Patients in the Game
by Rebecca Hagelin
Pushing the freedom to choose a health plan that reflects one's moral values.

- **A New Look at China's Military**
  Daniel Blumenthal, Commissioner, U.S.-China Economic and Security Review Commission
  Randall Schriver, Former Deputy Assistant Secretary of State for East Asian and Pacific Affairs
  Professor Wang Yuan-kang, Brookings Institute
  Wednesday, June 7, 2006, 10:00 a.m. - 12:00 noon | RSVP
- **TV From The OC to DC: Anaheim,**

Qaeda wannabes just across the border in Canada is a nightmarish reminder of the horrors that have been - and could be - right here at home again if we don't fully get our counterterrorism act together soon.

Middle East

U.S. Policy and Iran's Nuclear Challenge
by James Phillips
While pressing the diplomatic case against Tehran's nuclear ambitions at the U.N., the U.S. should discreetly support Iran's democratic opposition and boost security cooperation with regional states.

Iran's friends prevent progress
by James Phillips and Peter Brookes
Tehran's choice of friends also helps explain why it's so difficult for the United States to use the United Nations to curb Iran's nuclear ambitions. Russia and China not only provide Iran with diplomatic protection at the U.N. Security Council -- where both enjoy veto power -- but they assist Iran's nuclear power program, which masks Iran's efforts to attain a nuclear-weapons capability.

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Asia and the Pacific

Local Elections in the ROK: What It Means for the U.S.
by Balbina Hwang
In nationwide local elections held in May in

Congress and Cable Television Competition
The Honorable Curt Pringle, Mayor of Anaheim, California
Thomas W. Hazlett, Professor of Law and Economics, George Mason University
Michael Sullivan, Senior Technology Policy Advisor to Senator John Ensign (R-NV)
Thursday, June 8, 2006, 11:00 a.m. | RSVP

- **America: The Last Best Hope - Volume 1: From the Age of Discovery to a World at War**
  William J. Bennett, Author and Host, Bill Bennett's Morning in America
  Thursday, June 8, 2006, 12:00 noon | RSVP
- **The Shanghai Pact: The SCO and Implications for America in Eurasia**
  Leland R. Miller, Associate, Sidley Austin LLP
  Martin Sieff, Defense Correspondent, UPI
  Richard Weitz, Ph.D., Senior Fellow, Center for Future Security Strategies, The Hudson Institute
  Friday, June 9, 2006, 11:00 a.m. | RSVP
- **Commemorating the Tenth Anniversary of Welfare Reform: Marriage and the Welfare of America**
  The Honorable Mike Leavitt, Secretary of Health and Human Services
  Tuesday, June 13, 2006, 12:00 noon | RSVP
- **A Discussion Featuring Eduardo Montealegre, Presidential Candidate for Nicaragua**
  Eduardo Montealegre, Presidential Candidate for Nicaragua
  Ambassador Roger Noriega, Visiting Fellow, AEI
  Eric Farnsworth, Vice President, Council of the Americas
  Wednesday, June 14, 2006, 11:30 a.m. - 12:30 p.m. | RSVP
- **The U.S. Commitment to Refugee Protection and Assistance: A Humanitarian and Strategic Imperative**
  Ambassador Ellen R. Sauerbrey, Assistant Secretary of State for Population, Refugees, and Migration
  Tuesday, June 20, 2006, 12:00 noon | RSVP
- **Is Freedom for Everyone?**
  Natan Sharansky, Israeli Political Leader, Former Soviet Dissident, and Author of "The Case for Democracy: The Power of Freedom to Overcome Tyranny and Terror"
  Thursday, June 15, 2006, 2:00 p.m. | RSVP

South Korea, the main opposition Grand National Party (GNP) achieved an overwhelming victory. The ruling Uri Party's resounding defeat is a setback for President Roh Moo Hyun, and while it may be tempting for Roh's critics to view these election results as a rebuke of his leadership, particularly in the foreign policy arena, South Korea's orientation towards North Korea and the United States is unlikely to change dramatically.

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Trade and Foreign Aid

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Members of Congress have raised concerns over the recently announced distribution of Urban Area Security Initiative (UASI) grants. DHS has spent over two years developing a process to allocate grants in a manner that meets national priorities.

Mike Franc
Vice President, Government Relations
Contact: 202-608-6064

Virginia Thomas
Director, Executive Branch Relations
Contact: 202-608-6240

Abigail Dowd
Deputy Executive Branch Liaison
Contact: 202-608-6058

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Tuesday, June 06, 2006 12:11 PM
To: Gorsuch, Neil M
Subject: Read: jeff, were you able to get hold of Robert McCallum?

Catlett, Susanne S. (TAX)

From:	Catlett, Susanne S. (TAX)
Sent:	Tuesday, June 06, 2006 12:12 PM
To:	Davis, Deborah J; Shaw, Aloma A; Gorsuch, Neil M; Magnuson, Cynthia
Subject:	AG Weekly Report for 06-06-2006
Attachments:	1746590_2.DOC

June 6, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Assistant Attorney General to Testify at Senate Finance Committee Hearing***
  On June 13, Assistant Attorney General Eileen J. O'Connor is scheduled to testify at a hearing before the Senate Finance Committee that will focus on tax matters of interest to large corporations and partnerships, including corporate and individual tax shelters and summons enforcement. The Committee also has asked the Assistant Attorney General to comment on recommendations it has received concerning the Government's efforts to combat tax schemes and scams. IRS Commissioner Mark Everson and Comptroller General David Walker are scheduled to testify on the same panel.

B. THIS WEEK

- ***Nothing significant to report.***

C. LAST WEEK

- ***Tax Division Files Motion for Summary Judgment in Tax Shelter Case***
  On June 2, the Tax Division filed a response to plaintiff's motion for partial summary judgment and a cross motion for partial summary judgment in a $24 million tax shelter case involving a variant of the Son of BOSS transaction. Previously, the Government had sought to stay the case at the request of the United States Attorney for the Southern District of New York, pending the outcome of the related criminal case, *United States v. Stein.* The district court denied the stay request on February 9, 2006 after learning that the Tax Court had denied a stay request in *Tucker v. Commissioner*, a case that also

involves the Son of BOSS tax shelter. The tax shelter participants in this case are personal injury lawyers Charles C. Patterson and Harold Nix of the Daingerfield, Texas firm of Nix, Patterson, & Roach, LLP. [*Klamath Strategic Investment Fund, LLC v. United States* (Eastern District of Texas)]

- ***Tax Division Defends Government Victory in Multi-Million Dollar Tax Shelter Case***
  On June 2, the Tax Division filed the government's brief defending the Tax Court's opinion upholding the IRS's disallowance of $379 million in losses and its imposition of penalties amounting to 40% of the resulting tax. The case concerns the sale of Metro-Goldwyn-Mayer by the French bank Credit Lyonnais, but it is the tax liabilities of the principals of entities formed to acquire the movie company that are at issue. The IRS contended, and the Tax Court agreed that the transactions purportedly giving rise to the claimed losses lacked economic substance. [*Santa Monica Pictures, et al. v. Commissioner* (United States Court of Appeals for the Second Circuit)]

- ***Tax Division Files Answer in Large Partnership Tax Case***
  On June 1, the Tax Division filed the Government's answer in this case concerning Stephens Group, Inc., a sub-chapter S corporation. Stephens Group is the parent company of Stephens, Inc., the family-owned investment bank based in Little Rock, Arkansas. At issue in the suit is the active or passive character of $133 million of income flowing through to Stephens Group shareholders. The character is important because, under tax laws enacted in 1986, S corporation shareholders with passive income may offset such income only with losses of the same passive character. [*Jackson T. Stephens Trust No. One v. United States* (Eastern District of Arkansas)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-5326.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 06, 2006 1:28 PM
To: Gorsuch, Neil M
Subject: San Francisco - June 15.

Neil, are you participating in a argument in San Francisco on June 15. Greg Katsas called. I don't see any info on your calendar (travel arrangements). Please advise.

Currie

Amber.JMD

From: Amber.JMD
Sent: Tuesday, June 6, 2006 1:32 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Perry, GA

From: AmberAlert-DOJ
Sent: Tuesday, June 06, 2006 1:32:26 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Perry, GA
Auto forwarded by a Rule

http://www.missingkids.com/missingkids/servlet/AmberServlet

AMBER ALERT:Perry,GA VEHICLE:2004 Baby blue Dodge Intrepid TAG:AKQ7600 CHILD:2 mo Whi F 25" 10 lb SUSPECT:37 Whi M 6' 200 lb CALL 478-542-2000

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 06, 2006 2:51 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES NEARLY $15 MILLION IN FUNDING TO PROMOTE ANTI-GANG PREVENTION NATIONWIDE

Department of Justice

FOR IMMEDIATE RELEASE

AG

TUESDAY, JUNE 6, 2006

(202) 514-2007
WWW.USDOJ.GOV

TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES NEARLY $15 MILLION IN FUNDING TO PROMOTE ANTI-GANG PREVENTION NATIONWIDE

WASHINGTON — Attorney General Alberto R. Gonzales today announced that the Justice Department is distributing nearly $15 million in grant funds to support school-based, law enforcement officer-instructed classroom curriculum through the Gang Resistance Education And Training Program (G.R.E.A.T.).

The G.R.E.A.T. Program is administered by the Office of Justice Programs' (OJP) Bureau of Justice Assistance within the Justice Department. The program is aimed at middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership and is taught by law enforcement officers in the students' schools. This year, the Department will provide funding to 140 law enforcement agencies throughout the country to support this program in local schools.

Attorney General Gonzales announced the $14,738,536 of G.R.E.A.T program funding while touring and meeting with local law enforcement and community leaders in Cleveland, Ohio.

The Attorney General has identified gang activity as an increasingly deadly threat to the safety and security of our nation's citizens and has made gang prevention and anti-gang enforcement a top priority. In February 2006, the Attorney General unveiled a comprehensive anti-gang initiative which seeks to combat gang

DOJ_NMG_ 0161354

violence across America by prioritizing prevention programs and ensuring robust enforcement of the laws. Included in this plan is a six-city pilot program that will devote extensive resources to defeating some of the most violent and pervasive gangs in the country. Along with Cleveland, additional cities chosen to participate in the anti-gang pilot program are Los Angeles, Milwaukee, Tampa, Dallas, and the "222" Corridor in Pennsylvania.

OJP provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and two offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and Office for Victims of Crime, as well as the Office of the Police Corps and Law Enforcement Education and the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

# # #

06-351

DOJ_NMG_ 0161355

Image not available for this document, ID: 0.7.10316.9074-000001

Image not available for this document, ID: 0.7.10316.9074-000002

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, June 06, 2006 4:30 PM
To: Jones, Gordon (CIV); Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Justice Dept, Gabelli reach settlement in auction fraud suit

RCR Wireless News

June 6, 2006

Justice Dept, Gabelli reach settlement in auction fraud suit

By Jeffrey Silva

NEW YORK—Lawyers for the Justice Department, Wall Street investor Mario Gabelli and Lynch Interactive Corp. told a federal judge they have settled a suit over spectrum auctions. The suit accuses Gabelli of defrauding the U.S. government of at least $85 million by hiding his firm's control of small firms that received bidding discounts for wireless licenses won at spectrum auctions during the 1990s.

Assistant U.S. Attorney David Kennedy told U.S. District Judge Paul Crotty the Justice Department has signed off on the proposed settlement of the auction fraud litigation.

Terms of the proposed settlement are expected to be made public June 29 when documents are to be officially filed with the U.S. District Court for the Southern District of New York. The settlement will be submitted to Crotty to review several days before that date.

Lawyers for the parties declined to comment on the dollar figure involved in the settlement, though news accounts said Gabelli may have to pay $100 million to put an end to a suit filed in 2001 under the False Claims Act.

Crotty signaled he was getting impatient with the failure of the parties to reach a deal since settlement talks began in late April.

Gabelli and Lynch have steadfastly denied any wrongdoing and predicted the court would vindicate them. The case originally was set to go to trial this month.

According to a Securities and Exchange Commission filing by a company affiliated with Gabelli-led Lynch Interactive, the defendants had concerns about rising legal costs and lack of insurance coverage to pay hefty legal bills already in the millions of dollars.

The U.S.-Gabelli settlement of the auction fraud suit comes amid controversy over the Federal Communications Commission's attempt to revise small business, or designated entity, bidding rules to prevent sham companies from being created ahead of the scheduled Aug. 9 start of the advanced wireless services auction.

However, various parties unhappy with DE rule changes are expected to slap the FCC with a lawsuit this week in hopes of getting the commission's new small business bidding guidelines set aside. Such litigation could further delay the start of the AWS auction, originally set to begin June 29.

On a related front, the 2nd U.S. Circuit Court of Appeals is expected to rule later today on whether the AWS auction should be delayed so that the FCC can conduct an environmental impact statement to assess potential health risks associated with the upcoming auction of 1,122 wireless licenses.

Todd, Gordon (SMO)

From:	Todd, Gordon (SMO)
Sent:	Tuesday, June 6, 2006 4:41 PM
To:	McCallum, Robert (SMO)
Cc:	Gorsuch, Neil M
Subject:	RE: Nat Campaign to Stop Violence, July 17th

Robert - No objections to you doing this, and OJP OAAG and OJJDP recommend that you do. OJP is working up remarks, which will come to me once they're ready.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, June 02, 2006 7:55 AM
To: Todd, Gordon (SMO)
Cc: Gorsuch, Neil M
Subject: Re: Nat Campaign to Stop Violence, July 17th

Have not heard back yet. I am also inclined to do it. Also run it by Crystal, OAG and ODAG for input. Keeping Neil in loop as well. Robt.

-----Original Message-----
From: Todd, Gordon (SMO)
To: McCallum, Robert (SMO)
Sent: Fri Jun 02 07:40:26 2006
Subject: Re: Nat Campaign to Stop Violence, July 17th

Robert - have you heard back privately from Bob Flores on this inquiry? OJP OAAG thinks you should do it, apparently, but you had asked OJJDP for a recommendation.

-----Original Message-----
From: Daley, Cybele
To: Todd, Gordon (SMO)
Sent: Fri Jun 02 06:56:54 2006
Subject: Fw: Nat Campaign to Stop Violence, July 17th

Gordon - I'll have our Communications folks work on remarks and check 7th floor availability.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Schofield, Regina <Regina.B.Schofield@usdoj.gov>
To: Daley, Cybele <Cybele.Daley@usdoj.gov>
Sent: Wed May 31 19:48:02 2006
Subject: Fw: Nat Campaign to Stop Violence, July 17th

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: McCallum, Robert (SMO) <Robert.McCallum@usdoj.gov>
To: Flores, Robert <Robert.Flores@usdoj.gov>
CC: Schofield, Regina <Regina.B.Schofield@usdoj.gov>; Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>; Todd, Gordon (SMO) <Gordon.Todd2@usdoj.gov>; Gunn, Currie (SMO) <Currie.Gunn@usdoj.gov>
Sent: Wed May 31 17:57:18 2006
Subject: Nat Campaign to Stop Violence, July 17th

Bob: Currie got a request from [redacted] to give remarks at this year's Do the Write Thing recognition program on July 17th. What is your rec on doing this? I participated a couple of years ago and am willing to do so again subject to everyone recognizing that I might have to provide a substitute at the last minute given uncertainties in my schedule. Would you be able to draft the remarks and work with Gordon on them? Also, are you assisting them in reserving the Press Center here on the 7th floor, which is where they want to hold the event? What do we need to do here in OASG to be helpful to you? Robt.

Smith, Justin (ENRD-LPS Attorney)

From: Smith, Justin (ENRD-LPS Attorney)
Sent: Tuesday, June 06, 2006 5:18 PM
To: Ashworth, Jennifer H; Gorsuch, Neil M; Smith, Calisa (ENRD); Wilson, Todd; Hines, Rachel (CIV); Hewitt, Kim (ENRD); Tonglao, Pamela (ENRD); Payne, James (ENRD); Morgan, Tom; Schuh, Sarah M.; Shore, Elise (CRT); Kolstee, Jennifer L.; Freeman, Mark (CIV); Colvin, Chris; Alesi, Kara (ENRD)
Cc: Klein, Laura F; Rubin, Jim (ENRD)
Subject: Saturday DC Bar pro bono clinic
Attachments: AR Anacostia memo2.wpd

Volunteers --

Here's information for the DC Bar pro bono clinic on Saturday. Thanks to all for volunteering, and glad to answer any questions you may have.

1. Please be there by 9:30 a.m. for bagels, juice and orientation.
2. Dress is casual.
3. The clinic is located at Bread for the City SE, 1640 Good Hope Road SE, Anacostia. Directions are included in the attached document. The description mentions both locations; we will be staffing the Anacostia location. The attachment also provides general information about the clinic.
4. If you are looking for a ride to the clinic, please let me know and I may be able to pair you up with someone.
5. The clinic is preapproved by the Department as a pro bono activity and involves referrals only, rather than legal advice, so you do not need any further approvals. However, we do ask that (1) you inform your section management of your involvement, and (2) you tell the Division or component pro bono coordinator (which has already been taken care of for the ENRD folks).
6. Bring a pen -- there always seems to be a shortage.

See you there!

Justin Smith
ENRD/LPS

D.C. BAR PRO BONO PROGRAM
ADVICE & REFERRAL CLINIC

ABOUT THE ADVICE & REFERRAL CLINIC

The Advice & Referral Clinic provides individuals who have legal problems governed by D.C. law an opportunity to discuss with volunteer attorneys certain kinds of matters, including bankruptcy/debt collection, consumer law, employment law, family law, health law, housing law (landlord & tenant, etc.), personal injury, probate (wills, medical directives, etc.), and tax law. All services are provided free of charge. About 70% of those individuals seeking free legal services require only brief advice and counsel. Issues are pre-screened on-site by paralegals to avoid conflicts of interest for government attorneys.

Through the D.C. Bar Pro Bono Program Advice & Referral Clinic, volunteer attorneys effectively assist these individuals by assessing their legal matters and providing general information and advice. **The clinic is limited to giving brief general information and advice.** If brief service is not enough to resolve the problem or if a different type of service is required, clinic volunteers refer individuals to or provide information about a legal or social service provider appropriately suited to handle the case.

Local legal service providers also benefit from the Advice & Referral Clinic since it lessens the number of individuals walking into their organizations, allowing those practitioners to spend more of their resources **representing** clients (instead of providing general information and advice).

WHAT VOLUNTEERS NEED TO KNOW

The Advice & Referral Clinic is held on the second Saturday of every month from 10:00 AM until noon. The clinic is held at Bread for the City NW, 1525 7th Street NW, and Bread for the City SE, located at 1640 Good Hope Raod.* Parking is available, and both locations are Metro accessible. Volunteers should arrive at the clinic by 9:30 AM for a brief orientation of clinic operations. Bagels and juice will be served. Dress is very casual.

Although it is impossible to predict, most individuals have pretty basic questions. Volunteers are not expected to be familiar with every area of the law. Mentors are available on -site and reference manuals are provided. A follow-up letter or phone call may be appropriate in certain circumstances if a volunteer wishes to check a point of law.

This is a great opportunity for you to engage in a very important, although very manageable pro bono project. The Pro Bono Program Advice & Referral Clinic is providing incredible services to hundreds upon hundreds of individuals each year in their own communities. Thank you for participating.

*Driving Directions to Bread for the City SE From Downtown D.C .: Take the 9th Street Tunnel to the S.E. Freeway (this is a left exit - may be marked 295). Pass the 6th Street, S.E. Exit and bear right at the fork to MLK, Jr. Avenue. Cross the Anacostia River (11th Street Bridge). As soon as you exit the 11th Street Bridge, go left on Good Hope Road, S.E. Although the building is on Good Hope Road, S.E., to get to the parking lot you will need to go left on Minnesota Avenue, S.E., right on T Street, S.E. and right on 17th Street, S.E. Park behind the green building.

*Metro Directions to Bread for the City SE From Downtown D.C .Take the Green Line to the Anacostia Metro stop. Take either Bus B2 or U2 to 16th and Good Hope Road, S.E.

Lauria-Sullens, Jolene

Subject:	Updated: FY08 Budget Overview
Location:	Conference Room 1103
Start:	Wednesday, June 07, 2006 3:00 PM
End:	Wednesday, June 07, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lauria-Sullens, Jolene
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Dauphin, Dennis
Optional Attendees:	Lapara, Joan M

When: Wednesday, June 07, 2006 3:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Conference Room 1103

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

Subject: FY08 Budget Overview
When: Wednesday, June 7, 2006
Time: 3:00am - 5:00pm
Where: Room 1103

Apologize for last minute meeting change.

FYI-Meeting materials will be sent in advance--please bring them to the meeting for the discussion.

Thanks -- Jolene

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 06, 2006 5:33 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE HISPANIC ASSOCIATION ON CORPORATE RESPONSIBILITY

EMBARGOED UNTIL 7:00 P.M. E.D.T.

Department of Justice

EMBARGOED UNTIL 7:00 P.M. E.D.T. AG
TUESDAY, JUNE 6, 2006 (202) 514-2008
WWW.USDOJ.GOV TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE HISPANIC ASSOCIATION ON CORPORATE RESPONSIBILITY

WASHINGTON, DC

Good evening ladies and gentlemen.

Thank you for including me in tonight's twentieth anniversary celebration of the Hispanic Association on Corporate Responsibility. I am happy to be here to express my gratitude for everything this association, its member organizations, and tonight's sponsors are doing to help ensure greater opportunity for those of us in the Hispanic community.

The Attorney General of the United States is often required to make tough decisions that are controversial. From prosecuting the Chief Executive Officer of a company, to defending the policies and institutional prerogatives of the Executive Branch, I often find myself in the middle of the most complicated issues. It can be trying at times. But even the most difficult and darkest days as Attorney General is better than the best days my dad spent as a construction worker and maintenance man. I have seen the promise of America, I have lived the American dream in the greatest country in the world, and I would not trade one second of having the privilege of serving you.

My mother was born in Texas as an American citizen. When she was a young woman, she picked crops as a migrant worker with other Hispanics. Recently, she explained to me that back then, no one asked to see papers, no one asked whether you were here legally. You simply showed up and did your job, working side-by-side with people that look like us in order to make enough money to feed your family and to survive.

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Today, as we know well, more and more people are asking the question about legal migration. Immigration is one of the most difficult issues confronting us as a country and as a community. And how we deal with it will shape America's development and dramatically affect the future of thousands upon thousands of Hispanics.

The Senate and the House have each passed immigration legislation. The approaches by each chamber of the Congress are quite different. A conference of Senators and House members will try now to resolve differences in the legislation and produce a compromise bill for the President's signature. Clearly, there is still a lot of work to be done by Congress but the President believes that for the good of the country, we must have comprehensive immigration reform this year. Many of you have already added your voice to the debate, many of you are already standing shoulder-to-shoulder with the President. I believe in the President's vision and I thank you for the support. But we are not finished yet, not yet.

People have very strong views about immigration, views that are shaped and fueled by concerns for family, national security, economics, and politics. Although there are differences of views, there is, I believe, actually a great national consensus on immigration. And I'm confident many of you speak for it. It's just that the extreme views have prevented your and other mainstream voices from being heard.

Americans of all political persuasions want the country to be safe from terrorists, drug traffickers, and others who would harm us. We also want prosperity. And we are a nation that has displayed, despite setbacks and faltering, an unequalled generosity. Equal opportunity is enjoyed here as nowhere else. We are a patriotic, law-abiding country, and we are a welcoming, optimistic country.

Few supporters of the enforcement-only approach to immigration reform wish that there were fewer immigrants — where would that logic take us? And few who envision America as a welcoming nation favor lawless, open borders — not after the vicious attacks on 9/11. Most Americans want an immigration policy that protects our national security and economic interests and projects our ideals as a generous, welcoming nation. We as a Nation are not divided on this. So you should continue to speak up for this great American consensus.

As the chief law enforcement officer of the land, I want to be clear. Law enforcement should be at the core of immigration reform. No one is above the law.

This demand for vigorous enforcement of our laws is — and should be — the foundation of our national consensus. No one who has actually looked at our record can deny we have been active in seeking to secure the border. Since September 11, 2001, immigration prosecutions are up more than 40 percent. As the President has said, over the past five years the Border Patrol has turned back 6 million would-be entrants.

We have increased the resources and personnel of the Border Patrol. This Administration will have doubled the number of Border Patrol officers by 2008. The National Guard will serve a temporary supporting role as well. We will aid and train State and local authorities so they can better assist Federal officers. We will end the futile catch-and-release program on the Southern border.

DOJ_NMG_ 0161366

New technologies will help detect illegal border crossings and produce a tamper-proof identity card. We have increased funding for interior immigration enforcement by 42 percent, including the prosecution of those who produce fake documents. The President signed legislation doubling federal resources for worksite enforcement. All of this has been done to secure our borders, but much more remains to be done.

We must in particular eliminate the ruthless, inhumane practices of the coyotes who exploit immigrants' dreams. A key priority for me during my time as Attorney General has been to continue the Department's crackdown on human trafficking and human smuggling. Our human-trafficking prosecutions have increased 300 percent since the beginning of the Administration. We must put an end to this modern-day slavery. Our compassion and our conscience demand it.

But we need to be realistic as we confront this challenging problem head on. Hungry and hard-working people will try to get the jobs to feed their families as long as economic disparity exists between the U.S. and its southern neighbors. Immigrant labor benefits American businesses and consumers. The key to better law enforcement on the border and in the interior is dealing forthrightly with these facts.

A temporary worker program that meets the needs of our economy would establish realistic rules in an area where the law has been ignored for decades. The rising tide of immigration would be channeled and controlled, so that it continues to energize our Nation in a constructive way. Lawful taxpayers and safe workplaces would replace illegal workers and unsafe conditions. We would introduce a culture of law and fairness into an area where the rules have long been flouted.

We would apply this same realistic approach to dealing with our current illegal immigrant population. Here again this Administration's policies reflect the views of a consensus of the American people. More than 11 million immigrants will not depart overnight. It is certainly not in America's economic interest for them to do so, and it would be impossible to enforce. How then do we make a seemingly impossible law enforcement task a manageable problem? Comprehensive immigration reform is the only way.

With comprehensive reform, both employees and employers know that there are rules that must be followed. Moreover, both legal and economic incentives would exist to follow the rules. Immigrants who have broken the law must make amends, they must suffer the consequences of non-compliance. There is no question of offering amnesty.

Employers would be subject to fines for breaking the law. We are asking employers to be accountable for the legality of the workers they hire. As the President told the Chamber of Commerce last week, businesses that knowingly employ illegal workers should pay more than speeding ticket fines. In the end, all will benefit. Drawing illegal immigrants out of the shadows of society benefits everyone – everyone except the coyotes, human traffickers, and other exploiters. They will be pursued and they will be punished.

As the President has argued, immigrants who want to work and reside in the United States, and enjoy the benefits of our great Nation should learn English — the language of opportunity. My parents were uneducated, they spoke to each other only in Spanish. But they spoke to me and my brothers and sisters in English so that

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we would learn to read and write English. My parents realized that English represented freedom in America. Finally, the President believes those who qualify under the law should be allowed to apply for the privilege of citizenship.

Such a comprehensive reform would enhance our Nation's security. Once we have reaffirmed a culture of respect for law, we can direct law enforcement to focus on those who are more likely to pose a genuine danger.

As a former judge, I have often heard powerful arguments of skilled advocates pleading for one side over another. But in the case before us the passionate rhetoric disguises an underlying agreement. We all — including the diverse audience in this room — have more in common on these issues than we might at first recognize.

Most Americans, after all, want a secure, law-abiding society and a confident, welcoming, prosperous one. That's where you are, and that's where the President is. Let Congress now show leadership, recognize the national consensus, and act for the American interest.

My youngest son, Gabriel, turned eleven years old yesterday. When I look at him I wonder and worry about his future. Will he enjoy the promise of America? Will he grow up in a country where dreams still come true?

Gabriel's grandfather grew up poor, had only two years of formal schooling and worked construction under the burning sun of hot Houston summers. Gabriel's father graduated from Harvard Law School and was appointed Attorney General of the United States.

Which path will my child take? This is the question asked by all parents. Our children's futures are shaped by the decisions we make today. I ask you to join the debate about immigration. The future of our country and our children hangs in the balance.

Thank you again for what you do. May God watch over you and your families and may God continue to bless the United States of America.

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DOJ_NMG_ 0161368

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Image not available for this document, ID: 0.7.10316.9052-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 06, 2006 6:29 PM
To: USDOJ- Office of Public Affairs
Subject: CHANDIA CONVICTED ON MATERIAL SUPPORT OF TERRORISM CHARGES

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
CONTACT: JAMES RYBICKI
TUESDAY, JUNE 6, 2006 PHONE: (703) 842-405)
WWW.USDOJ.GOV/USAO/VAE
USAVAE.PRESS@USDOJ.GOV

CHANDIA CONVICTED ON MATERIAL SUPPORT OF TERRORISM CHARGES

ALEXANDRIA, Va. – Ali Asad Chandia, age 29, of College Park, Md., was convicted today by a jury in the Eastern District of Virginia on three of four counts of an indictment charging him with terrorism-related offenses, Assistant Attorney General Alice S. Fisher of the Criminal Division and United States Attorney Chuck Rosenberg of the Eastern District of Virginia announced today. Chandia was convicted of conspiracy to provide material support and resources to terrorists; conspiracy to provide material support and resources to a designated foreign terrorist organization (Lashkar-e-Taiba); and providing material support and resources to a designated foreign terrorist organization (Lashkar-e-Taiba).

"The United States' ability to successfully prosecute terrorism cases is critically dependent upon our foreign partners," Assistant Attorney General Alice S. Fisher stated. "This defendant's conviction is a clear example of how the United States has received significant information and evidence from our global partners."

"This case demonstrates our relentless commitment to bringing to justice those who provide support to terrorist organizations in violation of the laws of the United States," stated United States Attorney Chuck Rosenberg. "It also underscores the importance of our cooperative relationships with foreign law enforcement agencies as an invaluable tool in the war against terrorism."

The government presented evidence at trial that Chandia went to Pakistan on Nov. 3, 2001, within days after a private gathering in Fairfax, Va. where Muslim cleric Ali al-Timimi, now in prison for life for terrorism-related offenses, urged those present to engage in jihad overseas. Government witnesses testified that they saw and spoke to Chandia at a Lashkar-e-Taiba (LET) office in Lahore, Pakistan, that they had previously visited on their way to LET military training camps in Pakistan. The government also presented extensive computer forensic evidence, business records and witness testimony establishing that Chandia assisted Mohammed Ajmal Khan, a British national of Pakistani heritage, in obtaining equipment for LET after its designation as a Foreign Terrorist Organization in December 2001, and after Chandia returned to the United States from Pakistan in February 2002.

DOJ_NMG_ 0161371

In March 2006, Mohammed Ajmal Khan pleaded guilty to terrorism offenses in Great Britain related to his activities as a procurement official for LET. New Scotland Yard shared substantial evidence with prosecutors from its investigation of Khan, and several British officers testified for the government at the trial of Chandia.

Sentencing has been scheduled for August 18, 2006.

The case was investigated by Special Agent Christopher Mamula and other agents of the Washington Field Office of the Federal Bureau of Investigation. Assistant United States Attorney David H. Laufman and Department of Justice Trial Attorney John T. Gibbs prosecuted the case for the United States.

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Image not available for this document, ID: 0.7.10316.9042-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 06, 2006 6:33 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 6, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Anti-Gang Initiative and G.R.E.A.T. Program (OPA)
The Attorney General traveled to Cleveland, Ohio to promote the Administration's anti-gang initiative. He announced the distribution of nearly $15 million in grant funds to support school-based, law enforcement officer-instructed classroom curriculum through the Gang Resistance Education And Training Program (G.R.E.A.T.).

Testimony Regarding Unauthorized Disclosures of Classified Information by the Press (Criminal)
Matthew Friedrich, Chief of Staff and Principal Deputy Attorney General of the Criminal Division, testified before the Senate Judiciary Committee regarding "Unauthorized Disclosures of Classified Information by the Press." Minimal press coverage is expected.

Chandia Convicted on Terrorism Related Offenses (Criminal)
Ali Asad Chandia, age 29, of College Park, Md., was convicted today by a jury in the Eastern District of Virginia on three of four counts of an indictment charging him with terrorism-related offenses. Chandia was convicted of conspiracy to provide material support and resources to terrorists; conspiracy to provide material support and resources to a designated foreign terrorist organization (Lashkar-e-Taiba); and providing material support and resources to a designated foreign terrorist organization (Lashkar-e-Taiba).

Change in Bilateral Settlement Agreement Creates Opportunity for Americans to File Claims Against Albania (OPA)
The Albanian government accepted a proposal made by the United States government to amend the 1995 claims settlement agreement between the two countries. The Foreign Claims Settlement Commission will notify all claimants with claims against Albania that the Albanian government accepted the proposed amendment on April 27, 2006, and that claimants are no longer required to establish that they were residing in the United States on any specific date. Claimants must still establish that the claimed property was owned by a United States citizen at the time it was confiscated.

Media Inquiry into Executive Turnover (FBI)

CBS's Jim Stewart interviewed FBI Executive Associate Director Mike Mason regarding executive turnover and five-year term limits for field supervisors. Stewart has also interviewed former FBI Agent Congressman Mike Rogers (R-MI) regarding this issue.

Arrest Warrants to be Issued for Immigration Document Fraud Ring (FBI)
Tomorrow, 32 arrest warrants will be executed as a result of an ICE-FBI investigation of an immigration document fraud ring regarding visa fraud and money laundering conspiracy. The scheme involved sham marriages, netted more than $1 million in illicit proceeds and involved a former adjudicator with the U.S. Citizenship and Immigration Service.

Media Inquiry into Assistant U.S. Attorney's Murder Investigation (FBI)
Associated Press's Liz Gillespie is working on a story regarding the recent decision by FBI Seattle to decrease the number of investigators investigating the murder of Assistant U.S. Attorney Thomas Wales.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

FBI Director Robert Mueller will participate in a press availability following his visit to the Salt Lake City FBI field office. (Open press)

Karen Tandy, Administrator, Drug Enforcement Administration, will make remarks upon being named "Person of the Year" by the Shomrim of Philadelphia and the Delaware Valley. (Open press)

Hunter, Kelly C

From: Hunter, Kelly C
Sent: Wednesday, June 07, 2006 7:21 AM
To: Gorsuch, Neil M
Subject: Read: Updated: FY08 Budget Overview

Elliott, Denise

From: Elliott, Denise
Sent: Wednesday, June 7, 2006 7:23 AM
To: Gorsuch, Neil M
Subject: Read: Updated: FY08 Budget Overview

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, June 7, 2006 9:31 AM
Subject: Message from the Deputy Attorney General
Attachments: 2006 Federal Human Capital Survey.pdf

To All Department of Justice Employees:

Attached is a message from the Deputy Attorney General.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

May 30, 2006

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM: Paul J. McNulty
Deputy Attorney General

SUBJECT: 2006 Federal Human Capital Survey

As Deputy Attorney General, one of my personal priorities is to make the Department of Justice one of the best places to work in the entire country. We do challenging, rewarding work on behalf of the people of the United States, and that is a great start. But we also need to do what we can to make sure that you look forward to coming to work every day. The Federal Human Capital Survey is one way that you can help us make the Department a better place to work.

As part of the President's Management Agenda, the Office of Personnel Management (OPM) will soon be administering the third Federal Human Capital Survey to randomly selected Federal employees. This survey is an important tool used to measure employees' perceptions on how effectively agencies support their workforce – *what works and what does not*. The survey results are used to refine government-wide efforts to recruit, retain, and develop a highly skilled and diverse Federal workforce.

In mid-June, over 19,000 randomly selected DOJ employees will receive the Federal Human Capital Survey via e-mail or hard copy. Your confidential responses will assist us in refining existing programs or developing new initiatives that can create positive change in areas that are the most important to you. I encourage you to use this opportunity to help DOJ assess Department-wide human capital programs and assist us in continuing to make DOJ one of the best places to work in Government.

Thank you for your participation in this important survey. If you have any questions about the 2006 Federal Human Capital Survey, please contact your component's Human Resources Office.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 07, 2006 9:41 AM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUES ARIZONA TAX PREPARER

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, JUNE 7, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SUES ARIZONA TAX PREPARER

Government Alleges Man Prepared Fraudulent Returns

WASHINGTON — The Justice Department announced today that it filed suit in federal court in Phoenix to permanently bar Jeffrey R. Hunn, of Snowflake, Ariz., from preparing federal tax returns for others. According to the government complaint, Hunn prepares fraudulent returns on which he fails to report his customers' wages. The Justice Department also seeks a court order requiring Hunn to provide the government with his customers' names, addresses, Social Security numbers, telephone numbers, and e-mail addresses. The case will be heard in Prescott, Ariz.

The suit alleges that Hunn submits Form 4852 (Substitute for Form W-2, Wage & Tax Statement) containing false information with the returns he files in an attempt to replace his customers' correct W-2 and 1099 forms. On these forms, the complaint states, Hunn falsely claims that his customer received no wages. He then reports on the customer's return either no income or significantly less income than the customer actually had. According to the government, Hunn also claims refunds on these returns of all the federal taxes withheld from his customers' wages.

"People who prepare fraudulent tax returns expose themselves and their customers to the risk of civil penalties and criminal prosecution," said Eileen J. O'Connor, Assistant Attorney General for the Justice Department's Tax Division. "The Justice Department and the Internal Revenue Service are cracking down on tax preparers who file fraudulent returns."

"We've seen more activity involving filing false W-2 and 1099 forms, which is why this scheme reached the top of this year's 'Dirty Dozen' tax scams," said Mark E. Matthews, IRS Deputy Commissioner for Services and Enforcement. "We remind taxpayers that getting caught up in tax scams can lead to big headaches."

The government's suit alleges that Hunn is following a scheme promoted by Peter Hendrickson of Commerce Township, Mich. Claiming that only government workers are subject to tax withholding, Hendrickson allegedly tells people to not submit their W-2 and 1099 forms with their tax returns, and in their place submit substitute or "corrected" W-2 and 1099 forms changing their reported income to zero. The government recently sued Hendrickson and several of his followers to recover erroneous refunds they allegedly

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received after filing returns similar to Hunn's. More about those suits can be found at http://www.usdoj.gov/tax/txdv06219.htm.

Fraudulent returns with false W-2 and 1099 forms are first on the IRS's 2006 list of the "Dirty Dozen" tax scams posted at www.irs.gov/newsroom/article/0,,id=154293,00.html.

More information about the Justice Department's efforts to stop tax scams can be found at www.usdoj.gov/tax/taxpress2006.htm. Information about the Justice Department's Tax Division can be found at www.usdoj.gov/tax.

# # #

06-352

DOJ_NMG_ 0161382

PAUL CHARLTON
United States Attorney

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Counsel for the United States of America

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA
PRESCOTT DIVISION

UNITED STATES OF AMERICA,	)	
	)	Civil No.
Plaintiff,	)	
	)	
v.	)	**Complaint for Permanent**
	)	**Injunction**
JEFFREY R. HUNN,	)	
	)	
Defendant.	)	

The United States of America complains as follows against defendant Jeffrey R. Hunn:

1. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of the Assistant Attorney General, a delegate of the Attorney General, pursuant to Internal Revenue Code (I.R.C.) (26 U.S.C.) §§ 7402(a), 7407, and 7408.

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2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a), 7407, and 7408.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Hunn resides within this judicial district in Snowflake, Arizona.

Hunn's Activities

4. Hunn prepares fraudulent federal income tax returns (Forms 1040, 1040A, and 1040EZ) and amended federal income tax returns (Forms 1040X) for customers.

5. On these returns, Hunn either falsely reports that his customer received no income or substantially under-reports his customer's income, and fraudulently claims a refund of all federal taxes withheld from his customer's wages.

6. Hunn attaches to the returns he prepares IRS Forms 4852 (Substitute for Form W-2, Wage and Tax Statement) and/or IRS Forms 1099-MISC (Miscellaneous Income).

7. On the Forms 4852, Hunn falsely claims that his customer received no wages, while at the same time reporting the amount of federal income tax, Social Security tax, and Medicare tax withheld from the customer's wages.

8. Where Form 4852 asks what efforts were made to obtain a correct Form W-2 or 1099, Hunn responds "I honor the Employer's right to decline to make any further legal determinations without a license."

9. Hunn alters some of the Forms 4852 he prepares by changing the pre-printed text in box 4 of the form, which states "I have notified" the IRS of the inability to obtain a correct Form W-2 or 1099, to read "I hereby notify." By using the same typeface as is

DOJ_NMG_ 0161384

used in the original form, Hunn disguises this alteration so that it can be discerned only by carefully comparing his Form 4852 with an original unaltered form.

10. On the Forms 1099-MISC Hunn submits with returns he prepares for customers, he falsely reports that his customer received no income by inserting "0" into box 7, which calls for the amount of non-employee compensation. He checks the box on these forms stating that the form is "corrected."

11. On many of these so-called "corrected" Forms 1099, Hunn inserts the following oath:

> This corrected Form 1099-MISC is submitted to rebut a document known to have been submitted by the party identified above as 'PAYER' which erroneously alleges a payment to the party identified above as the 'RECIPIENT' of "gains, profit or income" made in the course of a "trade or business". Under penalty of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct, and complete.

Hunn generally signs this oath himself, though in a few instances his customers have signed it.

12. Hunn reports on his customers' returns as "federal income tax withheld" the Social Security and Medicare taxes withheld from his customers' wages. Social Security and Medicare taxes are distinct from income taxes and should be reported separately on federal income tax returns.

13. On at least one return, Hunn fraudulently claimed the Earned Income Credit on behalf of a couple who were not entitled to it. That couple had received $99,333 in

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income, far above the limit for the credit, although Hunn reported that they received only $28,112.

14. Hunn sends the IRS letters and other documents falsely claiming that his customers have no federal income tax liabilities and are owed refunds. Hunn styles some of these documents as legal pleadings against the IRS entitled "Statement of Notice."

15. Hunn sometimes includes with these "Statements of Notice" and other correspondence a money order payable to the United States Treasury in the amount of $1, which Hunn asserts the IRS must refund to his customer.

16. On some of the "Statements of Notice" he prepares, Hunn claims to be an attorney.

17. Hunn is not a member of the Arizona Bar. Upon information and belief, he is not an attorney at all.

18. Hunn files some returns for customers without obtaining their signatures on the form.

19. Hunn omits his customers' addresses from most of the returns he prepares, listing his own address instead.

20. Hunn charges customers a contingent fee. He attached to a return he filed with the IRS a copy of a contingent fee agreement in which the customer agreed to pay him an "advanced payment of" $150, plus "upon comfirmation [sic] of acceptance by the IRS . . . of a reduced obligation, 20% of the amount of said reduction over [$]750." In addition, the customer agreed to pay Hunn 20% of any refund received from the IRS.

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21. The IRS notified Hunn on December 2, 2005 that it was investigating his return-preparation business for possible violations of internal revenue laws.

22. At the same time, the IRS issued an Information Document Request to Hunn requesting copies of all the federal returns he has prepared on behalf of others, a list of all persons for whom he had prepared returns, and other information. The IRS also asked Hunn to meet with an IRS employee to answer questions concerning his return preparation.

23. Hunn has refused to cooperate with the IRS's requests. Instead, he sent the IRS a letter asserting numerous frivolous arguments and demanding that the IRS pay him one gold ounce as compensation for his time in drafting the letter.

24. IRS records reflect that Hunn has not filed a federal income return for himself since 1999.

25. On the amended returns (Forms 1040X) and Forms 4852 he prepares, Hunn cites I.R.C. §§ 3121 and 3401, both of which define the term "wages."

26. Hunn's citation of I.R.C. §§ 3121 and 3401, his use of Forms 4852 and so-called "corrected" Forms 1099, the alterations he makes to those forms, and his characterization of Social Security and Medicare taxes as income taxes, all follow a scheme promoted by Peter Hendrickson of Michigan. Hendrickson claims that under I.R.C. §§ 3121 and 3401, only income received from the federal government is subject to federal tax. Federal courts have uniformly and repeatedly rejected this argument. *See, e.g., United States v. Latham*, 754 F.2d 747, 750 (7th Cir. 1985) (characterizing the

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argument "that under 26 U.S.C. § 3401(c) the category of 'employee' does not include privately employed wage earners [as] a preposterous reading of the statute."); *Abdo v. United States*, 234 F. Supp. 2d 553, 563 (M.D.N.C. 2002) (noting at the claim that wages are not income "has been rejected as many times as it has been asserted."), *aff'd* 63 Fed. Appx. 163 (4th Cir. 2003). The United States has sued Hendrickson and others in connection with that fraudulent scheme. The complaints in those cases are posted at http://www.usdoj.gov/tax/txdv06219.htm.

27. Hunn has customers in several states for whom he has prepared fraudulent returns as described above, including Arizona, California, Washington, Massachusetts, South Carolina, Virginia, Illinois, and Nevada.

28. Thus far, the IRS has identified a total of ninety-eight returns prepared by Hunn with the fraudulent characteristics described above.

29. These ninety-eight returns falsely claim refunds totaling $529,325.90.

30. From its audits of some of Hunn's returns, the IRS estimates that Hunn under-reports his customers' tax liabilities by an average of $10,055 per return, resulting in total estimated tax deficiencies of $985,390 for the ninety-eight returns the IRS has thus far identified.

31. Based on the IRS's estimates, the United States calculates that Hunn's fraudulent return preparation has resulted in approximately $1.5 million in harm and potential harm to the United States. This total does not include the additional amounts the IRS must expend in identifying and recovering the lost revenue Hunn has caused.

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Count I
Injunction under I.R.C. § 7407

32. The United States incorporates by reference the allegations in paragraphs 1-31.

33. I.R.C. § 7407 authorizes a district court to enjoin an income tax return preparer from

(A) engaging in conduct subject to penalty under I.R.C. §§ 6694 or 6695;

(B) misrepresenting his experience or education as an income-tax preparer;

(C) guaranteeing the payment of a tax refund or the allowance of a tax credit; or

(D) engaging in any fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws,

if the court finds that injunctive relief is appropriate to prevent recurrence of such conduct.

34. If a court finds that the preparer's misconduct is continued or repeated, and that a narrower injunction prohibiting only the specific conduct would not be sufficient to prevent his interference with the proper administration of the internal revenue laws, I.R.C. § 7407 authorizes the court to enjoin him from preparing returns altogether.

35. I.R.C. § 6694(a) penalizes a return preparer who understates a customer's liability based on a position for which there was no realistic possibility of being sustained on the merits, if the return preparer knew or reasonably should have known of the unrealistic position and the unrealistic position was frivolous.

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36. I.R.C. § 6694(b) penalizes a return preparer who understates a taxpayer's liability due to willfulness, recklessness, or an intentional disregard of rules and regulations.

37. I.R.C. § 6695(d) penalizes a return preparer who fails to retain a copy of the returns he prepares or a list of the names and taxpayer identification numbers of those for whom he prepares returns, and to make the copies or list available to the IRS on request as required by I.R.C. § 6107(b).

38. I.R.C. § 6695(g) penalizes a return preparer who fails to exercise due diligence in determining a customer's eligibility for the Earned Income Credit.

39. Hunn has engaged in conduct subject to penalty under I.R.C. § 6694 by preparing returns that understate his customers' liabilities based on positions for which there is no realistic possibility of being sustained on the merits. Specifically, his returns contain the following frivolous positions:

- that his customers either had no income or had substantially less income than they actually did;
- that his customers' wages are not taxable income;
- that the Social Security and Medicare taxes withheld from his customers' wages were federal income taxes; and
- that a couple who received $99,333 in income qualified for the Earned Income Credit.

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40. Hunn knew of the unrealistic positions taken in the returns he prepared and filed for customers.

41. The unrealistic positions Hunn took were frivolous and without a reasonable basis.

42. Hunn violates I.R.C. § 6694(b) because his understatements of his customers' liabilities are due to either willfulness, recklessness, or an intentional disregard of rules and regulations.

43. Hunn has engaged in conduct subject to penalty under I.R.C. § 6695(d) by refusing the IRS's request for either a copy of the returns he has prepared or a list of the customers for whom he has prepared returns.

44. Hunn has engaged in conduct subject to penalty under I.R.C. § 6695(g) by failing to be diligent in determining his customers' eligibility for the Earned Income Credit.

45. Hunn's false claims that he is an attorney are conduct subject to penalty under I.R.C. § 7407(b)(1)(B), since he misrepresents his education as a return preparer.

46. Hunn engages in fraudulent and deceptive conduct substantially interfering with the proper administration of the internal revenue laws by:

- falsely reporting that his customers received either no income or substantially less income than they did;
- excluding his customers' wages from the income he reports on their returns;

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- including Social Security and Medicare taxes as federal income taxes withheld;
- claiming refunds for his customers to which they are not entitled;
- purporting to "rebut" properly filed Forms W-2 and 1099 with his fraudulent Forms 4852 and 1099-MISC;
- altering the preprinted language on Form 4852;
- inserting a fraudulent oath on Forms 1099-MISC;
- falsely reporting his own address as his customers' address;
- filing returns without his customers' signatures;
- submitting correspondence and other documents to the IRS, including his "Statements of Notice," falsely claiming that his customers have no federal tax liabilities and are owed tax refunds; and
- claiming the Earned Income Credit on behalf of a couple that did not qualify for it.

47. Hunn's continual and repeated violations of I.R.C. §§ 6694 and 6695, his misrepresentation that he is an attorney, and his fraudulent and deceptive conduct fall within I.R.C. § 7407(b)(1)(A), (B), and (D), and thus are subject to injunction under I.R.C. § 7407.

48. Hunn is likely to continue to prepare fraudulent federal tax returns unless he is enjoined.

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49. Hunn's continual and repetitious conduct subject to injunction under I.R.C. § 7407, his refusal to cooperate with the IRS's investigation, and his failure to produce customer records to the IRS demonstrate that a narrow injunction prohibiting only specific misconduct would not prevent his continued interference with the proper administration of the internal revenue laws. An injunction permanently barring him from acting as a return preparer is warranted.

Count II
Injunction under I.R.C. § 7408

50. The United States incorporates by reference the allegations in paragraphs 1-49.

51. I.R.C. § 7408 authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of that conduct.

52. I.R.C. § 6701 imposes a penalty on any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having a reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and that if it is so used it would result in an understatement of another person's tax liability.

53. Hunn prepares returns and correspondence such as his "Statements of Notice" that he knows or has reason to believe would be used in connection with a material matter arising under the internal revenue laws—the determination of his customers' tax

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liabilities—and that, if used, would result in understatements of his customers' tax liabilities.

54. Unless enjoined by this Court, Hunn is likely to continue to engage in such conduct.

55. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction under I.R.C. § 7402(a)
for Unlawful Interference with Enforcement of the
Internal Revenue Laws and the Appropriateness of Injunctive Relief

56. The United States incorporates by reference the allegations in paragraphs 1 through 55.

57. I.R.C. § 7402(a) authorizes a court to issue injunctions as may be necessary or appropriate for the enforcement of the internal revenue laws, even if the United States has other remedies available for enforcing the internal revenue laws.

58. Hunn, through the actions described in paragraph 46, has interfered with the enforcement of the internal revenue laws.

59. In addition, Hunn's refusal to produce a customer list or copies of his returns and to answer the IRS's questions regarding his return-preparation business impedes the IRS from identifying his customers and recovering lost revenue from them.

60. Hunn also interferes with the administration of the internal revenue laws by charging his customers a contingent fee.

61. If Hunn is not enjoined, he is likely to continue to interfere with the enforcement of the internal revenue laws.

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62. The United States is harmed by Hunn's tax return preparation service because Hunn's customers are not reporting or paying the correct amount of taxes and because they are claiming refunds to which they are not entitled.

63. The United States is also harmed because the IRS is forced to devote its limited resources to identifying and recovering lost revenue from Hunn's customers.

64. The United States will suffer irreparable harm if Hunn is not enjoined because the tax losses he causes with his fraudulent returns will continue to accumulate and may prove to be unrecoverable, and because the IRS will have to continue to devote resources to assessing and collecting his customers' taxes.

65. While the United States will suffer irreparable harm if Hunn is not enjoined, Hunn will not be harmed by being compelled to obey the law.

66. The public interest will be advanced by enjoining Hunn because an injunction will stop his illegal conduct and the harm that conduct is causing.

67. Hunn harms his customers by preparing fraudulent and frivolous returns that lead to additional penalties and interest when the IRS discovers Hunn's errors and assesses taxes against the customers.

68. In addition, Hunn harms his customers by improperly charging them a contingent fee.

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WHEREFORE, plaintiff United States of America respectfully prays for the following:

A. That the Court find that Hunn has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694, 6695, and 6701 and in fraudulent or deceptive conduct substantially interfering with the proper administration of the internal revenue laws; that he has misrepresented his education as a return preparer; and that injunctive relief under I.R.C. §§ 7407 and 7408 is necessary and appropriate to prevent recurrence of his conduct;

B. That the Court find that Hunn has interfered with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to I.R.C. § 7402(a) and the Court's inherent equity powers;

C. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter a permanent injunction prohibiting Hunn from preparing or assisting in the preparation or filing of federal income tax returns and related documents for any person other than himself;

D. That the Court, pursuant to I.R.C. §§ 7408 and 7402(a), enter a permanent injunction prohibiting Hunn, individually and doing business under any other name or using any other entity, and his representatives, agents, servants, employees, attorneys, and those persons in active concert or participation with him, from directly or indirectly:

1. Preparing or assisting in the preparation or filing of documents relating to a matter material to the internal revenue laws, including federal tax returns and related documents, for any person other than himself;

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2. Preparing or assisting in the preparation or filing of any documents, including "Statements of Notice," for submission to the IRS for any person other than himself;

3. Engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701 or any other penalty provision of the Internal Revenue Code; and

4. Engaging in other conduct interfering with the enforcement of the internal revenue laws;

E. That the Court, pursuant to I.R.C. § 7402(a), order Hunn to mail, at his expense, to all persons for whom he has prepared returns or any other tax-related document for submission to the IRS, a copy of the permanent injunction and a cover letter drafted by the United States informing his customers of the permanent injunction;

F. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 6695, order Hunn to produce to counsel for the United States a list identifying by name, taxpayer-identification number, address, e-mail address, and telephone number all persons for whom he has prepared federal tax returns and any other tax-related document for submission to the IRS;

G. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 6695, order Hunn to produce to counsel for the United States copies of all federal tax returns, including amended returns and other tax forms, and any other documents he has prepared for any person for submission to the IRS from January 1, 2001, to the present;

H. That the Court order Hunn to complete the requirements listed in paragraphs E through G within eleven days of the Court's order and order him to file with the Court a certificate of compliance with those requirements, signed under penalty of perjury, along with evidence of compliance, within twelve days of the Court's order;

I. That the Court retain jurisdiction over Hunn and this action for the purpose of enforcing any permanent injunction entered against him;

J. That the United States be permitted to conduct discovery for the purpose of monitoring Hunn's compliance with the terms of any permanent injunction entered against him; and

K. That the Court grant the United States such other relief, including costs, as is just and equitable.

Respectfully submitted,

PAUL CHARLTON
United States Attorney

*/s/Anne Norris Graham*_____
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Counsel for the United States of America

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Image not available for this document, ID: 0.7.10316.8990-000003

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, June 07, 2006 10:45 AM
To: Goodling, Monica
Subject: The Morning Update: 6/7/06

<http://www.whitehouse.gov/>
JUNE 7, 2006

This morning, President Bush will participate in a visit to Catholic Charities - Juan Diego Center, where he will visit a classroom that teaches English as a second language and civics. The President will follow this visit with remarks on comprehensive immigration reform at Metropolitan Community College in Omaha, Nebraska.

In the afternoon, President Bush will return to the White House to participate in the swearing-in ceremony for the Secretary of the Interior. The Senate confirmed Interior Secretary Dirk Kempthorne by unanimous consent.

7:55 am: CDT THE PRESIDENT participates in a Visit to Catholic Charities - Juan Diego Center
Catholic Charities - Juan Diego Center | Omaha, Nebraska

8:40 am:
CDT THE PRESIDENT makes Remarks on Comprehensive Immigration Reform
Metropolitan Community College - South Omaha Campus | Omaha, Nebraska

2:45 pm:
EDT THE PRESIDENT and Mrs. Bush participate in Swearing-in Ceremony for the Secretary of The Interior
The White House | Washington, DC

President Bush Discusses "Growing Consensus" On Immigration Reform. "' It seems like there's nothing but disagreement on immigration policy in Washington,' Bush said. 'Yet there's a growing consensus among all parties and all regions of the country that fundamental reforms are needed. <http://www.latimes.com/news/nationworld/nation/la-060606bush,0,272662.story?coll=la-home-headlines> ' 'In other words, people are coming to the conclusion we got to do something about a system that isn't working,' he said at the Federal Law Enforcement Training Center, in southeastern New Mexico about 100 miles from the Mexican border. 'And while the differences grab the headlines, the similarities in approaches are striking.'" (Johanna Neuman, "Nation Ahead Of Congress On Immigration, Bush Says," Los Angeles Times, 6/7/06)

President Bush Tours Border Patrol Headquarters At Laredo, Texas. "In Laredo, Bush toured a video surveillance facility at Border Patrol headquarters with Homeland Security Secretary Michael Chertoff and Gov. Rick Perry. In the surveillance room, the president observed more than

a dozen screens displaying various points along the border. 'The Guard's going to help Border Patrol agents, so they can get out and do their job,' Bush said, referring to 6,000 National Guard troops slated for deployment to the border. <http://www.mysanantonio.com/news/metro/stories/MYSA060706.04A.Bush_Laredo.17deffb2.html> Bush said a long-term solution to reduce the number of illegal crossings is to find work for them in Mexico. ... The North American Free Trade Agreement has started the process of producing jobs and wealth on both sides of the border, the president said, making Laredo a 'booming town.'" (Mariano Castillo and Gary Martin, "Bush Visits Laredo To Push Reform Plan," The San Antonio Express-News, 6/7/06)

President Bush Discusses Iran's Response To Incentives And Disincentives Package. "President Bush said Tuesday that Iran's initial response to a package of incentives and threats on the nuclear impasse 'sounds like a positive step to me.' 'We will see if the Iranians take our offer seriously,' Bush said in Laredo, Texas, where he was speaking about immigration overhaul. 'The choice is theirs to make. I have said the United States will come and sit down at the table with them so long as they are willing to suspend their enrichment in a verifiable way,' Bush said. 'So it sounds like a positive response to me <http://news.yahoo.com/s/ap/20060606/ap_on_go_ca_st_pe/us_iran_5&printer=1;_ylt=Autx4PyEd6oNt26Y6T5HHDyWwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE>.'" (Ann Gearan, "Bush: Iran's Initial Response Positive," The Associated Press, 6/6/06)

Homeland Security Secretary Michael Chertoff Says New York Tops Homeland Security Funding List. "Last week, the Department of Homeland Security announced $1.7 billion in new spending for state and local governments, including more than $700 million under our Urban Areas Security Initiative. Few readers may know it based on the news media reaction, but these 2006 grants continue a financing stream that places New York and Washington at the very top of the list in terms of money received. ... New York, Washington and a few other major urban centers face significant risks and rightly get most of the federal investment. <http://www.nytimes.com/2006/06/07/opinion/07chertoff.html?_r=2&hp=&oref=slogin&pagewanted=print&oref=slogin> But they are not the only cities at risk." (Sec. Michael Chertoff, Op-Ed, "New York, You're Still No. 1," The New York Times, 6/7/06)

The Wall Street Journal Says Senate Should Confirm William Haynes To Fourth Circuit Court. "It's hard to see how opposing Mr. Haynes would achieve anything except win the Senators some fleeting praise in the establishment media. <http://online.wsj.com/article/SB114963618069373161.html?mod=opinion_main_review_and_outlooks> " (Editorial, "A Different Judicial Battle," The Wall Street Journal, 6/7/06)

New Administration Strategy Is Successfully Reducing Numbers Of Chronically Homeless. "The 'housing first' policy that [Denver] adopted last year is part of an accelerating national movement that has reduced the numbers of the chronically homeless - the single, troubled men and women who spend years in the streets and shelters - in more than 20 cities. In this campaign, promoted by a little-known office of the Bush administration, 219 cities, at last count, have started ambitious 10-year plans to end chronic homelessness."

<http://www.nytimes.com/2006/06/07/us/07homeless.html?pagewanted=1&ei=5094&en=a46114c80a6dda3d&hp&ex=1149652800&partner=homepage> (Erik Eckholm, "New Campaign Shows Progress For Homelessness," The New York Times, 6/7/06)

President Discusses Border Security and Comprehensive Immigration Reform, Participates in Swearing-In Ceremony for CBP Commissioner
<http://www.whitehouse.gov/news/releases/2006/06/20060606-1.html>

* In Focus: Immigration
<http://www.whitehouse.gov/infocus/immigration/>

President's Remarks to the Travel Pool at Laredo Border Patrol Sector Headquarters
<http://www.whitehouse.gov/news/releases/2006/06/20060606-7.html>

Statement by the Press Secretary
<http://www.whitehouse.gov/news/releases/2006/06/20060606-2.html>

Father's Day, 2006
<http://www.whitehouse.gov/news/releases/2006/06/20060606-4.html>

Flag Day and National Flag Week, 2006
<http://www.whitehouse.gov/news/releases/2006/06/20060606-3.html>

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/06/20060606-8.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/06/20060606-5.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/06/20060606.html>

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, June 07, 2006 11:26 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: OIP

Robert and Neil,

A heads-up. CIV plans to tell OIP this week that, upon further reflection and based on guidance from OASG, CIV now believes it will need 5 attorneys from OIP to perform the function that is described in the DAG memo. One of the lawyers CIV is contemplating bringing over is Melanie Pustay, OIP's deputy director. Peter does not plan to specify to Dan which lawyers CIV is interested in bringing over, but he will make clear to Dan that CIV will have a strong say in who it wants.

I have a message in to Mike Elston -- I've asked Peter to hold off meeting with OIP until I have a chance to let ODAG know how CIV plans to implement this part of the DAG memo and what guidance OASG has given.

I've also asked JMD not to disclose to OIP how many people are expected to go over to CIV until Peter has a chance to deliver that message, and to hold off making any representations about the second SES slot in OIP until we come to decision on that.

Thanks.
Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 11:29 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

Are we comfortable that civ has a sound rationale for so many?

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Wed Jun 07 11:25:48 2006
Subject: OIP

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Thanks.
Lily

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, June 7, 2006 11:35 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: OIP

I think they are going to say based on conversations with us they understand that their job is going to be much more robust than they'd originally thought and that they think they need 5. I was surprised by 5 as well but I didn't express that surprise to Peter because I felt that Peter had increased the number to address our concerns. I am thinking now that we might suggest to Peter an up-to-5 plan where'd CIV would start out with 2 or 3 and then increase up to 5 as needed, unless CIV feels it can defend 5 without relying on OASG as their sole justification.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 11:29 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

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Thanks.
Lily

Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 7, 2006 11:41 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

I wonder whether it'd be accurate or helpful for civ to suggest we told them to take five. The decision is civ's, not ours, under the dag's memo. We've simply asked questions to ensure then - as I suggested we might now - to ensure everyone has thought through the likely work demands.

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Wed Jun 07 11:34:35 2006
Subject: RE: OIP

I think they are going to say based on conversations with us they understand that their job is going to be much more robust than they'd originally thought and that they think they need 5. I was surprised by 5 as well but I didn't express that surprise to Peter because I felt that Peter had increased the number to address our concerns. I am thinking now that we might suggest to Peter an up-to-5 plan where'd CIV would start out with 2 or 3 and then increase up to 5 as needed, unless CIV feels it can defend 5 without relying on OASG as their sole justification.

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From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 11:29 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

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To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Wed Jun 07 11:25:48 2006
Subject: OIP

Robert and Neil,

A heads-up. CIV plans to tell OIP this week that, upon further reflection and based on guidance from OASG, CIV now believes it will need 5 attorneys from OIP to perform the function that is described in

OASG, CIV now believes it will need 5 attorneys from OIP to perform the function that is described in the DAG memo. One of the lawyers CIV is contemplating bringing over is Melanie Pustay, OIP's deputy director. Peter does not plan to specify to Dan which lawyers CIV is interested in bringing over, but he will make clear to Dan that CIV will have a strong say in who it wants.

I have a message in to Mike Elston -- I've asked Peter to hold off meeting with OIP until I have a chance to let ODAG know how CIV plans to implement this part of the DAG memo and what guidance OASG has given.

I've also asked JMD not to disclose to OIP how many people are expected to go over to CIV until Peter has a chance to deliver that message, and to hold off making any representations about the second SES slot in OIP until we come to decision on that.

Thanks.
Lily

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, June 07, 2006 11:46 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: OIP

I agree -- I don't want us to have to micromanage or take full ownership of the number. I will chat with Peter and iron this out. Thanks.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 11:41 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

I wonder whether it'd be accurate or helpful for civ to suggest we told them to take five. The decision is civ's, not ours, under the dag's memo. We've simply asked questions to ensure then - as I suggested we might now - to ensure everyone has thought through the likely work demands.

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Wed Jun 07 11:34:35 2006
Subject: RE: OIP

I think they are going to say based on conversations with us they understand that their job is going to be much more robust than they'd originally thought and that they think they need 5. I was surprised by 5 as well but I didn't express that surprise to Peter because I felt that Peter had increased the number to address our concerns. I am thinking now that we might suggest to Peter an up-to-5 plan where'd CIV would start out with 2 or 3 and then increase up to 5 as needed, unless CIV feels it can defend 5 without relying on OASG as their sole justification.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 11:29 AM
To: Swenson, Lily F; McCallum, Robert (SMO)
Subject: Re: OIP

Are we comfortable that civ has a sound rationale for so many?

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Wed Jun 07 11:25:48 2006
Subject: OIP

Subject: OIP

Robert and Neil,

A heads-up. CIV plans to tell OIP this week that, upon further reflection and based on guidance from OASG, CIV now believes it will need 5 attorneys from OIP to perform the function that is described in the DAG memo. One of the lawyers CIV is contemplating bringing over is Melanie Pustay, OIP's deputy director. Peter does not plan to specify to Dan which lawyers CIV is interested in bringing over, but he will make clear to Dan that CIV will have a strong say in who it wants.

I have a message in to Mike Elston -- I've asked Peter to hold off meeting with OIP until I have a chance to let ODAG know how CIV plans to implement this part of the DAG memo and what guidance OASG has given.

I've also asked JMD not to disclose to OIP how many people are expected to go over to CIV until Peter has a chance to deliver that message, and to hold off making any representations about the second SES slot in OIP until we come to decision on that.

Thanks.
Lily

McNally, Dan

From: McNally, Dan
Sent: Wednesday, June 07, 2006 1:38 PM
To: Rosebrock, James A.; Vanyur, John; Love, Patrick; Sherburne, Edward G.; Zwick, Ken (CIV); Johnson, Paul; Metzger, C. Michael; [redacted] (USAEO); Renkiewicz, Martin; Schreiber, Jayne; Gorsuch, Neil M; McAtamney, James A; Powell, SeLena Y; Jezierski, Crystal; Simmons, Carolyn M; Gary, Jane H; McGarry, Beth; Burton, Faith; Hart, Rosemary; Talamona, Gina; Potter, Janet; Wilkinson, Monty (USADC); [redacted] (USMS); Melson, Ken (USAVAE); Thomas, Carolyn J
Cc: Vasaio, Tony; EPG
Subject: Cafeteria Use/Billeting - Exercise Forward Challenge 06

This is not a tasking nor requirement for exercise participation.

I have heard, in some cases, second or third hand, that some components plan to have personnel at the Emergency Relocation Facility (ERF) during Exercise Forward Challenge. In order to ensure the cafeteria is able to support all those that are at the facility, I must give them an accurate "head count" in advance. Please respond to this message and provide me the names of who, from your organization, will be at the ERF on 21 and 22 June, and what meals they plan to eat there on each day.

In addition to meals, I need to know who will require billeting, and when they will need it. Please call me if you have any questions.

Thanks

Dan

Daniel P. McNally
202-616-2288
Operations Section
Emergency Management Operations and Policy Group
Security and Emergency Planning Staff/JMD
U. S. Department of Justice
Secure Email:
[redacted]
Unclassified: dan.mcnally@usdoj.gov

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 07, 2006 2:08 PM
To: USDOJ- Office of Public Affairs
Subject: LAW SCHOOL PREP COURSE PROVIDER AGREES TO SERVICES FOR STUDENTS WITH DISABILITIES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, JUNE 7, 2006
WWW.USDOJ.GOV

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

LAW SCHOOL PREP COURSE PROVIDER AGREES TO SERVICES FOR STUDENTS WITH DISABILITIES

WASHINGTON—The Justice Department today announced a consent agreement with Robin Singh Educational Services, Inc., d/b/a/ TestMasters, one of the nation's largest providers of preparatory courses for the Law School Admissions Test (LSAT) and other admission exams. The agreement calls for TestMasters to provide sign language interpreters and other auxiliary aids to students who need them as required by the Americans with Disabilities Act (ADA).

"We commend TestMasters for taking steps to ensure that people who are deaf or hard of hearing have the same opportunity as others to gain admission to colleges and graduate schools," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division.

The complaint and proposed consent order, simultaneously filed today in the District Court for the Central District of California, will ensure that these preparatory courses are offered in a manner accessible to people with disabilities. The agreement resolves an administrative complaint received by the Department alleging that TestMasters failed to provide a sign language interpreter and note-taker for a deaf student who relies on sign language for communication, and then retaliated by cancelling the student's course registration after the student requested accommodations. Without admitting liability, TestMasters has agreed to re-admit the student and provide sign language interpreters and note-takers, as well as others who need them because of disability.

The proposed consent order, if adopted by the court, requires TestMasters to admit the complainant free of charge to the course of his choosing; provide auxiliary aids, with sign language interpreters and note-takers or comparable accommodations to those who need them; adopt and implement a policy of nondiscrimination on the basis of disability, including formal procedures for students to request accommodations; train employees on TestMasters obligations under the ADA; and pay $20,000 in damages to the complainant and $10,000 in civil penalties.

TestMasters provides a large majority of the LSAT prep courses in California and approximately one third of those nationwide. The company also provides other college and graduate school preparatory courses.

DOJ_NMG_ 0161413

Title III of the ADA requires, among other things, that private entities offering examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes offer them in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals. People interested in finding out more about the ADA can call the Justice Department's toll-free Information Line at (800) 514-0301 or (800) 514-0383 (TDD), or access the ADA homepage at http://www.ada.gov.

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06-353

DOJ_NMG_ 0161414

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Image not available for this document, ID: 0.7.10316.8802-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 7, 2006 3:58 PM
To: Cook, Elisebeth C
Subject: [redacted]

His tel is [redacted] Thanks!

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, June 07, 2006 4:13 PM
To: Gorsuch, Neil M
Subject: Read: Use of Police Force publication

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Wednesday, June 07, 2006 5:27 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

We will give him a call first thing tomorrow. Have a nice evening.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 3:58 PM
To: Cook, Elisebeth C
Subject: [redacted]

His tel is [redacted] Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 07, 2006 6:30 PM
To: Cook, Elisebeth C
Subject: Fw: Your confirmation
Attachments: ECOPY_3EAST-Exchange-06062006-104817.pdf

Fyi

-----Original Message-----
From: [redacted]@KHHTE.com
To: Gorsuch, Neil M
Sent: Tue Jun 06 10:55:29 2006
Subject: Your confirmation

Neil,
Attached is a letter I sent to Chairman Specter et al. I hope this helps. Looking forward to the confirmation hearing.

All the best,

[redacted]

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.
SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3209

(202) 326-7900
FACSIMILE:
(202) 326-7999

June 6, 2006

VIA FACSIMILE (202-228-1698) AND U.S. MAIL

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Neil Gorsuch, Nominee to the United States Court of Appeals, Tenth Circuit

Dear Chairman Specter:

I write in support of the nomination of my friend and former law partner, Neil Gorsuch, to the United States Court of Appeals for the Tenth Circuit.

I met Neil [redacted] From the beginning, Neil embraced the challenge of the sink-or-swim environment and demonstrated tremendous skill and judgment as a legal writer, advocate, and counselor.

In the course of his ten years at Kellogg Huber, Neil played a lead or central role in dozens of complex cases, litigating against many of the finest law firms in the country. In each case, Neil assumed a leadership role typically befitting someone with far more experience. Moreover, Kellogg Huber's clients, as well as the senior partners of the firm, were equally comfortable placing this confidence in him. Consequently, in his ten years at Kellogg Huber, I am confident that Neil gained the experience and wisdom of someone who has spent at least twenty years engaged in a sophisticated civil litigation practice. That experience is reflected in a wisdom and maturity that far exceeds his age.

Neil is also uniquely qualified as a judge due to the diversity of his practice at Kellogg Huber. Unlike many small firms, ours does not specialize in a niche practice. Rather, we accept engagements to represent both plaintiffs and defendants in a wide variety of cases, including antitrust, patent, telecommunications, white collar criminal, class action, and complex corporate cases. Neil's practice has involved significant work in all these areas, both at the trial and appellate stage. The law is far too expansive for any single lawyer to be considered an expert on all its disciplines, but I suspect that the breadth of Neil's experience in the various substantive areas of the law is far greater than many judges already confirmed to the United States Courts of Appeal.

Finally, I urge you to confirm Neil Gorsuch as a judge on the Tenth Circuit, because I believe that he possesses the character and judgment necessary to be a fair and effective judge. Over the past ten years, I have observed Neil under some very stressful situations. Without exception, he has always demonstrated sound judgment and outstanding analytical ability. He possesses the ability to analyze an issue from all sides yet quickly grasp and articulate the key facts and arguments. He will challenge all litigants who appear before him, but he will also treat everyone with decency and fairness. I am confident his sole goal will be to follow the law and determine the just result. In every case, the individual litigants, the bar, and the general public will benefit from his rigorous analysis.

In my experience, Neil is universally respected by his colleagues as well as his adversaries. I have always found him to be a decent, considerate, hard-working family man. Our country will be lucky to have such a worthy individual serve as a judge on the United States Court of Appeals.

If I can be of any further assistance to your committee, please do not hesitate to contact me.

Best regards,

cc: The Honorable Patrick J. Leahy
The Honorable Wayne Allard
The Honorable Ken Salazar
Office of Legal Policy

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, June 08, 2006 8:19 AM
To: Goodling, Monica
Subject: The Morning Update: 6/8/06

Good morning! As you start your day, I thought you may want to take a minute to read the President's statement this morning on the successful air strike against al Zarqawi. The White House update follows.
Best, Monica

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THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release June 8, 2006

STATEMENT BY THE PRESIDENT
Rose Garden
Washington, D.C.
7:31 A.M. EDT

THE PRESIDENT: Good morning. Last night in Iraq, United States military forces killed the terrorist al Zarqawi. At 6:15 p.m. Baghdad time, special operation forces, acting on tips and intelligence from Iraqis, confirmed Zarqawi's location, and delivered justice to the most wanted terrorist in Iraq.

Zarqawi was the operational commander of the terrorist movement in Iraq. He led a campaign of car bombings, assassinations and suicide attacks that has taken the lives of many American forces and thousands of innocent Iraqis. Osama bin Laden called this Jordanian terrorist "the prince of al Qaeda in Iraq." He called on the terrorists around the world to listen to him and obey him. Zarqawi personally beheaded American hostages and other civilians in Iraq. He masterminded the destruction of the United Nations headquarters in Baghdad. He was responsible for the assassination of an American diplomat in Jordan, and the bombing of a hotel in Amman.

Through his every action, he sought to defeat America and our coalition partners, and turn Iraq into a safe haven from which al Qaeda could wage its war on free nations. To achieve these ends, he worked to divide Iraqis and incite civil war. And only last week he released an audio tape attacking Iraq's elected leaders, and denouncing those advocating the end of sectarianism.

Now Zarqawi has met his end, and this violent man will never murder again. Iraqis can be justly proud of their new government and its early steps to improve their security. And Americans can be enormously proud

of the men and women of our armed forces, who worked tirelessly with their Iraqi counterparts to track down this brutal terrorist and put him out of business.

The operation against Zarqawi was conducted with courage and professionalism by the finest military in the world. Coalition and Iraqi forces persevered through years of near misses and false leads, and they never gave up. Last night their persistence and determination were rewarded. On behalf of all Americans, I congratulate our troops on this remarkable achievement.

Zarqawi is dead, but the difficult and necessary mission in Iraq continues. We can expect the terrorists and insurgents to carry on without him. We can expect the sectarian violence to continue. Yet the ideology of terror has lost one of its most visible and aggressive leaders.

Zarqawi's death is a severe blow to al Qaeda. It's a victory in the global war on terror, and it is an opportunity for Iraq's new government to turn the tide of this struggle. A few minutes ago I spoke to Prime Minister Maliki. I congratulated him on close collaboration between coalition and Iraqi forces that helped make this day possible. Iraq's freely elected Prime Minister is determined to defeat our common enemies and bring security and the rule of law to all its people.

Earlier this morning he announced the completion of his cabinet appointments, with the naming of a new Minister of Defense, a new Minister of the Interior, and a new Minister of State for National Security. These new ministers are part of a democratic government that represents all Iraqis. They will play a vital role as the Iraqi government addresses its top priorities -- reconciliation and reconstruction and putting an end to the kidnappings and beheadings and suicide bombings that plague the Iraqi people. I assured Prime Minister Maliki that he will have the full support of the United States of America.

On Monday I will meet with my national security team and other key members of my Cabinet at Camp David to discuss the way forward in Iraq. Our top diplomats and military commanders in Iraq will give me an assessment of recent changes in the political and economic and security situation on the ground. On Tuesday, Iraq's new Ambassador to the United States will join us, and we will have a teleconference discussion with the Prime Minister and members of his cabinet. Together we will discuss how to best deploy America's resources in Iraq and achieve our shared goal of an Iraq that can govern itself, defend itself and sustain itself.

We have tough days ahead of us in Iraq that will require the continued patience of the American people. Yet the developments of the last 24 hours give us renewed confidence in the final outcome of this struggle: the defeat of terrorism threats, and a more peaceful world for our children and grandchildren.

May God bless the Iraqi people and may God continue to bless America.

****

<http://www.whitehouse.gov/>
JUNE 8, 2006

This morning, President Bush will make remarks at the National Hispanic Prayer Breakfast. Following the prayer breakfast, the President will participate in a meeting with Governors on the line-item veto. The Governors of 43 states have line-item veto authority, and President Bush is asking Congress to grant him this tool to cut needless spending, reduce the budget deficit, and ensure every taxpayer dollar is spent wisely.

Later, President Bush will meet with President Bachelet of Chile. The two leaders will discuss a range of issues including their shared commitment to advance freedom and democracy, the importance of free trade to sustained economic growth, and continuing cooperation in areas of mutual interest.

8:00 am: EDT THE PRESIDENT makes Remarks at the National Hispanic Prayer Breakfast
JW Marriott Hotel | Washington, DC

10:10 am: EDT THE PRESIDENT participates in a Meeting with Governors on the Line Item Veto
The White House | Washington, DC

11:10 am: EDT THE PRESIDENT meets with the President of Chile
The White House | Washington, DC

Al-Qaida Leader Zarqawi Killed In Air Strike. "Abu Musab al-Zarqawi, al-Qaida's leader in Iraq who led a bloody campaign of suicide bombings and kidnappings, has been killed in an air strike, U.S. and Iraqi officials said Thursday, adding that his identity was confirmed by fingerprints and a look at his face. It was a major victory in the U.S.-led war in Iraq and the broader war on terror. <http://news.yahoo.com/s/ap/20060608/ap_on_re_mi_ea/iraq_al_zarqawi&printer=1;_ylt=Ap.YvlKo1PVShmIYRnxNqmQUewgF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> 'Those who disrupt the course of life, like al-Zarqawi, will have a tragic end,' al-Maliki said. ... "This is a message for all those who embrace violence, killing and destruction to stop and to (retreat) before it's too late," he said. "It is an open battle with all those who incite sectarianism." (Patrick Quinn, "Abu Musab al-Zarqawi Killed In Air Raid", The Associated Press, 6/8/06)

President Bush Discusses Al-Zarqawi's Death. THE PRESIDENT: "Iraqis can be justly proud of their new government in its early steps to improve their security. And Americans can be enormously proud of the men and women of our armed forces who worked tirelessly with their Iraqi counterparts to track down this brutal terrorist and to put him out of business. ... Last night, their persistence and determination were rewarded. On behalf of all Americans, I congratulate our troops on this remarkable achievement. Zarqawi is dead. But the difficult and necessary mission in Iraq continues." (President Bush, Remarks, Washington, DC, 6/8/06)

Final Posts Filled In Permanent Iraqi Government. "The Iraqi parliament approved on Thursday Prime Minister Nuri al-Maliki's candidates for

defense and interior ministers, ending wrangling that had threatened to plunge the new government into crisis. <http://news.yahoo.com/s/nm/20060608/wl_nm/iraq_parliament_dc_2&printer=1;_ylt=AjLPC6ayh9RC0o8.8PC7asRn.3QA;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> By a clear majority, it approved Jawad al-Bolani, a Shi'ite, as interior minister and General Abdel Qader Jassim, a Sunni and until now Iraqi ground forces commander, as defense minister." ("Iraq Parliament Backs Defense And Interior Ministers," Reuters, 6/8/06)

President Bush Stresses Assimilation As Part Of Immigration Reform. "Continuing his campaign to build support for comprehensive immigration legislation, President Bush on Wednesday emphasized that illegal immigrants who want to stay here should learn English and demonstrate that they are committed to assimilating into American culture. ... 'One is to say you got to pay a fine for being here illegally. You got to learn the English language. In other words, you got to repay a debt to society and learn the skills necessary to assimilate into our society. Show us you've been working hard <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/07/AR2006060702071.html> ." (Michael Abramowitz, "Bush Emphasizes English, Assimilation For Immigrants," The Washington Post, 6/8/06)

The Wall Street Journal Says The Death Tax Hurts The Middle Class. "The real people who pay the levy are the thrifty middle class and entrepreneurs who've built up a modest nest egg or business and are hit by a 46% tax rate when they die <http://online.wsj.com/article/SB114973578645274613.html?mod=opinion_main_review_and_outlooks> . Americans want family businesses, ranches, farms and other assets to be passed from one generation to the next. Yet the U.S. has one of the highest death tax rates in the world." (Editorial, "Taxes Everlasting," The Wall Street Journal, 6/8/06)

President Bush Discusses Comprehensive Immigration Reform in Nebraska <http://www.whitehouse.gov/news/releases/2006/06/20060607.html>

In Focus: Immigration <http://www.whitehouse.gov/infocus/immigration/>

President Participates in Swearing-In Ceremony for Dirk Kempthorne as Secretary of the Interior <http://www.whitehouse.gov/news/releases/2006/06/20060607-3.html>

President's Cabinet <http://www.whitehouse.gov/government/cabinet.html>

President's Statement on the Senate's Marriage Protection Amendment Vote <http://www.whitehouse.gov/news/releases/2006/06/20060607-1.html>

President Applauds Congress on Passage of S. 193, the Broadcast Decency Enforcement Act <http://www.whitehouse.gov/news/releases/2006/06/20060607-5.html>

President Pleased with Passage of Mine Safety Legislation <http://www.whitehouse.gov/news/releases/2006/06/20060607-9.html>

President Bush to Welcome Prime Minister of Slovenia to the White House
<http://www.whitehouse.gov/news/releases/2006/06/20060607-8.html>

President Bush to Welcome President Alvaro Uribe of Colombia
<http://www.whitehouse.gov/news/releases/2006/06/20060607-7.html>

Executive Order: Task Force on New Americans
<http://www.whitehouse.gov/news/releases/2006/06/20060607-4.html>

Nomination Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/06/20060607-6.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/06/20060607-2.html>

Ask the White House: Janet Eissenstat, Director of the President's Commission on White House Fellowships
<http://www.whitehouse.gov/ask/20060607.html>

Wright, Carl

From: Wright, Carl
Sent: Thursday, June 8, 2006 11:42 AM
To: Gorsuch, Neil M
Subject: June Cadre Verification

Below is what we currently have listed for OASG. Please let me know if anything is incorrect or if you want any changes made. Thanks!!

Carl

Gorsuch	Neil	M	Core	Cadre
McCallum, Jr	Robert	D.	Core	Cadre

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 8, 2006 11:51 AM
To: Wright, Carl
Subject: Re: June Cadre Verification

I had thought Lily Fu Swenson had been added earlier this year.

-----Original Message-----
From: Wright, Carl
To: Gorsuch, Neil M
Sent: Thu Jun 08 11:42:26 2006
Subject: June Cadre Verification

Below is what we currently have listed for OASG. Please let me know if anything is incorrect or if you want any changes made. Thanks!!

Carl

Gorsuch	Neil	M	Core Cadre
McCallum, Jr	Robert	D.	Core Cadre

[redacted]@CFPBoard.org

From: [redacted]@CFPBoard.org
Sent: Thursday, June 08, 2006 1:17 PM
To: Gorsuch, Neil M
Subject: RE: Thank You

Just wrote to Specter, Leahy and Salazar and just took a call from the ABA's [redacted] (to whom I told my very best Neil Gorsuch stories, which I'll put up against anyone else's any day). [redacted] asked for my parting observation and I said [redacted] seemed to like that.

[redacted]

Certified Financial Planner Board of Standards Inc. owns the certification marks CFP(R), CERTIFIED FINANCIAL PLANNER(tm) and federally registered CFP (with flame logo) in the U.S., which it awards to individuals who successfully complete initial and ongoing certification requirements.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, May 09, 2006 9:33 AM
To: [redacted]
Subject: Thank You

Dear [redacted]

Thank you so much for your enthusiastic support and willingness to help.
I can't tell you how honored I feel by your confidence in me. Attached is a copy of my cv along with some possible tp's though these are for your reference only; please do not feel in any way constrained by them.
If you have any questions of me, don't hesitate to give me a ring (office: 202/305-1434; cell: [redacted] home: [redacted].

Warm regards,

Neil

<<tps.pdf>> <<nmg cv.pdf>>

From: [redacted]
Sent: Thursday, June 08, 2006 3:54 PM
To: Gorsuch, Neil M
Subject: congrats!

Neil: I just returned recently from Europe to hear your wonderful news. Congratulations! You'll make a fine judge, something I say in spite of where you went to law school. Although I imagine you'll sail right through the Senate and have much more influential people than me assisting you, let me know if there's anything I can do to help you get confirmed. Best, [redacted]

Brown, Angela

Subject:	Updated: Family Justice Center (Cancelled)
Location:	Boston, Massachusetts
Start:	Monday, June 12, 2006 12:00 AM
End:	Wednesday, June 14, 2006 12:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brown, Angela
Required Attendees:	Roth, Monique; Fisher, Alice; Gorsuch, Neil M; Scolinos, Tasia

When: Monday, June 12, 2006 12:00 AM to Wednesday, June 14, 2006 12:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Boston, Massachusetts

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

Confirmed by AAG Fisher 5/4/06

Prep to be added/Andrea Bottner.

Angie, can you confirm that Alice is available. Bob, can you confirm that Alice is still interested in doing this.

----- Original Message -----
From: Andrea.Bottner@usdoj.gov <Andrea.Bottner@usdoj.gov>
To: Roth, Monique
Cc: Gorsuch, Neil M; Scolinos, Tasia
Sent: Tue May 02 18:09:59 2006
Subject: Boston Family Justice center opening

Good afternoon Monique,
I have heard that AAG Fisher might be available to attend the opening of the President's Family Justice Center in Boston.
The opening is slated for Tuesday, June 13th.
OVW Director Diane Stuart would welcome her attendance and participation at this event.
Typically, Director Stuart makes remarks and extends congratulations to the project partners. She reads a letter of congratulations from the President and Mrs. Bush. Finally, a plaque from the Department is presented as well.
We would be thrilled to work with your office to identify the appropriate role for AAG Fisher and to make certain she has the information she needs to be comfortable in her presentation.

Please let me know what I can do to assist. I will wait to hear from you as to whether we can confirm her attendance.
Thanks very much,
Andi

Sent from my BlackBerry Wireless Handheld

Brown, Angela

Subject:	Updated: Family Justice Center (Cancelled)
Location:	Boston, Massachusetts
Start:	Monday, June 19, 2006 12:00 AM
End:	Tuesday, June 20, 2006 12:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brown, Angela
Required Attendees:	Roth, Monique; Fisher, Alice; Gorsuch, Neil M; Scolinos, Tasia

When: Monday, June 19, 2006 12:00 AM to Tuesday, June 20, 2006 12:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Boston, Massachusetts

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

Confirmed by AAG Fisher 5/4/06

Prep to be added/Andrea Bottner.

Angie, can you confirm that Alice is available. Bob, can you confirm that Alice is still interested in doing this.

----- Original Message -----
From: Andrea.Bottner@usdoj.gov <Andrea.Bottner@usdoj.gov>
To: Roth, Monique
Cc: Gorsuch, Neil M; Scolinos, Tasia
Sent: Tue May 02 18:09:59 2006
Subject: Boston Family Justice center opening

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We would be thrilled to work with your office to identify the appropriate role for AAG Fisher and to make certain she has the information she needs to be comfortable in her presentation.

Please let me know what I can do to assist. I will wait to hear from you as to whether we can confirm her attendance.
Thanks very much,
Andi

Sent from my BlackBerry Wireless Handheld

From: USDOJ- Office of Public Affairs
Sent: Friday, June 09, 2006 9:35 AM
To: USDOJ- Office of Public Affairs
Subject: GENERAL DYNAMICS AND LOCKHEED MARTIN AWARDED PHASE TWO CONTRACTS FOR INTEGRATED WIRELESS NETWORK (IWN)

Department of Justice

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FRIDAY, JUNE 9, 2006 (202) 514-2007
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GENERAL DYNAMICS AND LOCKHEED MARTIN AWARDED PHASE TWO CONTRACTS FOR INTEGRATED WIRELESS NETWORK (IWN)

Collaborative Effort by the Department of Justice, Department of Homeland Security, and Department of the Treasury will Improve Nationwide Wireless Communications for Law Enforcement

WASHINGTON — The Departments of Justice, Homeland Security and the Treasury announced today the award of second-phase system integration contracts for the Integrated Wireless Network (IWN) to General Dynamics C4 Systems of Scottsdale, Ariz. and Lockheed Martin Integrated Systems and Solutions of Gaithersburg, Md. Today's award allows the companies to continue on to the third and final phase of the selection process for the IWN systems integrator.

IWN is a collaborative effort to improve federal tactical communications capabilities. IWN will provide a range of secure and highly reliable wireless communications services, such as voice, data, and multimedia, to support federal law enforcement, homeland security and first responder operations. IWN will implement solutions to provide federal agency interoperability with appropriate links to state, local, and tribal public safety, and homeland security entities. IWN also will be integrated with other communication and information sharing initiatives sponsored by each of the participating Departments.

"By providing near-instant communication availability and system response, highly reliable communications, and physical and encryption security features that minimize interception of sensitive communications, IWN will make law enforcement and protective operations more effective, efficient and safe," said Vance Hitch, Chief Information Officer for the Department of Justice.

The IWN acquisition has been conducted in three phases. As the lead for the IWN acquisition, the Department of Justice awarded the indefinite delivery, indefinite quantity contracts to General Dynamics and Lockheed Martin on June 9, 2006 after an advisory down select (phase 1) and an open market competition (phase 2). Phase 3 is a design competition. In the upcoming months, General Dynamics and Lockheed Martin will prepare and submit for government review non-proprietary designs and implementation plans for a specific geographic area of the country. At the end of the design competition, the government intends to select one of these firms as the IWN systems integrator.

DOJ_NMG_ 0161436

Federal components expected to utilize the new system include:

- From the Department of Justice — Federal Bureau of Investigation, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Marshals Service, Bureau of Prisons, and Office of Inspector General;
- From the Department of Homeland Security — Immigration and Customs Enforcement, Customs and Border Protection, Transportation Security Administration, U.S. Secret Service, U.S. Coast Guard, Federal Protective Service, and Federal Emergency Management Agency; and
- From the Department of the Treasury — Internal Revenue Service and the Treasury Inspector General for Tax Administration.

More information about IWN is available at http://www.usdoj.gov/jmd/iwn

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06-361

DOJ_NMG_ 0161437

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Image not available for this document, ID: 0.7.10316.8636-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 9, 2006 10:11 AM
To: [redacted]
Subject: Re: congrats!

Thanks so much for the kind words, [redacted] It all came as something of a surprise but if it works out I admit I'd be thrilled. I'd very much like to catch up next wk if you're around. What's the best no to catch you on Monday? Warmest regards, Neil

-----Original Message-----
From [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 08 15:53:53 2006
Subject: congrats!

Neil: I just returned recently from Europe to hear your wonderful news. Congratulations! You'll make a fine judge, something I say in spite of where you went to law school. Although I imagine you'll sail right through the Senate and have much more influential people than me assisting you, let me know if there's anything I can do to help you get confirmed. Best, [redacted]

From: Ames, Andrew
Sent: Friday, June 09, 2006 10:54 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brett Gerry; Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennifer Brosnahan; Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 6/9/06 Civill Division News

Ruling on immigrant doctors overturned
'Whistle-blower' suit settled; Oxygen equipment firm's local facilities overbilled Medicare
Federal lawsuit in Ark. seeks payment from hospitals for mistakes
HHS URGED TO FORM SCIENTIFIC PANEL TO REVIEW VICP INJURY TABLE
FBI handler didn't ask about killings, Flemmi says; Wraps up 4 days on witness stand
Union sues feds over coal mine air packs
Valley raisin growers sue over marketing program
Inquiry clears way for envoy
FDA sued for lax regulation of GM foods
U.S. law may shield AT&T, Firm could escape lawsuits in sharing of callers' records

San Francisco Chronicle (CA)
June 9, 2006
Ruling on immigrant doctors overturned
Bob Egelko

A federal appeals court has overturned government rules that made it harder for immigrant doctors to qualify for permanent legal residence by working in inner cities and other areas where medical providers are in short supply.

A lawyer for immigrant doctors who sued over the rules said the decision would help hundreds of physicians and their patients.

The Ninth U.S. Circuit Court of Appeals in San Francisco said Wednesday that regulations adopted by immigration officials in 2000 conflicted with a law Congress had passed a year earlier to encourage noncitizen doctors to practice in areas that were designated as medically underserved.

The law allows a doctor who is in the United States on a temporary visa to qualify for a green card, and permanent legal status, by working for five years in an underserved area, typically in an inner city or a rural community. The requirement was limited to three years for doctors who had applied to a previous version of the program before November 1998.

DOJ_NMG_ 0161441

By meeting the requirement, an immigrant doctor avoids the need to be certified by the U.S. Labor Department as filling a job that cannot be taken by a qualified U.S". resident.

Eight doctors sued over the regulations in 2002, saying that one of the rules wrongly denied them credit for time they had spent working in a medically needy area before the government approved their applications to take part in the U.S. residence program. The rule would cost the plaintiff doctors two to five years of credit for their work, the court said.

Another regulation that the doctors challenged required those who had applied for the previous program before November 1998 to work five years, instead of three, if the government had rejected their applications by November 1999. A third regulation gave doctors who entered the program a limited time to qualify.

The appeals court overturned a ruling by a Los Angeles federal judge in the government's favor. It said none of the three regulations was authorized by the law they were supposed to implement.

In particular, the denial of credit for work while an application is pending subverts the very intent of the law by undermining the incentive that Congress created "to attract immigrant doctors to health professional shortage areas," Judge Harry Pregerson said in the 3-0 ruling.

Carl Shusterman, an attorney for the doctors, said Thursday that the ruling would affect hundreds of doctors immediately and thousands in future years. He said the federal regulations have made the 1999 law virtually useless.

"A lot more physicians will use this program, and it will really work to help Americans who are stuck in areas where they can't get medical help," Shusterman said.

Sharon Rummery, spokeswoman for U.S. Citizenship and Immigration Services in San Francisco, said the agency was reviewing the ruling and had no comment.

END

Worcester, MA, Telegram

Jun 9, 2006

‘Whistle-blower’ suit settled; Oxygen equipment firm’s local facilities overbilled Medicare

Lincare Holdings Inc., a national home oxygen equipment supplier based in Clearwater, Fla., has agreed to pay the U.S. government $526,000 to resolve federal civil claims under the False Claims Act that Lincare overbilled Medicare for equipment furnished by its offices in Marlboro, Dudley and Cherry Valley.

The settlement was announced yesterday by U.S. Attorney Michael J. Sullivan of the U.S. Department of Justice in Boston, and officials of the U.S. Department of Health and Human Services, Office of the Inspector General, and the U.S. Department of Labor.

The agreement settles a “whistle-blower” suit alleging that Lincare submitted claims for payment to Medicare based on qualifying tests performed by Lincare employees, said the U.S. Department of Justice in a news release.

Medical equipment providers are not permitted to perform the tests that qualify an individual for medical equipment paid for by Medicare, the Department of Justice said.

The settlement covers claims submitted for payment from Jan. 1, 1999, to March 31, 2004, by the three Central Massachusetts Lincare offices.

As part of the resolution, the whistle-blower in the case, a former Lincare sales representative who was identified yesterday by The Associated Press as Susan Smith of Holyoke, who worked for Lincare for seven months in 2002, will receive $96,680.

AP also reported that Lincare agreed to pay Ms. Smith’s lawyer $16,890.

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Private individuals are allowed to file whistle-blower suits under the False Claims Act to bring the government information about wrongdoing, the Department of Justice said.

If the government is successful in resolving or litigating their claims, whistle-blowers share in the recovery by receiving generally 15 percent to 25 percent of the amount recovered, it said.

Lincare has also entered into a Corporate Integrity Agreement with the Department of Health and Human Services, Office of the Inspector General, in order that its compliance with Medicare billing guidelines can be monitored.

In mid-May, Lincare Holdings announced it had resolved four investigations by the Office of the Inspector General and the Department of Justice and would pay slightly more than $12 million to the government without any admission of wrongdoing by the company. One of the investigations focused on alleged kickbacks to doctors and others.

The announcement also referred to, among other matters, and without being specific, a Massachusetts investigation involving alleged improper reimbursement under Medicare.

Lincare's Web site lists 13 locations in Massachusetts. Lincare provides respiratory therapy, infusion therapy and medical equipment to patients in their homes. Last year, the company reported revenues of $1.3 billion and net income of $213.7 million, or $2.06 per share.

The company's stock closed yesterday at $37.89, up 3 cents, on the Nasdaq Stock Market.

END

AP

June 9, 2006

Federal lawsuit in Ark. seeks payment from hospitals for mistakes

LITTLE ROCK_A lawsuit filed in federal court claims that millions of dollars was billed to the government's Medicare program to correct mistakes made by hospitals.

The suit was filed by the Wilkes & McHugh law firm under a new law that allows a private citizen to sue on behalf of Medicare. If the plaintiff prevails, that person is entitled to part of the award.

The firm, which has an office at Little Rock, sued three insurance companies and a company that operates hospitals in Arkansas. The lawsuit is similar to one filed by the firm against Catholic Health Initiatives, which also has hospitals in the state.

"Insurance companies are getting off the hook and the government is subsidizing it," said Ken Connor, an attorney with Wilkes & McHugh.

The lawsuit, filed Monday in Little Rock, claims Plano, Texas-based Triad Hospitals Inc. billed Medicare for mistakes its hospitals caused that harmed patients.

The suit said hospitals or their insurers should pay extra costs of correcting medical errors they caused, not Medicare and taxpayers.

Connor said hospitals have liability insurance to cover botched medical procedures, but hospitals are billing Medicare for extra costs of medical errors when they or insurance companies legally are the primary payer in such a case.

Triad owns Northwest Medical Center-Springdale, Northwest Medical Center-Bentonville and Willow Creek Women's Hospital in Johnson. Quorum Health Resources, a Triad subsidiary, manages Sparks Regional Medical System in Fort Smith.

Joe Johnson, vice president of legal affairs for Triad, said the allegations were fairly broad and didn't mention a time frame, specific Triad hospitals allegedly at fault or other details.

"It's the first such lawsuit of its kind that I have seen and certainly the first one that has been filed against Triad or any of its facilities," Johnson said.

END

FDA Week

June 9, 2006

HHS URGED TO FORM SCIENTIFIC PANEL TO REVIEW VICP INJURY TABLE

A government advisory committee is urging HHS to form a broad-based scientific panel to periodically review the "vaccine\l "l" injury table" that determines who gets compensated for vaccine\l "l" injuries. Such a move would open up the process for updating the table, which is currently done privately by the Health Resources and Services Administration (HRSA).

The Vaccine Injury Compensation Program offers no-fault compensation\l "l" to children "presumed" injured by vaccines. The VICP relies on the vaccine injury table, which lists vaccines and injuries associated with them.

Marguerite Evans, a member of the Advisory Commission on Childhood Vaccines, says the proposed scientific panel should include a range of scientists and physicians and would gain the public's trust by more openly determining what vaccines and related injuries are listed on the table. Currently HRSA privately reviews literature to ensure the table stays up to date.

The ACCV, which advises HHS on the VICP, made the recommendation in a recent letter to HHS Secretary Michael Leavitt. Evans Wednesday (June 7) also presented the recommendations to the National Vaccine Advisory Committee, of which she also is a member.

The list became less important in the mid 1990s, after which cases were decided based on the concept of a "limited waiver of sovereign immunity." Now the table does not cover most cases, and under the current system parents often must show that an immunization has caused their child's disease or condition. Critics say the new interpretation is contrary to a no-fault compensation system because it favors the government over plaintiffs.

Evans says the changes in the mid 1990s are a good example of why a scientific panel should review the table publicly.

She also said the proposed scientific panel would review more information than is currently considered by HRSA. For instance, if many of the same kinds of cases were won in court, the panel would seek data used to support those lawsuits. If plaintiffs usually win cases over a certain vaccine and injury, there is a chance the vaccine and related injury should be on the table so parents do not have to go through the trouble of litigation.

While the government decides if the injury should be added to the table, she said, an expedited system could be set up for parents who have to go to court.

"Where there is credible scientific and medical evidence both to support and to reject a proposed change (addition or deletion) to the Table, the change should, whenever possible, be made to the benefit of petitioners," according to the recommended guiding principles for the proposed group.

Another problem with table is that vaccines are being added to it without associated injuries also being listed. Consumers pay a fee each time their children are inoculated with a vaccine on the table. The money goes into the VICP fund to pay the parents of children injured by the vaccines\l "l". But without listing associated injuries, consumers are paying for nothing because there is no chance of being compensated for unlisted injuries.

END

Boston Globe

DOJ_NMG_ 0161444

June 9, 2006

FBI handler didn't ask about killings, Flemmi says; Wraps up 4 days on witness stand

By Shelley Murphy, Globe Staff

It was a don't ask, don't tell policy.

Convicted killer Stephen ``The Rifleman" Flemmi testified yesterday that his FBI handler never asked him or fellow informant James ``Whitey" Bulger if they killed anyone. And they didn't tell.

``I don't think any agent ever has asked me if we were involved in murder," said Flemmi, then quickly added that other agents may have questioned them but not their primary handlers. `` We were questioned at different times, but we denied it."

Flemmi said his longtime handler, FBI agent John J. Connolly Jr. , never asked him or Bulger if they committed murder -- even after two men were killed and a third man vanished shortly after Connolly leaked word that they were informants or potential witnesses against the gangsters.

Yesterday, after four days on the witness stand in US District Court in Boston, Flemmi, 72, finished testifying in the $50 million wrongful death suit filed against the federal government by the family of John McIntyre of Quincy. Flemmi has admitted teaming up with Bulger to kill 10 people, including McIntyre, and is serving a life sentence. He said they killed McIntyre, 32, on Nov. 30, 1984, after Connolly warned Bulger that someone had implicated them in an unsuccessful plot to ship weapons to the Irish Republican Army aboard the Valhalla, a Gloucester trawler.

Another former Bulger associate-turned-government witness, Kevin J. Weeks, took the stand yesterday and corroborated Flemmi's testimony. Weeks, now free after serving five years in prison for his role in five murders, including McIntyre's, said Connolly warned Bulger that ``one of the two people that were stopped coming off the Valhalla was cooperating."

McIntyre and the Valhalla's captain were the only two people detained for questioning by US Customs agents when the vessel was seized at a pier in Boston after returning from its trip to Ireland to deliver the weapons.

After being lured to a South Boston home, held at gunpoint, and chained to a chair, McIntyre admitted that he was the informant, according to Weeks and Flemmi. But Weeks said Bulger spoke calmly to McIntyre and even considered sparing his life, before abruptly deciding to kill him.

``The murders I was involved in, threats weren't made," said Weeks. ``Jim Bulger would be talking to them nice and calmly and then decide to kill them . . . he'd be nice to them and then he'd just shoot them."

After Bulger shot McIntyre, Weeks helped bury him in the basement , he testified . Later, when the house was about to be sold, Weeks said, he helped exhume the remains of McIntyre and two other victims and bury them in Dorchester. Weeks led investigators to the grave in January 2000 after he began cooperating.

New Hamsphire attorney Steven M. Gordon, who represents the McIntyre family, challenged Weeks's testimony that he was involved in only ``some" crimes with Bulger and Flemmi.

``I wasn't committing every crime that they were committing; they were older than me," Weeks said.

``You caught up pretty quickly," Gordon said.

Weeks fired back, ``No. You could never catch up to them. I don't think many people could."

Connolly was convicted of racketeering in 2002 for helping Bulger evade prosecution and warning him to flee to avoid a 1995 indictment.

Bulger, wanted in 19 murders, remains a fugitive.

END

AFX

June 8, 2006

Union sues feds over coal mine air packs

WASHINGTON (AFX) - The coal miners' union is suing the government to ensure miners have working oxygen supplies and know how to use them.

The suit by the United Mine Workers of America comes a day after Congress passed sweeping legislation overhauling mine safety rules. The union backed the legislation but said its lawsuit deals with separate concerns.

UMW president Cecil Roberts said the union wants the Mine Safety and Health Administration to conduct random checks of oxygen devices used underground. He said that's necessary because of reports the devices are faulty.

Mine agency spokesman Dirk Fillpot said Thursday preliminary tests show the oxygen devices used at an eastern Kentucky mine where five people died last month functioned properly.

The agency previously said the same thing about air packs used at West Virginia's Sago mine, where 12 miners died in January. But the mine agency also said the air packs at Sago had not been used to their full capacity before being discarded by the trapped miners. That has raised questions about how well they performed.

The sole survivor of the accident at West Virginia's Sago mine said at least four of his crew's air packs failed, forcing the miners to share the devices.

The union's lawsuit, filed in the U.S. District Court in Washington, also seeks to force the mine agency to do more to train miners to use the air packs. Roberts said training is typically done in a classroom but ought to be moved to a mine-like setting.

'They must have a better understanding of what it is like to put these units on in the dark, in the smoke, in the anxious moments that follow after an explosion or fire underground,' Roberts said.

Currently, the National Institute for Occupational Safety and Health randomly tests about 100 oxygen devices in use at coal mines roughly every two years, according to Les Boord, who directs those efforts for the agency.

END

Fresno Bee, The (CA)

June 8, 2006

Valley raisin growers sue over marketing program

The following is a listing of Central Valley raisin growers who are plaintiffs in a lawsuit filed last week in the U.S. Court of Federal Claims in Washington, contesting the constitutionality of a federal marketing program that calls for setting aside reserve tonnage of raisins.

They include Walt Shubin of Kerman; Joyce Evans of Caruthers; Mike Arabian doing business as Arabian Farms in Kerman; Jack and Mary Blehm of Kerman; Earl Boyajian of Fresno; Lynden Brack of Kerman; Richard and Sally Chavez dba Chavez Farms in Fresno; Neil Donovan of Fresno; and William H. Donovan of Fresno.

Also, David Flagler of Selma; Walter George Flagler dba Flagler Farms in Parlier; Chris Gauss of Madera; Brad Hansen of Madera; David and Melanie Horne dba M&D Farming in Fresno; Mike Jerkovich of Kerman; Kuldip and Charanjit Kaleka dba Kaleka Farms in Kerman; and Loren T. Linscheid dba Linscheid Farms in Fresno.

Also, Michael A. Logoluso of Madera; Rick L. Logoluso of Madera; Tony M. Logoluso of Madera; Wayne McFarlane of Clovis; Mike Moles of Fresno; Hunter Nadler of Madera; Tom and Teresa Ochoa dba Ochoa Farms in Fresno; Gregory and Donna Patterson of Kerman; Morris Pivovaroff of Kerman; Peter Ramirez of Kerman; Robert Schneider of Kerman; Dale Sedoo of Selma; Wayne Snell of Clovis; Srabian Farms GP of Fowler; and Wilkens Farm in Fresno.

END

Australian Financial Review, The

June 9, 2006

Inquiry clears way for envoy

Tony Walker

The man that US President George W Bush wants as the new Australian ambassador has been cleared of wrongdoing in a major tobacco industry case. Associate Attorney-General Robert McCallum had intervened to have a damages claim against the tobacco industry reduced from $US130bn to $US10bn. His Atlanta law firm had represented tobacco interests, which are big supporters of the Republican Party. However, the Justice Department's Office of Professional Responsibility found McCallum's actions in seeking a lower damages payment had not been influenced by political considerations. The way is now clear for the Senate Foreign Relations Committee to confirm McCallum's nomination as ambassador to Australia.

END

Food Navigator USA

June 9, 2006

FDA sued for lax regulation of GM foods

By Lorraine Heller

A lawsuit filed against the US government aims to establish strict safety laws for all genetically engineered foods, and require these to be labeled once they are approved.

The suit against the US Food and Drug Administration (FDA) was filed by consumer and environmental advocacy group Center for Food Safety (CFS), which claims the move comes after an *"unreasonable delay"* by the FDA in responding to a petition filed in 2000.

The CFS now calls for rigorous testing on genetically engineered (GE) foods before they are marketed in order to ensure that these do not carry certain risks as a result of their different breeding techniques. These risks could include triggering unexpected food allergies, creating toxins in food, or hastening the spread of antibiotic-resistant disease.

In March 2000, the CFS joined forces with over 50 consumer and environmental groups, including the Union of Concerned Scientists, Physicians for Social Responsibility and the Natural Resources Defense Council, to outline a *"comprehensive approach"* that the FDA should take to assess the health and safety issues from new GE foods.

But the FDA did not respond to the petition, said the CFS.

"Currently, there are no binding FDA regulations to protect the public from the risks of the genetically engineered foods that are found in thousands of products on supermarket shelves," it said
"FDA first adopted a hands-off policy on GE foods in 1992, and despite mounting evidence of health and environmental threats from GE crops, has never significantly changed its deregulatory stance."

In its *Federal Register* of May 1992, the FDA recommended that developers consult with the FDA about bioengineered foods under development. In June 1996, the agency provided additional guidance to industry on procedures for these consultations. These require that a developer who intends to commercialize a bioengineered food meets with the agency to identify and discuss relevant safety, nutritional, or other regulatory issues regarding the bioengineered food and then submits a summary of its scientific and regulatory assessment of the food. The FDA then evaluates the submission.

But the CFS says the FDA's policy *"assumes that gene altered foods are safe based solely on scant information that biotechnology companies voluntarily submit in consultations with FDA. Since these consultations are voluntary, industry determines what information they submit and in what form."*
"For too long, the FDA has let biotech companies set the table for deregulation of GE food," said Joseph Mendelson, legal director for the CFS.

According to the advocacy group, strict pre-market testing is required in order to address any unexpected changes in food that the genetic engineering process can create. An example occurred last year, when Australian scientists found that genes from a bean engineered into pea plants created a potentially dangerous allergen in the GE peas.

CFS said the tests that exposed this potential hazard have not been conducted on any of the GE foods currently marketed in the US, even though these GE foods contain genes from non-food organisms that have never been in the human diet and have never been adequately assessed for allergencity.

DOJ_NMG_ 0161447

Indeed, pre-market approval regulations and labeling systems for genetically modified (GM) foods are much more stringent in a number of other countries, including China, Japan, Russia and Brazil.
And in Europe, general opposition to GM crops led to a World Trade Organisation (WTO) ruling in February this year that the EU and six member states had broken free trade rules by imposing a moratorium on GM imports between June 1999 and August 2003.

The decision, in theory, opened up the EU market to GM food.

The issue, however, remains contentious and strong public opinion against GM food in Europe has forced major food companies and retailers to issue non-GM guarantees to customers in recent years.

According to the CFS' lawsuit, filed in district court in Washington DC, the US has a lot to learn from policies adopted in other countries.

"While the rest of the world is rejecting these risky, untested foods, FDA's unscientific approach is making American consumers the world's guinea pigs in this genetic food experiment," said Mendelson.

"Americans deserve the right to know what's in their food. FDA must stop playing politics and start developing a science-based policy to protect Americans from these risky foods."

The FDA was unavailable for immediate comment.

END

BLOOMBERG NEWS

June 9, 2006

U.S. law may shield AT&T, Firm could escape lawsuits in sharing of callers' records

BY ANDREW HARRIS

CHICAGO -- AT&T may claim it is immune from liability for turning over customer call records to the National Security Agency, company lawyers told a federal judge Thursday.

David Carpenter, an attorney for the company, told the court that federal law may protect AT&T from being sued for cooperating with the government if it was ordered to do so.

AT&T, Verizon Communications and BellSouth were named in about 20 complaints after USA Today reported last month that the carriers provided the National Security Agency with millions of phone records in search of call patterns indicating terrorist links.

If AT&T can prove it was subpoenaed to turn over records or that it was acting on orders from a federal official, "that would go a long way toward gutting the plaintiffs' case," Mike Cherry, a lawyer for the complainants, said after the hearing.

AT&T "cannot confirm or deny, for a variety of reasons," whether it actually provided call records to the NSA, Carpenter told U.S. District Judge Matthew Kennelly.

Providing the records may be a violation of the federal Electronic Communications Privacy Act, plaintiffs' lawyers say.

Carpenter and Justice Department attorney Joseph Hunt asked the court to freeze the Chicago cases until a federal panel in Washington decides whether all of the phone-surveillance suits should be assigned to one judge.

If the cases are combined, Hunt said, the Justice Department will seek their dismissal on national-security grounds.

Image not available for this document, ID: 0.7.10316.8628-000001

ngorsuch@hotmail.com

From: [redacted]
Sent: Saturday, June 10, 2006 2:31 PM
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Subject: FW: Emailing: LETTER
Attachments: LETTER.pdf

>From: [redacted]
>To: [redacted]
>Subject: FW: Emailing: LETTER
>Date: Fri, 9 Jun 2006 15:47:31 -0700
>
> <<LETTER.pdf>> Neil,
>
>Here's a copy of the letter that went in today. Good luck!
>
>
>----------
[redacted]
>Day Casebeer Madrid & Batchelder LLP
>20300 Stevens Creek Blvd., Suite 400
>Cupertino, CA 95014
>Direct Line [redacted]
>Fax (408) 873-0220
[redacted]
>
>
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DAY CASEBEER
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Cupertino, CA 95014
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June 9, 2006

VIA FACSIMILE & U.S. MAIL

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Neil Gorsuch to the United States Court of Appeals for the Tenth Circuit

Dear Senators Specter and Leahy:

I am pleased and honored to provide my unconditional support for Neil Gorsuch in his nomination to the United States Court of Appeals for the Tenth Circuit. Mr. Gorsuch is a fair, open-minded, and intellectually rigorous lawyer. His intellect, character and temperament are well-suited for the federal appellate bench.

To set the proper context for my remarks, I should say a few things to introduce myself. I am a lawyer, and (like Mr. Gorsuch) [redacted]

Mr. Gorsuch has impressed me with his intellect since he and I met nearly twelve years ago. In the fall of 1994, we were both doctoral candidates at Oxford University, having both chosen to pursue further studies at Oxford after completing our law degrees in the United States. As American-lawyer-graduate students, both enrolled in the same Oxford college, we had much in common, and for that reason spent many hours in the Oxford University law library. Our regular routine included lively discussions in the student lounge over vending-machine coffee. These discussions frequently focused on careful examination and criticism of the arguments we were crafting for our dissertations. We also often exchanged drafts of our work. Mr. Gorsuch's patient and detailed critiques of my writing and arguments certainly improved my dissertation. Similarly, I read his drafts and gave him feedback on his arguments. I therefore have a substantial base of experiences from which I can evaluate Mr. Gorsuch's intellectual gifts. Based on these experiences, I can

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I consider it a tremendous honor to count as a friend someone as exceptional as Neil Gorsuch. He will be a fantastic judge, and I urge you to confirm his nomination.

Very truly yours,

[redacted]

cc: Honorable Ken Salazar, United States Senate
Honorable Wayne Allard, United States Senate
Office of Legal Policy, United States Department of Justice

ngorsuch@hotmail.com

From: [redacted]
Sent: Saturday, June 10, 2006 2:31 PM
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Subject: FW: Re: THANK YOU
Attachments: gorsuchnomltr6-6-06.doc

>Fro[redacted]
>To:[redacted]
>Subject: Re: THANK YOU
>Date: Thu, 08 Jun 2006 17:09:08 -0400
>
> Good Luck. See you in DC one of these days.
>
[redacted]
>
>-----Original Message-----
>From: Neil Gorsuch[redacted]
>To:[redacted]
>Sent: Mon, 5 Jun 2006 13:22:41 -0400
>Subject: THANK YOU
>
>
>[redacted]Thank you so much for your help. Folks handling my nomination have
>compiled the following addresses and I thought I'd pass along the list for
>your convenience as we discussed. Fax nos. are included b/c of the penchant
>by govt buildings for delaying and frying mail, but any way you care to
>send you letter is great by me. Many thanks again, Neil
>
>Letters go to Sen. Specter with the balance as cc's --
>
>The Honorable Arlen Specter
>Chairman, Committee on the Judiciary
>United States Senate
>224 Dirksen Senate Office Building
>Washington, D.C. 20510
>
>fax for Specter Nomination Staff: (202) 228-1698
>
>The Honorable Patrick J. Leahy
>Ranking Member, Committee on the Judiciary >United States Senate >152 Dirksen Senate Office Building >Washington, D.C. 20510
>

>fax for Leahy Nomination staff: (202) 224-9516
>
>The Honorable Ken Salazar
>United States Senate
>702 Hart Senate Office Building
>Washington, D.C. 20510
>Fax: (202) 228-5036
>
>The Honorable Wayne Allard
>United States Senate
>521 Dirksen Office Building
>Washington, D.C. 20510
>Fax: (202) 224-6471
>
>Office of Legal Policy, Department of Justice >950 Pennsylvania Ave., NW >Washington D.C. 20530
>Fax: (202) 514-5715
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LAW OFFICE OF ISAAC L.DIEL

ATTORNEY AT LAW

135 Oak St.
Bonner Springs, Kansas 66012
TELEPHONE (913) 667-3788
FAX (913) 422-0307
E-MAIL [redacted]

June 6, 2006

VIA FACSIMILE
(202) 228-1698

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen
Senate Office Building
Washington, DC 20510

Re: Nomination of Neil Gorsuch to the 10th U.S. Circuit Court of Appeals

Dear Chairman Specter:

I write this letter in support of Mr. Gorsuch's nomination to the 10th U.S. Circuit Court of Appeals. I am a Kansas lawyer who has practiced primarily in the area of antitrust law for over 15 years.

As an initial matter, Mr. Gorsuch's academic and professional qualifications are second to none. Mr. Gorsuch has attended some of the top academic institutions in the United States and England. He has also clerked for the United States Supreme Court. In addition to his stellar academic credentials, Mr. Gorsuch has practiced in the real world at one of the pre-eminent litigation firms in the United States, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. Finally, Mr. Gorsuch has also obtained valuable legal experience at the Department of Justice.

My dealings with Mr. Gorsuch involve that period of time when Mr. Gorsuch was a partner with the Kellogg, Huber firm. In 2000, Mr. Gorsuch and his partner [redacted] tried to a jury verdict a moist snuff monopolization case captioned *Conwood v.*

United States Tobacco Company. The case was hard fought, complex, and resulted in a $1 billion jury verdict for Mr. Gorsuch's client. Subsequently, our firm as well as two other Kansas firms brought a similar anti-trust action on behalf of Kansas consumers of moist snuff products. To assist us in prosecuting this case we partnered with the Kellogg Huber firm, and Mr. Gorsuch in particular. As expected, the litigation was highly complex, and contentious. I witnessed first hand Mr. Gorsuch's written and oral advocacy skills. I consider them to be of the highest caliber. The case eventually concluded in a satisfactory fashion thanks in part to Mr. Gorsuch's outstanding legal work.

I believe Mr. Gorsuch's academic background as well as his ability to apply that academic training in the real world of litigation will be valuable tools for him to employ while occupying a seat on the 10th U.S. Circuit Court of Appeals. Mr. Gorsuch is tactful, courteous and socially at ease. All of these traits make him an excellent choice for judgeship on the 10th Circuit Court of Appeals. Accordingly, I encourage the Committee on the Judiciary to recommend the United States Senate confirmation of Neil Gorsuch's nomination to the U.S. Court of Appeals for the 10th Circuit.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

cc: The Honorable Patrick J. Leahy
The Honorable Wayne Allard
The Honorable Ken Salazar
Specter Nomination Staff

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
152 Dirksen
Senate Office Building
Washington, DC 20510
Fax 202-224-9516

The Honorable Ken Salazar
United States Senate
702 Hart
Senate Office Building
Washington, DC 20510

The Honorable Wayne Allard
United States Senate
521 Dirksen
Senate Office Building
Washington, DC 20510
FAX: 202-224-6471

The Office of Legal Policy
Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
Fax 202-514-5715

ngorsuch@hotmail.com

From: [redacted]
Sent: Saturday, June 10, 2006 2:32 PM
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Subject: FW: Letter to Senator Specter
Attachments: Gorsuchletter.pdf

>From: [redacted]
>To: [redacted]
>CC: [redacted]
>Subject: Letter to Senator Specter
>Date: Thu, 8 Jun 2006 15:09:38 -0500
>
>
>Attached sent on behalf of [redacted]
>
> <<Gorsuch letter.pdf>>
>
>
>----------
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SUITE 4700
CHICAGO, IL 60606
(312) 873-4915
FAX: (312) 873-4985

[redacted]

June 8, 2006

Via Facsimile and U.S. Mail

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Specter:

President George W. Bush recently nominated Neil M. Gorsuch to the United States Circuit Court of Appeals for the Tenth Circuit. I write this letter in support of Mr. Gorsuch's nomination.

I have for almost 30 years been an in-house attorney for the [redacted] family of Chicago and currently serve as [redacted] of the [redacted] merchant bank, The Pritzker Organization, L.L.C. In addition, earlier in my career I served as a law clerk to a Judge of the United States Circuit Court of Appeals for the Second Circuit.

I first met Mr. Gorsuch in 1998 when a [redacted] owned business retained the law firm in which Mr. Gorsuch was a partner to represent it as plaintiff in an anti-trust litigation. Over the more than four-year course of that litigation (in which plaintiff won (and collected) more than $1 billion), I got to know Mr. Gorsuch both as an individual and as a legal professional. I participated with him in the development of the case, including the selection of expert witnesses, the preparation of plaintiff's deposition and trial witnesses, the design and implementation of discovery, the writing of briefs and legal memoranda and the preparation for, and conduct of, a three week trial.

On the basis of the foregoing, I consider myself well suited to evaluate Mr. Gorsuch's professional competence, personal integrity and temperament.

My dealings with Mr. Gorsuch evidenced his superior intellectual capabilities, reasoned judgment, broad knowledge of the law, sophisticated analytical capabilities and clear and concise writing style. All in all, Mr. Gorsuch demonstrated his capacity as a supremely competent legal practitioner.

Often times people demonstrating Mr. Gorsuch's professional competence travel with the baggage of arrogance, evidence self-importance, and tend to demean those whom they see as less capable. Mr. Gorsuch showed none of these traits. He was decisive, but compassionate; steadfast, but courteous; client focused, but patient, all in the context of superlative advocacy.

Mr. Gorsuch's integrity is beyond question. He is recognized by his colleagues and adversaries alike as an individual of the highest moral character. While he is a strident advocate, Mr. Gorsuch does not take unfair advantage. He is open minded and non-didactic.

It is often difficult to combine the professional attributes demonstrated by Mr. Gorsuch with a successful dedication to family. Mr. Gorsuch shows the same passion for his wife, [redacted] and two little girls as he does for his work, evidence of a well-balanced individual.

It is without reservation or qualification that I support Mr. Gorsuch's nomination to the Federal appellate bench.

Very truly yours,

[redacted]

[redacted]

cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
The Honorable Ken Salazar
United States Senate
The Honorable Wayne Allard
United States Senate

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, June 10, 2006 2:46 PM
To: Cook, Elisebeth C
Subject: Fw: Emailing: LETTER
Attachments: LETTER.pdf

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Sent: Sat Jun 10 14:30:33 2006
Subject: FW: Emailing: LETTER

>From: [redacted]
>To: [redacted]
>Subject: FW: Emailing: LETTER
>Date: Fri, 9 Jun 2006 15:47:31 -0700
>
> <<LETTER.pdf>> Neil,
>
>Here's a copy of the letter that went in today. Good luck!
>
>
>----------
> [redacted]
>Day Casebeer Madrid & Batchelder LLP
>20300 Stevens Creek Blvd., Suite 400
>Cupertino, CA 95014
>Direct Line [redacted]
>Fax (408) 873-0220
> [redacted]
>
>
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Telephone: (408) 873-0110
Facsimile: (408) 873-0220

June 9, 2006

VIA FACSIMILE & U.S. MAIL

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Neil Gorsuch to the United States Court of Appeals for the Tenth Circuit

Dear Senators Specter and Leahy:

I am pleased and honored to provide my unconditional support for Neil Gorsuch in his nomination to the United States Court of Appeals for the Tenth Circuit. Mr. Gorsuch is a fair, open-minded, and intellectually rigorous lawyer. His intellect, character and temperament are well-suited for the federal appellate bench.

To set the proper context for my remarks, I should say a few things to introduce myself. I am a lawyer, and (like Mr. Gorsuch) earned a [redacted]

Mr. Gorsuch has impressed me with his intellect since he and I met nearly twelve years ago. In the fall of 1994, we were both doctoral candidates at Oxford University, having both chosen to pursue further studies at Oxford after completing our law degrees in the United States. As American-lawyer-graduate students, both enrolled in the same Oxford college, we had much in common, and for that reason spent many hours in the Oxford University law library. Our regular routine included lively discussions in the student lounge over vending-machine coffee. These discussions frequently focused on careful examination and criticism of the arguments we were crafting for our dissertations. We also often exchanged drafts of our work. Mr. Gorsuch's patient and detailed critiques of my writing and arguments certainly improved my dissertation. Similarly, I read his drafts and gave him feedback on his arguments. I therefore have a substantial base of experiences from which I can evaluate Mr. Gorsuch's intellectual gifts. Based on these experiences, I can

confidently say that Mr. Gorsuch is one of the keenest legal minds I have known, both during my graduate studies and as a practicing lawyer.

But our discussions were not all about legal theory. As might be expected of students abroad, we also talked often of home—for me, [redacted], and for him, Colorado. Although he had plans to start his legal career in Washington, D.C., it was evident to me that Mr. Gorsuch regarded Colorado as his home, and that he would ultimately return there.

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I consider it a tremendous honor to count as a friend someone as exceptional as Neil Gorsuch. He will be a fantastic judge, and I urge you to confirm his nomination.

Very truly yours,

[redacted]

cc: Honorable Ken Salazar, United States Senate
Honorable Wayne Allard, United States Senate
Office of Legal Policy, United States Department of Justice

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, June 10, 2006 2:47 PM
To: Cook, Elisebeth C
Subject: Fw: Re: THANK YOU
Attachments: gorsuchnomltr6-6-06.doc

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Sent: Sat Jun 10 14:31:06 2006
Subject: FW: Re: THANK YOU

>From: [redacted]
>To: [redacted]
>Subject: Re: THANK YOU
>Date: Thu, 08 Jun 2006 17:09:08 -0400
>
> Good Luck. See you in DC one of these days.
>
> [redacted]
>
>-----Original Message-----
>From: Neil Gorsuch [redacted]
>To: [redacted]
>Sent: Mon, 5 Jun 2006 13:22:41 -0400
>Subject: THANK YOU
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>Letters go to Sen. Specter with the balance as cc's --
>
>The Honorable Arlen Specter
>Chairman, Committee on the Judiciary

>United States Senate
>224 Dirksen Senate Office Building
>Washington, D.C. 20510
>
>fax for Specter Nomination Staff: (202) 228-1698
>
>The Honorable Patrick J. Leahy
>Ranking Member, Committee on the Judiciary >United States Senate >152 Dirksen Senate Office Building >Washington, D.C. 20510
>
>fax for Leahy Nomination staff: (202) 224-9516
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>The Honorable Ken Salazar
>United States Senate
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>Washington, D.C. 20510
>Fax: (202) 228-5036
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>Office of Legal Policy, Department of Justice >950 Pennsylvania Ave., NW >Washington D.C. 20530
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LAW OFFICE OF ISAAC L.DIEL

ATTORNEY AT LAW

135 Oak St.
Bonner Springs, Kansas 66012
TELEPHONE (913) 667-3788
FAX (913) 422-0307
E-MAIL [redacted]

June 6, 2006

VIA FACSIMILE
(202) 228-1698

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen
Senate Office Building
Washington, DC 20510

Re: Nomination of Neil Gorsuch to the 10th U.S. Circuit Court of Appeals

Dear Chairman Specter:

I write this letter in support of Mr. Gorsuch's nomination to the 10th U.S. Circuit Court of Appeals. I am a Kansas lawyer who has practiced primarily in the area of antitrust law for over 15 years.

As an initial matter, Mr. Gorsuch's academic and professional qualifications are second to none. Mr. Gorsuch has attended some of the top academic institutions in the United States and England. He has also clerked for the United States Supreme Court. In addition to his stellar academic credentials, Mr. Gorsuch has practiced in the real world at one of the pre-eminent litigation firms in the United States, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. Finally, Mr. Gorsuch has also obtained valuable legal experience at the Department of Justice.

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Should you have any questions, please do not hesitate to contact me.

Very truly yours,

cc: The Honorable Patrick J. Leahy
The Honorable Wayne Allard
The Honorable Ken Salazar
Specter Nomination Staff

The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
152 Dirksen
Senate Office Building
Washington, DC 20510
Fax 202-224-9516

The Honorable Ken Salazar
United States Senate
702 Hart
Senate Office Building
Washington, DC 20510

The Honorable Wayne Allard
United States Senate
521 Dirksen
Senate Office Building
Washington, DC 20510
FAX: 202-224-6471

The Office of Legal Policy
Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
Fax 202-514-5715

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, June 10, 2006 2:47 PM
To: Cook, Elisebeth C
Subject: Fw: Letter to Senator Specter
Attachments: Gorsuchletter.pdf

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M; elisebeth.cook@usdoj.gov
Sent: Sat Jun 10 14:31:46 2006
Subject: FW: Letter to Senator Specter

>From: [redacted]
>To: [redacted]
>CC: [redacted]
>Subject: Letter to Senator Specter
>Date: Thu, 8 Jun 2006 15:09:38 -0500
>
>
>Attached sent on behalf of [redacted]
>
> <<Gorsuch letter.pdf>>
>
>
>----------
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message and >any printout thereof. Thank you.
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(312) 873-4915
FAX: (312) 873-4985

June 8, 2006

Via Facsimile and U.S. Mail

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Specter:

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On the basis of the foregoing, I consider myself well suited to evaluate Mr. Gorsuch's professional competence, personal integrity and temperament.

My dealings with Mr. Gorsuch evidenced his superior intellectual capabilities, reasoned judgment, broad knowledge of the law, sophisticated analytical capabilities and clear and concise writing style. All in all, Mr. Gorsuch demonstrated his capacity as a supremely competent legal practitioner.

Often times people demonstrating Mr. Gorsuch's professional competence travel with the baggage of arrogance, evidence self-importance, and tend to demean those whom they see as less capable. Mr. Gorsuch showed none of these traits. He was decisive, but compassionate; steadfast, but courteous; client focused, but patient, all in the context of superlative advocacy.

Mr. Gorsuch's integrity is beyond question. He is recognized by his colleagues and adversaries alike as an individual of the highest moral character. While he is a strident advocate, Mr. Gorsuch does not take unfair advantage. He is open minded and non-didactic.

It is often difficult to combine the professional attributes demonstrated by Mr. Gorsuch with a successful dedication to family. Mr. Gorsuch shows the same passion for his wife, [redacted] and two little girls as he does for his work, evidence of a well-balanced individual.

It is without reservation or qualification that I support Mr. Gorsuch's nomination to the Federal appellate bench.

Very truly yours,

[redacted]

[redacted]

cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
The Honorable Ken Salazar
United States Senate
The Honorable Wayne Allard
United States Senate

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Monday, June 12, 2006 7:14 AM
To: Gorsuch, Neil M
Subject: Fw: GAO and OIG Activities for Monday, June 12, 2006

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Sent from my BlackBerry Wireless Handheld

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CC: Andelman, David; [redacted] (USMS); Bates, Brian W.; Beck, Cindy; Betsy Margulies; Bradley, David E; Campbell, Carol G. [redacted] @ic.fbi.gov); Cinciotta, Linda A; Cooper, Tink (CRT); [redacted] USMS); Espenoza, Cecelia (EOIR); Flanagan, Kelly; Hoopes, Mary Anne; [redacted] @ic.fbi.gov); Johnson, LeToya; [redacted] @ic.fbi.gov); Kammerman, Barbara; Kennedy Smith, Stephanie (USAEO); [redacted] @ic.fbi.gov); Kuzma, Susan (OPA); Lincoln, Jacqueline; Menton, Eileen S. (TAX); Palmer, Robin; Ridgley, Joan; Schnedar, Cynthia A. (OIG); Shirlene Shavoy; Smith, David L. (USAEO); Smith, Kathleen C; [redacted] @ic.fbi.gov); Taylor, Linda; Viterito, Martha; Wellman, Tricia S; Williams, Susan; Zwick, Ken (CIV); Albin, Leslie (OIG); ALO; Bartolomeo, Kelly C; Batipps, Sarah E. (OIG); Berry, Kaylan; Bowie, Cynthia; Caponiti, Vicky M; Cato, Kay; Comisac, Rena (CRT); Elston, Michael (ODAG); Epley, Mark D; Frary, Debra; Gatjanis, Gregory T.; Gulledge, Michael (OIG); Haight, Jamie G.; Hardin, Gail; Henderson, Charles V; Hewitt, Janice O.; Horkan, Nancy; Johnson, Suzanne R; Jones, Phyllis S; Little, Kimani (CRT); Martin, Paul K. (OIG); Morgan, Melinda B; Myers, Mary T; Nicholson, Andrea G; Norris, Joe (ENRD); O'Rourke, Marie (USAEO); Purpura, Michael M (ODAG); Randall, Monique T.; Rogers, Richard M; Schneider, Dan; Scott, Marjorie L; Sheppard, Anne M. (OIG); Shinn, Kathleen; Shults, Frank (ODAG); Snider, Marjorie G; Swain, Pamela (oig); Theis, Richard P; Villegas, Dan (USAEO)
Sent: Mon Jun 12 06:29:08 2006
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Monday, June 12, 2006
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@ 9am: The GAO will hold an entrance conference in suite 1400, NPB on its review of illegal file sharing on university networks. (310755) The CRM and FBI are involved in this review. (Vicky Caponiti) Wednesday, June 14, 2006: Comments are due on GAO's draft report entitled "Olympic Security: Better Planning Can Enhance U.S. Support to Future Olympic Games." (GAO-06-753/320381) The CRM and FBI are involved in this review. (Suzanne Johnson) - Submitted 6/5/06 Thursday, June 15, 2006 @ 9:30am: The GAO will hold an entrance conference in the 5th floor conference room, 325 7th Street on its review of the repeal of the Public Utility Holding Company Act (PUHCA). (360719) The ATR will be involved in this review. (Suzanne Johnson) Monday, June 19, 2006: Comments are due on GAO's draft report entitled "H-1B Visa Program: Labor Could Improve Its Oversight and Increase Information Sharing with Homeland Security." (GAO-06-720/130515) The CRT and EOIR are involved in this review. (Vicky Caponiti)
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Suzanne R. Johnson
Audit Liaison Group
Management and Planning Staff
U.S. Department of Justice
1331 F Street, NW
Suite 1050
(202) 514-0469
(202) 514-3117 (Fax)

Gorsuch, Neil M

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To: Mercer, Bill (ODAG); Todd, Gordon (SMO)
Subject: RE: GAO and OIG Activities for Monday, June 12, 2006

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Suzanne R. Johnson
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Management and Planning Staff
U.S. Department of Justice
1331 F Street, NW
Suite 1050
(202) 514-0469
(202) 514-3117 (Fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:17 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

I can participate

From: Gunn, Currie (SMO)
Sent: Thursday, June 08, 2006 7:21 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

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Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:24 AM
To: McNally, Dan
Subject: RE: Cafeteria Use/Billeting - Exercise Forward Challenge 06

I may be attending for the Associate's office.

From: McNally, Dan
Sent: Wednesday, June 07, 2006 1:38 PM
To: Rosebrock, James A.; Vanyur, John; Love, Patrick; Sherburne, Edward G.; Zwick, Ken (CIV); Johnson, Paul; Metzger, C. Michael; Downs, David (USAEO); Renkiewicz, Martin; Schreiber, Jayne; Gorsuch, Neil M; McAtamney, James A; Powell, SeLena Y; Jezierski, Crystal; Simmons, Carolyn M; Gary, Jane H; McGarry, Beth; Burton, Faith; Hart, Rosemary; Talamona, Gina; Potter, Janet; Wilkinson, Monty (USADC); [redacted] (USMS); Melson, Ken (USAVAE); Thomas, Carolyn J
Cc: Vasaio, Tony; EPG
Subject: Cafeteria Use/Billeting - Exercise Forward Challenge 06

This is not a tasking nor requirement for exercise participation.

I have heard, in some cases, second or third hand, that some components plan to have personnel at the Emergency Relocation Facility (ERF) during Exercise Forward Challenge. In order to ensure the cafeteria is able to support all those that are at the facility, I must give them an accurate "head count" in advance. Please respond to this message and provide me the names of who, from your organization, will be at the ERF on 21 and 22 June, and what meals they plan to eat there on each day.

In addition to meals, I need to know who will require billeting, and when they will need it. Please call me if you have any questions.

Thanks

Dan

Daniel P. McNally
202-616-2288
Operations Section
Emergency Management Operations and Policy Group
Security and Emergency Planning Staff/JMD
U. S. Department of Justice
Secure Email:
[redacted]
Unclassified: dan.mcnally@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:27 AM
To: McCallum, Robert (SMO)
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Wonderful news!

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Importance: High

Todd, Gordon (SMO)

From:	Todd, Gordon (SMO)
Sent:	Monday, June 12, 2006 9:28 AM
To:	Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject:	RE: GAO and OIG Activities for Monday, June 12, 2006
Attachments:	HUMAN_TRAFFICKING_draft.pdf

Bill/Neil: GAO has provided us with a draft report, which is attached. DOJ comments are due back to GAO on June 28; we'll be collating our internal comments by June 22. When we first got this draft, there was significant concern that it omitted significant elements of the DOJ anti-trafficking program, and failed to include information we had provided GAO. GAO has not clarrified that the chief focus of this report is the State Department, and that subsequent reports will focus more on DOJ. They have made edits to make that clear. GAO last week noticed its second trafficking study.

The entrance conference will be on June 19.

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GAO AND OIG ACTIVITIES
Monday, June 12, 2006

Vicky Caponiti) Wednesday, June 28, 2006: Comments are due on GAO's draft report entitled "Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad." (GAO-06-825/320374) The CRM CRT, FBI, OJP, and USNCB are involved in this review.

United States Government Accountability Office

GAO

Report to the Chairman, Committee on the Judiciary and the Chairman, Committee on International Relations, House of Representatives

July 18, 2006

HUMAN TRAFFICKING

DRAFT

Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad

Notice:
This draft is restricted to official use only.

This draft report is being provided to obtain advance review and comment. It has not been fully reviewed within GAO and is subject to revision.

Recipients of this draft must not, under any circumstances, show or release its contents for other than official review and comment. It must be safeguarded to prevent improper disclosure. This draft and all copies remain the property of, and must be returned on demand to, the Government Accountability Office.

GAO-06-825

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DRAFT

July 2006

GAO Accountability·Integrity·Reliability

Highlights

Highlights of GAO-06-825, a report to House Committee on the Judiciary and House Committee on International Relations

HUMAN TRAFFICKING

Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad

Why GAO Did This Study

Human trafficking is a worldwide form of exploitation in which men, women, and children are bought, sold, and held against their will in involuntary servitude. In addition to the tremendous personal damage suffered by individual trafficking victims, this global crime has broad societal repercussions such as fueling criminal networks and imposing public health costs. In 2000, Congress enacted the Trafficking Victims Protection Act (TVPA) to combat trafficking and reauthorized this Act twice. This report reviews U.S. international anti-trafficking efforts by examining (1) estimates of the extent of trafficking, (2) the U.S. government's strategy for combating the problem, and (3) the State Department's process for evaluating foreign governments' anti-trafficking efforts.

What GAO Recommends

GAO recommends that the Secretary of State (1) improve information on trafficking, (2) develop and implement a strategy that clarifies agencies' roles and responsibilities and establishes a way to gauge results, and (3) clearly documents the rationale and support for country rankings.

www.gao.gov/cgi-bin/getrpt?GAO-06-825.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Thomas Melito, 202-512-9601, melitot@gao.gov.

What GAO Found

The U.S. government estimates that 600,000 to 800,000 persons are trafficked across international borders annually, however such estimates of global human trafficking are questionable, and improvements in data collection have not yet been implemented. The accuracy of the estimates is in doubt because of methodological weaknesses, gaps in data, and numerical discrepancies. For example, the U.S. government's estimate was developed by one person who did not document all his work, so the estimate is not replicable, casting doubt on its reliability. Moreover, country data are not available, reliable, and comparable. There is also a considerable discrepancy between the numbers of observed and estimated victims of human trafficking. The U.S. government has not established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within government entities.

While federal agencies have undertaken anti-trafficking activities, the U.S. government has not developed a coordinated strategy for combating trafficking abroad, or developed a way to gauge results and target its assistance. The U.S. government has established coordination mechanisms but they do not include a systematic way for agencies to clearly delineate roles and responsibilities in relation to each other, identify needs, and leverage activities to achieve greater results. Further, federal agencies have not established performance measures or conducted evaluations to gauge the impact of anti-trafficking programs, thus preventing the U.S. government from determining the effectiveness of its efforts or adjusting its assistance to better meet needs.

Since 2001, the State Department has assessed foreign governments' compliance with minimum standards to eliminate trafficking in persons, but the explanations for ranking decisions in its annual *Trafficking in Persons Report* are incomplete and the report is not used to develop anti-trafficking programs. It has increased global awareness, encouraged government action, and raised the risk of sanctions against governments who did not make efforts to comply with the standards. However, State does not comprehensively describe compliance with the standards, lessening the report's credibility and usefulness as a diplomatic tool. In addition, incomplete country narratives reduce the report's utility as a guide to help focus U.S. government resources on anti-trafficking programming priorities.

U.S. Government Agencies with Responsibilities for Anti-Trafficking Activities

United States Government Accountability Office

G A O
Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

July 18, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives

The Honorable Henry J. Hyde
Chairman
Committee on International Relations
House of Representatives

Human trafficking is a worldwide form of exploitation in which men, women, and children are bought, sold, and held against their will in slave-like conditions. People are trafficked and forced to work in the commercial sex trade, sweatshops, agricultural settings, domestic service, and other types of servitude. In addition to the tremendous personal damage suffered by individual trafficking victims, this global crime has broad societal repercussions. It fuels criminal networks, imposes public health costs, and erodes government authority. Since the mid-1990s, the United States has played a leading role in putting human trafficking on the international community's agenda. In 2000, Congress enacted the Trafficking Victims Protection Act (TVPA) to combat trafficking in persons and established the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (Interagency Task Force). Congress reauthorized this Act -- in the Trafficking Victims Protection Reauthorization Act of 2003 (TVPA 2003) and the Trafficking Victims Protection Reauthorization Act of 2005 (TVPA 2005). This legislation requires the Secretary of State to report to Congress annually on foreign governments' compliance with minimum U.S. standards for the elimination of trafficking. Since 2001, the U.S.

government has provided about $380 million[1] in anti-trafficking assistance to foreign governments and nongovernmental organizations to help eliminate human trafficking.

This review is part of a larger body of work that you requested.[2] To review the status of U.S. international efforts to combat trafficking in persons, we examined (1) estimates of the extent of trafficking in persons, (2) the U.S. government's strategy for combating trafficking in persons, and (3) the State Department's process for evaluating foreign governments' anti-trafficking efforts.

To address these objectives, we reviewed pertinent State, Justice, Labor, Homeland Security, Health and Human Services, and U.S. Agency for International Development planning, funding, and program documents for human trafficking. We discussed U.S. trafficking efforts with officials from these departments, along with knowledgeable officials from international and nongovernmental organizations. We conducted an extensive analysis of the global trafficking databases developed and maintained by the U.S. government, the International Organization for Migration, the International Labor Organization, and the U.N. Office on Drugs and Crime.[3] We also analyzed the country narratives in State's 2005 *Trafficking in Persons Report* to determine how they assess compliance with the minimum standards for the elimination of trafficking as laid out in the Trafficking Victims Protection Act of 2000. We conducted our review from September 2005 to May 2006 in accordance with generally accepted government auditing standards.

---

[1]This includes over $150 million from the Department of Labor, which was unable to break out funding amounts that specifically addressed trafficking but include funding amounts for activities that either have trafficking as a central focus, one component of a larger project linked to trafficking, or as an issue within the overall context of the project.
[2]GAO has also initiated a review of international law enforcement related to human trafficking, and will soon begin a review of multilateral anti-trafficking efforts.
[3]The International Organization for Migration is a multilateral organization that works with migrants and governments to respond to migration challenges. The International Labor Organization is a United Nations agency that promotes human and labor rights. The U.N. Office on Drugs and Crime assists member states in fighting illicit drugs, crime, and terrorism.

DOJ_NMG_ 0161488

Results in Brief

The U.S. government estimates that 600,000 to 800,000 persons are trafficked across international borders annually, however such estimates of global human trafficking are questionable. The accuracy of the estimates is in doubt because of methodological weaknesses, gaps in data, and numerical discrepancies. For example, the U.S. government's estimate was developed by one person who did not document all his work, so the estimate is not replicable, casting doubt on its reliability. Moreover, country data are generally not available, reliable, or comparable. There is also a considerable discrepancy between the numbers of observed and estimated victims of human trafficking. The U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various government agencies.

Five years after the passage of the landmark anti-trafficking law, the U.S. government has not developed a coordinated strategy to combat trafficking in persons abroad, as called for in a presidential directive, or evaluated its programs to determine whether projects are achieving the desired outcomes. Task forces and other coordinating mechanisms have been established to coordinate U.S. government efforts abroad; the intent of these mechanisms is to avoid duplication of effort and ensure compliance with U.S. government policy. However, the process does not include a systematic approach for agencies to clearly delineate roles and responsibilities in relation to each other, identify needs, and target ways to complement each others' activities to achieve greater results. In addition, the Interagency Task Force has not established performance measures or conducted evaluations to measure the impact of the U.S. government's anti-trafficking programs. The lack of a coordinated strategy and evaluation plan prevents the U.S. government from determining the effectiveness of its efforts to combat trafficking in persons or to adjust its assistance to better meet needs.

DOJ_NMG_ 0161489

The State Department annually assesses foreign governments' compliance with U.S. minimum standards to eliminate trafficking in persons, but its explanations for State's ranking decisions are incomplete and the report is not used to develop government-wide anti-trafficking programs. Each year since 2001, the State Department has issued the *Trafficking in Persons Report* that ranks foreign governments into one of three categories, or tiers, depending on their efforts to comply with the minimum standards and criteria established in U.S. legislation. This report has increased global awareness about trafficking in persons, encouraged action by governments who failed to comply with the minimum standards, and raised the risk of sanctions against governments who did not make efforts to comply with these standards. However, some of the minimum standards are subjective and the report does not comprehensively explain how they were applied, lessening the report's credibility and hampering its usefulness as a diplomatic tool. For example, country narratives for most countries in the top category (tier 1) failed to clearly explain compliance with the second minimum standard, regarding prescribed penalties for sex trafficking crimes, established in the TVPA. The report is also intended to serve as a guide to anti-trafficking programming priorities overseas, but agencies do not systematically link programs with reported deficiencies.

To improve U.S. efforts to combat trafficking in persons, we are making several recommendations. To improve information on trafficking that could be used to effectively target resources and programs, we are recommending that the Chair of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons work closely with relevant agencies in researching a mechanism to develop a global trafficking estimate. We are also recommending that the Chair develop and implement a strategy that would delineate agency roles and responsibilities and mechanisms for integrating activities; and determine priorities, measurable goals, timeframes, performance measures, and a methodology to gauge results. Finally, to improve the credibility of State's annual report on trafficking in persons, we are recommending that the Secretary of State clearly document the rationale and support

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for tier rankings and improve the report's usefulness for identifying priorities and influencing anti-trafficking programs.

Background

Human trafficking affects all countries of the world and often involves transnational criminal organizations, violations of labor and immigration codes, and government corruption. Although their circumstances vary, fraud, force, or coercion typically distinguishes trafficking victims from others in similar situations. Moreover, most trafficking cases follow the same pattern: people are abducted or recruited in the country of origin, transferred through transit regions, and then exploited in the destination country.[4] Trafficking victims include agricultural workers brought into the United States, held in crowded unsanitary conditions and threatened by attack dogs; child camel jockeys in Dubai, starved to keep their weight down; Indonesian women drawn to a domestic service job in another country, not paid for their work and without the resources to return home; child commercial sex workers in Thailand; and child soldiers in Uganda.

During the 1990s, the U.S. government began drawing attention to the problem of human trafficking before various international forums and gatherings. In 1998, a presidential memorandum[5] called on U.S. government agencies to combat the problem through prevention of trafficking, victim assistance and protection, and enforcement. This approach came to be known as "the three p's"—prevention, protection, and prosecution.

In 2000, Congress enacted *The Trafficking Victims Protection Act* (TVPA)[6] and reauthorized and amended the act twice.[7] The act defines victims of severe forms of trafficking as those persons subject to (a) sex trafficking in which a commercial sex

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[4]United Nations Office on Drugs and Crime. *Trafficking in Persons Global Patterns*. (April 2006).
[5]Memorandum for the Secretary of State, the Attorney General, the Administrator of the Agency for International Development, the Director of the United States Information Agency on "Steps to Combat Violence against Women and Trafficking in Women and Girls" (March 11, 1998).
[6]Pub. L. No. 106-386.
[7]TVPA 2003 (Pub. L. No. 108-193) and TVPA 2005 (Pub. L. No. 109-164).

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act is induced by force, fraud, or coercion, or in which the person induced to perform such acts has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The TVPA does not specify movement across international boundaries as a condition of trafficking; it does not require the transportation of victims from one locale to another. Under the TVPA, an alien, who is identified as a victim of a severe form of trafficking and meets additional conditions, is eligible for special benefits and protection.

The TVPA, as amended, provides the framework for current U.S. anti-trafficking efforts. It addresses the prevention of trafficking, protection and assistance for victims of trafficking, and the prosecution and punishment of traffickers. The TVPA also laid out minimum standards for eliminating trafficking to be used in the Secretary of State's annual assessment of other government's anti-trafficking efforts. It authorized U.S. foreign assistance for efforts designed to meet these standards and established sanctions—withholding nonhumanitarian, nontrade-related assistance—that could be applied against governments of countries not in compliance with the standards and not making significant efforts to bring themselves into compliance.[8]

Responsibility for implementing U.S. government anti-trafficking efforts is shared by the Departments of State, Justice, Labor, Health and Human Services, Homeland Security, the U.S. Agency for International Development. Each agency addresses one or more of the three prongs of the U.S. anti-trafficking approach. Fig. 1 shows agencies and task forces with responsibilities for anti-trafficking efforts.

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[8]The United States is also a signatory to the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime* G.A. res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol. I) (2001), which entered into force on December 25, 2003. The United States ratified the protocol on December 3, 2005.

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Figure 1: U.S. Government Agencies with Responsibilities for Anti-Trafficking Activities and Associated Coordination Entities

Key entities to coordinate anti-trafficking efforts	State	Justice	Labor	HHS	USAID	DHS
President's Interagency Task Force to Monitor and Combat Trafficking in Persons	●	●	●	●	●	●
– Senior Policy Operating Group (SPOG)	●	●	●	●	●	●
Human Smuggling and Trafficking Center (HSTC)	●	●				●
Trafficking in Persons and Worker Exploitation Task Force		●	●			

Sources: GAO (data); Corel (logos).

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The government has also created several coordinating mechanisms for these anti-trafficking efforts, as shown in figure 1. The TVPA directed the President to establish the Interagency Task Force to Monitor and Combat Trafficking in Persons, comprised of various agency heads and chaired by the Secretary of State, to coordinate the implementation of the act, among other activities. Furthermore, the TVPA authorized the Secretary of State to create the State Department's Office to Monitor and Combat Trafficking in Persons to provide assistance to the task force. Subsequently, TVPA 2003 established the Senior Policy Operating Group, which addresses interagency policy, program, and planning issues regarding TVPA implementation. The TVPA 2003 directed the Director of the Office to Monitor and Combat Trafficking to serve as chair of the group. In addition, the departments of State, Justice and Homeland Security established The Human Smuggling and Trafficking Center in July 2004. This Center houses a large number of agency data systems to collect and disseminate information to build a comprehensive picture of certain transnational issues, including, among other things, human trafficking.

Since 2001, the U.S. government has obligated approximately $375 million for international projects to combat trafficking in persons. Six U.S. agencies have funded between 200 and 270 international anti-trafficking projects annually in about 100 countries. State, Labor, and USAID are the three largest providers of international assistance to target trafficking (see table 1).

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Table 1: Funding for International Activities to Combat Trafficking in Persons, Fiscal Years 2001-2005 (dollars in millions)

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total FY2001-2005
Department of State	$11.47	$23.01	$28.13	$33.36	$34.41	$130.38
U.S. Agency for International Development	6.74	10.72	15.42	27.59	21.34	81.81
Department of Labor[a]	20.65	32.93	48.31	18.65	38.40	158.94[a]
Department of Justice[b]	0	0	0	0.20[b]	0[b]	0.20[b]
Department of Health and Human Services	0	0	0	0	2.20	2.20
Department of Homeland Security[c]	N/A	0	0	0.20	0	0.20
Total	**38.86**	**66.66**	**91.86**	**80.00**	**96.35**	**373.73**

Source: GAO analysis of data provided by Departments of State, Labor, Justice, Health and Human Services, Homeland Security, and the Agency for International Development. The information represents the most current data provided respectively by these agencies. The annual reporting of this data may vary by agency based on when the funds were considered obligated.

[a]The Department of Labor was unable to break out funding amounts that address trafficking. Totals include obligations for activities that either have trafficking as a central focus, one component of a larger project linked to trafficking, or as an issue within the overall context of the project.

[b]In addition to the $200,000 in Department of Justice funding, State provided additional funding to the department's Office of Overseas Prosecutorial Development, Assistance and Training and International Criminal Investigative Training Assistance Program to conduct training overseas. In fiscal year 2004, State provided a total of $6.5 million to the two programs. In fiscal year 2005, they provided $2.08 million. These amounts are reflected in the State total in the table above. Department of Justice officials stated additional funds used to carry out anti-trafficking activities, including law enforcement activities, come from regular budget and cannot be broken out.

[c]Agency officials stated additional funds used to carry out anti-trafficking activities, including law enforcement activities, come from regular budget and cannot be broken out. The $200,000 reported in 2004 was from State's Presidential Initiative funding for overseas project initiation.

During an address to the U.N. General Assembly in September 2003, the President declared trafficking in persons a humanitarian crisis and announced that the U.S. government was committing $50 million to support organizations active in combating sex trafficking and sex tourism and the rescue of woman and children. In 2004, eight priority countries for the initiative were identified—Brazil, Cambodia, India, Indonesia, Mexico, Moldova, Sierra Leone, and Tanzania. The initiative was centered on developing the capacity of each country to provide emergency shelters and medical treatment, rehabilitation services and vocational training, and reintegration services.

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Estimates of Global Human Trafficking are Questionable and U.S. Data Collection Efforts are Fragmented

Existing estimates of the scale of trafficking at the global level are questionable, and improvements in data collection have not yet been implemented. The accuracy of the estimates is in doubt because of methodological weaknesses, gaps in data and numerical discrepancies. For example, the U.S. government's estimate was developed by one person who did not document all his work, so the estimate may not be replicable, casting doubt on its reliability. Moreover, country data are generally not available, reliable or comparable. There is also a considerable discrepancy between the numbers of observed and estimated victims of human trafficking. The U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various government agencies. While trafficking data collection in the U.S. is fragmented, the database created by International Organization for Migration (IOM) provides a useful systematic profile of victims and traffickers across countries.

Accuracy of Estimates in Doubt Because of Methodological Weaknesses, Gaps in Data, and Numerical Discrepancies

The U.S. government and three international organizations gather data on human trafficking but methodological weaknesses affect the accuracy of their information. Efforts to develop accurate trafficking estimates are further frustrated by the lack of country level data. Finally, there is a considerable discrepancy between the numbers of observed and estimated victims of human trafficking.

Methodological Weaknesses Cast Doubt on U.S. and International Estimates

The U.S. government and three international organizations have gathered data on global trafficking. However, these organizations face methodological weaknesses and institutional constraints that cast doubt on the accuracy of the collected data.

The four organizations with databases on global trafficking in persons are the U.S. government, International Labor Organization (ILO), International Organization for

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Migration (IOM), and the United Nations Office of Drugs and Crime (UNODC). The U.S. government and ILO estimate the number of victims worldwide, IOM collects data on victims it assists in the countries where it has a presence, and UNODC traces the major trafficking routes of the victims. The databases provide information on different aspects of trafficking since each organization analyzes the problem based on its own mandate. For example, the IOM looks at trafficking from the point of view of illegal migration and the ILO from the point of view of forced labor.

Despite the fact that the databases use different methodologies for data collection and analysis and have various limitations, some common themes emerge. For example, the largest percentage of estimated victims is trafficked for sexual exploitation. In addition, women constitute the majority of estimated victims. The estimated percentage of children is within the range of 13 percent and 50 percent. Table 2 describes the victim profiles that emerge from the data.

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Table 2: Victim Profiles in U.S. government, ILO, UNODC, and IOM databases

	U.S. government	**ILO**[a]	**UNODC**[b]	**IOM**[c]
Main focus	Global estimate of victims	Global estimate of victims	Country and regional patterns of trafficking	Actual victims assisted by IOM in 26 countries
Number of victims	600,000-800,000 people trafficked across borders in 2004 (est.)	At least 2.45 million people trafficked internationally and internally during 1995-2004 (est.)	Not available	7,711 victims assisted during 1999-2005
Type of exploitation				
Commercial sex	66%	43%	87%	81%
Economic or forced labor		32%	28%	14%
Mixed and other	34%	25%		5%
Gender and age of victims	80% female[9] 50% minors	80% female[10] 40% minors	77% female[11] 9% male 33% children	83% female 15% male 2% not identified 13% minors
Definition of trafficking used	TVPA 2000	U.N. Protocol	U.N. Protocol	U.N. Protocol
Criteria for data collection	Transnational trafficking	Internal and transnational trafficking	Transnational trafficking	Internal and transnational trafficking

Source: GAO analysis of U.S. government, ILO, UNODC, and IOM data.

Notes:

[a]For a detailed discussion, see Belser, Patrick, de Cock, Michaelle and Ferhad Mehran, *ILO Minimum Estimate of Forced Labor in the World*, ILO, (Geneva: Apr. 2005).
[b]For a detailed discussion, see UNODC, *Trafficking in Persons Global Patterns*, (Vienna: Apr. 2006).
[c]For a detailed discussion, see IOM, *Data and Research on Human Trafficking: A Global Survey*, (Geneva: 2005).

[9] Women and girls.
[10] Women and girls, where the gender/age information is available.
[11] Women only.

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U.S. Data

Methodological weaknesses and limitations cast doubt on the U.S. estimate of global trafficking flows. We identified several important limitations:

- *Estimate not entirely replicable.* The U.S. government agency that prepares the trafficking estimate is part of the intelligence community, which makes its estimation methodology opaque and inaccessible. Therefore, its estimation procedure has not been publicly available and peer reviewed. In addition, the U.S. government's methodology involves interpreting, classifying and analyzing data, which was performed by one person who did not document all his work. Thus the estimate may not be replicable, which raises doubts about its reliability.
- *Estimate based on unreliable estimates of others.* The biggest methodological challenge in calculating an accurate number of global trafficking victims is how to transition from reported to unreported victims. The U.S. government does not directly estimate the number of unreported victims but relies on the estimates of others, adjusting them through a complex statistical process. It essentially averages the various aggregate estimates of reported and unreported trafficking victims published by NGOs, governments, and international organizations, estimates that themselves are not reliable or comparable due to different definitions, methodologies, data sources, and data validation procedures. Moreover, the methodologies used to develop these estimates are generally not published and available for professional scrutiny.[12]
- *Internal trafficking data not included.* The U.S. government does not collect data on internal trafficking, which could be a significant problem in countries such as India, where forced labor is reportedly widespread. According to the 2005 *Trafficking in Persons Report*, many nations may be overlooking internal trafficking or forms of labor trafficking in their national legislations. In particular, what is often absent is involuntary servitude, a form of severe trafficking. The report also noted that the TVPA specifically includes involuntary servitude in the U.S. definition of severe forms of trafficking.

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Nonetheless, the U.S. government estimate does not account for it, as they only collect data on offenses that cross national borders.

- *Estimate not suitable for analysis over time.* The U.S. government methodology provides an estimate of trafficking flows for a one year period and cannot be used to analyze trafficking over time to determine whether it is increasing, decreasing, or staying the same. Therefore, the estimate cannot help in targeting resources and evaluating program effectiveness.

International Data

Methodological weaknesses also raise questions about the accuracy of trafficking information from international organizations and limit collaboration among them. For example, UNODC's methodology attempts to identify global trafficking flows. It tracks and totals the number of different source institutions that have reported a country having a trafficking incident. However, whether the trafficking incident involved 5 or 500 victims is irrelevant for UNODC's methodology. In addition, by classifying countries in five categories based on the frequency of reporting, UNODC might rank a country very high as, say, a destination country, due to the country's heightened public awareness, transparency, and recognition of trafficking as a serious crime. Alternatively, ILO's methodology provides a global estimate of trafficking victims. However, it attempts to overcome the gap between reported and unreported victims using an extrapolation based on assumptions and observations that have not been rigorously tested and validated. Moreover, global databases are based on data sources drawn from reports from a limited number of countries or restricted geographically to specific countries. For example, IOM's data only come from countries where IOM has a presence, which are primarily countries of origin, and the organization is constrained by issues related to the confidentiality of victim assistance. Finally, the three international organizations compete for limited research funding from donors, including the United States, which constrains the organizations' ability and willingness to share information. Therefore, this

[12] Because of concerns with reliability and credibility of aggregate data, ILO chose not to use such data in developing their global trafficking estimate.

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fragmentary approach prevents the development of a comprehensive and accurate view of global trafficking.

(See app. II for additional information about the different methodologies, analytical assumptions, data validation, and data sources used by the international organizations and the U.S. government.)

Reliable and Comparable Country Data Do Not Exist

The quality of existing country level data varies due to limited availability, reliability, and comparability. According to our review of literature on human trafficking, Table 3 summarizes the main limitations of trafficking data.

Table 3: Reasons that Limit the Quality of Trafficking Data

Availability	Reliability	Comparability
1. Trafficking is an illegal activity and victims are afraid to seek help from the relevant authorities. 2. Few countries collect data on actual victims on a systematic basis. 3. Data collection is focused on women and children trafficked for sexual exploitation, and other forms of trafficking are likely to be underreported.	1. Capacity for data collection and analysis in countries of origin is often inadequate. 2. Trafficking convictions in countries of destination are based on victim testimony. 3. Estimates of trafficking are extrapolated from samples of reported victims, which may not be random and thus representative of all trafficking victims.	1. Countries and organizations define trafficking differently. 2. Official statistics do not make clear distinctions among trafficking, smuggling, and illegal migration. 3. Data are often program specific and focus on characteristics of victims pertinent to specific agencies.

Source: GAO analysis of reports, articles and presentations from international organizations, U.S. government and academia.

The availability of data is limited by several factors. Trafficking victims are a hidden population because trafficking is a clandestine activity similar to illegal migration and labor exploitation. This limits the amount of data available on victims and makes it difficult to estimate the number of unreported victims. Trafficking victims are often

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in a precarious position and may be unwilling or unable to report to and seek help from relevant authorities. Moreover, HHS reported that victims live daily with inhumane treatment, physical and mental abuse, and threats to themselves or their families back home. Victims of trafficking may fear or distrust the government and police because they are afraid of being deported or because they come from countries where law enforcement is corrupt and feared. In such circumstances, reporting to the police or seeking help elsewhere requires courage and knowledge of local conditions, which the victims might simply not have.

In addition, some governments give low priority to human trafficking violations and do not systematically collect data on victims. In most countries where trafficking data are gathered, women and children are seen as victims of trafficking and men are predominantly seen as migrant workers, reflecting a gender bias in existing information. Men are also perceived as victims of labor exploitation that may not be seen as a crime but rather as an issue for trade unions and labor regulators. Thus, data collection and applied research often miss the broader dimensions of trafficking for labor exploitation. For example, the demand for cheap labor, domestic service, slavery, and child labor have not been sufficiently investigated as factors affecting the scale of human trafficking.

The reliability of existing data is also questionable. In developing countries, which are usually countries of origin, capacity for data collection and analysis is often inadequate. In countries of destination, trafficking convictions are often based on victim testimony. Moreover, estimates of trafficking are extrapolated from samples of reported cases, which are not random. Therefore, it is difficult to determine how representative those cases are of the general population of all trafficking victims and what biases have been introduced.

Data quality is further constrained by limited data comparability. Countries and organizations define trafficking differently. A practice that is considered trafficking in one country may be considered culturally and historically acceptable in another

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country. For example, in West African countries, people, in particular children, commonly move within and across borders in search of work and are placed in homes as domestic servants or on farms and plantations as laborers. Due to economic deprivation and an abundant supply of children from poor families, a child may be sold by his or her parents based on promises for job training and good education or be placed with a creditor as reimbursement.

The incompatibility of definitions for data collection is exacerbated by the intermingling of trafficking, smuggling, and illegal migration in official statistics. Countries have used different definitions with respect to the scope and means of trafficking; the activities involved such as recruitment, harboring, transportation and receipt of victims; the purpose; the need for movement across borders; and the consent of victims. For example, there are discrepancies in the collection of data on sex trafficking. Under the TVPA, participation of children under the age of 18 in commercial sex is a severe form of trafficking. However, some countries define children as people under the age of 16 and, according to U.S. government officials, this difference has implications for how countries collect data on children engaged in commercial sex.

Finally, data are often program and institution specific and focus on the needs of individual agencies. Estimates may be developed for the purpose of advocacy. For example, some NGOs record all victims based on the first contact made with them regardless of whether they subsequently meet the criteria for receiving assistance such as legal counsel, shelter, financial support, or support during a trial, while others record only those who receive assistance. Data are also collected for operational purposes within criminal justice systems, and individual authorities use their own definitions and classifications.

Significant Difference Exists Between Numbers of Estimated and Observed Victims

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There is significant discrepancy between the number of estimated victims and the number of observed victims, which include officially reported, certified, registered and assisted victims. For example, the U.S. government estimated that the number of people trafficked into the United States ranged from 14,500 to 17,500 in 2003.[13] However, despite concerted U.S. government efforts to locate and protect victims, the government certified fewer than 900 victims in the United States during the 4 ½ years between March 2001 and September 2005.[14] Similarly, the U.S. government estimated that a total of 600,000 to 800,000 people were trafficked across transnational borders worldwide annually. Yet, since 1999, fewer than 8,000 victims in 26 countries have received IOM assistance.

Organizations may also publish estimates that incorrectly characterize the data reported by others. For example[15], in a 2001 report a Cambodian nongovernmental organization states that there were 80,000 to 100,000 trafficked women and children nationwide. However, this statement is based on a report which discusses 80,000 to 100,000 sex workers in the country, who may or may not be trafficking victims. Moreover, the latter report uses two other sources which did not corroborate this estimate.

Several factors could explain the differences between the numbers of observed and estimated victims, but it is unclear the extent to which any single factor accounts for the differences. For example, the 2005 *Trafficking in Persons Report* cited cases in which victims reported by law enforcement were deported before they reached an assistance agency. In addition, agencies may not make sufficient efforts in identifying and helping victims or may have constraints imposed by certain assistance requirements. Victims assisted by IOM missions are those willing to go back to their country of origin. However, if there are other opportunities available in the country of destination, such as receiving a residence permit, victims may not be willing to

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[13]2004 *Trafficking in Persons Report*, Department of State.
[14]To be certified, the alien must be willing to assist law enforcement in the investigation and prosecution of severe forms of trafficking. Also, the alien's presence in the U.S. must be required to ensure prosecution of traffickers in persons or the alien must have made application for a T visa.
[15]As reported in a USAID report.

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accept IOM assistance. In the United States, one requirement to receive official certification is that victims of trafficking must be willing to assist with the investigation and prosecution of trafficking cases, which may work to limit the number of recorded victims. Given the weaknesses in data and methods, it also cannot be dismissed that the estimates may overstate the magnitude of human trafficking.

Trafficking Data Collection in the United States is Fragmented While IOM's is Systematic

The U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various government agencies. The TVPA 2005, passed in January 2006, called on the President, through various agencies, to conduct research into the development of an effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis. Since 2005, the U.S. government has funded a project to develop a transparent methodology for estimating the number of men, women, and children trafficked into the United States for purpose of sex or labor trafficking. To date, the modeling has been limited to 10 countries of origin–Colombia, Venezuela, Ecuador, Peru, El Salvador, Guatemala, Nicaragua, Mexico, Haiti, and Cuba–and one arrival point in the United States—the southwest border. The firm developing this methodology is in the early stages of this effort and plans to continue to refine and test its methodology. Thus, it is too early to assess this methodology. The U.S. government has not yet funded any projects to improve estimates of trafficking on a regional or international basis.

In addition, the Intelligence Reform and Terrorism Prevention Act of 2004 established the Human Smuggling and Trafficking Center[16] to serve, among other responsibilities, as a clearinghouse for all relevant information and to convert it into tactical, operational, and strategic intelligence to combat trafficking in persons. The Human

[16]PL 108-458. The Human Smuggling and Trafficking Center is a joint State, Homeland Security, and Justice operation.

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Smuggling and Trafficking Center collects trafficking information from U.S government agencies and sends this information to other agencies that have an interest in it for law enforcement purposes. Center officials stated that they receive and collate trafficking information from federal government agencies. However, officials stated that they do not systematically analyze the trafficking information they receive and lack the human and financial resources to do so. In addition, we identified seven entities within the federal government that possess some information related to domestic and international trafficking. The Justice Department alone has three different offices that possess trafficking information. None of the federal agencies systematically shares their data with the others, and no agency analyzes the existing data to help inform program and resource allocation decisions. (See app. III for information on the type of trafficking data available within agencies.)

Furthermore, based upon our analysis of agency data sets, we found that federal agencies do not have data collection programs that could share information or include common data fields. As a result, it is difficult to use existing agency trafficking data to compile a profile of trafficking victims. In previous work, we have reported that it is good practice for agencies to establish compatible policies, procedures, standards, and data systems to enable them to operate across agency boundaries.[17] Although some information exists, agencies were unable to provide an account of the age, gender, type of exploitation suffered, and origin and destination of trafficking victims into the United States. Moreover, agencies with law enforcement missions were generally unwilling to share demographic trafficking data with us and would release statistics for law enforcement purposes only. The Justice Department's National Central Bureau was able to extract limited profile information from its case management system.

While the information on trafficking victims collected by U.S. agencies is fragmented, the database created by IOM allows for the development of a useful, in-depth profile

[17]GAO, *Results-oriented Government: Practices that Can Help Enhance and Sustain Collaboration among Federal Agencies*, GAO-06-15 (Washington, D.C.: Oct. 2005).

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of traffickers and their victims across 26 countries. Although IOM's data are limited to countries where IOM provides direct assistance to trafficking victims, has a short history of about 7 years, and may not be easily generalizable, it is the only one of the four databases that contains data directly obtained from victims. Drawing from more than 7,000 cases, it includes information about the victims' socioeconomic profile, movement, exploitation, abuse, and duration of trafficking. Moreover, the database tracks victims from the time they first requested IOM assistance, through their receipt of assistance, to their subsequent return home. Importantly, it also tracks whether victims were subsequently retrafficked. These factors provide information that could assist U.S. efforts to compile better data on trafficking victims.

As shown in figure 2, the victims IOM assisted often were enticed by traffickers' promise of a job, most believed they would be working in various legitimate professions, and were subjected to physical violence.

Figure 2: Profile of 7,711 Trafficking Victims IOM Assisted Between 1999 and 2005[18]

Prior to being trafficked, victims were	Victims believed they would be working in the following professions	After their arrival in destination countries, victims were
• Enticed by promise of a job (85%) • Unemployed (55%) but had work experience in the country of origin (91%) • Single (66%) • Living with their families (80%)	• Waitresses (22%) • Domestic workers (14%) • Sales associates (10%) • Dancers and entertainers (10%) • Sex workers (10%)	• Forced to engage in an activity against their will (87%) • Subjected to physical violence (52%) • Completely denied freedom of movement (50%)

Source: GAO analysis of IOM data.

In addition, based on cases with available data on the duration of the trafficking episode, the average duration of stay in the destination country before seeking help from the IOM is more than 2 years. Most of the sexual exploitation victims had to work 7 days a week and retained a small fraction of their earnings. Moreover, about

[18]All estimates are a result of GAO analysis of IOM data and are based on cases with available data.

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54 percent of the victims had to pay a debt to the recruiter, transporter and/or other exploiters, and about 52 percent knew they were sold to other traffickers at some stage of the trafficking process.

The database also contains information about the recruiters' and traffickers' networks, nationality, and relationship to victims. It thus provides insights into the traffickers and the mechanisms traffickers used to identify and manipulate their victims. For example, in 77 percent of the cases, contact with the recruiter was initiated based on a personal relationship. Moreover, the correlation between the nationality of the recruiter and that of the victim was very high (0.92). Trafficking networks may have a complex organization, with the recruiter being only one part of the whole system. The organization may involve investors, transporters, corrupt public officials, informers, guides, debt collectors, and money launderers. The extent of information on victims and traffickers in the database improves the overall understanding of the broader dimensions of trafficking.

Lack of Strategy and Performance Measures Prevents U.S. Government from Determining Program Effectiveness Abroad

While federal agencies have undertaken activities to combat trafficking in persons, the U.S. government has not developed a coordinated strategy to combat trafficking in persons abroad, as called for in a presidential directive. The U.S. government has established an interagency task force and working group on trafficking in persons, which have focused on complying with U.S. policy on prostitution and avoiding duplication of effort, but they have not focused on developing and implementing a systematic way for agencies to clearly delineate roles and responsibilities in relation to each other, and identify targets of greatest need and leverage activities to achieve greater results. In addition, neither governmentwide task forces nor individual agencies have developed measurable goals and associated indicators to evaluate the effectiveness of efforts to combat trafficking or outlined an evaluation plan to gauge results, making the U.S. government unable to determine the effectiveness of its efforts abroad or to adjust its assistance to better meet needs.

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U.S. Government Has No Overall Strategic Framework to Combat Trafficking in Persons Abroad

Although the U.S. government established an interagency task force in 2000 and a working group in 2003 to coordinate U.S. agencies' anti-trafficking activities,[19] as required by legislation, they have not developed a coordinated strategy to combat trafficking in persons abroad, as called for by a presidential directive.[20] The directive further stated that strong coordination among agencies working on domestic and foreign policy is crucial and that departments and agencies shall coordinate U.S. foreign assistance programs to combat trafficking in persons. In addition, our previous work on issues that are national in scope and cut across agency jurisdictions has shown that a strategic framework can be useful in guiding agency resource and policy decisions.[21] Furthermore, our previous work has shown that lack of a coordinated strategy creates the risk of overlap and fragmentation that may result in wasting scarce funds and limiting program effectiveness.[22]

Despite the presidential directive that requires the Senior Policy Operating Group to develop a coordinated strategy to combat trafficking in persons, agency officials acknowledged that there is no coordinated government strategy for efforts abroad. They stated that while they use the three-pronged approach of prevention, protection, and prosecution as guidance, they agreed that a strategic plan could help improve understanding and coordination among agencies. In addition, of the six government agencies that conduct anti-trafficking programs abroad, only two—State's Trafficking Office and USAID—provided us with strategy-type documents that specifically

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[19]The working group was first established as a Senior Policy Advisory Group, which became the Senior Policy Group as mandated in TVPA 2003.

[20]National Security Presidential Directive (NSPD) 22, signed on December 16, 2002.

[21]GAO identified six desirable characteristics to include in a national strategy: (1) purpose, scope, and methodology; (2) problem definition and risk assessment; (3) goals, subordinate objectives, activities, and performance measures; (4) resources, investments, and risk management; (5) organizational role, responsibilities, and coordination; and (6) integration and implementation. See GAO, *Combating Terrorism: Evaluation of Selected Characteristics in National Strategies Related to Terrorism*, GAO-04-408T (Washington, D.C.: Feb. 2004), and *Prescription Drugs: Strategic Framework Would Promote Accountability and Enhance Efforts to Enforce the Prohibitions on Personal Importation*, GAO-050372 (Washington, D.C.: Sept. 2005).

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addressed trafficking and included a majority of the characteristics that GAO has identified in previous work as necessary to implement a national strategy. Both agencies' documents at least partially address the six characteristics we identified. However, neither agency's documents clarified roles in relation to other agencies or established clear and strategic performance measures to gauge results and evaluate effectiveness.

Coordination Efforts Focused on Avoiding Duplication Abroad, Not on Leveraging Resources to Maximize Impact

As required by TVPA 2003, the U.S. government has established the Senior Policy Operating Group to coordinate the activities of federal agencies regarding policies involving international trafficking in persons, but although the coordination efforts have focused on compliance with U.S. policy on prostitution and avoiding duplication of effort, the efforts do not include a focus on developing and implementing a systematic way for agencies to agencies to clearly delineate roles and responsibilities in relation to each other, and identify targets of greatest need and leverage activities to achieve greater results. The presidential directive calls on agencies to work together through the Group to address coordination, sharing of information, and marshalling of law enforcement resources.

According to participating agency officials, the Group served as a forum for agency officials to discuss trafficking policy and programs and, through the work of its various subcommittees, avoid duplication of effort. The Group also instituted a grants notification system that requires agencies to notify members about each anti-trafficking grant an agency is considering awarding. According to the Group's guidance, agencies can offer comments on potential duplication, partnerships, and whether a proposed project or grantees comply with the U.S. government policy on prostitution.[23] Information provided to the Group for notification includes the name

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[22]GAO-04-408T.

[23]The TVPA 2003 added the provision that no funds made available to carry out the TVPA as amended may be used to promote, support, or advocate the legalization or practice of prostitution. In addition, no funds made available to carry out the TVPA, as amended, may be used to implement any program that targets victims of severe forms of trafficking through any organization that has not stated in a

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of the recipient, location, short description of the project, and the proposed amount. Members can raise objections to a grant, but they do not provide approval; the awarding agency makes the final decision about whether to award the grant. According to agency officials, the formal notification process takes place after the awarding agency has held its own grants panel and chosen its final grants, making it too late for other agencies' comments to have a significant impact on the grant.

According to officials knowledgeable with the Group's actions, it has not developed or implemented a systematic way for agencies to identify priorities and target efforts abroad to complement each others' activities to achieve greater results than if the agencies were acting alone.[24] The presidential directive required agencies to submit plans to implement the provisions in the directive. Agencies submitted these plans. Our review of these plans found that, for the most part, they provide information summarizing ongoing activities, but officials were unable to explain if, or to what extent, they used them to target resources and coordinate activities. One Trafficking Office official stated that they never used their implementation plan.[25] A USAID official characterized the trafficking activities of the U.S. government as a collection of unconnected activities.

The U.S. Government Does Not Have a Plan to Evaluate Its Anti-Trafficking Efforts Abroad

Despite the mandate to evaluate progress, the Interagency Task Force has not developed a plan to evaluate U.S. government efforts to combat trafficking abroad.

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grant application or agreement that it does not promote, support, or advocate the legalization or practice of prostitution. National Security Presidential Directive 22, signed on December 16, 2002, states that U.S. policy opposes prostitution and prostitution-related activities, such as pimping, pandering, or maintaining brothels, as contributing to the phenomenon of trafficking in persons. The U.S. government's position is that these activities should not be regulated as a legitimate form of work for any human being.

[24]In previous work, GAO broadly defined collaboration as any joint activity intended to produce more public value than could be produced when the organizations act alone. GAO-06-15.

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In TVPA 2000, Congress called upon the Interagency Task Force to measure and evaluate the progress of the United States and other countries in preventing trafficking, protecting and providing assistance to victims, and prosecuting traffickers. However, the Task Force has not developed an evaluation plan or established governmentwide performance measures against which the U.S. government can evaluate the impact of its anti-trafficking efforts.[26] In previous work, we have reported that monitoring and evaluating efforts can help key decision makers within agencies, as well as clients and stakeholders, identify areas for improvement.[27] Further, in its 2005 annual assessment of U.S. government activities to combat trafficking in persons, the Department of Justice recommended that the U.S. government begin measuring the impact of its anti-trafficking activities. Although the project-level documentation that we reviewed from agencies such as USAID and the Department of Labor included measures to track activities on specific projects, officials stated that agency-level aggregate indicators are intended as a way to communicate agency outputs, not as a means to evaluate the effectiveness of programs. In addition, according to the 2005 State Department Inspector General report, State's Trafficking Office needs to better identify relevant, objective, and clear performance indicators to compare progress in combating trafficking from year to year. Officials from State's Trafficking Office recognized the need to establish mechanisms to evaluate grant effectiveness. However, they stated that the office lacks the personnel to monitor and evaluate programs in the field and that they rely on U.S. embassy personnel to assist in project monitoring. In early 2006, the Trafficking Office adopted a monitoring and evaluation tool to assist embassy personnel monitor its anti-trafficking programs, but it is too soon to assess its impact.

Further, according to agency officials in Washington, D.C., and in the field, there is no evidence to indicate the extent to which different types of efforts—such as

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[25]The official further stated the Trafficking Office is in the process of updating it to make it more applicable.

[26]In previous work, we have found that identifying goals, priorities, milestones, and performance measures, usually developed in conjunction with a strategic framework, can help agencies achieve results and enable more effective oversight and accountability. See GAO-04-408T.

[27] GAO-06-15.

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prosecuting traffickers, abolishing prostitution, increasing viable economic opportunities, or sheltering and reintegrating victims—affect the level of trafficking or the extent to which rescued victims are being re-trafficked. For example, the 2005 Trafficking in Persons Report asserts that legalized or tolerated prostitution nearly always increases the number of women and children trafficked into commercial sex slavery, but does not cite any supporting evidence. However, apart from a 2005 European Parliament sponsored study[28] on the link between national legislation on prostitution and the trafficking of women and children, we found few studies that comprehensively addressed this issue. In addition, the State Inspector General report noted that some embassies and academics questioned the credentials of the organizations and findings of the research the Trafficking Office funded. The Inspector General recommended that the Trafficking Office submit research proposals and reports to a rigorous peer review to improve oversight of research efforts.

State Department's Annual Report Ranks Foreign Governments' Anti-Trafficking Efforts but Has Limited Credibility and Does Not Consistently Influence Anti-Trafficking Programs

As required by the TVPA, the State Department issues an annual report that analyzes and ranks foreign governments' compliance with minimum standards to eliminate trafficking in persons. This report has increased global awareness about trafficking in persons, encouraged action by some governments who failed to comply with the minimum standards, and raised the threat of sanctions against governments who did not make efforts to comply with these standards. The State Department includes explanations of the rankings in the report, though they are not required under the TVPA. However, the report's explanations for these ranking decisions are incomplete, and agencies do not consistently use the report to influence anti-

[28]The study concluded that a country's legal position on prostitution was not the only factor that influences the number of women and children trafficked for sexual exploitation and that a final evaluation of the legislative model and the impact on the number of victims should be based on a wider, more reliable and comparable set of data. Transcrime, *Study on National Legislation on Prostitution and the Trafficking in Women and Children*, a report prepared for the European Parliament, August 2005.

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trafficking programs. Information about whether a country has a significant number of trafficking victims may be unavailable or unreliable, making the justification for some countries' inclusion in the report debatable. Moreover, in justifying the tier rankings for these countries, State does not comprehensively describe foreign governments' compliance with the standards, many of which are subjective. This lessens the report's credibility and hampers its usefulness as a diplomatic tool. In addition, incomplete country narratives reduce the report's utility as a guide to help focus U.S. government resources on anti-trafficking programming priorities.

State Department's Annual Report Assesses Foreign Governments' Efforts to Eliminate Trafficking

Each year since 2001, State has published the congressionally mandated *Trafficking in Persons Report*, ranking countries into a category, or tier, based on the Secretary of State's assessment of foreign governments' compliance with four minimum standards for eliminating human trafficking, as established in the TVPA. These standards reflect the U.S. government's anti-trafficking strategy of prosecuting traffickers, protecting victims, and preventing trafficking. The first three standards deal with countries' efforts to prohibit severe forms of trafficking and prescribe penalties for trafficking crimes, while the fourth standard relates to government efforts to eliminate trafficking.[29] The TVPA instructed the Secretary of State to place countries that are origin, transit, or destination countries for a significant number of victims of severe forms of trafficking in one of three tiers. In 2003, State added a fourth category, the tier 2 watch list, consisting of tier 2 countries that require special scrutiny in the coming year (see fig. 3). Governments of countries placed in tier 3 may be subject to sanctions by the United States.

Figure 3. Tier Definitions

[29]The fourth standard provides ten indicia that can be used to assess these efforts. According to the Trafficking Office, they focus on five of the ten as core criteria: (1) prosecution of traffickers and (2) of corrupt government officials who contribute to trafficking, (3) protection of victims, (4) prevention of trafficking, and (5) demonstrated progress in combating trafficking from year to year (see app. IV).

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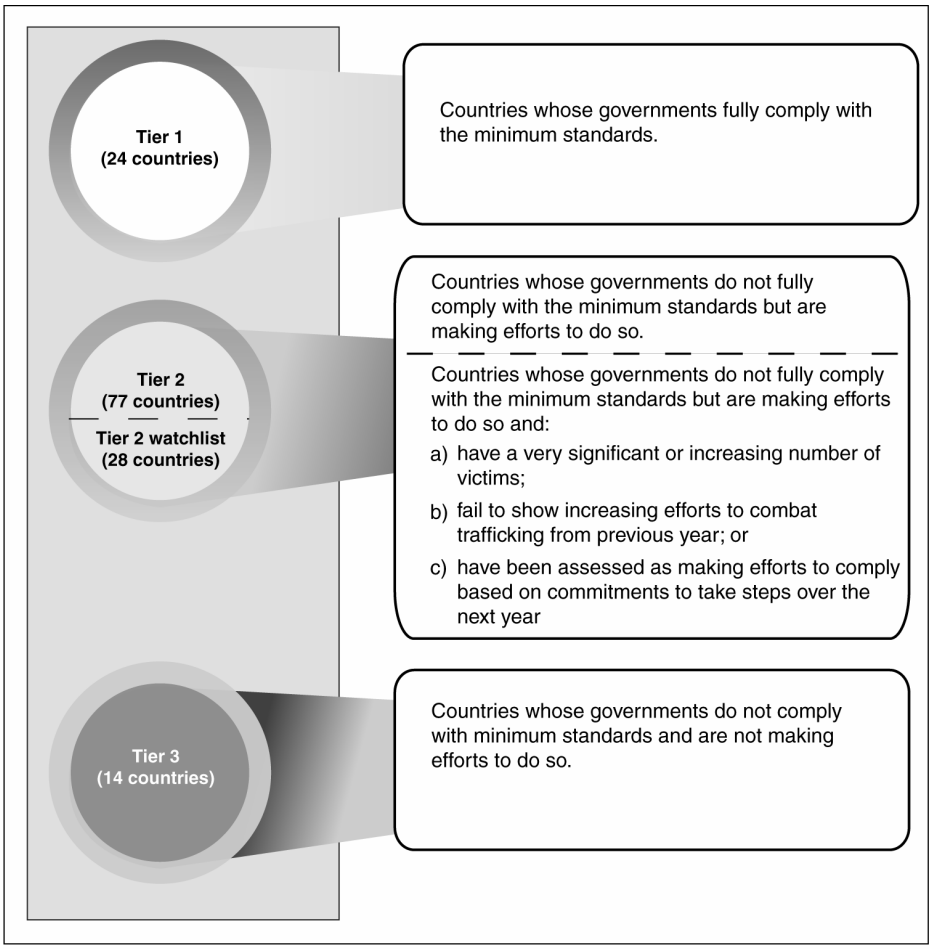

Source: 2005 Trafficking in Persons Report.

In addition to the rankings, each *Trafficking in Persons Report* contains country narratives intended to provide the basis for each country's tier placement. Although the narratives are not required by the TVPA, they state the scope and nature of the trafficking problem, explain the reasons for the country's inclusion in the report, and describe the government's efforts to combat trafficking and comply with the minimum standards contained in U.S. legislation. For countries placed in the lowest two tiers, State develops country action plans to help guide governments in improving their anti-trafficking efforts.

Trafficking In Persons Report Has Raised Global Awareness about Human Trafficking

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The *Trafficking in Persons Report* has raised global awareness about human trafficking and spurred some governments that had failed to comply with the minimum standards to adopt anti-trafficking measures. According to U.S. government and international organization officials and representatives of trafficking victim advocacy groups, this is due to the combination of a public assessment of foreign governments' anti-trafficking efforts and potential economic consequences for those that fail to meet minimum standards and do not make an effort to do so.

U.S. government officials cited cases in which foreign governments improved their anti-trafficking efforts in response to their tier placements. For example, State and USAID officials cited the case of Jamaica, a source country for child trafficking into the sex trade, which was placed on tier 3 in the 2005 Report. The country narrative noted deficiencies in Jamaica's anti-trafficking measures and reported that the government was not making efforts to comply with the minimum standards. Jamaica failed to investigate, prosecute, or convict any traffickers during the previous year, despite the passage of a law to protect minors. In response, the Jamaican government created an anti-trafficking unit within its police force and conducted raids that led to nine trafficking-related arrests.

In addition, the 2004 report placed Japan on the tier 2 watch list, and the country narrative noted that Japan is a destination country for large numbers of foreign women and children who are trafficked for the purpose of sexual exploitation. It highlighted weaknesses in Japan's law enforcement efforts. For example, the lack of scrutiny of Japan's entertainer visas reportedly allowed traffickers to use these to bring victims into the country. The country narrative also mentioned Japan's failure to comply with minimum standards for protecting victims, deporting foreign trafficking victims as undocumented aliens who had committed a crime by entering the country illegally. According to State officials and the 2005 report, the Japanese government responded to the report's criticisms by tightening the issuance of entertainer visas and ceasing the criminal treatment of trafficking victims.

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Governments of countries placed on tier 3 that do not implement the recommendations in the country action plan may be subject to sanctions or other penalties. The United States, for example, may oppose assistance for the country from international financial institutions such as the International Monetary Fund.[30] Since 2003, full or partial sanctions have been applied to eight countries,[31] most of which were already under sanctions from the United States.

Limitations in the *2005 Trafficking in Persons Report* Affect its Credibility as a Diplomatic Tool

According to the presidential directive and the *2005 Trafficking in Persons Report,* the annual report is intended as a tool to help the United States engage foreign governments in fighting human trafficking. According to U.S. government officials, the report's effectiveness as a diplomatic tool for discussing human trafficking with foreign governments depends on its credibility. The country narratives used as the basis for ranking decisions should provide clear and comprehensive assessments of foreign governments' anti-trafficking efforts and demonstrate consistent application of the standards. Our analysis of the 2005 report found limitations that detract from its credibility and usefulness. These include some countries' inclusion in the report based on unreliable data, incomplete explanations of compliance with the minimum standards by some of the highest-ranked countries, and country narratives that did not clearly indicate how governments complied with certain standards and criteria. We also found criticisms of the process for resolving disputes about country inclusion and tier rankings.

Some Countries' Inclusion in the Report Based on Unreliable Data

[30]In 2001, GAO assessed whether the Treasury Department was able to influence operations at the International Monetary Fund in a direction that would be consistent with U.S. policies. We found that it was difficult to attribute Fund operations to any one member because the Fund generally operates on a consensus decision-making basis, GAO-01-214. (Washington, D.C., Jan. 2001)

[31]In 2003, the President decided to impose full sanctions on Burma, Cuba, and North Korea and partial sanctions on Liberia and Sudan. In 2004, full sanctions were again imposed on Burma, Cuba, and North Korea and partial sanctions on Equatorial Guinea, Sudan, and Venezuela. In 2005, full sanctions were imposed on Burma, Cuba, and North Korea and partial sanctions on Cambodia and Venezuela.

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The TVPA requires State to rank the anti-trafficking efforts of governments of countries that are sources, transit points, or destinations for a "significant number" of victims of severe forms of trafficking. Since 2001, State has used a threshold of 100 victims to determine whether or not to include a country in the *Trafficking in Persons Report*. However, as discussed earlier in this report, reliable estimates of the number of trafficking victims are generally not available. For example, according to State Department officials, Belize was included in the report because a junior political officer stated that at least 300 trafficking victims were in the country and that the government's efforts to combat trafficking should be assessed. According to these officials, this statement was based on the political officer's informal survey of brothels in Belize. Since then, several embassy officials, including the Ambassador, have argued that Belize does not have a significant number of victims, but it continues to appear in the report. In addition, State Department officials cited Estonia as a country that was included in the report based on an IOM official's informal estimate of more than 100 victims. They said that a subsequent embassy-funded study of trafficking in Estonia found that the country had around 100 confirmed victims in a four-year period, but internal discussions have not led to the removal of Estonia from the *Trafficking in Persons Report*. However, the country narrative for Estonia in the 2005 report was modified from previous years to state that Estonia is a source and transit country for a "small number" of trafficking victims.

Our review of country narratives in the 2005 report revealed some cases in which it was not clear how the situations used to justify the country's inclusion in the report constituted severe forms of trafficking under U.S. law. For example, the country narratives for Algeria, Saudi Arabia, and Singapore described cases in which human smugglers abandoned people, domestic workers were abused by their employers, and foreign women engaged in prostitution. The narratives either did not clearly establish whether the situation involved victims of severe forms of trafficking or failed to provide evidence that the number of victims had reached 100 people. According to State officials, inclusion of human rights abuses or labor issues in the description of

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foreign countries' human trafficking problem can damage the report's credibility with foreign governments. Some State officials have suggested abandoning the threshold of 100 victims and including all countries in the report.

Unclear Threshold For Meeting Standard on Prescribed Punishment

Our analysis of the 2005 report found that many narratives did not clearly state whether and how the government met the minimum standard regarding stringency of punishment for severe forms of trafficking (see app. I for a description of the methodology used to analyze the 2005 report). This standard requires that prescribed penalties for severe forms of trafficking be sufficiently stringent to deter such trafficking and that they reflect the heinous nature of the offense. The Trafficking Office has not defined a threshold for what constitutes "sufficiently stringent" punishment. Our analysis showed that in over one-third of cases, the 2005 report's country narratives did not characterize the prescribed penalties as sufficiently stringent. Moreover, in many cases the narratives do not state whether or not the government met this minimum standard. State officials agreed that this subjectivity makes it difficult for reports staff and foreign governments to know what constitutes compliance, negatively affecting the report's credibility and utility as a diplomatic tool.

Narratives For Highest-Ranked Countries Did Not Fully Explain Their Placement

Our analysis of the 2005 report found that many country narratives do not provide a comprehensive assessment of foreign governments' compliance with the minimum standards, resulting in incomplete explanations for tier placements. Although the 2005 report discusses the importance of imposing strict penalties on traffickers, we found that only two of the 24 tier 1 country narratives clearly explained compliance with the second minimum standard established in the TVPA which, among other things, calls for governments to prescribe punishment for sex trafficking that is commensurate with that for grave crimes such as forcible sexual assault. The narratives for 17 (71 percent) of the tier 1 countries provided information on

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penalties for sex trafficking but did not compare these with the governments' penalties for other grave crimes. Five (21 percent) tier 1 countries did not mention whether the governments complied with this standard at all.

Our analysis of the tier 1 country narratives in the 2005 report also showed that, while most explained how these governments fully met the core criteria for the fourth minimum standard, related to government efforts to eliminate severe forms of trafficking, some did not. A senior official at the Trafficking Office confirmed this finding. We found that country narratives for 11 (46 percent) of the 24 tier 1 countries raised concerns about the governments' compliance with key parts of core criteria used to determine if the government is making a serious and sustained effort to eliminate severe forms of trafficking. However, the narratives failed to explain whether and how the governments' success in meeting the other core criteria outweighed these deficiencies and justified their placement in tier 1.

For example, the 2005 report described France, a tier 1 country, as a destination for thousands of trafficked women and children. Although the report states that the French government fully complied with the minimum standards, our analysis of the narrative found that the first three standards were not mentioned. Furthermore, the narrative also discussed the French government's failure to comply with the criterion on protecting trafficking victims, one of the key objectives of U.S. anti-trafficking legislation. The narrative discusses a French law which harmed trafficking victims by arresting, jailing, and fining them. Senior officials at the Trafficking Office are concerned about France's lack of compliance with the victim protection criterion. The narrative, however, did not balance the discussion of these deficiencies by explaining how the government's compliance with the other core criteria allowed it to meet the fourth minimum standard and thus be placed in tier 1.

Similarly, the country narratives for two tier 1 countries stated that the governments were not taking steps to combat official corruption, which the 2004 report highlights as a major impediment to anti-trafficking efforts. For example, the narrative for

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Nepal, a source country for women and children trafficked to India and the Middle East, states that the government fully complied with the minimum standards. However, the narrative noted that the government has not taken action against immigration officials, police and judges suspected of benefiting from trafficking-related graft and corruption, and it did not explain how the deficiency in this core criteria was outweighed by Nepal's efforts with other core criteria.

Internal Process For Resolving Disagreements Lacks Credibility

According to State Department officials, there are a considerable number of disagreements within State about the initial tier placements proposed by the Trafficking Office. These disagreements are not surprising, given that the Trafficking Office focuses exclusively on anti-trafficking efforts while Regional Bureaus manage bilateral relations which comprise a wide range of issues. However, it is important that the process for resolving these conflicts be credible. Some disagreements on tier rankings are resolved in meetings between the Trafficking in Persons office and the Assistant Secretaries of the Regional Bureaus, but most are elevated to the Undersecretary level. A few disagreements are even referred to the Secretary of State for resolution. According to State Department officials, some disputes are worked out by clarifying misunderstandings or providing additional information. However, regional bureau staff said that many disagreements over tier rankings are resolved by a process of "horsetrading," whereby the Trafficking Office agrees to raise some countries' tier rankings in exchange for lowering others. In these cases, political considerations may take precedence over a neutral assessment of foreign governments' compliance with minimum standards to combat trafficking. Senior officials at the Trafficking Office acknowledged that political considerations sometimes come into play when making the tier ranking decisions.

Trafficking in Persons Report Is Not Used to Prioritize Programs Or Target Resources

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The Trafficking Office's implementation plan and the 2005 *Trafficking in Persons Report* states that the report should be used as a guide to target resources to prosecution, protection, and prevention programs. However, we found that U.S. government agencies do not systematically link the programs they fund to combat trafficking overseas with the tier rankings or the deficiencies that are identified in the report's country narratives. For example, U.S. agencies did not use the report when they selected high-priority countries to participate in the 2-year $50 million Presidential Initiative to Combat Trafficking in Persons. Moreover, we found that many of the country narratives describing deficiencies in foreign governments' anti-trafficking efforts were incomplete, making it difficult to use them to guide programming.

U.S. Government Lacks Mechanism to Link Its Overseas Programs to Deficiencies Identified In *Trafficking In Persons Report*

Officials from State's Trafficking Office acknowledged that the management processes and staff responsible for producing the report are not linked with those managing overseas assistance programs. State's Inspector General reported in November 2005 that the lack of synchronization between the Trafficking Office's grants cycle (January and February) and reporting cycle (June) makes it difficult to address the shortcomings identified in the report and the countries' programming needs. In addition, the State requests for grant proposals that we reviewed were generic in scope and were not tailored to address a specific problem or priority. For example, one request for proposal was directed broadly at prevention and protection programs in Africa, the Caribbean, and Latin America. In addition, officials from State's regional bureaus said that most of their requests for grant proposals are sent to all the embassies in their region and are not targeted to those countries on lower tiers. However, officials from one regional bureau stated that they sent a request for grant proposals dealing with law enforcement issues only to those countries on the tier 2 watch list to ensure the programs were targeted where they were most needed.

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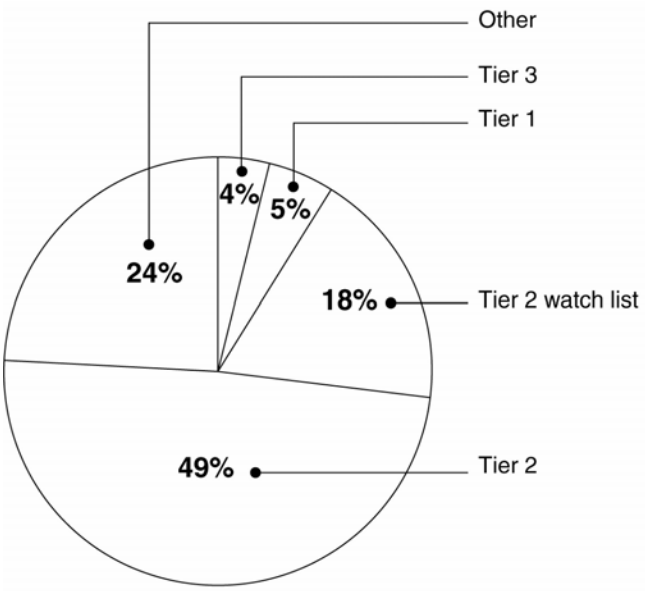
The presidential directive stated that agencies are to develop a consensus on the highest priority countries to receive anti-trafficking assistance through interagency consultation and in consultation with U.S. missions overseas. The Trafficking Office's implementation plan called for using the annual *Trafficking in Persons Report* as a guide to target assistance, with priority to countries ranked in tier 3 and tier 2 watch list and assistance to only those tier 1 and 2 countries with limited resources and whose governments showed a clear commitment to combat trafficking. In fiscal year 2005, the U.S. government obligated $94 million to support approximately 280 international anti-trafficking programs in more than 95 countries. Only one-third of this money went to countries ranked in the lowest two tiers (see fig. 6).

Figure 6: Fiscal year 2005 Obligations for Anti-Trafficking Activities by Tier Ranking



Source: GAO analysis.

Through the Senior Policy Operating Group, in January 2004 agencies selected eight countries to target their efforts for the presidential initiative to combat trafficking in persons; however, documentation of the decision-making process does not mention use of the *Trafficking in Persons Report's* tier rankings or country narratives to affect

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this selection. Officials from the Trafficking Office and the documents we reviewed stated that the Group selected countries based on several factors, including anticipated host government commitment and the ability to make an impact in a short timeframe. The eight countries selected were ranked in tier 2 in the 2003 *Trafficking in Persons Report*, suggesting that their governments showed some commitment to combating trafficking by making efforts to comply with the minimum standards and criteria outlined in the TVPA. However, it was not clear how the Group applied the criteria in selecting the countries. For example, host government commitment to combat trafficking did not necessarily translate into a willingness to receive U.S. assistance. State Department cables indicate that the governments in Brazil and India did not support U.S. efforts to fund anti-trafficking programs under the presidential initiative. In addition, despite an emphasis on selecting countries in which the United States could make an impact in a short timeframe, agreements necessary to conduct law enforcement projects were not in place in Brazil and Mexico, causing these initiatives to be delayed. Also, according to an agency official and documents we reviewed, Tanzania was included because a senior official had just traveled there and thought trafficking might be a problem.

Incomplete Assessments of Foreign Governments' Anti-Trafficking Deficiencies

The country narratives' incomplete assessments of deficiencies in foreign governments' efforts to combat trafficking diminish the *Trafficking in Persons* report's utility as a programming guide. Our analysis of the 2005 report found that many country narratives failed to include information on the governments' compliance with some standards and core criteria, making it difficult for U.S. government officials to use the report as a programming guide. For example, all narratives for countries in the lowest two tiers contained some discussion of government efforts to protect trafficking victims. However, we found that 80 percent failed to mention key aspects of the victim protection criterion, including whether victims were encouraged to cooperate with law enforcement, whether the government provided legal alternatives to deportation, and whether victims were

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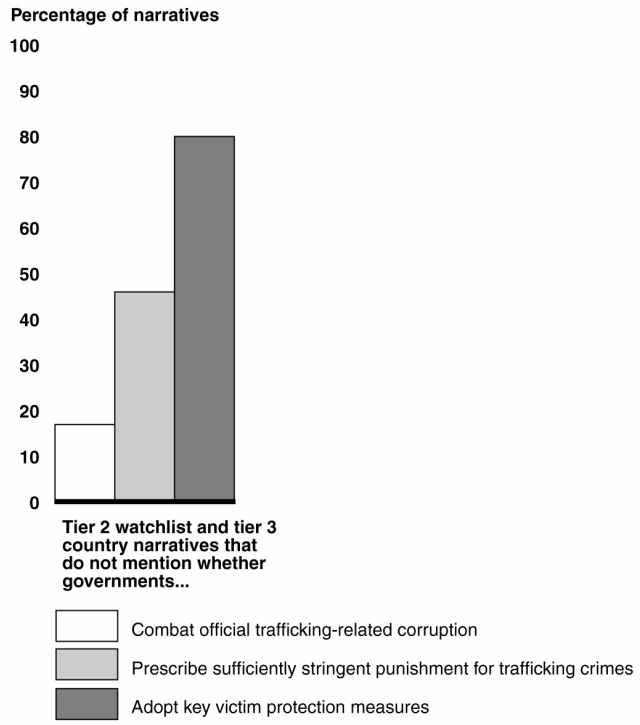
protected from inappropriate treatment as criminals (see fig. 5). In addition, 93 percent of country narratives for tier 2 countries, which receive the largest share of U.S. government anti-trafficking funds, did not mention compliance with certain standards and criteria.[32]

Figure 5. Completeness of Country Narratives for Governments in Tier 2 Watch List and Tier 3



Source: GAO analysis.

[32]Our finding that 93 percent of tier 2 narratives did not mention compliance with certain standards and criteria is based on a random probability sample and is surrounded by a 95% confidence interval that extends from 82 percent to 95 percent.

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Conclusion

The United States has placed trafficking on the international agenda and has spurred governments and organizations into action through its funding of international programs and the publication of the annual *Trafficking in Persons Report*. Additionally, the development of a victim-centered approach based upon prevention, protection, and prosecution programs has provided an operational framework for both governments and practitioners in the field. However, five years since the passage of the TVPA, the U.S. government lacks fundamental information on the nature and extent of the trafficking problem and an overall strategy for agencies to target their programs and resources.

As the United States and other countries work to identify victims of trafficking, the scope of the trafficking problem remains unknown in terms of overall numbers within countries of origin, transit and destination; victim's gender, age, and type of exploitation suffered; and the profile and methods of the perpetrators. The United States has provided nearly $380 million in anti-trafficking assistance since 2002 to numerous international organizations and about 100 foreign governments. However, the lack of an overall government strategy, that ties together and leverages the program expertise and resources of agencies with the knowledge of who and where victims are located, raises questions about whether anti-trafficking activities are targeted where they are most needed. Furthermore, little evaluation research has been conducted to determine what anti-trafficking activities are working or how best to tailor them to meet specific needs.

The fight against human trafficking will almost certainly require years of effort and the continued monitoring of governments' actions. To enhance its usefulness as a diplomatic tool, the narratives and country rankings in the annual *Trafficking in Persons Report* must be viewed as credible by governments and informed human rights and country observers. However, the report does not comprehensively or clearly describe how decisions about tier rankings were reached. Moreover, problems identified in the report provide the means to better identify program needs

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and allocate resources, but agencies have not linked their activities to identified deficiencies.

Recommendations for Executive Action

To improve efforts to combat trafficking in persons, we recommend that the Secretary of State, in her capacity as Chair of the Interagency Task Force to Monitor and Combat Trafficking, consider the following two actions:

(1) Work closely with relevant agencies as they implement U.S. law calling for research into the creation of an effective mechanism to develop a global estimate of trafficking. This could include assigning a trafficking data and research unit to serve as an interagency focal point charged with developing an overall strategy, collecting and analyzing data, and directing research.
(2) Develop and implement a strategy that would delineate agency roles and responsibilities and mechanisms for integrating activities and determine priorities, measurable goals, timeframes, performance measures, and a methodology to gauge results.

To improve the credibility of State's annual report on trafficking in persons, we recommend that the Secretary of State ensure that the report clearly documents the rationale and support for tier rankings and improve the report's usefulness for programming by making the narratives more comprehensive.

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APPENDIX I

OBJECTIVES, SCOPE AND METHODOLOGY

Our objectives were to examine (1) estimates of the extent of trafficking in persons, (2) the U.S. government's strategy to combat trafficking in persons, and (3) the State Department's process for evaluating foreign governments' anti-trafficking efforts.

To examine estimates of the extent of human trafficking, we conducted an analysis of the global trafficking databases developed and maintained by the U.S. government, the International Organization for Migration (IOM), the International Labor Organization (ILO), and the U.N. Office for Drugs and Crime (UNODC). We met with officials from each organization, determined the reliability of their global trafficking data, reviewed documents and assessed their methodologies for collecting and analyzing human trafficking data, and analyzed the data collected by IOM. We examined the *ILO Minimum Estimate of Forced Labor in the World,*[33] *Trafficking in Persons Global Patterns,*[34] and *Data and Research on Human Trafficking: A Global Survey.*[35] We also reviewed the existing relevant literature on data and methodologies used in global human trafficking research. We collected reports, journal articles, conference presentations, U.S. government sponsored studies, and books that discuss human trafficking. We read and analyzed these documents and used them to identify issues that affect the quality of data on trafficking. We grouped these issues into three major categories: availability, reliability, and comparability.

To examine the U.S. government's strategy for combating human trafficking, we reviewed U.S. laws and presidential directives describing actions that various U.S. government entities were to undertake in combating trafficking. These include the Trafficking Victims Protection Act (TVPA) of 2000 and its reauthorizations in 2003 and 2005, Executive Order 13257, and National Security Presidential Directive 22. We also analyzed documents and interviewed officials from the Departments of Health and Human Services, Homeland Security, Justice, Labor, State, and the United States

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[33]Belser, Patrick, de Cock, Michaelle and Ferhad Mehran, *ILO Minimum Estimate of Forced Labor in the World*, ILO, (Geneva: Apr. 2005).
[34]UNODC, *Trafficking in Persons Global Patterns*, (Vienna: Apr. 2006).

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Agency for International Development. Documents we reviewed include each agency's plan to implement the presidential directive, agency and project-level monitoring and evaluation documents, project proposals, interagency coordination guidance, the Bureau Performance Plan from State's Office to Monitor and Combat Trafficking in Persons, USAID's strategy to combat trafficking in persons, as well as regional and country-level strategic framework documents.

To examine the State Department's process for evaluating foreign governments' anti-trafficking efforts, we reviewed 122 country narratives in the 2005 *Trafficking in Persons Report*. We examined the narratives for all 66 countries in tier 1, tier 2, tier 2 watch list, and tier 3. For the 77 narratives in tier 2, we reviewed all of the narratives for the 35 countries whose tiers had changed from the previous year's report. For the remaining 42 country narratives, we drew a random probability sample of 21 countries. With this probability sample, each narrative in the 2005 report had a nonzero probability of being included and that probability could be computed for any member. Each sample element was subsequently weighted in the analysis to account statistically for all the narratives in the 2005 report, including those not selected. Because we followed a probability procedure based on a random selection of tier 2 countries, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as a 95 percent confidence interval (e.g., plus or minus 5 percentage points). This is the interval that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95 percent confident that each of the intervals in this report will include the true values in the study population. All percentage estimates from the narrative review have margins of error of plus or minus 7 percentage points or less, unless otherwise noted.

In addition, we systematically compared the country narratives describing these governments' anti-trafficking efforts with the minimum standards and five core

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[35]IOM, *Data and Research on Human Trafficking: A Global Survey*, (Geneva: 2005).

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criteria in the legislation and determined whether or not the country narrative mentioned each standard or criteria. If the country narrative did not mention a standard or criteria, we coded that as "not mentioned." If the country narrative did mention a standard or criteria, we determined whether the narrative showed that the government complied or did not comply with the standard or criteria. If we determined that the narrative showed that the government complied with the standard or criteria, we coded that as "yes." If we determined that the narrative showed that the government did not comply with the standard or criteria, we coded that as "no." In some cases, the narrative mentioned a standard or criteria, but we could not determine conclusively whether or not the narrative demonstrated the government's compliance. We coded those cases as "not clear." Finally, elements of some criteria were not applicable to certain countries. For example, if the report described a country as a source of trafficking victims rather than as a destination for victims, the criterion regarding provision of victims with legal alternatives to deportation would not apply. We coded these cases as "not applicable." We then tallied the number of responses in each category.

Finally, to ensure analytical validity and reliability, our analysis involved multiple phases of checking and review of analytical procedures, categories, and results. Two GAO analysts reviewed a selection of country narratives, independently coded them, and agreed on the basis for the coding decisions. Next, one GAO analyst performed the coding for the remaining country narratives. A second analyst reviewed a number of these coding decisions and the two analysts discussed them. Finally, a third analyst performed a review of all coding decisions and tabulations. In addition, to ensure the reliability of the funding data used, we reviewed the information collected by State Department on each agency's funding obligations. We then checked with each individual agency to verify that the amounts State Department provided were correct.

We conducted our review from September 2005 to May 2006 in accordance with generally accepted government auditing standards.

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APPENDIX II

Methodologies Used by 4 Organizations to Collect Data on Human Trafficking

This appendix describes the data sources, data validation, methodology, and key assumptions used by the U.S. government, ILO, UNODC, and IOM to collect data on and/or estimate the extent of human trafficking as well as the limitations of these databases. (See tables 4 and 5.)

Table 4. Four Organizations' Data Sources and Validation

	U.S. government	ILO[36]	UNODC[37]	IOM[38]
Episodes/ cases	1500	1534	4950	7711
Data Sources	Public sources-- articles identified and translated in English by the Foreign Broadcasting Information Service, Stop Traffic List Serve, IOM, UN, ILO and NGOs over 2000-2001.	Public sources—1500 publications in multiple languages such as reports, court and police records, trade unions, NGOs, academia and the media over 1995-2004.	Public sources—publications such as reports, periodicals, books, websites and others from 113 individual source institutions over 1996-2003.	Data collected by IOM missions from victims starting in Kosovo in 1999/2000 and expanding to 26 countries through 2005.
Data Validation	Performed by one analyst.	Based on an organized procedure involving four steps.	Performed by one researcher.	Inaccuracies corrected by the original data entry official

Source: GAO analysis of U.S. government, ILO, UNODC, and IOM data.

[36] For a detailed discussion, see Belser, Patrick, de Cock, Michaelle and Ferhad Mehran, *ILO Minimum Estimate of Forced Labor in the World*, ILO, (Geneva: Apr. 2005).
[37] For a detailed discussion, see UNODC, *Trafficking in Persons Global Patterns*, (Vienna: Apr. 2006).
[38] For a detailed discussion, see IOM, *Data and Research on Human Trafficking: A Global Survey*, (Geneva: 2005).

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Table 5: Four Organizations' Methodologies, Key Assumptions and Limitations

	U.S. government	ILO[39]	UNODC[40]	IOM[41]
Methodology	A) average of aggregate estimates of reported and unreported victims B) data augmentation to fill in missing values[42]	Estimation based on two extrapolations: A) estimation of all reported victims[43] B) estimation of all reported and unreported victims[44]	A) assignment of a score of 1 each time a country is reported by a different institution B) coding gender, age, and type of trafficking using the same technique	Not applicable.
Key assumptions	For A) above—underlying data of total victims are reliable and comparable; For B) above--technical conditions for the procedure are plausible.	For A) above—technical conditions for the procedure are met; For B) above—the ratio of the average duration of a case divided by the probability of being reported is greater than or equal to ten	For both A) and B) above—how much a country is affected by the trafficking problem depends on the frequency of it being reported by different institutions.	Not applicable.
Limitations	• internal trafficking not studied • not subject to peer review • may not be replicable	• limited to sources in 11 languages	• no information about the number of victims • no measure of the severity of the problem • internal trafficking not studied	• data limited to the countries where IOM has a presence • confidentiality of victim assistance • may not be generalizable
	• cannot be used for time series studies • not based on reliable country level data			

Source: GAO analysis of U.S. government, ILO, UNODC, and IOM data.

[39] For a detailed discussion, see Belser, Patrick, de Cock, Michaelle and Ferhad Mehran, *ILO Minimum Estimate of Forced Labor in the World*, ILO, (Geneva: Apr. 2005).
[40] For a detailed discussion, see UNODC, *Trafficking in Persons Global Patterns*, (Vienna: Apr. 2006).
[41] For a detailed discussion, see IOM, *Data and Research on Human Trafficking: A Global Survey*, (Geneva: 2005).
[42] The data augmentation is performed using Monte Carlo Markov chain simulations with Bayesian inference. Making use of plausible values for unknown information, the technique replaces missing data under a wide range of conditions to reflect uncertainty in the open source information regarding the type of trafficking, age group, gender, country of origin and destination.
[43] The estimation procedure uses the capture-recapture method. Two random samples of reported human trafficking cases are independently drawn and the counts of common and different cases between the two samples are used to estimate the total number of reported trafficking cases.
[44] Under the most conservative assumption, the minimum estimate corresponds to assigning to the probability of being reported a value of 1.

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Appendix III

Seven U.S. Government Entities' Data on Human Trafficking

This appendix describes the data on human trafficking maintained by 7 U.S. government entities. (See table 5.)

Table 5: Data on Human Trafficking Maintained by U.S. Government Entities

Agency	Trafficking data fields
Justice--Office of Victims of Crime	-Type of trafficking (labor, sex, other) - Identification of victims (nationality, age, gender)
Justice–Civil Rights Division	Trafficking cases prosecuted in the U.S., including -Information about traffickers -Type of trafficking (commercial sex, involuntary servitude)
Justice–Federal Bureau of Investigation, Criminal Investigation Division	--Information about traffickers (names, business involved, criminal organization connections) -Type of trafficking (commercial sex, migrant farms, construction, labor camps, domestic servitude) -Identification of victims (nationality, age, gender, recruitment method) -Points of entry -Logistics (use of illegal documents, funding)
Health and Human Services	Trafficking victims certified in the U.S., including -Age (minor or adult) -Gender -Geographic distribution of the certification (i.e., which U.S. state) -Nationality
Homeland Security	Trafficking victims awarded continued presence:[45] -Date of birth -Gender -Nationality Information about traffickers, including: -Name -Nationality -Gender -Date of Birth -Violation type -Statute used to arrest the violator
Labor	Nature and extent of 144 countries worst forms of child labor, including children involved in forced labor and sexual exploitation
National Central Bureau (INTERPOL)	Traffickers involved in trafficking related prostitution and forced servitude

Source: Departments of Justice, Health and Human Services, Homeland Security, and Labor and the National Central Bureau.

[45]Federal Law enforcement officials who encounter alien victims of severe forms of trafficking in persons who are potential witnesses to that trafficking may request that DHS grant the continued presence of these victims in the United States in order to ensure prosecution of those responsible.

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Appendix IV

The State Department's Process for Assessing Foreign Governments' Compliance with U.S. Minimum Standards to Eliminate Human Trafficking

Fig. 1 Minimum standards and criteria for the elimination of trafficking

Standard 1	The government of the country should prohibit severe forms of trafficking in persons and punishes acts of such trafficking.
Standard 2	For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.
Standard 3	For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.
Standard 4	The government should make serious and sustained efforts to eliminate severe forms of trafficking in persons
Criterion 1	**Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country. After reasonable requests from the Dept. of State for data regarding investigations, prosecutions, convictions, and sentences, a government, which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004 and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Dept. of State regarding such acts and the Secretary has determined that the government is making a good faith effort to**

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	collect such data.
Criterion 2	**Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.**
Criterion 3	**Whether the government of the country has adopted measures to prevent severe trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe trafficking.**
Criterion 4	Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.
Criterion 5	Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition.)
Criterion 6	Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.
Criterion 7	**Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking. After reasonable requests from the Dept. of State for data**

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	regarding investigations, prosecutions, convictions, and sentences, a government, which does not provide such data, consistent with the capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts. During the periods prior to the annual report submitted on June 1, 2004 and on June 1, 2005, and the periods afterwards until September 30 of each such year, the Secretary of State may disregard the presumption contained in the preceding sentence if the government has provided some data to the Dept. of State regarding such acts and the Secretary has determined that the government is making a good faith effort to collect such data.
Criterion 8	Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.
Criterion 9	Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.
Criterion 10	**Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.**

Source: TVPA 2000 and TVPA 2003.

Note: Criteria in bold text are those that the Trafficking Office has designated "core criteria".

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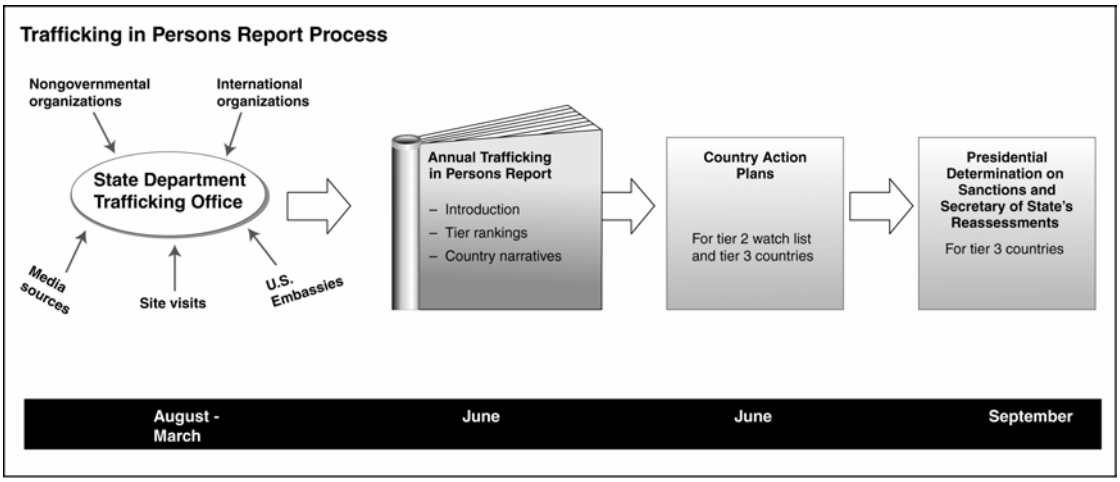

Source: GAO analysis of State Department information.

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, June 12, 2006 9:30 AM
To: Gorsuch, Neil M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

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Sent: Monday, June 12, 2006 9:20 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

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I can participate

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Sent: Thursday, June 08, 2006 7:21 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:50 AM
To: McCallum, Robert (SMO)
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Of course; happy to proceed however you wish.

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Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:53 AM
To: Shaw, Aloma A
Subject: Judicial Bios

Please could you get me the bios for 9th Cir Judges Leavy and Rymer as well as for Judge Moskowitz of the US District Ct for the Southern District of Calif? Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:54 AM
To: Todd, Gordon (SMO)
Subject: RE: GAO and OIG Activities for Monday, June 12, 2006

I trust we've given them a copy of the 5 yr glossy report we just published? If not, could you make sure they get a copy?

-----Original Message-----
From: Todd, Gordon (SMO)
Sent: Monday, June 12, 2006 9:28 AM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: RE: GAO and OIG Activities for Monday, June 12, 2006

Bill/Neil: GAO has provided us with a draft report, which is attached. DOJ comments are due back to GAO on June 28; we'll be collating our internal comments by June 22. When we first got this draft, there was significant concern that it omitted significant elements of the DOJ anti-trafficking program, and failed to include information we had provided GAO. GAO has not clarrified that the chief focus of this report is the State Department, and that subsequent reports will focus more on DOJ. They have made edits to make that clear. GAO last week noticed its second trafficking study.

The entrance conference will be on June 19.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 8:20 AM
To: Mercer, Bill (ODAG); Todd, Gordon (SMO)
Subject: RE: GAO and OIG Activities for Monday, June 12, 2006

Bill - Gordon has been tracking this one for us. What's the status, Gordon?

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Monday, June 12, 2006 7:14 AM
To: Gorsuch, Neil M
Subject: Fw: GAO and OIG Activities for Monday, June 12, 2006

Are you involved in the human trafficking response?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Johnson, Suzanne R
Sent: Mon Jun 12 06:29:08 2006
Subject: GAO and OIG Activities for Monday, June 12, 2006

Subject: GAO and OIG Activities for Monday, June 12, 2006

GAO AND OIG ACTIVITIES
Monday, June 12, 2006

Vicky Caponiti) Wednesday, June 28, 2006: Comments are due on GAO's draft report entitled "Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-Trafficking Efforts Abroad." (GAO-06-825/320374) The CRM CRT, FBI, OJP, and USNCB are involved in this review.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 10:02 AM
To: Gunn, Currie (SMO)
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Can you find out the whens and wheres?

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:17 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

I can participate

From: Gunn, Currie (SMO)
Sent: Thursday, June 08, 2006 7:21 PM
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Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Swenson, Lily F

From: Swenson, Lily F
Sent: Monday, June 12, 2006 10:05 AM
To: Gorsuch, Neil M; Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Should I participate? Who is going to serve as the new COOP officer in Luis' stead?

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:17 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

I can participate

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To: McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 10:09 AM
To: Swenson, Lily F; Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Re: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Anyone who can possibly go should go. The DAG will be there and we should be adequately represented for the exercise. Thanks.

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M; Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Senger, Jeffrey M
Sent: Mon Jun 12 10:04:52 2006
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Should I participate? Who is going to serve as the new COOP officer in Luis' stead?

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:17 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

I can participate

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Sent: Thursday, June 08, 2006 7:21 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Gunn, Currie (SMO)

Subject:	Offsite Exercise on June 22, 2006
Location:	MainRoom 5706
Start:	Tuesday, June 13, 2006 1:30 PM
End:	Tuesday, June 13, 2006 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Swenson, Lily F; Todd, Gordon (SMO); McCallum, Robert (SMO); Senger, Jeffrey M; Gorsuch, Neil M; Fradel, James E

When: Tuesday, June 13, 2006 1:30 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: MainRoom 5706

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

Briefing of offsite exercise.

Attendees: ASG Robert McCallum, Neil Gorsuch, Gordon Todd, Jeff Senger, Lily Swenson, James Fradel

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Offsite Exercise on June 22, 2006
Location:	MainRoom 5706
Start:	Tuesday, June 13, 2006 1:30 PM
End:	Tuesday, June 13, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Swenson, Lily F; Todd, Gordon (SMO); McCallum, Robert (SMO); Senger, Jeffrey M; Gorsuch, Neil M; Fradel, James E

Briefing of offsite exercise.

Attendees: ASG Robert McCallum, Neil Gorsuch, Gordon Todd, Jeff Senger, Lily Swenson, James Fradel

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 10:24 AM
To: McCallum, Robert (SMO)
Subject: Atlanta Paper

Checked and the case it refers to is the one in Detroit we're familiar with. Carl is arguing there today.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 11:29 AM
To: McCallum, Robert (SMO)
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Ok

From: McCallum, Robert (SMO)
Sent: Monday, June 12, 2006 10:28 AM
To: Gorsuch, Neil M
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Talked with Gordon about doing it. He can cover it. Robt.

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 9:50 AM
To: McCallum, Robert (SMO)
Subject: RE: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks

Of course; happy to proceed however you wish.

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Sent: Monday, June 12, 2006 9:30 AM
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To: Gorsuch, Neil M; Gunn, Currie (SMO); Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
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Great. I have just been notified of a hearing before the SFRC for Monday June 19th at 3pm and so this week may become very full of courtesy visits, moots, State meetings, etc. Robt.

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Subject: Who is planning to participate in the COOP exercise on June 21-22, 2006. I need to provide those names to SEPS asap. Thanks
Importance: High

Beach, Andrew

Subject:	Declined: Updated: Strategic Initiatives Meeting
Location:	OAG Conference Room 5228
Start:	Monday, June 12, 2006 2:00 PM
End:	Monday, June 12, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Beach, Andrew

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 11:36 AM
To: Swenson, Lily F
Subject: Strategic Initiatives

I cannot attend today's mtg (2pm, Rm 5228). If you can attend in my stead, great; if not, that's fine too.

Swenson, Lily F

From: Swenson, Lily F
Sent: Monday, June 12, 2006 11:37 AM
To: Gorsuch, Neil M
Subject: RE: Strategic Initiatives

I can attend.

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 11:36 AM
To: Swenson, Lily F
Subject: Strategic Initiatives

I cannot attend today's mtg (2pm, Rm 5228). If you can attend in my stead, great; if not, that's fine too.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 12:51 PM
To: Sampson, Kyle; Beach, Andrew
Cc: Swenson, Lily F
Subject: Strategic Initiatives

I have my ABA interview this afternoon and so won't be able to make the SI meeting; Lily has kindly offered to attend in my stead.

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, June 12, 2006 12:52 PM
To: Gorsuch, Neil M; Beach, Andrew
Cc: Swenson, Lily F
Subject: RE: Strategic Initiatives

No worries. Be charming.

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 12:51 PM
To: Sampson, Kyle; Beach, Andrew
Cc: Swenson, Lily F
Subject: Strategic Initiatives

I have my ABA interview this afternoon and so won't be able to make the SI meeting; Lily has kindly offered to attend in my stead.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 1:15 PM
To: Sampson, Kyle
Subject: RE: Strategic Initiatives

Yessir!

From: Sampson, Kyle
Sent: Monday, June 12, 2006 12:52 PM
To: Gorsuch, Neil M; Beach, Andrew
Cc: Swenson, Lily F
Subject: RE: Strategic Initiatives

No worries. Be charming.

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 12:51 PM
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Cc: Swenson, Lily F
Subject: Strategic Initiatives

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From: USDOJ- Office of Public Affairs
Sent: Monday, June 12, 2006 1:22 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Some recipients have reported not receiving this media advisory. It was originally sent at 12:01 PM. The call is presently ongoing.

From: USDOJ- Office of Public Affairs
Sent: Monday, June 12, 2006 12:02 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Department of Justice

FOR PLANNING PURPOSE ONLY
MONDAY, JUNE 12, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Washington, D.C. – Alice Fisher, Assistant Attorney General for the Criminal Division; Regina Schofield, Assistant Attorney General for the Office of Justice Programs; and other senior Department of Justice officials will participate in a teleconference today regarding the FBI Preliminary Uniform Crime Report. The teleconference will be held **MONDAY, JUNE 12, 2006 at 1:00 P.M. EDT.**

WHO: Alice Fisher, Assistant Attorney General for the Criminal Division
Regina Schofield, Assistant Attorney General for the Office of Justice Programs
Other Senior DOJ Officials

WHAT: Teleconference

WHEN: **MONDAY, JUNE 12, 2006**
1:00 P.M. EDT

WHERE: Dial-in Number: 800-882-3610
Code: 271-2757

DOJ_NMG_ 0161562

NOTE: Logistical questions regarding the teleconference should be directed to Jonathan Block of the Office of Public Affairs at (202) 616-0503.

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06-362

DOJ_NMG_ 0161563

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Image not available for this document, ID: 0.7.10316.8260-000002

Peter.Schaumber@nlrb.gov

From: Peter.Schaumber@nlrb.gov
Sent: Monday, June 12, 2006 1:39 PM
To: Gorsuch, Neil M
Subject: FW: Alex Acosta
Attachments: tmp.htm

FYI

From: Joseph, Gloria
Sent: Monday, June 12, 2006 1:34 PM
To: Battista, Robert J.; Meisburg, Ronald; Liebman, Wilma B.; Schaumber, Peter; Walsh, Dennis P.; Kirsanow, Peter
Subject: Alex Acosta

FYI

Miami Herald (FL)

June 10, 2006

INTERIM U.S. ATTORNEY AWAITS CONFIRMATION

Interim U.S. Attorney R. Alexander Acosta is one step closer to becoming the top law enforcement officer in South Florida.

The White House on Friday officially nominated Acosta as the permanent U.S. Attorney for the Southern District of Florida, which stretches from Fort Pierce to Key West.

Acosta, 37, temporarily replaced U.S. Attorney Marcos D. Jiménez last June to head the 220-lawyer office based in Miami.

Acosta's nomination is now in the hands of the U.S. Senate, which must confirm him before he can assume the job. The Senate is expected to approve the nomination.

Acosta, the son of Cuban-American parents who was raised in Miami and earned degrees from

Harvard College and Harvard Law School, has been through the Senate confirmation process twice.

He was unanimously confirmed as head of the Department of Justice's civil rights division of 350 lawyers in August 2004.

He was also confirmed as a member of the National Labor Relations Board in December 2002.

********** ********** *********

FYI

From: Joseph, Gloria
Sent: Monday, June 12, 2006 1:34 PM
To: Battista, Robert J.; Meisburg, Ronald; Liebman, Wilma B.; Schaumber, Peter; Walsh, Dennis P.; Kirsanow, Peter
Subject: Alex Acosta

FYI

Miami Herald (FL)

June 10, 2006

INTERIM U.S. ATTORNEY AWAITS CONFIRMATION

Interim U.S. Attorney R. Alexander Acosta is one step closer to becoming the top law enforcement officer in South Florida.

The White House on Friday officially nominated Acosta as the permanent U.S. Attorney for the Southern District of Florida, which stretches from Fort Pierce to Key West.

Acosta, 37, temporarily replaced U.S. Attorney Marcos D. Jiménez last June to head the 220-lawyer office based in Miami.

Acosta's nomination is now in the hands of the U.S. Senate, which must confirm him before he can assume the job. The Senate is expected to approve the nomination.

Acosta, the son of Cuban-American parents who was raised in Miami and earned degrees from Harvard College and Harvard Law School, has been through the Senate confirmation process twice.

He was unanimously confirmed as head of the Department of Justice's civil rights division of 350 lawyers in August 2004.

He was also confirmed as a member of the National Labor Relations Board in December 2002.

********** ********** *********

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 1:55 PM
To: McCallum, Robert (SMO)
Subject: FW: SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Tracking:

Recipient	Read
McCallum, Robert (SMO)	Read: 6/12/2006 1:55 PM

Looks like the FBI data is going out today…

From: USDOJ- Office of Public Affairs
Sent: Monday, June 12, 2006 1:22 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Some recipients have reported not receiving this media advisory. It was originally sent at 12:01 PM. The call is presently ongoing.

From: USDOJ- Office of Public Affairs
Sent: Monday, June 12, 2006 12:02 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Department of Justice

FOR PLANNING PURPOSE ONLY
MONDAY, JUNE 12, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

SENIOR DOJ OFFICIALS TO HOLD TELECONFERENCE REGARDING FBI PRELIMINARY UNIFORM CRIME REPORT

Washington, D.C. – Alice Fisher, Assistant Attorney General for the Criminal Division; Regina Schofield, Assistant Attorney General for the Office of Justice Programs; and other senior Department of Justice officials will participate in a teleconference today regarding the FBI Preliminary Uniform Crime Report. The teleconference will be held **MONDAY, JUNE 12, 2006 at 1:00 P.M. EDT.**

WHO: Alice Fisher, Assistant Attorney General for the Criminal Division
Regina Schofield, Assistant Attorney General for the Office of Justice Programs
Other Senior DOJ Officials

WHAT: Teleconference

WHEN: **MONDAY, JUNE 12, 2006**
1:00 P.M. EDT

WHERE: Dial-in Number: 800-882-3610
Code: 271-2757

NOTE: Logistical questions regarding the teleconference should be directed to Jonathan Block of the Office of Public Affairs at (202) 616-0503.

###

06-362

DOJ_NMG_ 0161570

Image not available for this document, ID: 0.7.10316.8251-000001

Image not available for this document, ID: 0.7.10316.8251-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 6:15 PM
To: Senger, Jeffrey M
Subject: Please could you give me a call?
Importance: High

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Charles.Schott@do.treas.gov

From: Charles.Schott@do.treas.gov
Sent: Monday, June 12, 2006 6:55 PM
To: Gorsuch, Neil M
Subject: Fw: Leaving Treasury

Neil:

Attached is an announcement we received today. Jean Card is a wonderful person and wordsmith. You will enjoy getting to know her.

Charlie

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Card, Jean
To: _DL_WHL
Sent: Mon Jun 12 18:25:02 2006
Subject: Leaving Treasury

Dear Colleagues,

After two and a half incredible years here, Iâ??ll walk down the granite steps of Treasury for the last time this Friday, June 16th.

Next Monday, Iâ??ll start my new job as Senior Speechwriter to Attorney General Gonzales at the Department of Justice.

As much as I look forward to this exciting new opportunity, I will miss the Treasury team so very much. I hope you all know how much I have enjoyed these years at 1500 Pennsylvania Avenue, and how much I value all that I have learned from you, my brilliant colleagues!

Of course, I canâ??t be gotten rid of that easily â?? Iâ??ll remain a proud part of the larger team that serves our President and I look forward to seeing you all around town.

All the best,

Jean Card

Senior Writer

Office of Public Affairs

My new contact information (as of Monday, June 19th) will be:

Jean.card@usdoj.gov

(202) 353-1561

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Monday, June 12, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: Re: Please could you give me a call?

Hi, Neil. I just called you but missed you. I will be back in the office tomorrow if it can wait until then, or you can reach me by blackberry.
Jeff

-----Original Message-----
From: Gorsuch, Neil M
To: Senger, Jeffrey M
Sent: Mon Jun 12 18:14:50 2006
Subject: Please could you give me a call?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 7:25 PM
To: Senger, Jeffrey M
Subject: RE: Please could you give me a call?

Do you have a cell no I can reach you on? Or please call me in the office.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Monday, June 12, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: Re: Please could you give me a call?

Hi, Neil. I just called you but missed you. I will be back in the office tomorrow if it can wait until then, or you can reach me by blackberry.
Jeff

-----Original Message-----
From: Gorsuch, Neil M
To: Senger, Jeffrey M
Sent: Mon Jun 12 18:14:50 2006
Subject: Please could you give me a call?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 12, 2006 7:33 PM
To: Hillman, Noel
Subject: Congratulations!

I see that the deed is done. Congratulations! You will make an outstanding judge; the judiciary is lucky to get you. And thank you so much for the help on the realtor front! Neil

Hillman, Noel

From: Hillman, Noel
Sent: Monday, June 12, 2006 7:36 PM
To: Gorsuch, Neil M
Subject: Re: Congratulations!

Thanks much. I'm keeping good notes for when your day comes.

----- Original Message -----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Hillman, Noel
Sent: Mon Jun 12 19:32:39 2006
Subject: Congratulations!

I see that the deed is done. Congratulations! You will make an outstanding judge; the judiciary is lucky to get you. And thank you so much for the help on the realtor front! Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 8:13 AM
To: [redacted]@do.treas.gov'
Subject: RE: Leaving Treasury

[redacted] Thanks for this heads up. I look forward to working with Jean and will search her out. Having written remarks for the AG previously, I am certain Jean will enjoy working with him. Warmest regards, Neil

-----Original Message-----
From: [redacted]@do.treas.gov [mailto [redacted]@do.treas.gov]
Sent: Monday, June 12, 2006 6:55 PM
To: Gorsuch, Neil M
Subject: Fw: Leaving Treasury

Neil:

Attached is an announcement we received today. Jean Card is a wonderful person and wordsmith. You will enjoy getting to know her.

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Card, Jean
To: _DL_WHL
Sent: Mon Jun 12 18:25:02 2006
Subject: Leaving Treasury

Dear Colleagues,

After two and a half incredible years here, Iâ??ll walk down the granite steps of Treasury for the last time this Friday, June 16th.

Next Monday, Iâ??ll start my new job as Senior Speechwriter to Attorney General Gonzales at the Department of Justice.

[redacted]

All the best,

Jean Card

Senior Writer

Office of Public Affairs

My new contact information (as of Monday, June 19th) will be:

Jean.card@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 8:14 AM
To: Scolinos, Tasia
Subject: FW: Leaving Treasury

Some warm and unsolicited words about your new speech writer from one of her colleagues at Treas.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 8:13 AM
To: [redacted]@do.treas.gov'
Subject: RE: Leaving Treasury

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All the best,

Jean Card

Senior Writer

Office of Public Affairs

My new contact information (as of Monday, June 19th) will be:

Jean.card@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 13, 2006 8:35 AM
To: Gorsuch, Neil M
Subject: Of course you didn't mean to . . .

place the letter to the clerk in your recycle box? I've placed it back in your "in-box" for review and signature.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 8:44 AM
To: Comisac, Rena (CRT); Kim, Wan (CRT)
Subject: AG initiatives

How go these? Are we ready to finalize and send up the chain? Let me know if I can help in any way.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:08 AM
To: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response v 2.doc
Attachments: Rep Ed Pastor Response v 2.doc

I've taken one more pass through. What do you think?

Dear Representative Pastor:

I write in response to your letter of May 17 to Attorney General Gonzales inquiring into the policies set forth in then-Deputy Attorney General Larry Thompson's January 20, 2003 memo regarding the elements the Department will consider in determining whether a corporation has cooperated with a criminal investigation.

At the outset, let me be clear that the Department of Justice holds the principles of the attorney-client privilege in the highest esteem. Indeed, the Department and its attorneys regularly rely on the attorney-client privilege and do so for precisely the reason you identify, including the facilitation of full and candid discussions among Department attorneys and with our client agencies. At the same time, it is well recognized that the privilege is not absolute: the privilege yields where it is used to shield criminal activity; and the privilege may be waived voluntarily. The Thompson Memo hews to these well-settled principles in governing the decision whether to charge criminally a business organization.

Under the Thompson Memo's guidance, a federal prosecutor faced with a charging decision should consider whether a business organization has cooperated with the government's investigation. One element relevant to the issue of cooperation is whether the organization voluntarily has chosen to disclose information pertinent to the investigation. Specifically, a prosecutor may consider "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

Securing the cooperation of business organizations has been an invaluable tool in the Department's effort to restore trust and accountability to American marketplaces. From July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents. Many of these cases involved highly complex corporate scandals, which would have been difficult or impossible to prosecute in a timely and efficient manner without corporate cooperation, including in some instances the voluntary waiver of privileges. Indeed, to take just one recent example, the lead prosecutors in the recent prosecutions of Enron executives Kenneth Lay and Jeffrey Skilling are of the view that voluntary corporate disclosures were invaluable to their success.

While voluntary cooperation is a vital tool in the fight against corporate fraud, the Department is mindful of the concerns you raise. Of particular importance is the need to avoid weakening the privilege and undermining the values it serves. Accordingly, in securing a corporation's voluntary cooperation through waiver the Department in no way trenches upon any employee's privilege to consult his or her own counsel to seek advice regarding the government's inquiry. Any such communications remain private and are not subject to the Thompson Memo analysis.

Instead, the Thompson Memo focuses only on voluntary disclosures by business organizations themselves. Corporations and their lawyers are highly sophisticated and well suited to deciding whether and when waiver of the corporation's privileges is calculated to serve the shareholders' best interests. In the Department's experience, sometimes corporations elect to make voluntary waivers, and sometimes they do not.

Even with respect to the corporation's privileges, the Department's practices are carefully cabined to curtail the possibility for abuse or coercion. The Department does not demand the waiver of privileges as a prerequisite for cooperation credit. Rather, the Thompson Memo states clearly that prosecutors should consider waiver "where necessary to provide timely and complete information" and then only as "one factor in evaluating the corporation's cooperation." That is, waiver is not always necessary to the timely, accurate, and complete investigation of a case and, even when it is deemed necessary, it constitutes at most just one factor among many that prosecutors must consider.

Moreover, requests for corporate privilege waivers, when made, are themselves limited. They frequently focus only on factual work product, such as interview summaries, not materials reflecting an attorney's mental impressions, legal analysis, or client communications. While waivers may in some select instances cover legal advice given to the corporation contemporaneous with the alleged wrongdoing at issue, absent unusual circumstances, the Thompson Memo directs, "prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation."

Nor does the Department's approach undermine any privilege between the corporation's counsel and individual employees, for such conversations are not in fact privileged. Indeed, when competent corporate counsel conduct interviews of employees as part of their internal investigations, they traditionally disclose to interviewees that they represent the corporation and, by virtue of this duty of loyalty to the shareholders, cannot provide privileged legal representation to employees as their interests may be different from the corporation's.

In order to ensure even further the appropriate degree of protection for corporate legal privileges, in October 2005, while Acting Deputy Associate Attorney General, I issued guidance requiring each United States Attorney's Office and each DOJ component to develop written guidelines governing when waivers may be sought. While these guidelines may vary from office to office in order to accommodate local needs, a necessary element of all of these written policies is that a prosecutor must have the approval of the United States Attorney or other supervisor before seeking a waiver of the attorney-client or work product privilege. In our experience, with these safeguards, abuse has not been a problem.

The Department appreciates your interest in this issue, and we hope this response will serve to address your concerns.

Sincerely,

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:09 AM
To: Mercer, Bill (ODAG)
Subject: Lunch?

Are we on for noon today? If so, I'm happy to stop by your office and go from there.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:14 AM
To: Shaw, Aloma A
Subject: RE: Of course you didn't mean to . . .

Sorry!

From: Shaw, Aloma A
Sent: Tuesday, June 13, 2006 8:35 AM
To: Gorsuch, Neil M
Subject: Of course you didn't mean to . . .

place the letter to the clerk in your recycle box? I've placed it back in your "in-box" for review and signature.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:33 AM
To: Todd, Gordon (SMO)
Cc: Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Great; I will take a look at this. Separately but relatedly, I just recvd a call from Jim Clinger in OPA. The AG would like some tps on the AC issue (and the related issue of indemnification) in preparation for a possible Senate Jud Cmte hearing as early as next week. Jim's trying to assemble a package of materials for the AG to take with him tonight on a flight to Moscow. Could you please transform the letter (and Robt's speech) into one page of tps for Jim? Thanks.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:33 AM
To: Gorsuch, Neil M
Cc: Clinger, James H
Subject: RE: Rep Ed Pastor Response v 2.doc

Will do.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:33 AM
To: Todd, Gordon (SMO)
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To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
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Attachments: Rep Ed Pastor Response v 2.doc

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

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Under the Thompson Memo's guidance, a federal prosecutor faced with a charging decision should consider whether a business organization has cooperated with the government's investigation. One element relevant to the issue of cooperation is whether the organization voluntarily has chosen to disclose information pertinent to the investigation. Specifically, a prosecutor may consider "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

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Moreover, requests for corporate privilege waivers, when made, are themselves limited. They frequently focus only on factual work product, such as interview summaries, not materials reflecting an attorney's mental impressions, legal analysis, or client communications. While waivers may in some select instances cover legal advice given to the corporation contemporaneous with the alleged wrongdoing at issue, absent unusual circumstances, the Thompson Memo directs, "prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation."

Nor does the Department's approach undermine any privilege between the corporation's counsel and individual employees, for such conversations are not in fact privileged. Indeed, when competent corporate counsel conduct interviews of employees as part of their internal investigations, they traditionally disclose to interviewees that they represent the corporation and, by virtue of this duty of loyalty to the shareholders, cannot provide privileged legal representation to employees as their interests may be different from the corporation's.

In order to ensure even further the appropriate degree of protection for corporate legal privileges, in October 2005, while Acting Deputy Associate Attorney General, I issued guidance requiring each United States Attorney's Office and each DOJ component to develop written guidelines governing when waivers may be sought. While these guidelines may vary from office to office in order to accommodate local needs, a necessary element of all of these written policies is that a prosecutor must have the approval of the United States Attorney or other supervisor before seeking a waiver of the attorney-client or work product privilege. In our experience, with these safeguards, abuse has not been a problem.

The Department appreciates your interest in this issue, and we hope this response will serve to address your concerns.

Sincerely,

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:36 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Rep Ed Pastor Response

. . . except for anything truly articulate or concise. That would be Neil.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:35 AM
To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 11:45 AM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: Rep Ed Pastor Response v 2.doc
Attachments: Attorney-Client Priv. TPs.doc

Here's a draft of the TPs.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:33 AM
To: Todd, Gordon (SMO)
Cc: Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Great; I will take a look at this. Separately but relatedly, I just recvd a call from Jim Clinger in OPA. The AG would like some tps on the AC issue (and the related issue of indemnification) in preparation for a possible Senate Jud Cmte hearing as early as next week. Jim's trying to assemble a package of materials for the AG to take with him tonight on a flight to Moscow. Could you please transform the letter (and Robt's speech) into one page of tps for Jim? Thanks.

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Voluntary Waiver of Legal Privileges and Corporate Cooperation

Allegation: DOJ prosecutors routinely coerce corporations into disclosing privileged information on threat of criminal indictment, which undermines the attorney-client privilege and makes corporate employees less likely to seek advice from corporate counsel.

Facts:

- The Department's approach to investigating alleged corporate wrongdoing is carefully balanced to preserve important legal privileges, while giving federal prosecutors the tools necessary to investigate and prosecute complex schemes and conspiracies of the sort typified by Enron and WorldCom.

- Securing voluntary cooperation has been key to the Department's effort to restore accountability to American marketplaces. From July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents.

- Highly complex corporate frauds would be extremely difficult to prosecute without corporate cooperation. Indeed, the lead prosecutors in the recent prosecutions of Enron executives Kenneth Lay and Jeffrey Skilling are of the view that voluntary corporate disclosures were invaluable to their success.

- Under the Department's approach, in deciding whether to charge a corporation a prosecutor may consider whether a corporation has cooperated with the Department's inquiry, by identifying wrongdoers within its ranks, making witnesses available, by disclosing the results of its internal investigation, and where necessary waiving voluntarily applicable privileges.

- It is important to be clear that voluntary waiver is not a necessary prerequisite to avoiding criminal charges. Moreover, voluntary waiver requests are narrow and focused, and rarely seek attorney-client privileged materials. Rather, they usually regard factual work product, such as investigation notes, not lawyers' mental impressions. Finally, such requests must be made pursuant to a written policy, and must be approved by a United States Attorney or other applicable manager.

- Businesses are represented by sophisticated corporate lawyers, well suited to evaluate whether voluntary disclosure will serve the shareholders' best interests. Corporations sometimes agree to make a voluntary disclosure, and sometimes they decline.

- It is also important to note that the conversations of individual employees with the corporation's lawyers are not themselves a privileged communication. Competent corporate counsel usually informs employees of this fact at the outset of any internal investigation. Thus, disclosure of such discussions does not undermine the attorney-client privilege.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 11:59 AM
To: Todd, Gordon (SMO); Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Look great to me. [redacted]

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 11:45 AM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

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<< File: Attorney-Client Priv. TPs.doc >>

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Cc: Clinger, James H
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To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 12:15 PM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: Rep Ed Pastor Response v 2.doc
Attachments: Attorney-Client Priv. TPs.doc

[redacted]

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 11:59 AM
To: Todd, Gordon (SMO); Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Look great to me. [redacted]

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 11:45 AM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Here's a draft of the TPs.

<< File: Attorney-Client Priv. TPs.doc >>

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:33 AM
To: Todd, Gordon (SMO)
Cc: Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Great; I will take a look at this. Separately but relatedly, I just recvd a call from Jim Clinger in OPA. The AG would like some tps on the AC issue (and the related issue of indemnification) in preparation for a possible Senate Jud Cmte hearing as early as next week. Jim's trying to assemble a package of materials for the AG to take with him tonight on a flight to Moscow. Could you please transform the letter (and Robt's speech) into one page of tps for Jim? Thanks.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Corporate Cooperation, Voluntary Waiver of Legal Privileges and Indemnification

Allegation: DOJ prosecutors routinely coerce corporations into disclosing privileged information on threat of criminal indictment, which undermines the attorney-client privilege and makes corporate employees less likely to seek legal advice.

Facts:

- The Department's approach to investigating alleged corporate wrongdoing is carefully balanced to preserve important legal privileges, while giving federal prosecutors the tools necessary to prosecute complex schemes of the sort typified by Enron and WorldCom.

- Securing voluntary cooperation has been key to the Department's effort to restore accountability to American marketplaces. From July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents.

- Complex corporate frauds would be extremely difficult to prosecute without corporate cooperation. Indeed, the lead prosecutors in the recent successful Enron prosecutions are of the view that voluntary corporate disclosures were invaluable to their success.

- Under the Department's approach, in deciding whether to charge a corporation a prosecutor may consider whether a corporation has cooperated with the Department's inquiry, by identifying rather than shielding wrongdoers, making witnesses available, and where necessary waiving voluntarily applicable legal privileges.

- Voluntary waiver requests are narrow and focused, and rarely seek attorney-client privileged materials. They usually regard factual work product, such as investigation notes, not lawyers' mental impressions. Moreover, such requests must be made pursuant to a written policy, and must be approved by a United States Attorney or other manager.

- Neither voluntary waiver nor refusal to indemnify former employees is a necessary prerequisite to avoiding criminal charges. Rather, these are but two of many factors considered by prosecutors in assessing cooperation and whether to charge a corporation.

- Businesses are represented by sophisticated corporate lawyers, well suited to evaluate whether voluntary disclosure will serve the shareholders' best interests. Corporations sometimes agree to make a voluntary disclosure, and sometimes they decline.

- It is also important to note that the conversations of individual employees with the corporation's lawyers are not themselves a privileged communication. Competent corporate counsel usually informs employees of this fact at the outset of any internal investigation. Thus, disclosure of such discussions does not undermine the attorney-client privilege.

Clinger, James H

From: Clinger, James H
Sent: Tuesday, June 13, 2006 1:53 PM
To: Todd, Gordon (SMO); Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Many thanks to both of you for the quick turnaround on this.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 12:15 PM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

[redacted]

<< File: Attorney-Client Priv. TPs.doc >>

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 11:59 AM
To: Todd, Gordon (SMO); Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Look great to me. [redacted]

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 11:45 AM
To: Gorsuch, Neil M; Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Here's a draft of the TPs.

<< File: Attorney-Client Priv. TPs.doc >>

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:33 AM
To: Todd, Gordon (SMO)
Cc: Clinger, James H
Subject: RE: RE: Rep Ed Pastor Response v 2.doc

Great; I will take a look at this. Separately but relatedly, I just recvd a call from Jim Clinger in OPA. The AG would like some tps on the AC issue (and the related issue of indemnification) in preparation for a possible Senate Jud Cmte hearing as early as next week. Jim's trying to assemble a package of materials for the AG to take with him tonight on a flight to Moscow. Could you please transform the letter (and Robt's speech) into one page of tps for Jim? Thanks.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, June 13, 2006 2:22 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Subject: FW: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

I'm back.

From: Meadows, Bessie L
Sent: Tuesday, June 13, 2006 1:26 PM
To: Sampson, Kyle
Cc: Washington, Tracy T
Subject: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 2:28 PM
To: Sampson, Kyle; Mercer, Bill (ODAG)
Subject: Re: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

I am stuck until approx 4. Might 430 work? Should be v brief.

-----Original Message-----
From: Sampson, Kyle
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Sent: Tue Jun 13 14:22:03 2006
Subject: FW: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

I'm back.

From: Meadows, Bessie L
Sent: Tuesday, June 13, 2006 1:26 PM
To: Sampson, Kyle
Cc: Washington, Tracy T
Subject: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

Shaw, Aloma A

Subject:	Updated: OASG Staff Meeting
Location:	Main Room 5710
Start:	Tuesday, June 13, 2006 4:00 PM
End:	Tuesday, June 13, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)

When: Tuesday, June 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Please note time change for this meeting only.

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, June 13, 2006 2:38 PM
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Cc: Washington, Tracy T
Subject: RE: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

4:30pm is good.
Tracy, please calendar.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 2:28 PM
To: Sampson, Kyle; Mercer, Bill (ODAG)
Subject: Re: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

I am stuck until approx 4. Might 430 work? Should be v brief.

-----Original Message-----
From: Sampson, Kyle
To: Gorsuch, Neil M; Mercer, Bill (ODAG)
Sent: Tue Jun 13 14:22:03 2006
Subject: FW: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

I'm back.

From: Meadows, Bessie L
Sent: Tuesday, June 13, 2006 1:26 PM
To: Sampson, Kyle
Cc: Washington, Tracy T
Subject: Neil Gorsuch and Bill Mercer would like 10 minutes with you when you return.

Washington, Tracy T

Subject:	Mtg. w/ Kyle Sampson, Bill Mercer, Neil Gorsuch
Location:	Room 5111
Start:	Tuesday, June 13, 2006 4:30 PM
End:	Tuesday, June 13, 2006 4:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Washington, Tracy T
Required Attendees:	Mercer, Bill (ODAG); Gorsuch, Neil M

When: Tuesday, June 13, 2006 4:30 PM-4:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5111

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

DOJ: Kyle Sampson, Bill Mercer, Neil Gorsuch

Sampson, Kyle

Subject:	Mtg. w/ Kyle Sampson, Bill Mercer, Neil Gorsuch
Location:	Room 5111
Start:	Tuesday, June 13, 2006 4:30 PM
End:	Tuesday, June 13, 2006 4:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sampson, Kyle
Required Attendees:	Mercer, Bill (ODAG); Gorsuch, Neil MMercer, Bill (ODAG); Gorsuch, Neil M

DOJ: Kyle Sampson, Bill Mercer, Neil Gorsuch

Friedrich, Matthew

From: Friedrich, Matthew
Sent: Tuesday, June 13, 2006 3:57 PM
Subject: Read: [redacted]

Long, Linda E

Subject:	DAG Component Budget Hearings Recap
Location:	Main 4111
Start:	Thursday, August 10, 2006 2:30 PM
End:	Thursday, August 10, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Gorsuch, Neil M; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin
Optional Attendees:	Parameswaran, Shalini

When: Thursday, August 10, 2006 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main 4111

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

Attendees: Bill Mercer, Mike Elston, Kyle Sampson, Monica Goodling, Mark Epley, Richard Hertling, Neil Gorsuch, Lee Lofthus, Jolene Lauria-Sullens, Walt Schultz, Karin O'Leary
JMD POC: Shalini Parameswaran/JMD 4-3056

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 13, 2006 5:21 PM
To: Gorsuch, Neil M
Subject: Pls call Sue Wooldridge [redacted]

Gorsuch, Neil M

Subject:	[redacted]email
Start:	Monday, June 19, 2006 9:00 AM
End:	Monday, June 19, 2006 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 6:36 PM
To: Wooldridge, Sue Ellen (ENRD)
Subject: FW: Pls call Sue Wooldridge [redacted]

Just tried you but got vm. I'm in the office and reachable at your convenience (51434). My sincere apologies about earlier but Robt and I were in the middle of putting out a fire.

From: Gunn, Currie (SMO)
Sent: Tuesday, June 13, 2006 5:21 PM
To: Gorsuch, Neil M
Subject: Pls call Sue Wooldridge [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 7:10 PM
To: Senger, Jeffrey M
Subject: Did you want to talk?

Sorry about being stuck on the phone but I'm available now if you want to chat.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, June 13, 2006 7:37 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Terre Haute, IN

From: AmberAlert-DOJ
Sent: Tuesday, June 13, 2006 7:36:58 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Terre Haute, IN
Auto forwarded by a Rule

AMBER ALERT:Terre Haute,IN VEH:90 Grey Chevy Van TAG:IN 84 H 9897 CHILD:4 W M 3'4" 43 lb Hair:Red CHILD:2 W M 3' 30 lb Hair:Red SUS:32 W M CALL 1-888-58AMBER

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Elwood, Courtney

From: Elwood, Courtney
Sent: Tuesday, June 13, 2006 7:39 PM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Tuesday, June 13, 2006 7:58 PM
To: Gorsuch, Neil M
Subject: Read: Did you want to talk?

Brand, Rachel

From: Brand, Rachel
Sent: Tuesday, June 13, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, June 13, 2006 8:35 PM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 13, 2006 9:16 PM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Amber.JMD

From: Amber.JMD
Sent: Tuesday, June 13, 2006 11:09 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Terre Haute, IN

From: AmberAlert-DOJ
Sent: Tuesday, June 13, 2006 11:09:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Terre Haute, IN
Auto forwarded by a Rule

UPDATE AMBER ALERT:Terre Haute,IN VEH:90 Grey Chevy Van TAG:IN 84 H 9897 CHILD:4 W M 3'4" 43 lb Hr:Red CHILD:2 W M 3' 30lb Hr:Red SUS:32 W M CALL 1-888-58AMBER

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 14, 2006 8:32 AM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 14, 2006 8:32 AM
To: Gorsuch, Neil M
Subject: Read: Another one for the binder

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 14, 2006 9:17 AM
To: Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: Please provide me with your vehicle make, model and tag information for the bldg in VA.

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Wednesday, June 14, 2006 9:18 AM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 14, 2006 9:19 AM
To: Gunn, Currie (SMO)
Subject: Re: Please provide me with your vehicle make, model and tag information for the bldg in VA.

[redacted] Thanks!

-----Original Message-----
From: Gunn, Currie (SMO)
To: Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; Todd, Gordon (SMO); McCallum, Robert (SMO)
Sent: Wed Jun 14 09:17:07 2006
Subject: Please provide me with your vehicle make, model and tag information for the bldg in VA.

Elwood, Courtney

From: Elwood, Courtney
Sent: Wednesday, June 14, 2006 9:42 AM
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); Gorsuch, Neil M; Moschella, William
Subject: FW: Kyle
Importance: High

FYI

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) 202.532.5202
(fax) 202.305.9687

-----Original Message-----
From: Sours, Raquel
Sent: Wednesday, June 14, 2006 9:40 AM
To: Elwood, Courtney; Beach, Andrew; Sellers, Kiahna (OAG); Taylor, Jeffrey (OAG); Oldham, Jeffrey L; Meadows, Bessie L; Walker, Shelia M; Washington, Tracy T; Goodling, Monica
Cc: Nichols, Grant W; Scolinos, Tasia
Subject: Kyle
Importance: High

Kyle has lost his blackberry. If you need to reach him, or the AG through him, please email Grant or Tasia.

Thanks

Wright, Carl

From: Wright, Carl
Sent: Wednesday, June 14, 2006 9:44 AM
To: Gorsuch, Neil M
Subject: RE: June Cadre Verification

I could not find anything in our files on her. Do you remember to whom you made the request? OASG has three chairs out here so with the relatively new one-for-one policy, we can add her without it going through ODAG. I checked her clearance and she does have a TS. If you want me to add her to the cadre just give me the go ahead (along with what she will be - Core, Reserve, or Alternate) and I will start the paperwork.

Carl

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 08, 2006 11:51 AM
To: Wright, Carl
Subject: Re: June Cadre Verification

I had thought Lily Fu Swenson had been added earlier this year.

-----Original Message-----
From: Wright, Carl
To: Gorsuch, Neil M
Sent: Thu Jun 08 11:42:26 2006
Subject: June Cadre Verification

Below is what we currently have listed for OASG. Please let me know if anything is incorrect or if you want any changes made. Thanks!!

Carl

Gorsuch Neil M Core Cadre
McCallum, Jr Robert D. Core Cadre

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 14, 2006 9:50 AM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 14, 2006 9:54 AM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, June 14, 2006 10:06 AM
Subject: The Morning Update: 6/14/06

<http://www.whitehouse.gov/>
JUNE 14, 2006

This morning, President Bush will meet with President Uribe of Colombia. In the afternoon, the President will meet with members of the Iraq Study Group. Later, he will attend the Congressional Picnic on the White House South Lawn.

11:00 am: EDT THE PRESIDENT meets with the President of Colombia
The White House | Washington, DC

1:45 pm: EDT THE PRESIDENT meets with Members of the Iraq Study Group
The White House | Washington, DC

6:30 pm: EDT THE PRESIDENT and Mrs. Bush attend Congressional Picnic
The White House | Washington, DC

President Bush Makes Surprise Visit To Iraq. "President Bush, on a surprise visit to Iraq, told Iraqis Tuesday that the United States stands with them but their nation's future 'is in your hands <http://www.usatoday.com/printedition/news/20060614/a_bush14.art.htm> .' Bush's trip, kept secret from all but his closest aides until he was safely on the ground in Iraq, came as his administration tries to build support for Iraq's new government in the wake of the death of terrorist leader Abu Musab al-Zarqawi last week. 'I've come to not only look you in the eye,' Bush told Iraqi Prime Minister Nouri al-Maliki. 'I've also come to tell you that when America gives its word, it keeps its word.'" (César G. Soriano and Bill Nichols, "Bush Tells Iraq: Your Future 'Is In Your Hands'," USA Today, 6/14/06)

President Bush Addresses American Troops In Iraq. "'You know,' he said, 'right after September the 11th, I knew that some would forget the dangers we face, some would hope that the world would be what it's not: a peaceful place where people wouldn't want to do harm to those of us who love freedom. I vowed that day, after September the 11th, to do everything I could to protect the American people. And I was able to make that claim because there were people such as yourselves, who are willing to be on the front line in the war on terror <http://www.nytimes.com/2006/06/14/world/middleeast/14iraq.html?_r=1&oref=slogin> .'" (John F. Burns and Dexter Filkins, "Bush Makes Surprise Visit To Iraq To Press Leadership," The New York Times, 6/14/06)

Counselor To The President Dan Bartlett Discusses President Bush's Trip To Iraq. BARTLETT: "First and foremost, there is a new permanent, sovereign government in Iraq. They are there for four years. It was important for President Bush to go look these leaders in the eye and really find out personally if the commitment is there to take the very difficult decisions that are necessary to move this country in the right direction. ... All factions of Iraqi society were represented around that table, and it gave the President an opportunity to see personally if they had that commitment. Second, it's also important for the Commander in Chief

to be able go there and say 'thank you,' thank you to the tens of thousands of troops we have on the ground, the civilians there who are working day and night, separated from their families to say, 'what you're doing is necessary for our security,' and it was a real honor for him to do that." (CNN's "American Morning," 6/14/06)

The Washington Post Says President Bush Is "Correctly And Courageously" Using Political Capital To Support Iraq. "If Democratic leaders such as Sen. John F. Kerry (Mass.) had their way, almost all U.S. troops would be out of Iraq by the end of 2006 - a blow that Mr. Maliki's government almost certainly could not survive. Mr. Bush's willingness - at least for now - to resist such politically expedient demands may not rescue Iraq's fledgling political system; it may be that nothing can at this point. But he is - correctly and courageously - using what remains of his personal political capital to give Iraqi democracy a chance <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/13/AR2006061301437_pf.html> ." (Editorial, "A Boost From Mr. Bush," The Washington Post, 6/14/06)

Iraqi Prime Minister Launches Baghdad's "Biggest Security Crackdown" Since U.S.-Led Invasion. "Iraq's prime minister launched the biggest security crackdown in Baghdad since the U.S.-led invasion, with tens of thousands of security forces deploying throughout the capital on Wednesday and increased checkpoints causing some traffic jams <http://news.yahoo.com/s/ap/20060614/ap_on_re_mi_ea/iraq_060613183208> . ... Security officials said Tuesday that 75,000 Iraqi and multinational forces would be deployed throughout Baghdad, securing roads in and out of the city, establishing more checkpoints, launching raids against insurgent hideouts and calling in airstrikes if necessary. ... 'The terrorists cannot face such power,' Iraqi army Brig. Jalil Khalaf said." (Qassim Abdul-Zahra, "Iraqi PM Launches Huge Security Crackdown," The Associated Press, 6/14/06)

IAEA Director General ElBaradei Praises U.S.-India Nuclear Agreement. "The U.S.-India agreement is a creative break with the past that, handled properly, will be a first step forward for both India and the international community. <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/13/AR2006061301498.html> India will get safe and modern technology to help lift more than 500 million people from poverty, and it will be part of the international effort to combat nuclear terrorism and rid our world of nuclear weapons." (Mohamed ElBaradei, Op-Ed, "Rethinking Nuclear Safeguards," The Washington Post, 6/14/06)

House Approves Emergency Supplemental Bill. "The House of Representatives approved a $94.5 billion emergency spending bill on Tuesday to provide more money for military operations in Iraq and Afghanistan and to finance the recovery of Gulf Coast states battered by hurricanes last year. The Senate is expected to approve the measure in the next few days, clearing the legislation for President Bush to sign. ... Representative John A. Boehner of Ohio, the House Republican leader, said that in negotiations with the Senate, he made clear that the House would not accept $1 more than the president had requested. 'We made good on this promise by rejecting some $14 billion in unnecessary, nonemergency spending added' by the Senate, Mr. Boehner said <http://www.nytimes.com/2006/06/14/washington/14spend.html?ei=5094&en=5a2c89dca761fdb8&hp=&ex=1150257600&partner=homepage&pagewanted=print> ." (Robert Pear, "House Approves Funds For Wars And Hurricane Aid," The New York Times, 6/14/06)

Health And Human Services Secretary Leavitt Discusses Progress In Welfare Reform. "The landmark 1996 welfare-reform law has done a lot to 'break the cycle of dependency' on public assistance, but it has 'unfinished business' in moving more

people into self-sufficiency and stable, two-parent families, Health and Human Services (HHS) Secretary Michael O. Leavitt said yesterday <http://www.washingtontimes.com/national/20060613-110613-9235r.htm> . ... 'You might say we've rebooted the system and we're starting welfare reform all over again,' said Mr. Leavitt, who as Utah's governor lobbied for and implemented reform in his state." (Cheryl Wetzstein, "Progress Noted In Welfare Reform," The Washington Times, 6/14/06)

Education Secretary Margaret Spellings Announces $24 Million In Federal Aid To Louisiana Charter Schools. "Education Secretary Margaret Spellings announced Monday that $24 million in federal aid had been awarded to Louisiana for the development of charter schools, more than doubling what the state has already received to help create such schools in the aftermath of Hurricane Katrina <http://www.nytimes.com/2006/06/13/us/13charter.html> . The grant is likely to cement the role of New Orleans - where the public school system is barely functional - as the nation's pre-eminent laboratory for the widespread use of charter schools. ... 'Just the fact that the charter schools are the ones that are open is testament to their ability to cut through red tape and be responsive to families where and when they need them,' Ms. Spellings said in an interview." (Susan Saulny, "U.S. Gives Charter Schools A Big Push In New Orleans," The New York Times, 6/13/06)

President Bush Makes Surprise Visit to Iraq, Meets with Prime Minister Maliki in Baghdad <http://www.whitehouse.gov/news/releases/2006/06/20060613.html>

* In Focus: Renewal in Iraq <http://www.whitehouse.gov/infocus/iraq/>

President Bush Visits Troops in Iraq <http://www.whitehouse.gov/news/releases/2006/06/20060613-2.html>

* Fact Sheet: Camp David Meetings: Building on Progress in Iraq <http://www.whitehouse.gov/news/releases/2006/06/20060613-4.html>

President and Mrs. Bush to Accompany Prime Minister Junichiro Koizumi of Japan in Visit to Memphis, Tennessee <http://www.whitehouse.gov/news/releases/2006/06/20060613-3.html>

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, June 14, 2006 10:25 AM
To: Gorsuch, Neil M
Subject: Issue for you

Neil - could you give me a call when you can? I have something I need to report. 2-5611.

Thanks,

Gordon

Brand, Rachel

From: Brand, Rachel
Sent: Wednesday, June 14, 2006 12:07 PM
To: Gorsuch, Neil M
Subject: Give me a quick call re your nom -- 6-0038

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 14, 2006 12:51 PM
To: Gorsuch, Neil M
Subject: Call Rachel Brand 6-0083

fhcsDJ@opm.gov

From: [redacted]@opm.gov
Sent: Wednesday, June 14, 2006 1:36 PM
To: Gorsuch, Neil M
Subject: 2006 Federal Human Capital Survey
Attachments: .txt

Dear Federal Employee,

The Office of Personnel Management is conducting the 2006 Federal Human Capital Survey. The success of each agency depends on the extraordinary talents and abilities of the Federal workforce. We must recruit and retain the very best and brightest individuals, and our ability to do so is determined in large part by the quality of the environment in which you work. We must do everything we can to ensure you are effectively led and managed, you have opportunities to grow professionally and advance your career, and your contributions are truly valued and recognized.

This is the third time OPM has conducted the Federal Human Capital Survey. We saw many improvements between the 2002 and 2004 surveys. We know agencies have taken many steps since 2004 in the drive for continuous improvement. We look forward to seeing the results of these efforts reflected in the 2006 survey. We ask you to complete this survey to tell OPM and your agency leaders how far we?ve come in creating better working environments for our employees and what remains to be done. This is a wonderful opportunity to have your voice heard, to express your opinions, and to make a difference to improve both your agency and the entire Federal workforce.

Over the next few months, approximately 400,000 Federal employees will be given the opportunity to respond to this survey. Participation is voluntary, but I encourage you to complete this brief survey. And remember, you can use official time to complete it. Please be candid. Your responses will be absolutely confidential. Your answers will be transmitted directly to OPM, and results will be protected and summarized prior to release so no individual?s answers can be identified.

OPM will work closely with each agency to develop and implement improvement plans, and will regularly monitor progress against these plans. The survey takes about 20 minutes. Be sure to click the link below to access your survey.

Thank you for your time.

Sincerely,

[redacted]

Click on the link below to access your survey:

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and past the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: [redacted]
Password: [redacted]
Please reply to this message if you have any questions or difficulties accessing the survey.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Thank you for participating in the 2006 Federal Human Capital Survey. Please close this attachment and follow the instructions in the email to link to the survey.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 14, 2006 2:38 PM
To: Fisher, Alice
Subject: RE:

Robert's hearing is next Monday. Replacement remains in air; feel free to call to discuss.

-----Original Message-----
From: Fisher, Alice
Sent: Wednesday, June 14, 2006 2:05 PM
To: Gorsuch, Neil M
Subject:

Did Robert get hearing date? Who is replacing him?

Fisher, Alice

From: Fisher, Alice
Sent: Wednesday, June 14, 2006 2:42 PM
To: Gorsuch, Neil M
Subject: Re:

In moscow

----- Original Message -----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Fisher, Alice
Sent: Wed Jun 14 14:38:03 2006
Subject: RE:

Robert's hearing is next Monday. Replacement remains in air; feel free to call to discuss.

-----Original Message-----
From: Fisher, Alice
Sent: Wednesday, June 14, 2006 2:05 PM
To: Gorsuch, Neil M
Subject:

Did Robert get hearing date? Who is replacing him?

Jenkins, Linda A

From: Jenkins, Linda A
Sent: Wednesday, June 14, 2006 2:56 PM
To: McCallum, Robert (SMO); Bradbury, Steve; Barnett, Thomas O.; Wooldridge, Sue Ellen (ENRD); O'Connor, Eileen J. (AAG/TAX); Kim, Wan (CRT); Brand, Rachel; Moschella, William; Schofield, Regina; Elston, Michael (ODAG); Gorsuch, Neil M; Roberts, Matthew (OSG); Boardman, Michelle; Martinson, Wanda
Cc: Jenkins, Linda A; Beach, Andrew
Subject: REHNQUIST MEMORIAL

REMINDER: The Rehnquist Memorial is scheduled for tomorrow at 2pm. Everyone is encouraged to **arrive at 1:30pm (no later than 1:45pm),** and provide your own transportation. Please let me know if there are any change in plans, and you will not be attending. Thanks.

Linda A. Jenkins, Staff Assistant
Office of the Attorney General
Department of Justice
Washington, DC 20530
Telephone No: (202) 514-4195
Fax No: (202) 307-2825

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Monday, October 2, 2006 8:30 AM
End:	Monday, October 2, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Occurs every weekday effective 10/2/2006 until 10/31/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 02, 2006 8:30 AM
End:	Monday, October 02, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Young, EvanSampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Young, Evan
Importance:	High

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Tasia Scolinos, Evan Young, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Wednesday, November 1, 2006 9:30 AM
End:	Wednesday, November 1, 2006 10:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Young, EvanSampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Scolinos, Tasia; Moschella, William; Brand, Rachel; Roberts, Crystal; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Young, Evan
Importance:	High

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Evan Young, Tasia Scolinos, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

Subject:	Senior Management Meeting
Start:	Wednesday, November 01, 2006 9:30 AM
End:	Wednesday, November 01, 2006 10:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Occurs every weekday effective 11/1/2006 until 11/30/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Brand, Rachel

From: Brand, Rachel
Sent: Wednesday, June 14, 2006 3:17 PM
To: Gorsuch, Neil M

You'll be able to call the Senators yourself to ask them to introduce you. But it's not appropriate to do it yet. Stay tuned.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 14, 2006 3:53 PM
To: Gorsuch, Neil M
Subject: Pls call Paul Colborn 4-2048

Amber.JMD

From: Amber.JMD
Sent: Wednesday, June 14, 2006 9:39 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Nashville, IN

From: AmberAlert-DOJ
Sent: Wednesday, June 14, 2006 9:39:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Nashville, IN
Auto forwarded by a Rule

AMBER ALERT:Nashville,IN VEH:Blu Mvan Chr CHLD:13WF 5ft4 100 Hair:Bl CHLD:11WF 5ft100 Hair:Bl CHLD:23m WM 3ft2 30 SUS:44 WM 5ft8 175 Hair:Br CALL 1-888-58AMBER

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Henderson, Charles V

Subject:	Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4208
Start:	Monday, June 19, 2006 5:15 PM
End:	Monday, June 19, 2006 5:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Elston, Michael (ODAG); Gorsuch, Neil M

When: Monday, June 19, 2006 5:15 PM-5:45 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4208

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-William Mercer
-Michael Elston
-Neil Gorsuch

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Thursday, June 15, 2006 8:31 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Malphrus

I am currently out of the office on travel and will return on Monday, June 19. Should you need immediate assistance, please call (202) 514-2007.

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, June 15, 2006 9:53 AM
To: Goodling, Monica
Cc: Walker, Shelia M; Washington, Tracy T
Subject: The Morning Update: 6/15/06 (Note -- upcoming appointee events)

Good morning! The Attorney General and his family cordially invite you and yours to join them at the Nationals game on Saturday, July 8th at 7:05 p.m. We play the San Diego Padres that evening (discounted tickets will be $11). By next Wednesday COB, please let Shelia Walker know how many tickets you would like to purchase. (While this event is for appointees and their families, we are also organizing a second DOJ night for the Saturday, August 12th game between the Nationals and the Mets. We plan to open that event to all employees.)

Also, on Thursday, June 29th, the President will welcome Prime Minister Junichiro Koizumi of Japan to the White House. If you are interested in attending the state arrival, please let me know how many tickets you would like by COB today (cc Tracy Washington). You and your guests would need to arrive at the White House between 7-8:30 a.m. The ceremony will begin at 9:05 a.m. and last approximately 30 minutes. We have a limited number of tickets, but I'll accommodate as many requests as possible.

Thank you ~ have a great day.

****

<http://www.whitehouse.gov/>
JUNE 15, 2006

This morning, President Bush will participate in the swearing-in ceremony for United States Trade Representative Susan Schwab. He will then make remarks at the Initiative for Global Development's 2006 National Summit. Following these remarks, the President will sign two bills - the Broadcast Decency Enforcement Act of 2005 and the MINER Act.

In the afternoon, the President will make remarks on the establishment of the Northwestern Hawaiian Islands National Monument, the world's largest marine protected area. In the evening, he will attend the Congressional Picnic on the White House South Lawn.

9:25 am: EDT THE PRESIDENT participates in Swearing-in Ceremony for the United States Trade Representative
The White House | Washington, DC

9:50 am: EDT THE PRESIDENT makes Remarks at the Initiative for Global Development's 2006 National Summit
Willard InterContinental Washington | Washington, DC

11:00 am: EDT THE PRESIDENT signs S. 193, the Broadcast Decency Enforcement Act of 2005
The White House | Washington, DC

11:30 am: EDT

THE PRESIDENT signs S. 2803, the MINER Act
The White House | Washington, DC

2:30 pm: EDT THE PRESIDENT makes Remarks on the Establishment of the Northwestern Hawaiian Islands National Monument
The White House | Washington, DC

6:30 pm: EDT THE PRESIDENT and Mrs. Bush attend Congressional Picnic
The White House | Washington, DC

President Bush Inspired By His Visit To A "Free And Democratic Iraq." " President Bush, saying he was 'inspired to be able to visit the capital of a free and democratic Iraq,' vowed today that the United States will stay as long as necessary to ensure a stable government in Iraq <http://www.latimes.com/news/nationworld/world/la-061406bush,0,5681080.story?coll=la-home-headlines> . ... A day after his surprise visit to Baghdad, Bush said that it was important to meet with Iraqi Prime Minister Nouri Maliki and see 'firsthand the strength of his character and his deep commitment to succeed.' ... The president also said that he had a message for Al Qaeda and other terrorists seeking to impose their violence on innocent civilians: 'Don't bet on American politics forcing my hand because it's not going to happen.'" (Johanna Neuman, "U.S. Committed To Democratic Iraq, Bush Says," Los Angeles Times, 6/15/06)

Secretary Of State Condoleezza Rice Says America Is Giving Millions The "Opportunity To Flourish In Freedom." "'We're standing together with people everywhere who desire these fundamental freedoms,' especially in Afghanistan and Iraq, Rice said in a speech to the annual Southern Baptist Convention <http://news.yahoo.com/s/ap/20060614/ap_on_go_ca_st_pe/rice_1> . In those two countries alone, 'We have given more than 55 million people an opportunity to flourish in freedom,' Rice said. 'Not a guarantee of success, but a chance.' Rice said the image of Bush embracing the new democratically elected Iraqi prime minister on Tuesday in Baghdad was a reminder of why the fight is worthwhile." (Anne Gearan and Tim Whitmire, "Rice: No Guarantees On Iraq, Afghanistan," The Associated Press, 6/15/06)

Iraqi Government Finds "Huge Treasure" Of Intelligence In Zarqawi Raid. "Iraq's national security adviser said Thursday a 'huge treasure' of documents and computer records was seized after the raid on terror leader Abu Musab al-Zarqawi's hideout, giving the Iraqi government the upper hand in its fight against al-Qaida in Iraq. ... 'We believe that this is the beginning of the end of al-Qaida in Iraq,' al-Rubaie said, adding that the documents showed al-Qaida is in 'pretty bad shape,' politically and in terms of training, weapons and media. 'Now we have the upper hand,' he said at a news conference in Baghdad <http://news.yahoo.com/s/ap/20060615/ap_on_re_mi_ea/iraq;_ylt=Av5FpY2AOAqKECavV_c8jsOs0NUE;_ylu=X3oDMTA2Z2szazkxBHNlYwN0bQ--> . 'We feel that we know their locations, the names of their leaders, their whereabouts, their movements, through the documents we found during the last few days.'" (Kim Gamel, "Iraq Announces Info From Al-Zarqawi Raid," The Associated Press, 6/15/06)

President Bush To Declare Northwestern Hawaiian Islands A National Monument. "President Bush today will create the world's largest marine protected area, a total of 140,000 square miles of Pacific Ocean surrounding a necklace of islands and atolls that stretch from the main Hawaiian Islands to Midway Atoll and beyond, senior administration officials said. ... 'With a stroke of a pen, the president not only can accomplish the single largest act of conservation in U.S. history, but he can inspire the American public on the broader importance of our ocean and coastal environments <http://www.latimes.com/news/printedition/front/la-na-hawaii15jun15,1,6788448.story?coll=la-headlines-frontpage&ctrack=1&cset=true> ,' said a senior administration official who requested anonymity so as to not upstage Bush's announcement today." (Kenneth R. Weiss, "Bush To Create World's Largest Marine Protected Area Near Hawaii," The Los Angeles Times, 6/15/06)

President Bush Praised For "Taking The Initiative" To Create World's Largest Marine Preserve. "The president's announcement is an important step in what we hope will be greater efforts to safeguard the ocean, while also addressing broader problems of overfishing, pollution and habitat destruction. There are few opportunities for a president to protect such a large swath of ocean or land at little cost to the government, while garnering strong regional support. This is one, and we applaud Mr. Bush for taking the initiative to preserve one of the world's most spectacular marine environments <http://www.nytimes.com/2006/06/15/opinion/15roosevelt.html?_r=1&oref=slogin> ." (Joshua Reichert and Theodore Roosevelt IV, Op-Ed, "Treasure Islands," The New York Times, 6/15/06)

Federal Agents Arrest More Than 2,000 Illegal Immigrants In Nationwide Crackdown. "Federal agents have arrested more than 2,000 illegal immigrants, many of them convicted criminals, child predators, gang members and fugitives, in sweeps across the country over the past three weeks, authorities said Wednesday <http://www.usatoday.com/printedition/news/20060615/a_arrests15.art.htm> . Immigration and Customs Enforcement's Operation Return to Sender was the latest in a series of crackdowns on illegal immigrants since Homeland Security Secretary Michael Chertoff promised a tougher enforcement effort in April. 'America's welcome does not extend to immigrants who come here to commit crimes,' ICE Assistant Secretary Julie Myers said in Houston, where she announced 2,179 arrests." (William M. Welch, "More Than 2,000 Illegal Immigrants Nabbed In Sweep," USA Today, 6/15/06)

Poll Finds Increased Support For President Bush's Comprehensive Immigration Reform Proposal. "Add this to the list of things that have gone right lately for President Bush: Americans appear to be drawing closer to his view on the immigration debate. <http://online.wsj.com/public/article/SB115032093365180439-fSslPJc73kGVI2F_6gTF6xKxhiA_20060715.html?mod=tff_main_tff_top> ... By 50%-33%, the survey shows, Americans support the views expressed by President Bush and also by businesses, Hispanics and Democratic leaders: that steps to strengthen border security should be combined with a guest-worker program for prospective immigrants and those who have been in the U.S. for at least two years." (John Harwood, "Public Warms To Bush Immigration Stance," The Wall Street Journal, 6/15/06)

House Budget Committee Approves Line-Item Veto Bill. "The House Budget Committee on Wednesday approved by a 24-9 vote a bill to allow the president to single out wasteful items contained in appropriations bills he signs into law, and it would require Congress to vote on those items again <http://news.yahoo.com/s/ap/20060614/ap_on_go_co/congress_line_item_veto&printer=1;_ylt=AhOattas0z2_nAP8grsrQ9SMwfIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> . Under the proposal, it would take a simple majority in both House and Senate to approve the items over the president's objections. ... 'Even if the president identifies numerous pork-barrel projects ... he is unlikely to use his veto power because it must be applied to the bill as a whole and cannot be used to target individual items,' said Ryan. 'Does he veto an entire spending bill because of a few items of pork when this action may jeopardize funding for our troops, for our homeland security or for the education of our children?'" (Andrew Taylor, "House Panel Approves Line-Item Veto Bill," The Associated Press, 6/14/06)

HUD Secretary Alphonso Jackson Says Agency Is Set To Rebuild Public Housing Destroyed In Hurricane Katrina. "The U.S. Department of Housing and Urban Development announced a plan Wednesday to rebuild the bulk of the city's public housing that was destroyed in Hurricane Katrina. More than 1,000 public-housing units will reopen by the end of August, enabling more of the city's poor to come home. HUD Secretary Alphonso Jackson also said the agency will increase the amount of its rent-subsidy vouchers and tear down several crumbling complexes so they can be redeveloped as mixed-income neighborhoods. 'We want to ensure the public housing of the future is a source of pride for all residents of the city,' Jackson said <http://www.usatoday.com/printedition/news/20060615/a_housing15.art.htm> ." (Anne Rochell Konigsmark, "New Orleans Public-Housing Plan Set," USA Today, 6/15/06)

Government Program To Improve Background Checks Of Airline Passengers Moves Forward. "The government's long-delayed effort to improve background checks of airline passengers is moving ahead after years of floundering, a congressional investigator told lawmakers Wednesday. ' I've seen very positive steps lately that are encouraging,' said Cathleen Berrick, director of homeland security and justice for the Government Accountability Office, the investigative agency of Congress <http://www.usatoday.com/printedition/news/20060615/a_tsa15.art.htm> . ... Airlines currently check domestic passengers' names against incomplete, declassified terrorist watch lists. Secure Flight would differ in that the TSA would check domestic passengers' names against comprehensive terrorist databases kept by the government." (Thomas Frank, "Secure Flight Program May Finally Take Off," USA Today, 6/15/06)

Press Conference of the President
<http://www.whitehouse.gov/news/releases/2006/06/20060614.html>

President Meets with Iraq Study Group
<http://www.whitehouse.gov/news/releases/2006/06/20060614-3.html>

* In Focus: Renewal in Iraq
<http://www.whitehouse.gov/infocus/iraq/>

President Bush Welcomes President Uribe of Colombia to the White House
<http://www.whitehouse.gov/news/releases/2006/06/20060614-1.html>

* In Focus: Global Diplomacy
<http://www.whitehouse.gov/infocus/globaldiplomacy/>

Ask the White House: Peter Rodman, Assistant Secretary of Defense for International Security Affairs, Discusses Progress in Iraq
<http://www.whitehouse.gov/ask/20060614.html>

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 15, 2006 10:29 AM
To: USDOJ- Office of Public Affairs
Subject: HONEYWELL INTERNATIONAL INC. TO PAY UNITED STATES $2.6 MILLION FOR VIOLATING THE FALSE CLAIMS ACT

Department of Justice

FOR IMMEDIATE RELEASE

CIV

THURSDAY, JUNE 15, 2006

(202) 514-2007

WWW.USDOJ.GOV
TDD (202) 514-1888

HONEYWELL INTERNATIONAL INC. TO PAY UNITED STATES $2.6 MILLION FOR VIOLATING THE FALSE CLAIMS ACT

WASHINGTON - Honeywell International Inc. will pay the United States $2.6 million to resolve allegations that the company violated the False Claims Act, the Justice Department announced today. The government alleges that Honeywell did not properly test electrostatic protective metallic sheets which had been qualified by the Department of the Navy for use in packaging over 186,000 sensitive parts used by the Department of Defense (DoD) and the National Aeronautic and Space Administration (NASA).

"This settlement exemplifies the Justice Department's determination to ensure that goods and services provided to the United States should always meet the highest possible standards and are free of defects," said Assistant Attorney General Peter Keisler of the Civil Division.

The settlement resolves Honeywell's potential liability under the False Claims Act arising from the *qui tam* complaint. Under the statute, a private party, known as a "relator" or whistleblower, can file a suit on behalf of the United States and receive a portion of the recovery. As a result of today's settlement, the relator will receive $393,750.

DOJ_NMG_ 0161660

The litigation and settlement of the case were conducted by the Department's Civil Division along with the United States Attorney's Office for the District of New Jersey. The case was investigated by the DoD's Defense Criminal Investigative Service Office of the Defense Inspector General, NASA's Office of Inspector General, and the Department of the Air Force

Office of Special Investigation. The case was originally filed in the United States District Court in the Central District of California before being transferred to the United States District Court for the District of New Jersey.

# # #

06-370

DOJ_NMG_ 0161661

Image not available for this document, ID: 0.7.10316.7647-000001

Image not available for this document, ID: 0.7.10316.7647-000002

Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	5710
Start:	Thursday, February 10, 2005 11:00 AM
End:	Thursday, February 10, 2005 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kim, Wan (CRT); King, Loretta (CRT); King, Loretta (CRT); Gorsuch, Neil M; Pacold, Martha M; Comisac, Rena (CRT); Swenson, Lily F; Todd, Gordon (SMO); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT); Agarwal, Asheesh (CRT)
Optional Attendees:	Saull, Bradley (CRT); 'Todd, Gordon (CRT)'

When: Occurs every Thursday effective 2/10/2005 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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Addition Asheesh Agarwal, removal of Brad Schlozman

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Asheesh Agarwal-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz

POC: Currie Gunn x4-9500

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 15, 2006 12:28 PM
To: Gorsuch, Neil M
Subject: hrg

Neil,

Would you please give me a call when you have a moment re: hearing timing.
DD: 514-8356
Cell: [redacted]

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 15, 2006 1:02 PM
To: USDOJ- Office of Public Affairs
Subject: LARGEST HEALTH CARE SYSTEM IN NEW JERSEY TO PAY U.S. $265 MILLION TO RESOLVE ALLEGATIONS OF DEFRAUDING MEDICARE

Department of Justice

FOR IMMEDIATE RELEASE

CIV

THURSDAY, JUNE 15, 2006

(202) 514-2007
WWW.USDOJ.GOV

TDD (202) 514-1888

LARGEST HEALTH CARE SYSTEM IN NEW JERSEY TO PAY U.S. $265 MILLION TO RESOLVE ALLEGATIONS OF DEFRAUDING MEDICARE

WASHINGTON – Saint Barnabas Corporation, the largest health care system in New Jersey and second largest employer in the state, has agreed to pay the United States $265 million to settle allegations that it defrauded the federal Medicare program, the Justice Department and the U.S. Attorney for New Jersey announced today.

The settlement resolves allegations that the Saint Barnabas Corporation, and nine of the hospitals that it has operated, fraudulently increased charges to Medicare patients in order to obtain enhanced reimbursement from Medicare. In addition to its standard payment system, Medicare pays supplemental reimbursement to hospitals and other health care providers in cases where the cost of care is unusually high. These cases are known as "outliers." Congress enacted the supplemental outlier payment system to ensure that hospitals possess the incentive to treat inpatients whose care requires unusually high costs.

The United States alleged that between October 1995 and August 2003, Saint Barnabas hospitals purposefully inflated charges for inpatient and outpatient care to make these cases appear more costly than they actually were, and thereby obtained outlier payments from Medicare that they were not entitled to receive.

DOJ_NMG_ 0161666

"Today's settlement demonstrates the United States' determination to make sure health care providers do not overcharge the Medicare program," said Assistant Attorney General Peter Keisler, head of the Justice Department's Civil Division.

The civil settlement agreement resolves allegations against Saint Barnabas that were filed in two separate federal lawsuits brought by three "whistle blowers" under the federal False Claims Act. The False Claims Act permits private citizens to bring lawsuits on behalf of the United States and receive a portion of the proceeds of a settlement or judgment awarded against a defendant.

"With the number of hospitals in New Jersey that serve populations dependent upon the federal health care programs, the integrity of the Medicare system is extremely important to our State, " said First Assistant United States Attorney Ralph J. Marra, Jr. "This settlement demonstrates the cooperative efforts of several government offices to ensure the integrity of the Medicare system."

As part of the $265 million settlement, Saint Barnabas has entered into a Corporate Integrity Agreement with the United States Department of Health and Human Services, Office of Inspector General. The Corporate Integrity Agreement contains measures to ensure compliance with Medicare regulations and policies in the future.

The settlement with Saint Barnabas was the result of a coordinated effort among the Department of Justice Civil Division's Commercial Litigation Branch; the United States Attorney's Office for the District of New Jersey, Affirmative Civil Enforcement Unit; the United States Attorney's Office for the Eastern District of Pennsylvania; the Department of Health and Human Services' Office of Inspector General and Office of Counsel to the Inspector General; the Centers for Medicare and Medicaid Services; the Federal Bureau of Investigation; and the U.S. Postal Inspection Service, in investigating and resolving the allegations.

###

06-373

DOJ_NMG_ 0161667

Image not available for this document, ID: 0.7.10316.7620-000001

Image not available for this document, ID: 0.7.10316.7620-000002

Robert_F._Hoyt@who.eop.gov

From: Robert_F._Hoyt@who.eop.gov
Sent: Thursday, June 15, 2006 1:38 PM
To: Gorsuch, Neil M
Subject: FW: Conference Info
Attachments: tmp.htm; 1520.pdf
Importance: High

Neil,

Here is the call-in info.

Bob

From: Roberts, Keith L.
Sent: Thursday, June 15, 2006 12:37 PM
To: Hoyt, Robert F.; Sokul, Stanley S.
Cc: Bernson, Victor E.; Leonard, Rachael L.
Subject: FW: Conference Info
Importance: High

Bob and Stan,

Here's the information for the conference call this afternoon.

Stan, Please forward to the AUSA so he'll have the participant code.

Keith

From: Leonard, Rachael L.
Sent: Thursday, June 15, 2006 12:22 PM
To: Bernson, Victor E.; Roberts, Keith L.; Martin, Cynthia A.

Subject: FW: Conference Info
Importance: High

-----Original Message-----
From: Race, Katherine S.
Sent: Thursday, June 15, 2006 12:16 PM
To: Leonard, Rachael L.
Subject: Conference Info

(Please do not reply to this message)

Hello,

Attached you will find the information for the conference you requested.
The participant code is the one you give to those people you are inviting to your conference. Also, be sure to give them the conference bridge number, 202-395-6392 for local callers or 800-568-0174 for long distance.

If you have any questions or changes, please call the conference operator directly. Have a terrific day!

Sincerely,

Katherine Race

Special Services Operator

Executive Office of the President
CONFERENCE CALL REQUEST

☒ NEW ☐ CHANGE ☐ CANCEL

DATE REQUESTED: 06/15/2006 (DATE) / 12:02 pm (TIME) **RECEIVED BY:** 23 (OPERATOR #)

CUSTOMER PROVIDED INFORMATION:

REQUESTOR/CONTACT PERSON: Rachael Leonard **TELEPHONE:** 395-1270

CONFERENCE LEADER: Vic Bernson (if other than requestor) **TELEPHONE:** 395-1268

EOP COMPONENT/ORGANIZATION: OA

NUMBER OF PARTICIPANTS: 5 **ENTRY/EXIT TONE:** ☒ YES ☐ NO

TYPE OF CONFERENCE: ☒ **ONE TIME** ☐ **RECURRING***

START DATE: 6/15/2006 **START TIME:** 2:00 pm

END TIME: 2:30 pm

***RECURRING CONFERENCES ONLY:**

☐ **DAILY (M-F)** ☐ **DAILY (M-F + WEEKEND)**

☐ **WEEKLY** **DAY OF WEEK:** _____

☐ **MONTHLY** **WEEK OF MONTH:** _____

END DATE: _____ **END TIME:** _____

BRIDGE NUMBER: 202-395-6392 OR TOLL FREE 800-568-0174

TO BE COMPLETED BY CONFERENCE OPERATOR:

CONFIRMATION NUMBER: 1520

PARTICIPANT CODE: 089 3253 **LEADER CODE:** 203 8880

CONFERENCE NAME: BERNSON

NOTES/SPECIAL HANDLING INSTUCTIONS:

_____

_____

_____

To request changes or submit additional requests, please contact the Switchboard via
Telephone: 202-456-1414 or by dialing "O" inside the complex.
Fax: 202-456-1644
Email: DL-WHO-Operators

Neil,

Here is the call-in info.

Bob

From: Roberts, Keith L.
Sent: Thursday, June 15, 2006 12:37 PM
To: Hoyt, Robert F.; Sokul, Stanley S.
Cc: Bernson, Victor E.; Leonard, Rachael L.
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(Please do not reply to this message)

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If you have any questions or changes, please call the conference operator directly. Have a terrific day!

Sincerely,

Katherine Race
Special Services Operator

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 2:20 PM
To: Macklin, Kristi R
Subject: Re: hrg

Just tried you unsuccessfully. I am now reachable - on celll - at [redacted] Thanks!

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Thu Jun 15 12:27:32 2006
Subject: hrg

Neil,

Would you please give me a call when you have a moment re: hearing timing.
DD: 514-8356
Cell: [redacted]

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 15, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Re: hrg

Am in a mtg - will give you a call when I get out.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Thu Jun 15 14:20:15 2006
Subject: Re: hrg

Just tried you unsuccessfully. I am now reachable - on celll - at [redacted] Thanks!

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Thu Jun 15 12:27:32 2006
Subject: hrg

Neil,

Would you please give me a call when you have a moment re: hearing timing.
DD: 514-8356
Cell: [redacted]

Klein, Laura F

From: Klein, Laura F
Sent: Thursday, June 15, 2006 4:05 PM
To: Jonas, Lori (ENRD); Levy, Jonathan (CIV); Hines, Rachel (CIV); Fusi, Susan (CRT); Gray, Peter; Patil, Jason (CIV); Nusraty, Timothy (CIV); Hemesath, Audrey (USACAE); Biros, Frank (ENRD); Fitzgerald, Donna (ENRD); Milius, Pauline (ENRD); O'Cadiz, Sergio (EOIR); McLaughlin, Frances (CIV); Schneider, Todd; Lukas-Jackson, Jennifer (ENRD); Pletcher, Mark; Phelps, Alan; Healy, Terence (CIV); [redacted] (CRM) (OCDETF); Hillman, Noel; Scheele, Scott; Geller, Clare (CRT); Caspar, Edward G (CRT); Saltsman, Gary (EOIR); Filippini, John; Kim, Nancy (CIV); Chambers, Felicia (CIV); Hsu, Kathy; Kenney, Kathleen M.; Draughn, Barbara; Peritz, Leslie; Rao, Sonya (CRT); Goitein, Elizabeth (CIV); Beaumier, Christina; Pearlman, Heather (CIV); Dubin, Mark A; Kassabian, Tamara (CRT); Lawrence, Helena F. (TAX); Geurtsen, Frits; Rinker, Marcia; McCall, Melonie (CIV); Payne, James (ENRD); 'Zane, Daria'; Shore, Elise (CRT); Harrison, Paul (ENRD); Hagler, Tamar (CRT); [redacted] (USAPAW); Sanders, Matthew (ENRD); Konschnik, Kate (ENRD); Silverwood, James; Toth, Brian (ENRD); Hamilton, Dorian (CIV); Mlynar, Maria (EOIR); Dennis, Renee (EOIR); Reyes, Christina (EOIR); Park, Sandra; Hellings, Richard; Wright, Roberta G. (TAX); Branch, LaShanda (CRT); White, Ned (CIV); Quash, Linda (CRT); Waters, Richard L (CRT); Pericak, Patrick M. (TAX); Keveney, Sean R (CRT); Brown, Jennifer K. (TAX); Barron, Graham L; Reilly, Susan (CRT); Taylor, Chip (CRT); Ashworth, Jennifer H; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); [redacted] LEO); Campos, Marta (CRT); Mitchell, Stacey (ENRD); Wozniak, Karen E. (TAX); Wahlquist, Larry E.; Ross, Simone E; Kokot, Amy (CIV); Lehman, Heather (CIV); Roque, Sarah (CRT); Meister, Melissa (CIV); Alexander, Tamara (CRT); Hewitt, Kim (ENRD); Freeman, Mark (CIV); Wise, Leo; Petalas, Dan; Wilder, Robert; Prather, D. Carl; Newton, Cullen (ENRD); Dunston, Jerri; Mark, Caryn (TAX); Mark, Nicole R; Haag, Mark (ENRD); Smith, Dan (ENRD); Rhazi, Nadia (ENRD); Peters, Gary; Comenetz, Aaron; Bhagat, Monika (CRT); McNamee, Victoria (CRT); Edison, Kristin (CIV); Smith, Debbie (CIV); Smith, Calisa (ENRD); Bollock, Jamon (ENRD); Kerrigan, Marli; Vasiliadis, Michael C. (TAX); Ryan, James; Villa, Michael (ENRD); Strimel, Mary; [redacted] (USADC); Smalling, Michelle B (TAX); Phipps, Peter (CIV); Anderson, Esperanza (ENRD); Schwartz, Joel; Conrad, Dawn (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Meeks, Marcus (CIV); Neely, Clynetta (CIV); Parascandola, Christina (ENRD); Fayhee, Ryan (CIV); Friedman, Michael (CIV); Oropeza, Christopher R; Blakeman, Carly; Blake, Dave; Greenleaf, Anne; Hirt, Theodore (CIV); Murphy, Brian; Molen, Kathleene A; Gorsuch, Neil M; Mathews-Novelli, Scott; Smith, Kathryn (CIV); Hussey, Olivia; Aslan, Erin; Blanco, Caroline (ENRD); Burgess, Wells (ENRD); Basciano, Vincent (ENRD); Bassett, Spencer; Kendall, Paul; Carney, Mary E; Sundaram, Sivashree; Davis, Michael W. (TAX); Espenoza, Cecelia (EOIR); Cook, Marcy (CIV); Hahn, Carolyn (CIV); Irving, Alfred (ENRD); Keisler, Peter D (CIV);

Cruden, John (ENRD); Dixton, Jennifer
Cc: Micone, Vince N
Subject: Tenth Anniversary Celebration of the DOJ Pro Bono Program

The Department of Justice Pro Bono Program
Celebrates Its Tenth Anniversary
1996-2006

In 1996, the Department of Justice formalized the first federal agency pro bono policy and initiated the Pro Bono Program. Since that time, DOJ has been on the forefront of promoting government attorney pro bono participation, developing new opportunities for government attorneys and guiding other federal agencies in the pro bono effort.

You are cordially invited to attend the Tenth Anniversary Celebration of the Department of Justice Pro Bono Program, hosted by Deputy Attorney General Paul McNulty on Tuesday, June 27th at 2:00 in Main Justice Room 4111. Remarks will be given by the Deputy Attorney General and by guest of honor John Cruden, the outgoing DC Bar President and ENRD Deputy Assistant Attorney General, who has done so much to promote government pro bono participation. Light refreshments will be served.

RSVPs are appreciated. Please let me know if you are in need of any special accomodation.
Best,
Laura Klein
DOJ Pro Bono Program Manager

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 4:08 PM
To: Shaw, Aloma A
Subject: Fw: Tenth Anniversary Celebration of the DOJ Pro Bono Program

Plse could you add to my calendar and rsvp? Thanks.

-----Original Message-----
From: Klein, Laura F
To: Jonas, Lori (ENRD); Levy, Jonathan (CIV); Hines, Rachel (CIV); Fusi, Susan (CRT); Gray, Peter; Patil, Jason (CIV); Nusraty, Timothy (CIV); Hemesath, Audrey (USACAE); Biros, Frank (ENRD); Fitzgerald, Donna (ENRD); Milius, Pauline (ENRD); O'Cadiz, Sergio (EOIR); McLaughlin, Frances (CIV); Schneider, Todd; Lukas-Jackson, Jennifer (ENRD); Pletcher, Mark; Phelps, Alan; Healy, Terence (CIV); [redacted] (CRM) (OCDETF); Hillman, Noel; Scheele, Scott; Geller, Clare (CRT); Caspar, Edward G (CRT); Saltsman, Gary (EOIR); Filippini, John; Kim, Nancy (CIV); Chambers, Felicia (CIV); Hsu, Kathy; Kenney, Kathleen M.; Draughn, Barbara; Peritz, Leslie; Rao, Sonya (CRT); Goitein, Elizabeth (CIV); Beaumier, Christina; Pearlman, Heather (CIV); Dubin, Mark A; Kassabian, Tamara (CRT); Lawrence, Helena F. (TAX); Geurtsen, Frits; Rinker, Marcia; McCall, Melonie (CIV); Payne, James (ENRD); 'Zane, Daria'; Shore, Elise (CRT); Harrison, Paul (ENRD); Hagler, Tamar (CRT); [redacted] (USAPAW); Sanders, Matthew (ENRD); Konschnik, Kate (ENRD); Silverwood, James; Toth, Brian (ENRD); Hamilton, Dorian (CIV); Mlynar, Maria (EOIR); Dennis, Renee (EOIR); Reyes, Christina (EOIR); Park, Sandra; Hellings, Richard; Wright, Roberta G. (TAX); Branch, LaShanda (CRT); White, Ned (CIV); Quash, Linda (CRT); Waters, Richard L (CRT); Pericak, Patrick M. (TAX); Keveney, Sean R (CRT); Brown, Jennifer K. (TAX); Barron, Graham L; Reilly, Susan (CRT); Taylor, Chip (CRT); Ashworth, Jennifer H; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); [redacted] (LEO); Campos, Marta (CRT); Mitchell, Stacey (ENRD); Wozniak, Karen E. (TAX); Wahlquist, Larry E.; Ross, Simone E; Kokot, Amy (CIV); Lehman, Heather (CIV); Roque, Sarah (CRT); Meister, Melissa (CIV); Alexander, Tamara (CRT); Hewitt, Kim (ENRD); Freeman, Mark (CIV); Wise, Leo; Petalas, Dan; Wilder, Robert; Prather, D. Carl; Newton, Cullen (ENRD); Dunston, Jerri; Mark, Caryn (TAX); Mark, Nicole R; Haag, Mark (ENRD); Smith, Dan (ENRD); Rhazi, Nadia (ENRD); Peters, Gary; Comenetz, Aaron; Bhagat, Monika (CRT); McNamee, Victoria (CRT); Edison, Kristin (CIV); Smith, Debbie (CIV); Smith, Calisa (ENRD); Bollock, Jamon (ENRD); Kerrigan, Marli; Vasiliadis, Michael C. (TAX); Ryan, James; Villa, Michael (ENRD); Strimel, Mary; [redacted] (USADC); Smalling, Michelle B (TAX); Phipps, Peter (CIV); Anderson, Esperanza (ENRD); Schwartz, Joel; Conrad, Dawn (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Meeks, Marcus (CIV); Neely, Clynetta (CIV); Parascandola, Christina (ENRD); Fayhee, Ryan (CIV); Friedman, Michael (CIV); Oropeza, Christopher R; Blakeman, Carly; Blake, Dave; Greenleaf, Anne; Hirt, Theodore (CIV); Murphy, Brian; Molen, Kathleene A; Gorsuch, Neil M; Mathews-Novelli, Scott; Smith, Kathryn (CIV); Hussey, Olivia; Aslan, Erin; Blanco, Caroline (ENRD); Burgess, Wells (ENRD); Basciano, Vincent (ENRD); Bassett, Spencer; Kendall, Paul; Carney, Mary E; Sundaram, Sivashree; Davis, Michael W. (TAX); Espenoza, Cecelia (EOIR); Cook, Marcy (CIV); Hahn, Carolyn (CIV); Irving, Alfred (ENRD); Keisler, Peter D (CIV); Cruden, John (ENRD); Dixton, Jennifer
CC: Micone, Vince N
Sent: Thu Jun 15 16:04:54 2006
Subject: Tenth Anniversary Celebration of the DOJ Pro Bono Program

Subject: Tenth Anniversary Celebration of the DOJ Pro Bono Program

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RSVPs are appreciated. Please let me know if you are in need of any special accomodation.
Best,
Laura Klein
DOJ Pro Bono Program Manager

Full Name: Aloma Shaw
Last Name: Shaw
First Name: Aloma
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 5706
Washington, DC 20530

Business: 202-514-9500
Business Fax: 202-514-0238

E-mail: Aloma.A.Shaw@SMOJMD.USDOJ.gov
E-mail Display As: Aloma.A.Shaw@SMOJMD.USDOJ.gov

DOJ_NMG_ 0161680

Shaw, Aloma A

Subject:	Daily Logistics Mtg
Location:	PH 1200
Start:	Tuesday, June 27, 2006 2:00 PM
End:	Tuesday, June 27, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 4:42 PM
To: Macklin, Kristi R
Subject: Fw: Rocky
Attachments: tmp.htm

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 15 16:23:51 2006
Subject: Rocky

WASHINGTON - Time is running out before a Colorado judicial nomination could get stalled in the U.S. Senate's summer swoon.
President Bush has nominated attorney and legal scholar Neil Gorsuch to fill a seat on the Denver-based 10th Circuit Court of Appeals, and backers hope he gets a hearing in the Senate Judiciary Committee in the next few weeks.
But if there's a delay and the committee can't agree to advance the nomination by the Senate's August recess, it's unlikely he can be win final Senate confirmation by the end of the year, said Sean Conway, chief of staff to Sen. Wayne Allard, R-Loveland.
That prospect, and the lengthy delay in confirming an earlier 10th Circuit nominee, Tim Tymkovich, prompted Allard to hand-deliver a letter to Senate Judiciary Committee chairman Sen. Arlen Specter, R-Pa., this week asking him to expedite Gorsuch's confirmation.
"What we're trying to do is get this process moving," Allard chief of staff Sean Conway said Thursday. "What pushed this is we do not want a repeat of the Tymkovich situation where we had a vacancy on the court for over two years."
"Sen. Allard just doesn't feel it's prudent to have a vacancy on an important appeals court like this, particularly with a non-controversial nominee."
So far, no overt opposition has emerged to Gorsuch's nomination, but arcane Senate procedures have left the timing of his pending confirmation hearings up in the air.
By Senate tradition, the Judiciary Committee does not move forward with confirmation hearings until a nominee's two home-state Senators deliver so-called "blue slips" indicating they approve going forward.
In the past, Allard has used that procedure to block two of former President Bill Clinton's Colorado judicial nominees.
As of Thursday afternoon, Sen. Ken Salazar, D-Denver, had not delivered his "blue slip" on Gorsuch, but spokesman Drew Nannis said there was no intent to delay Gorsuch and that Salazar's sign-off could come within a day or two.

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not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that you must not read or play this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify the sender by telephone or return e-mail and delete the original transmission and its attachments without reading or saving in any manner. Thank you.

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FEDERAL TAX ADVICE DISCLAIMER We are required by U. S. Treasury Regulations to inform you that, to the extent this message includes any federal tax advice, this message is not intended or written by the sender to be used, and cannot be used, for the purpose of avoiding federal tax penalties.

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 15, 2006 5:06 PM
To: Gorsuch, Neil M
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 5:15 PM
To: Cook, Elisebeth C
Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 15, 2006 5:15 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: San Fran

I will be out of the office until Monday, June 19, but will have blackberry access. If you need immediate assistance, please contact the OLP front office.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 5:16 PM
To: Macklin, Kristi R
Subject: Phone calls

I left vms abt my calls but have a bit more to rept when you get a chance [redacted] Thanks!

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 15, 2006 5:37 PM
To: Gorsuch, Neil M
Subject: Re: San Fran

We should be at our hotel about 7:30. Could do dinner or lunch tomorrow after arguments.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 6:12 PM
To: Cook, Elisebeth C
Subject: Re: San Fran

Might we aim for lunch? Name a time and place to meet! I feel like I've got a fair amt of thinking to do tonight. Whose your panel and which is your case?

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:36:35 2006
Subject: Re: San Fran

We should be at our hotel about 7:30. Could do dinner or lunch tomorrow after arguments.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

Grand hyatt (not so grand)

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To: Gorsuch, Neil M
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Subject: San Fran

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 6:18 PM
To: Brand, Rachel
Subject: Fw: Rocky
Attachments: tmp.htm

Fyi as discussed. Salazar's person quoted at end.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Thu Jun 15 16:42:06 2006
Subject: Fw: Rocky

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 15 16:23:51 2006
Subject: Rocky

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Full Name:	Rachel Brand
Last Name:	Brand
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E-mail:	Rachel.Brand@SMOJMD.USDOJ.gov
E-mail Display As:	Rachel.Brand@SMOJMD.USDOJ.gov

DOJ_NMG_ 0161694

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Thursday, June 15, 2006 6:22 PM
To: Gorsuch, Neil M
Subject: Are you here?

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Thursday, June 15, 2006 6:25 PM
To: Gorsuch, Neil M
Subject: Re: Are you here?

Obviously not; you are probably on a flight to SF. Call my cell if you have a chance; have a very small bit of information that may be of interest (but nothing major and can wait if you prefer).

JJ

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Counsel
Office of Legal Policy
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[redacted] (cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Thu Jun 15 18:22:30 2006
Subject: Are you here?

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 15, 2006 6:53 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 15, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Senator Specter Requests Attorney General Testimony (OPA)
The Associated Press and *Boston Globe* inquired about a letter Senator Arlen Specter sent requesting that the Attorney General testify regarding the Administration's terrorist surveillance program.

Talking Points:

- We are currently working with Senator Specter to set a date for the Attorney General to appear before the committee.

Former FBI Agent Sentenced in North Carolina (Criminal)
A former Supervisory Special Agent and Chief Division Counsel for the Charlotte Field Division of the Federal Bureau of Investigation (FBI), was sentenced today to two years of supervised release and four hundred hours of community service, after pleading guilty in November 2005 to submitting a false writing to the FBI. Erik B. Blowers, 40, of Weddington, North Carolina, was sentenced this afternoon by U.S. District Judge N. Carlton Tilley, Jr., sitting by designation in the Western District of North Carolina. Blowers pleaded guilty on November 30, 2005, to a one-count criminal information charging that he knowingly made and submitted a false writing.

Largest Health Care System in New Jersey to Pay U.S. $265 Million to Resolve Allegations of Defrauding Medicare (Civil)
Saint Barnabas Corporation, the largest health care system in New Jersey and second largest employer in the state, has agreed to pay the United States $265 million to settle allegations that it defrauded the federal Medicare program, the Justice Department and the U.S. Attorney for New Jersey announced today. The settlement resolves allegations that the Saint Barnabas Corporation, and nine of the hospitals that it has operated, fraudulently increased charges to Medicare patients in order to obtain enhanced reimbursement from Medicare. In addition to its standard payment system, Medicare pays supplemental reimbursement to hospitals and other health care providers in cases where the cost of care is unusually high.

Honeywell International Inc. to Pay United States $2.6 Million for Violating the False Claims Act (Civil)

Honeywell International Inc. will pay the United States $2.6 million to resolve allegations that the company violated the False Claims Act, the Justice Department announced today. The government alleges that Honeywell did not properly test electrostatic protective metallic sheets which had been qualified by the Department of the Navy for use in packaging over 186,000 sensitive parts used by the Department of Defense (DoD) and the National Aeronautic and Space Administration (NASA).

Media Inquiries into Drug Seizures (DEA)
CNN and the *Associated Press* are working on stories regarding Home Depot drug seizures.

Talking Points:

- Often drug dealers attempt to conceal their drug loads by either embedding them with legitimate loads of goods, or by attempting to disguise their loads to look like other merchandise.

- This is an ongoing investigation so it would be inappropriate to comment further at this time.

International Drug Pipeline Destroyed (DEA)
Twenty-two defendants have been charged for their participation in an international heroin smuggling organization responsible for the importation of more than 200 kilograms of heroin with a street value of more than $14 million into the United States since 2004. Over the course of the investigation, United States, Trinidadian, and Ecuadorian authorities seized approximately 28 kilograms of heroin, including five kilograms abandoned by a drug courier in a Guayaquil, Ecuador hotel, four kilograms seized at the Bush Intercontinental Airport in Houston, more than four and one-half kilograms seized at John F. Kennedy Airport in Queens, and nearly six kilograms seized at the Piarco International Airport in Trinidad. Law enforcement agents also seized approximately $220,000 in cash. The charges are the result of a 10-month investigation that was conducted under the auspices of the U.S. Department of Justice Organized Crime Drug Enforcement Task Force, and utilized multiple confidential witnesses and sources, court-authorized wiretaps, surveillance, and a controlled heroin delivery.

CBS Public Service Announcement Featuring Denver Case (FBI)
CBS' *Without a Trace* will air its weekly public service announcement and feature the case of Jennifer Marcum who went missing from Denver, Colorado in February of 2003. Tomorrow morning CBS' *The Early Show* will air a follow up segment on the same case.

FRIDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General is in Moscow, Russia to participate in the G-8 Justice and Home Affairs Ministerial Summit. He will participate in G-8 Ministerial Press Conference. (Open Press)

DEA Deputy Assistant Administrator Joseph Rannazzisi will testify before the House Government Reform Subcommittee on Criminal Justice, Drug Policy, and Human Resources at a hearing on synthetic drug control strategy. (Open Press)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 6:55 PM
To: Jaffer, Jamil N
Subject: Re: Are you here?

From todays rocky mtn nws -

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From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Thu Jun 15 18:24:58 2006
Subject: Re: Are you here?

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JJ

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Counsel
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(202) 307-0120 (office)
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jamil.n.jaffer@usdoj.gov

System Administrator

From:	System Administrator
Sent:	Thursday, June 15, 2006 7:01 PM
To:	Wulf, David M.
Subject:	Undeliverable: Read:
Attachments:	Read: .msg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 7:01 PM
To: Wulf, David M.
Subject: Read:

Brand, Rachel

From: Brand, Rachel
Sent: Thursday, June 15, 2006 7:40 PM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: RE: Rocky

Kristi may have already told you, but she talked to SJC majority staff, and the line about the minority not having had access to your BI is bunk. They've had access to it for over two weeks. Kristi is working on making sure that Salazar's office is informed of that fact. Could be that SJC minority staff just hasn't taken the time to go look at the file yet.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 6:18 PM
To: Brand, Rachel
Subject: Fw: Rocky

Fyi as discussed. Salazar's person quoted at end.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Thu Jun 15 16:42:06 2006
Subject: Fw: Rocky

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 15 16:23:51 2006
Subject: Rocky

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 7:45 PM
To: Brand, Rachel
Subject: Re: Rocky

I sure appreciate efforts by you and Kristi in clearing this up. Is she calling [redacted] in Salazar's office? Since [redacted] spoke w[redacted]t might help to clear this up at the source.

-----Original Message-----
From: Brand, Rachel
To: Gorsuch, Neil M
CC: Macklin, Kristi R
Sent: Thu Jun 15 19:39:46 2006
Subject: RE: Rocky

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Sent: Thursday, June 15, 2006 6:18 PM
To: Brand, Rachel
Subject: Fw: Rocky

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From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Thu Jun 15 16:42:06 2006
Subject: Fw: Rocky

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 15 16:23:51 2006

Sent: Thu Jun 15 16:25:51 2006
Subject: Rocky

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 9:58 PM
To: Macklin, Kristi R
Subject: Blue slip

Did you sort out the fbi report issue w salazar's office such that blue slip can be returned tomorrow as lyons and newspaper seem to suggest? If not, do I need to ask friends to speak w leahy? salazar further?

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 15, 2006 10:03 PM
To: Gorsuch, Neil M
Subject: Re: San Fran

Lunch sounds good. Why don't we reconnoiter after arguments.

I have Vodnar, in front of Schroeder, Graber, and Duffy from SDNY.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 18:12:10 2006
Subject: Re: San Fran

Might we aim for lunch? Name a time and place to meet! I feel like I've got a fair amt of thinking to do tonight. Whose your panel and which is your case?

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:36:35 2006
Subject: Re: San Fran

We should be at our hotel about 7:30. Could do dinner or lunch tomorrow after arguments.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M

To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 15, 2006 10:39 PM
To: Gorsuch, Neil M
Subject: RE: Blue slip

Neil -- I talked to the Judiciary Committee folks. Our leg affairs shop is going to call Salazar's office tomorrow and mention that the bi has been available and that we need to get the blue slip in by tomorrow to get you a hearing by tomorrow. I'll let you know what happens.

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From: Gorsuch, Neil M
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To: Macklin, Kristi R
Subject: Blue slip

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 15, 2006 10:50 PM
To: Macklin, Kristi R
Subject: Re: Blue slip

Thanks so much.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Thu Jun 15 22:39:15 2006
Subject: RE: Blue slip

Neil -- I talked to the Judiciary Committee folks. Our leg affairs shop is going to call Salazar's office tomorrow and mention that the bi has been available and that we need to get the blue slip in by tomorrow to get you a hearing by tomorrow. I'll let you know what happens.

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Sent: Thursday, June 15, 2006 9:58 PM
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Subject: Blue slip

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[redacted]

From: [redacted]
Sent: Friday, June 16, 2006 12:13 AM
To: Gorsuch, Neil M
Subject: Re: Travels to DC

Neil,

Looks like I could do either lunch or a later coffee at SFO. Mild pref for later coffee. Let me know whatever works best for you. Good luck tomorrow.

-----Original Message-----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Thu, 15 Jun 2006 15:59:48
To [redacted]
Subject: Re: Travels to DC

Flight leaves at 4 so prob need to head towar sfo circa, what, 2?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jun 15 15:05:10 2006
Subject: RE: Travels to DC

I may be able to swing lunch tomorrow. I need to check on a couple of things. Is later in the afternoon a possibility as well? What time's your flight?

[redacted]
Day Casebeer Madrid & Batchelder LLP
20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014
Direct Line [redacted]
Fax (408) 873-0220
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 15, 2006 11:34 AM
To: [redacted]
Subject: Re: Travels to DC

I will check these dates with [redacted] and hope they work! I just arrived sf for argument tomorrow (short straw) and will be swamped w prep today. But arg should be done by noon tomorrow - any interest in lunch in the city?

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
CC: [redacted]
Sent: Thu Jun 15 11:15:47 2006
Subject: RE: Travels to DC

Neil,

Thanks for getting back to me about August. It would be great to get our families together, and to expose [redacted] to our nation's capitol, but I also recognize that things must be pretty hectic for you this summer. I've talked to [redacted] and it looks like we could make a trip July 27-30, arriving Thursday evening and departing Sunday morning or afternoon, if there's any chance that works for you. It looks like my July 7 and 14 trips are both going to be quick in-and-out trips, not terribly suitable for either visiting or combining with a family trip.

Speaking of quick trips, did you win (lose) the draw for oral argument in SF tomorrow? If you'll be here, we'd love to see you.

Best,

[redacted]

[redacted]
Day Casebeer Madrid & Batchelder LLP
20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014
Direct Line [redacted]
Fax (408) 873-0220
[redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, June 14, 2006 7:41 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Travels to DC

[redacted]

We'll be around and would love to see you have you stay with us during either July trip. Currently and really unfortunately, we plan to be in the [redacted] during the latter part of August visiting [redacted]

That could change, however, depening if and when the Senate acts on my nomination. Should it do so before the August recess, we may cancel our [redacted] trip and prepare for a move in August. Right now, however, I just don't have any clue whether that's likely to happen. I'm sorry for being so vague about August but my life is rather vague just now...

Warmest wishes,

Neil

-----Original Message-----
From: [redacted]
Sent: Monday, June 12, 2006 12:22 PM
To: Gorsuch, Neil M
Subject: Travels to DC

Neil,

Good to talk with you this weekend. Here's some travel-related information:

1. I will be in DC for a deposition on Friday July 7.
2. I may be arguing a CAFC argument on Friday July 14.

It doesn't quite look like it would make sense to bring my family either of those trips, for a variety of reasons, and the next opportunity for our family to travel to DC would be the weekend of August 17-20. Is that something that would likely work?

[redacted]
Day Casebeer Madrid & Batchelder LLP
20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014
Direct Line [redacted]
Fax (408) 873-0220
[redacted]

****
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Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, June 16, 2006 9:09 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: FW: Vehicles - Office of the Associate Attorney General

See below. How do you wish to handle?

Currie

From: Fradel, James E
Sent: Thursday, June 15, 2006 6:55 PM
To: Gunn, Currie (SMO)
Subject: RE: Vehicles - Office of the Associate Attorney General

As it turns out EDVA can only provide 4 spaces based on the current anticipated participation. Please let me know the FOUR folks you want to have parking. As noted in the visitor packages, commercial parking is available adjacent the EDVA facility.

Please let me know if you have questions. Thanks. Jim

From: Gunn, Currie (SMO)
Sent: Thursday, June 15, 2006 1:14 PM
To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted]
Mr. Gordon Todd - [redacted]
Associate Robert McCallum - [redacted]
Mr. Jeffrey Senger - [redacted]
Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 9:19 AM
To: Gunn, Currie (SMO); Gorsuch, Neil M
Subject: RE: Vehicles - Office of the Associate Attorney General

Let other four have EDVA spaces and I will park commercially. Robt.

From: Gunn, Currie (SMO)
Sent: Friday, June 16, 2006 9:09 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: FW: Vehicles - Office of the Associate Attorney General

See below. How do you wish to handle?

Currie

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To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted]
Mr. Gordon Todd - [redacted]
Associate Robert McCallum - [redacted]
Mr. Jeffrey Senger - [redacted]
Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 10:19 AM
To: USDOJ- Office of Public Affairs
Subject: OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE PLEADS GUILTY

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JUNE 16, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE PLEADS GUILTY

Caused Up To $20 Million in Losses to Software Industry

WASHINGTON—The owner of a massive for-profit software piracy Web site pleaded guilty in federal court, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg for the Eastern District of Virginia, announced today.

Danny Ferrer, 37, of Lakeland, Fla., pleaded guilty in Alexandria, Va. before U.S. District Court Judge T.S. Ellis III to one count of conspiracy and one count of criminal copyright infringement for selling pirated software through the mail. Ferrer, who is scheduled to be sentenced on August 25, 2006 at 9:00 A.M., could receive a maximum sentence of ten years in prison and a $500,000 fine. Ferrer also agreed to forfeit numerous airplanes, a helicopter, boats and cars, which he had purchased with the profits from his illegal enterprise, including: a Cessna 152; a Cessna 172RG; a Model TS-11 ISKRA aircraft; a RotorWay International helicopter; a 1992 Lamborghini; a 2005 Hummer; a 2002 Chevrolet Corvette; two 2005 Chevrolet Corvettes; a 2005 Lincoln Navigator; an IGATE G500 LE Flight Simulator; a 1984 twenty-eight foot Marinette hardtop express boat; and an ambulance.

"Today's conviction of one of the largest commercial online distributors of pirated software in the United States sends a clear message to those who pirate software for profit that stealing at the expense of the hard work and creativity of legitimate rights-holders is a crime for which you will be prosecuted," said Assistant Attorney General Alice Fisher. "This case reflects the Justice Department's continued commitment to the enforcement of intellectual property laws and to bringing those who steal software and other intellectual property to justice."

Beginning in late 2002 and continuing until its shutdown by the Federal Bureau of Investigation on October 19, 2005, Ferrer and his co-conspirators operated the www.BUYSUSA.com Web site, which sold copies of software products that were copyrighted by companies such as Adobe Systems Inc., Autodesk, and Macromedia Inc. at prices substantially below the suggested retail price. The software products purchased on the website were reproduced on compact discs and distributed through the mail. The operation included a serial number that allowed the purchaser to activate and use the product.

DOJ_NMG_ 0161718

"Online pirates prey on honest businesspeople and cost them millions of dollars a year–a cost partly and inevitably borne by consumers," said U.S. Attorney Rosenberg. "The public should remember that offers that sound too good to be true typically are too good to be true."

The investigation was conducted by agents of the FBI's Washington field office. After receiving complaints from copyright holders about Ferrer's website, an undercover FBI agent made a number of purchases of business and utility software from the site, which were delivered by mail to addresses in the Eastern District of Virginia.

Using evidence of the undercover purchases as probable cause, the Web site was taken down in October 2005 by agents of the FBI. Further investigation established that, during the time of its operation, www.BUYSUSA.com illegally sold more than $2.47 million of copyrighted software. These sales resulted in losses to the owners of the underlying copyrighted products of nearly $20 million.

The Business Software Alliance, a trade association which represents leading computer software companies, provided significant assistance to the investigation.

Jay V. Prabhu, trial attorney for the Justice Department's Computer Crime and Intellectual Property Section, and Edmund P. Power, Assistant U.S. Attorney for the Eastern District of Virginia, prosecuted the case on behalf of the government.

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06-371

DOJ_NMG_ 0161719

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Image not available for this document, ID: 0.7.10316.7292-000002

Full Name: Rebecca Seidel
Last Name: Seidel
First Name: Rebecca
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 1131
Washington, DC 20530
300B8798

Business: 202-616-7879

E-mail: Rebecca.Seidel@SMOJMD.USDOJ.gov
E-mail Display As: Rebecca.Seidel@SMOJMD.USDOJ.gov

DOJ_NMG_ 0161722

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 16, 2006 10:21 AM
To: Gorsuch, Neil M
Subject: Blue slip

Nancy talked to [redacted] in Salazar's office. [redacted] said that Salazar has every intention of returning the blue slip but is waiting to hear from the Leahy staff. I've asked Specter staff to talk to Leahy staff and see what the holdup is. I'm in a hearing at the moment and couldn't answer the phone.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 10:28 AM
To: Macklin, Kristi R
Subject: Re: Blue slip

Great - thanks. Just tried to call b[redacted] leg person is mtg w Salazar and staff shortly. [redacted] specifically asked for name and tel no of right Leahy staffer with the thought [redacted] give it t[redacted] and ask [redacted] to call today to sort this out asap.

What are they waiting on Leahy staff for? Do you want me to have certain calls made there? Should I offer to meet wit[redacted]? Or is this all a snafu that's getting resolved today?

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Fri Jun 16 10:20:44 2006
Subject: Blue slip

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Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 16, 2006 10:43 AM
To: Gorsuch, Neil M
Subject: Re: Blue slip

I don't think we want any more pressure. They have gotten the message.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Fri Jun 16 10:27:53 2006
Subject: Re: Blue slip

Great - thanks. Just tried to call bc [redacted] leg person is mtg w Salazar and staff shortly. [redacted] specifically asked for name and tel no of right Leahy staffer with the thought [redacted] give it to [redacted] nd ask [redacted] to call today to sort this out asap.

What are they waiting on Leahy staff for? Do you want me to have certain calls made there? Should I offer to meet with [redacted]? Or is this all a snafu that's getting resolved today?

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To: Gorsuch, Neil M
Sent: Fri Jun 16 10:20:44 2006
Subject: Blue slip

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Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 10:43 AM
To: Gorsuch, Neil M
Subject: question
Importance: High

Question - what is it that Salizar's folks said they haven't gotten? The background file? They don't get access to that I don't believe, it is VERY limited distribution. If it is just the questionnaire, public part, then ok.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 10:46 AM
To: Seidel, Rebecca
Subject: Re: question

Salazar's folks just want to hear that leahy's folks have the materials and have reviewed. That's it.

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 10:43:11 2006
Subject: question

Question - what is it that Salizar's folks said they haven't gotten? The background file? They don't get access to that I don't believe, it is VERY limited distribution. If it is just the questionnaire, public part, then ok.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 10:47 AM
To: Gorsuch, Neil M
Subject: RE: question

Ok, thanks. Good luck on your argument!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 10:46 AM
To: Seidel, Rebecca
Subject: Re: question

Salazar's folks just want to hear that leahy's folks have the materials and have reviewed. That's it.

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 10:43:11 2006
Subject: question

Question - what is it that Salizar's folks said they haven't gotten? The background file? They don't get access to that I don't believe, it is VERY limited distribution. If it is just the questionnaire, public part, then ok.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 11:17 AM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: Loop closed

Neil - Kristi left you a voicemail with some additional info. But suffice it to say, everything is on track for Leahy staff to talk to Salizar staff and no further outreach to Salizar staff is needed at this time. Everything is progressing nicely.
I closed the loop with Wylie Jones - very nice man.

So loop closed! Good luck on your argument!

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, June 16, 2006 11:37 AM
To: Gorsuch, Neil M
Subject: Pls call Paul Colborn 4-2048

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 11:43 AM
To: Gorsuch, Neil M
Subject: [redacted]

This is the spelling of [redacted] (is that the way the person you mentioned spells it?) [redacted] (she died when I was in college at 98). My great-aunt confirms that [redacted] and appears in several places in our genealogy. Never heard it associated with anyone else until today! Weird.

Full Name:	Mike Oneill
Last Name:	Oneill
First Name:	Mike
Business:	2022246872

Amber.JMD

From: Amber.JMD
Sent: Friday, June 16, 2006 12:09 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Columbia, MO

From: AmberAlert-DOJ
Sent: Friday, June 16, 2006 12:09:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Columbia, MO
Auto forwarded by a Rule

AMBER ALERT:Columbia,MO VEH:Bright red 4D CHILD:W/F,16yrs,5'05 110lb Eyes:Brn Hair:Brn
SUSPECT:Late teens-early 20's W/M,5'09 200lbs Hair:Sandy CALL573-442-6131

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Friday, June 16, 2006 12:39 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lawrenceville, IL

From: AmberAlert-DOJ
Sent: Friday, June 16, 2006 12:39:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lawrenceville, IL
Auto forwarded by a Rule

AMBER ALERT:Lawrenceville,IL VEH:Blk Chevy Silverado TAG:IL 4983ZH CHILD:7yo W/M 4'0" 68lbs SUS:41yo W/M 5'11" 240lbs CALL 618-943-5766

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 12:55 PM
To: Cook, Elisebeth C
Subject: Re: San Fran

I finished early and am in lawyers lounge on first floor. May try to get earlier flight.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 22:03:30 2006
Subject: Re: San Fran

Lunch sounds good. Why don't we reconnoiter after arguments.

I have Vodnar, in front of Schroeder, Graber, and Duffy from SDNY.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 18:12:10 2006
Subject: Re: San Fran

Might we aim for lunch? Name a time and place to meet! I feel like I've got a fair amt of thinking to do tonight. Whose your panel and which is your case?

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:36:35 2006
Subject: Re: San Fran

We should be at our hotel about 7:30. Could do dinner or lunch tomorrow after arguments.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C

To: Cook, Elisebeth C
Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:05 PM
To: Seidel, Rebecca
Subject: Re: [redacted]

You may have a wealthy long lost relative in Denver!

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 11:43:24 2006
Subject: [redacted]

This is the spelling of [redacted] (is that the way the person you mentioned spells it?) [redacted] (she died when I was in college at 98). My great-aunt confirms that [redacted] and appears in several places in our genealogy. Never heard it associated with anyone else until today! Weird.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:21 PM
To: Cook, Elisebeth C
Subject: Re: San Fran

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Subject: Re: San Fran

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Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Friday, June 16, 2006 1:33 PM
To: Gorsuch, Neil M
Cc: McIntosh, Brent
Subject: Re: San Fran

I am done. Am waiting outside courtrooms on third floor.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 18:12:10 2006
Subject: Re: San Fran

Might we aim for lunch? Name a time and place to meet! I feel like I've got a fair amt of thinking to do tonight. Whose your panel and which is your case?

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Subject: Re: San Fran

Grand hyatt (not so grand)

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From: Cook, Elisebeth C
To: Gorsuch, Neil M

Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Friday, June 16, 2006 1:40 PM
To: Gorsuch, Neil M
Subject: Re: San Fran

Sounds good. I'm waiting for Brent.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 13:21:19 2006
Subject: Re: San Fran

Looks like earlier flights are booked and I'm headed back to hotel to change (have a lot of time to kill). If you and/or Brent want to grab lunch just name a time and place and I will be there.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 12:55:00 2006
Subject: Re: San Fran

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Subject: Re: San Fran

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Subject: Re: San Fran

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Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

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-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 1:41 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

How did your oral argument go?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:05 PM
To: Seidel, Rebecca
Subject: Re[redacted]

You may have a wealthy long lost relative in Denver!

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 11:43:24 2006
Subject: [redacted]

This is the spelling of [redacted] (is that the way the person you mentioned spells it?) [redacted] (she died when I was in college at 98). My great-aunt confirms that [redacted] and appears in several places in our genealogy. Never heard it associated with anyone else until today! Weird.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:43 PM
To: Seidel, Rebecca
Subject: Re: [redacted]

Quick - they moved me up the list from last arg to second. Now have unexpected time to kill before catching red eye. Sorry to ask but is blue slip returned?

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 13:40:47 2006
Subject: RE: [redacted]

How did your oral argument go?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:05 PM
To: Seidel, Rebecca
Subject: Re: [redacted]

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From: Seidel, Rebecca
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Sent: Fri Jun 16 11:43:24 2006
Subject: [redacted]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:44 PM
To: Cook, Elisebeth C
Subject: Re: San Fran

Great. I'm at Union Square hyatt now and can meet you anywhere you two choose.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Fri Jun 16 13:40:24 2006
Subject: Re: San Fran

Sounds good. I'm waiting for Brent.

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From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 13:21:19 2006
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Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 1:56 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

Not yet, but things should be proceeding to move forward next week (that is close hold, DO NOT share with anyone)

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:43 PM
To: Seidel, Rebecca
Subject: Re: [redacted]

Quick - they moved me up the list from last arg to second. Now have unexpected time to kill before catching red eye. Sorry to ask but is blue slip returned?

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 13:40:47 2006
Subject: RE: [redacted]

How did your oral argument go?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 1:05 PM
To: Seidel, Rebecca
Subject: Re: [redacted]

You may have a wealthy long lost relative in Denver!

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
Sent: Fri Jun 16 11:43:24 2006
Subject: [redacted]

This is the spelling of [redacted] (is that the way the person you mentioned spells it?) [redacted] (she died when I was in college at 98). My great-aunt confirms that Ansschutz is Dutch and appears in several places in our genealogy. Never heard it associated with

[redacted] and appears in several places in our genealogy. Never heard it associated with anyone else until today! Weird.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, June 16, 2006 1:57 PM
To: Fradel, James E
Cc: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: Vehicles - Office of the Associate Attorney General

The principal and other deputies. Mr. McCallum will be arriving later in the morning from orientation at the other location and has indicated that he will park in the commercial lot.

Thanks

Currie

From: Fradel, James E
Sent: Thursday, June 15, 2006 6:55 PM
To: Gunn, Currie (SMO)
Subject: RE: Vehicles - Office of the Associate Attorney General

As it turns out EDVA can only provide 4 spaces based on the current anticipated participation. Please let me know the FOUR folks you want to have parking. As noted in the visitor packages, commercial parking is available adjacent the EDVA facility.

Please let me know if you have questions. Thanks. Jim

From: Gunn, Currie (SMO)
Sent: Thursday, June 15, 2006 1:14 PM
To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson [redacted]
Mr. Gordon Todd [redacted]
Associate Robert McCallum - [redacted]
Mr. Jeffrey Senger - [redacted]
Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:00 PM
To: Gunn, Currie (SMO); Fradel, James E
Cc: McCallum, Robert (SMO)
Subject: Re: Vehicles - Office of the Associate Attorney General

I am happy to park elsewhere and would really like Robert to park in the building.

-----Original Message-----
From: Gunn, Currie (SMO)
To: Fradel, James E
CC: McCallum, Robert (SMO); Gorsuch, Neil M
Sent: Fri Jun 16 13:57:00 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

The principal and other deputies. Mr. McCallum will be arriving later in the morning from orientation at the other location and has indicated that he will park in the commercial lot.

Thanks

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To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted] Mr. Gordon Todd - [redacted]

Associate Robert McCallum - Mr. Jeffrey Senger - Mr. Neil Gorsuch -

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 2:03 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO); Fradel, James E
Subject: RE: Vehicles - Office of the Associate Attorney General

Not nec. Thanks anyway. Hope the oral argument has gone or does go well. Break a leg. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:00 PM
To: Gunn, Currie (SMO); Fradel, James E
Cc: McCallum, Robert (SMO)
Subject: Re: Vehicles - Office of the Associate Attorney General

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-----Original Message-----
From: Gunn, Currie (SMO)
To: Fradel, James E
CC: McCallum, Robert (SMO); Gorsuch, Neil M
Sent: Fri Jun 16 13:57:00 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

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To: Gunn, Currie (SMO)
Subject: RE: Vehicles - Office of the Associate Attorney General

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Sent: Thursday, June 15, 2006 1:14 PM
To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted] Mr. Gordon Todd - [redacted] Associate Robert McCallum - [redacted] Mr. Jeffrey Senger - [redacted] Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:05 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Fradel, James E
Subject: Re: Vehicles - Office of the Associate Attorney General

Were not having the asg hoofing it! I will not be pkg in bldg.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Gorsuch, Neil M; Gunn, Currie (SMO); Fradel, James E
Sent: Fri Jun 16 14:03:06 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

Not nec. Thanks anyway. Hope the oral argument has gone or does go well. Break a leg. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:00 PM
To: Gunn, Currie (SMO); Fradel, James E
Cc: McCallum, Robert (SMO)
Subject: Re: Vehicles - Office of the Associate Attorney General

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-----Original Message-----
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To: Fradel, James E
CC: McCallum, Robert (SMO); Gorsuch, Neil M
Sent: Fri Jun 16 13:57:00 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

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Thanks

Currie

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To: Gunn, Currie (SMO)

To: Gunn, Currie (SMO)
Subject: RE: Vehicles - Office of the Associate Attorney General

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Please let me know if you have questions. Thanks. Jim

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Sent: Thursday, June 15, 2006 1:14 PM
To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted] Mr. Gordon Todd - [redacted] Associate Robert McCallum - [redacted] Mr. Jeffrey Senger - [redacted] Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Friday, June 16, 2006 2:14 PM
To: Gorsuch, Neil M
Subject: I have info

Call me when you have a second.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Friday, June 16, 2006 2:24 PM
To: Gorsuch, Neil M
Subject: Re: I have info

But don't discuss with your colleagues there.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Fri Jun 16 14:14:11 2006
Subject: I have info

Call me when you have a second.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

Hillman, Noel

From: Hillman, Noel
Sent: Friday, June 16, 2006 2:41 PM
Subject: Not read:
Attachments: ATTACHMENT.TXT

Your message

To: Hillman, Noel
Cc:
Subject: RE:
Sent: Fri, 12 May 2006 15:54:46 -0400

was deleted without being read on Fri, 16 Jun 2006 14:40:38 -0400

Final-Recipient: RFC822; Noel.Hillman@crm.usdoj.gov
Disposition: automatic-action/MDN-sent-automatically; deleted
X-MSExch-Correlation-Key: NJYOZ9Cxrkm4KvjXJS08Pw==

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Friday, June 16, 2006 2:41 PM
To: Gorsuch, Neil M
Subject: Re: San Fran

We will be at Sanraku, at the corner of Taylor and Sutter, within a mile of the courthouse. Call if you have a problem--353-5834. We're also calling you.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 13:43:57 2006
Subject: Re: San Fran

Great. I'm at Union Square hyatt now and can meet you anywhere you two choose.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Fri Jun 16 13:40:24 2006
Subject: Re: San Fran

Sounds good. I'm waiting for Brent.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 13:21:19 2006
Subject: Re: San Fran

Looks like earlier flights are booked and I'm headed back to hotel to change (have a lot of time to kill). If you and/or Brent want to grab lunch just name a time and place and I will be there.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Fri Jun 16 12:55:00 2006
Subject: Re: San Fran

Subject: Re: San Fran

I finished early and am in lawyers lounge on first floor. May try to get earlier flight.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 22:03:30 2006
Subject: Re: San Fran

Lunch sounds good. Why don't we reconnoiter after arguments.

I have Vodnar, in front of Schroeder, Graber, and Duffy from SDNY.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 18:12:10 2006
Subject: Re: San Fran

Might we aim for lunch? Name a time and place to meet! I feel like I've got a fair amt of thinking to do tonight. Whose your panel and which is your case?

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:36:35 2006
Subject: Re: San Fran

We should be at our hotel about 7:30. Could do dinner or lunch tomorrow after arguments.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C
Sent: Thu Jun 15 17:14:51 2006
Subject: Re: San Fran

Grand hyatt (not so grand)

-----Original Message-----

From: Cook, Elisebeth C
To: Gorsuch, Neil M
Sent: Thu Jun 15 17:06:05 2006
Subject: San Fran

Understand you'll be in town, too. Where you staying?

McNulty, Paul J

Subject:	Declined: Updated: Monthly Component Head Meeting with Deputy Attorney General McNulty
Location:	7th Floor Conference Center
Start:	Monday, June 19, 2006 3:30 PM
End:	Monday, June 19, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J
Optional Attendees:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M

My hearing before the SFRC is at 3pm and I will miss the meeting. Robt.

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 16, 2006 4:13 PM
To: Gorsuch, Neil M
Cc: Brand, Rachel; Scott-Finan, Nancy; Seidel, Rebecca; Jennifer_R._Brosnahan@who.eop.gov
Subject: FW: Gorsuch

From: Best, David T
Sent: Friday, June 16, 2006 4:08 PM
To: Macklin, Kristi R
Subject: Gorsuch

FYI -

Today, June 16, 2006, Senator Salazar returned his Blue Slip for Neil M. Gorsuch to be United States Circuit Judge for the Tenth Circuit.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Brand, Rachel

From: Brand, Rachel
Sent: Friday, June 16, 2006 4:20 PM
To: Gorsuch, Neil M
Subject: FW: Judicial Nominations Hearing

Can you call me when you have a chance. I hope your hearing went well!

From: Best, David T
Sent: Friday, June 16, 2006 4:19 PM
To: Brand, Rachel; Dabney Friedrich (Dabney_Friedrich@who.eop.gov); Jennifer R. Brosnahan (Jennifer_R._Brosnahan@who.eop.gov); Macklin, Kristi R; Martinson, Wanda; McIntosh, Brent; Richard Jaffe (Richard_Jaffe@ao.uscourts.gov); Scott-Finan, Nancy; Seidel, Rebecca; 'Steven Gallagher'; Susan Courtwright (courtwright_s@who.eop.gov); Theresa Preston (Theresa_Preston@ao.uscourts.gov)
Subject: RE: Judicial Nominations Hearing

Senate Judiciary Committee has indicated the only nominee for this hearing will be Mr. Gorsuch.

From: Best, David T
Sent: Thursday, June 15, 2006 3:30 PM
To: Brand, Rachel; Dabney Friedrich (Dabney_Friedrich@who.eop.gov); Jennifer R. Brosnahan (Jennifer_R._Brosnahan@who.eop.gov); Macklin, Kristi R; Martinson, Wanda; McIntosh, Brent; Richard Jaffe (Richard_Jaffe@ao.uscourts.gov); Scott-Finan, Nancy; Seidel, Rebecca; Steven Gallagher; Susan Courtwright (courtwright_s@who.eop.gov); Theresa Preston (Theresa_Preston@ao.uscourts.gov)
Subject: Judicial Nominations Hearing

The Senate Committee on the Judiciary has scheduled a hearing on "Judicial Nominations" for Wenesday, June 21, 2006 at 4:00 p.m. in Room 226 of the Senate Dirksen Office Building. Please be advised the agenda has yet to be determined. Possible nominees for this hearing are as follows:

Kimberly Ann Moore, to be United States Circuit Judge for the Federal Circuit
or
Neil M. Gorsuch, to be United States Circuit Judge for the Tenth Circuit

In addition the Committee may add to the agenda Frances Marie Tydingco-Gatewood, to be Judge for the District Court of Guam

Bios are attached for your reference:

<< File: moore bio.pdf >> << File: Gorsuch bio.pdf >> << File: Tydingco-Gatewood bio.pdf >>

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 4:22 PM
To: USDOJ- Office of Public Affairs
Subject: SCHLUMBERGER SUBSIDIARY TO PAY $19.6 MILLION TO RESOLVE CRIMINAL ALLEGATIONS

A copy of the agreement is attached.

Department of Justice

United States Attorney Donald J. DeGabrielle, Jr.
Southern District of Texas

FOR IMMEDIATE RELEASE
CONTACT: JOHN YEMBRICK
FRIDAY, JUNE 16, 2006
PHONE: (713) 567-9388
WWW.USDOJ.GOV/USAO/TXS FAX: (713) 718-3389

SCHLUMBERGER SUBSIDIARY TO PAY $19.6 MILLION TO RESOLVE CRIMINAL ALLEGATIONS

HOUSTON – WesternGeco LLC entered into an agreement with the United States to pay $19.6 million in penalties for knowingly submitting fraudulent applications for visas for their foreign workers assigned as crewmen on various U.S. owned or operated vessels on the Outer Continental Shelf (OCS) in the Gulf of Mexico, U.S. Attorney Don DeGabrielle announced today.

WesternGeco LLC (WesternGeco), a Delaware corporation and wholly owned subsidiary of Schlumberger Seismic Inc., and Schlumberger Technology Corporation, collectively part of Schlumberger, the world's largest oil-field services company, was formed pursuant to a joint venture agreement between a Schlumberger company and another company in November 2000. WesternGeco maintains its headquarters for North and South American operations in Houston, and operates a number of seismic vessels on the OCS, specifically in the Gulf of Mexico. These vessels included the exempt vessels which received written authorization from the U.S. Coast Guard to employ foreign crewmembers, and non-exempt vessels which are required to employ only U.S. citizens or lawful permanent resident aliens as employees.

"We cannot permit any company to sponsor foreign employees into the U.S. workplace through the use of fraudulent visa practices," said U.S. Attorney Don DeGabrielle. "Today's agreement holds WesternGeco accountable for its past conduct and obligates it to continue its demonstrated commitment to follow the law or face criminal prosecution."

A federal investigation conducted through the joint efforts of the U.S. Department of State's Diplomatic Security Service, U.S. Postal Inspection Service, the U.S. Department of Labor's Office of Inspector General, the Internal Revenue Service's Criminal Investigation, and the Federal Bureau of Investigations produced

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evidence demonstrating hundreds of instances in which foreign employees were employed as crewmen aboard American owned non-exempt vessels on the OCS beginning on or before January 2000 and continuing through 2004, in violation of federal law.

"This investigation uncovered 421 instances of visa fraud perpetrated to allow foreign nationals to work on marine vessels within the U.S. territorial waters," said Joe Morton, Director of the State Department's Diplomatic Security Service. "Today's deferred prosecution agreement with WesternGeco demonstrates our commitment to aggressively pursue this crime and protect our borders from illegal entry."

The U.S. Attorney's Office entered into a deferred prosecution agreement with WesternGeco today. Under the terms of the agreement, WesternGeco will pay $18 million to the United States for knowingly causing its foreign employees to file fraudulent applications for United States visas and to make false statements to U.S. consular officers regarding the nature and destination of their employment. In addition, the corporation will pay $1.6 million to be equitably shared by the several federal agencies involved as reimbursement for the cost of the investigation.

The U.S. Attorney's Office has agreed to defer criminal prosecution for a period of 12 months provided WesternGeco complies with the terms of the agreement including continued full compliance with federal law, payment of the monetary penalties, and its promise of continued cooperation with the Southern District of Texas. Failure to comply with the conditions of the agreement subjects WesternGeco to criminal prosecution for conspiracy to violate the visa laws of the United States.

Schlumberger agreed to uphold the terms of the government's deferred prosecution agreement with its subsidiary.

The agreement signed today is the result of the work performed by Assistant U.S. Attorneys Edward Gallagher and Michael Wright of the Major Offenders Group with the assistance of Assistant U.S. Attorneys Sue Kempner and Katherine Haden of the Asset Forfeiture Group.

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Image not available for this document, ID: 0.7.10316.7105-000002

AGREEMENT

WesternGeco LLC, a Delaware corporation with its principal place of business at 10001 Richmond Avenue, Houston, Texas ("WesternGeco"), a wholly owned subsidiary of Schlumberger Seismic, Inc. and Schlumberger Technology Corporation (collectively, the "parent companies") by its undersigned attorneys, pursuant to authority granted by its Management Committee, and the United States Attorney's Office for the Southern District of Texas (the "USAO SDTX"), enter into this Agreement in resolution of the investigation into WesternGeco's fraudulent practice in directing certain foreign employees to obtain United States visas by falsely representing to the United States the nature and/or place of employment in staffing WesternGeco's seismic vessels operating on the United States Outer Continental Shelf (OCS).

1. WesternGeco accepts and acknowledges that, if it breaches the terms and conditions of this Agreement, as governed by Paragraph 11, the USAO SDTX may file criminal charges in the United States District Court for the Southern District of Texas charging WesternGeco with conspiracy to violate U.S. visa laws, in violation of Title 18, United States Code, Sections 371, 1546 (a), and (b).

2. WesternGeco accepts and acknowledges responsibility for the behavior set forth in the Statement of Facts, attached hereto as Annex A and incorporated herein by reference, by entering into this Agreement and by, among other things, the remedial actions that it has taken to date, its continuing commitment of full cooperation as provided for herein, its agreement to pay a monetary penalty and reimburse the costs for the investigation, and the other undertakings it has made as set forth herein. WesternGeco agrees it will not contest the admissibility into evidence of the Statement of Facts in any subsequent criminal proceedings occurring in the event of a breach of this Agreement.

3. WesternGeco expressly agrees that it shall not, through its present or future attorneys, management committee, agents, officers, or management employees, make any public statement contradicting any statement of fact contained in the Statement of Facts. Any such contradictory public statement by WesternGeco, its present or future attorneys, management committee, agents, officers, or management employees or its parent companies' attorneys, board of directors, agents, officers, or management employees, shall constitute a breach of this Agreement as governed by paragraph 11 of this Agreement, and WesternGeco would thereafter be subject to prosecution pursuant to the terms of this Agreement. The decision of whether any public statement by any such person contradicting a fact contained in the Statement of Facts will be imputed to WesternGeco for the purpose of determining whether WesternGeco has breached this Agreement shall be at the sole discretion of the USAO SDTX. Should the USAO SDTX decide to notify WesternGeco of any public statement by any such person that it believes in whole or in part contradicts a statement of fact contained in the Statement of Facts, WesternGeco may avoid breach of this Agreement by publicly repudiating such statement within 48 hours after such notification. WesternGeco agrees that in the event that future criminal proceedings were to be brought in accordance with Paragraphs 11 and 13 of this Agreement, WesternGeco will not contest the admissibility of the Statement of Facts in any such proceedings. The notification contemplated in Paragraphs 3 and 11 shall be satisfied by sending notice by certified mail, return receipt requested, to (1) General Counsel, WesternGeco L.L.C., 10001 Richmond Avenue, Houston, Texas 77042 and (2) Hugh E. Tanner, Fulbright & Jaworski L.L.P., 1301 McKinney Street, Suite 5100, Houston, Texas 77010.

4. Consistent with WesternGeco's obligations as set forth above, WesternGeco shall be permitted to raise and support defenses and/or assert and support affirmative claims in any civil and regulatory proceedings relating to the matters set forth in the Statement of Facts.

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5. WesternGeco agrees to cooperate fully with the USAO SDTX, and with any other agency designated by the USAO SDTX, regarding this investigation. WesternGeco's agreement to cooperate shall extend until the completion of the USAO SDTX's investigation of any criminal activity relating to fraudulent visa practices and any other matters disclosed to the USAO SDTX by WesternGeco or until the expiration of the period during which this Agreement is in effect, whichever occurs first.

6. WesternGeco agrees that its cooperation, as agreed to in Paragraph 5 above, shall include, but is not limited to, the following:

(a) Completely and truthfully disclosing all information as may be requested by the USAO SDTX with respect to the activities of WesternGeco and its parent companies and affiliates, and its present and former officers, agents, and employees, concerning this investigation;

(b) Assembling, organizing, and providing on request from the USAO SDTX, all documents, records, or other tangible evidence in WesternGeco's possession, custody, or control;

(c) Not asserting a claim of attorney-client or work-product privilege as to any documents, information, or testimony requested by the USAO SDTX related to factual internal investigations or contemporaneous advice given to WesternGeco concerning this investigation. In making production of any such documents, WesternGeco neither expressly nor implicitly waives its right to assert any privilege with respect to the produced documents or the subject matters thereof that is available under law against non-parties to this Agreement.

(d) Using its best efforts to make its employees available to provide information and/or testimony as requested by the USAO SDTX, including sworn testimony before a federal grand jury or in federal trials, as well as interviews with federal law enforcement authorities. Cooperation under this paragraph will include identification of witnesses who, to

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WesternGeco's knowledge, may have material information regarding the matters under investigation.

(e) Using its best efforts to make available for interviews, or for testimony, present or former WesternGeco and its parent companies' officers, directors, and employees as requested by the USAO SDTX.

(f) Providing testimony and other information deemed necessary by the USAO SDTX or a court to identify or establish the original location, authenticity, or other evidentiary foundation necessary to admit into evidence documents in any criminal or other proceeding as requested by the USAO SDTX.

(g) Providing load charts and crew lists for WesternGeco controlled vessels operating on the OCS and access to the visa compliance data base to ensure all foreign employees are lawfully present and possess the appropriate visa.

7. Within 45 days of execution of this Agreement, WesternGeco agrees to pay Eighteen Million Dollars ($18,000,000) to the United States Postal Inspection Service as a monetary penalty, and One Million Six Hundred Thousand Dollars ($1,600,000) as reimbursement for the costs of the investigation to be equitably shared by the United States Department of State - Diplomatic Security Service, the United States Postal Inspection Service, the Internal Revenue Service - Criminal Investigation, the United States Department of Labor - Office of Inspector General, and the United States Federal Bureau of Investigation.

8. In light of WesternGeco's remedial actions to date and its willingness to: (i) acknowledge responsibility for its behavior; (ii) continue its cooperation with the USAO SDTX, and other governmental regulatory agencies; (iii) demonstrate its future good conduct and full compliance with United States visa and immigration laws and regulations and the Outer Continental Shelf Lands Act Amendment (OCSLA); and (iv) consent to payment of the

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monetary penalty and sum for reimbursement set forth in paragraph 7 above, the USAO SDTX shall defer any prosecution of WesternGeco pursuant to paragraph 1.

9. The USAO SDTX agrees that if WesternGeco is in full compliance with all of its obligations under this Agreement for 12 months from the date of this Agreement, this Agreement shall expire and no prosecution arising from this investigation shall ensue.

10. Except in the event of a breach of this Agreement, all prosecutions relating to the matters set forth in the Statement of Facts that have been, or could have been, conducted by the USAO SDTX prior to the date of this Agreement shall not be pursued further as to WesternGeco, its parent companies, subsidiaries, related entities, affiliates and divisions and their respective predecessors, successors and assigns. The signatories to this Agreement represent that they are aware of no other investigations relating to WesternGeco's unlawful visa practices as described in the Statement of Facts or to any criminal activities arising from such unlawful visa practices as of the signing of this Agreement.

11. Should the USAO SDTX determine that WesternGeco has committed a willful and knowingly material breach of any provision of this Agreement, the USAO SDTX shall provide written notice to WesternGeco of the alleged breach and provide WesternGeco with a two-week period in which to request an opportunity to demonstrate to the USAO SDTX that no breach has occurred, or, to the extent applicable, that the breach is not willful or knowingly material or has been cured. The parties hereto expressly understand and agree that should WesternGeco fail to request an audience with the USAO SDTX within a two-week period, it shall be conclusively presumed that WesternGeco is in willful and material breach of this Agreement. The parties further understand and agree that the USAO SDTX's exercise of discretion under this paragraph is not subject to review in any court or tribunal. In the event of a breach of this Agreement that results in a prosecution of WesternGeco, such prosecution may be premised upon any information provided by or on behalf of WesternGeco to the USAO SDTX or

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other government agency at any time, unless otherwise agreed when the information was provided.

12. WesternGeco shall expressly waive all rights to a speedy trial of proceedings arising out of this investigation pursuant to the Sixth Amendment of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Southern District of Texas for the period that this Agreement is in effect.

13. In the event of a willful and knowing material breach of this Agreement, any prosecution of WesternGeco relating to fraudulent visa practices or any crime arising therefrom that is not time-barred by the applicable statute of limitations as of the date of this Agreement may be commenced against WesternGeco notwithstanding the expiration of any applicable statute of limitations during the deferred prosecution period and up to the determination of any such willful and knowingly material breach. WesternGeco knowingly and voluntarily waives the statute of limitations in express reliance on the advice of counsel.

14. WesternGeco agrees that, if during the period this Agreement is in effect, it sells or merges all or substantially all of its business operations as they exist as of the date of this Agreement to or into a single purchaser or group of affiliated purchasers during the term of this Agreement, it shall include in any contract for sale or merger a provision binding the purchaser/successor to the obligations described in this Agreement.

15. It is understood that this Agreement is binding on WesternGeco, its parent companies, subsidiaries, related entities, affiliates and divisions and their respective predecessors, successors and assigns, the USAO SDTX, and the governmental agencies involved in this investigation, but specifically does not bind any other federal agency, or any state or local law enforcement or licensing authority. Should a federal agency, or state or local law enforcement or licensing authority seek to bring an action against WesternGeco related to the

DOJ_NMG_ 0161776

facts of this investigation, the USAO SDTX will bring the cooperation of WesternGeco and its compliance with its other obligations under this Agreement to the attention of that agency or authority, if requested by WesternGeco or its attorneys. This Agreement also excludes any natural persons.

16. WesternGeco and the USAO SDTX agree that this Agreement and the Statement of Facts may be publicly disclosed.

17. This Agreement sets forth all the terms of the agreement between WesternGeco and the USAO SDTX. No modifications or additions to this Agreement shall be valid unless they are in writing and signed by the USAO SDTX, WesternGeco's attorneys Fulbright & Jaworski L.L.P., and a duly authorized representative of WesternGeco.

DOJ_NMG_ 0161777

On Behalf of the United States:

Donald J. DeGabrielle, Jr.
United States Attorney
Southern District of Texas

Date: June 16, 2006

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Donald J. DeGabrielle, Jr., the United States Attorney for the Southern District of Texas, known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated, for and on behalf of the United States of America.

SUBSCRIBED AND SWORN TO before me on this 16th day of June, 2006.

Notary Public

DOJ_NMG_ 0161778

On Behalf of WesternGeco L.L.C.:

Hugh E. Tanner
Fulbright & Jaworski L.L.P.

Date: June 16, 2006

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Hugh E. Tanner, the duly authorized and appointed counsel for WesternGeco L.L.C., known by me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated, for and on behalf of WesternGeco L.L.C.

SUBSCRIBED AND SWORN TO before me on this 16th day of June, 2006.

DEBRA R GREGORY
My Commission Expires
December 18, 2008

Debra R. Gregory
Notary Public

DOJ_NMG_ 0161779

ANNEX A:
STATEMENT OF FACTS

For purposes of resolving a criminal investigation by the United States Attorney's Office for the Southern District of Texas into WesternGeco's fraudulent practice in directing certain foreign employees to obtain United States visas by falsely representing to the United States the nature and/or place of employment in staffing WesternGeco's seismic vessels operating on the United States Outer Continental Shelf ("OCS"), the following statement of facts is set forth:

1. WesternGeco LLC is a Delaware corporation with its principal place of business at 10001 Richmond Avenue, Houston, Texas ("WesternGeco"). WesternGeco is a wholly owned subsidiary of Schlumberger Seismic, Inc. and Schlumberger Technology Corporation.

2. WesternGeco operated a number of seismic vessels on the OCS, specifically the Gulf of Mexico. The Outer Continental Shelf Lands Acts Amendment of 1978 ("OCSLA") provides, in brief, that vessels working on the OCS must be crewed by American citizens or lawful permanent resident aliens, unless those vessels have been exempted from this requirement by the U.S. Coast Guard. WesternGeco operated both exempt and non-exempt vessels on the OCS.

3. The Geco Snapper, Geco Dolphin, Geco Manta, Geco Marlin and Trailblazer were non-exempt vessels and commonly operated as a group referred to as OBC-1 (Ocean Bottom Cable-1 vessels).

4. Upon execution of the joint venture agreement forming WesternGeco in November 2000, the company, through its employees, continued a practice that began in or before January 2000, to staff non-exempt vessels operating on the OCS by assisting, and in some cases, directing its foreign employees to obtain and use visas by fraudulently representing to the United States the nature and/or place of employment of those foreign employees. This practice continued through 2004 and resulted in violations of the U.S. Immigration and Naturalization laws and the OCSLA.

5. WesternGeco employees sent by U.S. mail and by wire, sponsorship letters to certain foreign employees seeking visas to work on vessels operating on the OCS informing

DOJ_NMG_ 0161780

them that their destination marine vessel, a non-exempt vessel, would be different from the marine vessel, an exempt vessel, identified in their sponsorship letter.

6. WesternGeco employees directed certain foreign employees seeking visas to work on vessels operating on the OCS to present to U.S. Department of State consular officers the sponsorship letters referenced in Paragraph 5, when in fact WesternGeco and the foreign employee knew that the destination vessel was different from the vessel specified for the visa.

7. When foreign employees complained about making misrepresentations to U.S. Department of State consular officers for their visas, WesternGeco employees told the foreign employees this was the only way the employees could get on the vessels for WesternGeco to perform work on the OCS.

8. WesternGeco also caused certain foreign employees to apply for C1/D crewman transit visas, which are designed to allow entry into the United States for 29 days to join a vessel which must depart U.S. waters to make a call on a foreign port, intending that those foreign employees would work onboard a non-exempt vessel for at least six weeks on the OCS.

9. WesternGeco was able to operate the OBC-1 vessels with greater flexibility and to fulfill their contract obligations by using rotating crews that included foreign employees.

10. WesternGeco's senior management learned of the visa fraud practices when a Houston manager reported the matter in early June 2002, following a warning by a Houston employee in March 2002 that the U.S. government may be conducting an investigation into the company's visa practices. Immediately upon learning this, WesternGeco's president directed that WesternGeco take all steps necessary to become fully compliant with U.S. visa laws and regulations. A couple of weeks later, a Houston employee incorrectly informed senior management that this directive had been successfully accomplished by obtaining exemptions for certain vessels operating on the OCS. Senior management wrongly believed that all vessels operating on the OCS were included among those vessels exempted. As a result, senior management took no further steps to stop the unlawful visa practices until WesternGeco received a federal grand jury subpoena in December 2004.

DOJ_NMG_ 0161781

11. Thereafter, WesternGeco senior management took aggressive steps to comply with the law and to cooperate fully with the government's investigation. In addition, WesternGeco developed and implemented a comprehensive compliance program for immigration activities relating to business travel, work on the Outer Continental Shelf, and employment of foreign nationals in the U.S. to prevent recurrence of these or any similar unlawful visa practices.

12. The Government's investigation revealed at least 421 criminal violations of visa fraud involving foreign employees employed as crewmen aboard non-exempt vessels on the OCS between September 2000 and October 2004.

13. There are other matters known to the parties that are not included in this Statement of Facts.

DOJ_NMG_ 0161782

Best, David T

From: Best, David T
Sent: Friday, June 16, 2006 4:26 PM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: Senate Judiciary Committee hearing

Please be advised of the schedule in regards to your nomination hearing.

Tuesday, June 20, Time to be determined, but probably afternoon in Main Justice, Conference Room 4525 - hearing preparation session.

Wednesday, June 21, 2006, 4:00 p.m., Senate hearing in Dirksen 226

Thursday, June 22 (8:30 a.m.- 3:30 p.m.)- Judicial Nominee orientation program at Admin Office US Courts

In preparation for your hearing you should review your Senate Questionnaire, including any publications or speeches. As usual, you (and family members) should avoid talking to the press before and after the hearing.

If you have any questions or concerns, please feel free to contact me.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 4:40 PM
To: Katsas, Gregory (CIV)
Subject: Re: Question for you

No but I spoke w Lu abt you Wed and he did say they had you on the radar screen. Do you want me to make an inquiry?

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
Sent: Fri Jun 16 16:08:51 2006
Subject: Question for you

This is somewhat odd. Mr. Clark is from presidential personnel. His secretary called because he wants to schedule a telephone interview with me sometime next week. She wouldn't tell me what it was about, but she said they are responsible for Treasury, Transportation, and Commerce (not DoD and thus not the Navy). I asked if they wanted to talk to me about somebody else, or if they were considering me for something unbeknownst to me. She said she didn't know, but assumed it would be the latter. Any idea what might be going on?

Hope the argument went well. Look forward to listening to the tape.

-----Original Message-----
From: Williams, Angela (CIV)
Sent: Friday, June 16, 2006 12:06 PM
To: Katsas, Gregory (CIV)
Subject: RE: Pls. call Dosha from David Clark Office

Sorry, the number is 202 456-5295 (White House)

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Friday, June 16, 2006 12:05 PM
To: Williams, Angela (CIV)
Subject: Re: Pls. call Dosha from David Clark Office

Do you have a number? Never heard of either.

-----Original Message-----
From: Williams, Angela (CIV) <AWilliam@CIV.USDOJ.GOV>

From: Williams, Angela (CIV) <AWilliam@CIV.USDOJ.GOV>
To: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
Sent: Fri Jun 16 12:03:21 2006
Subject: Pls. call Dosha from David Clark Office

Angela Williams
OAAG - Civil Division
U.S. Dept. of Justice

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 4:41 PM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: Fw: Tentative Nominations Witness List for June 21, 2006
Attachments: tmp.htm; Witness List for June 21, 2006-Noms.wpd

You are on.... Good luck

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
To: Moschella, William; Stout, Stacey L; Seidel, Rebecca; Best, David T; [redacted]@frist.senate.gov; Andrea_B._Looney@who.eop.gov; [redacted]@rpc.senate.gov; Dianna_L._Dunne@who.eop.gov; [redacted]@frist.senate.gov [redacted]@frist.senate.gov; [redacted]@ao.uscourts.gov; [redacted]@ao.uscourts.gov; Michael_Allen@nsc.eop.gov; [redacted](DHS); [redacted]@mail.house.gov; [redacted]@mcconnell.senate.gov; [redacted]@reid.senate.gov; [redacted]@dayton.senate.gov; [redacted]@reid.senate.gov; [redacted]@conrad.senate.gov; [redacted]@drugcaucus.senate.gov; [redacted]@sec.senate.gov; [redacted]@sec.senate.gov; [redacted]@sec.senate.gov; [redacted]@saa.senate.gov; [redacted]@feinstein.senate.gov; [redacted]@kohl.senate.gov; [redacted]@durbin.senate.gov; [redacted]@leahy.senate.gov [redacted]@kennedy.senate.gov; [redacted]@leahy.senate.gov; [redacted]@biden.senate.gov; [redacted]@schumer.senate.gov; [redacted]@feingold.senate.gov; [redacted]@biden.senate.gov; [redacted]@feingold.senate.gov; [redacted]@mcconnell.senate.gov; [redacted]@brownback.senate.gov; [redacted]@lgraham.senate.gov; [redacted]@dewine.senate.gov; [redacted]@coburn.senate.gov; [redacted]@rpc.senate.gov; [redacted]@brownback.senate.gov; [redacted]@cornyn.senate.gov; [redacted]@sessions.senate.gov; [redacted]@Kyl.senate.gov; [redacted]@verizon.net; [redacted]@hatch.senate.gov; [redacted]@aol.com; [redacted]@specter.senate.gov; [redacted]@grassley.senate.gov; [redacted]@cornyn.senate.gov; JudicSchumer@routing.senate.gov; [redacted]@schumer.senate.gov; [redacted]@biden.senate.gov; JudicBiden@routing.senate.gov; [redacted]@durbin.senate.gov; JudicDurbin@routing.senate.gov; [redacted]@durbin.senate.gov; JudicFeingold@routing.senate.gov; JudicFeinstein@routing.senate.gov; [redacted]@feinstein.senate.gov; JudicKennedy@routing.senate.gov; JudicKohl@routing.senate.gov; [redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov; JudicLeahy@routing.senate.gov; [redacted]@leahy.senate.gov [redacted]@specter.senate.gov [redacted]@specter.senate.gov; JudicSpecter@routing.senate.gov; [redacted]@specter.senate.gov; [redacted]@brownback.senate.gov; [redacted]@brownback.senate.gov; JudicBrownback@routing.senate.gov; [redacted]@coburn.senate.gov [redacted]@coburn.senate.gov; [redacted]@coburn.senate.gov; JudicCoburn@routing.senate.gov; [redacted]@cornyn.senate.gov; JudicCornyn@routing.senate.gov; [redacted]@cornyn.senate.gov; [redacted]@dewine.senate.gov; [redacted]@dewine.senate.gov; JudicDeWine@routing.senate.gov;

[redacted]@grassley.senate.gov; JudicGrassley@routing.senate.gov; [redacted]@hatch.senate.gov; [redacted]@hatch.senate.gov; [redacted]@hatch.senate.gov; JudicHatch@routing.senate.gov; [redacted]@Kyl.senate.gov; JudicKyl@routing.senate.gov; [redacted]@lgraham.senate.gov; [redacted]@lgraham.senate.gov; [redacted]@lgraham.senate.gov; [redacted]@lgraham.senate.gov; JudicGraham@routing.senate.gov; JudicSessions@routing.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov
Sent: Fri Jun 16 16:35:13 2006
Subject: Tentative Nominations Witness List for June 21, 2006

Tentative Witness List

Hearing before the

Senate Judiciary Committee

on

Judicial Nominations

Wednesday, June 21, 2006

Dirksen Senate Office Building Room 226

4:00 p.m.

PANEL I

(Members of Congress TBA)

PANEL II

Neil M. Gorsuch

to be United States Circuit Judge for the Tenth Circuit

Tentative Witness List

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PANEL I

(Members of Congress TBA)

PANEL II

Neil M. Gorsuch
to be United States Circuit Judge for the Tenth Circuit

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 4:47 PM
To: Seidel, Rebecca
Subject: Re: Tentative Nominations Witness List for June 21, 2006

Thank you!

-----Original Message-----
From: Seidel, Rebecca
To: Gorsuch, Neil M
CC: Scott-Finan, Nancy
Sent: Fri Jun 16 16:40:31 2006
Subject: Fw: Tentative Nominations Witness List for June 21, 2006

You are on.... Good luck

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
To: Moschella, William; Stout, Stacey L; Seidel, Rebecca; Best, David T; [redacted]@frist.senate.gov; Andrea_B._Looney@who.eop.gov; [redacted]@rpc.senate.gov; Dianna_L._Dunne@who.eop.gov; [redacted]@frist.senate.gov; [redacted]@frist.senate.gov; [redacted]@ao.uscourts.gov; [redacted]@ao.uscourts.gov; Michael_Allen@nsc.eop.gov; [redacted](DHS); [redacted]@mail.house.gov [redacted]@mcconnell.senate.gov; [redacted]@reid.senate.gov; [redacted]@dayton.senate.gov; [redacted]@reid.senate.gov; [redacted]@conrad.senate.gov; [redacted]@drugcaucus.senate.gov [redacted]@sec.senate.gov; [redacted]@sec.senate.gov; [redacted]@sec.senate.gov; [redacted]@saa.senate.gov; [redacted]@feinstein.senate.gov; [redacted]@kohl.senate.gov; [redacted]@durbin.senate.gov; [redacted]@leahy.senate.gov; [redacted]@kennedy.senate.gov; [redacted]@leahy.senate.gov; [redacted]@biden.senate.gov; [redacted]@schumer.senate.gov; [redacted]@feingold.senate.gov [redacted]@biden.senate.gov; [redacted]@feingold.senate.gov; [redacted]@mcconnell.senate.gov; [redacted]@brownback.senate.gov; [redacted]@lgraham.senate.gov [redacted]@dewine.senate.gov; [redacted]@coburn.senate.gov; [redacted]@rpc.senate.gov; [redacted]@brownback.senate.gov; [redacted]@cornyn.senate.gov; [redacted]@sessions.senate.gov; [redacted]@Kyl.senate.gov; [redacted]@verizon.net; [redacted]@hatch.senate.gov; [redacted]@aol.com; [redacted]@specter.senate.gov [redacted]@grassley.senate.gov; [redacted]@cornyn.senate.gov; JudicSchumer@routing.senate.gov; [redacted]@schumer.senate.gov; [redacted]@biden.senate.gov; JudicBiden@routing.senate.gov; [redacted]@durbin.senate.gov; JudicDurbin@routing.senate.gov; [redacted]@durbin.senate.gov; JudicFeingold@routing.senate.gov; JudicFeinstein@routing.senate.gov; [redacted]@feinstein.senate.gov; JudicKennedy@routing.senate.gov; JudicKohl@routing.senate.gov; [redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov;

JudicKohl@routing.senate.gov; [redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov;
[redacted]@leahy.senate.gov; [redacted]@leahy.senate.gov; JudicLeahy@routing.senate.gov;
[redacted]@leahy.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.g
ov; [redacted]@routing.senate.gov; [redacted]@specter.senate.gov; [redacted]@brownback.se
nate.gov; [redacted]@brownback.senate.gov; JudicBrownback@routing.senate.gov;
[redacted]@coburn.senate.gov; [redacted]@coburn.senate.gov;
[redacted]@coburn.senate.gov; JudicCoburn@routing.senate.gov; [redacted]@cornyn.senate.gov
; JudicCornyn@routing.senate.gov; [redacted]@cornyn.senate.gov; [redacted]@dewine.se
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[redacted]@grassley.senate.gov; JudicGrassley@routing.senate.gov; [redacted]@hatch.senate.
gov; [redacted]@hatch.senate.gov; [redacted]@hatch.senate.gov; JudicHatch@routing.senate.gov;
[redacted]@Kyl.senate.gov; JudicKyl@routing.senate.gov; [redacted]@lgraham.senate.gov;
[redacted]@lgraham.senate.gov; [redacted]@lgraham.senate.gov; [redacted]@lgraham.se
nate.gov; JudicGraham@routing.senate.gov; JudicSessions@routing.senate.gov;
[redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.se
nate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov
Sent: Fri Jun 16 16:35:13 2006
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PANEL I

(Members of Congress TBA)

PANEL II

Neil M. Gorsuch

to be United States Circuit Judge for the Tenth Circuit

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 16, 2006 4:47 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: Tentative Nominations Witness List for June 21, 2006

I am out of the office after 3:30 pm on Friday June 16. I will be returning Monday 6/19 after 10:30 am.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Friday, June 16, 2006 4:50 PM
To: Gorsuch, Neil M
Subject: RE: Question for you

No need. I'm talking to him on Monday and will keep you posted. Have a good trip back.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 4:40 PM
To: Katsas, Gregory (CIV)
Subject: Re: Question for you

No but I spoke w Lu abt you Wed and he did say they had you on the radar screen. Do you want me to make an inquiry?

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
Sent: Fri Jun 16 16:08:51 2006
Subject: Question for you

This is somewhat odd. Mr. Clark is from presidential personnel. His secretary called because he wants to schedule a telephone interview with me sometime next week. She wouldn't tell me what it was about, but she said they are responsible for Treasury, Transportation, and Commerce (not DoD and thus not the Navy). I asked if they wanted to talk to me about somebody else, or if they were considering me for something unbeknownst to me. She said she didn't know, but assumed it would be the latter. Any idea what might be going on?

Hope the argument went well. Look forward to listening to the tape.

-----Original Message-----
From: Williams, Angela (CIV)
Sent: Friday, June 16, 2006 12:06 PM
To: Katsas, Gregory (CIV)
Subject: RE: Pls. call Dosha from David Clark Office

Sorry, the number is 202 456-5295 (White House)

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Friday, June 16, 2006 12:05 PM
To: Williams, Angela (CIV)

To: Williams, Angela (CIV)
Subject: Re: Pls. call Dosha from David Clark Office

Do you have a number? Never heard of either.

-----Original Message-----
From: Williams, Angela (CIV) <AWilliam@CIV.USDOJ.GOV>
To: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
Sent: Fri Jun 16 12:03:21 2006
Subject: Pls. call Dosha from David Clark Office

Angela Williams
OAAG - Civil Division
U.S. Dept. of Justice

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 5:02 PM
To: Gorsuch, Neil M
Subject: RE: Vehicles - Office of the Associate Attorney General

As always you are too kind and concerned about this old man. The exercise would do me good. Look forward to seeing you on Monday and getting a report on the argument. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:05 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Fradel, James E
Subject: Re: Vehicles - Office of the Associate Attorney General

Were not having the asg hoofing it! I will not be pkg in bldg.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Gorsuch, Neil M; Gunn, Currie (SMO); Fradel, James E
Sent: Fri Jun 16 14:03:06 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

Not nec. Thanks anyway. Hope the oral argument has gone or does go well. Break a leg. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 2:00 PM
To: Gunn, Currie (SMO); Fradel, James E
Cc: McCallum, Robert (SMO)
Subject: Re: Vehicles - Office of the Associate Attorney General

I am happy to park elsewhere and would really like Robert to park in the building.

-----Original Message-----
From: Gunn, Currie (SMO)
To: Fradel, James E
CC: McCallum, Robert (SMO); Gorsuch, Neil M
Sent: Fri Jun 16 13:57:00 2006
Subject: RE: Vehicles - Office of the Associate Attorney General

The principal and other deputies. Mr. McCallum will be arriving later in the morning from orientation at the other location and has indicated that he will park in the commercial lot.

the other location and has indicated that he will park in the commercial lot.

Thanks

Currie

From: Fradel, James E
Sent: Thursday, June 15, 2006 6:55 PM
To: Gunn, Currie (SMO)
Subject: RE: Vehicles - Office of the Associate Attorney General

As it turns out EDVA can only provide 4 spaces based on the current anticipated participation. Please let me know the FOUR folks you want to have parking. As noted in the visitor packages, commercial parking is available adjacent the EDVA facility.

Please let me know if you have questions. Thanks. Jim

From: Gunn, Currie (SMO)
Sent: Thursday, June 15, 2006 1:14 PM
To: Fradel, James E
Subject: Vehicles - Office of the Associate Attorney General

Ms. Lily Fu Swenson - [redacted] Mr. Gordon Todd - [redacted] Associate Robert McCallum - [redacted] Mr. Jeffrey Senger - [redacted] Mr. Neil Gorsuch - [redacted]

If you need any additional information please contact me.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

Brand, Rachel

From: Brand, Rachel
Sent: Friday, June 16, 2006 5:05 PM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: Fw: Neil Gorsuch called - per your email

I'll call you later.
KM should be scheduling the moot for next week. I want to talk to you re moot topics and some procedural things (eg, you shouldn't be talking directly to senate judiciary staff). I should be free to call in about an hour.

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel
Sent: Fri Jun 16 16:47:15 2006
Subject: Neil Gorsuch called - per your email

He is getting on a plane at 7pm flying back to DC.
You can reach him by cell - [redacted] - before his departure or over the weekend.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 5:15 PM
To: Brand, Rachel
Subject: Re: Neil Gorsuch called - per your email

If you want to enjoy Friday evening please don't feel you must call back tonight. I am, though, avail for abt another 1.5 hrs before plane takes off and happy to talk tonight, over wkend or Mon . Thanks so much for everything.

-----Original Message-----
From: Brand, Rachel
To: Gorsuch, Neil M
CC: Macklin, Kristi R
Sent: Fri Jun 16 17:04:59 2006
Subject: Fw: Neil Gorsuch called - per your email

I'll call you later.
KM should be scheduling the moot for next week. I want to talk to you re moot topics and some procedural things (eg, you shouldn't be talking directly to senate judiciary staff). I should be free to call in about an hour.

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel
Sent: Fri Jun 16 16:47:15 2006
Subject: Neil Gorsuch called - per your email

He is getting on a plane at 7pm flying back to DC.
You can reach him by cell - [redacted] - before his departure or over the weekend.

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 5:15 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH COCHISE COUNTY, ARIZONA

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JUNE 16, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH COCHISE COUNTY, ARIZONA

WASHINGTON — The Justice Department announced today the filing and successful resolution of a lawsuit against Cochise County, Ariz., alleging violations of the voting rights of language minority citizens under the Voting Rights Act and violations of the Help America Vote Act (HAVA).

"By quickly agreeing to implement a comprehensive and effective remedial plan, Cochise County officials have demonstrated a genuine commitment to addressing past problems and protecting the voting rights of all American citizens," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division.

The Department filed a complaint in the U.S. District Court for the District of Arizona alleging that Cochise County failed to meet its legal responsibilities under Section 203 to provide materials and assistance to Spanish-speaking voters at the polls and failed to provide all of the information required by HAVA. A consent decree resolving the lawsuit was simultaneously filed today, which still must be approved by a panel of three federal judges. The decree requires the County to implement procedures that will ensure compliance with federal law and permit the Justice Department to monitor future elections.

"We have an important and proud Hispanic heritage in Cochise County," said Paul Newman, Cochise County Supervisor, District Two. "The County Board of Supervisors will of course vigorously support efforts by its Elections Department and County Recorder to reach out to Hispanic voters."

Section 203 of the Voting Rights Act requires that certain jurisdictions with a substantial language minority citizen voter population provide all voting materials and assistance in the minority language as well as in English. HAVA requires that all jurisdictions provide certain information to voters at the polls during federal elections, including relevant information on voting rights under applicable federal and state laws.

The Civil Rights Division has launched a vigorous enforcement effort to ensure compliance by each jurisdiction covered under the language minority provisions of the Voting Rights Act, as well as compliance with the HAVA. Since 2002, the Division has brought more lawsuits to enforce the minority-language provisions of the Act than it brought in the preceding 26 years combined. This is the fifth lawsuit under HAVA brought by the Civil Rights Division.

DOJ_NMG_ 0161799

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1 (800) 253-3931. More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice Web site at www.usdoj.gov/crt/voting/index.htm.

# # #

06-374

DOJ_NMG_ 0161800

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Image not available for this document, ID: 0.7.10316.7073-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 5:18 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL AUTHORITIES TARGET HISPANIC STREET GANGS FOR CRIMINAL ACTIVITIES

Department of Justice

United States Attorney Carol C. Lam
District of Southern California

FOR IMMEDIATE RELEASE

CONTACT: DEBBIE HARTMAN

FRIDAY, JUNE 16, 2006

PHONE: (619) 557-7034

WWW.USDOJ.GOV/USAO/CAS

FAX: (619) 557-5782

FEDERAL AUTHORITIES TARGET HISPANIC STREET GANGS FOR CRIMINAL ACTIVITIES

SAN DIEGO - Five indictments and a criminal complaint were unsealed today to disclose charges against 36 defendants related to a federal racketeering conspiracy, violent crimes in aid of racketeering, and drug trafficking violations, U.S. Attorney Carol C. Lam announced. The charges stem from a long-term investigation conducted by the multi-agency San Diego Violent Crimes Task Force-Gang Group and North County Regional Gang Task Force, which targeted the criminal activities of Hispanic street gangs with ties to the Mexican Mafia, or "La Eme."

One of the five indictments charges 22 individuals with participating in a Racketeering Influenced and Corrupt Organization (RICO) conspiracy. The indictment alleges that the defendants engaged in multiple racketeering acts in furtherance of the Mexican Mafia criminal enterprise including, among other things, murder; conspiracy to commit murder; attempted murder; robbery; extortion in violation of the "Hobbs Act;" conspiracy to import controlled substances into the United States; conspiracy to distribute controlled substances; conspiracy to launder drug proceeds; the importation of controlled substances into the United States; and the distribution of controlled substances. The indictment describes the manner in which the Mexican Mafia criminal organization exerted control over illegal activities both within the prison system and on the streets of Southern California, as well as the Mexican Mafia's connection to Hispanic street gangs in San Diego, Los Angeles, San Bernardino and Riverside Counties.

The criminal complaint charges three defendants with committing a violent crime in aid of a racketeering organization. Specifically, defendants Ceasar Moedano (also charged in the RICO conspiracy indictment), Leon Rossetto and Geovani Beranal, all members of the Varrio San Marcos street gang, are alleged to have participated in the Nov. 30, 2005, shooting of a twelve-year-old boy on Autumn Drive in San Marcos, Calif. The remaining four indictments charge various defendants with participating in narcotics distribution conspiracies.

DOJ_NMG_ 0161803

"The Mexican Mafia has infected our prisons and our neighborhoods. Any organization built on violence and drugs has to be dismantled, and today we begin that process," stated U.S. Attorney Lam.

"The Mexican Mafia is a significant threat to the public and law enforcement," said FBI Special Agent in Charge Daniel R. Dzwilewski. "Simply put, they are urban street terrorists, who rule by violence. They are the closest thing to traditional organized crime in San Diego, and by utilizing the RICO conspiracy statute, we are able to disrupt and dismantle this criminal menace."

U.S. Attorney Lam praised the Organized Crime Drug Enforcement Task Force (OCDETF) for the coordinated team effort culminating in the charges filed in these cases. The OCDETF program was created to consolidate and utilize all law enforcement resources in this country's battle against major drug trafficking.

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DOJ_NMG_ 0161804

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Image not available for this document, ID: 0.7.10316.7068-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 5:23 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR JUNE 17-23, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, JUNE 16, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR June 17 – 23, 2006

Saturday, June 17

1:00 P.M. EDT Wan Kim, Assistant Attorney General, Civil Rights Division, will make keynote remarks at the American-Arab Anti-Discrimination Committee Civil Rights Awards Luncheon.
Wardman Park Marriott Hotel
Washington, D.C.
OPEN PRESS

All press inquiries regarding logistics should be directed to Kareem W. Shora of the American-Arab Anti-Discrimination Committee at 202-244-2990.

Monday, June 19

Events TBD

Tuesday, June 20

12:45 P.M. EDT Regina B. Schofield, Assistant Attorney General, Office of Justice Programs, will make keynote remarks at the National Sheriffs' Institute luncheon during the National Sheriffs' Association annual conference.
Orange County Convention Center
Orlando, Florida
OPEN PRESS

All press inquiries regarding logistics should be directed to Joan LaRocca of the Office of Justice Programs at 202-514-8875.

DOJ_NMG_ 0161807

1:00 P.M. EDT Attorney General Alberto R. Gonzales will make remarks and participate in the Chamber of Commerce Coalition Against Counterfeiting and Piracy Luncheon.
U.S. Chamber of Commerce
1615 H Street, N.W.
Washington, D.C.
OPEN PRESS

All press inquiries regarding logistics should be directed to Evan Peterson of the Office of Public Affairs at 202-514-2007.

2:00 P.M. EDT Thomas O. Barnett, Assistant Attorney General, Antitrust Division, will deliver opening remarks at the Justice Department and Federal Trade Commission's joint public hearings on the antitrust implications of single-firm conduct.
FTC Headquarters Building, Room 432
600 Pennsylvania Avenue N.W.
Washington, D.C.
OPEN PRESS

All press inquiries regarding logistics should be directed to Lynne Francis of the Office of Public Affairs, Department of Justice, at 202-514-2007 or Mitch Katz, Office of Public Affairs, Federal Trade Commission, at 202-326-2161.

Wednesday, June 21

2:30 P.M. EDT Karen Tandy, Administrator, Drug Enforcement Administration, will testify before the Senate Foreign Relations Subcommittee on International Economic Policy, Export and Trade Promotion and the Subcommittee on the Western Hemisphere, Peace Corps and Narcotics regarding international methamphetamine trafficking.
Dirksen Senate Office Building
Room 419
Washington, D.C.
OPEN PRESS

All press inquiries regarding logistics should be directed to the Senate Foreign Relations Subcommittee on International Economic Policy, Export and Trade Promotion at 202-224-4651.

Thursday, June 22

1:00 P.M. EDT Attorney General Alberto R. Gonzales will make remarks and participate in the ABA Intellectual Property Law Luncheon.
Marriott Copley Place Hotel
Grand Ballroom F, Fourth Floor
110 Huntington Avenue
Boston, Massachusetts
OPEN PRESS

All press inquiries regarding logistics should be directed to Evan Peterson of the Office of Public Affairs at 202-514-2007.

DOJ_NMG_ 0161808

Friday, June 23

2:00 P.M. EDT FBI Director Robert Mueller will make remarks to the City Club of Cleveland regarding domestic terrorism. Following his remarks, Director Mueller will participate in a press availability.
The City Club of Cleveland
850 Euclid Avenue
Second Floor
Cleveland, Ohio
OPEN PRESS

All press inquiries regarding logistics should be directed to Scott Wilson, FBI - Cleveland, at 216-622-6611 or 216-849-5502.

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DOJ_NMG_ 0161809

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Image not available for this document, ID: 0.7.10316.7037-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 5:27 PM
To: USDOJ- Office of Public Affairs
Subject: GRAND JURY DECLINES TO RETURN INDICTMENT IN ALLEGED ASSAULT BY CONGRESSWOMAN OF CAPITOL POLICE OFFICER
Attachments: NTB.PRE.pdf

U.S. Department of Justice

KENNETH L. WAINSTEIN
United States Attorney for the District of Columbia

Judiciary Center
555 Fourth Street, NW
Washington, D.C. 20530

PRESS RELEASE

FOR IMMEDIATE RELEASE
Friday, June 16, 2006

For Information Contact:
Public Affairs
Channing Phillips (202) 514-6933
http://www.usdoj.gov/usao/dc

Grand jury declines to return indictment in alleged assault by Congresswoman of Capitol Police Officer

Washington, D.C. - A District of Columbia Superior Court grand jury has declined to return an indictment in the case of the alleged assault by Representative Cynthia McKinney of United States Capitol Police Officer Paul McKenna, United States Attorney Kenneth L. Wainstein announced today. Today's decision by the grand jury, otherwise known as a no true bill or a finding of no probable cause, follows an extensive and thorough grand jury investigation by the United States Attorney's Office and the U.S. Capitol Police Department regarding the incident between the officer and Representative McKinney, which occurred on March 29, 2006, at the Longworth Office Building.

United States Attorney Wainstein stated, "We respect the decision of the grand jury in this difficult matter, and we thank its members for their hard work and careful consideration of the evidence and testimony." U.S. Attorney Wainstein added that, "Members of Congress are fortunate to have the protection and the service of one of the finest police forces in the country. We ask the U.S. Capitol Police to protect our Capitol and to do so in a way that minimizes disruption and makes all feel welcome. This is a tremendously difficult job, and it is one that Officer McKenna and his colleagues perform with the utmost professionalism and dignity."

The Department of Justice does not normally comment on the status of investigations, but has the discretion to do so when there is overwhelming public interest in a case. Such comment, however, is limited in this matter by Superior Court Rule of Criminal Procedure 6(e), which precludes disclosure of information received and heard by a grand jury, and thus there will be no further comment regarding this investigation.

Today's decision by the grand jury concludes the investigation of this incident.

###

Full Name:	Robert McCallum
Last Name:	McCallum
First Name:	Robert
Company:	SMO
Business Address:	Main Justice Bldg. 950 Penn Ave, NW Room 5714 Washington, DC 20530-0001 300B9489
Business:	202-514-9500
Home:	202-332-2101
E-mail:	Robert.McCallum@SMOJMD.USDOJ.gov
E-mail Display As:	Robert.McCallum@SMOJMD.USDOJ.gov

DOJ_NMG_ 0161814

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 5:33 PM
To: USDOJ- Office of Public Affairs
Subject: TWO BAY AREA MEN ARRESTED ON CHARGES OF STEALING TRADE SECRETS

Department of Justice

United States Attorney Kevin V. Ryan
Northern District of California

FOR IMMEDIATE RELEASE
FRIDAY, JUNE 16, 2006
WWW.USDOJ.GOV/USAO/CAN

CONTACT: LUKE MACAULAY
PHONE: (415) 436-7200
FAX: (415) 436-7234

TWO BAY AREA MEN ARRESTED ON CHARGES OF STEALING TRADE SECRETS

SAN JOSE, Calif. — Two Bay Area men were arrested today on charges of conspiracy to steal trade secrets and five counts of theft of trade secrets, U.S. Attorney Kevin V. Ryan announced. A federal grand jury in San Jose Thursday indicted Lan Lee, a.k.a Lan Li, of Palo Alto, Calif. and Yuefei Ge, of San Jose. The indictment was unsealed today at their initial appearance.

According to the indictment, Mr. Lee, 42, and Mr. Ge, 34, are alleged to have conspired to steal trade secrets from their employer at the time, NetLogics Microsystems, and another company, where they were not employed, Taiwan Semiconductor Manufacturing Corporation. The defendants created a company, SICO Microsystems, Inc., for the purpose of developing and marketing products derived from and using the stolen trade secrets. The trade secrets involved related to computer chip design and development.

"The protection of proprietary information is essential to this region's economy," said U.S. Attorney Kevin V. Ryan. "A tremendous amount of resources go into producing the chips and software that are designated as trade secrets, and we are committed to the prosecution of individuals who steal those trade secrets in an attempt to get an unfair advantage in the technology industry."

Lee, an American citizen, and Ge, a Chinese national, appeared before Magistrate Judge Howard R. Lloyd today, and were released on $300,000 bond. Their next scheduled appearance is on June 21, 2006 at 1:30 P.M. PDT.

The maximum statutory penalty for each count of conspiracy to commit theft of trade secrets, as well as the substantive counts of theft of trade secrets, is 10 years and a fine of $250,000, plus restitution if appropriate. However, any sentence following conviction would be imposed by the court after consideration of the U.S. Sentencing Guidelines and the Federal Statute governing the imposition of a sentence.

DOJ_NMG_ 0161815

NetLogic Microsystems is a computer chip design and development company located in Mountain View, Calif. Taiwan Semi-Conductor Manufacturing Company is a computer chip manufacturing company with facilities in Taiwan, San Jose, Singapore and Washington state.

"Development of proprietary business information, commonly called Trade Secrets, is an integral part of virtually every aspect of U.S. trade," said Acting Special Agent in Charge Arthur Balizan of the Federal Bureau of Investigations. "Protecting Trade Secrets is essential to maintain the health and competitiveness of critical segments of the U.S. economy."

Matt Parrella is the Assistant U.S. Attorney who is prosecuting the case. The prosecution is the result of an investigation by special agents of the FBI. NetLogics Microsystems and Taiwan Semiconductor Manufacturing Corporation cooperated with the FBI in the investigation.

An indictment contains only allegations, and defendants are presumed innocent unless and until proven guilty.

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DOJ_NMG_ 0161816

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Image not available for this document, ID: 0.7.10316.7024-000002

Best, David T

From: Best, David T
Sent: Friday, June 16, 2006 5:35 PM
To: Gorsuch, Neil M
Subject: Please call me

Please call me at your earliest opportunity

_____
David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 5:40 PM
To: Best, David T
Subject: Re: Please call me

David - accdg to my calendar on my bb I'm free Mon from 11-1, 3-4, or after 5. If I have to miss a mtg for this I could do so in the 930-10 slot. Thanks!

-----Original Message-----
From: Best, David T
To: Gorsuch, Neil M
Sent: Fri Jun 16 17:34:53 2006
Subject: Please call me

Please call me at your earliest opportunity

_____
David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Best, David T

From: Best, David T
Sent: Friday, June 16, 2006 5:41 PM
To: Gorsuch, Neil M
Subject: RE: Please call me

Let's set it for 11:45. I will confirm that with the Committee staff Monday morning and let you know if that works for them.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 5:40 PM
To: Best, David T
Subject: Re: Please call me

David - accdg to my calendar on my bb I'm free Mon from 11-1, 3-4, or after 5. If I have to miss a mtg for this I could do so in the 930-10 slot. Thanks!

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To: Gorsuch, Neil M
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David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 5:55 PM
To: Best, David T
Cc: Macklin, Kristi R
Subject: Re: Senate Judiciary Committee hearing

Thanks very much for the scheduling heads up. I will clear these times. Am I likely to need to set aside any more time for courtesy visits or other tasks next wk or will this do it?

-----Original Message-----
From: Best, David T
To: Gorsuch, Neil M
CC: Macklin, Kristi R
Sent: Fri Jun 16 16:25:56 2006
Subject: Senate Judiciary Committee hearing

Please be advised of the schedule in regards to your nomination hearing.

Tuesday, June 20, Time to be determined, but probably afternoon in Main Justice, Conference Room 4525 - hearing preparation session.

Wednesday, June 21, 2006, 4:00 p.m., Senate hearing in Dirksen 226

Thursday, June 22 (8:30 a.m.- 3:30 p.m.)- Judicial Nominee orientation program at Admin Office US Courts

In preparation for your hearing you should review your Senate Questionnaire, including any publications or speeches. As usual, you (and family members) should avoid talking to the press before and after the hearing.

If you have any questions or concerns, please feel free to contact me.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Brand, Rachel

From: Brand, Rachel
Sent: Friday, June 16, 2006 5:59 PM
To: Gorsuch, Neil M
Subject: Re: Neil Gorsuch called - per your email

How about this: think about topics you think may come up at the hearing, and send me the list. Otherwise I'll talk to you monday.

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel
Sent: Fri Jun 16 17:14:41 2006
Subject: Re: Neil Gorsuch called - per your email

If you want to enjoy Friday evening please don't feel you must call back tonight. I am, though, avail for abt another 1.5 hrs before plane takes off and happy to talk tonight, over wkend or Mon . Thanks so much for everything.

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From: Brand, Rachel
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CC: Macklin, Kristi R
Sent: Fri Jun 16 17:04:59 2006
Subject: Fw: Neil Gorsuch called - per your email

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KM should be scheduling the moot for next week. I want to talk to you re moot topics and some procedural things (eg, you shouldn't be talking directly to senate judiciary staff). I should be free to call in about an hour.

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From: Martinson, Wanda
To: Brand, Rachel
Sent: Fri Jun 16 16:47:15 2006
Subject: Neil Gorsuch called - per your email

He is getting on a plane at 7pm flying back to DC.
You can reach him by cell - [redacted] - before his departure or over the weekend.

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, June 16, 2006 6:13 PM
To: Gorsuch, Neil M
Subject: Cosmos Club Legal Affairs Committee

Hi, Neil. We have an interesting guest speaker at next Wednesday's Cosmos Legal Affairs Committee lunch meeting --[redacted]f you would like to come, let me know.
Jeff

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 6:14 PM
To: USDOJ- Office of Public Affairs
Subject: THREE FORMER WILSON COUNTY, TENNESSEE CORRECTIONS OFFICERS SENTENCED FOR CIVIL RIGHTS-RELATED CHARGES

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JUNE 16, 2006
WWW.USDOJ.GOV

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

THREE FORMER WILSON COUNTY, TENNESSEE CORRECTIONS OFFICERS SENTENCED FOR CIVIL RIGHTS-RELATED CHARGES

WASHINGTON — The Justice Department today announced that former Wilson County, Tenn. corrections officers Gary Hale, John McKinney, and William Westmoreland were sentenced on charges relating to violations of the civil rights of inmates at the Wilson County Jail in Lebanon, Tenn. Hale was sentenced to nine years imprisonment and two years supervised release; Westmoreland was sentenced to three years probation, six months of which is home detention; and McKinney was sentenced to two years probation

"These defendants violated the public's trust and broke faith with the proud history of integrity and professionalism in law enforcement," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "As today's sentencing demonstrates, the Justice Department will vigorously prosecute and hold accountable anyone who violates a position of trust by mistreating those entrusted to their custody."

Hale, McKinney and Westmoreland all pleaded guilty to federal crimes relating to their duties as corrections officers on the night shift of the Wilson County Jail ("Jail") during 2001-03. Hale pleaded guilty on Dec. 28, 2005, to participating in a conspiracy to violate the civil rights of inmates at the Jail by assaulting and depriving them of medical care during 2001-2003, including the events that resulted in the death of detainee Walter Kuntz in January 2003. McKinney pleaded guilty on April 9, 2004, to the felony charge of misprision of a felony for failing to report a September 2002 assault by other guards at the Jail, and Westmoreland pleaded guilty on Nov. 13, 2003, to participating in July 2001 assault with other guards on a Jail inmate.

Three other former Wilson County corrections officers – Travis Bradley, Brian Ferrell, and Christopher McCathern – have been sentenced after pleading guilty to felony charges relating to violations of the civil rights of inmates at the Wilson County Jail. In addition, two former Wilson County corrections officers – Tommy Shane Conatser and Patrick Marlowe – were convicted at trial in January 2006 for their roles. Marlowe also was convicted of six additional civil rights violations for assaulting or denying inmates medical care, including the assaults and denial of medical care that resulted in the death of Walter Kuntz. Conatser was sentenced on May 12, 2006, to 70 months imprisonment and two-years of supervised release. Marlowe is scheduled to be sentenced on July 6, 2006.

DOJ_NMG_ 0161825

In announcing the sentencing, Assistant Attorney General Kim commended Middle District of Tennessee U.S. Attorney Jim Vines and his office, the Criminal Section of the Civil Rights Division; My Harrison, Special Agent in Charge of the Memphis Field Office of the Federal Bureau of Investigation; the Tennessee Bureau of Investigation; and the District Attorney General's Office for the Fifteenth Judicial District, for their involvement in this investigation and prosecution of alleged civil rights violations at the Wilson County Jail.

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. In fact, since FY 2001, the Division has convicted 30 percent more defendants in official misconduct prosecutions than in the preceding five fiscal years.

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06-375

DOJ_NMG_ 0161826

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Image not available for this document, ID: 0.7.10316.7022-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, June 16, 2006 6:36 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 16, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Grand Jury Declines to Return Indictment in McKinney Case (OPA)
The DC Superior Court grand jury has declined to return an indictment in the case of the alleged assault by Representative Cynthia McKinney. Today's decision by the grand jury, otherwise known as a "no true bill" or a finding of no probable cause, is expected to draw significant media attention.

Justice Department Settles Voting Rights Lawsuit with Cochise County, Arizona (Civil Rights)
The Justice Department announced today the filing and successful resolution of a lawsuit against Cochise County, Ariz., alleging violations of the voting rights of language minority citizens under the Voting Rights Act and violations of the Help America Vote Act (HAVA).

Talking Points:

- The Department filed a complaint in the U.S. District Court for the District of Arizona alleging that Cochise County failed to meet its legal responsibilities under Section 203 to provide materials and assistance to Spanish-speaking voters at the polls and failed to provide all of the information required by HAVA.

- A consent decree resolving the lawsuit was simultaneously filed today, which still must be approved by a panel of three federal judges. The decree requires the County to implement procedures that will ensure compliance with federal law and permit the Justice Department to monitor future elections.

- Section 203 of the Voting Rights Act requires that certain jurisdictions with a substantial language minority citizen voter population provide all voting materials and assistance in the minority language as well as in English.

- HAVA requires that all jurisdictions provide certain information to voters at the polls during federal elections, including relevant information on voting rights under applicable federal and state laws.

Three Former Wilson County Tennessee Corrections Officers Sentenced for Civil Rights-Related Charges (Civil Rights)
The Justice Department announced that former Wilson County, Tenn. corrections officers Gary Hale, John McKinney, and William Westmoreland were sentenced on charges relating to violations of the civil rights of inmates at the Wilson County Jail in Lebanon, Tenn. Hale was sentenced to 9 years imprisonment and 2 years supervised release; Westmoreland was sentenced to three years probation, six months of which is home detention; and McKinney was sentenced to two years probation

Talking Points:

- These defendants violated the public's trust and broke faith with the proud history of integrity and professionalism in law enforcement. As today's sentencing demonstrates, the Justice Department will vigorously prosecute and hold accountable anyone who violates a position of trust by mistreating those entrusted to their custody.

- Hale, McKinney and Westmoreland all pleaded guilty to federal crimes relating to their duties as corrections officers on the night shift of the Wilson County Jail ("Jail") during 2001-03.

- Hale pleaded guilty on December 28, 2005, to participating in a conspiracy to violate the civil rights of inmates at the Jail by assaulting and depriving them of medical care during 2001-2003, including the events that resulted in the death of detainee Walter Kuntz in January 2003.

- McKinney pleaded guilty on April 9, 2004, to the felony charge of misprision of a felony for failing to report a September 2002 assault by other guards at the Jail.

- Westmoreland pleaded guilty on November 13, 2003, to participating in July 2001 assault with other guards on a Jail inmate.

- Three other former Wilson County corrections officers – Travis Bradley, Brian Ferrell, and Christopher McCathern – have been sentenced after pleading guilty to felony charges relating to violations of the civil rights of inmates at the Wilson County Jail.

- Two former Wilson County corrections officers – Tommy Shane Conatser and Patrick Marlowe – were convicted at trial in January 2006 for their roles.

- Since FY 2001, the Civil Rights Division has convicted 30 percent more defendants in official misconduct prosecutions than in the preceding five fiscal years.

Operator of Massive For-Profit Software Piracy Website Pleads Guilty (Criminal)
The owner of a massive for-profit software piracy Web site pleaded guilty in federal court. Danny Ferrer, 37, of Lakeland, Florida, pleaded guilty to one count of conspiracy and one count of criminal copyright infringement for selling pirated software through the mail. Ferrer could receive a maximum sentence of ten years in prison and a $500,000 fine. Ferrer also agreed to forfeit numerous airplanes, a helicopter, boats and cars, which he had purchased with the profits

from his illegal enterprise, including: a Cessna 152; a Cessna 172RG; a Model TS-11 ISKRA aircraft; a RotorWay International helicopter; a 1992 Lamborghini; a 2005 Hummer; a 2002 Chevrolet Corvette; two 2005 Chevrolet Corvettes; a 2005 Lincoln Navigator; an IGATE G500 LE Flight Simulator; a 1984 twenty-eight foot Marinette hardtop express boat; and an ambulance.

Media Inquiry into FBI's Trilogy Program (FBI)
Washington Post's Dan Eggen is working on a story regarding the Defense Contract Audit Agency's audit of the FBI's Trilogy program. This audit was requested in a February 24, 2006 memo by the Deputy Assistant Inspector General. The story is expected to run this weekend.

Media Inquiry into FBI Polygraphs (FBI)
Washington Post's Shankar Vedanton is working on a story regarding polygraphs and has interviewed a number of law enforcement agencies. The story is expected to run this weekend.

Security of the Washington State Ferry System (FBI)
CNN's Peter Viles interviewed FBI Senior Agent in Charge Laughlin regarding security of the Washington State Ferry System. Representatives of the Coast Guard, Washington State Patrol and the Washington State Ferries were also interviewed. This piece will air tonight on *Anderson Cooper 360*.

Media Inquiry into Counterfeit Pharmaceuticals (DEA)
Los Angeles Times is working on a story regarding counterfeit pharmaceuticals and drug trends in China. It is unclear when the story will run.

MONDAY'S EXPECTED EVENTS/RELEASES:

No expected events or releases.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 7:08 PM
To: Jaffer, Jamil N
Subject: Thanks

Very much. Sorry if I was a bit awkward on the phone but i wasn't in a spot where I couild really speak.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 7:10 PM
To: Senger, Jeffrey M
Subject: Re: Cosmos Club Legal Affairs Committee

Jeff, thanks so much but Weds is tough for me. But I really appreciate the kind offer.

-----Original Message-----
From: Senger, Jeffrey M
To: Gorsuch, Neil M
Sent: Fri Jun 16 18:12:32 2006
Subject: Cosmos Club Legal Affairs Committee

Hi, Neil. We have an interesting guest speaker at next Wednesday's Cosmos Legal Affairs Committee lunch meeting -- [redacted] If you would like to come, let me know.
Jeff

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Friday, June 16, 2006 7:13 PM
To: Gorsuch, Neil M
Subject: Re: Thanks

Not a problem. Game time.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Gorsuch, Neil M
To: Jaffer, Jamil N
Sent: Fri Jun 16 19:08:07 2006
Subject: Thanks

Very much. Sorry if I was a bit awkward on the phone but i wasn't in a spot where I couild really speak.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 7:22 PM
To: Gorsuch, Neil M
Subject: RE: Senate Judiciary Committee hearing

By the way, are your Senators lined up to intro and rec you at the start of the hearing? Short notice if they have not already been given the heads up. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 7:19 PM
To: Gorsuch, Neil M
Subject: RE: Senate Judiciary Committee hearing

Hurrah!!!!! Great news on the hearing date. Of course, it means that I get to park at the EDVA on June 21 just like you commanded but now for a much better reason: you should be prepping for the hearing that day and won't be there at all. My hearing will be at 3pm on Monday June 19th. How did the argument go? You still got the same number of orifices or did they drill you a new one or two? Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 16, 2006 7:13 PM
To: McCallum, Robert (SMO)
Subject: Fw: Senate Judiciary Committee hearing

Fyi. When is your hrg Monday?

-----Original Message-----
From: Best, David T
To: Gorsuch, Neil M
CC: Macklin, Kristi R
Sent: Fri Jun 16 16:25:56 2006
Subject: Senate Judiciary Committee hearing

Please be advised of the schedule in regards to your nomination hearing.

Tuesday, June 20, Time to be determined, but probably afternoon in Main Justice, Conference Room 4525 - hearing preparation session.

Wednesday, June 21, 2006, 4:00 p.m., Senate hearing in Dirksen 226

Thursday, June 22 (8:30 a.m.- 3:30 p.m.)- Judicial Nominee orientation program at Admin Office US Courts

In preparation for your hearing you should review your Senate Questionnaire, including any publications or speeches. As usual, you (and family members) should avoid talking to the press before and after the hearing.

If you have any questions or concerns, please feel free to contact me.

_____

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, June 17, 2006 12:43 AM
To: McCallum, Robert (SMO)
Subject: Re: Senate Judiciary Committee hearing

Senators are - hopefully - both going to be there. Argument went fine - very polite panel, though I don't venture a guess on the merits. It is a close case that was notably well briefed by petr.

Do you need any help prepping over the wkend for your hearing? Happy to help in any way I can.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Gorsuch, Neil M
Sent: Fri Jun 16 19:21:35 2006
Subject: RE: Senate Judiciary Committee hearing

By the way, are your Senators lined up to intro and rec you at the start of the hearing? Short notice if they have not already been given the heads up. Robt.

-----Original Message-----
From: McCallum, Robert (SMO)
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Hurrah!!!!! Great news on the hearing date. Of course, it means that I get to park at the EDVA on June 21 just like you commanded but now for a much better reason: you should be prepping for the hearing that day and won't be there at all. My hearing will be at 3pm on Monday June 19th. How did the argument go? You still got the same number of orifices or did they drill you a new one or two? Robt.

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To: McCallum, Robert (SMO)
Subject: Fw: Senate Judiciary Committee hearing

Fyi. When is your hrg Monday?

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To: Gorsuch, Neil M
CC: Macklin, Kristi R

CC: Mackin, Kristi K
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In preparation for your hearing you should review your Senate Questionnaire, including any publications or speeches. As usual, you (and family members) should avoid talking to the press before and after the hearing.

If you have any questions or concerns, please feel free to contact me.

David T. Best
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United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Saturday, June 17, 2006 12:55 AM
To: Gorsuch, Neil M
Subject: Re: Senate Judiciary Committee hearing

No help needed on my side. [redacted] so tomorrow is entertaining them. Sunday will be prep. Can I help you after Monday? Would you like me at the moot? Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
Sent: Sat Jun 17 00:43:22 2006
Subject: Re: Senate Judiciary Committee hearing

Senators are - hopefully - both going to be there. Argument went fine - very polite panel, though I don't venture a guess on the merits. It is a close case that was notably well briefed by petr.

Do you need any help prepping over the wkend for your hearing? Happy to help in any way I can.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Gorsuch, Neil M
Sent: Fri Jun 16 19:21:35 2006
Subject: RE: Senate Judiciary Committee hearing

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-----Original Message-----
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Sent: Friday, June 16, 2006 7:19 PM
To: Gorsuch, Neil M
Subject: RE: Senate Judiciary Committee hearing

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-----Original Message-----
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In preparation for your hearing you should review your Senate Questionnaire, including any publications or speeches. As usual, you (and family members) should avoid talking to the press before and after the hearing.

If you have any questions or concerns, please feel free to contact me.

_____

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Henderson, Charles V

Subject:	Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4208
Start:	Monday, June 19, 2006 3:00 PM
End:	Monday, June 19, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Elston, Michael (ODAG); Gorsuch, Neil M

When: Monday, June 19, 2006 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4208

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Please Note: Changing this meeting to 3:00.
-William Mercer
-Michael Elston
-Neil Gorsuch

Sours, Raquel

Subject:	Updated: Strategic Initiatives with the Attorney General re: National Terrorism Prevention Strategy
Start:	Friday, June 23, 2006 10:00 AM
End:	Friday, June 23, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Friedrich, Matthew; Elston, Michael (ODAG); McNulty, Paul J; 'Wainstein, Kenneth'

When: Friday, June 23, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
AO: Kyle Sampson DOJ: Paul McNulty, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Alice Fisher, Ken Masugi, Mike Battle, Matt Friedrich, Mike Elston, Ken Wainstein

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 8:26 AM
To: Todd, Gordon (SMO)
Subject: Civ Justice

Can we talk this morning abt civil justice reform?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 8:27 AM
To: Gorsuch, Neil M
Subject: Read: Civil Justice Reform

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Tuesday, July 04, 2006 8:30 AM
End:	Tuesday, July 04, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)
Importance:	High

When: Tuesday, July 04, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Shaw, Aloma A

Subject:	Hold for Hearing Prep Session - Time to be determined
Location:	Main, Room 4525
Start:	Tuesday, June 20, 2006 2:00 PM
End:	Tuesday, June 20, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Senate Hearing
Location:	Dirksen - Room 226
Start:	Wednesday, June 21, 2006 4:00 PM
End:	Wednesday, June 21, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 8:53 AM
To: Gorsuch, Neil M
Subject: RE: Civ Justice

Sure. My schedule is pretty open, so let me know when works for you.

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 8:26 AM
To: Todd, Gordon (SMO)
Subject: Civ Justice

Can we talk this morning abt civil justice reform?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Tenpas, Ronald J (ODAG)

From: Tenpas, Ronald J (ODAG)
Sent: Monday, June 19, 2006 9:38 AM
To: Tenpas, Ronald J (ODAG); McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M; Fisher, Alice; Keisler, Peter D (CIV); Swenson, Lily F
Subject: RE: Standing Comm Meeting next week

Robert:

Still trying to get the DAG's prep time booked in for criminal stuff and we'll include you in the scheduling. The DAG will be going only Thursday morning 10:00 a.m. through about 2:00, which should cover the criminal rules discussion. Can your assistant schedule a time with Civil (may want to include Bankruptcy Trustee also since 98% the non-criminal stuff is either civil or bankruptcy rule changes) to prep you and me on the rest of the stuff? We have information packets on each of the three areas. I'll get copies up to you but we ought to be working to your schedule for prep since you are so much busier.

Ron

From: Tenpas, Ronald J (ODAG)
Sent: Friday, June 16, 2006 2:33 PM
To: McCallum, Robert (SMO)
Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M; Fisher, Alice; Keisler, Peter D (CIV)
Subject: RE: Standing Comm Meeting next week

We do. I think the DAG is likely to be there only for the part on the controversial criminal rules (currently scheduled for Thursday morning it appears). That leaves you and me to cover the balance. We're getting a time right now for DAG to get briefed on the Crim stuff and perhaps you should come to that also, just in case there is a last minute conflict for the DAG and you have to step in. Then we can do a separate meeting on all of the stuff for civil/bankruptcy. I'll try and get this sorted out this afternoon.

Ron

From: McCallum, Robert (SMO)
Sent: Friday, June 16, 2006 2:15 PM
To: Tenpas, Ronald J (ODAG)
Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M; Fisher, Alice; Keisler, Peter D (CIV)
Subject: Standing Comm Meeting next week

Ron: Don't we need to schedule a prep for the DAG (and for you and me) for this meeting? If so, when should we do it? Will you set it up coordinating with the DAG's schedule. Do we need to loop in CRM or CIV as well? Ccing Peter and Alice just in case. Robt.

Beach, Andrew

From: Beach, Andrew
Sent: Monday, June 19, 2006 9:44 AM
To: Washington, Tracy T; Walker, Shelia M; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Jezierski, Crystal; Sellers, Kiahna (OAG); Masugi, Ken (OPA); Battle, Michael (USAEO); Elston, Michael (ODAG); Schofield, Regina
Cc: Henderson, Charles V; Shaw, Aloma A; Martinson, Wanda; Block, Jonathan; Cohen, Brian; Brown, Angela; Barrett, Regina (USAEO); Palma, Josephine
Subject: 6/26 Strategic Initiatives Meeting

The weekly Strategic Initiatives meeting on Monday, June 26 has been canceled. Please remove this meeting from your/your boss' calendar.

Subject: Strategic Initiatives Meeting
Location: OAG Conference Room 5228
Start: Mon 6/26/2006 1:30 PM
End: Mon 6/26/2006 2:30 PM

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Beach, Andrew

Subject:	Canceled: Strategic Initiatives Meeting
Location:	OAG Conference Room 5228
Start:	Monday, June 26, 2006 1:30 PM
End:	Monday, June 26, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Elston, Michael (ODAG); Schofield, ReginaSampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Elston, Michael (ODAG); Schofield, Regina
Optional Attendees:	Coughlin, Robert; Friedrich, MatthewCoughlin, Robert; Friedrich, Matthew
Importance:	High

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Gunn, Currie (SMO)

Subject:	Updated: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, June 26, 2006 2:00 PM
End:	Monday, June 26, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Coleman, Tim (ODAG); Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO)

When: Monday, June 26, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Note date change or this mtg only.

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

POC: Currie Gunn x49500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 9:53 AM
To: 'daniel.meron@hhs.gov'
Subject: Robert's Hearing

Dan - The hearing will be in 419 Dirksen at 3pm. Good to see you Saturday. Warm regards, NMG

Best, David T

From: Best, David T
Sent: Monday, June 19, 2006 10:03 AM
To: [redacted]@judiciary-rep.senate.gov';
[redacted]@judiciary-dem.senate.gov'
Cc: Gorsuch, Neil M
Subject: Conference call

You are set for the requested conference call with Neil Gorsuch this morning at 11:45. Please call Neil directly at 202-305-1434.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Best, David T

From: Best, David T
Sent: Monday, June 19, 2006 10:27 AM
To: Brand, Rachel; Cook, Elisebeth C; 'Leslie_Fahrenkopf@who.eop.gov'; Jennifer R. Brosnahan (Jennifer_R._Brosnahan@who.eop.gov); Jaffer, Jamil N; Macklin, Kristi R; McIntosh, Brent; Gorsuch, Neil M
Cc: Martinson, Wanda; Coehins, Bridget C
Subject: Gorsuch moot

The Senate Committee on the Judiciary has scheduled a hearing on "Judicial Nominations" for Wenesday, June 21, 2006 at 4:00 p.m. in Room 226 of the Senate Dirksen Office Building.

In preparation for that hearing, there will be a moot session on Tuesday, June 20, 2006 from 1:00-3:00 p.m. in the OLP Conference Room, room 4525.

The nominee for this hearing is Neil Gorsuch, to be United States Circuit Judge for the Tenth Circuit.

Your attendance is requested.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, June 19, 2006 10:29 AM
To: Gorsuch, Neil M
Subject: FW: Gorsuch moot

Now it's really game time.

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

From: Best, David T
Sent: Monday, June 19, 2006 10:27 AM
To: Brand, Rachel; Cook, Elisebeth C; 'Leslie_Fahrenkopf@who.eop.gov'; Jennifer R. Brosnahan (Jennifer_R._Brosnahan@who.eop.gov); Jaffer, Jamil N; Macklin, Kristi R; McIntosh, Brent; Gorsuch, Neil M
Cc: Martinson, Wanda; Coehins, Bridget C
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The nominee for this hearing is Neil Gorsuch, to be United States Circuit Judge for the Tenth Circuit.

Your attendance is requested.

David T. Best
Nominations Counsel
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United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 11:30 AM
To: Gorsuch, Neil M
Subject: Phone Call

Ryan Smith
Senator Allard's office
(202) 224-0425

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 11:45 AM
To: Cook, Elisebeth C
Subject: RE: articles

Thanks!

From: Cook, Elisebeth C
Sent: Monday, June 19, 2006 11:30 AM
To: Gorsuch, Neil M
Subject: articles

We should be able to get you a set shortly.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 11:47 AM
To: Best, David T
Cc: Brand, Rachel
Subject: FW: Phone Call

David - Please could you e-mail a copy of my public judiciary committee questionnaire to [redacted] of Sen. Allard's office. [redacted] preparing introductory remarks for the Senator. [redacted] email is [redacted]@allard.senate.gov. Many thanks! Neil

---

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 11:30 AM
To: Gorsuch, Neil M
Subject: Phone Call

[redacted]
Senator Allard's office
[redacted]

Best, David T

From: Best, David T
Sent: Monday, June 19, 2006 11:52 AM
To: Gorsuch, Neil M
Cc: Brand, Rachel; Macklin, Kristi R
Subject: RE: Phone Call

We only send the Senate Questionnaire to the Judiciary Committee, and never would we send an electronic copy to the Senate. I am sure you understand that the Department would not want to establish a precedent which goes outside of the established procedures. However, I will inform the Committee staff that they should provide a copy to Sen. Allard as quickly as possible.

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 11:47 AM
To: Best, David T
Cc: Brand, Rachel
Subject: FW: Phone Call

David - Please could you e-mail a copy of my public judiciary committee questionnaire to [redacted] of Sen. Allard's office. [redacted] preparing introductory remarks for the Senator. [redacted] email is [redacted]@allard.senate.gov. Many thanks! Neil

---

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 11:30 AM
To: Gorsuch, Neil M
Subject: Phone Call

[redacted]
Senator Allard's office
[redacted]

Best, David T

From: Best, David T
Sent: Monday, June 19, 2006 11:56 AM
To: '[redacted]@judiciary-rep.senate.gov';
'[redacted]@judiciary-rep.senate.gov'
Subject: Gorsuch Senate Questionnaire

As soon as possible, would you please provide a copy of the Senate Questionnaire of Neil Gorsuch to [redacted] of Sen. Allard's office. [redacted] preparing introductory remarks for the Senator. [redacted] email is [redacted]@allard.senate.gov. Thanks.

_____
David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:10 PM
To: Best, David T
Subject: RE: Gorsuch Senate Questionnaire

Thanks. Phone call with Sen Jud went exactly as you expected.

From: Best, David T
Sent: Monday, June 19, 2006 11:56 AM
To: [redacted]@judiciary-rep.senate.gov'; [redacted]@judiciary-rep.senate.gov'
Subject: Gorsuch Senate Questionnaire

As soon as possible, would you please provide a copy of the Senate Questionnaire of Neil Gorsuch to [redacted] of Sen. Allard's office. [redacted] preparing introductory remarks for the Senator. His email is [redacted]@allard.senate.gov. Thanks.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 12:22 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Otus2005, Ag

Subject:	Updated: PREP: WH Principals meeting regarding Mt. Soledad
Start:	Tuesday, June 20, 2006 10:30 AM
End:	Tuesday, June 20, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO)

AG's Conference Room
AO: DOJ: Robert McCallum, Neil Gorsuch, Gordon Todd, Eric Treene (CRT), Wan Kim, Jeremy Kernodle (OLC), Kevin Marshall (OLC), Ryan Nelson (ENRD), and Sue Ellen Wooldridge

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:41 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: RE: [redacted]

Thanks for passing this along.

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 12:22 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Henderson, Charles V

Subject:	Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4135
Start:	Monday, June 19, 2006 3:00 PM
End:	Monday, June 19, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Elston, Michael (ODAG); Gorsuch, Neil M; Tenpas, Ronald J (ODAG); Raman, Mythili (ODAG)

When: Monday, June 19, 2006 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4135

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

Please note that the meeting room is now 4135.
-William Mercer
-Michael Elston
-Neil Gorsuch
-Ron Tenpas
-Mythili Raman

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:43 PM
To: Rusak, Steve (ENRD)
Subject: Lunch

Steve - I just learned Friday evening that my hearing will be Wednesday and I have a prep session now scheduled for Tuesday when we are scheduled to break bread. Would it be possible to reschedule for Friday? My sincere apologies for the hassle.

Bennett, Catherine T

Subject:	Updated: Courtney Elwood's Mt. Soledad Meeting
Location:	MEETING ROOM HAS CHANGED TO 5228
Start:	Monday, June 19, 2006 3:00 PM
End:	Monday, June 19, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Treene, Eric (CRT); Nelson, Ryan (ENRD); Todd, Gordon (SMO); Gorsuch, Neil M

When: Monday, June 19, 2006 3:00 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: MEETING ROOM HAS CHANGED TO 5228

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

Invitees: Eric Treene, Ryan Nelson, Gordon Todd, Neil Gorsuch

Elwood, Courtney

Subject:	Updated: Courtney Elwood's Mt. Soledad Meeting
Location:	MEETING ROOM HAS CHANGED TO 5228
Start:	Monday, June 19, 2006 3:00 PM
End:	Monday, June 19, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Elwood, Courtney
Required Attendees:	Treene, Eric (CRT); Nelson, Ryan (ENRD); Todd, Gordon (SMO); Gorsuch, Neil MTreene, Eric (CRT); Nelson, Ryan (ENRD); Todd, Gordon (SMO); Gorsuch, Neil M

Invitees: Eric Treene, Ryan Nelson, Gordon Todd, Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 1:02 PM
To: Sampson, Kyle
Cc: Elston, Michael (ODAG)
Subject: Weds

I understand we have an off site Wednesday and that the DAG may be participating for at least some of the day. Robert was wondering whether there will be an 830 mtg here or at the offsite. Do you know what OAG's plans are?

Rusak, Steve (ENRD)

From: Rusak, Steve (ENRD)
Sent: Monday, June 19, 2006 1:05 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

Neil,

Is this your confirmation hearing? If so, GOOD LUCK. Let me know what time/where its occurring. I've never seen a confirmnation hearing and will try to stop by.

Friday would be great to break bread. I'm looking forward to it.

Steve

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:43 PM
To: Rusak, Steve (ENRD)
Subject: Lunch

Steve - I just learned Friday evening that my hearing will be Wednesday and I have a prep session now scheduled for Tuesday when we are scheduled to break bread. Would it be possible to reschedule for Friday? My sincere apologies for the hassle.

Henderson, Charles V

Subject:	Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4135
Start:	Tuesday, June 20, 2006 1:00 PM
End:	Tuesday, June 20, 2006 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Elston, Michael (ODAG); Gorsuch, Neil M; Tenpas, Ronald J (ODAG); Raman, Mythili (ODAG)

When: Tuesday, June 20, 2006 1:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4135

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

Please Note: Changing this meeting to June 20, 1:00 p.m., room 4135.
-William Mercer
-Michael Elston
-Neil Gorsuch
-Ron Tenpas
-Mythili Raman

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Monday, June 19, 2006 1:10 PM
To: Gorsuch, Neil M; Sampson, Kyle
Subject: Re: Weds

The 8:30 will be here. He ius not going to the off site until after that.

-----Original Message-----
From: Gorsuch, Neil M
To: Sampson, Kyle
CC: Elston, Michael (ODAG)
Sent: Mon Jun 19 13:01:45 2006
Subject: Weds

I understand we have an off site Wednesday and that the DAG may be participating for at least some of the day. Robert was wondering whether there will be an 830 mtg here or at the offsite. Do you know what OAG's plans are?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 1:11 PM
To: McCallum, Robert (SMO)
Subject: Fw: Weds

Fyi

-----Original Message-----
From: Elston, Michael (ODAG)
To: Gorsuch, Neil M; Sampson, Kyle
Sent: Mon Jun 19 13:09:48 2006
Subject: Re: Weds

The 8:30 will be here. He ius not going to the off site until after that.

-----Original Message-----
From: Gorsuch, Neil M
To: Sampson, Kyle
CC: Elston, Michael (ODAG)
Sent: Mon Jun 19 13:01:45 2006
Subject: Weds

I understand we have an off site Wednesday and that the DAG may be participating for at least some of the day. Robert was wondering whether there will be an 830 mtg here or at the offsite. Do you know what OAG's plans are?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 1:11 PM
To: Elston, Michael (ODAG); Sampson, Kyle
Subject: Re: Weds

Thanks, Mike.

-----Original Message-----
From: Elston, Michael (ODAG)
To: Gorsuch, Neil M; Sampson, Kyle
Sent: Mon Jun 19 13:09:48 2006
Subject: Re: Weds

The 8:30 will be here. He ius not going to the off site until after that.

-----Original Message-----
From: Gorsuch, Neil M
To: Sampson, Kyle
CC: Elston, Michael (ODAG)
Sent: Mon Jun 19 13:01:45 2006
Subject: Weds

I understand we have an off site Wednesday and that the DAG may be participating for at least some of the day. Robert was wondering whether there will be an 830 mtg here or at the offsite. Do you know what OAG's plans are?

Gorsuch, Neil M

Subject:	Steve Rusak
Start:	Friday, June 23, 2006 12:00 PM
End:	Friday, June 23, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Rusak, Steve (ENRD)

From: Rusak, Steve (ENRD)
Sent: Monday, June 19, 2006 1:39 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

Great -- see you Friday. I have every confidence that you will dazzle even the toughest members. Good luck, Steve

---

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 1:39 PM
To: Rusak, Steve (ENRD)
Subject: RE: Lunch

Steve, Let's count on Friday then. Thanks for your understanding. And, yes, this is my confirm hrg. Gulp. Best, NMG

From: Rusak, Steve (ENRD)
Sent: Monday, June 19, 2006 1:05 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

Neil,

Is this your confirmation hearing? If so, GOOD LUCK. Let me know what time/where its occurring. I've never seen a confirmnation hearing and will try to stop by.

Friday would be great to break bread. I'm looking forward to it.

Steve

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:43 PM
To: Rusak, Steve (ENRD)
Subject: Lunch

Steve - I just learned Friday evening that my hearing will be Wednesday and I have a prep session now scheduled for Tuesday when we are scheduled to break bread. Would it be possible to reschedule for Friday? My sincere apologies for the hassle.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 1:39 PM
To: Rusak, Steve (ENRD)
Subject: RE: Lunch

Steve, Let's count on Friday then. Thanks for your understanding. And, yes, this is my confirm hrg. Gulp. Best, NMG

From: Rusak, Steve (ENRD)
Sent: Monday, June 19, 2006 1:05 PM
To: Gorsuch, Neil M
Subject: RE: Lunch

Neil,

Is this your confirmation hearing? If so, GOOD LUCK. Let me know what time/where its occurring. I've never seen a confirmnation hearing and will try to stop by.

Friday would be great to break bread. I'm looking forward to it.

Steve

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 12:43 PM
To: Rusak, Steve (ENRD)
Subject: Lunch

Steve - I just learned Friday evening that my hearing will be Wednesday and I have a prep session now scheduled for Tuesday when we are scheduled to break bread. Would it be possible to reschedule for Friday? My sincere apologies for the hassle.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 2:01 PM
To: Comisac, Rena (CRT)
Subject: Ag initiatives

Sorry to be a pest but I owe a report to folks on where we stand. When do you think we'll get the memos finalized and up the chain?

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Monday, June 19, 2006 2:07 PM
To: Gorsuch, Neil M
Subject: RE: Ag initiatives

Not at all. The memos went up last week. I assumed you would have gotten a copy in the ordinary course of events. I'll have my assistant send you a signed copy.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 2:01 PM
To: Comisac, Rena (CRT)
Subject: Ag initiatives

Sorry to be a pest but I owe a report to folks on where we stand. When do you think we'll get the memos finalized and up the chain?

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Monday, June 19, 2006 2:16 PM
To: Gorsuch, Neil M
Subject: RE: Ag initiatives

By the way -- I could use your help in getting a decision on a venue for the 150th Project Civic Access agreement and contemporaneous Project Access for All roll out. Have you heard any feedback?

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Monday, June 19, 2006 2:07 PM
To: Gorsuch, Neil M
Subject: RE: Ag initiatives

Not at all. The memos went up last week. I assumed you would have gotten a copy in the ordinary course of events. I'll have my assistant send you a signed copy.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 2:01 PM
To: Comisac, Rena (CRT)
Subject: Ag initiatives

Sorry to be a pest but I owe a report to folks on where we stand. When do you think we'll get the memos finalized and up the chain?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 2:23 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Monday, June 19, 2006 2:30 PM
To: Sellers, Kiahna (OAG); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Goodling, Monica; Fisher, Alice; Masugi, Ken (OPA); Beach, Andrew; Nelson, Carrie; Roehrkasse, Brian; Card, Jean
Subject: 061606 AG's Upcoming Speech Calendar
Attachments: 061606 AG speeches.xls; 062006 US Chamber - DOJ IP Task Force Report.doc; 062006 US Chamber - DOJ IP Task Force Report Agenda.doc; 062206 IP CEO Roundtable Boston.doc; 062206 ABA Intellectual Property Law Conf Boston.doc; 071906 Meth Training Conference at the NAC.doc; 072006 ALEC Invitation.pdf; 072006 American Legislative Exch Council.pdf; 072506 Ballot Access and Voting Integrity Luncheon.doc; 080906 Immigration Judges Training Conference.doc; 082106 Crimes Against Children Meeting Request Letter.doc; 082106 Crimes Against Children Conference.doc; 091206 Attorney General's 54th Annual Awards Ceremony.doc; 092106 Financial Services Roundtable 2006 Fall Conference.doc; 092806 Georgetown University Law Center Conference on the Judiciary.pdf

Please find attached the AG's upcoming speech calendar as well as the accompanying event scheduling information forms.

Kiahna Sellers
Deputy Director of Scheduling
Office of the Attorney General
United States Department of Justice
(202) 514-4195

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft
06/20/06	DC	Chamber of Commerce Coalition Against Counterfeiting and Piracy (CACP) Lunch	10-15 min speech	Approx. 100 members of the Coalition Against Counterfeiting & Piracy	Requested topic: AG Progress Report on DOJ IP Task Force Report	OPEN	Kyle Sampson	Ken		
06/22/06	Boston, MA	ABA Intellectual Property Law Conference	approx. 15 min speech	Approximately 250 Intellectual Property lawyers from around the nation (A high percentage are members of the ABA and its section of Intellectual Property Law. Most are private practitioners with law firms. About 13% will be in-house counsel. Approximately 5% will be from other nations.)	IP Task Force Report Rollout	OPEN	Kathleen Blomquist 514-7399	Ken		
07/19/06	DC	Video Conference National Advocacy Center Meth Training Conference	5 min speech	TBD	TBD	CLOSED	Jeff Taylor 514-2107	Ken/Stuart Nash		
07/20/06	DC	American Legislative Exchange Council (ALEC)	TBD	TBD	TBD	TBD	Crystal Jezierski 514-3465	Ken		
07/25/06	DC	Ballot Access and Voting Integrity Symposium	TBD	Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.	TBD	CLOSED		Ken		
08/09/06	DC	2006 Immigration Judges Training Conference	10-12 min speech; followed by Q&A	300 Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.	REQUESTED TOPICS: 1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues	CLOSED	Courtney Elwood 514-2267	Ken		
08/21/06	Dallas, TX.	Crimes Against Children Conference	Requesting a 20 min speech	Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%	Conference Theme: Professional education related to the investigation, prosecution, prevention, and treatment of child abuse	OPEN	Jeff Oldham 514-9797	Ken		

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft
09/12/06	DC	AG's 54th Annual Awards Ceremony	TBD	The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.	TBD	OPEN	Monica Goodling 353-4435	Ken		

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft
09/21/06	DC	Financial Services Roundtable 2006 Fall Conference	10-15 min speech followed by 15 mins of Q&A	150 CEO's and Senior Executives of the U.S. top 100 Financial Services companies	TBD	CLOSED	Crystal Jezierski 514-3465	Ken		
09/28/06	DC	Georgetown University Law Center and American Law Institute's Conference on the Judiciary	Approx. 5 min speech	380 attendees	Requested topic: The future of the Federal & State Courts	OPEN	Crystal Jezierski 514-3465	Ken		

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

CACP
Coalition Against Counterfeiting and Piracy

Briefing on Global Progress: Eradicating Counterfeiting and Piracy

U.S. Chamber of Commerce
Washington, DC
June 20, 2006

12:30 p.m. – 1:00 p.m. Registration and Buffet Lunch
Lobby, Briefing Center

1:00 p.m. – 1:10 p.m. Welcoming Remarks
Briefing Center

- [redacted] U.S. Chamber of Commerce and [redacted] National Chamber Foundation

1:10 p.m. -- 1:30 p.m. Briefing on Global Progress
Briefing Center

- Alberto Gonzales, United States Attorney General

Introduced and Moderated by: [redacted] Gillette Company and [redacted] Coalition Against Counterfeiting and Piracy, U.S. Chamber of Commerce

1:30 p.m. Adjourn

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: AG Progress Report on DOJ IP Task Force Report
City & State: Washington, DC
Date(s): June 20, 2006
Date/Time event begins: 12:00 pm
Date/Time event concludes: 2:00 pm
Proposed/Requested Date & Time of the Attorney General's participation: June 20, 2006 / 12:00-2:00
Nature of Event: **AG / VIP Lunch, AG Progress Report on DOJ IP Task Force Report, AG Press Roundtable**

Event Venue: **U.S. Chamber of Commerce**
Room Name or number: **Briefing Center**
Street Address: **1615 H Street, NW**
City/State/Zip: **Washington, DC 20062**
Venue Phone #: **202-463-5500**
Venue FAX #: **202-463-3129**

Event Sponsor: **US Chamber of Commerce**
Address: **1615 H Street, NW**
City/State/Zip: **Washington, DC 20062**
Website address: **uschamber.com**

Person Inviting: [redacted] / [redacted]
Title: [redacted] / [redacted]
Telephone [redacted]
FAX #: [redacted]
E-mail address: [redacted] / [redacted]

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? **no**

Please provide the following information:

Approximate size / description of the audience: **100 - 200**
List of other invited speakers and program participants: [redacted] **U.S. Chamber**
List of invited government officials, dignitaries, VIPS:
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **Yes**
Is the Attorney General being asked to speak? **Yes**
If yes, how long is he expected to speak? **15 minutes**
What is the theme/topic/subject of the event? **AG Progress Report on DOJ IP Task Force Report**
What is the ATTIRE for the event? **Business**
Is this invitation for the Attorney General or the Attorney General and a guest? **AG**
Is this a fund raising event? **No**

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket? **No**
What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

1. If you are requesting a photo op for a small group of individuals prior to the AG's participation in the event (that request would need to
be approved by the Attorney General's office in advance) please provide a list of the names of individuals for whom you are requesting a photo. No group photo planned. We are planning on have a Chamber photographer at both the VIP lunch and the speech to take candid photos though.

2. Please send us an updated agenda including other speakers/participants. Attached (this is the internal agenda that lists each of the events. The agenda released to the public just has the Forum
piece).

3. Please send us an updated list of government officials, other dignitaries invited or expected to be in attendance. Chris Israel was invited but will be unable to attend. The only other government people invited are those who participate in CACP events. Would you like us to invite anyone else?

6. We understand that [redacted] will introduce the Attorney General before he speaks. Please send us his brief biographical information. Will send tomorrow

7. Will there be a podium from which the Attorney General can deliver remarks? Yes

12. Where will the Attorney General be seated immediately before he speaks? Front row, reserved seat. With whom will he be seated? It will likely be [redacted], [redacted] and [redacted]

13. Where will the Attorney General be seated during lunch? With whom will he be seated? It will likely be [redacted]

14. Please provide an on-site/day of event contact person's name, title, and telephone contact numbers, including cell phone and pager numbers. [redacted], office: [redacted], cell: [redacted]

15. Please include any additional information that may be helpful to the Attorney General as he prepares for this event.

VIP Lunch RSVPs as of 6/13:

1. [redacted]
2. [redacted]
3. [redacted]
4. [redacted]
5. [redacted]
6. [redacted]
7. [redacted]
8. [redacted]
9. [redacted]
10. [redacted]

As of 6/14 we have 119 RSVPs for the Forum, reminder email will go out tomorrow. We are expecting around 150.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: 2006 Summer Intellectual Property Law (IPL) Conference

City & State of Event: Boston, Massachusetts

Date(s): June 21-24, 2006

Date/Time the event begins: Wednesday, June 21, 2006, 10:00 a.m.

Date/Time the event concludes: Saturday, June 24, 2006, 1:00 p.m.

Proposed/Requested Date & Time of the Attorney General's participation: Luncheon, Thursday, June 22, 2006, 12:00 – 1:30 p.m.

Nature of Event: The annual conference of the American Bar Association Section of Intellectual Property Law. Business of the Section will be conducted, including meetings of the Section Council, and various Committees, training for new committee chairs, a full program of continuing legal education session offerings, and evening social events.

Event Venue Name: Marriott Copley Place Hotel
Room Name or Room #: Grand Ballroom F, 4th Floor
Address: 110 Huntington Avenue
City/State/Zip: Boston, MA 02116
Venue Phone #: 617/236-5800
Venue FAX #: 617/236-5885

Event Sponsor: American Bar Association, Section of Intellectual Property Law
Address: 321 North Clark Street
City/State/Zip: Chicago, IL 60610
Website address: www.abanet.org/intelprop

Person Inviting: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event?

There are several sponsors of various events at the conference:
-Silver Level Conference Sponsor – Wilmer Cutler Pickering Hale & Dorr, LLP
-Reception Sponsor – Foley Hoag, LLP
-Thursday Luncheon Sponsor – Banner & Witcoff, Ltd.
-Course Materials CD-ROM Sponsor – Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
-Pop-Out Maps of Boston – Registrant Gift – Sponsor – Osler, Hoskin & Harcourt, LLP

Please provide the following information:

1. *Description of the audience:* Intellectual Property lawyers from around the nation. A high percentage are members of the ABA and its Section of Intellectual Property Law. Most are private practitioners with law firms. About 13% will be in-house counsel. Approximately 5% will be from other nations.
2. *Approximate size of the audience:* 250
3. *List of other invited speakers and program participants:* There will be no other speakers at the luncheon event, other than introductory remarks by [redacted]
4. *List of invited government officials, dignitaries, VIPS:*
   Several U.S. Patent & Trademark Office officials have been invited. As of now, we have not received a response from any, other than the possibility of attendance by [redacted]
   Judges in the First Circuit Court of Appeals and the U.S. District Court for the District of Massachusetts have also been invited. Judge William Young of the District Court will deliver plenary session remarks earlier in the morning, and may attend the luncheon.
   [redacted], will be delivering remarks at the morning plenary session, and may attend the luncheon.

5. *Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?* Yes.
6. *Is the Attorney General being asked to speak?* Yes.
7. *If yes, how long is he expected to speak?* 25-30 minutes, up to 45 minutes, if he desires.
8. *What is the theme/topic/subject of the event?* General Intellectual Property Law Issues
9. *What is the ATTIRE for the event?* Business Dress
10. *Is this invitation for the Attorney General or the Attorney General and a guest?*
    For the Attorney General, however he is welcome to bring a guest or family, and invited to participate in any other activities offered at the conference, at no cost, including the Friday evening Red Sox vs. Phillies baseball game.
11. *Is this a fund raising event?* No
12. *If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event?* n/a
13. *Are tickets being sold for this event? If yes, what is the face value of the ticket?*
    There is a registration fee for attendance at this evening. The base fee for Section members is $645. Rates are somewhat higher for non-members. The luncheon event itself is a ticketed event at $45
14. *What is your deadline for confirming a speaker?* (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) Our program was previously complete, and we have rearranged our schedule in order to invite the Attorney General's participation. We understand from the May 19 email from Kathleen M. Blomquist that General Gonzales' acceptance has been confirmed.

15. *Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.*

From: Kathleen.M.Blomquist@usdoj.gov [mailto:Kathleen.M.Blomquist@usdoj.gov]
Sent: Thursday, June 08, 2006 6:40 AM
To: [redacted]; [redacted]
Subject: ABA Intellectual Property Law Luncheon

Good afternoon,

I was hoping you could assist us with some further information regarding the Attorney General's remarks at the ABA luncheon in Boston on June 22nd. If you have a moment, would you please answer these questions and shoot them back to me.

Thank you very much,

Kat Blomquist, Dept. of Justice

1. Please provide a detailed program/sequence of events from the time the Attorney General is scheduled to arrive at the event until he departs. If the AG will be in more than one room, please note the room name or number for each room he will be in.

U.S. Attorney General "Green Room"
Holding room for AG and Staff upon arrival
11:30 a.m.
Cape Cod Rm., (booked 10 a.m. – 1 p.m.)

IPL leaders/AG photo op
11:30 a.m. – noon
Hyannis Rm. (booked 9 a.m. – 3 p.m.)

Conference luncheon:
Noon – 1:30 p.m.
Marriott Copley Place Hotel, Ballroom F
12:45 – 1:15 p.m. AG Gonzales speaks for 25 – 30 minutes

Media one-on-ones
1:30 p.m. (after speech at discretion/planning of the AG)
Hyannis Rm, (booked 9 a.m. – 3 p.m.)

2. If you are requesting a photo op for a small group of individuals prior to the AG's participation in the event (that request would need to be approved by the Attorney General's office in advance) please provide a list of the names of individuals for whom you are requesting a photo.

[redacted]

3. Please send us an updated list of other Speakers/Program Participants.

The only other speaker at this luncheon event will be our [redacted]

4. Please send us an updated list of government officials, other dignitaries invited or expected to be in attendance.

Government:
Hon. William Young, U.S. District Court for the District of Massachusetts
[redacted]

Other Dignitaries:
[redacted]

Section Officers:

5. We understand that the portion of the event at which the Attorney General is speaking will be open to the press/media. Is this correct?

Yes.

6. Who will introduce the Attorney General before he speaks? Please include full name and title and send brief biographical information.

(Bio attached)

7. Who will be the MC for the event (if different from the individual who introduces the AG)?

8. Will there be a podium from which the Attorney General can deliver remarks?

Yes. It will be beside the head table.

9. We understand that the Attorney General is expected to speak for approximately 25-30 minutes. Is this correct? Would you like the Attorney General to have a Q&A session within that time?

Yes, 25 – 30 minutes.

No Q&A session.

10. The Attorney General's FBI Security Detail will come to survey the venue/room(s) sometime on the day of the event (or, in some cases, the day before). Please provide an on-site contact person for the security detail, and include all contact phone numbers for that person.

Office

Cell—(onsite afternoon of June 20)

Secondary contact:

Office—

Cell—(onsite afternoon of June 20)

11. Will there be a Speaker's Hold room? If so, what is the name or room number of the Speaker's Hold room?

Yes. Cape Cod Rm.

12. Where will the Attorney General be seated immediately before he speaks? With whom will he be seated?

At the head table. See list above. Seated near the lectern, between [redacted] *and* [redacted]

13. Please provide an on-site/day of event contact person's name, title, and telephone contact numbers, including cell phone and pager numbers.

[redacted]

Office— [redacted]

Cell—(onsite afternoon of June 20) [redacted]

Secondary contact:

[redacted]

Office— [redacted]

Cell—(onsite afternoon of June 20) [redacted]

14. If there is an on-site office or registration desk for the event, please provide the phone number for that desk.

Yes, there's a registration desk, but calls must go through hotel operator. 617-236-5800, ask for the ABA IPL Conference registration desk, 4th Floor Registration area.

15. Please include any additional information that may be helpful to the Attorney General as he prepares for this event.

In attendance at the head table will be [redacted] *a former law partner of the AG's.*

16. Is there a room available for media interviews that we might use following the Attorney General's remarks?

Yes. The Hyannis Room.

Subject: ABA Intellectual Property Law Lunch
Location: OPEN PRESS

Start: Thu 6/22/2006 12:00 PM
End: Thu 6/22/2006 1:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Jenkins, Linda A; Jezierski, Crystal; Elwood, Courtney

VENUE: Marriott Copley Place Hotel, Grand Ballroom F, 4th Floor, 110 Huntington Avenue, Boston, MA 02116. 617/236-5800; FAX #: 617/236-5885

Sequence of Events
AG remarks 25-30 minutes
Audience: 200 Intellectual Property lawyers from around the nation. A high percentage are members of the ABA and its Section of Intellectual Property Law. Most are private practitioners with law firms. About 13% will be in-house counsel. Approximately 5% will be from other nations.

AO: Courtney Elwood DOJ: Crystal Jezierski DOJ POC: Kat Blomquist, Trent Luckinbill; ABA POC: [redacted] Tel: [redacted] Fax: [redacted] Email: [redacted] POC: [redacted] [redacted] On-site Contact Person: [redacted] [redacted] FAX: [redacted] [redacted] Cell: [redacted]

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: CEO Breakfast Roundtable
City & State of Event: Boston, MA
Date(s): 22 June 06
Date/Time the event begins: 8:15 am
Date/Time the event concludes: 9:30 am
Proposed/Requested Date & Time of the Attorney General's participation: 8:30-9:30 am
Nature of Event: Roundtable discussion of IP Report and DOJ's work on IP

Event Venue Name: Akamai Technologies

Room Name or Room #:
Address: 8 Cambridge Center
City/State/Zip: Cambridge, MA
Venue Phone #:
Venue FAX #:

Event Sponsor: TechNet
Address:
City/State/Zip:
Website address:

Person Inviting: [redacted]
Telephone #:
FAX #:
E-mail address:

On-site Contact Person: [redacted]
Telephone:
FAX #:
E-mail address:
Cell phone:

Are there corporate sponsors or other underwriters of the event?

Please provide the following information:

1. Description of the audience: Tech company CEOs.
2. Approximate size of the audience: Estimated to be about 20, but TBD.
3. List of other invited speakers and program participants: n/a
4. List of invited government officials, dignitaries, VIPS: n/a
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? NO
6. Is the Attorney General being asked to speak? YES
7. If yes, how long is he expected to speak? His preference
8. What is the theme/topic/subject of the event? Intellectual Property
9. What is the ATTIRE for the event? Business
10. Is this invitation for the Attorney General or the Attorney General and a guest? AG
11. Is this a fund raising event? NO
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? NO

14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) n/a
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation: DOJ requested that TechNet set up this meeting as part of the roll-out of the IP Task Force report.

Attorney General Scheduling Request

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: 7-2825

THROUGH: Office of the Deputy Attorney General

FROM: McGregor W. Scott, United States Attorney, Eastern District of California and Chair of the AGAC Controlled Substances Subcommittee and The U.S. Attorneys' Methamphetamine Working Group

REQUEST: That the Attorney General speak at a methamphetamine training conference at the NAC.

PURPOSE: For the first time in its history, the NAC is hosting a training conference on methamphetamine. The students at the conference will be AUSAs from across the country. The Attorney General has publicly stated that methamphetamine is one of his top priorities for the Department of Justice. By speaking at this training conference, the Attorney General will reemphasize the importance that he places on methamphetamine investigations and prosecutions.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL: Provide opening remarks at the conference. The Attorney General can emphasize to the participants the significance he places on methamphetamine investigations and prosecutions and will motivate those in the field who are handling these cases on a daily basis on behalf of the Department.

BACKGROUND: In February, the Attorney General gave a speech setting out the Department of Justice's priorities for the coming year. Among the specifically listed priorities was the investigation and prosecution of methamphetamine cases. For the first time in its history, the NAC is sponsoring a methamphetamine training conference this summer. Students at the training conference will be AUSAs from across the country. By providing opening remarks at this training conference, the Attorney General can reemphasize the importance he places on the investigation and prosecution of methamphetamine cases and provide inspiration to those AUSAs in the field handling these cases on a daily basis for the Department of Justice.

DATE & TIME: The conference is set for July 19 to 21 and opening remarks will be given at 8:30 on July 19. However, we are very flexible and the conference agenda can be moved to fit the Attorney General's schedule.

LOCATION: The NAC.

DURATION: 30 Minutes

PRESS COVERAGE: If the Attorney General wanted to hold a press event, one could be arranged.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER: 75 to 80 students plus faculty.

REMARKS REQUIRED: Yes.

RECOMMENDED BY: McGregor W. Scott, United States Attorney

COORDINATED WITH: Andy Beach and the NAC.

APPROVED BY:

EVENT CONTACT AND PHONE NUMBERS: [redacted]

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

A National Association for America's State Legislators ♦ Jeffersonian Principles in Action

June 9, 2006

The Honorable Alberto Gonzales
United States Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20202

Dear Attorney General Gonzales:

On behalf of the 2,400 state legislator members of the American Legislative Exchange Council (ALEC), it gives us great pleasure to invite you to our 33rd Annual Meeting, to be held July 19-23 at the San Francisco Marriott in San Francisco, California.

As you know, the Democrat and Republican members of ALEC have promoted policies based on the fundamental Jeffersonian principles of free markets, limited government, federalism, and free enterprise. Today, ALEC has grown to become the nation's largest nonpartisan, individual membership association of state legislators.

Working with Court TV, we would like to invite you to give remarks on intellectual property at our Annual Meeting's "Hollywood, California Night" on Thursday, July 20th. ALEC and its members seek to further protect our nation's intangible property, and we hope you will share some words of encouragement and victory as we continue to fight for these fundamental rights. Attorney General Gonzales, under your leadership the Department of Justice has been a strong protector of intellectual property, and we look forward to hearing about your ongoing efforts to defend our nation's rights.

We would greatly appreciate it if you could call us to confirm your acceptance as soon as possible. We welcome any questions you or your staff may have, please contact [redacted] in ALEC's Public Affairs Office at [redacted].

Thank you, and we look forward to your response.

Sincerely,

[redacted]

Susan Wagle
ALEC 2006 National Chairman
Kansas Senator

[redacted]

[redacted]

"The leading non-partisan conservative state legislative policy voice in America."

1129 20th Street N.W. ■ Suite 500 ■ Washington, D.C. 20036 ■ (202) 466-3800 ■ FAX (202) 466-3801 ■ www.ALEC.org

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We would greatly appreciate it if you could call us to confirm your acceptance as soon as possible. We welcome any questions you or your staff may have, please contact [redacted] in ALEC's Public Affairs Office at [redacted].

Thank you, and we look forward to your response.

Sincerely,

[redacted]

Susan Wagle
ALEC 2006 National Chairman
Kansas Senator

[redacted]

[redacted]

"The leading non-partisan conservative state legislative policy voice in America."

1129 20th Street N.W. ■ Suite 500 ■ Washington, D.C. 20036 ■ (202) 466-3800 ■ FAX (202) 466-3801 ■ www.ALEC.org

Attorney General Scheduling Request

(for DOJ Events)

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: (202) [30]7-2825

FROM: Kimani S. Little
Special Assistant to the Assistant Attorney General, Civil Rights Division

REQUEST:

It is requested that Attorney General Gonzales make an address at the 2006 Ballot Access and Voting Integrity Symposium hosted by the Civil Rights and Criminal Divisions. The address will take place during the Symposium luncheon meeting.

PURPOSE:

The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protections to USAs, AUSAs, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL:

It is requested that Attorney General Gonzales provide an address to the Symposium attendees.

BACKGROUND:

The annual training Symposium is part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

DATE & TIME:

The proposed dates of the Symposium are August 1-2, 2006. We propose the Attorney General speak on August 1, 2006. Alternatively, if this date is not available and we are notified by COB May 10, 2006, we can schedule the Symposium for the prior week to accommodate an Attorney General address on July 25, 26, or 27, 2006.

LOCATION:

Metropolitan Washington, D.C. The actual venue has not been chosen, but are attempting to find a location in downtown Washington. However, we may have to hold the Symposium in the suburbs depending on the availability of an appropriate space.

DURATION:

The time allotted for the luncheon and Attorney General's address is 1.5 hours.

PRESS COVERAGE:
Closed to the Press.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER:
Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.

Specific Attendees known at this time include:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division
Rena Comisac, Principal Deputy Assistant Attorney General, Civil Rights Division
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Noel Hillman, Office of the Assistant Attorney General, Criminal Division
Craig Donsanto, Public Integrity Section, Criminal Division
Assistant United States Attorneys
Federal Bureau of Investigations Special Agents
Civil Rights Division Voting Section Attorneys and Executive Office Staff
Criminal Division, Public Integrity Section Staff

REMARKS REQUIRED:
Luncheon Address

RECOMMENDED BY:
Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division

COORDINATED WITH:

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER:
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division, is the organizer of the Symposium. Her contact information is (office) 202-305-9750 or (work cell) [redacted]. Kimani S. Little, Special Assistant to the Assistant Attorney General, Civil Rights Division, is assisting Ms. Quinn. His contact information is (office) 202-307-1289 or (work cell) [redacted]. Craig Donsanto, Public Integrity Section, Criminal Division, is also an organizer of the Symposium. His contact information is (office) 202-514-1221. Angela Noel Gantt will be the Department's event logistics contact. Her contact information is (office) 202-305-8006, (cell) [redacted], or (home) [redacted].

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: 2006 Immigration Judges= Training Conference
City & State: Washington, D.C.
Date(s): August 6 - 11, 2006
Date/Time event begins: August 7, 2006 at 8:00 a.m.
Date/Time event concludes: August 11, 2006 at 12:00 p.m.
Proposed/Requested Date & Time of the Attorney General=s participation: August 9, 2006, 12:00 p.m. - 2:00 p.m. or at the Attorney General=s convenience
Nature of Event: Immigration Judges= Conference

Event Venue: J.W. Marriott Hotel
Room Name or number: Salon I and Salon II - Ballroom Level
Street Address: 1331 Pennsylvania Avenue, N.W.
City/State/Zip: Washington, D. C.
Venue Phone #: (202) 626-2662
Venue FAX #: (202) 626-6915

Event Sponsor: Office of the Chief Immigration Judge
Address: 5107 Leesburg Pike, Suite 2500
City/State/Zip: Falls Church, VA 22041
Website address: www.usdoj.gov/eoir

Person Inviting: Executive Office for Immigration Review
Title: Director, Kevin D. Rooney
Telephone #: (703) 305-0169
FAX #: (703) 305-0985
E-mail address: kevin.rooney@usdoj.gov

Contact Person: [redacted]
Title: [redacted]
Telephone: ([redacted]
FAX #: ([redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: *300*
List of other invited speakers and program participants: *See Attached draft of Conference Program*

List of invited government officials, dignitaries, VIPS: *Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.*

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? *No*

Is the Attorney General being asked to speak? *Yes*

If yes, how long is he expected to speak? *10 - 12 minutes*

What is the theme/topic/subject of the event? *1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues*

What is the ATTIRE for the event? *Business Casual*

Is this invitation for the Attorney General or the Attorney General and a guest? *Attorney General and a guest*

Is this a fund raising event? *No*

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? *N/A*

Are tickets being sold for this event? If yes, what is the face value of the ticket? *No*

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). *May 31, 2006*

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. *Please see attached draft of Conference Program*

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Crimes Against Children Conference – Opening Plenary Session
City & State: Dallas, Texas
Date(s): August 21, 2006
event begins: 8:30 a.m.
event concludes: 9:30 a.m.
Proposed/Requested Date & Time of the Attorney General's participation: Monday, August 21, 2006 @ 8:30 a.m.
Nature of Event: Opening Session to the 18th Annual Crimes Against Children Conference – the largest national professional training conference for front line professionals investigating, prosecuting, and treating child abuse cases.

Event Venue: Hyatt Regency Dallas at Reunion
Room Name or number: Landmark Ballroom
Street Address: 300 Reunion Blvd.
City/State/Zip: Dallas, TX
Venue Phone #: 214.651.1234
Venue FAX #: 214.742.8126

Event Sponsor: Dallas Children's Advocacy Center
Address: 3611 Swiss Avenue
City/State/Zip: Dallas, TX 75204
Website address: www.dcac.org

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Yes
United States Department of Justice – Office of Juvenile Justice Delinquency Prevention; Office of Victims of Crime; Internet Crimes Against Children Training and Technical Assistance, Fox Valley Technical College; Microsoft, Children's Advocacy of Texas, Inc.

Please provide the following information:

Approximate size / description of the audience: Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%

List of other invited speakers and program participants: (Identified for Plenary Session only; please let us know if a complete list of the 3 ½ day conference faculty is needed)

- [redacted], Dallas Children's Advocacy Center
- [redacted]
- [redacted]
- [redacted], Dallas Children's Advocacy Center

List of invited government officials, dignitaries, VIPS: The following officials are invited to attend this opening plenary session. Some are teaching faculty throughout the conference.

- [redacted], Yahoo
- [redacted], Exploited Child Unit, National Center for Missing and Exploited Children
- [redacted], FBI
- [redacted], Immigration & Customs Enforcement, Dallas
- [redacted], National Children's Alliance
- [redacted], Fox Valley Technical College
- Robert Flores, Director - Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- [redacted], Dallas Office, FBI
- [redacted]
- [redacted]
- [redacted] - World Wide Law Enforcement Programs, Microsoft
- Ron Laney, Director - Child Protection Division, Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- [redacted], United States Secret Service, Dallas
- [redacted]
- [redacted], Fox Valley Technical College
- Richard Roper, United States Attorney for the Northern Disctrict of Texas, United States Department of Justice
- [redacted], Internet Crimes Against Children Training and Technical Assistance Programs
- [redacted], United States Postal Inspection Service
- [redacted]

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?
Generally yes, but this can be changed at Mr. Gonzales' request
Is the Attorney General being asked to speak? Yes
If yes, how long is he expected to speak? Approximately 20 minutes
What is the theme/topic/subject of the event? Professional education related to the investigation, prosecution, prevention, and treatment of child abuse
What is the ATTIRE for the event? Business Casual
Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest at his discretion
Is this a fund raising event? No
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket?

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would like to announce that Mr. Gonzales has been invited in our conference brochure that prints April 10. Speaking confirmation would be appreciated July 15 to allow ample time for logistics planning or alternative speakers if necessary.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.
This, the 18th Annual Crimes Against Children Conference, is the largest professional education gathering for front line professionals engaged in the investigation, prosecution, prevention, and healing of child abuse. With a track record of outstanding and lasting value, the conference provides the most current and sophisticated tools to national and international professionals. Throughout this 3-½ day conference, each program session includes 15 concurrent workshops and five interactive laboratories. The opening plenary session gathers all conference participants together to hear key messages relevant to their daily work. We would be delighted to host Mr. Gonzales throughout the conference.

DOJ_NMG_ 0161918

February 14, 2006

Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

I am writing to request the honor of your presence at the eighteenth annual Crimes Against Children Conference, to be held August 22 through 24, 2006 at the Hyatt Regency Reunion Hotel in Dallas. We respectfully invite you to serve as our keynote speaker during the opening session on Monday, August 22 at 8:30 a.m. Certainly, we would welcome your participation at any time during the conference.

As you may be aware, this is the largest conference in the country for federal, state, and local law enforcement on the subject of crimes committed against those most vulnerable in our society --- our children. In addition, a multidisciplinary representation of child protection workers, prosecutors, social workers, medical and children's advocacy center professionals attend this international conference. In 2005, the conference attracted nearly 2,200 attendees from 48 states and abroad.

The Dallas Children's Advocacy Center (DCAC) produces this significant and unique professional conference and is one of the largest children advocacy centers in the country serving over 1,900 children annually. DCAC serves as role model by providing best practices and professional education to multiple professional disciplines in the fight against child abuse. The Dallas Police Department is widely recognized for establishing innovative law enforcement practices to keep our children safe, including Operation Avalanche, the largest child pornography investigation ever conducted. The DPD also activated the very first Amber Alert in the country.

By serving as the keynote speaker at our conference you would send a strong message to the men and women in law enforcement that you share their commitment to fighting crimes against children.

I am enclosing a copy of the 2005 Conference brochure as well as material about our Center, for your review. So that we may continue our conference planning efforts, we hope to hear from you at your earliest convenience. Thank you for your consideration.

Respectfully,

[redacted]

Copy: [redacted], OJJDP

REQUEST: Attorney General's 54th Annual Awards Ceremony

PURPOSE: The Attorney General will present remarks to Department employees, guests, and other officials at the Attorney General's 54th Annual Awards Ceremony. The Attorney General will also present awards to all recipients.

BACKGROUND: The Department of Justice recognizes employees who have demonstrated exceptional achievements, leadership, and heroism on an annual basis. Nearly 600 employees were nominated for the annual awards program last year, with 225 receiving recognition in 29 award categories. Once again, the ceremony will provide an opportunity to recognize the achievements of Department employees. The Combined Incentive Awards Board and John Marshall Panel, chaired by the Deputy Attorney General, will meet to recommend award recipients to the Attorney General, who will approve the selections. The recommendations will be cleared through various investigative offices.

The Attorney General will present remarks and will present awards to all recipients. The Deputy Attorney General and several component heads will announce the award citations.

DATE & TIME: TBD by OAG Scheduling. Constitution Hall is available with a hold for DOJ on August 15 & 22, and September 12, 13, 14, & 19.

1:50 p.m. - Event Staging
2:00 p.m. - Ceremony; Reception to Follow Ceremony

LOCATION: Constitution Hall; 18th Street, NW, between C and D Streets

DURATION: 2½ hours

MEDIA: Members of the media will likely be in attendance. Coordination of press inquiries will be managed by the Office of Public Affairs. DOJ and component photographers will take photographs of the event.

PARTICIPANTS: The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.

REMARKS: JMD Personnel Staff will prepare the event script and will work with the Attorney General's speech writer on the content of his remarks.

RECOMMENDED BY: Not applicable.

CONTACT: Vince Micone; Assistant Director, Programs and Events Section, JMD Personnel Staff; 5-1756

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: The Financial Services Roundtable 2006 Fall Conference
City & State of Event: Washington, DC
Date(s): September 20-21, 2006
Date/Time the event begins: Thursday, September 21, 8:30AM
Date/Time the event concludes: Thursday, September 21 3:00 PM
Proposed/Requested Date & Time of the Attorney General's participation: Antyime within those times; There is also a dinner on Wednesday evening, September 20 at 6:30 p.m. and a dinner at 6:00 pm on Thursday evening, September 21.
Nature of Event: Meeting of the Roundtable member representatives

Event Venue Name: Ritz Carlton, Washington, DC
Room Name or Room #: Ritz Carlton Ballroom
Address: 1150 22nd Street
City/State/Zip: Washington, DC 20037
Venue Phone #: 202-835-0500
Venue FAX #: 202-974-5538

Event Sponsor: The Financial Services Roundtable
Address: 1001 Pennsylvania Avenue, Suite 500 South
City/State/Zip: Washington, DC 20004
Website address: www.fsround.org

Person Inviting: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? no

Please provide the following information:

1. Description of the audience: CEO's and Senior Executives of the U.S. top 100 Financial Services companies
2. Approximate size of the audience: 150
3. List of other invited speakers and program participants: TBD
4. List of invited government officials, dignitaries, VIPS: TBD
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **No, not unless he requests it.**
6. Is the Attorney General being asked to speak? yes
7. If yes, how long is he expected to speak? He may speak as long as he wishes; however recommended time will be a total of 30 minutes, 20 for talk and 10 for Q&A
8. What is the theme/topic/subject of the event? TBD
9. What is the ATTIRE for the event? **Business**
10. Is this invitation for the Attorney General or the Attorney General and a guest? If he wishes
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? No If yes, what is the face value of the ticket?
14. What is your deadline for confirming a speaker? September 1, 2006 (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

9/28

ARG

Georgetown University Law Center
Continuing Legal Education
600 New Jersey Avenue, NW
Washington, DC 20001
PHONE: (202) 662-9890
FAX: (202) 662-9891
cle@law.georgetown.edu • www.georgetowncle.org

Fax Transmittal Sheet

DATE: 5/25/06

TO: Andrew Beach

COMPANY: U.S. Dept of Justice

FAX NUMBER: 202 307 · 2825

FROM: [redacted]

NUMBER OF PAGES (Including Cover Sheet): 13

MESSAGE: Scheduling Request to AG Gonzales

Thank you for considering this request.

This facsimile contains confidential information intended only for the use of the person named above. If the reader of this message is not the intended recipient, please be advised that any dissemination or copy of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately. Thank you.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event:Conference on the Judiciary
City & State: Washington DC
Date(s): September 28-29
Date/Time event begins: Sept 28 8 am
Date/Time event concludes: Sept 29, noon
Proposed/Requested Date & Time of the Attorney General's participation: Sept. 28 8:00 pm
Nature of Event: deliver brief remarks to Conference Dinner

Event Venue: for dinner, Mandarin Oriental Hotel; for Conference Georgetown Law Center
Room Name or number: main ballroom
Street Address: 1330 Maryland Avenue SW
City/State/Zip: Washington DC 20024
Venue Phone #:202-554-8588
Venue FAX #:202-554-8999

Event Sponsor: Georgetown University Law Center and American Law Institute
Address: 600 New Jersey Avenue NW
City/State/Zip: Washington DC 20001
Website address: conferenceonthejudiciary.org (website to go live June 15)

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Foundation and private underwriting. Names available upon request

Please provide the following information:

Approximate size / description of the audience: 380
List of other invited speakers and program participants: see attached Conference Program
List of invited government officials, dignitaries, VIPS: see appended list of Steering Committee, Conference Committee, and Small Group Judicial Commentators
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? His choice
Is the Attorney General being asked to speak? yes
If yes, how long is he expected to speak? Five minutes
What is the theme/topic/subject of the event? The future of the Federal and State courts
What is the ATTIRE for the event? Business attire
Is this invitation for the Attorney General or the Attorney General and a guest? He is welcome to bring a guest
Is this a fund raising event? no
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a

Are tickets being sold for this event? If yes, what is the face value of the ticket? No tickets are being sold; spouses of conference participants only will reimburse the conference for their dinner cost. All others are guests of the Conference

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would appreciate knowing if AG Gonzales will participate by September 1.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Appended is a one-page description of the Conference. Please note that we anticipate that the Attorney General would be introduced by the MC (a significant media figure TBD), and then deliver brief remarks at the Dinner prior introduction of the keynote speaker, Chief Justice Roberts. The Attorney General will receive an invitation to attend the Conference on the Judiciary, and we would be delighted if his schedule permits him to attend any portion of the events that are scheduled at Georgetown University Law Center, in addition to this specific request for him to deliver remarks at the Dinner.

Conference on the Judiciary
September 28-29, 2006
Washington, D.C.

A fair and impartial judiciary is a cornerstone of our system of government. Yet in recent days the judiciary has been subject to escalating attacks that threaten our nation's tradition of judicial independence. The judicial nomination and confirmation process has become a high-stakes partisan battle. Disagreement with judicial decisions has led to calls for the impeachment of federal judges and the recall of state judges. Congress has sought to influence the outcome of a single state case.

A recent ABA poll found that more than 56% of the public agree that "judicial activism … seems to have reached a crisis. Judges routinely overrule the will of the people."

There is, in short, a great need to strengthen public understanding of the importance of having a fair and impartial judiciary.

To address this challenge, [redacted] and Stephen Breyer have agreed to chair a national Conference on the Judiciary. The participants will include leaders from the business and media communities, the nonprofit sector and government at both the federal and state level. The first panel of the Conference will examine both the relevant history and contemporary criticisms. A second will explore judicial selection, elections, and removal at both the federal and state levels. Others will address inter-branch relations, recent polls of public attitudes, the role of the media, and suggestions for improving the efficiency and effectiveness of the judiciary. Participants will be provided in advance of the Conference with background monographs prepared by leading scholars on the key issues to be considered at the Conference.

The Conference will be organized so that everyone attending will be able to participate in small group discussions that will analyze the issues presented by speakers on the panels and develop an action agenda of next steps to be taken.

Conference on the Judiciary (As of May 5, 2006)
September 28-29, 2006

Thursday, September 28

8:45 Welcome: [redacted] CONFIRMED
CONFIRMED

9:00-9:15 Importance of an Independent Judiciary
[redacted] CONFIRMED

9:15-10:00 Judicial Independence: Justifications and Modern Criticisms
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

10:00-10:45 Judicial Selection and Removal
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

11:00-12:00 Small Group Discussions

Lunch Speaker: Justice Breyer CONFIRMED

1:45-2:45 Interbranch Relations
[redacted] CONFIRMED
CONFIRMED
PENDING
CONFIRMED

2:45 to 3:45 Public Understanding, Media, and Education
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

4:00-5:00 Small Group Discussions

Dinner Speaker: Chief Justice Roberts CONFIRMED

Friday, September 29

9:00-10:00 Improving the Judicial System

[redacted] CONFIRMED
CONFIRMED
CONFIRMED
CONFIRMED

10:00-11:00 Small Group Discussions

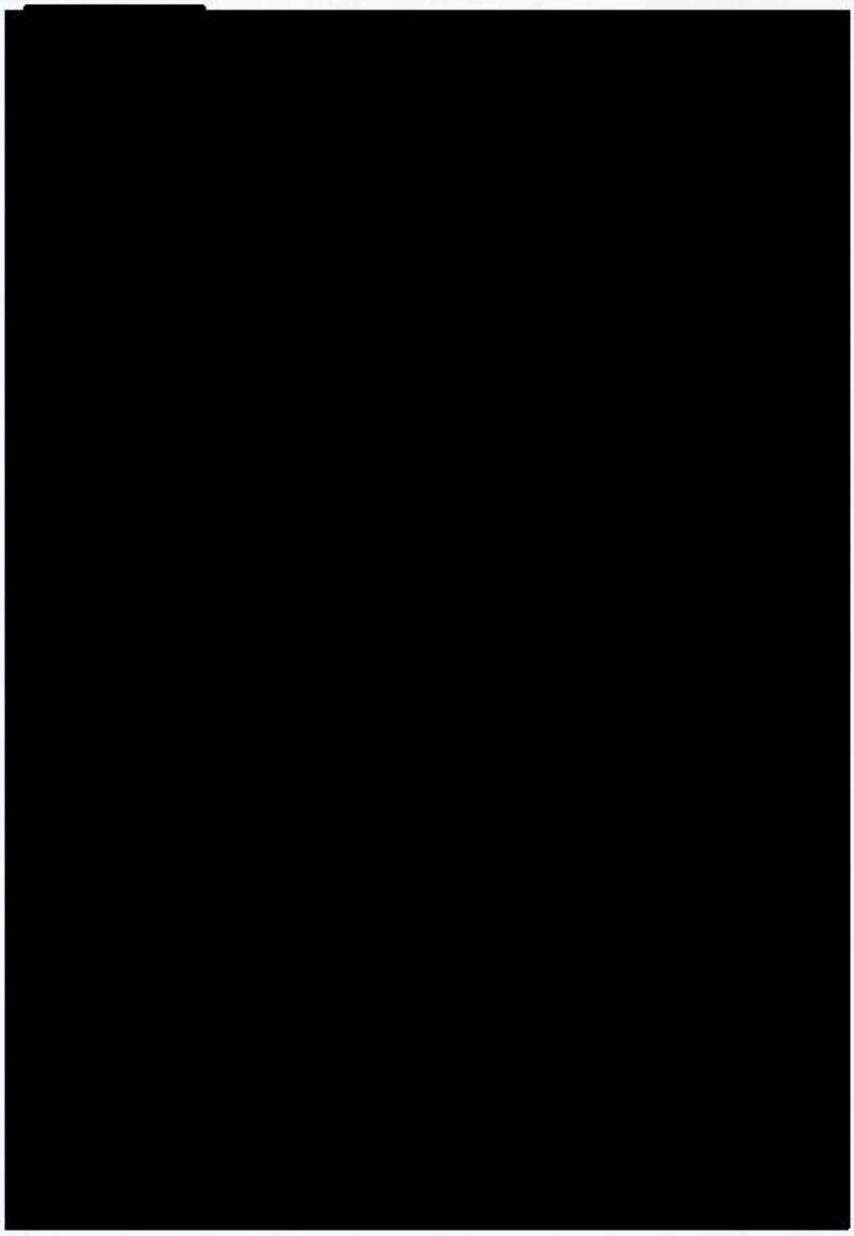
11:00-12:00 What Next?

[redacted] CONFIRMED
(who will summarize best suggestions from small groups and lead discussion)

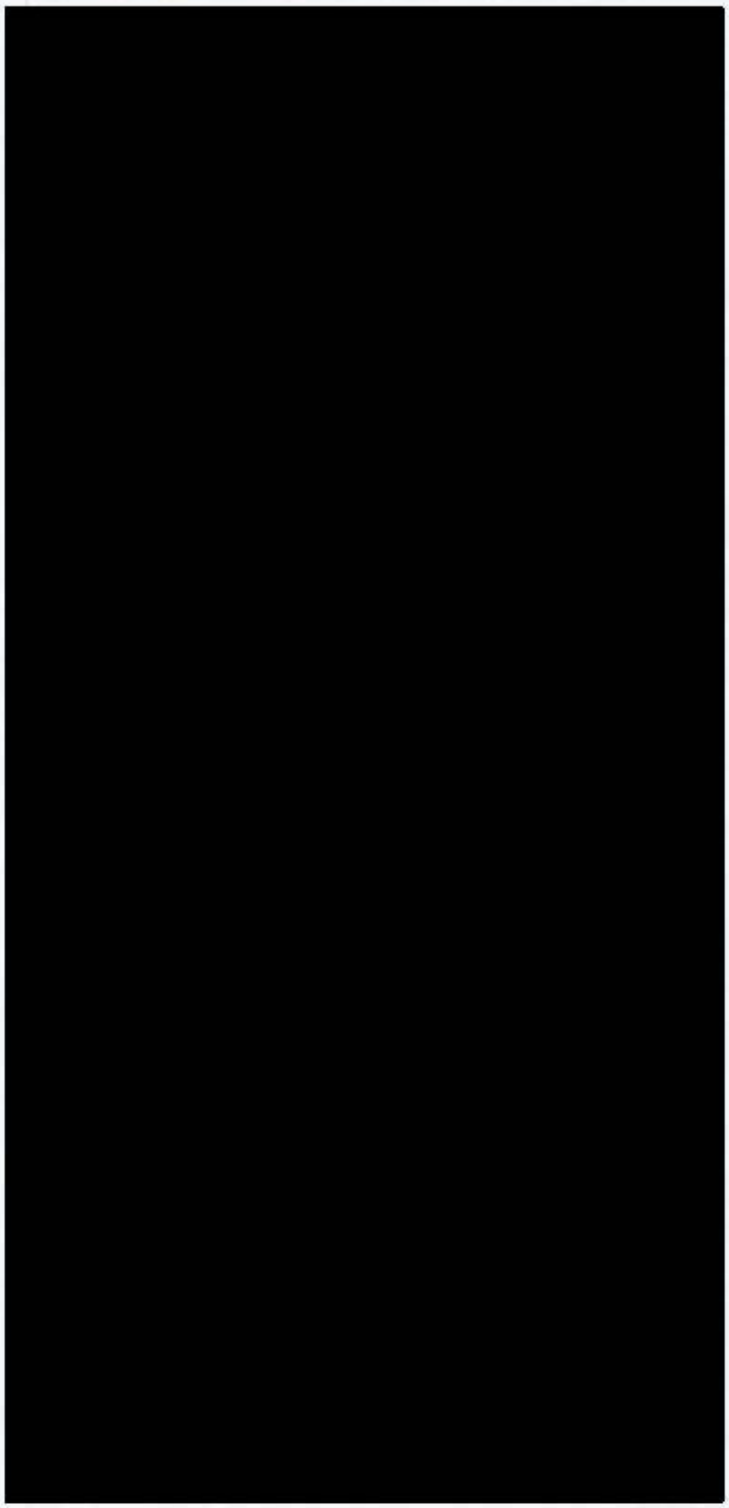
Justices Breyer and [redacted] Concluding Remarks

Steering Committee, Conference on the Judiciary

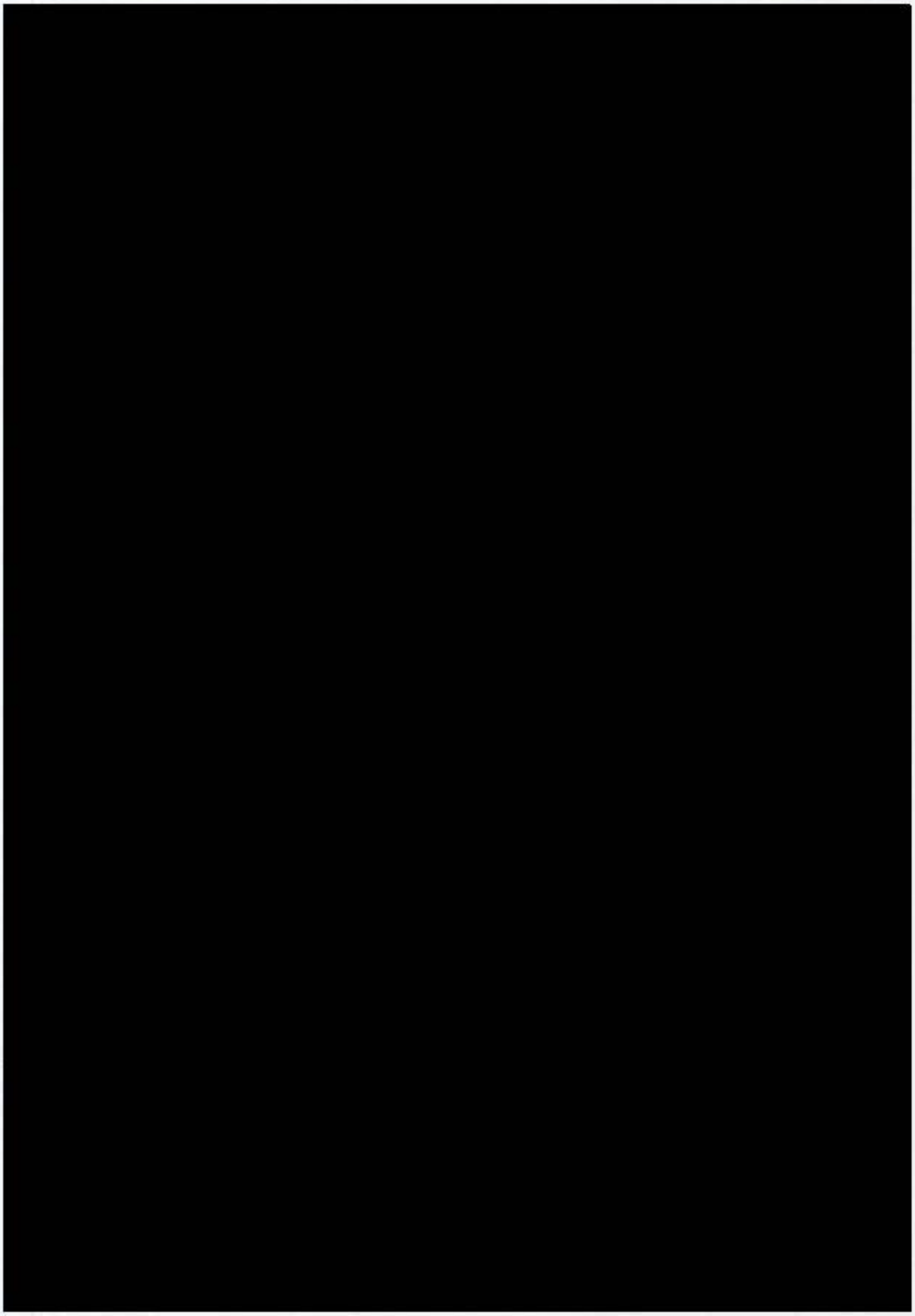
Hon. Stephen G. Breyer
Associate Justice, Supreme Court of the United States



Conference Committee as of April 24, 2006
Conference on the Judiciary
(Committee in Formation)



[redacted]



April 21, 2006

Conference on the Judiciary
September 28-29, 2006

Small Group Judicial Commentators

1. Shirley Abrahamson, Chief Justice, Supreme Court of Wisconsin ACCEPTED
2. Robert Bell, Chief Judge, Court of Appeals of Maryland, President-Elect, Conference of Chief Justices ACCEPTED
3. Christine M. Durham, Chief Justice, Supreme Court of Utah ACCEPTED
4. Merrick Garland, D.C. Cir. Court of Appeals ACCEPTED
5. Robert Henry, 10th Cir. Court of Appeals ACCEPTED
6. Randy Holland, Delaware Supreme Court ACCEPTED
7. Robert Katzmann, 2nd Cir. Court of Appeals ACCEPTED
8. Joseph Lambert, Chief Justice, Supreme Court of Kentucky ACCEPTED
9. Thomas Moyer, Chief Justice, Supreme Court of Ohio ACCEPTED
10. [redacted] ACCEPTED
11. Randall Shepard, Supreme Court of Indiana, President, Conference of Chief Justices ACCEPTED
12. Laurence Silberman, D.C. Cir. Court of Appeals ACCEPTED
13. J. Harvie Wilkinson, 4th Cir. Court of Appeals ACCEPTED
14. Diane Wood, 7th Cir. Court of Appeals ACCEPTED
15. Gerald VandeWalle, Chief Justice, Supreme Court of North Dakota ACCEPTED

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, June 19, 2006 3:54 PM
To: Gorsuch, Neil M
Subject: Call[redacted]

Best, David T

From: Best, David T
Sent: Monday, June 19, 2006 4:25 PM
To: Gorsuch, Neil M
Subject: FW: Judicial Nominee Program on June 22, 2006
Attachments: Agenda for June 22, 2006.wpd

Agenda for your Thursday program at the Administrative Office of the US Courts.

-----Original Message-----
From: [redacted]@ao.uscourts.gov [mailto[redacted]@ao.uscourts.gov]
Sent: Monday, June 19, 2006 3:19 PM
To: Best, David T
Subject: Judicial Nominee Program on June 22, 2006

David:

Here's a copy of the agenda for June 22, 2006. If there are any changes please let me know. Thanks.

[redacted]
Management Analyst
Article III Judges Division
[redacted]

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS
THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING
ONE COLUMBUS CIRCLE, N.E.,
(NEXT TO UNION STATION)

WASHINGTON, D.C. 20544

JUDICIAL NOMINEE PROGRAM

MEMORANDUM TO ALL PARTICIPANTS

DATE: June 19, 2006

FROM: [redacted], Management Analyst
Article III Judges Division

SUBJECT: New Judge Orientation for:
Neil M. Gorsuch, Esq, (U.S. Court of Appeals, Tenth Circuit)

The following agenda has been prepared for the "Judicial Nominee Orientation" with the Administrative Office of the U.S. Courts and the Federal Judicial Center for Thursday, June 22, 2006. The orientation will be held in the Article III Judges Division conference room 2-338 (North.)

Time	Meeting/Event	Orientation Book
8:30 a.m.	[redacted], Deputy Chief Article III Judges Division ([redacted]) **Topics:** (A) Mission and Functions of the Article III Judges Div. (B) Judicial Organization & Administration (C) Introduction to the Administrative Office of the U.S. Courts	 Tab 4 Tab 2
9:15 a.m.	[redacted], Associate General Counsel Office of the General Counsel ([redacted]) **Topic:** Judicial Ethics	
9:45 a.m.	[redacted], Furniture Program Manager ([redacted]) [redacted], Assistant Chief ([redacted]) Space and Facilities Division **Topic:** Chambers and Furniture Requests	Tab 10
10:00 a.m.	B r e a k	
10:10 a.m.	[redacted], Chief Legal Policy and Training Branch [redacted], Attorney-Advisor Office of Defender Services ([redacted]) **Topics:** (A) Mission and Functions of the Defender Services Division (B) Criminal Justice Act	Tab 9

10:30 a.m. [redacted], Deputy Assistant Director Tab 11
[redacted], IT Liaison
Office of Information Technology ([redacted])
Topic: Automation Issues

10:45 a.m. [redacted], Director
Education Division ([redacted])
Federal Judicial Center
Topic: Judicial Education

11:00 a.m. [redacted], Chief
Court Security Office ([redacted])
[redacted], Chief Inspector, Judicial Security Division
U.S. Marshals Service ([redacted])
Topics: (A) Mission and Functions of the U.S. Marshals Service
(B) Mission and Functions of the Court Security Office
(C) U.S. Marshals Service Video: "Judicial Security"

11:30 a.m. [redacted], Chief Tab 13
[redacted], Deputy Chief
Appellate Court and Circuit Administration Division ([redacted])
Topic: Library Services

12:00 p.m. [redacted], Director
Administrative Office of the U.S. Courts ([redacted])

12:30 p.m. Working Lunch
[redacted], Chief Tab 5
[redacted], Deputy Chief
Judges Compensation & Retirement Services Office ([redacted])
Topics: (A) Judicial Survivors Annuity System
(B) Health Benefits
(C) Personnel Issues

1:15 p.m. [redacted], Human Resources Specialist Tab 6
Advisory Services Branch ([redacted])
Topic: Law Clerks and Secretaries

1:30 p.m. [redacted], Chief
Tab 7
Fair Employment Practices Office ([redacted])
Topic: Mission and Functions of the Fair Employment Practices Office

1:45 p.m. [redacted], Deputy Chief
Article III Judges Division ([redacted])
Topic: Closing Remarks

1:50 p.m. Adjourn

Revised 06/19/06

@cadc.uscourts.gov

From: @cadc.uscourts.gov
Sent: Monday, June 19, 2006 4:32 PM
To: Gorsuch, Neil M

That's terrific news. I doubt it will become a distraction; if Sen.
Salazar is willing to go forward, the Committee minority won't want to embarrass him by saying the hearing is premature w/o the rating. More likely they just won't want to vote until they have the it, which should not be a problem.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 5:14 PM
To: Gorsuch, Neil M
Subject: FW: Civil Justice Reform

FYI - just keeping you in this loop.

-----Original Message-----
From: Michael_P._Moreland@who.eop.gov [mailto:Michael_P._Moreland@who.eop.gov]
Sent: Monday, June 19, 2006 5:11 PM
To: Todd, Gordon (SMO)
Subject: RE: Civil Justice Reform

Gordon--I've checked around with Allyson and others about this. There were some early efforts on tort reform that percolated around here in the first term, but nothing of enduring value except the obvious things that were enacted (class action reform) and that are the subject of ongoing discussion (preemption). As a first step, our view is that it would be better to hold a meeting at which we could brainstorm--even if it might mean raising issues that have been looked at before.

-----Original Message-----
From: Gordon.Todd2@usdoj.gov [mailto:Gordon.Todd2@usdoj.gov]
Sent: Monday, June 19, 2006 10:40 AM
To: Moreland, Michael P.
Subject: Civil Justice Reform

Mike:

I'm gathering a preliminary list of civil justice issues DOJ might look at moving on. I understand from Courtney Elwood that early in the Administration, the White House did a comprehensive study and report on the subject. I'm told it was authored by Rebecca Benyon. We'd like to avoid re-inventing the wheel, and I was wondering if I could get a look at that report?

Thanks,

Gordon

****
Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 5:24 PM
To: Todd, Gordon (SMO)
Cc: Elwood, Courtney
Subject: RE: Civil Justice Reform

Thanks so much. Please can you push back a bit to try to get our hands on the docs?

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Thanks,

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, June 19, 2006 5:46 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: RE: Civil Justice Reform

Yes, please do. Rebecca's work (which might have gone out over Jay Lefkowitz's name) was exhaustive and, as you can imagine, first rate. As I recall, her memo considered, listed the pros and cons, and made a recommendation w/r/t roughly 15 proposals.

(Also, FYI -- both Allyson and Mike Moreland will soon be leaving the White House. Not sure that is all public yet, although widely known.)

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c)[redacted]
(fax) 202.305.9687

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, June 19, 2006 5:24 PM
To: Todd, Gordon (SMO)
Cc: Elwood, Courtney
Subject: RE: Civil Justice Reform

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To: Todd, Gordon (SMO)
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Thanks,

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Blomquist, Kathleen M

From: Blomquist, Kathleen M
Sent: Monday, June 19, 2006 6:52 PM
To: Gorsuch, Neil M
Subject: Talking points

Hi Neil,

Tasia is suggesting that I add about four of the most important talking points that we can think of to this doc before sending it along. The ones we were thinking of include the historical reference you made to commissions (Lincoln, Nazis); the point that the bottom line is validating the President's authority; the fact that CSRT's include even more process than is required by Geneva; and then… TBD.

Tasia thought you might have one or two additional talkers to include.

Thanks,

Kat

Kathleen Blomquist
Senior Counsel
Office of Public Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
202/353-1561

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, June 19, 2006 7:15 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 19, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

National Security Agency Litigation (Civil)
The United States today asked the Judicial Panel on Multidistrict Litigation to transfer all pending suits connected to the government's NSA intelligence-gathering program to one court. The similar cases are currently being heard in several different jurisdictions. The government, responding to a request previously filed by Verizon, asked that the cases be heard in a District of Columbia court.

Talking Points:

- Given the common set of facts and allegations in the various cases against the telecommunications companies, which each allege that telecommunication companies allegedly assisted in classified government foreign intelligence activities, Verizon has asked that the cases, because of such similarities, be combined in one court.
- Verizon has employed the frequently used procedures of the Joint Panel on Multidistrict Litigation (JPML). Motions before the JPML are regularly and successfully employed in complex cases such as this one when a number of cases in different jurisdictions raise similar questions and in cases, such as this one, where there are a number of similar cases seeking to bring overlapping class actions.
- In light of the common factual and legal issues in this case, the United States strongly supports combining these similar cases before one court with one judge. Common questions of pretrial procedure are attendant to all of these actions.
- Most significantly, each of these cases puts at issue alleged foreign intelligence surveillance activities undertaken by the United States Government. The unique aspect of these actions is the United States' intention to assert the military and state secrets privilege in these actions and seek their dismissal. This warrants the transfer of these cases to one court to allow the resolution of this threshold matter in the most efficient manner for the courts and the parties, while protecting highly-sensitive and classified information, the disclosure of which would be harmful to the national security.

- The United States has also separately moved to include several of the cases brought directly against the government to these MDL proceedings. Similar common questions, concerns over national security, and risks regarding the release of classified information exist across all the cases and support the transfer and coordination of all of these cases.

- All parties have an opportunity to participate and object to the MDL process itself. Moreover, in the event that an MDL is created for this litigation, the parties continue to have the right to pursue their cases against the defendants before a neutral federal Judge.

Supreme Court Ruling on Wetlands Cases (ENRD)
Today, the Supreme Court ruled on the CWA wetlands cases *Rapanos v. United States* and *Carabell v. United States Army Corps of Engineers*. The vote was a 5-4 loss, however, based on the numerous opinions the impact of the rulings is yet to be determined.

Talking Points:

- The EPA, the Army Corps of Engineers and the Justice Department are currently reviewing the opinions issued today in *Rapanos v. United States* and *Carabell v. United States Army Corps of Engineers* to determine their impact on our cases.

Two Massachusetts Residents Plead Guilty to Money Laundering (Criminal)
Two Massachusetts residents pleaded guilty today in federal court to money laundering and trafficking and conspiring to traffic in more than $1.4 million of counterfeit luxury handbags and wallets, as well as the materials needed to make these counterfeits. Minh Vu, age 26, and Katherine Luong, age 27, both of Chelsea, Mass. pleaded guilty today before U.S. District Court Judge William Young. Vu pleaded to eight criminal counts charging conspiracy to traffic in counterfeit goods, conspiracy to commit money laundering and a variety of counts alleging specific instances of trafficking in counterfeit goods and money laundering. Luong pleaded to seven similar charges of conspiracy, money laundering, and trafficking in counterfeit goods.

OIG Report of FBI's Handling of Intelligence Information (FBI)
CNN, *Knight-Ridder* and the *Washington Post* are working in stories regarding the Office of the Inspector General's Report "A Review of the FBI's handling of Intelligence Information Prior to the September 11 Attacks" released today and posted on the OIG website. The following statement was issued in response.

Talking Points:

- Today's public release of the Moussaoui section of the 2004 Department of Justice Inspector General report, in many ways, follows the findings of a number of commissions and panels which similarly identified systemic shortcomings in the FBI handling of information before 9/11. Since 9/11, the passage of the Patriot Act, intelligence reform, court decisions, and major restructurings of the national security sections of the FBI and Department of Justice, have all combined to create an entirely different - and far more effective -- intelligence collection, analysis, and sharing environment today. As a result, the FBI is much better positioned today to detect and prevent terrorism.

- Importantly, with respect to the Moussaoui matter, the IG dismissed any instance of intentional wrongdoing by any FBI employee or any violation of FBI policies or practices. Nor, the IG determined, was there any attempt by FBI Headquarters to intentionally thwart the efforts of FBI, Minneapolis, to obtain a search warrant for Moussaoui's belongings in the weeks before 9/11, as has been reported in the past.

Media Inquiries into Ron Suskind's Book (FBI)
Several media outlets are working on stories regarding Ron Suskind's new book entitled "The One Percent Doctrine, Deep Inside America's Pursuit of Its Enemies Since 9/11."

Talking Points:

- The FBI has not let its guard down. We are working closely with our federal, state, local and international partners to detect and prevent future terrorist attacks against our country. We know terrorists are trying to be creative in identifying ways to harm the United States and the American people. The FBI does not rule out the possibility of a WMD attack occurring in the United States, and we are constantly working to identify and analyze intelligence and conduct investigations to dismantle terrorist cells and disrupt terrorist activities and operations.

- In general, we are not going to corroborate the claims made in Mr. Suskind's book. We will say that we have not let our guard down since 9-11 and are continuing to work with our federal, state, local and international partners to prevent terrorist attacks.

- At this time, there is no specific or credible intelligence pointing to an imminent attack by al-Qa'ida in the United States.

- We will continue to work with our domestic and international law enforcement and intelligence community partners to review and share intelligence and conduct any appropriate investigations.

- Since 9/11/01, the FBI has conducted numerous periodic intelligence assessments to gauge the terrorist threat throughout the United States. These assessments have enabled us to implement coordinated strategies with our partners to address the threat and prevent future attacks.

- Timely analysis and sharing of information is key to thwarting terrorist attacks, and as such, the FBI regularly shares criminal intelligence gained through our analysis and threat assessments with federal, state and local governments.

Media Inquiries into ACLU Lawsuit (FBI)
The Chicago Tribune and other media outlets are working on stories regarding a lawsuit filed by the ACLU regarding changes to the Federal Bureau of Investigation's Terrorist Screening Center. It is unclear when these stories will run.

TUESDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will highlight the results of the Department's Intellectual Property Task Force Progress Report. He will make remarks at the Coalition Against Counterfeiting and Piracy Luncheon, participate in a roundtable with print journalists and participate in interviews with CNBC and Bloomberg TV.

Thomas O. Barnett, Assistant Attorney General, Antitrust Division, will deliver opening remarks at the Justice Department and Federal Trade Commission's joint public hearings on the antitrust implications of single-firm conduct (Open Press)

Regina B. Schofield, Assistant Attorney General, Office of Justice Programs, will make keynote remarks at the National Sheriffs' Institute luncheon during the National Sheriffs' Association annual conference in Orlando, Florida (Open Press)

Full Name: Currie Gunn
Last Name: Gunn
First Name: Currie
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 5708
Washington, DC 20530-0001

Business: 202-514-9500

E-mail: Currie.Gunn@SMOJMD.USDOJ.gov
E-mail Display As: Currie.Gunn@SMOJMD.USDOJ.gov

DOJ_NMG_ 0161952

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 8:42 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
Subject: This am

[redacted] should be in circa noon. Apologies to all for the inconvenience there.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 8:44 AM
To: Gorsuch, Neil M
Subject: RE: This am

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 8:42 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
Subject: This am

[redacted] I should be in circa noon. Apologies to all for the inconvenience there.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 8:47 AM
To: Shaw, Aloma A
Subject: Re: This am

[redacted]

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Tue Jun 20 08:44:10 2006
Subject: RE: This am

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 8:42 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
Subject: This am

[redacted] should be in circa noon.
Apologies to all for the inconvenience there.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 9:33 AM
To: [redacted]
Subject: Fw: Talking points

-----Original Message-----
From: Blomquist, Kathleen M
To: Gorsuch, Neil M
Sent: Mon Jun 19 18:51:58 2006
Subject: Talking points

Hi Neil,

Tasia is suggesting that I add about four of the most important talking points that we can think of to this doc before sending it along. The ones we were thinking of include the historical reference you made to commissions (Lincoln, Nazis); the point that the bottom line is validating the President's authority; the fact that CSRT's include even more process than is required by Geneva; and then... TBD.

Tasia thought you might have one or two additional talkers to include.

Thanks,

Kat

Kathleen Blomquist
Senior Counsel
Office of Public Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
202/353-1561

Keasley, Monica (ODAG)

Subject:	Attorney Client Privilege Waiver
Location:	Room 4133 Main DOJ
Start:	Thursday, June 29, 2006 2:00 PM
End:	Thursday, June 29, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Keasley, Monica (ODAG)
Required Attendees:	Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Meyer, Joan E (ODAG); Brand, Rachel; Gorsuch, Neil M; Friedrich, Matthew; Murray, Fred F. (TAX); Boente, Dana J. (TAX); Cook, Elisebeth C; McIntosh, Brent

When: Thursday, June 29, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4133 Main DOJ

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

Attendees

Michael Elston, Ron Tenpas, Bill Mercer (Optional), Joan Meyer (optional), Rachel Brand, Neil Gorsuch, Matt Friedrich, Fred Murray, Dana Boente, Elisebeth Cook, Brent McIntosh

Elston, Michael (ODAG)

Subject:	Updated: Attorney Client Privilege Waiver
Location:	PHB 10300-D
Start:	Thursday, June 29, 2006 2:00 PM
End:	Thursday, June 29, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Elston, Michael (ODAG)
Required Attendees:	Elston, Michael (ODAG); Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Meyer, Joan E (ODAG); Brand, Rachel; Gorsuch, Neil M; Friedrich, Matthew; Murray, Fred F. (TAX); Boente, Dana J. (TAX); Cook, Elisebeth C; McIntosh, BrentElston, Michael (ODAG); Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Meyer, Joan E (ODAG); Brand, Rachel; Gorsuch, Neil M; Friedrich, Matthew; Murray, Fred F. (TAX); Boente, Dana J. (TAX); Cook, Elisebeth C; McIntosh, Brent

Attendees

Michael Elston, Ron Tenpas, Bill Mercer (Optional), Joan Meyer (optional), Rachel Brand, Neil Gorsuch, Matt Friedrich, Fred Murray, Dana Boente, Elisebeth Cook, Brent McIntosh

info@londonjunto.com

From:	info@londonjunto.com
Sent:	Tuesday, June 20, 2006 9:49 AM
To:	Gorsuch, Neil M
Subject:	London Junto: On Ben Franklin- and the Lessons that "new Ben" (Bernanke) Could Learn from America's Most Famous Diplomat!
Attachments:	tmp.htm

The London Junto Newsletter: June 2006
The London Junto and The Benjamin Franklin House Present:

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Benjamin Franklin House on June 22nd for an evening dedicated to the founder of the original Junto (http://rs6.net/tn.jsp?t=ygyilwbab.0.ee867vbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fen.wikipedia.org%2Fwiki%2FJunto) and one of the most important figures in American History.

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Ben Franklin offers many lessons to contemporary leaders as as well- such as the "other Ben" Bernake, the new Chairman of the Federel Reserve.
Skousen argues that Ben Bernanke is no
diplomat like the old Ben. The new Ben is trying to make a name for himself, and establish himself as the premier money man that everyone looks to for leadership. After Greenspan, it is a tall order.....He wants to be known as tough on inflation, having made his reputation on "inflation targeting" as an academic. But unlike Greenspan, Bernanke is no Wall Streeter. He's a pure academic, and that's scary. It demonstrates the DANGER involving "authority" over "rules".....and it could end badly. The recent selloff in industrial countries and the crash in emerging markets portends a very unstable environment ahead.

About Mark
Skousen (http://rs6.net/tn.jsp?t=ygyilwbab.0.l9zzwubab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.mskousen.com)

Known as the "maverick" of economics for his
contrarian and optimistic views, his sometimes- outrageous statements and predictions, Mark Skousen is a college professor, prolific author and
world-renowned speaker. He's made his unique sense
of market and investment trends known and
respected in the financial world. With a Ph.D. in
economics and a focus on the principles of free- market capitalism and "Austrian" economics, Mark Skousen has often gone contrary to the crowd in his
investment choices and economic predictions -- and
has often been proved right. Predicting of the
biggest bull market on Wall Street in the 20th
century -- the 1990s, Mark Skousen has built a
reputation for not only accurately identifying the
right economic and political trends, but also the right
investments for the times.

An almost idealistic proponent of liberty and political
freedom, Mark Skousen is actively involved in some
of the most prestigious free-market and liberty think
tanks in the world. He frequently speaks and writes
articles for organizations such as the Cato Institute (http://rs6.net/tn.jsp?t=ygyilwbab.0.ge867vbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.cato.org),
the Foundation for
Economic Education (http://rs6.net/tn.jsp?t=ygyilwbab.0.he867vbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.fee.org%2F), the Libertarian Party (http://rs6.net/tn.jsp?t=ygyilwbab.0.ie867vbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.lp.org%2F),
the Council for National Policy and
the Mt.
Pelerin Society (http://rs6.net/tn.jsp?t=ygyilwbab.0.je867vbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.montpelerin.org%2F). He also teaches at Columbia

University. (http://rs6.net/tn.jsp?t=ygyilwbab.0.ccz7cwbab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.columbia.edu%2F)

DATE: June 22nd, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD

The London Junto - http://rs6.net/tn.jsp?t=ygyilwbab.0.t9zzwubab.vri5uubab.190&ts=S0187&p=http%3A%2F%2Fwww.londonjunto.com

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phone: +44(0)7780 677360
web: http://www.londonjunto.com

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Please register and pay for this event by clicking on the button here:

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THE DEADLINE FOR REGISTRATION AND PAYMENT IS June 16, 2005 ********** **********

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London Junto | 16 Queensgate Place | London | SW7 5NY | United Kingdom

The London Junto Newsletter: June 2006

The London Junto and The Benjamin Franklin House Present:

"The Compleated Biography of Benjamin Franklin"

Edited by Mark Skousen, based on the original papers of Benjamin Franklin

Readers and historians have long lamented that Franklin failed to complete his Autobiography. While a classic in literature and among the most widely read autobiographies in the world, he stopped writing it in 1757- years before the most exciting events of his life. Now, in honour of the 300th anniversary of Franklin's birth, Skousen has finished the autobiography completely in Franklin's own words. **Dedicated copies of "The Compleated Biography of Benjamin Franklin" will be available for purchase following Dr. Skousen's presentation.**

Event Sponsors

The Benjamin Franklin House

The Harvard Club of UK Business Forum

Hayek Capital Management

Relevant links

- Mark Skousen
- Mark Skousen's Forecasts and Strategies
- The Compleated Biography of Benjamin Franklin

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Benjamin Franklin House on June 22nd for an evening dedicated to the founder of the original Junto and one of the most important figures in American History.

"Master of the Art: How Crafty Ol' Ben Franklin Prospered in an Age of War, Inflation, and International Intrigue-and the Lessons He Can Offer the 'Bens' of Today."

In his adult life, Ben Franklin suffered numerous personal and financial setbacks: Most people know of his "rags to riches" story in the Autobiography. But in the Compleated Autobiography, compiled and edited by Mark Skousen from Franklin's papers, we learn that Franklin was seriously threatened on many occasions by life threatening illnesses, death or imprisonment by British officers, privateers, and spies, and major financial setbacks during the final 33 years of his illustrious career. In 1774, he lost his job as postmaster and colonial agent yet was able to survive and prosper by practicing what he preached through his trinity of moral virtue, "industry - frugality -- prudence." He died in 1790 at the age of 84, a very rich man and now listed as one of The Wealthy 100: The 100 Wealthiest Americans of All Time..

Ben Franklin offers many lessons to contemporary leaders as as well- such as the "other Ben" Bernake, the new Chairman of the Federel Reserve. Skousen argues that Ben Bernanke is no diplomat like the old Ben. The new Ben is trying to make a name for himself, and establish himself as the premier money man that everyone looks to for leadership. After Greenspan, it is a tall order.....He wants to be known as tough on inflation, having made his reputation on "inflation targeting" as an academic. But unlike Greenspan, Bernanke is no Wall Streeter. He's a pure academic, and that's scary. It demonstrates the DANGER involving "authority" over "rules".....and it could end badly. The recent selloff in industrial countries and the crash in emerging markets portends a very unstable environment ahead.

About Mark Skousen

Known as the "maverick" of economics for his contrarian and optimistic views, his sometimes- outrageous statements and predictions, Mark Skousen is a college professor, prolific author and world-renowned speaker. He's made his unique sense of market and investment trends known and respected in the financial world. With a Ph.D. in economics and a focus on the principles of free- market capitalism and "Austrian" economics, Mark Skousen has often gone contrary to the crowd in his

Mark Skousen has often gone contrary to the crowd in his investment choices and economic predictions -- and has often been proved right. Predicting of the biggest bull market on Wall Street in the 20th century -- the 1990s, Mark Skousen has built a reputation for not only accurately identifying the right economic and political trends, but also the right investments for the times. An almost idealistic proponent of liberty and political freedom, Mark Skousen is actively involved in some of the most prestigious free-market and liberty think tanks in the world. He frequently speaks and writes articles for organizations such as the Cato Institute, the Foundation for Economic Education, the Libertarian Party, the Council for National Policy and the Mt. Pelerin Society. He also teaches at Columbia University.

DATE: June 22nd, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD
The London Junto

Tickets for the event are £20.00. This includes:

- A welcome glass of wine or other beverage
- An opportunity to win a copy of The Compleated Biography of Benjamin Franklin.

Please pay on PAYPAL (link below-takes VISA etc.) You **DO NOT** need a PayPal account. Alternatively, drop me an e-mail with the following details: **Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)**

Nicholas Vardy
The London Junto

email: info@londonjunto.com
phone: +44(0)7780 677360
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Please register and pay for this event by clicking on the button here:

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London Junto | 16 Queensgate Place | London | SW7 5NY | United Kingdom

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 10:01 AM
To: Macklin, Kristi R
Subject: Hearing

I related to Rachel yesterday that both Allard and Salazar plan to introduce me. Have you told the cmte abt this so they can plan accordingly? I imagine you're way ahead of me but since I hadn't shared this info w you directly I wanted to make sure you had it. Thanks!

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, June 20, 2006 10:02 AM
To: Gorsuch, Neil M
Subject: Re: Hearing

The cmtee checks in with home state senators as a matter of course. Will certainly give them a heads up.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Tue Jun 20 10:00:43 2006
Subject: Hearing

I related to Rachel yesterday that both Allard and Salazar plan to introduce me. Have you told the cmte abt this so they can plan accordingly? I imagine you're way ahead of me but since I hadn't shared this info w you directly I wanted to make sure you had it. Thanks!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 20, 2006 10:03 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION ANNOUNCE SYSTEM FOR ELECTRONIC SUBMISSION OF PREMERGER NOTIFICATION FILINGS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 20, 2006
WWW.USDOJ.GOV

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

DEPARTMENT OF JUSTICE AND FEDERAL TRADE COMMISSION ANNOUNCE SYSTEM FOR ELECTRONIC SUBMISSION OF PREMERGER NOTIFICATION FILINGS

Secure System for Internet Filing Will Benefit Parties and Process

WASHINGTON — The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced the implementation of an electronic filing system that allows merging parties to submit via the Internet premerger notification filings required by the Hart-Scott-Rodino (HSR) Act. Electronic filing eliminates the time and expense entailed in duplicating and delivering documents.

To date, parties have been required to submit to both the Department of Justice and the FTC paper copies of the required premerger notification form and documentary attachments (with the exception of certain documents, such as U.S. Securities and Exchange Commission filings, that can be provided via internet links). Under the new system announced today, filers will now have three options:

(1) complete and submit the form and all attachments in hard copy;

(2) complete the electronic version of the form and submit it and all attachments electronically; or

(3) complete the electronic version of the form and submit it electronically while submitting all documentary attachments in paper copy.

Because HSR filings are highly confidential, Antitrust Division and FTC officials noted that every step of the electronic filing process has been designed to ensure the confidentiality and security of submitted

DOJ_NMG_ 0161970

information. A valid electronic signature will be required before submission of the package, which will be encrypted and transmitted over the Internet to a secure FTC server. The agencies will employ multiple security measures once an electronic filing is received to protect the information that the parties submit.

In addition to providing benefits to filing parties and to the Department of Justice and FTC, electronic filing complies with the mandate of the Government Paperwork Elimination Act, which requires that federal agencies provide electronic filing and signature options to the extent practicable.

The HSR Act and HSR Rules require companies planning acquisitions or mergers that meet certain threshold requirements to file a Notification and Report Form with the Department of Justice and the FTC in advance of those transactions. The HSR Act also requires that the merging parties observe a mandatory 15- or 30-day waiting period, after which the companies may proceed with the transaction if neither agency has requested additional information about the transaction. These reporting and waiting period requirements give the antitrust agencies an opportunity to investigate proposed transactions and seek to enjoin anticompetitive deals before they are consummated.

Detailed information on electronic filing, including an electronic version of the Notification and Report Form, can be found at https://www.hsr.gov/.

The electronic filing option will be available to the parties upon the publication of the Federal Register notice announcing necessary HSR Rule changes. That notice can be found at http://www.ftc.gov/bc/hsr/hsr.htm.

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06-379

DOJ_NMG_ 0161971

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Image not available for this document, ID: 0.7.10316.6624-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 10:04 AM
To: Macklin, Kristi R
Subject: Re: Hearing

Thanks so much.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 10:02:15 2006
Subject: Re: Hearing

The cmtee checks in with home state senators as a matter of course. Will certainly give them a heads up.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Tue Jun 20 10:00:43 2006
Subject: Hearing

I related to Rachel yesterday that both Allard and Salazar plan to introduce me. Have you told the cmte abt this so they can plan accordingly? I imagine you're way ahead of me but since I hadn't shared this info w you directly I wanted to make sure you had it. Thanks!

MarquisWhosWho@email.marquiswhoswho.com

From:	MarquisWhosWho@email.marquiswhoswho.com
Sent:	Tuesday, June 20, 2006 10:32 AM
To:	Gorsuch, Neil M
Subject:	Avian Flu - Preparing Now for a Possible Outbreak
Attachments:	tmp.htm

Planning for Avian Flu -- The Critical Steps Your Business Should Take Now

A 90-minute, interactive audio conference - Register Now
http://www.marquiswhoswho.com/conference1a

When: Tuesday, July 18, 2006
What Time: 2:00 - 3:30 PM Eastern Time
Where: Your office or conference room
Cost for Marquis members: Just $279 per listening site no matter how many people are in the room!

Marquis Who's Who is proud to present a selection of special benefits for all of its members. We have teamed up with Thompson Publishing Group to offer the first in a series of audio conferences designed to address issues that affect you and your firm: Planning for Avian Flu - The Critical Steps Your Business Should Take Now. For Marquis Who's Who members, the special registration fee is just $279 per site.

Thompson, the premier publisher for senior and middle management involved in human resources, and Marquis Who's Who have brought together leading experts who will provide specific and practical information on developing contingency plans to keep core business functions running if and when the avian flu spreads to the United States.

A recent national Thompson survey demonstrated that 75% of employers are not prepared for a possible outbreak of avian flu. Getting ready includes plans for dealing with reduced workforces, security issues, employee and customer communications, payroll and employee benefits questions -- to mention just a few areas of concern. The federal and state governments are already announcing plans to deal with an avian flu outbreak. You shouldn't wait to figure out how to handle shortages of supplies, worker absenteeism, IT issues, and more. You need to have the answers now!

Learn how to prepare and respond to a possible avian flu outbreak from the Marquis Who's Who and Thompson experts when you join us Tuesday, July 18 at 2:00 p.m. ET for this 90 minute audio conference.

Our featured speakers are: Mr. Mark Lies, partner in the leading law firm, Seyfarth Shaw. Mr. Lies' practice includes occupational safety and health, and he has first-hand experience advising clients in the aftermath of the World Trade Center attacks, the SARS outbreak in Canada, the anthrax crisis, and during post-Katrina rebuilding.

Our other two speakers are both with the nationally recognized firm, Crisis Management International (CMI). Mr. Jim Jinkins has more than 20 years' experience and is General Manager of Business

Continuity Planning for Crisis Management International (CMI). Mr. Jason Kane is Project Coordinator for CMI. Both have extensive experience advising clients in areas relating to: business continuity and disaster recovery planning, telecommunications and information technology, network recovery, co-location and hosting, and disaster training.

As an added bonus for Marquis Who's Who members, senior executives from Roche Labs, the manufacturers of Tamiflu, will be available during the Q & A session which follows the conference to answer any medical related questions.

In this audio conference, you'll learn:

1. How to analyze your vulnerabilities and develop a business continuity plan that keeps your firm running 2. The first 3 things you and your firm should do after an outbreak
3. Strategies for restructuring to keep your firm up and in operation -- telecommuting, transfer of business activities to non-affected areas, temporary hiring, etc.
4. Revising travel policies to foreign countries and potential places of infection
5. Minimizing your exposure to potential employee litigation

Learn More and Register Today
http://www.marquiswhoswho.com/conference1a

Registration Includes:

* Admittance to the 90-minute call for as many people as you can fit in a room with a speakerphone * Access to the specially created presentation handouts (available 48 hours in advance) * Participation in the 30-minute, live Q&A with the speakers following the presentation
* Certificates of attendance for all audio conference attendees

Who Should Register?

* Business Executives and Managers
* HR Directors and Managers
* IT Professionals
* Healthcare Professionals
* Disaster/Emergency Managers
* Business Continuity Managers
* Corporate Security Directors

Learn More and Register Today
http://www.marquiswhoswho.com/conference1a

If you prefer to register -- or order the CD recording or the Streaming Audio version -- by phone, call the Marquis-Thompson registrar toll-free at 1-800-395-5914. And when you do, please be sure to mention your priority code: FNMK85400

Take advantage of the newest feature -- Streaming Audio. No more waiting for the CD recording -- this new feature allows instant access to the recorded audio conference. Play it back as many times as you want. Available 24 hours a day, 7 days a week. Available from any computer. Listen to it at a later date. And it's in MP3 format, so it's playable from any standard media player. Apple/Mac compatible. Same price as a registration to the live audio conference. Same price as the CD.

Please feel free to forward this announcement to others who might find it useful.

This audio conference is sponsored by Marquis Who's Who, 890 Mountain Avenue, New Providence, New Jersey 07974 and Thompson Interactive, a division of Thompson Publishing Group, Inc., 1725 K Street NW, Suite 700, Washington, DC 20006. Marquis Who's Who and Thompson Interactive reserve the right to substitute speakers and reschedule or cancel audio conferences due to unforeseen circumstances. Neither Marquis Who's Who nor Thompson Interactive is responsible for any problems stemming from registrants' organizations' hardware or telecommunications services. Recording of audio conferences is prohibited.

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Planning for Avian Flu -- The Critical Steps Your Business Should Take Now
A 90-minute, interactive audio conference - Register Now

When: Tuesday, July 18, 2006
What Time: 2:00 - 3:30 PM Eastern Time
Where: Your office or conference room
Cost for Marquis members: Just $279 per listening site no matter how many people are in the room!

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A recent national Thompson survey demonstrated that 75% of employers are not prepared for a possible outbreak of avian flu. Getting ready includes plans for dealing with reduced workforces, security issues, employee and customer communications, payroll and employee benefits questions -- to mention just a few areas of concern. The federal and state governments are already announcing plans to deal with an avian flu outbreak. You shouldn't wait to figure out how to handle shortages of supplies, worker absenteeism, IT issues, and more. You need to have the answers now!

Learn how to prepare and respond to a possible avian flu outbreak from the **Marquis Who's Who** and Thompson experts when you join us Tuesday, July 18 at 2:00 p.m. ET for this 90 minute audio conference.

Our featured speakers are: **Mr. Mark Lies**, partner in the leading law firm, Seyfarth Shaw. Mr. Lies' practice includes occupational safety and health, and he has first-hand experience advising clients in the aftermath of the World Trade Center attacks, the SARS outbreak in Canada, the anthrax crisis, and during post-Katrina rebuilding.

Our other two speakers are both with the nationally recognized firm, Crisis Management International (CMI). **Mr. Jim Jinkins** has more than 20 years' experience and is General Manager of Business Continuity Planning for Crisis Management International (CMI). **Mr. Jason Kane** is Project Coordinator for CMI. Both have extensive experience advising clients in areas relating to: business continuity and disaster recovery planning, telecommunications and information technology, network recovery, co-location and hosting, and disaster training.

As an added bonus for **Marquis Who's Who** members, senior executives from Roche Labs, the manufacturers of Tamiflu, will be available during the Q & A session which follows the conference to answer any medical related questions.

In this audio conference, you'll learn:

1. How to analyze your vulnerabilities and develop a business continuity plan that keeps your firm running
2. The first 3 things you and your firm should do after an outbreak
3. Strategies for restructuring to keep your firm up and in operation -- telecommuting, transfer of business activities to non-affected areas, temporary hiring, etc.
4. Revising travel policies to foreign countries and potential places of infection

4. Reviewing travel policies to foreign countries and potential places of infection
5. Minimizing your exposure to potential employee litigation

Registration Includes:

- Admittance to the 90-minute call for as many people as you can fit in a room with a speakerphone
- Access to the specially created presentation handouts (available 48 hours in advance)
- Participation in the 30-minute, live Q&A with the speakers following the presentation
- Certificates of attendance for all audio conference attendees

Who Should Register?

- Business Executives and Managers
- HR Directors and Managers
- IT Professionals
- Healthcare Professionals
- Disaster/Emergency Managers
- Business Continuity Managers
- Corporate Security Directors

If you prefer to register -- or order the CD recording or the Streaming Audio version -- by phone, call the **Marquis-Thompson** registrar toll-free at **1-800-395-5914**. And when you do, please be sure to mention your priority code: **FNMK85400**

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Please feel free to forward this announcement to others who might find it useful.

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Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, June 20, 2006 11:06 AM
To: Gorsuch, Neil M
Subject: Today's mtg

I'm feeling guilty about asking you to do this OIL mtg today as you are preoccupied with your hearing. I promise to keep it brief.

Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 11:19 AM
To: Mercer, Bill (ODAG)
Subject: Re: Today's mtg

No worries whatsoever. When is the mtg? I am free anytime after 315

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
Sent: Tue Jun 20 11:06:29 2006
Subject: Today's mtg

I'm feeling guilty about asking you to do this OIL mtg today as you are preoccupied with your hearing. I promise to keep it brief.

Sent from my BlackBerry Wireless Handheld

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, June 20, 2006 11:24 AM
To: Gorsuch, Neil M
Subject: Re: Today's mtg

Calendared for 1. I juist looked and you haven't confirmed. Let me know if we need to move it.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
Sent: Tue Jun 20 11:19:25 2006
Subject: Re: Today's mtg

No worries whatsoever. When is the mtg? I am free anytime after 315

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
Sent: Tue Jun 20 11:06:29 2006
Subject: Today's mtg

I'm feeling guilty about asking you to do this OIL mtg today as you are preoccupied with your hearing. I promise to keep it brief.

Sent from my BlackBerry Wireless Handheld

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: RE: This am

Hope everyone is all right and it is only a hassle. No problems here. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 8:42 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
Subject: This am

[redacted] should be in circa noon. Apologies to all for the inconvenience there.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 11:50 AM
To: Mercer, Bill (ODAG)
Subject: Re: Today's mtg

Afraid my moot is from 1 to 3. Anytime after 315 would be great. Sorry for the hassle.

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
Sent: Tue Jun 20 11:24:13 2006
Subject: Re: Today's mtg

Calendared for 1. I juist looked and you haven't confirmed. Let me know if we need to move it.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
Sent: Tue Jun 20 11:19:25 2006
Subject: Re: Today's mtg

No worries whatsoever. When is the mtg? I am free anytime after 315

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
Sent: Tue Jun 20 11:06:29 2006
Subject: Today's mtg

I'm feeling guilty about asking you to do this OIL mtg today as you are preoccupied with your hearing. I promise to keep it brief.

Sent from my BlackBerry Wireless Handheld

Cooperstein, Theodore (USAMD)

From:	Cooperstein, Theodore (USAMD)
Sent:	Tuesday, June 20, 2006 11:55 AM
To:	Gorsuch, Neil M
Subject:	Good luck this week
Attachments:	tmp.htm

I trust your visit to the Judiciary Committee should prove uneventful (fingers crossed). When you can come up for air, lemme know if you wanna grab a drink some evening after work and catch up. I'm having a blast here in my fourth week as a real lawyer...

Ted

Theodore M. Cooperstein
Special Assistant U.S. Attorney
Office of the United States Attorney
6500 Cherrywood Lane, Room 400
Greenbelt, MD 20770

(301) 344-4434
(301) 344-4516 (fax)

I trust your visit to the Judiciary Committee should prove uneventful (fingers crossed). When you can come up for air, lemme know if you wanna grab a drink some evening after work and catch up. I'm having a blast here in my fourth week as a real lawyer...

Ted

Theodore M. Cooperstein
Special Assistant U.S. Attorney
Office of the United States Attorney
6500 Cherrywood Lane, Room 400
Greenbelt, MD 20770

(301) 344-4434
(301) 344-4516 (fax)

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Tuesday, June 20, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: Your moot
Attachments: tmp.htm

Oh, how I would love to go . . . but two must-attend meetings have popped up for this afternoon. Hope it goes well, and congrats on the ABA rating.

Oh, how I would love to go . . . but two must-attend meetings have popped up for this afternoon. Hope it goes well, and congrats on the ABA rating.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:04 PM
To: Cooperstein, Theodore (USAMD)
Subject: Re: Good luck this week

Ted, thanks so much for the good wishes. No way of knowing how it'll go but I sure apreciate the support. Would love to catch up after this wk - just let me know when you find yourself headed to Main. And congrats on the new assignment. I think trying cases is the most fun a lawyer can have.
Best, Neil

-----Original Message-----
From: Cooperstein, Theodore (USAMD)
To: Gorsuch, Neil M
Sent: Tue Jun 20 11:54:58 2006
Subject: Good luck this week

I trust your visit to the Judiciary Committee should prove uneventful (fingers crossed). When you can come up for air, lemme know if you wanna grab a drink some evening after work and catch up. I'm having a blast here in my fourth week as a real lawyer...

Ted

Theodore M. Cooperstein
Special Assistant U.S. Attorney
Office of the United States Attorney
6500 Cherrywood Lane, Room 400
Greenbelt, MD 20770

(301) 344-4434
(301) 344-4516 (fax)

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, June 20, 2006 12:05 PM
To: Gorsuch, Neil M
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 20, 2006 12:08 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GSA CHIEF OF STAFF DAVID SAFAVIAN CONVICTED OF OBSTRUCTION, MAKING FALSE STATEMENTS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JUNE 20, 2006
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TDD (202) 514-1888

FORMER GSA CHIEF OF STAFF DAVID SAFAVIAN CONVICTED OF OBSTRUCTION, MAKING FALSE STATEMENTS

WASHINGTON – A federal jury in Washington, D.C., convicted David H. Safavian, the former chief of staff for the General Services Administration (GSA), of obstructing a GSA proceeding and making false statements, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

The jury convicted Safavian today of four charges stemming from an October 2005 indictment, following an eight-day trial and four days of jury deliberation. The jury found that from May 16, 2002 until January 2004, Safavian made false statements and obstructed investigations into his relationship with former Washington lobbyist Jack Abramoff. The investigations focused on whether Safavian, the chief of staff at the GSA from May 2002 until January 2004, aided Abramoff in his attempts to acquire GSA-controlled property in and around Washington, D.C. In August 2002, Abramoff took Safavian and others on a golf trip to Scotland.

The jury heard evidence at trial that Safavian made a false statement to a GSA ethics officer claiming that Abramoff had no business with GSA at the time Safavian was planning to travel with the lobbyist to Scotland. He repeated the same statements to a GSA Office of Inspector General special agent, again concealing the fact that Abramoff had business before the GSA prior to the August 2002 golf trip and that Safavian was aiding Abramoff in his attempts to do business with GSA.

The jury found Safavian not guilty of a fifth count of the indictment, a charge of attempting to mislead the Senate Committee on Indian Affairs by falsely claiming to the committee during its investigation that Abramoff had no business before GSA at the time of the Scotland trip. Abramoff pleaded guilty in January 2006 to charges of conspiracy, aiding and abetting honest services mail fraud and tax evasion, and agreed to cooperate with investigators in an ongoing criminal investigation.

"Today a jury found David Safavian, a former federal official, guilty of lying to Congress and GSA investigators about his dealings with lobbyist Jack Abramoff," said Assistant Attorney General Fisher. "The message of this verdict is clear: in answering questions posed by Congress and by federal agencies, public officials have the same obligation as does the public for which they serve – to tell the truth. No one is above the law."

DOJ_NMG_ 0161992

From November 2004 until September 2005, Safavian had served as the administrator for the Office of Federal Procurement Policy at the Office of Management and Budget. He faces a maximum sentence of five years in prison on each of the four counts, a $250,000 fine and three years of supervised release. Sentencing is scheduled for Oct. 12, 2006.

The case was prosecuted by trial attorneys Nathaniel B. Edmonds and Guy D. Singer of the Fraud Section, and trial attorney Peter R. Zeidenberg of the Public Integrity Section, both part of the Criminal Division at the Department of Justice. The case and the ongoing investigation are being led by special agents of the Federal Bureau of Investigation, the GSA Office of Inspector General, the Department of the Interior Office of Inspector General, and the Internal Revenue Service, Criminal Investigation Division.

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06-381

DOJ_NMG_ 0161993

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Image not available for this document, ID: 0.7.10316.6587-000002

Goodling, Monica

From: Goodling, Monica
Sent: Tuesday, June 20, 2006 12:27 PM
To: Goodling, Monica
Cc: Walker, Shelia M
Subject: The Daily Update: 6/20/06

Hello ~ When you get a chance, please welcome Jean Card to DOJ. She joins the Office of Public Affairs as a speechwriter for the Attorney General.

Also, we still have plenty of tickets available for the Nationals vs Padres game on Saturday, July 8th at 7:05 p.m. If there are others in your division that you think would enjoy attending with the group, feel free to invite them. Discounted tickets will be $11. Interested parties should email Shelia Walker. Thanks!

****

<http://www.whitehouse.gov/>

JUNE 20, 2006

No public events.

President Bush Delivers Commencement Address At The United States Merchant Marine Academy. "To most Americans coming off the final weekend of spring, President Bush's commencement address here Monday was just another graduation speech, one of more than 4,000 this year on campuses across the country. But to the staff, faculty, midshipmen and friends of the U.S. Merchant Marine Academy, it was a huge deal, a dream come true - the first time in the service academy's 63-year history that a president accepted an invitation to address the graduates. <http://www.usatoday.com/printedition/news/20060620/a_bushvisit20.art.htm> ... In his speech, Bush played off the academy's motto - 'Deeds, not words' - to praise its value and service to the nation. 'In times of war, the Merchant Marine is the lifeline of our troops overseas, carrying critical supplies, equipment, and personnel,' he said." (Richard Benedetto, "Bush's Visit, Speech Thrill Midshipman," USA Today, 6/20/06)

President Bush Urges Iran To "Abandon Any Ambitions To Obtain Nuclear Weapons." "'We believe the Iranian people should enjoy the benefits of a truly peaceful program to use nuclear reactors to generate electric power,' said Bush, who in the past has expressed skepticism about the need for oil-rich Iran to pursue nuclear power. ... 'I have a message for the Iranian regime: America and our partners are united,' Bush said. 'We have presented a reasonable offer. Iran's leaders should see our proposal for what it is - an historic opportunity to set their country on a better course. If Iran's leaders want peace and prosperity and a more hopeful future for their people, they should accept our offer, abandon any ambitions to obtain nuclear weapons, and come into compliance with their international obligations <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/19/AR2006061900392.html> .'" (Michael Fletcher, "Iran Urged To Accept Limits," The

Washington Post, 6/20/06)

Iraqi National Security Advisor Details Strategy For A Secure And Independent Iraq. "There has been much talk about a withdrawal of U.S. and coalition troops from Iraq, but no defined timeline has yet been set. There is, however, an unofficial 'road map' to foreign troop reductions that will eventually lead to total withdrawal of U.S. troops. This road map is based not just on a series of dates but, more important, on the achievement of set objectives for restoring security in Iraq. <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/19/AR2006061901237_pf.html> Iraq has a total of 18 governorates, which are at differing stages in terms of security. Each will eventually take control of its own security situation, barring a major crisis. But before this happens, each governorate will have to meet stringent minimum requirements as a condition of being granted control." (Mowaffak al-Rubaie, Op-Ed, "The Way Out Of Iraq: A Road Map," The Washington Post, 6/20/06)

Vice President Cheney Says It Is "Not An Accident" That U.S. Has Not Been Attacked Since September 11, 2001. "'The United States' biggest terrorism threat is 'an al-Qaeda cell armed with a nuclear weapon or a biological agent in the middle of one of our own cities,' Vice President Cheney said Monday. Speaking at the National Press Club, Cheney credited aggressive U.S. action for preventing terrorist attacks since Sept. 11, 2001. 'The fact of the matter is we have been safe and secure here at home,' he said. 'That's not an accident. It didn't happen just because we got lucky <http://www.usatoday.com/printedition/news/20060620/a_capcol20.art.htm>.' Cheney said improved intelligence-gathering and preventive steps have thwarted attacks on U.S. soil." ("Cheney: U.S. Action Averts New Attacks," USA Today, 6/20/06)

New Program Is Increasing The Number Of Illegal Immigrants Deported After Misdemeanor Offenses. "It used to be that when an illegal immigrant's offense was a misdemeanor, 'it didn't pay to call immigration,' Sheriff Alderden said. Agents from Immigration and Customs Enforcement said they were busy rounding up violent felons, as the law requires, and most of the felons were in state prisons. Last month, the situation changed. Under a pilot program, every day the sheriff sends the immigration agency a list of the foreigners in his jail. <http://www.nytimes.com/2006/06/20/us/20jails.html?_r=1&oref=slogin> Federal agents visit regularly to interview those inmates and identify those who have to leave the country. In the first two weeks, 26 inmates were added to the deportation list." (Julia Preston, "New Scrutiny Of Illegal Immigrants In Minor Crimes," The New York Times, 6/20/06)

Los Angeles Times Praises The Interior Department For Recent Actions Promoting Environmental Conservation. "In one of his first acts as Interior secretary, Dirk Kempthorne took the gratifying step of tossing out a proposal that would have ruined our national parks. Gone is language that would have opened them to mining and grazing as well as increased commercial development, snowmobiling and off-road-vehicle use. Restored is the National Parks Service's commitment to conservation. ... With the creation of the vast Northwestern Hawaiian Islands National Monument last week and Kempthorne's announcement this week, the Bush administration appears to have a welcome new attitude toward the

nation's natural treasures <http://www.latimes.com/news/printedition/opinion/la-ed-kemp20jun20,1,745332.story?coll=la-news-comment> . Here's hoping it lasts." (Editorial, "Restoring Sanity To The Interior," Los Angeles Times, 6/20/06)

Cooperative Threat Reduction Agreement With Russia Extended. "The United States and Russia reached a last-minute agreement saving a program to secure or destroy Soviet nuclear warheads, chemical weapons and killer germs, U.S. officials said yesterday <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/19/AR2006061901380_pf.html> , breaking a long logjam and averting a rupture weeks before President Bush travels to St. Petersburg. ... A senior administration official said the extension should help propel efforts to eliminate old Soviet weapons. 'This reinvigorates and strengthens the ongoing cooperation we've been doing with Russia,' said the official, who was not authorized to speak on the record." (Peter Baker, "U.S., Russia Break Impasse On Plan To Keep Arms From Rogue Users," The Washington Post, 6/20/06)

The EU And U.S. Will Launch A Joint Effort To Protect Intellectual Property Rights. "Today the EU and the U.S. will launch a joint action strategy on the global enforcement of intellectual-property rights. The groundbreaking agreement between the EU and the U.S. envisages closer customs cooperation, including more data sharing. There are plans for joint border enforcement actions, including in third countries, and the creation of joint networks of EU and U.S. diplomats in third countries working on intellectual-property protection. ... The EU-U.S. joint action is a clear signal that we will work with our trading partners to ensure that their legal commitments on intellectual property are accompanied by a genuine willingness to tackle the problem at their borders, in their courts and on their streets <http://online.wsj.com/article_print/SB115076768235784783.html> ." (Carlos Gutierrez, Gunter Verheugen, Peter Mandelson, and Susan Schwab, Op-Ed, "Countering Counterfeits," The Wall Street Journal, 6/20/06)

Prominent Economists Agree Immigration Has Been A "Net Gain For American Citizens." "In an open letter to President Bush and Congress last week, more than 500 prominent economists, including five Nobel laureates, proclaim that 'immigration has been a net gain for American citizens. <http://online.wsj.com/article_print/SB115076699682584764.html> ' ... What is striking about this immigration letter is that it is signed by economists from different fields of research, political affiliations and ideologies. It is possible that no other issue in the economic field, with the exception of the benefits of free trade, inspires such unanimity of professional opinion as immigration does." (Editorial, "Immigration Consensus," The Wall Street Journal, 6/20/06)

President Delivers Commencement Address at the United States Merchant Marine Academy <http://www.whitehouse.gov/news/releases/2006/06/20060619-1.html>

President Bush to Welcome President Mikheil Saakashvili of Georgia to the White House

<http://www.whitehouse.gov/news/releases/2006/06/20060619-2.html>

Vice President's Remarks at the Gerald R. Ford Journalism Prize Luncheon Followed by Q&A
<http://www.whitehouse.gov/news/releases/2006/06/20060619-10.html>

Remarks by the President at the 2006 President's Dinner
<http://www.whitehouse.gov/news/releases/2006/06/20060619-14.html>

Aung San Suu Kyi Birthday
<http://www.whitehouse.gov/news/releases/2006/06/20060619-6.html>

Targeted Sanctions on Persons Undermining Democratic Processes or Institutions in Belarus
<http://www.whitehouse.gov/news/releases/2006/06/20060619-5.html>

Message to the Congress of the United States
<http://www.whitehouse.gov/news/releases/2006/06/20060619-4.html>

Executive Order: Blocking Property of Certain Persons Undermining Democratic Processes or Institutions in Belarus
<http://www.whitehouse.gov/news/releases/2006/06/20060619-3.html>

Cooperative Threat Reduction Agreement with Russia Extended
<http://www.whitehouse.gov/news/releases/2006/06/20060619-7.html>

Message to the Congress of the United States
<http://www.whitehouse.gov/news/releases/2006/06/20060619-12.html>

Notice: Continuation of the National Emergency with Respect to the Risk of Nuclear Proliferation Created by the Accumulation of Weapons-Usable Fissile Material in the Territory of the Russian Federation
<http://www.whitehouse.gov/news/releases/2006/06/20060619-11.html>

Memorandum for the Secretary of State
<http://www.whitehouse.gov/news/releases/2006/06/20060619-9.html>

Nomination Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/06/20060619-8.html>

Just the Facts: The Bush Administration's Strong Worksite Enforcement Efforts
<http://www.whitehouse.gov/news/releases/2006/06/20060619-13.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/06/20060619.html>

Brand, Rachel

From: Brand, Rachel
Sent: Tuesday, June 20, 2006 12:30 PM
To: Gorsuch, Neil M
Subject: Fw: ABA rating in - Neil Gorsuch

Yippee!

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Sent: Tue Jun 20 12:04:47 2006
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:38 PM
To: Brand, Rachel
Subject: Re: ABA rating in - Neil Gorsuch

Thanks, Rachel. It is nice to have this completed bef the hrg. Can we/should we somehow get the info communicated to [redacted] in Salazar's office and [redacted] in Allard's? They are preparing their respective senators' introductions and both might want to have this info. See you shortly.

-----Original Message-----
From: Brand, Rachel
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:30:08 2006
Subject: Fw: ABA rating in - Neil Gorsuch

Yippee!

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Sent: Tue Jun 20 12:04:47 2006
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:39 PM
To: 'Brett_C._Gerry@who.eop.gov'
Subject: Re: Your moot

I'd much rather have you continue working to make this country safe than beat up on me!

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:04:02 2006
Subject: Your moot

Oh, how I would love to go . . . but two must-attend meetings have popped up for this afternoon. Hope it goes well, and congrats on the ABA rating.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:39 PM
To: 'dsentelle@cadc.uscourts.gov'
Subject: Fw: ABA rating in - Neil Gorsuch

Fyi

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:05:08 2006
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:41 PM
To: 'Douglas_H._Ginsburg@cadc.uscourts.gov'
Subject: Aba

Happily the aba has returned its verdict before the hrg - and even more happily it gave me a unanimous wq. Thank you and Deecy for all your support and encouragement. Now on to the committee.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:42 PM
To: 'bruce.black@hro.com'
Subject: Fw: ABA rating in - Neil Gorsuch

Nice to have this in bef the hearing. Warmest regards, Neil

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:05:08 2006
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:45 PM
To: Macklin, Kristi R
Subject: Re: ABA rating in - Neil Gorsuch

Great news, thanks!

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:05:08 2006
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:46 PM
To: McCallum, Robert (SMO)
Subject: Fw: ABA rating in - Neil Gorsuch

Whew.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:05:08 2006
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 12:55 PM
To: Gorsuch, Neil M
Subject: RE: ABA rating in - Neil Gorsuch

Congrats!!!! That is the last nail in the coffin as far as I can tell. It's a done deal. Who might oppose on the Comm or in the organized bar? No one I can think of. Great news. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 12:46 PM
To: McCallum, Robert (SMO)
Subject: Fw: ABA rating in - Neil Gorsuch

Whew.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Tue Jun 20 12:05:08 2006
Subject: FW: ABA rating in - Neil Gorsuch

From: Martinson, Wanda
Sent: Tuesday, June 20, 2006 12:05 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Subject: ABA rating in - Neil Gorsuch

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Henderson, Charles V

Subject:	Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4135
Start:	Tuesday, June 20, 2006 1:00 PM
End:	Tuesday, June 20, 2006 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Henderson, Charles V
Required Attendees:	Elston, Michael (ODAG); Gorsuch, Neil M; Tenpas, Ronald J (ODAG); Raman, Mythili (ODAG)

When: Tuesday, June 20, 2006 1:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 4135

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

Please Note: Changing this meeting To 4:00 p.m.
-William Mercer
-Michael Elston
-Neil Gorsuch
-Ron Tenpas
-Mythili Raman

Mercer, Bill (ODAG)

Subject:	Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4135
Start:	Tuesday, June 20, 2006 4:00 PM
End:	Tuesday, June 20, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Mercer, Bill (ODAG)
Required Attendees:	Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M; Tenpas, Ronald J (ODAG); Raman, Mythili (ODAG)Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M; Tenpas, Ronald J (ODAG); Raman, Mythili (ODAG)

Please Note: Changing this meeting To 4:00 p.m.
-William Mercer
-Michael Elston
-Neil Gorsuch
-Ron Tenpas
-Mythili Raman

Mercer, Bill (ODAG)

Subject:	Accepted: Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources
Location:	Room 4135
Start:	Tuesday, June 20, 2006 4:00 PM
End:	Tuesday, June 20, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Mercer, Bill (ODAG)

Henderson, Charles V

From:	Henderson, Charles V
Sent:	Tuesday, June 20, 2006 1:04 PM
To:	Gorsuch, Neil M
Subject:	Read: Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources

Mercer, Bill (ODAG)

From:	Mercer, Bill (ODAG)
Sent:	Tuesday, June 20, 2006 1:21 PM
To:	Gorsuch, Neil M
Subject:	Read: Updated: Meeting: Strategic Vision for OIL and Deployment of New Resources

Gunn, Currie (SMO)

Subject:	Updated: OJP Bi-weekly Meeting
Location:	Main Room 5710
Start:	Tuesday, June 20, 2006 3:00 PM
End:	Tuesday, June 20, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=DavidWHagy; McGarry, Beth; Henneberg, Maureen; Herraiz, Domingo S.; Schmitt, Glenn; Flores, Robert; Gillis, John; Palma, Josephine; Leung, Jessica; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=MichelleBligh; Hailey, Robert; Walker, Rhea; Dudley, Brownie; Penn, Lynn; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=TangentAStokely; Rost, Linda; McCallum, Robert (SMO); Gorsuch, Neil M; Mercer, Bill (ODAG); Senger, Jeffrey M; Schofield, Regina; Todd, Gordon (SMO); Schofield, Regina; Todd, Gordon (SMO); Todd, Gordon (SMO)

When: Tuesday, June 20, 2006 3:00 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Meeting time changed to 3:00. This meeting only.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Regina Schofield-OJP, Nick Tziton-OJP, Cybele Daley-OJP, David Hagy-OJP, Beth McGarry-OJP, Maureen Henneberg-(A) BJS, Domingo Herraiz-BJA, Glenn Schmitt-NIJ, Robert Flores-OJJDP, John Gillis-OVC, Gordon Todd-OASG

POC: Currie Gunn x4-9500
OJP: Jo Palma - 5-9239

@cadc.uscourts.gov

From: @cadc.uscourts.gov
Sent: Tuesday, June 20, 2006 1:49 PM
To: Gorsuch, Neil M
Subject: Re: Aba

Great!

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, June 20, 2006 1:50 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT AT THE SINGLE-FIRM CONDUCT HEARINGS
Attachments: Speech.pdf

Attached are the prepared remarks of Thomas O. Barnett, Assistant Attorney General for Antitrust, delivered today at the Justice Department and Federal Trade Commission's joint public hearings on the antitrust implications of single-firm conduct.

DEPARTMENT OF JUSTICE

The Gales of Creative Destruction: The Need for Clear and Objective Standards for Enforcing Section 2 of the Sherman Act

THOMAS O. BARNETT
Assistant Attorney General
Antitrust Division
U.S. Department of Justice

Opening Remarks for the
Antitrust Division and Federal Trade Commission
Hearings Regarding Section 2 of the Sherman Act
Washington, D.C.

June 20, 2006

Introductory Remarks for the Section 2 Hearings

On behalf of the Antitrust Division, I thank the Chairman of the Federal Trade Commission, Debbie Majoras, Commissioners Pamela Jones Harbour, Jon Leibowitz, Bill Kovacic, and Thomas Rosch, and all Federal Trade Commission staff helping to sponsor these hearings. Not only are they gracious hosts, but, in the process of developing these hearings, they have already shared productive insights regarding many difficult issues surrounding the treatment of unilateral conduct under the antitrust laws. The Federal Trade Commission and the Antitrust Division share a common goal of protecting competition and promoting consumer welfare, and these hearings will help both agencies better fulfill that mission.

I also want to thank Professor Herbert Hovenkamp and Professor Dennis Carlton for joining Chairman Majoras and me at this opening session and providing their insights and perspectives in this critical area of antitrust enforcement.

Finally, I also thank the Antitrust Division staff who have helped and will continue to help organize what promises to be fruitful discussion about unilateral conduct throughout the remainder of the year.

My remarks today will address why the Antitrust Division is co-sponsoring hearings on unilateral conduct and also touch on some of the more difficult issues facing the Antitrust Division, the courts, the antitrust bar, and the business community.

Why is the Antitrust Division co-sponsoring hearings about unilateral conduct?

The Antitrust Division is co-sponsoring these hearings to help advance our own thinking about unilateral conduct and better inform our judgment about when it is

appropriate for the United States to bring enforcement actions under Section 2 of the Sherman Act. Antitrust experts continue to advance the understanding of the different ways that firms unilaterally can—and cannot—harm competition. The Antitrust Division tries to incorporate the latest scholarship and economic thinking into its enforcement decisions, and these hearings will help us meet that goal by providing a forum for experts to review the literature, the business practices, and the law and to speak directly to each other and to us. A number of prominent practitioners and economists have committed to participate in these hearings, and the Antitrust Division is grateful to them for agreeing to share their insights. We are also seeking the views of the business community, consumer groups, and business historians. Those views are significant to our understanding of the real-world implications of various business practices and their potential impact on competition. Improving the legal system helps us all, and I commend those who contribute through either written submissions or panel participation for rendering a valuable public service.

A second reason for these hearings is to advance the development of the law, particularly by articulating points of consensus. Developing the law—or, more accurately, influencing the development of the law—in ways that help competition is an important goal for the Antitrust Division. Courts routinely rely on the Antitrust Division's views when construing the antitrust laws.

That reliance benefits us all. For example, one of the Antitrust Division's greatest achievements is the merger guidelines, for which great credit goes to former Assistant Attorneys General Don Turner, for the first merger guidelines in 1968, and Bill Baxter for

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his highly influential 1982 formulation. These merger guidelines and their subsequent iterations have increased transparency regarding merger-enforcement policy and improved merger-enforcement practice. But they have also had a profound effect on the rational development of merger law. Today, courts, commentators, and practitioners ground merger analysis within the sound framework of the merger guidelines.

Other Antitrust Division policy statements, particularly those where the Federal Trade Commission and the Antitrust Division speak together, have also had significant influence. Indeed, the Supreme Court and courts from each judicial circuit have relied on Antitrust Division enforcement policy when construing the antitrust laws.[1] I hope that these hearings and the report that the Federal Trade Commission and the Antitrust Division intend to publish together after they conclude will be helpful to courts when they are called upon to review unilateral conduct. Similarly, I hope the hearings generate helpful guidance for businesses seeking to comport with antitrust law's obligations.

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[1] *E.g.*, *Ill. Tool Works Inc. v. Indep. Ink, Inc.*, 126 S. Ct. 1281, 1292 (2006); *Unitherm Food Sys., Inc. v. Swift-Eckrich, Inc.*, 375 F.3d 1341, 1364 (Fed. Cir. 2004), *rev'd on other grounds*, 126 S. Ct. 980 (2006); *Paladin Assocs., Inc. v. Mont. Power Co.*, 328 F.3d 1145, 1155 (9th Cir. 2003); *Fraser v. Major League Soccer, L.L.C.*, 284 F.3d 47, 71 (1st Cir. 2002); *SBC Commc'ns Inc. v. FCC*, 56 F.3d 1484, 1493-94 (D.C. Cir. 1995); *SCFC ILC, Inc. v. Visa USA, Inc.*, 36 F.3d 958, 965 & n.8 (10th Cir. 1994); *FTC v. Univ. Health, Inc.*, 938 F.2d 1206, 1223 (11th Cir. 1991); *Ball Mem'l Hosp., Inc. v. Mut. Hosp. Ins., Inc.*, 784 F.2d 1325, 1336 (7th Cir. 1986); *Allis-Chalmers Mfg. Co. v. White Consol. Indus., Inc.*, 414 F.2d 506, 524 (3d Cir. 1969); *Natsource LLC v. GFI Group, Inc.*, 332 F. Supp. 2d 626, 636 (S.D.N.Y. 2004); *Cmty. Publishers, Inc. v. Donrey Corp.*, 892 F. Supp. 1146, 1153 n.6 (W.D. Ark. 1995); *Drs. Steuer & Latham, P.A. v. Nat'l Med. Enters., Inc.*, 672 F. Supp. 1489, 1510 n.17 (D.S.C. 1987).

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It is also worth noting that Federal Trade Commission and Antitrust Division policy affects not just antitrust law here in the United States but also antitrust law around the world. Many countries have adopted competition laws, and they often draw upon the antitrust traditions of the United States when both promulgating and construing their own laws. By demonstrating areas of consensus and framing open questions in a manner that focuses on consumer welfare, these hearings will provide a valuable resource for countries looking to develop sound antitrust laws of their own—and help all countries converge on procompetitive principles even in those areas where there is not yet a consensus.

Finally, as I will shortly discuss in more detail, the Supreme Court's recent decision in *Trinko*[2] and request for the views of the United States in *Weyerhaeuser*[3] indicate the Court's renewed interest in unilateral-conduct issues and make these hearings particularly timely.

Substantive Comments

Now for some substantive observations. The Supreme Court rendered its first significant decision construing Section 2 of the Sherman Act 96 years ago. In *Standard Oil*, the Court identified three "evils which led to the public outcry against monopolies" and, ultimately, to Section 2 of the Sherman Act: first, the power "to fix the price and thereby injure the public"; second, the power "of enabling a limitation on production"; and

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[2] *Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398 (2004).

[3] *Weyerhaeuser Co. v. Ross-Simmons Harwood Lumber Co.*, No. 05-381 (U.S. Nov. 28, 2005).

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third, the "danger of deterioration in quality of the monopolized article which it was deemed was the inevitable resultant of the monopolistic control over its production."[4]

Those same concerns—price increases, output reductions, and quality deterioration—are still crucial to our thinking about monopoly. Conduct that does no more than permit price increases and output reductions unambiguously hurts competition and consumers. To illustrate that harm, economics provides the helpful visual of the deadweight loss triangle that is familiar to all students of antitrust.[5]

But the effects of monopoly with respect to product development and innovation are less clear. Considerable tension between two ideas exists. On one hand, monopoly has the potential to inhibit competitive zeal. As Nobel laureate John Hicks noted over 70 years ago:

> It seems not at all unlikely that people in monopolistic positions . . . are likely to exploit their advantage much more by not bothering to get very near the position of maximum profit, than by straining themselves to get very close to it. The best of all monopoly profits is a quiet life.[6]

In other words, new products and cost reductions that would help consumers may come either late or not at all as a result of monopoly's potential to inhibit competitive fervor.

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4 *Standard Oil Co. v. United States*, 221 U.S. 1, 52 (1911).

5 *See, e.g.*, Dennis W. Carlton & Jeffrey M. Perloff, MODERN INDUSTRIAL ORGANIZATION 91 (4th ed. 2005).

6 J.R. Hicks, *Annual Survey of Economic Theory: The Theory of Monopoly*, 3 ECONOMETRICA 1, 8 (1935).

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But there is another side to monopoly. The potential to obtain monopoly profits serves as an important incentive to create better products for consumers. As the Supreme Court has observed:

> The mere possession of monopoly power, and the concomitant charging of monopoly prices, is not only not unlawful; it is an important element of the free-market system. The opportunity to charge monopoly prices—at least for a short period—is what attracts "business acumen" in the first place; it induces risk taking that produces innovation and economic growth.[7]

That feature of monopoly is in accord with Harvard economist Joseph Schumpeter's observation that high profits serve as "baits that lure capital on to untried trails," thereby producing a "perennial gale of creative destruction" resulting in better ways to satisfy our needs and desires.[8] The existence of firms with large market shares does not necessarily or even typically reflect competitive harm—to the contrary, firms typically obtain large market shares by offering products that consumers prefer over other firms' offerings.

The Supreme Court raised the right issues about monopoly a century ago in *Standard Oil*. Now it behooves us to ask how the antitrust community has done creating appropriate standards for assessing unilateral conduct. Two of antitrust's most distinguished scholars examined that question last year and gave somewhat disheartening answers. Judge Posner offered that antitrust policy toward "unilateral abuses of market

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[7] *Trinko*, 540 U.S. at 407.

[8] Joseph A. Schumpeter, CAPITALISM, SOCIALISM AND DEMOCRACY 90, 87 (Harper Perennial 1976) (1942).

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power" is "the biggest *substantive* issue facing antitrust,"[9] and Professor Hovenkamp—who will likely reiterate it today—concluded that "[n]otwithstanding a century of litigation, the scope and meaning of exclusionary conduct under the Sherman Act remain poorly defined."[10]

R.W. Grant provided a lighthearted critique of these problems in his 1964 verse detailing the rise and fall of Tom Smith and his Incredible Bread Machine. Mr. Smith invented a machine that would bake, slice, and wrap bread for less than a penny. His invention leads him to dominate the bread market—until he is brought down by an antitrust suit. In a poem, the "men in Antitrust" provide Tom the following "simple guidelines" for complying with the antitrust laws:

> You're gouging on your prices if
> You charge more than the rest.
> But it's unfair competition
> If you think you can charge less!
> A second point that we would make
> To help avoid confusion:
> Don't try to charge the same amount!
> That would be collusion.
> You must compete—but not too much
> For, if you do, you see
> Then the market would be yours—
> and that would be monopoly![11]

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9 Richard A. Posner, *Vertical Restraints and Antitrust Policy*, 72 U. CHI. L. REV. 229, 229 (2005) (emphasis in original).

10 Herbert Hovenkamp, *Exclusion and the Sherman Act*, 72 U. CHI. L. REV. 147, 147-48 (2005).

11 R.W. Grant, TOM SMITH AND HIS INCREDIBLE BREAD MACHINE 32-37 (Competitive Enter. Inst. 1998) (1964).

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As you probably discern, these guidelines express the frustration of a successful entrepreneur who does not know how to conform his behavior to the antitrust laws—at least without abandoning his machine that brought cheap bread to millions of the world's hungry.[12]

While things have progressed since 1964, confusion about Section 2 still exists because discerning whether a monopolist's actions have hurt or helped competition can be extremely difficult. Conduct that does no more than enable a monopolist to restrict output and maintain price above the competitive level unambiguously hurts competition and consumers. As former Deputy Assistant Attorney General Douglas Melamed noted in a recent article, these forms of "naked exclusion" are an obvious and easy target.[13] At the other end of the spectrum, conduct that simply reduces a monopolist's own costs is an obvious and easy candidate for a safe harbor. The trouble is knowing when more is at stake and designing sensible rules for those situations where challenged conduct potentially has both beneficial and exclusionary effects.

The Supreme Court's two most recent significant decisions concerning Section 2 of the Sherman Act—*Brooke Group*[14] and *Trinko*—take important steps toward unraveling

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[12] *See also, e.g.*, *United States v. Aluminum Co. of Am.*, 148 F.2d 416, 430 (2d Cir. 1945) (L. Hand, J.) ("The successful competitor, having been urged to compete, must not be turned upon when he wins.").

[13] A. Douglas Melamed, *Exclusive Dealing Agreements and Other Exclusionary Conduct—Are There Unifying Principles?*, 73 ANTITRUST L.J. 375, 377 (2006).

[14] *Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209 (1993).

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these difficulties. Although the holdings in both are narrow, the reasons for those holdings have significantly broader applicability.

Brooke Group concerned predatory pricing, and the Court's specific holding was that Liggett had not demonstrated that recoupment—an essential element of any predatory pricing claim—was likely.[15] But the steps leading to that conclusion are important in many Section 2 contexts.

One of those steps was the Court's recognition that it is a mistake to reflexively infer harm to competition from harm to a competitor. Even though "volume rebates directed at Liggett's biggest wholesalers" plainly hurt Liggett, the Supreme Court found no harm to competition, correctly noting that a competitor's "painful losses" are "of no moment to the antitrust laws if competition is not injured."[16]

Two other important points are implicit in the Court's recognition of a safe harbor for pricing that is above "an appropriate measure of . . . costs."[17] The first concerns the Court's consideration of the "practical ability of a judicial tribunal" to control the anticompetitive effect of prices above a relevant measure of cost without "chilling legitimate price cutting."[18]

The second, related point is that good antitrust policy sometimes requires recognizing safe harbors that insulate from liability some conduct that might hurt

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15 509 U.S. at 232.

16 *Id.* at 231, 224.

17 *Id.* at 223.

18 *Id.*

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competition. A safe harbor that may permit some anticompetitive conduct is appropriate if adopting the safe harbor promotes even greater competitive benefits. In *Brooke Group*, the Court recognized the possibility that above-cost pricing might hurt competition but nonetheless insulated above-cost pricing from liability to avoid the greater harm of a legal regime that would cause firms to hesitate before lowering their prices or not to lower prices at all.[19] Our panelists will consider whether similar safe harbors would be appropriate in other areas of single-firm conduct where firms might hesitate to reduce prices or introduce new products out of fear of antitrust liability.

Trinko is the Supreme Court's most recent decision under Section 2, and it too contains a number of important observations beyond its specific holding. The Court held that Verizon's alleged refusal to provide services to its rivals did not violate Section 2 because, among other things, (1) assessing the challenged conduct posed a risk of "[m]istaken inferences and . . . resulting false condemnations" and (2) a federal court was "unlikely to be an effective day-to-day enforcer of the[] detailed sharing obligations" requested by plaintiff.[20] Although that holding is tied to the specifics of plaintiffs' claims and the requested relief, the policies underlying it again have broad applicability.

First, the Court recognized that the "costs" of "antitrust intervention" must be weighed against its "benefits."[21] The anticompetitive conduct alleged—violations of Verizon's regulatory obligations—was not obviously procompetitive like the low pricing

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[19] *Id.* at 223-24.

[20] 540 U.S. at 414, 415.

[21] 540 U.S. at 414.

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at issue in *Brooke Group*. But the Court nonetheless viewed the "cost of false positives" as a factor favoring dismissal.[22] That underscores the need for robust tests allowing accurate assessments of when challenged conduct does, and does not, hurt competition.

A second element of the *Trinko* holding cutting across many Section 2 areas concerns the issue of remedy. Agreeing with Professor Areeda that "'[n]o court should impose a duty to deal that it cannot explain or adequately and reasonably supervise,'" the Court counted plaintiffs' request for "continuing supervision of a highly detailed decree" as a factor weighing in favor of dismissal.[23] Although the issue of relief was not itself dispositive, the Court's discussion recognizes that not all problems have antitrust solutions.

Another recent Supreme Court development also worth noting is a pending request for review of the Ninth Circuit's *Weyerhaeuser* decision.[24] That case specifically involves the issue of predatory bidding. Although allegations of predatory bidding are infrequent, the decision nonetheless presents important questions regarding Section 2. Specifically, asking a jury whether a firm purchased a scarce resource at a "fair price"[25] is an unsound way to apply the antitrust laws. As the United States and the Federal Trade Commission urged in our brief supporting the request for certiorari, the Supreme Court has the opportunity to make a significant contribution to Section 2 jurisprudence by clarifying that

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22 *Id.*

23 *Id.* at 415 (quoting Phillip Areeda, *Essential Facilities: An Epithet in Need of Limiting Principles*, 58 ANTITRUST L.J. 841, 853 (1990)).

24 *Confederated Tribes of Siletz Indians v. Weyerhaeuser Co.*, 411 F.3d 1030 (9th Cir.), *petition for cert. filed*, 74 U.S.L.W. 3213 (U.S. Sept. 23, 2005) (No. 05-381).

25 411 F.3d at 1040 n.30.

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simply asking whether a business practice comports with a jury's sense of fairness is not appropriate.

Notwithstanding these recent Supreme Court cases, there are still many areas of uncertainty regarding the implications of single-firm conduct. This is partially because firms constantly try new ways of doing things, and our understanding of new business practices is often dim at first. As Judge Easterbrook observed over twenty years ago, "[t]he gale of creative destruction produces victims before it produces economic theories and proof of what is beneficial."[26] That is why it is important to discuss not only existing business practices but also broad principles that can readily be applied to new developments in the business world.

Our first panel this Thursday will discuss predatory pricing. While *Brooke Group* established important principles for resolving predatory pricing claims—including the need for recoupment—significant questions still remain. There is still debate regarding the appropriate cost measure against which a firm's pricing decisions should be judged. Another important issue for predatory pricing concerns relief, which is a particularly sensitive issue when assessing whether government enforcement is appropriate. Our second panel Thursday will address predatory bidding and offer perspectives on not only *Weyerhaeuser* but predation schemes in general.

Panels later in the year will address a range of issues. In July, a panel will discuss refusals to deal and the fundamental question of whether a competitor should ever be

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[26] Frank H. Easterbrook, *The Limits of Antitrust*, 63 TEX. L. REV. 1, 5 (1984).

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compelled to deal with its rivals and, if so, under what circumstances. Relief in such cases again raises difficult questions, such as setting and monitoring the commercial terms of compelled business relationships.

Subsequent panels will explore other types of single-firm conduct where further guidance is needed. Panelists will explore the difficult issues surrounding bundled discounts, market share discounts, or other kinds of loyalty discounts. Two years ago, the United States and the Federal Trade Commission told the Supreme Court in its amicus brief opposing certiorari in *LePage's* that the legal and economic principles governing this complex area warranted further development before it would be ripe for Court review.[27] Since then, commentators have focused significant attention on these practices, and our panelists will consider whether that outpouring has resulted in any areas of agreement. Panelists will address such questions as whether these rebate arrangements are akin to predatory pricing, tying, or exclusive dealing, and also whether consensus exists as to any safe harbors where harm to competition is unlikely.

Tying and exclusive dealing will also be explored in subsequent panels. An important issue in those sessions will be how procompetitive effects can be detected and assessed accurately. Because these practices frequently occur in competitive markets, it is logical to assume that they frequently generate efficiencies. Yet the economic understanding of these efficiencies is not necessarily well-developed, and our panelists will explore whether any consensus exists regarding the scope of the pro- and anti-competitive

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[27] Brief for the United States as Amicus Curiae, *3M v. LePage's Inc.*, No. 02-1865, at 8, 19 (S. Ct. filed May 28, 2004).

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effects of these common business practices. In addition, both tying and exclusive dealing arrangements can sometimes take the form of unilateral refusals to deal, again raising sensitive remedial issues.

Our final panels at the end of this year will consider issues cutting across specific business practices that apply generally in any Section 2 matter. There are, of course, many issues that arise in nearly all Section 2 matters that remain unsettled and deserve attention. Among these is an issue as basic as defining the elements of a Section 2 claim. We can all agree, I hope, on the general principle of preventing harm to consumer welfare. Translating that general principle into a more operational definition, however, presents challenges. The Supreme Court's most frequently cited recitation of the elements of a Section 2 claim—"(1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident"[28]—is widely criticized for providing insufficient guidance to businesses considering whether to undertake a practice that may not fit neatly within prior precedent.

Whether there is a more precise definition that can be used in all Section 2 contexts has generated significant debate. Different tests for determining whether conduct violates Section 2 have been proposed, but none has achieved consensus yet.[29]

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[28] *United States v. Grinnell Corp.*, 384 U.S. 563, 570-71 (1966).

[29] *See, e.g.*, *United States v. Microsoft Corp.*, 253 F.3d 34, 59 (D.C. Cir. 2001) (Section 2 violated when "the anticompetitive harm" of a business practice "outweighs the procompetitive benefit"); III Phillip E. Areeda & Herbert Hovenkamp, ANTITRUST LAW ¶ 651a (2d ed. 2002) (proposing that a business

(footnote continued on next page)

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One of those tests—asking whether the conduct at issue makes economic sense but for its tendency to reduce competition—has been used at the Antitrust Division to guide our prosecutorial discretion in a number of recent Section 2 matters. When conduct does not make economic sense but for its tendency to reduce competition, an enforcement action may well be appropriate, depending on, among other things, the magnitude of the competitive harm, the potential of private litigation to remedy the underlying conduct, the importance of the issue to the economy, and the ability of the courts to grant effective relief. When conduct makes economic sense for reasons other than reducing competition, additional, difficult questions arise, including concerns about the potential to chill procompetitive conduct, the potential of significant anticompetitive harm continuing unabated, and the burdens imposed on courts when they are asked to balance procompetitive and anticompetitive effects. We look forward to an open discussion and debate on the benefits and shortcomings of this test, how it could best be applied, and whether this or some other test leads to the best results for competition.

An additional issue that arises in many Section 2 cases is whether Section 2 of the Sherman Act imposes duties that are different from the duties imposed by other provisions of the antitrust laws. A number of the business practices to be discussed during these hearings are also subject to other provisions of the antitrust laws. Tying and exclusive

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(footnote continued from previous page)

practice is exclusionary when it is "reasonably capable of . . . prolonging monopoly power" and "produce[s] harms disproportionate to the resulting benefits"); Richard A. Posner, ANTITRUST LAW 194-95 (2d ed. 2001) (proposing rebuttable presumption that conduct is exclusionary when "likely in the circumstances to exclude from the defendant's market an equally or more efficient competitor").

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dealing, for instance, have been challenged under Section 1 of the Sherman Act and Section 3 of the Clayton Act as well as Section 2 of the Sherman Act. One question for panelists to consider, therefore, is whether the analysis of the conduct should differ depending on the statutory context.

These hearings will help us to develop clear and objective standards that will apply in all Section 2 matters. As we commence discussions, let me mention six broad principles that already inform Antitrust Division enforcement policy under Section 2. Informing these principles is, among other things, our desire to be credible stewards of the antitrust laws and worthy of the trust the people of the United States have bestowed on us to enforce the antitrust laws in beneficial ways.

First, individual firms with monopoly power can act anticompetitively and harm consumer welfare, and we should seek to identify and prosecute such conduct.

Second, mere size does not demonstrate harm to competition or a violation of the antitrust laws. The proper focus of antitrust law is on anticompetitive conduct and effect, not just size or market share.

Third, mere injury to a firm does not itself show that competition has suffered. Indeed, a firm's inability to garner sales may indicate no more than the superiority of its competitors' products. Put another way, recalling Tom Smith and his Incredible Bread Machine, Tom should not have been penalized for inventing a machine that produced great bread at low cost. The goal of the antitrust laws is to protect competition, not competitors.

Fourth, both consumers and the business community benefit from clear, administrable, and objective rules that both allow businesses to assess the legality of a

DOJ_NMG_ 0162033

practice before acting and enable enforcers and courts to judge challenged conduct predictably and correctly. This is particularly true in the context of single-firm conduct. At the back end, unclear rules have the potential to condemn some procompetitive conduct yet condone other conduct that harms competition. That leads to a potentially even more significant problem on the front end. Ambiguous rules or rules depending on the intent of a firm's employees or future unknown events may chill businesses from undertaking procompetitive conduct, such as cutting prices, investing, and innovating, in the first place. Thus, the challenge is to develop clear, objective standards that businesses can follow and are also administrable for enforcers, courts, and juries.

Fifth, Section 2 of the Sherman Act should be construed to avoid chilling procompetitive conduct. As our other speaker today, Professor Carlton, has noted, "[e]fficiencies are hard to measure, and the benefit of the doubt should go to defendants, not to plaintiffs; otherwise, the continued generation of the large efficiency benefits responsible for raising our standard of living will be jeopardized."[30] It is important to remember that every time a firm is kept from engaging in aggressive conduct because it fears an unnecessarily expansive interpretation of the antitrust laws, competition is harmed.

The sixth and final point concerns the importance of remedy. A remedy needs to be effective and administrable by courts and agencies without restricting competition. A remedy that harms competition is worse than no remedy at all.

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[30] Dennis W. Carlton, *A General Analysis of Exclusionary Conduct and Refusal to Deal—Why* Aspen *and* Kodak *Are Misguided*, 68 ANTITRUST L.J. 659, 675 (2001).

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To conclude, I want again to thank the Federal Trade Commission, our panelists, and particularly Professors Carlton and Hovenkamp for agreeing to kick-off these hearings. After today's presentations, the hearings will continue Thursday with panel discussions concerning predatory pricing and predatory bidding and then proceed through the remainder of the year. All interested parties are cordially invite to attend. Thank you.

DOJ_NMG_ 0162035

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 2:00 PM
To: Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: Missing Senior Management 8:30 meeting Wed Thurs and Fri

I will be missing the next 3 days at the 8:30. I have off-site cadre training tomorrow at an undisclosed location and 8:30 meetings of the Standing Comm on Thurs and Friday. Neil will cover. Robt.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 3:52 PM
To: Gorsuch, Neil M
Subject: FW: Neil's hearing

See Lily's message below.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: Neil's hearing

When and where is it? Can we attend?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 3:54 PM
To: Swenson, Lily F
Cc: Gorsuch, Neil M
Subject: RE: Neil's hearing

Neil's Senate hearing is Wed 6/22 at 4:00.

Neil do you know the process for invites?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: Neil's hearing

When and where is it? Can we attend?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 3:55 PM
To: Shaw, Aloma A; Swenson, Lily F
Subject: Re: Neil's hearing

Just show up!

-----Original Message-----
From: Shaw, Aloma A
To: Swenson, Lily F
CC: Gorsuch, Neil M
Sent: Tue Jun 20 15:53:52 2006
Subject: RE: Neil's hearing

Neil's Senate hearing is Wed 6/22 at 4:00.

Neil do you know the process for invites?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: Neil's hearing

When and where is it? Can we attend?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 3:55 PM
To: Shaw, Aloma A
Subject: Re: Neil's hearing

Plse could you arrange for a minivan (ideally) at 315 on tenth st?

-----Original Message-----
From: Shaw, Aloma A
To: Swenson, Lily F
CC: Gorsuch, Neil M
Sent: Tue Jun 20 15:53:52 2006
Subject: RE: Neil's hearing

Neil's Senate hearing is Wed 6/22 at 4:00.

Neil do you know the process for invites?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: Neil's hearing

When and where is it? Can we attend?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 3:56 PM
To: Gorsuch, Neil M
Subject: RE: Neil's hearing

I shall.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 3:55 PM
To: Shaw, Aloma A
Subject: Re: Neil's hearing

Plse could you arrange for a minivan (ideally) at 315 on tenth st?

-----Original Message-----
From: Shaw, Aloma A
To: Swenson, Lily F
CC: Gorsuch, Neil M
Sent: Tue Jun 20 15:53:52 2006
Subject: RE: Neil's hearing

Neil's Senate hearing is Wed 6/22 at 4:00.

Neil do you know the process for invites?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, June 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: Neil's hearing

When and where is it? Can we attend?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 4:00 PM
To: Mercer, Bill (ODAG)
Subject: Is mtg in 4135?

Full Name: Bill Mercer
Last Name: Mercer
First Name: Bill
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 4208
Washington, DC 20530

Business: 202-514-2105

E-mail: Bill.Mercer@SMOJMD.USDOJ.gov
E-mail Display As: Bill.Mercer@SMOJMD.USDOJ.gov

DOJ_NMG_ 0162043

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Tuesday, June 20, 2006 4:01 PM
To: Gorsuch, Neil M
Subject: Re: Is mtg in 4135?

Yes sir

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
Sent: Tue Jun 20 15:59:38 2006
Subject: Is mtg in 4135?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:11 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Rep Ed Pastor Response
Attachments: Rep Ed Pastor Response v 2.doc

I am giving a hard copy with suggested edits to Currie/Aloma and asking them to make the changes.
Robt.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:35 AM
To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

Dear Representative Pastor:

I write in response to your letter of May 17 to Attorney General Gonzales inquiring into the policies set forth in then-Deputy Attorney General Larry Thompson's January 20, 2003 memo regarding the elements the Department will consider in determining whether a corporation has cooperated with a criminal investigation.

At the outset, let me be clear that the Department of Justice holds the principles of the attorney-client privilege in the highest esteem. Indeed, the Department and its attorneys regularly rely on the attorney-client privilege and do so for precisely the reasons you identify, including the facilitation of full and candid discussions among Department attorneys and with our client agencies. At the same time, it is well recognized that the privilege is not absolute: the privilege yields where it is used to shield criminal activity; and the privilege may be waived voluntarily. The Thompson Memo hews to these well-settled principles in governing the decision whether to charge criminally a business organization.

Under the Thompson Memo's guidance, a federal prosecutor faced with a charging decision should consider whether a business organization has cooperated with the government's investigation. One element relevant to the issue of cooperation is whether the organization voluntarily has chosen to disclose information pertinent to the investigation. Specifically, a prosecutor may consider "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

Securing the cooperation of business organizations has been an invaluable tool in the Department's effort to restore trust and accountability to American marketplaces. From July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents. Many of these cases involved highly complex corporate scandals, which would have been difficult or impossible to prosecute in a timely and efficient manner without corporate cooperation, including in some instances the voluntary waiver of privileges. Indeed, to take just one example, the lead prosecutors in the recent prosecutions of Enron executives Kenneth Lay and Jeffrey Skilling are of the view that voluntary corporate disclosures were invaluable to their success.

While voluntary cooperation is a vital tool in the fight against corporate fraud, the Department is mindful of the concerns you raise. Of particular importance is the need to avoid weakening the privilege and undermining the values it serves. Accordingly, in securing a corporation's voluntary cooperation through waiver the Department in no way trenches upon any employee's privilege to consult his or her own counsel to seek advice regarding the government's inquiry. Any such communications remain private and are not subject to the Thompson Memo analysis.

Instead, the Thompson Memo focuses only on voluntary disclosures by business organizations themselves. Corporations and their lawyers are highly sophisticated and well suited to deciding whether and when waiver of the corporation's privileges is calculated to serve the shareholders' best interests. In the Department's experience, sometimes corporations elect to make voluntary disclosures, and sometimes they do not.

Even with respect to the corporation's privileges, the Department's practices are carefully cabined to curtail the possibility for abuse or coercion. The Department does not demand the waiver of privileges as a prerequisite for cooperation credit. Rather, the Thompson Memo states clearly that prosecutors should consider waiver "where necessary to provide timely and complete information" and then only as "one factor in evaluating the corporation's cooperation." That is, waiver is not always necessary to the timely, accurate, and complete investigation of a case and, even when it is deemed necessary, it constitutes at most just one factor among many that prosecutors must consider.

Moreover, requests for corporate privilege waivers, when made, are themselves limited. They frequently focus only on factual work product, such as interview summaries, not materials reflecting an attorney's mental impressions, legal analysis, or client communications. While waivers may in some select instances cover legal advice given to the corporation contemporaneous with the alleged wrongdoing at issue, absent unusual circumstances, the Thompson Memo directs, "prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation."

Nor does the Department's approach undermine any privilege between the corporation's counsel and individual employees, for such conversations are not in fact privileged. Indeed, when competent corporate counsel conduct interviews of employees as part of their internal investigations, they traditionally disclose to interviewees that they represent the corporation and, by virtue of this duty of loyalty to the shareholders, cannot provide privileged legal representation to employees as their interests may be different from the corporation's.

In order to ensure even further the appropriate degree of protection for corporate legal privileges, in October 2005, while Acting Deputy Associate Attorney General, I issued guidance requiring each United States Attorney's Office and each DOJ component to develop written guidelines governing when waivers may be sought. While these guidelines may vary from office to office in order to accommodate local needs, a necessary element of all of these written policies is that a prosecutor must have the approval of the United States Attorney or other supervisor before seeking a waiver of the attorney-client or work product privilege. In our experience, with these safeguards, abuse has not been a problem.

The Department appreciates your interest in this issue, and we hope this response will serve to address your concerns.

Sincerely,

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:21 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F
Cc: Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: CIV and ENRD weekly meetings tomorrow

I am out at an undisclosed location tomorrow am and at the exercise at the EDVA after that. Who is available to cover these two meetings tomorrow am? I have got Jeff tied up with drafting a response to a Lugar question on tobacco and so he can't do it, much less go off site to EDVA. Do we need to cancel? Currie, please coordinate figuring this out. Robt.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 20, 2006 4:23 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Cc: Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: RE: CIV and ENRD weekly meetings tomorrow

I can handle them if I don't participate in the off-site. Given that we've already identified that my phone can't be forwarded, I've colorably already "contributed" to determining how efficiently I can work elsewhere.

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:21 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO); Swenson, Lily F
Cc: Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: CIV and ENRD weekly meetings tomorrow

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Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 20, 2006 4:32 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Cc: Senger, Jeffrey M
Subject: RE: CIV and ENRD weekly meetings tomorrow

Gordon word came while you were in your moot, your phone does work. Neil will be in the office tomorrow working on his hearing but I don't know if he will be able to chair. If Jeff and Neil are not attending the exercise, that just leaves Robert and Lily offsite. Considering they want as much office presence as possible for this exercise I would suggest rescheduling for the later part of this week if possible. Even with Robert out on Thursday, we will still have a deputy here to chair in his absence. I will contact and try to reschedule each. Your thoughts?

Currie

From: Todd, Gordon (SMO)
Sent: Tuesday, June 20, 2006 4:23 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Cc: Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: RE: CIV and ENRD weekly meetings tomorrow

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Sent: Tuesday, June 20, 2006 4:21 PM
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Cc: Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: CIV and ENRD weekly meetings tomorrow

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:37 PM
To: Gunn, Currie (SMO); Todd, Gordon (SMO); Gorsuch, Neil M; Swenson, Lily F
Cc: Senger, Jeffrey M
Subject: RE: CIV and ENRD weekly meetings tomorrow

Do it. Robt.

From: Gunn, Currie (SMO)
Sent: Tuesday, June 20, 2006 4:32 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Cc: Senger, Jeffrey M
Subject: RE: CIV and ENRD weekly meetings tomorrow

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Currie

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Sent: Tuesday, June 20, 2006 4:23 PM
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Subject: CIV and ENRD weekly meetings tomorrow

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 4:38 PM
To: Shaw, Aloma A; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Looks good to me

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 4:25 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Reply letter with Mr. McCallum's suggested edits.

<< File: Rep Ed Pastor Response v 2.doc >>

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:11 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Rep Ed Pastor Response

I am giving a hard copy with suggested edits to Currie/Aloma and asking them to make the changes.
Robt.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:35 AM
To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:40 PM
To: Gorsuch, Neil M
Subject: Read: Rep Ed Pastor Response

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Thursday, June 22, 2006 2:00 PM
End:	Thursday, June 22, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)

When: Thursday, June 22, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Please note time and date change for this mtg only 6/21/2006.

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

Meyer, Joan E (ODAG)

From:	Meyer, Joan E (ODAG)
Sent:	Tuesday, June 20, 2006 4:58 PM
To:	Gorsuch, Neil M
Subject:	FW: Pandemic Update and notice of HSC suspense for information
Attachments:	tmp.htm; Memorandum for Principals re Implementation Plan for Pandemic Influenza.pdf; PCC Compilation of Fed Actions June 2006.xls

Neil, could you help me on this? I need a POC in Civil - 6.1.13.10 - involves ensuring detection of international shipments of counterfeit vaccines and thwarting domestic counterfeit drug production and distribution. Joan

Joan

-----Original Message-----
From: Schmitz, Fran (CTS)
Sent: Tuesday, June 20, 2006 4:14 PM
To: Meyer, Joan E (ODAG)
Cc: Otis, Lee L
Subject: FW: Pandemic Update and notice of HSC suspense for information

Joan: Have you been able to determine which DOJ Division should have the lead for the counterfeit drug issue set forth in action 6.1.13.10 of the plan? After my discussions with Paul T. I think we decided it should be Civil as it was an FDA matter. We will need to know soon to meet a Homeland Security Council suspense date. Thanks.

Fran Schmitz

From: Schmitz, Fran (CTS)
Sent: Tuesday, June 20, 2006 3:32 PM
To: Otis, Lee L
Cc: Roehrkasse, Brian; McAtamney, James A; Hart, Rosemary; Edelman, Ronnie; 'Joan.B.Kennedy@usdoj.gov'; Bolden, Trella N; Mercer, Bill (ODAG); Mullaney, Michael
Subject: Pandemic Update and notice of HSC suspense for information

There was a Sub-PCC conference call yesterday. The point Ken and Rajeev wanted to make was that as long as our plans are in draft form they are not "FOIABLE" (their word) and therefore should not be

released to anyone outside of the government. They are still looking at the issue of whether parts of the plans should be released once plans are final.
Final plans will be due on August 15 at the earliest. As you will recall from a prior Email, this is to allow OPM to develop policy guidance which can be incorporated in department plans ensuring some level of government consistency in the executive branch. I am copying OPA on this as we were asked to pass this on to our communicators as well.

The attachments were recently sent to the Executive Secretariat. We will need to reply to the HSC by June 28th with our points of contact for each action we are involved in along with the progress for each action. A Biodefense PCC will convene sometime during the week of July 2 to review the results of the data call. We still need to formally designate responsible divisions/offices within DOJ and then come up with names. I am working on this over the next few days in between "exercise play" at the offsite.

Francis Schmitz
National Crisis Management Coordinator
DOJ Counterterrorism Section
[redacted]direct/secure line

[redacted](cell)

[redacted](pager)

[redacted]fax)

[redacted]@usdoj.sgov.gov (sipernet)

THE WHITE HOUSE

WASHINGTON

June 16, 2006

MEMORANDUM FOR: SECRETARY OF STATE
SECRETARY OF THE TREASURY
SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
SECRETARY OF THE INTERIOR
SECRETARY OF AGRICULTURE
SECRETARY OF COMMERCE
SECRETARY OF LABOR
SECRETARY OF HEALTH AND HUMAN SERVICES
SECRETARY OF VETERANS AFFAIRS
SECRETARY OF HOMELAND SECURITY
DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT
ADMINISTRATOR, UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FROM: FRANCES FRAGOS TOWNSEND
ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND COUNTERTERRORISM

SUBJECT: IMPLEMENTATION PLAN FOR THE NATIONAL STRATEGY FOR PANDEMIC INFLUENZA; ASSESSMENT PROCESS AND REQUEST FOR INFORMATION

The *Implementation Plan for the National Strategy for Pandemic Influenza* (Plan) was released on May 3, 2006. The Homeland Security Council (HSC) staff will monitor the implementation of the over 300 actions assigned to specific Departments and Agencies. This memorandum explains the process that will be used to assess implementation and requests information from each Department and Agency with lead or supporting roles in the Plan.

A spreadsheet is attached which lists all actions contained in the Plan. The file includes a worksheet for each Department and Agency to use in providing requested information. For each action in which your Department or Agency has a role, please provide your Department's or Agency's primary representative. In addition, if your Department or Agency has the lead responsibility for an action, please provide a status update for the action by briefly indicating (1) progress made toward implementing the action, and (2) whether you anticipate completing the action within the timeframe stated in the Plan. Please provide all requested information using the appropriate worksheet, in an Excel

file, to HSC's Dr. Ken Staley by e-mail (kstaley@who.eop.gov) by 4:00 p.m. on Wednesday, June 28.

As an example, Action 6.1.4.1 of the Plan states:

> State, local, and tribal public health and health care authorities, in collaboration with DHS, HHS, and the Department of Labor (DOL), should coordinate emergency communication protocols with print and broadcast media, private industry, academic, and nonprofit partners within 6 months. Measure of performance: coordinated messages from communities identified above.

The following is a sample worksheet entry by the Department of Labor for such Action:

Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal	If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan
DOL Suey Howe, [redacted]-[redacted], [redacted]@dol.gov;	Identified lead DOL agency; identified potential inputs: Completed documents on psychological first aid for disaster workers, supervisors and families after FEMA mission assignment for Katrina. These materials could be adapted for a pandemic flu response.	Yes

HSC will hold a Biodefense Policy Coordination Committee (PCC) meeting during the week of July 2, 2006, to review results of this data call, and to ensure that the actions contained in the Plan are on track to be completed on-time, consistent with measures of performance detailed in the Plan. Procedural issues and challenges will be discussed and addressed.

Thank you in advance for your response.

DOJ_NMG_ 0162059

Order in Plan	Action Number	Actions	Timeframe (Months)
73	4.3.1.9.	DOS and DOC, in collaboration with NGOs and private sector groups representing business with activities abroad, shall develop and disseminate checklists of key activities to prepare for and respond to a pandemic, within 6 months. Measure of performance: checklists developed and disseminated.	6
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8

120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
129	5.3.2.3.	DHS, in coordination with USDA, DOS, DOC, DOI, and shippers, shall rapidly implement and enforce cargo restrictions for export or import of potentially contaminated cargo, including embargo of live birds, and notify international partners/shippers. Measure of performance: measures implemented within 6 hours of decision to do so.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
146	5.3.6.1.	DOT and DHS, in coordination with HHS, DOS, and DOC, shall conduct media and stakeholder outreach to restore public confidence in travel. Measure of performance: outreach delivered and traveling public resumes use of the transportation system at or near pre-pandemic levels.	
163	6.1.4.2.	DOT, in cooperation with HHS, DHS, and DOC, shall develop model protocols for 9-1-1 call centers and public safety answering points that address the provision of information to the public, facilitate caller screening, and assist with priority dispatch of limited emergency medical services, within 12 months. Measure of performance: model protocols developed and disseminated to 9-1-1 call centers and public safety answering points.	12
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6

191	6.1.13.10.	DOJ, in coordination with HHS, DHS, DOS, and DOC, shall lead the development of a joint strategic plan to ensure international shipments of counterfeit vaccine and antiviral medications are detected at our borders and that domestic counterfeit drug production and distribution is thwarted through aggressive enforcement efforts. Measure of performance: joint strategic plan developed; international and domestic counterfeit drug shipments prevented or interdicted.	
231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12

Departments	DOC	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DOS DOC	Primary Agency		
DHS DOT DOS HHS USDA DOD DOL DOC	Support Agency		
HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY	Support Agency		
DHS DOT HHS DOC TREASURY USDA	Support Agency		
HHS DHS DOT DOS DOC DOJ	Support Agency		
HHS DHS DOT DOS DOC TREASURY USDA	Support Agency		

USDA DHS DOI DOS HHS DOC	Support Agency		
DOS DHS DOT DOC HHS TREASURY USDA	Support Agency		
DHS USDA DOS DOC DOI	Support Agency		
DHS DOT USDA DOI DOC DOS	Support Agency		
DOT DHS NEC TREASURY DOC HHS DOS	Support Agency		
DOT DHS HHS DOS DOC	Support Agency		
DOT HHS DHS DOC	Support Agency		
HHS DHS DOD VA DOC DOJ TREASURY	Support Agency		

DOJ HHS DHS DOS DOC	Support Agency		
HHS DHS DOT EDUCATION DOC DOD TREASURY	Support Agency		
HHS DHS DOC DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)	Departments
3	4.1.1.3	DOD, in coordination with DOS and other appropriate Federal agencies, host nations, and regional alliance military partners, shall, within 18 months: (1) conduct bilateral and multilateral assessments of the avian and pandemic preparedness and response plans of the militaries in partner nations or regional alliances such as NATO focused on preparing for and mitigating the effects of an outbreak on assigned mission accomplishment; (2) develop solutions for identified national and regional military gaps; and (3) develop and execute bilateral and multilateral military-to-military influenza exercises to validate preparedness and response plans. Measure of performance: all countries with endemic avian influenza engaged by U.S. efforts; initial assessment and identification of exercise timeline for the military of each key partner nation completed.	18	DOD DOS
9	4.1.2.6.	DOD, in coordination with DOS, host nations, and regional alliance military partners, shall assist in developing priority country military infection control and case management capability through training programs, within 18 months. Measure of performance: training programs carried out in all priority countries with increased military infection control and case management capability.	18	DOD DOS
31	4.1.8.4.	HHS and DOD, in coordination with DOS, shall enhance open source information sharing efforts with international organizations and agencies to facilitate the characterization of genetic sequences of circulating strains of novel influenza viruses within 12 months. Measure of performance: publication of all reported novel influenza viruses which are sequenced.	12	HHS DOD DOS
43	4.2.2.5.	DOD shall develop active and passive systems for inpatient and outpatient disease surveillance at its institutions worldwide, with an emphasis on index case and cluster identification, and develop mechanisms for utilizing DOD epidemiological investigation experts in international support efforts, to include validation of systems/tools and improved outpatient/inpatient surveillance capabilities, within 18 months. Measure of performance: monitoring system and program to utilize epidemiological investigation experts internationally are in place.	18	DOD
44	4.2.2.6.	DOD shall monitor the health of military forces worldwide (CONUS and OCONUS bases, deployed operational forces, exercises, units, etc.), and in coordination with DOS, coordinate with allied, coalition, and host nation public health communities to investigate and respond to confirmed infectious disease outbreaks on DOD installations, within 18 months. Measure of performance: medical surveillance “watchboard” reports show results of routine monitoring, number of validated outbreaks, and results of interventions.	18	DOD DOS
45	4.2.2.7.	DOD, in coordination with DOS and with the cooperation of the host nation, shall assist with influenza surveillance of host nation populations in accordance with existing treaties and international agreements, within 24 months. Measure of performance: medical surveillance “watchboard” expanded to include host nations.	24	DOD DOS

53	4.2.3.8.	DOD, in coordination with HHS, shall develop and refine its overseas virologic and bacteriologic surveillance infrastructure through Global Emerging Infections Surveillance and Response System (GEIS) and the DOD network of overseas labs, including fully developing and implementing seasonal influenza laboratory surveillance and an animal/vector surveillance plan linked with WHO pandemic phases, within 18 months. Measure of performance: animal/vector surveillance plan and DOD overseas virologic surveillance network developed and functional.	18	DOD HHS
54	4.2.3.9.	DOD, in coordination with HHS, shall prioritize international DOD laboratory research efforts to develop, refine, and validate diagnostic methods to rapidly identify pathogens, within 18 months. Measure of performance: completion of prioritized research plan, resources identified, and tasks assigned across DOD medical research facilities.	18	DOD HHS
55	4.2.3.10.	DOD shall work with priority nations' military forces to assess existing laboratory capacity, rapid response teams, and portable field assay testing equipment, and fund essential commodities and training necessary to achieve an effective national military diagnostic capability, within 18 months. Measure of performance: assessments completed, proposals accepted, and funding made available to priority countries.	18	DOD
57	4.2.4.2.	DOD shall incorporate international public health reporting requirements for exposed or ill military international travelers into the Geographic Combatant Commanders' pandemic influenza plans within 18 months. Measure of performance: reporting requirements incorporated into Geographic Combatant Commanders' pandemic influenza plans.	18	DOD
75	4.3.2.2.	DOD, in coordination with DOS, HHS, DOT, and DHS, will limit official DOD military travel between affected areas and the United States. Measure of performance: DOD identifies military facilities in the United States and OCONUS that will serve as the points of entry for all official travelers from affected areas, within 6 months.	6	DOD DOS HHS DOT DHS
89	5.1.1.5.	DOD, in coordination with DHS, DOT, DOJ, and DOS, shall conduct an assessment of military support related to transportation and borders that may be requested during a pandemic and develop a comprehensive contingency plan for Defense Support to Civil Authorities, within 18 months. Measure of performance: Defense Support to Civil Authorities plan in place that addresses emergency transportation and border support.	18	DOD DHS DOT DOJ DOS
139	5.3.4.8.	DOD, in coordination with DHS and DOS, shall identify those domestic and foreign airports and seaports that are considered strategic junctures for major military deployments and evaluate whether additional risk-based protective measures are needed, within 18 months. Measure of performance: identification of critical air and seaports and evaluation of additional risk-based procedures, completed.	18	DOD DHS DOS

144	5.3.5.5.	DOD, when directed by Secretary of Defense and in accordance with law, shall monitor and report the status of the military transportation system and those military assets that may be requested to protect the borders, assess impacts (to include operational impacts), and coordinate military services in support of Federal agencies and State, local, and tribal entities. Measure of performance: when DOD activated, regular reports provided, impacts assessed, and services coordinated as needed.		DOD
167	6.1.6.3.	DOD, as part of its departmental implementation plan, shall conduct a medical materiel requirements gap analysis and procure necessary materiel to enhance Military Health System surge capacity, within 18 months. Measure of performance: gap analysis completed and necessary materiel procured.	18	DOD
168	6.1.6.4.	HHS, DOD, VA and the States shall maintain antiviral and vaccine stockpiles in a manner consistent with the requirements of FDA's Shelf Life Extension Program (SLEP) and explore the possibility of broadening SLEP to include equivalently maintained State stockpiles, within 6 months. Measure of performance: compliance with SLEP requirements documented; decision made on broadening SLEP to State stockpiles.	6	HHS DOD VA
172	6.1.7.4.	DOD shall establish stockpiles of vaccine against H5N1 and other influenza subtypes determined to represent a pandemic threat adequate to immunize approximately 1.35 million persons for military use within 18 months of availability. Measure of performance: sufficient vaccine against each influenza virus determined to represent a pandemic threat in DOD stockpile to vaccinate 1.35 million persons.	18	DOD
176	6.1.9.3.	DOD shall procure 2.4 million treatment courses of antiviral medications and position them at locations worldwide within 18 months. Measure of performance: aggregate 2.4 million treatment courses of antiviral medications in DOD stockpiles.	18	DOD
189	6.1.13.8.	DOD shall supply military units and posts, installations, bases, and stations with vaccine and antiviral medications according to the schedule of priorities listed in the DOD pandemic influenza policy and planning guidance, within 18 months. Measure of performance: vaccine and antiviral medications procured; DOD policy guidance developed on use and release of vaccine and antiviral medications; and worldwide distribution drill completed.	18	DOD

218	6.2.2.9.	DOD shall enhance influenza surveillance efforts within 6 months by: (1) ensuring that medical treatment facilities (MTFs) monitor the Electronic Surveillance System for Early Notification of Community-based Epidemics (ESSENCE) and provide additional information on suspected or confirmed cases of pandemic influenza through their Service surveillance activities; (2) ensuring that Public Health Emergency Officers (PHEOs) report all suspected or actual cases through appropriate DOD reporting channels, as well as to CDC, State public health authorities, and host nations; and (3) posting results of aggregated surveillance on the DOD Pandemic Influenza Watchboard; all within 18 months. Measure of performance: number of MTFs performing ESSENCE surveillance greater than 80 percent; DOD reporting policy for public health emergencies, including pandemic influenza completed.	18	DOD
224	6.2.3.4.	HHS-, DOD-, and VA-funded hospitals and health facilities shall have access to improved rapid diagnostic tests for influenza A, including influenza with pandemic potential, within 6 months of when tests become available. Measure of performance: diagnostic tests, if found to be useful, are accessible to federally funded health facilities.	6	HHS DOD VA
228	6.2.4.3.	DOD and VA shall be prepared to track and provide personnel and beneficiary health statistics and develop enhanced methods to aggregate and analyze data documenting influenza-like illness from its surveillance systems within 12 months. Measure of performance: influenza tracking systems in place and capturing beneficiary clinical encounters.	12	DOD VA
234	6.3.2.4.	As appropriate, DOD, in consultation with its COCOM commanders, shall implement movement restrictions and individual protection and social distancing strategies (including unit shielding, ship sortie, cancellation of public gatherings, drill, training, etc.) within their posts, installations, bases, and stations. DOD personnel and beneficiaries living off-base should comply with local community containment guidance with respect to activities not directly related to the installation. DOD shall be prepared to initiate within 18 months. Measure of performance: the policies/procedures are in place for at-risk DOD posts, installations, bases, stations, and for units to conduct an annual training evaluation that includes restriction of movement, shielding, personnel protection measures, health unit isolation, and other measures necessary to prevent influenza transmission.	18	DOD
235	6.3.2.5.	All HHS-, DOD-, and VA-funded hospitals and health facilities shall develop, test, and be prepared to implement infection control campaigns for pandemic influenza, within 3 months. Measure of performance: guidance materials on infection control developed and disseminated on www.pandemicflu.gov and through other channels.	3	HHS DOD VA

246	6.3.4.7.	DOD shall enhance its public health response capabilities by: (1) continuing to assign epidemiologists and preventive medicine physicians within key operational settings; (2) expanding ongoing DOD participation in CDC's Epidemic Intelligence Service (EIS) Program; and (3) within 18 months, fielding specific training programs for PHEOs that address their roles and responsibilities during a public health emergency. Measure of performance: all military PHEOs fully trained within 18 months; increase military trainees in CDC's EIS program by 100 percent within 5 years.	18	DOD
255	6.3.7.2.	DOD and VA assets and capabilities shall be postured to provide care for military personnel and eligible civilians, contractors, dependants, other beneficiaries, and veterans and shall be prepared to augment the medical response of State, territorial, tribal, or local governments and other Federal agencies consistent with their ESF #8 support roles, within 3 months. Measure of performance: DOD and VA pandemic preparedness plans developed; in a pandemic, adequate health response provided to military and associated personnel.	3	DOD VA
258	6.3.7.5.	DOD shall develop and implement guidelines defining conditions under which Reserve Component medical personnel providing health care in non-military health care facilities should be mobilized and deployed, within 18 months. Measure of performance: guidelines developed and implemented.	18	DOD
260	6.3.8.2.	DOD and VA, in coordination with HHS, shall develop and disseminate educational materials, coordinated with and complementary to messages developed by HHS but tailored for their respective departments, within 6 months. Measure of performance: up-to-date risk communication material published on DOD and VA pandemic influenza websites, HHS website www.pandemicflu.gov, and in other venues.	6	DOD VA HHS
305	8.1.2.5.	DOD, in consultation with DOJ and the National Guard Bureau, and in coordination with the States as such training applies to support of State law enforcement, shall assess the training needs for National Guard forces in providing operational assistance to State law enforcement under either Federal (Title 10) or State (Title 32 or State Active Duty) in a pandemic influenza outbreak and provide appropriate training guidance to the States and Territories for units and personnel who will be tasked to provide this support, within 18 months. Measure of performance: guidance provided to all States.	18	DOD DOJ
306	8.1.2.6.	DOD, in consultation with DOJ, shall advise State Governors of the procedures for requesting military equipment and facilities, training and maintenance support as authorized by 10 U.S.C. §§ 372-74, within 6 months. Measure of performance: all State governors advised.	6	DOD DOJ
311	8.3.2.1.	DOJ, DHS, and DOD shall engage in contingency planning and related exercises to ensure they are prepared to maintain essential operations and conduct missions, as permitted by law, in support of quarantine enforcement and/or assist State, local, and tribal entities in law enforcement emergencies that may arise in the course of an outbreak, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting quarantine enforcement and/or law enforcement emergencies.	6	DOJ DHS DOD

1	4.1.1.1.	DOS, in coordination with HHS, USAID, DOD, and DOT, shall work with the Partnership, the Senior UN System Coordinator for Avian and Human Influenza, other international organizations (e.g., WHO, World Bank, OIE, FAO) and through bilateral and multilateral initiatives to encourage countries, particularly those at highest risk, to develop and exercise national and regional avian and pandemic response plans within 12 months. Measure of performance: 90 percent of high-risk countries have response plans and plans to test them.	12	DOS HHS USAID DOD DOT
41	4.2.2.3.	HHS, in coordination with DOD, shall provide support to Naval Medical Research Unit (NAMRU) 2 in Jakarta, Indonesia and Phnom Penh, Cambodia, the Armed Forces Research Institute of Medical Sciences in Bangkok, Thailand, and NAMRU-3 in Cairo, Egypt to expand and expedite geographic surveillance of human populations at-risk for H5N1 infections in those and neighboring countries through training, enhanced surveillance, and enhancement of the Early Warning Outbreak Recognition System, within 12 months. Measure of performance: reagents and technical assistance provided to countries in the network to improve and expand surveillance of H5N1 and number of specimens tested by real-time processing.	12	HHS DOD
65	4.3.1.1.	DOS, in coordination with HHS, USDA, USAID, and DOD, shall coordinate the development and implementation of U.S. capability to respond rapidly to assess and contain outbreaks of avian influenza with pandemic potential abroad, including coordination of the development, training and exercise of U.S. rapid response teams; and coordination of U.S. support for development, training and exercise of, and U.S. participation in, international support teams. Measure of performance: agreed operating procedures and operational support for U.S. rapid response, and for U.S. participation in international rapid response efforts, are developed and function effectively.		DOS HHS USDA USAID DOD
67	4.3.1.3.	HHS, in coordination with DOS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall rapidly deploy disease surveillance and control teams to investigate possible human outbreaks through WHO's GOARN network, as required. Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.		HHS DOS USDA USAID DOD
68	4.3.1.4.	DOS, in coordination with HHS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall coordinate United States participation in the implementation of the international response and containment strategy (e.g., assigning experts to the WHO outbreak teams and providing assistance and advice to ministries of health on local public health interventions, ongoing disease surveillance, and use of antiviral medications and vaccines if they are available). Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.		DOS HHS USDA USAID DOD

69	4.3.1.5.	USDA and USAID, in coordination with DOS, HHS, and DOD, and in collaboration with relevant international organizations, shall support operational deployment of rapid response teams and provide technical expertise and technology to support avian influenza assessment and response teams in priority countries as required. Measure of performance: all priority countries have rapid access to avian influenza assessment and response teams; deployment assistance provided in each instance and documented in a log of technical assistance rendered.		USDA USAID DOS HHS DOD
71	4.3.1.7.	DOS, in coordination with and drawing on the expertise of USAID, HHS, and DOD, shall work with the international community to develop, within 12 months, a coordinated, integrated, and prioritized distribution plan for pandemic influenza assistance that details a strategy for (1) strategic lift of WHO stockpiles and response teams, (2) theater distribution to high-risk countries, (3) in-country coordination to key distribution areas, and (4) establishment of internal mechanisms within each country for distribution to urban, rural, and remote populations. Measure of performance: commitments by countries that specify their ability to support distribution, and specify the personnel and material for such support.	12	DOS DOD USAID HHS
74	4.3.2.1.	DOS, in coordination with DHS, HHS, DOD, and DOT, and in collaboration with foreign counterparts, shall support the implementation of pre-existing passenger screening protocols in the event of an outbreak of pandemic influenza. Measure of performance: protocols implemented within 48 hours of notification of an outbreak of pandemic influenza.		DOS DHS HHS DOD DOT
76	4.3.3.1.	DOS, in coordination with HHS, USAID, USDA, and DOD, shall work with the Partnership to assist in the prompt and effective delivery of countermeasures to affected countries consistent with U.S. law and regulation and the agreed upon doctrine for international action to respond to and contain an outbreak of influenza with pandemic potential. Measure of performance: necessary countermeasures delivered to an affected area within 48 hours of agreement to meet request.		DOS HHS USAID USDA DOD
82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3	DOS HHS USAID USDA DOD DHS
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6	DHS DOT DOS HHS USDA DOD DOL DOC

86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6	HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12	DHS DOT DOD HHS USDA DOJ DOS
88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12	DHS DOT DOD HHS USDA USTR DOL DOS
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18	DOT DHS DOD DOJ HHS DOL USDA
95	5.1.2.5.	DHS and DOT, in coordination with DOD and States, shall develop a range of options to cope with potential shortages of commodities and demand for essential services, such as building reserves of essential goods, within 20 months. Measure of performance: options developed and available for State, local, and tribal governments to refine and incorporate in contingency plans.	20	DHS DOT DOD
101	5.1.4.3.	HHS, in coordination with DHS, DOT, DOD, Environmental Protection Agency (EPA), and transportation and border stakeholders, shall develop and disseminate decontamination guidelines and timeframes for transportation and border assets and facilities (e.g., airframes, emergency medical services transport vehicles, trains, trucks, stations, port of entry detention facilities) specific to pandemic influenza, within 12 months. Measure of performance: decontamination guidelines developed and disseminated through existing DOT and DHS channels.	12	HHS DHS DOT DOD EPA

102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6	HHS USDA DHS DOT DOS DOD DOI
103	5.2.2.1.	DHS, in coordination with HHS and DOD, shall deploy human influenza rapid diagnostic tests with greater sensitivity and specificity at borders and ports of entry to allow real-time health screening, within 12 months of development of tests. Measure of performance: diagnostic tests, if found to be useful, are deployed; testing is integrated into screening protocols to improve screening at the 20-30 most critical ports of entry.	12	DHS HHS DOD
104	5.2.3.1.	DHS, in coordination with HHS, DOT, DOS, and DOD, shall work closely with domestic and international air carriers and cruise lines to develop and implement protocols (in accordance with U.S. privacy law) to retrieve and rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, within 6 months. Measure of performance: aviation and maritime protocols implemented and information on potentially infected travelers available to appropriate authorities.	6	DHS HHS DOT DOS DOD
109	5.2.4.5.	DOT and DHS, in coordination with HHS, DOD, DOS, airlines/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop protocols to manage and/or divert inbound international flights and vessels with suspected cases of pandemic influenza that identify roles, actions, relevant authorities, and events that trigger response, within 12 months. Measure of performance: interagency response protocols for inbound flights completed and disseminated to appropriate entities.	12	DOT DHS HHS DOD DOS
110	5.2.4.6.	HHS, in coordination with DHS, DOT, DOS, DOD, air carriers/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop en route protocols for crewmembers onboard aircraft and vessels to identify and respond to travelers who become ill en route and to make timely notification to Federal agencies, health care providers, and other relevant authorities, within 12 months. Measure of performance: protocols developed and disseminated to air carriers/air space users and cruise line industry.	12	HHS DHS DOT DOS DOD
115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12	HHS DHS DOS DOT DOD DOL

122	5.3.1.2.	DOS, in coordination with DOT, HHS, DHS, DOD, air carriers, and cruise lines, shall work with host countries to implement agreed upon pre-departure screening based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols agreed upon and put in place in countries within 24 hours of an outbreak.		DOS DOT HHS DHS DOD
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.		DHS DOT HHS DOS DOD USDA
126	5.3.1.6.	DHS, in coordination with DOT, HHS, USDA, DOD, appropriate State, and local authorities, air carriers and airports, shall consider implementing response or screening protocols at domestic airports and other transport modes as appropriate, based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols in place within 24 hours of directive to do so.		DHS DOT HHS USDA DOD
138	5.3.4.7.	DHS, in coordination with DOS, DOT, DOD, and the Merchant Marine, shall work with major commercial shipping fleets and the international community to ensure continuation of maritime transport and commerce, including activation of plans, as needed, to provide emergency medical support to crews of vessels that are not capable of safe navigation. Measure of performance: maritime transportation capacity meets demand and vessel mishaps remain proportional to number of ship movements.		DHS DOS DOT DOD
147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.		DHS DOT DOS DOD HHS USDA DOI
150	6.1.1.3.	DHS, in coordination with HHS, DOJ, DOT, and DOD, shall be prepared to provide emergency response element training (e.g., incident management, triage, security, and communications) and exercise assistance upon request of State, local, and tribal communities and public health entities within 6 months. Measure of performance: percentage of requests for training and assistance fulfilled.	6	DHS HHS DOJ DOT DOD
152	6.1.2.2.	HHS, in coordination with DHS, DOD, and VA, shall develop a joint strategy defining the objectives, conditions, and mechanisms for deployment under which NDMS assets, U.S. Public Health Service (PHS) Commissioned Corps, Epidemic Intelligence Service officers, and DOD/VA health care personnel and public health officers would be deployed during a pandemic, within 9 months. Measure of performance: interagency strategy completed and tested for the deployment of Federal medical personnel during a pandemic.	9	HHS DHS DOD VA

153	6.1.2.3.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and leverage Emergency Management Assistance Compact agreements to develop protocols for distribution of critical medical materiel (e.g., ventilators) in times of medical emergency within 6 months. Measure of performance: critical medical material distribution protocols completed and tested.	6	HHS DHS DOT DOD VA
154	6.1.2.4.	HHS, in coordination with DOD and VA, in collaboration with medical professional and specialty societies, within their domains of expertise, shall develop guidance for allocating scarce health and medical resources during a pandemic, within 6 months. Measure of performance: guidance developed and disseminated.	6	HHS DOD VA
157	6.1.2.7.	HHS, in coordination with DHS, DOD, VA and the USA Freedom Corps and Citizen Corps programs, shall prepare guidance for local Medical Reserve Corps coordinators describing the role of the Medical Reserve Corps during a pandemic, within 3 months. Measure of performance: guidance materials developed and published on Medical Reserve Corps website (www.medicalreservecorps.gov).	3	HHS DHS DOD VA
159	6.1.3.1.	HHS, in coordination with DHS, DOS, DOD, VA, and other Federal partners, shall develop, test, and implement a Federal Government public health emergency communications plan (describing the government's strategy for responding to a pandemic, outlining U.S. international commitments and intentions, and reviewing containment measures that the government believes will be effective as well as those it regards as likely to be ineffective, excessively costly, or harmful) within 6 months. Measure of performance: containment strategy and emergency response materials completed and published on www.pandemicflu.gov; communications plan implemented.	6	HHS DHS DOS DOD VA
161	6.1.3.3.	HHS, in coordination with DHS, DOD, and the VA, and in collaboration with State, local, and tribal health agencies and the academic community, shall select and retain opinion leaders and medical experts to serve as credible spokespersons to coordinate and effectively communicate important and informative messages to the public, within 6 months. Measure of performance: national spokespersons engaged in communications campaign.	6	HHS DHS DOD VA
165	6.1.6.1.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define the mix of antiviral medications to include in the Strategic National Stockpile (SNS) and State stockpiles and develop recommendations for how the different agents are to be used, within 6 months. Measure of performance: development of policy concerning the selection, relative proportions, and use of antiviral medications in SNS and State stockpiles.	6	HHS DOD VA

166	6.1.6.2.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define critical medical material requirements for stockpiling by the SNS and States to respond to the diversity of needs presented by a pandemic, within 9 months. Measure of performance: requirements defined and guidance provided on stockpiling.	9	HHS DOD VA
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6	HHS DHS DOD VA DOC DOJ TREASURY
182	6.1.13.1.	HHS, in coordination with DHS, DOD, VA, and DOJ, and in collaboration with State, local, and tribal partners and the private sector, shall ensure that States, localities, and tribal entities have developed and exercised pandemic influenza countermeasure distribution plans, and can enact security protocols if necessary, according to pre-determined priorities (see below) within 12 months. Measures of performance: ability to activate, deploy, and begin distributing contents of medical stockpiles in localities as needed established and validated through exercises.	12	HHS DHS DOD VA DOJ
183	6.1.13.2.	HHS, in coordination with DOD, VA, States, and other public sector entities with antiviral drug stockpiles, shall coordinate use of assets maintained by different organizations, within 12 months. Measure of performance: plans developed for coordinated use of antiviral stockpiles.	12	HHS DOD VA
185	6.1.13.4.	HHS, in coordination with DOD, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall assist in the development of distribution plans for medical countermeasure stockpiles to ensure that delivery and distribution algorithms have been planned for each locality for antiviral distribution. Goal is to be able to distribute antiviral medications to infected patients within 48 hours of the onset of symptoms within 12 months. Measure of performance: distribution plans developed.	12	HHS DOD VA
186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9	HHS DHS DOS DOD DOL VA
188	6.1.13.7.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and private sector partners to develop and test plans to allocate and distribute critical medical materiel (e.g., ventilators with accessories, resuscitator bags, gloves, face masks, gowns) in a health emergency, within 6 months. Measure of performance: plans developed, tested, and incorporated into department plan, and disseminated to States and tribes for incorporation into their pandemic response plans.	6	HHS DHS DOT DOD VA

190	6.1.13.9.	HHS, in coordination with DOD, VA, and in collaboration with State, territorial, tribal, and local partners, shall develop/refine mechanisms to: (1) track adverse events following vaccine and antiviral administration; (2) ensure that individuals obtain additional doses of vaccine, if necessary; and (3) define protocols for conducting vaccine- and antiviral-effectiveness studies during a pandemic, within 18 months. Measure of performance: mechanism(s) to track vaccine and antiviral medication coverage and adverse events developed; vaccine- and antiviral-effectiveness study protocols developed.	18	HHS DOD VA
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3	HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9	HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9	HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.		HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA

207	6.2.1.3.	HHS, in coordination with DOD, VA, USDA, DHS, EPA, and other partners, in collaboration with its LRN Reference Laboratories, shall be prepared within 6 months to conduct laboratory analyses to detect pandemic subtypes and strains in referred specimens and conduct confirmatory testing, as requested. Measure of performance: initial testing and identification of suspect pandemic influenza specimens completed at LRN Reference and National Laboratories within 24 hours.	6	HHS DOD VA USDA DHS EPA
212	6.2.2.3.	HHS, in coordination with DOD and VA, shall expand the number of hospitals and cities participating in the BioSenseRT program to improve the Nation's capabilities for disease detection, monitoring, and situational awareness within 12 months. Measure of performance: number of hospitals (including DOD and VA facilities) participating in the BioSenseRT program increased to 350 hospitals in 42 cities.	12	HHS DOD VA
216	6.2.2.7.	DHS, in collaboration with HHS, DOD, VA, USDA and other Federal departments and agencies with biosurveillance capabilities and real-time data sources, will enhance NBIS capabilities to ensure the availability of a comprehensive and all-source biosurveillance common operating picture throughout the Interagency, within 12 months. Measure of performance: NBIS provides integrated surveillance data to DHS, HHS, USDA, DOD, VA, and other interested interagency customers.	12	DHS HHS DOD VA USDA
217	6.2.2.8.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with State, local, and tribal authorities, shall be prepared to collect, analyze, integrate, and report information about the status of hospitals and health care systems, health care critical infrastructure, and medical materiel requirements, within 12 months. Measure of performance: guidance provided to States and tribal entities on the use and modification of the components of the National Hospital Available Beds for Emergencies and Disasters (HAvBED) system for implementation at the local level.	12	HHS DHS DOD VA
221	6.2.3.1.	HHS, in coordination with DHS and DOD, shall work with pharmaceutical and medical device company partners to develop and evaluate rapid diagnostic tests for novel influenza subtypes including H5N1 within 18 months. Measure of performance: new investment in research to develop influenza diagnostics; new rapid diagnostic tests, if found to be useful, are available for influenza testing, including for novel influenza subtypes.	18	HHS DHS DOD

222	6.2.3.2.	HHS, in coordination with DHS, DOD, and VA, shall compile an inventory of all research and product development work on rapid diagnostic testing for influenza and shall reach consensus on sets of requirements meeting national needs and a common test methodology to drive further private-sector investment and product development, within 6 months. Measure of performance: inventory developed and requirements paper disseminated.	6	HHS DHS DOD VA
223	6.2.3.3.	HHS, in coordination with DOD, VA, and DHS, shall encourage and expedite private-sector development of rapid subtype- and strain-specific influenza point-of-care tests within 12 months of the publication of requirements. Measure of performance: rapid point-of-care test available in the marketplace within 18 months.	18	HHS DOD VA DHS
226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12	HHS DHS DOD VA USDA DOS
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6	DHS HHS DOD DOJ VA DOL TREASURY DOT USDA DOE DOI EPA
229	6.2.5.1.	HHS, in coordination with DOD and DHS, shall develop and maintain a real-time epidemic analysis and modeling hub that will explore and characterize response options as a support to policy and decision makers within 6 months. Measure of performance: modeling center with real-time epidemic analysis capabilities established.	6	HHS DOD DHS
231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6	HHS DHS DOT EDUCATION DOC DOD TREASURY

233	6.3.2.3.	HHS, in coordination with DHS and DOD and in collaboration with mathematical modelers, shall complete research identifying optimal strategies for using voluntary home quarantine, school closure, snow day restrictions, and other community infection control measures, within 12 months. Measure of performance: guidance developed and disseminated on the use of community control.	12	HHS DHS DOD
238	6.3.3.1.	HHS, in coordination with DHS, VA, and DOD, shall develop and disseminate guidance that explains steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 3 months. Measure of performance: guidance disseminated on www.pandemicflu.gov and through VA and DOD channels.	3	HHS DHS VA DOD
239	6.3.3.2.	HHS, in coordination with DHS, DOD, VA, and DOT and in collaboration with State, local, and tribal partners, shall develop and disseminate lists of social distancing behaviors that individuals may adopt within 6 months and update guidance as additional data becomes available. Measure of performance: guidance disseminated on www.pandemicflu.gov and through other channels.	6	HHS DHS DOD VA DOT
240	6.3.4.1.	Major medical societies and organizations, in collaboration with HHS, DHS, DOD, and VA, should develop and disseminate protocols for changing clinical care algorithms in settings of severe medical surge. Measure of performance: evidence-based protocols developed to optimize care that can be provided in conditions of severe medical surge.		HHS DHS DOD VA
241	6.3.4.2.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with States, localities, tribal entities, and private sector health care facilities, shall develop strategies and protocols for expanding hospital and home health care delivery capacity in order to provide care as effectively and equitably as possible, within 6 months. Measure of performance: guidance and protocols developed and disseminated.	6	HHS DHS DOD VA
250	6.3.5.1.	HHS, in coordination with DHS, DOL, Education, VA, and DOD, shall develop and disseminate guidance and educational tools that explain steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 6 months. Measure of performance: interim guidance disseminated on www.pandemicflu.gov and through VA, DOD, and other channels within 3 months; complementary educational tools on social distancing, personal hygiene, mask use, and other infection control precautions developed within 6 months.	6	HHS DHS DOL Education VA DOD
254	6.3.7.1.	HHS, in coordination with DHS, DOD, VA, and DOT, and as the lead for ESF #8, shall identify public health and medical capabilities required to support a pandemic response and work with other supporting agencies to identify and deploy or otherwise deliver the required capability or asset, if available. Measure of performance: inventory of public health and medical capabilities within 6 months; available public health or medical capabilities or assets deployed or delivered during a pandemic.	6	HHS DHS DOD VA DOT

259	6.3.8.1.	HHS, in coordination with DHS, DOD, and VA, shall develop and disseminate a risk communication strategy within 6 months, updating it as required. Measure of performance: implementation of risk communication strategy on www.pandemicflu.gov and elsewhere.	6	HHS DHS DOD VA
261	7.1.1.1.	USDA, in coordination with DHS, HHS, DOD, and DOI, and in partnership with State and tribal entities, animal industry groups, and (as appropriate) the animal health authorities of Canada and Mexico, shall establish and exercise animal influenza response plans within 6 months. Measure of performance: plans in place at specified Federal agencies and exercised in collaboration with States believed to be at highest risk for an introduction into animals of an influenza virus with human pandemic potential.	6	USDA DHS HHS DOD DOI
263	7.1.2.2.	USDA, in coordination with DOD, HHS, DHS, and DOI, shall partner with States and tribal entities to ensure sufficient veterinary diagnostic laboratory surge capacity for response to an outbreak of avian or other influenza virus with human pandemic potential, within 6 months. Measure of performance: plans and necessary agreements to meet laboratory capacity needs for a worst case scenario influenza outbreak in animals validated by utilization in exercises.	6	USDA DOD HHS DHS DOI
276	7.1.5.6.	USDA, in coordination with DHS, DOI, and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	6	USDA DHS DOI DOD
292	7.3.4.1.	USDA shall assess the outbreak response surge capacity activities that other Federal partners, including the DOD, may be able to support during an outbreak of influenza in animals and ensure that mechanisms are in place to request such support, within 6 months. Measure of performance: written assessment completed and all necessary activation mechanisms in place.	6	USDA DOD
297	8.1.1.2.	DHS, in coordination with DOJ, HHS, DOL, and DOD, shall develop a pandemic influenza tabletop exercise for State, local, and tribal law enforcement/public safety officials that they can conduct in concert with public health and medical partners, and ensure it is distributed nationwide within 4 months. Measure of performance: percent of State, local, and tribal law enforcement/public safety agencies that have received the pandemic influenza tabletop exercise.	4	DHS DOJ HHS DOD DOL
303	8.1.2.3.	DOJ shall advise State Governors of the processes for requesting Federal military assistance under the Insurrection Act within 3 months. DOD, after coordination with DOJ, shall publish updated policy guidance on Military Assistance during Civil Disturbances, within 6 months. Measure of performance: all State Governors advised and guidance published.	3	DOJ DOD

307	8.1.2.7.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall convene a forum for selected Federal, State, local, and tribal personnel to discuss EMS, fire, emergency management, public works, and other emergency response issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4	DHS DOJ DOD DOT HHS
312	8.3.2.2.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall engage in contingency planning and related exercises to ensure they are prepared to sustain EMS, fire, emergency management, public works, and other emergency response functions during a pandemic, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting EMS, fire, emergency management, public works, and other emergency response functions.	6	DHS DOJ DOD DOT HHS
313	9.1.1.1.	DHS, in coordination with HHS, DOD, and DOL shall provide pandemic influenza COOP guidance to the Federal departments and agencies within 6 months. Measure of performance: COOP planning and personnel protection guidance provided to all departments for use, as necessary, in updating departmental pandemic influenza response plans.	6	DHS HHS DOD DOL
314	9.1.1.2.	The Office of Personnel Management (OPM), in coordination with DHS, HHS, DOD, and DOL, shall provide guidance to the Federal departments and agencies on human capital management and COOP planning criteria related to pandemic influenza, within 3 months. Measure of performance: guidance provided to all departments for use, as necessary, in adjusting departmental COOP plans related to pandemic influenza.	3	OPM DHS HHS DOD DOL
315	9.1.1.3.	OPM, in coordination with DHS, HHS, DOD, and DOL, shall update the guides Telework: A Management Priority, A Guide for Managers, Supervisors, and Telework Coordinators; Telework 101 for Managers: Making Telework Work for You; and, Telework 101 for Employees: Making Telework Work for You, to provide guidance to Federal departments regarding workplace options during a pandemic, within 3 months. Measure of performance: updated telework guidance provided to all departments for use, as necessary, in updating departmental COOP plans related to pandemic influenza.	3	OPM DHS HHS DOD DOL
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6	DHS HHS DOT USDA EPA DOE Treasury DOI DOD

318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6	DHS HHS DOT USDA EPA DOE Treasury DOI DOD
319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6	DHS HHS DOT USDA EPA DOE Treasury DOI DOD
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6	HHS DHS DOL OPM EDUCATI ON VA DOD
321	9.1.4.2.	HHS, in coordination with DHS, DOL, EPA, Department of Education, VA, and DOD, shall develop interim guidance regarding environmental management and cleaning practices including the handling of potentially contaminated waste material, within 3 months, and revise as additional data becomes available. Measure of performance: development and publication of guidance and checklists on www.pandemicflu.gov and disseminated through other channels.	3	HHS DHS DOL EPA EDUCATI ON VA DOD

DOD	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
2	4.1.1.2.	USDA, USAID, and HHS shall use epidemiological data to expand support for animal disease and pandemic prevention and preparedness efforts, including provision of technical assistance to veterinarians and other agricultural scientists and policymakers, in high-risk countries within 12 months. Measure of performance: all high-risk and affected countries have in place (1) national task forces meeting regularly with representation from both human and animal health sectors, government ministries, businesses, and NGOs; (2) national plans, based on scientifically valid information, developed, tested, and implemented for containing influenza in animals with human pandemic potential and for responding to a human pandemic.	12
5	4.1.2.2.	HHS shall staff the REDI Center in Singapore within 3 months. Measure of performance: USG staff provided to REDI Center.	3
8	4.1.2.5.	HHS, in coordination with USAID, shall increase rapid response capacity within those countries at highest risk of human exposure to animal influenza by supporting national and local government capacities for human surveillance, diagnostics, and medical care, and by supporting training and equipping of rapid response and case investigation teams for human outbreaks, within 9 months. Measure of performance: trained, deployable rapid response teams exist in countries with the highest risk of human exposure.	9
11	4.1.3.1.	USAID, HHS, and USDA shall conduct educational programs focused on communications and social marketing campaigns in local languages to increase public awareness of risks of transmission of influenza between animals and humans, within 12 months. Measure of performance: clear and consistent messages tested in affected countries, with information communicated via a variety of media have reached broad audiences, including health care providers, veterinarians, and animal health workers, primary and secondary level educators, villagers in high-risk and affected areas, poultry industry workers, and vendors in open air markets.	12
12	4.1.3.2.	HHS and USAID shall work with the WHO Secretariat and other multilateral organizations, existing bilateral programs and private sector partners to develop community- and hospital-based health prevention, promotion, and education activities in priority countries within 12 months. Measure of performance: 75 percent of priority countries are reached with mass media and community outreach programs that promote AI awareness and behavior change.	12
13	4.1.4.1.	DOS and HHS, in coordination with other agencies, shall ensure that the top political leadership of all affected countries understands the need for clear, effective coordinated public information strategies before and during an outbreak of avian or pandemic influenza within 12 months. Measure of performance: 50 percent of priority countries that developed outbreak communication strategies consistent with the WHO September 2004 Report detailing best practices for communicating with the public during an outbreak.	12

14	4.1.4.2.	DOS and HHS, in coordination with other agencies, shall implement programs within 3 months to inform U.S. citizens, including businesses, NGO personnel, DOD personnel, and military family members residing and traveling abroad, where they may obtain accurate, timely information, including risk level assessments, to enable them to make informed decisions and take appropriate personal measures. Measure of performance: majority of registered U.S. citizens abroad have access to accurate and current information on influenza.	3
15	4.1.4.3.	DOS and HHS shall ensure that adequate guidance is provided to Federal, State, tribal, and local authorities regarding the inviolability of diplomatic personnel and facilities and shall work with such authorities to develop methods of obtaining voluntary cooperation from the foreign diplomatic community within the United States consistent with USG treaty obligations within 6 months. Measure of performance: briefing materials and an action plan in place for engaging with relevant Federal, State, tribal and local authorities.	6
16	4.1.4.4.	USAID, USDA, and HHS shall work with the WHO Secretariat, FAO, OIE, and other donor countries within 12 months to implement a communications program to support government authorities and private and multilateral organizations in at-risk countries in improving their national communications systems with the goal of promoting behaviors that will minimize human exposure and prevent further spread of influenza in animal populations. Measure of performance: 50 percent of priority countries have improved national avian influenza communications.	12
19	4.1.5.2.	HHS and USAID shall work to coordinate and set up emergency stockpiles of protective equipment and essential commodities other than vaccine and antiviral medications for responding to animal or human outbreaks within 9 months. Measure of performance: essential commodities procured and available for deployment within 24 hours.	9
20	4.1.5.3.	HHS shall provide technical expertise, information, and guidelines for stockpiling and use of pandemic influenza vaccines within 6 months. Measure of performance: all priority countries and partner organizations have received relevant information on influenza vaccines and application strategies.	6
23	4.1.6.2.	HHS, in coordination with the WHO Secretariat, shall establish at least six new sites for Collaborative Clinical Research on Emerging Infectious Diseases to conduct collaborative clinical research on the diagnostics, therapeutics, and natural history of avian influenza and other human emerging infectious diseases. In addition, within 18 months it will provide in-country support for one or more partner countries for human avian influenza clinical trials. Measure of performance: cooperative programs established in six new sites, to include the initiation of research protocols and design of clinical trials.	18
28	4.1.8.1.	HHS shall support the Los Alamos H5 Sequence Database and the Institute for Genomic Research (TIGR), for the purpose of sharing avian H5N1 influenza sequences with the scientific community within 24 months. Measure of performance: completed H5 sequences entered into both the Los Alamos database and GenBank and annotated.	24

29	4.1.8.2.	HHS shall enhance a regional influenza genome reference laboratory in Singapore within 9 months. Measure of performance: capacity to sequence complete influenza virus genome established in Singapore; all reported novel animal influenza samples sequenced and made available on public databases.	9
31	4.1.8.4.	HHS and DOD, in coordination with DOS, shall enhance open source information sharing efforts with international organizations and agencies to facilitate the characterization of genetic sequences of circulating strains of novel influenza viruses within 12 months. Measure of performance: publication of all reported novel influenza viruses which are sequenced.	12
33	4.2.1.2.	HHS, in coordination with DOS, shall, to the extent feasible, negotiate bilateral agreements with key affected countries on health cooperation including transparency, sample and data sharing, and development of rapid response protocols; and develop and train in-country rapid response teams to quickly assess and report on possible outbreaks of avian and human influenza, within 12 months. Measure of performance: agreements established with Vietnam, Cambodia, and Laos, 100 teams throughout Asia, including China, Thailand, and Indonesia, trained and available to respond to outbreaks.	12
34	4.2.1.3.	HHS shall place long-term staff at key WHO offices and in select affected, high-risk, and at-risk countries to provide coordination of HHS-sponsored activities and to serve as liaisons with HHS within 9 months. Measure of performance: placement of staff and increased coordination with the WHO Secretariat and Regional Offices.	9
35	4.2.1.4.	HHS shall, to the extent feasible, negotiate agreements with established networks of laboratories around the world to enhance its ability to perform laboratory analysis of human and animal virus isolates and to train in-country government staff on influenza-related surveillance and laboratory diagnostics, within 6 months. Measure of performance: completed, negotiated agreement, and financing mechanism with at least one laboratory network outside the United States.	6
36	4.2.1.5.	HHS shall support the WHO Secretariat to enhance the early detection, identification and reporting of infectious disease outbreaks through the WHO's Influenza Network and Global Outbreak and Alert Response Network (GOARN) within 12 months. Measure of performance: expansion of the network to regions not currently part of the network.	12
38	4.2.1.7.	USAID, HHS, USDA, and DOS shall support NGOs, FAO, OIE, WHO, the Office of the Senior UN System Coordinator for Avian and Human Influenza, and host governments to expand the scope, accuracy, and transparency of human and animal surveillance systems and to streamline and strengthen official protocols for reporting avian influenza cases, within 6 months. Measure of performance: 75 percent of priority countries have established early warning networks, international case definitions, and standards for laboratory diagnostics of human and animal samples.	6

39	4.2.2.1.	HHS and USDA, in collaboration with one or more established networks of laboratories around the world, including the WHO Influenza Network, shall train staff from priority countries' Ministries of Health and Agriculture, to conduct surveillance and perform epidemiologic analyses on influenza-susceptible species and manage and report results of findings, within 12 months. Measure of performance: 75 percent of priority countries have access to multi-year epidemiology and surveillance training programs.	12
40	4.2.2.2.	HHS and USDA shall increase support of scientists tracking potential emergent influenza strains through disease and virologic surveillance in susceptible animal species in priority countries within 9 months. Measure of performance: surveillance for emergent influenza strains expanded in priority countries.	9
41	4.2.2.3.	HHS, in coordination with DOD, shall provide support to Naval Medical Research Unit (NAMRU) 2 in Jakarta, Indonesia and Phnom Penh, Cambodia, the Armed Forces Research Institute of Medical Sciences in Bangkok, Thailand, and NAMRU-3 in Cairo, Egypt to expand and expedite geographic surveillance of human populations at-risk for H5N1 infections in those and neighboring countries through training, enhanced surveillance, and enhancement of the Early Warning Outbreak Recognition System, within 12 months. Measure of performance: reagents and technical assistance provided to countries in the network to improve and expand surveillance of H5N1 and number of specimens tested by real-time processing.	12
42	4.2.2.4.	HHS shall enhance surveillance and response to high priority infectious disease, including influenza with pandemic potential, by training physicians and public health workers in disease surveillance, applied epidemiology and outbreak response at its GDD Response Centers in Thailand and China and at the U.S.-China Collaborative Program on Emerging and Re-Emerging Infectious Diseases, within 12 months. Measure of performance: 50 physicians and public health workers living in priority countries receive training in disease surveillance applied epidemiology and outbreak response.	12
46	4.2.3.1.	HHS shall develop and implement laboratory diagnostics training programs in basic laboratory techniques related to influenza sample preparation and diagnostics in priority countries within 9 months. Measure of performance: 25 laboratory scientists trained in influenza sample preparation and diagnostics.	9
47	4.2.3.2.	HHS in collaboration with one or more established networks of laboratories, including the WHO Influenza Network, shall train staff from priority countries on influenza-related laboratory diagnostics, within 12 months. Measure of performance: 100 percent of priority countries have training programs established.	12
48	4.2.3.3.	HHS, in cooperation with the WHO Secretariat and other donor countries, shall expand an existing specimen transport fund that enables developing countries to transport influenza samples to WHO regional reference laboratories and collaborating centers, within 6 months. Measure of performance: 100 percent of priority countries funded for sending influenza samples to WHO regional reference laboratories.	6

49	4.2.3.4.	HHS shall invest in the development and evaluation of more accurate rapid diagnostics for influenza to enhance the ability of the global healthcare community to rapidly diagnose influenza, within 18 months. Measure of performance: new grants and contracts issued to researchers to develop and evaluate new diagnostics.	18
50	4.2.3.5.	HHS and USAID shall work with the WHO Secretariat and private sector partners, through existing bilateral agreements, to provide support for human health diagnostic laboratories by developing and giving assistance in implementing rapid international laboratory diagnostics protocols and standards in priority countries, within 12 months. Measure of performance: 75 percent of priority countries have improved human diagnostic laboratory capacity.	12
56	4.2.4.1.	HHS and USAID shall, in coordination with regional and international multi-lateral organizations, develop village-based alert and response surveillance systems for human cases of influenza in priority countries, within 18 months. Measure of performance: 75 percent of all priority countries have established a village alert and response system for human influenza.	18
58	4.2.5.1.	HHS and USAID shall develop, in coordination with the WHO Secretariat and other donor countries, rapid response protocols for use in responding quickly to credible reports of human-to-human transmission that may indicate the beginnings of an influenza pandemic, within 12 months. Measure of performance: adoption of protocols by WHO and other stakeholders.	12
59	4.2.5.2.	HHS, in coordination with DOS and other agencies participating in the Security and Prosperity Partnership, shall pursue cooperative agreements on pandemic influenza with Canada and Mexico to create and implement a North American early warning surveillance and response system in order to prevent the spread of infectious disease across the borders, within 9 months. Measure of performance: implementation of early warning surveillance and response system.	9
64	4.2.8.1.	HHS and USAID shall develop community- and hospital-based infection control and prevention, health promotion and education activities in local languages in priority countries within 9 months. Measure of performance: local language health promotion campaigns and improved hospital-based infection control activities established in all South East Asian priority countries.	9
67	4.3.1.3.	HHS, in coordination with DOS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall rapidly deploy disease surveillance and control teams to investigate possible human outbreaks through WHO's GOARN network, as required. Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	

86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
91	5.1.2.1.	DHS and HHS, in coordination with DOT and USDA, shall review existing grants or Federal funding that could be used to support transportation and border-related pandemic planning, within 4 months. Measure of performance: all State, local, and tribal governments are in receipt of, or have access to, guidance for grant applications.	4
99	5.1.4.1.	HHS, in coordination with DHS, DOT, and DOL, shall establish workforce protection guidelines and develop targeted educational materials addressing the risk of contracting pandemic influenza for transportation and border workers, within 6 months. Measure of performance: guidelines and materials developed that meet the diverse needs of border and transportation workers (e.g., customs officers or agents, air traffic controllers, train conductors, dock workers, flight attendants, transit workers, ship crews, and interstate truckers).	6
101	5.1.4.3.	HHS, in coordination with DHS, DOT, DOD, Environmental Protection Agency (EPA), and transportation and border stakeholders, shall develop and disseminate decontamination guidelines and timeframes for transportation and border assets and facilities (e.g., airframes, emergency medical services transport vehicles, trains, trucks, stations, port of entry detention facilities) specific to pandemic influenza, within 12 months. Measure of performance: decontamination guidelines developed and disseminated through existing DOT and DHS channels.	12
102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6

106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8
108	5.2.4.4.	DOS and HHS, in coordination with DHS, DOT, and transportation and border stakeholders, shall assess and revise procedures to issue travel information and advisories related to pandemic influenza, within 12 months. Measure of performance: improved interagency coordination and timely dissemination of travel information to stakeholders and travelers.	12
110	5.2.4.6.	HHS, in coordination with DHS, DOT, DOS, DOD, air carriers/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop en route protocols for crewmembers onboard aircraft and vessels to identify and respond to travelers who become ill en route and to make timely notification to Federal agencies, health care providers, and other relevant authorities, within 12 months. Measure of performance: protocols developed and disseminated to air carriers/air space users and cruise line industry.	12
111	5.2.4.7.	DHS, DOT, and HHS, in coordination with transportation and border stakeholders, and appropriate State and local health authorities, shall develop aviation, land border, and maritime entry and exit protocols and/or screening protocols, and education materials for non-medical, front-line screeners and officers to identify potentially infected persons or cargo, within 10 months. Measure of performance: protocols and training materials developed and disseminated.	10
112	5.2.4.8.	DHS and HHS, in coordination with DOT, DOJ, and appropriate State and local health authorities, shall develop detection, diagnosis, quarantine, isolation, EMS transport, reporting, and enforcement protocols and education materials for travelers, and undocumented aliens apprehended at and between Ports of Entry, who have signs or symptoms of pandemic influenza or who may have been exposed to influenza, within 10 months. Measure of performance: protocols developed and distributed to all ports of entry.	10
114	5.2.4.10.	HHS, DHS, and DOT, in coordination with DOS, State, community and tribal entities, and the private sector, shall develop a public education campaign on pandemic influenza for travelers, which raises general awareness prior to a pandemic and includes messages for use during an outbreak, within 15 months. Measure of performance: public education campaign developed on how a pandemic could affect travel, the importance of reducing non-essential travel, and potential screening measures and transportation and border messages developed based on pandemic stages.	15
115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12

127	5.3.2.1.	DHS, DOS, and HHS, in coordination with DOT and USDA, shall issue travel advisories/public announcements for areas where outbreaks have occurred and ensure adequate coordination with appropriate transportation and border stakeholders. Measure of performance: coordinated announcements and warnings developed within 24 hours of becoming aware of an outbreak and timely updates provided as required.	
130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	
149	6.1.1.2.	HHS, in coordination with DHS, shall review and approve State Pandemic Influenza plans to supplement and support DHS State Homeland Security Strategies to ensure that Federal homeland security grants, training, exercises, technical, and other forms of assistance are applied to a common set of priorities, capabilities, and performance benchmarks, in conformance with the National Preparedness Goal, within 12 months. Measure of performance: definition of priorities, capabilities, and performance benchmarks; percentage of States with plans that address priorities, identify capabilities, and meet benchmarks.	12
152	6.1.2.2.	HHS, in coordination with DHS, DOD, and VA, shall develop a joint strategy defining the objectives, conditions, and mechanisms for deployment under which NDMS assets, U.S. Public Health Service (PHS) Commissioned Corps, Epidemic Intelligence Service officers, and DOD/VA health care personnel and public health officers would be deployed during a pandemic, within 9 months. Measure of performance: interagency strategy completed and tested for the deployment of Federal medical personnel during a pandemic.	9
153	6.1.2.3.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and leverage Emergency Management Assistance Compact agreements to develop protocols for distribution of critical medical materiel (e.g., ventilators) in times of medical emergency within 6 months. Measure of performance: critical medical material distribution protocols completed and tested.	6
154	6.1.2.4.	HHS, in coordination with DOD and VA, in collaboration with medical professional and specialty societies, within their domains of expertise, shall develop guidance for allocating scarce health and medical resources during a pandemic, within 6 months. Measure of performance: guidance developed and disseminated.	6
155	6.1.2.5.	HHS shall package and offer to the States and Territories the core operating components of an ESAR-VHP system within 6 months and encourage all States and tribal entities to implement the ESAR-VHP program by providing technical assistance and orientations at State and territory request to implement and operate Federal guideline (ESAR-VHP) compliant systems within 12 months. Measure of performance: guidance and technical assistance, as requested, provided to States to implement ESAR-VHP capability, compliant with Federal guidelines, in all States and U.S. territories.	12

156	6.1.2.6.	HHS, in coordination with the USA Freedom Corps and Citizen Corps programs, shall continue to work with States and local communities to expand the Medical Reserve Corps program by 20 percent within 12 months. Measure of performance: increase number of Medical Reserve Corps units by 20 percent, from 350 to 420 units.	12
157	6.1.2.7.	HHS, in coordination with DHS, DOD, VA and the USA Freedom Corps and Citizen Corps programs, shall prepare guidance for local Medical Reserve Corps coordinators describing the role of the Medical Reserve Corps during a pandemic, within 3 months. Measure of performance: guidance materials developed and published on Medical Reserve Corps website (www.medicalreservecorps.gov).	3
159	6.1.3.1.	HHS, in coordination with DHS, DOS, DOD, VA, and other Federal partners, shall develop, test, and implement a Federal Government public health emergency communications plan (describing the government's strategy for responding to a pandemic, outlining U.S. international commitments and intentions, and reviewing containment measures that the government believes will be effective as well as those it regards as likely to be ineffective, excessively costly, or harmful) within 6 months. Measure of performance: containment strategy and emergency response materials completed and published on www.pandemicflu.gov; communications plan implemented.	6
160	6.1.3.2.	HHS, in coordination with DHS, shall develop, test, update and implement (if necessary) a multilingual and multimedia public engagement and risk communications strategy within 6 months. Measure of performance: risk communication material completed and published on www.pandemicflu.gov and other venues; State summit meetings held.	6
161	6.1.3.3.	HHS, in coordination with DHS, DOD, and the VA, and in collaboration with State, local, and tribal health agencies and the academic community, shall select and retain opinion leaders and medical experts to serve as credible spokespersons to coordinate and effectively communicate important and informative messages to the public, within 6 months. Measure of performance: national spokespersons engaged in communications campaign.	6
162	6.1.4.1.	State, local, and tribal public health and health care authorities, in collaboration with DHS, HHS, and the Department of Labor (DOL), should coordinate emergency communication protocols with print and broadcast media, private industry, academic, and nonprofit partners within 6 months. Measure of performance: coordinated messages from communities identified above.	6
164	6.1.5.1.	HHS shall encourage and subsidize the development of State, territorial, and tribal antiviral stockpiles to support response activities within 18 months. Measure of performance: State, territorial, and tribal stockpiles established and antiviral medication purchases made toward goal of aggregate 31 million treatment courses.	18

165	6.1.6.1.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define the mix of antiviral medications to include in the Strategic National Stockpile (SNS) and State stockpiles and develop recommendations for how the different agents are to be used, within 6 months. Measure of performance: development of policy concerning the selection, relative proportions, and use of antiviral medications in SNS and State stockpiles.	6
166	6.1.6.2.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define critical medical material requirements for stockpiling by the SNS and States to respond to the diversity of needs presented by a pandemic, within 9 months. Measure of performance: requirements defined and guidance provided on stockpiling.	9
168	6.1.6.4.	HHS, DOD, VA and the States shall maintain antiviral and vaccine stockpiles in a manner consistent with the requirements of FDA's Shelf Life Extension Program (SLEP) and explore the possibility of broadening SLEP to include equivalently maintained State stockpiles, within 6 months. Measure of performance: compliance with SLEP requirements documented; decision made on broadening SLEP to State stockpiles.	6
169	6.1.7.1.	HHS, in coordination with DHS, DOJ, VA, and in collaboration with State, local, and tribal partners, shall determine the national medical countermeasure requirements to ensure the sustained functioning of medical, emergency response, and other front-line organizations, within 12 months. Measure of performance: more specific definition of sectors and personnel for priority access to medical countermeasures and quantities needed to protect those groups; guidance provided to State, local, and tribal governments and to infrastructure sectors for various scenarios of pandemic severity and medical countermeasure supply.	12
170	6.1.7.2.	HHS shall establish and maintain stockpiles of pre-pandemic vaccines adequate to immunize 20 million persons against influenza strains that present a pandemic threat, as soon as possible within the constraints of industrial capacity. Measure of performance: procurement of 20 million courses of pre-pandemic vaccine against influenza strains presenting a pandemic threat.	
171	6.1.7.3.	HHS in collaboration with State/local partners shall procure and allocate sufficient stockpiles of countermeasures to ensure continuity of critical medical and emergency response operations, within 18 months, within the constraints of industrial capacity. Measure of performance: sufficient quantities of antiviral medications and other countermeasures procured and distributed between SNS and State stockpiles.	18
173	6.1.8.1.	HHS shall, to the extent feasible, work with the pharmaceutical industry to develop, within 60 months, domestic vaccine production capacity sufficient to provide vaccine for the entire U.S. population within 6 months after the development of a vaccine reference strain. Measure of performance: domestic vaccine manufacturing capacity in place to produce 300 million courses of vaccine within 6 months of development of a vaccine reference strain during a pandemic.	60

174	6.1.9.1.	HHS shall, to the extent feasible, work with antiviral drug manufacturers and large distributors to develop agreements supporting the Federal procurement of available stocks of antiviral drugs both during the pre-pandemic and pandemic periods, within 12 months. Measure of performance: new antiviral medications procured by SNS, within the constraints of industrial capacity; Federal contracts in place with antiviral drug manufacturers and distributors.	12
175	6.1.9.2.	HHS, in collaboration with the States, shall purchase sufficient quantities of antiviral drugs to treat 25 percent of the U.S. population, with reserve of 6 million treatment courses for outbreak containment within 18 months, within the constraints of industrial capacity. Measure of performance: 50 million treatment courses of antiviral drugs procured by SNS; States and tribes make stockpile purchases toward aggregate 31 million treatment course goal.	18
177	6.1.10.1.	HHS, in coordination with the private sector, shall assess the ability of U.S.-based pharmaceutical manufacturing facilities to contribute surge capacity and to retrofit existing facilities for pandemic vaccine production. This assessment will be completed within 6 months and should inform efforts to expand vaccine capacity. Measure of performance: completed assessment.	6
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6
179	6.1.11.1.	HHS shall assess its existing authorities and develop a plan of action to address any regulatory or other legal issues related to the expansion of domestic vaccine production capacity within 12 months. Measure of performance: regulatory and legal issues identified in assessment.	12
180	6.1.11.2.	HHS shall develop a protocol and decision tools to implement liability protections and compensation, as authorized by the Public Readiness and Emergency Preparedness Act (Pub. L. 109-148), within 6 months. Measure of performance: publication of protocol and decision tools.	6
181	6.1.12.1.	HHS shall collaborate with health care providers, industry partners, and State, local, and tribal public health authorities to develop public information campaigns and other mechanisms to stimulate increased seasonal influenza vaccination, within 12 months. Measure of performance: domestic vaccine use increased relative to historical norms.	12
182	6.1.13.1.	HHS, in coordination with DHS, DOD, VA, and DOJ, and in collaboration with State, local, and tribal partners and the private sector, shall ensure that States, localities, and tribal entities have developed and exercised pandemic influenza countermeasure distribution plans, and can enact security protocols if necessary, according to pre-determined priorities (see below) within 12 months. Measures of performance: ability to activate, deploy, and begin distributing contents of medical stockpiles in localities as needed established and validated through exercises.	12
183	6.1.13.2.	HHS, in coordination with DOD, VA, States, and other public sector entities with antiviral drug stockpiles, shall coordinate use of assets maintained by different organizations, within 12 months. Measure of performance: plans developed for coordinated use of antiviral stockpiles.	12

184	6.1.13.3.	HHS, in collaboration with State, territorial, tribal, and local health care delivery partners, shall develop and execute strategies to effectively implement target group recommendations as described below, within 12 months. Measure of performance: guidance on strategies to implement target group recommendations developed and disseminated to State, local, and tribal authorities for inclusion in pandemic response plans.	12
185	6.1.13.4.	HHS, in coordination with DOD, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall assist in the development of distribution plans for medical countermeasure stockpiles to ensure that delivery and distribution algorithms have been planned for each locality for antiviral distribution. Goal is to be able to distribute antiviral medications to infected patients within 48 hours of the onset of symptoms within 12 months. Measure of performance: distribution plans developed.	12
186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9
188	6.1.13.7.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and private sector partners to develop and test plans to allocate and distribute critical medical materiel (e.g., ventilators with accessories, resuscitator bags, gloves, face masks, gowns) in a health emergency, within 6 months. Measure of performance: plans developed, tested, and incorporated into department plan, and disseminated to States and tribes for incorporation into their pandemic response plans.	6
190	6.1.13.9.	HHS, in coordination with DOD, VA, and in collaboration with State, territorial, tribal, and local partners, shall develop/refine mechanisms to: (1) track adverse events following vaccine and antiviral administration; (2) ensure that individuals obtain additional doses of vaccine, if necessary; and (3) define protocols for conducting vaccine- and antiviral-effectiveness studies during a pandemic, within 18 months. Measure of performance: mechanism(s) to track vaccine and antiviral medication coverage and adverse events developed; vaccine- and antiviral-effectiveness study protocols developed.	18
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9

194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
196	6.1.15.1.	HHS shall develop capability, protocols, and procedures to ensure that viral isolates obtained during investigation of human outbreaks of influenza with pandemic potential are sequenced and that sequences are published on GenBank within 1 week of confirmation of diagnosis in index case, within 6 months. Measure of performance: viral isolate sequences from outbreaks published on GenBank within 1 week of confirmation of diagnosis.	6
197	6.1.15.2.	HHS shall increase and accelerate genomic sequencing of known human and avian influenza viruses and shall rapidly make this sequence information publicly available, within 6 months. Measure of performance: increased throughput of genomes sequenced (versus FY 2005 baseline) and decreased time interval between completion of sequencing and publication on GenBank.	6
198	6.1.15.3.	HHS shall develop protocols and procedures to ensure timely reporting to Federal agencies and submission for publication of data from HHS-supported influenza vaccine, antiviral medication, and diagnostic evaluation studies, within 6 months. Measure of performance: study data shared with Federal agencies within 1 month of analysis and publication of clinical trial data following completion of studies.	6
199	6.1.16.1.	HHS shall continue to support the advanced development of cell-culture based influenza vaccine candidates. Measure of performance: research grants and/or contracts awarded to develop cell-culture based influenza vaccines against currently circulating influenza strains with pandemic potential within 6 months.	6
200	6.1.16.2.	HHS shall support the renovation of existing U.S. manufacturing facilities that produce other FDA-licensed cell-based vaccines or biologics and the establishment of new domestic cell-based influenza vaccine manufacturing facilities, within 36 months. Measure of performance: contracts awarded for renovation or establishment of domestic cell-based influenza vaccine manufacturing capacity.	36
201	6.1.17.1.	HHS shall continue to support the development and clinical evaluation of novel vaccines and vaccination strategies (e.g., adjuvants, alternative delivery systems, common epitope vaccines). Measure of performance: research grants and/or contracts awarded to support the development of influenza vaccines (including polyvalent influenza vaccines), adjuvants and dose-sparing strategies, and more efficient delivery systems within 12 months, leading to initiation of phase I and II clinical trials to evaluate influenza vaccines and vaccination strategies.	12

202	6.1.17.2.	HHS shall collaborate with the pharmaceutical, medical device, and diagnostics industries to accelerate development, evaluation (including the evaluation of dose-sparing strategies), licensure, and U.S.-based production of new antiviral drugs and diagnostics. Development activities should include design of preclinical and clinical studies to collect safety and efficacy information across multiple strains and seasons of circulating influenza illness, and advance design of protocols to obtain additional updated information to support revisions in product usage during circulation of novel strains and evolution of pandemic spread. Such collaborations should involve early and frequent discussions with the FDA to explore the use of accelerated regulatory pathways towards product approval or licensure. Collaborations concerning diagnostic tests should include CDC to facilitate access to pandemic virus samples for validation testing and ensure that the test is one that can be used to promote and protect the public health during an influenza pandemic. Measure of performance: initiation of clinical trials of new influenza antiviral drugs and diagnostics.	
203	6.1.17.3.	HHS, in coordination with DHS, shall develop and test new point-of-care and laboratory-based rapid influenza diagnostics for screening and surveillance, within 18 months. Measure of performance: new grants and contracts awarded to researchers to develop and evaluate new diagnostics.	18
204	6.1.17.4.	HHS shall increase access to standardized influenza reagents for use in influenza tests and research, within 6 months. Measure of performance: standardized influenza reagents distributed to domestic and international partners within 3 business days of a request.	6
205	6.2.1.1.	HHS shall provide guidance to public health and clinical laboratories on the different types of diagnostic tests and the case definitions to use for influenza at the time of each pandemic phase. Guidelines for the current pandemic alert phase will be disseminated within 3 months. Measure of performance: dissemination on www.pandemicflu.gov and through other channels of guidance on the use of diagnostic tests for H5N1 and other potential pandemic influenza subtypes.	3
206	6.2.1.2.	HHS shall ensure that testing by reverse transcriptase-polymerase chain reaction (RT-PCR) for H5N1 and other influenza viruses with pandemic potential is available at LRN laboratories and CDC within 3 months. Measure of performance: RT-PCR for H5N1 and other potential pandemic influenza subtypes and strains in use at CDC and LRN laboratories.	3

207	6.2.1.3.	HHS, in coordination with DOD, VA, USDA, DHS, EPA, and other partners, in collaboration with its LRN Reference Laboratories, shall be prepared within 6 months to conduct laboratory analyses to detect pandemic subtypes and strains in referred specimens and conduct confirmatory testing, as requested. Measure of performance: initial testing and identification of suspect pandemic influenza specimens completed at LRN Reference and National Laboratories within 24 hours.	6
210	6.2.2.1.	HHS shall be prepared to provide ongoing information from the national influenza surveillance system on the pandemic's impact on health and the health care system, within 6 months. Measure of performance: surveillance data aggregated and disseminated every 7 days, or as often as the situation warrants, to DHS, Sector-Specific Agencies, and State, territorial, tribal, and local partners.	6
211	6.2.2.2.	HHS, in coordination with Federal, State, local, tribal, and private sector partners, shall develop real-time (same-day) tracking capabilities of pneumonia or influenza hospitalizations and influenza deaths to enhance its surveillance capabilities at the onset of and during a pandemic, within 12 months. Measure of performance: real-time (same-day) nationwide hospital census and mortality tracking system is operational for use during a pandemic.	12
212	6.2.2.3.	HHS, in coordination with DOD and VA, shall expand the number of hospitals and cities participating in the BioSenseRT program to improve the Nation's capabilities for disease detection, monitoring, and situational awareness within 12 months. Measure of performance: number of hospitals (including DOD and VA facilities) participating in the BioSenseRT program increased to 350 hospitals in 42 cities.	12
213	6.2.2.4.	HHS shall reduce the time between reporting of virologic laboratory data from State, local, tribal, and private sector partners and collation, analysis, and reporting to key stakeholders, within 6 months. Measure of performance: time delay between receipt of data and collation, analysis, and reporting of results of 7 days or less.	6

214	6.2.2.5.	HHS shall increase the frequency of reporting and the number and geographic location of reporting health care providers from which outpatient surveillance data are collected through the Sentinel Provider Network (SPN), the Emerging Infections Program (EIP) influenza project, and the New Vaccine Surveillance Network (NVSN), within 6 months. Measure of performance: number of reporting healthcare providers increased to one or more per 250,000 population.	6
215	6.2.2.6.	HHS shall improve the speed at which it performs mortality surveillance through the 122 Cities Mortality Reporting System within 3 months. Measure of performance: mortality data collected at CDC within 1 week of decedent's demise increased by 25 percent compared with 2005.	3
217	6.2.2.8.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with State, local, and tribal authorities, shall be prepared to collect, analyze, integrate, and report information about the status of hospitals and health care systems, health care critical infrastructure, and medical materiel requirements, within 12 months. Measure of performance: guidance provided to States and tribal entities on the use and modification of the components of the National Hospital Available Beds for Emergencies and Disasters (HAvBED) system for implementation at the local level.	12
221	6.2.3.1.	HHS, in coordination with DHS and DOD, shall work with pharmaceutical and medical device company partners to develop and evaluate rapid diagnostic tests for novel influenza subtypes including H5N1 within 18 months. Measure of performance: new investment in research to develop influenza diagnostics; new rapid diagnostic tests, if found to be useful, are available for influenza testing, including for novel influenza subtypes.	18
222	6.2.3.2.	HHS, in coordination with DHS, DOD, and VA, shall compile an inventory of all research and product development work on rapid diagnostic testing for influenza and shall reach consensus on sets of requirements meeting national needs and a common test methodology to drive further private-sector investment and product development, within 6 months. Measure of performance: inventory developed and requirements paper disseminated.	6

223	6.2.3.3.	HHS, in coordination with DOD, VA, and DHS, shall encourage and expedite private-sector development of rapid subtype- and strain-specific influenza point-of-care tests within 12 months of the publication of requirements. Measure of performance: rapid point-of-care test available in the marketplace within 18 months.	18
224	6.2.3.4.	HHS-, DOD-, and VA-funded hospitals and health facilities shall have access to improved rapid diagnostic tests for influenza A, including influenza with pandemic potential, within 6 months of when tests become available. Measure of performance: diagnostic tests, if found to be useful, are accessible to federally funded health facilities.	6
226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12
229	6.2.5.1.	HHS, in coordination with DOD and DHS, shall develop and maintain a real-time epidemic analysis and modeling hub that will explore and characterize response options as a support to policy and decision makers within 6 months. Measure of performance: modeling center with real-time epidemic analysis capabilities established.	6
231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6
232	6.3.2.2.	HHS shall provide guidance on the role and evaluation of the efficacy of geographic quarantine in efforts to contain an outbreak of influenza with pandemic potential at its source, within 3 months. Measure of performance: guidance available within 72 hours of initial outbreak.	3
233	6.3.2.3.	HHS, in coordination with DHS and DOD and in collaboration with mathematical modelers, shall complete research identifying optimal strategies for using voluntary home quarantine, school closure, snow day restrictions, and other community infection control measures, within 12 months. Measure of performance: guidance developed and disseminated on the use of community control.	12

235	6.3.2.5.	All HHS-, DOD-, and VA-funded hospitals and health facilities shall develop, test, and be prepared to implement infection control campaigns for pandemic influenza, within 3 months. Measure of performance: guidance materials on infection control developed and disseminated on www.pandemicflu.gov and through other channels.	3
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
238	6.3.3.1.	HHS, in coordination with DHS, VA, and DOD, shall develop and disseminate guidance that explains steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 3 months. Measure of performance: guidance disseminated on www.pandemicflu.gov and through VA and DOD channels.	3
239	6.3.3.2.	HHS, in coordination with DHS, DOD, VA, and DOT and in collaboration with State, local, and tribal partners, shall develop and disseminate lists of social distancing behaviors that individuals may adopt within 6 months and update guidance as additional data becomes available. Measure of performance: guidance disseminated on www.pandemicflu.gov and through other channels.	6
240	6.3.4.1.	Major medical societies and organizations, in collaboration with HHS, DHS, DOD, and VA, should develop and disseminate protocols for changing clinical care algorithms in settings of severe medical surge. Measure of performance: evidence-based protocols developed to optimize care that can be provided in conditions of severe medical surge.	
241	6.3.4.2.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with States, localities, tribal entities, and private sector health care facilities, shall develop strategies and protocols for expanding hospital and home health care delivery capacity in order to provide care as effectively and equitably as possible, within 6 months. Measure of performance: guidance and protocols developed and disseminated.	6
242	6.3.4.3.	HHS shall work with State Medicaid and SCHIP programs to ensure that Federal standards and requirements for reimbursement or enrollment are applied with the flexibilities appropriate to a pandemic, consistent with applicable law. Preliminary strategies shall be developed within 6 months. Measure of performance: draft policies and guidance developed concerning emergency enrollment in and reimbursement through State Medicaid and SCHIP programs during a pandemic.	6
243	6.3.4.4.	DHS assets, including NDMS medical materiel and mobile medical units, and HHS assets, such as the USPHS Commissioned Corps and FMSs, shall be deployed in a manner consistent with pre-defined strategic considerations. Measure of performance: development, within 6 months, of strategic principles for deployment of Federal medical assets in a pandemic; consistency of deployments during a pandemic with these principles.	6

245	6.3.4.6.	HHS shall deploy the USPHS Commissioned Corps and FMSs, if available and in combination or separately as circumstances warrant, to augment efforts of State/local governments as part of the Federal response. Measure of performance: USPHS Commissioned Corps personnel trained on FMSs within 9 months; Commissioned Corps personnel and FMSs deployed within 72 hours of order to mobilize during a pandemic.	9
250	6.3.5.1.	HHS, in coordination with DHS, DOL, Education, VA, and DOD, shall develop and disseminate guidance and educational tools that explain steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 6 months. Measure of performance: interim guidance disseminated on www.pandemicflu.gov and through VA, DOD, and other channels within 3 months; complementary educational tools on social distancing, personal hygiene, mask use, and other infection control precautions developed within 6 months.	6
251	6.3.5.2.	HHS, in collaboration with State, local, and tribal governments, shall develop and disseminate recommendations for the use, if any, of antiviral stockpiles for targeted post-exposure prophylaxis in civilian populations, within 3 months. Measure of performance: States, localities, and tribal entities have received recommendations for incorporation into response plans.	3
252	6.3.5.3.	HHS, in coordination with DHS, shall allocate and assure the effective and secure distribution of public stocks of antiviral drugs and vaccines when they become available. HHS and DHS are currently prepared to distribute stockpile as soon as countermeasures become available. Measure of performance: number of doses of vaccine and treatment courses of antiviral medications distributed.	
254	6.3.7.1.	HHS, in coordination with DHS, DOD, VA, and DOT, and as the lead for ESF #8, shall identify public health and medical capabilities required to support a pandemic response and work with other supporting agencies to identify and deploy or otherwise deliver the required capability or asset, if available. Measure of performance: inventory of public health and medical capabilities within 6 months; available public health or medical capabilities or assets deployed or delivered during a pandemic.	6
259	6.3.8.1.	HHS, in coordination with DHS, DOD, and VA, shall develop and disseminate a risk communication strategy within 6 months, updating it as required. Measure of performance: implementation of risk communication strategy on www.pandemicflu.gov and elsewhere.	6
266	7.1.3.3.	HHS, in coordination with USDA, DHS, and the Department of Labor (DOL), shall work with the poultry and swine industries to provide information regarding strategies to prevent avian and swine influenza infection among animal workers and producers, within 6 months. Measure of performance: guidelines developed and disseminated to poultry and swine industries.	6

294	7.3.5.2.	USDA and HHS, in coordination with DHS, State, local, and tribal partners, industry groups, and other stakeholders, shall develop guidelines to assure the public of the safety of the food supply during an outbreak of influenza in animals, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced and shared with partners; within first 24 hours of an outbreak, appropriately updated guidelines on food safety shared with the public.	6
304	8.1.2.4.	HHS and DOJ shall ensure consistency of the CDC Public Health Emergency Law Course with the National Strategy for Pandemic Influenza (Strategy), this Plan and other Federal pandemic documents and then disseminate the CDC Public Health Emergency Law Course across the United States within 6 months. Measure of performance: distribution of presentations of reviewed public health emergency law course to all States.	6
308	8.1.3.1.	HHS, in coordination with DOL, shall provide clear guidance to law enforcement and other emergency responders on recommended preventive measures, including pre-pandemic vaccination, to be taken by law enforcement and emergency responders to minimize risk of infection from pandemic influenza, within 6 months. Measure of performance: development and dissemination of guidance for law enforcement and other emergency responders.	6
310	8.3.1.1.	HHS, in coordination with DOJ, DOS, and DHS, shall determine when and how it will assist States in enforcing their quarantines and how it will enforce a Federal quarantine, within 9 months. Measure of performance: guidelines on quarantine enforcement available to all States.	9
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6
321	9.1.4.2.	HHS, in coordination with DHS, DOL, EPA, Department of Education, VA, and DOD, shall develop interim guidance regarding environmental management and cleaning practices including the handling of potentially contaminated waste material, within 3 months, and revise as additional data becomes available. Measure of performance: development and publication of guidance and checklists on www.pandemicflu.gov and disseminated through other channels.	3
1	4.1.1.1.	DOS, in coordination with HHS, USAID, DOD, and DOT, shall work with the Partnership, the Senior UN System Coordinator for Avian and Human Influenza, other international organizations (e.g., WHO, World Bank, OIE, FAO) and through bilateral and multilateral initiatives to encourage countries, particularly those at highest risk, to develop and exercise national and regional avian and pandemic response plans within 12 months. Measure of performance: 90 percent of high-risk countries have response plans and plans to test them.	12

17	4.1.4.5.	USAID, in coordination with DOS, HHS, and USDA, shall develop and disseminate influenza information to priority countries through international broadcasting channels, including international USG mechanisms such as Voice of America and Radio Free Asia (radio, television, shortwave, Internet), and share lessons learned and key messages from communications campaigns, within 12 months. Measure of performance: local language briefing materials and training programs developed and distributed via WHO and FAO channels.	12
22	4.1.6.1.	DOS, in coordination with HHS and other agencies, shall continue to work through the Partnership and other bilateral and multilateral venues to build international cooperation and encourage countries and regional organizations to develop diagnostic, research and vaccine manufacturing capacity within 24 months. Measure of performance: global diagnostic and research capacity increased significantly compared to 24 months earlier; significant investments made to expand international vaccine manufacturing capacity.	24
25	4.1.7.1.	DOS shall work with HHS and USAID, in collaboration with the WHO Secretariat, to coordinate the USG contribution to an international stockpile of antiviral medications and other medical countermeasures, including international countermeasure distribution plans and mechanisms and agreed prioritization of allocation, within 6 months. Measure of performance: release of proposed doctrine of deployment and concept of operations for an international stockpile.	6
26	4.1.7.2.	The Department of Justice (DOJ) and DOS, in coordination with HHS, shall consider whether the USG, in order to benefit from the protections of the Defense Appropriations Act, should seek to negotiate liability-limiting treaties or arrangements covering U.S. contributions to an international stockpile of vaccine and other medical countermeasures, within 6 months. Measure of performance: review initiated and decision rendered.	6
53	4.2.3.8.	DOD, in coordination with HHS, shall develop and refine its overseas virologic and bacteriologic surveillance infrastructure through Global Emerging Infections Surveillance and Response System (GEIS) and the DOD network of overseas labs, including fully developing and implementing seasonal influenza laboratory surveillance and an animal/vector surveillance plan linked with WHO pandemic phases, within 18 months. Measure of performance: animal/vector surveillance plan and DOD overseas virologic surveillance network developed and functional.	18
54	4.2.3.9.	DOD, in coordination with HHS, shall prioritize international DOD laboratory research efforts to develop, refine, and validate diagnostic methods to rapidly identify pathogens, within 18 months. Measure of performance: completion of prioritized research plan, resources identified, and tasks assigned across DOD medical research facilities.	18

62	4.2.7.1.	DOS, in coordination with DOT, DHS, HHS, and U.S. Trade Representative (USTR), shall collaborate with WHO, the International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) to assess and revise, as necessary and feasible, existing international agreements and regulations governing the movement and shipping of potentially infectious products, in order to ensure that international agreements are both adequate and legally sufficient to prevent the spread of infectious disease, within 12 months. Measure of performance: international regulations reviewed and revised.	12
65	4.3.1.1.	DOS, in coordination with HHS, USDA, USAID, and DOD, shall coordinate the development and implementation of U.S. capability to respond rapidly to assess and contain outbreaks of avian influenza with pandemic potential abroad, including coordination of the development, training and exercise of U.S. rapid response teams; and coordination of U.S. support for development, training and exercise of, and U.S. participation in, international support teams. Measure of performance: agreed operating procedures and operational support for U.S. rapid response, and for U.S. participation in international rapid response efforts, are developed and function effectively.	
66	4.3.1.2.	DOS, in coordination with HHS, shall work with WHO and the international community to secure agreement (e.g., through a resolution at the World Health Assembly in May 2006) on an international containment strategy to be activated in the event of a human outbreak, including an accepted definition of a "triggering event" and an agreed doctrine for coordinated international action, responsibilities of nations, and steps they will take, within 4 months. Measure of performance: international agreement on a response and containment strategy.	4
68	4.3.1.4.	DOS, in coordination with HHS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall coordinate United States participation in the implementation of the international response and containment strategy (e.g., assigning experts to the WHO outbreak teams and providing assistance and advice to ministries of health on local public health interventions, ongoing disease surveillance, and use of antiviral medications and vaccines if they are available). Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
69	4.3.1.5.	USDA and USAID, in coordination with DOS, HHS, and DOD, and in collaboration with relevant international organizations, shall support operational deployment of rapid response teams and provide technical expertise and technology to support avian influenza assessment and response teams in priority countries as required. Measure of performance: all priority countries have rapid access to avian influenza assessment and response teams; deployment assistance provided in each instance and documented in a log of technical assistance rendered.	
71	4.3.1.7.	DOS, in coordination with and drawing on the expertise of USAID, HHS, and DOD, shall work with the international community to develop, within 12 months, a coordinated, integrated, and prioritized distribution plan for pandemic influenza assistance that details a strategy for (1) strategic lift of WHO stockpiles and response teams, (2) theater distribution to high-risk countries, (3) in-country coordination to key distribution areas, and (4) establishment of internal mechanisms within each country for distribution to urban, rural, and remote populations. Measure of performance: commitments by countries that specify their ability to support distribution, and specify the personnel and material for such support.	12

72	4.3.1.8.	DOS, in coordination with HHS, USDA, USAID, and DHS, and in collaboration with WHO, FAO, OIE, the World Bank and regional institutions such as APEC, the Association of Southeast Asian Nations and the European Community, shall, to the extent feasible, improve public affairs coordination and establish a set of agreed upon operating principles among these international organizations and the United States that describe the actions and expectations of the public affairs strategies of these entities that would be implemented in the event of a pandemic, within 6 months. Measure of performance: list of key public affairs contacts developed, planning documents shared, and coordinated public affairs strategy developed.	6
74	4.3.2.1.	DOS, in coordination with DHS, HHS, DOD, and DOT, and in collaboration with foreign counterparts, shall support the implementation of pre-existing passenger screening protocols in the event of an outbreak of pandemic influenza. Measure of performance: protocols implemented within 48 hours of notification of an outbreak of pandemic influenza.	
75	4.3.2.2.	DOD, in coordination with DOS, HHS, DOT, and DHS, will limit official DOD military travel between affected areas and the United States. Measure of performance: DOD identifies military facilities in the United States and OCONUS that will serve as the points of entry for all official travelers from affected areas, within 6 months.	6
76	4.3.3.1.	DOS, in coordination with HHS, USAID, USDA, and DOD, shall work with the Partnership to assist in the prompt and effective delivery of countermeasures to affected countries consistent with U.S. law and regulation and the agreed upon doctrine for international action to respond to and contain an outbreak of influenza with pandemic potential. Measure of performance: necessary countermeasures delivered to an affected area within 48 hours of agreement to meet request.	
82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3
83	4.3.6.2.	DOS, in coordination with HHS, shall provide at least monthly updates to its foreign counterparts, through diplomatic channels and USG websites, regarding changes to national policy or regulations that may result from an outbreak, and shall coordinate posting of such information to USG websites (e.g., www.pandemicflu.gov). Measure of performance: foreign governments and key stakeholders receive authoritative and regular information on USG avian influenza policy.	
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6

87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12
88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
92	5.1.2.2.	DOT, in coordination with DHS, HHS, and transportation stakeholders, shall convene a series of forums with governors and mayors to discuss transportation and border challenges that may occur in a pandemic, share approaches, and develop a planning strategy to ensure a coordinated national response, within 12 months. Measure of performance: strategy for coordinated transportation and border planning is developed and forums initiated.	12
93	5.1.2.3.	DOT and DHS, in coordination with HHS, USDA, and transportation stakeholders, shall develop planning guidance and materials for State, local, and tribal governments, including scenarios that highlight transportation and border challenges and responses to overcome those challenges, and an overview of transportation roles and responsibilities under the NRP, within 12 months. Measure of performance: State, local, and tribal governments have received or have access to tailored guidance and planning materials.	12
96	5.1.3.1.	DHS, in coordination with DOT, HHS, and USDA, shall conduct tabletop discussions and other outreach with private sector transportation and border entities to provide background on the scope of a pandemic, to assess current preparedness, and jointly develop a planning guide, within 8 months. Measure of performance: private sector transportation and border entities have coordinated Federal guidance to support pandemic planning, including a planning guide that addresses unique border and transportation challenges by mode.	8

97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
103	5.2.2.1.	DHS, in coordination with HHS and DOD, shall deploy human influenza rapid diagnostic tests with greater sensitivity and specificity at borders and ports of entry to allow real-time health screening, within 12 months of development of tests. Measure of performance: diagnostic tests, if found to be useful, are deployed; testing is integrated into screening protocols to improve screening at the 20-30 most critical ports of entry.	12
104	5.2.3.1.	DHS, in coordination with HHS, DOT, DOS, and DOD, shall work closely with domestic and international air carriers and cruise lines to develop and implement protocols (in accordance with U.S. privacy law) to retrieve and rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, within 6 months. Measure of performance: aviation and maritime protocols implemented and information on potentially infected travelers available to appropriate authorities.	6
107	5.2.4.3.	DOS, in coordination DHS, DOT, and HHS, in consultation with aviation, maritime, and tourism industry stakeholders as appropriate, and working with international partners and through international organizations as appropriate, shall promote the establishment of arrangements through which countries would: (1) voluntarily limit travel if affected by outbreaks of pandemic influenza; and (2) establish pre-departure screening protocols for persons with influenza-like illness, within 16 months. Measure of performance: arrangements for screening protocols are negotiated.	16
109	5.2.4.5.	DOT and DHS, in coordination with HHS, DOD, DOS, airlines/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop protocols to manage and/or divert inbound international flights and vessels with suspected cases of pandemic influenza that identify roles, actions, relevant authorities, and events that trigger response, within 12 months. Measure of performance: interagency response protocols for inbound flights completed and disseminated to appropriate entities.	12
113	5.2.4.9.	DHS, in coordination with DOS, HHS, Treasury, and the travel and trade industry, shall tailor existing automated screening programs and extended border programs to increase scrutiny of travelers and cargo based on potential risk factors (e.g., shipment from or traveling through areas with pandemic outbreaks) within 6 months. Measure of performance: enhanced risk-based screening protocols implemented.	6
116	5.2.5.2.	USDA, in coordination with DHS, DOI, and HHS, shall review the process for withdrawing permits for importation of live avian species or products and identify ways to increase timeliness, improve detection of high-risk importers, and increase outreach to importers and their distributors, within 6 months. Measure of performance: revised process for withdrawing permits of high-risk importers.	6

120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
122	5.3.1.2.	DOS, in coordination with DOT, HHS, DHS, DOD, air carriers, and cruise lines, shall work with host countries to implement agreed upon pre-departure screening based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols agreed upon and put in place in countries within 24 hours of an outbreak.	
123	5.3.1.3.	DOS, in coordination with HHS, DHS, and DOT, shall offer transportation-related technical assistance to countries with outbreaks. Measure of performance: countries with outbreaks receive U.S. offer of technical support within 36 hours of an outbreak.	
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.	
126	5.3.1.6.	DHS, in coordination with DOT, HHS, USDA, DOD, appropriate State, and local authorities, air carriers and airports, shall consider implementing response or screening protocols at domestic airports and other transport modes as appropriate, based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols in place within 24 hours of directive to do so.	
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
146	5.3.6.1.	DOT and DHS, in coordination with HHS, DOS, and DOC, shall conduct media and stakeholder outreach to restore public confidence in travel. Measure of performance: outreach delivered and traveling public resumes use of the transportation system at or near pre-pandemic levels.	

147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	
150	6.1.1.3.	DHS, in coordination with HHS, DOJ, DOT, and DOD, shall be prepared to provide emergency response element training (e.g., incident management, triage, security, and communications) and exercise assistance upon request of State, local, and tribal communities and public health entities within 6 months. Measure of performance: percentage of requests for training and assistance fulfilled.	6
163	6.1.4.2.	DOT, in cooperation with HHS, DHS, and DOC, shall develop model protocols for 9-1-1 call centers and public safety answering points that address the provision of information to the public, facilitate caller screening, and assist with priority dispatch of limited emergency medical services, within 12 months. Measure of performance: model protocols developed and disseminated to 9-1-1 call centers and public safety answering points.	12
187	6.1.13.6.	DOT, in coordination with HHS, DHS, State, local, and tribal officials and other EMS stakeholders, shall develop suggested EMS pandemic influenza guidelines for statewide adoption that address: clinical standards, education, treatment protocols, decontamination procedures, medical direction, scope of practice, legal parameters, and other issues, within 12 months. Measure of performance: EMS pandemic influenza guidelines completed.	12
191	6.1.13.10.	DOJ, in coordination with HHS, DHS, DOS, and DOC, shall lead the development of a joint strategic plan to ensure international shipments of counterfeit vaccine and antiviral medications are detected at our borders and that domestic counterfeit drug production and distribution is thwarted through aggressive enforcement efforts. Measure of performance: joint strategic plan developed; international and domestic counterfeit drug shipments prevented or interdicted.	
216	6.2.2.7.	DHS, in collaboration with HHS, DOD, VA, USDA and other Federal departments and agencies with biosurveillance capabilities and real-time data sources, will enhance NBIS capabilities to ensure the availability of a comprehensive and all-source biosurveillance common operating picture throughout the Interagency, within 12 months. Measure of performance: NBIS provides integrated surveillance data to DHS, HHS, USDA, DOD, VA, and other interested interagency customers.	12
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6

260	6.3.8.2.	DOD and VA, in coordination with HHS, shall develop and disseminate educational materials, coordinated with and complementary to messages developed by HHS but tailored for their respective departments, within 6 months. Measure of performance: up-to-date risk communication material published on DOD and VA pandemic influenza websites, HHS website www.pandemicflu.gov, and in other venues.	6
261	7.1.1.1.	USDA, in coordination with DHS, HHS, DOD, and DOI, and in partnership with State and tribal entities, animal industry groups, and (as appropriate) the animal health authorities of Canada and Mexico, shall establish and exercise animal influenza response plans within 6 months. Measure of performance: plans in place at specified Federal agencies and exercised in collaboration with States believed to be at highest risk for an introduction into animals of an influenza virus with human pandemic potential.	6
263	7.1.2.2.	USDA, in coordination with DOD, HHS, DHS, and DOI, shall partner with States and tribal entities to ensure sufficient veterinary diagnostic laboratory surge capacity for response to an outbreak of avian or other influenza virus with human pandemic potential, within 6 months. Measure of performance: plans and necessary agreements to meet laboratory capacity needs for a worst case scenario influenza outbreak in animals validated by utilization in exercises.	6
286	7.3.1.1.	USDA, in coordination with DHS, HHS, DOI, and the Environmental Protection Agency, shall partner with State and tribal entities, animal industries, individual animal owners, and other affected stakeholders to eradicate any influenza outbreak in commercial or other domestic birds or domestic animals caused by a virus that has the potential to become a human pandemic strain, and to safely dispose of animal carcasses. Measure of performance: at least one incident management team from USDA on site within 24 hours of detection of such an outbreak.	
293	7.3.5.1.	USDA, in coordination with DHS, DOI, and HHS, shall work with State, local, and tribal partners, industry groups, and other stakeholders to develop, clear and coordinated pre-scripted public messages that can later be tailored to the specifics of a given outbreak and delivered by trained spokespersons, within 3 months. Measure of performance: appropriate informational and risk mitigation messages developed prior to an outbreak, then shared with the public within 24 hours of an outbreak.	3
297	8.1.1.2.	DHS, in coordination with DOJ, HHS, DOL, and DOD, shall develop a pandemic influenza tabletop exercise for State, local, and tribal law enforcement/public safety officials that they can conduct in concert with public health and medical partners, and ensure it is distributed nationwide within 4 months. Measure of performance: percent of State, local, and tribal law enforcement/public safety agencies that have received the pandemic influenza tabletop exercise.	4
301	8.1.2.1.	DOJ, in coordination with HHS, DOL, and DHS, shall convene a forum for selected Federal, State, local, and tribal law enforcement/public safety personnel to discuss the issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4

307	8.1.2.7.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall convene a forum for selected Federal, State, local, and tribal personnel to discuss EMS, fire, emergency management, public works, and other emergency response issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
312	8.3.2.2.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall engage in contingency planning and related exercises to ensure they are prepared to sustain EMS, fire, emergency management, public works, and other emergency response functions during a pandemic, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting EMS, fire, emergency management, public works, and other emergency response functions.	6
313	9.1.1.1.	DHS, in coordination with HHS, DOD, and DOL shall provide pandemic influenza COOP guidance to the Federal departments and agencies within 6 months. Measure of performance: COOP planning and personnel protection guidance provided to all departments for use, as necessary, in updating departmental pandemic influenza response plans.	6
314	9.1.1.2.	The Office of Personnel Management (OPM), in coordination with DHS, HHS, DOD, and DOL, shall provide guidance to the Federal departments and agencies on human capital management and COOP planning criteria related to pandemic influenza, within 3 months. Measure of performance: guidance provided to all departments for use, as necessary, in adjusting departmental COOP plans related to pandemic influenza.	3
315	9.1.1.3.	OPM, in coordination with DHS, HHS, DOD, and DOL, shall update the guides Telework: A Management Priority, A Guide for Managers, Supervisors, and Telework Coordinators; Telework 101 for Managers: Making Telework Work for You; and, Telework 101 for Employees: Making Telework Work for You, to provide guidance to Federal departments regarding workplace options during a pandemic, within 3 months. Measure of performance: updated telework guidance provided to all departments for use, as necessary, in updating departmental COOP plans related to pandemic influenza.	3
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6
318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6

319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

Departments	HHS	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
61	4.2.6.1.	DHS, USDA, DOI, and USAID, in collaboration with priority countries, NGOs, WHO, FAO, OIE, and the private sector shall support priority country animal health activities, including development of regulations and enforcement capacities that conform to OIE standards for transboundary movement of animals, development of effective biosecurity measures for commercial and domestic animal operations and markets, and identification and confirmation of infected animals, within 12 months. Measure of performance: 50 percent of priority countries have implemented animal health activities as defined above.	12
78	4.3.4.2.	DHS shall assist in the expeditious movement of public health, medical, and veterinary officials, equipment, supplies, and biological samples for testing through U.S. ports of entry/departure. Measure of performance: delivery of persons, equipment, and samples involved in the detection of and response to outbreaks of avian or pandemic influenza within 48 hours of decision to deploy.	
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12

88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
91	5.1.2.1.	DHS and HHS, in coordination with DOT and USDA, shall review existing grants or Federal funding that could be used to support transportation and border-related pandemic planning, within 4 months. Measure of performance: all State, local, and tribal governments are in receipt of, or have access to, guidance for grant applications.	4
93	5.1.2.3.	DOT and DHS, in coordination with HHS, USDA, and transportation stakeholders, shall develop planning guidance and materials for State, local, and tribal governments, including scenarios that highlight transportation and border challenges and responses to overcome those challenges, and an overview of transportation roles and responsibilities under the NRP, within 12 months. Measure of performance: State, local, and tribal governments have received or have access to tailored guidance and planning materials.	12
95	5.1.2.5.	DHS and DOT, in coordination with DOD and States, shall develop a range of options to cope with potential shortages of commodities and demand for essential services, such as building reserves of essential goods, within 20 months. Measure of performance: options developed and available for State, local, and tribal governments to refine and incorporate in contingency plans.	20
96	5.1.3.1.	DHS, in coordination with DOT, HHS, and USDA, shall conduct tabletop discussions and other outreach with private sector transportation and border entities to provide background on the scope of a pandemic, to assess current preparedness, and jointly develop a planning guide, within 8 months. Measure of performance: private sector transportation and border entities have coordinated Federal guidance to support pandemic planning, including a planning guide that addresses unique border and transportation challenges by mode.	8
97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
100	5.1.4.2.	DHS, in coordination with DOT, DOL, Office of Personnel Management (OPM), and DOS, shall disseminate workforce protection information to stakeholders, conduct outreach with stakeholders, and implement a comprehensive program for all Federal transportation and border staff within 12 months. Measure of performance: 100 percent of workforce has or has access to information on pandemic influenza risk and appropriate protective measures.	12

103	5.2.2.1.	DHS, in coordination with HHS and DOD, shall deploy human influenza rapid diagnostic tests with greater sensitivity and specificity at borders and ports of entry to allow real-time health screening, within 12 months of development of tests. Measure of performance: diagnostic tests, if found to be useful, are deployed; testing is integrated into screening protocols to improve screening at the 20-30 most critical ports of entry.	12
104	5.2.3.1.	DHS, in coordination with HHS, DOT, DOS, and DOD, shall work closely with domestic and international air carriers and cruise lines to develop and implement protocols (in accordance with U.S. privacy law) to retrieve and rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, within 6 months. Measure of performance: aviation and maritime protocols implemented and information on potentially infected travelers available to appropriate authorities.	6
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8
109	5.2.4.5.	DOT and DHS, in coordination with HHS, DOD, DOS, airlines/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop protocols to manage and/or divert inbound international flights and vessels with suspected cases of pandemic influenza that identify roles, actions, relevant authorities, and events that trigger response, within 12 months. Measure of performance: interagency response protocols for inbound flights completed and disseminated to appropriate entities.	12
111	5.2.4.7.	DHS, DOT, and HHS, in coordination with transportation and border stakeholders, and appropriate State and local health authorities, shall develop aviation, land border, and maritime entry and exit protocols and/or screening protocols, and education materials for non-medical, front-line screeners and officers to identify potentially infected persons or cargo, within 10 months. Measure of performance: protocols and training materials developed and disseminated.	10
112	5.2.4.8.	DHS and HHS, in coordination with DOT, DOJ, and appropriate State and local health authorities, shall develop detection, diagnosis, quarantine, isolation, EMS transport, reporting, and enforcement protocols and education materials for travelers, and undocumented aliens apprehended at and between Ports of Entry, who have signs or symptoms of pandemic influenza or who may have been exposed to influenza, within 10 months. Measure of performance: protocols developed and distributed to all ports of entry.	10
113	5.2.4.9.	DHS, in coordination with DOS, HHS, Treasury, and the travel and trade industry, shall tailor existing automated screening programs and extended border programs to increase scrutiny of travelers and cargo based on potential risk factors (e.g., shipment from or traveling through areas with pandemic outbreaks) within 6 months. Measure of performance: enhanced risk-based screening protocols implemented.	6

114	5.2.4.10.	HHS, DHS, and DOT, in coordination with DOS, State, community and tribal entities, and the private sector, shall develop a public education campaign on pandemic influenza for travelers, which raises general awareness prior to a pandemic and includes messages for use during an outbreak, within 15 months. Measure of performance: public education campaign developed on how a pandemic could affect travel, the importance of reducing non-essential travel, and potential screening measures and transportation and border messages developed based on pandemic stages.	15
115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12
120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
124	5.3.1.4.	DHS, in coordination with DOS, USDA and DOI, shall provide countries with guidance to increase scrutiny of cargo and other imported items through existing programs, such as the Container Security Initiative, and impose country-based restrictions or item-specific embargoes. Measure of performance: guidance, which may include information on restrictions, is provided for increased scrutiny of cargo and other imported items, within 24 hours upon notification of an outbreak.	
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.	
126	5.3.1.6.	DHS, in coordination with DOT, HHS, USDA, DOD, appropriate State, and local authorities, air carriers and airports, shall consider implementing response or screening protocols at domestic airports and other transport modes as appropriate, based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols in place within 24 hours of directive to do so.	
127	5.3.2.1.	DHS, DOS, and HHS, in coordination with DOT and USDA, shall issue travel advisories/public announcements for areas where outbreaks have occurred and ensure adequate coordination with appropriate transportation and border stakeholders. Measure of performance: coordinated announcements and warnings developed within 24 hours of becoming aware of an outbreak and timely updates provided as required.	

128	5.3.2.2.	DHS and DOT, in coordination with DOS and Treasury, and international and domestic stakeholders, shall consider activating plans, consistent with international law, to selectively limit or deny entry to U.S. airspace, U.S. territorial seas (12 nautical miles offshore), and ports of entry, including airports, seaports, and land borders and/or restrict domestic transportation, based on risk, public health benefits, and economic impacts. Measure of performance: measures implemented within 6 hours of decision to do so.	
129	5.3.2.3.	DHS, in coordination with USDA, DOS, DOC, DOI, and shippers, shall rapidly implement and enforce cargo restrictions for export or import of potentially contaminated cargo, including embargo of live birds, and notify international partners/shippers. Measure of performance: measures implemented within 6 hours of decision to do so.	
131	5.3.3.2.	DHS and DOT, in coordination with DOS, shall gather information from the private sector, international, State, local, and tribal entities, and transportation associations to assess and report the status of the transportation sector. Measure of performance: decision makers have current and accurate information on the status of the transportation sector.	
132	5.3.4.1.	DHS and DOT shall notify border and transportation stakeholders and provide recommendations to implement contingency plans and/or use authorities to restrict movement based on ability to limit spread, economic and societal consequences, international considerations, and operational feasibility. Measure of performance: border and transportation stakeholders receive notification and recommendations within no more than 24 hours (depending on urgency) of an outbreak or significant development that may warrant a change in stakeholder actions or protective measures.	
133	5.3.4.2.	DHS and DOT shall consider activating contingency plans as needed to ensure availability of Federal personnel at more critical facilities and higher volume crossings or hubs. Measure of performance: Federal services sustained at high-priority/high-volume facilities.	
134	5.3.4.3.	DHS, if needed, will implement contingency plans to maintain border control during a period of pandemic influenza induced mass migration. Measure of performance: contingency plan activated within 24 hours of notification.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	

137	5.3.4.6.	DOJ and DHS shall protect targeted shipments of critical supplies and facilities by providing limited Federal security forces under Emergency Support Function #13 - Public Safety and Security (ESF #13) of the NRP, as needed. Measure of performance: all appropriate Federal, State, local, and tribal requests for Federal law enforcement and security assistance met via activation of ESF #13 of the NRP. (See also Chapter 8 - Law Enforcement, Public Safety, and Security.)	
138	5.3.4.7.	DHS, in coordination with DOS, DOT, DOD, and the Merchant Marine, shall work with major commercial shipping fleets and the international community to ensure continuation of maritime transport and commerce, including activation of plans, as needed, to provide emergency medical support to crews of vessels that are not capable of safe navigation. Measure of performance: maritime transportation capacity meets demand and vessel mishaps remain proportional to number of ship movements.	
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
146	5.3.6.1.	DOT and DHS, in coordination with HHS, DOS, and DOC, shall conduct media and stakeholder outreach to restore public confidence in travel. Measure of performance: outreach delivered and traveling public resumes use of the transportation system at or near pre-pandemic levels.	
147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	
150	6.1.1.3.	DHS, in coordination with HHS, DOJ, DOT, and DOD, shall be prepared to provide emergency response element training (e.g., incident management, triage, security, and communications) and exercise assistance upon request of State, local, and tribal communities and public health entities within 6 months. Measure of performance: percentage of requests for training and assistance fulfilled.	6
158	6.1.2.8.	DHS, in coordination with the USA Freedom Corps, shall direct other Citizen Corps programs to prepare guidance detailing appropriate pandemic preparedness activities for each program, within 3 months. Measure of performance: guidance materials developed and published on Citizen Corps website and component program websites.	3

162	6.1.4.1.	State, local, and tribal public health and health care authorities, in collaboration with DHS, HHS, and the Department of Labor (DOL), should coordinate emergency communication protocols with print and broadcast media, private industry, academic, and nonprofit partners within 6 months. Measure of performance: coordinated messages from communities identified above.	6
216	6.2.2.7.	DHS, in collaboration with HHS, DOD, VA, USDA and other Federal departments and agencies with biosurveillance capabilities and real-time data sources, will enhance NBIS capabilities to ensure the availability of a comprehensive and all-source biosurveillance common operating picture throughout the Interagency, within 12 months. Measure of performance: NBIS provides integrated surveillance data to DHS, HHS, USDA, DOD, VA, and other interested interagency customers.	12
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6
243	6.3.4.4.	DHS assets, including NDMS medical materiel and mobile medical units, and HHS assets, such as the USPHS Commissioned Corps and FMSs, shall be deployed in a manner consistent with pre-defined strategic considerations. Measure of performance: development, within 6 months, of strategic principles for deployment of Federal medical assets in a pandemic; consistency of deployments during a pandemic with these principles.	6
244	6.3.4.5.	DHS shall activate NDMS teams, if available, to augment efforts of State, local, and tribal governments as part of the Federal response. Measure of performance: number of NDMS teams activated and deployed during a pandemic.	
297	8.1.1.2.	DHS, in coordination with DOJ, HHS, DOL, and DOD, shall develop a pandemic influenza tabletop exercise for State, local, and tribal law enforcement/public safety officials that they can conduct in concert with public health and medical partners, and ensure it is distributed nationwide within 4 months. Measure of performance: percent of State, local, and tribal law enforcement/public safety agencies that have received the pandemic influenza tabletop exercise.	4
307	8.1.2.7.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall convene a forum for selected Federal, State, local, and tribal personnel to discuss EMS, fire, emergency management, public works, and other emergency response issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4

311	8.3.2.1.	DOJ, DHS, and DOD shall engage in contingency planning and related exercises to ensure they are prepared to maintain essential operations and conduct missions, as permitted by law, in support of quarantine enforcement and/or assist State, local, and tribal entities in law enforcement emergencies that may arise in the course of an outbreak, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting quarantine enforcement and/or law enforcement emergencies.	6
312	8.3.2.2.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall engage in contingency planning and related exercises to ensure they are prepared to sustain EMS, fire, emergency management, public works, and other emergency response functions during a pandemic, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting EMS, fire, emergency management, public works, and other emergency response functions.	6
313	9.1.1.1.	DHS, in coordination with HHS, DOD, and DOL shall provide pandemic influenza COOP guidance to the Federal departments and agencies within 6 months. Measure of performance: COOP planning and personnel protection guidance provided to all departments for use, as necessary, in updating departmental pandemic influenza response plans.	6
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6
317	9.1.2.2.	DHS, in coordination with States, localities and tribal entities, shall support private sector preparedness with education, exercise, training, and information sharing outreach programs, within 6 months. Measure of performance: preparedness exercises established with private sector partners in all States and U.S. territories.	6
318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6
319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

322	9.3.1.1.	DHS shall map and model critical infrastructure interdependencies across and within sectors to share critical information with sectors and identify national challenges during a pandemic, within 6 months. Measure of performance: critical infrastructure modeling capability established and mapping of critical infrastructure interdependencies completed.	6
323	9.3.1.2.	DHS shall develop and operate a national-level monitoring and information-sharing system for core essential services to provide status updates to critical infrastructure dependent on these essential services, and aid in sharing real-time impact information, monitoring actions, and prioritizing national support efforts for preparedness, response, and recovery of critical infrastructure sectors within 12 months. Measure of performance: national-level critical infrastructure monitoring and information-sharing system established and operational.	12
324	9.3.2.1.	DHS shall coordinate Federal, State, local, and tribal actions/options/capability requirements (legislative and regulatory additions/changes and waivers, personnel and material resources, and financial) to develop and implement tailored support packages to address critical infrastructure systems and essential operational requirements at each phase of the pandemic: planning, preparedness, response, mitigation, and recovery. Measure of performance: support packages ensure essential functions of all critical infrastructure sectors sustained during a pandemic.	
62	4.2.7.1.	DOS, in coordination with DOT, DHS, HHS, and U.S. Trade Representative (USTR), shall collaborate with WHO, the International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) to assess and revise, as necessary and feasible, existing international agreements and regulations governing the movement and shipping of potentially infectious products, in order to ensure that international agreements are both adequate and legally sufficient to prevent the spread of infectious disease, within 12 months. Measure of performance: international regulations reviewed and revised.	12
72	4.3.1.8.	DOS, in coordination with HHS, USDA, USAID, and DHS, and in collaboration with WHO, FAO, OIE, the World Bank and regional institutions such as APEC, the Association of Southeast Asian Nations and the European Community, shall, to the extent feasible, improve public affairs coordination and establish a set of agreed upon operating principles among these international organizations and the United States that describe the actions and expectations of the public affairs strategies of these entities that would be implemented in the event of a pandemic, within 6 months. Measure of performance: list of key public affairs contacts developed, planning documents shared, and coordinated public affairs strategy developed.	6
74	4.3.2.1.	DOS, in coordination with DHS, HHS, DOD, and DOT, and in collaboration with foreign counterparts, shall support the implementation of pre-existing passenger screening protocols in the event of an outbreak of pandemic influenza. Measure of performance: protocols implemented within 48 hours of notification of an outbreak of pandemic influenza.	
75	4.3.2.2.	DOD, in coordination with DOS, HHS, DOT, and DHS, will limit official DOD military travel between affected areas and the United States. Measure of performance: DOD identifies military facilities in the United States and OCONUS that will serve as the points of entry for all official travelers from affected areas, within 6 months.	6

82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3
84	4.3.6.3.	USDA, in coordination with DHS, USTR, and DOS, shall ensure that clear and coordinated messages are provided to international trading partners regarding animal disease outbreak response activities in the United States. Measure of performance: within 24 hours of an outbreak, appropriate messages will be shared with key animal/animal product trading partners.	
89	5.1.1.5.	DOD, in coordination with DHS, DOT, DOJ, and DOS, shall conduct an assessment of military support related to transportation and borders that may be requested during a pandemic and develop a comprehensive contingency plan for Defense Support to Civil Authorities, within 18 months. Measure of performance: Defense Support to Civil Authorities plan in place that addresses emergency transportation and border support.	18
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
92	5.1.2.2.	DOT, in coordination with DHS, HHS, and transportation stakeholders, shall convene a series of forums with governors and mayors to discuss transportation and border challenges that may occur in a pandemic, share approaches, and develop a planning strategy to ensure a coordinated national response, within 12 months. Measure of performance: strategy for coordinated transportation and border planning is developed and forums initiated.	12
99	5.1.4.1.	HHS, in coordination with DHS, DOT, and DOL, shall establish workforce protection guidelines and develop targeted educational materials addressing the risk of contracting pandemic influenza for transportation and border workers, within 6 months. Measure of performance: guidelines and materials developed that meet the diverse needs of border and transportation workers (e.g., customs officers or agents, air traffic controllers, train conductors, dock workers, flight attendants, transit workers, ship crews, and interstate truckers).	6

101	5.1.4.3.	HHS, in coordination with DHS, DOT, DOD, Environmental Protection Agency (EPA), and transportation and border stakeholders, shall develop and disseminate decontamination guidelines and timeframes for transportation and border assets and facilities (e.g., airframes, emergency medical services transport vehicles, trains, trucks, stations, port of entry detention facilities) specific to pandemic influenza, within 12 months. Measure of performance: decontamination guidelines developed and disseminated through existing DOT and DHS channels.	12
102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6
107	5.2.4.3.	DOS, in coordination DHS, DOT, and HHS, in consultation with aviation, maritime, and tourism industry stakeholders as appropriate, and working with international partners and through international organizations as appropriate, shall promote the establishment of arrangements through which countries would: (1) voluntarily limit travel if affected by outbreaks of pandemic influenza; and (2) establish pre-departure screening protocols for persons with influenza-like illness, within 16 months. Measure of performance: arrangements for screening protocols are negotiated.	16
108	5.2.4.4.	DOS and HHS, in coordination with DHS, DOT, and transportation and border stakeholders, shall assess and revise procedures to issue travel information and advisories related to pandemic influenza, within 12 months. Measure of performance: improved interagency coordination and timely dissemination of travel information to stakeholders and travelers.	12
110	5.2.4.6.	HHS, in coordination with DHS, DOT, DOS, DOD, air carriers/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop en route protocols for crewmembers onboard aircraft and vessels to identify and respond to travelers who become ill en route and to make timely notification to Federal agencies, health care providers, and other relevant authorities, within 12 months. Measure of performance: protocols developed and disseminated to air carriers/air space users and cruise line industry.	12
116	5.2.5.2.	USDA, in coordination with DHS, DOI, and HHS, shall review the process for withdrawing permits for importation of live avian species or products and identify ways to increase timeliness, improve detection of high-risk importers, and increase outreach to importers and their distributors, within 6 months. Measure of performance: revised process for withdrawing permits of high-risk importers.	6

117	5.2.5.3.	USDA, in coordination with DOI, DHS, shall enhance protocols at air, land, and sea ports of entry to identify and contain animals, animal products, and/or cargo that may harbor viruses with pandemic potential and review procedures to quickly impose restrictions, within 6 months. Measure of performance: risk-based protocols established and in use.	6
118	5.2.5.4.	USDA, in coordination with DHS, shall review the protocols, procedures, and capacity at animal quarantine centers to meet the requirements outlined in Part 93 of Title 9 of the Code of Federal Regulations, within 4 months. Measure of performance: procedures in place to respond effectively and efficiently to the arrival of potentially infected avian species, including provisions for adequate quarantine surge capacity.	4
119	5.2.5.5.	USDA, in coordination with DHS, DOJ, and DOI, shall enhance risk management and anti-smuggling activities to prevent the unlawful entry of prohibited animals, animal products, wildlife, and agricultural commodities that may harbor influenza viruses with pandemic potential, and expand efforts to investigate illegal commodities, block illegal importers, and increase scrutiny of shipments from known offenders, within 9 months. Measure of performance: plan developed to decrease smuggling and further distribution of prohibited agricultural commodities and products with influenza risk.	9
122	5.3.1.2.	DOS, in coordination with DOT, HHS, DHS, DOD, air carriers, and cruise lines, shall work with host countries to implement agreed upon pre-departure screening based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols agreed upon and put in place in countries within 24 hours of an outbreak.	
123	5.3.1.3.	DOS, in coordination with HHS, DHS, and DOT, shall offer transportation-related technical assistance to countries with outbreaks. Measure of performance: countries with outbreaks receive U.S. offer of technical support within 36 hours of an outbreak.	
130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	
139	5.3.4.8.	DOD, in coordination with DHS and DOS, shall identify those domestic and foreign airports and seaports that are considered strategic junctures for major military deployments and evaluate whether additional risk-based protective measures are needed, within 18 months. Measure of performance: identification of critical air and seaports and evaluation of additional risk-based procedures, completed.	18
140	5.3.5.1.	DOT, in coordination with DHS and other ESF #1 support agencies, shall monitor and report the status of the transportation sector, assess impacts, and coordinate Federal and civil transportation services in support of Federal agencies and State, local, and tribal entities (see Chapter 6 - Protecting Human Health, for information on patient movement (ESF #8)). Measure of performance: when ESF #1 activated, regular reports provided, impacts assessed, and services coordinated as needed.	

141	5.3.5.2.	DOT, in coordination with DHS and other ESF #1 support agencies, shall coordinate emergency transportation services to support domestic incident management, including transport of Federal emergency teams, equipment, and Federal Incident Response supplies. Measure of performance: all appropriate Federal, State, local, and tribal requests for transportation services provided on time via ESF #1 of the NRP.	
142	5.3.5.3.	DOT, in coordination with DHS, State, local, and tribal governments, and the private sector, shall monitor system closures, assess effects on the transportation system, and implement contingency plans. Measure of performance: timely reports transmitted to DHS and other appropriate entities, containing relevant, current, and accurate information on the status of the transportation sector and impacts resulting from the pandemic; when appropriate, contingency plans implemented within no more than 24 hours of a report of a transportation sector impact or issue.	
143	5.3.5.4.	DOT, in support of DHS and in coordination with other ESF #1 support agencies, shall work closely with the private sector and State, local, and tribal entities to restore the transportation system, including decontamination and re-prioritization of essential commodity shipments. Measure of performance: backlogs or shortages of essential commodities and goods quickly eliminated, returning production and consumption to pre-pandemic levels.	
149	6.1.1.2.	HHS, in coordination with DHS, shall review and approve State Pandemic Influenza plans to supplement and support DHS State Homeland Security Strategies to ensure that Federal homeland security grants, training, exercises, technical, and other forms of assistance are applied to a common set of priorities, capabilities, and performance benchmarks, in conformance with the National Preparedness Goal, within 12 months. Measure of performance: definition of priorities, capabilities, and performance benchmarks; percentage of States with plans that address priorities, identify capabilities, and meet benchmarks.	12
152	6.1.2.2.	HHS, in coordination with DHS, DOD, and VA, shall develop a joint strategy defining the objectives, conditions, and mechanisms for deployment under which NDMS assets, U.S. Public Health Service (PHS) Commissioned Corps, Epidemic Intelligence Service officers, and DOD/VA health care personnel and public health officers would be deployed during a pandemic, within 9 months. Measure of performance: interagency strategy completed and tested for the deployment of Federal medical personnel during a pandemic.	9
153	6.1.2.3.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and leverage Emergency Management Assistance Compact agreements to develop protocols for distribution of critical medical materiel (e.g., ventilators) in times of medical emergency within 6 months. Measure of performance: critical medical material distribution protocols completed and tested.	6
157	6.1.2.7.	HHS, in coordination with DHS, DOD, VA and the USA Freedom Corps and Citizen Corps programs, shall prepare guidance for local Medical Reserve Corps coordinators describing the role of the Medical Reserve Corps during a pandemic, within 3 months. Measure of performance: guidance materials developed and published on Medical Reserve Corps website (www.medicalreservecorps.gov).	3

159	6.1.3.1.	HHS, in coordination with DHS, DOS, DOD, VA, and other Federal partners, shall develop, test, and implement a Federal Government public health emergency communications plan (describing the government's strategy for responding to a pandemic, outlining U.S. international commitments and intentions, and reviewing containment measures that the government believes will be effective as well as those it regards as likely to be ineffective, excessively costly, or harmful) within 6 months. Measure of performance: containment strategy and emergency response materials completed and published on www.pandemicflu.gov; communications plan implemented.	6
160	6.1.3.2.	HHS, in coordination with DHS, shall develop, test, update and implement (if necessary) a multilingual and multimedia public engagement and risk communications strategy within 6 months. Measure of performance: risk communication material completed and published on www.pandemicflu.gov and other venues; State summit meetings held.	6
161	6.1.3.3.	HHS, in coordination with DHS, DOD, and the VA, and in collaboration with State, local, and tribal health agencies and the academic community, shall select and retain opinion leaders and medical experts to serve as credible spokespersons to coordinate and effectively communicate important and informative messages to the public, within 6 months. Measure of performance: national spokespersons engaged in communications campaign.	6
163	6.1.4.2.	DOT, in cooperation with HHS, DHS, and DOC, shall develop model protocols for 9-1-1 call centers and public safety answering points that address the provision of information to the public, facilitate caller screening, and assist with priority dispatch of limited emergency medical services, within 12 months. Measure of performance: model protocols developed and disseminated to 9-1-1 call centers and public safety answering points.	12
169	6.1.7.1.	HHS, in coordination with DHS, DOJ, VA, and in collaboration with State, local, and tribal partners, shall determine the national medical countermeasure requirements to ensure the sustained functioning of medical, emergency response, and other front-line organizations, within 12 months. Measure of performance: more specific definition of sectors and personnel for priority access to medical countermeasures and quantities needed to protect those groups; guidance provided to State, local, and tribal governments and to infrastructure sectors for various scenarios of pandemic severity and medical countermeasure supply.	12
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6

182	6.1.13.1.	HHS, in coordination with DHS, DOD, VA, and DOJ, and in collaboration with State, local, and tribal partners and the private sector, shall ensure that States, localities, and tribal entities have developed and exercised pandemic influenza countermeasure distribution plans, and can enact security protocols if necessary, according to pre-determined priorities (see below) within 12 months. Measures of performance: ability to activate, deploy, and begin distributing contents of medical stockpiles in localities as needed established and validated through exercises.	12
186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9
187	6.1.13.6.	DOT, in coordination with HHS, DHS, State, local, and tribal officials and other EMS stakeholders, shall develop suggested EMS pandemic influenza guidelines for statewide adoption that address: clinical standards, education, treatment protocols, decontamination procedures, medical direction, scope of practice, legal parameters, and other issues, within 12 months. Measure of performance: EMS pandemic influenza guidelines completed.	12
188	6.1.13.7.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and private sector partners to develop and test plans to allocate and distribute critical medical materiel (e.g., ventilators with accessories, resuscitator bags, gloves, face masks, gowns) in a health emergency, within 6 months. Measure of performance: plans developed, tested, and incorporated into department plan, and disseminated to States and tribes for incorporation into their pandemic response plans.	6
191	6.1.13.10.	DOJ, in coordination with HHS, DHS, DOS, and DOC, shall lead the development of a joint strategic plan to ensure international shipments of counterfeit vaccine and antiviral medications are detected at our borders and that domestic counterfeit drug production and distribution is thwarted through aggressive enforcement efforts. Measure of performance: joint strategic plan developed; international and domestic counterfeit drug shipments prevented or interdicted.	
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9

194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
203	6.1.17.3.	HHS, in coordination with DHS, shall develop and test new point-of-care and laboratory-based rapid influenza diagnostics for screening and surveillance, within 18 months. Measure of performance: new grants and contracts awarded to researchers to develop and evaluate new diagnostics.	18
207	6.2.1.3.	HHS, in coordination with DOD, VA, USDA, DHS, EPA, and other partners, in collaboration with its LRN Reference Laboratories, shall be prepared within 6 months to conduct laboratory analyses to detect pandemic subtypes and strains in referred specimens and conduct confirmatory testing, as requested. Measure of performance: initial testing and identification of suspect pandemic influenza specimens completed at LRN Reference and National Laboratories within 24 hours.	6
217	6.2.2.8.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with State, local, and tribal authorities, shall be prepared to collect, analyze, integrate, and report information about the status of hospitals and health care systems, health care critical infrastructure, and medical materiel requirements, within 12 months. Measure of performance: guidance provided to States and tribal entities on the use and modification of the components of the National Hospital Available Beds for Emergencies and Disasters (HAvBED) system for implementation at the local level.	12
221	6.2.3.1.	HHS, in coordination with DHS and DOD, shall work with pharmaceutical and medical device company partners to develop and evaluate rapid diagnostic tests for novel influenza subtypes including H5N1 within 18 months. Measure of performance: new investment in research to develop influenza diagnostics; new rapid diagnostic tests, if found to be useful, are available for influenza testing, including for novel influenza subtypes.	18

222	6.2.3.2.	HHS, in coordination with DHS, DOD, and VA, shall compile an inventory of all research and product development work on rapid diagnostic testing for influenza and shall reach consensus on sets of requirements meeting national needs and a common test methodology to drive further private-sector investment and product development, within 6 months. Measure of performance: inventory developed and requirements paper disseminated.	6
223	6.2.3.3.	HHS, in coordination with DOD, VA, and DHS, shall encourage and expedite private-sector development of rapid subtype- and strain-specific influenza point-of-care tests within 12 months of the publication of requirements. Measure of performance: rapid point-of-care test available in the marketplace within 18 months.	18
226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12
229	6.2.5.1.	HHS, in coordination with DOD and DHS, shall develop and maintain a real-time epidemic analysis and modeling hub that will explore and characterize response options as a support to policy and decision makers within 6 months. Measure of performance: modeling center with real-time epidemic analysis capabilities established.	6
231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6
233	6.3.2.3.	HHS, in coordination with DHS and DOD and in collaboration with mathematical modelers, shall complete research identifying optimal strategies for using voluntary home quarantine, school closure, snow day restrictions, and other community infection control measures, within 12 months. Measure of performance: guidance developed and disseminated on the use of community control.	12
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12

238	6.3.3.1.	HHS, in coordination with DHS, VA, and DOD, shall develop and disseminate guidance that explains steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 3 months. Measure of performance: guidance disseminated on www.pandemicflu.gov and through VA and DOD channels.	3
239	6.3.3.2.	HHS, in coordination with DHS, DOD, VA, and DOT and in collaboration with State, local, and tribal partners, shall develop and disseminate lists of social distancing behaviors that individuals may adopt within 6 months and update guidance as additional data becomes available. Measure of performance: guidance disseminated on www.pandemicflu.gov and through other channels.	6
240	6.3.4.1.	Major medical societies and organizations, in collaboration with HHS, DHS, DOD, and VA, should develop and disseminate protocols for changing clinical care algorithms in settings of severe medical surge. Measure of performance: evidence-based protocols developed to optimize care that can be provided in conditions of severe medical surge.	
241	6.3.4.2.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with States, localities, tribal entities, and private sector health care facilities, shall develop strategies and protocols for expanding hospital and home health care delivery capacity in order to provide care as effectively and equitably as possible, within 6 months. Measure of performance: guidance and protocols developed and disseminated.	6
250	6.3.5.1.	HHS, in coordination with DHS, DOL, Education, VA, and DOD, shall develop and disseminate guidance and educational tools that explain steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 6 months. Measure of performance: interim guidance disseminated on www.pandemicflu.gov and through VA, DOD, and other channels within 3 months; complementary educational tools on social distancing, personal hygiene, mask use, and other infection control precautions developed within 6 months.	6
252	6.3.5.3.	HHS, in coordination with DHS, shall allocate and assure the effective and secure distribution of public stocks of antiviral drugs and vaccines when they become available. HHS and DHS are currently prepared to distribute stockpile as soon as countermeasures become available. Measure of performance: number of doses of vaccine and treatment courses of antiviral medications distributed.	
254	6.3.7.1.	HHS, in coordination with DHS, DOD, VA, and DOT, and as the lead for ESF #8, shall identify public health and medical capabilities required to support a pandemic response and work with other supporting agencies to identify and deploy or otherwise deliver the required capability or asset, if available. Measure of performance: inventory of public health and medical capabilities within 6 months; available public health or medical capabilities or assets deployed or delivered during a pandemic.	6
259	6.3.8.1.	HHS, in coordination with DHS, DOD, and VA, shall develop and disseminate a risk communication strategy within 6 months, updating it as required. Measure of performance: implementation of risk communication strategy on www.pandemicflu.gov and elsewhere.	6

261	7.1.1.1.	USDA, in coordination with DHS, HHS, DOD, and DOI, and in partnership with State and tribal entities, animal industry groups, and (as appropriate) the animal health authorities of Canada and Mexico, shall establish and exercise animal influenza response plans within 6 months. Measure of performance: plans in place at specified Federal agencies and exercised in collaboration with States believed to be at highest risk for an introduction into animals of an influenza virus with human pandemic potential.	6
263	7.1.2.2.	USDA, in coordination with DOD, HHS, DHS, and DOI, shall partner with States and tribal entities to ensure sufficient veterinary diagnostic laboratory surge capacity for response to an outbreak of avian or other influenza virus with human pandemic potential, within 6 months. Measure of performance: plans and necessary agreements to meet laboratory capacity needs for a worst case scenario influenza outbreak in animals validated by utilization in exercises.	6
264	7.1.3.1.	USDA, in coordination with DHS, shall develop, disseminate, and encourage adoption of best practices and recommendations for maintaining the biosecurity of animals, especially poultry and swine, against infection and spread of influenza viruses and for reporting suspected cases of influenza with human pandemic potential in animals to State or Federal authorities, within 4 months. Measure of performance: incorporation of best practices by industry.	4
265	7.1.3.2.	USDA, in coordination with DHS, shall partner with State and tribal entities, and industry groups representing poultry and swine producers and processors, and other stakeholders, to define and exercise response roles and capabilities within 9 months. Measure of performance: exercises involving State or tribal entities, at least one poultry industry group, and one swine industry group, conducted and after action reports produced.	9
266	7.1.3.3.	HHS, in coordination with USDA, DHS, and the Department of Labor (DOL), shall work with the poultry and swine industries to provide information regarding strategies to prevent avian and swine influenza infection among animal workers and producers, within 6 months. Measure of performance: guidelines developed and disseminated to poultry and swine industries.	6
267	7.1.3.4.	USDA, in coordination with DOI, shall collaborate with DHS and other Federal partners, with State, local, and tribal partners, including State wildlife authorities, and with industry groups and other stakeholders, to develop guidelines to reduce the risk of transmission between domestic animals and wildlife during an animal influenza outbreak, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced, disseminated, and incorporated by partners.	6
275	7.1.5.5.	USDA, in coordination with DHS, shall identify any deficiencies relative to needs for Federal animal research facility capacity, including appropriate biosafety levels, for performing studies of avian, swine, and other animal influenza viruses with pandemic potential, and establish a plan of action to ensure that needed facilities will be available to carry out those studies, within 6 months. Measure of performance: deficiencies in capacity of Federal animal research facilities identified and plans developed for addressing those needs.	6

276	7.1.5.6.	USDA, in coordination with DHS, DOI, and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	6
286	7.3.1.1.	USDA, in coordination with DHS, HHS, DOI, and the Environmental Protection Agency, shall partner with State and tribal entities, animal industries, individual animal owners, and other affected stakeholders to eradicate any influenza outbreak in commercial or other domestic birds or domestic animals caused by a virus that has the potential to become a human pandemic strain, and to safely dispose of animal carcasses. Measure of performance: at least one incident management team from USDA on site within 24 hours of detection of such an outbreak.	
287	7.3.1.2.	USDA shall coordinate with DHS and other Federal, State, local, and tribal officials, animal industry, and other affected stakeholders during an outbreak in commercial or other domestic birds and animals to apply and enforce appropriate movement controls on animals and animal products to limit or prevent spread of influenza virus. Measure of performance: initial movement controls in place within 24 hours of detection of an outbreak.	
293	7.3.5.1.	USDA, in coordination with DHS, DOI, and HHS, shall work with State, local, and tribal partners, industry groups, and other stakeholders to develop, clear and coordinated pre-scripted public messages that can later be tailored to the specifics of a given outbreak and delivered by trained spokespersons, within 3 months. Measure of performance: appropriate informational and risk mitigation messages developed prior to an outbreak, then shared with the public within 24 hours of an outbreak.	3
294	7.3.5.2.	USDA and HHS, in coordination with DHS, State, local, and tribal partners, industry groups, and other stakeholders, shall develop guidelines to assure the public of the safety of the food supply during an outbreak of influenza in animals, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced and shared with partners; within first 24 hours of an outbreak, appropriately updated guidelines on food safety shared with the public.	6
301	8.1.2.1.	DOJ, in coordination with HHS, DOL, and DHS, shall convene a forum for selected Federal, State, local, and tribal law enforcement/public safety personnel to discuss the issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
310	8.3.1.1.	HHS, in coordination with DOJ, DOS, and DHS, shall determine when and how it will assist States in enforcing their quarantines and how it will enforce a Federal quarantine, within 9 months. Measure of performance: guidelines on quarantine enforcement available to all States.	9

314	9.1.1.2.	The Office of Personnel Management (OPM), in coordination with DHS, HHS, DOD, and DOL, shall provide guidance to the Federal departments and agencies on human capital management and COOP planning criteria related to pandemic influenza, within 3 months. Measure of performance: guidance provided to all departments for use, as necessary, in adjusting departmental COOP plans related to pandemic influenza.	3
315	9.1.1.3.	OPM, in coordination with DHS, HHS, DOD, and DOL, shall update the guides Telework: A Management Priority, A Guide for Managers, Supervisors, and Telework Coordinators; Telework 101 for Managers: Making Telework Work for You; and, Telework 101 for Employees: Making Telework Work for You, to provide guidance to Federal departments regarding workplace options during a pandemic, within 3 months. Measure of performance: updated telework guidance provided to all departments for use, as necessary, in updating departmental COOP plans related to pandemic influenza.	3
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6
321	9.1.4.2.	HHS, in coordination with DHS, DOL, EPA, Department of Education, VA, and DOD, shall develop interim guidance regarding environmental management and cleaning practices including the handling of potentially contaminated waste material, within 3 months, and revise as additional data becomes available. Measure of performance: development and publication of guidance and checklists on www.pandemicflu.gov and disseminated through other channels.	3

Departments	DHS	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DHS USDA DOI USAID	Primary Agency		
DHS	Primary Agency		
DHS DOT DOS HHS USDA DOD DOL DOC	Primary Agency		
HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY	Primary Agency		
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
61	4.2.6.1.	DHS, USDA, DOI, and USAID, in collaboration with priority countries, NGOs, WHO, FAO, OIE, and the private sector shall support priority country animal health activities, including development of regulations and enforcement capacities that conform to OIE standards for transboundary movement of animals, development of effective biosecurity measures for commercial and domestic animal operations and markets, and identification and confirmation of infected animals, within 12 months. Measure of performance: 50 percent of priority countries have implemented animal health activities as defined above.	12
120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
268	7.1.3.5.	DOI, in coordination with USDA, shall work with other Federal, State, and tribal partners to develop appropriate response strategies for use in the event of an outbreak in wild birds, within 4 months. Measure of performance: coordinated response strategies in place that can rapidly be tailored to a specific outbreak scenario.	4
271	7.1.5.1.	USDA and DOI shall perform research to understand better how avian influenza viruses circulate and are transmitted in nature, in order to improve information on biosecurity distributed to local animal owners, producers, processors, markets, auctions, wholesalers, distributors, retailers, and dealers, as well as wildlife management agencies, rehabilitators, and zoos, within 18 months. Measure of performance: completed research studies provide new information, or validate current information, on the most useful biosecurity measures to be taken to effectively prevent introduction, and limit or prevent spread, of avian influenza viruses in domestic and captive animal populations.	18
272	7.1.5.2.	USDA and DOI shall perform research to develop and validate tools that will facilitate environmental surveillance for avian influenza viruses, especially in wild birds, through the evaluation of feathers, feces, water, or nesting material, within 24 months. Measure of performance: new environmental surveillance tools researched and made available for use by Federal, State, tribal, university, and other entities performing avian influenza surveillance.	24
277	7.2.1.1.	DOI and USDA shall collaborate with State wildlife agencies, universities, and others to increase surveillance of wild birds, particularly migratory water birds and shore birds, in Alaska and other appropriate locations elsewhere in the United States and its territories, to detect influenza viruses with pandemic potential, including HPAI H5N1, and establish baseline data for wild birds, within 12 months. Measure of performance: reports detailing geographically appropriate wild bird samples collected and influenza virus testing results.	12

278	7.2.1.2.	USDA and DOI shall collaborate to develop and distribute information to State and tribal entities on the detection, identification, and reporting of influenza viruses in wild bird populations, within 6 months. Measure of performance: information distributed and a report available describing the type, amount, and audiences for the information.	6
283	7.2.2.3.	DOI and USDA shall increase the wild bird testing capacity of the NWHC and the National Wildlife Research Center, respectively, to process avian influenza samples from wild birds, within 12 months. Measure of performance: national wild bird testing capacity for avian influenza virus increased by 50 percent compared to previous year.	12
285	7.2.3.2.	DOI, in coordination with USDA, shall work with State and tribal entities, universities, and others to implement the Avian Influenza Data Clearinghouse developed by the NWHC to support the integrated surveillance program for influenza in wild birds within 12 months. Measure of performance: a functional wild bird influenza data clearinghouse utilized by multiple stakeholders.	12
289	7.3.1.4.	DOI shall coordinate with Federal, State, local, and tribal officials to identify and apply appropriate measures to limit the spread of influenza virus should an outbreak occur in free-ranging wildlife populations. Measure of performance: initial control measures implemented within 24 hours of detection of an outbreak in free-ranging wildlife.	
102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6
116	5.2.5.2.	USDA, in coordination with DHS, DOI, and HHS, shall review the process for withdrawing permits for importation of live avian species or products and identify ways to increase timeliness, improve detection of high-risk importers, and increase outreach to importers and their distributors, within 6 months. Measure of performance: revised process for withdrawing permits of high-risk importers.	6
117	5.2.5.3.	USDA, in coordination with DOI, DHS, shall enhance protocols at air, land, and sea ports of entry to identify and contain animals, animal products, and/or cargo that may harbor viruses with pandemic potential and review procedures to quickly impose restrictions, within 6 months. Measure of performance: risk-based protocols established and in use.	6

119	5.2.5.5.	USDA, in coordination with DHS, DOJ, and DOI, shall enhance risk management and anti-smuggling activities to prevent the unlawful entry of prohibited animals, animal products, wildlife, and agricultural commodities that may harbor influenza viruses with pandemic potential, and expand efforts to investigate illegal commodities, block illegal importers, and increase scrutiny of shipments from known offenders, within 9 months. Measure of performance: plan developed to decrease smuggling and further distribution of prohibited agricultural commodities and products with influenza risk.	9
124	5.3.1.4.	DHS, in coordination with DOS, USDA and DOI, shall provide countries with guidance to increase scrutiny of cargo and other imported items through existing programs, such as the Container Security Initiative, and impose country-based restrictions or item-specific embargoes. Measure of performance: guidance, which may include information on restrictions, is provided for increased scrutiny of cargo and other imported items, within 24 hours upon notification of an outbreak.	
129	5.3.2.3.	DHS, in coordination with USDA, DOS, DOC, DOI, and shippers, shall rapidly implement and enforce cargo restrictions for export or import of potentially contaminated cargo, including embargo of live birds, and notify international partners/shippers. Measure of performance: measures implemented within 6 hours of decision to do so.	
130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	
147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3

193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
261	7.1.1.1.	USDA, in coordination with DHS, HHS, DOD, and DOI, and in partnership with State and tribal entities, animal industry groups, and (as appropriate) the animal health authorities of Canada and Mexico, shall establish and exercise animal influenza response plans within 6 months. Measure of performance: plans in place at specified Federal agencies and exercised in collaboration with States believed to be at highest risk for an introduction into animals of an influenza virus with human pandemic potential.	6

263	7.1.2.2.	USDA, in coordination with DOD, HHS, DHS, and DOI, shall partner with States and tribal entities to ensure sufficient veterinary diagnostic laboratory surge capacity for response to an outbreak of avian or other influenza virus with human pandemic potential, within 6 months. Measure of performance: plans and necessary agreements to meet laboratory capacity needs for a worst case scenario influenza outbreak in animals validated by utilization in exercises.	6
267	7.1.3.4.	USDA, in coordination with DOI, shall collaborate with DHS and other Federal partners, with State, local, and tribal partners, including State wildlife authorities, and with industry groups and other stakeholders, to develop guidelines to reduce the risk of transmission between domestic animals and wildlife during an animal influenza outbreak, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced, disseminated, and incorporated by partners.	6
276	7.1.5.6.	USDA, in coordination with DHS, DOI, and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	6
286	7.3.1.1.	USDA, in coordination with DHS, HHS, DOI, and the Environmental Protection Agency, shall partner with State and tribal entities, animal industries, individual animal owners, and other affected stakeholders to eradicate any influenza outbreak in commercial or other domestic birds or domestic animals caused by a virus that has the potential to become a human pandemic strain, and to safely dispose of animal carcasses. Measure of performance: at least one incident management team from USDA on site within 24 hours of detection of such an outbreak.	
293	7.3.5.1.	USDA, in coordination with DHS, DOI, and HHS, shall work with State, local, and tribal partners, industry groups, and other stakeholders to develop, clear and coordinated pre-scripted public messages that can later be tailored to the specifics of a given outbreak and delivered by trained spokespersons, within 3 months. Measure of performance: appropriate informational and risk mitigation messages developed prior to an outbreak, then shared with the public within 24 hours of an outbreak.	3
295	7.3.5.3.	USDA, in coordination with DOI, shall collaborate in working with Federal partners, with State, local, and tribal partners, including State wildlife authorities, and with industry groups and other stakeholders, to update and distribute guidelines to reduce the risk of transmission between domestic animals and wildlife and reduce the risk of spread to other wildlife species during an animal influenza outbreak. Measure of performance: guidelines updated and shared with the public within first 24 hours of an outbreak.	
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6

318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6
319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

Departments	DOI	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DHS USDA DOI USAID	Primary Agency		
USDA DHS DOI DOS HHS DOC	Primary Agency		
DOI USDA	Primary Agency		
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HHS USDA DHS DOT DOS DOI	Support Agency		
DHS DOT USDA DOI DOC DOS	Support Agency		
DHS DOT DOS DOD HHS USDA DOI	Support Agency		
HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		

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HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
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HHS DHS DOC DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		
USDA DHS HHS DOD DOI	Support Agency		

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DHS HHS DOT USDA EPA DOE Treasury DOI DOD	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
26	4.1.7.2.	The Department of Justice (DOJ) and DOS, in coordination with HHS, shall consider whether the USG, in order to benefit from the protections of the Defense Appropriations Act, should seek to negotiate liability-limiting treaties or arrangements covering U.S. contributions to an international stockpile of vaccine and other medical countermeasures, within 6 months. Measure of performance: review initiated and decision rendered.	6
137	5.3.4.6.	DOJ and DHS shall protect targeted shipments of critical supplies and facilities by providing limited Federal security forces under Emergency Support Function #13 - Public Safety and Security (ESF #13) of the NRP, as needed. Measure of performance: all appropriate Federal, State, local, and tribal requests for Federal law enforcement and security assistance met via activation of ESF #13 of the NRP. (See also Chapter 8 - Law Enforcement, Public Safety, and Security.)	
191	6.1.13.10.	DOJ, in coordination with HHS, DHS, DOS, and DOC, shall lead the development of a joint strategic plan to ensure international shipments of counterfeit vaccine and antiviral medications are detected at our borders and that domestic counterfeit drug production and distribution is thwarted through aggressive enforcement efforts. Measure of performance: joint strategic plan developed; international and domestic counterfeit drug shipments prevented or interdicted.	
299	8.1.1.4.	DOJ shall ensure that appropriate Federal and State Court personnel are provided the information necessary to enable them to plan for the continuity of critical judicial functions during a pandemic. Measure of performance: this plan made available to all appropriate Federal and State court personnel.	
301	8.1.2.1.	DOJ, in coordination with HHS, DOL, and DHS, shall convene a forum for selected Federal, State, local, and tribal law enforcement/public safety personnel to discuss the issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
302	8.1.2.2.	DOJ shall advise State Governors of the processes for obtaining emergency Federal law enforcement assistance, within 3 months. Measure of performance: all State Governors advised.	3
303	8.1.2.3.	DOJ shall advise State Governors of the processes for requesting Federal military assistance under the Insurrection Act within 3 months. DOD, after coordination with DOJ, shall publish updated policy guidance on Military Assistance during Civil Disturbances, within 6 months. Measure of performance: all State Governors advised and guidance published.	3

304	8.1.2.4.	HHS and DOJ shall ensure consistency of the CDC Public Health Emergency Law Course with the National Strategy for Pandemic Influenza (Strategy), this Plan and other Federal pandemic documents and then disseminate the CDC Public Health Emergency Law Course across the United States within 6 months. Measure of performance: distribution of presentations of reviewed public health emergency law course to all States.	6
311	8.3.2.1.	DOJ, DHS, and DOD shall engage in contingency planning and related exercises to ensure they are prepared to maintain essential operations and conduct missions, as permitted by law, in support of quarantine enforcement and/or assist State, local, and tribal entities in law enforcement emergencies that may arise in the course of an outbreak, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting quarantine enforcement and/or law enforcement emergencies.	6
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12
89	5.1.1.5.	DOD, in coordination with DHS, DOT, DOJ, and DOS, shall conduct an assessment of military support related to transportation and borders that may be requested during a pandemic and develop a comprehensive contingency plan for Defense Support to Civil Authorities, within 18 months. Measure of performance: Defense Support to Civil Authorities plan in place that addresses emergency transportation and border support.	18
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6
112	5.2.4.8.	DHS and HHS, in coordination with DOT, DOJ, and appropriate State and local health authorities, shall develop detection, diagnosis, quarantine, isolation, EMS transport, reporting, and enforcement protocols and education materials for travelers, and undocumented aliens apprehended at and between Ports of Entry, who have signs or symptoms of pandemic influenza or who may have been exposed to influenza, within 10 months. Measure of performance: protocols developed and distributed to all ports of entry.	10

119	5.2.5.5.	USDA, in coordination with DHS, DOJ, and DOI, shall enhance risk management and anti-smuggling activities to prevent the unlawful entry of prohibited animals, animal products, wildlife, and agricultural commodities that may harbor influenza viruses with pandemic potential, and expand efforts to investigate illegal commodities, block illegal importers, and increase scrutiny of shipments from known offenders, within 9 months. Measure of performance: plan developed to decrease smuggling and further distribution of prohibited agricultural commodities and products with influenza risk.	9
150	6.1.1.3.	DHS, in coordination with HHS, DOJ, DOT, and DOD, shall be prepared to provide emergency response element training (e.g., incident management, triage, security, and communications) and exercise assistance upon request of State, local, and tribal communities and public health entities within 6 months. Measure of performance: percentage of requests for training and assistance fulfilled.	6
169	6.1.7.1.	HHS, in coordination with DHS, DOJ, VA, and in collaboration with State, local, and tribal partners, shall determine the national medical countermeasure requirements to ensure the sustained functioning of medical, emergency response, and other front-line organizations, within 12 months. Measure of performance: more specific definition of sectors and personnel for priority access to medical countermeasures and quantities needed to protect those groups; guidance provided to State, local, and tribal governments and to infrastructure sectors for various scenarios of pandemic severity and medical countermeasure supply.	12
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6
182	6.1.13.1.	HHS, in coordination with DHS, DOD, VA, and DOJ, and in collaboration with State, local, and tribal partners and the private sector, shall ensure that States, localities, and tribal entities have developed and exercised pandemic influenza countermeasure distribution plans, and can enact security protocols if necessary, according to pre-determined priorities (see below) within 12 months. Measures of performance: ability to activate, deploy, and begin distributing contents of medical stockpiles in localities as needed established and validated through exercises.	12
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6

297	8.1.1.2.	DHS, in coordination with DOJ, HHS, DOL, and DOD, shall develop a pandemic influenza tabletop exercise for State, local, and tribal law enforcement/public safety officials that they can conduct in concert with public health and medical partners, and ensure it is distributed nationwide within 4 months. Measure of performance: percent of State, local, and tribal law enforcement/public safety agencies that have received the pandemic influenza tabletop exercise.	4
305	8.1.2.5.	DOD, in consultation with DOJ and the National Guard Bureau, and in coordination with the States as such training applies to support of State law enforcement, shall assess the training needs for National Guard forces in providing operational assistance to State law enforcement under either Federal (Title 10) or State (Title 32 or State Active Duty) in a pandemic influenza outbreak and provide appropriate training guidance to the States and Territories for units and personnel who will be tasked to provide this support, within 18 months. Measure of performance: guidance provided to all States.	18
306	8.1.2.6.	DOD, in consultation with DOJ, shall advise State Governors of the procedures for requesting military equipment and facilities, training and maintenance support as authorized by 10 U.S.C. §§ 372-74, within 6 months. Measure of performance: all State governors advised.	6
307	8.1.2.7.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall convene a forum for selected Federal, State, local, and tribal personnel to discuss EMS, fire, emergency management, public works, and other emergency response issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
310	8.3.1.1.	HHS, in coordination with DOJ, DOS, and DHS, shall determine when and how it will assist States in enforcing their quarantines and how it will enforce a Federal quarantine, within 9 months. Measure of performance: guidelines on quarantine enforcement available to all States.	9
312	8.3.2.2.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall engage in contingency planning and related exercises to ensure they are prepared to sustain EMS, fire, emergency management, public works, and other emergency response functions during a pandemic, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting EMS, fire, emergency management, public works, and other emergency response functions.	6

Departments	DOJ	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DOJ DOS HHS	Primary Agency		
DOJ DHS	Primary Agency		
DOJ HHS DHS DOS DOC	Primary Agency		
DOJ	Primary Agency		
DOJ HHS DHS DOL	Primary Agency		
DOJ	Primary Agency		
DOJ DOD	Primary Agency		

HHS DOJ	Primary Agency		
DOJ DHS DOD	Primary Agency		
DHS DOT DOD HHS USDA DOJ DOS	Support Agency		
DOD DHS DOT DOJ DOS	Support Agency		
DOT DHS DOD DOJ HHS DOL USDA	Support Agency		
HHS DHS DOT DOS DOC DOJ	Support Agency		
DHS HHS DOT DOJ	Support Agency		

USDA DHS DOJ DOI	Support Agency		
DHS HHS DOJ DOT DOD	Support Agency		
HHS DHS DOJ VA	Support Agency		
HHS DHS DOD VA DOC DOJ TREASURY	Support Agency		
HHS DHS DOD VA DOJ	Support Agency		
HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
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DHS DOJ HHS DOD DOL	Support Agency		
DOD DOJ	Support Agency		
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HHS DOJ DOS DHS	Support Agency		
DHS DOJ DOD DOT HHS	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
162	6.1.4.1.	State, local, and tribal public health and health care authorities, in collaboration with DHS, HHS, and the Department of Labor (DOL), should coordinate emergency communication protocols with print and broadcast media, private industry, academic, and nonprofit partners within 6 months. Measure of performance: coordinated messages from communities identified above.	6
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
99	5.1.4.1.	HHS, in coordination with DHS, DOT, and DOL, shall establish workforce protection guidelines and develop targeted educational materials addressing the risk of contracting pandemic influenza for transportation and border workers, within 6 months. Measure of performance: guidelines and materials developed that meet the diverse needs of border and transportation workers (e.g., customs officers or agents, air traffic controllers, train conductors, dock workers, flight attendants, transit workers, ship crews, and interstate truckers).	6
100	5.1.4.2.	DHS, in coordination with DOT, DOL, Office of Personnel Management (OPM), and DOS, shall disseminate workforce protection information to stakeholders, conduct outreach with stakeholders, and implement a comprehensive program for all Federal transportation and border staff within 12 months. Measure of performance: 100 percent of workforce has or has access to information on pandemic influenza risk and appropriate protective measures.	12

115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12
186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6

237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
250	6.3.5.1.	HHS, in coordination with DHS, DOL, Education, VA, and DOD, shall develop and disseminate guidance and educational tools that explain steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 6 months. Measure of performance: interim guidance disseminated on www.pandemicflu.gov and through VA, DOD, and other channels within 3 months; complementary educational tools on social distancing, personal hygiene, mask use, and other infection control precautions developed within 6 months.	6
266	7.1.3.3.	HHS, in coordination with USDA, DHS, and the Department of Labor (DOL), shall work with the poultry and swine industries to provide information regarding strategies to prevent avian and swine influenza infection among animal workers and producers, within 6 months. Measure of performance: guidelines developed and disseminated to poultry and swine industries.	6
297	8.1.1.2.	DHS, in coordination with DOJ, HHS, DOL, and DOD, shall develop a pandemic influenza tabletop exercise for State, local, and tribal law enforcement/public safety officials that they can conduct in concert with public health and medical partners, and ensure it is distributed nationwide within 4 months. Measure of performance: percent of State, local, and tribal law enforcement/public safety agencies that have received the pandemic influenza tabletop exercise.	4
301	8.1.2.1.	DOJ, in coordination with HHS, DOL, and DHS, shall convene a forum for selected Federal, State, local, and tribal law enforcement/public safety personnel to discuss the issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
308	8.1.3.1.	HHS, in coordination with DOL, shall provide clear guidance to law enforcement and other emergency responders on recommended preventive measures, including pre-pandemic vaccination, to be taken by law enforcement and emergency responders to minimize risk of infection from pandemic influenza, within 6 months. Measure of performance: development and dissemination of guidance for law enforcement and other emergency responders.	6
313	9.1.1.1.	DHS, in coordination with HHS, DOD, and DOL shall provide pandemic influenza COOP guidance to the Federal departments and agencies within 6 months. Measure of performance: COOP planning and personnel protection guidance provided to all departments for use, as necessary, in updating departmental pandemic influenza response plans.	6

314	9.1.1.2.	The Office of Personnel Management (OPM), in coordination with DHS, HHS, DOD, and DOL, shall provide guidance to the Federal departments and agencies on human capital management and COOP planning criteria related to pandemic influenza, within 3 months. Measure of performance: guidance provided to all departments for use, as necessary, in adjusting departmental COOP plans related to pandemic influenza.	3
315	9.1.1.3.	OPM, in coordination with DHS, HHS, DOD, and DOL, shall update the guides Telework: A Management Priority, A Guide for Managers, Supervisors, and Telework Coordinators; Telework 101 for Managers: Making Telework Work for You; and, Telework 101 for Employees: Making Telework Work for You, to provide guidance to Federal departments regarding workplace options during a pandemic, within 3 months. Measure of performance: updated telework guidance provided to all departments for use, as necessary, in updating departmental COOP plans related to pandemic influenza.	3
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6
321	9.1.4.2.	HHS, in coordination with DHS, DOL, EPA, Department of Education, VA, and DOD, shall develop interim guidance regarding environmental management and cleaning practices including the handling of potentially contaminated waste material, within 3 months, and revise as additional data becomes available. Measure of performance: development and publication of guidance and checklists on www.pandemicflu.gov and disseminated through other channels.	3

Departments	DOL	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DHS HHS DOL	Primary Agency		
DHS DOT DOS HHS USDA DOD DOL DOC	Support Agency		
DHS DOT DOD HHS USDA USTR DOL DOS	Support Agency		
DOT DHS DOD DOJ HHS DOL USDA	Support Agency		
HHS DHS DOT DOL	Support Agency		
DHS DOT DOL OPM DOS	Support Agency		

HHS DHS DOS DOT DOD DOL	Support Agency		
HHS DHS DOS DOD DOL VA	Support Agency		
HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
DHS HHS DOD DOJ VA DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		

HHS DHS DOC DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOL Education VA DOD	Support Agency		
HHS USDA DHS DOL	Support Agency		
DHS DOJ HHS DOD DOL	Support Agency		
DOJ HHS DHS DOL	Support Agency		
HHS DOL	Support Agency		
DHS HHS DOD DOL	Support Agency		

OPM DHS HHS DOD DOL	Support Agency		
OPM DHS HHS DOD DOL	Support Agency		
HHS DHS DOL OPM EDUCATION VA DOD	Support Agency		
HHS DHS DOL EPA EDUCATION VA DOD	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
1	4.1.1.1.	DOS, in coordination with HHS, USAID, DOD, and DOT, shall work with the Partnership, the Senior UN System Coordinator for Avian and Human Influenza, other international organizations (e.g., WHO, World Bank, OIE, FAO) and through bilateral and multilateral initiatives to encourage countries, particularly those at highest risk, to develop and exercise national and regional avian and pandemic response plans within 12 months. Measure of performance: 90 percent of high-risk countries have response plans and plans to test them.	12
4	4.1.2.1.	DOS shall ensure strong USG engagement in and follow-up on bilateral and multilateral initiatives to build cooperation and capacity to fight pandemic influenza internationally, including the Asia-Pacific Economic Cooperation (APEC) initiatives (inventory of resources and regional expertise to fight pandemic influenza, a region-wide tabletop exercise, a Symposium on Emerging Infectious Diseases to be held in Beijing in April 2006 and the Regional Emerging Disease Intervention (REDI) Center in Singapore), the U.S.-China Joint Initiative on Avian Influenza, and the U.S.-Indonesia-Singapore Joint Avian Influenza Demonstration Project; and should develop a strategy to expand the number of countries fully cooperating with U.S. and/or international technical agencies in the fight against pandemic influenza, within 6 months. Measure of performance: finalized action plans that outline goals to be achieved and timeframes in which they will be achieved.	6
13	4.1.4.1.	DOS and HHS, in coordination with other agencies, shall ensure that the top political leadership of all affected countries understands the need for clear, effective coordinated public information strategies before and during an outbreak of avian or pandemic influenza within 12 months. Measure of performance: 50 percent of priority countries that developed outbreak communication strategies consistent with the WHO September 2004 Report detailing best practices for communicating with the public during an outbreak.	12
14	4.1.4.2.	DOS and HHS, in coordination with other agencies, shall implement programs within 3 months to inform U.S. citizens, including businesses, NGO personnel, DOD personnel, and military family members residing and traveling abroad, where they may obtain accurate, timely information, including risk level assessments, to enable them to make informed decisions and take appropriate personal measures. Measure of performance: majority of registered U.S. citizens abroad have access to accurate and current information on influenza.	3
15	4.1.4.3.	DOS and HHS shall ensure that adequate guidance is provided to Federal, State, tribal, and local authorities regarding the inviolability of diplomatic personnel and facilities and shall work with such authorities to develop methods of obtaining voluntary cooperation from the foreign diplomatic community within the United States consistent with USG treaty obligations within 6 months. Measure of performance: briefing materials and an action plan in place for engaging with relevant Federal, State, tribal and local authorities.	6

18	4.1.5.1.	DOS, in coordination with other agencies, shall use the Partnership and bilateral and multilateral diplomatic contacts on a continuing basis to encourage nations to increase international production capacity and stockpiles of safe and effective human vaccines, antiviral medications, and medical material within 12 months. Measure of performance: increase by 50 percent the number of priority countries that have plans to increase production capacity and/or stockpiles.	12
22	4.1.6.1.	DOS, in coordination with HHS and other agencies, shall continue to work through the Partnership and other bilateral and multilateral venues to build international cooperation and encourage countries and regional organizations to develop diagnostic, research and vaccine manufacturing capacity within 24 months. Measure of performance: global diagnostic and research capacity increased significantly compared to 24 months earlier; significant investments made to expand international vaccine manufacturing capacity.	24
25	4.1.7.1.	DOS shall work with HHS and USAID, in collaboration with the WHO Secretariat, to coordinate the USG contribution to an international stockpile of antiviral medications and other medical countermeasures, including international countermeasure distribution plans and mechanisms and agreed prioritization of allocation, within 6 months. Measure of performance: release of proposed doctrine of deployment and concept of operations for an international stockpile.	6
26	4.1.7.2.	The Department of Justice (DOJ) and DOS, in coordination with HHS, shall consider whether the USG, in order to benefit from the protections of the Defense Appropriations Act, should seek to negotiate liability-limiting treaties or arrangements covering U.S. contributions to an international stockpile of vaccine and other medical countermeasures, within 6 months. Measure of performance: review initiated and decision rendered.	6
32	4.2.1.1.	DOS, in coordination with other agencies, shall work on a continuing basis through the Partnership and through bilateral and multilateral diplomatic contacts to promote transparency, scientific cooperation, and rapid reporting of avian and human influenza cases by other nations within 12 months. Measure of performance: all high-risk countries actively cooperating in improving capacity for transparent, rapid reporting of outbreaks.	12
38	4.2.1.7.	USAID, HHS, USDA, and DOS shall support NGOs, FAO, OIE, WHO, the Office of the Senior UN System Coordinator for Avian and Human Influenza, and host governments to expand the scope, accuracy, and transparency of human and animal surveillance systems and to streamline and strengthen official protocols for reporting avian influenza cases, within 6 months. Measure of performance: 75 percent of priority countries have established early warning networks, international case definitions, and standards for laboratory diagnostics of human and animal samples.	6

62	4.2.7.1.	DOS, in coordination with DOT, DHS, HHS, and U.S. Trade Representative (USTR), shall collaborate with WHO, the International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) to assess and revise, as necessary and feasible, existing international agreements and regulations governing the movement and shipping of potentially infectious products, in order to ensure that international agreements are both adequate and legally sufficient to prevent the spread of infectious disease, within 12 months. Measure of performance: international regulations reviewed and revised.	12
65	4.3.1.1.	DOS, in coordination with HHS, USDA, USAID, and DOD, shall coordinate the development and implementation of U.S. capability to respond rapidly to assess and contain outbreaks of avian influenza with pandemic potential abroad, including coordination of the development, training and exercise of U.S. rapid response teams; and coordination of U.S. support for development, training and exercise of, and U.S. participation in, international support teams. Measure of performance: agreed operating procedures and operational support for U.S. rapid response, and for U.S. participation in international rapid response efforts, are developed and function effectively.	
66	4.3.1.2.	DOS, in coordination with HHS, shall work with WHO and the international community to secure agreement (e.g., through a resolution at the World Health Assembly in May 2006) on an international containment strategy to be activated in the event of a human outbreak, including an accepted definition of a "triggering event" and an agreed doctrine for coordinated international action, responsibilities of nations, and steps they will take, within 4 months. Measure of performance: international agreement on a response and containment strategy.	4
68	4.3.1.4.	DOS, in coordination with HHS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall coordinate United States participation in the implementation of the international response and containment strategy (e.g., assigning experts to the WHO outbreak teams and providing assistance and advice to ministries of health on local public health interventions, ongoing disease surveillance, and use of antiviral medications and vaccines if they are available). Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
70	4.3.1.6.	DOS shall lead USG engagement with the international community's effort to develop a coordinated plan for avian influenza assistance (funds, materiel, and personnel) to streamline national assistance efforts within 12 months. Measure of performance: commitments from countries on funds, personnel, and materiel they will contribute to an integrated and prioritized international prevention, preparedness, and response effort.	12
71	4.3.1.7.	DOS, in coordination with and drawing on the expertise of USAID, HHS, and DOD, shall work with the international community to develop, within 12 months, a coordinated, integrated, and prioritized distribution plan for pandemic influenza assistance that details a strategy for (1) strategic lift of WHO stockpiles and response teams, (2) theater distribution to high-risk countries, (3) in-country coordination to key distribution areas, and (4) establishment of internal mechanisms within each country for distribution to urban, rural, and remote populations. Measure of performance: commitments by countries that specify their ability to support distribution, and specify the personnel and material for such support.	12

72	4.3.1.8.	DOS, in coordination with HHS, USDA, USAID, and DHS, and in collaboration with WHO, FAO, OIE, the World Bank and regional institutions such as APEC, the Association of Southeast Asian Nations and the European Community, shall, to the extent feasible, improve public affairs coordination and establish a set of agreed upon operating principles among these international organizations and the United States that describe the actions and expectations of the public affairs strategies of these entities that would be implemented in the event of a pandemic, within 6 months. Measure of performance: list of key public affairs contacts developed, planning documents shared, and coordinated public affairs strategy developed.	6
73	4.3.1.9.	DOS and DOC, in collaboration with NGOs and private sector groups representing business with activities abroad, shall develop and disseminate checklists of key activities to prepare for and respond to a pandemic, within 6 months. Measure of performance: checklists developed and disseminated.	6
74	4.3.2.1.	DOS, in coordination with DHS, HHS, DOD, and DOT, and in collaboration with foreign counterparts, shall support the implementation of pre-existing passenger screening protocols in the event of an outbreak of pandemic influenza. Measure of performance: protocols implemented within 48 hours of notification of an outbreak of pandemic influenza.	
76	4.3.3.1.	DOS, in coordination with HHS, USAID, USDA, and DOD, shall work with the Partnership to assist in the prompt and effective delivery of countermeasures to affected countries consistent with U.S. law and regulation and the agreed upon doctrine for international action to respond to and contain an outbreak of influenza with pandemic potential. Measure of performance: necessary countermeasures delivered to an affected area within 48 hours of agreement to meet request.	
77	4.3.4.1.	DOS in collaboration with the Partnership and WHO shall negotiate international instruments and/or arrangements to facilitate the flow of rapid response teams and other public health, medical, and veterinary personnel across international borders, within 12 months. Measure of performance: negotiated agreements for facilitating deployment of rapid response teams deployed across international borders using instruments and/or arrangements as detailed above, within 48 hours of request.	12
79	4.3.5.1.	DOS shall organize an interagency group to analyze the potential economic and social impact of a pandemic on the stability and security of the international community, within 3 months. Measure of performance: issues identified and policy recommendations prepared.	3
82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3

83	4.3.6.2.	DOS, in coordination with HHS, shall provide at least monthly updates to its foreign counterparts, through diplomatic channels and USG websites, regarding changes to national policy or regulations that may result from an outbreak, and shall coordinate posting of such information to USG websites (e.g., www.pandemicflu.gov). Measure of performance: foreign governments and key stakeholders receive authoritative and regular information on USG avian influenza policy.	
107	5.2.4.3.	DOS, in coordination DHS, DOT, and HHS, in consultation with aviation, maritime, and tourism industry stakeholders as appropriate, and working with international partners and through international organizations as appropriate, shall promote the establishment of arrangements through which countries would: (1) voluntarily limit travel if affected by outbreaks of pandemic influenza; and (2) establish pre-departure screening protocols for persons with influenza-like illness, within 16 months. Measure of performance: arrangements for screening protocols are negotiated.	16
108	5.2.4.4.	DOS and HHS, in coordination with DHS, DOT, and transportation and border stakeholders, shall assess and revise procedures to issue travel information and advisories related to pandemic influenza, within 12 months. Measure of performance: improved interagency coordination and timely dissemination of travel information to stakeholders and travelers.	12
121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
122	5.3.1.2.	DOS, in coordination with DOT, HHS, DHS, DOD, air carriers, and cruise lines, shall work with host countries to implement agreed upon pre-departure screening based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols agreed upon and put in place in countries within 24 hours of an outbreak.	
123	5.3.1.3.	DOS, in coordination with HHS, DHS, and DOT, shall offer transportation-related technical assistance to countries with outbreaks. Measure of performance: countries with outbreaks receive U.S. offer of technical support within 36 hours of an outbreak.	
127	5.3.2.1.	DHS, DOS, and HHS, in coordination with DOT and USDA, shall issue travel advisories/public announcements for areas where outbreaks have occurred and ensure adequate coordination with appropriate transportation and border stakeholders. Measure of performance: coordinated announcements and warnings developed within 24 hours of becoming aware of an outbreak and timely updates provided as required.	

3	4.1.1.3	DOD, in coordination with DOS and other appropriate Federal agencies, host nations, and regional alliance military partners, shall, within 18 months: (1) conduct bilateral and multilateral assessments of the avian and pandemic preparedness and response plans of the militaries in partner nations or regional alliances such as NATO focused on preparing for and mitigating the effects of an outbreak on assigned mission accomplishment; (2) develop solutions for identified national and regional military gaps; and (3) develop and execute bilateral and multilateral military-to-military influenza exercises to validate preparedness and response plans. Measure of performance: all countries with endemic avian influenza engaged by U.S. efforts; initial assessment and identification of exercise timeline for the military of each key partner nation completed.	18
7	4.1.2.4.	USDA, in coordination with DOS, USAID, the OIE, and other members of the Partnership, shall support FAO to enhance the rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, within 12 months. Measure of performance: an international program is established and providing functional support to priority countries with rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, as appropriate to the country's specific situation.	12
9	4.1.2.6.	DOD, in coordination with DOS, host nations, and regional alliance military partners, shall assist in developing priority country military infection control and case management capability through training programs, within 18 months. Measure of performance: training programs carried out in all priority countries with increased military infection control and case management capability.	18
17	4.1.4.5.	USAID, in coordination with DOS, HHS, and USDA, shall develop and disseminate influenza information to priority countries through international broadcasting channels, including international USG mechanisms such as Voice of America and Radio Free Asia (radio, television, shortwave, Internet), and share lessons learned and key messages from communications campaigns, within 12 months. Measure of performance: local language briefing materials and training programs developed and distributed via WHO and FAO channels.	12
31	4.1.8.4.	HHS and DOD, in coordination with DOS, shall enhance open source information sharing efforts with international organizations and agencies to facilitate the characterization of genetic sequences of circulating strains of novel influenza viruses within 12 months. Measure of performance: publication of all reported novel influenza viruses which are sequenced.	12
33	4.2.1.2.	HHS, in coordination with DOS, shall, to the extent feasible, negotiate bilateral agreements with key affected countries on health cooperation including transparency, sample and data sharing, and development of rapid response protocols; and develop and train in-country rapid response teams to quickly assess and report on possible outbreaks of avian and human influenza, within 12 months. Measure of performance: agreements established with Vietnam, Cambodia, and Laos, 100 teams throughout Asia, including China, Thailand, and Indonesia, trained and available to respond to outbreaks.	12

44	4.2.2.6.	DOD shall monitor the health of military forces worldwide (CONUS and OCONUS bases, deployed operational forces, exercises, units, etc.), and in coordination with DOS, coordinate with allied, coalition, and host nation public health communities to investigate and respond to confirmed infectious disease outbreaks on DOD installations, within 18 months. Measure of performance: medical surveillance "watchboard" reports show results of routine monitoring, number of validated outbreaks, and results of interventions.	18
45	4.2.2.7.	DOD, in coordination with DOS and with the cooperation of the host nation, shall assist with influenza surveillance of host nation populations in accordance with existing treaties and international agreements, within 24 months. Measure of performance: medical surveillance "watchboard" expanded to include host nations.	24
59	4.2.5.2.	HHS, in coordination with DOS and other agencies participating in the Security and Prosperity Partnership, shall pursue cooperative agreements on pandemic influenza with Canada and Mexico to create and implement a North American early warning surveillance and response system in order to prevent the spread of infectious disease across the borders, within 9 months. Measure of performance: implementation of early warning surveillance and response system.	9
67	4.3.1.3.	HHS, in coordination with DOS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall rapidly deploy disease surveillance and control teams to investigate possible human outbreaks through WHO's GOARN network, as required. Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
69	4.3.1.5.	USDA and USAID, in coordination with DOS, HHS, and DOD, and in collaboration with relevant international organizations, shall support operational deployment of rapid response teams and provide technical expertise and technology to support avian influenza assessment and response teams in priority countries as required. Measure of performance: all priority countries have rapid access to avian influenza assessment and response teams; deployment assistance provided in each instance and documented in a log of technical assistance rendered.	
75	4.3.2.2.	DOD, in coordination with DOS, HHS, DOT, and DHS, will limit official DOD military travel between affected areas and the United States. Measure of performance: DOD identifies military facilities in the United States and OCONUS that will serve as the points of entry for all official travelers from affected areas, within 6 months.	6
84	4.3.6.3.	USDA, in coordination with DHS, USTR, and DOS, shall ensure that clear and coordinated messages are provided to international trading partners regarding animal disease outbreak response activities in the United States. Measure of performance: within 24 hours of an outbreak, appropriate messages will be shared with key animal/animal product trading partners.	

85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12
88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
89	5.1.1.5.	DOD, in coordination with DHS, DOT, DOJ, and DOS, shall conduct an assessment of military support related to transportation and borders that may be requested during a pandemic and develop a comprehensive contingency plan for Defense Support to Civil Authorities, within 18 months. Measure of performance: Defense Support to Civil Authorities plan in place that addresses emergency transportation and border support.	18
100	5.1.4.2.	DHS, in coordination with DOT, DOL, Office of Personnel Management (OPM), and DOS, shall disseminate workforce protection information to stakeholders, conduct outreach with stakeholders, and implement a comprehensive program for all Federal transportation and border staff within 12 months. Measure of performance: 100 percent of workforce has or has access to information on pandemic influenza risk and appropriate protective measures.	12

102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6
104	5.2.3.1.	DHS, in coordination with HHS, DOT, DOS, and DOD, shall work closely with domestic and international air carriers and cruise lines to develop and implement protocols (in accordance with U.S. privacy law) to retrieve and rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, within 6 months. Measure of performance: aviation and maritime protocols implemented and information on potentially infected travelers available to appropriate authorities.	6
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8
109	5.2.4.5.	DOT and DHS, in coordination with HHS, DOD, DOS, airlines/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop protocols to manage and/or divert inbound international flights and vessels with suspected cases of pandemic influenza that identify roles, actions, relevant authorities, and events that trigger response, within 12 months. Measure of performance: interagency response protocols for inbound flights completed and disseminated to appropriate entities.	12
110	5.2.4.6.	HHS, in coordination with DHS, DOT, DOS, DOD, air carriers/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop en route protocols for crewmembers onboard aircraft and vessels to identify and respond to travelers who become ill en route and to make timely notification to Federal agencies, health care providers, and other relevant authorities, within 12 months. Measure of performance: protocols developed and disseminated to air carriers/air space users and cruise line industry.	12

113	5.2.4.9.	DHS, in coordination with DOS, HHS, Treasury, and the travel and trade industry, shall tailor existing automated screening programs and extended border programs to increase scrutiny of travelers and cargo based on potential risk factors (e.g., shipment from or traveling through areas with pandemic outbreaks) within 6 months. Measure of performance: enhanced risk-based screening protocols implemented.	6
114	5.2.4.10.	HHS, DHS, and DOT, in coordination with DOS, State, community and tribal entities, and the private sector, shall develop a public education campaign on pandemic influenza for travelers, which raises general awareness prior to a pandemic and includes messages for use during an outbreak, within 15 months. Measure of performance: public education campaign developed on how a pandemic could affect travel, the importance of reducing non-essential travel, and potential screening measures and transportation and border messages developed based on pandemic stages.	15
115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12
120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
124	5.3.1.4.	DHS, in coordination with DOS, USDA and DOI, shall provide countries with guidance to increase scrutiny of cargo and other imported items through existing programs, such as the Container Security Initiative, and impose country-based restrictions or item-specific embargoes. Measure of performance: guidance, which may include information on restrictions, is provided for increased scrutiny of cargo and other imported items, within 24 hours upon notification of an outbreak.	
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.	
128	5.3.2.2.	DHS and DOT, in coordination with DOS and Treasury, and international and domestic stakeholders, shall consider activating plans, consistent with international law, to selectively limit or deny entry to U.S. airspace, U.S. territorial seas (12 nautical miles offshore), and ports of entry, including airports, seaports, and land borders and/or restrict domestic transportation, based on risk, public health benefits, and economic impacts. Measure of performance: measures implemented within 6 hours of decision to do so.	
129	5.3.2.3.	DHS, in coordination with USDA, DOS, DOC, DOI, and shippers, shall rapidly implement and enforce cargo restrictions for export or import of potentially contaminated cargo, including embargo of live birds, and notify international partners/shippers. Measure of performance: measures implemented within 6 hours of decision to do so.	

130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	
131	5.3.3.2.	DHS and DOT, in coordination with DOS, shall gather information from the private sector, international, State, local, and tribal entities, and transportation associations to assess and report the status of the transportation sector. Measure of performance: decision makers have current and accurate information on the status of the transportation sector.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	
138	5.3.4.7.	DHS, in coordination with DOS, DOT, DOD, and the Merchant Marine, shall work with major commercial shipping fleets and the international community to ensure continuation of maritime transport and commerce, including activation of plans, as needed, to provide emergency medical support to crews of vessels that are not capable of safe navigation. Measure of performance: maritime transportation capacity meets demand and vessel mishaps remain proportional to number of ship movements.	
139	5.3.4.8.	DOD, in coordination with DHS and DOS, shall identify those domestic and foreign airports and seaports that are considered strategic junctures for major military deployments and evaluate whether additional risk-based protective measures are needed, within 18 months. Measure of performance: identification of critical air and seaports and evaluation of additional risk-based procedures, completed.	18
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
146	5.3.6.1.	DOT and DHS, in coordination with HHS, DOS, and DOC, shall conduct media and stakeholder outreach to restore public confidence in travel. Measure of performance: outreach delivered and traveling public resumes use of the transportation system at or near pre-pandemic levels.	

147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	
159	6.1.3.1.	HHS, in coordination with DHS, DOS, DOD, VA, and other Federal partners, shall develop, test, and implement a Federal Government public health emergency communications plan (describing the government's strategy for responding to a pandemic, outlining U.S. international commitments and intentions, and reviewing containment measures that the government believes will be effective as well as those it regards as likely to be ineffective, excessively costly, or harmful) within 6 months. Measure of performance: containment strategy and emergency response materials completed and published on www.pandemicflu.gov; communications plan implemented.	6
186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9
191	6.1.13.10.	DOJ, in coordination with HHS, DHS, DOS, and DOC, shall lead the development of a joint strategic plan to ensure international shipments of counterfeit vaccine and antiviral medications are detected at our borders and that domestic counterfeit drug production and distribution is thwarted through aggressive enforcement efforts. Measure of performance: joint strategic plan developed; international and domestic counterfeit drug shipments prevented or interdicted.	
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9

195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12
291	7.3.3.1.	USDA, in coordination with DOS, shall partner with appropriate international, Federal, State, and tribal authorities, and with veterinary medical associations, including the American Veterinary Medical Association, to reduce barriers that inhibit veterinary personnel from crossing State or national boundaries to work in an animal influenza outbreak response, within 9 months. Measure of performance: agreements or other arrangements in place to facilitate movement of veterinary practitioners across jurisdictional boundaries.	9
310	8.3.1.1.	HHS, in coordination with DOJ, DOS, and DHS, shall determine when and how it will assist States in enforcing their quarantines and how it will enforce a Federal quarantine, within 9 months. Measure of performance: guidelines on quarantine enforcement available to all States.	9

Departments	DOS	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DOS HHS USAID DOD DOT	Primary Agency		
DOS	Primary Agency		
DOS HHS	Primary Agency		
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DOS HHS	Primary Agency		

DOS	Primary Agency		
DOS HHS	Primary Agency		
DOS HHS USAID	Primary Agency		
DOJ DOS HHS	Primary Agency		
DOS	Primary Agency		
USAID HHS USDA DOS	Primary Agency		

DOS DOT DHS HHS USTR	Primary Agency		
DOS HHS USDA USAID DOD	Primary Agency		
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DOS HHS USDA USAID DHS	Primary Agency		
DOS DOC	Primary Agency		
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DOS HHS	Primary Agency		
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DOS HHS DHS DOT	Primary Agency		
DOS DHS DOT DOC HHS TREASURY USDA	Primary Agency		
DOS DOT HHS DHS DOD	Primary Agency		
DOS HHS DHS DOT	Primary Agency		
DHS DOS HHS DOT USDA	Primary Agency		

DOD DOS	Support Agency		
USDA DOS USAID	Support Agency		
DOD DOS	Support Agency		
USAID DOS HHS USDA	Support Agency		
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HHS DOS USDA USAID DOD	Support Agency		
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USDA DHS USTR DOS	Support Agency		

DHS DOT DOS HHS USDA DOD DOL DOC	Support Agency		
HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY	Support Agency		
DHS DOT DOD HHS USDA DOJ DOS	Support Agency		
DHS DOT DOD HHS USDA USTR DOL DOS	Support Agency		
DOD DHS DOT DOJ DOS	Support Agency		
DHS DOT DOL OPM DOS	Support Agency		

HHS USDA DHS DOT DOS DOD DOI	Support Agency		
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HHS DHS DOS DOT DOD DOL	Support Agency		
USDA DHS DOI DOS HHS DOC	Support Agency		
DHS DOS USDA DOI	Support Agency		
DHS DOT HHS DOS DOD USDA	Support Agency		
DHS DOT DOS TREASURY	Support Agency		
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DHS DOS DOT DOD	Support Agency		
DOD DHS DOS	Support Agency		
DOT DHS NEC TREASURY DOC HHS DOS	Support Agency		
DOT DHS HHS DOS DOC	Support Agency		

DHS DOT DOS DOD HHS USDA DOI	Support Agency		
HHS DHS DOS DOD VA	Support Agency		
HHS DHS DOS DOD DOL VA	Support Agency		
DOJ HHS DHS DOS DOC	Support Agency		
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HHS DHS DOD VA USDA DOS	Support Agency		
USDA DOS	Support Agency		
HHS DOJ DOS DHS	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12
88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
92	5.1.2.2.	DOT, in coordination with DHS, HHS, and transportation stakeholders, shall convene a series of forums with governors and mayors to discuss transportation and border challenges that may occur in a pandemic, share approaches, and develop a planning strategy to ensure a coordinated national response, within 12 months. Measure of performance: strategy for coordinated transportation and border planning is developed and forums initiated.	12

93	5.1.2.3.	DOT and DHS, in coordination with HHS, USDA, and transportation stakeholders, shall develop planning guidance and materials for State, local, and tribal governments, including scenarios that highlight transportation and border challenges and responses to overcome those challenges, and an overview of transportation roles and responsibilities under the NRP, within 12 months. Measure of performance: State, local, and tribal governments have received or have access to tailored guidance and planning materials.	12
95	5.1.2.5.	DHS and DOT, in coordination with DOD and States, shall develop a range of options to cope with potential shortages of commodities and demand for essential services, such as building reserves of essential goods, within 20 months. Measure of performance: options developed and available for State, local, and tribal governments to refine and incorporate in contingency plans.	20
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8
109	5.2.4.5.	DOT and DHS, in coordination with HHS, DOD, DOS, airlines/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop protocols to manage and/or divert inbound international flights and vessels with suspected cases of pandemic influenza that identify roles, actions, relevant authorities, and events that trigger response, within 12 months. Measure of performance: interagency response protocols for inbound flights completed and disseminated to appropriate entities.	12
111	5.2.4.7.	DHS, DOT, and HHS, in coordination with transportation and border stakeholders, and appropriate State and local health authorities, shall develop aviation, land border, and maritime entry and exit protocols and/or screening protocols, and education materials for non-medical, front-line screeners and officers to identify potentially infected persons or cargo, within 10 months. Measure of performance: protocols and training materials developed and disseminated.	10
114	5.2.4.10.	HHS, DHS, and DOT, in coordination with DOS, State, community and tribal entities, and the private sector, shall develop a public education campaign on pandemic influenza for travelers, which raises general awareness prior to a pandemic and includes messages for use during an outbreak, within 15 months. Measure of performance: public education campaign developed on how a pandemic could affect travel, the importance of reducing non-essential travel, and potential screening measures and transportation and border messages developed based on pandemic stages.	15
128	5.3.2.2.	DHS and DOT, in coordination with DOS and Treasury, and international and domestic stakeholders, shall consider activating plans, consistent with international law, to selectively limit or deny entry to U.S. airspace, U.S. territorial seas (12 nautical miles offshore), and ports of entry, including airports, seaports, and land borders and/or restrict domestic transportation, based on risk, public health benefits, and economic impacts. Measure of performance: measures implemented within 6 hours of decision to do so.	

131	5.3.3.2.	DHS and DOT, in coordination with DOS, shall gather information from the private sector, international, State, local, and tribal entities, and transportation associations to assess and report the status of the transportation sector. Measure of performance: decision makers have current and accurate information on the status of the transportation sector.	
132	5.3.4.1.	DHS and DOT shall notify border and transportation stakeholders and provide recommendations to implement contingency plans and/or use authorities to restrict movement based on ability to limit spread, economic and societal consequences, international considerations, and operational feasibility. Measure of performance: border and transportation stakeholders receive notification and recommendations within no more than 24 hours (depending on urgency) of an outbreak or significant development that may warrant a change in stakeholder actions or protective measures.	
133	5.3.4.2.	DHS and DOT shall consider activating contingency plans as needed to ensure availability of Federal personnel at more critical facilities and higher volume crossings or hubs. Measure of performance: Federal services sustained at high-priority/high-volume facilities.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	
136	5.3.4.5.	DOT shall issue safety-related waivers as needed, to facilitate efficient movement of goods and people during an emergency, balancing the need to expedite services with safety, and States should consider waiving state-specific regulatory requirements, such as size and weight limits and convoy registration. Measure of performance: all regulatory waivers as needed balance need to expedite services with safety.	
140	5.3.5.1.	DOT, in coordination with DHS and other ESF #1 support agencies, shall monitor and report the status of the transportation sector, assess impacts, and coordinate Federal and civil transportation services in support of Federal agencies and State, local, and tribal entities (see Chapter 6 - Protecting Human Health, for information on patient movement (ESF #8)). Measure of performance: when ESF #1 activated, regular reports provided, impacts assessed, and services coordinated as needed.	
141	5.3.5.2.	DOT, in coordination with DHS and other ESF #1 support agencies, shall coordinate emergency transportation services to support domestic incident management, including transport of Federal emergency teams, equipment, and Federal Incident Response supplies. Measure of performance: all appropriate Federal, State, local, and tribal requests for transportation services provided on time via ESF #1 of the NRP.	

142	5.3.5.3.	DOT, in coordination with DHS, State, local, and tribal governments, and the private sector, shall monitor system closures, assess effects on the transportation system, and implement contingency plans. Measure of performance: timely reports transmitted to DHS and other appropriate entities, containing relevant, current, and accurate information on the status of the transportation sector and impacts resulting from the pandemic; when appropriate, contingency plans implemented within no more than 24 hours of a report of a transportation sector impact or issue.	
143	5.3.5.4.	DOT, in support of DHS and in coordination with other ESF #1 support agencies, shall work closely with the private sector and State, local, and tribal entities to restore the transportation system, including decontamination and re-prioritization of essential commodity shipments. Measure of performance: backlogs or shortages of essential commodities and goods quickly eliminated, returning production and consumption to pre-pandemic levels.	
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
146	5.3.6.1.	DOT and DHS, in coordination with HHS, DOS, and DOC, shall conduct media and stakeholder outreach to restore public confidence in travel. Measure of performance: outreach delivered and traveling public resumes use of the transportation system at or near pre-pandemic levels.	
147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	
163	6.1.4.2.	DOT, in cooperation with HHS, DHS, and DOC, shall develop model protocols for 9-1-1 call centers and public safety answering points that address the provision of information to the public, facilitate caller screening, and assist with priority dispatch of limited emergency medical services, within 12 months. Measure of performance: model protocols developed and disseminated to 9-1-1 call centers and public safety answering points.	12
187	6.1.13.6.	DOT, in coordination with HHS, DHS, State, local, and tribal officials and other EMS stakeholders, shall develop suggested EMS pandemic influenza guidelines for statewide adoption that address: clinical standards, education, treatment protocols, decontamination procedures, medical direction, scope of practice, legal parameters, and other issues, within 12 months. Measure of performance: EMS pandemic influenza guidelines completed.	12

1	4.1.1.1.	DOS, in coordination with HHS, USAID, DOD, and DOT, shall work with the Partnership, the Senior UN System Coordinator for Avian and Human Influenza, other international organizations (e.g., WHO, World Bank, OIE, FAO) and through bilateral and multilateral initiatives to encourage countries, particularly those at highest risk, to develop and exercise national and regional avian and pandemic response plans within 12 months. Measure of performance: 90 percent of high-risk countries have response plans and plans to test them.	12
62	4.2.7.1.	DOS, in coordination with DOT, DHS, HHS, and U.S. Trade Representative (USTR), shall collaborate with WHO, the International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) to assess and revise, as necessary and feasible, existing international agreements and regulations governing the movement and shipping of potentially infectious products, in order to ensure that international agreements are both adequate and legally sufficient to prevent the spread of infectious disease, within 12 months. Measure of performance: international regulations reviewed and revised.	12
74	4.3.2.1.	DOS, in coordination with DHS, HHS, DOD, and DOT, and in collaboration with foreign counterparts, shall support the implementation of pre-existing passenger screening protocols in the event of an outbreak of pandemic influenza. Measure of performance: protocols implemented within 48 hours of notification of an outbreak of pandemic influenza.	
75	4.3.2.2.	DOD, in coordination with DOS, HHS, DOT, and DHS, will limit official DOD military travel between affected areas and the United States. Measure of performance: DOD identifies military facilities in the United States and OCONUS that will serve as the points of entry for all official travelers from affected areas, within 6 months.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
89	5.1.1.5.	DOD, in coordination with DHS, DOT, DOJ, and DOS, shall conduct an assessment of military support related to transportation and borders that may be requested during a pandemic and develop a comprehensive contingency plan for Defense Support to Civil Authorities, within 18 months. Measure of performance: Defense Support to Civil Authorities plan in place that addresses emergency transportation and border support.	18
91	5.1.2.1.	DHS and HHS, in coordination with DOT and USDA, shall review existing grants or Federal funding that could be used to support transportation and border-related pandemic planning, within 4 months. Measure of performance: all State, local, and tribal governments are in receipt of, or have access to, guidance for grant applications.	4

96	5.1.3.1.	DHS, in coordination with DOT, HHS, and USDA, shall conduct tabletop discussions and other outreach with private sector transportation and border entities to provide background on the scope of a pandemic, to assess current preparedness, and jointly develop a planning guide, within 8 months. Measure of performance: private sector transportation and border entities have coordinated Federal guidance to support pandemic planning, including a planning guide that addresses unique border and transportation challenges by mode.	8
97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
99	5.1.4.1.	HHS, in coordination with DHS, DOT, and DOL, shall establish workforce protection guidelines and develop targeted educational materials addressing the risk of contracting pandemic influenza for transportation and border workers, within 6 months. Measure of performance: guidelines and materials developed that meet the diverse needs of border and transportation workers (e.g., customs officers or agents, air traffic controllers, train conductors, dock workers, flight attendants, transit workers, ship crews, and interstate truckers).	6
100	5.1.4.2.	DHS, in coordination with DOT, DOL, Office of Personnel Management (OPM), and DOS, shall disseminate workforce protection information to stakeholders, conduct outreach with stakeholders, and implement a comprehensive program for all Federal transportation and border staff within 12 months. Measure of performance: 100 percent of workforce has or has access to information on pandemic influenza risk and appropriate protective measures.	12
101	5.1.4.3.	HHS, in coordination with DHS, DOT, DOD, Environmental Protection Agency (EPA), and transportation and border stakeholders, shall develop and disseminate decontamination guidelines and timeframes for transportation and border assets and facilities (e.g., airframes, emergency medical services transport vehicles, trains, trucks, stations, port of entry detention facilities) specific to pandemic influenza, within 12 months. Measure of performance: decontamination guidelines developed and disseminated through existing DOT and DHS channels.	12
102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6

104	5.2.3.1.	DHS, in coordination with HHS, DOT, DOS, and DOD, shall work closely with domestic and international air carriers and cruise lines to develop and implement protocols (in accordance with U.S. privacy law) to retrieve and rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, within 6 months. Measure of performance: aviation and maritime protocols implemented and information on potentially infected travelers available to appropriate authorities.	6
105	5.2.4.1.	HHS, in coordination with DHS, DOT, DOS, DOC, and DOJ, shall develop policy recommendations for aviation, land border, and maritime entry and exit protocols and/or screening and review the need for domestic response protocols or screening within 6 months. Measure of performance: policy recommendations for response protocols and/or screening.	6
107	5.2.4.3.	DOS, in coordination DHS, DOT, and HHS, in consultation with aviation, maritime, and tourism industry stakeholders as appropriate, and working with international partners and through international organizations as appropriate, shall promote the establishment of arrangements through which countries would: (1) voluntarily limit travel if affected by outbreaks of pandemic influenza; and (2) establish pre-departure screening protocols for persons with influenza-like illness, within 16 months. Measure of performance: arrangements for screening protocols are negotiated.	16
108	5.2.4.4.	DOS and HHS, in coordination with DHS, DOT, and transportation and border stakeholders, shall assess and revise procedures to issue travel information and advisories related to pandemic influenza, within 12 months. Measure of performance: improved interagency coordination and timely dissemination of travel information to stakeholders and travelers.	12
110	5.2.4.6.	HHS, in coordination with DHS, DOT, DOS, DOD, air carriers/air space users, the cruise line industry, and appropriate State and local health authorities, shall develop en route protocols for crewmembers onboard aircraft and vessels to identify and respond to travelers who become ill en route and to make timely notification to Federal agencies, health care providers, and other relevant authorities, within 12 months. Measure of performance: protocols developed and disseminated to air carriers/air space users and cruise line industry.	12
112	5.2.4.8.	DHS and HHS, in coordination with DOT, DOJ, and appropriate State and local health authorities, shall develop detection, diagnosis, quarantine, isolation, EMS transport, reporting, and enforcement protocols and education materials for travelers, and undocumented aliens apprehended at and between Ports of Entry, who have signs or symptoms of pandemic influenza or who may have been exposed to influenza, within 10 months. Measure of performance: protocols developed and distributed to all ports of entry.	10
115	5.2.5.1.	HHS and DHS, in coordination with DOS, DOT, DOD, DOL, and international and domestic stakeholders, shall develop vessel, aircraft, and truck cargo protocols to support safe loading and unloading of cargo while preventing transmission of influenza to crew or shore-side personnel, within 12 months. Measure of performance: protocols disseminated to minimize influenza spread between vessel, aircraft, and truck operators/crews and shore-side personnel.	12

121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
122	5.3.1.2.	DOS, in coordination with DOT, HHS, DHS, DOD, air carriers, and cruise lines, shall work with host countries to implement agreed upon pre-departure screening based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols agreed upon and put in place in countries within 24 hours of an outbreak.	
123	5.3.1.3.	DOS, in coordination with HHS, DHS, and DOT, shall offer transportation-related technical assistance to countries with outbreaks. Measure of performance: countries with outbreaks receive U.S. offer of technical support within 36 hours of an outbreak.	
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.	
126	5.3.1.6.	DHS, in coordination with DOT, HHS, USDA, DOD, appropriate State, and local authorities, air carriers and airports, shall consider implementing response or screening protocols at domestic airports and other transport modes as appropriate, based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols in place within 24 hours of directive to do so.	
127	5.3.2.1.	DHS, DOS, and HHS, in coordination with DOT and USDA, shall issue travel advisories/public announcements for areas where outbreaks have occurred and ensure adequate coordination with appropriate transportation and border stakeholders. Measure of performance: coordinated announcements and warnings developed within 24 hours of becoming aware of an outbreak and timely updates provided as required.	
130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	
138	5.3.4.7.	DHS, in coordination with DOS, DOT, DOD, and the Merchant Marine, shall work with major commercial shipping fleets and the international community to ensure continuation of maritime transport and commerce, including activation of plans, as needed, to provide emergency medical support to crews of vessels that are not capable of safe navigation. Measure of performance: maritime transportation capacity meets demand and vessel mishaps remain proportional to number of ship movements.	
150	6.1.1.3.	DHS, in coordination with HHS, DOJ, DOT, and DOD, shall be prepared to provide emergency response element training (e.g., incident management, triage, security, and communications) and exercise assistance upon request of State, local, and tribal communities and public health entities within 6 months. Measure of performance: percentage of requests for training and assistance fulfilled.	6

153	6.1.2.3.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and leverage Emergency Management Assistance Compact agreements to develop protocols for distribution of critical medical materiel (e.g., ventilators) in times of medical emergency within 6 months. Measure of performance: critical medical material distribution protocols completed and tested.	6
188	6.1.13.7.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and private sector partners to develop and test plans to allocate and distribute critical medical materiel (e.g., ventilators with accessories, resuscitator bags, gloves, face masks, gowns) in a health emergency, within 6 months. Measure of performance: plans developed, tested, and incorporated into department plan, and disseminated to States and tribes for incorporation into their pandemic response plans.	6
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6

231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
239	6.3.3.2.	HHS, in coordination with DHS, DOD, VA, and DOT and in collaboration with State, local, and tribal partners, shall develop and disseminate lists of social distancing behaviors that individuals may adopt within 6 months and update guidance as additional data becomes available. Measure of performance: guidance disseminated on www.pandemicflu.gov and through other channels.	6
254	6.3.7.1.	HHS, in coordination with DHS, DOD, VA, and DOT, and as the lead for ESF #8, shall identify public health and medical capabilities required to support a pandemic response and work with other supporting agencies to identify and deploy or otherwise deliver the required capability or asset, if available. Measure of performance: inventory of public health and medical capabilities within 6 months; available public health or medical capabilities or assets deployed or delivered during a pandemic.	6
307	8.1.2.7.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall convene a forum for selected Federal, State, local, and tribal personnel to discuss EMS, fire, emergency management, public works, and other emergency response issues they will face in a pandemic influenza outbreak and then publish the results in the form of best practices and model protocols within 4 months. Measure of performance: best practices and model protocols published and distributed.	4
312	8.3.2.2.	DHS, in coordination with DOJ, DOD, DOT, HHS, and other appropriate Federal Sector-Specific Agencies, shall engage in contingency planning and related exercises to ensure they are prepared to sustain EMS, fire, emergency management, public works, and other emergency response functions during a pandemic, within 6 months. Measure of performance: completed plans (validated by exercise(s)) for supporting EMS, fire, emergency management, public works, and other emergency response functions.	6
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6

318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6
319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

Departments	DOT	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
DHS DOT DOS HHS USDA DOD DOL DOC	Primary Agency		
DHS DOT DOD HHS USDA DOJ DOS	Primary Agency		
DHS DOT DOD HHS USDA USTR DOL DOS	Primary Agency		
DOT DHS DOD DOJ HHS DOL USDA	Primary Agency		
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
314	9.1.1.2.	The Office of Personnel Management (OPM), in coordination with DHS, HHS, DOD, and DOL, shall provide guidance to the Federal departments and agencies on human capital management and COOP planning criteria related to pandemic influenza, within 3 months. Measure of performance: guidance provided to all departments for use, as necessary, in adjusting departmental COOP plans related to pandemic influenza.	3
315	9.1.1.3.	OPM, in coordination with DHS, HHS, DOD, and DOL, shall update the guides Telework: A Management Priority, A Guide for Managers, Supervisors, and Telework Coordinators; Telework 101 for Managers: Making Telework Work for You; and, Telework 101 for Employees: Making Telework Work for You, to provide guidance to Federal departments regarding workplace options during a pandemic, within 3 months. Measure of performance: updated telework guidance provided to all departments for use, as necessary, in updating departmental COOP plans related to pandemic influenza.	3
100	5.1.4.2.	DHS, in coordination with DOT, DOL, Office of Personnel Management (OPM), and DOS, shall disseminate workforce protection information to stakeholders, conduct outreach with stakeholders, and implement a comprehensive program for all Federal transportation and border staff within 12 months. Measure of performance: 100 percent of workforce has or has access to information on pandemic influenza risk and appropriate protective measures.	12
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6

Departments	OPM	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
OPM DHS HHS DOD DOL	Primary Agency		
OPM DHS HHS DOD DOL	Primary Agency		
DHS DOT DOL OPM DOS	Support Agency		
HHS DHS DOL OPM EDUCATION VA DOD	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
10	4.1.2.7.	Treasury shall encourage and support MDB programs to improve health surveillance systems, strengthen priority countries' response to outbreaks, and boost health systems' readiness, consistent with legislative voting requirements, within 12 months. Measure of performance: projects that fit relevant MDB criteria approved in at least 50 percent of priority countries.	12
80	4.3.5.2.	Treasury shall urge the IMF to enhance its surveillance of priority countries and regions, including further assessment of the macroeconomic and financial vulnerability to an influenza pandemic, within 3 months. Measure of performance: updated, expanded IMF analysis of the potential impact of an influenza pandemic on priority countries and regions, as defined above.	3
81	4.3.5.3.	Treasury, in collaboration with the IMF and the multilateral development banks, shall take the lead on dialogue with creditor countries to ensure that financial assistance to affected economies is provided on terms consistent with the goals of restoring economic activity and maximizing economic growth (within existing international financial agreements), within 6 months. Measure of performance: official financing strategies in place that are consistent with the goals above.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8

113	5.2.4.9.	DHS, in coordination with DOS, HHS, Treasury, and the travel and trade industry, shall tailor existing automated screening programs and extended border programs to increase scrutiny of travelers and cargo based on potential risk factors (e.g., shipment from or traveling through areas with pandemic outbreaks) within 6 months. Measure of performance: enhanced risk-based screening protocols implemented.	6
121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
128	5.3.2.2.	DHS and DOT, in coordination with DOS and Treasury, and international and domestic stakeholders, shall consider activating plans, consistent with international law, to selectively limit or deny entry to U.S. airspace, U.S. territorial seas (12 nautical miles offshore), and ports of entry, including airports, seaports, and land borders and/or restrict domestic transportation, based on risk, public health benefits, and economic impacts. Measure of performance: measures implemented within 6 hours of decision to do so.	
145	5.3.5.6.	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures, and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	6
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9

194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6
231	6.3.2.1.	HHS, in coordination with DHS, DOT, Education, DOC, DOD, and Treasury, shall provide State, local, and tribal entities with guidance on the combination, timing, evaluation, and sequencing of community containment strategies (including travel restrictions, school closings, snow days, self-shielding, and quarantine during a pandemic) based on currently available data, within 6 months, and update this guidance as additional data becomes available. Measure of performance: guidance provided on community influenza containment measures.	6
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6
318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6

319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

Departments	Treasury	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
TREASURY	Primary Agency		
TREASURY	Primary Agency		
TREASURY	Primary Agency		
HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY	Support Agency		
DHS DOT HHS DOC TREASURY USDA	Support Agency		
HHS DHS DOT DOS DOC TREASURY USDA	Support Agency		

DHS DOS HHS TREASURY	Support Agency		
DOS DHS DOT DOC HHS TREASURY USDA	Support Agency		
DHS DOT DOS TREASURY	Support Agency		
DOT DHS NEC TREASURY DOC HHS DOS	Support Agency		
HHS DHS DOD VA DOC DOJ TREASURY	Support Agency		
HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		

HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
DHS HHS DOD DOJ VA DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOT EDUCATION DOC DOD TREASURY	Support Agency		
HHS DHS DOC DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
2	4.1.1.2.	USDA, USAID, and HHS shall use epidemiological data to expand support for animal disease and pandemic prevention and preparedness efforts, including provision of technical assistance to veterinarians and other agricultural scientists and policymakers, in high-risk countries within 12 months. Measure of performance: all high-risk and affected countries have in place (1) national task forces meeting regularly with representation from both human and animal health sectors, government ministries, businesses, and NGOs; (2) national plans, based on scientifically valid information, developed, tested, and implemented for containing influenza in animals with human pandemic potential and for responding to a human pandemic.	12
6	4.1.2.3.	USDA, working with USAID and the Partnership, shall support the FAO and OIE to implement an instrument to assess priority countries' veterinary infrastructure for prevention, surveillance, and control of animal influenza and increase veterinary rapid response capacity by supporting national capacities for animal surveillance, diagnostics, training, and containment in at-risk countries, within 9 months. Measure of performance: per the OIE's Performance, Vision and Strategy Instrument, assessment tools exercised and results communicated to the Partnership, and priority countries are developing, or have in place, an infrastructure capable of supporting their national prevention and response plans for avian or other animal influenza.	9
7	4.1.2.4.	USDA, in coordination with DOS, USAID, the OIE, and other members of the Partnership, shall support FAO to enhance the rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, within 12 months. Measure of performance: an international program is established and providing functional support to priority countries with rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, as appropriate to the country's specific situation.	12
11	4.1.3.1.	USAID, HHS, and USDA shall conduct educational programs focused on communications and social marketing campaigns in local languages to increase public awareness of risks of transmission of influenza between animals and humans, within 12 months. Measure of performance: clear and consistent messages tested in affected countries, with information communicated via a variety of media have reached broad audiences, including health care providers, veterinarians, and animal health workers, primary and secondary level educators, villagers in high-risk and affected areas, poultry industry workers, and vendors in open air markets.	12
16	4.1.4.4.	USAID, USDA, and HHS shall work with the WHO Secretariat, FAO, OIE, and other donor countries within 12 months to implement a communications program to support government authorities and private and multilateral organizations in at-risk countries in improving their national communications systems with the goal of promoting behaviors that will minimize human exposure and prevent further spread of influenza in animal populations. Measure of performance: 50 percent of priority countries have improved national avian influenza communications.	12

21	4.1.5.4.	USDA and USAID, in cooperation with FAO and OIE, shall provide technical expertise, information and guidelines for stockpiling and use of animal vaccines, especially to avian influenza affected countries and those countries at highest risk, within 6 months. Measure of performance: all priority countries and relevant international organizations have received information on animal vaccines' efficacy and application strategies to guide country-specific decisions about preparedness options.	6
24	4.1.6.3.	USDA shall generate new information on avian vaccine efficacy and production technologies and disseminate to international organizations, animal vaccine manufacturers, and countries at highest risk within 6 months. Measure of performance: information disseminated to priority entities.	6
27	4.1.7.3.	USDA, in collaboration with FAO and OIE, shall develop and provide best-practice guidelines and technical expertise to countries that express interest in obtaining aid in the implementation of a national animal vaccination program, within 4 months. Measure of performance: interested countries receive guidelines and other assistance within 3 months of their request.	4
30	4.1.8.3.	USDA and USAID shall work with international organizations, governments, and scientific entities to disseminate and exchange information to bolster and apply avian influenza prevention and response plans in priority countries, within 12 months. Measure of performance: 50 percent of priority countries have national epizootic prevention and response plans based upon pragmatic, comprehensive, and scientifically valid information.	12
38	4.2.1.7.	USAID, HHS, USDA, and DOS shall support NGOs, FAO, OIE, WHO, the Office of the Senior UN System Coordinator for Avian and Human Influenza, and host governments to expand the scope, accuracy, and transparency of human and animal surveillance systems and to streamline and strengthen official protocols for reporting avian influenza cases, within 6 months. Measure of performance: 75 percent of priority countries have established early warning networks, international case definitions, and standards for laboratory diagnostics of human and animal samples.	6
39	4.2.2.1.	HHS and USDA, in collaboration with one or more established networks of laboratories around the world, including the WHO Influenza Network, shall train staff from priority countries' Ministries of Health and Agriculture, to conduct surveillance and perform epidemiologic analyses on influenza-susceptible species and manage and report results of findings, within 12 months. Measure of performance: 75 percent of priority countries have access to multi-year epidemiology and surveillance training programs.	12
40	4.2.2.2.	HHS and USDA shall increase support of scientists tracking potential emergent influenza strains through disease and virologic surveillance in susceptible animal species in priority countries within 9 months. Measure of performance: surveillance for emergent influenza strains expanded in priority countries.	9
51	4.2.3.6.	USDA and USAID shall work with FAO and OIE to provide technical support for animal health diagnostic laboratories by developing and implementing international laboratory diagnostic protocols, standards, and infrastructure in priority countries that can rapidly screen avian influenza specimens from susceptible animal populations, within 12 months. Measure of performance: 75 percent of priority countries have improved animal diagnostic laboratory capacity.	12

52	4.2.3.7.	USDA and USAID shall provide technical expertise to help priority countries develop their cadre of veterinary diagnostic technicians to screen avian influenza specimens from wild and domestic bird populations, and other susceptible animals, rapidly and in a manner that adheres to international standards for proficiency and safety, within 12 months. Measure of performance: all priority countries have access to laboratories that are able to screen avian influenza specimens and confirm diagnoses in a manner that supports effective control of cases of avian influenza.	12
60	4.2.5.3.	USDA and USAID shall provide technical expertise to priority countries in order to expand the scope and accuracy of systematic surveillance of avian influenza cases, within 12 months. Measure of performance: 75 percent of priority countries have expanded animal surveillance capabilities.	12
61	4.2.6.1.	DHS, USDA, DOI, and USAID, in collaboration with priority countries, NGOs, WHO, FAO, OIE, and the private sector shall support priority country animal health activities, including development of regulations and enforcement capacities that conform to OIE standards for transboundary movement of animals, development of effective biosecurity measures for commercial and domestic animal operations and markets, and identification and confirmation of infected animals, within 12 months. Measure of performance: 50 percent of priority countries have implemented animal health activities as defined above.	12
63	4.2.7.2.	USDA shall provide technical assistance to priority countries to increase safety of animal products by identifying potentially contaminated animal products, developing screening protocols, regulations, and enforcement capacities that conform to OIE avian influenza standards for transboundary movement of animal products, within 36 months. Measure of performance: all priority countries have protocols and regulations in place or in process.	36
69	4.3.1.5.	USDA and USAID, in coordination with DOS, HHS, and DOD, and in collaboration with relevant international organizations, shall support operational deployment of rapid response teams and provide technical expertise and technology to support avian influenza assessment and response teams in priority countries as required. Measure of performance: all priority countries have rapid access to avian influenza assessment and response teams; deployment assistance provided in each instance and documented in a log of technical assistance rendered.	
84	4.3.6.3.	USDA, in coordination with DHS, USTR, and DOS, shall ensure that clear and coordinated messages are provided to international trading partners regarding animal disease outbreak response activities in the United States. Measure of performance: within 24 hours of an outbreak, appropriate messages will be shared with key animal/animal product trading partners.	

102	5.2.1.1.	HHS and USDA, in coordination with DHS, DOT, DOS, DOD, DOI, and State, local, and international stakeholders, shall review existing transportation and border notification protocols to ensure timely information sharing in cases of quarantinable disease, within 6 months. Measure of performance: coordinated, clear interagency notification protocols disseminated and available for transportation and border stakeholders.	6
116	5.2.5.2.	USDA, in coordination with DHS, DOI, and HHS, shall review the process for withdrawing permits for importation of live avian species or products and identify ways to increase timeliness, improve detection of high-risk importers, and increase outreach to importers and their distributors, within 6 months. Measure of performance: revised process for withdrawing permits of high-risk importers.	6
117	5.2.5.3.	USDA, in coordination with DOI, DHS, shall enhance protocols at air, land, and sea ports of entry to identify and contain animals, animal products, and/or cargo that may harbor viruses with pandemic potential and review procedures to quickly impose restrictions, within 6 months. Measure of performance: risk-based protocols established and in use.	6
118	5.2.5.4.	USDA, in coordination with DHS, shall review the protocols, procedures, and capacity at animal quarantine centers to meet the requirements outlined in Part 93 of Title 9 of the Code of Federal Regulations, within 4 months. Measure of performance: procedures in place to respond effectively and efficiently to the arrival of potentially infected avian species, including provisions for adequate quarantine surge capacity.	4
119	5.2.5.5.	USDA, in coordination with DHS, DOJ, and DOI, shall enhance risk management and anti-smuggling activities to prevent the unlawful entry of prohibited animals, animal products, wildlife, and agricultural commodities that may harbor influenza viruses with pandemic potential, and expand efforts to investigate illegal commodities, block illegal importers, and increase scrutiny of shipments from known offenders, within 9 months. Measure of performance: plan developed to decrease smuggling and further distribution of prohibited agricultural commodities and products with influenza risk.	9
120	5.2.5.6.	USDA, DHS, and DOI, in coordination with DOS, HHS, and DOC, shall conduct outreach and expand education campaigns for the public, agricultural stakeholders, wildlife trade community, and cargo and animal importers/exporters on import and export regulations and influenza disease risks, within 12 months. Measure of performance: 100 percent of key stakeholders are aware of current import and export regulations and penalties for non-compliance.	12
130	5.3.3.1.	HHS and USDA, in coordination with DHS, DOT, DOS, and DOI, shall provide emergency notifications of probable or confirmed cases and/or outbreaks to key international, Federal, State, local, and tribal transportation and border stakeholders through existing networks. Measure of performance: emergency notifications occur within 24 hours or less of events of probable or confirmed cases or outbreaks.	

261	7.1.1.1.	USDA, in coordination with DHS, HHS, DOD, and DOI, and in partnership with State and tribal entities, animal industry groups, and (as appropriate) the animal health authorities of Canada and Mexico, shall establish and exercise animal influenza response plans within 6 months. Measure of performance: plans in place at specified Federal agencies and exercised in collaboration with States believed to be at highest risk for an introduction into animals of an influenza virus with human pandemic potential.	6
262	7.1.2.1.	USDA shall partner with State and tribal entities to establish, organize, train, and exercise incident management teams and a veterinary reserve corps within 12 months. Measure of performance: a veterinary reserve corps and incident management teams trained for each of the States believed to be at highest risk for an introduction into an animal population of an influenza virus with human pandemic potential.	12
263	7.1.2.2.	USDA, in coordination with DOD, HHS, DHS, and DOI, shall partner with States and tribal entities to ensure sufficient veterinary diagnostic laboratory surge capacity for response to an outbreak of avian or other influenza virus with human pandemic potential, within 6 months. Measure of performance: plans and necessary agreements to meet laboratory capacity needs for a worst case scenario influenza outbreak in animals validated by utilization in exercises.	6
264	7.1.3.1.	USDA, in coordination with DHS, shall develop, disseminate, and encourage adoption of best practices and recommendations for maintaining the biosecurity of animals, especially poultry and swine, against infection and spread of influenza viruses and for reporting suspected cases of influenza with human pandemic potential in animals to State or Federal authorities, within 4 months. Measure of performance: incorporation of best practices by industry.	4
265	7.1.3.2.	USDA, in coordination with DHS, shall partner with State and tribal entities, and industry groups representing poultry and swine producers and processors, and other stakeholders, to define and exercise response roles and capabilities within 9 months. Measure of performance: exercises involving State or tribal entities, at least one poultry industry group, and one swine industry group, conducted and after action reports produced.	9
267	7.1.3.4.	USDA, in coordination with DOI, shall collaborate with DHS and other Federal partners, with State, local, and tribal partners, including State wildlife authorities, and with industry groups and other stakeholders, to develop guidelines to reduce the risk of transmission between domestic animals and wildlife during an animal influenza outbreak, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced, disseminated, and incorporated by partners.	6
269	7.1.4.1.	USDA shall augment the current stockpile of 40 million doses of avian influenza vaccine with an additional 70 million doses within 9 months. Measure of performance: avian influenza vaccine stockpiles increased to 110 million doses.	9
270	7.1.4.2.	USDA shall stockpile diagnostic reagents, PPE, antiviral medication for protection of response personnel, and other response materiel within 9 months. Measure of performance: materiel pre-positioned for rapid delivery to areas where poultry or other animals are believed to be at highest risk for an introduction of an influenza virus with human pandemic potential.	9

271	7.1.5.1.	USDA and DOI shall perform research to understand better how avian influenza viruses circulate and are transmitted in nature, in order to improve information on biosecurity distributed to local animal owners, producers, processors, markets, auctions, wholesalers, distributors, retailers, and dealers, as well as wildlife management agencies, rehabilitators, and zoos, within 18 months. Measure of performance: completed research studies provide new information, or validate current information, on the most useful biosecurity measures to be taken to effectively prevent introduction, and limit or prevent spread, of avian influenza viruses in domestic and captive animal populations.	18
272	7.1.5.2.	USDA and DOI shall perform research to develop and validate tools that will facilitate environmental surveillance for avian influenza viruses, especially in wild birds, through the evaluation of feathers, feces, water, or nesting material, within 24 months. Measure of performance: new environmental surveillance tools researched and made available for use by Federal, State, tribal, university, and other entities performing avian influenza surveillance.	24
273	7.1.5.3.	USDA shall sequence genomes of all available avian influenza viruses to provide diagnostic sequences, identify possible vaccine antigens, and provide potential information on viral evolution, relationships, and determinants of virulence within 12 months. Measure of performance: genomes of avian influenza viruses sequenced and submitted to GenBank, and information reported on potential diagnostic sequences and viral relationships.	12
274	7.1.5.4.	USDA shall perform research to improve vaccines and mass immunization techniques for use against influenza in domestic birds within 36 months. Measure of performance: an effective avian influenza vaccine that can be delivered simultaneously to multiple birds ready for commercial development.	36
275	7.1.5.5.	USDA, in coordination with DHS, shall identify any deficiencies relative to needs for Federal animal research facility capacity, including appropriate biosafety levels, for performing studies of avian, swine, and other animal influenza viruses with pandemic potential, and establish a plan of action to ensure that needed facilities will be available to carry out those studies, within 6 months. Measure of performance: deficiencies in capacity of Federal animal research facilities identified and plans developed for addressing those needs.	6
276	7.1.5.6.	USDA, in coordination with DHS, DOI, and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	6
277	7.2.1.1.	DOI and USDA shall collaborate with State wildlife agencies, universities, and others to increase surveillance of wild birds, particularly migratory water birds and shore birds, in Alaska and other appropriate locations elsewhere in the United States and its territories, to detect influenza viruses with pandemic potential, including HPAI H5N1, and establish baseline data for wild birds, within 12 months. Measure of performance: reports detailing geographically appropriate wild bird samples collected and influenza virus testing results.	12

278	7.2.1.2.	USDA and DOI shall collaborate to develop and distribute information to State and tribal entities on the detection, identification, and reporting of influenza viruses in wild bird populations, within 6 months. Measure of performance: information distributed and a report available describing the type, amount, and audiences for the information.	6
279	7.2.1.3.	USDA shall work with State and tribal entities, and industry groups, to perform surveys of game birds and waterfowl raised in captivity, and implement surveillance of birds at auctions, swap meets, flea markets, and public exhibitions, within 12 months. Measure of performance: samples collected at 50 percent of the largest auctions, swap meets, flea markets, and public exhibitions held in at least five States or tribal entities believed to be at highest risk for an avian influenza introduction.	12
280	7.2.1.4.	USDA shall work with State and tribal entities to provide additional personnel in additional locations to increase the number of facilities inspected and number of samples collected for avian influenza virus testing within the LBMS, within 12 months. Measure of performance: number of facilities inspected and sampled increased by 50 percent compared to previous year.	12
281	7.2.2.1.	USDA shall increase the capacity of the NVSL and the NAHLN to process influenza surveillance samples from commercial and LBMS sources, as well as wild birds, and develop and contract for the production of test reagents for distribution at no cost to collaborating State and industry laboratories within 12 months. Measure of performance: national capacity for laboratory testing increased by 100 percent compared to previous year and contracts for production of required avian influenza test reagents in place.	12
282	7.2.2.2.	USDA shall partner with State and tribal entities to provide additional support for laboratory activities associated with NPIP surveillance for avian influenza within 12 months. Measure of performance: cooperative support agreements with States and tribal entities developed and implemented.	12
283	7.2.2.3.	DOI and USDA shall increase the wild bird testing capacity of the NWHC and the National Wildlife Research Center, respectively, to process avian influenza samples from wild birds, within 12 months. Measure of performance: national wild bird testing capacity for avian influenza virus increased by 50 percent compared to previous year.	12
284	7.2.3.1.	USDA shall develop an integrated database, or enhance existing databases, to support the national initiative for comprehensive surveillance for influenza viruses with pandemic potential in domestic animals using data collected from multiple sources, within 12 months. Measure of performance: functioning animal influenza surveillance database producing reports for a variety of queries and supporting multiple analyses of data.	12
286	7.3.1.1.	USDA, in coordination with DHS, HHS, DOI, and the Environmental Protection Agency, shall partner with State and tribal entities, animal industries, individual animal owners, and other affected stakeholders to eradicate any influenza outbreak in commercial or other domestic birds or domestic animals caused by a virus that has the potential to become a human pandemic strain, and to safely dispose of animal carcasses. Measure of performance: at least one incident management team from USDA on site within 24 hours of detection of such an outbreak.	

287	7.3.1.2.	USDA shall coordinate with DHS and other Federal, State, local, and tribal officials, animal industry, and other affected stakeholders during an outbreak in commercial or other domestic birds and animals to apply and enforce appropriate movement controls on animals and animal products to limit or prevent spread of influenza virus. Measure of performance: initial movement controls in place within 24 hours of detection of an outbreak.	
288	7.3.1.3.	USDA shall be prepared to provide near real-time technical information and policy guidance for State and tribal entities, animal industries, and individuals, on best practices to prevent the spread of avian influenza in commercial and other domestic birds and animals during an outbreak, within 4 months. Measure of performance: information and guidance distributed within 72 hours of confirmed outbreak and report available describing type and amount of information, and audiences to whom delivered.	4
290	7.3.2.1.	USDA shall activate plans to distribute veterinary medical countermeasures and materiel from the NVS to Federal, State, local, and tribal influenza outbreak responders within 24 hours of confirmation of an outbreak in animals of influenza with human pandemic potential, within 9 months. Measure of performance: NVS materiel distributed within 24 hours of confirmation of an outbreak.	9
291	7.3.3.1.	USDA, in coordination with DOS, shall partner with appropriate international, Federal, State, and tribal authorities, and with veterinary medical associations, including the American Veterinary Medical Association, to reduce barriers that inhibit veterinary personnel from crossing State or national boundaries to work in an animal influenza outbreak response, within 9 months. Measure of performance: agreements or other arrangements in place to facilitate movement of veterinary practitioners across jurisdictional boundaries.	9
292	7.3.4.1.	USDA shall assess the outbreak response surge capacity activities that other Federal partners, including the DOD, may be able to support during an outbreak of influenza in animals and ensure that mechanisms are in place to request such support, within 6 months. Measure of performance: written assessment completed and all necessary activation mechanisms in place.	6
293	7.3.5.1.	USDA, in coordination with DHS, DOI, and HHS, shall work with State, local, and tribal partners, industry groups, and other stakeholders to develop, clear and coordinated pre-scripted public messages that can later be tailored to the specifics of a given outbreak and delivered by trained spokespersons, within 3 months. Measure of performance: appropriate informational and risk mitigation messages developed prior to an outbreak, then shared with the public within 24 hours of an outbreak.	3
294	7.3.5.2.	USDA and HHS, in coordination with DHS, State, local, and tribal partners, industry groups, and other stakeholders, shall develop guidelines to assure the public of the safety of the food supply during an outbreak of influenza in animals, within 6 months. Measure of performance: guidelines for various outbreak scenarios produced and shared with partners; within first 24 hours of an outbreak, appropriately updated guidelines on food safety shared with the public.	6

295	7.3.5.3.	USDA, in coordination with DOI, shall collaborate in working with Federal partners, with State, local, and tribal partners, including State wildlife authorities, and with industry groups and other stakeholders, to update and distribute guidelines to reduce the risk of transmission between domestic animals and wildlife and reduce the risk of spread to other wildlife species during an animal influenza outbreak. Measure of performance: guidelines updated and shared with the public within first 24 hours of an outbreak.	
17	4.1.4.5.	USAID, in coordination with DOS, HHS, and USDA, shall develop and disseminate influenza information to priority countries through international broadcasting channels, including international USG mechanisms such as Voice of America and Radio Free Asia (radio, television, shortwave, Internet), and share lessons learned and key messages from communications campaigns, within 12 months. Measure of performance: local language briefing materials and training programs developed and distributed via WHO and FAO channels.	12
37	4.2.1.6.	USAID, in coordination with USDA, shall initiate a pilot program to evaluate strategies for farmer compensation and shall engage and leverage the private sector and other donors to increase the availability of key commodities, compensation, financing and technical support for the control of avian influenza within 6 months. Measure of performance: a model compensation program measured in value of goods and services available for compensation is developed.	6
65	4.3.1.1.	DOS, in coordination with HHS, USDA, USAID, and DOD, shall coordinate the development and implementation of U.S. capability to respond rapidly to assess and contain outbreaks of avian influenza with pandemic potential abroad, including coordination of the development, training and exercise of U.S. rapid response teams; and coordination of U.S. support for development, training and exercise of, and U.S. participation in, international support teams. Measure of performance: agreed operating procedures and operational support for U.S. rapid response, and for U.S. participation in international rapid response efforts, are developed and function effectively.	
67	4.3.1.3.	HHS, in coordination with DOS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall rapidly deploy disease surveillance and control teams to investigate possible human outbreaks through WHO's GOARN network, as required. Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
68	4.3.1.4.	DOS, in coordination with HHS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall coordinate United States participation in the implementation of the international response and containment strategy (e.g., assigning experts to the WHO outbreak teams and providing assistance and advice to ministries of health on local public health interventions, ongoing disease surveillance, and use of antiviral medications and vaccines if they are available). Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	

72	4.3.1.8.	DOS, in coordination with HHS, USDA, USAID, and DHS, and in collaboration with WHO, FAO, OIE, the World Bank and regional institutions such as APEC, the Association of Southeast Asian Nations and the European Community, shall, to the extent feasible, improve public affairs coordination and establish a set of agreed upon operating principles among these international organizations and the United States that describe the actions and expectations of the public affairs strategies of these entities that would be implemented in the event of a pandemic, within 6 months. Measure of performance: list of key public affairs contacts developed, planning documents shared, and coordinated public affairs strategy developed.	6
76	4.3.3.1.	DOS, in coordination with HHS, USAID, USDA, and DOD, shall work with the Partnership to assist in the prompt and effective delivery of countermeasures to affected countries consistent with U.S. law and regulation and the agreed upon doctrine for international action to respond to and contain an outbreak of influenza with pandemic potential. Measure of performance: necessary countermeasures delivered to an affected area within 48 hours of agreement to meet request.	
82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3
85	5.1.1.1.	DHS and DOT shall establish an interagency transportation and border preparedness working group, including DOS, HHS, USDA, DOD, DOL, and DOC as core members, to develop planning assumptions for the transportation and border sectors, coordinate preparedness activities by mode, review products and their distribution, and develop a coordinated outreach plan for stakeholders, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, preparedness priorities and timelines established by mode, and outreach plan for stakeholders in place.	6
86	5.1.1.2.	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	6
87	5.1.1.3.	DHS and DOT, in coordination with DOD, HHS, USDA, Department of Justice (DOJ), and DOS, shall assess their ability to maintain critical Federal transportation and border services (e.g., sustain National Air Space, secure the borders) during a pandemic, revise contingency plans, and conduct exercises, within 12 months. Measure of performance: revised contingency plans in place at specified Federal agencies that respond to both international and domestic outbreaks and at least two interagency exercises carried out to test the plans.	12

88	5.1.1.4.	DHS and DOT, in coordination with DOD, HHS, USDA, USTR, DOL, and DOS, shall develop detailed operational plans and protocols to respond to potential pandemic-related scenarios, including inbound aircraft/vessel/land border traffic with suspected case of pandemic influenza, international outbreak, multiple domestic outbreaks, and potential mass migration, within 12 months. Measure of performance: coordinated Federal operational plans that identify actions, authorities, and trigger points for decision-making and are validated by interagency exercises.	12
90	5.1.1.6.	DOT, in coordination with DHS, DOD, DOJ, HHS, DOL, and USDA, shall assess the Federal Government's ability to provide emergency transportation support during a pandemic under NRP ESF #1 and develop a contingency plan, within 18 months. Measure of performance: completed contingency plan that includes options for increasing transportation capacity, the potential need for military support, improved shipment tracking, potential need for security and/or waivers for critical shipments, incorporation of decontamination and workforce protection guidelines, and other critical issues.	18
91	5.1.2.1.	DHS and HHS, in coordination with DOT and USDA, shall review existing grants or Federal funding that could be used to support transportation and border-related pandemic planning, within 4 months. Measure of performance: all State, local, and tribal governments are in receipt of, or have access to, guidance for grant applications.	4
93	5.1.2.3.	DOT and DHS, in coordination with HHS, USDA, and transportation stakeholders, shall develop planning guidance and materials for State, local, and tribal governments, including scenarios that highlight transportation and border challenges and responses to overcome those challenges, and an overview of transportation roles and responsibilities under the NRP, within 12 months. Measure of performance: State, local, and tribal governments have received or have access to tailored guidance and planning materials.	12
96	5.1.3.1.	DHS, in coordination with DOT, HHS, and USDA, shall conduct tabletop discussions and other outreach with private sector transportation and border entities to provide background on the scope of a pandemic, to assess current preparedness, and jointly develop a planning guide, within 8 months. Measure of performance: private sector transportation and border entities have coordinated Federal guidance to support pandemic planning, including a planning guide that addresses unique border and transportation challenges by mode.	8
97	5.1.3.2.	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g. food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: the private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	12
106	5.2.4.2.	HHS, DHS, and DOT, in coordination with DOS, DOC, Treasury, and USDA, shall develop policy guidelines for international travel restrictions during a pandemic based on the ability to delay the spread of disease and the resulting health benefits, associated economic impacts, international and domestic implications, and operational feasibility, within 8 months. Measure of performance: interagency travel curtailment policy guidelines developed that address both voluntary and mandatory travel restrictions.	8

121	5.3.1.1.	DOS and DHS, in coordination with DOT, DOC, HHS, Treasury, and USDA, shall work with foreign counterparts to limit or restrict travel from affected regions to the United States, as appropriate, and notify host government(s) and the traveling public. Measure of performance: measures imposed within 24 hours of the decision to do so, after appropriate notifications made.	
124	5.3.1.4.	DHS, in coordination with DOS, USDA and DOI, shall provide countries with guidance to increase scrutiny of cargo and other imported items through existing programs, such as the Container Security Initiative, and impose country-based restrictions or item-specific embargoes. Measure of performance: guidance, which may include information on restrictions, is provided for increased scrutiny of cargo and other imported items, within 24 hours upon notification of an outbreak.	
125	5.3.1.5.	DHS, in coordination with DOT, HHS, DOS, DOD, USDA, appropriate State and local authorities, air carriers/air space users, airports, cruise lines, and seaports, shall implement screening protocols at U.S. ports of entry based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening implemented within 48 hours upon notification of an outbreak.	
126	5.3.1.6.	DHS, in coordination with DOT, HHS, USDA, DOD, appropriate State, and local authorities, air carriers and airports, shall consider implementing response or screening protocols at domestic airports and other transport modes as appropriate, based on disease characteristics and availability of rapid detection methods and equipment. Measure of performance: screening protocols in place within 24 hours of directive to do so.	
127	5.3.2.1.	DHS, DOS, and HHS, in coordination with DOT and USDA, shall issue travel advisories/public announcements for areas where outbreaks have occurred and ensure adequate coordination with appropriate transportation and border stakeholders. Measure of performance: coordinated announcements and warnings developed within 24 hours of becoming aware of an outbreak and timely updates provided as required.	
129	5.3.2.3.	DHS, in coordination with USDA, DOS, DOC, DOI, and shippers, shall rapidly implement and enforce cargo restrictions for export or import of potentially contaminated cargo, including embargo of live birds, and notify international partners/shippers. Measure of performance: measures implemented within 6 hours of decision to do so.	
135	5.3.4.4.	DHS and DOT, in coordination with USDA, DOI, DOC, and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	
147	5.3.6.2.	DHS and DOT, in coordination with DOS, DOD, HHS, USDA, DOI, and State, local, and tribal governments, shall provide the public and business community with relevant travel information, including shipping advisories, restrictions, and potential closing of domestic and international transportation hubs. Measure of performance: timely, consistent, and accurate traveler information provided to the media, public, and business community.	

192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9
195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
207	6.2.1.3.	HHS, in coordination with DOD, VA, USDA, DHS, EPA, and other partners, in collaboration with its LRN Reference Laboratories, shall be prepared within 6 months to conduct laboratory analyses to detect pandemic subtypes and strains in referred specimens and conduct confirmatory testing, as requested. Measure of performance: initial testing and identification of suspect pandemic influenza specimens completed at LRN Reference and National Laboratories within 24 hours.	6
216	6.2.2.7.	DHS, in collaboration with HHS, DOD, VA, USDA and other Federal departments and agencies with biosurveillance capabilities and real-time data sources, will enhance NBIS capabilities to ensure the availability of a comprehensive and all-source biosurveillance common operating picture throughout the Interagency, within 12 months. Measure of performance: NBIS provides integrated surveillance data to DHS, HHS, USDA, DOD, VA, and other interested interagency customers.	12

226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6
237	6.3.2.7.	HHS, in coordination with DHS, DOC, DOL, and Sector-Specific Agencies, and in collaboration with medical professional and specialty societies, shall develop and disseminate infection control guidance for the private sector, within 12 months. Measure of performance: validated, focus group-tested guidance developed, and published on www.pandemicflu.gov and in other forums.	12
266	7.1.3.3.	HHS, in coordination with USDA, DHS, and the Department of Labor (DOL), shall work with the poultry and swine industries to provide information regarding strategies to prevent avian and swine influenza infection among animal workers and producers, within 6 months. Measure of performance: guidelines developed and disseminated to poultry and swine industries.	6
268	7.1.3.5.	DOI, in coordination with USDA, shall work with other Federal, State, and tribal partners to develop appropriate response strategies for use in the event of an outbreak in wild birds, within 4 months. Measure of performance: coordinated response strategies in place that can rapidly be tailored to a specific outbreak scenario.	4
285	7.2.3.2.	DOI, in coordination with USDA, shall work with State and tribal entities, universities, and others to implement the Avian Influenza Data Clearinghouse developed by the NWHC to support the integrated surveillance program for influenza in wild birds within 12 months. Measure of performance: a functional wild bird influenza data clearinghouse utilized by multiple stakeholders.	12
316	9.1.2.1.	DHS, in coordination with Sector-Specific Agencies, critical infrastructure owners and operators, and States, localities and tribal entities, shall develop sector-specific planning guidelines focused on sector-specific requirements and cross-sector dependencies, within 6 months. Measure of performance: planning guidelines developed for each sector.	6

318	9.1.3.1.	DHS, in coordination with all the Sector-Specific Agencies, shall conduct forums, conferences, and exercises with key critical infrastructure private sector entities and international partners to identify essential functions and critical planning, response and mitigation needs within and across sectors, and validate planning guidelines, within 6 months. Measure of performance: planning guidelines validated by collaborative exercises that test essential functions and critical planning, response, and mitigation needs.	6
319	9.1.3.2.	DHS, in coordination with all the Sector-Specific Agencies, shall develop and coordinate guidance regarding business continuity planning and preparedness with the owners/operators of critical infrastructure and develop a Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide tailored to national goals and capabilities and to the specific needs identified by the private sector, within 6 months. Measure of performance: Critical Infrastructure Influenza Pandemic Preparedness, Response, and Recovery Guide developed and published (www.pandemicflu.gov).	6

Departments	USDA	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
USDA USAID HHS	Primary Agency		
USDA USAID	Primary Agency		
USDA DOS USAID	Primary Agency		
USAID HHS USDA	Primary Agency		
USAID USDA HHS	Primary Agency		

USDA USAID	Primary Agency		
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USDA DHS USTR DOS	Primary Agency		

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DOS HHS USAID USDA DOD DHS	Support Agency		
DHS DOT DOS HHS USDA DOD DOL DOC	Support Agency		
HHS DHS NEC DOD DOC USTR DOT DOS USDA TREASURY	Support Agency		
DHS DOT DOD HHS USDA DOJ DOS	Support Agency		

DHS DOT DOD HHS USDA USTR DOL DOS	Support Agency		
DOT DHS DOD DOJ HHS DOL USDA	Support Agency		
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DHS DOT HHS USDA	Support Agency		
DHS DOT HHS DOC TREASURY USDA	Support Agency		
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
168	6.1.6.4.	HHS, DOD, VA and the States shall maintain antiviral and vaccine stockpiles in a manner consistent with the requirements of FDA's Shelf Life Extension Program (SLEP) and explore the possibility of broadening SLEP to include equivalently maintained State stockpiles, within 6 months. Measure of performance: compliance with SLEP requirements documented; decision made on broadening SLEP to State stockpiles.	6
224	6.2.3.4.	HHS-, DOD-, and VA-funded hospitals and health facilities shall have access to improved rapid diagnostic tests for influenza A, including influenza with pandemic potential, within 6 months of when tests become available. Measure of performance: diagnostic tests, if found to be useful, are accessible to federally funded health facilities.	6
228	6.2.4.3.	DOD and VA shall be prepared to track and provide personnel and beneficiary health statistics and develop enhanced methods to aggregate and analyze data documenting influenza-like illness from its surveillance systems within 12 months. Measure of performance: influenza tracking systems in place and capturing beneficiary clinical encounters.	12
235	6.3.2.5.	All HHS-, DOD-, and VA-funded hospitals and health facilities shall develop, test, and be prepared to implement infection control campaigns for pandemic influenza, within 3 months. Measure of performance: guidance materials on infection control developed and disseminated on www.pandemicflu.gov and through other channels.	3
255	6.3.7.2.	DOD and VA assets and capabilities shall be postured to provide care for military personnel and eligible civilians, contractors, dependants, other beneficiaries, and veterans and shall be prepared to augment the medical response of State, territorial, tribal, or local governments and other Federal agencies consistent with their ESF #8 support roles, within 3 months. Measure of performance: DOD and VA pandemic preparedness plans developed; in a pandemic, adequate health response provided to military and associated personnel.	3
256	6.3.7.3.	VA shall develop draft emergency policies and directives allowing VA personnel and resources to be used for the treatment of non-veteran patients with pandemic influenza within 3 months. Measure of performance: emergency policies and directives drafted.	3
257	6.3.7.4.	VA shall develop, test, and implement protocols and policies allowing VA personnel and resources to be used for the treatment of non-veteran patients during health emergencies, within 3 months. Measure of performance: protocols and policies developed and implemented.	3

260	6.3.8.2.	DOD and VA, in coordination with HHS, shall develop and disseminate educational materials, coordinated with and complementary to messages developed by HHS but tailored for their respective departments, within 6 months. Measure of performance: up-to-date risk communication material published on DOD and VA pandemic influenza websites, HHS website www.pandemicflu.gov, and in other venues.	6
152	6.1.2.2.	HHS, in coordination with DHS, DOD, and VA, shall develop a joint strategy defining the objectives, conditions, and mechanisms for deployment under which NDMS assets, U.S. Public Health Service (PHS) Commissioned Corps, Epidemic Intelligence Service officers, and DOD/VA health care personnel and public health officers would be deployed during a pandemic, within 9 months. Measure of performance: interagency strategy completed and tested for the deployment of Federal medical personnel during a pandemic.	9
153	6.1.2.3.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and leverage Emergency Management Assistance Compact agreements to develop protocols for distribution of critical medical materiel (e.g., ventilators) in times of medical emergency within 6 months. Measure of performance: critical medical material distribution protocols completed and tested.	6
154	6.1.2.4.	HHS, in coordination with DOD and VA, in collaboration with medical professional and specialty societies, within their domains of expertise, shall develop guidance for allocating scarce health and medical resources during a pandemic, within 6 months. Measure of performance: guidance developed and disseminated.	6
157	6.1.2.7.	HHS, in coordination with DHS, DOD, VA and the USA Freedom Corps and Citizen Corps programs, shall prepare guidance for local Medical Reserve Corps coordinators describing the role of the Medical Reserve Corps during a pandemic, within 3 months. Measure of performance: guidance materials developed and published on Medical Reserve Corps website (www.medicalreservecorps.gov).	3
159	6.1.3.1.	HHS, in coordination with DHS, DOS, DOD, VA, and other Federal partners, shall develop, test, and implement a Federal Government public health emergency communications plan (describing the government's strategy for responding to a pandemic, outlining U.S. international commitments and intentions, and reviewing containment measures that the government believes will be effective as well as those it regards as likely to be ineffective, excessively costly, or harmful) within 6 months. Measure of performance: containment strategy and emergency response materials completed and published on www.pandemicflu.gov; communications plan implemented.	6
161	6.1.3.3.	HHS, in coordination with DHS, DOD, and the VA, and in collaboration with State, local, and tribal health agencies and the academic community, shall select and retain opinion leaders and medical experts to serve as credible spokespersons to coordinate and effectively communicate important and informative messages to the public, within 6 months. Measure of performance: national spokespersons engaged in communications campaign.	6

165	6.1.6.1.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define the mix of antiviral medications to include in the Strategic National Stockpile (SNS) and State stockpiles and develop recommendations for how the different agents are to be used, within 6 months. Measure of performance: development of policy concerning the selection, relative proportions, and use of antiviral medications in SNS and State stockpiles.	6
166	6.1.6.2.	HHS, in coordination with DOD, VA, and State, local, and tribal partners, shall define critical medical material requirements for stockpiling by the SNS and States to respond to the diversity of needs presented by a pandemic, within 9 months. Measure of performance: requirements defined and guidance provided on stockpiling.	9
169	6.1.7.1.	HHS, in coordination with DHS, DOJ, VA, and in collaboration with State, local, and tribal partners, shall determine the national medical countermeasure requirements to ensure the sustained functioning of medical, emergency response, and other front-line organizations, within 12 months. Measure of performance: more specific definition of sectors and personnel for priority access to medical countermeasures and quantities needed to protect those groups; guidance provided to State, local, and tribal governments and to infrastructure sectors for various scenarios of pandemic severity and medical countermeasure supply.	12
178	6.1.10.2.	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	6
182	6.1.13.1.	HHS, in coordination with DHS, DOD, VA, and DOJ, and in collaboration with State, local, and tribal partners and the private sector, shall ensure that States, localities, and tribal entities have developed and exercised pandemic influenza countermeasure distribution plans, and can enact security protocols if necessary, according to pre-determined priorities (see below) within 12 months. Measures of performance: ability to activate, deploy, and begin distributing contents of medical stockpiles in localities as needed established and validated through exercises.	12
183	6.1.13.2.	HHS, in coordination with DOD, VA, States, and other public sector entities with antiviral drug stockpiles, shall coordinate use of assets maintained by different organizations, within 12 months. Measure of performance: plans developed for coordinated use of antiviral stockpiles.	12
185	6.1.13.4.	HHS, in coordination with DOD, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall assist in the development of distribution plans for medical countermeasure stockpiles to ensure that delivery and distribution algorithms have been planned for each locality for antiviral distribution. Goal is to be able to distribute antiviral medications to infected patients within 48 hours of the onset of symptoms within 12 months. Measure of performance: distribution plans developed.	12

186	6.1.13.5.	HHS, in coordination with DHS, DOS, DOD, DOL, VA, and in collaboration with State, local, and tribal governments and private sector partners, shall develop plans for the allocation, distribution, and administration of pre-pandemic vaccine, within 9 months. Measure of performance: department plans developed and guidance disseminated to State, local, and tribal authorities to facilitate development of pandemic response plans.	9
188	6.1.13.7.	HHS, in coordination with DHS, DOT, DOD, and VA, shall work with State, local, and tribal governments and private sector partners to develop and test plans to allocate and distribute critical medical materiel (e.g., ventilators with accessories, resuscitator bags, gloves, face masks, gowns) in a health emergency, within 6 months. Measure of performance: plans developed, tested, and incorporated into department plan, and disseminated to States and tribes for incorporation into their pandemic response plans.	6
190	6.1.13.9.	HHS, in coordination with DOD, VA, and in collaboration with State, territorial, tribal, and local partners, shall develop/refine mechanisms to: (1) track adverse events following vaccine and antiviral administration; (2) ensure that individuals obtain additional doses of vaccine, if necessary; and (3) define protocols for conducting vaccine- and antiviral-effectiveness studies during a pandemic, within 18 months. Measure of performance: mechanism(s) to track vaccine and antiviral medication coverage and adverse events developed; vaccine- and antiviral-effectiveness study protocols developed.	18
192	6.1.14.1.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOJ, DOL, VA, Treasury, and State/local governments, shall develop objectives for the use of, and strategy for allocating, vaccine and antiviral drug stockpiles during pre-pandemic and pandemic periods under varying conditions of countermeasure supply and pandemic severity within 3 months. Measure of performance: clearly articulated statement of objectives for use of medical countermeasures under varying conditions of supply and pandemic severity.	3
193	6.1.14.2.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, Treasury, and State/local governments, shall identify lists of personnel and high-risk groups who should be considered for priority access to medical countermeasures, under various pandemic scenarios, according to strategy developed in compliance with 6.1.14.1, within 9 months. Measure of performance: provisional recommendations of groups who should receive priority access to vaccine and antiviral drugs established for various scenarios of pandemic severity and medical countermeasure supply.	9
194	6.1.14.3.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, and VA, shall establish a strategy for shifting priorities based on at-risk populations, supplies and efficacy of countermeasures against the circulating pandemic strain, and characteristics of the virus within 9 months. Measure of performance: clearly articulated process in place for evaluating and adjusting pre-pandemic recommendations of groups receiving priority access to medical countermeasures.	9

195	6.1.14.4.	HHS, in coordination with DHS and Sector-Specific Agencies, DOS, DOD, DOL, VA, and Treasury, shall present recommendations on target groups for vaccine and antiviral drugs when sustained and efficient human-to-human transmission of a potential pandemic influenza strain is documented anywhere in the world. These recommendations will reflect data from the pandemic and available supplies of medical countermeasures. Measure of performance: provisional identification of priority groups for various pandemic scenarios through interagency process within 2-3 weeks of outbreak.	
207	6.2.1.3.	HHS, in coordination with DOD, VA, USDA, DHS, EPA, and other partners, in collaboration with its LRN Reference Laboratories, shall be prepared within 6 months to conduct laboratory analyses to detect pandemic subtypes and strains in referred specimens and conduct confirmatory testing, as requested. Measure of performance: initial testing and identification of suspect pandemic influenza specimens completed at LRN Reference and National Laboratories within 24 hours.	6
212	6.2.2.3.	HHS, in coordination with DOD and VA, shall expand the number of hospitals and cities participating in the BioSenseRT program to improve the Nation's capabilities for disease detection, monitoring, and situational awareness within 12 months. Measure of performance: number of hospitals (including DOD and VA facilities) participating in the BioSenseRT program increased to 350 hospitals in 42 cities.	12
216	6.2.2.7.	DHS, in collaboration with HHS, DOD, VA, USDA and other Federal departments and agencies with biosurveillance capabilities and real-time data sources, will enhance NBIS capabilities to ensure the availability of a comprehensive and all-source biosurveillance common operating picture throughout the Interagency, within 12 months. Measure of performance: NBIS provides integrated surveillance data to DHS, HHS, USDA, DOD, VA, and other interested interagency customers.	12
217	6.2.2.8.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with State, local, and tribal authorities, shall be prepared to collect, analyze, integrate, and report information about the status of hospitals and health care systems, health care critical infrastructure, and medical materiel requirements, within 12 months. Measure of performance: guidance provided to States and tribal entities on the use and modification of the components of the National Hospital Available Beds for Emergencies and Disasters (HAvBED) system for implementation at the local level.	12

222	6.2.3.2.	HHS, in coordination with DHS, DOD, and VA, shall compile an inventory of all research and product development work on rapid diagnostic testing for influenza and shall reach consensus on sets of requirements meeting national needs and a common test methodology to drive further private-sector investment and product development, within 6 months. Measure of performance: inventory developed and requirements paper disseminated.	6
223	6.2.3.3.	HHS, in coordination with DOD, VA, and DHS, shall encourage and expedite private-sector development of rapid subtype- and strain-specific influenza point-of-care tests within 12 months of the publication of requirements. Measure of performance: rapid point-of-care test available in the marketplace within 18 months.	18
226	6.2.4.1.	HHS, in coordination with DHS, DOD, VA, USDA, and DOS, shall be prepared, within 12 months, to continuously evaluate surveillance and disease reporting data to determine whether ongoing disease containment and medical countermeasure distribution and allocation strategies need to be altered as a pandemic evolves. Measure of performance: analyses of surveillance data performed at least weekly during an outbreak with timely adjustment of strategic and tactical goals, as required.	12
227	6.2.4.2.	DHS, in coordination with Sector-Specific Agencies, HHS, DOD, DOJ, and VA and in collaboration with the private sector, shall be prepared to track integrity of critical infrastructure function, including the health care sector, to determine whether ongoing strategies of ensuring workplace safety and operational continuity need to be altered as a pandemic evolves, within 6 months. Measure of performance: tracking system in place to monitor integrity of critical infrastructure function and operational continuity in near real time.	6
238	6.3.3.1.	HHS, in coordination with DHS, VA, and DOD, shall develop and disseminate guidance that explains steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 3 months. Measure of performance: guidance disseminated on www.pandemicflu.gov and through VA and DOD channels.	3
239	6.3.3.2.	HHS, in coordination with DHS, DOD, VA, and DOT and in collaboration with State, local, and tribal partners, shall develop and disseminate lists of social distancing behaviors that individuals may adopt within 6 months and update guidance as additional data becomes available. Measure of performance: guidance disseminated on www.pandemicflu.gov and through other channels.	6
240	6.3.4.1.	Major medical societies and organizations, in collaboration with HHS, DHS, DOD, and VA, should develop and disseminate protocols for changing clinical care algorithms in settings of severe medical surge. Measure of performance: evidence-based protocols developed to optimize care that can be provided in conditions of severe medical surge.	
241	6.3.4.2.	HHS, in coordination with DHS, DOD, and VA, and in collaboration with States, localities, tribal entities, and private sector health care facilities, shall develop strategies and protocols for expanding hospital and home health care delivery capacity in order to provide care as effectively and equitably as possible, within 6 months. Measure of performance: guidance and protocols developed and disseminated.	6

250	6.3.5.1.	HHS, in coordination with DHS, DOL, Education, VA, and DOD, shall develop and disseminate guidance and educational tools that explain steps individuals can take to decrease their risk of acquiring or transmitting influenza infection during a pandemic, within 6 months. Measure of performance: interim guidance disseminated on www.pandemicflu.gov and through VA, DOD, and other channels within 3 months; complementary educational tools on social distancing, personal hygiene, mask use, and other infection control precautions developed within 6 months.	6
254	6.3.7.1.	HHS, in coordination with DHS, DOD, VA, and DOT, and as the lead for ESF #8, shall identify public health and medical capabilities required to support a pandemic response and work with other supporting agencies to identify and deploy or otherwise deliver the required capability or asset, if available. Measure of performance: inventory of public health and medical capabilities within 6 months; available public health or medical capabilities or assets deployed or delivered during a pandemic.	6
259	6.3.8.1.	HHS, in coordination with DHS, DOD, and VA, shall develop and disseminate a risk communication strategy within 6 months, updating it as required. Measure of performance: implementation of risk communication strategy on www.pandemicflu.gov and elsewhere.	6
320	9.1.4.1.	HHS, in coordination with DHS, DOL, OPM, Department of Education, VA, and DOD, shall develop sector-specific infection control guidance to protect personnel, governmental and public entities, private sector businesses, and CBOs and FBOs, within 6 months. Measure of performance: sector-specific guidance and checklists developed and disseminated on www.pandemicflu.gov.	6
321	9.1.4.2.	HHS, in coordination with DHS, DOL, EPA, Department of Education, VA, and DOD, shall develop interim guidance regarding environmental management and cleaning practices including the handling of potentially contaminated waste material, within 3 months, and revise as additional data becomes available. Measure of performance: development and publication of guidance and checklists on www.pandemicflu.gov and disseminated through other channels.	3

Departments	VA	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
HHS DOD VA	Primary Agency		
HHS DOD VA	Primary Agency		
DOD VA	Primary Agency		
HHS DOD VA	Primary Agency		
DOD VA	Primary Agency		
VA	Primary Agency		
VA	Primary Agency		

DOD VA HHS	Primary Agency		
HHS DHS DOD VA	Support Agency		
HHS DHS DOT DOD VA	Support Agency		
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HHS DOD VA	Support Agency		
HHS DHS DOJ VA	Support Agency		
HHS DHS DOD VA DOC DOJ TREASURY	Support Agency		
HHS DHS DOD VA DOJ	Support Agency		
HHS DOD VA	Support Agency		
HHS DOD VA	Support Agency		

HHS DHS DOS DOD DOL VA	Support Agency		
HHS DHS DOT DOD VA	Support Agency		
HHS DOD VA	Support Agency		
HHS DHS DOS DOD DOJ DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS DOS DOD DOL VA TREASURY DOT USDA DOE DOI EPA	Support Agency		

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HHS DOD VA USDA DHS EPA	Support Agency		
HHS DOD VA	Support Agency		
DHS HHS DOD VA USDA	Support Agency		
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HHS DHS DOD VA	Support Agency		
HHS DOD VA DHS	Support Agency		
HHS DHS DOD VA USDA DOS	Support Agency		
DHS HHS DOD DOJ VA DOL TREASURY DOT USDA DOE DOI EPA	Support Agency		
HHS DHS VA DOD	Support Agency		
HHS DHS DOD VA DOT	Support Agency		
HHS DHS DOD VA	Support Agency		
HHS DHS DOD VA	Support Agency		

HHS DHS DOL Education VA DOD	Support Agency		
HHS DHS DOD VA DOT	Support Agency		
HHS DHS DOD VA	Support Agency		
HHS DHS DOL OPM EDUCATION VA DOD	Support Agency		
HHS DHS DOL EPA EDUCATION VA DOD	Support Agency		

If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Order in Plan	Action Number	Actions	Timeframe (Months)
2	4.1.1.2.	USDA, USAID, and HHS shall use epidemiological data to expand support for animal disease and pandemic prevention and preparedness efforts, including provision of technical assistance to veterinarians and other agricultural scientists and policymakers, in high-risk countries within 12 months. Measure of performance: all high-risk and affected countries have in place (1) national task forces meeting regularly with representation from both human and animal health sectors, government ministries, businesses, and NGOs; (2) national plans, based on scientifically valid information, developed, tested, and implemented for containing influenza in animals with human pandemic potential and for responding to a human pandemic.	12
11	4.1.3.1.	USAID, HHS, and USDA shall conduct educational programs focused on communications and social marketing campaigns in local languages to increase public awareness of risks of transmission of influenza between animals and humans, within 12 months. Measure of performance: clear and consistent messages tested in affected countries, with information communicated via a variety of media have reached broad audiences, including health care providers, veterinarians, and animal health workers, primary and secondary level educators, villagers in high-risk and affected areas, poultry industry workers, and vendors in open air markets.	12
12	4.1.3.2.	HHS and USAID shall work with the WHO Secretariat and other multilateral organizations, existing bilateral programs and private sector partners to develop community- and hospital-based health prevention, promotion, and education activities in priority countries within 12 months. Measure of performance: 75 percent of priority countries are reached with mass media and community outreach programs that promote AI awareness and behavior change.	12
16	4.1.4.4.	USAID, USDA, and HHS shall work with the WHO Secretariat, FAO, OIE, and other donor countries within 12 months to implement a communications program to support government authorities and private and multilateral organizations in at-risk countries in improving their national communications systems with the goal of promoting behaviors that will minimize human exposure and prevent further spread of influenza in animal populations. Measure of performance: 50 percent of priority countries have improved national avian influenza communications.	12
17	4.1.4.5.	USAID, in coordination with DOS, HHS, and USDA, shall develop and disseminate influenza information to priority countries through international broadcasting channels, including international USG mechanisms such as Voice of America and Radio Free Asia (radio, television, shortwave, Internet), and share lessons learned and key messages from communications campaigns, within 12 months. Measure of performance: local language briefing materials and training programs developed and distributed via WHO and FAO channels.	12
19	4.1.5.2.	HHS and USAID shall work to coordinate and set up emergency stockpiles of protective equipment and essential commodities other than vaccine and antiviral medications for responding to animal or human outbreaks within 9 months. Measure of performance: essential commodities procured and available for deployment within 24 hours.	9

21	4.1.5.4.	USDA and USAID, in cooperation with FAO and OIE, shall provide technical expertise, information and guidelines for stockpiling and use of animal vaccines, especially to avian influenza affected countries and those countries at highest risk, within 6 months. Measure of performance: all priority countries and relevant international organizations have received information on animal vaccines' efficacy and application strategies to guide country-specific decisions about preparedness options.	6
30	4.1.8.3.	USDA and USAID shall work with international organizations, governments, and scientific entities to disseminate and exchange information to bolster and apply avian influenza prevention and response plans in priority countries, within 12 months. Measure of performance: 50 percent of priority countries have national epizootic prevention and response plans based upon pragmatic, comprehensive, and scientifically valid information.	12
37	4.2.1.6.	USAID, in coordination with USDA, shall initiate a pilot program to evaluate strategies for farmer compensation and shall engage and leverage the private sector and other donors to increase the availability of key commodities, compensation, financing and technical support for the control of avian influenza within 6 months. Measure of performance: a model compensation program measured in value of goods and services available for compensation is developed.	6
38	4.2.1.7.	USAID, HHS, USDA, and DOS shall support NGOs, FAO, OIE, WHO, the Office of the Senior UN System Coordinator for Avian and Human Influenza, and host governments to expand the scope, accuracy, and transparency of human and animal surveillance systems and to streamline and strengthen official protocols for reporting avian influenza cases, within 6 months. Measure of performance: 75 percent of priority countries have established early warning networks, international case definitions, and standards for laboratory diagnostics of human and animal samples.	6
50	4.2.3.5.	HHS and USAID shall work with the WHO Secretariat and private sector partners, through existing bilateral agreements, to provide support for human health diagnostic laboratories by developing and giving assistance in implementing rapid international laboratory diagnostics protocols and standards in priority countries, within 12 months. Measure of performance: 75 percent of priority countries have improved human diagnostic laboratory capacity.	12
51	4.2.3.6.	USDA and USAID shall work with FAO and OIE to provide technical support for animal health diagnostic laboratories by developing and implementing international laboratory diagnostic protocols, standards, and infrastructure in priority countries that can rapidly screen avian influenza specimens from susceptible animal populations, within 12 months. Measure of performance: 75 percent of priority countries have improved animal diagnostic laboratory capacity.	12

52	4.2.3.7.	USDA and USAID shall provide technical expertise to help priority countries develop their cadre of veterinary diagnostic technicians to screen avian influenza specimens from wild and domestic bird populations, and other susceptible animals, rapidly and in a manner that adheres to international standards for proficiency and safety, within 12 months. Measure of performance: all priority countries have access to laboratories that are able to screen avian influenza specimens and confirm diagnoses in a manner that supports effective control of cases of avian influenza.	12
56	4.2.4.1.	HHS and USAID shall, in coordination with regional and international multi-lateral organizations, develop village-based alert and response surveillance systems for human cases of influenza in priority countries, within 18 months. Measure of performance: 75 percent of all priority countries have established a village alert and response system for human influenza.	18
58	4.2.5.1.	HHS and USAID shall develop, in coordination with the WHO Secretariat and other donor countries, rapid response protocols for use in responding quickly to credible reports of human-to-human transmission that may indicate the beginnings of an influenza pandemic, within 12 months. Measure of performance: adoption of protocols by WHO and other stakeholders.	12
60	4.2.5.3.	USDA and USAID shall provide technical expertise to priority countries in order to expand the scope and accuracy of systematic surveillance of avian influenza cases, within 12 months. Measure of performance: 75 percent of priority countries have expanded animal surveillance capabilities.	12
61	4.2.6.1.	DHS, USDA, DOI, and USAID, in collaboration with priority countries, NGOs, WHO, FAO, OIE, and the private sector shall support priority country animal health activities, including development of regulations and enforcement capacities that conform to OIE standards for transboundary movement of animals, development of effective biosecurity measures for commercial and domestic animal operations and markets, and identification and confirmation of infected animals, within 12 months. Measure of performance: 50 percent of priority countries have implemented animal health activities as defined above.	12
64	4.2.8.1.	HHS and USAID shall develop community- and hospital-based infection control and prevention, health promotion and education activities in local languages in priority countries within 9 months. Measure of performance: local language health promotion campaigns and improved hospital-based infection control activities established in all South East Asian priority countries.	9
69	4.3.1.5.	USDA and USAID, in coordination with DOS, HHS, and DOD, and in collaboration with relevant international organizations, shall support operational deployment of rapid response teams and provide technical expertise and technology to support avian influenza assessment and response teams in priority countries as required. Measure of performance: all priority countries have rapid access to avian influenza assessment and response teams; deployment assistance provided in each instance and documented in a log of technical assistance rendered.	

1	4.1.1.1.	DOS, in coordination with HHS, USAID, DOD, and DOT, shall work with the Partnership, the Senior UN System Coordinator for Avian and Human Influenza, other international organizations (e.g., WHO, World Bank, OIE, FAO) and through bilateral and multilateral initiatives to encourage countries, particularly those at highest risk, to develop and exercise national and regional avian and pandemic response plans within 12 months. Measure of performance: 90 percent of high-risk countries have response plans and plans to test them.	12
6	4.1.2.3.	USDA, working with USAID and the Partnership, shall support the FAO and OIE to implement an instrument to assess priority countries' veterinary infrastructure for prevention, surveillance, and control of animal influenza and increase veterinary rapid response capacity by supporting national capacities for animal surveillance, diagnostics, training, and containment in at-risk countries, within 9 months. Measure of performance: per the OIE's Performance, Vision and Strategy Instrument, assessment tools exercised and results communicated to the Partnership, and priority countries are developing, or have in place, an infrastructure capable of supporting their national prevention and response plans for avian or other animal influenza.	9
7	4.1.2.4.	USDA, in coordination with DOS, USAID, the OIE, and other members of the Partnership, shall support FAO to enhance the rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, within 12 months. Measure of performance: an international program is established and providing functional support to priority countries with rapid detection and reporting of, response to, and control or eradication of outbreaks of avian influenza, as appropriate to the country's specific situation.	12
8	4.1.2.5.	HHS, in coordination with USAID, shall increase rapid response capacity within those countries at highest risk of human exposure to animal influenza by supporting national and local government capacities for human surveillance, diagnostics, and medical care, and by supporting training and equipping of rapid response and case investigation teams for human outbreaks, within 9 months. Measure of performance: trained, deployable rapid response teams exist in countries with the highest risk of human exposure.	9
25	4.1.7.1.	DOS shall work with HHS and USAID, in collaboration with the WHO Secretariat, to coordinate the USG contribution to an international stockpile of antiviral medications and other medical countermeasures, including international countermeasure distribution plans and mechanisms and agreed prioritization of allocation, within 6 months. Measure of performance: release of proposed doctrine of deployment and concept of operations for an international stockpile.	6
65	4.3.1.1.	DOS, in coordination with HHS, USDA, USAID, and DOD, shall coordinate the development and implementation of U.S. capability to respond rapidly to assess and contain outbreaks of avian influenza with pandemic potential abroad, including coordination of the development, training and exercise of U.S. rapid response teams; and coordination of U.S. support for development, training and exercise of, and U.S. participation in, international support teams. Measure of performance: agreed operating procedures and operational support for U.S. rapid response, and for U.S. participation in international rapid response efforts, are developed and function effectively.	

67	4.3.1.3.	HHS, in coordination with DOS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall rapidly deploy disease surveillance and control teams to investigate possible human outbreaks through WHO's GOARN network, as required. Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
68	4.3.1.4.	DOS, in coordination with HHS, and the WHO Secretariat, and USDA, USAID, DOD, as appropriate, shall coordinate United States participation in the implementation of the international response and containment strategy (e.g., assigning experts to the WHO outbreak teams and providing assistance and advice to ministries of health on local public health interventions, ongoing disease surveillance, and use of antiviral medications and vaccines if they are available). Measure of performance: teams deployed to suspected outbreaks within 48 hours of investigation request.	
71	4.3.1.7.	DOS, in coordination with and drawing on the expertise of USAID, HHS, and DOD, shall work with the international community to develop, within 12 months, a coordinated, integrated, and prioritized distribution plan for pandemic influenza assistance that details a strategy for (1) strategic lift of WHO stockpiles and response teams, (2) theater distribution to high-risk countries, (3) in-country coordination to key distribution areas, and (4) establishment of internal mechanisms within each country for distribution to urban, rural, and remote populations. Measure of performance: commitments by countries that specify their ability to support distribution, and specify the personnel and material for such support.	12
72	4.3.1.8.	DOS, in coordination with HHS, USDA, USAID, and DHS, and in collaboration with WHO, FAO, OIE, the World Bank and regional institutions such as APEC, the Association of Southeast Asian Nations and the European Community, shall, to the extent feasible, improve public affairs coordination and establish a set of agreed upon operating principles among these international organizations and the United States that describe the actions and expectations of the public affairs strategies of these entities that would be implemented in the event of a pandemic, within 6 months. Measure of performance: list of key public affairs contacts developed, planning documents shared, and coordinated public affairs strategy developed.	6
76	4.3.3.1.	DOS, in coordination with HHS, USAID, USDA, and DOD, shall work with the Partnership to assist in the prompt and effective delivery of countermeasures to affected countries consistent with U.S. law and regulation and the agreed upon doctrine for international action to respond to and contain an outbreak of influenza with pandemic potential. Measure of performance: necessary countermeasures delivered to an affected area within 48 hours of agreement to meet request.	
82	4.3.6.1.	DOS, in coordination with HHS, USAID, USDA, DOD, and DHS, shall lead an interagency public diplomacy group to develop a coordinated, integrated, and prioritized plan to communicate U.S. foreign policy objectives relating to our international engagement on avian and pandemic influenza to key stakeholders (e.g., the American people, the foreign public, NGOs, international businesses), within 3 months. Measure of performance: number and range of target audiences reached with core public affairs and public diplomacy messages, and impact of these messages on public responses to avian and pandemic influenza.	3

Departments	USAID	Please Provide the name of your Department or Agency's primary representative	If you are the primary agency, please briefly summarize progress towards goal
USDA USAID HHS	Primary Agency		
USAID HHS USDA	Primary Agency		
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If you are the primary agency, please indicate whether you anticipate achieving the objective within the timeframe stated in the plan

Pillar	Sub-heading
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Planning for a Pandemic*
1	*Communicating Expectations and Responsibilities*
1	*Communicating Expectations and Responsibilities*
1	*Communicating Expectations and Responsibilities*
1	*Communicating Expectations and Responsibilities*
1	*Producing and Stockpiling Vaccines, Antivirals, and Medical Material*
1	*Producing and Stockpiling Vaccines, Antivirals, and Medical Material*
1	*Producing and Stockpiling Vaccines, Antivirals, and Medical Material*
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1	*Producing and Stockpiling Vaccines, Antivirals, and Medical Material*
1	*Producing and Stockpiling Vaccines, Antivirals, and Medical Material*
1	*Establishing Distribution Plans for Vaccines and Antivirals*
1	*Establishing Distribution Plans for Vaccines and Antivirals*
1	*Advancing Scientific Knowledge and Accelerating Development*
1	*Advancing Scientific Knowledge and Accelerating Development*
1	*Advancing Scientific Knowledge and Accelerating Development*
1	*Advancing Scientific Knowledge and Accelerating Development*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Ensuring Rapid Reporting of Outbreaks*
2	*Using Surveillance to Limit Spread*
2	*Using Surveillance to Limit Spread*
2	*Using Surveillance to Limit Spread*
2	*Using Surveillance to Limit Spread*

2	*Using Surveillance to Limit Spread*
2	*Using Surveillance to Limit Spread*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Containing Outbreaks*
3	*Leveraging National Medical and Public Health Surge Capacity*
3	*Leveraging National Medical and Public Health Surge Capacity*
3	*Leveraging National Medical and Public Health Surge Capacity*
3	*Leveraging National Medical and Public Health Surge Capacity*
3	*Sustaining Infrastructure, Essential Services, and the Economy*
3	*Sustaining Infrastructure, Essential Services, and the Economy*
3	*Sustaining Infrastructure, Essential Services, and the Economy*
3	*Ensuring Effective Risk Communication*
3	*Ensuring Effective Risk Communication*
3	*Sustaining Infrastructure, Essential Services, and the Economy*

Bullet
Develop federal implementation plans to support this *Strategy* , to include all components of the U.S. government and to address the full range of consequences of a pandemic, including human and animal health, security, transportation, economic, trade and infrastructure considerations.
Work through multilateral health organizations such as the World Health Organization (WHO), Food and Agriculture Organization (FAO), World Organization for Animal Health (OIE) and regional organizations such as the Asia-Pacific Economic Cooperation (APEC) forum, as well as through bilateral and multilateral contacts to:
Support the development and exercising of avian and pandemic response plans.
Expand in-country medical, veterinary and scientific capacity to respond to an outbreak.
Educate populations at home and abroad about high-risk practices that increase the likelihood of virus transmission between species.
Continue to work with states and localities to establish and exercise pandemic response plans.
Continue to work with states and localities to develop medical and veterinary surge capacity plans.
Continue to work with states and localities to integrate non-health sectors, including the private sector and critical infrastructure entities, in these planning efforts.
Build upon existing domestic mechanisms to rapidly recruit and deploy large numbers of health, medical and veterinary providers within or across jurisdictions to match medical requirements with capabilities.
Work to ensure clear, effective and coordinated risk communication, domestically and internationally, before and during a pandemic. This includes identifying credible spokespersons at all levels of government to effectively coordinate and communicate helpful, informative messages in a timely manner.
Provide guidance to the private sector and critical infrastructure entities on their role in the pandemic response, and considerations necessary to maintain essential services and operations despite significant and sustained worker absenteeism.
Provide guidance to individuals on infection control behaviors they should adopt pre-pandemic, and the specific actions they will need to take during a severe influenza season or pandemic, such as self-isolation and protection of others if they themselves contract influenza.
Provide guidance and support to poultry, swine and related industries on their role in responding to an outbreak of avian influenza, including ensuring the protection of animal workers and initiating or strengthening public education campaigns to minimize the risks of infection from animal products.
Encourage nations to develop production capacity and stockpiles to support their response needs, to include pooling of efforts to create regional capacity.
Encourage and subsidize the development of state-based antiviral stockpiles to support response activities.
Ensure that our national stockpile and stockpiles based in states and communities are properly configured to respond to the diversity of medical requirements presented by a pandemic, including personal protective equipment, antibiotics and general supplies.
Establish domestic production capacity and stockpiles of countermeasures to ensure sufficient vaccine to vaccinate front-line personnel and at-risk populations, including military personnel.
Establish domestic production capacity and stockpiles of countermeasures to ensure sufficient vaccine to vaccinate the entire U.S. population within six months of the emergence of a virus with pandemic potential.
Establish domestic production capacity and stockpiles of countermeasures to ensure antiviral treatment for those who contract a pandemic strain of influenza.

Facilitate appropriate coordination of efforts across the vaccine manufacturing sector.
Address regulatory and other legal barriers to the expansion of our domestic vaccine production capacity.
Expand the public health recommendations for domestic seasonal influenza vaccination and encourage the same practice internationally.
Expand the domestic supply of avian influenza vaccine to control a domestic outbreak of avian influenza in bird populations.
Develop credible countermeasure distribution mechanisms for vaccine and antiviral agents prior to and during a pandemic.
Prioritize countermeasure allocation before an outbreak, and update this prioritization immediately after the outbreak begins based on the at-risk populations, available supplies and the characteristics of the virus.
Ensure that there is maximal sharing of scientific information about influenza viruses between governments, scientific entities and the private sector.
Work with our international partners to ensure that we are all leveraging the most advanced technological approaches available for vaccine production.
Accelerate the development of cell culture technology for influenza vaccine production and establish a domestic production base to support vaccination demands.
Use novel investment strategies to advance the development of next-generation influenza diagnostics and countermeasures, including new antivirals, vaccines, adjuvant technologies, and countermeasures that provide protection across multiple strains and seasons of the influenza virus.
Work through the International Partnership on Avian and Pandemic Influenza, as well as through other political and diplomatic channels such as the United Nations and the Asia-Pacific Economic Cooperation forum, to ensure transparency, scientific cooperation and rapid reporting of avian and human influenza cases.
Support the development of the proper scientific and epidemiologic expertise in affected regions to ensure early recognition of changes in the pattern of avian or human outbreaks.
Support the development and sustainment of sufficient U.S. and host nation laboratory capacity and diagnostic reagents in affected regions and domestically, to provide rapid confirmation of cases in animals or humans.
Advance mechanisms for “real-time” clinical surveillance in domestic acute care settings such as emergency departments, intensive care units and laboratories to provide local, state and federal public health officials with continuous awareness of the profile of illness in communities, and leverage all federal medical capabilities, both domestic and international, in support of this objective.
Develop and deploy rapid diagnostics with greater sensitivity and reproducibility to allow onsite diagnosis of pandemic strains of influenza at home and abroad, in animals and humans, to facilitate early warning, outbreak control and targeting of antiviral therapy.
Expand our domestic livestock and wildlife surveillance activities to ensure early warning of the spread of an outbreak to our shores.
Develop mechanisms to rapidly share information on travelers who may be carrying or may have been exposed to a pandemic strain of influenza, for the purposes of contact tracing and outbreak investigation.
Develop and exercise mechanisms to provide active and passive surveillance during an outbreak, both within and beyond our borders.
Expand and enhance mechanisms for screening and monitoring animals that may harbor viruses with pandemic potential.
Develop screening and monitoring mechanisms and agreements to appropriately control travel and shipping of potentially infected products to and from affected regions if necessary, and to protect unaffected populations.

Develop rapid-response modeling capability to improve decision-making during a pandemic
Share guidance with international partners on best practices to prevent the spread of influenza, including within hospitals and clinical settings
Work through the International Partnership to develop a coalition of strong partners to coordinate actions to limit the spread of a virus with pandemic potential beyond the location where it is first recognized in order to protect U.S. interests abroad.
Where appropriate, offer and coordinate assistance from the United States and other members of the International Partnership.
Encourage all levels of government, domestically and globally, to take appropriate and lawful action to contain an outbreak within the borders of their community, province, state or nation.
Where appropriate, use governmental authorities to limit non-essential movement of people, goods and services into and out of areas where an outbreak occurs.
Provide guidance to all levels of government on the range of options for infection-control and containment, including those circumstances where social distancing measures, limitations on gatherings, or quarantine authority may be an appropriate public health intervention.
Emphasize the roles and responsibilities of the individual in preventing the spread of an outbreak, and the risk to others if infection-control practices are not followed.
Provide guidance for states, localities and industry on best practices to prevent the spread of avian influenza in commercial, domestic and wild birds, and other animals.
Implement state and local public health and medical surge plans, and leverage all federal medical facilities, personnel and response capabilities to support the national surge requirement.
Activate plans to distribute medical countermeasures, including non-medical equipment and other material, from the Strategic National Stockpile and other distribution centers to federal, state and local authorities.
Address barriers to the flow of public health, medical and veterinary personnel across state and local jurisdictions to meet local shortfalls in public health, medical and veterinary capacity.
Determine the spectrum of public health, medical and veterinary surge capacity activities that the U.S. military and other government entities may be able to support during a pandemic, contingent upon primary mission requirements, and develop mechanisms to activate them.
Encourage the development of coordination mechanisms across American industries to support the above activities during a pandemic.
Provide guidance to activate contingency plans to ensure that personnel are protected, that the delivery of essential goods and services is maintained, and that sectors remain functional despite significant and sustained worker absenteeism.
Determine the spectrum of infrastructure-sustainment activities that the U.S. military and other government entities may be able to support during a pandemic, contingent upon primary mission requirements, and develop mechanisms to activate them.
Ensure that timely, clear, coordinated messages are delivered to the American public from trained spokespersons at all levels of government and assist the governments of affected nations to do the same.
Work with state and local governments to develop guidelines to assure the public of the safety of the food supply and mitigate the risk of exposure from wildlife.
Analyze the potential economic and social impact of a pandemic on the stability and security of the international community and identify means to address it.

Joan: Have you been able to determine which DOJ Division should have the lead for the counterfeit drug issue set forth in action 6.1.13.10 of the plan? After my discussions with Paul T. I think we decided it should be Civil as it was an FDA matter. We will need to know soon to meet a Homeland Security Council suspense date. Thanks.

Fran Schmitz

From: Schmitz, Fran (CTS)
Sent: Tuesday, June 20, 2006 3:32 PM
To: Otis, Lee L
Cc: Roehrkasse, Brian; McAtamney, James A; Hart, Rosemary; Edelman, Ronnie; 'Joan.B.Kennedy@usdoj.gov'; Bolden, Trella N; Mercer, Bill (ODAG); Mullaney, Michael
Subject: Pandemic Update and notice of HSC suspense for information

There was a Sub-PCC conference call yesterday. The point Ken and Rajeev wanted to make was that as long as our plans are in draft form they are not "FOIABLE" (their word) and therefore should not be released to anyone outside of the government. They are still looking at the issue of whether parts of the plans should be released once plans are final. Final plans will be due on August 15 at the earliest. As you will recall from a prior Email, this is to allow OPM to develop policy guidance which can be incorporated in department plans ensuring some level of government consistency in the executive branch. I am copying OPA on this as we were asked to pass this on to our communicators as well.

The attachments were recently sent to the Executive Secretariat. **We will need to reply to the HSC by June 28th** with our points of contact for each action we are involved in along with the progress for each action. **A Biodefense PCC will convene sometime during the week of July 2** to review the results of the data call. We still need to formally designate responsible divisions/offices within DOJ and then come up with names. I am working on this over the next few days in between "exercise play" at the offsite.

Francis Schmitz
National Crisis Management Coordinator
DOJ Counterterrorism Section
[redacted] direct/secure line
[redacted] (cell)
[redacted] (pager)
[redacted] (fax)
[redacted]@usdoj.sgov.gov (sipernet)

Otus2005, Ag

Subject:	Updated: Strategic Initiatives with the Attorney General re: National Terrorism Prevention Strategy
Start:	Friday, June 23, 2006 11:45 AM
End:	Friday, June 23, 2006 12:45 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Friedrich, Matthew; Elston, Michael (ODAG); McNulty, Paul J; 'Wainstein, Kenneth'; McIntosh, Brent

When: Friday, June 23, 2006 11:45 AM-12:45 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Kyle Sampson DOJ: Paul McNulty, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Brent McIntosh for Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Alice Fisher, Ken Masugi, Mike Battle, Matt Friedrich, Mike Elston, Ken Wainstein

Bester, Matthew

From: Bester, Matthew
Sent: Tuesday, June 20, 2006 5:03 PM
To: Gorsuch, Neil M
Subject: your hearing

Hi Neil,

I saw Lily today as we did our last (!) Immigration Task Force interview. She mentioned your hearing is scheduled for tommorow. I'd love to try to come over for it, and if I can get my speech (I'm speaking at a real estate conference next week) in good shape, I will.

If I don't see you tommorow, I'm sure your hearing will go very well. Best of luck (but you don't need it)!

Matt

Murphy, Stephen J. (USAMIE)

From:	Murphy, Stephen J. (USAMIE)
Sent:	Tuesday, June 20, 2006 5:06 PM
To:	Gorsuch, Neil M
Subject:	Good luck.
Attachments:	tmp.htm

I will be thinking about you tomorrow and praying hard for your success.

I am truly happy for you.

Best wishes, SJM

I will be thinking about you tomorrow and praying hard for your success.

I am truly happy for you.

Best wishes, SJM

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 20, 2006 5:07 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

We need an "a" before "written review process" in the second to last paragraph. Otherwise looks good.

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 4:38 PM
To: Shaw, Aloma A; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Looks good to me

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 4:25 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Reply letter with Mr. McCallum's suggested edits.

<< File: Rep Ed Pastor Response v 2.doc >>

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:11 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Rep Ed Pastor Response

I am giving a hard copy with suggested edits to Currie/Aloma and asking them to make the changes. Robt.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:35 AM
To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM

To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Tuesday, June 20, 2006 5:08 PM
To: Gorsuch, Neil M
Subject: FYI

FYI

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
Sent: Tuesday, June 20, 2006 5:05 PM
To: Jaffer, Jamil N
Subject: RE: O.J. trial editorial

...

PS. I see that Neil is getting a hearing tomorrow. I'll be keeping him in my thoughts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 5:08 PM
To: Bester, Matthew
Subject: Re: your hearing

Thanks so much for the good vibes - and I do need them!

-----Original Message-----
From: Bester, Matthew
To: Gorsuch, Neil M
Sent: Tue Jun 20 17:02:56 2006
Subject: your hearing

Hi Neil,

I saw Lily today as we did our last (!) Immigration Task Force interview. She mentioned your hearing is scheduled for tommorow. I'd love to try to come over for it, and if I can get my speech (I'm speaking at a real estate conference next week) in good shape, I will.

If I don't see you tommorow, I'm sure your hearing will go very well. Best of luck (but you don't need it)!

Matt

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, June 20, 2006 5:09 PM
To: McCallum, Robert (SMO); Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: RE: Missing Senior Management 8:30 meeting Wed Thurs and Fri

No worries. Thx, Robt.

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 2:00 PM
To: Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: Missing Senior Management 8:30 meeting Wed Thurs and Fri

I will be missing the next 3 days at the 8:30. I have off-site cadre training tomorrow at an undisclosed location and 8:30 meetings of the Standing Comm on Thurs and Friday. Neil will cover. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 5:09 PM
To: Murphy, Stephen J. (USAMIE)
Subject: Re: Good luck.

Thanks so much for the prayers and good vibes - I need them.

-----Original Message-----
From: Murphy, Stephen J. (USAMIE)
To: Gorsuch, Neil M
Sent: Tue Jun 20 17:06:26 2006
Subject: Good luck.

I will be thinking about you tomorrow and praying hard for your success.

I am truly happy for you.

Best wishes, SJM

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, June 20, 2006 5:13 PM
To: Gorsuch, Neil M
Subject: FW: ABA rating in - Neil Gorsuch

Congrats! As expected.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, June 20, 2006 12:30 PM
To: Sampson, Kyle
Subject: Fw: ABA rating in - Neil Gorsuch

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Sent: Tue Jun 20 12:04:47 2006
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 5:27 PM
To: Sampson, Kyle
Subject: Re: ABA rating in - Neil Gorsuch

Thanks so much, Chief.

-----Original Message-----
From: Sampson, Kyle
To: Gorsuch, Neil M
Sent: Tue Jun 20 17:13:28 2006
Subject: FW: ABA rating in - Neil Gorsuch

Congrats! As expected.

-----Original Message-----
From: Brand, Rachel
Sent: Tuesday, June 20, 2006 12:30 PM
To: Sampson, Kyle
Subject: Fw: ABA rating in - Neil Gorsuch

-----Original Message-----
From: Martinson, Wanda
To: Brand, Rachel; Macklin, Kristi R; Best, David T
Sent: Tue Jun 20 12:04:47 2006
Subject: ABA rating in - Neil Gorsuch

Unanimous - Well Qualified
Copies are coming to your inboxes.

Epley, Mark D

From: Epley, Mark D
Sent: Tuesday, June 20, 2006 5:55 PM
To: Gorsuch, Neil M
Subject: Best wishes

With your hearing tomorrow.

Rusak, Steve (ENRD)

From: Rusak, Steve (ENRD)
Sent: Tuesday, June 20, 2006 6:15 PM
To: Gorsuch, Neil M
Subject: Good luck tomorrow. Steve

Sent Using U.S. DOJ/ENRD BES Server

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 6:24 PM
To: Rusak, Steve (ENRD)
Subject: RE: Good luck tomorrow. Steve

Thanks!

-----Original Message-----
From: Rusak, Steve (ENRD)
Sent: Tuesday, June 20, 2006 6:15 PM
To: Gorsuch, Neil M
Subject: Good luck tomorrow. Steve

Sent Using U.S. DOJ/ENRD BES Server

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 6:24 PM
To: Todd, Gordon (SMO); Shaw, Aloma A
Subject: FW: Rep Ed Pastor Response

Please can you take care of this?

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 6:13 PM
To: Todd, Gordon (SMO); Gorsuch, Neil M; Shaw, Aloma A
Cc: Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Make that change and prep for my signature. Robt.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 20, 2006 5:07 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

We need an "a" before "written review process" in the second to last paragraph. Otherwise looks good.

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 4:38 PM
To: Shaw, Aloma A; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Looks good to me

From: Shaw, Aloma A
Sent: Tuesday, June 20, 2006 4:25 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: Rep Ed Pastor Response

Reply letter with Mr. McCallum's suggested edits.

<< File: Rep Ed Pastor Response v 2.doc >>

From: McCallum, Robert (SMO)
Sent: Tuesday, June 20, 2006 4:11 PM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: FW: Rep Ed Pastor Response

I am giving a hard copy with suggested edits to Currie/Aloma and asking them to make the changes.

Robt.

From: Gorsuch, Neil M
Sent: Tuesday, June 13, 2006 10:35 AM
To: McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO)
Subject: Rep Ed Pastor Response

Robert - Attached is a draft reply to Rep. Pastor's letter on the ac privilege waiver issue for your review. Gordon and I have gone back and forth a couple times and think this is ready for your review, but the work and credit really belongs to Gordon. NMG

From: Todd, Gordon (SMO)
Sent: Tuesday, June 13, 2006 10:30 AM
To: Gorsuch, Neil M
Subject: RE: Rep Ed Pastor Response v 2.doc

Just a few nits, but otherwise it's good with me.

<< File: Rep Ed Pastor Response v 2.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 6:25 PM
To: Epley, Mark D
Subject: RE: Best wishes

Thanks so much, Mark.

-----Original Message-----
From: Epley, Mark D
Sent: Tuesday, June 20, 2006 5:55 PM
To: Gorsuch, Neil M
Subject: Best wishes

With your hearing tomorrow.

Rusak, Steve (ENRD)

From: Rusak, Steve (ENRD)
Sent: Tuesday, June 20, 2006 6:33 PM
To: Gorsuch, Neil M
Subject: Read: Good luck tomorrow. Steve

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Tuesday, June 20, 2006 6:35 PM
To: Gorsuch, Neil M
Subject: Read: transcripts

Epley, Mark D

From: Epley, Mark D
Sent: Tuesday, June 20, 2006 6:37 PM
To: Gorsuch, Neil M
Subject: Read: Best wishes

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, June 20, 2006 6:43 PM
To: Gorsuch, Neil M
Subject: Read: transcripts

Pagliocca, Theresa

From: Pagliocca, Theresa
Sent: Tuesday, June 20, 2006 6:46 PM
To: USDOJ- Office of Public Affairs
Cc: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 20, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Intellectual Property Progress Report (OPA)
Today, the Attorney General highlighted the Department's Intellectual Property Task Force Progress Report in a speech and print roundtable at the U.S. Chamber of Commerce and with CNBC and Bloomberg TV.

Commercial Databases (FBI)
The *Associated Press* published a story today that was critical of DOJ, DHS and state and local investigative efforts to collect information such as phone records from commercial databases. FBI provided the following statement.

Talking Points:

- Commercial databases can be searched by FBI employees for information about individuals and groups in whom the FBI has a valid investigative interest. The commercial reseller databases contain public information (which includes information obtained from public sources) as well as proprietary information that is privately owned and commercially available at the discretion of the owner. This information is available to FBI agents from the same sources that provide it to the commercial databases. What these commercial databases offer their customers, including the FBI, by contract is a consolidation of this information so that, rather than going to multiple databases for this information, it can be obtained through one or two searches.

- The FBI's contracts with commercial databases do not, in any respect, undermine the FBI's obligation to comply with all federal laws that protect an individual's privacy including, among others, the Privacy Act, the Right to Financial Privacy Act, and applicable provisions of the federal tax code. In other words, the FBI can only collect and retain data available from commercial databases in strict compliance with applicable federal law.

- The law carefully delineates acceptable conduct in law enforcement investigations and intelligence activities. The FBI has an unwavering commitment to adhere to those

requirements, as well as those mandated by federal regulations and the Attorney General's Guidelines. The FBI exercises due diligence to ensure that the use of public source data is in furtherance of the FBI's mission and consistent with applicable privacy laws, regulations, and policies.

David Safavian Convicted For Making False Statements and Obstruction of Justice (Criminal)
A federal jury in Washington, D.C., convicted David H. Safavian, the former chief of staff for the General Services Administration (GSA), of obstructing a GSA proceeding and making false statements. The jury convicted Safavian today of four charges stemming from an October 2005 indictment, following an eight-day trial and four days of jury deliberation. The jury found that from May 16, 2002 until January 2004, Safavian made false statements and obstructed investigations into his relationship with former Washington lobbyist Jack Abramoff.

Media Inquiry into Grassley Letter to FBI Director (FBI)
Washington Times's Jerry Seper is working on a story regarding a recent letter from Senator Grassley to FBI Director Robert Mueller regarding the FBI's effectiveness as the lead agency in terrorist financing cases.

Talking Points:

- The FBI is in receipt of the letter from Senator Grassley. It would not be appropriate to discuss the letter at this time. The Director's office will respond directly to Senator Grassley.

Little Rock man Found Guilty of Immigration Violations (FBI)
In Little Rock yesterday, a jury found Arwah J. Jaber guilty of numerous immigration violations. Jaber was found not guilty of providing Material Support to a Terrorist Organization. Jaber is a Palestinian who was a PhD candidate at University of Arkansas-Fayetteville, and, who, in May and June of 2005, sent emails to various friends and colleagues that he was returning to Palestine to "do his duty" to participate with Palestinian Islamic Jihad in operations against Israel. A deportation hearing was scheduled for today.

Media Coverage of Military Imposters (FBI)
USA Today will be running a feature article in tomorrow's edition regarding the Medal of Honor and military "impostors."

Media Inquiry into FBI Role in New Zealand Deportation (FBI)
Washington Times's Audrey Hudson is working on a story regarding the FBI's role with New Zealand Authorities, who recently deported Rayed Abdullah Ali from New Zealand and returned to Saudi Arabia. It is not clear when this story will run.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will participate in radio interviews with Paul W. Smith (WJR, Detroit) and The Sean Hannity Show to discuss the Administration's immigration reform.

Karen Tandy, Administrator, Drug Enforcement Administration, will testify before the Senate Foreign Relations Subcommittee on International Economic Policy, Export and Trade Promotion and the Subcommittee on the Western Hemisphere, Peace Corps and Narcotics regarding international methamphetamine trafficking.

Keisler, Peter D (CIV)

From: Keisler, Peter D (CIV)
Sent: Tuesday, June 20, 2006 6:50 PM
To: Gorsuch, Neil M
Subject: Good luck tomorrow

I hope it's quiet and uneventful, and in any event, I know you'll do great.

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, June 20, 2006 6:53 PM
To: Gorsuch, Neil M
Subject: Read: Pandemic Update and notice of HSC suspense for information

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 7:08 PM
To: Keisler, Peter D (CIV)
Subject: Re: Good luck tomorrow

Thanks, Peter. Here's hoping you have a like experience soon.

-----Original Message-----
From: Keisler, Peter D (CIV)
To: Gorsuch, Neil M
Sent: Tue Jun 20 18:49:58 2006
Subject: Good luck tomorrow

I hope it's quiet and uneventful, and in any event, I know you'll do great.

Barnett, Thomas O.

From: Barnett, Thomas O.
Sent: Tuesday, June 20, 2006 7:09 PM
To: Gorsuch, Neil M
Subject: Hearing

Neil,

Good luck tomorrow!

Tom

Thomas O. Barnett
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 514-2401

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Tuesday, June 20, 2006 7:14 PM
To: Gorsuch, Neil M
Subject: Not read: NYT Letter to the Editor

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Tuesday, June 20, 2006 7:15 PM
To: Gorsuch, Neil M
Subject: Not read: NYT Letter to the Editor

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 7:22 PM
To: Barnett, Thomas O.
Subject: Re: Hearing

Thanks so much.

-----Original Message-----
From: Barnett, Thomas O.
To: Gorsuch, Neil M
Sent: Tue Jun 20 19:08:57 2006
Subject: Hearing

Neil,

Good luck tomorrow!

Tom

Thomas O. Barnett
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 514-2401

Meyer, Joan E (ODAG)

From: Meyer, Joan E (ODAG)
Sent: Tuesday, June 20, 2006 7:40 PM
To: Gorsuch, Neil M
Subject: Read: Pandemic Update and notice of HSC suspense for information

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, June 20, 2006 8:01 PM
To: Gorsuch, Neil M
Cc: Meyer, Joan E (ODAG); Schmitz, Fran (CTS)
Subject: RE: Pandemic Update and notice of HSC suspense for information

Will do. Joan, I'll be in touch tomorrow.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 20, 2006 6:26 PM
To: Bucholtz, Jeffrey (CIV)
Cc: Meyer, Joan E (ODAG)
Subject: FW: Pandemic Update and notice of HSC suspense for information

Jeff - Can you please help Joan with this/identify the right folks in CIV?

-----Original Message-----
From: Meyer, Joan E (ODAG)
Sent: Tuesday, June 20, 2006 4:58 PM
To: Gorsuch, Neil M
Subject: FW: Pandemic Update and notice of HSC suspense for information

Neil, could you help me on this? I need a POC in Civil - 6.1.13.10 - involves ensuring detection of international shipments of counterfeit vaccines and thwarting domestic counterfeit drug production and distribution. Joan

Joan

-----Original Message-----
From: Schmitz, Fran (CTS)
Sent: Tuesday, June 20, 2006 4:14 PM
To: Meyer, Joan E (ODAG)
Cc: Otis, Lee L
Subject: FW: Pandemic Update and notice of HSC suspense for information

Joan: Have you been able to determine which DOJ Division should have the lead for the counterfeit drug issue set forth in action 6.1.13.10 of the plan? After my discussions with Paul T. I think we decided it should be Civil as it was an FDA matter. We will need to know soon to meet a Homeland Security Council suspense date. Thanks.

Fran Schmitz

From: Schmitz, Fran (CTS)
Sent: Tuesday, June 20, 2006 3:32 PM
To: Otis, Lee L
Cc: Roehrkasse, Brian; McAtamney, James A; Hart, Rosemary; Edelman, Ronnie; 'Joan.B.Kennedy@usdoj.gov'; Bolden, Trella N; Mercer, Bill (ODAG); Mullaney, Michael
Subject: Pandemic Update and notice of HSC suspense for information

There was a Sub-PCC conference call yesterday. The point Ken and Rajeev wanted to make was that as long as our plans are in draft form they are not "FOIABLE" (their word) and therefore should not be released to anyone outside of the government. They are still looking at the issue of whether parts of the plans should be released once plans are final.
Final plans will be due on August 15 at the earliest. As you will recall from a prior Email, this is to allow OPM to develop policy guidance which can be incorporated in department plans ensuring some level of government consistency in the executive branch. I am copying OPA on this as we were asked to pass this on to our communicators as well.

The attachments were recently sent to the Executive Secretariat. We will need to reply to the HSC by June 28th with our points of contact for each action we are involved in along with the progress for each action. A Biodefense PCC will convene sometime during the week of July 2 to review the results of the data call. We still need to formally designate responsible divisions/offices within DOJ and then come up with names. I am working on this over the next few days in between "exercise play" at the offsite.

Francis Schmitz
National Crisis Management Coordinator
DOJ Counterterrorism Section
[redacted] direct/secure line

[redacted] (cell)

[redacted] (pager)

[redacted] (fax)

[redacted] @usdoj.sgov.gov (sipernet)

Brand, Rachel

From: Brand, Rachel
Sent: Tuesday, June 20, 2006 8:19 PM
To: Gorsuch, Neil M
Subject: Not read: moot

Palmer, David (CRT)

From: Palmer, David (CRT)
Sent: Tuesday, June 20, 2006 8:25 PM
To: Gorsuch, Neil M

Neil -

Just following up on our conversation of last month. Are you free to touch base this week?

Thanks

David

2026165570

Amber.JMD

From: Amber.JMD
Sent: Tuesday, June 20, 2006 9:49 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Memphis, TN

From: AmberAlert-DOJ
Sent: Tuesday, June 20, 2006 9:49:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; USTP, AmberAlert; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Memphis, TN
Auto forwarded by a Rule

AMBER ALERT:Memphis,TN VEH:Gold Honda Accord TAG:MS SN CHILD:16 Asian F 5' 95 Eyes:Brn Hair:Dk SUS:23 Asian M 110 Eyes:Blk Hair:Blk CALL 901-543-2720

AMBER Alerts
http://www.missingkids.com/missingkids/servlet/AmberServlet

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Otus2005, Ag

Subject:	Updated: Strategic Initiatives with the Attorney General re: National Terrorism Prevention Strategy
Start:	Friday, June 23, 2006 4:30 PM
End:	Friday, June 23, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Friedrich, Matthew; Elston, Michael (ODAG); McNulty, Paul J; Wainstein, Kenneth; McIntosh, BrentOtus2005, Ag; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Friedrich, Matthew; Elston, Michael (ODAG); McNulty, Paul J; Wainstein, Kenneth; McIntosh, Brent

AG's Conference Room
AO: Kyle Sampson DOJ: Paul McNulty, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Brent McIntosh for Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Alice Fisher, Ken Masugi, Mike Battle, Matt Friedrich, Mike Elston, Ken Wainstein

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 21, 2006 8:18 AM
To: Gorsuch, Neil M
Subject: Read: Rep Ed Pastor Response

Shaw, Aloma A

Subject:	Mini-Van departs DOJ for Dirksen
Location:	10th St. Gate
Start:	Wednesday, June 21, 2006 3:15 PM
End:	Wednesday, June 21, 2006 3:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F

When: Wednesday, June 21, 2006 3:15 PM-3:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 10th St. Gate

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

Friedrich, Matthew

From: Friedrich, Matthew
Sent: Wednesday, June 21, 2006 9:14 AM
To: Gorsuch, Neil M
Subject: break a leg today

Hate the thought of you leaving here, but break a leg at your hearing today. You will be great. m

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, June 21, 2006 9:53 AM
To: Gorsuch, Neil M
Subject: Call [redacted]

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 21, 2006 10:09 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO MAKE REMARKS AT ABA INTELLECTUAL PROPERTY LAW LUNCHEON

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, JUNE 21, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO MAKE REMARKS AT ABA INTELLECTUAL PROPERTY LAW LUNCHEON

WASHINGTON – Attorney General Alberto R. Gonzales will highlight the Department of Justice's Intellectual Property Task Force Progress Report at the American Bar Association Intellectual Property Law Luncheon **THURSDAY, JUNE 22, 2006 at 1:00 P.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks

WHEN: **THURSDAY, JUNE 22, 2006**
1:00 P.M. EDT

WHERE: Marriott Copley Place Hotel
Grand Ballroom F, Fourth Floor
110 Huntington Avenue
Boston, Massachusetts
OPEN PRESS

NOTE: All media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. **Pre-set will be at 12:15 P.M., final call will be at 12:45 P.M.** All press inquiries regarding logistics should be directed to Evan Peterson of the Office of Public Affairs at 202-353-5748.

# # #

06-382

DOJ_NMG_ 0162762

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Image not available for this document, ID: 0.7.10316.6356-000002

[redacted]@allard.senate.gov

From: [redacted]@allard.senate.gov
Sent: Wednesday, June 21, 2006 10:34 AM
To: Gorsuch, Neil M
Subject: Confirming one fact before your hearing
Attachments: tmp.htm

Neil: Sorry to disturb you before your hearing, but I wanted to confirm that you served as a Senate page in the early 1980s.

Thanks,

Ryan

Neil: Sorry to disturb you before your hearing, but I wanted to confirm that you served as a Senate page in the early 1980s.

Thanks,
Ryan

Davis, Deborah J

From: Davis, Deborah J
Sent: Wednesday, June 21, 2006 10:49 AM
To: Gorsuch, Neil M
Subject: Please call Sue Ellen Wooldridge at 4-2701

Deborah J. Davis
Staff Assistant
Office of Associate Attorney General
Phone: (202) 514-1773 / Fax: (202) 514-0238

fhcsDJ@opm.gov

From:	fhcsDJ@opm.gov
Sent:	Wednesday, June 21, 2006 11:14 AM
To:	Gorsuch, Neil M
Subject:	Reminder Notification--Governmentwide Survey on Human Capital
Attachments:	msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Image not available for this document, ID: 0.7.10316.6343-000001

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 11:19 AM
To: [redacted]@allard.senate.gov'
Subject: Re: Confirming one fact before your hearing

No problem at all. And yes I sure did serve as a page.

-----Original Message-----
From: [redacted]@allard.senate.gov
To: Gorsuch, Neil M
Sent: Wed Jun 21 10:34:23 2006
Subject: Confirming one fact before your hearing

Neil: Sorry to disturb you before your hearing, but I wanted to confirm that you served as a Senate page in the early 1980s.

Thanks,

Ryan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 12:08 PM
To: Cook, Elisebeth C
Subject: RE: Updated Table of Contents for Neil Gorsuch
Attachments: [redacted] letter.pdf

Thanks. Attached is one more I have that isn't on your list. Also, I understand from a few more folks that they've sent letters but I haven't received a copy and you may not have either. They include [redacted] law prof at Berkeley and former Clinton council of economics advisor; [redacted], CA10 member in KS, and [redacted], former chairman of the [redacted] and former chairman of the [redacted].

From: Cook, Elisebeth C
Sent: Wednesday, June 21, 2006 10:15 AM
To: Gorsuch, Neil M
Subject: FW: Updated Table of Contents for Neil Gorsuch

Here's a rough TOC (haven't looked at it yet for formatting, etc.)

From: Coehins, Bridget C
Sent: Wednesday, June 21, 2006 10:11 AM
To: Cook, Elisebeth C
Subject: Updated Table of Contents for Neil Gorsuch

<< File: gorsuch.wpd >>

Bridget C.Coehins
U.S. Department of Justice
Office of Legal Policy
Room 4233
202-514-2061

TAFT, STETTINIUS & HOLLISTER LLP

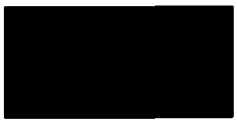
425 WALNUT STREET, SUITE 1800
CINCINNATI, OHIO 45202-3957
513-381-2838
FAX: 513-381-0205
www.taftlaw.com

COLUMBUS, OHIO OFFICE
TWELFTH FLOOR
21 EAST STATE STREET
COLUMBUS, OHIO 43215-4221
614-221-2838
FAX: 614-221-2007

NORTHERN KENTUCKY OFFICE
SUITE 340
1717 DIXIE HIGHWAY
COVINGTON, KENTUCKY 41011-4704
859-331-2838
513-381-2838
FAX: 513-381-6613

CLEVELAND, OHIO OFFICE
3500 BP TOWER
200 PUBLIC SQUARE
CLEVELAND, OHIO 44114-2302
216-241-2838
FAX: 216-241-3707

DAYTON, OHIO OFFICE
SUITE 900
110 NORTH MAIN STREET
DAYTON, OHIO 45402-1786
937-228-2838
FAX: 937-228-2816



June 12, 2006

VIA TELECOPY

Hon. Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Neil Gorsuch

Dear Senator Specter:

It is with great pleasure that I write to recommend the favorable consideration by the Judiciary Committee of the nomination of Neil Gorsuch to the United States Court of Appeals for the Tenth Circuit. I will not repeat the outstanding accomplishments reflected in his resume, which I am sure are well known to you. Instead, I want to pass along my personal observations from working with Mr. Gorsuch over a period of several months.

I have practiced in the federal and state courts for more than forty years and through that experience I have had the opportunity to work with many very fine lawyers and appear before numerous trial and appellate judges. A few years ago, our firm had the good fortune to work with Mr. Gorsuch and his colleagues in connection with the appeal of what I believe to be the largest antitrust judgment in the United States' history, or at least the largest judgment that has withstood an appeal.[1] Mr. Gorsuch was one of the trial lawyers primarily responsible for securing that judgment and took the lead in drafting the appellate briefs in the United States Court of Appeals for the Sixth Circuit and in the United States Supreme Court. While of great importance to the client, for your purposes I do not believe that it is the successful outcome of these appeals that is significant; rather it is the quality of the legal work demonstrated and the personal characteristics evidenced by Mr. Gorsuch throughout the process that matter.

[1] *Conwood Co., L.P. v. U.S. Tobacco Co.*, 290 F.3d 768 (6th Cir. 2002), cert. denied 537 U.S. 1148, 123 S. Ct. 876 (2003)

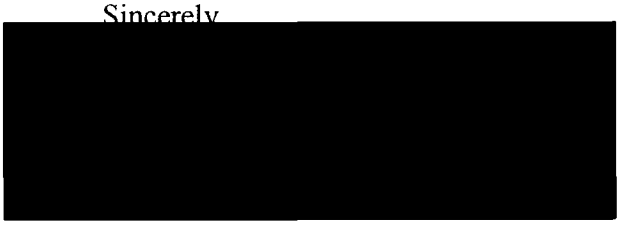
{W0717814.1}

Mr. Gorsuch combines astonishing legal skills and diligence with a personality that encourages the best in those with whom he is working. Technically, he is one of the finest lawyers with whom I have ever worked. But of equal importance, his personal qualities are those that one would like to see in more judges. His unfailing courtesy and probing intellect elicit thorough and fair discussion of the relevant issues. He is open to different views. He is becomingly modest about accomplishments that most of us would proclaim at every opportunity. These qualities will prove to be a great asset to his colleagues on the bench and to those who appear before him.

While controversy has plagued a number of the judicial nominations of this administration, this one should receive universal praise. The Tenth Circuit and the United States of America will be well served by Mr. Gorsuch.

I hope you and your colleagues will come to the same conclusion.

Sincerely



LCC:mhf

CC: The Honorable Patrick J. Leahy (fax)
The Honorable Ken Salazar (fax)
The Honorable Wayne Allard (fax)
Office of Legal Policy, Department of Justice (fax)

{W0717814.1}

BC: Neil Gorsuch (via e-mail)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 12:29 PM
To: Best, David T
Subject: RE: Judicial Nominee Program on June 22, 2006

David, Robert just indicated that he's not going to be here tomorrow; that means that, if I am absent from the AG's 830 mtg, our office is likely to be unrepresented. Would it be easy to shift the start time of this program to 930? If not, I fully understand and our absence at the morning meeting isn't the end of the world (or unprecedented). Thanks.

-----Original Message-----
From: Best, David T
Sent: Monday, June 19, 2006 4:25 PM
To: Gorsuch, Neil M
Subject: FW: Judicial Nominee Program on June 22, 2006

Agenda for your Thursday program at the Administrative Office of the US Courts.

-----Original Message-----
From: [redacted]@ao.uscourts.gov [mailto [redacted]@ao.uscourts.gov]
Sent: Monday, June 19, 2006 3:19 PM
To: Best, David T
Subject: Judicial Nominee Program on June 22, 2006

David:

Here's a copy of the agenda for June 22, 2006. If there are any changes please let me know. Thanks.

[redacted]
Management Analyst
Article III Judges Division
[redacted]

Best, David T

From: Best, David T
Sent: Wednesday, June 21, 2006 12:35 PM
To: Gorsuch, Neil M
Subject: RE: Judicial Nominee Program on June 22, 2006

I will check with the AOUSC and get back with you.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 12:29 PM
To: Best, David T
Subject: RE: Judicial Nominee Program on June 22, 2006

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[redacted]
Management Analyst
Article III Judges Division
[redacted]

Best, David T

From: Best, David T
Sent: Wednesday, June 21, 2006 1:03 PM
To: Gorsuch, Neil M
Subject: RE: Judicial Nominee Program on June 22, 2006

Unfortunately, tomorrow is a very difficult day to change the schedule. On any other day they would have been able to accommodate a schedule change. Tomorrow there is a huge retirement party for [redacted] the Director, in the afternoon, which means they have to stick with the schedule. However, another option would be to attend a session on July 6, with Brett Kavanaugh. Please let me know as soon as possible if you want option B, so I can let them know to cancel tomorrow.

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[redacted]
Management Analyst
Article III Judges Division
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 1:07 PM
To: Best, David T
Subject: RE: Judicial Nominee Program on June 22, 2006

Let's go ahead with tomorrow as planned. Thanks.

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[redacted]
Management Analyst
Article III Judges Division
[redacted]

Best, David T

From: Best, David T
Sent: Wednesday, June 21, 2006 1:07 PM
To: Gorsuch, Neil M
Subject: Read: Judicial Nominee Program on June 22, 2006

Best, David T

From: Best, David T
Sent: Wednesday, June 21, 2006 1:08 PM
To: Gorsuch, Neil M
Subject: RE: Judicial Nominee Program on June 22, 2006

I will let them know to expect you at 8:30 tomorrow.

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[redacted]
Management Analyst
Article III Judges Division
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 1:11 PM
To: Cook, Elisebeth C
Subject: FW: Good luck this afternoon
Attachments: SFX415.pdf

Another letter I just received

June 19, 2006

BY FACSIMILE

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Specter:

I write to express my strongest possible support for Neil M. Gorsuch, who has been nominated to the United States Court of Appeals for the Tenth Circuit.

Neil would be a phenomenal judge. I will not dwell on Neil's brilliance, his legal talent, or his background and experience. Suffice it to say that he is, without doubt, one of the brightest, finest, and most capable lawyers that I know. Instead, I wanted to share my observations about Neil's judgment. One of my mentors often told me that *judging* requires the exercise of *judgment*—an observation with which I have come to agree. And judgment is one area (among many) in which Neil excels.

Thoughtful, insightful, and generous in word and deed, Neil has never been one who follows instinct over reason. He does not blindly follow the lead of others. Nor does he jump to hasty conclusions. Instead, he is an extraordinarily thoughtful and open-minded person. He listens carefully to all sides in every discussion and treats all participants with respect. That respect is not the product of mere politeness, but rather stems from genuine—and appropriate—warmth and compassion. Because he takes others' views seriously, his own

views are both well-considered in the first instance and, importantly, subject to change when change is appropriate. Neil thus will bring to the task of judging not only the necessary ingredients of intelligence, experience, and dedication, but the indispensable elements of judgment and compassion as well.

Neil, moreover, is an extremely balanced individual. He is even-tempered, polite, kind, and firm as necessary. Although he is bright beyond measure, he brings an often-needed dose of western practicality to the table. A Colorado native who frequently returns to his home state, Neil exhibits western warmth and equilibrium in everything he does. He is, simply put, a genuinely good person. I can think of no one better suited to serve on the Tenth Circuit than Neil.

[redacted] I have developed extensive experience with the appellate process. Based on that experience, as well as my professional relationship and personal friendship with Neil, I have no doubt that he is, from every perspective, an ideal nominee to the Tenth Circuit. And I have every reason to believe that, if confirmed, Neil will be nothing less than an ideal judge.

Thank you for your time and consideration.

Sincerely,

[redacted]

cc:

The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary
United States Senate
152 Dirksen Senate Office Building
Washington, D.C. 20510
(by facsimile at: (202) 224-9516)

The Honorable Wayne Allard
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510
(by facsimile at: (202) 224-6471)

The Honorable Ken Salazar
United States Senate
702 Hart Senate Office Building
Washington, D.C. 20510
(by facsimile at: (202) 228-5036)

Best, David T

From: Best, David T
Sent: Wednesday, June 21, 2006 1:47 PM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: Schedule today

Given that the Committee will be holding a hearing prior to your nomination hearing, I don't think we want to be up there 30 minutes early. I would suggest we depart DOJ at 3:30. That will give us plenty of time to get up to the hill, and not be in the way of the hearing going on before yours.

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Scott-Finan, Nancy

From: Scott-Finan, Nancy
Sent: Wednesday, June 21, 2006 1:48 PM
To: Best, David T; Gorsuch, Neil M
Subject: RE: Schedule today

Neil, the 2 pm hearing is on voting. You can anticipate that Feingold and Kennedy would be at the prior hearing---

---

From: Best, David T
Sent: Wednesday, June 21, 2006 1:47 PM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: Schedule today

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Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 1:50 PM
To: Best, David T
Cc: Scott-Finan, Nancy; Shaw, Aloma A; Cook, Elisebeth C
Subject: RE: Schedule today

Aloma - Please could you move our car to 330?

From: Best, David T
Sent: Wednesday, June 21, 2006 1:47 PM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: Schedule today

Given that the Committee will be holding a hearing prior to your nomination hearing, I don't think we want to be up there 30 minutes early. I would suggest we depart DOJ at 3:30. That will give us plenty of time to get up to the hill, and not be in the way of the hearing going on before yours.

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Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 1:50 PM
To: Scott-Finan, Nancy; Best, David T
Subject: RE: Schedule today

Do you expect that hearing to last to 4 or end earlier?

From: Scott-Finan, Nancy
Sent: Wednesday, June 21, 2006 1:48 PM
To: Best, David T; Gorsuch, Neil M
Subject: RE: Schedule today

Neil, the 2 pm hearing is on voting. You can anticipate that Feingold and Kennedy would be at the prior hearing---

---

From: Best, David T
Sent: Wednesday, June 21, 2006 1:47 PM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: Schedule today

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Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Shaw, Aloma A

Subject:	Updated: Mini-Van departs DOJ for Dirksen
Location:	10th St. Gate
Start:	Wednesday, June 21, 2006 3:30 PM
End:	Wednesday, June 21, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Pacold, Martha M

When: Wednesday, June 21, 2006 3:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 10th St. Gate

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

Car will depart at 3:30 instead of 3:15

Gorsuch, Neil M

Subject:	Mike Higgins
Start:	Wednesday, June 28, 2006 12:00 PM
End:	Wednesday, June 28, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 2:02 PM
To: Swenson, Lily F
Subject: Judicial Nominee Program on June 22, 2006

Lily - I have to be at the Admin Office of US Cts all day tomorrow. Robert will also be out. Can you cover the 830 mtg for us? Sorry to keep imposing. After tomorrow, I hope to get back to doing my job!
NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 2:03 PM
To: Sampson, Kyle
Subject: Tomorrow

Chief - I'm scheduled for an all day session at the AO tomorrow. In my absence and Robert's, Lily will attend the morning mtg if that's ok. I will be back in the saddle come Friday. NMG

Shaw, Aloma A

Subject:	Updated: Asbestos Briefing
Location:	Room 5710
Start:	Tuesday, June 27, 2006 4:00 PM
End:	Tuesday, June 27, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Todd, Gordon (SMO); Friedrich, Matthew

When: Tuesday, June 27, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5710

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

Please note time and date change for this meeting.

Shaw, Aloma A

Subject:	Updated: Asbestos Briefing
Location:	Room 5710
Start:	Tuesday, June 27, 2006 4:00 PM
End:	Tuesday, June 27, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Todd, Gordon (SMO); Friedrich, Matthew

Please note time and date change for this meeting.

Shaw, Aloma A

Subject:	TN Valley Authority Briefing
Location:	5710
Start:	Tuesday, June 27, 2006 11:00 AM
End:	Tuesday, June 27, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Hungar, Thomas G; Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV); Elwood, John; Feldman, James A; Wooldridge, Sue Ellen (ENRD); Keisler, Peter D (CIV)

Shaw, Aloma A

Subject:	TN Valley Authority Briefing
Location:	5710
Start:	Tuesday, June 27, 2006 11:00 AM
End:	Tuesday, June 27, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Hungar, Thomas G; Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV); Elwood, John; Feldman, James A; Wooldridge, Sue Ellen (ENRD); Keisler, Peter D (CIV)

When: Tuesday, June 27, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Shaw, Aloma A

Subject:	Updated: Mini-Van departs DOJ for Dirksen
Location:	10th St. Gate
Start:	Wednesday, June 21, 2006 3:30 PM
End:	Wednesday, June 21, 2006 3:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Pacold, Martha M; Senger, Jeffrey M

Addition of Jeff Senger

Car will depart at 3:30 instead of 3:15

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 6:09 PM
To: Bester, Matthew
Subject: Thank You

Thanks so much for taking the time and trouble to be there today. It meant more to me than you know.

Leslie_Fahrenkopf@who.eop.gov

From: Leslie_Fahrenkopf@who.eop.gov
Sent: Wednesday, June 21, 2006 6:29 PM
To: Gorsuch, Neil M
Attachments: tmp.htm

Neil:

So sorry I couldn't make your hearing today. How did it go?

Best -
LAF

Neil:

So sorry I couldn't make your hearing today. How did it go?

Best -
LAF

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 6:41 PM
To: 'Leslie_Fahrenkopf@who.eop.gov'
Subject: RE:

Seemed to go ok to me, though others who attended from OLP can provide a more objective point of view. Sen Salazar and Sen Allard were both there; only Sen Graham appeared for the Committee.

-----Original Message-----
From: Leslie_Fahrenkopf@who.eop.gov [mailto:Leslie_Fahrenkopf@who.eop.gov]
Sent: Wednesday, June 21, 2006 6:29 PM
To: Gorsuch, Neil M
Subject:

Neil:

So sorry I couldn't make your hearing today. How did it go?

Best -
LAF

Leslie_Fahrenkopf@who.eop.gov

From: Leslie_Fahrenkopf@who.eop.gov
Sent: Wednesday, June 21, 2006 6:46 PM
To: Gorsuch, Neil M
Subject: RE:

I'm sure you did an outstanding job.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, June 21, 2006 6:41 PM
To: Fahrenkopf, Leslie
Subject: RE:

Seemed to go ok to me, though others who attended from OLP can provide a more objective point of view. Sen Salazar and Sen Allard were both there; only Sen Graham appeared for the Committee.

-----Original Message-----
From: Leslie_Fahrenkopf@who.eop.gov
[mailto:Leslie_Fahrenkopf@who.eop.gov]
Sent: Wednesday, June 21, 2006 6:29 PM
To: Gorsuch, Neil M
Subject:

Neil:

So sorry I couldn't make your hearing today. How did it go?

Best -
LAF

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, June 21, 2006 7:27 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
June 21, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

USA Today Rebuttal Op-ed (OPA)
DOJ has submitted a rebuttal op-ed by the Attorney General to *USA Today* stating why pending media shield legislation is not necessary.

Shooting Incident at the Federal Detention Center in Tallahassee (BOP)
This morning a shooting occurred at the Federal Detention Center in Tallahassee, Florida. The shooting took place outside the secure confines of the institution. No inmates and no civilians were involved. The gun fire was exchanged between federal law enforcement officers. Federal agents had come to the institution to arrest six Bureau of Prisons (BOP) staff who were indicted by a federal grand jury on Tuesday. Five BOP staff were arrested and taken into custody. The sixth staff member retrieved a personally owned weapon and shot at federal officers who were participating in the arrest; additional gun fire ensued. Two federal law enforcement officers have died and a third was injured and transported to a local hospital. One of those killed was OIG Special Agent Ralph Hill. FBI officials in Florida have participated in two press conferences and will continue to do so as needed. Bureau of Prisons and the Office of the Inspector General issued statements in response to the deaths today.

Operation Double Identity (DEA)
DEA, U.S. Attorney's Office in the Southern District of New York and other officials announced the results of "Operation Double Identity," a coordinated takedown of an international heroin-trafficking organization responsible for smuggling tens of millions of dollars worth of heroin from Colombia into New York City. The investigation began in the summer of 2004 when Colombian authorities -- responding to an anonymous tip on a heroin "hot line" set up by the DEA and Colombian law enforcement -- seized more than 50 pounds of heroin in Cali, Colombia.

Corruption Investigation with Kazakhstan Government (FBI)
FBI Legal Attache Almaty provided an update to an ongoing corruption investigation with the Kazakhstan Government. The government of Kazakhstan has requested FBI assistance in an advisory and independent observer capacity. Legal Attache Almaty has provided assistance including the tracing of funds used to pay co-conspirators and conducting polygraphs.

THURSDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will highlight the Department of Justice's Intellectual Property Task Force Progress Report at the American Bar Association Intellectual Property Law Luncheon. Following his open press remarks, he will participate in television interviews with local affiliates.

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:04 AM
To: Gorsuch, Neil M
Subject: Fw: Gorsuch Transcript
Attachments: 062106 Gorsuch.wpd; 062106 Gorsuch.txt

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
To: Macklin, Kristi R
Sent: Thu Jun 22 07:59:29 2006
Subject: Fw: Gorsuch Transcript

[redacted]
Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
[redacted]
[redacted]@judiciary.senate.gov

-----Original Message-----
From: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
To: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>; [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
CC: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [redacted] [mailto [redacted]
Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] (Judiciary-Rep)
Subject:

[redacted]

JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

- - -

WEDNESDAY, JUNE 21, 2006

United States Senate,
Committee on the Judiciary,
Washington, DC.

The hearing was convened, pursuant to notice, at 4:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Lindsey Graham, presiding.

OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you

could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

I would like to begin by thanking Chairman Specter for so promptly scheduling this hearing. I look forward to the committee's continuing the tone of expediency set by the Chairman by swiftly reporting the nominee to the floor for a timely up or down vote. It is critical to the administration of justice that this seat, which has been vacant since last year, be filled immediately.

I am pleased that we are joined today by Senator Salazar, in what I hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, Louise, and her two children, Emma and Belinda, to the U.S. Senate.

Senator Graham. And let the record reflect, they are beautiful children and a lovely wife.

Senator Allard. They are wonderful. All three of you no doubt played an important role in your husband and father being here today. Speaking from my own experience in public service, your love and support will continue to be instrumental to his ability to perform his public duties. You are embarking on this journey together.

I would also like to welcome Mr. Gorsuch back to the U.S. Senate. Some of you, including the Ranking Member, may remember Mr. Gorsuch from his service as a Senate page in the early 1980s. It was here in the Senate that he made his foray into public service, and developed the passion for it that exudes today.

As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community throughout the firm's 60-year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and

personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

Mr. Gorsuch began his distinguished professional career as a law clerk to Judge David Sentally on the U.S. Court of Appeals for the D.C. Circuit. He then went on to clerk for two Supreme Court justices, Justice Kennedy and Colorado's own Byron White.

Following his prestigious clerkship, Mr. Gorsuch entered private practice and became a partner in the law firm of Kellogg, Huber, Hanson, Todd, Evans & Figel. While in private practice, Mr. Gorsuch litigated matters for clients large and small, ranging from individuals, to nonprofits, to corporations.

Moreover, he litigated cases on a range of issues, from simple contract disputes to complex antitrust securities fraud matters.

He left private practice in 2005 to return to public service, this time at the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not

determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

I believe this statement also speaks to Mr. Gorsuch as a person. He is humble, unassuming, polite, and respectful. This sentiment is reflected in the numerous letters pouring into my office from people that have worked with him over the years. Mr. Gorsuch possesses the temperament befitting an appellate judge.

In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife Louise and his young and beautiful daughters, Emma and Belinda, here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

Following his clerkships, he spent nearly 10 years in private practice before becoming principal deputy to the Associate Attorney General of the United States.

While I do not know Mr. Gorsuch well, I have had the chance to visit with him and learn about both his personal background and his professional experience. During our meeting, I found him to be very intelligent, thoughtful, and appreciative of the great honor it is to be nominated to the Federal bench. Today's hearing will provide Mr. Gorsuch with a chance to share these qualities with the committee.

Of course, it takes much more than a great resume to be a great judge. In addition to the professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism from both the left and the right.

By exploring Mr. Gorsuch's record, judicial philosophy and his views on a wide range of important issues, these hearings will help Senators evaluate whether Mr. Gorsuch meets that very high standard.

As always, I look forward to learning more from the careful and thorough examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

I have here with me, Senator, as well, a bit of my family that you have already been introduced to. I know my two daughters have what they would consider to be better things to do with a summer afternoon, so I am grateful that they are here with their dad.

Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

Senator, I would also like to say, I have gratitude for my family back home in Colorado. I feel their thoughts today deeply, and am looking forward to being with them soon.

I would also like to thank the members of the Department of Justice who are here, a lot of folks lending moral support, both who are appointed and a number of the career staff at the Department, who I have come to respect and admire greatly for their service to the country under very difficult conditions, often.

I also have some of my former partners and colleagues from the law firm that have come here today, and I am grateful to have them here.

Finally, my parents and grandparents, most of whom are deceased, but all of whom are here, I think, in my thoughts, and all of whom have served Colorado in many different ways over the course of their lives.

I look forward to your questions.

Senator Graham. Thank you very much. Just for the record, this is a nominee that I have a personal interest and working relationship with. I have nothing but good things to say about Mr. Gorsuch. I have enjoyed working with you at Department of Justice on all kinds of public policy issues, detainee issues and other legal matters.

I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

Senator Graham. That is very important, but you have got to understand people underneath.

What is the difference, in your opinion, if you could share with me, between being an advocate and a judge?

Mr. Gorsuch. Being an advocate is a great deal easier, in some respects. Your client's position defines your objective, and your obligation is to represent him or her zealously.

I have to tell you, Senator, I love being a lawyer. I love that aspect of the profession, of being in the

arena and fighting it out within the rules of civility, decency, and common sense.

Being a judge is, however, the greatest honor that any lawyer, practicing lawyer, could ask to have because your client becomes not an individual, a corporation, a partnership, it becomes the cause of justice. There is no greater client than that.

Senator Graham. That was well said.

I know this is something you have not really done yet. But what is your philosophy about judging and how you fit into this constitutional democracy that we have been trying to get better and tinker with for 200 years?

Mr. Gorsuch. Well, you are right, I have not done it yet so it is a little presumptuous.

Senator Graham. How you see yourself fitting in.

Mr. Gorsuch. But if I were to be confirmed, Senator, I resist pigeon holes. I think those are not terribly helpful, pigeon-holing someone as having this philosophy or that philosophy. They often surprise you. People to unexpected things and pigeon holes ignore gray areas in the law, of which there are a great many.

I can tell you how I think I would like to view approaching decisions. That is, first and foremost, with this thought in mind: to those clients who are affected, to that lawyer in the well, that may be the most important thing in their life and that case deserves the attention, the care and the scrutiny of a complete lawyer and the complete attention of the judge without being diverted by personal politics, policy preferences, or what you ate for breakfast. Those people deserve your very best at all times. There are certain tools that I think can get you there.

First, you listen to that lawyer in the well. You do not treat them as a cat's paw. He is not some pawn in a game to be played with and batted around. He is to be taken seriously. He has studied this issue for, sometimes, months, years, and lived with it.

Having litigated cases in 16 different States and Courts of Appeals, I appreciate that, and I know the importance and difficulty of that role and I respect it greatly.

The second tool, I think, is respecting your colleagues and trying to reach unanimity where possible, Senator. As a practitioner, fractured opinions are very difficult to deal with and understand what the law is sometimes. I often find that the process of getting to a single position with different minds leads to a better result.

Justice White used to tell us in chambers, "Two heads are better than one." He is right. He was one of the most humble men I ever met, and was very well aware of the limitations of any single person, though he may have been among the brightest people I ever met. So I think working with your colleagues and trying to get to agreement is hugely important.

Then, finally, precedent. Precedent is to be

respected and honored. It is not something to be diminished or demeaned. It is something you should try to uphold wherever you can, with the objective being, follow the law as written and not replace it with my own preferences, or anyone else's, Senator.

Senator Graham. The best you can, describe what you think an idealogue would be and why that would be bad.

Mr. Gorsuch. In terms of being a Federal judge, Senator?

Senator Graham. Yes.

Mr. Gorsuch. Someone who is not willing to do what I just talked about. That is, someone who is not willing to listen with an open mind to the arguments of counsel, to his colleagues, and to precedent, someone who is willing to just, willy-nilly, disregard those three things, to effect his own personal views, his politics, his personal preferences. That is unacceptable.

Senator Graham. In the area of assisted suicide and euthanasia, I think you have been a fairly prolific writer and you certainly have an interest in that area.

How will your past positions affect your ability to judge in cases that may contain those questions?

Mr. Gorsuch. Senator, my personal views, as I hope I have made clear, have nothing to do with the case before me in any case. The litigants deserve better than that, the law demands more than that.

That said, Senator, my writings, just to clarify, have been largely in defense of existing law, that is, they are consistent with the Supreme Court's decisions in this area and existing law in most places.

So, I do not think there is actually much tension between my writings and anything that might come before the court, but I can pledge to this committee, Senator, that I will reach any question before me, should I become a judge, with an open mind and listen to the arguments of counsel, the views of my colleagues and prior case law from the Supreme Court, and the various Courts of Appeals.

Senator Graham. What concern, if any, do you have about the future of the judiciary or the judiciary as it stands now?

Mr. Gorsuch. Senator, I think some of the things you have touched on are the challenges. The independence of the judiciary depends upon people in both parties being willing to serve, good people being willing to serve who are capable and willing to put aside their personal politics and preferences to decide cases and to follow the law and not try and make it.

Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk,

David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

You have lived a very beneficial and fruitful life, and I know your family is tremendously important to you. I know they appreciate the honor that has been bestowed upon you.

I would just like to leave you with one thought. I am very concerned about the future of the judiciary. I hope people in my business, the political business, will realize that being a judge and a politician are two different things. You can be a conservative judge and a liberal judge, but that is totally different than being a conservative or liberal politician.

I do hope we can get back on track--Senator Salazar's presence here today meant a lot to me--in the confirmation process so that we will encourage good men and women, from a variety of backgrounds, of wanting to be judges and not make the process so difficult that they would not want to participate. I find every reason to believe that you will be well received by the committee and the Senate as a whole, and I look forward to talking with you more. Hopefully we can get you on the bench soon.

The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

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from the State of South Carolina 2

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JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

- - -

WEDNESDAY, JUNE 21, 2006

United States Senate,

Committee on the Judiciary,

Washington, DC.

The hearing was convened, pursuant to notice, at 4:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Lindsey Graham, presiding.

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OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

I would like to begin by thanking Chairman Specter for so promptly scheduling this hearing. I look forward to the committee's continuing the tone of expediency set by the Chairman by swiftly reporting the nominee to the floor for a timely up or down vote. It is critical to the administration of justice that this seat, which has been vacant since last year, be filled immediately.

I am pleased that we are joined today by Senator Salazar, in what I

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hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, Louise, and her two children, Emma and Belinda, to the U.S. Senate.

Senator Graham. And let the record reflect, they are beautiful children and a lovely wife.

Senator Allard. They are wonderful. All three of you no doubt played an important role in your husband and father being here today. Speaking from my own experience in public service, your love and support will continue to be instrumental to his ability to perform his public duties. You are embarking on this journey together.

I would also like to welcome Mr. Gorsuch back to the U.S. Senate. Some of you, including the Ranking Member, may remember Mr. Gorsuch from his service as a Senate page in the early 1980s. It was here in the Senate that he made his foray into public service, and developed the passion for it that exudes today.

As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community

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throughout the firm's 60-
year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

Mr. Gorsuch began his distinguished professional career as a law clerk to Judge David Sentally on the U.S. Court of Appeals for the D.C. Circuit. He then went on to clerk for two Supreme Court justices, Justice Kennedy and Colorado's own Byron White.

Following his prestigious clerkship, Mr. Gorsuch entered private practice and became a partner in the law firm of Kellogg, Huber, Hanson, Todd, Evans & Figel. While in private practice, Mr. Gorsuch litigated matters for clients large and small, ranging from individuals, to nonprofits, to corporations.

Moreover, he litigated cases on a range of issues, from simple contract disputes to complex antitrust securities fraud matters.

He left private practice in 2005 to return to public service, this time at

the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he

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would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

I believe this statement also speaks to Mr. Gorsuch as a person. He is humble, unassuming, polite, and respectful. This sentiment is reflected in the numerous letters pouring into my office from people that have worked with him over the years. Mr. Gorsuch possesses the temperament befitting an appellate judge.

In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

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STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife Louise and his young and beautiful daughters, Emma and Belinda, here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that

he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

Following his clerkships, he spent nearly 10 years in private practice before becoming principal deputy to the Associate Attorney General of the United States.

While I do not know Mr. Gorsuch well, I have had the chance to visit with him and learn about both his personal background and his professional experience. During our meeting, I found him to be very intelligent, thoughtful, and appreciative of the great honor it is to be nominated to the Federal bench. Today's hearing will provide Mr. Gorsuch with a chance to share these qualities with the committee.

Of course, it takes much more than a great resume to be a great judge. In addition to the professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism from both the left and the right.

By exploring Mr. Gorsuch's record, judicial philosophy and his views on a wide range of important issues, these hearings will help Senators evaluate whether Mr. Gorsuch meets that very high standard.

As always, I look forward to learning more from the careful and thorough

examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

I have here with me, Senator, as well, a bit of my family that you have already been introduced to. I know my two daughters have what they would consider to be better things to do with a summer afternoon, so I am grateful that they are here with their dad.

Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

Senator, I would also like to say, I have gratitude for my family back home in Colorado. I feel their thoughts today deeply, and am looking forward to being with them soon.

I would also like to thank the members of the Department of Justice who are here, a lot of folks lending moral support, both who are appointed and a number of the career staff at the Department, who I have come to respect and admire greatly for their service to the country under very difficult conditions, often.

I also have some of my former partners and colleagues from the law

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firm that have come here today, and I am grateful to have them here.

Finally, my parents and grandparents, most of whom are deceased, but all of whom are here, I think, in my thoughts, and all of whom have served Colorado in many different ways over the course of their lives.

I look forward to your questions.

Senator Graham. Thank you very much. Just for the record, this is a nominee that I have a personal interest and working relationship with. I have nothing but good things to say about Mr. Gorsuch. I have enjoyed working with you at Department of Justice on all kinds of public policy issues, detainee issues and other legal matters.

I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

Senator Graham. That is very important, but you have got to understand people underneath.

What is the difference, in your opinion, if you could share with me, between being an advocate and a judge?

Mr. Gorsuch. Being an advocate is a great deal easier, in some respects. Your client's position defines your objective, and your obligation is to represent him or her zealously.

I have to tell you, Senator, I love being a lawyer. I love that aspect of

the profession, of being in the arena and fighting it out within the rules of civility, decency, and common sense.

Being a judge is, however, the greatest honor that any lawyer, practicing lawyer, could ask to have because your client becomes not an individual, a corporation, a partnership, it becomes the cause of justice. There is no greater client than that.

Senator Graham. That was well said.

I know this is something you have not really done yet. But what is your philosophy about judging and how you fit into this constitutional democracy that we have been trying to get better and tinker with for 200 years?

Mr. Gorsuch. Well, you are right, I have not done it yet so it is a little presumptuous.

Senator Graham. How you see yourself fitting in.

Mr. Gorsuch. But if I were to be confirmed, Senator, I resist pigeon holes. I think those are not terribly helpful, pigeon-holing someone as having this philosophy or that philosophy. They often surprise you. People to unexpected things and pigeon holes ignore gray areas in the law, of which there are a great many.

I can tell you how I think I would like to view approaching decisions. That is, first and foremost, with this thought in mind: to those clients who are affected, to that lawyer in the well, that may be the most important thing in their life and that case deserves the attention, the care and the scrutiny of a complete lawyer and the complete attention of the judge without being

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Having litigated cases in 16 different States and Courts of Appeals, I appreciate that, and I know the importance and difficulty of that role and I respect it greatly.

The second tool, I think, is respecting your colleagues and trying to reach unanimity where possible, Senator. As a practitioner, fractured opinions are very difficult to deal with and understand what the law is sometimes. I often find that the process of getting to a single position with different minds leads to a better result.

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Then, finally, precedent. Precedent is to be respected and honored. It is not something to be diminished or demeaned. It is something you should try to uphold wherever you can, with the objective being, follow the law as

written and not replace it with my own preferences, or anyone else's, Senator.

Senator Graham. The best you can, describe what you think an idealogue would be and why that would be bad.

Mr. Gorsuch. In terms of being a Federal judge, Senator?

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Mr. Gorsuch. Someone who is not willing to do what I just talked about. That is, someone who is not willing to listen with an open mind to the arguments of counsel, to his colleagues, and to precedent, someone who is willing to just, willy-nilly, disregard those three things, to effect his own personal views, his politics, his personal preferences. That is unacceptable.

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and anything that might come before the court, but I can pledge to this committee, Senator, that I will reach any question before me, should I become a judge, with an open mind and listen to the arguments of counsel, the views of my colleagues and prior case law from the Supreme Court, and the various Courts of Appeals.

Senator Graham. What concern, if any, do you have about the future of the judiciary or the judiciary as it stands now?

Mr. Gorsuch. Senator, I think some of the things you have touched on are the challenges. The independence of the judiciary depends upon people in both parties being willing to serve, good people being willing to serve who are capable and willing to put aside their personal politics and preferences to decide cases and to follow the law and not try and make it.

Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk, David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

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Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

You have lived a very beneficial and fruitful life, and I know your family is tremendously important to you. I know they appreciate the honor that has been bestowed upon you.

I would just like to leave you with one thought. I am very concerned about the future of the judiciary. I hope people in my business, the political business, will realize that being a judge and a politician are two different things. You can be a conservative judge and a liberal judge, but that is totally different than being a conservative or liberal politician.

I do hope we can get back on track--Senator Salazar's presence here today meant a lot to me--in the confirmation process so that we will encourage good men and women, from a variety of backgrounds, of wanting to be judges and not make the process so difficult that they would not want to

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participate. I find every reason to believe that you will be well received by the committee and the Senate as a whole, and I look forward to talking with you more. Hopefully we can get you on the bench soon.

The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

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from the State of Colorado 3

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A United States Senator
from the State of Colorado 9

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Nominated to be U.S. Circuit Judge
for the Tenth Circuit 12

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 8:08 AM
To: Macklin, Kristi R; Scolinos, Tasia
Subject: RE: Gorsuch Transcript

Thanks so much for this. [redacted] I don't, however, want to contact anyone except through you or with your permission. The photographer's name, at least according to the Denver Post web site (see link), is [redacted] What do you think?

http://www.denverpost.com/nationworld/ci_3964575

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:04 AM
To: Gorsuch, Neil M
Subject: Fw: Gorsuch Transcript

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
To: Macklin, Kristi R
Sent: Thu Jun 22 07:59:29 2006
Subject: Fw: Gorsuch Transcript

[redacted]
Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
[redacted]
[redacted]@judiciary.senate.gov

-----Original Message-----
From: [redacted] Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
To: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>; [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
CC: [redacted] Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message-----<<062106 Gorsuch.txt>>-----From: [redacted]

-----Original Message- <<062106 Gorsuch.txt>> ---- From: [redacted]

Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] (Judiciary-Rep)
Subject:

[redacted]

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:14 AM
To: Gorsuch, Neil M; Scolinos, Tasia
Subject: Re: Gorsuch Transcript

Tasia,
Can someone in your shop call?

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Scolinos, Tasia
Sent: Thu Jun 22 08:07:53 2006
Subject: RE: Gorsuch Transcript

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Sent: Thu Jun 22 07:59:29 2006
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[redacted]
Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
[redacted]
[redacted]@judiciary.senate.gov

-----Original Message-----

-----Original Message-----
From: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
To: [redacted] Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>; [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
CC: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [redacted] [mailto [redacted]
Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] (Judiciary-Rep)
Subject:

[redacted]

Bester, Matthew

From: Bester, Matthew
Sent: Thursday, June 22, 2006 8:54 AM
To: Gorsuch, Neil M
Subject: RE: Thank You

Neil,

It was so gratifying to see a friend and colleague receive such a prestigious honor. I was thrilled just to be there and be a part of it. What a wonderful day.

The lack of other Senators at the hearing, I imagine, is a very good sign for the success of your confirmation.

Talk to you soon.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, June 21, 2006 6:09 PM
To: Bester, Matthew
Subject: Thank You

Thanks so much for taking the time and trouble to be there today. It meant more to me than you know.

Garre, Gregory G

From: Garre, Gregory G
Sent: Thursday, June 22, 2006 9:22 AM
To: Gorsuch, Neil M

Congrats on the hearing; sounds like you were a big hit. Greg

From: David_Sentelle@cadc.uscourts.gov
Sent: Thursday, June 22, 2006 9:26 AM
To: Gorsuch, Neil M
Subject: Re: Fw: ABA rating in - Neil Gorsuch

heard you sailed through!!!! Congratulations!!!

DOJ_NMG_ 0162845

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Thursday, June 22, 2006 9:33 AM
To: Gorsuch, Neil M
Subject: SJC Hearing

Neil -- I'd be happy to moot you on possible CRT issues -- if, and if only, you think that might be helpful for your preparation. Because I leave for vacation next Tuesday, I won't be able to attend the grand event (which probably inures to your benefit!), and am left to send best wishes.

Wan

Shannen_W._Coffin@ovp.eop.gov

From:	Shannen_W._Coffin@ovp.eop.gov
Sent:	Thursday, June 22, 2006 9:44 AM
To:	Gorsuch, Neil M
Subject:	Congrats on surviving hearing
Attachments:	tmp.htm

I'm glad that the Senator chairing the Committee had pointed out all the great work you'd done on detainees. It will give you something to keep busy with in post-hearing written questions.

Happy to see this going along so remarkably smoothly. Hope it continues.

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Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Thursday, June 22, 2006 9:58 AM
To: Macklin, Kristi R; Gorsuch, Neil M
Subject: FYI

http://www.rockymountainnews.com/drmn/local/article/0,1299,DRMN_15_4793387,00.html

Denver native Gorsuch sails through hearing for 10th Circuit
STORY TOOLS
Email this story | Print
By Jared A. Taylor, Scripps Howard News Service
June 22, 2006
WASHINGTON - Denver native Neil Gorsuch, nominated for a seat on the U.S. 10th Circuit Court of Appeals, breezed through his confirmation hearing Wednesday, with both Colorado senators appearing on his behalf.

Gorsuch was introduced by Sen. Wayne Allard, R-Colo., before the Senate Judiciary Committee.

Allard said he supports judicial nominees who "would rule on the law and the facts before them, not judges who would legislate from the bench."

"The breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the federal appellate bench," he said.

Allard was joined by Sen. Ken Salazar, D-Colo., who said he hoped that Gorsuch's judicial philosophy and opinions would surface during his confirmation.

"In addition to professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism - from both the left and the right," Salazar said. His comments did not include a specific endorsement of Gorsuch.

Gorsuch, born in Denver, lives in Vienna, Va., near Washington, and works in the U.S. Department of Justice as a primary deputy to the associate attorney general. His late mother, Anne Gorsuch Burford, was President Reagan's Environmental Protection Agency director until she resigned in 1983.

Gorsuch wrote the forthcoming book *The Future of Assisted Suicide and Euthanasia.* According to the publisher's Web site, he presents both sides of the argument, but concludes "human life is intrinsically valuable and that intentional killing is always wrong."

In February, Gorsuch wrote an article for the National Review Online, "Liberals 'n' Lawsuits," in which he accuses Democrats of wrongly using the courts and not legislatures to decide policies.

"I don't think there is much tension between my writing and what may come between the court," Gorsuch told the committee.

Sen. Lindsey Graham, R-S.C., who presided over the hearing, said Gorsuch would be "well-received by the committee and the Senate as a whole."

The committee still needs to hold a formal vote on the nomination. It would then go to the full Senate.

The 10th Circuit includes Colorado, six other Western states and Yellowstone National Park.

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Thursday, June 22, 2006 10:40 AM
To: Gorsuch, Neil M
Subject: Quick ring
Attachments: tmp.htm

Could you give me a call when you get a chance? Thanks.

Could you give me a call when you get a chance? Thanks.

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Thursday, June 22, 2006 11:00 AM
To: Kim, Wan (CRT); Gorsuch, Neil M
Subject: RE: SJC Hearing

Apparently, I mistook the actual date of your hrg. More importantly, I heard it went swimmingly well. Great news and good luck.

From: Kim, Wan (CRT)
Sent: Thursday, June 22, 2006 9:33 AM
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Subject: SJC Hearing

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Wan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 2:53 PM
To: Kim, Wan (CRT)
Subject: Re: SJC Hearing

Thanks so much, Wan. I sure appreciate your support and encouragement.

-----Original Message-----
From: Kim, Wan (CRT)
To: Kim, Wan (CRT); Gorsuch, Neil M
Sent: Thu Jun 22 11:00:01 2006
Subject: RE: SJC Hearing

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To: Gorsuch, Neil M
Subject: SJC Hearing

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Wan

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 22, 2006 3:37 PM
To: Gorsuch, Neil M
Subject: Hotel Receipt

Neil:

Do you have your hotel receipt for the Hyatt?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:06 PM
To: Shaw, Aloma A
Subject: RE: Hotel Receipt

I don't - must've lost it. Would you mind calling them? Thanks for the reminder.

From: Shaw, Aloma A
Sent: Thursday, June 22, 2006 3:37 PM
To: Gorsuch, Neil M
Subject: Hotel Receipt

Neil:

Do you have your hotel receipt for the Hyatt?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:15 PM
To: Sampson, Kyle
Subject: RE: Article about Neil's hearing

Just good reporting! [redacted]

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 22, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: Fw: Article about Neil's hearing

Fluff!

-----Original Message-----
From: Brand, Rachel
To: Jaffer, Jamil N; Macklin, Kristi R; Cook, Elisebeth C; Best, David T; Gorsuch, Neil M; McIntosh, Brent; Sampson, Kyle; McCallum, Robert (SMO); Todd, Gordon (SMO); Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu Jun 22 10:29:09 2006
Subject: Article about Neil's hearing

In case you haven't seen...

DENVER POST

Easy confirmation ahead for Gorsuch?
by Anne Mulkern

Washington - Denver native Neil Gorsuch seemed headed toward what looks like easy confirmation to the Denver-based 10th Circuit Court of Appeals after gliding through a 20-minute U.S. Senate committee hearing on his qualifications Wednesday.

Only one senator on the 18-member Judiciary Committee attended the hearing, a signal the nomination is not controversial.

"I have nothing but good things to say about Mr. Gorsuch," said Sen. Lindsey Graham, R-S.C., the sole senator at the hearing. Graham worked with the Columbia, Harvard and Oxford University-educated Gorsuch at the Department of Justice.

Gorsuch's nomination now moves to a vote of the full committee, which Graham said he hoped would happen before the August recess. If it's approved there, it goes to a vote of the full Senate.

"Having something coming out of the blue, it sounds like it will go through very smoothly," said Carl

"Barring something coming out of the blue, it sounds like it will go through very smoothly," said Carl Tobias, law professor at University of Richmond in Virginia.

If approved, Gorsuch, 38, would take the position vacated by Judge David Ebel, who is taking senior status. The appellate court sits between trial courts and the U.S. Supreme Court.

Colorado's U.S. Sens. Wayne Allard, a Republican, and Ken Salazar, a Democrat, introduced Gorsuch, both giving glowing reviews.

During the brief questioning, Graham asked Gorsuch to describe his judicial philosophy.

"I resist pigeonholes. They aren't terribly helpful," Gorsuch said.
"People do unexpected things. Pigeonholes ignore gray areas in the law."

Gorsuch said his approach to deciding cases was to pay attention to arguments made by the lawyers presenting the case, try to reach unanimity with his colleagues on the bench, and to respect court precedent.

During the hearing Gorsuch's wife, [redacted] sat in the front row with his daughters, [redacted] and [redacted] who wore matching pink dresses.

The 10th Circuit serves Colorado, Kansas, New Mexico, Oklahoma, Wyoming and Utah. By tradition, the seats are filled by state and Gorsuch would fill the one allocated for Colorado.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:16 PM
To: 'Shannen_W._Coffin@ovp.eop.gov'
Subject: RE: Congrats on surviving hearing

Thanks so much, Shannen. How about lunch sometime soon? What do the next couple weeks look like for you? My turn to treat.

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From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:17 PM
To: 'David_Sentelle@cadc.uscourts.gov'
Subject: RE: Fw: ABA rating in - Neil Gorsuch

One hurdle cleared, but plenty remain. Thanks so much for all of your encouragement and help. It means the world to me.

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-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:16 PM
To: Coffin, Shannen W.
Subject: RE: Congrats on surviving hearing

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:17 PM
To: Garre, Gregory G
Subject: RE:

Don't know about that, but I am glad to have one hurdle cleared. Plenty remain. But thanks so much for the kind words!

From: Garre, Gregory G
Sent: Thursday, June 22, 2006 9:22 AM
To: Gorsuch, Neil M
Subject:

Congrats on the hearing; sounds like you were a big hit. Greg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:19 PM
To: Macklin, Kristi R; Scolinos, Tasia
Subject: RE: Gorsuch Transcript

[redacted]

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:14 AM
To: Gorsuch, Neil M; Scolinos, Tasia
Subject: Re: Gorsuch Transcript

Tasia,
Can someone in your shop call?

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Scolinos, Tasia
Sent: Thu Jun 22 08:07:53 2006
Subject: RE: Gorsuch Transcript

Thanks so much for this. [redacted] I don't, however, want to contact anyone except through you or with your permission. The photographer's name, at least according to the Denver Post web site (see link), is [redacted] What do you think?

http://www.denverpost.com/nationworld/ci_3964575

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:04 AM
To: Gorsuch, Neil M
Subject: Fw: Gorsuch Transcript

-----Original Message-----
From [redacted]@judiciary-rep.senate.gov
To: Macklin, Kristi R
Sent: Thu Jun 22 07:59:29 2006
Subject: Fw: Gorsuch Transcript

Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
@judiciary.senate.gov

-----Original Message-----
From: (Judiciary-Rep) <@judiciary-rep.senate.gov>
To: udiciary-Rep) @judiciary-rep.senate.gov>; (Judiciary-Rep) <@judiciary-rep.senate.gov>
CC: (Judiciary-Rep) <@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [mailto
Sent: Thursday, June 22, 2006 7:23 AM
To: (Judiciary-Rep)
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:21 PM
To: Kim, Wan (CRT)
Subject: RE: SJC Hearing

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From: Kim, Wan (CRT)
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Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, June 22, 2006 4:40 PM
To: Gorsuch, Neil M; Macklin, Kristi R
Subject: RE: Gorsuch Transcript

Sorry - should have let you know we were following up! They usually charge for these things but my assistant Jonathan will let you know the cost if there is one.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:19 PM
To: Macklin, Kristi R; Scolinos, Tasia
Subject: RE: Gorsuch Transcript

[redacted]

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From: Macklin, Kristi R
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To: Macklin, Kristi R
Sent: Thu Jun 22 07:59:29 2006
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[redacted]

Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
[redacted]@judiciary.senate.gov

-----Original Message-----
From: [redacted] (Judiciary-Rep) <[redacted]@judiciary-rep.senate.gov>
To: [redacted] Judiciary-Rep) <[redacted]@judiciary-rep.senate.gov>; [redacted] Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
CC: [redacted] (Judiciary-Rep) <[redacted]@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [redacted] [mailto [redacted]
Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] Judiciary-Rep)
Subject:

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:44 PM
To: 'Shannen_W._Coffin@ovp.eop.gov'
Subject: RE: Congrats on surviving hearing

That's kind but Tues is actually a poor day for me. When might work on your end?

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:44 PM
To: Scolinos, Tasia
Subject: RE: Gorsuch Transcript

Thanks so much!

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[redacted]
Senate Judiciary Committee
224 Dirksen Building
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[redacted]
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From: [redacted] (Judiciary-Rep) <[redacted]@judiciary-rep.senate.gov>
To: [redacted] (Judiciary-Rep) <[redacted]@judiciary-rep.senate.gov>; [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
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Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] (Judiciary-Rep)
Subject:

[redacted]

Shannen_W._Coffin@ovp.eop.gov

From: Shannen_W._Coffin@ovp.eop.gov
Sent: Thursday, June 22, 2006 4:48 PM
To: Gorsuch, Neil M
Subject: RE: Congrats on surviving hearing

Either next Friday (30th) or the Thursday of the week after (6th), and then Tues-Thursday of the following week.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:44 PM
To: Coffin, Shannen W.
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To: Gorsuch, Neil M
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Fogo de Chao. Meat. Ummmmmmmm.

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-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:16 PM

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To: Coffin, Shannen W.
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Happy to see this going along so remarkably smoothly. Hope it continues.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, June 22, 2006 4:58 PM
To: Gorsuch, Neil M
Subject: Any taxi / parking cost for San Francisco?

Block, Jonathan

From: Block, Jonathan
Sent: Thursday, June 22, 2006 5:36 PM
To: Gorsuch, Neil M
Cc: Scolinos, Tasia
Subject: RE: Gorsuch Transcript

Neil,

I submitted a request to the Associated Press for reprints of photos taken at your hearing. (The photographs published in the Denver Post were taken by an AP photographer.) I should hear back from them within the next 10 days. If I don't, I'll contact them again.

Best,

Jonathan
Confidential Assistant to the Director
Office of Public Affairs
United States Department of Justice

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:19 PM
To: Macklin, Kristi R; Scolinos, Tasia
Subject: RE: Gorsuch Transcript

[redacted]

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:14 AM
To: Gorsuch, Neil M; Scolinos, Tasia
Subject: Re: Gorsuch Transcript

Tasia,
Can someone in your shop call?

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R; Scolinos, Tasia
Sent: Thu Jun 22 08:07:53 2006
Subject: RE: Gorsuch Transcript

Thanks so much for this. [redacted]

your permission. The photographer's name, at least according to the Denver Post web site (see link), is . What do you think?

http://www.denverpost.com/nationworld/ci_3964575

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, June 22, 2006 8:04 AM
To: Gorsuch, Neil M
Subject: Fw: Gorsuch Transcript

-----Original Message-----
From: @judiciary-rep.senate.gov
To: Macklin, Kristi R
Sent: Thu Jun 22 07:59:29 2006
Subject: Fw: Gorsuch Transcript

Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
@judiciary.senate.gov

-----Original Message-----
From: (Judiciary-Rep) <@judiciary-rep.senate.gov>
To: (Judiciary-Rep) <@judiciary-rep.senate.gov>; (Judiciary-Rep) <@judiciary-rep.senate.gov>
CC: (Judiciary-Rep) <@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [mailto
Sent: Thursday, June 22, 2006 7:23 AM
To: (Judiciary-Rep)
Subject:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 5:45 PM
To: Comisac, Rena (CRT)
Subject: FW: [redacted]

Sorry to ask but do (or should) I know [redacted]?

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 12:22 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

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http://www.denverpost.com/nationworld/ci_3964575

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[redacted]
Senate Judiciary Committee
224 Dirksen Building
Washington, DC 20150
[redacted]
[redacted]@judiciary.senate.gov

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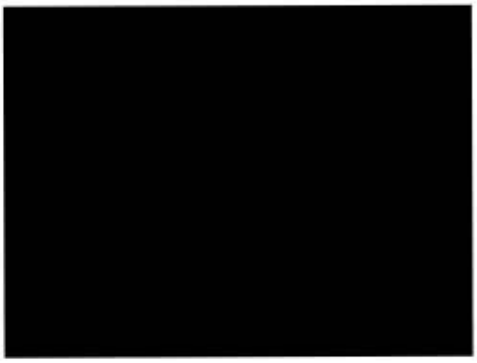
From: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
To: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>; [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
CC: [redacted] (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov>
Sent: Thu Jun 22 07:24:46 2006
Subject: Gorsuch Transcript

<<062106 Gorsuch.wpd>>
-----Original Message- <<062106 Gorsuch.txt>> ---- From: [redacted] [mailto [redacted]
Sent: Thursday, June 22, 2006 7:23 AM
To: [redacted] (Judiciary-Rep)

Subject:



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How abt Tues 11th? What venue prefer you?

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Sent: Thursday, June 22, 2006 4:48 PM
To: Gorsuch, Neil M
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Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, June 22, 2006 6:00 PM
To: Gorsuch, Neil M
Subject: Read: Gorsuch Transcript

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, June 22, 2006 6:03 PM
Subject: Read: Tobi Longwitz's Stepfather

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, June 22, 2006 6:07 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

[redacted] comes to our weekly meeting with you and Robert. [redacted] In addition to [redacted] counsel duties, [redacted] is our ombudsman and OPA/OLA liaison. [redacted]

From: Gorsuch, Neil M
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Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

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Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Sampson, Kyle

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To: Gorsuch, Neil M
Subject: RE: Article about Neil's hearing

[redacted]

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To: Sampson, Kyle
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Just good reporting [redacted]

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From: Sampson, Kyle
Sent: Thursday, June 22, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: Fw: Article about Neil's hearing

Fluff!

-----Original Message-----
From: Brand, Rachel
To: Jaffer, Jamil N; Macklin, Kristi R; Cook, Elisebeth C; Best, David T; Gorsuch, Neil M; McIntosh, Brent; Sampson, Kyle; McCallum, Robert (SMO); Todd, Gordon (SMO); Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu Jun 22 10:29:09 2006
Subject: Article about Neil's hearing

In case you haven't seen...

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Easy confirmation ahead for Gorsuch?
by Anne Mulkern

Washington - Denver native Neil Gorsuch seemed headed toward what looks like easy confirmation to the Denver-based 10th Circuit Court of Appeals after gliding through a 20-minute U.S. Senate committee hearing on his qualifications Wednesday.

Only one senator on the 18-member Judiciary Committee attended the hearing, a signal the nomination is not controversial.

"I have nothing but good things to say about Mr. Gorsuch," said Sen.
Lindsey Graham, R-S.C., the sole senator at the hearing. Graham worked with the Columbia, Harvard and Oxford University-educated Gorsuch at the Department of Justice.

Gorsuch's nomination now moves to a vote of the full committee, which Graham said he hoped would happen before the August recess. If it's approved there, it goes to a vote of the full Senate.

"Baring something coming out of the blue, it sounds like it will go through very smoothly," said Carl Tobias, law professor at University of Richmond in Virginia.

If approved, Gorsuch, 38, would take the position vacated by Judge David Ebel, who is taking senior status. The appellate court sits between trial courts and the U.S. Supreme Court.

Colorado's U.S. Sens. Wayne Allard, a Republican, and Ken Salazar, a Democrat, introduced Gorsuch, both giving glowing reviews.

During the brief questioning, Graham asked Gorsuch to describe his judicial philosophy.

"I resist pigeonholes. They aren't terribly helpful," Gorsuch said.
"People do unexpected things. Pigeonholes ignore gray areas in the law."

Gorsuch said his approach to deciding cases was to pay attention to arguments made by the lawyers presenting the case, try to reach unanimity with his colleagues on the bench, and to respect court precedent.

During the hearing Gorsuch's wife, [redacted] sat in the front row with his daughters, [redacted] and [redacted] who wore matching pink dresses.

The 10th Circuit serves Colorado, Kansas, New Mexico, Oklahoma, Wyoming and Utah. By tradition, the seats are filled by state and Gorsuch would fill the one allocated for Colorado.

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Name some weekends that work for you and yours [redacted]

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Just good reporting! [redacted]

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 22, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: Fw: Article about Neil's hearing

Fluff!

-----Original Message-----
From: Brand, Rachel
To: Jaffer, Jamil N; Macklin, Kristi R; Cook, Elisebeth C; Best, David T; Gorsuch, Neil M; McIntosh, Brent; Sampson, Kyle; McCallum, Robert (SMO); Todd, Gordon (SMO); Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)
Sent: Thu Jun 22 10:29:09 2006
Subject: Article about Neil's hearing

In case you haven't seen...

DENVER POST

Easy confirmation ahead for Gorsuch?
by Anne Mulkern

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Washington - Denver native Neil Gorsuch seemed headed toward what looks like easy confirmation to the Denver-based 10th Circuit Court of Appeals after gliding through a 20-minute U.S. Senate committee hearing on his qualifications Wednesday.

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If approved, Gorsuch, 38, would take the position vacated by Judge David Ebel, who is taking senior status. The appellate court sits between trial courts and the U.S. Supreme Court.

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During the brief questioning, Graham asked Gorsuch to describe his judicial philosophy.

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Gorsuch said his approach to deciding cases was to pay attention to arguments made by the lawyers presenting the case, try to reach unanimity with his colleagues on the bench, and to respect court precedent.

During the hearing Gorsuch's wife, [redacted] sat in the front row with his daughters, [redacted] and [redacted] who wore matching pink dresses.

The 10th Circuit serves Colorado, Kansas, New Mexico, Oklahoma, Wyoming and Utah. By tradition, the seats are filled by state and Gorsuch would fill the one allocated for Colorado.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 6:25 PM
To: Comisac, Rena (CRT)
Subject: RE: [redacted]

Thanks so much for the reminder. I apologize for needing it. I will let Robert know and I appreciate knowing this so we can respond appropriately.

From: Comisac, Rena (CRT)
Sent: Thursday, June 22, 2006 6:07 PM
To: Gorsuch, Neil M
Subject: RE: [redacted]

[redacted] comes to our weekly meeting with you and Robert. [redacted] In addition to [redacted] counsel duties, [redacted] is our ombudsman and OPA/OLA liaison. [redacted]

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 5:45 PM
To: Comisac, Rena (CRT)
Subject: FW: [redacted]

Sorry to ask but do (or should) I know [redacted]?

From: Todd, Gordon (SMO)
Sent: Monday, June 19, 2006 12:22 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

****

Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 6:26 PM
To: McCallum, Robert (SMO)
Subject: FW: [redacted]

You may or may not have met [redacted]; [redacted] started attending recently and you may've been on State Dept business.

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 6:25 PM
To: Comisac, Rena (CRT)
Subject: RE: [redacted]

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Subject: [redacted]

Robert/Neil -

[redacted]

Gordon

****
Gordon D. Todd, Esq.
Deputy Associate Attorney General

United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, June 22, 2006 6:31 PM
To: Gorsuch, Neil M
Subject: RE: Article about Neil's hearing

I know, I know -- balls in my court. I will (really) check with the boss and get back with you. We'd love to do it.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 6:24 PM
To: Sampson, Kyle
Subject: RE: Article about Neil's hearing

Name some weekends that work for you and yours [redacted]

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 22, 2006 6:23 PM
To: Gorsuch, Neil M
Subject: RE: Article about Neil's hearing

[redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 4:15 PM
To: Sampson, Kyle
Subject: RE: Article about Neil's hearing

Just good reporting! [redacted]

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, June 22, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: Fw: Article about Neil's hearing

Fluff!

-----Original Message-----
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To: Jaffer, Jamil N; Macklin, Kristi R; Cook, Elisebeth C; Best, David T; Gorsuch, Neil M; McIntosh, Brent; Sampson, Kyle; McCallum, Robert (SMO); Todd, Gordon (SMO); Leslie Fahrenkopf (Leslie_Fahrenkopf@who.eop.gov)

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 22, 2006 7:24 PM
To: Sampson, Kyle
Subject: RE: Article about Neil's hearing

Super! We really enjoyed supper and would love to repeat it.

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Subject: RE: Article about Neil's hearing

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Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Monday, June 26, 2006 8:30 AM
End:	Monday, June 26, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Monday, June 26, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski

[redacted]@usich.gov

From: [redacted]@usich.gov
Sent: Friday, June 23, 2006 9:22 AM
Subject: REMINDER: JULY 10 FULL COUNCIL MEETING
Attachments: tmp.htm; image001.jpg; 2006-7-10 CONFIRMATION OF ATTENDANCE Form.doc

REMINDER: The next full Council meeting is scheduled for 10:30 am on Monday, July 10 in EEOB #350.

Formal invitation letters for the upcoming July 10 full Council meeting will shortly be sent to your Secretary or Agency head from HUD Secretary and Council Chair[redacted]

A full agenda for the meeting will be distributed during the week prior to July 10, including discussion items on Hurricane Katrina, results from the Administration's initiatives to end chronic homelessness, prevention of homelessness among veterans, and family homelessness.

Please be reminded to submit proposed announcement items to this office by COB June 30. A followup reminder will be sent once the formal letters of invitation have been issued.

Attached is the Confirmation of Attendance form needed for the meeting.
Please submit to this office by COB June 30 for inclusion in the clearance list.

[redacted]

United States Interagency Council on Homelessness

[redacted]

[redacted]

FAX [redacted]

www.usich.gov

CONFIRMATION OF ATTENDANCE

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS
FULL COUNCIL MEETING

MONDAY, JULY 10, 2006 - 10:30 A.M. – 12:00 P.M.

EISENHOWER EXECUTIVE OFFICE BUILDING, ROOM 350

Please FAX this completed clearance form to USICH at 202-708-1216 no later than June 30 COB.
All agency designees must complete this form.

Secretary [Administrator, etc.] _____
_____ will attend the meeting. _____ is unable to attend the meeting.

The following Deputy Secretary will attend: (Please print all required information.)

Full Name _____

Title _____

Agency _____

Contact _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Also attending will be:

(2) Full Name _____

Title _____

Agency _____

Telephone _____

Fax _____

E-Mail _____

DOB _____

SSN _____

Please return this form by FAX to the U.S. Interagency Council on Homelessness at (202) 708-1216 no later than June 30 COB.

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[redacted]

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: [redacted]

FAX: [redacted]

www.usich.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 9:35 AM
To: Todd, Gordon (SMO); Swenson, Lily F
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING
Attachments: tmp.htm; image001.jpg; 2006-7-10 CONFIRMATION OF ATTENDANCE Form.doc

Which of you has been attending these?

-----Original Message-----
From: MaryEllen.Hombs@usich.gov [mailto:MaryEllen.Hombs@usich.gov]
Sent: Friday, June 23, 2006 9:22 AM
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Mary Ellen Hombs, Deputy Director

United States Interagency Council on Homelessness

Federal Center SW

409 Third Street SW, Suite 310

Washington, DC 20024

PH: 202/708-4663

FAX: 202/708-1216

www.usich.gov

CONFIRMATION OF ATTENDANCE

UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS
FULL COUNCIL MEETING

MONDAY, JULY 10, 2006 - 10:30 A.M. – 12:00 P.M.

EISENHOWER EXECUTIVE OFFICE BUILDING, ROOM 350

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Secretary [Administrator, etc.] _____
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SSN _____

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www.usich.gov

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Friday, June 23, 2006 9:36 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: REMINDER: JULY 10 FULL COUNCIL MEETING

I have. I've already RSVP'd to this one.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 9:35 AM
To: Todd, Gordon (SMO); Swenson, Lily F
Subject: FW: REMINDER: JULY 10 FULL COUNCIL MEETING

Which of you has been attending these?

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From: [redacted]@usich.gov [mailto[redacted]@usich.gov]
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[redacted]

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Federal Center SW

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Washington, DC 20024

PH:

FAX

www.usich.gov

Clement, Paul D

From: Clement, Paul D
Sent: Friday, June 23, 2006 9:52 AM
To: Gorsuch, Neil M
Subject: Shoo-in

20 minutes? For lifetime tenure? You have been living right. Congratulations.
Paul

PS: Since you have been called one by the newspapers, you might be curious about the derivation (I was): The correct form is *shoo-in*, usually with a hyphen. It has been known in that spelling and with the meaning of a certain winner from the 1930s. It came from horse racing, where a *shoo-in* was the winner of a rigged race.

In turn that seems to have come from the verb *shoo*, meaning to drive a person or an animal in a given direction by making noises or gestures, which in turn comes from the noise people often make when they do it.

The shift to the horse racing sense seems to have occurred sometime in the early 1900s. C E Smith made it clear how it came about in his *Racing Maxims and Methods of Pittsburgh Phil* in 1908: "There were many times presumably that 'Tod' would win through such manipulations, being 'shooed in', as it were".

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 9:59 AM
To: Clement, Paul D
Subject: RE: Shoo-in

I liked the phrase better when I didn't know its derivation! Winner of a rigged race? Egad.

Thanks for the kind words. To continue the horse racing metaphor, however, only one jump has been cleared; as you know well, many more remain. We will see what happens…

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Sent: Friday, June 23, 2006 9:52 AM
To: Gorsuch, Neil M
Subject: Shoo-in

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Paul

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 9:59 AM
To: Todd, Gordon (SMO); Swenson, Lily F
Subject: RE: REMINDER: JULY 10 FULL COUNCIL MEETING

Great; thanks!

-----Original Message-----
From: Todd, Gordon (SMO)
Sent: Friday, June 23, 2006 9:36 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: REMINDER: JULY 10 FULL COUNCIL MEETING

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PH: [redacted]

FAX: [redacted]

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Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, June 23, 2006 10:09 AM
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Subject: Will you or Neil be chairing the Group II Leadership Mtg this morning?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 10:10 AM
To: Gunn, Currie (SMO); Todd, Gordon (SMO)
Subject: Re: Will you or Neil be chairing the Group II Leadership Mtg this morning?

If Gordon is able thatd be great. If not I can do so.

-----Original Message-----
From: Gunn, Currie (SMO)
To: Gorsuch, Neil M; Todd, Gordon (SMO)
Sent: Fri Jun 23 10:09:19 2006
Subject: Will you or Neil be chairing the Group II Leadership Mtg this morning?

From: Miller, Charles S
Sent: Friday, June 23, 2006 10:35 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 6/23/06 Civil Division News

Bush Administration Says NSA Lawsuit Threatens to Reveal Secrets

Supreme Court Upholds Strict Deportation Law; An illegal immigrant is subject to a policy passed after his arrival and cannot remain, justices rule, despite a job and family here

FBI aide says he knew little of informants

Novartis seeks delay in FDA cholesterol drug rule

U.S. appeals court backs North Carolina in ownership of Bill of Rights copy

AP

June 23, 2006

Bush Administration Says NSA Lawsuit Threatens to Reveal Secrets

SAN FRANCISCO — A lawsuit challenging the Bush administration's terrorist surveillance program must be dismissed because it threatens to reveal state secrets and jeopardize the War on Terror, the government says.

The case was set to go before a federal judge in San Francisco on Friday.

The Bush administration argues that the courts cannot decide the constitutionality of the president's asserted wartime powers to eavesdrop on Americans without warrants.

The government is invoking the so-called "state secrets privilege" in a federal lawsuit filed by a privacy group against communications giant AT&T Inc. about the telecom's alleged involvement in Bush's surveillance program adopted after the Sept. 11, 2001, terror attacks.

"Resolution of those legal issues depends entirely on facts that, in light of their highly classified nature, cannot be made the subject of litigation," the Justice Department wrote in a brief to U.S. District Judge Vaughn Walker.

The legal tactic of state secrets privilege, first recognized by the U.S. Supreme Court in a McCarthy-era lawsuit, has been increasingly and successfully invoked by federal lawyers seeking to shield the government from scrutiny by the courts, from espionage cases and patent disputes to routine employment discrimination lawsuits.

The president confirmed in December that the National Security Agency has been conducting warrantless surveillance of calls and e-mails thought to involve Al Qaeda terrorists if at least one of the parties to the communication is outside the United States. The administration is mum on whether purely domestic calls and electronic communications are being monitored, as the lawsuit alleges.

The lawsuit was brought by the Electronic Frontier Foundation, on behalf of customers of San Antonio-based AT&T. The EFF accuses the telecom of illegally cooperating with the NSA to make communications on AT&T networks available to the spy agency without warrants.

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AT&T said it follows all applicable laws when it comes to government monitoring of customer data, but would neither confirm nor deny the allegations.

The EFF is urging Walker in legal filings to rule on whether the president possesses wartime powers to authorize warrantless eavesdropping in the United States without publicly disclosing any classified or sensitive material.

The U.S. Supreme Court upheld the state secrets defense as recently as January, when it rejected an appeal from a former covert CIA officer who accused the agency of race discrimination. And last month, citing the state secrets defense, the government urged a federal judge in Virginia to block a lawsuit by a German national who says he was illegally held in a CIA-run prison in Afghanistan for four months and tortured.

The Supreme Court first recognized the state secrets doctrine in 1953, when it dismissed a lawsuit against the government brought by family members of people killed in a plane wreck while testing secret electronic surveillance equipment.

END

Los Angeles Times

June 23, 2006

Supreme Court Upholds Strict Deportation Law; An illegal immigrant is subject to a policy passed after his arrival and cannot remain, justices rule, despite a job and family here

By David G. Savage
Times Staff Writer

WASHINGTON — Illegal immigrants who return to the United States after being deported are "continuous lawbreakers" and are subject to automatic removal from this country, the Supreme Court ruled Thursday, even if they have lived here more than 20 years and have jobs and families.

The 8-1 decision upholds a strict 1996 law that adopted a no-leniency policy for those who returned illegally to this country after having been deported.

"This is a 'two strikes and you're out' law," said Washington lawyer David Gossett, who challenged its application to illegal immigrants who reentered the country before 1996, when Congress toughened the law. He estimated that Thursday's ruling would apply to "tens of thousands, perhaps hundreds of thousands" of immigrants who reentered the country illegally in recent decades.

His client, Humberto Fernandez-Vargas, is a 53-year-old citizen of Mexico who, starting in the 1970s, entered the United States illegally — and was subsequently deported — several times.

In 1982, he returned for the last time and settled quietly in Utah. He started a trucking business, fathered a son in 1989 and married the boy's mother in 2001.

Based on his marriage to a U.S. citizen, he applied for lawful permanent residence in the United States. That filing backfired, since it tipped off immigration authorities that he was here illegally. He was taken into custody and deported to Juarez, Mexico, two years ago. His wife, Rita, has continued the legal battle on his behalf.

The Supreme Court took up the case because several lower courts — including the U.S. 9th Circuit Court of Appeals, which has jurisdiction in California and eight other Western states — had adopted a lenient standard for illegal immigrants who had been in the United States for decades. The 9th Circuit judges had ruled that Congress did not mean to apply the new law to illegal immigrants who had reentered the country before 1996.

But writing for the majority on the Supreme Court, Justice David H. Souter disagreed, saying that Congress meant the law to apply to every once-deported immigrant who had returned illegally and stayed.

Fernandez-Vargas "had an ample warning" of the strict new law in 1996, and "he chose to remain after the new statute became effective," Souter wrote in Fernandez-Vargas vs. Gonzales. "He claims a right to continue illegal conduct indefinitely under the terms on which it began, an entitlement of legal stasis for those whose lawbreaking is continuous."

Souter acknowledged that complying with the law "would have come at a high personal price, for Fernandez-Vargas would have had to leave a business and a family he had established during his illegal residence."

But in the end, he is paying for "continuously illegal action" over an extended period, Souter wrote.

At one point, the court appeared to leave open the possibility that the result could be different for once-deported illegal immigrants who had married U.S. citizens or applied to become legal residents before 1996. Some judges have blocked the deportation of such immigrants, but those are "facts not in play here," Souter said in a footnote.

In the past, it was understood that persons who entered the United States illegally after having been deported were subject to being sent home again. However, the immigration laws allowed them to seek a waiver if, for example, they had a job and a family.

The no-exceptions rule was adopted shortly after Republicans took control of Congress in the 1994 elections. It appears in the Illegal Immigration Reform and Immigrant Responsibility Act and says that "an alien [who] reentered the United States illegally after having been removed" may not seek to have his case "reopened or reviewed. [He] is not eligible and may not apply for any relief … and the alien shall be removed … at any time after the reentry."

Jennifer Chacon, a law professor at UC Davis, said the ruling highlights an unfairness in the law.

"This concerns the people we should be the least concerned about. They are stable people with jobs: grandparents, parents, husbands," she said. "These people are not security threats."

This year, Congress and the Bush administration have been debating whether to change immigration laws again. The Senate's bill, but not the House version, would give longtime illegal immigrants a path to seeking legal status in the United States.

But immigration experts said it was not altogether clear that the proposed changes in the law, if adopted, would aid those who reentered the country after being deported.

The American Civil Liberties Union and several immigrant-rights groups had urged the court not to apply the 1996 law retroactively.

"It is a disappointing decision, and it is a further example of the harshness of the 1996 law," said Lucas Guttentag, who heads the ACLU Foundation's Immigrants' Rights Project.

Dissenting alone, Justice John Paul Stevens said the court usually did not apply new laws to old cases. Because Fernandez-Vargas had a 15-year record of stable work and a family, he would have been eligible to stay in the United States prior to the passage of the 1996 law. For that reason, it is unfair to apply the law to him now, Stevens said.

END

Boston Globe

June 23, 3006

FBI aide says he knew little of informants

By Shelley Murphy, Globe Staff

The FBI was investigating its own informants -- James ``Whitey" Bulger and Stephen ``The Rifleman" Flemmi -- as suspects in four murders by 1983 and had been told they were involved in cocaine and marijuana trafficking, according to FBI files.

Yet the head of the FBI's Boston office at the time, James Greenleaf , testified yesterday that nobody ever told him. And, he said, he never reviewed the office's informant files, which were replete with references to the alleged involvement of Bulger and Flemmi in murder, drugs, and other crimes.

The corruption of some FBI agents in the Boston office by Bulger and Flemmi has been well known, but Greenleaf's testimony yesterday was striking because he indicated that no one in the Boston FBI office thought it important to inform the man running the office about serious allegations of criminal activity by the two gangsters.

Greenleaf said he delegated the handling of informants to supervisory agents who worked under him during his tenure as special agent in charge of the Boston office from November 1982 to 1986.

``If there was an issue, they could always come to me," he said.

Greenleaf was called to the stand in US District Court in Boston by the Justice Department, which is defending the government against a $50 million wrongful death suit over its handling of Bulger and Flemmi. The federal judge presiding over the trial quizzed Greenleaf about whether he had concerns about Bulger and Flemmi after learning that they were being targeted by three other law enforcement agencies.

``I don't think I really focused on that," said Greenleaf. ``I assumed because of their backgrounds that a lot of people were looking at them.

US District Judge Reginald C. Lindsay asked, ``So there was nothing unusual about the Norfolk district attorney, the State Police, and the DEA [US Drug Enforcement Administration] looking at them for what appeared to be ongoing or current criminal activity?"

After a long pause, Greenleaf said, ``It just didn't register with me. I don't recall any discussions about that."

Greenleaf testified on the 14th day of a civil trial in US District Court in Boston over the suit brought by the family of John McIntyre , a Quincy fisherman who was slain in 1984 after he began cooperating with the FBI and the US Customs Service.

McIntyre's mother, Emily, and brother, Christopher, allege that the FBI's negligent handling of Bulger and Flemmi caused McIntyre's death. Earlier in the trial, Flemmi testified that he and Bulger killed McIntyre, 32, on Nov. 30, 1984, after their longtime FBI handler, John J. Connolly Jr. , warned them that McIntyre was cooperating against them. McIntyre had implicated them in an unsuccessful effort to ship arms to the Irish Republican Army on a Gloucester trawler.

During cross-examination by New Hampshire lawyer William Christie , who represents the McIntyres, Greenleaf said he was not aware that during his tenure, agents in his office were investigating Bulger and Flemmi in four murders.

Yet the FBI's files indicate that Bulger and Flemmi were being investigated by the FBI in the 1981 slaying of businessman Roger Wheeler in Oklahoma; the May 1982 slaying of FBI informant Edward ``Brian" Halloran and Michael Donahue, an innocent bystander , in Boston; and the August 1982 slaying of Boston financier John Callahan in Florida.

Greenleaf also said that he was advised by FBI supervisor James Ring that the FBI had ``no information" linking Bulger and Flemmi to drug trafficking in 1984 when the DEA asked the FBI to join that agency in an investigation targeting the two gangsters.

Yet Christie cited a number of FBI documents that allege Bulger and Flemmi were involved in cocaine and marijuana trafficking.

Greenleaf agreed that he should have been advised about allegations that Bulger and Flemmi were committing serious crimes. ``Before we closed them [as informants], we'd want to find out how much truth there was to these allegations," said Greenleaf, saying there was ``rumor and innuendo" that would have to be investigated.

Greenleaf said he was never involved in any discussions over whether Bulger and Flemmi should be dropped as informants. Flemmi was officially dropped as an informant from September 1982 to 1986, yet continued to volunteer information to the FBI on at least 50 occasions during that time. Bulger remained an active informant until 1990.

END

Reuters

June 23, 2006

Novartis seeks delay in FDA cholesterol drug rule

ZURICH, June 23 (Reuters) - Novartis's <NOVN.VX> generics unit Sandoz is seeking a temporary restraining order preventing the U.S. Food and Drug Administration from approving generic versions of a popular anti-cholesterol drug simvastatin.

Several companies have won a suit forcing the FDA to clear the way for them to produce generic versions of the drug, made by rival Merck & Co. <MRK.N> under the brand name Zocor, on an exclusive basis. The FDA has appealed against the ruling.

Sandoz wishes to block the FDA from approving the generic versions until the FDA's appeal is decided as expected over the summer, in the hope of opening the field to more competition. Sandoz already makes the generic version in Germany.

Investors have been closely watching for the impact of Zocor's patent expiration on June 23, which could have broad implications for the pharmaceutical industry, as well as health insurers and other organisations that pay for prescription drugs.

END

DOJ_NMG_ 0162934

AP

June 22, 2006

U.S. appeals court backs North Carolina in ownership of Bill of Rights copy

(AP) - RALEIGH, North Carolina-A federal appeals court has ruled that North Carolina was entitled to reclaim the state's original copy of the U.S. Constitution's Bill of Rights, seized three years ago from two men in Connecticut.

The copy of the document listing the rights enjoyed by United States citizens was one of 14 made in 1789.

It had been missing since it was stolen from the state Capitol at the end of the Civil War and privately sold to various people for nearly 140 years until antiques dealer Wayne Pratt and businessman Robert Matthews bought it in 2000 for $200,000 (â‚¬158,957).

In 2003, an FBI agent posing as a museum buyer pretended to purchase the paper from Pratt and Matthews for $5 million (â‚¬3.97 million), and seized the document with a federal court order.

Matthews claims the document is worth $30 million (â‚¬23.84 million) on the private market and that it was improperly seized by federal agents. While Pratt relinquished his half ownership to North Carolina, Matthews continues to fight his stake.

The 4th U.S. Circuit Court of Appeals rebuffed Matthews' bid to regain possession, but said he could continue to fight his claim that he owns the document and is entitled to permanent possession.

Matthews' attorney, Michael A. Stratton of New Haven, Connecticut, said his client planned to appeal his case to the U.S. Supreme Court.

"It's been in private hands for 140 years at least, Stratton said. "He bought it and he wants it back."

END

DOJ_NMG_ 0162935

Image not available for this document, ID: 0.7.10316.6031-000001

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 12:19 PM
To: Best, David T; Cook, Elisebeth C; Macklin, Kristi R
Subject: Leahy Questions
Attachments: finalWritten Questions Submitted by Senator Ron Wyden.doc

Attached is a first draft of my responses to Sen Leahy and Sen Wyden's questions. I would very much appreciate your feedback on them as well as on the question when we should submit final answers. Thanks.

Written Questions Submitted by Senator Leahy
On behalf of Senator Ron Wyden
To Neil Gorsuch, Nominee to the Tenth Circuit Court of Appeals

Question 1

While the U.S. Supreme Court has not found a clear constitutional right to physician aid in dying, it has encouraged the states to continue to experiment. Do you believe a State has the constitutional right to regulate the practice of medicine within its borders? And if so, do you believe the right to regulate medicine within its own borders extends to a state's right to permit physician aid in dying as acceptable medical practice flowing from its power to license providers, determine their scope of practice, and discipline those providers?

Answer

I very much appreciate the chance to answer these questions from Senators Leahy and Wyden.

Earlier this year, the Supreme Court of the United States reaffirmed that, under our Constitution, the "regulation of health and safety is primarily, and historically, a matter of local concern." *Gonzales v. Oregon*, No. 04-623, Slip Op. at 24 (Jan. 17, 2006) (internal quotation marks omitted). The Court further emphasized that the States have "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all person." *Id.* at 23 (internal quotation marks omitted). The traditional regulatory powers of the States thus clearly include the regulation of the practice of medicine within their borders.

In the last ten years, the Supreme Court has twice specifically vindicated the power of States to make their own laws with respect to physician-assisted suicide. Specifically, in 1997, the Court rejected an effort to establish a uniform constitutional rule requiring States to permit physician-assisted suicide, instead emphasizing that "the States are currently engaged in serious, thoughtful examination of physician-assisted suicide and other issues." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). This year, the Court rejected an effort by a federal officer to issue regulations under the Controlled Substances Act that would have "substantially disrupt[ed]" the operation of that law and "radical[ly] shift[ed]" authority to federal administrative agencies. *Gonzales*, Slip Op. at 7, 28. Concurring in *Glucksberg*, Justice O'Connor emphasized that, given the States' "extensive and serious evaluation of physician-assisted suicide and other related issues, . . . the challenging task of crafting appropriate procedures for safeguarding . . . liberty interests is entrusted to the laboratory of the States . . . in the first instance." *Glucksberg*, 521 U.S. at 737 (internal quotation marks omitted). If confirmed, I will follow the Supreme Court's guidance on this and all matters.

DOJ_NMG_ 0162938

Question 2

Your writings on physician aid in dying appear to conclude that you believe there is no constitutional right to physician aid in dying. Should a case come before you concerning this issue in any way, would you be able to consider it without that bias?

Answer

If confirmed, my personal views on this -- or any -- issue will have no role in my decisions as a judge. A judge's personal politics and policy preferences have no useful role in the process of deciding cases. Regular and healthy doses of self-skepticism and humility always do.

As a practicing lawyer for many years, litigating matters in state and federal courts across the country on behalf of plaintiffs and defendants, individuals and corporations, I have never allowed my personal views and policy preferences to interfere with the zealous representation of my clients. My duty of loyalty meant preferring my clients' interests and objectives to my own views. If confirmed, I will have a new client: the law itself. Just as my personal and political views had no proper place in my role as advocate and counselor, neither will they have any place in my role as judge. I will seek only and always to apply the law faithfully.

From my years in practice, too, I know that, to the litigant before the court, the case at hand often means everything to him or her. Each and every litigant wants and deserves a fair shake from a judge based on the facts in the record, the arguments of counsel, and the controlling legal precedents -- not any extra-record biases or beliefs. That's what I always hoped for in the judges in front of whom I appeared. And that's what I will always seek, if confirmed, to provide to litigants who appear before me.

Question 3

What weight do you give to legislative history in making a ruling?

Answer

The Supreme Court has repeatedly instructed that, when a statute's language is clear, its language alone governs but that, when ambiguities exist in statutory text, legislative history can be employed to resolve those ambiguities. The Court has put this point succinctly: "courts may appropriately refer to a statute's legislative history to resolve statutory ambiguity." *Patterson v. Shamute*, 504 U.S. 753, 761 (1992) (internal quotation marks and citation omitted). If confirmed, I will faithfully follow the Supreme Court's guidance in this area.

DOJ_NMG_ 0162939

Question 4

In the article "the Legalization of Assisted Suicide and the Law of Unintended Consequences: A review of the Dutch and Oregon Experiments and Leading Utilitarian Arguments for Legal Change" you repeat many of the arguments of those who have opposed or do oppose Oregon's law.

In this article you conclude that Oregon's physicians do not know enough about palliative care. However, you appear to overlook several significant facts. For example, Oregon is one of two states that have disciplined physicians for the under treatment of pain, and, historically, more Oregonians die at home than in hospitals. These facts might point to a different conclusion than the one you draw in your article.

The medical literature is full of studies that demonstrate medical practice differs from state to state. Why do you believe that the treatment of end of life care must be uniform throughout the United States, as you seem to suggest in this article, when it and medicine in general is practiced differently through out the United States?

Answer

I do not presume to have answers for every facet of the debate over physician-assisted suicide. Nor do I pretend that my article is even close to the last word on such a difficult subject. The Supreme Court has written that the American people are engaged in an "earnest and profound debate about the morality, legality, and practicality of physician-assisted suicide." *Gluckberg*, 521 U.S. at 735. I hope only that I have -- in some very small way -- contributed to a body of scholarship and knowledge that will eventually provide all of us with a fuller, more fully informed understanding of the issues at stake in this most profoundly complex arena.

Nor do I wish to be taken to have suggested in the cited article that all end of life care must be treated uniformly throughout the country. Instead, the article begins by noting that the Supreme Court rejected a uniform national right to physician-assisted suicide in its 1997 decision, choosing instead to leave state legislative judgments in this arena intact. That is to say, the Supreme Court left the matter to the States. The article then proceeds to explain that, since 1997 a number of States have (quite appropriately) considered whether or not to pursue legalization through voter referenda and their state legislatures. Thereafter, the article focuses on just one of the many questions that all earnest people of good will engaged in dialogues on the state level must face: whether or not the benefits flowing from a decision to legalize physician-assisted suicide are likely to outweigh any attendant costs associated with such a change in law. This, the article points out, is a question expressly raised by Justice O'Connor and Justice Souter in *Glucksberg* as an important, but unresolved issue. After analyzing the legalization experiments in the Netherlands and Oregon, the article ultimately concludes that "to be sure, benefits would flow from legalization [of physician-assisted suicide]. I do not seek here to discount such benefits or suggest

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that they are 'outweighed' by attendant costs. Instead, I have sought to show only that legalization may also entail real and material costs" and thus that people of good faith striving to address the assisted suicide question are presented with a "nontrivial choice." 2004 Wisc. L. Rev. at 1418. That is, the article does not suggest that the costs of choosing to legalize assisted suicide would outweigh the benefits of legalization. Nor does it suggest that every State must reach a uniform judgment to this effect. Instead, the article simply argues that any State's decision to legalize assisted suicide would likely bring with it *both* benefits *and* some attendant costs and, in so doing, the legalization question presents those faced with answering that question with a difficult moral and legal choice.

DOJ_NMG_ 0162941

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 12:19 PM
To: Swenson, Lily F; Todd, Gordon (SMO)
Subject: FW: Leahy Questions
Attachments: finalWritten Questions Submitted by Senator Ron Wyden.doc

If you have the chance, I'd appreciate your input.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 12:19 PM
To: Best, David T; Cook, Elisebeth C; Macklin, Kristi R
Subject: Leahy Questions

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On behalf of Senator Ron Wyden
To Neil Gorsuch, Nominee to the Tenth Circuit Court of Appeals

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DOJ_NMG_ 0162943

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DOJ_NMG_ 0162944

Question 4

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DOJ_NMG_ 0162945

that they are 'outweighed' by attendant costs. Instead, I have sought to show only that legalization may also entail real and material costs" and thus that people of good faith striving to address the assisted suicide question are presented with a "nontrivial choice." 2004 Wisc. L. Rev. at 1418. That is, the article does not suggest that the costs of choosing to legalize assisted suicide would outweigh the benefits of legalization. Nor does it suggest that every State must reach a uniform judgment to this effect. Instead, the article simply argues that any State's decision to legalize assisted suicide would likely bring with it *both* benefits *and* some attendant costs and, in so doing, the legalization question presents those faced with answering that question with a difficult moral and legal choice.

DOJ_NMG_ 0162946

Best, David T

From: Best, David T
Sent: Friday, June 23, 2006 12:32 PM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: RE: Leahy Questions
Attachments: response format.doc

No substantive comments at this time. Here is format, for your reference, for final response and cover letter. I will defer to Kristi on feedback and timing.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 12:19 PM
To: Best, David T; Cook, Elisebeth C; Macklin, Kristi R
Subject: Leahy Questions

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<< File: finalWritten Questions Submitted by Senator Ron Wyden.doc >>

Response to written Questions from Senator Leahy on behalf of Senator Wyden

Neil M. Gorsuch, nominated to be a United States Circuit Judge for the Tenth Circuit

1. Question repeated in bold type.

Answer provided below question.

2. Question repeated in bold type.

Answer provided below question.

Cover Letter:

The Honorable Arlen Specter
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Attached are my responses to written questions from Senator Leahy, which were forwarded to me on behalf of Senator Wyden.

Sincerely,

cc:
The Honorable Patrick J. Leahy
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Best, David T

From: Best, David T
Sent: Friday, June 23, 2006 1:43 PM
To: Cook, Elisebeth C
Cc: Gorsuch, Neil M

Per Kristi, please get with Neil and obtain the latest version of his manuscript to be published. While it is not particularly responsive to the questionnaire, in that it is a future publication, the Committee has made the request.
Thanks

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Best, David T

From: Best, David T
Sent: Friday, June 23, 2006 2:20 PM
To: Gorsuch, Neil M; Cook, Elisebeth C
Subject: RE:

Thanks

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 1:59 PM
To: Best, David T; Cook, Elisebeth C
Subject: RE:

I've placed a call to Princeton U Press; they will fed ex a copy of the latest version to my home. Hopefully it will be here Monday; is that ok?

From: Best, David T
Sent: Friday, June 23, 2006 1:43 PM
To: Cook, Elisebeth C
Cc: Gorsuch, Neil M
Subject:

Per Kristi, please get with Neil and obtain the latest version of his manuscript to be published. While it is not particularly responsive to the questionnaire, in that it is a future publication, the Committee has made the request.
Thanks

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 2:21 PM
To: [redacted] ([redacted]@judiciary-rep.senate.gov)
Subject: Per your request

Here's my contact info:

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
[redacted]
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

Subject: Rusak going away

Start: Tuesday, June 27, 2006 3:00 PM
End: Tuesday, June 27, 2006 4:00 PM

Recurrence: (none)

Meeting Status: No response required

Organizer: Gorsuch, Neil M

My going away party is Tuesday, June 27, at 3 pm on the 8th floor of the Patrick Henry Building (601 D. Street, N.W. -- about 2 blocks from the Archives). The party will be in Conference Room 8000, which is through the double glass doors as soon as you get off the elevators on the 8th floor. Please come if you can. I would love to introduce you to my wife and kids.

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, June 23, 2006 2:58 PM
To: Gorsuch, Neil M
Cc: Pacold, Martha M
Subject: OIL $9M meeting

due to a snafu with meeting invitations, we were never officially 'invited' to this meeting with OIL to discuss the supplemental money --- but it was in fact set for 2:30 today. I guess folks have bee down there waiting for us for almost 30 mins. I'm going now -- come if you want. Thanks.

ccing Martha because I know you are probably waiting to hear from me -- I need to attend this meeting -- will call you later.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:01 PM
To: Swenson, Lily F
Cc: Pacold, Martha M
Subject: RE: OIL $9M meeting

Ugh. I'm terribly embarrassed but I slavishly follow my calendar. Can you cover and apologize for me? I feel awful.

My only big question is the Calif office idea.

From: Swenson, Lily F
Sent: Friday, June 23, 2006 2:58 PM
To: Gorsuch, Neil M
Cc: Pacold, Martha M
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ccing Martha because I know you are probably waiting to hear from me -- I need to attend this meeting -- will call you later.

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 23, 2006 3:02 PM
To: Gorsuch, Neil M; Best, David T; Cook, Elisebeth C
Subject: Re: Leahy Questions

We'll plan on getting them in Tuesday.

-----Original Message-----
From: Gorsuch, Neil M
To: Best, David T; Cook, Elisebeth C; Macklin, Kristi R
Sent: Fri Jun 23 12:18:48 2006
Subject: Leahy Questions

Attached is a first draft of my responses to Sen Leahy and Sen Wyden's questions. I would very much appreciate your feedback on them as well as on the question when we should submit final answers. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:14 PM
To: Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Subject: RE: Leahy Questions

Will that be sufficiently far in advance to allow me to be noticed for the Th markup (so they can burn the hold)?

-----Original Message-----
From: Macklin, Kristi R
Sent: Friday, June 23, 2006 3:02 PM
To: Gorsuch, Neil M; Best, David T; Cook, Elisebeth C
Subject: Re: Leahy Questions

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-----Original Message-----
From: Gorsuch, Neil M
To: Best, David T; Cook, Elisebeth C; Macklin, Kristi R
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Subject: Leahy Questions

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Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 23, 2006 3:20 PM
To: Gorsuch, Neil M; Best, David T; Cook, Elisebeth C
Subject: RE: Leahy Questions

Yes - we try to walk a fine line so that we don't have enough time to encourage additional follow ups. Tues afternoon is plenty of time.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:14 PM
To: Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Subject: RE: Leahy Questions

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Sent: Fri Jun 23 12:18:48 2006
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:45 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs
Attachments: finalWritten Questions Submitted by Senator Ron Wyden.doc

I've revised the answers slightly and put them in the format David described. I look forward to any further comments.

Response to written questions from Senator Leahy on behalf of Senator Wyden
Neil M. Gorsuch, nominated to be a United States Circuit Judge
for the Tenth Circuit

1. While the U.S. Supreme Court has not found a clear constitutional right to physician aid in dying, it has encouraged the states to continue to experiment. Do you believe a State has the constitutional right to regulate the practice of medicine within its borders? And if so, do you believe the right to regulate medicine within its own borders extends to a state's right to permit physician aid in dying as acceptable medical practice flowing from its power to license providers, determine their scope of practice, and discipline those providers?

I very much appreciate the chance to answer these questions from Senators Leahy and Wyden.

Earlier this year, the Supreme Court of the United States reaffirmed that the "regulation of health and safety is primarily, and historically, a matter of local concern." *Gonzales v. Oregon*, No. 04-623, Slip Op. at 24 (Jan. 17, 2006) (internal quotation marks omitted). The Court further emphasized that the States have "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all person." *Id.* at 23 (internal quotation marks omitted). The traditional regulatory powers of the States thus clearly include the regulation of the practice of medicine within their borders.

In the last ten years, the Supreme Court also has twice vindicated the power of States to make their own laws with respect to physician-assisted suicide. Specifically, in 1997, the Court rejected an effort to establish a uniform constitutional rule requiring States to permit physician-assisted suicide, instead emphasizing that "the States are currently engaged in serious, thoughtful examination of physician-assisted suicide and other issues." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). This year, the Court rejected an effort by a federal officer to issue regulations under the Controlled Substances Act that would have "substantially disrupt[ed]" the operation of Oregon's physician-assisted suicide law and "radical[ly] shift[ed]" authority to federal administrative agencies. *Gonzales v. Oregon*, Slip Op. at 7, 28. Concurring in the judgment in *Glucksberg*, Justice O'Connor emphasized that, given the States' "extensive and serious evaluation of physician-assisted suicide and other related issues, . . . the challenging task of crafting appropriate procedures for safeguarding . . . liberty interests is entrusted to the laboratory of the States . . . in the first instance." *Glucksberg*, 521 U.S. at 737 (internal quotation marks omitted). If confirmed, I will follow the Supreme Court's guidance on this and all matters.

2. Your writings on physician aid in dying appear to conclude that you believe there is no constitutional right to physician aid in dying. Should a case come before you concerning this issue in any way, would you be able to consider it without that bias?

DOJ_NMG_ 0162959

If confirmed, my personal views on this -- or any -- issue will have no role in my decisions as a judge. A judge's personal policy preferences and politics have no useful role in the process of deciding cases. Regular and healthy doses of self-skepticism and humility always do.

As a practicing lawyer for many years, litigating matters in state and federal courts across the country on behalf of plaintiffs and defendants, individuals and corporations, I never allowed my personal views and policy preferences to interfere with the zealous representation of my clients. My duty of loyalty meant preferring my clients' interests and objectives to my own views. If confirmed, I will have a new client: the law itself. Just as my personal and political views had no proper place in my role as advocate and counselor, neither will they have any place in my role as judge. I will seek only and always to follow the law faithfully and fairly.

From my years in practice, too, I know that, to the litigant before the court, the case at hand often means the world to him or her. A business, property interest, even a fundamental liberty interest, may be at stake. Each and every litigant wants and deserves a fair shake from a judge based on the facts in the record, the arguments of counsel, and the controlling legal precedents -- not one based on extra-record biases or beliefs. That's what I always hoped for in the judges in front of whom I appeared. And that's what I will always seek, if confirmed, to provide to all litigants who appear before me.

3. What weight do you give to legislative history in making a ruling?

The Supreme Court has repeatedly instructed that, when a statute's language is clear, its language alone governs but that, when ambiguities exist in statutory text, legislative history can be employed to resolve those ambiguities. The Court has put the point succinctly: "courts may appropriately refer to a statute's legislative history to resolve statutory ambiguity." *Patterson v. Shumate*, 504 U.S. 753, 761 (1992) (internal quotation marks and citation omitted). If confirmed, I will faithfully follow the Supreme Court's guidance in this area.

4. In the article "the Legalization of Assisted Suicide and the Law of Unintended Consequences: A review of the Dutch and Oregon Experiments and Leading Utilitarian Arguments for Legal Change" you repeat many of the arguments of those who have opposed or do oppose Oregon's law.

In this article you conclude that Oregon's physicians do not know enough about palliative care. However, you appear to overlook several significant facts. For example, Oregon is one of two states that have disciplined physicians for the under treatment of pain, and, historically, more Oregonians die at home than in hospitals. These facts might point to a different conclusion than the one you draw in your article.

DOJ_NMG_ 0162960

The medical literature is full of studies that demonstrate medical practice differs from state to state. Why do you believe that the treatment of end of life care must be uniform throughout the United States, as you seem to suggest in this article, when it and medicine in general is practiced differently through out the United States?

I do not presume that I have answers to all of the many difficult questions the physician-assisted suicide issue raises, or that my work is even close to the last word on such a difficult and complex subject. The Supreme Court has written that the American people are engaged in an "earnest and profound debate about the morality, legality, and practicality of physician-assisted suicide." *Glucksberg*, 521 U.S. at 735. I hope only that I have -- in some very small way -- contributed to a body of scholarship and knowledge that will eventually provide all of us with a fuller, more fully informed understanding of the issues at stake in this most profoundly difficult arena.

Nor do I wish to be taken to have argued in the referenced article that all end of life care must be treated uniformly throughout the country. Instead, the article begins by noting that the Supreme Court rejected a uniform right to physician-assisted suicide in its 1997 decisions, choosing instead to leave intact state legislative judgments in this arena. That is to say, the Supreme Court left the matter to the States. The article then proceeds to explain that, since 1997, a number of States have (quite appropriately) considered whether or not to pursue the legalization of physician-assisted suicide through voter referenda and state legislative processes. Thereafter, the article focuses on just one of the many questions that all earnest people of good will engaged in dialogue on the physician-assisted suicide question must face: whether or not the benefits flowing from a decision to legalize physician-assisted suicide are likely to outweigh any attendant problems or costs associated with such a change in law. This, the article points out, was a question posed by Justice O'Connor and Justice Souter in *Glucksberg* as an important, but unresolved matter worthy of further consideration. After analyzing the legalization experiments in the Netherlands and Oregon, the article ultimately concludes that "to be sure, benefits would flow from legalization [of physician-assisted suicide]. I do not seek here to discount such benefits or suggest that they are 'outweighed' by attendant costs. Instead, I have sought to show only that legalization may also entail real and material costs" and thus that people of good faith striving to address the assisted suicide question are presented with a "nontrivial choice." 2004 Wisc. L. Rev. at 1418. That is, the article does not suggest that the costs of choosing to legalize assisted suicide would outweigh the benefits of legalization. Nor does it suggest that every State must reach a uniform judgment on this question. Instead, the article simply argues that any State's decision to legalize assisted suicide would likely bring with it *both* benefits *and* some attendant costs and, accordingly, the legalization question presents a difficult moral and legal choice.

DOJ_NMG_ 0162961

Swenson, Lily F

From: Swenson, Lily F
Sent: Friday, June 23, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: RE: OIL $9M meeting

Me too, I was a calendar slave. Saw nothing scheduled, so was happily working at my desk until about 3 p.m. They were all very gracious -- no worries.

The bottom line on the Calif office -- probably not a great idea, but we still might consider piloting it. I can explain why in 3 minutes -- I will pay you a visit shortly.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:01 PM
To: Swenson, Lily F
Cc: Pacold, Martha M
Subject: RE: OIL $9M meeting

Ugh. I'm terribly embarrassed but I slavishly follow my calendar. Can you cover and apologize for me? I feel awful.

My only big question is the Calif office idea.

From: Swenson, Lily F
Sent: Friday, June 23, 2006 2:58 PM
To: Gorsuch, Neil M
Cc: Pacold, Martha M
Subject: OIL $9M meeting

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ccing Martha because I know you are probably waiting to hear from me -- I need to attend this meeting -- will call you later.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 4:17 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Please could you send me a copy of the form letter you use in Acree? Thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 4:24 PM
To: Sampson, Kyle
Subject: Do you have a free minute before or after our 430 mtg?

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Friday, June 23, 2006 4:27 PM
To: Gorsuch, Neil M
Subject: FW: Please could you send me a copy of the form letter you use in Acree? Thanks

Neil: [redacted] is pulling one of our recent letters and will e-mail it to you soon.

Jeff

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 4:17 PM
To: Bucholtz, Jeffrey (CIV)
Subject: Please could you send me a copy of the form letter you use in Acree? Thanks

Neil M. Gorsuch
Principal Deputy Associate Attorney General
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950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, June 23, 2006 4:47 PM
To: Gorsuch, Neil M
Subject: Re: Do you have a free minute before or after our 430 mtg?

Sure.

-----Original Message-----
From: Gorsuch, Neil M
To: Sampson, Kyle
Sent: Fri Jun 23 16:23:51 2006
Subject: Do you have a free minute before or after our 430 mtg?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 5:09 PM
To: Sampson, Kyle
Subject: Re: Do you have a free minute before or after our 430 mtg?

I know your jammed. Will catch up Monday.

-----Original Message-----
From: Sampson, Kyle
To: Gorsuch, Neil M
Sent: Fri Jun 23 16:47:13 2006
Subject: Re: Do you have a free minute before or after our 430 mtg?

Sure.

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From: Gorsuch, Neil M
To: Sampson, Kyle
Sent: Fri Jun 23 16:23:51 2006
Subject: Do you have a free minute before or after our 430 mtg?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 5:13 PM
To: 'richard_d._klingler@who.eop.gov'
Subject: FW: Acree Congressional Response Letter sample
Attachments: CalvertChris_66bbdea10017.pdf

Richard, As discussed. Best regards, Neil

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Patrick Leahy
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

This responds to your letter of March 23, 2006, to the Attorney General regarding the claims brought by several American service members against the Republic of Iraq, Acree v. Iraq, Civil Action No. 02-632 (D.D.C.), in which plaintiffs seek compensation for the injuries they suffered as prisoners of war during the 1991 Gulf War. A similar response is being sent to Senator Edward M. Kennedy.

Plaintiffs brought this suit against the Republic of Iraq under a 1996 amendment to the Foreign Sovereign Immunities Act, which allows certain claims against designated state sponsors of terrorism. On July 7, 2003, the United States District Court for the District of Columbia granted a judgment in favor of the plaintiffs, awarding them over $900 million in compensatory and punitive damages. As previously described in my June 8, 2004, letter to you, following the entry of judgment, the United States sought to intervene in the matter to advise the District Court of Presidential Directive 2003-03, passed under the authority of the Emergency Wartime Supplement Appropriations Act of 2003, and the United States' substantial foreign policy interests. Thereafter, on appeal, the Court of Appeals for the District of Columbia Circuit issued a decision that vacated plaintiffs' judgment and ordered the suit dismissed. Acree v. Iraq, 370 F.3d 41 (D.C. Cir. 2004). On August 19, 2004, the Court of Appeals denied plaintiffs' petition for en banc rehearing of the case, and on April 25, 2005, the United States Supreme Court denied plaintiffs' petition for certiorari.

Despite the decision of the Court of Appeals that plaintiffs' lawsuit was properly dismissed, on June 3, 2005, following the Supreme Court's denial of certiorari, the plaintiffs

filed a motion in the District Court in an effort to re-open their lawsuit. Because the United States is an intervenor in these proceedings, we filed an opposition to this motion on August 2, 2005. The United States' position regarding the viability of plaintiffs' effort to reinstate their lawsuit despite the decision of the Court of Appeals that the suit was to be dismissed is fully explained in our public filing, a copy of which is enclosed for your reference. The plaintiffs' motion remains pending in the District Court.

In your letter, you request that the Attorney General schedule a meeting with the plaintiffs in the Acree litigation to discuss their claims against the Republic of Iraq. In February 2005, prior to the filing of the Department's brief in opposition to the plaintiffs' petition for certiorari in the Supreme Court, attorneys in the Office of the Solicitor General and the Civil Division met with plaintiffs' counsel to discuss the claims raised by these plaintiffs. Moreover, most recently, in February 2006, the Assistant Attorney General of the Civil Division responded to a letter from plaintiffs' counsel which proposed terms that, if agreed to between the plaintiffs and the United States, would have had the effect, in plaintiffs' view, of making it appropriate for the United States to withdraw from its participation in the litigation. The Assistant Attorney General, after extensive consultation with the Departments of State and Defense, concluded that the proposal made by plaintiffs' counsel did not alleviate the United States' concerns which have prompted our participation in this litigation and did not proffer terms that would warrant the United States' withdrawal from the lawsuit. The Department has great respect for the plaintiffs and for their service to our Nation. The Department's position in this litigation was not intended to downplay the plaintiffs' suffering or the outrageousness of their captors' conduct. Rather, the United States appeared in the Acree litigation to enforce a Presidential act, issued in furtherance of the United States' foreign policy and national security interests in Iraq, and we support the outcome of that litigation.

Finally, your letter mentions the United States' obligations under the Third Geneva Convention. At no time in these proceedings has the United States suggested that Iraq is not responsible for any violation of the Geneva Convention. To the contrary, to the extent plaintiffs' injuries resulted from violations by Iraq of the Geneva Convention, they were eligible for compensation from the United Nations Compensation Commission ("UNCC"). The UNCC was established by the United Nations Security Council to address the 2.6 million claims from nearly 100 countries seeking approximately $353 billion in damages from Iraq stemming from the first Gulf War. See http://www2.unog.ch/uncc/. The compensation fund, derived from the proceeds of Iraqi oil sales, has made awards of roughly $52 billion, of which $20 billion has been paid. Id. State Department records indicate that 15 of the 17 service member plaintiffs in Acree applied for and received some compensation through the UNCC. Moreover, in its Supreme Court brief opposing certiorari, the United States made clear that "[a]fter the Iraqi regime has had time to become firmly established, the President may choose to espouse petitioners' claims through diplomatic means." Throughout this litigation, therefore, the United States has recognized and honored its commitment to ensure that Iraq is not absolved of its obligations under the Geneva Convention.

Thank you for your inquiry. Please do not hesitate to contact this office if we may be of further assistance on this, or any other matter.

Sincerely,

William E. Moschella
Assistant Attorney General

Enclosure

cc: The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate

Full Name:	Richard Klingler
Last Name:	Klingler
First Name:	Richard
E-mail:	richard_d._klingler@who.eop.gov
E-mail Display As:	richard_d._klingler@who.eop.gov

DOJ_NMG_ 0162972

Sampson, Kyle

From: Sampson, Kyle
Sent: Friday, June 23, 2006 5:37 PM
To: Gorsuch, Neil M
Subject: RE: Do you have a free minute before or after our 430 mtg?

Sorry.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 5:09 PM
To: Sampson, Kyle
Subject: Re: Do you have a free minute before or after our 430 mtg?

I know your jammed. Will catch up Monday.

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Subject: Do you have a free minute before or after our 430 mtg?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 5:39 PM
To: Sampson, Kyle
Subject: RE: Do you have a free minute before or after our 430 mtg?

No worries at all, Chief! You have real work to do - and a family to see occasionally - and my little item can keep.

-----Original Message-----
From: Sampson, Kyle
Sent: Friday, June 23, 2006 5:37 PM
To: Gorsuch, Neil M
Subject: RE: Do you have a free minute before or after our 430 mtg?

Sorry.

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To: Sampson, Kyle
Sent: Fri Jun 23 16:23:51 2006
Subject: Do you have a free minute before or after our 430 mtg?

Gorsuch, Neil M

Subject:	[redacted]
Start:	Monday, June 26, 2006 9:00 AM
End:	Monday, June 26, 2006 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 5:43 PM
To: McCallum, Robert (SMO)
Subject: July 4

Assuming things continue to move with my nom, I am toying with taking some time off during the wk of July 4 to help get the house in shape. But I wanted to check first with you to see whether you plan to be around -- and especially to see if you think you might be confirmed and departed by then.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, June 23, 2006 5:51 PM
To: Gorsuch, Neil M
Subject: Re: July 4

Take the time. I will be here. Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
Sent: Fri Jun 23 17:43:10 2006
Subject: July 4

Assuming things continue to move with my nom, I am toying with taking some time off during the wk of July 4 to help get the house in shape. But I wanted to check first with you to see whether you plan to be around -- and especially to see if you think you might be confirmed and departed by then.

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Friday, June 23, 2006 7:24 PM
To: Gorsuch, Neil M
Subject: smooth sailing

I was very happy to see this.

http://www.denverpost.com/nationworld/ci_3964575

Lee O'C.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 8:41 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: Re: smooth sailing

Thanks so much, Lee. One hurdle cleared but, as you know, many remain!

-----Original Message-----
From: O'Connor, Eileen J. (AAG/TAX)
To: Gorsuch, Neil M
Sent: Fri Jun 23 19:23:43 2006
Subject: smooth sailing

I was very happy to see this.

http://www.denverpost.com/nationworld/ci_3964575

Lee O'C.

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Friday, June 23, 2006 8:52 PM
To: Gorsuch, Neil M
Subject: RE: QFRs

I have some suggested changes for you. I'll probably be coming in tomorrow - send me your fax number and I'll get them up to you. Minor suggestions.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:45 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

I've revised the answers slightly and put them in the format David described. I look forward to any further comments.

<< File: finalWritten Questions Submitted by Senator Ron Wyden.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, June 25, 2006 1:49 PM
To: Macklin, Kristi R
Subject: Re: QFRs

Thanks so much, Kristi. Fax no is 5140238 or I can simply pick them up from you tomorrow am.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Fri Jun 23 20:52:23 2006
Subject: RE: QFRs

I have some suggested changes for you. I'll probably be coming in tomorrow - send me your fax number and I'll get them up to you. Minor suggestions.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:45 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

I've revised the answers slightly and put them in the format David described. I look forward to any further comments.

<< File: finalWritten Questions Submitted by Senator Ron Wyden.doc >>

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Sunday, June 25, 2006 1:49 PM
To: Gorsuch, Neil M
Subject: RE: QFRs

No problem. I'm in the office now so I'll send them up.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Sunday, June 25, 2006 1:49 PM
To: Macklin, Kristi R
Subject: Re: QFRs

Thanks so much, Kristi. Fax no is 5140238 or I can simply pick them up from you tomorrow am.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M
Sent: Fri Jun 23 20:52:23 2006
Subject: RE: QFRs

I have some suggested changes for you. I'll probably be coming in tomorrow - send me your fax number and I'll get them up to you. Minor suggestions.

From: Gorsuch, Neil M
Sent: Friday, June 23, 2006 3:45 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

I've revised the answers slightly and put them in the format David described. I look forward to any further comments.

<< File: finalWritten Questions Submitted by Senator Ron Wyden.doc >>

Chemtob, Stuart

From:	Chemtob, Stuart
Sent:	Monday, June 26, 2006 10:54 AM
To:	Gorsuch, Neil M
Subject:	China Limited Liability Partnerships
Attachments:	tmp.htm; Law on Partnership Enterprises.doc; List of Partnership Law Questions.doc

Neil,

I heard you had your hearing last week, and it reportedly went well. Congratulations.

I've received an inquiry from the Commerce Department on whether we have anyone knowledgeable about Partnership Law, and LLPs, who might be willing to participate in a seminar in China next month sponsored by the Chinese National People's Congress, which is reviewing revisions to China's Partnership Law. Your name came up as someone who might meet the first element. See the list of questions below from the Legislative Affairs Commission of the NPC. If you are interested in following up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know.

Thanks,
Stu

-----Original Message-----
From: [redacted]@ita.doc.gov [mailto:Ning_Lu@ita.doc.gov]
Sent: Monday, June 26, 2006 10:29 AM
To: Chemtob, Stuart
Cc: [redacted]@ita.doc.gov
Subject:

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

BEIJING, April 25(Xinhua)-- China's top legislature, the Standing Committee of the National People's Congress(NPC), on Tuesday deliberated

the draft amendment to Partnership Law, aiming to establish limited partnership and limited liability partnership.
Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.
The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

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Law of the Peoples Republic of China on Partnership Enterprises

Author : the Standing Committee of NPC Source : Law Bridge Date : 1997-2-23

Chapter I General Provisions

Article 1 This Law is formulated with a view of standardizing partnership enterprises' activities, protecting the legitimate rights and interests of partnership enterprises and their partners, maintaining the social and economic order, and promoting the development of the socialist market economy.

Article 2 "Partnership enterprise" mentioned in this Law refers to a profit-making organization established within the territory of China according to this Law with their partners associated under a partnership agreement, each making capital contributions, carrying out business operations, distributing profits, undertaking risks and bearing unlimited and joint liability for the partnership enterprise's debts.

Article 3 A partnership agreement shall be in written form after consultation and agreement among all the partners according to law.

Article 4 In concluding a partnership agreement and establishing a partnership enterprise, the parties shall follow the principles of voluntariness, equality, fairness, honesty and credibility.

Article 5 Partnership enterprises shall not use words such as "limited" or "limited liability" in their names.

Article 6 In engaging in business activities, partnership enterprises must observe laws and administrative regulations and abide by professional ethics.

Article 7 Property, legitimate rights and interests of partnership enterprises and their partners shall be protected by law.

Chapter II Establishment of Partnership Enterprises

Article 8 The following conditions shall be fulfilled for the establishment of a partnership enterprise:

(1) two or more partners each of which to bear unlimited liability according to

law;

(2) a written partnership agreement;

(3) capital contributions actually made by each of partners;

(4) the name of the partnership enterprise; and

(5) the place of business and conditions necessary for partnership operations.

Article 9 A partner shall be a person with full capacity for civil conduct.

Article 10 Those prohibited by laws or administrative regulations from engaging in profit-making activities shall not be partners of a partnership enterprise.

Article 11 A partner may make his capital contributions in currency, or by providing material objects, land use rights, intellectual property rights or other property rights. The capital contributions above-mentioned shall be legal property or property rights owned by the partner.

Capital contributions in other forms than in currency may, if necessary, be appraised and evaluated by all the partners through consultation, or by a statutory evaluation institution with the authorization of all the partners.

A partner may provide personal services as capital contributions after consultation and agreement among all the partners. The evaluation of contributions in the form of services shall be determined by all the partners through consultation.

Article 12 Partners shall perform their duties of capital contribution in terms of the form, amount and time limit of such contribution, as agreed upon among them in the partnership agreement.

Capital contributions actually made by each of the partners according to the partnership agreement shall be regarded as contributing to the partnership enterprise.

Article 13 A partnership agreement shall include the following items:

(1) the name of the partnership enterprise and address of its place of business;

(2) the purpose of partnership and the business scope of the partnership enterprise;

(3) names and residences of each partner;

(4) the form, amount and time limit for each partner to make capital contributions;

(5) the method of distributing profits and undertaking risks;

(6) execution of the partnership enterprise's affairs;

(7) entering into and withdrawal from partnership;

(8) disbandment and liquidation of the partnership enterprise; and

(9) default liability.

A partnership agreement may include the operation term of the partnership enterprise and the means of dispute settlement among partners.

Article 14 A partnership agreement takes effect upon the signing and sealing by all the partners of the partnership agreement. Any partner shall enjoy rights and undertake liabilities according to the partnership agreement.

The partnership agreement may be revised or supplemented if all the partners reach agreement through consultation.

Article 15 Anyone who applies for registration of the establishment of a partnership enterprise shall submit to the enterprise registration authority documents such as a written application for registration, a partnership agreement and partners' identity certificates.

Where it is required by laws or administrative regulations that the establishment of the partnership enterprise must be subject to the examination and approval by the department concerned, the applicant shall submit an approval document in applying for registration of establishment.

Article 16 The enterprise registration authority shall, within 30 days as of the date of receiving the documents of application for registration, make a decision whether or not to grant registration. It shall grant registration and issue a business licence to the applicants that meet the requirements stipulated in this Law, and shall not grant registration to those who fail to meet the requirements stipulated in this Law and give them a written reply explaining the reasons.

Article 17 The date of the issuance of the partnership enterprise's business licence shall be the date of the establishment of a partnership enterprise.

No partner may engage in any profit-making activities in the name of the partnership enterprise that has not yet taken out the business licence.

Article 18 A partnership enterprise intending to establish a branch shall apply for the registration of establishment of the branch to the enterprise registration authority in the place where the branch is to be located for a business licence.

Chapter III Partnership Enterprises' Property

Article 19 During the period in which a partnership enterprise exists, capital contributions made by partners and all proceeds earned on behalf of the partnership enterprise shall be the property of the partnership enterprise.

Property of a partnership enterprise shall be under the unified management and use of all the partners according to this Law.

Article 20 Partners shall not claim the partitioning of property of the partnership enterprise before the liquidation of the enterprise unless otherwise provided for by this Law.

If partners privately transfer or dispose of the property of the partnership enterprise before the liquidation of the enterprise, the partnership enterprise shall not on that ground act against a third party who has acted in good faith and has not informed of the case.

Article 21 During the period in which a partnership enterprise exists, any partner who intends to transfer to a person who is not one of the partners all or part of his property shares in the partnership enterprise must obtain the consent of all other partners.

The transfer of all or part of the shares of property in the partnership enterprise between partners shall be notified to the other partners.

Article 22 Where a partner transfers his share of property according to law, the other partners shall, on identical terms, have priority in acquiring the share.

Article 23 Where those who are not partners, with the consent of all the partners, acquire shares of property in the partnership enterprise according to law, they shall become the partners of the partnership enterprise upon the modification of

the partnership agreement and shall enjoy rights and undertake liabilities according to the modified partnership agreement.

Article 24 Where a partner puts his share of property in the partnership enterprise in pledge, he shall obtain the consent of all other partners.

If a partner, without the consent of all other partners, puts his share of property in the partnership enterprise in pledge, his act shall be void or treated as withdrawal from partnership. If he thereby causes losses to the other partners, he shall bear liability for compensation according to law.

Chapter IV Execution of Partnership Enterprise Affairs

Article 25 Each partner shall have the equal right to execute the partnership enterprise's affairs. All the partners may jointly execute the enterprise's affairs, or, as agreed upon in the partnership agreement or by decision of all the partners, authorize one or more partners to execute the enterprise's affairs.

The partner executing the partnership enterprise's affairs shall externally represent the partnership enterprise.

Article 26 Where one or more partners has(have) been authorized to execute the partnership enterprise's affairs as stipulated in the preceding Article, the other partners shall no longer execute the enterprise's affairs.

Partners not participating in the execution of affairs shall have the right to supervise the partners executing affairs and inspect the execution.

Article 27 Where one or more partners execute(s) the partnership enterprise's affairs, the partner(s) shall report the execution of affairs, the business operations and financial condition of the partnership enterprise to the other partners not participating in the execution of affairs. Proceeds earned in the execution of the partnership enterprise's affairs shall belong to all the partners and losses and civil liability incurred therefrom be undertaken by all the partners.

Article 28 Partners shall have the right to consult the account book for finding out about the business operations and financial condition of the partnership enterprise.

Where partners make decisions on items relevant to the partnership enterprise according to law or the partnership agreement, unless otherwise provided for by this Law or by the partnership agreement, the items may, by decision of all the partners, be decided on a one-person-one-vote basis.

Article 29 Where partners separately execute the partnership enterprise's affairs as agreed upon in the partnership agreement or by decision of all the partners, any of partners may address oppositions to the other partners on the execution of affairs. If an opposition is addressed, the execution of the affairs involved shall be suspended. In case of occurrence of a dispute, all the partners may jointly make a decision thereon.

If the partner(s) authorized to execute the partnership enterprise's affairs fail(s) to act in accordance with the partnership agreement or the decision of all the partners, the other partners may make a decision to withdraw such authorization.

Article 30 Partners shall not individually or in co-operation with others engage in businesses competitive with their partnership enterprise.

Partners shall not trade with their partnership enterprise except otherwise agreed upon in the partnership agreement or with the consent of all the partners.

Partners shall not engage in any activity damaging the interests of the partnership enterprise.

Article 31 The execution of the following affairs in a partnership enterprise shall be subject to the consent of all the partners:

(1) disposing of real estate of the partnership enterprise;

(2) changing the name of the partnership enterprise;

(3) transferring or disposing of intellectual property rights or other property rights of the partnership enterprise;

(4) applying to the enterprise registration authority for registration of changes;

(5) offering others a security on behalf of the partnership enterprise;

(6) appointing persons who are not partners to act as managerial executives of the partnership enterprise; or

(7) dealing with other relevant affairs as agreed upon in the partnership

agreement.

Article 32 Partners shall share profits and losses of the partnership enterprise in proportion as agreed upon in the partnership agreement. In absence of stipulations for such proportion in the partnership agreement, each partner shall share profits and losses equally.

A partnership agreement shall not stipulate for the distribution of all profits to part of the partners or for the sharing of all losses among part of the partners.

Article 33 During the period in which the partnership enterprise exists, partners may, as agreed upon in the partnership agreement or by decision of all the partners, increase their capital contributions to the partnership enterprise for the purpose of expanding the business scale or making up losses.

Article 34 The annual or periodic plan detailed for profit distribution and loss sharing in a partnership enterprise shall be decided through consultation of all the partners or as agreed upon in the partnership agreement.

Article 35 Managerial executives appointed by a partnership enterprise shall perform their duties within the scope of power authorized by the partnership enterprise.

Managerial executives appointed by a partnership enterprise who exceed the scope of power authorized by the partnership enterprise in engaging in business activities, or cause losses to the enterprise intentionally or through gross negligence shall bear the liability for compensation according to law.

Article 36 Partnership enterprises shall establish their enterprise financial and accounting systems in accordance with the provisions of laws and administrative regulations.

Article 37 Partnership enterprises shall perform the duty of paying taxes according to the laws.

Chapter V Relations of Partnership Enterprises to Third Parties

Article 38 No restrictions imposed by a partnership enterprise on rights of a partner to execute the enterprise's affairs and externally represent the enterprise

may act against a third party who has acted in good faith and has not been informed of the case.

Article 39 A partnership enterprise shall pay off its debts first out of all its property. If the property of the partnership enterprise is insufficient to pay off its due debts, each partner shall bear the unlimited and joint liability for paying off debts.

Article 40 Where a partnership enterprise pays its debts out of its property and the debts cannot be paid off in full, each partner shall repay the difference with his property other than his capital contributions to the partnership enterprise in proportion as stipulated in the first paragraph of Article 32 of this Law.

Any partner who overpays his share of the debts to bear the joint liability shall have the right to claim compensation from the other partners.

Article 41 A creditor of one partner of a partnership enterprise shall not set off the creditor's rights against his debts owed to the partnership enterprise.

Article 42 Where a partner owes personal debts, his creditor shall not take his place in the partnership enterprise to exercise the partner's rights.

Article 43 Where a partner's own property is not sufficient to pay off his personal debts, the partner may pay the debts out of his proceeds shared in the partnership enterprise. Alternately, the creditor may apply to a people's court for compulsory execution of the property shares of the partner in the partnership enterprise to pay off the debts.

The other partners shall have priority in acquiring the property shares of the partner.

Chapter VI Entering into and Withdrawing from Partnerships

Article 44 A person intending to enter into partnership shall obtain the consent of all original partners and shall conclude a written entering agreement according to law.

In concluding the entering agreement, the original partners shall inform the new partner of the business operations and financial condition of the partnership

enterprise.

Article 45 A partner newly entering into the partnership shall enjoy the equal rights and undertake equal liabilities with the original partners. If, however, otherwise stipulated in the entering agreement, such stipulations shall prevail. The new partner shall undertake joint liability for the debts of the partnership enterprise incurred before he enters into the partnership.

Article 46 Where the partnership agreement stipulates the period of operation of the partnership enterprise, partners may withdraw from the partnership under any of the following circumstances:

(1) Facts resulting in withdrawal from partnership as agreed upon in the partnership agreement occur;

(2) The withdrawal from partnership has been approved by all the partners;

(3) Facts resulting in difficulties for partners to continue participation in the partnership enterprise occur; or

(4) The other partners have seriously broken the duties as agreed upon in the partnership agreement.

Article 47 Where the partnership agreement does not stipulate the period of operation of the partnership enterprise, partners may withdraw from partnership without adversely affecting the execution of affairs in the partnership enterprise and shall inform the other partners 30 days before.

Article 48 A partner unilaterally withdrawing from partnership in violation of the provisions of the two preceding articles shall compensate for losses caused to the other partners.

Article 49 A partner shall naturally withdraw from a partnership under any of the following circumstances:

(1) Where he dies or is declared dead according to law;

(2) Where he is declared a person having no capacity for civil conduct;

(3) Where he loses personal capacity for paying debts; or

(4) Where all his property shares in the partnership enterprise have been executed by a people's court.

The withdrawal from partnership as stipulated in the preceding paragraph shall take effect on the date the fact occurs.

Article 50 A partner may be removed by decision of the other partners through agreement under any of the following circumstances:

(1) Where he fails to perform the obligation of capital contributions;

(2) Where he intentionally or through gross negligence causes losses to the partnership enterprise;

(3) Where he acts improperly in executing the affairs of the partnership enterprise; or

(4) Where other facts occur as agreed upon in the partnership agreement.

A decision on removal of a partner shall be notified in writing to the removed person. The removal shall take effect in the result of the withdrawal of the removed person on the date when he receives the notice.

The removed person may, within 30 days from the date receiving the notice of removal, bring a lawsuit to a people's court if he refuses to accept the decision on his removal.

Article 51 Where a partner dies or is declared dead according to law, his successor who is legally entitled to the property shares in the partnership enterprise shall, as agreed upon in the partnership agreement or with the consent of all the partners, have the status of the partner as of the date the succession begins.

If the legal successor is unwilling to be a partner, the partnership enterprise shall return the property shares he inherits according to law.

If the legal successor is a minor, his guardian may, with the consent of the other partners, exercise rights on his behalf till the minor comes of age.

Article 52 Where a partner withdraws from partnership, the other partners shall clear accounts with him under the financial condition of the partner enterprise at the time of his withdrawal and shall return his property shares.

In the case of unsettled affairs in a partnership enterprise at the time of a withdrawal from the partnership, the clearance of accounts shall be carried out

upon settlement of such affairs.

Article 53 The method for returning property shares in the partnership enterprise to a withdrawing partner shall be stipulated in the partnership agreement or decided by all the partners. The shares may be returned to the withdrawing partner in currency or in kind.

Article 54 A withdrawing partner shall bear liability jointly with the other partners for debts of the partnership enterprise incurred before his withdrawal from partnership.

Article 55 Where property of a partnership enterprise is less than its debts at the time of a partner's withdrawal, the partner shall share the losses according to the provisions of the first paragraph of Article 32 in this Law.

Article 56 Where the registered items of a partnership enterprise change, or need to be renewed, due to entering into or withdrawal from partnership, a revision of the partnership agreement or for other reasons, the partnership enterprise shall, within 15 days from the date of making the decision on changes or the facts occur, apply to the enterprise registration authority for such registration.

Chapter VII Disbandment and Liquidation of Partnership Enterprises

Article 57 A partnership enterprise shall be disbanded under any of the following circumstances:

(1) The period of operation as agreed upon in the partnership agreement expires and partners are unwilling to continue the operations;

(2) The facts resulting in the disbandment as agreed upon in the partnership agreement occur;

(3) The disbandment has been decided upon by all the partners;

(4) Partners have not formed the statutory number;

(5) The purpose of partnership has been achieved or cannot be achieved as agreed upon in the partnership agreement;

(6) The business licence has been revoked according to law; or

(7) Other reasons stipulated in laws and administrative regulations for the disbandment of the partnership enterprise arise.

Article 58 A partnership enterprise shall be liquidated after being disbanded and shall notify its creditors by notice or announcement.

Article 59 The liquidators of a partnership enterprise after its disbandment shall be composed of all the partners. If the partners are not all eligible, one or more partners or a third party may, with the consent of over half of all the partners and within 15 days after the disbandment of the enterprise, be appointed as the liquidator(s).

In case of failure to appoint the liquidators within 15 days, partners or other interested persons may apply to a people's court for the appointment of liquidators.

Article 60 Liquidators shall execute the following affairs during liquidation:

(1) checking up on the property of the partnership enterprise, and separately formulating a balance sheet and a detailed inventory of property;

(2) disposing of the unsettled affairs relevant to the liquidation of the partnership enterprise;

(3) paying off taxes owed by the enterprise;

(4) clearing up claims and debts;

(5) disposing of, after paying off the debts of the partnership enterprise, its remaining property; and

(6) participating in civil lawsuits on behalf of the partnership enterprise.

Article 61 The property of a partnership enterprise shall, after the payment of liquidation expenses, be applied to make repayment in the following order:

(1) wages of employees and labour insurance expenses owed by the partnership enterprise;

(2) taxes owed by the partnership enterprise;

(3) debts incurred by the partnership enterprise; and

(4) capital contributions returnable to partners.

With regard to the remaining property of a partnership enterprise after repayment

in the order abovementioned, it shall be distributed in proportion as stipulated in the first paragraph of Article 32 in this Law.

Article 62 Where all property of a partnership enterprise is not sufficient to pay off its debts at the time of liquidation, the provisions of Articles 39 and 40 in this Law shall apply.

Article 63 After the disbandment of a partnership enterprise, its original partners shall continue to be jointly liable for debts incurred by the enterprise during the period in which the enterprise exists. If, however, the creditors fail to claim the repayment of debts within five years, the liability for repayment shall extinguish.

Article 64 Upon the completion of liquidation, a liquidation report shall be formulated and shall, bearing the signatures and seals of all the partners, be submitted to the enterprise registration authority within 15 days for the registration of cancellation of the partnership enterprise.

Chapter VIII Legal Liability

Article 65 Any violator of this Law who offers false documents or resorts to other deceptive means and is thereby granted enterprise registration, shall be ordered to make corrections and may be fined not more than 5,000 yuan; if the circumstances are serious, the enterprise registration shall be revoked.

Article 66 Any violator of this law who uses words such as "limited" or "limited liability" in the name of a partnership enterprise shall be ordered to make corrections and may be fined not more than 2,000 yuan.

Article 67 Any violator of this law who engages in business activities in the name of a partnership enterprise without taking out a business licence according to law, shall be ordered to stop business activities and may be fined not more than 5,000 yuan.

In case of a change in the registered items, a partnership enterprise that fails to register such a change according to the provisions of this Law shall be ordered to apply for the registration within a time limit. It shall be fined not more than 2,000 yuan for failure to register the change within the time limit.

Article 68 Any partner who, in executing partnership affairs, misappropriates the interests which ought to belong to the partnership enterprise, or seizes the partnership property by other means, shall be ordered to return the interests or property to the partnership enterprise. If he causes losses to the partnership enterprise or the other partners, he shall bear the liability for compensation according to law. If a crime has been constituted, criminal liability shall be investigated according to law.

Article 69 Any partner who without authorization disposes of partnership affairs, the execution of which shall be subject to the consent of all the partners as stipulated in this Law or in the partnership agreement, and thereby causes losses to the partnership enterprise or the other partners, shall bear the liability for compensation according to law.

Article 70 Any partner not authorized to execute the partnership affairs who executes the affairs and thereby causes losses to the partnership enterprise or the other partners, shall bear the liability for compensation according to law.

Article 71 Any partner who, in violation of the provisions of Article 30 in this Law, engages in businesses competitive with his partnership enterprise or trades with their enterprise and thereby causes losses to the enterprise or the other partners, shall bear the liability for compensation according to law.

Article 72 Any employee of a partnership enterprise who takes advantage of his position to seize the partnership property or convert the partnership assets to his own use, shall bear civil liability for compensation according to law. If a crime has been constituted, criminal liability shall be investigated according to law.

Article 73 Any liquidator who fails to submit the liquidation report to the enterprise registration authority as stipulated in this Law, or conceals major facts or omits important information in the liquidation report submitted, shall be ordered to make corrections.

Article 74 Any partner acting as a liquidator who seeks illegal income or seizes the partnership property in conducting liquidation shall be ordered to return the income or property to the partnership enterprise. If a crime has been constituted,

criminal liability shall be investigated according to law.

A liquidator authorized by partners who commits the act stipulated in the preceding paragraph shall be ordered to return the income or property to the partnership enterprise and shall bear the liability for compensation according to law. If a crime has been constituted, criminal liability shall be investigated according to law.

Article 75 Any liquidator who, in violation of the provisions of this Law, conceals or transfers the partnership property, makes false entries in the balance sheet or in the detail inventory of property, or distributes the partnership property before paying off debts, shall be ordered to make corrections. If losses have been caused to the creditors, the offender shall bear liability for compensation according to law. If a crime has been constituted, criminal liability shall be investigated according to law.

Article 76 A partner breaking the partnership agreement shall bear liability for the breach according to law.

If a dispute over the performance of the partnership agreement arises, partners may settle it through consultation or mediation. If partners are unwilling to settle their dispute through consultation or mediation, or if consultation or mediation is unsuccessful, they may, in accordance with the arbitration clause provided in the partnership agreement or a written arbitration agreement reached by the partners afterwards, apply to an arbitration body for arbitration. If no arbitration clause is provided in the partnership agreement, and a written arbitration agreement is not reached afterwards, the partners may bring a lawsuit to a people's court.

Article 77 Administrative organs concerned and their personnel who, in violation of the provisions of this Law, abuse their powers, engage in malpractices for personal gains, take bribes or infringe over legitimate interests of partnership enterprises, shall be given disciplinary sanctions according to law. If a crime has been constituted, criminal liability shall be investigated according to law.

Chapter IX Supplementary Provisions

Article 78 This Law shall enter into force on August 1,1997.

List of Questions
(for the revision of the Chinese Partnership Law)

1. What is the legal nature of partnership properties? Are the capital contribution of a partner and the business income of a partnership independent properties belonging to the partnership or common properties belonging to all the partners? When a partner makes a capital contribution by non-monetary means, is it necessary to go through property right transfer procedures?

2. Is it necessary for the law to place limits on the qualifications of a managing partner (执行合伙事物的合伙人)? Or it should be decided by partners themselves? Can an executive partner draw remuneration from the partnership enterprise?

3. What is the relationship between a partner transferring his interest in a partnership and a partner withdrawing from a partnership? Should the beneficiary of such a transfer become a new partner naturally?

4. What are the rights enjoyed by limited partners in a limited partnership? Under what circumstance should limited partners bear unlimited joint and several liability for the debts of the partnership enterprise?

5. What should be done if a limited partner fails to fulfill his capital contribution obligation in accordance with the partnership agreement? Is it necessary to compel him to do it by law?

6. Is it necessary to place limits on the sharing of profits in a limited partnership? What is the relationship between profit sharing and return for the capital contribution of a partner? When after a partner accepts the return for his capital contribution, should the department returning the capital contribution, as partnership property, be the first to be held liable for partnership debts within certain period of time?

7. In a limited partnership, what is the difference between a limited partner and ordinary partner in withdrawal from the partnership? After his withdrawal, is a limited partner liable for partnership debts incurred before the withdrawal? What are those liabilities?

8. In a limited partnership, what types of partnership debts can a partner take limited liability and what types of partnership debts should he bear unlimited liability?

9. In a limited partnership, a partner can take limited liability for some partnership debts according to law. What kind of replacement and compensatory mechanisms (代替补偿机制) should be established to prevent damages to the interests of partnership's creditors? What are the advantages and disadvantages of insurance and professional risk funds （职业风险基金）? Is it necessary for the law to

place limits on the profit sharing of a limited partnership in order to protect the interests of creditors?

10. For the professional risk funds set up by a limited partnership to protect the interests of creditors, can a partner ask for the return of his share when he withdraws from the partnership?

11. Should a partner of a limited partnership be held liable, after he withdraws from the partnership, for partnership debts incurred before the withdrawal by other partners in professional activities? How can he be held liable?

12. When the assets of a partnership are insufficient to pay off its debts at maturity, should the assets of the partnership be declared bankrupt first, and then hold the partners for unlimited joint and several liability to the creditors? Or it is not necessary for the partnership enterprise to go bankrupt, and the partners should directly pay off the debts instead?

13. For an ordinary partner of a partnership enterprise, how long after his withdrawal or the dissolution of the partnership should he be set free from debt liabilities of the partnership enterprise?

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

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Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.

The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

[redacted]
International Trade Specialist
Office of the Chinese Economic Area
Market Access and Compliance
International Trade Administration
U.S. Department of Commerce
Tel: [redacted]
Fax: (202) 482-1576
Email: [redacted]ita.doc.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 8:40 AM
To: Mercer, Bill (ODAG); Tenpas, Ron (SMO); McCallum Jr, Robert L (LEO); Gunn, Currie (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Shaw, Aloma A; Sampson, Kyle; Elwood, Courtney
Subject: Associate's Office

Robert and I are here and in offices 1810 and 1808 (first floor; entrance to our offices is through 1600). We have spots for 8 folks here. Our BB and cell phones don't work as we are underground, but we do have e-mail on our desktops working normally and my desk phone is [redacted].

Is there a morning meeting?

Gorsuch, Neil M

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Sent: Tuesday, June 27, 2006 8:44 AM
To: McCallum, Robert (SMO)
Subject: FW: Associate's Office

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Subject: RE: Associate's Office

Thanks, I will collect Robert and head on up.

-----Original Message-----
From: Elwood, Courtney
Sent: Tuesday, June 27, 2006 8:44 AM
To: Gorsuch, Neil M; Mercer, Bill (ODAG); Tenpas, Ron (SMO); McCallum Jr, Robert L (LEO); Gunn, Currie (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Shaw, Aloma A; Sampson, Kyle
Subject: Re: Associate's Office

The DAG would like to have the senior staff morning mtg in 5 minutes on 10th fl conference room. I will keep an eye out for you to show you to the room.

-----Original Message-----
From: Gorsuch, Neil M
To: Mercer, Bill (ODAG); Tenpas, Ron (SMO); McCallum Jr, Robert L (LEO); Gunn, Currie (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Shaw, Aloma A; Sampson, Kyle; Elwood, Courtney
Sent: Tue Jun 27 08:39:43 2006
Subject: Associate's Office

Robert and I are here and in offices 1810 and 1808 (first floor; entrance to our offices is through 1600). We have spots for 8 folks here. Our BB and cell phones don't work as we are underground, but we do have e-mail on our desktops working normally and my desk phone is [redacted]

Is there a morning meeting?

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, June 27, 2006 8:58 AM
Subject: RFK Main Building Services Now Available

RFK Main Building Services Now Available

JCON and Blackberry servers have been relocated from the Main building to the Justice Data Center and are operational. Due to the relocation, services may be slower than usual.

Available Services: Email Services
H:\ Drive
Blackberry Messaging
BlackBerry PIN to PIN Messaging

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Jennifer_R._Brosnahan@who.eop.gov

From:	Jennifer_R._Brosnahan@who.eop.gov
Sent:	Tuesday, June 27, 2006 9:04 AM
To:	Gorsuch, Neil M
Subject:	Still need to chat?
Attachments:	tmp.htm

I'm around today, but in meetings this morning. Please let me know whether/when you'd like me to call you.

I'm around today, but in meetings this morning. Please let me know whether/when you'd like me to call you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: Mrng mtg

FYI, per DAG's request, I've asked Lily, Jeff and Gordon to reach out to each of their components to make sure that they attend the EO 2pm mtg in 1200; make sure the phones are switched over and have alerted JMD to office locations for mail; focus on court deadlines and notices; and get any feedback from components about things they need/we might do to help.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:30 AM
To: Gunn, Currie (SMO)
Subject: Phone

Do you know how I can get my phone forwarded here?

Klein, Laura F

From: Klein, Laura F
Sent: Tuesday, June 27, 2006 9:35 AM
To: Klein, Laura F; Jonas, Lori (ENRD); Levy, Jonathan (CIV); Hines, Rachel (CIV); Fusi, Susan (CRT); Gray, Peter; Patil, Jason (CIV); Nusraty, Timothy (CIV); Hemesath, Audrey (USACAE); Biros, Frank (ENRD); Fitzgerald, Donna (ENRD); Milius, Pauline (ENRD); O'Cadiz, Sergio (EOIR); McLaughlin, Frances (CIV); Schneider, Todd; Lukas-Jackson, Jennifer (ENRD); Pletcher, Mark; Phelps, Alan; Healy, Terence (CIV); [redacted] (CRM) (OCDETF); Hillman, Noel; Scheele, Scott; Geller, Clare (CRT); Caspar, Edward G (CRT); Saltsman, Gary (EOIR); Filippini, John; Kim, Nancy (CIV); Chambers, Felicia (CIV); Hsu, Kathy; Kenney, Kathleen M.; Draughn, Barbara; Peritz, Leslie; Rao, Sonya (CRT); Goitein, Elizabeth (CIV); Beaumier, Christina; Pearlman, Heather (CIV); 'Dubin, Mark A'; Kassabian, Tamara (CRT); Lawrence, Helena F. (TAX); Geurtsen, Frits; 'Rinker, Marcia'; McCall, Melonie (CIV); Payne, James (ENRD); 'Zane, Daria'; Shore, Elise (CRT); Harrison, Paul (ENRD); Hagler, Tamar (CRT); [redacted] (USAPAW); Sanders, Matthew (ENRD); Konschnik, Kate (ENRD); Silverwood, James; Toth, Brian (ENRD); Hamilton, Dorian (CIV); Mlynar, Maria (EOIR); Dennis, Renee (EOIR); Reyes, Christina (EOIR); Park, Sandra; Hellings, Richard; 'Wright, Roberta G. (TAX)'; Branch, LaShanda (CRT); White, Ned (CIV); Quash, Linda (CRT); Waters, Richard L (CRT); Pericak, Patrick M. (TAX); Keveney, Sean R (CRT); Brown, Jennifer K. (TAX); Barron, Graham L; Reilly, Susan (CRT); Taylor, Chip (CRT); Ashworth, Jennifer H; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); [redacted] (LEO); Campos, Marta (CRT); Mitchell, Stacey (ENRD); Wozniak, Karen E. (TAX); Wahlquist, Larry E.; Ross, Simone E; Kokot, Amy (CIV); Lehman, Heather (CIV); Roque, Sarah (CRT); Meister, Melissa (CIV); Alexander, Tamara (CRT); Hewitt, Kim (ENRD); Freeman, Mark (CIV); Wise, Leo; Petalas, Dan; Wilder, Robert; Prather, D. Carl; Newton, Cullen (ENRD); Dunston, Jerri; Mark, Caryn (TAX); Mark, Nicole R; Haag, Mark (ENRD); Smith, Dan (ENRD); Rhazi, Nadia (ENRD); Peters, Gary; Comenetz, Aaron; Bhagat, Monika (CRT); McNamee, Victoria (CRT); Edison, Kristin (CIV); Smith, Debbie (CIV); Smith, Calisa (ENRD); Bollock, Jamon (ENRD); Kerrigan, Marli; Vasiliadis, Michael C. (TAX); Ryan, James; Villa, Michael (ENRD); Strimel, Mary; Zubrensky, Amy (USADC); Smalling, Michelle B (TAX); Phipps, Peter (CIV); Anderson, Esperanza (ENRD); Schwartz, Joel; Conrad, Dawn (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Meeks, Marcus (CIV); Neely, Clynetta (CIV); Parascandola, Christina (ENRD); Fayhee, Ryan (CIV); Friedman, Michael (CIV); Oropeza, Christopher R; 'Blakeman, Carly'; Blake, Dave; Greenleaf, Anne; Hirt, Theodore (CIV); Murphy, Brian; Molen, Kathleene A; Gorsuch, Neil M; Mathews-Novelli, Scott; Smith, Kathryn (CIV); Hussey, Olivia; Aslan, Erin; Blanco, Caroline (ENRD); Burgess, Wells (ENRD); Basciano, Vincent (ENRD); Bassett, Spencer; Kendall, Paul; Carney, Mary E; Sundaram, Sivashree; Davis, Michael W. (TAX); Espenoza, Cecelia (EOIR); Cook, Marcy (CIV); Hahn, Carolyn (CIV); Irving, Alfred (ENRD); Keisler, Peter D (CIV);

Cruden, John (ENRD); Dixton, Jennifer; Yoon, James; [redacted]@starpower.net'; [redacted]@peacecorps.gov'; [redacted]@comcast.net'; [redacted](USADC); [redacted]@dcbar.org'; [redacted]@dcbar.org'; [redacted]@dcbar.org'; [redacted]@dcbar.org' [redacted]@nlrb.gov'; [redacted]@SEC.GOV'; [redacted]@hud.gov'; [redacted]@hud.gov'; Tonglao, Pamela (ENRD); McCallum, Robert (SMO); Alderson, Thomas; Crow, Kelly; Dunston, Jerri; Kammerman, Barbara; Leavitt, Justin; Ludwig, Stacy; McClam, Maria; Plagenhoef, Ruth; Ridge, Courtney; Sirota, Rima; Spells, Jean; Weiss, Patricia (PRAO); Wilcox, Kandi; Wilson, Todd; Young, Gordon; Alikhan, Arif (ODAG); Berman, Robert (CRT); [redacted](USMS); Bouman, Rachel A.; Bradley, David E; Csontos, Stephen J. (TAX); DeToro, MaryAnn (ENRD); Dirham, Sue; Eisenstein, Ilana H; Eliasberg, Edward; Fraase, Mark; Goldsmith, Scott J; Grandle, Brooke (EOIR); Henderson, George; Hicks, James; Hirschfield, Martha (OIG); Kuzma, Susan (OPA); [redacted]USAEO); McLeod, Janice G; Micone, Vince N; O'Malley, Barbara (CIV); Pacold, Martha M; Persons, Timothy D; [redacted](LEO); Rodgers, Janice; Rothenberg, Laurence E; Scavo, Tara; Slates, Sue Ann; Smith, Justin (ENRD-LPS Attorney); Sobota, Luke; Sutton, Lynn; Tisi, Andrea; Warwick, Brian; Zoldak, Joyce

Cc: Micone, Vince N

Subject: Tenth Anniversary Celebration of the DOJ Pro Bono Program Postponed

Dear All -
As you probably know, Main Justice is closed due to storm damage, so the Tenth Anniversary Celebration of the DOJ Pro Bono Program, which was scheduled for this afternoon, will be postponed. I apologize for any inconvenience and will be in touch as soon as a new date is selected.
Thank you!
Laura Klein
DOJ Pro Bono Program Manager
202-353-7529

From: Klein, Laura F
Sent: Thursday, June 15, 2006 4:05 PM
To: Jonas, Lori (ENRD); Levy, Jonathan (CIV); Hines, Rachel (CIV); Fusi, Susan (CRT); Gray, Peter; Patil, Jason (CIV); Nusraty, Timothy (CIV); [redacted](USACAE); Biros, Frank (ENRD); Fitzgerald, Donna (ENRD); Milius, Pauline (ENRD); O'Cadiz, Sergio (EOIR); McLaughlin, Frances (CIV); Schneider, Todd; Lukas-Jackson, Jennifer (ENRD); Pletcher, Mark; Phelps, Alan; Healy, Terence (CIV); [redacted](CRM) (OCDETF); Hillman, Noel; Scheele, Scott; Geller, Clare (CRT); Caspar, Edward G (CRT); Saltsman, Gary (EOIR); Filippini, John; Kim, Nancy (CIV); Chambers, Felicia (CIV); Hsu, Kathy; Kenney, Kathleen M.; Draughn, Barbara; Peritz, Leslie; Rao, Sonya (CRT); Goitein, Elizabeth (CIV); Beaumier, Christina; Pearlman, Heather (CIV); Dubin, Mark A; Kassabian, Tamara (CRT); Lawrence, Helena F. (TAX); Geurtsen, Frits; Rinker, Marcia; McCall, Melonie (CIV); Payne, James (ENRD); 'Zane, Daria'; Shore, Elise (CRT); Harrison, Paul (ENRD); Hagler, Tamar (CRT); [redacted](USAPAW); Sanders, Matthew (ENRD); Konschnik, Kate (ENRD); Silverwood, James; Toth, Brian (ENRD); Hamilton, Dorian (CIV); Mlynar, Maria (EOIR); Dennis, Renee (EOIR); Reyes, Christina (EOIR); Park, Sandra; Hellings, Richard; Wright, Roberta G. (TAX); Branch, LaShanda (CRT); White, Ned (CIV); Quash, Linda (CRT); Waters, Richard L (CRT); Pericak, Patrick M. (TAX); Keveney, Sean R (CRT); Brown, Jennifer K. (TAX); Barron, Graham L; Reilly, Susan (CRT); Taylor, Chip (CRT); Ashworth, Jennifer H; Blaskopf, Lawrence P. (TAX); Fleetwood, Tonia (ENRD); Clark, Veronica (ENRD); [redacted]LEO); Campos, Marta (CRT); Mitchell, Stacey (ENRD); Wozniak, Karen E. (TAX); Wahlquist, Larry E.; Ross, Simone E; Kokot, Amy (CIV); Lehman, Heather (CIV); Roque, Sarah (CRT); Meister, Melissa (CIV); Alexander, Tamara (CRT); Hewitt, Kim (ENRD); Freeman, Mark (CIV); Wise, Leo; Petalas, Dan; Wilder, Robert; Prather, D. Carl; Newton, Cullen (ENRD);

Dunston, Jerri; Mark, Caryn (TAX); Mark, Nicole R; Haag, Mark (ENRD); Smith, Dan (ENRD); Rhazi, Nadia (ENRD); Peters, Gary; Comenetz, Aaron; Bhagat, Monika (CRT); McNamee, Victoria (CRT); Edison, Kristin (CIV); Smith, Debbie (CIV); Smith, Calisa (ENRD); Bollock, Jamon (ENRD); Kerrigan, Marli; Vasiliadis, Michael C. (TAX); Ryan, James; Villa, Michael (ENRD); Strimel, Mary; [redacted] (USADC); Smalling, Michelle B (TAX); Phipps, Peter (CIV); Anderson, Esperanza (ENRD); Schwartz, Joel; Conrad, Dawn (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Meeks, Marcus (CIV); Neely, Clynetta (CIV); Parascandola, Christina (ENRD); Fayhee, Ryan (CIV); Friedman, Michael (CIV); Oropeza, Christopher R; Blakeman, Carly; Blake, Dave; Greenleaf, Anne; Hirt, Theodore (CIV); Murphy, Brian; Molen, Kathleene A; Gorsuch, Neil M; Mathews-Novelli, Scott; Smith, Kathryn (CIV); Hussey, Olivia; Aslan, Erin; Blanco, Caroline (ENRD); Burgess, Wells (ENRD); Basciano, Vincent (ENRD); Bassett, Spencer; Kendall, Paul; Carney, Mary E; Sundaram, Sivashree; Davis, Michael W. (TAX); Espenoza, Cecelia (EOIR); Cook, Marcy (CIV); Hahn, Carolyn (CIV); Irving, Alfred (ENRD); Keisler, Peter D (CIV); Cruden, John (ENRD); Dixton, Jennifer

Cc: Micone, Vince N

Subject: Tenth Anniversary Celebration of the DOJ Pro Bono Program

The Department of Justice Pro Bono Program
Celebrates Its Tenth Anniversary
1996-2006

In 1996, the Department of Justice formalized the first federal agency pro bono policy and initiated the Pro Bono Program. Since that time, DOJ has been on the forefront of promoting government attorney pro bono participation, developing new opportunities for government attorneys and guiding other federal agencies in the pro bono effort.

You are cordially invited to attend the Tenth Anniversary Celebration of the Department of Justice Pro Bono Program, hosted by Deputy Attorney General Paul McNulty on Tuesday, June 27th at 2:00 in Main Justice Room 4111. Remarks will be given by the Deputy Attorney General and by guest of honor John Cruden, the outgoing DC Bar President and ENRD Deputy Assistant Attorney General, who has done so much to promote government pro bono participation. Light refreshments will be served.

RSVPs are appreciated. Please let me know if you are in need of any special accomodation.
Best,
Laura Klein
DOJ Pro Bono Program Manager

Full Name:	Steve Rusak
Last Name:	Rusak
First Name:	Steve
Business Address:	Byron Rogers Federal Building 1961 Stout Street - 8th Floor Denver, CO 80294
Home Address:	[redacted]
Business:	(303) 844-1365
Home:	[redacted]

McKeown, Matt (ENRD)

From:	McKeown, Matt (ENRD)
Sent:	Tuesday, June 27, 2006 9:51 AM
To:	Gorsuch, Neil M; Senger, Jeffrey M
Subject:	Location of Sue Ellen and Matt/Meeting Notification
Attachments:	tmp.htm
Importance:	High

Neil and Jeff: I wanted to make sure you guys (and Robert) know that Sue Ellen, myself and the rest of the ENRD front office are at the Patrick Henry Building on the corner of 6th and D St., NW. We are still working on logistical details, so cell phones are probably the best option for the time being. And we obviously have email.

Sue[redacted]
Me[redacted]

Also, I wanted you both to be aware that I plan to attend the meeting described below. Given the roster from the WH complex, I thought you would want to know.

Matt

-----Original Message-----
From: Alexander_R._Berger@ceq.eop.gov [mailto:Alexander_R._Berger@ceq.eop.gov]
Sent: Monday, June 26, 2006 7:19 PM
To: McKeown, Matt (ENRD); Newton, Cullen (ENRD); [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; Martin_L._Hall@ceq.eop.gov; Rachelle_A._Cohen@ceq.eop.gov; Kathy_L._Copeland@ceq.eop.gov; Margaret_M._Grant@who.eop.gov; Caleb_Graves@who.eop.gov; Debbie_S._Fiddelke@who.eop.gov; Elan_Liang@who.eop.gov; Barry_S._Jackson@who.eop.gov; [redacted]@hqda.army.mil; [redacted]@us.army.mil; [redacted]@epamail.epa.gov; [redacted]@epamail.epa.gov [redacted]@epamail.epa.gov; Kristen_A._Hellmer@ceq.eop.gov; [redacted]@epa.gov; [redacted]@epa.gov; Alexander_R._Berger@ceq.eop.gov; Ludmilla_L._Savelieff@ceq.eop.gov
Cc: Ross_M._Kyle@who.eop.gov; Olga_Arguello@who.eop.gov
Subject: RESPONSE NEEDED: Everglades Team Meeting (Wednesday, 6/28, 12:30pm @ DOI)
Importance: High

Please join [redacted] and [redacted] for an Everglades Team meeting on Wednesday (6/28) at 12:30pm at the Department of the Interior. More detail regarding the agenda and exact location will follow in the morning.

Please respond ASAP with your (or your Principal's) availability.

Participants (in no particular order):

[redacted] (DOI)

[redacted] (EPA)

[redacted] (FL)

[redacted] DOI)

[redacted] (DOI)

[redacted] (DOI)

Marty Hall (CEQ)

Ashley Cohen (CEQ)

Kathy Copeland (CEQ)

Maggie Grant (WH/IGA)

Caleb Graves (WH/IGA)

Deb Fiddelke (WHO/Leg)

Elan Liang (WHO/Leg)

Barry Jackson (WH/OSI)

[redacted] (DOD/Corps)

[redacted] (DOD/Corps)

Matt McKeown (DOJ)

[redacted] (EPA)

[redacted] (FL)

[redacted] (FL)

--

Alexander R. Berger
Special Assistant to the Chairman
White House Council on Environmental Quality Direct: (202) 456-1001 arb@ceq.eop.gov

White House Council on Environmental Quality Direct: (202) 456-1001 arb@ceq.eop.gov

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Please respond ASAP with your (or your Principal's) availability.

Participants (in no particular order):

[redacted] (DOI)
[redacted] EPA)
[redacted] FL)
[redacted] (DOI)
[redacted] (DOI)
[redacted] DOI)
Marty Hall (CEQ)
Ashley Cohen (CEQ)
Kathy Copeland (CEQ)
Maggie Grant (WH/IGA)
Caleb Graves (WH/IGA)
Deb Fiddelke (WHO/Leg)
Elan Liang (WHO/Leg)
Barry Jackson (WH/OSI)
[redacted] DOD/Corps)
[redacted] (DOD/Corps)
Matt McKeown (DOJ)
[redacted] EPA)
[redacted] (FL)
[redacted] (FL)

--
Alexander R. Berger
Special Assistant to the Chairman
White House Council on Environmental Quality
Direct: (202) 456-1001
arb@ceq.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject: OASG

You should be hearing from one of the DASGs in our office shortly about certain arrangements during our displacement from Main. But if you need anything from OASG I wanted you to know that we are in Patrick Henry along the 1800 corridor (entrance is through Suite 1600) on the first floor. Our email is working and it's the best way to reach us for the moment, though our phones are in the process of being switched over.

Wooldridge, Sue Ellen (ENRD)

From: Wooldridge, Sue Ellen (ENRD)
Sent: Tuesday, June 27, 2006 10:09 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks Neil. I am upstairs on the third floor Patrick Henry. I will be in the TVA meeting later this am, [redacted] Sue

---

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
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O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, June 27, 2006 10:12 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks, Neil. Gordon and I have already traded e-mails. All is well with Tax. Our OAAG is in PHB and our Appellate section is dispersed around JCB. Phones and e-mail are working. Hope all is well with you.

Lee O'C.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:16 AM
To: Wooldridge, Sue Ellen (ENRD)
Subject: RE: OASG

Likewise here! We will all just muddle through.

From: Wooldridge, Sue Ellen (ENRD)
Sent: Tuesday, June 27, 2006 10:09 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks Neil. I am upstairs on the third floor Patrick Henry. I will be in the TVA meeting later this am, but am not my normal prepared self. Sue

---

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject: OASG

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:18 AM
To: McKeown, Matt (ENRD); Senger, Jeffrey M; McCallum, Robert (SMO)
Subject: RE: Location of Sue Ellen and Matt/Meeting Notification

Great - thanks for the heads up. We are along the 1800 corridor downstairs from you - reachable through Suite 1600.

-----Original Message-----
From: McKeown, Matt (ENRD)
Sent: Tuesday, June 27, 2006 9:51 AM
To: Gorsuch, Neil M; Senger, Jeffrey M
Subject: Location of Sue Ellen and Matt/Meeting Notification
Importance: High

Neil and Jeff: I wanted to make sure you guys (and Robert) know that Sue Ellen, myself and the rest of the ENRD front office are at the Patrick Henry Building on the corner of 6th and D St., NW. We are still working on logistical details, so cell phones are probably the best option for the time being. And we obviously have email.

Sue: [redacted]
Me: [redacted]

Also, I wanted you both to be aware that I plan to attend the meeting described below. Given the roster from the WH complex, I thought you would want to know.

Matt

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Sent: Monday, June 26, 2006 7:19 PM
To: McKeown, Matt (ENRD); Newton, Cullen (ENRD); [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; [redacted]@ios.doi.gov; Martin_L._Hall@ceq.eop.gov; Rachelle_A._Cohen@ceq.eop.gov; Kathy_L._Copeland@ceq.eop.gov; Margaret_M._Grant@who.eop.gov; Caleb_Graves@who.eop.gov; Debbie_S._Fiddelke@who.eop.gov; Elan_Liang@who.eop.gov; Barry_S._Jackson@who.eop.gov; [redacted]@hqda.army.mil; [redacted]@us.army.mil; [redacted]@epamail.epa.gov; [redacted]@epamail.epa.gov; [redacted]@epamail.epa.gov; Kristen_A._Hellmer@ceq.eop.gov; [redacted]@epa.gov; [redacted]@epa.gov; Alexander_R._Berger@ceq.eop.gov; Ludmilla_L._Savelieff@ceq.eop.gov
Cc: Ross_M._Kyle@who.eop.gov; Olga_Arguello@who.eop.gov
Subject: RESPONSE NEEDED: Everglades Team Meeting (Wednesday, 6/28, 12:30pm @ DOI)
Importance: High

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Participants (in no particular order):

[redacted] (DOI)

[redacted] (EPA)

[redacted] FL)

[redacted] (DOI)

[redacted] (DOI)

[redacted] (DOI)

Marty Hall (CEQ)

Ashley Cohen (CEQ)

Kathy Copeland (CEQ)

Maggie Grant (WH/IGA)

Caleb Graves (WH/IGA)

Deb Fiddelke (WHO/Leg)

Elan Liang (WHO/Leg)

Barry Jackson (WH/OSI)

[redacted] (DOD/Corps)

[redacted] DOD/Corps)

Matt McKeown (DOJ)

[redacted] EPA)

[redacted] (FL)

[redacted] (FL)

--

Alexander R. Berger
Special Assistant to the Chairman
White House Council on Environmental Quality Direct: (202) 456-1001 arb@ceq.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:19 AM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: OASG

I'd expect no less from TAX! Your super efficient team was moving servers from the basement last night when I went in to pick up papers. It was a very impressive operation to observe.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, June 27, 2006 10:12 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks, Neil. Gordon and I have already traded e-mails. All is well with Tax. Our OAAG is in PHB and our Appellate section is dispersed around JCB. Phones and e-mail are working. Hope all is well with you.

Lee O'C.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject: OASG

You should be hearing from one of the DASGs in our office shortly about certain arrangements during our displacement from Main. But if you need anything from OASG I wanted you to know that we are in Patrick Henry along the 1800 corridor (entrance is through Suite 1600) on the first floor. Our email is working and it's the best way to reach us for the moment, though our phones are in the process of being switched over.

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, June 27, 2006 10:21 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks!

Lee O'C.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:19 AM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: OASG

I'd expect no less from TAX! Your super efficient team was moving servers from the basement last night when I went in to pick up papers. It was a very impressive operation to observe.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Tuesday, June 27, 2006 10:12 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Thanks, Neil. Gordon and I have already traded e-mails. All is well with Tax. Our OAAG is in PHB and our Appellate section is dispersed around JCB. Phones and e-mail are working. Hope all is well with you.

Lee O'C.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:08 AM
To: Keisler, Peter D (CIV); Wooldridge, Sue Ellen (ENRD); Barnett, Thomas O.; Kim, Wan (CRT); O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Freeman, Sharee; Stuart, Diane; White, Clifford; Metcalfe, Daniel J; Peed, Carl; Tamargo, Mauricio J
Cc: McCallum, Robert (SMO); Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO)
Subject: OASG

You should be hearing from one of the DASGs in our office shortly about certain arrangements during our displacement from Main. But if you need anything from OASG I wanted you to know that we are in Patrick Henry along the 1800 corridor (entrance is through Suite 1600) on the first floor. Our email is working and it's the best way to reach us for the moment, though our phones are in the process of being switched over.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:37 AM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Stuart, I am no expert on partnership law though I have litigated some partnership issues. I am happy to help if there's no better person available, though would need to know dates, etc. and probably could use some help preparing. Best, Neil

-----Original Message-----
From: Chemtob, Stuart
Sent: Monday, June 26, 2006 10:54 AM
To: Gorsuch, Neil M
Subject: China Limited Liability Partnerships

Neil,

I heard you had your hearing last week, and it reportedly went well. Congratulations.

I've received an inquiry from the Commerce Department on whether we have anyone knowledgeable about Partnership Law, and LLPs, who might be willing to participate in a seminar in China next month sponsored by the Chinese National People's Congress, which is reviewing revisions to China's Partnership Law. Your name came up as someone who might meet the first element. See the list of questions below from the Legislative Affairs Commission of the NPC. If you are interested in following up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know.

Thanks,
Stu

-----Original Message-----
From: [redacted]@ita.doc.gov [mailto:[redacted]@ita.doc.gov]
Sent: Monday, June 26, 2006 10:29 AM
To: Chemtob, Stuart
Cc: [redacted]@ita.doc.gov
Subject:

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and

on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

BEIJING, April 25(Xinhua)-- China's top legislature, the Standing Committee of the National People's Congress(NPC), on Tuesday deliberated the draft amendment to Partnership Law, aiming to establish limited partnership and limited liability partnership.
Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.
The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

[redacted]
International Trade Specialist
Office of the Chinese Economic Area
Market Access and Compliance
International Trade Administration
U.S. Department of Commerce
Tel: [redacted]
Fax: (202) 482-1576
Email: [redacted]@ita.doc.gov

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 27, 2006 11:13 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: RE: Mrng mtg

FYI --

Have now reached all of my components (CIV, ATR, EOUST, OIP).

EOUST and OIP are untouched.

The CIV front office is at 1100 L Street (per Zwick/Keisler). They can be reached right now at 616-5037. They are working on phone forwarding.
Their displaced appellate attorneys are mostly working from home. They've offered space at 1100 L Street to those lawyers who need an office. Most of their displaced support staff are on admin leave.

The ATR front office will be here on the 1st floor of Patrick Henry when they return from the NAC tomorrow. Most of the front office is in SC on a previously scheduled managers' meeting. They are working on phone forwarding right now so someone picks up their main number. None of their line lawyers is displaced, and their servers are untouched.

All of these components will send a EO rep to the meeting today at 2.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: Mrng mtg

FYI, per DAG's request, I've asked Lily, Jeff and Gordon to reach out to each of their components to make sure that they attend the EO 2pm mtg in 1200; make sure the phones are switched over and have alerted JMD to office locations for mail; focus on court deadlines and notices; and get any feedback from components about things they need/we might do to help.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, June 27, 2006 12:25 PM
To:	Gorsuch, Neil M
Subject:	finalWritten Questions Submitted by Senator Ron Wyden.doc
Attachments:	finalWritten Questions Submitted by Senator Ron Wyden.doc

Response to written questions from Senator Leahy on behalf of Senator Wyden
Neil M. Gorsuch, nominated to be a United States Circuit Judge
for the Tenth Circuit

1. While the U.S. Supreme Court has not found a clear constitutional right to physician aid in dying, it has encouraged the states to continue to experiment. Do you believe a State has the constitutional right to regulate the practice of medicine within its borders? And if so, do you believe the right to regulate medicine within its own borders extends to a state's right to permit physician aid in dying as acceptable medical practice flowing from its power to license providers, determine their scope of practice, and discipline those providers?

I very much appreciate the chance to answer these questions from Senators Leahy and Wyden.

The Supreme Court has held that the traditional regulatory powers of the States include the regulation of the practice of medicine. Just earlier this year, the Supreme Court of the United States reaffirmed that the "regulation of health and safety is primarily, and historically, a matter of local concern." *Gonzales v. Oregon*, No. 04-623, Slip Op. at 24 (Jan. 17, 2006) (internal quotation marks omitted). In the same decision, the Court further emphasized that the States have "great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all person." *Id.* at 23 (internal quotation marks omitted).

In the last ten years, the Supreme Court also has twice vindicated the power of States to make their own laws with respect to physician-assisted suicide. Specifically, in 1997, the Court rejected an effort to establish a uniform constitutional rule requiring States to permit physician-assisted suicide, instead emphasizing that "the States are currently engaged in serious, thoughtful examination of physician-assisted suicide and other issues." *Washington v. Glucksberg*, 521 U.S. 702, 719 (1997). This year, the Court rejected an effort by a federal officer to issue regulations under the Controlled Substances Act that would have "substantially disrupt[ed]" the operation of Oregon's physician-assisted suicide law and "radical[ly] shift[ed]" authority to federal administrative agencies. *Gonzales v. Oregon*, Slip Op. at 7, 28. Concurring in the judgment in *Glucksberg*, Justice O'Connor emphasized that, given the States' "extensive and serious evaluation of physician-assisted suicide and other related issues, . . . the challenging task of crafting appropriate procedures for safeguarding . . . liberty interests is entrusted to the laboratory of the States . . . in the first instance." 521 U.S. at 737 (internal quotation marks omitted).

If confirmed, I would follow the Supreme Court's guidance on these and all matters.

2. Your writings on physician aid in dying appear to conclude that you believe there is no constitutional right to physician aid in dying. Should a case come

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before you concerning this issue in any way, would you be able to consider it without that bias?

If confirmed, my personal views on this -- or any -- matter would play no role in my decisions as a judge. A judge's personal policy preferences and politics have no place in the process of deciding cases. Regular and healthy doses of self-skepticism and humility always do.

As a practicing lawyer for many years, litigating matters in state and federal courts across the country on behalf of plaintiffs and defendants, individuals and corporations, I never allowed my personal views and policy preferences to interfere with the zealous representation of my clients. My duty of loyalty meant preferring my clients' interests and objectives to my own views. If confirmed, I would have a new client: the law itself. Just as my personal and political views had no proper place in my job as an advocate and counselor, neither would they have any place in my role as a judge. I would seek only and always to follow the law faithfully and fairly.

From my years in practice, too, I know that, to the litigant before the court, the case at hand often means the world to him or her. A business, property interest, a fundamental liberty interest, may be at stake. Each and every litigant wants and deserves a fair shake from a judge based on the facts in the record, the arguments of counsel, and the controlling legal precedents -- not a decision based on extra-record biases or beliefs. That is what I always hoped for in the judges in front of whom I appeared. And that is what I would always seek, if confirmed, to provide to litigants who appear before me.

3. What weight do you give to legislative history in making a ruling?

The Supreme Court has repeatedly instructed that, when a statute's language is clear, its language alone governs but that, when ambiguities exist in statutory text, legislative history can be employed to resolve those ambiguities. The Court has put the point succinctly: "courts may appropriately refer to a statute's legislative history to resolve statutory ambiguity." *Patterson v. Shumate*, 504 U.S. 753, 761 (1992) (internal quotation marks and citation omitted). If confirmed, I would faithfully follow the Supreme Court's guidance in this area.

4. In the article "the Legalization of Assisted Suicide and the Law of Unintended Consequences: A review of the Dutch and Oregon Experiments and Leading Utilitarian Arguments for Legal Change" you repeat many of the arguments of those who have opposed or do oppose Oregon's law.

In this article you conclude that Oregon's physicians do not know enough about palliative care. However, you appear to overlook several significant facts. For example, Oregon is one of two states that have disciplined physicians for the under treatment of pain, and, historically, more Oregonians die at home than in

DOJ_NMG_ 0163034

hospitals. These facts might point to a different conclusion than the one you draw in your article.

The medical literature is full of studies that demonstrate medical practice differs from state to state. Why do you believe that the treatment of end of life care must be uniform throughout the United States, as you seem to suggest in this article, when it and medicine in general is practiced differently through out the United States?

I do not presume that I have answers to all of the many difficult questions the physician-assisted suicide issue raises, or that my work is even close to the last word on such a complex subject. The Supreme Court has written that the American people are engaged in an "earnest and profound debate about the morality, legality, and practicality of physician-assisted suicide." *Glucksberg*, 521 U.S. at 735. I hope only that I have -- in some very small way -- contributed to a body of scholarship and knowledge that will eventually provide all of us with a fuller, more informed understanding of the issues at stake in this most profoundly difficult arena.

I also appreciate the opportunity to clarify the article referenced in the question. In that article, I did not take the position that all end of life care must be treated uniformly throughout the country. Instead, the article begins by noting that the Supreme Court rejected a uniform right to physician-assisted suicide in its 1997 decisions, choosing instead to leave intact state legislative judgments in this arena. That is to say, the Supreme Court left the matter to the States. The article then proceeds to explain that, since 1997, a number of States have debated whether or not to pursue the legalization of physician-assisted suicide through voter referenda and state legislative processes. Thereafter, the article focuses on just one of the many questions that everyone engaged in such discussions must face: whether or not the benefits flowing from a decision to legalize physician-assisted suicide are likely to outweigh any attendant problems or costs associated with such a change in law. This, the article points out, was a question posed by Justice O'Connor and Justice Souter in *Glucksberg* as an important, but unresolved matter worthy of further consideration. After analyzing the legalization experiments in the Netherlands and Oregon, the article ultimately concludes that "to be sure, benefits would flow from legalization [of physician-assisted suicide]. I do not seek here to discount such benefits or suggest that they are 'outweighed' by attendant costs. Instead, I have sought to show only that legalization may also entail real and material costs" and thus that people of good faith striving to address the assisted suicide question are presented with a "nontrivial choice." 2004 Wisc. L. Rev. at 1418. That is, the article does not suggest that the costs of choosing to legalize assisted suicide would outweigh the benefits of legalization. Nor does it contend that every State must reach a uniform judgment on this question. Instead, the article simply argues that any State's decision to legalize assisted suicide would likely bring with it *both* benefits *and* some attendant costs and, accordingly, the legalization question presents a difficult moral and legal choice.

DOJ_NMG_ 0163035

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, June 27, 2006 12:26 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG); Elwood, Courtney
Cc: Gorsuch, Neil M
Subject: FW: Mrng mtg

FYI re status of components. Robt.

From: Swenson, Lily F
Sent: Tuesday, June 27, 2006 11:13 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: RE: Mrng mtg

FYI --

Have now reached all of my components (CIV, ATR, EOUST, OIP).

EOUST and OIP are untouched.

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To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: Mrng mtg

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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, June 27, 2006 12:31 PM
To:	Gorsuch, Neil M
Subject:	950 Pennsylvania Ave.doc
Attachments:	950 Pennsylvania Ave.doc

950 Pennsylvania Ave., N.W.
Room 5706
Washington, D.C. 20530

June 27, 2006

By Hand Delivery

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Attached are my responses to written questions from Senator Leahy, which were forwarded to me on behalf of Senator Wyden.

Respectfully,

Neil M. Gorsuch

Enclosure

cc: The Honorable Patrick J. Leahy,
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:35 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

Where can I deliver to you my written responses and the copy of the Princeton MS?

Gorsuch, Neil M

Subject:	Conf call
Start:	Tuesday, June 27, 2006 4:00 PM
End:	Tuesday, June 27, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Tuesday, June 27, 2006 12:42 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T
Subject: RE: QFRs

We are in 10300 in the Patrick Henry Building. Are these QFRs different from the revised draft you circulated last week?

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:35 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

Where can I deliver to you my written responses and the copy of the Princeton MS?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:42 PM
To: Cook, Elisebeth C; Macklin, Kristi R; Best, David T
Subject: RE: QFRs

Very slightly per some suggestions from Kristi. I am headed to OAG now, which is also on the 10th fl, so will stop by thereafter.

From: Cook, Elisebeth C
Sent: Tuesday, June 27, 2006 12:42 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T
Subject: RE: QFRs

We are in 10300 in the Patrick Henry Building. Are these QFRs different from the revised draft you circulated last week?

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:35 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

Where can I deliver to you my written responses and the copy of the Princeton MS?

Moschella, William

From:	Moschella, William
Sent:	Tuesday, June 27, 2006 12:52 PM
To:	Brand, Rachel; Hertling, Richard
Cc:	Katsas, Gregory (CIV); Gorsuch, Neil M
Subject:	FW: Amendment to SSCJ
Attachments:	tmp.htm; SODREL_016_xml.PDF; Prayer-DC (2).doc

What should I tell the Hill on this amendment?

-----Original Message-----
From: [redacted] mailto [redacted]
Sent: Tuesday, June 27, 2006 8:01 AM
To: Moschella, William
Subject: Fw: Amendment to SSCJ

----- Original Message -----
From: [redacted]
To: [redacted]
Sent: Monday, June 26, 2006 6:45 PM
Subject: Fw: Amendment to SSCJ

5 of 8
----- Original Message -----
From [redacted]
To [redacted] @ic.fbi.gov) ; [redacted] ; [redacted]
Sent: Monday, June 26, 2006 4:16 PM
Subject: FW: Amendment to SSCJ

What about this one?

Dear Colleague: religious

I would like to bring to your attention a recent federal court decision in Indiana imposing on legislative powers. A federal district court judge, David Hamilton, in the case of *Hinrichs v. Bosma*, has ruled ministers invited to deliver invocations before the Indiana State Legislature must not make any reference to Jesus Christ or to the Christian religion. In addition, the judge specified he would review the speech of legislators to ensure that they also did not make reference to Christianity or Jesus Christ as Lord. However, the Judge did not single out any other religion for similar restrictions.

The U.S. Constitution guarantees to each state a representative form of government. This decision by Judge Hamilton is an unprecedented assault by the federal courts on the independence of a state legislative body. The Courts have gone beyond evaluating laws, and have attempted to manage and govern the internal working and procedures of local elected legislative bodies. This Federal Court is presuming to dictate what state legislators may or may not say, and decide how they should represent their constituents.

To protect the speech, conscience, and independence from unelected and unaccountable judges serving for life, I am introducing a bill to do the following:

*Remove the review of content of speech in the legislature from the jurisdiction of federal courts.

*Provide immunity for the content of speech during a legislative session by a legislator or lawfully invited guests, excluding witnesses, unless such speech constituted treason, an admission of a crime, or a breach of the peace.

*Prohibit the use of federal funds to enforce this or similar decisions.

*Prohibit the use of fines against the state as a body in order to enforce such a decision.

*Make clear this Act does not supersede state law or legislative rules.

I ask you join with me in supporting this effort to preserve representational government, and freedom of speech and conscience in our state legislatures. Please contact [redacted] n my office at [redacted] should you have any questions.

Very truly,

Mike Sodrel

Current Original Cosponsors:

Dan Burton, Steve Buyer, Mark Souder, John Hostettler, Mike Pence, Patrick McHenry J. Gresham Barrett, Steve King, Virgil Goode, Dave Weldon, MD, Tom Feeney, Scott

Garrett, Darrell Issa, Bobby Jindal, Randy Kuhl, Todd Akin, Sue Myrick, John Shadegg, Marilyn Musgrave, Joe Pitts, Ted Poe, John Culberson, Jeb Hensarling, Virginia Fox, Michael Conaway, Louie Gohmert, Tom Cole,

AMENDMENT TO H.R. 5672, AS REPORTED

OFFERED BY MR. SODREL OF INDIANA

At the end of the bill (before the short title), insert the following:

1 TITLE VIII—ADDITIONAL GENERAL
2 PROVISIONS

3 SEC. 801. None of the funds made available in this
4 Act may be used for the purpose of enforcing the final
5 judgement of the Federal District Court for the Southern
6 District of Indiana issued in Hinrichs v. Bosma, prohib-
7 iting the Speaker of the Indiana House of Representatives
8 from permitting sectarian prayer as part of the official
9 proceedings of the House.

----- Original Message -----
From: [redacted]
To: [redacted]
Sent: Monday, June 26, 2006 6:45 PM
Subject: Fw: Amendment to SSCJ

5 of 8
----- Original Message -----
From: [redacted]
To: [redacted]@ic.fbi.gov) ; [redacted]
Sent: Monday, June 26, 2006 4:16 PM
Subject: FW: Amendment to SSCJ

What about this one?

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, June 27, 2006 12:53 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Subject: RE: QFRs

We are in 10300. Matrina is at the front desk as you walk in the suite and she can direct you to any of us.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:35 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

Where can I deliver to you my written responses and the copy of the Princeton MS?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 2:02 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Re: QFRs

I dropped off materials w Beth but sorry I missed Kristi and David. Am reachable by email if needed but am assuming you will deliver materials to Senate today if I don't hear from you. Thanks very much.

-----Original Message-----
From: Macklin, Kristi R
To: Gorsuch, Neil M; Cook, Elisebeth C; Best, David T
Sent: Tue Jun 27 12:52:39 2006
Subject: RE: QFRs

We are in 10300. Matrina is at the front desk as you walk in the suite and she can direct you to any of us.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 12:35 PM
To: Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: QFRs

Where can I deliver to you my written responses and the copy of the Princeton MS?

Full Name: Joan Meyer
Last Name: Meyer
First Name: Joan
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 4129
Washington, DC 20530

Business: 202-307-2510

E-mail: Joan.Meyer@SMOJMD.USDOJ.gov
E-mail Display As: Joan.Meyer@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163050

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 2:40 PM
To: Moschella, William
Subject: RE: Amendment to SSCJ

Which office are you in?

-----Original Message-----
From: Moschella, William
Sent: Tuesday, June 27, 2006 12:52 PM
To: Brand, Rachel; Hertling, Richard
Cc: Katsas, Gregory (CIV); Gorsuch, Neil M
Subject: FW: Amendment to SSCJ

What should I tell the Hill on this amendment?

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To: Moschella, William
Subject: Fw: Amendment to SSCJ

----- Original Message -----
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Sent: Monday, June 26, 2006 6:45 PM
Subject: Fw: Amendment to SSCJ

5 of 8
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From: [redacted]
To: [redacted]@ic.fbi.gov) ; [redacted]; '[redacted]
Sent: Monday, June 26, 2006 4:16 PM
Subject: FW: Amendment to SSCJ

What about this one?

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 27, 2006 2:52 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Mrng mtg

OJP, COPS and OVW are up and running, and but for the voicemail system are unaffected.

TAX is up and running. Lee's folks have relocated to the Tax management section, which is on PHB 10. The only problem they have flagged is with OIL briefs - given the upset, and the distribution of their appellate attorneys around their various offices they asked if OIL could lighten up their load for a couple of weeks. I said I would check, but that I was not sure this was possible, given that someone else would still have to do the work. They can, of course, seek extensions on a case by case basis. I will talk to CRT appellate and ENRD appellate to see if they have similar concerns.

CRT - for some reason CRT's e-mail has taken longer to restore. It's still down. AAG CRT has been relocated to PHB 5th floor, the CRT Criminal Section's home. Wan is on vacation this week, so Rena is running the show. I have contact info for them all. Their e-mail should be restored by COB, I am told. CRT appellate lawyers are working from home. Unless you disagree with me, I plan on telling CRT/JMD to find them space and get them back in. I am skeptical of their ability to continue to work fully productively from home.

Gordon

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: Mrng mtg

FYI, per DAG's request, I've asked Lily, Jeff and Gordon to reach out to each of their components to make sure that they attend the EO 2pm mtg in 1200; make sure the phones are switched over and have alerted JMD to office locations for mail; focus on court deadlines and notices; and get any feedback from components about things they need/we might do to help.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Tuesday, June 27, 2006 2:54 PM
To: Gorsuch, Neil M; Friedrich, Matthew
Subject: Asbestos Meeting

God, clearly, does not want us to have this meeting, which is currently scheduled for 4 PM today. Matt, where have you been relocated to? Neil and I are in the Patrick Henry Building. Why don't we get together by phone?

Gordon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 2:56 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO); Swenson, Lily F
Subject: RE: Mrng mtg

Agree on the space issue for CRT - we are likely to be displaced into next week and Lee said we'd have adequate space. I'd check with Lee, though, first to confirm. Adding Lily re: OIL issue.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 27, 2006 2:52 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Mrng mtg

OJP, COPS and OVW are up and running, and but for the voicemail system are unaffected.

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Gordon

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:28 AM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
Subject: Mrng mtg

FYI, per DAG's request, I've asked Lily, Jeff and Gordon to reach out to each of their components to make sure that they attend the EO 2pm mtg in 1200; make sure the phones are switched over and have alerted JMD to office locations for mail; focus on court deadlines and notices; and get any feedback from components about things they need/we might do to help.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:08 PM
To: Gunn, Currie (SMO)
Subject: Tel message

Do you have the info abt that reporter who called? I'd like to pass it on to OPA when you get a chance. Thanks.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:10 PM
To: Gorsuch, Neil M
Subject: RE: Tel message

I sent it earlier. If you have not received let me know and I will send again.

Currie

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:08 PM
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To: Gunn, Currie (SMO)
Subject: RE: Tel message

I haven't received it

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:10 PM
To: Gorsuch, Neil M
Subject: RE: Tel message

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:11 PM
To: Gunn, Currie (SMO)
Subject: RE: Tel message

This isn't it - this is just my message.

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:10 PM
To: Gorsuch, Neil M
Subject: FW: Tel message

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:10 PM
To: Gorsuch, Neil M
Subject: RE: Tel message

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Sent: Tuesday, June 27, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:13 PM
To: Gunn, Currie (SMO)
Subject: RE: Phone message - National Law Journal

Received - thanks. Any other messages?

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, June 27, 2006 3:14 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: RE: Mrng mtg

I opted against telling CIV to bring all of its appellate lawyers in -- I figured it would displace too many other folks and add to JMD's stress -- also I figured due dates will drive productivity. I wonder if it's fair, however, to require some line attys to come in but not others, and I wonder were we to triage which ones are to come in that we'd prioritize CRT appellate (over, for example, CRM or CIV appellate). For the same horizontal equity reasons, whatever forgiveness we allow TAX on OIL briefs we likely need to extend to other divisions with displaced attorneys.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 2:56 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO); Swenson, Lily F
Subject: RE: Mrng mtg

Agree on the space issue for CRT - we are likely to be displaced into next week and Lee said we'd have adequate space. I'd check with Lee, though, first to confirm. Adding Lily re: OIL issue.

From: Todd, Gordon (SMO)
Sent: Tuesday, June 27, 2006 2:52 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: Mrng mtg

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Cc: Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M; Gunn, Currie (SMO)
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Gorsuch, Neil M

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Sent: Tuesday, June 27, 2006 3:15 PM
To: Macklin, Kristi R; Best, David T; Cook, Elisebeth C; Roehrkasse, Brian
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:17 PM
To: Swenson, Lily F; Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: RE: Mrng mtg

Good pt on space constraints. Can you, Lily, work with Gordon to check with Lee on what space constraints may or may not exist? I have a hard time believing folks will be working full steam from home, and am also concerned that we are going to be out of Main for at least another week, but am mindful that space (or at least GSA space) isn't infinite.

From: Swenson, Lily F
Sent: Tuesday, June 27, 2006 3:14 PM
To: Gorsuch, Neil M; Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: RE: Mrng mtg

I opted against telling CIV to bring all of its appellate lawyers in -- I figured it would displace too many other folks and add to JMD's stress -- also I figured due dates will drive productivity. I wonder if it's fair, however, to require some line attys to come in but not others, and I wonder were we to triage which ones are to come in that we'd prioritize CRT appellate (over, for example, CRM or CIV appellate). For the same horizontal equity reasons, whatever forgiveness we allow TAX on OIL briefs we likely need to extend to other divisions with displaced attorneys.

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Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Tuesday, June 27, 2006 3:33 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

If someone wants to get a response, Kat in our office can respond.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:15 PM
To: Macklin, Kristi R; Best, David T; Cook, Elisebeth C; Roehrkasse, Brian
Subject: FW: Phone message - National Law Journal

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To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Clinger, James H

From: Clinger, James H
Sent: Tuesday, June 27, 2006 3:57 PM
To: Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Hertling, Richard
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

Will heard from Chairman Specter's staff earlier today that Senate Judiciary -- no doubt emboldened by Judge Kaplan's ruling in the KPMG case -- has decided to hold a hearing on the Thompson memo and related issues on Tuesday, July 11.

From: Clinger, James H
Sent: Monday, May 15, 2006 11:55 AM
To: Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

Per [redacted], Chairman Specter is looking to do a hearing (not a markup) on the attorney-client privilege waiver issue "at the end of June, possibly June 28," although that date is very tentative at this point. [redacted] indicated that [redacted] would be interested in having representatives of the Department brief relevant Committee staff on our policy sometime in early June.

-----Original Message-----
From: Moschella, William
To: Gorsuch, Neil M
Sent: Tue May 09 17:23:40 2006
Subject: Re: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

We probably should brief his staff because I bet he would take the ABA's position.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Moschella, William; Seidel, Rebecca
CC: McIntosh, Brent; Cook, Elisebeth C; Oldham, Jeffrey L
Sent: Tue May 09 16:08:16 2006
Subject: Re: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Jeff Oldham raises the good question whether we have any idea where Sen Specter is on this issue and what the chances are that he might seek to do something legislatively. Adding Will and Rebecca.

-----Original Message-----
From: Brand, Rachel
To: McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew
CC: McIntosh, Brent; Cook, Elisebeth C
Sent: Tue May 09 16:01:04 2006
Subject: FW: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Thought you might want to see this letter.

At my little talk last week to the ABA group that was in town to lobby the Congress, [redacted] made some pretty scathing remarks about DOJ's "corrosive" policy on attorney-client privilege before launching into a very gracious introduction of me.

-----Original Message-----
From: [redacted]
Sent: Tuesday, May 09, 2006 3:56 PM
To: [redacted]
Subject: FW: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver
Importance: Low

Attached is a copy of the letter that [redacted] sent to Senate Judiciary Committee Chairman Arlen Specter today as a follow-up to their meeting on May 3, 2006 (along with my transmittal e-mail to Senator Specter's Chief of Staff below). In the attached letter, [redacted] provides the additional information regarding erosion of the attorney-client privilege that Sen. Specter requested during the meeting and he reiterates the ABA's earlier request that the Senate Judiciary Committee hold a hearing on this general subject in the near future.

Regards,

[redacted]

[redacted]

> _____
> From: [redacted]
> Sent: Tuesday, May 09, 2006 3:36 PM

> To: [redacted]@specter.senate.gov'
> Cc: [redacted]
> Subject: Letter from [redacted] to Sen. Arlen
> Specter Regarding Privilege Waiver
>
> May 9, 2006
>
> [redacted]
> to Sen. Arlen Specter
> United States Senate
> Washington, D.C. 20510
>
> Dear [redacted]:
>
> Attached is a letter from [redacted], to Sen.
> Specter regarding their meeting on May 3, 2006. In this letter, [redacted] thanks Sen. Specter for the meeting and provides additional
> information regarding government-coerced waiver of the attorney-client
> privilege that the Senator requested. Please give a copy of this
> letter to Sen. Specter. Also, please forward a copy of the letter to
> the two staff people who attended the meeting, [redacted] and
> [redacted]. By copy of this e-mail, I am providing copies of
> this letter to the other ccs listed at the end of the letter, other
> than [redacted] and [redacted].
>
> Thank you very much for your assistance. If you have any questions,
> please let me know.
>
> Sincerely,
>
> [redacted]
>
> <<attyclientprivissue(abalettertosenspecter,may9,2006).pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:59 PM
To: Macklin, Kristi R
Subject: FW: Phone message - National Law Journal

What do you think we should have OPA say?

From: Roehrkasse, Brian
Sent: Tuesday, June 27, 2006 3:33 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

If someone wants to get a response, Kat in our office can respond.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:15 PM
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I have not returned the call and don't plan to do so. Should OLP or OLC?

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Sent: Tuesday, June 27, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 4:31 PM
To: Roehrkasse, Brian
Subject: How can I reach you to talk? Just tried 42007 but got no answer.

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, June 27, 2006 4:32 PM
To: Roehrkasse, Brian; Gorsuch, Neil M; Best, David T; Cook, Elisebeth C; Seidel, Rebecca
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

Kat,

We need to get the package up to the Committee. I'll let you know once that happens and then you can call the reporter back and indicate that the responses have been sent to the committee and that he/she should call them for any comment.

From: Roehrkasse, Brian
Sent: Tuesday, June 27, 2006 3:33 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

If someone wants to get a response, Kat in our office can respond.

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To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 4:45 PM
To: [redacted]
Subject: FW: Gorsuch Transcript
Attachments: 062106 Gorsuch.wpd; 062106 Gorsuch.txt

Transcript attached as promised.

JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

- - -

WEDNESDAY, JUNE 21, 2006

United States Senate,
Committee on the Judiciary,
Washington, DC.

The hearing was convened, pursuant to notice, at 4:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Lindsey Graham, presiding.

OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you

could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

I would like to begin by thanking Chairman Specter for so promptly scheduling this hearing. I look forward to the committee's continuing the tone of expediency set by the Chairman by swiftly reporting the nominee to the floor for a timely up or down vote. It is critical to the administration of justice that this seat, which has been vacant since last year, be filled immediately.

I am pleased that we are joined today by Senator Salazar, in what I hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, [redacted] and her two children, [redacted] to the U.S. Senate.

Senator Graham. And let the record reflect, they are beautiful children and a lovely wife.

Senator Allard. They are wonderful. All three of you no doubt played an important role in your husband and father being here today. Speaking from my own experience in public service, your love and support will continue to be instrumental to his ability to perform his public duties. You are embarking on this journey together.

I would also like to welcome Mr. Gorsuch back to the U.S. Senate. Some of you, including the Ranking Member, may remember Mr. Gorsuch from his service as a Senate page in the early 1980s. It was here in the Senate that he made his foray into public service, and developed the passion for it that exudes today.

As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community throughout the firm's 60-year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and

personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

Mr. Gorsuch began his distinguished professional career as a law clerk to Judge David Sentally on the U.S. Court of Appeals for the D.C. Circuit. He then went on to clerk for two Supreme Court justices, Justice Kennedy and Colorado's own Byron White.

Following his prestigious clerkship, Mr. Gorsuch entered private practice and became a partner in the law firm of Kellogg, Huber, Hanson, Todd, Evans & Figel. While in private practice, Mr. Gorsuch litigated matters for clients large and small, ranging from individuals, to nonprofits, to corporations.

Moreover, he litigated cases on a range of issues, from simple contract disputes to complex antitrust securities fraud matters.

He left private practice in 2005 to return to public service, this time at the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not

determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

I believe this statement also speaks to Mr. Gorsuch as a person. He is humble, unassuming, polite, and respectful. This sentiment is reflected in the numerous letters pouring into my office from people that have worked with him over the years. Mr. Gorsuch possesses the temperament befitting an appellate judge.

In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife [redacted] and his young and beautiful daughters, [redacted] here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

Following his clerkships, he spent nearly 10 years in private practice before becoming principal deputy to the Associate Attorney General of the United States.

While I do not know Mr. Gorsuch well, I have had the chance to visit with him and learn about both his personal background and his professional experience. During our meeting, I found him to be very intelligent, thoughtful, and appreciative of the great honor it is to be nominated to the Federal bench. Today's hearing will provide Mr. Gorsuch with a chance to share these qualities with the committee.

Of course, it takes much more than a great resume to be a great judge. In addition to the professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism from both the left and the right.

By exploring Mr. Gorsuch's record, judicial philosophy and his views on a wide range of important issues, these hearings will help Senators evaluate whether Mr. Gorsuch meets that very high standard.

As always, I look forward to learning more from the careful and thorough examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

I have here with me, Senator, as well, a bit of my family that you have already been introduced to. I know my two daughters have what they would consider to be better things to do with a summer afternoon, so I am grateful that they are here with their dad.

Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

Senator, I would also like to say, I have gratitude for my family back home in Colorado. I feel their thoughts today deeply, and am looking forward to being with them soon.

I would also like to thank the members of the Department of Justice who are here, a lot of folks lending moral support, both who are appointed and a number of the career staff at the Department, who I have come to respect and admire greatly for their service to the country under very difficult conditions, often.

I also have some of my former partners and colleagues from the law firm that have come here today, and I am grateful to have them here.

Finally, my parents and grandparents, most of whom are deceased, but all of whom are here, I think, in my thoughts, and all of whom have served Colorado in many different ways over the course of their lives.

I look forward to your questions.

Senator Graham. Thank you very much. Just for the record, this is a nominee that I have a personal interest and working relationship with. I have nothing but good things to say about Mr. Gorsuch. I have enjoyed working with you at Department of Justice on all kinds of public policy issues, detainee issues and other legal matters.

I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

Senator Graham. That is very important, but you have got to understand people underneath.

What is the difference, in your opinion, if you could share with me, between being an advocate and a judge?

Mr. Gorsuch. Being an advocate is a great deal easier, in some respects. Your client's position defines your objective, and your obligation is to represent him or her zealously.

I have to tell you, Senator, I love being a lawyer. I love that aspect of the profession, of being in the

arena and fighting it out within the rules of civility, decency, and common sense.

Being a judge is, however, the greatest honor that any lawyer, practicing lawyer, could ask to have because your client becomes not an individual, a corporation, a partnership, it becomes the cause of justice. There is no greater client than that.

Senator Graham. That was well said.

I know this is something you have not really done yet. But what is your philosophy about judging and how you fit into this constitutional democracy that we have been trying to get better and tinker with for 200 years?

Mr. Gorsuch. Well, you are right, I have not done it yet so it is a little presumptuous.

Senator Graham. How you see yourself fitting in.

Mr. Gorsuch. But if I were to be confirmed, Senator, I resist pigeon holes. I think those are not terribly helpful, pigeon-holing someone as having this philosophy or that philosophy. They often surprise you. People to unexpected things and pigeon holes ignore gray areas in the law, of which there are a great many.

I can tell you how I think I would like to view approaching decisions. That is, first and foremost, with this thought in mind: to those clients who are affected, to that lawyer in the well, that may be the most important thing in their life and that case deserves the attention, the care and the scrutiny of a complete lawyer and the complete attention of the judge without being diverted by personal politics, policy preferences, or what you ate for breakfast. Those people deserve your very best at all times. There are certain tools that I think can get you there.

First, you listen to that lawyer in the well. You do not treat them as a cat's paw. He is not some pawn in a game to be played with and batted around. He is to be taken seriously. He has studied this issue for, sometimes, months, years, and lived with it.

Having litigated cases in 16 different States and Courts of Appeals, I appreciate that, and I know the importance and difficulty of that role and I respect it greatly.

The second tool, I think, is respecting your colleagues and trying to reach unanimity where possible, Senator. As a practitioner, fractured opinions are very difficult to deal with and understand what the law is sometimes. I often find that the process of getting to a single position with different minds leads to a better result.

Justice White used to tell us in chambers, "Two heads are better than one." He is right. He was one of the most humble men I ever met, and was very well aware of the limitations of any single person, though he may have been among the brightest people I ever met. So I think working with your colleagues and trying to get to agreement is hugely important.

Then, finally, precedent. Precedent is to be

respected and honored. It is not something to be diminished or demeaned. It is something you should try to uphold wherever you can, with the objective being, follow the law as written and not replace it with my own preferences, or anyone else's, Senator.

Senator Graham. The best you can, describe what you think an idealogue would be and why that would be bad.

Mr. Gorsuch. In terms of being a Federal judge, Senator?

Senator Graham. Yes.

Mr. Gorsuch. Someone who is not willing to do what I just talked about. That is, someone who is not willing to listen with an open mind to the arguments of counsel, to his colleagues, and to precedent, someone who is willing to just, willy-nilly, disregard those three things, to effect his own personal views, his politics, his personal preferences. That is unacceptable.

Senator Graham. In the area of assisted suicide and euthanasia, I think you have been a fairly prolific writer and you certainly have an interest in that area.

How will your past positions affect your ability to judge in cases that may contain those questions?

Mr. Gorsuch. Senator, my personal views, as I hope I have made clear, have nothing to do with the case before me in any case. The litigants deserve better than that, the law demands more than that.

That said, Senator, my writings, just to clarify, have been largely in defense of existing law, that is, they are consistent with the Supreme Court's decisions in this area and existing law in most places.

So, I do not think there is actually much tension between my writings and anything that might come before the court, but I can pledge to this committee, Senator, that I will reach any question before me, should I become a judge, with an open mind and listen to the arguments of counsel, the views of my colleagues and prior case law from the Supreme Court, and the various Courts of Appeals.

Senator Graham. What concern, if any, do you have about the future of the judiciary or the judiciary as it stands now?

Mr. Gorsuch. Senator, I think some of the things you have touched on are the challenges. The independence of the judiciary depends upon people in both parties being willing to serve, good people being willing to serve who are capable and willing to put aside their personal politics and preferences to decide cases and to follow the law and not try and make it.

Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk,

David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

You have lived a very beneficial and fruitful life, and I know your family is tremendously important to you. I know they appreciate the honor that has been bestowed upon you.

I would just like to leave you with one thought. I am very concerned about the future of the judiciary. I hope people in my business, the political business, will realize that being a judge and a politician are two different things. You can be a conservative judge and a liberal judge, but that is totally different than being a conservative or liberal politician.

I do hope we can get back on track--Senator Salazar's presence here today meant a lot to me--in the confirmation process so that we will encourage good men and women, from a variety of backgrounds, of wanting to be judges and not make the process so difficult that they would not want to participate. I find every reason to believe that you will be well received by the committee and the Senate as a whole, and I look forward to talking with you more. Hopefully we can get you on the bench soon.

The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

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JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

- - -

WEDNESDAY, JUNE 21, 2006

United States Senate,

Committee on the Judiciary,

Washington, DC.

The hearing was convened, pursuant to notice, at 4:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Lindsey Graham, presiding.

[redacted] COURT REPORTING
[redacted]

OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

I would like to begin by thanking Chairman Specter for so promptly scheduling this hearing. I look forward to the committee's continuing the tone of expediency set by the Chairman by swiftly reporting the nominee to the floor for a timely up or down vote. It is critical to the administration of justice that this seat, which has been vacant since last year, be filled immediately.

I am pleased that we are joined today by Senator Salazar, in what I

hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, [redacted] and her two children, [redacted], to the U.S. Senate.

Senator Graham. And let the record reflect, they are beautiful children and a lovely wife.

Senator Allard. They are wonderful. All three of you no doubt played an important role in your husband and father being here today. Speaking from my own experience in public service, your love and support will continue to be instrumental to his ability to perform his public duties. You are embarking on this journey together.

I would also like to welcome Mr. Gorsuch back to the U.S. Senate. Some of you, including the Ranking Member, may remember Mr. Gorsuch from his service as a Senate page in the early 1980s. It was here in the Senate that he made his foray into public service, and developed the passion for it that exudes today.

As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community

throughout the firm's 60-
year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

Mr. Gorsuch began his distinguished professional career as a law clerk to Judge David Sentally on the U.S. Court of Appeals for the D.C. Circuit. He then went on to clerk for two Supreme Court justices, Justice Kennedy and Colorado's own Byron White.

Following his prestigious clerkship, Mr. Gorsuch entered private practice and became a partner in the law firm of Kellogg, Huber, Hanson, Todd, Evans & Figel. While in private practice, Mr. Gorsuch litigated matters for clients large and small, ranging from individuals, to nonprofits, to corporations.

Moreover, he litigated cases on a range of issues, from simple contract disputes to complex antitrust securities fraud matters.

He left private practice in 2005 to return to public service, this time at

the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he

would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

I believe this statement also speaks to Mr. Gorsuch as a person. He is humble, unassuming, polite, and respectful. This sentiment is reflected in the numerous letters pouring into my office from people that have worked with him over the years. Mr. Gorsuch possesses the temperament befitting an appellate judge.

In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife [redacted] nd his young and beautiful daughters, [redacted] here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that

he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

Following his clerkships, he spent nearly 10 years in private practice before becoming principal deputy to the Associate Attorney General of the United States.

While I do not know Mr. Gorsuch well, I have had the chance to visit with him and learn about both his personal background and his professional experience. During our meeting, I found him to be very intelligent, thoughtful, and appreciative of the great honor it is to be nominated to the Federal bench. Today's hearing will provide Mr. Gorsuch with a chance to share these qualities with the committee.

Of course, it takes much more than a great resume to be a great judge. In addition to the professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism from both the left and the right.

By exploring Mr. Gorsuch's record, judicial philosophy and his views on a wide range of important issues, these hearings will help Senators evaluate whether Mr. Gorsuch meets that very high standard.

As always, I look forward to learning more from the careful and thorough

examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

I have here with me, Senator, as well, a bit of my family that you have already been introduced to. I know my two daughters have what they would consider to be better things to do with a summer afternoon, so I am grateful that they are here with their dad.

Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

Senator, I would also like to say, I have gratitude for my family back home in Colorado. I feel their thoughts today deeply, and am looking forward to being with them soon.

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I also have some of my former partners and colleagues from the law

firm that have come here today, and I am grateful to have them here.

Finally, my parents and grandparents, most of whom are deceased, but all of whom are here, I think, in my thoughts, and all of whom have served Colorado in many different ways over the course of their lives.

I look forward to your questions.

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I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

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Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk, David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

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The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 4:56 PM
To: [redacted]
Subject: Fw: Gorsuch Transcript
Attachments: 062106 Gorsuch.wpd; 062106 Gorsuch.txt

-----Original Message-----
From: Gorsuch, Neil M
To: [redacted]
Sent: Tue Jun 27 16:44:57 2006
Subject: FW: Gorsuch Transcript

Transcript attached as promised.

JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

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WEDNESDAY, JUNE 21, 2006

United States Senate,
Committee on the Judiciary,
Washington, DC.

The hearing was convened, pursuant to notice, at 4:05 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Lindsey Graham, presiding.

OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you

could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

I would like to begin by thanking Chairman Specter for so promptly scheduling this hearing. I look forward to the committee's continuing the tone of expediency set by the Chairman by swiftly reporting the nominee to the floor for a timely up or down vote. It is critical to the administration of justice that this seat, which has been vacant since last year, be filled immediately.

I am pleased that we are joined today by Senator Salazar, in what I hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, [redacted] and her two children, [redacted] to the U.S. Senate.

Senator Graham. And let the record reflect, they are beautiful children and a lovely wife.

Senator Allard. They are wonderful. All three of you no doubt played an important role in your husband and father being here today. Speaking from my own experience in public service, your love and support will continue to be instrumental to his ability to perform his public duties. You are embarking on this journey together.

I would also like to welcome Mr. Gorsuch back to the U.S. Senate. Some of you, including the Ranking Member, may remember Mr. Gorsuch from his service as a Senate page in the early 1980s. It was here in the Senate that he made his foray into public service, and developed the passion for it that exudes today.

As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community throughout the firm's 60-year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and

personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

Mr. Gorsuch began his distinguished professional career as a law clerk to Judge David Sentally on the U.S. Court of Appeals for the D.C. Circuit. He then went on to clerk for two Supreme Court justices, Justice Kennedy and Colorado's own Byron White.

Following his prestigious clerkship, Mr. Gorsuch entered private practice and became a partner in the law firm of Kellogg, Huber, Hanson, Todd, Evans & Figel. While in private practice, Mr. Gorsuch litigated matters for clients large and small, ranging from individuals, to nonprofits, to corporations.

Moreover, he litigated cases on a range of issues, from simple contract disputes to complex antitrust securities fraud matters.

He left private practice in 2005 to return to public service, this time at the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not

determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

I believe this statement also speaks to Mr. Gorsuch as a person. He is humble, unassuming, polite, and respectful. This sentiment is reflected in the numerous letters pouring into my office from people that have worked with him over the years. Mr. Gorsuch possesses the temperament befitting an appellate judge.

In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife [redacted] and his young and beautiful daughters, [redacted], here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

Following his clerkships, he spent nearly 10 years in private practice before becoming principal deputy to the Associate Attorney General of the United States.

While I do not know Mr. Gorsuch well, I have had the chance to visit with him and learn about both his personal background and his professional experience. During our meeting, I found him to be very intelligent, thoughtful, and appreciative of the great honor it is to be nominated to the Federal bench. Today's hearing will provide Mr. Gorsuch with a chance to share these qualities with the committee.

Of course, it takes much more than a great resume to be a great judge. In addition to the professional excellence as a lawyer, a judicial nominee should have a demonstrated dedication to fairness, impartiality, precedent, and the avoidance of judicial activism from both the left and the right.

By exploring Mr. Gorsuch's record, judicial philosophy and his views on a wide range of important issues, these hearings will help Senators evaluate whether Mr. Gorsuch meets that very high standard.

As always, I look forward to learning more from the careful and thorough examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

I have here with me, Senator, as well, a bit of my family that you have already been introduced to. I know my two daughters have what they would consider to be better things to do with a summer afternoon, so I am grateful that they are here with their dad.

Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

Senator, I would also like to say, I have gratitude for my family back home in Colorado. I feel their thoughts today deeply, and am looking forward to being with them soon.

I would also like to thank the members of the Department of Justice who are here, a lot of folks lending moral support, both who are appointed and a number of the career staff at the Department, who I have come to respect and admire greatly for their service to the country under very difficult conditions, often.

I also have some of my former partners and colleagues from the law firm that have come here today, and I am grateful to have them here.

Finally, my parents and grandparents, most of whom are deceased, but all of whom are here, I think, in my thoughts, and all of whom have served Colorado in many different ways over the course of their lives.

I look forward to your questions.

Senator Graham. Thank you very much. Just for the record, this is a nominee that I have a personal interest and working relationship with. I have nothing but good things to say about Mr. Gorsuch. I have enjoyed working with you at Department of Justice on all kinds of public policy issues, detainee issues and other legal matters.

I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

Senator Graham. That is very important, but you have got to understand people underneath.

What is the difference, in your opinion, if you could share with me, between being an advocate and a judge?

Mr. Gorsuch. Being an advocate is a great deal easier, in some respects. Your client's position defines your objective, and your obligation is to represent him or her zealously.

I have to tell you, Senator, I love being a lawyer. I love that aspect of the profession, of being in the

arena and fighting it out within the rules of civility, decency, and common sense.

Being a judge is, however, the greatest honor that any lawyer, practicing lawyer, could ask to have because your client becomes not an individual, a corporation, a partnership, it becomes the cause of justice. There is no greater client than that.

Senator Graham. That was well said.

I know this is something you have not really done yet. But what is your philosophy about judging and how you fit into this constitutional democracy that we have been trying to get better and tinker with for 200 years?

Mr. Gorsuch. Well, you are right, I have not done it yet so it is a little presumptuous.

Senator Graham. How you see yourself fitting in.

Mr. Gorsuch. But if I were to be confirmed, Senator, I resist pigeon holes. I think those are not terribly helpful, pigeon-holing someone as having this philosophy or that philosophy. They often surprise you. People to unexpected things and pigeon holes ignore gray areas in the law, of which there are a great many.

I can tell you how I think I would like to view approaching decisions. That is, first and foremost, with this thought in mind: to those clients who are affected, to that lawyer in the well, that may be the most important thing in their life and that case deserves the attention, the care and the scrutiny of a complete lawyer and the complete attention of the judge without being diverted by personal politics, policy preferences, or what you ate for breakfast. Those people deserve your very best at all times. There are certain tools that I think can get you there.

First, you listen to that lawyer in the well. You do not treat them as a cat's paw. He is not some pawn in a game to be played with and batted around. He is to be taken seriously. He has studied this issue for, sometimes, months, years, and lived with it.

Having litigated cases in 16 different States and Courts of Appeals, I appreciate that, and I know the importance and difficulty of that role and I respect it greatly.

The second tool, I think, is respecting your colleagues and trying to reach unanimity where possible, Senator. As a practitioner, fractured opinions are very difficult to deal with and understand what the law is sometimes. I often find that the process of getting to a single position with different minds leads to a better result.

Justice White used to tell us in chambers, "Two heads are better than one." He is right. He was one of the most humble men I ever met, and was very well aware of the limitations of any single person, though he may have been among the brightest people I ever met. So I think working with your colleagues and trying to get to agreement is hugely important.

Then, finally, precedent. Precedent is to be

respected and honored. It is not something to be diminished or demeaned. It is something you should try to uphold wherever you can, with the objective being, follow the law as written and not replace it with my own preferences, or anyone else's, Senator.

Senator Graham. The best you can, describe what you think an idealogue would be and why that would be bad.

Mr. Gorsuch. In terms of being a Federal judge, Senator?

Senator Graham. Yes.

Mr. Gorsuch. Someone who is not willing to do what I just talked about. That is, someone who is not willing to listen with an open mind to the arguments of counsel, to his colleagues, and to precedent, someone who is willing to just, willy-nilly, disregard those three things, to effect his own personal views, his politics, his personal preferences. That is unacceptable.

Senator Graham. In the area of assisted suicide and euthanasia, I think you have been a fairly prolific writer and you certainly have an interest in that area.

How will your past positions affect your ability to judge in cases that may contain those questions?

Mr. Gorsuch. Senator, my personal views, as I hope I have made clear, have nothing to do with the case before me in any case. The litigants deserve better than that, the law demands more than that.

That said, Senator, my writings, just to clarify, have been largely in defense of existing law, that is, they are consistent with the Supreme Court's decisions in this area and existing law in most places.

So, I do not think there is actually much tension between my writings and anything that might come before the court, but I can pledge to this committee, Senator, that I will reach any question before me, should I become a judge, with an open mind and listen to the arguments of counsel, the views of my colleagues and prior case law from the Supreme Court, and the various Courts of Appeals.

Senator Graham. What concern, if any, do you have about the future of the judiciary or the judiciary as it stands now?

Mr. Gorsuch. Senator, I think some of the things you have touched on are the challenges. The independence of the judiciary depends upon people in both parties being willing to serve, good people being willing to serve who are capable and willing to put aside their personal politics and preferences to decide cases and to follow the law and not try and make it.

Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk,

David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

You have lived a very beneficial and fruitful life, and I know your family is tremendously important to you. I know they appreciate the honor that has been bestowed upon you.

I would just like to leave you with one thought. I am very concerned about the future of the judiciary. I hope people in my business, the political business, will realize that being a judge and a politician are two different things. You can be a conservative judge and a liberal judge, but that is totally different than being a conservative or liberal politician.

I do hope we can get back on track--Senator Salazar's presence here today meant a lot to me--in the confirmation process so that we will encourage good men and women, from a variety of backgrounds, of wanting to be judges and not make the process so difficult that they would not want to participate. I find every reason to believe that you will be well received by the committee and the Senate as a whole, and I look forward to talking with you more. Hopefully we can get you on the bench soon.

The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

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JUDICIAL NOMINATIONS: NEIL M. GORSUCH, TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

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[redacted] COURT REPORTING

OPENING STATEMENT OF HON. LINDSEY GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator Graham. The hearing will come to order.

I apologize for being late. I would like to welcome my two colleagues from Colorado. I appreciate you taking the time to come before the committee and testify.

If you are ready, Senator Allard.

STATEMENT OF HON. WAYNE ALLARD, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Allard. Mr. Chairman, it is good to see you here. I am glad I yielded to you on the floor so you could be here to preside the committee.

Senator Graham. For the audience, he said, "I have to be at a hearing at 4:00." I said, "I do, too." Now we know why.

Senator Allard. Now we realize we are both at the same meeting. So, thank you.

Well, Chairman Graham and members of the committee, it is my pleasure to introduce to you Neil M. Gorsuch, President Bush's nominee to the U.S. Court of Appeals for the Tenth Circuit. Mr. Gorsuch is an extraordinarily well-qualified nominee and, if confirmed, would capably serve the citizens of Colorado, the Tenth Circuit, and indeed the United States.

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hope is an early indicator of broad bipartisan support for this nominee. I would also like to welcome Mr. Gorsuch's wife, [redacted] and her two children, [redacted] to the U.S. Senate.

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As a fifth-generation Coloradan, I am pleased that President Bush chose a nominee with deep Colorado roots. Born in Denver, Mr. Gorsuch is a fourth-generation Coloradan who, if confirmed, would carry on his family history of public service in the State. His mother, Ann Gorsuch, served in the Colorado State Legislature, and as EPA Director during the Reagan administration.

Moreover, his grandfather founded a successful Denver law firm, Gorsuch Kirgis, where both he and Neil's father were active in the community

throughout the firm's 60-
year history.

Neil, if confirmed, you no doubt look forward to returning to Colorado, for family and the Rocky Mountains there await you.

Mr. Chairman, if I were asked to succinctly characterize Mr. Gorsuch, I would have to say well rounded: well rounded educationally, professionally, and personally.

Mr. Gorsuch pursued a rigorous and geographically diverse course of academic study. He earned his undergraduate degree from Columbia University, including a summer at the University of Colorado, his law degree from Harvard, and a doctorate in legal philosophy from Oxford University.

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the U.S. Department of Justice, where he currently serves as a principal deputy to the Associate Attorney General.

Looking collectively at his career, the picture of an appellate judge-in-training emerges. Mr. Gorsuch has served in all three branches of the government, including the highest levels of the judicial and executive branches: he has represented both plaintiffs and defendants; he has represented both individuals and corporations; he has litigated civil cases and criminal cases; and he has litigated in both Federal and State courts.

In sum, the breadth and depth of Mr. Gorsuch's experience makes him ideally suited to serve on the Federal appellate bench. While Mr. Gorsuch is highly qualified, I also promised the people of Colorado I would support judicial nominees who I believe would rule on the law and the facts before them, not judges would legislate from the bench. My support of Mr. Gorsuch here today is consistent with that promise.

Mr. Chairman, I see my time has expired. May I have permission to finish my comments, which is just about a minute and a half?

Senator Graham. Take all the time you need.

Senator Allard. Thank you.

From my conversation with Mr. Gorsuch, I am certain that he recognizes the proper role of the judiciary. The role of the judiciary is to interpret the law, not make the law.

I believe that Mr. Gorsuch is temperamentally and intellectually inclined to stick to the facts and the law in cases that would come before him and he

would refrain from legislating from the bench.

Moreover, Mr. Gorsuch's personal views would not determine the outcome of cases that come before him. Mr. Gorsuch himself says, "Personal politics or policy preferences have no useful role in judging; regular and healthy doses of self-skepticism and humility about one's own abilities and conclusions always do."

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In conclusion, Mr. Gorsuch is a top-flight nominee who I am proud to introduce to the distinguished members of the committee. I look forward to a fair and dignified confirmation process, the outcome of which I am confident will reveal a highly qualified nominee, deserving of confirmation.

Congratulations, Neil. On behalf of the citizens of Colorado, I thank you for your willingness to serve this great country. Thank you, Mr. Chairman, for allowing me the extra time to finish the introduction of an exceptional individual.

Senator Graham. Thank you, Senator Allard. That was well done. We appreciate your testimony.

Senator Salazar?

STATEMENT OF HON. KEN SALAZAR, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Salazar. Thank you, Chairman Graham. To the chairman of this committee, Senator Specter and Senator Leahy, I thank them for their leadership, and I thank you for the work that you do on this committee.

Unfortunately, it often seems that bipartisanship is a lost art here in Washington, DC, so when I was asked to join my friend Senator Allard in introducing Neil Gorsuch to the Judiciary Committee, I was very pleased to accept that invitation.

I would also like to welcome Mr. Gorsuch's wife [redacted] and his young and beautiful daughters, [redacted] here today.

While Mr. Gorsuch has spent the majority of his professional life in Washington, DC, his roots in Colorado are strong, going back four generations. If confirmed, he will return back to Colorado, where I hope that

he will live up to the standards set by a long line of distinguished jurists from our State, including the late U.S. Supreme Court Justice Byron White.

At the young age of 38, Mr. Gorsuch has already had a very impressive legal career. After earning degrees from Columbia University, Harvard Law School and Oxford University, he went on to work and clerk on the D.C. Circuit of the U.S. Supreme Court.

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As always, I look forward to learning more from the careful and thorough

examination, which is a hallmark of this Judiciary Committee.

Chairman Specter, Senator Leahy, Senator Graham, and all my distinguished colleagues on this Judiciary Committee, I am very pleased to introduce to you a person that I believe will make an excellent judge on the Tenth Circuit Court of Appeals, Mr. Neil Gorsuch.

Senator Graham. Thanks, Senator Salazar. It was very kind of you to do this. Well done by both. Thank you very much. We appreciate you coming to the committee.

Mr. Gorsuch, if you would come forward. Raise your right hand, please.

[Whereupon, Mr. Gorsuch was duly sworn.]

Senator Graham. Well, I would like to add my welcome to you and your family, and all of your friends. I am glad to be able to chair this hearing.

I will turn over the floor to you, if you would like to say anything in an opening statement.

STATEMENT OF NEIL M. GORSUCH, NOMINATED TO BE U.S. CIRCUIT JUDGE FOR THE TENTH CIRCUIT

Mr. Gorsuch. I would like to just say a few thank-yous, Senator, if that is all right. First and foremost, to the President for nominating me, to Senator Specter and Ranking Member Leahy for holding this hearing, and to you, Senator, for agreeing to be here. I cannot tell you how much it means to me. The kind introductions from my home-State Senators, that, too, means a very great deal to me, both of them.

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Senator Graham. They are behaving better than most Senators. [Laughter].

Mr. Gorsuch. What can I say? [Laughter].

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I look forward to your questions.

Senator Graham. Thank you very much. Just for the record, this is a nominee that I have a personal interest and working relationship with. I have nothing but good things to say about Mr. Gorsuch. I have enjoyed working with you at Department of Justice on all kinds of public policy issues, detainee issues and other legal matters.

I am very impressed with your legal abilities, but more importantly, with your disposition and demeanor. What I think Senators Allard and Salazar said about you is dead on. You have a humble spirit and a keen mind. But being a judge is more than being smart.

Mr. Gorsuch. Yes, sir.

Senator Graham. That is very important, but you have got to understand people underneath.

What is the difference, in your opinion, if you could share with me, between being an advocate and a judge?

Mr. Gorsuch. Being an advocate is a great deal easier, in some respects. Your client's position defines your objective, and your obligation is to represent him or her zealously.

I have to tell you, Senator, I love being a lawyer. I love that aspect of

the profession, of being in the arena and fighting it out within the rules of civility, decency, and common sense.

Being a judge is, however, the greatest honor that any lawyer, practicing lawyer, could ask to have because your client becomes not an individual, a corporation, a partnership, it becomes the cause of justice. There is no greater client than that.

Senator Graham. That was well said.

I know this is something you have not really done yet. But what is your philosophy about judging and how you fit into this constitutional democracy that we have been trying to get better and tinker with for 200 years?

Mr. Gorsuch. Well, you are right, I have not done it yet so it is a little presumptuous.

Senator Graham. How you see yourself fitting in.

Mr. Gorsuch. But if I were to be confirmed, Senator, I resist pigeon holes. I think those are not terribly helpful, pigeon-holing someone as having this philosophy or that philosophy. They often surprise you. People to unexpected things and pigeon holes ignore gray areas in the law, of which there are a great many.

I can tell you how I think I would like to view approaching decisions. That is, first and foremost, with this thought in mind: to those clients who are affected, to that lawyer in the well, that may be the most important thing in their life and that case deserves the attention, the care and the scrutiny of a complete lawyer and the complete attention of the judge without being

diverted by personal politics, policy preferences, or what you ate for breakfast. Those people deserve your very best at all times. There are certain tools that I think can get you there.

First, you listen to that lawyer in the well. You do not treat them as a cat's paw. He is not some pawn in a game to be played with and batted around. He is to be taken seriously. He has studied this issue for, sometimes, months, years, and lived with it.

Having litigated cases in 16 different States and Courts of Appeals, I appreciate that, and I know the importance and difficulty of that role and I respect it greatly.

The second tool, I think, is respecting your colleagues and trying to reach unanimity where possible, Senator. As a practitioner, fractured opinions are very difficult to deal with and understand what the law is sometimes. I often find that the process of getting to a single position with different minds leads to a better result.

Justice White used to tell us in chambers, "Two heads are better than one." He is right. He was one of the most humble men I ever met, and was very well aware of the limitations of any single person, though he may have been among the brightest people I ever met. So I think working with your colleagues and trying to get to agreement is hugely important.

Then, finally, precedent. Precedent is to be respected and honored. It is not something to be diminished or demeaned. It is something you should try to uphold wherever you can, with the objective being, follow the law as

written and not replace it with my own preferences, or anyone else's, Senator.

Senator Graham. The best you can, describe what you think an idealogue would be and why that would be bad.

Mr. Gorsuch. In terms of being a Federal judge, Senator?

Senator Graham. Yes.

Mr. Gorsuch. Someone who is not willing to do what I just talked about. That is, someone who is not willing to listen with an open mind to the arguments of counsel, to his colleagues, and to precedent, someone who is willing to just, willy-nilly, disregard those three things, to effect his own personal views, his politics, his personal preferences. That is unacceptable.

Senator Graham. In the area of assisted suicide and euthanasia, I think you have been a fairly prolific writer and you certainly have an interest in that area.

How will your past positions affect your ability to judge in cases that may contain those questions?

Mr. Gorsuch. Senator, my personal views, as I hope I have made clear, have nothing to do with the case before me in any case. The litigants deserve better than that, the law demands more than that.

That said, Senator, my writings, just to clarify, have been largely in defense of existing law, that is, they are consistent with the Supreme Court's decisions in this area and existing law in most places.

So, I do not think there is actually much tension between my writings

and anything that might come before the court, but I can pledge to this committee, Senator, that I will reach any question before me, should I become a judge, with an open mind and listen to the arguments of counsel, the views of my colleagues and prior case law from the Supreme Court, and the various Courts of Appeals.

Senator Graham. What concern, if any, do you have about the future of the judiciary or the judiciary as it stands now?

Mr. Gorsuch. Senator, I think some of the things you have touched on are the challenges. The independence of the judiciary depends upon people in both parties being willing to serve, good people being willing to serve who are capable and willing to put aside their personal politics and preferences to decide cases and to follow the law and not try and make it.

Senator Graham. Of all the jobs you have had, which job do you think has the most relevance to what you are about to attempt to do here?

Mr. Gorsuch. Well, I cannot help but think back to my clerkships, and most particularly my time with Justice White. I cannot help but go back and think there. If confirmed, I would be serving at the Justice Byron White Courthouse and replacing former Justice White law clerk, David E. Bell, a wonderful judge. That is a humbling, humbling though, Senator.

Senator Graham. Well, I have the statement of Senator Leahy I would like to submit for the record. I know he wishes he could be here, but we will introduce his statement in the record.

[The prepared statement of Senator Leahy appears in the appendix.]

Senator Graham. Is there anything else you would like to let the committee know about?

Mr. Gorsuch. Just that I am very honored to be here, very pleased to be here. Thank you very much, Senator, for chairing this.

Senator Graham. The record will remain open until June 28 at 5:00 p.m.

I would just close the hearing with a personal observation. I have had the pleasure of working with Mr. Gorsuch during my time in the Senate, and not only are you intellectually gifted, you do seem to have all of the qualities that I would be looking for in terms of someone with the power to wear the robe.

You have lived a very beneficial and fruitful life, and I know your family is tremendously important to you. I know they appreciate the honor that has been bestowed upon you.

I would just like to leave you with one thought. I am very concerned about the future of the judiciary. I hope people in my business, the political business, will realize that being a judge and a politician are two different things. You can be a conservative judge and a liberal judge, but that is totally different than being a conservative or liberal politician.

I do hope we can get back on track--Senator Salazar's presence here today meant a lot to me--in the confirmation process so that we will encourage good men and women, from a variety of backgrounds, of wanting to be judges and not make the process so difficult that they would not want to

participate. I find every reason to believe that you will be well received by the committee and the Senate as a whole, and I look forward to talking with you more. Hopefully we can get you on the bench soon.

The hearing is adjourned.

[Whereupon, at 4:28 p.m. the hearing was adjourned.]

A

I N D E X

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STATEMENT OF:

THE HONORABLE LINDSEY GRAHAM
A United States Senator
from the State of South Carolina 2

A Panel Consisting of:

[redacted] COURT REPORTING

THE HONORABLE WAYNE ALLARD
A United States Senator
from the State of Colorado 3

THE HONORABLE KEN SALAZAR
A United States Senator
from the State of Colorado 9

A Panel Consisting of:

MR. NEIL M. GORSUCH
Nominated to be U.S. Circuit Judge
for the Tenth Circuit 12

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Tuesday, June 27, 2006 5:14 PM
To: Gorsuch, Neil M

I have chatted with Rachel. I assume that the ball is in Monica's court at this point?

Moschella, William

From:	Moschella, William
Sent:	Tuesday, June 27, 2006 5:39 PM
To:	Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Hertling, Richard
Cc:	Cook, Elisebeth C; McIntosh, Brent; Oldham, Jeffrey L; Blank, Kelly
Subject:	Re: Attorney-client privilege issue

And they would like the DAG to testify.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Clinger, James H
To: Clinger, James H; Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Hertling, Richard
CC: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Sent: Tue Jun 27 15:56:56 2006
Subject: RE: Attorney-client privilege issue

Will heard from Chairman Specter's staff earlier today that Senate Judiciary -- no doubt emboldened by Judge Kaplan's ruling in the KPMG case -- has decided to hold a hearing on the Thompson memo and related issues on Tuesday, July 11.

From: Clinger, James H
Sent: Monday, May 15, 2006 11:55 AM
To: Brand, Rachel; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Gorsuch, Neil M; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG)
Cc: Cook, Elisebeth C; McIntosh, Brent; Moschella, William; Oldham, Jeffrey L; Blank, Kelly
Subject: RE: Attorney-client privilege issue

Per [redacted] Chairman Specter is looking to do a hearing (not a markup) on the attorney-client privilege waiver issue "at the end of June, possibly June 28," although that date is very tentative at this point. [redacted] indicated that [redacted] would be interested in having representatives of the Department brief relevant Committee staff on our policy sometime in early June.

-----Original Message-----
From: Moschella, William
To: Gorsuch, Neil M
Sent: Tue May 09 17:23:40 2006
Subject: Re: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

We probably should brief his staff because I bet he would take the ABA's position.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel; McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew; Moschella, William; Seidel, Rebecca
CC: McIntosh, Brent; Cook, Elisebeth C; Oldham, Jeffrey L
Sent: Tue May 09 16:08:16 2006
Subject: Re: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Jeff Oldham raises the good question whether we have any idea where Sen Specter is on this issue and what the chances are that he might seek to do something legislatively. Adding Will and Rebecca.

-----Original Message-----
From: Brand, Rachel
To: McCallum, Robert (SMO); Tenpas, Ronald J (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG); Fisher, Alice; Friedrich, Matthew
CC: McIntosh, Brent; Cook, Elisebeth C
Sent: Tue May 09 16:01:04 2006
Subject: FW: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver

Thought you might want to see this letter.

At my little talk last week to the ABA group that was in town to lobby the Congress, [redacted] made some pretty scathing remarks about DOJ's "corrosive" policy on attorney-client privilege before launching into a very gracious introduction of me.

-----Original Message-----
From: [redacted]
Sent: Tuesday, May 09, 2006 3:56 PM
To: [redacted]
Subject: FW: Letter from [redacted] to Sen. Arlen Specter Regarding Privilege Waiver
Importance: Low

Attached is a copy of the letter that [redacted] sent to Senate Judiciary Committee Chairman Arlen Specter today as a follow-up to their meeting on May 3, 2006 (along with my transmittal e-mail to Senator Specter's Chief of Staff below). In the attached letter, [redacted] provides the additional information regarding erosion of the attorney-client privilege that Sen. Specter requested during the meeting and he reiterates the ABA's earlier request that the Senate Judiciary Committee hold a hearing on this general subject in the near future.

Regards,

[redacted]

[redacted]

> _____
> From: [redacted]
> Sent: Tuesday, May 09, 2006 3:36 PM
> To: [redacted]@specter.senate.gov'
> Cc: [redacted]
> [redacted]
> Subject: Letter from [redacted] to Sen. Arlen
> Specter Regarding Privilege Waiver
>
> May 9, 2006
>
> [redacted]
> [redacted] > to Sen. Arlen Specter > United States Senate >
Washington, D.C. 20510
>
> Dea[redacted]
>
> Attached is a letter from [redacted] to Sen.
> Specter regarding their meeting on May 3, 2006. In this letter, [redacted]
> [redacted] thanks Sen. Specter for the meeting and provides additional > information regarding
government-coerced waiver of the attorney-client > privilege that the Senator requested. Please give a
copy of this > letter to Sen. Specter. Also, please forward a copy of the letter to > the two staff people
who attended the meeting [redacted] and > [redacted] By copy of this e-mail, I am
providing copies of > this letter to the other ccs listed at the end of the letter, other > than [redacted]
and [redacted]
>
> Thank you very much for your assistance. If you have any questions, > please let me know.
>
> Sincerely,
>
> [redacted]

>

> <<attyclientprivissue(abalettertosenspecter,may9,2006).pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 5:54 PM
To: Cook, Elisebeth C
Subject: RE:

It is for the moment.

From: Cook, Elisebeth C
Sent: Tuesday, June 27, 2006 5:14 PM
To: Gorsuch, Neil M
Subject:

I have chatted with Rachel. I assume that the ball is in Monica's court at this point?

Chemtob, Stuart

From: Chemtob, Stuart
Sent: Tuesday, June 27, 2006 6:11 PM
To: Gorsuch, Neil M
Subject: RE: China Limited Liability Partnerships

Thanks Neil. Let me talk to Commerce Department again, and see where they stand, and if they have any dates and details yet.

Best,
Stu

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:37 AM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Stuart, I am no expert on partnership law though I have litigated some partnership issues. I am happy to help if there's no better person available, though would need to know dates, etc. and probably could use some help preparing. Best, Neil

-----Original Message-----
From: Chemtob, Stuart
Sent: Monday, June 26, 2006 10:54 AM
To: Gorsuch, Neil M
Subject: China Limited Liability Partnerships

Neil,

I heard you had your hearing last week, and it reportedly went well. Congratulations.

I've received an inquiry from the Commerce Department on whether we have anyone knowledgeable about Partnership Law, and LLPs, who might be willing to participate in a seminar in China next month sponsored by the Chinese National People's Congress, which is reviewing revisions to China's Partnership Law. Your name came up as someone who might meet the first element. See the list of questions below from the Legislative Affairs Commission of the NPC. If you are interested in following up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know.

Thanks,
Stu

-----Original Message-----
From: [redacted]@ita.doc.gov [mailto:[redacted]@ita.doc.gov]
Sent: Monday, June 26, 2006 10:29 AM
To: Chemtob, Stuart

To: Chemtob, Stuart
Cc: [redacted]@ita.doc.gov
Subject:

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

BEIJING, April 25(Xinhua)-- China's top legislature, the Standing Committee of the National People's Congress(NPC), on Tuesday deliberated the draft amendment to Partnership Law, aiming to establish limited partnership and limited liability partnership.
Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.
The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

[redacted]
International Trade Specialist
Office of the Chinese Economic Area
Market Access and Compliance
International Trade Administration
U.S. Department of Commerce
Tel: [redacted]
Fax: (202) 482-1576
Email: [redacted]@ita.doc.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 6:30 PM
To: Macklin, Kristi R; Roehrkasse, Brian; Best, David T; Cook, Elisebeth C; Seidel, Rebecca
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

Kat - Would you let me know what the reporter says once you've spoken with [redacted]?

From: Macklin, Kristi R
Sent: Tuesday, June 27, 2006 4:32 PM
To: Roehrkasse, Brian; Gorsuch, Neil M; Best, David T; Cook, Elisebeth C; Seidel, Rebecca
Cc: Blomquist, Kathleen M
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Sent: Tuesday, June 27, 2006 3:13 PM
To: Gorsuch, Neil M
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Sent: Tuesday, June 27, 2006 6:42 PM
To: Gorsuch, Neil M
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Neil,

It sounded like traditional coverage of nominees. [redacted] said it's going to be a short piece on your and [redacted]. [redacted] mentioned criticism of [redacted], and I think [redacted] waiting to see your answers to help determine what [redacted] write about you.

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Kat,

We need to get the package up to the Committee. I'll let you know once that happens and then you can call the reporter back and indicate that the responses have been sent to the committee and that [redacted] should call them for any comment.

From: Roehrkasse, Brian
Sent: Tuesday, June 27, 2006 3:33 PM
To: Gorsuch, Neil M; Macklin, Kristi R; Best, David T; Cook, Elisebeth C
Cc: Blomquist, Kathleen M
Subject: RE: Phone message - National Law Journal

If someone wants to get a response, Kat in our office can respond.

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 3:15 PM
To: Macklin, Kristi R; Best, David T; Cook, Elisebeth C; Roehrkasse, Brian
Subject: FW: Phone message - National Law Journal

I have not returned the call and don't plan to do so. Should OLP or OLC?

From: Gunn, Currie (SMO)
Sent: Tuesday, June 27, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: Phone message - National Law Journal

Pls call [redacted] w/the National Law Journal re: your nomination and if you have a timetable as to when you will answer the Senate questions. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 6:52 PM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Thanks very much; while not lobbying for the job, I'm happy to do it.

-----Original Message-----
From: Chemtob, Stuart
Sent: Tuesday, June 27, 2006 6:11 PM
To: Gorsuch, Neil M
Subject: RE: China Limited Liability Partnerships

Thanks Neil. Let me talk to Commerce Department again, and see where they stand, and if they have any dates and details yet.

Best,
Stu

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:37 AM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Stuart, I am no expert on partnership law though I have litigated some partnership issues. I am happy to help if there's no better person available, though would need to know dates, etc. and probably could use some help preparing. Best, Neil

-----Original Message-----
From: Chemtob, Stuart
Sent: Monday, June 26, 2006 10:54 AM
To: Gorsuch, Neil M
Subject: China Limited Liability Partnerships

Neil,

I heard you had your hearing last week, and it reportedly went well. Congratulations.

I've received an inquiry from the Commerce Department on whether we have anyone knowledgeable about Partnership Law, and LLPs, who might be willing to participate in a seminar in China next month sponsored by the Chinese National People's Congress, which is reviewing revisions to China's Partnership Law. Your name came up as someone who might meet the first element. See the list of questions below from the Legislative Affairs Commission of the NPC. If you are interested in following up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know

up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know.

Thanks,
Stu

-----Original Message-----
From: [redacted]@ita.doc.gov [mailto[redacted]@ita.doc.gov]
Sent: Monday, June 26, 2006 10:29 AM
To: Chemtob, Stuart
Cc: [redacted]@ita.doc.gov
Subject:

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

BEIJING, April 25(Xinhua)-- China's top legislature, the Standing Committee of the National People's Congress(NPC), on Tuesday deliberated the draft amendment to Partnership Law, aiming to establish limited partnership and limited liability partnership.
Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.
The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

[redacted]
International Trade Specialist
Office of the Chinese Economic Area
Market Access and Compliance
International Trade Administration
U.S. Department of Commerce
Tel: [redacted]
Fax: (202) 482-1576
Email: [redacted]@ita.doc.gov

Keisler, Peter D (CIV)

From: Keisler, Peter D (CIV)
Sent: Tuesday, June 27, 2006 7:01 PM
To: Gorsuch, Neil M
Subject: Read: Tenet

Peed, Carl

From: Peed, Carl
Sent: Tuesday, June 27, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: Read: OASG

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, June 27, 2006 7:54 PM
To: Hertling, Richard; Clinger, James H; Gorsuch, Neil M
Subject: FW: volunteer protection bills
Attachments: tmp.htm

see below. Will follow up.

-----Original Message-----
From: [redacted]@HHS.GOV [mailto[redacted]@HHS.GOV]
Sent: Tuesday, June 27, 2006 7:40 PM
To: Seidel, Rebecca
Subject: Re: indian health

Have you shopped this with the hill? If so, what was reaxn?

HELP Committee has some interest in context of BT reauth.

Do you have folks who could go up and walk thru it with staff in next few days?

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
To:[redacted]HHS/ASL)
CC: Karen.L.Wilson@usdoj.gov <Karen.L.Wilson@usdoj.gov>
Sent: Tue Jun 27 19:36:40 2006
Subject: RE: indian health

yes

-----Original Message-----
From:[redacted]@HHS.GOV [mailto[redacted]@HHS.GOV]
Sent: Tuesday, June 27, 2006 7:31 PM
To: Seidel, Rebecca
Cc: Wilson, Karen L
Subject: Re: indian health

Ugh. I can't even imagine

Think its fair for yall to beg out of what will obviously be merely the first of a new string of endless meetings. Once you get a better sense of things, perhaps next week over recess, it might be worthwhile to touch base on the bill....

On a separate issue, last year post-katrina, doj developed and cleared volunteer protxn act amdts.

Would you handle this issue for yall?

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
To: [redacted](HHS/ASL)
CC: Karen.L.Wilson@usdoj.gov <Karen.L.Wilson@usdoj.gov>
Sent: Tue Jun 27 19:22:49 2006
Subject: RE: indian health

I doubt it, we are displaced persons and can't communicate with all our people. We are running crazy trying to respond. Karen's first day back in office is tomorrow. I am booked tomorrow. We have temp space and not doing well. Not goig to get into main DOJ for a while yet.

-----Original Message-----
From [redacted]@HHS.GOV [mailto [redacted]@HHS.GOV]
Sent: Tuesday, June 27, 2006 6:58 PM
To: Seidel, Rebecca
Cc: Wilson, Karen L
Subject: RE: indian health

Y'all going to meeting tomorrow?

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Tuesday, June 27, 2006 6:48 PM
To: [redacted](HHS/ASL)
Cc: Karen.L.Wilson@usdoj.gov
Subject: RE: indian health

still hate it.

From: [redacted]@HHS.GOV [mailto [redacted]@HHS.GOV]
Sent: Tuesday, June 27, 2006 5:56 PM
To: Seidel, Rebecca
Subject: indian health

What's y'alls take on the new draft?

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Sent: Tuesday, June 27, 2006 5:56 PM
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What's y'alls take on the new draft?

Garre, Gregory G

From: Garre, Gregory G
Sent: Tuesday, June 27, 2006 8:28 PM
To: Gorsuch, Neil M
Subject: Read: How can I reach you?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 9:46 PM
To: Seidel, Rebecca; Hertling, Richard; Clinger, James H
Subject: Re: volunteer protection bills

Happy to help in any way.

-----Original Message-----
From: Seidel, Rebecca
To: Hertling, Richard; Clinger, James H; Gorsuch, Neil M
Sent: Tue Jun 27 19:54:30 2006
Subject: FW: volunteer protection bills

see below. Will follow up.

-----Original Message-----
From: [redacted]@HHS.GOV [mailto [redacted]@HHS.GOV]
Sent: Tuesday, June 27, 2006 7:40 PM
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To: [redacted] (HHS/ASL)
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Subject: RE: indian health

still hate it.

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Sent: Tuesday, June 27, 2006 5:56 PM
To: Seidel, Rebecca
Subject: indian health

What's y'alls take on the new draft?

Chemtob, Stuart

From: Chemtob, Stuart
Sent: Tuesday, June 27, 2006 10:07 PM
To: Gorsuch, Neil M
Subject: Read: China Limited Liability Partnerships

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 8:26 AM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Meetings

Currie - If possible, it would be nice to continue holding our weekly mtgs w components. Could you work with Tiffini at the front desk and see if we can use the main conf room (1613) for the CIV mtg today, and then let CIV know where we are gathering? It might make sense to do the same with the rest of our component meetings for this week. Thanks!

Full Name: Courtney Elwood
Last Name: Elwood
First Name: Courtney
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 5123
Washington, DC 20530

Business: 202-514-2267

E-mail: Courtney.Elwood@SMOJMD.USDOJ.gov
E-mail Display As: Courtney.Elwood@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163166

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, June 28, 2006 8:43 AM
Subject: Implemention of Contingency Operations for T&A Reporting

Time and Attendance Notice for Staffs Affected by the Main Building Closure

Due to the closure of the RFK Main Justice Building located at 950 Pennsylvania Ave. NW, we are implementing alternate procedures for time and attendance (T&A) reporting for offices relocated from the Main Building, as well as for some Metropolitan area buildings whose internet access to the NFC T&A application is routed thru the Main Building. Accordingly, the Finance Staff's Human Resource Systems Analysis Group (HRSAG) has implemented contingency operations for T&A reporting for timekeepers 1) displaced due to the Main Building closure, or 2) whose Internet access to the T&A application has been affected by the Main Building closure.

Therefore,

1) if timekeepers have their T&A source documentation but do not have access to the NFC STARWEB application, they should contact HRSAG immediately on 202-616-6328 to make arrangements to use the Finance Staff's training room to key and transmit their T&As.

2) if the timekeepers do not have their source documentation, or timekeepers are unavailable, the affected offices should contact HRSAG no later than Wednesday, June 28 at 12:00 noon. HRSAG staff will begin to monitor the missing T&A report to identify employees whose T&A has not been transmitted for pay period 12. By Close of Business Wednesday, HRSAG staff will prepare T&As for these affected offices based on the standard tour of duty of 80 hours (40 hours for part-time employees).

3) if organizations outside of the Main Building are having difficulty connecting to the NFC T&A application, they should contact HRSAG immediately so that alternative methods can be arranged for T&A reporting.

Any questions concerning this email should be directed to the Human Resource Systems Analysis Group on (202) 616-6328.

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, June 28, 2006 8:49 AM
To: Gorsuch, Neil M
Subject: Read: Meetings

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, June 28, 2006 9:02 AM
Subject: Temporary Closing - Robert F. Kennedy Department of Justice (MAIN Building)

Temporary Closing – Robert F. Kennedy Department of Justice (MAIN Building)

Like several other buildings along Constitution Avenue, the Department of Justice Robert F. Kennedy (RFK) (MAIN Justice) Building experienced basement flooding and storm-related electrical outages due to Sunday evening's storm. The Department is in the process of implementing our well established continuity of operations plan to ensure that all essential Justice Department functions continue to operate efficiently in the designated alternate locations. Only a tiny fraction – less than 2 percent – of the Department's 120,000 person work force operates out of the affected RFK Building and all impacted and essential personnel are now working out of designated alternate locations. We are working around the clock to restore operational capacity to the RFK Building although it is unclear at this time when the building will be functional.

In the meantime, the Department of Justice will continue to execute all of the important responsibilities on behalf of the American people. Although the RFK Building is closed for the remainder of this week (July 1, 2006), the Department of Justice is fully operational.

Following is important information pertaining to employees who report for duty in the RFK Building, as well as information regarding services normally offered through MAIN Justice.

Employee Information

Essential Employees who normally report for duty in the RFK Building must report on time to their designated alternative work site location. Essential employees are expected to work their normal work schedules, unless notified by their supervisors or take the appropriate leave. **Non-Essential Employees** will be granted administrative leave and should NOT report to work unless required by your component to report to an alternate work site location. Employees can direct questions to their supervisor or the DOJ switchboard at 202-514-2000.

Time and Attendance (T&A): We are implementing alternate procedures for time and attendance (T&A) reporting for offices relocated from the Main Building, as well as for some Metropolitan area buildings whose internet access to the NFC T&A application is routed thru the Main Building. Accordingly, the Finance Staff's Human Resource Systems Analysis Group (HRSAG) has implemented contingency operations for T&A reporting for timekeepers (1) displaced due to the Main Building closure, or (2) whose Internet access to the T&A application has been affected by the Main Building closure as follows:

Timekeepers should follow the procedures issued by HRSAG. If you encounter problems or have questions regarding T&As contact the Human Resource Systems Analysis Group on (202) 616-6328.

MAIN Justice Services

Multimedia Services: All Multimedia services are suspended until further notice, if you have an immediate need please contact Paula Scholz on 202-305-5058.

Conference Room Schedules: Please contact Paula Scholz on 202-305-5058 for questions on existing reservations or to book a new reservation in MAIN 7404, 7411, the Andretta Room, NPB 1160, 1030, or PHB LL104.

Mail Services: The MAIN mailroom has been relocated to PHB along with the Special Messenger desk. The temporary phone number to arrange for a Special Messenger is 301-261-5582. All components in MAIN that have relocated to alternate work locations are being provided mail services to meet their needs. If you have a requirement for alternate arrangements for mail services please contact Evie Sassok on 240-286-5669.

Consolidated Executive Office (CEO): CEO will continue to service customers from their alternate work site at the Landover Operations Center. You may contact the CEO at their main number 202-514-5537.

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 28, 2006 9:04 AM
To: Gorsuch, Neil M
Subject: Read: Meetings

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 28, 2006 9:05 AM
To: Gorsuch, Neil M; Shaw, Aloma A
Cc: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Subject: RE: Meetings

I spoke with Robert about this yesterday, he had decided to do calls for this week.

Currie

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 8:26 AM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Meetings

Currie - If possible, it would be nice to continue holding our weekly mtgs w components. Could you work with Tiffini at the front desk and see if we can use the main conf room (1613) for the CIV mtg today, and then let CIV know where we are gathering? It might make sense to do the same with the rest of our component meetings for this week. Thanks!

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, June 28, 2006 9:14 AM
To: Gorsuch, Neil M
Subject: Read: Meetings

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 9:24 AM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Re: Meetings

How are we going to do that logistically?

-----Original Message-----
From: Gunn, Currie (SMO)
To: Gorsuch, Neil M; Shaw, Aloma A
CC: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Sent: Wed Jun 28 09:05:04 2006
Subject: RE: Meetings

I spoke with Robert about this yesterday, he had decided to do calls for this week.

Currie

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 8:26 AM
To: Gunn, Currie (SMO); Shaw, Aloma A
Cc: McCallum, Robert (SMO); Swenson, Lily F; Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Meetings

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Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Wednesday, June 28, 2006 9:26 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: We are back online

Fyi, as of 8:15 this morning, we have bb access. I'm at the beach; back in the office on 7-6. The CRT front office is in PHB. Will circulate a list with their specific contact info later.

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Wednesday, June 28, 2006 9:34 AM
To: Gorsuch, Neil M
Subject: Quick ring
Attachments: tmp.htm

Could you give me a quick call when you've got a second? 456-2721.

Could you give me a quick call when you've got a second? 456-2721.

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Wednesday, June 28, 2006 9:45 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: Re: We are back online

CIVIL RIGHTS DIVISION
OFFICE OF THE ASSISTANT ATTORNEY GENERAL (TEMP ASSIGNMENTS) NAME TITLE NO PDN CELL I/C ROOM

Wan J. Kim

AAG

514-2151

[redacted] (bb)
(int. c)
(pc)

[redacted]

Asheesh Agarwal

DAAG

353-7957

305-4044

[redacted] bb)

054
PHB-5116 CRM

Grace C. Becker

DAAG

353-0742

514-6247

[redacted] (bb)
(pc)

079

PHB-5112
CRM

Anna P. Benjamin

Staff Assistant

514-2151

[redacted] (pc)

PHB-5205
CRM

Rena J. Comisac

PDAAG

353-9065

514-6247
[redacted] (cell)
(bb)

079
PHB-5002
CRM

Roxsand Devese

Secretary:
Agarwal/McKnight

PHB-5406A
CRM

Matt Dummermuth

Counsel

514-2337

[redacted] (bb)

PHB-5538
CRM

Nathaniel Gamble II

Secretary: Kim/Comisac

PHB-5406A
CRM

Jacqueline Greene

Secretary:
King/Longwitz/Treene

PHB-5407A
CRM

Mia Harrison

Secretary:
Dummermuth/ Little

307-3284

011

PHB-5141
CRM
Jane Hertz
Volunteer Student

Valissa B. Johnson

Secretary: Becker/Quinn

PHB-5407A
CRM

Loretta King

DAAG

616-1278

514-4866

[redacted] (bb)

023
PHB-5130
CRM

Kimani Little

Special Assistant

305-4441

514-8463

[redacted] (bb)

PHB-5027A SPL

Tobi Longwitz

Tobi Longwitz

Counsel

514-3845

514-4018
[redacted] (bb)
(pc)

020
PHB-5526
CRM

Cynthia McKnight

Counsel

305-0864

616-2249

[redacted] (c)

PHB-5027B
SPL

Brandie S. Miller

Student

353-8407

PHB-5339

CRM

Cameron Quinn

Counsel

305-9750

616-3068
[redacted](bb)
(pc)

PHB-5027
SPL

Eric Treene

Counsel

353-8622

[redacted](bb)

PHB-5805
CRM
PLEASE NOTE-NUMBERS IN BOLD ARE THE TEMPORARY INFORMATION

The Main Number for the Office of the Assistant Attorney General for the Civil Rights Division (514-2151) will be placed on the phones of some of the Secretaries. The business lines for the AAG and Deputy AAGs will also be added to the Secretaries' phones and they will be transferring calls as they are received.

ANY FURTHER CHANGES WILL BE SENT AS SOON AS WE RECEIVE THEM.

-----Original Message-----
From: Kim, Wan (CRT)
To: Elwood, Courtney; Gorsuch, Neil M
Sent: Wed Jun 28 09:25:34 2006
Subject: We are back online

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Gorsuch, Neil M

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Sent: Wednesday, June 28, 2006 9:49 AM
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Cc: Elwood, Courtney
Subject: RE: We are back online

V helpful; thanks!

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CIVIL RIGHTS DIVISION
OFFICE OF THE ASSISTANT ATTORNEY GENERAL (TEMP ASSIGNMENTS) NAME TITLE NO PDN CELL I/C ROOM

Wan J. Kim

AAG

514-2151

[redacted] (bb)
(int. c)
(pc)

[redacted]

Asheesh Agarwal

DAAG

353-7957

305-4044

[redacted](bb)

054
PHB-5116 CRM

Grace C. Becker

DAAG

353-0742

514-6247

[redacted](bb)
(pc)

079

PHB-5112
CRM

Anna P. Benjamin

Staff Assistant

514-2151

[redacted](pc)

PHB-5205
CRM

Rena J. Comisac

PDAAG

353-9065

514-6247
[redacted] cell)
[redacted] bb)

079
PHB-5002
CRM

Roxsand Devese

Secretary:
Agarwal/McKnight

PHB-5406A
CRM

Matt Dummermuth

Counsel

514-2337

[redacted] (bb)

PHB-5538
CRM

Nathaniel Gamble II

Secretary: Kim/Comisac

PHB-5406A
CRM

Jacqueline Greene

Secretary:
King/Longwitz/Treene

PHB-5407A
CRM

Mia Harrison

Secretary:
Dummermuth/ Little

307-3284

011

PHB-5141
CRM
Jane Hertz
Volunteer Student

Valissa B. Johnson

Secretary: Becker/Quinn

PHB-5407A
CRM

Loretta King

DAAG

616-1278

514-4866

[redacted] (bb)

023
PHB-5130
CRM

Kimani Little

Special Assistant

305-4441

514-8463

[redacted](bb)

PHB-5027A SPL

Tobi Longwitz

Counsel

514-3845

514-4018
[redacted](bb)
(pc)

020
PHB-5526
CRM

Cynthia McKnight

Counsel

305-0864

616-2249

[redacted](c)

PHB-5027B
SPL

Brandie S. Miller

Student

353-8407

PHB-5339
CRM

Cameron Quinn

Counsel

305-9750

616-3068
[redacted](bb)
[redacted](pc)

PHB-5027
SPL

Eric Treene

Counsel

353-8622

[redacted](bb)

PHB-5805
CRM
PLEASE NOTE-NUMBERS IN BOLD ARE THE TEMPORARY INFORMATION

The Main Number for the Office of the Assistant Attorney General for the Civil Rights Division (514-2151) will be placed on the phones of some of the Secretaries. The business lines for the AAG and Deputy AAGs will also be added to the Secretaries' phones and they will be transferring calls as they are received.

ANY FURTHER CHANGES WILL BE SENT AS SOON AS WE RECEIVE THEM.

-----Original Message-----
From: Kim, Wan (CRT)
To: Elwood, Courtney; Gersuch, Neil M.

To: Elwood, Courtney; Gorsuch, Neil M
Sent: Wed Jun 28 09:25:34 2006
Subject: We are back online

Fyi, as of 8:15 this morning, we have bb access. I'm at the beach; back in the office on 7-6. The CRT front office is in PHB. Will circulate a list with their specific contact info later.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 9:49 AM
To: Todd, Gordon (SMO)
Subject: FW: We are back online

FYI

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Wednesday, June 28, 2006 9:45 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: Re: We are back online

CIVIL RIGHTS DIVISION
OFFICE OF THE ASSISTANT ATTORNEY GENERAL (TEMP ASSIGNMENTS) NAME TITLE NO PDN CELL I/C ROOM

Wan J. Kim

AAG

514-2151

[redacted] (bb)
(int. c)
(pc)

[redacted]

Asheesh Agarwal

DAAG

353-7957

305-4044

[redacted]

054
PHB-5116 CRM

Grace C. Becker

DAAG

353-0742

514-6247

[redacted](bb)
(pc)

079

PHB-5112
CRM

Anna P. Benjamin

Staff Assistant

514-2151

[redacted](pc)

PHB-5205

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353-9065

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079
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Jacqueline Greene

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King/Longwitz/Treene

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(pc)

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Sent: Wed Jun 28 09:23:54 2006
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Chemtob, Stuart

From:	Chemtob, Stuart
Sent:	Wednesday, June 28, 2006 9:51 AM
To:	Gorsuch, Neil M
Subject:	RE: China Limited Liability Partnerships

Neil,

I talked with Commerce again. They will contact the Chinese to try to determine when the seminar might be held. Commerce asked if you could indicate which of the questions would you feel comfortable addressing in the seminar, which will be attended by Chinese government officials, lawyers and academics. Commerce has money to send one or two people to the seminar, and has also been talking to the ABA about possible candidates. Also they asked if you could send them a bio.

Thanks,
Stu

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 6:52 PM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Thanks very much; while not lobbying for the job, I'm happy to do it.

-----Original Message-----
From: Chemtob, Stuart
Sent: Tuesday, June 27, 2006 6:11 PM
To: Gorsuch, Neil M
Subject: RE: China Limited Liability Partnerships

Thanks Neil. Let me talk to Commerce Department again, and see where they stand, and if they have any dates and details yet.

Best,
Stu

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, June 27, 2006 10:37 AM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Stuart, I am no expert on partnership law though I have litigated some partnership issues. I am happy to help if there's no better person available, though would need to know dates, etc, and probably could

to help if there's no better person available, though would need to know dates, etc. and probably could use some help preparing. Best, Neil

-----Original Message-----
From: Chemtob, Stuart
Sent: Monday, June 26, 2006 10:54 AM
To: Gorsuch, Neil M
Subject: China Limited Liability Partnerships

Neil,

I heard you had your hearing last week, and it reportedly went well. Congratulations.

I've received an inquiry from the Commerce Department on whether we have anyone knowledgeable about Partnership Law, and LLPs, who might be willing to participate in a seminar in China next month sponsored by the Chinese National People's Congress, which is reviewing revisions to China's Partnership Law. Your name came up as someone who might meet the first element. See the list of questions below from the Legislative Affairs Commission of the NPC. If you are interested in following up on this, or have ideas of anyone else in the Department who might fit the bill, please let me know.

Thanks,
Stu

-----Original Message-----
From: [redacted]@ita.doc.gov [mailto[redacted]@ita.doc.gov]
Sent: Monday, June 26, 2006 10:29 AM
To: Chemtob, Stuart
Cc: [redacted]@ita.doc.gov
Subject:

Stu:

Per your phone message, NPC LAC urgently seeks assistance in updating the Partnership Law, which has been submitted to NPC for revision. Their interest focuses on limited partnership, which would be a new addition to the law. The latest indication we got from LAC is that they may want to hold a seminar on the revision of the Partnership Law next month. We just received a list of questions, my unofficial translation attached, focusing on the limited partnership issue. Attached are also a Xinhua report and the existing Partnership Law. We have been unable to secure a copy of the revised law.

BEIJING, April 25(Xinhua)-- China's top legislature, the Standing Committee of the National People's Congress(NPC), on Tuesday deliberated the draft amendment to Partnership Law, aiming to establish limited partnership and limited liability partnership.
Establishing limited partnership is conducive to the development of the risk investment of high-tech enterprises. Establishing limited liability

partnership will help promote the development of professional services, such as accounting firms andlawyer firms, in China.
The 21st session of the 10th NPC Standing Committee will be held from April 25 to 29. Enditem

[redacted]
International Trade Specialist
Office of the Chinese Economic Area
Market Access and Compliance
International Trade Administration
U.S. Department of Commerce
Tel: [redacted]
Fax: (202) 482-1576
Email: [redacted]@ita.doc.gov

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, June 28, 2006 9:58 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Swenson, Lily F; Schiffer, Stuart (CIV); Cohn, Jonathan (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV)
Subject: Dial in number for Civil Weekly [redacted]
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 10:03 AM
To: Senger, Jeffrey M
Subject: FW: Dial in number for Civil Weekly [redacted] code [redacted]
Importance: High

From: Gunn, Currie (SMO)
Sent: Wednesday, June 28, 2006 9:58 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Swenson, Lily F; Schiffer, Stuart (CIV); Cohn, Jonathan (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV)
Subject: Dial in number for Civil Weekly [redacted] code [redacted]
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 10:06 AM
To: Chemtob, Stuart
Subject: RE: China Limited Liability Partnerships

Stuart, I'd have to do a little study but the questions aren't particularly arcane; I expect I could be prepared to address many of them, though I am sure other perspectives (eg academic) would also be very helpful. My bio follows.

Neil M. Gorsuch is Principal Deputy to the Associate Attorney General. In that role, he helps oversee the Antitrust, Civil, Civil Rights, Environment and Natural Resources, and Tax Divisions of the Department of Justice. He also advises the Attorney General and Associate Attorney General on a wide array of civil justice matters.

Prior to joining the Department of Justice, Mr. Gorsuch was a partner at the firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC. There, he specialized in trial work and appeals, appearing in courts across the country on matters ranging from securities fraud to antitrust, including a trial that led to the then-largest affirmed federal antitrust verdict for a private litigant in U.S. history.

Mr. Gorsuch is a former clerk to Justice Byron R. White and Justice Anthony M. Kennedy of the U.S. Supreme Court, and to Judge David B. Sentelle of the U.S. Court of Appeals for the D.C. Circuit.

Mr. Gorsuch holds a doctorate from Oxford University where he was a Marshall Scholar; a law degree, cum laude, from Harvard Law School, where he attended as a Harry S. Truman Scholar; and an undergraduate degree from Columbia University where he graduated Phi Beta Kappa and as Class Marshal.

Mr. Gorsuch is a term member of the Council on Foreign Relations. A native of Colorado, he [redacted] On May 10, 2006, Mr. Gorsuch was nominated by President Bush to serve on the U.S. Court of Appeals for the Tenth Circuit. His nomination is currently pending before the U.S. Senate.

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Subject:

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Email:[redacted]@ita.doc.gov

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Wednesday, June 28, 2006 10:13 AM
To: Elwood, Courtney; Gorsuch, Neil M; Blomquist, Kathleen M
Subject: FW:

From: Blomquist, Kathleen M
Sent: Wednesday, June 28, 2006 10:12 AM
To: Roehrkasse, Brian
Subject:

AP News Alert

WASHINGTON (AP) -- Supreme Court overturns part of a Texas congressional map engineered by former House Majority Leader Tom DeLay.

Brett_C._Gerry@who.eop.gov

From:	Brett_C._Gerry@who.eop.gov
Sent:	Wednesday, June 28, 2006 10:14 AM
To:	Gorsuch, Neil M
Subject:	Any word?
Attachments:	tmp.htm

Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Wednesday, June 28, 2006 10:20 AM
To: Elwood, Courtney; Gorsuch, Neil M
Subject: Fw: TX decision -- I'm working on getting a copy of the opinion

Incredible.

-----Original Message-----
From: McKnight, Cynthia M (CRT)
To: Kim, Wan (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT)
Sent: Wed Jun 28 10:17:02 2006
Subject: TX decision -- I'm working on getting a copy of the opinion

This is from SCOTUSblog:
The Supreme Court, splintering widely, on Wednesday found an insufficient claim of partisan gerrymandering in the Texas congressional redistricting. It also rejected a challenge to mid-decade congressional redistricting. It did not rule on whether all partisan gerrymander claims are beyond judicial review. The Court is split on that issue, and the division remains. It found the new District 24 invalid under the federal Voting Rights Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 10:22 AM
To: McCallum, Robert (SMO)
Subject: FW: TX decision -- I'm working on getting a copy of the opinion

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From: Kim, Wan (CRT)
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 10:24 AM
To: 'Brett_C._Gerry@who.eop.gov'
Subject: RE: Any word?

Not today; Texas did come down, however.

This is from SCOTUSblog:
The Supreme Court, splintering widely, on Wednesday found an insufficient claim of partisan gerrymandering in the Texas congressional redistricting. It also rejected a challenge to mid-decade congressional redistricting. It did not rule on whether all partisan gerrymander claims are beyond judicial review. The Court is split on that issue, and the division remains. It found the new District 24 invalid under the federal Voting Rights Act.

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From: Brett_C._Gerry@who.eop.gov [mailto:Brett_C._Gerry@who.eop.gov]
Sent: Wednesday, June 28, 2006 10:14 AM
To: Gorsuch, Neil M
Subject: Any word?

Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, June 28, 2006 10:34 AM
To: Nichols, Carl (CIV)
Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Keisler, Peter D (CIV)
Subject: FW: Dial in number for Civil Weekly 202-353-0877 code 0213
Importance: High

Carl,
Looks like you were accidentally excluded from Currie's email distribution list -- we were wondering where you were but now we know. If you have a report and want to do it by email, that would be great.
Thanks.
Lily

From: Gunn, Currie (SMO)
Sent: Wednesday, June 28, 2006 9:58 AM
To: Gorsuch, Neil M; McCallum, Robert (SMO); Swenson, Lily F; Schiffer, Stuart (CIV); Cohn, Jonathan (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV)
Subject: Dial in number for Civil Weekly 202-353-0877 code 0213
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 10:34 AM
To: Hungar, Thomas G
Subject: TVA

Robert has noodled on this and asked me to share with you his decision. Given that I don't have vm, perhaps you might just email me with a convenient time to call you and I will do so? Or you can reach me at 4-9500. Thanks.

Newton, Cullen (ENRD)

Subject:	Everglades Update
Location:	PHB 1810
Start:	Thursday, June 29, 2006 1:00 PM
End:	Thursday, June 29, 2006 1:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Newton, Cullen (ENRD)
Required Attendees:	Elwood, Courtney; Gorsuch, Neil M; McKeown, Matt (ENRD)

When: Thursday, June 29, 2006 1:00 PM-1:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB 1810

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

POC Cullen 5-0432

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 11:06 AM
To: Gorsuch, Neil M
Subject: Intell on QFR's

FYI from Committee staff:

I think the only additional Gorsuch questions will be from Leahy and I'm told there aren't too many. Hopefully he can turn them around tonight. (By the way, I thought the answers we already got from him are great.)

Thanks a lot. Hope you are drying out over there.

Gorsuch, Neil M

Subject:	[redacted]
Start:	Thursday, June 29, 2006 12:00 PM
End:	Thursday, June 29, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 11:14 AM
To: Macklin, Kristi R
Subject: RE: Intell on QFR's

Thanks very much for the heads up. I will do whatever it takes to stay on mark up for tomorrow. Just email along the questions when you get them and let me know where/how to turn them around.

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 11:06 AM
To: Gorsuch, Neil M
Subject: Intell on QFR's

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Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 11:19 AM
To: Gorsuch, Neil M
Subject: RE: Intell on QFR's

Just get the draft back to me and I'll get you comments right away,

---

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 11:14 AM
To: Macklin, Kristi R
Subject: RE: Intell on QFR's

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 11:20 AM
To: Macklin, Kristi R
Subject: RE: Intell on QFR's

Roger; thanks.

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 11:19 AM
To: Gorsuch, Neil M
Subject: RE: Intell on QFR's

Just get the draft back to me and I'll get you comments right away,

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Thanks a lot. Hope you are drying out over there.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 1:43 PM
To: Elwood, John
Subject: TVA

Do you have a moment to chat? Unable to leave a vm or receive one, might you just email me with a time and number that's convenient?

Elwood, John

From: Elwood, John
Sent: Wednesday, June 28, 2006 1:43 PM
To: Gorsuch, Neil M
Subject: RE: TVA

I can meet before 2 pm, or after 3:30 some time.

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 1:43 PM
To: Elwood, John
Subject: TVA

Do you have a moment to chat? Unable to leave a vm or receive one, might you just email me with a time and number that's convenient?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 1:44 PM
To: Elwood, John
Subject: RE: TVA

Now would be great-will only take a couple mins. Where are you located? I'm happy to stop by.

From: Elwood, John
Sent: Wednesday, June 28, 2006 1:43 PM
To: Gorsuch, Neil M
Subject: RE: TVA

I can meet before 2 pm, or after 3:30 some time.

From: Gorsuch, Neil M
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To: Elwood, John
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Swenson, Lily F

From: Swenson, Lily F
Sent: Wednesday, June 28, 2006 2:06 PM
To: Gorsuch, Neil M

http://www.nytimes.com/2006/06/24/washington/24mineta.html?hp&ex=1151121600&en=2bbe06b09f5d4185&ei=5094&partner=homepage

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 2:18 PM
To: Swenson, Lily F
Subject: RE:

Thanks for bringing me up to speed!

From: Swenson, Lily F
Sent: Wednesday, June 28, 2006 2:06 PM
To: Gorsuch, Neil M
Subject:

http://www.nytimes.com/2006/06/24/washington/24mineta.html?hp&ex=1151121600&en=2bbe06b09f5d4185&ei=5094&partner=homepage

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 2:48 PM
To: Fisher, Alice
Subject: Am in front of Patrick Henry now (601 D) cell [redacted]

[redacted]@opm.gov

From: [redacted]@opm.gov
Sent: Wednesday, June 28, 2006 3:00 PM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

[redacted]

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Image not available for this document, ID: 0.7.10316.54252-000001

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Wednesday, June 28, 2006 3:40 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina; Card, Jean; Jezierski, Crystal
Subject: Strategic Initiatives Staff Meeting

This SIM has been cancelled. Please stay tuned for next scheduled meeting.

Subject: Strategic Initiatives Staff Meeting
Location: OAG Conf Rm 5228

Start: Mon 7/3/2006 1:30 PM
End: Mon 7/3/2006 2:30 PM

Recurrence: Weekly
Recurrence Pattern: every Monday from 1:30 PM to 2:30 PM

Meeting Status: Accepted

Required Attendees: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; McNeil, Tucker (OPA); Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Tucker McNeil, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 3:46 PM
To: Best, David T
Subject: RE: Additional questions

David, it would be helpful in answering these to have my senate questionnaire; do you have a copy I might consult?

From: Best, David T
Sent: Wednesday, June 28, 2006 2:58 PM
To: Gorsuch, Neil M
Subject: Additional questions

Rec'd today from Senator Leahy: Please respond to Kristi as soon as possible.

<< File: Gorsuch Written Q's.doc >>

Elston, Michael (ODAG)

Subject:	Updated: Attorney Client Privilege Waiver
Location:	PHB 10300-D
Start:	Thursday, June 29, 2006 2:00 PM
End:	Thursday, June 29, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Elston, Michael (ODAG)
Required Attendees:	Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Meyer, Joan E (ODAG); Brand, Rachel; Gorsuch, Neil M; Friedrich, Matthew; Murray, Fred F. (TAX); Boente, Dana J. (TAX); Cook, Elisebeth C; McIntosh, Brent

When: Thursday, June 29, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB 10300-D

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

Attendees

Michael Elston, Ron Tenpas, Bill Mercer (Optional), Joan Meyer (optional), Rachel Brand, Neil Gorsuch, Matt Friedrich, Fred Murray, Dana Boente, Elisebeth Cook, Brent McIntosh

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 4:51 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

Would you please give me a ring at your convenience to discuss tonight? Sen Leahy has given me a rather hefty homework assignment.

-----Original Message-----
From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 3:03 PM
To: Gorsuch, Neil M
Subject: Fw: Gorsuch Written Q's.doc

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov
To: Seidel, Rebecca; Macklin, Kristi R; Best, David T; [redacted]@who.eop.gov; [redacted]@judiciary-rep.senate.gov; [redacted]@judiciary-rep.senate.gov; [redacted]@who.eop.gov; [redacted]@judiciary-rep.senate.gov; [redacted]@judiciary-rep.senate.gov; Macklin, Kristi R; [redacted]@judiciary-rep.senate.gov; Scott-Finan, Nancy; [redacted]@judiciary-rep.senate.gov; [redacted]@judiciary-rep.senate.gov; [redacted]@Judiciary.Senate.Gov; [redacted]@judiciary-rep.senate.gov
Sent: Wed Jun 28 14:50:04 2006
Subject: Gorsuch Written Q's.doc

Attached, please find questions submitted by Senator Leahy for Neil Gorsuch. Thank you.

Regards;

[redacted]

[redacted]

Committee on the Judiciary

SD 222

[redacted]

CONFIDENTIALITY NOTE: The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individuals or entities named as addressees. If you, the reader of this message, are not the intended recipient, you are hereby notified that any dissemination, distribution, publication, or copying of this message is strictly prohibited. If you have received this facsimile in error, please forgive the inconvenience, immediately notify the sender, and delete the original message without keeping a copy.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 6:55 PM
To: Swenson, Lily F; Todd, Gordon (SMO)
Subject: Got some more qfrs - and they are due tonight; would you mind reviewing them? I know you're swamped but I'd be very grateful to have your views

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:10 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

No fax; can you email redline?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

No - I can walk it down. Where are you?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:10 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

No fax; can you email redline?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:11 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

On first floor in 1810 - must enter through 1600 which is now locked. If you want to head down I can meet you at the door there; ok?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

No - I can walk it down. Where are you?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:10 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

No fax; can you email redline?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:18 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

Heading down now - you around?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:11 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

On first floor in 1810 - must enter through 1600 which is now locked. If you want to head down I can meet you at the door there; ok?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

No - I can walk it down. Where are you?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:10 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

No fax; can you email redline?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:18 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

Yep; meet you outside 1600

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:18 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

Heading down now - you around?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:11 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

On first floor in 1810 - must enter through 1600 which is now locked. If you want to head down I can meet you at the door there; ok?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:11 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

No - I can walk it down. Where are you?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:10 PM
To: Macklin, Kristi R
Subject: RE: Gorsuch Written Q's.doc

No fax; can you email redline?

From: Macklin, Kristi R
Sent: Wednesday, June 28, 2006 7:10 PM
To: Gorsuch, Neil M
Subject: RE: Gorsuch Written Q's.doc

I will have something to fax you shortly on the first ones. Do you have a number?

From: Gorsuch, Neil M
Sent: Wednesday, June 28, 2006 7:09 PM
To: Todd, Gordon (SMO); Swenson, Lily F; Macklin, Kristi R; Cook, Elisebeth C; Best, David T
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

<< File: Gorsuch Written Q's.doc >>

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, June 29, 2006 7:42 AM
To: Gorsuch, Neil M
Subject: Re: Gorsuch Written Q's.doc

Shoot, I didn't get this til now because my bb ran out of juice last night... Still could use comments, or have you turned these in?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Todd, Gordon (SMO) <Gordon.Todd@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Macklin, Kristi R <Kristi.R.Macklin@SMOJMD.USDOJ.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD.USDOJ.gov>; Best, David T <David.T.Best@SMOJMD.USDOJ.gov>
Sent: Wed Jun 28 19:08:42 2006
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:45 AM
To: Swenson, Lily F
Subject: Re: Gorsuch Written Q's.doc

No worries - all done

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M
Sent: Thu Jun 29 07:41:58 2006
Subject: Re: Gorsuch Written Q's.doc

Shoot, I didn't get this til now because my bb ran out of juice last night... Still could use comments, or have you turned these in?

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Todd, Gordon (SMO) <Gordon.Todd@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Macklin, Kristi R <Kristi.R.Macklin@SMOJMD.USDOJ.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD.USDOJ.gov>; Best, David T <David.T.Best@SMOJMD.USDOJ.gov>
Sent: Wed Jun 28 19:08:42 2006
Subject: Gorsuch Written Q's.doc

Here's a first cut at all the questions. Comments most appreciated.

Brett_C._Gerry@who.eop.gov

From: Brett_C._Gerry@who.eop.gov
Sent: Thursday, June 29, 2006 7:49 AM
To: Gorsuch, Neil M
Subject: Quick call
Attachments: tmp.htm

Could you give me a quick ring? Thanks. [redacted]

Could you give me a quick ring? Thanks. [redacted]

Full Name: Matthew Friedrich
Last Name: Friedrich
First Name: Matthew

Business Address: 10th & Constitution Avenue N.W.
Washington, DC 20530

Business: 202-514-8610

E-mail: Matthew.Friedrich2@usdoj.gov
E-mail Display As: Matthew.Friedrich2@usdoj.gov

DOJ_NMG_ 0163251

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:58 AM
To: Roehrkasse, Brian; Blomquist, Kathleen M
Subject: Tps

Whco needs the total loss tps - can one of you send me latest total loss version asap? Thanks! It is going to be an interesting day....

Blomquist, Kathleen M

From: Blomquist, Kathleen M
Sent: Thursday, June 29, 2006 7:59 AM
To: Gorsuch, Neil M
Subject: Re: Tps

Stand by couple minutes. Kat

-----Original Message-----
From: Gorsuch, Neil M
To: Roehrkasse, Brian; Blomquist, Kathleen M
Sent: Thu Jun 29 07:57:31 2006
Subject: Tps

Whco needs the total loss tps - can one of you send me latest total loss version asap? Thanks! It is going to be an interesting day....

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Thursday, June 29, 2006 8:16 AM
To: Gorsuch, Neil M
Subject: Quick Item

Neil,

If you have a moment can you give me a call on the number below? I picked up a small piece of intel that I wanted to pass along. I'll be unreachable after 9:30 as I'm going to the Court for hand-downs.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, June 29, 2006 8:22 AM
To: Goodling, Monica
Subject: The Morning Update: 6/29/06

Good morning! "Give me the splendid silent sun, with all his beams full-dazzling!" - Walt Whitman

****

<http://www.whitehouse.gov/>
JUNE 29, 2006

This morning, President and Mrs. Bush will participate in a South Lawn Arrival Ceremony for Prime Minister Koizumi of Japan. President Bush and Prime Minister Koizumi will later participate in a meeting, followed by a joint press availability.

In the evening, President and Mrs. Bush will participate in a photo opportunity with the Prime Minister before the leaders participate in an official dinner, followed by entertainment.

9:00 am:
EDT THE PRESIDENT and Mrs. Bush participate in a South Lawn Arrival Ceremony for the Prime Minister of Japan
The White House | Washington, DC

9:50 am:
EDT THE PRESIDENT participates in a Meeting with the Prime Minister of Japan
The White House | Washington, DC

11:30 am :
EDT THE PRESIDENT participates in a Joint Press Availability with the Prime Minister of Japan
The White House | Washington, DC

7:00 pm:
EDT THE PRESIDENT and Mrs. Bush greet the Prime Minister of Japan
The White House | Washington, DC

7:20 pm:
EDT THE PRESIDENT and Mrs. Bush participate in a Photo Opportunity with the Prime Minister of Japan
The White House | Washington, DC

8:05 pm:
EDT THE PRESIDENT and Mrs. Bush participate in an Official Dinner with the Prime Minister of Japan
The White House | Washington, DC

9:50 pm:
EDT THE PRESIDENT and Mrs. Bush attend Entertainment
The White House | Washington, DC

President Bush Discusses War On Terror. "President Bush attacked congressional Democrats and the news media at a Republican fundraiser Wednesday night, accusing the opposition of 'waving the white flag of surrender' in Iraq and declaring that there is 'no excuse' for journalists to write about secret intelligence programs. ... 'There's a group in the opposition party who are willing to retreat before the mission is done,' he said. 'They're willing to wave the white flag of surrender. And if they succeed, the United States will be worse off, and the world will be worse off <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062802129.html> .'" (Peter Baker, "Bush Sharpens His Attack On Democrats," The Washington Post, 6/29/06)

President Bush Visits With Soldiers Who Fought In Iraq And Afghanistan. "Bush visited with soldiers who fought in Iraq and Afghanistan at the Veterans of Foreign Wars post 3944, then headlined a fundraiser at the Ritz-Carlton for Sen. Jim Talent. ... He said the troops are spreading democracy and peace and that even though he understands their work is hard, it is necessary. 'We're winning,' Bush said. 'And the world is going to be better off because of your courageous service, and I thank you for it.' <http://news.yahoo.com/s/ap/20060628/ap_on_go_pr_wh/bush&printer=1;_ylt=AqTfyyNEn2chNq2TCzLXdMwGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> " (Nedra Pickler, "Bush Promotes War, Candidate In Missouri," The Associated Press, 6/29/06)

President Bush Receives Japanese Prime Minister Koizumi At The White House. "President Bush is taking Japanese Prime Minister Junichiro Koizumi to the Elvis Presley shrine at Graceland on Friday, although first the two leaders have serious matters to discuss. ... The Bush-Koizumi relationship mirrors one of the century's most distinctive partnerships <http://www.usatoday.com/printedition/news/20060629/a_bushkoizumi29.art.htm> : A strong United States-Japan alliance, 65 years after Pearl Harbor and two decades after the Japanese economy began to rival that of the USA. 'I find it amazing that the president of the United States is sitting down talking about peace with the head of a country that my dad went to war with,' Bush said last month in Chicago." (David Jackson and Richard Benedetto, "Japan's Leader, Bush Going To Graceland," USA Today, 6/29/06)

Newsweek Says President Bush's Style Of "One-On-One" Diplomacy "Critical" In Improving U.S.-Japan Relations. "Bush's foreign policy aides insist that the idea for a Graceland visit came from the president himself, not from Koizumi. 'About a year ago, the president started saying to us as staff, "I would like to take him to Graceland" and we all thought he might be joking,' said one senior administration official... As trivial as it sounds, there are certain strengths to this kind of one-on-one diplomacy. There's little doubt among Japan analysts that the close relationship between Bush and Koizumi has been critical in improving relations between the United States and Japan

<http://msnbc.msn.com/id/13601320/site/newsweek/print/1/displaymode/1098/> ." (Richard Wolffe and Holly Bailey, "Circle of Friends," Newsweek, 6/28/06)

Secretary Of State Condoleezza Rice Supports President Karzai During Trip To Afghanistan. "Secretary of State Condoleezza Rice lavishly praised embattled Afghan President Hamid Karzai on Wednesday, arguing that his leadership shows how far Afghanistan has come since the fall of the Taliban 4 1/2 years ago. 'I don't know anyone who is more admired or respected by the international community' than Karzai, Rice said. ... Rice added, 'His optimism or my optimism about what Afghanistan has achieved is not a matter of trying to ignore the problems and the challenges.' She said that 'in a country that five years ago was still under the rule of the Taliban, the progress has been extraordinary <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062800263.html> .'" (Glenn Kessler and Josh White, "Rice Lauds Karzai In Brief Afghan Visit," The Washington Post, 6/29/06)

Paulson Unanimously Confirmed By Senate As New Treasury Secretary. "Henry M. Paulson Jr., the Goldman Sachs chief picked by President Bush to better promote the administration's fiscal policies, was unanimously confirmed by the Senate as the new Treasury secretary yesterday. ... Paulson is a 32-year veteran of Wall Street who served on President Richard M. Nixon's domestic policy staff and worked in the Pentagon during the Vietnam War. 'America's economic leadership will be in very capable hands,' Senate Majority Leader Bill Frist (R-Tenn.) said <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062800992.html> ." (Shailagh Murray, "Paulson To Be Treasury Head," The Washington Post, 6/29/06)

U.S. Trade Representative Susan Schwab: "More Trade, Less Poverty." "I reaffirm here that the U.S. is committed to an ambitious and comprehensive outcome by the end of the year. As President Bush declared last week at the U.S.-EU summit, the Doha Round is too important to fail. We regard it as our generation's opportunity to attack the scourge of poverty by opening trade flows between all nations in agricultural goods, industrial products and services. Half-measures that would leave millions in poverty - people who might otherwise have been helped - and that would dampen potential economic opportunities for people in all countries, should not be acceptable <http://online.wsj.com/article/SB115154575286293835.html?mod=opinion_main_commentaries> ." (Susan Schwab, Op-Ed, "More Trade, Less Poverty," The Wall Street Journal, 6/29/06)

Administration Announces New Regulations To Put More Welfare Recipients In Work Or Training. "The Bush administration announced regulations yesterday that would put new pressure on states to move more welfare recipients toward self-sufficiency, in part by substantially tightening the definition of what qualifies as work and job training under federal law. ... The caseload reductions 'have been so large that, in many respects, they've overshadowed the reality that there are still many, many families that are trapped in government dependency and are not being challenged to find work <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062801966.html> ,' Health and Human Services Secretary Mike Leavitt said in a recent speech to the Heritage Foundation, a conservative public policy organization." (Michael A. Fletcher, "U.S. Moves To Get States

To Put More Welfare Recipients In Work Or In Training," The Washington Post, 6/29/06)

President Bush Requests Funds To Protect Veterans From Identity Theft. "President Bush on Wednesday asked Congress for $160.5 million in emergency funds to help veterans and military personnel whose personal information was on a laptop computer stolen from a Veterans Affairs employee <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/28/AR2006062801445_pf.html> . In a letter to House Speaker Dennis Hastert, Bush said he was asking for the additional money to help the VA cover the increased costs caused by the May 3 theft. The money would help provide credit monitoring and fraud watch services for those affected." ("Bush Asks for Funds to Protect Vets," The Associated Press, 6/28/06)

Sen. Elizabeth Dole (R-NC) Says Judge Terrence Boyle Deserves Up-Or-Down Vote On His Nomination To The Fourth Circuit Court Of Appeals. "The hard-core left is opposing the Boyle nomination, despite the fact that the American Bar Association has given him its highest possible rating - 'unanimously well-qualified.' During his 22 years on the federal bench, Judge Boyle has compiled an exemplary record as a practitioner of judicial restraint. The people of my state appreciate Judge Boyle's commitment to applying the law strictly and not imposing his own personal views from the bench. ... After waiting a decade and a half, Judge Boyle deserves an up-or-down vote on his nomination. <http://www.washingtontimes.com/op-ed/20060628-094627-4372r.htm> " (Sen. Elizabeth Dole, Op-Ed, "Borking Judge Boyle," The Washington Times, 6/29/06)

Department Of Labor Awards New Grants To Grassroots Organizations For Employment Assistance. "Fifty-five faith-based and community organizations - chosen from 557 applicants - will split $4 million in grants designated for grass-roots groups to 'help hard-to-serve populations prepare for and succeed in employment opportunities,' the Department of Labor announced yesterday <http://www.washingtontimes.com/functions/print.php?StoryID=20060628-112234-7899r> . ... Miss Tingle credited the faith-based initiative program - which President Bush promised during the 2000 campaign as part of his 'compassionate conservative' agenda - as 'the only way our organization would have received a grant, 'because these grants go to small organizations serving local residents." (Alison Hoover, "3 Regional Grass-Roots Groups Given Grants," The Washington Times, 6/29/06)

President Bush Meets with Military Personnel Returned From Iraq and Afghanistan <http://www.whitehouse.gov/news/releases/2006/06/20060628-5.html>

President Bush to Visit Chancellor Angela Merkel in East Germany Prior to G-8 Summit <http://www.whitehouse.gov/news/releases/2006/06/20060628.html>

Text of a Letter from the President to the Speaker of the House of Representatives <http://www.whitehouse.gov/news/releases/2006/06/20060628-1.html>

Statement on the 50th Anniversary of the Poznan Uprising in Poland
<http://www.whitehouse.gov/news/releases/2006/06/20060628-3.html>

President Commends Senate for Confirming Henry Paulson as Treasury Secretary
<http://www.whitehouse.gov/news/releases/2006/06/20060628-4.html>

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/06/20060628-6.html>

Remarks by the President at Talent for Senate Dinner
<http://www.whitehouse.gov/news/releases/2006/06/20060628-7.html>

Press Briefing by Tony Snow
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Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 29, 2006 8:50 AM
To: Gorsuch, Neil M
Subject: Final version
Attachments: Gorsuch Written Q's2 (2).doc

Responses to Written Questions from Senator Patrick Leahy
Neil M. Gorsuch, nominated to be a United States Circuit Judge
for the Tenth Circuit

1. In your February 2005 article for the National Review titled "Liberals 'n' Lawsuits: Too much reliance on litigation is bad for the courts and the Dems," you criticize "liberals" for raising constitutional challenges in the courts to protect what you describe as a "social agenda." However, the issues you have described as part of a "social agenda," like school vouchers for use at parochial schools, raise questions of fundamental rights protected by the Constitution, in that instance the First Amendment's Establishment Clause. Can you discuss the importance of the courts in stepping in to ensure the protection of individual constitutional rights, especially when those rights are contrary to popular political positions and so would not be protected by the political process?

Response: I appreciate very much the chance to answer these questions from Senator Leahy.

The Constitution requires federal judges to strike a delicate balance. Under our charter, judges must allow the elected branches of government to flourish and the people, through their elected representatives, to make laws appropriate to the facts and circumstances of the day. Judges must avoid the temptation to usurp the roles of the democratic branches and must appreciate the advantages those branches have in crafting and adapting social policy as well as their mandate, derived from the people, to do so.

At the same time, the founders were anxious to ensure that the federal judiciary never becomes captured by or subservient to the other branches, recognizing that a firm and independent judiciary is critical to the protection of *all* citizens' constitutional rights and to a well-functioning democracy. The Constitution imposes on the judiciary the vital role of ensuring the equal protection of each and every citizen – whatever his or her views – and the vindication of personal civil rights and liberties – however unpopular – as well as the work of making real for every American the Constitution's promise of self-government. If confirmed by the Senate, I would take these duties seriously and discharge them to the best of my abilities.

I also appreciate the chance to clarify the article referenced in the question. That article drew attention to a newspaper column that, in turn, argued that our society has become increasingly litigious, with parties often proceeding to court without first attempting to resolve disputes through the electoral process. I wrote to express the view that, when it is possible, resolving our political and policy disputes through the electoral process, rather than increased litigiousness, is a healthy thing for our society and for the judiciary.

At the same time, I did not argue that litigation to protect civil rights and civil liberties is inappropriate. To the contrary, I expressly pointed to *Brown v. Board of Education* as an example of those cases where the judiciary has played and must play an essential role in securing civil rights for all Americans. I deeply admire and respect the judiciary's

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tradition of independence and its history of vindicating the constitutional rights and liberties of the unpopular. If confirmed, I would do my best to honor and carry on that tradition.

2. Your February 2005 article does not discuss the many constitutional challenges raised in court by conservatives, corporations, and industry groups to further their own agenda. These groups have aggressively pursued constitutional challenges in courts under the Takings Clause, the Commerce Clause and the non-delegation doctrine in order to overturn environmental laws passed by an overwhelming bipartisan majority of Congress, such as Safe Drinking Water Act, RCRA, the Clean Air Act, the Clean Water Act, and the Endangered Species Act.

A. Do you believe your critique of those who pursue a "social agenda" through constitutional challenges in the court applies equally to these conservative and industry groups challenging environmental law? Is their "overweening addiction to the courtroom" also "bad for the country and bad for the judiciary"?

Response: Yes, the point of the article can be applied to groups of all kinds across the political spectrum. The newspaper column referenced in my article focused on litigation from one end of the political spectrum, but the essential point of my argument – that we as a society can often benefit from resolving our differences through the electoral process rather than through litigation – applies equally to all points of view.

B. You conclude your February 2005 article by praising "a generation of Democratic-appointed judges, from Louis Brandeis to Byron White, [who] argued for judicial restraint and deference to the right of Congress to experiment with economic and social policy." Do you believe that these judges' approach of judicial restraint should be applied in the same manner to constitutional challenges by industry groups to environmental laws as you have advocated it be applied to groups pursuing the protection of individual rights?

Response: Yes. The concept of judicial restraint, like justice itself, should be blind – blind to the identity or beliefs of the litigants before the court.

C. The court to which you have been nominated, the Court of Appeals for the Tenth Circuit, hears many appeals involving the management of the Nation's many public lands that lie within its jurisdiction, including national parks, national wildlife refuges, and wilderness areas. In particular, the Tenth Circuit hears appeals brought by parties dissatisfied with federal agency decisions. This is another area in which concerned citizens turn to the courts to vindicate their interests. If confirmed, can you assure the Committee your courtroom would be open to intervention in litigation by those concerned with the administration of those public lands?

Response: Yes. Judges owe the same obligation of fidelity to the record and the law in all cases and to all persons appearing before them – regardless of who the litigant is or

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what the nature of the claim may be. If confirmed, those challenging agency decisions involving the management of the Nation's public lands would receive the same openness, care, and attention – free of bias and extra-record influences – as every other litigant who might appear before me.

As a practicing lawyer for many years, litigating matters in state and federal courts across the country on behalf of plaintiffs and defendants, individuals, non-profits, corporations, and class actions, I never allowed my personal views and policy preferences to interfere with the zealous representation of my clients. My duty of loyalty meant preferring my clients' interests and objectives to my own views, even when I may not have agreed with my client's point of view or purpose. If confirmed, I would have a new client: the law itself. Just as my personal and political views had no proper place in my job as an advocate and counselor, neither would they have any place in my role as a judge. I would seek only and always to follow the law faithfully and fairly in each and every case.

As a fourth generation Colorado native and someone who spends as much time as I can manage in the Colorado mountains, I cherish the natural beauty of the West and the remarkable legacy our forefathers bequeathed us there in the form of protected national parks and lands and I deeply respect all of those – of all points of view – who seek to protect and enhance that legacy.

3. Over the past decade, the Supreme Court has struck down an unprecedented number of federal statutes, most notably several designed to protect the civil rights of Americans, as beyond Congress's power under Section 5 of the Fourteenth Amendment, for example, *Flores v. City of Boerne*, 117 S. Ct. 2157 (1997), *Kimel v Florida Board of Regents*, 120 S. Ct. 631 (2000), and *Board of Trustees v. Garrett*, 19 S. Ct. 2240 (1999). The Supreme Court has also recently struck down statutes as being outside the authority granted to Congress by the Commerce Clause, such as in the case of *U.S. v. Lopez*, 115 S. Ct. 1624 (1995) or *U.S. v. Morrison*, 120 S. Ct. 1740 (2000). I am hopeful that the Court's recent decision in *Gonzales v. Raich*, 125 S. Ct. 2195 (2005) signals a turn away from the diminishing of the authority of Congress to legislate to protect the American people.

In light of your advocacy for judicial restraint and deference to Congress, what is your understanding of the scope of congressional power under Article I of the Constitution, in particular, the Commerce Clause, and under Section 5 of the Fourteenth Amendment?

Response: As the question indicates, one of the Court's most recent pronouncements with respect to the Commerce Clause came last year in *Gonzales v. Raich*. There the Court made clear that "Congress' power to regulate purely local activities that are part of an economic 'class of activities' that have a substantial effect on interstate commerce is firmly established." The precedents of the Supreme Court addressing the Fourteenth Amendment have likewise repeatedly demonstrated that Congress's authority to enact legislation pursuant to Section 5 is very broad. If confirmed, I would enforce these Supreme Court rulings fully in cases that may come before me, applying the same

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judicial restraint and deference to congressional judgment in these arenas as I would in any other.

4. You are currently the Principle Deputy to the number three official at the Department of Justice and your responsibilities include managing the Department's civil litigating components and helping make litigation decisions in significant cases. If confirmed, on what cases involving what subject matter will you recuse yourself? Will you commit to recusing yourself from participating in any cases in which you were involved at the Justice Department?

Response: If confirmed and a case in which I was personally involved during my service at the Department of Justice should come before me as a judge, I would expect to recuse myself. Under 28 U.S.C. Section 455(b)(3), a government lawyer should, among other things upon becoming a judge, recuse himself or herself when he or she "participated as a counsel, adviser or material witness concerning the proceedings or expressed an opinion concerning the merits of the particular case in controversy." It is difficult to predict what other potential conflict of interests might arise from my service at the Department, but in each such instance I intend, if confirmed, to consult the Code of Conduct for United States Judges, applicable congressional statutes, and the practices of my colleagues to make an appropriate decision given the particular facts and circumstances.

5. You have written extensively about end of life choices. Almost a decade ago, in *Washington v. Glucksberg*, the Supreme Court declined to find that terminally ill patients had a "generalized" constitutional right to a physician's aid in dying, preferring that this matter be left to the states in part because "throughout the Nation, Americans are engaged in an earnest and profound debate about the morality, legality, and practicality of physician assisted suicide." The late Chief Justice Rehnquist noted that the court's "holding permits this debate to continue, as it should in a democratic society."

Last spring, the nation witnessed a fierce legal battle over the medical treatment of Terri Schiavo, who was in a persistent vegetative state for more than a decade. Politicians engaged in extraordinary measures to override what state courts determined to be her own wishes. The power of the federal government was wielded by some to determine deeply personal choices. Some even made medical diagnoses on the floor of the Senate, and the President came back to Washington in the middle of his vacation to sign legislation to override the precise wishes of this one patient.

Do you agree that end of life decisions are deeply personal issues? Do you agree with the idea advanced in the *Cruzan* case, that the wishes of an unconscious patient, to the degree they can be known, should govern decisions regarding life sustaining therapies?

Response: In *Cruzan* the Supreme Court expressly recognized that end of life treatment cessation decisions are "deeply personal" and that life sustaining care can be rejected on behalf of unconscious patients by their surrogates for many upright reasons, including in

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order to effect the patient's prior expressed desire to avoid the burdens associated with certain intrusive modern life sustaining therapies. The Court further recognized a "legitimate interest" by the State of Missouri in enacting laws designed to "safeguard[] the personal element of this choice" by requiring proof about the patient's previously expressed intentions in order to guard against "potential abuses" by the surrogate decisionmaker. If confirmed, I would faithfully follow the Supreme Court's guidance should the matter come before me. I also appreciate this opportunity to clarify that my writings express no disagreement whatsoever with *Cruzan*, including its holding about the "deeply personal" nature of this issue.

6. As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. You have publicly criticized consumer class action lawsuits and advocated limitations on the ability of plaintiffs to bring securities fraud cases and for limiting the liability of corporations for wrongdoing.

What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff? What assurances can you give that litigants will be treated fairly even if they are plaintiffs bringing categories of cases that you don't personally support, but that the law allows?

Response: In my years as a practicing lawyer -- working on matters in approximately 16 different states and 8 federal courts of appeal as well as in state appellate courts and the U.S. Supreme Court -- I represented plaintiffs; putative and certified statewide consumer class actions; public employee pension funds; prominent Democrats and Republicans active in national politics; a non-profit hospital serving the women, children, and poor of the District of Columbia as well as defendants; those challenging class actions; and corporations. I represented each and every client with equal vigor and zeal, whatever the client's views or lawful objectives may have been. And I deeply appreciated how critical a fair shake – free of a judge's political or policy preferences – was to my clients who often had their businesses, life savings, or fundamental liberty interests at stake. As advocate and counselor, what I wanted most for my clients was a judge capable of putting aside his or her personal views and deciding the case based on the facts in the record, the arguments of counsel, and the controlling legal precedents – not on the basis of any personal biases or beliefs. If confirmed, that is the sort of judge I would strive to be. The identity of the litigants and the sorts of claims they raise would play no role in my decisions; nor would my personal views or policy preferences. Instead, if confirmed, I would decide each and every case on the facts developed by the parties in the record and law alone.

I also appreciate the chance to clarify my record. My writings on class action lawsuits have expressly recognized the valuable social functions they serve and sought to offer suggestions aimed at, among other things, improving their efficacy so that class members, rather than lawyers, oversee the management of such suits and recoup a greater percentage of settlement funds. With respect to my work as an advocate, I have

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represented the interests of my clients alone, not my own. Some of those clients have sought to contest class actions or narrow them while others have sought expressly and actively to certify class actions and expand their scope.

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From: USDOJ- Office of Public Affairs
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Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 29, 2006
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(202) 514-2007
TDD (202) 514-1888

TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

WASHINGTON – Tenet Healthcare Corporation, operator of the nation's second largest hospital chain, has agreed to pay the United States more than $900 million for alleged unlawful billing practices, Assistant Attorney General Peter D. Keisler of the Civil Division and U.S. Attorney Debra Wong Yang of the Central District of California in Los Angeles announced today.

"Today's settlement reflects our continued resolve to hold responsible those who engage in health care fraud in any form," said Assistant Attorney General Keisler, head of the Justice Department's Civil Division. "The Department of Justice will not tolerate fraudulent efforts by hospitals or other health care providers to claim excessive sums from the Medicare program."

Under the agreement, Tenet, which is headquartered in Dallas but operates dozens of hospitals throughout the United States, will pay a total of $900 million over a four-year period, plus interest, to resolve various types of civil allegations involving Tenet's billings to Medicare and other federal health care programs. The settlement amount was based on the company's ability to pay.

"The Medicare program currently faces great challenges, and can ill afford attempts by hospitals to manipulate and cheat the system," said U.S. Debra Wong Yang. "This settlement demonstrates our strong commitment to recovering taxpayer funds from health care companies that break the rules in pursuit of higher profits."

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Of the $900 million settlement amount, the agreement requires Tenet to pay:

-- more than $788 million to resolve claims arising from Tenet's receipt of excessive "outlier" payments (payments that are intended to be limited to situations involving extraordinarily costly episodes of care) resulting from the hospitals' inflating their charges substantially in excess of any increase in the costs associated with patient care and billing for services and supplies not provided to patients;

-- more than $47 million to resolve claims that Tenet paid kickbacks to physicians to get Medicare patients referred to its facilities, and that Tenet billed Medicare for services that were ordered or referred by physicians with whom Tenet had an improper financial relationship; and,

-- more than $46 million to resolve claims that Tenet engaged in "upcoding," which refers to situations where diagnosis codes that Tenet is unable to support or that were otherwise improper were assigned to patient records in order to increase reimbursement to Tenet hospitals.

"Today's settlement with Tenet Healthcare Corporation demonstrates the Federal goverment's commitment to protecting the integrity of our nation's healthcare system," Health and Human Services Secretary Mike Leavitt said. "I commend the staff of the HHS Office of Inspector General, the HHS Office of General Counsel and the Centers for Medicare and Medicaid Services who worked so hard to pursue those who fraudulently abused the Medicare program."

Several of the issues resolved as part of today's agreement arose from lawsuits filed by whistleblowers. Under provisions of the False Claims Act, whistleblowers who qualify under the statute are eligible to receive up to 25 percent of the settlement recovery in cases the government pursues. Under the civil settlement announced today, whistleblower shares remain undetermined pending further negotiations or court proceedings.

The following divisions and districts of the Department of Justice assisted in bringing the above matters to a successful resolution: Civil Division; Central District of California; Northern District of Alabama; Eastern District of Louisiana; Eastern District of Missouri; Eastern District of Pennsylvania; and Western District of Tennessee. Assistant Attorney General Keisler and U.S. Attorney Wong also wish to acknowledge the extensive assistance in addressing and resolving the settled allegations provided by the Department of Health and Human Services' Office of Inspector General and its Office of Investigations in Santa Ana, Calif.), Office of General Counsel, and Centers for Medicare and Medicaid Services; the Federal Bureau of Investigation; and Medicare Contractors Mutual of Omaha, Inc., and IntegriGuard LLC.

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CIVIL SETTLEMENT AGREEMENT (Redacted)

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the following (hereinafter "the Parties") through their authorized representatives:

(a) the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General ("OIG-HHS") of the Department of Health and Human Services ("HHS"); the TRICARE Management Activity ("TMA") (formerly the Office of Civilian Health and Medical Program of the Uniformed Services ("OCHAMPUS")), through its General Counsel; and the Office of Personnel Management ("OPM"), which administers the Federal Employees Health Benefit Program ("FEHBP") (collectively, "the United States"); and,

(b) Tenet Healthcare Corporation, on behalf of its predecessors, and current and former affiliates, divisions, and direct and indirect subsidiaries ("Tenet"); Tenet HealthSystem HealthCorp.; Tenet HealthSystem Holdings, Inc.; Tenet HealthSystem Medical, Inc.; OrNda Hospital Corp.; and the 165 hospitals listed in Exhibit 1 hereto (referred to herein as the "Settling Hospitals") (collectively the "Tenet Entities").

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Tenet is a Nevada corporation with headquarters in Dallas, Texas. Tenet, through its predecessors, subsidiaries, and/or affiliates, operates or has operated the Settling Hospitals during some or all of the time period January 1, 1990 to the present.

B. The United States has filed three actions against certain Tenet Entities in the Central District of California (collectively the "DRG Complaints"), captioned as follows:

(1) U.S. v. Tenet Healthcare *et al.*, CV03-206 GAF

(2) U.S. v. Tenet Healthcare *et al.*, CV04-857 GAF

(3) U.S. v. Tenet Healthcare *et al.*, CV04-859 GAF

The DRG Complaints allege that these Tenet Entities engaged in "upcoding" as further described in Paragraph II.E(2) below.

C. [redacted].

D. The Tenet Entities submitted or caused to be submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg (1997); the Medicaid Program ("Medicaid"), 42 U.S.C. §§ 1396-1396v; the TRICARE Program ("TRICARE"), 10 U.S.C. §§ 1071-1107; and the FEHBP, 5 U.S.C. §§ 8901 et. seq. (collectively the "Government Health Care Programs").

E. The United States alleges that it has certain civil claims against the Tenet Entities, as specified in Paragraph III.4 below, for engaging in the following conduct (hereinafter the "Covered Conduct"):

(1) **Outlier Payments:**

From October 1, 1995 through August 7, 2003, the Tenet Entities allegedly submitted or caused to be submitted claims to the Government Health Care Programs for inpatient and outpatient outlier payments that the Tenet Entities were not entitled to receive because (a) the Tenet Entities allegedly had artificially and purposely inflated the charges billed for inpatient and outpatient care substantially in excess of any increase in the costs associated with that care, (b) as a result, the Tenet Entities allegedly improperly received outlier payments that were further inflated because they were computed pursuant to statewide average cost-to-charge ratios that should not properly have applied, and (c) the Tenet Entities allegedly billed for inpatient and outpatient services and supplies not provided to patients. [redacted]

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[redacted] As a result of these artificially inflated and allegedly false claims, the Tenet Entities allegedly caused the Government Health Care Programs to pay to Tenet money that lawfully belonged to the United States in that it exceeded the amount Tenet would have received had these claims not been artificially inflated and false.

(2) **DRG Upcoding:**

(a) From January 1, 1992 through December 31, 1998, Tenet and the Settling Hospitals listed in Exhibit 2 allegedly submitted or caused to be submitted claims to Medicare that assigned diagnosis codes for inpatient discharges that were not supported by physician documentation in the patient's medical records or were otherwise improper for the following diagnosis related groups ("DRG's"): 79, 106, 124, 415, 416, 475 and 483; and,

(b) Between January 1, 1992 and December 31, 1998, Tenet annually certified compliance with its obligations under its Corporate Integrity Agreement notwithstanding its alleged knowledge of claims of the type described above.

(3) **Physician Relationships:**

From January 1, 1992 through October 12, 2005, the Tenet Entities allegedly submitted or caused to be submitted claims to Medicare for items and services delivered by those Tenet Entities that were ordered by a physician, a member of a physician group practice, a professional corporation, or other legal entity owned at least in part by a physician with whom the Tenet Entities had a financial relationship, directly or through a family member. The United States alleges these claims were false because (a) Section 1877 of the Social Security Act ("SSA"), 42 U.S.C. § 1395nn (also known as the Stark Law) prohibited the Tenet Entities from billing Medicare for items or services referred or ordered by physicians with whom the Tenet

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Entities had improper financial relationships, (b) the Tenet Entities forfeited the right to bill Medicare for such items and services by allegedly paying remuneration to physicians intending that remuneration to induce those and other referrals in violation of the Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b), and (c) the Tenet Entities were required to and did certify on cost reports submitted to fiscal intermediaries for the applicable fiscal years that items and services identified or summarized in each cost report were not provided or procured through the payment directly or indirectly of a kickback or billed in violation of federal or state referral laws (*e.g.*, the Stark Law). [redacted]

(4) **Tiered Charges**:

From January 1, 1996 through September 30, 2005, Tenet and the Settling Hospitals listed in Exhibit 3 allegedly submitted or caused to be submitted claims to Medicare that used higher charges for inpatient than outpatient services, when those charges were required to be uniform. [redacted]

(5) **Centinela Hospital Medical Center Claims**:

From January 1, 1999 through December 31, 2005, Centinela Hospital Medical Center allegedly submitted or caused to be submitted claims to Medicare for cardiac catheterizations that were not medically necessary.

(6) **Desert Regional Medical Center Claims**:

(a) From January 1, 1997 through May 31, 2004, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted claims to Medicare for outpatient

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care rendered at the Comprehensive Cancer Center (i) with the following billing codes that were inaccurate and resulted in excessive reimbursement: modifiers 25, 27, and 59, and diagnostic codes related to screening and diagnostic mammograms, and (ii) for diagnostic laboratory and imaging services that were not supported by appropriate documentation. [redacted] and

(b) From January 1, 1997 through May 31, 2001, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted cost reports to Government Health Care Programs that sought reimbursement for excessive management fees paid to the Comprehensive Cancer Center.

(7) **Brookwood Medical Center Claims**:

From January 1, 1997 through May 1, 2000, Brookwood Medical Center submitted claims to Government Health Care Programs for reimbursement for (i) units of blood that allegedly were not administered and (ii) blood filters that allegedly were not used. [redacted]

(8) **People's Health Network Claims:**

From January 1, 1999 through August 23, 2005, People's Health Network ("PHN"), an entity in which Tenet had an ownership interest, allegedly failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN.

F. The United States also contends that it has certain administrative claims against

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the Tenet Entities for the Covered Conduct under the provisions for permissive exclusion from Medicare, Medicaid and other Federal health care programs, 42 U.S.C. § 1320a-7(b), the provisions for permissive exclusion from TRICARE, 32 C.F.R. § 199.9, and the provisions for civil monetary penalties, 42 U.S.C. § 1320a-7a.

G. The Tenet Entities deny the contentions of the United States set out in Paragraphs II.E and II.F above.

H. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth in this Agreement. The settlement amount required to be paid by the Tenet Entities pursuant to this Agreement reflects limitations on the Tenet Entities' ability to pay occasioned by the financial condition of the Tenet Entities.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. The Tenet Entities agree to pay to the United States a total of $900 million, plus applicable interest, as follows (the "Settlement Amount"):

(a) The Tenet Entities agree to pay the United States $450 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, within ten (10) days after the Effective Date of this Agreement. The payment shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

(b) The Tenet Entities agree to waive, and not assert any claim for, additional

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Disproportionate Share Hospital ("DSH") program payments related to Medicaid eligible patient days and SSI patient days to which the Tenet Entities may be entitled for all cost reporting periods beginning on or before December 31, 2001, which claims and potential claims have a value of $50 million.

(c) The Tenet Entities agree to waive, and not assert any claim for, any additional outlier payments from any Government Health Care Program to which the Tenet Entities may be entitled for any period prior to August 7, 2003, which claims and potential claims have a value of $125 million.

(d) The Tenet Entities further agree to pay the United States $275 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, in quarterly installments from November 1, 2007 through August 1, 2010 in accordance with the schedule of payments attached as Exhibit 4. All quarterly payments shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

2. The principal portion of the Settlement Amount is attributable to the Covered Conduct as follows (with interest to be allocated on the same pro rata basis):

(a) Outlier Payments: $788,851,228 [redacted]

(b) DRG Upcoding: $46,886,882

(c) Physician Relationships: $47,533,514 [redacted]

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(d)Tiered Charges: $822,577

(e) Desert Regional Medical Center Claims: $452,417

(f) Brookwood Medical Center Claims: $30,065

(g) People's Health Network Claims: $15,423,316

3. If the Tenet Entities fail to make any of the payments described in Paragraph III.1 above at the specified time, upon written notice to the Tenet Entities of this default, the Tenet Entities shall have ten (10) calendar days to cure the default. If the default is not cured within the ten-day period: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of default, and at a simple rate of 9.5% per annum from the date of default until the date of payment; (b) the United States may pursue any and all actions for collection as it may choose, including, without limitation, filing an action for specific performance of this Agreement; and (c) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to any of the Released Tenet Entities (defined in Paragraph III.4 below) by any department, agency, or

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agent of the United States. The Released Tenet Entities agree not to contest any collection action undertaken by the United States pursuant to this Paragraph III.3, and to pay the United States all reasonable costs incurred in any such collection action, including attorney's fees and expenses.

4. Subject to the exceptions in Paragraph III.11 below, in consideration of the obligations of the Tenet Entities set forth in this Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby releases Tenet, together with its current and former parent corporations, each of its direct and indirect subsidiaries including the Settling Hospitals, brother or sister corporations, divisions, current or former owners, partnerships or other legal entity in which Tenet or a Tenet subsidiary has or had an ownership interest, and the successors and assigns of any of them (the "Released Tenet Entities"), from any civil or administrative monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; any other statutory cause of action for civil damages or civil penalties which the Civil Division has actual and present authority to assert and compromise pursuant to 28 C.F.R. Subpart I, Section 0.45(d) (2004); or the common law and/or equitable theories of payment by mistake, unjust enrichment, restitution, recoupment, disgorgement of illegal profits, and fraud, for the Covered Conduct.

5. Within 30 days of the Effective Date of this Agreement, the United States will seek dismissal with prejudice of (a) the claims stated in the United States' Complaints and

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Amended Complaints in the Civil Actions identified in Paragraph II.B above; (b) claims asserted against the Tenet Entities in [redacted]. The stipulations of dismissal will be conditioned upon receipt by the United States of the Settlement Amount, and if necessary, will request that the courts retain jurisdiction to resolve issues of relators' share and attorney's fees.

6. Should this Agreement be challenged by any relator as not fair, adequate or reasonable pursuant to 31 U.S.C. § 3730(c)(2)(B), the United States and the Tenet Entities agree that they will take all reasonable and necessary steps to defend this Agreement. If a court concludes that the Agreement is not fair, adequate or reasonable as to the claims of a particular relator, then the Agreement shall be null and void as to the Covered Conduct asserted by those claims; the Agreement will otherwise remain in full force and effect; and that portion of the Settlement Amount allocated to the excluded Covered Conduct (the "Allocated Amount") will be held by the United States to be used as follows upon entry of a final judgment resolving (whether by settlement or otherwise) the amount the Tenet Entities must pay on the particular relator's claims (the "Judgment Amount"): (a) if the Judgment Amount is greater than the Allocated Amount, the Allocated Amount shall remain allocated to those claims, with the Tenet Entities responsible for payment of the difference between the Judgment Amount and the Allocated Amount; (b) if the Judgment Amount is less than or equal to the Allocated Amount, the portion of the Allocated Amount equivalent to the Judgment Amount shall remain allocated to those claims, while the difference between the Allocated Amount and the Judgment Amount shall be reallocated to the remaining Covered Conduct in an amount proportionate to the original allocation set forth in Paragraph III.2 above.

7. In consideration of the obligations of the Tenet Entities set forth in this

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Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement):

(a) TMA hereby releases and agrees to refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the TRICARE/CHAMPUS Program against the Released Tenet Entities under 32 C.F.R. § 199.9 for the Covered Conduct, except as reserved in Paragraph III.11, below, and as reserved in this Paragraph III.7(a). TMA expressly reserves authority to exclude the Released Tenet Entities from the TRICARE/ CHAMPUS program under 32 C.F.R. §§ 199.9 (f)(1)(i)(A), (f)(1)(i)(B), and (f)(1)(iii), based upon the Covered Conduct.

(b) OPM agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the FEHBP against the Released Tenet Entities under 5 U.S.C. § 8902a or 5 C.F.R. Part 970 for the Covered Conduct, except as reserved in Paragraph III.11, below and except if excluded by the OIG-HHS pursuant to 42 U.S.C. § 1320a-7(a). Nothing in this Paragraph III.7(b) precludes OPM from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph III.11, below.

8. The Released Tenet Entities fully and finally release, compromise, acquit and forever discharge the United States, its agencies, officers, agents, employees, and contractors (and their employees) from any and all claims, causes of action, adjustments, and set-offs of any kind (including, without limitation, any claims for additional outlier payments for any period prior to August 7, 2003; any claims for additional DSH payments related to Medicaid eligible patient days and SSI patient days for cost reporting periods beginning on or before December 31,

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2001; and any attorney's fees, costs, and expenses of every kind and however denominated) which the Released Tenet Entities could have asserted, or may assert in the future, against the United States, its agencies, officers, agents, employees, and contractors (and their employees) arising out of or pertaining to the Covered Conduct, including the United States' investigation, prosecution, or settlement thereof.

9. The Tenet Entities have provided financial information to the United States and the United States has relied on the accuracy and completeness of this financial information in reaching this Agreement. If the United States learns that this financial information either (a) failed to disclose a material non-contingent asset or assets in which the Tenet Entities had an interest (a "Material Nondisclosure"); or (b) contained any other knowing, material misrepresentation or omission regarding the financial condition of the Tenet Entities (a "Knowing Material Misrepresentation"), the United States may at its option pursue relief under this Paragraph III.9 as follows: (a) the United States shall provide Tenet with written notice of the nature of the Material Nondisclosure or Knowing Material Misrepresentation; (b) within ten (10) calendar days of the date of the written notice, Tenet shall provide the United States, in writing, with any explanation it may have regarding the Material Nondisclosure or Knowing Material Misrepresentation referenced in the written notice; (c) if unsatisfied with Tenet's explanation, as determined in its sole and absolute discretion, the United States may file an action seeking relief under this Paragraph III.9 in which action the United States shall bear the burden of establishing by a preponderance of the evidence the Material Nondisclosure or Knowing Material Misrepresentation; (d) if the court finds a Material Nondisclosure or Knowing Material Misrepresentation, then – (i) the Settlement Amount shall be increased by one hundred percent (100%) of the amount of the Material Nondisclosure or Knowing Material

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Misrepresentation; (ii) the remaining unpaid principal portion of the Settlement Amount (including the increase specified in subparagraph (d)(i) above) shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of the court finding, and at a simple rate of 9.5% per annum from the date of the court finding until the date of payment; (iii) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest and the increase specified in subparagraph (d)(i) above) from any amounts due and owing to any of the Released Tenet Entities by any department, agency, or agent of the United States; and (iv) the Tenet Entities shall immediately pay the United States all reasonable costs incurred in the action seeking relief under this Paragraph III.9, including attorney's fees and expenses.

10. OIG-HHS expressly reserves all rights to institute, direct, or maintain any administrative action seeking exclusion against the Tenet Entities, and/or its officers, directors, and employees from Medicare, Medicaid, or other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(a) (mandatory exclusion), or 42 U.S.C. § 1320a-7(b) (permissive exclusion). The Tenet Entities and OIG-HHS are engaged in the negotiation of a potential Corporate Integrity Agreement ("CIA") and have reached a common understanding on the basic terms of such a CIA. The Tenet Entities shall use their best efforts and negotiate in good faith to execute a CIA with OIG-HHS within 90 days after the Effective Date of this Agreement (defined in Paragraph III.27 below). Upon execution of the CIA, OIG-HHS shall provide a release to the Tenet Entities pursuant to which OIG-HHS will agree not to institute, direct, or maintain an administrative action seeking an exclusion against the Tenet Entities under 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct.

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11. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including the Released Tenet Entities) are any and all of the following:

a. Any civil, criminal or administrative claims arising under Title 26, U.S. Code (commonly referred to as the Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and/or permissive exclusion from the Government Health Care Programs;

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

e. Any claims based upon such obligations as are created by execution of this Agreement;

f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any claims for personal injury or property damage, or for other similar consequential damages, arising from the Covered Conduct;

h. Any liability for failure to deliver goods or services due;

i. Any claims against individuals (including, without limitation, current or former directors, officers, employees, agents, or shareholders of any of the Tenet Entities), provided, however, that if the United States pursues claims based on the Covered Conduct against any individual, if the United States obtains a judgment against or enters into a settlement with any individual based on such claims, and if a court determines that the Tenet Entities have an obligation to indemnify the individual for the judgment or settlement amount (or any part

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thereof) (an "Indemnification Obligation"), then the United States shall seek to recover from the individual on the judgment or settlement only an amount such that the amount required to be paid by the Tenet Entities on their Indemnification Obligation to that individual, when summed with all amounts paid by the Tenet Entities on prior Indemnification Obligations to other individuals, results in an aggregate total no greater than $75 million;

j. Any claims of any State arising under the Medicaid Program, or any other provision of law, based on the Covered Conduct;

k. Any claims against any Settling Hospital, Tenet subsidiary, affiliate, or division, or any partnership or other legal entity in which Tenet or any Tenet subsidiary has or had an ownership interest, and the partners or other shareholders in any such partnership or other legal entity, for a time period that the Tenet Entity, partnership, or other legal entity was not directly or indirectly owned by Tenet.

l. Any liability for the Covered Conduct set forth in Paragraph II.E(3) above for claims submitted by or on behalf of the hospitals identified by the relators' Complaints in U.S. ex rel. Meshel v. Tenet (W.D. Tex.) [redacted]

m. Any liability to the United States of any entity other than a Released Tenet Entity for the Covered Conduct set forth in Paragraphs II.E(6) and II.E(8) above, and in connection with any investigation of any entity other than a Tenet Entity for such Covered Conduct, Tenet shall make reasonable efforts to facilitate access to and encourage the cooperation of its directors, officers, and employees for interviews and testimony consistent with the rights and privileges of such individuals.

12. Subject to the provisions set forth below, the Released Tenet Entities agree to

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provide to the Department of Justice, within no more than 120 days (with production beginning within 30 days and proceeding on the schedule set forth below), all documents falling within the following categories, regardless of whether the Released Tenet Entities have asserted, and/or continue to assert, that such documents are protected from disclosure by the attorney-client privilege and/or work product doctrine (as used in this Paragraph III.12, the term "document" is to be given its broadest meaning, and includes any type or form of communication, including any electronic communications, but excludes "documents" previously produced to the Department of Justice by the Released Tenet Entities in connection with the Department of Justice's investigation of the Covered Conduct):

a. all documents created prior to October 31, 2002, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to (i) the Released Tenet Entities' request or receipt of Medicare outlier payments; (ii) the Released Tenet Entities' analysis of Medicare's outlier payment rules and regulations; and/or, (iii) the Released Tenet Entities' charges, charge increases, or cost to charge ratios;

b. all documents created prior to December 31, 1998, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to coding compliance audits conducted by the Released Tenet Entities between March, 1997 and October, 1998;

c. all documents created prior to June 30, 1999, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to the Released Tenet Entities' obligations under, and compliance with, the Corporate Integrity Agreement ("CIA") executed by Tenet's predecessor with the OIG-HHS on June 29, 1994;

d. those documents previously withheld as privileged in United States ex rel.

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Barbera v. Amisub, et al., Case No. 97-6590-CIV (S.D.Fl.), and identified by Bates numbers as set forth in Exhibit 5 hereto;

e. all documents created prior to August 23, 2005, that (i) were requested by the United States Attorney's Office for the Eastern District of Louisiana or the Department of Justice in connection with the investigation of allegations that PHN failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN and/or (ii) are otherwise relevant to the foregoing allegations;

f. the Released Tenet Entities will produce the documents described in this Paragraph III.12 according to the following schedule –

(i) with respect to the documents described in subparagraph (a) above: substantially all documents that were identified on any privilege log provided to the United States Attorney's Office for the Central District of California or the Department of Justice within 30 days; substantially all documents that were identified on any privilege log provided to the Securities and Exchange Commission within 60 days; substantially all documents that were identified on any privilege log provided to Congress within 90 days; and all remaining documents within 120 days;

(ii) with respect to the documents described in subparagraph (b) above: substantially all documents within 30 days, and any remaining documents within 120 days;

(iii) with respect to the documents described in subparagraph (c) above: substantially all documents that were identified on any privilege log provided in

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the DRG Upcoding litigation described in Paragraphs II.B and II.E(2) above within 60 days, and all remaining documents within 120 days;

(iv) all documents described in subparagraph (d) above within 30 days; and,

(v) with respect to the documents described in subparagraph (e) above: substantially all documents within 60 days, and any remaining documents within 120 days;

g. the Released Tenet Entities shall mark any document produced to the Department of Justice pursuant to this Paragraph III.12 that they continue to assert is protected from disclosure by the Released Tenet Entities to third-parties with the legend "Privilege Asserted and Produced Subject to Confidentiality Agreement" (such marked documents are referred to as "Privilege Asserted Documents");

h. the Department of Justice agrees to maintain the confidentiality of all Privilege Asserted Documents and not to disclose them to any third party, except to the extent the Department of Justice, in its sole and absolute discretion, determines that disclosure is required by law or court order or would be necessary to protect the safety or welfare of the public or any individual or would be in furtherance of the discharge of the Department of Justice's duties – thus, for example, this Paragraph III.12 does not prevent the Department of Justice from disseminating any Privilege Asserted Document to any other governmental entity of the United States in connection with any potential violation of law or regulation or regarding any matter within that entity's jurisdiction or to the United States Congress pursuant to a Congressional request;

i. the Department of Justice, and any individual or entity to whom a Privilege Asserted Document is disclosed by the Department of Justice pursuant to subparagraph (h)

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above, may use any Privilege Asserted Document as it deems appropriate in any criminal, civil, administrative, or contractual investigation or proceeding;

j. subject to the provisions of this Paragraph III.12 above, by producing any Privilege Asserted Document to the Department of Justice, the Released Tenet Entities do not intend to waive as to any third-party any protection of such Privilege Asserted Document under the attorney-client privilege and/or the work product doctrine.

13. The Released Tenet Entities waive and will not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph III.13 or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the settlement amounts for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

14. The Amounts that Tenet must pay pursuant to this Agreement shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP related to the Covered Conduct. The Released Tenet Entities agree not to resubmit to any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP any previously denied claims related to the Covered Conduct, and agree not to appeal any such denials of claims.

15. The Released Tenet Entities agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal

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Acquisition Regulation, 48 C.F.R. § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or on behalf of a Released Tenet Entity, in connection with the following are unallowable costs on government contracts and under the Medicare, Medicaid, TRICARE, Veterans Affairs ("VA") or FEHBP programs:

(1) the matters covered by this Agreement;

(2) the Government's audit(s), civil and any criminal investigation(s), and litigation of the matters covered by this Agreement;

(3) any Released Tenet Entity's investigation, defense, and corrective actions undertaken in response to the Government's audit(s), civil and any criminal investigation(s), and litigation in connection with the matters covered by this Agreement (including attorneys' fees);

(4) the negotiation and performance of the Agreement;

(5) the payments made pursuant to this Agreement, and any payments that the Tenet Entities may make to any relator and/or relator's attorney; and,

(6) the negotiation of the CIA referenced in Paragraph 10 above, and any obligations undertaken pursuant to such a CIA to: (i) retain an independent review organization to perform reviews as described in the CIA; and (ii) prepare and submit reports to OIG-HHS.

(All costs described or set forth in this Paragraph III.15.a are hereafter, "Unallowable Costs.")

b. Future Treatment of Unallowable Costs: These Unallowable Costs shall be separately determined and accounted for in non-reimbursable cost centers by the Released Tenet Entities, and the Released Tenet Entities will not charge such Unallowable Costs directly

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or indirectly to any contracts with the United States or any State Medicaid Program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement or payment request submitted by the Released Tenet Entities, to the Medicare, Medicaid, TRICARE, VA or FEHBP programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: The Released Tenet Entities further agree that within 90 days of the Effective Date of this Agreement they shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid, VA and FEHBP fiscal agents, any Unallowable Costs included in payments previously sought from the United States, or any State Medicaid Program, including, but not limited to, payments sought in any cost report, cost statements, information reports, or payment requests already submitted by any of the Released Tenet Entities, and shall request, and agree, that such cost reports, cost statements, information reports or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. The Released Tenet Entities agree that the United States, at a minimum, will be entitled to recoup from the Released Tenet Entities any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. If any Released Tenet Entity fails to identify such costs in past filed cost reports in conformity with this Paragraph, the United States may seek an appropriate penalty or other sanction in addition to the recouped amount. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by any Released Tenet Entity, on the effect of inclusion of Unallowable Costs on the cost reports, cost statement, or

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information reports of the Released Tenet Entity.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine the books and records of any Released Tenet Entity to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph III.15.

16. The Released Tenet Entities waive and agree that they shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals or third party payors. The Released Tenet Entities waive any causes of action against these beneficiaries or their parents, sponsors, legally responsible individuals or any third party payors based upon the claims for payment covered by this Agreement.

17. The Tenet Entities expressly warrant that they have reviewed their financial situations and that they are currently solvent within the meaning of 11 U.S.C. § 547(b)(3), and 548(a)(1)(B)(ii)(I), and will remain solvent following payment to the United States hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to the Tenet Entities, within the meaning of 11 U.S.C. § 547(c)(1), and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which the Tenet Entities were or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

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18. In the event the Tenet Entities commence, or a third party commences, within 91 days of the Effective Date of this Agreement, or of any payment made hereunder, any case, proceeding, or other action (a) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have any order for relief of any Tenet Entity's debts, or seeking to adjudicate any Tenet Entity as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for any Tenet Entity, or for all or any substantial part of a Tenet Entity's assets, the Tenet Entities agree as follows:

a. No Tenet Entity's obligations under this Agreement may be avoided pursuant to 11 U.S.C. §§ 547 or 548, and no Tenet Entity will argue or otherwise take the position in any such case, proceeding or action that: (i) the Tenet Entity's obligations under this Agreement may be avoided under 11 U.S.C. § 547 or 548; (ii) the Tenet Entity was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to the Tenet Entity.

b. If any Tenet Entity's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against the Tenet Entities for the claims that would otherwise be covered by the releases provided in Paragraphs III.4, III.7, and III.8 above. The Tenet Entities agree that (i) any such claims, actions, or proceedings brought by the United States (including any proceedings to exclude any Tenet Entity from participation in Medicare, Medicaid, or other Federal health care programs)

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are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the actions, cases, or proceedings described in the first clause of this subparagraph, and that the Tenet Entities will not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) the Tenet Entities will not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding which are brought by the United States within 120 calendar days of written notification to any Tenet Entity that the releases have been rescinded pursuant to this Paragraph III.18, except to the extent such defenses were available on May 13, 2005; and (iii) the United States has a valid claim against the Tenet Entities for the Covered Conduct, and the United States may pursue its claims in the cases, actions, or proceedings referenced in the first clause of this subparagraph, as well as in any other case, action, or proceeding.

c. The Tenet Entities acknowledge that their agreements in this Paragraph III.18 are provided in exchange for valuable consideration provided in this Agreement.

19. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement. This Agreement shall in no way be construed or considered as an admission of liability or wrongdoing in any legal or administrative proceeding.

20. The Tenet Entities represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever and they have been advised with respect hereto by counsel prior to entering into this Settlement Agreement.

21. This Agreement is governed by the laws of the United States. The United States

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and the Tenet Entities agree that the exclusive jurisdiction and venue for any dispute arising between the United States and the Tenet Entities under this Agreement will be the United States District Court for the Central District of California.

22. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the affected Parties.

23. The individuals signing this Agreement on behalf of the Tenet Entities represent and warrant that they are authorized to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

24. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

25. This Agreement is binding on the Tenet Entities' successors, transferees, heirs and assigns.

26. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

27. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

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IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: [signature], Chief AUSA for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: June 28, 2006

BY: [signature]
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: [signature]
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: 6/29/06 by DTSpin

BY: Michael D. Granston
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163296

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: 6/28/06

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163297

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: [signature], Chief AUSA, for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: 28 June 2006

BY: [signature]
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

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FOR THE SETTLING HOSPITALS

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: _____

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: _____

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163299

FOR THE SETTLING HOSPITALS

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163300

FOR TENET HEALTHSYSTEM MEDICAL, INC.

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR ORNDA HOSPITAL CORPORATION

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163301

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
3	15-0022	AMI CULVER UNION HOSPITAL	CRAWFORDSVILLE	IN
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP	NACOGDOCHES	TX
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER	TARZANA	CA
6	10-0255	AMI TOWN & COUNTRY HOSPITAL	TAMPA	FL
7	11-0115	ATLANTA MEDICAL CENTER (GEORGIA BAPTIST MEDICAL CENTER)	ATLANTA	GA
8	45-0378	BAYOU CITY MEDICAL CENTER	HOUSTON	TX
9	01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
10	05-0144	BROTMAN MEDICAL CENTER	CULVER CITY	CA
11	45-0028	BROWNSVILLE MEDICAL CENTER	BROWNSVILLE	TX
12	45-0885	CENTENNIAL MEDICAL CENTER	FRISCO	TX
13	05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
14	04-0014	CENTRAL ARKANSAS HOSPITAL	SEARCY	AR
15	34-0020	CENTRAL CAROLINA HOSPITAL	SANFORD	NC
16	05-0579	CENTURY CITY HOSPITAL	LOS ANGELES	CA
17	05-0550	CHAPMAN MEDICAL CENTER	ORANGE	CA
18	39-0288	CITY AVENUE HOSPITAL	PHILADELPHIA	PA
19	10-0056 10-0289	CLEVELAND CLINIC	WESTON	FL
20	05-0535	COASTAL COMMUNITIES HOSPITAL	SANTA ANA	CA
21	26-0178	COLUMBIA REGIONAL HOSPITAL	COLUMBIA	MO
22	05-0188	COMMUNITY HOSPITAL LOS GATOS	LOS GATOS	CA
23	05-0091	COMMUNITY/MISSION HOSPITAL OF HUNTINGTON PARK	0	CA
24	03-0059	COMMUNITY HOSPITAL MEDICAL CENTER	PHOENIX	AZ
25	10-0183	CORAL GABLES HOSPITAL	CORAL GABLES	FL
26	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL	HOUSTON	TX
27	05-0559 05-0730	DANIEL FREEMAN MARINA HOSPITAL	MARINA DEL REY	CA
28	05-0267 05-0729	DANIEL FREEMAN MEMORIAL HOSPITAL	INGELWOOD	CA
29	16-0104	DAVENPORT MEDICAL CENTER	DAVENPORT	IA
30	26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	SAINT LOUIS	MO
31	26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	SAINT LOUIS	MO
32	10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
33	05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
34	45-0678	DOCTORS HOSPITAL	DALLAS	TX
35	19-0203	DOCTORS HOSPITAL OF JEFFERSON	METAIRIE	LA
36	05-0118	DOCTORS HOSPITAL OF MANTECA	MANTECA	CA
37	05-0464	DOCTORS MEDICAL CENTER MODESTO	MODESTO	CA
38	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS	PINOLE	CA
39	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS	SAN PABLO	CA
40	26-0119	DOCTORS REGIONAL	POPLAR BLUFF	MO
41	42-0089	EAST COOPER REGIONAL MEDICAL CENTER	MOUNT PLEASANT	SC
42	38-0039	EASTMORLAND HOSPITAL	PORTLAND	OR
43	39-0289	ELKINS PARK HOSPITAL	ELKINS PARK	PA
44	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
45	10-0210	FLORIDA MEDICAL CENTER	FORT LAUDERDALE	FL
46	10-0085	FLORIDA MEDICAL CENTER SOUTH	PLANTATION	FL
47	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL	FOUNTAIN VALLEY	CA

DOJ_NMG_ 0163302

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
48	05-0232	FRENCH HOSPITAL MEDICAL CENTER	SAN LUIS OBISPO	CA
49	34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
50	34-1312	FRYE REGIONAL MEDICAL CENTER - ALEXANDER CAMPUS		NC
51	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER	GARDEN GROVE	CA
52	05-0432	GARFIELD MEDICAL CENTER	MONTEREY PARK	CA
53	45-0315	GARLAND COMMUNITY HOSPITAL	GARLAND	TX
54	10-0262 10-0287	GOOD SAMARITAN	WEST PALM BEACH	FL
55	39-0285	GRADUATE HOSPITAL	PHILADELPHIA	PA
56	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL	SOUTH EL MONTE	CA
57	25-0125	GULF COAST MEDICAL CENTER	BILOXI	MS
58	05-0607	HARBOR VIEW MEDICAL CENTER	SAN DIEGO	CA
59	39-0290	HAHNEMANN UNIVERSITY HOSPITAL	PHILADELPHIA	PA
60	10-0053	HIALEAH HOSPITAL	HIIALEAH	FL
61	42-0080	HILTON HEAD HOSPITAL	HILTON HEAD ISLAND	SC
62	10-0225	HOLLYWOOD MEDICAL CENTER	HOLLYWOOD	FL
63	45-0638	HOUSTON NORTHWEST MEDICAL CENTER	HOUSTON	TX
64	05-0693	IRVINE MEDICAL CENTER	IRVINE	CA
65	19-0173	JOELLEN SMITH MEDICAL CENTER	NEW ORLEANS	LA
66	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL	INDIO	CA
67	44-0144	JOHN W HARTON REGIONAL MED CENTER	TULLAHOMA	TN
68	19-0206	KENNER REGIONAL MEDICAL CENTER	KENNER	LA
69	26-0054	LAFAYETTE-GRAND HOSPITAL (COMPTON HEIGHTS)	SAINT LOUIS	MO
70	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
71	45-0742	LAKE POINTE MEDICAL CENTER	ROWLETT	TX
72	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER	LAKEWOOD	CA
73	53-0010	LANDER VALLEY MEDICAL CENTER	LANDER	WY
74	01-0068	LLOYD NOLAN HOSPITAL	FAIRFIELD	AL
75	05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
76	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHCARE)	POPLAR BLUFF	MO
77	26-0002	LUTHERAN MEDICAL CENTER (SOUTHPOINTE HOSPITAL) (ST. ALEXIUS - JEFFERSON CAMPUS)	SAINT LOUIS	MO
78	19-0152	MEADOWCREST HOSPITAL	GRETNA	LA
79	44-0203	MEDICAL CENTER OF MANCHESTER	MANCHESTER	TN
80	39-0287	MEDICAL COLLEGE OF PENNSYLVANIA	PHILADELPHIA	PA
81	10-0206	MEMORIAL HOSPITAL OF TAMPA	TAMPA	FL
82	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
83	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)	NEW ORLEANS	LA
84	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER	MESA	AZ
85	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)	JONESBORO	AR
86	22-0089	METROWEST MEDICAL CENTER - LEONARD MORSE	FRAMINGHAM	MA
87	22-0089	METROWEST MEDICAL CENTER - UNION HOSPITAL	NATICK	MA
88	45-0514	MID-JEFFERSON HOSPITAL	NEDERLAND	TX
89	05-0477	MIDWAY HOSPITAL MEDICAL CENTER	LOS ANGELES	CA
90	19-0144	MINDEN MEDICAL CENTER INC	MINDEN	LA

DOJ_NMG_ 0163303

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
91	05-0591	MONTEREY PARK HOSPITAL	MONTEREY PARK	CA
92	04-0078	NATIONAL PARK MEDICAL CENTER INC	HOT SPRINGS	AR
93	10-0063	NORTH BAY MEDICAL CENTER	NEW PORT RICHEY	FL
94	11-0198	NORTH FULTON REGIONAL HOSPITAL	ROSWELL	GA
95	05-0241 55-0241	NORTH HOLLYWOOD MEDICAL CENTER	NORTH HOLLYWOOD	CA
96	10-0237	NORTH RIDGE MEDICAL CENTER	FORT LAUDERDALE	FL
97	10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
98	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
99	45-0661	ODESSA REGIONAL HOSPITAL	ODESSA	TX
100	10-0176	PALM BEACH GARDENS MEDICAL CENTER	PALM BEACH GARDENS	FL
101	10-0187	PALMETTO GENERAL HOSPITAL	HIALEAH	FL
102	10-0126	PALMS OF PASADENA HOSPITAL	SAINT PETERSBURG	FL
103	45-0518	PARK PLACE MEDICAL CENTER	PORT ARTHUR	TX
104	45-0659	PARK PLAZA HOSPITAL	HOUSTON	TX
105	39-0234	PARKVIEW HOSPITAL	PHILADELPHIA	PA
106	10-0114	PARKWAY REGIONAL MEDICAL CENTER	NORTH MIAMI	FL
107	42-0002	PIEDMONT MEDICAL CENTER	ROCK HILL	SC
108	10-3030	PINECREST REHABILITATION	DELRAY BEACH	FL
109	05-0589	PLACENTIA LINDA HOSPITAL	PLACENTIA	CA
110	45-2046	PLAZA SPECIALTY HOSPITAL	HOUSTON	TX
111	51-0060	PLATEAU MEDICAL CENTER	OAK HILL	WV
112	45-0002	PROVIDENCE MEMORIAL HOSPITAL	EL PASO	TX
113	50-0045	PUGET SOUND HOSPITAL	TACOMA	WA
114	05-0063	QUEEN OF ANGELS - HOLLYWOOD PRESBYTERIAN MEDICAL CENTER	LOS ANGELES	CA
115	05-0701	RANCHO SPRINGS MEDICAL CENTER	MURRIETA	CA
116	05-0312	REDDING MEDICAL CENTER	REDDING	CA
117	45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
118	39-0135 39-0304	ROXBOROUGH MEMORIAL HOSPITAL	PHILADELPHIA	PA
119	39-3307	SAINT CHRISTOPHER'S HOSPITAL FOR CHILDREN	PHILADELPHIA	PA
120	26-0105	SAINT LOUIS UNIVERSITY HOSPITAL	SAINT LOUIS	MO
121	05-0029	SAINT LUKE MEDICAL CENTER	PASADENA	CA
122	05-0588	SAN DIMAS COMMUNITY HOSPITAL	SAN DIMAS	CA
123	05-0689	SAN RAMON REGIONAL MEDICAL CTR	SAN RAMON	CA
124	05-0491	SANTA ANA HOSPITAL MEDICAL CENTER	SANTA ANA	CA
125	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL	CRYSTAL RIVER	FL
126	45-0378	SHARPSTOWN GENERAL HOSPITAL	HOUSTON	TX
127	45-0473 45-0839	SHELBY MEMORIAL REGIONAL MEDICAL CENTER	CENTER	TX
128	45-0668	SIERRA MEDICAL CENTER	EL PASO	TX
129	45-3070	SIERRA PROVIDENCE REHABILITATION HOSPITAL	EL PASO	TX
130	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
131	05-0459	SOUTH BAY HOSPITAL	REDONDO BEACH	CA
132	11-0066 11-0219	SOUTH FULTON	ATLANTA	GA
133	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER	LUBBOCK	TX
134	45-0697	SOUTHWEST GENERAL HOSPITAL	SAN ANTONIO	TX
135	11-0031	SPALDING REGIONAL HOSPITAL	GRIFFIN	GA

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
136	19-0158	ST. CHARLES GENERAL HOSPITAL	NEW ORLEANS	LA
137	44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
138	28-0030	ST. JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)	OMAHA	NE
139	03-0037	ST LUKE'S MEDICAL CENTER	PHOENIX	AZ
140	04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR
141	22-0028	ST. VINCENT HOSPITAL (WORCESTER MEDICAL CENTER)	WORCESTER	MA
142	26-0103 26-0210	ST. ALEXIUS HOSPITAL	SAINT LOUIS	MO
143	44-0228	ST. FRANCIS HOSPITAL-BARTLETT	BARTLETT	TN
144	10-0010 10-0288	ST. MARY'S HOSPITAL	WEST PALM BEACH	FL
145	05-0571	SUBURBAN MEDICAL CENTER	PARAMOUNT	CA
146	11-0065 11-1319	SYLVAN GROVE HOSPITAL	JACKSON	GA
147	03-0019	TEMPE ST LUKE'S HOSPITAL	TEMPE	AZ
148	45-0730	TRINITY MEDICAL CENTER	CARROLLTON	TX
149	45-0747	TRINITY VALLEY MEDICAL CENTER	PALESTINE	TX
150	03-0035	TUCSON GENERAL HOSPITAL	TUCSON	AZ
151	45-0423	TWELVE OAKS HOSPITAL	HOUSTON	TX
152	05-0633	TWIN CITIES COMMUNITY HOSPITAL	TEMPLETON	CA
153	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER	KENNETT	MO
154	44-0193	UNIVERSITY MEDICAL CENTER	LEBANON	TN
155	05-0660	USC KENNETH NORRIS JR CANCER HOSPITAL	LOS ANGELES	CA
156	05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
157	05-0449	VALLEY COMMUNITY HOSPITAL	SANTA MARIA	CA
158	39-0286	WARMINSTER HOSPITAL	WARMINSTER	PA
159	10-0268	WEST BOCA MEDICAL CENTER	BOCA RATON	FL
160	05-0065	WESTERN MEDICAL CENTER - SANTA ANA	SANTA ANA	CA
161	05-0594	WESTERN MEDICAL CENTER - ANAHEIM	ANAHEIM	CA
162	05-0328	WESTSIDE MEDICAL CENTER	LOS ANGELES	CA
163	05-0175	WHITTIER HOSPITAL	WHITTIER	CA
164	15-0014	WINONA MEMORIAL HOSPITAL	INDIANAPOLIS	IN
165	38-0010	WOODLAND PARK HOSPITAL	PORTLAND	OR
166	05-0021	WOODRUFF COMMUNITY HOSPITAL	LONG BEACH	CA

DOJ_NMG_ 0163305

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER
3	15-0022	AMI CULVER UNION HOSPITAL
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER
6	10-0255	AMI TOWN & COUNTRY HOSPITAL
7	01-0139	BROOKWOOD MEDICAL CENTER
8	05-0144	BROTMAN MEDICAL CENTER
9	45-0028	BROWNSVILLE MEDICAL CENTER
10	05-0240	CENTINELA HOSPITAL MEDICAL CENTER
11	04-0014	CENTRAL ARKANSAS HOSPITAL
12	34-0020	CENTRAL CAROLINA HOSPITAL
13	05-0579	CENTURY CITY HOSPITAL
14	05-0550	CHAPMAN MEDICAL CENTER
15	05-0535	COASTAL COMMUNITIES HOSPITAL
16	05-0188	COMMUNITY HOSP LOS GATOS
17	05-0091	COMMUNITY HOSP OF HUNTINGTON PARK
18	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL
19	10-0258	DELRAY MEDICAL HOSPITAL
20	45-0678	DOCTORS HOSPITAL (DALLAS)
21	05-0118	DOCTORS HOSPITAL OF MANTECA
22	05-0464	DOCTORS MEDICAL CENTER MODESTO
23	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS
24	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS
25	42-0089	EAST COOPER REGIONAL MEDICAL CENTER
26	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR
27	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL
28	34-0116	FRYE REGIONAL MEDICAL CENTER
29	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER
30	05-0432	GARFIELD MEDICAL CENTER
31	45-0315	GARLAND COMMUNITY HOSPITAL
32	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL
33	25-0125	GULF COAST MEDICAL CENTER
34	42-0080	HILTON HEAD HOSPITAL
35	45-0638	HOUSTON NORTHWEST MEDICAL CENTER
36	05-0693	IRVINE MEDICAL CENTER
37	19-0173	JOELLEN SMITH MEDICAL CENTER
38	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL
39	44-0144	JOHN W HARTON REGIONAL MED CENTER
40	19-0206	KENNER REGIONAL MEDICAL CENTER
41	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER
42	45-0742	LAKE POINTE MEDICAL CENTER
43	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER
44	05-0551	LOS ALAMITOS MEDICAL CENTER
45	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHACRE)
46	19-0152	MEADOWCREST HOSPITAL
47	10-0206	MEMORIAL HOSPITAL OF TAMPA
48	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS
49	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)
50	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
51	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)
52	45-0514	MID-JEFFERSON HOSPITAL
53	05-0477	MIDWAY HOSPITAL MEDICAL CENTER
54	19-0144	MINDEN MEDICAL CENTER INC
55	05-0591	MONTEREY PARK HOSPITAL
56	04-0078	NATIONAL PARK MEDICAL CENTER INC
57	11-0198	NORTH FULTON REGIONAL HOSPITAL
58	10-0237	NORTH RIDGE MEDICAL CENTER
59	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER
60	45-0661	ODESSA REGIONAL HOSPITAL
61	10-0176	PALM BEACH GARDENS MEDICAL CENTER
62	10-0187	PALMETTO GENERAL HOSPITAL
63	10-0126	PALMS OF PASADENA HOSPITAL
64	45-0518	PARK PLACE MEDICAL CENTER
65	45-0659	PARK PLAZA HOSPITAL
66	42-0002	PIEDMONT MEDICAL CENTER
67	05-0589	PLACENTIA LINDA HOSPITAL
68	45-0002	PROVIDENCE MEMORIAL HOSPITAL
69	05-0312	REDDING MEDICAL CENTER
70	45-0379	RHD MEMORIAL MEDICAL CENTER
71	05-0029	SAINT LUKE MEDICAL CENTER
72	05-0588	SAN DIMAS COMMUNITY HOSPITAL
73	05-0689	SAN RAMON REGIONAL MEDICAL CTR
74	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL
75	45-0668	SIERRA MEDICAL CENTER
76	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER
77	05-0459	SOUTH BAY
78	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER
79	26-0002	SOUTHPOINTE HOSPITAL (LUTHERAN MEDICAL CENTER) (St. Alexius - Jefferson Campus)
80	45-0697	SOUTHWEST GENERAL HOSPITAL
81	11-0031	SPALDING REGIONAL HOSPITAL
82	19-0158	ST CHARLES GENERAL HOSPITAL
83	44-0183	ST FRANCIS HOSPITAL
84	28-0030	ST JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)
85	03-0037	ST LUKE'S MEDICAL CENTER
86	04-0041	ST MARYS REGIONAL MEDICAL CENTER
87	22-0028	ST VINCENT HOSPITAL
88	05-0571	SUBURBAN MEDICAL CENTER
89	03-0019	TEMPE ST LUKE'S HOSPITAL
90	45-0730	TRINITY MEDICAL CENTER
91	03-0035	TUCSON GENERAL HOSPITAL
92	45-0423	TWELVE OAKS HOSPITAL
93	05-0633	TWIN CITIES COMMUNITY HOSPITAL
94	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER
95	44-0193	UNIVERSITY MEDICAL CENTER
96	05-0696	USC UNIVERSITY HOSPITAL
97	10-0268	WEST BOCA MEDICAL CENTER

DOJ_NMG_ 0163307

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
98	05-0175	WHITTIER HOSPITAL
99	15-0014	WINONA MEMORIAL HOSPITAL
100	05-0021	WOODRUFF COMMUNITY HOSPITAL
101		TENET HEALTHSYSTEM HEALTHCORP.
102		TENET HEALTHSYSTEM HOLDINGS, INC.
103		TENET HEALTHSYSTEM MEDICAL, INC.
104		TENET HEALTHSYSTEM HOSPITALS, INC.
105		ORNDA HOSPITAL CORP.

DOJ_NMG_ 0163308

EXHIBIT 3: TIERED CHARGES HOSPITALS

Pro. #	Hospital Name	City	State
10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
05-0188	COMMUNITY HOSP LOS GATOS	LOS GATOS	CA
05-0312	REDDING MEDICAL CENTER	REDDING	CA
19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	St. Louis	MO
26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	St. Louis	MO
45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR

EXHIBIT 4: PAYMENT SCHEDULE

Date	Outstanding Amount	Principal Payments	Interest	Interest Payments	Total Payment
11/1/2005	$ 725,000,000				
11/30/2005			$ 2,376,113		
12/31/2005			$ 2,539,983		
1/31/2006			$ 2,539,983		
2/28/2006			$ 2,294,178		
3/31/2006			$ 2,539,983		
4/30/2006			$ 2,458,048		
5/31/2006			$ 2,539,983		
6/30/2006	$ 275,000,000	$ 450,000,000	$ 2,458,048	$ 19,746,318	$ 469,746,318
7/31/2006			$ 963,442		
8/31/2006			$ 963,442		
9/30/2006			$ 932,363		
10/31/2006			$ 963,442		
11/30/2006			$ 932,363		
12/31/2006			$ 963,442		
1/31/2007			$ 963,442		
2/28/2007			$ 870,205		
3/31/2007			$ 963,442		
4/30/2007			$ 932,363		
5/31/2007			$ 963,442		
6/30/2007			$ 932,363		
7/31/2007			$ 963,442		
8/31/2007			$ 963,442		
9/30/2007			$ 932,363		
11/1/2007	$ 15,197,517		$ 994,521		
11/1/2007	$ 275,000,000	$ 24,231,795.52			$ 39,429,313
	$ 250,768,204				
2/1/2008	$ 229,122,456	$ 21,645,748.41		2,586,047.11	$ 24,231,796
5/1/2008	$ 207,253,486	$ 21,868,970.19		2,362,825.33	$ 24,231,796
8/1/2008	$ 185,158,992	$ 22,094,493.95		2,137,301.57	$ 24,231,796
11/1/2008	$ 162,836,649	$ 22,322,343.42		1,909,452.10	$ 24,231,796
2/1/2009	$ 140,284,106	$ 22,552,542.58		1,679,252.94	$ 24,231,796
5/1/2009	$ 117,498,990	$ 22,785,115.68		1,446,679.84	$ 24,231,796
8/1/2009	$ 94,478,903	$ 23,020,087.18		1,211,708.34	$ 24,231,796
11/1/2009	$ 71,221,421	$ 23,257,481.83		974,313.69	$ 24,231,796
2/1/2010	$ 47,724,097	$ 23,497,324.61		734,470.91	$ 24,231,796
5/1/2010	$ 23,984,456	$ 23,739,640.77		492,154.75	$ 24,231,796
8/1/2010		$ 23,984,455.82		247,339.70	$ 24,231,796

EXHIBIT 5: DOCUMENTS FROM US ex rel. BARBARA v. AMISUB

DOCUMENT ID No.	Doc. Date
FLAPP/502519 [aka 592519]	8/8/1995
FLAPP/532902-FLAPP/532903	8/10/1995
FLAPP/523364-FLAPP/523812	8/25/1995
FLAPP/509012-FLAPP/509018	1/5/1996
FLAPP/525010	1/11/1996
FLAPP/502531-FLAPP/502568	2/8/1996
FLAPP/549516-FLAPP/549569	4/9/1996
FLAPP/524978	5/22/1996
FLAPP/524977	6/5/1996
FLAPP/515211-FLAPP/515213	8/19/1996
FLAPP/534761-FLAPP/534799	10/7/1996
FLAPP/537000	1/11/1997
FLAPP/535361-FLAPP/535364	1/24/1997
FLAPP/516262	3/4/1997
FLAPP/55I850-FLAPP/552014	6/23/1997
FLAPP/520805	7/17/1997
FLAPP/503490	7/31/1997
FLAPP/508381	7/31/1997
PLAPP/517971	8/29/1997
FLAPP/535733-FLAPP/535752	no date

Image not available for this document, ID: 0.7.10316.53937-000002

Image not available for this document, ID: 0.7.10316.53937-000003

From: Schiffer, Stuart (CIV)
Sent: Thursday, June 29, 2006 8:53 AM
To: Keisler, Peter D (CIV)
Cc: Gorsuch, Neil M
Subject: TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 29, 2006
WWW.USDOJ.GOV

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

TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

WASHINGTON – Tenet Healthcare Corporation, operator of the nation's second largest hospital chain, has agreed to pay the United States more than $900 million for alleged unlawful billing practices, Assistant Attorney General Peter D. Keisler of the Civil Division and U.S. Attorney Debra Wong Yang of the Central District of California in Los Angeles announced today.

"Today's settlement reflects our continued resolve to hold responsible those who engage in health care fraud in any form," said Assistant Attorney General Keisler, head of the Justice Department's Civil Division. "The Department of Justice will not tolerate fraudulent efforts by hospitals or other health care providers to claim excessive sums from the Medicare program."

Under the agreement, Tenet, which is headquartered in Dallas but operates dozens of hospitals throughout the United States, will pay a total of $900 million over a four-year period, plus interest, to resolve various types of civil allegations involving Tenet's billings to Medicare and other federal health care programs. The settlement amount was based on the company's ability to pay.

"The Medicare program currently faces great challenges, and can ill afford attempts by hospitals to manipulate and cheat the system," said U.S. Debra Wong Yang. "This settlement demonstrates our strong

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commitment to recovering taxpayer funds from health care companies that break the rules in pursuit of higher profits."

Of the $900 million settlement amount, the agreement requires Tenet to pay:

-- more than $788 million to resolve claims arising from Tenet's receipt of excessive "outlier" payments (payments that are intended to be limited to situations involving extraordinarily costly episodes of care) resulting from the hospitals' inflating their charges substantially in excess of any increase in the costs associated with patient care and billing for services and supplies not provided to patients;

-- more than $47 million to resolve claims that Tenet paid kickbacks to physicians to get Medicare patients referred to its facilities, and that Tenet billed Medicare for services that were ordered or referred by physicians with whom Tenet had an improper financial relationship; and,

-- more than $46 million to resolve claims that Tenet engaged in "upcoding," which refers to situations where diagnosis codes that Tenet is unable to support or that were otherwise improper were assigned to patient records in order to increase reimbursement to Tenet hospitals.

"Today's settlement with Tenet Healthcare Corporation demonstrates the Federal goverment's commitment to protecting the integrity of our nation's healthcare system," Health and Human Services Secretary Mike Leavitt said. "I commend the staff of the HHS Office of Inspector General, the HHS Office of General Counsel and the Centers for Medicare and Medicaid Services who worked so hard to pursue those who fraudulently abused the Medicare program."

Several of the issues resolved as part of today's agreement arose from lawsuits filed by whistleblowers. Under provisions of the False Claims Act, whistleblowers who qualify under the statute are eligible to receive up to 25 percent of the settlement recovery in cases the government pursues. Under the civil settlement announced today, whistleblower shares remain undetermined pending further negotiations or court proceedings.

The following divisions and districts of the Department of Justice assisted in bringing the above matters to a successful resolution: Civil Division; Central District of California; Northern District of Alabama; Eastern District of Louisiana; Eastern District of Missouri; Eastern District of Pennsylvania; and Western District of Tennessee. Assistant Attorney General Keisler and U.S. Attorney Wong also wish to acknowledge the extensive assistance in addressing and resolving the settled allegations provided by the Department of Health and Human Services' Office of Inspector General and its Office of Investigations in Santa Ana, Calif.), Office

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of General Counsel, and Centers for Medicare and Medicaid Services; the Federal Bureau of Investigation; and Medicare Contractors Mutual of Omaha, Inc., and IntegriGuard LLC.

# # #

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CIVIL SETTLEMENT AGREEMENT (Redacted)

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the following (hereinafter "the Parties") through their authorized representatives:

(a) the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General ("OIG-HHS") of the Department of Health and Human Services ("HHS"); the TRICARE Management Activity ("TMA") (formerly the Office of Civilian Health and Medical Program of the Uniformed Services ("OCHAMPUS")), through its General Counsel; and the Office of Personnel Management ("OPM"), which administers the Federal Employees Health Benefit Program ("FEHBP") (collectively, "the United States"); and,

(b) Tenet Healthcare Corporation, on behalf of its predecessors, and current and former affiliates, divisions, and direct and indirect subsidiaries ("Tenet"); Tenet HealthSystem HealthCorp.; Tenet HealthSystem Holdings, Inc.; Tenet HealthSystem Medical, Inc.; OrNda Hospital Corp.; and the 165 hospitals listed in Exhibit 1 hereto (referred to herein as the "Settling Hospitals") (collectively the "Tenet Entities").

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Tenet is a Nevada corporation with headquarters in Dallas, Texas. Tenet, through its predecessors, subsidiaries, and/or affiliates, operates or has operated the Settling Hospitals during some or all of the time period January 1, 1990 to the present.

B. The United States has filed three actions against certain Tenet Entities in the Central District of California (collectively the "DRG Complaints"), captioned as follows:

(1) U.S. v. Tenet Healthcare *et al.*, CV03-206 GAF

(2) U.S. v. Tenet Healthcare *et al.*, CV04-857 GAF

(3) U.S. v. Tenet Healthcare *et al.*, CV04-859 GAF

The DRG Complaints allege that these Tenet Entities engaged in "upcoding" as further described in Paragraph II.E(2) below.

C. [redacted].

D. The Tenet Entities submitted or caused to be submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg (1997); the Medicaid Program ("Medicaid"), 42 U.S.C. §§ 1396-1396v; the TRICARE Program ("TRICARE"), 10 U.S.C. §§ 1071-1107; and the FEHBP, 5 U.S.C. §§ 8901 et. seq. (collectively the "Government Health Care Programs").

E. The United States alleges that it has certain civil claims against the Tenet Entities, as specified in Paragraph III.4 below, for engaging in the following conduct (hereinafter the "Covered Conduct"):

(1) **Outlier Payments:**

From October 1, 1995 through August 7, 2003, the Tenet Entities allegedly submitted or caused to be submitted claims to the Government Health Care Programs for inpatient and outpatient outlier payments that the Tenet Entities were not entitled to receive because (a) the Tenet Entities allegedly had artificially and purposely inflated the charges billed for inpatient and outpatient care substantially in excess of any increase in the costs associated with that care, (b) as a result, the Tenet Entities allegedly improperly received outlier payments that were further inflated because they were computed pursuant to statewide average cost-to-charge ratios that should not properly have applied, and (c) the Tenet Entities allegedly billed for inpatient and outpatient services and supplies not provided to patients. [redacted]

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[redacted] As a result of these artificially inflated and allegedly false claims, the Tenet Entities allegedly caused the Government Health Care Programs to pay to Tenet money that lawfully belonged to the United States in that it exceeded the amount Tenet would have received had these claims not been artificially inflated and false.

(2) **DRG Upcoding:**

(a) From January 1, 1992 through December 31, 1998, Tenet and the Settling Hospitals listed in Exhibit 2 allegedly submitted or caused to be submitted claims to Medicare that assigned diagnosis codes for inpatient discharges that were not supported by physician documentation in the patient's medical records or were otherwise improper for the following diagnosis related groups ("DRG's"): 79, 106, 124, 415, 416, 475 and 483; and,

(b) Between January 1, 1992 and December 31, 1998, Tenet annually certified compliance with its obligations under its Corporate Integrity Agreement notwithstanding its alleged knowledge of claims of the type described above.

(3) **Physician Relationships:**

From January 1, 1992 through October 12, 2005, the Tenet Entities allegedly submitted or caused to be submitted claims to Medicare for items and services delivered by those Tenet Entities that were ordered by a physician, a member of a physician group practice, a professional corporation, or other legal entity owned at least in part by a physician with whom the Tenet Entities had a financial relationship, directly or through a family member. The United States alleges these claims were false because (a) Section 1877 of the Social Security Act ("SSA"), 42 U.S.C. § 1395nn (also known as the Stark Law) prohibited the Tenet Entities from billing Medicare for items or services referred or ordered by physicians with whom the Tenet

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Entities had improper financial relationships, (b) the Tenet Entities forfeited the right to bill Medicare for such items and services by allegedly paying remuneration to physicians intending that remuneration to induce those and other referrals in violation of the Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b), and (c) the Tenet Entities were required to and did certify on cost reports submitted to fiscal intermediaries for the applicable fiscal years that items and services identified or summarized in each cost report were not provided or procured through the payment directly or indirectly of a kickback or billed in violation of federal or state referral laws (*e.g.*, the Stark Law). [redacted]

(4) **Tiered Charges**:

From January 1, 1996 through September 30, 2005, Tenet and the Settling Hospitals listed in Exhibit 3 allegedly submitted or caused to be submitted claims to Medicare that used higher charges for inpatient than outpatient services, when those charges were required to be uniform. [redacted]

(5) **Centinela Hospital Medical Center Claims**:

From January 1, 1999 through December 31, 2005, Centinela Hospital Medical Center allegedly submitted or caused to be submitted claims to Medicare for cardiac catheterizations that were not medically necessary.

(6) **Desert Regional Medical Center Claims**:

(a) From January 1, 1997 through May 31, 2004, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted claims to Medicare for outpatient

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care rendered at the Comprehensive Cancer Center (i) with the following billing codes that were inaccurate and resulted in excessive reimbursement: modifiers 25, 27, and 59, and diagnostic codes related to screening and diagnostic mammograms, and (ii) for diagnostic laboratory and imaging services that were not supported by appropriate documentation. [redacted] and

(b) From January 1, 1997 through May 31, 2001, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted cost reports to Government Health Care Programs that sought reimbursement for excessive management fees paid to the Comprehensive Cancer Center.

(7) **Brookwood Medical Center Claims**:

From January 1, 1997 through May 1, 2000, Brookwood Medical Center submitted claims to Government Health Care Programs for reimbursement for (i) units of blood that allegedly were not administered and (ii) blood filters that allegedly were not used. [redacted]

(8) **People's Health Network Claims:**

From January 1, 1999 through August 23, 2005, People's Health Network ("PHN"), an entity in which Tenet had an ownership interest, allegedly failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN.

F. The United States also contends that it has certain administrative claims against

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the Tenet Entities for the Covered Conduct under the provisions for permissive exclusion from Medicare, Medicaid and other Federal health care programs, 42 U.S.C. § 1320a-7(b), the provisions for permissive exclusion from TRICARE, 32 C.F.R. § 199.9, and the provisions for civil monetary penalties, 42 U.S.C. § 1320a-7a.

G. The Tenet Entities deny the contentions of the United States set out in Paragraphs II.E and II.F above.

H. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth in this Agreement. The settlement amount required to be paid by the Tenet Entities pursuant to this Agreement reflects limitations on the Tenet Entities' ability to pay occasioned by the financial condition of the Tenet Entities.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. The Tenet Entities agree to pay to the United States a total of $900 million, plus applicable interest, as follows (the "Settlement Amount"):

(a) The Tenet Entities agree to pay the United States $450 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, within ten (10) days after the Effective Date of this Agreement. The payment shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

(b) The Tenet Entities agree to waive, and not assert any claim for, additional

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Disproportionate Share Hospital ("DSH") program payments related to Medicaid eligible patient days and SSI patient days to which the Tenet Entities may be entitled for all cost reporting periods beginning on or before December 31, 2001, which claims and potential claims have a value of $50 million.

(c) The Tenet Entities agree to waive, and not assert any claim for, any additional outlier payments from any Government Health Care Program to which the Tenet Entities may be entitled for any period prior to August 7, 2003, which claims and potential claims have a value of $125 million.

(d) The Tenet Entities further agree to pay the United States $275 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, in quarterly installments from November 1, 2007 through August 1, 2010 in accordance with the schedule of payments attached as Exhibit 4. All quarterly payments shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

2. The principal portion of the Settlement Amount is attributable to the Covered Conduct as follows (with interest to be allocated on the same pro rata basis):

(a) Outlier Payments: $788,851,228 [redacted]

(b) DRG Upcoding: $46,886,882

(c) Physician Relationships: $47,533,514 [redacted]

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(d)Tiered Charges: $822,577

(e) Desert Regional Medical Center Claims: $452,417

(f) Brookwood Medical Center Claims: $30,065

(g) People's Health Network Claims: $15,423,316

3. If the Tenet Entities fail to make any of the payments described in Paragraph III.1 above at the specified time, upon written notice to the Tenet Entities of this default, the Tenet Entities shall have ten (10) calendar days to cure the default. If the default is not cured within the ten-day period: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of default, and at a simple rate of 9.5% per annum from the date of default until the date of payment; (b) the United States may pursue any and all actions for collection as it may choose, including, without limitation, filing an action for specific performance of this Agreement; and (c) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to any of the Released Tenet Entities (defined in Paragraph III.4 below) by any department, agency, or

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agent of the United States. The Released Tenet Entities agree not to contest any collection action undertaken by the United States pursuant to this Paragraph III.3, and to pay the United States all reasonable costs incurred in any such collection action, including attorney's fees and expenses.

4. Subject to the exceptions in Paragraph III.11 below, in consideration of the obligations of the Tenet Entities set forth in this Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby releases Tenet, together with its current and former parent corporations, each of its direct and indirect subsidiaries including the Settling Hospitals, brother or sister corporations, divisions, current or former owners, partnerships or other legal entity in which Tenet or a Tenet subsidiary has or had an ownership interest, and the successors and assigns of any of them (the "Released Tenet Entities"), from any civil or administrative monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; any other statutory cause of action for civil damages or civil penalties which the Civil Division has actual and present authority to assert and compromise pursuant to 28 C.F.R. Subpart I, Section 0.45(d) (2004); or the common law and/or equitable theories of payment by mistake, unjust enrichment, restitution, recoupment, disgorgement of illegal profits, and fraud, for the Covered Conduct.

5. Within 30 days of the Effective Date of this Agreement, the United States will seek dismissal with prejudice of (a) the claims stated in the United States' Complaints and

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Amended Complaints in the Civil Actions identified in Paragraph II.B above; (b) claims asserted against the Tenet Entities in [redacted]. The stipulations of dismissal will be conditioned upon receipt by the United States of the Settlement Amount, and if necessary, will request that the courts retain jurisdiction to resolve issues of relators' share and attorney's fees.

6. Should this Agreement be challenged by any relator as not fair, adequate or reasonable pursuant to 31 U.S.C. § 3730(c)(2)(B), the United States and the Tenet Entities agree that they will take all reasonable and necessary steps to defend this Agreement. If a court concludes that the Agreement is not fair, adequate or reasonable as to the claims of a particular relator, then the Agreement shall be null and void as to the Covered Conduct asserted by those claims; the Agreement will otherwise remain in full force and effect; and that portion of the Settlement Amount allocated to the excluded Covered Conduct (the "Allocated Amount") will be held by the United States to be used as follows upon entry of a final judgment resolving (whether by settlement or otherwise) the amount the Tenet Entities must pay on the particular relator's claims (the "Judgment Amount"): (a) if the Judgment Amount is greater than the Allocated Amount, the Allocated Amount shall remain allocated to those claims, with the Tenet Entities responsible for payment of the difference between the Judgment Amount and the Allocated Amount; (b) if the Judgment Amount is less than or equal to the Allocated Amount, the portion of the Allocated Amount equivalent to the Judgment Amount shall remain allocated to those claims, while the difference between the Allocated Amount and the Judgment Amount shall be reallocated to the remaining Covered Conduct in an amount proportionate to the original allocation set forth in Paragraph III.2 above.

7. In consideration of the obligations of the Tenet Entities set forth in this

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Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement):

(a) TMA hereby releases and agrees to refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the TRICARE/CHAMPUS Program against the Released Tenet Entities under 32 C.F.R. § 199.9 for the Covered Conduct, except as reserved in Paragraph III.11, below, and as reserved in this Paragraph III.7(a). TMA expressly reserves authority to exclude the Released Tenet Entities from the TRICARE/ CHAMPUS program under 32 C.F.R. §§ 199.9 (f)(1)(i)(A), (f)(1)(i)(B), and (f)(1)(iii), based upon the Covered Conduct.

(b) OPM agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the FEHBP against the Released Tenet Entities under 5 U.S.C. § 8902a or 5 C.F.R. Part 970 for the Covered Conduct, except as reserved in Paragraph III.11, below and except if excluded by the OIG-HHS pursuant to 42 U.S.C. § 1320a-7(a). Nothing in this Paragraph III.7(b) precludes OPM from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph III.11, below.

8. The Released Tenet Entities fully and finally release, compromise, acquit and forever discharge the United States, its agencies, officers, agents, employees, and contractors (and their employees) from any and all claims, causes of action, adjustments, and set-offs of any kind (including, without limitation, any claims for additional outlier payments for any period prior to August 7, 2003; any claims for additional DSH payments related to Medicaid eligible patient days and SSI patient days for cost reporting periods beginning on or before December 31,

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2001; and any attorney's fees, costs, and expenses of every kind and however denominated) which the Released Tenet Entities could have asserted, or may assert in the future, against the United States, its agencies, officers, agents, employees, and contractors (and their employees) arising out of or pertaining to the Covered Conduct, including the United States' investigation, prosecution, or settlement thereof.

9. The Tenet Entities have provided financial information to the United States and the United States has relied on the accuracy and completeness of this financial information in reaching this Agreement. If the United States learns that this financial information either (a) failed to disclose a material non-contingent asset or assets in which the Tenet Entities had an interest (a "Material Nondisclosure"); or (b) contained any other knowing, material misrepresentation or omission regarding the financial condition of the Tenet Entities (a "Knowing Material Misrepresentation"), the United States may at its option pursue relief under this Paragraph III.9 as follows: (a) the United States shall provide Tenet with written notice of the nature of the Material Nondisclosure or Knowing Material Misrepresentation; (b) within ten (10) calendar days of the date of the written notice, Tenet shall provide the United States, in writing, with any explanation it may have regarding the Material Nondisclosure or Knowing Material Misrepresentation referenced in the written notice; (c) if unsatisfied with Tenet's explanation, as determined in its sole and absolute discretion, the United States may file an action seeking relief under this Paragraph III.9 in which action the United States shall bear the burden of establishing by a preponderance of the evidence the Material Nondisclosure or Knowing Material Misrepresentation; (d) if the court finds a Material Nondisclosure or Knowing Material Misrepresentation, then – (i) the Settlement Amount shall be increased by one hundred percent (100%) of the amount of the Material Nondisclosure or Knowing Material

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Misrepresentation; (ii) the remaining unpaid principal portion of the Settlement Amount (including the increase specified in subparagraph (d)(i) above) shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of the court finding, and at a simple rate of 9.5% per annum from the date of the court finding until the date of payment; (iii) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest and the increase specified in subparagraph (d)(i) above) from any amounts due and owing to any of the Released Tenet Entities by any department, agency, or agent of the United States; and (iv) the Tenet Entities shall immediately pay the United States all reasonable costs incurred in the action seeking relief under this Paragraph III.9, including attorney's fees and expenses.

10. OIG-HHS expressly reserves all rights to institute, direct, or maintain any administrative action seeking exclusion against the Tenet Entities, and/or its officers, directors, and employees from Medicare, Medicaid, or other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(a) (mandatory exclusion), or 42 U.S.C. § 1320a-7(b) (permissive exclusion). The Tenet Entities and OIG-HHS are engaged in the negotiation of a potential Corporate Integrity Agreement ("CIA") and have reached a common understanding on the basic terms of such a CIA. The Tenet Entities shall use their best efforts and negotiate in good faith to execute a CIA with OIG-HHS within 90 days after the Effective Date of this Agreement (defined in Paragraph III.27 below). Upon execution of the CIA, OIG-HHS shall provide a release to the Tenet Entities pursuant to which OIG-HHS will agree not to institute, direct, or maintain an administrative action seeking an exclusion against the Tenet Entities under 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct.

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11. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including the Released Tenet Entities) are any and all of the following:

a. Any civil, criminal or administrative claims arising under Title 26, U.S. Code (commonly referred to as the Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and/or permissive exclusion from the Government Health Care Programs;

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

e. Any claims based upon such obligations as are created by execution of this Agreement;

f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any claims for personal injury or property damage, or for other similar consequential damages, arising from the Covered Conduct;

h. Any liability for failure to deliver goods or services due;

i. Any claims against individuals (including, without limitation, current or former directors, officers, employees, agents, or shareholders of any of the Tenet Entities), provided, however, that if the United States pursues claims based on the Covered Conduct against any individual, if the United States obtains a judgment against or enters into a settlement with any individual based on such claims, and if a court determines that the Tenet Entities have an obligation to indemnify the individual for the judgment or settlement amount (or any part

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thereof) (an "Indemnification Obligation"), then the United States shall seek to recover from the individual on the judgment or settlement only an amount such that the amount required to be paid by the Tenet Entities on their Indemnification Obligation to that individual, when summed with all amounts paid by the Tenet Entities on prior Indemnification Obligations to other individuals, results in an aggregate total no greater than $75 million;

j. Any claims of any State arising under the Medicaid Program, or any other provision of law, based on the Covered Conduct;

k. Any claims against any Settling Hospital, Tenet subsidiary, affiliate, or division, or any partnership or other legal entity in which Tenet or any Tenet subsidiary has or had an ownership interest, and the partners or other shareholders in any such partnership or other legal entity, for a time period that the Tenet Entity, partnership, or other legal entity was not directly or indirectly owned by Tenet.

l. Any liability for the Covered Conduct set forth in Paragraph II.E(3) above for claims submitted by or on behalf of the hospitals identified by the relators' Complaints in U.S. ex rel. Meshel v. Tenet (W.D. Tex.) [redacted]

m. Any liability to the United States of any entity other than a Released Tenet Entity for the Covered Conduct set forth in Paragraphs II.E(6) and II.E(8) above, and in connection with any investigation of any entity other than a Tenet Entity for such Covered Conduct, Tenet shall make reasonable efforts to facilitate access to and encourage the cooperation of its directors, officers, and employees for interviews and testimony consistent with the rights and privileges of such individuals.

12. Subject to the provisions set forth below, the Released Tenet Entities agree to

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provide to the Department of Justice, within no more than 120 days (with production beginning within 30 days and proceeding on the schedule set forth below), all documents falling within the following categories, regardless of whether the Released Tenet Entities have asserted, and/or continue to assert, that such documents are protected from disclosure by the attorney-client privilege and/or work product doctrine (as used in this Paragraph III.12, the term "document" is to be given its broadest meaning, and includes any type or form of communication, including any electronic communications, but excludes "documents" previously produced to the Department of Justice by the Released Tenet Entities in connection with the Department of Justice's investigation of the Covered Conduct):

a. all documents created prior to October 31, 2002, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to (i) the Released Tenet Entities' request or receipt of Medicare outlier payments; (ii) the Released Tenet Entities' analysis of Medicare's outlier payment rules and regulations; and/or, (iii) the Released Tenet Entities' charges, charge increases, or cost to charge ratios;

b. all documents created prior to December 31, 1998, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to coding compliance audits conducted by the Released Tenet Entities between March, 1997 and October, 1998;

c. all documents created prior to June 30, 1999, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to the Released Tenet Entities' obligations under, and compliance with, the Corporate Integrity Agreement ("CIA") executed by Tenet's predecessor with the OIG-HHS on June 29, 1994;

d. those documents previously withheld as privileged in United States ex rel.

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Barbera v. Amisub, et al., Case No. 97-6590-CIV (S.D.Fl.), and identified by Bates numbers as set forth in Exhibit 5 hereto;

e. all documents created prior to August 23, 2005, that (i) were requested by the United States Attorney's Office for the Eastern District of Louisiana or the Department of Justice in connection with the investigation of allegations that PHN failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN and/or (ii) are otherwise relevant to the foregoing allegations;

f. the Released Tenet Entities will produce the documents described in this Paragraph III.12 according to the following schedule –

(i) with respect to the documents described in subparagraph (a) above: substantially all documents that were identified on any privilege log provided to the United States Attorney's Office for the Central District of California or the Department of Justice within 30 days; substantially all documents that were identified on any privilege log provided to the Securities and Exchange Commission within 60 days; substantially all documents that were identified on any privilege log provided to Congress within 90 days; and all remaining documents within 120 days;

(ii) with respect to the documents described in subparagraph (b) above: substantially all documents within 30 days, and any remaining documents within 120 days;

(iii) with respect to the documents described in subparagraph (c) above: substantially all documents that were identified on any privilege log provided in

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the DRG Upcoding litigation described in Paragraphs II.B and II.E(2) above within 60 days, and all remaining documents within 120 days;

(iv) all documents described in subparagraph (d) above within 30 days; and,

(v) with respect to the documents described in subparagraph (e) above: substantially all documents within 60 days, and any remaining documents within 120 days;

g. the Released Tenet Entities shall mark any document produced to the Department of Justice pursuant to this Paragraph III.12 that they continue to assert is protected from disclosure by the Released Tenet Entities to third-parties with the legend "Privilege Asserted and Produced Subject to Confidentiality Agreement" (such marked documents are referred to as "Privilege Asserted Documents");

h. the Department of Justice agrees to maintain the confidentiality of all Privilege Asserted Documents and not to disclose them to any third party, except to the extent the Department of Justice, in its sole and absolute discretion, determines that disclosure is required by law or court order or would be necessary to protect the safety or welfare of the public or any individual or would be in furtherance of the discharge of the Department of Justice's duties – thus, for example, this Paragraph III.12 does not prevent the Department of Justice from disseminating any Privilege Asserted Document to any other governmental entity of the United States in connection with any potential violation of law or regulation or regarding any matter within that entity's jurisdiction or to the United States Congress pursuant to a Congressional request;

i. the Department of Justice, and any individual or entity to whom a Privilege Asserted Document is disclosed by the Department of Justice pursuant to subparagraph (h)

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above, may use any Privilege Asserted Document as it deems appropriate in any criminal, civil, administrative, or contractual investigation or proceeding;

j. subject to the provisions of this Paragraph III.12 above, by producing any Privilege Asserted Document to the Department of Justice, the Released Tenet Entities do not intend to waive as to any third-party any protection of such Privilege Asserted Document under the attorney-client privilege and/or the work product doctrine.

13. The Released Tenet Entities waive and will not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph III.13 or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the settlement amounts for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

14. The Amounts that Tenet must pay pursuant to this Agreement shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP related to the Covered Conduct. The Released Tenet Entities agree not to resubmit to any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP any previously denied claims related to the Covered Conduct, and agree not to appeal any such denials of claims.

15. The Released Tenet Entities agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal

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Acquisition Regulation, 48 C.F.R. § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or on behalf of a Released Tenet Entity, in connection with the following are unallowable costs on government contracts and under the Medicare, Medicaid, TRICARE, Veterans Affairs ("VA") or FEHBP programs:

(1) the matters covered by this Agreement;

(2) the Government's audit(s), civil and any criminal investigation(s), and litigation of the matters covered by this Agreement;

(3) any Released Tenet Entity's investigation, defense, and corrective actions undertaken in response to the Government's audit(s), civil and any criminal investigation(s), and litigation in connection with the matters covered by this Agreement (including attorneys' fees);

(4) the negotiation and performance of the Agreement;

(5) the payments made pursuant to this Agreement, and any payments that the Tenet Entities may make to any relator and/or relator's attorney; and,

(6) the negotiation of the CIA referenced in Paragraph 10 above, and any obligations undertaken pursuant to such a CIA to: (i) retain an independent review organization to perform reviews as described in the CIA; and (ii) prepare and submit reports to OIG-HHS.

(All costs described or set forth in this Paragraph III.15.a are hereafter, "Unallowable Costs.")

b. Future Treatment of Unallowable Costs: These Unallowable Costs shall be separately determined and accounted for in non-reimbursable cost centers by the Released Tenet Entities, and the Released Tenet Entities will not charge such Unallowable Costs directly

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or indirectly to any contracts with the United States or any State Medicaid Program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement or payment request submitted by the Released Tenet Entities, to the Medicare, Medicaid, TRICARE, VA or FEHBP programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: The Released Tenet Entities further agree that within 90 days of the Effective Date of this Agreement they shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid, VA and FEHBP fiscal agents, any Unallowable Costs included in payments previously sought from the United States, or any State Medicaid Program, including, but not limited to, payments sought in any cost report, cost statements, information reports, or payment requests already submitted by any of the Released Tenet Entities, and shall request, and agree, that such cost reports, cost statements, information reports or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. The Released Tenet Entities agree that the United States, at a minimum, will be entitled to recoup from the Released Tenet Entities any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. If any Released Tenet Entity fails to identify such costs in past filed cost reports in conformity with this Paragraph, the United States may seek an appropriate penalty or other sanction in addition to the recouped amount. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by any Released Tenet Entity, on the effect of inclusion of Unallowable Costs on the cost reports, cost statement, or

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information reports of the Released Tenet Entity.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine the books and records of any Released Tenet Entity to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph III.15.

16. The Released Tenet Entities waive and agree that they shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals or third party payors. The Released Tenet Entities waive any causes of action against these beneficiaries or their parents, sponsors, legally responsible individuals or any third party payors based upon the claims for payment covered by this Agreement.

17. The Tenet Entities expressly warrant that they have reviewed their financial situations and that they are currently solvent within the meaning of 11 U.S.C. § 547(b)(3), and 548(a)(1)(B)(ii)(I), and will remain solvent following payment to the United States hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to the Tenet Entities, within the meaning of 11 U.S.C. § 547(c)(1), and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which the Tenet Entities were or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

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18. In the event the Tenet Entities commence, or a third party commences, within 91 days of the Effective Date of this Agreement, or of any payment made hereunder, any case, proceeding, or other action (a) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have any order for relief of any Tenet Entity's debts, or seeking to adjudicate any Tenet Entity as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for any Tenet Entity, or for all or any substantial part of a Tenet Entity's assets, the Tenet Entities agree as follows:

a. No Tenet Entity's obligations under this Agreement may be avoided pursuant to 11 U.S.C. §§ 547 or 548, and no Tenet Entity will argue or otherwise take the position in any such case, proceeding or action that: (i) the Tenet Entity's obligations under this Agreement may be avoided under 11 U.S.C. § 547 or 548; (ii) the Tenet Entity was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to the Tenet Entity.

b. If any Tenet Entity's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against the Tenet Entities for the claims that would otherwise be covered by the releases provided in Paragraphs III.4, III.7, and III.8 above. The Tenet Entities agree that (i) any such claims, actions, or proceedings brought by the United States (including any proceedings to exclude any Tenet Entity from participation in Medicare, Medicaid, or other Federal health care programs)

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are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the actions, cases, or proceedings described in the first clause of this subparagraph, and that the Tenet Entities will not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) the Tenet Entities will not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding which are brought by the United States within 120 calendar days of written notification to any Tenet Entity that the releases have been rescinded pursuant to this Paragraph III.18, except to the extent such defenses were available on May 13, 2005; and (iii) the United States has a valid claim against the Tenet Entities for the Covered Conduct, and the United States may pursue its claims in the cases, actions, or proceedings referenced in the first clause of this subparagraph, as well as in any other case, action, or proceeding.

c. The Tenet Entities acknowledge that their agreements in this Paragraph III.18 are provided in exchange for valuable consideration provided in this Agreement.

19. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement. This Agreement shall in no way be construed or considered as an admission of liability or wrongdoing in any legal or administrative proceeding.

20. The Tenet Entities represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever and they have been advised with respect hereto by counsel prior to entering into this Settlement Agreement.

21. This Agreement is governed by the laws of the United States. The United States

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and the Tenet Entities agree that the exclusive jurisdiction and venue for any dispute arising between the United States and the Tenet Entities under this Agreement will be the United States District Court for the Central District of California.

22. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the affected Parties.

23. The individuals signing this Agreement on behalf of the Tenet Entities represent and warrant that they are authorized to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

24. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

25. This Agreement is binding on the Tenet Entities' successors, transferees, heirs and assigns.

26. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

27. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

DOJ_NMG_ 0163341

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: George S. Cardona, Chief AUSA for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: June 28, 2006

BY: Kathleen M. McGettigan
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: David Cope
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: 6/29/06 by DTSpin

BY: Michael D. Granston
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163343

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: 6/28/06

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163344

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: [signature], Chief AUSA, for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: 28 June 2006

BY: [signature]
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163345

FOR THE SETTLING HOSPITALS

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: _____

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: _____

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163346

FOR THE SETTLING HOSPITALS

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163347

FOR TENET HEALTHSYSTEM MEDICAL, INC.

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR ORNDA HOSPITAL CORPORATION

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

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EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
3	15-0022	AMI CULVER UNION HOSPITAL	CRAWFORDSVILLE	IN
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP	NACOGDOCHES	TX
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER	TARZANA	CA
6	10-0255	AMI TOWN & COUNTRY HOSPITAL	TAMPA	FL
7	11-0115	ATLANTA MEDICAL CENTER (GEORGIA BAPTIST MEDICAL CENTER)	ATLANTA	GA
8	45-0378	BAYOU CITY MEDICAL CENTER	HOUSTON	TX
9	01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
10	05-0144	BROTMAN MEDICAL CENTER	CULVER CITY	CA
11	45-0028	BROWNSVILLE MEDICAL CENTER	BROWNSVILLE	TX
12	45-0885	CENTENNIAL MEDICAL CENTER	FRISCO	TX
13	05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
14	04-0014	CENTRAL ARKANSAS HOSPITAL	SEARCY	AR
15	34-0020	CENTRAL CAROLINA HOSPITAL	SANFORD	NC
16	05-0579	CENTURY CITY HOSPITAL	LOS ANGELES	CA
17	05-0550	CHAPMAN MEDICAL CENTER	ORANGE	CA
18	39-0288	CITY AVENUE HOSPITAL	PHILADELPHIA	PA
19	10-0056 10-0289	CLEVELAND CLINIC	WESTON	FL
20	05-0535	COASTAL COMMUNITIES HOSPITAL	SANTA ANA	CA
21	26-0178	COLUMBIA REGIONAL HOSPITAL	COLUMBIA	MO
22	05-0188	COMMUNITY HOSPITAL LOS GATOS	LOS GATOS	CA
23	05-0091	COMMUNITY/MISSION HOSPITAL OF HUNTINGTON PARK	0	CA
24	03-0059	COMMUNITY HOSPITAL MEDICAL CENTER	PHOENIX	AZ
25	10-0183	CORAL GABLES HOSPITAL	CORAL GABLES	FL
26	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL	HOUSTON	TX
27	05-0559 05-0730	DANIEL FREEMAN MARINA HOSPITAL	MARINA DEL REY	CA
28	05-0267 05-0729	DANIEL FREEMAN MEMORIAL HOSPITAL	INGELWOOD	CA
29	16-0104	DAVENPORT MEDICAL CENTER	DAVENPORT	IA
30	26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	SAINT LOUIS	MO
31	26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	SAINT LOUIS	MO
32	10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
33	05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
34	45-0678	DOCTORS HOSPITAL	DALLAS	TX
35	19-0203	DOCTORS HOSPITAL OF JEFFERSON	METAIRIE	LA
36	05-0118	DOCTORS HOSPITAL OF MANTECA	MANTECA	CA
37	05-0464	DOCTORS MEDICAL CENTER MODESTO	MODESTO	CA
38	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS	PINOLE	CA
39	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS	SAN PABLO	CA
40	26-0119	DOCTORS REGIONAL	POPLAR BLUFF	MO
41	42-0089	EAST COOPER REGIONAL MEDICAL CENTER	MOUNT PLEASANT	SC
42	38-0039	EASTMORLAND HOSPITAL	PORTLAND	OR
43	39-0289	ELKINS PARK HOSPITAL	ELKINS PARK	PA
44	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
45	10-0210	FLORIDA MEDICAL CENTER	FORT LAUDERDALE	FL
46	10-0085	FLORIDA MEDICAL CENTER SOUTH	PLANTATION	FL
47	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL	FOUNTAIN VALLEY	CA

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EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
48	05-0232	FRENCH HOSPITAL MEDICAL CENTER	SAN LUIS OBISPO	CA
49	34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
50	34-1312	FRYE REGIONAL MEDICAL CENTER - ALEXANDER CAMPUS		NC
51	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER	GARDEN GROVE	CA
52	05-0432	GARFIELD MEDICAL CENTER	MONTEREY PARK	CA
53	45-0315	GARLAND COMMUNITY HOSPITAL	GARLAND	TX
54	10-0262 10-0287	GOOD SAMARITAN	WEST PALM BEACH	FL
55	39-0285	GRADUATE HOSPITAL	PHILADELPHIA	PA
56	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL	SOUTH EL MONTE	CA
57	25-0125	GULF COAST MEDICAL CENTER	BILOXI	MS
58	05-0607	HARBOR VIEW MEDICAL CENTER	SAN DIEGO	CA
59	39-0290	HAHNEMANN UNIVERSITY HOSPITAL	PHILADELPHIA	PA
60	10-0053	HIALEAH HOSPITAL	HIALEAH	FL
61	42-0080	HILTON HEAD HOSPITAL	HILTON HEAD ISLAND	SC
62	10-0225	HOLLYWOOD MEDICAL CENTER	HOLLYWOOD	FL
63	45-0638	HOUSTON NORTHWEST MEDICAL CENTER	HOUSTON	TX
64	05-0693	IRVINE MEDICAL CENTER	IRVINE	CA
65	19-0173	JOELLEN SMITH MEDICAL CENTER	NEW ORLEANS	LA
66	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL	INDIO	CA
67	44-0144	JOHN W HARTON REGIONAL MED CENTER	TULLAHOMA	TN
68	19-0206	KENNER REGIONAL MEDICAL CENTER	KENNER	LA
69	26-0054	LAFAYETTE-GRAND HOSPITAL (COMPTON HEIGHTS)	SAINT LOUIS	MO
70	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
71	45-0742	LAKE POINTE MEDICAL CENTER	ROWLETT	TX
72	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER	LAKEWOOD	CA
73	53-0010	LANDER VALLEY MEDICAL CENTER	LANDER	WY
74	01-0068	LLOYD NOLAN HOSPITAL	FAIRFIELD	AL
75	05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
76	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHCARE)	POPLAR BLUFF	MO
77	26-0002	LUTHERAN MEDICAL CENTER (SOUTHPOINTE HOSPITAL) (ST. ALEXIUS - JEFFERSON CAMPUS)	SAINT LOUIS	MO
78	19-0152	MEADOWCREST HOSPITAL	GRETNA	LA
79	44-0203	MEDICAL CENTER OF MANCHESTER	MANCHESTER	TN
80	39-0287	MEDICAL COLLEGE OF PENNSYLVANIA	PHILADELPHIA	PA
81	10-0206	MEMORIAL HOSPITAL OF TAMPA	TAMPA	FL
82	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
83	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)	NEW ORLEANS	LA
84	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER	MESA	AZ
85	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)	JONESBORO	AR
86	22-0089	METROWEST MEDICAL CENTER - LEONARD MORSE	FRAMINGHAM	MA
87	22-0089	METROWEST MEDICAL CENTER - UNION HOSPITAL	NATICK	MA
88	45-0514	MID-JEFFERSON HOSPITAL	NEDERLAND	TX
89	05-0477	MIDWAY HOSPITAL MEDICAL CENTER	LOS ANGELES	CA
90	19-0144	MINDEN MEDICAL CENTER INC	MINDEN	LA

DOJ_NMG_ 0163350

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
91	05-0591	MONTEREY PARK HOSPITAL	MONTEREY PARK	CA
92	04-0078	NATIONAL PARK MEDICAL CENTER INC	HOT SPRINGS	AR
93	10-0063	NORTH BAY MEDICAL CENTER	NEW PORT RICHEY	FL
94	11-0198	NORTH FULTON REGIONAL HOSPITAL	ROSWELL	GA
95	05-0241 55-0241	NORTH HOLLYWOOD MEDICAL CENTER	NORTH HOLLYWOOD	CA
96	10-0237	NORTH RIDGE MEDICAL CENTER	FORT LAUDERDALE	FL
97	10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
98	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
99	45-0661	ODESSA REGIONAL HOSPITAL	ODESSA	TX
100	10-0176	PALM BEACH GARDENS MEDICAL CENTER	PALM BEACH GARDENS	FL
101	10-0187	PALMETTO GENERAL HOSPITAL	HIALEAH	FL
102	10-0126	PALMS OF PASADENA HOSPITAL	SAINT PETERSBURG	FL
103	45-0518	PARK PLACE MEDICAL CENTER	PORT ARTHUR	TX
104	45-0659	PARK PLAZA HOSPITAL	HOUSTON	TX
105	39-0234	PARKVIEW HOSPITAL	PHILADELPHIA	PA
106	10-0114	PARKWAY REGIONAL MEDICAL CENTER	NORTH MIAMI	FL
107	42-0002	PIEDMONT MEDICAL CENTER	ROCK HILL	SC
108	10-3030	PINECREST REHABILITATION	DELRAY BEACH	FL
109	05-0589	PLACENTIA LINDA HOSPITAL	PLACENTIA	CA
110	45-2046	PLAZA SPECIALTY HOSPITAL	HOUSTON	TX
111	51-0060	PLATEAU MEDICAL CENTER	OAK HILL	WV
112	45-0002	PROVIDENCE MEMORIAL HOSPITAL	EL PASO	TX
113	50-0045	PUGET SOUND HOSPITAL	TACOMA	WA
114	05-0063	QUEEN OF ANGELS - HOLLYWOOD PRESBYTERIAN MEDICAL CENTER	LOS ANGELES	CA
115	05-0701	RANCHO SPRINGS MEDICAL CENTER	MURRIETA	CA
116	05-0312	REDDING MEDICAL CENTER	REDDING	CA
117	45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
118	39-0135 39-0304	ROXBOROUGH MEMORIAL HOSPITAL	PHILADELPHIA	PA
119	39-3307	SAINT CHRISTOPHER'S HOSPITAL FOR CHILDREN	PHILADELPHIA	PA
120	26-0105	SAINT LOUIS UNIVERSITY HOSPITAL	SAINT LOUIS	MO
121	05-0029	SAINT LUKE MEDICAL CENTER	PASADENA	CA
122	05-0588	SAN DIMAS COMMUNITY HOSPITAL	SAN DIMAS	CA
123	05-0689	SAN RAMON REGIONAL MEDICAL CTR	SAN RAMON	CA
124	05-0491	SANTA ANA HOSPITAL MEDICAL CENTER	SANTA ANA	CA
125	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL	CRYSTAL RIVER	FL
126	45-0378	SHARPSTOWN GENERAL HOSPITAL	HOUSTON	TX
127	45-0473 45-0839	SHELBY MEMORIAL REGIONAL MEDICAL CENTER	CENTER	TX
128	45-0668	SIERRA MEDICAL CENTER	EL PASO	TX
129	45-3070	SIERRA PROVIDENCE REHABILITATION HOSPITAL	EL PASO	TX
130	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
131	05-0459	SOUTH BAY HOSPITAL	REDONDO BEACH	CA
132	11-0066 11-0219	SOUTH FULTON	ATLANTA	GA
133	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER	LUBBOCK	TX
134	45-0697	SOUTHWEST GENERAL HOSPITAL	SAN ANTONIO	TX
135	11-0031	SPALDING REGIONAL HOSPITAL	GRIFFIN	GA

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
136	19-0158	ST. CHARLES GENERAL HOSPITAL	NEW ORLEANS	LA
137	44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
138	28-0030	ST. JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)	OMAHA	NE
139	03-0037	ST LUKE'S MEDICAL CENTER	PHOENIX	AZ
140	04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR
141	22-0028	ST. VINCENT HOSPITAL (WORCESTER MEDICAL CENTER)	WORCESTER	MA
142	26-0103 26-0210	ST. ALEXIUS HOSPITAL	SAINT LOUIS	MO
143	44-0228	ST. FRANCIS HOSPITAL-BARTLETT	BARTLETT	TN
144	10-0010 10-0288	ST. MARY'S HOSPITAL	WEST PALM BEACH	FL
145	05-0571	SUBURBAN MEDICAL CENTER	PARAMOUNT	CA
146	11-0065 11-1319	SYLVAN GROVE HOSPITAL	JACKSON	GA
147	03-0019	TEMPE ST LUKE'S HOSPITAL	TEMPE	AZ
148	45-0730	TRINITY MEDICAL CENTER	CARROLLTON	TX
149	45-0747	TRINITY VALLEY MEDICAL CENTER	PALESTINE	TX
150	03-0035	TUCSON GENERAL HOSPITAL	TUCSON	AZ
151	45-0423	TWELVE OAKS HOSPITAL	HOUSTON	TX
152	05-0633	TWIN CITIES COMMUNITY HOSPITAL	TEMPLETON	CA
153	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER	KENNETT	MO
154	44-0193	UNIVERSITY MEDICAL CENTER	LEBANON	TN
155	05-0660	USC KENNETH NORRIS JR CANCER HOSPITAL	LOS ANGELES	CA
156	05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
157	05-0449	VALLEY COMMUNITY HOSPITAL	SANTA MARIA	CA
158	39-0286	WARMINSTER HOSPITAL	WARMINSTER	PA
159	10-0268	WEST BOCA MEDICAL CENTER	BOCA RATON	FL
160	05-0065	WESTERN MEDICAL CENTER - SANTA ANA	SANTA ANA	CA
161	05-0594	WESTERN MEDICAL CENTER - ANAHEIM	ANAHEIM	CA
162	05-0328	WESTSIDE MEDICAL CENTER	LOS ANGELES	CA
163	05-0175	WHITTIER HOSPITAL	WHITTIER	CA
164	15-0014	WINONA MEMORIAL HOSPITAL	INDIANAPOLIS	IN
165	38-0010	WOODLAND PARK HOSPITAL	PORTLAND	OR
166	05-0021	WOODRUFF COMMUNITY HOSPITAL	LONG BEACH	CA

DOJ_NMG_ 0163352

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER
3	15-0022	AMI CULVER UNION HOSPITAL
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER
6	10-0255	AMI TOWN & COUNTRY HOSPITAL
7	01-0139	BROOKWOOD MEDICAL CENTER
8	05-0144	BROTMAN MEDICAL CENTER
9	45-0028	BROWNSVILLE MEDICAL CENTER
10	05-0240	CENTINELA HOSPITAL MEDICAL CENTER
11	04-0014	CENTRAL ARKANSAS HOSPITAL
12	34-0020	CENTRAL CAROLINA HOSPITAL
13	05-0579	CENTURY CITY HOSPITAL
14	05-0550	CHAPMAN MEDICAL CENTER
15	05-0535	COASTAL COMMUNITIES HOSPITAL
16	05-0188	COMMUNITY HOSP LOS GATOS
17	05-0091	COMMUNITY HOSP OF HUNTINGTON PARK
18	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL
19	10-0258	DELRAY MEDICAL HOSPITAL
20	45-0678	DOCTORS HOSPITAL (DALLAS)
21	05-0118	DOCTORS HOSPITAL OF MANTECA
22	05-0464	DOCTORS MEDICAL CENTER MODESTO
23	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS
24	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS
25	42-0089	EAST COOPER REGIONAL MEDICAL CENTER
26	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR
27	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL
28	34-0116	FRYE REGIONAL MEDICAL CENTER
29	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER
30	05-0432	GARFIELD MEDICAL CENTER
31	45-0315	GARLAND COMMUNITY HOSPITAL
32	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL
33	25-0125	GULF COAST MEDICAL CENTER
34	42-0080	HILTON HEAD HOSPITAL
35	45-0638	HOUSTON NORTHWEST MEDICAL CENTER
36	05-0693	IRVINE MEDICAL CENTER
37	19-0173	JOELLEN SMITH MEDICAL CENTER
38	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL
39	44-0144	JOHN W HARTON REGIONAL MED CENTER
40	19-0206	KENNER REGIONAL MEDICAL CENTER
41	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER
42	45-0742	LAKE POINTE MEDICAL CENTER
43	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER
44	05-0551	LOS ALAMITOS MEDICAL CENTER
45	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHACRE)
46	19-0152	MEADOWCREST HOSPITAL
47	10-0206	MEMORIAL HOSPITAL OF TAMPA
48	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS
49	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)
50	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
51	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)
52	45-0514	MID-JEFFERSON HOSPITAL
53	05-0477	MIDWAY HOSPITAL MEDICAL CENTER
54	19-0144	MINDEN MEDICAL CENTER INC
55	05-0591	MONTEREY PARK HOSPITAL
56	04-0078	NATIONAL PARK MEDICAL CENTER INC
57	11-0198	NORTH FULTON REGIONAL HOSPITAL
58	10-0237	NORTH RIDGE MEDICAL CENTER
59	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER
60	45-0661	ODESSA REGIONAL HOSPITAL
61	10-0176	PALM BEACH GARDENS MEDICAL CENTER
62	10-0187	PALMETTO GENERAL HOSPITAL
63	10-0126	PALMS OF PASADENA HOSPITAL
64	45-0518	PARK PLACE MEDICAL CENTER
65	45-0659	PARK PLAZA HOSPITAL
66	42-0002	PIEDMONT MEDICAL CENTER
67	05-0589	PLACENTIA LINDA HOSPITAL
68	45-0002	PROVIDENCE MEMORIAL HOSPITAL
69	05-0312	REDDING MEDICAL CENTER
70	45-0379	RHD MEMORIAL MEDICAL CENTER
71	05-0029	SAINT LUKE MEDICAL CENTER
72	05-0588	SAN DIMAS COMMUNITY HOSPITAL
73	05-0689	SAN RAMON REGIONAL MEDICAL CTR
74	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL
75	45-0668	SIERRA MEDICAL CENTER
76	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER
77	05-0459	SOUTH BAY
78	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER
79	26-0002	SOUTHPOINTE HOSPITAL (LUTHERAN MEDICAL CENTER) (St. Alexius - Jefferson Campus)
80	45-0697	SOUTHWEST GENERAL HOSPITAL
81	11-0031	SPALDING REGIONAL HOSPITAL
82	19-0158	ST CHARLES GENERAL HOSPITAL
83	44-0183	ST FRANCIS HOSPITAL
84	28-0030	ST JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)
85	03-0037	ST LUKE'S MEDICAL CENTER
86	04-0041	ST MARYS REGIONAL MEDICAL CENTER
87	22-0028	ST VINCENT HOSPITAL
88	05-0571	SUBURBAN MEDICAL CENTER
89	03-0019	TEMPE ST LUKE'S HOSPITAL
90	45-0730	TRINITY MEDICAL CENTER
91	03-0035	TUCSON GENERAL HOSPITAL
92	45-0423	TWELVE OAKS HOSPITAL
93	05-0633	TWIN CITIES COMMUNITY HOSPITAL
94	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER
95	44-0193	UNIVERSITY MEDICAL CENTER
96	05-0696	USC UNIVERSITY HOSPITAL
97	10-0268	WEST BOCA MEDICAL CENTER

DOJ_NMG_ 0163354

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
98	05-0175	WHITTIER HOSPITAL
99	15-0014	WINONA MEMORIAL HOSPITAL
100	05-0021	WOODRUFF COMMUNITY HOSPITAL
101		TENET HEALTHSYSTEM HEALTHCORP.
102		TENET HEALTHSYSTEM HOLDINGS, INC.
103		TENET HEALTHSYSTEM MEDICAL, INC.
104		TENET HEALTHSYSTEM HOSPITALS, INC.
105		ORNDA HOSPITAL CORP.

DOJ_NMG_ 0163355

EXHIBIT 3: TIERED CHARGES HOSPITALS

Pro. #	Hospital Name	City	State
10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
05-0188	COMMUNITY HOSP LOS GATOS	LOS GATOS	CA
05-0312	REDDING MEDICAL CENTER	REDDING	CA
19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	St. Louis	MO
26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	St. Louis	MO
45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR

EXHIBIT 4: PAYMENT SCHEDULE

Date	Outstanding Amount	Principal Payments	Interest	Interest Payments	Total Payment
11/1/2005	$ 725,000,000				
11/30/2005			$ 2,376,113		
12/31/2005			$ 2,539,983		
1/31/2006			$ 2,539,983		
2/28/2006			$ 2,294,178		
3/31/2006			$ 2,539,983		
4/30/2006			$ 2,458,048		
5/31/2006			$ 2,539,983		
6/30/2006	$ 275,000,000	$ 450,000,000	$ 2,458,048	$ 19,746,318	$ 469,746,318
7/31/2006			$ 963,442		
8/31/2006			$ 963,442		
9/30/2006			$ 932,363		
10/31/2006			$ 963,442		
11/30/2006			$ 932,363		
12/31/2006			$ 963,442		
1/31/2007			$ 963,442		
2/28/2007			$ 870,205		
3/31/2007			$ 963,442		
4/30/2007			$ 932,363		
5/31/2007			$ 963,442		
6/30/2007			$ 932,363		
7/31/2007			$ 963,442		
8/31/2007			$ 963,442		
9/30/2007			$ 932,363		
11/1/2007	$ 15,197,517		$ 994,521		
11/1/2007	$ 275,000,000	$ 24,231,795.52			$ 39,429,313
	$ 250,768,204				
2/1/2008	$ 229,122,456	$ 21,645,748.41		2,586,047.11	$ 24,231,796
5/1/2008	$ 207,253,486	$ 21,868,970.19		2,362,825.33	$ 24,231,796
8/1/2008	$ 185,158,992	$ 22,094,493.95		2,137,301.57	$ 24,231,796
11/1/2008	$ 162,836,649	$ 22,322,343.42		1,909,452.10	$ 24,231,796
2/1/2009	$ 140,284,106	$ 22,552,542.58		1,679,252.94	$ 24,231,796
5/1/2009	$ 117,498,990	$ 22,785,115.68		1,446,679.84	$ 24,231,796
8/1/2009	$ 94,478,903	$ 23,020,087.18		1,211,708.34	$ 24,231,796
11/1/2009	$ 71,221,421	$ 23,257,481.83		974,313.69	$ 24,231,796
2/1/2010	$ 47,724,097	$ 23,497,324.61		734,470.91	$ 24,231,796
5/1/2010	$ 23,984,456	$ 23,739,640.77		492,154.75	$ 24,231,796
8/1/2010		$ 23,984,455.82		247,339.70	$ 24,231,796

EXHIBIT 5: DOCUMENTS FROM US ex rel. BARBARA v. AMISUB

DOCUMENT ID No.	Doc. Date
FLAPP/502519 [aka 592519]	8/8/1995
FLAPP/532902-FLAPP/532903	8/10/1995
FLAPP/523364-FLAPP/523812	8/25/1995
FLAPP/509012-FLAPP/509018	1/5/1996
FLAPP/525010	1/11/1996
FLAPP/502531-FLAPP/502568	2/8/1996
FLAPP/549516-FLAPP/549569	4/9/1996
FLAPP/524978	5/22/1996
FLAPP/524977	6/5/1996
FLAPP/515211-FLAPP/515213	8/19/1996
FLAPP/534761-FLAPP/534799	10/7/1996
FLAPP/537000	1/11/1997
FLAPP/535361-FLAPP/535364	1/24/1997
FLAPP/516262	3/4/1997
FLAPP/55I850-FLAPP/552014	6/23/1997
FLAPP/520805	7/17/1997
FLAPP/503490	7/31/1997
FLAPP/508381	7/31/1997
PLAPP/517971	8/29/1997
FLAPP/535733-FLAPP/535752	no date

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Image not available for this document, ID: 0.7.10316.53932-000003

Full Name: Steve Bradbury
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DOJ_NMG_ 0163361

Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	PHB, Room 5117
Start:	Thursday, June 29, 2006 11:00 AM
End:	Thursday, June 29, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kim, Wan (CRT); King, Loretta (CRT); King, Loretta (CRT); Gorsuch, Neil M; Pacold, Martha M; Comisac, Rena (CRT); Swenson, Lily F; Todd, Gordon (SMO); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT); Agarwal, Asheesh (CRT)
Optional Attendees:	Saull, Bradley (CRT); 'Todd, Gordon (CRT)'

When: Thursday, June 29, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB, Room 5117

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

Note room change for this mtg.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Asheesh Agarwal-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz

POC: Currie Gunn x4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 9:41 AM
To: Gunn, Currie (SMO)
Subject: Messages

Did Judge Murphy or [redacted] leave numbers with you? For some reason, email between us seems to be working only sporadically.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 9:44 AM
To: Jaffer, Jamil N
Subject: RE: Quick Item

Thanks. I'll be curious to hear if I'm held over as expected.

-----Original Message-----
From: Jaffer, Jamil N
Sent: Thursday, June 29, 2006 9:22 AM
To: Gorsuch, Neil M
Subject: Re: Quick Item

FYI - You're on the agenda for today.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted](cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Thu Jun 29 08:16:12 2006
Subject: Quick Item

Neil,

If you have a moment can you give me a call on the number below? I picked up a small piece of intel that I wanted to pass along. I'll be unreachable after 9:30 as I'm going to the Court for hand-downs.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted]cell)
jamil.n.jaffer@usdoj.gov

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 9:45 AM
To: 'Jennifer_R._Brosnahan@who.eop.gov'
Subject: FW: TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

FYI

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 29, 2006 8:51 AM
To: USDOJ- Office of Public Affairs
Subject: TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 29, 2006
WWW.USDOJ.GOV

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

TENET HEALTHCARE CORPORATION TO PAY U.S. MORE THAN $900 MILLION TO RESOLVE FALSE CLAIMS ACT ALLEGATIONS

WASHINGTON – Tenet Healthcare Corporation, operator of the nation's second largest hospital chain, has agreed to pay the United States more than $900 million for alleged unlawful billing practices, Assistant Attorney General Peter D. Keisler of the Civil Division and U.S. Attorney Debra Wong Yang of the Central District of California in Los Angeles announced today.

"Today's settlement reflects our continued resolve to hold responsible those who engage in health care fraud in any form," said Assistant Attorney General Keisler, head of the Justice Department's Civil Division. "The Department of Justice will not tolerate fraudulent efforts by hospitals or other health care providers to claim excessive sums from the Medicare program."

Under the agreement, Tenet, which is headquartered in Dallas but operates dozens of hospitals throughout the United States, will pay a total of $900 million over a four-year period, plus interest, to resolve various types of civil allegations involving Tenet's billings to Medicare and other federal health care programs. The settlement amount was based on the company's ability to pay.

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"The Medicare program currently faces great challenges, and can ill afford attempts by hospitals to manipulate and cheat the system," said U.S. Debra Wong Yang. "This settlement demonstrates our strong commitment to recovering taxpayer funds from health care companies that break the rules in pursuit of higher profits."

Of the $900 million settlement amount, the agreement requires Tenet to pay:

-- more than $788 million to resolve claims arising from Tenet's receipt of excessive "outlier" payments (payments that are intended to be limited to situations involving extraordinarily costly episodes of care) resulting from the hospitals' inflating their charges substantially in excess of any increase in the costs associated with patient care and billing for services and supplies not provided to patients;

-- more than $47 million to resolve claims that Tenet paid kickbacks to physicians to get Medicare patients referred to its facilities, and that Tenet billed Medicare for services that were ordered or referred by physicians with whom Tenet had an improper financial relationship; and,

-- more than $46 million to resolve claims that Tenet engaged in "upcoding," which refers to situations where diagnosis codes that Tenet is unable to support or that were otherwise improper were assigned to patient records in order to increase reimbursement to Tenet hospitals.

"Today's settlement with Tenet Healthcare Corporation demonstrates the Federal goverment's commitment to protecting the integrity of our nation's healthcare system," Health and Human Services Secretary Mike Leavitt said. "I commend the staff of the HHS Office of Inspector General, the HHS Office of General Counsel and the Centers for Medicare and Medicaid Services who worked so hard to pursue those who fraudulently abused the Medicare program."

Several of the issues resolved as part of today's agreement arose from lawsuits filed by whistleblowers. Under provisions of the False Claims Act, whistleblowers who qualify under the statute are eligible to receive up to 25 percent of the settlement recovery in cases the government pursues. Under the civil settlement announced today, whistleblower shares remain undetermined pending further negotiations or court proceedings.

The following divisions and districts of the Department of Justice assisted in bringing the above matters to a successful resolution: Civil Division; Central District of California; Northern District of Alabama; Eastern District of Louisiana; Eastern District of Missouri; Eastern District of Pennsylvania; and Western District of Tennessee. Assistant Attorney General Keisler and U.S. Attorney Wong also wish to acknowledge the

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extensive assistance in addressing and resolving the settled allegations provided by the Department of Health and Human Services' Office of Inspector General and its Office of Investigations in Santa Ana, Calif.), Office of General Counsel, and Centers for Medicare and Medicaid Services; the Federal Bureau of Investigation; and Medicare Contractors Mutual of Omaha, Inc., and IntegriGuard LLC.

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CIVIL SETTLEMENT AGREEMENT (Redacted)

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the following (hereinafter "the Parties") through their authorized representatives:

(a) the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General ("OIG-HHS") of the Department of Health and Human Services ("HHS"); the TRICARE Management Activity ("TMA") (formerly the Office of Civilian Health and Medical Program of the Uniformed Services ("OCHAMPUS")), through its General Counsel; and the Office of Personnel Management ("OPM"), which administers the Federal Employees Health Benefit Program ("FEHBP") (collectively, "the United States"); and,

(b) Tenet Healthcare Corporation, on behalf of its predecessors, and current and former affiliates, divisions, and direct and indirect subsidiaries ("Tenet"); Tenet HealthSystem HealthCorp.; Tenet HealthSystem Holdings, Inc.; Tenet HealthSystem Medical, Inc.; OrNda Hospital Corp.; and the 165 hospitals listed in Exhibit 1 hereto (referred to herein as the "Settling Hospitals") (collectively the "Tenet Entities").

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Tenet is a Nevada corporation with headquarters in Dallas, Texas. Tenet, through its predecessors, subsidiaries, and/or affiliates, operates or has operated the Settling Hospitals during some or all of the time period January 1, 1990 to the present.

B. The United States has filed three actions against certain Tenet Entities in the Central District of California (collectively the "DRG Complaints"), captioned as follows:

(1) U.S. v. Tenet Healthcare *et al.*, CV03-206 GAF

(2) U.S. v. Tenet Healthcare *et al.*, CV04-857 GAF

(3) U.S. v. Tenet Healthcare *et al.*, CV04-859 GAF

The DRG Complaints allege that these Tenet Entities engaged in "upcoding" as further described in Paragraph II.E(2) below.

C. [redacted].

D. The Tenet Entities submitted or caused to be submitted claims for payment to the Medicare Program ("Medicare"), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg (1997); the Medicaid Program ("Medicaid"), 42 U.S.C. §§ 1396-1396v; the TRICARE Program ("TRICARE"), 10 U.S.C. §§ 1071-1107; and the FEHBP, 5 U.S.C. §§ 8901 et. seq. (collectively the "Government Health Care Programs").

E. The United States alleges that it has certain civil claims against the Tenet Entities, as specified in Paragraph III.4 below, for engaging in the following conduct (hereinafter the "Covered Conduct"):

(1) **Outlier Payments:**

From October 1, 1995 through August 7, 2003, the Tenet Entities allegedly submitted or caused to be submitted claims to the Government Health Care Programs for inpatient and outpatient outlier payments that the Tenet Entities were not entitled to receive because (a) the Tenet Entities allegedly had artificially and purposely inflated the charges billed for inpatient and outpatient care substantially in excess of any increase in the costs associated with that care, (b) as a result, the Tenet Entities allegedly improperly received outlier payments that were further inflated because they were computed pursuant to statewide average cost-to-charge ratios that should not properly have applied, and (c) the Tenet Entities allegedly billed for inpatient and outpatient services and supplies not provided to patients. [redacted]

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[redacted] As a result of these artificially inflated and allegedly false claims, the Tenet Entities allegedly caused the Government Health Care Programs to pay to Tenet money that lawfully belonged to the United States in that it exceeded the amount Tenet would have received had these claims not been artificially inflated and false.

(2) **DRG Upcoding:**

(a) From January 1, 1992 through December 31, 1998, Tenet and the Settling Hospitals listed in Exhibit 2 allegedly submitted or caused to be submitted claims to Medicare that assigned diagnosis codes for inpatient discharges that were not supported by physician documentation in the patient's medical records or were otherwise improper for the following diagnosis related groups ("DRG's"): 79, 106, 124, 415, 416, 475 and 483; and,

(b) Between January 1, 1992 and December 31, 1998, Tenet annually certified compliance with its obligations under its Corporate Integrity Agreement notwithstanding its alleged knowledge of claims of the type described above.

(3) **Physician Relationships:**

From January 1, 1992 through October 12, 2005, the Tenet Entities allegedly submitted or caused to be submitted claims to Medicare for items and services delivered by those Tenet Entities that were ordered by a physician, a member of a physician group practice, a professional corporation, or other legal entity owned at least in part by a physician with whom the Tenet Entities had a financial relationship, directly or through a family member. The United States alleges these claims were false because (a) Section 1877 of the Social Security Act ("SSA"), 42 U.S.C. § 1395nn (also known as the Stark Law) prohibited the Tenet Entities from billing Medicare for items or services referred or ordered by physicians with whom the Tenet

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Entities had improper financial relationships, (b) the Tenet Entities forfeited the right to bill Medicare for such items and services by allegedly paying remuneration to physicians intending that remuneration to induce those and other referrals in violation of the Anti-kickback Statute, 42 U.S.C. § 1320a-7b(b), and (c) the Tenet Entities were required to and did certify on cost reports submitted to fiscal intermediaries for the applicable fiscal years that items and services identified or summarized in each cost report were not provided or procured through the payment directly or indirectly of a kickback or billed in violation of federal or state referral laws (*e.g.*, the Stark Law). [redacted]

(4) **Tiered Charges**:

From January 1, 1996 through September 30, 2005, Tenet and the Settling Hospitals listed in Exhibit 3 allegedly submitted or caused to be submitted claims to Medicare that used higher charges for inpatient than outpatient services, when those charges were required to be uniform. [redacted]

(5) **Centinela Hospital Medical Center Claims**:

From January 1, 1999 through December 31, 2005, Centinela Hospital Medical Center allegedly submitted or caused to be submitted claims to Medicare for cardiac catheterizations that were not medically necessary.

(6) **Desert Regional Medical Center Claims**:

(a) From January 1, 1997 through May 31, 2004, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted claims to Medicare for outpatient

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care rendered at the Comprehensive Cancer Center (i) with the following billing codes that were inaccurate and resulted in excessive reimbursement: modifiers 25, 27, and 59, and diagnostic codes related to screening and diagnostic mammograms, and (ii) for diagnostic laboratory and imaging services that were not supported by appropriate documentation. [redacted] and

(b) From January 1, 1997 through May 31, 2001, Tenet and Desert Regional Medical Center allegedly submitted or caused to be submitted cost reports to Government Health Care Programs that sought reimbursement for excessive management fees paid to the Comprehensive Cancer Center.

(7) **Brookwood Medical Center Claims**:

From January 1, 1997 through May 1, 2000, Brookwood Medical Center submitted claims to Government Health Care Programs for reimbursement for (i) units of blood that allegedly were not administered and (ii) blood filters that allegedly were not used. [redacted]

(8) **People's Health Network Claims:**

From January 1, 1999 through August 23, 2005, People's Health Network ("PHN"), an entity in which Tenet had an ownership interest, allegedly failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN.

F. The United States also contends that it has certain administrative claims against

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the Tenet Entities for the Covered Conduct under the provisions for permissive exclusion from Medicare, Medicaid and other Federal health care programs, 42 U.S.C. § 1320a-7(b), the provisions for permissive exclusion from TRICARE, 32 C.F.R. § 199.9, and the provisions for civil monetary penalties, 42 U.S.C. § 1320a-7a.

G. The Tenet Entities deny the contentions of the United States set out in Paragraphs II.E and II.F above.

H. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth in this Agreement. The settlement amount required to be paid by the Tenet Entities pursuant to this Agreement reflects limitations on the Tenet Entities' ability to pay occasioned by the financial condition of the Tenet Entities.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. The Tenet Entities agree to pay to the United States a total of $900 million, plus applicable interest, as follows (the "Settlement Amount"):

(a) The Tenet Entities agree to pay the United States $450 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, within ten (10) days after the Effective Date of this Agreement. The payment shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

(b) The Tenet Entities agree to waive, and not assert any claim for, additional

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Disproportionate Share Hospital ("DSH") program payments related to Medicaid eligible patient days and SSI patient days to which the Tenet Entities may be entitled for all cost reporting periods beginning on or before December 31, 2001, which claims and potential claims have a value of $50 million.

(c) The Tenet Entities agree to waive, and not assert any claim for, any additional outlier payments from any Government Health Care Program to which the Tenet Entities may be entitled for any period prior to August 7, 2003, which claims and potential claims have a value of $125 million.

(d) The Tenet Entities further agree to pay the United States $275 million, plus interest accruing at a simple rate of 4.125% from November 1, 2005, in quarterly installments from November 1, 2007 through August 1, 2010 in accordance with the schedule of payments attached as Exhibit 4. All quarterly payments shall be made by electronic funds transfer pursuant to written instructions to be provided by Michael F. Hertz, Director, Commercial Litigation Branch, Civil Division, United States Department of Justice.

2. The principal portion of the Settlement Amount is attributable to the Covered Conduct as follows (with interest to be allocated on the same pro rata basis):

(a) Outlier Payments: $788,851,228 [redacted]

(b) DRG Upcoding: $46,886,882

(c) Physician Relationships: $47,533,514 [redacted]

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(d)Tiered Charges: $822,577

(e) Desert Regional Medical Center Claims: $452,417

(f) Brookwood Medical Center Claims: $30,065

(g) People's Health Network Claims: $15,423,316

3. If the Tenet Entities fail to make any of the payments described in Paragraph III.1 above at the specified time, upon written notice to the Tenet Entities of this default, the Tenet Entities shall have ten (10) calendar days to cure the default. If the default is not cured within the ten-day period: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of default, and at a simple rate of 9.5% per annum from the date of default until the date of payment; (b) the United States may pursue any and all actions for collection as it may choose, including, without limitation, filing an action for specific performance of this Agreement; and (c) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to any of the Released Tenet Entities (defined in Paragraph III.4 below) by any department, agency, or

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agent of the United States. The Released Tenet Entities agree not to contest any collection action undertaken by the United States pursuant to this Paragraph III.3, and to pay the United States all reasonable costs incurred in any such collection action, including attorney's fees and expenses.

4. Subject to the exceptions in Paragraph III.11 below, in consideration of the obligations of the Tenet Entities set forth in this Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby releases Tenet, together with its current and former parent corporations, each of its direct and indirect subsidiaries including the Settling Hospitals, brother or sister corporations, divisions, current or former owners, partnerships or other legal entity in which Tenet or a Tenet subsidiary has or had an ownership interest, and the successors and assigns of any of them (the "Released Tenet Entities"), from any civil or administrative monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; any other statutory cause of action for civil damages or civil penalties which the Civil Division has actual and present authority to assert and compromise pursuant to 28 C.F.R. Subpart I, Section 0.45(d) (2004); or the common law and/or equitable theories of payment by mistake, unjust enrichment, restitution, recoupment, disgorgement of illegal profits, and fraud, for the Covered Conduct.

5. Within 30 days of the Effective Date of this Agreement, the United States will seek dismissal with prejudice of (a) the claims stated in the United States' Complaints and

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Amended Complaints in the Civil Actions identified in Paragraph II.B above; (b) claims asserted against the Tenet Entities in [redacted]. The stipulations of dismissal will be conditioned upon receipt by the United States of the Settlement Amount, and if necessary, will request that the courts retain jurisdiction to resolve issues of relators' share and attorney's fees.

6. Should this Agreement be challenged by any relator as not fair, adequate or reasonable pursuant to 31 U.S.C. § 3730(c)(2)(B), the United States and the Tenet Entities agree that they will take all reasonable and necessary steps to defend this Agreement. If a court concludes that the Agreement is not fair, adequate or reasonable as to the claims of a particular relator, then the Agreement shall be null and void as to the Covered Conduct asserted by those claims; the Agreement will otherwise remain in full force and effect; and that portion of the Settlement Amount allocated to the excluded Covered Conduct (the "Allocated Amount") will be held by the United States to be used as follows upon entry of a final judgment resolving (whether by settlement or otherwise) the amount the Tenet Entities must pay on the particular relator's claims (the "Judgment Amount"): (a) if the Judgment Amount is greater than the Allocated Amount, the Allocated Amount shall remain allocated to those claims, with the Tenet Entities responsible for payment of the difference between the Judgment Amount and the Allocated Amount; (b) if the Judgment Amount is less than or equal to the Allocated Amount, the portion of the Allocated Amount equivalent to the Judgment Amount shall remain allocated to those claims, while the difference between the Allocated Amount and the Judgment Amount shall be reallocated to the remaining Covered Conduct in an amount proportionate to the original allocation set forth in Paragraph III.2 above.

7. In consideration of the obligations of the Tenet Entities set forth in this

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Agreement, conditioned upon the Tenet Entities' payment in full of the Settlement Amount, and subject to Paragraph III.18 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement):

(a) TMA hereby releases and agrees to refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the TRICARE/CHAMPUS Program against the Released Tenet Entities under 32 C.F.R. § 199.9 for the Covered Conduct, except as reserved in Paragraph III.11, below, and as reserved in this Paragraph III.7(a). TMA expressly reserves authority to exclude the Released Tenet Entities from the TRICARE/ CHAMPUS program under 32 C.F.R. §§ 199.9 (f)(1)(i)(A), (f)(1)(i)(B), and (f)(1)(iii), based upon the Covered Conduct.

(b) OPM agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from the FEHBP against the Released Tenet Entities under 5 U.S.C. § 8902a or 5 C.F.R. Part 970 for the Covered Conduct, except as reserved in Paragraph III.11, below and except if excluded by the OIG-HHS pursuant to 42 U.S.C. § 1320a-7(a). Nothing in this Paragraph III.7(b) precludes OPM from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph III.11, below.

8. The Released Tenet Entities fully and finally release, compromise, acquit and forever discharge the United States, its agencies, officers, agents, employees, and contractors (and their employees) from any and all claims, causes of action, adjustments, and set-offs of any kind (including, without limitation, any claims for additional outlier payments for any period prior to August 7, 2003; any claims for additional DSH payments related to Medicaid eligible patient days and SSI patient days for cost reporting periods beginning on or before December 31,

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2001; and any attorney's fees, costs, and expenses of every kind and however denominated) which the Released Tenet Entities could have asserted, or may assert in the future, against the United States, its agencies, officers, agents, employees, and contractors (and their employees) arising out of or pertaining to the Covered Conduct, including the United States' investigation, prosecution, or settlement thereof.

9. The Tenet Entities have provided financial information to the United States and the United States has relied on the accuracy and completeness of this financial information in reaching this Agreement. If the United States learns that this financial information either (a) failed to disclose a material non-contingent asset or assets in which the Tenet Entities had an interest (a "Material Nondisclosure"); or (b) contained any other knowing, material misrepresentation or omission regarding the financial condition of the Tenet Entities (a "Knowing Material Misrepresentation"), the United States may at its option pursue relief under this Paragraph III.9 as follows: (a) the United States shall provide Tenet with written notice of the nature of the Material Nondisclosure or Knowing Material Misrepresentation; (b) within ten (10) calendar days of the date of the written notice, Tenet shall provide the United States, in writing, with any explanation it may have regarding the Material Nondisclosure or Knowing Material Misrepresentation referenced in the written notice; (c) if unsatisfied with Tenet's explanation, as determined in its sole and absolute discretion, the United States may file an action seeking relief under this Paragraph III.9 in which action the United States shall bear the burden of establishing by a preponderance of the evidence the Material Nondisclosure or Knowing Material Misrepresentation; (d) if the court finds a Material Nondisclosure or Knowing Material Misrepresentation, then – (i) the Settlement Amount shall be increased by one hundred percent (100%) of the amount of the Material Nondisclosure or Knowing Material

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Misrepresentation; (ii) the remaining unpaid principal portion of the Settlement Amount (including the increase specified in subparagraph (d)(i) above) shall become accelerated and immediately due and payable, with interest at a simple rate of 4.125% from November 1, 2005 to the date of the court finding, and at a simple rate of 9.5% per annum from the date of the court finding until the date of payment; (iii) the United States may offset the remaining unpaid balance of the Settlement Amount (inclusive of interest and the increase specified in subparagraph (d)(i) above) from any amounts due and owing to any of the Released Tenet Entities by any department, agency, or agent of the United States; and (iv) the Tenet Entities shall immediately pay the United States all reasonable costs incurred in the action seeking relief under this Paragraph III.9, including attorney's fees and expenses.

10. OIG-HHS expressly reserves all rights to institute, direct, or maintain any administrative action seeking exclusion against the Tenet Entities, and/or its officers, directors, and employees from Medicare, Medicaid, or other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) under 42 U.S.C. § 1320a-7(a) (mandatory exclusion), or 42 U.S.C. § 1320a-7(b) (permissive exclusion). The Tenet Entities and OIG-HHS are engaged in the negotiation of a potential Corporate Integrity Agreement ("CIA") and have reached a common understanding on the basic terms of such a CIA. The Tenet Entities shall use their best efforts and negotiate in good faith to execute a CIA with OIG-HHS within 90 days after the Effective Date of this Agreement (defined in Paragraph III.27 below). Upon execution of the CIA, OIG-HHS shall provide a release to the Tenet Entities pursuant to which OIG-HHS will agree not to institute, direct, or maintain an administrative action seeking an exclusion against the Tenet Entities under 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct.

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11. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including the Released Tenet Entities) are any and all of the following:

a. Any civil, criminal or administrative claims arising under Title 26, U.S. Code (commonly referred to as the Internal Revenue Code);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory and/or permissive exclusion from the Government Health Care Programs;

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

e. Any claims based upon such obligations as are created by execution of this Agreement;

f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any claims for personal injury or property damage, or for other similar consequential damages, arising from the Covered Conduct;

h. Any liability for failure to deliver goods or services due;

i. Any claims against individuals (including, without limitation, current or former directors, officers, employees, agents, or shareholders of any of the Tenet Entities), provided, however, that if the United States pursues claims based on the Covered Conduct against any individual, if the United States obtains a judgment against or enters into a settlement with any individual based on such claims, and if a court determines that the Tenet Entities have an obligation to indemnify the individual for the judgment or settlement amount (or any part

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thereof) (an "Indemnification Obligation"), then the United States shall seek to recover from the individual on the judgment or settlement only an amount such that the amount required to be paid by the Tenet Entities on their Indemnification Obligation to that individual, when summed with all amounts paid by the Tenet Entities on prior Indemnification Obligations to other individuals, results in an aggregate total no greater than $75 million;

j. Any claims of any State arising under the Medicaid Program, or any other provision of law, based on the Covered Conduct;

k. Any claims against any Settling Hospital, Tenet subsidiary, affiliate, or division, or any partnership or other legal entity in which Tenet or any Tenet subsidiary has or had an ownership interest, and the partners or other shareholders in any such partnership or other legal entity, for a time period that the Tenet Entity, partnership, or other legal entity was not directly or indirectly owned by Tenet.

l. Any liability for the Covered Conduct set forth in Paragraph II.E(3) above for claims submitted by or on behalf of the hospitals identified by the relators' Complaints in U.S. ex rel. Meshel v. Tenet (W.D. Tex.) [redacted]

m. Any liability to the United States of any entity other than a Released Tenet Entity for the Covered Conduct set forth in Paragraphs II.E(6) and II.E(8) above, and in connection with any investigation of any entity other than a Tenet Entity for such Covered Conduct, Tenet shall make reasonable efforts to facilitate access to and encourage the cooperation of its directors, officers, and employees for interviews and testimony consistent with the rights and privileges of such individuals.

12. Subject to the provisions set forth below, the Released Tenet Entities agree to

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provide to the Department of Justice, within no more than 120 days (with production beginning within 30 days and proceeding on the schedule set forth below), all documents falling within the following categories, regardless of whether the Released Tenet Entities have asserted, and/or continue to assert, that such documents are protected from disclosure by the attorney-client privilege and/or work product doctrine (as used in this Paragraph III.12, the term "document" is to be given its broadest meaning, and includes any type or form of communication, including any electronic communications, but excludes "documents" previously produced to the Department of Justice by the Released Tenet Entities in connection with the Department of Justice's investigation of the Covered Conduct):

a. all documents created prior to October 31, 2002, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to (i) the Released Tenet Entities' request or receipt of Medicare outlier payments; (ii) the Released Tenet Entities' analysis of Medicare's outlier payment rules and regulations; and/or, (iii) the Released Tenet Entities' charges, charge increases, or cost to charge ratios;

b. all documents created prior to December 31, 1998, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to coding compliance audits conducted by the Released Tenet Entities between March, 1997 and October, 1998;

c. all documents created prior to June 30, 1999, to, from, or prepared at the request of, any attorney employed or retained by the Released Tenet Entities that refer or relate to the Released Tenet Entities' obligations under, and compliance with, the Corporate Integrity Agreement ("CIA") executed by Tenet's predecessor with the OIG-HHS on June 29, 1994;

d. those documents previously withheld as privileged in United States ex rel.

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Barbera v. Amisub, et al., Case No. 97-6590-CIV (S.D.Fl.), and identified by Bates numbers as set forth in Exhibit 5 hereto;

e. all documents created prior to August 23, 2005, that (i) were requested by the United States Attorney's Office for the Eastern District of Louisiana or the Department of Justice in connection with the investigation of allegations that PHN failed to provide services and provided services not consistent with the standard of care required under applicable regulations and statutes to patients that were included in the capitated rate paid by Medicare to PHN and/or (ii) are otherwise relevant to the foregoing allegations;

f. the Released Tenet Entities will produce the documents described in this Paragraph III.12 according to the following schedule –

(i) with respect to the documents described in subparagraph (a) above: substantially all documents that were identified on any privilege log provided to the United States Attorney's Office for the Central District of California or the Department of Justice within 30 days; substantially all documents that were identified on any privilege log provided to the Securities and Exchange Commission within 60 days; substantially all documents that were identified on any privilege log provided to Congress within 90 days; and all remaining documents within 120 days;

(ii) with respect to the documents described in subparagraph (b) above: substantially all documents within 30 days, and any remaining documents within 120 days;

(iii) with respect to the documents described in subparagraph (c) above: substantially all documents that were identified on any privilege log provided in

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the DRG Upcoding litigation described in Paragraphs II.B and II.E(2) above within 60 days, and all remaining documents within 120 days;

(iv) all documents described in subparagraph (d) above within 30 days; and,

(v) with respect to the documents described in subparagraph (e) above: substantially all documents within 60 days, and any remaining documents within 120 days;

g. the Released Tenet Entities shall mark any document produced to the Department of Justice pursuant to this Paragraph III.12 that they continue to assert is protected from disclosure by the Released Tenet Entities to third-parties with the legend "Privilege Asserted and Produced Subject to Confidentiality Agreement" (such marked documents are referred to as "Privilege Asserted Documents");

h. the Department of Justice agrees to maintain the confidentiality of all Privilege Asserted Documents and not to disclose them to any third party, except to the extent the Department of Justice, in its sole and absolute discretion, determines that disclosure is required by law or court order or would be necessary to protect the safety or welfare of the public or any individual or would be in furtherance of the discharge of the Department of Justice's duties – thus, for example, this Paragraph III.12 does not prevent the Department of Justice from disseminating any Privilege Asserted Document to any other governmental entity of the United States in connection with any potential violation of law or regulation or regarding any matter within that entity's jurisdiction or to the United States Congress pursuant to a Congressional request;

i. the Department of Justice, and any individual or entity to whom a Privilege Asserted Document is disclosed by the Department of Justice pursuant to subparagraph (h)

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above, may use any Privilege Asserted Document as it deems appropriate in any criminal, civil, administrative, or contractual investigation or proceeding;

j. subject to the provisions of this Paragraph III.12 above, by producing any Privilege Asserted Document to the Department of Justice, the Released Tenet Entities do not intend to waive as to any third-party any protection of such Privilege Asserted Document under the attorney-client privilege and/or the work product doctrine.

13. The Released Tenet Entities waive and will not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph III.13 or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the settlement amounts for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

14. The Amounts that Tenet must pay pursuant to this Agreement shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP related to the Covered Conduct. The Released Tenet Entities agree not to resubmit to any Medicare carrier or fiscal intermediary, any State payor, TRICARE, or FEHBP any previously denied claims related to the Covered Conduct, and agree not to appeal any such denials of claims.

15. The Released Tenet Entities agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal

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Acquisition Regulation, 48 C.F.R. § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or on behalf of a Released Tenet Entity, in connection with the following are unallowable costs on government contracts and under the Medicare, Medicaid, TRICARE, Veterans Affairs ("VA") or FEHBP programs:

(1) the matters covered by this Agreement;

(2) the Government's audit(s), civil and any criminal investigation(s), and litigation of the matters covered by this Agreement;

(3) any Released Tenet Entity's investigation, defense, and corrective actions undertaken in response to the Government's audit(s), civil and any criminal investigation(s), and litigation in connection with the matters covered by this Agreement (including attorneys' fees);

(4) the negotiation and performance of the Agreement;

(5) the payments made pursuant to this Agreement, and any payments that the Tenet Entities may make to any relator and/or relator's attorney; and,

(6) the negotiation of the CIA referenced in Paragraph 10 above, and any obligations undertaken pursuant to such a CIA to: (i) retain an independent review organization to perform reviews as described in the CIA; and (ii) prepare and submit reports to OIG-HHS.

(All costs described or set forth in this Paragraph III.15.a are hereafter, "Unallowable Costs.")

b. Future Treatment of Unallowable Costs: These Unallowable Costs shall be separately determined and accounted for in non-reimbursable cost centers by the Released Tenet Entities, and the Released Tenet Entities will not charge such Unallowable Costs directly

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or indirectly to any contracts with the United States or any State Medicaid Program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement or payment request submitted by the Released Tenet Entities, to the Medicare, Medicaid, TRICARE, VA or FEHBP programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: The Released Tenet Entities further agree that within 90 days of the Effective Date of this Agreement they shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid, VA and FEHBP fiscal agents, any Unallowable Costs included in payments previously sought from the United States, or any State Medicaid Program, including, but not limited to, payments sought in any cost report, cost statements, information reports, or payment requests already submitted by any of the Released Tenet Entities, and shall request, and agree, that such cost reports, cost statements, information reports or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. The Released Tenet Entities agree that the United States, at a minimum, will be entitled to recoup from the Released Tenet Entities any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment. If any Released Tenet Entity fails to identify such costs in past filed cost reports in conformity with this Paragraph, the United States may seek an appropriate penalty or other sanction in addition to the recouped amount. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by any Released Tenet Entity, on the effect of inclusion of Unallowable Costs on the cost reports, cost statement, or

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information reports of the Released Tenet Entity.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine the books and records of any Released Tenet Entity to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph III.15.

16. The Released Tenet Entities waive and agree that they shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals or third party payors. The Released Tenet Entities waive any causes of action against these beneficiaries or their parents, sponsors, legally responsible individuals or any third party payors based upon the claims for payment covered by this Agreement.

17. The Tenet Entities expressly warrant that they have reviewed their financial situations and that they are currently solvent within the meaning of 11 U.S.C. § 547(b)(3), and 548(a)(1)(B)(ii)(I), and will remain solvent following payment to the United States hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to the Tenet Entities, within the meaning of 11 U.S.C. § 547(c)(1), and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended and do, in fact, represent a reasonably equivalent exchange of value which is not intended to hinder, delay, or defraud any entity to which the Tenet Entities were or became indebted to on or after the date of this transfer, within the meaning of 11 U.S.C. § 548(a)(1).

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18. In the event the Tenet Entities commence, or a third party commences, within 91 days of the Effective Date of this Agreement, or of any payment made hereunder, any case, proceeding, or other action (a) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have any order for relief of any Tenet Entity's debts, or seeking to adjudicate any Tenet Entity as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for any Tenet Entity, or for all or any substantial part of a Tenet Entity's assets, the Tenet Entities agree as follows:

a. No Tenet Entity's obligations under this Agreement may be avoided pursuant to 11 U.S.C. §§ 547 or 548, and no Tenet Entity will argue or otherwise take the position in any such case, proceeding or action that: (i) the Tenet Entity's obligations under this Agreement may be avoided under 11 U.S.C. § 547 or 548; (ii) the Tenet Entity was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to the Tenet Entity.

b. If any Tenet Entity's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action, or proceeding against the Tenet Entities for the claims that would otherwise be covered by the releases provided in Paragraphs III.4, III.7, and III.8 above. The Tenet Entities agree that (i) any such claims, actions, or proceedings brought by the United States (including any proceedings to exclude any Tenet Entity from participation in Medicare, Medicaid, or other Federal health care programs)

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are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the actions, cases, or proceedings described in the first clause of this subparagraph, and that the Tenet Entities will not argue or otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay; (ii) the Tenet Entities will not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceeding which are brought by the United States within 120 calendar days of written notification to any Tenet Entity that the releases have been rescinded pursuant to this Paragraph III.18, except to the extent such defenses were available on May 13, 2005; and (iii) the United States has a valid claim against the Tenet Entities for the Covered Conduct, and the United States may pursue its claims in the cases, actions, or proceedings referenced in the first clause of this subparagraph, as well as in any other case, action, or proceeding.

c. The Tenet Entities acknowledge that their agreements in this Paragraph III.18 are provided in exchange for valuable consideration provided in this Agreement.

19. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement. This Agreement shall in no way be construed or considered as an admission of liability or wrongdoing in any legal or administrative proceeding.

20. The Tenet Entities represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever and they have been advised with respect hereto by counsel prior to entering into this Settlement Agreement.

21. This Agreement is governed by the laws of the United States. The United States

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and the Tenet Entities agree that the exclusive jurisdiction and venue for any dispute arising between the United States and the Tenet Entities under this Agreement will be the United States District Court for the Central District of California.

22. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the affected Parties.

23. The individuals signing this Agreement on behalf of the Tenet Entities represent and warrant that they are authorized to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

24. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

25. This Agreement is binding on the Tenet Entities' successors, transferees, heirs and assigns.

26. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

27. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

DOJ_NMG_ 0163392

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: [signature], Chief AUSA for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: June 28, 2006

BY: [signature]
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: [signature]
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: 6/29/06 by DTSpin

BY: Michael D. Granston
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163394

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: _____

BY: _____
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: 6/28/06

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: _____

BY: _____
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163395

IN WITNESS WHEREOF, the parties hereto affix their signatures:

FOR THE UNITED STATES OF AMERICA

DATED: June 28, 2006

BY: [signature], Chief AUSA, for
DEBRA WONG YANG
United States Attorney
Central District of California

DATED: _____

BY: _____
MICHAEL GRANSTON
Assistant Director
Commercial Litigation Branch
Civil Division
United States Department of Justice

FOR HHS-OIG

DATED: _____

BY: _____
GREGORY E. DEMSKE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
U.S. Department of Health and Human Services

FOR OPM

DATED: _____

BY: _____
KATHLEEN MCGETTIGAN
Deputy Associate Director
Center for Retirement and Insurance Services
Office of Personnel Management

BY: _____
J. DAVID COPE
Debarring Official
Office of Personnel Management

FOR TRICARE

DATED: 28 June 2006

BY: [signature]
LAUREL C. GILLESPIE
Deputy General Counsel
Tricare Management Activity
United States Department of Defense

DOJ_NMG_ 0163396

FOR THE SETTLING HOSPITALS

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: _____

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: _____

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: 6/28/06

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163397

FOR THE SETTLING HOSPITALS

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation
(for each of the Settling Hospitals identified in Exhibit 1)

FOR TENET HEALTHCARE CORPORATION

DATED: _____

BY: _____
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
DAVID SCHINDLER
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

DATED: 6/28/06

BY: _____
ROGER GOLDMAN
LATHAM & WATKINS
Counsel for Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HEALTHCORP

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR TENET HEALTHSYSTEM HOLDINGS, INC.

DATED: _____

BY:
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

DOJ_NMG_ 0163398

FOR TENET HEALTHSYSTEM MEDICAL, INC.

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

FOR ORNDA HOSPITAL CORPORATION

DATED: 6/28/06

BY: [signature]
DOUGLAS E. RABE
Vice President
Tenet Healthcare Corporation

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EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
3	15-0022	AMI CULVER UNION HOSPITAL	CRAWFORDSVILLE	IN
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP	NACOGDOCHES	TX
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER	TARZANA	CA
6	10-0255	AMI TOWN & COUNTRY HOSPITAL	TAMPA	FL
7	11-0115	ATLANTA MEDICAL CENTER (GEORGIA BAPTIST MEDICAL CENTER)	ATLANTA	GA
8	45-0378	BAYOU CITY MEDICAL CENTER	HOUSTON	TX
9	01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
10	05-0144	BROTMAN MEDICAL CENTER	CULVER CITY	CA
11	45-0028	BROWNSVILLE MEDICAL CENTER	BROWNSVILLE	TX
12	45-0885	CENTENNIAL MEDICAL CENTER	FRISCO	TX
13	05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
14	04-0014	CENTRAL ARKANSAS HOSPITAL	SEARCY	AR
15	34-0020	CENTRAL CAROLINA HOSPITAL	SANFORD	NC
16	05-0579	CENTURY CITY HOSPITAL	LOS ANGELES	CA
17	05-0550	CHAPMAN MEDICAL CENTER	ORANGE	CA
18	39-0288	CITY AVENUE HOSPITAL	PHILADELPHIA	PA
19	10-0056 10-0289	CLEVELAND CLINIC	WESTON	FL
20	05-0535	COASTAL COMMUNITIES HOSPITAL	SANTA ANA	CA
21	26-0178	COLUMBIA REGIONAL HOSPITAL	COLUMBIA	MO
22	05-0188	COMMUNITY HOSPITAL LOS GATOS	LOS GATOS	CA
23	05-0091	COMMUNITY/MISSION HOSPITAL OF HUNTINGTON PARK	0	CA
24	03-0059	COMMUNITY HOSPITAL MEDICAL CENTER	PHOENIX	AZ
25	10-0183	CORAL GABLES HOSPITAL	CORAL GABLES	FL
26	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL	HOUSTON	TX
27	05-0559 05-0730	DANIEL FREEMAN MARINA HOSPITAL	MARINA DEL REY	CA
28	05-0267 05-0729	DANIEL FREEMAN MEMORIAL HOSPITAL	INGELWOOD	CA
29	16-0104	DAVENPORT MEDICAL CENTER	DAVENPORT	IA
30	26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	SAINT LOUIS	MO
31	26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	SAINT LOUIS	MO
32	10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
33	05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
34	45-0678	DOCTORS HOSPITAL	DALLAS	TX
35	19-0203	DOCTORS HOSPITAL OF JEFFERSON	METAIRIE	LA
36	05-0118	DOCTORS HOSPITAL OF MANTECA	MANTECA	CA
37	05-0464	DOCTORS MEDICAL CENTER MODESTO	MODESTO	CA
38	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS	PINOLE	CA
39	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS	SAN PABLO	CA
40	26-0119	DOCTORS REGIONAL	POPLAR BLUFF	MO
41	42-0089	EAST COOPER REGIONAL MEDICAL CENTER	MOUNT PLEASANT	SC
42	38-0039	EASTMORLAND HOSPITAL	PORTLAND	OR
43	39-0289	ELKINS PARK HOSPITAL	ELKINS PARK	PA
44	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
45	10-0210	FLORIDA MEDICAL CENTER	FORT LAUDERDALE	FL
46	10-0085	FLORIDA MEDICAL CENTER SOUTH	PLANTATION	FL
47	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL	FOUNTAIN VALLEY	CA

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
48	05-0232	FRENCH HOSPITAL MEDICAL CENTER	SAN LUIS OBISPO	CA
49	34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
50	34-1312	FRYE REGIONAL MEDICAL CENTER - ALEXANDER CAMPUS		NC
51	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER	GARDEN GROVE	CA
52	05-0432	GARFIELD MEDICAL CENTER	MONTEREY PARK	CA
53	45-0315	GARLAND COMMUNITY HOSPITAL	GARLAND	TX
54	10-0262 10-0287	GOOD SAMARITAN	WEST PALM BEACH	FL
55	39-0285	GRADUATE HOSPITAL	PHILADELPHIA	PA
56	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL	SOUTH EL MONTE	CA
57	25-0125	GULF COAST MEDICAL CENTER	BILOXI	MS
58	05-0607	HARBOR VIEW MEDICAL CENTER	SAN DIEGO	CA
59	39-0290	HAHNEMANN UNIVERSITY HOSPITAL	PHILADELPHIA	PA
60	10-0053	HIALEAH HOSPITAL	HIALEAH	FL
61	42-0080	HILTON HEAD HOSPITAL	HILTON HEAD ISLAND	SC
62	10-0225	HOLLYWOOD MEDICAL CENTER	HOLLYWOOD	FL
63	45-0638	HOUSTON NORTHWEST MEDICAL CENTER	HOUSTON	TX
64	05-0693	IRVINE MEDICAL CENTER	IRVINE	CA
65	19-0173	JOELLEN SMITH MEDICAL CENTER	NEW ORLEANS	LA
66	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL	INDIO	CA
67	44-0144	JOHN W HARTON REGIONAL MED CENTER	TULLAHOMA	TN
68	19-0206	KENNER REGIONAL MEDICAL CENTER	KENNER	LA
69	26-0054	LAFAYETTE-GRAND HOSPITAL (COMPTON HEIGHTS)	SAINT LOUIS	MO
70	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
71	45-0742	LAKE POINTE MEDICAL CENTER	ROWLETT	TX
72	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER	LAKEWOOD	CA
73	53-0010	LANDER VALLEY MEDICAL CENTER	LANDER	WY
74	01-0068	LLOYD NOLAN HOSPITAL	FAIRFIELD	AL
75	05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
76	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHCARE)	POPLAR BLUFF	MO
77	26-0002	LUTHERAN MEDICAL CENTER (SOUTHPOINTE HOSPITAL) (ST. ALEXIUS - JEFFERSON CAMPUS)	SAINT LOUIS	MO
78	19-0152	MEADOWCREST HOSPITAL	GRETNA	LA
79	44-0203	MEDICAL CENTER OF MANCHESTER	MANCHESTER	TN
80	39-0287	MEDICAL COLLEGE OF PENNSYLVANIA	PHILADELPHIA	PA
81	10-0206	MEMORIAL HOSPITAL OF TAMPA	TAMPA	FL
82	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
83	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)	NEW ORLEANS	LA
84	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER	MESA	AZ
85	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)	JONESBORO	AR
86	22-0089	METROWEST MEDICAL CENTER - LEONARD MORSE	FRAMINGHAM	MA
87	22-0089	METROWEST MEDICAL CENTER - UNION HOSPITAL	NATICK	MA
88	45-0514	MID-JEFFERSON HOSPITAL	NEDERLAND	TX
89	05-0477	MIDWAY HOSPITAL MEDICAL CENTER	LOS ANGELES	CA
90	19-0144	MINDEN MEDICAL CENTER INC	MINDEN	LA

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EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
91	05-0591	MONTEREY PARK HOSPITAL	MONTEREY PARK	CA
92	04-0078	NATIONAL PARK MEDICAL CENTER INC	HOT SPRINGS	AR
93	10-0063	NORTH BAY MEDICAL CENTER	NEW PORT RICHEY	FL
94	11-0198	NORTH FULTON REGIONAL HOSPITAL	ROSWELL	GA
95	05-0241 55-0241	NORTH HOLLYWOOD MEDICAL CENTER	NORTH HOLLYWOOD	CA
96	10-0237	NORTH RIDGE MEDICAL CENTER	FORT LAUDERDALE	FL
97	10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
98	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
99	45-0661	ODESSA REGIONAL HOSPITAL	ODESSA	TX
100	10-0176	PALM BEACH GARDENS MEDICAL CENTER	PALM BEACH GARDENS	FL
101	10-0187	PALMETTO GENERAL HOSPITAL	HIALEAH	FL
102	10-0126	PALMS OF PASADENA HOSPITAL	SAINT PETERSBURG	FL
103	45-0518	PARK PLACE MEDICAL CENTER	PORT ARTHUR	TX
104	45-0659	PARK PLAZA HOSPITAL	HOUSTON	TX
105	39-0234	PARKVIEW HOSPITAL	PHILADELPHIA	PA
106	10-0114	PARKWAY REGIONAL MEDICAL CENTER	NORTH MIAMI	FL
107	42-0002	PIEDMONT MEDICAL CENTER	ROCK HILL	SC
108	10-3030	PINECREST REHABILITATION	DELRAY BEACH	FL
109	05-0589	PLACENTIA LINDA HOSPITAL	PLACENTIA	CA
110	45-2046	PLAZA SPECIALTY HOSPITAL	HOUSTON	TX
111	51-0060	PLATEAU MEDICAL CENTER	OAK HILL	WV
112	45-0002	PROVIDENCE MEMORIAL HOSPITAL	EL PASO	TX
113	50-0045	PUGET SOUND HOSPITAL	TACOMA	WA
114	05-0063	QUEEN OF ANGELS - HOLLYWOOD PRESBYTERIAN MEDICAL CENTER	LOS ANGELES	CA
115	05-0701	RANCHO SPRINGS MEDICAL CENTER	MURRIETA	CA
116	05-0312	REDDING MEDICAL CENTER	REDDING	CA
117	45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
118	39-0135 39-0304	ROXBOROUGH MEMORIAL HOSPITAL	PHILADELPHIA	PA
119	39-3307	SAINT CHRISTOPHER'S HOSPITAL FOR CHILDREN	PHILADELPHIA	PA
120	26-0105	SAINT LOUIS UNIVERSITY HOSPITAL	SAINT LOUIS	MO
121	05-0029	SAINT LUKE MEDICAL CENTER	PASADENA	CA
122	05-0588	SAN DIMAS COMMUNITY HOSPITAL	SAN DIMAS	CA
123	05-0689	SAN RAMON REGIONAL MEDICAL CTR	SAN RAMON	CA
124	05-0491	SANTA ANA HOSPITAL MEDICAL CENTER	SANTA ANA	CA
125	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL	CRYSTAL RIVER	FL
126	45-0378	SHARPSTOWN GENERAL HOSPITAL	HOUSTON	TX
127	45-0473 45-0839	SHELBY MEMORIAL REGIONAL MEDICAL CENTER	CENTER	TX
128	45-0668	SIERRA MEDICAL CENTER	EL PASO	TX
129	45-3070	SIERRA PROVIDENCE REHABILITATION HOSPITAL	EL PASO	TX
130	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
131	05-0459	SOUTH BAY HOSPITAL	REDONDO BEACH	CA
132	11-0066 11-0219	SOUTH FULTON	ATLANTA	GA
133	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER	LUBBOCK	TX
134	45-0697	SOUTHWEST GENERAL HOSPITAL	SAN ANTONIO	TX
135	11-0031	SPALDING REGIONAL HOSPITAL	GRIFFIN	GA

EXHIBIT 1: SETTLING HOSPITALS

	A	B	C	D
1	Pro. #	Hospital Name	City	State
136	19-0158	ST. CHARLES GENERAL HOSPITAL	NEW ORLEANS	LA
137	44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
138	28-0030	ST. JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)	OMAHA	NE
139	03-0037	ST LUKE'S MEDICAL CENTER	PHOENIX	AZ
140	04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR
141	22-0028	ST. VINCENT HOSPITAL (WORCESTER MEDICAL CENTER)	WORCESTER	MA
142	26-0103 26-0210	ST. ALEXIUS HOSPITAL	SAINT LOUIS	MO
143	44-0228	ST. FRANCIS HOSPITAL-BARTLETT	BARTLETT	TN
144	10-0010 10-0288	ST. MARY'S HOSPITAL	WEST PALM BEACH	FL
145	05-0571	SUBURBAN MEDICAL CENTER	PARAMOUNT	CA
146	11-0065 11-1319	SYLVAN GROVE HOSPITAL	JACKSON	GA
147	03-0019	TEMPE ST LUKE'S HOSPITAL	TEMPE	AZ
148	45-0730	TRINITY MEDICAL CENTER	CARROLLTON	TX
149	45-0747	TRINITY VALLEY MEDICAL CENTER	PALESTINE	TX
150	03-0035	TUCSON GENERAL HOSPITAL	TUCSON	AZ
151	45-0423	TWELVE OAKS HOSPITAL	HOUSTON	TX
152	05-0633	TWIN CITIES COMMUNITY HOSPITAL	TEMPLETON	CA
153	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER	KENNETT	MO
154	44-0193	UNIVERSITY MEDICAL CENTER	LEBANON	TN
155	05-0660	USC KENNETH NORRIS JR CANCER HOSPITAL	LOS ANGELES	CA
156	05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
157	05-0449	VALLEY COMMUNITY HOSPITAL	SANTA MARIA	CA
158	39-0286	WARMINSTER HOSPITAL	WARMINSTER	PA
159	10-0268	WEST BOCA MEDICAL CENTER	BOCA RATON	FL
160	05-0065	WESTERN MEDICAL CENTER - SANTA ANA	SANTA ANA	CA
161	05-0594	WESTERN MEDICAL CENTER - ANAHEIM	ANAHEIM	CA
162	05-0328	WESTSIDE MEDICAL CENTER	LOS ANGELES	CA
163	05-0175	WHITTIER HOSPITAL	WHITTIER	CA
164	15-0014	WINONA MEMORIAL HOSPITAL	INDIANAPOLIS	IN
165	38-0010	WOODLAND PARK HOSPITAL	PORTLAND	OR
166	05-0021	WOODRUFF COMMUNITY HOSPITAL	LONG BEACH	CA

DOJ_NMG_ 0163403

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
2	05-0583	ALVARADO HOSPITAL MEDICAL CENTER
3	15-0022	AMI CULVER UNION HOSPITAL
4	45-0656	AMI NACOGDOCHES MEDICAL CENTER HOSP
5	05-0601	AMI TARZANA REGIONAL MEDICAL CENTER
6	10-0255	AMI TOWN & COUNTRY HOSPITAL
7	01-0139	BROOKWOOD MEDICAL CENTER
8	05-0144	BROTMAN MEDICAL CENTER
9	45-0028	BROWNSVILLE MEDICAL CENTER
10	05-0240	CENTINELA HOSPITAL MEDICAL CENTER
11	04-0014	CENTRAL ARKANSAS HOSPITAL
12	34-0020	CENTRAL CAROLINA HOSPITAL
13	05-0579	CENTURY CITY HOSPITAL
14	05-0550	CHAPMAN MEDICAL CENTER
15	05-0535	COASTAL COMMUNITIES HOSPITAL
16	05-0188	COMMUNITY HOSP LOS GATOS
17	05-0091	COMMUNITY HOSP OF HUNTINGTON PARK
18	45-0716	CYPRESS FAIRBANKS MED CTR HOSPITAL
19	10-0258	DELRAY MEDICAL HOSPITAL
20	45-0678	DOCTORS HOSPITAL (DALLAS)
21	05-0118	DOCTORS HOSPITAL OF MANTECA
22	05-0464	DOCTORS MEDICAL CENTER MODESTO
23	05-0522	DOCTORS MEDICAL CENTER PINOLE CAMPUS
24	05-0079	DOCTORS MEDICAL CTR SAN PABLO CAMPUS
25	42-0089	EAST COOPER REGIONAL MEDICAL CENTER
26	05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR
27	05-0570	FOUNTAIN VALLEY REGIONAL HOSPITAL
28	34-0116	FRYE REGIONAL MEDICAL CENTER
29	05-0230	GARDEN GROVE HOSPITAL & MEDICAL CENTER
30	05-0432	GARFIELD MEDICAL CENTER
31	45-0315	GARLAND COMMUNITY HOSPITAL
32	05-0615	GREATER EL MONTE COMMUNITY HOSPITAL
33	25-0125	GULF COAST MEDICAL CENTER
34	42-0080	HILTON HEAD HOSPITAL
35	45-0638	HOUSTON NORTHWEST MEDICAL CENTER
36	05-0693	IRVINE MEDICAL CENTER
37	19-0173	JOELLEN SMITH MEDICAL CENTER
38	05-0534	JOHN F KENNEDY MEMORIAL HOSPITAL
39	44-0144	JOHN W HARTON REGIONAL MED CENTER
40	19-0206	KENNER REGIONAL MEDICAL CENTER
41	29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER
42	45-0742	LAKE POINTE MEDICAL CENTER
43	05-0581	LAKEWOOD REGIONAL MEDICAL CENTER
44	05-0551	LOS ALAMITOS MEDICAL CENTER
45	26-0120	LUCY LEE HOSPITAL (THREE RIVERS HEALTHACRE)
46	19-0152	MEADOWCREST HOSPITAL
47	10-0206	MEMORIAL HOSPITAL OF TAMPA
48	19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS
49	19-0075 19-0260	MEMORIAL MED. CTR.--MERCY CAMPUS (LINDY BOGGS MEDICAL CENTER)
50	03-0017	MESA GENERAL HOSPITAL MEDICAL CENTER

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
51	04-0118	METHODIST HOSPITAL OF JONESBORO (REGIONAL MEDICAL CENTER OF NEA)
52	45-0514	MID-JEFFERSON HOSPITAL
53	05-0477	MIDWAY HOSPITAL MEDICAL CENTER
54	19-0144	MINDEN MEDICAL CENTER INC
55	05-0591	MONTEREY PARK HOSPITAL
56	04-0078	NATIONAL PARK MEDICAL CENTER INC
57	11-0198	NORTH FULTON REGIONAL HOSPITAL
58	10-0237	NORTH RIDGE MEDICAL CENTER
59	19-0204	NORTHSHORE REGIONAL MEDICAL CENTER
60	45-0661	ODESSA REGIONAL HOSPITAL
61	10-0176	PALM BEACH GARDENS MEDICAL CENTER
62	10-0187	PALMETTO GENERAL HOSPITAL
63	10-0126	PALMS OF PASADENA HOSPITAL
64	45-0518	PARK PLACE MEDICAL CENTER
65	45-0659	PARK PLAZA HOSPITAL
66	42-0002	PIEDMONT MEDICAL CENTER
67	05-0589	PLACENTIA LINDA HOSPITAL
68	45-0002	PROVIDENCE MEMORIAL HOSPITAL
69	05-0312	REDDING MEDICAL CENTER
70	45-0379	RHD MEMORIAL MEDICAL CENTER
71	05-0029	SAINT LUKE MEDICAL CENTER
72	05-0588	SAN DIMAS COMMUNITY HOSPITAL
73	05-0689	SAN RAMON REGIONAL MEDICAL CTR
74	10-0249	SEVEN RIVERS COMMUNITY HOSPITAL
75	45-0668	SIERRA MEDICAL CENTER
76	05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER
77	05-0459	SOUTH BAY
78	45-0110	SOUTH PARK HOSPITAL & MEDICAL CENTER
79	26-0002	SOUTHPOINTE HOSPITAL (LUTHERAN MEDICAL CENTER) (St. Alexius - Jefferson Campus)
80	45-0697	SOUTHWEST GENERAL HOSPITAL
81	11-0031	SPALDING REGIONAL HOSPITAL
82	19-0158	ST CHARLES GENERAL HOSPITAL
83	44-0183	ST FRANCIS HOSPITAL
84	28-0030	ST JOSEPH HOSPITAL (CREIGHTON UNIVERSITY MEDICAL CENTER)
85	03-0037	ST LUKE'S MEDICAL CENTER
86	04-0041	ST MARYS REGIONAL MEDICAL CENTER
87	22-0028	ST VINCENT HOSPITAL
88	05-0571	SUBURBAN MEDICAL CENTER
89	03-0019	TEMPE ST LUKE'S HOSPITAL
90	45-0730	TRINITY MEDICAL CENTER
91	03-0035	TUCSON GENERAL HOSPITAL
92	45-0423	TWELVE OAKS HOSPITAL
93	05-0633	TWIN CITIES COMMUNITY HOSPITAL
94	26-0015	TWIN RIVERS REGIONAL MEDICAL CENTER
95	44-0193	UNIVERSITY MEDICAL CENTER
96	05-0696	USC UNIVERSITY HOSPITAL
97	10-0268	WEST BOCA MEDICAL CENTER

DOJ_NMG_ 0163405

EXHIBIT 2: DRG UPCODING HOSPITALS

	A	B
1	Pro. #	Hospital/Entity Name
98	05-0175	WHITTIER HOSPITAL
99	15-0014	WINONA MEMORIAL HOSPITAL
100	05-0021	WOODRUFF COMMUNITY HOSPITAL
101		TENET HEALTHSYSTEM HEALTHCORP.
102		TENET HEALTHSYSTEM HOLDINGS, INC.
103		TENET HEALTHSYSTEM MEDICAL, INC.
104		TENET HEALTHSYSTEM HOSPITALS, INC.
105		ORNDA HOSPITAL CORP.

DOJ_NMG_ 0163406

EXHIBIT 3: TIERED CHARGES HOSPITALS

Pro. #	Hospital Name	City	State
10-0258	DELRAY MEDICAL HOSPITAL	DELRAY BEACH	FL
34-0116	FRYE REGIONAL MEDICAL CENTER	HICKORY	NC
05-0551	LOS ALAMITOS MEDICAL CENTER	LOS ALAMITOS	CA
05-0696	USC UNIVERSITY HOSPITAL	LOS ANGELES	CA
05-0243	DESERT REGIONAL MEDICAL CENTER	PALM SPRINGS	CA
05-0158	ENCINO-TARZANA REGIONAL MEDICAL CTR	ENCINO	CA
44-0183	ST. FRANCIS HOSPITAL	MEMPHIS	TN
05-0188	COMMUNITY HOSP LOS GATOS	LOS GATOS	CA
05-0312	REDDING MEDICAL CENTER	REDDING	CA
19-0135	MEMORIAL MED. CTR. --BAPTIST CAMPUS	NEW ORLEANS	LA
05-0506	SIERRA VISTA REGIONAL MEDICAL CENTER	SAN LUIS OBISPO	CA
05-0583	ALVARADO HOSPITAL MEDICAL CENTER	SAN DIEGO	CA
01-0139	BROOKWOOD MEDICAL CENTER	BIRMINGHAM	AL
19-0204	NORTHSHORE REGIONAL MEDICAL CENTER	SLIDELL	LA
10-0029	NORTH SHORE MEDICAL CENTER	MIAMI	FL
26-0021	DEACONESS MEDICAL CENTER (FOREST PARK)	St. Louis	MO
26-0176	DEACONESS MEDICAL CENTER WEST (DES PERES)	St. Louis	MO
45-0379	RHD MEMORIAL MEDICAL CENTER	DALLAS	TX
29-0005	LAKE MEAD HOSPITAL MEDICAL CENTER	NORTH LAS VEGAS	NV
05-0240	CENTINELA HOSPITAL MEDICAL CENTER	INGLEWOOD	CA
04-0041	ST. MARY'S REGIONAL MEDICAL CENTER	RUSSELLVILLE	AR

EXHIBIT 4: PAYMENT SCHEDULE

Date	Outstanding Amount	Principal Payments	Interest	Interest Payments	Total Payment
11/1/2005	$ 725,000,000				
11/30/2005			$ 2,376,113		
12/31/2005			$ 2,539,983		
1/31/2006			$ 2,539,983		
2/28/2006			$ 2,294,178		
3/31/2006			$ 2,539,983		
4/30/2006			$ 2,458,048		
5/31/2006			$ 2,539,983		
6/30/2006	$ 275,000,000	$ 450,000,000	$ 2,458,048	$ 19,746,318	$ 469,746,318
7/31/2006			$ 963,442		
8/31/2006			$ 963,442		
9/30/2006			$ 932,363		
10/31/2006			$ 963,442		
11/30/2006			$ 932,363		
12/31/2006			$ 963,442		
1/31/2007			$ 963,442		
2/28/2007			$ 870,205		
3/31/2007			$ 963,442		
4/30/2007			$ 932,363		
5/31/2007			$ 963,442		
6/30/2007			$ 932,363		
7/31/2007			$ 963,442		
8/31/2007			$ 963,442		
9/30/2007			$ 932,363		
11/1/2007	$ 15,197,517		$ 994,521		
11/1/2007	$ 275,000,000	$ 24,231,795.52			$ 39,429,313
	$ 250,768,204				
2/1/2008	$ 229,122,456	$ 21,645,748.41		2,586,047.11	$ 24,231,796
5/1/2008	$ 207,253,486	$ 21,868,970.19		2,362,825.33	$ 24,231,796
8/1/2008	$ 185,158,992	$ 22,094,493.95		2,137,301.57	$ 24,231,796
11/1/2008	$ 162,836,649	$ 22,322,343.42		1,909,452.10	$ 24,231,796
2/1/2009	$ 140,284,106	$ 22,552,542.58		1,679,252.94	$ 24,231,796
5/1/2009	$ 117,498,990	$ 22,785,115.68		1,446,679.84	$ 24,231,796
8/1/2009	$ 94,478,903	$ 23,020,087.18		1,211,708.34	$ 24,231,796
11/1/2009	$ 71,221,421	$ 23,257,481.83		974,313.69	$ 24,231,796
2/1/2010	$ 47,724,097	$ 23,497,324.61		734,470.91	$ 24,231,796
5/1/2010	$ 23,984,456	$ 23,739,640.77		492,154.75	$ 24,231,796
8/1/2010		$ 23,984,455.82		247,339.70	$ 24,231,796

EXHIBIT 5: DOCUMENTS FROM US ex rel. BARBARA v. AMISUB

DOCUMENT ID No.	Doc. Date
FLAPP/502519 [aka 592519]	8/8/1995
FLAPP/532902-FLAPP/532903	8/10/1995
FLAPP/523364-FLAPP/523812	8/25/1995
FLAPP/509012-FLAPP/509018	1/5/1996
FLAPP/525010	1/11/1996
FLAPP/502531-FLAPP/502568	2/8/1996
FLAPP/549516-FLAPP/549569	4/9/1996
FLAPP/524978	5/22/1996
FLAPP/524977	6/5/1996
FLAPP/515211-FLAPP/515213	8/19/1996
FLAPP/534761-FLAPP/534799	10/7/1996
FLAPP/537000	1/11/1997
FLAPP/535361-FLAPP/535364	1/24/1997
FLAPP/516262	3/4/1997
FLAPP/55I850-FLAPP/552014	6/23/1997
FLAPP/520805	7/17/1997
FLAPP/503490	7/31/1997
FLAPP/508381	7/31/1997
PLAPP/517971	8/29/1997
FLAPP/535733-FLAPP/535752	no date

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Image not available for this document, ID: 0.7.10316.53907-000003

Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	PHB, Team Room 2 Conference Room - 1st Floor
Start:	Thursday, June 29, 2006 11:00 AM
End:	Thursday, June 29, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Kim, Wan (CRT); King, Loretta (CRT); King, Loretta (CRT); Gorsuch, Neil M; Pacold, Martha M; Comisac, Rena (CRT); Swenson, Lily F; Todd, Gordon (SMO); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT); Agarwal, Asheesh (CRT)
Optional Attendees:	Saull, Bradley (CRT); 'Todd, Gordon (CRT)'

When: Thursday, June 29, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB, Team Room 2 Conference Room - 1st Floor

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Note room change for this mtg enter Suite 1600, Team Room 2 straight ahead.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Asheesh Agarwal-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz

POC: Currie Gunn x4-9500

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, June 29, 2006 10:12 AM
To: Gorsuch, Neil M
Subject: Read: Markup

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	1100 L St., NW Room 8004 (See Message From Doug Letter)
Start:	Monday, July 03, 2006 2:00 PM
End:	Monday, July 03, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); McIntosh, Brent
Optional Attendees:	Reyes, Luis (SMO)

When: Monday, July 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 1100 L St., NW Room 8004 (See Message From Doug Letter)

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MESSAGE FROM DOUG LETTER: I have reserved a conference room here in 1100 L St -- Room 8004. It is the corner conference room on the 8th Floor (nice views!). I reserved it for Monday, July 3, at 2:00 pm, and Monday July 10 and July 17, at 4:00 pm. When people get to this building, they must show to the security guards in the lobby a DOJ id in order to get in, and the guard must then use a key card for the elevators so that they will stop at the 8th floor -- visitors just need to ask the guard or any DOJ employee there to use a key card for the elevator.

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 03, 2006 8:30 AM
End:	Monday, July 03, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Monday, July 03, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room, PHB 10300-A
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Owens, Angela (ENRD)

Subject:	Updated: Everglades Update
Location:	PHB 1810
Start:	Thursday, June 29, 2006 3:30 PM
End:	Thursday, June 29, 2006 4:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Owens, Angela (ENRD)
Required Attendees:	Elwood, Courtney; Gorsuch, Neil M; McKeown, Matt (ENRD)

When: Thursday, June 29, 2006 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB 1810

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POC Cullen 5-0432

Roehrkasse, Brian

From: Roehrkasse, Brian
Sent: Thursday, June 29, 2006 12:34 PM
To: Gorsuch, Neil M; Elwood, Courtney; Blomquist, Kathleen M; Moschella, William
Subject: FW: Fox - Sen. Voinovich
Attachments: tmp.htm
Importance: Low

-----Original Message-----
From: News.Update@WhiteHouse.Gov [mailto:News.Update@WhiteHouse.Gov]
Sent: Thursday, June 29, 2006 12:19 PM
To: Roehrkasse, Brian
Subject: Fox - Sen. Voinovich
Importance: Low

FOX - Sen. Voinovich

http://www.shadowtv.com/redirect/notification.jsp?vid=a8cabe788170489b11
a791d8389bbcab

HOST: the news is breaking for the war on terror. A few minutes ago a ruling that detainees in cuba cannot be tried in the special military tribunals. The ruling was found that this is not legal. What happens now with some of the most dangerous terrorist suspects in the world? The senator is here from the capital.

SENATOR GEORGE VOINOVICH: Hi, bill, how are you?

HOST: you just heard the president say helps to work with congress to figure this out. How do you figure it out?

SEN VOINOVICH: The suspect court said what we were doing there violented the united states law and there was a reference to the geneva conventions. One of the justices said that if congress passed ledgelation that made this legal, that would remedy the situation, so we have to look at how the will all work out. Guantanamo has become a problem for the united states. I have recently in paris, many of

our great allies and friends were saying you have to do something about that. It's hurting you internationally.

HOST: bad p.R. Is one thing, but allowing these guys to get freedom is another.

SEN VOINOVICH: We can make sure that none of these people get out of there. People that we know have killed americans and other people.

HOST: you have stated some type of legislation may be under way. Is there any idea how a new law would shape?

SEN VOINOVICH: I think because of the decision of the court, those of us is that are concerned about it will move quickly to deal with that situation.

HOST: as you said that we are dealing with north korea. The japanese look at it one way, the chinese see it from a What was the concern beijing different view. expressed to you?

SEN VOINOVICH: They approached it differently. There was a negative on terms of threatening them. I think our approach has been under chris hill's leadership over there in terms of dealing with the big six, or six party talks. The chinese have more leverage on north korea than anyone else. The chinese don't want them as a player there because they know it will disablize the whole nation. They are talking a lot today and not going separate directions. I have confidence they are going to work that out, and i have confidence that with the pack 3 that we have given the japanese, there is some comfort with japan that if they turn the wrong direction, they could defend themselves against their misems, and we were concerned that those rockets could go between 5,007,000 miles which means they could reach our coast. The whole idea of what they are doing with intelligence is uncertain. I think john warner made it clear after a closed briefing that we are not sure what they are doing there.

HOST: senator, thank you.

You are currently subscribed to News TV Transcripts and Clips as: Brian.Roehrkasse@usdoj.gov.
To unsubscribe send a blank email to leave-whitehouse-news-tv-1294396D@list.whitehouse.gov

FOX – Sen. Voinovich

http://www.shadowtv.com/redirect/notification.jsp?vid=a8cabe788170489b11a791d8389bbcab

HOST: the news is breaking for the war on terror. A few minutes ago a ruling that detainees in cuba cannot be tried in the special military tribunals. The ruling was found that this is not legal. What happens now with some of the most dangerous terrorist suspects in the world? The senator is here from the capital.

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SEN VOINOVICH: We can make sure that none of these people get out of there. People that we know have killed americans and other people.

HOST: you have stated some type of legislation may be under way. Is there any idea how a new law would shape?

SEN VOINOVICH: I think because of the decision of the court, those of us is that are concerned about it will move quickly to deal with that situation.

HOST: as you said that we are dealing with north korea. The japanese look at it one way, the chinese see it from a What was the concern beijing different view. expressed to you?

SEN VOINOVICH: They approached it differently. There was a negative on terms of threatening them. I think our approach has been under chris hill's leadership over there in terms of dealing with the big six, or six party talks. The chinese have more leverage on north korea than anyone else. The chinese don't want them as a player there because they know it will disablize the whole nation. They are talking a lot today and not going separate directions. I have confidence they are going to work that out, and i have confidence that with the pack 3 that we have given the japanese, there is some comfort with japan that if they turn the wrong direction, they could defend themselves against their misems, and we were concerned that those rockets could go between 5,007,000 miles which means they could reach our coast. The whole idea of what they are doing with intelligence is uncertain. I think john warner made it clear after a closed briefing that we are not sure what they are doing there.

HOST: senator, thank you.

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Beach, Andrew

Subject:	Canceled: Strategic Initiatives Staff Meeting
Location:	OAG Conf Rm 5228
Start:	Monday, July 03, 2006 1:30 PM
End:	Monday, July 03, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina; Card, Jean
Importance:	High

When: Monday, July 03, 2006 7:30 PM-8:30 PM (GMT+02:00) Jerusalem.
Where: OAG Conf Rm 5228

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Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Jean Card, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield

Moschella, William

From: Moschella, William
Sent: Thursday, June 29, 2006 12:57 PM
To: Gorsuch, Neil M
Subject: Did you talk to Sen. Graham???

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 12:57 PM
To: Moschella, William
Subject: RE: Did you talk to Sen. Graham???

Yessir

From: Moschella, William
Sent: Thursday, June 29, 2006 12:57 PM
To: Gorsuch, Neil M
Subject: Did you talk to Sen. Graham???

Wooldridge, Sue Ellen (ENRD)

Subject:	Updated: Everglades Update
Location:	PHB 1810
Start:	Friday, June 30, 2006 2:00 PM
End:	Friday, June 30, 2006 2:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Wooldridge, Sue Ellen (ENRD)
Required Attendees:	Elwood, Courtney; Gorsuch, Neil M; McKeown, Matt (ENRD)

POC Cullen 5-0432

Owens, Angela (ENRD)

Subject:	Updated: Everglades Update
Location:	PHB 1810
Start:	Friday, June 30, 2006 2:00 PM
End:	Friday, June 30, 2006 2:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Owens, Angela (ENRD)
Required Attendees:	Elwood, Courtney; Gorsuch, Neil M; McKeown, Matt (ENRD)

When: Friday, June 30, 2006 2:00 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB 1810

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

POC Cullen 5-0432

Roehrkasse, Brian

From:	Roehrkasse, Brian
Sent:	Thursday, June 29, 2006 1:48 PM
To:	Elwood, Courtney; Gorsuch, Neil M; Blomquist, Kathleen M
Subject:	Fw: AP - Bush indicates he'll work with Congress to address concerns Supreme Court raised about Guantanamo (UPDATE)
Attachments:	tmp.htm
Importance:	Low

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: News.Update@WhiteHouse.Gov
To: Roehrkasse, Brian
Sent: Thu Jun 29 13:27:02 2006
Subject: AP - Bush indicates he'll work with Congress to address concerns Supreme Court raised about Guantanamo (UPDATE)

Bush indicates he'll work with Congress to address concerns Supreme Court raised about Guantanamo

By TERENCE HUNT

WASHINGTON (AP) After a Supreme Court decision overruling war crimes trials for Guantanamo Bay detainees, President Bush suggested Thursday he would seek Congress' approval to proceed with trying terrorism suspects before military tribunals.

``To the extent that there is latitude to work with the Congress to determine whether or not the military tribunals will be an avenue in which to give people their day in court, we will do so,'' he said. ``The American people need to know that the ruling, as I understand it, won't cause killers to be put out on the street.''

Bush said little more, saying he had received only a ``drive-by briefing'' on the ruling just out earlier Thursday morning.

The Supreme Court decided that Bush's proposed trials for certain detainees at the controversial U.S. prison in Cuba were illegal under U.S. law and international Geneva conventions. A separate opinion, written by Justice Stephen Breyer, appeared to invite Bush to go to Congress to seek the authority to change that, and Bush's short answer indicated that is his intention.

The president declined to say whether the decision would prompt him to more quickly follow through on his promise to close the prison, as many world leaders and human rights groups have urged.

``We will seriously look at the findings,'' Bush said. ``And one thing I'm not going to do, though, is I'm not going to jeopardize the safety of the American people. People got to understand that. I understand we're in a war on terror, that these people were picked up off of a battlefield, and I will protect the people and at the same time conform with the findings of the Supreme Court.''

White House spokesman Tony Snow said later that Bush still wants to close the Guantanamo Bay facility once the administration can determine what to do with the prisoners, and he said the Supreme Court decision does not affect that.

``This will not mean closing down Guantanamo Bay,'' Snow said. ``There is nothing in this opinion that dictates closing down Guantanamo Bay.
We're studying very careful what other implications there may be.''

Bush also warned North Korea not to test-fire a long-range missile, saying Pyongyang must tell the world its intentions for any launch.

``Launching the missile is unacceptable,'' Bush said in the East Room news conference alongside Japanese Prime Minister Junichiro Koizumi.

Bush said that he and the Japanese leader discussed concerns about what is loaded onto the missile and where North Korea intends to aim it. He asked the North Koreas to make their plans more clear.

``There have been no briefings as to what's on top of the missile. He hasn't told anybody where the missile's going,'' the president said in a reference to North Korean leader Kim Jong Il. ``He has an obligation, it seems like to me and to the prime minister, that there be a full briefing to those of us who are concerned about this issue as to what his intentions are.''

Said Koizumi, through a translator: ``Should they launch a missile, that will cause various we would apply various pressures. ... I believe it is best that I do not discuss what specific pressures we were talking about.''

Bush said the situation with Pyongyang presents an opportunity to increase global cooperation on missile defense systems.

``The Japanese cannot afford to be held hostage to rockets. And neither can the United States or any other body that loves freedom,'' the president said. ``And so one really interesting opportunity is to share and cooperate on missile defenses.''

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Bush indicates he'll work with Congress to address concerns Supreme Court raised about Guantanamo

By TERENCE HUNT

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Eisenberg, John

From: Eisenberg, John
Sent: Thursday, June 29, 2006 2:07 PM
To: Gorsuch, Neil M
Subject: Question from left field

[redacted], who is currently at DHS, asked if there's anything [redacted] can do to help with drafting legislation or whatever. Let me know if there's anything I can tell [redacted]. [redacted] be very happy to help us.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 2:17 PM
To: Eisenberg, John
Subject: Re: Question from left field

Who is [redacted]?

-----Original Message-----
From: Eisenberg, John
To: Gorsuch, Neil M
Sent: Thu Jun 29 14:07:15 2006
Subject: Question from left field

[redacted] who is currently at DHS, asked if there's anything [redacted] can do to help with drafting legislation or whatever. Let me know if there's anything I can tell [redacted] be very happy to help us.

Eisenberg, John

From: Eisenberg, John
Sent: Thursday, June 29, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: RE: Question from left field

Long story, but here's the summary. [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 2:17 PM
To: Eisenberg, John
Subject: Re: Question from left field

Who is [redacted]?

-----Original Message-----
From: Eisenberg, John
To: Gorsuch, Neil M
Sent: Thu Jun 29 14:07:15 2006
Subject: Question from left field

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 2:23 PM
To: Eisenberg, John
Subject: Re: Question from left field

I have no prob but you may want to check w John/Steve

-----Original Message-----
From: Eisenberg, John
To: Gorsuch, Neil M
Sent: Thu Jun 29 14:20:52 2006
Subject: RE: Question from left field

Long story, but here's the summary. [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 2:17 PM
To: Eisenberg, John
Subject: Re: Question from left field

Who is [redacted]

-----Original Message-----
From: Eisenberg, John
To: Gorsuch, Neil M
Sent: Thu Jun 29 14:07:15 2006
Subject: Question from left field

[redacted] who is currently at DHS, asked if there's anything [redacted] can do to help with drafting legislation or whatever. Let me know if there's anything I can tell [redacted] be very happy to help us.

Gunn, Currie (SMO)

Subject:	Canceled: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, July 3, 2006 2:00 PM
End:	Monday, July 3, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Coleman, Tim (ODAG); Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO)
Importance:	High

When: Monday, July 03, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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Meeting for Monday, July 3, 2006 canceled.

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

POC: Currie Gunn x49500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 4:04 PM
To: Elwood, Courtney
Subject: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Thursday, June 29, 2006 4:05 PM
To:	Gorsuch, Neil M
Subject:	Re: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

Yes, I'm stuck in a mtg. Will call you shortly.

-----Original Message-----
From: Gorsuch, Neil M
To: Elwood, Courtney
Sent: Thu Jun 29 16:03:53 2006
Subject: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 4:13 PM
To: Moschella, William; Blake, Dave; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: Specter on floor now re Hamden
Importance: High

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 3, 2006 9:00 AM
End:	Monday, July 3, 2006 9:30 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Monday, July 03, 2006 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room, PHB 10300-A
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Thursday, June 29, 2006 4:19 PM
Subject: Sen. Santorum's Speech National Press Club

Dear Friends,

I wanted to be sure to let you know that Sen. Santorum will be speaking at the National Press Club on Thursday July 20th at 2006 on issues that we have worked on with you over the last several years. Please see the information below to see how to purchase tickets to attend the lunch and the speech. We hope you will spread the word about the lunch so that others who are interested may know about it as well.

Thursday, July 20th, 2006

12:30 PM - **Sen. Rick Santorum** (NPC Luncheon)

Sen. Rick Santorum, the third ranking and youngest member of congressional Republican leadership, will deliver a major policy address at a National Press Club luncheon on July 20. The senator's remarks will focus on America's war against "Islamic fascism," including its roots and influence in Iraq and Iran. He will address the need to "engage the enemy" through public diplomacy and foreign aid, and the promotion of democracy and religious freedom.

As chairman of the Senate Republican Conference, Santorum directs communications operations for the Senate GOP. Santorum has been targeted as one of the most vulnerable Senate Republicans this election year as Democrats seek to recapture control of the Senate. The Pennsylvania Republican comes to The National Press Club in the midst of a re-election campaign for his third term against Democrat Bob Casey, Jr.

Considered one of the Senate's most conservative members, Santorum has drawn fire from critics for his positions on such issues as democracy, abortion, stem cell research, gun control, and weapons of mass destruction in Iraq. He has worked to promote religious freedom as part of American foreign policy and combat global poverty with U2 rock star Bono.

The National Press Club luncheon begins at 12:30 p.m. on July 20th. Sen. Santorum will speak at 1 p.m., followed by a question-and-answer session. For reservations, please call [redacted] Cost of luncheon admission is $16 for National Press Club members, $28 for their lunch guests, and $35 general admission.

For more information about the Press Club and its programs, go to http://www.press.org. The National Press club is located at 14th and F Streets N.W., 13th Floor, one block west of the Metro Center.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 4:21 PM
To: Seidel, Rebecca
Subject: RE: Specter on floor now re Hamden

Saying what?

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 4:13 PM
To: Moschella, William; Blake, Dave; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: Specter on floor now re Hamden
Importance: High

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, June 29, 2006 4:21 PM
To:	Elwood, Courtney
Subject:	RE: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

thx

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, June 29, 2006 4:05 PM
To: Gorsuch, Neil M
Subject: Re: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

Yes, I'm stuck in a mtg. Will call you shortly.

-----Original Message-----
From: Gorsuch, Neil M
To: Elwood, Courtney
Sent: Thu Jun 29 16:03:53 2006
Subject: When you have a chance, can we chat abt an issue that arose during call? I just want to alert you to it.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 4:25 PM
To: Gorsuch, Neil M
Subject: RE: Specter on floor now re Hamden

Are you near a computer? You can stream online the Senate floor (I keep getting interrupted so haven't heard much. He is now talking about bill he has with Durbin. Previously was vaguely linking the Court saying the Congressional authorization for use of force didn't give auth for military tribunals - making it sound like the same analysis would apply for TSP.

To stream on line, go to www.c-span.org you will see at top right "tv schedules" click on that, and go to Senate live.

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 4:21 PM
To: Seidel, Rebecca
Subject: RE: Specter on floor now re Hamden

Saying what?

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 4:13 PM
To: Moschella, William; Blake, Dave; Gorsuch, Neil M; Bucholtz, Jeffrey (CIV)
Subject: Specter on floor now re Hamden
Importance: High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 4:30 PM
To: [redacted]@dodgc.osd.mil'
Subject: Can you give me a ring on my cell - [redacted]

Gorsuch, Neil M

Subject:	[redacted]
Start:	Thursday, July 13, 2006 12:00 PM
End:	Thursday, July 13, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted]@gmail.com

From: [redacted]@gmail.com
Sent: Thursday, June 29, 2006 4:35 PM
To: Gorsuch, Neil M; [redacted]@nw.org; [redacted]@ida.org; [redacted]@seedfoundation.com; [redacted]@aya.yale.edu; [redacted]@aashto.org; [redacted]@naspaa.org; [redacted]@help.senate.gov; [redacted]@ed.gov; [redacted]
Cc: [redacted]
Subject: Truman Fellows/TSA mentoring program

TO: last year's mentors for the Truman Fellows program

On behalf of the Truman Scholars Association (TSA), we wish to thank you again for your involvement as a mentor with last year's Truman Fellows program. We received very warm feedback about the program from last year's students, and hope that many of you had good experiences as well.

We would love to have any and all of you involved again with this year's program (please see the e-mail below for more information). I realize many of you have moved out of the DC area, but if you know of other Trumans in the DC area that may be interested in serving as mentors please forward this along to them.

Warm thanks again for your involvement with last year's program, and please feel free to contact me if you have any questions.

sincerely,
[redacted]

From: TrumanScholarsAssociation@yahoogroups.com
On Behalf Of [redacted]
Sent: Thursday, June 29, 2006 4:14 PM
To: TrumanScholarsAssociation@yahoogroups.com
Subject: [TrumanScholarsAssociation] Truman Fellows/TSA mentoring program

ATTN:
DC-based Truman Scholars interested in serving as mentors to younger Trumans

The Truman Foundation and the Truman Scholars Association (TSA) are, for the second year, seeking DC-based Trumans to serve as mentors for a small group of recently selected Truman Scholars who will be participating in a D.C.-based Fellows program during the 06-07 academic year. (More details about

this mentoring program are included below.)

If you are based in the DC area and would be interested in and enthusiastic about serving as a mentor starting in September 2006, please e-mail me ([redacted]@gmail.com* [redacted]@gmail.com>*) with the information requested below.* Please note that we request mentors be able to meet with their mentees approximately once monthly, and to maintain regular e-mail contact with them.

If you are not based in DC but are interested in serving as a mentor, please e-mail [redacted] ([redacted]@truman.gov) or [redacted]@truman.gov) about potentially matching you with another Truman to mentor outside of this program.

Truman Fellows/TSA mentoring program

For the second year, the Truman Foundation is coordinating a "Truman Fellows" program to further encourage Truman Scholars' interest in federal government service.

The Truman Fellows/TSA mentoring program will be a complement to the core components of the Truman Fellows program, and will match each Truman Fellow with an older Truman Scholar who lives in the DC area.

BACKGROUND ON THE TRUMAN FELLOWS PROGRAM: More information is available on the Foundation website.

http://www.truman.gov/scholars/scholars_list.htm?cat_id=535

This year, approximately 20 recently-selected Scholars will participate in this year-long program in DC. The two core components of the Truman Fellows program are:
(1) public service employment in a federal agency, with an assignment closely aligned with the Fellow's long- term interests; and (2) graduate education in the form of a two- semester course offered through George Mason University.
The class of Fellows will also participate in a public service project, and be matched with mentors through the Truman Fellows/TSA mentoring program.

*GOALS OF THE MENTORING PROGRAM: *The main goals of the program are to provide Truman Fellows with:
- A point of contact during their year of public service work in DC - Advice on graduate school, work, and career planning - An introduction to the Truman Scholars Association

EXPECTATIONS FOR MENTORS: We are currently seeking DC-area Truman Scholars with interest in and enthusiasm for serving as mentors, to be matched with the Truman Fellows. Our current vision for the commitment we expect from mentors is as follows:
- A commitment to serve as a mentor from September 2006 through May 2007 - Attendance (if possible) at a kick-off event in DC in early September, to mark the beginning of the Fellows program - Correspondence with your mentee via phone or e- mail approximately once each week - Meeting with your mentee in person approximately once each month (for example, for lunch or coffee)

SERVING AS A MENTOR: Trumans serving as mentors will be matched with Truman Fellows, based on career interests to the best extent possible.
If you are interested in serving as a mentor, please e-mail Amy Hertel (ahertel@gmail.com) with the

following details:
- Your name and contact information (address, phone, e-mail) - A short paragraph describing your background (hometown, as well as educational degrees and institutions), work experience, and public service interests - If relevant, any notes on types of Scholars you would be especially

interested in mentoring (for example: medical school-bound students with interests in international public health) - Any other details you feel are relevant

Roehrkasse, Brian

From:	Roehrkasse, Brian
Sent:	Thursday, June 29, 2006 4:36 PM
To:	Gorsuch, Neil M
Subject:	Fw: AP - Guantanamo ruling raises questions on other Bush assertions of wartime powers
Attachments:	tmp.htm
Importance:	Low

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: News.Update@WhiteHouse.Gov
To: Roehrkasse, Brian
Sent: Thu Jun 29 16:11:14 2006
Subject: AP - Guantanamo ruling raises questions on other Bush assertions of wartime powers

Guantanamo ruling raises questions on other Bush assertions of wartime powers

By TOM RAUM

WASHINGTON (AP) The Supreme Court ruling on Guantanamo puts the brakes on what has been a sharp expansion of executive powers and raises fresh questions about other aspects of President Bush's war-on-terror policy.

The 5-3 decision was a frontal assault on Bush's tactics and a reaffirmation of the court's own role in a system where power is shared among three branches of government.

``What it says is that the court has a viable interest in remaining the ultimate authority on the law,'' said Charles Rose, a constitutional law professor at Stetson University College of Law in Gulfport, Fla.

Other administration anti-terror programs, including a warrantless eavesdropping program that worries even some Republicans, ``are based on the same interpretation of presidential authority in a time of war'' rejected in the Guantanamo case, Rose said.

Politically, the ruling comes at a bad time for Republicans. It puts Bush allies back on the defensive in a congressional election year over secretive war-on-terror initiatives. It could also help offset recent momentum from political progress in Iraq.

Bush immediately pledged to work with Congress ``to have a military tribunal to hold people to account'' that would meet the court's objections. But neither politicians, legal scholars nor Bush's own advisers suggested getting Congress to go along would be an easy task.

``This is not a decision that lends itself to a very quick disposition,'' said White House press secretary Tony Snow.

Snow said the president had not set out to increase his powers but was caught between the Constitution and his obligations to the nation as commander in chief. The war on terror is ``raising questions that are fairly new and people are wrestling with,'' Snow said.

The court ruled on Thursday that Bush overstepped his authority in setting up military tribunals for war-crimes trials at the U.S. prison camp at Guantanamo Bay, Cuba. The justices cited violations of U.S. and international standards on prisoner rights. They also rejected an effort by Congress to strip the court of jurisdiction over habeas corpus appeals by Guantanamo detainees.

Legal and presidential scholars saw the decision as a check on the president's assertion of expanded wartime powers.

They likened it to the court's 1952 rejection of President Truman's efforts to take over a strike-closed steel mill by claiming its steel production was necessary to the U.S. war effort in Korea. Similarly, the Supreme Court rejected President Nixon's claim in the early 1970s of broad wartime power to authorize warrantless wiretap surveillance of domestic groups opposed to the Vietnam war, such as the Black Panthers.

``The Supreme Court normally does not reverse the president during wartime,'' said Stephen J. Wayne, a Georgetown University professor and presidential expert. ``But this president has claimed a lot of power, much of it under the guise of the state of war that we're in against terrorists. And I think what the Supreme Court is saying is that you've gone too far.''

The president and Vice President Dick Cheney have aggressively defended anti-war programs that have been criticized by Democrats, human rights groups and many legal scholars.

They have argued that increased surveillance of Americans and the holding of detainees without charges were part of inherent expanded powers that all presidents receive during times of war.

In recent days, they also have criticized the news media, particularly The New York Times, for disclosing once-secret programs including the use of an international database to track financial transactions.

``They advanced the notion that things they were doing to fight terror things that others would view as extreme were not only appropriate, but that to challenge them was unpatriotic,'' said Norman Ornstein, a political analyst with the American Enterprise Institute. ``Now, this ruling should make it harder to do that and it certainly puts Republicans more on the defensive over the tactics being used.''

Thursday's ruling emboldened administration critics. Sen. Patrick Leahy of Vermont, the top Democrat on the Senate Judiciary Committee, called it ``a triumph for our constitutional system of checks and balances.''

It was a rare rebuke to the president by the court that, after all, put him in office in the contested 2000 presidential race and which many Democrats claim is moving too far to the political right.

Legal scholars saw little evidence in Thursday's ruling that suggested any political drift by the court one way or the other.

one way or the other.

``What it does suggest is that the court is not passive and is vigilant in affirming its own role,'' said Harold J. Krent, dean at the Chicago-Kent College of Law. ``It suggests that the court will not roll over to assertions of presidential power, at least when its own interests are being threatened.''

EDITOR'S NOTE Tom Raum has covered Washington for The Associated Press since 1973, including five presidencies.

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Guantanamo ruling raises questions on other Bush assertions of wartime powers

By TOM RAUM

WASHINGTON (AP) The Supreme Court ruling on Guantanamo puts the brakes on what has been a sharp expansion of executive powers and raises fresh questions about other aspects of President Bush's war-on-terror policy.

The 5-3 decision was a frontal assault on Bush's tactics and a reaffirmation of the court's own role in a system where power is shared among three branches of government.

``What it says is that the court has a viable interest in remaining the ultimate authority on the law,'' said Charles Rose, a constitutional law professor at Stetson University College of Law in Gulfport, Fla.

Other administration anti-terror programs, including a warrantless eavesdropping program that worries even some Republicans, ``are based on the same interpretation of presidential authority in a time of war'' rejected in the Guantanamo case, Rose said.

Politically, the ruling comes at a bad time for Republicans. It puts Bush allies back on the defensive in a congressional election year over secretive war-on-terror initiatives. It could also help offset recent momentum from political progress in Iraq.

Bush immediately pledged to work with Congress ``to have a military tribunal to hold people to account'' that would meet the court's objections. But neither politicians, legal scholars nor Bush's own advisers suggested getting Congress to go along would be an easy task.

``This is not a decision that lends itself to a very quick disposition,'' said White House press secretary Tony Snow.

Snow said the president had not set out to increase his powers but was caught between the Constitution and his obligations to the nation as commander in chief. The war on terror is ``raising questions that are fairly new and people are wrestling with,'' Snow said.

The court ruled on Thursday that Bush overstepped his authority in setting up military tribunals for war-crimes trials at the U.S. prison camp at Guantanamo Bay, Cuba. The justices cited violations of U.S. and international standards on prisoner rights. They also rejected an effort by Congress to strip the court of jurisdiction over habeas corpus appeals by Guantanamo detainees.

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EDITOR'S NOTE Tom Raum has covered Washington for The Associated Press since 1973, including five presidencies.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 4:41 PM
To: Bester, Matthew
Subject: RE: lunch tommorow

Understood - good luck with the house!

From: Bester, Matthew
Sent: Thursday, June 29, 2006 11:21 AM
To: Gorsuch, Neil M
Subject: lunch tommorow

Hi Neil,

When we bumped into each other last week you mentioned lunch with [redacted] tommorow. I appreciate the invitation, but unfortunately, I can't make it. [redacted]. Please say hi to [redacted] for me.

I would really like to grab lunch sometime soon, though. Perhaps we can convice [redacted] to come down this way.

Matt

PS: are you settling in to a new office? We've got several Main refugees on our hallway now.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 5:02 PM
To: [redacted]@nber.org'
Subject: RE: Truman Fellows/TSA mentoring program

I'd be delighted to participate again if I am in DC next summer, a question which is a bit up in the air at the moment. If I am not still in DC, I'd be happy to serve the foundation in any other way I can from afar. Neil

-----Original Message-----
From: [redacted] [mailto: [redacted]@gmail.com]
Sent: Thursday, June 29, 2006 4:35 PM
To: Gorsuch, Neil M; [redacted]@nw.org; [redacted]@ida.org; [redacted]@seedfoundation.com; [redacted]@fastmail.fm; [redacted]@aya.yale.edu; [redacted]@aashto.org; [redacted]@naspaa.org; [redacted]@help.senate.gov; [redacted]@ed.gov; [redacted]
Cc: [redacted]
Subject: Truman Fellows/TSA mentoring program

TO: last year's mentors for the Truman Fellows program

On behalf of the Truman Scholars Association (TSA), we wish to thank you again for your involvement as a mentor with last year's Truman Fellows program. We received very warm feedback about the program from last year's students, and hope that many of you had good experiences as well.

We would love to have any and all of you involved again with this year's program (please see the e-mail below for more information). I realize many of you have moved out of the DC area, but if you know of other Trumans in the DC area that may be interested in serving as mentors please forward this along to them.

Warm thanks again for your involvement with last year's program, and please feel free to contact me if you have any questions.

sincerely,
[redacted]

From: TrumanScholarsAssociation@yahoogroups.com
On Behalf Of [redacted]
Sent: Thursday, June 29, 2006 4:14 PM
To: TrumanScholarsAssociation@yahoogroups.com
Subject: [TrumanScholarsAssociation] Truman Fellows/TSA mentoring program

Subject: [TrumanScholarsAssociation] Truman Fellows/TSA mentoring program

ATTN:
DC-based Truman Scholars interested in serving as mentors to younger Trumans

The Truman Foundation and the Truman Scholars Association (TSA) are, for the second year, seeking DC-based Trumans to serve as mentors for a small group of recently selected Truman Scholars who will be participating in a D.C.-based Fellows program during the 06-07 academic year. (More details about this mentoring program are included below.)

If you are based in the DC area and would be interested in and enthusiastic about serving as a mentor starting in September 2006, please e-mail me ([redacted]@gmail.com* <[redacted]@gmail.com>*) with the information requested below.* Please note that we request mentors be able to meet with their mentees approximately once monthly, and to maintain regular e-mail contact with them.

If you are not based in DC but are interested in serving as a mentor, please e-mail [redacted] ([redacted]@truman.gov) or [redacted]@truman.gov) about potentially matching you with another Truman to mentor outside of this program.

Truman Fellows/TSA mentoring program

For the second year, the Truman Foundation is coordinating a "Truman Fellows" program to further encourage Truman Scholars' interest in federal government service.

The Truman Fellows/TSA mentoring program will be a complement to the core components of the Truman Fellows program, and will match each Truman Fellow with an older Truman Scholar who lives in the DC area.

BACKGROUND ON THE TRUMAN FELLOWS PROGRAM: More information is available on the Foundation website.

http://www.truman.gov/scholars/scholars_list.htm?cat_id=535

This year, approximately 20 recently-selected Scholars will participate in this year-long program in DC. The two core components of the Truman Fellows program are:
(1) public service employment in a federal agency, with an assignment closely aligned with the Fellow's long- term interests; and (2) graduate education in the form of a two- semester course offered through George Mason University.
The class of Fellows will also participate in a public service project, and be matched with mentors through the Truman Fellows/TSA mentoring program.

*GOALS OF THE MENTORING PROGRAM: *The main goals of the program are to provide Truman Fellows with:
- A point of contact during their year of public service work in DC - Advice on graduate school, work, and career planning - An introduction to the Truman Scholars Association

EXPECTATIONS FOR MENTORS: We are currently seeking DC-area Truman Scholars with interest in and enthusiasm for serving as mentors, to be matched with the Truman Fellows. Our current vision for the commitment we expect from mentors is as follows:

- A commitment to serve as a mentor from September 2006 through May 2007 - Attendance (if possible) at a kick-off event in DC in early September, to mark the beginning of the Fellows program - Correspondence with your mentee via phone or e- mail approximately once each week - Meeting with your mentee in person approximately once each month (for example, for lunch or coffee)

SERVING AS A MENTOR: Trumans serving as mentors will be matched with Truman Fellows, based on career interests to the best extent possible.
If you are interested in serving as a mentor, please e-mail [redacted]@gmail.com) with the following details:
- Your name and contact information (address, phone, e-mail) - A short paragraph describing your background (hometown, as well as educational degrees and institutions), work experience, and public service interests - If relevant, any notes on types of Scholars you would be especially

interested in mentoring (for example: medical school-bound students with interests in international public health) - Any other details you feel are relevant

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 5:10 PM
To: [redacted]@nber.org'
Subject: RE: Truman Fellows/TSA mentoring program

[redacted] We may be moving permanently to Colorado as I've been nominated to become a federal appellate judge there. But there's no knowing if and when the Senate might confirm the nomination. If I'm here, however, I'd be very happy to participate; if I'm not I hope I can be of use some other way. Best, Neil

-----Original Message-----
From [redacted] [mailto: [redacted]
Sent: Thursday, June 29, 2006 5:04 PM
To: Gorsuch, Neil M
Subject: Re: Truman Fellows/TSA mentoring program

hi Neil,

warm thanks for your note. For this program, we are looking for people who will be in DC from this September through next May -- so even if you may be away from DC next summer, that seems like a feasible schedule? Let me know if that sounds right to you, in which case I'll add you to the list of interested mentors.

warm thanks.
sincerely,
[redacted]

On 6/29/06, Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov> wrote:
> I'd be delighted to participate again if I am in DC next summer, a question which is a bit up in the air at the moment. If I am not still in DC, I'd be happy to serve the foundation in any other way I can from afar. Neil
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> Sent: Thursday, June 29, 2006 4:35 PM
> To: Gorsuch, Neil M; [redacted]; [redacted]@nw.org; [redacted]@ida.org; [redacted] [redacted]@seedfoundation.com; [redacted]; [redacted]; [redacted]@aashto.org; [redacted]@naspaa.org; [redacted]@help.senate.gov; [redacted]@ed.gov; [redacted]
> Cc: [redacted]
> Subject: Truman Fellows/TSA mentoring program
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> interested in mentoring (for example: medical school-bound students > with interests in international public health) > - Any other details you feel are relevant
>
>

[redacted]

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Thursday, June 29, 2006 6:24 PM
To: Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Gorsuch, Neil M
Subject: RE: NOMINATION SENT TO THE SENATE

awesome

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Thursday, June 29, 2006 6:16 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Gorsuch, Neil M
Subject: FW: NOMINATION SENT TO THE SENATE

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 29, 2006 6:01 PM
To: Keisler, Peter D (CIV); Katsas, Gregory (CIV)
Subject: Fw: NOMINATION SENT TO THE SENATE

Woo hoo.

-----Original Message-----
From: bounce-249369-1279893@list.whitehouse.gov <bounce-249369-1279893@list.whitehouse.gov>
To: Coffin, Shannen W. <Shannen_W._Coffin@ovp.eop.gov>
Sent: Thu Jun 29 17:56:59 2006
Subject: NOMINATION SENT TO THE SENATE

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release June 29, 2006

NOMINATION SENT TO THE SENATE:

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Peter D. Keisler, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, vice John G. Roberts, Jr., elevated.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 6:39 PM
To: Nichols, Carl (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV)
Subject: RE: NOMINATION SENT TO THE SENATE

Delighted to see this finally!

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Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 6:57 PM
To: McCallum, Robert (SMO)
Cc: Elwood, Courtney; Goodling, Monica; Moschella, William; Scott-Finan, Nancy; Keisler, Peter D (CIV); Gorsuch, Neil M
Subject: Mr Ambassador!
Importance: High

You have been confirmed! Senate just did the UC that included you! How many gues bedrooms in that embassy? :)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 6:58 PM
To: Nichols, Carl (CIV)
Subject: RE: OT '97 news - Ray Kethledge nominated to the 6th Circuit

Very glad to hear this news as well!

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, June 28, 2006 10:33 PM
To: Keisler, Peter D (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M; Cohn, Jonathan (CIV); Bucholtz, Jeffrey (CIV); Brett_C._Gerry@who.eop.gov [redacted] @sidley.com; Elwood, John; [redacted] @hhs.gov; Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney
Subject: Fw: OT '97 news - Ray Kethledge nominated to the 6th Circuit

AMK clerk from my term and a great guy.

-----Original Message-----
From: [redacted]
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Wed Jun 28 22:05:50 2006
Subject: FW: OT '97 news - Ray Kethledge nominated to the 6th Circuit

---

From: Yoo, Christopher
Sent: Wednesday, June 28, 2006 5:54 PM
[redacted]

Subject: OT '97 news - Ray Kethledge nominated to the 6th Circuit

I thought that everyone might like to hear the good news about Ray Kethledge. Earlier today, Ray was nominated for a seat on the U.S.
Court of Appeals for the 6th Circuit. Will Ray be the first of a long line of the members of the clerkship class of O.T. '97 to ascend to the bench? Only time will tell.

(Also, this is the first time I have used this list in a long time. I have tried to update it, but I know that the addresses for can't possibly be current.
Please feel free to pass this e-mail along to anyone whose address is wrong. I would appreciate receiving any corrections as well.)

I'm sure that everyone joins me in wishing Ray the best of luck. If you want to get in touch with him, his e-mail is @bskjuris.com.

Sincerely,

Vanderbilt University Law School
131 21st Ave. S.
Nashville, TN 37203-1181

@vanderbilt.edu
http://law.vanderbilt.edu/faculty

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:00 PM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO); Gunn, Currie (SMO); Shaw, Aloma A; Davis, Deborah J
Subject: FW: Mr Ambassador!
Importance: High

Congratulations!!!

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Sent: Thursday, June 29, 2006 6:57 PM
To: McCallum, Robert (SMO)
Cc: Elwood, Courtney; Goodling, Monica; Moschella, William; Scott-Finan, Nancy; Keisler, Peter D (CIV); Gorsuch, Neil M
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:04 PM
To: Sampson, Kyle; McNulty, Paul J; Mercer, Bill (ODAG)
Subject: FW: Mr Ambassador!
Importance: High

Thought you'd be interested in this news as well.

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Senger, Jeffrey M

From: Senger, Jeffrey M
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Cc: Swenson, Lily F; Todd, Gordon (SMO); Gunn, Currie (SMO); Shaw, Aloma A; Davis, Deborah J
Subject: Re: Mr Ambassador!

This is very exciting news! Of course, we always knew you were both extraordinary and plenipotentiary.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
CC: Swenson, Lily F; Senger, Jeffrey M; Todd, Gordon (SMO); Gunn, Currie (SMO); Shaw, Aloma A; Davis, Deborah J
Sent: Thu Jun 29 19:00:03 2006
Subject: FW: Mr Ambassador!

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Sent: Thursday, June 29, 2006 6:57 PM
To: McCallum, Robert (SMO)
Cc: Elwood, Courtney; Goodling, Monica; Moschella, William; Scott-Finan, Nancy; Keisler, Peter D (CIV); Gorsuch, Neil M
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To:	Gorsuch, Neil M
Subject:	Read: Mr Ambassador!
Importance:	High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:49 PM
To: Blomquist, Kathleen M
Subject: Can you plse send me latest tps?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 29, 2006 7:56 PM
To: Roehrkasse, Brian
Subject: Fw: Can you plse send me latest tps?

-----Original Message-----
From: Gorsuch, Neil M
To: Blomquist, Kathleen M
Sent: Thu Jun 29 19:49:20 2006
Subject: Can you plse send me latest tps?

From: USDOJ- Office of Public Affairs
Sent: Thursday, June 29, 2006 8:09 PM
To: USDOJ- Office of Public Affairs
Subject: COLOMBIAN NATIONAL CONVICTED ON COCAINE CHARGES

Department of Justice

FOR IMMEDIATE RELEASE — CRM
THURSDAY, JUNE 29, 2005 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

COLOMBIAN NATIONAL CONVICTED ON COCAINE CHARGES

Former Member of Colombian Senate Faces Lengthy Prison Sentence

WASHINGTON—Samuel Santander Lopesierra, a former member of the Colombian Senate, was convicted for conspiring to unlawfully import cocaine into the United States, the Justice Department announced today. The jury found that Lopesierra and his group were responsible for smuggling shipments of hundreds of kilograms of cocaine into the United States, and for laundering the proceeds so they could be repatriated through Puerto Rico, New York, and Miami back to Colombia.

Lopesierra is facing a mandatory minimum sentence of 10 years and fines of up to $4 million. The jury verdict was returned on June 27, 2006, and came after a seven-week long trial before the Honorable Richard J. Leon, United States District Court for the District of Columbia. Sentencing has been scheduled for October 27, 2006.

The jury was unable to reach a verdict as to Lopesierra's co-defendant, Dolcey Padilla Padilla, also a Colombian national, and Judge Leon declared a mistrial in this defendant's case today.

Lopesierra is a former member of the Colombian Senate — representing the Department of La Guajira from 1993 to1996 — and a partner in a family business that imported cigarettes and whiskey into Colombia. The defendants were indicted in September 2002, along with 12 other Colombian nationals, following a two-year investigation conducted by the Colombian National Police with the assistance of the U.S. Drug Enforcement Administration. That investigation, titled "Operation Conquista," resulted in the seizure of more than 650 kilograms of cocaine and more than $1.5 million in United States currency and disrupted one of the largest drug trafficking groups operating along Colombia's north coast.

"The conviction of Lopesierra highlights the extensive and ongoing cooperation between the United States and Colombia in cutting off the flow of illegal drugs," said Assistant Attorney General Alice S. Fisher for the Criminal Division. "Our nations will continue to work together, transcending borders to bring to justice those who target Americans with illegal drugs."

DOJ_NMG_ 0163475

The case was prosecuted by trial attorneys Robert Feitel, Michael DiLorenzo, Carmen Colón and paralegal Laura Wexler of the Criminal Division's Narcotic and Dangerous Drug Section (NDDS), and comes less than a year after the prosecution and conviction of William Martinez, former congressman in El Salvador, by NDDS trial attorneys. These convictions are part of the Department's ongoing initiative to identify, investigate, indict, and extradite for trial those international drug traffickers who unlawfully import illegal controlled substances into the United States.

###

06-410

DOJ_NMG_ 0163476

Image not available for this document, ID: 0.7.10316.53461-000001

Image not available for this document, ID: 0.7.10316.53461-000002

[redacted]@law.usc.edu

From: [redacted]@law.usc.edu
Sent: Thursday, June 29, 2006 8:39 PM
To: Gorsuch, Neil M; [redacted]
Subject: draft letter
Attachments: Gorsuch1. to Neil.doc

Dear Neil,

I wrote out a very rough draft of the recommendation letter this morning.
Please take a look and make any suggestions you'd like, whether they are substantive, stylistic, or pointing out a typo.

You'll notice a blank in the second paragraph. I have a strong recollection that you worked on a Court of Appeals case with Justice white involving setoff rules and application of the McDermott v. AmClyde decision that I helped Justice Stevens write. Nevertheless, I couldn't find it on Westlaw.
Is my memory playing tricks with me?

Yours,

[redacted]

* * * * * * * * * * * * * * * * * *
[redacted]
* University Park, [redacted]
* Los Angeles, CA 90089-0071
* Phone: [redacted]
* Fax: [redacted]
* [redacted]@law.usc.edu
* [redacted]
* * * * * * * * * * * * * * * * * *

USC
THE LAW SCHOOL

June 30, 2006

The Honorable Arlen Specter
Chairman, Committee on the Judiciary
United States Senate
Fax: (202) 228-1698

Re: Appointment of Neil Gorsuch to the 10th Circuit

Dear Senator Specter:

I have known Neil Gorsuch for thirteen years. In all that period, Neil has exhibited the qualities which predict excellence in a judge – integrity, intelligence, dedication to public service, and a willingness to work hard.

I first met Neil when [redacted]. Our most sustained interaction there involved the opinion in ___, which Neil was helping Justice White draft. The case involved the allocation of responsibility under securities law when one of the responsible parties had settled and the other had been found liable after trial. [redacted] Through this interaction, I gained an appreciation of Neil's legal sophistication, attention to detail, dedication to his job, and aversion to simple answers for complex problems.

Both Neil [redacted] in England -- Neil as a Marshall Scholar at Oxford, [redacted] In this setting, I came to appreciate Neil's genuine intellectual curiosity and his capacity for hard work. For an aspiring lawyer, what one actually does or learns as a Marshall scholar is largely irrelevant. The résumé value of a Marshall scholarship is attained when the honor is conferred, and the quality of one's academic work in England is usually invisible to everyone other than the few faculty who directly supervise the work. Nevertheless, Neil immersed himself in philosophical inquiry and completed a D. Phil., the British equivalent of a Ph..D.

While working as an associate at the demanding firm of Kellogg, Huber, he nevertheless found time to turn his dissertation into a Law Review article and then into a book. During this process, Neil sent me drafts for comments. [redacted] of Neil's arguments about assisted suicide and euthanasia,

The Law School
University of
Southern California
Los Angeles,
California 90089-0071
Tel[redacted]
Fax[redacted]
e-mail:
[redacted]@law.usc.edu
webpage:
http://www.usc.edu/law

I found it impossible to ignore the powerful intellect and sincere ethical concern which motivated this important work of scholarship. The fact that the book was published by Princeton University Press, one of the very best and most selective academic presses, is a testament to Neil's achievement. There are very few practicing lawyers who have been able to produce scholarship at this level.

In closing, I would note that [redacted]. I'm sure that on many issues of policy, Neil and I would disagree. Nevertheless I have no doubt that Neil will be an excellent judge and will deal fairly with litigants of all types. I am confident that he will be able to set aside his personal preferences when legal analysis leads him in a different direction. In fact, it was only well after [redacted] that I learned that he was a Republican. His political affiliation simply had no bearing on the legal work the he had performed as a clerk.

In sum, I think Neil has the intelligence, disposition, and good judgment to be an outstanding judge.

If you have any questions, please feel free to contact me.

Yours,

Cc: The Honorable Patrick J. Leahy
Ranking Member, Committee on the Judiciary United States Senate
Fax: (202) 224-9516

The Honorable Ken Salazar
United States Senate
Fax: (202) 228-5036

The Honorable Wayne Allard
United States Senate
Fax: (202) 224-6471

Office of Legal Policy
Fax: (202) 514-5715

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 8:46 AM
To: [redacted]@state.gov'
Subject: Call

Haven't recvd conf call info. Not lobbying to participate and am facing some emergent issues anyway so if you'd prefer to go alone that's is more than fine!

Full Name: William Moschella
Last Name: Moschella
First Name: William
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 1601
Washington, DC 20530

Business: 202-514-2141
Business Fax: 202-514-4482

E-mail: William.Moschella@SMOJMD.USDOJ.gov
E-mail Display As: William.Moschella@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163483

[redacted]

From: [redacted]
Sent: Friday, June 30, 2006 9:16 AM
To: Gorsuch, Neil M
Subject: Post Article
Attachments: SDOC0308.pdf

We just returned from [redacted] and saw the attached 6/22 Denver Post article. It's fun reading [redacted]..Good luck with the rest of the process....we look forward to having you back in Colorado!

Gorsuch looks like shoo-in for court

The Denver native, a nominee to the 10th Circuit Court of Appeals, breezes through a hearing attended by just one senator.

By Anne C. Mulkern
Denver Post Staff Writer

Washington — Denver native Neil Gorsuch seemed headed toward easy confirmation to the Denver-based 10th Circuit Court of Appeals after gliding through a 20-minute U.S. Senate committee hearing on his qualifications Wednesday.

Only one senator on the 18-member Judiciary Committee attended the hearing, a signal the nomination is not controversial.

"I have nothing but good things to say about Mr. Gorsuch," said Sen. Lindsey Graham, R-S.C., the sole senator at the hearing. Graham worked with the Columbia-, Harvard- and Oxford-educated Gorsuch at the Department of Justice.

Gorsuch's nomination now moves to a vote of the full committee, which Graham said he hoped would happen before the August recess. If approved, it goes to a vote of the full Senate.

"Barring something coming out of the blue, it sounds like it will go through very smoothly," said Carl Tobias, law professor at the University of Richmond in Virginia.

If approved, Gorsuch, 38, would take the position vacated by Judge David Ebel, who is taking senior status. The appellate court sits between trial courts and the U.S. Supreme Court.

Colorado's U.S. Sens. Wayne Allard, a Republican, and Ken Salazar, a Democrat, introduced Gorsuch, both giving glowing reviews.

During the brief questioning, Graham asked Gorsuch to describe his judicial philosophy.

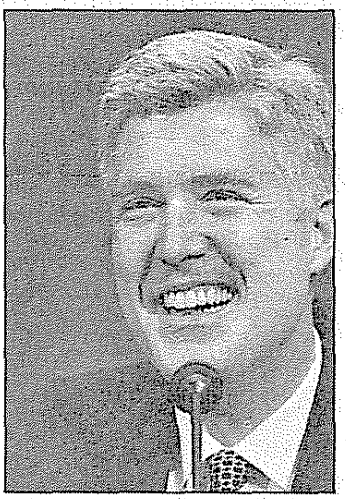
"I resist pigeonholes. They aren't terribly helpful," Gorsuch said. "People do unexpected things. Pigeonholes ignore gray areas in the law."

Gorsuch said his approach to deciding cases was to pay attention to arguments made by the lawyers presenting the case, to try to reach unanimity with his colleagues on the bench, and to respect court precedent.

During the hearing, Gorsuch's wife, Marie Louise, sat in the front row with their daughters, Emma, 6, and Belinda, 4, who wore matching pink dresses.

The 10th Circuit serves Colorado, Kansas, New Mexico, Oklahoma, Wyoming and Utah.

Gorsuch's mother is the late Anne Gorsuch Burford, a Coloradan who was chief of the Environmental Protection Agency under President Reagan.



Lauren Victoria Burke | Special to The Denver Post

Neil Gorsuch, shown at his Senate Judiciary Committee hearing Wednesday, says he resists "pigeonholes" in judging cases.

DUST!
"50% of all illnesses are either caused by or aggravated by polluted indoor air."
— American College of Allergy
Summer Special!
Remove DUST From Your Home & Save On Your Air Conditioning Costs!
Our customers have told us they've experienced reduced sneezing, dust, allergies, & odors! Don't wait, call now!
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WE'VE GOT THE POWER™
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$100 OFF
AC Coils & Air Duct Cleaning
Not good with any other offer.
Offer not valid for Commercial buildings.
Exp 7/22/06
1574779

Low fares and that's no bull.

DOJ_NMG_ 0163485

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Friday, June 30, 2006 9:34 AM
To: O'Connor, Eileen J. (AAG/TAX); Alvarez, Michelle M. (TAX); White, Clifford; Catapano, Debbie; Jezierski, Crystal; Gorsuch, Neil M; Barnett, Thomas O.; Agostino, Helen; Wright, Paula N; Cohen, Brian; Bounds, Ryan W (OLP); Oldham, Jeffrey L; Pacold, Martha M; Kim, Wan (CRT); McKeown, Matt (ENRD); Wooldridge, Sue Ellen (ENRD); Korn, Tania E. (USACAN); Seidel, Rebecca; Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M; McCallum, Robert (SMO); Hertling, Richard; Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Freeman, Sharee; Brand, Rachel; Boente, Dana J. (TAX); Martinson, Wanda; Moschella, William
Cc: Shaw, Aloma A; Davis, Deborah J
Subject: Component Heads Mtg on Monday - July 3.

There will be a Component Heads Meeting on Monday, July 3. It will be held at the Patrick Henry Building - 1st Floor, Suite 1600, Main Conference just in side Suite 1600. Pass the elevator bank through the double doors, turn left, Suite 1600 at the end of the hallway. Your badge should work. Conference room will be on your left.

Unfortunately, I am having computer problems and the calendar will not allow me to make and updated change to this meeting.

If you have any questions please give me a call.

Thanks

Currie Gunn
Office of the Associate Attorney General
202-514-9500

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, June 30, 2006 9:38 AM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Attachments: tmp.htm

wow. I really didn't expect the Court to go there (Common Art 3).
What's the mood in your respective offices?

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, June 30, 2006 9:41 AM
To: Gorsuch, Neil M; [redacted]@state.gov
Subject: RE:
Attachments: tmp.htm

Frankly, CA3 has gotten the most attention here. Field manual, detention directive, bracing for War Crimes Act prosecutions of senior government officials - you know, the usual. :)

I expected a total loss, and tried to prepare everyone. But it's still hard to go through, even if expected.

-----Original Message-----
From: [redacted] [mailto: [redacted]@state.gov]
Sent: Friday, June 30, 2006 09:38
To: Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC
Subject:

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To: Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC
Subject:

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[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, June 30, 2006 9:45 AM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: RE:
Attachments: tmp.htm

I keep waiting for my phone to ring, with [redacted] summoning me to come brief [redacted] again on it...

;-)

From: [redacted] DoD OGC [mailto [redacted]@dodgc.osd.mil]
Sent: Friday, June 30, 2006 9:41 AM
To: [redacted] Neil.Gorsuch@usdoj.gov
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> **To:** Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC
> **Subject:**
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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, June 30, 2006 9:50 AM
To: Gorsuch, Neil M; [redacted]@state.gov
Subject: RE:
Attachments: tmp.htm

As long as [redacted] doesn't throw heavy furniture around, you should be OK.

-----Original Message-----
From: [redacted] [mailto [redacted]@state.gov]
Sent: Friday, June 30, 2006 09:45
To: [redacted] DoD OGC; Neil.Gorsuch@usdoj.gov
Subject: RE:

I keep waiting for my phone to ring, with [redacted] summoning me to come brief [redacted] again on it...

;-)

From: [redacted] DoD OGC [mailto: [redacted]@dodgc.osd.mil]
Sent: Friday, June 30, 2006 9:41 AM
To: [redacted] Neil.Gorsuch@usdoj.gov
Subject: RE:

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From: [redacted] [mailto [redacted] @state.gov]
Sent: Friday, June 30, 2006 09:45
To: [redacted] DoD OGC; Neil.Gorsuch@usdoj.gov
Subject: RE:

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Sent: Friday, June 30, 2006 9:41 AM
To: [redacted] Neil.Gorsuch@usdoj.gov
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To: Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC
Subject:

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 9:51 AM
To: [redacted]@state.gov'; [redacted]@dodgc.osd.mil
Subject: RE:

We're beginning to draft legislation and hope to get input from your respective shops soon, something I know some of us would've liked to have seen some time ago. I will look forward to [redacted] reaction....

-----Original Message-----
From: [redacted]@state.gov [mailto: [redacted]@state.gov]
Sent: Friday, June 30, 2006 9:45 AM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: RE:

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From: [redacted] DoD OGC [mailto [redacted]@dodgc.osd.mil]
Sent: Friday, June 30, 2006 9:41 AM
To: [redacted] Neil.Gorsuch@usdoj.gov
Subject: RE:

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> From: [redacted] mailto: [redacted]@state.gov]
> Sent: Friday, June 30, 2006 09:38
> To: Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC Subject:

wow. I really didn't expect the Court to go there (Common Art 3). What's the mood in your respective offices?

Whitacre, Charlotte T

From: Whitacre, Charlotte T
Sent: Friday, June 30, 2006 10:30 AM
To: Gorsuch, Neil M

Mr. Gorsuch,

I have left you a voicemail as well, so please disregard if you have already received that message.

John Bellinger is trying to reach you. He would like you to call him @ (202) 647-9598.

Thank you,
Charlotte Whitacre
Acting as JCC

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Friday, June 30, 2006 10:45 AM
To:	Gorsuch, Neil M; Nichols, Carl (CIV); Swenson, Lily F
Cc:	Wilson, Karen L
Subject:	FW: Government Management Subcommittee Hearing on FOIA
Attachments:	tmp.htm

see below. Not sure how we can assess its effectiveness yet? Didn't we just begin implementing recently? Who should the witness be?
P.s. our friend has been pressing Karen to again offer them up for briefings on the Hill (we did last year and committee staff declined), so it is a little curious that I received this email now.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto: [redacted]@mail.house.gov]
Sent: Friday, June 30, 2006 10:25 AM
To: Seidel, Rebecca
Subject: Government Management Subcommittee Hearing on FOIA

Rebecca -

I wanted to give you a heads up that we are planning to have a hearing to review the effectiveness of last year's Executive Order on FOIA and the agency FOIA improvement plans that come as a result of it. We would like to have a witness from DOJ who can discuss the EO and the implementation guidance, among other things. The hearing is currently scheduled for July 26, 2006 at 2pm in Room 2247 Rayburn. I will try to get a formal invitation letter drafted and out to you next week, but I wanted to make sure that you had as much advance notice as possible so you could start thinking about who a good witness would be. Let me know if you have any questions.

[redacted]

[redacted]
Staff Director
Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone: [redacted]
Fax: 202-225-2544
Email: [redacted]@mail.house.gov

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[redacted]

[redacted]

Staff Director
Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone: [redacted]
Fax: 202-225-2544
Email: [redacted]*@mail.house.gov*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 10:57 AM
To: Seidel, Rebecca; Nichols, Carl (CIV); Swenson, Lily F
Cc: Wilson, Karen L; McCallum, Robert (SMO)
Subject: RE: Government Management Subcommittee Hearing on FOIA

Would seem v. difficult to assess the effectiveness of the EO given how new it is.

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, June 30, 2006 10:46 AM
To: Gorsuch, Neil M; Nichols, Carl (CIV); Swenson, Lily F
Cc: Wilson, Karen L
Subject: FW: Government Management Subcommittee Hearing on FOIA

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[redacted]

[redacted]
Staff Director
Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone: [redacted]

Fax: 202-225-2544
Email: [redacted]@mail.house.gov

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, June 30, 2006 11:23 AM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: Re:

I recommend we think big on legislation, not take minimalist approach. This is an opportunity to pivot and put in place a more durable framework with regard to a range of issues.

----- Original Message -----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil> [redacted]
Sent: Fri Jun 30 09:49:53 2006
Subject: RE: [redacted]

We're beginning to draft legislation and hope to get input from your respective shops soon, something I know some of us would've liked to have seen some time ago. I will look forward to [redacted] reaction....

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Subject: RE:

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;-)

From: [redacted] DoD OGC [mailto: [redacted]@dodgc.osd.mil]
Sent: Friday, June 30, 2006 9:41 AM
To: [redacted] Neil.Gorsuch@usdoj.gov
Subject: RE:

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-----Original Message-----
From: [redacted] [mailto: [redacted]@state.gov]
Sent: Friday, June 30, 2006 09:38

Sent: Friday, June 30, 2006 09:58
To: Neil.Gorsuch@usdoj.gov; [redacted] DoD OGC Subject:

wow. I really didn't expect the Court to go there (Common Art 3). What's the mood in your respective offices?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 11:53 AM
To: [redacted]@law.usc.edu'
Subject: RE: draft letter

[redacted]

What a very thoughtful and generous letter. I'm not sure I recognize the fellow you describe, but he sounds pretty good.

Your memory, far from being faulty, is superb. I did work on a case with Justice White that raised knotty and interesting settlement set-off questions. It was TBG, Inc. v. Bendis, 36 F.3d 916 (10th Cir. 1994). The Justice filed a lengthy concurrence in that case, disagreeing in several respects with the majority and seeking to make clear that the logic of McDermott applied in the 10b context.

Warm regards,

NMG

-----Original Message-----
From: [redacted]@law.usc.edu [mailto [redacted]@law.usc.edu]
Sent: Thursday, June 29, 2006 8:39 PM
To: Gorsuch, Neil M; [redacted]
Subject: draft letter

Dear Neil,

I wrote out a very rough draft of the recommendation letter this morning.
Please take a look and make any suggestions you'd like, whether they are substantive, stylistic, or pointing out a typo.

You'll notice a blank in the second paragraph. I have a strong recollection that you worked on a Court of Appeals case with Justice white involving setoff rules and application of the McDermott v. AmClyde decision that I helped Justice Stevens write. Nevertheless, I couldn't find it on Westlaw.
Is my memory playing tricks with me?

Yours,

[redacted]

* * * * * * * * * * * * * * * * *
[redacted]
* University Park [redacted]
* Los Angeles, CA 90089-0071
* Phone: [redacted]

* Phone: [redacted]
* Fax [redacted]
* [redacted]@law.usc.edu
* [redacted]
* * * * * * * * * * * * * * * * * * *

Engel, Steve

From: Engel, Steve
Sent: Friday, June 30, 2006 11:59 AM
To: Gorsuch, Neil M
Subject: The Hill

Steve and I spoke with Will. The staff on the Hill are very interested in the question of why the UCMJ procedures are inadequate for the military tribunals. We -- and DOD -- presumably have a number of specific concerns about those procedures: rules of evidence, closing of the proceedings, etc. Steve B suggests that you or we reach out to DOD to get some points on the subject.

Steve

(my temporary number here is 514-8050)

Cinciotta, Linda A

From: Cinciotta, Linda A
Sent: Friday, June 30, 2006 12:03 PM
To: Gorsuch, Neil M; Senger, Jeffrey M
Subject: Confirmation re reporting to work

Neil and Jeff --

I just wanted to confirm/clarify what I understood from Jeff's emails earlier this week…..

The Office of Dispute Resolution currently has two employees on board (Krista van der Horst and myself). We are both classified as "non-essential employees." The notice below indicates non-essential employees should not report to work "unless required by their component to report to an alternate work site location."

Krista and I are both working out of the offices of the Foreign Claims Settlement Commission in the Bicentennial Building -- my understanding is that is what RDM wants us to do. But, in view of the employee email below, I just want to make sure we're complying with the correct "requirement."

If Krista and I should be doing anything other than continuing to report for work at FCSC until Main reopens, would you please let me know.

Many thanks,
Linda Cinciotta

From: JCON Broadcast (JMD\SMO JCON)
Sent: Friday, June 30, 2006 10:56 AM
Subject: Update: Temporary Closing - Robert F. Kennedy (MAIN Building)

Department of Justice Notice to Employees
Temporary Closing – Robert F. Kennedy (MAIN Building)
Issued: Thursday, June 29, 2006

Like several other buildings along Constitution Avenue, the Department of Justice Robert F. Kennedy (RFK) (MAIN Justice) Building experienced basement flooding and storm-related electrical outages due to Sunday evening's storm. **As a result, the MAIN Justice Building will remain closed through Wednesday, July 5.** Although the RFK MAIN building is closed, the Department of Justice continues to be fully operational.

Therefore, the following pertains to employees who report to the RFK (MAIN) Justice Building or who have been displaced from their assigned worksite:

Essential employees must report on time to their designated alternative work site locations.

Non-essential employees will be granted administrative leave and should NOT report to work unless required by their component to report to an alternate work site location.

The Department will continue to keep employees informed of this situation and reporting requirements.

DOJ employees that have questions should call their supervisors or the DOJ switchboard at 202-514-2000.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 12:14 PM
To: Engel, Steve
Subject: Re: The Hill

Please can someone from olc call [redacted] at dod and work up the response? Seems like their best positioned to answer this in first instance. [redacted] no is [redacted] How goes the drafting?

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From: Engel, Steve
To: Gorsuch, Neil M
Sent: Fri Jun 30 11:58:50 2006
Subject: The Hill

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Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Friday, June 30, 2006 1:03 PM
To:	Gorsuch, Neil M
Subject:	FW: PERSONNEL ANNOUNCEMENT
Attachments:	tmp.htm

FYI. Thanks for your counsel in this matter.

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Friday, June 30, 2006 12:57 PM
To: Katsas, Gregory (CIV)
Subject: FW: PERSONNEL ANNOUNCEMENT

Jiminez for Navy.

From: bounce-249790-1279893@list.whitehouse.gov
[mailto:bounce-249790-1279893@list.whitehouse.gov] On Behalf Of White House Press Releases
Sent: Friday, June 30, 2006 12:25 PM
To: Coffin, Shannen W.
Subject: PERSONNEL ANNOUNCEMENT

THE WHITE HOUSE

Office of the Press Secretary

(Memphis, Tennessee)

For Immediate Release June 30, 2006

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the Navy. Mr. Jimenez currently serves as Deputy General Counsel (Legal Counsel) at the Department of Defense.
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From: Katsas, Gregory (CIV)
Sent: Friday, June 30, 2006 1:30 PM
To: Gorsuch, Neil M
Subject: RE: PERSONNEL ANNOUNCEMENT

In the hinterlands. 1100 L St., room 8044. 514-3880.

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From: Gorsuch, Neil M
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Subject: Re: PERSONNEL ANNOUNCEMENT

Where are you officing these days?

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
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Subject: FW: PERSONNEL ANNOUNCEMENT

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# # #

Fisher, Alice

From: Fisher, Alice
Sent: Friday, June 30, 2006 1:34 PM
To: Gorsuch, Neil M

Who is acting?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 1:38 PM
To: Fisher, Alice
Subject: RE:

Robert will remain here for a couple weeks yet. He and I may, if all goes well, leave abt the same time. I just tried calling to check in with you more generally but didn't get an answer. Would like to chat when you have a chance but it is no rush at all.

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Sent: Friday, June 30, 2006 1:34 PM
To: Gorsuch, Neil M
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Who is acting?

Engel, Steve

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Subject: update

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I also reached out and left a voicemail with Frank at DOD. His secretary said he was in a meeting until later this afternoon.

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From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 2:25 PM
To: Engel, Steve
Subject: RE: update

Just sent along what I had from Specter. Appreciate getting OLC comments first but if possible would like to see draft by 3 or thereabouts so we can get it around to the team today; will that work?

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If Krista and I should be doing anything other than continuing to report for work at FCSC until Main reopens, would you please let me know.

Many thanks,
Linda Cinciotta

From: JCON Broadcast (JMD\SMO JCON)
Sent: Friday, June 30, 2006 10:56 AM
Subject: Update: Temporary Closing - Robert F. Kennedy (MAIN Building)

Department of Justice Notice to Employees
Temporary Closing – Robert F. Kennedy (MAIN Building)
Issued: Thursday, June 29, 2006

Like several other buildings along Constitution Avenue, the Department of Justice Robert F. Kennedy (RFK) (MAIN Justice) Building experienced basement flooding and storm-related electrical outages due to Sunday evening's storm. **As a result, the MAIN Justice Building will remain closed through Wednesday, July 5.** Although the RFK MAIN building is closed, the Department of Justice continues to be fully operational.

Therefore, the following pertains to employees who report to the RFK (MAIN) Justice Building or who have been displaced from their assigned worksite:

Essential employees must report on time to their designated alternative work site locations.

Non-essential employees will be granted administrative leave and should NOT report to work unless required by their component to report to an alternate work site location.

The Department will continue to keep employees informed of this situation and reporting requirements.

DOJ employees that have questions should call their supervisors or the DOJ switchboard at 202-514-2000.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Schiffer, Stuart (CIV)

From: Schiffer, Stuart (CIV)
Sent: Friday, June 30, 2006 2:38 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

At what number?

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 2:39 PM
To: Schiffer, Stuart (CIV)
Subject: Tenet

Please could you give me a ring at your convenience? No rush

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 2:39 PM
To: Schiffer, Stuart (CIV)
Subject: Tenet

Please could you give me a ring at your convenience? No rush

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 2:41 PM
To: Schiffer, Stuart (CIV)
Subject: RE: Tenet

I'm happy to ring you but just tried wo success - our phones really are a mess right now. My direct dial is 5134 or main is 49500. Thanks!

From: Schiffer, Stuart (CIV)
Sent: Friday, June 30, 2006 2:38 PM
To: Gorsuch, Neil M
Subject: RE: Tenet

At what number?

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 2:39 PM
To: Schiffer, Stuart (CIV)
Subject: Tenet

Please could you give me a ring at your convenience? No rush

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:32 PM
To: Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill
Attachments: Whistleblower.pdf; 06-15-05 Ltr re S494 - Federal Employee Protection of Disclosures Act.pdf; S1229 - Fed Employee Protection of Disclosure Act.pdf; S1358 - Federal Employee Protection of Disclosures Act.pdf; S2628 - Federal Employee Protection of Disclosures Act.pdf

Just when I thought this day couldn't get worse. See below. As you can see we have alerted WH (DOD should have been on top of this), and we are going to touch base with House and Senate folks to shore them up for conference.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:23 PM
To: 'Richard_E._Green@omb.eop.gov'; 'John_G._Knepper@omb.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'
Cc: Wilson, Karen L
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

I am assuming there is a lot of garbage that got into DOD Auth that we couldn't do much about. I am also guessing that the UC acceptance of this bill as an amendment took everyone off guard. Want to make sure everyone is aware that it passed as part of DOD Auth so that you can put it in your list of MUST REMOVES for conference. The whole Admin HATES this bill. I am attaching a copy of Sen Collins' press release (which is how we found out about it), and the 4 views letters we have on the various iterations of the bill for your reference. One letter is responding to Akaka's response to our views letter.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 15, 2005

The Honorable Daniel K. Akaka
Ranking Minority Member
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Akaka:

This letter responds to your letter of October 20, 2004, regarding the Department of Justice views letter of October 8, 2004, to Chairman Collins concerning S. 2628 from the prior Congress, the "Federal Employee Protection of Disclosures Act," pending in the current Congress as S. 494. We appreciate learning of your concerns and hope this response will address them.

Constitutional Concerns

We have reviewed your analysis of the provisions in the bill that we consider unconstitutional. We remain unable to reconcile those provisions with the Constitution. Our understanding represents the longstanding view of the Executive branch and is consistent with judicial precedent.

In particular, we continue to strongly oppose subparagraph 1(b)(3) as unconstitutional. This provision would permit any covered Executive branch employee or applicant to disclose to Congress classified national security information without receiving official authorization to do so. Indeed, you describe this subsection as clarifying that Executive branch employees have a "right" to furnish national security information to Congress without official authorization. It would unconstitutionally deprive the President of his authority to decide, based upon the national interest, how, when, and under what circumstances particular classified information should be disclosed to Congress.

Not only does the Constitution generally establish the President as the head of the Executive branch, it also makes him Commander in Chief of all military forces, the sole organ of America's foreign affairs, and the officer in the Government with the express duty (and

corresponding authority) to take care that the laws are faithfully executed. The President's authority to classify and control access to national security information in the Executive branch flows directly from these powers, as both this Department and the courts long have recognized. *See Dep't of the Navy v. Egan*, 484 U.S. 518, 527 (1988); *see also New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring) ("[I]t is clear to me that it is the constitutional duty of the Executive — as a matter of sovereign prerogative and not as a matter of law as the courts know law — through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense."); *Common Legislative Encroachments on Executive Branch Authority*, 13 Op. O.L.C. 248, 254 (1989) (describing "the President's constitutional responsibility to protect certain information"). The recognition of this authority stretches back to the earliest days of the Republic and across many partisan divides. *See History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751 (1982) (compiling historical examples of cases in which the President withheld from Congress information the release of which he determined could jeopardize national security); *Congressional Requests for Confidential Executive Branch Information*, 13 Op. O.L.C. 153, 154 (1989) (stating that the privilege "has been asserted by numerous Presidents from the earliest days of our nation").

Your letter questions our reliance on *Egan*, contending that it "is fundamentally a case of statutory construction." Although the ultimate question in that case was statutory, in interpreting the statute in question, the Supreme Court expressly recognized the constitutional foundation of the President's authority to protect national security information:

> The President, after all, is the "Commander in Chief of the Army and Navy of the United States." U.S. Const., art. II, § 2. His authority to classify and control access to information bearing on national security . . . flows primarily from this constitutional investment of power in the President and exists quite apart from any explicit congressional grant. . . . The authority to protect such information falls on the President as head of the Executive Branch and as Commander in Chief.

Egan, 484 U.S. at 527; *see also, e.g.*, *Hill v. Dep't of the Air Force*, 844 F.2d 1407, 1410 (10th Cir. 1988) (acknowledging that the President's authority to protect national security information is constitutionally based). You also quote language from *Egan* stating that, "unless Congress specifically has provided otherwise, courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs." However, read in context, this language merely confirms that in the areas of foreign policy and national security, courts have shown deference to both elected Branches. *See Egan*, 484 U.S. at 530. Indeed, each of the five cases that the Court cites following the language you quote supports judicial deference to both the President and Congress. This is a proposition much different from that urged in your letter. It hardly follows from this tradition of judicial deference to the political Branches that the Court is obliquely suggesting a power of Congress to usurp the President's longstanding power

over national security information. Not one of these cases addresses — much less supports — such congressional intrusion. *Egan* explicitly recognized the "constitutional investment of power in the President," which "exists quite apart from any explicit congressional grant," "to classify and control access to information bearing on national security." *Id.* at 527. That the "Constitution nowhere expressly states that the President, or the executive branch generally, enjoys a privilege against disclosing information requested by . . . the legislative branch" does not diminish this authority, which "is a necessary corollary of the executive function vested in the President by Article II of the Constitution." 13 Op. O.L.C. at 154; *see also United States v. Nixon*, 418 U.S. 683, 706-07 n.16, 711 (1974) (specifically holding that executive privilege is constitutionally based even though not expressly provided for in the Constitution).

Of course, the Department agrees that Congress has an interest in receiving the information that enables it to carry out its important oversight responsibilities. In fact, we long have recognized this interest, even while safeguarding the interests of the Executive branch. *See, e.g.*, 13 Op. O.L.C. at 153-54. However, subparagraph 1(b)(3) is unnecessary to satisfy this interest. The Executive branch remains committed to accommodating Congress's legitimate oversight needs in ways that are consistent with the Executive branch's constitutional responsibilities. A process exists by which this has been and may be done. *See* 13 Op. O.L.C. at 157-61. As we have explained, "[t]he process of accommodation requires that each branch explain to the other why it believes its needs to be legitimate. . . . If either branch has a reason for needing to obtain or withhold information, it should be able to express it." *Id.* at 159. Subsection 1(b)(3) would circumvent this longstanding process unilaterally, by allowing any covered employee with access to classified information to go directly to Congress. The process of dynamic compromise between the Branches, whereby each Branch seeks an optimal accommodation by evaluating the needs of the other, cannot function where every covered employee of the Executive branch is vested with the right to determine for himself or herself, without any official authorization, those disclosures that are appropriate.

For similar reasons, we continue to object to subparagraph 1(e)(2), subsection 1(k), and subparagraph 1(e)(3) of the bill and recommend that these provisions be deleted. Subparagraph 1(e)(2) and subsection 1(k) purport to dictate and micromanage the specific content of nondisclosure agreements applicable to Executive branch employees and contractors. Subparagraph 1(e)(3) purports to require the Merit Systems Protection Board ("MSPB") or any reviewing court, in any security clearance appeal, to review and decide whether a security clearance determination was made because the employee disclosed information — including national security information — that the bill permits the employee to disclose. These provisions purport to divest the President of his control over national security information in the Executive branch and thereby impermissibly intrude upon the President's constitutional authority to classify and control access to national security information.

Other Concerns

In our prior letters and testimony, we have addressed many of the points raised by your letter. We do not believe it appropriate to reiterate this information in its entirety here. However, we would like to make several additional points.

As to your first point, that the Department said that agencies "can discipline employees for whistleblowing," our statement may have been somewhat imprecise and unduly provocative. Nevertheless, the reality is — as Congress has recognized in exempting certain agencies from procedural protections for prohibited personnel practices (including retaliation for whistleblowing) — some employees, by virtue of their sensitive duties in the intelligence community and routine access to national security information, simply are not and should not be as free to disclose information about their work as are other employees. That is, an employee in such a position should not expect protection if he or she improperly discloses information about the work of his or her intelligence agency. Indeed, improper disclosure of sensitive information not only can subject employees to discipline; it can be a criminal offense.[1] If these disclosures were protected, then protection of national security information would be jeopardized. Thus, while such employees may have some protections for limited disclosures in certain controlled contexts, the full panoply of whistleblower protections that applies to many Federal employees does not apply to employees in some agencies.

Thus, this shorthand reference should not be taken as bias against whistleblowers, but merely a recognition that a different balance of protection has been and should be struck as to some employees in particularly sensitive agencies. On the contrary, the Department is committed to protecting whistleblowers and toward that end, it has promulgated regulations[2] to afford the carefully crafted protections for FBI whistleblowers contemplated in 5 U.S.C. § 2303.

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[1]*See, e.g.,* 18 U.S.C. § 793, making it a crime to disclose information relating to the national defense to persons not authorized to receive it. This statute covers most, but not all, unauthorized disclosures of classified information. In addition, 18 U.S.C. § 798 makes it a crime to disclose to unauthorized persons classified information concerning cryptographic systems and the communications intelligence activities of the United States.

[2]28 C.F.R. Part 27 creates a system for protecting FBI whistleblowers that is similar to the system applicable to other Federal employees. These regulations give the Department's inspector general and its Office of Professional Responsibility an investigatory and prosecutorial role similar to that of the Office of Special Counsel. They give the Office of Attorney Recruitment and Management an adjudicatory role similar to that of the Merit Systems Protection Board.

1. Authority of the Special Counsel

In your letter, you compare the litigating authority the bill would grant to the Office of Special Counsel ("Special Counsel") to that currently granted to the chief counsel of the Small Business Administration ("SBA"). We believe that these authorities would operate quite differently. First, unlike the SBA, the Special Counsel deals with issues affecting numerous Executive branch agencies. It is imperative that the Executive branch speak with one voice as to those issues in court.

Furthermore, as we said in response to questions arising from the November 12, 2003, hearing before the Senate Committee on Governmental Affairs concerning S. 1358 (the "Federal Employee Protection of Disclosures Act"), the litigation authority given the Federal Labor Relations Authority ("FLRA") differs from that proposed for the Special Counsel, because, unlike the Special Counsel, the FLRA is a quasi-judicial entity defending its decisions in court. And as we stated in that response, "[i]n our experience with the [Special Counsel], we believe the Department has capably represented the [Special Counsel] before the Federal Circuit and we have not had any feedback from the [Special Counsel] to indicate otherwise." "Moreover, as a general policy, it is undesirable to increase the number of situations in which Executive branch agencies could litigate against each other" or take different positions in the same case, such as through the provision of amicus briefs.

2. Confidential Disclosures to Congress

We believe that the discussion in your letter of confidential disclosures to Congress under 5 U.S.C. § 2302(b) is imprecise. The end of 5 U.S.C. § 2302(b) simply states that "[t]his subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress." While subsection 2302(b) shall not be construed to "authorize" a personnel action against an employee who discloses information to Congress, the statute does not provide protection for an employee who does so, to the extent that the disclosure is specifically prohibited by law or "required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs." 5 U.S.C. § 2302(b)(8)(B). As to such information, the statute provides that employees are protected only if they disclose the information to an inspector general or to the Special Counsel. This scheme adequately and properly strikes a balance between the Executive branch's responsibilities for the protection of classified information and the protection of whistleblowers.

We previously set forth our views on *Egan* and the appropriate procedure for the Executive branch to disclose classified information to the Legislative branch.

3. Protected Disclosures and Presumption of Government Good Conduct

The discussion in your letter relating to the scope of protected disclosures does not address the Department's point that vastly expanding the definition of protected disclosure to include the phrase "without restriction to time, place, form, motive, context or prior disclosure to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties" will convert every Federal employee into a whistleblower, because nearly every employee at some point has at least a minor disagreement with their supervisor, or will report an error in the course of his or her everyday duties, that may demonstrate a violation of law, rule or regulation. It is not enough to argue, as your letter does, that the Office of Special Counsel ("OSC") can weed out frivolous claims, because even where the OSC may reject a whistleblower claim, the employee can nonetheless proceed to the Merit Systems Protection Board for a de novo review, and then to the Court of Appeals Federal Circuit, thereby unduly burdening those panels as well. Moreover, as our October 8, 2004, letter explained, the prima facie burden that the employee must prove can be based on mere circumstantial evidence, and then the agency must prove by the heavy burden of clear and convincing evidence that it would have taken the personnel action at issue in any event. Thus, the agency's burden of sustaining almost all actions for poor performance or misconduct is greatly increased beyond the substantial evidence and preponderance of evidence standards that would otherwise apply. This scheme would clearly upset the delicate balance between whistleblower protection and the ability of Federal supervisors to manage the workforce.

4. Security Clearances

We believe that the reference to *Hess v. State*, 217 F.3d 1372 (Fed. Cir. 2000), in your discussion of revoking security clearance is inapt. In *Hess*, the Federal Circuit followed longstanding Supreme Court precedent, *i.e.*, *Egan*, in finding that the MSPB did not have jurisdiction to review security clearance determinations. Thus, *Hess* does not suggest the need for statutory change. Indeed, the same considerations recognized by the Court in *Egan* apply with equal force to any MSPB review of security clearance determinations because of allegations of retaliation for whistleblowing.

Additionally, the bill's proposed relaxation in the standard for revoking clearances, from the clear and convincing evidence standard to the preponderance of the evidence standard, would not alleviate our concerns. The bottom line remains that rather than applying the appropriate standard that all doubt is resolved in favor of national security, the preponderance of evidence standard would require that the benefit of the doubt be given to granting access to classified information, rather than protecting national security.

5. Education Provisions

The bill would require agencies to set up procedures for advising their employees on how to make disclosures of classified information to Congress. Your letter states your concern about our objection to this provision. However, we believe our concerns that Federal agencies not encourage their employees to disclose national security information that is required to be kept secret are legitimate. We continue to oppose this provision.

6. Retaliatory Investigations

In our letter of October 8, 2004, we stated our concern that litigation over whether an investigation was retaliatory could have a significantly chilling effect upon investigations by an inspector general, by our Office of Professional Responsibility, or by a similar agency or office. We do not agree that excluding undefined "ministerial or nondiscretionary fact finding activities" would address this concern fully. Even if, as your letter posits, this phrase would include criminal investigations, the provision would open an array of potential litigation and seriously compromise the ability of agencies to make necessary administrative inquiries into possible wrongdoing.

7. Attorney Fees

Your letter states that requiring agencies to pay the attorney fees of managers wrongly disciplined by the Special Counsel would operate as a check on those agencies against retaliation, consistent with the No FEAR Act. However, we continue to believe that shifting the fee burden from the Special Counsel to the employing agency would undermine both the values of accountability, *i.e.*, requiring the Special Counsel to internalize the consequences of not exercising its discretion properly, and fairness, *i.e.*, not holding an employing agency responsible for disciplinary action in which it may have had no part.

Thank you for your consideration of our views. Please do not hesitate to call upon us if we may be of further assistance in this matter. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable George V. Voinovich
Chairman
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Governmental Affairs

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Homeland Security and Governmental Affairs

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

September 30, 2003

The Honorable Peter G. Fitzgerald
Chairman
Subcommittee on Financial Management, the Budget,
and International Security
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 1229, the "Federal Employee Protection of Disclosures Act." We very strongly oppose this legislation.

S. 1229 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 1229 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.*, S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

Constitutional Concerns

Section 1(b) of the bill would create 5 U.S.C. § 2302(b)(8)(C). This new section would protect the unauthorized disclosure of classified information to certain members of Congress and to Executive branch or to congressional employees with appropriate clearance. Under the new section, any Federal employee with access to classified information that – in the employee's sole opinion – indicated misconduct could share that information with certain members of Congress or of the Executive branch. The disclosure of that information could be made regardless of any restrictions or Executive branch authorization procedures established by the President and the

employee could not be disciplined for such an unauthorized disclosure. We believe that this new provision would be unconstitutional.

This new section would authorize any Federal employee to determine unilaterally how, when, and under what circumstances classified information will be shared with others, regardless of Presidential determinations that access be limited. Thus, it would interfere with the President's constitutional authority to protect national security information and therefore would violate the constitutional separation of powers. The constitutional authority of the President to take actions as Chief Executive and Commander-in-Chief of the armed forces of the United States grants the Executive branch the authority to

> classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information . . . [This authority] flows primarily from this constitutional investment of power and exists quite apart from any explicit congressional grant.

Department of the Navy v. Egan, 484 U.S. 518, 524 (1988); *see also United States v. Nixon*, 418 U.S. 683, 706, 710, 712 n.19 (1974) (emphasizing heightened status of the President's constitutional privilege in the context of military, diplomatic, or sensitive national security secrets); *New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring)("it is the constitutional duty of the Executive . . . to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense"); *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953) (recognizing privilege in judicial proceedings for "state secrets" based on determination by senior Executive officials); *Guillot v. Garrett*, 970 F.2d 1320, 1324 (4th Cir. 1992) (President has "exclusive constitutional authority over access to national security information"); *Dorfmont v. Brown*, 913 F.2d 1399, 1404 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991)(Kozinksi, J., concurring) (Constitution vests President with unreviewable discretion over security decisions made pursuant to his powers as chief executive and Commander-in-Chief).

Although the new section would limit the protected disclosures to congressional oversight committees or individuals with appropriate clearances in Congress or the Executive branch, it nonetheless constitutes an unconstitutional interference with the President's constitutional responsibilities respecting national security and foreign affairs. Although the designated individuals might have appropriate clearances to receive the classified information, it is the President's prerogative to determine who has the need to know this information. Moreover, the President will have to base this determination upon particular – and perhaps currently unforeseeable – circumstances, dictating that the security or foreign affairs interests of the Nation dictate a particular treatment of classified information. A compromise of the President's authority in this area is an impermissible encroachment upon the President's ability to carry out one of his core executive functions.

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Although we understand the important public interest in protecting whistleblowers, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting pursuant to the official authority of the President and who ultimately is responsible to the President. The Constitution does not permit Congress to authorize subordinate Executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a right to disclose classified information, without fear of discipline for the unauthorized disclosure.

We note that the prior Administration took this same position in 1998, strongly opposing, as unconstitutional, legislation that would have vested employees of the intelligence community with a unilateral right to disclose classified information to Congress. *See Disclosure of Classified Information to Congress: Hearing Before the Senate Select Committee on Intelligence*, 105th Cong. 41-61 (1998) (Statement of Randolph D. Moss, Deputy Assistant Attorney General).

Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes evidences
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (*Horton*) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (*White*) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit

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precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a

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qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(1)(B) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

Subsection 1(c) would amend 5 U.S.C. § 2302(b), adding at the end of that subsection a provision clarifying that a disclosure can be a formal or informal communication or transmission. As discussed above, this change appears intended to overrule or supersede contrary precedent by

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the Federal Circuit limiting the scope of covered disclosures. *See Horton*, 66 F.3d at 282 (oral disclosures held not to be protected whistleblowing). This change would expand the class of covered disclosures and increase the scope of potential litigation on the issue of whistleblower reprisal. As a result, passing remarks made in the workplace or stray lines in electronic-mail messages on other subjects could potentially become the subject of whistleblower reprisal complaints.

2. Presumption of Good Faith

Subsection 1(d) would add at the end of 5 U.S.C. § 2302(b) a statement that "for the purposes of paragraph (8) any presumptions relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by *substantial evidence*." (emphasis added) This provision appears intended to supersede a holding in *White*, 174 F.3d at 1381, to the effect that analysis of the reasonableness of an employee's belief in a disclosure should begin with the "'presumption that public officials perform their duties correctly, fairly, in good faith and in accordance with the law and governing regulations.'" *See id.* The court also held that this presumption can only be rebutted by "irrefragable proof to the contrary." *See id.* The court has defined that standard of proof to be by clear and convincing evidence. *See Am-Pro Protective Agency, Inc. v. U.S.*, 281 F.3d 1234, 1239-40 (Fed. Cir. 2002). Subsection 1(d) would reverse a standard that was very helpful to Federal agencies in defending against whistleblower reprisal claims by challenging the reasonableness of employees' beliefs in the validity of their disclosures. This provision would subject arguable or potentially questionable day-to-day management decisions to full-fledged litigation.

3. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. In *Egan*, 484 U.S. 518 (1988), the Supreme Court explicitly rejected the proposition that the MSPB and the Federal Circuit could review the decision to revoke a security clearance. In doing so, the Court relied upon a number of premises,

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including: 1) decisions regarding security clearances are an inherently discretionary decision best left to the particular agency involved, not to be reviewed by non-expert bodies such as the MSPB and the courts; 2) review under the CSRA, which provides for a preponderance of the evidence standard, conflicts with the requirement that a security clearance should be given only when clearly consistent with the interests of the national security; and 3) that the President's power to make security clearance determinations is based in his constitutional role as Commander-in-Chief. *See* our constitutional objections at page 1, *supra*.

An example demonstrates one of the many fundamental problems with this bill's security clearance provisions. As we noted above, the burden of proof in CSRA cases is fundamentally incompatible with the standard for granting security clearances. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence. This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *other determination* relating to a security clearance" [emphasis added]. The phrase "other determination" is vague and conceivably could encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way with a security clearance. This broad language would convert nearly every

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action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, section 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section," is overly broad. As drafted, the provision could be construed to restrict the scope of routine employment inquiries to prior employers, where the Government was a prior employer. This might be the case, for example, where an employee left government service after a whistleblower situation and several years later applied for employment with a different Government agency, necessitating a new background investigation. Section 1(e)(2) would lead to disputes over the scope and permissibility of such inquiries. Moreover, the bar seems to apply whether the claim of whistleblower status was upheld or not.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(3)(e) would require and what that would mean in this context.

4. Confidential Advice on Making Disclosures to Congress

Subsection 1(j) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

5. Compensatory Damages

Section 1(h) of the bill would allow the MSPB to award damages in corrective action cases, including compensatory damages. We oppose this provision. It would broaden whistleblower litigation to include disputes over allegations of mental and emotional stress, which are very vague, difficult to quantify, and correspondingly difficult to litigate. More importantly, it sets forth no limit upon the amount of compensatory damages that could be awarded and would have a chilling effect upon management decisions. Current law allows the

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MSPB to award attorney's fees, back pay and related benefits, medical costs, travel expenses, and any other reasonable and foreseeable consequential damages. We believe that current law adequately compensates employees for whom corrective action is awarded.

6. Judicial Review

We object to section 1(k)(2) of the bill, which would grant the Office of Special Counsel the option to seek review of MSPB decisions by the regional courts of appeal rather than by the Federal Circuit. Review by the Federal Circuit promotes conformity in decisions and fosters uniformity in Federal personnel law. Granting the regional circuits jurisdiction to entertain appeals from the MSPB would undo Congress's sensible centralization of those appeals and further burden those already overburdened regional courts of appeal.

Since the enactment of the Federal Courts Improvement Act of 1982, the Federal Circuit has exercised exclusive jurisdiction to consider appeals from the MSPB in cases not involving discrimination. In those years, the court has developed substantial expertise and a well-defined body of law regarding Federal personnel matters that inures to the benefit of both the Federal Government and its employees. Moreover, the court's rules, which provide for more expedited and informal briefing in *pro se* cases provide an added benefit for Federal employees, many of whom choose to appeal the MSPB's decisions without the aid of an attorney.

Replacing the Federal Circuit's exclusive jurisdiction with review by the regional circuits would result in a fractured personnel system. Inevitably, conflicts among the circuits would arise as to the proper interpretation of the Federal personnel laws, so that an employee's rights and responsibilities would be determined by the geographic location of his or her place of employment. Not only is a non-uniform system undesirable, it could contribute to a loss of morale, as Federal employees would be treated differently depending upon where they lived. Inevitably, it would require the Supreme Court to intervene more often in Federal personnel matters to resolve inconsistencies among the circuits.

The CSRA and the Federal Courts Improvement Act resolved the problems of regional review. Considering the Federal Circuit's now substantial expertise, there simply is no good reason to revert to the old system. We have similar concerns about section 1(l) (amending 5 U.S.C. § 7703(b) and (d)).

7. Litigating Authority For The Special Counsel

Section 1(k) of the bill would expand the authority of the Special Counsel by authorizing her to seek review unilaterally in the United States Court of Appeals for the Federal Circuit in any case to which she was a party, *see* section 1(k)(2) (adding new 5 U.S.C. § 7703(e)(1)), and by granting her the authority to designate attorneys to appear upon her behalf in all courts except the Supreme Court, *see* section 1(k)(1) (adding new 5 U.S.C. § 1212(h)). Current law authorizes the Special Counsel to appear only before the MSPB. We oppose both of these changes.

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Under current law, employees who are adversely affected by a decision of the MSPB have the right to appeal to the Court of Appeals for the Federal Circuit. *See* 5 U.S.C. § 7703(a). The Department of Justice represents the respondent Federal agencies in these appeals. Federal employing agencies do not possess the same right to appeal MSPB decisions adverse to them. OPM is the only Government agency that may appeal an MSPB decision and it may do so only after it has intervened in the MSPB proceeding to present its position and its director has determined that an MSPB decision rejecting OPM's position will have a "substantial impact" upon the administration of the civil service law. 5 U.S.C. § 7703(d). Moreover, once the director makes such a determination, OPM must seek authorization from the Justice Department's Solicitor General to file a petition for review. The Federal Circuit has discretion to grant or deny this petition. OPM is represented in the Federal Circuit by the Department of Justice.

Section 1(k)(2) of the bill would disrupt this carefully crafted scheme by authorizing the Special Counsel, without the approval of the Solicitor General, to petition the Federal Circuit for leave to appeal any adverse MSPB decision. The only limitation placed upon this right would be the requirement that the Special Counsel, if not a party to or intervenor in the matter before the MSPB, petition the MSPB for reconsideration of its decision before seeking review in the Federal Circuit.

Section 1(k)(1) would further erode centralized control over personnel litigation by authorizing the Office of the Special Counsel to represent itself in all litigation except litigation before the Supreme Court. This authority would be independent of the Department of Justice and could result in the Special Counsel litigating against other Executive branch agencies. This would usurp the Justice Department's traditional unifying role as the Executive branch's representative in court. We are unaware of any justification for eroding the Department's ability to fulfill its well-settled representative role.

Centralized control furthers a number of important policy goals, including the presentation of uniform positions on significant legal issues, the objective litigation of cases by attorneys unaffected by the parochial concerns of a single agency that might be inimical to the interests of the Government as a whole, and the facilitation of presidential supervision over Executive branch policies implicated in Government litigation. This policy benefits not only the Government but also the courts and citizens who, in the absence of the policy, might be subjected to uncoordinated and inconsistent positions on the part of the Government.

8. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to forbid Federal employees to "conduct, or cause to

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be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to routine background investigation for initial employment to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing -- which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or

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administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

9. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorney fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorney fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorney fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

10. Discipline Against Individual Agency Employees

Section 1(i) would amend 5 U.S.C. § 1215(a)(3) to allow for imposition of disciplinary action against an individual employee where the MSPB found that a prohibited personnel practice "was a motivating factor for the employee's decision to take . . . a personnel action, even if other factors also motivated the decision." Under this amendment, the board apparently could order discipline even if the agency proved by clear and convincing evidence that it would have taken the personnel action despite the protected disclosure. This amendment substantially lowers the burden for the Special Counsel to seek disciplinary actions and could result in managers being disciplined for retaliation even when the agency had met the high standard of showing that

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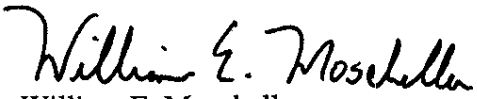
the personnel action would have been taken in any event. Given the ease with which an employee could cloak himself in whistleblower status (based upon the bill's other provisions), this particular change would have a chilling effect on the ability of managers to take any negative personnel actions.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable Daniel K. Akaka
Ranking Minority Member

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

November 10, 2003

The Honorable Peter G. Fitzgerald
Chairman
Subcommittee on Financial Management, the Budget,
and International Security
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 1358, the "Federal Employee Protection of Disclosures Act." We very strongly oppose this legislation.

S. 1358 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 1358 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.,* S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

Constitutional Concerns

Section 1(b) of the bill would create 5 U.S.C. § 2302(b)(8)(C). This new section would protect the unauthorized disclosure of classified information to certain members of Congress and to Executive branch or to congressional employees with appropriate clearance. Under the new section, any Federal employee with access to classified information that – in the employee's sole opinion – indicated misconduct could share that information with certain members of Congress or of the Executive branch. The disclosure of that information could be made regardless of any restrictions or Executive branch authorization procedures established by the President and the

employee could not be disciplined for such an unauthorized disclosure. We believe that this new provision would be unconstitutional.

This new section would authorize any Federal employee to determine unilaterally how, when, and under what circumstances classified information will be shared with others, regardless of Presidential determinations that access be limited. Thus, it would interfere with the President's constitutional authority to protect national security information and therefore would violate the constitutional separation of powers. The constitutional authority of the President to take actions as Chief Executive and Commander-in-Chief of the armed forces of the United States grants the Executive branch the authority to

> classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information . . . [This authority] flows primarily from this constitutional investment of power and exists quite apart from any explicit congressional grant.

Department of the Navy v. Egan, 484 U.S. 518, 524 (1988); *see also United States v. Nixon*, 418 U.S. 683, 706, 710, 712 n.19 (1974) (emphasizing heightened status of the President's constitutional privilege in the context of military, diplomatic, or sensitive national security secrets); *New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring)("it is the constitutional duty of the Executive . . . to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense"); *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953) (recognizing privilege in judicial proceedings for "state secrets" based on determination by senior Executive officials); *Guillot v. Garrett*, 970 F.2d 1320, 1324 (4th Cir. 1992) (President has "exclusive constitutional authority over access to national security information"); *Dorfmont v. Brown*, 913 F.2d 1399, 1404 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991)(Kozinksi, J., concurring) (Constitution vests President with unreviewable discretion over security decisions made pursuant to his powers as chief executive and Commander-in-Chief).

Although the new section would limit the protected disclosures to congressional oversight committees or individuals with appropriate clearances in Congress or the Executive branch, it nonetheless constitutes an unconstitutional interference with the President's constitutional responsibilities respecting national security and foreign affairs. Although the designated individuals might have appropriate clearances to receive the classified information, it is the President's prerogative to determine who has the need to know this information. Moreover, the President will have to base this determination upon particular – and perhaps currently unforeseeable – circumstances, dictating that the security or foreign affairs interests of the Nation dictate a particular treatment of classified information. A compromise of the President's authority in this area is an impermissible encroachment upon the President's ability to carry out one of his core executive functions.

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Although we understand the important public interest in protecting whistleblowers, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting pursuant to the official authority of the President and who ultimately is responsible to the President. The Constitution does not permit Congress to authorize subordinate Executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a right to disclose classified information, without fear of discipline for the unauthorized disclosure.

We note that the prior Administration took this same position in 1998, strongly opposing, as unconstitutional, legislation that would have vested employees of the intelligence community with a unilateral right to disclose classified information to Congress. *See Disclosure of Classified Information to Congress: Hearing Before the Senate Select Committee on Intelligence*, 105th Cong. 41-61 (1998) (Statement of Randolph D. Moss, Deputy Assistant Attorney General).

Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes evidences
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (*Horton*) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (*White*) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit

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precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a

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qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(1)(B) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

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2. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. In *Egan*, 484 U.S. 518 (1988), the Supreme Court explicitly rejected the proposition that the MSPB and the Federal Circuit could review the decision to revoke a security clearance. In doing so, the Court relied upon a number of premises, including: 1) decisions regarding security clearances are an inherently discretionary decision best left to the particular agency involved, not to be reviewed by non-expert bodies such as the MSPB and the courts; 2) review under the CSRA, which provides for a preponderance of the evidence standard, conflicts with the requirement that a security clearance should be given only when clearly consistent with the interests of the national security; and 3) that the President's power to make security clearance determinations is based in his constitutional role as Commander-in-Chief. *See* our constitutional objections at page 1, *supra*.

An example demonstrates one of the many fundamental problems with this bill's security clearance provisions. As we noted above, the burden of proof in CSRA cases is fundamentally incompatible with the standard for granting security clearances. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence.

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This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *other determination* relating to a security clearance" [emphasis added]. The phrase "other determination" is vague and conceivably could encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way with a security clearance. This broad language would convert nearly every action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, section 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section," is overly broad. As drafted, the provision could be construed to restrict the scope of routine employment inquiries to prior employers, where the Government was a prior employer. This might be the case, for example, where an employee left government service after a whistleblower situation and several years later applied for employment with a different Government agency, necessitating a new background investigation. Section 1(e)(2) would lead to disputes over the scope and permissibility of such inquiries. Moreover, the bar seems to apply whether the claim of whistleblower status was upheld or not.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(3)(e) would require and what that would mean in this context.

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3. Confidential Advice on Making Disclosures to Congress

Subsection 1(j) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

4. Judicial Review

We object to section 1(k)(2) of the bill, which would grant the Office of Special Counsel the option to seek review of MSPB decisions by the regional courts of appeal rather than by the Federal Circuit. Review by the Federal Circuit promotes conformity in decisions and fosters uniformity in Federal personnel law. Granting the regional circuits jurisdiction to entertain appeals from the MSPB would undo Congress's sensible centralization of those appeals and further burden those already overburdened regional courts of appeal.

Since the enactment of the Federal Courts Improvement Act of 1982, the Federal Circuit has exercised exclusive jurisdiction to consider appeals from the MSPB in cases not involving discrimination. In those years, the court has developed substantial expertise and a well-defined body of law regarding Federal personnel matters that inures to the benefit of both the Federal Government and its employees. Moreover, the court's rules, which provide for more expedited and informal briefing in *pro se* cases provide an added benefit for Federal employees, many of whom choose to appeal the MSPB's decisions without the aid of an attorney.

Replacing the Federal Circuit's exclusive jurisdiction with review by the regional circuits would result in a fractured personnel system. Inevitably, conflicts among the circuits would arise as to the proper interpretation of the Federal personnel laws, so that an employee's rights and responsibilities would be determined by the geographic location of his or her place of employment. Not only is a non-uniform system undesirable, it could contribute to a loss of morale, as Federal employees would be treated differently depending upon where they lived. Inevitably, it would require the Supreme Court to intervene more often in Federal personnel matters to resolve inconsistencies among the circuits.

The CSRA and the Federal Courts Improvement Act resolved the problems of regional review. Considering the Federal Circuit's now substantial expertise, there simply is no good reason to revert to the old system. We have similar concerns about section 1(l) (amending 5 U.S.C. § 7703(b) and (d)).

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5. Litigating Authority For The Special Counsel

Section 1(k) of the bill would expand the authority of the Special Counsel by authorizing her to seek review unilaterally in the United States Court of Appeals for the Federal Circuit in any case to which she was a party, *see* section 1(k)(2) (adding new 5 U.S.C. § 7703(e)(1)), and by granting her the authority to designate attorneys to appear upon her behalf in all courts except the Supreme Court, *see* section 1(k)(1) (adding new 5 U.S.C. § 1212(h)). Current law authorizes the Special Counsel to appear only before the MSPB. We oppose both of these changes.

Under current law, employees who are adversely affected by a decision of the MSPB have the right to appeal to the Court of Appeals for the Federal Circuit. *See* 5 U.S.C. § 7703(a). The Department of Justice represents the respondent Federal agencies in these appeals. Federal employing agencies do not possess the same right to appeal MSPB decisions adverse to them. OPM is the only Government agency that may appeal an MSPB decision and it may do so only after it has intervened in the MSPB proceeding to present its position and its director has determined that an MSPB decision rejecting OPM's position will have a "substantial impact" upon the administration of the civil service law. 5 U.S.C. § 7703(d). Moreover, once the director makes such a determination, OPM must seek authorization from the Justice Department's Solicitor General to file a petition for review. The Federal Circuit has discretion to grant or deny this petition. OPM is represented in the Federal Circuit by the Department of Justice.

Section 1(k)(2) of the bill would disrupt this carefully crafted scheme by authorizing the Special Counsel, without the approval of the Solicitor General, to petition the Federal Circuit for leave to appeal any adverse MSPB decision. The only limitation placed upon this right would be the requirement that the Special Counsel, if not a party to or intervenor in the matter before the MSPB, petition the MSPB for reconsideration of its decision before seeking review in the Federal Circuit.

Section 1(k)(1) would further erode centralized control over personnel litigation by authorizing the Office of the Special Counsel to represent itself in all litigation except litigation before the Supreme Court. This authority would be independent of the Department of Justice and could result in the Special Counsel litigating against other Executive branch agencies. This would usurp the Justice Department's traditional unifying role as the Executive branch's representative in court. We are unaware of any justification for eroding the Department's ability to fulfill its well-settled representative role.

Centralized control furthers a number of important policy goals, including the presentation of uniform positions on significant legal issues, the objective litigation of cases by attorneys unaffected by the parochial concerns of a single agency that might be inimical to the interests of the Government as a whole, and the facilitation of presidential supervision over Executive branch policies implicated in Government litigation. This policy benefits not only the

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Government but also the courts and citizens who, in the absence of the policy, might be subjected to uncoordinated and inconsistent positions on the part of the Government.

6. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to forbid Federal employees to "conduct, or cause to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to routine background investigation for initial employment to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing – which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

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Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

7. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorney fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorney fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorney fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

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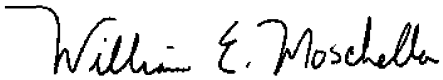
Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable Daniel K. Akaka
Ranking Minority Member

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

October 8, 2004

The Honorable Susan M. Collins
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Madam Chairman:

This presents the views of the Department of Justice on S. 2628, the "Federal Employee Protection of Disclosures Act." While we understand the important public interest in protecting whistleblowers, we must oppose this bill very strongly.

S. 2628 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 2628 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.,* S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

The Justice Department testified in opposition to S. 1358, the previous version of this legislation, and submitted responses to questions for the record further explaining our opposition to aspects of that bill. While S. 2628 reflects some changes from S. 1358, the basic flaws of that prior legislation remain. For example, while the Office of Special Counsel ("OSC") is given

amicus status rather than party status in appeals under S. 2628, the bill directs that courts allow OSC's participation as an amicus. This kind of participation is likely to reveal a split in the positions of two agencies of the Executive branch. Additionally, there are very significant constitutional problems with the bill.

I. Constitutional Concerns

We have several constitutional concerns about the bill. In particular, we strongly recommend that subparagraphs 1(b)(3), 1(e)(2), and 1(e)(3), and subsection 1(k) of the bill be deleted.

Section 1(b)(3) would add subparagraph (C) to 5 U.S.C. § 2302(b)(8). Subsection (C) would prohibit a "personnel action"[1] against a covered Executive branch employee or applicant for employment who disclosed to any Member or employee of Congress, who is "authorized to receive information of the type disclosed," "information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs." The prohibition would apply where the employee "reasonably believes" the information is "direct and specific evidence" of "any violation of any law," of "gross mismanagement, a gross waste of funds, an abuse of authority, . . . a substantial and specific danger to public health or safety," or "a false statement to Congress."

Consistent with our longstanding views, we strongly oppose this provision as unconstitutional. In 1998, the Department objected to S. 1668, a bill similar to S. 2628, that would have required the President to inform employees of covered Federal agencies that their disclosure to Congress of classified information that the employee reasonably believed provided direct and specific evidence of misconduct (including violations of law) is not prohibited. *See Statement of Randolph Moss, Deputy Assistant Attorney General, Office of Legal Counsel, Before the House Permanent Select Committee on Intelligence, Concerning Whistleblower Protections for Classified Disclosures* (May 20, 1998) ("Moss testimony"). The Department testified that S. 1668 "would deprive the President of his authority to decide, based on the national interest, how, when and under what circumstances particular classified information should be disclosed to Congress. This is an impermissible encroachment on the President's ability to carry out core executive functions. In the congressional oversight context, as in all others, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting on the official authority of the President and who is ultimately responsible to the President. The constitution does not permit Congress to authorize

[1]The prohibition would include discipline and also including, pursuant to subparagraph 1(e)(1)(B), implementing or enforcing a nondisclosure agreement, suspending a security clearance, or conducting certain investigations.

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subordinate executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a unilateral right to disclose classified information – even to Members of Congress." *Id.* at 16.

Like S. 1668, S. 2628 would permit any covered Executive branch employee (or applicant) to disclose to Congress classified national security information without receiving official authorization to do so. Existing law merely precludes "personnel actions" against covered employees who make such disclosures to the Special Counsel or to the Inspector General of an agency, *see* 5 U.S.C. 2302(b)(8)(B), who are both Executive branch officials. By contrast, S. 2628 would allow any covered employee with access to classified information to go directly to Congress, thereby unilaterally circumventing the process by which the Executive branch and Legislative branch accommodate each other's interests in sensitive information. *See* 13 Op. O.L.C. at 157-61 (discussing accommodation process). Congress may not vest lower-ranking personnel in the Executive branch with a "right" to furnish national security or other privileged information to Congress without receiving official authorization to do so.

For similar reasons, we recommend that subparagraphs 1(e)(2) and 1(k) of the bill be deleted. These sections purport to dictate and micromanage the specific content of nondisclosure agreements applicable to Executive branch employees (and contractors), in violation of the President's authority "to decide, based on the national interest, how, when and under what circumstances particular classified information should be disclosed." Moss Testimony at 16.

Finally, we recommend deleting subparagraph 1(e)(3) of the bill. This section would require the Merit Systems Protection Board ("MSPB") or any reviewing court, in any appeal relating to a security-clearance determination, to review and decide whether a security-clearance determination was made because the employee disclosed information, including national security information, that the bill permits the employee to disclose. This section unconstitutionally intrudes on "the President's constitutional responsibility to protect certain information." 13 Op. O.L.C. at 254. A security-clearance decision requires "a sensitive and inherently discretionary judgment call" that the Constitution vests in the President "quite apart from any explicit congressional grant." *Dep't of the Navy v. Egan*, 484 U.S. 518, 527 (1988) (concluding that the MSPB lacked statutory authority to review the substance of an underlying decision to deny or revoke a security clearance); *see also id.* (The President's "authority to classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position in the Executive Branch that will give that person access to such information flows primarily from the [Commander-in-Chief Clause's] investment of power in the President."); *id.* ("The authority to protect [national security] information falls on the President as head of the Executive Branch and as Commander in Chief."). As the Supreme Court has concluded, "For 'reasons . . . too obvious to call for enlarged discussion,' *CIA v. Sims*, 471 U.S. 159, 170 (1985), the protection of classified information must be committed to the broad discretion of the agency responsible, and this must include broad discretion to determine

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who may have access to it. Certainly, it is not reasonably possible for an outside nonexpert body to review the substance of such a judgment . . . ." *Egan*, 484 U.S. at 528.

II. Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes is evidence of
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a

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law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

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Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(3) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

2. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment

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because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. See our constitutional objections, *supra*. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence. This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *any other determination* relating to a security clearance or any *other access determination by a covered agency*" [emphasis added]. Although the phrase "other determination" remains vague, the remainder of the provision, "or any other access determination by a covered agency," is so broad as to encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way

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with a security clearance. This broad language would convert nearly every action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, subparagraph 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section," remains somewhat vague and potentially overly broad. Although this provision appears intended to allow the Government to conduct certain routine employment inquiries regarding current and prospective employees, it still will lead to disputes over the scope and permissibility of such inquiries.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(e)(3) would require and what that would mean in this context.

3. Confidential Advice on Making Disclosures to Congress

Subsection 1(m) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

4. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to add new subparagraph (14), forbidding Federal employees to "conduct, or cause to be conducted, an investigation, other

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than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define adequately an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing – which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

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Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

5. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorneys fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorneys fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorneys fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

We recognize that certain agencies (*e.g.*, the FBI, the CIA, and the National Security Agency) are exempt from the statute (*i.e.*, they can discipline employees for whistleblowing), However, the Departments of Homeland Security, Justice, State and Defense (all of which deal with classified information on a regular basis) are not exempt unless the President specifically makes them exempt prior to a whistleblowing event.

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Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable Joseph I. Lieberman
Ranking Minority Member

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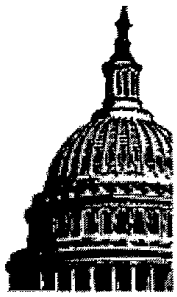

United States Senate
Committee on Governmental Affairs

Senator Susan M. Collins, Chairman

June 22, 2006

COLLINS-AKAKA WHISTLEBLOWER PROTECTION BILL PASSES SENATE

Washington, D.C. -- Legislation offered by Senator Susan Collins (R-ME) and Senator Daniel K. Akaka (D-HI) that would strengthen whistleblower protections for federal employees passed the U.S. Senate today. The Federal Employee Protection of Disclosures Act was unanimously accepted as an amendment to the Fiscal Year 2007 National Defense Authorization Act, which cleared the Senate 96-0.

"This amendment reverses the steady erosion of whistleblower protections caused by employment practices that circumvent current protections and adverse court decisions," said Senator Collins. "We must ensure that federal employees can continue to come forward and disclose instances of official or department misconduct without fear of retaliation. Absent these needed protections, cases of fraud and abuse will continue to go unnoticed as would-be informants remain quiet out of fear."

Specifically, the Akaka-Collins bill will:

- Codify and strengthen the anti-gag provision that has been included in appropriations language since 1988;
- End the sole jurisdiction over federal whistleblowers cases of the Federal Circuit Court of Appeals by permitting multi-circuit review for five-years;
- Restore congressional intent that employees are protected for "any" disclosure of waste, fraud, or abuse;
- Protect whistleblowers whose security clearance revocation is based on retaliation;
- Provide the Office of Special Counsel with the independent right to file amicus briefs in federal courts.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:38 PM
To: [redacted]@dodgc.osd.mil; 'Brett_C._Gerry@who.eop.gov'
Cc: Seidel, Rebecca
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill
Attachments: Whistleblower.pdf; 06-15-05 Ltr re S494 - Federal Employee Protection of Disclosures Act.pdf; S1229 - Fed Employee Protection of Disclosure Act.pdf; S1358 - Federal Employee Protection of Disclosures Act.pdf; S2628 - Federal Employee Protection of Disclosures Act.pdf

Both of you should be aware of this. Rebecca Seidel is our leg poc on this issue.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:32 PM
To: Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

Just when I thought this day couldn't get worse. See below. As you can see we have alerted WH (DOD should have been on top of this), and we are going to touch base with House and Senate folks to shore them up for conference.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:23 PM
To: 'Richard_E._Green@omb.eop.gov'; 'John_G._Knepper@omb.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'
Cc: Wilson, Karen L
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

I am assuming there is a lot of garbage that got into DOD Auth that we couldn't do much about. I am also guessing that the UC acceptance of this bill as an amendment took everyone off guard. Want to make sure everyone is aware that it passed as part of DOD Auth so that you can put it in your list of MUST REMOVES for conference. The whole Admin HATES this bill. I am attaching a copy of Sen Collins' press release (which is how we found out about it), and the 4 views letters we have on the various iterations of the bill for your reference. One letter is responding to Akaka's response to our views letter.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 15, 2005

The Honorable Daniel K. Akaka
Ranking Minority Member
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Akaka:

This letter responds to your letter of October 20, 2004, regarding the Department of Justice views letter of October 8, 2004, to Chairman Collins concerning S. 2628 from the prior Congress, the "Federal Employee Protection of Disclosures Act," pending in the current Congress as S. 494. We appreciate learning of your concerns and hope this response will address them.

Constitutional Concerns

We have reviewed your analysis of the provisions in the bill that we consider unconstitutional. We remain unable to reconcile those provisions with the Constitution. Our understanding represents the longstanding view of the Executive branch and is consistent with judicial precedent.

In particular, we continue to strongly oppose subparagraph 1(b)(3) as unconstitutional. This provision would permit any covered Executive branch employee or applicant to disclose to Congress classified national security information without receiving official authorization to do so. Indeed, you describe this subsection as clarifying that Executive branch employees have a "right" to furnish national security information to Congress without official authorization. It would unconstitutionally deprive the President of his authority to decide, based upon the national interest, how, when, and under what circumstances particular classified information should be disclosed to Congress.

Not only does the Constitution generally establish the President as the head of the Executive branch, it also makes him Commander in Chief of all military forces, the sole organ of America's foreign affairs, and the officer in the Government with the express duty (and

corresponding authority) to take care that the laws are faithfully executed. The President's authority to classify and control access to national security information in the Executive branch flows directly from these powers, as both this Department and the courts long have recognized. *See Dep't of the Navy v. Egan*, 484 U.S. 518, 527 (1988); *see also New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring) ("[I]t is clear to me that it is the constitutional duty of the Executive — as a matter of sovereign prerogative and not as a matter of law as the courts know law — through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense."); *Common Legislative Encroachments on Executive Branch Authority*, 13 Op. O.L.C. 248, 254 (1989) (describing "the President's constitutional responsibility to protect certain information"). The recognition of this authority stretches back to the earliest days of the Republic and across many partisan divides. *See History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751 (1982) (compiling historical examples of cases in which the President withheld from Congress information the release of which he determined could jeopardize national security); *Congressional Requests for Confidential Executive Branch Information*, 13 Op. O.L.C. 153, 154 (1989) (stating that the privilege "has been asserted by numerous Presidents from the earliest days of our nation").

Your letter questions our reliance on *Egan*, contending that it "is fundamentally a case of statutory construction." Although the ultimate question in that case was statutory, in interpreting the statute in question, the Supreme Court expressly recognized the constitutional foundation of the President's authority to protect national security information:

> The President, after all, is the "Commander in Chief of the Army and Navy of the United States." U.S. Const., art. II, § 2. His authority to classify and control access to information bearing on national security . . . flows primarily from this constitutional investment of power in the President and exists quite apart from any explicit congressional grant. . . . The authority to protect such information falls on the President as head of the Executive Branch and as Commander in Chief.

Egan, 484 U.S. at 527; *see also, e.g.*, *Hill v. Dep't of the Air Force*, 844 F.2d 1407, 1410 (10th Cir. 1988) (acknowledging that the President's authority to protect national security information is constitutionally based). You also quote language from *Egan* stating that, "unless Congress specifically has provided otherwise, courts traditionally have been reluctant to intrude upon the authority of the Executive in military and national security affairs." However, read in context, this language merely confirms that in the areas of foreign policy and national security, courts have shown deference to both elected Branches. *See Egan*, 484 U.S. at 530. Indeed, each of the five cases that the Court cites following the language you quote supports judicial deference to both the President and Congress. This is a proposition much different from that urged in your letter. It hardly follows from this tradition of judicial deference to the political Branches that the Court is obliquely suggesting a power of Congress to usurp the President's longstanding power

over national security information. Not one of these cases addresses — much less supports — such congressional intrusion. *Egan* explicitly recognized the "constitutional investment of power in the President," which "exists quite apart from any explicit congressional grant," "to classify and control access to information bearing on national security." *Id.* at 527. That the "Constitution nowhere expressly states that the President, or the executive branch generally, enjoys a privilege against disclosing information requested by . . . the legislative branch" does not diminish this authority, which "is a necessary corollary of the executive function vested in the President by Article II of the Constitution." 13 Op. O.L.C. at 154; *see also United States v. Nixon*, 418 U.S. 683, 706-07 n.16, 711 (1974) (specifically holding that executive privilege is constitutionally based even though not expressly provided for in the Constitution).

Of course, the Department agrees that Congress has an interest in receiving the information that enables it to carry out its important oversight responsibilities. In fact, we long have recognized this interest, even while safeguarding the interests of the Executive branch. *See, e.g.*, 13 Op. O.L.C. at 153-54. However, subparagraph 1(b)(3) is unnecessary to satisfy this interest. The Executive branch remains committed to accommodating Congress's legitimate oversight needs in ways that are consistent with the Executive branch's constitutional responsibilities. A process exists by which this has been and may be done. *See* 13 Op. O.L.C. at 157-61. As we have explained, "[t]he process of accommodation requires that each branch explain to the other why it believes its needs to be legitimate. . . . If either branch has a reason for needing to obtain or withhold information, it should be able to express it." *Id.* at 159. Subsection 1(b)(3) would circumvent this longstanding process unilaterally, by allowing any covered employee with access to classified information to go directly to Congress. The process of dynamic compromise between the Branches, whereby each Branch seeks an optimal accommodation by evaluating the needs of the other, cannot function where every covered employee of the Executive branch is vested with the right to determine for himself or herself, without any official authorization, those disclosures that are appropriate.

For similar reasons, we continue to object to subparagraph 1(e)(2), subsection 1(k), and subparagraph 1(e)(3) of the bill and recommend that these provisions be deleted. Subparagraph 1(e)(2) and subsection 1(k) purport to dictate and micromanage the specific content of nondisclosure agreements applicable to Executive branch employees and contractors. Subparagraph 1(e)(3) purports to require the Merit Systems Protection Board ("MSPB") or any reviewing court, in any security clearance appeal, to review and decide whether a security clearance determination was made because the employee disclosed information — including national security information — that the bill permits the employee to disclose. These provisions purport to divest the President of his control over national security information in the Executive branch and thereby impermissibly intrude upon the President's constitutional authority to classify and control access to national security information.

Other Concerns

In our prior letters and testimony, we have addressed many of the points raised by your letter. We do not believe it appropriate to reiterate this information in its entirety here. However, we would like to make several additional points.

As to your first point, that the Department said that agencies "can discipline employees for whistleblowing," our statement may have been somewhat imprecise and unduly provocative. Nevertheless, the reality is — as Congress has recognized in exempting certain agencies from procedural protections for prohibited personnel practices (including retaliation for whistleblowing) — some employees, by virtue of their sensitive duties in the intelligence community and routine access to national security information, simply are not and should not be as free to disclose information about their work as are other employees. That is, an employee in such a position should not expect protection if he or she improperly discloses information about the work of his or her intelligence agency. Indeed, improper disclosure of sensitive information not only can subject employees to discipline; it can be a criminal offense.[1] If these disclosures were protected, then protection of national security information would be jeopardized. Thus, while such employees may have some protections for limited disclosures in certain controlled contexts, the full panoply of whistleblower protections that applies to many Federal employees does not apply to employees in some agencies.

Thus, this shorthand reference should not be taken as bias against whistleblowers, but merely a recognition that a different balance of protection has been and should be struck as to some employees in particularly sensitive agencies. On the contrary, the Department is committed to protecting whistleblowers and toward that end, it has promulgated regulations[2] to afford the carefully crafted protections for FBI whistleblowers contemplated in 5 U.S.C. § 2303.

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[1]*See, e.g.,* 18 U.S.C. § 793, making it a crime to disclose information relating to the national defense to persons not authorized to receive it. This statute covers most, but not all, unauthorized disclosures of classified information. In addition, 18 U.S.C. § 798 makes it a crime to disclose to unauthorized persons classified information concerning cryptographic systems and the communications intelligence activities of the United States.

[2]28 C.F.R. Part 27 creates a system for protecting FBI whistleblowers that is similar to the system applicable to other Federal employees. These regulations give the Department's inspector general and its Office of Professional Responsibility an investigatory and prosecutorial role similar to that of the Office of Special Counsel. They give the Office of Attorney Recruitment and Management an adjudicatory role similar to that of the Merit Systems Protection Board.

1. Authority of the Special Counsel

In your letter, you compare the litigating authority the bill would grant to the Office of Special Counsel ("Special Counsel") to that currently granted to the chief counsel of the Small Business Administration ("SBA"). We believe that these authorities would operate quite differently. First, unlike the SBA, the Special Counsel deals with issues affecting numerous Executive branch agencies. It is imperative that the Executive branch speak with one voice as to those issues in court.

Furthermore, as we said in response to questions arising from the November 12, 2003, hearing before the Senate Committee on Governmental Affairs concerning S. 1358 (the "Federal Employee Protection of Disclosures Act"), the litigation authority given the Federal Labor Relations Authority ("FLRA") differs from that proposed for the Special Counsel, because, unlike the Special Counsel, the FLRA is a quasi-judicial entity defending its decisions in court. And as we stated in that response, "[i]n our experience with the [Special Counsel], we believe the Department has capably represented the [Special Counsel] before the Federal Circuit and we have not had any feedback from the [Special Counsel] to indicate otherwise." "Moreover, as a general policy, it is undesirable to increase the number of situations in which Executive branch agencies could litigate against each other" or take different positions in the same case, such as through the provision of amicus briefs.

2. Confidential Disclosures to Congress

We believe that the discussion in your letter of confidential disclosures to Congress under 5 U.S.C. § 2302(b) is imprecise. The end of 5 U.S.C. § 2302(b) simply states that "[t]his subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress." While subsection 2302(b) shall not be construed to "authorize" a personnel action against an employee who discloses information to Congress, the statute does not provide protection for an employee who does so, to the extent that the disclosure is specifically prohibited by law or "required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs." 5 U.S.C. § 2302(b)(8)(B). As to such information, the statute provides that employees are protected only if they disclose the information to an inspector general or to the Special Counsel. This scheme adequately and properly strikes a balance between the Executive branch's responsibilities for the protection of classified information and the protection of whistleblowers.

We previously set forth our views on *Egan* and the appropriate procedure for the Executive branch to disclose classified information to the Legislative branch.

3. Protected Disclosures and Presumption of Government Good Conduct

The discussion in your letter relating to the scope of protected disclosures does not address the Department's point that vastly expanding the definition of protected disclosure to include the phrase "without restriction to time, place, form, motive, context or prior disclosure to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties" will convert every Federal employee into a whistleblower, because nearly every employee at some point has at least a minor disagreement with their supervisor, or will report an error in the course of his or her everyday duties, that may demonstrate a violation of law, rule or regulation. It is not enough to argue, as your letter does, that the Office of Special Counsel ("OSC") can weed out frivolous claims, because even where the OSC may reject a whistleblower claim, the employee can nonetheless proceed to the Merit Systems Protection Board for a de novo review, and then to the Court of Appeals Federal Circuit, thereby unduly burdening those panels as well. Moreover, as our October 8, 2004, letter explained, the prima facie burden that the employee must prove can be based on mere circumstantial evidence, and then the agency must prove by the heavy burden of clear and convincing evidence that it would have taken the personnel action at issue in any event. Thus, the agency's burden of sustaining almost all actions for poor performance or misconduct is greatly increased beyond the substantial evidence and preponderance of evidence standards that would otherwise apply. This scheme would clearly upset the delicate balance between whistleblower protection and the ability of Federal supervisors to manage the workforce.

4. Security Clearances

We believe that the reference to *Hess v. State*, 217 F.3d 1372 (Fed. Cir. 2000), in your discussion of revoking security clearance is inapt. In *Hess*, the Federal Circuit followed longstanding Supreme Court precedent, *i.e.*, *Egan*, in finding that the MSPB did not have jurisdiction to review security clearance determinations. Thus, *Hess* does not suggest the need for statutory change. Indeed, the same considerations recognized by the Court in *Egan* apply with equal force to any MSPB review of security clearance determinations because of allegations of retaliation for whistleblowing.

Additionally, the bill's proposed relaxation in the standard for revoking clearances, from the clear and convincing evidence standard to the preponderance of the evidence standard, would not alleviate our concerns. The bottom line remains that rather than applying the appropriate standard that all doubt is resolved in favor of national security, the preponderance of evidence standard would require that the benefit of the doubt be given to granting access to classified information, rather than protecting national security.

5. Education Provisions

The bill would require agencies to set up procedures for advising their employees on how to make disclosures of classified information to Congress. Your letter states your concern about our objection to this provision. However, we believe our concerns that Federal agencies not encourage their employees to disclose national security information that is required to be kept secret are legitimate. We continue to oppose this provision.

6. Retaliatory Investigations

In our letter of October 8, 2004, we stated our concern that litigation over whether an investigation was retaliatory could have a significantly chilling effect upon investigations by an inspector general, by our Office of Professional Responsibility, or by a similar agency or office. We do not agree that excluding undefined "ministerial or nondiscretionary fact finding activities" would address this concern fully. Even if, as your letter posits, this phrase would include criminal investigations, the provision would open an array of potential litigation and seriously compromise the ability of agencies to make necessary administrative inquiries into possible wrongdoing.

7. Attorney Fees

Your letter states that requiring agencies to pay the attorney fees of managers wrongly disciplined by the Special Counsel would operate as a check on those agencies against retaliation, consistent with the No FEAR Act. However, we continue to believe that shifting the fee burden from the Special Counsel to the employing agency would undermine both the values of accountability, *i.e.*, requiring the Special Counsel to internalize the consequences of not exercising its discretion properly, and fairness, *i.e.*, not holding an employing agency responsible for disciplinary action in which it may have had no part.

Thank you for your consideration of our views. Please do not hesitate to call upon us if we may be of further assistance in this matter. The Office of Management and Budget has advised us that from the standpoint of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable George V. Voinovich
Chairman
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia
Committee on Homeland Security and Governmental Affairs

The Honorable Susan M. Collins
Chairman
Committee on Homeland Security and Governmental Affairs

The Honorable Joseph I. Lieberman
Ranking Minority Member
Committee on Homeland Security and Governmental Affairs

U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

September 30, 2003

The Honorable Peter G. Fitzgerald
Chairman
Subcommittee on Financial Management, the Budget,
and International Security
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 1229, the "Federal Employee Protection of Disclosures Act." We very strongly oppose this legislation.

S. 1229 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 1229 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.*, S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

Constitutional Concerns

Section 1(b) of the bill would create 5 U.S.C. § 2302(b)(8)(C). This new section would protect the unauthorized disclosure of classified information to certain members of Congress and to Executive branch or to congressional employees with appropriate clearance. Under the new section, any Federal employee with access to classified information that – in the employee's sole opinion – indicated misconduct could share that information with certain members of Congress or of the Executive branch. The disclosure of that information could be made regardless of any restrictions or Executive branch authorization procedures established by the President and the

employee could not be disciplined for such an unauthorized disclosure. We believe that this new provision would be unconstitutional.

This new section would authorize any Federal employee to determine unilaterally how, when, and under what circumstances classified information will be shared with others, regardless of Presidential determinations that access be limited. Thus, it would interfere with the President's constitutional authority to protect national security information and therefore would violate the constitutional separation of powers. The constitutional authority of the President to take actions as Chief Executive and Commander-in-Chief of the armed forces of the United States grants the Executive branch the authority to

> classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information . . . [This authority] flows primarily from this constitutional investment of power and exists quite apart from any explicit congressional grant.

Department of the Navy v. Egan, 484 U.S. 518, 524 (1988); *see also United States v. Nixon*, 418 U.S. 683, 706, 710, 712 n.19 (1974) (emphasizing heightened status of the President's constitutional privilege in the context of military, diplomatic, or sensitive national security secrets); *New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring)("it is the constitutional duty of the Executive . . . to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense"); *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953) (recognizing privilege in judicial proceedings for "state secrets" based on determination by senior Executive officials); *Guillot v. Garrett*, 970 F.2d 1320, 1324 (4th Cir. 1992) (President has "exclusive constitutional authority over access to national security information"); *Dorfmont v. Brown*, 913 F.2d 1399, 1404 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991)(Kozinksi, J., concurring) (Constitution vests President with unreviewable discretion over security decisions made pursuant to his powers as chief executive and Commander-in-Chief).

Although the new section would limit the protected disclosures to congressional oversight committees or individuals with appropriate clearances in Congress or the Executive branch, it nonetheless constitutes an unconstitutional interference with the President's constitutional responsibilities respecting national security and foreign affairs. Although the designated individuals might have appropriate clearances to receive the classified information, it is the President's prerogative to determine who has the need to know this information. Moreover, the President will have to base this determination upon particular – and perhaps currently unforeseeable – circumstances, dictating that the security or foreign affairs interests of the Nation dictate a particular treatment of classified information. A compromise of the President's authority in this area is an impermissible encroachment upon the President's ability to carry out one of his core executive functions.

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Although we understand the important public interest in protecting whistleblowers, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting pursuant to the official authority of the President and who ultimately is responsible to the President. The Constitution does not permit Congress to authorize subordinate Executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a right to disclose classified information, without fear of discipline for the unauthorized disclosure.

We note that the prior Administration took this same position in 1998, strongly opposing, as unconstitutional, legislation that would have vested employees of the intelligence community with a unilateral right to disclose classified information to Congress. *See Disclosure of Classified Information to Congress: Hearing Before the Senate Select Committee on Intelligence*, 105th Cong. 41-61 (1998) (Statement of Randolph D. Moss, Deputy Assistant Attorney General).

Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes evidences
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (*Horton*) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (*White*) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit

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precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a

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qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(1)(B) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

Subsection 1(c) would amend 5 U.S.C. § 2302(b), adding at the end of that subsection a provision clarifying that a disclosure can be a formal or informal communication or transmission. As discussed above, this change appears intended to overrule or supersede contrary precedent by

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the Federal Circuit limiting the scope of covered disclosures. *See Horton*, 66 F.3d at 282 (oral disclosures held not to be protected whistleblowing). This change would expand the class of covered disclosures and increase the scope of potential litigation on the issue of whistleblower reprisal. As a result, passing remarks made in the workplace or stray lines in electronic-mail messages on other subjects could potentially become the subject of whistleblower reprisal complaints.

2. Presumption of Good Faith

Subsection 1(d) would add at the end of 5 U.S.C. § 2302(b) a statement that "for the purposes of paragraph (8) any presumptions relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by *substantial evidence*." (emphasis added) This provision appears intended to supersede a holding in *White*, 174 F.3d at 1381, to the effect that analysis of the reasonableness of an employee's belief in a disclosure should begin with the "'presumption that public officials perform their duties correctly, fairly, in good faith and in accordance with the law and governing regulations.'" *See id.* The court also held that this presumption can only be rebutted by "irrefragable proof to the contrary." *See id.* The court has defined that standard of proof to be by clear and convincing evidence. *See Am-Pro Protective Agency, Inc. v. U.S.*, 281 F.3d 1234, 1239-40 (Fed. Cir. 2002). Subsection 1(d) would reverse a standard that was very helpful to Federal agencies in defending against whistleblower reprisal claims by challenging the reasonableness of employees' beliefs in the validity of their disclosures. This provision would subject arguable or potentially questionable day-to-day management decisions to full-fledged litigation.

3. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. In *Egan*, 484 U.S. 518 (1988), the Supreme Court explicitly rejected the proposition that the MSPB and the Federal Circuit could review the decision to revoke a security clearance. In doing so, the Court relied upon a number of premises,

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including: 1) decisions regarding security clearances are an inherently discretionary decision best left to the particular agency involved, not to be reviewed by non-expert bodies such as the MSPB and the courts; 2) review under the CSRA, which provides for a preponderance of the evidence standard, conflicts with the requirement that a security clearance should be given only when clearly consistent with the interests of the national security; and 3) that the President's power to make security clearance determinations is based in his constitutional role as Commander-in-Chief. *See* our constitutional objections at page 1, *supra*.

An example demonstrates one of the many fundamental problems with this bill's security clearance provisions. As we noted above, the burden of proof in CSRA cases is fundamentally incompatible with the standard for granting security clearances. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence. This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *other determination* relating to a security clearance" [emphasis added]. The phrase "other determination" is vague and conceivably could encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way with a security clearance. This broad language would convert nearly every

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action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, section 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section," is overly broad. As drafted, the provision could be construed to restrict the scope of routine employment inquiries to prior employers, where the Government was a prior employer. This might be the case, for example, where an employee left government service after a whistleblower situation and several years later applied for employment with a different Government agency, necessitating a new background investigation. Section 1(e)(2) would lead to disputes over the scope and permissibility of such inquiries. Moreover, the bar seems to apply whether the claim of whistleblower status was upheld or not.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(3)(e) would require and what that would mean in this context.

4. Confidential Advice on Making Disclosures to Congress

Subsection 1(j) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

5. Compensatory Damages

Section 1(h) of the bill would allow the MSPB to award damages in corrective action cases, including compensatory damages. We oppose this provision. It would broaden whistleblower litigation to include disputes over allegations of mental and emotional stress, which are very vague, difficult to quantify, and correspondingly difficult to litigate. More importantly, it sets forth no limit upon the amount of compensatory damages that could be awarded and would have a chilling effect upon management decisions. Current law allows the

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MSPB to award attorney's fees, back pay and related benefits, medical costs, travel expenses, and any other reasonable and foreseeable consequential damages. We believe that current law adequately compensates employees for whom corrective action is awarded.

6. Judicial Review

We object to section 1(k)(2) of the bill, which would grant the Office of Special Counsel the option to seek review of MSPB decisions by the regional courts of appeal rather than by the Federal Circuit. Review by the Federal Circuit promotes conformity in decisions and fosters uniformity in Federal personnel law. Granting the regional circuits jurisdiction to entertain appeals from the MSPB would undo Congress's sensible centralization of those appeals and further burden those already overburdened regional courts of appeal.

Since the enactment of the Federal Courts Improvement Act of 1982, the Federal Circuit has exercised exclusive jurisdiction to consider appeals from the MSPB in cases not involving discrimination. In those years, the court has developed substantial expertise and a well-defined body of law regarding Federal personnel matters that inures to the benefit of both the Federal Government and its employees. Moreover, the court's rules, which provide for more expedited and informal briefing in *pro se* cases provide an added benefit for Federal employees, many of whom choose to appeal the MSPB's decisions without the aid of an attorney.

Replacing the Federal Circuit's exclusive jurisdiction with review by the regional circuits would result in a fractured personnel system. Inevitably, conflicts among the circuits would arise as to the proper interpretation of the Federal personnel laws, so that an employee's rights and responsibilities would be determined by the geographic location of his or her place of employment. Not only is a non-uniform system undesirable, it could contribute to a loss of morale, as Federal employees would be treated differently depending upon where they lived. Inevitably, it would require the Supreme Court to intervene more often in Federal personnel matters to resolve inconsistencies among the circuits.

The CSRA and the Federal Courts Improvement Act resolved the problems of regional review. Considering the Federal Circuit's now substantial expertise, there simply is no good reason to revert to the old system. We have similar concerns about section 1(l) (amending 5 U.S.C. § 7703(b) and (d)).

7. Litigating Authority For The Special Counsel

Section 1(k) of the bill would expand the authority of the Special Counsel by authorizing her to seek review unilaterally in the United States Court of Appeals for the Federal Circuit in any case to which she was a party, *see* section 1(k)(2) (adding new 5 U.S.C. § 7703(e)(1)), and by granting her the authority to designate attorneys to appear upon her behalf in all courts except the Supreme Court, *see* section 1(k)(1) (adding new 5 U.S.C. § 1212(h)). Current law authorizes the Special Counsel to appear only before the MSPB. We oppose both of these changes.

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Under current law, employees who are adversely affected by a decision of the MSPB have the right to appeal to the Court of Appeals for the Federal Circuit. *See* 5 U.S.C. § 7703(a). The Department of Justice represents the respondent Federal agencies in these appeals. Federal employing agencies do not possess the same right to appeal MSPB decisions adverse to them. OPM is the only Government agency that may appeal an MSPB decision and it may do so only after it has intervened in the MSPB proceeding to present its position and its director has determined that an MSPB decision rejecting OPM's position will have a "substantial impact" upon the administration of the civil service law. 5 U.S.C. § 7703(d). Moreover, once the director makes such a determination, OPM must seek authorization from the Justice Department's Solicitor General to file a petition for review. The Federal Circuit has discretion to grant or deny this petition. OPM is represented in the Federal Circuit by the Department of Justice.

Section 1(k)(2) of the bill would disrupt this carefully crafted scheme by authorizing the Special Counsel, without the approval of the Solicitor General, to petition the Federal Circuit for leave to appeal any adverse MSPB decision. The only limitation placed upon this right would be the requirement that the Special Counsel, if not a party to or intervenor in the matter before the MSPB, petition the MSPB for reconsideration of its decision before seeking review in the Federal Circuit.

Section 1(k)(1) would further erode centralized control over personnel litigation by authorizing the Office of the Special Counsel to represent itself in all litigation except litigation before the Supreme Court. This authority would be independent of the Department of Justice and could result in the Special Counsel litigating against other Executive branch agencies. This would usurp the Justice Department's traditional unifying role as the Executive branch's representative in court. We are unaware of any justification for eroding the Department's ability to fulfill its well-settled representative role.

Centralized control furthers a number of important policy goals, including the presentation of uniform positions on significant legal issues, the objective litigation of cases by attorneys unaffected by the parochial concerns of a single agency that might be inimical to the interests of the Government as a whole, and the facilitation of presidential supervision over Executive branch policies implicated in Government litigation. This policy benefits not only the Government but also the courts and citizens who, in the absence of the policy, might be subjected to uncoordinated and inconsistent positions on the part of the Government.

8. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to forbid Federal employees to "conduct, or cause to

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be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to routine background investigation for initial employment to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing -- which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or

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administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

9. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorney fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorney fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorney fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

10. Discipline Against Individual Agency Employees

Section 1(i) would amend 5 U.S.C. § 1215(a)(3) to allow for imposition of disciplinary action against an individual employee where the MSPB found that a prohibited personnel practice "was a motivating factor for the employee's decision to take . . . a personnel action, even if other factors also motivated the decision." Under this amendment, the board apparently could order discipline even if the agency proved by clear and convincing evidence that it would have taken the personnel action despite the protected disclosure. This amendment substantially lowers the burden for the Special Counsel to seek disciplinary actions and could result in managers being disciplined for retaliation even when the agency had met the high standard of showing that

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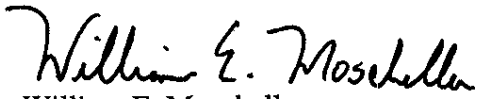
the personnel action would have been taken in any event. Given the ease with which an employee could cloak himself in whistleblower status (based upon the bill's other provisions), this particular change would have a chilling effect on the ability of managers to take any negative personnel actions.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable Daniel K. Akaka
Ranking Minority Member

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

November 10, 2003

The Honorable Peter G. Fitzgerald
Chairman
Subcommittee on Financial Management, the Budget,
and International Security
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter presents the views of the Department of Justice on S. 1358, the "Federal Employee Protection of Disclosures Act." We very strongly oppose this legislation.

S. 1358 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 1358 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.,* S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

Constitutional Concerns

Section 1(b) of the bill would create 5 U.S.C. § 2302(b)(8)(C). This new section would protect the unauthorized disclosure of classified information to certain members of Congress and to Executive branch or to congressional employees with appropriate clearance. Under the new section, any Federal employee with access to classified information that – in the employee's sole opinion – indicated misconduct could share that information with certain members of Congress or of the Executive branch. The disclosure of that information could be made regardless of any restrictions or Executive branch authorization procedures established by the President and the

employee could not be disciplined for such an unauthorized disclosure. We believe that this new provision would be unconstitutional.

This new section would authorize any Federal employee to determine unilaterally how, when, and under what circumstances classified information will be shared with others, regardless of Presidential determinations that access be limited. Thus, it would interfere with the President's constitutional authority to protect national security information and therefore would violate the constitutional separation of powers. The constitutional authority of the President to take actions as Chief Executive and Commander-in-Chief of the armed forces of the United States grants the Executive branch the authority to

> classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information . . . [This authority] flows primarily from this constitutional investment of power and exists quite apart from any explicit congressional grant.

Department of the Navy v. Egan, 484 U.S. 518, 524 (1988); *see also United States v. Nixon*, 418 U.S. 683, 706, 710, 712 n.19 (1974) (emphasizing heightened status of the President's constitutional privilege in the context of military, diplomatic, or sensitive national security secrets); *New York Times Co. v. United States*, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring)("it is the constitutional duty of the Executive . . . to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense"); *United States v. Reynolds*, 345 U.S. 1, 7-8 (1953) (recognizing privilege in judicial proceedings for "state secrets" based on determination by senior Executive officials); *Guillot v. Garrett*, 970 F.2d 1320, 1324 (4th Cir. 1992) (President has "exclusive constitutional authority over access to national security information"); *Dorfmont v. Brown*, 913 F.2d 1399, 1404 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991)(Kozinksi, J., concurring) (Constitution vests President with unreviewable discretion over security decisions made pursuant to his powers as chief executive and Commander-in-Chief).

Although the new section would limit the protected disclosures to congressional oversight committees or individuals with appropriate clearances in Congress or the Executive branch, it nonetheless constitutes an unconstitutional interference with the President's constitutional responsibilities respecting national security and foreign affairs. Although the designated individuals might have appropriate clearances to receive the classified information, it is the President's prerogative to determine who has the need to know this information. Moreover, the President will have to base this determination upon particular – and perhaps currently unforeseeable – circumstances, dictating that the security or foreign affairs interests of the Nation dictate a particular treatment of classified information. A compromise of the President's authority in this area is an impermissible encroachment upon the President's ability to carry out one of his core executive functions.

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Although we understand the important public interest in protecting whistleblowers, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting pursuant to the official authority of the President and who ultimately is responsible to the President. The Constitution does not permit Congress to authorize subordinate Executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a right to disclose classified information, without fear of discipline for the unauthorized disclosure.

We note that the prior Administration took this same position in 1998, strongly opposing, as unconstitutional, legislation that would have vested employees of the intelligence community with a unilateral right to disclose classified information to Congress. *See Disclosure of Classified Information to Congress: Hearing Before the Senate Select Committee on Intelligence*, 105th Cong. 41-61 (1998) (Statement of Randolph D. Moss, Deputy Assistant Attorney General).

Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes evidences
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (*Horton*) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (*White*) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit

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precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a

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qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(1)(B) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

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2. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. In *Egan*, 484 U.S. 518 (1988), the Supreme Court explicitly rejected the proposition that the MSPB and the Federal Circuit could review the decision to revoke a security clearance. In doing so, the Court relied upon a number of premises, including: 1) decisions regarding security clearances are an inherently discretionary decision best left to the particular agency involved, not to be reviewed by non-expert bodies such as the MSPB and the courts; 2) review under the CSRA, which provides for a preponderance of the evidence standard, conflicts with the requirement that a security clearance should be given only when clearly consistent with the interests of the national security; and 3) that the President's power to make security clearance determinations is based in his constitutional role as Commander-in-Chief. *See* our constitutional objections at page 1, *supra*.

An example demonstrates one of the many fundamental problems with this bill's security clearance provisions. As we noted above, the burden of proof in CSRA cases is fundamentally incompatible with the standard for granting security clearances. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence.

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This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *other determination* relating to a security clearance" [emphasis added]. The phrase "other determination" is vague and conceivably could encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way with a security clearance. This broad language would convert nearly every action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, section 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section," is overly broad. As drafted, the provision could be construed to restrict the scope of routine employment inquiries to prior employers, where the Government was a prior employer. This might be the case, for example, where an employee left government service after a whistleblower situation and several years later applied for employment with a different Government agency, necessitating a new background investigation. Section 1(e)(2) would lead to disputes over the scope and permissibility of such inquiries. Moreover, the bar seems to apply whether the claim of whistleblower status was upheld or not.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(3)(e) would require and what that would mean in this context.

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3. Confidential Advice on Making Disclosures to Congress

Subsection 1(j) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

4. Judicial Review

We object to section 1(k)(2) of the bill, which would grant the Office of Special Counsel the option to seek review of MSPB decisions by the regional courts of appeal rather than by the Federal Circuit. Review by the Federal Circuit promotes conformity in decisions and fosters uniformity in Federal personnel law. Granting the regional circuits jurisdiction to entertain appeals from the MSPB would undo Congress's sensible centralization of those appeals and further burden those already overburdened regional courts of appeal.

Since the enactment of the Federal Courts Improvement Act of 1982, the Federal Circuit has exercised exclusive jurisdiction to consider appeals from the MSPB in cases not involving discrimination. In those years, the court has developed substantial expertise and a well-defined body of law regarding Federal personnel matters that inures to the benefit of both the Federal Government and its employees. Moreover, the court's rules, which provide for more expedited and informal briefing in *pro se* cases provide an added benefit for Federal employees, many of whom choose to appeal the MSPB's decisions without the aid of an attorney.

Replacing the Federal Circuit's exclusive jurisdiction with review by the regional circuits would result in a fractured personnel system. Inevitably, conflicts among the circuits would arise as to the proper interpretation of the Federal personnel laws, so that an employee's rights and responsibilities would be determined by the geographic location of his or her place of employment. Not only is a non-uniform system undesirable, it could contribute to a loss of morale, as Federal employees would be treated differently depending upon where they lived. Inevitably, it would require the Supreme Court to intervene more often in Federal personnel matters to resolve inconsistencies among the circuits.

The CSRA and the Federal Courts Improvement Act resolved the problems of regional review. Considering the Federal Circuit's now substantial expertise, there simply is no good reason to revert to the old system. We have similar concerns about section 1(l) (amending 5 U.S.C. § 7703(b) and (d)).

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5. Litigating Authority For The Special Counsel

Section 1(k) of the bill would expand the authority of the Special Counsel by authorizing her to seek review unilaterally in the United States Court of Appeals for the Federal Circuit in any case to which she was a party, *see* section 1(k)(2) (adding new 5 U.S.C. § 7703(e)(1)), and by granting her the authority to designate attorneys to appear upon her behalf in all courts except the Supreme Court, *see* section 1(k)(1) (adding new 5 U.S.C. § 1212(h)). Current law authorizes the Special Counsel to appear only before the MSPB. We oppose both of these changes.

Under current law, employees who are adversely affected by a decision of the MSPB have the right to appeal to the Court of Appeals for the Federal Circuit. *See* 5 U.S.C. § 7703(a). The Department of Justice represents the respondent Federal agencies in these appeals. Federal employing agencies do not possess the same right to appeal MSPB decisions adverse to them. OPM is the only Government agency that may appeal an MSPB decision and it may do so only after it has intervened in the MSPB proceeding to present its position and its director has determined that an MSPB decision rejecting OPM's position will have a "substantial impact" upon the administration of the civil service law. 5 U.S.C. § 7703(d). Moreover, once the director makes such a determination, OPM must seek authorization from the Justice Department's Solicitor General to file a petition for review. The Federal Circuit has discretion to grant or deny this petition. OPM is represented in the Federal Circuit by the Department of Justice.

Section 1(k)(2) of the bill would disrupt this carefully crafted scheme by authorizing the Special Counsel, without the approval of the Solicitor General, to petition the Federal Circuit for leave to appeal any adverse MSPB decision. The only limitation placed upon this right would be the requirement that the Special Counsel, if not a party to or intervenor in the matter before the MSPB, petition the MSPB for reconsideration of its decision before seeking review in the Federal Circuit.

Section 1(k)(1) would further erode centralized control over personnel litigation by authorizing the Office of the Special Counsel to represent itself in all litigation except litigation before the Supreme Court. This authority would be independent of the Department of Justice and could result in the Special Counsel litigating against other Executive branch agencies. This would usurp the Justice Department's traditional unifying role as the Executive branch's representative in court. We are unaware of any justification for eroding the Department's ability to fulfill its well-settled representative role.

Centralized control furthers a number of important policy goals, including the presentation of uniform positions on significant legal issues, the objective litigation of cases by attorneys unaffected by the parochial concerns of a single agency that might be inimical to the interests of the Government as a whole, and the facilitation of presidential supervision over Executive branch policies implicated in Government litigation. This policy benefits not only the

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Government but also the courts and citizens who, in the absence of the policy, might be subjected to uncoordinated and inconsistent positions on the part of the Government.

6. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to forbid Federal employees to "conduct, or cause to be conducted, an investigation of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to routine background investigation for initial employment to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing – which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

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Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

7. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorney fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorney fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorney fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

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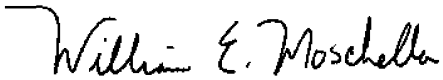
Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this report.

Sincerely,



William E. Moschella
Assistant Attorney General

cc: The Honorable Daniel K. Akaka
Ranking Minority Member

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U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

October 8, 2004

The Honorable Susan M. Collins
Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Madam Chairman:

This presents the views of the Department of Justice on S. 2628, the "Federal Employee Protection of Disclosures Act." While we understand the important public interest in protecting whistleblowers, we must oppose this bill very strongly.

S. 2628 would make a number of significant and extremely undesirable changes to the Whistleblower Protection Act ("WPA") and the Civil Service Reform Act ("CSRA"). Among other things, the bill would permit, for the first time, the Merit Systems Protection Board ("MSPB") and the courts to review the Executive branch's decisions regarding security clearances. It would provide new protections for the unauthorized disclosure of classified information. It would make sweeping changes to the WPA, including a vast expansion of the definition of a "protected disclosure." It would alter the carefully crafted scheme for judicial review of decisions of the MSPB, which is set forth in the CSRA. It would grant the Office of Special Counsel independent litigating authority. S. 2628 is burdensome, unnecessary, and unconstitutional. Rather than promote and protect genuine disclosures of matters of real public concern, it would provide a legal shield for unsatisfactory employees. *See, e.g.,* S. Rep No. 100-413, at 15 (1988) ("The Committee does not intend that employees who are poor performers escape sanction by manufacturing a claim of whistleblowing"); S. Rep. No. 95-969, at 8, *reprinted in* 1978 U.S.S.C.A.N. 2723, 2730-31 ("Nor would the bill protect employees who claim to be whistle blowers in order to avoid adverse action based on inadequate performance").

The Justice Department testified in opposition to S. 1358, the previous version of this legislation, and submitted responses to questions for the record further explaining our opposition to aspects of that bill. While S. 2628 reflects some changes from S. 1358, the basic flaws of that prior legislation remain. For example, while the Office of Special Counsel ("OSC") is given

amicus status rather than party status in appeals under S. 2628, the bill directs that courts allow OSC's participation as an amicus. This kind of participation is likely to reveal a split in the positions of two agencies of the Executive branch. Additionally, there are very significant constitutional problems with the bill.

I. Constitutional Concerns

We have several constitutional concerns about the bill. In particular, we strongly recommend that subparagraphs 1(b)(3), 1(e)(2), and 1(e)(3), and subsection 1(k) of the bill be deleted.

Section 1(b)(3) would add subparagraph (C) to 5 U.S.C. § 2302(b)(8). Subsection (C) would prohibit a "personnel action"[1] against a covered Executive branch employee or applicant for employment who disclosed to any Member or employee of Congress, who is "authorized to receive information of the type disclosed," "information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs." The prohibition would apply where the employee "reasonably believes" the information is "direct and specific evidence" of "any violation of any law," of "gross mismanagement, a gross waste of funds, an abuse of authority, . . . a substantial and specific danger to public health or safety," or "a false statement to Congress."

Consistent with our longstanding views, we strongly oppose this provision as unconstitutional. In 1998, the Department objected to S. 1668, a bill similar to S. 2628, that would have required the President to inform employees of covered Federal agencies that their disclosure to Congress of classified information that the employee reasonably believed provided direct and specific evidence of misconduct (including violations of law) is not prohibited. *See Statement of Randolph Moss, Deputy Assistant Attorney General, Office of Legal Counsel, Before the House Permanent Select Committee on Intelligence, Concerning Whistleblower Protections for Classified Disclosures* (May 20, 1998) ("Moss testimony"). The Department testified that S. 1668 "would deprive the President of his authority to decide, based on the national interest, how, when and under what circumstances particular classified information should be disclosed to Congress. This is an impermissible encroachment on the President's ability to carry out core executive functions. In the congressional oversight context, as in all others, the decision whether and under what circumstances to disclose classified information must be made by someone who is acting on the official authority of the President and who is ultimately responsible to the President. The constitution does not permit Congress to authorize

[1]The prohibition would include discipline and also including, pursuant to subparagraph 1(e)(1)(B), implementing or enforcing a nondisclosure agreement, suspending a security clearance, or conducting certain investigations.

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subordinate executive branch employees to bypass these orderly procedures for review and clearance by vesting them with a unilateral right to disclose classified information – even to Members of Congress." *Id.* at 16.

Like S. 1668, S. 2628 would permit any covered Executive branch employee (or applicant) to disclose to Congress classified national security information without receiving official authorization to do so. Existing law merely precludes "personnel actions" against covered employees who make such disclosures to the Special Counsel or to the Inspector General of an agency, *see* 5 U.S.C. 2302(b)(8)(B), who are both Executive branch officials. By contrast, S. 2628 would allow any covered employee with access to classified information to go directly to Congress, thereby unilaterally circumventing the process by which the Executive branch and Legislative branch accommodate each other's interests in sensitive information. *See* 13 Op. O.L.C. at 157-61 (discussing accommodation process). Congress may not vest lower-ranking personnel in the Executive branch with a "right" to furnish national security or other privileged information to Congress without receiving official authorization to do so.

For similar reasons, we recommend that subparagraphs 1(e)(2) and 1(k) of the bill be deleted. These sections purport to dictate and micromanage the specific content of nondisclosure agreements applicable to Executive branch employees (and contractors), in violation of the President's authority "to decide, based on the national interest, how, when and under what circumstances particular classified information should be disclosed." Moss Testimony at 16.

Finally, we recommend deleting subparagraph 1(e)(3) of the bill. This section would require the Merit Systems Protection Board ("MSPB") or any reviewing court, in any appeal relating to a security-clearance determination, to review and decide whether a security-clearance determination was made because the employee disclosed information, including national security information, that the bill permits the employee to disclose. This section unconstitutionally intrudes on "the President's constitutional responsibility to protect certain information." 13 Op. O.L.C. at 254. A security-clearance decision requires "a sensitive and inherently discretionary judgment call" that the Constitution vests in the President "quite apart from any explicit congressional grant." *Dep't of the Navy v. Egan*, 484 U.S. 518, 527 (1988) (concluding that the MSPB lacked statutory authority to review the substance of an underlying decision to deny or revoke a security clearance); *see also id.* (The President's "authority to classify and control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position in the Executive Branch that will give that person access to such information flows primarily from the [Commander-in-Chief Clause's] investment of power in the President."); *id.* ("The authority to protect [national security] information falls on the President as head of the Executive Branch and as Commander in Chief."). As the Supreme Court has concluded, "For 'reasons . . . too obvious to call for enlarged discussion,' *CIA v. Sims*, 471 U.S. 159, 170 (1985), the protection of classified information must be committed to the broad discretion of the agency responsible, and this must include broad discretion to determine

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who may have access to it. Certainly, it is not reasonably possible for an outside nonexpert body to review the substance of such a judgment . . . ." *Egan*, 484 U.S. at 528.

II. Other Concerns

1. Expanded Definition Of Protected Disclosure

Subsection 1(b)(1)(A) of the bill would broaden the definition of "protected disclosure" by amending 5 U.S.C. § 2302(b)(8)(A) to state:

> any disclosure of information by an employee or applicant, *without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that* the employee or applicant reasonably believes is evidence of
>
> (i) *any violation* of any law, rule, or, regulation, or
>
> (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. [emphasis added]

This amendment appears intended to override or supersede a series of decisions by the United States Court of Appeals for the Federal Circuit that defined the scope of disclosures covered by section 2302(b)(8). *See, e.g., Horton v. Dep't of Navy*, 66 F.3d 279, 282 (Fed. Cir. 1995) (complaints to wrongdoers are not protected whistleblowing); *Willis v. Dep't of Agriculture*, 141 F.3d 1139, 1143-44 (Fed. Cir. 1998) (ordinary work disagreements not protected disclosures, nor are disclosures made during the course of performing ordinary job duties); *Meuwissen v. Dep't of the Interior*, 234 F.3d 9, 12-14 (Fed. Cir. 2000) (discussion of matters already known does not constitute a covered disclosure); *LaChance v. White*, 174 F.3d 1378, 1381 (Fed. Cir. 1999) (in determining whether a disclosure is covered, the Board should consider the motives of the employee making the disclosure). The Federal Circuit precedent was useful to Federal agencies because it insulated them from having to defend against potentially burdensome whistleblower litigation involving no more than workplace disagreements, complaints by disgruntled employees, or matters that never were, in any real sense, "disclosed" to any individuals or organizations having any authority to address the disclosures.

The expanded definition in subsection 1(b)(1)(A) would upset the delicate balance between whistleblower protection and the ability of Federal managers to manage the workforce. The WPA already provides adequate protection for legitimate whistleblowers. The proposed expansive definition has the potential to convert any disagreement or contrary interpretation of a

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law, no matter how trivial or frivolous, into a whistleblower disclosure. It will not provide further protection to those with legitimate claims, who are covered by the existing law. It simply will increase the number of frivolous claims of whistleblower reprisal. Such an increase in the number of frivolous claims would impose an unwarranted burden upon Federal managers and, ultimately, the MSPB and the Federal Judiciary.

The Federal Circuit appropriately has recognized that the purposes of the WPA must be taken into account in determining whether a disclosure is one protected by the WPA. *Willis v. Department of Agriculture*, 141 F.3d 1139, 1143 (Fed. Cir. 1998) (observing that "[t]he purpose of the WPA is to encourage government personnel to disclose government wrongdoing to persons who may be in a position to remedy the problem without fearing retaliatory action by their supervisors or those who might be harmed by the disclosures."). Accordingly, the court in *Willis* recognized that expressing disagreement with a supervisor's decision to that supervisor was not the type of disclosure protected by the WPA because it was not reporting the supervisor's wrongdoing to anyone in a position to take action. *Id.* Moreover, the court found that the WPA was not intended to protect reports of violations of laws, rules, or regulations that an employee made as a part of his everyday job responsibilities. *Id.* at 1143-44.

These limitations are reasonable and serve to further the purpose of the WPA to protect legitimate whistleblowers. By prohibiting the consideration of "time, place, form, motive, context" and including the performance of one's job duties in the definition of "disclosures," the bill converts every Federal employee into a whistleblower. Nearly every Federal employee will, sometime during the course of his or her career, disagree with a statement or interpretation made by a supervisor, or during the course of performing his or her everyday responsibilities, report an error that may demonstrate a violation of a law, rule, or regulation. Without the ability to take the context – the time, the place, the motive – of the alleged disclosure into account, even trivial or *de minimis* matters would become elevated to the status of protected disclosures. *Cf. Herman v. Department of Justice*, 193 F.3d 1375, 1378-79 (Fed. Cir. 1999) (concluding that the WPA was not intended to apply to trivial matters). This provision would undermine the effectiveness of the WPA.

The danger of this expanded definition is even more apparent when understood in the context of the statutory scheme of the WPA. Under current law, once an individual has made a qualifying disclosure pursuant to 5 U.S.C. § 2302(b)(8), a *prima facie* case of whistleblower reprisal can be made by showing that a deciding agency official: a) knew of the disclosure; and b) an adverse action was taken within a reasonable time of the disclosure. *Kewley v. Department of Health & Human Serv.*, 153 F.3d 1357, 1362-62 (Fed. Cir. 1998) (citing 5 U.S.C. § 1221(e)(1)). Once the employee establishes this *prima facie* case, the burden shifts to the employing agency to show by clear and convincing evidence that it would have taken the adverse action regardless of the protected disclosure. *Kewley*, 153 F.3d at 1363.

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Given the expanded definition of disclosure and the relatively light burden of establishing a *prima facie* case of reprisal under the knowledge/timing test, it would be exceedingly easy for employees to use whistleblowing as a defense to every adverse personnel action. Then the statutory structure of the WPA would require the agency to meet the much higher burden of demonstrating by clear and convincing evidence that it would have taken the adverse action, regardless of the disclosure. Thus, for all practical purposes, section 1(b)(1)(A) would transform the statutory standard that an agency must meet in sustaining almost every adverse action from a preponderance of the evidence, 5 U.S.C. § 7701(c)(1)(B), to the clear and convincing standard required by 5 U.S.C. § 1221(e)(2).

The ease with which a Federal employee would be able to establish a *prima facie* case of whistleblower reprisal, no matter how frivolous, would seriously impair the ability of Federal managers to effectively and efficiently manage the workforce. If Federal managers knew that it was likely that they would be subject to a charge of whistleblower reprisal every time that they took an adverse personnel action, they might hesitate to take any such action. Likewise, the very low standards that would be required to advance a whistleblower claim would vastly increase the number of such claims, obscure the claims of legitimate whistleblowers, and unduly burden the MSPB and the Federal Circuit.

Currently, the WPA does not cover disclosures that specifically are prohibited by law or disclosures of information that specifically are required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. Subsection 1(b)(3) would add 5 U.S.C. § 2302(b)(8)(C) to include this category of covered disclosures if the disclosure evidenced a reasonable belief of violation of law, rule, or regulation; gross mismanagement; gross waste of funds; abuse of authority; substantial and specific danger to public health or safety; *or* a false statement to Congress on an issue of material fact. The disclosure also would have to be made to a Member of Congress authorized to receive information of the type disclosed or to any employee of Congress having an appropriate security clearance and authorized to receive information of the type disclosed. The amendment would expand the scope of covered disclosures significantly and therefore substantially increase the potential exposure to litigation for Federal agencies as well as the staffing costs and other burdens associated with this issue.

2. Security Clearances

There are three significant provisions regarding security clearances. First, subsection 1(e)(1) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to add "a suspension, revocation, or other determination relating to a security clearance," to the definition of a personnel practice. Second, section 1(e)(2) (adding a new subparagraph (14) to 5 U.S.C. § 2302(b)) would amend the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment

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because of any activity protected under this section." Third, subsection 1(e)(3) of the bill would authorize the MSPB and the courts to review these security clearance decisions to determine whether a violation of 5 U.S.C. § 2302 (prohibited personnel practices) had occurred and, if so, to order certain relief. We have both general and technical objections to these provisions.

We strongly oppose these amendments because they would authorize the MSPB and the courts to review any determination relating to a security clearance – a prerogative left firmly within the Executive branch's discretion. See our constitutional objections, *supra*. This conflict is even more apparent in whistleblower cases. Under the WPA, a putative whistleblower establishes a *prima facie* case of whistleblower retaliation by establishing a protected disclosure and, under the knowledge/timing test, a personnel action taken within a certain period of time following the disclosure. Once the employee meets that minimal burden, the burden shifts to the agency to establish *by clear and convincing evidence* that it would have taken the action absent the protected disclosure.

Therefore, the bill would require in the security clearance context, that where individuals make protected disclosures (which, as we explain above, would include virtually every Federal employee under other amendments in this bill), the agency must justify its security clearance decision by the stringent standard of clear and convincing evidence. Thus, rather than awarding security clearances only where clearly consistent with the interests of national security, agencies would be permitted to deny or revoke them only upon the basis of clear and convincing evidence. This standard would be shockingly inconsistent with national security, especially in these times of heightened security concerns.

Beyond these objections, the amendments are simply unnecessary. Currently, Executive Order 12968 requires all agencies to establish an internal review board to consider appeals of security clearance revocations. These internal boards provide sufficient protections for the subjects of the revocations, while, at the same time, preserving the authority of the Executive branch to make the necessary decisions. In any event, we are not aware of any pattern of abusing security clearance decisions to retaliate against whistleblowers. Thus, the drastic and potentially unconstitutional amendments subsections 1(e)(1) and 1(e)(3) would make are unwarranted.

We have other, more specific, objections to the bill. In defining the category of security clearance decisions that fall within a personnel action and, therefore, would be subject to review, subsection 1(e)(1) of the bill uses the phrase "suspension, revocation, or *any other determination* relating to a security clearance or any *other access determination by a covered agency*" [emphasis added]. Although the phrase "other determination" remains vague, the remainder of the provision, "or any other access determination by a covered agency," is so broad as to encompass such things as an initial investigation into whether a security clearance is warranted, the decision to upgrade or downgrade a clearance, or any other decision connected in any way

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with a security clearance. This broad language would convert nearly every action an agency takes with regard to a security clearance into a possible basis for a whistleblower charge.

In addition, subparagraph 1(e)(2), amending the definition of prohibited personnel practices to include "conduct[ing] or caus[ing] to be conducted, an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section," remains somewhat vague and potentially overly broad. Although this provision appears intended to allow the Government to conduct certain routine employment inquiries regarding current and prospective employees, it still will lead to disputes over the scope and permissibility of such inquiries.

Finally, section 1(e)(3) of the bill contains language stating that the MSPB or any reviewing court "may not order the President to restore a security clearance." We presume this language was intended to alleviate concerns about the Executive branch prerogative with regard to security clearance determinations. However, the language, on its face, only prohibits the MSPB and reviewing court from ordering "the President" to "restore" a clearance. Conceivably, this language could be interpreted to allow the MSPB to order an agency head or lower official to restore the clearance. Likewise, it does not appear to limit the MSPB's authority to order other actions with regard to security clearances, for instance, to award an initial clearance, to order an upgrade, or to stop an investigation. It also is unclear to us why a narrow class of whistleblower reprisal cases merits the "expedited review" section 1(e)(3) would require and what that would mean in this context.

3. Confidential Advice on Making Disclosures to Congress

Subsection 1(m) would amend 5 U.S.C. § 2302(f) to require each agency to establish a procedure for providing confidential advice to employees on making lawful disclosures to Congress of information specifically required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs. This provision would place agencies in the odd and anomalous position of effectively encouraging their employees to disclose matters otherwise required by law to be kept secret. We oppose this provision.

4. Investigations

Subparagraph 1(e)(1)(B) of the bill would amend 5 U.S.C. § 2302(a)(2)(A) to include within WPA-covered personnel actions "an investigation, other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section." Additionally, subparagraph 1(e)(2)(C) would amend 5 U.S.C. § 2302(b) to add new subparagraph (14), forbidding Federal employees to "conduct, or cause to be conducted, an investigation, other

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than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, of an employee or applicant for employment because of any activity protected under this section."

We are very troubled by the breadth of these provisions and the effect they could have on the ability of agencies to function. The amendments do not define adequately an "investigation." Accordingly, it would appear that any type of inquiry by any agency, ranging from criminal investigation to investigation for determining eligibility for a security clearance to Inspector General investigation to management inquiries of potential wrongdoing in the workplace, all could be subject to challenge and litigation.

Conceivably, any time a supervisor suspected wrongdoing by an employee and determined to look into the matter, the "investigation" could be subject to challenge. Certainly, any time an Office of Inspector General, an Office of Professional Responsibility, or similar agency component began an investigation, the investigation immediately could become the subject of litigation. Through such litigation, employees would be able to delay or thwart any investigation into their own or others' wrongdoing. This result could adversely affect the ability and perhaps even the willingness of supervisors to examine wrongdoing – which clearly is not a beneficial outcome for the efficient and effective operation of agencies. Indeed, this provision could allow an employee to litigate an action that has not been proposed. Thus, even before any discipline had been proposed or any charges brought, the employee could attempt to short circuit any inquiry into the situation. In this connection, we note that the Equal Employment Opportunity Commission has prohibited the filing of a formal complaint on a "proposal to take a personnel action, or other preliminary step to taking a personnel action." *See* 29 C.F.R. § 1614.107(a)(5).

The CSRA is a careful balance between providing remedies for personnel actions that have been taken against Federal employees and permitting agencies to manage their workforces effectively. Subparagraphs 1(e)(1)(B) and 1(e)(2)(C) would upset that balance seriously, since an investigation is not an action against the employee but is a necessary government function for gathering facts about a wide range of matters so that informed decisions can be subsequently made.

Further, including conducting investigations and "causing them to be conducted" among the prohibited practices could decrease the willingness of any employee to report allegations of misconduct to an Office of Inspector General ("OIG"), which is generally responsible for conducting such investigations. Even the reporting of wrongdoing could be viewed as causing an investigation to be conducted and could subject not just investigators and managers but any employee who "causes" an investigation to be conducted to charges of committing a prohibited personnel practice.

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Moreover, the allegation of a prohibited personnel practice in the form of an investigation could result in an investigation by the Office of Special Counsel into an open criminal or administrative investigation and into open investigatory files, and then, pursuant to the OSC's statutory obligations, the reporting of that investigatory information to the complainant. Except in limited circumstances, open investigative files are not shared with other agencies or persons for several reasons, including the privacy interests of the subject and witnesses, and the protection of investigative techniques. Additionally, the Inspector General Act of 1978, as amended, 5 U.S.C. app. § 7(a), requires that the confidentiality of a Federal employee complainant be maintained "unless disclosure is unavoidable during the course of an investigation." Our concerns are amplified because of OSC's reporting of the progress of its investigation and its findings to the complainant. This reporting could compromise and undermine a legitimate law enforcement investigation.

5. Attorneys Fees

Section 1(g) of the bill would amend 5 U.S.C. § 1204(m)(1) to provide that, in disciplinary action cases, a prevailing employee could obtain attorneys fees from the agency at which the prevailing party was employed rather than, as currently exists, from the agency proposing the disciplinary action against the employee. Essentially, this provision would shift the burden for attorneys fees from the Office of Special Counsel, the agency responsible for pursuing disciplinary actions, to the prevailing party's employing agency. We object to this change for at least two reasons. First, one of the general policies underlying fee-shifting provisions against the Government is ensuring that the Government acts responsibly. By shifting the burden from the agency responsible for taking disciplinary actions – the Special Counsel – to the employing agency, this amendment would eliminate this important check on the Special Counsel in considering which actions to pursue because even if the Special Counsel took an unjustified action, it will not have to bear the attorneys fees. Second, this amendment is patently unfair to the employing agencies, which might disagree with the action the Special Counsel was pursuing but nevertheless would be responsible for any fees. Indeed, it is not uncommon that an agency will refuse to take a disciplinary action that is proposed by the Special Counsel, agreeing with a particular employee that no wrongdoing had been committed. If the employee hired an attorney and successfully defended himself against the Special Counsel before the MSPB or the Federal Circuit, the employing agency – who disagreed with the Special Counsel's actions – would be required to pay the fees.

We recognize that certain agencies (*e.g.*, the FBI, the CIA, and the National Security Agency) are exempt from the statute (*i.e.*, they can discipline employees for whistleblowing), However, the Departments of Homeland Security, Justice, State and Defense (all of which deal with classified information on a regular basis) are not exempt unless the President specifically makes them exempt prior to a whistleblowing event.

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Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable Joseph I. Lieberman
Ranking Minority Member

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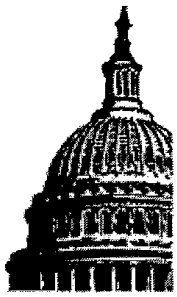

United States Senate
Committee on Governmental Affairs

Senator Susan M. Collins, Chairman

June 22, 2006

COLLINS-AKAKA WHISTLEBLOWER PROTECTION BILL PASSES SENATE

Washington, D.C. -- Legislation offered by Senator Susan Collins (R-ME) and Senator Daniel K. Akaka (D-HI) that would strengthen whistleblower protections for federal employees passed the U.S. Senate today. The Federal Employee Protection of Disclosures Act was unanimously accepted as an amendment to the Fiscal Year 2007 National Defense Authorization Act, which cleared the Senate 96-0.

"This amendment reverses the steady erosion of whistleblower protections caused by employment practices that circumvent current protections and adverse court decisions," said Senator Collins. "We must ensure that federal employees can continue to come forward and disclose instances of official or department misconduct without fear of retaliation. Absent these needed protections, cases of fraud and abuse will continue to go unnoticed as would-be informants remain quiet out of fear."

Specifically, the Akaka-Collins bill will:

- Codify and strengthen the anti-gag provision that has been included in appropriations language since 1988;
- End the sole jurisdiction over federal whistleblowers cases of the Federal Circuit Court of Appeals by permitting multi-circuit review for five-years;
- Restore congressional intent that employees are protected for "any" disclosure of waste, fraud, or abuse;
- Protect whistleblowers whose security clearance revocation is based on retaliation;
- Provide the Office of Special Counsel with the independent right to file amicus briefs in federal courts.

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Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:43 PM
To: Gorsuch, Neil M
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

Eek- wish you would have taken off my "DOD should have been on top of this"

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:38 PM
To: [redacted]@dodgc.osd.mil; 'Brett_C._Gerry@who.eop.gov'
Cc: Seidel, Rebecca
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

Both of you should be aware of this. Rebecca Seidel is our leg poc on this issue.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:32 PM
To: Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

Just when I thought this day couldn't get worse. See below. As you can see we have alerted WH (DOD should have been on top of this), and we are going to touch base with House and Senate folks to shore them up for conference.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:23 PM
To: 'Richard_E._Green@omb.eop.gov'; 'John_G._Knepper@omb.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'
Cc: Wilson, Karen L
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

I am assuming there is a lot of garbage that got into DOD Auth that we couldn't do much about. I am also guessing that the UC acceptance of this bill as an amendment took everyone off guard. Want to make sure everyone is aware that it passed as part of DOD Auth so that you can put it in your list of MUST REMOVES for conference. The whole Admin HATES this bill. I am attaching a copy of Sen Collins' press release (which is how we found out about it), and the 4 views letters we have on the various iterations of the bill for your reference. One letter is responding to Akaka's response to our views letter.

<< File: Whistleblower.pdf >> << File: 06-15-05 Ltr re S494 - Federal Employee Protection of Disclosures Act.pdf >> << File: S1229 - Fed Employee Protection of Disclosure Act.pdf >> << File: S1358 - Federal Employee Protection of Disclosures Act.pdf >> << File: S2628 - Federal Employee Protection of Disclosures Act.pdf >>

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Friday, June 30, 2006 3:44 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Cc: Gunn, Currie (SMO)
Subject: Monday

My folks are coming into town this weekend through the 4th. Unless a particular need crops up, I don't anticipate being in on Monday. But, I'll be easily reachable by bb & phone if necessary.

Gordon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:45 PM
To: Seidel, Rebecca
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

I'm terribly sorry about that. In my haste to get this to the right folks I neglected to notice the parenthetical. I will call [redacted] and ask him not to forward underlying email.

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Cc: Wilson, Karen L
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

I am assuming there is a lot of garbage that got into DOD Auth that we couldn't do much about. I am also guessing that the UC acceptance of this bill as an amendment took everyone off guard. Want to make sure everyone is aware that it passed as part of DOD Auth so that you can put it in your list of MUST REMOVES for conference. The whole Admin HATES this bill. I am attaching a copy of Sen Collins' press release (which is how we found out about it), and the 4 views letters we have on the various iterations of the bill for your reference. One letter is responding to Akaka's response to our views letter.

<< File: Whistleblower.pdf >> << File: 06-15-05 Ltr re S494 - Federal Employee Protection of Disclosures Act.pdf >> << File: S1229 - Fed Employee Protection of Disclosure Act.pdf >> << File: S1358 - Federal Employee Protection of Disclosures Act.pdf >> << File: S2628 - Federal Employee Protection of Disclosures Act.pdf >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:46 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO)
Subject: RE: Monday

I likewise may take some or all of Monday off depending on the circumstances here.

From: Todd, Gordon (SMO)
Sent: Friday, June 30, 2006 3:44 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Cc: Gunn, Currie (SMO)
Subject: Monday

My folks are coming into town this weekend through the 4th. Unless a particular need crops up, I don't anticipate being in on Monday. But, I'll be easily reachable by bb & phone if necessary.

Gordon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:48 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

[redacted]- Please do not send the underlying email around DOD, only the attachments.

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:38 PM
To: [redacted]@dodgc.osd.mil; 'Brett_C._Gerry@who.eop.gov'
Cc: Seidel, Rebecca
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

Both of you should be aware of this. Rebecca Seidel is our leg poc on this issue.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:32 PM
To: Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

Just when I thought this day couldn't get worse. See below. As you can see we have alerted WH (DOD should have been on top of this), and we are going to touch base with House and Senate folks to shore them up for conference.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:23 PM
To: 'Richard_E._Green@omb.eop.gov'; 'John_G._Knepper@omb.eop.gov'; 'Debbie_S._Fiddelke@who.eop.gov'
Cc: Wilson, Karen L
Subject: FW: Whistleblower bill passes Senate in Defense Auth bill

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:50 PM
To: Seidel, Rebecca
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

Done. He was v understanding but my sincerest apologies again.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:49 PM
To: Gorsuch, Neil M
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

Understandable. Ask him to delete my email to you, he can keep my email to OMB/WH leg, that explains everything. Thanks.

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 3:45 PM
To: Seidel, Rebecca
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

I'm terribly sorry about that. In my haste to get this to the right folks I neglected to notice the parenthetical. I will call [redacted] and ask him not to forward underlying email.

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 3:43 PM
To: Gorsuch, Neil M
Subject: RE: Whistleblower bill passes Senate in Defense Auth bill

Eek- wish you would have taken off my "DOD should have been on top of this"

From: Gorsuch, Neil M
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[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, June 30, 2006 3:54 PM
To: Gorsuch, Neil M[redacted]@dodgc.osd.mil
Subject: Re:

Congratulations,[redacted] on the official nomination, you[redacted] Once you're confirmed, you owe me and Neil a ride on an aircraft carrier and a nuclear sub.

----- Original Message -----
From:[redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To:[redacted] Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
Sent: Fri Jun 30 12:24:34 2006
Subject: RE:

Very much agree.

-----Original Message-----
From:[redacted] [mailto[redacted]@state.gov]
Sent: Friday, June 30, 2006 11:23
To: Neil.Gorsuch@usdoj.gov;[redacted]@dodgc.osd.mil
Subject: Re:

I recommend we think big on legislation, not take minimalist approach. This is an opportunity to pivot and put in place a more durable framework with regard to a range of issues.

----- Original Message -----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To:[redacted]@dodgc.osd.mil [redacted]@dodgc.osd.mil>;[redacted]
Sent: Fri Jun 30 09:49:53 2006
Subject: RE:

We're beginning to draft legislation and hope to get input from your respective shops soon, something I know some of us would've liked to have seen some time ago. I will look forward to [redacted] reaction....

-----Original Message-----
From: [redacted]@state.gov [mailto[redacted]@state.gov]
Sent: Friday, June 30, 2006 9:45 AM
To: Gorsuch, Neil M;[redacted]@dodgc.osd.mil
Subject: RE:

I keep waiting for my phone to ring, with[redacted] summoning me to come brief[redacted] again on it...

;-)

From: Jimenez, Frank, Mr, DoD OGC [mailto:jimenezf@dodgc.osd.mil]
Sent: Friday, June 30, 2006 9:41 AM
To: Waxman, Matthew; Neil.Gorsuch@usdoj.gov
Subject: RE:

Frankly, CA3 has gotten the most attention here. Field manual, detention directive, bracing for War Crimes Act prosecutions of senior government officials - you know, the usual. :)

I expected a total loss, and tried to prepare everyone. But it's still hard to go through, even if expected.

> -----Original Message-----
> From: Waxman, Matthew [mailto:WaxmanM@state.gov]
> Sent: Friday, June 30, 2006 09:38
> To: Neil.Gorsuch@usdoj.gov; Jimenez, Frank, Mr, DoD OGC Subject:
>
> wow. I really didn't expect the Court to go there (Common Art 3).
> What's the mood in your respective offices?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 4:04 PM
To: [redacted]@state.gov'; [redacted]@dodgc.osd.mil
Subject: RE:

Great news!!

-----Original Message-----
From: [redacted]@state.gov [mailto: [redacted]@state.gov]
Sent: Friday, June 30, 2006 3:54 PM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: Re:

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Sent: Fri Jun 30 09:49:53 2006
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What's the mood in your respective offices?

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Friday, June 30, 2006 4:08 PM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil
Subject: Re: The New Yorker: THE HIDDEN POWER

For some reason this email string is being blocked by our email firewall (see below). I'm assuming it's because I'm now targeted by a special NSA program...
Can you pls forward to [redacted]

----- Original Message -----
From: [redacted]@dodgc.osd.mil>
To: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>; [redacted]
Sent: Fri Jun 30 16:04:13 2006
Subject: RE: The New Yorker: THE HIDDEN POWER

The original message content contained a virus or was blocked due to blocking rules and has been removed.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 30, 2006 5:44 PM
To: Mercer, Bill (ODAG)
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Sure but we should probably rope in Jon Cohn too

From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Roehrkasse, Brian

From:	Roehrkasse, Brian
Sent:	Friday, June 30, 2006 6:31 PM
To:	Gorsuch, Neil M; Elwood, Courtney
Subject:	Fw: AP - Court ruling on military commissions weakens foundation for Bush's domestic spying program, legal experts say
Attachments:	tmp.htm
Importance:	Low

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: News.Update@WhiteHouse.Gov
To: Roehrkasse, Brian
Sent: Fri Jun 30 18:16:28 2006
Subject: AP - Court ruling on military commissions weakens foundation for Bush's domestic spying program, legal experts say

Court ruling on military commissions weakens foundation for Bush's domestic spying program, legal experts say

By PETE YOST

WASHINGTON (AP) A Supreme Court ruling striking down military commissions seriously weakens the foundation of the Bush administration's domestic surveillance program, critics said Friday.

A congressional resolution President Bush relied on in creating commissions is a key rationale for the National Security Agency to listen in on phone calls without first obtaining a judge's permission.

The court ``reinforces our view that the NSA operation was unlawful,'' said George Washington University law professor Jonathan Turley. ``The Supreme Court cut away the administration's principal legal argument for the NSA operation the congressional resolution following Sept. 11.''

Enacted a week after the Sept. 11 attacks, the congressional Authorization for Use of Military Force resolution cannot be seen as authorization for military commissions, the court ruled.

In January, the Justice Department invoked the resolution 92 times in a 42-page paper designed to quell the outcry that the White House had broken the law with its program of warrantless surveillance. A centerpiece in the administration's counter-attack against its critics, the DOJ entitled the white paper ``Legal Authorities Supporting the Activities of the National Security Agency Described By the President.''

Asked about the NSA program, a Justice Department official said after the ruling that ``I don't think the court had before it any other broader issues concerning the scope of the Authorization for Use of Military Force, except it clearly did recognize that it activated the president's war powers.''

The official said the implications of the decision beyond military commissions is ``something that we are studying and will be studying.'' The official spoke on condition of anonymity because the matter is under review.

In the aftermath of the high court's ruling, lawyers for the Bush administration asked a federal appeals court in Washington to order more briefing on the decision's effect on civil lawsuits filed on behalf of hundreds of detainees held at the military prison at Guantanamo Bay, Cuba.

The NSA program faces a court challenge and the Supreme Court ruling ``gives new vigor to arguments that the administration does not have the power it says it has,'' said Anthony Romero, executive director of the American Civil Liberties Union.

Romero said the language in Justice Anthony Kennedy's concurring opinion against military commissions ``almost could have been speaking about the NSA litigation,'' providing useful material for the ACLU's lawsuit against the warrantless surveillance.

In the military commission case, the Supreme Court said the congressional resolution was insufficient.

The Authorization for Use of Military Force resolution says that ``the president is authorized to use all necessary and appropriate force'' to prevent future acts of international terrorism against the United States.

In Thursday's ruling Justice Kennedy wrote that ``trial by military commission raises separation-of-powers concerns of the highest order.''

``Located within a single branch, these courts carry the risk that offenses will be defined, prosecuted, and adjudicated by executive officials without independent review,'' Kennedy added.

It was the absence of any review that fueled the outrage against the Bush administration's warrantless surveillance.

The White House decided not to obtain orders from the Foreign Intelligence Surveillance Court before eavesdropping on phone calls.

The Supreme Court setback for the White House comes amid a full frontal assault by the administration against The New York Times for revealing the existence of the NSA program as well as another secret government initiative accessing a huge databank of bank records.

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Court ruling on military commissions weakens foundation for Bush's domestic spying program, legal experts say

By PETE YOST

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To unsubscribe send a blank email to leave-whitehouse-news-wires-1294395V@list.whitehouse.gov

Amber.JMD

From: Amber.JMD
Sent: Friday, June 30, 2006 8:59 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Anderson, SC

From: AmberAlert-DOJ
Sent: Friday, June 30, 2006 8:59:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Anderson, SC
Auto forwarded by a Rule

AMBER ALERT:Anderson,SC VEH:2003 Burgundy 4D Pontiac Grand Am TAG:SC 687RBW-CHILD:B/F,6 months,27",18lbs SUSP:B/M,41 yrs,6',235lbs Hair:Blk CALL 864-260-4444
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1623

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Saturday, July 01, 2006 11:54 AM
To: Gorsuch, Neil M
Cc: Elston, Michael (ODAG)
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Fine w/me. Are they close to having options on paper on different approaches to utilization of this money? JMD mentioned something about utilization of contract employees. That is one potential approach, but one with a serious impact on the type of folks who will be interested. We also need to think through the duty stations for these folks whether they are contractors, term employees, or permanent employees. Next week is my window for finalizing the analysis for the DAG on options. I'll get CVH to set up something on our calendars w/ Jon. It does seem like this options analysis should come from Robert to the DAG.

Sent from my BlackBerry Wireless Handheld

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From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
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Subject: RE: Supplemental dollars for OIL and the strategic plan for it

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Can we meet to discuss this on Monday?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, July 01, 2006 3:45 PM
To: Swenson, Lily F; Cohn, Jonathan (CIV)
Subject: Fw: Supplemental dollars for OIL and the strategic plan for it

Where do we stand on this?

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
CC: Elston, Michael (ODAG)
Sent: Sat Jul 01 11:54:26 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

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Cohn, Jonathan (CIV)

From: Cohn, Jonathan (CIV)
Sent: Saturday, July 1, 2006 9:13 PM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Neil, our current thinking is as follows:

1. We should use the money for both support staff and attorneys. Our current preference is to obtain roughly 19 support staff and 38 attorneys. (Although we currently have only 1 support staff for almost 3 attys, we've found that we can become more efficient through more intensive use of the cheaper support staff.)

2. As for the attys, in a perfect world, we'd higher "permanent" lawyers. But jmd is still telling us that we can't count on the 9 million reoccurring in future years. Accordingly, to avoid having to fire people, we are contemplating hiring in 3 other ways: (a) contract attorneys, (b) term attorneys, (c) reimbursable details from elsewhere in the dept. The very-tentative proposal from oil was that we hire about 1/4 contract, 3/8 term, and 3/8 reimbursable details. We'd prefer to have some flexibility to adjust these ratios, so that if we saw that one source was working out better than the others, we would tap into that source more heavily. We are also looking at the possibility of paying a contractor for help beyond the 15-months during which this money is available; supposedly, we can pay now and receive the labor for up to a year beyond the 15 months. We are aware of the quality issues with hiring contract attys (or term attys or details for that matter), but as noted above, we can't hire permanent help w/o the risk of having to fire them; also, we can assign the contract attys the easier tasks, such as responding to stay motions and filing motions to dismiss for an obvious lack of jurisdiction (wrong court, untimely filing, etc).

3. I've asked oil to put together a draft options paper by noon monday. Odag hadn't previously indicated that they wanted such a paper -- indeed, as I think you know, odag failed to show up for the meeting they scheduled -- so I didn't ask oil for it until today. B/c of the holiday weekend, there is a chance I might not get s/thing of appropriate quality on monday. If this slips until wednesday, would that be ok?

If you have any questions, feel free to call: [redacted]

Thanks,
Jon

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Sat Jul 01 15:45:24 2006
Subject: Fw: Supplemental dollars for OIL and the strategic plan for it

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Swenson, Lily F

From: Swenson, Lily F
Sent: Sunday, July 2, 2006 4:43 AM
To: Gorsuch, Neil M
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

What Jon wrote I reported to Robt at Thurs staff.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Sat Jul 01 15:45:24 2006
Subject: Fw: Supplemental dollars for OIL and the strategic plan for it

Where do we stand on this?

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From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
CC: Elston, Michael (ODAG)
Sent: Sat Jul 01 11:54:26 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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Sent from my BlackBerry Wireless Handheld

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From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
Sent: Fri Jun 30 17:43:32 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Sure but we should probably rope in Jon Cohn too

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From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Amber.JMD

From: Amber.JMD
Sent: Sunday, July 02, 2006 7:39 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Palm Beach, FL

From: AmberAlert-DOJ
Sent: Sunday, July 02, 2006 7:39:01 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Palm Beach, FL
Auto forwarded by a Rule

AMBER ALERT:Palm Beach,FL CHILD:7 Black F 4 55lbs Eyes:Brown Hair:Black SUSPECT:44 Black F 5'3 140lbs Eyes:Black Hair:Brown CALL 561-845-4123
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1642

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 2:19 PM
To: Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

What's that?

Separately, Ken has asked if-when we can get together with Louise, me, you. What shall I say?

-----Original Message-----
From: Swenson, Lily F
To: Gorsuch, Neil M
Sent: Sun Jul 02 04:43:06 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

What Jon wrote I reported to Robt at Thurs staff.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 2:20 PM
To: Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Ah, see Jon's email now. Will be in touch w him

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From: Gorsuch, Neil M
To: Swenson, Lily F
Sent: Sun Jul 02 14:18:36 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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Full Name: Steve Engel
Last Name: Engel
First Name: Steve
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 5237
Washington, DC 20530

Business: 202-514-9700

E-mail: Steve.Engel@SMOJMD.USDOJ.gov
E-mail Display As: Steve.Engel@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163654

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 2:57 PM
To: Cohn, Jonathan (CIV); Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Gorsuch, Neil M; Swenson, Lily F
Sent: Sat Jul 01 21:13:00 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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1. We should use the money for both support staff and attorneys. Our current preference is to obtain roughly 19 support staff and 38 attorneys. (Although we currently have only 1 support staff for almost 3 attys, we've found that we can become more efficient through more intensive use of the cheaper support staff.)

2. As for the attys, in a perfect world, we'd higher "permanent" lawyers. But jmd is still telling us that we can't count on the 9 million reoccurring in future years. Accordingly, to avoid having to fire people, we are contemplating hiring in 3 other ways: (a) contract attorneys, (b) term attorneys, (c) reimbursable details from elsewhere in the dept. The very-tentative proposal from oil was that we hire about 1/4 contract, 3/8 term, and 3/8 reimbursable details. We'd prefer to have some flexibility to adjust these ratios, so that if we saw that one source was working out better than the others, we would tap into that source more heavily. We are also looking at the possibility of paying a contractor for help beyond the 15-months during which this money is available; supposedly, we can pay now and receive the labor for up to a year beyond the 15 months. We are aware of the quality issues with hiring contract attys (or term attys or details for that matter), but as noted above, we can't hire permanent help w/o the risk of having to fire them; also, we can assign the contract attys the easier tasks, such as responding to stay motions and filing motions to dismiss for an obvious lack of jurisdiction (wrong court, untimely filing, etc).

3. I've asked oil to put together a draft options paper by noon monday. Odag hadn't previously indicated that they wanted such a paper -- indeed, as I think you know, odag failed to show up for the meeting they scheduled -- so I didn't ask oil for it until today. B/c of the holiday weekend, there is a chance I might not get s/thing of appropriate quality on monday. If this slips until wednesday, would that be ok?

If you have any questions, feel free to call: 703-237-4734.

Thanks,
Jon

Sent from my BlackBerry Wireless Handheld

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 3:02 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Cohn, Jonathan (CIV); Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Great. I think later in the wk would be better to allow Jon and team to finalize the write up of their formal rec given the holiday. But if you don't mind proceeding wo the draft write up we could meet earlier as I think Jon and Lily have thought through these issues. All of course remains subject to Robert's final review and recommendation to ODAG.

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Cohn, Jonathan (CIV)

From: Cohn, Jonathan (CIV)
Sent: Sunday, July 2, 2006 3:47 PM
To: Gorsuch, Neil M
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Thank you, neil. As it turns out, we'll probably have something, at least for peter to see, by tomorrow. It will include a discussion of the california option. That said, weds (or later) probably still makes sense in case peter needs some time to review the proposal or things take longer than projected.

Jon

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Sun Jul 02 14:57:06 2006
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To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Mercer, Bill (ODAG)

From:	Mercer, Bill (ODAG)
Sent:	Monday, July 03, 2006 6:43 AM
To:	Gorsuch, Neil M; Elston, Michael (ODAG)
Cc:	Cohn, Jonathan (CIV); Swenson, Lily F
Subject:	RE: Supplemental dollars for OIL and the strategic plan for it

It would be useful to meet to discuss the memo if only to make sure that we are on the same page on structure and options. If Jon is out of town (Iowa, I believe), we may want to do this by e-mail. If you and Lily want to meet with us after the 9 AM mtg, that would also be good.

As a summary for our discussions, I see the following issues:

1. There is some urgency on this. We have the money now. We have folks in many components doing immigration briefs who have other work to do and wish to return to it on a full-time basis ASAP. We need to get folks on board to do the briefs without delay. This should be finalized this week. In the event the DAG has questions for Robert, we can't afford to get it later than this week.

2. The format of this memo will need to include a full recitation of the options available for utilization of this money. While the DAG will want a recommendation from Robert, he will also want a discussion of all of the other viable options, the pros and cons of each, and the ultimate reason why none of them are preferable to the recommended course.

3. In terms of options, at a minimum, the memo needs to address the following hiring options: (1) utilizing contractors, (2) hiring individuals on term appointments, and (3) hiring employees as permanent civil servants. As part of this discussion, it will be important to discuss costs, including costs associated with engaging contractors instead of federal employees. The memo will also need an assessment of space considerations. It will be important to know how much existing excess capacity OIL and/or the Civil Division has to dedicate to this expansion and where it is. It should also address the pros and cons of a nationwide deployment instead of a Washington-based deployment. For the past 18 months, DOJ lawyers in every state have authored the briefs about to be assigned to these new lawyers. It seems clear that there are advantages and disadvantages with employing people in these jobs in DC (e.g., training opportunities, efficiencies of administration, regular interaction with peers and supervisors), but the same can be said about a national deployment (e.g., recruitment of individuals who are interested in the work but unwilling to live in Washington).

I'm sure there are a range of other issues, but those are my initial thoughts.

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Cc: Cohn, Jonathan (CIV); Swenson, Lily F
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Cohn, Jonathan (CIV)

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To:	Mercer, Bill (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG)
Cc:	Swenson, Lily F
Subject:	Re: Supplemental dollars for OIL and the strategic plan for it

I'm in town. I had the foresight not to go to iowa. (And rachel is back, btw.)

I have a 9:45 meeting with peter, which I can miss if need be, and a 2:30 with courtney. Just let me know when/where you'd like to meet, and I can be there.

Thanks,
Jon

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Thanks,
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Sent from my BlackBerry Wireless Handheld

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To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
CC: Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
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Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Monday, July 3, 2006 9:00 AM
End:	Monday, July 3, 2006 9:30 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Monday, July 03, 2006 9:00 AM-9:30 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room, PHB 10300-A
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Gorsuch, Neil M

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To:	Elston, Michael (ODAG); Gorsuch, Neil M; Cohn, Jonathan (CIV)
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Subject:	RE: Supplemental dollars for OIL and the strategic plan for it

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3. In terms of options, at a minimum, the memo needs to address the following hiring options: (1) utilizing contractors, (2) hiring individuals on term appointments, and (3) hiring employees as permanent civil servants. As part of this discussion, it will be important to discuss costs, including costs associated with engaging contractors instead of federal employees. The memo will also need an assessment of space considerations. It will be important to know how much existing excess capacity OIL and/or the Civil Division has to dedicate to this expansion and where it is. It should also address the pros and cons of a nationwide deployment instead of a Washington-based deployment. For the past 18 months, DOJ lawyers in every state have authored the briefs about to be assigned to these new lawyers. It seems clear that there are advantages and disadvantages with employing people in these jobs in DC (e.g., training opportunities, efficiencies of administration, regular interaction with peers and supervisors), but the same can be said about a national deployment (e.g., recruitment of individuals who are interested in the work but unwilling to live in Washington).

I'm sure there are a range of other issues, but those are my initial thoughts.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 3:02 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Cohn, Jonathan (CIV); Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Great. I think later in the wk would be better to allow Jon and team to finalize the write up of their formal rec given the holiday. But if you don't mind proceeding wo the draft write up we could meet earlier as I think Jon and Lily have thought through these issues. All of course remains subject to Robert's final review and recommendation to ODAG.

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From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
CC: Elston, Michael (ODAG)
Sent: Sat Jul 01 11:54:26 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Fine w/me. Are they close to having options on paper on different approaches to utilization of this money? JMD mentioned something about utilization of contract employees. That is one potential approach, but one with a serious impact on the type of folks who will be interested. We also need to think through the duty stations for these folks whether they are contractors, term employees, or permanent employees. Next week is my window for finalizing the analysis for the DAG on options. I'll get CVH to set up something on our calendars w/ Jon. It does seem like this options analysis should come from Robert to the DAG.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)
Sent: Fri Jun 30 17:43:32 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Sure but we should probably rope in Jon Cohn too

From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, July 03, 2006 8:58 AM
To: Swenson, Lily F; Gorsuch, Neil M; Davis, Deborah J; Shaw, Aloma A; Senger, Jeffrey M; Todd, Gordon (SMO); McCallum, Robert (SMO)
Subject: FW: JOHO Lockers Status

See below.
-----Original Message-----
From [redacted]
Sent: Friday, June 30, 2006 6:35 PM
To: Lapara, Joan M
Cc: SPM; Horkan, Nancy
Subject: JOHO Lockers Status

ALL:

This e-mail is to clarify a misunderstanding about JOHO locker's contents at Main. The water did not intruded into any of the lockers; it only reached the areas underneath the benches attached to the lockers. Public Health officials advised that the contents of the lockers would not have to be disposed of. JOHO mangement has been advised of the same and once things quiet down in Main, we will make arrangements for JOHO members to come and retrieve their belongings.

Joan, please forward this e-mail to the executive officers.

[redacted]
Department Security Officer

Gunn, Currie (SMO)

Subject:	Canceled: OJP Bi-weekly Meeting
Location:	Main Room 5710
Start:	Tuesday, July 04, 2006 2:00 PM
End:	Tuesday, July 04, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Schofield, Regina; Tzitzon, Nicholas; Daley, Cybele; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=DavidWHagy; McGarry, Beth; Henneberg, Maureen; Herraiz, Domingo S.; Schmitt, Glenn; Flores, Robert; Gillis, John; Palma, Josephine; Leung, Jessica; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=MichelleBligh; Hailey, Robert; Walker, Rhea; Dudley, Brownie; Penn, Lynn; /O=USDOJ/OU=COAR/cn=Recipients/cn=WT/cn=TangentAStokely; Rost, Linda; McCallum, Robert (SMO); Gorsuch, Neil M; Mercer, Bill (ODAG); Senger, Jeffrey M; Schofield, Regina; Todd, Gordon (SMO); Schofield, Regina; Todd, Gordon (SMO); Todd, Gordon (SMO)
Importance:	High

When: Tuesday, July 04, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Canceled due to holiday.

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Regina Schofield-OJP, Nick Tziton-OJP, Cybele Daley-OJP, David Hagy-OJP, Beth McGarry-OJP, Maureen Henneberg-(A) BJS, Domingo Herraiz-BJA, Glenn Schmitt-NIJ, Robert Flores-OJJDP, John Gillis-OVC, Gordon Todd-OASG

POC: Currie Gunn x4-9500
OJP: Jo Palma - 5-9239

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	PHB - Team Room 2
Start:	Tuesday, July 04, 2006 5:00 PM
End:	Tuesday, July 04, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)

When: Tuesday, July 04, 2006 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB - Team Room 2

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

Note: Meeting time changed due to holiday

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	PHB - Team Room 2
Start:	Wednesday, July 05, 2006 5:00 PM
End:	Wednesday, July 05, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)

When: Wednesday, July 05, 2006 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB - Team Room 2

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

Note: Meeting time changed due to holiday

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Engel, Steve

From: Engel, Steve
Sent: Monday, July 03, 2006 10:44 AM
To: Gorsuch, Neil M
Subject: Read: Scalia, J.

Garre, Gregory G

From: Garre, Gregory G
Sent: Monday, July 03, 2006 11:00 AM
To: Gorsuch, Neil M
Subject: Read: Scalia, J.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 11:05 AM
To: 'William Kelley (William_K._Kelley@who.eop.gov)'
Subject: Draft legislation

We are working on a revised draft; should have it ready in a few hours. Can we share that draft with DOD, NSC, State? AG expressed a concern this am that we may need to have an Administration cleared position when Congress returns next week. Feel free to call to discuss - 305 1434 or [redacted]. Sorry to interrupt a rare day off!

Engel, Steve

From: Engel, Steve
Sent: Monday, July 3, 2006 11:12 AM
To: Gorsuch, Neil M
Subject: Read: Revised Draft

Engel, Steve

From: Engel, Steve
Sent: Monday, July 03, 2006 11:15 AM
To: Gorsuch, Neil M
Subject: Read: Revised Draft

Gunn, Currie (SMO)

Subject:	Updated: Civil Division Weekly Meeting
Location:	PHB - Conference Room 1 (Entrance Suite 1600)
Start:	Wednesday, July 05, 2006 10:00 AM
End:	Wednesday, July 05, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)

When: Wednesday, July 05, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB - Conference Room 1 (Entrance Suite 1600)

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

Note - meeting location change - thru elevator banks, enter double doors proceed left to Suite 1600. Conference room behind reception desk

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

William_K._Kelley@who.eop.gov

From: William_K._Kelley@who.eop.gov
Sent: Monday, July 3, 2006 11:40 AM
To: Gorsuch, Neil M
Cc: Harriet_Miers@who.eop.gov
Subject: Re: Draft legislation

I've communicated with Harriet about this (and am copying her on this email), and she is aware of the proposal. As of Friday, my understanding was that Josh wanted to have a WH coordinated process. Things might have changed, but Harriet would know about that and not me. If the AG doesn't want to wait for the WH to react/respond, then either he or you should call Harriet or Josh. Thanks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Kelley, William K.
Sent: Mon Jul 03 11:03:50 2006
Subject: Draft legislation

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Harriet_Miers@who.eop.gov

From: Harriet_Miers@who.eop.gov
Sent: Monday, July 03, 2006 11:45 AM
To: Gorsuch, Neil M; William_K._Kelley@who.eop.gov
Subject: RE: Draft legislation

Neil, you should visit with [redacted] who should be returning from a lengthy meeting here to discuss status on legislative front, etc. J.
[redacted] is chairing a government-wide process with a number of taskings, including to you all on the legislation drafting.

-----Original Message-----
From: Kelley, William K.
Sent: Monday, July 03, 2006 11:40 AM
To: 'Neil.Gorsuch@usdoj.gov'
Cc: Miers, Harriet
Subject: Re: Draft legislation

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Harriet_Miers@who.eop.gov

From: Harriet_Miers@who.eop.gov
Sent: Monday, July 3, 2006 11:46 AM
To: Gorsuch, Neil M; William_K._Kelley@who.eop.gov
Subject: RE: Draft legislation

Neil, by the way, if I could receive the revised draft whenever it is available for circulation out of the DOJ, that would be great. Thanks.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 12:00 PM
To: 'Harriet_Miers@who.eop.gov'; William_K._Kelley@who.eop.gov
Subject: RE: Draft legislation

Absolutely; we should have something ready for you by early this afternoon. I will also touch base with Steve B. Thank you, Neil

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From: Harriet_Miers@who.eop.gov [mailto:Harriet_Miers@who.eop.gov]
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Harriet_Miers@who.eop.gov

From: Harriet_Miers@who.eop.gov
Sent: Monday, July 3, 2006 12:08 PM
To: Gorsuch, Neil M
Subject: RE: Draft legislation

You bet. Thanks for all the hard work.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 03, 2006 11:59 AM
To: Kelley, William K.; Miers, Harriet
Subject: RE: Draft legislation

Absolutely; we should have something ready for you by early this afternoon. I will also touch base with Steve B. Thank you, Neil

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 1:50 PM
To: Cohn, Jonathan (CIV)
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

You going to be able to join the mtg?

-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); Gorsuch, Neil M
CC: Swenson, Lily F
Sent: Mon Jul 03 08:30:03 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

I believe lily is on leave.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
CC: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Jul 03 08:28:20 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

I am available.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Monday, July 03, 2006 8:16 AM
To: Gorsuch, Neil M; Cohn, Jonathan (CIV); Elston, Michael (ODAG)
Cc: Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Lily/Mike: can you do a 1:30?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M

From: Gorsuch, Neil M
To: Cohn, Jonathan (CIV); Mercer, Bill (ODAG); Elston, Michael (ODAG)
CC: Swenson, Lily F
Sent: Mon Jul 03 08:03:32 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

I have a 930 that should be over by 1015, and am free till 11; I am entirely open after noon.

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From: Cohn, Jonathan (CIV)
Sent: Monday, July 03, 2006 8:00 AM
To: Mercer, Bill (ODAG); Gorsuch, Neil M; Elston, Michael (ODAG)
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Subject: Re: Supplemental dollars for OIL and the strategic plan for it

I'm in town. I had the foresight not to go to iowa. (And rachel is back, btw.)

I have a 9:45 meeting with peter, which I can miss if need be, and a 2:30 with courtney. Just let me know when/where you'd like to meet, and I can be there.

Thanks,
Jon

Sent from my BlackBerry Wireless Handheld

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From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
CC: Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Jul 03 06:43:06 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

It would be useful to meet to discuss the memo if only to make sure that we are on the same page on structure and options. If Jon is out of town (Iowa, I believe), we may want to do this by e-mail. If you and Lily want to meet with us after the 9 AM mtg, that would also be good.

As a summary for our discussions, I see the following issues:

1. There is some urgency on this. We have the money now. We have folks in many components doing immigration briefs who have other work to do and wish to return to it on a full-time basis ASAP. We need to get folks on board to do the briefs without delay. This should be finalized this week. In the event the DAG has questions for Robert, we can't afford to get it later than this week.

2. The format of this memo will need to include a full recitation of the options available for utilization of this money. While the DAG will want a recommendation from Robert, he will also want a discussion of all of the other viable options, the pros and cons of each, and the ultimate reason why none of them are preferable to the recommended course.

3. In terms of options, at a minimum, the memo needs to address the following hiring options: (1) utilizing contractors, (2) hiring individuals on term appointments, and (3) hiring employees as permanent civil servants. As part of this discussion, it will be important to discuss costs, including costs associated with engaging contractors instead of federal employees. The memo will also need an assessment of space considerations. It will be important to know how much existing excess capacity OIL and/or the Civil Division has to dedicate to this expansion and where it is. It should also address the pros and cons of a nationwide deployment instead of a Washington-based deployment. For the past 18 months, DOJ lawyers in every state have authored the briefs about to be assigned to these new lawyers. It seems clear that there are advantages and disadvantages with employing people in these jobs in DC (e.g., training opportunities, efficiencies of administration, regular interaction with peers and supervisors), but the same can be said about a national deployment (e.g., recruitment of individuals who are interested in the work but unwilling to live in Washington).

I'm sure there are a range of other issues, but those are my initial thoughts.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Sunday, July 02, 2006 3:02 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Cohn, Jonathan (CIV); Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Great. I think later in the wk would be better to allow Jon and team to finalize the write up of their formal rec given the holiday. But if you don't mind proceeding wo the draft write up we could meet earlier as I think Jon and Lily have thought through these issues. All of course remains subject to Robert's final review and recommendation to ODAG.

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Gorsuch, Neil M
CC: Elston, Michael (ODAG)
Sent: Sat Jul 01 11:54:26 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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Sent from my BlackBerry Wireless Handheld

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From: Gorsuch, Neil M
To: Mercer, Bill (ODAG)

To: Mercer, Bill (ODAG)
Sent: Fri Jun 30 17:43:32 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Sure but we should probably rope in Jon Cohn too

From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Mercer, Bill (ODAG)

From:	Mercer, Bill (ODAG)
Sent:	Monday, July 03, 2006 1:50 PM
To:	Cohn, Jonathan (CIV); Elston, Michael (ODAG); Gorsuch, Neil M
Cc:	Swenson, Lily F
Subject:	Re: Supplemental dollars for OIL and the strategic plan for it

We are starting.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M
CC: Swenson, Lily F
Sent: Mon Jul 03 08:46:20 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Are you all in the patrick henry building?

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Monday, July 03, 2006 8:45 AM
To: Elston, Michael (ODAG); Gorsuch, Neil M; Cohn, Jonathan (CIV)
Cc: Swenson, Lily F
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

1:30 it is. How about the DAG conference room here on the 10th flr?

-----Original Message-----
From: Elston, Michael (ODAG)
Sent: Monday, July 03, 2006 8:28 AM
To: Mercer, Bill (ODAG); Gorsuch, Neil M; Cohn, Jonathan (CIV)
Cc: Swenson, Lily F
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

I am available.

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Thanks,
Jon

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
CC: Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Jul 03 06:43:06 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

It would be useful to meet to discuss the memo if only to make sure that we are on the same page on structure and options. If Jon is out of town (Iowa, I believe), we may want to do this by e-mail. If you and Lily want to meet with us after the 9 AM mtg, that would also be good.

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Sent: Sunday, July 02, 2006 3:02 PM
To: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Cc: Cohn, Jonathan (CIV); Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

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To: Gorsuch, Neil M
CC: Elston, Michael (ODAG)
Sent: Sat Jul 01 11:54:26 2006
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Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Sure but we should probably rope in Jon Cohn too

From: Mercer, Bill (ODAG)
Sent: Friday, June 30, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 1:54 PM
To: Mercer, Bill (ODAG)
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Where are you? We are sitting in odag conf rm 10300D and have been for awhile.

-----Original Message-----
From: Mercer, Bill (ODAG)
To: Cohn, Jonathan (CIV); Elston, Michael (ODAG); Gorsuch, Neil M
CC: Swenson, Lily F
Sent: Mon Jul 03 13:50:05 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

We are starting.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Mercer, Bill (ODAG); Elston, Michael (ODAG); Gorsuch, Neil M
CC: Swenson, Lily F
Sent: Mon Jul 03 08:46:20 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Are you all in the patrick henry building?

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Monday, July 03, 2006 8:45 AM
To: Elston, Michael (ODAG); Gorsuch, Neil M; Cohn, Jonathan (CIV)
Cc: Swenson, Lily F
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

1:30 it is. How about the DAG conference room here on the 10th flr?

-----Original Message-----
From: Elston, Michael (ODAG)
Sent: Monday, July 03, 2006 8:28 AM
To: Mercer, Bill (ODAG); Gorsuch, Neil M; Cohn, Jonathan (CIV)
Cc: Swenson, Lily F
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Subject: RE: Supplemental dollars for OIL and the strategic plan for it

I am available.

-----Original Message-----
From: Mercer, Bill (ODAG)
Sent: Monday, July 03, 2006 8:16 AM
To: Gorsuch, Neil M; Cohn, Jonathan (CIV); Elston, Michael (ODAG)
Cc: Swenson, Lily F
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Lily/Mike: can you do a 1:30?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Cohn, Jonathan (CIV); Mercer, Bill (ODAG); Elston, Michael (ODAG)
CC: Swenson, Lily F
Sent: Mon Jul 03 08:03:32 2006
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

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From: Cohn, Jonathan (CIV)
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I have a 9:45 meeting with peter, which I can miss if need be, and a 2:30 with courtney. Just let me know when/where you'd like to meet, and I can be there.

Thanks,
Jon

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To: Gorsuch, Neil M
Subject: Supplemental dollars for OIL and the strategic plan for it

Can we meet to discuss this on Monday?

Gunn, Currie (SMO)

Subject:	Interview w/Elisebeth Cook - OASG Deputy Interview
Location:	PHB - OASG Office
Start:	Wednesday, July 05, 2006 3:30 PM
End:	Wednesday, July 05, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 3:25 PM
To: Cohn, Jonathan (CIV)
Subject: RE: Supplemental dollars for OIL and the strategic plan for it

Fault was mine!

-----Original Message-----
From: Cohn, Jonathan (CIV)
Sent: Monday, July 03, 2006 2:57 PM
To: Gorsuch, Neil M
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

Well, if u had only shown up to the right room . . . :)

Sorry 'bout that.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>
Sent: Mon Jul 03 13:49:55 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

You going to be able to join the mtg?

-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Elston, Michael (ODAG); Mercer, Bill (ODAG); Gorsuch, Neil M
CC: Swenson, Lily F
Sent: Mon Jul 03 08:30:03 2006
Subject: Re: Supplemental dollars for OIL and the strategic plan for it

I believe lily is on leave.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
To: Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Gorsuch, Neil M
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Subject: Supplemental dollars for OIL and the strategic plan for it

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 3, 2006 4:27 PM
To: Bradbury, Steve
Subject: [redacted] comments

I'd like to run a few of his thoughts past you; some would considerably affect our drafting and I'd like your input.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 4:37 PM
To: Bradbury, Steve
Subject: RE: [redacted] comments

I can be v brief and would appreciate your guidance first if you have the chance- x51434

From: Bradbury, Steve
Sent: Monday, July 03, 2006 4:36 PM
To: Gorsuch, Neil M
Subject: RE: [redacted] comments

Yes, I'm available now. I haven't returned his call yet. I'll call him now, unless you think that you and I should talk before I do. Thx

---

From: Gorsuch, Neil M
Sent: Monday, July 03, 2006 4:27 PM
To: Bradbury, Steve
Subject: [redacted] comments

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Sampson, Kyle

Subject:	Meeting
Location:	Sampson's office
Start:	Wednesday, July 5, 2006 4:00 PM
End:	Wednesday, July 5, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sampson, Kyle
Required Attendees:	Mercer, Bill (ODAG); Gorsuch, Neil M; Goodling, Monica

When: Wednesday, July 05, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Sampson's office

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

Sampson, Kyle

Subject:	Meeting
Location:	Sampson's office
Start:	Wednesday, July 05, 2006 4:00 PM
End:	Wednesday, July 05, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Sampson, Kyle
Required Attendees:	Mercer, Bill (ODAG); Gorsuch, Neil M; Goodling, Monica

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Meeting Status:	Not yet responded
Organizer:	Sampson, Kyle
Required Attendees:	Gorsuch, Neil M; Mercer, Bill (ODAG); Goodling, Monica

When: Wednesday, July 05, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Sampson's office

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

I'd like to meet re OASG staffing.

From:	Sampson, Kyle
Sent:	Monday, July 03, 2006 6:35 PM
To:	Sampson, Kyle; Mercer, Bill (ODAG); Gorsuch, Neil M; Goodling, Monica
Subject:	Meeting
When:	Wednesday, July 05, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where:	Sampson's office

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, July 03, 2006 6:39 PM
To: Gorsuch, Neil M
Subject: Not read: Associate's Office

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, July 05, 2006 8:10 AM
To: Goodling, Monica
Subject: The Morning Update: 7/5/06

Good morning ~ I hope everyone had a great Independence Day. To see the President's remarks to the troops at Fort Bragg yesterday, please visit: http://www.whitehouse.gov/news/releases/2006/07/20060704.html.

In DOJ news, please welcome Sigal Mandelker, who re-joins the Department from DHS, as a Deputy Assistant Attorney General in the Criminal Division.

Best, Monica

****

<http://www.whitehouse.gov/>
JULY 5, 2006

This afternoon, President Bush will participate in a meeting with President Mikheil Saakashvili of Georgia.

1:15 pm:
EDT THE PRESIDENT participates in a Meeting with the President of Georgia
The White House | Washington, DC

President Bush Thanks Military In Independence Day Address At Fort Bragg. "'At this moment of vulnerability for the enemy, we will continue to strike their network,' Mr. Bush told 3,500 U.S. troops and others at an outdoor speech at Fort Bragg, home of the 82nd Airborne Division. 'We will disrupt their operations, and we will bring their leaders to justice.' ... 'On this day when we give thanks for our freedom, we also give thanks to the men and women who make our freedom possible,' Mr. Bush told the troops, perspiring in muggy, hot holiday weather. 'You are serving our country at a time when our country needs you. And because of your courage, every day is Independence Day in America <http://www.washingtontimes.com/national/20060704-115219-3735r.htm> .'" ("Bush Tells Troops To Keep Fighting," The Associated Press, 7/5/06)

Troops Fighting In Iraq And Afghanistan Gain U.S. Citizenship In Fourth Of July Ceremony. "In the main hall of Saddam Hussein's old hunting palace, which was converted years ago into the chief American command post in Iraq, sailors, Marines and soldiers from 27 countries swore an oath of allegiance to the United States. ... Casey lauded the 76 new Americans and thanked them for signing up to fight for their new country, and for Iraq. 'There is no doubt in my mind that you, the current generation of Americans, have the courage and perseverance to lead our nation to victory in its most complex struggle yet, the war on

terror
<http://www.latimes.com/news/nationworld/world/la-fg-iraqfourthjul04,0,6639123.story?coll=la-home-headlines> ,' Casey said. 'I am confident that we and our Iraqi colleagues will be successful in bringing security and stability here to Iraq.'" (Julian E. Barnes, "G.I.s Celebrate Independence Day In Iraq," Los Angeles Times, 7/5/06)

National Security Advisor Stephen Hadley Discusses North Korean Missile Tests. "'The Taepodong obviously was a failure - that tells you something about capabilities,' Stephen Hadley, President Bush's national security adviser, told reporters in a phone call on Tuesday evening in Washington
<http://www.nytimes.com/2006/07/05/world/asia/05missile.html?hp&ex=1152158400&en=341151245a9a55e6&ei=5094&partner=homepage> . ... In a statement issued late Tuesday night, the White House said the United States 'remains committed to a peaceful diplomatic solution' and sought implementation of a joint statement on denuclearization issued after a meeting with North Korea in September. But it said 'the North Korean regime's actions and unwillingness to return to the talks appears to indicate that the North has not yet made the strategic decision to give up their nuclear programs.'" (Norimitsu Onishi and David E. Sanger, "6 Missiles Fired By North Korea; Tests Protested," The New York Times, 7/5/06)

NASA Successfully Launches Space Shuttle Discovery Into Orbit. "The space shuttle Discovery split a nearly cloudless sky with thunder and fire on Tuesday afternoon and roared safely into orbit. ... NASA officials were jubilant about the liftoff. 'They don't get much better than this,' said NASA's administrator, Michael D. Griffin
<http://www.nytimes.com/2006/07/05/science/space/05shuttle.html?ei=5094&en=492d4dbdf3eafb7f&hp=&ex=1152158400&partner=homepage&pagewanted=print>
, who had been criticized for overruling engineering and safety officials last month after they recommended postponing the mission for more study of debris hazards. Asked whether he felt vindicated, Mr. Griffin replied that the successful liftoff simply represented good, solid engineering." (John Schwartz and Warren E. Leary, "Shuttle Makes A Safe Return To Space Flight," The New York Times, 7/5/06)

The Washington Post Profiles Treasury Department Undersecretary For Terrorism And Financial Intelligence Stuart A. Levey. "Levey is not the first head of the Treasury Department's unusual intelligence branch, but he is the most influential. ... 'Stuart is really thorough, and committed to turning over all the rocks and making sure that things are done in the proper way,' Crouch said. ... He said that Levey must 'convince not only other people in the government but other people in the world' to buy into new financial pressures on al-Qaeda and on unfriendly governments
<http://www.washingtonpost.com/wp-dyn/content/article/2006/07/04/AR2006070400982.html> . It is a task that Levey has grown into." (Dafna Linzer, "The Money Man In The Terror Fight," The Washington Post, 7/5/06)

The Wall Street Journal Notes Improved Relations Between The United States And India, Pakistan. "Weapons sales are a notoriously touchy subject, particularly in nuclear South Asia. Yet New Delhi barely raised a peep when the Bush Administration announced a $5 billion arms package to Islamabad on Monday. That's a tacit vote of confidence in the

strengthened U.S.-India relationship, and another step toward normalized relations with Pakistan. ... The untold story here is how Pakistan and India's bilateral relationships with the U.S. are developing independently from each another. That's a welcome change. <http://online.wsj.com/article/SB115204703879497624.html?mod=opinion_main_europe_asia> " (Editorial, "Plane Sense," The Wall Street Journal, 7/5/06)

State Department Legal Advisor Defends U.S. Renditions As Legal And Necessary. "Renditions are an important way to transfer terrorist suspects to their home countries, or to countries where they can be questioned, held or brought to justice for their suspected terrorist acts or other crimes. <http://online.wsj.com/page/2_0048.html> ... Renditions should not be used to transfer terrorist suspects to face torture, and the U.S. does not transport anyone, and will not transport anyone, for this purpose. We believe, however, that the international community must continue to be able to use renditions not only to bring terrorists to justice but also to prevent terrorist suspects from remaining at large to plan future attacks." (John B. Bellinger III, Letter To The Editor, "U.S. Renditions Of Terrorists Are Legal, Vital," The Wall Street Journal, 7/5/06)

President Bush Thanks Military on Independence Day at Fort Bragg, North Carolina <http://www.whitehouse.gov/news/releases/2006/07/20060704.html>

* Independence Day <http://www.whitehouse.gov/independenceday/>

Statement on North Korea Missile Launches
<http://www.whitehouse.gov/news/releases/2006/07/20060704-2.html>

Press Briefing on North Korea Missile Launch
<http://www.whitehouse.gov/news/releases/2006/07/20060704-1.html>

President Bush Signs H.R. 5403
<http://www.whitehouse.gov/news/releases/2006/07/20060703-1.html>

Executive Order: Establishing An Emergency Board to Investigate a Dispute Between Southeastern Pennsylvania Transportation Authority and Its Locomotive Engineers Represented by the Brotherhood of Locomotive Engineers and Trainmen
<http://www.whitehouse.gov/news/releases/2006/07/20060703-3.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/07/20060703-2.html>

Press Briefing on North Korea Missile Launch
<http://www.whitehouse.gov/news/releases/2006/07/20060704-1.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/07/20060703.html>

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, July 05, 2006 9:34 AM
To: Horvath, Jane (ODAG); Gorsuch, Neil M
Cc: Wilson, Karen L
Subject: FW: Government Management Subcommittee Hearing on FOIA

See below.

-----Original Message-----
From: [redacted]@mail.house.gov [mailto: [redacted]@mail.house.gov]
Sent: Wednesday, July 05, 2006 9:25 AM
To: Seidel, Rebecca
Subject: RE: Government Management Subcommittee Hearing on FOIA

Thanks for providing the Cornyn response to us. It is helpful. If you had a witness who could testify to what is included in that letter, as well as maybe add a little bit about what you have seen from the initial review of the agency plans, that would be beneficial to us. Please view our request for a hearing as a friendly request that will help us get the word out about what positive steps the Administration has taken with respect to FOIA, as well as what if any additional steps would further improve its implementation.

[redacted]

[redacted]
Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone: [redacted]
Fax: [redacted]
Email: [redacted]@mail.house.gov

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Friday, June 30, 2006 11:15 AM
To: [redacted]
Subject: RE: Government Management Subcommittee Hearing on FOIA

I will call you in a minute. Please take a look at the attached letter.

-----Original Message-----
[redacted]

Fro [redacted] house.gov [mai [redacted] ail.house.gov]
Sent: Friday, June 30, 2006 10:54 AM
To: Seidel, Rebecca
Subject: RE: Government Management Subcommittee Hearing on FOIA

Best number is [redacted]

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Friday, June 30, 2006 10:50 AM
To: [redacted]
Cc: Karen.L.Wilson@usdoj.gov
Subject: RE: Government Management Subcommittee Hearing on FOIA

[redacted] would like to discuss before you send the invite. I tried your number below, but it does not seem to be correct. What is best number to reach you at?
If you call me, my regular direct dial is being forwarded (as you know DOJ main is flooded, so I am in alternate location), but I don't have voicemail.
(and I don' thave cell signal here).

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From [redacted] @mail.house.gov [mailto [redacted] @mail.house.gov]
Sent: Friday, June 30, 2006 10:25 AM
To: Seidel, Rebecca
Subject: Government Management Subcommittee Hearing on FOIA

Rebecca -

I wanted to give you a heads up that we are planning to have a hearing to review the effectiveness of last year's Executive Order on FOIA and the agency FOIA improvement plans that come as a result of it. We would like to have a witness from DOJ who can discuss the EO and the implementation guidance, among other things. The hearing is currently scheduled for July 26, 2006 at 2pm in Room 2247 Rayburn. I will try to get a formal invitation letter drafted and out to you next week, but I wanted to make sure that you had as much advance notice as possible so you could start thinking about who a good witness would be. Let me know if you have any questions.

[redacted]
Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone [redacted]
Fax: [redacted]
Email [redacted] @mail.house.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 9:37 AM
To: Sampson, Kyle; Elwood, Courtney; Moschella, William; Mercer, Bill (ODAG)
Subject: JAGs

FYI - I must be channeling [redacted] He just called to pass along concerns expressed by his JAGs that they haven't yet seen a draft.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 9:37 AM
To: Seidel, Rebecca; Horvath, Jane (ODAG); Swenson, Lily F
Cc: Wilson, Karen L
Subject: RE: Government Management Subcommittee Hearing on FOIA

Adding Lily.

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From: Seidel, Rebecca
Sent: Wednesday, July 05, 2006 9:34 AM
To: Horvath, Jane (ODAG); Gorsuch, Neil M
Cc: Wilson, Karen L
Subject: FW: Government Management Subcommittee Hearing on FOIA

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[redacted]

[redacted]

Subcommittee on Government Management,
Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
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Subject: RE: Government Management Subcommittee Hearing on FOIA

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If you call me, my regular direct dial is being forwarded (as you know DOJ main is flooded, so I am in alternate location), but I don't have voicemail.
(and I don' thave cell signal here).

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Subject: Government Management Subcommittee Hearing on FOIA

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[redacted]

[redacted]

Subcommittee on Government Management,

Finance and Accountability
Committee on Government Reform
B-371C Rayburn House Office Building
Phone: [redacted]
Fax: [redacted]
Email: [redacted]@mail.house.gov

Elwood, Courtney

From: Elwood, Courtney
Sent: Wednesday, July 05, 2006 9:38 AM
To: Gorsuch, Neil M; Sampson, Kyle; Moschella, William; Mercer, Bill (ODAG)
Subject: RE: JAGs

Bradbury is going to discuss with Haynes.

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 9:37 AM
To: Sampson, Kyle; Elwood, Courtney; Moschella, William; Mercer, Bill (ODAG)
Subject: JAGs

FYI - I must be channeling [redacted]. He just called to pass along concerns expressed by his JAGs that they haven't yet seen a draft.

Shaw, Aloma A

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 28, 2004 10:00 AM
End:	Thursday, October 28, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX)

When: Occurs every 2 weeks on Thursday effective 10/28/2004 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Addition & Introduction of John DiCicco, Deputy Assistant AG

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Fred Murray, Tax

POC: Currie Gunn x4-9500

Brand, Rachel

From: Brand, Rachel
Sent: Wednesday, July 05, 2006 11:24 AM
To: Gorsuch, Neil M

Did you ever receive that civil justice rack-up that Rebecca Beynon had prepared for OMB?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 11:25 AM
To: Brand, Rachel; Todd, Gordon (SMO)
Subject: RE:

No; after multiple requests I asked Gordon to seek if he might be able to extract it. Adding him.

From: Brand, Rachel
Sent: Wednesday, July 05, 2006 11:24 AM
To: Gorsuch, Neil M
Subject:

Did you ever receive that civil justice rack-up that Rebecca Beynon had prepared for OMB?

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, July 5, 2006 11:28 AM
To: Gorsuch, Neil M; Brand, Rachel
Subject: RE:

Mike Moreland insists that they can't find it, under either Rebecca Beynon or Jay Leftkowitz's names.

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 11:25 AM
To: Brand, Rachel; Todd, Gordon (SMO)
Subject: RE:

No; after multiple requests I asked Gordon to seek if he might be able to extract it. Adding him.

From: Brand, Rachel
Sent: Wednesday, July 05, 2006 11:24 AM
To: Gorsuch, Neil M
Subject:

Did you ever receive that civil justice rack-up that Rebecca Beynon had prepared for OMB?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 5, 2006 11:46 AM
To: Todd, Gordon (SMO)
Subject: Want to grab lunch today?

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, July 05, 2006 11:47 AM
To: Gorsuch, Neil M
Subject: RE: Want to grab lunch today?

Can't - grabbing a bite with Beth.

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 11:46 AM
To: Todd, Gordon (SMO)
Subject: Want to grab lunch today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 5, 2006 11:50 AM
To: Todd, Gordon (SMO)
Subject: RE: Want to grab lunch today?

Good.

From: Todd, Gordon (SMO)
Sent: Wednesday, July 05, 2006 11:47 AM
To: Gorsuch, Neil M
Subject: RE: Want to grab lunch today?

Can't - grabbing a bite with Beth.

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 11:46 AM
To: Todd, Gordon (SMO)
Subject: Want to grab lunch today?

Gorsuch, Neil M

Subject:	Lunch with [redacted] Truman Foundation
Start:	Tuesday, July 18, 2006 12:00 PM
End:	Tuesday, July 18, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Wednesday, July 05, 2006 12:24 PM
To: Gorsuch, Neil M
Subject: FW: [redacted] moot

Neil,

Are you available for a moot to prepare [redacted] for his second appearance before the Senate Judiciary Committee at either of the times below:

Sunday, July 9: noon

Monday, July 10: 11am

We are looking for folks that are more familiar with the likely issues, torture, detainees, etc...

Kristi

Kristi Remington Macklin
Deputy Assistant Attorney General
Office of Legal Policy
Department of Justice
(202) 514-8356

Cohn, Jonathan (CIV)

From:	Cohn, Jonathan (CIV)
Sent:	Wednesday, July 5, 2006 12:28 PM
To:	Gorsuch, Neil M
Cc:	Cohn, Jonathan (CIV)
Subject:	Options Paper on OIL's receipt of $9 million
Attachments:	Options for OIL Supplemental.msg; Options for OIL supplemental -- Chart.msg

Neil, as promised, attached is an options paper on how to spend the $9 million that OIL received in the Supplemental. Also attached is a chart showing the budget requests that the Civil Division has made for OIL. If you have any questions, please let me know.

Thanks,
Jon

Cohn, Jonathan (CIV)

From:	Cohn, Jonathan (CIV)
Sent:	Wednesday, July 5, 2006 12:26 PM
To:	Cohn, Jonathan (CIV)
Subject:	Options for OIL Supplemental
Attachments:	Options for OIL Supplemental.doc

Options for Expenditure of $9 Million Appropriated to OIL in Supplemental

Background: In the Supplemental, PL 109-234. H.R.4939, the Civil Division's Office of Immigration Litigation (OIL) received $9 million "to meet additional caseload requirements resulting from increased border enforcement efforts of the Department of Homeland Security." The receipt of this money, which is available until the end of fiscal year 2007, raises two questions: (1) Should the Civil Division spend the money only on additional attorneys or also on support staff (paralegals and secretaries); and (2) to the extent that the Civil Division hires more attorneys, should it offer permanent positions or should it hire contract attorneys, term attorneys, and reimbursable details. Additionally, the Civil Division has been asked to consider the possibility of employing attorneys who live outside of Washington or even opening up a west coast office to handle immigration litigation in the Ninth Circuit.

Before answering these questions, however, it is worth noting that no use of the $9 million will end outsourcing, even for the 15 months during which the money is available. OIL is currently outsourcing roughly 200 briefs per month (despite operating at over-capacity), and SDNY is outsourcing another 200 briefs per month. Even if the newly acquired attorneys could perform as efficiently as OIL attorneys, who typically write a brief each week, OIL would need almost 100 new lawyers, the cost of which exceeds $9 million. Further, if the new hires operated at the pace of most new attorneys (or detailees), OIL would need 130-200 new lawyers. Finally, it is quite possible that the immigration workload will increase in future years, depending on, among other things, (1) any legislation that Congress enacts, (2) EOIR's increased productivity resulting from the $9 million that EOIR received in the Supplemental, and (3) any increase in enforcement efforts by DHS. Thus, the $9 million should not be viewed as an end to outsourcing, but simply as a critical means of lightening the load.

Issue 1: Attorneys or Support Staff. The first question is whether the Civil Division should hire only additional attorneys or also support staff, such as paralegals and secretaries. Although much of the Department's focus has been on the dearth of attorneys, the recent floodtide of immigration litigation has swamped all of OIL, including support personnel, which are an indispensable part of the office's operations. Not only does OIL rely on support staff for producing tables, making copies, and mailing filings, but OIL has effectively employed paralegals to draft motions and briefs. Because paralegals and secretaries are cheaper than attorneys, and because any task that is not performed by support staff would have to be completed by an attorney, the Civil Division recommends using some of the $9 million to hire additional paralegals and secretaries. Specifically, the Civil Division recommends hiring at least 15-20 support staff and 38-43 attorneys.[1]

Option A: Hiring only attorneys
Option B: Hiring both attorneys and support staff

[1] These numbers are based on the assumption that the Civil Division hires attorneys that average out at a "GS-14, Step 5." As explained below, if the Civil Division is able to hire less-experienced attorneys at the "GS-12, Step 1" level, then the Division could hire up to 30% more attorneys.

Issue 2: Permanent or Temporary Attorneys. The Justice Management Division has informed us that there is no assurance that Congress will continue to appropriate the $9 million in future fiscal years (either as an increase to base or otherwise). As a result, it is possible that anyone who is hired with the $9 million will have to be released at the end of fiscal year 2007. Although this may not be a significant problem for paralegals, many of whom are recent college graduates hired with the understanding that they will stay with the Division for only a limited period of time, it is a significant problem for attorneys. Typically no more than 5% of all OIL attorneys leave the office in a given year. Accordingly, we believe that it would be ill-advised to hire permanent attorneys on the hope that funding will materialize in the future. Indeed, making permanent offers could have an adverse effect on the rest of the Civil Division. The reduction-in-force rules are complicated, but chances are high that some of the newly hired OIL attorneys could "bump" attorneys from other parts of the Division, resulting in attorneys from, say, Federal Programs or Appellate losing their jobs.

Consequently, the Civil Division has explored the hiring of "temporary" attorneys. It has identified three options: (1) contract attorneys, (b) term appointments, and (c) reimbursable details hired from elsewhere in the government. The problem with all three is that the quality of the attorneys will likely be lower than if OIL could extend permanent offers. Even the details that OIL typically receives are less productive than OIL attorneys, either because immigration litigation is a complex subject that takes time to master or because the detailing office is not sending its best attorneys. Nonetheless, because of the uncertainty of funding in future years, the Civil Division recommends pursuing all three options. It hopes to mitigate quality issues by assigning the new attorneys easier tasks, such as opposing stay motions, filing straightforward motions to dismiss for lack of jurisdiction (ex: wrong court, untimely filing), and drafting briefs in the less complex cases.

In choosing among the three "temporary" options, several factors should be considered. The first is quality. Although, as noted, all three options are likely to present quality concerns, the detailing option is probably the least problematic, provided that OIL retains a "right of return" if the detailee proves ineffective. Detailees should be expected to produce three quality briefs per month, and if this goal cannot be met, then OIL should have the option of exchanging the detailee for another. Contract attorneys and term appointments are likely to present more significant quality issues. We expect the quality of the term appointments to be the lowest because we will likely face difficulty enticing high-caliber attorneys to accept a short-term job; however, the candidates might realize that there is a reasonable likelihood that future funding will become available, and thus they may accept a temporary assignment despite the risk of never being offered a permanent position.

A second consideration is cost. Depending on the salary paid to the new attorney or detailee, the cost of a term appointment or detail could be the same as the price of a contract attorney. However, the Civil Division could make every effort to hire attorneys (or acquire detailees) that are lower down on the GS scale. For instance, the Division

could investigate whether any unsuccessful applicants for the Honors Program or other recent graduates might be worth hiring. If a lawyer is fresh off a clerkship or has only one year of experience, the Department can bring him on board as a "GS-12, Step 1," at a salary of $65,048. If the lawyer comes to the Department directly from law school, he is a "GS-11, Step 1" and is paid $54,272.[2] By contrast, a "GS-14, Step 5" commands a salary of $103,594, and a "GS-15, Step 10," which is at the top of the GS scale, is paid $139,774.[3] To be sure, these amounts do not reflect the total cost of hiring an attorney. All things considered, a "GS-12, Step 1" costs the Division roughly $123,300 the first year -- $105,900 in recurring expenses (salary plus benefits), $4,700 for the background check, and $12,700 for other non-recurring expenses such as a desk, a chair, and a computer. Nonetheless, the hiring of attorneys with lower salaries would be an efficient use of the $9 million, provided that there is no decline in quality. By hiring exclusively "GS-12, Step 1" attorneys (which may not be possible, depending on who applies) instead of attorneys that average out at a "GS-14, Step 5," the Division could hire up to 30% more attorneys. Finally, it should be noted that there is a potential added cost of acquiring detailees: If the detailees currently live outside of Washington and would be expected to move to Washington for the detail, then the added per diem expense would make detailing a pricey alternative. Accordingly, the Civil Division advises that, if out-of-town detailees are used, they should remain in their current locations.

A third factor is space. Currently, OIL has room for only about 25 of the roughly 60 new hires (including support staff). However, the Civil Division has already been looking for additional facilities and will continue to do so in any event. Indeed, it is anticipated that OIL will have to vacate its current hub at National Place in the not-so-distant future. At any rate, an advantage of detailees is that some can likely remain in their current facilities, whether they work in Washington or elsewhere in the country. (A disadvantage of them doing so, of course, is that there will be less supervision and coordination.) Similarly, contract hires can continue to work from the contractor's site.

Finally, there are a couple of considerations unique to contract hires. On the downside, they cannot sign briefs or argue cases, so they will not be able to absorb as much work as other attorneys. On the upside, however, we can probably hire contract attorneys quicker and get them started sooner than term appointments and detailees.

All things considered, the Civil Division recommends hiring about 10 contract attorneys as soon as possible, so that there can be some immediate impact on workload, and then pursuing term appointments and detailees. Although we expect the detailees to be of higher quality than the applicants for a term appointment, it is worth exploring both options. If we find enough qualified candidates, the Civil Division would like to fill the remaining attorney spots with term appointments and detailees, and perhaps to eliminate

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[2] For the Division to extend an offer to such an attorney, the Department would have to waive the requirement that any such hires be done through the Honors Program.

[3] These numbers reflect Washington salaries. If the attorney works in another location, the salary may differ. For those areas where there is no "locality payment," a GS 11-1 is paid $46,189, a GS 12-1 is paid $55,360, a GS 14-5, is paid $88,165, and a GS 15-10 is paid $118,957.

the contract attorneys altogether. If we do not find enough qualified applicants, we will rely more heavily on the contracting option.

Option A:	Hiring permanent attorneys
Option B:	Hiring contract attorneys
Option C:	Hiring term appointment
Option D:	Hiring reimbursable details
Option E:	Hiring a combination of contract attorneys, term appointments, and reimbursable details

Issue 3: Relying on Attorneys Who Work Elsewhere in the Country. Irrespective of what kind of attorney is hired (term appointment, reimbursable detail, etc.), there is a question of where the attorney should be located. Currently, all OIL attorneys are based in Washington, but OIL has been outsourcing briefs to attorneys all across the country. Likewise, a new hire could be based in Washington or somewhere else.

There are three disadvantages to hiring attorneys who will not be located in Washington. First, it would likely reduce management oversight and consistency in litigating positions. Without regular face-to-face interactions, it would be more difficult for management to ensure that all attorneys are keeping abreast of changes in immigration law and interpreting the same statutes and the same precedents in the same way. OIL has already encountered some difficulties in maintaining consistent litigating positions as a result of outsourcing and other delegations of works to the United States Attorneys Offices. These problems would remain if OIL continued to send work to attorneys who live outside of Washington.

Second, training would become more difficult. Although OIL currently provides some training through the Justice Television Network and by traveling to locations outside of Washington, face-to-face training on a daily basis is the most effective way to get a new attorney up to speed. Needless to say, immigration law is exceedingly complex, and a new hire benefits greatly from being immersed in a team of experienced immigration litigators.

Third, dispersing OIL's workload could reduce the collegiality of the office. Despite the overwhelming surge in immigration litigation, OIL has remained a well-knit, cohesive unit with a consistently low attrition rate (roughly 5% per year). Dispersing OIL across the country could weaken the bonds that attorneys have to the office, perhaps resulting in the loss of experienced lawyers.

That said, it is likely worthwhile for OIL to consider candidates who live elsewhere in the country. Most of OIL's work is appellate litigation, which can generally be handled off-site. And although OIL might prefer to keep all of its work in Washington for the reasons stated above, OIL might find that it can acquire less-expensive attorneys in other locales. For instance, someone might be interested in joining the Department for $50,000 if he can remain in his hometown in, say, Denver, Colorado, but be unwilling to move to

Washington for that salary. In light of the sizable number of attorneys that OIL can hire with the $9 million, OIL should consider applicants from outside Washington.

It has also been suggested that OIL open up an office on the west coast. Two advantages have been cited for this proposal – first, OIL could save on travel expenses; and second, OIL could present a small cadre of attorneys who would appear in the Ninth Circuit on a regular basis. The Civil Division, however, recommends against opening up a west coast office. First, it would not save a significant amount of money. The postage cost in filing a brief is negligible, and fewer than 10% of all immigration cases proceed to oral argument. Moreover, OIL reduces travel expenditures by sending a single attorney to argue multiple cases at a time. As a result, in fiscal year 2005, OIL's travel expenses to the Ninth Circuit were only $218,000. These expenses would not be eliminated by opening up a west coast office because the Ninth Circuit holds argument in multiple locations: San Francisco, Pasadena, Seattle, Portland, and other locales (including Hawaii and Alaska). Even if OIL were to establish a west coast office, OIL would still have to pay for airfare, and the per diem rate is the same whether the attorney comes from California or Washington D.C.

Second, although some Ninth Circuit judges (including Chief Judge Schroeder and Judge Hawkins) have suggested that they would prefer to see the same attorneys appear before them on a regular basis, there is no valid reason for the Court to want these attorneys to live on the west coast. Even if the Department were to try to appease the Court by sending a small group of lawyers to argue all immigration cases before the Ninth Circuit, there is no reason why that group needs to live in California as opposed to Washington. Moreover, the group would not be a small one in light of the fact that half of all immigration cases are in the Ninth Circuit. Indeed, the west coast office would have to be roughly the same size as the Washington office (unless the west coast office did not have to write briefs, which would likely have a significant effect on morale for the rest of OIL). In any event, what the Court is probably most interested in is not seeing the same faces on every case, but rather seeing quality litigators on a regular basis. And there is no reason to believe that the west coast office would produce higher-quality advocates. Indeed, to the extent that the new office is less experienced in immigration law, it would probably produce less capable attorneys. Further, although Ninth Circuit case law may sometimes deviate from the jurisprudence of other courts, these distinctions do not warrant the creation of a whole new office. OIL attorneys generally face little difficulty learning the idiosyncrasies of the various circuits, and any marginal advantage in breeding Ninth Circuit specialists is overcome by the downside of screening out the rest of OIL – including its most accomplished attorneys – from all Ninth Circuit work. A critical case should be argued by the best attorney for that case, whether he lives in Washington or California. In any event, the creation of a west coast office would likely reduce management oversight, reduce the consistency in the Department's litigating positions, make training more difficult, and adversely affect morale for all the reasons discussed above. Accordingly, the Civil Division recommends against the creation of a west coast office.

Option A: Relying on attorneys who work outside of Washington

Option B: Creating a west coast office
Option C: Keeping all OIL work in Washington

Cohn, Jonathan (CIV)

From:	Cohn, Jonathan (CIV)
Sent:	Wednesday, July 5, 2006 9:04 AM
To:	Cohn, Jonathan (CIV)
Subject:	Options for OIL supplemental -- Chart
Attachments:	OIL Funding Status.wpd

-----Original Message-----
From: Zwick, Ken (CIV)
Sent: Sunday, July 02, 2006 1:49 PM
To: Cohn, Jonathan (CIV); Hussey, Thom (CIV); McConnell, David (CIV)
Subject: RE: Options for OIL supplemental

Jon: You may want to include this chart, which we gave to Lily when we met with her. It puts the $9 million in context with our current appropriations and the pending requests for increases. I think it will give the reader of the options paper a better sense of the big picture. Ken

Office of Immigration Litigation
Status of Funding Increases
June 23, 2006

FY 2006 Oct-June	FY2006 July-Sept	FY 2007	FY 2008
FY 2006 Appropriation: $5,795,000 58 positions (43 attorneys)		Permanent increase	Permanent increase
	Iraq/Katrina Supplemental Appropriation: $9,000,000 Will fund 39 attorneys, 19 support staff for 6 to 15 months (average 11 months)		Not a permanent increase. AG, OMB, Congress could make permanent.
		FY 2007 Request to Congress: Approved by House Approps. $9,566,000 114 positions (86 attorneys)	If enacted, would be permanent
			FY 2008 Request to AG: $5,145,000 59 positions (45 attorneys)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 1:36 PM
To: Cohn, Jonathan (CIV)
Cc: Swenson, Lily F
Subject: RE: Options Paper on OIL's receipt of $9 million

Looks like you've covered all the bases (including the sop to Colorado! Should that be Billings?!) . Absent some further thoughts from Lily, I'd say go ahead and ship this up for Robert's review.

From: Cohn, Jonathan (CIV)
Sent: Wednesday, July 05, 2006 12:28 PM
To: Gorsuch, Neil M
Cc: Cohn, Jonathan (CIV)
Subject: Options Paper on OIL's receipt of $9 million

Neil, as promised, attached is an options paper on how to spend the $9 million that OIL received in the Supplemental. Also attached is a chart showing the budget requests that the Civil Division has made for OIL. If you have any questions, please let me know.

Thanks,
Jon

Moschella, William

Subject:	Car to Senate side of the Capitol
Start:	Thursday, July 06, 2006 10:15 AM
End:	Thursday, July 06, 2006 10:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Bradbury, Steve; Gorsuch, Neil M

When: Thursday, July 06, 2006 10:15 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).

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

Moschella, William

Subject:	Return to 601 D
Start:	Thursday, July 06, 2006 12:05 PM
End:	Thursday, July 06, 2006 12:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Bradbury, Steve; Gorsuch, Neil M

When: Thursday, July 06, 2006 12:05 PM-12:15 PM (GMT-05:00) Eastern Time (US & Canada).

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

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 05, 2006 2:20 PM
To: Macklin, Kristi R
Subject: RE: [redacted] moot

Can do the 10th (and would ordinarily be able to the 9th, but we have visitors staying with us over the wkend). If you're looking for persons with expertise in those particular issues, folks with more knowledge than me might include [redacted] [redacted] and [redacted] at State, and perhaps [redacted] I am no expert in the infamous torture memos of the first administration but can try to bone up.

From: Macklin, Kristi R
Sent: Wednesday, July 05, 2006 12:24 PM
To: Gorsuch, Neil M
Subject: FW: [redacted] moot

Neil,

Are you available for a moot to prepare [redacted] for his second appearance before the Senate Judiciary Committee at either of the times below:

Sunday, July 9: noon

Monday, July 10: 11am

We are looking for folks that are more familiar with the likely issues, torture, detainees, etc...

Kristi

Kristi Remington Macklin
Deputy Assistant Attorney General
Office of Legal Policy
Department of Justice
(202) 514-8356

Gorsuch, Neil M

Subject:	Caucus Rm - Alvaro
Start:	Friday, July 14, 2006 12:30 PM
End:	Friday, July 14, 2006 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Nolan lunch
Start:	Thursday, July 20, 2006 12:00 PM
End:	Thursday, July 20, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Room 211 of the EEOB
Start:	Monday, July 10, 2006 11:00 AM
End:	Monday, July 10, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Swenson, Lily F

From:	Swenson, Lily F
Sent:	Wednesday, July 05, 2006 7:37 PM
To:	Orr, David M; Todd, Gordon (SMO); Gorsuch, Neil M; Seidel, Rebecca
Cc:	Theis, Richard P; Allen, Michael (JMD); Frisch, Stuart; Lofthus, Lee J
Subject:	Re: Current Status of FOIA Implementation Plans Code (310766)

[redacted] but am concerned with not having anyone from leadership there when folks are talking about the EO. I am going to add Gordon Todd to this email so that he can arrange either to attend or to have someone (Gorsuch, Epley, Horvath if she would not mind covering for me while [redacted] attend. Also adding Rebecca Seidel so that all parts of OLA are in the loop. Thanks.

-----Original Message-----
From: Orr, David M <David.M.Orr@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
CC: Theis, Richard P <Richard.P.Theis@SMOJMD.USDOJ.gov>; Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>; Frisch, Stuart <Stuart.Frisch@SMOJMD.USDOJ.gov>; Lofthus, Lee J <Lee.J.Lofthus@SMOJMD.USDOJ.gov>
Sent: Wed Jul 05 18:28:24 2006
Subject: FW: Current Status of FOIA Implementation Plans Code (310766)

Lily--

Just wanted you to be aware of the GAO entrance conference tomorrow regarding FOIA implementation plans/activities related to Exec Order, "Improving Agency Disclosure of Information." OIP (our audit contact is Tricia Wellman) has been invited. Not sure who from there will attend. I understand that Jane Horvath passed the information (GAO Qs and a copy of the EO) on to you, recognizing that it was not her issue. I will attend along with members of my staff responsible for audit liaison. Thought you would want to know of this. Let me know (w) 7-1841) or (cell) [redacted] if you have questions.

--David Orr

Preliminary Qs GAO sent us, which it plans to answer during its review:

Entrance July 6, 2006 at 10:00 am
1425 New York Ave. Suite 11050

1. What was the origin/trigger for the order? Whose idea was it?

2. What role did OIP/OMB play in its development?

3. What is the reason that 3 agencies (AID, DHS, State) haven't published their plans yet? Is OIP urging them to publish their plans?

4. Why was the definition of backlog in the order chosen and who chose it? What is your understanding of this definition? Were other definitions considered? On what specific date were agencies to measure their "baseline" backlog to be reduced?

5. What is OIP's opinion of agencies' plans overall and particularly their planned efforts to reduce the backlog? October DOJ report to OMB?

6. Is OIP aware that several agencies used other definitions of backlog?

7. Given that agencies' systems and annual reports don't track compliance with the 20-day definition, how is OIP/OMB going to measure progress in reducing their backlogs?

8. Is there a need for OIP/OMB to follow-up with certain agencies that either used the wrong definition and/or used the 20-day definition but had no outcomes/timetables for reducing their backlog?

9. Should OIP require agencies to track compliance with 20-day definition at least for next 2 years?

10. Is a consistent definition of backlog needed government-wide?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 8:14 AM
To: Todd, Gordon (SMO)
Cc: Swenson, Lily F
Subject: FW: Current Status of FOIA Implementation Plans Code (310766)

Are you going to attend, or is someone else?

-----Original Message-----
From: Swenson, Lily F
Sent: Wednesday, July 05, 2006 7:37 PM
To: Orr, David M; Todd, Gordon (SMO); Gorsuch, Neil M; Seidel, Rebecca
Cc: Theis, Richard P; Allen, Michael (JMD); Frisch, Stuart; Lofthus, Lee J
Subject: Re: Current Status of FOIA Implementation Plans Code (310766)

[redacted] but am concerned with not having anyone from leadership there when folks are talking about the EO. I am going to add Gordon Todd to this email so that he can arrange either to attend or to have someone (Gorsuch, Epley, Horvath if she would not mind covering for me while [redacted] attend. Also adding Rebecca Seidel so that all parts of OLA are in the loop. Thanks.

-----Original Message-----
From: Orr, David M <David.M.Orr@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
CC: Theis, Richard P <Richard.P.Theis@SMOJMD.USDOJ.gov>; Allen, Michael (JMD) <Michael.Allen@SMOJMD.USDOJ.gov>; Frisch, Stuart <Stuart.Frisch@SMOJMD.USDOJ.gov>; Lofthus, Lee J <Lee.J.Lofthus@SMOJMD.USDOJ.gov>
Sent: Wed Jul 05 18:28:24 2006
Subject: FW: Current Status of FOIA Implementation Plans Code (310766)

Lily--

Just wanted you to be aware of the GAO entrance conference tomorrow regarding FOIA implementation plans/activities related to Exec Order, "Improving Agency Disclosure of Information." OIP (our audit contact is Tricia Wellman) has been invited. Not sure who from there will attend. I understand that Jane Horvath passed the information (GAO Qs and a copy of the EO) on to you, recognizing that it was not her issue. I will attend along with members of my staff responsible for audit liaison. Thought you would want to know of this. Let me know (w) 7-1841) or (cell) [redacted] if you have questions.

--David Orr

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Entrance July 6, 2006 at 10:00 am
1425 New York Ave. Suite 11050

1. What was the origin/trigger for the order? Whose idea was it?

2. What role did OIP/OMB play in its development?

3. What is the reason that 3 agencies (AID, DHS, State) haven't published their plans yet? Is OIP urging them to publish their plans?

4. Why was the definition of backlog in the order chosen and who chose it? What is your understanding of this definition? Were other definitions considered? On what specific date were agencies to measure their "baseline" backlog to be reduced?

5. What is OIP's opinion of agencies' plans overall and particularly their planned efforts to reduce the backlog? October DOJ report to OMB?

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8. Is there a need for OIP/OMB to follow-up with certain agencies that either used the wrong definition and/or used the 20-day definition but had no outcomes/timetables for reducing their backlog?

9. Should OIP require agencies to track compliance with 20-day definition at least for next 2 years?

10. Is a consistent definition of backlog needed government-wide?

[redacted]@epamail.epa.gov

From: [redacted]@epamail.epa.gov
Sent: Thursday, July 06, 2006 8:51 AM
To: Gorsuch, Neil M
Subject: Happy 4th of July! belated

Hi Neil - and congratulations on your nomination! I had been thinking about calling you to reminisce a bit because, by my arithmetic, it's been [redacted] since we all first landed in DC and settled in for the 1st night at [redacted]. I vaguely remember seeing fireworks from the airplane.

Anyway, I see by google and the RM News that your hearing went well.
Has the Senate vote been scheduled yet? All I've been able to find on the latest is a business hearing 6/29.

I hope [redacted] and that the avalanche of moving details doesn't keep you from having a great adventure over the next few months.

Take care!

[redacted]
phone [redacted] // fax- [redacted]

Mailing Address
1200 Pennsylvania Ave, NW
[redacted]
Washington DC 20460

FEDEX/Courier
1025 F Street, NW
[redacted]
Washington DC 20004

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 9:33 AM
To: Shaw, Aloma A
Subject: Do we have any stationery?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 6, 2006 9:39 AM
To: Cook, Elisebeth C; Macklin, Kristi R
Subject: Thank yous
Attachments: Thank yous.doc

I'd like to send the attached thank you notes, but wanted to run them by you first. Thanks.

950 Pennsylvania Ave., N.W.
Room 5706
Washington, D.C. 20530
(202) 305-1434

July 4, 2006

Honorable Ken Salazar
United States Senate
Washington, D.C. 20510

Dear Senator Salazar:

Thank you very much for the taking the time and trouble to introduce me to the Senate Judiciary Committee at my recent hearing. It meant the world to me that both Senators from Colorado were present and your generous words of introduction were beyond kind. I will always be deeply grateful for them.

It is an enormous honor to be considered for the Tenth Circuit and, if confirmed, I would take the responsibility that comes with that honor earnestly and seriously. Each and every litigant deserves a fair shake and dispassionate consideration, something I would always strive to provide.

Thank you again for your kind words and consideration, as well as to Felicia and Sam for all their efforts. If there is anything further you require from me, please do not hesitate to call me at (202) 305-1434.

Sincerely yours,

Neil M. Gorsuch

950 Pennsylvania Ave., N.W.
Room 5706
Washington, D.C. 20530
(202) 305-1434

July 4, 2006

Honorable Wayne Allard
United States Senate
Washington, D.C. 20510

Dear Senator Allard:

Thank you very much for the taking the time and trouble to introduce me to the Senate Judiciary Committee at my recent hearing. It meant the world to me that both Senators from Colorado were present and your generous words of introduction were beyond kind. I will always be deeply grateful for them.

It is an enormous honor to be considered for the Tenth Circuit and, if confirmed, I would take the responsibility that comes with that honor earnestly and seriously. Each and every litigant deserves a fair shake and dispassionate consideration, something I would always strive to provide.

Thank you again for your kind words and consideration, as well as to Sean and Ryan for all their efforts. If there is anything further you require from me, please do not hesitate to call me at (202) 305-1434.

Sincerely yours,

Neil M. Gorsuch

950 Pennsylvania Ave., N.W.
Room 5706
Washington, D.C. 20530
(202) 305-1434

July 4, 2006

Honorable Lindsey Graham
United States Senate
Washington, D.C. 20510

Dear Senator Graham:

Thank you very much for the taking the time and trouble to chair my recent hearing before the Senate Judiciary Committee. It meant the world to me that you were present and your generous words of introduction were beyond kind. I will always be deeply grateful for them.

It is an enormous honor to be considered for the Tenth Circuit and, if confirmed, I would take the responsibility that comes with that honor earnestly and seriously. Each and every litigant deserves a fair shake and dispassionate consideration, something I would always strive to provide.

Thank you again for your kind words and consideration, as well as to Jim and Jen for all their efforts. If there is anything further you require from me, please do not hesitate to call me at (202) 305-1434.

Sincerely yours,

Neil M. Gorsuch

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, July 06, 2006 10:45 AM
To: Gorsuch, Neil M; Cook, Elisebeth C
Subject: Re: Thank yous

I would suggest that you wait until after your confirmation.

-----Original Message-----
From: Gorsuch, Neil M
To: Cook, Elisebeth C; Macklin, Kristi R
Sent: Thu Jul 06 09:38:44 2006
Subject: Thank yous

I'd like to send the attached thank you notes, but wanted to run them by you first. Thanks.

Moschella, William

Subject:	Canceled: Return to 601 D
Start:	Thursday, July 6, 2006 12:05 PM
End:	Thursday, July 6, 2006 12:15 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Moschella, William; Bradbury, Steve; Katsas, Gregory (CIV)Moschella, William; Bradbury, Steve; Katsas, Gregory (CIV)
Importance:	High

Moschella, William

Subject:	Canceled: Car to Senate side of the Capitol
Start:	Thursday, July 6, 2006 10:15 AM
End:	Thursday, July 6, 2006 10:30 AM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Moschella, William
Required Attendees:	Moschella, William; Bradbury, Steve; Katsas, Gregory (CIV)Moschella, William; Bradbury, Steve; Katsas, Gregory (CIV)
Importance:	High

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 11:45 AM
To: Sampson, Kyle
Subject: Free/want to grab a sandwich today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 11:49 AM
To: Sampson, Kyle
Subject: RE: Free/want to grab a sandwich today?

Glad to hear you're taking some much deserved time off!

From: Sampson, Kyle
Sent: Thursday, July 06, 2006 11:47 AM
To: Gorsuch, Neil M
Subject: RE: Free/want to grab a sandwich today?

Alas, I've got a lunch appt. And I'm out tomorrow and next week -- so let's grab lunch sometime thereafter.

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 11:45 AM
To: Sampson, Kyle
Subject: Free/want to grab a sandwich today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 6, 2006 12:08 PM
To: [redacted]@epamail.epa.gov'
Subject: RE: Happy 4th of July! belated

[redacted]

Wow, it has been [redacted] That's astonishing to think about. I do recall watching the fireworks from the plane and was telling [redacted] about it the other night, actually!

The hearing went fine, but of course it's just one step in a process. Neither the Committee nor the Senate has yet voted. And [redacted] says three bad things have to happen before anything good, so I've still got a long way to go. But you're certainly right that [redacted] So we remain hopeful, if cautious, about it all.

Saw [redacted] for lunch recently; [redacted] is such a kind and warm soul. Hope you and yours are well, and thank you so much for the kind e-mail.

Neil

-----Original Message-----
From: [redacted]@epamail.epa.gov [mailto: [redacted]@epamail.epa.gov]
Sent: Thursday, July 06, 2006 8:51 AM
To: Gorsuch, Neil M
Subject: Happy 4th of July! belated

Hi Neil - and congratulations on your nomination! I had been thinking about calling you to reminisce a bit because, by my arithmetic, it's been [redacted] since we all first landed in DC and settled in for the 1st night at [redacted] I vaguely remember seeing fireworks from the airplane.

Anyway, I see by google and the RM News that your hearing went well.
Has the Senate vote been scheduled yet? All I've been able to find on the latest is a business hearing 6/29.

I hope [redacted] are excited about moving to Denver and that the avalanche of moving details doesn't keep you from having a great adventure over the next few months.

Take care!

[redacted]
phone- [redacted] // fax [redacted]

Mailing Address
1200 Pennsylvania Ave, NW
[redacted]
Washington DC 20460

FEDEX/Courier
1025 F Street, NW
[redacted]
Washington DC 20004

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 6, 2006 12:08 PM
To: Todd, Gordon (SMO)
Subject: RE: Lunch plans today?

Nope; want to grab something now?

From: Todd, Gordon (SMO)
Sent: Thursday, July 06, 2006 12:05 PM
To: Gorsuch, Neil M
Subject: Lunch plans today?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 6, 2006 1:49 PM
To: Katsas, Gregory (CIV)
Subject: TVA v Dept of Energy

Please could you give me a call about the appeal rec. in this case? Thanks!

Otus2005, Ag

Subject:	Updated: Senior Management Meeting
Start:	Friday, July 07, 2006 8:30 AM
End:	Friday, July 07, 2006 9:00 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Friday, July 07, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room, RFK
DOJ: Paul McNulty, Robert McCallum, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Thursday, July 6, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Re: TVA v Dept of Energy

At Pres Personnel now, [redacted] Will call you later.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
Sent: Thu Jul 06 13:49:30 2006
Subject: TVA v Dept of Energy

Please could you give me a call about the appeal rec. in this case? Thanks!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, July 06, 2006 2:43 PM
Subject: VoiceMail Update

VoiceMail Update

The DOJ VoiceMail system is now fully operational for most users. However, there are still a significant number of people who are receiving their voicemails on the temporary Verizon voicemail system.

If you are currently still using the temporary Verizon voicemail system, please CONTINUE to do so.

The Voice Operations staff needs to transfer individual users back to the permanent system in an orderly fashion to ensure that critical voice mail messages on the temporary system are captured. We estimate that all transfers will be completed by July 21, 2006.

You will be notified by your established DOJ VoiceMail Point of Contact for guidance on when to discontinue use of the temporary Verizon voicemail system.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 2:47 PM
To: Katsas, Gregory (CIV)
Subject: RE: TVA v Dept of Energy

Glad to hear it! Thanks

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Thursday, July 06, 2006 2:34 PM
To: Gorsuch, Neil M
Subject: Re: TVA v Dept of Energy

At Pres Personnel now, [redacted]. [redacted] Will call you later.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
Sent: Thu Jul 06 13:49:30 2006
Subject: TVA v Dept of Energy

Please could you give me a call about the appeal rec. in this case? Thanks!

Gorsuch, Neil M

Subject:	[redacted]
Start:	Friday, August 04, 2006 12:00 PM
End:	Friday, August 04, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

O'Connor, Eileen J. (AAG/TAX)

From:	O'Connor, Eileen J. (AAG/TAX)
Sent:	Thursday, July 06, 2006 4:04 PM
To:	McCallum, Robert (SMO)
Cc:	Gorsuch, Neil M
Subject:	Retirement Celebration for [redacted]
Attachments:	Invitation to [redacted] Retirement Party.DOC

Dear Robert -

Thank you for letting [redacted] know in person this morning [redacted]. For the record, attached is the invitation to [redacted] retirement party. The artwork is an original watercolor that Ann Reid, a Tax Division Assistant Chief, created to honor [redacted] retirement.

[redacted]

On Thursday, July 27, 2006, in the Great Hall, friends and colleagues from [redacted] ong and distinguished career will come to express their gratitude, bid [redacted] a fond farewell, and wish [redacted] a happy and fulfilled retirement. I wish you could be with us then.

But I'm hoping that Neil can, and that you two share this invitation as appropriate within your office.

Best regards,

Lee O'C.

The Tax Division of the Department of Justice

Cordially invites you to a Retirement Party for

Claire Fallon

Deputy Assistant Attorney General

Thursday, July 27, 2006

3:30 to 6:00 p.m.

Remarks and Presentations 4:00 - 4:30

Great Hall

Main Justice, RFK Building

r.s.v.p. by 5:00 p.m., July 10 to Brendan Shelley 514-6722

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, July 6, 2006 4:10 PM
To:	Todd, Gordon (SMO); Engel, Steve; Swenson, Lily F
Cc:	McCallum, Robert (SMO)
Subject:	FW: Retirement Celebration for [redacted]
Attachments:	Invitation to [redacted] Retirement Party.DOC

FYI.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, July 06, 2006 4:04 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Retirement Celebration for [redacted]

Dear Robert -

Thank you for letting [redacted] know in person this morning [redacted]. For the record, attached is the invitation to [redacted] retirement party. The artwork is an original watercolor that Ann Reid, a Tax Division Assistant Chief, created to honor [redacted] retirement.

[redacted]

On Thursday, July 27, 2006, in the Great Hall, friends and colleagues from [redacted] long and distinguished career will come to express their gratitude, bid [redacted] a fond farewell, and wish [redacted] a happy and fulfilled retirement. I wish you could be with us then.

But I'm hoping that Neil can, and that you two share this invitation as appropriate within your office.

Best regards,

Lee O'C.

The Tax Division of the Department of Justice

Cordially invites you to a Retirement Party for

Claire Fallon

Deputy Assistant Attorney General

Thursday, July 27, 2006

3:30 to 6:00 p.m.

Remarks and Presentations 4:00 - 4:30

Great Hall

Main Justice, RFK Building

r.s.v.p. by 5:00 p.m., July 10 to Brendan Shelley 514-6722

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 06, 2006 4:10 PM
To: Shaw, Aloma A
Subject: FW: Retirement Celebration for [redacted]
Attachments: Invitation to [redacted] Retirement Party.DOC

Please could you add this to the calendar?

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, July 06, 2006 4:04 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Retirement Celebration for [redacted]

Dear Robert -

Thank you for letting [redacted] know in person this morning that you'd be out of town July 27. For the record, attached is the invitation to [redacted] retirement party. The artwork is an original watercolor that Ann Reid, a Tax Division Assistant Chief, created to hono[redacted] retirement.

[redacted]

On Thursday, July 27, 2006, in the Great Hall, friends and colleagues from [redacted] long and distinguished career will come to express their gratitude, bid [redacted] a fond farewell, and wish [redacted] a happy and fulfilled retirement. I wish you could be with us then.

But I'm hoping that Neil can, and that you two share this invitation as appropriate within your office.

Best regards,

Lee O'C.

The Tax Division of the Department of Justice

Cordially invites you to a Retirement Party for

Claire Fallon

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Thursday, July 27, 2006

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Remarks and Presentations 4:00 - 4:30

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Main Justice, RFK Building

r.s.v.p. by 5:00 p.m., July 10 to Brendan Shelley 514-6722

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 6, 2006 4:11 PM
To: O'Connor, Eileen J. (AAG/TAX); McCallum, Robert (SMO)
Subject: RE: Retirement Celebration for [redacted]

Thanks for passing this along. I will look forward to it.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, July 06, 2006 4:04 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Retirement Celebration for [redacted]

Dear Robert -

Thank you for letting [redacted] know in person this morning that you'd be out of town July 27. For the record, attached is the invitation to [redacted] retirement party. The artwork is an original watercolor that Ann Reid, a Tax Division Assistant Chief, created to honor [redacted] retirement.

[redacted]

On Thursday, July 27, 2006, in the Great Hall, friends and colleagues from [redacted] long and distinguished career will come to express their gratitude, bid [redacted] a fond farewell, and wish [redacted] a happy and fulfilled retirement. I wish you could be with us then.

But I'm hoping that Neil can, and that you two share this invitation as appropriate within your office.

Best regards,

Lee O'C.

Engel, Steve

From: Engel, Steve
Sent: Thursday, July 06, 2006 4:12 PM
To: Gorsuch, Neil M
Subject: Read: Retirement Celebration for DAAG Claire Fallon

Shaw, Aloma A

Subject:	Claire Fallon Retirement Ceremony
Location:	Great Hall
Start:	Thursday, July 27, 2006 3:30 PM
End:	Thursday, July 27, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, July 6, 2006 4:36 PM
To: Gorsuch, Neil M
Subject: Read: Retirement Celebration for DAAG Claire Fallon

Gunn, Currie (SMO)

Subject:	Canceled: OASG Staff Meeting
Location:	Main Room 5710
Start:	Thursday, July 6, 2006 5:00 PM
End:	Thursday, July 6, 2006 6:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)
Importance:	High

When: Thursday, July 06, 2006 5:00 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

7/6 Meeting canceled.

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, July 6, 2006 5:04 PM
To: Gorsuch, Neil M
Subject: Pls call [redacted]

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 06, 2006 5:14 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER WILSON COUNTY, TENNESSEE CORRECTIONS OFFICER SENTENCED TO LIFE IN PRISON ON CIVIL RIGHTS-RELATED CHARGES

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 6, 2006
WWW.USDOJ.GOV

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

FORMER WILSON COUNTY TENNESSEE CORRECTIONS OFFICER SENTENCED TO LIFE IN PRISON ON CIVIL RIGHTS-RELATED CHARGES

WASHINGTON — Former Wilson County, Tenn., corrections officer Patrick Marlowe was sentenced to life imprisonment today on charges relating to violations of the civil rights of inmates at the Wilson County Jail in Lebanon, Tenn., announced Assistant Attorney General for the Civil Rights Division Wan J. Kim, U.S. Attorney for the Middle District of Tennessee Jim Vines, and Special Agent in Charge of the Memphis Field Office of the Federal Bureau of Investigation My Harrison.

"It is appalling that an officer would engage in a concerted scheme to violently abuse those entrusted to his custody," said Assistant Attorney General Kim. "Those who abuse their position of trust are a stain on the vast majority of law enforcement officers who perform honorably under danger and difficult circumstances. The Department of Justice is committed to vigorously enforcing the criminal civil rights laws."

Marlowe was the supervisory corrections officer on the evening shift of the Wilson County Jail from 2001 to early 2003. He and fellow former officer Shane Conatser were convicted at trial of conspiring to violate the rights of inmates at the jail under 18 U.S.C. § 241 by assaulting and depriving them of medical care. Marlowe also was convicted of six separate counts of violating 18 U.S.C. § 242 by violating the civil rights of inmates at the jail by assaulting them or denying them medical care. These counts included convictions for assaulting inmate Walter Kuntz and for causing his death by denying him medical care after he was assaulted by Marlowe and another jailer.

In addition to Marlowe, seven other former Wilson County corrections officers have been convicted and sentenced on felony charges relating to violations of the civil rights of inmates at the Wilson County Jail.

In announcing the sentencing, Assistant Attorney General Kim commended the U.S. Attorney's Office for the Middle District of Tennessee, the Criminal Section of the Civil Rights Division, the FBI, the Tennessee Bureau of Investigation, and the District Attorney General's Office for the Fifteenth Judicial District for their involvement in this investigation and prosecution of alleged civil rights violations at the Wilson County Jail.

DOJ_NMG_ 0163802

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. Since FY 2001, the Division has convicted 30 percent more defendants in official misconduct prosecutions than in the preceding five fiscal years.

# # #

06-418

DOJ_NMG_ 0163803

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Stuart, Diane

From: Stuart, Diane
Sent: Thursday, July 6, 2006 5:25 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: Thank you

Good to see you today. I trust that the information about my leaving will be kept confidential. Kyle indicated that the announcement should be sometime after Labor Day. Thanks to you both - and I AM going to miss working with you!

DMS

Diane M. Stuart, Director
Office on Violence Against Women
U.S. Department of Justice
www.usdoj.gov/ovw

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, July 06, 2006 6:04 PM
To: Gorsuch, Neil M
Subject: Pls call Rachel Brand on her cell 5-5077

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, July 6, 2006 9:56 PM
To: Bounds, Ryan W (OLP); Gorsuch, Neil M
Subject: Re: EOIR's use of the $9 million supplemental

I'm out of the office and can't read attachments. EOIR sent me something on what they're proposing to do with the 9M but I couldn't access it. Adding Neil who might be able to tell you more. DHS is proposing a meeting next week to discuss with us. I can catch you up next week if you need it. Talking immigration with the 9th Cir. On monday back on Wed.

-----Original Message-----
From: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Thu Jul 06 15:27:38 2006
Subject: EOIR's use of the $9 million supplemental

Lily, do you know what EOIR will be doing with the $9m supplemental funding? Are they adding IJs--- and, either way, are the SWB IJs in a position to absorb significant enhancementing in ICE output?

Bounds, Ryan W (OLP)

From: Bounds, Ryan W (OLP)
Sent: Thursday, July 06, 2006 11:17 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: Re: EOIR's use of the $9 million supplemental

Lucky you! Thanks--I think I got what I needed from Ohlson.

-----Original Message-----
From: Swenson, Lily F
To: Bounds, Ryan W (OLP); Gorsuch, Neil M
Sent: Thu Jul 06 21:55:38 2006
Subject: Re: EOIR's use of the $9 million supplemental

I'm out of the office and can't read attachments. EOIR sent me something on what they're proposing to do with the 9M but I couldn't access it. Adding Neil who might be able to tell you more. DHS is proposing a meeting next week to discuss with us. I can catch you up next week if you need it. Talking immigration with the 9th Cir. On monday back on Wed.

-----Original Message-----
From: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Thu Jul 06 15:27:38 2006
Subject: EOIR's use of the $9 million supplemental

Lily, do you know what EOIR will be doing with the $9m supplemental funding? Are they adding IJs--- and, either way, are the SWB IJs in a position to absorb significant enhancementing in ICE output?

Sours, Raquel

From: Sours, Raquel
Sent: Friday, July 07, 2006 8:20 AM
To: McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)
Subject: Senior Management Meeting
Importance: High

If you aren't already in the building, please go to the visitor's center entrance for entry (10th street is not open now).

Thanks!

Subject: Senior Management Meeting

Start: Fri 7/7/2006 8:30 AM
End: Fri 7/7/2006 8:50 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Meeting organizer

Required Attendees: Otus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

AG's Conference Room, RFK
DOJ: Paul McNulty, Robert McCallum, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Bill Mercer, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

[redacted]@hotmail.com

From: [redacted]@hotmail.com
Sent: Friday, July 7, 2006 8:38 AM
To: Gorsuch, Neil M

I haven't got Alvaros email here. Please could you send it again...

On the road to retirement? Check out MSN Life Events for advice on how to get there! http://lifeevents.msn.com/category.aspx?cid=Retirement

White, Clifford

From: White, Clifford
Sent: Friday, July 07, 2006 9:43 AM
To: Goodling, Monica
Cc: Swenson, Lily F; Gorsuch, Neil M
Subject: UST - Region 7 (Houston)

Monica: I just received word that Region 7 UST [redacted] passed away early this morning. I have few details. By way of background, [redacted] is a long-term hold-over. We previously selected replacements, but each declined before or during the BI phase. We will work with the Houston office on necessary business details. I will recommend to you an interim replacement and prepare necessary paperwork in the very near future. This is the second UST to pass away in the last few months. Although [redacted] was not as vital a part of the USTP as the late [redacted], his passing is very sad and will provide another shock to the USTP staff. In addition to [redacted] and [redacted], we recently lost two senior career attorneys in the field. Also, [redacted] has been out for nearly a year because of [redacted]. We will communicate DOJ's sympathies and take other steps to show sensitivity to our staff. Thanks. Cliff

Goodling, Monica

From: Goodling, Monica
Sent: Friday, July 07, 2006 9:49 AM
To: White, Clifford
Cc: Swenson, Lily F; Gorsuch, Neil M; Washington, Tracy T
Subject: RE: UST - Region 7 (Houston)

Thank you for letting me know. Please express the condolences of the leadership team.

Tracy -- Can you please schedule some time next week for Cliff and I to get together? I have some resumes for the New York position and Kansas position that I'd like to discuss. Thanks.

From: White, Clifford
Sent: Friday, July 07, 2006 9:43 AM
To: Goodling, Monica
Cc: Swenson, Lily F; Gorsuch, Neil M
Subject: UST - Region 7 (Houston)

Monica: I just received word that Region 7 UST Richard Simmons passed away early this morning. I have few details. By way of background, Richard is a long-term hold-over. We previously selected replacements, but each declined before or during the BI phase. We will work with the Houston office on necessary business details. I will recommend to you an interim replacement and prepare necessary paperwork in the very near future. This is the second UST to pass away in the last few months. Although Richard was not as vital a part of the USTP as the late Mary May, his passing is very sad and will provide another shock to the USTP staff. In addition to Mary and Richard, we recently lost two senior career attorneys in the field. Also, a key manager in our Manhattan office has been out for nearly a year because of lung cancer and is now in a hospice. We will communicate DOJ's sympathies and take other steps to show sensitivity to our staff. Thanks. Cliff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:17 AM
To: Shaw, Aloma A
Subject: Regina schofield

Would you mind calling her office to confirm that we're on for lunch today and then, if so, reserve something at café atlantico? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:24 AM
To: Swenson, Lily F; Bounds, Ryan W (OLP)
Subject: RE: EOIR's use of the $9 million supplemental

I have heard much from OIL on its plans but haven't been personally involved with EOIR. Might Lee be the appropriate person given that this is a ODAG component?

-----Original Message-----
From: Swenson, Lily F
Sent: Thursday, July 06, 2006 9:56 PM
To: Bounds, Ryan W (OLP); Gorsuch, Neil M
Subject: Re: EOIR's use of the $9 million supplemental

I'm out of the office and can't read attachments. EOIR sent me something on what they're proposing to do with the 9M but I couldn't access it. Adding Neil who might be able to tell you more. DHS is proposing a meeting next week to discuss with us. I can catch you up next week if you need it. Talking immigration with the 9th Cir. On monday back on Wed.

-----Original Message-----
From: Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Thu Jul 06 15:27:38 2006
Subject: EOIR's use of the $9 million supplemental

Lily, do you know what EOIR will be doing with the $9m supplemental funding? Are they adding IJs--- and, either way, are the SWB IJs in a position to absorb significant enhancementing in ICE output?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:29 AM
To: Goodling, Monica
Subject: Robt's farewell

Just to confirm - the 19th works fine for Robt but he has an evening engagement w the Australian Ambassador and will need to leave the building by 5.30.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:30 AM
To: Goodling, Monica; White, Clifford
Cc: Swenson, Lily F; Washington, Tracy T; McCallum, Robert (SMO)
Subject: RE: UST - Region 7 (Houston)

I'm very sorry to hear this news. If there's anything OASG can or should do, please let me know.

From: Goodling, Monica
Sent: Friday, July 07, 2006 9:49 AM
To: White, Clifford
Cc: Swenson, Lily F; Gorsuch, Neil M; Washington, Tracy T
Subject: RE: UST - Region 7 (Houston)

Thank you for letting me know. Please express the condolences of the leadership team.

Tracy -- Can you please schedule some time next week for Cliff and I to get together? I have some resumes for the New York position and Kansas position that I'd like to discuss. Thanks.

From: White, Clifford
Sent: Friday, July 07, 2006 9:43 AM
To: Goodling, Monica
Cc: Swenson, Lily F; Gorsuch, Neil M
Subject: UST - Region 7 (Houston)

Monica: I just received word that Region 7 UST [redacted] passed away early this morning. I have few details. By way of background, [redacted] is a long-term hold-over. We previously selected replacements, but each declined before or during the BI phase. We will work with the Houston office on necessary business details. I will recommend to you an interim replacement and prepare necessary paperwork in the very near future. This is the second UST to pass away in the last few months. Although [redacted] was not as vital a part of the USTP as the late [redacted], his passing is very sad and will provide another shock to the USTP staff. In addition to [redacted] and [redacted], we recently lost two senior career attorneys in the field. Also, [redacted] has been out for nearly a year because of [redacted]. We will communicate DOJ's sympathies and take other steps to show sensitivity to our staff. Thanks. Cliff

Goodling, Monica

From: Goodling, Monica
Sent: Friday, July 07, 2006 10:33 AM
To: Beach, Andrew; Schreiber, Jayne; Gorsuch, Neil M
Subject: FW: Robt's farewell

Neil -- This won't be a problem as the AG is also looking to get out around the same time for travel.

Andy/Jayne -- Have we set a time for this reception on the 19th yet? If not, let's lock this down and let Neil know for Robert's planning purposes. Thanks. (Andy -- Kyle did sign off on the reception a few days back.)

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:29 AM
To: Goodling, Monica
Subject: Robt's farewell

Just to confirm - the 19th works fine for Robt but he has an evening engagement w the Australian Ambassador and will need to leave the building by 5.30.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:35 AM
To: Todd, Gordon (SMO)
Subject: You chairing Group II?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:03 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Any word on this?

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:17 AM
To: Shaw, Aloma A
Subject: Regina schofield

Would you mind calling her office to confirm that we're on for lunch today and then, if so, reserve something at café atlantico? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:07 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Is it at 11.30? That's what's indicated on my calendar but is that right? Do we have a reservation? If not, I am happy to call.

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 11:05 AM
To: Gorsuch, Neil M
Subject: RE: Regina schofield

Yes you are on for lunch today.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:03 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Any word on this?

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:17 AM
To: Shaw, Aloma A
Subject: Regina schofield

Would you mind calling her office to confirm that we're on for lunch today and then, if so, reserve something at café atlantico? Many thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:15 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Thx!

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 11:09 AM
To: Gorsuch, Neil M
Subject: RE: Regina schofield

It's 11:30, right after the Grp II meeting. Yes you have reservations under Regina's name.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:07 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Is it at 11.30? That's what's indicated on my calendar but is that right? Do we have a reservation? If not, I am happy to call.

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 11:05 AM
To: Gorsuch, Neil M
Subject: RE: Regina schofield

Yes you are on for lunch today.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:03 AM
To: Shaw, Aloma A
Subject: RE: Regina schofield

Any word on this?

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:17 AM
To: Shaw, Aloma A
Subject: Regina schofield

Would you mind calling her office to confirm that we're on for lunch today and then, if so, reserve something at café atlantico? Many thanks.

Goodling, Monica

From: Goodling, Monica
Sent: Friday, July 07, 2006 11:17 AM
To: Goodling, Monica
Subject: The Morning Update: 7/7/06

<http://www.whitehouse.gov/>
JULY 7, 2006

President Bush will spend today in Chicago, Illinois, highlighting America's strong economic growth and the American Competitiveness Initiative, which encourages American research and innovation. He will begin the morning by attending a breakfast with business leaders and will later make a statement followed by a press conference at the Museum of Science and Industry.

In the afternoon, President Bush will attend a Citizens for Judy Baar Topinka Lunch at the Drake Hotel. After, he will participate in a tour of Cabot Microelectronics Corporation and make a statement on the American Competitiveness Initiative.

8:35 am:
CDT THE PRESIDENT attends Breakfast with Business Leaders
TBA Location | Chicago, Illinois

9:50 am:
CDT THE PRESIDENT makes a Statement followed by a Press Conference
Museum of Science and Industry | Chicago, Illinois

12:15 pm:
CDT THE PRESIDENT attends Citizens for Judy Baar Topinka Lunch
The Drake Hotel | Chicago, Illinois

2:00 pm:
CDT THE PRESIDENT participates in a Tour of Cabot Microelectronics Corporation
Cabot Microelectronics Corporation | Aurora, Illinois

2:25 pm:
CDT THE PRESIDENT makes a Statement on the American Competitiveness Initiative
Cabot Microelectronics Corporation | Aurora, Illinois

President Bush Visits Chicago To Highlight Economic Growth. "Mr. Bush usually dips in and out of American cities in an hour or two, but his Chicago itinerary included an overnight stay, a dinner on Thursday night with local opinion leaders and Mayor Richard M. Daley, a breakfast on Friday with business leaders and an afternoon tour of a microelectronics plant in Aurora <http://www.nytimes.com/2006/07/07/washington/07bush.html?_r=1&oref=slogin> , in the home district of Representative J. Dennis Hastert, the

speaker of the House. The trip coincides with the release of the unemployment report for June, which is expected to show fairly strong job creation. Administration officials are using the visit to spotlight the economy." (Sheryl Gay Stolberg, "Bush Heads To Chicago To Spotlight Good Economic News," The New York Times, 7/7/06)

President Bush Discusses Response To North Korea Missile Launch. " 'We're working with our partners to make sure we work with one voice,' Bush said. <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/06/AR2006070600208.html> 'Diplomacy takes a while, particularly when you are dealing with a variety of partners.' Bush acknowledged uncertainty about North Korea's enigmatic leader, Kim Jong Il. 'We do know there's a lot of concentration camps. We do know the people are starving,' he said. 'But what we don't know is his intentions. And so I think we've got to plan for the worst and hope for the best.'" (Michael Abramowitz and Colum Lynch, "After Missiles, Calls Go Out," The Washington Post, 7/7/06)

President Bush Discusses Immigration On CNN's "Larry King Live." THE PRESIDENT: "I have always said we need a comprehensive plan <http://transcripts.cnn.com/TRANSCRIPTS/0607/06/lkl.01.html> . First and foremost, we've got to enforce the border, and that means, you know, more Border Patrol agents, better technology, ending catch and release. Secondly, that we've got to have interior enforcement. But I don't see how you can enforce a border unless you have a rational way for people to come here and work temporarily. ... We're not - the process is just beginning. This is a hard issue. ... I think there is a rational way forward that will accommodate people's needs, but there needs to be a lot of debate, a lot of discussion." (CNN's "Larry King Live," 7/6/06)

President Bush Celebrates Sixtieth Birthday. "'Let me just say this: It's a lot younger than you think,' the birthday boy said with a rueful smile. <http://news.yahoo.com/s/ap/20060706/ap_on_go_pr_wh/bush60th_birthday&printer=1;_ylt=AjLAa.03Orot0guEppxLEhYGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> There were surprises, a spilled secret, a song and congratulatory calls from afar. ... There was a surprise ending to the press conference when a reporter noted to Bush that it was his birthday, too. Bush invited the reporter, 54-year-old Raghubir Goyal of the India Globe and Asia Today, onto the stage for a birthday picture." (Terence Hunt, "Bush Marks Birthday With Calls, Surprises," The Associated Press, 7/6/06)

President Bush And U.S. Ambassador To Iraq Zalmay Khalilzad Discuss Progress In Iraq. "'On the one hand, he said they've got a good government - goal-oriented people who are working to achieve certain objectives,' Bush said <http://news.yahoo.com/s/ap/20060706/ap_on_go_pr_wh/bush_iraq&printer=1;_ylt=Apx7BUyrgSx.zhOdBhuXEEMGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> . ... 'Zal also said it's still a dangerous place because there are people there that will do anything to stop the progress of this new government.' Khalilzad, who went on the trip with al-Maliki, called Iraq the defining challenge of the time. 'What happens in Iraq will shape the future of the Middle East, and the future of the Middle East will shape the future of the world,' Khalilzad said." (Deb Riechmann, "Bush Concerned Neighbors Undermining Iraq," The Associated Press,

7/6/06)

United Nations Official Meets With Iraqi Leaders. "The No. 2 United Nations official met with top Iraqi leaders in Baghdad on Thursday to promote a new partnership meant to help muster political and economic support for Iraq's government, the U.N. said <http://news.yahoo.com/s/ap/20060706/ap_on_re_mi_ea/un_iraq&printer=1;_ylt=ApyE9qZFBgMAn2sIXf6ly24UewgF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> . ... The International Compact for Iraq was set up last month at the behest of Iraq's new prime minister, Nouri al-Maliki. Its main task at the start will be charting a five-year course to 'consolidate peace and pursue political, economic and social development,' the statement said." (Nick Wadhams, "Top U.N. Official Meets Iraqi Leaders," The Associated Press, 7/6/06)

Joint Iraqi-American Raid Nets Insurgent Leader. "Iraqi forces backed by U.S. aircraft battled militants in a Shiite stronghold of eastern Baghdad early Friday, killing or wounding more than 30 fighters and capturing an extremist leader who was the target of the raid, Iraqi and U.S. officials said. ... The U.S. military said the raid in Baghdad's Sadr City slum was launched to apprehend 'an insurgent leader responsible for numerous deaths of Iraqi citizens. <http://abcnews.go.com/International/wireStory?id=2163278> ' He was arrested after a gunbattle between Iraqi forces and insurgents, the U.S. said. There were no casualties among U.S. or Iraqi soldiers, the Americans said." (Sameer N. Yacoub, "Militant Leader Captured By Iraqi Forces," The Associated Press, 7/7/06)

Jobless Claims Fall And Housing Market Appears To Stabilize. "A gauge of future home sales turned upward, indicating that the housing market is stabilizing, and the country's job market showed healthy signs <http://online.wsj.com/article_print/SB115218817384999461.html> , according to economic data released yesterday. The National Association of Realtors' index for pending sales of existing homes increased at a seasonally adjusted annual rate of 1.3% to 113.4 in May from April's 111.9. ... Separately, the job market also received some positive news. Initial jobless claims decreased by 2,000 to a seasonally adjusted 313,000 in the week ended July 1, the Labor Department said." (Jeff Bater, "Housing Signals Some Stabilizing; Jobless Claims Fall," The Wall Street Journal, 7/7/06)

College Graduates Volunteer In Record Numbers For Service Organizations. "College graduates, shaped by such events as Sept. 11, Hurricane Katrina and the wars in Iraq and Afghanistan, are applying to service organizations such as AmeriCorps and the Peace Corps in record numbers. 'I do think that recent world events have heightened awareness among college students and their desire to do good,' <http://www.usatoday.com/printedition/news/20060707/1a_lede07.art.htm> says Elissa Clapp, vice president of recruitment at Teach for America. ... Interest in service work, which in some cases offers modest salaries, educational stipends or student loan deferments, is striking when the National Association of Colleges & Employers notes job prospects for seniors are up 14.5% over 2005." (Beth Walton, "Volunteer Rates Hit Record Numbers," USA Today, 7/7/06)

President Bush Participates in Press Availability with Canadian Prime Minister Stephen Harper
<http://www.whitehouse.gov/news/releases/2006/07/20060706.html>

* In Focus: Global Diplomacy
<http://www.whitehouse.gov/infocus/globaldiplomacy/>

President Bush Meets with Ambassador to Iraq Zal Khalilzad
<http://www.whitehouse.gov/news/releases/2006/07/20060706-1.html>

* In Focus: Renewal in Iraq
<http://www.whitehouse.gov/infocus/iraq/>

President's Remarks After Dinner with the Mayor of Chicago and Opinion Leaders
<http://www.whitehouse.gov/news/releases/2006/07/20060706-5.html>

President Bush to Welcome President of Romania to the White House
<http://www.whitehouse.gov/news/releases/2006/07/20060706-4.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/07/20060706-2.html>

Meyer, Joan E (ODAG)

From: Meyer, Joan E (ODAG)
Sent: Friday, July 07, 2006 11:19 AM
To: Gorsuch, Neil M

Neil, do you have recent letter Robert McCallum wrote to Congress on the Thompson memo. I never saw it.

By the way, you'll make an incredible judge. It is always great when someone gets an appointment on merit.

Joan

Joan E. Meyer
Senior Counsel
Office of the Deputy Attorney General
950 Pennsylvania Avenue, N.W.
Room 4129
Washington DC 20530
(202) 307-2510 / (202) 616-1239 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:24 AM
To: Meyer, Joan E (ODAG)
Cc: Todd, Gordon (SMO)
Subject: RE:

Joan - I'm adding Gordon b/c he has possession of the final version of the letter and can share it with you. As to the judge bit, you are clearly misguided but thank you for the kind words nonetheless! Neil

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From: Meyer, Joan E (ODAG)
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To: Gorsuch, Neil M
Subject:

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:35 AM
To: Stuart, Diane
Subject: Re: Thank you

Understood. We will keep the news under wraps - and hope in the meantime that you reconsider! We will miss your expert leadership.

-----Original Message-----
From: Stuart, Diane
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Sent: Thu Jul 06 17:24:34 2006
Subject: Thank you

Good to see you today. I trust that the information about my leaving will be kept confidential. Kyle indicated that the announcement should be sometime after Labor Day. Thanks to you both - and I AM going to miss working with you!

DMS

Diane M. Stuart, Director
Office on Violence Against Women
U.S. Department of Justice
www.usdoj.gov/ovw

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:36 AM
To: Gunn, Currie (SMO)
Subject: Re: Regina will meet you in your office here for to walk to lunch together.

Too late. I'm at the restaurant - would you mind conveying the message?

-----Original Message-----
From: Gunn, Currie (SMO)
To: Gorsuch, Neil M
CC: Shaw, Aloma A
Sent: Fri Jul 07 11:25:14 2006
Subject: Regina will meet you in your office here for to walk to lunch together.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:42 AM
To: Swenson, Lily F
Subject: [redacted]

I'm getting razzed by [redacted]abt dates but don't want to pressure you at all - should I just tell him it isn't going to work out?

McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Friday, July 7, 2006 12:44 PM
To:	Goodling, Monica
Cc:	Gorsuch, Neil M
Subject:	FW: Retirement Celebration fo[redacted]
Attachments:	Invitation to [redacted] Retirement Party.DOC

It would be nice if the AG could provide a letter of recognition fo[redacted] which could be read by Neil at [redacted] departure reception. [redacted] is a career deputy within TAX and has been a real pleasure to work with. Can you arrange that for me? I am going to be out of town on that day. I will be providing one as well. Robt.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, July 06, 2006 4:04 PM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Retirement Celebration fo[redacted]

Dear Robert -

Thank you for letting [redacted] know in person this morning that you'd be out of town July 27. For the record, attached is the invitation t[redacted] retirement party. The artwork is an original watercolor that Ann Reid, a Tax Division Assistant Chief, created to honor [redacted] retirement.

[redacted]

On Thursday, July 27, 2006, in the Great Hall, friends and colleagues from [redacted] ong and distinguished career will come to express their gratitude, bid [redacted] a fond farewell, and wish [redacted] a happy and fulfilled retirement. I wish you could be with us then.

But I'm hoping that Neil can, and that you two share this invitation as appropriate within your office.

Best regards,

Lee O'C.

The Tax Division of the Department of Justice

Cordially invites you to a Retirement Party for

Claire Fallon

Deputy Assistant Attorney General

Thursday, July 27, 2006

3:30 to 6:00 p.m.

Remarks and Presentations 4:00 - 4:30

Great Hall

Main Justice, RFK Building

r.s.v.p. by 5:00 p.m., July 10 to Brendan Shelley 514-6722

O'Leary, Karin

From: O'Leary, Karin
Sent: Friday, July 07, 2006 12:56 PM
To: Lofthus, Lee J; Lauria-Sullens, Jolene; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
Subject: FW: FY 08 Passback Review - Important Location Changes

All:

Please note the following **location changes** to the FY 08 Passback Review meetings that will be held **next week**:

- Monday July 10th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Tuesday July 11th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Wednesday July 12th 10 AM - 12 PM - Patrick Henry Building Room LL104
- Thursday July 13th 10 AM - 12 PM Patrick Henry Building Room LL104

Please do not hesitate to contact me or Shalini Parameswaran with any questions or concerns.
Thanks!

Karin

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 1:48 PM
To: McKeown, Matt (ENRD)
Subject: Your message

Sorry abt not being able to speak earlier; I just tried you unsuccessfully - when you free up please give me a ring at 305 1434 but it's no rush. Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 1:50 PM
To: Shaw, Aloma A
Subject: FW: FY 08 Passback Review - Important Location Changes

For calendar please

From: O'Leary, Karin
Sent: Friday, July 07, 2006 12:56 PM
To: Lofthus, Lee J; Lauria-Sullens, Jolene; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
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Thanks!

Karin

Meyer, Joan E (ODAG)

From: Meyer, Joan E (ODAG)
Sent: Friday, July 7, 2006 1:55 PM
To: Gorsuch, Neil M
Subject: RE:

Hey, someone told me you were nominated. If not, you should be.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 11:24 AM
To: Meyer, Joan E (ODAG)
Cc: Todd, Gordon (SMO)
Subject: RE:

Joan - I'm adding Gordon b/c he has possession of the final version of the letter and can share it with you. As to the judge bit, you are clearly misguided but thank you for the kind words nonetheless! Neil

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By the way, you'll make an incredible judge. It is always great when someone gets an appointment on merit.

Joan

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Washington DC 20530
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McKeown, Matt (ENRD)

From: McKeown, Matt (ENRD)
Sent: Friday, July 7, 2006 2:06 PM
To: Gorsuch, Neil M
Subject: RE: Your message

I just tried you again. Sorry to be so elusive.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 1:48 PM
To: McKeown, Matt (ENRD)
Subject: Your message

Sorry abt not being able to speak earlier; I just tried you unsuccessfully - when you free up please give me a ring at 305 1434 but it's no rush. Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 7, 2006 2:12 PM
To: McKeown, Matt (ENRD)
Subject: RE: Your message

No, it's my fault! What's your no?

From: McKeown, Matt (ENRD)
Sent: Friday, July 07, 2006 2:06 PM
To: Gorsuch, Neil M
Subject: RE: Your message

I just tried you again. Sorry to be so elusive.

From: Gorsuch, Neil M
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Elwood, Courtney

From: Elwood, Courtney
Sent: Friday, July 7, 2006 2:16 PM
To: Gorsuch, Neil M
Subject: FYI, MKK isn't interested; he's waiting for the McCain Administration apparently.

I left a message for MCH to call.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 2:21 PM
To: Meyer, Joan E (ODAG)
Subject: RE:

You're right about the nomination, but I'm less sure about your views on my abilities.

From: Meyer, Joan E (ODAG)
Sent: Friday, July 07, 2006 1:55 PM
To: Gorsuch, Neil M
Subject: RE:

Hey, someone told me you were nominated. If not, you should be.

From: Gorsuch, Neil M
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Cc: Todd, Gordon (SMO)
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Washington DC 20530
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Meyer, Joan E (ODAG)

From: Meyer, Joan E (ODAG)
Sent: Friday, July 7, 2006 2:22 PM
To: Gorsuch, Neil M
Subject: RE:

For a minute there, I thought we'd be lucky enough to keep you!

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 2:21 PM
To: Meyer, Joan E (ODAG)
Subject: RE:

You're right about the nomination, but I'm less sure about your views on my abilities.

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, July 7, 2006 2:22 PM
To: Todd, Gordon (SMO)
Cc: Gorsuch, Neil M
Subject: NIJ Nat. Conference/3000 officer saved

Gordon: Lunch remarks were tentatively scheduled for me at this conference on July 19th and I can no longer do it. Will you alert NIJ and see what they may want OASG to do about it since it will be after your departure. Maybe Neil can cover it and give the remarks. Robt.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, July 7, 2006 2:23 PM
To:	Elwood, Courtney
Subject:	RE: FYI, MKK isn't interested; he's waiting for the McCain Administration apparently.

No real surprise there, I guess. Suspect Mark will be at least a bit more open to it. Let me know if I can help.

-----Original Message-----
From: Elwood, Courtney
Sent: Friday, July 07, 2006 2:16 PM
To: Gorsuch, Neil M
Subject: FYI, MKK isn't interested; he's waiting for the McCain Administration apparently.

I left a message for MCH to call.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 7, 2006 2:38 PM
To: McCallum, Robert (SMO); Todd, Gordon (SMO)
Subject: RE: NIJ Nat. Conference/3000 officer saved

Happy to step in.

From: McCallum, Robert (SMO)
Sent: Friday, July 07, 2006 2:22 PM
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Cc: Gorsuch, Neil M
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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, July 7, 2006 2:56 PM
To: Todd, Gordon (SMO); Gorsuch, Neil M
Subject: RE: NIJ Nat. Conference/3000 officer saved

Also COPS conference on July 27th which I mentioned to Carl this am. Robt.

From: Todd, Gordon (SMO)
Sent: Friday, July 07, 2006 2:42 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: NIJ Nat. Conference/3000 officer saved

I had alerted them that you would be unlikey to do it, and they had already shopped it to ODAG, so it's covered.

They also need to replace you for the "do the right thing" event, which is further off, I think.

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Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Friday, July 07, 2006 2:58 PM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Subject: RE: NIJ Nat. Conference/3000 officer saved

The "Do the right thing" event is on Monday, July 17th from 11:30-12:30 in the "OJP Ballroom". Can you do that one?

From: McCallum, Robert (SMO)
Sent: Friday, July 07, 2006 2:56 PM
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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Friday, July 7, 2006 3:00 PM
To: Todd, Gordon (SMO); Gorsuch, Neil M
Subject: RE: NIJ Nat. Conference/3000 officer saved

I would prefer not as I am getting very pressed with State Dept stuff and the logistics of moving, winding up as much of my parents' estates as possible, etc. Please regret for me. Robt.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 7, 2006 3:01 PM
To: Todd, Gordon (SMO)
Subject: RE: NIJ Nat. Conference/3000 officer saved

I'm around if needed for these.

From: McCallum, Robert (SMO)
Sent: Friday, July 07, 2006 3:00 PM
To: Todd, Gordon (SMO); Gorsuch, Neil M
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Subject: RE: NIJ Nat. Conference/3000 officer saved

Happy to step in.

From: McCallum, Robert (SMO)
Sent: Friday, July 07, 2006 2:22 PM
To: Todd, Gordon (SMO)

Cc: Gorsuch, Neil M
Subject: NIJ Nat. Conference/3000 officer saved

Gordon: Lunch remarks were tentatively scheduled for me at this conference on July 19th and I can no longer do it. Will you alert NIJ and see what they may want OASG to do about it since it will be after your departure. Maybe Neil can cover it and give the remarks. Robt.

Otus2005, Ag

Subject:	Updated: PREP: Steve Bradbury Hearing
Start:	Monday, July 10, 2006 2:30 PM
End:	Monday, July 10, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Moschella, William; Bradbury, Steve; Moschella, William; Gorsuch, Neil M; Rowan, Patrick (ODAG); Clement, Paul D; Warwick, Brian; Seidel, Rebecca; Garre, Gregory G; Taylor, Jeffrey (OAG)Moschella, William; Bradbury, Steve; Moschella, William; Gorsuch, Neil M; Rowan, Patrick (ODAG); Clement, Paul D; Warwick, Brian; Seidel, Rebecca; Garre, Gregory G; Taylor, Jeffrey (OAG)

AG's Conference Room
AO: Jeff Taylor DOJ: Steve Bradbury, Will Moschella, Brian Warwick, Rebecca Seidel (OLA), Neil Gorsuch, Patrick Rowan, Paul Clement, Greg Garre (OSG)

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 3:05 PM
To: O'Leary, Karin; Hunter, Kelly C
Cc: Gorsuch, Neil M
Subject: FW: FY 08 Passback Review - Important Location Changes

We'd like to update Neil Gorsuch's calendar with the location changes for these series of meetings, however, because I am not the organizer, it does not allow me to make changes. The meetings were set up by Kelly Hunter. Is it possible for her to send updates with the correct locations?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 1:50 PM
To: Shaw, Aloma A
Subject: FW: FY 08 Passback Review - Important Location Changes

For calendar please

From: O'Leary, Karin
Sent: Friday, July 07, 2006 12:56 PM
To: Lofthus, Lee J; Lauria-Sullens, Jolene; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
Subject: FW: FY 08 Passback Review - Important Location Changes

All:

Please note the following **location changes** to the FY 08 Passback Review meetings that will be held **next week**:

- Monday July 10th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Tuesday July 11th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Wednesday July 12th 10 AM - 12 PM - Patrick Henry Building Room LL104
- Thursday July 13th 10 AM - 12 PM Patrick Henry Building Room LL104

Please do not hesitate to contact me or Shalini Parameswaran with any questions or concerns.
Thanks!

Karin

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 3:07 PM
To: O'Leary, Karin
Cc: Gorsuch, Neil M
Subject: RE: FY 08 Passback Review - Important Location Changes

Thank you. Otherwise, I'd have to delete her series and add my own. I don't want to do this because if there is a change of time or location, Neil would not receive any updates.

From: O'Leary, Karin
Sent: Friday, July 07, 2006 3:06 PM
To: Shaw, Aloma A; Hunter, Kelly C
Subject: RE: FY 08 Passback Review - Important Location Changes

Unfortunately, Kelly is not in today, which is why I sent the earlier email. I'll ask her to send the updates on Monday morning.

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 3:05 PM
To: O'Leary, Karin; Hunter, Kelly C
Cc: Gorsuch, Neil M
Subject: FW: FY 08 Passback Review - Important Location Changes

We'd like to update Neil Gorsuch's calendar with the location changes for these series of meetings, however, because I am not the organizer, it does not allow me to make changes. The meetings were set up by Kelly Hunter. Is it possible for her to send updates with the correct locations?

Thank you,
Aloma Shaw
Staff Assistant
Office of the Associate Attorney General

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 1:50 PM
To: Shaw, Aloma A
Subject: FW: FY 08 Passback Review - Important Location Changes

For calendar please

From: O'Leary, Karin
Sent: Friday, July 07, 2006 12:56 PM
To: Lofthus, Lee J; Lauria-Sullens, Jolene; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
Subject: FW: FY 08 Passback Review - Important Location Changes

All:

Please note the following **location changes** to the FY 08 Passback Review meetings that will be held **next week**:

- Monday July 10th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Tuesday July 11th 10 AM - 12 PM - Patrick Henry Building Room 6501B
- Wednesday July 12th 10 AM - 12 PM - Patrick Henry Building Room LL104
- Thursday July 13th 10 AM - 12 PM Patrick Henry Building Room LL104

Please do not hesitate to contact me or Shalini Parameswaran with any questions or concerns.
Thanks!

Karin

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Steve Bradbury Hearing
Start:	Monday, July 10, 2006 2:30 PM
End:	Monday, July 10, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 3:15 PM
To: Elwood, Courtney
Subject: Bradbury Prep

Just recvd an invite for a prep session for Steve's testimony for Monday at 230. Didn't see your name on the invite, and you may already know abt it, but I just wanted to make sure you're aware of it.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 7, 2006 3:17 PM
To: Warwick, Brian
Cc: Moschella, William

No doubt this is not exhaustive; you should check with Steve B. abt his wishes. But hopefully this is a start.

WHCO
Harriet Miers (Harriet_Miers@who.eop.gov)
William Kelley (William_K._Kelley@who.eop.gov)
Brett Gerry (bgerry@who.eop.gov)

OVP
Shannen W. Coffin (Shannen_W._Coffin@ovp.eop.gov)

NSC
Michael Allen (Michael_Allen@nsc.eop.gov)
John B. Wiegmann (John_B._Wiegmann@nsc.eop.gov)

DOD
[redacted]@dodgc.osd.mil)
[redacted]@dodgc.osd.mil)

State
[redacted]@state.gov)
[redacted]@state.gov)

DOJ
Kyle Sampson
Courtney Elwood
Jeff Taylor
Paul McNulty
Mike Elston
Pat Rowan
Paul Clement
Greg Garre
Peter Keisler
Greg Katsas
Carl Nichols
Rachel Brand
Tasia Scolinos

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 7, 2006 3:18 PM
To: Elwood, Courtney
Subject: RE: Bradbury Prep

Egad!!

From: Elwood, Courtney
Sent: Friday, July 07, 2006 3:17 PM
To: Gorsuch, Neil M
Subject: RE: Bradbury Prep

Yes, unfortunately [redacted] so we will be relying on you (and others) to help prepare Bradbury and the AG for their hearings. [redacted]. But we are confident that the AG's in good hands without us.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) [redacted]
(fax) 202.305.9687

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 3:15 PM
To: Elwood, Courtney
Subject: Bradbury Prep

Just recvd an invite for a prep session for Steve's testimony for Monday at 230. Didn't see your name on the invite, and you may already know abt it, but I just wanted to make sure you're aware of it.

Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, July 07, 2006 3:23 PM
To: Moschella, William
Cc: Warwick, Brian; Gorsuch, Neil M; Engel, Steve
Subject: Bradbury testimony circulation

Will: Your plan makes sense. Neil's list looks good, though I would suggest one addition, and that's at the State Dept: [redacted] email: [redacted]@state.gov. Thanks.

From: Moschella, William
Sent: Friday, July 07, 2006 3:20 PM
To: Bradbury, Steve
Cc: Warwick, Brian
Subject: FW:

Steve, given that the testimony is not yet done, I recommend that we circulate the testimony over the weekend to this group who will hopefully get comments back to us on Sunday. OLC can then incorporate the comments Sunday night and we can send to OMB for formal clearance Monday morning.

Is there anyone else who would need to see the testimony?

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 3:17 PM
To: Warwick, Brian
Cc: Moschella, William
Subject:

No doubt this is not exhaustive; you should check with Steve B. abt his wishes. But hopefully this is a start.

WHCO
Harriet Miers (Harriet_Miers@who.eop.gov)
William Kelley (William_K._Kelley@who.eop.gov)
Brett Gerry (bgerry@who.eop.gov)

OVP
Shannen W. Coffin (Shannen_W._Coffin@ovp.eop.gov)

NSC
Michael Allen (Michael_Allen@nsc.eop.gov)
John B. Wiegmann (John_B._Wiegmann@nsc.eop.gov)

DOD
[redacted] ([redacted]@dodgc.osd.mil)
[redacted] ([redacted]@dodgc.osd.mil)

State
[redacted]@state.gov)
[redacted]@state.gov)

DOJ
Kyle Sampson
Courtney Elwood
Jeff Taylor
Paul McNulty
Mike Elston
Pat Rowan
Paul Clement
Greg Garre
Peter Keisler
Greg Katsas
Carl Nichols
Rachel Brand
Tasia Scolinos

Peebler, Linda S

Subject:	Updated: Proposed FY08 Passback Review
Location:	Patrick Henry Bldg. Room 6501B
Start:	Monday, July 10, 2006 10:00 AM
End:	Monday, July 10, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Peebler, Linda S
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; O'Leary, Karin; Schultz, Walter H; Hertling, Richard
Optional Attendees:	Lapara, Joan M

When: Monday, July 10, 2006 10:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Patrick Henry Bldg. Room 6501B

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

Subject: Proposed FY08 Passback Review
When: Monday July 10, 2006
Time: 10:00am - 12:00pm
Where: Room 1103

Peebler, Linda S

Subject:	Updated: Proposed FY08 Passback Review
Location:	Patrick Henry Bldg. Room 6501B
Start:	Tuesday, July 11, 2006 10:00 AM
End:	Tuesday, July 11, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Peebler, Linda S
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; O'Leary, Karin; Hertling, Richard
Optional Attendees:	Lapara, Joan M

When: Tuesday, July 11, 2006 10:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Patrick Henry Bldg. Room 6501B

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

Subject: FY08 Budget Overview
When: Tuesday, July 11, 2006
Time: 10:00am - 12:00pm
Where: Room 6501B

Peebler, Linda S

Subject:	Updated: Proposed FY08 Passback Review
Location:	PHB LL104
Start:	Wednesday, July 12, 2006 10:00 AM
End:	Wednesday, July 12, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Peebler, Linda S
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; O'Leary, Karin; Schultz, Walter H; Hertling, Richard
Optional Attendees:	Lapara, Joan M

When: Wednesday, July 12, 2006 10:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB LL104

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

Subject: FY08 Budget Overview
When: Wednesday, July 12, 2006
Time: 10:00am - 12:00pm
Where: Room LL104 PHB

Peebler, Linda S

Subject:	Updated: Proposed FY08 Passback Review
Location:	PHB LL104
Start:	Thursday, July 13, 2006 10:00 AM
End:	Thursday, July 13, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Peebler, Linda S
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; O'Leary, Karin; Hertling, Richard
Optional Attendees:	Lapara, Joan M

When: Thursday, July 13, 2006 10:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB LL104

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

Subject: FY08 Budget Overview
When: Thursday, July 13, 2006
Time: 10:00am - 12:00pm
Where: Room LL104 PHB

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 4:05 PM
To: Shaw, Aloma A
Cc: Macklin, Kristi R
Subject: Monday

Aloma - Please could you arrange for a car for 1045 Monday am to the White House? Return at 12.15, if possible. Thanks!

Kristi - please feel free to join and let others know

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 7, 2006 4:25 PM
To: Gorsuch, Neil M
Subject: Read: Monday

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 7, 2006 4:27 PM
To: Gorsuch, Neil M
Cc: Macklin, Kristi R
Subject: RE: Monday

I've schedule the car to and from the WH for Monday.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 4:05 PM
To: Shaw, Aloma A
Cc: Macklin, Kristi R
Subject: Monday

Aloma - Please could you arrange for a car for 1045 Monday am to the White House? Return at 12.15, if possible. Thanks!

Kristi - please feel free to join and let others know

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, July 7, 2006 4:31 PM
To:	Gorsuch, Neil M; Shaw, Aloma A
Cc:	Macklin, Kristi R
Subject:	Re: Monday

Thx! Will it take us from patrick henry?

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
CC: Macklin, Kristi R
Sent: Fri Jul 07 16:04:42 2006
Subject: Monday

Aloma - Please could you arrange for a car for 1045 Monday am to the White House? Return at 12.15, if possible. Thanks!

Kristi - please feel free to join and let others know

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 07, 2006 4:31 PM
To: Gorsuch, Neil M
Subject: RE: Monday

Yes.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 4:31 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Cc: Macklin, Kristi R
Subject: Re: Monday

Thx! Will it take us from patrick henry?

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
CC: Macklin, Kristi R
Sent: Fri Jul 07 16:04:42 2006
Subject: Monday

Aloma - Please could you arrange for a car for 1045 Monday am to the White House? Return at 12.15, if possible. Thanks!

Kristi - please feel free to join and let others know

Shaw, Aloma A

Subject:	Car from WH to PHB
Start:	Monday, July 10, 2006 12:15 PM
End:	Monday, July 10, 2006 12:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Lauria-Sullens, Jolene

From: Lauria-Sullens, Jolene
Sent: Friday, July 07, 2006 4:46 PM
To: O'Leary, Karin; Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
Subject: RE: FY 08 Passback Review - Important Location Changes
Attachments: FY08 leadership briefing schedule.xls

To All:

Attached is the schedule for next week. I just finished reviewing the analysts recommendations and I have to say--I am amazed at all that was able to get done, given the excitement of the past two weeks, and the limited working conditions. I know you all will be pleasantly surprised at the level of work effort, as I was.

Karin and Walt kept the FY08 process on schedule so that we can meet the DAG's commitment to components to have their passback on the 17th, and appeal meetings following that. I just wanted to note what an amazing effort this was!!!!

We will bring the meeting materials Monday morning. Note on the schedule below, we have things staged based on the number of items, to conclude by Wed---leaving Thursday for overflow. I think we will need some time on Thursday, but my goal is to try not to use it.

From: O'Leary, Karin
Sent: Friday, July 07, 2006 12:56 PM
To: Lofthus, Lee J; Lauria-Sullens, Jolene; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; Hertling, Richard
Cc: Parameswaran, Shalini; Lapara, Joan M; Washington, Tracy T; Walker, Shelia M; Shaw, Aloma A; Henderson, Charles V; Keasley, Monica (ODAG); Cardwell, Christine; Barksdale, Gwen
Subject: FW: FY 08 Passback Review - Important Location Changes

All:

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Please do not hesitate to contact me or Shalini Parameswaran with any questions or concerns.
Thanks!

Karin

U.S. Department of Justice

FY 2008 Budget Requests
Leadership Staff Briefings -- Results of JMD Review and Recommendations

Briefing Schedule

DAY 1 - Monday, July 10, 10:00 am - 12:00 pm, PHB 6501B:

Child Exploitation
Judicial System Support and Incarceration
Management and Information Technology/Infrastructure

DAY 2 - Tuesday, July 11, 10:00 am - 12:00 pm, PHB 6501B:

Project Safe Neighborhoods
Enforcing Federal Laws in the Courts
Drugs and Border Security

DAY 3 - Wednesday, July 12, 10:00 am - 12:00 pm, PHB LL104:

All Other
Counterterrorism and Intelligence

DAY 4 - Thursday, July 13, 10:00 am - 12:00 pm, PHB LL104:

Overflow

Bradbury, Steve

From: Bradbury, Steve
Sent: Friday, July 07, 2006 4:51 PM
To: Bradbury, Steve; Moschella, William
Cc: Warwick, Brian; Gorsuch, Neil M; Engel, Steve
Subject: RE: Bradbury testimony circulation

Another person to include in the circulation list is [redacted] at DoD; [redacted] email is: [redacted]@dodgc.osd.mil. Also, there may be a Senate Armed Services hearing on Thursday, and I may be called to appear there as well. Thx

---

From: Bradbury, Steve
Sent: Friday, July 07, 2006 3:23 PM
To: Moschella, William
Cc: Warwick, Brian; Gorsuch, Neil M; Engel, Steve
Subject: Bradbury testimony circulation

Will: Your plan makes sense. Neil's list looks good, though I would suggest one addition, and that's at the State Dept: [redacted] email: [redacted]@state.gov. Thanks.

From: Moschella, William
Sent: Friday, July 07, 2006 3:20 PM
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Subject: FW:

Steve, given that the testimony is not yet done, I recommend that we circulate the testimony over the weekend to this group who will hopefully get comments back to us on Sunday. OLC can then incorporate the comments Sunday night and we can send to OMB for formal clearance Monday morning.

Is there anyone else who would need to see the testimony?

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 3:17 PM
To: Warwick, Brian
Cc: Moschella, William
Subject:

No doubt this is not exhaustive; you should check with Steve B. abt his wishes. But hopefully this is a start.

WHCO
Harriet Miers (Harriet_Miers@who.eop.gov)
William Kelley (William_K._Kelley@who.eop.gov)
Brett Gerry (bgerry@who.eop.gov)

OVP
Shannen W. Coffin (Shannen_W._Coffin@ovp.eop.gov)

NSC
Michael Allen (Michael_Allen@nsc.eop.gov)
John B. Wiegmann (John_B._Wiegmann@nsc.eop.gov)

DOD
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[redacted] ([redacted]@dodgc.osd.mil)

State
[redacted]@state.gov)
[redacted] ([redacted]@state.gov)

DOJ
Kyle Sampson
Courtney Elwood
Jeff Taylor
Paul McNulty
Mike Elston
Pat Rowan
Paul Clement
Greg Garre
Peter Keisler
Greg Katsas
Carl Nichols
Rachel Brand
Tasia Scolinos

Otus2005, Ag

From: Otus2005, Ag
Sent: Friday, July 07, 2006 4:51 PM
To: Gorsuch, Neil M
Subject: Read: Updated: PREP: Steve Bradbury Hearing

Card, Jean

From: Card, Jean
Sent: Friday, July 07, 2006 5:57 PM
To: Gorsuch, Neil M
Subject: Opening statement for hearing

Hello, Neil!
It was a pleasure to meet you this morning - I'm glad to be working with you!
Can we get together on Monday to talk through the ideas that Tasia and I are working on for the opening statement? My hope is that our conversation will help me finalize a draft outline for review by a small group by c.o.b. Monday or early Tuesday at the latest.
My calendar is open after 10:00… what would work for you?
Cheers,
Jean

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 6:31 PM
To: Card, Jean
Subject: Re: Opening statement for hearing

I'm happy in any way that makes sense to you and Tasia. If it works for you, I'm free at 130 and happy to come to the "library". If you haven't already, you might want to peruse the ag's speech in London from early this year or late last year, his testimony before the senate jud cmte on the terrorist surveillance program, and perhaps his speech to the council on foreign relations. They contain some of the ideas we may wish to discuss.

-----Original Message-----
From: Card, Jean
To: Gorsuch, Neil M
Sent: Fri Jul 07 17:56:40 2006
Subject: Opening statement for hearing

Hello, Neil!
It was a pleasure to meet you this morning - I'm glad to be working with you!
Can we get together on Monday to talk through the ideas that Tasia and I are working on for the opening statement? My hope is that our conversation will help me finalize a draft outline for review by a small group by c.o.b. Monday or early Tuesday at the latest.
My calendar is open after 10:00... what would work for you?
Cheers,
Jean

Card, Jean

From: Card, Jean
Sent: Friday, July 07, 2006 6:35 PM
To: Gorsuch, Neil M
Subject: Re: Opening statement for hearing

Thank you, Neil! This is all great. I look forward to hosting you in the library at 1:30 on Monday. Have a great weekend.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Card, Jean
Sent: Fri Jul 07 18:31:06 2006
Subject: Re: Opening statement for hearing

I'm happy in any way that makes sense to you and Tasia. If it works for you, I'm free at 130 and happy to come to the "library". If you haven't already, you might want to peruse the ag's speech in London from early this year or late last year, his testimony before the senate jud cmte on the terrorist surveillance program, and perhaps his speech to the council on foreign relations. They contain some of the ideas we may wish to discuss.

-----Original Message-----
From: Card, Jean
To: Gorsuch, Neil M
Sent: Fri Jul 07 17:56:40 2006
Subject: Opening statement for hearing

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It was a pleasure to meet you this morning - I'm glad to be working with you!
Can we get together on Monday to talk through the ideas that Tasia and I are working on for the opening statement? My hope is that our conversation will help me finalize a draft outline for review by a small group by c.o.b. Monday or early Tuesday at the latest.
My calendar is open after 10:00... what would work for you?
Cheers,
Jean

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, July 07, 2006 7:29 PM
To: Friedrich, Matthew; Tenpas, Ronald J (ODAG); Hertling, Richard; Swartz, Bruce; Gorsuch, Neil M; Elston, Michael (ODAG); Alikhan, Arif (ODAG)
Cc: Wade, Jill C
Subject: AG prep Tues 3:30 to 6pm 7/11 for SJC hearing
Importance: High

Please block out this time, may need all of you for this block. Will sort out further this weekend what papers are to be briefed but I am focusing on the CRM ones that you all worked on.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 09, 2006 3:24 PM
To: Shaw, Aloma A
Subject: Fw: AG prep Tues 3:30 to 6pm 7/11 for SJC hearing
Importance: High

Please add to calendar

-----Original Message-----
From: Seidel, Rebecca
To: Friedrich, Matthew; Tenpas, Ronald J (ODAG); Hertling, Richard; Swartz, Bruce; Gorsuch, Neil M; Elston, Michael (ODAG); Alikhan, Arif (ODAG)
CC: Wade, Jill C
Sent: Fri Jul 07 19:28:39 2006
Subject: AG prep Tues 3:30 to 6pm 7/11 for SJC hearing

Please block out this time, may need all of you for this block. Will sort out further this weekend what papers are to be briefed but I am focusing on the CRM ones that you all worked on.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Sunday, July 09, 2006 5:13 PM
To: Seidel, Rebecca
Subject: Re: AG prep Tues 3:30 to 6pm 7/11 for SJC hearing

Will do.

-----Original Message-----
From: Seidel, Rebecca
To: Friedrich, Matthew; Tenpas, Ronald J (ODAG); Hertling, Richard; Swartz, Bruce; Gorsuch, Neil M; Elston, Michael (ODAG); Alikhan, Arif (ODAG)
CC: Wade, Jill C
Sent: Fri Jul 07 19:28:39 2006
Subject: AG prep Tues 3:30 to 6pm 7/11 for SJC hearing

Please block out this time, may need all of you for this block. Will sort out further this weekend what papers are to be briefed but I am focusing on the CRM ones that you all worked on.

Shaw, Aloma A

Subject:	AG Prep for SJC Hearing
Start:	Tuesday, July 11, 2006 3:30 PM
End:	Tuesday, July 11, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Lauria-Sullens, Jolene

Subject:	Declined: Updated: Proposed FY08 Passback Review
Location:	Patrick Henry Bldg. Room 6501B
Start:	Monday, July 10, 2006 10:00 AM
End:	Monday, July 10, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Lauria-Sullens, Jolene

Afraid I have to be at the WH today.

Hunter, Kelly C

From: Hunter, Kelly C
Sent: Monday, July 10, 2006 8:05 AM
To: Gorsuch, Neil M
Subject: Read: Updated: Proposed FY08 Passback Review

Lauria-Sullens, Jolene

From: Lauria-Sullens, Jolene
Sent: Monday, July 10, 2006 8:12 AM
To: Gorsuch, Neil M
Subject: Read: Updated: Proposed FY08 Passback Review

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 10, 2006 8:27 AM
To: Shaw, Aloma A; Shaw, Aloma A; Gunn, Currie (SMO); Gorsuch, Neil M
Subject: Senior Manag Meeting

I have gone directly to the AG's office at Main for the 8:30 meeting. OASG does have power now but computers are not working. I will come to PHB after this meeting. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 8:29 AM
To: McCallum, Robert (SMO); Shaw, Aloma A; Gunn, Currie (SMO)
Subject: Re: Senior Manag Meeting

Am in oasg now. Computers have power, at least as of this moment.

-----Original Message-----
From: McCallum, Robert (SMO)
To: Shaw, Aloma A; Shaw, Aloma A; Gunn, Currie (SMO); Gorsuch, Neil M
Sent: Mon Jul 10 08:27:08 2006
Subject: Senior Manag Meeting

I have gone directly to the AG's office at Main for the 8:30 meeting. OASG does have power now but computers are not working. I will come to PHB after this meeting. Robt.

Card, Jean

From: Card, Jean
Sent: Monday, July 10, 2006 8:41 AM
To: Gorsuch, Neil M
Subject: Re: Opening statement for hearing

Neil, could I call you at 1:30 today instead?
[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Card, Jean
Sent: Fri Jul 07 18:31:06 2006
Subject: Re: Opening statement for hearing

I'm happy in any way that makes sense to you and Tasia. If it works for you, I'm free at 130 and happy to come to the "library". If you haven't already, you might want to peruse the ag's speech in London from early this year or late last year, his testimony before the senate jud cmte on the terrorist surveillance program, and perhaps his speech to the council on foreign relations. They contain some of the ideas we may wish to discuss.

-----Original Message-----
From: Card, Jean
To: Gorsuch, Neil M
Sent: Fri Jul 07 17:56:40 2006
Subject: Opening statement for hearing

Hello, Neil!
It was a pleasure to meet you this morning - I'm glad to be working with you!
Can we get together on Monday to talk through the ideas that Tasia and I are working on for the opening statement? My hope is that our conversation will help me finalize a draft outline for review by a small group by c.o.b. Monday or early Tuesday at the latest.
My calendar is open after 10:00... what would work for you?
Cheers,
Jean

Martinson, Wanda

Subject:	CAR - Patrick Henry Building to White House (Motorpool combined OLP's and Neil Gorsuch's cars - ok with you, Neil? - from Wanda)
Start:	Monday, July 10, 2006 10:45 AM
End:	Monday, July 10, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Macklin, Kristi R; Gorsuch, Neil M

When: Monday, July 10, 2006 10:45 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

Passengers: Rachel, Kristi, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 9:16 AM
To: Lofthus, Lee J
Subject: OASG

Lee, On our way from the senior management morning mtg, Robert and I stopped by OASG. Seems like the power is on, but we weren't able to log into the computers ("server unavailable"). Might you have any visibility on when OASG can/should move back in? We're fine at Patrick Henry and aren't lobbying, just curious! Thanks, Neil

Lofthus, Lee J

From: Lofthus, Lee J
Sent: Monday, July 10, 2006 9:27 AM
To: Gorsuch, Neil M
Subject: RE: OASG

Neil, you guys are tomorrow. Servers need to be brought up before your PCs will work from your Main space, that's why you got the message you got this morning. We'll flip those tonight or early tomorrow so your PCs will work tomorrow. If you had power today it was likely temp power, that was being set up over the weekend, will check on it today.

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Sent: Monday, July 10, 2006 9:28 AM
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 9:28 AM
To: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A; Todd, Gordon (SMO); Senger, Jeffrey M; Swenson, Lily F
Subject: FW: OASG

fyi

From: Gorsuch, Neil M
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Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Monday, July 10, 2006 9:30 AM
To: Sellers, Kiahna (OAG); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Goodling, Monica; Fisher, Alice; Masugi, Ken (OPA); Beach, Andrew; Nelson, Carrie; Roehrkasse, Brian; Card, Jean
Subject: 071006 AG's Upcoming Speech Calendar
Attachments: 070706 AG speeches.xls; 071206 Agudath Israel of America 2006 National Leadership Mission .pdf; 071906 Meth Training Conference at the NAC.doc; 071906 2006 GREAT Conference.pdf; 072006 ALEC Invitation.pdf; 072006 ALEC Annual Meeting.doc; 072006 American Legislative Exch Council.pdf; 072506 Ballot Access and Voting Integrity Luncheon.doc; 072506 Ballot Access and Voting Integrity Symposium Luncheon SIF.doc; 080906 Draft Agenda Immigration Judges Training Conference.wpd; 080906 Immigration Judges Training Conference.doc; 082106 Crimes Against Children Meeting Request Letter.doc; 082106 Crimes Against Children Conference.doc; 091206 Attorney General's 54th Annual Awards Ceremony.doc; 092106 Financial Services Roundtable 2006 Fall Conference.doc; 092806 Georgetown University Law Center Conference on the Judiciary.pdf; 073106 National Distrct Attorneys Assoc.doc; 073106 NDAA Invitation ltr.DOC; 080106 Tucson AZ Police Department Police Memorial Plaza Dedication.doc

Please find attached the AG's upcoming speech calendar as well as the accompanying event scheduling information forms.

Kiahna Sellers
Deputy Director of Scheduling
Office of the Attorney General
United States Department of Justice
(202) 514-4195

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft
07/12/06	DC	Agudath Israel of America 2006 National Leadership Mission	TBD	TBD	TBD	TBD	Crystal Jezierski 514-3465	Ken		
07/19/06	DC	Video Conference National Advocacy Center Meth Training Conference	5 min speech	TBD	TBD	CLOSED	Jeff Taylor 514-2107	TBD/Stuart Nash		
07/19/06	DC	Video-taped Greeting: 2006 GREAT Program National Training Conference	3 min speech	TBD	TBD	CLOSED	Jeff Oldham 514-9797			
07/20/06	DC	American Legislative Exchange Council (ALEC)	TBD	TBD	TBD	TBD	Crystal Jezierski 514-3465	Jean		
07/25/06	DC	Ballot Access and Voting Integrity Symposium	TBD	Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.	TBD	CLOSED		Ken		
7/30/06 or 7/31/06	Sante Fe, NM	National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference	Requesting a 30-45 min speech	Approx. 110 Local chief & assistant prosecutors	TBD	TBD	Crystal Jezierski 514-3465	Jean		
08/01/06	Tucson, AZ	Tucson Police Memorial Plaza Dedication & Memorial Service	TBD	200-300 law enforcement officers, family members, citizens and dignitaries.	TBD	OPEN	Crystal Jezierski 514-3465			
08/09/06	DC	2006 Immigration Judges Training Conference	10-12 min speech; followed by Q&A	300 Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.	REQUESTED TOPICS: 1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues	CLOSED	Courtney Elwood 514-2267	Jean		
08/21/06	Dallas, TX.	Crimes Against Children Conference	Requesting a 20 min speech	Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%	Conference Theme: Professional education related to the investigation, prosecution, prevention, and treatment of child abuse	OPEN	Jeff Oldham 514-9797	Ken		

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft
09/12/06	DC	AG's 54th Annual Awards Ceremony	TBD	The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.	TBD	OPEN	Monica Goodling 353-4435	Jean		
09/21/06	DC	Financial Services Roundtable 2006 Fall Conference	10-15 min speech followed by 15 mins of Q&A	150 CEO's and Senior Executives of the U.S. top 100 Financial Services companies	TBD	CLOSED	Crystal Jezierski 514-3465	Ken		
09/28/06	DC	Georgetown University Law Center and American Law Institute's Conference on the Judiciary	Approx. 5 min speech	380 attendees	Requested topic: The future of the Federal & State Courts	OPEN	Crystal Jezierski 514-3465	Ken		

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft

2nd Draft	AG Draft

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2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

2nd Draft	AG Draft

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בס"ד

[redacted]

Agudath Israel of America
אגודת ישראל באמריקה

June 14, 2006

BY FAX (202-282-8401) AND OVERNIGHT MAIL

Honorable Michael Chertoff
Secretary
Department of Homeland Security
NAC/Building 1
Washington, DC 20528

Dear Mr. Secretary:

On behalf of the national officers of Agudath Israel of America, I am pleased to invite you to address the delegates to our forthcoming **2006 National Leadership Mission to Washington**, which is scheduled for **Wednesday, July 12**. We are penciled in for a White House briefing from **3:00 to 5:00** that afternoon, in **Room 450 of the Eisenhower Executive Office Building**, and we would be deeply honored if your schedule would permit you to spend some time with us during that time frame.

Agudath Israel of America is an 84-year-old national Orthodox Jewish organization with a long and distinguished record of involvement in legislative and public policy work in the nation's capital. Our Washington Office director Rabbi Abba Cohen and I have worked closely on a number of issues with several members of your staff – most notably the extremely helpful Dan Sutherland – and the topic of homeland security is obviously a matter of deep concern to our constituency.

Agudath Israel's periodic National Leadership Missions to Washington bring together some 200 of our top lay leaders from approximately 20-25 states across the country – men and women from all walks of life who are key activists and opinion makers in their local communities – for a day of high-level meetings and briefings.

This would be a marvelous opportunity for you to meet our national leaders – and for them to express to you their appreciation for the strong leadership you have provided during these trying times.

We look forward with anticipation to your favorable reply. For now you have our heartfelt prayers and warmest wishes for continued great success.

Sincerely,

[redacted]

DZ/ld

cc: [redacted]

THE RABBI MOSHE SHERER NATIONAL HEADQUARTERS
42 Broadway • New York, NY 10004 • 212-797-9000 • Fax: 646-254-1600

U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

THROUGH: Regina B. Schofield RBS
Assistant Attorney General
Office of Justice Programs

FROM: Domingo S. Herraiz
Director
Bureau of Justice Assistance

SUBJECT: Conference Attendance and Participation

PURPOSE: To request that Attorney General Gonzales speak at the opening plenary session at the "2006 Gang Resistance Education And Training (G.R.E.A.T.) Program National Training Conference," sponsored by the Office of Justice Programs' Bureau of Justice Assistance (BJA). The conference will offer a wide range of workshops addressing the needs of individuals currently implementing G.R.E.A.T., as well as of those who want to become involved with G.R.E.A.T.

DATE AND TIME: The conference takes place from Wednesday, July 26 to Friday, July 28. The opening plenary session takes place on July 26 at 8:00 a.m. (see attached agenda). At his convenience, the Attorney General could speak at any time or day that plenary conference sessions are running. Alternatively, the Attorney General may prepare a video message if he is not available.

LOCATION: La Quinta Resort & Club, La Quinta, CA.

SYNOPSIS: Mentoring students and helping them resist local gang activity is one of law enforcement's most important roles. The G.R.E.A.T. Program is a school-based, law

enforcement officer-instructed classroom curriculum. The program's primary objective is prevention and is intended as an immunization against delinquency, violence, and gang membership. Five regional training centers provide training to sworn law enforcement officers to teach the G.R.E.A.T. curriculum in elementary and middle schools across the country.

DISCUSSION: In addition to networking opportunities and question-and-answer forums, this year's conference offers intensive training in subjects including G.R.E.A.T. grant funds, classroom management, conflict resolution, gang trends, gang intelligence, and "enforcement to education transition."

EVENT CONTACT: BJA Deputy Director for National Policy, James H. Burch II, 202-307-5910.

RECOMMENDATION: It is recommended that the Attorney General participate in the "2006 Gang Resistance Education And Training Program (G.R.E.A.T.) National Training Conference."

Attachment

2006 (G.R.E.A.T.) Program National Training Conference Overview

- Increase participation in the G.R.E.A.T. Program.
- Promote widespread recognition and understanding of G.R.E.A.T.
- Enhance relationships among government and community partners, school staff, parents, and students.
- Increase communication within the G.R.E.A.T. Program.
- Deliver highly qualified G.R.E.A.T. officers.

WORKSHOPS

In addition to networking opportunities and question-and-answer forums, this year's conference will be an intensive training opportunity where you can register to attend a wide range of workshops on topics such as:

- Supervising G.R.E.A.T. officers
- Working with the media
- Managing G.R.E.A.T. grant funds
- Dealing with stress
- Classroom management
- Bullying behaviors
- Elementary component review
- Presentation skills
- Conflict resolution
- Gang trends
- Sharing gang intelligence
- Gang research updates
- Drugs and gangs
- G.R.E.A.T. Program overview
- Getting involved with G.R.E.A.T.
- Changes occurring in G.R.E.A.T. operations
- Transitioning from enforcement to education
- Understanding and communicating with youth
- Media influences on youth

DATES AND LOCATION

July 26–28, 2006
La Quinta Resort & Club
La Quinta, California (Greater Palm Springs area)

TENTATIVE SCHEDULE

Tuesday, July 25	Registration	2:00 p.m.–6:00 p.m.
Wednesday, July 26	Opening Plenary/ Luncheon/Workshops	8:00 a.m.–5:15 p.m.
	Networking Function/Dinner	6:30 p.m.–9:30 p.m.
Thursday, July 27	Workshops/Luncheon	8:00 a.m.–4:00 p.m.
Friday, July 28	Workshops/Closing Plenary	8:00 a.m.–12:00 Noon

Attorney General Scheduling Request

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: 7-2825

THROUGH: Office of the Deputy Attorney General

FROM: McGregor W. Scott, United States Attorney, Eastern District of California and Chair of the AGAC Controlled Substances Subcommittee and The U.S. Attorneys' Methamphetamine Working Group

REQUEST: That the Attorney General speak at a methamphetamine training conference at the NAC.

PURPOSE: For the first time in its history, the NAC is hosting a training conference on methamphetamine. The students at the conference will be AUSAs from across the country. The Attorney General has publicly stated that methamphetamine is one of his top priorities for the Department of Justice. By speaking at this training conference, the Attorney General will reemphasize the importance that he places on methamphetamine investigations and prosecutions.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL: Provide opening remarks at the conference. The Attorney General can emphasize to the participants the significance he places on methamphetamine investigations and prosecutions and will motivate those in the field who are handling these cases on a daily basis on behalf of the Department.

BACKGROUND: In February, the Attorney General gave a speech setting out the Department of Justice's priorities for the coming year. Among the specifically listed priorities was the investigation and prosecution of methamphetamine cases. For the first time in its history, the NAC is sponsoring a methamphetamine training conference this summer. Students at the training conference will be AUSAs from across the country. By providing opening remarks at this training conference, the Attorney General can reemphasize the importance he places on the investigation and prosecution of methamphetamine cases and provide inspiration to those AUSAs in the field handling these cases on a daily basis for the Department of Justice.

DATE & TIME: The conference is set for July 19 to 21 and opening remarks will be given at 8:30 on July 19. However, we are very flexible and the conference agenda can be moved to fit the Attorney General's schedule.

LOCATION: The NAC.

DURATION: 30 Minutes

PRESS COVERAGE: If the Attorney General wanted to hold a press event, one could be arranged.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER: 75 to 80 students plus faculty.

REMARKS REQUIRED: Yes.

RECOMMENDED BY: McGregor W. Scott, United States Attorney

COORDINATED WITH: [redacted] and the NAC.

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER: [redacted]

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: California Beach Party
City & State of Event: San Francisco, CA
Date(s): Thursday, July 20, 2006
Date/Time the event begins: 6:30 pm
Date/Time the event concludes: 7:15 pm
Proposed/Requested Date & Time of the Attorney General's participation: July 20 at 6:45 pm
Nature of Event: Social function for ALEC Annual Meeting attendees

Event Venue Name: San Francisco Marriott Hotel
Room Name or Room #: Yerba Buena Salon 7-9
Address: 55 Fourth Street
City/State/Zip: San Francisco, CA 94103-3199
Venue Phone #: 415-896-1600
Venue FAX #: 415-486-8101

Event Sponsor: American Legislative Exchange Council (ALEC)
Address: 1129 20th Street, N.W., Suite 500
City/State/Zip: Washington, DC 20036
Website address: www.alec.org

Person Inviting[redacted]
Telephone #:[redacted]
FAX #:[redacted]
E-mail address[redacted]

On-site Contact Person[redacted]
Teleph[redacted]
FAX #:[redacted]
E-mail [redacted]
Cell phone:

Are there corporate sponsors or other underwriters of the event?

Chevron Corporation
Sanofi-Aventis
Devon Energy Corporation

Please provide the following information:

1. Description of the audience: State legislators, private sector companies, spouses & guests
2. Approximate size of the audience: approx 700 - 800
3. List of other invited speakers and program participants: Court TV, Motion Picture Association of America (MPAA), [redacted] of MPAA.
4. List of invited government officials, dignitaries, VIPS: n/a
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? Court TV is interested in broadcasting locally to cable stations.
6.
7. Is the Attorney General being asked to speak? Yes
8. If yes, how long is he expected to speak? 20 minutes
9. What is the theme/topic/subject of the event? California/Hollywood social event
10. What is the ATTIRE for the event? Casual

11. Is this invitation for the Attorney General or the Attorney General and a guest? Guest is welcome.
12. Is this a fund raising event? No.
13. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a
14. Are tickets being sold for this event? If yes, what is the face value of the ticket? No.
15. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) asap
16. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. The event is a social gathering of state legislators, guests, and private sector companies. The audience will flow in and out of the event. This event is being coordinated along with Court TV and MPAA. The first part of the program will include an interview with the Attorney General by [redacted] (in a t.v. talk-show format) followed by the Attorney General's speech.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

A National Association for America's State Legislators ♦ Jeffersonian Principles in Action

June 9, 2006

The Honorable Alberto Gonzales
United States Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20202

Dear Attorney General Gonzales:

On behalf of the 2,400 state legislator members of the American Legislative Exchange Council (ALEC), it gives us great pleasure to invite you to our 33rd Annual Meeting, to be held July 19-23 at the San Francisco Marriott in San Francisco, California.

As you know, the Democrat and Republican members of ALEC have promoted policies based on the fundamental Jeffersonian principles of free markets, limited government, federalism, and free enterprise. Today, ALEC has grown to become the nation's largest nonpartisan, individual membership association of state legislators.

Working with Court TV, we would like to invite you to give remarks on intellectual property at our Annual Meeting's "Hollywood, California Night" on Thursday, July 20th. ALEC and its members seek to further protect our nation's intangible property, and we hope you will share some words of encouragement and victory as we continue to fight for these fundamental rights. Attorney General Gonzales, under your leadership the Department of Justice has been a strong protector of intellectual property, and we look forward to hearing about your ongoing efforts to defend our nation's rights.

We would greatly appreciate it if you could call us to confirm your acceptance as soon as possible. We welcome any questions you or your staff may have, please contact Lori Drummer in ALEC's Public Affairs Office at (202) 466-3800 ext. 251.

Thank you, and we look forward to your response.

Sincerely,

Susan Wagle
ALEC 2006 National Chairman
Kansas Senator

"The leading non-partisan conservative state legislative policy voice in America."

1129 20th Street N.W. ■ Suite 500 ■ Washington, D.C. 20036 ■ (202) 466-3800 ■ FAX (202) 466-3801 ■ www.ALEC.org

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

A National Association for America's State Legislators ♦ Jeffersonian Principles in Action

June 9, 2006

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Susan Wagle
ALEC 2006 National Chairman
Kansas Senator

"The leading non-partisan conservative state legislative policy voice in America."

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Attorney General Scheduling Request

(for DOJ Events)

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: (202) [30]7-2825

FROM: Kimani S. Little
Special Assistant to the Assistant Attorney General, Civil Rights Division

REQUEST:

It is requested that Attorney General Gonzales make an address at the 2006 Ballot Access and Voting Integrity Symposium hosted by the Civil Rights and Criminal Divisions. The address will take place during the Symposium luncheon meeting.

PURPOSE:

The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protections to USAs, AUSAs, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL:

It is requested that Attorney General Gonzales provide an address to the Symposium attendees.

BACKGROUND:

The annual training Symposium is part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

DATE & TIME:

The proposed dates of the Symposium are August 1-2, 2006. We propose the Attorney General speak on August 1, 2006. Alternatively, if this date is not available and we are notified by COB May 10, 2006, we can schedule the Symposium for the prior week to accommodate an Attorney General address on July 25, 26, or 27, 2006.

LOCATION:

Metropolitan Washington, D.C. The actual venue has not been chosen, but are attempting to find a location in downtown Washington. However, we may have to hold the Symposium in the suburbs depending on the availability of an appropriate space.

DURATION:

The time allotted for the luncheon and Attorney General's address is 1.5 hours.

PRESS COVERAGE:

Closed to the Press.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER:

Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.

Specific Attendees known at this time include:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division
Rena Comisac, Principal Deputy Assistant Attorney General, Civil Rights Division
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Noel Hillman, Office of the Assistant Attorney General, Criminal Division
Craig Donsanto, Public Integrity Section, Criminal Division
Assistant United States Attorneys
Federal Bureau of Investigations Special Agents
Civil Rights Division Voting Section Attorneys and Executive Office Staff
Criminal Division, Public Integrity Section Staff

REMARKS REQUIRED:

Luncheon Address

RECOMMENDED BY:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division

COORDINATED WITH:

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER:

Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division, is the organizer of the Symposium. Her contact information is (office) 202-305-9750 or (work cell) [redacted] Kimani S. Little, Special Assistant to the Assistant Attorney General, Civil Rights Division, is assisting Ms. Quinn. His contact information is (office) 202-307-1289 or (work cell) [redacted] Craig Donsanto, Public Integrity Section, Criminal Division, is also an organizer of the Symposium. His contact information is (office) 202-514-1221. Angela Noel Gantt will be the Department's event logistics contact. Her contact information is (office) 202-305-8006, [redacted], or (home) [redacted]

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: 2006 Ballot Access and Voting Integrity Symposium
City & State of Event: Washington, D.C.
Date(s): Tuesday and Wednesday, July 25 and 26, 2006

Date/Time the event begins: 8:30 am. July 25, 2006
Date/Time the event concludes: 3:30 p.m. July 26, 2006
Proposed/Requested Date & Time of the Attorney General's participation:
Lunch, 12:00-1:30 p.m., July 25, 2006
Nature of Event: The annual training Symposium is a key part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

Event Venue Name: RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER
Room Name or Room #: Conference is in Polaris Suite; luncheon address by the Attorney General is in the Pavilion Room.
Address: 1300 Pennsylvania Avenue, NW
City/State/Zip: Washington, D.C. 20004
Venue Phone #:
Venue FAX #:

Event Sponsor: The symposium is hosted jointly by the Civil Rights and Criminal Divisions.
Address: N/A
City/State/Zip: N/A
Website address: N/A

Persons Inviting: Wan J. Kim, Assistant Attorney General, Civil Rights Division & Alice S. Fisher, Assistant Attorney General, Criminal Division
Telephone #: (CRT office) 202-514-2151; (CRM office) 202-514-7200
FAX #: 202-514-0293

On-site Contact Person: [redacted], Government Market
Telephone: [redacted]
FAX #: [redacted]

DOJ On-site Contact Person: Angela Gantt, CRT Event Logistics Coordinator
Telephone: (office) 202-305-8006 or (home) [redacted]
E-mail address: Angela.Gantt@usdoj.gov
Cell phone: (cell) [redacted]

DOJ On-site Contact Person: Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Telephone: 202-305-4894 (temp # 202-305-2588)
E-mail address: Cameron.Quinn@usdoj.gov
Cell phone: [redacted](DOJ) or [redacted](personal cell)

DOJ On-site Contact Person: Craig Donsanto, Public Integrity Section, Criminal Division
Cell phone: [redacted]

DOJ On-site Contact Person: Nancy Simmons, Public Integrity Section, Criminal Division
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No.

Please provide the following information:

1. Description of the audience: The Department's Designated Elections Officials (DEOs) from 93 judicial districts, alternate USAO DEOs, FBI Special Agents, and attorneys from the Civil Rights and Criminal Divisions will attend this Symposium.
2. Approximate size of the audience: We expect 125 -175 attendees.
3. List of other invited speakers and program participants: See attached draft Agenda.
4. List of other invited government dignitaries and VIPS: Alice S. Fisher, Assistant Attorney General for the Criminal Division, Wan J. Kim, Assistant Attorney General for the Civil Rights Division, and [redacted] Federal Elections Commission.
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? No, the entire event is closed to the press.
6. Is the Attorney General being asked to speak? Yes, we would like for the Attorney General to give a luncheon address.
7. If yes, how long is he expected to speak? We understand that the Attorney General usually speaks for 10-15 minutes.
8. What is the theme/topic/subject of the event? The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protection and integrity to Assistant U.S. Attorneys, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.
9. What is the ATTIRE for the event? Business Dress.
10. Is this invitation for the Attorney General or the Attorney General and a guest? This is an invitation for the Attorney General.
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? N/A
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). We understand that the Attorney General has already agreed to speak at this event.
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. The Attorney General has spoken at previous conferences and the speeches were very favorably received by the participants.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference
City & State of Event: Santa Fe, New Mexico
Date(s): July 28 – August 2, 2006
Date/Time the event begins: NDAA Committee Meetings begin Friday, July 28 (11:00 AM – 5:00 PM); Saturday, July 29 (9:00 AM – 5:00 PM); Board of Directors meeting, Sunday, July 30 (2:00 PM – 5:00 PM); NDAA Summer Conference begins Sunday, July 30th with welcoming reception, Monday, July 31 (9:00 AM – 5:00 PM); Tuesday, August 1 (9:00 AM – Noon); Wednesday, August 2 (9:00 AM – 4:15 PM)
Date/Time the event concludes: August 2, 2006 at 4:15 PM
Proposed/Requested Date & Time of the Attorney General's participation: July 30, 2006 (2:00 PM – 2:30 PM); July 31, 2006 (9:45 AM – 10:30 AM)
Nature of Event: Board of Directors meeting & educational conference for local prosecutors

Event Venue Name: Eldorado Hotel
Room Name or Room #: Anasazi Room
Address: 309 W. San Francisco
City/State/Zip: Santa Fe, New Mexico
Venue Phone #: 505-988-4455
Venue FAX #: 505-995-4544

Event Sponsor: National District Attorneys Association
Address: 99 Canal Center Plaza, Suite 510
City/State/Zip: Alexandria, Virginia 22314
Website address: www.ndaa.org

Person Inviting: [redacted]

Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

1. Description of the audience: Local chief & assistant prosecutors
2. Approximate size of the audience: Board Meeting-approx. 110; Summer Conference – approx. 150-200
3. List of other invited speakers and program participants: See attached roster
4. List of invited government officials, dignitaries, VIPS: Jeffrey L. Sedgwick, Director-designate Bureau of Justice Statistics
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? The time during which Judge Gonzales speaks can be closed to

the press. Please notify us if this is requested and [redacted] will make the necessary arrangements

6. Is the Attorney General being asked to speak? Yes
7. If yes, how long is he expected to speak? 30 minutes – 45 minutes
8. What is the theme/topic/subject of the event? See attached program synopsis.
9. What is the ATTIRE for the event? Business casual
10. Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? $375.00 registration fee is charged for the summer conference
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) June 23, 2006
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

May 5, 2006

The Honorable Alberto Gonzales
United States Department of Justice
Robert F. Kennedy Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-2000

Dear Judge Gonzales:

From July 28th through August 2nd the leadership of the National District Attorneys Association will convene in Santa Fe, New Mexico for our summer board of directors meeting and the association's 2006 Summer Conference

As President of the National District Attorneys I would to take this opportunity to invite you to meet with the nation's local prosecutors during their stay in Santa Fe.

I understand that you are preparing to announce the "Project Safe Childhood" initiative in the near future and I know that the association would welcome the chance to learn more about the initiative in greater detail. This would certainly be a relevant issue for discussion during either the board of directors meeting or during the summer conference. The schedules for both the board of directors meeting and the summer conference are very flexible and we can rearrange the agenda to accommodate your schedule.

If your staff needs more information please contact [redacted], NDAA legislative counsel at [redacted] or [redacted]@ndaa-apri.org.

Sincerely,

[redacted]
[redacted]National District Attorneys Association

cc: Kathleen Blomquist, Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: **Tucson (Arizona) Police Department Police Memorial Plaza Dedication**
City & State: **Tucson, Arizona**
Date(s): **Weeks of July 9 or July 23 but completely open to the schedule of Attorney General Gonzales.**
Date/Time event begins: **Date: TBA Time: 7PM**
Date/Time event concludes: **Date: TBA Time: 9 PM**
Proposed/Requested Date & Time of the Attorney General's participation: **7-9PM on date to be determined.**
Nature of Event: **Keynote speaker for dedication of new police memorial plaza and annual police officer memorial service (postponed from traditional May service due to plaza construction).**

Event Venue: **Tucson Police Department**
Room Name or number: NA
Street Address: **270 South Stone Avenue**
City/State/Zip: **Tucson, AZ 85701**
Venue Phone #: **520-791-4441**
Venue FAX #: **520-791-4777**

Event Sponsor: **Tucson Police Department**
Address: **270 South Stone Avenue**
City/State/Zip: **Tucson, AZ 85701**
Website address: **http://www.ci.tucson.az.us/police/index.php**

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]@tucsonaz.gov or [redacted]@tucsonaz.gov
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? **No**

Please provide the following information:

Approximate size / description of the audience: **200-300 law enforcement officers, family members, citizens and dignitaries.**
List of other invited speakers and program participants: [redacted]
List of invited government officials, dignitaries, VIPS: **Arizona Governor Janet Napolitano, Arizona Attorney General Terry Goddard, Senator John McCain, Senator John Kyl, Congressman Jim Kolbe, Congressman Raul Grijalva, Mayor Robert Walkup and members of the Tucson City Council,** [redacted].
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **Yes**
Is the Attorney General being asked to speak? **Yes**

If yes, how long is he expected to speak? **10-15 minutes**
What is the theme/topic/subject of the event? **Dedication of new police memorial plaza and annual police officer memorial service.**
What is the ATTIRE for the event? **Business**
Is this invitation for the Attorney General or the Attorney General and a guest? **Attorney General. A guest is welcome but not required to actively participate in event.**
Is this a fund raising event? **No**
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? **NA**
Are tickets being sold for this event? If yes, what is the face value of the ticket? **No**
What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) **Request confirmation by June 9, 2006.**
Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

In May 2004 the Tucson Police Department was awarded a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. The Law Enforcement Tribute Act grant, in the amount of $82,550, was to be used for construction of a police memorial to honor the memory of our fallen officers. There were 17 grants awarded nationally and the Tucson Police Department received the largest grant and only one in Arizona.

A committee was formed consisting of police department members, community members and representatives of the business community to move this project forward. The University of Arizona Landscape Architecture program was contacted to see whether they would be interested in submitting designs for the project as part of their class in the fall of 2004. The submitted plans were outstanding and one of the student's designs was selected.

Concurrently, we contracted with the Tucson Pima Arts Council (TPAC) to oversee the selection process, the contract work, and the installation of an art piece. Out of more than 30 initial responses from across the country to the "call to artists" a local artist was selected. This accomplished artist has designed a three-piece bronze sculpture supported by an eight foot poured concrete wall covered in travertine marble. The centerpiece of the artwork is a classically draped, seated female figure releasing a dove from one outstretched arm, and holding a police eight-point hat in her lap with the other arm. She is guarded by a police service dog at her feet. The third piece of bronze-a western hat, star-shaped badge, and a pistol in a holster- will hang from the corner of the wall in recognition of the history of the agency and acknowledgment of the officers killed in the line of duty in the early years of the department.

Additionally, members of the Tucson Utility Contractors Association (TUCA) have come forward to assist with landscape design, engineering, structural design, lighting and finishing work. As you might imagine this project became quite ambitious and has taken on a life of its own creating many partnerships with members of our business community as well as private citizens.

During this time police department staff, the Tucson Police Foundation and both labor organizations representing members of the department, began aggressive fund raising campaigns. To date we have collected

approximately $170,000 in private donations to be used in construction of the Tucson Police Department Memorial Plaza, which will be located on the front lawn of the main police station. This is in addition to the federal grant amount.

[redacted] and all members of the Tucson Police Department would be greatly appreciative if Attorney General Gonzales would accept our invitation. Not only would we be honored to have him attend as our nation's chief law enforcement officer but we would like to personally express our gratitude to him for the Department of Justice grant which made this entire project possible.

DAILY PROGRAM

Monday
August 7th

9:00 - 9:30	**Opening Remarks from the Director** *Welcome and greetings from Director* [redacted]
break	
9:45 - 10:15	**State of the Immigration Court** *Welcome and overview of major developments and issues for the courts from* [redacted]
break	
10:30 - 12:00	**Federal Judiciary Panel** [redacted] (moderator) Judge Richard C. Tallman, *U.S. Court of Appeals, 9th Circuit* Judge Sandra L. Lynch, *U.S. Court of Appeals, 1st Circuit* Judge Jon O. Newman, *U.S. Court of Appeals, 2nd Circuit* *Impact of immigration cases on the federal courts, changes in the Judiciary to handle that impact, and thoughts on how Immigration Judges can prepare a better record for review*
lunch on your own	
1:30 - 2:45	**Workshops** *Group 1 Workshop A Group 4 Workshop D* *Group 2 Workshop B Group 5 Workshop E* *Group 3 Workshop C Group 6 Workshop F*
break	
3:00 - 4:15	**Workshops** *Group 1 Workshop B Group 4 Workshop E* *Group 2 Workshop C Group 5 Workshop F* *Group 3 Workshop D Group 6 Workshop A*
break	
4:30 - ___	National Association of Immigration Judges Meeting (optional)

Tuesday
August 8th

9:00 - 10:15	**Workshops**

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	Group 1 Workshop C Group 4 Workshop F *Group 2 Workshop D Group 5 Workshop A* *Group 3 Workshop E Group 6 Workshop B*

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	break
10:30 - 11:45	**Workshops** *Group 1 Workshop D Group 4 Workshop A* *Group 2 Workshop E Group 5 Workshop B* *Group 3 Workshop F Group 6 Workshop C*
	lunch on your own
1:30 - 2:30	**Language Services Initiatives** [redacted], *Chief, Language Services Unit* (moderator) Speaker 2, IJ [on courtroom pointers] Speaker 3, *Lionbridge Global Services* *Review of how the interpreter contract works, the interpreter qualification process, rare languages, and pointers for handling challenges to interpretation*
	break
3:00 - 4:30	**Counsels' Forum** [redacted] *Counsel to the Chief Immigration Judge* (moderator) [redacted], *Principal Legal Advisor, Immigration and Customs Enforcement* [redacted], *Principal Legal Advisor, Citizenship and Immigration Services* [redacted], *Executive Director, American Immigration Lawyers Association*

DOJ_NMG_ 0163932

		Program updates and developments from the parties who appear before the courts.

Wednesday August 9th	8:30 - 9:30	**Retirement Review** [redacted], *Chief, Employee Benefits & Development Branch* *Overview of important considerations for government employee financial planning*
	break	
	9:45 - 10:30	**Case Completion Goals** [redacted], *Acting Chief Immigration Judge* [redacted], *Deputy Chief Immigration Judge* *Review of progress and discussion of issues regarding case completion goals*

RAFT

	break	
	10:45 - 11:45	**Juvenile Issues** [redacted], Director, Detention and Asylum Program, Women's Commission for Refugee Women and Children (moderator) Hugh Mullane, *Office of Legal Policy* [redacted], *Legal Access Counsel* [redacted] *Director, Division of Unaccompanied Children's Services, Office of Refugee Resettlement* *Perspectives on juveniles in the courtroom from representation to courtroom considerations for unaccompanied minors under the Unaccompanied Alien Child Protection Act of 2005*
	break	
	12:00 - 2:00	**Luncheon** *Guest speaker:* Attorney General Alberto R. Gonzales

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		break
	2:15 - 3:30	**Workshops** *Group 1* *Workshop E* *Group 4* *Workshop B* *Group 2* *Workshop F* *Group 5* *Workshop C* *Group 3* *Workshop A* *Group 6* *Workshop D*
		break
	3:45 - 5:00	**Workshops** *Group 1* *Workshop F* *Group 4* *Workshop C* *Group 2* *Workshop A* *Group 5* *Workshop D* *Group 3* *Workshop B* *Group 6* *Workshop E*

DRAFT

Thursday August 10th	8:30 - 9:45	**Judicial Ethics, Civility, and Professionalism** Judge Michael E. Keasler, *Texas Court of Criminal Appeals* *Discussion of judicial demeanor in the courtroom and the expectations of conduct that come with the office of Immigration Judge*

RAFT

		break
	10:00 - 11:30	**Legislative Update** Larry Levine, *EOIR Legislative Counsel* (moderator) [redacted] *Majority Counsel, Senate Judiciary Committee* [redacted] *Minority Counsel, Senate Subcommittee on Immigration, Border Security, and Citizenship*

DOJ_NMG_ 0163934

		[redacted] *Specialist in Immigration Policy, Congressional Research Service* *An overview of recent statutory changes and changes contemplated by pending legislation*
	lunch on your own	
	1:00 - 2:30	**OPR on Immigration Judge Conduct** [redacted], *Deputy Director* H. Marshall Jarrett, *Counsel, Office of Professional Responsibility* [redacted], *Immigration Judge, San Francisco* [redacted], *Immigration Judge, Chicago* [redacted] *Immigration Judge, New York City* [redacted], *Immigration Judge, Miami* *An overview of professional boundaries in the courtroom and due process considerations from the body that oversees professional conduct followed by a roundtable discussion addressing questions related to OPR issues*
	break	
	2:45 - 3:45	**Regulatory Changes and Updates** MaryBeth Keller, *EOIR General Counsel* Kevin R. Jones, *Office of Legal Policy* *Recent and pending regulatory developments and their impact on the courts*
Friday August 11th	8:30 - 9:30	**Introduction to the Canadian System** [redacted], moderator _____, *Canadian Immigration and Refugee Board* _____, *Canadian Immigration and Refugee Board* *Overview of the Canadian counterpart to EOIR, including migration, immigration, and asylum in Canada and how it compares to the experiences of the United States*
	break	
	10:00 - 11:00	**Religious Freedom Update**

DOJ_NMG_ 0163935

	Michael F. Rahill, *former Assistant Chief Immigration Judge* (moderator) [redacted], *Deputy Director for Policy, U.S. Commission on International Religious Freedom* [redacted], *Director for International Refugee Issues, U.S. Commission on International Religious Freedom* and/or [redacted], *Office of International Religious Freedom, Department of State* *Refresher on religious freedom and update on country conditions vis-a-vis religious freedom*
break	
11:15-11:45	**Closing Remarks** Deputy Attorney General Paul J. McNulty

DOJ_NMG_ 0163936

WORKSHOPS DRAFT	
Workshop **A**	**Appellate Review of Oral Decisions** [redacted], *Acting Vice Chair, Board of Immigration Appeals* [redacted], *Deputy Director, Office of Immigration Litigation* *Review of circuit court and BIA criticisms of IJ decisions, pointers on the importance of findings of fact, and a discussion of post-REAL ID Act issues*
Workshop **B**	**Unethical Attorneys in the Courtroom** [redacted], *Bar Counsel, EOIR* Speaker 2, [IJ from each workshop group] *Discussion of how to create a record for review when unscrupulous attorneys appear or don't appear, with an overview of the attorney discipline process and how to create a record for discipline*
Workshop **C**	**Citizenship and Nationality issues** [redacted], *Immigration Judge, El Centro* _____, *Immigration Judge,* *An overview of citizenship and nationality issues that arise in the courtroom.* *Note: Should there be major immigration legislation prior to the conference, this session may be substituted by one dedicated to emergent law.*
Workshop **D**	**Asylum Issues** [redacted], *Senior Litigation Counsel*, Office of Immigration Litigation *Discussion of significant asylum issues in the federal courts, with a focus on credibility and Immigration Judge clarity in rendering decisions*
Workshop **E**	**Efficient Procedure** [redacted], moderator, *Immigration Judge, Miami* [redacted], *Immigration Judge*, *San Diego* *Effective use of advisals and other procedural requirements to structure the hearing and oral decision and to strengthen the record for review, including change of venue and jurisdiction issues.*
Workshop **F**	**Electronic Research** [redacted] EOIR Librarian _____, Westlaw representative _____, Lexis representative *Overview of the Virtual Law Library and on-line legal research tools available to*

DOJ_NMG_ 0163937

	Immigration Judges and court staff

DRAFT

CASE

Lexis / Nexis

Digital Audio

Lionbridge Global Solutions

Language Services Association

DOJ_NMG_ 0163939

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: 2006 Immigration Judges= Training Conference
City & State: Washington, D.C.
Date(s): August 6 - 11, 2006
Date/Time event begins: August 7, 2006 at 8:00 a.m.
Date/Time event concludes: August 11, 2006 at 12:00 p.m.
Proposed/Requested Date & Time of the Attorney General=s participation: August 9, 2006, 12:00 p.m. - 2:00 p.m. or at the Attorney General=s convenience
Nature of Event: Immigration Judges= Conference

Event Venue: J.W. Marriott Hotel
Room Name or number: Salon I and Salon II - Ballroom Level
Street Address: 1331 Pennsylvania Avenue, N.W.
City/State/Zip: Washington, D. C.
Venue Phone #: (202) 626-2662
Venue FAX #: (202) 626-6915

Event Sponsor: Office of the Chief Immigration Judge
Address: 5107 Leesburg Pike, Suite 2500
City/State/Zip: Falls Church, VA 22041
Website address: www.usdoj.gov/eoir

Person Inviting: Executive Office for Immigration Review
Title: Director, Kevin D. Rooney
Telephone #: (703) 305-0169
FAX #: (703) 305-0985
E-mail address: kevin.rooney@usdoj.gov

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: ([redacted]
E-mail address: [redacted]
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: *300*
List of other invited speakers and program participants: *See Attached draft of Conference Program*

List of invited government officials, dignitaries, VIPS: *Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.*

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? *No*

Is the Attorney General being asked to speak? *Yes*

If yes, how long is he expected to speak? *10 - 12 minutes*

What is the theme/topic/subject of the event? *1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues*

What is the ATTIRE for the event? *Business Casual*

Is this invitation for the Attorney General or the Attorney General and a guest? *Attorney General and a guest*

Is this a fund raising event? *No*

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? *N/A*

Are tickets being sold for this event? If yes, what is the face value of the ticket? *No*

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). *May 31, 2006*

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. *Please see attached draft of Conference Program*

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Crimes Against Children Conference – Opening Plenary Session
City & State: Dallas, Texas
Date(s): August 21, 2006
event begins: 8:30 a.m.
event concludes: 9:30 a.m.
Proposed/Requested Date & Time of the Attorney General's participation: Monday, August 21, 2006 @ 8:30 a.m.
Nature of Event: Opening Session to the 18th Annual Crimes Against Children Conference – the largest national professional training conference for front line professionals investigating, prosecuting, and treating child abuse cases.

Event Venue: Hyatt Regency Dallas at Reunion
Room Name or number: Landmark Ballroom
Street Address: 300 Reunion Blvd.
City/State/Zip: Dallas, TX
Venue Phone #: 214.651.1234
Venue FAX #: 214.742.8126

Event Sponsor: Dallas Children's Advocacy Center
Address: 3611 Swiss Avenue
City/State/Zip: Dallas, TX 75204
Website address: www.dcac.org

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]@dcac.org

Contact Person: [redacted]
Title: [redacted]
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]@dcac.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Yes
United States Department of Justice – Office of Juvenile Justice Delinquency Prevention; Office of Victims of Crime; Internet Crimes Against Children Training and Technical Assistance, Fox Valley Technical College; Microsoft, Children's Advocacy of Texas, Inc.

Please provide the following information:

Approximate size / description of the audience: Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%

List of other invited speakers and program participants: (Identified for Plenary Session only; please let us know if a complete list of the 3 ½ day conference faculty is needed)

[redacted]

List of invited government officials, dignitaries, VIPS: The following officials are invited to attend this opening plenary session. Some are teaching faculty throughout the conference.

[redacted]

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?
Generally yes, but this can be changed at Mr. Gonzales' request
Is the Attorney General being asked to speak? Yes
If yes, how long is he expected to speak? Approximately 20 minutes
What is the theme/topic/subject of the event? Professional education related to the investigation, prosecution, prevention, and treatment of child abuse
What is the ATTIRE for the event? Business Casual
Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest at his discretion
Is this a fund raising event? No
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket?

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would like to announce that Mr. Gonzales has been invited in our conference brochure that prints April 10. Speaking confirmation would be appreciated July 15 to allow ample time for logistics planning or alternative speakers if necessary.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.
This, the 18th Annual Crimes Against Children Conference, is the largest professional education gathering for front line professionals engaged in the investigation, prosecution, prevention, and healing of child abuse. With a track record of outstanding and lasting value, the conference provides the most current and sophisticated tools to national and international professionals. Throughout this 3-½ day conference, each program session includes 15 concurrent workshops and five interactive laboratories. The opening plenary session gathers all conference participants together to hear key messages relevant to their daily work. We would be delighted to host Mr. Gonzales throughout the conference.

DOJ_NMG_ 0163944

February 14, 2006

Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

I am writing to request the honor of your presence at the eighteenth annual Crimes Against Children Conference, to be held August 22 through 24, 2006 at the Hyatt Regency Reunion Hotel in Dallas. We respectfully invite you to serve as our keynote speaker during the opening session on Monday, August 22 at 8:30 a.m. Certainly, we would welcome your participation at any time during the conference.

As you may be aware, this is the largest conference in the country for federal, state, and local law enforcement on the subject of crimes committed against those most vulnerable in our society --- our children. In addition, a multidisciplinary representation of child protection workers, prosecutors, social workers, medical and children's advocacy center professionals attend this international conference. In 2005, the conference attracted nearly 2,200 attendees from 48 states and abroad.

The Dallas Children's Advocacy Center (DCAC) produces this significant and unique professional conference and is one of the largest children advocacy centers in the country serving over 1,900 children annually. DCAC serves as role model by providing best practices and professional education to multiple professional disciplines in the fight against child abuse. The Dallas Police Department is widely recognized for establishing innovative law enforcement practices to keep our children safe, including Operation Avalanche, the largest child pornography investigation ever conducted. The DPD also activated the very first Amber Alert in the country.

By serving as the keynote speaker at our conference you would send a strong message to the men and women in law enforcement that you share their commitment to fighting crimes against children.

I am enclosing a copy of the 2005 Conference brochure as well as material about our Center, for your review. So that we may continue our conference planning efforts, we hope to hear from you at your earliest convenience. Thank you for your consideration.

Respectfully,

[redacted]

Copy: [redacted]

REQUEST: Attorney General's 54th Annual Awards Ceremony

PURPOSE: The Attorney General will present remarks to Department employees, guests, and other officials at the Attorney General's 54th Annual Awards Ceremony. The Attorney General will also present awards to all recipients.

BACKGROUND: The Department of Justice recognizes employees who have demonstrated exceptional achievements, leadership, and heroism on an annual basis. Nearly 600 employees were nominated for the annual awards program last year, with 225 receiving recognition in 29 award categories. Once again, the ceremony will provide an opportunity to recognize the achievements of Department employees. The Combined Incentive Awards Board and John Marshall Panel, chaired by the Deputy Attorney General, will meet to recommend award recipients to the Attorney General, who will approve the selections. The recommendations will be cleared through various investigative offices.

The Attorney General will present remarks and will present awards to all recipients. The Deputy Attorney General and several component heads will announce the award citations.

DATE & TIME: TBD by OAG Scheduling. Constitution Hall is available with a hold for DOJ on August 15 & 22, and September 12, 13, 14, & 19.

1:50 p.m. - Event Staging
2:00 p.m. - Ceremony; Reception to Follow Ceremony

LOCATION: Constitution Hall; 18th Street, NW, between C and D Streets

DURATION: 2½ hours

MEDIA: Members of the media will likely be in attendance. Coordination of press inquiries will be managed by the Office of Public Affairs. DOJ and component photographers will take photographs of the event.

PARTICIPANTS: The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.

REMARKS: JMD Personnel Staff will prepare the event script and will work with the Attorney General's speech writer on the content of his remarks.

RECOMMENDED BY: Not applicable.

CONTACT: Vince Micone; Assistant Director, Programs and Events Section, JMD Personnel Staff; 5-1756

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: The Financial Services Roundtable 2006 Fall Conference
City & State of Event: Washington, DC
Date(s): September 20-21, 2006
Date/Time the event begins: Thursday, September 21, 8:30AM
Date/Time the event concludes: Thursday, September 21 3:00 PM
Proposed/Requested Date & Time of the Attorney General's participation: Antyime within those times; There is also a dinner on Wednesday evening, September 20 at 6:30 p.m. and a dinner at 6:00 pm on Thursday evening, September 21.
Nature of Event: Meeting of the Roundtable member representatives

Event Venue Name: Ritz Carlton, Washington, DC
Room Name or Room #: Ritz Carlton Ballroom
Address: 1150 22nd Street
City/State/Zip: Washington, DC 20037
Venue Phone #: 202-835-0500
Venue FAX #: 202-974-5538

Event Sponsor: The Financial Services Roundtable
Address: 1001 Pennsylvania Avenue, Suite 500 South
City/State/Zip: Washington, DC 20004
Website address: www.fsround.org

Person Inviting: [redacted]

Are there corporate sponsors or other underwriters of the event? no

Please provide the following information:

1. Description of the audience: CEO's and Senior Executives of the U.S. top 100 Financial Services companies
2. Approximate size of the audience: 150
3. List of other invited speakers and program participants: TBD
4. List of invited government officials, dignitaries, VIPS: TBD
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **No, not unless he requests it.**
6. Is the Attorney General being asked to speak? yes
7. If yes, how long is he expected to speak? He may speak as long as he wishes; however recommended time will be a total of 30 minutes, 20 for talk and 10 for Q&A
8. What is the theme/topic/subject of the event? TBD
9. What is the ATTIRE for the event? **Business**
10. Is this invitation for the Attorney General or the Attorney General and a guest? If he wishes
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? No If yes, what is the face value of the ticket?
14. What is your deadline for confirming a speaker? September 1, 2006 (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

9/28

ARG

Georgetown University Law Center
Continuing Legal Education
600 New Jersey Avenue, NW
Washington, DC 20001
PHONE: (202) 662-9890
FAX: (202) 662-9891
cle@law.georgetown.edu • www.georgetowncle.org

Fax Transmittal Sheet

DATE: 5/25/06

TO: Andrew Beach

COMPANY: U.S. Dept of Justice

FAX NUMBER: 202 307 2825

FROM: [redacted]

NUMBER OF PAGES (Including Cover Sheet): 13

MESSAGE: Scheduling Request to AG Gonzales

Thank you for considering this request.

This facsimile contains confidential information intended only for the use of the person named above. If the reader of this message is not the intended recipient, please be advised that any dissemination or copy of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately. Thank you.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event:Conference on the Judiciary
City & State: Washington DC
Date(s): September 28-29
Date/Time event begins: Sept 28 8 am
Date/Time event concludes: Sept 29, noon
Proposed/Requested Date & Time of the Attorney General's participation: Sept. 28 8:00 pm
Nature of Event: deliver brief remarks to Conference Dinner

Event Venue: for dinner, Mandarin Oriental Hotel; for Conference Georgetown Law Center
Room Name or number: main ballroom
Street Address: 1330 Maryland Avenue SW
City/State/Zip: Washington DC 20024
Venue Phone #:202-554-8588
Venue FAX #:202-554-8999

Event Sponsor: Georgetown University Law Center and American Law Institute
Address: 600 New Jersey Avenue NW
City/State/Zip: Washington DC 20001
Website address: conferenceonthejudiciary.org (website to go live June 15)

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

[redacted]

Are there corporate sponsors or other underwriters of the event? Foundation and private underwriting. Names available upon request

Please provide the following information:

Approximate size / description of the audience: 380
List of other invited speakers and program participants: see attached Conference Program
List of invited government officials, dignitaries, VIPS: see appended list of Steering Committee, Conference Committee, and Small Group Judicial Commentators
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? His choice
Is the Attorney General being asked to speak? yes
If yes, how long is he expected to speak? Five minutes
What is the theme/topic/subject of the event? The future of the Federal and State courts
What is the ATTIRE for the event? Business attire
Is this invitation for the Attorney General or the Attorney General and a guest? He is welcome to bring a guest
Is this a fund raising event? no
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a

Are tickets being sold for this event? If yes, what is the face value of the ticket? No tickets are being sold; spouses of conference participants only will reimburse the conference for their dinner cost. All others are guests of the Conference

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would appreciate knowing if AG Gonzales will participate by September 1.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Appended is a one-page description of the Conference. Please note that we anticipate that the Attorney General would be introduced by the MC (a significant media figure TBD), and then deliver brief remarks at the Dinner prior introduction of the keynote speaker, Chief Justice Roberts. The Attorney General will receive an invitation to attend the Conference on the Judiciary, and we would be delighted if his schedule permits him to attend any portion of the events that are scheduled at Georgetown University Law Center, in addition to this specific request for him to deliver remarks at the Dinner.

Conference on the Judiciary
September 28-29, 2006
Washington, D.C.

A fair and impartial judiciary is a cornerstone of our system of government. Yet in recent days the judiciary has been subject to escalating attacks that threaten our nation's tradition of judicial independence. The judicial nomination and confirmation process has become a high-stakes partisan battle. Disagreement with judicial decisions has led to calls for the impeachment of federal judges and the recall of state judges. Congress has sought to influence the outcome of a single state case.

A recent ABA poll found that more than 56% of the public agree that "judicial activism … seems to have reached a crisis. Judges routinely overrule the will of the people."

There is, in short, a great need to strengthen public understanding of the importance of having a fair and impartial judiciary.

To address this challenge, [redacted] and Stephen Breyer have agreed to chair a national Conference on the Judiciary. The participants will include leaders from the business and media communities, the nonprofit sector and government at both the federal and state level. The first panel of the Conference will examine both the relevant history and contemporary criticisms. A second will explore judicial selection, elections, and removal at both the federal and state levels. Others will address inter-branch relations, recent polls of public attitudes, the role of the media, and suggestions for improving the efficiency and effectiveness of the judiciary. Participants will be provided in advance of the Conference with background monographs prepared by leading scholars on the key issues to be considered at the Conference.

The Conference will be organized so that everyone attending will be able to participate in small group discussions that will analyze the issues presented by speakers on the panels and develop an action agenda of next steps to be taken.

Conference on the Judiciary (As of May 5, 2006)
September 28-29, 2006

Thursday, September 28

8:45 Welcome: [redacted] CONFIRMED
CONFIRMED

9:00-9:15 Importance of an Independent Judiciary
[redacted] CONFIRMED

9:15-10:00 Judicial Independence: Justifications and Modern Criticisms
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

10:00-10:45 Judicial Selection and Removal
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

11:00-12:00 Small Group Discussions

Lunch Speaker: Justice Breyer CONFIRMED

1:45-2:45 Interbranch Relations
[redacted] CONFIRMED
CONFIRMED
PENDING
CONFIRMED

2:45 to 3:45 Public Understanding, Media, and Education
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

4:00-5:00 Small Group Discussions

Dinner Speaker: Chief Justice Roberts CONFIRMED

Friday, September 29

9:00-10:00 Improving the Judicial System

[redacted] CONFIRMED
CONFIRMED
CONFIRMED
CONFIRMED

10:00-11:00 Small Group Discussions

11:00-12:00 What Next?

[redacted] CONFIRMED
(who will summarize best suggestions from small groups and lead discussion)

Justices Breyer and [redacted] Concluding Remarks

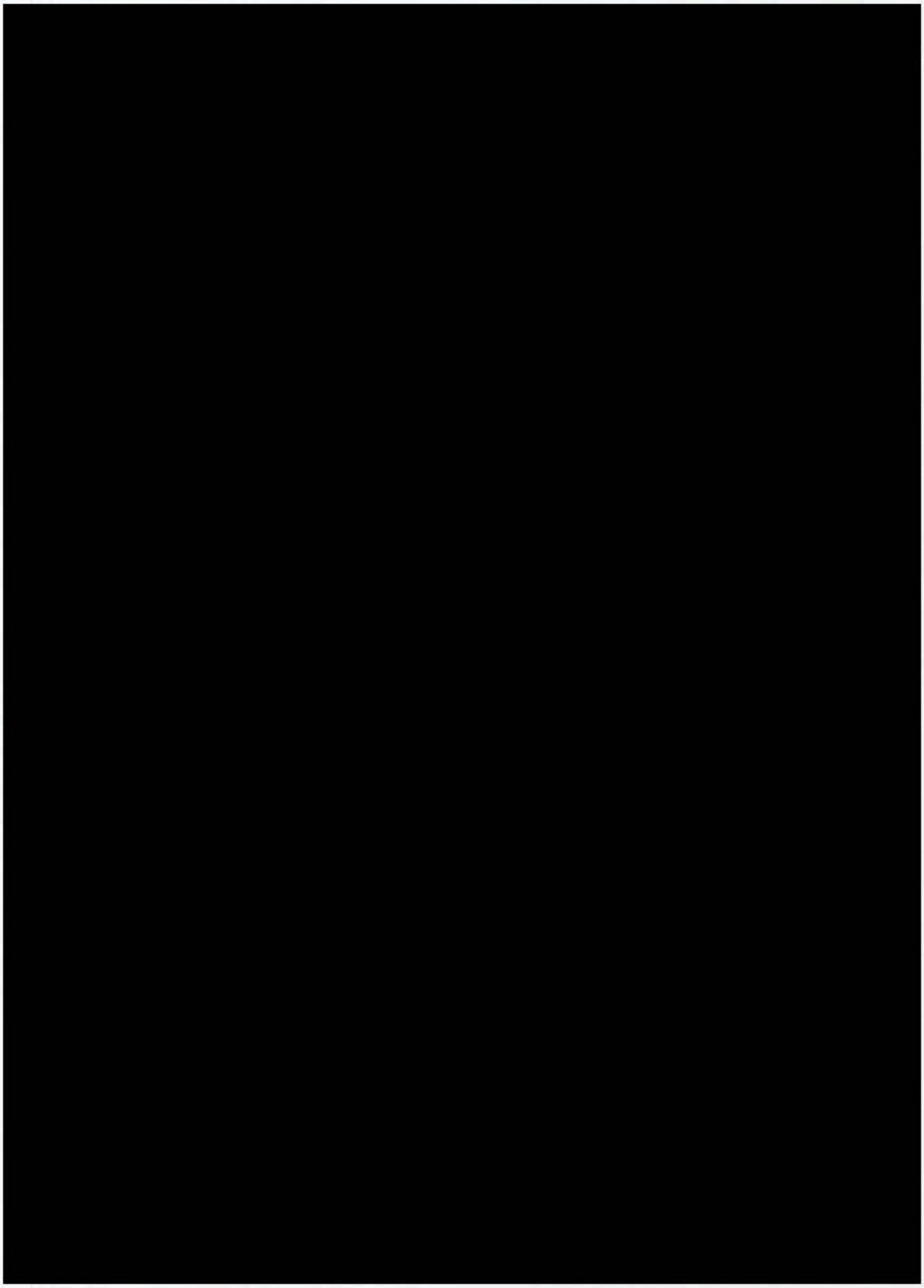
Steering Committee, Conference on the Judiciary

Hon. Stephen G. Breyer
Associate Justice, Supreme Court of the United States

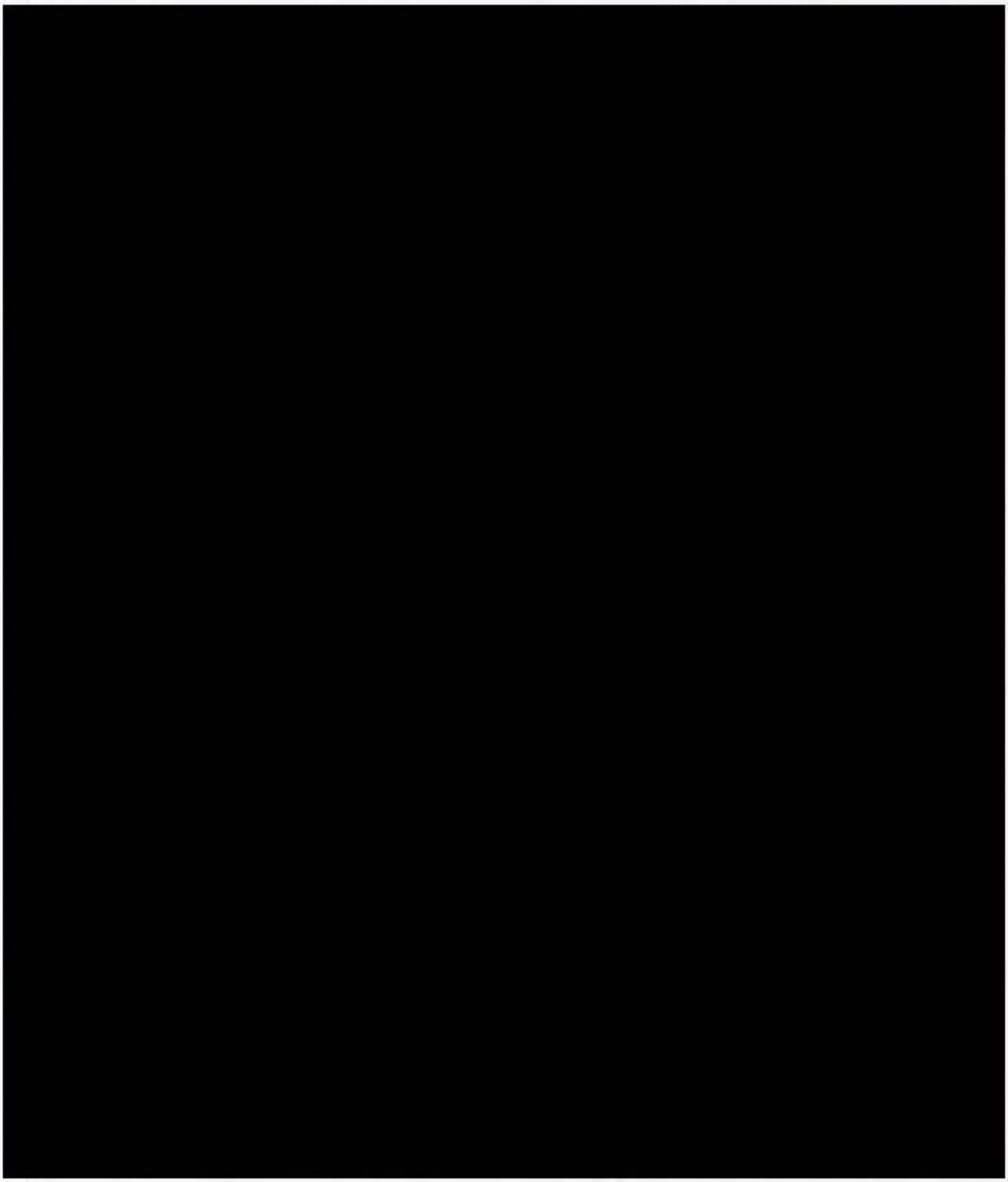
Hon. D. Brock Hornby
Chief Judge, U.S District Court
for the District of Maine

[redacted]

[redacted]



[redacted]



Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing
Start:	Tuesday, July 11, 2006 3:30 PM
End:	Tuesday, July 11, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, July 10, 2006 9:57 AM
To: Newton, Cullen (ENRD)
Cc: Senger, Jeffrey M; Gorsuch, Neil M; McCallum, Robert (SMO)
Subject: RE: ENRD has its senior management retreat today and tomorrow,

thanks

From: Newton, Cullen (ENRD)
Sent: Monday, July 10, 2006 9:55 AM
To: Gunn, Currie (SMO)
Subject: ENRD has its senior management retreat today and tomorrow,

So there is nobody around to do the 11am.

Martinson, Wanda

Subject:	Updated: Van - Patrick Henry Building to White House
Start:	Monday, July 10, 2006 10:45 AM
End:	Monday, July 10, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Macklin, Kristi R; Gorsuch, Neil M; Eisenberg, John

When: Monday, July 10, 2006 10:45 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

Passengers: Rachel Brand, Kristi Macklin, Neil Gorsuch, John Eisenberg, others?

Brand, Rachel

Subject:	Updated: Van - Patrick Henry Building to White House
Start:	Monday, July 10, 2006 10:45 AM
End:	Monday, July 10, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brand, Rachel
Required Attendees:	Macklin, Kristi R; Gorsuch, Neil M; Eisenberg, JohnMacklin, Kristi R; Gorsuch, Neil M; Eisenberg, John

Passengers: Rachel Brand, Kristi Macklin, Neil Gorsuch, John Eisenberg, others?

Warwick, Brian

From: Warwick, Brian
Sent: Monday, July 10, 2006 10:47 AM
To: Gorsuch, Neil M
Subject: Read: Friendly questions

Bradbury, Steve

From: Bradbury, Steve
Sent: Monday, July 10, 2006 10:53 AM
To: Gorsuch, Neil M
Subject: Read: Friendly questions

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 10:54 AM
To: Shaw, Aloma A
Subject: Plse cancel car returning

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 10:54 AM
To: 'bgerry@who.eop.gov'
Subject: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Engel, Steve

From: Engel, Steve
Sent: Monday, July 10, 2006 10:57 AM
To: Gorsuch, Neil M
Subject: Read: Friendly questions

Marshall, C. Kevin

From: Marshall, C. Kevin
Sent: Monday, July 10, 2006 11:02 AM
To: Gorsuch, Neil M
Subject: Read: Friendly questions

Garre, Gregory G

From: Garre, Gregory G
Sent: Monday, July 10, 2006 11:06 AM
To: Gorsuch, Neil M
Subject: Read: Friendly questions

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 10, 2006 11:10 AM
To: Gorsuch, Neil M
Subject: Car back to PHB

Neil:
The motorpool called to say your 12:15 car will be a little late. Either you can wait (she couldn't predict for how long) or catch a taxi back. Please advise.
Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 11:11 AM
To: Shaw, Aloma A
Subject: Re: Car back to PHB

Plse cancel it. Thx.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:10:08 2006
Subject: Car back to PHB

Neil:
The motorpool called to say your 12:15 car will be a little late. Either you can wait (she couldn't predict for how long) or catch a taxi back. Please advise.
Aloma

Brett_C._Gerry@who.eop.gov

From:	Brett_C._Gerry@who.eop.gov
Sent:	Monday, July 10, 2006 11:12 AM
To:	Gorsuch, Neil M
Subject:	RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Let's still aim for 1pm lunch. If you'd like, I could order you a burger or something from the mess and we could eat in my office.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 10:53 AM
To: Gerry, Brett C.
Subject: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 11:17 AM
To: 'Brett_C._Gerry@who.eop.gov'
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Whatever is most convenient for you but if we go this route I insist on paying my way.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:11:43 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Let's still aim for 1pm lunch. If you'd like, I could order you a burger or something from the mess and we could eat in my office.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 10:53 AM
To: Gerry, Brett C.
Subject: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 10, 2006 11:19 AM
To: Gorsuch, Neil M
Subject: RE: Plse cancel car returning

done

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 10:54 AM
To: Shaw, Aloma A
Subject: Plse cancel car returning

Brett_C._Gerry@who.eop.gov

From:	Brett_C._Gerry@who.eop.gov
Sent:	Monday, July 10, 2006 11:20 AM
To:	Gorsuch, Neil M
Subject:	RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Sorry, only mess members are allowed to pay -- plus, you paid last time.
Options are: burger made as you like; chicken pomodori sandwich; chicken salad; barbeque shrimp with rice and vegetables; and old fashioned mac and cheese. (Also let me know what you'd like to drink.) Pass along your order and I'll place it at around 12:45.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 11:16 AM
To: Gerry, Brett C.
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Whatever is most convenient for you but if we go this route I insist on paying my way.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:11:43 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Let's still aim for 1pm lunch. If you'd like, I could order you a burger or something from the mess and we could eat in my office.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 10:53 AM
To: Gerry, Brett C.
Subject: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 11:47 AM
To: 'Brett_C._Gerry@who.eop.gov'
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Mtg being rescheduled. Am free now. You? If not, I understand entirely - sorry for the mvg target.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:20:13 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Sorry, only mess members are allowed to pay -- plus, you paid last time.
Options are: burger made as you like; chicken pomodori sandwich; chicken salad; barbeque shrimp with rice and vegetables; and old fashioned mac and cheese. (Also let me know what you'd like to drink.) Pass along your order and I'll place it at around 12:45.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 11:16 AM
To: Gerry, Brett C.
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Whatever is most convenient for you but if we go this route I insist on paying my way.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:11:43 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Let's still aim for 1pm lunch. If you'd like, I could order you a burger or something from the mess and we could eat in my office.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 10:53 AM
To: Gerry, Brett C.

To: Gerry, Brett C.
Subject: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Brett_C._Gerry@who.eop.gov

From:	Brett_C._Gerry@who.eop.gov
Sent:	Monday, July 10, 2006 11:51 AM
To:	Gorsuch, Neil M
Subject:	RE: Turns out moot goes till 1 pm. Will stop by after but understand if it doesn't work.

Am free. Why don't you swing by? I'm at room 165.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 11:46 AM
To: Gerry, Brett C.
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but
understand if it doesn't work.

Mtg being rescheduled. Am free now. You? If not, I understand entirely - sorry for the mvg target.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:20:13 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but
understand if it doesn't work.

Sorry, only mess members are allowed to pay -- plus, you paid last time.
Options are: burger made as you like; chicken pomodori sandwich; chicken salad; barbeque shrimp with rice and vegetables; and old fashioned mac and cheese. (Also let me know what you'd like to drink.) Pass along your order and I'll place it at around 12:45.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 11:16 AM
To: Gerry, Brett C.
Subject: Re: Turns out moot goes till 1 pm. Will stop by after but
understand if it doesn't work.

Whatever is most convenient for you but if we go this route I insist on paying my way.

-----Original Message-----
From: Brett_C._Gerry@who.eop.gov
To: Gorsuch, Neil M
Sent: Mon Jul 10 11:11:43 2006

Sent: Mon Jul 10 11:11:45 2006
Subject: RE: Turns out moot goes till 1 pm. Will stop by after but
understand if it doesn't work.

Let's still aim for 1pm lunch. If you'd like, I could order you a burger or something from the mess and we could eat in my office.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 10, 2006 10:53 AM
To: Gerry, Brett C.
Subject: Turns out moot goes till 1 pm. Will stop by after but
understand if it doesn't work.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 11:51 AM
To: Brand, Rachel
Subject: Motorpool overloaded - no cars avail. Kristi, Jamil and I will be walking out to catch a cab shortly. Will look for you but understand if you want to go ahead

Brand, Rachel

From: Brand, Rachel
Sent: Monday, July 10, 2006 11:52 AM
To: Gorsuch, Neil M
Subject: Re: Motorpool overloaded - no cars avail. Kristi, Jamil and I will be walking out to catch a cab shortly. Will look for you but understand if you want to go ahead

It'll take me a few mins to get food

-----Original Message-----
From: Gorsuch, Neil M
To: Brand, Rachel
Sent: Mon Jul 10 11:51:29 2006
Subject: Motorpool overloaded - no cars avail. Kristi, Jamil and I will be walking out to catch a cab shortly. Will look for you but understand if you want to go ahead

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 1:38 PM
To: Todd, Gordon (SMO)
Subject: RE: Let me know when you're back in your office

Am back

From: Todd, Gordon (SMO)
Sent: Monday, July 10, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: Let me know when you're back in your office

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 1:39 PM
To: Swenson, Lily F
Subject: Going aways

Any thoughts on celebrating Gordon (and/or Robert's) departures? The Ag is throwing Robt a big shindig on the 19th so Gordon is more imperative, but I'd appreciate your thoughts.

conted-email-jul@conted.ox.ac.uk

From:	conted-email-jul@conted.ox.ac.uk
Sent:	Monday, July 10, 2006 2:33 PM
To:	Gorsuch, Neil M
Subject:	2006-2007 Travel Brochure, Events and Online Short Courses [3097136]
Attachments:	tmp.htm

Dear Mr Gorsuch,

2006-2007 Travel Brochure, Events and Online Short Courses

Welcome to the summer edition of our e-newsletter, which brings news about Oxford alumni activities and online courses ? including the first announcement of an exclusive agreement between Oxford University Press and Oxford?s online courses.

OUS Travel Programme 2006-2007

The second summer travel brochure of the Oxford University Society Travel Programme is now available. New trips for 2007 include a luxury safari in South Africa, a tour along the Ancient Silk Road and a barge cruise in Alsace Lorraine. Special rates have been negotiated for Oxford alumni on two ?Swan Hellenic? cruises. The brochure can be downloaded from our website:
http://www.alumni.ox.ac.uk/services/travel/
If you would prefer a paper copy of the brochure, please contact OUS by e- mail:
travel@ousoc.ox.ac.uk

Weekend at Hadrian?s Wall, 2-3 September 2006

Learn about the Vindolanda writing tablets and the fascinating history behind Hadrian?s Wall. This event, based at the Tyndedale Function Suite in Hexham, will include lectures, site visits, excursions to museums, and an optional half-day guided walk along the wall. Guest lecturers include Professor Alan Bowman, Camden Professor of Ancient History and Fellow of Brasenose College, and Dr Roger Tomlin, Oxford University Lecturer in Late Roman History. For further details, please see our website:
http://www.alumni.ox.ac.uk/events/oneday/hadrianswall.shtml or e-mail
events@ousoc.ox.ac.uk

Short online courses with Oxford - take them from anywhere in the world

The 900th student enrolled on Oxford?s short online courses earlier this month. New courses will launch in Michaelmas Term, among them an introduction to Indian art. Please see the website for more details:

http://www.conted.ox.ac.uk/ad/on8 . Leave your e-mail address to be entered in a free draw.

Short online courses link with Oxford University Press

The biggest news is that from October, all students taking the online short courses will have access to
all of Oxford University Press?s online resources for the duration of the course. The resources include
the Oxford Dictionary of National Biography, the Oxford English Dictionary Online, Grove Music Online,
Grove Art Online, Oxford Scholarship Online and many others. More details of OUP?s online resources
are available at www.oxfordonline.com.

Best wishes,

Nancy Kenny, Secretary of Oxford University Society Tristram Wyatt, Director of Distance and Online Learning

If you prefer not to receive future information about the Oxford University Society or online course offerings from Oxford, simply reply to this message and let us know.

1998 Data Protection Act

The data used for this mailing are securely held in the University Development Office and will be treated confidentially and with sensitivity for the benefit of the University of Oxford, its members and friends. The data are available to our international offices, colleges, faculties, academic and administrative departments, recognized alumni societies, sports and other clubs associated with the University, and to agents contracted by the University for particular alumni-related projects.

Data are used for a full range of alumni activities, including the sending of University publications, the promotion of benefits and services available to alumni, notification of alumni events and of programmes involving academic and administrative departments. Data may also be used in fundraising programmes, which could include an element of direct marketing. The data will not be passed to external commercial organisations.

Under the terms of the Data Protection Act you have the right to object to the use of your data for any or all of the above purposes. If you wish to do this or to notify us of an address change please contact the University Database Office quoting your personal reference number [3097136] by E-mail database@devoff.ox.ac.uk

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Tristram Wyatt, Director of Distance and Online Learning

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From: USDOJ- Office of Public Affairs
Sent: Monday, July 10, 2006 3:03 PM
To: USDOJ- Office of Public Affairs
Subject: UNITED STATES TRUSTEE PROGRAM MOURNS DEATH OF UNITED STATES TRUSTEE RICHARD W. SIMMONS

U.S. Department of Justice
Executive Office for United States Trustees

PRESS RELEASE

For Immediate Release

July 10, 2006

UNITED STATES TRUSTEE PROGRAM MOURNS DEATH OF UNITED STATES TRUSTEE RICHARD W. SIMMONS

WASHINGTON, D.C.–The United States Trustee Program mourns the death on July 7, 2006, of United States Trustee Richard W. Simmons, 58, of Houston, Texas.

"It is with great sadness that I report the sudden passing of U.S. Trustee Richard Simmons," Cliff White, Acting Director of the Executive Office for U.S. Trustees, stated today. "Richard served the Program with distinction during his 12 years as U.S. Trustee for southern and western Texas. He was well regarded in the legal community and was dedicated to educating the public on bankruptcy law issues."

Mr. Simmons' accomplishments as U.S. Trustee include spearheading the Program's training efforts for a number of years, helping to craft a national initiative to enhance the Chapter 7 case closing process, and strengthening the case reporting requirements for Chapter 13 trustees.

Mr. Simmons was first appointed U.S. Trustee for southern and western Texas (Region 7) in August 1994. Throughout his legal career, Mr. Simmons specialized in bankruptcy law, representing both debtors and creditors and handling cases under Chapters 7, 11, and 13. Before his first appointment as U.S. Trustee, he was a partner with the Houston law firm of Nathan, Wood & Sommers, where he worked for 12 years. Mr. Simmons received a Bachelors Degree and a Masters in Arts from Ohio State University in Columbus, Ohio, and a law degree from the University of Houston Law Center.

A memorial service will be held on July 13 at 10:00 a.m. at the A.D. Bruce Religion Center, Cullen Boulevard, Entrance 13, University of Houston, telephone (713) 743-5050.

The U.S. Trustee Program is the component of the Justice Department that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. Region 7 is headquartered in Houston with additional offices in Austin, San Antonio, and Corpus Christi.

Contact: Jane Limprecht, Public Information Officer
Executive Office for U.S. Trustees

DOJ_NMG_ 0163991

(202) 305-7411

[End]

DOJ_NMG_ 0163992

Image not available for this document, ID: 0.7.10316.51481-000001

[redacted]@cadc.uscourts.gov

From: [redacted]@cadc.uscourts.gov
Sent: Monday, July 10, 2006 3:17 PM
To: Gorsuch, Neil M
Subject: Re: Bbq

Hey Guys,

So far, we have 30 adults and 15 children. Still waiting to hear from a number of people. If I had to guess, I'd say 10-15 more adults and half as many kids.

So maybe we should expect 45 adults, 20 kids?

"Neil.Gorsuch@usd
oj.gov"
<Neil.Gorsuch@usd To
oj.gov> [redacted]@cadc.uscourts.gov"
[redacted]@cadc.uscourts.gov>
07/09/2006 05:22 cc
PM [redacted]@ftc.gov"
<[redacted]@ftc.gov>
Subject
Bbq

Do you have a sense of how many adults/kids are likely to attend?

Otus2005, Ag

Subject:	Farewell Reception for Robert McCallum
Start:	Wednesday, July 19, 2006 2:00 PM
End:	Wednesday, July 19, 2006 3:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McNulty, Paul J; Sampson, Kyle; Elwood, Courtney; Gorsuch, Neil M; Goodling, Monica; Taylor, Jeffrey (OAG); Jenkins, Linda A

When: Wednesday, July 19, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room

Full Name: Michael Elston
Last Name: Elston
First Name: Michael
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 4208
Washington, DC 20530

Business: 202-307-2090

E-mail: Michael.Elston@SMOJMD.USDOJ.gov
E-mail Display As: Michael.Elston@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163996

Full Name: Robert McCallum
Last Name: McCallum
First Name: Robert
Company: SMO

Business Address: Main Justice Bldg.
950 Penn Ave, NW Room 5714
Washington, DC 20530-0001

Business: 202-514-9500
Home: 202-332-2101

E-mail: Robert.McCallum@SMOJMD.USDOJ.gov
E-mail Display As: Robert.McCallum@SMOJMD.USDOJ.gov

DOJ_NMG_ 0163997

From: USDOJ- Office of Public Affairs
Sent: Monday, July 10, 2006 3:49 PM
To: USDOJ- Office of Public Affairs
Subject: OXFORD, GA MAN INDICTED FOR TRAFFICKING IN ILLICIT SOFTWARE

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
MONDAY, JULY 10, 2006
WWW.USDOJ.GOV/USAO/GAN

CONTACT: PATRICK CROSBY
PHONE: (404)581-6016
FAX: (404)581-6160

OXFORD, GA MAN INDICTED FOR TRAFFICKING IN ILLICIT SOFTWARE

First Indictment Under New Federal Statute Criminalizing Trafficking in Illicit Labels

ATLANTA – Justin E. Harrison, 25, of Oxford, Ga., has been indicted by a federal grand jury on charges of trafficking in illicit certificates of authenticity associated with copyrighted computer software. This is the first case charged using a recently enacted federal statute intended to protect intellectual property. Harrison is scheduled for an initial appearance, bond hearing and arraignment today.

"This case illustrates the illicit trade in intellectual property that is unfortunately becoming rampant worldwide and in our own community," said U.S. Attorney David E. Nahmias. "This is the first prosecution under a new federal statute that criminalizes trafficking in illicit labels. Congress has provided another useful tool to protect the intellectual property of our nation's businesses, which has become one of our country's most valuable resources."

The indictment further alleges that Harrison dealt in unauthorized computer software and distributed certificates of authenticity for the software. In particular, Harrison is charged with trafficking in illicit certificates of authenticity intended to be used with Microsoft Windows XP Professional and Windows 2000 Professional operating system software.

The indictment charges four counts of trafficking in illicit labels. The charges each carry a maximum sentence of five years in prison and a fine of up to $250,000. The indictment also seeks forfeiture of all proceeds of the alleged offenses, including $226,257; 25 pairs of diamond earrings; 88 Citizen and Seiko watches; and six Sony Cyber Shot cameras.

DOJ_NMG_ 0163998

This case is being investigated by special agents of the FBI. Assistant U.S. Attorneys Randy S. Chartash and Lawrence R. Sommerfeld are prosecuting the case.

An indictment contains only allegations, and defendants are presumed innocent unless and until proven guilty.

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DOJ_NMG_ 0163999

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Image not available for this document, ID: 0.7.10316.51464-000002

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Monday, July 10, 2006 4:50 PM
To: Gorsuch, Neil M
Subject: You rocked

Really good moot. You will be an awesome / formidable judge!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 5:16 PM
To: Seidel, Rebecca
Subject: RE: You rocked

You're kind but that was nasty sort cross examination and I hope to be a more respectful, congenial judge!!

From: Seidel, Rebecca
Sent: Monday, July 10, 2006 4:50 PM
To: Gorsuch, Neil M
Subject: You rocked

Really good moot. You will be an awesome / formidable judge!

Goodling, Monica

From: Goodling, Monica
Sent: Monday, July 10, 2006 5:17 PM
Cc: Elston, Michael (ODAG); Lofthus, Lee J
Subject: New parking permits for Main

Folks -- We have very limited parking available in Main beginning tomorrow. Because only a portion of those who regularly park in Main will be able to fit, we are issuing special permits that will cover the next two weeks (parking may start tomorrow and will be authorized through 7/23/06). Each component has been allotted a few spaces -- and each component head may issue the spots allocated to your office as you wish within your division, as long as the person receiving the permit already has an approved Main Justice pass. To gain entry, the employee must display their regular Main Justice pass AND the special temporary pass. Please send someone to OAG to pick up your office's passes, at your convenience.

At some point next week, we will issue new temporary permits for dates past 7/23/06, depending on whether new spots have been made available and whether other components have returned to Main. For now, anyone who has a Main Justice pass and is not able to park in Main can continue to park in the Patrick Henry building. Thank you for your help.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 5:19 PM
To: Gunn, Currie (SMO)
Cc: McCallum, Robert (SMO)
Subject: FW: New parking permits for Main

Would you mind tomorrow picking these up and distributing them as you and Robert see fit? I am perfectly happy parking at Patrick Henry so please put me at the bottom of the list.

From: Goodling, Monica
Sent: Monday, July 10, 2006 5:17 PM
Cc: Elston, Michael (ODAG); Lofthus, Lee J
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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 10, 2006 5:35 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: RE: New parking permits for Main

I can park at the Landsburg and so put me at the bottom of the list as well. Robt.

From: Gorsuch, Neil M
Sent: Monday, July 10, 2006 5:19 PM
To: Gunn, Currie (SMO)
Cc: McCallum, Robert (SMO)
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Gorsuch, Neil M

Subject:	thank you notes
Start:	Tuesday, July 11, 2006 9:00 AM
End:	Tuesday, July 11, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, July 11, 2006 9:10 AM
Subject: Email Interruption at 20 Massachusetts Avenue

We are currently experiencing a mail flow problem at 20 Massachusetts Avenue. As a result this effects incoming and outgoing Email for JCON customers: Asset Forfeiture Management Staff, Security & Emergency Planning Staff, and Office of Attorney Recruitment and Management. Techinicians are working on the problems. We will notifiy you once mailflow resumes.

Event:	Email – Mail Flow Problem
Users Effected:	JCON Customers: Asset Forfeiture Management Staff, Security & Emergency Planning Staff, and Office of Attorney Recruitment and Management located at 20 Massachusetts Avenue
Services Available:	BlackBerry PIN to PIN Messaging G:\ Drive H:\ Drive Internet M:\ Drive Network Printers
Services Unavailable:	Email and BlackBerry Messaging

Check **DOJNet** at http://10.173.2.12/ for additional information of Department wide interest, including an archive of selected JCON Broadcasts.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 9:23 AM
To: Scolinos, Tasia; Card, Jean
Subject: AG remarks

I see I'm scheduled to attend a mtg this morning to go over the AG's opening statement. Are you distributing copies to review in advance? No problem if not!

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing -- Opening Statement Review
Start:	Thursday, July 13, 2006 11:45 AM
End:	Thursday, July 13, 2006 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 9:25 AM
To: Gorsuch, Neil M; Scolinos, Tasia; Card, Jean
Subject: RE: AG remarks

Ah, I just saw this was moved to Th - my apologies!

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 9:23 AM
To: Scolinos, Tasia; Card, Jean
Subject: AG remarks

I see I'm scheduled to attend a mtg this morning to go over the AG's opening statement. Are you distributing copies to review in advance? No problem if not!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 9:36 AM
To: 'Shannen_W._Coffin@ovp.eop.gov'
Subject: RE: Congrats on surviving hearing

If it's ok, [redacted] will join us. Looking forward to catching up.

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 5:46 PM
To: Gorsuch, Neil M
Subject: Re: Congrats on surviving hearing

Sure. You make the res? Or me?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Coffin, Shannen W. <Shannen_W._Coffin@ovp.eop.gov>
Sent: Thu Jun 22 17:44:37 2006
Subject: RE: Congrats on surviving hearing

Let's do it! Noon?

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 4:54 PM
To: Gorsuch, Neil M
Subject: RE: Congrats on surviving hearing

Fogo de Chao. Meat. Ummmmmmmmm.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:52 PM
To: Coffin, Shannen W.
Subject: RE: Congrats on surviving hearing

How abt Tues 11th? What venue prefer you?

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov
[mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 4:48 PM
To: Gorsuch, Neil M
Subject: RE: Congrats on surviving hearing

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Either next Friday (30th) or the Thursday of the week after (6th), and then Tues-Thursday of the following week.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:44 PM
To: Coffin, Shannen W.
Subject: RE: Congrats on surviving hearing

That's kind but Tues is actually a poor day for me. When might work on your end?

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov
[mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 4:17 PM
To: Gorsuch, Neil M
Subject: RE: Congrats on surviving hearing

Next two weeks are pretty much booked, unless you want to crash the lunch I'm having with DBS and his clerks at Capital Grille on Tuesday.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:16 PM
To: Coffin, Shannen W.
Subject: RE: Congrats on surviving hearing

Thanks so much, Shannen. How about lunch sometime soon? What do the next couple weeks look like for you? My turn to treat.

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov
[mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 9:44 AM
To: Gorsuch, Neil M
Subject: Congrats on surviving hearing

I'm glad that the Senator chairing the Committee had pointed out all the great work you'd done on detainees. It will give you something to keep busy with in post-hearing written questions.

Happy to see this going along so remarkably smoothly. Hope it continues.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 9:40 AM
To: 'Shannen_W._Coffin@ovp.eop.gov'
Subject: RE: Congrats on surviving hearing

Deal!

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Tuesday, July 11, 2006 9:36 AM
To: Gorsuch, Neil M
Subject: Re: Congrats on surviving hearing

As long as he doesn't get the prime cuts.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Coffin, Shannen W. <Shannen_W._Coffin@ovp.eop.gov>
Sent: Tue Jul 11 09:34:10 2006
Subject: RE: Congrats on surviving hearing

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From: Shannen_W._Coffin@ovp.eop.gov [mailto:Shannen_W._Coffin@ovp.eop.gov]
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Next two weeks are pretty much booked, unless you want to crash the lunch I'm having with DBS and his clerks at Capital Grille on Tuesday.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, June 22, 2006 4:16 PM
To: Coffin, Shannen W.
Subject: RE: Congrats on surviving hearing

Thanks so much, Shannen. How about lunch sometime soon? What do the next couple weeks look like for you? My turn to treat.

-----Original Message-----
From: Shannen_W._Coffin@ovp.eop.gov

[mailto:Shannen_W._Coffin@ovp.eop.gov]
Sent: Thursday, June 22, 2006 9:44 AM
To: Gorsuch, Neil M
Subject: Congrats on surviving hearing

I'm glad that the Senator chairing the Committee had pointed out all the great work you'd done on detainees. It will give you something to keep busy with in post-hearing written questions.

Happy to see this going along so remarkably smoothly. Hope it continues.

Sours, Raquel

Subject:	Updated: PREP: Senate Judiciary Hearing
Start:	Tuesday, July 11, 2006 4:45 PM
End:	Tuesday, July 11, 2006 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	Moschella, William; Taylor, Jeffrey (OAG); Friedrich, Matthew; Hertling, Richard; Gorsuch, Neil M; Elston, Michael (ODAG); Tenpas, Ronald J (ODAG); Alikhan, Arif (ODAG); Seidel, Rebecca; Fisher, Alice; Scolinos, Tasia; Clinger, James H; Meyer, Joan E (ODAG); Oldham, Jeffrey L

When: Tuesday, July 11, 2006 4:45 PM-6:00 PM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Jeff Taylor DOJ: Alice Fisher, Matthew Friedrich, Richard Hertling, Neil Gorsuch, Mike Elston, Arif Alikhan, Rebecca Seidel, Will Moschella, Tasia Scolinos, James Clinger, Joan Meyer, Jeff Oldham

Gunn, Currie (SMO)

Subject:	ASG Photo Op w/OASG Staff
Location:	OASG Offices
Start:	Wednesday, July 12, 2006 1:30 PM
End:	Wednesday, July 12, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Senger, Jeffrey M; Todd, Gordon (SMO); Gorsuch, Neil M; Shaw, Aloma A; Davis, Deborah J; McCallum, Robert (SMO); Swenson, Lily F

Gunn, Currie (SMO)

Subject:	ASG Photo Op w/OASG Staff
Location:	OASG Offices
Start:	Wednesday, July 12, 2006 1:30 PM
End:	Wednesday, July 12, 2006 2:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Senger, Jeffrey M; Todd, Gordon (SMO); Gorsuch, Neil M; Shaw, Aloma A; Davis, Deborah J; McCallum, Robert (SMO); Swenson, Lily F

When: Wednesday, July 12, 2006 1:30 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OASG Offices

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

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing
Start:	Tuesday, July 11, 2006 3:30 PM
End:	Tuesday, July 11, 2006 4:45 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, July 11, 2006 12:31 PM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 7.14.06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 7.14.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

July 11, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending July 14, 2006

NEXT WEEK

- ***Division to File Amicus Brief on Religious Speech in Second Circuit Case:*** On July 17, the Division expects to file a brief in the U.S. Court of Appeals for the Second Circuit as amicus curiae in support of appellees in *Bronx Household of Faith* v. *Board of Education*. A school district denied Bronx Household's application to use school property for activities that included religious worship and services; the school district permits the use of school property for a limited public forum to a number of community groups. The district court converted a preliminary injunction into a permanent injunction in favor of Bronx Household, holding that "worship" must be treated as other religious speech. The district court also concluded that permitting Bronx Household access to the property would not violate the Establishment Clause, but rather, preserve the neutrality toward religion the Establishment Clause requires. The Division expects to argue that the school district cannot engage in viewpoint discrimination to deny Bronx Household access to school property, that "worship" is protected speech, and permitting Bronx Household to use the school property would not endorse religion and thus present no Establishment Clause violation.

THIS WEEK

- ***Division Filed Section 2 VRA Lawsuit against the City of Euclid, Ohio:***

  system of electing the city council dilutes the voting strength of African-American citizens. African-Americans compose nearly 30% of Euclid's electorate. While there

have been eight recent African-American candidates for the Euclid City Council, not a single African-American candidate has ever been elected to that body. Further, in seven recent elections for Euclid City Council, African-Americans voted cohesively and white voters voted sufficiently as a bloc to defeat the African-American voters' candidates of choice.

- ***Division Awarded Grants to Community Organizations Aimed at Preventing Immigration-Related Job Discrimination:***
  On July 10, the Division publicly announced the award of nearly $725,000 in grants to 11 nonprofit groups serving communities throughout the country to conduct public education programs for workers and employers about immigration-related job discrimination.

LAST WEEK

- ***Former Tennessee Corrections Officer Sentenced to Life Imprisonment:***
  On July 6, Patrick Marlowe, a former shift supervisor at the Wilson County Jail in Tennessee, was sentenced to life imprisonment on his conviction of violating one count of 18 U.S.C. §241 (conspiracy) and six counts of 18 U.S.C. §242, including a finding of death resulting for failing to provide medical care to detainee Walter Kuntz. In addition to Marlowe, seven other former Wilson County corrections officers have been convicted and sentenced on felony charges relating to violations of the civil rights of inmates at the Jail.

- ***Division Reached Settlement Agreement in Florida RLUIPA case:***
  On July, 5, the Division reached a settlement agreement resolving a lawsuit filed by the Department against the City of Hollywood, Fla., over allegations that the city violated the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) by discriminating against the Hollywood Community Synagogue based on its religious denomination, the Chabad Lubavitch movement of Orthodox Judaism. As part of the settlement agreement, the city agreed to allow the Hollywood Community Synagogue to operate permanently as a house of worship at its properties, and to expand if it should acquire additional properties within a block of its current location. The city also agreed that its leaders and managers, and certain city employees, will attend training on the requirements of RLUIPA. In a separate agreement negotiated by the Synagogue, the city agreed to pay the Synagogue $2 million in damages, attorneys fees and costs.

LONG RANGE EVENTS

- Nothing to report.

Division Contact: Tobi Longwitz – (202) 514-3845

Langford, Natalie

From:	Langford, Natalie
Sent:	Tuesday, July 11, 2006 1:11 PM
To:	CRS AG Weekly Report Recipients
Subject:	CRS AG Weekly 7.11.2006
Attachments:	CRS AG Weekly 7-11-06.doc

Attached please find the Community Relations Service's Weekly Report for the Attorney General.

Thank you,

Natalie Langford
Community Relations Service
United States Department of Justice
(202) 305-2991

July 11, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Conduct Arab, Muslim, and Sikh Cultural Awareness Program in Lincoln, NE***
  On July 19, 2006, CRS will be onsite in Lincoln, NE to conduct its Arab, Muslim, and Sikh Cultural Awareness Program. The program will be conducted for members of the Lincoln Police Department, University of Nebraska Police Department, State Highway Patrol, Transportation Security Administration (TSA) personnel, Federal Bureau of Investigation (FBI) officials, and other local law enforcement agencies.

B. This Week

- ***CRS to Facilitate a Dialogue in New Orleans, LA***
  On July 14, 2006, CRS will facilitate a dialogue between minority community members and local law enforcement officials in New Orleans, LA in response to community requests and concerns regarding increased crime in the city. CRS will assist the parties in identifying practices to increase coordination between the branches of the criminal justice system and integration of law enforcement operations for minority communities.

- ***CRS to Provide Onsite Technical Assistance in Hazelton, PA***
  On July 12-13, 2006, CRS will be onsite in Hazleton, PA to provide technical assistance and contingency planning for a pro-immigration and counter-rally demonstration. A recent immigration related bill proposed by the Hazleton mayor has heightened racial tensions within the Hispanic community. CRS services will be provided in response to

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0164025

requests from local Hispanic community groups, and local law enforcement and government officials.

- ***CRS Convened Mediation in Tomah, WI***
  On July 10, 2006, CRS convened mediation between the Tomah School District and the Ho-Chunk Indian Nation in Tomah, WI. The mediation is being conducted in response to requests from the Ho-Chunk Indian Nation to address allegations that Tomah teachers and administrators treat Ho-Chunk Indian students and parents in a culturally and racially insensitive manner.

- ***CRS Facilitated a Community Dialogue in Suffolk County, NY***
  On July 10, 2006, CRS facilitated a Community Dialogue in Suffolk County, NY, to address issues of education and minority students in response to requests from local community groups. The dialogue focused on disciplinary practices, suspensions, teacher's roles and ramifications of suspensions.

- ***CRS to Provide Technical Assistance in Hawkinsville, GA***
  On July 11, 2006, CRS will be onsite in Hawkinsville, GA to provide a presentation on creating a Human Relations Commission for Pulaski County, GA of which Hawkinsville, GA is the county seat. The program is being conducted in response to a CRS facilitated dialogue between African American community members, the city manager and the police chief of Hawkinsville following allegations of racial profiling against the Hawkinsville Police Department.

- ***CRS to Assess Racial Tensions in Gulfport, MS***
  CRS is assessing allegations that the FEMA ERO Office in Gulfport, MS received complaints from two trailer park property managers of racial conflicts between African American, Hispanic, and white residents, as well as allegations of disparity in treatment of African American and Hispanic residents.

- ***CRS to Facilitate a Panel Discussion in Jackson, MS***
  On July 11-13, 2006, CRS will be onsite in Jackson, MS to participate in the Sixth Annual South East Consortium Civil Rights Conference. In response to requests from event organizers, CRS will facilitate a workshop on post Katrina activities in Mississippi, and will facilitate a panel of presenters including federal, state, and local officials involved in Hurricane recovery activity. This is the third year CRS will be involved in the conference hosted by the consortium of federal agencies.

- ***CRS to Convene a Community Meeting in Buffalo, NY***
  On July 12, 2006, CRS will meet with the U.S. Attorney of the Western District of New York, the Director of the local Department of Homeland Security (DHS), other federal, state and local law enforcement officials and local Arab and Muslim community leadership in Buffalo, NY to develop and expand plans to provide information to the community at large of the work of the Bridges Committee. The Bridges Committee was created in response to, and addresses issues and concerns after an incident in 2005 at the US/Canadian border when a number of Arab Americans and Muslims were detained and

DOJ_NMG_ 0164026

allegedly harassed after attending a Muslim conference. CRS will assist the Committee to develop a Community Dialogue or Forum to provide information to the Arab and Muslim community on the positive work of the Bridges Committee.

C. Last Week

- ***CRS Assessed Community Racial Tensions in Lewiston, ME***
  On July 6-7, 2006, CRS was on-site in Lewiston, ME to assess community racial tensions after a reported incident where someone threw a severed pigs head into a Lewiston Mosque while approximately forty men were praying. CRS will meet with representatives from the local Muslim community and local police officials to determine what CRS services, if any, may be appropriate.

- ***CRS Finalized Mediation in Columbus, OH***
  On July 7, 2006, CRS finalized a mediation agreement between the Franklin County Children Services Senior Staff and the Community Mediation Team in Columbus, OH. The mediation was conducted in response to allegations by African American community residents that Franklin County Children Services discriminated against African American families in the identification and removal of children from homes. The mediation agreement provides for the establishment of an ombudsman position, recruitment of African American social workers, and a citizen advisory committee.

- ***CRS Facilitated a Dialogue in Lakewood, NH***
  On July, 6, 2006, CRS facilitated a dialogue between the Lakewood Police Department and local community and religious leaders in response to a recent incident where an African American youth was allegedly assaulted by a white Orthodox Jewish man after the African American youth allegedly crossed private property.

- ***CRS Monitored Racial Tensions in Olympia, WA***
  On July, 3, 2006, CRS was onsite in Olympia, WA to monitor racial tensions regarding a planned National Socialist Movement demonstration on the steps of the State Legislative Building and planned counter-demonstrations. There were approximately 12 National Socialist Movement demonstrators and approximately 500 counter-demonstrators onsite. The event occurred without incident.

D. Long Range Events

- ***CRS to Address Racial Tensions at Keene State College in Keene, NH***
  In August 2006, CRS will conduct a program at Keene State College in response to requests from college administrators. The requests were made following a survey conducted by a local newspaper at Keene State College that identified incidents of bias and harassment on campus. CRS will conduct a program for school personnel in August 2006.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0164027

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 11, 2006 1:16 PM
To: Gorsuch, Neil M
Subject: Re[redacted]

Sorry. Somebody packed my Bberry charger by accident and I was out of commission for a while until I got it back. Yes, my head is spinning with [redacted] A third would likely cause my head to explode. I should take a raincheck right now. That isn't to say, however, that I wouldn't have enjoyed having dinner with you and [redacted] :-). But no[redacted] or the time being.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 07 11:42:09 2006
Subject:[redacted]

I'm getting razzed by [redacted]abt dates but don't want to pressure you at all - should I just tell him it isn't going to work out?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 2:09 PM
To: Swenson, Lily F
Subject: RE [redacted]

Are you able to cover the 3pm interview?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, July 11, 2006 1:16 PM
To: Gorsuch, Neil M
Subject: Re: [redacted]

Sorry. Somebody packed my Bberry charger by accident and I was out of commission for a while until I got it back. Yes, my head is spinning with [redacted] A third would likely cause my head to explode. I should take a raincheck right now. That isn't to say, however, that I wouldn't have enjoyed having dinner with you and [redacted] :-). But no [redacted] for the time being.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 07 11:42:09 2006
Subject: [redacted]

I'm getting razzed by [redacted] abt dates but don't want to pressure you at all - should I just tell him it isn't going to work out?

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing
Start:	Tuesday, July 11, 2006 4:00 PM
End:	Tuesday, July 11, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 2:37 PM
To: Swenson, Lily F
Cc: Goodling, Monica
Subject: RE[redacted]

If you could cover, I'd be grateful - am going to have to miss this.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 2:09 PM
To: Swenson, Lily F
Subject: RE:[redacted]

Are you able to cover the 3pm interview?

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, July 11, 2006 1:16 PM
To: Gorsuch, Neil M
Subject: Re:[redacted]

Sorry. Somebody packed my Bberry charger by accident and I was out of commission for a while until I got it back. Yes, my head is spinning with[redacted] A third would likely cause my head to explode. I should take a raincheck right now. That isn't to say, however, that I wouldn't have enjoyed having dinner with you and[redacted] :-). But no[redacted] for the time being.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Fri Jul 07 11:42:09 2006
Subject:[redacted]

I'm getting razzed by[redacted]abt dates but don't want to pressure you at all - should I just tell him it isn't going to work out?

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, July 11, 2006 3:04 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Fallon, Claire (TAX); Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 071106
Attachments:	AG_Report_7_11_2006.DOC

July 11, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Tax Division to Defend Treasury Check-the-Box Regulations Before 6th Circuit***
  On July 21, 2006, the Tax Division will present oral argument before the Sixth Circuit in this taxpayer appeal challenging the validity of the IRS's "check-the-box" regulations. These regulations, finalized in 1996, permit owners of unincorporated business entities to elect to have them disregarded for tax purposes. In all, the Division is presently defending the regulations in three appellate cases in which the taxpayers' challenge to the regulations is an attempt to avoid liability for the entity's employment taxes. The two other taxpayer appeals are *Emeil A. Kandi v. United States,* pending before the Ninth Circuit, and *Sean McNamee v. Treasury, IRS,* pending before the Second Circuit. The Tax Division will file the government's brief as appellee in *McNamee* on July 14. Oral argument in *Kandi* is anticipated in early 2008. [*Frank A. Littriello v. United States* (United States Court of Appeals for the Sixth Circuit)]

B. THIS WEEK

- ***Court of Claims to Hear Oral Argument in Telephone Excise Tax Class Action***
  On July 13, 2006, oral argument will be held on Radioshack Corporation's motion to certify a class action suit seeking refund of long-distance telephone excise tax with respect to nationwide long distance telephone service. Plaintiff seeks a refund of nearly $160,000 on its own account, and a refund in the range of "$4.8 billion to $9 billion" for the rest of the proposed class of long distance telephone service customers. On May 25, the Treasury Department announced in Notice 2006-50 that the Government would follow the holdings of five United States Courts of Appeals and no longer litigate the

federal excise taxability of certain long distance telephone services. In addition, the Treasury Department announced the government's plan to refund telephone excise tax paid within the past three years. On July 7, in *Virginia Sloan v. United States,* another class action suit where the class is yet to be certified, the plaintiffs have filed a second amended complaint that seeks to enjoin the government's plan to refund three years of telephone excise tax, claiming that the plan will not adequately compensate taxpayers. Tax Division attorneys will continue to oppose telephone excise tax refund claims not controlled by Notice 2006-50, and efforts by opposing counsel to certify a class of plaintiffs. [*Radioshack Corp. v. United States* (United States Court of Federal Claims) and *Virginia Sloan v. United States* (United States District Court for the District of Columbia)]

C. LAST WEEK

- ***District Court Orders Enforcement of Summons to Tax Shelter Promoter***
  On June 29, United States District Judge David O. Carter enforced IRS summonses issued to the law firm Lee Goddard & Duffy, LLP, and attorney William A. Goddard, in connection with a tax shelter promoter penalty investigation. According to documents filed in the case, the IRS believes Goddard and the firm promoted and facilitated the potentially abusive tax shelters developed and marketed by KPMG LLP. [*United States v. Lee Goddard & Duffy, LLP and William A. Goddard* (Central District of California)]

- ***Retired Navy Commander Sentenced to 7 Years in Prison for Tax Evasion***
  On July 6, 2006, U.S. District Judge Lacey Collier sentenced Ward Dean, a retired Navy commander and outspoken tax protestor, to seven years in prison for tax evasion. The sentence was more than double the advisory prison range under the U.S. Sentencing Guidelines. Judge Collier also ordered Dean to pay nearly $300,000 in taxes that were assessed on the $1.3 million he earned between 1997 and 2002. In December, a jury convicted Dean of six counts of tax evasion and one count of attempting to obstruct the Internal Revenue Service in the collection of taxes. [*United States v. Ward Dean* (Northern District of Florida)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-2901.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, July 11, 2006 3:16 PM
To: Gorsuch, Neil M
Subject: Pls call Cybele Daley 4-2771

Gorsuch, Neil M

Subject:	Accepted: Updated: HOLD: PREP: Senate Judiciary Hearing
Start:	Wednesday, July 12, 2006 1:45 PM
End:	Wednesday, July 12, 2006 3:15 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing -- Opening Statement Review
Start:	Wednesday, July 12, 2006 9:00 AM
End:	Wednesday, July 12, 2006 9:15 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:39 PM
To: Shaw, Aloma A
Subject: RE: National Law Journal

Thanks - no worries.

From: Shaw, Aloma A
Sent: Tuesday, July 11, 2006 3:39 PM
To: Gorsuch, Neil M
Subject: National Law Journal

Neil:

We've checked with the AG, DAG and a couple other offices regarding last week's National Law Journal. No one has received the publication in the past several weeks. The mail clerk says there is a surplus of mail to be delivered. It's probably in that batch.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:40 PM
To: Cook, Elisebeth C; Macklin, Kristi R
Subject: Natl Law Journal

A not flattering piece seemingly seeking to stir up controversy based, in part, on my mother's public service (which is prominently mentioned twice).

http://www.law.com/jsp/article.jsp?id=1152534921008

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:44 PM
To: [redacted]@alum.emory.edu'
Subject: RE: Google Alert - Gorsuch

Do you get the sense of someone trying to stir up trouble based on [redacted] or am I paranoid?

-----Original Message-----
From: [redacted]@alum.emory.edu [mailto:JJGorsuch@alum.emory.edu]
Sent: Tuesday, July 11, 2006 3:35 PM
To: Gorsuch, Neil M
Subject: FW: Google Alert - Gorsuch

Just in case you hadn't seen the link (the latter) below.

Love you,

[redacted]

From: Google Alerts [mailto:googlealerts-noreply@google.com]
Sent: Monday, July 10, 2006 9:32 PM
To: [redacted]@alum.emory.edu
Subject: Google Alert - Gorsuch

Google Alert for: Gorsuch

Performance <http://www.thesportjournal.org/2006Journal/Vol9-No3/Fung.asp> Enhancement Drugs: Knowledge, Attitude, And Intended ...
United States Sports Academy Sports Journal - Daphne,AL,USA .. Anshel, MH (1990). Sport psychology: From theory to practice. Gorsuch Scarisbrisk: Scottsdale, AZ. Ajzen, I. & Fishbein, M. (1988). ...

Race a Critical Issue <http://www.law.com/jsp/article.jsp?id=1152534921008> in 10th Circuit Nomination New York Law Journal - New York,NY,USA .. Meanwhile, little controversy was generated by the nomination to the 10th Circuit of Neil Gorsuch, a conservative white attorney whose book opposing assisted ...

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<http://www.google.com/alerts/remove?s=EAAAAJRLrWaGGUH-Bmc2ttCkuWY&hl=en>
this alert.
Create <http://www.google.com/alerts?hl=en> another alert.
Manage <http://www.google.com/alerts/manage?hl=en> your alerts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:46 PM
To: [redacted]
Subject: FW: Google Alert - Gorsuch
Attachments: tmp.htm

Article attached.

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Tuesday, July 11, 2006 3:35 PM
To: Gorsuch, Neil M
Subject: FW: Google Alert - Gorsuch

Just in case you hadn't seen the link (the latter) below.

Love you,

[redacted]

From: Google Alerts [mailto:googlealerts-noreply@google.com]
Sent: Monday, July 10, 2006 9:32 PM
To: [redacted]@alum.emory.edu
Subject: Google Alert - Gorsuch

Google Alert for: Gorsuch

Performance <http://www.thesportjournal.org/2006Journal/Vol9-No3/Fung.asp> Enhancement Drugs: Knowledge, Attitude, And Intended ...
United States Sports Academy Sports Journal - Daphne,AL,USA .. Anshel, MH (1990). Sport psychology: From theory to practice. Gorsuch Scarisbrisk: Scottsdale, AZ. Ajzen, I. & Fishbein, M. (1988). ...

Race a Critical Issue <http://www.law.com/jsp/article.jsp?id=1152534921008> in 10th Circuit Nomination New York Law Journal - New York,NY,USA .. Meanwhile, little controversy was generated by the nomination to the 10th Circuit of Neil Gorsuch, a conservative white attorney whose book opposing assisted ...

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<http://www.google.com/alerts/remove?s=EAAAAJRLrWaGGUH-Bmc2ttCkuWY&hl=en>
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Manage <http://www.google.com/alerts/manage?hl=en> your alerts.

Just in case you hadn't seen the link (the latter) below.

Love you,

From: Google Alerts [mailto:googlealerts-noreply@google.com]
Sent: Monday, July 10, 2006 9:32 PM
To: [redacted]@alum.emory.edu
Subject: Google Alert - Gorsuch

Google Alert for: **Gorsuch**

Performance Enhancement Drugs: Knowledge, Attitude, And Intended ...
United States Sports Academy Sports Journal - Daphne,AL,USA
... Anshel, MH (1990). Sport psychology: From theory to practice. **Gorsuch** Scarisbrisk: Scottsdale, AZ. Ajzen, I. & Fishbein, M. (1988). ...

Race a Critical Issue in 10th Circuit Nomination
New York Law Journal - New York,NY,USA
... Meanwhile, little controversy was generated by the nomination to the 10th Circuit of Neil **Gorsuch**, a conservative white attorney whose book opposing assisted ...

This as-it-happens Google Alert is brought to you by Google.

Remove this alert.
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Manage your alerts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:53 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Macklin, Kristi R
Subject: RE: Natl Law Journal

And now I've just been sent this apparently from NRO -

A Tale of Two Nominees for the 10th
[Jonathan Adler 07/11 03:43 PM]

"This tale of two conservative judicial nominees, one white and one black, shows that race can still be a sensitive area in federal court nominations." So begins this *National Law Journal* article on Tenth Circuit nominees Jerome Holmes and Neil Gorsuch. Holmes, the first black nominee to the Tenth Circuit, is under fire from civil rights groups for his past criticisms of affirmative action. Gorsuch, on the other hand, has been an outspoken critic of doctor-assisted suicide, but has yet to generate much opposition at all.

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:40 PM
To: Cook, Elisebeth C; Macklin, Kristi R
Subject: Natl Law Journal

A not flattering piece seemingly seeking to stir up controversy based, in part, on my mother's public service (which is prominently mentioned twice).

http://www.law.com/jsp/article.jsp?id=1152534921008

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:59 PM
To: [redacted]
Subject: FW: Natl Law Journal

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To: Gorsuch, Neil M; Cook, Elisebeth C; Macklin, Kristi R
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http://www.law.com/jsp/article.jsp?id=1152534921008

Cook, Elisebeth C

From: Cook, Elisebeth C
Sent: Tuesday, July 11, 2006 4:09 PM
To: Gorsuch, Neil M; Macklin, Kristi R
Subject: RE: Natl Law Journal

I'm knocking on wood that this is the worst they can do to you.

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:53 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Macklin, Kristi R
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http://www.law.com/jsp/article.jsp?id=1152534921008

Gunn, Currie (SMO)

Subject:	Updated: OASG Staff Meeting
Location:	Main Room 5710
Start:	Wednesday, July 12, 2006 4:00 PM
End:	Wednesday, July 12, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Tuesday and Thursday from 5:00 PM to 6:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Shaw, Aloma A; Davis, Deborah J; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO)

When: Wednesday, July 12, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Note time change for staff mtg.

Attendees: ASG Robert McCallum, Neil Gorsuch, Lily Swenson, Jeff Senger, Gordon Todd

POC: Currie 4-9500

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 4:32 PM
To: Shaw, Aloma A
Subject: Have you managed to set up the mtg with civ on secondary producer issue?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 11, 2006 4:38 PM
To: Gorsuch, Neil M
Subject: RE: Have you managed to set up the mtg with civ on secondary producer issue?

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Subject: Have you managed to set up the mtg with civ on secondary producer issue?

Gorsuch, Neil M

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Sent: Tuesday, July 11, 2006 4:39 PM
To: Shaw, Aloma A
Subject: Re: Have you managed to set up the mtg with civ on secondary producer issue?

Who are they? Never heard of them

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From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 4:44 PM
To: Shaw, Aloma A
Subject: Re: Have you managed to set up the mtg with civ on secondary producer issue?

Perhaps Richard could help then with their contact info if you can't find it. I'd be grateful to have this scheduled for this week. Thanks.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Tue Jul 11 16:42:36 2006
Subject: RE: Have you managed to set up the mtg with civ on secondary producer issue?

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From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 4:45 PM
To: Shaw, Aloma A
Subject: Re: Have you managed to set up the mtg with civ on secondary producer issue?

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To: Gorsuch, Neil M
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Got cha

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To: Shaw, Aloma A
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Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 11, 2006 4:48 PM
To: Gorsuch, Neil M
Subject: RE: Have you managed to set up the mtg with civ on secondary producer issue?

Great. I hoping to schedule this meeting for Thursday at 4:00. I'll keep you posted.

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From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 4:45 PM
To: Shaw, Aloma A
Subject: Re: Have you managed to set up the mtg with civ on secondary producer issue?

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Sent: Tuesday, July 11, 2006 4:32 PM
To: Shaw, Aloma A
Subject: Have you managed to set up the mtg with civ on secondary producer issue?

Klein, Laura F

From: Klein, Laura F
Sent: Tuesday, July 11, 2006 5:06 PM
To: Cruden, John (ENRD); Gorsuch, Neil M; Mathews-Novelli, Scott; Shore, Elise (CRT); Ashworth, Jennifer H; Hewitt, Kim (ENRD); Davis, Margaret (CRM) (OCDETF); Peritz, Leslie; Fitzgerald, Donna (ENRD); Nash, Stuart (ODAG); McCall, Melonie (CIV); Hsu, Kathy; Hillman, Noel; '[redacted]@usmc.mil'; Rusch, Jonathan; Pavlov, Nicholas J. (TAX); Perez, Marc (CIV); De Yampert, John (CIV); Henderson, Brian-Eric (CIV); Powell, Amy (CIV); Hussey, Olivia; Moser, Kelly (ENRD); Toth, Brian (ENRD); Wozniak, Karen E. (TAX); Sapper, Julie; Hines, Rachel (CIV); Fusi, Susan (CRT); Pletcher, Mark; Brady, Surell; Kenney, Kathleen M.; Payne, James (ENRD); Konschnik, Kate (ENRD); Lukas-Jackson, Jennifer (ENRD); Sanders, Matthew (ENRD); Smith, Calisa (ENRD); '[redacted]@SEC.GOV'; Johnson, Joanne (CIV); Schneider, Todd; Blaskopf, Lawrence P. (TAX); Haag, Mark (ENRD); Smith, Dan (ENRD); Sirota, Rima; Kim, Grace (CRT); Schaeffer, Stephen J. (TAX); Bollock, Jamon (ENRD); Meeks, Marcus (CIV); Freeman, Mark (CIV); Kinner, Russell (CIV); Greif, Michele (CIV); Heyse, Michael C.
Subject: Pro Bono Legal Briefing on July 27
Attachments: brown bag flyer.wpd

Dear Advice & Referral Clinic Volunteers -
On Thursday, July 27 at noon at the Department of Transportation, the Interagency Pro Bono Working Group will hold a legal briefing about bankruptcy and family law. The briefings will address each topic in a manner designed to help attorneys and paralegals issue spot at the Advice & Referral Clinic. Attached please find a flyer about the event. Pre-registration is recommended. I hope you'll come. Let me know if you have any questions.
Thanks -
Laura Klein
DOJ Pro Bono Program Manager

The Interagency *Pro Bono* Working Group
presents

Pro Bono Law Made Easy:

Legal Briefings for the DC Bar *Pro Bono* Program Advice & Referral Clinic

Have you thought about doing *pro bono* work but been too concerned about a lack of expertise in areas of poverty law to give it a try? Or have tried it and wish you knew more? Come hear briefings on the areas of law that arise frequently in *pro bono* work and put those concerns to rest!

Bankruptcy and Family Law

***When*: Thursday, July 27th from noon-1:00 p.m.**
***Where*: Department of Transportation**
400 7th Street SW, Rooms 10234-10236
(L'Enfant Plaza Metro Stop. Enter through South Visitors Entrance.)

The DC Bar *Pro Bono* Program Advice & Referral Clinic is open on the second Saturday morning of each month. Attorneys offer brief advice to low-income DC residents but do not take cases. No representation is involved. Federal government attorneys do not need to be members of the DC Bar to participate.

This event is open to all federal attorneys, legal staff, and law clerks. Dessert will be provided at both events. Pre -registration is recommended. To register or for more information, contact Laura Klein at Laura.F.Klein@usdoj.gov or [redacted].

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing
Start:	Wednesday, July 12, 2006 1:45 PM
End:	Wednesday, July 12, 2006 3:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 5:49 PM
To: Taylor, Jeffrey (OAG)
Subject: McCallum Memo
Attachments: AttorneyClientWaiverMemo.pdf

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 21, 2005

MEMORANDUM

TO: Heads of Department Components
United States Attorneys

FROM: Robert D. McCallum, Jr. RDM
Acting Deputy Attorney General

SUBJECT: Waiver of Corporate Attorney-Client and Work Product Protection

The Department of Justice places significant emphasis on the prosecution of corporate crimes. The Department's policy on charging business organizations is contained in the Memorandum from Deputy Attorney General Larry D. Thompson to Heads of Department Components and United States Attorneys, *Re: Principles of Federal Prosecution of Business Organizations* (Jan. 20, 2003) (hereinafter "*Thompson Memorandum*"), *reprinted in United States Attorneys' Manual*, tit. 9, Crim. Resource Manual, §§ 161-62. The *Thompson Memorandum* sets forth nine factors that federal prosecutors must consider in determining whether to charge a corporation or other business organization. One of the nine factors is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." *Thompson Memorandum* § II.A.4.

To ensure that federal prosecutors exercise appropriate prosecutorial discretion under the principles of the *Thompson Memorandum*, some United States Attorneys have established review processes for waiver requests that require federal prosecutors to obtain approval from the United States Attorney or other supervisor before seeking a waiver of the attorney-client privilege or work product protection. Consistent with this best practice, you are directed to establish a written waiver review process for your district or component. The *United States Attorneys' Manual* will be amended to reflect this policy. Such waiver review processes may vary from district to district (or component to component), so that each United States Attorney or component head retains the prosecutorial discretion necessary, consistent with their circumstances, to seek timely, complete, and accurate information from business organizations.

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 11, 2006 6:03 PM
To: Gorsuch, Neil M
Subject: Re: Going aways

I want to include you as well in any going away, as long as it does not work as a jinx or anything. But I think we should do something out of the office (I have a couple of ideas) ala the Fogo de Chao outing we had for Reyes, Kessler, et al. Maybe Cafe Atlantico or Poste or Rosa Mexicano.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Jul 10 13:39:25 2006
Subject: Going aways

Any thoughts on celebrating Gordon (and/or Robert's) departures? The Ag is throwing Robt a big shindig on the 19th so Gordon is more imperative, but I'd appreciate your thoughts.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 6:12 PM
To: Swenson, Lily F
Subject: RE: Going aways

Let's talk in the am - Currie had some ideas for Gordon as well

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To: Gorsuch, Neil M
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Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, July 11, 2006 6:17 PM
To: McCallum, Robert (SMO); Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Kim, Wan (CRT); Brand, Rachel
Cc: Gamble, Nathaniel (CRT); Benjamin, Anna (CRT); Martinson, Wanda
Subject: Farewell for Gordon Todd

As most of you may know, Gordon Todd will be leaving the agency on Friday, July 14 to accept a postion in the Chambers of Justice Alito. Please join us for a farewell celebration at 4:00 p.m. in room 5710 of the Main Justice Building.
Thanks

Currie

Gorsuch, Neil M

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 6:25 PM
To: Gorsuch, Neil M
Subject: Not read: AG remarks

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 6:25 PM
To: Gorsuch, Neil M
Subject: Not read: Natl Law Journal

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 11, 2006 6:33 PM
To: USDOJ- Office of Public Affairs
Subject: GRAND JURY INDICTS TWO WOMEN ON HURRICANE KATRINA FRAUD CHARGES

Department of Justice

United States Attorney Bud Cummins
Eastern District of Arkansas

FOR IMMEDIATE RELEASE
CONTACT: BUD CUMMINS
TUESDAY, JUNE 11, 2006 PHONE: (501) 340-2650
WWW.USDOJ.GOV/USAO/ARE FAX: (501) 340-2728

GRAND JURY INDICTS TWO WOMEN ON HURRICANE KATRINA FRAUD CHARGES

LITTLE ROCK, Ark. — Sakithia Dawn Slaughter and Marteisha Renee Monts were indicted today by a federal grand jury on three counts of Federal Emergency Management Agency (FEMA) fraud charges, U.S. Attorney Bud Cummins of the Eastern District of Arkansas announced today.

Slaughter, 26, of Pine Bluff, Ark., was charged with filing a false claim against the government and four counts of wire fraud. The indictment alleges that Slaughter filed one claim for FEMA benefits for hurricane damage to what she falsely claimed was her primary residence in New Orleans. The indictment also alleges that Slaughter received FEMA benefits for lodging in Pine Bluff, Ark. on four separate occasions.

Monts, 28, of North Little Rock, Ark., was charged with filing a false claim against the government. The indictment alleges that Monts filed one claim for FEMA benefits for hurricane damage to what she falsely claimed was her primary residence in New Orleans.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes including charity fraud, identity theft, procurement fraud and insurance fraud. The Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office and the Executive Office for United States Attorneys, among others.

The Slaughter charges resulted from an investigation by the FBI. The Monts charges resulted from an investigation by the U.S. Secret Service. The filing of a false claim count carries a maximum of five years in prison and a $250,000 fine. The four wire fraud counts each carry a maximum of 30 years in prison and a $1 million fine.

DOJ_NMG_ 0164072

An indictment contains only allegations. The defendants are presumed innocent unless and until proven guilty.

###

DOJ_NMG_ 0164073

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Image not available for this document, ID: 0.7.10316.51159-000002

Image not available for this document, ID: 0.7.10316.51159-000003

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 11, 2006 6:40 PM
To: USDOJ- Office of Public Affairs
Subject: RINGLEADER IN FEMA FRAUD SCHEME PLEADS GUILTY IN FEDERAL COURT

Department of Justice

United States Attorney Richard B. Roper
Northern District of Texas

FOR IMMEDIATE RELEASE
CONTACT: KATHY COLVIN
TUESDAY, JULY 11, 2006
PHONE: (214) 659-8707
WWW.USDOJ.GOV/USAO/TXN FAX: (214) 767-0978

RINGLEADER IN FEMA FRAUD SCHEME PLEADS GUILTY IN FEDERAL COURT

Nine Co-Defendants Also Admit Roles in Scheme

DALLAS — A Dallas woman who ran a scheme that defrauded the Federal Emergency Management Agency (FEMA) of more than $80,000 pled guilty today in federal court, U. S. Attorney Richard B. Roper of the Northern District of Texas announced today. Lakietha Diann Hall, 35, of Dallas, pled guilty to one count of conspiracy to commit theft of federal public funds and one count of aggravated identity theft. Lakeitha Hall faces a maximum sentence of 12 years in prison, a $750,000 fine and restitution. She is scheduled to be sentenced on Oct. 2, 2006.

According to court documents, Lakeitha Hall admitted that she conspired to commit theft of federal public money with co-defendants Lynn Evans, Carl Lynn Green, Glen Alfred Jones, Emma Theresa Hall, Milton Evans, Reginald Derrell Hall, Gracie Mae Green, Timmy Green and Linda C. Green. From August to December 2005, the co-defendants submitted fraudulent claims for disaster assistance and disaster unemployment assistance in which they falsely represented their primary residences to be located in declared disaster areas, and damaged by Hurricane Katrina, and/or that they became unemployed because of Hurricane Katrina. Lakietha Hall submitted several fraudulent online applications to FEMA for disaster assistance on behalf of and with the knowledge of several of her co-defendants. All of Lakietha Hall's co-defendants have either pled guilty or are scheduled to plead guilty to their roles in the scheme.

In one instance, on Sept. 14, 2005, Lakietha Hall submitted a fraudulent online application to FEMA for disaster assistance under Emma Ruth Hall's name and Social Security number, falsely representing that Emma Ruth Hall's primary residence was in Slidell, La., and that it had been damaged by Hurricane Katrina. Emma Ruth Hall did not authorize Lakietha Hall to use her identification information, and Lakeitha Hall provided

DOJ_NMG_ 0164077

FEMA with her own mailing address in Dallas to receive the disaster assistance money. Based on the application, FEMA sent Lakietha Hall a check for $2,000 which she gave to her mother, defendant Emma Theresa Hall, who cashed the check and used the funds for personal use.

In another instance, in November 2005, Lakietha Hall submitted a fraudulent online application to the Louisiana Department of Labor (LDOL) for Hurricane Katrina disaster unemployment assistance in the name of "E Hall," using Emma Ruth Hall's Social Security number. In the application, Lakietha Hall falsely represented that "E Hall" became unemployed as a result of Hurricane Katrina. Lakietha Hall, knowing that she did not have authority to use Emma Ruth Hall's identification, provided LDOL with her own mailing address in Dallas to receive the disaster assistance funds. LDOL issued a Chase debit card in the name of "E Hall," and Lakietha Hall gave this debit card to her mother, defendant Emma Theresa Hall, who used the debit card to withdraw money for her personal use.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force — chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division — includes members from the Federal Bureau of Investigation, the Federal Trade Commission, the U.S. Postal Inspector's Office and the Executive Office of the U.S. Attorneys, among others.

U.S. Attorney Roper praised the investigative efforts in this case of the Department of Labor, Office of Inspector General; the U.S. Postal Inspection Service; the Department of Homeland Security, Office of Inspector General; and the Louisiana Department of Labor. The case is being prosecuted by Assistant U.S. Attorney Tammy Reno.

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Image not available for this document, ID: 0.7.10316.51158-000001

Image not available for this document, ID: 0.7.10316.51158-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 11, 2006 6:54 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL GRAND JURY INDICTS THREE FOR CONSPIRACY TO STEAL AND SELL COCA COLA COMPANY TRADE SECRETS

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
CONTACT: PATRICK CROSBY
TUESDAY, JULY 11, 2006
PHONE: (404) 581-6016
WWW.USDOJ.GOV/USAO/GAN FAX: (404) 581-6160

FEDERAL GRAND JURY INDICTS THREE FOR CONSPIRACY TO STEAL AND SELL COCA COLA COMPANY TRADE SECRETS

ATLANTA— Ibrahim Dimson, 30, of Bronx, N.Y., Edmund Duhaney, 43, of Decatur, Ga., and Joya Williams, 41, of Norcross, Ga., were indicted today by a federal grand jury on a charge of conspiring to steal and to sell The Coca Cola Company's trade secrets. The defendants were arrested last week on a federal complaint that charged them with wire fraud and unlawfully obtaining and selling trade secrets from The Coca Cola Company. After their arraignment, a federal magistrate judge ordered Dimson and Duhaney detained without bond, and Williams is free on $25,000 bond pending trial.

"The defendants allegedly acted in concert to steal highly sensitive trade secrets belonging to The Coca Cola Company for personal profit," stated U.S. Attorney David E. Nahmias of the Northern District of Georgia. " The sensitive nature of the information stolen from The Coca Cola Company necessitated swift action by law enforcement, which quickly put together the case."

The indictment charges one count of conspiracy to steal trade secrets. The charge carries a maximum sentence of 10 years in prison and a fine of up to $250,000.

According to the pleadings filed in the case, on May 19, 2006, PepsiCo provided to Coca Cola headquarters in Atlanta a copy of a letter mailed to PepsiCo in Purchase, N.Y., in an official Coca Cola business envelope. The letter, postmarked from the Bronx, N.Y., was from an individual identifying himself as "Dirk," who claimed to be employed at a high level with Coca Cola and offered "very detailed and confidential information." Coca Cola immediately contacted the FBI. An undercover FBI investigation determined that "Dirk" was Ibrahim Dimson of Bronx, N.Y.

DOJ_NMG_ 0164081

Phone records and further investigation allegedly showed the source of the information was Joya Williams, an Executive Administrative Assistant at The Coca Cola Company in Atlanta, who had access to some information and materials described by "Dirk." As the investigation progressed, "Dirk" provided to an FBI undercover agent 14 pages of Coca Cola logo-marked "Classified - Confidential" and "CLASSIFIED - Highly Restricted" documents. The company confirmed that these documents were valid and highly confidential and were considered highly classified proprietary information-trade secrets. Almost immediately, "Dirk" requested $10,000 for the documents sent as proof, emailing, in part, "I must see some type of seriousness on there part, if I'm to maintain the faith to continue with you guys, or if I need to look towards another entity that will be interested in a relationship with me. I have the capability of obtaining information per request. I have information that's all Classified and extremely confidential, that only a handful of the top execs at my company have seen. I can even provide actual products and packaging of certain products, that no eye has seen, outside of maybe 5 top execs. I need to know today, if I have a serious partner or not. If the good faith moneys is in my account by Monday, that will be an indication of your seriousness."

Later "Dirk" produced other documents that Coca Cola confirmed were valid trade secrets of Coca Cola and highly confidential, and was to receive $5,000 for the documents received as good faith money for additional purchases. "Dirk" also agreed to an amount of $75,000 for the purchase of a highly confidential product sample from a new Coca Cola project.

Meanwhile, with the cooperation and assistance of Coca Cola security personnel, video surveillance showed Joya Williams at her desk going through multiple files looking for documents and stuffing them into bags. She also was observed holding a liquid container with a white label, which resembled the description of new Coca Cola product sample before placing it into her personal bag. Coca Cola later verified that the sample was genuine and is in fact a product being developed by the company.

On June 16, 2006, a FBI undercover agent met with Dimson ("Dirk") at Hartsfield-Jackson International Airport. "Dirk" provided a brown Armani Exchange bag containing one manila envelope with documents marked "highly confidential" and one glass bottle with a white label containing a liquid product sample. The undercover agent paid "Dirk" $30,000 in $100 and $50 bills of United States currency contained within a yellow Girl Scout cookie box with the agreement that after successful testing of the product sample, an additional $45,000 would be paid. After leaving, Dimson met in a rental car with an individual later identified as Edmund Duhaney and they drove to Duhaney's home in Decatur. Call records showed that Duhaney was in contact with Dimson and Williams on that day. On June 27, 2006, an undercover FBI agent offered to buy the remaining trade secret items for $1.5 million from "Dirk." The same day a bank account was opened under the names of Duhaney and Dimson ("Dirk"), and the address used on the account was that of Duhaney's Decatur residence. The alleged purpose of the account was to facilitate the transfer of the $1.5 million. Dimson, Williams and Duhaney were arrested in Atlanta without incident on July 5, 2006, the day the $1.5 million deal was to take place.

This case is being investigated by the FBI.

Assistant United States Attorneys Randy S. Chartash and BJay Pak are prosecuting the case.

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Image not available for this document, ID: 0.7.10316.51169-000002

Taylor, Jeffrey (OAG)

From: Taylor, Jeffrey (OAG)
Sent: Tuesday, July 11, 2006 8:28 PM
To: Gorsuch, Neil M
Subject: RE: McCallum Memo

thanks

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 5:49 PM
To: Taylor, Jeffrey (OAG)
Subject: McCallum Memo

<< File: AttorneyClientWaiverMemo.pdf >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Tuesday, July 11, 2006 8:57 PM
To: Elwood, Courtney; Elwood, John; Boardman, Michelle; Bradbury, Steve; Sampson, Kyle; Brand, Rachel; Elston, Michael (ODAG); Gorsuch, Neil M
Cc: Warwick, Brian; Moschella, William
Subject: Bradbury hearing being REPLAYED on C-Span NOW
Importance: High

Just started at 8:30 pm. For those of you who weren't able to watch Steve's stellar performance the first time around.... And Steve, if you want to see...

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 7:49 AM
To: Cook, Elisebeth C; Macklin, Kristi R
Subject: Re: Natl Law Journal

It is Jerome Holmes who has had to put up with the real baloney.

-----Original Message-----
From: Cook, Elisebeth C
To: Gorsuch, Neil M; Macklin, Kristi R
Sent: Tue Jul 11 16:09:22 2006
Subject: RE: Natl Law Journal

I'm knocking on wood that this is the worst they can do to you.

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:53 PM
To: Gorsuch, Neil M; Cook, Elisebeth C; Macklin, Kristi R
Subject: RE: Natl Law Journal

And now I've just been sent this apparently from NRO -

A Tale of Two Nominees for the 10th
[Jonathan Adler 07/11 03:43 PM]
"This tale of two conservative judicial nominees, one white and one black, shows that race can still be a sensitive area in federal court nominations." So begins this National Law Journal article on Tenth Circuit nominees Jerome Holmes and Neil Gorsuch. Holmes, the first black nominee to the Tenth Circuit, is under fire from civil rights groups for his past criticisms of affirmative action. Gorsuch, on the other hand, has been an outspoken critic of doctor-assisted suicide, but has yet to generate much opposition at all.

From: Gorsuch, Neil M
Sent: Tuesday, July 11, 2006 3:40 PM
To: Cook, Elisebeth C; Macklin, Kristi R
Subject: Natl Law Journal

A not flattering piece seemingly seeking to stir up controversy based, in part, on my mother's public service (which is prominently mentioned twice).

http://www.law.com/jsp/article.jsp?id=1152534921008

Sours, Raquel

Subject:	Updated: Senior Management Meeting
Start:	Wednesday, July 12, 2006 8:30 AM
End:	Wednesday, July 12, 2006 8:45 AM
Show Time As:	Tentative
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Sours, Raquel
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)

When: Wednesday, July 12, 2006 8:30 AM-8:45 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 8:25 AM
To: McIntosh, Brent
Subject: I hear good things about you down PA Ave - Congraulations! They are lucky indeed to get you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 8:28 AM
To: Swenson, Lily F
Subject: Are you back yet? If so, plse give a ring or stop by

McIntosh, Brent

From: McIntosh, Brent
Sent: Wednesday, July 12, 2006 8:32 AM
To: Gorsuch, Neil M
Subject: RE: I hear good things about you down PA Ave - Congraulations! They are lucky indeed to get you.

Thanks very much — I'm excited about the new challenge, though I will of course miss the endless fun of OLP.

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 8:25 AM
To: McIntosh, Brent
Subject: I hear good things about you down PA Ave - Congraulations! They are lucky indeed to get you.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, July 12, 2006 9:09 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Kim, Wan (CRT); Brand, Rachel
Cc: Gamble, Nathaniel (CRT); Benjamin, Anna (CRT); Martinson, Wanda
Subject: RE: Farewell for Gordon Todd

My apologies to all, the previous e-mail was a little confusing. The farewell is scheduled for today at 4:00 p.m.

Currie

From: Gunn, Currie (SMO)
Sent: Tuesday, July 11, 2006 6:17 PM
To: McCallum, Robert (SMO); Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Kim, Wan (CRT); Brand, Rachel
Cc: Gamble, Nathaniel (CRT); Benjamin, Anna (CRT); Martinson, Wanda
Subject: Farewell for Gordon Todd

As most of you may know, Gordon Todd will be leaving the agency on Friday, July 14 to accept a postion in the Chambers of Justice Alito. Please join us for a farewell celebration at 4:00 p.m. in room 5710 of the Main Justice Building.
Thanks

Currie

Shaw, Aloma A

Subject:	2257 & Status of Secondary Producer Issue
Location:	5710
Start:	Thursday, July 13, 2006 4:00 PM
End:	Thursday, July 13, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M

When: Thursday, July 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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Attendees: Robert McCallum, Neil Gorsuch, Carl Nichols, Jeff Bucholtz, Rich Hertling

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 9:28 AM
To: Gunn, Currie (SMO)
Subject: RE: Farewell for Gordon Todd

Thanks! Do we have a seal for Robt and the rest of folks to sign?

From: Gunn, Currie (SMO)
Sent: Wednesday, July 12, 2006 9:09 AM
To: Gunn, Currie (SMO); McCallum, Robert (SMO); Senger, Jeffrey M; Swenson, Lily F; Gorsuch, Neil M; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Kim, Wan (CRT); Brand, Rachel
Cc: Gamble, Nathaniel (CRT); Benjamin, Anna (CRT); Martinson, Wanda
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Sent: Tuesday, July 11, 2006 6:17 PM
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Cc: Gamble, Nathaniel (CRT); Benjamin, Anna (CRT); Martinson, Wanda
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Thanks

Currie

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 9:30 AM
To: Gorsuch, Neil M
Subject: FW: 2257 & Status of Secondary Producer Issue

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:28 AM
To: Shaw, Aloma A
Subject: Re: 2257 & Status of Secondary Producer Issue

Unfortunately, the prep for the AG's Judiciary Committee testimony next week has been moved to tomorrow afternoon, so I will be with the AG from 1 to 6 (with a 45 minute break). So I am now unable to do this meeting. My apologies, but OLA just scheduled this last night at midnight.

-----Original Message-----
From: Shaw, Aloma A
To: McCallum, Robert (SMO); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M
Sent: Wed Jul 12 09:11:54 2006
Subject: 2257 & Status of Secondary Producer Issue

When: Thursday, July 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Attendees: Robert McCallum, Neil Gorsuch, Carl Nichols, Jeff Bucholtz, Rich Hertling

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 9:31 AM
To: Shaw, Aloma A; Hertling, Richard
Subject: RE: 2257 & Status of Secondary Producer Issue

Richard, do you want to send someone in your stead? Feel free.

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 9:30 AM
To: Gorsuch, Neil M
Subject: FW: 2257 & Status of Secondary Producer Issue

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:28 AM
To: Shaw, Aloma A
Subject: Re: 2257 & Status of Secondary Producer Issue

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-----Original Message-----
From: Shaw, Aloma A
To: McCallum, Robert (SMO); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M
Sent: Wed Jul 12 09:11:54 2006
Subject: 2257 & Status of Secondary Producer Issue

When: Thursday, July 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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Attendees: Robert McCallum, Neil Gorsuch, Carl Nichols, Jeff Bucholtz, Rich Hertling

Hertling, Richard

From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:34 AM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Re: 2257 & Status of Secondary Producer Issue

Thanks. I will see if Larry Rothenberg is free I will send him.

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A; Hertling, Richard
Sent: Wed Jul 12 09:30:33 2006
Subject: RE: 2257 & Status of Secondary Producer Issue

Richard, do you want to send someone in your stead? Feel free.

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 9:30 AM
To: Gorsuch, Neil M
Subject: FW: 2257 & Status of Secondary Producer Issue

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:28 AM
To: Shaw, Aloma A
Subject: Re: 2257 & Status of Secondary Producer Issue

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To: McCallum, Robert (SMO); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M
Sent: Wed Jul 12 09:11:54 2006
Subject: 2257 & Status of Secondary Producer Issue

When: Thursday, July 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

Where: 5710

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

Attendees: Robert McCallum, Neil Gorsuch, Carl Nichols, Jeff Bucholtz, Rich Hertling

Hertling, Richard

From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:40 AM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: Re: 2257 & Status of Secondary Producer Issue

I regret that Larry is unavailable as he will be on a plane. So OLP can't make it. I'm sorry.

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A; Hertling, Richard
Sent: Wed Jul 12 09:30:33 2006
Subject: RE: 2257 & Status of Secondary Producer Issue

Richard, do you want to send someone in your stead? Feel free.

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To: McCallum, Robert (SMO); Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M
Sent: Wed Jul 12 09:11:54 2006
Subject: 2257 & Status of Secondary Producer Issue

When: Thursday, July 13, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

Where: 5710

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

Attendees: Robert McCallum, Neil Gorsuch, Carl Nichols, Jeff Bucholtz, Rich Hertling

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 9:52 AM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: FW: SJC Tentative Markup Agenda for Thurs., July 13, 2006
Attachments: tmp.htm; Markup Agenda for July 13 2006.doc

see below :)

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, July 12, 2006 9:39 AM
To: Moschella, William; Stout, Stacey L; Seidel, Rebecca; Best, David T; [redacted]@frist.senate.gov; Andrea_B._Looney@who.eop.ggov; [redacted]@routing.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov
Subject: Tentative Markup Agenda for Thurs., July 13, 2006

TENTATIVE AGENDA

Executive Business Meeting

Senate Judiciary Committee

226 Dirksen Senate Office Building

Thursday, July 13, 2006 at 9:30 AM

I. Nominations

Neil M. Gorsuch

to be U.S. Circuit Judge for the Tenth Circuit

Jerome A. Holmes

to be U.S. Circuit Judge for the Tenth Circuit

Kimberly Ann Moore

to be U.S. Circuit Judge for the Federal Circuit

Bobby E. Shepherd

to be U.S. Circuit Judge for the Eighth Circuit

Gustavo Antonio Gelpi

to be U.S. District Judge for the District of Puerto Rico

Daniel Porter Jordan, III

to be U.S. District Judge for the Southern District of Mississippi

Steven G. Bradbury

to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta

to be U.S. Attorney for the Southern District of Florida

Martin J. Jackley

to be U.S. Attorney for the District of South Dakota

Brett L. Tolman

to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006

[Specter]

S. 2455, Terrorist Surveillance Act of 2006

[DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes

[Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006

[Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006

[Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act

[Smith - TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005

[Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006

[Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005

[Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act

[Talent, DeWine, Cornyn]

TENTATIVE AGENDA
Executive Business Meeting
Senate Judiciary Committee
226 Dirksen Senate Office Building
Thursday, July 13, 2006 at 9:30 AM

I. Nominations

Neil M. Gorsuch
to be U.S. Circuit Judge for the Tenth Circuit

Jerome A. Holmes
to be U.S. Circuit Judge for the Tenth Circuit

Kimberly Ann Moore
to be U.S. Circuit Judge for the Federal Circuit

Bobby E. Shepherd
to be U.S. Circuit Judge for the Eighth Circuit

Gustavo Antonio Gelpi
to be U.S. District Judge for the District of Puerto Rico

Daniel Porter Jordan, III
to be U.S. District Judge for the Southern District of Mississippi

Steven G. Bradbury
to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta
to be U.S. Attorney for the Southern District of Florida

Martin J. Jackley
to be U.S. Attorney for the District of South Dakota

Brett L. Tolman
to be U.S. Attorney for the District of Utah

DOJ_NMG_ 0164105

II. Bills

S. 2453, National Security Surveillance Act of 2006
[Specter]

S. 2455, Terrorist Surveillance Act of 2006
[DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes
[Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006
[Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006
[Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act
[Smith – TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005
[Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006
[Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005
[Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act
[Talent, DeWine, Cornyn]

DOJ_NMG_ 0164106

TENTATIVE AGENDA
Executive Business Meeting
Senate Judiciary Committee
226 Dirksen Senate Office Building
Thursday, July 13, 2006 at 9:30 AM

I. Nominations

Neil M. Gorsuch
to be U.S. Circuit Judge for the Tenth Circuit

Jerome A. Holmes
to be U.S. Circuit Judge for the Tenth Circuit

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to be U.S. Circuit Judge for the Federal Circuit

Bobby E. Shepherd
to be U.S. Circuit Judge for the Eighth Circuit

Gustavo Antonio Gelpi
to be U.S. District Judge for the District of Puerto Rico

Daniel Porter Jordan, III
to be U.S. District Judge for the Southern District of Mississippi

Steven G. Bradbury
to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta
to be U.S. Attorney for the Southern District of Florida

Martin J. Jackley
to be U.S. Attorney for the District of South Dakota

Brett L. Tolman
to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006
[Specter]

S. 2455, Terrorist Surveillance Act of 2006
[DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes
[Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006
[Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006
[Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act
[Smith – TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005
[Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006
[Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005
[Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act
[Talent, DeWine, Cornyn]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 9:55 AM
To: Seidel, Rebecca
Cc: Scott-Finan, Nancy
Subject: RE: SJC Tentative Markup Agenda for Thurs., July 13, 2006

Thanks for passing this along. We'll see if they manage a quorum...

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 9:52 AM
To: Gorsuch, Neil M
Cc: Scott-Finan, Nancy
Subject: FW: SJC Tentative Markup Agenda for Thurs., July 13, 2006

see below :)

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto:[redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, July 12, 2006 9:39 AM
To: Moschella, William; Stout, Stacey L; Seidel, Rebecca; Best, David T; [redacted]@frist.senate.gov; Andrea_B._Looney@who.eop.ggov; [redacted]@routing.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov; [redacted]@specter.senate.gov
Subject: Tentative Markup Agenda for Thurs., July 13, 2006

TENTATIVE AGENDA

Executive Business Meeting

Senate Judiciary Committee

226 Dirksen Senate Office Building

Thursday, July 13, 2006 at 9:30 AM

I. Nominations

Neil M. Gorsuch

to be U.S. Circuit Judge for the Tenth Circuit

Jerome A. Holmes

to be U.S. Circuit Judge for the Tenth Circuit

Kimberly Ann Moore

to be U.S. Circuit Judge for the Federal Circuit

Bobby E. Shepherd

to be U.S. Circuit Judge for the Eighth Circuit

Gustavo Antonio Gelpi

to be U.S. District Judge for the District of Puerto Rico

Daniel Porter Jordan, III

to be U.S. District Judge for the Southern District of Mississippi

Steven G. Bradbury

to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta

to be U.S. Attorney for the Southern District of Florida

Martin J. Jackley

to be U.S. Attorney for the District of South Dakota

Brett L. Tolman

to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006

[Specter]

S. 2455, Terrorist Surveillance Act of 2006

[DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes

[Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006

[Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006

[Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act

[Smith - TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005

[Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006

[Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005

[Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act

[Talent, DeWine, Cornyn]

Hertling, Richard

From: Hertling, Richard
Sent: Wednesday, July 12, 2006 9:55 AM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: 225z meeting

I can do 2-3 tomorrow afternoon.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:09 AM
To: Gorsuch, Neil M
Subject: RE: Can we move 2257 mtg on Thursday to 2:00-3:00?

We have everybody (but Carl) on board for Thursday 2-3. Can we proceed without him?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 12, 2006 10:03 AM
To: Shaw, Aloma A; Hertling, Richard; Nichols, Carl (CIV)
Subject: Re: Can we move 2257 mtg on Thursday to 2:00-3:00?

Ok w me but I think Carl won't be back from Chicago yet by then.

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Wed Jul 12 09:58:05 2006
Subject: Can we move 2257 mtg on Thursday to 2:00-3:00?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 10:10 AM
To: Shaw, Aloma A
Subject: RE: Can we move 2257 mtg on Thursday to 2:00-3:00?

Afraid Carl is more essential than Richard.

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:09 AM
To: Gorsuch, Neil M
Subject: RE: Can we move 2257 mtg on Thursday to 2:00-3:00?

We have everybody (but Carl) on board for Thursday 2-3. Can we proceed without him?

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 12, 2006 10:03 AM
To: Shaw, Aloma A; Hertling, Richard; Nichols, Carl (CIV)
Subject: Re: Can we move 2257 mtg on Thursday to 2:00-3:00?

Ok w me but I think Carl won't be back from Chicago yet by then.

-----Original Message-----
From: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
To: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Wed Jul 12 09:58:05 2006
Subject: Can we move 2257 mtg on Thursday to 2:00-3:00?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:11 AM
To: Gorsuch, Neil M
Subject: FW: Can we move 2257 mtg on Thursday to 2:00-3:00?

Message from Carl.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, July 12, 2006 9:56 AM
To: Shaw, Aloma A
Subject: Out of Office AutoReply: Can we move 2257 mtg on Thursday to 2:00-3:00?

I am out of the office on travel but will return on Friday, July 14. If you need immediate assistance, please contact my assistant, Chris Calvert (202-514-5713) while I am away.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 10:14 AM
To: Shaw, Aloma A
Subject: RE: Can we move 2257 mtg on Thursday to 2:00-3:00?

Thought you had him avail for tomorrow at 4.

-----Original Message-----
From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:11 AM
To: Gorsuch, Neil M
Subject: FW: Can we move 2257 mtg on Thursday to 2:00-3:00?

Message from Carl.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, July 12, 2006 9:56 AM
To: Shaw, Aloma A
Subject: Out of Office AutoReply: Can we move 2257 mtg on Thursday to 2:00-3:00?

I am out of the office on travel but will return on Friday, July 14. If you need immediate assistance, please contact my assistant, Chris Calvert (202-514-5713) while I am away.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:15 AM
To: Gorsuch, Neil M
Subject: FW: 2257 Status of Secondary Producer Issue

From: Nichols, Carl (CIV)
Sent: Tuesday, July 11, 2006 7:29 PM
To: Shaw, Aloma A; Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject: RE: 2257 Status of Secondary Producer Issue

I will probably be back from Chicago, but I can't be sure.

From: Shaw, Aloma A
Sent: Tuesday, July 11, 2006 4:40 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject: 2257 Status of Secondary Producer Issue

I'd like to schedule this meeting for Thursday, July 13 at 4:00. Are you available? Also, are there others who should be invited?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 10:18 AM
To: Shaw, Aloma A
Subject: RE: 2257 Status of Secondary Producer Issue

Let's go ahead

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:15 AM
To: Gorsuch, Neil M
Subject: FW: 2257 Status of Secondary Producer Issue

From: Nichols, Carl (CIV)
Sent: Tuesday, July 11, 2006 7:29 PM
To: Shaw, Aloma A; Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject: RE: 2257 Status of Secondary Producer Issue

I will probably be back from Chicago, but I can't be sure.

From: Shaw, Aloma A
Sent: Tuesday, July 11, 2006 4:40 PM
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Subject: 2257 Status of Secondary Producer Issue

I'd like to schedule this meeting for Thursday, July 13 at 4:00. Are you available? Also, are there others who should be invited?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 10:28 AM
To: Gorsuch, Neil M
Subject: FW: 2257 Meeting

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 10:26 AM
To: Shaw, Aloma A; Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

Understood. Please make my apologies for not attending. If we finish early with the AG I will come by.

-----Original Message-----
From: Shaw, Aloma A
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Sent: Wed Jul 12 10:22:40 2006
Subject: 2257 Meeting

The time for this meeting will remain 4:00 on Thursday. This timing best suits Mr. McCallum's schedule. Carl, Neil requests that you try to attend this meeting. Your presence is essential.

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, July 12, 2006 10:29 AM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: 2257 Meeting

I am out of the office on travel but will return on Friday, July 14. If you need immediate assistance, please contact my assistant, Chris Calvert (202-514-5713) while I am away.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 10:30 AM
To: Nichols, Carl (CIV)
Cc: Bucholtz, Jeffrey (CIV)
Subject: Fw: 2257 Meeting

This is a bit ott. No command performance but if you can make it great. Otherwise no doubt Jeff or others you designate can handle for CIV.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed Jul 12 10:27:44 2006
Subject: FW: 2257 Meeting

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 10:26 AM
To: Shaw, Aloma A; Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

Understood. Please make my apologies for not attending. If we finish early with the AG I will come by.

-----Original Message-----
From: Shaw, Aloma A
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Sent: Wed Jul 12 10:22:40 2006
Subject: 2257 Meeting

The time for this meeting will remain 4:00 on Thursday. This timing best suits Mr. McCallum's schedule. Carl, Neil requests that you try to attend this meeting. Your presence is essential.

Otus2005, Ag

Subject:	PREP: Pen & Pad w/ DOJ Press Corps
Start:	Thursday, July 13, 2006 11:10 AM
End:	Thursday, July 13, 2006 11:30 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Taylor, Jeffrey (OAG); Scolinos, Tasia; Roehrkasse, Brian; Gorsuch, Neil M; Elston, Michael (ODAG)

When: Thursday, July 13, 2006 11:10 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
AO: Jeff Taylor, DOJ: Tasia Scolinos, Brian Roehrkasse, Neil Gorsuch, Mike Elston

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, July 12, 2006 10:51 AM
To: 'LREYES@WHO.EOP.GOV'; McCallum, Robert (SMO); Gorsuch, Neil M; 'jwalker@who.eop.gov'
Subject: Fw: Duard Bradshaw

All - Please see the unfortunate news below. I believe he was scheduled to see us all tomorrow.

-----Original Message-----
From: Washington, Tracy T
To: Goodling, Monica
Sent: Wed Jul 12 10:36:52 2006
Subject: Duard Bradshaw

Monica,

I just received word from Mr. Bradshaw's assistant that he passed away late yesterday. Early Tuesday, I called Mr. Bradshaw to let him know that we moved back into the Main Building. Do you want me to inform everyone he was going to meet with on Thursday?

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW, Room 5114
Washington, DC 20530
(202) 514-9660

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 12, 2006 11:13 AM
To: Gorsuch, Neil M
Subject: Jeff Senger stopped by to see you

Nichols, Carl (CIV)

From: Nichols, Carl (CIV)
Sent: Wednesday, July 12, 2006 11:21 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

I can't be sure whether I can make it, even at 4, since I will be at the mercy of both the Court and the airlines. I would prefer to attend, if at all possible. But if I can't make it, I think it would be good to have Sam Kaplan attend.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
CC: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Wed Jul 12 10:30:13 2006
Subject: Fw: 2257 Meeting

This is a bit ott. No command performance but if you can make it great. Otherwise no doubt Jeff or others you designate can handle for CIV.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed Jul 12 10:27:44 2006
Subject: FW: 2257 Meeting

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 10:26 AM
To: Shaw, Aloma A; Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

Understood. Please make my apologies for not attending. If we finish early with the AG I will come by.

-----Original Message-----
From: Shaw, Aloma A
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Sent: Wed Jul 12 10:22:40 2006
Subject: 2257 Meeting

The time for this meeting will remain 4:00 on Thursday. This timing best suits Mr. McCallum's schedule. Carl, Neil requests that you try to attend this meeting. Your presence is essential.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 11:38 AM
To: Nichols, Carl (CIV)
Cc: Bucholtz, Jeffrey (CIV)
Subject: RE: 2257 Meeting

Understood entirely; please feel free to send Sam.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, July 12, 2006 11:21 AM
To: Gorsuch, Neil M
Cc: Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

I can't be sure whether I can make it, even at 4, since I will be at the mercy of both the Court and the airlines. I would prefer to attend, if at all possible. But if I can't make it, I think it would be good to have Sam Kaplan attend.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
CC: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Wed Jul 12 10:30:13 2006
Subject: Fw: 2257 Meeting

This is a bit ott. No command performance but if you can make it great. Otherwise no doubt Jeff or others you designate can handle for CIV.

-----Original Message-----
From: Shaw, Aloma A
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Sent: Wed Jul 12 10:27:44 2006
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From: Hertling, Richard
Sent: Wednesday, July 12, 2006 10:26 AM
To: Shaw, Aloma A; Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV)
Subject: Re: 2257 Meeting

Understood. Please make my apologies for not attending. If we finish early with the AG I will come by.

-----Original Message-----
From: Shaw, Aloma A
To: Nichols, Carl (CIV); Bucholtz, Jeffrey (CIV); Hertling, Richard
Sent: Wed Jul 12 10:22:40 2006
Subject: 2257 Meeting

The time for this meeting will remain 4:00 on Thursday. This timing best suits Mr. McCallum's schedule. Carl, Neil requests that you try to attend this meeting. Your presence is essential.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 11:52 AM
To: Berkowitz, Sean (USAILN)
Subject: RE: Congratulations

Thanks, Sean. We will see what the Senate thinks. Many, many congratulations again on your stunning victories in Enron. I do hope you're getting some much deserved rest. All the best, Neil

-----Original Message-----
From: Berkowitz, Sean (USAILN)
Sent: Wednesday, July 12, 2006 10:36 AM
To: Gorsuch, Neil M
Subject: Congratulations

Neil,

I saw Kent this past weekend, and he shared with me the wonderful news of your nomination. Congratulations and good luck. I hope and trust our paths will cross again in the future.

Best,
Sean Berkowitz

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Wednesday, July 12, 2006 12:28 PM
To: Gorsuch, Neil M
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Gordon's Components

Should I start giving this material to Jeff or Lily?

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Wednesday, July 12, 2006 12:32 PM
To:	Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject:	FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act
Attachments:	tmp.htm

I can't remember who all was involved in our meeting (were we resolved dispute with Mauricio). I remember Richard, Jeff, and Jeff, but Neil were you there? Anyone else besides Mauricio's shop? OMB wants to know how high up in the Dept our concerns were signed off on (this has to do with the tug of war with Interior over signing the letter, the higher we can show the better). i.e. is Robert aware/sign off on?

-----Original Message-----
From: Oscar_Gonzalez@omb.eop.gov [mailto:Oscar_Gonzalez@omb.eop.gov]
Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 12:37 PM
To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I was not present.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:32 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I can't remember who all was involved in our meeting (were we resolved dispute with Mauricio). I remember Richard, Jeff, and Jeff, but Neil were you there? Anyone else besides Mauricio's shop? OMB wants to know how high up in the Dept our concerns were signed off on (this has to do with the tug of war with Interior over signing the letter, the higher we can show the better). i.e. is Robert aware/sign off on?

-----Original Message-----
From: Oscar_Gonzalez@omb.eop.gov [mailto:Oscar_Gonzalez@omb.eop.gov]
Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:49 PM
To: Hertling, Richard; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I am not necessarily trying to give a list of who was at the meeting, but rather who signed off on concerns, so I think from the below I could say that Rachel and Robert were briefed on the concerns and concurred? I don't want to overstate. And Neil would I add you to that?

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 12:40 PM
To: Senger, Jeffrey M; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

And I had briefed Rachel and she was on board with our position in the letter.

-----Original Message-----
From: Senger, Jeffrey M
To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Sent: Wed Jul 12 12:39:07 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I briefed Robert on this at the time, so he was aware of the general contours of our discussions -- what exactly would you like to be able to say he signed off on?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:32 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I can't remember who all was involved in our meeting (were we resolved dispute with Mauricio). I remember Richard, Jeff, and Jeff, but Neil were you there? Anyone else besides Mauricio's shop? OMB wants to know how high up in the Dept our concerns were signed off on (this has to do with the tug of war with Interior over signing the letter, the higher we can show the better). i.e. is Robert aware/sign off on?

-----Original Message-----

-----Original Message-----
From: Oscar_Gonzalez@omb.eop.gov [mailto:Oscar_Gonzalez@omb.eop.gov]
Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, July 12, 2006 1:45 PM
Subject: A Message from the Deputy Attorney General
Attachments: Privacy and Safeguarding.pdf

Please see the attached message from the Deputy Attorney General regarding Privacy and Safeguarding Personally Identifiable Information.

Check DOJNet, http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, D.C. 20530

July 10, 2006

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: Paul J. McNulty PJM
Deputy Attorney General

Jane C. Horvath
Chief Privacy and Civil Liberties Officer

SUBJECT: Privacy and Safeguarding of Personally Identifiable Information

In response to recent events, this memorandum serves to remind all Department employees of their responsibility to safeguard and protect personally identifiable information about individuals from improper access or disclosure. As employees of the Department, many of you have access to and work with sensitive information about individuals in the performance of your official duties. It is important that you are generally familiar with your responsibilities that come with handling that data as improper disclosures can be harmful to the individual in question as well as to the Department's mission.

- As a general matter, Departmental regulations state employees should be mindful of their responsibility to protect and conserve Government property, which includes Government records. See 28 C.F.R. § 45.4(c); 5 C.F.R. § 2635.704.

- You should not disclose personally identifiable information about an individual to persons outside the Department other than for an authorized official business purpose.

- Disclosure of personally identifiable information within the Department is subject to a need to know standard. In other words, you may reveal information about an individual only to others within the Department who have a need for the information in the performance of their official duties.

- Additionally, some personally identifiable information is covered by the requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. The disclosure of Privacy Act records within the Department are covered by the same need to know standard described above. For disclosures of Privacy Act records outside the Department, a statutory exception in the Privacy Act or a published routine use must authorize such disclosure or the disclosure must be otherwise provided for by law. There are criminal penalties for willful unauthorized disclosures under the Privacy Act.

- To prevent unauthorized disclosures, employees should follow all applicable Departmental rules for safeguarding personally identifying information.

- Report any loss or compromise of personally identifying data to your supervisor immediately.

Please discuss with your supervisor any further questions regarding how to handle personally identifiable information or whether information is considered personally identifiable information.

[redacted]@state.gov

From: [redacted]@state.gov
Sent: Wednesday, July 12, 2006 2:40 PM
Subject: Invitation to Swearing-in of Robert McCallum to be U.S. Ambassador to Australia
Attachments: tmp.htm; Swearing-In Invite.doc

Please see attached invitation to the swearing-in of Robert McCallum to be U.S. Ambassador to Australia <<Swearing-In Invite.doc>>

You are cordially invited
to attend
the Swearing-in of

Robert Davis McCallum, Jr.

as Ambassador of the United States of America
to the Commonwealth of Australia
on
Friday, July 21st, 2006
at 12 noon

RSVP to ([redacted] or
E-mail to [redacted]@state.gov
Please provide date of birth and SSN
Photo identification will be required

The Benjamin Franklin Room
U.S. Department of State
22nd and C Streets, NW
Washington, D.C.

Please arrive one half hour prior to the ceremony

Please see attached invitation to the swearing-in of Robert McCallum to be U.S. Ambassador to Australia
<<Swearing-In Invite.doc>>

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, July 12, 2006 2:44 PM
To: Gorsuch, Neil M
Subject: Farewell reception

Neil -- Can you help us finalize Robert's invite list for the farewell reception? You were going to help pull together a list of folks Robert wanted to invite. Since we're a week out, Jayne would like to get invites out. Thanks for your help!

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, July 12, 2006 3:06 PM
To:	Shaw, Aloma A
Subject:	FW: Invitation to Swearing-in of Robert McCallum to be U.S. Ambassador to Australia
Attachments:	tmp.htm; Swearing-In Invite.doc

Please rsvp yes and add to calendar

-----Original Message-----
From: MccullaWL@state.gov [mailto:MccullaWL@state.gov]
Sent: Wednesday, July 12, 2006 2:40 PM
Subject: Invitation to Swearing-in of Robert McCallum to be U.S. Ambassador to Australia

Please see attached invitation to the swearing-in of Robert McCallum to be U.S. Ambassador to Australia <<Swearing-In Invite.doc>>

You are cordially invited
to attend
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as Ambassador of the United States of America
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Please arrive one half hour prior to the ceremony

Please see attached invitation to the swearing-in of Robert McCallum to be U.S. Ambassador to Australia
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 3:06 PM
To: Goodling, Monica; Gunn, Currie (SMO)
Subject: RE: Farewell reception

Robert was working on a list earlier this week, I believe. Currie - Do you have this or can you extract it from Robert?

From: Goodling, Monica
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Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, July 12, 2006 3:07 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: RE: Farewell reception

Appreciate the help -- we want to ensure a good turnout!

From: Gorsuch, Neil M
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 3:27 PM
To: Seidel, Rebecca; Hertling, Richard; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV)
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I know nothing abt this but do not necessarily need to if Robert has signed off. Jeff?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:50 PM
To: Hertling, Richard; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I am not necessarily trying to give a list of who was at the meeting, but rather who signed off on concerns, so I think from the below I could say that Rachel and Robert were briefed on the concerns and concurred? I don't want to overstate. And Neil would I add you to that?

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 12:40 PM
To: Senger, Jeffrey M; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

And I had briefed Rachel and she was on board with our position in the letter.

-----Original Message-----
From: Senger, Jeffrey M
To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Sent: Wed Jul 12 12:39:07 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I briefed Robert on this at the time, so he was aware of the general contours of our discussions -- what exactly would you like to be able to say he signed off on?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:32 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty

Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I can't remember who all was involved in our meeting (were we resolved dispute with Mauricio). I remember Richard, Jeff, and Jeff, but Neil were you there? Anyone else besides Mauricio's shop? OMB wants to know how high up in the Dept our concerns were signed off on (this has to do with the tug of war with Interior over signing the letter, the higher we can show the better). i.e. is Robert aware/sign off on?

-----Original Message-----
From: Oscar_Gonzalez@omb.eop.gov [mailto:Oscar_Gonzalez@omb.eop.gov]
Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 3:28 PM
To: Gunn, Currie (SMO)
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

Lily, Jeff and Gordon - can you three get together and propose a temporary division of Gordon's responsibilities? Sorry for the additional work; I know OAG is trying to bring folks on quickly so I hope it won't last long.

From: Gunn, Currie (SMO)
Sent: Wednesday, July 12, 2006 12:28 PM
To: Gorsuch, Neil M
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Gordon's Components

Should I start giving this material to Jeff or Lily?

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, July 12, 2006 3:43 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

I propose the following, which evenly shares the workload these components represent.

G.

****

Lily: CRT; CRS; Health Care Fraud Committee

Jeff - Tax; OJP/COPS/OVW

Neil - Mt. Soledad litigation; Gitmo/GWAT FOIA Litig.; CAFA submissions issue

---

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 3:28 PM
To: Gunn, Currie (SMO)
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

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To: Gorsuch, Neil M
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Gordon's Components

Should I start giving this material to Jeff or Lily?

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, July 12, 2006 4:53 PM
To: Todd, Gordon (SMO)
Cc: Gunn, Currie (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: RE: Memo re OIL supplemental funds

Haven't seen it yet from Ex Sec but got a copy by email. It looked good to me. Anybody got any contrary thoughts about it? Currie: Is it coming to me by Ex Sec? Robt.

-----Original Message-----
From: Todd, Gordon (SMO)
Sent: Tuesday, July 11, 2006 7:05 PM
To: McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: Memo re OIL supplemental funds

Robert - did you sign and pass onto ODAG the memo from Civil regarding the spending of the OIL money? I had a message from Jon Cohn asking about it.

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Wednesday, July 12, 2006 4:53 PM
To: McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: RE: Memo re OIL supplemental funds

Nope. ODAG was wondering where it was, and Jon indicated that the official packet was already here.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 4:55 PM
To: Todd, Gordon (SMO); McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO); Swenson, Lily F
Subject: RE: Memo re OIL supplemental funds

After the last draft, I indicated that I thought the memo was ready for Robert's review and suggested OIL send it up formally. Haven't seen it yet.

-----Original Message-----
From: Todd, Gordon (SMO)
Sent: Wednesday, July 12, 2006 4:53 PM
To: McCallum, Robert (SMO)
Cc: Gunn, Currie (SMO); Swenson, Lily F; Gorsuch, Neil M
Subject: RE: Memo re OIL supplemental funds

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Long, Linda E

Subject:	Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Tuesday, August 8, 2006 1:30 PM
End:	Tuesday, August 8, 2006 2:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H

When: Tuesday, August 08, 2006 1:30 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz
Component TBD
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Long, Linda E

Subject:	Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Tuesday, August 08, 2006 4:00 PM
End:	Tuesday, August 08, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H

When: Tuesday, August 08, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz
Component TBD
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 6:31 PM
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard; Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Ugh - I just receive more context on what is going on. NSC is now holding up our letter because Delegate Bordallo from Guam sent letter to Hadley saying Admin should support the bill because we are asking Guam to accept Marines to be transferred from Okinawa to Guam which is part of a larger agreement with Japan.
The way NSC is challenging our letter is that it would be embarrassing to Japan because it talks about bad stuff Japan did. UGH.
OMB is trying to tee up a meeting between DOJ/OMB/Interior and DOD. OMB is having internal meeting tomorrow morning, hoping to come to conclusion that they will go to NSC and tell them important to get on record opposing. Hoping to avoid larger meeting interagency.

OMB asked - can they say that Rachel and Robert were in agreement that a letter should go out opposing the bill?, i.e. we should be on record.

(and to refresh your memory, House had two hearings on this after the commission's report came out, the first time we had Mauricio testify that we had not yet reviewed the leg, it was new, the second time, committee was displeased we had not yet taken a position.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 12, 2006 3:35 PM
To: Gorsuch, Neil M; Seidel, Rebecca; Hertling, Richard; Senger, Jeffrey M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I think this may originally have come up before you were here, Neil, so you may not have been involved when it flared up again recently.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Wed Jul 12 15:26:42 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I know nothing abt this but do not necessarily need to if Robert has signed off. Jeff?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:50 PM
To: Hertling, Richard; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I am not necessarily trying to give a list of who was at the meeting, but rather who signed off on concerns, so I think from the below I could say that Rachel and Robert were briefed on the concerns and concurred? I don't want to overstate. And Neil would I add you to that?

-----Original Message-----
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To: Senger, Jeffrey M; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

And I had briefed Rachel and she was on board with our position in the letter.

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To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Sent: Wed Jul 12 12:39:07 2006
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Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca

Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 6:32 PM
To: Senger, Jeffrey M
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Please can you handle?

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Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

McNulty, Paul J

Subject:	Accepted: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 3, 2006 1:00 PM
End:	Thursday, August 3, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

McNulty, Paul J

Subject:	Accepted: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 3, 2006 3:00 PM
End:	Thursday, August 3, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

McNulty, Paul J

Subject:	Accepted: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Friday, August 4, 2006 3:00 PM
End:	Friday, August 4, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

McNulty, Paul J

Subject:	Accepted: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Monday, August 7, 2006 2:00 PM
End:	Monday, August 7, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

McNulty, Paul J

Subject:	Accepted: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Monday, August 07, 2006 4:00 PM
End:	Monday, August 07, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 6:35 PM
To: Goodling, Monica
Subject: RE: Duard Bradshaw

-----Original Message-----
From: Goodling, Monica
Sent: Wednesday, July 12, 2006 10:51 AM
To: 'LREYES@WHO.EOP.GOV'; McCallum, Robert (SMO); Gorsuch, Neil M; 'jwalker@who.eop.gov'
Subject: Fw: Duard Bradshaw

All - Please see the unfortunate news below. I believe he was scheduled to see us all tomorrow.

-----Original Message-----
From: Washington, Tracy T
To: Goodling, Monica
Sent: Wed Jul 12 10:36:52 2006
Subject: Duard Bradshaw

Monica,

I just received word from Mr. Bradshaw's assistant that he passed away late yesterday. Early Tuesday, I called Mr. Bradshaw to let him know that we moved back into the Main Building. Do you want me to inform everyone he was going to meet with on Thursday?

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW, Room 5114
Washington, DC 20530
(202) 514-9660

Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Wednesday, July 12, 2006 6:41 PM
To:	Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M; Senger, Jeffrey M
Subject:	RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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Sent: Wednesday, July 12, 2006 6:39 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard; Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Wed Jul 12 15:26:42 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
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Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 6:43 PM
To: McCallum, Robert (SMO)
Subject: FOIA hearing

Spoke with Rebecca as discussed. She asks that you please direct him to listen to OLA's advice as well as Jane and Lily's. She also notes that Jane may not be able to participate in the prep due to travel, so please could you make sure Jane OR her designee may be involved in the prep. Finally, she'd like to know when you've spoken with Dan so that she can then be in touch with him.

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 6:52 PM
To: Bucholtz, Jeffrey (CIV); Hertling, Richard; Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

OMB made your same point that it isn't news that Japan did bad things in WWII. They want to roll NSC that is what they are gearing up to do.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 12, 2006 6:42 PM
To: Hertling, Richard; Seidel, Rebecca; Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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Recognition Act

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Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

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Thanks!

McNally, Dan

From: McNally, Dan
Sent: Thursday, July 13, 2006 7:57 AM
To: Gorsuch, Neil M
Subject: July 2006 Cadre Verification
Attachments: July 06 OASG.xls

Mr. Gorsuch,

I'd have normally done this the first week of the month, but with the flood, and all, we were pretty busy.

Attached is a list of OASG Cadre members, and the status of their 2006 Orientation and Training visits. The DAG requires that all Cadre members visit twice a year for Orientation and Training. Please verifiy if this list is correct and either confirm it, or tell me what changes need to take place.

Thanks

Dan

Daniel P. McNally
202-616-2288
Operations Section
Emergency Management Operations and Policy Group
Security and Emergency Planning Staff/JMD
U. S. Department of Justice
[redacted]
Unclassified: dan.mcnally@usdoj.gov

CADRE/SUPPORT
ALT CADRE

2/15/2017 5:56 PM

	A	B	C	D	E	F
1	**Last Name**	**First Name**	**M. I.**	**POSITION**	**ORG**	**Date of Last 2006 Visit**
2	Gorsuch	Neil	M	Core Cadre	OASG	1/26/2006
3	McCallum, Jr	Robert	D.	Core Cadre	OASG	6/21/2006
4	Swenson	Lily	F.	Core Cadre	OASG	
5	Senger	Jeffrey	M.	Core Reserve	OASG	7/7/2006

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:01 AM
To: Swenson, Lily F
Cc: McNally, Dan
Subject: FW: July 2006 Cadre Verification
Attachments: July 06 OASG.xls

Lily - Looks like you need to visit.

Dan - Thanks for passing this along and thanks for all your help throughout The Flood.

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Sent: Thursday, July 13, 2006 7:57 AM
To: Gorsuch, Neil M
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Daniel P. McNally
202-616-2288
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Security and Emergency Planning Staff/JMD
U. S. Department of Justice
Secure Email:
JCON-TS/JWICS: Dan.McNally@doj.ic.gov
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McNally, Dan

From: McNally, Dan
Sent: Thursday, July 13, 2006 8:03 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: July 2006 Cadre Verification

You are welcome - and it is why we are here. Is the list accurate?

Ms. Swenson - please call my office at 6-2288 anytime between 7 AM and 7 PM to arrange a visit. We will do everything wa can to assist you and make the process as easy as possible.

Dan

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Dan - Thanks for passing this along and thanks for all your help throughout The Flood.

From: McNally, Dan
Sent: Thursday, July 13, 2006 7:57 AM
To: Gorsuch, Neil M
Subject: July 2006 Cadre Verification

Mr. Gorsuch,

I'd have normally done this the first week of the month, but with the flood, and all, we were pretty busy.

Attached is a list of OASG Cadre members, and the status of their 2006 Orientation and Training visits. The DAG requires that all Cadre members visit twice a year for Orientation and Training. Please verifiy if this list is correct and either confirm it, or tell me what changes need to take place.

Thanks

Dan

Daniel P. McNally
202-616-2288
Operations Section
Emergency Management Operations and Policy Group
Security and Emergency Planning Staff/JMD
U. S. Department of Justice
Secure Email:
JCON-TS/JWICS: Dan.McNally@doj.ic.gov
JCON-S/SIPRNet: Daniel.McNally@usdoj.sgov.gov

Unclassified: dan.mcnally@usdoj.gov

<< File: July 06 OASG.xls >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:05 AM
To: McNally, Dan; Swenson, Lily F
Subject: RE: July 2006 Cadre Verification

The list is accurate; thanks again

From: McNally, Dan
Sent: Thursday, July 13, 2006 8:03 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: RE: July 2006 Cadre Verification

You are welcome - and it is why we are here. Is the list accurate?

Ms. Swenson - please call my office at 6-2288 anytime between 7 AM and 7 PM to arrange a visit. We will do everything wa can to assist you and make the process as easy as possible.

Dan

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:01 AM
To: Swenson, Lily F
Cc: McNally, Dan
Subject: FW: July 2006 Cadre Verification

Lily - Looks like you need to visit.

Dan - Thanks for passing this along and thanks for all your help throughout The Flood.

From: McNally, Dan
Sent: Thursday, July 13, 2006 7:57 AM
To: Gorsuch, Neil M
Subject: July 2006 Cadre Verification

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Unclassified: dan.mcnally@usdoj.gov

<< File: July 06 OASG.xls >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:19 AM
To: Bradbury, Steve; Engel, Steve
Subject: UCMJ

Do you know whether someone at DoD (or here) is taking a hand at drafting language using the UCMJ as starting pt? Ought we do so, even if only so we have a "contingency plan"?

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Senate Judiciary Hearing
Start:	Thursday, July 13, 2006 2:30 PM
End:	Thursday, July 13, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:24 AM
To: Swenson, Lily F
Cc: Shaw, Aloma A
Subject: Budget Mtg

If you're able to cover the 10-12 budget mtg today, I'd be grateful. It is not, however, a command performance. Aloma has the details.

Engel, Steve

From: Engel, Steve
Sent: Thursday, July 13, 2006 8:41 AM
To: Gorsuch, Neil M; Bradbury, Steve
Subject: RE: UCMJ

Short answer: no, and yes. I am not aware of anyone at DOD drafting language, but I had understood them to be putting together a list of the provisions of the UCMJ that would have to go/be revised. Steve and I started talking yesterday about what that would look like, with the expectation that once we arrived at a concept, we would move towards drafting language. Of the 12 subchapters of the UCMJ, four are completely irrelevant; four would have to be completely revised; and four, while heavily edited, could exist in some recognizable form. Unless Steve has new guidance this morning, we will move in the direction of putting something together.

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 8:19 AM
To: Bradbury, Steve; Engel, Steve
Subject: UCMJ

Do you know whether someone at DoD (or here) is taking a hand at drafting language using the UCMJ as starting pt? Ought we do so, even if only so we have a "contingency plan"?

Hunter, Kelly C

Subject:	Updated: CANCELLED: Proposed FY08 Passback Review
Location:	PHB LL104
Start:	Thursday, July 13, 2006 10:00 AM
End:	Thursday, July 13, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Hunter, Kelly C
Required Attendees:	Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; Schultz, Walter H; O'Leary, Karin; Hertling, Richard
Optional Attendees:	Lapara, Joan M

When: Thursday, July 13, 2006 10:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: PHB LL104

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

CANCELLED:

Subject: FY08 Budget Overview
When: Thursday, July 13, 2006
Time: 10:00am - 12:00pm
Where: Room LL104 PHB

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 9:21 AM
To: Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Do either one of you have some time this morning to help with a hot button project from whco?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, July 13, 2006 9:36 AM
To: Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: Do either one of you have some time this morning to help with a hot button project from whco?

Sure. I'll come by.

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 9:21 AM
To: Todd, Gordon (SMO); Senger, Jeffrey M
Subject: Do either one of you have some time this morning to help with a hot button project from whco?

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From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 9:38 AM
To: Todd, Gordon (SMO)
Subject: RE: Do either one of you have some time this morning to help with a hot button project from whco?

Thanks!

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Scott-Finan, Nancy

From: Scott-Finan, Nancy
Sent: Thursday, July 13, 2006 10:44 AM
To: Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Brand, Rachel; Macklin, Kristi R; Best, David T; Voris, Natalie (USAEO); Hardos, Debbie (USAEO); Acosta, Alex (USAFLS); Goodling, Monica; Blake, Dave; Kim, Wan (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT); Quinn, Cameron (CRT); Tanner, John K (CRT); Bradbury, Steve
Cc: Chambers, Shane P
Subject: Action on in Senate Judiciary Committee this moring

Voted out by individual voice votes
Neil M. Gorsuch - Tenth Circuit
Jerome A. Holmes - Tenth Circuit (but sounded as if it were 10-8 if recorded--both Leahy and Kennedy spoke against the nomination based on writings)
Bobby E. Shepherd - Eighth Circuit
Gustavo A. Gelpi - Puerto Rico
Daniel Jordan III - SD Mississipi
Martin Jackley - USA South Dakota
Brett Tolman - USA Utah

Held over
Kimberly A. Moore - Federal Circuit - said first time on markup
Steve Bradbury - OLC
Alex Acosta - USA SD Florida

Approved by voice vote - HR 1036, Copyright Royalty Judges Program Technical Corrections Act - with managers amendment

Specter announced that there will be a special markup next Wednesday at 2 pm to do S2703, Voting Rights Act Reauthorization and said that there is a meeting with the Majority Leader today about floor time before the August recess.

Specter talked about ABA on Wallace and Bryant

Specter announced an agreement with the White House on legislation to TSP.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 10:50 AM
To: Scott-Finan, Nancy
Subject: RE: Action on in Senate Judiciary Committee this moring

Thanks for passing this along. Was there any dissent or discussion abt me?

From: Scott-Finan, Nancy
Sent: Thursday, July 13, 2006 10:44 AM
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Scott-Finan, Nancy

From: Scott-Finan, Nancy
Sent: Thursday, July 13, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: RE: Action on in Senate Judiciary Committee this moring

Absolutely nothing said--you sent through under the radar screen---which is a good thing

---

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 10:52 AM
To: Scott-Finan, Nancy
Subject: RE: Action on in Senate Judiciary Committee this moring

Thx

From: Scott-Finan, Nancy
Sent: Thursday, July 13, 2006 10:51 AM
To: Gorsuch, Neil M
Subject: RE: Action on in Senate Judiciary Committee this moring

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Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Attorney
Company:	Holland & Hart
Business Address:	701 Pennsylvania Ave., NW Suite 250 Washington, DC 20004
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]@hollandhart.com
E-mail Display As:	[redacted] ([redacted]@hollandhart.com)

Ames, Andrew

From: Ames, Andrew
Sent: Thursday, July 13, 2006 11:04 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brett Gerry; Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennifer Brosnahan; Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Civil Division News 7/13/06

Lawyers Weighing Suits Over C.I.A.'s Secret Jails

FDA is sued over hearing on blood substitute

Adelstein wants Gabelli barred from AWS auction

State whistleblowers are rewarded for challenging contract

Ex-prosecutor seeks paper's sources in suit against government

Mass. group sues over Flight 800 debris

New York Times (NY)

July 13, 2006

Lawyers Weighing Suits Over C.I.A.'s Secret Jails

NEIL A. LEWIS and MARK MAZZETTI

WASHINGTON, July 12 Human rights organizations that have succeeded in changing the legal landscape for detainees at Guantanamo Bay, Cuba, say they are now pursuing the possibility of bringing lawsuits on behalf of some of the terrorism suspects held in secret C.I.A. jails throughout the world.

The lawyers say they believe that what was once was a remote possibility -- challenging the detentions in the secret C.I.A. prison system in federal court -- has been greatly enhanced by last week's Supreme Court ruling and the administration's response. The court appeared to say that the minimum rights of due process of the Geneva Conventions apply to all detainees, and on Tuesday the administration, shifting

course, announced that was now official policy.

Michael Ratner, the director of the Center for Constitutional Rights, said Wednesday that his group was actively "investigating the possibility of bringing a case on behalf of a secret detainee through a family member."

Mr. Ratner, whose New York-based group coordinated hundreds of legal challenges by Guantanamo Bay detainees, said lawyers at his organization "have already had preliminary contacts with relatives of people in the secret detention facilities."

He declined to discuss the identity of the detainee or relative who might be used in a test case.

A lawyer not affiliated with Mr. Ratner's group said that a woman claiming to be the wife of a detainee held by the Central Intelligence Agency had recently met in Pakistan with an American lawyer who is already representing a Guantanamo detainee. The lawyer who talked about the meeting, speaking on the condition of anonymity because he was not directly involved in the case, said the discussions were very preliminary, involving the issue of whether American courts could be used to confirm her husband's location and aid him somehow.

The possibility of using the Supreme Court opinion to reach to the secret detention facilities comes as the White House and Congress are engaged in discussions over possible changes in the law that could lessen the ruling's impact. The court ruled 5 to 3 that the system of military commissions set up to try Guantanamo detainees violated both domestic law and a part of the Geneva Conventions known as Common Article Three, which prescribes minimal rights for all detainees.

The administration initially tried to keep secret the system run by the C.I.A., which is believed to hold about 30 prisoners, including senior leaders of Al Qaeda like Khalid Shaikh Mohammed and Abu Zubayda.

But the administration has since been obliged in court proceedings and elsewhere to acknowledge, by name, as many as 11 of those prisoners.

Because the prisoners, sometimes called high-value detainees, are named in court proceedings and in the official government report on the Sept. 11 attacks, lawyers have been given an opportunity to identify relatives who could speak for them. This would open the way to file a lawsuit\l "l" alleging unlawful detention under the name of a relative who could claim to be the detainee's "next friend," a legal term that allows someone to assert rights on behalf of someone else who is unable to file a lawsuit.

Deborah Pearlstein, a lawyer with Human Rights First and a visiting scholar at Princeton University, said in an interview, "Human rights advocates for some time have been talking about how to resolve the legal status of the C.I.A.-held detainees who have been effectively 'disappeared.' " She said the discussions had been given significant momentum with the Supreme Court ruling and the administration's policy shift.

A different human rights lawyer, who also asked not to be identified because he was not directly involved in the issue, said that the problems in bringing such a lawsuit would be considerable. First of all, this lawyer said, the detainees are generally senior Qaeda operatives who may have been tied closely with planning the Sept. 11 attacks, making them exceedingly unsavory clients. In addition, relatives and friends of such people may, in the end, balk at engaging in the American legal system.

C.I.A. officials say they have ended harsh interrogation practices used on secret detainees. Yet the Bush administration's decision to grant Common Article Three rights to C.I.A detainees means that the agency must now assess its interrogation practices against international standards of what constitutes "humiliating and degrading treatment."

Moreover, the new rules mean that C.I.A. officials could be charged with federal crimes under the War Crimes Act for any future cases of detainee abuse.

Jeffrey H. Smith, a former general counsel for the C.I.A., said he believed that agency officers and interrogators would no longer risk engaging in any arguably abusive behavior toward the special detainees because they could no longer be certain of their authority.

"They want clean and unambiguous rules," Mr. Smith said.

The Bush administration has never spoken of plans to hold trials for these terror suspects, and Common Article Three does not mandate that these prisoners be ultimately brought to trial.

According to Mr. Smith, the administration's policy statement does not change the basic situation for the detainees held by the C.I.A. Even if they are no longer mistreated, he said, they are still being held indefinitely.

"One of the most difficult questions to address is, Under what authority do we continue to hold them and why?" Mr. Smith said. "And nothing has changed on that front."

END

WALL STREET JOURNAL

July 13, 2006

FDA is sued over hearing on blood substitute

Public Citizen yesterday sued the Food and Drug Administration, urging the US District Court in Washington DC to either stop a closed-door hearing by the agency on the safety of Biopure Corp's blood substitute or enable public access to the hearing. An FDA advisory panel will decide on Navy trials of the product, marking a shift from three previous rulings against a Navy study due to safety issues.

END

RCR Wireless News

July 12, 2006

Adelstein wants Gabelli barred from AWS auction

By Jeffrey Silva

WASHINGTON—Federal Communications Commission member Jonathan Adelstein said the government should prohibit Wall Street money manager Mario Gabelli from participating in the Aug. 9 advanced wireless services auction as part of a fraud settlement with the Justice Department.

“I think the Justice Department as part of the settlement should bar Mario Gabelli and his companies from participating in the auctions,” Adelstein said in phone interview with RCR Wireless News, after making

similar remarks at an event sponsored by the Minority Media and Telecommunications Council.

continued below

MMTC is one of three parties challenging FCC small bidding—or designated entity—rule changes at the 3rd U.S. Circuit Court of Appeals in Philadelphia. MMTC, Council Tree Communications Inc. and Bethel Native Corp. had urged the commission to adopt its original plan to keep major mobile phone carriers and possibly other large telecom firms from accessing spectrum at discounts by partnering with DEs. Instead, the agency took a different approach to closing what Adelstein and fellow Commissioner Michael Copps—both Democrats on the GOP-led FCC—regard as a huge loophole that they argue allows national wireless carriers to benefit from a rule designed for small companies.

Adelstein, a sharp critic of FCC Chairman Kevin Martin's handling of DE reform, said in the interview that Gabelli and his telecom unit—Lynch Interactive Corp.—also should be disqualified for life from the auction program that awards bidding credits of up to 25 percent to small businesses.

It may be too late, however.

Gabelli and Lynch filed short-form AWS applications, and it appears the settlement—while forcing Lynch to cough up $34 million—does not impair his ability to bid on any of the 1,122 wireless licenses in the 1710-1755 MHz and 2110-2155 MHz bands. The final settlement is expected to be filed this week at the U.S. District Court in Manhattan.

Charles Dolan, chief executive officer of Lynch, did not return a call for comment.

The 2001 suit, filed under the False Claims Act, alleged Gabelli defrauded the U.S. government of at least $85 million by hiding Lynch's control of DEs in spectrum auctions during the 1990s. Some discounted DE licenses in which Lynch was a partner subsequently sold for more than $200 million. Gabelli has denied any wrongdoing.

"Lynch Interactive is pleased to have reached tentative agreement with the government, and now the other defendants, so that the company can focus on its on-going operational dynamics to better serve the communities and help them to compete in the global broadband marketplace. The company believes the settlement will maintain its integrity and reputation so that it can operate on all fronts in this ever changing world," Lynch said in a statement.

END

Cleveland Plain Dealer

July 13, 2006

State whistleblowers are rewarded for challenging contract

Bill Sloat,Plain Dealer Reporter

Cincinnati- Four state whistleblowers will split a $232,000 settlement from a welfare-reform contractor that they said billed Ohio at excessive rates and received payments for work it was never hired to perform.

Some of that work included preparing data for one of Gov. Bob Taft's State of the State speeches, their lawyer said Wednesday.

All from the Ohio Department of Job & Family Services, the whistleblowers invoked an 1860s-era federal law, the False Claims Act, that allows citizens to seek a reward for challenging improper practices that involve government contractors.

Abraham Lincoln got the law passed during the Civil War to curtail rampant boodling by contractors who were charging the government exorbitant fees for supplies to keep the Union Army in the field.

Most of Ohio's welfare money comes from Washington, and is funneled into the state as grants.

The four state workers are Randall Smith of Lancaster, Mike Wilcox of Columbus, Alice DeWeese of Asheville and Ronald Wilinksi, a former Cleveland school administrator now living in Westerville.

They sued American Management Systems Inc., which got nearly $120 million in state consulting contracts. Court records show the company negotiated a deal with the whistleblowers and Justice Department lawyers.

Terms of the arrangement, on file with U.S. District Judge Michael Barrett in Cincinnati, also call for the consulting firm to repay the federal government $568,000 and the whistleblower attorneys another $500,000.

The settlement appears to close the books on a scandal that rattled the Taft administration early in this decade.

It dates back to 2001, when the state's Internet job-matching system flopped, its child support program misfired, its computers didn't mesh quite as planned, and Arnold Tompkins, who was in charge of Ohio's welfare programs, was convicted of steering contracts to favored firms.

American Management Systems was one of those firms. It hired Tompkins, Ohio's former human services director, to lobby his one-time subordinates.

The state inspector general in 2001 absolved AMS of wrongdoing, but found it had received $87 million in unbid contracts.

AMS provided systems to manage Ohio's welfare programs and track recipients as they moved from public assistance to jobs. It was a massive undertaking to create a computer system to aid caseworkers handling child support, food stamps, Medicaid and other assistance programs.

By 2004, state officials conceded the system would never do what was envisioned.

Under the settlement, the company said it "billed and obtained payment for work unrelated to the development of this system." It also acknowledged overbilling the state - charging hourly rates for employees that were too high given the employees' backgrounds and work they did.

American Management Systems got its first contract in 1998 under Gov. George Voinovich, now a U.S. senator. It got more work from Taft's administration up through 2002.

Canadian competitor CGI Group, whose stock is traded publicly on the New York Stock Exchange, bought the company two years ago.

Rick Morgan, the whistleblowers' lawyer, said the settlement has been in the works since last summer.

AMS got into a jam, he said, because it tried to please Ohio Department of Job & Family Services administrators who assigned the consultants work they weren't supposed to do.

"What you had is American Management Systems people helping prepare the State of the State address for Gov. Taft. They got paid for things like that, things that weren't directly related to welfare reform," Morgan said.

END

AP

July 13, 2006

Ex-prosecutor seeks paper's sources in suit against government

DETROIT_A former federal prosecutor is demanding that the "Detroit Free Press" reveal its sources as part of his lawsuit against the government.

Richard Convertino was the lead prosecutor in the nation's first post-Nine-Eleven terrorism trial. Three of four defendants were found guilty in 2003, but the convictions were overturned the following year.

Convertino resigned last year. In March, he was indicted on charges including obstruction of justice.

Convertino sued the Justice Department in 2004, claiming officials violated federal law by leaking information about him to the "Free Press."

END

Newsday

BY Joseph Mallia

Mass. group sues over Flight 800 debris

July 13, 2006

A Massachusetts group has filed a lawsuit to force federal officials to release information about a piece of debris from Flight 800 that it hopes will show that a missile downed the plane.

Federal investigators have dismissed that explanation as the cause of the 1996 explosion that killed all 230 people aboard. Instead they concluded that a spark ignited fuel tank vapors.

The lawsuit, filed Wednesday in U.S. District Court in Boston, demands that the National Transportation Safety Board respond to numerous freedom of information act requests made since 2004.

Tom Stalcup, who heads the East Falmouth, Mass.-based Flight 800 Independent Researchers Organization, which filed the suit, said he is "very certain" that federal investigators found the piece of debris and are now concealing evidence of its existence.

Radar data show the piece of debris falling at high speed from the plane and a Navy salvage map shows it was later recovered, said Stalcup, 36, a physicist and owner of a West Falmouth, Mass., company that makes wireless weather stations. Despite this evidence, federal officials won't explain what happened to the debris once it was recovered from the ocean off Long Island, he said.

"All of the data requested is of great importance to the public understanding of the crash of TWA Flight 800," Stalcup's lawsuit says.

"One piece in particular landed closer to JFK Airport than any of the other thousands of recovered items ... after exiting the airframe at apparent supersonic speeds," the suit says.

NTSB spokesman Paul Schlamm said the agency does not comment on pending lawsuits, but said most federal agencies have limited resources to respond in a timely way to Freedom of Information Act requests. "We are aware that there's a FOIA backlog," Schlamm said.

END

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, July 13, 2006 11:24 AM
To: Gorsuch, Neil M
Subject: Call Steve Engel 4-9700

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	[redacted]
Company:	Star-News
Business Address:	1003 South 17th St P.O. Box 840 Wilmington, NC 28402-0840
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]@starnewsonline.com
E-mail Display As:	[redacted] ([redacted]@starnewsonline.com)

Best, David T

From: Best, David T
Sent: Thursday, July 13, 2006 12:11 PM
To: Gorsuch, Neil M
Subject: Senate committee action

Congratulations; today, by voice vote, the Senate Judiciary Committee favorably reported your nomination to the full Senate. As to the next step, confirmation by the Senate, please be advised that scheduling Senate floor action is in the total discretion of the Senate Majority Leader. I can make no prediction as to when that might take place. I will give you advance notice, to the extent I receive any, and will certainly let you know after it occurs.
Regards,
David

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, July 13, 2006 12:19 PM
To: Gorsuch, Neil M
Subject: Fw: Action on in Senate Judiciary Committee this moring

One step closer! We'll see if we can get an ETA on a floor vote. (Not that we are trying to get rid of you)

-----Original Message-----
From: Scott-Finan, Nancy
To: Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Brand, Rachel; Macklin, Kristi R; Best, David T; Voris, Natalie (USAEO); Hardos, Debbie (USAEO); Acosta, Alex (USAFLS); Goodling, Monica; Blake, Dave; Kim, Wan (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT); Quinn, Cameron (CRT); Tanner, John K (CRT); Bradbury, Steve
CC: Chambers, Shane P
Sent: Thu Jul 13 10:43:34 2006
Subject: Action on in Senate Judiciary Committee this moring

Voted out by individual voice votes
Neil M. Gorsuch - Tenth Circuit
Jerome A. Holmes - Tenth Circuit (but sounded as if it were 10-8 if recorded--both Leahy and Kennedy spoke against the nomination based on writings) Bobby E. Shepherd - Eighth Circuit Gustavo A. Gelpi - Puerto Rico Daniel Jordan III - SD Mississipi Martin Jackley - USA South Dakota Brett Tolman - USA Utah

Held over
Kimberly A. Moore - Federal Circuit - said first time on markup Steve Bradbury - OLC Alex Acosta - USA SD Florida

Approved by voice vote - HR 1036, Copyright Royalty Judges Program Technical Corrections Act - with managers amendment

Specter announced that there will be a special markup next Wednesday at 2 pm to do S2703, Voting Rights Act Reauthorization and said that there is a meeting with the Majority Leader today about floor time before the August recess.

Specter talked about ABA on Wallace and Bryant

Specter announced an agreement with the White House on legislation to TSP.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 12:31 PM
To: Macklin, Kristi R
Subject: RE: Action on in Senate Judiciary Committee this moring

Thanks so much for all of your efforts!

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, July 13, 2006 12:19 PM
To: Gorsuch, Neil M
Subject: Fw: Action on in Senate Judiciary Committee this moring

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To: Gorsuch, Neil M; Moschella, William; Seidel, Rebecca; Brand, Rachel; Macklin, Kristi R; Best, David T; Voris, Natalie (USAEO); Hardos, Debbie (USAEO); Acosta, Alex (USAFLS); Goodling, Monica; Blake, Dave; Kim, Wan (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT); Quinn, Cameron (CRT); Tanner, John K (CRT); Bradbury, Steve
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Sent: Thursday, July 13, 2006 12:32 PM
To: Best, David T
Subject: RE: Senate committee action

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Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Engel, Steve

From: Engel, Steve
Sent: Thursday, July 13, 2006 1:46 PM
To: Gorsuch, Neil M
Subject: ucmj

I'm back in the office, if we want to talk further. The bottom line is that we are redlining the UCMJ to see what it would look like. We'll probably have something to circulate today or tomorrow.

Have you heard whether DOD has produced a revised list of edits that must be made to the UCMJ?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 2:39 PM
To: Engel, Steve
Subject: RE: ucmj

Great; I think the redline project is a good one. I think DOD is working on such a list, but I don't know that we can comfortably rely on that.

From: Engel, Steve
Sent: Thursday, July 13, 2006 1:46 PM
To: Gorsuch, Neil M
Subject: ucmj

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MarquisWhosWho@email.marquiswhoswho.com

From:	MarquisWhosWho@email.marquiswhoswho.com
Sent:	Thursday, July 13, 2006 3:15 PM
To:	Gorsuch, Neil M
Subject:	Avian Flu - Preparing Now for a Possible Outbreak
Attachments:	tmp.htm

Planning for Avian Flu -- The Critical Steps Your Business Should Take Now

A 90-minute, interactive audio conference - Register Now
http://link.ixs1.net/s/lt?id=p181725&si=3112379936&pc=71&ei=s88968

Just a few days left to register...

When: Tuesday, July 18, 2006
What Time: 2:00 - 3:30 PM Eastern Time
Where: Your office or conference room
Cost for Marquis members: Just $279 per listening site no matter how many people are in the room!

Marquis Who's Who is proud to present a selection of special benefits for all of its members. We have teamed up with Thompson Publishing Group to offer the first in a series of audio conferences designed to address issues that affect you and your firm: Planning for Avian Flu - The Critical Steps Your Business Should Take Now. For Marquis Who's Who members, the special registration fee is just $279 per site. Take advantage of this final opportunity to register!

Thompson, the premier publisher for senior and middle management involved in human resources, and Marquis Who's Who have brought together leading experts who will provide specific and practical information on developing contingency plans to keep core business functions running if and when the avian flu spreads to the United States.

A recent national Thompson survey demonstrated that 75% of employers are not prepared for a possible outbreak of avian flu. Getting ready includes plans for dealing with reduced workforces, security issues, employee and customer communications, payroll and employee benefits questions -- to mention just a few areas of concern. The federal and state governments are already announcing plans to deal with an avian flu outbreak. You shouldn't wait to figure out how to handle shortages of supplies, worker absenteeism, IT issues, and more. You need to have the answers now!

Learn how to prepare and respond to a possible avian flu outbreak from the Marquis Who's Who and Thompson experts when you join us Tuesday, July 18 at 2:00 p.m. ET for this 90 minute audio conference.

Our featured speakers are: Mr. Mark Lies, partner in the leading law firm, Seyfarth Shaw. Mr. Lies' practice includes occupational safety and health, and he has first-hand experience advising clients in the aftermath of the World Trade Center attacks, the SARS outbreak in Canada, the anthrax crisis, and during post-Katrina rebuilding.

Our other speaker is Mr. Jason Kane with the nationally recognized firm, Crisis Management International (CMI). As Project Coordinator for CMI, Mr. Kane has extensive experience advising clients in areas relating to: business continuity and disaster recovery planning, telecommunications and information technology, network recovery, co-location and hosting, and disaster training.

As an added bonus for Marquis Who's Who members, senior executives from Roche Labs, the manufacturers of Tamiflu, will be available during the Q & A session which follows the conference to answer any medical related questions.

In this audio conference, you'll learn:

1. How to analyze your vulnerabilities and develop a business continuity plan that keeps your firm running 2. The first 3 things you and your firm should do after an outbreak
3. Strategies for restructuring to keep your firm up and in operation -- telecommuting, transfer of business activities to non-affected areas, temporary hiring, etc.
4. Revising travel policies to foreign countries and potential places of infection
5. Minimizing your exposure to potential employee litigation

Learn More and Register Today
http://link.ixs1.net/s/lt?id=p181725&si=3112379936&pc=h2&ei=s88968

Registration Includes:

* Admittance to the 90-minute call for as many people as you can fit in a room with a speakerphone * Access to the specially created presentation handouts (available 48 hours in advance) * Participation in the 30-minute, live Q&A with the speakers following the presentation
* Certificates of attendance for all audio conference attendees

Who Should Register?

* Business Executives and Managers
* HR Directors and Managers
* IT Professionals
* Healthcare Professionals
* Disaster/Emergency Managers
* Business Continuity Managers
* Corporate Security Directors

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If you prefer to register -- or order the CD recording or the Streaming Audio version -- by phone, call the Marquis-Thompson registrar toll-free at 1-800-395-5914. And when you do, please be sure to mention your priority code: FNMK85400

Take advantage of the newest feature -- Streaming Audio. No more waiting for the CD recording -- this new feature allows instant access to the recorded audio conference. Play it back as many times as you want. Available 24 hours a day, 7 days a week. Available from any computer. Listen to it at a later date. And it's in MP3 format, so it's playable from any standard media player. Apple/Mac compatible. Same price as a registration to the live audio conference. Same price as the CD.

Please feel free to forward this announcement to others who might find it useful.

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http://link.ixs1.net/s/link/unsub?rc=ue&rti=s88968&si=3112379936

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 3:20 PM
To: Swenson, Lily F
Subject: Immig rev

Time to get this sucker rolled out and implemented!

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, July 13, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: RE: Immig rev

Amen.

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To: Swenson, Lily F
Subject: Immig rev

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Sent: Thursday, July 13, 2006 3:26 PM
To: Swenson, Lily F
Subject: Re: Immig rev

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Sent: Thu Jul 13 15:23:12 2006
Subject: RE: Immig rev

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Sent: Thursday, July 13, 2006 3:20 PM
To: Swenson, Lily F
Subject: Immig rev

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Miller, Charles S

From: Miller, Charles S
Sent: Thursday, July 13, 2006 3:40 PM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Valerie Plame Wilson and Ambassador Joseph Wilson Initiate a Civil Action Against Vice President Cheney, Karl Rove, and Scooter Libby for Violations of their Constitutional and Other Legal Rights

Business Wire

July 13, 2006 03:11 PM US Eastern Timezone

Press Release: Valerie Plame Wilson and Ambassador Joseph Wilson Initiate a Civil Action Against Vice President Cheney, Karl Rove, and Scooter Libby for Violations of their Constitutional and Other Legal Rights

WASHINGTON--(BUSINESS WIRE)--July 13, 2006--Former CIA agent Valerie Plame Wilson and her husband, former Ambassador Joseph Wilson, filed suit in federal court today against Vice President Dick Cheney, his former Chief of Staff I. Lewis "Scooter" Libby, top Presidential advisor Karl Rove and other unnamed senior White House officials, for their role in the public disclosure of Valerie Wilson's classified CIA status.

A copy of the Complaint as filed in court is attached, as is a page with excerpts from the Complaint.

The suit accuses the defendants of violating the Wilsons' constitutional and other legal rights as a result of "a conspiracy among current and former high-level officials in the White House" to "discredit, punish and seek revenge against" Mr. Wilson for publicly disputing statements made by President Bush in his 2003 State of the Union address justifying the war in Iraq.

The suit was filed nearly three years after Washington columnist Robert Novak disclosed Valerie Wilson's classified CIA employment in a column he wrote on July 14, 2003, based on leaks from senior administration officials. It subsequently was confirmed, during Special Counsel Patrick Fitzgerald's criminal investigation, that several top ranking officials in the White House leaked Wilson's name and status with the CIA to Novak and other reporters.

The Complaint was filed in the United States District Court for the District of Columbia by the international law firm of Proskauer Rose LLP, whose team is headed by Washington, D.C. litigation partner and privacy law practitioner Christopher Wolf. Noted Constitutional law scholar Erwin Chemerinsky, a professor of law at Duke University, is of counsel in the case.

As a result of Cheney, Libby and Rove's conduct, the suit claims that the Wilsons have suffered violations of their rights guaranteed under the United States Constitution and by laws of the District of Columbia.

The Complaint specifies that each of the Wilsons has been deprived of their First and Fifth Amendment rights; each has suffered a gross invasion of their privacy; each has been impaired in pursuing professional opportunities; and that they fear for their safety and the safety of their children as a result of the wrongful public disclosures. In addition, the Complaint alleges that Valerie Wilson was impaired in her ability to carry out her duties at the CIA, and to pursue her career at the agency in further service to her country, as she had planned. While no specific dollar amount is requested, the suit seeks compensatory damages, punitive damages and attorneys' fees and costs.

Coinciding with the filing of the Complaint, the Joseph and Valerie Wilson Legal Support Trust has been established. Funds from the trust will help the Wilsons pay the substantial legal costs forced upon them by the unlawful leaking of Mrs. Wilson's covert CIA status. The objectives of the trust include:

-- Counseling them in connection with their potential witness testimony during the upcoming trial of Scooter Libby; and

-- Helping them to prepare the civil suit that will uncover the truth surrounding the leak, ensure all relevant public officials are held accountable for actions depriving the Wilsons of their privacy and constitutional rights, and serve as a deterrent to similar wrongdoing being committed in the future.

The Trust was established with the Wilsons' approval and provides that should the suit result in a payment to the Wilsons in excess of their legal costs, they will reimburse the Trust for all legal costs paid by the Trust. That money will then be distributed by the trustees to a charitable organization(s) that works to protect the rights of government whistleblowers.

Contributions to the Joseph and Valerie Wilson Legal Support Trust can be given at www.wilsonsupport.org or sent to P.O. Box 40918, Washington, D.C. 20016-0918.

Neither the Wilsons nor their attorneys will comment on the civil suit today, but they will meet with the news media at 10:00 a.m. Friday at the National Press Club, 14th and F Sts.

Excerpts From the Complaint in Wilson v. Libby, et al.:

"The lawsuit concerns the intentional and malicious exposure by senior officials of the federal government of one such human source at the CIA, Valerie Plame Wilson, whose job it was to gather intelligence to make the nation safer, and who risked her life for her country."

"The Defendants reached an agreement to discredit, punish, and seek revenge against the Plaintiffs . . . . Said agreement was motivated by an invidiously discriminatory animus towards those who had publicly criticized the administration's stated justifications for going to war with Iraq."

"The Defendants chose not to address publicly, directly, and on the merits why they may have thought Mr. Wilson was wrong or unfair in his statements on the President's misstatements. Rather, they embarked on an anonymous 'whispering campaign' designed to discredit and injure the Plaintiffs and to deter other critics from publicly speaking out."

"But for Mr. Wilson coming forward, it is unlikely that the Administration ever would have acknowledged its error. The fact that the administration had to admit its mistake is one likely reason why the Defendants chose to attack the Wilsons"

"The Defendants fraudulently concealed the existence of the Plaintiffs' cause of action . . . by, among

other things, giving false or misleading testimony to federal law enforcement personnel and/or the federal grand jury empanelled to investigate the unlawful publication of Plaintiff Valerie Plame Wilson's classified CIA employment . . . ."

Full Name:	Gordon D. Todd
Last Name:	Todd
First Name:	Gordon
Business:	[redacted]
E-mail:	[redacted]
E-mail Display As:	Gordon D. Todd ([redacted])

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, July 13, 2006 3:44 PM
To: Gorsuch, Neil M
Subject: RE: Immig rev

With the Judge saying today that he wants a report, Martha and I are going to draft something that can be circulated in about a week. To save time we're not going to involve Lee until we have a working draft going.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 3:26 PM
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Subject: Re: Immig rev

Make it your legacy - it would be a great thing to finish bef you go.

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Subject: Immig rev

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Todd, Gordon (SMO)

From: Todd, Gordon (SMO)
Sent: Thursday, July 13, 2006 3:58 PM
To: Gorsuch, Neil M
Subject: Read: Could you give me a quick ring?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 4:04 PM
To: Seidel, Rebecca; Hertling, Richard
Subject: cameras in the courtroom tps.doc
Attachments: cameras in the courtroom tps.doc

Draft for your review per Rebecca's request

Cameras in the Courtroom

- Out of respect for the separation of powers and comity between branches, we believe it inappropriate to command the federal courts to permit cameras in the courtroom.

- There are many reasons why the courts could (and do) not want cameras. For example:

  - Cameras often lead to grandstanding and other inappropriate behavior by lawyers, judges, and others that inhibits rather than aids the search for truth and the cause of justice in each case.

  - The lack of adequate safeguards in proposed legislation to protect a witness's identity from being disclosed concerns us. While S. 829 would allow for courts to obscure the image and voice of a witness, there is no guarantee that technological devices won't be used to "unobscure" the witness. Any additional risk of being identified could have a negative impact on our ability to secure vital testimony from cooperating protected witnesses.

  - Cameras pose similar safety concerns for other participants in the judicial system, including judges, jurors, undercover agents, and others.

  - The widespread broadcast of personally identifying information in trials, for example in employment or other discrimination cases, would raise serious issues under the Privacy Act.

  - Those US Attorneys who were judges in state court systems where cameras were allowed report that arranging for the entry and maintenance of cameras and related equipment in courtrooms imposes a heavy administrative strain. They also report that, on occasion, the media violated the restrictions placed on them by the courts. Our courts are already burdened and do not need these additional administration burdens forced upon them.

Long, Linda E

Subject:	Updated: DEA Budget Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Friday, August 04, 2006 9:00 AM
End:	Friday, August 04, 2006 10:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Parameswaran, Shalini; Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Tandy, Karen P (DEA)

When: Friday, August 04, 2006 9:00 AM-10:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Administrator Tandy, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Roehrkasse, Brian

From:	Roehrkasse, Brian
Sent:	Thursday, July 13, 2006 4:34 PM
To:	Gorsuch, Neil M
Subject:	Out of Office AutoReply: STAFFING: For Staff Review - Judiciary Hearing Statement Draft #2

I am currently out of the office on travel and will return on Monday, July 24. I will have limited access to email so if you need immediate assistance, please call (202) 514-2007.

Hertling, Richard

From: Hertling, Richard
Sent: Thursday, July 13, 2006 5:15 PM
To: Gorsuch, Neil M; Seidel, Rebecca
Subject: RE: cameras in the courtroom tps.doc

I would add one last bullet (I tried but the document would not let me save it) along the lines of:

The legislation represents an unwarranted intrusion into the management of a separate coequal branch of government.

With that one final addition I think this paper is good to go.

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 4:04 PM
To: Seidel, Rebecca; Hertling, Richard
Subject: cameras in the courtroom tps.doc

Draft for your review per Rebecca's request

<< File: cameras in the courtroom tps.doc >>

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business: (202) 395-5044

Seidel, Rebecca

From:	Seidel, Rebecca
Sent:	Thursday, July 13, 2006 5:57 PM
To:	Seidel, Rebecca; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard
Subject:	RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

OMB called. They have worked out some softening language with NSC that they are now going to circulate through LRM a new version of the letter. You should receive through LRM, please comment back through that process. Thank you.

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 7:53 PM
To: Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Thank you all. Much appreciated.

-----Original Message-----
From: Senger, Jeffrey M
Sent: Wednesday, July 12, 2006 6:59 PM
To: Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Robert was in agreement that a letter should go out opposing the bill.

-----Original Message-----
From: Seidel, Rebecca
To: Bucholtz, Jeffrey (CIV); Gorsuch, Neil M; Hertling, Richard; Senger, Jeffrey M
Sent: Wed Jul 12 18:30:57 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Ugh - I just receive more context on what is going on. NSC is now holding up our letter because Delegate Bordallo from Guam sent letter to Hadley saying Admin should support the bill because we are asking Guam to accept Marines to be transferred from Okinawa to Guam which is part of a larger agreement with Japan.
The way NSC is challenging our letter is that it would be embarrassing to Japan because it talks about bad stuff Japan did. UGH.
OMB is trying to tee up a meeting between DOJ/OMB/Interior and DOD. OMB is having internal meeting tomorrow morning, hoping to come to conclusion that they will go to NSC and tell them important to get on record opposing. Hoping to avoid larger meeting interagency

important to get on record opposing. Hoping to avoid larger meeting interagency.

OMB asked - can they say that Rachel and Robert were in agreement that a letter should go out opposing the bill?, i.e. we should be on record.

(and to refresh your memory, House had two hearings on this after the commission's report came out, the first time we had Mauricio testify that we had not yet reviewed the leg, it was new, the second time, committee was displeased we had not yet taken a position.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 12, 2006 3:35 PM
To: Gorsuch, Neil M; Seidel, Rebecca; Hertling, Richard; Senger, Jeffrey M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I think this may originally have come up before you were here, Neil, so you may not have been involved when it flared up again recently.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
Sent: Wed Jul 12 15:26:42 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I know nothing abt this but do not necessarily need to if Robert has signed off. Jeff?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:50 PM
To: Hertling, Richard; Senger, Jeffrey M; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I am not necessarily trying to give a list of who was at the meeting, but rather who signed off on concerns, so I think from the below I could say that Rachel and Robert were briefed on the concerns and concurred? I don't want to overstate. And Neil would I add you to that?

-----Original Message-----
From: Hertling, Richard
Sent: Wednesday, July 12, 2006 12:40 PM
To: Senger, Jeffrey M; Seidel, Rebecca; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Subject: Re: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

And I had briefed Rachel and she was on board with our position in the letter.

-----Original Message-----
From: Senger, Jeffrey M
To: Seidel, Rebecca; Hertling, Richard; Bucholtz, Jeffrey (CIV); Gorsuch, Neil M
Sent: Wed Jul 12 12:39:07 2006
Subject: RE: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I briefed Robert on this at the time, so he was aware of the general contours of our discussions -- what exactly would you like to be able to say he signed off on?

-----Original Message-----
From: Seidel, Rebecca
Sent: Wednesday, July 12, 2006 12:32 PM
To: Hertling, Richard; Bucholtz, Jeffrey (CIV); Senger, Jeffrey M; Gorsuch, Neil M
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

I can't remember who all was involved in our meeting (were we resolved dispute with Mauricio). I remember Richard, Jeff, and Jeff, but Neil were you there? Anyone else besides Mauricio's shop? OMB wants to know how high up in the Dept our concerns were signed off on (this has to do with the tug of war with Interior over signing the letter, the higher we can show the better). i.e. is Robert aware/sign off on?

-----Original Message-----
From: Oscar_Gonzalez@omb.eop.gov [mailto:Oscar_Gonzalez@omb.eop.gov]
Sent: Wednesday, July 12, 2006 12:14 PM
To: Seidel, Rebecca
Subject: FW: LRM OGG415 - - INTERIOR-JUSTICE Letter on HR1595 - Guam World War II Loyalty Recognition Act

Rebecca,

Per our conversation, can you give me the names and titles of the folks at DOJ that were involved in reviewing the Guam letter? I need this info as soon as possible.

Thanks!

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 13, 2006 6:07 PM
To: White, Clifford
Cc: Gorsuch, Neil M
Subject: RE: UST - Region 7 (Houston)

Can you get me the name and address to write a note of condolences for [redacted] Although you told me about it at our Monday meeting, I have forgotten the details. Thanks. Robt.

From: Gorsuch, Neil M
Sent: Friday, July 07, 2006 10:30 AM
To: Goodling, Monica; White, Clifford
Cc: Swenson, Lily F; Washington, Tracy T; McCallum, Robert (SMO)
Subject: RE: UST - Region 7 (Houston)

I'm very sorry to hear this news. If there's anything OASG can or should do, please let me know.

From: Goodling, Monica
Sent: Friday, July 07, 2006 9:49 AM
To: White, Clifford
Cc: Swenson, Lily F; Gorsuch, Neil M; Washington, Tracy T
Subject: RE: UST - Region 7 (Houston)

Thank you for letting me know. Please express the condolences of the leadership team.

Tracy -- Can you please schedule some time next week for Cliff and I to get together? I have some resumes for the New York position and Kansas position that I'd like to discuss. Thanks.

From: White, Clifford
Sent: Friday, July 07, 2006 9:43 AM
To: Goodling, Monica
Cc: Swenson, Lily F; Gorsuch, Neil M
Subject: UST - Region 7 (Houston)

Monica: I just received word that Region 7 UST [redacted] passed away early this morning. I have few details. By way of background, [redacted] is a long-term hold-over. We previously selected replacements, but each declined before or during the BI phase. We will work with the Houston office on necessary business details. I will recommend to you an interim replacement and prepare necessary paperwork in the very near future. This is the second UST to pass away in the last few months. Although [redacted] was not as vital a part of the USTP as the late [redacted], his passing is very sad and will provide another shock to the USTP staff. In addition to [redacted] and [redacted], we recently lost two senior career attorneys in the field. Also, a [redacted] has been out for nearly a year because of [redacted]. We will communicate DOJ's sympathies and take other steps to show sensitivity to our staff. Thanks. Cliff

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Thursday, July 13, 2006 6:50 PM
To: Sellers, Kiahna (OAG); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Goodling, Monica; Fisher, Alice; Masugi, Ken (OPA); Beach, Andrew; Nelson, Carrie; Roehrkasse, Brian; Card, Jean
Subject: 071406 AG's Upcoming Speech Calendar
Attachments: 071906 Meth Training Conference at the NAC.doc; 071906 2006 GREAT Conference.pdf; 072006 ALEC Invitation.pdf; 072006 American Legislative Exch Council.pdf; 072006 ALEC Annual Meeting.doc; 072506 Ballot Access and Voting Integrity Luncheon.doc; 072506 Ballot Access and Voting Integrity Symposium Luncheon SIF.doc; 073106 NDAA Invitation ltr.DOC; 073106 National Distrct Attorneys Assoc.doc; 080106 Tucson AZ Police Department Police Memorial Plaza Dedication.doc; 080906 Draft Agenda Immigration Judges Training Conference.wpd; 080906 Immigration Judges Training Conference.doc; 082106 Crimes Against Children Meeting Request Letter.doc; 082106 Crimes Against Children Conference.doc; 091206 Attorney General's 54th Annual Awards Ceremony.doc; 092106 Financial Services Roundtable 2006 Fall Conference.doc; 092806 Georgetown University Law Center Conference on the Judiciary.pdf; 071406 AG speeches.xls

Please find attached the AG's upcoming speech calendar as well as the accompanying event scheduling information forms.

Kiahna Sellers
Deputy Director of Scheduling
Office of the Attorney General
United States Department of Justice
(202) 514-4195

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft
07/19/06	DC	Video Conference National Advocacy Center Meth Training Conference	5 min speech	75 to 80 AUSAs from across the country plus faculty	TBD	CLOSED	Jeff Taylor 514-2107	TBD/Stuart Nash				
07/19/06	DC	Video-taped Greeting: 2006 GREAT Program National Training Conference	3 min speech	TBD	TBD	CLOSED	Jeff Oldham 514-9797	Jean				
07/20/06	DC	American Legislative Exchange Council (ALEC)	Approx. 20 min speech	700 - 800 State legislators, private sector companies, spouses & guests	TBD	OPEN	Crystal Jezierski 514-3465	Jean				
07/21/06	San Francisco, CA	San Francisco Hispanic Chamber of Commerce	approx 20 min remarks plus 20 mins Q&A	TBD	TBD	TBD	Eric Holland	Jean				
07/21/06	Santa Clara, CA	Commonwealth Club of Silicon Valley	TBD	TBD	TBD	TBD	Tasia Scolinos 514-2007	Jean				
07/25/06	DC	Ballot Access and Voting Integrity Symposium Luncheon	Approx. 10-15 mins.	Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.	TBD	CLOSED		Jean				
7/30/06 or 7/31/06	Sante Fe, NM	National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference	Requesting a 30-45 min speech	Approx. 110 Local chief & assistant prosecutors	TBD	TBD	Crystal Jezierski 514-3465	Jean				
08/01/06	Tucson, AZ	Tucson Police Memorial Plaza Dedication & Memorial Service	TBD	200-300 law enforcement officers, family members, citizens and dignitaries.	TBD	OPEN	Crystal Jezierski 514-3465					
08/09/06	DC	2006 Immigration Judges Training Conference	10-12 min speech; followed by Q&A	300 Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.	REQUESTED TOPICS: 1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues	CLOSED	Courtney Elwood 514-2267	Jean				

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft
08/21/06	Dallas, TX.	Crimes Against Children Conference	Requesting a 20 min speech	Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%	Conference Theme: Professional education related to the investigation, prosecution, prevention, and treatment of child abuse	OPEN	Jeff Oldham 514-9797	Jean				
09/12/06	DC	AG's 54th Annual Awards Ceremony	TBD	The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.	TBD	OPEN	Monica Goodling 353-4435	Jean				
09/21/06	DC	Financial Services Roundtable 2006 Fall Conference	10-15 min speech followed by 15 mins of Q&A	150 CEO's and Senior Executives of the U.S. top 100 Financial Services companies	TBD	CLOSED	Crystal Jezierski 514-3465	Jean				
09/28/06	DC	Georgetown University Law Center and American Law Institute's Conference on the Judiciary	Approx. 5 min speech	380 attendees	Requested topic: The future of the Federal & State Courts	OPEN	Crystal Jezierski 514-3465	Jean				

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's	1st Draft	2nd Draft	AG Draft

U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

THROUGH: Regina B. Schofield RBS
Assistant Attorney General
Office of Justice Programs

FROM: Domingo S. Herraiz
Director
Bureau of Justice Assistance

SUBJECT: Conference Attendance and Participation

PURPOSE: To request that Attorney General Gonzales speak at the opening plenary session at the "2006 Gang Resistance Education And Training (G.R.E.A.T.) Program National Training Conference," sponsored by the Office of Justice Programs' Bureau of Justice Assistance (BJA). The conference will offer a wide range of workshops addressing the needs of individuals currently implementing G.R.E.A.T., as well as of those who want to become involved with G.R.E.A.T.

DATE AND TIME: The conference takes place from Wednesday, July 26 to Friday, July 28. The opening plenary session takes place on July 26 at 8:00 a.m. (see attached agenda). At his convenience, the Attorney General could speak at any time or day that plenary conference sessions are running. Alternatively, the Attorney General may prepare a video message if he is not available.

LOCATION: La Quinta Resort & Club, La Quinta, CA.

SYNOPSIS: Mentoring students and helping them resist local gang activity is one of law enforcement's most important roles. The G.R.E.A.T. Program is a school-based, law

enforcement officer-instructed classroom curriculum. The program's primary objective is prevention and is intended as an immunization against delinquency, violence, and gang membership. Five regional training centers provide training to sworn law enforcement officers to teach the G.R.E.A.T. curriculum in elementary and middle schools across the country.

DISCUSSION: In addition to networking opportunities and question-and-answer forums, this year's conference offers intensive training in subjects including G.R.E.A.T. grant funds, classroom management, conflict resolution, gang trends, gang intelligence, and "enforcement to education transition."

EVENT CONTACT: BJA Deputy Director for National Policy, James H. Burch II, [redacted]

RECOMMENDATION: It is recommended that the Attorney General participate in the "2006 Gang Resistance Education And Training Program (G.R.E.A.T.) National Training Conference."

Attachment

2006 (G.R.E.A.T.) Program National Training Conference Overview

- Increase participation in the G.R.E.A.T. Program.
- Promote widespread recognition and understanding of G.R.E.A.T.
- Enhance relationships among government and community partners, school staff, parents, and students.
- Increase communication within the G.R.E.A.T. Program.
- Deliver highly qualified G.R.E.A.T. officers.

WORKSHOPS

In addition to networking opportunities and question-and-answer forums, this year's conference will be an intensive training opportunity where you can register to attend a wide range of workshops on topics such as:

- Supervising G.R.E.A.T. officers
- Working with the media
- Managing G.R.E.A.T. grant funds
- Dealing with stress
- Classroom management
- Bullying behaviors
- Elementary component review
- Presentation skills
- Conflict resolution
- Gang trends
- Sharing gang intelligence
- Gang research updates
- Drugs and gangs
- G.R.E.A.T. Program overview
- Getting involved with G.R.E.A.T.
- Changes occurring in G.R.E.A.T. operations
- Transitioning from enforcement to education
- Understanding and communicating with youth
- Media influences on youth

DATES AND LOCATION

July 26–28, 2006
La Quinta Resort & Club
La Quinta, California (Greater Palm Springs area)

TENTATIVE SCHEDULE

Tuesday, July 25	Registration	2:00 p.m.–6:00 p.m.
Wednesday, July 26	Opening Plenary/ Luncheon/Workshops	8:00 a.m.–5:15 p.m.
	Networking Function/Dinner	6:30 p.m.–9:30 p.m.
Thursday, July 27	Workshops/Luncheon	8:00 a.m.–4:00 p.m.
Friday, July 28	Workshops/Closing Plenary	8:00 a.m.–12:00 Noon

Attorney General Scheduling Request

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: 7-2825

THROUGH: Office of the Deputy Attorney General

FROM: McGregor W. Scott, United States Attorney, Eastern District of California and Chair of the AGAC Controlled Substances Subcommittee and The U.S. Attorneys' Methamphetamine Working Group

REQUEST: That the Attorney General speak at a methamphetamine training conference at the NAC.

PURPOSE: For the first time in its history, the NAC is hosting a training conference on methamphetamine. The students at the conference will be AUSAs from across the country. The Attorney General has publicly stated that methamphetamine is one of his top priorities for the Department of Justice. By speaking at this training conference, the Attorney General will reemphasize the importance that he places on methamphetamine investigations and prosecutions.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL: Provide opening remarks at the conference. The Attorney General can emphasize to the participants the significance he places on methamphetamine investigations and prosecutions and will motivate those in the field who are handling these cases on a daily basis on behalf of the Department.

BACKGROUND: In February, the Attorney General gave a speech setting out the Department of Justice's priorities for the coming year. Among the specifically listed priorities was the investigation and prosecution of methamphetamine cases. For the first time in its history, the NAC is sponsoring a methamphetamine training conference this summer. Students at the training conference will be AUSAs from across the country. By providing opening remarks at this training conference, the Attorney General can reemphasize the importance he places on the investigation and prosecution of methamphetamine cases and provide inspiration to those AUSAs in the field handling these cases on a daily basis for the Department of Justice.

DATE & TIME: The conference is set for July 19 to 21 and opening remarks will be given at 8:30 on July 19. However, we are very flexible and the conference agenda can be moved to fit the Attorney General's schedule.

LOCATION: The NAC.

DURATION: 30 Minutes

PRESS COVERAGE: If the Attorney General wanted to hold a press event, one could be arranged.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER: 75 to 80 students plus faculty.

REMARKS REQUIRED: Yes.

RECOMMENDED BY: McGregor W. Scott, United States Attorney

COORDINATED WITH: Andy Beach and the NAC.

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER: McGregor W. Scott, [redacted]

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: California Beach Party
City & State of Event: San Francisco, CA
Date(s): Thursday, July 20, 2006
Date/Time the event begins: 6:30 pm
Date/Time the event concludes: 7:15 pm
Proposed/Requested Date & Time of the Attorney General's participation: July 20 at 6:45 pm
Nature of Event: Social function for ALEC Annual Meeting attendees

Event Venue Name: San Francisco Marriott Hotel
Room Name or Room #: Yerba Buena Salon 7-9
Address: 55 Fourth Street
City/State/Zip: San Francisco, CA 94103-3199
Venue Phone #: 415-896-1600
Venue FAX #: 415-486-8101

Event Sponsor: American Legislative Exchange Council (ALEC)
Address: 1129 20th Street, N.W., Suite 500
City/State/Zip: Washington, DC 20036
Website address: www.alec.org

Person Inviting: [redacted], Executive Director
Telephone #: [redacted]
FAX #: 202-466-3801
E-mail address: [redacted]@alec.org

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: 202-466-3801
E-mail address: [redacted]@alec.org
Cell phone:

Are there corporate sponsors or other underwriters of the event?

Chevron Corporation
Sanofi-Aventis
Devon Energy Corporation

Please provide the following information:

1. Description of the audience: State legislators, private sector companies, spouses & guests
2. Approximate size of the audience: approx 700 - 800
3. List of other invited speakers and program participants: Court TV, Motion Picture Association of America (MPAA), [redacted] of MPAA.
4. List of invited government officials, dignitaries, VIPS: n/a
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? Court TV is interested in broadcasting locally to cable stations.
6.
7. Is the Attorney General being asked to speak? Yes
8. If yes, how long is he expected to speak? 20 minutes
9. What is the theme/topic/subject of the event? California/Hollywood social event
10. What is the ATTIRE for the event? Casual

11. Is this invitation for the Attorney General or the Attorney General and a guest? Guest is welcome.
12. Is this a fund raising event? No.
13. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a
14. Are tickets being sold for this event? If yes, what is the face value of the ticket? No.
15. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) asap
16. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. The event is a social gathering of state legislators, guests, and private sector companies. The audience will flow in and out of the event. This event is being coordinated along with Court TV and MPAA. The first part of the program will include an interview with the Attorney General by [redacted] (in a t.v. talk-show format) followed by the Attorney General's speech.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

A National Association for America's State Legislators ♦ Jeffersonian Principles in Action

June 9, 2006

The Honorable Alberto Gonzales
United States Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20202

Dear Attorney General Gonzales:

On behalf of the 2,400 state legislator members of the American Legislative Exchange Council (ALEC), it gives us great pleasure to invite you to our 33rd Annual Meeting, to be held July 19-23 at the San Francisco Marriott in San Francisco, California.

As you know, the Democrat and Republican members of ALEC have promoted policies based on the fundamental Jeffersonian principles of free markets, limited government, federalism, and free enterprise. Today, ALEC has grown to become the nation's largest nonpartisan, individual membership association of state legislators.

Working with Court TV, we would like to invite you to give remarks on intellectual property at our Annual Meeting's "Hollywood, California Night" on Thursday, July 20th. ALEC and its members seek to further protect our nation's intangible property, and we hope you will share some words of encouragement and victory as we continue to fight for these fundamental rights. Attorney General Gonzales, under your leadership the Department of Justice has been a strong protector of intellectual property, and we look forward to hearing about your ongoing efforts to defend our nation's rights.

We would greatly appreciate it if you could call us to confirm your acceptance as soon as possible. We welcome any questions you or your staff may have, please contact [redacted] in ALEC's Public Affairs Office at [redacted]

Thank you, and we look forward to your response.

Sincerely,

[redacted]
ALEC 2006 National Chairman
Kansas Senator

[redacted]
ALEC Private Enterprise Board Chairman
PhRMA

[redacted]
ALEC Executive Director

"The leading non-partisan conservative state legislative policy voice in America."

1129 20th Street N.W. ■ Suite 500 ■ Washington, D.C. 20036 ■ (202) 466-3800 ■ FAX (202) 466-3801 ■ www.ALEC.org

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

A National Association for America's State Legislators ♦ Jeffersonian Principles in Action

June 9, 2006

The Honorable Alberto Gonzales
United States Attorney General
950 Pennsylvania Avenue, N.W.
Washington, DC 20202

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We would greatly appreciate it if you could call us to confirm your acceptance as soon as possible. We welcome any questions you or your staff may have, please contact [redacted] in ALEC's Public Affairs Office at [redacted].

Thank you, and we look forward to your response.

Sincerely,

[redacted]
ALEC 2006 National Chairman
Kansas Senator

[redacted]
ALEC Private Enterprise Board Chairman
PhRMA

[redacted]
ALEC Executive Director

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Attorney General Scheduling Request

(for DOJ Events)

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: (202) [30]7-2825

FROM: Kimani S. Little
Special Assistant to the Assistant Attorney General, Civil Rights Division

REQUEST:

It is requested that Attorney General Gonzales make an address at the 2006 Ballot Access and Voting Integrity Symposium hosted by the Civil Rights and Criminal Divisions. The address will take place during the Symposium luncheon meeting.

PURPOSE:

The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protections to USAs, AUSAs, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL:

It is requested that Attorney General Gonzales provide an address to the Symposium attendees.

BACKGROUND:

The annual training Symposium is part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

DATE & TIME:

The proposed dates of the Symposium are August 1-2, 2006. We propose the Attorney General speak on August 1, 2006. Alternatively, if this date is not available and we are notified by COB May 10, 2006, we can schedule the Symposium for the prior week to accommodate an Attorney General address on July 25, 26, or 27, 2006.

LOCATION:

Metropolitan Washington, D.C. The actual venue has not been chosen, but are attempting to find a location in downtown Washington. However, we may have to hold the Symposium in the suburbs depending on the availability of an appropriate space.

DURATION:

The time allotted for the luncheon and Attorney General's address is 1.5 hours.

PRESS COVERAGE:

Closed to the Press.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER:

Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.

Specific Attendees known at this time include:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division
Rena Comisac, Principal Deputy Assistant Attorney General, Civil Rights Division
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Noel Hillman, Office of the Assistant Attorney General, Criminal Division
Craig Donsanto, Public Integrity Section, Criminal Division
Assistant United States Attorneys
Federal Bureau of Investigations Special Agents
Civil Rights Division Voting Section Attorneys and Executive Office Staff
Criminal Division, Public Integrity Section Staff

REMARKS REQUIRED:

Luncheon Address

RECOMMENDED BY:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division

COORDINATED WITH:

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER:

Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division, is the organizer of the Symposium. Her contact information is (office) 202-305-9750 or (work cell) [redacted]. Kimani S. Little, Special Assistant to the Assistant Attorney General, Civil Rights Division, is assisting Ms. Quinn. His contact information is (office) 202-307-1289 or (work cell) [redacted]. Craig Donsanto, Public Integrity Section, Criminal Division, is also an organizer of the Symposium. His contact information is (office) 202-514-1221. Angela Noel Gantt will be the Department's event logistics contact. Her contact information is (office) 202-305-8006, (cell) [redacted], or (home) [redacted].

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: 2006 Ballot Access and Voting Integrity Symposium
City & State of Event: Washington, D.C.
Date(s): Tuesday and Wednesday, July 25 and 26, 2006
Date/Time the event begins: 8:30 am. July 25, 2006
Date/Time the event concludes: 3:30 p.m. July 26, 2006
Proposed/Requested Date & Time of the Attorney General's participation: Lunch, 12:00-1:30 p.m., July 25, 2006
Nature of Event: The annual training Symposium is a key part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

Event Venue Name: RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER
Room Name or Room #: Conference is in Polaris Suite; luncheon address by the Attorney General is in the Pavilion Room.
Address: 1300 Pennsylvania Avenue, NW
City/State/Zip: Washington, D.C. 20004
Venue Phone #:
Venue FAX #:

Event Sponsor: The symposium is hosted jointly by the Civil Rights and Criminal Divisions.

Address: N/A
City/State/Zip: N/A
Website address: N/A

Persons Inviting: Wan J. Kim, Assistant Attorney General, Civil Rights Division
& Alice S. Fisher, Assistant Attorney General, Criminal Division
Telephone #: (CRT office) 202-514-2151; (CRM office) 202-514-7200
FAX #: 202-514-0293

On-site Contact Person: [redacted], Sales Manager, Government Market
Telephone: [redacted]
FAX #: 202-312-1310

DOJ On-site Contact Person: Angela Gantt, CRT Event Logistics Coordinator
Telephone: (office) 202-305-8006 or (home) [redacted]
E-mail address: Angela.Gantt@usdoj.gov
Cell phone: (cell) [redacted]

DOJ On-site Contact Person: Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Telephone: 202-305-4894 (temp # 202-305-2588)
E-mail address: Cameron.Quinn@usdoj.gov
Cell phone: [redacted] (DOJ) or [redacted] (personal cell)

DOJ On-site Contact Person: Craig Donsanto, Public Integrity Section, Criminal Division
Cell phone: [redacted]

DOJ On-site Contact Person: Nancy Simmons, Public Integrity Section, Criminal Division
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No.

Please provide the following information:

1. Description of the audience: The Department's Designated Elections Officials (DEOs) from 93 judicial districts, alternate USAO DEOs, FBI Special Agents, and attorneys from the Civil Rights and Criminal Divisions will attend this Symposium.
2. Approximate size of the audience: We expect 125 -175 attendees.
3. List of other invited speakers and program participants: See attached draft Agenda.
4. List of other invited government dignitaries and VIPS: Alice S. Fisher, Assistant Attorney General for the Criminal Division, Wan J. Kim, Assistant Attorney General for the Civil Rights Division, and [redacted] Federal Elections Commission.
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? No, the entire event is closed to the press.
6. Is the Attorney General being asked to speak? Yes, we would like for the Attorney General to give a luncheon address.
7. If yes, how long is he expected to speak? We understand that the Attorney General usually speaks for 10-15 minutes.
8. What is the theme/topic/subject of the event? The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protection and integrity to Assistant U.S. Attorneys, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.
9. What is the ATTIRE for the event? Business Dress.
10. Is this invitation for the Attorney General or the Attorney General and a guest? This is an invitation for the Attorney General.
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? N/A
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). We understand that the Attorney General has already agreed to speak at this event.
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. The Attorney General has spoken at previous conferences and the speeches were very favorably received by the participants.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference
City & State of Event: Santa Fe, New Mexico
Date(s): July 28 – August 2, 2006
Date/Time the event begins: NDAA Committee Meetings begin Friday, July 28 (11:00 AM – 5:00 PM); Saturday, July 29 (9:00 AM – 5:00 PM); Board of Directors meeting, Sunday, July 30 (2:00 PM – 5:00 PM); NDAA Summer Conference begins Sunday, July 30th with welcoming reception, Monday, July 31 (9:00 AM – 5:00 PM); Tuesday, August 1 (9:00 AM – Noon); Wednesday, August 2 (9:00 AM – 4:15 PM)
Date/Time the event concludes: August 2, 2006 at 4:15 PM
Proposed/Requested Date & Time of the Attorney General's participation: July 30, 2006 (2:00 PM – 2:30 PM); July 31, 2006 (9:45 AM – 10:30 AM)
Nature of Event: Board of Directors meeting & educational conference for local prosecutors

Event Venue Name: Eldorado Hotel
Room Name or Room #: Anasazi Room
Address: 309 W. San Francisco
City/State/Zip: Santa Fe, New Mexico
Venue Phone #: 505-988-4455
Venue FAX #: 505-995-4544

Event Sponsor: National District Attorneys Association
Address: 99 Canal Center Plaza, Suite 510
City/State/Zip: Alexandria, Virginia 22314
Website address: www.ndaa.org

Person Inviting: [redacted]
Executive Assistant, [redacted]
Telephone #: [redacted]
FAX #: 703- 836-3195
E-mail address: [redacted]@ndaa-apri.org
[redacted]@ndaa-apri.org

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: 703-836-3195
E-mail address: [redacted]@ndaa-apri.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

1. Description of the audience: Local chief & assistant prosecutors
2. Approximate size of the audience: Board Meeting-approx. 110; Summer Conference – approx. 150-200
3. List of other invited speakers and program participants: See attached roster
4. List of invited government officials, dignitaries, VIPS: [redacted], Director-designate Bureau of Justice Statistics
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? The time during which Judge Gonzales speaks can be closed to

the press. Please notify us if this is requested and Velva Walter, Director Media Relations will make the necessary arrangements

6. Is the Attorney General being asked to speak? Yes
7. If yes, how long is he expected to speak? 30 minutes – 45 minutes
8. What is the theme/topic/subject of the event? See attached program synopsis.
9. What is the ATTIRE for the event? Business casual
10. Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? $375.00 registration fee is charged for the summer conference
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) June 23, 2006
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

May 5, 2006

The Honorable Alberto Gonzales
United States Department of Justice
Robert F. Kennedy Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-2000

Dear Judge Gonzales:

From July 28th through August 2nd the leadership of the National District Attorneys Association will convene in Santa Fe, New Mexico for our summer board of directors meeting and the association's 2006 Summer Conference

As President of the National District Attorneys I would to take this opportunity to invite you to meet with the nation's local prosecutors during their stay in Santa Fe.

I understand that you are preparing to announce the "Project Safe Childhood" initiative in the near future and I know that the association would welcome the chance to learn more about the initiative in greater detail. This would certainly be a relevant issue for discussion during either the board of directors meeting or during the summer conference. The schedules for both the board of directors meeting and the summer conference are very flexible and we can rearrange the agenda to accommodate your schedule.

If your staff needs more information please contact [redacted], NDAA legislative counsel at [redacted] or [redacted]@ndaa-apri.org.

Sincerely,

[redacted]
Executive Director, National District Attorneys Association

cc: [redacted] Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: **Tucson (Arizona) Police Department Police Memorial Plaza Dedication**
City & State: **Tucson, Arizona**
Date(s): **Weeks of July 9 or July 23 but completely open to the schedule of Attorney General Gonzales.**
Date/Time event begins: **Date: TBA Time: 7PM**
Date/Time event concludes: **Date: TBA Time: 9 PM**
Proposed/Requested Date & Time of the Attorney General's participation: **7-9PM on date to be determined.**
Nature of Event: **Keynote speaker for dedication of new police memorial plaza and annual police officer memorial service (postponed from traditional May service due to plaza construction).**

Event Venue: **Tucson Police Department**
Room Name or number: NA
Street Address: **270 South Stone Avenue**
City/State/Zip: **Tucson, AZ 85701**
Venue Phone #: [redacted]
Venue FAX #: **520-791-4777**

Event Sponsor: **Tucson Police Department**
Address: **270 South Stone Avenue**
City/State/Zip: **Tucson, AZ 85701**
Website address: **http://www.ci.tucson.az.us/police/index.php**

Person Inviting: [redacted]
Title: **Chief of Police**
Telephone #: [redacted]
FAX #: **520-791-4777**
E-mail address: [redacted]**@tucsonaz.gov**

Contact Person: [redacted] **or** [redacted]
Title: **Assistant Chief and Captain**
Telephone: [redacted]
FAX #: **520-791-4777**
E-mail address: [redacted]**@tucsonaz.gov** **or** [redacted]**@tucsonaz.gov**
Cell phone: [redacted] **or** [redacted]

Are there corporate sponsors or other underwriters of the event? **No**

Please provide the following information:

Approximate size / description of the audience: **200-300 law enforcement officers, family members, citizens and dignitaries.**
List of other invited speakers and program participants: **Police Chief** [redacted]**, Mayor Robert Walkup, FOP Tucson Lodge President.**
List of invited government officials, dignitaries, VIPS: **Arizona Governor Janet Napolitano, Arizona Attorney General Terry Goddard, Senator John McCain, Senator John Kyl, Congressman Jim Kolbe, Congressman Raul Grijalva, Mayor Robert Walkup and members of the Tucson City Council, City Manager Mike Hein, Pima County Sheriff Clarence Dupnik, local law enforcement police chiefs.**
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **Yes**
Is the Attorney General being asked to speak? **Yes**

If yes, how long is he expected to speak? **10-15 minutes**
What is the theme/topic/subject of the event? **Dedication of new police memorial plaza and annual police officer memorial service.**
What is the ATTIRE for the event? **Business**
Is this invitation for the Attorney General or the Attorney General and a guest? **Attorney General. A guest is welcome but not required to actively participate in event.**
Is this a fund raising event? **No**
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? **NA**
Are tickets being sold for this event? If yes, what is the face value of the ticket? **No**
What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) **Request confirmation by June 9, 2006.**
Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

In May 2004 the Tucson Police Department was awarded a grant from the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. The Law Enforcement Tribute Act grant, in the amount of $82,550, was to be used for construction of a police memorial to honor the memory of our fallen officers. There were 17 grants awarded nationally and the Tucson Police Department received the largest grant and only one in Arizona.

A committee was formed consisting of police department members, community members and representatives of the business community to move this project forward. The University of Arizona Landscape Architecture program was contacted to see whether they would be interested in submitting designs for the project as part of their class in the fall of 2004. The submitted plans were outstanding and one of the student's designs was selected.

Concurrently, we contracted with the Tucson Pima Arts Council (TPAC) to oversee the selection process, the contract work, and the installation of an art piece. Out of more than 30 initial responses from across the country to the "call to artists" a local artist was selected. This accomplished artist has designed a three-piece bronze sculpture supported by an eight foot poured concrete wall covered in travertine marble. The centerpiece of the artwork is a classically draped, seated female figure releasing a dove from one outstretched arm, and holding a police eight-point hat in her lap with the other arm. She is guarded by a police service dog at her feet. The third piece of bronze-a western hat, star-shaped badge, and a pistol in a holster- will hang from the corner of the wall in recognition of the history of the agency and acknowledgment of the officers killed in the line of duty in the early years of the department.

Additionally, members of the Tucson Utility Contractors Association (TUCA) have come forward to assist with landscape design, engineering, structural design, lighting and finishing work. As you might imagine this project became quite ambitious and has taken on a life of its own creating many partnerships with members of our business community as well as private citizens.

During this time police department staff, the Tucson Police Foundation and both labor organizations representing members of the department, began aggressive fund raising campaigns. To date we have collected

approximately $170,000 in private donations to be used in construction of the Tucson Police Department Memorial Plaza, which will be located on the front lawn of the main police station. This is in addition to the federal grant amount.

Chief Miranda and all members of the Tucson Police Department would be greatly appreciative if Attorney General Gonzales would accept our invitation. Not only would we be honored to have him attend as our nation's chief law enforcement officer but we would like to personally express our gratitude to him for the Department of Justice grant which made this entire project possible.

DAILY PROGRAM

Monday August 7th	9:00 - 9:30	**Opening Remarks from the Director** *Welcome and greetings from Director* [redacted]
	break	
	9:45 - 10:15	**State of the Immigration Court** *Welcome and overview of major developments and issues for the courts from Acting Chief Immigration Judge* [redacted]
	break	
	10:30 - 12:00	**Federal Judiciary Panel** [redacted], *Deputy Chief Immigration Judge* (moderator) Judge Richard C. Tallman, *U.S. Court of Appeals, 9th Circuit* Judge Sandra L. Lynch, *U.S. Court of Appeals, 1st Circuit* Judge Jon O. Newman, *U.S. Court of Appeals, 2nd Circuit* *Impact of immigration cases on the federal courts, changes in the Judiciary to handle that impact, and thoughts on how Immigration Judges can prepare a better record for review*
	lunch on your own	
	1:30 - 2:45	**Workshops** *Group 1 Workshop A Group 4 Workshop D* *Group 2 Workshop B Group 5 Workshop E* *Group 3 Workshop C Group 6 Workshop F*
	break	
	3:00 - 4:15	**Workshops** *Group 1 Workshop B Group 4 Workshop E* *Group 2 Workshop C Group 5 Workshop F* *Group 3 Workshop D Group 6 Workshop A*
	break	
	4:30 - ___	National Association of Immigration Judges Meeting (optional)
Tuesday August 8th	9:00 - 10:15	**Workshops**

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	Group 1 Workshop C Group 4 Workshop F *Group 2 Workshop D Group 5 Workshop A* *Group 3 Workshop E Group 6 Workshop B*

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	break
10:30 - 11:45	**Workshops** *Group 1 Workshop D Group 4 Workshop A* *Group 2 Workshop E Group 5 Workshop B* *Group 3 Workshop F Group 6 Workshop C*
	lunch on your own
1:30 - 2:30	**Language Services Initiatives** [redacted], *Chief, Language Services Unit* (moderator) Speaker 2, IJ [on courtroom pointers] Speaker 3, *Lionbridge Global Services* *Review of how the interpreter contract works, the interpreter qualification process, rare languages, and pointers for handling challenges to interpretation*
	break
3:00 - 4:30	**Counsels' Forum** [redacted], *Counsel to the Chief Immigration Judge* (moderator) [redacted], *Principal Legal Advisor, Immigration and Customs Enforcement* [redacted], *Principal Legal Advisor, Citizenship and Immigration Services* [redacted], *Executive Director, American Immigration Lawyers Association*

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		Program updates and developments from the parties who appear before the courts.
Wednesday August 9th	8:30 - 9:30	**Retirement Review** [redacted], *Chief, Employee Benefits & Development Branch* *Overview of important considerations for government employee financial planning*
	break	
	9:45 - 10:30	**Case Completion Goals** David L. Neal, *Acting Chief Immigration Judge* Thomas L. Pullen, *Deputy Chief Immigration Judge* *Review of progress and discussion of issues regarding case completion goals*

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	break	
	10:45 - 11:45	**Juvenile Issues** [redacted], Director, Detention and Asylum Program, Women's Commission for Refugee Women and Children (moderator) Hugh Mullane, *Office of Legal Policy* [redacted], *Legal Access Counsel* [redacted], *Director, Division of Unaccompanied Children's Services, Office of Refugee Resettlement* *Perspectives on juveniles in the courtroom from representation to courtroom considerations for unaccompanied minors under the Unaccompanied Alien Child Protection Act of 2005*
	break	
	12:00 - 2:00	**Luncheon** *Guest speaker:* Attorney General Alberto R. Gonzales

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		break
	2:15 - 3:30	**Workshops** *Group 1* *Workshop E* *Group 4* *Workshop B* *Group 2* *Workshop F* *Group 5* *Workshop C* *Group 3* *Workshop A* *Group 6* *Workshop D*
		break
	3:45 - 5:00	**Workshops** *Group 1* *Workshop F* *Group 4* *Workshop C* *Group 2* *Workshop A* *Group 5* *Workshop D* *Group 3* *Workshop B* *Group 6* *Workshop E*

DRAFT

Thursday August 10th	8:30 - 9:45	**Judicial Ethics, Civility, and Professionalism** Judge Michael E. Keasler, *Texas Court of Criminal Appeals* *Discussion of judicial demeanor in the courtroom and the expectations of conduct that come with the office of Immigration Judge*

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		break
	10:00 - 11:30	**Legislative Update** Larry Levine, *EOIR Legislative Counsel* (moderator) [redacted], *Majority Counsel, Senate Judiciary Committee* [redacted], *Minority Counsel, Senate Subcommittee on Immigration, Border Security, and Citizenship*

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		[redacted], *Specialist in Immigration Policy, Congressional Research Service* *An overview of recent statutory changes and changes contemplated by pending legislation*
	lunch on your own	
	1:00 - 2:30	**OPR on Immigration Judge Conduct** [redacted], *Deputy Director* [redacted], *Counsel, Office of Professional Responsibility* Lawrence N. DiCostanzo, *Immigration Judge, San Francisco* Jennie L. Giambiastiani, *Immigration Judge, Chicago* Patricia Rohan, *Immigration Judge, New York City* Denise Slavin, *Immigration Judge, Miami* *An overview of professional boundaries in the courtroom and due process considerations from the body that oversees professional conduct followed by a roundtable discussion addressing questions related to OPR issues*
	break	
	2:45 - 3:45	**Regulatory Changes and Updates** MaryBeth Keller, *EOIR General Counsel* Kevin R. Jones, *Office of Legal Policy* *Recent and pending regulatory developments and their impact on the courts*
Friday August 11th	8:30 - 9:30	**Introduction to the Canadian System** Philip Williams, *Assistant Chief Immigration Judge*, moderator _____, *Canadian Immigration and Refugee Board* _____, *Canadian Immigration and Refugee Board* *Overview of the Canadian counterpart to EOIR, including migration, immigration, and asylum in Canada and how it compares to the experiences of the United States*
	break	
	10:00 - 11:00	**Religious Freedom Update**

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	Michael F. Rahill, *former Assistant Chief Immigration Judge* (moderator) [redacted], *Deputy Director for Policy, U.S. Commission on International Religious Freedom* [redacted], *Director for International Refugee Issues, U.S. Commission on International Religious Freedom* and/or [redacted], *Office of International Religious Freedom, Department of State* *Refresher on religious freedom and update on country conditions vis-a-vis religious freedom*
break	
11:15-11:45	**Closing Remarks** Deputy Attorney General Paul J. McNulty

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WORKSHOPS DRAFT	
Workshop **A**	**Appellate Review of Oral Decisions** [redacted], *Acting Vice Chair, Board of Immigration Appeals* [redacted], *Deputy Director, Office of Immigration Litigation* *Review of circuit court and BIA criticisms of IJ decisions, pointers on the importance of findings of fact, and a discussion of post-REAL ID Act issues*
Workshop **B**	**Unethical Attorneys in the Courtroom** Jennifer Barnes, *Bar Counsel, EOIR* Speaker 2, [IJ from each workshop group] *Discussion of how to create a record for review when unscrupulous attorneys appear or don't appear, with an overview of the attorney discipline process and how to create a record for discipline*
Workshop **C**	**Citizenship and Nationality issues** Jack Weil, *Immigration Judge, El Centro* _____, *Immigration Judge,* *An overview of citizenship and nationality issues that arise in the courtroom.* *Note: Should there be major immigration legislation prior to the conference, this session may be substituted by one dedicated to emergent law.*
Workshop **D**	**Asylum Issues** [redacted], *Senior Litigation Counsel*, Office of Immigration Litigation *Discussion of significant asylum issues in the federal courts, with a focus on credibility and Immigration Judge clarity in rendering decisions*
Workshop **E**	**Efficient Procedure** Rex Ford, moderator, *Immigration Judge, Miami* Robert Barrett, *Immigration Judge*, *San Diego* *Effective use of advisals and other procedural requirements to structure the hearing and oral decision and to strengthen the record for review, including change of venue and jurisdiction issues.*
Workshop **F**	**Electronic Research** Karen Drumond, EOIR Librarian _____, Westlaw representative _____, Lexis representative *Overview of the Virtual Law Library and on-line legal research tools available to*

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	Immigration Judges and court staff

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CASE

Lexis / Nexis

Digital Audio

Lionbridge Global Solutions

Language Services Association

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SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: 2006 Immigration Judges= Training Conference
City & State: Washington, D.C.
Date(s): August 6 - 11, 2006
Date/Time event begins: August 7, 2006 at 8:00 a.m.
Date/Time event concludes: August 11, 2006 at 12:00 p.m.
Proposed/Requested Date & Time of the Attorney General=s participation: August 9, 2006, 12:00 p.m. - 2:00 p.m. or at the Attorney General=s convenience
Nature of Event: Immigration Judges= Conference

Event Venue: J.W. Marriott Hotel
Room Name or number: Salon I and Salon II - Ballroom Level
Street Address: 1331 Pennsylvania Avenue, N.W.
City/State/Zip: Washington, D. C.
Venue Phone #: (202) 626-2662
Venue FAX #: (202) 626-6915

Event Sponsor: Office of the Chief Immigration Judge
Address: 5107 Leesburg Pike, Suite 2500
City/State/Zip: Falls Church, VA 22041
Website address: www.usdoj.gov/eoir

Person Inviting: Executive Office for Immigration Review
Title: Director, Kevin D. Rooney
Telephone #: ([redacted]
FAX #: (703) 305-0985
E-mail address: kevin.rooney@usdoj.gov

Contact Person: Anne J. Greer
Title: Assistant Chief Immigration Judge
Telephone: (703) 305-1247
FAX #: (703) 305-1448
E-mail address: anne.greer@usdoj.gov
Cell phone: ([redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: *300*
List of other invited speakers and program participants: *See Attached draft of Conference Program*

List of invited government officials, dignitaries, VIPS: *Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.*

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? *No*

Is the Attorney General being asked to speak? *Yes*

If yes, how long is he expected to speak? *10 - 12 minutes*

What is the theme/topic/subject of the event? *1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues*

What is the ATTIRE for the event? *Business Casual*

Is this invitation for the Attorney General or the Attorney General and a guest? *Attorney General and a guest*

Is this a fund raising event? *No*

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? *N/A*

Are tickets being sold for this event? If yes, what is the face value of the ticket? *No*

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). *May 31, 2006*

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. *Please see attached draft of Conference Program*

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Crimes Against Children Conference – Opening Plenary Session
City & State: Dallas, Texas
Date(s): August 21, 2006
event begins: 8:30 a.m.
event concludes: 9:30 a.m.
Proposed/Requested Date & Time of the Attorney General's participation: Monday, August 21, 2006 @ 8:30 a.m.
Nature of Event: Opening Session to the 18th Annual Crimes Against Children Conference – the largest national professional training conference for front line professionals investigating, prosecuting, and treating child abuse cases.

Event Venue: Hyatt Regency Dallas at Reunion
Room Name or number: Landmark Ballroom
Street Address: 300 Reunion Blvd.
City/State/Zip: Dallas, TX
Venue Phone #: 214.651.1234
Venue FAX #: 214.742.8126

Event Sponsor: Dallas Children's Advocacy Center
Address: 3611 Swiss Avenue
City/State/Zip: Dallas, TX 75204
Website address: www.dcac.org

Person Inviting: [redacted]
Title: President and CEO
Telephone #: [redacted]
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org

Contact Person: [redacted]
Title: Vice President of Programs
Telephone: [redacted]
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Yes
United States Department of Justice – Office of Juvenile Justice Delinquency Prevention; Office of Victims of Crime; Internet Crimes Against Children Training and Technical Assistance, Fox Valley Technical College; Microsoft, Children's Advocacy of Texas, Inc.

Please provide the following information:

Approximate size / description of the audience: Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%

List of other invited speakers and program participants: (Identified for Plenary Session only; please let us know if a complete list of the 3 ½ day conference faculty is needed)

- [redacted] President and CEO, Dallas Children's Advocacy Center
- [redacted] Chief of Police, Dallas Police Department
- [redacted] Dallas County District Attorney
- J. Peter[redacted] Chairman of the Board, Dallas Children's Advocacy Center

List of invited government officials, dignitaries, VIPS: The following officials are invited to attend this opening plenary session. Some are teaching faculty throughout the conference.

- [redacted] Yahoo
- [redacted] Director, Exploited Child Unit, National Center for Missing and Exploited Children
- [redacted] Unit Chief, FBI
- [redacted], Special Agent in Charge, Immigration & Customs Enforcement, Dallas
- [redacted] Executive Director, National Children's Alliance
- [redacted] Fox Valley Technical College
- Robert Flores, Director - Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- [redacted], Special Agent in Charge, Dallas Office, FBI
- [redacted] Dallas County District Attorney
- [redacted], Chief of Police, Dallas Police Department
- [redacted], Director - World Wide Law Enforcement Programs, Microsoft
- Ron Laney, Director - Child Protection Division, Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- [redacted] Special Agent in Charge, United States Secret Service, Dallas
- [redacted] Mayor, City of Dallas
- [redacted] Fox Valley Technical College
- Richard Roper, United States Attorney for the Northern Disctrict of Texas, United States Department of Justice
- [redacted], Director, Internet Crimes Against Children Training and Technical Assistance Programs
- [redacted] United States Postal Inspection Service
- [redacted] Dallas County Sheriff

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?
Generally yes, but this can be changed at Mr. Gonzales' request
Is the Attorney General being asked to speak? Yes
If yes, how long is he expected to speak? Approximately 20 minutes
What is the theme/topic/subject of the event? Professional education related to the investigation, prosecution, prevention, and treatment of child abuse
What is the ATTIRE for the event? Business Casual
Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest at his discretion
Is this a fund raising event? No
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket?

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would like to announce that Mr. Gonzales has been invited in our conference brochure that prints April 10. Speaking confirmation would be appreciated July 15 to allow ample time for logistics planning or alternative speakers if necessary.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.
This, the 18th Annual Crimes Against Children Conference, is the largest professional education gathering for front line professionals engaged in the investigation, prosecution, prevention, and healing of child abuse. With a track record of outstanding and lasting value, the conference provides the most current and sophisticated tools to national and international professionals. Throughout this 3-½ day conference, each program session includes 15 concurrent workshops and five interactive laboratories. The opening plenary session gathers all conference participants together to hear key messages relevant to their daily work. We would be delighted to host Mr. Gonzales throughout the conference.

DOJ_NMG_ 0164286

February 14, 2006

Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

I am writing to request the honor of your presence at the eighteenth annual Crimes Against Children Conference, to be held August 22 through 24, 2006 at the Hyatt Regency Reunion Hotel in Dallas. We respectfully invite you to serve as our keynote speaker during the opening session on Monday, August 22 at 8:30 a.m. Certainly, we would welcome your participation at any time during the conference.

As you may be aware, this is the largest conference in the country for federal, state, and local law enforcement on the subject of crimes committed against those most vulnerable in our society --- our children. In addition, a multidisciplinary representation of child protection workers, prosecutors, social workers, medical and children's advocacy center professionals attend this international conference. In 2005, the conference attracted nearly 2,200 attendees from 48 states and abroad.

The Dallas Children's Advocacy Center (DCAC) produces this significant and unique professional conference and is one of the largest children advocacy centers in the country serving over 1,900 children annually. DCAC serves as role model by providing best practices and professional education to multiple professional disciplines in the fight against child abuse. The Dallas Police Department is widely recognized for establishing innovative law enforcement practices to keep our children safe, including Operation Avalanche, the largest child pornography investigation ever conducted. The DPD also activated the very first Amber Alert in the country.

By serving as the keynote speaker at our conference you would send a strong message to the men and women in law enforcement that you share their commitment to fighting crimes against children.

I am enclosing a copy of the 2005 Conference brochure as well as material about our Center, for your review. So that we may continue our conference planning efforts, we hope to hear from you at your earliest convenience. Thank you for your consideration.

Respectfully,

[redacted]
President & CEO

Copy: [redacted], OJJDP

REQUEST: Attorney General's 54th Annual Awards Ceremony

PURPOSE: The Attorney General will present remarks to Department employees, guests, and other officials at the Attorney General's 54th Annual Awards Ceremony. The Attorney General will also present awards to all recipients.

BACKGROUND: The Department of Justice recognizes employees who have demonstrated exceptional achievements, leadership, and heroism on an annual basis. Nearly 600 employees were nominated for the annual awards program last year, with 225 receiving recognition in 29 award categories. Once again, the ceremony will provide an opportunity to recognize the achievements of Department employees. The Combined Incentive Awards Board and John Marshall Panel, chaired by the Deputy Attorney General, will meet to recommend award recipients to the Attorney General, who will approve the selections. The recommendations will be cleared through various investigative offices.

The Attorney General will present remarks and will present awards to all recipients. The Deputy Attorney General and several component heads will announce the award citations.

DATE & TIME: TBD by OAG Scheduling. Constitution Hall is available with a hold for DOJ on August 15 & 22, and September 12, 13, 14, & 19.

1:50 p.m. - Event Staging
2:00 p.m. - Ceremony; Reception to Follow Ceremony

LOCATION: Constitution Hall; 18th Street, NW, between C and D Streets

DURATION: 2½ hours

MEDIA: Members of the media will likely be in attendance. Coordination of press inquiries will be managed by the Office of Public Affairs. DOJ and component photographers will take photographs of the event.

PARTICIPANTS: The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.

REMARKS: JMD Personnel Staff will prepare the event script and will work with the Attorney General's speech writer on the content of his remarks.

RECOMMENDED BY: Not applicable.

CONTACT: Vince Micone; Assistant Director, Programs and Events Section, JMD Personnel Staff; 5-1756

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: The Financial Services Roundtable 2006 Fall Conference
City & State of Event: Washington, DC
Date(s): September 20-21, 2006
Date/Time the event begins: Thursday, September 21, 8:30AM
Date/Time the event concludes: Thursday, September 21 3:00 PM
Proposed/Requested Date & Time of the Attorney General's participation: Antyime within those times; There is also a dinner on Wednesday evening, September 20 at 6:30 p.m. and a dinner at 6:00 pm on Thursday evening, September 21.
Nature of Event: Meeting of the Roundtable member representatives

Event Venue Name: Ritz Carlton, Washington, DC
Room Name or Room #: Ritz Carlton Ballroom
Address: 1150 22nd Street
City/State/Zip: Washington, DC 20037
Venue Phone #: 202-835-0500
Venue FAX #: 202-974-5538

Event Sponsor: The Financial Services Roundtable
Address: 1001 Pennsylvania Avenue, Suite 500 South
City/State/Zip: Washington, DC 20004
Website address: www.fsround.org

Person Inviting: [redacted]
Telephone #: [redacted]
FAX #: 202-737-3536
E-mail address: [redacted]@fsround.org

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: 202-478-2996
E-mail address: [redacted]@fsround.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? no

Please provide the following information:

1. Description of the audience: CEO's and Senior Executives of the U.S. top 100 Financial Services companies
2. Approximate size of the audience: 150
3. List of other invited speakers and program participants: TBD
4. List of invited government officials, dignitaries, VIPS: TBD
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **No, not unless he requests it.**
6. Is the Attorney General being asked to speak? yes
7. If yes, how long is he expected to speak? He may speak as long as he wishes; however recommended time will be a total of 30 minutes, 20 for talk and 10 for Q&A
8. What is the theme/topic/subject of the event? TBD
9. What is the ATTIRE for the event? **Business**
10. Is this invitation for the Attorney General or the Attorney General and a guest? If he wishes
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? No If yes, what is the face value of the ticket?
14. What is your deadline for confirming a speaker? September 1, 2006 (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

9/28

ARG

Georgetown University Law Center
Continuing Legal Education
600 New Jersey Avenue, NW
Washington, DC 20001
PHONE: (202) 662-9890
FAX: (202) 662-9891
cle@law.georgetown.edu • www.georgetowncle.org

Fax Transmittal Sheet

DATE: 5/25/06

TO: Andrew Beach

COMPANY: U.S. Dept of Justice

FAX NUMBER: 202 307 2825

FROM: [redacted]

NUMBER OF PAGES (Including Cover Sheet): 13

MESSAGE: Scheduling Request to AG Gonzales

Thank you for considering this request.

This facsimile contains confidential information intended only for the use of the person named above. If the reader of this message is not the intended recipient, please be advised that any dissemination or copy of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately. Thank you.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event:Conference on the Judiciary
City & State: Washington DC
Date(s): September 28-29
Date/Time event begins: Sept 28 8 am
Date/Time event concludes: Sept 29, noon
Proposed/Requested Date & Time of the Attorney General's participation: Sept. 28 8:00 pm
Nature of Event: deliver brief remarks to Conference Dinner

Event Venue: for dinner, Mandarin Oriental Hotel; for Conference Georgetown Law Center
Room Name or number: main ballroom
Street Address: 1330 Maryland Avenue SW
City/State/Zip: Washington DC 20024
Venue Phone #:202-554-8588
Venue FAX #:202-554-8999

Event Sponsor: Georgetown University Law Center and American Law Institute
Address: 600 New Jersey Avenue NW
City/State/Zip: Washington DC 20001
Website address: conferenceonthejudiciary.org (website to go live June 15)

Person Inviting: [redacted]
Title: [redacted]
Telephone #: [redacted]
FAX #: [redacted]
E-mail address: [redacted]

Contact Person: [redacted]
Title: [redacted] Conference on the Judiciary
Telephone: [redacted]
FAX #: [redacted]
E-mail address: [redacted]@law.georgetown.edu
Cell phone [redacted]

Are there corporate sponsors or other underwriters of the event? Foundation and private underwriting. Names available upon request

Please provide the following information:

Approximate size / description of the audience: 380
List of other invited speakers and program participants: see attached Conference Program
List of invited government officials, dignitaries, VIPS: see appended list of Steering Committee, Conference Committee, and Small Group Judicial Commentators
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? His choice
Is the Attorney General being asked to speak? yes
If yes, how long is he expected to speak? Five minutes
What is the theme/topic/subject of the event? The future of the Federal and State courts
What is the ATTIRE for the event? Business attire
Is this invitation for the Attorney General or the Attorney General and a guest? He is welcome to bring a guest
Is this a fund raising event? no
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a

Are tickets being sold for this event? If yes, what is the face value of the ticket? No tickets are being sold; spouses of conference participants only will reimburse the conference for their dinner cost. All others are guests of the Conference

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would appreciate knowing if AG Gonzales will participate by September 1.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Appended is a one-page description of the Conference. Please note that we anticipate that the Attorney General would be introduced by the MC (a significant media figure TBD), and then deliver brief remarks at the Dinner prior introduction of the keynote speaker, Chief Justice Roberts. The Attorney General will receive an invitation to attend the Conference on the Judiciary, and we would be delighted if his schedule permits him to attend any portion of the events that are scheduled at Georgetown University Law Center, in addition to this specific request for him to deliver remarks at the Dinner.

Conference on the Judiciary
September 28-29, 2006
Washington, D.C.

A fair and impartial judiciary is a cornerstone of our system of government. Yet in recent days the judiciary has been subject to escalating attacks that threaten our nation's tradition of judicial independence. The judicial nomination and confirmation process has become a high-stakes partisan battle. Disagreement with judicial decisions has led to calls for the impeachment of federal judges and the recall of state judges. Congress has sought to influence the outcome of a single state case.

A recent ABA poll found that more than 56% of the public agree that "judicial activism ... seems to have reached a crisis. Judges routinely overrule the will of the people."

There is, in short, a great need to strengthen public understanding of the importance of having a fair and impartial judiciary.

To address this challenge, Justices Sandra Day O'Connor and Stephen Breyer have agreed to chair a national Conference on the Judiciary. The participants will include leaders from the business and media communities, the nonprofit sector and government at both the federal and state level. The first panel of the Conference will examine both the relevant history and contemporary criticisms. A second will explore judicial selection, elections, and removal at both the federal and state levels. Others will address inter-branch relations, recent polls of public attitudes, the role of the media, and suggestions for improving the efficiency and effectiveness of the judiciary. Participants will be provided in advance of the Conference with background monographs prepared by leading scholars on the key issues to be considered at the Conference.

The Conference will be organized so that everyone attending will be able to participate in small group discussions that will analyze the issues presented by speakers on the panels and develop an action agenda of next steps to be taken.

Conference on the Judiciary (As of May 5, 2006)
September 28-29, 2006

Thursday, September 28

8:45 Welcome: [redacted] CONFIRMED
CONFIRMED

9:00-9:15 Importance of an Independent Judiciary
[redacted] CONFIRMED

9:15-10:00 Judicial Independence: Justifications and Modern Criticisms
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

10:00-10:45 Judicial Selection and Removal
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

11:00-12:00 Small Group Discussions

Lunch Speaker: Justice Breyer CONFIRMED

1:45-2:45 Interbranch Relations
[redacted] CONFIRMED
CONFIRMED
PENDING
CONFIRMED

2:45 to 3:45 Public Understanding, Media, and Education
[redacted] CONFIRMED
CONFIRMED
CONFIRMED

4:00-5:00 Small Group Discussions

Dinner Speaker: Chief Justice Roberts CONFIRMED

Friday, September 29

9:00-10:00 Improving the Judicial System

[redacted] CONFIRMED
CONFIRMED
CONFIRMED
CONFIRMED

10:00-11:00 Small Group Discussions

11:00-12:00 What Next?

[redacted] CONFIRMED
(who will summarize best suggestions from small groups and lead discussion)

Justice [redacted] Breyer [redacted] Concluding Remarks

Steering Committee, Conference on the Judiciary

Hon. Stephen G. Breyer
Associate Justice, Supreme Court of the United States

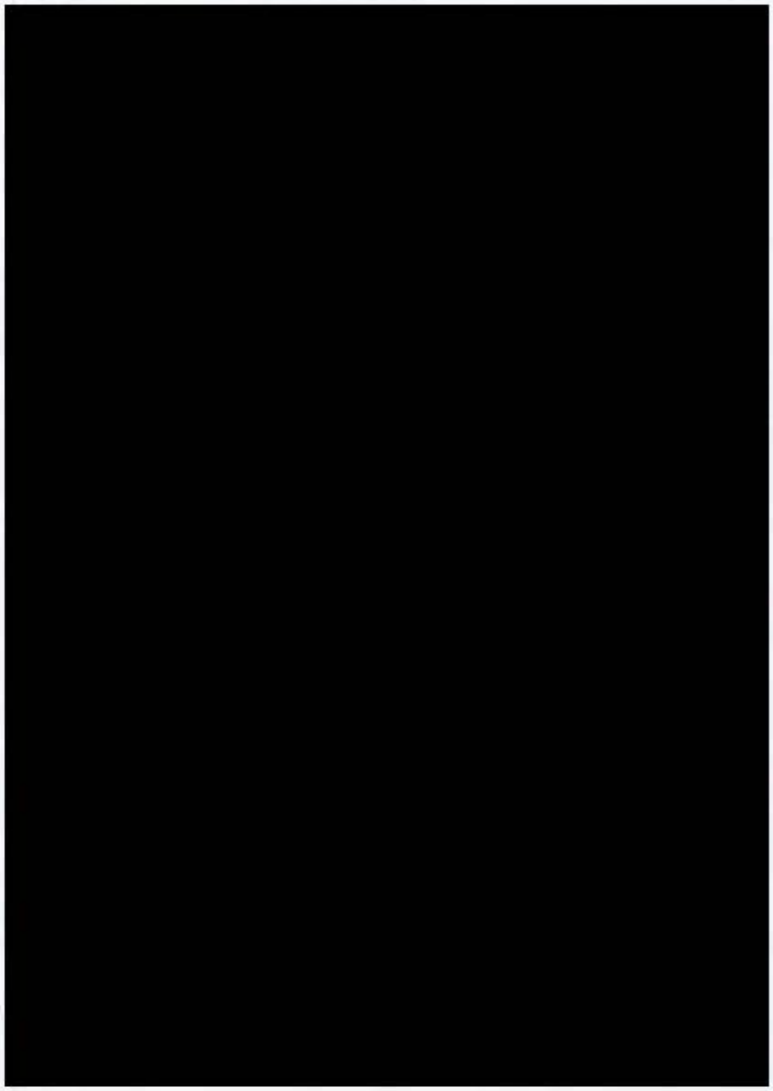
Hon. D. Brock Hornby
Chief Judge, U.S District Court
for the District of Maine

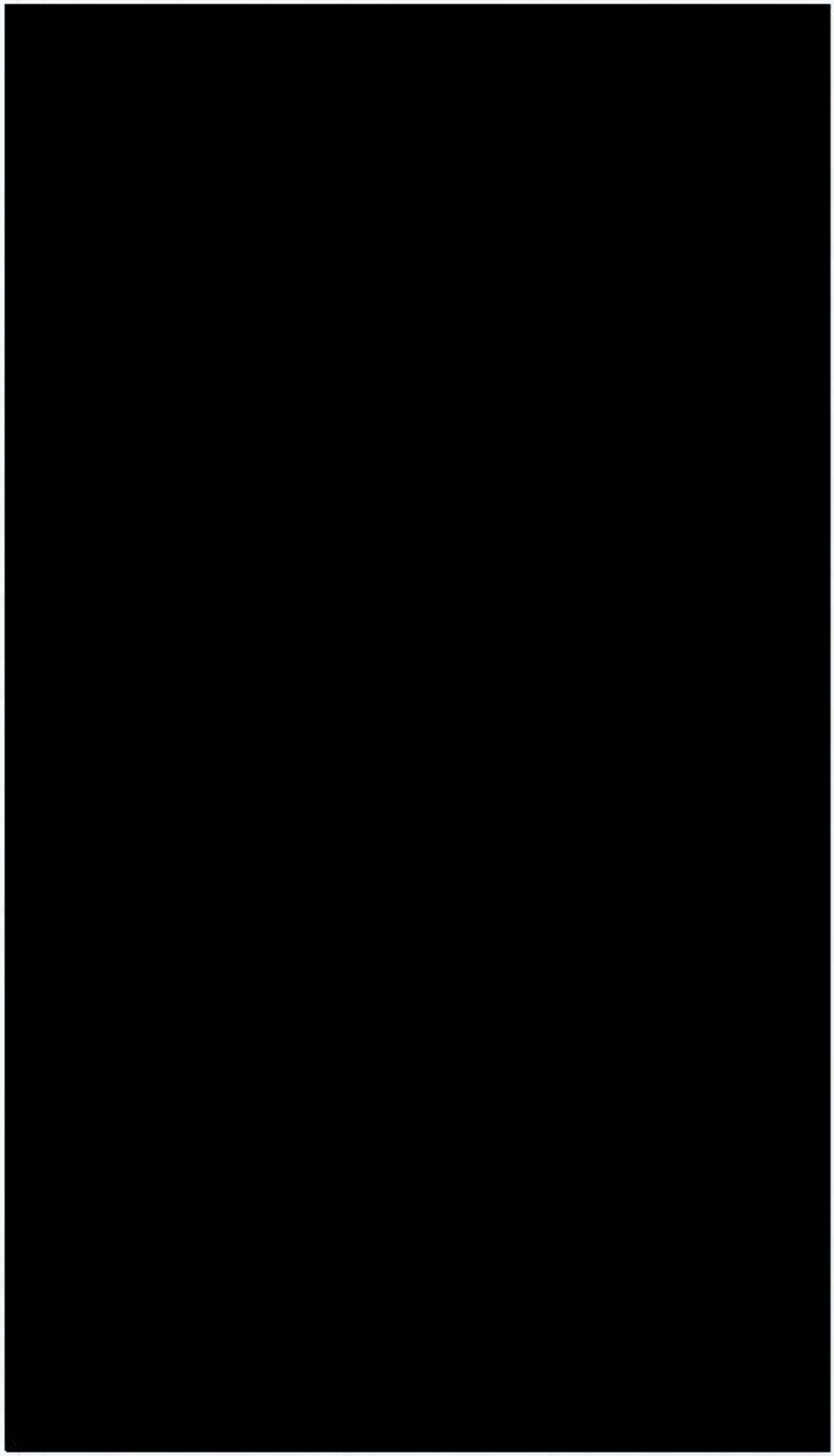
Conference Committee as of April 24, 2006
Conference on the Judiciary
(Committee in Formation)

[redacted]

[redacted]

[redacted]





[redacted]

[redacted]

April 21, 2006

Conference on the Judiciary
September 28-29, 2006

Small Group Judicial Commentators

1.	Shirley Abrahamson, Chief Justice, Supreme Court of Wisconsin	ACCEPTED
2.	Robert Bell, Chief Judge, Court of Appeals of Maryland, President-Elect, Conference of Chief Justices	ACCEPTED
3.	Christine M. Durham, Chief Justice, Supreme Court of Utah	ACCEPTED
4.	Merrick Garland, D.C. Cir. Court of Appeals	ACCEPTED
5.	Robert Henry, 10th Cir. Court of Appeals	ACCEPTED
6.	Randy Holland, Delaware Supreme Court	ACCEPTED
7.	Robert Katzmann, 2nd Cir. Court of Appeals	ACCEPTED
8.	Joseph Lambert, Chief Justice, Supreme Court of Kentucky	ACCEPTED
9.	Thomas Moyer, Chief Justice, Supreme Court of Ohio	ACCEPTED
10.	[redacted]	ACCEPTED
11.	Randall Shepard, Supreme Court of Indiana, President, Conference of Chief Justices	ACCEPTED
12.	Laurence Silberman, D.C. Cir. Court of Appeals	ACCEPTED
13	J. Harvie Wilkinson, 4th Cir. Court of Appeals	ACCEPTED
14.	Diane Wood, 7th Cir. Court of Appeals	ACCEPTED
15.	Gerald VandeWalle, Chief Justice, Supreme Court of North Dakota	ACCEPTED

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, July 14, 2006 12:09 AM
To: Wade, Jill C
Cc: Hertling, Richard; Gorsuch, Neil M
Subject: FW: cameras in the courtroom tps.doc
Attachments: cameras in the courtroom tps.FINAL.doc

Jill, please place these in the AG's binder in front of the Cameras in the Courtroom letter. Thank you

Excellent work Neil ! And Richard, I included your bullet, good idea.

From: Hertling, Richard
Sent: Thursday, July 13, 2006 5:15 PM
To: Gorsuch, Neil M; Seidel, Rebecca
Subject: RE: cameras in the courtroom tps.doc

I would add one last bullet (I tried but the document would not let me save it) along the lines of:

The legislation represents an unwarranted intrusion into the management of a separate coequal branch of government.

With that one final addition I think this paper is good to go.

From: Gorsuch, Neil M
Sent: Thursday, July 13, 2006 4:04 PM
To: Seidel, Rebecca; Hertling, Richard
Subject: cameras in the courtroom tps.doc

Draft for your review per Rebecca's request

<< File: cameras in the courtroom tps.doc >>

Cameras in the Courtroom

- Out of respect for the separation of powers and comity between branches, we believe it inappropriate to command the federal courts to permit cameras in the courtroom.

- There are many reasons why the courts could (and do) not want cameras. For example:

  - Cameras often ***lead to grandstanding*** and other inappropriate behavior by lawyers, judges, and others that inhibits rather than aids the search for truth and the cause of justice in each case.

  - ***The lack of adequate safeguards in proposed legislation to protect a witness's identity from being disclosed concerns us***. While S. 829 would allow for courts to obscure the image and voice of a witness, there is no guarantee that technological devices won't be used to "unobscure" the witness. Any additional risk of being identified could have a negative impact on our ability to secure vital testimony from cooperating protected witnesses.

  - Cameras pose similar ***safety concerns for*** other participants in the judicial system, including ***judges, jurors, undercover agents***, and others.

  - The widespread broadcast of personally identifying information in trials, for example in employment or other discrimination cases, would raise ***serious issues under the Privacy Act***.

  - Those US Attorneys who were judges in state court systems where cameras were allowed report that arranging for the entry and maintenance of cameras and related equipment in courtrooms imposes a ***heavy administrative strain.*** They also report that, on occasion, the ***media violated the restrictions*** placed on them by the courts. Our courts are already burdened and do not need these additional administration burdens forced upon them.

  - The legislation represents an ***unwarranted intrusion*** into the management of a separate coequal branch of government

Amber.JMD

From: Amber.JMD
Sent: Friday, July 14, 2006 12:29 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: North Charleston, SC

From: AmberAlert-DOJ
Sent: Friday, July 14, 2006 12:29:03 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: [redacted]
Subject: [Amber Alert] AMBER Alert: North Charleston, SC
Auto forwarded by a Rule

AMBER ALERT:North Charleston,SC VEHICLE:'03 Slvr Nissan Sentra TAG:SC 716VBX CHILD:2 W/M Hair:Brn SUSPECT:30 W/F 5'10 140lbs Eyes:Bl Hair:Bln CALL 843-745-1015
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1702

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Friday, July 14, 2006 5:19 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Kennesaw, GA

From: AmberAlert-DOJ
Sent: Friday, July 14, 2006 5:19:02 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: [redacted]
Subject: [Amber Alert] AMBER Alert: Kennesaw, GA
Auto forwarded by a Rule

AMBER ALERT:Kennesaw,GA VEHICLE: Red Chevy Silverado TAG:TN CHILD:17 H/F 4'8" Eyes:Brn Hair:Bln SUSPECT:22 H/M 5'7" 140lbs Eyes:Brn Hair:Bald CALL 770-422-2505
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1703

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Longwitz, Tobi (CRT)

From: Longwitz, Tobi (CRT)
Sent: Friday, July 14, 2006 10:49 AM
To: Manning, Katharine (USAEO); Rockoff, Jennifer; Pacold, Martha M; Cohn, Jonathan (CIV); Kern, Doug (CRT); Scott-Finan, Nancy; Seidel, Rebecca; Schofield, Regina; Hagy, David; Herraiz, Domingo S.; Sedgwick, Jeffrey; Warren, Julie; Holland, Eric W; Oldham, Jeffrey L; cgober@rnchq.org; Rothenberg, Laurence E; McIntosh, Brent; Martinson, Wanda; Macklin, Kristi R; Higginbotham, Ryan K (OLP); Hertling, Richard; Cook, Elisebeth C; Bounds, Ryan W (OLP); Ansell, Frederick; Brand, Rachel; Dummermuth, Matt (CRT); Becker, Grace Chung (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT); Quinn, Cameron (CRT); Kim, Wan (CRT); Little, Kimani (CRT); McKnight, Cynthia M (CRT); Treene, Eric (CRT); King, Loretta (CRT); Swenson, Lily F; Gorsuch, Neil M; McCallum Jr, Robert L (LEO); Senger, Jeffrey M; Selim, George (CRS); Tzitzon, Nicholas; Roehrkasse, Brian; Rikhye, Evan (CRT); Best, David T; Marshall, C. Kevin; Nichols, Carl (CIV); Grant_Dixton@who.eop.gov; Jennifer_R._Brosnahan@who.eop.gov; Brett_C._Gerry@who.eop.gov
Subject: Last goodbye for Gordon

As many of you know Gordon is leaving us today, and while he didn't quite work in every component of DOJ - he at least worked with almost every office. So please come by Rasika (633 D Street NW) on July 20th beginning at 6:30 p.m. to say goodbye and wish him well. Feel free to invite others and pass this along .

Schlozman, Bradley (USAMOW)

From: Schlozman, Bradley (USAMOW)
Sent: Friday, July 14, 2006 10:51 AM
To: Gorsuch, Neil M
Attachments: tmp.htm

Great news getting out of committee. Just one more step to go!! I am really excited for you, Neil.

Great news getting out of committee. Just one more step to go!! I am really excited for you, Neil.

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Attorney Advisor
Company:	Administrative Office of the U.S. Courts
Business Address:	Article III Judges Division Thurgood Marshall Federal Judiciary Building One Columbus Circle, NE Washington, DC 20544
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]@ao.uscourts.gov
E-mail Display As:	[redacted] ([redacted]@ao.uscourts.gov)

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Deputy Chief
Company:	Administrative Office of the U.S. Courts
Business Address:	Article III Judges Division Thurgood Marshall Federal Judiciary Building One Columbus Circle, NE Suite 2-300, North Washington, DC 20544
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]@ao.uscourts.gov
E-mail Display As:	[redacted] ([redacted]@ao.uscourts.gov)

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Deputy Chief
Company:	Administrative Office of the U.S. Courts
Business Address:	Judges Compensation & Returement Services Office Office fo Human Resources Thurgood Marshall Federal Judiciary Building One Columbus Circle, NE Washington, DC 20544
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]@ao.uscourts.gov
E-mail Display As:	[redacted] ([redacted]@ao.uscourts.gov)

From: [redacted]
Sent: Friday, July 14, 2006 12:31 PM
To: Gorsuch, Neil M
Subject: Late lunch?

Call me on my cell [redacted]

autoreply@cod.uscourts.gov

From: autoreply@cod.uscourts.gov
Sent: Friday, July 14, 2006 12:39 PM
To: Gorsuch, Neil M
Subject: Electronic Case Filing - One Year

Recently the United States District Court for the District of Colorado celebrated its one year anniversary on Electronic Case Filing. On June 20, 2005, the court went Live on ECF for civil cases. On December 5, 2005, the court went Live on ECF for criminal cases. The court wanted to express its appreciation to counsel and their staff for your patience and diligence over the past two years as we prepared for and transitioned to this new way of doing business. Though change is often difficult, we hope by now your organization has seen some benefits from the move to ECF. The court certainly has.

Some statistics since our civil live date:

Total Documents Filed by Attorneys Using ECF: 49,457 Number of Attorneys Who Filed Documents Using ECF: 3,680 Percentage of Filing Completed by Attorneys: 26% Number of Registered ECF Users: 5,874

Civil Cases Pending Filed Prior to 6/20/2005: 785 (36%) Civil Cases Pending Filed After 6/20/2005 (Fully Electronic): 1421 (64%)

No physical civil case files have been created in the clerk's office since June 20, 2005, and no physical criminal case files have been created since December 5, 2005. With our recent shipment of paper case files to the archives, the clerk's office will be disposing of 15 file cabinets from the file area and freeing up that space.

Over the next year we will give attorneys the option of opening their own civil cases, add hyperlink functionality between documents in cases, and look at integrating ECF into other areas of attorney practice before the court.

Please feel free to contact me with any questions, comments, or suggestions.

Thank you,

ECF Manager
United States District Court
District of Colorado

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 14, 2006 12:54 PM
To: [redacted]
Subject: Re: Late lunch?

[redacted] my apologies but today is turning out to be rotten for me. Hope your argument went well and I hope we can catch up soon. Please forgive me on today. Neil

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Fri Jul 14 12:31:26 2006
Subject: Late lunch?

Call me on my cell. [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 14, 2006 1:01 PM
To: Schlozman, Bradley (USAMOW)
Subject: Re:

Thanks so much for the kind words. Still not home yet but it is nice to have the committee hurdle cleared. I imagine you're having a ball as us atty and hope we can catch up soon. Any chance of a dc visit in your near future? All the best, Neil.

-----Original Message-----
From: Schlozman, Bradley (USAMOW)
To: Gorsuch, Neil M
Sent: Fri Jul 14 10:51:15 2006
Subject:

Great news getting out of committee. Just one more step to go!! I am really excited for you, Neil.

[redacted]

From: [redacted]
Sent: Friday, July 14, 2006 1:11 PM
To: Gorsuch, Neil M
Subject: Re: Late lunch?

No worries. Talk to you soon.

-----Original Message-----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Fri, 14 Jul 2006 12:52:33
To:[redacted]
Subject: Re: Late lunch?

[redacted] my apologies but today is turning out to be rotten for me. Hope your argument went well and I hope we can catch up soon. Please forgive me on today. Neil

-----Original Message-----
From:[redacted] <[redacted]
To: Gorsuch, Neil M
Sent: Fri Jul 14 12:31:26 2006
Subject: Late lunch?

Call me on my cell.[redacted]
****
Confidentiality Notice
This message is being sent by or on behalf of a lawyer. It is intended exclusively for the individual or entity to which it is
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exempt from disclosure. If you are not the named addressee,
you are not authorized to read, print, retain, copy or
disseminate this message or any part of it. If you have
received this message in error, please notify the sender
immediately by email and delete all copies of the message.
****

Schreiber, Jayne

From: Schreiber, Jayne
Sent: Friday, July 14, 2006 1:32 PM
To: Schreiber, Jayne
Subject: Farewell for Associate Attorney General Robert McCallum
Attachments: rdminvite.wpd

Attorney General Alberto R. Gonzales

invites you to attend
a farewell reception in honor of

Robert D. McCallum, Jr.
Associate Attorney General

on Wednesday, the nineteenth day of July
at two o'clock

Room 5111
RFK Main Building

R.S.V.P. (202) 514-2001

From: [redacted]
Sent: Friday, July 14, 2006 2:42 PM
To: Gorsuch, Neil M
Subject: Re: Late lunch?

By the way, (1). I held my own against [redacted] in oral argument today, and (2) the office and cell numbers I have for you don't seem to work any more. Do you have new ones?

Best,

[redacted]

-----Original Message-----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Fri, 14 Jul 2006 12:52:33
To: [redacted]
Subject: Re: Late lunch?

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-----Original Message-----
From: [redacted]
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Sent: Fri Jul 14 12:31:26 2006
Subject: Late lunch?

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received this message in error, please notify the sender
immediately by email and delete all copies of the message.
****

[redacted]@src.senate.gov

From: [redacted]@src.senate.gov
Sent: Friday, July 14, 2006 2:59 PM
To: Gorsuch, Neil M; Brand, Rachel
Subject: HEADS UP

The Higgins Counterterrorism Research Center would like to alert you to the fact that the Islamic calendar anniversary of the 9/11 attacks (23 Jumaada al Thani) falls on July 19, 2006.

This is a good time for intelligence collection and to get a read on suspicious Islamist organizations and individuals. In the past, celebratory events have been witnessed in prison groups and at known radical mosques and Islamic centers.

I don't know who the folks are in your department who should know this so please do what you think is best. I know the folks at the Higgins Center--they worked at DOD under Reagan.
Barbara

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]
Job Title: Chief

Business Address: Court Security Office
Administrative Office of the U.S. Courts
Thurgood Marshall
Federal Judiciary Building
One Columbus Circle, NE, Ste G-310
Washington, DC 20544

Business: [redacted]
Business Fax:

E-mail: [redacted]@ao.uscourts.gov
E-mail Display As: [redacted] ([redacted]@ao.uscourts.gov)

From: USDOJ- Office of Public Affairs
Sent: Friday, July 14, 2006 5:26 PM
To: USDOJ- Office of Public Affairs
Subject: SHIPPING COMPANIES AND KEY PERSONNEL INDICTED FOR VESSEL POLLUTION

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 14, 2006
WWW.USDOJ.GOV

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

SHIPPING COMPANIES AND KEY PERSONNEL INDICTED FOR VESSEL POLLUTION

WASHINGTON – A grand jury in Delaware returned a five-count indictment charging Greece- based shipping companies, Chian Spirit Maritime Enterprises Inc. (Chian Spirit) and Venetico Marine and three individuals, Adrian Dragomere, Kristos Pagones, and Evangelos Madias, with conspiracy to commit environmental crimes and obstructing U.S. Coast Guard investigations related to the operation of the tanker vessel *Irene E/M*. The *Irene* is owned and operated by Chian Spirit. A fourth individual, Grigore Manolache, pleaded guilty to a criminal information charging him with representing false information to the U.S. Coast Guard.

According to the indictment, Dragomere was a licensed First Engineer, and at all times was responsible for managing and supervising the engine department, including compliance with laws regulating the discharge of oil from the ship. Pagones was a technical supervisor for the *Irene* and Madias was the owner of defendant Venetico Marine and was responsible for the management and fiscal outlays to support the *Irene*'s ongoing ocean shipping enterprise.

Engine room operations on board large oceangoing vessels such as the *Irene* generate large amounts of waste oil. International and U.S. law prohibit the discharge of waste oil without treatment by an oily water separator — a required pollution prevention device. Law also requires all overboard discharges be recorded in an oil record book, a required log which is regularly inspected by the Coast Guard.

The indictment alleges that on an unknown date, but including at least on or about October 3, 2005, and continuing through on or about December 10, 2005, the defendants and numerous subordinate officers and crew members of the *Irene* conspired to create and maintain a false Oil Record Book, in violation of the Act to Prevent Pollution from Ships, and to knowingly impede and attempt to influence a vessel inspection by members of the U.S. Coast Guard. It further alleges that, as part of the conspiracy, Dragomere both discharged and ordered the discharge of untreated oily sludge and unprocessed bilge water directly into the ocean from the *Irene* through the use of a "magic pipe," which bypassed the oily water separator as much as four times per week. Additionally, he failed to record or cause the recording of these discharges in the vessel's Oil Record Book.

DOJ_NMG_ 0164324

To further the conspiracy, Chian Spirit, Venetico Marine, Madias, Pagones, and Dragomere are alleged to have directed and encouraged members of *Irene*'s crew to lie to the Coast Guard about the dumping of oily sludge and oil-contaminated bilge water into the sea and/or to conceal material facts about the system used to perform overboard discharges of oily sludge and bilge water.

Chian Spirit and Venetico Marine each face up to $2.5 million in criminal fines and five years probation; Dragomere faces up to 15 years in prison, a potential fine of $750,000 and a special assessment of $300; and Madias and Pagones, each face up to 10 years in prison, a $500,000 fine and a special assessment of $200. Manolache faces up to five years in prison, a potential fine, a special assessment of $100, and a term of probation up to five years.

An indictment contains only allegations. The defendants are presumed innocent unless and until proven guilty.

###

06-437

DOJ_NMG_ 0164325

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Image not available for this document, ID: 0.7.10316.49681-000002

Full Name: Jean Card
Last Name: Card
First Name: Jean
Company: SMO

Business Address: Main Justice
950 Penn Ave Nw Rm 1217
Washington, DC 20530

Business: 202-514-2007

E-mail: Jean.Card@SMOJMD.USDOJ.gov
E-mail Display As: Jean.Card@SMOJMD.USDOJ.gov

DOJ_NMG_ 0164328

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 7:47 AM
To: Comisac, Rena (CRT)
Subject: Ag initiatives

I'm just trying to get up to speed on where we stand w the two new projects. In Gordon's absence might you have a few mins this am at a time of your convenience?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, July 17, 2006 7:54 AM
To: McCallum, Robert (SMO); Gorsuch, Neil M
Cc: Shaw, Aloma A
Subject: Absence

I need to go to dmv today to take care of some business, I may be in later in the day.

Currie

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 8:17 AM
To: Shaw, Aloma A
Subject: Printer

My printer needs a new toner cartridge; do we have any in the office?

McNulty, Paul J

Subject:	Accepted: Updated: FBI Budget Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Friday, August 04, 2006 10:00 AM
End:	Friday, August 04, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 8:23 AM
To: Fisher, Alice
Subject: FW: HEADS UP

From [redacted] of the Senate Republican Conference ([redacted].

From: [redacted]@src.senate.gov [mailto:[redacted]@src.senate.gov]
Sent: Friday, July 14, 2006 2:59 PM
To: Gorsuch, Neil M; Brand, Rachel
Subject: HEADS UP

The Higgins Counterterrorism Research Center would like to alert you to the fact that the Islamic calendar anniversary of the 9/11 attacks (23 Jumaada al Thani) falls on July 19, 2006.

This is a good time for intelligence collection and to get a read on suspicious Islamist organizations and individuals. In the past, celebratory events have been witnessed in prison groups and at known radical mosques and Islamic centers.

I don't know who the folks are in your department who should know this so please do what you think is best. I know the folks at the Higgins Center--they worked at DOD under Reagan.
Barbara

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 8:24 AM
To: [redacted]@src.senate.gov'
Subject: RE: HEADS UP

I have passed this along to the appropriate folks; thank you.

From: [redacted]@src.senate.gov [mailto:Barbara_Ledeen@src.senate.gov]
Sent: Friday, July 14, 2006 2:59 PM
To: Gorsuch, Neil M; Brand, Rachel
Subject: HEADS UP

The Higgins Counterterrorism Research Center would like to alert you to the fact that the Islamic calendar anniversary of the 9/11 attacks (23 Jumaada al Thani) falls on July 19, 2006.

This is a good time for intelligence collection and to get a read on suspicious Islamist organizations and individuals. In the past, celebratory events have been witnessed in prison groups and at known radical mosques and Islamic centers.

I don't know who the folks are in your department who should know this so please do what you think is best. I know the folks at the Higgins Center--they worked at DOD under Reagan.
Barbara

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 8:25 AM
To: [redacted]@daycasebeer.com'
Subject: RE: Late lunch?

Fantastic news! What a thrill to argue against [redacted] Cell and office nos. should work - cell is [redacted] office is 305 1434 (direct) or 514 9500 (main). Let's catch up.

-----Original Message-----
From [redacted] [mailto [redacted]
Sent: Friday, July 14, 2006 2:42 PM
To: Gorsuch, Neil M
Subject: Re: Late lunch?

By the way, (1). I held my own against [redacted] in oral argument today, and (2) the office and cell numbers I have for you don't seem to work any more. Do you have new ones?

Best,

[redacted]

-----Original Message-----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Fri, 14 Jul 2006 12:52:33
To:'[redacted]
Subject: Re: Late lunch?

[redacted] my apologies but today is turning out to be rotten for me. Hope your argument went well and I hope we can catch up soon. Please forgive me on today. Neil

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Fri Jul 14 12:31:26 2006
Subject: Late lunch?

Call me on my cell. [redacted]
****

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immediately by email and delete all copies of the message.
****

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	[redacted]
Company:	Indianapolis Power & Light Company
Business Address:	One Monument Circle Indianapolis, IN 46206
Home Address:	[redacted] [redacted]
Business:	(317) 261-8337
Home:	[redacted]
Mobile:	[redacted]
E-mail:	[redacted]@aes.com
E-mail Display As:	[redacted] ([redacted]@aes.com)

[redacted]

[redacted]

[redacted]

cell [redacted]

Home
[redacted]
[redacted]
[redacted]
cell [redacted]

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Monday, July 17, 2006 8:48 AM
To: Gorsuch, Neil M
Subject: Re: Ag initiatives

Yes. I am coming over for the 11 am component heads meeting. Should we meet right afterwards?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Comisac, Rena (CRT)
Sent: Mon Jul 17 07:46:35 2006
Subject: Ag initiatives

I'm just trying to get up to speed on where we stand w the two new projects. In Gordon's absence might you have a few mins this am at a time of your convenience?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 9:01 AM
To: Comisac, Rena (CRT)
Subject: Re: Ag initiatives

Perfect.

-----Original Message-----
From: Comisac, Rena (CRT)
To: Gorsuch, Neil M
Sent: Mon Jul 17 08:48:24 2006
Subject: Re: Ag initiatives

Yes. I am coming over for the 11 am component heads meeting. Should we meet right afterwards?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Comisac, Rena (CRT)
Sent: Mon Jul 17 07:46:35 2006
Subject: Ag initiatives

I'm just trying to get up to speed on where we stand w the two new projects. In Gordon's absence might you have a few mins this am at a time of your convenience?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 9:10 AM
To: Goodling, Monica
Subject: OASG

Is there a convenient moment for us to chat on where we stand?

McNulty, Paul J

Subject:	Declined: Updated: Updated: Monthly Component Head Meeting with Acting Deputy Attorney General McNulty
Location:	7th Floor Conference Center
Start:	Monday, March 20, 2006 4:30 PM
End:	Monday, March 20, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J
Optional Attendees:	Gorsuch, Neil M

Neil will attend for OASG

Paul_R._Perkins@who.eop.gov

From:	Paul_R._Perkins@who.eop.gov
Sent:	Monday, July 17, 2006 9:21 AM
To:	Gorsuch, Neil M
Subject:	Tour Form
Attachments:	tmp.htm; Tour Form.xls

Neil,
Attached is the form that must be filled out in order to request a tour of the White House.
Thanks,
Paul Perkins.

Neil,
Attached is the form that must be filled out in order to request a tour of the White House.
Thanks,
Paul Perkins.

SAMPLE SECURITY FORM

Please insert the appropriate information as show below.										
Do not insert spaces in any field, even after the last character typed.										
Do not use punctuation marks other than those shown. (Example: no punctuation in O'Brien)										
Please type only one name per field, leave out all hyphenations, spaces, or other punctuation marks. (Note - no space or hyphen between women who keep both names)										
Type a Y for US Citizen or N if not. If not, please provide the Country of Origin. Enter SSN, if foreign, leave blank										
Group Name:										
Date of Visit:										
		No period	mm/dd/yyyy	No Dashes	Y	US if from USA				
Last Name	**First Name**	**Middle Initial**	**D.O.B.**	**SSN**	**U.S. Citizen**	**Country of Origin**				

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 9:31 AM
To: [redacted]@us.britishcouncil.org'
Cc: 'Paul_R._Perkins@who.eop.gov'
Subject: FW: Tour Form
Attachments: tmp.htm; Tour Form.xls

[redacted] - I just spoke with Paul Perkins, who I am cc'g here. Paul has generously offered to be of help in securing a WH tour for the new Marshall scholars. Paul indicated, however, that they cannot do tours on Mondays; if you can do Sat/Sun or Tues, however, they'd like to make it work. Paul cannot put in a formal request for the tour until 1 month before the tour date and, at that time, will need the names, social security nos. and dates of birth for each attendee. Attached is the necessary form. Paul's tel. no. is [redacted] and his e-mail is Paul_R._Perkins@who.eop.gov. Hope this is useful!

Paul - Thanks again for all your help. [redacted] is with the British Embassy and helps run the Marshall Scholarship program. The Marshall program is the Britain Government's generous and continuing "thank you" for the Marshall program that helped rebuild Europe after WWII. Approximately 40 scholars each year are selected to attend graduate school in the UK. The website, if you want more information, can be found at http://www.marshallscholarship.org/ Thanks again for your kind help!

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: [redacted] fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Paul_R._Perkins@who.eop.gov [mailto:Paul_R._Perkins@who.eop.gov]
Sent: Monday, July 17, 2006 9:21 AM
To: Gorsuch, Neil M
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Please type only one name per field, leave out all hyphenations, spaces, or other punctuation marks. (Note - no space or hyphen between women who keep both names)										
Type a Y for US Citizen or N if not. If not, please provide the Country of Origin. Enter SSN, if foreign, leave blank										
Group Name:										
Date of Visit:										
		No period	mm/dd/yyyy	No Dashes	Y	US if from USA				
Last Name	**First Name**	**Middle Initial**	**D.O.B.**	**SSN**	**U.S. Citizen**	**Country of Origin**				

@src.senate.gov

From: @src.senate.gov
Sent: Monday, July 17, 2006 9:48 AM
To: Gorsuch, Neil M
Subject: RE: HEADS UP

Also, it is interesting that the day of the kidnapping of the Israeli soldiers by Hezbollah was eh Jewish Fast of Tammuz, which commemmorates the breach of the Jerusalem wall and which lead to the destruction of Jerusalem 3 weeks later.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 17, 2006 8:22 AM
To: Republican-Conf)
Subject: RE: HEADS UP

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From: @src.senate.gov
[mailto: @src.senate.gov]
Sent: Friday, July 14, 2006 2:59 PM
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[redacted]@us.britishcouncil.org

From: [redacted]@us.britishcouncil.org
Sent: Monday, July 17, 2006 9:55 AM
To: Gorsuch, Neil M
Cc: Paul_R._Perkins@who.eop.gov
Subject: White House Tour

Dear Neil/Paul

Thank you for your gracious help, much appreciated.

Is there no way Monday works? The reason is if not - I'm not sure this is going to be possible as the orientation is scheduled for Monday 18th and only the morning of Tuesday and I have speakers lined up who are flying from the UK for the Tuesday morning. Scholars depart Tuesday afternoon for the UK. An alternative would be early on Tuesday morning - say 9.00.

The Ambassador hosts tea on Sunday as the launch of the programme. The scholars fly in late Saturday and early Sunday.

Again our thanks.

Best

[redacted]

[redacted]
British Council USA
3100 Massachusetts Avenue NW
Washington DC 20008-3600

TEL: [redacted]
FAX: [redacted]
Email: [redacted]@us.britishcouncil.org

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-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 17, 2006 9:30 AM
To: [redacted](United States)
Cc: Paul_R._Perkins@who.eop.gov
Subject: FW: Tour Form

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Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Paul_R._Perkins@who.eop.gov [mailto:Paul_R._Perkins@who.eop.gov]
Sent: Monday, July 17, 2006 9:21 AM
To: Gorsuch, Neil M
Subject: Tour Form

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Thanks,
Paul Perkins.

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Shaw, Aloma A

Subject:	Components Head Meeting
Location:	7th Floor Conference Room
Start:	Monday, July 17, 2006 3:30 PM
End:	Monday, July 17, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M

When: Monday, July 17, 2006 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 7th Floor Conference Room

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

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 10:13 AM
To: Swenson, Lily F
Subject: You here today?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 10:18 AM
To: Todd, Gordon (SMO); Gunn, Currie (SMO)
Cc: Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

Sounds good to me. Let's go with this.

From: Todd, Gordon (SMO)
Sent: Wednesday, July 12, 2006 3:43 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Cc: Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

I propose the following, which evenly shares the workload these components represent.

G.

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Lily: CRT; CRS; Health Care Fraud Committee

Jeff - Tax; OJP/COPS/OVW

Neil - Mt. Soledad litigation; Gitmo/GWAT FOIA Litig.; CAFA submissions issue

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From: Gorsuch, Neil M
Sent: Wednesday, July 12, 2006 3:28 PM
To: Gunn, Currie (SMO)
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: RE: Gordon's Components

Lily, Jeff and Gordon - can you three get together and propose a temporary division of Gordon's responsibilities? Sorry for the additional work; I know OAG is trying to bring folks on quickly so I hope it won't last long.

From: Gunn, Currie (SMO)
Sent: Wednesday, July 12, 2006 12:28 PM
To: Gorsuch, Neil M
Cc: Todd, Gordon (SMO); Swenson, Lily F; Senger, Jeffrey M
Subject: Gordon's Components

Should I start giving this material to Jeff or Lily?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 11:03 AM
To: Elston, Michael (ODAG)
Subject: Sentencing disparities

I was speaking this morning with Judge Sentelle, for whom I clerked many moons ago. Somehow we found ourselves chatting about sentencing issues. He indicated that he's attending a sentencing institute later this wk sponsored, I think, by the sentencing commission. At any rate, the Judge was very interested in -- and hadn't seemed to have heard about -- the many post-Booker issues we've seen such as: racial disparities, softer sentences for those committing crimes against kids, as well as intra- and inter-district disparities. Do you have a summary of the data that touches on these issues that I might pass along to the Judge?

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, July 17, 2006 11:09 AM
To: Gorsuch, Neil M
Subject: FW: (10:30 AM) CALL NEIL GORSUCH, 5-1434

Just tried calling, but must have missed. I should be around all day if you want to try back.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) [redacted]
(fax) 202.305.9687

From: Bennett, Catherine T
Sent: Monday, July 17, 2006 10:32 AM
To: Elwood, Courtney
Subject: (10:30 AM) CALL NEIL GORSUCH, 5-1434

Catherine T. Bennett
Staff Assistant
Office of the Attorney General
202-514-2107

Shaw, Aloma A

Subject:	Farewell Reception /Brent McIntosh
Location:	Main Rm. 4236
Start:	Thursday, July 20, 2006 1:30 PM
End:	Thursday, July 20, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Components Head Meeting
Location:	7th Floor Conference Room
Start:	Monday, July 17, 2006 3:30 PM
End:	Monday, July 17, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil MMcCallum, Robert (SMO); Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 11:59 AM
To: [redacted]@us.britishcouncil.org'
Cc: Paul_R._Perkins@who.eop.gov
Subject: RE: White House Tour

My understanding is that Mondays are never possible, but weekends and Tuesday may work.

-----Original Message-----
From: [redacted]@us.britishcouncil.org [mailto:[redacted]@us.britishcouncil.org]
Sent: Monday, July 17, 2006 9:55 AM
To: Gorsuch, Neil M
Cc: Paul_R._Perkins@who.eop.gov
Subject: White House Tour

Dear Neil/Paul

Thank you for your gracious help, much appreciated.

Is there no way Monday works? The reason is if not - I'm not sure this is going to be possible as the orientation is scheduled for Monday 18th and only the morning of Tuesday and I have speakers lined up who are flying from the UK for the Tuesday morning. Scholars depart Tuesday afternoon for the UK. An alternative would be early on Tuesday morning - say 9.00.

The Ambassador hosts tea on Sunday as the launch of the programme. The scholars fly in late Saturday and early Sunday.

Again our thanks.

Best

[redacted]

[redacted]
British Council USA
3100 Massachusetts Avenue NW
Washington DC 20008-3600

TEL: [redacted]
FAX:
Email: [redacted]@us.britishcouncil.org

Visit us online! Register to receive updates about your favorite UK topics at www.britishcouncil.org/usa.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 17, 2006 9:30 AM
To: [redacted] United States)
Cc: Paul_R._Perkins@who.eop.gov
Subject: FW: Tour Form

[redacted] I just spoke with Paul Perkins, who I am cc'g here. Paul has generously offered to be of help in securing a WH tour for the new Marshall scholars. Paul indicated, however, that they cannot do tours on Mondays; if you can do Sat/Sun or Tues, however, they'd like to make it work. Paul cannot put in a formal request for the tour until 1 month before the tour date and, at that time, will need the names, social security nos. and dates of birth for each attendee. Attached is the necessary form. Paul's tel. no. is [redacted] and his e-mail is Paul_R._Perkins@who.eop.gov. Hope this is useful!

Paul - Thanks again for all your help. [redacted] is with the British Embassy and helps run the Marshall Scholarship program. The Marshall program is the Britain Government's generous and continuing "thank you" for the Marshall program that helped rebuild Europe after WWII. Approximately 40 scholars each year are selected to attend graduate school in the UK. The website, if you want more information, can be found at http://www.marshallscholarship.org/ Thanks again for your kind help!

Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

-----Original Message-----
From: Paul_R._Perkins@who.eop.gov [mailto:Paul_R._Perkins@who.eop.gov]
Sent: Monday, July 17, 2006 9:21 AM
To: Gorsuch, Neil M
Subject: Tour Form

Neil,
Attached is the form that must be filled out in order to request a tour of the White House.
Thanks,
Paul Perkins.

This message is for the use of the intended recipient(s) only.

If you have received this message in error, please notify the sender and delete it.The British Council accepts no liability for loss or damage caused by software viruses and you are advised to carry out a virus check on any attachments contained in this message. Our purpose is to build mutually beneficial relationships between people in the UK and other countries and to increase appreciation of the UK's creative ideas and achievements. The British Council is registered in England as a charity.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 12:02 PM
To: Elwood, Courtney
Subject: RE: (10:30 AM) CALL NEIL GORSUCH, 5-1434

Thanks - I was stuck in a mtg and just freed up. Tried you unsuccessfully but will be around and would like to chat when you have a moment. Perhaps after our 130 strategic initiatives mtg?

From: Elwood, Courtney
Sent: Monday, July 17, 2006 11:09 AM
To: Gorsuch, Neil M
Subject: FW: (10:30 AM) CALL NEIL GORSUCH, 5-1434

Just tried calling, but must have missed. I should be around all day if you want to try back.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) [redacted]
(fax) 202.305.9687

From: Bennett, Catherine T
Sent: Monday, July 17, 2006 10:32 AM
To: Elwood, Courtney
Subject: (10:30 AM) CALL NEIL GORSUCH, 5-1434

Catherine T. Bennett
Staff Assistant
Office of the Attorney General
202-514-2107

Shaw, Aloma A

Subject:	Declined: Transfer OIP to Civil
Location:	5710
Start:	Monday, July 17, 2006 4:30 PM
End:	Monday, July 17, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

I have a dentist appt at 4

Otus2005, Ag

Subject:	Updated: Farewell Reception for Robert McCallum
Start:	Wednesday, July 19, 2006 2:00 PM
End:	Wednesday, July 19, 2006 2:45 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	McNulty, Paul J; Sampson, Kyle; Elwood, Courtney; Gorsuch, Neil M; Goodling, Monica; Taylor, Jeffrey (OAG); Jenkins, Linda A

AG's Conference Room

Otus2005, Ag

Subject:	Accepted: Updated: Farewell Reception for Robert McCallum
Start:	Wednesday, July 19, 2006 2:00 PM
End:	Wednesday, July 19, 2006 2:45 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

[redacted]@khhte.com

From: [redacted]
Sent: Monday, July 17, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Phone Call

I tried returning your call (sorry for the delay, I was out of the office). The voicemail system indicated that you did not have a voicemail mailbox set up yet -- technical glich??? So I am returning your call by email. I'm sorry I missed your call and am around this afternoon.

Thanks,
[redacted]

[redacted]

The above communication contains information that may be confidential and/or privileged. Except for use by the intended recipient, or as expressly authorized by the sender, any person who receives this information is prohibited from disclosing, copying, distributing, and/or using it. If you have received this communication in error, please immediately delete it and all copies, and promptly notify the sender at the above telephone number or electronic mail address. Nothing in this communication is intended to operate as an electronic signature under applicable law.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:36 PM
To: Shaw, Aloma A
Subject: FW: Phone Call

Please could you see if something is wrong w my email?

From: [redacted]
Sent: Monday, July 17, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Phone Call

I tried returning your call (sorry for the delay, I was out of the office). The voicemail system indicated that you did not have a voicemail mailbox set up yet -- technical glich??? So I am returning your call by email. I'm sorry I missed your call and am around this afternoon.

Thanks,
[redacted]

[redacted]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:37 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: RE: Phone Call

Sorry - should be v mail

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:36 PM
To: Shaw, Aloma A
Subject: FW: Phone Call

Please could you see if something is wrong w my email?

From: [redacted]
Sent: Monday, July 17, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Phone Call

I tried returning your call (sorry for the delay, I was out of the office). The voicemail system indicated that you did not have a voicemail mailbox set up yet -- technical glich??? So I am returning your call by email. I'm sorry I missed your call and am around this afternoon.

Thanks,
[redacted]

[redacted]

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Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 2:44 PM
To: Gorsuch, Neil M
Subject: RE: Phone Call

Yes, something is wrong. It's the same problem I encountered after the flood (our voice mails were shut down). I'll call the techs to reinstall it.

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:37 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: RE: Phone Call

Sorry - should be v mail

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:36 PM
To: Shaw, Aloma A
Subject: FW: Phone Call

Please could you see if something is wrong w my email?

From: [redacted]@khhte.com [mailto:[redacted]@khhte.com]
Sent: Monday, July 17, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Phone Call

I tried returning your call (sorry for the delay, I was out of the office). The voicemail system indicated that you did not have a voicemail mailbox set up yet -- technical glich??? So I am returning your call by email. I'm sorry I missed your call and am around this afternoon.

Thanks,
[redacted]

[redacted]

[redacted]

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Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 2:47 PM
To: Gorsuch, Neil M
Subject: Your voicemail will be activated today. I'll let you know when it's done.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:47 PM
To: Shaw, Aloma A
Subject: RE: Your voicemail will be activated today. I'll let you know when it's done.

Thanks!

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 2:47 PM
To: Gorsuch, Neil M
Subject: Your voicemail will be activated today. I'll let you know when it's done.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:59 PM
To: Shaw, Aloma A
Subject: RE: Phone Call

thx

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 2:44 PM
To: Gorsuch, Neil M
Subject: RE: Phone Call

Yes, something is wrong. It's the same problem I encountered after the flood (our voice mails were shut down). I'll call the techs to reinstall it.

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:37 PM
To: Gorsuch, Neil M; Shaw, Aloma A
Subject: RE: Phone Call

Sorry - should be v mail

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:36 PM
To: Shaw, Aloma A
Subject: FW: Phone Call

Please could you see if something is wrong w my email?

From: [redacted]@khhte.com[[redacted]khhte.com]
Sent: Monday, July 17, 2006 2:21 PM
To: Gorsuch, Neil M
Subject: Phone Call

I tried returning your call (sorry for the delay, I was out of the office). The voicemail system indicated that you did not have a voicemail mailbox set up yet -- technical glich??? So I am returning your call by email. I'm sorry I missed your call and am around this afternoon.

Thanks,
[redacted]

[redacted]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 2:59 PM
To: Shaw, Aloma A
Subject: RE: I assume you are not returning after dentist appt?

Right

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 2:13 PM
To: Gorsuch, Neil M
Subject: I assume you are not returning after dentist appt?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 3:02 PM
To: Gorsuch, Neil M
Subject: Not read: 07-18-06 senate judiciary hearing4.doc

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 3:02 PM
To: Gorsuch, Neil M
Subject: Not read: Phone Call

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 3:08 PM
To: Gorsuch, Neil M
Subject: Your voicemail box is restored.

Full Name:
Last Name:
First Name:
Job Title: Assistant General Counsel

Business Address:

Business:
Business Fax:

E-mail:
E-mail Display As:

Full Name:	[redacted]
Last Name:	
First Name:	
Job Title:	Attorney
Company:	[redacted]
Business Address:	[redacted]
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]
E-mail Display As:	

Full Name:
Last Name:
First Name:

Business Address:

Business:
Home:
Mobile:
Business Fax:

E-mail:
E-mail Display As:
E-mail 2:
E-mail2 Display As:

Full Name:	[redacted]
Last Name:	
First Name:	
Job Title:	Attorney
Company:	[redacted]
Business Address:	[redacted]
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]
E-mail Display As:	

Full Name:
Last Name:
First Name:

Business Address:

Business:
Business Fax:

E-mail:
E-mail Display As:

Full Name: [redacted]
Last Name: [redacted]
First Name:
Company:

Business Address: [redacted]

Business: [redacted]
Business Fax:

E-mail: [redacted]
E-mail Display As:

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Attorney
Company:	[redacted]
Business Address:	[redacted]
Business:	[redacted]
Business Fax:	
E-mail:	[redacted]
E-mail Display As:	

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Tuesday, July 18, 2006 8:30 AM
End:	Tuesday, July 18, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)
Importance:	High

When: Tuesday, July 18, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Goodling, Monica

From: Goodling, Monica
Sent: Monday, July 17, 2006 4:27 PM
To: Goodling, Monica
Subject: The Daily Update: 7/17/06

Hello! Please welcome Joel Pardue, who joins the Office of Justice Programs as a new appointee today. Also, congratulations to Eric Holland, who transfers from the Office of Public Affairs to the Office of Intergovernmental & Public Liaison as the new Deputy Director. Have a great week.

Best, Monica

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<http://www.whitehouse.gov/>
JULY 17, 2006

President Bush has no additional public events today as he returns from the G-8 Summit.

G-8 Leaders Release Statement Condemning "Extremist Elements" For Mideast Crisis. "'These extremist elements and those that support them cannot be allowed to plunge the Middle East into chaos and provoke a wider conflict <http://news.yahoo.com/s/ap/20060717/ap_on_re_eu/g8_summit&printer=1;_ylt=As8c5M_I25QCs.sO4tHtROlbbBAF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> ,' the G-8 leaders said in a statement. 'The extremists must immediately halt their attacks.' ... Bush for the first time pressed Israel to show moderation. 'Our message to Israel is, look, defend yourself, but as you do so, be mindful of the consequences. And so we've urged restraint.' ... The United States refused to endorse calls for a cease-fire, saying that must be accompanied by constraints on Hezbollah, Hamas, Syria and Iran." (Terence Hunt, "G-8 Blames Militants For Mideast Crisis," The Associated Press, 7/16/06)

President Bush Discusses G-8 Statement On Middle East Violence. "'I am most pleased that the leaders came together to say, look, we condemn violence. We honor innocent life,' Bush said before heading into a meeting with Indian Prime Minister Manmohan Singh. 'For the first time, we've really begun to address with clarity the root causes of the conflict ... and that is terrorist activity namely Hezbollah, that's housed and encouraged by Syria. <http://www.forbes.com/technology/feeds/ap/2006/07/17/ap2882287.html> '" (Martin Crutsinger, "Blair, Annan Call For Troops In Israel," The Associated Press, 7/17/06)

President Bush And President Putin Issue Joint Statement Expressing Concern Over Nuclear Proliferation. "President Bush and Russian President Vladimir Putin, who differ on whether to impose U.N. sanctions on Iran, expressed concern on Monday that Tehran had not responded to an incentives offer. The two leaders made a show of unity in a joint

statement declaring their intention to try to limit the proliferation of nuclear weapons, including in the cases of Iran and North Korea. 'We are especially concerned by the failure of the Iranian government to engage seriously on the proposals' made by the five permanent members of the U.N. Security Council and Germany, Bush and Putin said <http://news.yahoo.com/s/nm/20060717/ts_nm/group_bush_putin_dc_2&printer=1;_ylt=AqQclrmHcBVWSjJDS2GP3Dpg.3QA;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> ." ("Bush, Putin Concerned Iran Has Not Responded," Reuters, 7/17/06)

Secretary Of State Condoleezza Rice Discusses Diplomatic Efforts In The Middle East. SEC. RICE: "We are working with all of our allies in the region, including Egypt, Saudi Arabia, Jordan. We are working with members of the G8 here. We're working with the Secretary-General, and, of course, we're talking constantly to the Israelis to the Lebanese and to the Palestinians. And what we're trying to do, Bob, is, obviously, to have a cessation of violence. That's going to be important. But I want to repeat, you have to have a cessation of violence that moves this process forward. ... This time we need to make sure that Resolution 1559 is - is enforced for Lebanon. That resolution says that unauthorized groups should not be allowed to operate on Lebanese territory in precisely the way that Hezbollah did." (CBS' "Face The Nation," 7/16/06)

Counselor To The President Dan Bartlett Says International Community Agrees On Need To Pressure Hezbollah. BARTLETT: "President Bush this morning met with Prime Minister Tony Blair, as well as President Chirac of France, and what we're seeing here at the G-8 summit is a growing consensus amongst these leaders that we have to speak very clearly about the violence, to do everything we can to try to persuade Hezbollah, who started and provoked this whole crisis that we're in today, to lay down their arms, to get back to the political process <http://transcripts.cnn.com/TRANSCRIPTS/0607/16/le.01.html> . ... And what we're seeing is Syria, unfortunately, as well as Iran, backing Hezbollah, backing Hamas, in a very provocative way. But the civilized world, the international community and moderate forces in the region are now coming together to say this must stop." (CNN's "Late Edition," 7/16/06)

Secretary Rice Says Unanimous UN Security Council Resolution Will Force North Korea To Return To Negotiations. "US Secretary of State Condoleezza Rice said that a unanimous UN Security Council rebuke of North Korea, with China's active support, would force Pyongyang back to negotiations. 'It's a remarkable resolution, and with an affirmative Chinese vote,' she said as US President George W. Bush attended the Group of Eight summit of industrialized countries here. 'We really, now, have a coalition.' 'That's why, I think ultimately, North Korea will have no choice but to return to the talks and pursue denuclearization of the Korean peninsula,' Rice told reporters <http://news.yahoo.com/s/afp/20060716/pl_afp/g8summituschina_060716161153&printer=1;_ylt=Ai6eFIbynBP0iS82IJqa.TutOrgF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> ." ("Rice: UN Action Will Force NKorea To Return To Talks," Agence France Presse, 7/16/06)

President Bush And President Putin Announce Global Initiative To Combat Nuclear Terrorism. "President Bush and Russian President Vladimir Putin, making a united stand against terrorism, announced a new program on Saturday to detect and track terrorists trying to get their hands on

nuclear and radioactive materials. ... The new program, known as the Global Initiative to Combat Nuclear Terrorism, calls on states to improve accounting, control and physical protection of nuclear material and radioactive substances as well as the security of nuclear facilities. ... 'Nation states face the threat of terrorism, and we want to work together to deal with this threat <http://www.foxnews.com/wires/2006Jul15/0,4670,USRussiaNuclear,00.html> ,' Bush said." (Tom Raum, Bush, Putin Announce Anti-Terror Program, The Associated Press, 7/15/06)

Afghan Defense Minister Says NATO And Afghan Forces Will End Taliban Resistance This Year. "NATO and Afghan forces will be able to break the back of Taliban resistance in southern Afghanistan before the end of the year, General Rahim Wardak, the Afghan defence minister, told the Financial Times yesterday <http://www.ft.com/cms/s/b2042b60-1530-11db-b391-0000779e2340.html> . 'I think that in the next two or three months there will be some major changes,' he said, predicting that by November Taliban militants would have lost steam. 'The way the Taliban are fighting ... it looks like they are crazy. They are no match for these forces and usually that is why they suffer heavy casualties. They cannot continue like that.'" (Rachel Morarjee, "Taliban Will Be Broken This Year, Says Minister," Financial Times, 6/17/06)

Immigration Officials Target Fugitive Aliens In Internal Enforcement Efforts. "'We are going to send a message,' Baker told agents at an early-morning briefing last week at the Columbus Police Academy. 'We're going to start restoring integrity to the nation's immigration system <http://www.msnbc.msn.com/id/13880173/site/newsweek/> .' ... The targets are an estimated 590,000 illegal immigrants who have been designated as 'fugitive aliens' - foreign nationals who either failed to appear for a scheduled Immigration hearing or ignored an Immigration judge's orders to leave the country. ICE estimates that 50,000 to 75,000 fugitive aliens are also 'criminal aliens' convicted of local, state or federal offenses. Those are the team's priority targets." (Daren Briscoe, "Return To Sender," Newsweek, 7/24/06)

Remarks by President Bush and President Lula of Brazil <http://www.whitehouse.gov/news/releases/2006/07/20060717.html>

* G-8 Summit 2006 <http://www.whitehouse.gov/g8/2006/>

President Bush Meets with Indian Prime Minister Singh <http://www.whitehouse.gov/news/releases/2006/07/20060717-1.html>

Joint Statement by President George W. Bush and President V. V. Putin <http://www.whitehouse.gov/news/releases/2006/07/20060717-2.html>

President Bush Meets with British Prime Minister Blair <http://www.whitehouse.gov/news/releases/2006/07/20060716.html>

Remarks by President Bush and French President Chirac <http://www.whitehouse.gov/news/releases/2006/07/20060716-1.html>

President Bush Meets with President Hu of China at the G-8 Summit
<http://www.whitehouse.gov/news/releases/2006/07/20060716-3.html>

Statement by Group of Eight Leaders
<http://www.whitehouse.gov/news/releases/2006/07/20060716-4.html>

President Bush and Russian President Putin Participate in Press Availability
<http://www.whitehouse.gov/news/releases/2006/07/20060715-1.html>

President Bush Meets with Prime Minister Prodi of Italy
<http://www.whitehouse.gov/news/releases/2006/07/20060715-6.html>

Joint Statement by U.S. President George Bush and Russian Federation President V.V. Putin Announcing the Global Initiative to Combat Nuclear Terrorism
<http://www.whitehouse.gov/news/releases/2006/07/20060715-2.html>

Fact Sheet: The Global Initiative to Combat Nuclear Terrorism
<http://www.whitehouse.gov/news/releases/2006/07/20060715-3.html>

U.S.-Russia Foundation for Economic Advancement and Rule of Law
<http://www.whitehouse.gov/news/releases/2006/07/20060715-4.html>

President's Radio Address
<http://www.whitehouse.gov/news/releases/2006/07/20060715.html>

* Jobs & Economy <http://www.whitehouse.gov/infocus/economy/>

Press Briefing by National Security Advisor Steve Hadley, U.S. Trade Representative Susan Schwab and Press Secretary Tony Snow
<http://www.whitehouse.gov/news/releases/2006/07/20060715-5.html>

Press Briefing by Secretary of State Condoleezza Rice
<http://www.whitehouse.gov/news/releases/2006/07/20060716-2.html>

Press Briefing on the G8 Leaders Joint Statement on the Situation in the Middle East by Under Secretary for Political Affairs Nicholas Burns and Tony Snow
<http://www.whitehouse.gov/news/releases/2006/07/20060716-5.html>

From: USDOJ- Office of Public Affairs
Sent: Monday, July 17, 2006 4:34 PM
To: USDOJ- Office of Public Affairs
Subject: TWO HOUSTON RESIDENTS CHARGED WITH OPERATING FRAUDULENT WEB SITE TO ACCEPT DONATIONS FOR HURRICANE KATRINA RELIEF

Department of Justice

United States Attorney Donald J. DeGabrielle, Jr.
Southern District of Texas

FOR IMMEDIATE RELEASE
MONDAY, JULY 17, 2006
WWW.USDOJ.GOV/USAO/TXS

CONTACT: JOHN YEMBRICK
PHONE: (713) 567-9388
FAX: (713) 718-3389

TWO HOUSTON RESIDENTS CHARGED WITH OPERATING FRAUDULENT WEB SITE TO ACCEPT DONATIONS FOR HURRICANE KATRINA RELIEF

HOUSTON – Steven Anyanwu Stephens, 23, and Bartholomew Stephens, 26, both of Houston, have been charged in a nine-count indictment with conspiracy, wire fraud and aggravated identity theft in connection with their operation of "mailtowww.salvationarmyonline@yahoo.com," a Web site that falsely purported to raise money for a "Salvation Army Relief Fund" for Hurricane Katrina victims, U. S. Attorney Don DeGabrielle announced today.

Both men were arrested by special agents with the Federal Bureau of Investigation (FBI) at separate locations in Houston this morning and are expected to appear before U. S. Magistrate Judge Calvin Botley later today.

According to allegations in the indictment, on Sept. 4, 2005, Steven and Bartholomew Stephens registered www.salvationarmyonline.org, a Web site that was represented as "The Salvation Army International Home Page" and falsely purported to solicit charitable donations for Hurricane Katrina, and later Hurricane Rita, relief. The site provided a link directing donors to PayPal, a service that allows for online money transfers. The defendants allegedly created numerous accounts with PayPal, such as salvationarmyonline@yahoo.com, and registered those accounts using the names and identification information, including Social Security numbers, of other individuals not involved in the fraudulent scheme. However, the PayPal accounts were linked to bank accounts belonging to one or both of the defendants. According to the indictment, to deceive PayPal into believing the linked bank accounts belonged to the registered person's named on the PayPal accounts, the defendants submitted copies of their bank statements to PayPal that had the names and addresses of the other individuals pasted over the defendants' information.

The defendants are accused of transferring to their personal bank accounts more than $48,000 in funds that were donated via the www.salavationarmyonline.org Web site through the fraudulently obtained PayPal accounts.

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The Stephenses are charged with conspiring to commit wire fraud and aggravated identify theft, six counts of wire fraud and two counts of aggravated identity theft based on their use of others' Social Security numbers to register the PayPal accounts involved in the scheme. Upon conviction, the conspiracy count carries a punishment of up to five years in prison. Each of the six wire fraud counts carries a punishment of up to 20 years in prison upon conviction. The aggravated identity theft counts carry, upon conviction, a mandatory prison term of two years that must run consecutive to any other sentence. Each of the nine counts carries a possible fine of up to $250,000.

The investigation leading to the indictment of both defendants was initiated by the FBI in late October 2005, upon receipt of a fraud allegation concerning the Web site received from the National Cyber Forensics and Training Alliance. The case will be prosecuted by Assistant U. S. Attorney Gregg Costa.

The return of this indictment brings the total number of individuals charged with fraud offenses relating to Hurricanes Katrina and Rita to 26 in the Southern District of Texas.

The U. S. Attorney's Office for the Southern District of Texas is a member of the Department of Justice's Hurricane Katrina Fraud Task Force, created by Attorney General Alberto R. Gonzales to deter, detect and prosecute unscrupulous individuals who try to take advantage of the Hurricane Katrina and Hurricane Rita disasters. Headed by Assistant Attorney General Alice S. Fisher, the Task Force is comprised of federal, state and local law enforcement investigating agencies and the U. S. Attorney's Offices in the Gulf Coast region and nationwide.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week until further notice. Information can also be emailed to the Inspector General at dhsoighotline@dhs.gov or sent by surface mail, with as many details as possible, to:

Department of Homeland Security
Washington, DC. 20528
Attn: Office of Inspector General, Hotline

An indictment is a formal accusation of criminal conduct, not evidence. A defendant is presumed innocent unless and until convicted through due process of law.

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Image not available for this document, ID: 0.7.10316.48556-000002

Image not available for this document, ID: 0.7.10316.48556-000003

Otus2005, Ag

From: Otus2005, Ag
Sent: Monday, July 17, 2006 4:58 PM
To: Gorsuch, Neil M
Subject: Read: Updated: Farewell Reception for Robert McCallum

From: USDOJ- Office of Public Affairs
Sent: Monday, July 17, 2006 5:14 PM
To: USDOJ- Office of Public Affairs
Subject: ELEVEN INDIVIDUALS AND FOUR CORPORATIONS INDICTED ON RACKETEERING, CONSPIRACY AND FRAUD CHARGES

A copy of the indictment and a copy of the temporary restraining order in this case are attached.

Department of Justice

FOR IMMEDIATE RELEASE — CRM
MONDAY, JULY 17, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

ELEVEN INDIVIDUALS AND FOUR CORPORATIONS INDICTED ON RACKETEERING, CONSPIRACY AND FRAUD CHARGES

WASHINGTON – A federal grand jury in the Eastern District of Missouri has returned a 22-count indictment charging 11 individuals and four corporations on various charges of racketeering, conspiracy and fraud, the Department of Justice announced today. The indictment was returned on June 1, 2006, and unsealed today.

BetonSports PLC, a publicly-traded holding company that owns a number of Internet sportsbooks and casinos, was among the companies charged in the indictment. The founder of BetonSports.com, Gary Stephen Kaplan, 47, was charged with 20 felony violations of federal laws including: the Wire Act, Racketeer Influenced and Corrupt Organizations (RICO) Conspiracy, interstate transportation of gambling paraphernalia, interference with the administration of Internal Revenue laws and tax evasion.

Other defendants in the racketeering conspiracy include: Kaplan's siblings, Neil Scott Kaplan and Lori Kaplan Multz; Norman Steinberg; David Carruthers, chief executive officer of BetonSports.com; Peter Wilson, media director for BetonSports.com; and Tim Brown, Steinberg's son-in-law. The three other charged companies, all Florida-based, were Direct Mail Expertise, Inc., DME Global Marketing and Fulfillment Inc. and Mobile Promotions Inc. Also charged are William Hernan Lenis; Monica Lenis and Manny Gustavo Lenis, owners and operators of the Florida companies; and William Hernan Lenis' son, William Luis Lenis.

"Illegal commercial gambling across state and international borders is a crime," said U.S Attorney Catherine L. Hanaway of the Eastern District of Missouri. "Misuse of the Internet to violate the law can ultimately only serve to harm legitimate businesses. This indictment is but one step in a series of actions designed to punish and seize the profits of individuals who disregard federal and state laws."

The indictment alleges that Gary Kaplan started his gambling enterprise via operation of a sportsbook in New York City in the early 1990s. After Kaplan was arrested on New York state gambling charges in May 1993, Kaplan moved his betting operation to Florida and eventually offshore to Costa Rica. According to the indictment, BetonSports.com, the most visible outgrowth of Kaplan's sports bookmaking enterprise, misleadingly advertised itself as the "World's Largest Legal and Licensed Sportsbook." The indictment also

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alleges that Kaplan failed to pay federal wagering excise taxes on more than $3.3 billion in wagers taken from the United States and seeks forfeiture of $4.5 billion from Kaplan and his co-defendants, as well as various properties.

The indictment alleges that Gary Kaplan and Norman Steinberg, as the owners and operators of Millennium Sportsbook, Gibraltar Sportsbook, and North American Sports Association, took or caused their employees to take bets from undercover federal agents in St. Louis who used undercover identities to open wagering accounts. The indictment also alleges that Kaplan and Mobile Promotions illegally transported equipment used to place bets and transmit wagering information across state lines and that DME Global Marketing and Fulfillment shipped equipment to Costa Rica from Florida for BetonSports.com.

The racketeering conspiracy alleges that the defendants agreed to conduct an enterprise through a pattern of racketeering acts, including repeated mail fraud, wire fraud, operation of an illegal gambling business and money laundering.

In conjunction with the indictment, the United States has filed a civil complaint in federal court to obtain an order requiring BetonSports PLC to stop taking sports bets from the United States, and to return money held in wagering accounts to account holders in the United States. U.S. District Judge Catherine D. Perry issued the temporary restraining order today. A hearing in the civil case has been requested within 10 days. As authorized by federal statute, the FBI is issuing letters to four telephone companies, instructing them to stop providing phone service to the Internet sportsbooks and casinos operated by BetonSports PLC.

Gary Kaplan resides in Costa Rica and a warrant has been issued for his arrest. Neil Kaplan, 40, is in custody in Ft. Pierce, Florida. Carruthers, 49, a resident of Costa Rica and Bromsgrove, Worcestershire, England, is in custody in Ft. Worth, Texas. William Luis Lenis and Manny Gustavo Lenis are in custody in Miami. Tim Brown was arrested near Philadelphia. Warrants have been issued for the other defendants not currently in custody. The United States will seek extradition of all defendants to St. Louis for prosecution.

The charges are the result of a joint investigation by Internal Revenue Service Criminal Investigation and the Federal Bureau of Investigation. The prosecution is being conducted by the Organized Crime and Racketeering Section of the Justice Department's Criminal Division and the U.S. Attorney's Office for the Eastern District of Missouri. The Florida Department of Law Enforcement, the Tampa Police Department, the Jacksonville, Fla. Sheriff's Office, and NFL Security and NCAA Enforcement Office personnel also assisted in the investigation.

The charges set forth in an indictment are merely accusations, and each defendant is presumed innocent until and unless proven guilty.

# # #

06-443

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED
JUN - 1 2006
U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

UNITED STATES OF AMERICA, Plaintiff, v.	)	4 : 06CR00337CEJ
BETONSPORTS PLC, its predecessors, holding companies, subsidiaries and associated entities; GARY STEPHEN KAPLAN, also known as Greg Champion; NEIL SCOTT KAPLAN, also known as Scott Kaye; LORI BETH KAPLAN MULTZ, also known as Beth; DAVID CARRUTHERS; PETER WILSON; NORMAN STEINBERG, also known as Tom Miller and David Norman; TIM BROWN, also known as Matt Brown; DIRECT MAIL EXPERTISE, INC.; DME GLOBAL MARKETING & FULFILLMENT, INC.; MOBILE PROMOTIONS, INC.; WILLIAM HERNAN LENIS; WILLIAM LUIS LENIS; MANNY GUSTAVO LENIS, and MONICA LENIS, Defendants.	)	18 U.S.C. § 1962(d) - Racketeering Conspiracy [Count 1, pp. 1-17] 18 U.S.C. § 1341 - Mail Fraud [Count 2, p. 18] 18 U.S.C. § 1084 - Transmission of Wagers/Wagering Information [Counts 3-12, pp. 18-19] 18 U.S.C. § 1953 - Interstate Transportation of Gambling Para. [Count 13, p. 20] 18 U.S.C. § 2 - Aiding and Abetting 26 U.S.C. § 7201 - Tax Evasion [Counts 14-16, p. 20-22] 26 U.S.C. § 7212(a) - Interference with Administration of Internal Revenue Laws [Counts 17-22, pp. 22-23] Forfeiture pursuant to: 18 U.S.C. § 1963 [Forfeiture Count, p. 23]

INDICTMENT

FILED UNDER SEAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED
JUN - 1 2006
U. S. DISTRICT COURT
EASTERN DISTRICT OF MO

UNITED STATES OF AMERICA, Plaintiff, v. BETONSPORTS PLC, its predecessors, holding companies, subsidiaries and associated entities; GARY STEPHEN KAPLAN, also known as Greg Champion; NEIL SCOTT KAPLAN, also known as Scott Kaye; LORI BETH KAPLAN MULTZ, also known as Beth; DAVID CARRUTHERS; PETER WILSON; NORMAN STEINBERG, also known as Tom Miller and David Norman; TIM BROWN, also known as Matt Brown; DIRECT MAIL EXPERTISE, INC.; DME GLOBAL MARKETING & FULFILLMENT, INC.; MOBILE PROMOTIONS, INC.; WILLIAM HERNAN LENIS; WILLIAM LUIS LENIS; MANNY GUSTAVO LENIS, and MONICA LENIS, Defendants.	)	4:06CR00337CEJ No. 18 U.S.C. § 1962(d) - Racketeering Conspiracy [Count 1, pp. 1-17] 18 U.S.C. § 1341 - Mail Fraud [Count 2, p. 18] 18 U.S.C. § 1084 - Transmission of Wagers/Wagering Information [Counts 3-12, pp. 18-19] 18 U.S.C. § 1953 - Interstate Transportation of Gambling Para. [Count 13, p. 20] 18 U.S.C. § 2 - Aiding and Abetting 26 U.S.C. § 7201 - Tax Evasion [Counts 14-16, p. 20-22] 26 U.S.C. § 7212(a) - Interference with Administration of Internal Revenue Laws [Counts 17-22, pp. 22-23] Forfeiture pursuant to: 18 U.S.C. § 1963 [Forfeiture Count, p. 23]

INDICTMENT

The Grand Jury charges that:

COUNT 1
(Racketeering Conspiracy)

At all times material to this Indictment, in the Eastern District of Missouri and elsewhere:

Introduction

1. Beginning in approximately 1992, defendant GARY STEPHEN KAPLAN (hereafter "GARY KAPLAN") and others operated an illegal sports betting business in and near New York City. After GARY KAPLAN's arrest on New York State gambling charges in May of 1993, GARY KAPLAN relocated his illegal gambling operation to Florida, continuing to take sports wagers from bettors in New York by telephone. In approximately 1995, GARY KAPLAN moved the illegal gambling business to Aruba, in the West Indies, but continued to operate primarily in the United States. To facilitate its U.S. operations, the gambling businesses established and controlled toll-free telephone services and Internet web sites, and caused these services to accept sports wagers from gamblers in the United States. In about 1996-1997, GARY KAPLAN relocated the gambling operations to Antigua, and then to Costa Rica, leaving certain aspects of the financial operations in Antigua. Through all these relocations, GARY KAPLAN and the other defendants always operated, and caused the operation of their primary revenue-producing business, illegal sports wagering, in the United States.

2. Among the first Internet gambling businesses operated by GARY KAPLAN was a computer-based sports book called the North American Sports Association International, or NASA, which evolved into BETonSPORTS.COM. GARY KAPLAN and the other defendants advertised BETonSPORTS.COM as the largest online wagering service in the world. BETonSPORTS.COM and the other gambling web sites operated by GARY KAPLAN and his co-defendants offered gamblers in the United States illegal wagering on professional and college football and basketball, as well as many other professional and amateur sporting events and contests. These Internet gambling web sites also advertised toll free telephone numbers for

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placing sports bets.

3. In July of 2004, BETONSPORTS PLC, a holding company, was incorporated under the laws of England and the United Kingdom. Defendant GARY KAPLAN, through a holding company called Boulder Overseas, retained approximately 44% of the BETONSPORTS PLC stock. In July of 2005, defendant GARY KAPLAN sold and caused the sale of 23,000,000 shares of BETONSPORTS PLC, retaining ownership of 15% of the BETONSPORTS PLC stock through Boulder Overseas.

The Defendants

4. Defendant GARY KAPLAN, also known as "Greg Champion" and "G," was the founder and primary operator of BETonSPORTS.COM and other Internet and telephone sports betting businesses.

5. Defendant NEIL SCOTT KAPLAN (hereafter "NEIL KAPLAN"), also known as "Scott Kaye," is defendant GARY KAPLAN'S brother. NEIL KAPLAN was an agent and/or employee of BETonSPORTS.COM, and, among other things, handled purchasing of goods and services.

6. Defendant LORI BETH KAPLAN MULTZ (hereafter "LORI KAPLAN MULTZ"), also known as "Beth," and "Beth Wilson," is GARY KAPLAN'S sister. LORI KAPLAN MULTZ was an employee and/or agent of BETonSPORTS.COM, who, among other things, arranged for advertising of the gambling web sites and telephone services.

7. Defendant DAVID CARRUTHERS was the Chief Executive Officer of BETonSPORTS.COM, and a Director of BETONSPORTS PLC.

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8. Defendant PETER WILSON was the Media Director for BETonSPORTS.COM.

9. Defendant NORMAN STEINBERG, also known as "Tom Miller" and "David Norman" owned and operated, with defendant GARY KAPLAN, a number of Internet and telephone service gambling web sites, collectively known as the Millennium Group.

10. Defendant TIM BROWN, also known as "Matt Brown," is NORMAN STEINBERG's son-in-law, and, among other things, was an employee and/or agent of the Internet gambling web sites in the Millennium Group.

11. Defendants MOBILE PROMOTIONS, INC., DIRECT MAIL EXPERTISE, INC., and DME GLOBAL MARKETING & FULFILLMENT (referred to in a group as "the Lenis Companies"), were all Florida corporations, which operated cooperatively and shared use of bank accounts and financing. These companies provided promotional services to the illegal gambling web sites and telephone services operated by GARY KAPLAN and the other defendants.

12. Defendant WILLIAM HERNAN LENIS was an owner, officer and operator of the Lenis Companies.

13. Defendant WILLIAM LUIS LENIS is the son of WILLIAM HERNAN LENIS, and was an officer and operator of the Lenis Companies.

14. Defendant MONICA LENIS is the daughter of WILLIAM HERNAN LENIS, and was an officer and operator of the Lenis Companies.

15. Defendant MANNY GUSTAVO LENIS is the nephew of WILLIAM HERNAN LENIS, and was an employee of the Lenis Companies.

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16. Defendant BETONSPORTS PLC is a publicly owned and traded holding company. BETONSPORTS PLC owned and operated BETonSPORTS.COM and other Internet and telephone sports gambling businesses operated illegally in the United States.

The Enterprise

17. At least as early as 1992, and through the date of the filing of this Indictment, defendants GARY KAPLAN, NEIL KAPLAN, LORI KAPLAN MULTZ, DAVID CARRUTHERS, PETER WILSON, NORMAN STEINBERG, TIM BROWN, WILLIAM HERNAN LENIS, WILLIAM LUIS LENIS, MONICA LENIS, MANNY GUSTAVO LENIS, BETONSPORTS PLC, DIRECT MAIL EXPERTISE, INC., DME GLOBAL MARKETING FULFILLMENT & DISTRIBUTION, INC., MOBILE PROMOTIONS, INC. and others, known and unknown, constituted an "enterprise" (hereafter referred to as the "KAPLAN GAMBLING ENTERPRISE," or the "ENTERPRISE"), as defined by Title 18, United States Code, § 1961(4); that is, a group of entities and individuals associated in fact. The KAPLAN GAMBLING ENTERPRISE constituted an ongoing organization, whose members functioned as a continuing unit, for the common purpose of achieving the objectives of the ENTERPRISE. The ENTERPRISE was engaged in, and its activities affected, interstate and foreign commerce.

18. The KAPLAN GAMBLING ENTERPRISE operated a number of Internet web sites, hosted on servers located outside the United States, that did business in the United States by, among other things, offering, facilitating and conducting unlawful computer and telephone service based sports betting, and other forms of gambling. The KAPLAN GAMBLING ENTERPRISE caused the operation of toll-free telephone services to facilitate sports gambling, and take sports bets. THE KAPLAN GAMBLING ENTERPRISE created and disseminated false and fraudulent

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advertising for its Internet gambling businesses throughout the United States.

19. In addition to the named defendants, members, associates and facilities of the KAPLAN GAMBLING ENTERPRISE included legal entities incorporated in the United States and other countries around the world. Some of these entities provided services to or otherwise supported the ENTERPRISE. The ENTERPRISE owned and controlled or had contractual rights entitling it to control domain names used to identify web sites that provided illegal gambling in the United States, or otherwise aided and abetted the ENTERPRISE's operations. These include:

(a) legal entities that operated as fronts for or supporters of the ENTERPRISE, and entities whose funding and services benefitted the ENTERPRISE's goals, included but were not limited to: BetonSports (Panama) S.A.; BetonSports (Costa Rica) S.A.; BetonSports (Antigua) Ltd. S.A.; BetonSports.com Ltd.; NASA International, Inc.; NASA Sports Books, Inc.; Millennium Sports; Mill Sports; Inversiones Millennium I y M S.A.; Corporacion Moishe; B. Holdings, Inc.; Boulder Investment; Brentail Internacional S.A.; J.S.I. Jaguar Sports International S.A.; Fergrant International S.A.; Lansford Inc.; Sports on the Internet, Ltd.; Gibraltar Sports Corp.; Infinity Sports International Corp.; Rock Island, Inc.; Bettors Trust; Best Line Sports; MVP; I Q Ludorum; Domain Choices; the International Sportsbook Council (ISBC) and the Offshore Gaming Association (OSGA).

(b) Corporate entities owned and/or controlled by ENTERPRISE members, included, but were not limited to, World Wide Credit; Barrio Holdings; Iguana Azul S.A.; Insiders Publishing; and Boulder Overseas.

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(c) Entities operated under Internet-associated brand or trade names belonging to or controlled by ENTERPRISE members, included but were not limited to: BETonSPORTS.COM (also known as BetonSports, BetonSports.com and BoS.com); BoS; Bestline Sports International; betmill.com; BetonFantasy.com; BetonSports.com; Bettorstrust.com; Blue Grass Sports; Gibraltar Sports; Infinity Sports International; Jagbet.com; MVP Bets.com; Millennium Sports; NASA International Sportsbook; Rock Island Sports; and Wagermall.com.

(d) Domain names currently and formerly used to operate web sites owned and controlled by ENTERPRISE members, or otherwise used by or related to the ENTERPRISE, included but were not limited to those listed in Attachment A, and herein incorporated by reference.

20. A principal goal of the KAPLAN GAMBLING ENTERPRISE was to make money for the ENTERPRISE, its employees, members and associates, by maximizing the number of individuals in the United States who opened wagering accounts and used those accounts to place illegal bets on sports and sporting events with ENTERPRISE-controlled telephone service and Internet gambling web sites. It was also a goal of the ENTERPRISE to make money by maximizing the number of individuals residing in the United States who opened wagering accounts and gambled on casino-type games offered on ENTERPRISE-controlled Internet web sites.

21. Another goal of the KAPLAN GAMBLING ENTERPRISE was to evade the payment of federal wagering excise taxes due to the United States from the employees, members and associates of the ENTERPRISE.

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The Racketeering Conspiracy

22. Beginning no later than 1992 and continuing to the present, within the Eastern District of Missouri and elsewhere, defendants

GARY STEPHEN KAPLAN, also known as "Greg Champion;"
NEIL SCOTT KAPLAN, also known as "Scott Kaye;"
LORI BETH KAPLAN MULTZ; also known as "Beth;"
DAVID CARRUTHERS;
PETER WILSON;
NORMAN STEINBERG, also known as "Tom Miller" and "David Norman;"
TIM BROWN, also known as "Matt Brown;"
WILLIAM HERNAN LENIS, also known as "Bill Lenis";
WILLIAM LUIS LENIS, also known as "Will Lenis";
MANNY GUSTAVO LENIS;
MONICA LENIS;
BETONSPORTS PLC, its predecessors, holding companies, and associated entities,
DIRECT MAIL EXPERTISE, a Florida corporation, its predecessors and successors;
DME GLOBAL MARKETING & FULFILLMENT, INC., a Florida corporation, its predecessors and successors;
MOBILE PROMOTIONS, INC., a Florida corporation, its predecessors and successors,

together with other persons known and unknown, being persons employed by and associated with the KAPLAN GAMBLING ENTERPRISE, which engaged in, and the activities of which affected, interstate and foreign commerce, knowingly and intentionally conspired to violate Title 18, United States Code, § 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of the ENTERPRISE through a pattern of racketeering activity consisting of multiple acts in violation of statutes in Missouri [Mo. Rev. Stat. §§ 572.020 and 572.030]; Florida [Fla. Stat. ch. 849.25]; New York [N.Y.Gen. Oblig. § 5-401 and N.Y. Penal § 225.10]; New Jersey [N.J. Stat. Ann. §2C:37-2]; Washington [Wash. Rev. Code §§ 9.46.220 to 221; and 9.46.180] and Illinois [720 Ill. Comp. Stat. 5/28-1(a)(11)], and multiple acts indictable under:

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(a) 18 U.S.C. § 1084 (the Wire Wager Act);

(b) 18 U.S.C. § 1341 (Mail Fraud);

(c) 18 U.S.C. § 1343 (Wire Fraud);

(d) 18 U.S.C. § 1952 (Interstate travel in aid of a Racketeering Enterprise);

(e) 18 U.S.C. § 1955 (Operation of an Illegal Gambling Business);

(f) 18 U.S.C. § 1953 (Interstate transportation of Gambling Paraphernalia); and

(g) 18 U.S.C. § 1956 (Money Laundering).

23. It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the ENTERPRISE.

Manner, Method and Means of the Racketeering Conspiracy

24. It was part of the conspiracy that the ENTERPRISE operated Internet web site and telephone gambling services from facilities physically located in San Jose, Costa Rica. The ENTERPRISE took wagers almost exclusively from gamblers in the United States. BETonSPORTS.COM promotional media materials, prepared and distributed by the ENTERPRISE, stated that in 2003, BETonSPORTS.COM had 100,000 active players, who placed 33 million wagers, worth over $1.6 billion dollars through the BETonSPORTS.COM web site. BETonSPORTS.COM promotional media materials prepared and distributed by the ENTERPRISE stated that in 2004, BETonSPORTS.COM had more than 2,000 inbound telephone lines, computer servers capable of handling 5,600 simultaneous web transactions, and more than 2,000 employees during peak gambling times such as the months preceding the Superbowl and March Madness. BETonSPORTS.COM promotional media materials publicly available in 2004 and 2005 stated that BETonSPORTS.COM had a state-of- the-art network infrastructure, and offered illegal Internet

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and telephone service gambling through sportsbooks, an online casino, and "proposition" bets. BETonSPORTS.COM promotional media materials available in 2004 and 2005 stated that the web site took in an average of 63 bets per minute, "24/7/52," 98 percent of which came from bettors in the United States. All wagering originating in the United States which occurred on ENTERPRISE web sites and telephone services was illegal under federal law.

25. It was part of the conspiracy that in order to increase traffic and wagering on ENTERPRISE web sites and telephone services, the KAPLAN GAMBLING ENTERPRISE targeted U.S. gamblers, even though soliciting and accepting bets placed on sports and sporting events using interstate wire communications facilities was and is illegal in the United States, except where specifically authorized by federal law. The ENTERPRISE spent millions of dollars in the United States, advertising ENTERPRISE-controlled Internet web sites and telephone services in magazines, sports annuals and other sports publications, on sports radio, and on television.

26. It was part of the conspiracy that the KAPLAN GAMBLING ENTERPRISE operated various illegal gambling businesses. The ENTERPRISE conducted illegal Internet and telephone gambling operations throughout the United States, in violation of the laws of the United States. The KAPLAN GAMBLING ENTERPRISE solicited millions of illegal bets on sports and sporting events from gamblers in the United States, twenty four hours a day, three hundred and sixty five days a year. These bets, and information related to illegal bets placed with the KAPLAN GAMBLING ENTERPRISE-controlled entities, were transmitted via interstate and international telephone lines, and computers connected to the Internet.

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27. It was part of the conspiracy to develop a scheme to defraud gamblers in the United States, by inviting, inducing and persuading them to place bets with the KAPLAN GAMBLING ENTERPRISE through its various Internet web sites and telephone lines. As part of the scheme, the members and associates of the KAPLAN GAMBLING ENTERPRISE created and disseminated advertising throughout the United States, which falsely stated that Internet and telephone gambling on sporting events and contests was "legal and licensed." The KAPLAN GAMBLING ENTERPRISE concealed the fact that the multiple web sites and telephone services through which it offered sports and casino style gambling were all owned and operated by the ENTERPRISE, and used to conduct the ENTERPRISE's illegal gambling businesses that were in fact not legal or licensed in the United States.

28. As part of the scheme to defraud, the KAPLAN GAMBLING ENTERPRISE used the United States mail system to deliver its fraudulent print advertising, and to cause bettors in the United States to send money to ENTERPRISE-controlled entities for the purpose of placing illegal bets. The KAPLAN GAMBLING ENTERPRISE used radio and television to deliver fraudulent advertising, through broadcasts and cable casts in and across the United States.

29. As part of the scheme to defraud, the KAPLAN GAMBLING ENTERPRISE controlled, in whole or in part, two entities called the Offshore Gaming Association ("OSGA") and the International Sportsbook Council ("ISBC"). The OSGA and the ISBC were advertised and represented to gamblers in the United States as independent watchdog agencies, whose purpose was to monitor online gambling to protect the wagering public. The ENTERPRISE actually used the OSGA and ISBC web sites to direct U.S. gamblers to ENTERPRISE-controlled web and telephone gambling sites, and to inhibit loss of funds to the ENTERPRISE that might otherwise

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occur due to customer complaints or disputes.

30. It was part of the scheme to defraud and the conspiracy that the members and agents of the KAPLAN GAMBLING ENTERPRISE instructed individuals in the United States to send, or cause money to be sent to the ENTERPRISE, for the purpose of opening one or more gambling accounts. The ENTERPRISE instructed these individuals to send the money, intended to be used to place illegal wagers, to a named recipient other than directly to the ENTERPRISE web site or telephone line.

31. Another part of the conspiracy was to have the members and associates of the KAPLAN GAMBLING ENTERPRISE use interstate and international telephone and computer wire communications to illegally accept and record millions of sports wagers from gamblers in the United States, and to transmit information facilitating the acceptance of illegal wagers by KAPLAN GAMBLING ENTERPRISE web sites and gambling telephone services.

32. It was also part of the conspiracy that members and associates of the KAPLAN GAMBLING ENTERPRISE traveled and communicated across State and national borders, in aid of the ENTERPRISE and its operations, and purchased products and services in the United States, and caused them to be shipped to Costa Rica, and other locations outside the U.S. where the ENTERPRISE had physical facilities.

33. It was also part of the conspiracy that the members and associates of the KAPLAN GAMBLING ENTERPRISE transported gambling equipment across State and national borders, in aid of the ENTERPRISE and its operations.

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34. Another component of the conspiracy was to have the members and associates of the KAPLAN GAMBLING ENTERPRISE launder money received by the ENTERPRISE in the form of illegal wagers and fees.

35. It was part of the conspiracy that the ENTERPRISE, its members and associates, used the U.S. and private mail services and wire transfer services to send money from ENTERPRISE components outside the United States to various recipients in the United States, and from the United States to recipients outside the United States, and between locations in the United States, in order to promote the ENTERPRISE's illegal telephone and Internet gambling operations.

Overt Acts

36. In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, the defendants and their co-conspirators, committed, among others, the following acts within the Eastern District of Missouri and elsewhere:

(1) On or about January 31, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium Sportsbook, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with Millennium Sportsbook. The instructions stated that the money was to be sent from the United States to "Rod Jones" in Ecuador.

(2) On or about February 6, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Gibraltar Sportsbook, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with Gibraltar Sportsbook. The instructions stated that the money was to be sent from the United States to "Thomas Navas" in Ecuador.

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(3) On or about February 12, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called NASA, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with NASA. The instructions stated that the money was to be sent from the United States to "David Allen" in Belize.

(4) On or about March 8, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Gibraltar Sports, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with Gibraltar Sports. The instructions stated that the money was to be sent from the United States to "Jerry Moore" in Ecuador.

(5) On or about March 8, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with Millennium. The instructions stated that the money was to be sent from the United States to "Kevin Green" in Ecuador.

(6) On or about March 12, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium Sportsbook, and transmitted to potential and actual bettors in the Eastern District of Missouri, instructions for opening a wagering account with Millennium. The instructions stated that the money was to be sent from the United States to "Paul Rogers" in Ecuador.

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(7) On or about March 13, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium Sports, and accepted an account inquiry via a telephone and Internet communication to an ENTERPRISE controlled Internet web site with the domain name of bet.wagermillennium.com.

(8) On or about April 25, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Gibraltar Sports, and accepted a sports wager via a telephone and Internet communication to an ENTERPRISE-controlled Internet web site with the domain name of bettherock.com.

(9) On or about April 25, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium Sports, and accepted a sports bet via a telephone and Internet communication to an ENTERPRISE-controlled Internet web site with the domain name of millsports.com.

(10) On or about June 12, 2002, the KAPLAN GAMBLING ENTERPRISE operated a telephone service and Internet gambling web site called Millennium Sports, and accepted a request via telephone to withdraw money from a wagering account held by the KAPLAN GAMBLING ENTERPRISE.

(11) Between September 1 and October 30, 2003, the KAPLAN GAMBLING ENTERPRISE mailed brochures, magazines, coupons and flyers mailed from an address in Miami, Florida, to 12430 Tesson Ferry Road, St. Louis, Missouri.

(12) Between August 2002 and September 2003, the KAPLAN GAMBLING ENTERPRISE caused fraudulent radio advertisements to be broadcast by radio stations across the country.

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(13) Between October 2001 and January 2002, the KAPLAN GAMBLING ENTERPRISE arranged for the telecast of a fraudulent television advertisement stating that its gambling telephone services and web sites were "legal and licensed."

(14) Between 2001 and the date of this Indictment, the KAPLAN GAMBLING ENTERPRISE transported and caused the transportation of gambling paraphernalia across state boundaries, and used the equipment to induce individuals to open betting accounts with various ENTERPRISE-controlled Internet sports gambling web sites.

(15) On or about November 24, 2003, defendant David Carruthers traveled to New York City, and met with employees of a media relations firm used by the ENTERPRISE to promote its operations.

(16) On or about February 20, 2004, employees, owners or agents of the Lenis Group of companies and employees and agents of the ENTERPRISE arranged for the shipment, from Miami, Florida to Costa Rica, of two automobiles, purchased with funds provided by the KAPLAN GAMBLING ENTERPRISE, for use by the ENTERPRISE.

(17) On or about September 6, 2000, the KAPLAN GAMBLING ENTERPRISE caused a check in the amount of $99,620.00 to be made out by American Media Communications, payable to One-on-One Sports, for the purchase of advertising for ENTERPRISE-controlled Internet gambling web sites on radio broadcasts.

(18) On or about December 11, 2000, the KAPLAN GAMBLING ENTERPRISE caused a check in the amount of $100,000 to be sent to Standard Register Company, to purchase services related to direct mail advertising of ENTERPRISE-controlled Internet gambling web sites.

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(19) On or about April 11, 2001, the KAPLAN GAMBLING ENTERPRISE caused a check in the amount of $109,903.39 to be sent to Standard Register Company, to purchase services related to direct mail advertising of ENTERPRISE-controlled Internet gambling web sites.

(20) On or about September 2, 2003, the KAPLAN GAMBLING ENTERPRISE caused $90,000.00 to be sent from a bank located outside the United States via a wire transfer, to a bank account controlled by defendant DME GLOBAL located in Florida, to purchase advertising/promotional services on behalf of ENTERPRISE-controlled Internet gambling web sites.

(21) On or about August 4, 2004, the KAPLAN GAMBLING ENTERPRISE caused $61,962.00 to be sent from a bank located outside the United States via a wire transfer, to a bank account controlled by defendant DME GLOBAL located in Florida, to purchase advertising/promotional services on behalf of ENTERPRISE-controlled Internet gambling web sites.

(22) On or about December 28, 2005, BETONSPORTS PLC purchased three online sports books; MVPSportsbook, Player Super Book and V-Wager.

(23) On or about April 12, 2006, BETONSPORTS PLC owned web site BETonSPORTS.COM solicited and accepted wagers from an individual residing in the State of Washington, in violation of that State's laws.

All in violation of Title 18, United States Code, § 1962(d).

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COUNT 2
(Scheme to Defraud - Mail)

37. The Grand Jury re-alleges paragraphs 25, 27 and 28 above, and further charges that on or about September 1 to October 30, 2003, in the Eastern District of Missouri and elsewhere, defendants BETONSPORTS PLC and DME GLOBAL MARKETING AND FULFILLMENT, INC, for the purpose of executing and attempting to execute the scheme to defraud, did knowingly cause to be delivered by mail, from Miami, Florida, to 12430 Tesson Ferry Road, St. Louis, Missouri, brochures, magazines, coupons and flyers, all in violation of Title 18, United States Code, §§ 1341 and 2.

COUNTS 3 to 12
(Use of a Communications Facility to Transmit Bets and Betting Information)

38. The Grand Jury re-alleges paragraphs 18, 26 and 31 above, and further charges that, on or about the dates listed below, in the Eastern District of Missouri and elsewhere, defendants GARY KAPLAN and NORMAN STEINBERG, and others known and unknown, being engaged in the business of betting and wagering, did knowingly use and cause the use of a wire communication facility, for the transmission in interstate and foreign commerce, between the State of Missouri and the country of Costa Rica, wagers on sporting events and contests, information assisting in the placing of bets and wagers on sporting events and contests, and a wire communication which entitled the recipient to receive money and credit as a result of bets and wagers, and information assisting in the placing of bets and wagers, in violation of Title 18, United States Code, §§ 1084 and 2.

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Count	Date	Recipient	Defendant(s)	Communication
3	Jan 31, 2002	Millennium Sportsbook	GARY KAPLAN & NORMAN STEINBERG	Call to 800-824-1637 transmitted instructions on opening a wagering account and instructions to send money to "Rod Jones" in Ecuador.
4	Feb. 6, 2002	Gibraltar Sportsbook	GARY KAPLAN & NORMAN STEINBERG	Call to 800-582-1381 transmitted instructions on opening a wagering account and instructions to send money to "Thomas Navas" in Ecuador.
5	Feb. 12, 2002	NASA	GARY KAPLAN	Call to 888-999-9238 transmitted instructions on opening a wagering account and instructions to send money to "David Allen" in Belize.
6	Mar. 8, 2002	Gibraltar Sports	GARY KAPLAN & NORMAN STEINBERG	Call to 800-582-1381 confirmed instructions to send money to "Jerry Moore" in Ecuador.
7	Mar. 8, 2002	Millennium	GARY KAPLAN & NORMAN STEINBERG	Call to 800-824-1637 transmitted instructions to send money to "Kevin Green" in Ecuador.
8	Mar. 12, 2002	Millennium Sportsbook	GARY KAPLAN & NORMAN STEINBERG	Call to 800-593-2915 transmitted instructions to send money to "Paul Rogers" in Ecuador.
9	Mar. 13, 2002	Millennium Sports	GARY KAPLAN & NORMAN STEINBERG	Internet communication to bet.wagermillennium.com confirmed account balance.
10	April 25, 2002	Gibraltar Sports	GARY KAPLAN & NORMAN STEINBERG	Internet communication to bettherock.com transmitted a bet.
11	April 25, 2002	Millennium Sports	GARY KAPLAN & NORMAN STEINBERG	Internet communication to millsports.com transmitted a bet.
12	June 12, 2002	Millennium Sports	GARY KAPLAN & NORMAN STEINBERG	Call to 800-824-1637 requested withdrawal of money from wagering account.

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COUNT 13
(Interstate Transportation of Gambling Paraphernalia)

39. The Grand Jury re-alleges paragraph 33 above, and further charges that on or about October 20, 2002, in the Eastern District of Missouri and elsewhere, defendants GARY KAPLAN, WILLIAM HERNAN LENIS, MONICA LENIS, MOBILE PROMOTIONS, INC. and others known and unknown, knowingly did carry and send in interstate commerce, from the State of Florida to the State of Missouri, laptop computers and software, used, and to be used and adapted, devised and designed for use in bookmaking, all in violation of Title 18, United States Code, §§ 1953 and 2

COUNT 14
(Tax Evasion)

40. The Grand Jury further charges that, in the Eastern District of Missouri and elsewhere:

During the time period from on or about January 29, 2001 to on or about February 3, 2002, BETonSPORTS.COM, BetonSports (Antigua), Millennium, Jaguar, Infinity, and Gibraltar, entities doing business in the United States, had and received taxable wagers in the sum of approximately $1,094,669,000.00; and defendant GARY KAPLAN, who owned and controlled BETonSPORTS.COM, BetonSports (Antigua), Millennium, Jaguar, Infinity, and Gibraltar, well-knowing and believing the foregoing facts, did willfully attempt to evade and defeat the said wagering excise tax due and owing by GARY KAPLAN, as the owner and operator of BETonSPORTS.COM, BetonSports (Antigua), Millennium, Jaguar, Infinity, and Gibraltar, to the United States of America for said time period, by failing to make any wagering excise tax returns on or before the last day of the month following the month the wagers were accepted, as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal

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Revenue Service said wagering excise tax, and by directing that the wagering funds be sent outside the United States, all in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code, Section 2.

COUNT 15
(Tax Evasion)

41. The Grand Jury further charges that, in the Eastern District of Missouri, and elsewhere:

During the time period from on or about February 4, 2002 to on or about February 2, 2003, BETonSPORTS.COM, BetonSports (Antigua), Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall, entities doing business in the United States, had and received taxable wagers in the sum of approximately $1,228,874,000.00; and defendant GARY KAPLAN, who owned and controlled BETonSPORTS.COM, BetonSports (Antigua), Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall, well-knowing and believing the foregoing facts, did willfully attempt to evade and defeat the said wagering excise tax due and owing by GARY KAPLAN as the owner and operator of BETonSPORTS.COM, BetonSports (Antigua),Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall to the United States of America for said time period, by failing to make a wagering excise tax return on or before the last day of the month following the month wagers were accepted, as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said wagering excise tax, and by causing and directing that the wagering funds be sent outside the United States, all in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code, Section 2.

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COUNT 16
(Tax Evasion)

42. The Grand Jury further charges that, in the Eastern District of Missouri, and elsewhere:

During the time period from on or about February 3, 2003 to on or about February 1, 2004, BETonSPORTS.COM, BetonSports (Antigua), Bettorstrust, Rockisland, Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall, entities doing business in the United States, had and received taxable wagers in the sum of approximately $1,235,374,000.00; and defendant GARY KAPLAN, who owned and controlled BETonSPORTS.COM, BetonSports (Antigua), Bettorstrust, Rockisland, Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall, well-knowing and believing the foregoing facts, did willfully attempt to evade and defeat the said wagering excise tax due and owing by GARY KAPLAN as the owner and operator of BETonSPORTS.COM, BetonSports (Antigua), Bettorstrust, Rockisland, Jaguar, MVP, Millennium, Gibraltar, Infinity and Wagermall to the United States of America for said time period, by failing to make wagering excise tax returns on or before the last day of the month following the month the wagers were accepted, as required by law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal Revenue Service said wagering excise tax, and by causing and directing that the wagering funds be sent outside the United States, all in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code, Section 2.

COUNTS 17 to 22
(Interference With Administration of Revenue Laws)

43. On or about the dates listed below, in the Eastern District of Missouri and elsewhere, defendants GARY KAPLAN, NORMAN STEINBERG and others known and unknown, did corruptly obstruct and impede and endeavor to obstruct and impede the due administration of the

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internal revenue laws by directing that money for opening and funding sports wagering accounts, sent from the United States to unlawful Internet and telephone service gambling businesses located outside the United States, be directed to a third party recipient, all in violation of Title 26, United States Code, Section 7212(b), and Title 18, United States Code, Section 2, as follows:

COUNT 17 - January 31, 2002, Millennium Sportsbook employees gave instructions to an individual in the United States to send money to "Rod Jones" in Ecuador.

COUNT 18 - February 6, 2002, Gibraltar Sportsbook employees gave instructions to an individual in the United States to send money to open a wagering account to "Thomas Navas" in Ecuador.

COUNT 19 - February 12, 2002, NASA Sportsbook employees gave instructions to an individual in the United States to send money to open a wagering account to "David Allen" in Belize City.

COUNT 20 - March 8, 2002, Gibraltar Sportsbook employees gave instructions to an individual in the United States to send money to open an wagering account to "Jerry Moore" in Ecuador.

COUNT 21 - March 8, 2002, Millennium Sportsbook employees gave instructions to an individual in the Untied States to send money to "Kevin Green" in Quito, Ecuador.

COUNT 22 - March 12, 2002, Millennium Sportsbook employees gave instructions to an individual to send money to "Paul Rogers" in Ecuador.

RICO FORFEITURE

44. The allegations contained in Count 1 of this Indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging

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forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963. Pursuant to Rule 32.2, Fed. R. Crim. P., notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 1963 in the event of any defendant's conviction under Count 1 of this Indictment.

45. The defendants,

GARY STEPHEN KAPLAN, also known as "Greg Champion;"
NEIL SCOTT KAPLAN, also known as "Scott Kaye;"
LORI BETH KAPLAN MULTZ; also known as "Beth;"
DAVID CARRUTHERS;
PETER WILSON;
NORMAN STEINBERG, also known as "Tom Miller and "Dave Brown;"
TIM BROWN, also known as "Matt Brown;"
WILLIAM HERNAN LENIS, also known as "Bill Lenis";
WILLIAM LUIS LENIS, also known as "Will Lenis";
MANNY GUSTAVO LENIS;
MONICA LENIS;
BETONSPORTS PLC, its predecessors, holding companies, and associated entities;
DIRECT MAIL EXPERTISE, a Florida corporation, its predecessors and successors;
DME GLOBAL MARKETING & FULFILLMENT, INC., a Florida corporation, its predecessors and successors; and
MOBILE PROMOTIONS, INC., a Florida corporation, its predecessors and successors;

i. have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

ii. have an interest in, security of, claims against, and property and contractual rights which afford a source of influence over, the ENTERPRISE named and described herein which the defendants established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, which interests, securities, claims, and rights are subject to forfeiture to the United States pursuant to Title 18, United States Code,

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Section 1963(a)(2);

iii. have property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3),

46. The interests of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), include but are not limited to:

a. at least $4.5 billion dollars;
Recreational vehicle with VIN number 5B4MP67G023338413;
Recreational vehicle with Florida license tag number S53-8XW;
Recreational vehicle with Florida license tag number S79-7KJ;
PT Cruiser with VIN number 3C8FY4BB41T586360;
PT Cruiser registered to Mobile Promotions or William Lenis;
PT Cruiser with Florida license tag number V65-TAG;
Humvee with serial number 5GRGN23US4H116407;
Humvee with serial number 5GRGN23US74H120068;
Vehicle trailer VIN number 4DFTS10122N050735
Dell Latitude laptop computer, serial number 25633081;
Gateway laptop computer, serial number 0027465903;
Gateway laptop computer serial number 0015533205;
Gateway laptop computer serial number 002804106; and
Sprint cell phone assigned number 305-527-6674, forfeitable pursuant to Title 18, United States Code, Sections 1963(a)(1) and 1963(a)(3);

b. all right, title and interest in BETONSPORTS PLC and its subsidiaries and affiliates identified in paragraph 17 of this Indictment, forfeitable as each convicted defendant's interest in the ENTERPRISE pursuant to Title 18, United States Code, Section 1963(a)(2)(A);

c. all right, title and interest in those entities identified in paragraph 19 of this Indictment, forfeitable as each convicted defendant's interest in the ENTERPRISE pursuant to Title 18, United States Code, Section 1963(a)(2)(D);

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47. If any of the property described in paragraphs (ii) and (iii) above, as a result of any act or omission of a defendant --

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendants up to the value of any property set forth in paragraphs 45 and 46 above.

48. The above-named defendants, and each of them, are jointly and severally liable for the forfeiture obligations as alleged above.

All pursuant to Title 18, United States Code, Section 1963.

A TRUE BILL

FOREPERSON

CATHERINE L. HANAWAY
UNITED STATES ATTORNEY

MICHAEL K. FAGAN #6617
Assistant United States Attorney

MARTY WOELFLE AZ Bar #009363
Trial Attorney
Organized Crime and Racketeering Section

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:06CV01064 CEJ
	)	
BETONSPORTS PLC,	)	
	)	
Defendant.	)	
	)	

TEMPORARY RESTRAINING ORDER,

This cause coming on to be heard on Plantiffs' Motion for Temporary Restraining Order, Plaintiff having appeared *ex parte*, and the court having been duly advised in the premises,

This Court finds:

1) Plaintiff has demonstrated that it is likely to succeed on the merits of its claims.

2) Plaintiff will suffer irreparable harm in the absence of a temporary restraining order.

3) Plaintiff will suffer more harm if temporary injunctive relief is not granted than Defendants will suffer if such temporary injunctive relief is granted. There is no evidence that defendant will suffer any unjust damage as a result of a temporary suspension of its illegal business in the United States. The case will be heard and adjudicated on an expedited basis to reduce any potential harm to Defendant.

4) Injunctive relief is compatible with the public interest because Plaintiff is seeking to enforce laws that are designed to protect the public's interest.

Having considered the Plaintiff's "Complaint for a Temporary Restraining Order. . .and Other Equitable Relief;" the supporting "Affidavit of Det. Brian Mize and its Exhibits A, B and C' the "Plaintiff's Memorandum of Law in Support of its *ExParte* Motion for Temporary Restraining Order. . .'" and the "Declaration and Certification of U.S. Counsel Pursuant to Fed. R. Civ. P. 65(b). . .," it is hereby ORDERED and ADJUDGED that this Court's temporary restraining order shall issue and, until such time as a hearing shall be held within ten days of this date on Plaintiff's request for permanent injunctive relief, such hearing, to be scheduled upon the return to the District of U.S. District Judge Carol E. Jackson, to whom this case is assigned, this Court hereby ORDERS that:

A. the defendant, its agents, contractors and other entities having possession or control of the instrumentalities used by the defendant, its officers, employees, and all persons participating in or assisting in the defendant's operation are barred:

(1) from continuing to perpetrate the defendant's fraudulent scheme of operating an illegal gambling business through Internet web sites and telephone services in violation of 18 U.S.C. §§ 1341 & 1343;

(2) from continuing to operate or control or cause the operation of any web site that purports to offer sports betting, or transmit betting information in the United States;

(3) from continuing to operate or control or cause the operation of any telephone service that purports to offer sports betting, or transmit betting information in the United States;

(4) from soliciting and accepting wagers on sports and sporting events from persons in the jurisdiction of the United States;

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(5) from causing the transmission of wagering information using interstate and international wire communications facilities within the United States;

(6) from causing the transmission of funds solicited from persons in the United States for the purpose of placing wagers on sports and sporting events to the defendant and its agents outside the United States;

(7) from advertising, by any method, or in any media, or causing the advertising of any gambling activity which is in violation of United States law, specifically 18 U.S.C. § 1084 (the "Wire Wager Act");

(8) from transporting gambling paraphernalia, or causing the transportation of gambling paraphernalia in the United States, in violation of United States law, specifically 18 U.S.C. § 1952;

(9) from transferring or causing the transfer of funds to the United States, within the United States, or from the United States in violation of United States law, specifically 18 U.S.C. §§ 1956 and 1957; and

(10) from causing persons or items to move in interstate or foreign commerce within the United States in violation of United States law, specifically 18 U.S.C. §§ 1952 and 1953; and,

B. During the period that this temporary restraining order shall remain effective,

(1) the defendant is not to transfer, convert, encumber or sell any of the domain names listed on Exhibit A, attached to Detective Mize's Affidavit and herein incorporated by reference;

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(2) the registrars and registries, specifically Directnic, Register.com, GoDaddy.com and Network Solutions are not transfer, cancel, or otherwise make changes to the domain name registrations for any of the domain names listed in Exhibit A without explicit instructions from the Court;

(3) the defendant must inform the providers of telephone services listed in Exhibit C, attached to Detective Mize's Affidavit and herein incorporated by reference, that it is ceasing illegal operations in the United States, and that it will no longer accept wagers, or allow the transmission of betting information through interstate and foreign communication facilities in the U.S., such being and having been in violation of federal law;

(4) the defendant must return to the sender all funds in its possession received from persons in the United States, for the purpose of opening a sports betting wagering account;

(5) the defendant must set up a toll free telephone service for each web site it operates, to provide refund information to each person in the United States who has a wagering account with each web site operated by the defendant in the United States;

(6) the defendant must post, on each web site it operates that is accessible from the United States, the following message on its primary access page:

> **THIS WEB SITE DOES NOT ACCEPT WAGERS ON SPORTS OR SPORTING EVENTS FROM PERSONS IN THE UNITED STATES. IT IS A VIOLATION OF UNITED STATES LAW TO TRANSMIT SPORTS WAGERS OR BETTING INFORMATION TO THIS WEB SITE FROM THE UNITED STATES. IF YOU HAVE A WAGERING ACCOUNT WITH THE OPERATORS OF THIS WEB SITE, PLEASE CALL [TOLL FREE TELEPHONE NUMBER] TO ARRANGE A REFUND.**

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(7) the defendant must provide an automated message on each telephone wagering service it operates in the United States, stating the following:

> **THIS TELEPHONE SERVICE DOES NOT ACCEPT WAGERS ON SPORTS OR SPORTING EVENTS FROM PERSONS IN THE UNITED STATES. IT IS A VIOLATION OF UNITED STATES LAW TO TRANSMIT SPORTS WAGERS OR BETTING INFORMATION ON THIS TELEPHONE LINE. IF YOU HAVE A WAGERING ACCOUNT WITH THE OPERATORS OF THIS TELEPHONE LINE, HANG UP AND CALL [TOLL FREE TELEPHONE NUMBER] TO ARRANGE A REFUND.**

(8) the defendant must place the following statement as a full page advertisement in a newspaper of national U.S. circulation (*i.e., The Wall Street Journal* or *USA Today*];

> **BETONSPORTS PLC, WHICH OWNS AND OPERATES THE LISTED INTERNET WEB SITES AND TELEPHONE BETTING SERVICES [insert list], IS NO LONGER ACCEPTING WAGERS FROM PERSONS IN THE UNITED STATES. IT IS A VIOLATION OF UNITED STATES LAW TO TRANSMIT SPORTS WAGERS OR BETTING INFORMATION USING INTERSTATE OR INTERNATIONAL TELEPHONE LINES. IF YOU HAVE A WAGERING ACCOUNT WITH A BETONSPORTS PLC SPORTSBOOK OR TELEPHONE WAGERING SERVICE, PLEASE CALL [TOLL FREE TELEPHONE NUMBER] TO ARRANGE A REFUND.**

FURTHERMORE, this Court hereby

C. Orders the defendant, its agents, employees, attorneys, and all persons acting in concert and in participation with it to provide to the United States the following materials within seven (7) calendar days:

(1) a list of all financial institutions, including but not limited to banks and brokerage houses, at which the defendant currently maintains or has maintained savings, checking or other accounts during the previous five (5) years;

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(2) a list of all the names under which the defendant has operated in the United States, including the names of individual persons, entities and trademarks; and

(3) all business records relating to the scheme described in this Complaint and the attached Affidavit.

This order shall remain in effect for ten days unless otherwise ordered by the court.

SO ORDERED:

Honorable Catherine D. Perry
United States District Judge

Date: July 17, 2006
2:18 p.m.

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EXHIBIT A

007betonsports.com
1001nightcasino.com
100bets.com
100yardssportsbettingguide.com
105juice.com
105sports.com
123sportbet.com
123sportsbets.com
1800betonsports.com
1betstreet.com
1sportsaction.com
1webbet.com
2beteurosports.com
2betnasa.com
2betthenet.com
2eurobet.com
2ranksportsbook.com
2ratesports.com
2sportingbet.com
2sportswager.com
365wager.com
60minutesports.com
60minutessports.com
8889999bet.com
8889999bets.com
888999bets.com
999bets.com
999sportsbook.com
999wager.com
afootballcontest.com
aladinsports.com
amazingplays.com
apostadme.com
apostale.com
apostame.com
apostandoenlinea.com
apostandoitv.com
apostandole.com
apostandoles.com
apostaritv.com
apostarleitv.com
apostasemesportes.com
apostasxcelular.com
apostem.com
apuestamex.com
apuestascelulares.com
apuestasendeportes.com
apuestasitv.com
apuesteendeportes.com
apuesteitv.com
apuestele.com
apuestelecasino.com
apuesteleitv.com
asportingbet.com
baseball-betting-bonus.com
bestplacestobet.com
bet1st.com
betabetcr.com
bet-bets.com
betbos.com
betdunyasi.com
betelite.com
betfantasyonline.com
betgg.com
betherock.com
betinfinity.com
betinfinity.net
betmvp.com
betmvp.net
bet-nfl-games.com
beton168.com
betonamericanfootball.com
betonasa.com
betonbabes.com
betonbos.com
betoneurosports.com
betonevents.com
betonfantasy.com
betonfutebol.com
betongirls.com
betoninternet.com
betoninternet.net

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betonitv.com
betonjaguar.com
betonleague.com
betonleagues.com
betonlotto.com
betonmadness.com
betonmlb.net
betonmobiles.com
betonnasa.com
betonnascar.com
betonsport.net
bet-on-sports.biz
betonsports.com
betonsports.info
bet-on-sports.us
betonsports1.com
betonsports123.com
betonsports2.com
betonsports3.com
betonsportsasia.com
betonsportsasia.net
betonsportsasiacasino.com
betonsportscasino.com
betonsportselite.com
betonsportsflash.com
betonsportsitv.com
betonsportspoker.net
betonsportsq.com
betonsportsquick.com
betonsports-taxfree.com
betonsportstf.com
betonsportswager.com
betontrack.com
betsandbabes.com
betsandgirls.com
bets-football.com
betthecards.com
betthecup.com
betthefield.com
bettherock.com
bettherockpoker.biz
bettherockpoker.net
bettinginstitute.com
bettingitv.com
bettorsroom.com
bettorstrust.biz
bettorstrust.info
bettorstrust.org
bettorstrust1.com
bettorstrustcasino.com
bettrackodds.com
betus123.com
betwithbos.com
betwithnasa.com
bet-world-cup.com
betxtreme.com
bigbolasports.com
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bingo1st.com
bingoonitv.com
bitbets.com
bjudpasport.com
bos4fun.com
bosaffiliate.com
bosantigua.com
bosarcade.com
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bosblackjack.com
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boscasino.biz
boscasino.info
boscasino.net
boscasino.org
boscasino.us
boschallenge.com
bosdoom.com
boselite.com
bosflash.com
bosfootball.com
bosforfun.com
bosfun.com

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bosgaming.biz
bosgaming.com
bosgaming.info
bosgaming.net
bosgaming.org
bosgirls.com
bosgolf.com
bosgroups.com
boshockey.com
boshorses.com
bositv.com
bosjob.com
boslite.com
boslotto.com
bosmadness.com
bosmedia.com
bosmls.com
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bosnew.com
bosnfl.com
bosoccer.com
bosp2p.com
bosplay.com
bosplc.com
bospoker.biz
bospoker.net
bospokerclub.com
bospoolbetting.com
bospools.com
bosptop.com
bosquick.com
bosracebook.com
bosretro.com
bosrugby.com
bossitv.com
bos-soccer.com
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bossport.com
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bostravel.com
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bosunreal.com
bosverdicts.com
bosvip.com
bosvipclub.com
bosworldsoccer.com
bosxgames.net
brasilcassino.com
bsaux.com
bsaux.net
btgsport.com
cabaretcasino.com
casino-168.com
casinogiochi.com
casinogokspelen.com
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cyberloteria.com
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deporteapuestas.com
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deportesynoticias.com
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eurosportingbet.com
ez-shop-online.com
firstbet.us
football-bet-bets.com
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freebetoffers.com
freedailybet.com
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fullodds.com
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gamble168.com
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gamblingbycell.com
ganeloteria.com
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iwager2.com
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jagbet.info
jagbet.net
jagbet.org
jagbet.us
jag-casino-affiliate-program.com
jagpoker.com
jagpoker.net
jagpokerclub.com
jagpool.com
jagsportsbet.biz
jagsportsbet.info
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jagsportsbet.org
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juegamex.com
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juegapr.com
juegositv.com
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just4bingo.com
justfreepicks.com
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lines-football.com
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listadejuegos.com
loteriadeportiva.com
magicbet.com
magicbets.biz
magicbets.com
magicbets.info
magicbets.net
magicbets.org
magicbets.us
mainbettingsite.com
makeasportswager.com
marcaevinci.com
marchmdns.com
masterbettingsite.com
maximfootball.com
mensbets.com
mensbets.net
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millcasino.com
milleniumsportsbook.com
millpoker.com
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millsportsbook.com
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Monday-night-football.com
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movilapuestas.com
mundodeapuesta.com
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mvpcontest.com
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mvpsuperbook.net
mybetonsports.com
mygambligworld.com
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mynasasports.com
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nasagaming.com
nasainternational.com
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nasakasino.com
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nasasportgroup.com
nasasportinternational.com
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nasasports.net
nasasportsbook.com
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nasasportsbookgroup.com
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nasasportsinternational.com
nflbetsbetting.com
nflbettingbookie.com
nflbettingcontest.com
nflfootballwagering.com
nfl-game-bet.com
nflgamebetting.com
nflgameodds.com

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rockislandsports.info
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rockislandsports.org
rockpokerclub.com
sbcouncil.com
sbcouncil.net
sitesmasters.com
sporthits.biz
sporthits.com
sporthits.info
sporthits.org
sporthits.us
sporthustlers.com
sportingbetonline.com
sportontheinternet.com
sportsbook-bos.com
sportsbookcouncil.com
sportsbookitv.com
sportsbooksyndicate.com
sportshit.net
sportshustle.com
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stavkipomobilniku.com
stavkiporuski.com
stuff-zone.com
taiyuwunton.com
teeboxgolf.com
telerihane.com
the-cyberstore.net
thehorsebookie.com
thehoursebookie.com
the-superbowl.com
ticobet.com
tobetsports.com
truesportsbook.com
unitedcardroom.com
wager123.com
wageraffiliate.com
wageraffiliates.com
wagerfantasy.com
wagering-football.com
wagering-nfl.com
wageringworldcup.com
wageritv.com
wageroninternet.com
wageronitv.com
wageronsport.com
wagerplaza.com
wager-sports.com
wagersyndicate.com
wagerwizards.com
wageryes.com
wannabetfootball.com
wannamakeawager.com
wannapunt.com
wannasportsbook.com
wannawager.com

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wapwagering.com
webdomians.com
webet2.com
webplayers.com
wedopsporten.com
weltcupwettbewerb.com
weranksportbook.com
weranksportsbook.com
wettenmeister.com
wewager2.com
wheretwobet.com
winfantasy.com
winonlottery.com
worldbettingsite.com
worldcupbettinginc.com
worldcupbettingzone.com
worldcupkontesto.com
worldgamblingassociation.com
worldgamblingfederation.com
worldgamblingindex.com
worldgamingindex.com
worldsbestsportsbooks.com
xtremebet.com
zonajuegos.com

bestlinesports.com
playersb.com
playersportsbook.com
players-sb.com
players-sb.com
players-sb.net
players-superbook.com
playerssuperbook.net
playerssuperbook.org
playersuperbook.com
player-superbook.com
vbookmaker.com
v-bookmaker.com
vbookmaker.net
v-bookmaker.net

vbookmaker.org
v-bookmaker.org
virtualbookmaker.com
virtualbookmaker.net
v-sportsbook.com
v-wager.com
v-wager.net
v-wagering.com
v-wagers.com

osga.com
youwager.com
youwager.net

800betonsports.com
apostareninternet.com
bemill.biz
bemill.com
bemill.info
bemill.net
bemill.us
betbg.com
beteurosports.com
betextreme.com
betgibraltar.biz
betgibraltar.com
betgibraltar.info
betgibraltar.us
betinfinity.biz
bet-infinity.com
betinfinity.info
betinfinity.us
betinfinitysports.biz
betinfinitysports.info
betinfinitysports.us
betjag.com
betmil.biz
betmil.com
betmil.info
betmil.us
betmileniumsport.biz
bet-milenium-sport.biz

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betmileniumsport.us
bet-milenium-sport.us
bet-milennium-sport.biz
betmilenniumsport.us
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bet-milennium-sports.biz
betmilenniumsports.us
bet-milennium-sports.us
betmill.biz
betmill.com
betmill.info
betmill.net
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betmilleniumsport.biz
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et-millennium-sports.us
betmillnow.com
betmillsports.com
betoninternet.biz
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betoninternet.us
betonsport.biz
betonsport.com
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betonsports.biz
betonsportsfast.com
betonsportsquik.com
betonsportsretro.com
betonworldcupfootball.com
betonworldcupsoccer.com
betquik.com
bettherock.biz
bet-the-rock.biz
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firstpunt.com
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infinitypokerclub.com
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kasinospielen.com
ladybets.net
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millbet.com
mvpbets.com
mvpbets.net
nasacasino.biz
nasacasino.info
nasacasino.net
nasacasinos.com
nasacasinos.net
nasainternational.net
nasasports.us
noticasydeportes.net
parisfaciles.com
patyesingcasino.com
paysports.com
puntfirst.com
rihaneriyadi.com
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wagercase.com
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Image not available for this document, ID: 0.7.10316.48908-000004

Beach, Andrew

From: Beach, Andrew
Sent: Monday, July 17, 2006 5:19 PM
To: Gorsuch, Neil M
Subject: Pls call Andy Beach. 202 514 6333. urgent

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530
Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:35 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

Taled w crt and will be up to speed by tomorrow morning in case I am needed.

-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:19:04 2006
Subject: Pls call Andy Beach. 202 514 6333. urgent

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:37 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

If you happen to know could you let me know who else will be in attendance? Thanks.

-----Original Message-----
From: Gorsuch, Neil M
To: Beach, Andrew
Sent: Mon Jul 17 17:35:14 2006
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

Taled w crt and will be up to speed by tomorrow morning in case I am needed.

-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:19:04 2006
Subject: Pls call Andy Beach. 202 514 6333. urgent

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Beach, Andrew

From: Beach, Andrew
Sent: Monday, July 17, 2006 5:40 PM
To: Gorsuch, Neil M
Subject: RE: Pls call Andy Beach. 202 514 6333. urgent

I'll try and get a list of who is invited.
Participants invited to last Friday's principals meeting included: AG Gonzales, Wan Kim. Zinsmeister, Troy, Moreland, Bolten, Kaplan, Rove, Addington, Portman, Bartlett, Snow, Miers, Wolff, McGurn, Lazear

But they won't ever tell us who confirmed to attend.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:37 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

If you happen to know could you let me know who else will be in attendance? Thanks.

-----Original Message-----
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To: Beach, Andrew
Sent: Mon Jul 17 17:35:14 2006
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

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-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:19:04 2006
Subject: Pls call Andy Beach. 202 514 6333. urgent

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:41 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

That's helpful. Thanks.

-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:39:51 2006
Subject: RE: Pls call Andy Beach. 202 514 6333. urgent

I'll try and get a list of who is invited.
Participants invited to last Friday's principals meeting included: AG Gonzales, Wan Kim. Zinsmeister, Troy, Moreland, Bolten, Kaplan, Rove, Addington, Portman, Bartlett, Snow, Miers, Wolff, McGurn, Lazear

But they won't ever tell us who confirmed to attend.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:37 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

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-----Original Message-----
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To: Beach, Andrew
Sent: Mon Jul 17 17:35:14 2006
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Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:44 PM
To: Kim, Wan (CRT)
Subject: Fw: Pls call Andy Beach. 202 514 6333. urgent

Oag called this afternoon to ask me to attend this tomorrow. I'd appreciate any download you can share on the last mtg so I can be up to speed and faithfully carry your message. Am reviewing materials and meeting w rena and asheesh as well, but would benefit from your direction most of all.

-----Original Message-----
From: Gorsuch, Neil M
To: Beach, Andrew
Sent: Mon Jul 17 17:40:49 2006
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

That's helpful. Thanks.

-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:39:51 2006
Subject: RE: Pls call Andy Beach. 202 514 6333. urgent

I'll try and get a list of who is invited.
Participants invited to last Friday's principals meeting included: AG Gonzales, Wan Kim. Zinsmeister, Troy, Moreland, Bolten, Kaplan, Rove, Addington, Portman, Bartlett, Snow, Miers, Wolff, McGurn, Lazear

But they won't ever tell us who confirmed to attend.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 5:37 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

If you happen to know could you let me know who else will be in attendance? Thanks.

-----Original Message-----
From: Gorsuch, Neil M

From: Gorsuch, Neil M
To: Beach, Andrew
Sent: Mon Jul 17 17:35:14 2006
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

Taled w crt and will be up to speed by tomorrow morning in case I am needed.

-----Original Message-----
From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:19:04 2006
Subject: Pls call Andy Beach. 202 514 6333. urgent

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Monday, July 17, 2006 5:47 PM
To: Gorsuch, Neil M
Cc: Agarwal, Asheesh (CRT)
Subject: FW: AG memo
Attachments: AG NAACP memo.wpd; 07.10.06.Memo to Deputies re Civil Rights.doc; 06-27-06 Ltr to Sen Talent re S2679 Unsolved Civil Rights Crime Act.pdf

More to come, but this should be a good start.

From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 1:27 PM
To: Pacold, Martha M; Todd, Gordon (SMO); Fridman, Daniel (ODAG)
Cc: Comisac, Rena (CRT); Kim, Wan (CRT); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT)
Subject: FW: AG memo

Attached are the correct versions (sorry, apparently there were a few minor last minute changes).

AA

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 27, 2006

The Honorable Jim Talent
United States Senate
Washington, D.C. 20510

Dear Senator Talent:

This letter presents the views of the Department of Justice on S. 2679, the "Unsolved Civil Rights Crime Act." The Department strongly supports the important legislative goals of the bill.

S. 2679 would charge the Department to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The Department believes that racially motivated murders from the civil rights era constitute some of the greatest blemishes upon our history. In fact, the Civil Rights Unit of the FBI currently is in the process of introducing a new initiative to address these types of cases. S. 2679 is a substantial step forward in helping to bring closure to a number of these tragic incidents that remain unsolved.

The Department believes that the Federal government can and does have an important role to play in these cases. For example, while concluding that a Federal prosecution for the 1955 murder of Emmett Till was barred, the Civil Rights Division, the United States Attorney's Office for the Northern District of Mississippi, and the FBI formed a task force with local law enforcement and the State prosecutor to investigate this crime. After an exhaustive investigation, a detailed report has been prepared for the State prosecutor's use in determining whether to seek State charges. The Department has provided similar assistance to State and local officials in other civil rights era investigations and prosecutions, including the 1963 bombing of the 16th Street Baptist Church in Birmingham, Alabama, which resulted in the deaths of four young African-American girls, the 1967 murder of Wharleston Jackson in Natchez, Mississippi, and the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

In addition to our support for the goals of S. 2679, we also offer three recommendations to improve its effectiveness: First, the bill should establish an "Unsolved Crimes Unit" within the Criminal Section of the Civil Rights Division. The Criminal Section and the FBI have handled numerous other high-profile civil-rights era murder investigations, including the murder of the Reverend Dr. Martin Luther King, Jr. Accordingly, the Criminal Section has developed the expertise for addressing the many complex issues raised by these historical cases. A separate,

stand-alone "Unsolved Crimes Section," as subsection 4(a) would create, would only duplicate the work now performed by the Criminal Section, and would risk losing some of the expertise and experience of the current Criminal Section in dealing with these historical crimes. In our view, creating a discrete "Unsolved Crimes Unit" within the Criminal Section, rather than a completely new section within the Civil Rights Division, would be more effective and efficient.

The bill also should provide the FBI with flexibility to allocate agent and analyst positions in the localities most likely to experience a burden on their investigative resources to address these cases, rather than create a new "Unsolved Civil Rights Crime Investigative Office" in Washington, D.C. Again, this would be a more effective and efficient use of resources than creating a new "Unsolved Civil Rights Crime Investigative Office" in Washington, D.C.

Second, the Department recommends that S. 2679 include a five-year sunset provision, at which time the Department could report, and the Congress could consider, the status of this work. There are a finite number of "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." Indeed, immediate action also is necessary due to the advanced age of potential defendants and witnesses. Given this, the creation of a permanent unit to investigate these crimes may not be warranted. Five years would provide adequate time to evaluate the number of these potential crimes, coordinate with State law enforcement officials, conduct investigations, review the evidence available to prosecute these cases, and to report to Congress on the Department's ability to effectively resolve these unsolved crimes.

Third, S. 2679 would authorize a total of $11.5 million for components of the Department. We believe that the authorization would be more effective if it provided the Attorney General with the flexibility to distribute any new funding as he saw fit among the Criminal Section of the Civil Rights Division, the Civil Rights Unit of the FBI, and the Community Relations Service, in order to advance the purposes set forth in the bill. For example, at times, the FBI may need more funds to investigate these crimes, while at other times, the Civil Rights Division may need more funds to help prosecute them.

Finally, we note that the Constitution bars S. 2679 from retroactively conferring Federal jurisdiction to prosecute such civil rights crimes. Two of the most important Federal statutes for prosecuting racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C. § 3631 (interference with housing rights), were not enacted until 1968. Moreover, for crimes committed prior to December 31, 1969, virtually all Federal criminal civil rights statutes carried a five year statute of limitations, even in cases where death resulted.[1]

---

[1]One exception to this is 18 U.S.C. § 1111 (enacted in 1948), which has no statute of limitations bar for first degree murders committed in the special maritime and territorial jurisdiction of the United States. 18 U.S.C. § 3281 (no statute of limitations for offenses punishable by death).

Therefore, the Ex Post Facto Clause of the Constitution not only bars the use of 18 U.S.C. § 245 and 42 U.S.C. § 3631 for crimes that occurred prior to 1968, but also applies a strict limitations bar for virtually all Federal civil-rights era murder prosecutions covered by S. 2679. In contrast, State laws prohibiting murder typically have no statute of limitations.

We appreciate your efforts to assist the Department and the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

July 10, 2006

MEMORANDUM FOR DEPUTIES

FROM: TEVI TROY

RE: Administration's Civil Rights Record

In anticipation of the President's possible speech to the NAACP later this month, below are a series of key issues relating to the Administration's record on civil rights and African Americans.

- Voting Rights Act. The Administration is on record supporting renewal of the Voting Rights Act, although some questions about the pre-clearance and bilingual balloting provisions remain.

- Justice. The President called for an end to racial profiling in Federal law enforcement, and the Administration has implemented specific guidelines prohibiting the practice in Federal law enforcement. In addition, in his 2005 State of the Union address, the President committed to ensuring justice and fairness in America's legal system by providing full funding for the use of DNA evidence to solve crime and prevent wrongful convictions and additional training for defense counsel to help ensure people on trial for their lives have competent attorneys at their side.

- Unemployment. The unemployment rate for African-Americans fell between 2004 and 2005. The unemployment rate among blacks was 10.4% in 2004 and 10.0% in 2005. The unemployment rate for African-Americans has continued to decline in 2006. In June 2006, the unemployment rate for African-Americans was 9.0% (compared to 4.6% overall).

- Business Ownership. The President cut taxes on small businesses, and last year increased Small Business Administration loans to African-American businesses by more than 28 percent. The Administration is working to give minority-owned businesses better access to compete for Federal contracts, and has provided $8 billion in New Market Tax credits to boost investment and community development in low-income areas. The Administration is also working with national groups to create the Urban Entrepreneur Partnership to develop economic empowerment centers in America's poorest communities to provide minority entrepreneurs with training and access to business opportunities.

- Education. Due to the No Child Left Behind Act, the achievement gap between African-American students and their peers has narrowed significantly. A 2005 Center on Education Policy study found that 73 percent of states reported improved student

achievement. A 2005 study by the Council of Great City Schools found that achievement gaps are closing in urban schools across the country. In math, 57.5% of all grades tested had reduced the achievement gap between white and African-American students; in reading, 63.8% of all grades tested had reduced the achievement gap. This year's National Assessment of Educational Progress shows that while reading scores for white students rose 5 points, the scores for African-American students rose even faster (by 14 points), so that the reading score achievement gap decreased from 35 points in 1999 to 26 points in 2004. Average math scores for African-American students at ages 9 and 13 were higher than in any previous assessment year.

- School Choice. The Administration enacted the first federally funded school choice program in the District of Columbia, and over 1,000 low-income students in the District have been able to attend the private school of their choice during the 2004-2005 school year. Nearly 2,000 students will receive scholarships under this program once it is fully implemented.

- Faith-Based Initiative. In many low income urban neighborhoods, the only providers of social services are African-American churches. Previously, they were required to secularize if they wanted to compete for grants, and many faith-based organizations lacked technical expertise to navigate the federal grant process. The President's 2002 "Equal Treatment" Executive Order and the Compassion Capital Fund established by the Administration have removed these barriers, and grant funds are flowing to African-American religious charities. Further, Administration initiatives on prisoner re-entry, access to recovery drug treatment, mentoring children of prisoners, and gang prevention have addressed issues of critical importance to African-American communities.

- Welfare Reform. Since the 1996 reform, welfare rolls have declined by 57%, and there are fewer families on welfare than at any time since 1969. 1.4 million fewer children are in poverty since 1996. The TANF African-American caseload has declined sharply—nearly 40%—since enactment of the 1996 reform. The President sought to build on this success and help move more families from welfare dependence into self-sufficiency. Welfare reform was reauthorized this year with the passage of the Deficit Reduction Act. The reauthorization will require state to have at least 50% of their caseload engaged in work or work preparation activities. The DRA also requires a strengthened definition of eligible work activities with increased accountability by states to move families into work, as well as provides $1 billion in additional child care resources through 2010. According to the latest data available, 38% of families receiving TANF are African-American.

- Promoting Healthy Marriages and Responsible Fatherhood. Nearly 70% of all births to African American mothers are out of wedlock, and these children are 5 times more likely to grow up in poverty than children raised in two-parent households. In February 2006, the President signed the Deficit Reduction Act, which provides $150 million in grants from HHS to develop innovative approaches to promote healthy marriages and responsible fatherhood. This include grants to faith-based and community organizations for skill-based marriage and parenting education, as well as other services that help

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fathers provide emotional and financial support to their children. The President's FY 2007 budget requests a total of $250 million for these activities.

- Helping America's Youth. The President and the First Lady are committed to highlighting the importance of focusing on at-risk youth, especially boys; educating parents and communities on the importance of promoting positive youth development; and informing parents and communities of strong and successful prevention and intervention programs that work by drawing attention to initiatives from around the country and identifying successful ways to connect at-risk youth with parents, their school, and their community. The Administration's focus on young Americans includes support for programs that help youth overcome the specific risk of gang influence and involvement. In the FY 2006 budget, the Administration proposed a three-year, $150-million initiative to help youth at risk of gang influence and involvement through grants to faith-based and community organizations.

- Homeownership and Access to Capital. Since the President's 2002 announcement of a goal to increase minority homeownership by 5.5 million homeowners before the end of the decade, 2.3 million additional minorities have become homeowners. Homeownership reached an all-time high in this Administration. In 2003, for the first time, most minority families owned their own homes. Today, there are over 6 million African-American homeowners. The Administration has been vigilant in ensuring that all Americans have equal access to the capital markets that allow small businesses to grow and prosper. In 2004, the Civil Rights Division of the Justice Department brought two fair lending cases challenging discriminatory practices including, for the first time, claims that a bank failed to make business loans on a non-discriminatory basis.

- Social Security. The President has called for reforms that will keep Social Security's promises to today's seniors and those near retirement while also giving younger workers a chance to save in personal retirement accounts for their own retirement. African Americans are disadvantaged by the current Social Security system in several important ways. Because they have shorter life expectancies than white or Hispanic Americans, they receive far fewer Social Security retirement benefits than their counterparts. On the other hand, African Americans receive more from the disability and survivors aspects of Social Security than do Americans on average. While an important goal is and should be to address these gaps in life expectancy, the Administration is committed to creating a more equitable Social Security system. The inheritable aspect of personal accounts would be of special benefit to African-American families. Some African-American groups have expressed concerns that Social Security reform would mean cuts in disability benefits or an erosion of protections for low-income Americans. The Administration's policies address this concern by leaving disability benefits untouched, while embracing "progressive growth" to provide faster benefit growth for lower-income households.

- Health Care. Due to the Medicare Modernization Act (MMA), starting in January 2006 700,000 African-American Medicare beneficiaries gained access to drug coverage. The poorest African-American beneficiaries will pay no premium, no deductibles, and only nominal cost-sharing for drugs. An additional 1.5 million low-income African-American

DOJ_NMG_ 0164455

beneficiaries will receive substantial help with premiums, deductibles, and co-payments. MMA also expands the Medicare Advantage program, which offers coverage that is popular among minority beneficiaries, especially those who cannot afford to buy supplemental medical insurance policies. Seniors who enroll in Medicare Advantage plans on average spend about $100 per month less out of their own pockets for medical care than those with standard medical coverage. Many of these plans have also engaged in an effort to identify beneficiaries who are less likely to receive preventive care, such as regular blood tests, and have found that African Americans with diabetes need help with accessing these services more regularly. The Administration has also worked to increase health-insurance coverage of low-income children, including minorities. The number of uninsured children is lower than in any year since 1989, and the percentage of children who have health coverage has never been higher. For instance, the number of children enrolled in the SCHIP program has increased about 33% since 2001. The FY 2006 budget requested $1 billion for a nationwide "Cover the Kids" outreach effort to continue enrolling low-income children in SCHIP.

- HIV/AIDS. In the State of the Union address, the President stated his strong support for the reauthorization of the Ryan White CARE Act with a focus on citizens with the highest rate of new infections, African-American men and women. Of the 571,000 people served yearly by the Ryan White CARE Act, over half are people of color.

- Hurricane Katrina. The President and Congress have provided more than $100 billion to support recovery and rebuilding in the Gulf region. These funds have been used to provide temporary housing support to more than 700,000 families, continued education of children displaced by the storms, health services, low-interest loans, debris removal and more. More than $11 billion in Community Development Block Grant funds has been provided to rebuild housing and community infrastructure so that families will begin moving back home and rebuilding their lives. The U.S. Department of Commerce's (DOC) Minority Business Development Agency has conducted direct outreach to over 2,000 minority local businesses, assisted over 250 displaced minority firms, and counseled approximately 640 businesses on Gulf Coast procurement opportunities.

DOJ_NMG_ 0164456

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Potential Presidential Speech to NAACP

PURPOSE: Discuss possible speech topics for potential speech by POTUS at the 97th NAACP National Convention at the Washington Convention Center.

TIMETABLE: NAACP speech date is July 20, 2006. Principals' Meeting to discuss speech is on July 14, 2006 from 1:00 - 2:00 pm. Policy brief to POTUS on speech is on July 18, 2006.

SYNOPSIS: The speech will likely discuss several issues relevant to the Department, including the Voting Rights Act, the ban on racial profiling, S. 2679 (Sen. Talent's Civil Rights-era cold case bill), and our efforts to ensure the integrity of law enforcement.

DISCUSSION: The President is likely to speak at the conference. In addition to the DOJ issues discussed below, I anticipate that the speech will discuss education, family initiatives, and foreign policy such as Darfur. In addition, I anticipate it will commemorate the 40th anniversary of the release of the Coleman Study, which examined the lack of equal education opportunities for minorities.

The Civil Rights Division proposes the following four topics for inclusion in the speech:

1. Voting Rights Act: The President's early and strong support for reauthorization of the provisions of the Voting Rights Act that are due to expire next year, without a discussion of specific provisions of the bill.

2. Racial Profiling: This Administration is the first in U.S. history to issue guidelines to federal law enforcement regarding a ban on racial profiling.

3. "Cold" Civil Rights Cases: This Administration has a strong record of investigating and prosecuting Civil Rights-era crimes, as evidenced by the task force that we formed to investigate the murder of Emmett Till. The Department of Justice also has sent a letter to Senator Talent supporting the legislative goals of S. 2679, the "Unsolved Civil Rights Crime Act." (Attachment A.)

4. Policing Law Enforcement: This Administration has ensured the integrity of law enforcement by more than tripling the number of settlements negotiated with police departments across the country and convicting 30 percent more law enforcement officials for criminal civil rights violations than during the last five and a half years in the prior Administration.

Also attached is a memorandum prepared by the White House, dated July 10, 2006, that details this Administration's overall record on civil rights (Attachment B).

Comisac, Rena (CRT)

From:	Comisac, Rena (CRT)
Sent:	Monday, July 17, 2006 5:51 PM
To:	Gorsuch, Neil M
Cc:	Agarwal, Asheesh (CRT)
Subject:	FW: Civil Rights
Attachments:	Integrity in Law Enforcemt TP.wpd

-----Original Message-----
From: Agarwal, Asheesh (CRT)
Sent: Monday, July 17, 2006 5:44 PM
To: Comisac, Rena (CRT)
Subject: FW: Civil Rights

-----Original Message-----
From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 3:10 PM
To: 'Michael_P._Moreland@who.eop.gov'
Subject: RE: Civil Rights

Here's the rest. Let us know if we can be of additional help.

AA

-----Original Message-----
From: Michael_P._Moreland@who.eop.gov [mailto:Michael_P._Moreland@who.eop.gov]
Sent: Thursday, July 13, 2006 1:57 PM
To: Agarwal, Asheesh (CRT)
Subject: RE: Civil Rights

Asheesh--Just following on this message, I'm getting a lot of heat from the Chief of Staff's office to get something to them asap.

From: Moreland, Michael P.
Sent: Thursday, July 13, 2006 1:53 PM
To: 'Asheesh.Agarwal@usdoj.gov'
Subject: Civil Rights
Importance: High

Asheesh--Nice meeting you the other day at the deputies meeting. Could you please send me the bullets on some of the issues you mentioned (cold cases and law enforcement integrity were the two I noted) as soon as possible? I'm turning around the memo for the next level.

Thanks,
Mike

INTEGRITY IN LAW ENFORCEMENT

- This Administration is committed to the vigorous enforcement of every federal criminal civil rights statute, including in police misconduct cases. The Department of Justice, Civil Rights Division, prosecutes law enforcement officers who engage in criminal misconduct.

- The vast majority of law enforcement officers work tirelessly to uphold and protect the law. However, when officers abuse their trusted position to steal, rape, sexually assault, or use excessive force against individuals, the Justice Department will prosecute them to the full extent of the law.

- In fact, since FY 2001, the Division has convicted 30 percent more defendants in official misconduct prosecutions than in the preceding five fiscal years. So far in fiscal year 2006 alone, the Division has convicted 40 of the 42 defendants charged with color of law violations.

- This Administration is the first in U.S. history to issue guidelines to federal law enforcement prohibiting the use of racial profiling. These guidelines were issued in June 2003 and sent to all federal law enforcement agencies around the country. The Guidelines requires more restrictions on the use of race than required by the U.S. Constitution. [For more information, see http://www.usdoj.gov/opa/pr/2003/June/racial_profiling_fact_sheet.pdf]

- In addition, the Justice Department is authorized to bring civil actions to eliminate a pattern or practice of law enforcement misconduct as well as to enforce federal law prohibiting discrimination on the basis of race, color, sex, or national origin. [42 U.S.C. § 14141; Omibus Crime Control and Safe Streets Act of 1968 42 U.S.C. § 3789d, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d]

- The Division has worked with police departments across the country to ensure that their practices are consistent with the U.S. Constitution and federal law.

- In this Administration, the Justice Department has more than tripled the number of settlements negotiated with police departments across the country as compared to the last five and one-half years of the prior Administration.

From: USDOJ- Office of Public Affairs
Sent: Monday, July 17, 2006 5:52 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER PHYSICIAN SENTENCED FOR DISTRIBUTING PERFORMANCE-ENHANCING DRUGS TO NFL PLAYERS, OTHERS

Department of Justice

United States Attorney Reginald I. Lloyd
District of South Carolina

FOR IMMEDIATE RELEASE
MONDAY, JUNE 17, 2006
WWW.USDOJ.GOV/USAO/SC

CONTACT: NANCY C. WICKER
PHONE: (803) 929-3000
FAX: (803) 254-2912

FORMER PHYSICIAN SENTENCED FOR DISTRIBUTING PERFORMANCE-ENHANCING DRUGS TO NFL PLAYERS, OTHERS

COLUMBIA, S.C. – An alternative medicine physician who formerly practiced in West Columbia, S.C., was sentenced today in federal court for conspiracy to distribute anabolic steroids and Human Growth Hormone (HGH), announced U.S. Attorney for the District of South Carolina Reginald I. Lloyd. Chief U.S. District Judge Joseph F. Anderson, Jr., sentenced James M. Short, 59, to twelve months and one day in prison.

Shortt admitted during his guilty plea last March that he conspired to distribute anabolic steroids and HGH to NFL football players, bodybuilders and law enforcement officers for purposes of performance enhancement. The Controlled Substances Act prohibits distribution of anabolic steroids solely for performance enhancement as being outside the scope of legitimate medical practice.

Federal sentencing guidelines projected Shortt's sentence to range from zero to six months incarceration. However, prosecutors sought a higher sentence, based on several factors: (1) the advisory sentencing guidelines did not sufficiently address the seriousness of the defendant's conduct in trafficking in performance enhancing drugs; (2) the guidelines failed to include HGH as a drug-trafficking offense; (3) the defendant's prescribing of steroids to a teenager was not accounted for by the guidelines; and (4) recent changes in the sentencing guidelines suggested that a more punitive sentence was appropriate.

Based in part upon the government's argument, and also on what Judge Anderson perceived as a "lack of remorse" on the part of Shortt, the court rejected the zero to six months sentencing range and instead sentenced Shortt to one year and one day in prison. With the additional day in prison, Shortt can qualify for good behavior credit while incarcerated, potentially resulting in a shorter term of approximately 10 and a half months. Following his release from prison, Shortt will be placed on supervised release for two years.

The case was investigated by agents of the Drug Enforcement Administration. Assistant U.S. Attorneys Winston D. Holliday, Jr., and Jane B. Taylor of the Columbia, S.C., office handled the case.

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DOJ_NMG_ 0164463

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Image not available for this document, ID: 0.7.10316.48511-000002

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Monday, July 17, 2006 5:54 PM
To: Gorsuch, Neil M
Cc: Agarwal, Asheesh (CRT)
Subject: FW: Talent bill
Attachments: 06-27-06 Ltr to Sen Talent re S2679 Unsolved Civil Rights Crime Act.pdf; Talent bill July2006.wpd

The views letter to Talent is the same as the one attached to the first email I forwarded. If you have specific questions tonight as you review these materials, email us and we'll be sure we have responsive materials for our meeting tomorrow.

From: Agarwal, Asheesh (CRT)
Sent: Monday, July 17, 2006 5:44 PM
To: Comisac, Rena (CRT)
Subject: FW: Talent bill

From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 2:30 PM
To: 'Michael_P._Moreland@who.eop.gov'
Subject: FW: Talent bill

Here's info on the cold case task force. More to follow soon. Sorry for the delay; we hadn't realized that you needed something today.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 27, 2006

The Honorable Jim Talent
United States Senate
Washington, D.C. 20510

Dear Senator Talent:

This letter presents the views of the Department of Justice on S. 2679, the "Unsolved Civil Rights Crime Act." The Department strongly supports the important legislative goals of the bill.

S. 2679 would charge the Department to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The Department believes that racially motivated murders from the civil rights era constitute some of the greatest blemishes upon our history. In fact, the Civil Rights Unit of the FBI currently is in the process of introducing a new initiative to address these types of cases. S. 2679 is a substantial step forward in helping to bring closure to a number of these tragic incidents that remain unsolved.

The Department believes that the Federal government can and does have an important role to play in these cases. For example, while concluding that a Federal prosecution for the 1955 murder of Emmett Till was barred, the Civil Rights Division, the United States Attorney's Office for the Northern District of Mississippi, and the FBI formed a task force with local law enforcement and the State prosecutor to investigate this crime. After an exhaustive investigation, a detailed report has been prepared for the State prosecutor's use in determining whether to seek State charges. The Department has provided similar assistance to State and local officials in other civil rights era investigations and prosecutions, including the 1963 bombing of the 16th Street Baptist Church in Birmingham, Alabama, which resulted in the deaths of four young African-American girls, the 1967 murder of Wharleston Jackson in Natchez, Mississippi, and the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

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stand-alone "Unsolved Crimes Section," as subsection 4(a) would create, would only duplicate the work now performed by the Criminal Section, and would risk losing some of the expertise and experience of the current Criminal Section in dealing with these historical crimes. In our view, creating a discrete "Unsolved Crimes Unit" within the Criminal Section, rather than a completely new section within the Civil Rights Division, would be more effective and efficient.

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Second, the Department recommends that S. 2679 include a five-year sunset provision, at which time the Department could report, and the Congress could consider, the status of this work. There are a finite number of "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." Indeed, immediate action also is necessary due to the advanced age of potential defendants and witnesses. Given this, the creation of a permanent unit to investigate these crimes may not be warranted. Five years would provide adequate time to evaluate the number of these potential crimes, coordinate with State law enforcement officials, conduct investigations, review the evidence available to prosecute these cases, and to report to Congress on the Department's ability to effectively resolve these unsolved crimes.

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[1]One exception to this is 18 U.S.C. § 1111 (enacted in 1948), which has no statute of limitations bar for first degree murders committed in the special maritime and territorial jurisdiction of the United States. 18 U.S.C. § 3281 (no statute of limitations for offenses punishable by death).

Therefore, the Ex Post Facto Clause of the Constitution not only bars the use of 18 U.S.C. § 245 and 42 U.S.C. § 3631 for crimes that occurred prior to 1968, but also applies a strict limitations bar for virtually all Federal civil-rights era murder prosecutions covered by S. 2679. In contrast, State laws prohibiting murder typically have no statute of limitations.

We appreciate your efforts to assist the Department and the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

ESTABLISHMENT OF AN "UNSOLVED CRIMES UNIT"
WITHIN THE CIVIL RIGHTS DIVISION

Issue: What is the Department's position regarding the establishment of an "Unsolved Crimes Unit" within the Civil Rights Division?

Talking Points:

· The Department certainly supports the goals behind the establishment of an "Unsolved Crimes Unit," as proposed in S. 2679, the "Unsolved Civil Rights Crime Act." Our commitment to this effort is illustrated by our track record of aggressively investigating and prosecuting civil rights era cases when we have been able to work around jurisdictional and statute of limitations hurdles. For example:

  · In 1997, the FBI reopened the investigation into the 1963 bombing of the Sixteenth Street Baptist Church in Birmingham, Alabama. Because of an ultimate lack of federal jurisdiction, the results of that investigation were referred to the State of Alabama, which successfully prosecuted two defendants involved in the bombing.

  · In 2003, the Civil Rights Division successfully prosecuted Ernest Avants, a Mississippi Klansman who murdered an African American man in 1966. We had federal jurisdiction in that case because the murder occurred in a national forest.

  · In 2005, the United States Attorney for the Southern District of Mississippi, with guidance from the Civil Rights Division, launched a federal-state law enforcement task force to re-investigate the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

  · The Federal Bureau of Investigation worked with Mississippi authorities to investigate the 1955 murder of Emmett Till, a 14 year-old African-American teenager, who was kidnapped and killed in rural Mississippi. Although the investigation showed that there was no federal jurisdiction, the FBI has reported the results of that investigation to the District Attorney for Greenville, Mississippi, Joyce Chiles, for her to consider whether to pursue a state prosecution of any possible surviving participants in the kidnapping and killing.

Background:

· Some members of Congress have expressed an interest in establishing an "Unsolved Crimes Unit" in the Civil Rights Division which would be responsible for investigating racially motivated homicides from the civil rights era, the 1950's and 1960's. Senator Jim Talent has re-introduced legislation in this Congress to create such a unit – S. 2679, the "Unsolved Civil Rights Crime Act." The Department submitted a views letters in June 2006.

DOJ_NMG_ 0164470

· The United States Constitution and federal law limits the Department's ability prosecute most civil rights era cases.

· There are *ex post facto* issues with the retroactive application of the current criminal civil rights statutes to prosecute historical cases. Two of the most important statutes that can be used to prosecute racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C.§ 3631 (interference with housing rights), were not enacted until 1968. Under the Ex Post Facto Clause, these statutes cannot be applied retroactively to conduct that was not a crime at the time of the offense.

· The statute of limitations time bars the Justice Department from prosecuting most federal criminal civil rights charges. The five-year statute of limitations on federal criminal civil rights charges would present another limitation on such prosecutions. Prior to 1994, all federal criminal civil rights statutes carried a five-year statute of limitations, even in cases where death resulted. In 1994 the statutes were amended to provide the death penalty for civil rights violations which resulted in death. Under 18 U.S.C. § 3281, crimes punishable by death have no statute of limitations. However, the Ex Post Facto Clause again prevents the retroactive application of the 1994 change in penalties, and the resultant change in the statute of limitations.

· In view of the successes and limitations mentioned above, the Civil Rights Division included in its views letter, three recommendations would improve the effectiveness of the proposed legislation:

· First, rather than create an entire new section within the Civil Rights Division, a "cold case unit" should be established within the Criminal Section of the Civil Rights Division. As noted above, the Criminal Section has handled numerous high profile civil rights era murders. In doing so, the Criminal Section has developed the expertise for addressing the many complex issues in these historical cases. A separate section would only duplicate work now being done by the Criminal Section, and a separate section would not have the experience in dealing with civil rights era murders that the Criminal Section has. A new unit within the Criminal Section would be a more efficient way to deal with the problem.

· Similarly, the bill should provide the FBI with flexibility in allocating its resources to address these historical cases rather than creating a new Unsolved Civil Rights Crime Investigative Office. The flexibility would allow the FBI focus on assigning agents and analysts to those offices in the field which would investigate the cases.

· Second, we recommend a five year sunset provision, at which time the Department could report, and the Congress could consider, the status of this work. There are a limited number of cases that fall within the jurisdiction established by the bill. Many potential witnesses and defendants have already died, and those remaining potential

DOJ_NMG_ 0164471

witnesses and defendants are likely to be elderly. In view of the age of participants in the cases, a permanent unit may be unwarranted.

· Third, instead of splitting the fiscal appropriations among the Civil Rights Division, the FBI, and the Community Relations Service, the legislation should provide the Attorney General with the flexibility to allocate the total $11.5 million among the components as needed. For example, given the limited jurisdiction of the Civil Rights Division to prosecute these cases, it may be more effective for more of the appropriation to be directed to the FBI so that the Bureau can assist local prosecutions.

· Here is additional background on the four civil rights era cases mentioned above as illustrations of the Department's commitment to prosecuting these cases:

· In the Sixteenth Street Baptist Church bombing case, Civil Rights Division attorneys worked with the United States Attorney for the Northern District of Alabama in conducting a grand jury investigation. We were able to assume federal jurisdiction because a predecessor statute to the current arson and explosives statute, 18 U.S.C. § 844, provided that in situations where death resulted from an explosive transported in interstate commerce, the penalty was death, and under 18 U.S.C. § 3281, crimes punishable by death have no statute of limitations. Ultimately, we could not prove that the explosive traveled in interstate commerce, so we released the grand jury investigation to the State of Alabama, which used that investigation as the basis for a successful prosecution of the last two defendants who were involved in the bombing.

· The successful prosecution of Ernest Avants in 2003 is another instance where we were able to avoid the statute of limitations problem. A statute enacted in 1948 provides for the death penalty for first-degree murder within the special maritime and territorial jurisdiction of the United States. Because the victim was murder on federal land, the Civil Rights Division used this statute to investigate and prosecute Avants. This is the jurisdictional basis used by the United States Attorney for the Northern District of Mississippi to investigate the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

· Southern District of Mississippi United States Attorney Dunn Lampton used the "federal lands" jurisdiction as a basis to initiate a task force last year, composed of law enforcement authorities, including the highway patrol, the State AG's office, the local DA's office, the Sheriffs' offices, the FBI, and federal prosecutors to launch an investigation into the 1964 civil rights-era murders of Charles Moore and Henry Dee, two young African-Americans whose mutilated bodies were found in the Mississippi River, to determine whether any perpetrators can be identified and charged. The task force is looking for evidence to support state homicide charges, or, less likely, whether federal jurisdiction exists. The Civil Rights Division has played an advisory role in this investigation.

DOJ_NMG_ 0164472

· Although the statute of limitations bars a federal prosecution in the murder of Emmett Till, an exception to the FBI's limited federal authority is set out in 28 U.S.C. § 540A. This statute, which permits FBI involvement in a local matter if the victim had traveled into the state in which he was murdered, was the basis for federal involvement in the Till investigation.

· In each of these cases, the Department was able to successfully pursue investigations or prosecutions based on a unique set of facts, which permitted the investigation. Each case was addressed successfully on a case-by-case basis, primarily within the Civil Rights Division.

DOJ_NMG_ 0164473

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 6:00 PM
To: [redacted]
Subject: Fw: Talent bill
Attachments: 06-27-06 Ltr to Sen Talent re S2679 Unsolved Civil Rights Crime Act.pdf; Talent bill July2006.wpd

-----Original Message-----
From: Comisac, Rena (CRT)
To: Gorsuch, Neil M
CC: Agarwal, Asheesh (CRT)
Sent: Mon Jul 17 17:53:36 2006
Subject: FW: Talent bill

The views letter to Talent is the same as the one attached to the first email I forwarded. If you have specific questions tonight as you review these materials, email us and we'll be sure we have responsive materials for our meeting tomorrow.

From: Agarwal, Asheesh (CRT)
Sent: Monday, July 17, 2006 5:44 PM
To: Comisac, Rena (CRT)
Subject: FW: Talent bill

From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 2:30 PM
To: 'Michael_P._Moreland@who.eop.gov'
Subject: FW: Talent bill

Here's info on the cold case task force. More to follow soon. Sorry for the delay; we hadn't realized that you needed something today.

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 27, 2006

The Honorable Jim Talent
United States Senate
Washington, D.C. 20510

Dear Senator Talent:

This letter presents the views of the Department of Justice on S. 2679, the "Unsolved Civil Rights Crime Act." The Department strongly supports the important legislative goals of the bill.

S. 2679 would charge the Department to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The Department believes that racially motivated murders from the civil rights era constitute some of the greatest blemishes upon our history. In fact, the Civil Rights Unit of the FBI currently is in the process of introducing a new initiative to address these types of cases. S. 2679 is a substantial step forward in helping to bring closure to a number of these tragic incidents that remain unsolved.

The Department believes that the Federal government can and does have an important role to play in these cases. For example, while concluding that a Federal prosecution for the 1955 murder of Emmett Till was barred, the Civil Rights Division, the United States Attorney's Office for the Northern District of Mississippi, and the FBI formed a task force with local law enforcement and the State prosecutor to investigate this crime. After an exhaustive investigation, a detailed report has been prepared for the State prosecutor's use in determining whether to seek State charges. The Department has provided similar assistance to State and local officials in other civil rights era investigations and prosecutions, including the 1963 bombing of the 16th Street Baptist Church in Birmingham, Alabama, which resulted in the deaths of four young African-American girls, the 1967 murder of Wharleston Jackson in Natchez, Mississippi, and the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

In addition to our support for the goals of S. 2679, we also offer three recommendations to improve its effectiveness: First, the bill should establish an "Unsolved Crimes Unit" within the Criminal Section of the Civil Rights Division. The Criminal Section and the FBI have handled numerous other high-profile civil-rights era murder investigations, including the murder of the Reverend Dr. Martin Luther King, Jr. Accordingly, the Criminal Section has developed the expertise for addressing the many complex issues raised by these historical cases. A separate,

stand-alone "Unsolved Crimes Section," as subsection 4(a) would create, would only duplicate the work now performed by the Criminal Section, and would risk losing some of the expertise and experience of the current Criminal Section in dealing with these historical crimes. In our view, creating a discrete "Unsolved Crimes Unit" within the Criminal Section, rather than a completely new section within the Civil Rights Division, would be more effective and efficient.

The bill also should provide the FBI with flexibility to allocate agent and analyst positions in the localities most likely to experience a burden on their investigative resources to address these cases, rather than create a new "Unsolved Civil Rights Crime Investigative Office" in Washington, D.C. Again, this would be a more effective and efficient use of resources than creating a new "Unsolved Civil Rights Crime Investigative Office" in Washington, D.C.

Second, the Department recommends that S. 2679 include a five-year sunset provision, at which time the Department could report, and the Congress could consider, the status of this work. There are a finite number of "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." Indeed, immediate action also is necessary due to the advanced age of potential defendants and witnesses. Given this, the creation of a permanent unit to investigate these crimes may not be warranted. Five years would provide adequate time to evaluate the number of these potential crimes, coordinate with State law enforcement officials, conduct investigations, review the evidence available to prosecute these cases, and to report to Congress on the Department's ability to effectively resolve these unsolved crimes.

Third, S. 2679 would authorize a total of $11.5 million for components of the Department. We believe that the authorization would be more effective if it provided the Attorney General with the flexibility to distribute any new funding as he saw fit among the Criminal Section of the Civil Rights Division, the Civil Rights Unit of the FBI, and the Community Relations Service, in order to advance the purposes set forth in the bill. For example, at times, the FBI may need more funds to investigate these crimes, while at other times, the Civil Rights Division may need more funds to help prosecute them.

Finally, we note that the Constitution bars S. 2679 from retroactively conferring Federal jurisdiction to prosecute such civil rights crimes. Two of the most important Federal statutes for prosecuting racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C. § 3631 (interference with housing rights), were not enacted until 1968. Moreover, for crimes committed prior to December 31, 1969, virtually all Federal criminal civil rights statutes carried a five year statute of limitations, even in cases where death resulted.[1]

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[1]One exception to this is 18 U.S.C. § 1111 (enacted in 1948), which has no statute of limitations bar for first degree murders committed in the special maritime and territorial jurisdiction of the United States. 18 U.S.C. § 3281 (no statute of limitations for offenses punishable by death).

Therefore, the Ex Post Facto Clause of the Constitution not only bars the use of 18 U.S.C. § 245 and 42 U.S.C. § 3631 for crimes that occurred prior to 1968, but also applies a strict limitations bar for virtually all Federal civil-rights era murder prosecutions covered by S. 2679. In contrast, State laws prohibiting murder typically have no statute of limitations.

We appreciate your efforts to assist the Department and the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

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· In 1997, the FBI reopened the investigation into the 1963 bombing of the Sixteenth Street Baptist Church in Birmingham, Alabama. Because of an ultimate lack of federal jurisdiction, the results of that investigation were referred to the State of Alabama, which successfully prosecuted two defendants involved in the bombing.

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· The Federal Bureau of Investigation worked with Mississippi authorities to investigate the 1955 murder of Emmett Till, a 14 year-old African-American teenager, who was kidnapped and killed in rural Mississippi. Although the investigation showed that there was no federal jurisdiction, the FBI has reported the results of that investigation to the District Attorney for Greenville, Mississippi, Joyce Chiles, for her to consider whether to pursue a state prosecution of any possible surviving participants in the kidnapping and killing.

Background:

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DOJ_NMG_ 0164478

· The United States Constitution and federal law limits the Department's ability prosecute most civil rights era cases.

· There are *ex post facto* issues with the retroactive application of the current criminal civil rights statutes to prosecute historical cases. Two of the most important statutes that can be used to prosecute racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C.§ 3631 (interference with housing rights), were not enacted until 1968. Under the Ex Post Facto Clause, these statutes cannot be applied retroactively to conduct that was not a crime at the time of the offense.

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· Similarly, the bill should provide the FBI with flexibility in allocating its resources to address these historical cases rather than creating a new Unsolved Civil Rights Crime Investigative Office. The flexibility would allow the FBI focus on assigning agents and analysts to those offices in the field which would investigate the cases.

· Second, we recommend a five year sunset provision, at which time the Department could report, and the Congress could consider, the status of this work. There are a limited number of cases that fall within the jurisdiction established by the bill. Many potential witnesses and defendants have already died, and those remaining potential

DOJ_NMG_ 0164479

witnesses and defendants are likely to be elderly. In view of the age of participants in the cases, a permanent unit may be unwarranted.

· Third, instead of splitting the fiscal appropriations among the Civil Rights Division, the FBI, and the Community Relations Service, the legislation should provide the Attorney General with the flexibility to allocate the total $11.5 million among the components as needed. For example, given the limited jurisdiction of the Civil Rights Division to prosecute these cases, it may be more effective for more of the appropriation to be directed to the FBI so that the Bureau can assist local prosecutions.

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· Southern District of Mississippi United States Attorney Dunn Lampton used the "federal lands" jurisdiction as a basis to initiate a task force last year, composed of law enforcement authorities, including the highway patrol, the State AG's office, the local DA's office, the Sheriffs' offices, the FBI, and federal prosecutors to launch an investigation into the 1964 civil rights-era murders of Charles Moore and Henry Dee, two young African-Americans whose mutilated bodies were found in the Mississippi River, to determine whether any perpetrators can be identified and charged. The task force is looking for evidence to support state homicide charges, or, less likely, whether federal jurisdiction exists. The Civil Rights Division has played an advisory role in this investigation.

DOJ_NMG_ 0164480

· Although the statute of limitations bars a federal prosecution in the murder of Emmett Till, an exception to the FBI's limited federal authority is set out in 28 U.S.C. § 540A. This statute, which permits FBI involvement in a local matter if the victim had traveled into the state in which he was murdered, was the basis for federal involvement in the Till investigation.

· In each of these cases, the Department was able to successfully pursue investigations or prosecutions based on a unique set of facts, which permitted the investigation. Each case was addressed successfully on a case-by-case basis, primarily within the Civil Rights Division.

DOJ_NMG_ 0164481

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 6:01 PM
To: [redacted]
Subject: Fw: Civil Rights
Attachments: Integrity in Law Enforcemt TP.wpd

-----Original Message-----
From: Comisac, Rena (CRT)
To: Gorsuch, Neil M
CC: Agarwal, Asheesh (CRT)
Sent: Mon Jul 17 17:51:07 2006
Subject: FW: Civil Rights

-----Original Message-----
From: Agarwal, Asheesh (CRT)
Sent: Monday, July 17, 2006 5:44 PM
To: Comisac, Rena (CRT)
Subject: FW: Civil Rights

-----Original Message-----
From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 3:10 PM
To: 'Michael_P._Moreland@who.eop.gov'
Subject: RE: Civil Rights

Here's the rest. Let us know if we can be of additional help.

AA

-----Original Message-----
From: Michael_P._Moreland@who.eop.gov [mailto:Michael_P._Moreland@who.eop.gov]
Sent: Thursday, July 13, 2006 1:57 PM
To: Agarwal, Asheesh (CRT)
Subject: RE: Civil Rights

Asheesh--Just following on this message, I'm getting a lot of heat from the Chief of Staff's office to get something to them asap.

From: Moreland, Michael P.
Sent: Thursday, July 13, 2006 1:53 PM
To: 'Asheesh.Agarwal@usdoj.gov'
Subject: Civil Rights
Importance: High

Asheesh--Nice meeting you the other day at the deputies meeting. Could you please send me the bullets on some of the issues you mentioned (cold cases and law enforcement integrity were the two I noted) as soon as possible? I'm turning around the memo for the next level.

Thanks,
Mike

INTEGRITY IN LAW ENFORCEMENT

- This Administration is committed to the vigorous enforcement of every federal criminal civil rights statute, including in police misconduct cases. The Department of Justice, Civil Rights Division, prosecutes law enforcement officers who engage in criminal misconduct.

- The vast majority of law enforcement officers work tirelessly to uphold and protect the law. However, when officers abuse their trusted position to steal, rape, sexually assault, or use excessive force against individuals, the Justice Department will prosecute them to the full extent of the law.

- In fact, since FY 2001, the Division has convicted 30 percent more defendants in official misconduct prosecutions than in the preceding five fiscal years. So far in fiscal year 2006 alone, the Division has convicted 40 of the 42 defendants charged with color of law violations.

- This Administration is the first in U.S. history to issue guidelines to federal law enforcement prohibiting the use of racial profiling. These guidelines were issued in June 2003 and sent to all federal law enforcement agencies around the country. The Guidelines requires more restrictions on the use of race than required by the U.S. Constitution. [For more information, see http://www.usdoj.gov/opa/pr/2003/June/racial_profiling_fact_sheet.pdf]

- In addition, the Justice Department is authorized to bring civil actions to eliminate a pattern or practice of law enforcement misconduct as well as to enforce federal law prohibiting discrimination on the basis of race, color, sex, or national origin. [42 U.S.C. § 14141; Omibus Crime Control and Safe Streets Act of 1968 42 U.S.C. § 3789d, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d]

- The Division has worked with police departments across the country to ensure that their practices are consistent with the U.S. Constitution and federal law.

- In this Administration, the Justice Department has more than tripled the number of settlements negotiated with police departments across the country as compared to the last five and one-half years of the prior Administration.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 6:01 PM
To: [redacted]
Subject: Fw: AG memo
Attachments: AG NAACP memo.wpd; 07.10.06.Memo to Deputies re Civil Rights.doc; 06-27-06 Ltr to Sen Talent re S2679 Unsolved Civil Rights Crime Act.pdf

-----Original Message-----
From: Comisac, Rena (CRT)
To: Gorsuch, Neil M
CC: Agarwal, Asheesh (CRT)
Sent: Mon Jul 17 17:46:52 2006
Subject: FW: AG memo

More to come, but this should be a good start.

From: Agarwal, Asheesh (CRT)
Sent: Thursday, July 13, 2006 1:27 PM
To: Pacold, Martha M; Todd, Gordon (SMO); Fridman, Daniel (ODAG)
Cc: Comisac, Rena (CRT); Kim, Wan (CRT); Becker, Grace Chung (CRT); Longwitz, Tobi (CRT)
Subject: FW: AG memo

Attached are the correct versions (sorry, apparently there were a few minor last minute changes).

AA

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

June 27, 2006

The Honorable Jim Talent
United States Senate
Washington, D.C. 20510

Dear Senator Talent:

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S. 2679 would charge the Department to investigate "violations of criminal civil rights statutes . . . result[ing] in death" that "occurred not later than December 31, 1969." The Department believes that racially motivated murders from the civil rights era constitute some of the greatest blemishes upon our history. In fact, the Civil Rights Unit of the FBI currently is in the process of introducing a new initiative to address these types of cases. S. 2679 is a substantial step forward in helping to bring closure to a number of these tragic incidents that remain unsolved.

The Department believes that the Federal government can and does have an important role to play in these cases. For example, while concluding that a Federal prosecution for the 1955 murder of Emmett Till was barred, the Civil Rights Division, the United States Attorney's Office for the Northern District of Mississippi, and the FBI formed a task force with local law enforcement and the State prosecutor to investigate this crime. After an exhaustive investigation, a detailed report has been prepared for the State prosecutor's use in determining whether to seek State charges. The Department has provided similar assistance to State and local officials in other civil rights era investigations and prosecutions, including the 1963 bombing of the 16th Street Baptist Church in Birmingham, Alabama, which resulted in the deaths of four young African-American girls, the 1967 murder of Wharleston Jackson in Natchez, Mississippi, and the 1964 murders of Charles Moore and Henry Dee in Franklin County, Mississippi.

In addition to our support for the goals of S. 2679, we also offer three recommendations to improve its effectiveness: First, the bill should establish an "Unsolved Crimes Unit" within the Criminal Section of the Civil Rights Division. The Criminal Section and the FBI have handled numerous other high-profile civil-rights era murder investigations, including the murder of the Reverend Dr. Martin Luther King, Jr. Accordingly, the Criminal Section has developed the expertise for addressing the many complex issues raised by these historical cases. A separate,

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Finally, we note that the Constitution bars S. 2679 from retroactively conferring Federal jurisdiction to prosecute such civil rights crimes. Two of the most important Federal statutes for prosecuting racially motivated homicides, 18 U.S.C. § 245 (interference with federally protected activities) and 42 U.S.C. § 3631 (interference with housing rights), were not enacted until 1968. Moreover, for crimes committed prior to December 31, 1969, virtually all Federal criminal civil rights statutes carried a five year statute of limitations, even in cases where death resulted.[1]

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[1]One exception to this is 18 U.S.C. § 1111 (enacted in 1948), which has no statute of limitations bar for first degree murders committed in the special maritime and territorial jurisdiction of the United States. 18 U.S.C. § 3281 (no statute of limitations for offenses punishable by death).

Therefore, the Ex Post Facto Clause of the Constitution not only bars the use of 18 U.S.C. § 245 and 42 U.S.C. § 3631 for crimes that occurred prior to 1968, but also applies a strict limitations bar for virtually all Federal civil-rights era murder prosecutions covered by S. 2679. In contrast, State laws prohibiting murder typically have no statute of limitations.

We appreciate your efforts to assist the Department and the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

William E. Moschella
Assistant Attorney General

THE WHITE HOUSE

WASHINGTON

July 10, 2006

MEMORANDUM FOR DEPUTIES

FROM: TEVI TROY

RE: Administration's Civil Rights Record

In anticipation of the President's possible speech to the NAACP later this month, below are a series of key issues relating to the Administration's record on civil rights and African Americans.

- Voting Rights Act. The Administration is on record supporting renewal of the Voting Rights Act, although some questions about the pre-clearance and bilingual balloting provisions remain.

- Justice. The President called for an end to racial profiling in Federal law enforcement, and the Administration has implemented specific guidelines prohibiting the practice in Federal law enforcement. In addition, in his 2005 State of the Union address, the President committed to ensuring justice and fairness in America's legal system by providing full funding for the use of DNA evidence to solve crime and prevent wrongful convictions and additional training for defense counsel to help ensure people on trial for their lives have competent attorneys at their side.

- Unemployment. The unemployment rate for African-Americans fell between 2004 and 2005. The unemployment rate among blacks was 10.4% in 2004 and 10.0% in 2005. The unemployment rate for African-Americans has continued to decline in 2006. In June 2006, the unemployment rate for African-Americans was 9.0% (compared to 4.6% overall).

- Business Ownership. The President cut taxes on small businesses, and last year increased Small Business Administration loans to African-American businesses by more than 28 percent. The Administration is working to give minority-owned businesses better access to compete for Federal contracts, and has provided $8 billion in New Market Tax credits to boost investment and community development in low-income areas. The Administration is also working with national groups to create the Urban Entrepreneur Partnership to develop economic empowerment centers in America's poorest communities to provide minority entrepreneurs with training and access to business opportunities.

- Education. Due to the No Child Left Behind Act, the achievement gap between African-American students and their peers has narrowed significantly. A 2005 Center on Education Policy study found that 73 percent of states reported improved student

achievement. A 2005 study by the Council of Great City Schools found that achievement gaps are closing in urban schools across the country. In math, 57.5% of all grades tested had reduced the achievement gap between white and African-American students; in reading, 63.8% of all grades tested had reduced the achievement gap. This year's National Assessment of Educational Progress shows that while reading scores for white students rose 5 points, the scores for African-American students rose even faster (by 14 points), so that the reading score achievement gap decreased from 35 points in 1999 to 26 points in 2004. Average math scores for African-American students at ages 9 and 13 were higher than in any previous assessment year.

- School Choice. The Administration enacted the first federally funded school choice program in the District of Columbia, and over 1,000 low-income students in the District have been able to attend the private school of their choice during the 2004-2005 school year. Nearly 2,000 students will receive scholarships under this program once it is fully implemented.

- Faith-Based Initiative. In many low income urban neighborhoods, the only providers of social services are African-American churches. Previously, they were required to secularize if they wanted to compete for grants, and many faith-based organizations lacked technical expertise to navigate the federal grant process. The President's 2002 "Equal Treatment" Executive Order and the Compassion Capital Fund established by the Administration have removed these barriers, and grant funds are flowing to African-American religious charities. Further, Administration initiatives on prisoner re-entry, access to recovery drug treatment, mentoring children of prisoners, and gang prevention have addressed issues of critical importance to African-American communities.

- Welfare Reform. Since the 1996 reform, welfare rolls have declined by 57%, and there are fewer families on welfare than at any time since 1969. 1.4 million fewer children are in poverty since 1996. The TANF African-American caseload has declined sharply—nearly 40%—since enactment of the 1996 reform. The President sought to build on this success and help move more families from welfare dependence into self-sufficiency. Welfare reform was reauthorized this year with the passage of the Deficit Reduction Act. The reauthorization will require state to have at least 50% of their caseload engaged in work or work preparation activities. The DRA also requires a strengthened definition of eligible work activities with increased accountability by states to move families into work, as well as provides $1 billion in additional child care resources through 2010. According to the latest data available, 38% of families receiving TANF are African-American.

- Promoting Healthy Marriages and Responsible Fatherhood. Nearly 70% of all births to African American mothers are out of wedlock, and these children are 5 times more likely to grow up in poverty than children raised in two-parent households. In February 2006, the President signed the Deficit Reduction Act, which provides $150 million in grants from HHS to develop innovative approaches to promote healthy marriages and responsible fatherhood. This include grants to faith-based and community organizations for skill-based marriage and parenting education, as well as other services that help

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fathers provide emotional and financial support to their children. The President's FY 2007 budget requests a total of $250 million for these activities.

- Helping America's Youth. The President and the First Lady are committed to highlighting the importance of focusing on at-risk youth, especially boys; educating parents and communities on the importance of promoting positive youth development; and informing parents and communities of strong and successful prevention and intervention programs that work by drawing attention to initiatives from around the country and identifying successful ways to connect at-risk youth with parents, their school, and their community. The Administration's focus on young Americans includes support for programs that help youth overcome the specific risk of gang influence and involvement. In the FY 2006 budget, the Administration proposed a three-year, $150-million initiative to help youth at risk of gang influence and involvement through grants to faith-based and community organizations.

- Homeownership and Access to Capital. Since the President's 2002 announcement of a goal to increase minority homeownership by 5.5 million homeowners before the end of the decade, 2.3 million additional minorities have become homeowners. Homeownership reached an all-time high in this Administration. In 2003, for the first time, most minority families owned their own homes. Today, there are over 6 million African-American homeowners. The Administration has been vigilant in ensuring that all Americans have equal access to the capital markets that allow small businesses to grow and prosper. In 2004, the Civil Rights Division of the Justice Department brought two fair lending cases challenging discriminatory practices including, for the first time, claims that a bank failed to make business loans on a non-discriminatory basis.

- Social Security. The President has called for reforms that will keep Social Security's promises to today's seniors and those near retirement while also giving younger workers a chance to save in personal retirement accounts for their own retirement. African Americans are disadvantaged by the current Social Security system in several important ways. Because they have shorter life expectancies than white or Hispanic Americans, they receive far fewer Social Security retirement benefits than their counterparts. On the other hand, African Americans receive more from the disability and survivors aspects of Social Security than do Americans on average. While an important goal is and should be to address these gaps in life expectancy, the Administration is committed to creating a more equitable Social Security system. The inheritable aspect of personal accounts would be of special benefit to African-American families. Some African-American groups have expressed concerns that Social Security reform would mean cuts in disability benefits or an erosion of protections for low-income Americans. The Administration's policies address this concern by leaving disability benefits untouched, while embracing "progressive growth" to provide faster benefit growth for lower-income households.

- Health Care. Due to the Medicare Modernization Act (MMA), starting in January 2006 700,000 African-American Medicare beneficiaries gained access to drug coverage. The poorest African-American beneficiaries will pay no premium, no deductibles, and only nominal cost-sharing for drugs. An additional 1.5 million low-income African-American

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beneficiaries will receive substantial help with premiums, deductibles, and co-payments. MMA also expands the Medicare Advantage program, which offers coverage that is popular among minority beneficiaries, especially those who cannot afford to buy supplemental medical insurance policies. Seniors who enroll in Medicare Advantage plans on average spend about $100 per month less out of their own pockets for medical care than those with standard medical coverage. Many of these plans have also engaged in an effort to identify beneficiaries who are less likely to receive preventive care, such as regular blood tests, and have found that African Americans with diabetes need help with accessing these services more regularly. The Administration has also worked to increase health-insurance coverage of low-income children, including minorities. The number of uninsured children is lower than in any year since 1989, and the percentage of children who have health coverage has never been higher. For instance, the number of children enrolled in the SCHIP program has increased about 33% since 2001. The FY 2006 budget requested $1 billion for a nationwide "Cover the Kids" outreach effort to continue enrolling low-income children in SCHIP.

- HIV/AIDS. In the State of the Union address, the President stated his strong support for the reauthorization of the Ryan White CARE Act with a focus on citizens with the highest rate of new infections, African-American men and women. Of the 571,000 people served yearly by the Ryan White CARE Act, over half are people of color.

- Hurricane Katrina. The President and Congress have provided more than $100 billion to support recovery and rebuilding in the Gulf region. These funds have been used to provide temporary housing support to more than 700,000 families, continued education of children displaced by the storms, health services, low-interest loans, debris removal and more. More than $11 billion in Community Development Block Grant funds has been provided to rebuild housing and community infrastructure so that families will begin moving back home and rebuilding their lives. The U.S. Department of Commerce's (DOC) Minority Business Development Agency has conducted direct outreach to over 2,000 minority local businesses, assisted over 250 displaced minority firms, and counseled approximately 640 businesses on Gulf Coast procurement opportunities.

DOJ_NMG_ 0164492

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Potential Presidential Speech to NAACP

PURPOSE: Discuss possible speech topics for potential speech by POTUS at the 97th NAACP National Convention at the Washington Convention Center.

TIMETABLE: NAACP speech date is July 20, 2006. Principals' Meeting to discuss speech is on July 14, 2006 from 1:00 - 2:00 pm. Policy brief to POTUS on speech is on July 18, 2006.

SYNOPSIS: The speech will likely discuss several issues relevant to the Department, including the Voting Rights Act, the ban on racial profiling, S. 2679 (Sen. Talent's Civil Rights-era cold case bill), and our efforts to ensure the integrity of law enforcement.

DISCUSSION: The President is likely to speak at the conference. In addition to the DOJ issues discussed below, I anticipate that the speech will discuss education, family initiatives, and foreign policy such as Darfur. In addition, I anticipate it will commemorate the 40th anniversary of the release of the Coleman Study, which examined the lack of equal education opportunities for minorities.

The Civil Rights Division proposes the following four topics for inclusion in the speech:

1. Voting Rights Act: The President's early and strong support for reauthorization of the provisions of the Voting Rights Act that are due to expire next year, without a discussion of specific provisions of the bill.

2. Racial Profiling: This Administration is the first in U.S. history to issue guidelines to federal law enforcement regarding a ban on racial profiling.

3. "Cold" Civil Rights Cases: This Administration has a strong record of investigating and prosecuting Civil Rights-era crimes, as evidenced by the task force that we formed to investigate the murder of Emmett Till. The Department of Justice also has sent a letter to Senator Talent supporting the legislative goals of S. 2679, the "Unsolved Civil Rights Crime Act." (Attachment A.)

4. Policing Law Enforcement: This Administration has ensured the integrity of law enforcement by more than tripling the number of settlements negotiated with police departments across the country and convicting 30 percent more law enforcement officials for criminal civil rights violations than during the last five and a half years in the prior Administration.

Also attached is a memorandum prepared by the White House, dated July 10, 2006, that details this Administration's overall record on civil rights (Attachment B).

From: USDOJ- Office of Public Affairs
Sent: Monday, July 17, 2006 6:08 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ANNOUNCES SETTLEMENT WITH UNIVERSITY OF CHICAGO TO INCREASE ACCESS TO PEOPLE WITH DISABILITIES

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JULY 17, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT ANNOUNCES SETTLEMENT WITH UNIVERSITYOF CHICAGO TO INCREASE ACCESS TO PEOPLE WITH DISABILITIES

WASHINGTON — The Justice Department today announced a settlement agreement under Title III of the Americans with Disabilities Act (ADA) with the University of Chicago under which the University will make its campus and services more accessible to individuals with disabilities.

Today's out-of-court settlement resolves a compliance review during which the Department found violations of the ADA Standards for Accessible Design in newly constructed buildings, as well as barriers to existing facilities and elements such as doors, restrooms, signage, entrances, seating and assistive listening devices in assembly spaces, and exterior circulation routes. The University, located in Chicago, Ill., has agreed to involve the university community in preparing a plan under which it will make alterations to its facilities within four years and relocate certain types of services and programs to accessible facilities with prior notice. The agreement addresses a wide variety of services and facilities, including classroom and administrative buildings, housing, museums and libraries, access between facilities, athletic and performance areas, directional signage, transportation, and emergency preparedness.

"We applaud the University of Chicago for its extensive effort to improve campus access greatly for all students and visitors," said Wan J. Kim, Assistant Attorney General for Civil Rights. "We hope that other colleges and universities will follow this example and make the entire college experience accessible to their students with disabilities and others who visit their campuses."

Under the agreement the University will:

- Ensure that all buildings and facilities in which programs, services, and amenities are offered to the public and the University community meet the accessibility criteria in the agreement, unless participation requires advance notice or registration;

- Ensure that those services and programs that do require advanced notice or registration (such as classes and receptions) are located in (or relocated to) an accessible location in the event that a person with a disability registers;

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- Submit an accessibility plan for review to the Department by November 1, 2007, outlining how the University will comply with the agreement, after conducting architectural surveys and seeking public comment;

- Implement campus-wide emergency evacuation, sheltering, and shelter-in-place plans for individuals with disabilities; after public comment and Department review;

- Ensure that its transportation services, including its fixed-route campus-wide bus system and its Late Night Van service, meet the requirements of the ADA by October 1, 2006;

- Ensure that three percent of the units (and adjacent toilet rooms) in its student living facilities are accessible and dispersed among the facilities; and that, in addition, a reasonable number of housing facilities has an accessible entrance, first floor common area, and toilet room that is usable by a visitor with a disability;

- Display information on its website, by March 1, 2007, identifying accessible routes through the campus, accessible parking areas, accessible entrances to buildings, and accessible spaces within buildings;

- Post signs at facility entrances and toilet rooms identifying those that are accessible and, at inaccessible entrances and toilet rooms, directing individuals to the nearest accessible entrance or toilet room;

- Provide assistive listening systems and devices for people with hearing impairments in lecture halls, meeting rooms, auditoria, and other assembly areas; and

- Correct violations of the new construction standards for accessibility by February 1, 2010.

Title III of the ADA requires that privately owned places of public accommodation, including colleges and universities, remove physical barriers to access existing facilities where it is readily achievable to do so, comply with accessibility standards for new construction and alterations, ensure that transportation services are accessible, and modify policies and practices where necessary to ensure full and equal enjoyment of services and facilities.

Anyone interested in finding out more about the ADA or the agreement can call the Justice Department's toll-free ADA Information Line at 800-514-0301 or 800-514-0383 (TTY), or access its ADA web site at http://www.ada.gov.

# # #

06-441

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Image not available for this document, ID: 0.7.10316.48495-000002

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 17, 2006 6:12 PM
To: Gorsuch, Neil M
Subject: Call Monica [redacted]

Beach, Andrew

From: Beach, Andrew
Sent: Monday, July 17, 2006 7:33 PM
To: Gorsuch, Neil M
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

Neil,
At this point, Cabinet Liaison is saying no need to send a DOJ rep to tomorrow's meeting.

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Tel: (202) 514-4195; FAX: (202) 307-2825

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From: Gorsuch, Neil M
To: Beach, Andrew
Sent: Mon Jul 17 17:40:49 2006
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

That's helpful. Thanks.

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From: Beach, Andrew
To: Gorsuch, Neil M
Sent: Mon Jul 17 17:39:51 2006
Subject: RE: Pls call Andy Beach. 202 514 6333. urgent

I'll try and get a list of who is invited.
Participants invited to last Friday's principals meeting included: AG Gonzales, Wan Kim. Zinsmeister, Troy, Moreland, Bolten, Kaplan, Rove, Addington, Portman, Bartlett, Snow, Miers, Wolff, McGurn, Lazear

But they won't ever tell us who confirmed to attend.

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Sent: Mon Jul 17 17:19:04 2006
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Assistant to the Attorney General
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Department of Justice - Washington, DC 20530 Tel: (202) 514-4195; FAX: (202) 307-2825

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 7:57 PM
To: Beach, Andrew
Subject: Re: Pls call Andy Beach. 202 514 6333. urgent

Roger - thanks for letting me know. If that changes, I am now up to speed.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 7:59 PM
To: Comisac, Rena (CRT); Agarwal, Asheesh (CRT)
Subject: Fw: Pls call Andy Beach. 202 514 6333. urgent

Looks like our early mtg tomorrow is off - for the moment at least - but thanks so much for all the help!

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To: Beach, Andrew
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 17, 2006 8:26 PM
To: Kim, Wan (CRT)
Subject: Fw: Pls call Andy Beach. 202 514 6333. urgent

As they say - never mind! Safe travels.

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Goodling, Monica

From: Goodling, Monica
Sent: Tuesday, July 18, 2006 8:56 AM
To: Goodling, Monica
Subject: The Morning Update: 7/18/06

Hello. This morning at 9:30 a.m., the Attorney General testifies before the Senate Judiciary Committee. For those of you interested in watching, C-SPAN 3 is planning to carry it live (channel 13 for those of you in Main Justice). Have a great day.

Best, Monica

****

<http://www.whitehouse.gov/>
JULY 18, 2006

This morning, President Bush will participate in photo opportunities with the National Capital Area Council of Boy Scouts of America and with the winner of the 2006 Indianapolis 500. In the evening, the President and Mrs. Bush will participate in a photo opportunity with Theodore Cardinal McCarrick, Archbishop Donald W. Wuerl, and Papal Nuncio Pietro Sambi.

9:50 am:
EDT THE PRESIDENT participates in a Photo Opportunity with the National Capital Area Council of Boy Scouts of America
The White House | Washington, DC

10:20 am:
EDT THE PRESIDENT participates in a Photo Opportunity with the Winner of the 2006 Indianapolis 500
The White House | Washington, DC

6:50 pm:
EDT THE PRESIDENT and Mrs. Bush participate in a Photo Opportunity with Theodore Cardinal McCarrick, Archbishop Donald W. Wuerl, and Papal Nuncio Pietro Sambi
The White House | Washington, DC

Under Secretary Of State Nicholas Burns Discusses U.S. Diplomacy In The Middle East. BURNS: "We're talking to all sorts of parties involved in this conflict, but it's interesting that you ask that, because the parties that are responsible are Hamas and Hezbollah. At the St. Petersburg G-8 summit the other day, it was very clear, every country agreed that they started it, they're the problem here, and they're the ones that now have to pull back, stop the shelling of Israeli towns, and give up the Israeli soldiers whom they have abducted. We have to start there, and that's where the diplomacy is going to start. Obviously this week, we're very much involved in discussions in the region, as Secretary Rice has decided to travel to the region shortly in order to inject American influence and American energy to try to resolve this problem." (Fox News' "FOX & Friends," 7/18/06)

Vice President Cheney Criticizes "Artificial Deadlines" For Troop Withdrawal In

Iraq. "Vice President Dick Cheney on Monday rejected a call from some Democrats for a timetable for withdrawing U.S. troops from Iraq, arguing that it would run counter to American interests. 'Either we are serious about fighting this war or we are not,' <http://news.yahoo.com/s/ap/20060717/ap_on_go_pr_wh/cheney&printer=1;_ylt=AqRAmoLUGODQDj59hLZgdOkGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> Cheney told an Iowa audience in his first visit to the state since the 2004 election. ... The vice president singled out Rep. John Murtha, D-Pa., a decorated Marine who has pushed for a timetable for withdrawing Americans from Iraq. 'That's a bad idea. That proposal is contrary to the national interest,' said Cheney, who contended that it will be more difficult to defend the country if such a step is taken." (Mike Glover, "Cheney Argues Against Iraq Timetable," The Associated Press, 7/17/06)

Iraq And The U.S. Sign Commercial Cooperation Agreement. "Iraq and the United States signed a commercial cooperation agreement Monday to move the country toward a market economy after decades of state planning <http://news.yahoo.com/s/ap/20060717/ap_on_re_mi_ea/iraq_economy&printer=1;_ylt=AoFgrATy9mtxJgEdJ12ukHQUewgF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> . U.S. Commerce Secretary Carlos Gutierrez said at the signing that progress in Iraq's economy hinged on improved security. 'We are convinced that Iraq is ready for recovery,' Gutierrez said. 'Security is still the No. 1 challenge.' ... 'Iraq is not a poor country,' Gutierrez said. 'Iraq was made poor by tyranny. It can grow prosperous through freedom.'" (Ryan Lenz, "Nations Sign Commercial Cooperation Deal," The Associated Press, 7/17/06)

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Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/07/20060717-7.html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 9:05 AM
To: Shaw, Aloma A
Subject: FW: The Morning Update: 7/18/06

Do you happen to know when they plan to fix our tvs?

From: Goodling, Monica
Sent: Tuesday, July 18, 2006 8:56 AM
To: Goodling, Monica
Subject: The Morning Update: 7/18/06

Hello. This morning at 9:30 a.m., the Attorney General testifies before the Senate Judiciary Committee. For those of you interested in watching, C-SPAN 3 is planning to carry it live (channel 13 for those of you in Main Justice). Have a great day.

Best, Monica

****

<http://www.whitehouse.gov/>
JULY 18, 2006

This morning, President Bush will participate in photo opportunities with the National Capital Area Council of Boy Scouts of America and with the winner of the 2006 Indianapolis 500. In the evening, the President and Mrs. Bush will participate in a photo opportunity with Theodore Cardinal McCarrick, Archbishop Donald W. Wuerl, and Papal Nuncio Pietro Sambi.

9:50 am:
EDT THE PRESIDENT participates in a Photo Opportunity with the National Capital Area Council of Boy Scouts of America
The White House | Washington, DC

10:20 am:
EDT THE PRESIDENT participates in a Photo Opportunity with the Winner of the 2006 Indianapolis 500
The White House | Washington, DC

6:50 pm:
EDT THE PRESIDENT and Mrs. Bush participate in a Photo Opportunity with Theodore Cardinal McCarrick, Archbishop Donald W. Wuerl, and Papal Nuncio Pietro Sambi
The White House | Washington, DC

Under Secretary Of State Nicholas Burns Discusses U.S. Diplomacy In The Middle East. BURNS: "We're talking to all sorts of parties involved in this conflict, but it's interesting that you ask that, because the parties that are responsible are Hamas and Hezbollah. At the St. Petersburg G-8 summit the other day, it was very clear, every country agreed that they started it, they're the problem here, and they're the ones that now have to pull back, stop the shelling of Israeli towns,

and give up the Israeli soldiers whom they have abducted. We have to start there, and that's where the diplomacy is going to start. Obviously this week, we're very much involved in discussions in the region, as Secretary Rice has decided to travel to the region shortly in order to inject American influence and American energy to try to resolve this problem." (Fox News' "FOX & Friends," 7/18/06)

Vice President Cheney Criticizes "Artificial Deadlines" For Troop Withdrawal In Iraq. "Vice President Dick Cheney on Monday rejected a call from some Democrats for a timetable for withdrawing U.S. troops from Iraq, arguing that it would run counter to American interests. 'Either we are serious about fighting this war or we are not,' <http://news.yahoo.com/s/ap/20060717/ap_on_go_pr_wh/cheney&printer=1;_ylt=AqRAmoLUGODQDj59hLZgdOkGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> Cheney told an Iowa audience in his first visit to the state since the 2004 election. ... The vice president singled out Rep. John Murtha, D-Pa., a decorated Marine who has pushed for a timetable for withdrawing Americans from Iraq. 'That's a bad idea. That proposal is contrary to the national interest,' said Cheney, who contended that it will be more difficult to defend the country if such a step is taken." (Mike Glover, "Cheney Argues Against Iraq Timetable," The Associated Press, 7/17/06)

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Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Tuesday, July 18, 2006 8:30 AM
End:	Tuesday, July 18, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Otus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)Otus2005, Ag; McCallum, Robert (SMO); Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Gorsuch, Neil M; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG)
Importance:	High

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Neil Gorsuch, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, July 18, 2006 10:00 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 7.18.06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 7.18.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

July 18, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending July 21, 2006

NEXT WEEK

- ***Correctional Officer to be Sentenced:***
  On July 28, 2006, sentencing is scheduled to occur in *United States v. Rohrmiller* (Northern District of New York). On March 23, 2006, defendant David Rohrmiller, a former correctional officer at the Rensselear County Jail, pleaded guilty to deprivation of rights under color of law, making a false declaration before a grand jury, making false statement to a federal agency. In entering his guilty plea, defendant Rohrmiller admitted that he sexually assaulted a female detainee housed at the jail and that he made materially false statements to a federal grand jury and a federal agency during the investigation. In addition to the federal charges, Rohrmiller pleaded guilty in Rensselaer County State Court to two counts of third degree rape, stemming from Rohrmiller's sexual encounters with inmates of the Rensselaer County Jail.

- ***Correctional Officer to be Sentenced:***
  On July 25, 2006, sentencing is scheduled to occur in *United States v. Mincey* (Middle District of Florida). On March 30, 2006, defendant Edward Mincey, a correctional officer at the Duval County Jail, entered a guilty plea for filing a false report in an effort to conceal an assault upon Ronnie Forrest, who had been arrested following a police chase

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

and was in custody at the jail.

THIS WEEK

- ***Division to Monitor County Elections:***
  On July 18, 2006, federal observers will monitor polling place activities during the primary runoff elections in Conecuh and Hale Counties, Alabama, and the primary election in Randolph County, Georgia pursuant to Section 8 of the Voting Rights Act. The Division recommends elections monitoring in these three counties because of the racially polarized nature of the elections and the occurrence of voting irregularities in recent and past elections.

LAST WEEK

- ***Division filed VRA complaint against Euclid, Ohio***:
  On July 10, 2006, the Department filed a complaint against the City of Euclid (Northern District of Ohio) for violating Section 2 the Voting Rights Act. The complaint was filed after the City declined to accept a consent decree and a remedial districting plan proposed by the Division. The complaint alleged that the mixed at-large/ward system of electing the city council diluted the voting strength of African-American citizens. In the course of its investigation, the Division found that while African-Americans compose nearly 30% of Euclid's electorate, and although there were eight recent African-American candidacies for the Euclid City Council, not a single African-American candidate has ever been elected to that body. Further, the Division found that even though African-Americans voted cohesively in seven recent elections for Euclid City Council, white voters voted sufficiently as a bloc to defeat African-American voters' candidates of choice.

LONG RANGE EVENTS

- Nothing to report

Division Contact: Kimani S. Little – (202) 616-2249

Full Name:	Mark Filip
Last Name:	Filip
First Name:	Mark
Business:	[redacted]
E-mail:	
E-mail Display As:	

Mansour, Linda

From: Mansour, Linda
Sent: Tuesday, July 18, 2006 12:16 PM
To: Davis, Deborah J
Cc: McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Todd, Gordon (SMO); Goodling, Monica; Gunn, Currie (SMO); Shaw, Aloma A; Gorsuch, Neil M; Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Kaplan, April; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Greenhouse, Dennis; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty
Subject: OJP Submission for the AG Weekly Report for July 16-22
Attachments: 716A.06.wpd

Hi Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for the week of July 16 -22, 2006. Please let me know if you have any questions.

Thanks!
Linda

Linda Mansour
Office of Communications
Office of Justice Programs
U.S. Department of Justice
email: linda.mansour@usdoj.gov
phone: 202/616-3534

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of July 16-22, 2006

NEXT WEEK

· ***Teen Dating Violence***
On July 24-25 in Washington, DC, Assistant Attorney General Schofield, National Institute of Justice Acting Director Schmitt, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks at the Teen Dating Violence Workshop. The purpose of the workshop is to provide a forum for discussion among researchers, practitioners, and federal agencies on issues related to teen dating violence. The workshop will be used as a resource to identify gaps in the research and programs and to generate research questions that will help advance prevention and intervention efforts. Another goal of the workshop is to increase federal interagency coordination in the area of teen dating violence.

· ***Gangs***
On July 26 in Palm Springs, CA, Deputy Assistant Attorney General Daley and Bureau of Justice Assistance Director Herraiz will give opening remarks at the Gang Resistance Education and Training (G.R.E.A.T.) Conference. The Bureau of Justice Assistance is helping to organize this year's training that will address the needs of individuals currently implementing G.R.E.A.T. and those who want to become involved with the program.

· ***Victims***
On July 27, the Office for Victims of Crime will host a Web Forum discussion with the Senior Vice President of Security on Campus, Inc. regarding campus victimization and assistance services for crime victim service providers and related professionals.

· ***Parole and Probation***

DOJ_NMG_ 0164522

On July 22-26 in Chicago, IL at the American Probation and Parole Association's annual training institute, Bureau of Justice Assistance staff will conduct a workshop on sex offender management. National Institute of Justice staff will moderate a workshop on prisoner reentry efforts.

THIS WEEK

- ***AMBER Alert***
  On July 17-21 in Albuquerque, NM, OJP will sponsor the National AMBER Alert Conference. Assistant Attorney General Schofield and Deputy Assistant Attorney General Daley will participate.

- ***Research***
  On July 17-19 in Washington, DC, the National Institute of Justice (NIJ) will host the 2006 NIJ Conference, formerly known as the Annual Research and Evaluation Conference. For 14 years, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from the research and evaluation field. This year's conference marks the first year in which the science and technology fields will participate. The 2006 NIJ Conference will provide emphasis on the benefits to researchers and practitioners who work together to make effective evidence-based policies and practices. NIJ Acting Director Schmitt will provide the welcome and opening remarks, and he will moderate a session on NIJ's Body Armor Program.

- ***Statistics***
  On July 21, the Bureau of Justice Statistics (BJS) is scheduled to release *Improving Criminal History Records for Background Checks, 2005,* which describes the achievements of the National Criminal History Improvement Program (NCHIP), its authorizing legislation, and program history. This annual bulletin summarizes NCHIP-funded criminal record improvement efforts, including improved accessibility of records, full participation in the Interstate Identification Index, the automation of records and fingerprint data, and improvements in the National Instant Criminal Background Check, National Sex Offender Registry, and domestic violence and protection order systems. The report provides examples of projects aimed at enhancing the involvement of the courts and system integration in improving disposition reporting. The report also includes a discussion of BJS efforts to improve performance measurement including the development and use of a Records Quality Index.

  On July 19 in St. Louis, MO, Bureau of Justice Statistics Director Sedgwick will speak at the Annual National Consortium of Justice Information and Statistics (SEARCH) Membership Meeting. On July 18-21, Bureau of Justice Assistance staff will attend the Criminal Justice Information Sharing meeting to discuss criminal justice resources. CJIS representatives from all 50 states who administer criminal information, such as criminal history and the sex offender registry, in each of their states will attend.

DOJ_NMG_ 0164523

On July 17 in Washington, DC, Bureau of Justice Statistics staff briefed the Association of State Correctional Administrators' research committee on data collection activities related to the implementation of the Prison Rape Elimination Act.

- ***Technology/Research***
  On July 20-21 in Washington, DC, National Institute of Justice (NIJ) Assistant Director Morgan will participate in the Law Enforcement Corrections Technology Advisory Council (LECTAC) Meeting. LECTAC reviews and analyzes the present and future technological needs of the criminal justice system and informs NIJ research and development priorities.

- ***White Collar Crime***
  On July 20 in Cincinnati, OH, Bureau of Justice Assistance Deputy Director Burch and staff will meet with National White Collar Crime Center representatives to discuss cybercrime training for law enforcement.

- ***Weed and Seed/Drugs***
  On July 20 in St. Petersburg, FL, Community Capacity Development Office Director Greenhouse will participate in a Community Anti-Drug Coalitions of America satellite broadcast featuring the Weed and Seed strategy titled, "Cleaning Up the Streets: Taking Drugs Out of Our Neighborhoods." The COPS program and an outstanding Weed and Seed site also will be featured.

- ***Gangs***
  On July 20 in Washington, DC, Bureau of Justice Assistance Deputy Director Burch and staff will meet with representatives of the National Youth Gang Center to discuss developing an advanced gang investigator and other gang-related courses, as well as ongoing antigang efforts.

  On July 17 in Cleveland, OH, Bureau of Justice Assistance staff met with local participants of the Attorney General's Anti-Gang Initiative to discuss the initiative's enforcement and reentry components. The initiative addresses enforcement, prevention, and reentry efforts associated with violent gang members residing in or returning to communities located in six major jurisdictions, including Cleveland.

- ***Information Sharing***
  On July 17-19 in St. Petersburg, FL, Bureau of Justice Assistance (BJA) staff will attend the Regional Information Sharing Systems (RISS) National Policy Board meeting to discuss OJP and BJA justice information sharing initiatives as they relate to the RISS program.

- ***Juvenile Justice***
  On July 18 in Milwaukee, WI, Office for Juvenile Justice and Delinquency Prevention

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Administrator Flores will give remarks at the closing session of the Annual Conference of the National Council of Juvenile and Family Court Judges.

On July 17 in Rockville, MD, Office for Juvenile Justice and Delinquency Prevention Administrator Flores provided remarks for a federal panel at a grantee workshop on Safe and Bright Futures for Children, sponsored by HHS.

LAST WEEK

- ***DNA**
  On July 13-14 in Knoxville, TN, Deputy Assistant Attorney General Daley and Bureau of Justice Assistance Deputy Director Burch visited the University of Tennessee's Law Enforcement Innovation Center (LEIC) to discuss crime scene investigation advances and training opportunities. Ms. Daley also gave remarks at LEIC's National Forensic Science Academy graduation ceremony honoring law enforcement officers who completed the 10-week residential crime scene investigation training program.

- ***Juvenile Justice**
  On July 15 in Milwaukee, WI at a meeting of the Board of Trustees of the National Council of Juvenile and Family Court Judges (NCJFCJ), Office of Juvenile Justice and Delinquency Prevention (OJJDP) Administrator Flores emphasized the work that NCJFCJ is doing to provide juvenile offenders with appropriate sanctions and community support services.

  On July 10 in Nashville, TN at the Family, Career, and Community Leaders of America (FCCLA) annual national leadership meeting, Office for Juvenile Justice and Delinquency Prevention Administrator Flores gave remarks recognizing the group's work in preparing youth for leadership roles and commending FCCLA youth members for being positive role models for their peers.

- ***Victims**
  On July 12 in Dallas, TX, Office for Victims of Crime Director Gillis gave opening remarks at the annual Gulf States Victim Witness Conference sponsored by the U.S. Attorney's Offices of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

- ***White Collar Crime***
  On July 13-14 in Cincinnati, OH, Bureau of Justice Assistance staff attended a National White Collar Crime Center Board of Directors meeting that included industry leaders to discuss cybercrime in the private industry and OJP and BJA justice information sharing initiatives.

- ***Trafficking***
  On July 12 and 13 in Washington, DC, National Institute of Justice staff met with a professor from Poland and a representative of Argentina's Office of Assistance to Victims

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of Crime, respectively, to discuss human trafficking statistics, research, and issues.

- ***Weed and Seed***
  On July 12-13 in Rochester, NY, Community Capacity Development Office Director Greenhouse and staff visited the Weed and Seed site and meet with Mayor Robert Duffy and his staff.

- ***Crime Prevention***
  On July 12 in Washington, DC, Bureau of Justice Assistance (BJA) staff participated in the Crime Prevention Coalition of America's executive board meeting to discuss OJP and BJA crime prevention initiatives.

- ***Criminal History Records***
  On July 11-12 in Clarksburg, WV at the FBI's Criminal Justice Information Services Division conference on court disposition reporting, Bureau of Justice Statistics staff gave a presentation on the National Criminal History Improvement Program. The conference included representatives from several key states where BJS and CJIS would like to focus criminal record improvement efforts on disposition completeness.

LONG-RANGE EVENTS

- On July 31 in Santa Fe, NM at the National District Attorneys' Association Summer Conference, Bureau of Justice Statistics (BJS) Director Sedgwick will provide remarks highlighting BJS' 2005 report on the characteristics and workloads of the nation's approximately 2,300 prosecutors' offices.

- On July 31-August 2 in Baltimore, MD at the National Forum on Criminal Justice and Public Safety, Bureau of Justice Assistance (BJA) Director Herraiz and staff will present on several OJP and BJA programs and initiatives, including the Public Safety Officers' Benefits (PSOB) Program, preparing for a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. The Forum, sponsored by BJA, the National Criminal Justice Association, and the Integrated Justice Information Systems Institute, will highlight program and enforcement strategies to confront challenges such as gangs, drug trafficking and abuse, methamphetamine, and identity theft. BJA sessions will provide information about the PSOB Program, preparing for and confronting a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. Federal, state, tribal, and local criminal justice and public safety officials and corporate representatives will examine promising practices, technologies, and strategies.

- In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Sexual Violence Reported by Correctional Authorities, 2005,* which presents data from the Survey on Sexual Violence, 2005, an administrative records collection of incidents of inmate-on-inmate and staff-on-inmate sexual violence, by type, for adult prisons, jails, and other adult correctional facilities. The report provides an in-depth analysis of

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substantiated incidents, including where the incidents occur, time of day, number and characteristics of victims and perpetrators, nature of the injuries, impact on the victims and sanctions imposed on the perpetrators. The appendix tables include counts of sexual violence by type, for all state systems, the Federal Bureau of Prisons, and all sampled jail jurisdictions. The report also includes an update on BJS activities related to implementation of the data collections required under the Prison Rape Elimination Act of 2003.

- In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

- In July 2006, the Bureau of Justice Statistics is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed, convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

- In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Law Enforcement Officers, 2004*, which reports the results of a biennial census of federal agencies employing personnel with arrest and firearms authority. Using agency classifications, the report presents the number of officers working in the areas of police patrol and response, criminal investigation and enforcement, security and protection, court operations, and corrections, by agency and state, as of September 2004. Data on gender and race of officers also are included.

- In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time

  to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

- In July 2006, the Bureau of Justice Statistics is scheduled to release *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors'

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offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information also is available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff.

- On August 3-6 in Honolulu, HI, National Institute of Justice Acting Director Schmitt will speak to the American Bar Association regarding Principals of Forensic DNA for Officers of the Court.

- On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give remarks at the Parents of Murdered Children conference.

- On August 12-13 in Charlotte, NC, Bureau of Justice Statistics Director Sedgwick will give remarks at the Association of State Corrections Administrators Board and Membership meeting.

- On August 14-17 in Phoenix, AZ, the Community Capacity Development Office (CCDO) will host a Law Enforcement Conference that will focus on the latest technology trends in law enforcement to assist communities with preventing and controlling crime. The conference will provide opportunities to develop partnerships and strengthen relationships among community leaders, faith-based organizations, and local law enforcement. Assistant Attorney General Schofield, CCDO Director Greenhouse, and Bureau of Justice Statistics Director Sedgwick will give remarks at the conference.

- On August 14-17 in Las Vegas, NV, Community Capacity Development Office staff and Weed and Seed site representatives will participate in the Community Anti-Drug Coalitions of America (CADCA) Mid-Year Training Institute. CADCA's mission is to build and strengthen the capacity of community coalitions to create safe, healthy, and drug-free communities.

- On August 16-17 in Nashville, TN, National Institute of Justice (NIJ) Assistant Director Morgan will attend the Annual Meeting and Exhibition of the National Conference of State Legislatures and give remarks on the NIJ Forensic Science DNA program.

- On August 21 in Orlando, FL, Office for Victims of Crime Director Gillis will give remarks at the World Victims' Society Conference.

- On August 21-24 in Dallas, TX, Assistant Attorney General Schofield, Deputy Assistant Attorney General Daley, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores will speak at the Crimes Against Children and Internet Crimes Against Children Training Conference.

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- On August 24 in Baltimore, MD at the Annual National Leadership Conference, sponsored by the Underage Drinking Enforcement Training Center, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give luncheon keynote remarks commending attendees for their efforts to reduce underage drinking.

- On August 25 in Orlando, FL, Deputy Assistant Attorney General Daley will provide closing remarks at the National Organization for Victim Assistance annual conference. Office for Victims of Crime Director Gillis also will give remarks at the conference.

- On August 28 in New Orleans, LA, Office for Victims of Crime Director Gillis will give remarks at the International Homicide Investigators Association conference.

- On September 6-8 in Atlanta, GA, the National Institute of Justice (NIJ), the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for participation in discussions with national and international experts. NIJ Acting Director Schmitt will give opening remarks.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On September 18 in Washington, DC, Assistant Attorney General Schofield will provide opening remarks at the Law Enforcement Leadership Initiative Meeting.

- On September 19 in Washington, DC, Office for Juvenile Justice and Delinquency Prevention Administrator Flores will give the keynote luncheon address at the Persistently Safe Schools 2006 national conference, sponsored by the Hamilton Fish Institute on School and Community Violence.

- On September 19-21 in Baltimore, MD, National Institute of Justice staff will participate in the 2006 Biometrics Consortium Conference, which will address the latest trends in biometrics research, development and applications on biometric technologies, and the

  important role that biometrics can play in the identification and verification of individuals in this age of heightened security and privacy.

- On September 20 in Fort Lauderdale, FL, Deputy Assistant Attorney General Hagy will give remarks at the Center for Substance Abuse Prevention annual grantee meeting.

- On September 21 in Boyds and Rockville, MD, Assistant Attorney General Schofield and Deputy Assistant Attorney General Hagy will visit the Maryland Department of

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Correction and Rehabilitation.

- On September 25 in New Orleans, LA at the National Network of Youth Ministries' National Mentor Recruitment Training, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks commending attendees for their work in helping to provide mentors to at-risk youth.

- On September 26 in Orlando, FL Assistant Attorney General Schofield will give opening remarks at the Sex Offender Training Conference.

- On September 27 in Alexandria, VA, Assistant Attorney General Schofield will participate in the CNA Corporation Roundtable.

- On September 28 in Philadelphia, PA, Deputy Assistant Attorney General Daley will give remarks at the 3rd Regional Cold Case Training.

- On October 2 in Washington, DC, Assistant Attorney General Schofield will give opening remarks at the Law Enforcement and Youth Partnerships for Crime Prevention conference.

- On October 3 in New Orleans, LA, Assistant Attorney General Schofield will give remarks at the Human Trafficking Conference

- On October 4-5 in Sacramento, CA, Assistant Attorney General Schofield will give remarks at the National Congress of American Indians Annual Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference. BJS Director Sedgwick will give the keynote address.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On October 18-21 in Appleton, WI, Deputy Assistant Attorney General Daley will give remarks at the State Clearinghouse Conference.

- On October 23-25 in Washington, DC, at the Institute for Defense and Government Advancement Border Management Conference, National Institute of Justice staff will present on Biometric Technologies for Criminal Justice.

- On October 25 in Phoenix, AZ, Deputy Assistant Attorney General Daley will participate in the Medal of Valor Board meeting.

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- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications
202/307-5933

DOJ_NMG_ 0164531

Schreiber, Jayne

From: Schreiber, Jayne
Sent: Tuesday, July 18, 2006 12:18 PM
To: Gorsuch, Neil M; Beach, Andrew; Sellers, Kiahna (OAG); Boote, John; Long, Linda E; Gunn, Currie (SMO)
Cc: Powell, SeLena Y
Subject: Program for Mr. McCallum's Reception attached
Attachments: MCCALLUMFAREWELLPROGRAM.wpd

P R O G R A M

Farewell for Robert McCallum
Associate Attorney General
Wednesday, July 19, 2006

2:00 PM Mr. McCallum will greet guests as they begin to arrive in Room 5111.

2:10 PM NEIL GORSUCH, PRINCIPAL DEPUTY ASSOCIATE ATTORNEY GENERAL, MC, will begin program with remarks.

MC introduces THE DEPUTY ATTORNEY GENERAL for remarks.

MC introduces THE ATTORNEY GENERAL for remarks and presentation.

THE ATTORNEY GENERAL introduces ROBERT McCALLUM for farewell remarks.

RECEPTION CONTINUES

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, July 18, 2006 12:42 PM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General July 18, 2006
Attachments: CRS AG Weekly 7-18-06.doc

Attached, please find CRS' Weekly Report to the Attorney General for July 18, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

July 18, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Assess Community Racial Tensions in Hot Springs, MT***
  On July 25, 2006, CRS will be onsite in Hot Springs, MT to meet with local community leaders and members in response to reported racial tensions among Native American and non-Native American community members, businesses, educators, and law enforcement officials. CRS will assist in developing a community dispute resolution in an effort to defuse longstanding tensions.

B. This Week

- ***CRS to Conduct Arab, Muslim, and Sikh Cultural Awareness Program in Lincoln, NE***
  On July 19, 2006, CRS will be onsite in Lincoln, NE to conduct its Arab, Muslim, and Sikh Cultural Awareness Program. The program will be conducted for members of the Lincoln Police Department, University of Nebraska Police Department, State Highway Patrol, Transportation Security Administration (TSA) personnel, Federal Bureau of Investigation (FBI) officials, and other local law enforcement agencies.

- ***CRS Assessed Racial Tensions in Sturgis, SD***
  On July 17, 2006, CRS was onsite in Sturgis, SD to meet with Sturgis Police Department officials, American Indian community leaders, and other community leaders in response to racial tensions and protests surrounding a proposed business development for an upcoming motorcycle rally adjacent to Bear Butte, Native American sacred grounds. CRS will provide continued assistance as necessary.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

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C. Last Week

- ***CRS Convened Pre-Mediation in Leveland, TX***
  On July 13, 2006, CRS was onsite in Leveland, TX to conduct pre-mediation services among Leveland Independent School District administrators, Hispanic community leaders, and local community members. The mediation is being planned in response to racial tensions surrounding allegations of disparate treatment and discrimination directed towards Hispanic students and parents.

- ***CRS Monitored Immigration Rallies in Hazleton, PA***
  On July 12-13, 2006, CRS was onsite in Hazleton, PA to provide technical assistance and contingency planning for an immigration rally and counter-demonstration rally. Hispanic community members were reportedly protesting local legislation which regulates illegal immigration. The two-day event was attended by approximately 500 persons and approximately 100 counter-demonstrators in support of the legislation. The event proceeded without major incident.

- ***CRS Monitored Rally in Lewiston, ME***
  On July 12, 2006, CRS was onsite in Lewiston, ME to monitor a rally reportedly held in support of local Somali community members, following racial tensions surrounding a recent incident where a severed pig's head was thrown into a Lewiston Mosque while approximately forty men were praying. The event was attended by approximately 200 persons and proceeded without incident. CRS has also been in continued communication with representatives from the local Muslim community and Lewiston Police Department officials to provide follow-up services as necessary.

- ***CRS Facilitated Post Katrina Panel Discussion in Jackson, MS***
  On July 11-13, 2006, CRS was onsite in Jackson, MS to participate in the Sixth Annual South East Consortium Civil Rights Conference. In response to requests from event organizers, CRS facilitated a workshop on post Katrina activities in Mississippi, and facilitated a panel of presenters including federal, state, and local officials involved in Hurricane recovery activities. This is the third year CRS was involved in the conference hosted by a consortium of federal agencies.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0164536

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, July 18, 2006 2:11 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Fallon, Claire (TAX); Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 071806
Attachments:	AG_Report_July_18_2006.DOC

July 18, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Nothing significant to report.***

B. THIS WEEK

- ***Tax Division to Defend Treasury Check-the-Box Regulations Before 6th Circuit***
  On July 21, 2006, the Tax Division will present oral argument before the Sixth Circuit in this taxpayer appeal challenging the validity of the IRS's "check-the-box" regulations. These regulations, finalized in 1996, permit owners of unincorporated business entities to elect to have them disregarded for tax purposes. In all, the Division is presently defending the regulations in three appellate cases in which the individual taxpayers' challenge to the regulations is an attempt to avoid liability for the entity's employment taxes. The two other taxpayer appeals are *Emiel A. Kandi v. United States,* pending before the Ninth Circuit, and *Sean McNamee v. Treasury, IRS,* pending before the Second Circuit. The Tax Division filed the government's brief as appellee in *McNamee* on July 14. Oral argument in *Kandi* is anticipated in early 2008. [*Frank A. Littriello v. United States* (United States Court of Appeals for the Sixth Circuit)]

- ***Tax Attorney Scheduled to be Sentenced for Tax Evasion***
  On July 21, U.S. District Judge Robert E. Blackburn is scheduled to sentence tax attorney Michael Shidler for tax evasion. Shidler pleaded guilty to evading the payment of tax and aiding and abetting the evasion of payment of tax on April 21, 2006. He admitted to conspiring with his client to thwart the IRS's efforts to collect a penalty of $124,000 from the client. [*United States v. Michael Shidler* (District of Colorado)]

C. LAST WEEK

- ***Government Prevails in Significant Tax Shelter Appeal***
  On July 12, in a unanimous opinion for the three judge panel written by Judge Dyk, the Federal Circuit reversed the adverse decision of the Court of Federal Claims in this closely watched "contingent liability" tax shelter case. The Federal Circuit agreed with the Government that the transaction that Coltec had entered into lacked economic substance and held that Coltec is not entitled to a claimed $378 million loss. In a ruling with significance for other tax shelter cases in litigation, the court reaffirmed the principle that transactions that literally comply with the Code but lack economic substance will be disregarded for tax purposes. The court rejected as "untenable" the lower court's holding that the economic substance doctrine is unconstitutional. The IRS has estimated that $5 billion to the Federal Treasury is at stake in contingent-liability tax shelter cases nation-wide. [*Coltec Industries, Inc. v. United States* (United States Court of Appeals for the Federal Circuit)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-2901.

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 18, 2006 2:31 PM
To: Gorsuch, Neil M
Subject: FW: Farewell for Associate Attorney General Robert McCallum

Do you have any idea what Robert's thing is going to be like tomorrow? I've had a couple of questions like Cliff's below -- Aloma and Currie are clueless on this one.

From: White, Clifford
Sent: Tuesday, July 18, 2006 6:38 AM
To: Swenson, Lily F
Subject: RE: Farewell for Associate Attorney General Robert McCallum

Lily: In case there are presentations, we did a rush order on a book to present to Robert. I am not sure if it will arrive by tomorrow. If not all components are making a presentation, then I will pass and bring by the book for him on Thursday. Do you have any idea if there is a program? Thanks. Cliff

---

From: Swenson, Lily F
Sent: Friday, July 14, 2006 4:17 PM
To: White, Clifford
Subject: RE: Farewell for Associate Attorney General Robert McCallum

I'll ask.

From: White, Clifford
Sent: Friday, July 14, 2006 3:42 PM
To: Swenson, Lily F
Subject: FW: Farewell for Associate Attorney General Robert McCallum

Lily: Do you know if components will be making presentations to the ASG at this event? Cliff

---

From: Schreiber, Jayne
Sent: Friday, July 14, 2006 1:31 PM
To: Schreiber, Jayne
Subject: Farewell for Associate Attorney General Robert McCallum

<< File: rdminvite.wpd >> << File: rdminvite.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 3:04 PM
To: Swenson, Lily F
Subject: RE: Farewell for Associate Attorney General Robert McCallum

Give me a ring when you have a chance to discuss

From: Swenson, Lily F
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Sent: Friday, July 14, 2006 1:31 PM
To: Schreiber, Jayne
Subject: Farewell for Associate Attorney General Robert McCallum

<< File: rdminvite.wpd >> << File: rdminvite.wpd >>

Gorsuch, Neil M

Subject:	Kyle Sampson Lunch
Start:	Monday, July 24, 2006 12:00 PM
End:	Monday, July 24, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, July 18, 2006 3:32 PM
To: Gorsuch, Neil M
Cc: Brand, Rachel
Subject: OMB Monthly Meeting

Neil/Rachel:

Jeff Rosen's (General Counsel, OMB) office called to request a scheduled monthly meeting with you two. Please advise.

Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 3:38 PM
To: Shaw, Aloma A
Cc: Brand, Rachel
Subject: RE: OMB Monthly Meeting

Absolutely. As far as I'm concerned, please schedule it at Jeff and Rachel's convenience.

From: Shaw, Aloma A
Sent: Tuesday, July 18, 2006 3:32 PM
To: Gorsuch, Neil M
Cc: Brand, Rachel
Subject: OMB Monthly Meeting

Neil/Rachel:

Jeff Rosen's (General Counsel, OMB) office called to request a scheduled monthly meeting with you two. Please advise.

Aloma

Gorsuch, Neil M

Subject:	Call dr[redacted]
Start:	Wednesday, July 19, 2006 9:00 AM
End:	Wednesday, July 19, 2006 9:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 4:09 PM
To: Swenson, Lily F
Subject: RE: Farewell for Associate Attorney General Robert McCallum

Turns out Cliff et al may have a chance to talk after the AG leaves.

From: Swenson, Lily F
Sent: Tuesday, July 18, 2006 2:31 PM
To: Gorsuch, Neil M
Subject: FW: Farewell for Associate Attorney General Robert McCallum

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From: Schreiber, Jayne
Sent: Friday, July 14, 2006 1:31 PM
To: Schreiber, Jayne
Subject: Farewell for Associate Attorney General Robert McCallum

<< File: rdminvite.wpd >> << File: rdminvite.wpd >>

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 18, 2006 4:17 PM
To: Gorsuch, Neil M
Subject: RE: Farewell for Associate Attorney General Robert McCallum

OK. Cool. Thanks.

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 4:10 PM
To: Swenson, Lily F
Subject: RE: Farewell for Associate Attorney General Robert McCallum

Turns out Cliff et al may have a chance to talk after the AG leaves.

From: Swenson, Lily F
Sent: Tuesday, July 18, 2006 2:31 PM
To: Gorsuch, Neil M
Subject: FW: Farewell for Associate Attorney General Robert McCallum

Do you have any idea what Robert's thing is going to be like tomorrow? I've had a couple of questions like Cliff's below -- Aloma and Currie are clueless on this one.

From: White, Clifford
Sent: Tuesday, July 18, 2006 6:38 AM
To: Swenson, Lily F
Subject: RE: Farewell for Associate Attorney General Robert McCallum

Lily: In case there are presentations, we did a rush order on a book to present to Robert. I am not sure if it will arrive by tomorrow. If not all components are making a presentation, then I will pass and bring by the book for him on Thursday. Do you have any idea if there is a program? Thanks. Cliff

---

From: Swenson, Lily F
Sent: Friday, July 14, 2006 4:17 PM
To: White, Clifford
Subject: RE: Farewell for Associate Attorney General Robert McCallum

I'll ask.

From: White, Clifford
Sent: Friday, July 14, 2006 3:42 PM
To: Swenson, Lily F
Subject: FW: Farewell for Associate Attorney General Robert McCallum

Lily: Do you know if components will be making presentations to the ASG at this event? Cliff

From: Schreiber, Jayne

Sent: Friday, July 14, 2006 1:31 PM

To: Schreiber, Jayne

Subject: Farewell for Associate Attorney General Robert McCallum

<< File: rdminvite.wpd >> << File: rdminvite.wpd >>

MccullaWL@state.gov

From: MccullaWL@state.gov
Sent: Tuesday, July 18, 2006 4:25 PM
Subject: CHANGE IN TIME for Robert McCallum swearing-in
Attachments: tmp.htm

Because of last-minute changes to the Secretary's schedule, we have had to move the time for Robert McCallum's swearing in as Ambassador to Australia. The swearing-in will now take place at 2:00 pm, instead of noon, but still on Friday, August 21.

If we have already received your clearance information, you do not need to contact us again. Please accept my apologies for the last-minute change.

Bill McCulla
Australia Desk Officer
EAP/ANP, Room 4206
mccullawl@state.gov
202-647-7828

Because of last-minute changes to the Secretary's schedule, we have had to move the time for Robert McCallum's swearing in as Ambassador to Australia. The swearing-in will now take place at **2:00 pm**, instead of noon, but still on Friday, August 21.

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Bill McCulla
Australia Desk Officer
EAP/ANP, Room 4206
mccullawl@state.gov
202-647-7828

MccullaWL@state.gov

From: MccullaWL@state.gov
Sent: Tuesday, July 18, 2006 4:31 PM
Subject: CHANGE IN TIME for Robert McCallum swearing-in
Attachments: tmp.htm

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Bill McCulla
Australia Desk Officer
EAP/ANP, Room 4206
mccullawl@state.gov
202-647-7828

Gunn, Currie (SMO)

Subject:	Robert's Swearing In
Start:	Friday, July 21, 2006 2:00 PM
End:	Friday, July 21, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 5:07 PM
To: Shaw, Aloma A
Subject: FW: CHANGE IN TIME for Robert McCallum swearing-in
Attachments: tmp.htm

Please can you change calendar? Also have you sent in clearance info? Thanks.

-----Original Message-----
From: [redacted]@state.gov [mailto [redacted]@state.gov]
Sent: Tuesday, July 18, 2006 4:31 PM
Subject: CHANGE IN TIME for Robert McCallum swearing-in

Because of last-minute changes to the Secretary's schedule, we have had to move the time for Robert McCallum's swearing in as Ambassador to Australia. The swearing-in will now take place at 2:00 pm, instead of noon, but still on Friday, July 21.

If we have already received your clearance information, you do not need to contact us again. Please accept my apologies for the last-minute change.

[redacted]
[redacted]@state.gov
[redacted]

Because of last-minute changes to the Secretary's schedule, we have had to move the time for Robert McCallum's swearing in as Ambassador to Australia. The swearing-in will now take place at **2:00 pm**, instead of noon, but still on Friday, **July 21.**

If we have already received your clearance information, you do not need to contact us again. Please accept my apologies for the last-minute change.

[redacted]@state.gov

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, July 18, 2006 6:12 PM
To: Gorsuch, Neil M
Subject: Associate Dinner

[redacted]@dhs.gov

Matt Zabel - [redacted]@thune.senate.gov

[redacted]@dhs.gov

Elizabeth Kessler - Elizabeth.Kessler@usdoj.gov

Shannen Coffin - Shannen_W._Coffin@ovp.eop.gov

[redacted]

Luis Reyes - Lreyes@who.eop.gov

[redacted]

Jeffrey Senger
Michael Wiggins and [redacted]@hotmail.com)
Liane Fowler
Neil Gorsuch
Deborah Davis
Lily Fu Swenson
Currie Gunn
Aloma Shaw
Gordon Todd [redacted]@hotmail.com)
Stuart Schiffer
Peter Keisler
Greg Katsas
Ken Zwick

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 6:20 PM
To: Gorsuch, Neil M

Senger, Jeffrey M; [redacted]; [redacted]; Swenson, Lily F; Gunn, Currie (SMO); Shaw, Aloma A; Schiffer, Stuart (CIV); Keisler, Peter D (CIV); Katsas, Gregory (CIV); [redacted]@dhs.gov; [redacted]thune.senate.gov; [redacted] Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov; [redacted]; Lreyes@who.eop.gov; [redacted]; Jeffrey Senger; [redacted]; [redacted]; Liane Fowler; Neil Gorsuch; [redacted]Lily Fu Swenson; Currie Gunn; Aloma Shaw; Gordon Todd (); Stuart Schiffer; Peter Keisler; Greg Katsas

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 6:27 PM
To: McCallum, Robert (SMO)
Subject: [redacted]

Since she helped prepare the guest list for the party tomorrow, I asked Currie to assemble for me a list of those who worked with you in CIV and OASG for my own purposes. Here's what she prepared. Have we missed anyone? Alternatively, is this overbroad (I'm not sure, for example, whether you want to include only attys)? I'd appreciate your guidance.

[redacted] - [redacted]@dhs.gov
[redacted] - [redacted]@thune.senate.gov
[redacted]@dhs.gov
Elizabeth Kessler - Elizabeth.Kessler@usdoj.gov
Shannen Coffin - Shannen_W._Coffin@ovp.eop.gov
[redacted]
Luis Reyes - Lreyes@who.eop.gov
[redacted]
Jeffrey Senger
Michael Wiggins [redacted])
Liane Fowler
Neil Gorsuch
Deborah Davis
Lily Fu Swenson
Currie Gunn
Aloma Shaw
Gordon Todd [redacted])
Stuart Schiffer
Peter Keisler
Greg Katsas
Ken Zwick

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 18, 2006 7:05 PM
To: Gorsuch, Neil M
Subject: Not read: Notice for [redacted]

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 18, 2006 7:13 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 18, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Testifies before Senate Judiciary (OPA)
The Attorney General participated in an oversight hearing today before the Senate Judiciary Committee. Topics covered included the administration's detainee strategy, the DOJ Office of Professional Responsibility's investigation of the Terrorist Surveillance Program, the administration's policy towards investigating media leaks, and the recent Boeing settlement. Media attention is most focused on the denial of security clearance for OPR to investigate the Terrorist Surveillance Program.

Medtronic Settles Suit Alleging Kickbacks (Civil)
Medtronic Inc. agreed to pay the United States $40 million to settle civil allegations that its Medtronic Sofamor Danek division (MSD) paid kickbacks to doctors to induce them to use MSD's spinal products. The government alleged that, between 1998 and 2003, Medtronic paid kickbacks in a number of forms, including sham consulting agreements, sham royalty agreements and lavish trips to desirable locations. The Justice Department contended that these kickbacks violated the Anti-Kickback Statute and the False Claims Act.

South Carolina Medical Center to Pay U.S. $3.75 Million Related to Kickback Allegations (Civil)
Marion County Medical Center in Marion County, S.C. has agreed to pay the United States $3.75 million to resolve allegations of health care fraud against the government. The settlement resolves allegations that the facility submitted false claims to Medicare, Medicaid and TRICARE, the U.S. military's health care program, by engaging in financial relationships with certain physicians that were prohibited under the Stark Law and/or the Anti-kickback Statute. Specifically, the settlement focuses on the compensation Marion paid to two physicians which the United States contends far exceeded the fair market value of the services provided by those physicians and was not commercially reasonable. The settlement also resolves allegations that Marion submitted claims to Medicare for professional services for initial hospitalizations which were coded at a level higher than the services that were provided.

Brothel Owner Sentenced to 10 Years for Coercing Korean Aliens into Prostitution (Civil Rights)

Korean madam Mi Na Malcolm was sentenced today to 10 years in prison for her role in the ownership and operation of three brothels in Dallas, Texas, the Justice Department announced today. Malcolm was further ordered to pay $460,000 to her victims. The court previously found that Malcolm had harbored young Korean women, coerced them into prostitution, and laundered the proceeds of the prostitution.

Justice Department to Monitor Elections in Alabama and Georgia (Civil Rights)
The Justice Department today announced that the federal government will monitor primary runoff elections in Conecuh and Hale Counties, Ala., and the primary election in Randolph County, Ga., to ensure compliance with the Voting Rights Act. Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act itself or by a federal court order. Federal observers have been assigned to monitor polling place activities during today's elections in Conecuh, Hale, and Randolph counties, based on the special coverage provisions.

Director Mueller speaks at National Academy Associates Conference (FBI)
FBI Director Robert Mueller delivered remarks at the FBI National Academy Associates conference today in Toronto regarding homegrown terrorism. He held a press availability immediately following the event.

FBI Role in Investigating Hizbollah (FBI)
Mark Hosenball of *Newsweek* inquired about the threat to the United States from Hizbollah, and the FBI's role in investigating that threat.

Talking Points:

- Since 9/11/01, the FBI has conducted numerous periodic intelligence assessments to gauge the terrorist threat throughout the United States. These assessments have enabled us to implement coordinated strategies with our partners to address the threat and prevent future attacks. Timely analysis and sharing of information is key to thwarting terrorist attacks, and as such, the FBI regularly shares criminal intelligence gained through our analysis and threat assessments with federal, state and local governments.

- Because of the heightened difficulties surrounding US-Iranian relations, the FBI has increased its focus on Hizbollah. Those investigations relate particularly to the potential presence of Hizbollah members on US soil. Other cases have focused on Hizbollah finances and fund raising on US soil.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

12:15 P.M. EDT Federal Bureau of Investigation Director Robert Mueller will host a media availability following his visit to the Buffalo, New York FBI Field Office.
One FBI Plaza
Buffalo, New York

12:30 P.M. CDT Solicitor General Paul Clement will speak at the Federalist Society's Chicago Chapter Luncheon regarding the Supreme Court term in review.
Pettrino Restaurant
150 N. Dearborn Street
Chicago, Illinois

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Bucholtz, Jeffrey (CIV)

From:	Bucholtz, Jeffrey (CIV)
Sent:	Tuesday, July 18, 2006 7:52 PM
To:	Monheim, Thomas; Cohn, Jonathan (CIV); Seidel, Rebecca; Gorsuch, Neil M; Swenson, Lily F; Hertling, Richard; Boardman, Michelle; Wellford, Hill; Purpura, Michael M (ODAG); Jennifer_R._Brosnahan@who.eop.gov; Nichols, Carl (CIV); Katsas, Gregory (CIV)
Cc:	Beckner, Rick (CIV)
Subject:	Drinks after work on Th.

All: Want to join Rick Beckner (who just started as Torts and Consumer Lit DAAG last week) and me for a drink after work this Th. 7/20? First person to respond yes gets to choose where.

Jeff

[redacted]@opm.gov

From: [redacted]@opm.gov
Sent: Wednesday, July 19, 2006 1:46 AM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: [redacted]
Password

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Image not available for this document, ID: 0.7.10316.47846-000001

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Wednesday, July 19, 2006 9:32 AM
To: Gorsuch, Neil M
Subject: Fw: 10am meeting today?

Neil, I will have to miss the meeting but will catch up with you later. I told Monica that I was interested.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
CC: Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Beckner, Rick (CIV) <RBeckner@civ.usdoj.gov>; Schiffer, Stuart (CIV) <sschiffe@CIV.USDOJ.GOV>
Sent: Wed Jul 19 09:31:57 2006
Subject: RE: 10am meeting today?

The 10:00 mtg will be held.

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 19, 2006 8:42 AM
To: Gunn, Currie (SMO)
Cc: Keisler, Peter D (CIV); Cohn, Jonathan (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Beckner, Rick (CIV); Schiffer, Stuart (CIV)
Subject: 10am meeting today?

Currie: Is the usual 10am weekly meeting happening today? Thanks,

Jeff

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 9:56 AM
To: Katsas, Gregory (CIV)
Subject: RE: 10am meeting today?

Very glad to hear this.

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Wednesday, July 19, 2006 9:32 AM
To: Gorsuch, Neil M
Subject: Fw: 10am meeting today?

Neil, I will have to miss the meeting but will catch up with you later. I told Monica that I was interested.

-----Original Message-----
From: Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>
To: Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>
CC: Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Beckner, Rick (CIV) <RBeckner@civ.usdoj.gov>; Schiffer, Stuart (CIV) <sschiffe@CIV.USDOJ.GOV>
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Sent: Wednesday, July 19, 2006 8:42 AM
To: Gunn, Currie (SMO)
Cc: Keisler, Peter D (CIV); Cohn, Jonathan (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Beckner, Rick (CIV); Schiffer, Stuart (CIV)
Subject: 10am meeting today?

Currie: Is the usual 10am weekly meeting happening today? Thanks,

Jeff

Gunn, Currie (SMO)

Subject:	Canceled: ENRD Bi-Weekly Meeting
Location:	5710
Start:	Wednesday, July 19, 2006 11:00 AM
End:	Wednesday, July 19, 2006 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Sobeck, Eileen (ENRD); Cruden, John (ENRD); Gorsuch, Neil M; Pacold, Martha M; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; McCallum, Robert (SMO); Nelson, Ryan (ENRD)
Optional Attendees:	Newton, Cullen (ENRD); Owens, Angela (ENRD); Miranda, Gail (ENRD); 'Bogan, Shanedda (JMD)'; Gunn, Currie (SMO)
Importance:	High

When: Wednesday, July 19, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting for 7/19 cancelled.

Attendees: Associate AG Robert McCallum, Neil Gorsuch, Sue Ellen Wooldridge AAG ENRD, Matt McKeown, Eileen Sobeck, John Cruden, Jeff Senger, Martha Pacold-OAG

POC: Currie Gunn x4-9500

From: Ames, Andrew
Sent: Wednesday, July 19, 2006 10:48 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brett Gerry; Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennifer Brosnahan; Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Civil Division News 7/19/06

US Senator Criticizes Gonzales for Boeing Settlement

Medtronic Will Settle Accusations on Kickbacks

Medtronic fined $40 million

Marion County hospital pays $3.75M to settle fraud claims

Proceeding with civil suit unfair, Cox argues; Two former workers are hoping to resume case despite delay of criminal investigation.

Blowing the Whistle on Diebold

Judge declares mistrial in Medicare billing fraud case

Reuters

July 19, 2006

US Senator Criticizes Gonzales for Boeing Settlement

By Richard Cowan

WASHINGTON, July 18 - A senior Republican senator on Tuesday challenged U.S. Attorney General Alberto Gonzales for failing to block Boeing Co. (BA.N: Quote, Profile, Research) from claiming a tax write-off related to its recent $615 million settlement with the Justice Department.

Gonzales, who heads the Justice Department, appeared at a Senate Judiciary Committee hearing to answer questions about issues ranging from the government's domestic spying program and prisoner torture to rising violent crime rates and the renewal of a law that protects minorities' voting rights.

Sen. Charles Grassley, an Iowa Republican on the panel, asked Gonzales about the settlement that Boeing finalized on June 30 with the U.S. government.

The $615 million deal settles two criminal investigations and related civil claims into Boeing's hiring of a former Air Force weapons buyer while she was still overseeing Boeing contracts and a probe into Boeing's appropriation of a competitor's documents related to a rocket program.

DOJ_NMG_ 0164569

"So we have one side, the government, that has no idea about the after-amount of a settlement, and the other side, the business being fully aware of the amount. That is not the way to negotiate a settlement in the best interests of the public," Grassley, who is chairman of the Senate Finance Committee, said.

In response to Grassley noting that the Justice Department has the authority to write into settlements that a company not claim a tax write-off, Gonzales said that it was his department's policy that such settlements are "tax neutral." He did not elaborate.

Gonzales said that the Justice Department can provide information about the case to the Internal Revenue Service to help its handling of the company's tax filings.

Grassley repeatedly said that the $615 million settlement could end up being about 35 percent lower assuming Boeing takes a write-off. He also complained that he has had trouble getting answers on what will happen in this case.

Boeing is the Pentagon's No. 2 defense supplier.

END

New York Times

July 19, 2006

Medtronic Will Settle Accusations on Kickbacks

By REED ABELSON

Medtronic, one of the nation's largest medical device manufacturers, said yesterday that it had agreed to pay the federal government $40 million to settle accusations that its spinal-implant division had paid kickbacks to doctors as a way of inducing them to use its products.

The Justice Department accused Medtronic of paying kickbacks through what officials described as "sham consulting agreements, sham royalty agreements and lavish trips to desirable locations" offered to doctors from 1998 to 2003.

Kickbacks to doctors "are incompatible with a properly functioning health care system," Peter D. Keisler, assistant attorney general for the civil division, said in a statement. "They corrupt physicians' medical judgment and they cause overutilization and misallocation of vital health care resources."

Medtronic was the subject of two lawsuits filed in Federal District Court in Memphis by whistle-blowers on the actions of its spinal-implant division, Medtronic Sofamor Danek. The company and its division deny any wrongdoing.

Yesterday's agreement covers the first lawsuit, which was filed in 2002; the whistle-blower who filed it has not been identified. Justice Department officials are seeking to have the second lawsuit dismissed. The lawsuits were the subject of a New York Times article in January.

Medtronic's chief executive, Art Collins, in a statement, said that the company had "cooperated fully with the government during its investigation of the allegations, and we believe our companywide efforts regarding business conduct and ethical practices assisted us in achieving a practical resolution of these cases."

As part of a five-year corporate integrity agreement, Medtronic said it would establish an electronic database to track transactions with its customers unrelated to device sales. The information will be reviewed by Medtronic senior management and an outside review group.

The parties reached the settlement to "avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims," according to the agreement. Medtronic did not admit liability, the settlement says.

Complex back surgery has become a lucrative business for companies making implants, and Medtronic was accused of spending tens of millions of dollars on consulting contracts and other types of payments to prominent spine surgeons.

The second whistle-blower lawsuit, filed by a former employee who managed Medtronic's travel services, claimed the company gave some surgeons "excessive remuneration, unlawful perquisites and bribes in other forms for purchasing goods and medical devices."

The employee, Jacqueline Kay Poteet, accused the company in a supplemental complaint of continuing the improper payments in 2004 and 2005.

David Kustoff, the United States attorney for the Western District of Tennessee, said Justice Department officials were seeking to have the lawsuit dismissed on the ground that Ms. Poteet was essentially making the same accusations as the first whistle-blower.

DOJ_NMG_ 0164570

A department spokesman declined to comment further on the second lawsuit.

The dismissal of Ms. Poteet's lawsuit is subject to approval by the court, and the settlement could be rescinded if the dismissal does not take place, according to the agreement. Medtronic said it would place the $40 million into escrow pending dismissal of the lawsuit, and it would take a one-time charge in the quarter ending July 28.

The lawyer for the second whistle-blower, Andrew R. Carr Jr. of Bateman Gibson in Memphis, said he intended to oppose the dismissal of his client's lawsuit. Based on his understanding of the first case, there are material differences between the two, he said.

Disputes over whether a particular whistle-blower is first to file and entitled to a share of any settlement proceeds is not unusual, said Lesley Ann Skillen, a lawyer with the New York firm of Getnick & Getnick. "There's been a lot of litigation on that."

Even if the court grants the government's move to dismiss the lawsuit, the whistle-blower has the right to appeal the decision, she said. "This money could be tied up for years," she said.

Medtronic's stock closed yesterday at $47.28, down 22 cents.

END

Pioneer Press

July 19, 2006

Medtronic fined $40 million

BY JIM McCARTNEY

Compared with some of the U.S. Justice Department's blockbuster fraud and anti-kickback penalties of medical companies, Medtronic Inc.'s $40 million fine disclosed Tuesday seems relatively modest.

Fridley-based Medtronic agreed to pay the penalty to settle civil claims that its Sofamor Danek unit paid kickbacks to doctors to get them to use its spinal products.

Given that spinal products represent one-fifth of Medtronic's $11.3 billion in sales last year, the settlement is "remarkably low," said Mark Duval, a Minneapolis attorney who specializes in federal regulations governing medical companies.

Other fraud and kickback fines have run well into the hundreds of millions of dollars for such drug companies as Abbott Laboratories ($600 million) and Warner-Lambert ($430 million), Duval pointed out.

False Claims Act recoveries over the last two decades now total more than $17 billion, most of them from medical and drug companies, according to Taxpayers Against Fraud, a Washington-based policy group.

"The $40 million figure makes me think the government didn't have as good a case as it thought it had," Duval said. "It's a huge victory for Medtronic to get that behind them."

Investors also are relieved that Medtronic officials do not face criminal charges, said Jan Wald, a securities analyst with A.G. Edwards.

But no one is ready to breathe easy. Medtronic and other Twin Cities medical-device makers are still in the Justice Department's sights. Late last year, the Justice Department issued subpoenas to Medtronic, Guidant and St. Jude Medical, the top three cardiac-rhythm-management companies which all have big Twin Cities operations, seeking information on the marketing of pacemakers and implantable defibrillators.

Experts like Duval expect the federal inquiry could take years, cost millions of dollars and be a significant distraction to management.

"We're not done yet," Duval said.

In the spinal unit's case, the government had alleged that over a five-year period starting in 1998, Medtronic paid kickbacks in a number of forms, including sham consulting agreements, bogus royalties, and lavish trips. Medtronic bought the Memphis, Tenn.-based spinal products company in 1999 for $3.6 billion.

"Kickbacks … corrupt physicians' medical judgment, and they cause over-utilization and misallocation of vital health care resources," said Peter Keisler, an assistant U.S. attorney general, in a statement.

The settlement says the agreement is intended to avoid long, costly litigation. As part of it, Medtronic admits to no wrongdoing.

Under terms of a five-year corporate-integrity agreement, Medtronic and its spinal unit must track all non-sales-related customer transactions — information that is to be monitored both by company management and an outside review organization. The agreement also requires Medtronic to beef up training and employee screening practices. Duval described these terms as "standard."

"We realize that any organization may be judged by the actions of a few," said Art Collins, chief executive of Medtronic, in a statement. He added that Medtronic expects every "employee to adhere to high ethical standards at all times, and our compliance systems are designed to ensure compliance as our industry evolves."

The federal investigation began with a lawsuit filed in 2002 by a whistle-blower who has not been publicly identified. That case, which is sealed, was later joined by the Justice Department.

A second whistle-blower suit was filed in 2004 by Jacqueline Kay Poteet, a former Medtronic employee who made travel arrangements for spine doctors to company conferences. Her lawsuit alleged that Medtronic paid millions of dollars to more than a dozen doctors, prompting them to perform unnecessary spinal surgeries and otherwise affecting their judgment. The second case was not joined by the Justice Department, said Charles Miller, a department spokesman.

The settlement would dismiss both whistle-blower claims brought against Medtronic, although only the first whistle-blower would reap any rewards from the action, Miller said. A typical whistle-blower reward ranges from 10 percent to 30 percent of the fine, Duval said.

Andrew Carr Jr., the Memphis attorney who represents Poteet, said Tuesday he would oppose the settlement, which must be approved by the court.

The $40 million fine is the second hit that Medtronic's spinal division has taken since last year. The company paid $1.35 billion to settle a patent-infringement lawsuit and buy additional patents from Dr. Gary Michelson, a Los Angeles surgeon and inventor. Despite its legal problems, the spinal products division has been one of Medtronic's star performers in recent years, Wald said.

Medtronic shares fell 22 cents Tuesday to $47.28.

END

AP

July 19, 2006

Marion County hospital pays $3.75M to settle fraud claims

COLUMBIA, S.C. | Marion County Medical Center has agreed to pay the federal government $3.75 million to settle allegations it submitted false claims for medical care.

The hospital hired two doctors and paid them salaries that far exceeded the fair market value, U.S. Attorney Reggie Lloyd said in a statement Monday.

The hospital also submitted false claims to Medicare, Medicaid and Tricare, the military's health program, Lloyd said.

The claims were for inpatient and outpatient services that were referred or ordered by the two doctors, Lloyd said.

Dr. Kenneth Orbeck brought the claims to the government's attention and will receive more than $610,000 from the settlement with the hospital as part of the federal whistle-blower law, Lloyd said.

DOJ_NMG_ 0164572

As soon as the hospital realized what was going on, officials reported it to the government, said Gene Tucker, chief executive officer of Marion Regional Healthcare System, which runs the hospital.

The hospital cooperated with the government, and patient care was never affected, Tucker said in a statement.

"Our primary goal in reaching an agreement was to put the issues behind us," Tucker said. "We have done that. It is now time to move on."

END

Springfield, MO, News-Leader

July 19, 2006

Proceeding with civil suit unfair, Cox argues; Two former workers are hoping to resume case despite delay of criminal investigation.

By Kathleen O'Dell

Still under federal criminal investigation, CoxHealth officials don't want a related civil suit against them to proceed while the criminal case continues.

Cox said in a U.S. District Court document filed Monday that it does not want to produce any documents or interviews related to the wrongful termination suit filed in June 2005 by two former dialysis administrators.

A federal judge has delayed all work on the civil suit since November so the case would not interfere with the criminal investigation.

But last week federal agents in the criminal case said they would agree to limited fact-gathering, or discovery, in the civil case as long as it did not involve the alleged Medicare fraud issues they're pursuing against Cox.

Attorneys in the civil case had asked the judge to let their clients resume their case after the eight-month delay, or stay, so they can clear their names and seek damages for their alleged improper firing.

Cox attorneys said allowing the civil case to proceed would be unfair to the health system: The plaintiffs would be able to learn about Cox's case, but Cox would not be able to conduct any investigations in the civil case because the government has said that interviews with one or both plaintiffs would interfere with the ongoing criminal investigation.

Cox attorneys also said the fired employees have not shown they're experiencing any new burdens or new, extraordinary circumstances that would justify allowing them to resume their case.

They added, "(Cox) is ready and willing to defend the terminations of plaintiffs in this lawsuit, particularly given the government's confirmation that plaintiffs were not the original source of information they claim to have related to government officials, and cannot, therefore, claim whistleblower status and protection under the Federal Whistleblowers Protection Act."

On Tuesday, attorneys Mathew and Jenifer Placzek fired back a response in a court document, saying the judge had already acknowledged the men had demonstrated that a significant delay in their case would likely be detrimental.

They also said Cox could file its own request for permission to do limited discovery in the civil case, just as they did for their clients. They added, "Since the government has determined that neither the identity of those individuals nor the nature of their complaints relates to its ongoing criminal investigation, then there is absolutely no reason to invoke the stay as to those individuals."

U.S. District Judge Gary Fenner, who granted an indefinite delay in the case, must rule on the issue.

Civil case so far

Former Ozarks Dialysis Services managers Dennis Morris and Roger Cochran allege that after numerous internal complaints to Cox went disregarded, they gave government officials documentation about illegal activity at Ozarks Dialysis, a part of Cox. A month later Cox fired them, they said.

The issues they reported involved Medicare billing and payments to physicians with Ozarks Dialysis.

Cox, however, says the men's terminations were not only warranted but necessary because they were poor managers who exhibited "retaliatory and hostile behavior," and created a hostile work environment.

DOJ_NMG_ 0164573

Attorneys said the civil case was halted before their clients learned the nature of the accusations against them or who their accusers were. They wrote that they have a right to know that, after all this time, in light of their "stellar employment records" before Cox fired them. The attorneys included with their court filing two documents showing excellent personnel reviews for both men.

The allegations of Medicare billing fraud and payments to physicians are part of a wider-ranging federal investigation into Cox business practices, the U.S. attorney's office has said in court documents. The government is investigating whether Cox officials committed Medicare fraud by knowingly overcharging for kidney dialysis services by using a method of billing it was not eligible to use, they said.

They are also investigating whether Cox officials paid two kidney specialists to serve as medical directors at Ozarks Dialysis Services even though they did not provide a service.

The probe does not involve questions about quality of patient care or safety, Cox officials have said.

A Kansas City grand jury hearing testimony in the investigation ended its 18-month term June 29 without taking any action in the Cox case. Federal officials said they would continue the Cox case with the assistance of a new grand jury, expected to be seated soon.

Having made progress in its criminal case, and having reviewed Cox's investigatory files concerning the two men's terminations, the government said in a court filing last week its investigation would not be compromised if the judge ordered Cox to produce those files, or if the Cox employees who allegedly complained about the men's job performance were interviewed. However, the government said attorneys should not be allowed to interview CoxHealth or Ferrell-Duncan Clinic administrators, specifically Cox CEO Robert Bezanson, Ferrell-Duncan Clinic Executive Director Charles McCracken and the administrators who fired the two men.

END

In These Times

7/18/2006

Blowing the Whistle on Diebold

By John Ireland

On July 13, the Pensacola, Fla.-based law firm of Robert F. Kennedy Jr. filed a “qui tam” lawsuit in U.S. District Court, alleging that Diebold and other electronic voting machine (EVM) companies fraudulently represented to state election boards and the federal government that their products were “unhackable.”

Kennedy claims to have witnesses “centrally located, deep within the corporations,” who will confirm that company officials withheld their knowledge of problems with accuracy, reliability and security of EVMs in order to procure government contracts. Since going into service, many of these machines have been linked to allegations of election fraud.

In the wake of alleged vote count inconsistencies and the “hanging chad” debacle of 2000, Congress passed the Help America Vote Act (HAVA) in 2002. HAVA appropriated $3 billion to replace voting equipment and make other improvements in election administration. Diebold, Election Systems & Software and Sequoia Systems secured the lion’s share of nearly half that sum in contracts to purchase EVMs. All 50 states have received funds and many are hurriedly spending it on replacing lever and punch card machines in time for November.

According to the Election Assistance Commission, more than 61 percent of votes in the 2004 presidential election were cast and/or tallied by EVMs. Election Data Services, a Washington, D.C.-based consulting firm, estimates that the figure will jump to 80 percent by November, which will see elections for all 435 seats in the House of Representatives.

Matt Schultz, an attorney with Kennedy’s law firm, Levin Papantonio, describes the process of competition for HAVA’s $300 million of contractor funds as “a race to the bottom.” “There is no question in my mind that these companies sacrificed security and accuracy, mass-producing a cheap product to cash in on tons of federal money,” Schultz says. “It’s an industry-wide problem.”

Qui tam lawsuits stem from a provision in the Civil False Claims Act, which Congress passed in 1863 at the behest of President Abraham Lincoln to respond to price gouging, use of defective products and substitution of inferior material by contractors supplying the Union Army. The provision allows private citizens to file a suit in the name of the U.S. government charging fraud by government contractors and other entities that receive or use government funds.

Long known as “Lincoln’s Law,” it is now commonly referred to as the “Whistleblower Law.” Since the mid-’80s, qui tam recoveries have exceeded $1 billion, mostly after exposing medical and defense overcharging.

DOJ_NMG_ 0164574

Mike Papantonio, partner in the law firm and co-host with Kennedy on “Ring of Fire,” a weekly radio show on the Air America Network, explains the value of the qui tam approach. “The problem with injunctive relief, or [a writ of] mandamus, or prohibition-type writs, is it all comes down to politics. … How do you bring injunctive relief with [Ohio Secretary of State Kenneth] Blackwell? How do you get [Florida Governor] Jeb Bush to do anything? They won’t. You have to move outside of that political realm.”

In 2004, Blackwell was in charge of implementing state and federal election laws, while, at the same time, co-chairing the state’s 2004 Bush/Cheney Campaign. Under his watch, election officials neglected to process registration cards from Democratic voter drives, purged tens of thousands of voter registrations and distributed EVMs unevenly, leaving some voters waiting up to 12 hours. According to Kennedy, “at least 357,000 voters, the overwhelming majority of them Democratic, were prevented from casting ballots or did not have their votes counted.” Ohio was decided by 118,601 votes.

The contents of the suit could be under judicial seal for at least 60 days while the U.S. Department of Justice considers whether or not to join the suit. If U.S. Attorney General Alberto Gonzales decides not to join the suit, Levin Papantonio may approach individual state attorneys general. If no one joins, the firm is free to, as Papantonio puts it, “stand in the shoes of the Attorney General and fight on behalf of the taxpayers and the nation.”

“The single greatest threat to our democracy is the insecurity of our voting system,” warns Kennedy. “Whoever controls the voting machines can control who wins the votes.”

END

AP

July 19, 2006

Judge declares mistrial in Medicare billing fraud case

LAFAYETTE, La._A federal judge has declared a mistrial in the case of a Houston man accused of bilking Medicare through alleged fraudulent billings at an Opelousas physical therapy clinic.

Federal prosecutors alleged 47-year-old Michael Prince organized Alpha Healthcare Services in Opelousas and oversaw a scheme in which the company fraudulently billed Medicare for 500-thousand dollars from October 2000 to April 2001.

Prince's trial on federal health care fraud charges began Monday.

Judge Richard Haik declared a mistrial after Prince's attorney complained prosecutors gave him copies of journal entries that were not in the same sequence as the actual journal kept by one of Prince's associates to detail business dealings.

Prosecutors were using the journal as evidence.

The judge said he plans to reschedule a new trial within six months.

END

DOJ_NMG_ 0164575

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Image not available for this document, ID: 0.7.10316.47690-000002

Lauria-Sullens, Jolene

Subject:	Updated: FY08 Budget Overview
Location:	Conference Room 1103
Start:	Wednesday, June 07, 2006 3:00 PM
End:	Wednesday, June 07, 2006 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Lauria-Sullens, Jolene
Required Attendees:	Lauria-Sullens, Jolene; Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Dauphin, DennisLauria-Sullens, Jolene; Lofthus, Lee J; Sampson, Kyle; Goodling, Monica; Gorsuch, Neil M; Mercer, Bill (ODAG); Elston, Michael (ODAG); Epley, Mark D; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Dauphin, Dennis
Optional Attendees:	Lapara, Joan MLapara, Joan M

Subject: FY08 Budget Overview
When: Wednesday, June 7, 2006
Time: 3:00am - 5:00pm
Where: Room 1103

Apologize for last minute meeting change.

FYI-Meeting materials will be sent in advance--please bring them to the meeting for the discussion.

Thanks -- Jolene

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 11:54 AM
To: Gorsuch, Neil M
Subject: Read:

Luis_A._Reyes@who.eop.gov

From: Luis_A._Reyes@who.eop.gov
Sent: Wednesday, July 19, 2006 12:01 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

I'm IN. Thanks Neil!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:57 AM
To: Jeffrey.M.Senger@usdoj.gov; Lily.Fu.Swenson@usdoj.gov; Stuart.Schiffer@usdoj.gov; Peter.D.Keisler@usdoj.gov; Gregory.Katsas@usdoj.gov; Chad.Boudreaux@dhs.gov; Tracy.A.Henke@dhs.gov; Jeffrey.M.Senger@usdoj.gov; gdtodd@hotmail.com; wigginsjm@hotmail.com; jklitenic@mckennalong.com; Elizabeth.Kessler@usdoj.gov; M_Zabel@thune.senate.gov; Gerald.Reynolds@kcpl.com; bboyle@omm.com; Coffin, Shannen W.; lauraflippin@paulhastings.com; paul_c_harris@raytheon.com; Reyes, Luis A.
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

[redacted] (DHS)

From: [redacted] (DHS)
Sent: Wednesday, July 19, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Thanks, Neil. Look forward to attending. I'll bring the well drinks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:58 AM
To: Senger2, Jeffrey M <DOJ>; Swenson, Lily (DOJ); Schiffer, Stuart <DOJ>; Keisler, Peter D <DOJ>; Katsas, Gregory <DOJ>; [redacted]@thune.senate.gov; Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov; [redacted]@raytheon.com; [redacted]@omm.com; [redacted]@paulhastings.com; Lreyes@who.eop.gov; [redacted]@kcpl.com; [redacted]@mckennalong.com; Senger2, Jeffrey M <DOJ>; [redacted]@hotmail.com; [redacted]@hotmail.com; [redacted]@dhs.gov; [redacted]@dhs.gov
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

From: [redacted]
Sent: Wednesday, July 19, 2006 12:04 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Thank you for the heads up.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:57 AM
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

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IRS Circular 230 Disclosure: As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.
****

This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

For additional information, please visit our website at www.paulhastings.com.

From: [redacted]
Sent: Wednesday, July 19, 2006 1:12 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

And what about the date for your send-off, my friend? Anyway, I should be available either of those days. Thanks for including me.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:57 AM
To: Jeffrey.M.Senger@usdoj.gov; Lily.Fu.Swenson@usdoj.gov; Stuart.Schiffer@usdoj.gov; Peter.D.Keisler@usdoj.gov; Gregory.Katsas@usdoj.gov; [redacted]@dhs.gov; [redacted]@dhs.gov; Jeffrey.M.Senger@usdoj.gov; [redacted]@hotmail.com; [redacted]@hotmail.com; [redacted]@mckennalong.com; Elizabeth.Kessler@usdoj.gov; [redacted]@thune.senate.gov; [redacted]@kcpl.com; [redacted] Shannen_W._Coffin@ovp.eop.gov; [redacted]@paulhastings.com; [redacted]@raytheon.com; Lreyes@who.eop.gov
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Wednesday, July 19, 2006 1:12 PM
To:	Gorsuch, Neil M
Subject:	Read: Robert's Farewell

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 3:26 PM
To: Shapiro, Elizabeth (CIV)
Subject: My direct dial is 305 1434; cell is [redacted] thanks!

Shaw, Aloma A

Subject:	OIP/CIV Briefing
Location:	4208
Start:	Friday, July 21, 2006 11:30 AM
End:	Friday, July 21, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F; Elston, Michael (ODAG)

When: Friday, July 21, 2006 11:30 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4208

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

From: USDOJ- Office of Public Affairs
Sent: Wednesday, July 19, 2006 3:42 PM
To: USDOJ- Office of Public Affairs
Subject: BRITISH CITIZEN CHARGED WITH PROVIDING MATERIAL SUPPORT OF TERRORISM

Department of Justice

United States Attorney Kevin J. O'Connor
District of Connecticut

FOR IMMEDIATE RELEASE
WEDNESDAY, JULY 19, 2006
WWW.USDOJ.GOV/USAO/CT

CONTACT: TOM CARSON
PHONE: (203) 821-3722
FAX: (203) 773-5397

BRITISH CITIZEN CHARGED WITH PROVIDING MATERIAL SUPPORT OF TERRORISM

BRIDGEPORT, Conn. - A federal grand jury returned a three-count indictment charging a London man with several terrorism-related crimes, U.S. Attorney Kevin J. O'Connor of the District of Connecticut announced today. Syed Talha Ahsan, 26, was charged with participating in a conspiracy to provide material support to terrorists; aiding and abetting others in providing material support to terrorists; and participating in a conspiracy to kill, maim or injure persons or damage property in a foreign country.

At the request of the U.S. government, Ahsan was arrested earlier today at his residence in London by British law enforcement authorities. Following his arrest, the indictment was ordered unsealed by U.S. Magistrate Judge Holly B. Fitzsimmons in Bridgeport, Conn. Ahsan appeared before a magistrate court in London, at which time he was ordered detained pending a bail hearing scheduled for July 26, 2006. The court also noted that a formal package from the U.S. government seeking Ahsan's extradition to the United States would be due within 60 days, on or before Sept. 22, 2006. An official extradition request from the U.S. government will be transmitted in due course to British authorities and is expected to be served upon Ahsan shortly.

"These charges are the result of several years of investigative work by ICE and FBI agents in New Haven, NCIS agents, and several additional law enforcement partners here in the United States and overseas," U.S. Attorney O'Connor stated. "This investigation is ongoing."

The indictment alleges that from approximately 1997 through at least August 2004, Ahsan conspired with Babar Ahmad, an organization called Azzam Publications and others to provide material support and resources to persons engaged in acts of terrorism through the creation and use of various Internet Web sites, e-mail communications and other means. The material support and resources consisted of expert advice and assistance, communications equipment, military items, currency, monetary instruments, financial services and personnel. All of this material support was designed to assist and recruit for the Taliban and the Chechen Mujahideen, as well as to raise funds for terrorist activities in Afghanistan, Chechnya and other places. It is

DOJ_NMG_ 0164587

alleged that members of the conspiracy maintained accounts at a number of Internet Service Providers (ISPs) and Web hosting companies in the United States, including one headquartered in Connecticut.

Babar Ahmad and Azzam Publications were previously charged by indictment in the District of Connecticut in October 2004.

Among other things, the indictment alleges that in or about April 2001, Ahsan possessed, accessed, modified and re-saved an electronic document containing then-classified U.S. Navy plans of a naval battle group operating in the Straits of Hormuz. The document is alleged to have set forth details regarding the composition, mission and capabilities of the various ships within the battle group and its vulnerabilities to terrorist attack. It is alleged that in or about July 2001, a member of the conspiracy used e-mail accounts associated with Azzam Publications to communicate with a U.S. Naval enlistee who was sympathetic to the views expressed on the Azzam family of Web sites and referred to the October 2000 attack on the U.S.S. Cole as a "martyrdom operation." The e-mail encouraged the enlistee to “keep up the psychological warefare [sic].”

The indictment further alleges that, in or about December 2003, Babar Ahmad was found in possession of the electronic document containing the previously classified U.S. Navy plans and the battle group's vulnerabilities to terrorist attack.

If extradited and convicted of the charges, Ahsan faces a maximum term of life in prison. Defendants charged in indictments are presumed innocent unless or until proven guilty in court.

This case is being investigated by a task force in Connecticut consisting of special agents of the Department of Homeland Security and the Immigration of Customs Enforcement, as well as law enforcement agents from the FBI’s Joint Terrorism Task Force, the Internal Revenue Service’s Criminal Investigation Division and Electronic Crimes Program, the Defense Criminal Investigative Service and the Naval Criminal Investigative Service.

U.S. Attorney O'Connor praised the substantial efforts of law enforcement authorities from the Metropolitan Police Service's Anti-Terrorist Branch and the Extradition and International Assistance Unit, both within New Scotland Yard, whose efforts and assistance have been essential in the investigation in this case.

The case is being prosecuted by a team of federal prosecutors including Assistant U.S. Attorneys John Danaher, William Nardini and Stephen Reynolds from the District of Connecticut; Special Assistant U.S. Attorney Mark G. Califano from the District of Connecticut; Trial Attorney Andrew Levchuk from the Computer Crimes and Intellectual Property Section of the Department of Justice; and Trial Attorney Alexis Collins from the Counter-Terrorism Section of the Department of Justice.

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DOJ_NMG_ 0164588

Image not available for this document, ID: 0.7.10316.47598-000001

Image not available for this document, ID: 0.7.10316.47598-000002

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Wednesday, July 19, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: Tax Bi-Weekly

Neil - Nothing comes to mind that Tax needs to report to your office about. Care to cancel tomorrow's bi-weekly?

Lee O'C.

[redacted]@ilnd.uscourts.gov

From: [redacted]@ilnd.uscourts.gov
Sent: Wednesday, July 19, 2006 4:44 PM
To: [redacted]
Cc: Gorsuch, Neil M
Subject: Hello --- And [redacted]
Attachments: tmp.htm

Dear [redacted]--

I hope all is well with you and yours.

I'm writing to introduce you to another friend, Neil Gorsuch, who was asked [redacted] Knowing you and your generosity, I suspected you would be willing to share your leadership insights with Neil about this subject. You also have similar backgrounds in many respects and I'm confident the two of you will enjoy speaking with each other if that works for the two of you.

So, here's my introductions: Neil is great guy from the State of Colorado originally. He'll be going back to take a seat on the Tenth Circuit as soon as the Senate finalizes his confirmation. He's one of the leaders at the Justice Department now (acting Associate Attorney General?), and like [redacted] is a graduate of Harvard Law School and Oxford. In addition to [redacted] Neil also clerked for Justice White and Justice Kennedy. He also is a good fisherman and skiier, and is a all-around good guy.

Neil --- my longtime friend [redacted] s a fixture in the Chicago community and (this is rare) a rock-solid Republican living in Cook County Illinois. He is [redacted] He shares your academic background, and clerked for Justice Scalia and Judge Williams. He also is an avid fan of Northwestern University.

In any event, the two of you will like each other a lot, I strongly suspect. I also am confident that [redacted] will be the better for your speaking. Hopefully you will be able to speak.

All the best to both of you. Sincerely, [redacted]

Dear [redacted] –

I hope all is well with you and yours.

I'm writing to introduce you to another friend, Neil Gorsuch, who was asked [redacted] Knowing you and your generosity, I suspected you would be willing to share your leadership insights with Neil about this subject. You also have similar backgrounds in many respects and I'm confident the two of you will enjoy speaking with each other if that works for the two of you.

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Neil --- my longtime friend [redacted] is a fixture in the Chicago community and (this is rare) a rock-solid Republican living in Cook County Illinois. He is [redacted] He shares your academic background, and clerked for Justice Scalia and Judge Williams. He also is an avid fan of Northwestern University.

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All the best to both of you. Sincerely [redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, July 19, 2006 5:29 PM
To:	O'Connor, Eileen J. (AAG/TAX)
Cc:	Gunn, Currie (SMO); McCallum, Robert (SMO)
Subject:	RE: Tax Bi-Weekly

That's fine here.

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Wednesday, July 19, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: Tax Bi-Weekly

Neil - Nothing comes to mind that Tax needs to report to your office about. Care to cancel tomorrow's bi-weekly?

Lee O'C.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, July 19, 2006 7:42 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 19, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Atlanta Men Charged on Terrorism Offenses (OPA)
Two men already accused of conspiring to provide and providing material support to terrorists were indicted today on charges of undergoing paramilitary training in northwest Georgia and plotting a "violent jihad" against civilian and government targets, including an air base in suburban Atlanta. The superseding indictment accuses Syed Haris Ahmed and Ehsanul Islam Sadequee of traveling to Washington to film possible targets, including the U.S. Capitol and the headquarters of the World Bank. The new indictment also adds Sadequee as a defendant, and adds three additional counts related to material support of terrorism and a foreign terrorist organization.

Nigerian Vice President, Jefferson Issue Public Statements (OPA/Criminal)
The Vice President of Nigeria released a statement today saying that he has no relationship with Congressman William Jefferson, that he took no money from Jefferson, and that he is fully cooperating with the Department of Justice. According to the Vice President's attorney, Jefferson's allegations are a "concoction," that Jefferson was just trying to use the Vice President's name to get money. Jefferson issued a statement to the *New York Times* agreeing with the Vice President that they had no relationship and gave the Vice President no money.

Talking Points:

- We are not commenting on this matter.

Court Bars Southern California Man From Tax Return Preparation (Tax)
The Justice Department announced today that a federal court has permanently barred Charles T. Kizer, of Riverside, Calif., from acting as a federal income tax return preparer. The permanent injunction, to which Kizer consented, was entered by Judge J. Spencer Letts of the U.S. District Court for the Central District of California. The court previously entered injunctions in the same case against Jack R. Gosney and Hal J. Clark.

FBI Director Holds Media Availability (FBI)

FBI Director Robert Mueller held a media availability today where he discussed FBI challenges in the War on Terror. His remarks followed his visit to the Buffalo Field Office.

British Terrorism Suspect to be Extradited to U.S. (FBI)
Syed Talha Ahsan, 26, of London, was arrested at his residence in London by British law enforcement authorities. Ahsan is charged with participating in a conspiracy to provide material support to terrorists; providing; aiding and abetting others in providing material support to terrorists; and participating in a conspiracy to kill, maim or injure persons or damage property in a foreign country. Ahsan is expected to be extradited to the US on or before September 22, 2006.

Sri Lankan Individuals Removed from Flight (FBI)
Several media outlets inquired about the United Airlines commuter flight that was traveling from Rochester, New York to Toronto. Two Sri Lankan individuals were removed from the flight and detained based on fraudulent documents and illegal entry into the US. Initial indications were that these individuals may have had explosives in their backpack. Investigation determined that these individuals were not a threat to terrorism and that they were not carrying any explosives.

THURSDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will participate in a print media roundtable with local press in El Paso, and an on-camera interview with the El Paso CBS affiliate. Both the roundtable and interview will focus on immigration reform.

6:30 P.M. PDT	The Attorney General will deliver remarks to the American Legislative Exchange Council regarding Intellectual Property Rights. Yerba Buena Salon 7-9 San Francisco Marriott 55 Fourth Street San Francisco, California

[redacted]@thune.senate.gov

From: [redacted]@thune.senate.gov
Sent: Wednesday, July 19, 2006 7:49 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Thanks for the heads-up, Neil. I was at Robert's shindig today, but sorry I didn't get to catch up with you (shockingly, I had to get back to work). Looking forward to seeing you on Aug. 9 or 10. Thanks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:57 AM
To: Jeffrey.M.Senger@usdoj.gov; Lily.Fu.Swenson@usdoj.gov;
Stuart.Schiffer@usdoj.gov; Peter.D.Keisler@usdoj.gov;
Gregory.Katsas@usdoj.gov; [redacted]@dhs.gov; [redacted]@dhs.gov;
Jeffrey.M.Senger@usdoj.gov; [redacted]
[redacted] Elizabeth.Kessler@usdoj.gov; [redacted]
(Thune); [redacted]
Shannen W. Coffin@ovp.eop.gov; [redacted]
[redacted] Lreyes@who.eop.gov
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 10:10 PM
To: [redacted]@thune.senate.gov'
Subject: Re: Robert's Farewell

[redacted] Saw you across the room and am sorry our paths didn't cross. I'm glad you'll be able to make the dinner where we can catch up. All the best, Neil

-----Original Message-----
From: [redacted]@thune.senate.gov <[redacted]@thune.senate.gov>
To: Gorsuch, Neil M
Sent: Wed Jul 19 19:48:47 2006
Subject: RE: Robert's Farewell

Thanks for the heads-up, Neil. I was at Robert's shindig today, but sorry I didn't get to catch up with you (shockingly, I had to get back to work). Looking forward to seeing you on Aug. 9 or 10. Thanks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Wednesday, July 19, 2006 11:57 AM
To: Jeffrey.M.Senger@usdoj.gov; Lily.Fu.Swenson@usdoj.gov;
Stuart.Schiffer@usdoj.gov; Peter.D.Keisler@usdoj.gov;
Gregory.Katsas@usdoj.gov; [redacted]@dhs.gov; [redacted]@dhs.gov;
Jeffrey.M.Senger@usdoj.gov; [redacted]; [redacted];
[redacted]; Elizabeth.Kessler@usdoj.gov; [redacted]
(Thune); [redacted]; [redacted];
Shannen_W._Coffin@ovp.eop.gov; [redacted];
[redacted]; Lreyes@who.eop.gov
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

[redacted] (DHS)

From: [redacted] (DHS)
Sent: Wednesday, July 19, 2006 10:17 PM
To: Gorsuch, Neil M
Subject: Re: Robert's Farewell

I hope I can. Thanks for sending the dates.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: Senger2, Jeffrey M <DOJ>; Swenson, Lily (DOJ); Schiffer, Stuart <DOJ>; Keisler, Peter D <DOJ>; Katsas, Gregory <DOJ> [redacted]@thune.senate.gov <[redacted]@thune.senate.gov>; Elizabeth.Kessler@usdoj.gov <Elizabeth.Kessler@usdoj.gov>; Shannen_W._Coffin@ovp.eop.gov <Shannen_W._Coffin@ovp.eop.gov> [redacted]@raytheon.com <[redacted]@raytheon.com>; [redacted]@omm.com [redacted]@omm.com>; [redacted]@paulhastings.com [redacted]@paulhastings.com>; Lreyes@who.eop.gov <Lreyes@who.eop.gov>; [redacted]@kcpl.com <[redacted]@kcpl.com>; [redacted]@mckennalong.com <[redacted]@mckennalong.com>; Senger2, Jeffrey M <DOJ>; [redacted]@hotmail.com <[redacted]@hotmail.com [redacted]@hotmail.com [redacted]@hotmail.com>; [redacted]@dhs.gov <[redacted]@dhs.gov>; [redacted]@dhs.gov <[redacted]@dhs.gov>
Sent: Wed Jul 19 11:57:42 2006
Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 20, 2006 8:18 AM
To: Sampson, Kyle; Elwood, Courtney
Cc: Gorsuch, Neil M; Elston, Michael (ODAG)
Subject: Sen Mang Meeting this am

Will miss it as I have to be at the Pentagon for a meeting at 9am. Robt.

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, July 20, 2006 9:04 AM
To: Goodling, Monica
Subject: The Morning Update: 7/20/06

<http://www.whitehouse.gov/>
JULY 20, 2006

This morning, President Bush will make remarks at the National Association for the Advancement of Colored People Convention. Following these remarks, the President will return to the White House for a meeting with the First Vice President of the Government of National Unity of Sudan and the President of Southern Sudan.

10:30 am:
EDT THE PRESIDENT makes Remarks at the National Association for the Advancement of Colored People Convention
Washington Convention Center | Washington, DC

11:40 am:
EDT THE PRESIDENT meets with the First Vice President of the Government of National Unity of Sudan and President of Southern Sudan
The White House | Washington, DC

President Bush Vetoes Bill Designed To Overturn His Balanced Embryonic Stem Cell Research Policy. "He announced the veto in a White House East Room ceremony with a gaggle of adopted babies, all from frozen embryos, behind him. Hours later, the House of Representatives fell short of the 286 votes needed to override Bush's veto. ... 'This bill would support the taking of innocent human life in the hope of finding medical benefits for others <http://www.usatoday.com/printedition/news/20060720/a_bushveto20.art.htm> ,' Bush told a group of 200 supporters. 'It crosses a moral boundary that our decent society needs to respect. So I vetoed it.'" (Richard Benedetto and Andrea Stone, "Bush Rejects Stem Cell Bill With His First Veto," USA Today, 7/20/06)

President Bush Signs Bill Banning "Fetal Farming." "Mr. Bush also signed a 'fetal farming' measure, barring trafficking in embryos and fetuses with the intent of harvesting body parts. 'These boys and girls are not spare parts,' the president said in a speech that was interrupted repeatedly by hoots of applause, and twice by standing ovations <http://www.nytimes.com/2006/07/20/washington/20bush.html?hp&ex=1153368000&en=d43987ea07d16502&ei=5094&partner=homepage> . 'They remind us of what is lost when embryos are destroyed in the name of research.'" (Sheryl Gay Stolberg, "First Bush Veto Maintains Limits On Stem Cell Use," The New York Times, 7/20/06)

State Department Spokesman Sean McCormack Says U.S. Is Working To Find

"Permanent Solution" To Middle East Conflict. MCCORMACK: "I don't anticipate that Secretary Rice will be traveling to Damascus. Right now, Damascus is isolated. They're isolated from the rest of the international community. You have Hezbollah, Damascus and Tehran, the backers of Hezbollah, isolated from the rest of the region, isolated from the rest of the world. So what we're doing right now is we're working with those states in the region, Egypt, Jordan, Saudi Arabia, as well as others, who have an interest in seeing a permanent solution <http://transcripts.cnn.com/TRANSCRIPTS/0607/19/ltm.01.html> , so that we aren't in this position three weeks, six months or three years from now, where a terrorist organization can literally drag a region down into violence. So that's what Secretary Rice is focused on." (CNN's "American Morning," 7/19/06)

Secretary Of State Condoleezza Rice To Discuss Middle East Conflict With UN Leader. "Secretary of State Condoleezza Rice will travel to New York to discuss the crisis in Lebanon with U.N. Secretary-General Kofi Annan and the European Union foreign policy chief, Annan's top deputy said Wednesday <http://news.yahoo.com/s/ap/20060719/ap_on_go_ca_st_pe/un_annan_rice_2&printer=1;_ylt=AvWR_SlpBGINadW30yNI5r6WwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> . ... Annan, Rice and Javier Solana will have a private dinner Thursday evening after Annan briefs the full U.N. Security Council on Lebanon, said U.N. Deputy Secretary-General Mark Malloch Brown. Malloch Brown said Rice's trip is meant to 'get everybody on the same page about the facts of what's happening in this very confusing situation.'" (Nick Wadhams, "Rice To Meet With Annan On Mideast Crisis," The Associated Press, 7/19/06)

Bush Administration Initiative Fights Poverty Through Promotion Of "Healthy Marriage" And "Responsible Fatherhood." "The course is a prototype in the Bush administration's campaign to fight poverty and aid children by promoting marriage - an effort that, after years in the pilot stage, is about to get going in earnest this fall and has drawn surprising support from some liberal poverty experts <http://www.nytimes.com/2006/07/20/us/20marriage.html?pagewanted=print> . In a little-noticed bill reauthorizing welfare reform this year, Congress earmarked $750 million over five years for programs to promote 'healthy marriages' and 'responsible fatherhood.' The administration is now sifting through more than 2,000 proposals and in September will award $100 million to nonprofit groups, churches and local agencies around the country for marriage programs and $50 million for related fatherhood programs." (Erik Eckholm, "Program Seeks To Fight Poverty By Building Family Ties," The New York Times, 7/20/06)

Sen. George Voinovich (R-OH) Supports Confirmation Of UN Ambassador John Bolton. "My observations are that while Bolton is not perfect, he has demonstrated his ability, especially in recent months, to work with others and follow the president's lead by working multilaterally. ... Should the president send his renomination to the Senate, I will vote to confirm him, and I call on my Democratic colleagues to keep in mind the current situation in the Middle East and the rest of the world should the Senate have an opportunity to vote <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/19/AR2006071901788.html> . I do not believe the United States, at this dangerous time, can afford to have a U.N. ambassador who does not have Congress's full support." (Sen. George V. Voinovich, Op-Ed, "Why I'll Vote For

Bolton," The Washington Post, 7/20/06)

President Discusses Stem Cell Research Policy
<http://www.whitehouse.gov/news/releases/2006/07/20060719-3.html>

* President Vetoes H.R. 810, the "Stem Cell Research Enhancement Act of 2005"
<http://www.whitehouse.gov/news/releases/2006/07/20060719-5.html>

* Fact Sheet: President Bush's Stem Cell Research Policy
<http://www.whitehouse.gov/news/releases/2006/07/20060719-6.html>

President Signs S. 3504, the "Fetus Farming Prohibition Act of 2006"
<http://www.whitehouse.gov/news/releases/2006/07/20060719-4.html>

President Vetoes H.R. 810, the "Stem Cell Research Enhancement Act of 2005" <http://www.whitehouse.gov/news/releases/2006/07/20060719-5.html>

President Bush to Welcome Salva Kiir, First Vice President of the Government of National Unity of Sudan and President of the Government of Southern Sudan, to the White House
<http://www.whitehouse.gov/news/releases/2006/07/20060719.html>

Text of a Letter from the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate
<http://www.whitehouse.gov/news/releases/2006/07/20060719-1.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/07/20060719-2.html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 9:22 AM
To: Shaw, Aloma A
Subject: Two small things

(1) Is there any chance of me getting a parking pass for the building yet? Monica Goodling may be able to help.
(2) Any word on when tv might be fixed?

Both are tiny items - no worries abt either.

From: [redacted]
Sent: Thursday, July 20, 2006 9:24 AM
To: [redacted]@ilnd.uscourts.gov
Cc: Gorsuch, Neil M
Subject: Re: Hello --- And [redacted]
Attachments: tmp.htm

Thanks for making the introduction. Except for the fact that you [redacted], I appreciate you hooking us up via email.

I look forward to hearing from Neal and providing some insights on [redacted]

[redacted]

This message contains material that may be privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution or copying of this message is strictly prohibited, and you should promptly delete the message.

[redacted]@ilnd.uscourts.gov
07/19/2006 03:44 PM

To: [redacted]
cc: Neil.Gorsuch@usdoj.gov
Subject: Hello --- And [redacted]

Dea[redacted]--

I hope all is well with you and yours.

I'm writing to introduce you to another friend, Neil Gorsuch, who was asked [redacted] Knowing you and your generosity, I

suspected you would be willing to share your leadership insights with Neil about this subject. You also have similar backgrounds in many respects and I'm confident the two of you will enjoy speaking with each other if that works for the two of you.

So, here's my introductions: Neil is great guy from the State of Colorado originally. He'll be going back to take a seat on the Tenth Circuit as soon as the Senate finalizes his confirmation. He's one of the leaders at the Justice Department now (acting Associate Attorney General?), and like [redacted] is a graduate of Harvard Law School and Oxford. In addition to clerking for Judge Sentelle, Neil also clerked for Justice White and Justice Kennedy. He also is a good fisherman and skiier, and is a all-around good guy.

Neil --- my longtime friend [redacted] is a fixture in the Chicago community and (this is rare) a rock-solid Republican living in Cook County Illinois. He is [redacted] He shares your academic background, and clerked for [redacted] He also is an avid fan of Northwestern University.

In any event, the two of you will like each other a lot, I strongly suspect. I also am confident that [redacted] will be the better for your speaking. Hopefully you will be able to speak.

All the best to both of you. Sincerely, [redacted]

Thanks for making the introduction. Except for the fact that you demoted me at [redacted], I appreciate you hooking us up via email.

I look forward to hearing from Neal and providing some insights on [redacted]

This message contains material that may be privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution or copying of this message is strictly prohibited, and you should promptly delete the message.

[redacted]@ilnd.uscourts.gov

07/19/2006 03:44 PM

To: [redacted]

cc: Neil.Gorsuch@usdoj.gov

Subject: Hello --- And [redacted]

Dear [redacted] --

I hope all is well with you and yours.

I'm writing to introduce you to another friend, Neil Gorsuch, who was asked [redacted] Knowing you and your generosity, I suspected you would be willing to share your leadership insights with Neil about this subject. You also have similar backgrounds in many respects and I'm confident the two of you will enjoy speaking with each other if that works for the two of you.

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Neil --- my longtime friend [redacted] is a fixture in the Chicago community and (this is rare) a rock-solid Republican living in Cook County Illinois. He is [redacted] He shares your academic background, and clerked for [redacted] He also is an avid fan of Northwestern University.

In any event, the two of you will like each other a lot, I strongly suspect. I also am confident that [redacted] will be the better for your speaking. Hopefully you will be able to speak.

All the best to both of you. Sincerely [redacted]

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]
Job Title: [redacted]
Company: [redacted]

Business Address: [redacted]
[redacted]

Business: [redacted]
Business Fax: [redacted]

E-mail: [redacted]
E-mail Display As: [redacted]

[redacted]. Friend of [redacted].

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 9:31 AM
To: [redacted] [redacted]@ilnd.uscourts.gov
Subject: RE: Hello --- And [redacted]

[redacted] Thanks so much for the (overly kind) introduction. [redacted] I very much appreciate your offer of guidance on this arcane matter and will give you a ring later today. Best regards to you both, Neil

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Thursday, July 20, 2006 9:24 AM
To [redacted]@ilnd.uscourts.gov
Cc: Gorsuch, Neil M
Subject: Re: Hello --- And [redacted]

Thanks for making the introduction. Except for the fact that you [redacted] me at [redacted] I appreciate you hooking us up via email.

I look forward to hearing from Neal and providing some insights on [redacted]

[redacted]

This message contains material that may be privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution or copying of this message is strictly prohibited, and you should promptly delete the message.

[redacted]@ilnd.uscourts.gov
07/19/2006 03:44 PM

To: [redacted]
cc: Neil.Gorsuch@usdoj.gov
Subject: Hello --- And [redacted]

Dear [redacted]--

I hope all is well with you and yours.

I'm writing to introduce you to another friend, Neil Gorsuch, who was asked by Judge Sentelle to head up an effort to get Judge Sentelle's portrait done for the D.C. Circuit. Knowing you and your generosity, I suspected you would be willing to share your leadership insights with Neil about this subject. You also have similar backgrounds in many respects and I'm confident the two of you will enjoy speaking with each other if that works for the two of you.

So, here's my introductions: Neil is great guy from the State of Colorado originally. He'll be going back to take a seat on the Tenth Circuit as soon as the Senate finalizes his confirmation. He's one of the leaders at the Justice Department now (acting Associate Attorney General?), and like [redacted] is a graduate of Harvard Law School and Oxford. In addition to clerking for Judge Sentelle, Neil also clerked for Justice White and Justice Kennedy. He also is a good fisherman and skiier, and is a all-around good guy.

Neil --- my longtime friend [redacted] is a fixture in the Chicago community and (this is rare) a rock-solid Republican living in Cook County Illinois. He is [redacted] He shares your academic background, and clerked for [redacted] He also is an avid fan of Northwestern University.

In any event, the two of you will like each other a lot, I strongly suspect. I also am confident that Judge Sentelle's portrait effort will be the better for your speaking. Hopefully you will be able to speak.

All the best to both of you. Sincerely, [redacted]

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, July 20, 2006 9:52 AM
To: Gorsuch, Neil M
Subject: FW: Cable in Main

Neil:

Still working on the tv issue. See below. I've emailed Paula . . . waiting for her response.

Aloma

-----Original Message-----
From: Packard, Lawrence B
Sent: Tuesday, July 18, 2006 3:06 PM
To: Mohamed, Kathy FB
Cc: Shaw, Aloma A
Subject: RE: Cable in Main

Kathy,

Dick Shaffer and I have been doing the adds/moves/changes of individual TVs, but for the broadcast system as a whole you will have to contact Paula Scholz of the FASS Multimedia Section. There is a 'head-end' system in the attic that assembles the programming for distribution, which is under Paula, and she may know its status (whether the power is back on for the head-end or not).

Thanks, Larry
-----Original Message-----
From: Mohamed, Kathy FB
Sent: Tuesday, July 18, 2006 2:50 PM
To: Packard, Lawrence B
Cc: Shaw, Aloma A
Subject: Fw: Cable in Main

Goo afternoon Larry, see email for Aloma Shaw. Can you advise her on this?

Thanks

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Mohamed, Kathy FB
To: Mulvaney, Carol
Sent: Tue Jul 18 14:44:14 2006
Subject: Re: Cable in Main

Ok, thanks Carol

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Mulvaney, Carol
To: Mohamed, Kathy FB
Sent: Tue Jul 18 13:41:08 2006
Subject: RE: Cable in Main

Kathy,
Larry Packard handles the tv system or Richard Schaffer.
Carol

From: Mohamed, Kathy FB
Sent: Tuesday, July 18, 2006 9:22 AM
To: Mulvaney, Carol
Subject: FW: Cable in Main

Good morning Carol, see below email, who do you suggest I refer her to for this information?.

Thannks

From: Shaw, Aloma A
Sent: Tuesday, July 18, 2006 9:08 AM
To: Russell, Shana D; Mohamed, Kathy FB
Subject: Cable in Main

Not sure if either of you handle this or know about this, however, do you know when the cable for the tvs will be restored in Main. The Principal Dep ASG wants to watch a congressional hearing today.

From: Miller, Charles S
Sent: Thursday, July 20, 2006 10:14 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/20/06 Civil Division News

McCallum questioned about tobacco case

Group home operator reaches settlement in fraud case

Lawsuit against Justice settled

9th claim joins fatal boat case

Trial Looms in Web Porn Law Fight

Lamberth is out; impact on Cobell is up in the air

AP

Posted on Thu, Jul. 20, 2006

McCallum questioned about tobacco case

PETE YOST
Associated Press

WASHINGTON - A Justice Department official who slashed the amount of money being sought from tobacco companies made misleading statements to Congress, says a former government lawyer who handled a landmark lawsuit against the industry.

The comments by attorney Sharon Eubanks follow Associate Attorney General Robert McCallum's decision a year ago to downsize a proposed smoking cessation program from $130 billion to $10 billion. That's the amount the government wants a judge to order cigarette companies to pay.

A month ago, McCallum sent written statements explaining his actions to the Senate Foreign Relations Committee, which was considering his nomination to be U.S. ambassador to Australia. The Senate subsequently confirmed McCallum, a former Yale classmate of President Bush, to the post.

Eubanks, who ran the department's tobacco litigation team, retired from government and now works for Citizens for Responsibility and Ethics in Washington. The private group sued the department and questioned McCallum for several hours Tuesday about documents he kept on the tobacco case.

The group wants to find out whether White House influence was brought to bear in the pending tobacco lawsuit.

"I don't remember ever receiving any directive from the White House about anything that had to do with the tobacco case," McCallum said in his sworn videotaped deposition.

DOJ_NMG_ 0164613

The Justice Department's Office of Professional Responsibility said last month that McCallum's conduct was not influenced by any political considerations.

Internal Justice Department e-mails obtained by The Associated Press show that the White House OK'd an op-ed piece by McCallum in USA Today defending the department's drastic cut in the amount it was demanding the tobacco companies pay.

"Please hold up. The White House wanted some changes," one Justice Department employee wrote regarding McCallum's op-ed piece.

"WH says it's good to go," said an e-mail an hour later by another department employee.

In his testimony about the Justice Department suit against the tobacco companies, McCallum refused to say whether he had notes of contacts with industry representatives. He said he was barred from answering by an order the judge had issued in the case. The order itself is sealed, McCallum added.

On Wednesday, a Justice Department spokesman, Charles Miller, said "it's absolutely incorrect" to suggest that McCallum "was anything but truthful in what he said to the Senate."

Eubanks said McCallum mischaracterized a court order in his statements to Capitol Hill, making it appear that U.S. District Judge Gladys Kessler criticized the government's embrace of smoking cessation as a remedy in the lawsuit. McCallum cited the judge's order in explaining why he reduced the government's request.

Eubanks pointed out that the judge later rejected the tobacco industry's arguments and allowed Eubanks' expert witness to testify that the companies should pay $130 billion for smoking cessation.

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McCallum told the Senate that he had conferred with attorneys including the career lawyers leading the trial team, a characterization that Eubanks rejected.

"There was no conferring," said Eubanks. "I was taking orders."

At McCallum's direction, says Eubanks, political appointees at the department wrote almost every word of Eubanks' closing argument in which she asked the judge to order the industry to pay the reduced amount.

Eubanks has removed herself from her new employer's lawsuit against the Justice Department where she used to work.

END

AP

Jul. 18, 2006

Group home operator reaches settlement in fraud case

Associated Press

EAST ST. LOUIS, Ill. - The operator of a Metro East home for mentally and physically disabled adults has paid $28,000 to settle federal claims that it was reimbursed after submitting false claims for employee training, U.S. prosecutors said.

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DOJ_NMG_ 0164614

The foundation runs Beverly Farm, a group home housing about 400 adults with developmental disabilities in Godfrey. The foundation provides and bills for the required training and certification of some Beverly Farm health care workers.

The foundation's attorneys did not immediately return messages seeking comment.

A complaint filed in July 2004 in U.S. District Court had alleged that the foundation billed the Medicaid program for training that was not properly provided or supervised, Massey said. The foundation also failed to give the required number of hours of training to habilitation aides between 1998 and 2000, failed to complete the training within the required time and failed to properly administer tests, the complaint alleged.

The complaint also accused the foundation of submitting false claims to the Illinois Department of Human Services.

END

News & Observer, The (Raleigh, NC)

July 20, 2006

Lawsuit against Justice settled

Andrea Weigl

RALEIGH -- A former Raleigh federal prosecutor has settled her discrimination lawsuit against the U.S. Department of Justice for $170,000.

Mary Jude Darrow, 48, of Raleigh used to work as an assistant U.S. attorney for the Eastern District of North Carolina, which prosecutes crimes in 44 eastern counties. In 2004, Darrow was fired. She sued. Darrow, a former award-winning federal prosecutor, claims she was treated differently than her co-workers when it came to discipline and supervision.

Her bosses say she was fired because she missed deadlines, failed to follow office policies and was banned from a magistrate's court. They say she wasn't treated differently from her co-workers.

The two sides agreed in May to settle the lawsuit, but Darrow has yet to receive her check.

"It's been a nightmare," Darrow said of the litigation. "The only thing I can be glad for is when it's over."

Scott Schools, general counsel to the Executive Office of U.S. Attorneys, declined to comment about the settlement.

Darrow came to Raleigh from the U.S. Attorney's Office in New Orleans. From 1990 to 1999, Darrow prosecuted drug, fraud and violent crimes, including seven members of the 7th Ward Soldiers, a murderous gang; crooked police officers; and a former New Orleans Saints football player who committed fraud. In 1993, she won a national award from the Executive Office of U.S. Attorneys recognizing her "superior organizational and litigation skills."

"She was a very energetic and a very talented prosecutor," said Bob Boitmann, a former U.S. Attorney in New Orleans.

In 1998, Darrow, a single woman of 40, decided to adopt a child. Her daughter was blind, and doctors told Darrow that she would be profoundly mentally and physically disabled. Darrow's boss offered to move her job to Raleigh, where her family is located. In 1999, she moved to Raleigh and began prosecuting drug cases.

But by May 2002, Darrow felt overwhelmed at work. She had lost a very experienced secretary and was struggling with her caseload. She asked her bosses not to give her more cases, but they refused. Meanwhile, Darrow said, a female co-worker's similar request was granted.

In July 2002, Darrow said her bosses assigned her to prosecute a $6 million FEMA fraud case alone. Darrow said they refused her requests for another lawyer, secretary or an accountant to help, while male co-workers who were assigned to complex cases got such assistance.

That year, Darrow said, her bosses twice reprimanded her for missing deadlines and referred the incidents to the Office of Professional Responsibility, the Justice Department's internal investigative unit, which polices its lawyers. Darrow said a male co-worker who missed a similar deadline was not reprimanded or referred to Justice officials.

After winning the FEMA fraud trial in Wilmington, Darrow took two weeks of sick leave. When she returned to work, her bosses, Robert Higdon and Eric Evenson, would not allow her to sign court documents without their approval or appear in

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court. They say they discovered problems with Darrow's cases while she was away. They asked to see her medical records to determine whether she could still do her job.

After seeing the records in January 2003, her bosses still required Darrow to submit all her pleadings for their approval beforehand. She was the only prosecutor required to do so. Darrow says a male co-worker who had a similar medical leave in 1999 had no such restrictions when he returned to work. Her work life deteriorated after that, until she was fired in 2004.

Darrow's former bosses say in court records that her workload was not heavy for her level of experience, the FEMA case did not need the resources she requested and that Darrow's work was suffering. They say she missed filing deadlines, failed to send plea agreements to lawyers as office policy required and let the statute of limitations run out on a drug case.

They say she was fired because Justice officials found she committed "nine instances of intentional professional misconduct, five instances of professional misconduct and exercised poor judgement on two occasions." The report detailing what prompted those findings is sealed.

Darrow contests that report's findings, saying that the Office of Professional Responsibility investigation was far from independent or fair to her.

With the end of the litigation near, Darrow said that she plans to open her own law practice and defend those facing federal charges. But it's not what she wants to be doing.

"I miss my job terribly," she said.

END

Albany Times Union (NY)

July 19, 2006

9th claim joins fatal boat case

KENNETH C. CROWE II Staff Writer

ALBANY - A ninth wrongful death lawsuit has been filed against the owners of the Ethan Allen and other defendants, according to papers filed in U.S. District Court.

The estate of Earl G. Hawley filed the lawsuit Monday. Hawley, 76, of Trenton, Mich., was among the 20 people who drowned when the Ethan Allen capsized on Oct. 2, 2005, during an hour-long tour on Lake George.

Named in the lawsuit are Shoreline Cruise Inc., the tour boat's operator; Quirk's Marine Rentals, Inc., a company associated with James Quirk, the owner of Shoreline; Richard Paris, the vessel's captain; the Lake George Steam Boat Company, whose tour boat is alleged to have caused a wake that may have sunk the Ethan Allen; Scarano Boat Building Inc., which modified the Ethan Allen; and Cummins Northeast Inc., which did related engine work. The National Transportation Safety Board is investigating the sinking to determine what may have caused the accident. The design of the boat and its stability are among the issues.

The Ethan Allen sailed Oct. 2, 2005, with 47 passengers and Paris at the helm. Since the boat sank, the state has tightened passenger weight limits for commercial tour boats. The U.S. Coast Guard is drafting new weight guidelines and has asked commercial vessel operators to voluntarily observe more stringent weight requirements.

END

The Legal Intelligencer
07-20-2006

Trial Looms in Web Porn Law Fight

By Shannon P. Duffy

A court battle over Congress' attempts to protect children from pornography on the Internet will soon be ripe for trial.

After nearly eight years of litigation challenging the constitutionality of the Child Online Protection Act -- including two trips to the U.S. Supreme Court -- the plaintiffs have won a handful of significant rulings on key discovery disputes.

In his 23-page opinion in *ACLU v. Gonzales*, Senior U.S. District Judge Lowell A. Reed Jr. ruled that government lawyers must provide the plaintiffs with answers to dozens of interrogatories that focus on how the government intends to enforce the law and the specifics of how it will decide whether content on the Internet is "harmful to minors."

Passed in 1998, COPA has never gone into effect because Reed granted the plaintiffs a preliminary injunction which was later upheld by the Supreme Court.

The preliminary phase of the case was protracted because the Supreme Court took the case up twice.

In the first high court appeal, the justices reversed a decision by the 3rd U.S. Circuit Court of Appeals which held that COPA was flawed because it calls for Internet content to be judged on "community standards" and would therefore "subject Internet providers in even the most tolerant communities to the decency standards of the most puritanical."

That single flaw identified by the 3rd Circuit was not enough to doom the law, the justices said.

Justice Clarence Thomas found that "COPA's reliance on community standards to identify material that is harmful to minors does not by itself render the statute substantially overbroad for purposes of the First Amendment."

In March 2003, the 3rd Circuit again upheld Reed's preliminary injunction, finding that COPA suffers from multiple, incurable flaws.

Writing for the court, Senior Circuit Judge Leonard I. Garth found that COPA fails the strict scrutiny test because the definitions of key terms and provisions in the statute were not narrowly tailored.

"While COPA penalizes publishers for making available improper material for minors, at the same time it impermissibly burdens a wide range of speech and exhibits otherwise protected for adults," Garth wrote in an opinion joined by 3rd Circuit Judges Theodore A. McKee and Robert E. Cowen.

Garth found that the term "minor," as Congress drafted it in COPA, "applies in a literal sense to an infant, a 5-year old, or a person just shy of age 17."

As a result, Garth said, Internet publishers who want to know if their sites will run afoul of COPA "cannot tell which of these 'minors' should be considered in deciding the particular content of their Internet postings."

When the Supreme Court took up the case a second time, the justices affirmed the 3rd Circuit in a 5-4 decision handed down on the last day of the court's term in June 2004.

Writing for the majority, Justice Anthony M. Kennedy held that "content-based prohibitions, enforced by severe criminal penalties, have the constant potential to be a repressive force in the lives and thoughts of a free people. To guard against that threat, the Constitution demands that content-based restrictions on speech be presumed invalid and that the government bear the burden of showing their constitutionality."

Since then, the lawyers have been gearing up for a trial.

In January, the plaintiffs' team hit the Justice Department with a deposition request under Rule 30(b)(6) of the Federal Rules of Civil Procedure demanding testimony from a government official who could answer questions about how the Justice Department defines the terms "obscene" and "harmful to minors."

In the request, the plaintiffs' team said it also wanted to ask questions about the criteria used to distinguish material that is deemed "obscene" from that deemed "harmful to minors," as well as the criteria used in parsing material that is considered "harmful to minors" from that which is deemed "noncriminal."

But Reed quashed the subpoena, finding it was not the least intrusive means of gathering the information.

Instead, Reed ordered the plaintiffs lawyers to draft a series of "contention interrogatories."

Now, over the government's objection, Reed has ordered Justice Department lawyers to provide answers to the vast majority of the plaintiffs' interrogatories.

"It is clear that the contention interrogatories seek to narrow the issues at trial and provide fair notice to plaintiffs of what issues will be relevant at trial," Reed wrote.

"Unlike in many cases, this case is very, very mature and the time is ripe for the parties to solidify their contentions," Reed wrote.

The ruling is a victory for plaintiffs attorneys Christopher R. Harris, Seth L. Friedman, Katharine E. Marshall, Jeroen van Kwawegen and Elan R. Dobbs of Latham & Watkins in New York.

In an interview Monday, Harris said the case is currently scheduled for trial in October and that the Latham & Watkins lawyers will be jointly representing the plaintiffs with ACLU attorneys Christopher A. Hansen and Benjamin Elihu Wizner.

Justice Department lawyers argued that the interrogatories were vague and overbroad, and that many went beyond the issues first raised in the Rule 30(b)(6) deposition subpoena.

Reed disagreed, saying the deposition notice and his own order were "very broadly and were not intended to be limiting."

"My own interpretation of my order," Reed wrote, "is that the plaintiffs were allowed to propound contention or other interrogatories which sought to uncover defendant's current or past rationales, practices, policies or internal rules. ... Therefore, it was perfectly acceptable for the plaintiffs to ask defendant (and defendant to answer) interrogatories seeking contentions defendant will assert at trial and as well, defendant's current rationales, practices, policies or internal rules, to the extent that they exist, to a given scenario."

In one series of questions, the plaintiffs asked government lawyers to review the printouts of certain Internet Web pages and state whether they would be considered harmful to minors.

Homing in on a key dispute in the case, the plaintiffs also demanded to know whether any of the material would be deemed "to appeal to, or designed to pander to, the prurient interests of" either 16- or 17-year-olds.

For each page, they also asked whether the material, "when taken as a whole, lacks serious literary, artistic, political or scientific value." Reed ordered that all of the questions be answered, saying the plaintiffs are entitled to know that "rationales, practices, policies or internal rules for determining whether communications are subject to COPA."

Rejecting the Justice Department's complaint that the interrogatories were overbroad, Reed found instead that they "seek information on only a limited number of provided sample Web pages and do not require defendant to search through vast amounts of information."

Reed also ordered the government to answer interrogatories seeking 10 examples of Internet content that the Justice Department deems to be "harmful to minors but not prosecutable as obscenity in any jurisdiction in the United States."

Likewise, Reed ordered the government to provide 10 examples of content on the Internet the government deems to be prosecutable as obscenity, as well as information on whether the cases are being prosecuted and, if not, why not.

"Answering these two contention interrogatories will greatly assist this court and the parties in the management of the issues likely to be raised in the trial and pre-trial motions by narrowing and defining said issues," Reed wrote.

But in a separate section of the opinion, Reed also left the door open for the government to refuse to answer questions if doing so would violate a privilege. In those instances, Reed said, the government must supply its grounds for asserting the privilege when it supplies its answers to the remaining questions.

END

Indian Country Today (Oneida, NY) (KRT)

July 19, 2006

Lamberth is out; impact on Cobell is up in the air

Jerry Reynolds

Indian Country Today, Oneida, N.Y.

Jul. 19--WASHINGTON -- Federal defense attorneys lost their favorite target in the trust funds lawsuit known as Cobell v. Norton, following an appeals court order that the chief judge for the District of Columbia circuit reassign the case.

The July 11 ruling ousted Judge Royce Lamberth from the proceedings, an exceedingly rare step that a three-judge panel of the U.S. Court of Appeals for the D.C. circuit arrived at "reluctantly" in the belief that "'justice must satisfy the appearance of justice' -- that is, reasonable observers must have confidence that judicial decisions flow from the impartial application of law to fact, not from a judge's animosity to a party."

The 10-year class action lawsuit, brought by Individual Indian Money account holders against the Interior Department (the government's delegate for managing the IIM trust), seeks an accounting of the revenues due to the trust after more than a century of mismanagement -- a track record Lamberth memorably termed "Interior's degenerate tenure."

Those words are among a salvo of others that convinced the panel Lamberth has lost his judicial dispassion in the case. The panel additionally cited eight Lamberth decisions that have been overturned on appeal, including contempt citations against four Cabinet secretaries, three at Interior and one at Treasury. A catalogue of Lamberth's missteps in each of the eight reversals is included in the panel's written ruling. "Ten judges of this court have heard one or more of these appeals.

Not one has dissented."

Also July 11, the appellate court restored Interior to the Internet, vacating a Lamberth order that it disconnect its IIM-related computers over concerns about the security of its systems. (In a statement released the same day, namesake plaintiff Elouise Cobell\l "I" announced that that particular decision will be appealed to the U.S. Supreme Court.)

One school of thought among Washingtonians who work in Indian affairs is that Lamberth's removal is no real help to Interior, not given the department's legal position and the panel's low opinion of its conduct. Speaking for that viewpoint, Gregory Smith, of Johnston & Associates, said, "A judge replacing Lamberth is likely to reach the same opinions he did, but without distracting from the merits of the case with inflammatory opinion. Because the facts of the case are with us."

Another viewpoint is that the learning curve any new judge will encounter in taking up the voluminous case will set back a court settlement by perhaps another decade. "I think the removal of Lamberth was a wrong decision," said Tex Hall, chairman of the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara in North Dakota. "It sends the wrong message to Indians and Americans in a historic case -- I think the court system has failed us today. I think we're wasting time with the judicial system, time our elders don't have."

Hall said Congress must act to settle the case. Bills that would do just that if enacted are before the Senate and the House of Representatives, but at last report neither chamber had taken the plunge of supplying a dollar sum in settlement of monetary losses from the IIM accounts. Hall said the administration of President George Bush may have weighed in against a figure of $6 billion to $8 billion -- "around that" -- adding that he would know more following visits to Capitol Hill that took place after press time.

Anyone who has followed the case is bound to suspect some feeling of vindication was hard to resist at Interior when the decision was announced. But it would not have survived a close reading of the decision. Lamberth takes a thumping, but so do all sides in a case that has generated singular hostility between the litigants. The cause of Lamberth's downfall, the court went out of its way to emphasize, "is, most certainly, not any redeeming aspect of Interior's behavior as trustee," but Lamberth's own intemperate words and ill-founded decisions. Elsewhere it observes that "Interior's deplorable record deserves condemnation in the strongest terms" and warns the department against false confidence. "As the litigation proceeds, the government must remember that although it regularly prevails on appeal, our many decisions in no way change the fact that it remains in breach of its trust responsibilities."

Beginning on the second page, numerous other passages in the 34-page ruling spell out the fiduciary obligation the government took on when it assumed title to Indian lands and set up shop as a trustee, for Indian individuals, of royalties earned from the lease of their lands and resources. References abound to nearly 100 years of mismanagement, "the magnitude of government malfeasance," "recalcitrance," "unconscionable delay," "hopelessly inept management" and "a serious injustice that has persisted for over a century and that cries out for redress."

Plaintiff attorneys take a scouring too: they "would more ably advance their worthy cause," the judges advise, "by focusing their energies on legal issues rather than on attacking the government and its lawyers."

The ruling concludes by calling for a "fresh start" in the case, as well as an expeditious and fair resolution.

END

DOJ_NMG_ 0164619

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Image not available for this document, ID: 0.7.10316.47537-000002

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, July 20, 2006 10:19 AM
To: Gorsuch, Neil M
Subject: [redacted]

Alas, it does not appear that we'll be able to connect until after [redacted] Although I personally expect that you'll be confirmed before the August recess, [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 11:43 AM
To: Sampson, Kyle
Subject: RE: [redacted]

We will look forward very much to making it happen then!

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Subject: [redacted]

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Subject:	[redacted] Lunch
Location:	Cafe Atlantico
Start:	Tuesday, July 25, 2006 12:00 PM
End:	Tuesday, July 25, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 12:22 PM
To: Elwood, Courtney
Subject: FW: 7/20/06 Civil Division News

Tracking:

Recipient	Read
Elwood, Courtney	Read: 7/20/2006 12:29 PM

Fyi

From: Miller, Charles S
Sent: Thursday, July 20, 2006 10:14 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/20/06 Civil Division News

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AP

Posted on Thu, Jul. 20, 2006

McCallum questioned about tobacco case

PETE YOST
Associated Press

WASHINGTON - A Justice Department official who slashed the amount of money being sought from tobacco companies made misleading statements to Congress, says a former government lawyer who handled a landmark lawsuit against the industry.

The comments by attorney Sharon Eubanks follow Associate Attorney General Robert McCallum's decision a year ago to downsize a proposed smoking cessation program from $130 billion to $10 billion. That's the amount the government wants a judge to order cigarette companies to pay.

A month ago, McCallum sent written statements explaining his actions to the Senate Foreign Relations Committee, which was considering his nomination to be U.S. ambassador to Australia. The Senate subsequently confirmed McCallum, a former Yale classmate of President Bush, to the post.

Eubanks, who ran the department's tobacco litigation team, retired from government and now works for Citizens for Responsibility and Ethics in Washington. The private group sued the department and questioned McCallum for several hours Tuesday about documents he kept on the tobacco case.

The group wants to find out whether White House influence was brought to bear in the pending tobacco lawsuit.

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"I don't remember ever receiving any directive from the White House about anything that had to do with the tobacco case," McCallum said in his sworn videotaped deposition.

The Justice Department's Office of Professional Responsibility said last month that McCallum's conduct was not influenced by any political considerations.

Internal Justice Department e-mails obtained by The Associated Press show that the White House OK'd an op-ed piece by McCallum in USA Today defending the department's drastic cut in the amount it was demanding the tobacco companies pay.

"Please hold up. The White House wanted some changes," one Justice Department employee wrote regarding McCallum's op-ed piece.

"WH says it's good to go," said an e-mail an hour later by another department employee.

In his testimony about the Justice Department suit against the tobacco companies, McCallum refused to say whether he had notes of contacts with industry representatives. He said he was barred from answering by an order the judge had issued in the case. The order itself is sealed, McCallum added.

On Wednesday, a Justice Department spokesman, Charles Miller, said "it's absolutely incorrect" to suggest that McCallum "was anything but truthful in what he said to the Senate."

Eubanks said McCallum mischaracterized a court order in his statements to Capitol Hill, making it appear that U.S. District Judge Gladys Kessler criticized the government's embrace of smoking cessation as a remedy in the lawsuit. McCallum cited the judge's order in explaining why he reduced the government's request.

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"There was no conferring," said Eubanks. "I was taking orders."

At McCallum's direction, says Eubanks, political appointees at the department wrote almost every word of Eubanks' closing argument in which she asked the judge to order the industry to pay the reduced amount.

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DOJ_NMG_ 0164626

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News & Observer, The (Raleigh, NC)

July 20, 2006

Lawsuit against Justice settled

Andrea Weigl

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"It's been a nightmare," Darrow said of the litigation. "The only thing I can be glad for is when it's over."

Scott Schools, general counsel to the Executive Office of U.S. Attorneys, declined to comment about the settlement.

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"She was a very energetic and a very talented prosecutor," said Bob Boitmann, a former U.S. Attorney in New Orleans.

In 1998, Darrow, a single woman of 40, decided to adopt a child. Her daughter was blind, and doctors told Darrow that she would be profoundly mentally and physically disabled. Darrow's boss offered to move her job to Raleigh, where her family is located. In 1999, she moved to Raleigh and began prosecuting drug cases.

But by May 2002, Darrow felt overwhelmed at work. She had lost a very experienced secretary and was struggling with her caseload. She asked her bosses not to give her more cases, but they refused. Meanwhile, Darrow said, a female co-worker's similar request was granted.

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DOJ_NMG_ 0164627

After winning the FEMA fraud trial in Wilmington, Darrow took two weeks of sick leave. When she returned to work, her bosses, Robert Higdon and Eric Evenson, would not allow her to sign court documents without their approval or appear in court. They say they discovered problems with Darrow's cases while she was away. They asked to see her medical records to determine whether she could still do her job.

After seeing the records in January 2003, her bosses still required Darrow to submit all her pleadings for their approval beforehand. She was the only prosecutor required to do so. Darrow says a male co-worker who had a similar medical leave in 1999 had no such restrictions when he returned to work. Her work life deteriorated after that, until she was fired in 2004.

Darrow's former bosses say in court records that her workload was not heavy for her level of experience, the FEMA case did not need the resources she requested and that Darrow's work was suffering. They say she missed filing deadlines, failed to send plea agreements to lawyers as office policy required and let the statute of limitations run out on a drug case.

They say she was fired because Justice officials found she committed "nine instances of intentional professional misconduct, five instances of professional misconduct and exercised poor judgement on two occasions." The report detailing what prompted those findings is sealed.

Darrow contests that report's findings, saying that the Office of Professional Responsibility investigation was far from independent or fair to her.

With the end of the litigation near, Darrow said that she plans to open her own law practice and defend those facing federal charges. But it's not what she wants to be doing.

"I miss my job terribly," she said.

END

Albany Times Union (NY)

July 19, 2006

9th claim joins fatal boat case

KENNETH C. CROWE II Staff Writer

ALBANY - A ninth wrongful death lawsuit has been filed against the owners of the Ethan Allen and other defendants, according to papers filed in U.S. District Court.

The estate of Earl G. Hawley filed the lawsuit Monday. Hawley, 76, of Trenton, Mich., was among the 20 people who drowned when the Ethan Allen capsized on Oct. 2, 2005, during an hour-long tour on Lake George.

Named in the lawsuit are Shoreline Cruise Inc., the tour boat's operator; Quirk's Marine Rentals, Inc., a company associated with James Quirk, the owner of Shoreline; Richard Paris, the vessel's captain; the Lake George Steam Boat Company, whose tour boat is alleged to have caused a wake that may have sunk the Ethan Allen; Scarano Boat Building Inc., which modified the Ethan Allen; and Cummins Northeast Inc., which did related engine work. The National Transportation Safety Board is investigating the sinking to determine what may have caused the accident. The design of the boat and its stability are among the issues.

The Ethan Allen sailed Oct. 2, 2005, with 47 passengers and Paris at the helm. Since the boat sank, the state has tightened passenger weight limits for commercial tour boats. The U.S. Coast Guard is drafting new weight guidelines and has asked commercial vessel operators to voluntarily observe more stringent weight requirements.

END

The Legal Intelligencer
07-20-2006

DOJ_NMG_ 0164628

Trial Looms in Web Porn Law Fight

By Shannon P. Duffy

A court battle over Congress' attempts to protect children from pornography on the Internet will soon be ripe for trial.

After nearly eight years of litigation challenging the constitutionality of the Child Online Protection Act -- including two trips to the U.S. Supreme Court -- the plaintiffs have won a handful of significant rulings on key discovery disputes.

In his 23-page opinion in *ACLU v. Gonzales*, Senior U.S. District Judge Lowell A. Reed Jr. ruled that government lawyers must provide the plaintiffs with answers to dozens of interrogatories that focus on how the government intends to enforce the law and the specifics of how it will decide whether content on the Internet is "harmful to minors."

Passed in 1998, COPA has never gone into effect because Reed granted the plaintiffs a preliminary injunction which was later upheld by the Supreme Court.

The preliminary phase of the case was protracted because the Supreme Court took the case up twice.

In the first high court appeal, the justices reversed a decision by the 3rd U.S. Circuit Court of Appeals which held that COPA was flawed because it calls for Internet content to be judged on "community standards" and would therefore "subject Internet providers in even the most tolerant communities to the decency standards of the most puritanical."

That single flaw identified by the 3rd Circuit was not enough to doom the law, the justices said.

Justice Clarence Thomas found that "COPA's reliance on community standards to identify material that is harmful to minors does not by itself render the statute substantially overbroad for purposes of the First Amendment."

In March 2003, the 3rd Circuit again upheld Reed's preliminary injunction, finding that COPA suffers from multiple, incurable flaws.

Writing for the court, Senior Circuit Judge Leonard I. Garth found that COPA fails the strict scrutiny test because the definitions of key terms and provisions in the statute were not narrowly tailored.

"While COPA penalizes publishers for making available improper material for minors, at the same time it impermissibly burdens a wide range of speech and exhibits otherwise protected for adults," Garth wrote in an opinion joined by 3rd Circuit Judges Theodore A. McKee and Robert E. Cowen.

Garth found that the term "minor," as Congress drafted it in COPA, "applies in a literal sense to an infant, a 5-year old, or a person just shy of age 17."

As a result, Garth said, Internet publishers who want to know if their sites will run afoul of COPA "cannot tell which of these 'minors' should be considered in deciding the particular content of their Internet postings."

When the Supreme Court took up the case a second time, the justices affirmed the 3rd Circuit in a 5-4 decision handed down on the last day of the court's term in June 2004.

Writing for the majority, Justice Anthony M. Kennedy held that "content-based prohibitions, enforced by severe criminal penalties, have the constant potential to be a repressive force in the lives and thoughts of a free people. To guard against that threat, the Constitution demands that content-based restrictions on speech be presumed invalid and that the government bear the burden of showing their constitutionality."

Since then, the lawyers have been gearing up for a trial.

In January, the plaintiffs' team hit the Justice Department with a deposition request under Rule 30(b)(6) of the Federal Rules of Civil Procedure demanding testimony from a government official who could answer questions about how the Justice Department defines the terms "obscene" and "harmful to minors."

In the request, the plaintiffs' team said it also wanted to ask questions about the criteria used to distinguish material that is deemed "obscene" from that deemed "harmful to minors," as well as the criteria used in parsing material that is considered "harmful to minors" from that which is deemed "noncriminal."

But Reed quashed the subpoena, finding it was not the least intrusive means of gathering the information.

Instead, Reed ordered the plaintiffs lawyers to draft a series of "contention interrogatories."

Now, over the government's objection, Reed has ordered Justice Department lawyers to provide answers to the vast majority of the plaintiffs' interrogatories.

"It is clear that the contention interrogatories seek to narrow the issues at trial and provide fair notice to plaintiffs of what issues will be relevant at trial," Reed wrote.

"Unlike in many cases, this case is very, very mature and the time is ripe for the parties to solidify their contentions," Reed wrote.

DOJ_NMG_ 0164629

The ruling is a victory for plaintiffs attorneys Christopher R. Harris, Seth L. Friedman, Katharine E. Marshall, Jeroen van Kwawegen and Elan R. Dobbs of Latham & Watkins in New York.

In an interview Monday, Harris said the case is currently scheduled for trial in October and that the Latham & Watkins lawyers will be jointly representing the plaintiffs with ACLU attorneys Christopher A. Hansen and Benjamin Elihu Wizner.

Justice Department lawyers argued that the interrogatories were vague and overbroad, and that many went beyond the issues first raised in the Rule 30(b)(6) deposition subpoena.

Reed disagreed, saying the deposition notice and his own order were "very broadly and were not intended to be limiting."

"My own interpretation of my order," Reed wrote, "is that the plaintiffs were allowed to propound contention or other interrogatories which sought to uncover defendant's current or past rationales, practices, policies or internal rules. ... Therefore, it was perfectly acceptable for the plaintiffs to ask defendant (and defendant to answer) interrogatories seeking contentions defendant will assert at trial and as well, defendant's current rationales, practices, policies or internal rules, to the extent that they exist, to a given scenario."

In one series of questions, the plaintiffs asked government lawyers to review the printouts of certain Internet Web pages and state whether they would be considered harmful to minors.

Homing in on a key dispute in the case, the plaintiffs also demanded to know whether any of the material would be deemed "to appeal to, or designed to pander to, the prurient interests of" either 16- or 17-year-olds.

For each page, they also asked whether the material, "when taken as a whole, lacks serious literary, artistic, political or scientific value." Reed ordered that all of the questions be answered, saying the plaintiffs are entitled to know that "rationales, practices, policies or internal rules for determining whether communications are subject to COPA."

Rejecting the Justice Department's complaint that the interrogatories were overbroad, Reed found instead that they "seek information on only a limited number of provided sample Web pages and do not require defendant to search through vast amounts of information."

Reed also ordered the government to answer interrogatories seeking 10 examples of Internet content that the Justice Department deems to be "harmful to minors but not prosecutable as obscenity in any jurisdiction in the United States."

Likewise, Reed ordered the government to provide 10 examples of content on the Internet the government deems to be prosecutable as obscenity, as well as information on whether the cases are being prosecuted and, if not, why not.

"Answering these two contention interrogatories will greatly assist this court and the parties in the management of the issues likely to be raised in the trial and pre-trial motions by narrowing and defining said issues," Reed wrote.

But in a separate section of the opinion, Reed also left the door open for the government to refuse to answer questions if doing so would violate a privilege. In those instances, Reed said, the government must supply its grounds for asserting the privilege when it supplies its answers to the remaining questions.

END

Indian Country Today (Oneida, NY) (KRT)

July 19, 2006

Lamberth is out; impact on Cobell is up in the air

Jerry Reynolds

Indian Country Today, Oneida, N.Y.

Jul. 19--WASHINGTON -- Federal defense attorneys lost their favorite target in the trust funds lawsuit known as Cobell v. Norton, following an appeals court order that the chief judge for the District of Columbia circuit reassign the case.

The July 11 ruling ousted Judge Royce Lamberth from the proceedings, an exceedingly rare step that a three-judge panel of the U.S. Court of Appeals for the D.C. circuit arrived at "reluctantly" in the belief that "'justice must satisfy the appearance of justice' -- that is, reasonable observers must have confidence that judicial decisions flow from the impartial application of law to fact, not from a judge's animosity to a party."

The 10-year class action lawsuit, brought by Individual Indian Money account holders against the Interior Department (the government's delegate for managing the IIM trust), seeks an accounting of the revenues due to the trust after more than a century of mismanagement -- a track record Lamberth memorably termed "Interior's degenerate tenure."

Those words are among a salvo of others that convinced the panel Lamberth has lost his judicial dispassion in the case. The panel additionally cited eight Lamberth decisions that have been overturned on appeal, including contempt citations against four Cabinet secretaries, three at Interior and one at Treasury. A catalogue of Lamberth's missteps in each of the eight reversals is included in the panel's written ruling. "Ten judges of this court have heard one or more of these appeals. Not one has dissented."

Also July 11, the appellate court restored Interior to the Internet, vacating a Lamberth order that it disconnect its IIM-related computers over concerns about the security of its systems. (In a statement released the same day, namesake plaintiff Elouise Cobell\l "l" announced that that particular decision will be appealed to the U.S. Supreme Court.)

One school of thought among Washingtonians who work in Indian affairs is that Lamberth's removal is no real help to Interior, not given the department's legal position and the panel's low opinion of its conduct. Speaking for that viewpoint, Gregory Smith, of Johnston & Associates, said, "A judge replacing Lamberth is likely to reach the same opinions he did, but without distracting from the merits of the case with inflammatory opinion. Because the facts of the case are with us."

Another viewpoint is that the learning curve any new judge will encounter in taking up the voluminous case will set back a court settlement by perhaps another decade. "I think the removal of Lamberth was a wrong decision," said Tex Hall, chairman of the Three Affiliated Tribes of the Mandan, Hidatsa and Arikara in North Dakota. "It sends the wrong message to Indians and Americans in a historic case -- I think the court system has failed us today. I think we're wasting time with the judicial system, time our elders don't have."

Hall said Congress must act to settle the case. Bills that would do just that if enacted are before the Senate and the House of Representatives, but at last report neither chamber had taken the plunge of supplying a dollar sum in settlement of monetary losses from the IIM accounts. Hall said the administration of President George Bush may have weighed in against a figure of $6 billion to $8 billion -- "around that" -- adding that he would know more following visits to Capitol Hill that took place after press time.

Anyone who has followed the case is bound to suspect some feeling of vindication was hard to resist at Interior when the decision was announced. But it would not have survived a close reading of the decision. Lamberth takes a thumping, but so do all sides in a case that has generated singular hostility between the litigants. The cause of Lamberth's downfall, the court went out of its way to emphasize, "is, most certainly, not any redeeming aspect of Interior's behavior as trustee," but Lamberth's own intemperate words and ill-founded decisions. Elsewhere it observes that "Interior's deplorable record deserves condemnation in the strongest terms" and warns the department against false confidence. "As the litigation proceeds, the government must remember that although it regularly prevails on appeal, our many decisions in no way change the fact that it remains in breach of its trust responsibilities."

Beginning on the second page, numerous other passages in the 34-page ruling spell out the fiduciary obligation the government took on when it assumed title to Indian lands and set up shop as a trustee, for Indian individuals, of royalties earned from the lease of their lands and resources. References abound to nearly 100 years of mismanagement, "the magnitude of government malfeasance," "recalcitrance," "unconscionable delay," "hopelessly inept management" and "a serious injustice that has persisted for over a century and that cries out for redress."

Plaintiff attorneys take a scouring too: they "would more ably advance their worthy cause," the judges advise, "by focusing their energies on legal issues rather than on attacking the government and its lawyers."

The ruling concludes by calling for a "fresh start" in the case, as well as an expeditious and fair resolution.

END

DOJ_NMG_ 0164631

Image not available for this document, ID: 0.7.10316.47519-000001

Image not available for this document, ID: 0.7.10316.47519-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 12:48 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, JULY 20, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE

WASHINGTON –Attorney General Alberto R. Gonzales will deliver remarks at a press conference during his visit to El Paso, Texas **TODAY AT 1:00 P.M. MDT.**

WHO: Attorney General Alberto R. Gonzales
Johnny Sutton, United States Attorney for the Western District of Texas

WHAT: Press Conference

WHEN: **TODAY**
1:00 P.M. MDT

WHERE: United States Attorney's Office
Library
700 East San Antonio Ave.
Suite 200
El Paso, Texas

NOTE: All television crews wishing to cover the event must be in place no later than 12:30 P.M. Press inquiries regarding logistics should be directed to John Nowacki at 202-353-5621 or Shana Jones at 210-384-7452.

# # #

06-451

DOJ_NMG_ 0164634

Image not available for this document, ID: 0.7.10316.47514-000001

Image not available for this document, ID: 0.7.10316.47514-000002

Shaw, Aloma A

Subject:	Updated: OIP/CIV Briefing
Location:	4208
Start:	Friday, July 21, 2006 5:00 PM
End:	Friday, July 21, 2006 5:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F; Elston, Michael (ODAG)

When: Friday, July 21, 2006 5:00 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 4208

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

Meeting time changed to 5:00 to accommodate Mike's schedule.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, July 20, 2006 1:34 PM
To: Gorsuch, Neil M
Subject: Call Rebecca Seidel 6-7879

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Thursday, July 20, 2006 2:04 PM
To: Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Cinciotta, Linda A
Subject: Cable TV Update

Cable tv can not be restored to this quad of the bldg. It will be out for the next couple months. They are unable to run a temporary line to connect the cable as they were able to do with the electricity.

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 2:19 PM
Subject: DEPUTY ATTORNEY GENERAL PAUL MCNULTY TO TESTIFY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, JULY 20, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL MCNULTY TO TESTIFY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

WASHINGTON – Deputy Attorney General Paul J. McNulty will testify before the Senate Foreign Relations Committee regarding the extradition treaty between the United States and the United Kingdom on **FRIDAY, JULY 21, 2006 at 10:00 A.M. EDT**.

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Testimony
Question and Answer Session with Committee Members

WHEN: **FRIDAY, JULY 21, 2006**
10:00 A.M. EDT

WHERE: Dirksen Senate Office Building
Room 419
Washington, D.C. 20510-6225
OPEN PRESS

NOTE: All press inquiries regarding logistics should be directed to Andy Fisher of the Senate Foreign Relations Committee at 202-224-2079 or 202-224-4651.

# # #

06-TBD

DOJ_NMG_ 0164640

Image not available for this document, ID: 0.7.10316.47505-000001

Image not available for this document, ID: 0.7.10316.47505-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 2:24 PM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL MCNULTY TO TESTIFY BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, JULY 20, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

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WHERE: Dirksen Senate Office Building
Room 419
Washington, D.C. 20510-6225
OPEN PRESS

NOTE: All press inquiries regarding logistics should be directed to Andy Fisher of the Senate Foreign Relations Committee at 202-224-2079 or 202-224-4651.

# # #

06-454

DOJ_NMG_ 0164643

Image not available for this document, ID: 0.7.10316.47502-000001

Image not available for this document, ID: 0.7.10316.47502-000002

Moschella, William

From: Moschella, William
Sent: Thursday, July 20, 2006 3:43 PM
To: Sampson, Kyle; Brand, Rachel
Cc: Gorsuch, Neil M
Subject: Neil will get a vote this evening!!!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:46 PM
To: Moschella, William
Subject: RE: Neil will get a vote this evening!!!

Scott-Finan, Nancy

From: Scott-Finan, Nancy
Sent: Thursday, July 20, 2006 3:47 PM
To: Gorsuch, Neil M; Brand, Rachel; Macklin, Kristi R; Best, David T; Moschella, William; Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Parmiter, Robert B
Cc: Chambers, Shane P
Subject: Debate/vote on judges today
Importance: High

Roll call vote on VRA begins at 4:30
Senate then turns to HR 4472 - Child Predators Act
Following the legislation the Senate turns to the following judges: Gorsuch, Shepherd, Jordan and Gelpi for debate/statements.
Stacked roll call votes on HR 4472 and the judges should begin around 7 to 7:15 pm tonight

Moschella, William

From: Moschella, William
Sent: Thursday, July 20, 2006 3:47 PM
To: Gorsuch, Neil M
Subject: RE: Neil will get a vote this evening!!!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:48 PM
To: [redacted]
Subject: FW: Debate/vote on judges today
Importance: High

From: Scott-Finan, Nancy
Sent: Thursday, July 20, 2006 3:47 PM
To: Gorsuch, Neil M; Brand, Rachel; Macklin, Kristi R; Best, David T; Moschella, William; Seidel, Rebecca; Sampson, Kyle; Goodling, Monica; Parmiter, Robert B
Cc: Chambers, Shane P
Subject: Debate/vote on judges today
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:50 PM
To: Moschella, William
Subject: RE: Neil will get a vote this evening!!!

McIntosh, Brent

From: McIntosh, Brent
Sent: Thursday, July 20, 2006 3:50 PM
To: [redacted]
Cc: Nasus, Susan
Subject: Thanks and farewell

Friends:

Today is my last day at OLP. Serving with all of you and with the many other dedicated employees here at Justice has been both a privilege and a pleasure. The national security and the cause of justice are in good hands. I know that I will work with many of you again - some very soon - and I eagerly look forward to doing so. Keep in touch.

Warmest regards,

Brent

brent.[redacted]
mobile: [redacted]

Best, David T

From: Best, David T
Sent: Thursday, July 20, 2006 3:52 PM
To: Gorsuch, Neil M; '[redacted]@arwd.uscourts.gov';
'[redacted]'; '[redacted]@prd.uscourts.gov'
Cc: Macklin, Kristi R; Brand, Rachel; Scott-Finan, Nancy
Subject: Senate vote schedule

The Senate majority leader has announced that this evening, at approximately 6:30 p.m., the Senate will turn to the Executive Calendar for limited debate on the following nominations, followed by a series of votes beginning around 7:30 p.m.

Neil Gorsuch - 10th Circuit
Bobby Shepherd - 8th Circuit
Daniel Jordan - SD-MS
Gustavo Gelpi - D-PR

David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:52 PM
To: Shaw, Aloma A
Subject: FW: Thanks and farewell

Please could you add [redacted] info to contacts? Thanks.

From: [redacted]
Sent: Thursday, July 20, 2006 3:50 PM
To: [redacted]
Cc: Nasus, Susan
Subject: Thanks and farewell

Friends:

Today is my last day at OLP. Serving with all of you and with the many other dedicated employees here at Justice has been both a privilege and a pleasure. The national security and the cause of justice are in good hands. I know that I will work with many of you again - some very soon - and I eagerly look forward to doing so. Keep in touch.

Warmest regards,

Brent

[redacted]
mobile: [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:52 PM
To: [redacted]
Subject: FW: Senate vote schedule

630 on cspan 2

From: Best, David T
Sent: Thursday, July 20, 2006 3:52 PM
To: Gorsuch, Neil M; [redacted]@arwd.uscourts.gov'; [redacted]; [redacted]@prd.uscourts.gov'
Cc: Macklin, Kristi R; Brand, Rachel; Scott-Finan, Nancy
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Nominations Counsel
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United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 20, 2006 3:53 PM
To: Best, David T
Subject: RE: Senate vote schedule

Egad! Thanks for passing this along, David.

From: Best, David T
Sent: Thursday, July 20, 2006 3:52 PM
To: Gorsuch, Neil M; [redacted]@arwd.uscourts.gov'; [redacted]; [redacted]@prd.uscourts.gov'
Cc: Macklin, Kristi R; Brand, Rachel; Scott-Finan, Nancy
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David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Otus2005, Ag

Subject:	Accepted: PREP: Meeting with Interior Secretary Kempthorne and OMB Director Portman
Start:	Tuesday, July 25, 2006 9:00 AM
End:	Tuesday, July 25, 2006 9:20 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Brand, Rachel

From: Brand, Rachel
Sent: Thursday, July 20, 2006 4:22 PM
To: Moschella, William; Sampson, Kyle
Cc: Gorsuch, Neil M; Macklin, Kristi R; Cook, Elisebeth C
Subject: Re: Neil will get a vote this evening!!!

Moschella, William

From: Moschella, William
Sent: Thursday, July 20, 2006 4:23 PM
To: Brand, Rachel; Sampson, Kyle
Cc: Gorsuch, Neil M; Macklin, Kristi R; Cook, Elisebeth C
Subject: RE: Neil will get a vote this evening!!!

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 20, 2006 4:24 PM
To: Gunn, Currie (SMO); Senger, Jeffrey M; Gorsuch, Neil M
Subject: RE: Are we having Group II Leadership tomorrow?

Only if Neil wants to host it. I can not attend. Robt

From: Gunn, Currie (SMO)
Sent: Thursday, July 20, 2006 4:23 PM
To: McCallum, Robert (SMO); Senger, Jeffrey M; Gorsuch, Neil M
Subject: Are we having Group II Leadership tomorrow?

Brand, Rachel

From: Brand, Rachel
Sent: Thursday, July 20, 2006 4:25 PM
To: Moschella, William; Sampson, Kyle
Cc: Gorsuch, Neil M; Macklin, Kristi R; Cook, Elisebeth C
Subject: Re: Neil will get a vote this evening!!!

Gunn, Currie (SMO)

Subject:	Van en route to State Dept.
Start:	Friday, July 21, 2006 1:15 PM
End:	Friday, July 21, 2006 1:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Swenson, Lily F; Senger, Jeffrey M; Gorsuch, Neil M; Davis, Deborah J

When: Friday, July 21, 2006 1:15 PM-1:15 PM (GMT-05:00) Eastern Time (US & Canada).

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

Gunn, Currie (SMO)

Subject:	Van en route to State Dept.
Start:	Friday, July 21, 2006 1:15 PM
End:	Friday, July 21, 2006 1:15 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Swenson, Lily F; Senger, Jeffrey M; Gorsuch, Neil M; Davis, Deborah JSwenson, Lily F; Senger, Jeffrey M; Gorsuch, Neil M; Davis, Deborah J

Gunn, Currie (SMO)

Subject:	Van en route to DOJ
Start:	Friday, July 21, 2006 3:10 PM
End:	Friday, July 21, 2006 3:10 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Davis, Deborah J

When: Friday, July 21, 2006 3:10 PM-3:10 PM (GMT-05:00) Eastern Time (US & Canada).

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

Gunn, Currie (SMO)

Subject:	Van en route to DOJ
Start:	Friday, July 21, 2006 3:10 PM
End:	Friday, July 21, 2006 3:10 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Senger, Jeffrey M; Swenson, Lily F; Davis, Deborah J

When: Friday, July 21, 2006 3:10 PM-3:10 PM (GMT-05:00) Eastern Time (US & Canada).

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

echittenden@truman.gov

From: echittenden@truman.gov

Sent: Thursday, July 20, 2006 4:35 PM

To: Gorsuch, Neil M; Fridman, Daniel (ODAG); echittenden@truman.gov; aaron@oured.org; alee07@mckenna.edu; aliciakolar@hotmail.com; angela.clements@hrc.org; anngav@gmail.com; aorris@aya.yale.edu; ashley.bittner@gmail.com; baird@virginia.edu; barry-perez.naomi@dol.gov; Mercer, Bill (USAMT); bonfili@pos.harvard.edu; Brooks.burdette@srz.com; bruce@ufl.edu; c07Alicia.stirewalt@usafa.af.mil; Carolyn_Weiss@washlaw.org; ccoxon@gmail.com; cduboi1@lsu.edu; charles.eadie@usma.edu; christina@phi.ngo.org; crawford820@hotmail.com; Dan.Sichel@frb.gov; darcivetter@yahoo.com; davideckelswade@yahoo.com; davidgartner7@yahoo.com; emwillia@email.unc.edu; gnolan@stetson.edu; hammond@uchicago.edu; hawkk@uah.edu; jeffnavin@hotmail.com; jjgoetz@jacks.sdstate.edu; jkavinoky@aashto.org; jkyle@oxy.edu; jmcurti@wisc.edu; jmfgollob@yahoo.com; jtrinder@alumnae.mills.edu; julia_s.goldberg@tufts.edu; julie_anderson75@hotmail.com; kchsu@sas.upenn.edu; kunalmalhotra1@gmail.com; lundea3@wfu.edu; margotrogers@erols.com; martinavandenberg470@hotmail.com; mcfarland@naspaa.org; md06355g@hotmail.com; mfinberg@alliancetoendhunger.org; mjshiao@udel.edu; ngossen@fastmail.fm; peg.mcglinch@mail.house.gov; phillip.juengst@ed.gov; rburns@nw.org; rebecca@seedfoundation.com; rharwood@theharwoodinstitute.org; rmerola@honorscollege.cuny.edu; rrstone@att.net; saltern@bc.edu; sand@fax.harvard.edu; sdavid3@jhu.edu; Sean.Fahey@jhuapl.edu; seth_bleiweis@hotmail.com; shana_christrup@help.senate.gov; sheehancat@aol.com; sjdefensor@netpci.com; ssagawa@sagawajospin.com; stacy.aldinger@american.edu; terrybl@gmail.com; tjgs@hotmail.com; vargas@nad.org; wendytech@earthlink.net; wmurp@comcast.net; wtrettien@yahoo.com; yould@sfc.keio.ac.jp; zmanfre@learnlink.emory.edu; matt.e.lindsey@gmail.com; roberto.g@stanfordalumni.org; mlmoore21@yahoo.com; esauer@mayerbrownrowe.com; kajones_2000@yahoo.com; dawn.hewett@yale.edu; trumania06@googlegroups.com

Cc: tyglesias@truman.gov; rkeen@truman.gov; ehofer@truman.gov; fslabach@truman.gov; twade@truman.gov; ckleinbeck@truman.gov

Subject: RE: Truman event in DC

Just a reminder - we would like to have your RVSPs for the John McCutcheon concert on 7/27/06 by tomorrow, Friday, July 21, to aid in our planning. Please RVSP to this email address (echittenden@truman.gov).

Thanks!
The Truman Foundation Staff

> -----Original Message-----

> From: Emily Chittenden
> Sent: Thursday, July 13, 2006 2:43 PM
> To: 'aaron@oured.org'; 'alee07@mckenna.edu'; 'aliciakolar@hotmail.com
'; 'angela.clements@hrc.org'; 'anngav@gmail.com'; 'aorris@aya.yale.edu'; 'ashley.bittner@gmail.co
m'; 'baird@virginia.edu'; 'barry-perez.naomi@dol.g
ov'; 'Bill.Mercer@usdoj.gov'; 'bonfili@pos.harvard.edu'; 'Brooks.burdette@srz.com
'; 'bruce@ufl.edu'; 'c07Alicia.stirewalt@usafa.af.mil'; 'Carolyn_Weiss@washlaw.o
rg'; 'ccoxon@gmail.com'; 'cduboi1@lsu.edu'; 'charles.eadie@usma.edu'
; 'christina@phi.ngo.org'; 'crawford820@hotmail.com'; 'Dan.Sichel@frb.gov'; 'daniel.fridman2@usdoj.g
ov'; 'darcivetter@yahoo.com'; 'davideckelswade@yahoo.com'; 'davidgartner7@yahoo.com
'; 'emwillia@email.unc.edu'
; 'gnolan@stetson.edu'; 'hammond@uchicago.edu'; 'hawkk@uah.edu'; 'jeffnavin@hotmail.com'; 'jjgoet
z@jacks.sdstate.e
du'; 'jkavinoky@aashto.org'; 'jkyle@oxy.edu'; 'jmcurti@wisc.edu'; 'jmfgollob@yahoo.com'; 'jtrinder@al
umnae.mills.edu'; 'julia_s.goldberg@tufts.edu'; 'julie_anderson75@hotmail.com
'; 'kchsu@sas.upenn.edu'; 'kunalmalhotra1@gmail.co
m'; 'lundea3@wfu.edu'; 'margotrogers@erols.com'; 'martinavandenberg470@hotmail.com'
; 'mcfarland@naspaa.org'; 'md06355g@hotmail.com'; 'mfinberg@alliancetoendhunger.org'
; 'mjshiao@udel.edu'; 'neil.gorsuch@us.doj.gov'; 'ngossen@fastmail.fm'; 'peg.mcglinch@mail.house
.gov'; 'phillip.juengst@ed.gov'; 'rburns@nw.org'; 'rebecca@seedfoundation.
com'; 'rharwood@theharwoodinstitute.org'; 'rmerola@honorscollege.cuny.e
du'; 'rrstone@att.net'; 'saltern@bc.edu'; 'sand@fax.harvard.edu'; 'sdavid3@jhu.edu'; 'Sean.Fahey@jhua
pl.edu'; 'seth_bleiweis@hotmail.com'; 'shana_christrup@help.senate.
gov'; 'sheehancat@aol.com'; 'sjdefensor@netpci.com'; 'ssagawa@sagawajospin.co
m'; 'stacy.aldinger@american.edu'
; 'terrybl@gmail.com'; 'tjgs@hotmail.com'; 'vargas@nad.org'; 'wendytech@earthlink.net
'; 'wmurp@comcast.net'; 'wtrettien@yahoo.com'; 'yould@sfc.keio.ac.jp'; 'zmanfre@learnlink.emory
.edu'; 'matt.e.lindsey@gmail.com'; 'roberto.g@stanfordalumni.org
'; 'mlmoore21@yahoo.com'; 'esauer@mayerbrownrowe.com'; 'kajones_2000@yahoo.com'
; 'dawn.hewett@yale.edu'; 'trumania06@googlegroups.com'
> Cc: Tara Yglesias; Ruth Keen; Elise Hofer; Frederick Slabach; Tonji S. Wade; Christy Kleinbeck
> Subject: Truman event in DC
>
> The Truman Scholarship Foundation presents > An Evening with John McCutcheon
>
> July 27, 2006
> Jack Morton Auditorium
> 805 21st Street NW
> Washington, DC
>
> 6:30 pm: Doors Open
> 7:00 - 8:15 pm: Concert with John McCutcheon > 8:15 - 9:00 pm: Dessert Reception
>
> Help us welcome our new Executive Secretary, Frederick G. Slabach, to the Foundation! RSVP to echittenden@truman.gov by Friday, July 21st. You are welcome to bring a guest. Use discretion with bringing children - the concert may include some adult content.
>
> John McCutcheon has "the charisma of Pete Seeger, the eloquence of a poet, the repertoire of a library, and the virtuosity of an orchestra." His performances are legendary events that reach into human doings and find strings that tie all of us together. Numerous reviewers have called him one of the most versatile and powerful songwriters of the 1990's, and his more than twenty record albums

have been greeted with critical and popular acclaim. John is also performing with symphony orchestras to audiences of all ages. A multi-instrumentalist wonder, John is a master at leading into a song with a story.
>

From: Miller, Charles S
Sent: Thursday, July 20, 2006 4:41 PM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Judge rules against government in spying lawsuit

Posted on Thu, Jul. 20, 2006

Judge rules against government in spying lawsuit

SAN FRANCISCO (AP) - A federal judge on Thursday rejected a government bid to dismiss a lawsuit challenging the Bush administration's domestic spying program, saying it failed to qualify as a ``state secret'' because it had been widely reported.

U.S. District Judge Vaughn Walker said a case could go forward over AT&T's alleged involvement in President Bush's surveillance program adopted after the Sept. 11 terror attacks.

``The compromise between liberty and security remains a difficult one,'' Walker wrote in his ruling. ``But dismissing this case at the outset would sacrifice liberty for no apparent enhancement of security.''

The government invoked the so-called ``state secrets privilege'' and said the case by Electronic Frontier Foundation should be thrown out because it threatens to reveal state secrets and jeopardize the war on terror.

``It might appear that none of the subject matter in this litigation could be considered a secret given that the alleged surveillance programs have been so widely reported in the media,'' Walker said in his ruling.

The case is one of dozens nationwide against telecoms and the government alleging they are illegally intercepting Americans' electronic communications without warrants. Thursday's decision was the first to address the state secrets defense.

The Justice Department did not immediately return calls seeking comment.

The lawsuit by the privacy group tests the constitutionality of Bush's asserted wartime powers to eavesdrop on Americans without warrants. The government intervened and said that divulging information about any alleged collusion between AT&T and the government could subject AT&T employees and facilities to attack and would enable terrorists ``to communicate more securely.''

The legal tactic of state secrets privilege, first recognized by the U.S. Supreme Court in a McCarthy-era lawsuit, has been increasingly and successfully invoked by federal lawyers seeking to shield the government from scrutiny by the courts, from espionage cases and patent disputes to routine employment discrimination lawsuits.

DOJ_NMG_ 0164669

The president confirmed in December that the National Security Agency has been conducting warrantless surveillance of calls and e-mails thought to involve al-Qaida terrorists if at least one of the parties to the communication is outside the United States.

The administration is mum on whether purely domestic calls and electronic communications are being monitored as the suit alleges.

The suit was brought by EFF on behalf of customers of San Antonio-based AT&T. The group accuses the telecom of illegally cooperating with the NSA to make communications on AT&T networks available to the spy agency without warrants.

The EFF asked Judge Walker to rule on whether the president possesses wartime powers to authorize warrantless eavesdropping in the United States without publicly disclosing any classified or sensitive material. The EFF charged that AT&T, which neither confirms nor denies the allegations, practices ``wholesale surveillance'' of its customers.

Walker also declined to dismiss AT&T from the case.

``AT&T cannot seriously contend that a reasonable entity in its position could have believed that the alleged domestic dragnet was legal,'' Walker wrote.

The U.S. Supreme Court upheld the state secrets defense as recently as January, when it rejected an appeal from a former covert CIA officer who accused the agency of racial discrimination. And in May, citing the state secrets defense, the government urged a federal judge in Virginia to block a lawsuit by a German national who says he was illegally held and tortured in a CIA-run prison in Afghanistan for four months.

The Supreme Court first recognized the state secrets doctrine in 1953, when it dismissed a lawsuit against the government brought by family members of people killed in a plane wreck while testing secret electronic surveillance equipment.

The case is Hepting v. AT&T Inc., 06-0672.

DOJ_NMG_ 0164670

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Image not available for this document, ID: 0.7.10316.47209-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 6:08 PM
To: USDOJ- Office of Public Affairs
Subject: THREE DEFENDANTS PLEAD GUILTY TO ARSON AND CONSPIRACY CHARGES IN ASSOCIATION WITH EARTH LIBERATION FRONT AND ANIMAL LIBERATION FRONT

Department of Justice

United States Kerin J. Immergut

District of Oregon

FOR IMMEDIATE RELEASE
CONTACT: DIANE PETERSON
THURSDAY, JULY 20, 2006

PHONE: (503) 727-1066

WWW.USDOJ.GOV/USAO/OR

FAX: (503) 727-1117

THREE DEFENDANTS PLEAD GUILTY TO ARSON AND CONSPIRACY CHARGES IN ASSOCIATION WITH EARTH LIBERATION FRONT AND ANIMAL LIBERATION FRONT

EUGENE, Ore. — Today in U.S. District Court in Eugene, Kevin Tubbs, 37, Kendall Tankersley, 29, and Darren Todd Thurston, 36, entered guilty pleas to criminal conspiracy and related arson charges that occurred from 1996 through 2001 in Oregon and four other Western states. U.S. District Judge Ann Aiken accepted the pleas and set a sentencing date for Dec.14, 2006.

Tubbs, Tankersley and Thurston acted in a cell of underground groups known as the Earth Liberation Front (ELF) and the Animal Liberation Front (ALF). In their guilty pleas, the defendants acknowledged that they and their group sought to influence and affect the conduct of government, private business and the civilian population through force, violence, sabotage, mass destruction, intimidation and coercion, and to retaliate against government and private businesses by similar means.

In addition to admitting participation in the overall conspiracy, the defendants pled guilty to active participation in the following specific crimes:

Kevin Tubbs:

•Arson, U.S. Forest Service Oakridge Ranger Station; Oakridge, Ore.; October 30, 1996;

•Arson, Cavel West, Inc., horse-rendering facility; Redmond, Ore.; July 21, 1997;

DOJ_NMG_ 0164673

•Arson, U.S. Bureau of Land Management (BLM) Wild Horse and Burro Facility; Burns, Ore.; November 30, 1997;

•Attempted arson, U.S. Forest Industries; Medford, Ore.; December 22, 1998;

• Arson, Childers Meat Company; Eugene, Ore.; May 9, 1999;

•Arson, Eugene Police Department West University Public Safety Station; Eugene, Ore.; September 6, 2000;

•Arson, Superior Lumber Company; Glendale, Ore.; January 2, 2001;

•Arson, Jefferson Poplar Farm; Clatskanie, Ore.; May 21, 2001.

Kendall Tankersley (also known as Sarah Kendall Harvey):

- Attempted Arson, U.S. Forest Industries; Medford, Ore.; December 22, 1998;
- Arson, U.S. Forest Industries; Medford, Ore.; December 27, 1998.

Darren Todd Thurston:

In addition to the overall conspiracy, Thurston acknowledged active participation in the Oct. l5, 200l arson at the BLM's Litchfield Wild Horse and Burro Facility near Susanville, Calif. He will plead guilty to that separate charge upon its transfer to the District of Oregon.

In addition to the above arsons and attempted arsons, the overall conspiracy included similar crimes at the U.S. Forest Service Detroit Ranger Station in Marion County, Ore., on Oct. 28, 1996; the U.S. Department of Agriculture's Animal, and Plant Health Inspection Service (APHIS) in Olympia, Wash., on June 21, 1998; the BLM Wild Horse Holding Facility in Rock Springs, Wyo., on Oct. 11, 1998; the Vail Ski Facility in Eagle County, Colo., on Oct. 19, 1998; offices of the Boise Cascade Company in Monmouth, Ore., on Dec. 25, 1999; a Bonneville Power Administration high-voltage transmission tower near Bend, Ore., on Dec.30, 1999; the Joe Romania Chevrolet Truck Center in Eugene, Ore., on March 30, 2001; and the University of Washington Horticulture Center in Seattle, Wash., on May 21, 2001.

Tubbs, Tankersley and Thurston have agreed to cooperate and provide assistance to the government in the investigation and prosecution of other co-conspirators involved in arson, conspiracy and related crimes.

Each count of arson and attempted arson carries a mandatory minimum of five years in prison and a maximum of twenty years. The conspiracy charge carries a maximum sentence of five years.

Further guilty pleas by other co-defendants are expected tomorrow, July 21, 2006, in Eugene.

The case was jointly investigated by the Federal Bureau of Investigation (FBI), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Eugene Police Department, the Bureau of Land Management, the U.S. Forest Service, the Oregon State Police, the Lane County Sheriff's Office and the Oregon Justice Department's Criminal Justice Division.

The case is being handled by Assistant U.S. Attorney Kirk Engdall in Eugene, Assistant U.S. Attorney John Ray in Eugene and Assistant U.S. Attorney Stephen F. Peifer in Portland.

DOJ_NMG_ 0164674

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DOJ_NMG_ 0164675

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Image not available for this document, ID: 0.7.10316.47194-000002

Macklin, Kristi R

From:	Macklin, Kristi R
Sent:	Thursday, July 20, 2006 6:09 PM
To:	Gorsuch, Neil M
Subject:	FW: FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES
Attachments:	tmp.htm; image001.jpg; image001.jpg; image001.jpg

Congratulations!!!

-----Original Message-----
From: [redacted]@frist.senate.gov [mailto [redacted]@frist.senate.gov]
Sent: Thursday, July 20, 2006 5:45 PM
Subject: Fyi: FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES

The Senate just confirmed Neil Gorsuch to the 10th Circuit of Appeals and Bobby Shepherd to the 8th Circuit, as well as two district court judges. Thought the below would be of interest:

FOR IMMEDIATE RELEASE Amy Call [redacted]

July 20, 2006
Bob Stevenson [redacted]

Carolyn Weyforth [redacted]

FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES

WASHINGTON, D.C. - U.S. Senate Majority Leader Bill Frist, M.D., (R-Tenn.) made the following statement today after the Senate confirmed two federal appeals court judges and two district court judges:

"Today, the Senate continued its progress on judicial nominees with the confirmation of four exceptionally qualified nominees to the federal bench. I will continue to fight to ensure that the Senate

fulfills its constitutional duty of advice and consent by confirming qualified nominees to our judiciary who practice judicial restraint and respect the rule of law."

The Senate confirmed Neil M. Gorsuch to the U.S. Court of Appeals for the 10th Circuit, Bobby E. Shepherd to the U.S. Court of Appeals for the 8th Circuit, Daniel Porter Jordan III to the U.S. District Court for the Southern District of Mississippi, and Gustavo Antonio Gelpi to the U.S. District Court for the District of Puerto Rico.

Currently, 95 percent of all judgeships are filled, including 91.6 percent of all circuit court judgeships and 95.8 percent of all district court judgeships. Since Sen. Frist became majority leader, the Senate has made considerable progress on President Bush's judicial nominees, including confirming two Supreme Court justices, 31 circuit court judges, and 121 district court judges, and decreasing the number of circuit court vacancies by 40 percent. Overall, the Senate has confirmed 87 percent of President Bush's judicial nominees, giving him the highest confirmation rate of federal judges since President Reagan.

# # #

06-343

BILL FRIST

U.S. SENATE MAJORITY LEADER • TENNESSEE

BILL FRIST

U.S. SENATE MAJORITY LEADER • TENNESSEE

BILL FRIST

U.S. SENATE MAJORITY LEADER • TENNESSEE

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FOR IMMEDIATE RELEASE
July 20, 2006

Amy Call
Bob Stevenson
Carolyn Weyforth

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# # #

06-343

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Thursday, July 20, 2006 6:24 PM
To: Gorsuch, Neil M
Subject: FW: FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES

I'm sure you've seen this...assuming it's actually over (which I don't have independent confirmation of)...CONGRATULATIONS!!!

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted]
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Macklin, Kristi R
Sent: Thursday, July 20, 2006 6:22 PM
To: Brand, Rachel; McIntosh, Brent; Cook, Elisebeth C; Bounds, Ryan W (OLP); Jaffer, Jamil N; Martinson, Wanda
Subject: FW: FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES

-----Original Message-----
From: [redacted]@frist.senate.gov [mailto[redacted]@frist.senate.gov]
Sent: Thursday, July 20, 2006 5:45 PM
Subject: Fyi: FRIST HAILS CONTINUED PROGRESS ON JUDICIAL NOMINEES

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FOR IMMEDIATE RELEASE [redacted]

July 20, 2006
[redacted]

Carolyn Weyforth[redacted]

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# # #

06-343

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 6:37 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL AND DISTRICT OF COLUMBIA OFFICIALS TO HOLD PRESS CONFERENCE REGARDING LAW ENFORCEMENT COORDINATION IN RESPONSE TO THE DISTRICT'S RECENT INCREASE IN VIOLENT CRIME

Department of Justice

United States Attorney Kenneth L. Wainstein
District of Columbia

FOR IMMEDIATE RELEASE

CONTACT: CHANNING PHILLIPS

THURSDAY, JULY 20, 2006

PHONE: (202) 514-6933

WWW.USDOJ.GOV/USAO/DC FAX: (202) 353-0121

*********MEDIA ADVISORY*********

FEDERAL AND DISTRICT OF COLUMBIA OFFICIALS TO HOLD PRESS CONFERENCE REGARDING LAW ENFORCEMENT COORDINATION IN RESPONSE TO THE DISTRICT'S RECENT INCREASE IN VIOLENT CRIME.

WHAT: **Press conference announcing federal-Washington, D.C. law enforcement coordination in response to the District's recent increase in violent crime.**

WHO: Kenneth L. Wainstein, U.S. Attorney for the District of Columbia
Mayor Anthony A. Williams
Metropolitan Police Department Chief Charles H. Ramsey
Michael Mines, Special Agent in Charge, FBI's Washington Field Office
Congressman Frank R. Wolf
Congresswoman Eleanor Holmes Norton
Other federal and local officials

WHEN: **Friday, July 21, 2006, at 12:30 p.m. EDT**

WHERE: United States Attorney's Office
555 Fourth Street, N.W. - 2nd Floor Moot Courtroom (Room 2843)

DOJ_NMG_ 0164686

Washington, D.C. 20001

CONTACT: Channing D. Phillips
U.S. Attorney's Office for the District of Columbia
(202) 514-6933

Note: All television crews planning to cover the event should be in place no later than 12:00 p.m.
.

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DOJ_NMG_ 0164687

Image not available for this document, ID: 0.7.10316.47182-000001

Image not available for this document, ID: 0.7.10316.47182-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 6:46 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL HAILS PASSAGE OF THE VOTING RIGHTS ACT

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JULY 20, 2006

AG
(202) 514-2007

WWW.USDOJ.GOV

TDD (202) 514-1888

ATTORNEY GENERAL HAILS PASSAGE OF THE VOTING RIGHTS ACT

Attorney General Alberto R. Gonzales released the following statement today regarding Congressional passage of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006:

"The Department of Justice is proud to have supported the passage of this historic legislation. The Voting Rights Act of 1965 was a critical chapter in the still-unfolding story of American freedom. As President Johnson said when he signed that bill, the right to vote is the lifeblood of our democracy. The reauthorization of this act is an important and proud American moment, and I know that President Bush looks forward to signing the bill. The Department of Justice stands ready and looks forward to continuing, vigorous enforcement of its protections."

The Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, passed with the overwhelming, bipartisan support of members of both houses of Congress. President Bush, the Attorney General, and the Assistant Attorney General for the Civil Rights Division have all publicly stated the Administration's support for this important legislation. Wan J. Kim, Assistant Attorney General for the Civil Rights Division, made the following statement this afternoon:

"The Voting Rights Act is one of the most effective pieces of civil rights legislation ever enacted. The Civil Rights Division has been privileged to enforce the Voting Rights Act for the past 41 years. With the legislative reauthorization process now complete, we look forward to continuing this important work."

# # #

06-456

DOJ_NMG_ 0164690

Image not available for this document, ID: 0.7.10316.47180-000001

Image not available for this document, ID: 0.7.10316.47180-000002

McIntosh, Brent

From: McIntosh, Brent
Sent: Thursday, July 20, 2006 7:30 PM
To: Gorsuch, Neil M

Congratulations on your confirmation! That's truly great news.

Best,

Brent

Amber.JMD

From: Amber.JMD
Sent: Thursday, July 20, 2006 7:49 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Detroit, MI

From: AmberAlert-DOJ
Sent: Thursday, July 20, 2006 7:49:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Detroit, MI
Auto forwarded by a Rule

AMBER ALERT:Detroit,MI CHILD:4 Black M 3FT 45LBS Eyes:Hazel Hair:Brown SUSPECT:18 Black F
CALL 313-596-1240
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1782

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, July 20, 2006 7:54 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 20, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General To Deliver Remarks on Intellectual Property Rights (OPA)
The Attorney General will deliver remarks and participate in an event at 6:30 P.M. PDT today with the American Legislative Exchange Council regarding Intellectual Property Rights. Court TV is sponsoring the event and will moderate a question and answer session following the Attorney General's remarks.

Attorney General Holds Press Conference in El Paso (OPA)
The Attorney General participated in a press conference today in El Paso, where he delivered remarks on immigration reform, and announced the indictment of a man connected to the death of a 14 year-old girl who was smuggled into the U.S. from Mexico. An indictment returned yesterday, charges Jose Alfredo Sifuentes-Sandoval Sifuentes with one count each of conspiracy to smuggle aliens, encouraging and inducing entry and harboring, both resulting in death, aggravated identity theft and three counts of alien smuggling for profit.

Judge rules against government in NSA-related lawsuit (Civil)
A federal judge today denied the government's request to dismiss a lawsuit against AT&T challenging the Terrorist Surveillance Program. The government had asserted the state secrets privilege in the case filed by the Electronic Frontier Foundation. The court's decision was the first to address the state secrets defense.

Talking Point:

- The court's ruling is currently being reviewed. The government has made no determination as to what our next step will be in this matter.

Senate passes Voting Rights Act (OPA)
The Senate today passed, 98-0, the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. Attorney General Alberto R. Gonzales released the following statement regarding the Act's passage.

"The Department of Justice is proud to have supported the passage of this historic legislation. The Voting Rights Act of 1965 was a critical chapter in the still-unfolding story of American

freedom. As President Johnson said when he signed that bill, the right to vote is the lifeblood of our democracy. The reauthorization of this act is an important and proud American moment, and I know that President Bush looks forward to signing the bill. The Department of Justice stands ready and looks forward to continuing, vigorous enforcement of its protections."

The Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, passed with the overwhelming, bipartisan support of members of both houses of Congress. President Bush, the Attorney General, and the Assistant Attorney General for the Civil Rights Division have all publicly stated the Administration's support for this important legislation. Wan J. Kim, Assistant Attorney General for the Civil Rights Division, made the following statement this afternoon:

"The Voting Rights Act is one of the most effective pieces of civil rights legislation ever enacted. The Civil Rights Division has been privileged to enforce the Voting Rights Act for the past 41 years. With the legislative reauthorization process now complete, we look forward to continuing this important work."

Arizona Construction Company Executive Agrees to Plead Guilty to False Statement Charge (Antitrust)

A Mesa, Ariz. construction company executive has agreed to plead guilty for submitting a false reference on a federal construction contract. In a felony case filed today in U.S. District Court in Arizona, Kevin Tosh, of Auburn, Pa., was charged with falsely representing his company's prior work experience when he submitted a bid to the U.S. Coast Guard's Civil Engineering Unit. Tosh, as vice president of the Chicataw Construction Inc., submitted a bid for the renovation of a building in Portsmouth, Va. in which he falsely represented that the company had performed a prior fire sprinkler retrofit project, when it had not. Under the plea agreement, which must be approved by the court, Tosh has agreed to pay a $5,000 criminal fine and faces up to six months in jail.

Former Department of State Agent and Northern Virginia Realtor Pleads Guilty to Visa Fraud (Civil Rights)

Harold Countryman, a former Department of State agent, and his wife, Kimberly Countryman, a realtor in northern Virginia, pleaded guilty to aiding and abetting visa fraud, the Justice Department announced today. According to the plea agreement, Kimberly Countryman admitted to using the fraudulent visa to further the forced labor of a Cambodian woman in their employ. Sentencing is scheduled for Oct. 13, 2006, before U.S. District Judge Gerald Bruce Lee.

Judge Rules Against Government in Tax Shelter Case (Tax)

A district court in Texas ruled against the government's cross-motion for summary judgment in the Klamath Tax Shelter Case. The judgment is only a partial loss. *The Wall Street Journal* and the *New York Times* are expected to run stories tomorrow.

FRIDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will participate in taped television interviews with the Univision and Telemundo San Francisco affiliates, followed by a live radio interview with the Ron Owens radio show on radio station KGO in San Francisco. Each interview will focus on immigration reform.

The Deputy Attorney General will participate in an interview with CFO Magazine regarding the work of the Corporate Fraud Task Force.

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Foreign Relations Committee regarding the U.K. Extradition Treaty.
Dirksen Senate Office Building
Room 419

12:30 P.M. EDT Kenneth L. Wainstein, U.S. Attorney for the District of Columbia, will hold a press conference regarding law enforcement coordination in response to the District's recent increase in violent crime.
United States Attorney's Office
555 Fourth Street, N.W.
2nd Floor Moot Courtroom (Room 2843)

11:00 A.M. PDT Attorney General Alberto R. Gonzales will deliver an address titled *Securing Our Borders: Immigration Reform in a Post 9/11 World* to the Commonwealth Club of Silicon Valley.
Santa Clara Marriott
2700 Mission College Blvd.
Santa Clara, California

Brand, Rachel

From: Brand, Rachel
Sent: Thursday, July 20, 2006 8:31 PM
To: Gorsuch, Neil M
Subject: Fw: Senate Judicial Confirmations

So, previous reports of your confirmation (which prompted my voicemail) were greatly exaggerated. Now, congrats for real!

-----Original Message-----
From: Best, David T
To: Brand, Rachel; Higginbotham, Ryan K (OLP); Jennifer R. Brosnahan (Jennifer_R._Brosnahan@who.eop.gov) <Jennifer_R._Brosnahan@who.eop.gov>; Macklin, Kristi R; Martinson, Wanda; McIntosh, Brent; Sampson, Kyle; Scott-Finan, Nancy; Susan Courtwright (courtwright_s@who.eop.gov) <courtwright_s@who.eop.gov>
CC: 'William_W._McCathran@who.eop.gov' <William_W._McCathran@who.eop.gov>
Sent: Thu Jul 20 19:57:30 2006
Subject: Senate Judicial Confirmations

Please be advised that today, July 20, 2006, by voice vote, the Senate confirmed the following Judicial Nominations:

Gustavo Antonio Gelpi, to be United States District Judge for the District of Puerto Rico

Neil M. Gorsuch, to be United States Circuit Judge for the Tenth Circuit

Daniel Porter Jordan, III, to be United States District Judge for the Southern District of Mississippi

Bobby E. Shepherd, to be United States Circuit Judge for the Eighth Circuit,

_____
David T. Best
Nominations Counsel
Office of Legal Policy
United States Department of Justice
Room 4229 Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
voice: 202-514-1607
fax: 202-616-3180

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, July 20, 2006 9:08 PM
To: Gorsuch, Neil M
Subject: Fw: Daily Whip Notice 7/21/2006
Attachments: tmp.htm

See below

-----Original Message-----
From: Whip_Notice@mcconnell.senate.gov <Whip_Notice@mcconnell.senate.gov>
Sent: Thu Jul 20 20:10:41 2006
Subject: Daily Whip Notice 7/21/2006

DAILY WHIP NOTICE

Friday, July 21st, 2006

No Votes

The Senate will convene at 9:30 a.m. on Friday, July 21st, 2006 and proceed to S. 403, the Child Custody Protection Act.

During Thursday's Session:

H.R. 9, the Voting Rights Act, passed 98-0

H.R. 4472, the Sex Offender Registration and Notification Act, passed by voice vote

Executive Calendar #762, Neil Gorsuch to be US Circuit Judge for the Tenth Circuit, confirmed by voice vote

Executive Calendar #763, Bobby Shepherd to be US Circuit Judge for the Eighth Circuit, confirmed by voice vote

Executive Calendar #765, Daniel Porter Jordan III to be US District Judge for the Southern District of Mississippi, confirmed voice vote

Executive Calendar #766, Gustavo Gelpi to be US District Judge for the District of Puerto Rico, confirmed by voice vote

By Unanimous Consent:

S. Res. 535, commending Patriot Guard Riders

S. Con. Res. 112, Enrollment Correction of VAWA (technical) Postal Naming Bills En Bloc:
S.2690, Harry J. Parrish Post Office

S.3187, Richard L. Cevoli Post Office
H.R. 2977, Paul Kasten Post Office Building H.R. 3440, Dr. Jose Celso Barbosa Post Office Building H.R. 3549, William F. Clinger, Jr. Post Office Building H.R. 3934, Gerard A. Fiorenza Post Office Building H.R. 4108, State Senator Verda Welcome and Dr. Henry Welcome Post Office Building
H.R. 4456, Hattie W. Caraway Station
H.R. 4561, Francisco `Pancho' Medrano Post Office Building H.R. 4688, Mayor John Thompson `Tom' Garrison Memorial Post Office H.R. 4786, H. Gordon Payrow Post Office Building H.R. 4995, Ronald Bucca Post Office H.R. 5245, Matthew Lyon Post Office Building

For more information please contact:

Serena Underwood

Floor Assistant

Office of the Majority Whip

[redacted]@mcconnell.senate.gov

DAILY WHIP NOTICE

Friday, July 21st, 2006

No Votes

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Executive Calendar #763, Bobby Shepherd to be US Circuit Judge for the Eighth Circuit, confirmed by voice vote

Executive Calendar #765, Daniel Porter Jordan III to be US District Judge for the Southern District of Mississippi, confirmed voice vote

Executive Calendar #766, Gustavo Gelpi to be US District Judge for the District of Puerto Rico, confirmed by voice vote

By Unanimous Consent:

S. Res. 535, commending Patriot Guard Riders

S. Con. Res. 112, Enrollment Correction of VAWA (technical)

Postal Naming Bills En Bloc:

S.2690, Harry J. Parrish Post Office

S.3187, Richard L. Cevoli Post Office

H.R. 2977, Paul Kasten Post Office Building

H.R. 3440, Dr. Jose Celso Barbosa Post Office Building

H.R. 3549, William F. Clinger, Jr. Post Office Building

H.R. 3934, Gerard A. Fiorenza Post Office Building

H.R. 4108, State Senator Verda Welcome and Dr. Henry Welcome Post Office Building

H.R. 4456, Hattie W. Caraway Station

H.R. 4561, Francisco 'Pancho' Medrano Post Office Building

H.R. 4688, Mayor John Thompson 'Tom' Garrison Memorial Post Office

H.R. 4786, H. Gordon Payrow Post Office Building

H.R. 4995, Ronald Bucca Post Office

H.R. 5245, Matthew Lyon Post Office Building

For more information please contact:
Serena Underwood
Floor Assistant
Office of the Majority Whip
[redacted]@mcconnell.senate.gov

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Friday, July 21, 2006 1:43 AM
To: Gorsuch, Neil M
Subject: Computer Security Awareness Training II (CSAT II) Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual Computer Security Awareness Training II (CSAT II) course. DOJ security regulations require that all employees and contractors receive Computer Security Awareness Training II (CSAT II) training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "Computer Security Awareness Training II (CSAT II)" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Friday, July 21, 2006 1:43 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Leslie_Fahrenkopf@who.eop.gov

From: Leslie_Fahrenkopf@who.eop.gov
Sent: Friday, July 21, 2006 3:49 AM
To: Gorsuch, Neil M
Subject: Re: Sen Salazar Statement

Wow -- you have a fan. Congratulations on your confirmation!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Kristi.R.Macklin@usdoj.gov; Fahrenkopf, Leslie
CC: Rachel.Brand@usdoj.gov; Kyle.Sampson@usdoj.gov; Hoyt, Robert F.
Sent: Thu Jul 20 18:22:22 2006
Subject: Fw: Sen Salazar Statement

Just fyi.

-----Original Message-----
From [redacted]
To: Gorsuch, Neil M
Sent: Thu Jul 20 18:01:28 2006
Subject: Sen Salazar Statement

<<gorsuch1_.doc>> See attached; congratulations!

[redacted]

The information contained in this electronic communication and any document attached hereto or transmitted herewith is attorney-client privileged, work product, or otherwise confidential and intended for the exclusive use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any examination, use, dissemination, distribution, or copying of this communication or any part thereof is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or reply e-mail and destroy this communication. Thank you.

communication. Thank you.

Full Name:	Brett Kavanaugh
Last Name:	Kavanaugh
First Name:	Brett
E-mail:	Brett_Kavanaugh@cadc.uscourts.gov
E-mail Display As:	Brett_Kavanaugh@cadc.uscourts.gov

DOJ_NMG_ 0164706

From: [redacted]
Sent: Friday, July 21, 2006 9:03 AM
To: Gorsuch, Neil M
Subject: You are the man.
Attachments: tmp.htm

Congratulations.

Congratulations.

[redacted]@truman.gov

From: [redacted]@truman.gov
Sent: Friday, July 21, 2006 9:05 AM
To: tyglesias@truman.gov
Subject: RE: Truman event in DC

To go along with [redacted] reminder:

As if [redacted] wasn't enough of a draw, the event will also be the last event organized/attended/made 1000% better by the presence of [redacted] She will be leaving the Foundation after three and a half years of ensuring the smashing success of TSLW, PSLC...and just about everything else she touched. If you can drop by to wish [redacted] good luck, that would be wonderful. If you can't, but would like to send along a card or email to thank her for her years of service, please email me and I can provide the addresses.

Best,
[redacted]

>
>
> Just a reminder - we would like to have your RVSPs for the [redacted] concert on 7/27/06 by tomorrow, Friday, July 21, to aid in our planning. Please RVSP to this email address ([redacted]@truman.gov).
>
> Thanks!
> The Truman Foundation Staff
>
> -----Original Message-----
> From: [redacted]
> Sent: Thursday, July 13, 2006 2:43 PM
> To: [redacted] 'Bill.Mercer@usdoj.gov'; [redacted] 'daniel.fridman2@usdoj.gov'; [redacted] 'neil.gorsuch@us.doj.gov' [redacted]

neil.gorsuch@us.doj.gov ;

Cc:

Subject: Truman event in DC

>

> The Truman Scholarship Foundation presents > An Evening with

>

> July 27, 2006

> Jack Morton Auditorium

> 805 21st Street NW

> Washington, DC

>

> 6:30 pm: Doors Open

> 7:00 - 8:15 pm: Concert with > 8:15 - 9:00 pm: Dessert Reception

>

> Help us welcome our new Executive Secretary, to the Foundation! RSVP to @truman.gov by Friday, July 21st. You are welcome to bring a guest. Use discretion with bringing children - the concert may include some adult content.

>

> has "the charisma of Pete Seeger, the eloquence of a poet, the repertoire of a library, and the virtuosity of an orchestra." His performances are legendary events that reach into human doings and find strings that tie all of us together. Numerous reviewers have called him one of the most versatile and powerful songwriters of the 1990's,> and his more than twenty record albums have been greeted with critical and popular acclaim. is also performing with symphony orchestras to audiences of all ages. A multi-instrumentalist wonder, John is a master at leading into a song with a story.

>

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 21, 2006 9:08 AM
To: Gorsuch, Neil M
Subject: Please phone Shannen Coffin [redacted]

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 21, 2006 9:08 AM
To: Gorsuch, Neil M
Subject: Sure Gonna Miss You Around Here -- Your Honor!! / Could not have happened to a better person!!!

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	[redacted]
Company:	Senate Judiciary Committee
Business Address:	224 Dirksen Office Building Washington, D.C. 20510
Business:	202/224-7846

Full Name:
Last Name:
First Name:

E-mail:
E-mail Display As:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 21, 2006 10:11 AM
To: 'Leslie_Fahrenkopf@who.eop.gov'
Subject: RE: Sen Salazar Statement

Thanks so much, Leslie, for all of your support, advice, and encouragement. They've meant an awful lot to me. I hope you will stay in touch even as I head off for God's Country and will look me up whenever you find yourself out there. In the meantime, [redacted] and that we get a chance to get together before I'm off. Many, many thanks again. Neil

-----Original Message-----
From: Leslie_Fahrenkopf@who.eop.gov [mailto:Leslie_Fahrenkopf@who.eop.gov]
Sent: Friday, July 21, 2006 3:49 AM
To: Gorsuch, Neil M
Subject: Re: Sen Salazar Statement

Wow -- you have a fan. Congratulations on your confirmation!

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov
To: Kristi.R.Macklin@usdoj.gov; Fahrenkopf, Leslie
CC: Rachel.Brand@usdoj.gov; Kyle.Sampson@usdoj.gov; Hoyt, Robert F.
Sent: Thu Jul 20 18:22:22 2006
Subject: Fw: Sen Salazar Statement

Just fyi.

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Thu Jul 20 18:01:28 2006
Subject: Sen Salazar Statement

<<gorsuch1_.doc>> See attached; congratulations!

[redacted]

The information contained in this electronic communication and any document attached hereto or transmitted herewith is attorney-client privileged, work product, or otherwise confidential and intended for the exclusive use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any examination, use, dissemination, distribution, or copying of this communication or any part thereof is strictly prohibited. If you have received this communication in error, please immediately notify the sender by telephone or reply e-mail and destroy this communication. Thank you.

Taylor, Velma

From: Taylor, Velma
Sent: Friday, July 21, 2006 10:18 AM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: FW: OIP FOIA Tstmny for July 26th
Importance: High

Does OASG have edits for this testimony?

-----Original Message-----
From: Seidel, Rebecca
Sent: Friday, July 21, 2006 10:15 AM
To: Taylor, Velma
Subject: Re: OIP FOIA Tstmny for July 26th

There are comments from the associates office. Please call Lily Swenson, she was supposed to send them back theough LRM she just needed to confer with Neil Gorsuch.

-----Original Message-----
From: Taylor, Velma
To: Ashworth, Jennifer H
CC: Wilson, Karen L; Seidel, Rebecca
Sent: Fri Jul 21 10:07:30 2006
Subject: RE: OIP FOIA Tstmny for July 26th

Jennifer, the only comments received were from OLP (Elisebeth Cook). ODAG(Michael Adams), JMD/GC, OLC, CIV, CRM, and FBI had no comments. Please let me know if you make the revisions requested by OLP. If not, please send me reasoning why, so I can let them know. Thanks

Sent: Thursday, July 20, 2006 6:24 PM
To: Tyler, Joyce (OLP)
Subject: FW: OIP Metcalfe draft testimony for a 07-26-06 hearing re The Freedom of Information Act Importance: High

Please convey:

OLP comments:

This testimony clearly demonstrates the tremendous efforts that OIP has undertaken and the strides made in implementing the Executive Order. In order to better highlight those achievements, we would recommend narrowing the title of the hearing to reference the EO, rather than FOIA generally. We would also recommend deleting footnote 9, as it could very easily serve to distract from the issue the Committee would like to discuss.

Given the great strides we are making, would recommend deleting "considerable" from first line of second paragraph on second page.

From: Ashworth, Jennifer H
Sent: Friday, July 21, 2006 9:19 AM
To: Taylor, Velma
Subject: RE: OIP FOIA Tstmny for July 26th

Velma - Dan has made a few fixes and edits to his draft testimony - I will send them to you shortly. We assume that anything raised in the process of OLA getting ODAG's approval will of course be raised by OLA with OIP first. Thanks. Jennifer

---

From: Taylor, Velma
Sent: Thursday, July 20, 2006 3:20 PM
To: Ashworth, Jennifer H
Cc: Seidel, Rebecca; Wilson, Karen L; Silas, Adrien
Subject: RE: OIP FOIA Tstmny for July 26th
Importance: High

I am handling this on Friday, since Adrien will be out tomorrow, and we plan to send it to OMB tomorrow as soon as we receive component responses, and get ODAG's approval . DOJ component comments are due to me by 9am Friday 7/21. I will forward you any comments or suggested revisions as I get them. They were not to come back to OIP directly, thus you were not put on the component distribution list. Here is what was sent to the components:

From: Clifton, Deborah J
Sent: Thursday, July 20, 2006 1:44 PM
To: Elston, Michael (ODAG); Hitch, Vance (OCIO); Frisch, Stuart; Gorsuch, Neil M; Adams, Michael G (ODAG); Horvath, Jane (ODAG); Moncada, Kirsten J; Caballero, Luis (ODAG); Gunn, Currie (SMO); Senger, Jeffrey M; Shaw, Aloma A; Jackson, Wykema C; Tyler, Joyce (OLP); Wilcox, Matrina (OLP); Atwell, Tonya M; Barksdale, Gwen; Hardin, Gail; Horkan, Nancy; Lauria-Sullens, Jolene; Lofthus, Lee J; Nowicki, Genevieve A; Rodgers, Janice; Santangelo, Mari (JMD); Schultz, Walter H; Boardman, Michelle; Mitchell, Dyone; Robinson, Lawan; Smith, George; Cummings, Holly (CIV); Lofton, Betty; Massie, Patricia; Opl, Legislation; Samuels, Julie; Beth Beers; Carol Keeley; Denyse Coates; Erin Sanford; Kristan Mack; Rene Morton; Theresa Spinola
Cc: Wilson, Karen L; Seidel, Rebecca; Silas, Adrien; Taylor, Velma
Subject: OIP Metcalfe draft testimony for a 07-26-06 hearing re The Freedom of Information Act
Importance: High

YOU WILL NOT RECEIVE A HARD COPY OF THIS REQUEST. PLEASE PROVIDE COMMENTS TO VELMA TAYLOR, OLA, NO LATER THAN 9 am 07/21/06 - FIRM.

<< File: H24control.pdf >> << File: FOIA28a.doc.wpd >> << File: FOIA28b.doc.wpd >>

From: Ashworth, Jennifer H
Sent: Thursday, July 20, 2006 3:02 PM
To: Silas, Adrien
Cc: Seidel, Rebecca; Wilson, Karen L; Taylor, Velma
Subject: RE: OIP FOIA Tstmny for July 26th

Thanks - does that mean it has already been circulated? And if so, weren't we to be included on the distro - particularly if there have been changes?

From: Silas, Adrien
Sent: Thursday, July 20, 2006 2:57 PM
To: Ashworth, Jennifer H
Subject: FW: OIP FOIA Tstmny for July 26th

Sorry for the delay. There have been some process changes: I'm out of the office, Velma Taylor will clear it instead of me, and comments will be due tomorrow morning. I think (by now) it already has issued for circulation.

From: Ashworth, Jennifer H
Sent: Thursday, July 20, 2006 2:53 PM
To: Silas, Adrien
Subject: RE: OIP FOIA Tstmny for July 26th

Adrien, the formatting looks fine - why hasn't it been circulated yet? Thanks. Jennifer

---

From: Silas, Adrien
Sent: Thursday, July 20, 2006 12:47 PM
To: Clifton, Deborah J
Cc: Seidel, Rebecca; Wilson, Karen L; Ashworth, Jennifer H; Chason, Kenneth D
Subject: FW: OIP FOIA Tstmny for July 26th

Please hold for a few minutes on the circulation.

From: Silas, Adrien
Sent: Thursday, July 20, 2006 12:37 PM
To: Clifton, Deborah J
Cc: Seidel, Rebecca; Wilson, Karen L; Ashworth, Jennifer H; Chason, Kenneth D
Subject: OIP FOIA Tstmny for July 26th

DEBBIE: Please circulate the attached draft OIP testimony to:

ODAG/OPCL
OASG (Neil Gorsuch)
OLP
JMD/CIO
JMD/CC

JMD/GC
OIP
OLC
CIV
CRM
FBI

with comments due to me by 4 p.m. today. Thanks!

OIP: Please note that I have made numerous formatting changes to the statement. If you make any additional changes, please make them only to the version of the document I have attached.

<< File: FOIA28a.doc.wpd >> << File: FOIA28b.doc.wpd >>

From: Miller, Charles S
Sent: Friday, July 21, 2006 10:36 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/21/06 Civil Division News

Phone records lawsuit to proceed; S.F. RULING A SETBACK FOR WHITE HOUSE ON WARRANTLESS WIRETAP

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COURT RULES AGAINST BYRD DISTRIBUTION; CANADA DEFENDS LUMBER DEAL

Opinion: Valerie Plame's Lawsuit Against Vice President Cheney, I. Lewis "Scooter" Libby and Karl Rove: Was It a Good Idea, Or a Bad One?

San Jose Mercury News

Fri, Jul. 21, 2006

Phone records lawsuit to proceed; S.F. RULING A SETBACK FOR WHITE HOUSE ON WARRANTLESS WIRETAPS

By Pete Carey
Mercury News

In a setback for the Bush administration's secretive Terrorist Surveillance Program, a federal judge in San Francisco on Thursday denied a government motion to quash a warrantless-wiretapping lawsuit against AT&T.

U.S. Northern District Judge Vaughn R. Walker rejected the government's claim that allowing the suit to proceed would compromise state secrets.

In a 72-page order, which attorneys for the plaintiffs called a victory, Walker wrote that dismissing the case at this early stage ``would sacrifice liberty for no apparent enhancement of security."

The ruling rejected the government's claim that the very existence of the super-secret National Security Agency (NSA) eavesdropping program was a state secret requiring dismissal of the case. Walker cited numerous newspaper stories, testimony by the U.S. attorney general and statements by President Bush to rebut that claim.

Walker is the first judge to rule in lawsuits filed in federal courts in Michigan, Illinois and elsewhere around the country against the program, the existence of which was disclosed in December by the New York Times. The government has

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since admitted monitoring domestic communications in which one party is outside the country, but says it's a targeted effort to identify Al-Qaida agents in the United States. But its critics claim that the program is an electronic dragnet that invades the privacy of millions of Americans by monitoring their phone calls and Internet communications.

The ruling means that the Electronic Frontier Foundation (EFF), a non-profit privacy group that brought the class-action lawsuit on behalf of AT&T customers, may soon begin asking AT&T to produce evidence. But first, the judge said he wants to appoint an expert to ``disentangle sensitive information from non-sensitive information'' and determine whether evidence would compromise national security if it is produced in court.

EFF sued AT&T in January for allegedly violating the First and Fourth Amendments by illegally helping the NSA intercept its customers' communications, and for violating various federal statutes concerning covert government eavesdropping programs.

A Department of Justice official said it is reviewing the judge's ruling and has made no determination as to what its next step will be in the case.

The government had argued that ``the very subject matter'' of the case involves a state secret, and that even if the court found AT&T to have violated the law, it couldn't award damages because that would confirm the allegations and disclose the secret.

The government can appeal the order to the 9th Circuit Court of Appeals. But in crafting it, Walker adhered closely to rules established by earlier cases for granting state-secret dismissals. It is simply too early in the case to do so, he ruled.

An AT&T motion for dismissal on several grounds, including an argument that the plaintiffs had not shown any injury to them from the program, was also denied.

``We are reviewing Judge Walker's order and evaluating possible next steps,'' said AT&T spokesman Walt Sharp. ``At AT&T, we prize our customers' privacy and we also recognize our obligation to assist law enforcement agencies. AT&T is fully committed to protecting our customers' privacy, and we would not provide customer information to any government agency except as specifically authorized under the law.''

After media reports of a warrantless eavesdropping program, Bush admitted he had authorized the eavesdropping after the terrorist attacks of 2001.

AT&T says it's caught in the middle between the government and civil liberties advocates and has no way to defend itself because of national security restrictions.

The Bush administration has been adamant in insisting that the program was constitutional under the president's wartime authority. But it agreed last week to a compromise bill drafted by Sen. Arlen Specter, R-Pa., that would let the administration submit the program to a review by a special court established by the Foreign Intelligence Surveillance Act.

Attorneys for the EFF said they hope Congress takes note of the ruling.

``This really vindicates that it's important to have judges around the country and not have cases consolidated in secret court in Washington,'' said Robert Fram, a lawyer with Heller Ehrman in San Francisco, which argued the state-secrets issue before Walker.

Walker's order said, ``The plaintiffs appear to be entitled to at least some discovery.'' He said discovery could proceed regarding the content of intercepted communications. The government ``has opened the door'' by its public statements, he said. He did not permit discovery at the present time on whether AT&T was turning over customers' call records to the government, because the government has been less forthcoming about that.

Walker held open the possibility that he may grant a motion for dismissal by AT&T ``at some point,'' if he finds that evidence essential to the company's defense is blocked on national security grounds.

But the judge was unwilling to cede that now.

He wrote that ``it is important to note that even the state-secrets privilege has its limits. While the court recognizes and respects the executive's constitutional duty to protect the nation from threats, the court also takes seriously its constitutional duty to adjudicate the disputes that come before it.''

``The compromise between liberty and security remains a difficult one,'' he added. ``But dismissing this case at the outset would sacrifice liberty for no apparent enhancement of security.''

The next hearing by the San Francisco court is scheduled for Aug. 8 to establish a procedure for producing sensitive evidence and appointing an expert to help the court.

END

San Francisco Chronicle

DOJ_NMG_ 0164722

July 21, 2006

Spying suit against AT&T moves forward

Bob Egelko, Chronicle Staff Writer

A federal judge in San Francisco refused Thursday to dismiss a privacy-rights group's lawsuit against AT&T for allegedly cooperating in illegal government electronic surveillance of U.S. citizens, and rejected the Bush administration's claims that such litigation threatens national security.

"Dismissing this case at the outset would sacrifice liberty for no apparent enhancement of security," Chief U.S. District Judge Vaughn Walker said in a 72-page ruling denying dismissal motions by the federal government and AT&T.

He also said AT&T and the Bush administration have already disclosed, for all practical purposes, that the company "assists the government in monitoring communication content" as part of federal anti-terrorism efforts. Allowing plaintiffs to claim that their rights were violated by the company's role in the program would not expose state secrets or help terrorists, Walker said.

It was the first ruling in the nation on the administration's claim that all the roughly 30 lawsuits challenging the electronic surveillance program must be dismissed because they threaten to expose state secrets.

Either the government or AT&T could ask the Ninth U.S. Circuit Court of Appeals to review the ruling immediately. The company, based in San Antonio, said it was studying its options.

"AT&T is fully committed to protecting our customers' privacy, and we would not provide customer information to any law enforcement agency except as specifically authorized under the law," the company said in a statement.

Justice Department spokesman Charles Miller said the government had not decided whether to appeal.

The Bush administration is supporting legislation by Sen. Arlen Specter, R-Pa., that would allow the government to transfer the AT&T suit, and all other suits related to the surveillance program, to the Foreign Intelligence Surveillance Court of Review, which meets behind closed doors in Washington, and hears arguments only from the government. That court would have the power to dismiss the suits.

Robert Fram, a lawyer for the plaintiffs in the suit against AT&T, said Thursday's ruling demonstrated that "taking these cases all around the country and putting them in one secret court in Washington, D.C., is a very bad idea."

The suit was filed in January by the Electronic Frontier Foundation as a proposed class action on behalf of all AT&T customers. It claims the telecommunications company gave the National Security Agency access to its telephone and e-mail networks and database of customer records so the agency could mine them for evidence of contacts with terrorists.

President Bush acknowledged in December that he had authorized the National Security Agency, shortly after the terrorist attacks of Sept. 11, 2001, to intercept communications between Americans and suspected terrorists in foreign countries without seeking judicial warrants, as required by federal law. Bush said he had the constitutional power to act without consulting Congress.

The administration has refused to comment, however, on numerous media reports that AT&T and other companies enabled the government to assemble a database of tens of millions of Americans' domestic and foreign communications. The plaintiffs in the AT&T case submitted a declaration by a former company engineer who said equipment was installed in San Francisco in 2003 that would allow the National Security Agency to intercept all Internet messages.

Justice Department lawyers asked Walker last month to dismiss the lawsuit against AT&T, arguing that the entire subject of the suit was a state secret. They also said the plaintiffs would be unable to prove essential elements of their case -- for example, that they had been harmed by the program, and that AT&T had no legal authorization for participating in the government's efforts -- because all evidence that related to those claims must be kept secret.

Other courts, including the U.S. Supreme Court in 1953, have dismissed suits on state secrets grounds, saying the cases posed potential dangers to national security that outweighed the rights of private parties.

But Walker said Thursday that none of those cases involved allegations of widespread violations of constitutional rights. He said it was premature, at best, to conclude that the AT&T case could not proceed without exposing state secrets.

"AT&T's assistance in national security surveillance is hardly the kind of 'secret' that ... the state secrets privilege (was) intended to protect or that a potential terrorist would fail to anticipate," said Walker, who was named to the federal bench by Bush's father, former President George H.W. Bush, in 1989.

"Even the state secrets privilege has its limits," Walker said.

The judge said a surveillance program of the scope acknowledged by the president could not exist without the cooperation of a major telecommunications firm such as AT&T, the nation's largest. He said AT&T has a history of cooperating with the government and has publicly stated that it helps authorities on classified matters when asked.

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Although the existence of "some kind of intelligence relationship" between AT&T and the government is no secret, Walker said, the Bush administration has admitted only that it intercepts communications and has refused to confirm or deny that it monitors records of past messages such as those in the AT&T database.

Therefore, he said, the AT&T plaintiffs will be allowed to seek evidence from the company about its interception of phone calls and e-mails, but -- at least for now -- will be barred from requesting information about records in the database.

Walker did not dismiss that portion of the suit, however, and said he would lift the partial ban on evidence-gathering if he determined that the existence of the record-monitoring program had been publicly confirmed.

He also rejected AT&T's claim that customers lacked legal standing to sue because they would be unable to show that the federal government had monitored their calls. The gist of the suit is that the company has created a dragnet that illegally diverted the customers' communications to the government and violated every customer's rights, regardless of what the government did with the information, Walker said.

END

Washington Post

July 21, 2006

Domestic Detainee From 9/11 Released

By Anushka Asthana
Washington Post Staff Writer

Benamar Benatta, believed to be the last remaining domestic detainee from the Sept. 11, 2001, attacks, was released yesterday after negotiations involving Canada, the United States and his attorneys ended his captivity at nearly five years.

Benatta crossed the border from the United States to Canada, where he will be allowed to resume the bid for political asylum that resulted in his detention shortly before the terrorist attacks.

The Algerian air force lieutenant spent more than 58 months behind bars even though the FBI formally concluded in November 2001 that he had no connection to terrorism.

He was among more than 1,200 mainly Muslim men who were arrested after the attacks and held under tight security while authorities scoured their backgrounds for links to terrorist groups. It is believed that Benatta was the last to be released, though it is difficult to be certain because of the secrecy that surrounded some of the cases.

"This is the result of an individual being labeled a terrorist and the government treating him as such," Benatta's attorney Catherine Amirfar said yesterday. "He was fully cleared by the FBI of any connection to terrorism . . . but the label stuck, so a man with no previous criminal record was detained for a visa overstay."

Benatta came to the United States in 2000 for military training and then overstayed a six-month visa. He arrived at the Peace Bridge near Buffalo seeking political asylum in Canada on Sept. 5, 2001. Officials there detained him while investigating his claim. Benatta's background -- an Algerian Muslim and an avionics technician without proper immigration papers -- prompted Canada to turn him over to the United States after the terrorist attacks. He was placed in solitary confinement in a New York City jail.

He was initially charged with carrying fraudulent papers until a federal magistrate called those accusations a "sham." Since then, he has been held for overstaying his visa as he waged a multiyear battle for political asylum in the United States or Canada, alleging he would be killed if he were returned to Algeria.

Government officials have been repeatedly criticized about Benatta's treatment. In 2003, federal Magistrate Judge H. Kenneth Schroeder Jr. found that Benatta had been "undeniably deprived of his liberty." Keeping him in prison any longer "would be to join in the charade that had been perpetrated," he wrote.

Despite the findings, Benatta was kept in jail while he made a claim for U.S. asylum that was ultimately refused. At one point, he was offered release on a $25,000 bond but was unable to pay. Later, when his attorneys sought his release on bond, the government declined.

A spokesman for the U.S. attorney's office in New York declined to comment, and a press officer for Canadian immigration officials said privacy laws prohibited her from discussing the case.

An order in the U.S. Court of Appeals for the 2nd Circuit, issued Tuesday, confirmed that Canada had issued Benatta a temporary resident permit "for the purpose of allowing petitioner to enter into Canada to pursue a claim for refugee status in that country."

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Yesterday, Benatta was questioned in Canada and released. Canadian officials have essentially agreed to turn the clock back to Sept. 5, 2001. His attorneys contend that it was unlawful for Canadian officials to hand Benatta over to the United States, and they say this week's action is an acknowledgment that mistakes were made in 2001.

"Obviously, there is enormous relief," said Janet Dench, executive director of the Canadian Council for Refugees, who got involved in the case a year ago and has been negotiating with Canadian officials. "But I am extremely bitter that five years of a person's life can be taken away."

Dench said Benatta deserves compensation, but that his first thoughts will be asylum. "There is no guarantee he will be accepted," she said.

END

M2 PRESSWIRE

July 21, 2006

Press Release: CPSC investigations net three sellers of illegal fireworks components

WASHINGTON, D.C. - As part of its year-round commitment to keeping American consumers safe from illegal fireworks, the U.S. Consumer Product Safety Commission (CPSC) is announcing continued success in its crackdown of illegal sales of fireworks, fireworks components and chemicals.

Undercover investigations spearheaded by CPSC resulted in federal action against three separate individuals, preventing them from selling dangerous fireworks components to consumers in the future.

In one case, Rick Ellis, the owner of Pyroworks, based in Blackwell, Mo., pleaded guilty to six counts of selling chemicals and components used to make illegal fireworks. As part of the plea agreement, Ellis and Pyroworks also entered into a consent decree that permanently bars him and his firm from selling fuels, oxidizers, tubes, end caps, and fuses.

A former associate of Ellis at Pyroworks, Christina Beck, of Arnold, Mo., also pleaded guilty to the same charges and entered into a similar consent decree.

Sentencing for Ellis and Beck is scheduled for later this summer.

In a separate case, the owner of Skylight Company and Tannerite Company has entered into a consent decree. Daniel Tanner, of Pleasant Hill, Ore., has agreed to stop selling the chemicals and components used to make illegal fireworks, such as M-80s and quarter-sticks.

Under the Federal Hazardous Substances Act, CPSC prohibits the sale of several dangerous types of fireworks and the components used to make them. Banned fireworks include various large aerial devices, M-80s, quarter-sticks, half-sticks and other large fireworks. The ban covers firecrackers with more than 50 milligrams of explosive powder and any aerial firework that uses more than 130 milligrams of flash powder or other pyrotechnic composition to produce an audible effect, as well as mail order kits and components intended to build these fireworks.

The cases were filed by the U.S. Department of Justice's Office of Consumer Litigation on behalf of CPSC.

END

Courier Mail (Australia)

July 21, 2006

Ambassador under attack

THE man about to become the US ambassador to Australia misled Congress during a landmark lawsuit against the tobacco industry, it has been claimed.

A former US Justice Department attorney says former department official Robert McCallum acted improperly when deciding to cut a proposed smoking cessation program from $US130 billion ($A173.4 billion) to $US10 billion ($A13.3

billion).

A private group, Citizens for Responsibility and Ethics in Washington, had questioned Mr McCallum for several hours on Tuesday to find out whether White House influence was brought to bear in the pending tobacco lawsuit.

The Justice Department's Office of Professional Responsibility said last month that Mr McCallum's conduct was not influenced by any political considerations.

END

Inside US Trade

July 21, 2006

COURT RULES AGAINST BYRD DISTRIBUTION; CANADA DEFENDS LUMBER DEAL

The U.S. Court of International Trade late last week issued a permanent injunction preventing the U.S. government from redistributing duties collected on imports of Canadian lumber, magnesium and wheat to U.S. companies that petitioned for the antidumping or countervailing duties.

The court also granted declaratory relief in the July 14 decision, which could lead U.S. Customs and Border Protection (CBP) to no longer apply the Continued Dumping and Subsidy Offset Act, better known as the Byrd law, to any goods from Canada or Mexico, sources said. This follows a decision by the court in April that the Byrd law violated U.S. law implementing the North American Free Trade Agreement, and that as a result it should not be applied to goods from those countries.

A finding of declaratory relief means the U.S. government should not be able to continue to apply the Byrd law to goods from Canada and Mexico. But some industry sources on both sides of the border said it was possible that CBP would ignore this part of the decision and continue to apply the Byrd law to goods other than those directly mentioned in the suit. The permanent injunction only applies to imports of softwood lumber, magnesium and wheat from Canada.

Congress last year repealed the Byrd law, but distributions of money under the law will continue to take place on goods that enter the U.S. through October 2007. The law was previously found to violate World Trade Organization rules, and several WTO members imposed retaliatory tariffs on U.S. imports last year.

One industry source said it would make sense for the Bush Administration, which opposed the Byrd law publicly and advocated its repeal, not to apply the law given the ruling. In an e-mail, a CBP spokeswoman was non-committal on CBP's response, and said the government is considering all of its options given the relevant facts and circumstances.

In a third part of the decision, the CIT agreed with the U.S. and turned down the Canadian request for it to order the U.S. to return any money distributed under the law after recipients were placed on notice of this action. The court noted that this affected a relatively small amount of funds, and agreed with CBP that the administrative costs of this action would be high.

The majority of the approximately $5 billion in collections on Canadian lumber has not been distributed because of ongoing litigation in the dispute. The Court of Intrernational Trade is expected to decide this month on arguments by Canadian companies that the U.S. should return all of the deposits collected on softwood lumber since the initial antidumping and countervailing duties were imposed.

Lumber is by far the most important Canadian or Mexican import subject to antidumping and or countervailing duties, but there are some other industries that could be affected by the decision. The U.S. currently imposes antidumping or countervailing duties on 11 different kinds of imports from Mexico, including Portland cement, carbon steel plate, oil country tubular goods, stainless steel sheet and pipe and carbon wire. The U.S. also imposes antidumping and countervailing duties on several Canadian steel imports.

While the decision could be appealed, Canadian timber associations hailed it as meaning U.S. lumber producers will not be able to receive any money under the Byrd law. They also noted that members of the U.S.-based Coalition for Fair Lumber Imports will only get a portion of the approximately $5 billion that has been collected on Canadian imports over the last five years if the two sides agree to a settlement of the dispute.

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"The only opportunity for the U.S. Coalition for Fair Lumber Imports to obtain any portion of these monies is if the holders of the cash deposits agree to turn over a portion as part of an overall settlement agreement," the Canadian Lumber Trade Alliance said in a July 14 statement.

The U.S. and Canada earlier this month announced they had reached a final agreement to the softwood lumber fight, but that deal is opposed by much of Canada's lumber industry and several provincial governments, including the largest lumber exporter, British Columbia. These groups could have the ability to scuttle the deal, which includes provisions requiring timber firms to drop litigation in the lumber fight and for softwood importers to turn over a portion of the cash deposits they have paid to the U.S.

Specifically, the agreement states that U.S. importers, which are generally affiliated with Canadian companies, must agree to a portion of those deposits remaining in the U.S., and the group of importers agreeing to this must represent 95 percent of the deposits collected. The deal would give $500 million to members of the Coalition, and another $450 million to the Bush Administration for "meritorious initiatives." Another $50 million would be used to market North American wood.

However, Canadian Trade Minister David Emerson last week suggested Canada could change this term of the agreement if Canadian mills did not accept the deal. "I think that we should be very clear that this agreement will go to Parliament. The 95 percent does not represent a hard and fast deal," Emerson said in a July 13 press call. "We do not intend to hand out a veto of that kind."

Emerson said the Canadian Parliament would vote on the softwood lumber deal this fall. If the parliament voted against it, several sources said the Canadian government of Prime Minister Stephen Harper, who was elected earlier this year, has signaled it would call new federal elections. Harper's conservative party does not have a majority in parliament, and some sources speculated that Harper believes he could win a majority if another election were held.

In the July 13 press call, Emerson defended the agreement from critics, and said it is a "take it or leave it" proposal because negotiations with the U.S. were over. "There can be no misunderstanding on this point," he said. "Our government has negotiated the best deal possible for Canada and the negotiations are over."

He said there had been full consultations during the talks with provincial governments and Canadian industry, a point some industry sources took issue with. They said the majority of their information came from the provinces during the federal government's talks with the U.S.

Emerson also defended the deal's most controversial element, a termination clause that would allow either side to walk away from the agreement after 23 months. The deal also would force the U.S. to wait an additional one-year "standstill" before it could launch new antidumping or countervailing investigations.

He said claims that this language undermines Canada's advantages under the deal are false, and said such clauses are standard features of trade agreements. He also argued that under the framework agreement reached by the two sides in late April, a party could have terminated the deal after just 12 months.

Industry sources disputed this argument by stating that the framework deal called for the agreement to be in place for seven years, and included no termination clause. They also said the deal could be terminated after only two years if the U.S. violated it, and Canada then withdrew. This would result in Canadian parties agreeing to give up $1 billion in deposits they might otherwise have won back in litigation, for a deal that only provided "lumber peace" with the U.S. for two or three years, one of these sources noted.

Emerson also argued that both the U.S. and Canada would have an interest in maintaining the agreement and would be unlikely to terminate it. He said the standstill provision was a disincentive for the U.S. to terminate the deal.

Canada won several concessions from the U.S. in the talks, according to Emerson, including a recognition that the British Columbia market pricing system, under which auctions set the prices timber companies pay to cut timber on provincial land, would not circumvent the agreement. "It's time for parliamentarians, industry and provinces to decide whether they want an unprecedented resolution that provides stability and puts billions of dollars back into the hands of Canadians, or do they want to cast their lot with continued U.S. duties and uncertain litigation," Emerson said.

In another decision affecting the Byrd law, the CIT on July 13 issued a ruling that said the Byrd law was unconstitutional on first amendment grounds because only companies that supported antidumping and countervailing cases are eligible to receive Byrd disbursements. The CIT in its ruling said this amounted to compelled speech in violation of the first amendment since companies would be compelled to support the trade remedy petitions as the only way of getting the

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payments, which the court described as a subsidy.

However, the impact of this case would be limited for several reasons. First, the initial ruling, which could be appealed, would only affect the plaintiff, a crawfish producer in Louisiana. In addition, the judge did not issue a remedy. Finally, Congress's repeal of the Byrd law would probably take effect before more cases could be brought and appealed.

END

FindLaw.com

July 21, 2006

Opinion: Valerie Plame's Lawsuit Against Vice President Cheney, I. Lewis "Scooter" Libby and Karl Rove: Was It a Good Idea, Or a Bad One?

By MATTHEW R. SEGAL

Nearly three years after columnist Robert Novak publicly disclosed her CIA affiliation, former operative Valerie Plame Wilson and her husband, former envoy Joseph C. Wilson IV, have sued the Bush Administration officials they hold responsible for leaking Plame's identity to Novak: Vice President Dick Cheney, Cheney's former Chief of Staff I. Lewis "Scooter" Libby, and presidential advisor Karl Rove. The Wilsons allege that Cheney, Libby and Rove engaged in a "whispering campaign" to punish Plame and Wilson for Wilson's public criticisms of the Administration's case for war in Iraq.

The complaint alleges that the disclosure of Plame's CIA status short-circuited Plame's career, violated Plame's and Wilson's privacy, and exposed the couple to possible attack by America's enemies (who now know that Plame was a CIA operative). Although the suit seeks money damages, its main goal may well be to subject the defendants to civil discovery, which could provide key details about their conduct in allegedly leaking Plame's identity to the press.

Although this conduct is also the subject of the Special Counsel's grand jury investigation, grand jury secrecy rules apply there. But different rules apply in the civil discovery context--where defendants must apply for special court orders if they want to keep secret discovery materials that could otherwise be publicly filed as attachments to motions.

Is the Plame suit a good idea, or a mistake? On one hand, subjecting top executive branch officials to burdensome civil litigation is a potentially costly and very circuitous way to learn about what those officials told the press. On the other hand, it may be Plame and Wilson's only option right now. If, three years ago, Cheney, Libby, and Rove had simply told the public the truth about their conduct, Plame and Wilson might not now be seeking clever and imperfect ways to reveal that truth.

The Special Counsel Investigation: Its Progress and Current Status

Depending on whom you believe, the disclosure of Valerie Plame's CIA affiliation amounts either to nothing at all, or to a vast, high-level conspiracy to silence a whistleblower.

As readers may recall, Novak's July 14, 2003, column revealing that affiliation appeared only eight days after Joseph Wilson, writing in the *New York Times*, had criticized the Bush Administration's claim that Saddam Hussein had sought to purchase yellowcake uranium from Niger. Specifically cited by the President, this claim was an important component of the Administration's case for going to war.

Novak's column suggested that Plame had used her CIA connection to help initiate her husband's trip to Niger, implying that Wilson was not qualified to assess the yellowcake claim. Novak's sources for the information were identified in the column only as two senior Administration officials.

The Plame suit alleges that her identity was disclosed to reporters as revenge against Wilson's criticism, not because it might be newsworthy. (Administration defenders suggest, however, that it was newsworthy precisely because it properly cautioned readers to take Wilson's views with a grain of salt, and because these views concerned a matter of intense public importance: The justification for initiating the Iraq war.)

Column continues below ↓

On July 12 of this year--one day before Plame and Wilson filed their lawsuit, and about three years after his initial column's publication--Novak published a new column, purporting to show that there was no conspiracy to out Plame. In it, he asserted that though Karl Rove was one of his sources for the initial, 2003 column, his "principal source"--whom he still refuses to name--was not a "political gunslinger," but instead someone who had inadvertently mentioned Plame "in the middle of a long interview." (Some observers, such as *Vanity Fair* and *Slate* columnist Christopher Hitchens, suspect that

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this source was then-Deputy Secretary of State Richard Armitage--who, indeed, is not known as a Republican political hack, but would surely have qualified as a senior Administration official.)

The Flagging Special Counsel Investigation May Have Prompted the Lawsuit

The combination of Novak's new column and the lack of fresh developments in the Special Counsel investigation may have convinced the Wilsons to sue. So far, that investigation has resulted only in the indictment of Scooter Libby, and the charges against him are somewhat odd and limited.

According to the indictment, Libby learned about Plame's CIA affiliation from Cheney (among others) and repeated that information to reporters. But the indictment does not allege that this disclosure violated the law. Instead, it charges Libby with obstructing the investigation and lying to the grand jury and investigators about what really happened. In addition, the Special Counsel has not indicated how many times Plame's name was leaked to the press, or what the leakers understood about her classified status.

No wonder, then, that the Wilsons may be frustrated. Indeed, they may have timed their suit to reinvigorate this flagging scandal (as well as to avoid a potential statute-of-limitations problem).

Evaluating Criticisms of Plame and Wilson: Are They Fair?

Because the lawsuit's purpose and timing appear to be strategic, Plame and Wilson have faced claims that they are seeking to drag top officials into court just for the sake of publicity. CNN's Jeffrey Toobin ranked the lawsuit "somewhere between an actual lawsuit and a publicity stunt."

But is there anything wrong with that? Lawsuits are often designed to bring public attention to a perceived wrong, and it's not unusual that the wrong may be corrected as a result of publicity instead of, say, a monetary damages award. Here, Plame and Wilson want the Bush Administration to face public scrutiny for allegedly working behind the scenes to punish them personally for Wilson's whistleblowing.

Critics also doubt the merits of the suit. For instance, the *Boston Herald*'s editorial page recently argued that because Plame made public appearances and signed a book deal after being outed, she somehow has waived her privacy rights. But this criticism is very weak. If the lawsuit's allegations are true, trading a CIA operative career for a book deal was hardly a choice Plame made voluntarily; it was thrust upon her. Earlier, Plame had chosen one of the least public career paths possible.

Finally, the personal nature of these attacks on the Wilsons--styling them as eager publicity hounds--is richly ironic. After all, a key point in the Wilsons' suit is that arguments should be on the merits, not ad hominem: That is, they wish the Administration had listened more carefully to Wilson's views on the uranium, rather than belatedly mounting a personal attack on him for voicing those views.

Could This Suit Succeed? The Stumbling Block of Official Immunity

Should the Wilsons' lawsuit succeed on the merits? Dragging a sitting Vice President and other top officials into a civil action would arguably interfere with their official duties and tie up public resources. After all, many now believe the Supreme Court erred in allowing the Paula Jones case to go forward--and the conduct alleged in that case, dating back to Clinton's time in Arkansas, was far afield from official Presidential duties. Suits like the Wilsons' raise the specter of literally dragging ongoing Presidencies (and even wars) into court.

Fortunately, the Court has different rules for conduct that is public, and not private. Thus, Cheney can argue that vice presidents should be immune from suit under the doctrine of *Nixon v. Fitzgerald*, a 1982 decision recognizing "absolute Presidential immunity from damages liability for acts within the 'outer perimeter' of his official responsibility." Here, even if Cheney did act improperly, he did so in his capacity as one of the Administration's chief advocates for war in Iraq. This capacity probably falls within the "outer perimeter" of Cheney's official responsibilities, which means Cheney arguably should be entitled to immunity.

Winning a suit against Libby and Rove might also be an uphill battle. Because Libby and Rove are public officials, the Wilsons can't win unless they can show Libby and Rove violated their constitutional rights. That won't be easy.

The lawsuit alleges, for example, that the defendants violated the First Amendment by disclosing Plame's identity as retaliation for Wilson's criticism of the Administration. But, as Akhil Reed Amar has observed in *Slate*, the alleged retaliation was itself speech arguably protected by the First Amendment. In the end, it's probably a stretch to say that a third-party's constitutional rights can be violated simply by talking to reporters--even if classified information about the third party is disclosed.

Discovery Might Succeed Even If the Lawsuit Itself Fails--But Should It?

But even if the lawsuit were ultimately to be dismissed, some civil discovery might happen before then--meaning the defendants will have to answer interrogatories, produce documents, and give sworn deposition testimony.

That seems to be just what the Wilsons are hoping for. In a July 17 interview with MSNBC's Keith Olbermann, for instance, Joseph Wilson conceded that, in light of Novak's recent column, Novak's initial disclosure of Plame's identity

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might not have been the result of a plot to out her. But he also insisted that some in the Administration did tell reporters about Plame's CIA affiliation as part of a "vendetta." "Hopefully when we go through discovery we'll be able to learn some of this," he said.

Leveraging a lawsuit of questionable merit merely to force discovery is rarely a defensible strategy. Here, it's even less defensible, as this is a suit against busy, high-ranking officials. The Supreme Court has pointed out--in the 1991 case of *Siegert v. Gilley*--that one reason to protect officials from suit is simply to spare them "unwarranted demands customarily imposed upon those defending a long drawn out lawsuit."

The trial judge will have some leeway here--and may opt to conduct discovery in stages, or on some other limited basis, to lessen the burden on the defendants. But the time may well come when discovery goes forward, and the costs the Court described are indeed incurred.

If Officials Had Only Told the Truth, There Would Be No Need for the Suit

In the end, though, who is at fault for those costs? Plame and Wilson surely have resorted to an imperfect method of learning the truth only because, for the past three years, Administration officials have decided not to reveal it. (The Administration's secrecy must be particularly frustrating to those who believe that there was no vendetta to disclose Plame's identity and, consequently, nothing to hide.)

President Bush said in September 2003 that he wanted "to know the truth." And the public deserves to know it too--because Administration officials may have committed crimes, and, more fundamentally, because this case is connected to the justification for the war that costs us lives, and dominates our politics now. Ironically, then, the same connection that may be the ground for the official immunity that may let Cheney, Libby and Rove off the hook, shows exactly why they should have told the public the truth from the beginning.

Consider *Nixon v. Fitzgerald*, the Court's key official-immunity decision. It held that such immunity does not put anyone "above the law" because immunized officials, though protected from civil liability, do remain subject to political checks, such as "scrutiny by the press" and "oversight by Congress." But that's true only if those political checks work--and if the relevant officials keep their conduct secret from Congress and the public, they won't.

In sum, there is indeed plenty to dislike about the lawsuit filed by Plame and Wilson. But there is also plenty to dislike about the conduct of the Administration officials whose failure to level with the public brought us to this point.

Matthew R. Segal is an attorney at Robbins, Russell, Englert, Orseck & Untereiner LLP in Washington, D.C. The opinions expressed in this column are his alone. His email address is matthew.segal@yahoo.com.

END

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Job Title:

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Business:

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E-mail Display As:

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 21, 2006 11:29 AM
To: Gorsuch, Neil M
Subject: Chief Judge Tacha [redacted]

Full Name: Chief Judge Tacha
Last Name: Tacha
First Name: Chief

Business: ([redacted]

Secty Michelle

Full Name:	David Tighe
Last Name:	Tighe
First Name:	David
Job Title:	Circuit Executive
Business:	(303) 335-2829

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Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Friday, July 21, 2006 1:01 PM
To: Sellers, Kiahna (OAG); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Goodling, Monica; Fisher, Alice; Beach, Andrew; Nelson, Carrie; Roehrkasse, Brian; Card, Jean
Subject: 072406 AG's Upcoming Speech Calendar
Attachments: 072506 Ballot Access and Voting Integrity Luncheon.doc; 072506 Ballot Access and Voting Integrity Symposium Luncheon SIF.doc; 072506 Agenda_2006 _Ballot_Integrity_Symposium_18_July .wpd; 073106 NDAA Conference.pdf; 073106 National Distrct Attorneys Assoc.doc; 073106 NDAA Invitation ltr.DOC; 080906 Draft Agenda Immigration Judges Training Conference.wpd; 082106 Crimes Against Children Meeting Request Letter.doc; 082106 Crimes Against Children Conference.doc; 091206 Attorney General's 54th Annual Awards Ceremony.doc; 092106 Financial Services Roundtable 2006 Fall Conference.doc; 092806 Georgetown University Law Center Conference on the Judiciary.pdf; 100306 Human Trafficking Conf New Orleans.doc; 080906 Immigration Judges Training Conference.doc; 072406 AG speeches.xls
Importance: High

Please find attached the AG's upcoming speech calendar as well as the accompanying event scheduling information forms.

Kiahna Sellers
Deputy Director of Scheduling
Office of the Attorney General
United States Department of Justice
(202) 514-4195

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's
07/25/06	DC	Ballot Access and Voting Integrity Symposium Luncheon	Approx. 10-15 mins.	Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.	Enforcement of the Voting Rights Act	CLOSED	Cameron Quinn, CRT	Jean	
7/30/06 or 7/31/06	Sante Fe, NM	National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference	Requesting a 30-45 min speech	Approx. 110 Local chief & assistant prosecutors	TBD	TBD	Crystal Jezierski 514-3465	Jean	
08/01/06	Tucson, AZ	Tucson Police Memorial Plaza Dedication & Memorial Service	TBD	200-300 law enforcement officers, family members, citizens and dignitaries.	TBD	OPEN	Crystal Jezierski 514-3465	Jean	
8/8/2006	Cincinnati, OH	Anti-Drug Event w/ Congressman Steve Chabot	TBD	TBD	TBD	TBD	TBD	Jean	
08/09/06	DC	Immigration Judges' Training Conference Lunch	10-12 min speech; followed by Q&A	300 Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.	REQUESTED TOPICS: 1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues	CLOSED	Courtney Elwood 514-2267	Jean	
08/21/06	Dallas, TX	Crimes Against Children Conference	Requesting a 20 min speech	Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%	Conference Theme: Professional education related to the investigation, prosecution, prevention, and treatment of child abuse	OPEN	Jeff Oldham 514-9797	Jean	
09/12/06	DC	AG's 54th Annual Awards Ceremony	TBD	The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.	TBD	OPEN	Monica Goodling 353-4435	Jean	
09/21/06	DC	Financial Services Roundtable 2006 Fall Conference	10-15 min speech followed by 15 mins of Q&A	150 CEO's and Senior Executives of the U.S. top 100 Financial Services companies	TBD	CLOSED	Crystal Jezierski 514-3465	Jean	
09/28/06	DC	Georgetown University Law Center and American Law Institute's Conference on the Judiciary	Approx. 5 min speech	380 attendees	Requested topic: The future of the Federal & State Courts	OPEN	Crystal Jezierski 514-3465	Jean	
10/03/06	New Orleans, LA	DOJ/HHS Human Trafficking Conference	Requesting 15-20 min speech	Approx. 600 attendees law enforcement, members of the DOJ Human Trafficking Task Forces, victims groups, researchers, non-profit organizations and other government officials.	Requested topic: Trafficking in Persons	CLOSED	Martha Pacold 616-7740/Laura Keehner 616.9485	Jean	

1st Draft Deadline	2nd Draft Deadline	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's
10/17/06	TBD	Intl Assoc of Chiefs of Police	TBD	TBD	TBD	TBD	Crystal Jezierski 514-3465	Jean	

1st Draft Deadline	2nd Draft Deadline	AG Draft

FINAL D R A F T

BALLOT ACCESS & VOTING INTEGRITY SYMPOSIUM V

RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER
1300 Pennsylvania Avenue, NW, Washington, DC 20004
Polaris Suite

July 25 & 26, 2006

AGENDA

July 25:

8:00 - 8:30 a.m. **Morning Beverages and Registration**

8:30 - 9:00 a.m. **Welcome and Opening Remarks**
Craig C. Donsanto, Director, Election Crimes Branch
Public Integrity Section, Criminal Division
Cameron Quinn, Counsel to the Assistant Attorney General
Civil Rights Division
Asheesh Agarwal, Deputy Assistant Attorney General,
Civil Rights Division
Brenda K. Morris, Acting Chief
Public Integrity Section, Criminal Division

9:00 - 9:20 a.m. **Criminal Division Keynote Address**
Alice S. Fisher, Assistant Attorney General
Criminal Division

9:20 - 10:05 a.m. **Panel 1: Civil Enforcement of Federal Campaign Financing Laws**
` *The Honorable Hans A. von Spakovsky, Commissioner*
Federal Election Commission, and Former Counsel to
Assistant Attorney General, Civil Rights Division
United States Department of Justice
Lawrence L. Calvert Jr., Deputy Associate General Counsel for
Enforcement, Federal Election Commission
Patricia K. Young, Assistant Staff Director for Disclosure
Federal Election Commission

10:05 - 10:20 a.m. **Break**

10:20 - 11:20 a.m. **Panel 2: Criminal Investigation, Prosecution, & Sentencing of Federal Campaign Financing Cases**

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Craig C. Donsanto, Director, Election Crimes Branch
Public Integrity Section, Criminal Division
Michael B. Elliott, Supervisory Special Agent & Election Law Coordinator
Public Corruption/Governmental Fraud Unit
Federal Bureau of Investigation, Washington, DC
Nancy L. Simmons, Senior Counsel for Policy
Public Integrity Section, Criminal Division

11:20 - 11:50 a.m. **Panel 3: Campaign Embezzlement Cases**
James A. Crowell, Trial Attorney
Public Integrity Section, Criminal Division (Thomas case)
Leon Patton, Assistant United States Attorney
District of Kansas (Taff case)

11:50 a.m. - 12:00 p.m. **Participants move to the Pavilion Room**

12:00 - 1:30 p.m. **Hosted Lunch - Keynote Address by the Attorney General**
(NOTE: Pavilion Room)
Alberto R. Gonzales, Attorney General
United States Department of Justice

1:45 - 2:45 p.m. **Panel 4: Conduit Contribution Cases**
Howard Sklamberg, Assistant United States Attorney
District of Columbia (Wade case)
David Bauer, Assistant United States Attorney
Northern District of Ohio (Noe case)
John P. Pearson, Trial Attorney
Public Integrity Section, Criminal Division (Noe case)
Dennis Mitchell, Assistant United States Attorney
Central District of California (Jinnah case)

2:45 - 3:30 p.m. **Panel 5: Elements of Election Fraud**
Craig C. Donsanto, Director, Election Crimes Branch
Public Integrity Section, Criminal Division

3:30 - 3:45 p.m. **Break**

3:45 - 4:30 p.m. **Panel 6: FBI Intelligence Analysis in Election Crime Cases**
Jeffrey D. Scott, Intelligence Analyst
Public Corruption/Civil Rights Intelligence Unit
Federal Bureau of Investigation, Washington, DC
Michael B. Elliott, Supervisory Special Agent & Election Law Coordinator
Public Corruption/Governmental Fraud Unit
Federal Bureau of Investigation, Washington, DC

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4:30 - 5:30 p.m. **Panel 7: Ballot Fraud Cases**
Hal Goldsmith, Assistant United States Attorney
Eastern District of Missouri and Former
Assistant United States Attorney, Southern District of Illinois
Karen Rochlin, Assistant United States Attorney
Southern District of Florida
Richard C. Pilger, Trial Attorney
Public Integrity Section, Criminal Division
Kenneth Taylor, Assistant United States Attorney
Eastern District of Kentucky

6:00 - 7:00 p.m. **Informal Networking**
[Location to be announced]

* * * *

<u>July 26:</u>

8:00 - 8:30 a.m. **Morning Beverages and CLE Sign-Up**

8:30 - 8:50 a.m. **Civil Rights Division Keynote Address**
Wan J. Kim, Assistant Attorney General
Civil Rights Division

8:50 - 9:30 a.m. **Panel 8: Proper & Improper Voter Assistance and Voter Suppression Cases**
John K. Tanner, Chief, Voting Section
Civil Rights Division
Nicholas A. Marsh, Trial Attorney
Public Integrity Section, Criminal Division

9:30 - 10:15 a.m. **Panel 9: The Help America Vote Act - What it Means for Voter Access & Ballot Integrity**
Cameron Quinn, Counsel to the Assistant Attorney General
Civil Rights Division

10:15 - 10:30 a.m. **Break**

10:30 - 11:30 a.m. **Panel 10: The Philadelphia Story - Likely Election Day Problems With Voter Access & Ballot Integrity**
Eric Eversole, Trial Attorney,
Voting Section, Civil Rights Division
Sean O'Donnell, Trial Attorney
Voting Section, Civil Rights Division

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11:30 - 12:30 p.m.	**Panel 11: Voting Equipment - Access & Integrity Issues** *[NIST presenter on voting computer security]*
12:30 - 1:30 p.m.	**Demonstrations of Voting Equipment and Q & As**
1:30 - 2:00 p.m.	**Lunch (on your own)**
2:00 - 3:00 p.m.	**Panel 12: Voter Access & Ballot Integrity - Election Day Complaints & Actions to Take** *John K. Tanner, Chief, Voting Section* *Civil Rights Division* *Richard Frohling, Assistant United States Attorney* *Eastern District of Wisconsin* *David Hoff, Assistant United States Attorney* *Central District of Illinois*
3:00 - 3:30 p.m.	**Questions & Answers** *Craig C. Donsanto, Director, Election Crimes Branch* *Criminal Division* *Nancy L. Simmons, Senior Counsel for Policy* *Public Integrity Section, Criminal Division* *John K. Tanner, Chief, Voting Section* *Civil Rights Division* *Cameron Quinn, Counsel to the Assistant Attorney General* *Civil Rights Division*
3:30 p.m.	**Adjournment** *Criminal and Civil Rights Divisions staff will remain available after adjournment to answer questions*

<u>For questions about the program or agenda, please contact:</u>

Craig C. Donsanto, Director, Election Crimes Branch, Public Integrity Section, Criminal Division,
Telephone # (202) 514-1421

Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Telephone # (202) 305-9750

<u>For questions about logistics, please contact:</u>

Angela N. Gantt, Special Assistant to the Executive Officer, Civil Rights Division
Telephone # (202) 305-8006

Cynthia L. Mitchell, Litigation Support Specialist, Public Integrity Section, Criminal Division
Telephone # (202) 514-1412

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Attorney General Scheduling Request

(for DOJ Events)

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: (202) [30]7-2825

FROM: Kimani S. Little
Special Assistant to the Assistant Attorney General, Civil Rights Division

REQUEST:

It is requested that Attorney General Gonzales make an address at the 2006 Ballot Access and Voting Integrity Symposium hosted by the Civil Rights and Criminal Divisions. The address will take place during the Symposium luncheon meeting.

PURPOSE:

The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protections to USAs, AUSAs, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL:

It is requested that Attorney General Gonzales provide an address to the Symposium attendees.

BACKGROUND:

The annual training Symposium is part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

DATE & TIME:

The proposed dates of the Symposium are August 1-2, 2006. We propose the Attorney General speak on August 1, 2006. Alternatively, if this date is not available and we are notified by COB May 10, 2006, we can schedule the Symposium for the prior week to accommodate an Attorney General address on July 25, 26, or 27, 2006.

LOCATION:

Metropolitan Washington, D.C. The actual venue has not been chosen, but are attempting to find a location in downtown Washington. However, we may have to hold the Symposium in the suburbs depending on the availability of an appropriate space.

DURATION:

The time allotted for the luncheon and Attorney General's address is 1.5 hours.

PRESS COVERAGE:
Closed to the Press.

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER:
Approximately 200 AUSAs, FBI Agents, and Department staff will attend this Symposium.

Specific Attendees known at this time include:

Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division
Rena Comisac, Principal Deputy Assistant Attorney General, Civil Rights Division
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Noel Hillman, Office of the Assistant Attorney General, Criminal Division
Craig Donsanto, Public Integrity Section, Criminal Division
Assistant United States Attorneys
Federal Bureau of Investigations Special Agents
Civil Rights Division Voting Section Attorneys and Executive Office Staff
Criminal Division, Public Integrity Section Staff

REMARKS REQUIRED:
Luncheon Address

RECOMMENDED BY:
Alice S. Fisher, Assistant Attorney General for the Criminal Division
Wan J. Kim, Assistant Attorney General for the Civil Rights Division

COORDINATED WITH:

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER:
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division, is the organizer of the Symposium. Her contact information is (office) 202-305-9750 or (work cell) [redacted]. Kimani S. Little, Special Assistant to the Assistant Attorney General, Civil Rights Division, is assisting Ms. Quinn. His contact information is (office) 202-307-1289 or (work cell) [redacted]. Craig Donsanto, Public Integrity Section, Criminal Division, is also an organizer of the Symposium. His contact information is (office) 202-514-1221. Angela Noel Gantt will be the Department's event logistics contact. Her contact information is (office) 202-305-8006, (cell) [redacted], or (home) [redacted].

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: 2006 Ballot Access and Voting Integrity Symposium
City & State of Event: Washington, D.C.
Date(s): Tuesday and Wednesday, July 25 and 26, 2006
Date/Time the event begins: 8:30 am. July 25, 2006
Date/Time the event concludes: 3:30 p.m. July 26, 2006
Proposed/Requested Date & Time of the Attorney General's participation: Lunch, 12:00-1:30 p.m., July 25, 2006
Nature of Event: The annual training Symposium is a key part of the Attorney General's Ballot Access and Voting Integrity Initiative, which was established in October 2002 to spearhead the Department's expanded efforts to address election fraud and voting rights violations.

Event Venue Name: RONALD REAGAN BUILDING AND INTERNATIONAL TRADE CENTER
Room Name or Room #: Conference is in Polaris Suite; luncheon address by the Attorney General is in the Pavilion Room.
Address: 1300 Pennsylvania Avenue, NW
City/State/Zip: Washington, D.C. 20004
Venue Phone #:
Venue FAX #:

Event Sponsor: The symposium is hosted jointly by the Civil Rights and Criminal Divisions.

Address: N/A
City/State/Zip: N/A
Website address: N/A

Persons Inviting: Wan J. Kim, Assistant Attorney General, Civil Rights Division
& Alice S. Fisher, Assistant Attorney General, Criminal Division
Telephone #: (CRT office) 202-514-2151; (CRM office) 202-514-7200
FAX #: 202-514-0293

On-site Contact Person: Annette Williams, Sales Manager, Government Market
Telephone: 202-312-1325
FAX #: 202-312-1310

DOJ On-site Contact Person: Angela Gantt, CRT Event Logistics Coordinator
Telephone: (office) 202-305-8006 or (home) [redacted]
E-mail address: Angela.Gantt@usdoj.gov
Cell phone: (cell) [redacted]

DOJ On-site Contact Person: Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Telephone: 202-305-4894 (temp # 202-305-2588)
E-mail address: Cameron.Quinn@usdoj.gov
Cell phone: [redacted] (DOJ) or [redacted] (personal cell)

DOJ On-site Contact Person: Craig Donsanto, Public Integrity Section, Criminal Division
Cell phone: [redacted]

DOJ On-site Contact Person: Nancy Simmons, Public Integrity Section, Criminal Division
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No.

Please provide the following information:

1. Description of the audience: The Department's Designated Elections Officials (DEOs) from 93 judicial districts, alternate USAO DEOs, FBI Special Agents, and attorneys from the Civil Rights and Criminal Divisions will attend this Symposium.
2. Approximate size of the audience: We expect 125 -175 attendees.
3. List of other invited speakers and program participants: See attached draft Agenda.
4. List of other invited government dignitaries and VIPS: Alice S. Fisher, Assistant Attorney General for the Criminal Division, Wan J. Kim, Assistant Attorney General for the Civil Rights Division, and Hans von Spakovsky, Commissioner, Federal Elections Commission.
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? No, the entire event is closed to the press.
6. Is the Attorney General being asked to speak? Yes, we would like for the Attorney General to give a luncheon address.
7. If yes, how long is he expected to speak? We understand that the Attorney General usually speaks for 10-15 minutes.
8. What is the theme/topic/subject of the event? The Ballot Access and Voting Integrity Symposium is an opportunity for the Attorney General to emphasize the importance of voting protection and integrity to Assistant U.S. Attorneys, Civil Rights and Criminal Division staff attorneys, and FBI Special Agents.
9. What is the ATTIRE for the event? Business Dress.
10. Is this invitation for the Attorney General or the Attorney General and a guest? This is an invitation for the Attorney General.
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? N/A
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). We understand that the Attorney General has already agreed to speak at this event.
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. The Attorney General has spoken at previous conferences and the speeches were very favorably received by the participants.

1. Please provide a detailed program/sequence of events from the time the Attorney General is scheduled to arrive at the event until he departs. If the AG will be in more than one room, please note the room name or number for each room he will be in.

- The AG arrives and is escorted to the Speaker's Holding Room where he is met by the AAGs for the Civil Rights and Criminal Divisions, Fisher & Kim.
- Symposium participants will enter the Pavilion Room from the plenary session.
- The AG will enter the Pavilion Room from the Speaker's Holding Room with AAGs Fisher & Kim.
- DOJ Photographer will take a photo of AG, AAGs, and symposium presenters.
- Alice Fisher, Assistant Attorney General for the Criminal Division, will serve as Master of Ceremonies for the luncheon and will introduce the AG.
- Lunch will be served (Pavilion Room)
- As dessert is served, Ms. Fisher will introduce the AG.
- We understand the AG's remarks will last about 15 minutes.
- The luncheon will conclude and participants will return to the next plenary session.

- The AG will be escorted to his car.

2. If you are requesting a photo op for a small group of individuals prior to the AG's participation in the event (that request would need to be approved by the Attorney General's office in advance) please provide a list of the names of individuals for whom you are requesting a photo.

We are not requesting a photo op for individuals prior to the AG's participation in the event. We are requesting a photo op for individuals during the event. In the past the AG has made himself available for photos, after his remarks, with symposium participants, and this was very favorably received and much appreciated.

3. Please send us an updated list of other Speakers/Program Participants.

Please see attached draft agenda, and current participant draft list.

4. Please send us an updated list of government officials, other dignitaries invited or expected to be in attendance.

All those in attendance will be government officials. Dignitaries invited/expected to be in attendance include: Alice S. Fisher, Assistant Attorney General for the Criminal Division, Wan J. Kim, Assistant Attorney General for the Civil Rights Division, Hans von Spakovsky, Commissioner, Federal Elections Commission, Noel Hillman, Judge, US District Court for the District of New Jersey .

5. We understand that the portion of the event at which the Attorney General is speaking will be closed to the press/media. Is this correct?

Yes, the entire event is closed to the press.

6. Who will introduce the Attorney General before he speaks? Please include full name and title and send brief biographical information.

Alice Fisher, Assistant Attorney General for the Criminal Division will introduce the AG.

7. Who will be the MC for the event (if different from the individual who introduces the AG)?

N/A.

8. Will there be a podium from which the Attorney General can deliver remarks?

Yes, there will be a podium and a microphone.

9. We understand that the Attorney General is expected to speak for approximately 15 minutes. Is this correct?
Yes, that is correct.

10. Are you requesting Q&A? If so, for how long?

No, we are not requesting a Q & A session.

11. The Attorney General's FBI Security Detail will come to survey the venue/room(s) sometime on the day of the event (or, in some cases, the day before). Please provide an on-site contact person for the security detail, and include all contact phone numbers for that person.

The Reagan Building Security office will contact Ms. Kiahna Sellers, OAG. Annette Williams, Sales Manager, Government Market, 202-312-1325, will contact her.

12. Will there be a Speaker's Hold room? If so, what is the name or room number of the Speaker's Hold room?

There is a Speaker's Hold room, it is called the Pavilion Room Holding Room

13. Where will the Attorney General be seated immediately before he speaks? With whom will he be seated?

The AG will be seated at the head table for lunch. The head table will seat ten individuals.

The individuals that are expected to sit at the head table follow:

The Attorney General
Martha Pacold, OAG
Courtney Elwood, OAG
Alice Fisher, AAG for Criminal Division
Wan Kim, AAG for Civil Rights Division
Hans von Spakovsky, Commissioner, Federal Elections Commission.
Rena Comisac, Principal Deputy AAG, Civil Rights Division
Matt Friedrich, Chief of Staff, Criminal Division
Judge Noel Hillman, District of New Jersey
Asheesh Agarwal, Deputy AAG, Civil Rights Division

If any of those expected are unable to attend at the last minute, then conference organizers/presenters would be substituted.

14. Please provide an on-site/day of event contact person's name, title, and telephone contact numbers, including cell phone and pager numbers.

On-site Contact Person:
Annette Williams, Sales Manager, Gov't Market, Reagan Building
Telephone: 202-312-1325

DOJ On-site Contact Person:
Angela Gantt, CRT Event Logistics Coordinator
Cell phone: [redacted]

DOJ On-site Contact Person:
Cameron Quinn, Counsel to the Assistant Attorney General, Civil Rights Division
Cell phone: [redacted] (DOJ) or [redacted] (personal cell)

DOJ On-site Contact Person:
Craig Donsanto, Public Integrity Section, Criminal Division
Cell phone: [redacted]

DOJ On-site Contact Person:
Nancy Simmons, Public Integrity Section, Criminal Division
Cell phone: [redacted]

15. Please include any additional information that may be helpful to the Attorney General as he prepares for this event.

The Attorney General has spoken at previous conferences and the speeches were very favorably received by the participants.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference
City & State of Event: Santa Fe, New Mexico
Date(s): July 28 – August 2, 2006
Date/Time the event begins: NDAA Committee Meetings begin Friday, July 28 (11:00 AM – 5:00 PM); Saturday, July 29 (9:00 AM – 5:00 PM); Board of Directors meeting, Sunday, July 30 (2:00 PM – 5:00 PM); NDAA Summer Conference begins Sunday, July 30th with welcoming reception, Monday, July 31 (9:00 AM – 5:00 PM); Tuesday, August 1 (9:00 AM – Noon); Wednesday, August 2 (9:00 AM – 4:15 PM)
Date/Time the event concludes: August 2, 2006 at 4:15 PM
Proposed/Requested Date & Time of the Attorney General's participation: July 30, 2006 (2:00 PM – 2:30 PM); July 31, 2006 (9:45 AM – 10:30 AM)
Nature of Event: Board of Directors meeting & educational conference for local prosecutors

Event Venue Name: Eldorado Hotel
Room Name or Room #: Anasazi Room
Address: 309 W. San Francisco
City/State/Zip: Santa Fe, New Mexico
Venue Phone #: 505-988-4455
Venue FAX #: 505-995-4544

Event Sponsor: National District Attorneys Association
Address: 99 Canal Center Plaza, Suite 510
City/State/Zip: Alexandria, Virginia 22314
Website address: www.ndaa.org

Person Inviting: Thomas J. Charron
Executive Assistant, [redacted]
Telephone #: [redacted]
FAX #: 703- 836-3195
E-mail address: [redacted]@ndaa-apri.org
[redacted]@ndaa-apri.org

On-site Contact Person: Rhea Arledge
Telephone: 703-519-1679
FAX #: 703-836-3195
E-mail address: [redacted]@ndaa-apri.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

1. Description of the audience: Local chief & assistant prosecutors
2. Approximate size of the audience: Board Meeting-approx. 110; Summer Conference – approx. 150-200
3. List of other invited speakers and program participants: See attached roster
4. List of invited government officials, dignitaries, VIPS: Jeffrey L. Sedgwick, Director-designate Bureau of Justice Statistics
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? The time during which Judge Gonzales speaks can be closed to

the press. Please notify us if this is requested and Velva Walter, Director Media Relations will make the necessary arrangements

6. Is the Attorney General being asked to speak? Yes
7. If yes, how long is he expected to speak? 30 minutes – 45 minutes
8. What is the theme/topic/subject of the event? See attached program synopsis.
9. What is the ATTIRE for the event? Business casual
10. Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? $375.00 registration fee is charged for the summer conference
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) June 23, 2006
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Connie, These are questions that the AG's office needs answered. I believe you have filled this out before for them. Tom will have to answer some. You can put me down for the contact with my cell phone number. **********

1. Please provide a detailed program/sequence of events from the time the Attorney General is scheduled to arrive at the event until he departs. If the AG will be in more than one room, please note the room name or number for each room he will be in.

attached

2. If you are requesting a photo op for a small group of individuals prior to the AG's participation in the event (that request would need to be approved by the Attorney General's office in advance) please provide a list of the names of individuals for whom you are requesting a photo.

yes - Paul Logli, Mat Heck, Henry Valdez, Tom Charron

3. Please send us an updated list of other Speakers/Program Participants.

PROGRAM ATTACHED

4. Please send us an updated list of government officials, other dignitaries invited or expected to be in attendance.

Governor of New Mexico - Bill Richardson

5. We understand the press situation is still TBD. Is this correct?

YES

6. Who will introduce the Attorney General before he speaks? Please include full name and title and send brief biographical information.

[redacted] **NDAA President, State's Attorney, Rockford, IL**
[redacted]ON, NDAA Executive Director

7. Who will be the MC for the event (if different from the individual who introduces the AG)?

President PAUL A. LOGLI

8. Will there be a podium from which the Attorney General can deliver remarks?

YES

9. For how long is the Attorney General is expected to speak?

20-30 min.

10. The Attorney General's FBI Security Detail will come to survey the

venue/room(s) sometime on the day of the event (or, in some cases, the day before). Please provide an on-site contact person for the security detail, and include all contact phone numbers for that person.

[redacted] Cathy Yates [redacted]

11. Will there be a Speaker's Hold room? If so, what is the name or room number of the Speaker's Hold room?

yes - [redacted] Ballroom C

12. Where will the Attorney General be seated immediately before he speaks? on DAIS - Depends on when he arrives

With [redacted]ed?
[redacted]esident
[redacted] - Executive Director
[redacted] - President Elect

14. Please provide an on-site/day of event contact person's name, title, and telephone contact numbers, including cell phone and pager numbers.

CATHY YATES, National District Attys Association's CONFERENCE MANAGER
[redacted] cell phone

15. If there is an on-site office or registration desk for the event, please provide the phone number for that desk.

CATHY YATES, National District Attys Association's CONFERENCE MANAGER
[redacted] cell phone

16. Please include any additional information that may be helpful to the Attorney General as he prepares for this event.

Participants list attached

Cathy Yates
National District Attorneys Association
99 Canal Center Plaza, Suite 510
Alexandria, VA 22314
[redacted]
[redacted]@ndaa.org

May 5, 2006

The Honorable Alberto Gonzales
United States Department of Justice
Robert F. Kennedy Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-2000

Dear Judge Gonzales:

From July 28th through August 2nd the leadership of the National District Attorneys Association will convene in Santa Fe, New Mexico for our summer board of directors meeting and the association's 2006 Summer Conference

As President of the National District Attorneys I would to take this opportunity to invite you to meet with the nation's local prosecutors during their stay in Santa Fe.

I understand that you are preparing to announce the "Project Safe Childhood" initiative in the near future and I know that the association would welcome the chance to learn more about the initiative in greater detail. This would certainly be a relevant issue for discussion during either the board of directors meeting or during the summer conference. The schedules for both the board of directors meeting and the summer conference are very flexible and we can rearrange the agenda to accommodate your schedule.

If your staff needs more information please contact Rhea Arledge, NDAA legislative counsel at [redacted] or [redacted]@ndaa-apri.org.

Sincerely,

Thomas J. Charron
Executive Director, National District Attorneys Association

cc: Kathleen Blomquist, Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice

DAILY PROGRAM

Monday August 7th	9:00 - 9:30	**Opening Remarks from the Director** *Welcome and greetings from Director Kevin D. Rooney*
	break	
	9:45 - 10:15	**State of the Immigration Court** *Welcome and overview of major developments and issues for the courts from Acting Chief Immigration Judge David L. Neal*
	break	
	10:30 - 12:00	**Federal Judiciary Panel** Thomas L. Pullen, *Deputy Chief Immigration Judge* (moderator) Judge Richard C. Tallman, *U.S. Court of Appeals, 9th Circuit* Judge Sandra L. Lynch, *U.S. Court of Appeals, 1st Circuit* Judge Jon O. Newman, *U.S. Court of Appeals, 2nd Circuit* *Impact of immigration cases on the federal courts, changes in the Judiciary to handle that impact, and thoughts on how Immigration Judges can prepare a better record for review*
	lunch on your own	
	1:30 - 2:45	**Workshops** *Group 1 Workshop A Group 4 Workshop D* *Group 2 Workshop B Group 5 Workshop E* *Group 3 Workshop C Group 6 Workshop F*
	break	
	3:00 - 4:15	**Workshops** *Group 1 Workshop B Group 4 Workshop E* *Group 2 Workshop C Group 5 Workshop F* *Group 3 Workshop D Group 6 Workshop A*
	break	
	4:30 - ___	National Association of Immigration Judges Meeting (optional)
Tuesday August 8th	9:00 - 10:15	**Workshops**

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	Group 1 Workshop C Group 4 Workshop F *Group 2 Workshop D Group 5 Workshop A* *Group 3 Workshop E Group 6 Workshop B*

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	break
10:30 - 11:45	**Workshops** *Group 1 Workshop D Group 4 Workshop A* *Group 2 Workshop E Group 5 Workshop B* *Group 3 Workshop F Group 6 Workshop C*
	lunch on your own
1:30 - 2:30	**Language Services Initiatives** Martin Roldan, *Chief, Language Services Unit* (moderator) Speaker 2, IJ [on courtroom pointers] Speaker 3, *Lionbridge Global Services* *Review of how the interpreter contract works, the interpreter qualification process, rare languages, and pointers for handling challenges to interpretation*
	break
3:00 - 4:30	**Counsels' Forum** Brenda M. O'Malley, *Counsel to the Chief Immigration Judge* (moderator) William J. Howard, *Principal Legal Advisor, Immigration and Customs Enforcement* Robert C. Divine, *Principal Legal Advisor, Citizenship and Immigration Services* Jeanne Butterfield, *Executive Director, American Immigration Lawyers Association*

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		Program updates and developments from the parties who appear before the courts.
Wednesday August 9th	8:30 - 9:30	**Retirement Review** Bill Manning, *Chief, Employee Benefits & Development Branch* *Overview of important considerations for government employee financial planning*
	break	
	9:45 - 10:30	**Case Completion Goals** David L. Neal, *Acting Chief Immigration Judge* Thomas L. Pullen, *Deputy Chief Immigration Judge* *Review of progress and discussion of issues regarding case completion goals*
	break	
	10:45 - 11:45	**Juvenile Issues** Joanne Kelsey, Director, Detention and Asylum Program, Women's Commission for Refugee Women and Children (moderator) Hugh Mullane, *Office of Legal Policy* Steven Lang, *Legal Access Counsel* Maureen Dunn, *Director*, *Division of Unaccompanied Children's Services, Office of Refugee Resettlement* *Perspectives on juveniles in the courtroom from representation to courtroom considerations for unaccompanied minors under the Unaccompanied Alien Child Protection Act of 2005*
	break	
	12:00 - 2:00	**Luncheon** *Guest speaker:* Attorney General Alberto R. Gonzales

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		break
	2:15 - 3:30	**Workshops** *Group 1* *Workshop E* *Group 4* *Workshop B* *Group 2* *Workshop F* *Group 5* *Workshop C* *Group 3* *Workshop A* *Group 6* *Workshop D*
		break
	3:45 - 5:00	**Workshops** *Group 1* *Workshop F* *Group 4* *Workshop C* *Group 2* *Workshop A* *Group 5* *Workshop D* *Group 3* *Workshop B* *Group 6* *Workshop E*

DRAFT

Thursday August 10th	8:30 - 9:45	**Judicial Ethics, Civility, and Professionalism** Judge Michael E. Keasler, *Texas Court of Criminal Appeals* *Discussion of judicial demeanor in the courtroom and the expectations of conduct that come with the office of Immigration Judge*

DRAFT

		break
	10:00 - 11:30	**Legislative Update** Larry Levine, *EOIR Legislative Counsel* (moderator) Juria Jones, *Majority Counsel, Senate Judiciary Committee* Esther Olavarria, *Minority Counsel, Senate Subcommittee on Immigration, Border Security, and Citizenship*

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		Ruth Wasem, *Specialist in Immigration Policy, Congressional Research Service* *An overview of recent statutory changes and changes contemplated by pending legislation*
	lunch on your own	
	1:00 - 2:30	**OPR on Immigration Judge Conduct** Kevin Ohlson, *Deputy Director* H. Marshall Jarrett, *Counsel, Office of Professional Responsibility* Lawrence N. DiCostanzo, *Immigration Judge, San Francisco* Jennie L. Giambiastiani, *Immigration Judge, Chicago* Patricia Rohan, *Immigration Judge, New York City* Denise Slavin, *Immigration Judge, Miami* *An overview of professional boundaries in the courtroom and due process considerations from the body that oversees professional conduct followed by a roundtable discussion addressing questions related to OPR issues*
	break	
	2:45 - 3:45	**Regulatory Changes and Updates** MaryBeth Keller, *EOIR General Counsel* Kevin R. Jones, *Office of Legal Policy* *Recent and pending regulatory developments and their impact on the courts*
Friday August 11th	8:30 - 9:30	**Introduction to the Canadian System** Philip Williams, *Assistant Chief Immigration Judge*, moderator _____, *Canadian Immigration and Refugee Board* _____, *Canadian Immigration and Refugee Board* *Overview of the Canadian counterpart to EOIR, including migration, immigration, and asylum in Canada and how it compares to the experiences of the United States*
	break	
	10:00 - 11:00	**Religious Freedom Update**

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	Michael F. Rahill, *former Assistant Chief Immigration Judge* (moderator) Tad Stahnke, *Deputy Director for Policy, U.S. Commission on International Religious Freedom* Mark Hetfield, *Director for International Refugee Issues, U.S. Commission on International Religious Freedom* and/or Steve Liston, *Office of International Religious Freedom, Department of State* *Refresher on religious freedom and update on country conditions vis-a-vis religious freedom*
break	
11:15-11:45	**Closing Remarks** Deputy Attorney General Paul J. McNulty

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WORKSHOPS DRAFT	
Workshop **A**	**Appellate Review of Oral Decisions** Juan P. Osuna, *Acting Vice Chair, Board of Immigration Appeals* Donald E. Keener, *Deputy Director, Office of Immigration Litigation* *Review of circuit court and BIA criticisms of IJ decisions, pointers on the importance of findings of fact, and a discussion of post-REAL ID Act issues*
Workshop **B**	**Unethical Attorneys in the Courtroom** Jennifer Barnes, *Bar Counsel, EOIR* Speaker 2, [IJ from each workshop group] *Discussion of how to create a record for review when unscrupulous attorneys appear or don't appear, with an overview of the attorney discipline process and how to create a record for discipline*
Workshop **C**	**Citizenship and Nationality issues** Jack Weil, *Immigration Judge, El Centro* _____, *Immigration Judge,* *An overview of citizenship and nationality issues that arise in the courtroom.* *Note: Should there be major immigration legislation prior to the conference, this session may be substituted by one dedicated to emergent law.*
Workshop **D**	**Asylum Issues** Margaret Perry, *Senior Litigation Counsel*, Office of Immigration Litigation *Discussion of significant asylum issues in the federal courts, with a focus on credibility and Immigration Judge clarity in rendering decisions*
Workshop **E**	**Efficient Procedure** Rex Ford, moderator, *Immigration Judge, Miami* Robert Barrett, *Immigration Judge*, *San Diego* *Effective use of advisals and other procedural requirements to structure the hearing and oral decision and to strengthen the record for review, including change of venue and jurisdiction issues.*
Workshop **F**	**Electronic Research** Karen Drumond, EOIR Librarian _____, Westlaw representative _____, Lexis representative *Overview of the Virtual Law Library and on-line legal research tools available to*

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	Immigration Judges and court staff

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CASE

Lexis / Nexis

Digital Audio

Lionbridge Global Solutions

Language Services Association

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SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: 2006 Immigration Judges= Training Conference
City & State: Washington, D.C.
Date(s): August 6 - 11, 2006
Date/Time event begins: August 7, 2006 at 8:00 a.m.
Date/Time event concludes: August 11, 2006 at 12:00 p.m.
Proposed/Requested Date & Time of the Attorney General=s participation: August 9, 2006, 12:00 p.m. - 2:00 p.m. or at the Attorney General=s convenience
Nature of Event: Immigration Judges= Conference

Event Venue: J.W. Marriott Hotel
Room Name or number: Salon I and Salon II - Ballroom Level
Street Address: 1331 Pennsylvania Avenue, N.W.
City/State/Zip: Washington, D. C.
Venue Phone #: (202) 626-2662
Venue FAX #: (202) 626-6915

Event Sponsor: Office of the Chief Immigration Judge
Address: 5107 Leesburg Pike, Suite 2500
City/State/Zip: Falls Church, VA 22041
Website address: www.usdoj.gov/eoir

Person Inviting: Executive Office for Immigration Review
Title: Director, Kevin D. Rooney
Telephone #: (703) 305-0169
FAX #: (703) 305-0985
E-mail address: kevin.rooney@usdoj.gov

Contact Person: Anne J. Greer
Title: Assistant Chief Immigration Judge
Telephone: (703) 305-1247
FAX #: (703) 305-1448
E-mail address: anne.greer@usdoj.gov
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: *300*
List of other invited speakers and program participants: *See Attached draft of Conference Program*

List of invited government officials, dignitaries, VIPS: *Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.*

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? *No*

Is the Attorney General being asked to speak? *Yes*

If yes, how long is he expected to speak? *10 - 12 minutes*

What is the theme/topic/subject of the event? *1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues*

What is the ATTIRE for the event? *Business Casual*

Is this invitation for the Attorney General or the Attorney General and a guest? *Attorney General and a guest*

Is this a fund raising event? *No*

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? *N/A*

Are tickets being sold for this event? If yes, what is the face value of the ticket? *No*

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). *May 31, 2006*

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. *Please see attached draft of Conference Program*

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Crimes Against Children Conference – Opening Plenary Session
City & State: Dallas, Texas
Date(s): August 21, 2006
event begins: 8:30 a.m.
event concludes: 9:30 a.m.
Proposed/Requested Date & Time of the Attorney General's participation: Monday, August 21, 2006 @ 8:30 a.m.
Nature of Event: Opening Session to the 18th Annual Crimes Against Children Conference – the largest national professional training conference for front line professionals investigating, prosecuting, and treating child abuse cases.

Event Venue: Hyatt Regency Dallas at Reunion
Room Name or number: Landmark Ballroom
Street Address: 300 Reunion Blvd.
City/State/Zip: Dallas, TX
Venue Phone #: 214.651.1234
Venue FAX #: 214.742.8126

Event Sponsor: Dallas Children's Advocacy Center
Address: 3611 Swiss Avenue
City/State/Zip: Dallas, TX 75204
Website address: www.dcac.org

Person Inviting: Lynn Davis
Title: President and CEO
Telephone #: 214.818.2601
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org

Contact Person: Larry Robins
Title: Vice President of Programs
Telephone: 214.818.2652
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Yes
United States Department of Justice – Office of Juvenile Justice Delinquency Prevention; Office of Victims of Crime; Internet Crimes Against Children Training and Technical Assistance, Fox Valley Technical College; Microsoft, Children's Advocacy of Texas, Inc.

Please provide the following information:

Approximate size / description of the audience: Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%

List of other invited speakers and program participants: (Identified for Plenary Session only; please let us know if a complete list of the 3 ½ day conference faculty is needed)

[redacted]

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?
Generally yes, but this can be changed at Mr. Gonzales' request
Is the Attorney General being asked to speak? Yes
If yes, how long is he expected to speak? Approximately 20 minutes
What is the theme/topic/subject of the event? Professional education related to the investigation, prosecution, prevention, and treatment of child abuse
What is the ATTIRE for the event? Business Casual
Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest at his discretion
Is this a fund raising event? No
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket?

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would like to announce that Mr. Gonzales has been invited in our conference brochure that prints April 10. Speaking confirmation would be appreciated July 15 to allow ample time for logistics planning or alternative speakers if necessary.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.
This, the 18th Annual Crimes Against Children Conference, is the largest professional education gathering for front line professionals engaged in the investigation, prosecution, prevention, and healing of child abuse. With a track record of outstanding and lasting value, the conference provides the most current and sophisticated tools to national and international professionals. Throughout this 3-½ day conference, each program session includes 15 concurrent workshops and five interactive laboratories. The opening plenary session gathers all conference participants together to hear key messages relevant to their daily work. We would be delighted to host Mr. Gonzales throughout the conference.

DOJ_NMG_ 0164774

February 14, 2006

Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

I am writing to request the honor of your presence at the eighteenth annual Crimes Against Children Conference, to be held August 22 through 24, 2006 at the Hyatt Regency Reunion Hotel in Dallas. We respectfully invite you to serve as our keynote speaker during the opening session on Monday, August 22 at 8:30 a.m. Certainly, we would welcome your participation at any time during the conference.

As you may be aware, this is the largest conference in the country for federal, state, and local law enforcement on the subject of crimes committed against those most vulnerable in our society --- our children. In addition, a multidisciplinary representation of child protection workers, prosecutors, social workers, medical and children's advocacy center professionals attend this international conference. In 2005, the conference attracted nearly 2,200 attendees from 48 states and abroad.

The Dallas Children's Advocacy Center (DCAC) produces this significant and unique professional conference and is one of the largest children advocacy centers in the country serving over 1,900 children annually. DCAC serves as role model by providing best practices and professional education to multiple professional disciplines in the fight against child abuse. The Dallas Police Department is widely recognized for establishing innovative law enforcement practices to keep our children safe, including Operation Avalanche, the largest child pornography investigation ever conducted. The DPD also activated the very first Amber Alert in the country.

By serving as the keynote speaker at our conference you would send a strong message to the men and women in law enforcement that you share their commitment to fighting crimes against children.

I am enclosing a copy of the 2005 Conference brochure as well as material about our Center, for your review. So that we may continue our conference planning efforts, we hope to hear from you at your earliest convenience. Thank you for your consideration.

Respectfully,

Lynn M. Davis
President & CEO

Copy: Mr. Ron Laney, OJJDP

REQUEST: Attorney General's 54th Annual Awards Ceremony

PURPOSE: The Attorney General will present remarks to Department employees, guests, and other officials at the Attorney General's 54th Annual Awards Ceremony. The Attorney General will also present awards to all recipients.

BACKGROUND: The Department of Justice recognizes employees who have demonstrated exceptional achievements, leadership, and heroism on an annual basis. Nearly 600 employees were nominated for the annual awards program last year, with 225 receiving recognition in 29 award categories. Once again, the ceremony will provide an opportunity to recognize the achievements of Department employees. The Combined Incentive Awards Board and John Marshall Panel, chaired by the Deputy Attorney General, will meet to recommend award recipients to the Attorney General, who will approve the selections. The recommendations will be cleared through various investigative offices.

The Attorney General will present remarks and will present awards to all recipients. The Deputy Attorney General and several component heads will announce the award citations.

DATE & TIME: TBD by OAG Scheduling. Constitution Hall is available with a hold for DOJ on August 15 & 22, and September 12, 13, 14, & 19.

1:50 p.m. - Event Staging
2:00 p.m. - Ceremony; Reception to Follow Ceremony

LOCATION: Constitution Hall; 18th Street, NW, between C and D Streets

DURATION: 2½ hours

MEDIA: Members of the media will likely be in attendance. Coordination of press inquiries will be managed by the Office of Public Affairs. DOJ and component photographers will take photographs of the event.

PARTICIPANTS: The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.

REMARKS: JMD Personnel Staff will prepare the event script and will work with the Attorney General's speech writer on the content of his remarks.

RECOMMENDED BY: Not applicable.

CONTACT: Vince Micone; Assistant Director, Programs and Events Section, JMD Personnel Staff; 5-1756

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: The Financial Services Roundtable 2006 Fall Conference
City & State of Event: Washington, DC
Date(s): September 20-21, 2006
Date/Time the event begins: Thursday, September 21, 8:30AM
Date/Time the event concludes: Thursday, September 21 3:00 PM
Proposed/Requested Date & Time of the Attorney General's participation: Antyime within those times; There is also a dinner on Wednesday evening, September 20 at 6:30 p.m. and a dinner at 6:00 pm on Thursday evening, September 21.
Nature of Event: Meeting of the Roundtable member representatives

Event Venue Name: Ritz Carlton, Washington, DC
Room Name or Room #: Ritz Carlton Ballroom
Address: 1150 22nd Street
City/State/Zip: Washington, DC 20037
Venue Phone #: 202-835-0500
Venue FAX #: 202-974-5538

Event Sponsor: The Financial Services Roundtable
Address: 1001 Pennsylvania Avenue, Suite 500 South
City/State/Zip: Washington, DC 20004
Website address: www.fsround.org

Person Inviting: Steve Bartlett
Telephone #: 202-589- 2410
FAX #: 202-737-3536
E-mail address: steve@fsround.org

On-site Contact Person: [redacted] Salter
Telephone: 202-589-2408
FAX #: 202-478-2996
E-mail address: [redacted]@fsround.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? no

Please provide the following information:

1. Description of the audience: CEO's and Senior Executives of the U.S. top 100 Financial Services companies
2. Approximate size of the audience: 150
3. List of other invited speakers and program participants: TBD
4. List of invited government officials, dignitaries, VIPS: TBD
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **No, not unless he requests it.**
6. Is the Attorney General being asked to speak? yes
7. If yes, how long is he expected to speak? He may speak as long as he wishes; however recommended time will be a total of 30 minutes, 20 for talk and 10 for Q&A
8. What is the theme/topic/subject of the event? TBD
9. What is the ATTIRE for the event? **Business**
10. Is this invitation for the Attorney General or the Attorney General and a guest? If he wishes
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? No If yes, what is the face value of the ticket?
14. What is your deadline for confirming a speaker? September 1, 2006 (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

9/28

ARG

Georgetown University Law Center
Continuing Legal Education
600 New Jersey Avenue, NW
Washington, DC 20001
PHONE: (202) 662-9890
FAX: (202) 662-9891
cle@law.georgetown.edu • www.georgetowncle.org

Fax Transmittal Sheet

DATE: 5/25/06

TO: Andrew Beach

COMPANY: U.S. Dept of Justice

FAX NUMBER: 202 307 · 2825

FROM: Meryl Cherkoff

NUMBER OF PAGES (Including Cover Sheet): 13

MESSAGE: Scheduling Request to AG Gonzales

Thank you for considering this request.

This facsimile contains confidential information intended only for the use of the person named above. If the reader of this message is not the intended recipient, please be advised that any dissemination or copy of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately. Thank you.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event:Conference on the Judiciary
City & State: Washington DC
Date(s): September 28-29
Date/Time event begins: Sept 28 8 am
Date/Time event concludes: Sept 29, noon
Proposed/Requested Date & Time of the Attorney General's participation: Sept. 28 8:00 pm
Nature of Event: deliver brief remarks to Conference Dinner

Event Venue: for dinner, Mandarin Oriental Hotel; for Conference Georgetown Law Center
Room Name or number: main ballroom
Street Address: 1330 Maryland Avenue SW
City/State/Zip: Washington DC 20024
Venue Phone #:202-554-8588
Venue FAX #:202-554-8999

Event Sponsor: Georgetown University Law Center and American Law Institute
Address: 600 New Jersey Avenue NW
City/State/Zip: Washington DC 20001
Website address: conferenceonthejudiciary.org (website to go live June 15)

Person Inviting: Hon. Sandra Day O'Connor
Title: Supreme Court Justice (ret.)
Telephone #: (202) 479-3151
FAX #: (202)479-3478
E-mail address: [redacted]@scus.gov

Contact Person: Meryl Chertoff
Title: Project Director, Conference on the Judiciary
Telephone: 202-662-4258
FAX #: 202-662-9891
E-mail address: [redacted]@law.georgetown.edu
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Foundation and private underwriting. Names available upon request

Please provide the following information:

Approximate size / description of the audience: 380
List of other invited speakers and program participants: see attached Conference Program
List of invited government officials, dignitaries, VIPS: see appended list of Steering Committee, Conference Committee, and Small Group Judicial Commentators
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? His choice
Is the Attorney General being asked to speak? yes
If yes, how long is he expected to speak? Five minutes
What is the theme/topic/subject of the event? The future of the Federal and State courts
What is the ATTIRE for the event? Business attire
Is this invitation for the Attorney General or the Attorney General and a guest? He is welcome to bring a guest
Is this a fund raising event? no
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a

Are tickets being sold for this event? If yes, what is the face value of the ticket? No tickets are being sold; spouses of conference participants only will reimburse the conference for their dinner cost. All others are guests of the Conference

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would appreciate knowing if AG Gonzales will participate by September 1.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Appended is a one-page description of the Conference. Please note that we anticipate that the Attorney General would be introduced by the MC (a significant media figure TBD), and then deliver brief remarks at the Dinner prior introduction of the keynote speaker, Chief Justice Roberts. The Attorney General will receive an invitation to attend the Conference on the Judiciary, and we would be delighted if his schedule permits him to attend any portion of the events that are scheduled at Georgetown University Law Center, in addition to this specific request for him to deliver remarks at the Dinner.

Conference on the Judiciary
September 28-29, 2006
Washington, D.C.

A fair and impartial judiciary is a cornerstone of our system of government. Yet in recent days the judiciary has been subject to escalating attacks that threaten our nation's tradition of judicial independence. The judicial nomination and confirmation process has become a high-stakes partisan battle. Disagreement with judicial decisions has led to calls for the impeachment of federal judges and the recall of state judges. Congress has sought to influence the outcome of a single state case.

A recent ABA poll found that more than 56% of the public agree that "judicial activism … seems to have reached a crisis. Judges routinely overrule the will of the people."

There is, in short, a great need to strengthen public understanding of the importance of having a fair and impartial judiciary.

To address this challenge, Justices Sandra Day O'Connor and Stephen Breyer have agreed to chair a national Conference on the Judiciary. The participants will include leaders from the business and media communities, the nonprofit sector and government at both the federal and state level. The first panel of the Conference will examine both the relevant history and contemporary criticisms. A second will explore judicial selection, elections, and removal at both the federal and state levels. Others will address inter-branch relations, recent polls of public attitudes, the role of the media, and suggestions for improving the efficiency and effectiveness of the judiciary. Participants will be provided in advance of the Conference with background monographs prepared by leading scholars on the key issues to be considered at the Conference.

The Conference will be organized so that everyone attending will be able to participate in small group discussions that will analyze the issues presented by speakers on the panels and develop an action agenda of next steps to be taken.

Conference on the Judiciary (As of May 5, 2006)
September 28-29, 2006

Thursday, September 28

8:45	Welcome: Michael Traynor	CONFIRMED
	John J. DeGioia	CONFIRMED
9:00-9:15	Importance of an Independent Judiciary	
	Justice O'Connor	CONFIRMED
9:15-10:00	Judicial Independence: Justifications and Modern Criticisms	
	Jack Rakove (history)	CONFIRMED
	C. Boyden Gray	CONFIRMED
	Kathleen Sullivan	CONFIRMED
10:00-10:45	Judicial Selection and Removal	
	Ronald George	CONFIRMED
	Ruth McGregor	CONFIRMED
	Vicki Jackson	CONFIRMED
11:00-12:00	Small Group Discussions	
Lunch Speaker:	Justice Breyer	CONFIRMED
1:45-2:45	Interbranch Relations	
	Warren Rudman	CONFIRMED
	Tom Daschle	CONFIRMED
	Newt Gingrich	PENDING
	Stephen Burbank	CONFIRMED
2:45 to 3:45	Public Understanding, Media, and Education	
	Kathleen Hall Jamieson	CONFIRMED
	Fred Graham	CONFIRMED
	Linda Greenhouse	CONFIRMED
4:00-5:00	Small Group Discussions	
Dinner Speaker:	Chief Justice Roberts	CONFIRMED

Friday, September 29

9:00-10:00	Improving the Judicial System	
	Larry Thompson	CONFIRMED
	Helaine Barnett, Legal Service	CONFIRMED
	Judith Kaye	CONFIRMED
	Richard Scruggs	CONFIRMED
10:00-11:00	Small Group Discussions	
11:00-12:00	What Next?	
	Pam Karlan (who will summarize best suggestions from small groups and lead discussion)	CONFIRMED
	Justices Breyer and O'Connor: Concluding Remarks	

Steering Committee, Conference on the Judiciary

Hon. Sandra Day O'Connor
Associate Justice (ret.), Supreme Court of the United States

Hon. Stephen G. Breyer
Associate Justice, Supreme Court of the United States

Alex Aleinikoff
Dean, Georgetown University Law Center

Judith Areen
Professor and Former Dean, Georgetown University Law Center
President, Association of American Law Schools

Ken Duberstein
The Duberstein Group

James Henry

Hon. D. Brock Hornby
Chief Judge, U.S District Court
for the District of Maine

Lance Liebman
Professor and Former Dean, Columbia University School of Law
Director, American Law Institute

Marty Lipton
Partner, Wachtell, Lipton, Rosen & Katz

Theodore Olson
Partner, Gibson, Dunn, & Crutcher

Roberta Ramo
Vice-President, American Law Institute
Partner, Modrall Sperling Roehl Harris & Sisk, P.A.

Warren Rudman
Partner, Paul, Weiss

Michael Traynor
President, American Law Institute
Cooley Godward LLP

Larry Thompson
Senior Vice President Government Affairs
General Counsel and Secretary
Pepsico Inc.

Conference Committee as of April 24, 2006
Conference on the Judiciary
(Committee in Formation)

Zoe Baird
President, Markle Foundation

Helaine Barnett
President, Legal Services Corporation

William Barr
Former U.S. Attorney General
Executive Vice President and General Counsel
Verizon

Griffin Bell
Former U.S. Attorney General

David Bradley
Chairman, Atlantic Media Company

Paul Brest
President, Hewlett Foundation

Warren Buffett
President and CEO, Berkshire Hathaway, Inc.

John A. Canning, Jr.
CEO, Madison Dearborn Partners

Gerhard Casper
Stanford University

John J. Castellani
Business Roundtable

Warren Christopher
Former U.S. Secretary of State

Benjamin Civiletti
Former U.S. Attorney General

Joan Claybrook
President, Public Citizen, Inc.

Mary Sue Coleman
President, University of Michigan

William Coleman
Partner, O'Melveny and Myers

Dean C. Colson
Partner, Colson, Hicks, Eidson

George David
CEO, United Technologies

John J. DeGioia
President, Georgetown University

William Donaldson
Former Chairman, SEC

Karl Eller
Former CEO, Clear Channel

Dennis J. FitzSimons
CEO, Tribune Company

Marc Gary
General Counsel, Bell South, Equal Justice Board

Thomas Gottschalk
Executive Vice-President, Law and Public Policy and General Counsel
General Motors

Donald Graham
CEO and Chairman of the Board
Washington Post Company

Michael S. Greco
Partner, Kirkpatrick and Lockhart
President of ABA

Vartan Gregorian
President, Carnegie Corporation

David L. Guerry
Foundation of the Federal Bar Association

Roderick Hills
Chair, Hills and Stern, Former Chair SEC, CED

Alberto Ibarguen
President
John S. and James L. Knight Foundation

Walter Isaacson
President and CEO
The Aspen Institute

Vernon Jordan
Senior Counsel, Akin Gump

Nicholas deB. Katzenbach
Former Attorney General

Anastasia Kelly
Chief Counsel, MCI

Jeffrey Kindler
Vice Chairman, Pfizer, Inc.

Charles Kolb
President, Committee for Economic Development

Rebecca Kourlis
Executive Director, Institute for the Advancement of the American Legal System

Don Liu
Senior Vice President
Toll Brothers, Inc.

Edward W. Madeira, Jr.
Senior Counsel, Pepper Hamilton
Chair, ABA Commission
on the 21st Century Judiciary

William McDonough
Former Chair PCAOB and NY Federal Reserve

Harold W. McGraw, III
CEO, McGraw-Hill

Mary Campbell McQueen
President and CEO, National Center for State Courts

James J. Mulva
CEO, ConocoPhillips

Robert Nardelli
CEO, The Home Depot

Edward Ney
Chairman Emeritus, Young and Rubicam

Indra Nooyi
President and CFO, PepsiCo

Kathryn Oberly
Ernst & Young, ALI Council

Dwight Opperman

Richard Parsons
CEO, Time-Warner, Inc.

Charles O. Prince, III
CEO, Citigroup

Edward Romero
Former U.S. Ambassador to Spain

Roger Sant
President, The Summit Foundation

Carl Schramm
President, The Kauffman Foundation

George Shultz
Former U.S. Secretary of State

William Sessions
Partner, Holland and Knight
Honorary Co-Chair, ABA Commission on the 21st Century Judiciary

Theodore Shaw
President, NAACP Legal Defense Fund

James Thomson
President, RAND Corporation

Richard Thornburgh
Kirkpatrick & Lockhart
Former U.S. Attorney General

John Thornton
Chairman, Brookings Institution

Roger Warren
Chair, Justice at Stake, former President, Center for State Courts

Mark Yudof
Chancellor, U. of Texas System, former Dean, U. of Texas Law School

April 21, 2006

Conference on the Judiciary
September 28-29, 2006

Small Group Judicial Commentators

1. Shirley Abrahamson, Chief Justice, Supreme Court of Wisconsin	ACCEPTED
2. Robert Bell, Chief Judge, Court of Appeals of Maryland, President-Elect, Conference of Chief Justices	ACCEPTED
3. Christine M. Durham, Chief Justice, Supreme Court of Utah	ACCEPTED
4. Merrick Garland, D.C. Cir. Court of Appeals	ACCEPTED
5. Robert Henry, 10th Cir. Court of Appeals	ACCEPTED
6. Randy Holland, Delaware Supreme Court	ACCEPTED
7. Robert Katzmann, 2nd Cir. Court of Appeals	ACCEPTED
8. Joseph Lambert, Chief Justice, Supreme Court of Kentucky	ACCEPTED
9. Thomas Moyer, Chief Justice, Supreme Court of Ohio	ACCEPTED
10. Thomas Phillips, former Chief Justice, Texas	ACCEPTED
11. Randall Shepard, Supreme Court of Indiana, President, Conference of Chief Justices	ACCEPTED
12. Laurence Silberman, D.C. Cir. Court of Appeals	ACCEPTED
13 J. Harvie Wilkinson, 4th Cir. Court of Appeals	ACCEPTED
14. Diane Wood, 7th Cir. Court of Appeals	ACCEPTED
15. Gerald VandeWalle, Chief Justice, Supreme Court of North Dakota	ACCEPTED

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: US DOJ/HHS Human Trafficking Conference 2006
City & State: New Orleans, LA
Date(s): October 3 -5, 2006
Date/Time event begins: October 3, 2006, 8:00 am
Date/Time event concludes: October 5, 2006, Noon
Proposed/Requested Date & Time of the Attorney General's participation:
Morning or Mid-day October 3rd
Nature of Event: Congressionally Mandated Human Trafficking Conference.

Event Venue: Marriot Hotel – New Orleans
Room Name or number: Ballroom
Street Address: 555 Canal Street
City/State/Zip: New Orleans, LA, 70130

Venue Phone #: 504-581-1000
Venue FAX #: 504-523-6755

Event Sponsor: US DOJ
Address: 810 7th Street, NW
City/State/Zip: Washington, DC
Website address: www.usdoj.gov

Person Inviting: Regina Schofield
Title: Assistant Attorney General
Telephone #: 202.307.5933
FAX #: 202.514.7805
E-mail address: regina.schofield@usdoj.gov

Contact Person: Laura C. Keehner
Title: Senior Advisor for Communications and Strategy
Telephone: (202) 616-9485
FAX #: 202.514.7805
E-mail address: Laura.Keehner@usdoj.gov
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: 600 attendees (approx). Registration will be done by invitation only. We will have representation from law enforcement, members of the DOJ Human Trafficking Taskforces, victims groups, researchers, non-profit organizations and other government officials.

List of other invited speakers and program participants: TBD

List of invited government officials, dignitaries, VIPS: TBD

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? No

Is the Attorney General being asked to speak? Yes

If yes, how long is he expected to speak? 15-20 minutes

What is the theme/topic/subject of the event? Trafficking in Persons

What is the ATTIRE for the event? Business

Is this invitation for the Attorney General or the Attorney General and a guest? AG

Is this a fund raising event? No

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? NA

Are tickets being sold for this event? No
If yes, what is the face value of the ticket? NA

What is your deadline for confirming a speaker? As soon as possible.
(if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Letter, Douglas (CIV)

From: Letter, Douglas (CIV)
Sent: Friday, July 21, 2006 1:52 PM
To: Gorsuch, Neil M
Subject: Note

Neil:

Congratulations!

"Gorsuch confirmed for 10th Circuit": The Denver Post contains this article today.

And The Rocky Mountain News reports today that "Denver native OK'd for appeals court."
Posted at 08:00 AM by Howard Bashman

[redacted]@fjc.gov

From: [redacted]@fjc.gov
Sent: Friday, July 21, 2006 3:00 PM
To: Gorsuch, Neil M
Cc: alona.a.shaw@usdoj.gov
Subject: Next Phase I Orientation Seminar
Attachments: Phase I Program.pdf

First, congratulations on your confirmation! As a new circuit judge without prior federal judicial experience, you are invited to attend the first of the orientation seminars we present for newly appointed district judges. Attached below is an agenda from a recent seminar for you to review if you decide you are interested in attending.

The next Phase I Orientation Seminar for Newly Appointed District Judges will be held on September 11-15, 2006, at the Omni Hotel in Richmond, Virginia.
The seminar will begin on Monday, September 11, at 8:30 a.m., and conclude by 11:00 a.m. on Friday, September 15.

A formal invitation, along with a travel authorization and registration form, will be sent within a week.

If you have any questions about the seminar or related matters, please contact me by phone at [redacted] or by return email.

I hope you will be able to join us in Richmond in September.

[redacted]

(See attached file: Phase I Program.pdf)

The Federal Judicial Center

Presents a

Phase I Orientation Seminar for

Newly Appointed District Judges

* * *

Honorable Barbara J. Rothstein
Director, Federal Judicial Center
Washington, DC

[redacted]
Federal Judicial Center
Washington, DC

[redacted]
Education Division
Federal Judicial Center
Washington, DC

0

Monday, June 5, 2006
Salon A

8:30 **Greetings and Introductions**

Federal Judicial Center

Moderators
Honorable Nancy F. Atlas
Southern District of Texas

Honorable Paul J. Barbadoro
District of New Hampshire

9:00 **A Word of Welcome to the Federal Judicial System—Video**

Honorable John G. Roberts, Jr.
Chief Justice
United States Supreme Court

Honorable Barbara J. Rothstein
Director, Federal Judicial Center
U.S. District Judge, Western District of Washington

9:15 **Case Management and Civil Pretrial Procedure—Video**

Honorable Rya W. Zobel
District of Massachusetts

9:30 **Discussion: Judges Atlas and Barbadoro**

10:15 **Intermission**

10:30 **The Civil Trial—Video**

Honorable Ann C. Williams
U.S. Court of Appeals for the Seventh Circuit

11:15 **Discussion: Judges Atlas and Barbadoro**

12:00 **Luncheon Intermission**

DOJ_NMG_ 0164797

1:30 **Criminal Pretrial Proceedings-Video:**
Arraignment; appointment of counsel, including under the CJRA; appointment of investigators and experts under the CJRA; conflict of interest in co-defendant cases; *pro se* representation; bail; detention; scheduling and case management; discovery; *Brady* material; pretrial conference; stipulations; exhibit lists; Jencks Act Statements; motions practice; exclusionary rule; suppression motions; severance motions; plea bargaining.

Honorable Paul D. Borman
Eastern District of Michigan

Honorable Irma E. Gonzalez
Southern District of California

Honorable Sterling Johnson, Jr.
Eastern District of New York

Honorable Barbara J. Rothstein
Western District of Washington

2:15 **Discussion: Judges Atlas and Barbadoro**

3:00 **Intermission**

3:15 **Preserving the Trust: Ethics and Federal Judges**

Honorable Gordon J. Quist
Chair, Judicial Conference Committee on the Codes of Conduct
Western District of Michigan

4:30 **Daily Wrap-Up**

Judges Atlas and Barbadoro

5:00 **Adjournment**

6:00 **Reception — *Capital Grille***

6:30 **Dinner — *Capital Grille***

DOJ_NMG_ 0164798

Tuesday, June 6, 2006
Salon A

8:30 **Sentencing and Other Criminal Post-Trial Matters—Lecture:** *U.S. v. Booker*; the Presentence Investigation Process and Report; Plea Agreements and Stipulations.

Lecturers

[redacted]

U.S. Sentencing Commission

[redacted]

Comments
Judges Atlas and Barbadoro

10:15 **Intermission**

10:30 **Guideline Sentencing—Lecture:** Resolution of Disputed Sentencing Factors; Imposing Sentence and Statement of Reasons; Appellate Review.

Lecturers

[redacted]

Comments
Judges Atlas and Barbadoro

12:00 **Intermission**

12:15 **Catered Luncheon—Presentation on Judicial Compensation and Benefits**

Georgian

[redacted]

Office of Human Resources
Administrative Office of the U.S. Courts

1:45 **Intermission**

DOJ_NMG_ 0164799

2:00 **Criminal Trial Procedure-Video:** Preliminary charge; exclusion of witnesses; taking of notes by jurors; opening statements; direct examination; scope of cross-examination; bench conferences; rebuttal evidence; exclusion of public from courtroom; handling pleas of guilty by one defendant during trial; cautionary instructions to jury; questioning of witnesses by judge; instructions to jurors prior to recesses; final arguments; jury instructions; jury related problems; verdicts.

Honorable Maryanne T. Barry
U.S. Court of Appeals for the Third Circuit

3:00 **Discussion:** **Judges Atlas and Barbadoro**

3:45 **Intermission**

4:00 **Daily Wrap-Up**

Judges Atlas and Barbadoro

4:30 **Adjournment**

DOJ_NMG_ 0164800

Wednesday, June 7, 2006
Salon A

8:30 **Guideline Sentencing—Lecture:** Guidelines Application: Determining the Offense Level; Relevant Conduct.

Lecturers

[redacted]

Comments
Judges Atlas and Barbadoro

9:45 **Intermission**

10:00 **Guideline Sentencing—Lecture:** Guidelines Application: Determining Criminal History Category.

Lecturers

[redacted]

Comments
Judges Atlas and Barbadoro

11:15 **Intermission**

11:30 **Financial Disclosure Requirements and Solutions**

Presenters
Honorable Joseph M. Hood
Member, Judicial Conference Committee on Financial Disclosure
Eastern District of Kentucky

[redacted]

Article III Judges Division
Administrative Office of the U.S. Courts

12:45 **Luncheon Intermission**

DOJ_NMG_ 0164801

2:15 **Voir Dire and Jury Selection-Video**

Honorable James M. Robertson
District of DC

2:45 **Discussion: Judges Atlas and Barbadoro**

3:45 **Intermission**

4:00 **Daily Wrap-Up**

Judges Atlas and Barbadoro

4:30 **Adjournment**

DOJ_NMG_ 0164802

Thursday, June 8, 2006
Salon A

8:30 **Guideline Sentencing—Lecture:** Guidelines Application: "Overrides" including Career Offender; Ex Post Facto; Safety Valve.

Lecturers

[redacted]

Comments
Judges Atlas and Barbadoro

9:45 **Intermission**

10:00 **Guideline Sentencing—Lecture:** Substantial Assistance; "Fast Track;" Other Departures.

Lecturers

[redacted]

Comments
Judges Atlas and Barbadoro

11:00 **Intermission**

11:15 **Catered Luncheon — *Georgian***

12:15 **Depart by bus for Petersburg Federal Correctional Institution and Federal Prison Camp**

1:00 **Tour of Petersburg FCI and FPC**

4:15 **Depart Petersburg FCI and FPC**

5:00 **Arrive at Hotel and Adjourn**

DOJ_NMG_ 0164803

Friday, June 9, 2006
Salon A

8:00 **Evidence Scenarios—Video**

Presenters
Honorable Robert E. Jones
District of Oregon

Honorable Gerald E. Rosen
Eastern District of Michigan

Honorable Sarah S. Vance
Eastern District of Louisiana

9:45 **Intermission**

10:00 **Final Wrap-Up**

Judges Atlas and Barbadoro

11:00 **Adjournment**

DOJ_NMG_ 0164804

FJC Committee on District Judge Education

Honorable Kathryn H. Vratil, Chair
District of Kansas

Honorable Carol Bagley Amon
Eastern District of New York

Honorable Deborah K. Chasanow
District of Maryland

Honorable David H. Coar
Northern District of Illinois

Honorable Bernice B. Donald
Western District of Tennessee

Honorable Philip Pro
District of Nevada

Honorable Sarah S. Vance
Eastern District of Louisiana

Robert T. Haar, Esq.
St. Louis, Missouri

[redacted]

Administrative Office of the U.S. Courts

DOJ_NMG_ 0164805

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 21, 2006 3:47 PM
To: Gorsuch, Neil M
Subject: David M. Ebel [redacted]

Davis, Deborah J

From: Davis, Deborah J
Sent: Friday, July 21, 2006 3:49 PM
To: Gorsuch, Neil M
Subject: David M. Ebel [redacted]

Full Name:
Last Name:
First Name:

Business:

Gunn, Currie (SMO)

Subject:	OMB Meeting
Location:	TBD
Start:	Tuesday, August 01, 2006 10:00 AM
End:	Tuesday, August 01, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	Monthly
Recurrence Pattern:	day 1 of every 1 month from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

When: Occurs day 1 of every 1 month effective 8/1/2006 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: TBD

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

Jeff Rosen
John Knepper

Neil Gorsuch

Gunn, Currie (SMO)

Subject:	OMB Meeting
Location:	TBD
Start:	Tuesday, August 1, 2006 10:00 AM
End:	Tuesday, August 1, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	Monthly
Recurrence Pattern:	day 1 of every 1 month from 10:00 AM to 11:00 AM
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M

Jeff Rosen
John Knepper

Neil Gorsuch

Shaw, Aloma A

Subject:	Updated: OIP/CIV Briefing
Location:	4208
Start:	Friday, July 21, 2006 5:00 PM
End:	Friday, July 21, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Swenson, Lily F; Elston, Michael (ODAG)Gorsuch, Neil M; Swenson, Lily F; Elston, Michael (ODAG)

Meeting time changed to 5:00 to accommodate Mike's schedule.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 21, 2006 6:09 PM
To: [redacted]@fjc.gov'
Cc: Shaw, Aloma A
Subject: RE: Next Phase I Orientation Seminar

Thank you very much for this invitation. I don't know just yet what my schedule is likely to be in early September; I may be sitting around then. Is it possible to put me down as a "maybe" and, if I can't make this session, is there a later one? It looks to be very useful. Many thanks again for your kind email.

Aloma - Please could you put this on the calendar tentatively?

-----Original Message-----
From: [redacted]@fjc.gov [mailto[redacted]@fjc.gov]
Sent: Friday, July 21, 2006 3:00 PM
To: Gorsuch, Neil M
Cc: alona.a.shaw@usdoj.gov
Subject: Next Phase I Orientation Seminar

First, congratulations on your confirmation! As a new circuit judge without prior federal judicial experience, you are invited to attend the first of the orientation seminars we present for newly appointed district judges. Attached below is an agenda from a recent seminar for you to review if you decide you are interested in attending.

The next Phase I Orientation Seminar for Newly Appointed District Judges will be held on September 11-15, 2006, at the Omni Hotel in Richmond, Virginia.
The seminar will begin on Monday, September 11, at 8:30 a.m., and conclude by 11:00 a.m. on Friday, September 15.

A formal invitation, along with a travel authorization and registration form, will be sent within a week.

If you have any questions about the seminar or related matters, please contact me by phone at [redacted] or by return email.

I hope you will be able to join us in Richmond in September.

[redacted]

(See attached file: Phase I Program.pdf)

mkelley@fjc.gov

From: [redacted]@fjc.gov
Sent: Friday, July 21, 2006 6:19 PM
To: Gorsuch, Neil M
Cc: [redacted]@fjc.gov
Subject: RE: Next Phase I Orientation Seminar

Dear Judge Gorsuch:

We schedule these seminars when we have a sufficient number of judges confirmed (about 8 district) to justify holding the program. So we don't have a "next" program scheduled at this time. But we'll be glad to keep inviting you until it works out with your schedule. We'll send you a formal invitation to this one, and you can let us know later whether this will fit with your calendar. Thanks.

[redacted]

"Neil.Gorsuch@usd
oj.gov"
<Neil.Gorsuch@usd To
oj.gov> '[redacted]@fjc.gov"
<[redacted]@fjc.gov>(Receipt
07/21/2006 06:07 Notification Requested) (IPM Return
PM Requested)

cc
"Aloma.A.Shaw@usdoj.gov"
<Aloma.A.Shaw@usdoj.gov>(Receipt
Notification Requested) (IPM Return
Requested)

Subject
RE: Next Phase I Orientation
Seminar

Thank you very much for this invitation. I don't know just yet what my schedule is likely to be in early September; I may be sitting around then.
Is it possible to put me down as a "maybe" and, if I can't make this session, is there a later one? It looks to be very useful. Many thanks again for your kind email.

Aloma - Please could you put this on the calendar tentatively?

-----Original Message-----
From: [redacted]@fjc.gov [mailto[redacted]@fjc.gov]
Sent: Friday, July 21, 2006 3:00 PM
To: Gorsuch, Neil M
Cc: alona.a.shaw@usdoj.gov
Subject: Next Phase I Orientation Seminar

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[redacted]

(See attached file: Phase I Program.pdf)

Full Name:
Last Name:
First Name:
Job Title:
Company:

Business Address: Department of the Treasury
1500 Pennsylvania Avenue, NW, Suite 3205
Washington, D.C. 20220

Business:

E-mail: @do.treas.gov
E-mail Display As: @do.treas.gov

Tel.
Fax

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 21, 2006 6:46 PM
To: Davis, Michael R. (USAVAE)
Subject: Please could you ring me on Monday? Thx!

From: USDOJ- Office of Public Affairs
Sent: Friday, July 21, 2006 7:23 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR JULY 24-28, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, JULY 21, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR July 24 - 28, 2006

Monday, July 24

Events TBD

Tuesday, July 25

12:00 P.M. EDT

Deputy Attorney General Paul J. McNulty will deliver remarks at the luncheon for the National Sentencing Policy Institute.
Ritz-Carlton Hotel
1150 22nd St., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

2:00 P.M. EDT

J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, will testify before the House Financial Services Subcommittee on Housing and Community Opportunity regarding competition in the real estate industry.
Rayburn House Office Building
Room 2128
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Financial Services Committee at 202-226-0471.

DOJ_NMG_ 0164818

Wednesday, July 26

1:30 P.M. EDT Wayne Murphy, FBI Assistant Director, Directorate of Intelligence, and Everett Jordan, Director of the National Virtual Translation Center will hold a press availability regarding current issues in their respective divisions.
J. Edgar Hoover FBI Building
935 Pennsylvania Avenue, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Paul Bresson of the FBI National Press Office at 202-324-3691.

2:00 P.M. EDT Dan Metcalf, Director of the Office of Information and Privacy is scheduled to testify before the House Government Reform Subcommittee on Government Management, Finance, and Accountability regarding Freedom of Information Act Oversight.
Rayburn House Office Building
Room 2147
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Government Reform Committee at 202-225-5074.

3:30 P.M. EDT Arif Alikhan, Senior Counsel to the Deputy Attorney General, will testify before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, and present *STOP!: A Progress Report on Protecting and Enforcing Intellectual Property Rights Here and Abroad.*
Dirksen Senate Office Building
Room 342
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Homeland Security and Governmental Affairs Committee at 202-224-4751.

Thursday, July 27

8:30 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver welcoming remarks and introduce keynote speaker Charles H. Ramsey, Chief of the Washington, D.C. Metropolitan Police Department, at the Fourth National Community Policing Conference
Hilton Washington and Towers
1919 Connecticut Ave., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

DOJ_NMG_ 0164819

Friday, July 29

Events TBD

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DOJ_NMG_ 0164820

Image not available for this document, ID: 0.7.10316.46559-000001

Image not available for this document, ID: 0.7.10316.46559-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, July 21, 2006 7:24 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 21, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Delivers Remarks on Immigration Reform (OPA)
Attorney General Alberto R. Gonzales delivered remarks before the Commonwealth Club of Silicon Valley today regarding the need for comprehensive immigration reform. He also participated in television interviews with the San Francisco affiliates of Teleumundo and Univision, and a radio interview with Ron Owens of KGO in San Francisco.

Deputy Attorney General Testifies on U.K. Extradition Treaty (OPA)
Deputy Attorney General Paul J. McNulty testified before the Senate Foreign Relations Committee urging approval of the 2003 extradition treaty between the United States and the United Kingdom and rebutting opposition coming mainly from Irish-American groups and groups such as the ACLU, which allege, among other things, that the Treaty will result in Irish Americans being extradited to the UK to face political persecution.

Violent Crime Task Force Announced (OPA)
The formation of a new Violent Crime Task Force to address violent crime and robberies in the District of Columbia was announced today by Metropolitan Police Department (MPD) Chief Charles H. Ramsey, U.S. Attorney Kenneth L. Wainstein of the Distirct of Columbia and Joseph Persichini Jr., Acting Federal Bureau of Investigation (FBI) Assistant Director in Charge of the Washington Field Office. The Task Force will be staffed by a joint federal and local team composed of supervisory-level representatives from both the MPD and FBI, MPD detectives, FBI agents and prosecutors, intelligence research specialists and criminal investigators from the U.S. Attorney's Office for the District of Columbia and supported by a larger coalition of District and federal law enforcement agencies.

Commercial Fishing Vessel's Captain and Crewmember Sentenced for Smuggling Red Snapper (ENRD)

Hoang Nguyen, captain of the Galveston, Texas-based commercial fishing vessel Thanh Tam, was sentenced to 30 months in prison and three years of supervised release for illegally

importing red snapper into the United States, the Justice Department announced today. Tam Le, a crewmember of the Thanh Tam, was sentenced to 21 months in prison and three years of supervised release for concealing red snapper which was illegally imported into the United States. In March of 2005, special agents from the National Oceanic & Atmospheric Administration (NOAA) Fisheries Service Office for Law Enforcement boarded the Thanh Tam and uncovered hidden and illegal red snapper valued at more than $48,000.

Justice Department and State of Vermont Reach Settlement Regarding Conditions at Vermont State Hospital (Civil Rights)

The Justice Department today announced that it has reached a settlement agreement with the State of Vermont regarding civil rights violations in Vermont State Hospital, a hospital for persons with mental health problems, in Waterbury, Vermont. The four year agreement, filed in the United States District Court for the District of Vermont, requires the State to implement reforms to ensure that patients in the facility are adequately protected from harm and provided adequate services including mental health care. The Department's investigation revealed numerous civil rights violations. The hospital fails to protect patients from suicide hazards and undue restraint, fails to provide adequate psychological and psychiatric services, and fails to ensure adequate discharge planning and placement in the most appropriate, integrated setting. Under the terms of the agreement, the State will address and correct all of the violations identified by the Department.

GE pays $11.5 million to settle lawsuit alleging sale of defective parts (Civil)

General Electric Co. (GE) and two of its subcontractors have paid the United States $11.5 million to settle a lawsuit that alleges that GE sold defective blades for engines in U.S. military airplanes and helicopters, the Justice Department announced today. The lawsuit alleged quality-control problems over a period of years involving the manufacture of several types of engine blades at GE's Aircraft Engines division facility in Madisonville, Ky. These alleged problems included nonconformances in casting and in non-destructive testing. Two subcontractors, Howmet Corp., a subsidiary of Alcoa, and Precision Castparts Corp. manufactured unfinished castings for the blades, which GE then finished at the Madisonville facility. Both subcontractors were also named as defendants.

MONDAY'S EXPECTED EVENTS/RELEASES:

The House of Representatives is expected to vote Monday on The Adam Walsh Child Protection and Safety Act of 2006. Upon passage of the Act, the Attorney General is expected to issue a statement.

Amber.JMD

From: Amber.JMD
Sent: Saturday, July 22, 2006 5:09 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Camp Verde, AZ

From: AmberAlert-DOJ
Sent: Saturday, July 22, 2006 5:09:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Camp Verde, AZ
Auto forwarded by a Rule

AMBER ALERT:Camp Verde,AZ VEH:93 W 2dr Buick Skylark TAG:AZ 204VPM CHILD:16 Hispanic F 5ft1 120 Hair:Brn SUS:25 Hispanic M 120 Hair:Bald CALL 928-567-6621
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1822

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gorsuch, Neil M

Subject:	Drop off mercedes
Start:	Monday, July 31, 2006 9:30 AM
End:	Monday, July 31, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, July 24, 2006 9:00 AM
Subject: JCON BROADCAST, WEEK OF JULY 24, 2006

JCON BROADCAST, WEEK OF JULY 24, 2006

1. **Contract Management for COTRs**
2. **Office of Small and Disadvantaged Business Utilization Newsletter**
3. **Research Classes Offered by Library Staff**

Contract Management For COTRs

Contracting Officer's Technical Representatives (COTRs) are responsible for day-to-day oversight of contractor performance. Program success relies upon the COTR's ability to detect problems and initiate remedies directly or through the Contracting Officer. In order to be appointed a COTR under a DOJ contract, individuals must meet certain qualifications set out in the Justice Acquisition Regulations (JAR). These include completion of a basic commercial or government-sponsored COTR course as well as training in procurement ethics.

For several years, the JMD Procurement Services Staff has facilitated a three-day COTR course which meets the JAR's requirements. The course is offered approximately every three months and is conducted by Houseman Associates. This course is appropriate for individuals seeking qualifications to be appointed a COTR.

This three-day course addresses:

- What the COTR should know about a contract and the contractor prior to performance;
- The COTR's basic duties and responsibilities and the system of delegated procurement authority and what it means to the COTR;
- Techniques for technically monitoring quality and schedule requirements and remedies for nonconforming or delinquent performance;
- COTR reviews and input on contractor invoices, special claims, and contract close-out;
- Technical direction of the contractor's work;
- Modifying the contract through the CO and avoiding constructive changes; and,
- Procurement Ethics

This course is designed for personnel seeking COTR training and related certification. The tuition is $300. A session is scheduled at 8:30 a.m. – 4:30 p.m, daily, August 8 - 10, at the Department of Justice, 1331 Pennsylvania Ave, National Place Building, Suite 1160. The building is located on F Street between 13 Street. and 14 Street Metro - Metro Center Station, Exit 13 Street. This course is limited to 30 participants. Registration is on a "first come first serve" basis. The course will not be given if fewer than 20 participants enroll. Tuition is non-refundable, but participant substitutions may be made, up to 24 hours in advance, in lieu of forfeiting tuition.

Registration will be taken up until Friday, August 4, 2006, by one of the following: Government Purchase Card (preferred), Check, Training Authorization (SF-182), or Purchase Order (OF-347) made out to Houseman & Associates, 4644 Timber Ridge Drive, Dumfries, VA 22026. If a Training Authorization (SF-182) is used, it must be mailed or faxed to Houseman & Associates and include the appropriation fund code, a document/purchase order/requisition number, and all required signatures. Participants may register by telephone (703-440-1801) or fax (703-670-8404), or by Internet (http://www.housemanandassociates.com/.) The course number is TR-01, and the course title is "Contract Management for COTRs."

Each registrant will be provided with a confirmation letter once Houseman and Associates has received the proper paperwork. In addition, a purchase card receipt or invoice will be provided for each payment. Procurement Services Staff only facilitates the COTR training; therefore, each student should come prepared for class. **Registration and Payment are through Houseman and Associates ONLY, not through Procurement Services Staff.**

For questions, contact Paul Turnau, Procurement Services Staff, phone 202-307-1988.

Office of Small and Disadvantaged Business Utilization Newsletter

The Office of Small and Disadvantaged Business Utilization (OSDBU) has issued its second quarterly newsletter. This edition features extensive coverage of DOJ's May 9 Small Business Awards Ceremony. The Newsletter may be viewed at: http://www.usdoj.gov/jmd/osdbu/sbe_spring2006.pdf

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 10:02 AM
To: Letter, Douglas (CIV)
Subject: RE: Note

Thanks so much, Doug. It's been a real pleasure working with you and I will miss this place. But I imagine you will find yourself in ca10 from time to time and I do hope you will look me up. Warm regards, Neil

---

From: Letter, Douglas (CIV)
Sent: Friday, July 21, 2006 1:52 PM
To: Gorsuch, Neil M
Subject: Note

Neil:

Congratulations!

"Gorsuch confirmed for 10th Circuit": The Denver Post contains this article today.

And The Rocky Mountain News reports today that "Denver native OK'd for appeals court."
Posted at 08:00 AM by Howard Bashman

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Domestic Policy Council Principals Meeting
Start:	Tuesday, July 25, 2006 9:00 AM
End:	Tuesday, July 25, 2006 9:20 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Letter, Douglas (CIV)

From:	Letter, Douglas (CIV)
Sent:	Monday, July 24, 2006 10:06 AM
To:	Gorsuch, Neil M
Subject:	RE: Note

Thanks for the invite. And, yes, when I am next in the 10th Cir, I will come by your chambers (you will be in Denver, right?) -- assuming you are not assigned to my case!

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Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	[redacted]
Company:	Ethics and Public Policy Center
Business Address:	1015 15th Street N.W., Suite 900 Washington, D.C. 20005
Business:	(202) 682-1200
E-mail:	[redacted]
E-mail Display As:	[redacted]

202-408-0632 (fax)
www.eppc.org

DOJ_NMG_ 0164833

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 10:13 AM
To: Shaw, Aloma A
Subject: FW: Next Phase I Orientation Seminar

Please print this out and create file on orientation seminar that I can take w me. Also please add her info to contacts, thanks.

-----Original Message-----
From: [redacted]@fjc.gov [mailto:[redacted]@fjc.gov]
Sent: Friday, July 21, 2006 6:19 PM
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"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
07/21/2006 06:07 PM

To
[redacted]@fjc.gov" <[redacted]@fjc.gov>(Receipt Notification Requested) (IPM Return Requested)

cc
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[redacted]

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I will count on it!

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Posted at 08:00 AM by Howard Bashman

Gorsuch, Neil M

Subject:	Kavanaugh lunch 3d floor
Start:	Thursday, August 03, 2006 12:00 PM
End:	Thursday, August 03, 2006 1:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Longwitz, Tobi (CRT)

From: Longwitz, Tobi (CRT)
Sent: Monday, July 24, 2006 11:23 AM
To: Gorsuch, Neil M; Moschella, William
Cc: Kim, Wan (CRT)
Subject: FW: Pls email the Globe story

Boston Globe article on Civil Rights Hiring

Civil rights hiring shifted in Bush era
Conservative leanings stressed
By Charlie Savage, Globe Staff | July 23, 2006 http://www.boston.com/news/nation/washington/articles/2006/07/23/civil_rights_hiring_shifted_in_bush_era/?page=1

WASHINGTON -- The Bush administration is quietly remaking the Justice Department's Civil Rights Division, filling the permanent ranks with lawyers who have strong conservative credentials but little experience in civil rights, according to job application materials obtained by the Globe.

The documents show that only 42 percent of the lawyers hired since 2003, after the administration changed the rules to give political appointees more influence in the hiring process, have civil rights experience. In the two years before the change, 77 percent of those who were hired had civil rights backgrounds.

In an acknowledgment of the department's special need to be politically neutral, hiring for career jobs in the Civil Rights Division under all recent administrations, Democratic and Republican, had been handled by civil servants -- not political appointees.

But in the fall of 2002, then-attorney general John Ashcroft changed the procedures. The Civil Rights Division disbanded the hiring committees made up of veteran career lawyers.

For decades, such committees had screened thousands of resumes, interviewed candidates, and made recommendations that were only rarely rejected.

Now, hiring is closely overseen by Bush administration political appointees to Justice, effectively turning hundreds of career jobs into politically appointed positions.

The profile of the lawyers being hired has since changed dramatically, according to the resumes of successful applicants to the voting rights, employment litigation, and appellate sections. Under the Freedom of Information Act, the Globe obtained the resumes among hundreds of pages of hiring data from 2001 to 2006.

Hires with traditional civil rights backgrounds -- either civil rights litigators or members of civil rights groups -- have plunged. Only 19 of the 45 lawyers hired since 2003 in those three sections were experienced in civil rights law, and of those, nine gained their experience either by defending employers against discrimination lawsuits or by fighting against race-conscious policies.

Meanwhile, conservative credentials have risen sharply. Since 2003 the three sections have hired 11 lawyers who said they were members of the conservative Federalist Society. Seven hires in the three sections are listed as members of the Republican National Lawyers Association, including two who volunteered for Bush-Cheney campaigns.

Several new hires worked for prominent conservatives, including former Whitewater prosecutor Kenneth Starr, former attorney general Edwin Meese, Mississippi Senator Trent Lott, and Judge Charles Pickering. And six listed Christian organizations that promote socially conservative views.

The changes in those three sections are echoed to varying degrees throughout the Civil Rights Division, according to current and former staffers.

At the same time, the kinds of cases the Civil Rights Division is bringing have undergone a shift. The division is bringing fewer voting rights and employment cases involving systematic discrimination against African-Americans, and more alleging reverse discrimination against whites and religious discrimination against Christians.``There has been a sea change in the types of cases brought by the division, and that is not likely to change in a new administration because they are hiring people who don't have an expressed interest in traditional civil rights enforcement," said Richard Ugelow, a 29-year career veteran who left the division in 2002.

No `litmus test' claimed

The Bush administration is not the first to seek greater control over the Civil Rights Division. Presidents Richard Nixon and Ronald Reagan tried to limit the division's efforts to enforce school desegregation, busing, and affirmative action. But neither Nixon nor Reagan pushed political loyalists deep in the permanent bureaucracy, longtime employees say.

The Bush administration denies that its changes to the hiring procedures have political overtones. Cynthia Magnuson , a Justice Department spokeswoman, said the division had no ``litmus test" for hiring. She insisted that the department hired only ``qualified attorneys."

Magnuson also objected to measuring civil rights experience by participation in organizations devoted to advancing traditional civil rights causes. She noted that many of the division's lawyers had been clerks for federal judges, where they ``worked on litigation involving constitutional law, which is obviously relevant to a certain degree."

Other defenders of the Bush administration say there is nothing improper about the winner of a presidential election staffing government positions with like-minded officials. And, they say, the old career staff at the division was partisan in its own way -- an entrenched bureaucracy of liberals who did not support the president's view of civil rights policy.

Robert Driscoll , a deputy assistant attorney general over the division from 2001 to 2003, said many of the longtime career civil rights attorneys wanted to bring big cases on behalf of racial groups based on statistical disparities in hiring, even without evidence of intentional discrimination. Conservatives, he said, prefer to focus on cases that protect individuals from government abuses of power.

Hiring only lawyers from civil rights groups would ``set the table for a permanent left-wing career class," Driscoll said.

But Jim Turner , who worked for the division from 1965 to 1994 and was the top-ranked professional in the division for the last 25 years of his career, said that hiring people who are interested in enforcing

civil rights laws is not the same thing as trying to achieve a political result through hiring.

Most people interested in working to enforce civil rights laws happen to be liberals, Turner said, but Congress put the laws on the books so that they would be enforced. ``To say that the Civil Rights Division had a special penchant for hiring liberal lawyers is twisting things," he said.

Jon Greenbaum , who was a career attorney in the voting rights section from 1997 to 2003, said that since the hiring change, candidates with conservative ties have had an advantage.``The clear emphasis has been to hire individuals with conservative credentials," he said. ``If anything, a civil rights background is considered a liability."

But Roger Clegg , who was a deputy assistant attorney general for civil rights during the Reagan administration, said that the change in career hiring is appropriate to bring some ``balance" to what he described as an overly liberal agency.

``I don't think there is anything sinister about any of this. . . . You are not morally required to support racial preferences just because you are working for the Civil Rights Division," Clegg said.

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In addition, many experienced civil rights lawyers have been assigned to spend much of their time defending deportation orders rather than pursuing discrimination claims. Justice officials defend that practice, saying that attorneys throughout the department are sharing the burden of a deportation case backlog.

As a result, staffers say, morale has plunged and experienced lawyers are leaving the division. Last year, the administration offered longtime civil rights attorneys a buyout. Department figures show that 63 division attorneys left in 2005 -- nearly twice the average annual number of departures since the late 1990s.

At a recent NAACP hearing on the state of the Civil Rights Division, David Becker , who was a voting-rights section attorney for seven years before accepting the buyout offer, warned that the personnel changes threatened to permanently damage the nation's most important civil rights watchdog.

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Until recently, career attorneys also played an important role in deciding whom to hire when vacancies opened up in their ranks.

``We were looking for a strong academic record, for clerkships, and for evidence of an interest in civil rights enforcement," said William Yeomans , who worked for the division for 24 years, leaving in 2005.

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The academic credentials of the lawyers hired into the division also underwent a shift at this time, the documents show. Attorneys hired by the career hiring committees largely came from Eastern law

schools with elite reputations, while a greater proportion of the political appointees' hires instead attended Southern and Midwestern law schools with conservative reputations.

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Learning from others
The Bush administration's effort to assert greater control over the Civil Rights Division is the latest chapter in a long-running drama between the agency and conservative presidents.

Nixon tried unsuccessfully to delay implementation of school desegregation plans. Reagan reversed the division's position on the tax-exempt status of racially discriminatory private schools and set a policy of opposing school busing and racial quotas.

Still, neither Nixon nor Reagan changed the division's procedures for hiring career staff, meaning that career attorneys who were dedicated to enforcing traditional civil rights continued to fill the ranks.

Yeomans said he believes the current administration learned a lesson from Nixon's and Reagan's experiences: To make changes permanent, it is necessary to reshape the civil rights bureaucracy.

``Reagan had tried to bring about big changes in civil rights enforcement and to pursue a much more conservative approach, but it didn't stick," Yeomans said. ``That was the goal here -- to leave behind a bureaucracy that approached civil rights the same way the political appointees did."

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Monday, July 24, 2006 11:15 AM
To: Longwitz, Tobi (CRT)
Cc: Gorsuch, Neil M; Moschella, William
Subject: Pls email the Globe story

To Will and Neil.

Thx.

Shaw, Aloma A

Subject:	Phase I Orientation Seminar
Location:	Omni Hotel - Richmond, VA
Start:	Monday, September 11, 2006 12:00 AM
End:	Saturday, September 16, 2006 12:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

This is a seminar for newly appointed District Judges. It beings on Monday at 8:30 am.

Poc: [redacted]

Sampson, Kyle

From: Sampson, Kyle
Sent: Monday, July 24, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: Can you get away at 11:45am?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 11:34 AM
To: Sampson, Kyle
Subject: RE: Can you get away at 11:45am?

Sure - I'll stop by your place then

From: Sampson, Kyle
Sent: Monday, July 24, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: Can you get away at 11:45am?

Otus2005, Ag

Subject:	Accepted: Updated: PREP: Domestic Policy Council Principals Meeting
Start:	Tuesday, July 25, 2006 10:25 AM
End:	Tuesday, July 25, 2006 10:45 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	Senior Judicial Education Attorney
Company:	Federal Judicial Center
Business:	[redacted]

Goodling, Monica

From: Goodling, Monica
Sent: Monday, July 24, 2006 1:03 PM
To: Goodling, Monica
Cc: Williamson, Angela
Subject: The Daily Update: 7/24/06

Hello! Lee Iacocca once said, "You can do the work of two people, but you can't be two people." That's why I'm particularly pleased to welcome our new Deputy White House Liaison, Angela Williamson, back to DOJ. Please feel free to let us know if we can be of service. Have a great week.

Your White House Liaison team,

Monica & Angela

****

<http://www.whitehouse.gov/>
JULY 24, 2006

This morning, President Bush will make remarks at a naturalization ceremony for troops who have served America in the War on Terror. In the afternoon, the President will participate in the signing of the Freedom to Display the American Flag Act of 2005. He will later attend a Republic National Committee Reception in Washington, DC.

10:10 am:
EDT THE PRESIDENT makes Remarks at a Naturalization Ceremony
Walter Reed Army Medical Center | Washington, DC

2:25 pm:
EDT THE PRESIDENT participates in Signing of H.R. 42, Freedom to Display the American Flag Act of 2005
The White House | Washington, DC

5:35 pm:
EDT THE PRESIDENT attends a Republican National Committee Reception
Evermay | Washington, DC

President Bush And Secretary Of State Condoleezza Rice Meet With Top Saudi Arabian Officials. "He said he found Bush 'very conscious of the destruction and the bloodshed that the Lebanese are suffering, and his anxiety to see a cessation of hostilities <http://news.yahoo.com/s/nm/20060723/ts_nm/mideast_usa_dc_14> .' 'There is only one problem, and that is Lebanon, the inability of Lebanon to exercise its sovereignty over its territory. This is what we both agreed is the primary concern of everybody,' Saud said in English. ... After the talks, a White House spokeswoman, Eryn Witcher, said Bush and the Saudis 'have shared goals of helping the people of Lebanon and restoring sovereignty of the government of Lebanon and building stronger Lebanese

armed forces, deploying in all of Lebanon('s) territory.'" (Steve Holland, "Saudis Urge Bush To Seek Lebanon Ceasefire," Reuters, 7/24/06)

President Bush Discusses Diplomacy In The Middle East. "Bush may deplore the loss of life, but he also sees the crisis as an extraordinary opportunity. 'I view this as the forces of instability probing weakness. I think they're testing resolve in many ways,' he tells Newsweek moments after the phone calls. ... 'Sometimes, in order to get others to act with us,' he says, 'there has to be conditions on the ground that make the case better than I can make it.' ... 'What you're seeing is a foreign policy that works with friends and allies to solve problems <http://www.msnbc.msn.com/id/13988981/site/newsweek/> ,' he tells Newsweek. 'It takes a while for a problem to occur and it takes a while to solve a problem.'" (Richard Wolffe, "Backstage At The Crisis," Newsweek, 7/31/06)

Secretary Rice Visits Lebanon. "Secretary of State Condoleezza Rice made a surprise visit to Lebanon on Monday to launch diplomatic efforts aimed at ending 13 days of warfare <http://news.yahoo.com/s/ap/20060724/ap_on_re_mi_ea/lebanon_israel;_ylt=AsZ.q9gu_AjNepui8J9N.B6s0NUE;_ylu=X3oDMTA2Z2szazkxBHNlYwN0bQ> , as Israeli ground forces pushed deeper into the country in heavy fighting with Hezbollah guerrillas. ... Her mission is the first U.S. effort on the ground to resolve a crisis that has convulsed the Middle East and threatens to engulf other countries in the region." (Kathy Gannon, "Rice Makes Surprise Visit In Beirut As Israeli Forces Push Deeper Into Lebanon," The Associated Press, 7/24/06)

Secretary Rice Discusses U.S. Goals In The Middle East. "'We all want to urgently end the fighting. We have absolutely the same goal,' Rice told reporters traveling with her. ... Rice told reporters that if the violence between Israel and Hezbollah fighters in Lebanon ends only to restart within weeks, 'then all of the carnage that Hezbollah launched by its illegal activities - abducting the soldiers and then launching rocket attacks - we will have gotten nothing from that <http://news.yahoo.com/s/ap/20060724/ap_on_re_eu/rice&printer=1;_ylt=AvliiMY4SBSGaHmGwhtIgUlbbBAF;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> .' ... Rice also said Sunday there are existing channels for talking with Syrian leaders about resolving the crisis - when they're ready to talk. ... 'The problem isn't that people haven't talked to the Syrians. It's that the Syrians haven't acted,' she said." (Katherine Shrader, "Rice Heads To Battle-Scarred Middle East," The Associated Press, 7/24/06)

Chief Of Staff Josh Bolten Discusses The Situation In The Middle East. MR. BOLTEN: "Here's what we said to Israel, is that we support Israel's right to defend itself. We've also encouraged the Israelis to exercise the most extreme caution possible under the circumstances to minimize civilian casualties and damage to civilian infrastructure. And we've also tried to do everything we can to ameliorate the humanitarian crisis that your reporter was talking about at the top of the, at the top of the broadcast. That's what Secretary Rice is going to be talking about. All of, all of those things, ameliorating the humanitarian crisis, getting a sustainable cease-fire, and then hopefully we can turn promptly to efforts - international efforts in assisting Lebanon with its reconstruction. <http://www.msnbc.msn.com/id/13904922/> " (NBC's "Meet The Press," 7/23/06)

Iraqi Prime Minister Maliki Calls Transfer Of Security Responsibilities In Southern Province A "Tangible Advance" Toward Sovereignty. "Iraq gratefully acknowledges the support and dedication of the multinational forces in their efforts in rebuilding Al-Muthanna. They now leave the families, tribes, sheiks, police and government of Al-Muthanna to stand together in moving the province and the country forward. As the first of 18 provinces to transfer security responsibility, Al-Muthanna is a test. And it is one with real potential to succeed <http://online.wsj.com/article/SB115369657767014863.html> . ... This first transfer of provincial security control is a tangible advance toward developing the capabilities of a free nation, one moving from tyranny to democracy with civil defense forces capable of maintaining order, a people committed to supporting the democratic process and a government accountable to the people." (Prime Minister Nouri Al-Maliki, Op-Ed, "Iraq As A Sovereign Nation" The Wall Street Journal, 7/24/06)

National Guard Troops Assist Border Patrol In Detaining About 1,250 Illegal Aliens Along U.S.-Mexican Border. "Since the arrival of National Guard troops to assist the Border Patrol along the Mexican border from Texas to California, about 1,250 illegal aliens have been detained <http://www.washtimes.com/functions/print.php?StoryID=20060723-115321-2929r> as part of 'Operation Jump Start' - President Bush's $770 million program to help secure America's Southern border. ... In addition, he said, National Guard troops have helped the Border Patrol seize nearly 12,400 pounds of marijuana and 190 pounds of cocaine. Mr. Friel said more than 180 Border Patrol agents have returned to direct border-security duties as National Guard troops relieve agents of non-law-enforcement responsibilities." (Jerry Seper, "1,250 Illegals Caught Since Guard Went To Border," The Washington Times, 7/24/06)

Arrests Of Employers Of Illegal Immigrants Have More Than Doubled. "The number of employers arrested on charges of hiring illegal immigrants has more than doubled this year. ... With cases this week in Arkansas, Kentucky and Ohio, U.S. Immigration and Customs Enforcement has arrested 445 people so far this year on criminal charges and has picked up an additional 2,700 people suspected of immigration violations. ... 'ICE is taking an increasingly tough stance against egregious corporate violators that knowingly employ illegal aliens,' <http://www.usatoday.com/news/nation/2006-07-22-immigration-employers_x.htm?csp=34> ICE assistant secretary Julie L. Myers said Friday. 'This is a wholesale departure from the past system of sanctioning corporate violators with minor fines, which were rarely paid in a timely manner or at all.'" ("Arrests Of Employers Of Illegal Immigrant Workers On The Rise," The Associated Press, 7/22/06)

The Wall Street Journal Calls U.S.-Led Proliferation Security Initiative "The World's Most Effective Check" Against WMD Traffickers. "Since its creation three years ago, the Proliferation Security Initiative has quickly become the world's most effective check (short of regime change) against WMD traffickers <http://online.wsj.com/article/SB115369369103114813.html> . A U.S.-led initiative, PSI is a new, flexible form of multinational cooperation. Instead of signing a treaty, countries agree to a statement of principles, in effect pledging to stop proliferation whenever and wherever they can. The document doesn't impinge on national sovereignty; if nations don't want to participate in a particular operation, they

don't have to." (Editorial, "Asia's WMD Laggards," The Wall Street Journal, 7/24/06)

OMB Director Rob Portman Says Administration Will Hit Its Budget Deficit Target A Year Early. "The surge in US tax revenues means the Bush administration will hit its budget deficit target a year early in 2008 even if Congress continues to apply costly short-term fixes to the alternative minimum tax, according to Rob Portman, the White House budget director <http://www.ft.com/cms/s/d1ac4efa-1a82-11db-848c-0000779e2340.html> . ... But he said the administration would now achieve its target of halving the deficit from its projected 2004 peak, even if Congress - which regularly steps in to limit the AMT's growth - raises its threshold each year in line with inflation." (Krishna Guha and Caroline Daniel, "White House 'Will Hit Budget Target Early,'" Financial Times, 7/24/06)

Department Of Homeland Security Revamps Disaster Relief Programs. "The Department of Homeland Security, responding to months of criticism and ridicule, is revamping several of its core disaster relief programs, enacting changes that will include sharply cutting emergency cash assistance for victims of major disasters, and more carefully controlling access to free hotel rooms. ... 'There were an awful lot of lessons we learned last year,' said David Garratt, a deputy director at the Federal Emergency Management Agency, in an interview on Friday <http://www.nytimes.com/2006/07/24/washington/24fema.html?_r=1&oref=slogin> ." (Eric Lipton, "U.S. Government Plans Overhaul In Disaster Aid," The New York Times, 7/24/06)

President Bush Meets with Recently Returned Military Service Personnel <http://www.whitehouse.gov/news/releases/2006/07/20060721-3.html>

President Applauds Senate for Approving Adam Walsh Child Protection and Safety Act of 2006 <http://www.whitehouse.gov/news/releases/2006/07/20060721-1.html>

President Bush to Welcome British Prime Minister Tony Blair to the White House <http://www.whitehouse.gov/news/releases/2006/07/20060721.html>

Statement on Federal Emergency Assistance for Missouri <http://www.whitehouse.gov/news/releases/2006/07/20060721-8.html>

Vice President's Remarks at a Rally for the Troops at Fort Stewart, Georgia <http://www.whitehouse.gov/news/releases/2006/07/20060721-6.html>

Setting the Record Straight: President Bush's Foreign Policy Is Succeeding <http://www.whitehouse.gov/news/releases/2006/07/20060721-5.html>

* Setting the Record Straight <http://www.whitehouse.gov/news/setting-record-straight/>

Nominations Sent to the Senate

<http://www.whitehouse.gov/news/releases/2006/07/20060721-4.html>

President's Radio Address
<http://www.whitehouse.gov/news/releases/2006/07/20060722.html>

* In Focus: The Road Map to Peace
<http://www.whitehouse.gov/infocus/mideast/>

Gorsuch, Neil M

Subject:	10th Cir Jud Conf
Start:	Thursday, September 7, 2006 8:00 AM
End:	Saturday, September 9, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 1:25 PM
To: Elwood, Courtney; Sampson, Kyle
Subject: FW: Pls email the Globe story

fyi

-----Original Message-----
From: Longwitz, Tobi (CRT)
Sent: Monday, July 24, 2006 11:23 AM
To: Gorsuch, Neil M; Moschella, William
Cc: Kim, Wan (CRT)
Subject: FW: Pls email the Globe story

Boston Globe article on Civil Rights Hiring

Civil rights hiring shifted in Bush era
Conservative leanings stressed
By Charlie Savage, Globe Staff | July 23, 2006 http://www.boston.com/news/nation/washington/articles/2006/07/23/civil_rights_hiring_shifted_in_bush_era/?page=1

WASHINGTON -- The Bush administration is quietly remaking the Justice Department's Civil Rights Division, filling the permanent ranks with lawyers who have strong conservative credentials but little experience in civil rights, according to job application materials obtained by the Globe.

The documents show that only 42 percent of the lawyers hired since 2003, after the administration changed the rules to give political appointees more influence in the hiring process, have civil rights experience. In the two years before the change, 77 percent of those who were hired had civil rights backgrounds.

In an acknowledgment of the department's special need to be politically neutral, hiring for career jobs in the Civil Rights Division under all recent administrations, Democratic and Republican, had been handled by civil servants -- not political appointees.

But in the fall of 2002, then-attorney general John Ashcroft changed the procedures. The Civil Rights Division disbanded the hiring committees made up of veteran career lawyers.

For decades, such committees had screened thousands of resumes, interviewed candidates, and made recommendations that were only rarely rejected.

Now, hiring is closely overseen by Bush administration political appointees to Justice, effectively turning hundreds of career jobs into politically appointed positions.

The profile of the lawyers being hired has since changed dramatically, according to the resumes of successful applicants to the voting rights, employment litigation, and appellate sections. Under the

successful applicants to the voting rights, employment litigation, and appellate sections. Under the Freedom of Information Act, the Globe obtained the resumes among hundreds of pages of hiring data from 2001 to 2006.

Hires with traditional civil rights backgrounds -- either civil rights litigators or members of civil rights groups -- have plunged. Only 19 of the 45 lawyers hired since 2003 in those three sections were experienced in civil rights law, and of those, nine gained their experience either by defending employers against discrimination lawsuits or by fighting against race-conscious policies.

Meanwhile, conservative credentials have risen sharply. Since 2003 the three sections have hired 11 lawyers who said they were members of the conservative Federalist Society. Seven hires in the three sections are listed as members of the Republican National Lawyers Association, including two who volunteered for Bush-Cheney campaigns.

Several new hires worked for prominent conservatives, including former Whitewater prosecutor Kenneth Starr, former attorney general Edwin Meese, Mississippi Senator Trent Lott, and Judge Charles Pickering. And six listed Christian organizations that promote socially conservative views.

The changes in those three sections are echoed to varying degrees throughout the Civil Rights Division, according to current and former staffers.

At the same time, the kinds of cases the Civil Rights Division is bringing have undergone a shift. The division is bringing fewer voting rights and employment cases involving systematic discrimination against African-Americans, and more alleging reverse discrimination against whites and religious discrimination against Christians.``There has been a sea change in the types of cases brought by the division, and that is not likely to change in a new administration because they are hiring people who don't have an expressed interest in traditional civil rights enforcement," said Richard Ugelow, a 29-year career veteran who left the division in 2002.

No `litmus test' claimed

The Bush administration is not the first to seek greater control over the Civil Rights Division. Presidents Richard Nixon and Ronald Reagan tried to limit the division's efforts to enforce school desegregation, busing, and affirmative action. But neither Nixon nor Reagan pushed political loyalists deep in the permanent bureaucracy, longtime employees say.

The Bush administration denies that its changes to the hiring procedures have political overtones. Cynthia Magnuson , a Justice Department spokeswoman, said the division had no ``litmus test" for hiring. She insisted that the department hired only ``qualified attorneys."

Magnuson also objected to measuring civil rights experience by participation in organizations devoted to advancing traditional civil rights causes. She noted that many of the division's lawyers had been clerks for federal judges, where they ``worked on litigation involving constitutional law, which is obviously relevant to a certain degree."

Other defenders of the Bush administration say there is nothing improper about the winner of a presidential election staffing government positions with like-minded officials. And, they say, the old career staff at the division was partisan in its own way -- an entrenched bureaucracy of liberals who did not support the president's view of civil rights policy.

Robert Driscoll , a deputy assistant attorney general over the division from 2001 to 2003, said many of the longtime career civil rights attorneys wanted to bring big cases on behalf of racial groups based on

statistical disparities in hiring, even without evidence of intentional discrimination. Conservatives, he said, prefer to focus on cases that protect individuals from government abuses of power.

Hiring only lawyers from civil rights groups would ``set the table for a permanent left-wing career class," Driscoll said.

But Jim Turner , who worked for the division from 1965 to 1994 and was the top-ranked professional in the division for the last 25 years of his career, said that hiring people who are interested in enforcing civil rights laws is not the same thing as trying to achieve a political result through hiring.

Most people interested in working to enforce civil rights laws happen to be liberals, Turner said, but Congress put the laws on the books so that they would be enforced. ``To say that the Civil Rights Division had a special penchant for hiring liberal lawyers is twisting things," he said.

Jon Greenbaum , who was a career attorney in the voting rights section from 1997 to 2003, said that since the hiring change, candidates with conservative ties have had an advantage.``The clear emphasis has been to hire individuals with conservative credentials," he said. ``If anything, a civil rights background is considered a liability."

But Roger Clegg , who was a deputy assistant attorney general for civil rights during the Reagan administration, said that the change in career hiring is appropriate to bring some ``balance" to what he described as an overly liberal agency.

``I don't think there is anything sinister about any of this. . . . You are not morally required to support racial preferences just because you are working for the Civil Rights Division," Clegg said.

Many lawyers in the division, who spoke on condition of anonymity, describe a clear shift in agenda accompanying the new hires. As The Washington Post reported last year, division supervisors overruled the recommendations of longtime career voting-rights attorneys in several high-profile cases, including whether to approve a Texas redistricting plan and whether to approve a Georgia law requiring voters to show photographic identification.

In addition, many experienced civil rights lawyers have been assigned to spend much of their time defending deportation orders rather than pursuing discrimination claims. Justice officials defend that practice, saying that attorneys throughout the department are sharing the burden of a deportation case backlog.

As a result, staffers say, morale has plunged and experienced lawyers are leaving the division. Last year, the administration offered longtime civil rights attorneys a buyout. Department figures show that 63 division attorneys left in 2005 -- nearly twice the average annual number of departures since the late 1990s.

At a recent NAACP hearing on the state of the Civil Rights Division, David Becker , who was a voting-rights section attorney for seven years before accepting the buyout offer, warned that the personnel changes threatened to permanently damage the nation's most important civil rights watchdog.

``Even during other administrations that were perceived as being hostile to civil rights enforcement, career staff did not leave in numbers approaching this level," Becker said. ``In the place of these experienced litigators and investigators, this administration has, all too often, hired inexperienced ideologues, virtually none of which have any civil rights or voting rights experiences."

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Dates from '57 law
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The 1957 law and subsequent civil rights acts directed the division to file lawsuits against state and local governments, submit ``friend-of-the-court" briefs in other discrimination cases, and review changes to election laws and redistricting to make sure they will not keep minorities from voting.

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Until recently, career attorneys also played an important role in deciding whom to hire when vacancies opened up in their ranks.

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``There was obviously oversight from the front office, but I don't remember a time when an individual went through that process and was not accepted," Cooper said. ``I just don't think there was any quarrel with the quality of individuals who were being hired. And we certainly weren't placing any kind of political litmus test on . . . the individuals who were ultimately determined to be best qualified."

But during the fall 2002 hiring cycle, the Bush administration changed the rules. Longtime career attorneys say there was never an official announcement. The hiring committee simply was not convened, and eventually its members learned that it had been disbanded.

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The Bush administration's effort to assert greater control over the Civil Rights Division is the latest chapter in a long-running drama between the agency and conservative presidents.

Nixon tried unsuccessfully to delay implementation of school desegregation plans. Reagan reversed the division's position on the tax-exempt status of racially discriminatory private schools and set a policy of opposing school busing and racial quotas.

Still, neither Nixon nor Reagan changed the division's procedures for hiring career staff, meaning that career attorneys who were dedicated to enforcing traditional civil rights continued to fill the ranks.

Yeomans said he believes the current administration learned a lesson from Nixon's and Reagan's experiences: To make changes permanent, it is necessary to reshape the civil rights bureaucracy.

``Reagan had tried to bring about big changes in civil rights enforcement and to pursue a much more conservative approach, but it didn't stick," Yeomans said. ``That was the goal here -- to leave behind a bureaucracy that approached civil rights the same way the political appointees did."

-----Original Message-----
From: Kim, Wan (CRT)
Sent: Monday, July 24, 2006 11:15 AM
To: Longwitz, Tobi (CRT)
Cc: Gorsuch, Neil M; Moschella, William
Subject: Pls email the Globe story

To Will and Neil.

Thx.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 24, 2006 1:31 PM
To: Gorsuch, Neil M
Subject: Read: Congratulations

Judge_Deanell_R_Tacha@ca10.uscourts.gov

From: Judge_Deanell_R_Tacha@ca10.uscourts.gov
Sent: Monday, July 24, 2006 2:07 PM
To: Gorsuch, Neil M
Cc: [redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov
Subject: Beginning to get organized!!
Attachments: tmp.htm

Again, my congratulations and welcome. [redacted] told me he visited with you today and you indicated you might be willing to take a few cases in September. I had considered the possibility of giving you and Judge Holmes one case a day so you could begin to get acquainted with the other judges. I certainly do not want to push you, but, if I am going to tinker with the September calendar, I need to do it asap. Just let me know what your preference is. Obviously, if you sit in September, you need to be sworn in before that. The swearing in could be done easily by any judge or the AG for that matter!! Often judges have a private swearing-in early and then a more formal investiture later. We will accommodate whatever your preferences are. I do not want to overwhelm you with court stuff while you are winding down there, but I do want to keep you in the loop with the court. Please feel free to let me know if I am dumping too much on you or if you have any concerns or questions. Welcome aboard!

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

Again, my congratulations and welcome. Dave Tighe told me he visited with you today and you indicated you might be willing to take a few cases in September. I had considered the possibility of giving you and Judge Holmes one case a day so you could begin to get acquainted with the other judges. I certainly do not want to push you, but, if I am going to tinker with the September calendar, I need to do it asap. Just let me know what your preference is. Obviously, if you sit in September, you need to be sworn in before that. The swearing in could be done easily by any judge or the AG for that matter!! Often judges have a private swearing-in early and then a more formal investiture later. We will accommodate whatever your preferences are. I do not want to overwhelm you with court stuff while you are winding down there, but I do want to keep you in the loop with the court. Please feel free to let me know if I am dumping too much on you or if you have any concerns or questions. Welcome aboard!

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785.842.8556

[redacted]@gmail.com

From: [redacted]@gmail.com
Sent: Monday, July 24, 2006 2:23 PM
To: Gorsuch, Neil M
Subject: Re: Thanks for a great year!
Attachments: tmp.htm

Thanks so much Neil, and congrats on your judicial nomination! I only recently found out about it. I have no doubt you will do a fantastic job.

Best,
[redacted]

On 7/17/06, Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov> wrote:
>
> Alicia - This is our loss but the profession's gain. I know you'll tear > up law school and I look forward to watching your career soar. If I can > ever be of assistance to you, don't hesitate to let me know. Warm regards, > Neil
>
> _____ > From: [redacted]
> Sent: Friday, July 14, 2006 4:28 PM
> To: ATR-LT3 - All Staff; Duplicki, Steven; Page, Cheryl; Weaver, Mary; > Swenson, Lily F; Pacold, Martha M; Otis, Lee L; Gorsuch, Neil M; Todd, > Gordon (SMO); McCallum, Robert (SMO); Shaw, Aloma A; Gunn, Currie (SMO); > Davis, Deborah J; Lorenzo-Giguere, Susana (CRT); O'Malley, Brenda M. (EOIR); > Iversen, Julie (EOIR); Hertz, Michael (CIV); Edelman, Ronnie; Mills, Lucas > L.; Chan, Connie K; Penley, Eric; Garnett, Kimberly; Rooney, Kevin (EOIR); > Lovinger, Michael; Lounsbury, Nathaniel H; Stuempfle, Aubrey N; Murguia, > Ryan (CRT); Oropeza, Christopher R
>
> Subject: Thanks for a great year!
>
> Sadly, the time has come for me to say goodbye.
>
> To Lit III: Thanks for introducing me to the world of Antitrust, and more > importantly, for being fantastic mentors. I have learned so much from all of > you, and I hope to put your advice to good use as I begin my legal career. A > special thanks to all those who worked on JOA matters, I will never look at > newspapers the same way again. ;)
>
> To OASG & EOIR: Thanks for welcoming me into your world and for allowing > me to substantively take part in what was a daunting task. I never would > have guessed that immigration law would appeal to me, but I hope to continue > to learn more about it in the future.
>
> To everyone else, you have also contributed to a memorable year at the > Department, and for that, I thank you.
>
> Best of luck to everyone and keep in touch (especially if you find > yourself in NYC).
>

> Alicia Washington
>
>
>
>

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Best of luck to everyone and keep in touch (especially if you find yourself in NYC).

[redacted]

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Monday, July 24, 2006 3:05 PM
To: Swenson, Lily F; Shaw, Aloma A; Gorsuch, Neil M
Subject: RE: OIP/CIV

See you at 3:30 Neil?

From: Swenson, Lily F
Sent: Monday, July 24, 2006 2:57 PM
To: Shaw, Aloma A; Gorsuch, Neil M; Elston, Michael (ODAG)
Subject: RE: OIP/CIV

I can't -- I now need to brief the AG at 3:30 today, it was an unexpected thing. I also have a 5 p.m. Perhaps Neil and Mike should proceed without me, since I've talked to both of them separately about the issues?

From: Shaw, Aloma A
Sent: Monday, July 24, 2006 2:54 PM
To: Swenson, Lily F; Gorsuch, Neil M; Elston, Michael (ODAG)
Subject: RE: OIP/CIV
Importance: High

Lily and Neil:
Please go down to Mike's office room 4208 today at 3:30.

From: Swenson, Lily F
Sent: Monday, July 24, 2006 1:13 PM
To: Gorsuch, Neil M; Elston, Michael (ODAG)
Cc: Shaw, Aloma A
Subject: OIP/CIV

Aloma,
Can you set up a 30 minute meeting with Neil, Mike Elston and me today or tomorrow to discuss OIP/CIV issues? Mike is at a conference for a good part of the day today and tomorrow but we should try to work around. Thanks.
Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 3:12 PM
To: Elston, Michael (ODAG); Swenson, Lily F; Shaw, Aloma A
Subject: RE: OIP/CIV

Works for me - I will stop by Mike's office then

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Lily

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 3:13 PM
To: [redacted]@cfr.org
Subject: Quick Question

[redacted] The AG has received a speaking invitation from the Chicago Council on Foreign Relations. Is that group affiliated with CFR in any way? Many thanks for your help. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 3:32 PM
To: 'Judge_Deanell_R_Tacha@ca10.uscourts.gov'
Cc: [redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov
Subject: RE: Beginning to get organized!!

Deanell, I apologize but I hadn't fully appreciated that you were suggesting I sit for only a few cases. Speaking with David earlier today, I came (finally) to understand the proposal and it sounds great. I admit that the prospect of [redacted] starting up chambers, hiring clerks, and preparing for a full or semi-full sitting in less than 6 weeks time seemed rather daunting [redacted] But taking on a case a day seems like a manageable way to meet folks and get started. Many thanks and warm regards, Neil

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Sent: Monday, July 24, 2006 2:07 PM
To: Gorsuch, Neil M
Cc: [redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov
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Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 3:32 PM
To: Beach, Andrew
Subject: FW: Quick Question

fyi

-----Original Message-----
From [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Monday, July 24, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: Re: Quick Question

Dear Neil-

Good to hear from you! No, CFR is not affiliated with the Chicago Council on Foreign Relations.

Please let me know if you have any further questions.

Thanks,
[redacted]

[redacted]
Program Coordinator, Studies
Council on Foreign Relations
Email: [redacted]@cfr.org
Tel: [redacted]
Fax: (212) 434-9870
www.cfr.org

"Neil.Gorsuch@usd
oj.gov"
<Neil.Gorsuch@usd To
oj.gov> "[redacted]@cfr.org" <[redacted]@cfr.org>
(Receipt Notification Requested)
07/24/2006 03:12 (IPM Return Requested)
PM cc

Subject
Quick Question

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Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Judge_Deanell_R_Tacha@ca10.uscourts.gov

From: Judge_Deanell_R_Tacha@ca10.uscourts.gov
Sent: Monday, July 24, 2006 3:47 PM
To: Gorsuch, Neil M
Cc: [redacted]
Subject: RE: Beginning to get organized!!
Attachments: tmp.htm

Thanks, Neil. We will proceed that way and [redacted] We look forward to working with you. You will have only 4 or 5 cases and we will try to have you sit with as many judges as possible. Please don't hesitate to let me know what we can do to help ease your relocation pains!!

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
07/24/2006 02:30 PM

To
"Judge_Deanell_R_Tacha@ca10.uscourts.gov"
<Judge_Deanell_R_Tacha@ca10.uscourts.gov> (Receipt Notification Requested) (IPM Return Requested)
cc
[redacted] (Receipt Notification Requested) (IPM Return Requested),
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Cc: [redacted]
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07/24/2006 02:30 PM

To "Judge_Deanell_R_Tacha@ca10.uscourts.gov" <Judge_Deanell_R_Tacha@ca10.uscourts.gov> (Receipt Notification Requested) (IPM Return Requested)
cc [redacted] (Receipt Notification Requested) (IPM Return Requested), [redacted] Receipt Notification Requested) (IPM Return Requested)
Subject RE: Beginning to get organized!!

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Zwick, Ken (CIV)

From: Zwick, Ken (CIV)
Sent: Monday, July 24, 2006 3:47 PM
To: Gorsuch, Neil M
Cc: Lofthus, Lee J
Subject: OIL

Neil:

As we discussed, we are in a time crunch with respect to office space for OIL. I am asking for your assistance in getting approval for the plan Jon Cohn submitted on July 5th, so that we may proceed with acquiring and preparing the space.

OIL is currently housed at National Place Bldg. No additional space is available in that building.

We have obtained space on the 3rd floor of 1440 New York Ave, four blocks from National Place, to accommodate the OIL growth resulting from Congress' approval of 58 positions for FY 2006. However, that space will not be adequate to accommodate the further increase of about 57 positions resulting from the $9 million supplemental appropriation Congress approved in June for OIL.

Some time ago JMD acquired space on the 4th floor of 1440 New York Ave to house some of its IT staff. They are in the process of altering the space in preparation for moving in. However, upon hearing of OIL's need for further growth space in the same building, JMD most graciously offered to change its plans if necessary and move the IT people to different space, thereby making it possible for us to house OIL in two, rather than three, buildings.

The problem is that JMD needs to know asap if OIL will be taking the 4th floor space. If so, JMD will need to scramble to stop the communications work in process and make plans for its substitute space. Likewise, Civil will need to design the 4th floor space to meet OIL's needs and order the necessary communcations lines. Every day that passes without a decision will make these tasks more expensive and more difficult.

Thanks for your help.

Ken
cc: Lee Lofthus

[redacted]@dodgc.osd.mil

From:	[redacted]@dodgc.osd.mil
Sent:	Monday, July 24, 2006 3:56 PM
To:	Henry, Terry (CIV); Gorsuch, Neil M [redacted]@dodgc.osd.mil
Cc:	[redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil; [redacted]@osd.mil
Subject:	ABA criticism of signing statements
Attachments:	tmp.htm

ABA: Bush violating Constitution
Bar association president says signing statements erode democracy WASHINGTON (AP) -- President Bush's penchant for writing exceptions to laws he has just signed violates the Constitution, an American Bar Association task force says in a report highly critical of the practice.
The ABA group, which includes a one-time FBI director and former federal appeals court judge, said the president has overstepped his authority in attaching challenges to hundreds of new laws.
The attachments, known as bill-signing statements, say Bush reserves a right to revise, interpret or disregard measures on national security and constitutional grounds.
"This report raises serious concerns crucial to the survival of our democracy," said the ABA's president, Michael Greco. "If left unchecked, the president's practice does grave harm to the separation of powers doctrine, and the system of checks and balances that have sustained our democracy for more than two centuries." Some congressional leaders had questioned the practice. The task force's recommendations, being released Monday in Washington, will be presented to the 410,000-member group next month at its annual meeting in Hawaii.
ABA policymakers will decide whether to denounce the statements and encourage a legal fight over them.
The task force said the statements suggest the president will decline to enforce some laws. Bush has had more than 800 signing statement challenges, compared with about 600 signing statements combined for all other presidents, the group said.
Noel J. Francisco, a former Bush administration attorney who practices law in Washington, said the president is doing nothing unusual or inappropriate.
"Presidents have always issued signing statements," he said. "This administration believes that it should make clear ... when the Congress is getting close to the lines that our Constitution draws."
Francisco said the administration's input is part of the give and take between the branches of government. "I think it's good that the debate is taking place at a public level," he added.
White House Press Secretary Tony Snow said last month that "it's important for the president at least to express reservations about the constitutionality of certain provisions." The ABA report said President Reagan was the first to use the statements as a strategic weapon, and that it was encouraged by then-administration lawyer Samuel Alito -- now the newest Supreme Court justice.
The task force included former prosecutor Neal Sonnett of Miami; former FBI Director William Sessions; Patricia Wald, former chief judge of the U.S.
Court of Appeals for the District of Columbia Circuit; former Republican Rep. Mickey Edwards; and former Reagan administration lawyer Bruce Fein; and law school professors and other lawyers.
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http://www.abanet.org/op/signingstatements/aba_final_signing_statements_recommendation-report_7-24-06.pdf
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[redacted]
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
[redacted]
(703) 614-6745 (fax)

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The task force included former prosecutor Neal Sonnett of Miami; former FBI Director William Sessions; Patricia Wald, former chief judge of the U.S. Court of Appeals for the District of Columbia Circuit; former Republican Rep. Mickey Edwards; and former Reagan administration lawyer Bruce Fein; and law school professors and other lawyers.

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http://www.abanet.org/op/signingstatements/aba_final_signing_statements_recommendation-report_7-24-06.pdf

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349 (DSN 671)
(703) 614-6745 (fax)

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As we discussed, we are in a time crunch with respect to office space for OIL. I am asking for your assistance in getting approval for the plan Jon Cohn submitted on July 5th, so that we may proceed with acquiring and preparing the space.

OIL is currently housed at National Place Bldg. No additional space is available in that building.

We have obtained space on the 3rd floor of 1440 New York Ave, four blocks from National Place, to accommodate the OIL growth resulting from Congress' approval of 58 positions for FY 2006. However, that space will not be adequate to accommodate the further increase of about 57 positions resulting from the $9 million supplemental appropriation Congress approved in June for OIL.

Some time ago JMD acquired space on the 4th floor of 1440 New York Ave to house some of its IT staff. They are in the process of altering the space in preparation for moving in. However, upon hearing of OIL's need for further growth space in the same building, JMD most graciously offered to change its plans if necessary and move the IT people to different space, thereby making it possible for us to house OIL in two, rather than three, buildings.

The problem is that JMD needs to know asap if OIL will be taking the 4th floor space. If so, JMD will need to scramble to stop the communications work in process and make plans for its substitute space. Likewise, Civil will need to design the 4th floor space to meet OIL's needs and order the necessary communcations lines. Every day that passes without a decision will make these tasks more expensive and more difficult.

Thanks for your help.

Ken
cc: Lee Lofthus

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 4:13 PM
To: [redacted]@cfr.org'
Subject: RE: Quick Question

Thanks so much, [redacted]

-----Original Message-----
From: [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Monday, July 24, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: Re: Quick Question

Dear Neil-

Good to hear from you! No, CFR is not affiliated with the Chicago Council on Foreign Relations.

Please let me know if you have any further questions.

Thanks,
[redacted]

[redacted]
Program Coordinator, Studies
Council on Foreign Relations
Email: [redacted]@cfr.org
Tel: [redacted]
Fax: (212) 434-9870
www.cfr.org

"Neil.Gorsuch@usd
oj.gov"
<Neil.Gorsuch@usd To
oj.gov> "nbruno@cfr.org" <nbruno@cfr.org>
(Receipt Notification Requested)
07/24/2006 03:12 (IPM Return Requested)
PM cc

Subject
Quick Question

Nicole - The AG has received a speaking invitation from the Chicago Council on Foreign Relations. Is that group affiliated with CFR in any way? Many thanks for your help. Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 24, 2006 4:48 PM
To: Gorsuch, Neil M
Subject: Call Rachel Brand 6-0038

William_K._Kelley@who.eop.gov

From:	William_K._Kelley@who.eop.gov
Sent:	Monday, July 24, 2006 5:34 PM
To:	Gorsuch, Neil M
Attachments:	tmp.htm

Neil--Do you have a phone number for the new Ambassador? I want to ask him about his intentions with respect to [redacted]
We're trying to plan some personnel stuff here. Thanks.

Neil--Do you have a phone number for the new Ambassador? I want to ask him about his intentions with respect to [redacted] We're trying to plan some personnel stuff here. Thanks.

William_K._Kelley@who.eop.gov

From: William_K._Kelley@who.eop.gov
Sent: Monday, July 24, 2006 5:38 PM
To: Gorsuch, Neil M
Subject: RE:

Thanks.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Monday, July 24, 2006 5:38 PM
To: Kelley, William K.
Subject: Re:

Robert is in town for a few wks yet and his cell is [redacted] I believe he is still checking his doj email and vmail periodically.

-----Original Message-----
From: William_K._Kelley@who.eop.gov <William_K._Kelley@who.eop.gov>
To: Gorsuch, Neil M
Sent: Mon Jul 24 17:33:39 2006
Subject:

Neil--Do you have a phone number for the new Ambassador? I want to ask him about his intentions with respect to [redacted]
We're trying to plan some personnel stuff here. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 5:39 PM
To: 'William_K._Kelley@who.eop.gov'
Subject: Re:

Robert is in town for a few wks yet and his cell is [redacted] I believe he is still checking his doj email and vmail periodically.

-----Original Message-----
From: William_K._Kelley@who.eop.gov <William_K._Kelley@who.eop.gov>
To: Gorsuch, Neil M
Sent: Mon Jul 24 17:33:39 2006
Subject:

Neil--Do you have a phone number for the new Ambassador? I want to ask him about his intentions with respect to [redacted]
We're trying to plan some personnel stuff here. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 5:41 PM
To: Gorsuch, Neil M
Subject: [redacted]

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, July 24, 2006 5:56 PM
To: Gorsuch, Neil M
Subject: Pls call Luis Reyes [redacted].

Sheetz, Deborah

From:	Sheetz, Deborah
Sent:	Monday, July 24, 2006 6:16 PM
To:	Shaw, Aloma A; Davis, Deborah J
Cc:	McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Gorsuch, Neil M; Todd, Gordon (SMO); Goodling, Monica; Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Kaplan, April; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty
Subject:	Emailing: 723A.06.wpd
Attachments:	723A.06.wpd

Hello Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for the week of July 23-29, 2006. Please let me know if you have any questions.

Thank you.

Deborah Sheetz
Public Affairs Specialist
Office of Communications
Office of Justice Programs
U.S. Department of Justice
202-514-9338
202-514-5958 (fax)
Deborah.sheetz@usdoj.gov

The message is ready to be sent with the following file or link attachments:

723A.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of July 23-29, 2006

NEXT WEEK

· ***Statistics***

On July 30, the Bureau of Justice Statistics (BJS) is scheduled to release *Sexual Violence Reported by Correctional Authorities, 2005,* which presents data from the Survey on Sexual Violence, 2005, an administrative records collection of incidents of inmate-on-inmate and staff-on-inmate sexual violence, by type, for adult prisons, jails, and other adult correctional facilities. The report provides an analysis of substantiated incidents, including where the incidents occur, time of day, number and characteristics of victims and perpetrators, nature of the injuries, impact on victims and sanctions imposed on perpetrators. The appendix tables include counts of sexual violence, by type, for all state systems, the Federal Bureau of Prisons, and all sampled jail jurisdictions. The report also includes an update on BJS activities related to implementation of data collections required under the Prison Rape Elimination Act of 2003.

On July 30, the Bureau of Justice Statistics is scheduled to release *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors' offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information also is available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff.

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In July 2006, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

- ***Juvenile Justice***

  On August 5-6 in Detroit, MI at the National Bar Association convention, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will participate in discussions on mentoring, juvenile defenders, and disproportionate minority contact.

  On August 4 in Denver, CO at the Helping America's Youth regional conference, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will make remarks at the panel on Boys in the Juvenile Justice System.

- ***DNA***

  On August 3-6 in Honolulu, HI, National Institute of Justice Acting Director Schmitt will speak to the American Bar Association regarding Principals of Forensic DNA for Officers of the Court.

- ***Courts***

  On August 1-2 in Indianapolis, IN at the joint meeting of the Conference of Chief Justices and the Conference of State Court Administrator, Bureau of Justice Statistics (BJS) staff will present on state court data collection programs funded by BJS.

  On July 31 in Santa Fe, NM at the National District Attorneys' Association Summer Conference, Bureau of Justice Statistics (BJS) Director Sedgwick will provide remarks highlighting BJS' 2005 report on the characteristics and workloads of the nation's 2,300 prosecutors' offices.

- ***Public Safety***

  On July 31-August 2 in Baltimore, MD at the National Forum on Criminal Justice and Public Safety, Bureau of Justice Assistance (BJA) Director Herraiz will provide opening remarks and BJA senior management and staff will present on several OJP and BJA programs and initiatives, including the Public Safety Officers' Benefits (PSOB) Program, preparing for a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. The Forum, sponsored by BJA, the National Criminal Justice Association, and the Integrated Justice Information Systems Institute, will highlight program and enforcement strategies to confront challenges such as gangs, drug trafficking and abuse, methamphetamine, and identity theft. BJA sessions will provide information about the PSOB Program, preparing for and confronting a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. Federal, state, tribal, and local criminal justice and public safety officials and corporate representatives will examine promising practices, technologies, and strategies.

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THIS WEEK

- ***Teen Dating Violence***
  On July 24-25 in Washington, DC, Assistant Attorney General Schofield, National Institute of Justice Acting Director Schmitt, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give opening remarks at the Teen Dating Violence Workshop. The purpose of the workshop is to provide a forum for discussion among researchers, practitioners, and federal agencies on issues related to teen dating violence. The workshop will be used as a resource to identify gaps in the research and programs and to generate research questions that will help advance prevention and intervention efforts. Another goal of the workshop is to increase federal interagency coordination in the area of teen dating violence.

- ***Gangs***
  On July 26 in Palm Springs, CA, Deputy Assistant Attorney General Daley and Bureau of Justice Assistance Director Herraiz will give opening remarks at the Gang Resistance Education and Training (G.R.E.A.T.) Conference. The Bureau of Justice Assistance is helping to organize this year's training that will address the needs of individuals implementing G.R.E.A.T. and those who want to become involved with the program.

- ***Information Sharing***
  On July 29-30 in Baltimore, MD at the Integrated Justice Information Systems Institute Summer Industry Briefing, Bureau of Justice Assistance Director Herraiz will present on the status of OJP's and BJA's information sharing projects.

- ***Victims***
  On July 27, the Office for Victims of Crime will host a Web Forum discussion with the Senior Vice President of Security on Campus, Inc. regarding campus victimization and assistance services for crime victim service providers and related professionals.

- ***Parole and Probation***
  On July 22-26 in Chicago, IL at the American Probation and Parole Association's annual training institute, Bureau of Justice Assistance staff will conduct a workshop on sex offender management. National Institute of Justice staff will moderate a workshop on prisoner reentry efforts. Bureau of Justice Statistics staff will provide an overview of the Prison Rape Elimination Act related data collections and the 2007 Survey of Sexual Assault reported by former prisoners as well as a demonstration of the Audio Computer-Assisted Self Interview survey instrument and its application to parolees.

- ***Computer Security***
  On July 24-25 in Santa Monica, CA, Bureau of Justice Statistics staff will meet with representatives from the RAND Corporation to discuss the status of the National Computer Security Survey (NCSS). The survey data, to be published in late 2006, will provide national and industry-level estimates of the prevalence of computer security

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incidents against businesses and the resulting losses incurred by businesses.

- ***Human Trafficking***
  On July 24-25 in Boston, MA the National Institute of Justice and the National Governors Association Center for Best Practices will convene a regional meeting on human trafficking along the I-95 corridor to discuss the need for information sharing and coordinated strategies.

LAST WEEK

- ****AMBER Alert***
  On July 17-21 in Albuquerque, NM, OJP sponsored the National AMBER Alert Conference. Assistant Attorney General Schofield and Deputy Assistant Attorney General Daley participated.

- ****Research***
  On July 17-19 in Washington, DC, the National Institute of Justice (NIJ) hosted the 2006 NIJ Conference, formerly known as the Annual Research and Evaluation Conference. For 14 years, NIJ's annual conference has brought together criminal justice scholars, policymakers, and practitioners at the local, state, and federal levels to share the most recent findings from the research and evaluation field. The conference marked the first year in which the science and technology fields participated. The 2006 NIJ Conference provided emphasis on the benefits to researchers and practitioners who work together to make effective evidence-based policies and practices. NIJ Acting Director Schmitt provided opening remarks and moderated a session on NIJ's Body Armor Program.

- ****Statistics***
  On July 21, the Bureau of Justice Statistics (BJS) released *Improving Criminal History Records for Background Checks, 2005,* which describes the achievements of the National Criminal History Improvement Program (NCHIP), its authorizing legislation, and program history. This annual bulletin summarizes NCHIP-funded criminal record improvement efforts, including improved accessibility of records, full participation in the Interstate Identification Index, the automation of records and fingerprint data, and improvements in the National Instant Criminal Background Check, National Sex Offender Registry, and domestic violence and protection order systems. The report provides examples of projects aimed at enhancing the involvement of the courts and system integration in improving disposition reporting. The report also includes a discussion of BJS efforts to improve performance measurement including the development and use of a Records Quality Index. Key findings in the report include an 83 percent increase in criminal records accessible for background checks since 1995 and a 57 percent growth rate in automated records. As of December 2005, 48 states belonged to the Interstate Identification Index. As of January 2006, all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands were contributing to the National Sex Offender Registry file, which held 414,470 records and 45 states, the District of Columbia, and the U.S. Virgin Islands were submitting data to the National

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Protection Order File which held over 949,810 records.

On July 19 in St. Louis, MO, Bureau of Justice Statistics Director Sedgwick spoke at the Annual National Consortium of Justice Information and Statistics (SEARCH) Membership Meeting. On July 18-21, Bureau of Justice Assistance staff attended the Criminal Justice Information Sharing meeting to discuss criminal justice resources. CJIS representatives from all 50 states who administer criminal information, such as criminal history and the sex offender registry, in each of their states attended.

On July 17 in Washington, DC, Bureau of Justice Statistics staff briefed the Association of State Correctional Administrators' research committee on data collection activities related to the implementation of the Prison Rape Elimination Act.

- ***Technology/Research***
  On July 20-21 in Washington, DC, National Institute of Justice (NIJ) Assistant Director Morgan participated in the Law Enforcement Corrections Technology Advisory Council (LECTAC) Meeting. LECTAC reviews and analyzes the present and future technological needs of the criminal justice system and informs NIJ research and development priorities.

- ***White Collar Crime***
  On July 20 in Cincinnati, OH, Bureau of Justice Assistance Deputy Director Burch and staff met with National White Collar Crime Center representatives to discuss cybercrime training for law enforcement.

- ***Weed and Seed/Drugs***
  On July 20 in St. Petersburg, FL, Community Capacity Development Office Director Greenhouse participated in a Community Anti-Drug Coalitions of America satellite broadcast featuring the Weed and Seed strategy titled, "Cleaning Up the Streets: Taking Drugs Out of Our Neighborhoods." The COPS program and an outstanding Weed and Seed site also were featured.

- ***Gangs***
  On July 20 in Washington, DC, Bureau of Justice Assistance Deputy Director Burch and staff met with representatives of the National Youth Gang Center to discuss developing an advanced gang investigator and other gang-related courses, as well as ongoing anti-gang efforts.

  On July 17 in Cleveland, OH, Bureau of Justice Assistance staff met with local participants of the Attorney General's Anti-Gang Initiative to discuss the initiative's enforcement and reentry components. The initiative addresses enforcement, prevention, and reentry efforts associated with violent gang members residing in or returning to communities located in six major jurisdictions, including Cleveland.

- ***Information Sharing***
  On July 17-19 in St. Petersburg, FL, Bureau of Justice Assistance (BJA) staff attended the

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Regional Information Sharing Systems (RISS) National Policy Board meeting to discuss OJP and BJA justice information sharing initiatives as they relate to the RISS program.

- ***Juvenile Justice***
  On July 18 in Milwaukee, WI, Office for Juvenile Justice and Delinquency Prevention Administrator Flores gave remarks at the closing session of the Annual Conference of the National Council of Juvenile and Family Court Judges.

  On July 17 in Rockville, MD, Office for Juvenile Justice and Delinquency Prevention Administrator Flores provided remarks for a federal panel at a grantee workshop on Safe and Bright Futures for Children, sponsored by HHS.

  In July, the Office of Juvenile Justice and Delinquency Prevention released the National Youth Gang Survey: 1999-2001. The summary provides results from the 1999, 2000, and 2001 surveys and, when available, preliminary results from the 2002 survey.

LONG-RANGE EVENTS

- On August 6, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

- On August 7 in Philadelphia, PA, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks at the National Association of Sentencing Commissions annual conference.

- On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give remarks at the Parents of Murdered Children conference.

- On August 12-13 in Charlotte, NC, Bureau of Justice Statistics Director Sedgwick will give remarks on Prison Rape Elimination Act data collection activities at the Association of State Corrections Administrators Board and Membership meeting.

- On August 14-17 in Phoenix, AZ, the Community Capacity Development Office (CCDO) will host a Law Enforcement Conference that will focus on the latest technology trends in law enforcement to assist communities with preventing and controlling crime. The conference will provide opportunities to develop partnerships and strengthen relationships among community leaders, faith-based organizations, and local law enforcement. Assistant Attorney General Schofield, CCDO Director Greenhouse, Bureau of Justice

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Statistics Director Sedgwick, and CCDO Deputy Director Viera will give remarks at the conference.

- On August 14-17 in Las Vegas, NV, Community Capacity Development Office staff and Weed and Seed site representatives will participate in the Community Anti-Drug Coalitions of America (CADCA) Mid-Year Training Institute. CADCA's mission is to build and strengthen the capacity of community coalitions to create safe, healthy, and drug-free communities.

- On August 16-17 in Nashville, TN, National Institute of Justice (NIJ) Assistant Director Morgan will attend the Annual Meeting and Exhibition of the National Conference of State Legislatures and give remarks on the NIJ Forensic Science DNA program.

- On August 21 in Orlando, FL, Office for Victims of Crime Director Gillis will give remarks at the World Victims' Society Conference.

- On August 21-24 in Dallas, TX, Assistant Attorney General Schofield, Deputy Assistant Attorney General Daley, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores will speak at the Crimes Against Children and Internet Crimes Against Children Training Conference.

- On August 24 in Baltimore, MD at the Annual National Leadership Conference, sponsored by the Underage Drinking Enforcement Training Center, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give luncheon keynote remarks commending attendees for their efforts to reduce underage drinking.

- On August 25 in Orlando, FL, Deputy Assistant Attorney General Daley will provide closing remarks at the National Organization for Victim Assistance annual conference. Office for Victims of Crime Director Gillis also will give remarks at the conference.

- On August 28 in New Orleans, LA, Office for Victims of Crime Director Gillis will give remarks at the International Homicide Investigators Association conference.

- In August 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Law Enforcement Officers, 2004*, which reports the results of a biennial census of federal agencies employing personnel with arrest and firearms authority. Using agency classifications, the report presents the number of officers working in the areas of police patrol and response, criminal investigation and enforcement, security and protection, court operations, and corrections, by agency and state, as of September 2004. Data on gender and race of officers also are included.

- In August 2006, the Bureau of Justice Statistics is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with

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detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed, convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

- On September 6-8 in Atlanta, GA, the National Institute of Justice (NIJ), the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for participation in discussions with national and international experts. NIJ Acting Director Schmitt will give opening remarks.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On September 18 in Washington, DC, Assistant Attorney General Schofield will provide opening remarks at the Law Enforcement Leadership Initiative Meeting.

- On September 19 in Washington, DC, Office for Juvenile Justice and Delinquency Prevention Administrator Flores will give the keynote luncheon address at the Persistently Safe Schools 2006 national conference, sponsored by the Hamilton Fish Institute on School and Community Violence.

- On September 19-21 in Baltimore, MD, National Institute of Justice staff will participate in the 2006 Biometrics Consortium Conference, which will address the latest trends in biometrics research, development and applications on biometric technologies, and the important role that biometrics can play in the identification and verification of individuals in this age of heightened security and privacy.

- On September 20 in Fort Lauderdale, FL, Deputy Assistant Attorney General Hagy will give remarks at the Center for Substance Abuse Prevention annual grantee meeting.

- On September 21 in Boyds and Rockville, MD, Assistant Attorney General Schofield and Deputy Assistant Attorney General Hagy will visit the Maryland Department of Correction and Rehabilitation.

- On September 25 in New Orleans, LA at the National Network of Youth Ministries' National Mentor Recruitment Training, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks commending attendees for their work in helping to provide mentors to at-risk youth.

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- On September 26 in Orlando, FL Assistant Attorney General Schofield will give opening remarks at the Sex Offender Training Conference.

- On September 27 in Alexandria, VA, Assistant Attorney General Schofield will participate in the CNA Corporation Roundtable.

- On September 28 in Philadelphia, PA, Deputy Assistant Attorney General Daley will give remarks at the 3rd Regional Cold Case Training.

- On October 2 in Washington, DC, Assistant Attorney General Schofield will give opening remarks at the Law Enforcement and Youth Partnerships for Crime Prevention conference.

- On October 3 in New Orleans, LA, Assistant Attorney General Schofield will give remarks at the Human Trafficking Conference

- On October 4-5 in Sacramento, CA, Assistant Attorney General Schofield will give remarks at the National Congress of American Indians Annual Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference. BJS Director Sedgwick will give the keynote address.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On October 18-21 in Appleton, WI, Deputy Assistant Attorney General Daley will give remarks at the State Clearinghouse Conference.

- On October 23-25 in Washington, DC, at the Institute for Defense and Government Advancement Border Management Conference, National Institute of Justice staff will present on Biometric Technologies for Criminal Justice.

- On October 25 in Phoenix, AZ, Deputy Assistant Attorney General Daley will participate in the Medal of Valor Board meeting.

- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications

DOJ_NMG_ 0164898

202/307-5933

DOJ_NMG_ 0164899

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, July 24, 2006 7:44 PM
To: Beach, Andrew
Cc: Sampson, Kyle; Gorsuch, Neil M
Subject: Re: DPC Principals Meeting on 7/25

Neil, what do you think? Who should the AG bring as the +1?

Sue Ellen? Or Jeff Senger? Or should you go?

-----Original Message-----
From: Beach, Andrew
To: Elwood, Courtney
CC: Sampson, Kyle
Sent: Mon Jul 24 19:42:02 2006
Subject: Fw: DPC Principals Meeting on 7/25

AG can bring a plus one for Cobell meeting. Who should that be?

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Tel: (202) 514-4195; FAX: (202) 307-2825

-----Original Message-----
From: Elise_M._Stefanik@who.eop.gov <Elise_M._Stefanik@who.eop.gov>
To: Beach, Andrew
CC: Sellers, Kiahna (OAG)
Sent: Mon Jul 24 19:35:54 2006
Subject: RE: DPC Principals Meeting on 7/25

Andy:

Please let me know if the AG would like to bring a plus one. If so, can you send me their name and information I need to wave them into the building.

Thanks,
Elise

-----Original Message-----
From: Andrew.Beach@usdoj.gov [mailto:Andrew.Beach@usdoj.gov]
Sent: Friday, July 21, 2006 2:18 PM
To: Stefanik, Elise M.
Cc: Kiahna.Sellers@usdoj.gov
Subject: RE: DPC Principals Meeting on 7/25

The Attorney General will attend.

-----Original Message-----
From: Elise_M._Stefanik@who.eop.gov
[mailto:Elise_M._Stefanik@who.eop.gov]
Sent: Friday, July 21, 2006 1:05 PM
To: Beach, Andrew; Elizabeth_W._Williams@who.eop.gov;
Todd_F._Braunstein@who.eop.gov; Patrick_S._Aylward@who.eop.gov;
Denise_Y._Dick@who.eop.gov; Logan_E._Dryden@who.eop.gov;
Taylor_A._Hughes@who.eop.gov; Jill_R._Clem@ovp.eop.gov;
Lindley_Kratovil@who.eop.gov; Heather_M._Roebke@who.eop.gov;
Alice_H._Williams@cea.eop.gov; Sandra_F._Daigle@cea.eop.gov;
January_R._Zell@omb.eop.gov; Marisa_L._Etter@omb.eop.gov;
Eric_G._Toy@omb.eop.gov; Margaret_Bradley@ios.doi.gov
Subject: DPC Principals Meeting on 7/25

There will be a DPC Principals meeting on Cobell Indian Trust Litigation on Tuesday, July 25th from 11:00-12:00 in Location TBD. A read ahead will be sent by COB Monday, July 24th.

Please confirm your principal's participation.

Participants:

Zinsmeister

Troy

Braunstein

Bolten (FYI)

Kaplan

Rove

Addington

Wolff

Miers

Lazear

Portman

Kempthorne

Gonzales

If you have any questions, please let me know.

Thanks,

Elise

Elise M. Stefanik

Domestic Policy Council

The White House

1600 Pennsylvania Ave, NW

West Wing, 2nd Floor

Washington, DC 20502

(202) 456-5595

Estefanik@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 8:36 PM
To: Elwood, Courtney; Beach, Andrew
Cc: Sampson, Kyle
Subject: Re: DPC Principals Meeting on 7/25

I defer to the team's judgment but I'd vote for Sue Ellen as most likely to add value.

-----Original Message-----
From: Elwood, Courtney
To: Beach, Andrew
CC: Sampson, Kyle; Gorsuch, Neil M
Sent: Mon Jul 24 19:44:09 2006
Subject: Re: DPC Principals Meeting on 7/25

Neil, what do you think? Who should the AG bring as the +1?

Sue Ellen? Or Jeff Senger? Or should you go?

-----Original Message-----
From: Beach, Andrew
To: Elwood, Courtney
CC: Sampson, Kyle
Sent: Mon Jul 24 19:42:02 2006
Subject: Fw: DPC Principals Meeting on 7/25

AG can bring a plus one for Cobell meeting. Who should that be?

Andy Beach
Assistant to the Attorney General
Director of Scheduling
Tel: (202) 514-4195; FAX: (202) 307-2825

-----Original Message-----
From: Elise_M._Stefanik@who.eop.gov <Elise_M._Stefanik@who.eop.gov>
To: Beach, Andrew
CC: Sellers, Kiahna (OAG)
Sent: Mon Jul 24 19:35:54 2006
Subject: RE: DPC Principals Meeting on 7/25

Andy:

Please let me know if the AG would like to bring a plus one. If so, can you send me their name and

information I need to wave them into the building.

Thanks,
Elise

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From: Andrew.Beach@usdoj.gov [mailto:Andrew.Beach@usdoj.gov]
Sent: Friday, July 21, 2006 2:18 PM
To: Stefanik, Elise M.
Cc: Kiahna.Sellers@usdoj.gov
Subject: RE: DPC Principals Meeting on 7/25

The Attorney General will attend.

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Bolten (FYI)

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Miers

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Kempthorne

Gonzales

If you have any questions, please let me know.

Thanks,

Elise

Elise M. Stefanik

Domestic Policy Council

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(202) 456-5595

Estefanik@who.eop.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 8:40 PM
To: Gorsuch, Neil M
Subject: [redacted]

Elston, Michael (ODAG)

From:	Elston, Michael (ODAG)
Sent:	Monday, July 24, 2006 9:45 PM
To:	Gorsuch, Neil M
Subject:	RE: OIL

The DAG has asked to read it before I give the green light.

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 4:13 PM
To: Elston, Michael (ODAG)
Subject: FW: OIL

I believe ODAG was ok with OIL's plan but wanted to make sure it's approved before they take any steps. Please could you let me know? Thanks.

From: Zwick, Ken (CIV)
Sent: Monday, July 24, 2006 3:47 PM
To: Gorsuch, Neil M
Cc: Lofthus, Lee J
Subject: OIL

Neil:

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Thanks for your help.

Ken
cc: Lee Lofthus

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Monday, July 24, 2006 9:49 PM
To:	Gorsuch, Neil M; Beach, Andrew
Cc:	Sampson, Kyle
Subject:	Re: DPC Principals Meeting on 7/25

Good. Let's go with Sue Ellen.

-----Original Message-----
From: Gorsuch, Neil M
To: Elwood, Courtney; Beach, Andrew
CC: Sampson, Kyle
Sent: Mon Jul 24 20:35:44 2006
Subject: Re: DPC Principals Meeting on 7/25

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From: Elwood, Courtney
To: Beach, Andrew
CC: Sampson, Kyle; Gorsuch, Neil M
Sent: Mon Jul 24 19:44:09 2006
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AG can bring a plus one for Cobell meeting. Who should that be?

Andy Beach
Assistant to the Attorney General
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Tel: (202) 514-4195; FAX: (202) 307-2825

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Beach, Andrew

From: Beach, Andrew
Sent: Monday, July 24, 2006 9:52 PM
To: Elwood, Courtney; Gorsuch, Neil M
Cc: Sampson, Kyle
Subject: Re: DPC Principals Meeting on 7/25

What's her last name?

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Assistant to the Attorney General
Director of Scheduling
Tel: (202) 514-4195; FAX: (202) 307-2825

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 10:08 PM
To: Beach, Andrew; Elwood, Courtney
Cc: Sampson, Kyle
Subject: Re: DPC Principals Meeting on 7/25

Wooldridge

-----Original Message-----
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To: Elwood, Courtney; Gorsuch, Neil M
CC: Sampson, Kyle
Sent: Mon Jul 24 21:52:24 2006
Subject: Re: DPC Principals Meeting on 7/25

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cc: Lee Lofthus

Elston, Michael (ODAG)

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To: Gorsuch, Neil M
Subject: RE: OIL

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Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Monday, July 24, 2006 10:14 PM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: 4

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 24, 2006 10:15 PM
To: Elston, Michael (ODAG)
Subject: Re: OIL

That's reasonable! Sorry misunderstood.

-----Original Message-----
From: Elston, Michael (ODAG)
To: Gorsuch, Neil M
Sent: Mon Jul 24 22:13:31 2006
Subject: RE: OIL

Yes, it is; he just has not read it yet.

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From: Gorsuch, Neil M
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Swenson, Lily F

From: Swenson, Lily F
Sent: Monday, July 24, 2006 10:52 PM
To: Elston, Michael (ODAG); Gorsuch, Neil M
Subject: Re: 4

Hee. OK, thanks.

-----Original Message-----
From: Elston, Michael (ODAG) <Michael.Elston@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Mon Jul 24 22:13:52 2006
Subject: 4

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Tuesday, July 25, 2006 1:30 AM
To: Gorsuch, Neil M
Subject: Computer Security Awareness Training II (CSAT II) Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual Computer Security Awareness Training II (CSAT II) course. DOJ security regulations require that all employees and contractors receive Computer Security Awareness Training II (CSAT II) training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "Computer Security Awareness Training II (CSAT II)" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Tuesday, July 25, 2006 1:30 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 9:50 AM
To: Shaw, Aloma A
Subject: car

Please can I get a car at 145 to go to the Ritz Carlton hotel on 22 & M, return at 310?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 10:24 AM
To: Davis, Deborah J
Subject: Fw: car

Can you take care of this?

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
Sent: Tue Jul 25 09:49:46 2006
Subject: car

Please can I get a car at 145 to go to the Ritz Carlton hotel on 22 & M, return at 310?

Davis, Deborah J

From: Davis, Deborah J
Sent: Tuesday, July 25, 2006 10:27 AM
To: Gorsuch, Neil M
Subject: RE: car

Car has been ordered!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 10:24 AM
To: Davis, Deborah J
Subject: Fw: car

Can you take care of this?

-----Original Message-----
From: Gorsuch, Neil M
To: Shaw, Aloma A
Sent: Tue Jul 25 09:49:46 2006
Subject: car

Please can I get a car at 145 to go to the Ritz Carlton hotel on 22 & M, return at 310?

Davis, Deborah J

Subject:	Car to Ritz Carlton
Start:	Tuesday, July 25, 2006 1:45 PM
End:	Tuesday, July 25, 2006 1:45 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Davis, Deborah J

Davis, Deborah J

Subject:	3:10 Return to DOJ
Start:	Tuesday, July 25, 2006 3:00 PM
End:	Tuesday, July 25, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Davis, Deborah J

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, July 25, 2006 11:11 AM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 7.25.2006
Attachments: CRS AG Weekly 7-25-06.doc

Attached, please find the CRS Weekly Report to the Attorney General for July 25, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

July 25, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

No new entries to report.

B. This Week

- ***CRS to Conduct Racial Profiling Program in Harrisburg, PA***
  On July 28, 2006, CRS will be onsite in Harrisburg, PA to conduct its national bias-based policing program entitled, "Responding to Allegations of Racial Profiling: Building Trust Between the Police and Community," for local law enforcement officials, community leaders, and various state support agency representatives. The training is being held in response to racial tensions surrounding reports of allegations of racial profiling directed towards minority community members and a recent incident involving the fatal shooting of an unarmed African American male by a Harrisburg police officer.

- ***CRS to Assess Racial Tensions in Mahnomen, MN***
  On July 27, 2006, CRS will be onsite in Mahnomen, MN to meet with Minnesota Chippewa Tribe representatives and Duluth Police Department officials in response to community tensions and reported concerns and allegations of police use of excessive force, following an incident in which a Native American male was hospitalized and later died after an altercation with police.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0164937

- ***CRS to Facilitate Community Forum in Clarksville, TN***
  On July 26-27, 2006, CRS will be onsite in Clarksville, TN, to facilitate a community forum among the Clarksville Mayor, Police Chief, Clarksville Human Rights Commission representatives, and local minority community leaders and members. The forum is aimed at addressing racial tension related to policing in the Hispanic community. CRS is coordinating the participation of the Civil Rights Division as well, with respect to Title VI concerns.

C. Last Week

- ***CRS Monitored Immigration Rally in Paramus, NJ***
  On July 20, 2006, CRS was onsite in Paramus, NJ to provide technical assistance and contingency planning to Paramus Police Department officials and local community members for a demonstration held by Hispanic community members outside Congressman Scott Garrett's office to reportedly protest immigration-related legislation. The protest proceeded without incident.

- ***CRS Provided Assistance in Anticipation of National Socialist Demonstration in Madison, WI***
  On July 20, 2006, CRS was onsite in Madison, WI to meet with Wisconsin Capitol Police officials to provide technical assistance and contingency planning in anticipation of a planned demonstration to be held by the National Socialist Party and potential counter-protests. The demonstration will take place on August 26, 2006, and is reportedly being held to protest illegal immigration-related issues. CRS will also be onsite at the demonstration to provide conciliation services in an effort to ensure a safe and peaceful event.

- ***CRS Conducted Arab, Muslim, and Sikh Cultural Awareness Program in Lincoln, NE***
  On July 19, 2006, CRS was onsite in Lincoln, NE to conduct its Arab, Muslim, and Sikh Cultural Awareness Program. The program was conducted for members of the Lincoln Police Department, University of Nebraska Police Department, State Highway Patrol, Transportation Security Administration (TSA) personnel, Federal Bureau of Investigation (FBI) officials, and other local law enforcement agencies.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0164938

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 25, 2006 11:45 AM
To: USDOJ- Office of Public Affairs
Subject: NATION'S LAW ENFORCEMENT LEADERS TO CONVENE AT CONFERENCE ON CRITICAL POLICING ISSUES

MEDIA ADVISORY

For Immediate Release:
July 25, 2006

Contact: Gilbert Moore
202-616-1728
(Cell) 202-305-5136

NATION'S LAW ENFORCEMENT LEADERS TO CONVENE AT CONFERENCE ON CRITICAL POLICING ISSUES

What: The U.S. Department of Justice Office of Community Oriented Policing Services (COPS) National Community Policing Conference is a two and a half day conference attracting more than 1,300 law enforcement officials and criminal justice experts concerned with creating and maintaining a safer America through community policing.

Who: Paul J. McNulty, Deputy Attorney General, U.S. Department of Justice
Carl R. Peed, Director, Office of Community Oriented Policing Services
Celia Sandys, Founder, The Churchill Leadership Program
Thomas E. McNamara, Office of the Director of National Intelligence
Mike McDonell, Assistant Commissioner, Royal Canadian Mounted Police

Washington, D.C. Metropolitan Police Department Chief Charles Ramsey, will provide welcoming remarks on Thurs., July 27 at 8:30 a.m., followed by **Deputy Attorney General Paul J. McNulty**. The opening keynote address will be delivered at 9:00 a.m. on July 27 by **Thomas E. McNamara** from the Office of the Director of National Intelligence. Mr. McNamara will draw on his vast experience as a diplomat and high ranking intelligence official to convey the importance of state and local efforts to gather and share terrorism information.

Celia Sandys, a respected international speaker with a well-established reputation as an authority on the life of her grandfather, **Sir Winston Churchill**, will deliver the mid -conference keynote address on leadership at 11:45 a.m. on Friday, July 28. **Mike McDonell, Assistant Commissioner for the Royal Canadian Mounted Police's Criminal Intelligence Directorate** will deliver closing remarks at 10:30 a.m. on Saturday, July 29.

Throughout the conference, national experts will lead 52 individual sessions on specific law enforcement subjects: homeland security, school and youth safety, ethics and gaining public trust, law

DOJ_NMG_ 0164939

enforcement technology, and community policing strategies. For additional details or a conference agenda, please visit www.cops.usdoj.gov.

When: 8:30 a.m., Thurs., July 27 through noon on Saturday, July 29.

Where: Washington Hilton Hotel, 1919 Connecticut Avenue N.W., Washington, D.C. 20009

Please contact COPS' External Affairs Division for credentials (202-616-1728)

Camera position is approximately a 30-yard throw from stage

# # #

DOJ_NMG_ 0164940

Image not available for this document, ID: 0.7.10316.44983-000001

COPS
COMMUNITY ORIENTED POLICING SERVICES
U.S. DEPARTMENT OF JUSTICE

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, July 25, 2006 12:08 PM
To: Swenson, Lily F; Gorsuch, Neil M
Subject: Pls let me know if you have any leave to report for pp14 7/9 thru 7/22

Owens, Angela (ENRD)

From: Owens, Angela (ENRD)

Sent: Tuesday, July 25, 2006 12:41 PM

To: Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane; Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)

Subject: Attached are ENRD's Weekly Reports to the AG....

Attachments: #115353-v1-ENRD's_AG_Weekly_Report_--_July_25__2006.DOC; #115377-v1-ENRD'S_AG_Weekly_--_July_25__2006_AAG_Recused.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

July 25, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

- ***Hearing in Western Watersheds v. Kraayenbrink and Maughn v. Rosenkrance on Challenge to Bureau of Land Management Grazing Regulations***

On July 28, the District Court for the District of Idaho will hold a hearing on plaintiffs' respective motions for preliminary injunctive relief in this challenge to the Bureau of Land Management's ("BLM") new grazing regulations issued on July 12, 2006. Plaintiffs challenge the regulations under the Endangered Species Act ("ESA"), the National Environmental Policy Act ("NEPA"), and the Federal Land Policy and Management Act ("FLPMA").

- ***Clean Water Act Enforcement Action to be Filed in the Western District of Virginia***

By no later then July 26, Division attorneys expect to file United States v. Savoy Senior Housing Corp, et al., in the Western District of Virginia, the first new wetlands enforcement action to be filed by the Division since the Supreme Court's Rapanos decision in late June. EPA referred the Liberty Village Site in Lynchburg, Virginia for an enforcement action under Clean Water Act sections 402 and 404. Starting in July 2001, the developers of a 140-acre senior housing complex and their contractors graded over and filled approximately 1,500 linear feet of a permanent stream and placed fill in approximately two acres of wetlands at the head of the

stream. The construction also resulted in discharges of sediment into streams on the site, both without a section 402 permit and in violation of that permit once obtained. The project stopped in the spring of 2003 after funding fell through and local regulators issued a stop work order. The limited partnership that was heading up the development has declared bankruptcy and received chapter 11 protection. EPA has recommended that we pursue the general partner, the president of the general partner, the contractor, and their consultants for the violations.

LAST WEEK

- ***Brief filed in Environmental Defense v. Duke Energy Corp.***

The United States filed its opening brief in this case on July 21. In May, the Supreme Court granted a certiorari petition filed by an intervenor environmental group seeking review of an adverse decision of the Fourth Circuit in this Clean Air Act enforcement action brought by the United States. We argued that the Fourth Circuit lacked jurisdiction to hear a challenge to the Environmental Protection Agency's ("EPA") interpretation of its Clean Air Act regulations and, on the merits, that the court of appeals erred in concluding that Duke Energy's modernization of its existing power plants, which increased the number of hours the plants could operate, did not trigger permitting requirements under the Clean Air Act's Prevention of Significant Deterioration Program.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0164946

U.S. Department of Justice

Environment and Natural Resources Division

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

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

July 25, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Matthew McKeown
Deputy Assistant Attorney General
Environment and Natural Resources Division

THIS WEEK

- ***Amended Consent Decree in In re: Asarco, Inc.***

Division attorneys and Asarco, Inc. have negotiated an amended consent decree and lien release agreement for the Asarco Smelter Superfund Site in Tacoma, Washington. Point Ruston, LLC, a real estate developer, is purchasing contaminated property from Asarco that will become prime waterfront real estate once it is remediated. Asarco has performed some cleanup work under a consent decree in United States v. Asarco, Inc. (W.D. Wash.) and an Environmental Protection Agency ("EPA") administrative order. Under the amended consent decree and lien agreement, the developer will complete the cleanup at an estimated cost of $28 million. Asarco will pay the Superfund $1.5 million from the proceeds of the property sale, and contingent payments could result in additional recoveries up to $4 million. Division attorneys are also seeking approval to file a proof of claim in the Asarco bankruptcy proceeding setting forth the United States' environmental claims not covered by the preliminary proof of claim filed earlier this year.

DIVISION CONTACT

Matthew McKeown
Deputy Assistant Attorney General
(202) 514-3370

Brand, Rachel

From: Brand, Rachel
Sent: Tuesday, July 25, 2006 12:45 PM
To: Gorsuch, Neil M
Subject: FW: Jerome Holmes - Tenth Circuit

Fyi on your new colleague

From: Scott-Finan, Nancy
Sent: Tuesday, July 25, 2006 12:25 PM
To: Brand, Rachel; Macklin, Kristi R; Best, David T; Sampson, Kyle; Richter, John (USAOKW); 'Andrea_B._Looney@who.eop.gov'; Jennifer_R._Brosnahan@who.eop.gov
Cc: Moschella, William; Seidel, Rebecca; Chambers, Shane P; Voris, Natalie (USAEO)
Subject: Jerome Holmes - Tenth Circuit

Confirmed by a vote of 67-30

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, July 25, 2006 1:48 PM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Justice Dept. sues to block Missouri from getting phone records

AP
July 25, 2006

Justice Dept. sues to block Missouri from getting phone records

By SAM HANANEL

WASHINGTON (AP) The federal government sued two members of the Missouri Public Service Commission on Tuesday to stop them from seeking information about customer records that telephone companies may have given to the National Security Agency.

The lawsuit, filed in U.S. District Court in St. Louis, claims disclosure of any information the Missouri regulatory body wants to obtain could cause ``exceptionally grave harm to national security."

Public Service Commission members Robert Clayton and Steve Gaw issued subpoenas last month to find out whether AT&T Inc. supplied Missouri customer information and calling records to the NSA in violation of Missouri privacy rules.

The Missouri subpoenas came after a USA Today story reported that AT&T and other phone companies handed over phone records of millions of Americans to the NSA after the Sept. 11 attacks.

PSC spokesman Gregg Ochoa said the commissioners had no immediate comment.

Last month, the Justice Department filed a similar lawsuit against the

New Jersey attorney general and other state officials to stop them from obtaining information about phone company cooperation with the NSA.

END

McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, July 25, 2006 1:57 PM
To:	Agarwal, Asheesh (CRT); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Beckner, Rick (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Dan (CIV); Davis, Deborah J; Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hudson, Lewis (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina E. (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shannen Coffin; Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	7/25 CIV Weekly Report to the AG
Attachments:	CivDivWkly0725.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

July 25, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- No items to report.

B. THIS WEEK

- ***Reply to be Filed in Support of Motion to Permit Review of Communications Between Guantanamo Detainees and Their Counsel***
  In re Guantanamo Bay Detainee Cases [District of Columbia]. On July 28, the government will file a reply in support of its July 7 motion seeking court authorization for review of Guantanamo Bay detainee written materials to include any attorney-client communications in such materials. As part of an ongoing Naval Criminal Investigative Service investigation into the recent Guantanamo detainee suicides and any planning with respect to other past or future suicide attempts, all detainees' written materials were impounded for review. This action was based on evidence of coordination of the suicides among various detainees. Under an applicable protective order, communications between detainees and their *habeas* counsel are privileged and not subject to substantive review by Guantanamo authorities. However, in light of the fact that the ongoing investigation uncovered various suicide-related communications between detainees that were written on stationery marked as attorney-client confidential communications, the government in

its motion is seeking court authorization for review of attorney-client communications in the impounded detainee documents. Such review would be conducted by a team of Department of Defense personnel who could not disclose privileged information without court permission, unless the information concerned a threat of imminent violence or danger to national security. Petitioners' counsel have claimed that the impoundment of documents is illegal and that the government must make a detainee-specific showing in order to justify any review of detainee legal materials.

C. LAST WEEK

- ***Second Circuit Affirms Adverse Credibility Finding but Remands for Further Proceedings on Finding of Frivolousness***
  Liu v. U.S. Dept. of Justice [2d Cir.]. On July 11, the Second Circuit affirmed in part and reversed and remanded in part the Board of Immigration Appeals' decision which affirmed without separate opinion the Immigration Judge's findings. The Court upheld the adverse credibility finding but reversed the finding that Liu's asylum application was frivolous. The Court held that absent clear standards from the Board, it would not affirm the Immigration Judge's finding that a "garden variety" adverse credibility determination could be "parlayed" into a finding of frivolousness. The Court noted that remand would allow the Board to set clear standards for frivolousness.

- ***Fourth Circuit Affirms District Court's Reversal of Administrative Law Judge in Social Security Disability Case and Awards Benefits***
  Hines v. Barnhart [United States Court of Appeals for the Fourth Circuit; United States District Court for the Eastern District of North Carolina]. On July 11, the Fourth Circuit (Wilkins, Gregory, Kelley (D.J.)) in this individual social security disability case affirmed the district court's judgment reversing the Administrative Law Judge's denial of disability benefits, and ordered an award of benefits. The Fourth Circuit held that a claimant may rely exclusively on subjective complaints of pain to establish that his medical condition disables him, and that the Administrative Law Judge therefore erred in discrediting plaintiff's uncontradicted complaints of pain and finding plaintiff not disabled. The Court rejected the government's arguments that there was substantial evidence from which the Administrative Law Judge could have concluded that plaintiff's complaints were not credible and that plaintiff therefore was not disabled, or alternatively that the Court should, at a minimum, remand the case rather than award benefits outright.

- ***Court of Federal Claims Holds that It Lacks Jurisdiction to Entertain Claims by Cuban Nationals for Civil Service Retirement Benefits***
  Ferreiro v. United States, [Fed. Cl.] (J. Firestone). On July 13, the Court of Federal Claims dismissed a claim by Cuban nationals for pension and annuity benefits that had been suspended by the Cuban embargo. The court found that the Civil Service Reform Act of 1978 deprived it of jurisdiction, and that the Foreign Assets Control regulations were not money-mandating. The court had previously dismissed plaintiffs' complaint for lack of jurisdiction to entertain claims by Cuban nationals pursuant to the reciprocity requirements of 28 U.S.C. § 2502. *Ferrerio v. United States*, 54 Fed. Cl. 274 (2002) (J. Bush). However, that decision was reversed and remanded on appeal by the Federal Circuit.

- ***Second Circuit Reverses Board's Finding That Albanian Alien Was Harassed but not Persecuted***
  Saljanin v. Gonzales [2d Cir.]. On July 14, the Second Circuit reversed the Board of Immigration Appeals' denial of asylum. An Albanian mother sought asylum alleging that her son deserted from the Albanian army and the authorities repeatedly came to her house looking for him, pointed guns at her, and threatened to kill her if she did not tell them where her son was. The Board affirmed the Immigration Judge's conclusion that the police conduct amounted to harassment but not persecution. The Court stated that the "gun-pointing" incident was fundamental to the claim but the Immigration Judge did not evaluate it and that it had previously held that an Albanian's conscription into the Yugoslav army constituted persecution.

- ***Interior Department Reorganization of Indian Education Offices Preliminarily Enjoined***
  Yankton Sioux Tribe v. Kempthorne [D.S.D.]. On July 14, Judge Karen Schreier of the District of South Dakota issued a preliminary injunction barring the Office of Indian Education Programs (OIEP) of the Department of the Interior from proceeding with a proposed restructuring of its management offices in North and South Dakota. Plaintiffs, 11 Indian tribes and schools in the states of North and South Dakota, claim that in adopting the nationwide restructuring plan, OIEP violated its statutory duty to consult with Indian tribes about Indian education, violated statutory restrictions in reprogramming fiscal year 2006 funds to pay for the restructuring, and acted arbitrarily and capriciously in violation of the Administrative Procedure Act and its trust obligations to Indian tribes. The Court found that plaintiffs had a likelihood of success on only of two of their claims. First, in its consultations, OIEP stated that the reorganization would not be funded with money taken from Indian schools, but in fact the subsequent reprogramming did transfer funds from two Indian education programs. The court found that this violated the agency's statutory duty to fully inform and consult with tribes about the potential impact of the reorganization. Second, the court found that OIEP failed to follow statutory requirements and the agency's own procedures by failing to consider whether the three new management offices in the Dakotas could be located in rural rather than urban areas.

- ***Federal Circuit Limits Use of Parol Evidence***
  On July 14, the court affirmed a decision of the board of contract appeals in *Applied Companies v. Army*, No. 05-1511 (Fed. Cir.) in favor of the United States upon grounds different from the holding of the board. (We admitted that the holding below – denying the contractor's $19 million claim – was error.) The court decided the appeal based upon the plain meaning of two contract amendments accepting a value engineering proposal. The court rejected the board's use of testimony by former high-ranking agency officials about the nature of the value engineering agreement reached. The court insisted that contract interpretation be limited to the words of the contract itself. The court further ruled that, to the extent that parol evidence might be relevant, only parol evidence provided by the contracting officer – not testimony by her supervisors – would be relevant to determine the government's understanding of the agreement.

- ***Eleventh Circuit Upholds Board of Immigration Appeals' Decision Denying Colombian Citizen's Application for Asylum and Other Relief***

Cruz-Pulido v. United States Attorney General [United States Court of Appeals for the Eleventh Circuit; Board of Immigration Appeals]. On July 14, the Eleventh Circuit (Edmondson, Chief J., Marcus & Wilson, JJ.), in a *per curiam* unpublished decision, upheld the Board of Immigration Appeals' denial of an application for asylum, withholding of removal, and relief under the Convention Against Torture based on alleged persecution in Colombia on account of the applicant's imputed political opinion. The appeals court held that substantial evidence supported the Board of Immigration Appeal's finding that Cruz failed to carry his burden of showing that he was persecuted on any protected ground, because Cruz presented no evidence to support his allegations that a Colombian guerilla group was even aware of his role as informant for the Army, or that the guerilla group imputed a specific opinion to him.

- ***Sixth Circuit Upholds Board's Rule on Criminal Conviction Vacatur but Reverses Board's Application of Rule***
  Pickering v. Gonzales [6th Cir.]. On July 17, the Sixth Circuit held that the Board of Immigration Appeals correctly interpreted the law by holding that a conviction remains valid for immigration purposes if a court vacates an alien's conviction for reasons solely related to rehabilitation or to avoid immigration hardships. The court, however, reversed the finding of deportability against Pickering because the record was incomplete regarding whether the Canadian court vacated his conviction solely for immigration purposes.

- ***Second Circuit Remands for Updating of Stale Record***
  Serafimovich v. Ashcroft [2d Cir.]. On July 17, the Second Circuit held that both the Immigration Judge and the Board of Immigration Appeals overlooked the record evidence showing that conditions in Belarus had significantly worsened in light of the government's efforts to lead Belarus back to Soviet-era authoritarian practices. Despite the alien's admission that she had not been persecuted, as well as her inconsistent testimony, the court remanded to allow the parties the opportunity to update the record given the passage of nearly five years since the asylum application was denied.

- ***Suit by Former Justice Department Employee Who Disclosed Lindh E-Mails Dismissed***
  Radack v. Department of Justice [District of Columbia]. On July 17, Judge Henry H. Kennedy, Jr. entered judgment for the Department. Plaintiff Jesslyn Radack, a former legal advisor in the Department's Professional Responsibility Advisory Office, intentionally disclosed to Newsweek privileged Department e-mails regarding an internal ethical inquiry about the interrogation of John Walker Lindh. When the Department's Office of Professional Responsibility (OPR) notified the District of Columbia and Maryland bars of Radack's disclosure to Newsweek, Radack filed suit alleging that OPR's referral of her conduct: (1) violated the Privacy Act because, as a former Department employee, she was not covered by OPR's Privacy Act system of records, and (2) violated the Administrative Procedure Act (APA) because the referral was contrary to internal OPR policy. Previously, in August 2005, Judge Kennedy granted the government's motion for summary judgment with respect to the Privacy Act claim, accepting OPR's interpretation that its system of records covers former Department employees such as Radack, but the court ordered further briefing on the APA claim. Now reaching the APA claim, Judge Kennedy ruled on July 17 that: (1) Radack does not have standing to seek injunctive relief because she did not allege that the Department was likely to cause her

any future injury, and (2) Radack's claim for declaratory relief fails on the merits because OPR acted properly in referring her to the District of Columbia and Maryland bars.

- ***Eleventh Circuit Affirms Summary Judgment of Trademark Fair Use by the Postal Service***
  International Stamp Art, Inc. v. United States Postal Service, No. 05-13492 (Birch, Carnes, Trager; per curiam) [11th Cir.]. On July 18, the Eleventh Circuit affirmed summary judgment in favor of the Postal Service in a trademark infringement action. International Stamp Art (ISA), a small greeting card manufacturer and a former licensee of the Postal Service, obtained federal trademark registration for a "perforated" border design in 1996. After its trademark registration achieved "incontestible" status in 2001, ISA filed suit against the Postal Service, claiming that the Postal Service had infringed ISA's trademark by depicting postage stamp images with perforated borders on greeting cards, note cards, and post cards, and seeking over $10 million in damages. On summary judgment, the district court held that the Postal Service displayed perforated borders only as an inherent part of its stamp images, and not as a trademark; thus, the use was fair and non-infringing. The Eleventh Circuit adopted the government's construction of the legal standard for good faith in the context of fair use. It also held that ISA's arguments on appeal were unsupported by the record and the case law.

- ***Third Circuit Vacates and Remands Board Denial of Asylum Claim by Argentinian Male Homosexual***
  Maldonado v. Attorney General [3d Cir.]. On July 18, the Third Circuit in an unpublished per curiam opinion vacated and remanded a Board of Immigration Appeals' decision denying asylum to an Argentinian gay man, because the record evidence of repeated police beatings and harassment suffered by Maldonado outside a particular gay nightclub, State Department Reports acknowledging that police mistreated homosexual males, and cultural anti-homosexuality compelled a conclusion that Maldonado suffered past persecution on account of his membership in a particular social group, namely gay men in Argentina. The court remanded to allow the government to prove by a preponderance of evidence that Maldonado might be able to relocate in Argentina to avoid persecution in the future, or that country conditions had changed.

- ***Court Holds Department Is not Required to Conduct Manual Search for Records Pertaining to Requests to Seal Immigration Cases***
  People for the American Way Foundation v. Department of Justice [District of Columbia]. On July 18, Judge John D. Bates granted in part and denied in part plaintiff's motion for summary judgment and denied our motion for summary judgment. Plaintiff submitted a Freedom of Information Act (FOIA) request to the Executive Office for United States Attorneys for documents relating to "any request by the government to seal the proceedings of a case in any federal court arising from or relating to the detention of a post 9/11 immigrant detainee, including, without limitation, redacted copies of any pleadings filed in support of a request to seal." The government argued that plaintiff's FOIA request was incompatible with the way in which United States Attorneys offices maintain records and track cases, and that a manual search of thousands of case files in all 93 of these offices rises to the level of an unreasonably burdensome search which the FOIA does not require the government to perform. Judge Bates held that the government is not required to conduct a manual search of some 44,000 case files, but that it is

required to use the Public Access to Court Electronic Records database to identify which of the 44,000 cases are sealed and are potentially responsive to plaintiff's request.

- ***D.C. Circuit's Special Division Grants Attorney's Fee Award in In Re Cisneros Independent Counsel Investigation***
  In re Cisneros (Needle Fee Application) [United States Court of Appeals for the District of Columbia Circuit; Independent Counsel Division]. On July 18, the Special Division of the District of Columbia Circuit (Judges Sentelle, Fay & Reavley) awarded $22,000 in attorney's fees to Martin Needle, an Internal Revenue Service attorney who was a subject of Independent Counsel David M. Barrett's investigation into potential criminal conduct with respect to the decision by the Department of Justice and the Internal Revenue Service, in the mid-1990s, not to authorize investigation and prosecution of former Housing and Urban Development Secretary Henry Cisneros for potential tax violations. Agreeing with the Justice Department's evaluation of the fee application, and disagreeing with the evaluation submitted by the Office of Independent Counsel, the court determined that the critical "but for"element of the Independent Counsel Act's fee provision was satisfied because an ordinary prosecutor would not have undertaken a criminal investigation of the government's decision to decline the tax prosecutions at issue.

- ***Judgment Entered for the Department in Case Seeking Pardon Application Records***
  Judicial Watch, Inc. v. United States Department of Justice [District of Columbia]. On July 19, Judge Kessler granted the Department's motion for summary judgment in a Freedom of Information Act case in which plaintiff sought all documents in the Office of the Deputy Attorney General relating to pardon applications considered by former President Clinton. The case was on remand from the District of Columbia Circuit following its ruling on the scope of the presidential communications privilege. We re-processed the documents, withholding some pursuant to the presidential communications privilege, some pursuant to the deliberative process privilege, and some on the grounds of personal privacy. Plaintiff only challenged those withholdings based on the deliberative process privilege. Judge Kessler rejected plaintiff's challenge and entered judgment for the Department.

- ***Court Dismisses in Part Challenge to Termination of Employees of Iranian National Origin but Declines to Stay Discovery Pending Resolution of State Secrets Issue***
  Afshari v. Leavitt. On July 19, Judge Irene Keeley [Northern District of West Virginia] granted in part our motion to dismiss as to several claims in a suit arising out of the termination of a husband and wife of Iranian national origin from positions as Service Fellows at the National Institute for Occupational Safety and Health. The court granted our motion to dismiss plaintiffs' claim under the Administrative Procedure Act, holding that the Civil Service Reform Act provides the exclusive remedial scheme for claims of that nature. The court also dismissed plaintiffs' procedural due process claim under the Fifth Amendment, holding that plaintiffs had established neither a property interest nor a liberty interest in their employment. However, the court refused to dismiss plaintiffs' First Amendment claim based on freedom to associate with other Iranians; although the court did not categorically reject our argument that the type of claim plaintiffs pleaded was preempted by Title VII, the court considered it premature to make that determination. Plaintiffs also asserted a Title VII claim for discrimination on the basis of national origin and religion. We did not move to dismiss that claim, which will now move forward along

with the First Amendment freedom-of-association claim. The reasons for plaintiffs' termination involve classified information, and, as such, this case may involve assertion of the state secrets privilege. However, the court declined our proposal to stay discovery pending resolution of any state secrets issue we might raise.

- ***Ninth Circuit Affirms Sentence for Defendant Convicted of Selling Hazardous Toys***
  United States v. Matthew Lotze [9th Circuit] (Pregerson, Leavy, Beistline). On July 19, the Ninth Circuit Court of Appeals affirmed the 21-month prison sentence for Matthew Lotze, who was convicted of fraud and false statement charges for reselling hazardous toys that he had been hired to destroy. Chevron Texaco Corporation had recalled the approximately 600,000 toy cars after the U.S. Consumer Product Safety Commission determined that they were banned hazardous substances because they contained small parts that could break off and pose a choking hazard to children under age 3. The Ninth Circuit ruled that the district court had correctly calculated the loss and found that Lotze had obstructed justice.

- ***Investment Scam Defendants Plead Guilty to Conspiracy***
  United States v. Webman, et al. [Southern District of Florida] (Judge Altonaga). On July 19, Ian Alan Weiss and Max Bacal pled guilty to conspiracy to commit mail and wire fraud in connection with soliciting investments in CheckMate Financial, Inc. Weiss was CheckMate's top salesperson, while Bacal was the head closer at CheckMate. They misrepresented that CheckMate Financial had an operational mobile check cashing business when it did not have any real business outside of soliciting investments. Potential investors were falsely told that CheckMate Financial was cashing checks at places such as construction sites, hospitals, cruise ships, and large factories. CheckMate Financial promoted the investment opportunity across the country through unsolicited telephone calls to potential investors, taking in over $2,500,000.

- ***Government Seeks Reconsideration of Preliminary Injunction Expanding Disaster Relief***
  Watson v. Federal Emergancy Management Agency [Southern District of Texas]. On July 21, the government filed a motion to stay the preliminary injunction issued on July 13. In that order, Judge David Hittner required the Federal Emergency Management Agency (FEMA) to reimburse recipients of Temporary Housing Assistance under Section 408 of the Stafford Act for the costs of their separately-metered utility bills, in addition to the cost of the actual rent on the apartments themselves, up to the Fair Market Rent for a residence of a particular size in a particular geographic location, as determined by the Department of Housing and Urban Development. Our motion to stay argues that the preliminary injunction order is both wrongly decided and so sweeping and burdensome that compliance would inflict irreparable harm upon FEMA, and be contrary to the public interest, because it would impair FEMA's ability to provide disaster relief during the current hurricane season and in the wake of any future disaster. We have sought expedited consideration of this motion.

- ***D.C. Circuit's Special Division Grants Attorney's Fee Award in In Re Cisneros Independent Counsel Investigation***
  In re Cisneros (Finkelstein Fee Application) [United States Court of Appeals for the District of Columbia Circuit; Independent Counsel Division].

On July 21, the Special Division of the District of Columbia Circuit (Judges Sentelle, Fay & Reavley) awarded $110,013.09 in attorney's fees to Barry J. Finkelstein, an Internal Revenue Service attorney who was a subject of Independent Counsel David M. Barrett's investigation into potential criminal conduct with respect to the decision by the Department of Justice and the Internal Revenue Service, in the mid-1990s, not to authorize investigation and prosecution of former Housing and Urban Development Secretary Henry Cisneros for potential tax violations. Agreeing with the Justice Department's evaluation of the fee application, and disagreeing with the evaluation submitted by the Office of Independent Counsel, the Court determined that the critical "but for"element of the Independent Counsel Act's fee provision was satisfied because an ordinary prosecutor would not have undertaken a criminal investigation of the government's decision to decline the tax prosecutions at issue.

- ***Department of Justice Settles Kickback Claims Against Medtronic, Inc. for $40 Million***
  United States ex rel. Kelley v. Medtronic Inc., et al., Case No. 02-2709 [W.D. Tenn.] (Donald, J.) (**UNDER SEAL**); *United States ex rel. Poteet v. Medtronic Inc., et al.*, Case No. 03-2979 (W.D. Tenn.) [McCalla, J.]. Medtronic, Inc. has agreed to pay $40 million to settle allegations that, between 1998 and 2003, it paid kickbacks to physicians to induce them to use Medtronic's spinal products.

- ***General Electric Co. and Two Subcontractors Pay $11.5 Million to U.S. to Settle False Claims Act Case Involving Allegations of Defective Jet Engine Components***
  United States ex rel. Lefan et al. v. General Electric Co. et al., Case No. 4:00CV222-M [W.D.Ky.]. General Electric Co. (GE) and two of its subcontractors have paid the United States $11.5 million to settle a qui tam suit that alleged that GE sold defective components for engines in U.S. military airplanes and helicopters. The lawsuit alleged quality-control problems over a period of years involving the manufacture of several types of engine blades and vanes at GE's Aircraft Engines division facility in Madisonville, Kentucky. These alleged problems included nonconformances in casting and in non-destructive testing. Two subcontractors, Howmet Corp., a subsidiary of Alcoa Inc., and Precision Castparts Corp. manufactured unfinished castings, which GE then finished at the Madisonville facility. Both subcontractors were also named as defendants.

Contact: Daniel Davis, Counsel, 305-9334

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, July 25, 2006 2:10 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Fallon, Claire (TAX); Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 072506
Attachments:	AG_Report_07_25_2006_final.DOC

July 25, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Nothing significant to report.***

B. THIS WEEK

- ***Jury Convicts Offshore Seminar Promoter of Filing False Return***
  On July 24, a federal jury in Boston, Massachusetts convicted Nadine J. Griffin of one count of filing a false income tax return. From 1996 to 2000, Griffin was a member of Global Prosperity, and one of its top salespersons. She received more than $600,000 over a two-year period, and deposited the money in the bank accounts of trusts that she controlled. Griffin failed to report any of the income on her tax returns. [*United States v. Nadine J. Griffin* (District of Massachusetts)]

C. LAST WEEK

- ***Tax Attorney Sentenced for Tax Evasion***
  On July 21, District Judge Robert E. Blackburn sentenced tax attorney Michael Shidler to two months in prison and three years of supervised release for aiding and abetting evasion of payment of taxes. The court also fined Shidler $22,000 and prohibited him from practicing law during his supervised release. Shidler pleaded guilty to aiding and abetting the evasion of payment of tax in April 2006. He admitted to conspiring with his client to obstruct the IRS's efforts to collect a penalty of $124,000 from the client. [*United States v. Michael J. Shidler* (District of Colorado)]

- ***District Court Rules on Partial Summary Judgment in Son of BOSS Case***
  On July 20, District Judge T. John Ward issued an adverse decision on a motion for partial summary judgment that did not address the government's economic substance claims. The court ruled that the plaintiff's scheme – a variant of Son of BOSS – complied superficially with tax rules in place at the time of the transaction and that the Treasury Department lacked authority to apply retroactively its June 2003 regulations that addressed the scheme. If sustained, these rulings could affect several other pending Son of BOSS cases, but most of our Son of BOSS cases are factually distinct. The government will have an opportunity to present other arguments, including economic substance claims, at a non-jury trial in October. News stories and headlines in the Wall Street Journal, the New York Times, and the Washington Post mischaracterized the decision and its relevance to *United States v. Stein* the criminal case pending against former KPMG partners and professionals. [*Klamath Strategic Investment Fund, LLC v. United States* (Eastern District of Texas)]

- ***Tax Division Prevails in Same-Sex-Marriage Challenge to IRS Tax Case***
  On July 17, in an unpublished opinion, the United States Court of Appeals for the Eighth Circuit held that J. Michael McConnell, a Minnesota man, was barred by collateral estoppel from re-litigating the validity of his marriage to another man in federal court. McConnell had challenged IRS's rejection of the joint federal income tax return he had filed with his same-sex marriage partner. Only married couples are eligible to file joint federal income tax returns, and Minnesota courts had previously denied the validity of his marriage. In earlier litigation, the U.S. Supreme Court reviewed a decision against the plaintiff by the Minnesota Supreme Court on appeal, but later dismissed the appeal for want of a federal question. The court cited this action by the Supreme Court as an adjudication on the merits of the plaintiff's case. [*J. Michael McConnell v. United States* (United States Court of Appeals for the Eighth Circuit)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-2901.

Davis, Deborah J

From: Davis, Deborah J
Sent: Tuesday, July 25, 2006 2:29 PM
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Subject: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Davis, Deborah J

From: Davis, Deborah J
Sent: Tuesday, July 25, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: Please call Courtney Elwood [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 3:39 PM
To: Davis, Deborah J
Subject: Re: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Plse cancel

-----Original Message-----
From: Davis, Deborah J
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Sent: Tue Jul 25 14:29:14 2006
Subject: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Davis, Deborah J

From: Davis, Deborah J
Sent: Tuesday, July 25, 2006 3:41 PM
To: Gorsuch, Neil M
Subject: RE: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Staff meeting has been cancelled and Motorpool called ... They had to pull your return car?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 3:39 PM
To: Davis, Deborah J
Subject: Re: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Plse cancel

-----Original Message-----
From: Davis, Deborah J
To: Gorsuch, Neil M; Gunn, Currie (SMO)
Sent: Tue Jul 25 14:29:14 2006
Subject: Is staff meeting still on for this afternoon, Lily is out of bldg [redacted] and may not be back in time. She wanted to know?

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 25, 2006 4:54 PM
To: Gorsuch, Neil M
Subject: I am stuck out

[redacted] Will be late for staff. I apologize. Can I catch up with you when I get back (in abt 30 mins)?

Gorsuch, Neil M

Subject:	[redacted]
Start:	Tuesday, August 01, 2006 12:30 PM
End:	Tuesday, August 01, 2006 1:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 5:14 PM
To: Swenson, Lily F
Subject: RE: I am stuck out

No worries; just ring when you get a chance.

-----Original Message-----
From: Swenson, Lily F
Sent: Tuesday, July 25, 2006 4:54 PM
To: Gorsuch, Neil M
Subject: I am stuck out

[redacted] Will be late for staff. I apologize. Can I catch up with you when I get back (in abt 30 mins)?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, July 25, 2006 5:14 PM
To: Katsas, Gregory (CIV)
Subject: Can we meet tomorrow morning? Say 9?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

Subject:	Call Brett Gerry
Start:	Tuesday, August 01, 2006 1:30 PM
End:	Tuesday, August 01, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Swenson, Lily F

From: Swenson, Lily F
Sent: Tuesday, July 25, 2006 6:54 PM
To: Gorsuch, Neil M
Subject: I just tried calling you

On the main number... What's your direct?

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, July 25, 2006 7:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 25, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Judge Dismisses Lawsuit to Bar AT&T from giving phone records to NSA (Civil)
A federal judge in Chicago has dismissed a lawsuit that sought to bar AT&T from giving the government telephone records without warrants, saying it would require disclosures that would "adversely affect our national security." Judge Matthew F. Kennelly said disclosing whether AT&T had given such records to the National Security Agency would violate the government's right to keep state secrets. The judge ruled in a lawsuit filed by the American Civil Liberties Union of Illinois on behalf of author Studs Terkel and others who claimed their rights had been violated by disclosure of the phone records to the NSA. AT&T was the defendant, but the Justice Department asserted the states secrets privilege in the case, saying that the state secrets privilege could be protected only if the telephone giant were kept from saying whether it had provided the records.

United States Sues Missouri to Stop State from Getting Phone Records (Civil)
The U.S. government sued two members of the Missouri Public Service Commission to stop them from seeking information about customer records that telephone companies may have given to the National Security Agency. The lawsuit claims disclosure of any information the Missouri regulatory body wants to obtain could cause "exceptionally grave harm to national security." Public Service Commission members Robert Clayton and Steve Gaw issued subpoenas last month to find out whether AT&T supplied Missouri customer information and calling records to the NSA in violation of Missouri privacy rules. In its lawsuit, the Department says the federal government has "exclusive control vis-a-vis the states with respect to foreign intelligence gathering, national security, that conduct of foreign affairs and the conduct of military affairs."

Media Inquiries Regarding the Wright Amendment (Antitrust)
The AP reported today that the Justice Department sent a memo to Capitol Hill lawmakers informing them that an aviation agreement reached by Texas officials and two major airlines to eventually lift flight restrictions at Dallas Love Field airport would violate federal antitrust laws and should not be approved. AAG Moschella sent a letter to Sen. Hutchison stating the Department's position.

Talking Points:

- We have been discussing with Congress the pending legislation and whether there are better ways to reach the goal of maximizing competition, but the Administration has not taken a position on the legislation.

House Hearing Regarding Real Estate Competition (Antitrust)
J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, testified today before the house Financial Services Subcommittee on Housing and Community Opportunity. He discussed the Division's continuing efforts to advocate competition in the real estate industry. Topics included the NAR litigation, competition advocacy, and the FTC's settlement with the Austin Board of Realtors.

Former White County Tennessee Corrections Officers Indicted and Arrested on Civil Rights Charges (Civil Rights)
A two-count indictment by a federal grand jury in Nashville, Tenn. was unsealed today, charging two former White County corrections officers of violating the civil rights of an inmate at the White County Jail. The jury returned the sealed indictment on June 5, 2006, against the Jail's former Chief of Corrections, Donald R. Wilson, and former supervisory corrections officer, Stan Hawkins. Following the unsealing of the indictments, Hawkins was taken into federal custody immediately and Wilson will surrender himself within the next few days.

Container Ship Owners and Operators to Pay $3.25 Million in National Marine Sanctuary Settlement (ENRD)
The owners and operators of the foreign-flagged container vessel, *Mad Taipei,* have agreed to pay $3.25 million to the United States to resolve allegations that the 15 containers lost overboard in 2004 resulted in long-term damage to the Monterey Bay National Marine Sanctuary (MBNMS), the Department of Justice and the Department of Commerce announced today. The settlement between MBNMS, located off the coast of California, and the owners of the vessel – All Oceans Transportation Inc., Italia Marritema SpA and Yang Ming Transport Corporation – represents the largest damages awarded to date regarding a national marine sanctuary.

Nightline to Feature Narcotics Arrests (DEA/FBI)
The U.S. Attorney's Office for the Southern District of New York will announce multiple narcotics trafficking arrests at a joint press conference with the DEA and the FBI tomorrow. ABC's *Nightline* has also been working with the DEA and the U.S. Attorney's Office on a segment regarding this investigation, and has been granted exclusive access to DEA space and operations. The *Nightline* segment is expected to run tomorrow evening.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

9 A.M. EDT	The Attorney General will appear on C-SPAN's Washington Journal.
10:00 A.M. EDT	FBI Director Robert Mueller will host a press availability to outline changes in the organizational structure and leadership at the FBI.

1:30 P.M. EDT The Deputy Attorney General will participate in an interview with Bloomberg TV's *Money and Politics* program to air tomorrow between 5-6 P.M. EDT

2:00 P.M. EDT Dan Metcalf, Director of the Office of Information and Privacy is scheduled to testify before the House Government Reform Subcommittee on Government Management, Finance, and Accountability regarding Freedom of Information Act Oversight.
Rayburn House Office Building
Room 2147
Washington, D.C.

Press inquiries regarding logistics should be directed to the House Government Reform Committee at 202-225-5074.

3:30 P.M. EDT Arif Alikhan, Senior Counsel to the Deputy Attorney General, will testify before the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, and present *STOP!: A Progress Report on Protecting and Enforcing Intellectual Property Rights Here and Abroad*.
Dirksen Senate Office Building
Room 342
Washington, D.C.

Press inquiries regarding logistics should be directed to the Senate Homeland Security and Governmental Affairs Committee at 202-224-4751.

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Tuesday, July 25, 2006 8:12 PM
To: Gorsuch, Neil M
Subject: FW: p.s.

FYI. Nice, making him come to Denver - I like it - shows a measure of commitment to the interview and since he's not too far away, not a big deal.

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted] cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: [redacted]@law.harvard.edu [mailto:[redacted]@law.harvard.edu]
Sent: Tuesday, July 25, 2006 8:08 PM
To: Jaffer, Jamil N
Subject: Re: p.s.

Hey Jamil --

Thanks for your help with the clerkship hunt. I got a call tonight (about an hour ago) from Mr. Gorsuch (he said not to call him judge until the President signs the commission! Probably good advice). I am going to meet him in Denver in a couple of weeks. Sounds promising.

Thanks again,
[redacted]

Quoting "Jamil.N.Jaffer@usdoj.gov" <Jamil.N.Jaffer@usdoj.gov>:

> Got it.
>
> Jamil Jaffer
> Counsel
> Office of Legal Policy
> United States Department of Justice
> (202) 307-0120 (office)
> [redacted] (cell)
> jamil.n.jaffer@usdoj.gov
>
> -----Original Message-----
> From: [redacted]@law.harvard.edu

> From: [redacted]@law.harvard.edu
> To: Jaffer, Jamil N
> Sent: Tue Jul 11 14:10:10 2006
> Subject: p.s.
>
>
> Jamil --
>
> I should also note that there is a dispute right now at Harvard about whether > I > can apply now (and have HLS professors send) to judges within the clerkship > guidelines, or whether I need to wait until the fall (as I am long past the > fall of my 3L year, but am not a graduate either because of my year at > Cambridge). The issue is before the law school dean. I should know soon if > I > can apply this summer or if I need to wait until the fall.
>
> Thanks again,
> [redacted]
>

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Tuesday, July 25, 2006 8:17 PM
To: Gorsuch, Neil M
Subject: Official photo

Neil,

Do you have an official photo? Would you please send?

fhcsDJ@opm.gov

From: fhcsDJ@opm.gov
Sent: Tuesday, July 25, 2006 10:24 PM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

[[CustomField3]]

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/af/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: [[CustomField1]]
Password: [[CustomField2]]

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 8:04 AM
To: Gunn, Currie (SMO); Shaw, Aloma A
Subject: Mtgs

Please would you send an invite to Courtney to attend tomorrow's crt mtg?

Also please could you invite Greg K to all mtgs I currently attend?

Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 8:17 AM
To: Swenson, Lily F
Subject: Can you attend a budget appeals review mtg for me at 10 in rm 1103? I will cover civ

Gunn, Currie (SMO)

Subject:	Updated: Civil Rights Weekly
Location:	5710
Start:	Thursday, July 27, 2006 11:00 AM
End:	Thursday, July 27, 2006 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Kim, Wan (CRT); King, Loretta (CRT); King, Loretta (CRT); Gorsuch, Neil M; Pacold, Martha M; Comisac, Rena (CRT); Swenson, Lily F; Becker, Grace Chung (CRT); Longwitz, Tobi (CRT); Agarwal, Asheesh (CRT); Elwood, Courtney

When: Thursday, July 27, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Addition of Courtney Elwood

Attendees: Neil Gorsuch (A) ASG, Asheesh Agarwal-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz, Courtney Elwood

POC: Currie Gunn x4-9500

System Administrator

From:	System Administrator
Sent:	Wednesday, July 26, 2006 9:31 AM
To:	c=US;a= ;p=USDOJ-JCON;o=COAR;dda:SMTP=[redacted]
Subject:	Undeliverable: FW: Law clerks
Attachments:	FW: Law clerks.msg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 9:20 AM
To: Gorsuch, Neil M
Subject: FW: Law clerks

Friends, My nomination to the Tenth Circuit was, happily, confirmed by the Senate last week. That puts me in the market for law clerks who can start rather soon, a tough place I realize. But if you happen to know of someone who might be interested and appropriate, I would be most grateful for the lead. Of course, I would also appreciate your keeping an eye out for me down the line. More importantly than all that, if you find yourself headed to Denver I do hope you will look me up. My contact information remains as below for the time being and I will be sure to pass along my details in Colorado as they become available. Many thanks and warm regards, Neil

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 9:35 AM
To: Shaw, Aloma A
Subject: Can I get a copy of my financial disclosure form, please?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Schlozman, Bradley (USAMOW)

From: Schlozman, Bradley (USAMOW)
Sent: Wednesday, July 26, 2006 10:36 AM
To: Gorsuch, Neil M

Hey Neil. Congratulations. I cannot begin to tell you how happy I am for you. What a welcome addition you will be to the 10th Circuit. Of course, you know you now have my dream job. And with Jerome Holmes having been confirmed yesterday, and Judges Holloway and McKay getting older by the minute, everything is looking up back there.

BTW, I believe the circuit is convening its November session in Kansas City, KS. So I will look forward to seeing you then if not sooner.

Take care, Neil.

Bradley J. Schlozman
United States Attorney
Western District of Missouri

Otus2005, Ag

Subject:	Signing of H.R. 9, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act and Reauthorization and Amendments Act of 2006
Location:	SW Gate, 17th & E St
Start:	Thursday, July 27, 2006 9:35 AM
End:	Thursday, July 27, 2006 9:55 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Elwood, Courtney; Brand, Rachel; Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT); Bounds, Ryan W (OLP); Little, Kimani (CRT); Scott-Finan, Nancy; Agarwal, Asheesh (CRT); Agarwal, Asheesh (CIV); Grider, Mark (ODAG); Tanner, John K (CRT); Becker, Grace Chung (CRT); King, Loretta (CRT); Dummermuth, Matt (CRT)Elwood, Courtney; Brand, Rachel; Gorsuch, Neil M; Kim, Wan (CRT); Comisac, Rena (CRT); Bounds, Ryan W (OLP); Little, Kimani (CRT); Scott-Finan, Nancy; Agarwal, Asheesh (CRT); Agarwal, Asheesh (CIV); Grider, Mark (ODAG); Tanner, John K (CRT); Becker, Grace Chung (CRT); King, Loretta (CRT); Dummermuth, Matt (CRT)

VENUE: South Lawn (rain site East Room)
Sequence of Events
Arrival Time is 9:15 a.m.
The Attorney General will be a stage participant.
DOJ: Rachel Brand, Martha Pacold, Neil Gorsuch, Courtney Elwood, Wan Kim, Rena Comisac, Asheesh Agarwal, Ryan Bounds, Mark Grider, Kimani Little, John Tanner, Grace Becker, Loretta King, Nancy Finan, Matt Dummermut, Dan Fridman

Otus2005, Ag

Subject:	Accepted: Signing of H.R. 9, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act and Reauthorization and Amendments Act of 2006
Location:	SW Gate, 17th & E St
Start:	Thursday, July 27, 2006 9:35 AM
End:	Thursday, July 27, 2006 9:55 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 12:15 PM
To: Elston, Michael (ODAG)
Cc: Swenson, Lily F
Subject: 4

I spoke with Peter today about "4" and wanted to share his thoughts with you whenever you have a moment. (51434) Thanks.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Wednesday, July 26, 2006 2:37 PM
To: Gorsuch, Neil M
Subject: CRT mtg tomorrow

Lily's unable to chair CRT meeting tomorrow. Do we cancel or have Jeff to chair?

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 2:38 PM
To: Shaw, Aloma A
Subject: Re: CRT mtg tomorrow

Please move to a time I can attend and please incl Courtney Elwood.

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Wed Jul 26 14:37:30 2006
Subject: CRT mtg tomorrow

Lily's unable to chair CRT meeting tomorrow. Do we cancel or have Jeff to chair?

Martinson, Wanda

From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

Okay - I'll send you a calendar invitation when we have all 6.
8:50am - lv 10th Street
10:00am - White House to DOJ

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 2:38 PM
To: Martinson, Wanda
Subject: Re: Transportation tomorrow morning

Yes please.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Scott-Finan, Nancy; Pacold, Martha M; Gorsuch, Neil M; Fridman, Daniel (ODAG)
CC: Bounds, Ryan W (OLP); Shaw, Aloma A; Gunn, Currie (SMO)
Sent: Wed Jul 26 14:17:31 2006
Subject: Transportation tomorrow morning

According to the last email I've seen, the five of you are included in the presidential signing tomorrow morning.

I've reserved a van to and from the White House. (Motorpool said that Civil Rights has a van from Patrick Henry.)

Am I correct that all of you need a ride from Main DOJ? Please let me know if you wish to be included in the 6-passenger van, along with Ryan Bounds, and I'll send you a calendar invitation.

Wanda
4-9148

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 26, 2006 3:21 PM
To: Gorsuch, Neil M
Subject: RE: Cobell

Neil: I'm supposed to be out of town starting Fri. morning. What's the agenda for this meeting and how badly am I needed for it if Stuart will be there? Thanks,

Jeff

From: Shaw, Aloma A
Sent: Wednesday, July 26, 2006 2:47 PM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV); Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; Katsas, Gregory (CIV); Elwood, Courtney
Cc: Bennett, Catherine T
Subject: Cobell

Neil Gorsuch would like to meet with you all this week regarding Cobell. Are you available on Friday, July 28th at 2:00? Please advise.

Thank you,
Aloma

Martinson, Wanda

Subject:	Van - 17th and Penn to DOJ 10th Street
Start:	Thursday, July 27, 2006 10:00 AM
End:	Thursday, July 27, 2006 10:15 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M

When: Thursday, July 27, 2006 10:00 AM-10:15 AM (GMT-05:00) Eastern Time (US & Canada).

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Passengers: Ryan Bounds, Mark Grider, Nancy Scott-Finan, Martha Pacold, Neil Gorsuch, Dan Fridman

Martinson, Wanda

Subject:	Van - DOJ 10th Street to White House
Location:	depart from 10th Street
Start:	Thursday, July 27, 2006 8:50 AM
End:	Thursday, July 27, 2006 9:05 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M

When: Thursday, July 27, 2006 8:50 AM-9:05 AM (GMT-05:00) Eastern Time (US & Canada).
Where: depart from 10th Street

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Passengers: Ryan Bounds, Mark Grider, Nancy Scott-Finan, Martha Pacold, Neil Gorsuch, Dan Fridman

Shaw, Aloma A

Subject:	Retreat
Location:	Santa Fe
Start:	Monday, December 4, 2006 12:00 AM
End:	Thursday, December 7, 2006 12:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Washington, Tracy T

From: Washington, Tracy T
Sent: Wednesday, July 26, 2006 5:25 PM
To: Kim, Wan (CRT); Comisac, Rena (CRT); Agarwal, Asheesh (CRT); Wertz, Rebecca J (CRT); King, Loretta (CRT); Scott-Finan, Nancy; Dummermuth, Matt (CRT); Longwitz, Tobi (CRT); Coates, Christopher (CRT); Brand, Rachel; Bounds, Ryan W (OLP); Gorsuch, Neil M; Grider, Mark (ODAG); Elwood, Courtney; Little, Kimani (CRT); Pacold, Martha M; Fridman, Daniel (ODAG); Becker, Grace Chung (CRT)
Cc: Gamble, Nathaniel (CRT); Harrison, Mia (CRT); Martinson, Wanda; Gunn, Currie (SMO); Bennett, Catherine T; Sellers, Kiahna (OAG); Goodling, Monica; Williamson, Angela
Subject: Tickets for tomorrow's Signing of H.R. 9, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act and Reauthorization and Amendments Act of 2006

Tickets will be available for pickup in my office Room 5114 at 5:45 p.m. TODAY.

You should plan to arrive at the southeast gate of the White House no later than 8:45 a.m.

Tracy T. Washington
Staff Assistant
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW, Room 5114
Washington, DC 20530
(202) 514-9660

Martinson, Wanda

Subject:	Updated: Van - DOJ 10th Street to White House
Location:	depart from 10th Street
Start:	Thursday, July 27, 2006 8:30 AM
End:	Thursday, July 27, 2006 8:45 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M

When: Thursday, July 27, 2006 8:30 AM-8:45 AM (GMT-05:00) Eastern Time (US & Canada).
Where: depart from 10th Street

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Passengers: Ryan Bounds, Mark Grider, Nancy Scott-Finan, Martha Pacold, Neil Gorsuch, Dan Fridman

Bounds, Ryan W (OLP)

Subject:	Updated: Van - DOJ 10th Street to White House
Location:	depart from 10th Street
Start:	Thursday, July 27, 2006 8:30 AM
End:	Thursday, July 27, 2006 8:45 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Bounds, Ryan W (OLP)
Required Attendees:	Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M

Passengers: Ryan Bounds, Mark Grider, Nancy Scott-Finan, Martha Pacold, Neil Gorsuch, Dan Fridman

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business: [redacted]

E-mail: [redacted]
E-mail Display As: [redacted]

Martinson, Wanda

Subject:	Updated: 17th and Penn to DOJ 10th Street - 15-passenger van will bring all DOJ/Main and CRT/PHB folks back from event (per motorpool at 5:50pm Wed)
Start:	Thursday, July 27, 2006 10:00 AM
End:	Thursday, July 27, 2006 10:15 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Martinson, Wanda
Required Attendees:	Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Brand, Rachel; Kim, Wan (CRT); Comisac, Rena (CRT); Gamble, Nathaniel (CRT)

When: Thursday, July 27, 2006 10:00 AM-10:15 AM (GMT-05:00) Eastern Time (US & Canada).

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Passengers: Ryan Bounds, Mark Grider, Nancy Scott-Finan, Martha Pacold, Neil Gorsuch, Dan Fridman
Adding: Wan Kim, Rachel Brand (Courtney staying at WH w/AG?)
Including: Rena Comisac and others from CRT
Thanks, all --
Wanda

Full Name:
Last Name:
First Name:

Business:
Home:
Mobile:

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 6:27 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Cobell

Skip it!

From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, July 26, 2006 3:21 PM
To: Gorsuch, Neil M
Subject: RE: Cobell

Neil: I'm supposed to be out of town starting Fri. morning. What's the agenda for this meeting and how badly am I needed for it if Stuart will be there? Thanks,

Jeff

From: Shaw, Aloma A
Sent: Wednesday, July 26, 2006 2:47 PM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV); Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; Katsas, Gregory (CIV); Elwood, Courtney
Cc: Bennett, Catherine T
Subject: Cobell

Neil Gorsuch would like to meet with you all this week regarding Cobell. Are you available on Friday, July 28th at 2:00? Please advise.

Thank you,
Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 6:41 PM
To: Martinson, Wanda
Subject: RE: Transportation tomorrow morning

Wanda - I didn't realize that we'd have to leave this early; I won't be able to get out of the mrng mtg with the AG till 9. If I go straight over by cab, do you think I'll be able to get in? If not, perhaps I should give up my ticket to someone who can. NMG

-----Original Message-----
From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

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10:00am - White House to DOJ

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Sent: Wednesday, July 26, 2006 2:38 PM
To: Martinson, Wanda
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Yes please.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Scott-Finan, Nancy; Pacold, Martha M; Gorsuch, Neil M; Fridman, Daniel (ODAG)
CC: Bounds, Ryan W (OLP); Shaw, Aloma A; Gunn, Currie (SMO)
Sent: Wed Jul 26 14:17:31 2006
Subject: Transportation tomorrow morning

According to the last email I've seen, the five of you are included in the presidential signing tomorrow morning.

I've reserved a van to and from the White House. (Motorpool said that Civil Rights has a van from Patrick Henry.)

Am I correct that all of you need a ride from Main DOJ? Please let me know if you wish to be included in the 6-passenger van, along with Ryan Bounds, and I'll send you a calendar invitation.

Wanda
4-9148

Martinson, Wanda

From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 6:56 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

I'm really not in charge of this - Monica Goodling's office is. I only got involved to assist with transportation, but it ballooned into more than a simple van reservation! No one's fault -- just a lot of bodies and moving parts.

We were advised late this afternoon (you must have received the email) that everyone needed to be there by 8:45am, so I backed the van up to 8:30am. Rachel has been invited to ride with the AG, so the AM mtg doesn't present a conflict for her - AG's vehicle leaves at 9am and will scoot right in.

I don't know what to suggest. You probably don't want to leave the AM meeting early since you have so few of them left. But at this point, I doubt you can give your ticket to anyone else. White House clearance requirements for the event probably had some deadline, which by now has passed, I'm sure.

I'd blast out of here by cab at 9am and see if they let you in?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 6:41 PM
To: Martinson, Wanda
Subject: RE: Transportation tomorrow morning

Wanda - I didn't realize that we'd have to leave this early; I won't be able to get out of the mrng mtg with the AG till 9. If I go straight over by cab, do you think I'll be able to get in? If not, perhaps I should give up my ticket to someone who can. NMG

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Subject: RE: Transportation tomorrow morning

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From: Gorsuch, Neil M
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Yes please

Yes please.

-----Original Message-----
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To: Grider, Mark (ODAG); Scott-Finan, Nancy; Pacold, Martha M; Gorsuch, Neil M; Fridman, Daniel (ODAG)
CC: Bounds, Ryan W (OLP); Shaw, Aloma A; Gunn, Currie (SMO)
Sent: Wed Jul 26 14:17:31 2006
Subject: Transportation tomorrow morning

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Wanda
4-9148

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Wednesday, July 26, 2006 6:59 PM
To: Shaw, Aloma A
Cc: Gorsuch, Neil M
Subject: RE: Cobell

Aloma -- I just talked with Neil, and he would like to reschedule this meeting to tomorrow (Thursday) because of the need to move quickly. Looking at his calendar and mine, any time after noon looks fine.
Thanks,
Jeff

From: Shaw, Aloma A
Sent: Wednesday, July 26, 2006 2:47 PM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV); Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; Katsas, Gregory (CIV); Elwood, Courtney
Cc: Bennett, Catherine T
Subject: Cobell

Neil Gorsuch would like to meet with you all this week regarding Cobell. Are you available on Friday, July 28th at 2:00? Please advise.

Thank you,
Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 7:40 PM
To: Martinson, Wanda
Subject: RE: Transportation tomorrow morning

Great advice - thanks!

-----Original Message-----
From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 6:56 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

I'm really not in charge of this - Monica Goodling's office is. I only got involved to assist with transportation, but it ballooned into more than a simple van reservation! No one's fault -- just a lot of bodies and moving parts.

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To: Martinson, Wanda
Subject: RE: Transportation tomorrow morning

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To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

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-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 2:38 PM
To: Martinson, Wanda
Subject: Re: Transportation tomorrow morning

Yes please.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Scott-Finan, Nancy; Pacold, Martha M; Gorsuch, Neil M; Fridman, Daniel (ODAG)
CC: Bounds, Ryan W (OLP); Shaw, Aloma A; Gunn, Currie (SMO)
Sent: Wed Jul 26 14:17:31 2006
Subject: Transportation tomorrow morning

According to the last email I've seen, the five of you are included in the presidential signing tomorrow morning.

I've reserved a van to and from the White House. (Motorpool said that Civil Rights has a van from Patrick Henry.)

Am I correct that all of you need a ride from Main DOJ? Please let me know if you wish to be included in the 6-passenger van, along with Ryan Bounds, and I'll send you a calendar invitation.

Wanda
4-9148

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, July 26, 2006 10:54 PM
To: Gorsuch, Neil M
Subject: Dinner on Mon Aug 7th?

Neil: can we do the dinner on Mon Aug 7th? Mimi has me blocked out for the 8th and 9th. Robt.

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Thursday, July 27, 2006 2:51 AM
To: Gorsuch, Neil M
Subject: Case HD0000000108716 has been closed.

The JMD/SMO JCON Help Desk has closed your ticket HD0000000108716. If you need further assistance, please call 616-7100.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 7:20 AM
To: Katsas, Gregory (CIV)
Subject: If you're able why don't you stop by oasg circa 815 and we can walk to oag together. Thanks

Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Thursday, July 27, 2006 7:42 AM
To:	Gorsuch, Neil M
Subject:	RE: If you're able why don't you stop by oasg circa 815 and we can walk to oag together. Thanks

See you then, boss.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 7:20 AM
To: Katsas, Gregory (CIV)
Subject: If you're able why don't you stop by oasg circa 815 and we can walk to oag together. Thanks

Martinson, Wanda

From: Martinson, Wanda
Sent: Thursday, July 27, 2006 8:56 AM
To: Gorsuch, Neil M
Subject: URGENT Re: Transportation tomorrow morning

Apparently the entrance gate on ticket and on my calendar invitation for van -- which I lifted from Monica's email? -- differ. I don't know which is correct, but I'd go by printed ticket, I guess. Good luck!

-----Original Message-----
From: Gorsuch, Neil M
To: Martinson, Wanda
Sent: Wed Jul 26 19:39:55 2006
Subject: RE: Transportation tomorrow morning

Great advice - thanks!

-----Original Message-----
From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 6:56 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

I'm really not in charge of this - Monica Goodling's office is. I only got involved to assist with transportation, but it ballooned into more than a simple van reservation! No one's fault -- just a lot of bodies and moving parts.

We were advised late this afternoon (you must have received the email) that everyone needed to be there by 8:45am, so I backed the van up to 8:30am. Rachel has been invited to ride with the AG, so the AM mtg doesn't present a conflict for her - AG's vehicle leaves at 9am and will scoot right in.

I don't know what to suggest. You probably don't want to leave the AM meeting early since you have so few of them left. But at this point, I doubt you can give your ticket to anyone else. White House clearance requirements for the event probably had some deadline, which by now has passed, I'm sure.

I'd blast out of here by cab at 9am and see if they let you in?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 6:41 PM
To: Martinson, Wanda
Subject: RE: Transportation tomorrow morning

Wanda - I didn't realize that we'd have to leave this early; I won't be able to get out of the mrng mtg with the AG till 9. If I go straight over by cab, do you think I'll be able to get in? If not, perhaps I should give up my ticket to someone who can. NMG

-----Original Message-----
From: Martinson, Wanda
Sent: Wednesday, July 26, 2006 2:39 PM
To: Gorsuch, Neil M
Subject: RE: Transportation tomorrow morning

Okay - I'll send you a calendar invitation when we have all 6.
8:50am - lv 10th Street
10:00am - White House to DOJ

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, July 26, 2006 2:38 PM
To: Martinson, Wanda
Subject: Re: Transportation tomorrow morning

Yes please.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Scott-Finan, Nancy; Pacold, Martha M; Gorsuch, Neil M; Fridman, Daniel (ODAG)
CC: Bounds, Ryan W (OLP); Shaw, Aloma A; Gunn, Currie (SMO)
Sent: Wed Jul 26 14:17:31 2006
Subject: Transportation tomorrow morning

According to the last email I've seen, the five of you are included in the presidential signing tomorrow morning.

I've reserved a van to and from the White House. (Motorpool said that Civil Rights has a van from Patrick Henry.)

Am I correct that all of you need a ride from Main DOJ? Please let me know if you wish to be included in the 6-passenger van, along with Ryan Bounds, and I'll send you a calendar invitation.

Wanda
4-9148

Brand, Rachel

From:	Brand, Rachel
Sent:	Thursday, July 27, 2006 9:35 AM
To:	Martinson, Wanda; Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Kim, Wan (CRT); Comisac, Rena (CRT)
Cc:	Gamble, Nathaniel (CRT)
Subject:	Re: 10am Van

The problem with that is that we have no badges to allow us to walk thru the wh complex, and walking from se gate to 17th is as far as walking back to doj.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Brand, Rachel; Kim, Wan (CRT); Comisac, Rena (CRT)
CC: Gamble, Nathaniel (CRT)
Sent: Thu Jul 27 09:24:18 2006
Subject: 10am Van

Motorpool advises that the driver is not allowed to wait near SE gate area.
15-passenger van will return to 17th and Penn at 10am to get you.
Does that work?

Martinson, Wanda

From:	Martinson, Wanda
Sent:	Thursday, July 27, 2006 9:45 AM
To:	Brand, Rachel; Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Kim, Wan (CRT); Comisac, Rena (CRT)
Cc:	Gamble, Nathaniel (CRT)
Subject:	RE: 10am Van - to 15th Street

OK - new plan. Please exit complex as you wish and assemble on 15th Street - south of Treasury, near Penn Ave, but closer to Alexander Hamilton drive. When you are ALL THERE, someone please email me, and I'll have the motorpool send the driver (waiting nearby) to that spot. (Driver can't wait there but can do a quick pickup.)

-----Original Message-----
From: Brand, Rachel
Sent: Thursday, July 27, 2006 9:35 AM
To: Martinson, Wanda; Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Kim, Wan (CRT); Comisac, Rena (CRT)
Cc: Gamble, Nathaniel (CRT)
Subject: Re: 10am Van

The problem with that is that we have no badges to allow us to walk thru the wh complex, and walking from se gate to 17th is as far as walking back to doj.

-----Original Message-----
From: Martinson, Wanda
To: Grider, Mark (ODAG); Fridman, Daniel (ODAG); Gorsuch, Neil M; Scott-Finan, Nancy; Pacold, Martha M; Brand, Rachel; Kim, Wan (CRT); Comisac, Rena (CRT)
CC: Gamble, Nathaniel (CRT)
Sent: Thu Jul 27 09:24:18 2006
Subject: 10am Van

Motorpool advises that the driver is not allowed to wait near SE gate area.
15-passenger van will return to 17th and Penn at 10am to get you.
Does that work?

Cohn, Jonathan (CIV)

From: Cohn, Jonathan (CIV)
Sent: Thursday, July 27, 2006 10:02 AM
To: Gorsuch, Neil M; Keisler, Peter D (CIV); Nichols, Carl (CIV)
Subject: Sanctuary Laws

fyi -- I spoke to [redacted] The issue is now on [redacted] radar screen (and on [redacted]. [redacted] tentatively likes the idea of sending letters to localities, but DHS hasn't made a decision on it yet, let alone identified the localities that should receive letters.

Jon

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 10:06 AM
To: Cohn, Jonathan (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV)
Cc: Katsas, Gregory (CIV)
Subject: Re: Sanctuary Laws

Thanks, Jon. Adding Greg.

-----Original Message-----
From: Cohn, Jonathan (CIV)
To: Gorsuch, Neil M; Keisler, Peter D (CIV); Nichols, Carl (CIV)
Sent: Thu Jul 27 10:01:59 2006
Subject: Sanctuary Laws

fyi -- I spoke to [redacted] The issue is now on [redacted] radar screen (and on [redacted]. [redacted] tentatively likes the idea of sending letters to localities, but DHS hasn't made a decision on it yet, let alone identified the localities that should receive letters.

Jon

From: [redacted]
Sent: Thursday, July 27, 2006 10:10 AM
To: Gorsuch, Neil M; [redacted]
Cc: [redacted]
Subject: new e-mail
Attachments: tmp.htm

[redacted]:

Starting new job on 8/7. Please use [redacted] for my e-mail, even though I haven't heard squat out of either of you.

[redacted]

Gentlemen:

Starting new job on 8/7. Please use [redacted] for my e-mail, even though I haven't heard squat out of either of you.

[redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, July 27, 2006 10:11 AM
To:	Shaw, Aloma A
Subject:	FW: new e-mail
Attachments:	tmp.htm

Please add to contacts

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Thursday, July 27, 2006 10:10 AM
To: Gorsuch, Neil M; [redacted]
Cc [redacted]
Subject: new e-mail

[redacted]

Starting new job on 8/7. Please use [redacted] for my e-mail, even though I haven't heard squat out of either of you.

[redacted]

Gentlemen:

Starting new job on 8/7. Please use [redacted] for my e-mail, even though I haven't heard squat out of either of you.

[redacted]

Gorsuch, Neil M

Subject:	Going away
Start:	Wednesday, August 02, 2006 1:00 PM
End:	Wednesday, August 02, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

@cadc.uscourts.gov

From: @cadc.uscourts.gov
Sent: Thursday, July 27, 2006 12:03 PM
To: @cadc.uscourts.gov; @cadc.uscourts.gov; @dcd.uscourts.gov; @gmail.com; @gmail.com;
Cc: Gorsuch, Neil M

Hello Friends.

As I'm sure you probably already know, our own Neil Gorsuch has been confirmed for the Tenth Circuit. He'll soon be leaving DC for beautiful Colorado. We're so proud and happy for him.

Neil has asked me to contact you guys to see if you or anyone you know is interested in clerking this coming term or the following term. I've copied him on this, so you can contact him by email. I'm sure he'll need a resume, writing sample, letters of recommendation, and transcripts. He'll let you know where to send them.

Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 12:15 PM
To: Jaffer, Jamil N
Subject: Please could you give me a ring when you have a moment?

Robert_F._Hoyt@who.eop.gov

From: Robert_F._Hoyt@who.eop.gov
Sent: Thursday, July 27, 2006 1:28 PM
To: Gorsuch, Neil M
Subject: 2 thoughts
Attachments: tmp.htm

1. Don't forget that your erstwhile colleague, Brent McIntosh, is over here as well.

2. On DRA, the meeting we discussed might also be a useful opportunity to brief the new OMB GC, Jeff Rosen, on the cases.

PS (Further on DRA, I never received a response from Scott Simpson, Carl, or anyone else on the concern about the issues in the California opinion; maybe you can prod them to respond?)

1. Don't forget that your erstwhile colleague, Brent McIntosh, is over here as well.

2. On DRA, the meeting we discussed might also be a useful opportunity to brief the new OMB GC, Jeff Rosen, on the cases.

PS (Further on DRA, I never received a response from Scott Simpson, Carl, or anyone else on the concern about the issues in the California opinion; maybe you can prod them to respond?)

Brinkley, Winnie

Subject:	Canceled: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Monday, July 31, 2006 2:00 PM
End:	Monday, July 31, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brinkley, Winnie
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard
Importance:	High

When: Monday, July 31, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling
Component TBD
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Brinkley, Winnie

Subject:	Canceled: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Monday, July 31, 2006 4:00 PM
End:	Monday, July 31, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brinkley, Winnie
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard
Importance:	High

When: Monday, July 31, 2006 4:00 PM-5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling
Component TBD
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 2:44 PM
To: 'Robert_F._Hoyt@who.eop.gov'; Katsas, Gregory (CIV)
Subject: RE: 2 thoughts

The new, improved PDASG will be Greg Katsas; he's kindly agreed to set up the DRA mtg next week and prod his former colleagues in CIV.

-----Original Message-----
From: Robert_F._Hoyt@who.eop.gov [mailto:Robert_F._Hoyt@who.eop.gov]
Sent: Thursday, July 27, 2006 1:28 PM
To: Gorsuch, Neil M
Subject: 2 thoughts

1. Don't forget that your erstwhile colleague, Brent McIntosh, is over here as well.

2. On DRA, the meeting we discussed might also be a useful opportunity to brief the new OMB GC, Jeff Rosen, on the cases.

PS (Further on DRA, I never received a response from Scott Simpson, Carl, or anyone else on the concern about the issues in the California opinion; maybe you can prod them to respond?)

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Thursday, July 27, 2006 3:11 PM
To: Sellers, Kiahna (OAG); Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M; Oldham, Jeffrey L; Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Goodling, Monica; Fisher, Alice; Beach, Andrew; Roehrkasse, Brian; Card, Jean
Subject: 072806 AG's Upcoming Speech Calendar
Attachments: 073106 National District Attorneys Association Invitation.DOC; 073106 National District Attorneys Assocation COURSE SYNOPSIS.doc; 073106 National District Attorneys Association PROGRAM 5-26-06 version.DOC; 073106 National District Attorneys Association ROSTER.DOC; 073106 National District Attorneys Association Scheduling Information Form.DOC; 073106 NDAA Conference.pdf; 080906 Immigration Judges Training Conference.doc; 080906 Draft Agenda Immigration Judges Training Conference.wpd; 081506 Disabled American Veterans Proposal.doc; 082106 Crimes Against Children Meeting Request Letter.doc; 082106 Crimes Against Children Conference.doc; 082106 CAC Opening Session Agenda.doc; 091206 Attorney General's 54th Annual Awards Ceremony.doc; 091306 Hurricane Katrina Fraud Task Force symposium-AG.doc; 092106 Financial Services Roundtable 2006 Fall Conference.doc; 092806 Georgetown University Law Center Conference on the Judiciary.pdf; 100306 Human Trafficking Conf New Orleans.doc; 101706 IACP.pdf; 072806 AG speeches.xls
Importance: High

Please find attached the AG's upcoming speech calendar as well as the accompanying event scheduling information forms.

Kiahna Sellers
Deputy Director of Scheduling
Office of the Attorney General
United States Department of Justice
(202) 514-4195

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's
07/31/06	Sante Fe, NM	National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference	Requesting a 30-45 min speech	Approx. 110 Local chief & assistant prosecutors	PSC/Kid Crimes Bill	OPEN	Crystal Jezierski 514-3465	Jean	
8/8/2006	Cincinnati, OH	Anti-Drug Event w/ Congressman Steve Chabot	TBD	TBD	TBD	TBD	TBD	Jean	
08/09/06	DC	Immigration Judges' Training Conference Lunch	10-12 min speech; followed by Q&A	300 Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.	REQUESTED TOPICS: 1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues	CLOSED	Courtney Elwood 514-2267	Jean	
08/15/06	Chicago, IL	Disabled Veterans of America	TBD	TBD	TBD	TBD	TBD		
08/21/06	Dallas, TX	Crimes Against Children Conference	Requesting a 20 min speech	Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%	Conference Theme: Professional education related to the investigation, prosecution, prevention, and treatment of child abuse	OPEN	Jeff Oldham 514-9797	Jean	
09/12/06	DC	AG's 54th Annual Awards Ceremony	TBD	The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.	TBD	OPEN	Monica Goodling 353-4435	Jean	
9/13/2006	New Orleans, LA	Hurricane Katrina One-Year Anniversary Symposium	Speech;	Approximately 130 members of federal, state, and local law enforcement	One-year anniversary of Hurricane Katrina	Open Press	Bob Coughlin 514-0169		
9/19/2006	Washington, DC	Judicial Conference	Speech	NA	TBD	CLOSED	Kristi Macklin 514-8356		

1st Draft Deadline	2nd Draft Deadline	AG Draft

Date	Location	Event	Length & Format	Audience	Topic	Press	Staff Contact	Speechwrtr	Clearance POC's
09/21/06	DC	Financial Services Roundtable 2006 Fall Conference	10-15 min speech followed by 15 mins of Q&A	150 CEO's and Senior Executives of the U.S. top 100 Financial Services companies	TBD	CLOSED	Crystal Jezierski 514-3465	Jean	
09/28/06	DC	Georgetown University Law Center and American Law Institute's Conference on the Judiciary	Approx. 5 min speech	380 attendees	Requested topic: The future of the Federal & State Courts	OPEN	Crystal Jezierski 514-3465	Jean	
10/03/06	New Orleans, LA	DOJ/HHS Human Trafficking Conference	Requesting 15-20 min speech	Approx. 600 attendees law enforcement, members of the DOJ Human Trafficking Task Forces, victims groups, researchers, non-profit organizations and other government officials.	Requested topic: Trafficking in Persons	CLOSED	Martha Pacold 616-7740/Laura Keehner 616.9485	Jean	
10/17/06	TBD	Intl Assoc of Chiefs of Police 113th Annual Law Enforcement Conference	Speech	TBD	TBD	TBD	Crystal Jezierski 514-3465	Jean	

1st Draft Deadline	2nd Draft Deadline	AG Draft

NATIONAL DISTRICT ATTORNEY'S ASSOCIATION
SUMMER CONFERENCE
JULY 31-AUGUST 2, 2006
SANTA FE, NEW MEXICO

CONFERENCE SYNOPSIS

The education division is pleased again to participate in the training section of the National District Attorney's Summer Conference. This year's agenda offers many cutting edge topics as well as a variety of teaching formats. There will be lectures as well as workshops and panel discussion designed to encourage audience participation in the training experience. This synopsis should help clarify the focus for each of the sessions and reveal some insight into the goals for the specific topic areas.

PANEL: COLD CASES—POLICY ISSUES: COSTS, COLLABORATION AND POLICY ISSUES WITH OTHER MEMBERS OF THE CRIMINAL JUSTICE SYSTEM

The panelists will address the policy concerns unique to the pretrial preparation, collaboration, prosecution and case presentation of a cold case. Some information which will be covered includes: location of witnesses; policy guidelines in working with other members of the criminal justice system; memory challenges; the costs associated with recreating the tone of the prior climate and dynamics in which the case occurred in an effort to convey a clear picture of the totality of the evidence to the fact finder in the presentation of the case; and suggested policy guidelines on the investigation and filing of these charges.

TRACK SESSIONS

These sessions are designed to provide topics of interest to the Chief Prosecutors as well as the front line assistants. While I have not labeled the tracks and individuals are welcome to go to which ever session they feel will provide them the information they need most, track A topics are designed with the chief prosecutor in kind. Track B topics are more dedicated to trial assistants and issues unique to them.

Track A

PART I: WHAT'S THE PUBLIC TEMPERATURE?

These speakers will discuss assessing the needs of your constituents. What are their concerns as they relate to criminal justice issues- law and order, drugs, re-entry into the community, etc? The focus will be on developing, communicating and maintaining the Chief Prosecutor's message. They will address the significance of polls, how polls are conducted, how to interpret the results, how polling is used to guide public opinion and education, how to use polling to learn what the public wants and expects from its elected prosecutors, and how polling can help us identify our "key messages." They will also discuss how to develop and maintain a

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focused, disciplined communications strategy, how to take polling information and create "key messages," how to best communicate and how to stay focused on the message when crises occur which can easily derail you.

PART II: BEST PRACTICES

The speakers will share short bursts of best practices (special programs or innovative initiatives) from around the country that are in line with not only developing a message but also effective ways of disseminating this message and keeping in touch with the public in an effort to stay focused on effective and efficient maintenance of the message.

Track B

DEVELOPING AND DELIVERING THE PERSUASIVE CLOSING ARGUMENT

This presentation covers the preparation and delivery of the final argument and rebuttal argument to the jury, the tactics and techniques involved and the dynamics of persuasion. The lecturer suggests arguments on typical criminal trial issues, such as: reasonable doubt; credibility of witnesses; circumstantial evidence; presumption of evidence; and personal attacks. Moreover, the presentation should discuss arguments in rebuttal of common defense arguments and demonstrate the legal and strategic difference between closing and rebuttal argument. The faculty member may perform a demonstration of a closing argument.

INDIAN LAND JURISDICTION CHALLENGES

The speaker will provide an overview of the challenges faced by prosecutors on native lands. The issues covered may include: individuals who do not fall under the prosecutorial jurisdiction of these offices, dealing with non-native Americans who reside on native lands, collaboration with federal or state and local prosecutors, and spreading awareness on these issues.

General Session

CHIEF PROSECUTOR'S ROUNDTABLE

This session will have a facilitator who will direct the questions to the panelists. Conference attendees will be given an opportunity to ask additional questions or make additional statements after the panelists have been given an opportunity to respond. Some of the issues which will be addressed include: homeland security- use of funds, types of concerns to watch for, what is a credible threat and what is an appropriate response; drug crimes – what offenses are seeing increasing activity, use of drug courts, creative sentencing options and other programs; gangs- what types of new activity is emerging, use of experts, witness intimidation issues; and guns- gun courts, VAWA 2005, gun forfeitures, and collaboration with federal prosecutors.

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CONSTITUTIONAL LAW UPDATE

This lecture covers the practical effect of the latest court decisions and general legislation regarding constitutional law issues as they pertain to prosecution. Some issues which may be addressed include: interrogation, admissions and confessions, right to counsel, comments upon a defendant's pre & post arrest silence, overview of search and seizure law, investigatory stops, search warrants, warrantless searches, probable cause, reasonable articulable suspicion, private searches, checkpoints, olfactory devices, thermal imaging devices, etc. The presenter should not only provide a review of the cases issued by the United States Supreme Court during the last term of court but should also give a forecast of what cases and issues are currently pending as well as any pertinent special issues.

CSI EFFECT: WHAT'S ON OUR JUROR'S MINDS?

The faculty member will facilitate a conversation focusing on the obstacles involved when selecting jurors in this "media-exposed" environment. The faculty member should point out helpful strategies for conveying to the prospective jurors that there is a difference between the entertainment worlds' focus on case presentation and investigation and reality. Note: Some individuals observing this presentation may be from jurisdictions where their opportunity to question the prospective jurors are limited or prohibited. Please note you should communicate the importance of the information conveyed in this lecture even for those from these restrictive jurisdictions to utilize in drafting questions to submit to the judge if allowed and in order to plan trial strategy for other stages of trial.

Track A

BUDGETS, PART I: SHOW ME THE MONEY: HOW TO OBTAIN FUNDING

This session will initially focus on the essentials to preparing and obtaining grant funding. The speaker will also discuss the varying grant opportunities/funders available; both corporate and governmental. Sample grant applications and relevant follow-up reports would prove a helpful resource.

BUDGETS, PART II: OPERATING ON A SHOESTRING—MAINTAINING THE BUDGET

The lecture will address an important aspect of the prosecutor's office, how best to serve the people with the "people's money." The lecture should include a discussion of the challenges involved in adhering to reduced budgets and managing an accurate accounting of any obtained funds.

PANEL: SUPERVISORY SKILLS—MANAGING PROBLEM SITUATIONS

This workshop will allow the conference attendees to work through hypothetical problems geared toward creating realistic problem solving and decision-making situations in

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their offices. The faculty facilitators may also use problem areas or solution alternatives offered by the attendees.

Track B

CROSS EXAMINATION STRATEGIES

This lecture will concentrate on the National College's proactive and reactive cross-examination techniques and will emphasize the positive points to each technique and encourage conference attendees to strengthen their performance and understanding of each cross-examination strategy.

This lecturer will explain the "Approach Point" method of constructing a cross-examination, explore its use in dealing with various types of witnesses and emphasize the need for a systematic plan for creating an effective cross examination. Obtaining concessions from the witness will be stressed.

The faculty member will also overview issues regarding control of the run-away witness. The faculty member will discuss: analyzing what we are trying to control during cross (i.e., confusion, inaccuracies, implausible testimony, and impressions); knowing ahead of time what we have to know and what we want to say in an effort to secure the most control of the witness; techniques to gain better control (e.g., using the short leading question and not attempting to make the witness agree with our conclusions, changing the order in which you examine the witness and use of non-verbal messages) and the importance of watching how we exert control and the impact of this on the jury.

The faculty member will finally discuss the advantages of a carefully constructed reactive cross-examination and encourage the conference attendees' combined use of the proactive and reactive techniques. The faculty member should be sure to address the best way attendees can participate in a skilled reactive cross which also advances their best concessions gained from proactive cross. The faculty member will also explore successful impeachment techniques.

CASE PRESENTATION ON A TIGHT BUDGET: USE OF VISUALS IN TRIAL—HIGH TECH AND LOW TECH

The faculty member will focus on the visual trial; high tech (power point) as well as low tech visual aids (charts, diagrams, and photos). The faculty member will provide an overview of the technology currently available to enhance the persuasive ability of the prosecutor in the courtroom. The presenter will focus on adding graphics for impact to motions and briefs and creating effective exhibits and visual aids. A discussion of logistical planning and precautions as well as alternative fallbacks in the high tech area (in case of technical or legal obstacles), will be very beneficial. It is very important to address economical low tech ideas since offices may not have high tech resources available. The faculty member should also incorporate a demonstration of the use of both low and high technology in a criminal case.

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ELECTRONIC DISCOVERY

The speaker will give an overview of the issues involved when electronic discovery becomes a focal point of your criminal investigation. The speaker will provide examples from a variety of uses of electronic discovery in the context of a criminal investigation/criminal trial preparation. The speaker may discuss: prosecutions for fraud, organization and review of voluminous documents in the complex criminal trial, discovery of e-mails which corroborate criminal activity and what to do with them, and very broad guidelines regarding computer forensics—the steps you and your investigator should take once you have discovered that a defendant may have evidence of criminal activity or his criminal enterprise on a computer. The speaker may also provide a list of resources or consultants which may assist the prosecutor and/or investigator in assessing and collecting this evidence.

DOJ_NMG_ 0165044

May 5, 2006

The Honorable Alberto Gonzales
United States Department of Justice
Robert F. Kennedy Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-2000

Dear Judge Gonzales:

From July 28th through August 2nd the leadership of the National District Attorneys Association will convene in Santa Fe, New Mexico for our summer board of directors meeting and the association's 2006 Summer Conference

As President of the National District Attorneys I would to take this opportunity to invite you to meet with the nation's local prosecutors during their stay in Santa Fe.

I understand that you are preparing to announce the "Project Safe Childhood" initiative in the near future and I know that the association would welcome the chance to learn more about the initiative in greater detail. This would certainly be a relevant issue for discussion during either the board of directors meeting or during the summer conference. The schedules for both the board of directors meeting and the summer conference are very flexible and we can rearrange the agenda to accommodate your schedule.

If your staff needs more information please contact [redacted], NDAA legislative counsel at [redacted] or [redacted]@ndaa-apri.org.

Sincerely,

[redacted]
Executive Director, National District Attorneys Association

cc: Kathleen Blomquist, Associate Director
Office of Intergovernmental and Public Liaison U.S. Department of Justice

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
SUMMER CONFERENCE
JULY 30 – AUGUST 2, 2006
SANTA FE, NEW MEXICO

AGENDA

MONDAY, JULY 31

9:00 a.m. – 9:45 a.m.	Opening/Welcome
9:45 a.m. – 10:30 a.m.	Keynote Speaker
10:30 a.m. – 10:45 a.m.	Break
10:45 a.m. – 12:15 p.m.	Panel: Cold Cases—Policy Issues: Costs, Collaboration and Policy Issues With Other Members of the Criminal Justice System --Johnathan Benedict --Joshua K. Marquis --Dick Devine
12:15 p.m. – 12:30 p.m.	Break
12:30 p.m. – 2:00 p.m.	Awards Luncheon
2:00 p.m. – 2:15 p.m.	Break

	Track A	*Track B*
2:15 pm. – 3:30 p.m.	Part I: What's the Public Temperature --Daniel Benavidez --Dr. Margaret Kenski --Mitch Zak	Developing and Delivering the Persuasive Closing Argument --Kevin W. Lyons
3:30 p.m. – 3:45 p.m.	Break	

	Track A	*Track B*
3:45 p.m. – 5:00 p.m.	Part II: Best Practices --TBA	Indian Land Jurisdiction Challenges --Samuel L. Winder
5:00 p.m.	Adjourn	

TUESDAY, AUGUST 1

9:00 a.m. – 10:30 a.m.	Chief Prosecutors Roundtable: Is Our Homeland Really Secure? Drugs, Gangs and Guns Moderator: Norm Early --Peter Carlisle --Dick Devine --Steve Cooley --Kamala Harris --Lynne Abraham
10:30 a.m. – 10:45 a.m.	Break
10:45 a.m. – 12:00 p.m.	Constitutional Law Update --Kannon Shanmugam
12:00 p.m.	Adjourn

Family Night

WEDNESDAY, AUGUST 2

8:30 a.m. – 10:00 a.m.	CSI Effect: What's On Our Jurors' Minds? --Clifford R. Strider II
10:00 a.m. – 10:15 a.m.	Break

	Track A	*Track B*
10:15 a.m. – 11:30 a.m.	Budgets, Part I: Show Me the Money: How to Obtain Funding --Thomas W. Sneddon	Cross-Examination Strategies --Brian Sexton
11:30 a.m. – 1:00 p.m.	Lunch (*on your own*)	
	Track A	*Track B*
1:00 p.m. – 2:15 p.m.	Budgets, Part II: Operating on a Shoestring—Maintaining the Budget --Thomas W. Sneddon	Case Presentation on a Tight Budget: Use of Visuals in Trial—High Tech and Low Tech --Randy Hillman --Russell Yawn
2:15 p.m. – 2:30 p.m.	Break	

	Track A	*Track B*
2:30 p.m. – 4:00 p.m.	Panel: Supervisory Skills— Managing Problem Situations --Henry Valdez --James Fox	Electronic Discovery --William P. Butterfield
4:15 p.m.	Adjourn	

NATIONAL DISTRICT ATTORNEYS ASSOCIATION
SUMMER CONFERENCE
JULY 31 – AUGUST 2, 2006
SANTA FE, NEW MEXICO

FACULTY ROSTER

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NATIONAL DISTRICT ATTORNEYS ASSOCIATION
SUMMER CONFERENCE
JULY 31 – AUGUST 2, 2006
SANTA FE, NEW MEXICO

FACULTY ROSTER
(Continued)

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NATIONAL DISTRICT ATTORNEYS ASSOCIATION
SUMMER CONFERENCE
JULY 31 – AUGUST 2, 2006
SANTA FE, NEW MEXICO

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(Continued)

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SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: National District Attorneys Association's Summer Board of Directors Meeting & Annual Summer Conference
City & State of Event: Santa Fe, New Mexico
Date(s): July 28 – August 2, 2006
Date/Time the event begins: NDAA Committee Meetings begin Friday, July 28 (11:00 AM – 5:00 PM); Saturday, July 29 (9:00 AM – 5:00 PM); Board of Directors meeting, Sunday, July 30 (2:00 PM – 5:00 PM); NDAA Summer Conference begins Sunday, July 30th with welcoming reception, Monday, July 31 (9:00 AM – 5:00 PM); Tuesday, August 1 (9:00 AM – Noon); Wednesday, August 2 (9:00 AM – 4:15 PM)
Date/Time the event concludes: August 2, 2006 at 4:15 PM
Proposed/Requested Date & Time of the Attorney General's participation: July 30, 2006 (2:00 PM – 2:30 PM); July 31, 2006 (9:45 AM – 10:30 AM)
Nature of Event: Board of Directors meeting & educational conference for local prosecutors

Event Venue Name: Eldorado Hotel
Room Name or Room #: Anasazi Room
Address: 309 W. San Francisco
City/State/Zip: Santa Fe, New Mexico
Venue Phone #: 505-988-4455
Venue FAX #: 505-995-4544

Event Sponsor: National District Attorneys Association
Address: 99 Canal Center Plaza, Suite 510
City/State/Zip: Alexandria, Virginia 22314
Website address: www.ndaa.org

Person Inviting: Thomas J. Charron
Executive Assistant, [redacted]
Telephone #: [redacted]
FAX #: 703- 836-3195
E-mail address: [redacted]@ndaa-apri.org
[redacted]@ndaa-apri.org

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: 703-836-3195
E-mail address: [redacted]@ndaa-apri.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

1. Description of the audience: Local chief & assistant prosecutors
2. Approximate size of the audience: Board Meeting-approx. 110; Summer Conference – approx. 150-200
3. List of other invited speakers and program participants: See attached roster
4. List of invited government officials, dignitaries, VIPS: Jeffrey L. Sedgwick, Director-designate Bureau of Justice Statistics
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? The time during which Judge Gonzales speaks can be closed to

the press. Please notify us if this is requested and Velva Walter, Director Media Relations will make the necessary arrangements

6. Is the Attorney General being asked to speak? Yes
7. If yes, how long is he expected to speak? 30 minutes – 45 minutes
8. What is the theme/topic/subject of the event? See attached program synopsis.
9. What is the ATTIRE for the event? Business casual
10. Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest
11. Is this a fund raising event? No
12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? If yes, what is the face value of the ticket? $375.00 registration fee is charged for the summer conference
14. What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) June 23, 2006
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Connie, These are questions that the AG's office needs answered. I believe you have filled this out before for them. Tom will have to answer some. You can put me down for the contact with my cell phone number. **********

1. Please provide a detailed program/sequence of events from the time the Attorney General is scheduled to arrive at the event until he departs. If the AG will be in more than one room, please note the room name or number for each room he will be in.

attached

2. If you are requesting a photo op for a small group of individuals prior to the AG's participation in the event (that request would need to be approved by the Attorney General's office in advance) please provide a list of the names of individuals for whom you are requesting a photo.

yes - Paul Logli, Mat Heck, Henry Valdez, Tom Charron

3. Please send us an updated list of other Speakers/Program Participants.

PROGRAM ATTACHED

4. Please send us an updated list of government officials, other dignitaries invited or expected to be in attendance.

Governor of New Mexico - Bill Richardson

5. We understand the press situation is still TBD. Is this correct?

YES

6. Who will introduce the Attorney General before he speaks? Please include full name and title and send brief biographical information.

PAUL A. LOGLI, NDAA President, State's Attorney, Rockford, IL
THOMAS J. CHARRON, NDAA Executive Director

7. Who will be the MC for the event (if different from the individual who introduces the AG)?

President PAUL A. LOGLI

8. Will there be a podium from which the Attorney General can deliver remarks?

YES

9. For how long is the Attorney General is expected to speak?

20-30 min.

10. The Attorney General's FBI Security Detail will come to survey the

venue/room(s) sometime on the day of the event (or, in some cases, the day before). Please provide an on-site contact person for the security detail, and include all contact phone numbers for that person.

~~Tom Charron~~ Cathy Yates - [redacted]
Rhea Ambedge

11. Will there be a Speaker's Hold room? If so, what is the name or room number of the Speaker's Hold room?

yes - Zia Ballroom C

12. Where will the Attorney General be seated immediately before he speaks? on DAIS - Depends on when he arrives

With whom will he be seated?

Paul Logli - President
Tom Charron - Executive Director
Mat - Beck - President Elect

14. Please provide an on-site/day of event contact person's name, title, and telephone contact numbers, including cell phone and pager numbers.

CATHY YATES, National District Attys Association's CONFERENCE MANAGER
703-963-7088 cell phone

15. If there is an on-site office or registration desk for the event, please provide the phone number for that desk.

CATHY YATES, National District Attys Association's CONFERENCE MANAGER
703-963-7088 cell phone

16. Please include any additional information that may be helpful to the Attorney General as he prepares for this event.

Participants list attached

Cathy Yates
National District Attorneys Association
99 Canal Center Plaza, Suite 510
Alexandria, VA 22314
[redacted]
[redacted]@ndaa.org

DAILY PROGRAM

Monday August 7th	9:00 - 9:30	**Opening Remarks from the Director** *Welcome and greetings from Director Kevin D. Rooney*
	break	
	9:45 - 10:15	**State of the Immigration Court** *Welcome and overview of major developments and issues for the courts from Acting Chief Immigration Judge David L. Neal*
	break	
	10:30 - 12:00	**Federal Judiciary Panel** Thomas L. Pullen, *Deputy Chief Immigration Judge* (moderator) Judge Richard C. Tallman, *U.S. Court of Appeals, 9th Circuit* Judge Sandra L. Lynch, *U.S. Court of Appeals, 1st Circuit* Judge Jon O. Newman, *U.S. Court of Appeals, 2nd Circuit* *Impact of immigration cases on the federal courts, changes in the Judiciary to handle that impact, and thoughts on how Immigration Judges can prepare a better record for review*
	lunch on your own	
	1:30 - 2:45	**Workshops** *Group 1 Workshop A Group 4 Workshop D* *Group 2 Workshop B Group 5 Workshop E* *Group 3 Workshop C Group 6 Workshop F*
	break	
	3:00 - 4:15	**Workshops** *Group 1 Workshop B Group 4 Workshop E* *Group 2 Workshop C Group 5 Workshop F* *Group 3 Workshop D Group 6 Workshop A*
	break	
	4:30 - ___	National Association of Immigration Judges Meeting (optional)
Tuesday August 8th	9:00 - 10:15	**Workshops**

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	Group 1 Workshop C Group 4 Workshop F *Group 2 Workshop D Group 5 Workshop A* *Group 3 Workshop E Group 6 Workshop B*

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	break
10:30 - 11:45	**Workshops** *Group 1 Workshop D Group 4 Workshop A* *Group 2 Workshop E Group 5 Workshop B* *Group 3 Workshop F Group 6 Workshop C*
	lunch on your own
1:30 - 2:30	**Language Services Initiatives** Martin Roldan, *Chief, Language Services Unit* (moderator) Speaker 2, IJ [on courtroom pointers] Speaker 3, *Lionbridge Global Services* *Review of how the interpreter contract works, the interpreter qualification process, rare languages, and pointers for handling challenges to interpretation*
	break
3:00 - 4:30	**Counsels' Forum** Brenda M. O'Malley, *Counsel to the Chief Immigration Judge* (moderator) William J. Howard, *Principal Legal Advisor, Immigration and Customs Enforcement* Robert C. Divine, *Principal Legal Advisor, Citizenship and Immigration Services* Jeanne Butterfield, *Executive Director, American Immigration Lawyers Association*

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		Program updates and developments from the parties who appear before the courts.
Wednesday August 9th	8:30 - 9:30	**Retirement Review** Bill Manning, *Chief, Employee Benefits & Development Branch* *Overview of important considerations for government employee financial planning*
	break	
	9:45 - 10:30	**Case Completion Goals** David L. Neal, *Acting Chief Immigration Judge* Thomas L. Pullen, *Deputy Chief Immigration Judge* *Review of progress and discussion of issues regarding case completion goals*
	break	
	10:45 - 11:45	**Juvenile Issues** Joanne Kelsey, Director, Detention and Asylum Program, Women's Commission for Refugee Women and Children (moderator) Hugh Mullane, *Office of Legal Policy* Steven Lang, *Legal Access Counsel* Maureen Dunn, *Director*, *Division of Unaccompanied Children's Services, Office of Refugee Resettlement* *Perspectives on juveniles in the courtroom from representation to courtroom considerations for unaccompanied minors under the Unaccompanied Alien Child Protection Act of 2005*
	break	
	12:00 - 2:00	**Luncheon** *Guest speaker:* Attorney General Alberto R. Gonzales

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		break
	2:15 - 3:30	**Workshops** *Group 1* *Workshop E* *Group 4* *Workshop B* *Group 2* *Workshop F* *Group 5* *Workshop C* *Group 3* *Workshop A* *Group 6* *Workshop D*
		break
	3:45 - 5:00	**Workshops** *Group 1* *Workshop F* *Group 4* *Workshop C* *Group 2* *Workshop A* *Group 5* *Workshop D* *Group 3* *Workshop B* *Group 6* *Workshop E*

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Thursday August 10th	8:30 - 9:45	**Judicial Ethics, Civility, and Professionalism** Judge Michael E. Keasler, *Texas Court of Criminal Appeals* *Discussion of judicial demeanor in the courtroom and the expectations of conduct that come with the office of Immigration Judge*

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		break
	10:00 - 11:30	**Legislative Update** Larry Levine, *EOIR Legislative Counsel* (moderator) Juria Jones, *Majority Counsel, Senate Judiciary Committee* Esther Olavarria, *Minority Counsel, Senate Subcommittee on Immigration, Border Security, and Citizenship*

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		Ruth Wasem, *Specialist in Immigration Policy, Congressional Research Service* *An overview of recent statutory changes and changes contemplated by pending legislation*
	lunch on your own	
	1:00 - 2:30	**OPR on Immigration Judge Conduct** Kevin Ohlson, *Deputy Director* H. Marshall Jarrett, *Counsel, Office of Professional Responsibility* Lawrence N. DiCostanzo, *Immigration Judge, San Francisco* Jennie L. Giambiastiani, *Immigration Judge, Chicago* Patricia Rohan, *Immigration Judge, New York City* Denise Slavin, *Immigration Judge, Miami* *An overview of professional boundaries in the courtroom and due process considerations from the body that oversees professional conduct followed by a roundtable discussion addressing questions related to OPR issues*
	break	
	2:45 - 3:45	**Regulatory Changes and Updates** MaryBeth Keller, *EOIR General Counsel* Kevin R. Jones, *Office of Legal Policy* *Recent and pending regulatory developments and their impact on the courts*
Friday August 11th	8:30 - 9:30	**Introduction to the Canadian System** Philip Williams, *Assistant Chief Immigration Judge*, moderator _____, *Canadian Immigration and Refugee Board* _____, *Canadian Immigration and Refugee Board* *Overview of the Canadian counterpart to EOIR, including migration, immigration, and asylum in Canada and how it compares to the experiences of the United States*
	break	
	10:00 - 11:00	**Religious Freedom Update**

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	Michael F. Rahill, *former Assistant Chief Immigration Judge* (moderator) Tad Stahnke, *Deputy Director for Policy, U.S. Commission on International Religious Freedom* Mark Hetfield, *Director for International Refugee Issues, U.S. Commission on International Religious Freedom* and/or Steve Liston, *Office of International Religious Freedom, Department of State* *Refresher on religious freedom and update on country conditions vis-a-vis religious freedom*
break	
11:15-11:45	**Closing Remarks** Deputy Attorney General Paul J. McNulty

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WORKSHOPS DRAFT	
Workshop **A**	**Appellate Review of Oral Decisions** Juan P. Osuna, *Acting Vice Chair, Board of Immigration Appeals* Donald E. Keener, *Deputy Director, Office of Immigration Litigation* *Review of circuit court and BIA criticisms of IJ decisions, pointers on the importance of findings of fact, and a discussion of post-REAL ID Act issues*
Workshop **B**	**Unethical Attorneys in the Courtroom** Jennifer Barnes, *Bar Counsel, EOIR* Speaker 2, [IJ from each workshop group] *Discussion of how to create a record for review when unscrupulous attorneys appear or don't appear, with an overview of the attorney discipline process and how to create a record for discipline*
Workshop **C**	**Citizenship and Nationality issues** Jack Weil, *Immigration Judge, El Centro* _____, *Immigration Judge,* *An overview of citizenship and nationality issues that arise in the courtroom.* *Note: Should there be major immigration legislation prior to the conference, this session may be substituted by one dedicated to emergent law.*
Workshop **D**	**Asylum Issues** Margaret Perry, *Senior Litigation Counsel*, Office of Immigration Litigation *Discussion of significant asylum issues in the federal courts, with a focus on credibility and Immigration Judge clarity in rendering decisions*
Workshop **E**	**Efficient Procedure** Rex Ford, moderator, *Immigration Judge, Miami* Robert Barrett, *Immigration Judge*, *San Diego* *Effective use of advisals and other procedural requirements to structure the hearing and oral decision and to strengthen the record for review, including change of venue and jurisdiction issues.*
Workshop **F**	**Electronic Research** Karen Drumond, EOIR Librarian _____, Westlaw representative _____, Lexis representative *Overview of the Virtual Law Library and on-line legal research tools available to*

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	Immigration Judges and court staff

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CASE

Lexis / Nexis

Digital Audio

Lionbridge Global Solutions

Language Services Association

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: 2006 Immigration Judges= Training Conference
City & State: Washington, D.C.
Date(s): August 6 - 11, 2006
Date/Time event begins: August 7, 2006 at 8:00 a.m.
Date/Time event concludes: August 11, 2006 at 12:00 p.m.
Proposed/Requested Date & Time of the Attorney General=s participation: August 9, 2006, 12:00 p.m. - 2:00 p.m. or at the Attorney General=s convenience
Nature of Event: Immigration Judges= Conference

Event Venue: J.W. Marriott Hotel
Room Name or number: Salon I and Salon II - Ballroom Level
Street Address: 1331 Pennsylvania Avenue, N.W.
City/State/Zip: Washington, D. C.
Venue Phone #: (202) 626-2662
Venue FAX #: (202) 626-6915

Event Sponsor: Office of the Chief Immigration Judge
Address: 5107 Leesburg Pike, Suite 2500
City/State/Zip: Falls Church, VA 22041
Website address: www.usdoj.gov/eoir

Person Inviting: Executive Office for Immigration Review
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Contact Person: Anne J. Greer
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Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: *300*
List of other invited speakers and program participants: *See Attached draft of Conference Program*

List of invited government officials, dignitaries, VIPS: *Officials from the Executive Office for Immigration Review, Executive Director of the American Immigration Lawyers Association, Majority Counsels from the Senate Immigration Subcommittee and the Senate Judiciary Committee, Minority Counsel from the Senate Immigration Subcommittee, Principal Legal Advisor from Immigration and Customs Enforcement, Principal Legal Advisor from Citizenship and Immigration Service, members of the federal judiciary, and members of the Canadian Immigration and Refugee Board will be presenters and attendees.*

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? *No*

Is the Attorney General being asked to speak? *Yes*

If yes, how long is he expected to speak? *10 - 12 minutes*

What is the theme/topic/subject of the event? *1) Professionalism and Ethics; 2) Appellate and Judicial Review of Immigration Judges Decisions; and 3) Significant Legal and Procedural Issues*

What is the ATTIRE for the event? *Business Casual*

Is this invitation for the Attorney General or the Attorney General and a guest? *Attorney General and a guest*

Is this a fund raising event? *No*

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? *N/A*

Are tickets being sold for this event? If yes, what is the face value of the ticket? *No*

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event). *May 31, 2006*

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation. *Please see attached draft of Conference Program*

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Announcement of New Servicemembers' Civil Rights Website

PURPOSE: Possible Speech at the Disabled American Veterans National Convention, August 12-16, 2006 in Chicago, IL and Possible Media Interview with the Pentagon Channel

DISCUSSION:

As you know, the men of women of the armed forces have made tremendous personal sacrifices to defend our country during wartime. The Civil Rights Division wants to support our servicemembers by ensuring that while they are away, their families are not evicted from their homes, their voices are heard in the electoral process, and their jobs are waiting for them when they return. The Division vindicates these rights of servicemembers through its enforcement of three statutes:

USERRA, the Uniformed Services Employment and Reemployment Rights Act, which prohibits employers from discriminating or retaliating against an employee or applicant for employment because of past, current, or future military obligation;

UOCAVA, the Uniformed and Overseas Citizens Absentee Voting Act, which requires that states allow servicemembers and their families to register and vote absentee in a timely manner in elections for federal offices; and

SCRA, the Servicemembers' Civil Relief Act, which provides civil protections for military personnel while on active duty, such as protection against eviction from leased housing, ability to break a lease once deployed, automatic stay of civil proceedings filed against a servicemember while deployed, and a cap on interest rates for credit card and other debt incurred before going on active duty.

To ensure that servicemembers and veterans are aware of their rights under these three statutes, the Division is launching a new web site entitled "Safeguarding the Rights of Servicemembers and Veterans." The web site advises servicemembers and veterans of their rights under USERRA, UOCAVA, and SCRA; provides instructions on how to file a claim under each statute; and includes examples of the Division's enforcement of the statutes. The Web site also include links to the sites of other agencies with whom we share enforcement authority (such as the Department of Labor, with whom we share USERRA authority).

The Division proposes that the Attorney General announce the launch of this new web site in a speech at the Disabled American Veterans (DAV) National Convention in Chicago, Illinois, which will take place August 12-16, 2006. Up to 1,000 DAV members are expected to attend. Formed after World War I, DAV has 1.2 million members. Its web site describes DAV as the foremost representative of interests of disabled veterans and their families before federal, state, and local governments. DAV's largest endeavor is free representation for veterans with benefit claims before the Departments of Veterans Affairs and Defense. It also provides transportation services and volunteers at local VA hospitals.

A second speaking opportunity is a scripted interview promoting our web site and the Division's efforts on behalf of servicemembers and veterans with a reporter from the Pentagon Channel. This DoD channel broadcasts military news and information to 2.6 million servicemembers around the world. DoD Public Affairs would follow up with an article about the interview that would be distributed to its wire service to all

military publications. Dates, time, and location are flexible. We recommend that the Attorney General participate in this interview following his announcement of the Civil Rights web site at the DAV National Convention, but this interview could also be done in lieu of the DAV speech to announce the web site.

CRIMES AGAINST CHILDREN CONFERENCE
Presented by the Dallas Children's Advocacy Center and the Dallas Police Department
August 21-24, 2005

Opening Session
August 21, 2006
Draft Agenda

Time	Event	Person
	PRE-PROGRAM	
8:00	DPD Choir, Bagpipe Corp, Color Guard arrives at Hyatt PowerPoint of prior conference photos	Assigned Volunteer / Staff AV team
8:15	Speakers, Honorees to Podium Honored Guests to 1st Row Reserved Seats	Assigned Volunteer / Staff
8:20	Pre-program entertainment begins; moves through Landmark Foyer area Bagpipe Corp. (DPD, Dallas Fire and Rescue)	Assigned Volunteer / Staff
	PROGRAM	
8:30	Program Opening • U.S. Army Dallas Recruiting Co. Color Guard • Dallas Police Department Choir (???, Director) *(Sings National Anthem and patriotic medley)*	Assigned Volunteer / Staff cues start
8:35	Opening Remarks • Thank You (Entertainment) • Conference Welcome • Conference Dedication	Lynn Davis Dallas Children's Advocacy Center, President & CEO
8:39	Dallas Police Choir *Choir remains on risers during program. Seats placed in set-up.*	Sings Police Anthem
8:41	Introduction of David Kunkle, Chief of Police, Dallas Police Department	Lynn Davis
8:42	Greetings	Chief David Kunkle Dallas Police Department
8:44	Introduction of Keynote Speaker	J. Peter Kline, Chair, DCAC Board of Trustees
8:46	Keynote Address (includes presentation to Ron Laney of comments in congressional record) **Alberto R. Gonzales** Attorney General of the United States	

DOJ_NMG_ 0165070

9:08	**Conference Recognition** • **CACC Co-Sponsors** • **Other Sponsors, Honored Guests, General Appreciation**	**Lynn Davis**
9:12	**In Memoriam – Pat Finley**	**Ron Laney, Director - Child Protection Division, Office of Juvenile Justice Delinquency Prevention, United States Department of Justice**
9:14	**Conference Logistics and Victim ID Lab Information**	**Lynn Davis** **Michelle Collins, Director, Exploited Child Unit, National Center for Missing and Exploited Children**
9:24	**Introduction of Hemanshu Nigam, Chief of Security, MySpace**	**Lynn Davis**
9:26	**"State of the Industry" Remarks**	**Hemanshu Nigam, Chief Security Officer, MySpace**
9:34	**Closing Comment** • **Concludes with Patriotic Medley by Dallas Police Department Choir**	**Lynn Davis**
9:35	**Adjourn**	

DOJ_NMG_ 0165071

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Crimes Against Children Conference – Opening Plenary Session
City & State: Dallas, Texas
Date(s): August 21, 2006
event begins: 8:30 a.m.
event concludes: 9:30 a.m.
Proposed/Requested Date & Time of the Attorney General's participation: Monday, August 21, 2006 @ 8:30 a.m.
Nature of Event: Opening Session to the 18th Annual Crimes Against Children Conference – the largest national professional training conference for front line professionals investigating, prosecuting, and treating child abuse cases.

Event Venue: Hyatt Regency Dallas at Reunion
Room Name or number: Landmark Ballroom
Street Address: 300 Reunion Blvd.
City/State/Zip: Dallas, TX
Venue Phone #: 214.651.1234
Venue FAX #: 214.742.8126

Event Sponsor: Dallas Children's Advocacy Center
Address: 3611 Swiss Avenue
City/State/Zip: Dallas, TX 75204
Website address: www.dcac.org

Person Inviting: [redacted]
Title: President and CEO
Telephone #: [redacted]
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org

Contact Person: [redacted]
Title: Vice President of Programs
Telephone: [redacted]
FAX #: 214.823.4819
E-mail address: [redacted]@dcac.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Yes
United States Department of Justice – Office of Juvenile Justice Delinquency Prevention; Office of Victims of Crime; Internet Crimes Against Children Training and Technical Assistance, Fox Valley Technical College; Microsoft, Children's Advocacy of Texas, Inc.

Please provide the following information:

Approximate size / description of the audience: Approximately 2,300 participants representing all 50 United States and selected foreign countries will attend. Attendance is limited to professionals engaged in the fight against child abuse. Based on prior conferences we expect the following professional breakdown of participants: local, state, federal law enforcement 60% (includes 9% (185 participants from FBI); child protective services 14%; children's advocacy center professionals 8%; district attorney 8%; social services, education and therapists 8%; medical professionals 2%

List of other invited speakers and program participants: (Identified for Plenary Session only; please let us know if a complete list of the 3 ½ day conference faculty is needed)

- Lynn Davis, President and CEO, Dallas Children's Advocacy Center
- David Kunkle, Chief of Police, Dallas Police Department
- Bill Hill, Dallas County District Attorney
- J. Peter Kline, Chairman of the Board, Dallas Children's Advocacy Center

List of invited government officials, dignitaries, VIPS: The following officials are invited to attend this opening plenary session. Some are teaching faculty throughout the conference.

- Elizabeth Banker, Yahoo
- Pete Banks, Director, Exploited Child Unit, National Center for Missing and Exploited Children
- Arnold Bell, Unit Chief, FBI
- Kenneth W. Cates, Special Agent in Charge, Immigration & Customs Enforcement, Dallas
- Nancy Chandler, Executive Director, National Children's Alliance
- Pat Finley, Fox Valley Technical College
- Robert Flores, Director - Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- Guadalupe Gonzales, Special Agent in Charge, Dallas Office, FBI
- Bill Hill, Dallas County District Attorney
- David Kunkle, Chief of Police, Dallas Police Department
- Richard LaMagna, Director - World Wide Law Enforcement Programs, Microsoft
- Ron Laney, Director - Child Protection Division, Office of Juvinile Justice Delinquency Prevention, United States Department of Justice
- Mark Lowery, Special Agent in Charge, United States Secret Service, Dallas
- Laura Miller, Mayor, City of Dallas
- Bob Roberts, Fox Valley Technical College
- Richard Roper, United States Attorney for the Northern Disctrict of Texas, United States Department of Justice
- Brad Russ, Director, Internet Crimes Against Children Training and Technical Assistance Programs
- Ray Smith, United States Postal Inspection Service
- Lupe Valdez, Dallas County Sheriff

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press?
Generally yes, but this can be changed at Mr. Gonzales' request
Is the Attorney General being asked to speak? Yes
If yes, how long is he expected to speak? Approximately 20 minutes
What is the theme/topic/subject of the event? Professional education related to the investigation, prosecution, prevention, and treatment of child abuse
What is the ATTIRE for the event? Business Casual
Is this invitation for the Attorney General or the Attorney General and a guest? Attorney General and a guest at his discretion
Is this a fund raising event? No
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?
Are tickets being sold for this event? If yes, what is the face value of the ticket?

DOJ_NMG_ 0165073

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would like to announce that Mr. Gonzales has been invited in our conference brochure that prints April 10. Speaking confirmation would be appreciated July 15 to allow ample time for logistics planning or alternative speakers if necessary.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.
This, the 18th Annual Crimes Against Children Conference, is the largest professional education gathering for front line professionals engaged in the investigation, prosecution, prevention, and healing of child abuse. With a track record of outstanding and lasting value, the conference provides the most current and sophisticated tools to national and international professionals. Throughout this 3-½ day conference, each program session includes 15 concurrent workshops and five interactive laboratories. The opening plenary session gathers all conference participants together to hear key messages relevant to their daily work. We would be delighted to host Mr. Gonzales throughout the conference.

DOJ_NMG_ 0165074

February 14, 2006

Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Gonzales:

I am writing to request the honor of your presence at the eighteenth annual Crimes Against Children Conference, to be held August 22 through 24, 2006 at the Hyatt Regency Reunion Hotel in Dallas. We respectfully invite you to serve as our keynote speaker during the opening session on Monday, August 22 at 8:30 a.m. Certainly, we would welcome your participation at any time during the conference.

As you may be aware, this is the largest conference in the country for federal, state, and local law enforcement on the subject of crimes committed against those most vulnerable in our society --- our children. In addition, a multidisciplinary representation of child protection workers, prosecutors, social workers, medical and children's advocacy center professionals attend this international conference. In 2005, the conference attracted nearly 2,200 attendees from 48 states and abroad.

The Dallas Children's Advocacy Center (DCAC) produces this significant and unique professional conference and is one of the largest children advocacy centers in the country serving over 1,900 children annually. DCAC serves as role model by providing best practices and professional education to multiple professional disciplines in the fight against child abuse. The Dallas Police Department is widely recognized for establishing innovative law enforcement practices to keep our children safe, including Operation Avalanche, the largest child pornography investigation ever conducted. The DPD also activated the very first Amber Alert in the country.

By serving as the keynote speaker at our conference you would send a strong message to the men and women in law enforcement that you share their commitment to fighting crimes against children.

I am enclosing a copy of the 2005 Conference brochure as well as material about our Center, for your review. So that we may continue our conference planning efforts, we hope to hear from you at your earliest convenience. Thank you for your consideration.

Respectfully,

[redacted]
President & CEO

Copy: Mr. Ron Laney, OJJDP

REQUEST: Attorney General's 54th Annual Awards Ceremony

PURPOSE: The Attorney General will present remarks to Department employees, guests, and other officials at the Attorney General's 54th Annual Awards Ceremony. The Attorney General will also present awards to all recipients.

BACKGROUND: The Department of Justice recognizes employees who have demonstrated exceptional achievements, leadership, and heroism on an annual basis. Nearly 600 employees were nominated for the annual awards program last year, with 225 receiving recognition in 29 award categories. Once again, the ceremony will provide an opportunity to recognize the achievements of Department employees. The Combined Incentive Awards Board and John Marshall Panel, chaired by the Deputy Attorney General, will meet to recommend award recipients to the Attorney General, who will approve the selections. The recommendations will be cleared through various investigative offices.

The Attorney General will present remarks and will present awards to all recipients. The Deputy Attorney General and several component heads will announce the award citations.

DATE & TIME: TBD by OAG Scheduling. Constitution Hall is available with a hold for DOJ on August 15 & 22, and September 12, 13, 14, & 19.

1:50 p.m. - Event Staging
2:00 p.m. - Ceremony; Reception to Follow Ceremony

LOCATION: Constitution Hall; 18th Street, NW, between C and D Streets

DURATION: 2½ hours

MEDIA: Members of the media will likely be in attendance. Coordination of press inquiries will be managed by the Office of Public Affairs. DOJ and component photographers will take photographs of the event.

PARTICIPANTS: The audience will be comprised of award recipients and their guests, senior staff, and other DOJ employees.

REMARKS: JMD Personnel Staff will prepare the event script and will work with the Attorney General's speech writer on the content of his remarks.

RECOMMENDED BY: Not applicable.

CONTACT: Vince Micone; Assistant Director, Programs and Events Section, JMD Personnel Staff; 5-1756

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: Hurricane Katrina 1-year Anniversary Symposium
City & State: New Orleans, Louisiana
Date(s): September 13, 2006
Event begins: 9:00
Event ends: 4:00
Proposed/Requested Date & Time of the Attorney General's participation: September 13, 2006 at 9:00
Nature of Event: Hurricane Katrina 1-year Anniversary Symposium

Venue: The New Orleans Hilton Riverside
Room Name or number:
Street Address: 2 Poydras Street
City/State/Zip: New Orleans, Louisiana 70140
Phone # 504-561-0500
FAX #: 504-568-1721

Sponsor: Hurricane Katrina Fraud Task Force
Address: 950 Pennsylvania Avenue, NW, Suite 2107
City/State/Zip: Washington DC, 20530
Website address:

Person Inviting: Alice Fisher
Title: Chairman, Hurricane Katrina Fraud Task Force
Telephone #: 202-514-7200
FAX #: 202-514-6034
E-mail address:

Contact: Bob Coughlin
Title: Deputy Chief of Staff
Telephone: 202-514-0169
FAX #: 202-514-9412
E-mail address: Robert.coughlin@usdoj.gov
Cell phone:

Are there corporate sponsors or other underwriters of the event? NO
If yes, please list them here:

Please provide the following information:

Approximate size of the audience: 130
Description of the audience: Federal, state, and local law enforcement
List of other invited speakers and program participants: Alice Fisher, FBI, DHS IG, Louisiana State Attorney General Foti
List of invited government officials, dignitaries, VIPS: See above
Is the Attorney General being asked to speak? YES
If yes, how long is he expected to speak? 15-20 minutes
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? YES, all of the AG's portion
What is the theme/topic/subject of the event? 1-year anniversary of Hurricane Katrina
What is the ATTIRE for the event? FORMAL
Is this invitation for the Attorney General or the Attorney General and a guest? AG
Is this a fund raising event? NO
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event?

Are tickets being sold for this event? If yes, what is the face value of the ticket? NO
What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) NONE
Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Name of Event: The Financial Services Roundtable 2006 Fall Conference
City & State of Event: Washington, DC
Date(s): September 20-21, 2006
Date/Time the event begins: Thursday, September 21, 8:30AM
Date/Time the event concludes: Thursday, September 21 3:00 PM
Proposed/Requested Date & Time of the Attorney General's participation: Antyime within those times; There is also a dinner on Wednesday evening, September 20 at 6:30 p.m. and a dinner at 6:00 pm on Thursday evening, September 21.
Nature of Event: Meeting of the Roundtable member representatives

Event Venue Name: Ritz Carlton, Washington, DC
Room Name or Room #: Ritz Carlton Ballroom
Address: 1150 22nd Street
City/State/Zip: Washington, DC 20037
Venue Phone #: 202-835-0500
Venue FAX #: 202-974-5538

Event Sponsor: The Financial Services Roundtable
Address: 1001 Pennsylvania Avenue, Suite 500 South
City/State/Zip: Washington, DC 20004
Website address: www.fsround.org

Person Inviting: [redacted]
Telephone #: [redacted]
FAX #: 202-737-3536
E-mail address: [redacted]@fsround.org

On-site Contact Person: [redacted]
Telephone: [redacted]
FAX #: 202-478-2996
E-mail address: [redacted]@fsround.org
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? no

Please provide the following information:

1. Description of the audience: CEO's and Senior Executives of the U.S. top 100 Financial Services companies
2. Approximate size of the audience: 150
3. List of other invited speakers and program participants: TBD
4. List of invited government officials, dignitaries, VIPS: TBD
5. Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? **No, not unless he requests it.**
6. Is the Attorney General being asked to speak? yes
7. If yes, how long is he expected to speak? He may speak as long as he wishes; however recommended time will be a total of 30 minutes, 20 for talk and 10 for Q&A
8. What is the theme/topic/subject of the event? TBD
9. What is the ATTIRE for the event? **Business**
10. Is this invitation for the Attorney General or the Attorney General and a guest? If he wishes
11. Is this a fund raising event? No

12. If it is a fund raising event, what group(s) or organization(s) benefit(s) from the event? N/A
13. Are tickets being sold for this event? No If yes, what is the face value of the ticket?
14. What is your deadline for confirming a speaker? September 1, 2006 (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)
15. Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

9/28

ARG

Georgetown University Law Center
Continuing Legal Education
600 New Jersey Avenue, NW
Washington, DC 20001
PHONE: (202) 662-9890
FAX: (202) 662-9891
cle@law.georgetown.edu • www.georgetowncle.org

Fax Transmittal Sheet

DATE: 5/25/06

TO: Andrew Beach

COMPANY: U.S. Dept of Justice

FAX NUMBER: 202 307 · 2825

FROM: [redacted]

NUMBER OF PAGES (Including Cover Sheet): 13

MESSAGE: Scheduling Request to AG Gonzales

Thank you for considering this request.

This facsimile contains confidential information intended only for the use of the person named above. If the reader of this message is not the intended recipient, please be advised that any dissemination or copy of this communication is strictly prohibited. If you have received this facsimile in error, please notify us by telephone immediately. Thank you.

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event:Conference on the Judiciary
City & State: Washington DC
Date(s): September 28-29
Date/Time event begins: Sept 28 8 am
Date/Time event concludes: Sept 29, noon
Proposed/Requested Date & Time of the Attorney General's participation: Sept. 28 8:00 pm
Nature of Event: deliver brief remarks to Conference Dinner

Event Venue: for dinner, Mandarin Oriental Hotel; for Conference Georgetown Law Center
Room Name or number: main ballroom
Street Address: 1330 Maryland Avenue SW
City/State/Zip: Washington DC 20024
Venue Phone #:202-554-8588
Venue FAX #:202-554-8999

Event Sponsor: Georgetown University Law Center and American Law Institute
Address: 600 New Jersey Avenue NW
City/State/Zip: Washington DC 20001
Website address: conferenceonthejudiciary.org (website to go live June 15)

Person Inviting: Hon. Sandra Day O'Connor
Title: Supreme Court Justice (ret.)
Telephone #: [redacted]
FAX #: (202)479-3478
E-mail address: [redacted]@scus.gov

Contact Person: [redacted]
Title: Project Director, Conference on the Judiciary
Telephone: [redacted]
FAX #: 202-662-9891
E-mail address: [redacted]@law.georgetown.edu
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? Foundation and private underwriting. Names available upon request

Please provide the following information:

Approximate size / description of the audience: 380
List of other invited speakers and program participants: see attached Conference Program
List of invited government officials, dignitaries, VIPS: see appended list of Steering Committee, Conference Committee, and Small Group Judicial Commentators
Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? His choice
Is the Attorney General being asked to speak? yes
If yes, how long is he expected to speak? Five minutes
What is the theme/topic/subject of the event? The future of the Federal and State courts
What is the ATTIRE for the event? Business attire
Is this invitation for the Attorney General or the Attorney General and a guest? He is welcome to bring a guest
Is this a fund raising event? no
If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? n/a

Are tickets being sold for this event? If yes, what is the face value of the ticket? No tickets are being sold; spouses of conference participants only will reimburse the conference for their dinner cost. All others are guests of the Conference

What is your deadline for confirming a speaker? (if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event) We would appreciate knowing if AG Gonzales will participate by September 1.

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

Appended is a one-page description of the Conference. Please note that we anticipate that the Attorney General would be introduced by the MC (a significant media figure TBD), and then deliver brief remarks at the Dinner prior introduction of the keynote speaker, Chief Justice Roberts. The Attorney General will receive an invitation to attend the Conference on the Judiciary, and we would be delighted if his schedule permits him to attend any portion of the events that are scheduled at Georgetown University Law Center, in addition to this specific request for him to deliver remarks at the Dinner.

Conference on the Judiciary
September 28-29, 2006
Washington, D.C.

A fair and impartial judiciary is a cornerstone of our system of government. Yet in recent days the judiciary has been subject to escalating attacks that threaten our nation's tradition of judicial independence. The judicial nomination and confirmation process has become a high-stakes partisan battle. Disagreement with judicial decisions has led to calls for the impeachment of federal judges and the recall of state judges. Congress has sought to influence the outcome of a single state case.

A recent ABA poll found that more than 56% of the public agree that "judicial activism … seems to have reached a crisis. Judges routinely overrule the will of the people."

There is, in short, a great need to strengthen public understanding of the importance of having a fair and impartial judiciary.

To address this challenge, Justices Sandra Day O'Connor and Stephen Breyer have agreed to chair a national Conference on the Judiciary. The participants will include leaders from the business and media communities, the nonprofit sector and government at both the federal and state level. The first panel of the Conference will examine both the relevant history and contemporary criticisms. A second will explore judicial selection, elections, and removal at both the federal and state levels. Others will address inter-branch relations, recent polls of public attitudes, the role of the media, and suggestions for improving the efficiency and effectiveness of the judiciary. Participants will be provided in advance of the Conference with background monographs prepared by leading scholars on the key issues to be considered at the Conference.

The Conference will be organized so that everyone attending will be able to participate in small group discussions that will analyze the issues presented by speakers on the panels and develop an action agenda of next steps to be taken.

Conference on the Judiciary (As of May 5, 2006)
September 28-29, 2006

Thursday, September 28

8:45	Welcome: Michael Traynor	CONFIRMED
	John J. DeGioia	CONFIRMED
9:00-9:15	Importance of an Independent Judiciary	
	Justice O'Connor	CONFIRMED
9:15-10:00	Judicial Independence: Justifications and Modern Criticisms	
	Jack Rakove (history)	CONFIRMED
	C. Boyden Gray	CONFIRMED
	Kathleen Sullivan	CONFIRMED
10:00-10:45	Judicial Selection and Removal	
	Ronald George	CONFIRMED
	Ruth McGregor	CONFIRMED
	Vicki Jackson	CONFIRMED
11:00-12:00	Small Group Discussions	
Lunch Speaker:	Justice Breyer	CONFIRMED
1:45-2:45	Interbranch Relations	
	Warren Rudman	CONFIRMED
	Tom Daschle	CONFIRMED
	Newt Gingrich	PENDING
	Stephen Burbank	CONFIRMED
2:45 to 3:45	Public Understanding, Media, and Education	
	Kathleen Hall Jamieson	CONFIRMED
	Fred Graham	CONFIRMED
	Linda Greenhouse	CONFIRMED
4:00-5:00	Small Group Discussions	
Dinner Speaker:	Chief Justice Roberts	CONFIRMED

Friday, September 29

9:00-10:00	Improving the Judicial System	
	Larry Thompson	CONFIRMED
	Helaine Barnett, Legal Service	CONFIRMED
	Judith Kaye	CONFIRMED
	Richard Scruggs	CONFIRMED
10:00-11:00	Small Group Discussions	
11:00-12:00	What Next?	
	Pam Karlan (who will summarize best suggestions from small groups and lead discussion)	CONFIRMED
	Justices Breyer and O'Connor: Concluding Remarks	

Steering Committee, Conference on the Judiciary

Hon. Sandra Day O'Connor
Associate Justice (ret.), Supreme Court of the United States

Hon. Stephen G. Breyer
Associate Justice, Supreme Court of the United States

Alex Aleinikoff
Dean, Georgetown University Law Center

Judith Areen
Professor and Former Dean, Georgetown University Law Center
President, Association of American Law Schools

Ken Duberstein
The Duberstein Group

James Henry

Hon. D. Brock Hornby
Chief Judge, U.S District Court
for the District of Maine

Lance Liebman
Professor and Former Dean, Columbia University School of Law
Director, American Law Institute

Marty Lipton
Partner, Wachtell, Lipton, Rosen & Katz

Theodore Olson
Partner, Gibson, Dunn, & Crutcher

Roberta Ramo
Vice-President, American Law Institute
Partner, Modrall Sperling Roehl Harris & Sisk, P.A.

Warren Rudman
Partner, Paul, Weiss

Michael Traynor
President, American Law Institute
Cooley Godward LLP

Larry Thompson
Senior Vice President Government Affairs
General Counsel and Secretary
Pepsico Inc.

Conference Committee as of April 24, 2006
Conference on the Judiciary
(Committee in Formation)

Zoe Baird
President, Markle Foundation

Helaine Barnett
President, Legal Services Corporation

William Barr
Former U.S. Attorney General
Executive Vice President and General Counsel
Verizon

Griffin Bell
Former U.S. Attorney General

David Bradley
Chairman, Atlantic Media Company

Paul Brest
President, Hewlett Foundation

Warren Buffett
President and CEO, Berkshire Hathaway, Inc.

John A. Canning, Jr.
CEO, Madison Dearborn Partners

Gerhard Casper
Stanford University

John J. Castellani
Business Roundtable

Warren Christopher
Former U.S. Secretary of State

Benjamin Civiletti
Former U.S. Attorney General

Joan Claybrook
President, Public Citizen, Inc.

Mary Sue Coleman
President, University of Michigan

William Coleman
Partner, O'Melveny and Myers

Dean C. Colson
Partner, Colson, Hicks, Eidson

George David
CEO, United Technologies

John J. DeGioia
President, Georgetown University

William Donaldson
Former Chairman, SEC

Karl Eller
Former CEO, Clear Channel

Dennis J. FitzSimons
CEO, Tribune Company

Marc Gary
General Counsel, Bell South, Equal Justice Board

Thomas Gottschalk
Executive Vice-President, Law and Public Policy and General Counsel
General Motors

Donald Graham
CEO and Chairman of the Board
Washington Post Company

Michael S. Greco
Partner, Kirkpatrick and Lockhart
President of ABA

Vartan Gregorian
President, Carnegie Corporation

David L. Guerry
Foundation of the Federal Bar Association

Roderick Hills
Chair, Hills and Stern, Former Chair SEC, CED

Alberto Ibarguen
President
John S. and James L. Knight Foundation

Walter Isaacson
President and CEO
The Aspen Institute

Vernon Jordan
Senior Counsel, Akin Gump

Nicholas deB. Katzenbach
Former Attorney General

Anastasia Kelly
Chief Counsel, MCI

Jeffrey Kindler
Vice Chairman, Pfizer, Inc.

Charles Kolb
President, Committee for Economic Development

Rebecca Kourlis
Executive Director, Institute for the Advancement of the American Legal System

Don Liu
Senior Vice President
Toll Brothers, Inc.

Edward W. Madeira, Jr.
Senior Counsel, Pepper Hamilton
Chair, ABA Commission
on the 21st Century Judiciary

William McDonough
Former Chair PCAOB and NY Federal Reserve

Harold W. McGraw, III
CEO, McGraw-Hill

Mary Campbell McQueen
President and CEO, National Center for State Courts

James J. Mulva
CEO, ConocoPhillips

Robert Nardelli
CEO, The Home Depot

Edward Ney
Chairman Emeritus, Young and Rubicam

Indra Nooyi
President and CFO, PepsiCo

Kathryn Oberly
Ernst & Young, ALI Council

Dwight Opperman

Richard Parsons
CEO, Time-Warner, Inc.

Charles O. Prince, III
CEO, Citigroup

Edward Romero
Former U.S. Ambassador to Spain

Roger Sant
President, The Summit Foundation

Carl Schramm
President, The Kauffman Foundation

George Shultz
Former U.S. Secretary of State

William Sessions
Partner, Holland and Knight
Honorary Co-Chair, ABA Commission on the 21st Century Judiciary

Theodore Shaw
President, NAACP Legal Defense Fund

James Thomson
President, RAND Corporation

Richard Thornburgh
Kirkpatrick & Lockhart
Former U.S. Attorney General

John Thornton
Chairman, Brookings Institution

Roger Warren
Chair, Justice at Stake, former President, Center for State Courts

Mark Yudof
Chancellor, U. of Texas System, former Dean, U. of Texas Law School

April 21, 2006

Conference on the Judiciary
September 28-29, 2006

Small Group Judicial Commentators

1. Shirley Abrahamson, Chief Justice, Supreme Court of Wisconsin	ACCEPTED
2. Robert Bell, Chief Judge, Court of Appeals of Maryland, President-Elect, Conference of Chief Justices	ACCEPTED
3. Christine M. Durham, Chief Justice, Supreme Court of Utah	ACCEPTED
4. Merrick Garland, D.C. Cir. Court of Appeals	ACCEPTED
5. Robert Henry, 10th Cir. Court of Appeals	ACCEPTED
6. Randy Holland, Delaware Supreme Court	ACCEPTED
7. Robert Katzmann, 2nd Cir. Court of Appeals	ACCEPTED
8. Joseph Lambert, Chief Justice, Supreme Court of Kentucky	ACCEPTED
9. Thomas Moyer, Chief Justice, Supreme Court of Ohio	ACCEPTED
10. Thomas Phillips, former Chief Justice, Texas	ACCEPTED
11. Randall Shepard, Supreme Court of Indiana, President, Conference of Chief Justices	ACCEPTED
12. Laurence Silberman, D.C. Cir. Court of Appeals	ACCEPTED
13 J. Harvie Wilkinson, 4th Cir. Court of Appeals	ACCEPTED
14. Diane Wood, 7th Cir. Court of Appeals	ACCEPTED
15. Gerald VandeWalle, Chief Justice, Supreme Court of North Dakota	ACCEPTED

SCHEDULING INFORMATION FORM
ATTORNEY GENERAL GONZALES

Event: US DOJ/HHS Human Trafficking Conference 2006
City & State: New Orleans, LA
Date(s): October 3 -5, 2006
Date/Time event begins: October 3, 2006, 8:00 am
Date/Time event concludes: October 5, 2006, Noon
Proposed/Requested Date & Time of the Attorney General's participation:
Morning or Mid-day October 3rd
Nature of Event: Congressionally Mandated Human Trafficking Conference.

Event Venue: Marriot Hotel – New Orleans
Room Name or number: Ballroom
Street Address: 555 Canal Street
City/State/Zip: New Orleans, LA, 70130

Venue Phone #: 504-581-1000
Venue FAX #: 504-523-6755

Event Sponsor: US DOJ
Address: 810 7th Street, NW
City/State/Zip: Washington, DC
Website address: www.usdoj.gov

Person Inviting: Regina Schofield
Title: Assistant Attorney General
Telephone #: 202.307.5933
FAX #: 202.514.7805
E-mail address: regina.schofield@usdoj.gov

Contact Person: Laura C. Keehner
Title: Senior Advisor for Communications and Strategy
Telephone: (202) 616-9485
FAX #: 202.514.7805
E-mail address: Laura.Keehner@usdoj.gov
Cell phone: [redacted]

Are there corporate sponsors or other underwriters of the event? No

Please provide the following information:

Approximate size / description of the audience: 600 attendees (approx). Registration will be done by invitation only. We will have representation from law enforcement, members of the DOJ Human Trafficking Taskforces, victims groups, researchers, non-profit organizations and other government officials.

List of other invited speakers and program participants: TBD

List of invited government officials, dignitaries, VIPS: TBD

Will the portion of the event at which Mr. Gonzales is being asked to participate be open to the press? No

Is the Attorney General being asked to speak? Yes

If yes, how long is he expected to speak? 15-20 minutes

What is the theme/topic/subject of the event? Trafficking in Persons

What is the ATTIRE for the event? Business

Is this invitation for the Attorney General or the Attorney General and a guest? AG

Is this a fund raising event? No

If this is a fund raising event, what group(s) or organization(s) benefit(s) from the event? NA

Are tickets being sold for this event? No
If yes, what is the face value of the ticket? NA

What is your deadline for confirming a speaker? As soon as possible.
(if the date of the event is open ended, please indicate how many weeks or months advance notice you require to set up the event)

Please include any additional information that may be helpful to Mr. Gonzales as he considers this invitation.

10/17

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

DATE OF DOCUMENT: 06/23/2006 **WORKFLOW ID:** 1030178
DATE RECEIVED: 07/11/2006 **DUE DATE:**

FROM: Mary Ann Viverette
President
International Association of Chiefs of Police
515 North Washington Street
Alexandria, VA 22314-2357

TO: AG

MAIL TYPE: Invitations (non DOJ)

SUBJECT: On behalf of the International Association of Chiefs of Police (IACP), inviting the AG to address their membership at the 113th Annual Law Enforcement Conference on 10/17/2006, during the Second General Assembly from 10-11:30 a.m. in Boston, MA.

DATE ASSIGNED	ACTION COMPONENT & ACTION REQUESTED
07/17/2006	Forward to OAG. For OAG(Beach). Office of the Attorney General

INFO COMPONENT: OIPL

COMMENTS:

FILE CODE:

EXECSEC POC: Yvonne Williams: 202-514-5849

1030178 YW

International Association of Chiefs of Police

515 North Washington Street
Alexandria, VA 22314-2357
Phone: 703/836-6767;1-800/THE IACP
Fax: 703/836-4543
Cable Address: IACPOLICE

President
Mary Ann Viverette
Chief of Police
Gaithersburg, MD

Immediate Past President
Joseph G. Estey
Chief of Police
Hartford Police Department
White River Junction, VT

First Vice President
Joseph C. Carter
Chief of Police
MBTA Transit Police
Boston, MA

Second Vice President
Ronald C. Ruecker
Superintendent
Oregon State Police
Salem, OR

Third Vice President
Russell B. Laine
Chief of Police
Algonquin, IL

Fourth Vice President
Michael J. Carroll
Chief of Police
West Goshen Township Police
West Chester, PA

Fifth Vice President
Jimmy R. Fawcett
Chief of Police
Farmers Branch, TX

Sixth Vice President
Walter McNeil
Chief of Police
Tallahassee, FL

Vice President at Large
Susan Riseling
Chief of Police
University of Wisconsin-Madison
Police Department
Madison, WI

Vice President at Large
Craig Steckler
Chief of Police
Fremont, CA

International Vice President
Tom Driessen
Director
National Crime Squad of the
Dutch Police
Driebergen, Netherlands

Vice President-Treasurer
Carl R. Wolf
Chief of Police
Hazelwood, MO

Division of State Associations of
Chiefs of Police
General Chair
Mark Whitman
Commissioner
York Police Department
York, PA

Division of State and Provincial
Police
General Chair
Gwen Boniface
Commissioner
Ontario Provincial Police
Orilla Ontario, Canada

Parliamentarian
Ed Mosca
Chief of Police
Old Saybrook, CT

Executive Director
Daniel N. Rosenblatt
Alexandria, VA

Deputy Executive Director/
Chief of Staff
Eugene R. Cromartie
Alexandria, VA

RECEIVED
DEPT OF JUSTICE
2006 JUL 11 AM 8:43
EXECUTIVE SECRETARIAT

June 23, 2006

The Honorable Alberto Gonzales
Attorney General of the United States
U.S. Department of Justice
10th & Constitution Avenue, NW
Washington, DC 20530

Dear Attorney General Gonzales:

The International Association of Chiefs of Police (IACP) is comprised of over 20,000 top police executives in the United States, Canada and worldwide. Each year our members and their distinguished guests gather together for a working conference that addresses the major issues facing law enforcement in the world today.

Recognized as the world's largest law enforcement conference, IACP is proud to be hosted in 2006 by the Boston, Massachusetts Police Department. It will be held over the dates of October 14 through October 18, 2006.

As you know, two of the most important elements of our conference are the General Assemblies held Monday and Tuesday, wherein top government and law enforcement officials address the IACP membership concerning timely issues in law enforcement. These forums offer an excellent opportunity to present personal views on law enforcement to those individuals directly responsible for their community's law enforcement needs.

On behalf of the IACP membership, I would like to extend an invitation for you to address our membership at the Second General Assembly, Tuesday, October 17. This session is scheduled to take place from 10:00 a.m. to 11:30 a.m.

The IACP would be honored to have you participate in the 113th Annual Conference. We sincerely hope your busy schedule will allow your acceptance of this invitation, and look forward to a favorable response at your earliest possible convenience.

Sincerely,

Mary Ann Viverette

Mary Ann Viverette
President

[redacted]@omm.com

From: [redacted]@omm.com
Sent: Thursday, July 27, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Consider it done. How might I reach Robert during this period to advise him?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 27, 2006 3:12 PM
To: [redacted]
Subject: FW: Robert's Farewell

Brian - Thanks so much for picking up the baton. The date Robert's aiming for now is the 7th and the list of folks follows below. If you need anything further from me, don't hesitate to call. Best, NMG

jeffrey.m.senger@usdoj.gov
lily.fu.swenson@usdoj.gov
pkeisler@civ.usdoj.gov
sschiffe@civ.usdoj.gov
gkatsas@civ.usdoj.gov
[redacted]@dhs.gov
[redacted]@dhs.gov
[redacted]@thune.senate.gov
Elizabeth.Kessler@usdoj.gov
Shannen_W._Coffin@ovp.eop.gov
[redacted]
Lreyes@who.eop.gov
[redacted]
[redacted]@hotmail.com
[redacted]@hotmail.com
[redacted]@hotmail.com

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 11:57 AM
To: Senger, Jeffrey M; Swenson, Lily F; Schiffer, Stuart (CIV);
Keisler, Peter D (CIV); Katsas, Gregory (CIV); [redacted] (DHS);
[redacted]@thune.senate.gov' [redacted] (DHS);
'Elizabeth.Kessler@usdoj.gov'; 'Shannen_W._Coffin@ovp.eop.gov';
[redacted]; 'Lreyes@who.eop.gov';
[redacted] Senger, Jeffrey
[redacted]@hotmail.com'; [redacted]@hotmail.com'

[redacted]@hotmail.com [redacted]@hotmail.com

Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 3:24 PM
To: McCallum, Robert (SMO)
Subject: RE: Dinner on Mon Aug 7th?

Robert, My last day is, after all, going to be the 4th. A combination of factors has led to that result - the views from WHCO abt having someone in two branches "at the same time" and wishing me to leave sooner rather than later; the desire by the chief judge to have me sit in abt 6 wks even though I have no clerks, chambers, secty; and [redacted], etc. On a happier note, Greg K. is in place, shadowing me all this week and next, and quickly coming up to speed. In any event, all this is by way of saying that [redacted]. I hate the thought of missing your dinner. [redacted] has kindly agreed to step in to make sure the dinner happens on Monday the 7th at an appropriate venue. Hope to see you between here and there. Neil

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Wednesday, July 26, 2006 10:54 PM
To: Gorsuch, Neil M
Subject: Dinner on Mon Aug 7th?

Neil: can we do the dinner on Mon Aug 7th? Mimi has me blocked out for the 8th and 9th. Robt.

Full Name: [redacted]
Last Name:
First Name:
Company:

Business Address: [redacted]

Business: [redacted]
Business Fax:

E-mail: [redacted]
E-mail Display As:

Jean Brennan

[redacted]@ca10.uscourts.gov

From: [redacted]@ca10.uscourts.gov
Sent: Thursday, July 27, 2006 3:39 PM
To: Gorsuch, Neil M
Subject: Denver
Attachments: tmp.htm

I understand you are going to be in and about the court during the week of August 7 - 11. Several of the Denver appellate judges would like to take you to lunch on Monday, August 7, if you are available at noon.

Additionally, I think it might be helpful if you and I could meet for a couple of hours after you have had a couple of days with our staff. What about meeting from 9:30 - 11:00 on Wednesday, August 9? If that doesn't work for you, give me another time during that week where we could visit for a couple hours.

I understand you are going to be in and about the court during the week of August 7 - 11. Several of the Denver appellate judges would like to take you to lunch on Monday, August 7, if you are available at noon.

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Shaw, Aloma A

Subject:	OLC using conference room
Location:	5710
Start:	Friday, July 28, 2006 9:00 AM
End:	Friday, July 28, 2006 10:30 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gorsuch, Neil M

Subject:	See [redacted]
Start:	Monday, July 31, 2006 5:00 PM
End:	Monday, July 31, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted]@ca10.uscourts.gov

From: [redacted]@ca10.uscourts.gov
Sent: Thursday, July 27, 2006 3:53 PM
To: [redacted]@ca10.uscourts.gov
Cc: Gorsuch, Neil M; [redacted]@uscmail.uscourts.gov; [redacted]
Subject: Re: Media and bloggers at the conference
Attachments: tmp.htm

I would be interested in the court's views and ask that Judges Kelly, Lucero, and Tymkovich collect the responses and provide a recommendation what, if any, constraints we should place on media/blogger activities, publications, etc. Thanks.

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
[redacted]

[redacted]CA10/10/USCOURTS
07/27/2006 02:49 PM

To
[redacted]@ca10.uscourts.gov@USCOURTS
cc
[redacted]
Subject
Media and bloggers at the conference

Judge,

I talked to the AO's [redacted] this morning about some media issues related to the conference. He mentioned that [redacted] was at the Eighth Circuit's conference last week and posted pictures of judges and marshals on his website, which is at [redacted] As it turns out, the pictures are fairly innocuous---pictures of himself and his wife with a couple of judges in the background and a picture of a sheriff's department boat. (To

see them, on his website, go to archives, and scroll down to the stories from July 23. It's the story that begins, "Images from Brainerd, Minnesota and the surrounding region," and the pictures are labeled "here's a photo," "on pontoon boats," "security boats trailed behind," and ""once afire.")

Publishing photos of judges, marshals and who knows what else from our conference may raise some security concerns. We have a panels of bloggers and other media representatives at the conference, and there will likely be reporters from print and perhaps electronic media there. I don't know if we've imposed restrictions on taking or publishing photos or videos at past conferences, but it may be time to consider some. We may want different rules on whether the photo is from an official part of the program or from a social event, such as judges enjoying themselves at the reception or sing-a-long. Let me know what you think. Thanks

I would be interested in the court's views and ask that Judges Kelly, Lucero, and Tymkovich collect the responses and provide a recommendation what, if any, constraints we should place on media/blogger activities, publications, etc. Thanks.

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

[redacted]/CA10/10/USCOURTS

07/27/2006 02:49 PM

To [redacted]@ca10.uscourts.gov@USCOURTS

cc [redacted]

Subject Media and bloggers at the conference

Judge,

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[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 27, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: Re: Dinner on Mon Aug 7th?

But you won't be there!!!! Will you be back in town before I fly out on the 13th ? Robt.

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
Sent: Thu Jul 27 15:23:36 2006
Subject: RE: Dinner on Mon Aug 7th?

Robert, My last day is, after all, going to be the 4th. A combination of factors has led to that result - the views from WHCO abt having someone in two branches "at the same time" and wishing me to leave sooner rather than later; the desire by the chief judge to have me sit in abt 6 wks even though I have no clerks, chambers, secty; and [redacted] etc. On a happier note, Greg K. is in place, shadowing me all this week and next, and quickly coming up to speed. In any event, all this is by way of saying that [redacted]. I hate the thought of missing your dinner. [redacted] has kindly agreed to step in to make sure the dinner happens on Monday the 7th at an appropriate venue. Hope to see you between here and there. Neil

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From: McCallum, Robert (SMO)
Sent: Wednesday, July 26, 2006 10:54 PM
To: Gorsuch, Neil M
Subject: Dinner on Mon Aug 7th?

Neil: can we do the dinner on Mon Aug 7th? Mimi has me blocked out for the 8th and 9th. Robt.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 4:42 PM
To: McCallum, Robert (SMO)
Subject: RE: Dinner on Mon Aug 7th?

[redacted] and would love to be there, but don't want to inconvenience you or Mimi in any way.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, July 27, 2006 4:04 PM
To: Gorsuch, Neil M
Subject: Re: Dinner on Mon Aug 7th?

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-----Original Message-----
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Sent: Wednesday, July 26, 2006 10:54 PM
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Subject: Dinner on Mon Aug 7th?

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 4:42 PM
To: [redacted]@omm.com'
Subject: RE: Robert's Farewell

Thanks [redacted] Robert just emailed reconsidering dates so perhaps hold off for the moment - it may turn out that it's going to be on a date when I'm back in town...

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Thursday, July 27, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Consider it done. How might I reach Robert during this period to advise him?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 27, 2006 3:12 PM
To [redacted]
Subject: FW: Robert's Farewell

[redacted] Thanks so much for picking up the baton. The date Robert's aiming for now is the 7th and the list of folks follows below. If you need anything further from me, don't hesitate to call. Best, NMG

jeffrey.m.senger@usdoj.gov
lily.fu.swenson@usdoj.gov
pkeisler@civ.usdoj.gov
sschiffe@civ.usdoj.gov
gkatsas@civ.usdoj.gov
[redacted]@dhs.gov
[redacted]@dhs.gov
[redacted]@thune.senate.gov
Elizabeth.Kessler@usdoj.gov
Shannen_W._Coffin@ovp.eop.gov
[redacted]
Lreyes@who.eop.gov
[redacted]@hotmail.com
[redacted]@hotmail.com
[redacted]@hotmail.com

From: Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 11:57 AM
To: Senger, Jeffrey M; Swenson, Lily F; Schiffer, Stuart (CIV);
Keisler, Peter D (CIV); Katsas, Gregory (CIV); [redacted] (DHS);
[redacted]@thune.senate.gov'; [redacted] (DHS);
'Elizabeth.Kessler@usdoj.gov'; 'Shannen_W._Coffin@ovp.eop.gov';
[redacted]
[redacted]; 'Lreyes@who.eop.gov';
[redacted]; Senger, Jeffrey
[redacted]@hotmail.com'; [redacted]@hotmail.com'

Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

[redacted]@ca10.uscourts.gov

From: [redacted]@ca10.uscourts.gov
Sent: Thursday, July 27, 2006 4:43 PM
To: [redacted]@ca10.uscourts.gov
Cc: Gorsuch, Neil M; [redacted]@uscmail.uscourts.gov; [redacted]@ca10.uscourts.gov; [redacted]
Subject: Re: Media and bloggers at the conference
Attachments: tmp.htm

As Judge Kellly can explain, we had a governor who, when facing a difficult problem, liken it to " opening a box of Pandoras".

Honorable Bobby R. Baldock
U.S. Circuit Judge
Tenth Circuit Court of Appeals
P.O. Box 2388
Roswell, NM 88202
[redacted]

As Judge Kellly can explain, we had a governor who, when facing a difficult problem, liken it to " opening a box of Pandoras".

Honorable Bobby R. Baldock
U.S. Circuit Judge
Tenth Circuit Court of Appeals
P.O. Box 2388
Roswell, NM 88202
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 4:51 PM
To: [redacted]@ca10.uscourts.gov'
Subject: RE: Denver

That's extremely kind, and lunch on the 7th sounds great. I'd also very much appreciate the chance to chat with you privately. Might it be possible for us to do so on the 7th? Or perhaps the week of Aug 14 when I'm back out there? I plan on spending the day at the court on the 7th but pretty much spend the rest of my time there (Aug 5-10) house hunting/investigating schools for the kids. Months ago, I agreed to host [redacted] annual clerk picnic in my back yard on Aug 12 and I need to get back to DC briefly for that event, a couple other dinners, as well as to tie up other loose ends. I plan to return to Denver sometime Aug 14 for a longer stay.

-----Original Message-----
From: [redacted]@ca10.uscourts.gov [mailto [redacted]@ca10.uscourts.gov]
Sent: Thursday, July 27, 2006 3:39 PM
To: Gorsuch, Neil M
Subject: Denver

I understand you are going to be in and about the court during the week of August 7 - 11. Several of the Denver appellate judges would like to take you to lunch on Monday, August 7, if you are available at noon.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 4:52 PM
To: Macklin, Kristi R
Subject: RE: Official photo

I have none, sorry.

From: Macklin, Kristi R
Sent: Tuesday, July 25, 2006 8:17 PM
To: Gorsuch, Neil M
Subject: Official photo

Neil,

Do you have an official photo? Would you please send?

[redacted]@omm.com

From: [redacted]
Sent: Thursday, July 27, 2006 4:52 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Great -- hadn't done anything yet (except inquire of Bobby Van's as to the availability of a room on the 7th).

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 27, 2006 4:41 PM
To: [redacted]
Subject: RE: Robert's Farewell

Thanks, [redacted] Robert just emailed reconsidering dates so perhaps hold off for the moment - it may turn out that it's going to be on a date when I'm back in town...

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From: [redacted] [mailto [redacted]
Sent: Thursday, July 27, 2006 3:23 PM
To: Gorsuch, Neil M
Subject: RE: Robert's Farewell

Consider it done. How might I reach Robert during this period to advise him?

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From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 27, 2006 3:12 PM
To: [redacted]
Subject: FW: Robert's Farewell

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gkatsas@civ.usdoj.gov
[redacted]@dhs.gov
[redacted]@dhs.gov
[redacted]@thune.senate.gov
Elizabeth.Kessler@usdoj.gov
Shannen_W._Coffin@ovp.eop.gov
[redacted]

[redacted]
Lreyes@who.eop.gov
[redacted]
[redacted]@hotmail.com
[redacted]@hotmail.com
[redacted]@hotmail.com

From: Gorsuch, Neil M
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[redacted]
[redacted]; 'Lreyes@who.eop.gov';
[redacted]; Senger, Jeffrey
[redacted]@hotmail.com'; [redacted]@hotmail.com'

Subject: Robert's Farewell

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Warm regards,

Neil Gorsuch

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business: [redacted]

E-mail: [redacted]@judicial.state.co.us
E-mail Display As: [redacted] ([redacted]eid@judicial.state.co.us)

Macklin, Kristi R

From: Macklin, Kristi R
Sent: Thursday, July 27, 2006 5:12 PM
To: Gorsuch, Neil M
Subject: Re: Official photo

Could you get us some kind of electronic photo for the WH website.

-----Original Message-----
From: Gorsuch, Neil M
To: Macklin, Kristi R
Sent: Thu Jul 27 16:51:47 2006
Subject: RE: Official photo

I have none, sorry.

From: Macklin, Kristi R
Sent: Tuesday, July 25, 2006 8:17 PM
To: Gorsuch, Neil M
Subject: Official photo

Neil,

Do you have an official photo? Would you please send?

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, July 27, 2006 5:42 PM
To:	Shaw, Aloma A
Subject:	Going away invitees
Attachments:	going away invitees.wpd

WHCO
Harriet Miers
William Kelley
Jennifer Brosnahan
Bob Hoyt
Brett Gerry
Leslie Fahrenkopf
Richard Klingler
Grant Dixton
Brent McIntosh

Staff Secty
Raul Yanes

OVP
[redacted]

NSC
Brad Wiegmann
Mike Allen

DOD
[redacted]

DPC
[redacted]

State
[redacted]
[redacted]
Robert McCallum (!)

ODNI
[redacted]

Colorado Senators Offices
Sen Allard
Sen Salazar
[redacted] (Allard aide)
[redacted] (same)

Other Hill
[redacted] (Sen Judiciary)
[redacted] (Sen Kyl)
[redacted] (Sen Graham)
[redacted] (Sen Graham)
Sen Graham

DC Cir
Judge Brett Kavanaugh
Judge David Sentelle
Chief Judge Doug Ginsburg
Chief Judge Thomas Hogan

Others
Brad Berenson
Brian Boyle
Tracy Henke
Lu Reyes
David Javdan
Ken Wainstein

[redacted]@ca10.uscourts.gov

From: [redacted]@ca10.uscourts.gov
Sent: Thursday, July 27, 2006 5:45 PM
To: Gorsuch, Neil M
Subject: RE: Denver
Attachments: tmp.htm

Let's plan on a private visit sometime during the week of August 14, preferably Monday, Tuesday or Wednesday. You pick the day and time.

"Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
07/27/2006 02:50 PM

To
"[redacted]ca10.uscourts.gov" [redacted]@ca10.uscourts.gov> (Receipt Notification Requested) (IPM Return Requested) cc

Subject
RE: Denver

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Additionally, I think it might be helpful if you and I could meet for a couple of hours after you have had a couple of days with our staff. What about meeting from 9:30 - 11:00 on Wednesday, August 9? If that doesn't work for you, give me another time during that week where we could visit for a couple hours.

Let's plan on a private visit sometime during the week of August 14, preferably Monday, Tuesday or Wednesday. You pick the day and time.

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<Neil.Gorsuch@usdoj.gov>

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:12 PM
To: Elwood, Courtney
Subject: Just got your vm and will call sue ellen now and be back to you

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, July 27, 2006 6:14 PM
To: Gorsuch, Neil M
Subject: Re: Just got your vm and will call sue ellen now and be back to you

Many thx. In the meantime, the AG called me again to ask about it. Prep may be scheduled very early -- so keep an eye on the bberry. You may wish to mention this to Sue Ellen, as well.

-----Original Message-----
From: Gorsuch, Neil M
To: Elwood, Courtney
Sent: Thu Jul 27 18:11:55 2006
Subject: Just got your vm and will call sue ellen now and be back to you

Wooldridge, Sue Ellen (ENRD)

From: Wooldridge, Sue Ellen (ENRD)
Sent: Thursday, July 27, 2006 6:16 PM
To: Gorsuch, Neil M; Senger, Jeffrey M
Subject: RE: Memo

We are working to rewrite the memo. Jeff, could you figure out for me how to get this to the AG? I will email copies to Courtney, Neil and you. Sue

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:17 PM
To: Elwood, Courtney
Subject: FW: Memo

Just got your email and tried Sue Ellen but got voice mail - so I sent this. What else can I do to help?

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:16 PM
To: Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
Subject: Memo

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:20 PM
To: [redacted]@ca10.uscourts.gov'
Subject: RE: Denver

Sounds great; perhaps we can figure out the most convenient time at lunch on the 7th. I'm looking forward to seeing you and appreciate the warm welcome.

-----Original Message-----
From: [redacted]@ca10.uscourts.gov [mailto[redacted]@ca10.uscourts.gov]
Sent: Thursday, July 27, 2006 5:45 PM
To: Gorsuch, Neil M
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:21 PM
To: Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
Cc: Elwood, Courtney
Subject: RE: Memo

Thanks so much.

From: Wooldridge, Sue Ellen (ENRD)
Sent: Thursday, July 27, 2006 6:16 PM
To: Gorsuch, Neil M; Senger, Jeffrey M
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Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, July 27, 2006 6:27 PM
To: Gorsuch, Neil M; Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
Subject: Re: Memo

Thanks, Sue Ellen. If you get a version to me, I will get it to the AG.

-----Original Message-----
From: Gorsuch, Neil M
To: Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
CC: Elwood, Courtney
Sent: Thu Jul 27 18:20:33 2006
Subject: RE: Memo

Thanks so much.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, July 27, 2006 6:39 PM
To: USDOJ- Office of Public Affairs
Subject: ALABAMA RESIDENT INDICTED BY FEDERAL GRAND JURY OF DEFRAUDING FEMA OF $277,377 AND AGGRAVATED IDENTITY THEFT

Department of Justice

United States Attorney Deborah J. Rhodes
Southern District of Alabama

FOR IMMEDIATE RELEASE

THURSDAY, JULY 27, 2006

CONTACT:
CHARLIE McNICHOL
PHONE: (251) 441-5845
http://www.usdoj.gov/usao/als/
FAX: (251) 441-5277

ALABAMA RESIDENT INDICTED BY FEDERAL GRAND JURY OF DEFRAUDING FEMA OF $277,377 AND AGGRAVATED IDENTITY THEFT

MOBILE, Ala. – Lawanda T. Williams, also known as Lawanda Johnson, was indicted today by a grand jury on federal FEMA fraud charges, U.S. Attorney Deborah J. Rhodes of the Southern District of Alabama announced today.

Williams, 32, of Jackson, Ala., was charged in a 66-count federal indictment with making false claims to the government, mail fraud, wire fraud and aggravated identity theft. Williams is charged with making a number of false and fraudulent applications for disaster assistance from FEMA following Hurricane Katrina. The investigation was conducted by the U.S. Department of Homeland Security's Office of the Inspector General, the Federal Bureau of Investigation and the U.S. Postal Inspection Service.

The indictment alleges that from Sept. 8, 2005 through May 11, 2006, Williams applied by telephone for disaster benefits from FEMA following Hurricane Katrina. Using false Social Security numbers and variations of her name and addresses in Gulfport, Pascagoula and Biloxi, Miss., as well as addresses in Jackson, Ala. and New Orleans, Williams claimed that her primary residence had been damaged. The indictment further alleges that at the time of Hurricane Katrina, Williams lived in Jackson, and not at any of the addresses she claimed as her damaged primary residence.

Williams allegedly received $277,377 from FEMA as a result of the fraudulent claims, which she used to purchase real estate, a mobile home, automobiles, electronics and other personal property. If convicted, the proceeds of the alleged fraud would be subject to forfeiture to the United States.

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Williams was arrested on July 18, 2006 on a federal complaint charging her with wire and mail fraud in connection with one of the applications. U.S. Magistrate Judge William E. Cassady ordered that she be detained in custody pending trial. Assistant U.S. Attorney Sean Costello is prosecuting the case.

Mail fraud and wire fraud each carry maximum penalties of 20 years in prison and a $250,000 fine. Making false claims to the government is punishable by a maximum sentence of five years in prison and a $250,000 fine. Conviction of aggravated identity theft carries a mandatory two year sentence consecutive to any other sentence imposed.

"We have entered a new hurricane season, and the Hurricane Katrina Fraud Task Force is continuing its investigations of those people who took advantage of last year's relief efforts to profit personally and fraudulently," stated U.S. Attorney Deborah J. Rhodes. "Those who use fraud to take relief money intended for hurricane victims will be aggressively prosecuted."

To date, 11 individuals have been charged in the Southern District of Alabama with violations related to hurricane relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force, chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office and the Executive Office for U.S. Attorneys, among others.

Anyone with information about fraudulent activity is encouraged to report it immediately through the Hurricane Relief Fraud Hotline at 1-866-720-5721, or via email at katrinafraud@dodig.mil.

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DOJ_NMG_ 0165138

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Image not available for this document, ID: 0.7.10316.43459-000002

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, July 27, 2006 7:11 PM
To: Gorsuch, Neil M; Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
Subject: RE: Memo

Sue Ellen -- How's the memo coming? I don't mean to pester you, but the boss goes to bed quite early, and I know he's anxious to receive it.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 6:21 PM
To: Wooldridge, Sue Ellen (ENRD); Senger, Jeffrey M
Cc: Elwood, Courtney
Subject: RE: Memo

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McDonald, Bruce

From: McDonald, Bruce
Sent: Thursday, July 27, 2006 8:24 PM
To: Gorsuch, Neil M; Swenson, Lily F; Roland, Sarah E
Subject: Energy Task Force --- Report to Congress
Attachments: second ed.-Interagency Energy Task Force Draft Report, July 25-for front office review.doc

Neil, Lily, and Sarah ---

In the 2005 Energy Policy Act, Congress created an Electric Energy Market Competition Task Force, with members from Justice, FTC, DOE, FERC, and Ag. I am the DOJ person on the task force. The Act calls for the task force to prepare a study of competition in U.S. electric energy markets. The penultimate draft of the report is attached. The final version will be sent to the Senate and House leadership and to committees with jurisdiction over the affected issues, including the two Judiciary Committees. In deciding how closely you may want to review this, you should know this is not a "DOJ" report, much less an Administration report, but a report from the task force itself. (I am told there is precedent for such reports to Congress. Nevertheless, DOE has sent the report to OMB for an informal review.) It is to some extent a compromise document, but the Antitrust Division will be comfortable that the document will not compromise ATR legal positions or otherwise be embarassing. It is a report on the state of competition and does not take positions on any proposed legislation. Tom Barnett has reviewed drafts and is reading this draft. This report is very long, and there is an executive summary.

Please let me know if you have any questions about this document. Any comments are requested by Tuesday, August 1.

--- Bruce

REPORT TO CONGRESS ON COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY

DRAFT

July 25, 2006

By The Electric Energy Market Competition Task Force

DOJ_NMG_ 0165143

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EXECUTIVE SUMMARY

Congressional Request

Section 1815 of the Energy Policy Act of 2005 (the Act) requires the Electric Energy Market Competition Task Force (Task Force) to conduct a study of competition in wholesale and retail markets for electric energy in the United States.1 Section 1815(b)(2)(B) of the Act requires the Task Force to publish a draft final report for public comment 60 days prior to submitting the final version to Congress. The Task Force published a draft final report and sought comment on the preliminary observations contained in this draft report. Based on those comments, and other input received earlier, the Task Force hereby submits this report to Congress.

Task Force Activities

In preparing this report, the Task Force undertook several activities, as follows:

- Section 1815(c) of the Energy Policy Act of 2005 required the Task Force to "consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public." Accordingly, the Task Force published a Federal Register notice seeking comment on a variety of issues related to competition in wholesale and retail electric power markets to comply with this statutory obligation. The Task Force received over 80 comments that expressed a variety of opinions and analyses. These comments are available online for public review in the Task Force docket maintained by the Federal Energy Regulatory Commission under Docket No. AD05-17-000. The list of parties who submitted comments is attached as Appendix A.

- The Task Force met and discussed competition-related issues with a variety of representatives of the electric power industry in October/November 2005. These groups are listed in Appendix B.

- The Task Force prepared an annotated bibliography of the public cost/benefit studies that have attempted to analyze the status of wholesale and retail competition. Appendix C contains this bibliography.

The Task Force researched and analyzed the relevant features of seven states that have implemented retail competition. The states include: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas. These seven states represent the various

[1] The Task Force consists of 5 members: (1) one employee of the Department of Justice, appointed by the Attorney General of the United States; (2) one employee of the Federal Energy Regulatory Commission, appointed by the Chairperson of that Commission; (3) one employee of the Federal Trade Commission, appointed by the Chairperson of that Commission; (4) one employee of the Department of Energy, appointed by the Secretary of Energy; (5) one employee of the Rural Utilities Service (RUS), appointed by the Secretary of Agriculture.

DOJ_NMG_ 0165146

approaches that states have used to introduce retail competition where retail competition programs are active. Appendix D contains these individual state retail competition program profiles updating information prepared by the Federal Trade Commission staff.

- The Task Force published a draft report in the Federal Register for public comment on June 13, 2006, 71 Fed. Reg. 34,083 (2006). The notice accompanying the draft requested comments on the Task Force observations. The parties filing comments on the draft report are listed in Appendix A. Draft report comments are available for public review online in the Task Force docket maintained by the Federal Energy Regulatory Commission under Docket No. AD05-17-000.

- The Task Force reviewed the information gleaned from comments, interviews, and further research in preparing the draft report. Prior to publishing, the draft report, including the resulting observations and findings, was circulated within the Task Forcefor review and revised in response to comments received.

Federal and several state policymakers generally introduced competition in the electric power industry to overcome the perceived shortcomings of traditional cost-based regulation. In competitive markets, prices are expected to guide consumption and investment decisions to bring about an efficient allocation of resources.

Observations on Competition in Wholesale Electric Power Markets

For almost 30 years, Congress has taken steps to facilitate competition in wholesale electric power markets. The Public Utility Regulatory Policies Act of 1978, the Energy Policy Act of 1992, and the Energy Policy Act of 2005 all sought to promote competition by lowering entry barriers, increasing transmission access, or both. Federal electricity policies seek to strengthen competition but continue to rely on a combination of competition and regulation.

In responding to its statutory charge, the Task Force has sought to answer the following question:

> Has competition in wholesale markets for electricity resulted in sufficient generation supply and transmission to provide wholesale customers with the kind of choice that is generally associated with competitive markets?

To answer this question, the Task Force examined whether competition has elicited consumption and investment decisions that were expected to occur with wholesale market competition.

The Task Force found this question challenging to address. Regional wholesale electric power markets have developed differently since the beginning of widespread wholesale competition. Each region was at a different regulatory and structural starting point upon Congress' enactment of the Energy Policy Act of 1992 and FERC's adoption of Order No. 888, mandating nondiscriminatory access to the transmission grid. Some regions already had tight power pools, others were more disparate in their operation of generation and transmission. Some regions had higher population densities and thus more tightly configured transmission networks than did others. Some regions had access to fuel sources that were unavailable or less available in other

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regions (*e.g.*, natural gas supply in the Southeast, hydro-power in the Northwest). Some regions operate under a transmission open-access regime that has not changed since the early days of open access in 1996, while other regions have independent provision of transmission services and organized day-ahead exchange markets for electric power and ancillary services. These differences make it difficult to single out the determinants of consumption and investment decisions and thus make it difficult to evaluate the degree to which more competitive markets have influenced such decisions. Even the organized regional exchange markets have different features and characteristics.

Despite the difficulty of directly answering the question at hand, the Task Force's examination of wholesale competition has yielded some useful observations, as presented below.

Observations on Competitive Market Structures:

1. One approach to competition in wholesale markets is to base trades exclusively on bilateral sales directly negotiated between suppliers and scheduled through individual non-regionalized transmission owners. This approach predominates in the Northwest and Southeast. This traditional trading format allows for somewhat independent operation of transmission control areas and, in the view of some market participants, better accommodates historical contracts. However, prices and terms are more transaction-specific and, for some timeframes, less available publicly than in organized markets, which may result in less efficient generation dispatch. It can be difficult to efficiently coordinate transmission in these systems, as congestion costs and impacts are not readily apparent. A lack of centralized information about trades leaves the transmission owner with system security risks that necessitate constrained transmission capacity. In some of these markets, wholesale customers have difficulty gaining unqualified access to the transmission they would need to access competitively priced generation – thus limiting their ability to shop for least cost supply options.

2. Another approach to wholesale competition relies on entities that are independent of market participants to operate centralized regional transmission facilities and trading markets (Regional Transmission Organizations (RTOs) or Independent System Operators (ISOs)). Various forms of this approach have come to predominate in the Northeast, Mid-Atlantic, Midwest, Texas, and California. The market designs in these regions provide participants with guaranteed physical access to the transmission system (subject to transmission security constraints). These customers are responsible for the cost of that access (if they choose to participate), and thus are exposed to congestion price risks. This more open access to transmission can increase competitive options for wholesale customers and suppliers as compared to most bilateral markets. The transparency of prices in these markets can increase the efficiency of the trading process for sellers and buyers and can give clear price signals indicating the best place and time to build new generation. However, concerns have been raised about the inability to obtain long-term transmission access at predictable prices in these markets and the impact that this lack of long-term transmission can have on incentives to construct new generation. Some customers have raised concerns about high commodity price levels in these markets.

Observations on Generation Supply in Markets for Electricity

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Several options may be used to elicit adequate supply in wholesale markets:

1. One possible, but controversial, way to spur entry is to allow wholesale price spikes to occur when supply is short. The profits realized during these price spikes can provide incentives for generators to invest in new capacity. However, if wholesale customers have not hedged (or cannot hedge) against price spikes, then these spikes can lead to adverse customer reactions. Unfortunately, it can be difficult to distinguish high prices due to the exercise of market power from those due to genuine scarcity. Customers exposed to a price spike often assume that the spike is evidence of market abuse. Past price spikes have caused regulators and various wholesale market operators to adopt price caps in certain markets. Although price caps may limit price spikes and some forms of market manipulation, they can also limit legitimate scarcity pricing and impede incentives to build generation in the face of scarcity. Not all the caps in place may be necessary or set at appropriate levels.

2. "Capacity payments" also can help elicit new supply. Wholesale customers make these payments to suppliers to assure the availability of generation when needed. However, where there are capacity payments in organized wholesale markets, it is difficult for regulators to determine the appropriate level of capacity payments to spur entry without over-taxing market participants and customers. Also, capacity payments may elicit new generation when transmission or other responses to price changes might be more affordable and equally effective. Depending on their format, capacity payments also may discourage entry by paying uneconomical generation to continue running when market conditions otherwise would have led to the closure of that generation.

3. Building appropriate transmission facilities may encourage entry of new generation or more efficient use of existing generation. But, transmission owners may resist building transmission facilities if they also own generation and if the proposed upgrades would increase competition in their sheltered markets. Another challenge with transmission construction is that it is often difficult to assess the beneficiaries of transmission upgrades and, thus, it is difficult to identify who should pay for the upgrades. This challenge may cause uncertainty both for new generators and for merchant transmission owners. There can also be difficulties associated with uncertain revenue recovery due to unpredictable regulatory allowances for rate recovery.

4. Another option for ensuring adequate generation supply is through traditional regulatory mechanisms - regulatory control over electricity generators/suppliers. In this situation, monopoly utility providers operate under an obligation to plan and secure adequate generation to meet the needs of their customers. Regulators allow the utilities to earn a fair rate of return on their investment, thereby encouraging utility investment. However, this approach is not without risk to the utility as regulators have authority to disallow excessive costs. Furthermore, these traditional methods are imperfect and can in some cases lead to overinvestment, underinvestment, excessive spending and unnecessarily high costs. These methods can distort both investment and consumption decisions. Furthermore, under traditional regulation, ratepayers (rather than investors) may bear the risk of potential investment mistakes.

Observations on Competition in Retail Electric Power Markets

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The Task Force examined in detail the implementation of retail competition in seven statesl: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.

In most profiled states, retail competition began to be introduced in the late 1990s. States also implemented retail rate caps and distribution utility obligations, which are now just ending. The introduction of retail competition has been impeded by lack of entry by alternative suppliers and marketers to serve retail customers, due mostly to "provider of last resort" (POLR) price caps. This phenomenon makes it very difficult to ascertain whether retail competition will lower prices. The implementation of retail competition is a relatively new exercise, and retail competition policies involve a number of unresolved issues (including regulatory issues) that are likely to inhibit vigorous competition. Although in principle retail competition should produce price and other benefits for consumers, it should be easier to evaluate the benefits of competition in retail electricity markets once some of these issues have been resolved. Few alternative suppliers currently serve residential customers, although industrial customers have additional choices. To the extent that multiple suppliers serve retail customers, prices have not decreased as expected, and the range of new options and services is limited. Since retail competition began, most distribution utilities in the profiled states have either sold most of their generation assets or transferred them to unregulated affiliates.

One of the main impediments to retail competition has been the lack of entry by alternative suppliers and marketers to serve retail customers. Most states required the distribution utility to offer customers electricity at a regulated POLR price as a backstop or default if the customer did not choose an alternative electricity supplier or the chosen supplier went out of business. Many of these states capped the POLR service price for "transitional" multi-year periods that are now just ending. These caps have had the unintended effect of discouraging entry by competitive suppliers. Thus, it has been difficult for the Task Force to determine whether retail prices in the profiled states are higher or lower than they otherwise would be absent the introduction of retail competition. At the same time, there is some evidence that alternative suppliers have offered new retail products including "green" products that are more environmentally friendly for residential and non-residential customers and customized energy management products for large commercial and industrial customers.

When the rate caps expire, states must decide whether to continue POLR for all customer classes and how to price POLR service for each class.[2] Several states have rate caps that will expire in 2006 and 2007.

1. If regulators intend for the POLR service to be a proxy for efficient price signals, it must closely approximate a competitive price. The competitive price is based on supply and demand

[2] It is unlikely that states would drop the protection afforded retail customers by eliminating the availability of an electric provider (usually the local distribution utility) with an obligation to serve all customers that request and pay for electricity because they have not chosen an alternative competitive provider, they have been dropped by their alternative provider, or there are no competitive alternative providers serving the area. The twin challenges for policymakers are then how to assure that electric service remains available and how to price that service.

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at any given time. If the POLR service price does not closely match the competitive price, it is likely to distort consumption and investment decisions.[3]

2. If POLR prices remain fixed while prices for fuel and wholesale power are rising, customers may experience rate shock when the transition period ends. This rate shock can create public pressure to continue the fixed POLR rates at below-market levels. One regulatory response may be to phase in the price increase gradually, by deferring recovery of part of the supplier's costs. Although this approach reduces rate shock for customers, it is likely to distort retail electricity markets both in the short-term (when costs are deferred) and in the long-term (when the deferred costs are recovered). It is difficult to establish a POLR service price cap that will not distort retail electricity markets and the associated development of effective competition. The better practice is to make frequent adjustments to the cap (at least in order to reflect changes in fuel costs), or to abandon the cap altogether and utilize a competitive process to procure supply.

3. States have differing policy goals for establishing and maintaining POLR service in competitive retail markets that can affect entry of competitive retail suppliers. POLR service (or an equivalent provision) to serve customers of a supplier that has left the market, while the customer obtains another supplier, is the least intrusive form of POLR service, yet is consistent with concerns about potentially life-threatening effects of unanticipated loss of electric service. POLR service that goes beyond short-term access to the wholesale spot market involves providing a bundle of services that electricity marketers also can provide. A more expansive version of POLR service may hamper the development of alternative suppliers. The economic rationale for maintaining a POLR service obligation usually is limited to trying to correct some identifiable and substantial market imperfections. If a state adopts a more expansive version of POLR service, it should periodically review the rationale for continuing it.

4. Some states have different POLR service designs for different customer classes. POLR prices for large commercial and industrial customers have reflected wholesale spot market prices more than have POLR prices for residential customers. This approach generally has led the large customers to switch suppliers more than the small customers have. Also, more suppliers have made efforts to solicit these large customers. Large customers are logical leaders for retail choice because of their familiarity with energy procurement processes and because they are comfortable with decisions to adjust input use based on input prices. For smaller, less sophisticated customers, including residential customers, issues of awareness and access to comparative pricing information should be addressed as retail customer choice is introduced. Retail pricing that closely tracks wholesale prices provides efficient price signals to consumers. It creates incentives for customers to cut consumption during peak demand periods which, in turn, can reduce the risk that suppliers will exercise market power and can improve system reliability.

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[3] Theoretically, competitive prices provide efficient incentives for all resource allocation (supply and consumption) decisions, and thus encourage efficient allocation of resources, including use of existing capacity, new investment by incumbent suppliers, entry by new suppliers, consumption, new investments by consumers.

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5. Some states have used, or are proposing to use, auctions to procure POLR supply. Auctions may allow retail customers to get the benefit of competition in wholesale markets as suppliers compete to supply the necessary load. Various auction processes have been suggested.

6. Switching is important for retail electricity competition to work. Rules on switching should allow customers to switch easily but avoid unauthorized switching ("slamming"). One reason why retail competition for small customers may be slow to develop is that it may be difficult to for the consumer to find competitive supplier offers in the first place and to understand the terms and conditions of those offers. It also is unclear whether the effort to find this information is justified by the potential cost savings that can be realized. As and when there are more alternative suppliers, it may result in greater potential savings. But the need for clear and readily available information relating to competitive offers will remain. Customer aggregation is an approach that can reduce per-customer search and switching costs and thus generally can help in the development of retail competition. Opt-out customer aggregations are attractive because they can minimize transaction costs without limiting customer choice.

7. Section E of Chapter 4 presents a description of various approaches to overcoming some of the above-mentioned difficulties and to encouraging competition in retail electricity markets.

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CHAPTER 1
INDUSTRY STRUCTURE, LEGAL AND REGULATORY BACKGROUND, INDUSTRY TRENDS AND DEVELOPMENTS

For almost all of the twentieth century, the electric power industry was dominated by regulated monopoly utilities. Beginning in the late 1960s, however, a number of technological, economic, regulatory, and political developments initiated changes in the structure of the industry. In the 1970s, vertically-integrated utility companies (investor-owned, municipal, or cooperative) controlled over 95 percent of the electric generation in the United States. Typically, a single local utility sold and delivered electricity to retail customers under an exclusive franchise regulated under State law. Now, the electric power industry includes both utility and nonutility entities, including many new companies that produce, market and deliver electric energy to customers in wholesale and retail markets. By 2004, as a result of industry changes, electric utilities owned less than 60 percent of electric generating capacity. Increasingly, decisions affecting electric consumers and the rates they pay are split among Federal, State, and new private, regional entities. This chapter briefly describes the structural changes in the wholesale and retail electric power industry from the late 1960s until today. It provides a historical overview of the important legislative and regulatory changes that have occurred in the past several decades, as well as the trends seen over this time period that have contributed to increased competition in the electric power industry.

A. Industry Structure and Regulation

Participants in the electric power sector in the United States include investor-owned utilities, electric cooperatives; Federal, State, and municipal utilities, public utility districts, irrigation districts; cogenerators and onsite generators; nonutility independent power producers, affiliated power producers, power marketers, and independent transmission companies that generate, distribute, transmit, or sell electricity at wholesale or retail.

In 2004, there were 3,276 regulated retail electric providers supplying electricity to over 136 million customers. Retail electricity sales totaled almost $270 billion in 2004. Retail customers purchased more than 3.5 billion megawatt hours of electricity. Active retail electric providers include electric utilities, Federal agencies, and power marketers selling directly to retail customers. These entities differ greatly in size, ownership, regulation, customer load characteristics, and regional conditions. These differences are reflected in policy and regulation. Tables 1-1 to 1-5 provide selected statistics for the electric power sector by type of ownership in 2004 based on information reported to the United States Department of Energy (DOE), Energy Information Administration (EIA).

1. Investor-Owned Utilities

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Investor-owned utility operating companies (IOUs) are private, shareholder-owned companies ranging in size from small local operations serving a customer base of a few thousand to giant multi-state holding companies serving millions of customers. Most IOUs are or are part of a vertically-integrated system that owns or controls generation, transmission, and distribution facilities/resources required to meet the needs of the retail customers in their assigned service areas. Many IOUs have undergone significant restructuring and reorganization under State retail competition plans over the past decade, As a result, many IOUs in these states no longer own generation, but must procure the electricity they need for their retail customers from the wholesale markets.

IOUs continue to be a major presence in electric power industry. In 2004 there were 220 IOUs serving approximately 94 million retail distribution customers, accounting for 68.9 percent of all retail customers and 60.8 percent of retail electricity sales. IOUs directly own about 39.6 percent of total electric generating capacity and generated 44.8 percent of total generation in 2004 to meet their retail and wholesale sales.

IOUs provide service to retail customers under state regulation of territories, finances, operations, services, and rates. States that have not restructured retail electricity service generally regulate bundled retail electric rates of IOUs under traditional cost of service rate methods. In states that have restructured their IOUs and IOU regulation, distribution services continue to be provided under monopoly cost-of-service rates, but retail customer are free to shop for their electricity supplier. IOUs operate retail electric systems in every state but Nebraska.

Under the Federal Power Act (FPA)[4], the Federal Energy Regulatory Commission (FERC) regulates the wholesale electricity transactions (sales for resale) and unbundled transmission activities of IOUs (except in Alaska, Hawaii, and the ERCOT region of Texas).

2. Public Power Systems

The more than 2,000 public power systems include local, municipal, State, and regional public power systems, ranging in size from tiny municipal distribution companies to large systems like the Power Authority of the State of New York. Publicly owned systems operate in every State but Hawaii. About 1,840 of these public power systems are cities and municipal governments that own and control the day to day operation of their electric utilities.[5] Public power systems served over 19.6 million retail customers in 2004, or about 14.4 percent of all customers. Together, public power systems generated 10.3 percent of the Nation's power in 2004, but accounted for 16.7 percent of total electricity sales, reflecting the fact that many public systems are distribution-only utilities and purchase their power supplies from others. Public power systems own about 9.6 percent of total generating capacity. Public power systems are overwhelmingly transmission-and wholesale-market-dependent entities. According to the American Public Power Association, about 70 percent of public power retail sales were met from wholesale power purchases, including purchases from municipal joint action agencies by the

[4] 16 U.S.C. 719a et seq.

[5] American Public Power Association, comments.

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agencies' member systems. Only about 30 percent of the electricity for public power retail sales came from power generated by a utility to serve its own native load.[6]

Regulation of public power systems varies among States. In some States, the public utility commission exercises jurisdiction in whole or part over operations and rates of publicly-owned systems. In most States, public power systems are regulated by local governments or are self-regulated. Municipal systems are usually governed by the local city council or an independent board elected by voters or appointed by city officials. Other public power systems are operated by public utility districts, irrigation districts, or special State authorities.

On the whole, state retail deregulation/restructuring initiatives left untouched retail services in public power systems. However, some states allow public systems to adopt retail choice alternatives voluntarily.

3. Electric Cooperatives

Electric cooperatives are privately-owned non-profit electric systems owned and controlled by the members they serve. Members vote directly for the board of directors. In 2004, about 884 electric distribution cooperatives provided retail electric service to almost 16.6 million customers. In addition to these 884 distribution cooperatives, about 65 generation and transmission cooperatives (G&Ts) own and operate generation and transmission and secure wholesale power and transmission services from others to meet the needs of their distribution cooperative members and other rural native load customers. G&T systems and their members engage in joint planning and power supply operations to achieve some of the savings available under a vertically integrated utility structure for the benefit of their customers. Electric cooperatives operate in 47 States. Most electric cooperatives were originally organized and financed under the Federal rural electrification program and generally operate in primarily rural areas. Electric cooperatives provide electric service in all or parts of 83 percent of the counties in the United States.[7]

In 2004, electric cooperatives sold more than 345 million megawatt hours of electricity, served 12.2 percent of retail customers, and accounted for 9.7 percent of electricity sold at retail. Nationwide electric cooperatives generated about 4.7 percent of total electric generation. Electric cooperatives own approximately 4.2 percent of generating capacity

While some cooperative systems generate their own power and make sales of power in excess of their own members needs, most electric cooperatives are net buyers of power. Cooperatives nationwide generate only about half of the power needed to meet the needs of retail customers. Cooperatives secured approximately half of their power needs from other wholesale suppliers in 2004. Although cooperatives own and operate transmission facilities, almost all cooperatives are dependent on transmission service by others to deliver power to their wholesale and/or retail customers.

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[6] *Id.*

[7] National Rural Electric Cooperative Association, comments.

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Regulatory jurisdiction over cooperatives varies among the States: some States exercise considerable authority over rates and operations, while other States exempt cooperatives from State regulation. In addition to State regulation, cooperatives with outstanding loans under the Rural Electrification Act of 1936[8] also are subject to financial and operating requirements of the Rural Utilities Service (RUS), U.S. Department of Agriculture, which must approve borrower long-term wholesale power contracts, operating agreements, and transfers of assets.

Cooperatives that have repaid their RUS loans and that engage in wholesale sales or provide transmission services to others have been regulated by FERC as public utilities. EPACT 05 provided FERC additional discretionary jurisdiction over the transmission services provided by larger electric cooperatives.

4. Federal Power Systems

Federally-owned or chartered power systems include the Federal power marketing administrations, the Tennessee Valley Authority (TVA), and facilities operated by the U.S. Army Corps of Engineers, the Bureau of Reclamation, the Bureau of Indian Affairs, and the International Water and Boundary Commission. Wholesale power from Federal facilities (primarily hydroelectric dams) is marketed through four Federal power marketing agencies: Bonneville Power Administration, Western Area Power Administration, Southeastern Power Administration, and Southwestern Power Administration. The PMAs own and control transmission to deliver power to wholesale and direct service customers. PMAs may also purchase power from others to meet contractual needs and sell surplus power as available to wholesale markets. Existing legislation requires that the PMAs and TVA give preference in the sale of their generation output to public power systems and to rural electric cooperatives.

Together, Federal systems have an installed generating capacity of approximately 71.4 gigawatts (GW) or about 6.9 percent of total capacity. Federal systems provided 7.2 percent of the Nation's power generation in 2004. Although most Federal power sales are at the wholesale level, they do engage in some end-use sales of generation. Federal systems nationwide directly served 39,845 retail customers in 2004, mostly industrial customers and about 1.2 percent of retail load.

5. Nonutilities

[8] 7 U.S.C. 901 et seq.

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Nonutilities are entities that generate, transmit, or sell electric power, but that do not operate regulated retail distribution franchises.[9] They include wholesale non-utility affiliates of regulated utilities, merchant generators, qualifying facilities(QFs) (small power producers and industrial and commercial combined heat and power producers)[10], and power marketers that buy and sell power at wholesale or retail but that do not own generation, transmission, or distribution facilities. Independent transmission companies that own and operate transmission facilities but do not own generation or retail distribution facilities or serve retail customers are also included in this category.

Non-QF (qualifying facilities) wholesale generators engaged in wholesale power sales in interstate commerce are subject to FERC regulation under the FPA. Power marketers that sell at wholesale are also subject to FERC oversight. Power marketers that sell only at retail are subject to State jurisdiction and oversight in the States in which they operate. FERC regulates the interstate transmission services of independent transmission companies under the FPA. Independent transmission companies may also be organized and regulated as utilities in states in which they are located for planning, siting, permitting, and other purposes.

As retail electric providers, 152 power marketers reporting to EIA served about 6 million retail customers or about 4.4 percent of all retail customers and reported revenues of over $28 billion, on about 11.6 percent of retail electricity sold.

Nonutilities are a growing presence in the industry. In 2004 nonutilities owned or controlled approximately 408,699 megawatts or 39.6 percent of all electric generation capacity. In 1993 they owned only about 8 percent of generation. It is estimated that about half of nonutility generation capacity is owned by nonutility affiliates or subsidiaries of holding companies that also own a regulated electric utility.[11] Nonutilities accounted for about 33 percent of generation in 2004. Tables 1-1 through 1-5 summarize this information.

Table 1-1. U.S. Retail Electric Providers 2004

Ownership	Number of Electricity Providers	Percent of Total	Number of Customers			
			Full Service	Delivery only	Total	Percent of Total
Publicly-owned utilities	2,011	61.4	19,628,710	6,125	19,634,835	14.4

[9] "Nonutilites" – as that term is defined for EIA reporting purposes and as used here – may still be characterized as "utilities" and subject to public service regulation under State law and regulated as "public utilities" by FERC.

[10] Qualifying facilities (QFs) are small power producers using eligible alternative electric generating technologies and industrial and commercial cogenerators that have special status under the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. No. 95-617, 92 Stat. 3117.

[11] Edison Electric Institute, comments.

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Investor-owned utilities	220	6.7	90,970,557	287,9114	93,849,671	68.9
Cooperatives	884	27	16,564,780	12,170	16,576,950	12.2
Federal Power Agencies	9	0.3	39,843	2	39,845	0.03
Power Marketers	152	4.6	6,017,611	0	6,017,611	4.4
Total	3,276	100	133,221,501	2,897,411	136,118,912	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Notes:
Delivery-only customers represent the number of customers in a utility's service territory that purchase energy from an alternative supplier.
Ninety-eight percent of all power marketers' full-service customers are in Texas. Investor-owned utilities in the ERCOT region of Texas no longer report ultimate customers. Their customers are counted as full-service customers of retail electric providers (REPs), which are classified by the Energy Information Administration as power marketers. The REPs bill customers for full service and then pay the IOU for the delivery portion. REPs include the regulated distribution utility's successor affiliated retail electric provider that assumed service for all retail customers that did not select an alternative provider. Does not include U.S. territories.

Table 1-2. U.S Retail Electric Sales 2004
Sales to ultimate consumers in thousands of MWhs

	Full Service	Energy only	Total	Percent
Publicly-owned utilities	525,596	65,466	591,062	16.7
Investor-owned utilities	2,148,351	3,359	2,151,720	60.8
Cooperatives	344,267	890	345,157	9.7
Federal Power Agencies	41,169	352	41521	1.2
Power Marketers	207,696	203,202	410,898	11.6
Total	3,267,089	27,3269	3,540,358	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Notes: Energy-only revenue represents revenue from a utility's sales of energy outside of its own service territory. Total revenue shows the amount of revenue each sector receives from both bundled (full service) and unbundled (retail choice) sales to ultimate customers. Eighty-five percent of the energy-only revenue attributed to publicly owned utilities represents revenue from energy procured for California's investor-owned utilities by the California Department of Water Resources Electric Fund. Ninety-eight percent of power marketers' full-service sales and revenues occur in Texas. Investor-owned utilities in the ERCOT region of Texas no longer report sales or revenue to ultimate consumers on EIA 861.

Table 1-3. U.S. Retail Electric Providers 2004, Revenues from Sales to Ultimate Consumers

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	Sales in $ millions			
	Full Service	Energy only	Delivery	Total
Publicly-owned utilities	$37,734	$5,787	$27	$43,548
Investor-owned utilities	$162,691	$128	$8,746	$171,565
Cooperatives	$25,448	$37	$7	$25,492
Federal Power Agencies	$1,211	$13	$1	$1,224
Power Marketers	$17,163	$11,000	0	$28,162
Total	$244,247	$16,965	$8,761	$269,992

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Table 1-4. U.S. Electricity Generation 2004

Electricity Generation 2004	Generation	
	(thousands of MWhs)	% of Total
Publicly-owned utilities	397,110	10.3
Investor-owned utilities	1,734,733	44.8
Cooperatives	181,899	4.7
Federal Power Agencies	278,130	7.2
Power Marketers	42,599	1.1
Non-utilities	1,235,298	31.9
Total	3,869,769	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861 and EIA-906/920 for generation. Data are for 2004, adjusted for joint ownership.

Table 1-5. U.S. Electric Generation Capacity 2004

Ownership	Nameplate Capacity	% of Total
	(in MWs)	
Publicly-owned utilities	98,686	9.6
Investor-owned utilities	408,699	39.6
Cooperatives	43,225	4.2
Federal Power Agencies	71,394	6.9
Non-utilities	409,689	39.7
Total	1,031,692	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-860 for capacity, including adjustments for joint ownership. Data are for 2004.

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B. Growth of the Electric Power Industry

For a variety of legal, economic, and technological reasons, the electric utility industry in the United States developed as a collection of separate, mostly vertically-integrated monopoly franchises with wholesale and retail prices and services extensively regulated under State and Federal law. Many states have elected to maintain and adapt this model. The legacy of this vertically-integrated monopoly structure creates substantial challenges for State and Federal efforts to restructure the industry and to create new institutional arrangements to facilitate increased reliance on competitive market prices. This section provides a very brief overview of the evolutionary changes in the electric power industry.

1. The Rise of Electric Utility Monopolies and Public Utility Regulation

The earliest electric utilities in the late 19th century developed as small central station power plants with limited local distribution networks. Franchise rights granted by manufacturers and by municipal governments allowed use of public streets and rights of ways. These municipal franchises were often exclusive, but in some cities there was head-to-head competition among competing electric lighting company systems.[12] In addition, because lighting, electric motors, and traction were the major uses of electricity, customers could turn to alternatives – use of natural gas lighting – or the option of self-generation in the case of street railway, commercial, and industrial customers.[13] Many municipalities elected to create and operate their own electric utility systems.

Even in the early days, certain characteristics of the provision of electric power became apparent. Utility systems incurred high fixed costs for the investments in generating plant needed to meet peak load and to extend the delivery system but had relatively low operating costs so that their profits were determined by the percent of time the powerplant was in use. Complementary load diversity –such as the balancing of daytime traction and electric motor loads with evening lighting loads could raise generating plant utilization and revenues to offset fixed costs, and boost profits. The high capital costs for fixed electric plant created entry and exit barriers. Steady improvements in the size of generating plants and the efficiency of transmission and distribution systems allowed the enlargement of electric networks and economies of scale. Larger power plants could produce electricity more cheaply than many smaller individual plants. The substantial investment required for electric utility plants also spurred the creation of long-

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[12] Leonard. S. Hyman, *America's Electric Utilities: Past, Present and Future,* 3d edition, (Arlington, VA: Public Utility Reports, Inc., 1988), at p. 64 [Hereinafter Hyman]. In the City of Chicago, the city council granted 29 different electric franchises between 1882 and 1905; three of them were citywide.

[13] For more on the history of electric utilities see also, U.S. Department of Energy, Energy Information Administration, *The Changing Structure of the Electric Power Industry: 1970-1991*, at 57 (March 1993), available at http://tonto.eia.doe.gov/FTPROOT/electricity/0562.pdf [hereinafter EIA 1970-1991]. U.S. Department of Energy, Energy Information Administration, *The Changing Structure of the Electric Power Industry 2000: An Update,* Appendix A (October 2000) available at http://www.eia.doe.gov/cneaf/electricity/chg_stru_update/update2000.html [hereafter EIA Update 2000]

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term financing structures and the need for assurances to investors that the entity would be profitable and would remain financially viable long enough to repay the debt.

These characteristics led some to suggest that electric service could most economically and safely be provided by a single monopoly provider of integrated generation, transmission and distribution service and that, to avoid abuses of monopoly power, impartial state agencies should be created to award franchises, and establish rates and service standards. Among them was an early associate of Thomas Edison, Samuel Insull of Chicago Edison, who proposed state regulation of private utilities in a speech before the National Electric Light Association in 1898.[14] Insull went on to publicly characterize electricity production as a "natural monopoly."[15] The proposal for state regulation was not well received initially, but as private electric companies began to grow and consolidate and public concerns were raised over trusts in many industries, the concept began to gain support. In 1907, Wisconsin adopted legislation regulating electric utilities and was quickly joined by two other states. By 1916, 33 states had established state regulation of private electric utilities.[16]

Generally, under this approach, the state regulatory commission granted exclusive retail electric franchises to private companies within specified territories, protecting the utility from competition. In return, the utility assumed an obligation to provide safe and adequate service to all the retail customers within its territory under just and reasonable rates, terms and conditions overseen by the state. Often the utility was authorized to use public rights of way and eminent domain needed for electric facilities. To meet its obligation to serve, most private utilities built and controlled the generation, transmission, and distribution facilities needed to provide services to its customers. Electric rates were set to cover the companies' reasonable costs plus a fair return on their shareholders' investment. The utility could expect a right to reasonable compensation for its services, although recovery of a specific authorized rate of return was not guaranteed. Retail customers were charged a rate (price) based on the average system cost of production (including the investors' fair return on investment).

Private electric utilities continued to expand under the system of state regulation in place in the early 20th century. Most utilities built their own generation plants and transmission systems, primarily due to the cost and technological limitations on the distance over which electricity

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[14] Hyman, at 68.

[15] In economic literature, the concept of a "natural monopoly" developed over time as a rationalization for the regulation of electric utilities. In brief, a "natural monopoly" is an industry characterized by long-run decreasing costs where a single provider can supply product or service at a lower cost than competition. Alfred E. Kahn, *The Economics of Regulation: Principles and Institutions,* Vol. 1 (New York: John Wiley & Sons, Inc. 1970) at 11-12. Kahn also notes the substantial legal and historical "public interest" rationale for regulation of the electric utility industry. Economists have debated whether the electric utility industry or segments of it are natural monopolies for several decades. This debate focuses on the economic theory rationalization for regulation and not the public policy or legal basis for electric power regulation. See, for example, Vernon Smith, Regulatory Reform in the Electric Power Industry (1995) (working paper, on file with the Department of Economics, University of Arizona), and Richard F. Hirsch, Power Loss: The Origins of Deregulation and Restructuring in the American Electric Utility System, MIT Press (1999); Sharon Beder, *Power Play: The Fight To Control The World's Electricity,* W.W. Norton (2003).

[16] Hyman, p. 68.

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could be transmitted.[17] There was at first, little wholesale trade among utilities. As the industry grew, continued improvements in technology allowed expansion beyond the central cities and prices for electricity fell and demand increased substantially.

Over the same period, electric utility holding companies were created and began to acquire local private and municipal utilities. The local operating companies were regulated by the state. The utility holding companies were not regulated. The proliferation, consolidation, and complexity of utility holding companies resulted in a number of financial and securities abuses that were documented in an investigation by the Federal Trade Commission (FTC). The holding companies often became the sole providers of various services and products to the affiliated utilities and their costs were passed through to the retail customers. By 1932 the eight largest utility holding companies controlled 73 percent of the investor owned electric industry.[18]

In the beginning, the Federal role in the electric power industry was limited, but in the 1930s Congress enacted legislation that expanded Federal regulation and involvement in the electric industry. As a result of the FTC findings, Congress passed the Public Utility Holding Company Act of 1935 (PUHCA)[19], which required the break up and stringent Federal oversight of the activities of the large utility holding companies. The Federal Power Act of 1935 (FPA)[20] expanded the responsibilities of the Federal Power Commission to include the oversight and regulation of interstate sales of wholesale power (e.g., sales of power between utility systems) and interstate electricity transmission at wholesale by "public utilities" (i.e., investor-owned utilities). FPA jurisdiction over interstate sales closed a gap in effective electric industry regulation that had been identified by the Supreme Court in 1927.[21]

When the FPA was enacted, wholesale and interstate sales of electricity were limited. Most wholesale transactions were long-term power supply contracts by investor-owned utilities to sell and deliver power to neighboring public power and cooperative utilities. Over time utilities became more interconnected via high-voltage transmission networks that were constructed primarily for purposes of reliability but facilitated more opportunities for interstate trade. However, wholesale trade was slow to develop.

Until the late 1960s, the vertically-integrated monopoly utility model appeared to work reasonably well. Utilities were able to meet increasing demand for electricity at decreasing prices as advances in generation technology provided increased economies of scale with larger units and decreased costs.[22]

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[17] EIA, Update 2000.

[18] Hyman, p. 74.

[19] Act of Aug. 26, 1935, c. 687, Title I, sec. 33, 49 Stat. 438, 15 U.S.C. 79.

[20] Title II of the Public Utility Act of 1935 was the Federal Power Act, 16 U.S.C. 791a.,

[21] In *Public Utilities Commission of Rhode Island v. Attleboro Steam & Electric Co*., 273 U. S. 83 (1927), the Supreme Court ruled that State regulators were barred by the Commerce Clause from setting the prices of electricity sold across state lines.

[22] EIA 1970-1991.

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2. The Energy Crisis of the 1970s, PURPA, and the Expansion of Nonutility Generation and Wholesale Power Markets

The shift to a more competitive marketplace for electricity was a response to industry changes that began in the late 1960s and accelerated through the 1970s. Resulting financial stresses challenged the continuing profitability of the large vertically-integrated utility model and lent further support to criticisms of the traditional cost-of-service regulatory model that allowed pass through of higher costs and risks of construction to consumers.

At the end of the 1960s electricity demand and generation were increasing at an annual rate of 7.5 percent and residential rates were declining at an average annual rate of 1.5 percent.[23] Over the 1970s utilities shifted from decreasing unit costs and rapid growth to increasing unit costs and slower growth. Expected demand growth did not materialize. For the first time in the history of the industry, electricity rates rose consistently with retail rates increasing at an average annual rate of 11 percent per year over the decade. Demand and generation growth moderated to just 4 percent per year. Both average and peak electricity demand dropped significantly below projections and the robust growth levels seen in the 1960s.[24] But capacity continued to grow at a rate over 6 percent per year. By the early 1980s there was a considerable overhang of expensive new generating capacity without expected new revenues to pay for them.

New large nuclear and coal plants no longer yielded the dramatic improvements in economies of scale that earlier technological advances in generating plant size produced and that had sustained the industry's characterization as a long-term decreasing cost industry. Periods of rapid inflation and higher interest rates substantially increased the completion costs of large, baseload generating plants under construction.[25] New environmental and safety regulations required addition of pollution controls and design features that added to costs and construction time. Moreover, once in operation, many of the new larger units required more maintenance and longer downtimes than expected.. Thus, by the late 1970s, a newer, larger, generation facility no longer could be assumed to result in a more cost-efficient option than a smaller plant.[26]

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[23] EIA, Update 2000, at 114-115.

[24] This decline in part was due to economic conditions and to the fact that consumers reacted to electricity price increases, and growth in demand fell sharply. See U.S. Congress, Office of Technology Assessment, Electric Power Wheeling and Dealing: Technological Considerations for Increasing Competition 39, OTA-E-409 (Washington, DC: U.S. Government Printing Office, May 1989) [hereinafter U.S. Congress, Office of Technology Assessment].

[25] The costs of constructing new nuclear plants quadrupled between 1971 and 1976. Over 63 nuclear units were cancelled between 1975 and 1980. EIA, Update 2000, at 14-115.

[26] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540, FERC Stats. & Regs. ¶ 31,036, at 31,640-41 (1996), order on reh'g, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997); order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F..3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002)[hereinafter Order No. 888].

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This experience stimulated interest in smaller, modular, more energy efficient generating units that eventually resulted in commercialization of aeroderivative gas turbine technology, which allowed smaller generation units to be constructed at lower costs, more quickly, and at less financial risk than large base load plants.[27] As a result, lower cost generation became a potential option available to customers captive to high cost generators and for nonutility generators to enter the market.

The difficulties plaguing utilities' generation construction programs were playing out over the same period as utility fuel prices escalated rapidly in response to the Arab oil embargo of 1973-1974 and subsequent world oil market disruptions. Significantly higher energy prices added to inflation and increased electric rates.[28]

Other developments also were substantial contributors to the growing interest in electric utility reforms in the 1970s-1980s. First, the Northeast major power blackout in 1965 raised concerns about the reliability of weakly coordinated bulk power system operating arrangements among utilities.[29] The nuclear accident at the Three Mile Island plant in Pennsylvania heightened concerns over safety and led to stringent new regulatory requirements for nuclear plants.

Criticism of the traditional cost of service utility regulation model by economists and policy analysts also increased during the 1970s with suggestions for alternate approaches to regulation and changes in industry structure. Critics of cost-based regulation argued that the industry structure provided limited opportunities for more efficient suppliers to expand, placed insufficient pressure on less efficient suppliers to improve their performance, and insulated customers from the cost impacts of energy use.[30]

Congress enacted the Public Utility Regulatory Policies Act of 1978 (PURPA)[31] as a response to the energy crises of the 1970s. The major goal of PURPA was to promote energy conservation and alternative energy technologies and to reduce oil and gas consumption through use of improved technology and regulatory reforms. A perhaps unanticipated side effect of PURPA was that it prompted a number of parties to see potential profits in the development of competitive generating plants. PURPA created an opportunity for nonutilities to emerge as important electric power producers. [32]

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[27] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,641.

[28] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,639, n.9.

[29] The response to the blackout included the formation of regional reliability councils and the North American Electric Reliability Council (NERC) to promote the reliability and adequacy of bulk power supply. EIA, Update 2000, at 109.

[30] Paul L. Joskow, The Difficult Transition to Competitive Electricity Markets in the U.S. 6-7 (AEI-Brookings Joint Ctr. for Regulatory Studies, Working Paper No. 03-13, 2003), available at http://www.aei-brookings.org/admin/authorpdfs/page.php?id=271 [hereinafter Joskow, Difficult Transition].

[31] Pub. L. No. 95-617, 92 Stat. 3117 (codified in U.S.C. sections 15, 16, 26, 30, 42, and 43).

[32] See EIA 1979-1991 at 22.

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Box 1-1: State Implementation of PURPA

PURPA required states to determine each utility's avoided costs of production. This cost was used to set the price for purchasing a QFs power. To encourage renewable and alternative energy generation, several states, including California, New York, Massachusetts, Maine, and New Jersey, required that utilities sign long-term contracts with QFs at prices that eventually ended up being much higher than the utilities' actual marginal savings of not producing the power itself (avoided costs). The result was that many utilities in these states entered into long-term purchase contracts at prices higher than those available in the competitive wholesale markets. The costs of these QF contracts were reflected in retail rates as cost pass-throughs. The experience added to the dissatisfaction with retail rate regulation.

PURPA required electric utilities to interconnect with and purchase power from cogeneration facilities and small power producers meeting the statutory criteria for a qualifying facility (QF). PURPA required that the QF be paid at the utility's incremental cost of production, which FERC, in a departure from cost-based rate approaches, defined as the utility's avoided cost of power.[33] Box 1-1 discusses how the implementation of PURPA encouraged nonutilities generation suppliers by guaranteeing a market for the electricity they produced.[34] PURPA changed prevailing views that vertically integrated public utilities were the only sources of reliable power[35] and showed that nonutilities could build and operate generation facilities effectively and without disrupting the reliability of the electric grid.[36]

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[33] PURPA specifically set forth criteria on who and what could qualify as QFs (mainly technology, size, and ownership criteria). Two types of QFs were recognized: cogenerators, which sequentially produce electric energy and another form of energy (such as heat or steam) using the same fuel source, and small power producers, which use waste, renewable energy, or geothermal energy as a primary energy source. See EIA 1970-1991 at 5.

[34] Id. at 24.

[35] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642.

[36] Joskow, Deregulation at 19.

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PURPA contributed substantially, both directly and indirectly, to the creation of an independent competitive generation sector.[37] The response to PURPA was dramatic.

Before passage of PURPA, nonutility generation was primarily confined to commercial and industrial facilities where the owners generated heat and power for their own use where it was advantageous to do so. Although nonutility generation facilities were located across the country, development was heavily concentrated geographically with about two thirds located in California and Texas. Nonutility generation development advanced in States where avoided costs were high enough to attract interest and where natural gas supplies were available. Federal law largely precluded electric utilities from constructing new natural gas plants during the decade following enactment of PURPA, but nonutility generators faced no such restriction and quickly turned to the new smaller gas turbines as the preferred generating technology.

Annual QF filings at FERC rose from 29 applications covering 704 megawatts in 1980 to 979 in 1986 totaling over 18,000 megawatts. From 1980 to 1990 FERC received a total of 4,610 QF applications for a total of 86,612 megawatts of generating capacity.[38]

Following PURPA, continued improvement in electric generating technology lowered costs and further contributed to an influx of new entrants in wholesale markets who could sell electric power profitably with smaller scale generators, including renewable energy technologies and more efficient, modular, gas turbines.[39] Other non-utility power producers that could not meet QF criteria began to build new capacity to compete in bulk power markets to meet the needs of utilities.[40] These new nonutility entities were known as merchant generators or Independent Power Producers (IPPs).[41] By 1991, nonutilities (QFs and IPPs) owned about six percent of the electric power generating capacity and produced about nine percent of the total electricity generated in the United States.[42] Nonutility generating facilities accounted for one-fifth of all additions to generating capacity in the 1980s.[43]

Beginning in the 1980s FERC allowed many new utility and non-utility generators to sell electric power supply at rates negotiated in wholesale markets, rather than rates established under cost of service formulas.[44]

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[37] Id. at 17.

[38] CONG. RESEARCH SERV., COMM. ON ENERGY AND COMMERCE, 102D CONG., ELECTRICITY A NEW REGULATORY ORDER? 92 (Comm. Print 1991).

[39] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,644.

[40] Joskow, Deregulation at 19.

[41] Order No. No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642.

[42] EIA 1970-1991 at vii.

[43] Id. at 27.

[44] See Order No. No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,643.

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In 1988 FERC solicited public comments on three notices of proposed rulemaking (NOPRs) concerning the pricing of electricity in wholesale transactions: 1) competitive bidding for new power requirements; 2) treatment of independent power producers; and 3) determination of avoided costs under PURPA.[45] These proposals would have moved towards greater use of a "non-traditional" market-based pricing approach in ratemaking as opposed to the agency's "traditional" cost-based approach. These FERC NOPRs proved controversial, and efforts to establish formal rules or policies adopting them were abandoned as commission membership changed. However, with the support of several Commission members and key FERC staff, the overall policy goals were still pursued on a case-by-case basis.

FERC laid the foundation for greater reliance on market-based mechanisms for Federal oversight of wholesale electricity prices on a case-by-case basis. Between 1983 and 1991, FERC considered more than 31 cases concerning approval of non-traditional rates involving independent power producers, power brokers/marketers, utility-affiliated power producers, and traditional franchised utilities. FERC approved all but four of these applications.[46] FERC staff wrote: "The Commission has accepted non-traditional rates where the seller or its affiliate lacked or had mitigated market power over the buyer, and there was no potential abuse of affiliate relationships which might directly or indirectly influence the market price and no potential abuse of reciprocal dealing between the buyer and seller."[47]
In its process of determining whether the seller could exercise market power over the buyer, the FERC considered whether the seller or its affiliates owned or controlled transmission that might prevent the buyer from accessing other sources of power. A seller with transmission control might be able to force the buyer to purchase from the seller, thus limiting competition and significantly influencing the price the buyer would have to pay. The FPA does not allow rates to reflect an exercise of such market power.[48]

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[45] See Regulations Governing Bidding Programs, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,324 (March 22, 1988), FERC Stats. & Regs. ¶ 32,455 (1988) (modified by 53 Fed. Reg. 16,882 (May 12, 1988)). This proposal would have adopted competitive bidding into the process of acquiring and pricing power from QFs and would have largely abandoned the prior avoided cost purchase rates.

See Regulations Governing Independent Power Producers, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,327 (March 22, 1988), FERC Stats. & Regs. ¶ 32,456 (1988) (modified by 53 Fed. Reg. 16882 (May 12, 1988)). This proposal would have relaxed rate review and regulation of wholesale sales by independent power producers, and other public utilities that did not operate retail distribution systems.

See Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities, and Interconnection Facilities, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,331 (March 22 1988), FERC Stats. & Regs. ¶ 32,457 (1988) (modified by 53 Fed. Reg. 16882 (May 12, 1988)). This proposal would have revised the elements used in making administrative determinations of avoided costs for rates for utilities' PURPA QF purchases.

[46] Hearing on National Energy Security Act of 1991 (Title XV) Before the S. Comm. on Energy and Natural Resources, 102d Cong. 97 (1991) (Statement of Cynthia A. Marlette, Associate General Counsel for Hydroelectric and Electric, Federal Energy Regulatory Commission).

[47] Id. at 100.

[48] Id.

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The potential for control of transmission to create market power, and the challenge that such control created in moving to greater reliance on market-based rates, was recognized. "Because the Commission's very premise of finding market-based rates just and reasonable under the FPA is the absence or mitigation of market power, or the existence of a workably competitive market, and because the FPA mandates that the Commission prevent undue preference and undue discrimination, we believe the Commission is legally required to prevent abuse of transmission control and affiliate or any other relationships which may influence the price charged a ratepayer."[49]

Despite these developments, two limitations at that time were perceived to discourage development of competitive wholesale generation markets. First, IPPs and other generators of cheaper electric power could not easily gain access to the transmission grid to reach potential customers.[50] Under the FPA as then written, FERC authority to order transmission access was limited. FERC would subsequently find that "intervening" transmitting utilities would deny or limit transmission service to competing suppliers of generation service in order to protect demand for wholesale power supplied by their own generation facilities.[51] Second, unlike QFs that enjoyed a statutory exemption under PURPA, IPPs were subject to the Public Utility Holding Company Act of 1935 (PUHCA), which discouraged non-utilities from entering the generation business.[52]

3. The Energy Policy Act of 1992 and FERC Orders Nos. 888 and 889

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[49] Id. at 102.

[50] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642-43.

[51] Joskow, Deregulation at 21. See Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,644.

[52] Joskow, Deregulation at 23. Under PUHCA, those public utility holding companies that did not qualify for an exemption were subject to extensive regulation of their financial activities and operations. These regulations limited the availability of exemptions and the growth and expansion of electric utility companies. PUHCA restricted utility operations to a single integrated public-utility system and prevented utility holding companies from owning other businesses that were not reasonably incidental or functionally related to the utility business. Further, registered holding companies had to obtain Securities and Exchange Commission (SEC) approval for the sale and issuance of securities, for transactions among their affiliates and subsidiaries and for services, sales, and construction contracts, and they were required to file extensive financial reports with the SEC.

Although PUHCA provided for limited exemptions, it was long criticized as discouraging new investment in the electric utility industry by non-utility entities. Mergers and acquisitions of utilities subject to PUHCA have largely been by other domestic and foreign utilities. Investment by entities outside the industry has been limited, as these entities avoid the extensive regulations imposed by PUHCA.

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The Energy Policy Act of 1992 (EPACT 92) [53] amended the FPA and PUHCA to address what were then seen as the two major limitations on the development of a competitive generation sector.

First, EPACT 92 created a new category of power producers, called exempt wholesale generators (EWGs).[54] An EWG is an entity that directly, or indirectly through one or more affiliates, owns or operates facilities dedicated exclusively to producing electric power for sale in wholesale markets.[55] EWGs are exempted from PUHCA regulations, thus eliminating a major barrier for utility-affiliated and nonaffiliated power producers that wanted to build or acquire new non-rate-based power plants to sell electricity at wholesale.[56]

Second, EPACT 92 expanded FERC's authority to order transmitting utilities to provide transmission service for wholesale power sales to any electric utility, Federal power marketing agency, or any person generating electric energy [57] The amendment provided for orders to be issued on a case by case basis following a hearing if certain protective conditions were met. Although FERC implemented this new mandatory wheeling authority, it ultimately concluded that procedural limitations limited its reach and a broader remedy was needed to effectively eliminate pervasive undue discrimination in the provision of transmission service that was hindering competition in wholesale markets.

In April 1996, FERC adopted Order No. 888 in exercise of its statutory obligation under the FPA to remedy undue transmission discrimination to ensure that transmission owners do not use their transmission facility monopoly to unduly discriminate against IPPs and other sellers of electric power in wholesale markets. In Order No. 888, the FERC found that undue discrimination and anticompetitive practices existed in the provision of electric transmission service by public utilities in interstate commerce, and determined that non-discriminatory open access transmission service was one of the most critical components of a successful transition to competitive wholesale electricity markets. Accordingly, FERC required all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to file open access transmission tariffs (OATTs) containing certain non-price terms and conditions and to "functionally unbundle" wholesale power services from transmission services.[58] To functionally unbundle, a public utility was required to: (1) take wholesale transmission services under the same tariff of general applicability as it offered its customers; (2) state separate rates for wholesale generation, transmission and ancillary services; and (3) rely on the same electronic

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[53] Pub. L. No. 102-486, 106 Stat. 2776 (1992),

[54] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,645.

[55] Joskow, Deregulation at 24.

[56] See *EIA 1970-1991* at 30; Joskow, Deregulation at 23.

[57] Pub. L. No. 102-486, 106 Stat. 2776 (1992) sec. 721-726.

[58] Order No. 888, FERC Stats. & Regs. ¶ 31,036 , at ¶ 31,654.

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information network that its transmission customers rely on to obtain information about the utility's transmission system.[59]

Concurrent with the issuance of Order No. 888, FERC issued Order No. 889[60] that imposed standards of conduct governing communications between the utility's transmission and wholesale power functions, to prevent the utility from giving its power marketing arm preferential access to transmission information. Order No. 889 requires each public utility that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce to create or participate in an Open Access Same-Time Information System, to provide information regarding available transmission capacity, prices, and other information that will enable transmission service customers to obtain open access non-discriminatory transmission service. [61]

In Order No. 888, FERC also encouraged grid regionalization through the formation of Independent Systems Operator (ISOs). Participating utilities would voluntarily transfer operating control of their transmission facilities to the ISO to ensure independent operation of the transmission grid.[62] The ISO would provide improved coordination, reliability, and efficient operation through regional control of the grid. [63] Participation in an ISO was voluntary, however, and it only embraced in some regions. It was not implemented in other areas.[64]

Together, Order Nos. 888 and 889 serve as the primary federal foundation for providing transmission service and information about the availability of transmission service.[65]

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[59] Id. Order No. 888 also clarified FERC's interpretation of the Federal/state jurisdictional boundaries over transmission and local distribution. While it reaffirmed that FERC has exclusive jurisdiction over the rates, terms, and conditions of unbundled retail transmission in interstate commerce by public utilities, it nevertheless recognized the legitimate concerns of state regulatory authorities for the development of competition within their states. FERC therefore declined to extend its unbundling requirement to the transmission component of bundled retail sales and reserved judgment on whether its jurisdiction extends to such transactions. The United States Supreme Court affirmed this element of Order No. 888. New York v. FERC, 535 U.S. 1 (2002).

[60] Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 Fed. Reg. 21,737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,035 at 31,583 (1996), order on reh'g, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 (1997), order on reh'g, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

[61] Joskow, Deregulation at 29.

[62] EIA 2000 Update at 66.

[63] Id. at 66, 68, 80.

[64] Id. at 67.

[65] Joskow, Deregulation at 27-28.

DOJ_NMG_ 0165170

4. Retail Electricity Competition and State Electric Restructuring Initiatives

In the early 1990s, several states with high electricity prices began to explore opening retail electric service to competition. With retail competition, customers would choose their electricity supplier, but the delivery of electricity would still be done by the local distribution utility. Retail competition was expected to result in lower prices to retail customers, provide innovative services and pricing options, and shift the risks of new generation construction from ratepayers to competitive market providers.

The substantial rate disparity that existed among and between utilities in different states was an important impetus for state interest in retail competition. For example, in 1998, customers in New York paid more than two and one-half times the rates paid by customers in Kentucky. Rates in California were well over twice the rates in Washington.[66] Some of this disparity in retail prices among state can be attributed to different natural resource endowments across regions – such as the availability of hydroelectric resources in the Northwest and of abundant coal reserves in Kentucky and Wyoming -- which were reflected in low cost of electricity in these states. In contrast, in more urban states without these resources utilities invested heavily in large, new nuclear power plants, and coal plants, which often turned out to be more expensive than anticipated, adding to retail rates. Some utilities in high-cost states also had entered into long-term PURPA contracts that subsequently resulted in prices higher than the cost to acquire power in the wholesale market.[67] These QF contract costs were ultimately reflected in the regulated retail rates.[68]

Many large industrial customers viewed these disparities in utility rates among states as a competitive disadvantage and looked to retail competition as a way to secure lower cost electricity supplies. Additionally, many industrial customers had long contended that they subsidized lower rates for residential customers under state regulated rates. For example, a survey by the Electricity Consumers Resource Council in 1986 contended that industrial electricity consumers paid more than $2.5 billion annually in subsidies to other electricity customers (*e.g.*, commercial and residential customers). By allowing industrial customers to choose a new supplier, it was presumed that these subsidies could be avoided and industrial customer electricity prices would decrease.[69]

It was, thus, not surprising that many of the states that adopted plans to dramatically restructure retail electric service and to create competitive retail electric markets were those with higher prices.[70] (Figure 4-1 in Chapter 4 shows average retail electricity prices in 1995.) States with high electricity rates such as California and those in New England and the mid-Atlantic region,

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[66] EIA 2000 Update at ix.

[67] See discussion infra, Box 1-1.

[68] Joskow, Deregulation at 19.

[69] Electricity Consumers Resource Council, Profiles in Electricity Issues: Cost-of-Service Survey (Mar. 1986).

[70] EIA 2000 Update at 43.

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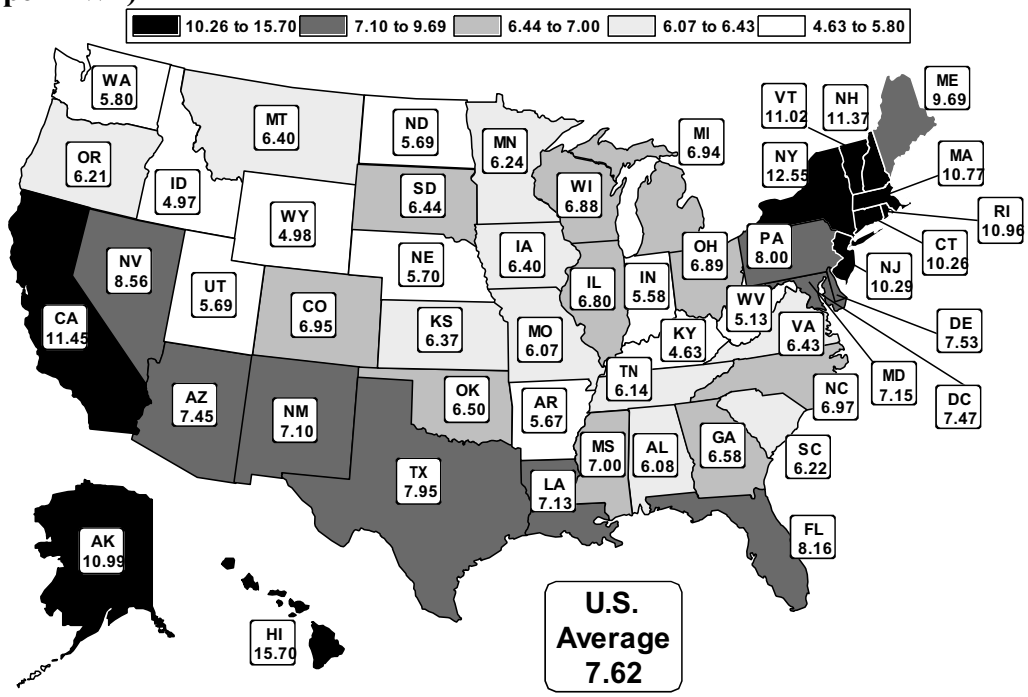
were among the most aggressive in adopting retail competition and restructuring electric service in the hope of making lower rates available to their retail customers. As of 2004 the disparity in retail prices among the states persisted, as illustrated in Figure 1-1, below.

DOJ_NMG_ 0165172

Figure 1-1: U.S. Electric Power Industry, Average Retail Price of Electricity by State, 2004 (cents per KWh)



Source: EIA, Electric Power Annual 2004, Figure 7.4

Most states considered the merits and implications of competition, deregulation, and industry restructuring, but not all states adopted retail competition plans. As of July 2000, 24 states and the District of Columbia had enacted legislation or passed regulatory orders to restructure their electric power industries. Two states had legislation or regulatory orders pending, while 16 states had ongoing legislative or regulatory investigations. There were only eight states where restructuring studies were not formally initiated.[71] The melt down of California's electricity markets and the ensuing Western Energy market crisis of 2000- 2001 is widely-perceived to have halted interest by states in restructuring retail markets. Since 2000, no additional states have announced plans to implement retail competition programs, and several states that had introduced such programs have delayed, scaled back, or repealed their programs entirely (see Figure 1-2 below).[72]

In 2006 retail electric customers in 30 states continue to receive service almost exclusively under a traditional regulated monopoly utility service franchise. These states include 44% of all U.S. retail customers which represents 49% of electricity demand. However, in 20 states and the

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[71] Id. at 81-82.

[72] Paul L. Joskow, Markets for Power in the United States: An Interim Assessment, ENERGY J. 2 (2006) [hereinafter Joskow, Interim Assessment].

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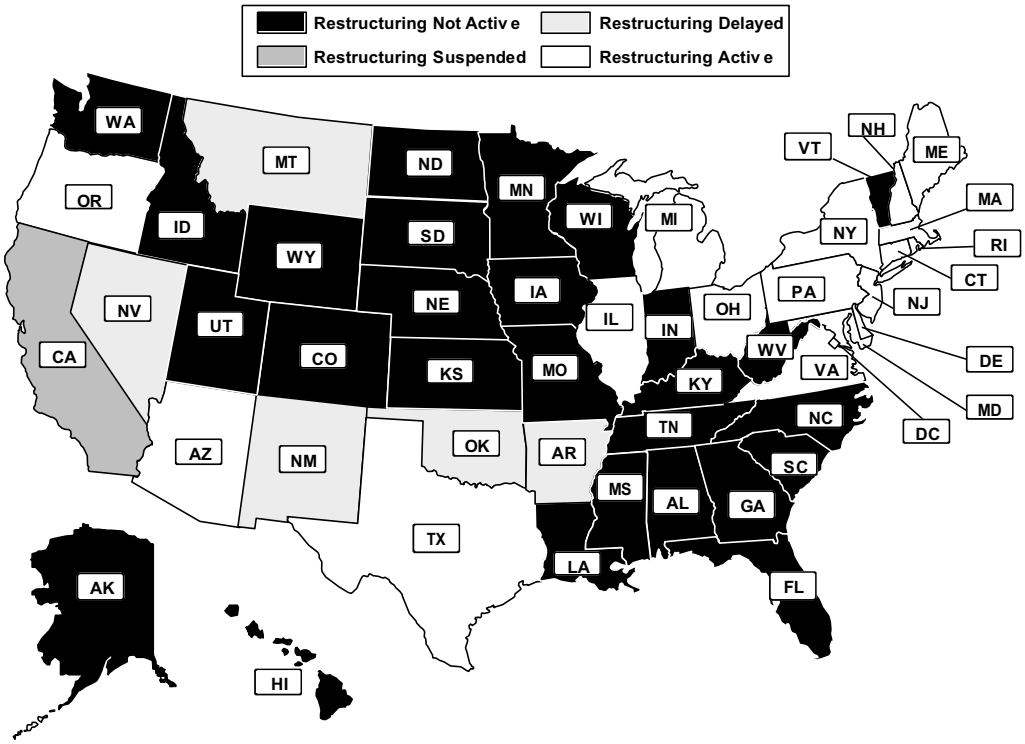
District of Columbia state electric restructuring plans remain in force that allow competitive retail providers to provide service to some if not all retail customers at prices set in the market. State retail restructuring plans often involved divestiture of generating assets previously owned by local vertically integrated utilities, with the result that the distribution utilities -- and any retail customers that they serve -- procure power from wholesale markets under long- or short-term bilateral contracts, and from wholesale spot markets, as state regulators allow.These jurisdictions include many of the Nation's largest states and account for over half of all retail customers and retail electricity loads. With some exceptions, competitive retail competition has been slow to develop in many of these states, particularly for residential customers. Without a competitive provider option, most customers continue to take service under regulated "provider of last resort" (POLR) rates. In some states, the rate freezes and rate caps on POLR rates approved by state regulators under retail restructuring cases are expiring and POLR rates are being revised sharply upward to reflect the higher costs of obtaining electricity in wholesale markets. State experience with electric competition and related issues are discussed in more detail in Chapter IV, Retail Competition and in Appendix D.

Figure 1-2: Status of State Electric Industry Restructuring Activity, 2003



Source: EIA, available at http://www.eia.doe.gov/cneaf/electricity/chg_str/restructure.pdf

5. <u>The Western Energy Market Crisis 2000-2001.</u>

DOJ_NMG_ 0165174

California opened its retail markets to competition and started spot markets for wholesale electricity in 1998. In response to the State plan, the three major investor-owned utilities divested most of their non-nuclear generation, turned over operation of transmission facilities to the new California ISO (CALISO), and were required to sell into and purchase power needed to serve their customers through the new California Power Exchange (CalPX) and the ISO. Retail rates were reduced, but at a level still well above the national average, and were frozen until the utilities recovered their stranded costs – at which point it was expected that competitive markets would drive prices much lower. San Diego Gas and Electric (SDG&E) fully recovered its stranded costs by summer of 1999 and retail rates of its customers were then allowed to reflect the utilities cost of obtaining power in the wholesale market. The retail rates of the other two major utilities remained frozen.

In late May 2000, the California ISO called its first Stage 2 power alert as system reserves fell below 5 percent. PX prices that had averaged about $27 per megawatt hour (MWh) in April spiked to over $50 in May, and continued spiking upwards eventually reaching a high of about $450 per MWh in January 2001. The substantially higher prices were quickly passed through and San Diego's customer bills tripled by mid-summer. California's other major utilities Pacific Gas and Electric (PG&E) and Southern California Edison (SCE) also were forced to pay the unexpectedly higher PX wholesale prices, but could not pass the increases through to retail customers as they were still under a rate freeze.

California's power market problems were not limited to price spikes. On June 14, 2000 the ISO imposed rolling blackouts in Pacific Gas and Electric Co's San Francisco service area because of shortages attributed to the maintenance shut down of several generating plants. These were the first of many power emergencies and blackouts affecting the state that did not end until July 2001.

In response to public concerns, investigations were quickly launched by the California Public Utilities Commission, the State's Attorney General, and the FERC. On August 2, 2000, SDG&E filed a complaint at FERC against all sellers in the PX and ISO markets and asked for a price cap of $250[73]. The Commission opened a formal investigation of the California market. A preliminary FERC staff report in November 2000 found that the market rules and structure were "seriously flawed" and, coupled with supply and demand imbalance, could result in rates that were not "just and reasonable."[74] Moreover, the staff report concluded that the State's market structure created the potential for abuse of market power when supplies were tight. The Commission proposed a number of interim emergency remedies that were put in place in December 2000.[75]

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[73] Federal Energy Regulatory Commission, "The Western Energy Crisis, the Enron Bankruptcy, and FERC's Response," a chronology [available online at http://www.ferc.gov/industries/electric/indus-act/wec/chron/chronology.pdf].

[74] Id.

[75] Id.

DOJ_NMG_ 0165175

The State's electric market problems continued, however. Market price spikes in California affected electricity pricing hubs and utilities across the West, including states that had not adopted retail competition and that were not members of the CALISO. Increased power costs to the region were estimated in the tens of billions and caused retail rates increases for customers in many Western states.[76] Multiple power emergencies were declared in California in December 2000, followed by blackouts in January, and March 2001. High wholesale market prices that the utilities were not allowed to recover through retail rates strained the finances of the State's three major IOUs. The State of California had to step into the breach to enter into long-term contracts to secure power on behalf of the utilities for their retail customers. The contract prices were set at some of the highest prices prevailing over this period.[77] The state suspended retail competition for all but large customers that already had contracts with competitive suppliers. In April, PG&E's retail electric utility subsidiary, one of the largest in the nation, filed for bankruptcy protection, later joined by a number of wholesale sellers involved in the market. Power prices did not return to "normal" ranges until fall of 2001.

Over this period, FERC issued a number of orders setting and lowering price caps, market monitoring requirements, and opening an investigation of possible market manipulation in the runup of natural gas prices in the West. The State, Federal, and private investigations ultimately uncovered a number of market abuses and regulatory gaps.[78] Many FERC and other proceedings arising out of the dysfunctional California markets continue today.[79] A number of energy traders eventually faced criminal charges for their actions.

The Western Energy Crisis of 2000-2001 had wide repercussions as other regions adapted their market rules and structures to avoid the problems encountered in the West.

6. Development of Regional Transmission Organizations and Regional Wholesale Markets

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[76] For example, the Idaho Public Utilities Commission commented that the pass-through power cost adjustment portion of retail rates increased between 30 to 50 percent as a direct result of the impacts of the western energy crisis. Idaho Public Utilities Commission, comments, March 2006.

[77] See box 4-3 in Chapter 4 of this report.

[78] See, e.g., California Attorney General's Energy White Paper, A Law Enforcement Perspective on the California Energy Crisis, Recommendations for Improving Enforcement and Protecting Consumers in Deregulated Energy Markets (Apr. 2004), available at http://ag.ca.gov/publications/energywhitepaper.pdf; Federal Energy Regulatory Commission, Final Report on Price Manipulation in Western Energy Markets: Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000 (March 26, 2003); U.S. General Accounting Office, Restructured Electricity Markets, California Market Design Enabled Exercise of Market Power, (June 2002), available at http://www.gao.gov/new.items/d02828.pdf.; Lockyer v. FERC, 383 F.3d 1006 (9th Cir., 2004); United States Senate, Committee on Governmental Affairs, Staff Memorandum, "Committee Staff Investigation of the Federal Energy Regulatory Commission's Oversight of Enron Corp" November 2002 [available at http://hsgac.senate.gov/_files/111202fercmemo.pdf].

[79] For more on FERC proceedings, see the FERC webpage, "Addressing the2000-2001 Western Energy Crisis" [http://www.ferc.gov/industries/electric/indus-act/wec.asp].

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Even after issuance of Order Nos. 888 and 889, FERC continued to receive complaints about transmission owners discriminating against independent generating companies. Transmission customers remained concerned that electric utilities' implementation of functional unbundling did not produce complete separation between operating the transmission system and marketing and selling electric power in wholesale markets. Also, there were concerns that Order No. 888 changes made some discriminatory behavior in transmission access more subtle and difficult to identify and document.

The electric industry continued to transform since FERC issued Order Nos. 888 and 889, in response to competitive pressures and state retail restructuring initiatives. Utilities today purchase more wholesale power to meet their load than in the past and are expanding reliance on availability of other utility transmission facilities for delivery of power. Retail competition increased significantly in the years following adoption of Order No. 888. These state initiatives brought about the divestiture of generation plants by traditional electric utilities. In addition, this period saw a number of mergers among traditional electric utilities and among electric utilities and gas pipeline companies, large increases in the number of power marketers and independent generation facility developers entering the marketplace, and the establishment of ISOs as managers of large parts of the transmission system. Trade in wholesale power markets has increased significantly and the Nation's transmission grid is being used more heavily and in new ways.

In response to continuing complaints of discrimination and lack of transmission availability and in the wake of an expanding competitive power industry, in December 1999, FERC issued Order No. 2000.[80] This order recognized that Order No. 888 set the foundation upon which to attain competitive electric markets, but did not eliminate the potential to engage in undue discrimination and preference in the provision of transmission service.[81] Thus, FERC concluded that regional transmission organizations (RTOs) could eliminate transmission rate pancaking,[82] increase region-wide reliability, and eliminate any residual discrimination in transmission services that can occur when the operation of the transmission system remains in the control of a vertically integrated utility. Accordingly, FERC encouraged the voluntary formation of RTOs.

RTOs are entities set up in response to FERC Order Nos. 888 and 2000 encouraging utilities to voluntarily enter into arrangements to operate and plan regional transmission systems on a nondiscriminatory open access basis. RTOs are independent entities that control and operate regional electric transmission grids for the purpose of promoting efficiency and reliability in the

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[80] Regional Transmission Organizations, Order No. 2000, FERC Stats. & Regs. ¶ 31,089, 65 Fed. Reg. 809 (Jan. 6, 2000), order on reh'g, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092, 65 Fed. Reg. 12,088 (March 8, 2000), aff'd, Public Utility District No. 1 v. FERC, 272 F.3d 607 (D.C. Cir. 2001) [hereinafter Order No. 2000].

[81] In Order No. 2000, FERC found that "opportunities for undue discrimination continue to exist that may not be remedied adequately by [the] functional unbundling [remedy of Order No. 888]." Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,105.

[82] The term "rate pancaking" refers to circumstances in which a transmission customer must pay separate access charges for each utility service territory crossed by the customer's contract path.

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operation and planning of the transmission grid and for ensuring non-discrimination in the provision of electric transmission services. RTOs do not own transmission.[83]

FERC has approved RTOs or ISOs in several regions of the country including the Northeast (PJM, New York ISO, ISO-New England), California, the Midwest (MISO) and the South (SPP), as shown in Figure 1-3 below. By the end of 2004, regions accounting for 68 percent of all economic activity in the United States had chosen the RTO option.[84]

In 2004 and 2005, the PJM RTO grid expanded substantially to include several additional service territories in the Midwest. In 2004, the territories serviced by Commonwealth Edison (ComEd), American Electric Power (AEP), and Virginia Electric and Power (VEPCO) joined PJM. The expansion continued in 2005 with the addition of Duquesne Light. The area now in PJM covers about 18 percent of total electricity consumption in the United States.[85]

In most cases, RTOs have assumed responsibility to calculate the amount of available transfer capability (ATC) for wholesale trades for member systems across the footprint of the RTO. RTOs also are responsible for coordinating regional planning, at least for facilities necessary for reliability above a certain voltage. As of 2004, all of the RTOs in operation coordinate dispatch of the generators in their systems and provide transmission services under a single RTO open access tariff.

In addition to operating the regional transmission grid, RTOs operate regional organized energy markets, including a short-term market which prices energy, congestion, and losses. RTOs in the East all offer day-ahead and real-time markets, while California and Texas offer real-time market alone. Further, all RTOs in current operation use or plan to use some form of locational pricing to manage transmission congestion and have independent market monitors that assess and report on market activities.[86] RTOs and regional wholesale markets are described in more detail in Chapter 3.

Figure 1-3: RTO Configurations in 2004
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[83] Current RTOs do not own transmission, but FERC's Order No. 2000 allowed for the formation of such "transco" organizations. Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,036-37.

[84] Fed. Energy Regulatory Comm'n, Office of Mkt. Oversight and Investigations, State of the Markets Report: An Assessment of Energy Markets in the United States in 2004, at 51 (2005) [hereinafter FERC State of the Markets Report 2005], available at http://www.ferc.gov/legal/staff-reports.asp.

[85] Id. at 53.

[86] Id. at 52.

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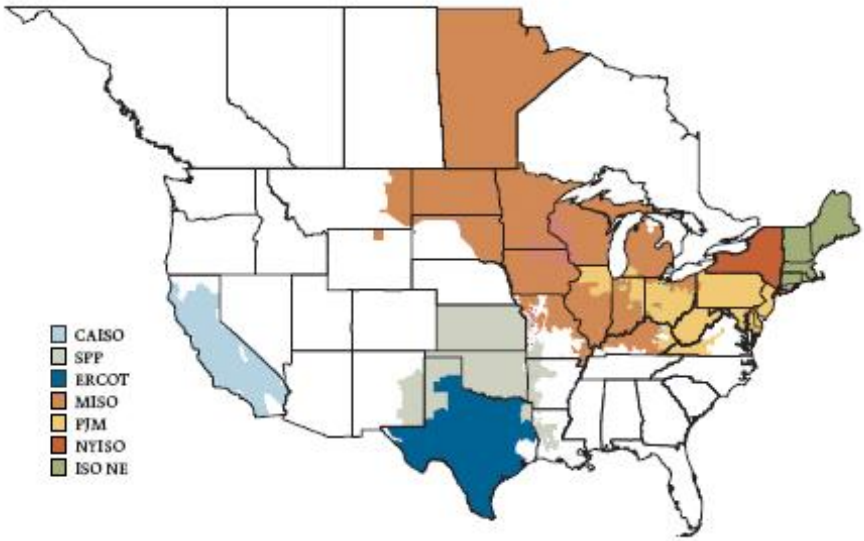

Source: FERC State of the Market Report for 2004, Figure 2, Page 53

NOTE: The above map shows the general location of approved RTOs. Not all transmitting utilities within the shaded area of an RTO are necessarily members of the RTO and some RTO members, for example in PJM-South are not shown in this map.

The RTO Model and regional organized wholesale markets have been voluntarily adopted by utilities and market participants in the Northeast, Mid-Atlantic, California, and parts of the Midwest and Southwest. In some states, participation in an RTO was required as part of the restructuring under the State retail competition plan. RTO members include utilities in states that have not adopted retail competition. State regulators often participate as members of advisory bodies to the RTOs and have been active parties in FERC proceedings involving RTOs. Although existing RTOs enjoy broad participation by utilities and competitive power suppliers, concerns over the high [87]costs of RTO implementation and operations, and oversight of RTO markets were reflected in comments filed with the Task Force.[88]

In other regions –the Southeast, the West outside of California, and other parts of the Midwest, RTOS have been considered, but formation has stalled. State regulators and utilities in these regions have found it difficult to assess the potential benefits and costs of establishing RTOs s and have been reluctant to create new institutional arrangements that could diminish local control over transmission facilities and could impose additional costs on retail customers.

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[87] Add cite to comments that mentioned this, APPA, NRECA, etc.

[88] See, for example, the draft report comments of the American Public Power Association, the National Rural Electric Cooperative Association, Alliance of State Leaders to Protect Electric Consumers, Wisconsin Load Serving Entities, Progress Energy, Inc. and Santee Cooper.

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7. August 2003 Blackout

On August 14, 2003, an electrical outage in Ohio precipitated a cascading blackout across seven other states and as far north as Ontario, leaving more than 50 million people without power.[89] The August 2003 blackout was the largest blackout in the history of the United States, leaving some parts of the nation without power for up to four days and costing between $4 billion and $10 billion.[90] The 2003 blackout was the eighth major blackout experienced in North America since the 1965 Northeast Blackout.

A Joint U.S.-Canada Power System Outage Task Force issued a final Blackout Report in April 2004. The Blackout Report identified factors that were common to some of the eight major outage occurrences from the 1965 Northeast Blackout through the 2003 Blackout, as shown below:

> (1) conductor contact with trees; (2) overestimation of dynamic reactive output of system generators; (3) inability of system operators or coordinators to visualize events on the entire system; (4) failure to ensure that system operation was within safe limits; (5) lack of coordination on system protection; (6) ineffective communication; (7) lack of "safety nets;" and (8) inadequate training of operating personnel.[91]

In addition to the Joint Study, other investigations were carried out by affected States and by the North American Electric Reliabity Council (NERC).[92]8. The Energy Policy Act of 2005

In August 2005, Congress passed the Energy Policy Act of 2005 (EPACT 2005),[93] which amended the core statutes (FPA, PURPA, PUHCA) governing the electric power industry. Among the notable provisions of EPACT 2005 are the following::

- Reliability: Authorizes FERC to certify an Electric Reliability Organization to propose and enforce reliability standards for the bulk power system. EPACT 2005 authorized penalties for violation of these mandatory standards.

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[89] U.S. Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, April 2004, at 1.

[90] Id.

[91] Id. at 107.

[92] See, for example, the NERC blackout website materials [available at http://www.nerc.com/~filez/blackout.html], New York State Public Service Commission, NYPSC Staff Second Report on the August 13-14, 2003 Blackout, November 2005 [available at http://www.dps.state.ny.us], and the reports of the Michigan Public Service Commission [available at http:www.michigan.gov/mpsc].

[93] Pub. L. No. 109-58, 119 Stat. 594 (2005).

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- Transmission Siting: Authorizes the Secretary of Energy to conduct a study of electricity congestion within one year of the enactment of the Energy Policy Act, and every three years thereafter . Authorizes the Secretary of Energy to designate "National Interest Electric Transmission Corridors" based on these congestion studies. EPACT 05 also authorizes FERC in limited circumstances to approve the siting of transmission facilities in these corridors, in states which lack such authority or do not exercise it in a timely manner. Proponents of this new federal authority have argued that it will facilitate the construction of new transmission lines and, thus, help alleviate transmission congestion that can impair competition in electric markets.

- Transmission Investment Incentives: Requires FERC to establish incentive-based rate treatments for public utilities' transmission infrastructure in order to promote capital investment in facilities for the transmission of electricity, attract new investment with an attractive return on equity, encourage improvement in transmission technology, and allow for the recovery of prudently incurred costs related to reliability and improved transmission infrastructure. Proponents of this authority contend it will encourage the expansion of transmission capacity and, thus, help foster greater competition in electric markets.

- PURPA Reform: Permits FERC to terminate, prospectively, the obligation of electric utilities to buy power from QFs, such as industrial cogenerators. FERC may do so when the QFs in the relevant area have adequate opportunities to make competitive sales, as defined by EPACT 2005. The premise is that growth in competitive opportunities in electric markets is negating the need for PURPA's "forced sale" requirements.

- PUHCA Repeal: Repeals PUHCA 1935 and replaces it with new PUHCA 2005, which provides FERC and state access to books and records of holding companies and their members and provides that certain holding companies or states may obtain FERC-authorized cost allocations for non-power goods or services provided by an associate company to public utility members in the holding company. PUHCA 2005 also contains a mandatory exemption from the Federal books and records access provisions for entities that are holding companies solely with respect to EWGs, QFs or foreign utility companies. The goal of these provisions is to reduce legal obstacles to investment in the electric utility industry and, thus, help facilitate the construction of adequate energy infrastructure.

C. Recent Trends Related to Competition in the Electric Energy Industry

Given the previous reviewed of electric industry legal and regulatory background, this section discusses several more recent electric industry policy developments and characteristics.

1. Generation Additions and Increase in Nonutility Generation Suppliers

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Electric power industry restructuring has been largely sustained by technological improvements in gas turbines. No longer is it necessary to build a larger generating plant to gain operating efficiencies. Combined-cycle gas turbines reach maximum efficiency at 400 megawatts (MW), while aero-derivative gas turbines can be efficient at sizes as low as 10 MW. These new gas-fired combined cycle plants can be more energy efficient and less costly than the older oil and gas fired power plants.[94] Because of their smaller footprint and low emissions, gas turbine generators could often easily be located close to load and avoid the need to construct additional transmission. Coupled with the greater availability of transmission access as a result of the open access tariff provisions of FERC Order No. 888, it became feasible for generating plants hundreds of miles apart to compete with each other and for customers to have more choices in electricity suppliers.[95]

The market participation of utilities and other suppliers in the generation of electricity has changed over the past few decades. The change began in response to increases in energy costs in the 1970s-90s and the passage of PURPA, which facilitated the entry of nonutilities QFs as energy-efficient, environmentally-friendly, alternative sources of electric power. The change continued through the issuance of Order No. 888, which opened up the transmission grid to competiting wholesale electricity suppliers.[96] Until the early 1980s, the electric utilities' share of electric power production increased steadily, reaching 97 percent in 1979.[97] By 1991, however, the trend had reversed itself, and the electric utilities' share declined to 91 percent.[98] By 2004, regulated electric utilities' share of total generation continued to decline (63.1 percent in 2004 versus 63.4 percent in 2003) as nonutilities' share increased (28.2 percent versus 27.4 percent in 2003).[99]

This trend is illustrated by comparing the increases in capacity additions for utility and nonutility generation suppliers, as shown in Figure 1-4 below. While most of the existing capacity, and , most of the additions to capacity through the late 1980s, were built by electric utilities, their share of capacity additions declined in the 1990s. Between 1996 and 2004, roughly 74 percent of electricity capacity additions were made by nonutility power producers.

Figure 1-4: U.S. Electric Generating Capacity Additions: Non-Utility Growth Overtakes Utility in 2000-2004

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[94] EIA 2000 Update at ix. The size of the cost improvements depends on the underlying fuel prices.

[95] Id.

[96] Id. at 23.

[97] EIA 1970-1991 at vii.

[98] Id.

[99] U.S. Dept. of Energy, Energy Information Administration, Electric Power Annual 2004, at 2 (November 2005), available at http://www.eia.doe.gov/cneaf/electricity/epa/epa.pdf [hereinafter EIA Electric Power Annual 2004].

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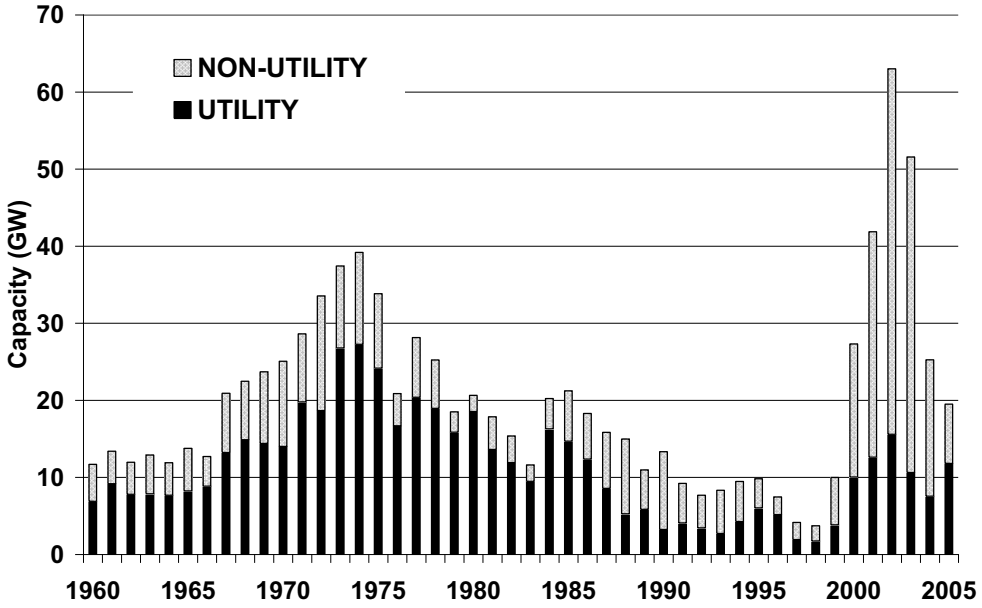

Source: FERC from analysis of Platts PowerDat data

The pattern of merchant generation investment outpacing utility investment may be shifting, however. Traditional regulated utilities, including public power and cooperative utilities, accounted for about 60 percent of capacity additions from 2005 through May 2006. In California, six new power plants began operations including four owned by public power utilities and two owned by IOUs.[100]

2. Transmission Investment

Despite these increased investments in new generation, the Edison Electric Institute (EEI) reports that investment in transmission by IOUs declined from 1975 through 1999. See Figure 1-5. Over that same period, electricity demand has more than doubled, resulting in a significant decrease in transmission capacity relative to demand. Box 1-2 discusses some suggested explanations for this trend of declining transmission investment. Since 1999 according to EEI surveys, transmission investment has increased annually. From 1999 to 2003 transmission investment by IOUs increased at 12 percent annually[101]. For 2004 to 2008, IOUs expect to invest about $28 billion in transmission, an almost 60 percent increase over the prior five-year period.

[100] American Public Power Association, draft report comments.

[101] Edison Electric Institute, "EEI Survey of Transmission Investment: Historical and Planned Capital Expenditures," May 2005, at p. 1.

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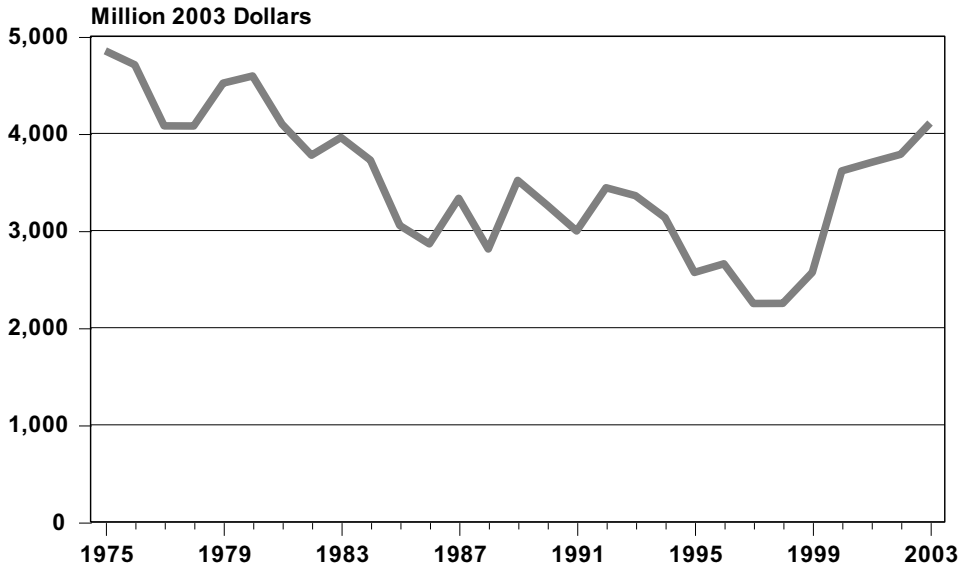
Figure 1.5: Transmission Expenditures of EEI Members, 1975-2003



Source: Edison Electric Institute
[FIGURE TO BE UPDATED]

[FIGURE TO BE UPDATED]

Figure 1-6: National Average Retail Prices of Electricity for Residential Customers

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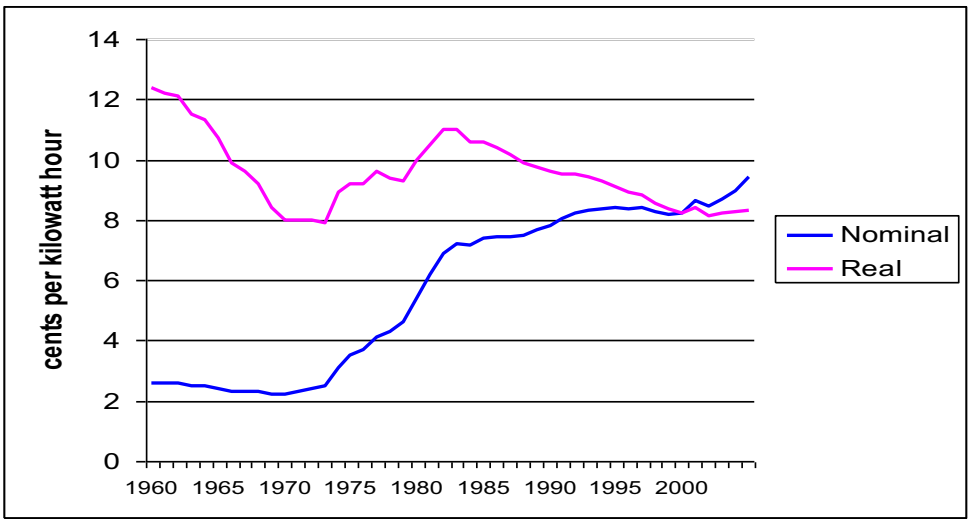

1- In chained (2000) dollars, calculated by using gross domestic product implicit price deflators.
Source: Energy Information Administration Annual Energy Review 2004

4. Changing Patterns of Fuel Use for Generation – Reaction to Increased Oil Prices and Clean-Air Environmental Regulations

For many years coal was the fuel most commonly to generate electricity, providing 46 percent of utilities' generation in 1970 and more than 50 percent since 1980. When world oil prices escalated in the 1970s, oil-fired and gasoline-fired generation's share of electricity supply began decreasing and utilities use of oil and gas for new generation was restricted by Federal law.

Hydroelectric power has also played a large role in the supply of electric power, but its share has declined relative to other major fuels mainly because there are a limited number of suitable sites for hydroelectric projects. Nuclear power grew to be the second largest fuel source in 1991 but was not expected to continue to increase.[102]

For nonutilities, natural gas has been the major fuel for new plant additions[103]. Indeed, new capacity added in recent years shows the prevalence of natural gas to fuel new plants. [104] As shown in Figure 1-7, recent plant additions illustrate this change in fuel sources. This increased

[102] EIA 1970-1991 at 20.

[103] During the 1990s, with natural gas prices at an all time low and availability of efficient, modular gas turbines, many nonutilities built natural gas generation facilities to enter wholesale markets. Today, as a result of restructuring-related asset sales and divestitures, nonutilities own and operate a broad mix of nuclear, coal, natural gas and renewable generation facilities that supply wholesale markets. Natural gas-fired generating capacity was 57 percent of nonutility generating capacity in 2004. According to the Electric Power Supply Association, based on EIA data, 36 percent of electriciity produced by competitive generators was coal-fired, 30 percent natural gas, 24 percent nuclear, 6 percent hydroelectric and other renewables, and four percent oil-fired. Electric Power Supply Association, draft report comments.

[104] EIA Electric Power Annual 2004 at 2.

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use of natural gas also is due, in part, to the Clean Air Act Amendments of 1990 (CAA) and state clean air requirements. The CAA sought to address the most widespread and persistent pollution problems caused by hydrocarbons and nitrogen oxides -- both of which are prevalent with traditional coal and petroleum-based generating plants. The CAA fundamentally changed the generation business because it would no longer be costless to emit air pollutants. As a result of these requirements, many generation owners and new generation plant developers turned to cleaner-burning natural gas as the fuel source for new generation plants. California has been very dependent on gas-fired generation because of its specific air quality standards.[105]

[105] Fed. Energy Regulatory Comm'n, The Western Energy Crisis, The Enron Bankruptcy, & FERC's Response, at 1, available at http://www.ferc.gov/industries/electric/indus-act/wec/chron/chronology.pdf

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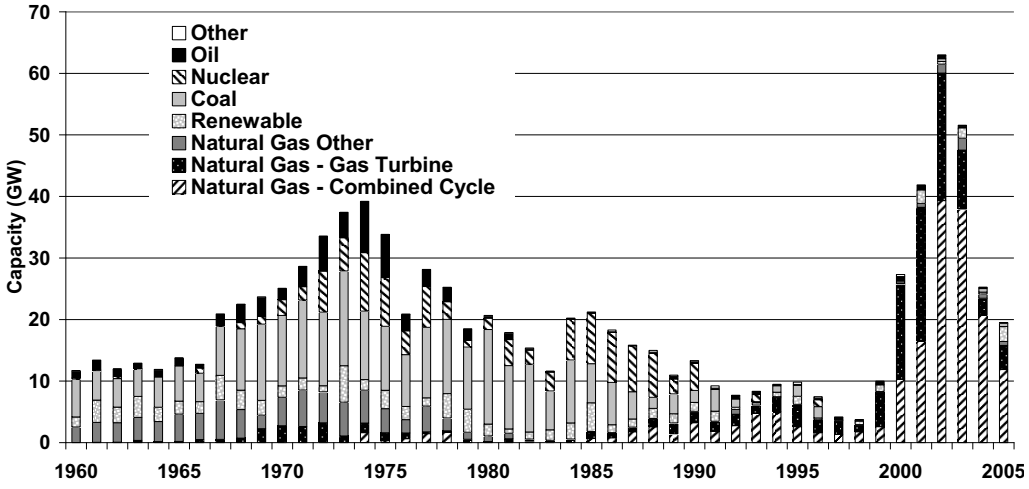
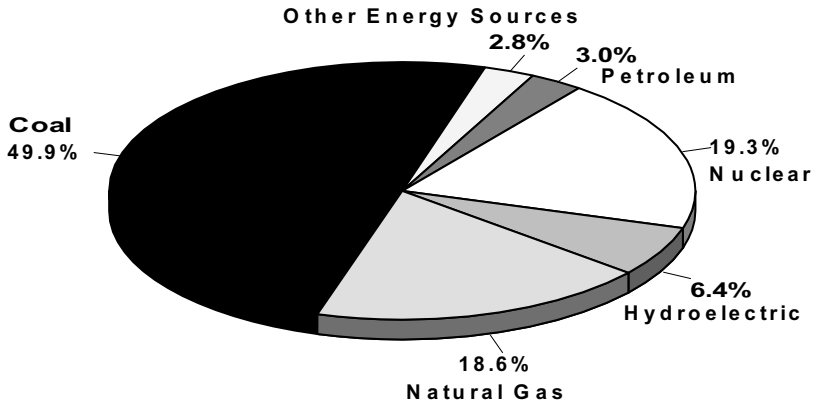
Figure 1-7: Natural Gas Plants Dominate New Generating Unit Additions



Source: FERC Analysis of Platts PowerDat data

The result of these plant additions through December 2005 is that 49.9 percent of the nation's electric power was generated at coal-fired plants (Figure 1-8). Nuclear plants contributed 19.3 percent, 18.6 percent was generated by natural gas-fired plants, and 2.5 percent was generated at petroleum liquid-fired plants. Conventional hydroelectric power provided 6.6 percent of the total, while other renewables (primarily biomass, but also geothermal, solar, and wind) and other miscellaneous energy sources generated the remaining electric power.

Figure 1-8: Net Generation Shares by Energy Source: Total (All Sectors), January-December 2005



Source EIA, Electric Power Monthly with data for December 2005.

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The trend toward gas-fueled capacity additions may be changing, however. In the coming years, more coal-fired generation capacity may be built as both utilities and nonutilities have announced new coal powerplant construction projects. Two major reasons may explain coal's resurgence: (1) the relative price of natural gas compared to coal has increased substantially in recent years and (2) the cost of environmental equipment for coal plants, such as scrubbers, has decreased. To the extent that combined-cycle gas-fired units were built on the assumption that natural gas would be relatively inexpensive and that cleaning technology for coal plants would drive the price of coal significantly higher, both these assumptions have proved questionable with time. The Department of Energy's Energy Information Administration (EIA) estimated only 573 megawatts of new coal generation would be added nationally in 2005, which compares with an estimate of 15,216 megawatts of gas-fired additions for the same year. For the year 2009, however, predicted trends shift - the EIA projects that 8,122 MW of new coal generation will be added that year, whereas only 5,451 MW of gas-fired generation additions are predicted for that year.[106] The Department of Energy predicts a resurgence of coal-fired generation will continue as far into the future as 2025.[107]

In addition to expected new coal generation, the higher gas prices and environmental concerns have renewed interest in nuclear generation. EPACT 2005 includes a number of provisions intended to encourage and facilitate the next generation of improved nuclear powerplants.

5. Fuel Price Trends

Natural gas prices have been increasing in recent years, due in part to the historically high level of petroleum prices. Natural gas prices experienced a 51.5 percent increase between 2002 and 2003, a 10.5 percent increase between 2003 and 2004, and a 37.6 percent increase between 2004 and 2005. Strong demand for natural gas, as well as natural gas production disruptions in the Gulf of Mexico, contributed to these price increases. As shown in Figure 1-9, for December 2005 the overall price of fossil fuels was influenced by the increases in price of natural gas. In December 2005, the average price for fossil fuels was $3.71 per MMBtu, 10.1 percent higher than for November 2005, and 44.4 percent higher than in December 2004. As natural gas prices increase relative to coal prices, the change may make development of clean-burning coal plants more economical than they were when natural gas fuel prices were lower.

Figure 1-9: Electric Power Industry Fuel Costs, January 2005 through December 2005

[106] See EIA Electric Power Annual 2004 at 17, table 2.4, available at http://www.eia.doe.gov/cneaf/electricity/epa/epat2p4.html.

[107] See U.S. Dept. of Energy, Nat'l Energy Tech. Lab, Tracking New Coal-Fired Power Plants, at 3-4, available at http://www.netl.doe.gov/coal/refshelf/ncp.pdf (predicting 85 GW of new coal capacity created by 2025).

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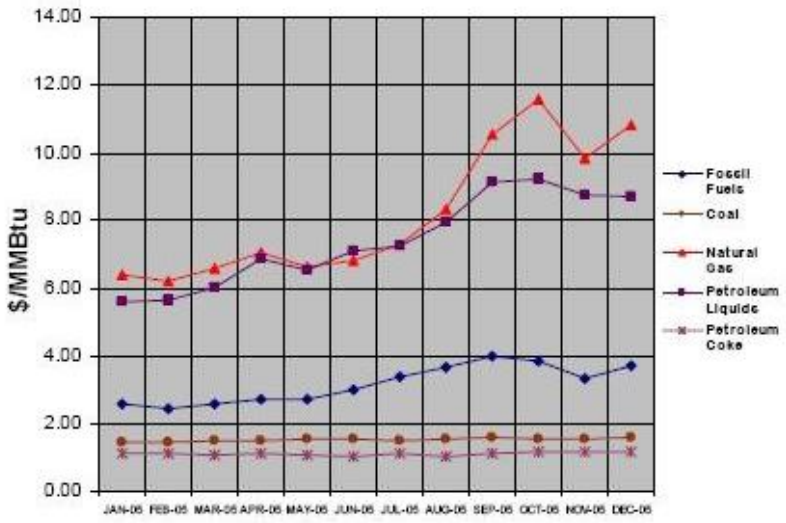

Source: Source EIA, Electric Power Monthly with data for January 2006.

[FIGURE TO BE UPDATED]

6. Mergers, Acquisitions, and Power Plant Divestitures of Investor-Owned Electric Utilities

Many IOUs have fundamentally reassessed their corporate strategies to function more as competitive, market-driven businesses in response to an increasingly competitive business environment.[108] One result is that there was a wave of mergers and acquisitions in the late 1980s through the late 1990s between traditional electric utilities and between electric utilities and gas pipeline companies.

IOUs also have divested a substantial number of generation assets to IPPs or transferred them to an unregulated nonutility subsidiary within the company.[109] Even though FERC-regulated IOUs have functionally unbundled generation from transmission, and some have formed RTOs and ISOs, many utilities have divested their power plants because of state requirements. Some states that opened the electric market to retail competition view the separation of power generation ownership from power transmission and distribution ownership as a prerequisite for retail competition. For example, California, Connecticut, Maine, New Hampshire, and Rhode Island enacted laws requiring utilities to divest their power plants. In other states, the state public utility commission may encourage divestiture to arrive at a quantifiable level of stranded costs for purposes of recovery during the transition to competition.[110]

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[108] See U.S. Congress, Office of Technology Assessment at 47.

[109] EIA 2000 Update at 91.

[110] Id. at 105-06.

DOJ_NMG_ 0165189

Since 1997, IOUs have divested power generation assets at unprecedented levels,[111] and these power plant divestitures have also reduced the total number of IOUs that own generation capacity.[112] A few utilities have decided to sell their power plants, as a business strategy, deciding that they cannot compete in a competitive power market. In a few instances, an IOU has divested power generation capacity to mitigate potential market power resulting from a merger.[113] As described in Table 1-6 below, between 1998 and 2001, over 300 plants, representing nearly 20% of U.S. installed generating capacity, changed ownership.

Since 2001 the financial difficulties of the merchant generating sector have prompted the sale or transfer of a substantial share of the merchant fleet. Some of the purchasers have been by traditional utilities, including public power and cooperative utilities.[114]

There was no significant electric power company merger activity from 2001 to 2004, but this changed in 2004, when utilities and financial institutions exhibited growing interest in mergers and acquisitions, prompting many analysts to herald 2004 as the inauguration of a new round of consolidation in the power sector.[115] One utility-to-utility acquisition was closed[116] and three were announced.[117] Most electric acquisitions in 2004 took place with the purchase of specific generation assets; many companies strove to stabilize financial profiles through asset sales. In aggregate, almost 36 GW of generation, or nearly 6 percent of installed capacity, changed hands in 2004.[118]

Table 1-6: Power Generation Asset Divestitures by Investor-Owned Electric Utilities, as of April 2000

Status Category	Capacity (GW)	Percent of Total	Percent of Total U.S. Generation Capacity

[111] Id. at 105.

[112] Id. at 91.

[113] Id. at 106.

[114] The EIA periodically reports on generation plant transfers. For a list of plants transferred in 2003- 2006, see the EIA Electric Power Montly, July 2006 [available at http://www.eia.doe.gov/cneaf/electricity/epm/tablees4.html].

[115] FERC State of the Markets Report 2005 at 30-32.

[116] Announced in December 2003, Ameren closed its acquisition of Illinois Power Co. in September 2004. Id. at 31.

[117] In January 2004, Black Hills Corp announced the acquisition of Cheyenne Light, Fuel & Power from Xcel Energy. In July 2004, PNM Resources, the parent of Public Service Company of New Mexico, announced the intention to acquire TNP Enterprises, the parent of Texas New Mexico Power Company from a group of private equity investors. Id. at 31-32. In December 2004, Exelon announced its intent to merge with PSEG, a plan that would create the nation's largest utility company by generation ownership, market capitalization, revenues, and net income. Id. at 32.

[118] Id. at 30.

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Sold	58.0	37	8
Pending Sale (Buyer Announced)	28.2	18	4
For Sale (No Buyer Announced)	31.9	20	4
Transferred to Unregulated Subsidiary	4.1	3	1
Pending Transfer to Unregulated Subsidiary	34.2	22	5
Total	156.5	100	22

Source: EIA 2000 Update, Table 19

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CHAPTER 2
CONTEXT FOR THE TASK FORCE'S STUDY OF COMPETITION IN WHOLESALE AND RETAIL ELECTRIC POWER MARKETS

This chapter provides the context and theoretical underpinnings to the Task Force's study of competition in wholesale and retail electric power markets. For approximately 70 years, state and federal policymakers regulated the generation, transmission, and distribution of electric power as natural monopolies – it was considered inefficient to have multiple sources of generation, transmission, and distribution facilities serving the same customers. The traditional "regulatory compact" required an electric power utility to serve all retail customers in a defined area in exchange for the opportunity to earn a reasonable return on its investment. This approach is often called "cost-based" or "cost-plus" regulation.

Technological and regulatory changes as discussed in Chapter 1 weakened the assumptions that underlay the historic natural monopoly treatment of the most capital intensive segment of the industry – the generation of electric power. Federal and several state policymakers introduced competition to provide for an economically efficient allocation of resources within the industry's generation. The expectation was that these efficiencies would lead to a lower end-use price of electricity than would the status quo. . This chapter describes the perceived shortcomings of traditional cost based regulation that motivated these regulatory changes. It also discusses the theoretical role of competitive price signals in guiding consumption and investment decisions[119]...

This chapter also incorporates consideration of three issues that policymakers confronted as they initially considered introducing competition into wholesale and retail electric power markets.

- *First*, end-use, and sometimes wholesale, customers under historical cost-based regulation often paid averaged prices for their electricity – prices that were calculated over an extended period of months or years that did not vary with their consumption or with variation in the cost of generating electric power. Thus electricity consumers did not receive economically accurate price signals to guide their consumption decisions. Similarly, suppliers did not receive economically accurate price signals to guide their short and long term sales of generation output.

- *Second*, regulators had historically encouraged local utilities to build or contract for sufficient generation to serve customers within their territories. These regulators blocked entry by independent generators or allowed the utilities to do so. These actions resulted in utilities owning nearly all generation assets within their own service territories. Under cost-based regulation, the regulator would set the price for electric power, which was an attempt to address possible market power abuses that otherwise could occur with the monopoly utility structure.

[119] For a full discussion of the theory of competition in electricity markets, see Steven Stoft, *Power System Economics: Designing Markets for Electricity,* IEEE Press, 2002.

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- Third, certain physical realities associated with electricity generation constrained regulatory and market options in this industry. The inability to economically store electric power means that electricity must generally be consumed as soon as it is generated – supply must always exactly equal demand in real time. The ability to deliver electric power depends, however, upon the availability and pricing of the regulated transmission grid.

A. Overview of Cost-Based Rate Regulation – Effect on Customer Prices and Investment Decisions

State policymakers imposed rate regulation on retail sales of electric power because allowing prices to be set by a monopoly utility was expected to lead to uneconomic results, namely higher prices with lower output. Regulators used cost-based regulation to meet state legal requirements to ensure sufficient output at reasonable prices for consumers.

1. Effect of Cost-Based Regulation on Customer Prices

Retail prices for most customers, although different for each customer class, often were average prices calculated over an extended period of months or years that did not vary with their consumption or with the costs of generating electric power. These rates were stable and often only varied by season (*e.g.*, summer rates may be higher than winter rates). Although time-based rates and certain regulated products such as interruptible or curtailable services have been used within the electric power industry for decades, they have not been applied to the vast majority of retail customers. In addition, many have argued that retail rate structures frequently contain cross-subsidies among customer classes.[120]

2. Effect on Investment Decisions

The usual market-based signal for efficient investment into a market – prices that align consumer demand with generators' supply under given market conditions – is unavailable under cost-based rate regulation of retail electric power prices. Under cost-based rate regulation, utilities could decide when to add generation, but their recovery of their costs for these investments was dependent on state regulators agreeing that the generation was necessary and prudent. (Most states also imposed siting regulation on construction of major electric power facilities). Thus, it was long term planners and regulators that determined when generation would be built, and it was consumers who bore the cost of investment risks once they had been approved by the state regulators. Utilities were reluctant to take investment risks that might end up being unrecoverable if the regulators deemed their cost unreasonable. By far, the most important of these decisions was for generation investment which constitutes the substantial majority of the capital investment in the electric power industry. While the intent of cost-based rate regulation was partly to keep price down, the unintended effect was sometimes to dampen investment in new capacity and innovation.[121] In making decisions, regulators struggled to strike the balance

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[120] Electricity Consumers Resource Council, Profiles in Electricity Issues: Cost-of-Service Survey (Mar. 1986).

[121] See e.g. The Economics and Regulation of Antitrust, at 6 -7.

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between reasonable rates and providing utilities with incentives to make necessary and sufficient investments.

Regulatory mistakes in setting rates too high or too low may lead to excessive or inadequate additions of new electric power generation and other forms of investment. If rates are set too high, utilities could earn a higher return on new generation investments than would be warranted by the cost of capital. The result could be overinvestment and overbuilding. If regulators were unlikely or unable to identify and disallow excessive construction costs, utilities had little incentive to design new generation plants in a cost-effective manner, . At the same time, regulatory disallowances of some costs imposed risk on utility decisions to elicit capital and build new generation, and investors sought compensation for this risk when they supplied capital to utilities.[122]

Indeed, a 1983 Department of Energy analysis of electric power generation plant construction showed that electric utilities (which were regulated under a cost-based regulatory regime) had little ability to control the construction costs of coal and nuclear generation plants. During the 1970s and early 1980s, the cost range per megawatt to build a nuclear plant varied by nearly 400 percent and for coal plants by 300%. The DOE study showed that some companies were not competent to manage such large-scale, capital-intensive projects. In addition, there was a tendency to custom design these plants, as opposed to use of a basic design and then refining it.[123]

Box 2-1
Market Prices

Market prices reflect myriad individual decisions about prices at which to sell or buy. Market prices are a mechanism that equalizes the quantity demanded and the quantity supplied. Rising prices signal consumers to purchase less and producers to supply more. Falling prices signal consumers to purchase more and producers to supply less. Prices will stop rising or falling when they reach the new equilibrium price: the price at which the quantity that consumers demand matches the quantity that producers supply.

One alternative to traditional rate-of-return regulation is price cap regulation. Under this approach, the regulator caps the price a firm is allowed to charge.[124] This alternative may

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[122] In the academic literature, the risk of utility overinvestment has been explained by the Averch-Johnson Effect. The Averch-Johnson Effect reflects that "a firm that is attempting to maximize profits is given, by the form of regulation itself, incentives to be inefficient. Furthermore, the aspects of monopoly control that regulation is intended to address, such as high prices, are not necessarily mitigated, and could be made worse, by the regulation." KENNETH E. TRAIN, OPTIMAL REGULATION 19 (1991). The Averch-Johnson Effect also predicts that if a regulator attempts to reduce a firm's profits by reducing its rate of return, the firm will have an incentive to further increase its relative use of capital. Id. at 56. Thus, the most obvious regulatory control within cost-base rate regulation creates further distortions. The Averch-Johnson Effect is sometimes thought to explain why a regulated firm is led to "gold plate" its facilities, i.e. incur excessive costs so long as those expenses can be capitalized.

[123] U.S. Dept. of Energy, The Future of Electric Power in America: Economic Supply for Economic Growth, June, 1983 (DOE/PE-0045).

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remedy some of the incentive problems of cost-based regulation. Another alternative is Integrated Resource Planning, which provided that choices about the building of new generation would be controlled by the regulator. Even with this oversight mechanism, regulators had few reference points to determine prudence in the choices that the builder made about design, efficiency, and materials.

In part, the struggles of regulators to ensure adequate supplies of power at reasonable rates led policy makers to examine whether competition could provide more timely and efficient incentives for what to consume and build. Advances in technology weakened the argument for treating generation as a natural monopoly, and thus set the stage for consideration of competitive pricing as an option for eliciting entry by new generators or expansion by existing generators. Generally, the assumption has remained that transmission and distribution shouldcontinue to be regulated operations.

B. Overview of the Role of Price in Competitive Wholesale and Retail Electric Power Markets

With competitive markets, the price of a commodity generally signals the relative value of that commodity compared to other goods and services The price signals the relative value of that commodity compared to other goods and services. How much a supplier will produce at a given price is determined by many things, including (in the long run) how much it must pay for the labor it hires, the land and resources it uses, the capital it employs, the fuel inputs it must purchase to generate the electric power, the transmission it must use to deliver the electric power to end users, and the risks associated with its investment. Consumers' overall willingness to pay for a product also is determined by a large variety of factors, such as the existence and prices of substitutes, income, and individual preferences.

1. Price Affects Customer Consumption

Price changes signal to customers in wholesale and retail markets that they should change their decisions about how much and when to consume electric power. Price increases generally provide a signal to customers to reduce the amount they consume. The dampening effect on price of a reduction in consumption helps consumers safeguard themselves against a supplier that may seek to exercise market power by increasing prices. By contrast, lower prices may encourage some customers to consume more than they would have at higher prices. Price changes thus play an important economic function by encouraging customers and suppliers to respond to changing market conditions. In the electric power industry, consumer's price responsiveness is often referred to as "demand response."[125]

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[124] Under price cap regulation, a firm can theoretically "produce with the cost-minimizing input mix [and] invest in cost-effective innovation." Train at 318. However, this dynamic only occurs where the price cap is fixed over time and the utility receives the benefit of cost reductions and cost-effective innovations. Further, the benefit of this increased efficiency "accrues entirely to the firm: consumers do not benefit from the production efficiency." Id. Where the price cap is adjusted over time, firms are induced to engage in strategic behavior. Additionally, "if, as . . . expected, the review of price caps is conducted like the price reviews under cost-base rate regulation, then the distinction blurs between price-cap regulation and cost-base rate regulation." Id at 319.

[125] U.S. Department of Energy, Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the

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The primary purpose of incorporating market driven prices into wholesale and retail electric power markets is to provide consumers with price signals that accurately reflect the underlying costs of production and thereby encourage efficient consumption patterns. Economic analysis suggest that the market dynamics produced by this type of pricing will result in lower overall prices (as compared with averaged-cost pricing).

Accurate price signals are expected to improve the efficiency of electric power production by more closely aligning the price that customers pay *for* and the value they place *on* electricity. In particular, by exposing customers (some or all) to prices based on marginal production costs, resources can be allocated more efficiently.[126] Accurate price signals also reduce cross subsidies between customers and customer classes .[127] Flat electricity prices based on average costs can lead customers to "over-consume—relative to an optimally efficient system in hours when electricity prices are higher than the average rates, and under-consume in hours when the cost of producing electricity is lower than average rates."[128] Exposure of customers to efficient price signals also has the benefit of increasing price response during periods of scarcity and high prices, which can help moderate generator market power and improve reliability.

When customers have many close substitutes for a particular good, a relatively small price increase will result in a relatively large reduction in how much they consume. For example, if natural gas were a very good substitute for electric power at comparable prices, then even a relatively small increase in the price of electric power could persuade many consumers to switch in part or entirely to natural gas, rather than electricity. To induce those consumers to return to using electricity, electricity prices would not need to fall by very much. However, when there are no close substitutes for electric power, prices may have to rise substantially to reduce consumption in order to restore the balance between the quantity supplied and the quantity demanded.

A substantial body of empirical literature has shown that, even if the retail price of electricity increases relatively quickly and sharply, the short-run consumption of electricity does not decline

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Energy Policy Act of 2005, February 2006 (DOE EPAct Report). The DOE EPAct Report discusses the benefits of demand response in electric power markets and makes recommendations to achieve these benefits.

[126] There is a substantial literature on setting rates based on marginal costs in the electric sector. See for example, M. Crew and P. Kleindorfer, Public Utility Economics. St. Martin's Press: New York, 1979 and B. Mitchell, W. Manning, and J. Paul Acton, Peak-Load Pricing. Ballinger: Cambridge, 1978. Other papers suggest that setting rates based on marginal costs will result in a misallocation of resources (see Borenstein, S., The Long-Run Efficiency of Real-Time Pricing, ENERGY JOURNAL, Vol. 26, No. 3, 2005). Nevertheless, the literature also indicates that marginal cost pricing may result in a revenue shortfall or excess, and standard rate-making practice is to require an adjustment (presumably to an inelastic component) to reconcile with embedded cost-of-service. Various rate structures to accomplish marginal-cost pricing include two-part tariffs (see Viscusi, Vernon, and Harrington, Economics of Regulation and Antitrust, MIT Press, 2000) and allocation of shortfalls to rate classes.

[127] The reduction of cross subsidies can be seen as having both positive and negative implications for society as a whole – depending on one's perspective and whether the cross-subsidy supports publicly acceptable goals – such as rural electrification.

[128] DOE EPAct Report, p. 7

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much. In economic terms it is said that the short-run demand for electricity, with respect to price, does not decline much for many customers. *See* Box 2-3. This inability to substitute other products for electricity in the short run means that changes in supply conditions (price of input fuels, etc.) are likely to cause wider price fluctuations than would be the case if customers could easily reduce their consumption when prices rise. Furthermore, electric power has few viable and economic substitutes for key end-uses such as refrigeration and lighting and thus the consequences for supply shortfalls can be significant.[129] In the long run, this effect may be somewhat muted as, with time, electricity customers may have more ability to adjust their consumption in response to price changes.

Box 2-2
Price Elasticity of Demand

The desire and ability of consumers to change the amount of a product they will purchase when its price increases is known as the price elasticity of demand for that product. The price elasticity of demand is the ratio of the percent change in the quantity demanded to the percent change in price. That is, if a 10 percent price increase results in a 5 percent decrease in the quantity demanded, the price elasticity of demand equals -0.5 (-5%/10%). If the ratio is close to zero demand is considered "inelastic", and demand is more "elastic" as the ratio increases, especially if the ratio is greater than -1. Short-run elasticities are typically lower than long-run elasticities.

[129] Estimates of the total costs in the United States due to August 14, 2003 blackout range between $4 billion and $10 billion. ELCON, The Economic Impacts of the August 2003 Blackout, February 2, 2004.

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Experience in New York, Georgia, California, and other states and pricing experiments have demonstrated that customers have adjusted their consumption, and can be at least somewhat responsive to short-run price changes (*i.e.*, have a non-zero short-run price elasticity of demand). Georgia Power's Real Time Pricing (RTP) tariff option has found that industrial customers who receive RTP based on an hour-ahead market are somewhat price-responsive (short-run price elasticities ranging from approximately -0.2 at moderate prices, to -0.28 at prices of $1/kWh or more). Among day-ahead RTP customers, short-run price elasticities range from approximately -0.04 at moderate prices to -0.13 at high prices. Limited responsiveness to price was also found in the National Grid RTP pricing program.[130]. A critical peak pricing experiment in California in 2004 determined that small residential and commercial customers are price responsive and will make significant reductions in consumption (13 percent on average, and as much as 27 percent when automated controls such as controllable thermostats were installed) during critical peak periods. In addition, the California pilot found that most customers who were placed on the CPP tariffs had a favorable opinion of the rates and would be interested in continuing in the program.[131]

The ability of a customer to respond to prices requires the following conditions: (1) that time-differentiated price signals are communicated to customers, (2) that customers have the ability to respond to price signals (*e.g.*, by reducing consumption and/or turning on an on-site generator), and (3) that customers have interval meters (*i.e.*, so the utility can determine how much power was used at what time and bill accordingly).[132] Most conventional metering and billing systems are not adequate for charging time-varying rates and most customers are not used to considering price changes in making electricity consumption decisions on a daily or hourly basis. There is, however, a significant effort underway to improve metering technology and infrastructure to better facilitate end-use price responsiveness.[133]

2. Supplier Responses Interact with Customer Demand Responses to Drive Production

Generation supply responses are equally important in the theoretical determination of an appropriate equilibrium market price. The extent of supply responses will depend on the cost of

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[130] Goldman, et al., "Does Real-Time Pricing Deliver Demand Response? A Case Study of Niagara Mohawk's Large Customer RTP Tariff," Lawrence Berkeley National Laboratory (Aug. 2004) available at http://drrc.lbl.gov/pubs/54974.pdf. and Hopper, Goldman and Neenan, "Demand response from Day-Ahead Hourly Pricing for Large Customers," 19:3 Electricity Journal 52 (Apr. 2006)

[131] Charles River Associates, Impact Evaluation of the California Statewide Pricing Pilot, Final Report, March 16, 2005, available at http://www.energy.ca.gov/demandresponse/documents/group3_final_reports/2005-03-24_SPP_FINAL_REP.PDF . Customers on a similar CPP program at Gulf Power also have high satisfaction with the program, which incorporates automated response to CPP events.

[132] EEI; PEPCO cautions that many customers, particularly residential and commercial customers, are relatively inflexible in responding to price changes due to constraints imposed by their operations and equipment.

[133] See 6/23/06 comments of the Mercatus Center of George Mason University in response to FERC Docket AD05-17 and U.S. Department of Energy, Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the Energy Policy Act of 2005, February 2006 (DOE EPAct Report).

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increasing or decreasing output. Generally, the longer industry has to adjust to a change in demand, the lower will be the cost of expanding that output. With more time, firms have more opportunity to change their operations or invest in new capacity.

If the cost of increasing production is small, then a relatively small price increase may be enough to encourage existing producers to increase their production levels to provide additional supply in response to increased demand. If the cost of increasing electricity capacity is high, however, existing suppliers will not increase their production without a very strong price signal. In that case, customers would have to pay significantly higher prices to obtain additional supply. Additionally, if suppliers are already producing as much electric power as they can, increased demand can be met only from new capacity, and suppliers must be confident that prices will remain high enough for long enough to justify building a new generating plant.

These supply decisions are complicated because electric power cannot be stored economically, thus there are generally no inventories in electricity markets. Therefore, electricity generation must always exactly match electricity consumption.[134] The lack of inventories means that wholesale demand is completely determined by end-use demand [135]. Moreover, any distant generation must "travel" over a transmission system with its own limiting physical characteristics. [136] Transmission capability is required to allow customers access to distant generation sources. The transmission system is complicated by the fact that the dynamics of the AC transmission grid create network effects and can produce positive externalities (depending on the method used in accounting for transmission costs).[137] That is to say, where a transmission user is not charged for the congestion impacts of his or her use patterns, that user's actions can cause costs to others– costs which the causal party is not obligated to pay. This dynamic can distort the effect of price signals on dispatch efficiencies.

Moreover, aggregate retail demand fluctuates throughout the day, with higher demand during the day than at night. Fluctuating demand means that the transmission operator must have sufficient capacity to equal or exceed customer demand in real-time. Load serving entities (those entities that deliver power to meet demand or "load") must supply or procure sufficient capacity and energy (either in long-term contracts or short-term "spot" market purchases) to meet these varying loads. The costs of generating electricity are also highly variable, leading to wide disparity between the costs of generating electricity from generation plants that operate around-the-clock versus the cost of those that generate only during peak periods.

In any case, a higher price signals a legitimate economic profit opportunity, attracting resources where they are most highly valued. If customer demand decreases in response to rising prices, prices are likely to fall, all else equal. In that circumstance, falling demand signals suppliers to reduce the amount of electric power that they supply. Suppliers will reduce their generation to

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[134] APPA

[135] While the demand for surplus energy in wholesale markets can vary as a function of the cost of owned generation and existing contracts, the ultimate demand for energy is entirely a function of end-use load.

[136] Alcoa

[137] TAPS

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meet the new, lower level of consumer demand, and will not be inclined to consider any new capacity increases.

3. Customer and Supplier Behavior Responding to Price Changes in MarketsIn sum, the combined impact of consumers' and suppliers' responses to changed market conditions should produce a new market equilibrium price. Current prices must change when they create an imbalance between the quantity demanded and the quantity supplied. For example, when demand spikes, short-run prices might have to swing sharply higher to provide incentives for short-run supply increases. However, consumers do not have very many good substitutes for electric power, and suppliers usually cannot increase output instantly or transport distant available generation to increase the quantity supplied to a market. Even if higher prices give consumers and producers incentives to change their behavior, they may have little ability to do so in the short term. Over much longer time frames, however, both consumers and producers have more options to react to higher prices. The result is that long-run price increases usually will be much smaller than the short-run price increases needed to induce additional generation.

C. Comparing the Benefits to the Costs of Restructuring Markets for Electricity

While the shortcomings of cost of service regulation played major a role in the shift towards competitive electricity market structures, some market participants question whether the benefits of this shift outweigh the costs associated with establishing such markets. Indeed, some question whether electricity markets are, by nature, sufficiently competitive to warrant expectations of price reductions.[138] These parties note the cost of operating ISOs and the cost to consumers of market manipulations and failures. Respondents to these concerns suggest that these markets are too new to warrant passing such judgment – they note that these failures may well be a result of ill-advised market designs and they find benefits even in the face of such failures.

As various regulatory bodies considered whether to adopt more competitive markets for electricity, some did conduct formal cost-benefit studies to address this question of the relative benefits of the status quo vs. proposed policy changes. Indeed, the Task Force received many comments identifying, endorsing, or criticizing such studies. It would be a very significant task to fully examine, critique, and draw definitive conclusions from these widely varying studies. The task force did not have the resources or time to take on this task. Instead, we provide the reader with an annotated bibliography of many of these studies and include references to critiques of those studies. This bibliography is attached as Appendix C. We also refer the reader to the results of a recent Department of Energy review of RTO benefit cost studies – see Box 2-3.

[138] American Public Power Association, comments.

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Box 2-3

"A Review of Recent RTO Benefit-Cost Studies: Toward More Comprehensive Assessments of FERC Electricity Restructuring Policies"

By J. Eto, B. Lesieutre, and D. Hale, Prepared for the U.S. Department of Energy, December 2005

This paper provides a review of the state of the art in RTO Cost/Benefit studies and suggests methodological improvements for future studies. The study draws the following conclusions:

In recent years, government and private organizations have issued numerous studies of the benefits and costs of Regional Transmission Organizations (RTOs) and other electric market restructuring efforts. Most of these studies have focused on benefits that can be readily estimated using traditional production-cost simulation techniques, which compare the cost of centralized dispatch under an RTO to dispatch in the absence of an RTO, and on the costs associated with RTO start-up and operation. Taken as a whole, it is difficult to draw definitive conclusions from these studies because they have not examined potentially much larger benefits (and costs) resulting from the impacts of RTOs on reliability management, generation and transmission investment and operation, and wholesale electricity market operation.

Existing studies should not be criticized for often failing to consider these additional areas of impact, because for the most part neither data nor methods yet exist on which to base definitive analyses. The primary objective of future studies should not be to simply improve current methods, but to establish a more robust empirical basis for ongoing assessment of the electric industry's evolution. These efforts should be devoted to studying impacts that have not been adequately examined to date, including reliability management, generation and transmission investment and operational efficiencies, and wholesale electricity markets. Systematic consideration of these impacts is neither straightforward nor possible without improved data collection and analysis.

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CHAPTER 3
COMPETITION IN WHOLESALE ELECTRIC POWER MARKETS

A. Introduction and Overview

Congress required the Task Force to conduct a study of competition in wholesale electric power markets. Wholesale markets involve sales of electric power among generators, marketers, load serving entities (*i.e.*, distribution utilities and competitive retail providers) that ultimately resell the electric power to end-use customers (*e.g.*, residential, commercial, and industrial customers). Prior to the introduction of competition, vertically integrated utilities with excess electric power sold it to other utilities and to wholesale customers such as municipalities and cooperatives that had little or no generating capacity of their own. The Federal Energy Regulatory Commission (FERC) and its predecessor agency (the Federal Power Commission) regulated the prices, terms and conditions of interstate wholesale sales by investor-owned utilities. The desire of wholesale purchasers for access to competitive sources of electric power was a fundamental impetus to the opening of the generation sector to competition.[139]

Effective competition ensures an economically efficient allocation of resources. Congress in the Energy Policy Act of 1992 (EPACT 92) determined that competition in wholesale electric power markets would benefit from two changes to the traditional regulatory landscape: (1) expansion of FERC's authority to order utilities to transmit, or "wheel," electric power on behalf of others over their owned transmission lines; and (2) reduction of entry barriers so additional non-utility entry could occur. The former change permitted wholesale customers to purchase supply from distant generators and the latter change provided customers with competitive alternatives from independent entrants.[140]

As described in Chapter 2, an important component of effective market operation is customer response to prices. The demand for wholesale power, however, is derived entirely from consumption choices at the retail level. The fundamental nature of electric power operations – the inability to store electricity and the need to balance generation and use instantaneously – only intensifies the direct link between wholesale and retail electric power markets. But retail electricity prices are not set in wholesale markets. State regulators set the prices for retail customers. State regulators generally have treated wholesale rates as one input into retail prices. Regulated retail rates may dilute the direct impact of the price of wholesale power on retail prices.[141] Thus, retail consumption decisions have been guided by prices, terms, and conditions that often do not reflect directly the wholesale price to purchase the electric power or the cost

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[139] US v. Otter Tail Power Company, 410 U.S. 366 (1973) (the United States sued a vertically integrated utility for refusal to deal with the Town of Elbow Lake, MI, a town that was seeking alternative sources of wholesale power for a planned municipal distribution system).

[140] See EPACT 92 House Report. H.R. No. 102-474(I) at 138.

[141] See infra Chapter 1.

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generators incurred to produce it. As reviewed in Chapter 2, this disconnect can lead to inefficiencies in the cost of electricity generation leading to higher than necessary end-use prices.

The effects of this regulated price disconnect is heightened by the fact that one of the shortcomings of cost-based rate regulation has been its difficulty in providing incentives for investors to make economically efficient decisions concerning when, where, and how to build new generation. If competition is to allocate resources in an economically efficient manner, customers must have access to a sufficient number of competing suppliers either via transmission, incumbent generation, or from new local generation.[142]

Thus, in examining the success of competition to date, a fundamental question to ask is whether competition in wholesale markets has resulted in sufficient generation supply and transmission to provide wholesale customers with the kind of choice that is generally associated with competitive markets. This is the primary question we attempt to address in this chapter.

In examining this question, we have come to two observations. First, the answer to this question is difficult to derive because each region was at a different regulatory and structural starting point upon Congress's enactment of the Energy Policy Act of 1992. These differences make it difficult to single out the determinants of consumption and investment decisions and thus make it difficult to evaluate the degree to which more competitive markets have influenced such decisions. Even the organized exchange markets have different features and characteristics. For example, some regions already had tight power pools, while others were more disparate in their operation of generation and transmission. Some regions had higher population densities and thus more tightly configured transmission networks than did others. Some regions had access to fuel sources that were unavailable or less available in other regions (*e.g.*, natural gas supply in the Southeast, hydro-power in the Northwest). Some regions operate under a transmission open-access regime that has not changed since the early days of open access in 1996, while other regions have independent provision of transmission services and organized day-ahead exchange markets for electric power and ancillary services.

Second, competition in wholesale electric power markets may not lead to an efficient allocation of resources involving services that prevent cascading network collapse. Economics recognizes that if there are public good aspects to the delivery of a good or service, then regulation may be the best way to ensure the provision of the correct level of the good or service (although in particular circumstances a form of remedy for the problem may be available that is superior to regulation). This concept of network reliability will be helpful in enlightening the discussion on entry and capacity markets later in the chapter.

This chapter discusses the impact of competition for generation supply on the ability of wholesale customers to make economic choices among suppliers and for suppliers to make

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[142] In a 2002 report, the then-named General Accounting Office made a related point, connecting increasing competition to structural changes. U.S. Gen. Accounting Office, GAO-03-271, LESSONS LEARNED FROM ELECTRIC INDUSTRY RESTRUCTURING 21 (2002) ("Increasing the amount of competition requires structural changes within the electric industry, such as allowing a greater number of sellers and buyers of electricity to enter the market").

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economic investment decisions. It also addresses whether and how entry has occurred in several regions with different forms of competition (*e.g.*, the Midwest, Southeast, California, the Northwest, Texas, and the Northeast). This chapter also includes a discussion of how long-term purchase and supply contracts, capital requirements, regulatory intervention, and transmission investment affect supplier and customer decisions. The chapter concludes with observations on various regional experiences with wholesale competition.[143] These observations highlight the trade-offs involved with various policy choices used to introduce competition.

B. Background

Congress enacted the EPACT 92 to facilitate wholesale competition in the electric power industry. One of the stated purposes of the EPACT 92 was "to use the market rather than government regulation wherever possible both to advance energy security goals and to protect consumers."[144] Policy makers recognized that vertically integrated utilities had market power in both transmission and generation – that is they owned all transmission and nearly all generation plants within certain geographic areas. Congress, therefore, enhanced FERC's authority to order utilities, case-by-case, to transmit power for alternative sources of generation supply.

Today, vertically integrated utilities that operate their transmission systems generally offer transmission service under the terms of the standard Open Access Transmission Tariff (OATT) adopted by FERC in Order No. 888. The OATT requires a utility to offer the same level of transmission service, under the same terms and conditions and at the same rates that it provides to itself. Vertically integrated utilities (also referred to here as the transmission provider) offer two types of long-term transmission service under the OATT: network integration transmission service (network service) and point-to-point transmission service. See Box 3-1 for a description of both types of transmission service. For both services, the price has been predictable and stable over the long term.[145]

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[143] The New York State Public Service Commission correctly commented that another metric with which to measure competition is its effect on production efficiencies. The Task Force did not seek to quantify this effect, given the constraints of the Report.

[144] H.R. No. 102-474(I) at 133.

[145] The demand charge for long-term point-to-point transmission service is known in advance. For network service, the transmission customer pays a load ratio share of the transmission provider's FERC-approved transmission revenue requirement. Thus, even if redispatch to relieve transmission congestion occurs and the costs are charged to customers, or expansion is necessary and the costs of the expansion are added to the revenue requirement, the distribution of the costs over the whole system has allowed the charges to individual customers to remain relatively stable. Customers who take either kind of service have a right to continue taking service when their contract expires, although point-to-point customers may have to pay a different rate (up to the maximum rate stated in the transmission provider's tariff) for that service if another customer offers a higher rate.

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Box 3-1
How Transmission Services Are Provided Under the OATT:

OATT contracts can be for point to point (PTP) or "network" transmission service. Network integration transmission service allows transmission customers (e.g., load serving entities) to integrate their generation supply and load demand with that of the transmission provider.

A transmission customer taking network service designates "network resources," which includes all generation owned, purchased or leased by the network customer to serve its designated load, and individual network loads to which the transmission provider will provide transmission service. The transmission provider then provides transmission service as necessary from the customer's network resources to its network load. The customer pays a monthly charge for the basic transmission service, based on a "load ratio share" (*i.e.*, the percentage share of the total load on the system that the customer's load represents) of the transmission-owning and operating utility's "revenue requirement" (*i.e.*, FERC-approved cost-of-service plus a reasonable rate of return).

In addition to this basic charge, some additional charges may be incurred. For example, when a transmission customer takes network service, it agrees to "redispatch" its generators as requested by the transmission provider. Redispatch occurs when a utility, due to congestion, changes the output of its generators (either by producing more or less energy) to maintain the energy balance on the system. If the transmission provider redispatches its system due to congestion to accommodate a network customer's needs, the costs of that redispatch are passed through to all of the transmission provider's network customers, as well as to its own customers, on the same load-ratio share basis as the basic monthly charge.

Also, the transmission provider must plan, construct, operate and maintain its transmission system to ensure that its network customers can continue to receive service over the system. To the extent that upgrades or expansions to the system are needed to maintain service to a network customer, the costs of the upgrades or expansions are included in the transmission-owning utility's revenue requirement, thus impacting the load-ratio share paid by network customers.

Point-to-point transmission service, which is available on a firm or non-firm basis and on a long-term (one year or longer) or short-term basis, provides for the transmission of energy between designated points of receipt and designated points of delivery. Transmission customers that take this kind of service specify a contract path. A customer taking firm point-to-point transmission service pays a monthly demand charge based on the amount of capacity it reserves. Generally, the demand charge may be the higher of either the transmission provider's embedded costs to provide the service, or the incremental costs of any system expansion needed to provide the service. Also, if the transmission system is constrained, the demand charge may reflect the higher of the embedded costs or the transmission provider's "opportunity" costs, with the latter capped at incremental expansion costs.

The comments submitted in response to the Task Force's request raised several concerns as to transmission-dependent customers' access to alternative generator suppliers via OATTs. In particular, some commenters noted that there is a continued possibility of transmission discrimination in their region, and that the ability for transmission suppliers to discriminate can deny transmission-dependent customers access to alternative suppliers.[146] The commenters conclude that transmission discrimination can increase delivery risk because purchasers feared that their transmission transactions might be terminated for anticompetitive reasons by their

[146] APPA, TAPS. See also Midwest Stand Alone Transmission Companies.

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vertically integrated rival, were they to purchase generation from a generator who is not affiliated with the transmission provider. The fact that electricity cannot be stored economically and electricity demand is very inelastic in the short term heightens the ill- effects of this delivery risk.

One response to this risk is to turn over operation of the transmission grid in a region to an independent operator, like the ones that now operate in New England, New York, the Mid-Atlantic, Texas, and California ("organized markets"). With the market design in these regions, there is no risk that a wholesale customer will not be able to deliver power to its retail customers (although they remain exposed to price risk).[147] See Box 3-2 for a discussion of how transmission is provided in organized wholesale markets.

[147] Prior to wholesale competition, several of the regions listed had "power pools" of utilities that undertook some central economic dispatch of plants and divided the cost savings among the vertically integrated utility members.

DOJ_NMG_ 0165206

Box 3-2
How Transmission is Priced in an ISO or RTO

ISOs and RTOs (hereinafter RTOs) provide transmission service over a region under a single transmission tariff. They also operate organized electricity markets for the trading of wholesale electric power and/or ancillary services. Transmission customers in these regions schedule with the RTO injections and withdrawals of electric power on the system, instead of signing contracts for a specific type of transmission service with the transmission owner under an OATT.

The pricing for transmission service is substantially different in these regions than under the OATT. RTOs generally manage congestion on the transmission grid through a pricing mechanism called Locational Marginal Pricing (LMP). Under LMP, the price to withdraw electric power (whether bought in the exchange market or obtained through some other method) at each location in the grid at any given time reflects the cost of making available an additional unit of electric power for purchase at that location and time. In other words, congestion may require the additional unit of energy to come from a more expensive generating unit than the one that cannot be accessed due to the system congestion. In the absence of transmission congestion, all prices within a given area and time are the same. However, when congestion is present, the prices at various locations typically will not be the same, and the difference between any two locational prices represents the cost of transmission system congestion between those locations.

Because congestion on the grid changes constantly, a transmission customer is unable to determine beforehand the price for electric power at any location. To reduce this uncertainty, RTOs make a financial form of transmission rights available to transmission customers, as well as other market participants. Generally known as financial transmission rights (FTRs), they confer on the holder the right to receive certain congestion payments. Generally, an FTR allows the holder to collect the congestion costs paid by any user of the transmission system and collected by the RTO for electric power delivered over the specific path. In short, if a transmission customer holds an FTR for the path it takes service over, it will pay on net either no congestion charges (if the FTR matches the path exactly) or less congestion charges (if the FTR partially matches), providing a financial "hedge" against the uncertainty.

In general, FTRs are now available for one-year terms (or less), and are allocated to entities that pay access charges or fixed transmission rates. Pursuant to EPACT 05, FERC has begun a rulemaking to ensure the availability of long-term FTRs.

In regions with RTOs, wholesale electricity can be bought and sold through the use of negotiated bilateral contracts, through "standard commercial products" available in all regions, and through various products offered by the organized exchange market. For bilateral contracts, the contract can be individually negotiated and have terms and conditions unique to a single transaction. Standard products are available through brokers and over-the-counter (OTC) exchanges such as the NYMEX and Intercontinental Exchange (ICE).[148] Standard products have a standard set of specifications so that the main variant is price. Finally, there are organized exchange markets operated by the RTOs. In addition to offering transmission services, these organized exchange

[148] Companies can also limit their exposure to price swings through financial instruments rather than contracts for physical delivery of electricity. Such contracts are essentially a bet between two parties as to the future price level of a commodity. If the actual price for power at a given time and location is higher than a financial contract price, Party A pays Party B the difference; if the price is lower, Party B pays Party A the difference. In fact, in the United States electricity markets, such agreements are sometimes called "contracts for differences.." Purely financial contracts involve no obligation to deliver physical power. In this report, we discuss contracts for physical delivery rather than financial contracts, unless otherwise noted.

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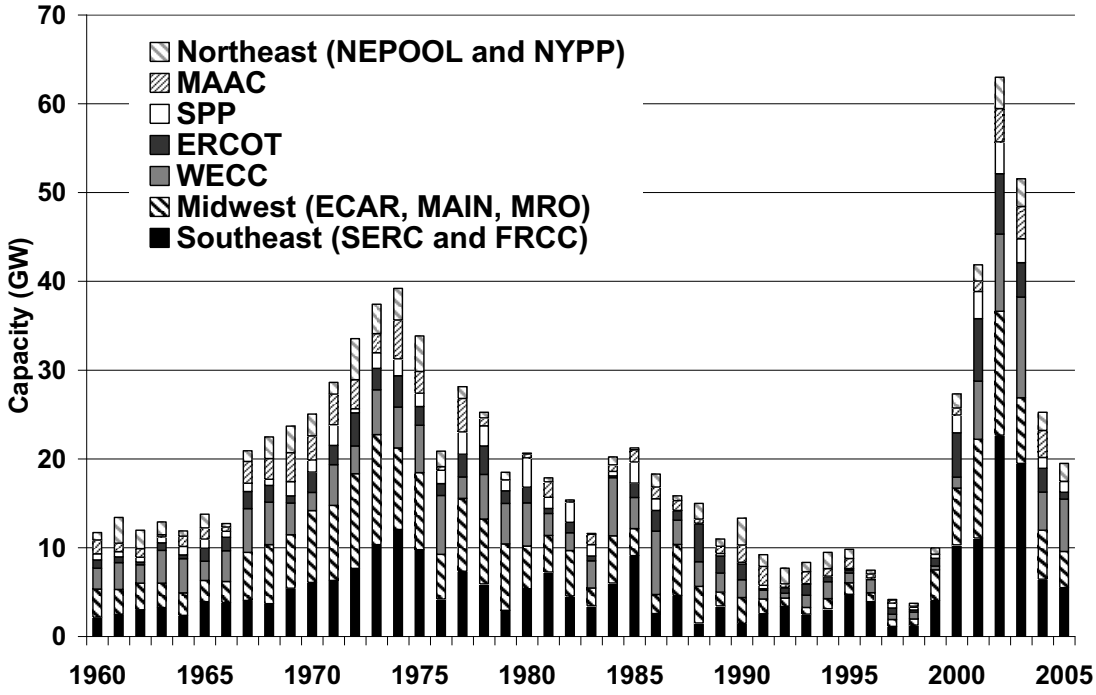
markets offer various products including electric power and ancillary services. Electric power markets typically involve sales of electric power in both real-time and day-ahead markets. Ancillary services include various categories of generation reserves such as spinning and non-spinning reserves in addition to Automatic Generation Control (AGC) for frequency control.

The question remains, however, whether the price signals described in Chapter 2 have functioned to elicit the consumption and investment decisions that were expected to occur with wholesale market competition? The next section reviews generation entry in different regions.

C. Generation Investment Has Varied by Region since Competition Increased in Wholesale Electric Power Markets

Since the adoption of open access transmission and the growth of competition, the amount of new generation investment has varied significantly by region. Figure 3-1 shows the overall pattern of new investment, broken down by region. A substantial amount of new investment has occurred in the Southeast, Midwest, and Texas. Other regions have not experienced as much investment. Wholesale customers obtain transmission services under different pricing formats in each region. Moreover, the regions that operate exchange markets for electric power and ancillary services use different forms of locational pricing, price mitigation, and capacity markets.

Figure 3-1: U.S. Electric Generating Capacity Additions (1960 – 2005)



Source: FERC Analysis of Platts PowerDat Data

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These regional differences provide some insight into the impact of different policy choices on the challenge to create markets with sufficient supply choices to support competition and to allocate resources efficiently.

1. Midwest

Wholesale Market Organization: In 2004, the Midwest RTO began providing transmission services to wholesale customers in its footprint. On April 1, 2005, the MISO commenced its organized electric power market operations. Prior to this time, wholesale customers obtained transmission under each utility's OATT and there were no centralized electric power exchange markets.

New Generation Investment: The Midwest experienced a wholesale price spike during the summer of 1998.[149] An increase in demand due to unusually hot weather combined with unexpected generation outages created a rapid spike in wholesale prices. A significant amount of new generation was built in response to the price spike as shown in Table 3-1. For example, from January 2002 through June 2003, the Midwest added 14,471 MW in capacity.[150]

Most of the new generation was gas-fired, even though the region as a whole relies primarily on coal-fired generation.[151] More- recent entry has in fact been coal fired, in part because of rising natural gas prices.[152] The results of this entry and the subsequent drop in wholesale power prices have included: (1) merchant generators in the region declaring bankruptcy; and (2) vertically-integrated utilities returning certain generation assets from unregulated wholesale affiliates to rate-base.

2. Southeast

Wholesale Market Organization: Wholesale customers in the region obtain transmission under each utility's OATT (*e.g.*, Entergy or Southern Companies). There are no centralized electric power markets specific to the region.

New Generation Investment: The Southeast's proximity to natural gas sources in the Gulf of Mexico and pipelines to transport that natural gas have made natural gas a popular fuel choice for those building plants in the region. The Southeast has seen considerable new generation construction as shown in Figure 3-1. More than 23,000 MW of capacity were added in the

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[149] Fed. Energy Regulatory Comm'n, Staff Report to the Fed. Energy Regulatory Comm'n on the Causes of Wholesale Electric Pricing Abnormalities in the Midwest During June 1998 (1998).

[150] FERC State of the Markets Report 2004 at 109.

[151] FERC State of the Markets Report 2004 at 50.

[152] FERC State of the Markets Report 2005 at 77.

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Southern control area between 2000 and 2005,[153] and several generation units owned by merchants or load-serving entities have been built in the Carolinas in the past few years.

A significant portion of the new generation in the Southeast was non-utility merchant generation. A number of merchant companies that built plants in the 1990s have sought bankruptcy protection. Often, the plants of the bankrupt companies have been purchased by local vertically-integrated utilities and cooperatives, such as Mirant's sale of its Wrightsville plant to Arkansas Electric Cooperative Corporation and NRG's sale of its Audrain plant to Ameren.[154] Even apart from bankruptcies, some independent power producers have withdrawn from the region.

3. California

Wholesale Market Organization: The California ISO began operation in 1998 to provide transmission services. Concurrently, a separate Power Exchange (PX) operated electric power exchanges. Subsequent to the 2000-01 energy crisis, California dissolved the PX.

New Generation Investment: Even prior to the California energy crisis, California was dependent on imported electric power from neighboring states. Much of the generation capacity for Southern California was built a substantial distance away from the population it serves, making the region heavily-dependent upon transmission. In the past few years, much of the generation in California has operated under long-term contracts negotiated by the State during the energy crisis.[155] Since 2000-01, demand has increased in California, but construction of local generation has not kept pace. Over 6,000 MW of new generation capacity has entered California in 2002-03, but very little of it was built in congested, urban areas like San Francisco, Los Angeles and San Diego.[156] The commenters acknowledged that significant new generation has been announced or built in California in the past few years, but most of the projects have been in Northern California.[157] In the past five years, transmission investment has improved links between Southern and Northern California and accessible generation investment in the Southwest more generally has increased.

4. The Northeast

a. New England

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[153] Southern Companies.

[154] See FITCH RATINGS, WHOLESALE POWER MARKET UPDATE (Mar. 13, 2006), available at http://www.fitchratings.com/corporate/sectors/special_reports.cfm?sector_flag=2&marketsector=1&detail=&body_content=spl_rpt.

[155] See supra, Chapter 1, for a more extensive discussion of the Western Energy Crisis of 2000 - 2001.

[156] FERC State of the Markets Report 2005 at 69; FERC State of the Markets Report 2004 at 41-43.

[157] California ISO.

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Wholesale Market Operation: The New England ISO (ISO-NE) provides transmission services as well as operating a centralized electric power market. Under the electric power pricing mechanism adopted by the New England ISO, certain units used to maintain local resource adequacy must bid into the energy markets at marginal costs under must-run reliability contracts. The fixed costs of these high-priced units are recovered from users in the pertinent reliability zone.

New Generation Investment: Much of the generation in New England has been built in less populated areas of the region, such as Maine, but much of the demand for power is in southern New England. From January 2002 through June 2003, ISO-NE added 4159 MW in capacity.[158] Capacity additions in 2004 were less than in the two previous years. In 2004, four generation projects came on line. Generation retirements in 2004 totaled 343 MW, of which 212 MW are deactivated reserves.

Demand growth in the organized New England markets has led to "load pockets," areas of high population density and high peak demand that lack adequate local supply to meet demand and for which transmission congestion prevents use of distant generation units to meet local demand. These pockets have not seen entry of generation to meet that demand. Transmission has not always been adequate to bridge this gap. In general, New England needs new generation in the congested areas of Boston and Southwest Connecticut or increased transmission investment to reduce congestion, though a significant transmission upgrade is expected to go into operation in the Boston area during the summer of 2006.

Moreover, the need for more supply in these load pockets historically has not been reflected in high locational prices that would signal investment.[159] In 2003, ISO-NE has recognized this issue and in 2003, it implemented a temporary measure known asas the Peaking Unit Safe Harbor (PUSH). PUSH enabled) mechanism, which was intended to enable greater cost recovery for high-cost, low-use units in designated congestion areas, although. PUSH units still may not bewere not, however, able to recover completely all their fixed costs.[160] ISO-NE also seeks to establish a locational As a replacement, in June 2006, FERC approved a settlement establishing a forward capacity productmarket in New England that will project the demand three years in advance and hold annual auctions to purchase power resources for the region's needs. This proposal is part of a settlement pending before FERC. ISO-NE originally proposed a different market model called Locational Installed Capacity (LICAP). That model was opposed by a variety of stakeholders.[161].[162] The forward capacity market includes a locational

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[158] FERC State of the Markets Report 2004 at 109.

[159] FERC State of the Markets Report 2005 at 83.

[160] FERC State of the Markets Report 2004 at 36.

[161] Press Release, ISO New England, ISO New England Announces Broad Stakeholder Agreement on New Capacity Market Design (Mar. 6, 2006), available at http://www.iso-ne.com/nwsiss/pr/2006/march_6_settlement_filing.pdf.

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component to account for areas where transmission congestion limits the ability to import capacity necessary to meet local demand.

b. New York

Wholesale Market Operation: The New York ISO (NYISO) provides transmission services as well as operating a centralized electric power market. On the one hand, NYISO uses price mitigation to guard against wholesale price spikes but, on the other, it allows high cost generators to be included in marginal locationlocational prices.

New Generation Investment: New York has traditionally built generation in less populated areas and moved it to more populated areas. For example, the New York Power Authority was responsible for getting hydroelectric power from the Niagara Falls area into more congested areas of the state. From January 2002 through June 2003, NYISO added 316 MW in capacity.[163] Three generating plants with a total summer capacity of 1,258 MW came on line in 2004. Three plants totaling 170 MW retired in 2004.[164]

Transmission constraints are therefore a concern, and currently, transmission constraints in and around New York City limit competition in the city and lead to more use of expensive local generation, thereby raising prices. NYISO uses price mitigation that seeks to avoid mitigating high prices that are the result of genuine scarcity, though NYISO has separate mitigation rules for New York City. In an effort to lessen distortion of market signals, NYISO includes the cost of running generators to serve load pockets in its calculation of locational prices. Thus, potential entrants get a more accurate price signal regarding investment in the load pocket.

In a further effort to spur new capacity construction, NYISO also sets a more generous "reference price" for new generators in their first three years of operation.[165] (Bids (bids above the reference prices may trigger price mitigation.)).[166] Unlike New England, New York is seeing new generation investment in aat least one congested area. Approximately 1,000 MW of new capacity is planned to enter into commercial operation in the New York City area in 2006. The fact that New York is better able than New England to match locational need with investment is likely due to clearer market price signals in New York, both in energy markets and capacity markets. In its comments, however, the Public Utility Law Project of New York contends that it

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[162] Devon Power LLC, 115 FERC ¶ 61,340 (2006); Press Release, ISO New England, ISO New England Announces Broad Stakeholder Agreement on New Capacity Market Design (Mar. 6, 2006), available at http://www.iso-ne.com/nwsiss/pr/2006/march_6_settlement_filing.pdf.

[163] FERC State of the Markets Report 2004 at 109.

[164] FERC State of the Markets Report 2005 at 97.

[165] FERC State of the Markets Report 2004 at 39.

[166] FERC State of the Markets Report 2004 at 39.

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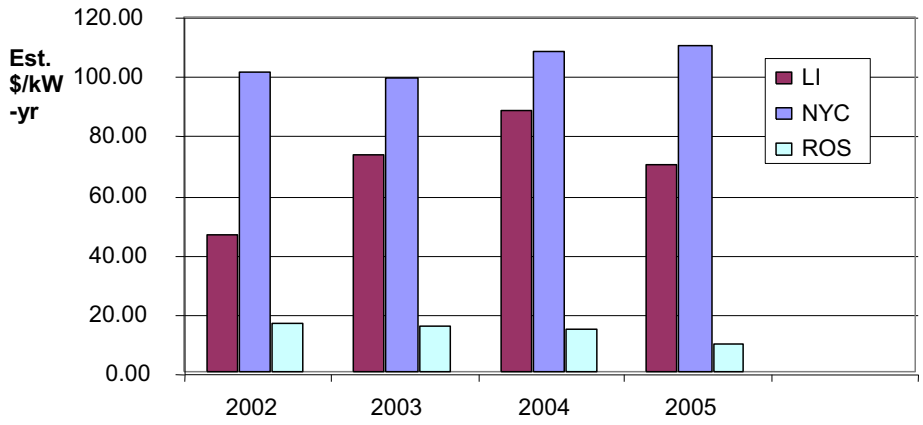
is public power agencies and traditional investor-owned utilities, not merchants responding to NYISO prices, that have invested in new infrastructure.

The effect of load pockets on prices are shown in Figure 3-2, which estimates the annual value of capacity based on weighted average results of three types of auctions run by the NYISO. Capacity prices are higher in the tighter supply areas of NYC and Long Island.

Figure 3-2: Estimate of Annual NY Capacity Values - All Auctions



c. PJM

Wholesale Market Operation: The PJM Interconnection provides transmission services as well as operating a centralized electric power market. PJM has both energy and capacity markets. PJM's energy market has locational prices. FERC recently approved the concept of PJM's proposal to shift to locational prices in its capacity markets.[167] The locational capacity market has not yet been implemented.

New Generation Investment: PJM capacity includes a broad mix of fuel types. Recent PJM expansion into new territories has added significant low-cost coal resources to PJM's overall generation mix, though NRECA in its comments notes that other parts of PJM lack sufficient generation as a result of inadequate capacity additions. From January 2002 through June 2003, PJM added 7458 MW in capacity.[168] Capacity additions in 2004 were lower than in the two previous years, especially considering that PJM added significant new territory in 2004. In 2004,

[167] Initial Order on Reliability Pricing Model, 115 FERC ¶ 61,079, *3 (2006).

[168] FERC State of the Markets Report 2004 at 109.

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4,202 MW of new generation was completed in PJM. During the year, 78 MW of generation was mothballed and 2,742 MW was retired.[169]

Like other areas, PJM depends on transmission to move power from the areas of low-cost generation to the areas of high demand. In PJM, the flow is generally from the western part of PJM, an area with significant low-cost coal-fired generation, to eastern PJM. The easternmost part of PJM is limited by a set of transmission lines, which at times limit the deliverability of generation from the west. This means that higher-cost generation must be run in the eastern region to meet local demand. Within the eastern region, there are also areas of still-more-limited transmission. As a result of these kinds of transmission limitations, generation in some areas that is not economical to run is being given reliability must-run (RMR) contracts to prevent it from retiring and possibly reducing local reliability.[170] Recently, three utilities in PJM have proposed major transmission expansions to increase capacity for moving power into eastern parts of PJM.[171] In its comments PJM contends that it is experiencing a "robust" level of new transmission investment for reliability upgrades.

5. Texas

Wholesale Market Operation: The Electric Reliability Council of Texas (ERCOT) manages the scheduling of power on an electric grid consisting of about 77,000 megawatts of generation capacity and 38,000 miles of transmission lines. ERCOT also manages financial settlement for market participants in Texas's deregulated wholesale bulk power and retail electric market. ERCOT is regulated by the Public Utility Commission of Texas. ERCOT is generally not subject to FERC jurisdiction because it is not integrated with other electric systems, *i.e.*, there is not interstate electric transmission. ERCOT is the only market in which regulatory oversight of the wholesale and retail markets is performed by the same governmental entity.

For each year, ERCOT determines a set of transmission constraints within its system which it deems Commercially Significant Constraints (CSCs). Once approved by the ERCOT Board, the CSCs and the resulting Congestion Zones are used by the ERCOT dispatch process for the next year. In 2005, ERCOT has six CSCs and five Congestion Zones. When the CSCs bind, ERCOT

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[169] FERC State of the Markets Report 2005 at 112.

[170] Id. at 188.

[171] American Electric Power proposes to build a new 765-kilovolt (kV) transmission line stretching from West Virginia to New Jersey, with a projected in-service date of 2014. AEP Interstate Project Summary, available at http://www.aep.com/newsroom/resources/docs/AEP_InterstateProjectSummary.pdf. Allegheny Power proposes to construct a new 500 kV transmission line, with a targeted completion date of 2011, which will extend from southwestern Pennsylvania to existing substations in West Virginia and Virginia and continue east to Dominion Virginia Power's Loudoun Substation. Allegheny Power Transmission Expansion Proposal, available at http://www.alleghenypower.com/TrAIL/TrAIL.asp. More recently, Pepco has proposed to build a 500-kv transmission line from Northern Virginia, across the Delmarva Peninsula and into New Jersey.

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economically dispatches generation units bid against load within each zone. To keep the system in balance in real time, ERCOT issues unit-specific instructions to manage Local (intrazonal) Congestion, then clears the zonal Balancing Energy Market. The balancing energy bids from all the generators are cleared in order of lowest to highest bid.[172]

At least one study argues that when there is local congestion, local market power is mitigated in ERCOT by ad hoc procedures that are aimed at keeping prices relatively low while maintaining transmission flows within limits. As a result, prices may be too low when there is local scarcity. In particular, prices may not be high enough to attract efficient new investment to provide long-term solutions to local market power problems. It is difficult for new entrants to contest such local markets, so that the local monopoly positions are essentially entrenched.[173]

New Generation Investment: In the late 1990s, developers added more than 16,000 megawatts of new capacity to the Texas market.[174] Certain aspects of the Texas market may make it attractive to new investment. Texas consumers directly pay (via their electricity bills) for updates to the transmission system required by the addition of new plants. In other states, FERC often requires developers to pay for system upgrades upfront and recoup the cost over time through credits against their transmission rates.[175] In addition, the Texas PUC plans to implement an energy-only resource adequacy market design in the fall of 2006 that requires incrementally raising the energy offer caps over time. More than 13,000 MWs of new capacity, scheduled to be online in the 2009-2011 timeframe, has been announced.[176]

Hybrid Wholesale/Retail Demand Response: ERCOT has a competitive market-based demand response program that allows competitive retailers, along with willing customers, to respond to market-based price signals. Under the Load Acting As a Resource Program ("LAAR"), customers bid demand response into ERCOT's ancillary services market for responsive reserve through their scheduling agent.[177] If needed by ERCOT, the load is then paid the market-clearing price for responsive reserve. The LAAR program is fully subscribed at 1,150 MWs.

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[172] ERCOT Response to the DOE Question Regarding the Energy Policy Act 2005, available at http://www.oe.energy.gov/document/ercot2.pdf.

[173] Ross Baldick and Hui Niu, Lessons Learned: The Texas Experience, available at http://www.ece.utexas.edu/~baldick/papers/lessons.pdf.

[174] U.S. Gen. Accounting Office, GAO-02-427, Restructured Electricity Markets, Three States' Experiences in Adding Generating Capacity 9 (2002).

[175] Id. at 19.

[176] Public Utility Commission of Texas.

[177] For more information regarding LAAR, *see* http://www.ercot.com/services/programs/load/laar/

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6. The Northwest

Wholesale Market Organization: Wholesale customers obtain transmission service through agreements executed pursuant to individual utility OATTs. There are no centralized exchange markets specific to the region, but there is an active bilateral market for short-term sales within the Northwest and to the Southwest and California which make use of centralized electronic exchange platforms (such as ICE). Several trading hubs with significant levels of liquidity are sources of price information. Multiple attempts to establish a centralized Northwest transmission operator have proven unsuccessful for a variety of reasons, including difficulties in applying standard restructuring ideas to a system dominated by cascading (i.e., interdependent nodes) hydroelectric generation and difficulties in understanding the potential cost shifts that might result in restructuring contract-based transmission rights.

New Generation Investment: The Northwest's generation portfolio is dominated by hydroelectric generation, which comprises roughly half of all generation resources in the region on an energy basis.[178] The remaining generation derives primarily from coal and natural gas resources, with smaller contributions from wind, nuclear and other resources. The hydroelectric share of generation has decreased steadily since the 1960s.

The Northwest's hydroelectric base allows the region to meet almost any capacity demands required of the region – but the region is susceptible to energy limitations (given the finite amount of water available to flow through dams). This ability to meet peak demand buffers incentives for building new generation, which might be needed to assure sufficient energy supplies during times of drought because in three years out of four, hydro generation can displace much of the existing thermal generation in the Northwest. There has, however, been generation addition in the past years to meet load growth and to attempt to capitalize on high-prices during the Western energy crisis of 2001-02. Due to high power purchase costs during this crisis, some utilities have added thermal resources as insurance against drought-induced energy shortages and high prices. Altogether, over 3800 MWs of new generation has been added to the Northwest Power Pool since 1995 – 75% of that was commissioned in 2001 or later.

D. Factors that Affect Investment Decisions in Wholesale Electric Power Markets

The Task Force examined comments on how competition policy choices have affected the investment decisions of both buyers and sellers in wholesale markets. A number of issues emerged including the difficulty of raising capital to build facilities that have revenue streams that are affected by changing fuel prices, demand fluctuations and regulatory intervention and a perceived lack of long term contracting options. Some comments to the Task Force assert that significant problems still exist in these markets, particularly steep price increases in some locations without the moderating effect of long-term contracting and new construction.[179] In

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[178] For a complete discussion of generation characteristics of the Northwest, *see* NW. POWER & CONN. COUNCIL, THE FIFTH NORTHWEST POWER AND CONSERVATION PLAN,, Ch. 2 (2005), available at http://www.nwcouncil.org/energy/powerplan/plan/Default.htm

[179] ELCON; NRECA; APPA.

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some markets, the problem is that prices are so low as to discourage entry by new suppliers, despite growing need.[180] Overall, the Task Force identified seven factors that affect investment decisions in wholesale power markets.

1. Long-Term Purchase Contracts – Wholesale Buyer Issues

Many wholesale buyers suggested that they had sought to enter into long-term contracts but found few or no offers.[181] The Task Force attempted to determine whether the facts supported these allegations by examining 2004-05 data collected by FERC through its Electric Quarterly Reports for three regions – New York, the Midwest, and the Southeast. Appendix E contains this analysis. Although not conclusive because of data limitations described in Appendix E, the analysis showed that contracts of less than one-year dominated each of the three regional markets examined and that in two of the markets, longer contract terms are associated with lower contract prices on a per MWh basis.

Three reasons may exist to explain the perceived lack of ability to enter long-term purchase power contracts.[182] First, the APPA commented that its members in RTO regions who attempt to procure power under long-term bilateral arrangements have found it difficult to arrange contracts with base-load and mid-merit generators at prices that reflect their long-term total cost structure. These generators, the APPA members assert, would rather sell in the exchange markets and obtain the market-clearing price, which may be higher than their long-term total costs at various times. Base-load and mid-merit generators may see relatively high profits when gas-fueled generators are the marginal units, particularly when natural gas prices rise. Box 3-2 describes how prices are set in organized exchange markets. Natural gas-fueled generators in a uniform price auction may see lower profits as their fuel costs rise, to the extent other generation becomes relatively more economical.[183] Stated another way, when natural gas units set the market price, these units may recover only a small margin over their operating costs, while nuclear and coal units recover larger margins. In contrast, the competitive model says that if long-term prices are greater than long-term costs then entry will occur. In fact, recent proposals for new generation show a significant number of proposals to build base-load and mid-merit generation. In addition, wholesale customers can invest in their own generation projects – either directly or through affiliates or joint ventures with other interested parties – if they are dissatisfied with the terms offered by incumbent suppliers.[184]

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[180] E.g., PJM; EPSA.

[181] ELCON.

[182] In competitive markets, customers also have the ability to build their own generation facility if they are unable to obtain the long-term purchase contracts that they seek.

[183] See, e.g., Public Advocate's Office of Maine, National Association of State Utility Consumer Advocates.

[184] The July 2006 Energy Velocity database shows that of the 165163 MW of generation that is permitted, proposed, application pending or having a feasibility study performed, 110 964 MW, about 2/3, is nuclear, combined cycle, coal-fired steam or integrated coal gasification technology (generation types typically considered base-load or mid-merit.)

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In addition, the very competitiveness of these markets cannot be assumed. For example, over ten years ago, FERC requested comments on a wholesale "PoolCo" proposal, which was the predecessor entity to today's organized electricity market with open transmission access.[185] At the time, the Department of Justice generally supported the emerging market form but warned:

> The existence of a PoolCo cannot guarantee competitive pricing, since there may be only a small number of significant sellers into or buyers from the pool. The Commission should not approve a PoolCo unless it finds that the level of competition in the relevant geographic markets would be sufficient to reasonably assure that the benefits of eliminating traditional rate regulation exceed the costs.[186]

The fact that the market-clearing price in organized exchange markets may be established by a subset of generators depending upon demand and transmission congestion heightens the competitiveness concern in the organized markets. At one end, generators with high costs do not have much impact on the market clearing prices when there is low demand and low transmission congestion, and conversely, generators with low costs do not have much impact on the market-clearing prices when there is high demand and high transmission congestion. There is a wide-range of market-clearing prices between these two end points based on the diversity of generator costs available in each region.[187] Indeed, some commenters specifically cited to recent studies of the electric industry that argue that a larger number of suppliers are needed to sustain competitive pricing in electricity markets than are needed for effective competition in other commodities.[188]

Second, the perceived lack of long-term purchase contracts may be due to limited trading opportunities to hedge these long-term commitments. Long-term contracts in other commodities are often priced with reference to a "forward price curve." A forward price curve graphs the price of contracts with different maturities. The forward prices graphed are instruments that can be used to hedge (or limit) the risk that market prices at the time of delivery may differ from the price in a long-term contract. In a market with liquid forward or futures contracts, parties to a long-term contract can buy or sell products of various types and durations to limit their risk due to such price differences. Currently, liquid electricity forward or futures markets often do not

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[185] Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-000.

[186] Comments of the U.S. Department of Justice, Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-00 filed March 2, 1995 at p. 6. See also Reply Comments of the U.S. Department of Justice, Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-00 filed April 3, 1995.

[187] See Comment of the Federal Trade Commission. Docket No. RM-04-7-000 (Jul. 16, 2004) at 7-8, available at http://www.ftc.gov/os/comments/ferc/v040021.pdf.

[188] APPA, Carnegie Mellon.

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extend beyond two to three years.[189] In some markets, one-year contracts are the longest products generally available; in markets where retail load is being served by contracts of fixed durations, such as the three-year obligations in New Jersey and Maryland, contracts for the duration of that period are slowly growing in number. But the relative lack of liquidity may discourage parties from signing long-term contracts, because they lack the ability to "hedge" these longer-term obligations.

Third, the availability of long-term purchase contracts depends on the availability and certainty of long-term delivery options. Particularly in organized markets, transmission customers have argued that the inability to secure firm transmission rights for multiple years at a known price introduces an unacceptable degree of uncertainty into resource planning, investment and contracting.[190] They report that this financial uncertainty has hurt their ability to obtain financing for new generation projects, especially new base-load generation.

Congress addressed this issue of insufficient long-term contracting in the context of RTOs and ISOs in EPACT05. In particular, section 1233 of EPACT05 provides that:

> [FERC] shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, <u>and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs</u>.[191]

To implement this provision in RTOs and ISOs, FERC adopted new rules regarding FTRs in July 2006. The rules would require RTOs and ISOs to offer long-term firm transmission rights. FERC did not specify a particular type of long-term firm transmission right, but instead established guidelines for the design and administration of these rights, such as the length of terms the rights should have and the allocation of those rights to transmission customers.

2. <u>Long-Term Supply Contracts – Generation Investment Issues</u>

Commenters cited the certainty of long-term contracts as a critical requirement for obtaining financing for new generators.[192] These contracts, however, are vulnerable to certain regulatory risks. First, contracts are subject to regulation by FERC, and a party to a contract can ask FERC

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[189] Nodir Adilov, <u>Forward Markets, Market Power, and Capacity Investment</u> (Cornell Univ. Dep't of Econ. Job Mkt. Papers, 2005), <u>available at</u> http://www.arts.cornell.edu/econ/na47/JMP.pdf.

[190] APPA, TAPS.

[191] Pub. L. No. 109-58, § 1233, 119 Stat. 594, 958 (2005) (emphasis added).

[192] Constellation, Mirant.

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to change contract prices and terms, even if the specific contract has been approved previously.[193] For example, in 2001-2002 several wholesale purchasers of electric power requested that FERC modify certain contracts entered into during the California energy crisis. The customers alleged that problems in the California electricity exchange markets had caused their contracts to be unreasonable. The sellers argued that if FERC overrides valid contracts, market participants would not be able to rely on contracts when transacting for power and managing price risk. FERC declined to change the contracts.[194] FERC cited its obligation to respect contracts except when other action is necessary to protect the public interest.[195]

A second type of regulatory uncertainty involving bankruptcy may limit future market opportunities for merchant generators and, thus, reduce their ability to raise capital. In recent years, several merchant generators (NRG, Mirant and Calpine) have sought to use the bankruptcy process to break long-term power contracts.[196] These efforts, when successful, leave counterparties facing circumstances that they did not anticipate when they entered into their contracts. This risk may create an additional incentive to favor construction of generation by load serving entities or purchase from utility affiliates over wholesale purchases from merchant generators.[197] These disputes have spawned conflicting rulings in the courts. In particular, these cases have centered on separate, but intertwined, issues: first, where jurisdiction over efforts to end power contracts properly lies, as between FERC and the bankruptcy courts and to what extent courts may enjoin FERC from acting to enforce power contracts; and second, what standard applies to such efforts (that is, what showing must a party make to rid itself of a contract). As FERC and the courts have only recently begun to consider these questions, the law remains unsettled, as do parties' expectations.

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[193] In December 2005, FERC proposed to adopt a general rule on the standard of review that must be met to justify proposed modifications to contracts under the Federal Power Act and the Natural Gas Act. Standard of Review for Modifications to Filed Agreements, 113 FERC ¶ 61,317 (2005) (Proposed Rule). Specifically, FERC proposed that, in the absence of specified contractual language, a party seeking to change a contract must show that the change is necessary to protect the public interest. FERC explained that its proposal recognized the importance of providing certainty and stability in energy markets, and helped promote the sanctity of contracts. A final rule is pending.

[194] Nevada Power Company v. Enron, 103 FERC ¶ 61,353, order on reh'g, 105 FERC ¶ 61,185 (2003); Public Utilities Commission of California v. Sellers of Long Term Contracts, 103 FERC ¶ 61,354, order on reh'g, 105 FERC ¶ 61,182 (2003); PacifiCorp v. Reliant Energy Services, Inc., 103 FERC ¶ 61,355, order on reh'g, 105 FERC ¶ 61,184 (2003).

[195] See Northeast Utilities Service Co., *v FERC*, 55 F.3d 686, 689 (1st Cir. 1995).

[196] See Howard L. Siegel, The Bankruptcy Court vs. FERC- The Jurisdictional Battle, 144 PUB. UTIL. FORTNIGHTLY 34 (2006).

[197] Another factor creating a potential preference for self-built generation as opposed to long-term purchases is the treatment by some credit rating agencies of power purchase contracts as imputed debt. If a utility's self-built generation is treated as an asset but long-term purchase contracts are treated as imputed debt, it may cause utilities and state regulators to favor constructing and owning over purchasing. See EPSA.

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A third type of regulatory uncertainty concerns the regulated retail service offerings in states with retail competition.[198] The uncertainty of how much supply a distribution utility will need to satisfy its customers due to customer switching that can occur in retail markets can prevent or discourage those utilities from signing long-term contracts.[199] The extent of this disincentive is unclear if competitive options are available for distribution utilities to purchase needed supply or sell excess supply.

A fourth type of regulatory uncertainty is related to a general expectation of institutional instability in electricity regulation. Market participants sometimes argue that market rules and institutions change so frequently that current rules and trading mechanisms cannot be counted on – this can serve to deter new entry.[200] But, at the same time, many market participants continue to advocate changes in regulatory policy, even long-settled policy.

3. Risk and Reward in the Face of Price and Cost Volatility – Capital Requirements

New generation construction in wholesale markets is also a function of the ability of a company to acquire capital, either from internal sources or external capital markets. If a company can acquire the necessary capital it can build. There is no federal regulation of entry, and most states that have permitted retail competition have eliminated any "need-based" showing to build a generation plant.

Private capital has generally funded the electric power transmission network in the United States. Under traditional cost-base rate regulation, utility investment decisions were based in part on the promise of a regulated revenue stream with little associated risk to the utility. The ratepayers often bore the risk. Money from the capital markets was generally available when utilities needed to fund new infrastructure. One significant problem, however, was that regulators had limited ability to ensure that utilities spent their money wisely.[201] Regulatory disallowances of imprudent expenditures are viewed by investors as regulatory risk. The use of Integrated Resource Planning processes with opportunities for public and regulator participation in advance of resource procurement decisions by regulated utilities is believed by some to reduce the risks of later regulatory disallowances.[202]

In competitive markets, projects obtain funding based on anticipated market-based projections of costs, revenues and relevant risks factors. The ability to obtain funding is impacted by the

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[198] See infra Chapter 4 for a discussion of regulated service offerings in states with retail competition.

[199] Mirant, Constellation.

[200] Paul L. Joskow, Competitive Electricity Markets and Investment in New Generating Capacity, MIT Working Paper, (April 28, 2006.)

[201] CONG. BUDGET OFFICE, FINANCIAL CONDITION OF THE U.S. ELECTRIC UTILITY INDUSTRY (1986), available at http://www.cbo.gov/showdoc.cfm?index=5964&sequence=0.

[202] Southern, Duke.

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degree to which these projections compare with projected risks and returns for other investment opportunities.[203] Therefore, potential entrants to generation markets have to be able to convince the capital markets that new generation is a viable profitable undertaking. In the late 1990s investors appeared to prefer market investments to cost-based rate-regulated investments, as merchant generators were able to finance numerous generation projects, even without a contractual commitment from a customer to buy the power.[204]

In recent years, however, investors have generally favored traditional utilities over merchant generators when it comes to providing capital for large investments.[205] In part, this preference reflects the reduced profitability of many merchant generators in recent years, and the relative financial strength of many traditional utilities. It also may reflect a disproportionate impact of the collapse of credit and thus trading capability of non-utilities after Enron's financial collapse.[206] As shown in the Table in Appendix G, for example, virtually all of the companies rated A- or higher are traditional utilities, not merchant generators.

Investor preference for traditional utilities also may be affected by increasing volatility in electric power markets. As wholesale markets have opened to competition, investors recognized that income streams from the newly-built plants would not be as predictable as they had been in the past.[207] Under cost-based regulation, vertically integrated utilities' monopoly franchise service territories significantly limited the risk that they would not recover the costs of investments. Once generators had to compete for sales, generation plant investors were no longer guaranteed that construction costs would be repaid or that the output from plants could be sold at a profit.[208] Financing was more readily accessed for projects like combined cycle gas and particularly gas turbines that can be built relatively quickly and were viewed at the time to have a cost advantage compared with existing generation already in operation, including less efficient gas-fueled generators.[209] In 1996, the Energy Information Administration projected that 80% of electric generators between 1995 and 2015 would be combined cycle or combustion turbines.[210] Base-

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[203] Commodity Futures Trading Comm'n, The Economic Purpose of Futures Markets, available at http://www.cftc.gov/opa/brochures/opaeconpurp.htm.

[204] APPA.

[205] Task Force Meetings with Credit Agencies, see Appendix B.

[206] U.S. GEN. ACCOUNTING OFFICE, GAO-02-427, RESTRUCTURED ELECTRICITY MARKETS, THREE STATES' EXPERIENCES IN ADDING GENERATING CAPACITY 13 (2002).

[207] Connecticut DPUC.

[208] U.S. GEN. ACCOUNTING OFFICE, GAO-02-427, RESTRUCTURED ELECTRICITY MARKETS, THREE STATES' EXPERIENCES IN ADDING GENERATING CAPACITY 13 (2002).

[209] Energy Info. Admin., DOE/EIA-0562(96), The Changing Structure of the Electric Power Industry: An Update 38 (1996).

[210] Id.

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load units, such as coal plants, with construction and payout periods that would put capital at risk for a much longer period of time, were harder to finance.[211]

Box 3-3
The Use of Capacity Credits in Organized Wholesale Markets:

In theory, capacity credits could support new investment because suppliers and their investors would be assured a certain level of return even on a marginal plant that ran only in times of high demand. Capacity credits might allow merchant plants to be sufficiently profitable to survive even in competition with the generation of formerly-integrated local utilities that may have already recovered their fixed costs.

The increasing amount of new generation fueled by natural gas, however, has caused electricity prices to vary more frequently with natural gas prices, a commodity subject to wide swings in price.[212] With input costs varying widely, but merchant revenues often limited by contract or by regulatory price mitigation, investors may worry that merchant generators may not recover their costs and provide an attractive rate of return. Commenters suggest that competitive suppliers are beginning to focus on developing facilities fueled by other sources, citing 2006 announcements by NRG Energy, Inc. (investing $16 billion to develop 10,500 MW of nuclear, wind, and coal facilities), TXU (investing in multiple coal-fired plants), Constellation Energy and Exelon Corp. (developing a nuclear plant), BP and Edison Mission Group (investing $1 billion in a hydrogen-fueled plant) and AES (investing $1 billion in renewable technologies).[213]

4. Regulatory Intervention May Affect Investment Returns

Generation investors must expect to recover not only their variable costs but also an adequate return on their investment to maintain long-term financial viability. One way for suppliers to recover their investment is to charge high prices during periods of high demand. However, regulators may limit recovery of high prices during these periods, and thus may deter suppliers from making needed investments in new capacity that would be economical absent these price caps.

This dynamic leads to a chicken-and-egg conundrum: if there were efficient investment, there might not be a need for wholesale price or bid caps. More investment in capacity would lead to less scarcity, and thus fewer or shorter episodes of high prices that may require mitigation. By

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[211] Hearing on Nuclear Power, Before the Subcomm. on Energy of the S. Comm. on Energy & Nat'l Res., Mar. 4, 2004 (statement of Mr. James Asselstine, Managing Director, Lehman Brothers); see also NUCLEAR ENERGY INSTITUTE, INVESTMENT STIMULUS FOR NEW NUCLEAR POWER PLANT CONSTRUCTION: FREQUENTLY ASKED QUESTIONS, available at http://www.nei.org/documents/New_Plant_Investment_Stimulus.pdf.

[212] Natural Gas, Factors Affecting Prices and Potential Impacts on Consumers, Testimony Before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, United States Senate; GA)-06-420T (February 13, 2006) at 7.

[213] EPSA.

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contrast, it may be that price regulation during high-priced hours diminishes the confidence of investors that they can rely on market forces (rather than regulation) to set prices. That diminished confidence in their ability to earn sufficient investment returns thus deters entry of new generation supply, thereby limiting competition and giving cause for price caps

Price mitigation through the use of price or bid caps has become an integral component of most organized markets. The use of mitigation has led generators to seek a supplemental revenue stream (capacity credits) to encourage entry of new supply. See Box 3-3 for a discussion of capacity credits.

In practice, however, the presence or absence of capacity credits has not always resulted in the predicted outcomes. California did not have capacity credits and did not experience much new generation, but two of the regions (the Southeast and Midwest) experienced significant new generation entry without capacity credits. Northeast RTOs with capacity credits continue to have some difficulty attracting entry, especially in major metropolitan areas.

As noted above, much of the new generation in the Southeast was non-utility merchant generation, and relied on the region's proximity to natural gas supplies. In the Midwest, in the late 1990s, largely uncapped prices were allowed to send price signals for investment. In California, price caps of various kinds have been used for a number of years, limiting price signals for new entry. In the Northeast, organized markets have offered capacity payments for long term investments in addition to electric power prices that are sometimes capped in the short term. Unfortunately, there is no conclusive result from any of these approaches – no one model appears to be the perfect solution to the problem of how to spur efficient investment with acceptable levels of price volatility.

Net revenue analyses for the centralized markets with price mitigation suggest that price levels are inadequate for new generation projects to recover their full costs. For example, in the last several years, net revenues in the PJM markets have been, for the most part, too low to cover the full costs of new generation in the region.[214] Based on 2004 data, net revenues in New England, PJM and California would have allowed a new combined-cycle plant to recover no more than 70% of its fixed costs.

Regulation also may interfere with efficient exit of generation plants due to the use of reliability-must-run requirements. In some load pockets in organized markets, plant owners are paid above-market prices to run plants that are no longer economical at the market-clearing price. For example, in its Reliability Pricing Model filing with FERC, PJM states, "PJM also has been forced to invoke its recently approved generation retirement rules to retain in service units needed for reliability that had announced their retirement. As the Commission often has held, this is a temporary and sub-optimal solution. Such compensation, like the reliability must run ("RMR") contracts allowed elsewhere, is outside the market, and permits no competition from,

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[214] Occasionally in the past few years net revenues have been sufficient to cover the costs of new peaking units, and in 2005 they were enough to cover the costs of a new coal plant. MARKET MONITORING UNIT, PJM INTERCONNECTION, LLC, 2005 STATE OF THE MARKET REPORT, at 118 (2006) [hereinafter PJM STATE OF THE MARKET REPORT 2005], available at http://www.pjm.com/markets/market-monitor/som.html.

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and sends no price signals to, other prospective solutions (such as new generation or demand resources) that might be more cost-effective."[215] To the extent that market rules allocate the cost of keeping these plants running to customers outside of the load pocket, such payments may distort price signals that, in the long run, could elicit entry. Graduated capacity payments that favor new entry of efficient plants may be a partial solution to retirement of inefficient old plants.

5. Investment in Transmission: A Necessary Adjunct to Generation Entry

Transmission access can be vital to the competitive options available to market participants. For example, merchant generators depend on the availability of transmission to sell power, and transmission constraints can limit their range of potential customers. Small utilities, such as many municipal and cooperative utilities, depend on the availability of transmission to buy wholesale power, and transmission constraints can limit their range of potential suppliers. Much of the transmission grid is owned by vertically-integrated, investor-owned utilities and, traditionally, these utilities have an incentive to limit the use by others of the grid, to the extent such use conflicts with sales by their own generation. In short, the availability of transmission is often the keystone in determining whether a generating facility is likely to be profitable and, thus, to elicit investment in the first instance.

Since FERC issued Order No. 888 in 1996, questions have arisen concerning the efficacy of various terms and conditions governing the availability of transmission. For example, transmission customers have raised concerns regarding the calculation of Available Transfer Capacity (ATC). Another area of concern is the lack of coordinated transmission planning between transmission providers and their customers. Finally, customers have raised concerns about aspects of transmission pricing. Based on these concerns, FERC in May 2006 proposed modifications to public utility tariffs to prevent undue discrimination in the provision of transmission services. FERC is soliciting public comments on its proposed modifications.

As discussed above, generation that is built where fuel supplies are readily available, but not necessarily near demand, and construction costs are low, rely heavily on readily available transmission. The Connecticut DPUC noted that while generation growth may have been sufficient for some regions such as New England as a whole, some localized areas had demand growth without increases in supply, raising prices in load pockets. If transmission access to the load pocket were available, a large base-load plant outside the load pocket might become an attractive investment proposition.

Less regulatory intervention in wholesale markets for generation may be necessary if transmission upgrades, rather than unrestricted high prices or capacity credits, are used to address the concerns about future generation adequacy. Although capacity credits may spur generators within a load pocket to add additional capacity, capacity credits may not be required for base-load plants outside the load pocket. Those base-load plants would not have the problem of average revenues falling below average costs because they would have access to more load, and be able to run profitably during more hours of the day. Similarly, price caps may be

[215] Initial Order on Reliability Pricing Model, 115 FERC ¶ 61,079, *3 (2006)

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unnecessary if improved transmission brought power from more base-load units into the congested areas. Prices would be lower because there would be less scarcity, and high cost units would be needed to run during fewer hours in the congested areas.

6. Some Types of Generation Investment May Not Be Adequate Without Government Intervention

As mentioned at the beginning of this chapter, "preventing network collapse" is a product that is a public good.[216] The public good nature of preventing network collapse means that the market may not elicit enough generation that has the technical capability (i.e. the ability to generate megawatts within a very short period of time) to prevent network collapse. An administrative process may be needed to bring about the correct level of generation technically capable of responding very quickly. It has been argued[217] that some of these processes may be so inadequate to this task of incenting the appropriate levels of technically capable generation that this failing explains to a significant degree the perceived lack of generation entry.

7. The Level of Investment in Demand Side Management Can Affect the Need for Generation and Transmission Investment

In Chapter 2 it was described how there is typically a disconnect between the prices in the wholesale markets and the prices that retail customers experience and how this disconnect can lead to wider price fluctuations than would be the case if customers could easily reduce their demand when prices rise. There are several means to influence the level of demand for power, including energy efficiency and demand response. Examples of energy efficiency includes giving customers incentives to replace inefficient refrigerators and air conditioners, or through appliance standards or more energy-efficient building codes. Demand response includes time-based rates and incentive-based demand response. Time-based rates include time-of-use pricing (i.e. customers face a peak price and an off-peak price), critical peak pricing (i.e., similar to time-of-use rates, but with a critical peak component that is invoked during system emergencies or periods of high wholesale prices), and real-time pricing (e.g. Georgia Power's RTP tariff). Incentive-based demand response includes interruptible rates, air-conditioner cycling, and independent system operator emergency demand response programs.

Energy efficiency and demand response programs, through their effect on demand, affect the amount of generation and transmission needed as well as the composition (i.e. composition of

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216 Public goods have two characteristics – "nonexclusiveness" and "nonrivalry." Nonexclusiveness means that others cannot be excluded from the use of the good (e.g. if one person refuses to pay taxes, that person still can enjoy public parks) and nonrivalry implies that one person's consumption of the good does not diminish another person's consumption (e.g. the fact that one person enjoys the increased safety engendered by military spending doesn't decrease another person's safety.) "Preventing network collapse" is nonexclusive because if the network collapses there is nothing one can do to escape it (unless one constructs freestanding on-site generation) and it is nonrivalrous because one person being protected from collapse does not preclude another person's being protected.

217 Joskow, op.cit.

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baseload, mid-merit and peaking generation) of investment. Two examples: Instituting new energy efficiency programs will reduce the demand for baseload generation and transmission (e.g. replacing old refrigerators) and the demand for mid-merit generation (e.g. replacing old air conditioners.) Instituting demand response programs that curtail output at peaks will reduce the need for peaking generation, will help resolve local load pockets, and can potential defer the need for new transmission enhancements. To date, energy efficiency has provided important benefits, but additional capability can be achieved. Demand response capability has been modest, between 3 and 7 percent in most regions of the country.[218] The use of energy efficiency and demand response will likely increase significantly in the next few years, especially after advanced, smart metering is installed.

E. Observations on Wholesale Market Competition

One of the most contentious issues currently facing federal regulators is whether the different forms of competition in wholesale markets have resulted in an efficient allocation of resources. The various approaches used by the different regions show the range of available options.

1. Open Access Transmission without an Organized Exchange Market

One option is to rely upon the OATT to make generation options available to wholesale customers. No centralized transmission operator or exchange market for electric power operates in regions taking this option (the Northwest and Southeast). There can be, however, active trading platforms in these regions which provide liquidity and price transparency in some day-ahead or longer-term markets – though the prices do not directly reflect the costs of congestion. For long term sales, wholesale customers shop for alternatives through bilateral contracts with suppliers. In both cases, customers separately arrange for transmission via the OATT. With a range of supply options to choose from, long-term bilateral contracts for physical supply can provide price stability that wholesale customers seek and a rough price signal to determine whether to build new generation or buy generation in wholesale markets. However, prices and terms can be unique to each transaction and may not be publicly available. Furthermore, the lack of centralized information about trades leaves transmission operators with system security risks that necessitate constrained transmission capacity. Where there is a lack of price transparency, this can add to the difficulty of pricing long-term contracts in these markets.

This model is extremely dependent on the availability of transmission capacity that is sufficient to allow buyers and sellers to connect. Thus, it also is dependent upon the accurate calculation and reporting of transmission capacity available to market participants. Short-term availability is not sufficient, even if accurately reported, to form a basis for long term decisions such as contracting for supply or building new generation. Not only must transmission be available, but also it must be seen to be available on a nondiscriminatory basis. As the FERC noted in Order 2000, persistent allegations of discrimination can discourage investment even if they are not proven. Without the assurance of long term transmission rights, wholesale customers may

[218] Commission Staff Report, "Assessment of Demand Response and Advanced Metering."

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remain dependent on local generation owned by one or only a few sellers and be denied the competitive options supplied by more distant generation. Similarly, new suppliers may have no means of competing with incumbent generators located close to traditional load.

2. Policy Options in Organized Wholesale Markets

In organized markets, market participants have access to an exchange market where prices for electric power are set in reference to supply offers by generators and demand by wholesale customers (including Load Serving Entities or LSEs). Such an exchange market could have prices set by a number of mechanisms. All existing U.S. exchange markets have a uniform price auction to determine the price of electric power. Uniform price auctions theoretically provide suppliers an incentive to bid their marginal costs, to maximize their chance of getting dispatched. The principal alternative to uniform price auctions is a pay-as-bid market.

The academic research on whether pay-as-bid auctions can actually result in lower prices has been evolving, and the results are at best mixed. Theoretically, pay-as-bid auctions do not result in lower market-clearing prices and may even raise prices, as suppliers base their bids on forecasts of market-clearing prices instead of their marginal costs. More recent research suggests that pay-as-bid can sometimes result in lower costs for customers.[219] But, the pay-as-bid approach may reduce dispatch efficiency, to the extent generator bids deviate from their marginal costs.[220] When considered from a practical perspective, it appears that academics and market designers generally agree that uniform price auctions produce economically efficient prices.

Currently, it may be true that in uniform price auction markets some generators (*e.g.*, coal- or nuclear-fueled units) are earning a return above those typically allowed under cost-based regulation, but other generators (*e.g.*, natural gas-fueled units) are earning returns below those typically allowed under cost-based regulation. In a competitive market, a unit's profitability in a uniform price auction will depend on whether, and by how much, its production costs are below the market clearing price. A uniform price auction may thus produce prices that are very high compared with the costs of some generators and yet not high enough to give investors an incentive to build new generation that could moderate prices going forward. The uniform price auction creates strong incentives for entry by low-cost generators that will be able to displace high cost generators in the merit dispatch order. Three policy options have been suggested to address the tension between market-clearing prices with uniform auction and entry.

a. Unmitigated Exchange Market Pricing

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[219] Par Holmberg, Comparing Supply Function Equilibria of Pay-as-Bid and Uniform Price Auctions (Uppsala University, Sweden Working Paper 2005:17, 2005); G. Federico & D. Rahman, Bidding in an Electricity Pay-As-Bid Auction (Nuffield College Discussion Paper No 2001-W5, 2001); Joskow, Difficult Transition at 6-7.

[220] Alfred E. Kahn, et al., Uniform Pricing or Pay-as-Bid Pricing: A Dilemma for California and Beyond (Blue Ribbon Panel Report, study commissioned by the California Power Exchange, 2001).

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One possible, but controversial, way to spur entry is to let wholesale market prices rise.[221] As discussed in Chapter 2, the market will likely respond in two ways. First, the resulting price spikes will attract capital and investment. To assure that the price signals elicit appropriate investment and consumption decisions, they must reflect the differences in prices of electricity available to serve particular locations. Where transmission capacity limits the availability of electric power from some generators within a regional market, the cost of supplying customers within the region may vary. Without locational prices, investors may not make wise choices about where to invest in new generation.

Unfortunately, it is difficult to distinguish high prices due to the exercise of market power from those due to genuine scarcity. High prices due to scarcity are consistent with the existence of a competitive market, and therefore perhaps suggest less need for regulatory intervention. High prices stemming from the exercise of market power in the form of withholding capacity may justify regulatory intervention. Being able to distinguish between the two situations is therefore important in markets with market-based pricing.[222]

Second, higher prices will likely signal to customers that they should change their decisions about how much and when to consume. Price increases signal to customers to reduce the amount they consume. Indeed, during the Midwest wholesale price spikes in the summer of 1998, demand fell during the period in which prices rose and customers purchased little supply during those periods.[223] For an efficient reduction in consumption to occur, however, retail customers must have the ability to react to accurate price signals. As discussed in Chapter 4, customers often have limited incentive, even in markets with retail competition, to reduce their consumption when the marginal cost of electricity is high. This is because retail rates in the short-term do not vary to account for the costs of providing the electricity at the actual time it was consumed.

b. Moderation of Price Volatility with Caps and Capacity Payments

To date, the alternative to unmitigated exchange market pricing has been price and bid caps in wholesale exchange markets. Although price and bid caps may moderate wide swings in market-clearing prices, not all the caps in place may be necessary to prevent exercise of market power or set at appropriate levels. Higher caps may strike a balance between the desires of policy makers to smooth out the peaks of the highest price spikes and the need to demonstrate where capital is required and can recover its full investment. Some argue, however, that high price caps may burden consumers with high prices and yet not allow prices to rise to the level

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[221] In theory, a pivotal supplier could bid $1 million or more and set the clearing price, so in practice the ISO would have still set a cap, albeit a high one. In its comments, the Texas PUC describes a plan it expects to adopt in summer 2006 to raise offer caps incrementally in its energy-only market. The Texas PUC expects to ultimately pay $3000 per megawatt-hour for energy in some hours of the year.

[222] See generally Edison Mission Energy, Inc. v. FERC, 394 F.3d 964 (D.C. Cir. 2005).

[223] Robert J. Michaels and Jerry Ellig, Price Spike Redux: A Market Emerged, Remarkably Rational, 137 PUB. UTIL. FORTNIGHTLY 40 (1999). Wholesale customers with supply contracts for which the prices were tied to the market price paid higher prices for electric power during those hours.

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that will actually insure that investors will recover the cost of new investment.[224] Thus prices can rise significantly and yet not elicit entry by additional supply that could moderate price in later periods.

Capacity payments are one way to ensure that investors recover their fixed costs. Capacity payments can provide a regular payment stream that, when added to electric power market income, can make a project more economically viable than it might be otherwise. Like any regulatory construct, however, capacity payments have limitations. It is difficult to determine the appropriate level of capacity payments to spur entry without over-taxing market participants and consumers. In addition, because capacity payments include a reserve margin added on to demand, capacity markets may be more susceptible to market power than energy markets and may not be viable without some form of mitigation.[225] Determining the appropriate level of mitigation is a challenge.

To the extent that capacity rules change, this creates a perception of risk about capacity payments that may limit their effectiveness in promoting investment and ultimately new generation. When rules change, builders and investors may also take advantage of short-term capacity payment spikes in a manner that is inefficient from a longer-term perspective.

If capacity payments are provided for generation, they may prompt generation entry when transmission or demand response would be more affordable and equally effective. Capacity payments also may disproportionately reward traditional utilities and their affiliates by providing significant revenues for units that are fully depreciated. Capacity payments also may discourage entry by paying uneconomical units to keep running instead of exiting the market. These concerns can be addressed somewhat by appropriate rules – e.g., NYISO's rules giving capacity payment preference to newly-entered units – but in general, it is difficult to tell whether capacity payments alone would spur economically efficient entry.

One issue that has arisen is whether capacity prices should be locational, similar to locational electric power prices. PJM, ISO-NE and NYISO have either proposed or implemented locational capacity markets that may increase incentives for building in transmission-constrained, high-demand areas. The combination of high electric power prices and high capacity prices in these areas may combine to create an adequate incentive to build generation in load pockets.[226]

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[224] Sometimes, in fact, entry may not be justified, even in the face of high prices. Potential entrants must consider the benefits as well as the costs of entry. Some areas may be so costly to enter, that it is more efficient for society as a whole to pay the higher prices rather than pay the high investment costs to build lower cost generation, institute price-responsive demand programs, or invest in transmission access to lower-cost generation.

[225] Making demand response eligible to meet reserve margins may ease these concerns.

[226] In the areas that need capacity the most – densely populated areas significantly bounded by topographical barriers such as oceans – land prices, environmental restrictions, aesthetic considerations, and other factors may make new generation more (or even prohibitively) expensive. In fact, there are some environmental restrictions that serve as de facto bars to new generation entry.

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c. Encouraging Additional Transmission Investment

Building the right transmission facilities may encourage entry of new generation or more efficient use of existing generation located electrically near, but outside, load pockets. But transmission expansion to serve increased or new load raises the difficulty of tying the economic and reliability benefits of transmission to particular consumers. In other words, because transmission investments can benefit multiple market participants, it is difficult to assess who should pay for the upgrade, particularly when some market participants do not do not require the transmission to meet their needs. This challenge may cause uncertainty about the price for transmission and about return on investment both for new generators and for transmission providers.

Merchant transmission lines, built by non-utilities, were once thought to be a solution to the need for long distance transmission lines. However, few merchant lines have been built. Financing has been difficult because of uncertainties about revenue. In addition, the need for rights-of-way and environmental approvals has had a chilling effect on potential merchant projects.[227] Provisions of the EPAct 2005 that allow for federal permitting of transmission projects under certain circumstances appear to have encouraged interest in new transmission projects, including merchant projects.[228]

If transmission entry can connect low-cost resources to high-demand areas, it is closely linked to the issues of generation entry. Transmission entry, however, can in theory remove the kinds of transmission congestion that results in higher prices in load pockets. Transmission entry may be a double-edged sword: if it is expected to occur, it would reduce the incentive of companies to consider generation entry, by eliminating the high prices they hope to capture.

Both generation and merchant transmission builders face the issue of dealing with an existing transmission owner or an RTO/ISO to obtain permission to build. Moreover, there are substantial difficulties to site new transmission lines. It is difficult to assess whether these risks are higher for transmission builders than for generation builders.

d. Governmental Control of Generation Planning and Entry

The final alternative is a regulatory rather than a market mechanism to assure that adequate generation is available to wholesale customers. As a method to spur investment, regulatory oversight of planning has some positive aspects, but it also has costs. Using regulation through governmentally determined resource planning to encourage entry could result in more entry than market-based solutions, but that entry may not occur where, when or in a way that most benefits customers. Regulatory oversight of investment also means regulators can bar entry for reasons other than efficiency. The stable rate of return on invested capital offered under rate-regulation

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[227] PJM INTERCONNECTION, LLC, PJM REGIONAL TRANSMISSION EXPANSION PLAN, at 20 (2006), available at http://www.pjm.com/planning/reg-trans-exp-plan.html.

[228] See note 274 [may need to update]. AEP and AES are both requesting that their proposed transmission project be designated as a National Interest Electric Transmission Corridor under the Energy Act 2005.

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can encourage investment. On the other hand, rate-regulation can lead to overinvestment, excessive spending and unnecessarily high costs. Regulation also does not provide the same market discipline that effective competition provides. Under regulation, mistakes as to where and how investments should be made may be borne by ratepayers. In competitive markets, the penalties for such mistakes would fall on management and shareholders. The specter of future accountability for investment decisions can lead to better decision-making at the outset.[229]

Some commenters were strongly supportive of Integrated Resource Planning, or other governmentally-supervised planning process, as a solution to the issue of optimal fuel diversity.[230] In particular, these commenters were concerned that the market acting alone creates boom-bust cycles where investors overreact to market signals and too many parties invest in one region, creating overcapacity, which in turn leads to lower prices. It is possible that regulatory oversight of planning would result in greater fuel diversity, and thus less exposure to risks associated with changes in fuel prices or availability. It would be difficult, however, for regulators in IRP processes to determine in advance the appropriate mix of fuels given the difficulty of projecting their prices. Regulators can make flawed resource decisions (and have done so in the past).

3. Market Oversight of Wholesale Energy Markets

Under current law, market oversight to prevent anticompetitive behavior is an important feature of competitive wholesale electricity markets. Consensus exists as to the necessity of market oversight and rules to ensure that wholesale electricity markets function efficiently and provide benefits to consumers. FERC's Office of Enforcement and state regulators perform this service by reviewing wholesale electricity markets and the reports of internal and independent market monitors.[231] Organized markets are also subject to ongoing scrutiny by state regulators and the independent market monitoring arms of RTOs.[232] In sum, market oversight continues to be a vital element of competitive wholesale markets and ongoing efforts exist to strengthen the oversight process.

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[229] Regulatory solutions, more so than market-based outcomes, may outlive the circumstances that made them seem reasonable.

[230] NYSEG, Idaho PUC.

[231] Federal and state antitrust enforcement agencies also have jurisdiction to challenge anticompetitive conduct in electricity markets.

[232] New York State Public Service Commission

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CHAPTER 4
COMPETITION IN RETAIL ELECTRIC POWER MARKETS

A. Introduction and Overview

Congress required the Task Force to conduct a study of competition in retail electricity markets. This chapter examines the development of competition in retail electricity markets and discusses the status of competition in the 16 states and District of Columbia that currently allow their customers to choose their electricity supplier.[233]

Although it has been almost a decade since states started to implement retail competition, residential customers in most of these states still have very little choice among suppliers. Indeed, in most of these states, few residential customers have a wide variety of alternative suppliers and pricing options from which to choose. Commercial and industrial ("C&I") customers have more choices and options than residential customers, but in several states the large industrial customers have become increasingly dissatisfied with increasing retail prices.

One of the main impediments to market-based competition has been the lack of entry by alternative suppliers and marketers to serve retail customers. Most states required the distribution utility to offer customers electricity at a regulated price as a backstop or default if the customer did not choose an alternative electricity supplier or the chosen supplier went out of business.[234] States argued that a regulated service was necessary to ensure universal access to affordable and reliable electricity.

States often set the price for the regulated service at a discount below then-existing rates and capped the price for multi-year periods. In some states, these initial discounts sought to approximate the anticipated benefits of competition for residential customers. Since then,

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[233] We adopt the convention of designating states as permitting retail competition on the basis of whether a state allows alternative suppliers to enter and obtain multiple, geographically dispersed customers. An even broader potential definition of retail competition would take into account policies that allow individual retail customers to provide some or all of their own generation needs (*i.e.,* to make rather than buy electricity). Onsite generation is a common occurrence in some industries in some sections of the country. Small onsite generation projects – often referred to as "Distributed Generation" or "Distributed Resources" projects – are gaining popularity as well. Many states that do not have retail choice in the conventional sense of the term do have provisions for various forms of onsite generation and net metering. Another broader form of retail competition involves municipal utilities or cooperatives, which are present in many states. National Rural Electric Cooperatives Association(2). These entities can be carved out of existing private utility distribution areas, or can be added back into them if the municipality decides to do so (or if the cooperative disbands). The *Otter Tail Power* case, 410 U.S. 366 (1973), was decided on the basis of this form of retail competition. If these broader definitions of "retail competition" were used, all or nearly all states would be designated as retail competition states.

[234] In this report, we refer to state-mandated and -regulated electrical service in states with consumer choice programs as "provider-of-last-resort" (POLR) service. A broad range of terms is used in different states to denote this type of service. Some states have more than one form of mandated service or have changed the form of POLR service over time. In many states, POLR service originated as an element in arrangements to pay the stranded (*i.e.*, non-recovered) costs of vertically integrated utilities – costs that may have become unrecoverable when the state adopted a retail customer choice approach.

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wholesale prices have increased. More than any other policy choice surrounding the introduction of retail competition, this requirement that distribution utilities offer service at low prices unwittingly impeded entry by alternative suppliers to serve retail customers, because new entrants cannot compete against a below-market regulated price.

States with prices regulated at below-market levels now face a "rate shock." On the one hand, rate caps for the regulated service that most residential customers use are set to expire, and states are loath to subject their customers to the substantially higher market prices that distribution utilities are indicating they must charge. These higher prices are particularly painful to customers that have limited ability to adjust their consumption in response to price increases. On the other hand, if states require distribution utilities to offer regulated service at below-market rates, then retail entry – and thus competition – will not occur. Moreover, below-market rates put the solvency of the distribution utility at risk and do not provide appropriate incentives for conservation.[235]

This conundrum is further complicated by the fact that most distribution utilities that offer the regulated service no longer own generation assets, and the supply contracts that were part of the agreements by which utilities divested generating assets were generally set to expire at the end of the transition period.[236] The utilities in many states sold their generation assets or transferred them to unregulated affiliates at the beginning of retail competition. Thus, distribution utilities that offer the regulated service must purchase supply in wholesale markets. Attempts to reassemble the vertically integrated distribution company face the reality that many generation assets may be more expensive now than when they were divested at the beginning of retail competition. If the utility repurchases these assets at the current higher prices, it is likely to have "sold low and bought high."

Except in cases in which retail prices are set by regulation without regard to current wholesale prices, the competitiveness of wholesale prices has a direct impact on the retail prices consumers pay.[237] For example, retail prices usually will reflect imperfections in the wholesale market,

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[235] Debt rating agencies may downgrade the creditworthiness of utilities in states that require utilities to sell at prices below their costs. For example, Moody's Investors Services reportedly has downgraded the creditworthiness of utilities in Maryland – in particular, Baltimore Gas & Electric, due to that firm's inability to pass on increased input costs to consumers, which "leaves BGE in a weakened state that makes it vulnerable to further downgrades and even insolvency if it faces further energy price shocks or other costs that the legislature deems cannot be passed on to customers." Patricia Hill, "Maryland Utilities Designated Near Junk," Washington Times (July 12, 2006), available at http://www.washingtontimes.com/functions/print,php?StoryID=20060711-103048-5690r.

[236] In most retail customer choice states, supply contracts ("vesting contracts") have been used to enable distribution utilities to offer POLR service at the capped price level after they have divested generating plants or transferred them to unregulated affiliates. The "rate shock" anticipated in these states is due in part to the lack of laddering in the vesting contracts beyond the end of the transition period, as defined in the legislation. There are two exceptions worth noting. In California, vesting agreements were deemphasized in favor on procurement at spot market prices. In upstate New York, vesting agreements were longer term and continue to have a moderating effect on average procurement prices for POLR service in the state. Public Utility Law Project of New York(2) at 36.

[237] Several commenters emphasized the potential spillovers from problems at the wholesale level to the retail level, including NYSPCS(2) at 3-4; APPA(2) at 4, 21-25; Consolidated Edison(2) at 2, 4-5; Direct Energy(2) at 7; Alliance for Retail Energy Markets(2) at 3-4; Industrial Consumers(2) at 9-10, 21-22; and Allegheny(2) at 15, 19.

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such as some wholesale suppliers' ability to exercise market power;[238] problems in market design that increase wholesale suppliers' costs; government subsidies to some suppliers for reasons other than to address market failures; transmission discrimination that prevents low-cost suppliers from reaching customers; or restrictions that delay or prevent entry and diffusion of low-cost generation technologies. Distortions in wholesale prices that lead to distortions in retail prices can cause inefficiencies in both consumption patterns and in investment decisions by retail customers. Ultimately these distortions are likely to reduce consumer welfare and raise private and social costs of production for goods made with electricity as an input.

This chapter addresses the status and impact of retail competition in seven states that the Task Force examined in detail: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.[239] These seven states represent the various approaches that states have used to introduce retail competition.[240] The chapter also discusses why it is difficult at this time to determine whether retail prices are higher or lower than they would have been absent the move to retail competition.

In this chapter, we provide several observations based on the experiences of states that have implemented retail competition, with an emphasis on how states can minimize market distortions once rate caps expire. States with expiring rates caps face several choices regarding whether and how to rely on competition, rather than regulation, to determine the retail price for electric power.

B. Background on Provision of Electric Service and the Emergence of Retail Competition

For most of the 20th Century, local distribution utilities typically offered electric service at rates that varied among customer classes (*e.g.*, residential, commercial, and industrial). State

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[238] Retail competition and options for onsite generation can provide opportunities for a customer to find alternative supply sources, including self-generation, if the customer's present supplier tries to raise prices above the competitive level (*i.e.*, attempts to exercise market power).

[239] See Appendix D for each state profile.

[240] Restructured states as of May 2006 include Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia, plus the District of Columbia. The seven states profiled in Appendix D display a range of conditions that are similar to the other states with retail competition. Virginia is similar to Pennsylvania in that their transitions to retail competition are over approximately a 10-year period. Maine and Rhode Island are similar to New York and Texas in that prices for POLR service have been regularly adjusted to reflect changes in wholesale prices. Delaware, the District of Columbia, Illinois, Michigan, New Hampshire, Ohio, and Rhode Island share the situation faced by Maryland, where the transition period of fixed prices for residential and small C&I POLR service will end in the near future. Massachusetts's rate cap period ended recently. Many of the states poised to end the transition period are developing approaches to bring POLR prices for residential and small C&I customers up to market rates in stages rather than all at once. Several of these states also share Maryland's and New Jersey's interest in auctions for procuring POLR service supplies. Oregon's situation differs from the other states in that only nonresidential customers can shop, and that shopping is limited to a short window of time each year.

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regulatory bodies set these rates based on the utility's costs of generating, transmitting, and distributing electricity to customers. Locally elected boards oversaw the rates for customers of public power and cooperative utilities. For investor-owned systems, the regulated rate included an opportunity to earn an authorized rate of return on investments in utility plant used to serve customers. Public power and cooperative systems operate under a non-profit cost-of-service structure, and rates charged by such systems typically include a margin adequate to cover unanticipated costs and support new investment.

With minor variations, monopoly distribution utilities deliver electricity to retail customers.[241] Industrial customers sometimes can choose from more options than can small business and residential customers with regard to service offerings and rate structures (*e.g.*, "time-of-use" rates, which are lower when demand is lower during "off-peak" periods).[242]

Beginning in the early 1990s, several states with high electricity prices began to explore opening retail electric service to competition. As discussed in Chapter 1 and Figure 4-1, rates varied substantially among utilities, even within a single state. Some of the disparity was due to different natural resource endowments across regions, the most important of which are the hydroelectric resources in the Northwest and the abundant coal reserves in states such as Kentucky and Wyoming. Moreover, some states required utilities to enter into PURPA contracts at prices much higher than the utilities' avoided costs. In addition to these rate disparities, some industrial customers contended that their rates subsidized lower rates for residential customers.

Figure 4-1: U.S. Electric Power Industry, Average Retail Price of Electricity by State, 1995 (cents per kWh)

[241] Retail electric customers in 30 states continue to receive service almost exclusively under a traditional regulated monopoly utility service franchise. These states include 44% of all U.S. retail customers, accounting for 49% of electricity demand.

[242] For example, Georgia law allows any new customers with loads of 900 kilowatts or more to make a one-time selection from among competing eligible electric suppliers. Southern.

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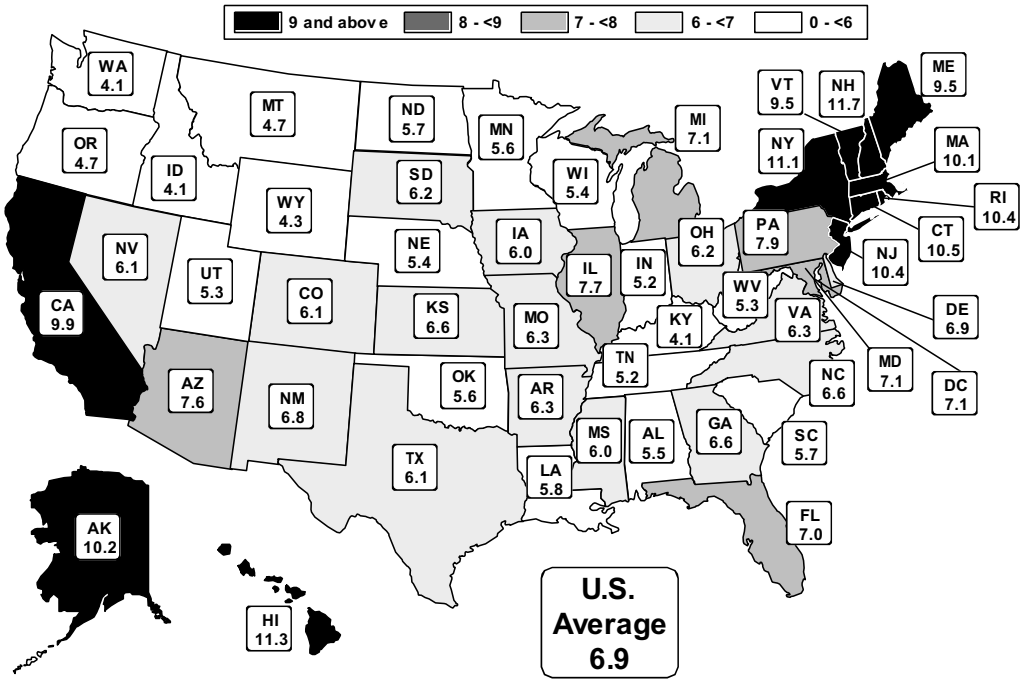

Source: EIA, The Changing Structure of the Electric Power Industry, Figure 11 (Dec. 1996).

With retail competition, customers could choose their electric supplier or marketer, but the local distribution utility would still deliver the electricity.[243] The idea was that customers could obtain electric service at lower prices if they could choose among suppliers. For example, they could buy from suppliers located outside their local market, from new entrants into generation, or from power marketers, any of which might charge lower prices than the local distribution utility. Moreover, the ability to choose among alternative suppliers would reduce market power that local suppliers might otherwise have, so that customers might enjoy lower prices from local suppliers than would otherwise be the case. Also, new suppliers might offer customers innovative price and other terms to purchase electricity (*e.g.*, they could improve the quality of service).

In 1996, California enacted a comprehensive electric restructuring plan to allow customers to choose their electricity supplier. To accommodate retail choice, California extensively restructured the electric power industry. The legislation:

(1) established an independent system operator (ISO) to operate the transmission grid throughout much of the state, so that all suppliers could access the transmission grid to serve their retail customers;
(2) established a separate wholesale trading market for electricity supply, so that utilities and alternative suppliers could purchase electricity to serve their retail customers;
(3) mandated a 10% immediate rate reduction for residential and small commercial

[243] FERC and the states will continue to regulate the price for transmission and distribution services, and the local distribution utility will continue to deliver the electricity in most states, regardless of which generation supplier the customer chooses.

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customers that did not choose an alternative supplier;
(4) authorized utilities to collect stranded costs related to generation investments that were unlikely to be as valuable in a competitive retail environment; and
(5) implemented an extensive public benefits program funded by retail ratepayers.[244]

Other states also enacted comprehensive retail competition legislation. New Hampshire enacted legislation in May 1996. Rhode Island (August 1996), Pennsylvania (December 1996), Montana (April 1997), Oklahoma (May 1997), and Maine (May 1997) followed suit. By January 2001, 22 states and the District of Columbia had adopted retail competition legislation. Regulatory commissions in four other states (including Arizona, which also enacted legislation) had issued orders requiring or endorsing retail choice for retail electric customers.

Several states – primarily those with low-cost electricity, such as Alabama, Colorado, North Carolina, and Wisconsin – concluded that retail competition would not benefit their customers.[245] For example, limitations on transmission access and high concentration among generation suppliers led Colorado to be concerned that suppliers would exercise market power to the detriment of customers. These states opted to keep traditional utility service.

States adopting retail competition plans generally did so to advance several goals, including:

- lower electricity prices than under traditional regulation, through access to lower-cost power in competitive wholesale markets where generators competed on price and performance;
- better service and more options for customers through competition from new suppliers;
- innovation in generating technologies, grid management, use of information technology, and new products and services for consumers; and
- improvements in the environment through displacement of dirtier, more expensive generating plants with cleaner, cheaper natural-gas-fired and renewable generation.

At the same time, under the restructured model, legislatures and regulators affirmed their support for the availability of electricity to all customers at reasonable rates, with the continuation of safe and reliable service and consumer protections under regulatory oversight. Boxes 4-1 and 4-2 describe the Pennsylvania and New Jersey Legislatures' findings and the expected results of retail competition.

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[244] California AB 1890, available at http://www.leginfo.ca.gov/pub/95-96/bill/asm/ab_1851-1900/ab_1890_bill_960924_chaptered.pdf.

[245] Wisconsin regulators apparently believed that retail competition might increase the cost of capital for new generation and transmission projects. Ebert(2) at 3.

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Box 4-1

Findings of the Pennsylvania Legislature

The findings of the Pennsylvania General Assembly demonstrate these varied goals:

(1) Over the past 20 years, the federal government and state government have introduced competition in several industries that previously had been regulated as natural monopolies.
(2) Many state governments are implementing or studying policies that would create a competitive market for the generation of electricity.
(3) Because of advances in electric generation technology and federal initiatives to encourage greater competition in the wholesale electric market, it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market as long as safe and affordable transmission and distribution is available at levels of reliability that are currently enjoyed by the citizens and businesses of this Commonwealth.
(4) Rates for electricity in this commonwealth are on average higher than the national average, and significant differences exist among the rates of Pennsylvania electric utilities.
(5) Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity.

Source: Pennsylvania HB 1509 (1995), available at
http://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTMhttp://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTMhttp://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTM

Box 4-2

Findings of the New Jersey Legislature

"The [New Jersey] Legislature finds and declares that it is the policy of this State to:

(1) Lower the current high cost of energy, and improve the quality and choices of service, for all of this State's residential, business and institutional consumers, and thereby improve the quality of life and place this State in an improved competitive position in regional, national and international markets;

(2) Place greater reliance on competitive markets, where such markets exist, to deliver energy services to consumers in greater variety and at lower cost than traditional, bundled public utility service; . . .

(4) Ensure universal access to affordable and reliable electric power and natural gas service;

(5) Maintain traditional regulatory authority over non-competitive energy delivery or other energy services, subject to alternative forms of traditional regulation authorized by the Legislature;

(6) Ensure that rates for non-competitive public utility services do not subsidize the provision of competitive services by public utilities; . . ."

C. Meltdown and Retrenchment

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Starting in the late spring 2000 and lasting into the spring of 2001, California experienced high natural gas prices, a strained transmission system, and generation shortages that resulted in blackouts. Wholesale electricity prices increased substantially during this time. State law capped residential POLR service rates at levels that were soon below the market price paid by utilities for wholesale electric power. One of California's large investor-owned utilities declared bankruptcy because it could not increase its retail rates to cover the high wholesale power prices. The state stepped in to buy electricity on behalf of two of the three IOUs operating in California.[246] California eventually suspended retail competition for most customers while it reconsidered how to assure adequate electric supplies and continuation of service at affordable rates in a competitive wholesale market environment. Although that suspension continues today, 12% of load in the state is supplied by alternative suppliers, some additional consumers remain eligible to switch to alternative suppliers, and new initiatives for municipal aggregation are being pursued.[247] Box 4-3 describes California's role in purchasing electricity and the all-time-high prices it paid, and continues to pay, for such electricity.

The experience in California and its ripple effects in the western region prompted several states to defer or abandon their efforts to implement retail competition. No additional states have adopted retail competition since 2000. Indeed, some states – including Arkansas and New Mexico – repealed retail competition plans that they previously had adopted.

Other populous states, such as Illinois, New Jersey, New York, Pennsylvania, and Texas, moved ahead with retail competition as planned. Some of these states have ended, or are about to end,

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[246] See, e.g., California Attorney General's Energy White Paper, A Law Enforcement Perspective on the California Energy Crisis, Recommendations for Improving Enforcement and Protecting Consumers in Deregulated Energy Markets (Apr. 2004), available at http://ag.ca.gov/publications/energywhitepaper.pdf; Federal Energy Regulatory Commission, Final Report on Price Manipulation in Western Energy Markets: Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000 (March 26, 2003); U.S. General Accounting Office, Restructured Electricity Markets, California Market Design Enabled Exercise of Market Power (June 2002), available at http://www.gao.gov/new.items/d02828.pdf.

[247] California Public Utility Commission(2); Alliance for Retail Energy Markets(2).

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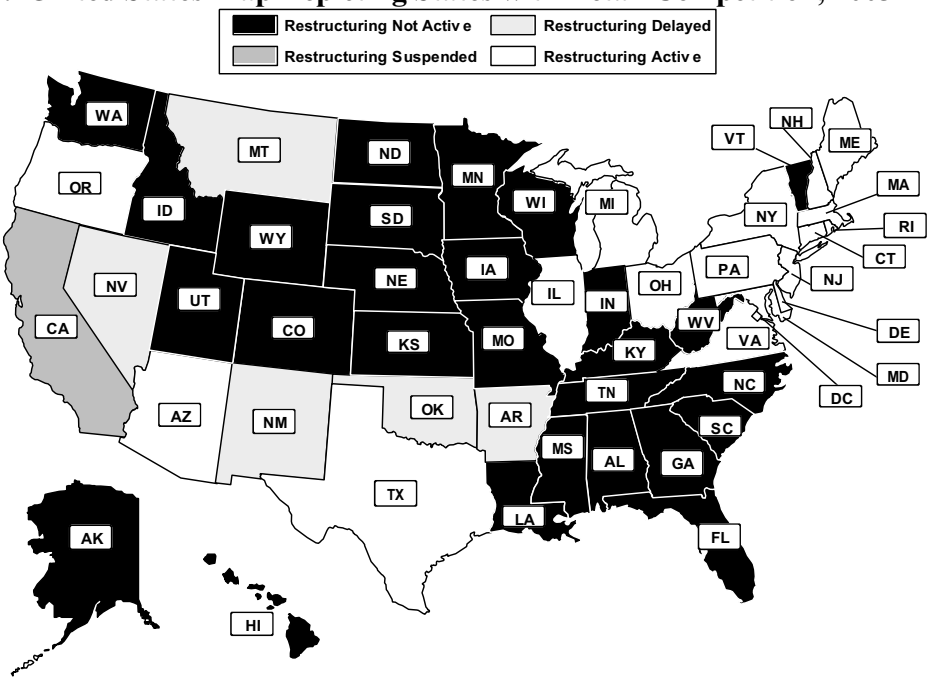
their POLR service rate caps and will soon purchase wholesale supplies for POLR service at market prices (although several of these states are developing approaches to slow the adjustment to market-based procurement). States such as New York and Texas, which have adjusted POLR prices to approximate market rates on an ongoing basis, do not face a potential discontinuity in POLR service prices.

As shown in Figure 4-2, 16 states and the District of Columbia have restructured at least some of the electric utilities in their states and allow at least some retail customers to purchase electricity directly from competitive retail suppliers. Restructured states as of April 2006 include Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia.

Figure 4-2: United States Map Depicting States with Retail Competition, 2003



Source: EIA, available at http://www.eia.doe.gov/cneaf/electricity/chg_str/restructure.pdf

Experience with Retail Competition

With the expected benefits of retail competition in mind, the Task Force examined seven states in depth to report the status of retail competition. These "profiled states" – Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas – represent the different approaches taken to introduce retail competition.

In most profiled states, competition has not developed as expected for all classes of customers. In general, few alternative suppliers currently serve residential customers. To the extent that there are multiple suppliers serving customers, prices have not decreased as expected, and the range of new options and services often is limited. The development of retail competition has been impeded to a considerable extent by the fact that several states still have capped residential

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POLR rates. C&I customers generally have more choices than do residential customers, in terms of both the number of suppliers and the degree to which services are customized.[248] Most large C&I customers do not have the option to take POLR service at discounted, regulated rates, and these customers can be more attractive to alternative suppliers because the ratio of sales to marketing costs is often perceived to be higher for these customers.

This section first reviews the status of retail competition in the profiled states, with an emphasis on entry of new suppliers, migration of customers to alternative suppliers,[249] and the difficulty of drawing conclusions about the effect of retail competition on prices due to the capped POLR service.[250] The section then discusses how regulated POLR service has distorted entry decisions by alternative suppliers. The section also discusses lessons learned from the use of POLR that may assist states as they decide how to structure future POLR service.

1. States Have Allowed Distant Suppliers to Access Local Customers and Have Encouraged Distribution Utilities to Divest Generation

The profiles revealed that each state took some measures to encourage entry of new suppliers to compete with the incumbent utility. Each of the profiled states adopted policies to allow suppliers other than the local incumbent distribution utility to gain access to local retail customers, by requiring the utilities in the state to join an ISO or a regional transmission organization (RTO). As discussed in Chapter 3, larger geographic markets for wholesale electricity enable retail suppliers and marketers to buy generation supplies from a wider range of local and distant sources (*e.g.*, neighboring utilities with excess generation, independent power producers, cogenerators, etc.). Even if no new generation facilities are built, independent operation and management of the transmission grid increases the choices available to retail customers and makes it more difficult for local generators to exercise market power.

Some states, including Massachusetts, New Jersey, and New York, ordered or encouraged utilities to divest generation assets to independent power producers (IPP), in order to eliminate

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[248] Many alternative suppliers reportedly have developed customized time-of-use and other forms of energy management contracts for large C&I customers. Wal-Mart at 10-11; Morgan; Direct Energy(2) at 3.

[249] The degree to which customers switch to alternative suppliers sometimes is used to measure the extent of retail competition. States with retail customer choice usually report these switching statistics. This can be a useful measure when the greatest concern is that the POLR service provider is obstructing switching, or that certain features of regulation (including lack of information about the retail choice process and below-market pricing of POLR service) are discouraging entry and active consumer shopping for electricity service.. Another way to gauge the success of retail competition policy is to conduct surveys of consumer awareness of retail choices and consumer perceptions of the difficulty of switching between suppliers, but such survey results are expensive to obtain and not available systematically. More generally, consumers can obtain the benefits of competition if existing competition, entry, or the threat of entry prevents incumbent suppliers from exercising market power manifested in the form of higher prices, lower product quality, or reduced innovation. In this sense, retail competition could be effective even without any switching to alternative suppliers. National Association of State Utility Consumer Advocates(2).

[250] There is no reason to believe, however, that retail competition in this market will not function as competition does in any market, by reducing prices.

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possible transmission discrimination or to secure accurate stranded cost valuations.[251] Although these divestitures have generally not required a utility to sell its generation assets to more than one company in order to eliminate the potential for the exercise of generation market power, generating facilities frequently have been sold to more than one IPP.[252] In other states, such as Illinois and Pennsylvania, several utilities voluntarily divested their generation assets by selling them or transfering them to unregulated affiliates.[253]

As a result of these divestitures, regulated distribution utilities in profiled states operate fewer generation plants than in the past. Distribution utilities that are required to serve customers must access the wholesale market to obtain generation supply to serve their customers. Table 4-1 shows the amount of a state's generation that was under operation by the state's utilities (*i.e.*, not operated by independent power producers or as combined heat and power facilities), both before and after the start of retail competition.

Table 4-1
Percentage of Utility Ownership of Generation Assets by State

State	Prior to Restructuring (1997)	2002
Illinois	97.0	9.1
Maryland	95.4	0.1
Massachusetts	86.6	9.0
New Jersey	81.2	6.8
New York	84.3	32.4
Pennsylvania	92.3	12.3
Texas	88.3	41.2

Source: U.S. Department of Energy, Energy Information Administration, State Profiles, Table 4 in each state profile, available at http://www.eia.doe.gov/cneaf/electricity/st_profiles/e_profiles_sum.html. The utility ownership percentage for New York in 2002 is higher than for other states with divestiture policies because it includes the hydroelectric and nuclear facilities of the Power Authority of the State of New York (even though that body is not a retail distribution utility).

Other states, such as Texas, limited the market share that any one generation supplier can hold in a region, thus providing an opportunity for other suppliers to enter.[254] Still others, such as New

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[251] See Massachusetts, New Jersey, and New York profiles, Appendix D. See also FTC Staff Report, Competition and Consumer Protection Perspectives on Electric Power Regulation Reform: Focus on Retail Competition, at 43 (2001) [hereinafter FTC Retail Competition Report].

[252] The prices of generation assets have been volatile since these divestitures occurred. Asset prices often are keyed not only to the cost of the fuel necessary to generate the electricity, but also to the location of the asset on the transmission grid.

[253] See Illinois and Pennsylvania profiles, Appendix D. See also FTC Retail Competition Report, Appendix A (profiles of Illinois and Pennsylvania).

[254] Texas profile, Appendix D.

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York, have helped organize introductory temporary discounts from alternative suppliers, thus providing customers an incentive to try out these new suppliers.[255]

2. Alternative Suppliers Serving Retail Customers and Migration Statistics

Substantial numbers of generation suppliers serve large industrial and large commercial customers in the profiled states. For example, in Massachusetts, over 20 direct suppliers provide service to C&I customers, along with over 50 licensed electricity brokers or marketers.[256] In Massachusetts, however, only four active suppliers serve residential customers.[257] In New Jersey, C&I customers can choose among nearly 20 suppliers, but residential customers have a choice of one or two competitive suppliers.[258]

Texas and New York are two states in which more than just a handful of suppliers serve residential customers. In Texas, residential customers can choose from approximately 15 suppliers.[259] In New York, between six and nine suppliers offer services to residential customers in each service territory.[260] With the notable exception of the Ohio municipal aggregation program described in Box 4-4, few, if any, suppliers have continuously provided service to residential customers in the other profiled states or in other retail competition states prior to the end of the respective transition periods.

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[255] New York profile, Appendix D.

[256] Massachusetts Department of Telecommunications and Energy, List of Competitive Suppliers/Electricity Brokers, available at http://www.mass.gov/dte/restruct/company.htm.

[257] Massachusetts Department of Telecommunications and Energy, Active Licensed Competitive Suppliers and Electricity Brokers, available at http://www.mass.gov/dte/restruct/competition/index.htm#Licensed%20Competitive%20Suppliers%20and%20Electricity%20Brokers.

[258] New Jersey Board of Public Utilities, List of Licensed Suppliers of Electric, available at http://www.bpu.state.nj.us/home/supplierlist.shtml. For example, in the Connectiv territory, there are 18 C&I suppliers and only one residential supplier. Eighteen suppliers serve C&I customers and one serves residential customers in the PSE&G service territory.

[259] Texas Public Utility Commission, Texas Electric Choice Compare Offers from Your Local Electric Providers, available at http://www.powertochoose.org/default.asp

[260] New York State Public Service Commission, Competitive Electric and Gas Marketer Source Directory, available at http://www3.dps.state.ny.us/e/esco6.nsf/. The NYSPSC reports that this range has moved to between 6 and 16 alternative suppliers, and the agency expects the number and variety of services offered by alternative suppliers to increase as New York State moves forward with retail competition. NYSPSC(2). Some listed suppliers may not be actively marketing to residential customers. Public Utility Law Project of New York(2) at 41-42.

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Box 4-4
Customer Choice Through Municipal Aggregation in Ohio

In New York, Texas, and most other states, retail customer switching occurs primarily through decisions by individual customers to pick a specific alternative retail supplier. In Ohio, however, most switching activity has occurred through aggregations of customers seeking a supplier under the statewide "Community Choice" aggregation option. The Ohio retail competition law provides for municipal referendums to seek an alternative supplier and allows municipalities to work together to find an alternative supplier. The largest aggregation pool, the Northeast Ohio Public Energy Council, is made up of 100 member communities and served approximately 500,000 residents at its peak. The Ohio program allows individual customers to opt out of the aggregation. In most other states, aggregation programs use an approach under which customers must specifically opt in to participate. Participation rates generally are much higher in opt-out than in opt-in programs. (NOPEC recently had to contract for supply with an affiliate of the distribution utility after the original supplier withdrew from the market).

The percentage of residential customers switching from the POLR service to an alternative competitive supplier is the greatest for those customers with more available generation suppliers. For example, in Massachusetts, 8.5% of residential customers had migrated to a competitive supplier as of December 2005.[261] Approximately 41% of large C&I customers had switched to alternative suppliers, representing 57.5% of the C&I load.[262] In states with a large number of suppliers serving residential customers, higher percentages of residential customers had switched to a new supplier (*e.g.,* approximately 26% chose a new supplier in Texas).[263] Of course, once alternative suppliers serve customers, the local distribution utility no longer provides generation supply, but instead continues to deliver electricity over its transmission and distribution system.

3. Retail Price Patterns by Type of Customer

Figure 4-3 shows average revenues per kilowatt hour for all customer types in the profiled states against the national average for the period 1990-2005. The U.S. national average was generally flat at 8 cents per kWh during this period. Rates in New York, Massachusetts, and New Jersey have generally been higher than the national average, and those in Texas, Pennsylvania, Maryland, and Illinois have been lower. In 2004 and 2005, retail prices in all states began to increase.

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[261] A substantial number of these switches are the result of community aggregations (principally the Cape Light Compact) rather than individual residential switches. Cape Light Compact(2) at 1-2.

[262] Massachusetts profile, Appendix D.

[263] Texas profile, Appendix D. There likely is a "chicken-or-egg" problem about whether more switching over time is attributable to a prior increase in the number of suppliers or vice-versa (or whether both effects interact).

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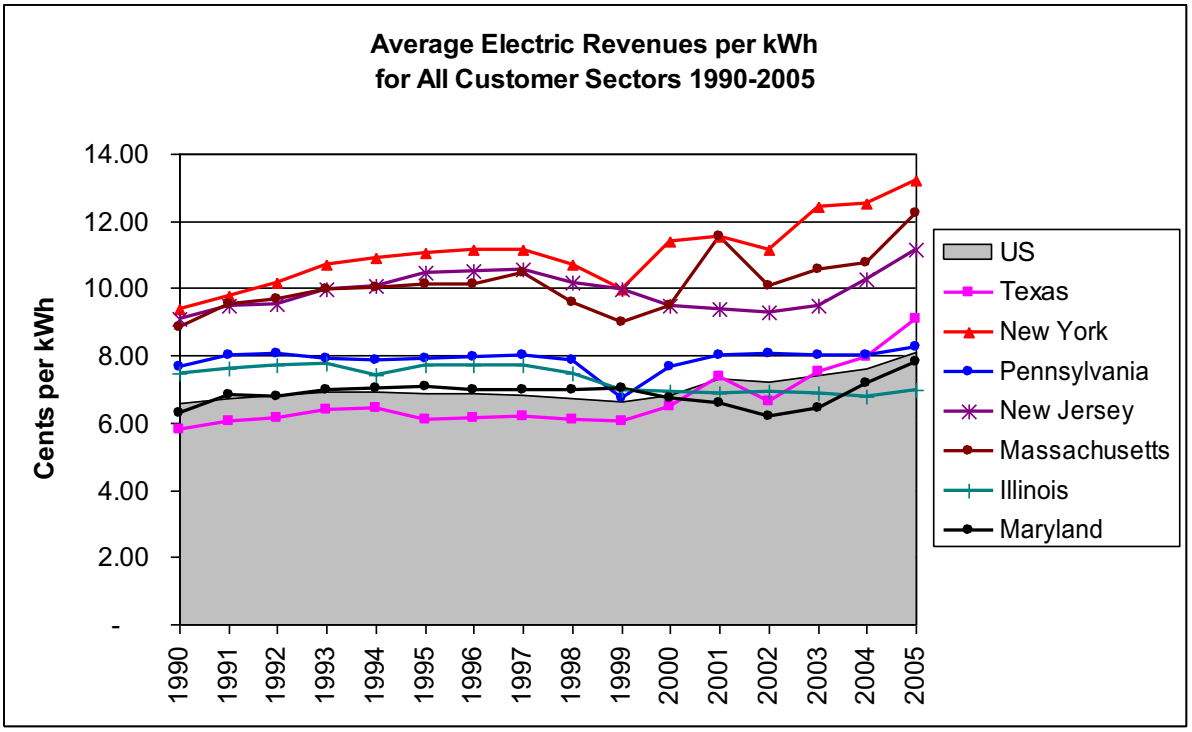
Figure 4-3. Average Revenues per kWh for Retail Customers, 1990-2005
Profiled States v. National Average



Source: EIA Form 861 data, and Monthly Electricity Report for average electric revenues per kWh all sectors, all retail providers.

a. Residential and Commercial Customers

It is difficult to draw conclusions about how competition has affected retail prices for residential customers in states in which residential customers continue to take capped POLR service (*e.g.*, Maryland, Illinois, Pennsylvania, and Texas). Comparisons of regulated prices shed little light on the price patterns resulting from retail competition.

For those states in which the residential rate caps have expired, POLR prices have increased recently. In New Jersey, residential rate caps on POLR service expired in the summer of 2003. Since then, the state has conducted an internet auction to procure POLR supply of various contract lengths (one- and three-year contracts). The state holds annual auctions to replace the suppliers with expiring contracts and to acquire additional supply. Rates for the generation portion of POLR service were flat in 2003 and 2004 after adjusting for deferred charges, but they increased in 2005 and 2006, with rates increasing approximately 13% between 2005 and 2006.[264]

In Massachusetts, capped POLR rates expired in February 2005. Since then customers who had not chosen an alternative supplier were still able to obtain POLR service. Massachusetts based

[264] New Jersey profile, Appendix D. See also Kenneth Rose, 2003 Performance of Electric Power Markets, Review Conducted for the Virginia State Corporation Commission, at II-19 (Aug. 29, 2003).

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the generation portion of the POLR service on the price of supply procured in wholesale markets through fixed-priced, short-term (three- or six-month) supply contracts. Rates for the generation portion of POLR service in the Boston Edison (north) territory increased from 7.5 to 12.7 cents per kWh from 2005 to 2006.[265]

b. Large Industrial Customers

Similar to the situation described above for residential and commercial customers, large industrial customers that continue to use a fixed price POLR service shed little light on price patterns. A number of states, however, have revised their POLR policies for large customers such that the POLR price for generation is a pass-through of the hourly wholesale price for electricity plus a fixed administrative fee. For example, Maryland, New Jersey, and New York have adopted this type of POLR pricing for large industrial customers.[266] As described above, substantial numbers of customers have switched to alternative suppliers in these states.

Large industrial customers described how their rates have increased since the beginning of retail competition.[267] Indeed, some commenters suggested that the Task Force compare prices for customers of a utility that operates in a state that did not implement retail competition against prices for customers of the same utility in a state that implemented retail competition in order to assess the effect of retail competition on rates.[268]

The difficulty with this type of comparison is that many factors unrelated to retail competition may simultaneously influence prices. For example, one state may have reduced cross-subsidies between customer classes while other states increased them. As a result, a price comparison between the two states for a class of customers would conflate competition and cross-subsidization effects. Access to different generators (with low or high prices) may be affected by transmission congestion, so that comparing two states as if they were in the same physical location would be misleading. The timing of rate adjustments may differ between states, so that a single snapshot comparison of rates would show a lower price in one state at one point in time, but would show a lower price in the other state at a different point in time – even if the net present values of typical bills in the two states were identical over a long observation period. Finally, some states may defer recovery of costs to a future time period, whereas other states choose not to. Thus, absent consideration of these and other factors, a simple price comparison between two states may not reveal whether retail competition has benefited customers. At this

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[265] Massachusetts profile, Appendix D.

[266] Although the POLR service price is based on the hourly wholesale price of electricity, customers in Maryland and New Jersey who purchase this service are unaware of the price until they consume the power or until they are billed. Galen Barbose, Charles Goldman, and Bernie Neenan, "The Role of Demand Response in Default Service Pricing," 19:3 *Electricity Journal* 64 (Apr. 2006).

[267] See, e.g., ELCON; Portland Cement; Alliance of State Leaders; Alcoa.

[268] Portland Cement; Lehigh Cement.

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point it is difficult for the Task Force to provide a definitive explanation of price differences between states.

4. Results of Efforts to Bring Accurate Price Signals into Retail Electric Power Markets

There is mixed evidence concerning the degree to which retail competition has resulted in efficient price signals to customers. Residential POLR service rate caps have not increased customer exposure to time-based rates.[269] In contrast, real-time pricing has been adopted as the POLR service available to the largest customers in New Jersey, Maryland, and New York.[270] The shift to real-time pricing has been eased by technical advances in metering that have increased the sophistication (and decreased the prices) of meters that record the volume of consumption in each small block of time.[271]

Commenters argue that POLR rate structure can have a major effect on customer price responsiveness, especially among larger customers. A broad spectrum of utilities, state regulators, and ISOs argue that variable rates permit customers to react to price changes by enabling customers to see clearly how much money they can save.[272] Indeed, the experience of the largest customers in National Grid USA's New York area suggests that, following the introduction of retail competition, customers using real-time pricing demonstrate price sensitivity.[273]

In states with traditional cost-based regulation, utilities have used various incentives to induce customers to reduce consumption during periods in which demand is high and transmission is congested (*e.g.*, hot summer days). In other instances, such as in New York State, independent

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[269] Rates for residential POLR service in the Consolidated Edison distribution areas in New York State, however, are reported to vary by month rather than being averaged over longer periods of time. Public Utility Law Project of New York(2) at 35-36.

[270] For discussion of the exposure to hourly prices among the entire class of the largest C&I customers, rather than just the customers still taking POLR service, see Galen Barbose, Charles Goldman, and Bernie Neenan, "The Role of Demand Response in Default Service Pricing," *supra*; Nicole Hopper, Charles Goldman, and Bernie Neenan, "Demand Response from Day-Ahead Hourly Pricing for Large Customers," 19:3 *Electricity Journal* 52 (Apr. 2006). The authors report that although most customers switch away from POLR service when it is an hourly price, they often select offers from alternative suppliers that contain elements of hourly pricing. Further, they report that the proportion of customers accepting hourly price aspects in their supply contracts – over 90% – is far higher when the price is set on the day-ahead spot market. The authors believe that the higher participation rates in hourly pricing under this circumstance are due to the early warning that customers get in the day-ahead market and the customers' consequently greater ability to respond to these pricing signals.

[271] Direct Energy(2) at 7; Mercatus Center at 2; CP Consulting at 2. Results from trial programs utilizing advanced meters for residential customers indicate that residential demand for air conditioning is more price sensitive than other uses, particularly if the response is automated. Robert Earle and Ahmad Faruqui, "Toward a New Paradigm for Valuing Demand Response," 19:4 *Electricity Journal* 21 (May 2006).

[272] Constellation; PEPCO; Southern; EEI; ICC; IURC; NYSPSC; ISO-NE.

[273] National Grid.

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transmission operators have successfully implemented demand response programs that are available to retail customers. In some instances, the existence of retail competition has discouraged the implementation of these traditional types of programs, particularly when POLR is no longer the responsibility of distribution utilities.[274] Without the need to maintain a portfolio of resources to meet POLR, distribution utilities may no longer value these types of programs as a resource to ensure reliable and efficient grid operation. Shifting the responsibility of grid operation and reliability to regional organizations such as ISOs/RTOs further decreases the direct interest by distribution utilities in these types of product offerings.

5. Retail Competition and Rural America

Many rural areas are served by small non-profit electric cooperative and public power utilities. Historically rural areas were among the last to be electrified and the most costly to serve. Customers are scattered over large geographic areas, and residential and small loads predominate. Although electric distribution cooperative service areas have been opened to competition under some state plans, no state has required municipal and/or public power utilities to implement retail competition.

As regards electric cooperatives, eight states with retail competition – Arizona, Delaware, Maine, Maryland, Michigan, New Hampshire, Pennsylvania, and Virginia – required cooperatives to implement retail competition in their service territories. With the exception of Pennsylvania, state public utility commissions regulated retail rates of electric cooperatives and approved the retail competition plans for each cooperative. Pennsylvania's restructuring legislation left the design and implementation of retail competition to the individual distribution cooperatives and their boards. The Pennsylvania Public Utility Commission is responsible for licensing competitive retail providers in cooperative service territories. Cooperative retail competition plans have been fully implemented in Delaware, Maine, New Hampshire, Pennsylvania, and Virginia. Some aspects of cooperative retail competition plans are still in administrative or judicial proceedings in Arizona and Michigan, the latter of which has allowed electric cooperatives to offer retail competition to a portion of their very large C&I customers. Action on extending competition to other customers in Michigan has been deferred.

Other states – including Illinois, Montana, New Jersey, Ohio, and Texas – allow electric cooperatives to opt in to retail competition on a vote of their boards or membership. None of these states regulates the rates or services of electric distribution cooperatives, so the design and implementation of cooperative retail competition plans are left to the individual cooperative. Licensing of competitive providers is handled by the state, but providers must enter into agreements with the cooperative in order to begin enrolling retail customers. A handful of individual cooperatives in Montana and Texas elected to provide retail competition options for their members.

It is difficult to track the progress of retail competition in rural areas because most states do not make switching data available or maintain up-to-date information on active suppliers in

[274] For example, PEPCO stopped actively supporting its air-conditioner DLC program when it divested its generation assets.

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cooperative service territories. Nevertheless, the Task Force was able to determine that there were few alternative competitive providers, if any, for residential customers of rural systems open to retail competition. There were no competitive providers enrolling customers in cooperative systems in Arizona, Maine, Maryland, New Hampshire, Pennsylvania, or Virginia in May 2006. In Delaware and Montana, competitive providers had been licensed to serve cooperative customers, but it is unclear whether any is currently enrolling customers. Licensed provider and switching information for Texas cooperatives is not yet available.

B. POLR Service Price Significantly Affects Entry of New Suppliers

Each of the profiled states has required local distribution utilities to offer a POLR service for customers who do not select an alternative generation service provider or whose supplier has exited the market. The price that the distribution utility charges for regulated POLR service is usually "fixed" for an extended period – that is, it does not vary with increases or decreases in wholesale prices. Generation accounts for the most significant portion of the POLR service price. Many states denote this component – which constitutes the amount that the customer avoids paying the distribution utility by choosing (and paying) an alternative generation service provider – as the "price to beat" or the "shopping credit."

The comments reported that the price of POLR service is the most significant factor affecting whether new suppliers will enter the market and compete to serve customers.[275] The POLR price is the price against which new suppliers, including unregulated affiliates of the distribution utility, must compete if they are to attract customers.[276] The frequency of change of the POLR service price, among other features of POLR service, can affect the competitive dynamics between different suppliers.

1. Contrasting Visions of POLR Service

[275] In addition to the policies surrounding POLR service discussed above, the comments identified other factors that depress or delay entry into retail markets.. For example, the Pennsylvania Consumer Advocate identified several factors that depressed retail entry by suppliers to serve residential customers, including "the acquisition costs associated with marketing programs to reach residential customers, the costs of serving such customers once acquired, and the rising prices for generation supply service in the wholesale market" PA OCA at 3. The Maine Public Advocate echoed these factors and also identified the "miscalculation by some suppliers as to the risks and rewards for retail electricity competition" ME PA at 3. The Industrial Consumers observed that retail markets are not fully competitive because of insufficient generation divestitures that left suppliers with market power. ELCON at 2. Another factor identified by Industrial Consumers is the inability of alternative suppliers to gain access to necessary transmission services to serve their customers. ELCON at 6. Others customers suggested that the lack of uniform rules throughout every service territory hinders entry for suppliers. Wal-Mart at 13. Other commenters argued that alternative suppliers need access to customer usage data from utilities to be able to market to prospective customers. Constellation at 43. Still others argued for no minimum stay requirements at POLR and constrained shopping windows, which can dampen entry. RESA at 30-31; Strategic at 10; Wal-Mart at 13. The lack of entry in most states makes it difficult for the Task Force to evaluate which additional factors are the most important.

[276] There is one potential exception: a supplier that offers a substantially different product – for example, "green" power from wind turbines – may be able to charge a higher price and still attract customers.

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The comments revealed two visions of how POLR service should function in the long term.[277] In the first vision, POLR is a long-term option for customers. Under this view, POLR service closely approximates traditional utility service, but in a market place with other sources of supply available to customers. POLR service under this vision often features prices that are fixed over extended periods of time. Government-regulated POLR service competes head-to-head with private, for-profit retail suppliers.[278] (This may be analogized to the United States Postal Service as a provider of parcel postage service in competition with for-profit package delivery services such as United Parcel Service, DHL, and Federal Express.) Alternative suppliers may grow as they find additional approaches to attract customers, but POLR service will likely retain a substantial portion of sales, particularly to residential customers. This type of POLR service serves as a yardstick against which alternative suppliers compete. Most states have adopted this vision of POLR service.[279]

In the second vision, POLR is a barebones, temporary service consisting of retail access to wholesale supply, provided primarily to customers that are between suppliers. In this vision, alternative suppliers serve the bulk of retail customers. The alternative suppliers compete primarily against each other with a variety of price and service offerings designed to attract different types of customers. This type of POLR service acts as a stopgap source of supply that ensures that electric service is not interrupted for customers when an alternative supplier leaves the market or is no longer willing to serve particular customers. Wholesale spot market prices, or prices that vary with each billing cycle, may be acceptable as the price for POLR service.[280] (A supply arrangement comparable to this version of POLR service is the high-risk pool for automobile insurance operated in any of several states.[281]) Texas and Massachusetts are current examples of this vision of POLR service, as is Georgia in its design for retail natural gas sales.[282]

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[277] Although state utility regulators often require that POLR service be provided or procured by the incumbent distribution utility, the task of providing or procuring POLR service could be carried out by other entities. Consolidated Edison(2). For example, it could be assigned to one or more alternative suppliers, awarded through a competitive bidding process, or assumed directly by the state utility regulator (as in Maine). In any case, the firm assigned to provide or procure POLR service may be exposed to the risk that this responsibility will be unprofitable because costs and demand are volatile or because state utility regulators impose costs on the provider of POLR service (such as switching incentives) during the transition to retail customer choice. This risk can create financial difficulties for the distribution utility or another entity with this responsibility. Consolidated Edison(2).

[278] See, e.g., ICC; PPL; PA OCA.

[279] See, e.g., PA OCA; NASUCA.

[280] See, e.g., RESA; Wal-Mart; NEMA; Suez.

[281] Most states have a mechanism by which high-risk drivers can obtain insurance. Often insurers in a state are assigned a portion of the pool of high-risk drivers based on each firm's share of drivers outside the pool. AIPSO manages many of the pools and maintains links with individual state programs at https://www.aipso.com/adc/DesktopDefault.aspx?tabindex=0&tabid=1. Similar plans are available in many states for individuals with prior health conditions who are seeking health insurance coverage. See Communicating for Agriculture and the Self-Employed, Comprehensive Health Insurance of High-Risk Individuals (19th ed. 2005).

[282] Texas will end its "price to beat" system in 2007 (Texas profile, Appendix D). Massachusetts ended its rate-capped POLR service in February 2005 (Massachusetts profile, Appendix D). In the Atlanta Gas Light distribution

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Some of profiled states incorporated aspects of both visions of POLR service for different types of customers. For example, New Jersey adopted the first approach for POLR service to residential customers and the second approach for POLR service to large C&I customers.[283] Large C&I customers are generally expected to be well-informed buyers with wide energy procurement experience, and accordingly some states determined that large C&I customers are more likely to be able to obtain quickly the benefits of retail competition without additional help from state regulators provided in the form of fixed POLR prices.

2. Key POLR Service Design Decisions

The profiled states took different approaches to designing their POLR service offerings. Key design decisions involved the pricing of the POLR, the duration of the POLR obligation, and how to acquire POLR supply. Each of these can affect entry conditions that alternative suppliers face. This section describes each of the decisions.

a. Pricing of POLR service:

The profiled states generally set the POLR price at the regulated price for electric power prevailing before the onset of retail competition, less a discount. The discounts usually persist over a specified multi-year period. Assuming that competition generally lowers prices, one rationale for the discounts was to provide a proxy for the effects of competition applied to customers viewed as less likely to be able quickly to obtain such savings for themselves. The Illinois POLR service discount, for example, was developed to bring local prices into line with regional prices. When retail competition began, Illinois customers in areas with relatively low prices before customer choice did not receive discounts below the previously regulated rates. In contrast, customers in the Commonwealth Edison territory – the area with the highest cost-based rates – received 20% discounts to bring retail POLR prices there into line with the regional average bundled service prices prevalent prior to the restructuring legislation.[284]

b. The extent and timing of pass-through of fuel cost changes:

States also have considered the extent to which they should adjust the regulated POLR price to allow for changes in the cost of fuel needed to generate electricity. Some states have separated fuel costs from other cost components, because fuel costs have been more volatile than other input prices. (Fuel costs are the largest variable cost component and can be calculated for each type of generation unit on the basis of public information.) These factors also suggest that a generation firm does not have much control over its fuel costs once the generation investment

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territory, the distribution utility petitioned the Georgia Public Service Commission to withdraw from retail sales. In Georgia, under the amended Natural Gas Competition and Deregulation Act of 1997, a customer who does not choose as alternative supplier is randomly assigned to an alternative supplier. Discussion and documentation about the Georgia natural gas retail competition program are available at http://www.psc.state.ga.us/gas/ngdereg.asp.

[283] New Jersey profile, Appendix D.

[284] Illinois profile, Appendix D.

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has been made. For example, Texas instituted twice-yearly adjustments in the POLR service (price to beat) price calculations. By adjusting POLR prices for changes in fuel costs, Texas regulators have been able to prevent the POLR price from slipping too far away from competitive price levels, thus maintaining the POLR price as a closer proxy for the competitive price.[285] If retail prices fall too far below wholesale prices, the POLR supplier may have financial difficulties, and alternative suppliers will be unlikely to enter or remain as active retailers.[286]

c. POLR price and the shopping credit:

When a retail customer picks an alternative supplier, the distribution utility with a POLR obligation avoids the costs of procuring generation supply for that consumer. The distribution utility therefore "credits" the customer's bill so that the customer pays the alternative supplier (rather than the utility) for the electricity supplied.[287] This avoided charge – the "shopping credit" – equals the regulated POLR service price. States have used two approaches to determine the level of the shopping credit. One view is that the shopping credit equals the avoided cost or the proportion of POLR procurement costs attributable to a departing customer. Maine, for example, has estimated avoided costs on this basis, with no additional estimated avoided costs.[288] This approach results in a lower shopping credit and total POLR price.

An alternative perspective is that the distribution utility also avoids "adders" (costs that are in addition to avoided procurement costs), including marketing and administrative costs.[289] This view results in a higher shopping credit and a higher total POLR price, creating "headroom" for potential entrants. In Pennsylvania, the POLR shopping credit included several other elements, such as avoided marketing and administrative costs.[290] Some observers attributed the early high

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[285] Texas profile, Appendix D. In contrast, a state with long lags in fuel cost adjustments would have retail prices well below market rates during periods of increasing fuel prices, and prices well above market rates during periods of declining fuel prices. A single snapshot comparison of prices would be misleading in these circumstances.

[286] See discussion of the California energy crisis, in which one of the state's utilities declared bankruptcy because, among other reasons, capped POLR rates were substantially below wholesale prices.

[287] The distribution utility continues to charge the customer a delivery charge (a "wires" charge) to cover the transmission and distribution expense.

[288] Thomas L. Welch, Chairman, Maine Public Utilities Commission, UtiliPoint PowerHitters interview (Jan. 24, 2003), available at http://mainegov-images.informe.org/mpuc/staying_informed/about_mpuc/commissioners/ph-welch.pdf.

[289] *See* Kenneth Rose, Electric Restructuring Issues for Residential and Small Business Customers, National Regulatory Research Institute Report NRRI 00-10 (June 2000), available at http://www.nrri.ohio-state.edu/dspace/bitstream/2068/610/1/00-10.pdf, for a discussions of adders and their relationship to wholesale prices and headroom for entrants in Pennsylvania and other states.

[290] Id.

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volume of switching to alternative suppliers in Pennsylvania to the additional avoidable costs that were included in the Pennsylvania shopping credit calculations.[291]

d. The multi-year period for POLR service:

Every state that implemented retail competition has determined how long POLR service should continue to be available to customers at a discount from prior regulated prices. The length of this period has generally corresponded to the distribution utility's collection of stranded generation costs. In a competitive retail environment, utilities no longer were assured that they could recover the costs of all of their state-approved generation investments. Most states faced claims of utility stranded costs associated with generation facilities that were unlikely to earn enough revenues to recover fixed costs once customers could seek out alternative, lower-priced retail suppliers. States allowed utilities with stranded costs to recover those costs through charges on distribution services that cannot be bypassed.[292]

Each state that authorized the collection of stranded costs faced decisions on how to determine these costs and the duration of the collection period. These decisions fundamentally altered the electric power industry and were at the center of some of the most contentious issues facing state regulators. Some states (for example, Maine and New York) required that some or all generation be sold to obtain a market-based determination of the level of stranded costs.[293] In other states, such as Illinois, utilities voluntarily divested generation assets. As noted above, the result of these divestitures is that generation no longer is primarily in the hands of regulated distribution utilities.[294]

e. Procurement for POLR service:

Because most utilities no longer own generation to satisfy all of their POLR obligations, they have taken different approaches to acquire the necessary generation supply. For example, the utilities in New Jersey that offer residential POLR service acquire generation supply through the use of three overlapping three-year contracts, with each contract covering approximately one-third of the projected load.[295] This "laddering" of supply contracts reduces the volatility of retail electricity prices for customers but does not assure that the prices paid by POLR service consumers are at the short-term competitive level.[296] Other states have used different ways to

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[291] Over time, the shopping credit in Pennsylvania faded in significance as the competitive rates increased relative to POLR service prices due to fuel cost increases. See the pattern of customer switching in the Pennsylvania profile in Appendix D.

[292] FTC Retail Competition Report, State Profiles, Appendix A.

[293] New York profile, Appendix D; New York State Profile in Appendix A to the FTC Retail Competition Report.

[294] Illinois profile, Appendix D.

[295] New Jersey profile, Appendix D.

[296] See, e.g., ME OPA.

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hedge the volatility in short-term energy prices. For example, New York distribution utilities have long-term supply contracts with the purchasers of their divested generation assets ("vesting contracts") based on pre-divestiture average generation prices.[297]

E. Observations on How POLR Service Policies Affect Competition

One of the most contentious issues currently facing state regulators is how to price POLR service once the rate caps expire. This situation is especially vexing for those states that had stranded cost recovery periods during which fixed POLR prices became substantially lower than current wholesale prices. The rate caps are expiring this year in Delaware, Illinois, Maryland, Ohio, and Rhode Island, and customers in those states that did not choose an alternative supplier are faced with potentially substantial increases in electricity prices relative to those in effect when retail competition began six or seven years ago. The various state POLR policies encompass the range of options available to these states.

It is difficult to discern a full set of best practices regarding retail competition because the rapid increase in fuel prices in recent years – leading to increases in wholesale prices – interacted dramatically with POLR service rate caps to cut short the experiences with other retail competition issues in most states. As a result, the range of experience upon which to draw regarding other aspects of retail competition is rather narrow, primarily consisting of what has occurred in New York State, Texas (within ERCOT), the Duquesne distribution area within Pennsylvania, Maine, Massachusetts (recently), and the large C&I customers in New Jersey, Illinois, and Maryland. Because each state faces different electricity supply and demand conditions, it is not possible to recommend a single approach for all states considering retail customer choice. Nonetheless, given these limitations, and consistent with the discussion elsewhere in this section, we offer the following observations on what appears to work well (and not to work well) in retail customer choice programs.

Minimum POLR Service: POLR service (or an equivalent provision) to serve customers of a supplier that has left the market, while the customer obtains another supplier, is the least intrusive form of POLR service yet is consistent with concerns about potentially life-threatening effects of unanticipated loss of electric service.

Treatment of Different Customer Risk Preferences: POLR service that goes beyond short-term access to the wholesale spot market involves providing a bundle of services that electricity marketers also can provide. States that embrace a more expansive version of POLR service should recognize that this step may hamper the development of alternative suppliers. The economic rationale for taking this step usually is limited to trying to correct some identifiable and substantial market imperfections. If a state adopts a more expansive version of POLR service, it should periodically review the rationale for continuing it.

POLR Service Price Caps: It is difficult to establish a POLR service price cap that will not distort retail electricity markets and the associated development of effective competition. The

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[297] New York profile, Appendix D.

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best practice is to make frequent adjustments to the cap (at least in order to reflect changes in fuel costs), or to abandon the cap altogether and utilize an objective, competitive process to procure supply.

Treatment of Different Customer Classes: Large customers are logical pioneers for retail choice because of their familiarity with energy procurement processes and because they are comfortable with decisions to adjust input use based on input prices. For smaller, less sophisticated customers, including residential customers, issues of awareness and access to comparative pricing information should be addressed as retail customer choice is introduced.

Switching Costs: Switching is important for retail electricity competition to work. States should strive to avoid rules that make switching more expensive or slower than is necessary to avoid unauthorized switching ("slamming").

Consumer Education: Becoming an informed and active consumer in an unfamiliar market requires that consumers be informed that they have choices and be provided with information about how to compare the available choices and how to switch suppliers (and any constraints on switching). A well-organized state website in Texas appears to work well for residential price comparisons. New York's program to encourage customers to try out alternative suppliers that agree to offer a temporary discount appears to educate many residential customers effectively about the ease of switching, without subsidizing the alternative suppliers.

Customer Aggregation: Customer aggregation is an approach that can reduce per-customer search and switching costs and thus generally can help in the development of retail competition. Opt-out customer aggregations may be worth considering because they can minimize transaction costs without limiting customer choice.

Entry: Entry is a key concept in retail electricity competition. States should strive to avoid rules that make entry more expensive or slower than the avoidance of fraudulent marketing activities requires. Areas for consideration include registration fees and delays, costs and delays in interacting with the distribution utility (metering, billing, treatment of receivables), security deposits for suppliers, rules regarding disconnecting retail customers for non-payment, and exit penalties.

1. POLR Service Price to Approximate the Market Price

For the POLR service price to provide economically efficient incentives for consumption and supply decisions and thereby maximize welfare, it must closely approximate a competitive market price, which will vary over time as supply and demand change.[298] If the POLR service

[298] Because the marginal cost of supplying electricity varies over the course of the day and season and because fuel costs sometimes are volatile, efficient retail prices for electricity are more volatile than the prices that customers are used to paying for electricity under traditional regulation. Electricity prices under traditional regulation typically reflect average costs for electricity and risk management over extended periods of time. In a retail choice environment, alternative suppliers can offer a variety of risk management (hedging) levels that range from full, immediate pass-through of wholesale spot market prices to fixed rates for extended periods. For a discussion of how much hedging is required to eliminate portions of volatility, see Severin Borenstein, "Customer Risk from Real-Time Retail Electricity Pricing: Bill Volatility and Hedgability," University of California Energy Institute CSEM

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price does not closely match the competitive price, it will distort consumption and investment decisions[299] and thereby lead to an inferior allocation of resources.[300] Competitive market prices align consumers' willingness to pay for a service with the marginal cost of providing it (where, in the long run, the marginal cost includes a competitive rate of return on investments). This alignment leads to an economically efficient allocation of resources, such that no alternate allocation of resources could lead to greater welfare for society as a whole.[301]

Experience within the profiled states shows that it is not easy to approximate the competitive price. Not only does the competitive price change when prices of inputs change, but the price also acts as an investment signal for new generation. The short-term competitive price for the electric generation component can move quickly and dramatically. Over the past several years, the initial fixed discounts for POLR service have resulted in POLR service prices that are below market prices or occasionally above market prices, but never at the short-term market price for long.[302] When POLR prices are below competitive levels, even efficient alternative suppliers

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Working Paper 155 (June 6, 2006), available at http://www.ucei.berkeley.edu/PDF/csemwp155.pdf. It is important to realize that these bundles of electricity and risk management can also constitute efficient retail prices, although they contain a cost component associated with the risk management services provided. If POLR service prices become more volatile, a customer with preferences for less risk will have incentives to search for an alternative supplier that offers a price/risk tradeoff that that customer prefers – slightly higher prices but less volatility. Alternative suppliers will have incentives to offer preferable price/risk alternatives in order to gain customers. Retail customers can also consider whether onsite generation or other forms of upstream vertical integration offer the price/risk combination that they most prefer.
In general, so long as there are customers served by alternative suppliers or upstream vertical integration is an option, the POLR price is only one component of the average market price.
In a traditional regulatory setting, utilities sometimes offer customers a discount if they agree to have their service interrupted during peak demand periods. The removal of restrictions on which customers can obtain interruptible service rates would allow more customers to improve the match between their risk preferences and the electric service that they receive. CMTC(2) at 25.

[299] Some commenters observed that cost averaging, cost deferrals, inaccurate cost allocations, double counting of costs, and price caps all can create distortions in consumption and investment that result in loss of consumer welfare. Strategic Energy(2) at 6; Constellation(2) at 8.

[300] There is a tradition in the electricity industry of providing discounts or other forms of assistance to low-income families. It may be in keeping with this tradition for states to examine whether the level of assistance for low-income families should be increased in response to price increases or greater price volatility. National Association of State Utility Consumer Advocates(2). Similarly, firms whose competitors are located in areas with stable or declining prices or diminishing price volatility could face financial distress, just as they would if they experienced other types of increased or more volatile input costs relative to their rivals. Firms with electricity-intensive production processes are likely to be particularly sensitive to increased prices or price volatility for electricity. ALCOA(2); CMTC(2) at 26.

[301] This statement would need to be qualified to the extent there is market power and to the extent there are unpriced externalities such as pollution.

[302] See, e.g., Wal-Mart; WPS Resources; ICC; PPL; RESA.

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cannot profit by entering or continuing to serve retail customers.[303] Firms with the POLR obligation can become financially distressed, as they did in California during its energy crisis.[304]

Some substantial percentage of the change in the market price is likely to be due to changes in fuel prices. A POLR service should adjust the retail electricity price for changes in the prices of fuels used by generators (at the margin). This is a more efficient pricing system than using a fixed price as a proxy for the market price. Moreover, a POLR price that is adjusted only infrequently to incorporate underlying fuel price changes will usually be either above or below the competitive market price.[305] A fixed or infrequently updated price creates incentives for customers to move back and forth from POLR service to alternative suppliers, based on which offers a lower rate to the customer. If permitted, this repeated switching may create additional costs for both POLR service providers and alternative suppliers, and also can reduce the certainty about procurement quantities upon which both POLR service and competitive suppliers may depend to make long-term supply arrangements. If there are other identifiable cost components that fluctuate widely, including them in POLR service price adjustments will also increase the likelihood that the POLR service price will be a reasonable proxy for the competitive price.

2. Lack of Market-Based Pricing Distorts Development of Competitive Retail Markets

A second issue arises when below-market POLR service prices persist during a period of rising fuel prices and correspondingly increasing wholesale supply prices. In these circumstances, customers are likely to experience a shock when POLR service prices are adjusted to reflect prevailing wholesale prices. This situation can create public pressure to continue the fixed POLR rates at below-market levels. For example, some jurisdictions have considered a gradual phase-in of the price increase to bring POLR prices to the market level. The shortfall between the market POLR price and the price that customers actually pay is usually deferred and collected later from the POLR provider's customers.

Although this approach reduces rate shock for customers, it is likely to distort retail electricity markets. First, a phase-in of the price increase continues to provide inaccurate price signals for customers and undermines incentives to reduce consumption. Second, it prevents entry of alternative suppliers by keeping the POLR rate below market levels for additional years. Third, it results in higher prices in future years as the deferred revenues are recovered, so that customers who purchase electricity later are unfairly penalized (overcharged). Fourth, if surcharges to pay for deferred revenues are not designed carefully, the charges can disrupt existing competition by forcing customers with alternative suppliers to pay for part of the deferred revenues. Fifth, if wholesale prices decline, customers will choose alternative suppliers, and this migration will create a stranded cost problem because the POLR provider will have lost customers on whom it had counted to pay the higher prices. Moreover, if the state prevents the stranded cost problem by imposing large exit fees on POLR service customers, POLR service customers will be locked in to the POLR provider, so that competition may not develop even after POLR service prices

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[303] See, e.g., Wal-Mart; RESA.

[304] See, e.g., EEI.

[305] See, e.g., RESA.

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rise to market levels. Finally, continued POLR service price caps in an environment of increasing wholesale prices increase can endanger the financial viability of the distribution utility.

3. Different POLR Services Designed for Different Classes of Customers

Some states have different POLR service designs for different customer classes. POLR service prices offered to large C&I customers generally have entailed less discounting from regulated rates or competitive market-based procurement and have been based on wholesale spot market prices.

Large C&I customers generally have a better understanding than do other customer classes of price risk and of the means and costs required to reduce that risk. In addition, suppliers often can customize service offerings to the unique needs of these large customers.[306] With their larger loads, large C&I customers also may be better equipped to respond to efficient price signals than other classes of customers. The result of this price response may be to improve system reliability and dissipate market power in peak demand periods.[307]

Large C&I customers have engaged in more switching to competitive providers in the states that have implemented this division between POLR service for large C&I customers and POLR service for residential and small C&I customers.[308] Many alternative suppliers have reportedly developed customized time-of-use contracts for large C&I customers.[309] Moreover, the profiled states show that there are a substantial number of suppliers actively serving large C&I customers. Box 4-5 describes the unique sign-up period that Oregon has developed for its nonresidential customers.

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[306] See, e.g., Wal-Mart at 10-11; Morgan.

[307] In Case 03-E-0641, the New York State Public Service Commission required New York utilities to file tariffs for mandatory real-time pricing (RTP) for large C&I customers. The order observed that "average energy pricing reduces customers' awareness of the relationship between their usage and the actual cost of electricity, and obscures opportunities to save on electric bills that would become apparent if RTP were used to reveal varying price signals." It further notes that "if a sufficient number of customers reduced load in response to RTP, besides benefiting themselves, the reduction in peak period usage would ameliorate extremes in electricity costs for all other customers."

[308] New Jersey profile, Appendix D; RESA.

[309] See, e.g., Consolidated Edison; Alliance for Retail Energy Markets; Constellation; PPL; RESA; NY PSC; Direct Energy; Reliant; PA OCA; Wal-Mart; Morgan.

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Box 4-5
Oregon's Annual Window for Switching for Nonresidential Customers

Oregon has a unique process by which nonresidential customers of the two large investor-owned distribution utilities in Oregon can switch to an alternative supplier. Nonresidential customers must make their selections during a limited annual window. The window must be at least five days in duration, but usually a month is allowed. In addition to picking the alternative supplier, the largest customers must select a contract duration. One option specifies a minimum duration of five years, with an annual renewal after that. As of 2005, alternative suppliers were anticipated to serve about 10% of load in one distribution area and about 2.1% in the other. The former utility offered choice beginning in 2003. The latter utility began customer choice in 2005. Detailed descriptions are available at http://www.oregon.gov/PUC/electric_restruc/indices/ORDArpt12-04.pdf.

It is not necessary to expose *all* customers to time-based prices in order to introduce price-responsiveness into retail markets.[310] As a first step, customers who are the most price-sensitive could be exposed to time-based rates. Niagara Mohawk in upstate New York has taken this approach for its largest customers, as have Maryland and New Jersey for their largest customers. California is considering setting real-time pricing as the default rate for medium-sized and larger C&I customers. Another means to introduce price-responsiveness is to provide customers with voluntary time-based rate programs, along with assistance in equipment purchase or financing. For example, the New York State Public Service Commission requires voluntary time-of-use pricing for residential customers, and the Illinois Legislature has required that residential customers be offered real-time pricing as a voluntary tariff. The point is that competition provides incentives for suppliers to offer customers the mix of products and services that matches their potentially diverse preferences.

4. Use of Auctions to Procure POLR Service

As discussed above, New Jersey has used an auction process to procure POLR supply for both residential and C&I customers. Illinois has proposed to use a similar auction when its rate caps expire. Auctions may allow retail customers to obtain the benefit of competition in wholesale markets as suppliers compete to supply the necessary load. However, as discussed in Chapter 3, if there is a load pocket, the use of an auction is unlikely to help this process, and thus the benefits of competition may not be as great.

5. Consumer Awareness of Customer Choice and Engendering Interest in Alternative Suppliers

Observers of restructuring in other industries have found that consumer switching from a traditional supplier to a new one can be a slow process. It took 15 years before AT&T lost half of its long-distance service customers to alternative suppliers.[311] One reason why retail electric

[310] Steven Braithwait and Ahmad Faruqui, The Choice Not to Buy: Energy Savings and Policy Alternatives for Demand Response, PUBLIC UTILITIES FORTNIGHTLY (Mar. 15, 2001)

[311] James Zolnierek, Katie Rangos, and James Eisner, Industry Analysis Division, Common Carrier Burerau, Federal Communications Commission, Long Distance Market Shares, Second Quarter 1998 , at 19-20 (Sept. 1998), available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/mksh2q98.pdf; Thomas L.

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competition could be slow to develop is that the expected gains from learning more about market choices may be too small to make the learning worthwhile,[312] particularly for residential customers with small loads.[313]

Both the pricing of POLR service and the provision of aid to consumers in computing the "shopping credit" may help encourage the more rapid development of retail competition, by making the rewards for active search sufficient to motivate search behavior by residential consumers. Some states that have low "shopping credits" have had little retail entry. Some states with retail competition have had substantial consumer education programs, including websites with orientation materials and price comparisons.[314] These initiatives help minimize the cost of learning more about market alternatives and thus can make market search beneficial to customers.

In a different approach to encouraging the development of retail competition, New York is helping to organize temporary discounts from alternative suppliers and ordering distribution utilities to make these discounts known to consumers who contact the utility.[315] These efforts have increased residential switching and reduced prices, at least for the short term. Experience indicates that once residential customers switch to alternative suppliers, they seldom return to POLR service once the temporary discounts no longer apply.[316]

Welch, Chairman, Maine Public Utilities Commission, UtiliPoint PowerHitters interview (Jan. 24, 2003) available at http://mainegov-images.informe.org/mpuc/staying_informed/about_mpuc/commissioners/ph-welch.pdf.

[312] Economists refer to this phenomenon as "rational ignorance." Clemson University, The Theory of Rational Ignorance, The Community Leaders' Letter, Economic Brief No. 29, available at http://www.strom.clemson.edu/teams/ced/econ/8-3No29.pdf.

[313] Paul L. Joskow, "Markets for Power in the United States: An Interim Assessment," Energy Journal (forthcoming 2006), available at http://stoft.com/metaPage/lib/Joskow-2006-power-market-assessment.pdf.

[314] See, e.g., ELCON; Progress Energy; Constellation; PEPCO; PA OCA.

[315] In Case 05-M-0858, the New York State Public Service Commission adopted the "PowerSwitch" alternative supplier referral program (first developed by Orange & Rockland) as the model for all utilities in the state.

[316] New York State Consumer Protection Board, Comment to the New York State Public Service Commission, Case 05-M-0334, Orange & Rockland Utilities, Inc., Retail Access Plan, at 5 (May 2, 2005). The Consumer Protection Board indicated that retail customers who have participated in "PowerSwitch" are returning to POLR service at a rate of less than 0.1% per month. The Board applauded PowerSwitch because it is completely voluntary and provides assured initial savings to consumers.

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APPENDIX A
LIST OF COMMENTERS WHO RESPONDED TO TASK FORCE NOTICES REQUESTING COMMENTS*

** Two notices were published in the Federal Register as FERC Docket Number AD05-17-000: (1) Notice Requesting Comments on Wholesale and Retail Electricity Competition, issued on October 13, 2005, and (2) Notice Requesting Comments on Draft Report to Congress on Competition in the Wholesale and Retail Markets for Electric Energy, issued on June 5, 2006. The actual comments can be found at FERC.gov*

The following parties filed comments in response to the notice issued October 13, 2005:

Alcoa, Inc. (Alcoa)

Allegheny Energy Companies (Allegheny)

Alliance for Retail Energy Markets

Ameren Services Company (Ameren)

American Antitrust Institute (AAI)

American Public Power Association (APPA)

Association of Large Distribution Cooperatives (Large Distribution Cooperatives)

BlueStar Energy Services, Inc. (BlueStar)

BP Energy Company (BP Energy)

California Independent System Operator Corporation (CAISO)

California Public Utilities Commission (California State Commission)

Cape Light Compact

Carnegie Mellon Electricity Industry Center (Carnegie Mellon)

CenterPoint Energy Houston Electric, LLC (CenterPoint)

Los Angeles Department of Water and Power (LADWP)

Commercial End Users: 7-Eleven, Inc, Big Lots Stores, Inc., Crescent Real Estate Equities, Federated Department Stores, Hines, JC Penney, Wal-Mart Stores, Inc.

COMPETE, Electric Power Supply Association (EPSA), Alliance for Retail Choice (ARC)

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Connecticut Department of Public Utility Control (Connecticut State Commission)

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (together, New York Companies)

Constellation Energy Group, Inc. (Constellation)

Council of Industrial Boiler Owners (CIBO)

Demand Response and Advanced Metering Coalition (DRAM Coalition)

Direct Energy Services, LLC (Direct Energy)

Dominion Resources Services, Inc. (Dominion)

Duke Energy Corporation (Duke)

Duquesne Light Company (Duquesne)

Edison Electric Institute (EEI)

Electric Power Supply Association (EPSA)

Electricity Consumers Resource Council (ELCON), American Chemistry Council, American Iron and Steel Institute, Coalition of Midwest Transmission Customers, PJM Industrial Customer Coalition, Illinois Industrial Energy Consumers, Industrial Energy Users - Ohio, and Multiple Intervenors (collectively, Industrial Consumers)

EnerNOC, Inc. (EnerNOC)

Exelon Corporation (Exelon)

Governor of the State of Rhode Island

Idaho Public Utilities Commission (Idaho State Commission)

Illinois Commerce Commission (Illinois State Commission)

Independent Power Producers of New York, Inc. (IPP NY)

Indiana Utility Regulatory Commission (Indiana State Commission)

Individual- Mike Holly; Sorgo Fuels

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Industrial Consumers: Portland Cement Association, American Forest and Paper Association, American Iron and Steel Institute, California Large Energy Consumers Association, Coalition of Midwest Transmission Customers, National Lime Association, PJM Industrial Customer Coalition

ISO New England Inc. (ISO New England)

ISO/RTO Council

Large Public Power Council (LPPC)

Lehigh Cement Company (Lehigh)

Maine Office of Public Advocate (Maine Public Advocate)

Midwest Independent Transmission System Operator Inc. (MISO)

Midwest Stand-Alone Transmission Companies

Mirant Corporation (Mirant)

Missouri Public Service Commission (Missouri State Commission)

National Association of Regulatory Utility Commissioners (NARUC)

National Association of State Utility Consumer Advocates (NASUCA)

National Energy Marketers Association (National Energy)

National Grid USA (National Grid)

National Rural Electric Cooperative Association (NRECA)

New Mexico Attorney General

New York Independent System Operator, Inc. (New York ISO)

New York State Department of Public Service (New York State Commission)

New York State Electric & Gas Corporation (New York G&E) and Rochester Gas & Electric Corporation (Rochester G&E) (together, New York and Rochester G&E)

North Carolina Utilities Commission, Public Staff - North Carolina Utilities Commission, and the Attorney General of the State of North Carolina (collectively, North Carolina Agencies)

Northeast Utilities

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NUCOR Corporation, Blue Ridge Power Agency, and the East Texas Electric Cooperative (collectively, Large Power Buyers)

Orlando Utilities Commission (Orlando Utilities)

Pennsylvania Office of Consumer Advocate (PA Consumer Advocate)

Pepco Holdings, Inc. (Pepco)

PJM Interconnection, LLC (PJM)

PNM Resources, Inc. (PNM)

PPL Companies (PPL)

Progress Energy, Inc. (Progress) and South Carolina Public Service Authority (Santee Cooper)

Public Utilities Commission of Ohio

Reliant Energy Inc. (Reliant)

Retail Energy Supply Association (RESA)

South Carolina Electric and Gas Company (South Carolina E&G)

Southern California Edison Company (SoCal Edison)

Southern Companies (Southern)

Southwest Transmission Dependent Utility Group (Southwest Transmission)

Steel Manufacturers Association (Steel Manufacturers)

Strategic Energy, LLC (Strategic Energy)

SUEZ Energy North America (SUEZ)

The Alliance of State Leaders Protecting Electricity Consumers (Alliance of State Leaders)

Transmission Access Policy Study Group (TAPS)

Transmission Agency of Northern California (TANC)

Virginia State Corporation Commission

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Wal-Mart Stores, Inc. (Wal-Mart)

WPS Resources Corporation (WPS)

Xcel Energy Services, Inc. (Xcel)

The following parties filed comments in response to the notice issued June 5, 2006:

Alcoa, Inc. (Alcoa)

Allegheny Energy Companies (Allegheny)

Alliance for Retail Energy Markets

Alliance of State Leaders Protecting Electricity Consumers

American Public Power Association (APPA)

Attorney General of California

California Department of Water Resources; State Water Project

Cape Light Compact

CMTC

Community Power Alliance

COMPETE

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

(together, New York Companies)

Constellation Energy Group, Inc. (Constellation)

Direct Energy Services, LLC (Direct Energy)

Duquesne Light Company (Duquesne)

Edison Electric Institute (EEI)

Electric Power Supply Association (EPSA)

Individual (CP Consulting)

Individual (Mike Holly)

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Individual (OMB Professionals)

Individual (William D. Steinmeier)

Industrial Consumers: Portland Cement Association, American Forest and Paper Association, American Iron and Steel Institute, California Large Energy Consumers Association, Coalition of Midwest Transmission Customers, National Lime Association, PJM Industrial Customer Coalition

ISO New England Inc. (ISO New England)

ISO/RTO Council

Mercatus Center; George Mason University

Midwest Independent Transmission System Operator Inc. (MISO)

Midwest Stand-Alone Transmission Companies

National Association of State Utility Consumer Advocates (NASUCA)

National Grid USA (National Grid)

National Rural Electric Cooperative Association (NRECA)

New Mexico Attorney General

New York State Department of Public Service (New York State Commission)

New York State Electric & Gas Corporation (New York G&E)

Pacific Gas & Electric (PG&E)

PJM Interconnection, LLC (PJM)

Portland Cement

PPL Parties (PPL)

Progress Energy, Inc. (Progress) and South Carolina Public Service Authority (Santee Cooper)

Public Utility Law Project of New York

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Public Utilities Commission of Texas

Reliant Energy Inc. (Reliant)

Seattle City Light

Strategic Energy, LLC (Strategic Energy)

SUEZ Energy North America (SUEZ)

Transmission Access Policy Study Group (TAPS)

Wisconsin Load Serving Entities (Wisconsin LSEs)

Wisconsin Public Service Commission (Wisconsin PSC)

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APPENDIX B
TASK FORCE MEETINGS WITH OUTSIDE PARTIES

American Public Power Association – October 27, 2005
ArcLight Capital Partners LLC– November 9, 2005
Compete Coalition – October 27, 2005
Edison Electric Institute – October 26, 2005
Electric Power Supply Association – October 27, 2005
Electricity Consumers Resource Council – October 26, 2005
Fitch Ratings – November 9, 2005
Lehman Brothers – November 9, 2005
Merrill Lynch Commodities, Inc. – November 9, 2005
Moody's Investors Service – November 9, 2005
National Association of Regulatory Utility Commissioners – October 27, 2005
National Association of State Energy Officials – October 27, 2005
National Governors Association – October 26, 2005
National Rural Electric Cooperative Association – October 26, 2005
Public Utility Law Project – October 27, 2005
Standard & Poor's – November 9, 2005
SUEZ Energy North America – December 8, 2005

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APPENDIX C
AN ANNOTATED BIBLIOGRAPHY OF QUANTITATIVE COST BENEFIT ASSESSMENTS OF ELECTRIC INDUSTRY RESTRUCTURING PROPOSALS

Commenters on the 1815 study highlighted a wide variety of cost-benefit studies that seek to evaluate the electric power industry. Indeed , both proponents and opponents of electric industry restructuring have armed themselves with these types of analyses to support their respective positions. It can be challenging to understand these studies' sometimes contradictory results.

The 1815 Task Force reviewed roughly 30 cost-benefit analyses[317] in an attempt to better understand what they reveal. Based on this review, together with a review of the recent Department of Energy Report (A Review of Recent RTO Benefit-Cost Studies: Toward More Comprehensive Assessments of FERC Electricity Restructuring Policies" By J. Eto, B. Lesieutre, and D. Hale, December 2005), the Task Force has made the following observations:

1) **Many of the existing studies address only the benefits of restructuring proposals**. To the extent studies overlook the costs associated with institutional changes, they can provide an incomplete picture of impacts, and their results should be juxtapose to cost estimates. (See Appendix C: RTO West Benefits and Costs, "Economic Assessment of RTO Policy," and "Putting Competitive Power Markets to the Test The Benefits of Competition in America's Electric Grid: Cost Savings and Operating Efficiencies.").
.

2) **The benefits associated with some of the most significant motivations behind restructuring** – the maintenance of system reliability and the facilitation of lowest-cost electricity production (via incentives for innovation and low-cost construction) - **are very difficult to quantify** using current technology and are often left out of benefit assessments. "It is important that technically limited studies not be interpreted to suggest that impacts that they do not analyze are not significant."(Eto et. Al., p. 21).

3) **Existing methods and models used to estimate benefits are limited in what they can measure.** Many of these models also employ simplistic and often misleading assumptions about market behavior. Improving the models used to derive quantitative benefits is technically difficult – significant improvements would involve marrying the complexity of adequately modeling a 10,000+ bus transmission/generation system to the complexity of modeling realistic human behavior in markets. The capabilities of existing models are likely to be fairly static until computer technology advances enough to accommodate the memory needs associated with this complex modeling task.

4) **Modeling energy transmission and markets necessarily requires making a great deal of assumptions** given the significant limitations in data needed to "feed" these models . Thus, outputs of RTO modeling attempts vary widely based on the assumptions made by the parties doing the modeling – assumptions as to transmission configurations, weather, imports/exports,

[317] This review focuses on original studies – responses and critiques to these studies are listed under the "Alternate Views" table category.

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market behaviors, generation costs, etc. (See Appendix C: "Study of Costs, Benefits and Alternatives to Grid West", vs. "The Estimated Benefits of Grid West".)

5) **Another limitation of the studies is that they often only estimate the benefits to society as a whole. Determining the distribution of benefits and costs - who wins and who looses, or who wins the most - is an important piece of the decision making puzzle.** Unfortunately, it is much more difficult to measure the distribution of benefits than it is total social costs. Some efforts have been made in this direction with estimates of the end-use price impacts that restructuring has had or might have and with estimates of benefits that individual participants in electricity markets might accrue (See Appendix C: "Beyond the Crossroads, the Future Direction of Power Industry Restructuring" and "Competition Has Not Lowered Electricity Prices").

6) **Characteristics of the best restructuring cost-benefit studies**, given existing technology/data, include:

- Provision of clear and precise descriptions of assumptions, data sources, methods and technical detail.
- Where econometric models are used, study write-ups should provide regression methods and equations, goodness of fit measures, and results of any tests done to detect analytical flaws.
- An attempt to address all potential costs and benefits.
- An effort to address the distribution of impacts.

STUDIES OF BENEFITS IN THE US

Beyond the Crossroads: The Future Direction of Power Industry Restructuring

Region	US
Report Date	2005
Sponsor	Cambridge Energy Research Associates
Author/Contractor	Cambridge Energy Research Associates
Model/Method	CERA constructs average counterfactual prices as an econometric function of fuel prices and return on the rate base, for residential and industrial customers in four geographic territories based on 1992-1197 data.
Scope of Inquiry	Real price impacts on consumers of electric industry restructuring (study also addresses other restructuring policy issues on a non-quantitative basis)
Period Studied	1997-2004
Conclusion	U.S. residential electric consumers paid about $34 billion less for the electricity they consumed over the past seven years than they would have paid if traditional regulation had continued. Regional distribution of these benefits: NE $ 8 billion

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	Midwest: $ 8 billion South: $24 billion West: -$7 billion
Alternate Views	• American Public Power Association thinks figures are inflated: http://www.appanet.org/newsletters/washingtonreportdetail.cfm?ItemNumber=14977&sn.ItemNumber=0 • Comments to Electric Energy Market Competition Task Force by the National Rural Electric Cooperative Association, November 18, 2005 • The Electricity Journal, "A Response to Two Recent Studies that Purport to Calculate Electric Utility Restructuring Benefits Captured by Consumers," H. Spinner, Volume 19, No. 1 (January/February 2006) at 42-47.

Electricity Markets: Consumers Could Benefit from Demand Programs, but Challenges Remain

Region	US
Report Date	August, 2004
Sponsor	Report to the Chairman, Committee on Governmental Affairs, U.S. Senate
Author/Contractor	US GAO
Model/Method	Reviewed the literature, analyzed industry and participant data, and conducted interviews with state and federal officials (in FERC, the Department of Energy , and the GSA), industry experts, representatives from utilities, and customers
Scope of Inquiry	Examines the current and potential role for demand-response programs. Identifies (1) the types of demand-response programs currently in use; (2) the benefits of these programs; (3) the barriers to their introduction and expansion; and (4) where possible, instances in which these barriers have been overcome.
Period Studied	
Conclusion	Demand-response programs can benefit customers in regulated and restructured markets by improving market functions and enhancing the reliability of the electricity system Recent studies show that demand-response programs have saved millions of dollars—including about $13 million during a heat wave in New York State during 2001. A FERC-commissioned study reported that a moderate amount of demand-response could save about $7.5 billion annually in 2010.
Web Reference	http://www.gao.gov/new.items/d04844.pdf

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Staff Report on Cost Ranges for the Development and Operation of a Day One RTO
(FERC Docket No. PL04-16-000)

Region	Based on data from PJM, MISO, SWPP, and ERCOT
Report Date	October, 2004
Sponsor	FERC
Author/Contractor	FERC Staff
Model/Method	The analytical base for this Study rests largely on information gleaned from audit staff, FERC Form No. 1 data and interviews with and data responses from existing RTOs and Independent System Operators (ISOs).
Scope of Inquiry	To estimate the cost of developing a Day One RTO that provides independent and non-discriminatory transmission service and satisfies the minimum requirements of Order No. 2000 to operate as an RTO. Also estimates operating cost of a Day One RTO.
Period Studied	Various
Conclusion	• The average annual operating expense of a new Day One RTO would impact the average retail customer by approximately 0.02¢/KWh, or less than 0.3% of the customer's total bill. • Day One RTOs have required an investment outlay of between $38 million and $117 million and an annual revenue requirement of between $35 million and $78 million. • Cost overruns can result from changing plans mid-course, poor project management and extensive delays. • Cost data are not accounted for in a standardized way.
Web Reference	http://www.ferc.gov/EventCalendar/Files/20041006145934-rto-cost-report.pdf
Alternate Views	• "RTO Dollars and Sense: Financial Data Raises Doubts About Whether Deregulation Benefits Outweigh Costs," M. Lutzenhiser, Public Utilities Fortnightly, December, 2004. • "Commentary on FERC Staff Report on Day-1 RTO Cost" Alliance of State leaders Protecting Electricity Consumers, November, 2004: http://www.pacifier.com/~ppcpdx/Tx/Alliance%20Cost%20Study%20Report%2011-22-04%20FINAL.pdf

Impacts of the Federal Energy Regulatory Commission's Proposal for Standard Market Design

Region	United States
Report Date	April 30, 2003
Sponsor	US DOE Report to Congress
Author/Contractor	In addition to DOE staff, participants included contractors who supported the modeling (GE Power Systems Energy Consulting, OnLocation, Inc) and those who supported the analysis (Charles River Associates, Neenan Associates, and Ken Rose of NARUC).

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Model/Method	DOE's "Policy Office Electricity Modeling System" (POEMS) was used to assess wholesale and retail price impacts of SMD. GE MAPS was used to assess how the use of transmission networks will change under SMD. POEMS is an amalgam of several economic models (including EIA's National Energy Modeling System and TRADELEC) which forecasts trading volume and prices by NERC region. GE MAPS is an engineering model used to simulate the effects of a security constrained LMP market model on transmission patterns.
Scope of Inquiry	Assess the impacts of implementing FERC's Standard Electricity Market Design (SMD), as presented in FERC's July 31, 2002 proposed rule
Period Studied	
Conclusion	1. Estimated annual cost of implementing FERC's SMD Rule: $760 million ($.21/MWhr) 2. Average wholesale prices under SMD are estimated to decrease by 1% in 2005, increasing to 2% by 2020, relative to the non-SMD case. 3. The net benefit to all consumers of implementing SMD is estimated to be $1 billion/year for the first six years, dropping to $700 million by 2020. These figures are net of the $760 million estimated annual cost. (This implies total annual benefits of $1.46 to $1.76 billion, though this figure is not cited in the document). 4. Positive results are not consistent across regions – modeling suggests that end-use prices would rise in some regions and decrease in others.
Alternate Views	Commentary on DOE's Study of Standard Market Design, Alliance of State Leaders Protecting Electricity Consumers, June, 2003, http://www.pulp.tc/Alliance_Commentary_on_DOE_Study.pdf

Impact of the Creation of a Single MISO/PJM/SPP Power Market

Region	Midwest & Northeastern US
Report Date	2002
Sponsor	MISO-PJM-Southwest Power pool
Author/Contractor	Energy Security Analysis, Inc. (ESAI)
Model/Method	ZPM
Scope of Inquiry	Analyzes the impact of establishing a joint, common electricity market encompassing 26 states, the District of Columbia and the Canadian province of Manitoba (baseline is 2002 mix of ISOs and vertically integrated utilities
Period Studied	2002-2012
Conclusion	Benefits : $1.7 billion/year

Economic Assessment of RTO Policy

Region	United States
Report Date	2/26/2002
Sponsor	FERC

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Author/ Contractor	ICF Consulting
Model/Method	ICF's IPM (Integrated Planning Model) computer simulator. • Simulates current inefficiencies through cross-CA hurdle rates , then eliminates those hurdle rates and measures the efficiency impacts. • Assumes 5% improvement in transmission transfer capability and measures production cost impacts. • Capacity sharing benefits simulated. • Decreased reserve requirements (from 15% to 13%) • Assumes generator efficiency improvements in RTO Policy case.
Scope of Inquiry	Assesses economic costs and benefits of a national move toward RTOs, including improvements in transmission system operations with resulting enhancements to inter-regional trade, congestion management, reliability and coordination, and improved performance of Energy markets.
Period Studied	2002-2021
Conclusion	* $1-$10 billion/year in system production cost savings * NPV of production cost savings over 20 years: about $1 trillion • About 4% savings off of base case for 20 year period • NPV of start up costs $4.2-$7.3 billion (based on start up comparison of operating ISO/RTOs) – Net operating costs (as compared with base case) assumed to be near zero .
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/FERC%20ICF%20rtostudy_final_0226.pdf
Alternate Views	• "Comments of the California Electricity Oversight Board Proposed Pricing Policy for Efficient Operation and Expansion Of the Transmission Grid", FERC Docket No. PL03-01-000, 3/13/03 http://www.eob.ca.gov/attachments/PL03-1-000Comments.doc • "Comments of the New England Conference of Public Utilities Commissioners on Electricity Market Design and Structure", FERC Docket No. RM01-12-000 • Comment of the Staff of the Bureaus of Economics and Competition and the Office of the General Counsel of the Federal Trade Commission on Electricity Market Design and Structure, FERC Docket No. RM01-12-000, http://www.ftc.gov/be/v020014.pdf

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STUDIES OF BENEFITS IN THE MIDWEST

An RPM Case Study: Higher Costs for Consumers, Windfall Profits for Exelon

Region	PJM / Northern Illinois
Report Date	October 18, 2005
Sponsor	Illinois Citizens utility Board
Author/Contractor	Synapse Energy Economics / Ezra Hausman, Paul Peterson, David White, and Bruce Biewald
Model/Method	Comparison of baseline capacity revenues (derived from historical market data) with proposed RPM PJM price
Scope of Inquiry	Determine potential wealth transfer effects of proposed Reliability Pricing Model (RPM) by examining capacity revenues that might accrue to Exelon's Nuclear facilities in Northern Illinois if RPM is implemented.
Period Studied	June 2004 – June 2005
Conclusion	At the target RPM price, Exelon's nuclear plants in northern Illinois stand to gain almost $390 million in additional capacity revenues, compared to the 2004 capacity market price, at ratepayers' expense. At the maximum RPM price, these plants would receive a $1.2 billion increase in capacity revenues. At PJM's target price, RPM would amount to a rate increase for PJM ratepayers as a whole of over $5 billion every year, paid mostly to existing base load generation.
Web Reference	http://www.synapse-energy.com/Downloads/SynapseReport.2005-10.IL-CUB.RPM-Study--Higher-Costs-Windfall-Profits-for-Exelon.04-20.pdf

The Benefits and Costs of Wisconsin Utilities Participating in Midwest ISO Energy Markets

Region	Wisconsin
Report Date	March 26, 2004
Sponsor	MISO
Author/Contractor	Science Applications International Corporation
Model/Method	Production Cost/ Power Flow Modeling: PROMOD IV
Scope of Inquiry	Evaluates proposed financial transmission right allocations and overall impact of market participation on Wisconsin consumers.
Period Studied	2005 Calendar Year
Conclusion	Wisconsin and Michigan Upper Peninsula customers to save $51 million annually in wholesale power costs, net of costs of participating in markets.
Web Reference	http://www.midwestmarket.org/publish/Document/573257_ffe0fcee0f_-7f570a531528/_.pdf?action=download&_property=Attachment
Alternate Views	See comments of Wisconsin Load Serving Entities to Draft EPACT Section 1815 Report on Competition – FERC Docket AD05-17 – 6/26/06

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STUDIES OF BENEFITS IN THE NORTHEAST

Putting Competitive Power Markets to the Test The Benefits of Competition in America's Electric Grid: Cost Savings and Operating Efficiencies

Region	Eastern Interconnection
Report Date	July, 2005
Sponsor	BP Energy Company, Constellation Energy, Exelon Corporation, Mirant Corporation, NRG Energy, Inc., PSEG, Reliant Energy Inc., Shell Trading Gas and Power Company, Williams, and Suez Energy North America
Author/Contractor	Global Energy Decisions
Model/Method	Global Energy calculated the benefits of wholesale competition for the Eastern Interconnection as they occurred. Those results were compared with a simulation of market conditions without the changes in market rules that enabled wholesale competition. Consumers benefited if the study showed a positive difference between current market conditions and the simulation of the traditional market rules prior to wholesale competition. Model: EnerPriseTM Strategic Planning *powered by MIDAS Gold®* software
Scope of Inquiry	To identify and quantify the existing and foreseeable consumer benefits of competitive electricity markets.
Period Studied	1999-2003
Conclusion	Wholesale customers in the Eastern Interconnection have realized a $15.1 billion benefit during the time period measured due to electricity competition. This benefit derives primarily from differences in the cost of generation construction under the two scenarios.
Web Reference	http://www.globalenergy.com/competitivepower/competitivepower.pdf
Alternate Views	Global Energy Decision's "Putting Competitive Power Markets to the Test": An Alternative View of the Evidence http://www.nreca.org/Documents/PublicPolicy/NRECAAD0517final.pdf

Electricity Prices in PJM: A Comparison of Wholesale Power Costs in the PJM Market to Indexed Generation Service Costs

Region	PJM Interconnection
Report Date	June 3, 2003
Sponsor	PJM Interconnection, LLC
Author/Contractor	Synapse Energy (Biewald, Steinhurst, White, Roschelle)
Model/Method	estimates and compares two sets of annual prices: (1) the actual wholesale power costs (WPC) in the PJM market, and (2) prices in a scenario with

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	economic regulation continued from the mid-1990s to today so that the generation service costs (GSC) are the unbundled generation portion of the pre-deregulation cost-of-service rates
Scope of Inquiry	To illuminate the effect of restructuring on prices in the PJM interconnection.
Period Studied	1999-2003
Conclusion	while PJM deregulated costs fluctuate year-to-year, on average, the wholesale power costs over the five year period 1999 to 2004 have been lower than the indexed generation service costs.
Web Reference	http://www.pjm.com/documents/downloads/reports/synapse-report-pjm-electricity-prices.pdf

Erecting Sandcastles From Numbers: The CAEM Study of Restructuring Electricity Markets

Region	PJM
Report Date	Dec. 3, 2003
Sponsor	National Rural Electric Cooperative Association
Author/Contractor	Christiansen Associates (Moray, Kirsch, Braithwait, Eakin)
Model/Method	Analysis of CAEM study assumptions/ inputs
Scope of Inquiry	To review and critique the Center for Advancement of Energy Markets' (CAEM's) study entitled "Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region" (hereafter referred to as the "Study"), dated September 22, 2003.
Period Studied	1997-2002
Conclusion	The Study's quantitative results fail to demonstrate any relationship between these price changes and the economic effects of restructuring.
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/Christensen.crit.restruct.mkts.in.pjm.03-Dec.03.pdf
Alternate Views	See below: " Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region" at *http://www.caem.org/website/pdf/PJM.pdf*

Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region

Region	PJM
Report Date	October, 2003
Sponsor	Center for the Advancement of Energy Markets (CAEM)
Author/Contractor	R. Sutherland, CAEM
Model/Method	Measures decline in electricity prices during restructured period.
Scope of Inquiry	Estimates benefits of restructuring the electricity market in the PJM region.
Period Studied	1997-2002
Conclusion	Ultimate customers in the PJM region saved about $3.2 billion in 2002 from current restructuring efforts

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Web Reference	http://www.caem.org/website/pdf/PJM.pdf
Alternate Views	Erecting Sandcastles From Numbers: The CAEM Study of Restructuring Electricity Markets (see above at *http://www.ksg.harvard.edu/hepg/Papers/Christensen.crit.restruct.mkts.in.pjm.03-Dec.03.pdf)*

Northeast Regional RTO Proposal: Analysis of Impact on Spot Energy Prices

Region	Northeast
Report Date	April, 2002
Sponsor	PJM
Author/Contractor	PJM
Model/Method	Market Simulation – GE MAPS
Scope of Inquiry	Estimates the impact of implementing a Northeast RTO on regional spot market prices in the near term.
Period Studied	Simulation year: 2001
Conclusion	Net Benefits of $299 million. $188 to PJM <$22> to NYISO $96 to NE

Assessing Short Run Benefits from a Combined Northeast Market

Region	Northeast
Report Date	October 23, 2001
Sponsor	New York ISO
Author/Contractor	A. Hartshorn, S Harvey – LECG Consulting
Model/Method	Replicated Mirant methods: Statistical / econometric analysis using historic prices and flows. Looked at unconstrained transmission to determine correlation between prices. Extended the EEA analysis in time, improved on some elements of their methodology, and undertook some sensitivity analysis of Mirant estimates.
Scope of Inquiry	Potential benefits from implementing an interregional real-time dispatch in the Northeast. (Response to Mirant study of 2001)
Period Studied	10/00-8/01
Conclusion	Found that improvements in data and assumptions in Mirant study led to a material overstatement of the short-run benefits to New York consumers. Found large price impact benefits to PJM customers but little or negative price impacts for New York energy customers. Found overall decrease in energy payments for the combined region of $139 million for New York and $50 million for PJM on an annual basis.
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/Assessing%20Short-Run%20Benefits%20from%20Combined%20NE%20Market%2010-23-

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Mirant Study*

Region	Northeast
Report Date	September 2001
Sponsor	Mirant
Author/Contractor	Energy and Environmental Analysis, Inc.
Model/Method	Statistical / econometric analysis using historic prices and flows. Looked at unconstrained transmission to determine correlation between prices. Assumes centralized dispatch would eliminate measured uneconomic flows.
Scope of Inquiry	Potential efficiency benefits that could be achieved by creating a single market for electricity in the Northeast. Model does not address net costs of establishing/operating a single Northeast RTO.
Period Studied	6/00-12/00
Conclusion	Net benefit of $440 million. $76 to PJM, $256 to NYISO, $108 to NE ISO.

** Not publicly available. Review based on secondary references.*

Competition Has Not Lowered U.S. Industrial Electricity Prices

Region	Connecticut, Massachusetts, Maine, New Hampshire, New York, and Rhode Island
Report Date	2005 (Published in the Electricity Journal, Vol. 18, No. 2 (2005) at 52-61)
Sponsor	Jay Apt
Author/Contractor	Jay Apt, Carnegie Mellon University
Model/Method	Used EIA price data to perform regression analysis on prices before and after competition.
Scope of Inquiry	Examines the effect of restructuring on prices paid by US industrial customers for electricity
Period Studied	1990-2004
Conclusion	Competition does not produce statistically significant price effects – rates in all states studied other than Maine increased an average of .8% per year prior to competition and they increased by 2% per year after competition.
Web Reference	http://wpweb2.tepper.cmu.edu/ceic/papers/ceic-05-01.asp

Economic Assessment of American Electric Power's Participation in PJM

Region	PJM combined with American Electric power
Report Date	December, 2003
Sponsor	American Electric Power (AEP)
Author/Contractor	Cambridge Energy Research Associates

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Model/Method	?
Scope of Inquiry	Quantifies the costs and benefits of AEP's integration into PJM markets.
Period Studied	?
Conclusion	$245M in 2004 declining to $188M in 2008

Economic and Reliability Assessment of a Northeastern RTO

Region	NYISO, ISO-NE
Report Date	August 23, 2002
Sponsor	NYISO, ISO-NE
Author/Contractor	NYISO/ISO-NE
Model/Method	GE MAPS
Scope of Inquiry	Assesses wholesale electricity market impacts and organizational impacts of establishing a Northeastern RTO (NERTO), including expected costs of implementation, savings from market efficiencies, savings from operational consolidation.
Period Studied	?
Conclusion	$220M/yr in 2005 $150M/yr in 2010

STUDIES OF BENEFITS IN THE NORTHWEST

BPA Grid West Benefit Assessment for Decision Point 2

Region	Northwest US
Report Date	August 4, 2005
Sponsor	Bonneville Power Administration
Author/Contractor	Internal BPA staff report –
Model/Method	Partially based on modeling conducted by Grid West (see "Estimated Benefits of Grid West") – Power World model used to derive benefits of control area consolidation and economic redispatch. Other analytical methods used to determine value of common regulation, reliability improvements, economic reserve markets, increased transmission usage, (measured in Gridview model), etc.
Scope of Inquiry	Potential benefits of adopting proposed Grid West design as compared with status quo.
Period Studied	Various – primarily examined 1 year historical period.
Conclusion	Reliability Benefits: $27 - $62 million annually Increased Transmission Capacity: $9 to $15 million annually Regulating Reserve benefits: $5-$8 million annually Redispatch Efficiencies: $41-$56 million annually Contingency Reserve Market Efficiencies: $20 to $30 million/year De-pancaking of transmission rate efficiencies: $4-$10 million **TOTAL**: $106 to $108 million

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Web Reference	http://www.bpa.gov/corporate/business/restructuring/Docs/2005/benefit%20assessment/BPA_Grid_West_Benefit_Assessment.pdf

The Estimated Benefits of Grid West

Region	Pacific Northwest
Report Date	July, 2005
Sponsor	Grid West Regional Representatives Group
Author/Contractor	Grid West Risk Reward Workgroup
Model/Method	PowerWorld, Gridview, miscellaneous spreadsheet analyses, surveys
Scope of Inquiry	Estimate the benefits related to Grid West formation
Period Studied	Various
Conclusion	Results presented as a menu: • The capacity cost savings associated with Grid West-managed contingency reserves range from $20 million to $73 million per year. • The estimated capacity cost savings associated with Grid West reducing the amount of regulating reserves range from $5 million to $26 million per year • The estimated production cost savings associated with Grid West-managed real-time energy balancing redispatch range from $41 million to $385 million per year • The estimated annualized value to the region of avoiding cascading disturbances ranges from $27 million to $83 million per year. • Avoiding momentary (less than 5 minutes) or sustained events (longer than 5 minutes but shorter than 12 hours) related to non-cascading transmission events has an estimated annualized value to the region ranging from $17 million to $203 million per year • The estimated increase in production costs from the existing practice of charging multiple or pancaked rates ranges from $4 million to $61 million per year. • The estimated reduction in production costs from more efficient prescheduled interchange facilitated by the RCS ranges from $18 million to $52 million per year. • The estimated savings associated with energy conservation, non-wires expansion, and demand-side measures facilitated by Grid West range from $1 million to $61 million per year.
Web Reference	http://www.gridwest.org/Doc/RR_PreliminaryReport_July192005.pdf

Study of Costs Benefits and Alternatives To Grid West

Region	Northwestern US
Report Date	October 15, 2004
Sponsor	Snohomish PUD
Author/Contractor	Henwood Energy & Margot Lutzenhiser of the Public Power Council
Model/Method	*Benefits*: MarketSym used to estimate the short term dispatch benefits

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	associated with rate de-pancaking and more liquid operating reserve markets *Costs*: Applies apply the average cost/MWh of operating PJM, NYISO, ISO NE, CAISO and ERCOT to Grid West's projected annual demand.
Scope of Inquiry	Study the costs, benefits and alternatives to forming Grid West
Period Studied	2004
Conclusion	Gross annual benefits to the region of $78 million Grid West Annual costs of $200 million. Net Benefits of <122 million>
Web Reference	http://www.snopud.com/content/external/documents/gridwest/henwood_gridwestfinal.pdf

RTO West Benefit/Cost Study

Region	Northwestern US
Report Date	March 11, 2002
Sponsor	RTO West
Author/Contractor	Tabors Caramanis and Associates
Model/Method	GE MAPS
Scope of Inquiry	This study looked at the impacts that removing pancaked transmission rates and sharing reserves would have on the cost of generation in the Northwest.
Period Studied	2004
Conclusion	• The net benefits of eliminating transmission rate pancakes and sharing reserves would be $305 million/year in the RTO West footprint, and $410 million for all of RTO West. • 40% of this benefit can be attributed to the elimination of rate pancaking, 60% to reserves sharing.
Web Reference	http://www.rtowest.com/Doc/BenCost_031102_RTOWestBCFinalRevised.pdf

RTO West Potential Benefits and Costs

Region	Northwest
Report Date	October 23, 2000
Sponsor	RTO West
Author/Contractor	RTO West Benefits/Cost Team
Model/Method	Aurora for production cost modeling, spreadsheet analyses for others
Scope of Inquiry	Identify and quantify benefits and costs to the regional electric power system that would occur as a result of implementing RTO West
Period Studied	Various
Conclusion	• Inconclusive production cost savings • Regulating reserve savings of $28 million annually over the RTO footprint.

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	• Reliability benefits of anywhere from $33 million to $328 million annually • RTO Annual Costs of $63-$76 million • Misc. qualitative benefits
Web Reference	http://www.rtowest.com/Doc/Benefit_Cost_Study_FinalDraft_Oct232000.PDF

STUDIES OF BENEFITS IN THE SOUTHEAST

Cost Benefit Study of the Proposed GridFlorida RTO

Region	Peninsular Florida
Report Date	December 12, 2005
Sponsor	Grid Florida, LLC
Author/Contractor	ICF Consulting
Model/Method	Production cost modeling using GE MAPS
Scope of Inquiry	Examined the costs and benefits to Peninsular Florida consumers of transforming the current decentralized market to a centrally organized market under two modes of operation – a Day-1 only RTO and a Delayed Day-2 RTO.
Period Studied	2004-2016
Conclusion	• The quantitative benefits to Peninsular Florida consumers of Day-1 Only RTO operation is $71 million over this period, while the quantitative start-up and operating costs of a "greenfield" Day-1 RTO is $775 million. Thus, the Day-1 RTO configuration reflects an estimated net loss of $704 million. • Whereas the quantifiable benefits under Delayed Day-2 RTO operation were substantial, and ranged from approximately $810 million in the Market Imperfection Case to almost $968 million in the Reference Case, the cost of a "greenfield" Delayed Day-2 RTO with wholly new systems, physical facilities and personnel, designed along FERC's Standard Market Design principles, is also very significant at $1.25 billion. • The GridFlorida Delayed Day-2 RTO could breakeven under the scenarios examined in this study if the net benefits from the qualitative factors and the change in utility operational costs should be within the range of $285 million and $443 million over the 13-year forecast period. • This study also indicates that the non-jurisdictional consumers would receive net positive benefits of $798 million from the implementation of a GridFlorida Delayed Day-2 RTO while jurisdictional consumers would receive a net loss of $1.1 billion.

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Web Reference	http://www.icfconsulting.com/Markets/Energy/doc_files/gridflorida-rto-report.pdf

Cost Benefit Analysis Performed for the SPP Regional State Committee

Region	Southwest Power Pool
Report Date	April 23rd, 2005, revised July 27, 2005
Sponsor	SPP Regional State Committee
Author/Contractor	Charles River Associates
Model/Method	a) Wholesale Energy Modeling using GE MAPS b) Allocation of Energy Market Impacts and Cost Impacts c) Qualitative Assessment of Energy Imbalance Impacts d) Qualitative Assessment of Market Power Impacts e) Aquila Sensitivity Cases
Scope of Inquiry	(1) an analysis of the probable costs and benefits that would accrue from consolidated services and functions (which include reliability coordination and regional tariff administration) and (2) the costs and benefits of SPP's implementation of an Energy Imbalance Service (EIS) market.
Period Studied	2006-2015
Conclusion	* In the Stand-Alone case, implementation of intra-SPP wheeling rates leads to a less efficient dispatch and thereby increases system-wide production costs in comparison with the Base case. * The EIS market is estimated to provide considerably more benefits than costs, with the net benefits being $373 million to the transmission owners under the SPP tariff over the 10-year study period
Web Reference	http://www.spp.org/Publications/CBARevised.pdf

Electric Competition in the States of Arkansas, Louisiana and Mississippi - Is There An Opportunity?

Region	Arkansas, Louisiana and Mississippi
Report Date	2004
Sponsor	Tractebel
Author/Contractor	Tractebel
Model/Method	Spreadsheet
Scope of Inquiry	?
Period Studied	?
Conclusion	Fuel savings: $610M/yr Fixed O&M savings: $280M/yr

The Benefits and Costs of Dominion Virginia Power Joining PJM

Region	Virginia
Report Date	June 25, 2003
Sponsor	Dominion Virginia Power (DVP

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Author/Contractor	Charles River Associates
Model/Method	GE MAPS
Scope of Inquiry	Assesses net benefits (to VG retail customers & to all retail and wholesale customers in DVP control) of DVP joining PJM to
Period Studied	2005-2014
Conclusion	Net Benefit to Virginia Retail Customers: $110.3 million for '05-'10: $476.6 million for '05-'14. Net Benefit to DVP customers: $127.4 million for '05-'10: $557.2 million for '05-'14.

The Benefits and Costs of Regional Transmission Organizations and Standard Market Design in the Southeast

Region	SE (SeTrans, Grid South, Grid Florida)
Report Date	11/6/02
Sponsor	Southeastern Association of Regulatory Commissioners
Contractor	Charles River Associates / GE Power Systems Engineering
Model/Method	GE MAPS (OPF/Production cost model) and a Financial Evaluation Module.
Scope of Inquiry	Net benefits of instituting SMD in SE (GridSouth, SeTrans & GridFlorida) of the US .
Period Studied	2004 - 2013
Conclusion	Mixed +150 to +$1,421for SeTrans; -$286 to +$84 for Grid South; -$25 to +248 for Grid Florida: ($Million 2003 dollars, PV over 10 years) *Note: Total Benefits are Net of Estimated Costs of Operating RTO*
Web Reference	http://www.crai.com/pubs/pub_2901.pdf

STUDIES OF BENEFITS IN TEXAS

Electric Reliability Council Of Texas, Market Restructuring Cost Benefit Analysis.

Region	ERCOT/ Texas
Report Date	11/30/2004
Sponsor	ERCOT
Author/Contractor	TCA/KEMA
Model/Method	a) **Energy Impact Assessment (EIA)**—quantified impacts to the energy market, system dispatch, energy prices, and resulting production system costs. (GE MAPS) b) **Backcast**—quantified optimized generation dispatch results for the ERCOT system for 2003 for comparison with those actually experienced.. c) **Implementation Impact Assessment (IIA)**—provided quantitative and qualitative treatment of implementation startup costs, ongoing costs, and other transition-related impacts for ERCOT and its market participants.. d) **Other Market Impact Assessment (OMIA)**—provided qualitative

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	treatment of a variety of other measures of impact of market designs not captured directly in the EIA.
Scope of Inquiry	focused on two alternative market design choices: a zonal market design (extant at the time of the study) and a nodal market design
Period Studied	2005-2014
Conclusion	Did not draw single conclusion – "the potential savings found in the Energy Impact Assessment, relative to the Implementation costs found in the Implementation Impact Assessment, suggest that the benefits of the TNM could outweigh the costs for the ERCOT region as a whole.
Web Reference	http://oldercot.ercot.com/TNT/default.cfm?func=documents&intGroupId=83&b

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APPENDIX D
STATE RETAIL COMPETITION PROFILES[318]

Illinois: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Customer choice in Illinois began in December 1997 with the enactment of the Electric Service Customer Choice and Rate Relief Act of 1997 (HB 362). HB 362 required a phase-in of retail competition, with larger customers able to choose an alternate generation supplier earlier in the transition. Specifically, customers eligible to choose their electric supplier as of October 1, 1999, included industrial and commercial customers with a demand of greater than 4 MW,[319] commercial customers with businesses at ten or more sites with an aggregate coincident peak demand of 9.5 megawatts or greater, and non-residential customers accounting for one-third of the remaining electricity use of their customer class. All other non-residential customers were allowed to choose a supplier as of December 31, 2000, and all residential customers as of May 1, 2002.[320] The mandatory transition period ends January 1, 2007.[321]

The Illinois Commerce Commission (ICC) oversees the transition to competition in the electric industry. On January 24, 2006, the ICC approved proposals from Commonwealth Edison, the Ameren companies, Central Illinois Public Service, Central Illinois Light Company and Illinois Power, to procure generation (for retail customers who do not switch to an alternative retail supplier) through a joint competitive reverse auction process. In order to reduce price increases after the transition period ends, the utilities have offered to phase in price increases at the end of the transition period for residential customers.

Services Open to Competition: Generation and metering services: The ICC promulgated rules that permit non-residential customers to choose a meter service provider other than the distribution utility.

The ICC permitted Commonwealth Edison to designate customers with a demand exceeding 3 MW as a competitive customer class.[322] No other classes of customers have been declared

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[318] Information in this appendix is derived in large part from – and updates information contained in – the Federal Trade Commission staff report entitled *Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition* (Sept. 2001), available at http://www.ftc.gov/reports/elec/electricityreport.pdf.

Because economic circumstances and state laws and regulations change, regulatory authorities in each state and market participants should be consulted for more detailed and up-to-date information on state retail choice programs.

[319] Average monthly maximum electrical demand on the electric utility's system during the 6 months equals the customer's highest monthly maximum demands in the 12 months ending June 30, 1999.

[320] 220 Ill. Comp. Stat. § 5/16-104 (West 2001).

[321] SB2081 enacted in June 2002 extended the transition period from January 1, 2005, to January 1, 2007.

[322] Order in Docket No. 02-0479.

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competitive to date. Competitive services are defined as those services provided under special contract, not provided under tariff, and any tariffed service that the ICC decides is competitive. A service is declared competitive only if it is offered by a provider other than the utility or its affiliate, to a defined customer group or area, at a competitive price, if the utility is likely to or has lost business to the competitor, and if there is adequate transmission system capacity.[323]

Consumer Options: Consumers have two options for service:

(1) They may either remain with the utility as a bundled customer (*i.e.*, receiving generation, transmission and distribution services); or
(2) They may choose to become a delivery services customer (*i.e.*, they only take distribution and transmission services from the utility). Delivery services customers may purchase generation services from another electric utility, from a competitive supplier, or from their own utility using the power purchase option (PPO).[324]

The PPO is a transitional option that is provided by distribution utilities as long as they are recovering stranded costs from customers (*see* Recovery of Stranded Costs/Transition Costs). Under PPO service, a non-residential delivery services customer (such as an industrial customer) can purchase electric power from the utility at a price that reflects wholesale costs. These customers may then assign the power purchased under the PPO to an alternative supplier. Under this option, the suppliers to whom customers have assigned PPO rights are, in effect, purchasing electricity from the utility and selling it to their customers.
Alternative Suppliers Licensed to Provide Service: All suppliers wishing to provide competitive supply service must have a certificate of service authority. In order to receive certification, a supplier must show technical, financial, and managerial capability.[325] A competitive supplier is required to maintain a license or permit bond in the amount of $30,000 if the supplier intends to serve only non-residential customers with maximum demand greater than 1 MW; $150,000 if the supplier intends to serve non-residential customers with annual electric consumption greater than 15,000 kWh; or $300,000 if the supplier wishes to be certified to serve all eligible retail customers.

In general, retail competition is much more active in the Commonwealth Edison territory than elsewhere in the state. In 2005, the number of active suppliers in each distribution utility's territory ranged from zero for MidAmerican, to nine for ComEd.[326] Over the 2000 to 2005 period, the number of suppliers increased in the AmerenCIPS service territory from 3 to 4. An alternative supplier entered the AmerenCILCO area for the first time in 2003 and the only alternative supplier left the MidAmerican area in 2001. The retailers have focused only on non-residential customers.

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[323] *Id.* at § 5/16-113.

[324] *Id.* at § 5/16-110.

[325] *Id.* at § 5/16-115.

[326] ICC, Competition in Illinois Retail Electric Markets in 2005, Table 2 (May 2006).

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Retail Pricing Trends: As Table 1 shows, retail prices for the residential sector rose about 7% between 1988 to 1997. Commercial and industrial prices rose by lesser amounts during that decade. Prices for all classes of customers declined after that decade through 2004, with the largest declines taking place in the residential sector due to mandatory rate reductions.

Table 1: Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	9.7	10	9.9	9.9	10.3	10.3	10	10.4	10.3	10.4	9.9	8.8	8.8	8.7	8.4	8.4	8.4
Commercial	7.5	7.8	7.8	7.9	8.1	8	7.7	7.9	8	7.9	7.8	7.4	7.2	7.4	7.5	7.3	7.5
Industrial	5.2	5.4	5.4	5.5	5.5	5.5	5.2	5.3	5.2	5.3	5.1	5	4.2	4.7	4.9	4.9	4.7
All Sectors	7.3	7.5	7.5	7.6	7.7	7.8	7.4	7.7	7.7	7.7	7.5	7	6.6	6.9	6.9	7.1	6.8

Source: Energy Information Administration

Price Changes for Provider of Last Resort (POLR) Service for Residential Customers: In accord with the restructuring legislation, there have been mandatory residential POLR service rate reductions instituted in 1998, which depend on how the utility's residential rate compared to the residential rate for all large investor owned utilities in the region at the time of the restructuring legislation. The rationale behind the restructuring legislation was that competition would tend to bring higher local rates down to the regional average, but there was uncertainty about whether residential customers would obtain these benefits of competition in a timely manner because of the relatively high expected marketing costs associated with residential customers. No mandated retail price reductions were applied to POLR service for non-residential customers.

There are six major utilities in Illinois with required residential rate reductions for customers that have not selected an alternative supplier. Rate reductions were designed to bring residential rates in line with regional rates at the time of the restructuring legislation and are shown in Table 2.[327] The larger discount rates were applied in two phases.

Table 2: Price Reductions from 1997 Cost-Based Rates by Distribution Utility

Distribution Utility	Reduction from 1997Regulated Prices
Commonwealth Edison	20% (15% August 1999, 5% October 2001)
AmerenIP	20% (two increments)
AmerenCILCO	5%
AmerenCIPS	5%
AmerenUE	5%
MidAmerican Energy	1.7%

Non-residential customers were able to elect "real-time pricing" beginning on October 1, 1998; residential customers were able to elect real-time pricing beginning on October 1, 2000.[328] Real-

[327]S.B. 24, amending H.B. 362, enacted June 30, 1999. Comment of the ICC to the Task Force, Question IV.B.2.

[328]*Id.* at § 5/16-107.

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time pricing is defined as pricing which varies hour by hour for non-residential customers, and on a periodic basis during the day for residential customers.[329] The largest residential real-time pricing effort is a pilot program involving 1,500 customers in the Commonwealth Edison territory operated by the Community Energy Cooperative.[330] Some non-residential customers may also have real-time pricing or other time of use rates, but statistics are unavailable.

POLR Service Provider: Utilities must provide traditional, bundled service for those customers who choose not to shop for a competitive supplier.[331] The POLR (standard offer) price is the price for bundled service (*i.e.*, service including generation, transmission, and delivery), which was set by the utility's last rate proceeding, less the amount of any rate reduction required in the restructuring law. This rate is frozen until January 1, 2007.

Recovery of Stranded Costs/Transition Costs: Utilities collect stranded costs from both POLR service customers as part of the rates and through a separate charge from retail customers with an alternative supplier.[332]

Switching Restrictions and Minimum Stay Requirements: Customers purchasing power from an alternate supplier are allowed to return to the utility after paying an administrative fee. A utility may require a returning customer with usage less than 15,000 kWh annually to stay with the utility for two years.[333]

Switching Activity: The degree to which customers have switched to delivery service from bundled service varies greatly between distribution franchise territories and classes of customers. Table 2 provides the switching statistics for the largest utilities franchise areas separated by customer type as of November 2005. As Table 3 indicates, the vast majority of switching activity is centered on the Commonwealth Edison distribution territory (which also has the largest load in the state). Lower levels of switching have taken place in the AmerenCILCO and AmerenIP areas, and there has been very little switching outside of these three areas.

Table 3: Illinois Switching to Alternative Suppliers as of November 30, 2005
% of Customers and (% of Load)

Firm and Usage In million kWh	Residential	Small C&I	Large C&I	Total
AmerenCILCO 461	0.0% (0.0%)	0.0% (0.1%)	2.2% (33.3%)	0.0% (15.4%)
AmerenCIPS 952	0.0% (0.0%)	0.2% (0.8%)	7.1% (4.1%)	0.0% (2.2%)
AmerenIP	0.0%	0.8%	29.8%	0.1%

[329] *Id.* at § 5/16-102.

[330] Robert Lieberman, ICC Commissioner, "Ruminations on Demand Response --- a View from Chicago" (October 28, 2005), *available at* http://www.raabassociates.org/Articles/Lieberman_10.28.05.ppt#299.

[331] *Id.* at § 5/16-103.

[332] *Id.* at § 5/16-108.

[333] *See* 220 Ill. Comp. Stat. § 5/16/-103(d).

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1,496	(0.0%)	(8.9%)	(41.7%)	(23.2%)
AmerenUE 265	0.0% (0.0%)	0.0% (0.0%)	2.5% (0.2%)	0.0% (0.1%)
ComEd 91,508	0.0% (0.0%)	6.0% (36.6%)	73.9% (58.3%)	0.6% (32.8%)
MidAmerican 139	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Source: Illinois Commerce Commission				

Table 4 shows the patterns of switching statement the 2003 to 2006 period. Residential switching has remained dormant over the whole period while large non-residential customers have switched much of their load to alternative suppliers. Small non-residential customers have been slower in switching to alternative suppliers and the load served declined slightly in 2006, but the share of alternative suppliers continue to be well above the levels in 2003.

Table 4: Illinois Retail Aggregate Customer Migration Statistics, 2003 to January 2006
% of Customers and (% of Load) Served by Alternative Suppliers

	2003	2004	January 2005	January 2006
Residential	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Small C&I	3.8% (30.2%)	4.4% (31.5%)	5.7% (38.4%)	5.9%) (36.7%)
Large C&I	58.6% (54.6%)	64.1% (56.6%)	73.0% (58.3%)	71.9% (58.7%)

Source: Illinois Commerce Commission
Note: The 2003 and 2004 figures are annual aggregates while the 2005 and 2006 figures are for the month of January. The 2005 and 2006 figures are estimated from the statistics for the Commonwealth Edison territory. Load in Commonwealth Edison accounts for approximately 96.5% of the load of IOUs. To be conservative, it was assumed that there was no switching outside of Commonwealth Edison, hence the Commonwealth Edison statistics for 2005 and 2006 were reduced by 3.5% to create the proxy for the state-wide value.

Public Benefits Programs: The restructuring act establishes three public benefits funds which are slated to expire at the end of 2006. Table 5 contains information about the public benefits program in Illinois.

Table 5: Illinois Public Benefits Programs*

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $		3.0	75.0	5.0	83.0
Mills/kWh		0.03	0.60	0.04	0.67
% revenue		0.03%	0.87%	0.06%	0.96%
Admin.		DCEO	DCEO	DCEO	

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Note: Trust Funds are administered by the Illinois Department of Commerce and Economic Opportunity (DCEO).

* In Dec97, PA 9D-551 was signed. It provided funding for EE, RE, LI (although EE and RE are at low levels) using non-bypassable, flat monthly charges on customer bills. (mills/kWh) equiv. includes $ from gas & elect. Also one-time ComEd $250 million Clean Energy Trust Fund ok'd by legis. May 99 (not in table).

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Separation of Generation and Transmission: Illinois did not require divestiture or functional separation. Thus, utilities may engage in both competitive and non-competitive services without forming a separate affiliate. All of the major utilities in Illinois chose to transfer generation assets to affiliates with the exception of Commonwealth Edison, which divested its fossil fuel generation plants.

State RTO Involvement: The restructuring legislation required Illinois utilities with transmission assets to join an RTO or ISO. Illinois utilities have joined either the Mid-West ISO or PJM West. Commonwealth Edison, for example, joined PJM West. The Ameren utilities joined the Mid-West ISO. MidAmerican has not joined an ISO, although it has received FERC authorization to engage an independent transmission operator.

Generation Capability:[334] Prior to the restructuring legislation (1997), utilities operated 97% of the generation capability in Illinois. By 2002, that figure dropped to 9.1%. The difference reflected the transfers and sales of generation assets to utility-affiliated entities and entry or expansion by independent power producers. Between 1997 and 2002, generation output in the state increased by 135 million megawatt-hours to 188 million megawatt-hours, a nearly 40% increase. During the 1993 to 1997 period, output in the state had shrunk by more than 5%.

Use of Customer Information: No customer specific information can be given to a supplier without customer authorization.[335]

Standardized Labeling:[336] "The 1997 Illinois restructuring law includes provisions for disclosing fuel mix and emissions by retail electricity suppliers. Final rules issued by the Illinois Commerce Commission (ICC) require retail suppliers to provide a bill insert to customers each quarter with a table and pie chart representing the sources of electricity used in the previous year, beginning in January 1999. Suppliers must also provide a table showing total emissions of carbon dioxide, nitrogen oxides, and sulfur dioxide, as well as the amount of high- and low-level nuclear waste attributable to the sources of electricity."

Renewable Energy Portfolio Standard: On July 19, 2005, the ICC adopted a voluntary renewable portfolio standard target for bundled retail load starting at 3% in 2007 and rising by one percent each year until it reaches 8% in 2013.[337] The ICC's resolution also includes targeted reductions in future load growth.

Maryland: Overview of Retail Competition Plan and Market Response

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[334] Department of Energy, Energy Information Administration, Illinois State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/illinois.pdf.

[335] *Id*. at § 5/16-122.

[336] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[337] ICC Resolution, "Response to Governor's Sustainable Energy Plan for the State of Illinois," 05-0437 (July 19, 2005).

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Administrator and Start Date: The Maryland General Assembly enacted the Maryland Electric Customer Choice and Competition Act (SB 300) on April 8, 1999. The Act allowed for a three-year phase-in approach to electric competition, but the Maryland Public Services Commission (PSC) allowed the utilities to start electric competition all at once for all customers on July 1, 2000. The PSC oversees the customer choice program.[338]

Services Open to Competition: Generation, billing, and metering.

Consumer Options: Customers may choose to remain with the distribution utility at PSC regulated prices until the end of the transition period; they may choose a competitive supplier; or they may choose to be aggregated with other customers. The transition period ends for most consumers in Maryland as of July 2006. In other areas, the period ends in 2008.

Alternative Suppliers Licensed to Provide Service: All alternative suppliers must be licensed by the PSC, and must show proof of technical and managerial competence, compliance with FERC requirements, and compliance with state and federal environmental laws.[339] A supplier must also give proof of financial integrity,[340] and the PSC assesses each competitive supplier's application for a license on a case-by-case basis to determine whether a letter of guarantee, bond, or letter of credit is needed, and in what amount.[341] Registered suppliers and registered suppliers seeking additional customers are available on the Maryland PSC's website. There are numerous registered and active suppliers for C&I customers. For residential customers, there are numerous registered suppliers but only two suppliers in three of the four major utility territories and none in the Allegheny Power territory.

Pricing Trends: As Table 6 shows, prices rose throughout the early 1990s for all sectors, then declined until 2002. Prices rose in 2003 and 2004. With the end of the transition period for most residential and small C&I customers in the state, POLR service is scheduled to be priced at market rates. Procurement contracts for POLR service starting in July 2006 are scheduled to result in price increases above existing POLR rates. For example, the scheduled price increase for customers in the BG&E distribution territory is reported to be 72%.[342] Because of concerns about the size of the expected price increase, a number of alternative proposals were developed to break the increase into smaller steps. Legislation just prior to the end of the transition period

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[338] Md. Code Ann., Pub. Util. Comp., '7-509 (2000).

[339] *Id.* at '7-507.b.

[340] *Id.* at '7-507.c.

[341] PSC Supplier Authorization Procedures (Mar. 17, 2000).

[342] Andrew Green, "Utility, Legislators Not Close on Rates," *Baltimore Sun* (April 4, 2006).

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included deferrals of revenues and dismissal of the members of the PSC. At the time of this writing, litigation regarding the latter provision is taking place.[343]

Table: 6 Maryland Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	6.7	6.9	7.2	7.9	8.0	8.2	8.4	8.4	8.3	8.3	8.4	8.4	8.0	7.7	7.7	7.7	7.8
Commercial	6.5	6.6	6.7	7.0	7.1	7.2	7.2	6.9	6.8	6.9	6.8	6.8	6.6	6.4	6.3	7.0	7.6
Industrial	4.4	4.7	5.1	5.5	5.4	5.5	5.3	4.2	4.2	4.2	4.1	4.3	4.1	4.4	4.0	4.9	6.0
All Sectors	5.8	6.0	6.3	6.8	6.8	7.0	7.0	7.1	7.0	7.0	7.0	7.0	6.8	6.6	6.2	6.5	7.2

Source: Energy Information Administration

Price Changes for Provider of Last Resort (or Regulated) Service: Individual distribution utility plans vary, but a cap for all distribution utilities was put into effect through 2004 and then extended for two to four years. During the initial four years, distribution utilities were required to decrease prices 3-7.5%.[344] During this period, if the distribution utility's Provider of Last Resort (POLR) price increased, transition charges decreased by a corresponding amount, so that standard offer customers did not have an overall price increase.[345]

Provider of Last Resort Service Provider: The distribution utilities provide POLR service in their respective territories until the end of the transition period (or longer if the PSC extends the period). A distribution utility can procure the electricity for its POLR customers from any supplier, including an affiliate. Individual utility settlements require the utility to be the POLR service provider for the entire rate cap/freeze period (which varies in length per utility) unless the Commission orders otherwise. POLR service rates and the respective terms were set in the individual utility settlements and are in effect for the entire rate cap/freeze period.

Recovery of Stranded Costs/Transition Costs: Distribution utilities were given an opportunity to recover all prudently incurred and verifiable net transition costs, subject to full mitigation.[346] Transition costs eligible for recovery include those that would be recoverable under rate-of-return regulation, but are not recoverable in a restructured electric market and costs that result from the creation of customer choice.[347] Stranded costs have been recovered through a competitive transition charge, and may be recovered over different lengths of time for each distribution utility. The PSC determines the amount of recoverable transition costs, as well as the amount of the charge to be levied to customers.

Switching Activity: Table 7 shows the proportion of customers and load taking service from alternative suppliers in each major utility distribution territory.

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[343] Patrice Hill, "Maryland Utilities Designated Near Junk," *The Washington Times* (July 12, 2006), *available at* http://www.washingtontimes.com/functions/print.php?StoryID=20060711-103048-5690r.

[344] Md. Code Ann., Pub. Util. Comp., '7-505.d (2000).

[345] PSC, Maryland Electric Choice FAQ, at www.psc.state.md.us/psc/electric/FAQ/overall.htm.

[346] Md. Code Ann., Pub. Util. Comp., '7-513 (2000).

[347] *Id.* at '7-501.p.

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Table 7: Retail Customers and Load Supplier by Alternative Providers in February 2006 % of Customers and (% of Load)				
Firm	Residential	Small C&I	Medium C&I	Large C&I
Allegheny Power	0.0% (0.0%)	0.1% (0.9%)	18.0% (19.3%)	58.1% (29.5%)
Baltimore G&E	0.0% (0.0%)	0.9% (1.7%)	17.2% (19.8%)	87.1% (93.4%)
Delmarva P&L	0.0% (0.0%)	1.9% (4.1%)	22.5% (28.6%)	91.0% (95.7%)
Potomac El.	5.8% (7.1%)	10.8% (14.0%)	14.2% (13.2%)	75.8% (83.3%)
Source: Maryland PSC				

Table 8 shows the state aggregate level of switching as of December for each year from 2000 to 2005.

Table 8: Maryland Retail Aggregate Customer Migration Statistics, 2001-2005. % of Customers and (% of Load) Served by Alternative Suppliers						
	Dec. 2000	Dec. 2001	Dec. 2002	Dec. 2003	Dec. 2004	Dec. 2005
Residential	0.6% (0.7%)	2.6% (3.4%)	3.3% (4.1%)	3.1% (3.8%)	2.2% (2.9%)	1.5% (1.9%)
Small C&I	1.2% (3.2%)	4.1% (9.8%)	6.2% (30.4%)	5.7% (27.8%)	3.6% (4.2%)	2.8% (3.4%)
Medium C&I					21.7% (24.6%)	17.7% (21.0%)
Large C&I					58.0% (75.1%)	78.6% (87.4%)
Source: Maryland PSC Note: Prior to 2004, Non-residential data were combined into a single category.						

Public Benefits Programs: Funds for a Universal Service Program will be collected from all customers, and may not be assessed on a per kilowatt-hour basis.[348]

Table 9: Maryland Public Benefits Programs

[348] Md. Code Ann., Pub. Util. Comp., '7-512.1 (2000).

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MD's restructuring law was signed in April 1999 including a $34 M/yr. tax funded Universal Service Fund. Additional funds from individual utility settlements.		Research & Develop.	Energy Efficiency	Low Income	Renewable Energy	Total
	Million $		Up to 1.0	34.0		34.0+
	Mills/kWh			0.51		0.51+
	% revenue			0.82		0.82+
	Admin.		Utility	State		
	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.					

Separation of Generation and Transmission: Divestiture of generation assets was not required, but functional, operational, structural or legal separation of regulated and non-regulated businesses or non-regulated affiliates was required by July 1, 2000.[349] Distribution utilities must provide a code of conduct to prevent their regulated service customers from subsidizing services of unregulated businesses.[350] A distribution utility can transfer any of its generation facilities or assets to an affiliate, if it desires.[351] Power generation affiliates can only sell power on the wholesale market, except for standard offer service suppliers. Retail sales affiliates may only buy power from the wholesale market.

State RTO Involvement: Maryland belongs to the multi-state PJM RTO.

Generation Capability: Prior to the restructuring legislation, utilities operated 95.4% of generating capability in Maryland. By 2002, that figure dropped to 0.1%. Between 1997 and 2002, generation capability increased from 11,713 to 11,859 MW accompanied by growth in the proportion of dual fired capacity.

Usage of Customer Information: Customer information cannot be released without a customer's consent, except for bill collection and credit rating purposes.[352] Customer lists containing names, addresses, and telephone numbers of customers may be sold to competitive suppliers. If a distribution utility intends to release such a list, it must inform its customers, and advise customers of their opportunity to prevent disclosure of their identifying information.[353]

Standardized Labeling:

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[349] *Id.* at '7-505.b(10).

[350] *Id.* at '7-505.b(13).

[351] *Id.* at '7-508.

[352] Md. Code Ann., Pub. Util. Comp., '7-505.b (2000).

[353] PSC Order 76110 (Apr. 25, 2000).

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- **Content:** Distribution utilities and competitive suppliers must provide customers with a uniform set of information on fuel mix and emissions. When actual data is unavailable, a regional average may be used. Labels have to include comparison of emissions and fuel mix to the regional average when information is available.[354]

- **Timing:** Labels must be provided to customers every six months.[355]

Renewable Energy Portfolio Standard: Maryland enacted a renewable energy portfolio standard in 2004. The standard gradually increases to 7.5% in 2019. A separate standard of 2.5% including hydroelectric and waste-to-heat generation applies throughout the period.

Massachusetts: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Electricity Restructuring in Massachusetts was initiated and is administered by the Department of Telecommunications and Energy (DTE). Retail competition began March 1, 1998, in accordance with the restructuring legislation enacted November 25, 1997.

Services Open to Competition: Generation only. Metering and billing are provided by the distribution utility.

Consumer Options: During the transition to competition, consumers had three types of choices to obtain their electricity supply: a) standard offer service, b) service through an aggregator, or c) service from a competitive supplier. If a supplier was unable to provide services, consumers then received a "default" service. Unlike most states that provided Provider of Last Resort (POLR) service, Massachusetts named its POLR service as standard offer service, and developed another regulated price for those customers for which their supplier no longer provided service ("default service"). The transition ended in February 2005, at which time standard offer service was discontinued for all customers. Currently, customers who have not chosen a competitive supplier receive default service from the distribution utility that procures generation services from wholesale suppliers. All retail customers are eligible for default service at any time, and may remain on default service indefinitely. Customers can also select an alternative supplier or be part of a group of customers served by an aggregator. For purposes of this summary, default service will be referred to as a type of Provider of Last Resort (POLR) service.

Alternative Suppliers Licensed to Provide Service: All alternative suppliers must be licensed to provide service to customers in Massachusetts.[356] Licensing regulations require a supplier to show technical and financial capability.[357] Massachusetts maintains a roster of registered competitive electricity suppliers including brokers and direct competitive suppliers. The roster

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[354] PSC Order 76241. See section below on advertising restrictions for supplier requirements to disclose pricing information to customers.

[355] Md. Code Ann., Pub. Util. Comp., '7-505.b (2000).

[356] Mass. Gen. Law ch. 164, §1F(1) (2001).
[357] Mass. Regs. Code tit. 220, §11.05(2) (2001).

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in February 2006 included 30 direct suppliers and twice as many brokers.[358] Ten of the suppliers offered service to residential customers as did a comparable number of brokers.

Pricing Trends: As Table 10 shows, prices for the residential and commercial sectors for the 1988 to 2004 period rose intermittently before peaking in 1997 and then declined before peaking again in 2001. Prices for the industrial sector rose intermittently in the 1990s and also peaked in 2001.

Table 10: Massachusetts Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	8.5	9.1	9.7	10.4	10.6	11.0	11.1	11.3	11.3	11.6	10.6	10.1	10.8	12.5	10.9	11.7	11.75
Commercial	7.7	8.1	8.6	9.2	9.3	9.7	9.8	9.9	9.9	10.3	9.4	8.9	9.0	11.6	10.0	10.5	11.0
Industrial	6.8	7.3	7.9	8.5	8.6	8.7	8.5	8.4	8.4	8.8	8.2	7.7	8.1	9.4	8.3	9.1	8.5
All Sectors	7.8	8.3	8.8	9.5	9.7	10.0	10.0	10.1	10.1	10.5	9.6	9.1	9.5	11.6	10.1	10.6	10.8

Source: Energy Information Administration

Price Changes for Standard Offer Service: Massachusetts set a minimum 10% reduction of the entire bill for all customers receiving standard offer service during the transition period. On September 1, 1999, the reduction increased to at least 15%, in order to adjust for inflation. These rate reductions applied to all distribution utilities.[359] Distribution utilities were authorized to use securitization to meet the second rate reduction effective September 1, 1999.[360]

Standard Offer Service Provider: Standard offer service was provided until February 2005 for customers who had not chosen a competitive supplier during the transition period. It was offered by the distribution utility, at rates which were set in advance, but subject to some adjustments.[361]

POLR (default service) is offered currently to customers who are not receiving service from a competitive supplier or aggregator. Former standard offer customers were offered POLR service at the end of the transition. The price for POLR service is based on the price of procuring it in the wholesale markets through fixed price short-term (three or six months) supply contracts. Distribution companies must procure electricity for default generation service through competitive bidding, although the DTE also may authorize a competitive supplier to provide POLR service.[362]

POLR service prices cover the energy portion of the total bill. Distribution rates, taxes, and fees are additional. POLR service prices follow wholesale prices. The default prices applicable to January of each year for the northern portion of the Boston Edison distribution area (Table 11) illustrate the pattern.

Table 11: Default Prices Applicable in January by Year, Boston Edison (north)

	1999	2000	2001	2002	2003	2004	2005	2006

[358] DTE, Mass. Competitive Electricity Suppliers (2/14/2006).
[359] Mass. Gen. Law ch. 164, §1B(b) (2001).
[360] *Id.* at §1G(c)(2).
[361] *Id.* at §1B(b).
[362] *Id.* at §1B(d).

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Residential	3.7	4.5	7.0	6.4	5.0	6.5	7.5	12.7
Commercial	3.7	4.5	7.0	6.6	5.2	6.6	7.3	12.3
Industrial	3.7	4.5	7.0	6.5	5.1	6.6	9.0	18.1
DTE, Fixed Default Service Prices in cents/kWh								

Recovery of Stranded Costs/Transition Costs: The restructuring legislation provided for the recovery of stranded costs through a non-bypassable charge to all customers.[363] This charge was capped by the DTE, and the DTE determined, on a case-by-case basis, the time period for recovery.[364]

Switching Restrictions and Minimum Stay Requirements: Customers can switch to or from POLR (default/basic) service.[365]

Switching Activity: Table 12 shows the proportion of customers and load taking service from alternative suppliers in each utility distribution territory. In the Commonwealth territory, switching by residential customers is much higher than any other area of the state. Much of this residential switching is attributable to community aggregations, principally the Cape Light Compact.[366]

Table 12: Retail Customers and Load Supplied by Alternative Providers in January 2006
% of Customers and (% of Load)

Firm and load in MWh	Residential	Small C&I	Medium C&I	Large C&I
Boston Edison 1,498,476	0.3% (0.6%)	2.0% (3.5%)	7.9% (13.6%)	34.0% (50.0%)
Cambridge 154,540	0.2% (0.3%)	6.7% (13.5%)	8.4% (12.4%)	33.6% (52.6%)
Commonwealth 403,108	54.2% (51.8%)	55.0% (57.5%)	44.3% (46.2%)	65.6% (70.5%)
Fitchburg 47,256	0.0% (0.0%)	3.8% (2.9%)	4.8% 15.5%	72.7% (86.6%)
Mass. Electric 1,995,096	2.1% (2.4%)	7.4% (12.2%)	31.1% (29.3%)	58.1% (66.2%)
Nantucket 12,547	0.2% (1.3%)	4.4% (6.6%)	23.6% (29.3%)	50.0% (53.2%)
Western Mass.	0.5% (0.7%)	6.6% (11.9%)	32.4% (36.8%)	60.2% (76.3%)
Source: Mass. Department of Telecommunications and Energy				

Table 13 shows the state aggregate levels of switching from January 2001 to January 2006. Although all customers of Massachusetts distribution utilities were eligible for retail access as of March 1, 1998, switching remained at minimum levels for residential and small C&I customers.

[363] *Id.* at §1G(a).

[364] *Id.* at §1G(e).

[365] David L. O'Connor, Commissioner, Mass. Division of Energy Resources, "Retail Competition: Managing a Difficult Transition," (April 6, 2001), p. 6, *available at* http://www.nga.org/Files/ppt/ElecOconnor.ppt.

[366] Cape Light Compact(2) at 1-2.

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Larger commercial and industrial customers were more likely to switch, but sometimes switched back to default service if default prices fell below prices from alternative suppliers. Subsequent to February 2005, the proportion of load served by alternative suppliers increased for all classes of customers.

Former standard offer customers either switched to competitive generation suppliers or started receiving POLR service at the end of February 2005. In December 2004, standard offer service applied to approximately 1.5 million customers with load of 1,959,705 MWh. The share of load served by competitive generators increased from 23.7% to 30.4% between December 2004 and December 2005 following the end of the standard offer service.

Table 13: Massachusetts Retail Aggregate Customer Migration Statistics, 2001-2006
% of Customers and (% of Load) Served by Alternative Suppliers

Date	Jan. 2001	Jan. 2002	Jan. 2003	Jan. 2004	Jan. 2005	Jan. 2006
Residential	0.1% (0.2%)	0.4% (0.4%)	2.8% (2.5%)	2.9% (2.6%)	2.7% (2.3%)	9.1% (7.6%)
Small C&I	0.6% (0.6%)	2.6% (4.4%)	8.8% (10.7%)	7.2% (11.3%)	6.8% (10.2%)	13.9% (21.2%)
Medium C&I	1.5% (2.1%)	7.4% (11.0%)	10.8% (17.2%)	11.3% (17.8%)	10.1% (16.5%)	14.9% (24.3%)
Large C&I	7.2% (13.3%)	20.1% (31.9%)	28.6% (43.1%)	32.4% (50.7%)	32.6% (48.9%)	45.7% (59.4%)

Source: Massachusetts Department of Telecommunications and Energy

Public Benefits Programs: The Massachusetts Public Benefits Programs are summarized in Table 14.

Table 14: Massachusetts Public Benefits Programs

		Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
In Nov97, comprehensive legislation was signed bringing retail access to all customers in 1996, included a non-bypassable wires	Million $		130.0	Incl.	26.0	156.0
	Mills/kWh		2.50	In	0.50	3.00
	% revenue		2.81%	EE	0.58%	3.38%
	Admin.		Utility	Utility	MTPC	

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charge for EE, RE and LI. LI must get at least .25 mills of the EE. In Feb. 2002, legislation was signed extending the SBC for five years, through Dec. 2007.	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm. Note: MTPC is part of the Massachusetts Technology Collaborative.

Separation of Generation and Transmission: The Massachusetts restructuring law required distribution utilities to divest their generation facilities (either by sale or by transfer to an affiliated company), if they sought to recover stranded costs.[367] If a distribution utility opted to transfer its generation assets to an affiliate, the two companies had to be strictly separated,[368] and distribution utilities were not be permitted to sell electricity at retail except to provide their customers with standard offer service (which has now ended).[369] Almost all of the distribution companies divested their assets to only one company.

State RTO Involvement: Massachusetts distribution utilities are within the footprint of the Independent System Operator of New England. Established in 1997, ISO-NE is responsible for managing energy markets and operating the transmission system in New England.

Generation Capability:[370] Prior to the restructuring legislation, utilities operated 86.6% of generating capability in Massachusetts. By 2002, that figure dropped to 9.0% with 91% belonging to independent power producers. Between 1997 and 2002, generation capability increased from 11,328 megawatts to 12,159 megawatts. Most of the new capacity uses natural gas.[371]

Usage of Customer Information: The distribution utility cannot release proprietary customer information to the affiliate without written consent of the customer. Historical usage information will be provided to a supplier who has received customer authorization to initiate service.[372]

Standardized Labeling:[373] "In February 1998, the Massachusetts Department of Telecommunications and Energy (DTE) issued final rules (220 CMR 11.06) requiring electric retailers to provide customers with a standard disclosure label containing information on price, fuel mix, emissions, and labor characteristics of generating sources on a quarterly basis, beginning September 1, 1998. Suppliers must also issue notices in all advertisements stating that disclosure labels are available upon request. Supply mix information must be based on market

[367] Mass. Gen. Law ch. 164, §1A(b)(2) (2001).
[368] *Id.* at §1A(c).
[369] *Id.* at §1A(b)(1).

[370] Department of Energy, Energy Information Administration, Massachusetts State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/massachusetts.pdf.

[371] EIA, State Electricity Profiles 2002, Massachusetts Electric Power Industry Generating Capability by Primary Energy Sources, 1993, 1997, and 2002.
[372] *Id.* at §11.04(12).

[373] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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settlement data or equivalent data provided by the Independent System Operator (ISO) available for the most recent one-year period. Data on carbon dioxide, nitrogen oxides, and sulfur dioxide emissions must be presented in a format comparing them to the regional average. Electricity providers are also required to report the percentage of power generated from sources that have union contracts with their employees and the percentage generated from sources that use replacement labor during labor disputes. Suppliers must submit a report to the DTE annually containing "statements of verification by the ISO or an independent auditor." Massachusetts is working with other New England states to develop a Generation Information System that will supply data for implementing the disclosure requirement."

Renewable Energy Portfolio Standard: Massachusetts enacted a minimum renewable energy portfolio standard on April 26, 2002. The standard started at 1% in 2003 and increases to 4% in 2009 in one half percent increments. After 2009, the standard is scheduled to increase in 1% increments at least through 2014.[374]

New Jersey: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The New Jersey Electric Discount and Energy Competition Act provided for retail choice to begin August 1, 1999, but the New Jersey Board of Public Utilities (BPU) delayed the start date to November 14, 1999 to give utilities more time to modify their computer systems to interact with competitive retail suppliers in order to ease customer switching.

Services Open to Competition: Generation is open to competition. Work on a policy to permit competition for other customer services, such as metering and billing, was suspended on June 23, 2004, for a minimum of two years.[375]

Consumer Options: New Jersey consumers can pick their own alternative supplier or join an aggregation of customers to contract with an alternative supplier. Customers received a "shopping credit" on their electric bill if they choose an alternative supplier. The shopping credit was also known as the "price to compare" and was the amount on a customer's bill that was credited to the customer if he chose an alternate supplier and did not receive basic generation service from the distribution utility.[376]

Customers that are not served by an alternative supplier receive Basic Generation Service (BGS), which is procured through periodic auctions. Large industrial customers with BGS are charged hourly prices that track wholesale spot market prices. BGS for other customer classes is

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[374] 225 CMR 14.00.

[375] New Jersey BUP, Order in the Matter of the Electric Discount and Energy Competition Act of 1999 Customers Account Services Proceeding: Consolidated Billing, Customer Data Card, & Competitive Metering. Energy Consultant: Amendment to Customer Usage Information Process (June 23, 2004), *available at* http://www.state.nj.us/bpu/wwwroot/energy/EX99090676_20040624.pdf.

[376] N.J. Stat. Ann. §48:3-51.3 (2001).

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laddered on a three year cycle.

Alternative Suppliers Licensed to Provide Service: New Jersey licensing standards provide that before receiving a license, new suppliers must show financial integrity and maintain a surety bond of $250,000 for an initial license. For a renewed license, suppliers have to maintain a bond at a level determined by the BPU.[377] Competitive suppliers must renew their licenses annually. The BPU website provides lists of alternative suppliers serving residential, commercial and industrial retail customers. As of February 2006, active alternative suppliers for residential customers range from 3 in the JCP&L territory, to 1 each in the Conectiv and PSE&G territories. None offer service to residential customers in the Rockland territory. For C&I customers, there are 6 active suppliers in the Rockland territory and 19 or 20 in each of the other territories.

Pricing Trends: As Table 15 shows, prices in all three sectors rose throughout the early part of the decade, reaching a peak in 1997. Prices for residential and commercial customers fell over the next several years before rising again, but not as high at the 1997 peak. For industrial customers, the same pattern is evident except that the 2004 price exceeded the 1997 peak.

Table 15: New Jersey Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	9.8	10.1	10.4	10.8	10.9	11.4	11.5	12.0	12.0	12.1	11.4	11.4	10.8	10.2	10.4	10.7	11.2
Commercial	8.4	8.8	8.9	9.3	9.3	9.7	9.8	10.2	10.3	10.4	10.1	9.7	8.6	9.1	8.9	9.3	10.0
Industrial	6.8	7.2	7.4	7.7	7.7	8.1	7.9	8.2	8.2	8.1	7.9	7.7	6.8	8.3	7.7	7.5	9.0
All Sectors	8.5	8.8	9.1	9.5	9.5	10.0	10.1	10.4	10.5	10.5	10.2	10.0	9.1	9.3	9.3	9.5	10.9

Source: Energy Information Administration

Price Changes for POLR (Basic Generation Service) Service: All customer classes were granted an initial 5% rate reduction with an additional reduction of at least 5% over the first three years of the transition period for POLR service. This entailed a reduction of at least 10% from April 1997 levels. The reductions were from the distribution portion of the customer's bill, so that even those customers that switched to a new supplier obtained the price reductions. Retail price caps expired in the summer of 2003.[378]

Beginning in 2002, New Jersey instituted the Basic Generation Service (BGS) Auction "to meet the electric demands of customers who have not selected an alternative supplier and to make BGS available on a competitive basis… The Internet BGS Auction, the first of its kind in the nation, was a descending clock auction…"[379] The bidding process for hourly priced electricity is separate from that for fixed price service and the latter involves three year supply contracts that supply one third of the anticipated load of fixed BGS. Table 16 shows the auction results for 2003 to 2005.

[377] BPU, Interim Licensing and Registration Standards §4.e.

[378] Jeanne M. Fox, N.J. B.P.U Chair, "New Jersey's BGS Auction: A Model for the Nation," *Public Utilities Fortnightly* (Sept. 2005), pp. 16-19.

[379] N.J. Board of Public Utilities Press Release, February 15, 2002.

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Table 16: Auction Results for Three Year Contracts Used to Ladder Fixed BGS Rates			
	Feb. 2003	Feb. 2004	Feb. 2005
Conectiv	5.529 cent/kWh	5.513	6.648
JCP&L	5.587	5.478	6.570
PSE&G	5.560	5.515	6.541
Rockland	5.601	5.597	7.179
Source: NJ BPU Press Releases of Feb. 5, 2003; Feb. 11, 2004; and Feb. 16, 2005. The Feb. 9, 2006, press release did not list the winning bid prices, but indicated that the average residential bill would increase 12% to 13.7% as a result of increases in the 2006 component of the laddered prices.			

POLR Service (BGS) Provider: Generation services were provided by the distribution companies for three years following the opening of retail competition.[380] Through BGS, all customer classes are eligible for generation service overseen by the BPU.[381] Non-residential customers who return to BGS are generally required to remain with that service for one year.[382] The auction system for procuring BGS has been in place since 2002, although rate caps applied until mid-2003.

Recovery of Stranded Costs/Transition Costs: The BPU determined the recoverable amount of stranded costs, and distribution utilities recovered most stranded costs over a maximum of 8 years, through a market transition charge (MTC).[383] All customers were be assessed this charge, except for off-grid customers who are exempt from exit fees.

Switching Restrictions and Minimum Stay Requirements: Customers can switch suppliers or return to their distribution company at any time, in accordance with the terms and conditions of their service agreement with their supplier or distribution company. A customer may not be charged a fee for switching suppliers.

Switching Activity: The Table 17 provides the switching statistics for large C&I customers in the major distribution territories as of December 2005.

Table 17: Customer Switching by Distribution Utility (December 2005) % of Customers and (% of Load) Served by Alternative Suppliers				
	Combined Residential and Non-Residential Fixed Rate	Residential Fixed Rate	Non-Residential Fixed Rate	Large C&I Hourly
Conectiv	0.0% (12.4%)	0.0%	0.3%	87.2% (95.7%)
JCP&L	0.1% (11.6%)	0.0%	0.4%	62.7% (87.7%)
PSE&G	0.1% (15.3%)	0.0%	0.7%	64.0% (84.0%)

[380] N.J. Stat. Ann. §48:3-57.9.a (2001).

[381] *Id.* at §48:3-51.3.

[382] NJ Ratepayer Comments at 7.

[383] *Id.* at §48:3-61.13.i.

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Rockland	0.0% (4.4%)	0.0%	0.3%	55.0% (70.3%)
Source: New Jersey BPU and *Restructuring Today* (January 27, 2006), p. 3. Note: New Jersey does not report separate residential and small C&I load of alternative suppliers.				

The number of residential customers served by alternative suppliers is and has remained very low with the peak of less than 6% in the Conectiv (Atlantic) distribution area in December 2000.[384] As of December 2005, less than 1,000 residential customers had alternative suppliers in the entire state.[385] As with the residential sector, the number of small C&I customers served by alternative suppliers peaked in December 2000 with 8.6% of customers and 16.3% of load for this class of customer served by alternative suppliers.[386] As of December 2005, less than 1% of small C&I customers had alternative suppliers, but they tended to be larger than average customers because the share of load exceeds the share of customer served by alternative suppliers.

The POLR service available to large C&I customers in New Jersey is priced on an hourly basis, CIEP, that tracks the wholesale spot market prices. Hence, large C&I customers wishing to hedge price volatility must do so by selecting an alternative supplier. New Jersey's experience has been that many large C&I customers prefer to buy from alternative suppliers when POLR service is priced on an hourly basis.

Table 18 provides aggregate switching data for residential and non-residential customers from 2003 to the end of 2005.

Table 18: New Jersey Retail Aggregate Customers Migration Statistics, 2003-2005 % of Customers and (% of Load) Served by Alternative Suppliers				
Year	2003 pre August	November 2003	December 2004	December 2005
Residential and Small C&I	(1 to 2%)	3.3% (12.5%)	0.3% (15.4%)	0.0% (13.6%)
Residential		3.6%	0.0%	0.0%
Small C&I		0.8%	1.8%	0.6%
Large C&I	~ 10%	66%		64.7% (83.9%)
Source: *Restructuring Today* various issues. Note: Archives of N.J. BPU switching statistics are not available. [SHOULD WE CONTACT?]				

<u>Public Benefits Programs</u>: Table 19 identifies the elements and New Jersey's public benefit programs.

Table 19: New Jersey Public Benefits Programs						
Restructuring law passed in Jan. 99.		Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total

[384] FTC Staff, Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition (2001), pp. A78 to A80.

[385] N.J. B.P.U, "New Jersey Electric Statistics," (December 2005).

[386] FTC Staff, Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition (2001), pp. A78 to A80.

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Requires funding for EE/RE at same level as existing DSM costs (approx. $235million/yr.) Full SBC is 3.6 mills. Half would pay for costs from prior year, half for programs. 25% of new must be RE. Numbers in table are new programs only set in BPU order Mar/01. LI separately funded at prior levels.	Million $		89.5	10.1	30.0	129+
	Mills/kWh		1.22	0.14	0.41	1.76
	% revenue		1.31%	0.15%	0.44%	1.89%
	Admin.		NJ BPU	Utility	NJ BPU	
	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.					

Separation of Generation and Transmission: The restructuring act does not mandate divestiture, though the BPU may require a distribution utility to functionally separate its generation assets to the distribution utility's holding company or a related competitive business segment if there are market concentration concerns.[387] Electric distribution utilities had three options: divestiture, structural separation or functional separation. Of the four major distribution utilities in New Jersey, two divested nearly all of their generation, one divested most (but not all) of its generation, and the fourth transferred its generation assets to an unregulated affiliate.[388] In August 2000, PSE&G transferred approximately 10,200 MW of its electric generating facilities to PSEG Power, LLC, an unregulated power generation affiliate. The BPU approved the sale of Rockland Utility's generation assets to Southern Energy Affiliates in June 1999.[389]

State RTO Involvement: New Jersey is within the multi-state PJM region, an RTO that includes Pennsylvania, New Jersey, Maryland, Delaware, the District of Columbia, and parts of Virginia. In recent years, the PJM RTO has significantly expanded its geographic scope to the West and South of its original footprint. The PJM region is responsible for the operation of the region's wholesale electric market.

Generation Capability:[390] Prior to the restructuring legislation, utilities operated 81.2% of the generation capability in New Jersey. By 2002, that figure dropped to 6.8% after divestitures, transfers, and entry of new generators. Between 1997 and 2002, generation capability in the state increased from 16,855 megawatts to 18,384 megawatts, an increase of 9.1%. Nearly all of the increase was in dual fueled generators built by IPPs. During the 1993 to 1997 period, generating capability had increased by less than 3%.

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[387] *Id.* at §48:3-59.11.a.

[388] NJ Ratepayer Comments at 9.

[389] Rockland Utilities Divestiture Approval (June 24, 1999).

[390] Department of Energy, Energy Information Administration, New Jersey State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/new_jersey.pdf.

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Usage of Customer Information: Neither power suppliers nor distribution companies can disclose proprietary information, including historical payment and energy usage information without the written consent of the customer. Any third party who receives such information can only use it in order to provide continued electric service to the customer.[391]

Standardized Labeling:[392] "The New Jersey Board of Public Utilities (BPU) adopted an interim disclosure rule on July 26, 1999, in accordance with the state's restructuring law. The rule requires electricity suppliers to provide consumers with a uniform disclosure label containing information on fuel mix, carbon dioxide, sulfur dioxide, and nitrogen oxides emissions, as well as energy-efficiency efforts twice a year, effective August 1, 1999. Air pollutant emissions must be compared to the regional average. Suppliers should use data from the most recent 12-month period with a 3-month lag, unless such data are unavailable (as in the case of a new market entrant). Information must be provided for each product offered and verified by an independent auditor."

Renewable Energy Portfolio Standard: The New Jersey Board of Public Utilities adopted renewable energy portfolio standards on February 1, 2005. The standard starts at 3.25% for 2005 and rises to 6.5% by 2009. On August 31, 2005, the BPU authorized specific standards for two classes of renewable energy sources in addition to continuation of the existing solar requirements.

New York: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Restructuring in New York State has taken place through orders of the New York State Public Service Commission (NYSPSC), rather than through legislative initiatives. Because the PSC phased in restructuring through PSC-approved utility restructuring plans over a three year period, each utility had a different timetable to transition to retail competition.

In 2004, the NYSPSC identified a number of "best practices" and ordered distribution utilities to submit plans to foster the development of retail competition.[393] Subsequently, the NYSPSC adopted statewide guidelines, based on the program developed by Orange and Rockland (O&R).[394] Under the guidelines, the distribution utility notifies any customers who contact the

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[391] *Id.* at §48:3-85.36.b.

[392] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[393] NYSPSC, Case 00-M-0504, "Statement of Policy on Further Steps toward Competition in Retail Energy Markets" (August 25, 2004).

[394] Case 05-M-0858 *et al*, "Order Adopting ESCO Referral Program Guidelines and Approving an ESCO Referral Program Subject to Modifications" (Dec. 22, 2005). NYSPSC(2) at 17.

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utility that they may try an alternative supplier for a two-month period without any penalty for leaving or returning to POLR service after the trial period. Alternative suppliers participating in the program offer a one-time 7% discount for the trial period. Customers can either pick an alternative supplier or have one randomly assigned and customers are can return to POLR service or to another alternative supplier at the end of the trial period. As the table on retail switching indicates below, switching levels in the O&R distribution territory are higher than in other territories.

On September 23, 2005, the PSC determined that the pace of development of real-time pricing was insufficient to moderate the effects of rising fuel costs.[395] To speed the development of real-time pricing, the PSC ordered that existing real-time pricing programs in some distribution territories be expanded to include all territories and that POLR service for large C&I customers be tied to real-time pricing.

Services Open to Competition: Generation, metering and billing. Distribution companies were required to file unbundled metering tariffs and calculate a "backout" credit for customers who choose a different meter service provider. The PSC's competitive metering and meter reading rules allow customers who choose a competitive supplier and customers who remain with the distribution utility to choose competitive metering services. Customers who choose competitive metering services must procure both meter and meter data services competitively. Distribution utilities are the providers of last resort for metering and meter data services.[396]

Consumer Options: New York retail electricity customers can select an alternative supplier or be part of an aggregation of consumers that obtain electric power from an alternative supplier. Customers not served by an alternative supplier receive POLR service from the distribution utility. POLR service for large C&I customers is offered on an hourly price basis that tracks wholesale spot market prices.

Alternative Suppliers Deemed Eligible to Provide Service: The New York PSC website provides lists of alternative suppliers in each distribution territory. For example, in February 2006, the number of alternative suppliers serving residential customers ranged from 6 in the Central Hudson and O&R territories to 13 in the National Grid (Niagara Mohawk) distribution territory. C&I customers generally had more alternative suppliers to choose from.

Pricing Trends: As shown in Table 20, prices generally increased through 1997 and then wavered before increasing to higher levels in 2003 and 2004.

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[395] NY PSC, Case 03-E-0641, "Order Instituting Further Proceedings and Requiring the Filing of Draft Tariffs" (September 23, 2005).

[396] NYPSC Case 00-E-0165 – In the Matter of Competitive Metering and Case 94-E-0952 – In the Matter of Competitive Opportunities Regarding Electric Service (Feb. 26, 2001).

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Table 20: New York Average Annual Price per KWh by Sector (nominal cents)																	
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	10.5	10.9	11.4	12.0	12.4	13.2	13.6	13.9	14.0	14.1	13.7	13.3	14.1	14.0	13.6	14.3	14.5
Commercial	9.6	9.9	10.5	10.9	11.2	11.7	11.7	11.9	12.1	12.1	11.6	11.2	12.5	12.9	12.3	12.9	13.0
Industrial	4.9	5.3	5.8	6.2	6.5	6.7	6.8	5.8	5.6	5.2	5.0	4.8	4.9	5.6	5.2	7.1	7.0
All Sectors	8.5	8.9	9.4	9.6	10.2	10.7	10.9	11.1	11.1	11.1	10.7	10.4	11.2	8.8	8.7	12.4	12.6
Source: Energy Information Administration																	

Price Changes for POLR Service: Each distribution utility's restructuring plan laid out different POLR rate reduction plans:

- Central Hudson basic electric rates were frozen at 1993 levels through June 30, 2001, for all customers. In addition, large industrial customers who chose to remain with Central Hudson for their generation services received 5% per year rate reductions until mid-2001.

- Con Edison industrial customers received a 25% immediate rate decrease, which remained fixed for five years. All other customers received a 10% rate decrease, phased in over five years.

- Orange and Rockland residential customers received a 4% decrease in rates during 1995 and 1996, while industrial and commercial customers received rate reductions of 4-14%. On December 1, 1997 and on December 1, 1998, residential rates were reduced an additional 1%. Large industrial customer rates were reduced by approximately 8.5% on December 1, 1997.

- Rochester Gas and Electric residential and small commercial customers received a 7.5% rate decrease. Other commercial and most industrial customers received an 8% decrease. Large industrial customers received an 11.2% decrease. All decreases are being phased in over 5 years.

- New York State Electric and Gas industrial and large commercial customers (greater than 500 kW capacity) received a 5% per year rate decrease, for five years. Residential and small commercial and industrial customers have had their rates frozen at current levels for two years, bills reduced 1% in the third year of the plan, and a total decrease of 5% by the fifth year of the plan. Industrial and commercial customers who are not eligible for the 5% decrease received financial incentives for load growth to encourage business expansion.

- National Grid (Niagara Mohawk) customers received an overall rate decrease of an average of 4.3%. Residential and commercial customers were to have a 3.2% decrease phased in over three years. Industrial customers were to have decreases of approximately 13%. In addition, Niagara Mohawk rates for electricity and delivery were set until September 1, 2001. In 2001 and 2002, Niagara Mohawk was allowed to request limited rate increases for distribution services, and prices for some of the electricity sold to all customers will fluctuate with changes in market prices.

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POLR Service Provider: The distribution companies provide regulated POLR service for customers who do not choose a competitive supplier or who return to POLR service.[397]

Recovery of Stranded Costs/Transition Costs: Distribution utilities recover stranded costs (net of proceeds from selling generation assets) through a non-bypassable distribution charge. Distribution utilities were required use creative means to reduce the amount of stranded costs before they are considered for recovery. Stranded cost calculations and timing of recovery were determined on a case-by-case basis for each distribution utility.[398]

Switching Restrictions and Minimum Stay Requirements: The NY PSC is currently implementing a number of policies designed to encourage consumers to try alternative suppliers.[399] One of these, known at "ESCO Referral Programs," places limits on the ability of alternative suppliers to levy charges against departing customers.[400]

Switching Activity: The switching statistics for December 2005 in each distribution territory appear in the Table 21.

Table 21: New York Retail Customers and Load Supplied by Alternative Providers as of December, 2005 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Large C&I	Total
NY IOUs 8,614,367	6.7% (9.0%)	18.4% (45.4%)	55.6% (75.7%)	8.3% 38.5%
Central Hudson 465,350	.8% (1.0%)	3.0% (15.6%)	49.2% (74.7%)	1.2% (26.9%)
Con Ed 3,425,765	4.6% (5.5%)	14.1% (40.2%)	77.5% (85.1%)	5.9% (37.4%)
National Grid 2,644,403	6.0% (7.7%)	22.9% (53.6%)	69.2% (69.2%)	7.8% (38.4%)
NYSE&G 1,100,064	6.8% (9.6%)	23.1% (54.6%)	51.7% (88.3%)	9.1% (40.7%)
O&R 349,282	30.4% (34.6%)	32.4% (49.5%)	19.7% (27.5%)	30.6% (37.6%)
Rochester G&E 629,504	17.5% (21.5%)	39.5% (58.8%)	62.2% (71.5%)	20.0% (49.5%)
Source: New York PSC				

The aggregate switching statistics for the utility distribution territories in the states from 2000 to 2005 appear in Table 22. Load served by alternative suppliers has increased each year with the largest increases in 2004 and 2005. The percentage of customers served by alternative suppliers

[397]NYPSC Opinion 96-12, Opinion and Order Regarding Competitive Opportunities for Electric Service (May 20, 1996).

[398]Id.

[399] New York State Department of Public Service, *Staff Report on the State of Competitive Energy Markets: Progress to Date and Future Opportunities* (March 2, 2006), Electric and Natural Gas Retail Markets sections I to III.

[400] NYSPSC(2) at 18.

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increased from 1999 to 2002, declined in 2003, and resumed growing in 2004 and 2005.

Table 22: New York Aggregate Customer Migration Statistics, 1999-2005
% of Customers and (% of Load) Served by Alternative Suppliers

Year	1999	2000	2001	2002	2003	2004	2005
Residential	~1.6%	3.4%	4.8% (5.0%)	5.0% (5.6%)	4.2% (5.9%)	5.1% (7.2%)	6.7% (9.0%)
Small C&I	~4.3%	5.3%	6.2% (26.0%)	7.1% (30.0%)	8.0% (26.0%)	13.0% (36.2%)	18.4% (45.4%)
Large C&I					23.7% (45.1%)	48.1% (66.8%)	55.6% (75.7%)

Source: New York PSC, Electric Retail Access Migration Reports

Public Benefits Programs: New York's public benefit programs are charted in Table 23 below.

Table 23: New York Public Benefits Programs

In May95, the PSC issued Order 96-12 requiring all IOUs to file restructuring plans. A July98 Order set $78 million/year for an SBC, administered by NYSERDA. In Jan01 the PSC raised the SBC to $150 million/yr and extended it for 5 years. (Table shows allocation minus 10% held open.) R&D incl. $14 million/yr for RE. Table does not include $100 million/yr EE by Power Authorities

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $	26.0	87.0	22.0		150.0
Mills/kWh	0.26	0.83	0.21		1.42
% revenue	0.20%	0.69%	0.17%		1.18%
Admin.	NYSERDA	NYSERDA	NYSERDA		

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Notes: The administrator is the New York State Energy Research and Development Authority, supervised by the PSC.
On December 14, 2005, the PSC ordered that the System Benefit Charge be increased to $175 M annually and that the program be extended for five years (In the Matter of System Benefits Charges III, Case 05-M-0090, available at: http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/537570F2225B2852570D600700767/$File/05m0090_12_21_05.pdf?OpenElement

Separation of Generation and Transmission: The PSC encouraged total divestiture of generation, and it instructed distribution utilities to separate generation and energy service functions from transmission and distribution systems.[401] Each distribution utility company's restructuring agreement established different requirements for separation of generation and transmission.[402]

[401] NYPSC Opinion 96-12, Opinion and Order Regarding Competitive Opportunities for Electric Service (May 20, 1996).

[402] PSC Publication: PSC Rate and Restructuring Plan Fact Sheets, at www.dps.state.ny.us/energyarch.htm#facts.

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State RTO Involvement: New York distribution utilities belong to the New York ISO, formed in 1998. The New York ISO exercises operational control over most of New York's transmission systems, administers the ISO transmission tariff, and operates the New York Open Access Same Time Information System (OASIS).[403]

Generation Capability:[404] Prior to the restructuring regulations, utilities in New York operated 84.3% of the generation capability in the state. By 2002, that figure dropped to 32.4%. The difference reflected mandatory divestitures of generation to independent generation firms and entry or expansion of independent power producers. Between 1997 and 2002, generation capability in the state increased from 35,576 megawatts to 36,041 megawatts. In the previous 5-year period, generation capability had decreased. Dual fueled generation increased as a proportion of generation from 34.1% to 39.5%.

Use of Customer Information: Historical customer data will be provided by distribution companies to customers or their authorized designees. All historical data that a competitive supplier receives from the distribution company must be kept confidential, unless authorized for release by the customer. A distribution company cannot disclose customer information to competitive suppliers if the customer has notified the distribution company in writing that he does not authorize release. Thereafter, customer information can only be released to a competitive supplier with the customer's written authorization.[405]

Standardized Labeling:[406] On December 15, 1998, the New York Public Service Commission (PSC) issued an order requiring electric suppliers to use a standardized label to provide information to customers regarding the environmental impacts of electricity products semi-annually. Suppliers must disclose fuel mix compared to a statewide average and emissions of sulfur dioxide, nitrogen oxides, and carbon dioxide. Fuel source and emissions information are calculated by the Department of Public Service (DPS) and provided to retail suppliers quarterly. Calculations are based on a rolling annual average with data supplied from the Independent System Operator and the Energy Information Administration and verified by the DPS. The most recent reports of each load serving entity (2004) are available at http://www3.dps.state.ny.us/e/energylabel.nsf/ViewCat?ReadForm&View=LabelInfo&Cat=January+2004+-+December+2004&Count=80.

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[403]NYISO Frequently Asked Questions, at www.nyiso.com/public/services/customer_relations/faqs/index.jsp.

[404] Department of Energy, Energy Information Administration, New York State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/new_york.pdf.

[405]New York State Public Service Commission, Case 98-M-1343, Uniform Retail Access Business Practices, Appendix A, "Customer Information" (Apr. 14, 1999), at www.dps.state.ny.us/doc5743_appendix_a.pdf. For information on the acceptance of uniform retail access business practices in New York, *see* www.dps.state.ny.us/ubr.htm.

[406] Department of Energy, Energy Information Administration, "Disclosure Policies," *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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Renewable Energy Portfolio Standard: The New York PSC adopted a renewable energy portfolio standard on September 24, 2004. The policy calls for an increase in renewable energy used in the state from the then current level of 19% (mostly hydro) to 25% by 2013.

Pennsylvania: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The Electricity Generation Customer Choice and Competition Act was enacted on December 3, 1996. The Pennsylvania Electric Choice Pilot Program began in the fall of 1997, with 230,000 customers participating. These customers were able to begin shopping for their electric generation supplier beginning September 1, 1998. By January 2, 2000, electric choice was fully implemented in nearly all of Pennsylvania.[407] Retail competition is administered by the Pennsylvania Public Utility Commission (PUC).

Services Open to Competition: Generation. Generally the distribution company provides metering and billing services, although there are some areas in Pennsylvania in which the alternative supplier may provide these services.[408] Pennsylvania's efforts to allow licensed generation suppliers to provide metering and billing services to retail customers were suspended on August 12, 2002.[409]

Consumer Options: Pennsylvania consumers can select an alternative supplier or be part of an aggregation of consumers buying power from an alternative supplier. Consumers not served by an alternative supplier receive POLR service arranged by the local distribution utility.

Alternative Suppliers Licensed to Provide Service: Competitive suppliers must be licensed by the PUC to provide service to Pennsylvania customers.[410] As of February 2006, the Duquesne Light territory had 4 alternative suppliers serving residential customers and 20 serving C&I customers. In the PECO territory, 6 alternative suppliers were available for residential customers and 28 for C&I customers. Outside of these two territories, residential customers only have available premium priced green generation products while C&I customers had several alternative suppliers offering service.

Pricing Trends: Table 24 displays average retail prices in Pennsylvania by customer class from 1988 to 2004. Residential, commercial, and industrial retail prices have fluctuated within a narrow range since 1991.

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[407]Pennsylvania PUC Publication: Pennsylvania Electric Choice, Q&A. www.electrichoice.com/public/qa.html

[408]Pennsylvania PUC Publication: Pennsylvania Electric Choice, How to Shop Guide. www.electrichoice.com/public/guide.html

[409]Letter from the Pennsylvania PUC to the Energy Association of Pennsylvania approving an extension of a suspension of work of the Electronic Data Exchange Working Group as it relates to the implementation of competitive metering, Docket No. P-00021957 (February 5, 2004).

[410]66 Pa. Cons. Stat. §2809.A (2001).

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Table 24: Pennsylvania Average Annual Price per KWh by Sector (nominal cents)																	
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2000	2003	2004
Residential	8.7	8.9	9.2	9.6	9.7	9.6	9.6	9.7	9.7	9.9	9.9	9.2	9.1	9.7	9.7	9.6	9.6
Commercial	7.5	7.8	8.1	8.3	8.5	8.3	8.3	8.3	8.3	8.4	8.3	7.9	6.3	8.6	8.5	8.1	8.5
Industrial	5.5	5.8	6.0	6.3	6.2	6.0	5.9	5.9	5.9	5.9	5.6	5.2	4.3	5.8	5.8	6.1	5.9
All Sectors	7.1	7.4	7.7	8.0	8.0	7.9	7.9	7.9	8.0	8.0	7.9	7.4	6.6	8.0	8.1	8.0	8.0
Source: Energy Information Administration																	

Price Changes for POLR Service: POLR rates for distribution service were capped at January 1, 1997 levels until July 1, 2001. Rates for generation, including transition charges, were capped at January 1, 1997 levels until January 1, 2006.[411] In some distribution utility service areas, generation caps are in place until 2008-2011 because these distribution utilities will be collecting stranded costs over these longer periods. Many distribution utilities also extended distribution rate caps until 2003-2005. Pennsylvania did not require rate reductions, although several distribution utilities agreed to reduce rates in the first year of retail choice. These reductions were to be lowered and phased out over a two to three year period.[412]

Overall rate reductions, Table 25 for the first year ranged from 2.5% to 8% for the major utilities operating in Pennsylvania:[413]

Table 25: First Year Rate Reductions by Distribution Utility	
Distribution Utility	First Year Rate Reductions
APS	2.5%
MetEd	2.5%
PECO	8.0%
Penelec	3.0%
PPL	4.0%

Shopping credit rates are the rates that a customer pays for generation if he receives generation service from the utility rather than from a competitive supplier. Shopping credit rates increased over time, but fuel cost increases have been greater and the base rates are not adjusted under the Pennsylvania settlements with distribution utilities. The has resulted in the declining market shares for alternative suppliers and the exit of alternative suppliers.

POLR Service Provider: The distribution company provides POLR service for customers who do not choose a competitive supplier, for those who are unable to obtain service from a competitive supplier, or for customers whose suppliers do not deliver service. Distribution utilities must offer standard offer service as long as the distribution utility is collecting transition charges or until 100% of its customers have electric choice.[414] In June 2000, the PUC issued a

[411] 66 Pa. Cons. Stat. §2804.4 (2001).

[412] Comments of the Pennsylvania Utility Commission, Federal Trade Commission Retail Electricity Study (April 9, 2001).

[413] Ahmed Kaloko, Ph.D., Chief Economist, Pennsylvania Public Utility Commission, "Power 99– California & Pennsylvania Retail Market Development."

[414] 66 Pa. Cons. Stat. §2807.E (2001).

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change in the provision of POLR service, in order to prevent "gaming" of the system by customers who were returning to their distribution utility. During the summer, market prices rose, while POLR rates remained stable, below market rates. This caused customers to be either returned to POLR service by their suppliers or to return themselves to POLR service. Many distribution utilities require customers to remain with the distribution utility for a 12-month period after switching back to the POLR provider.

Competitive POLR Service: Some distribution utilities have arranged for competitive bidding to supply the generation services portion of POLR service for customers who do not affirmatively choose an alternative supplier. This option is known as Competitive Default Service (CDS). The PUC approved additional consumer protections for the initial phase in of CDS, including bidder qualifications, established creditworthiness, and bond limits. The PUC also reviewed the CDS annually to ensure that it is still benefited consumers.[415] The largest CDS effort took place in the PECO territory. PECO awarded a contract for 20% of its POLR service customers to The New Power Company. Additionally, 50,000 PECO customers were assigned to Green Mountain Energy, Inc. PECO customers assigned to the CDS provider received a two-percent discount on the shopping credit (the capped generation service rate). The CDS provider also provided no less than two percent of its supply from renewable resources and increased the use of renewable resources by one-half of a percent annually.[416] Due to concerns that POLR prices were insufficient to cover procurement costs, the CDS suppliers withdrew from this service. No alternative suppliers have been willing to supply on these terms at present. On December 10, 2005, the PUC decided to reopen POLR service issues for comment in preparation for the end of the transition period in distribution areas in addition to Duquesne.[417]

Recovery of Stranded Costs/Transition Costs: Stranded costs have been administratively determined by the PUC on a case-by-case basis. Utilities were not required to establish market-based valuation by selling generation assets. Stranded costs are fully recoverable through a non-bypassable charge to all consumers, collectible for up to nine years, unless the PUC orders an alternative payment period.[418] Table 26 shows each utility's allowable stranded costs recovery and the seven to 10 year recovery periods to collect there costs from customers.

Table 26: Transition/Stranded Costs:

Company	Allowable Stranded Cost Recovery	Length of Recovery
Allegheny Power	$670 million	10 years
Duquesne Light	$1,331 million	7 years
GPU Energy (Met Ed.)	$975 million	10 years
GPU Energy (Penelec)	$858 million	8 years
PECO	$5,024 million	8 ½ years
Pennsylvania Power and Light	$2,864 million	9 years
Pennsylvania Power Company	$234 million	9 years

[415] Id.

[416] Id.

[417] The order is *available at* http://www.puc.state.pa.us/PcDocs/578097.doc.

[418] 66 Pa. Cons. Stat. §2808.A, B (2001).

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UGI Utilities	$32.5 million	
West Penn Power Company	$524 million	7 years
Source: Company Restructuring Orders and Tables		

Switching Restrictions and Minimum Stay Requirements: Customers can switch suppliers at any time, although they are advised to check their supply agreement for any penalties which may apply for early termination of a supply contract. If a customer leaves POLR service and then returns, some POLR service providers require a minimum stay of 12 months.[419]

Switching Activity: At this point in time, retail switching activities are largely limited to the Duquesne Light distribution territory and to a lesser degree the PECO territory, as shown in Table 27.

Table 27: Pennsylvania Retail Customers and Load Supplied by Alternative Providers as of January 1, 2006 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Large C&I	Total
Allegheny Power	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Duquesne Light	19.7% (18.5%)	20.3% (52.3%)	43.4% (83.6%)	19.8% (48.0%)
MetEd/Penelec	0.0% (0.0%)	0.0% (0.0%)	(0.1%) (5.6%)	0.0% (1.6%)
PECO	0.9% (1.0%)	23.8% (13.2%)	2.0% (1.2%)	3.2% (4.9%)
PennPower	0.0% (0.0%)	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)
PPL	0.0 (0.0%)	0.2 (0.7%)	0.3 (0.3%)	0.1 (0.3%)
UGI	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)
Source: Pennsylvania Office of the Consumer Advocate				

[419] Pennsylvania PUC, Electric Choice Frequently Asked Questions (Are there any penalties for changing suppliers?), *available at* http://www.puc.state.pa.us/utilitychoice/faq.aspx?ut=ec#4.

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The first quarter aggregate switching statistics for the utility distribution territories in Pennsylvania from 2000 to 2006 appear in Table 28. Load served by alternative suppliers has decreased since 2000 with the exception of an increase in 2004. Alternative suppliers served a declining number of customers from 2001 to the present (with the exception of 2004).

Table 28: Pennsylvania Retail Aggregate Customer Migration Statistics, 1999-2006
% of Customers and (% of Load) Served by Alternative Suppliers

Year	2000	2001	2002	2003	2004	Oct. 2005	2006
Resident.	~7.8% (~7.6%)	~9.2% (~8.6%)	~10.3% (~9.1%)	~4.9% (~4.7%)	~8.2% (~7.9%)	2.9% (2.7%)	~2.3% (~2.1%)
C&I	~17.6% (~41.9%	~16.9% (~32.6%)	~3.7% (~7.8%)	~4.8% (~12.4%)	~13.5% (~13.9%)	9.6% (15.5%)	~8.9% (~14.5%)

Source: Pennsylvania Office of the Consumer Advocate
Note: Keystone Connection (Autumn 2005) provides the percentage of customers and load served by alternative suppliers as well as the total number of customers and load for residential customers and C&I customers separately for October 2005. Calculations for the other years take the number of shoppers or shoppers' load reported in January of that year and divides them by the related Pennsylvania totals from Oct. 2005. The resulting calculations are approximations because the total number of customers and the total load in the state may have changed from year to year.

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Public Benefits Programs: Table 29 identifies the Pennsylvania public benefit programs.

Table 29: Pennsylvania Public Benefits Programs

In Dec95, a restructuring laws was signed with retail access to be phased-in over 2 yrs starting in Jan99. The restructuring law resulted in PUC-approved restructuring settlement agreements for each electric company. Each settlement agreement created a system benefits fund for LI programs and a Sustainable Energy Fund (except for Duquesne).

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $	5.0		85.0	6.0	96.0
Mills/kWh	0.04		0.68	0.05	0.77
% revenue	0.05%		0.85%	0.06%	0.96%
Admin.	SEF	Utility	SEF		

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Note: Administrators are Sustainable Energy Funds in each area of the state.

Separation of Generation and Transmission: Generation must be separated from transmission and distribution, but distribution utilities are not required to divest facilities or reorganize corporate structure.[420] However, several utilities voluntarily divested generation assets either to independent companies or to unregulated affiliates.

State RTO Involvement: The restructuring legislation directs the PUC to encourage interstate power pools to enhance competition and to complement restructuring. Much of Pennsylvania belongs to the PJM RTO. In order to meet electric load in the PJM region, PJM coordinates with member companies and uses bilateral contracts and the spot market to secure power.[421] In March 2001, Allegheny Power and PJM filed with FERC a request to expand PJM by forming PJM-

[420] 66 Pa. Cons. Stat. §2804.5 (2001).

[421] Pennsylvania Public Utility Commission, Bureau of Conservation, Economics, and Energy Planning, "Electric Power Outlook for Pennsylvania: 1999-2004" (July 2000).

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West.[422]

Generation Capability:[423] Prior to the restructuring legislation, utilities in Pennsylvania operated 92.3% of generation capability in the state. By 2002, that figure dropped to 12.3%, despite the lack of a requirement for generation divestitures or transfers. The difference reflected voluntary divestitures to independent generators and transfers of generation to affiliates as well as expansion and entry of independent power producers. Between 1997 and 2002, generation capability in the state increase from 36,650 megawatts to 39,783 megawatts. Most of increase consisted of dual fueled generation.

Use of Customer Information: A customer can restrict the disclosure of his telephone number and his historical billing data. A distribution utility or supplier who intends to supply a third-party with this information must provide a customer with the means of restricting the release of this information, either through a signed form, orally, or electronically.[424] Customer information cannot be given preferentially by a distribution utility to its affiliate.[425] During the initial-phase in period of electric restructuring, a customer's name, address, telephone number, rate class, account number and load data were given to competitive suppliers as a result of the customer's enrollment into the electric choice program. The customer had the option of restricting the release of his telephone number and load data to suppliers. After this initial phase-in period, to assure that customers retain the ability to restrict disclosure of certain information to suppliers, the PUC directed distribution utilities to send forms to customers to give them the opportunity to restrict the release of load data, or of all information (name, address, rate class, and account number). Telephone numbers would not be released to suppliers under any circumstances.[426]

Standardized Labeling:[427] The Pennsylvania Public Utility Commission (PUC) issued final rules in April 1998 requiring retail electricity suppliers to "respond to reasonable requests made by consumers for information concerning generation energy sources." Suppliers must respond to such requests "by informing consumers that this information is included in the annual licensing report and that this report exists at the Commission." Requests for information on energy efficiency must be handled in a similar manner. Suppliers must verify fuel mix data through an independent auditor and submit this information in an annual report to the Commission. Suppliers that market electricity as "having special characteristics" such as being environmentally friendly, must have information available to substantiate their claims.

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[422]PJM Interconnection Press Release, "Allegheny Power and PJM File with FERC to Create PJM West" (Mar. 15, 2001). www.pjm.com/contributions/news-releases/2001/20010315-ap-pjm-file-with-ferc.pdf

[423] Department of Energy, Energy Information Administration, Pennsylvania State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/pennsylvania.pdf.

[424]*Id.* at §54.8.

[425]*Id.* at §54.122.2.

[426]Comments of the Pennsylvania Utility Commission, Federal Trade Commission Retail Electricity Study (April 9, 2001).

[427] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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Renewable Energy: Pennsylvania enacted a renewable portfolio standard through Act 213 in December 2004. The standard includes a gradual increase in generation from renewables to 18% over 15 years. Qualified renewables are divided into two groups: traditional (solar, wind, hydro, geothermal, biomass, and coal-mine methane) and other (waste coal, distributed generation, demand-side management, large-scale hydro, municipal waste, wood processing waste, and integrated combined coal gasification). Separate standards are set for the two groups---8% and 10% respectively.

Texas: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The Texas restructuring bill was signed June 18, 1999. The Public Utility Commission of Texas (PUC) administers the transition to retail competition, which began with a pilot program on June 1, 2001. Retail competition for all customer classes within ERCOT began January 1, 2002.[428] Competition is not open as yet in areas outside of ERCOT because the PUC is not convinced that retail competition is feasible without a regional transmission organization in these areas.[429]

Services Open to Competition: Generation and billing (retail sales). Competitive metering for certain commercial and industrial customers began January 1, 2004.

Consumer Options: Customers within ERCOT have the option of choosing a competitive supplier, choosing an aggregator, and, in the case of residential and small commercial customers, choosing POLR service (termed "price to beat" default service).

Alternative Suppliers Licensed to Provide Service: In order to be licensed to provide service in Texas, competitive suppliers must meet financial creditworthiness and technical standards.[430] There are numerous suppliers marketing to all classes of customers in Texas that are open for retail customer choice. In addition to the Texas POLR default service offer, there are several alternative suppliers actively serving retail residential customers in each distribution territory. The figure below is from the "August 2005 Report Card on Retail Competition"[431] showing the number of alternative suppliers available to residential customers, the number of products offered by these suppliers, and the number of alternative "green" offers for residential customers in the major distribution territories within ERCOT.

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[428] Tex. Util. Code Ann. §39.102 (2001).

[429] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), pp. 36-38, *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

[430] Tex. Util. Code Ann. §39.352-355 (2001).

[431] Available at http://www.puc.state.tx.us/electric/reports/RptCard/rptcrd/aug05rptcrd.pdf.

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TDSP	# of REPs Serving Residential Customers	# of Residential Products (Incl. PTB)	# of Renewable Products
TXU ED	13	20	5
Center Point	14	21	6
AEP Texas Central (CPL	13	17	5
TNMP	11	16	6
AEP Texas North (WTU)	10	12	3

Pricing Trends: Retail price averages in Texas have wavered over time with peaks occurring in 1994 and 2001, as shown in Table 30. Prices increased in 2003 and 2004 after declining in 2002.

Table 30: Texas Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2030	2004
Residential	6.9	7.0	7.2	7.6	7.7	8.0	8.1	7.7	7.8	7.8	7.7	7.5	7.9	8.9	8.1	9.2	9.7
Commercial	6.0	6.1	6.2	6.6	6.7	6.9	7.0	6.6	6.7	6.7	6.6	6.5	6.8	7.7	7.0	7.8	7.9
Industrial	4.1	4.1	4.0	4.1	4.2	4.3	4.3	4.0	4.0	3.9	3.9	4.0	4.5	5.3	4.7	5.3	5.9
All Sectors	5.6	5.7	5.8	6.1	6.2	6.4	6.4	6.1	6.2	6.1	6.1	6.0	6.5	7.6	6.6	7.5	8.0

Source: Energy Information Administration

Price Changes for POLR (Default) Service: Distribution utility rates were frozen from September 1, 1999, levels until January 1, 2002.[432] On January 1, 2002, rates for residential and small commercial customers were reduced approximately 6% from January 1, 1999, levels. The January 1, 2002, reduced rate is called the "price to beat."[433] It is subject to adjustment twice per year, to reflect changes in fuel costs. Because Texas primarily relies on natural gas fueled generation, the increases in natural gas prices have resulted in substantial increases in the "price to beat." POLR (default) service is available from the distribution utility's competitive retail affiliate until January 1, 2007. Prior to January 1, 2005, affiliates of distribution utilities could offer services other than POLR (default) service only if at least 40% of residential or small commercial customers chose a competitive supplier not affiliated with the local distribution utility. Since January 1, 2005, affiliates of distribution utilities have been allowed to offer any service they wish in addition to POLR (default) service.

The Texas PUC provides information on the price to beat and on alternative supplier's prices in each distribution territory. The information includes a comparison of each alternative supplier's price to the POLR (default) price for different levels of consumption. Table 31 shows the POLR (default) price and the range of offers from alternative suppliers for a consumer using 1000 kWh or 2000 kWh. The premium price is generally for a 100% wind generation product.

Table 31: Texas POLR Service Price Compared to Alternative Suppliers
1000 kWh Consumption (January 2006)

	POLR Price (cents/kWh)	Lowest Alternative	Highest Alternative	POLR Price (cents/kWh)	Lowest Alternative	Highest Alternative

[432] *Id.* at §39.052.

[433] *Id.* at §39.202

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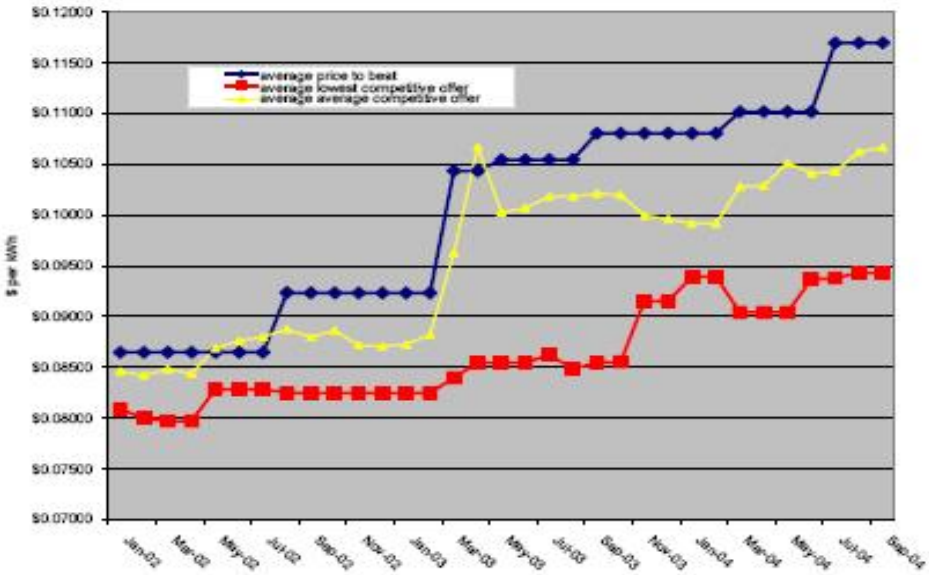
	For 1000 kWh	% discount	% premium	For 2000 kWh	% discount	% premium
West Texas Utilities	19.06	19%	4%	18.95		
TXU-SESCO	14.62	8%	10%	13.97	11%	8%
Texas-NM Power	14.48	8%	10%	14.77	11%	6%
Central Power	17.67	18%	6%	17.48	20%	6%
Centerpoint Energy	16.04	15%	9%	15.89	17%	8%
Source: Texas PUC, Retail Electric Service Rate Comparisons (January 2006 bill comparison)						

The PUC also has produced an aggregate comparison between the price to beat, the average offer of alternative suppliers, and the lowest offer of alternative suppliers. The figure below, from the PUC report to the 79th Texas Legislature, illustrates these comparisons.[434]

Figure 2: Average Residential Price to Beat vs. Average Competitive Offer vs. Average Lowest Competitive Offer, 2002 - 2004



Source: Average Annual Rate Comparison for Residential Electric Service, Entergy Gulf States, Inc. Tariff Rates, PUC Electric Division

POLR (Default) Service Provider: Until December 31, 2001, POLR (default) service was provided by the distribution utility. When competition for all customers began in 2002, POLR (default) customers were transferred to the retail affiliate of the distribution utility. The affiliates and independent retail suppliers are termed "retail electric providers" (REPs). Prices for POLR

[434] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

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(default) service were fixed at the "price to beat" plus fuel adjustments until January 1, 2007. Affiliated retail electric providers were allowed to offer only POLR (default) service (at the "price to beat") unless alternative suppliers attained a market share of 40% of residential or small commercial customers. In 2004, all but one of the affiliated retail electric providers within ERCOT (the separate transmission interconnection system in Texas) were granted permission to offer additional products.[435] Starting in 2005, all affiliated retail electric suppliers were allowed to offer other products in addition to POLR (default) services to all residential and small commercial customers.

Analysis by the Texas PUC concluded that POLR (default) service pricing has been below the pricing that would have prevailed under the prior cost of service regulatory regime. The tables below summarize the estimated regulated rates, the average of the five lowest competitive prices, the best competitive price, and the Price to Beat for the CenterPoint and TXU Service areas.

CenterPoint Energy Services Area	**2002**	**2003**	**2004**	**2005**
Estimated Regulated Price	11.1	12.0	12.7	13.9
Average of Lowest 5 Competetive Prices (actual)	8.2	9.0	9.8	11.4
Percentage Difference from Estimated Regulated price	26%	25%	23%	18%
Best Competetive Price	8.0	8.5	9.4	10.6
Percentage Difference from Estimated Regulated price	28%	29%	26%	24%
Reliant Energy Price to Beat	8.8	10.3	11.1	12.9

TXU Electric Delivery Service Area	**2002**	**2003**	**2004**	**2005**
Estimated Regulated Price	9.4	10.5	10.7	12.1
Average of Lowest 5 Competetive Prices (actual)	8.0	8.7	9.1	10.7
Percentage Difference from Estimated Regulated price	15%	17%	15%	12%
Best Competetive Price	7.8	8.4	8.7	10.1
Percentage Difference from Estimated Regulated price	17%	20%	19%	17%
TXU Energy Price to Beat	8.4	9.6	10.5	11.9

Source: PUC legislative report # 32198, "Electricity Pricing in Competitive Retail Markets in

[435] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), p. 24, *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

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Texas" (March 3, 2006).[436]

POLR Service Provider for other than Default Service: POLR service customers have been divided into three classes: residential, small non-residential, and large non-residential. POLR service providers supply customers in any or all of the three classes who either request POLR service or are assigned to POLR service because they are not receiving service from a REP, for any reason. The rates for this POLR service are established first through a competitive bidding process and, if no qualified bids are obtained, are then allocated to existing suppliers via a lottery process. A bidder to supply POLR service may bid for any customer class, or for more than one class. An affiliate of a distribution utility cannot bid to be the POLR service supplier in its own service territory during the period while the price to beat is in effect.[437]

The Texas PUC is currently reviewing its POLR service rules.[438]

Recovery of Stranded Costs/Transition Costs: Distribution utilities can recover all of their net non-mitigated stranded costs through a transition charge. The PUC determines the amount of stranded costs eligible for recovery, which includes uneconomic generation related assets, and purchased power contracts.

Switching Restrictions and Minimum Stay Requirements Process: A customer can switch suppliers at any time subject to the terms of his contract with the competitive supplier. There are no switching fees unless a customer requests a special meter reading. [439]

Switching Activity: Retail customers have been migrating to alternative suppliers in all of the distribution territories with the highest switching rates in the AEP Central and North areas, as shown in Table 32.

Table 32: Retail Customers and Load Supplied by Alternative Providers as of January 1, 2006 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Total
TXU	26.3% (26.2%)	30.7% (64.7%)	26.4% (50.4%)
Centerpoint	26.8% (27.3%)	34.5% (60.7%)	27.5% (47.8%)
AEP Texas Central	27.0% (31.3%)	45.8% (81.4%)	29.4% (63.8%)

[436] The report is *available at* http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/32198_7_504891.PDF.

[437] PUC Sub. Rules Section 25.43.

[438] Texas PUC Project No. 31416, Evaluation of Default Service for Residential Customers and Review of Rules Relating to the Price to Beat and Provider of Last Resort. Reliant(2) at 5.

[439] PUC Publication, Texas Electric Choice, Electricity Information-FAQ's, at www.powertochoose.org/residential/electricinfo/faq.html.

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AEP Texas North	33.2% (39.3%)	34.0% (78.7%)	31.9% (64.9%)
Texas NM Power	25.8% (29.9%)	35.0% (66.8%)	26.4% (56.0%)
Source: Texas Public Utility Commission Note: Texas does not provide separate distribution area statistics for large C&I customers.			

Retail customers have switched to alternative suppliers in increasing numbers and with an increasing proportion of load, as shown in Table 33.

Table 33: Texas Retail Aggregate Customer Migration Statistics, 2002-2005
% of Customers and (% of Load)

Year	2002	2003	2004	2005
Residential	7.4% (7.3%)	14.1% (15.0%)	19.9% (21.0%)	26.7% (27.5%)
Small C&I	11.5% (33.0%)	19.0% (44.1%)	26.7% (55.5%)	34.2% (65.1%)
Large C&I	19% (54%)	35% (60%)	42% (69%	53% (68%)

Sources: Texas Public Utility Commission
Note: The large C&I figures are for December 2002, December 2003, September 2004, and June 2005. The Residential and Small C&I figures are all from January expect the 2005 figure which is from September.

Public Benefits Programs: The Texas public benefit programs are presented in Table 34.

Table 34: Texas Public Benefits Programs

Restructuring Law signed in June 1999. Requires utilities to administer EE programs to achieve saving equivalent to 10% of annual load growth by 2004. PUC has established rates and procedures. Est. total annual cost is %80 million in 2003. Also a 10% LI rate discount & small SBC for customer educ. and LI assistance. Total LI is set at statutory maximum .65 mills/kWh.[440]

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $		80.0	166.2		246.2
Mills/kWh		0.28	0.58		0.83
% revenue		0.43%	0.89%		1.28%
Admin.		Utility	PUCT		

Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.

[440] Although the System Benefit Funds are being collected, the Legislature did not appropriate any fund for a low-income discount or for customer education in the 2005 session. Some REPs are continuing to offer low-income discounts and other benefits to these customers on a voluntary basis. Funding will be reconsidered in the 2007 legislative session. Reliant(2) at 7.

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Separation of Generation and Transmission: By January 1, 2002, utilities were required to separate their business activities into three units: a wholesale electric power generation company, a retail electricity company (a "REP"), and a transmission and distribution company. This separation could take place either through the sale of assets to a third party, or by the creation of separate non-affiliated companies or separate affiliated companies owned by a common holding company.[441] After the beginning of retail competition, a distribution utility may not sell electricity or participate in the market for electricity except to procure electricity to serve its own needs.[442] Wholesale electric power generation companies that are affiliated with a distribution utility are required to auction off 15% of their installed generation capacity,[443] and no wholesale generator can own more than 20% of the installed capacity that can be sold in a region.[444] Before 2005, REP affiliates of transmission and distribution utilities could not offer competitive rates to residential and small commercial customers in the territory of the distribution utility, except as the POLR (default) service provider, until 40% of the residential or small business load in the territory is buying electricity from competitive suppliers.[445] The transmission system for most of Texas is operated independently from the owners of the transmission assets by ERCOT under PUC supervision.

State RTO Involvement: Most of Texas (approximately 85%) is in the ERCOT interconnection.[446] ERCOT began operations as an independent system operator in 1996. It is regulated by the Texas PUC rather than by the Federal Energy Regulatory Commission.[447] Transmission operations of distribution utilities outside of ERCOT are regulated by FERC.

Generation Capability:[448] Prior to the restructuring legislation, utilities operated 88.3% of generation capability in Texas. By 2002, that figure dropped to 41.2%, as divestitures, transfers to affiliates, and entry and expansion of independent generators took place. Between 1997 and 2002, generation capability in the state increased from 73,454 megawatts to 94,488 megawatts, an increase of 28.6%. Much of the growth in generation was fueled by natural gas. The share of

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[441] *Id.* at §39.051.

[442] *Id.* at §39.105.

[443] *Id.* at §39.153.

[444] *Id.* at §39.154.

[445] PUC Publication, Electric Competition-Fostering Competition, *available at* www.choiceenergyservices.com/residential/pdf/Competition.pdf>

[446] ERCOT is not electrically synchronized with the Eastern or Western Interconnects.

[447] ERCOT, "The Market Guide: A Guide to How the Electric Reliability Council of Texas (ERCOT) Facilitates the Competitive Power Market" (Feb. 22, 2001).

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[448] Department of Energy, Energy Information Administration, Texas State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/texas.pdf.

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generation capability fueled by natural gas increased from 21.4% to 38.5%. Natural gas fueled generation more than doubled during the period.

Use of Customer Information: When the retail market opened to competition, distribution utilities were required to include customer name, address, and usage information on a list of eligible customers given to competitive suppliers.[449]

Standardized Labeling:[450] "On December 7, 2000, the Texas Public Utility Commission (PUC) issued rules requiring retail electric providers to use an Electricity Facts Label to disclose information twice a year on fuel mix and environmental impacts to their retail and small residential customers, in accordance with the state's restructuring law. The label must also be included in promotional material soliciting new customers. Fuel mix data must be compared to the state average, with energy generated from renewable resources to be listed under a single category. Emissions of carbon dioxide, sulfur dioxide, nitrogen oxides, and particulates, as well as the amount of nuclear waste generated, must be presented relative to the statewide average. According to rules adopted in August 2001, the Commission is developing a "generator scorecard" database with data on fuel mix and environmental impacts by generator to facilitate implementation of the disclosure requirements. The label is to be updated each year. Retail providers can also opt to purchase and retire "renewable energy credits" from generators to meet their disclosure requirements. Providers can project their fuel mix and emissions data for new products or products offered during the first year of competition. Any product marketed as "renewable" must include the renewable fuel mix percentage, unless it is supplied exclusively from renewable sources. Products marketed as "green" may contain some natural gas fuels along with renewable fuels if it can be shown that the natural gas was produced in Texas."[451]

Renewable Energy Portfolio Standard: Texas adopted a renewable energy portfolio standard on February 24, 2004. The standard establishes yearly new generation from renewables levels through 2019, rather than percentage requirements. The levels are 850 MW in 2004 and 2005, 1400 MW in 2006 and 2007, and 2000 MW in 2009 through 2019. In 2005, the RPS requirements were expanded to a total of 5,000 MW by 2015. Additional non-mandatory targets for renewables were established at the same time, along with a process that will allow the PUC to prioritize transmission development to facilitate delivery of energy from renewable sources.[452]

The original electric restructuring bill included many environmental protections, including that 50% of new generating capacity must come from natural gas, and that a percentage of electricity sold in Texas must come from renewable resources. The bill requires 50% reductions in nitrous

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[449] Reliant(2) at 8. PUC Publication, Consumer Protections in a Competitive Electric Market, *available at* http://www.powertochoose.org/publications/consumer_brochure.pdf.

[450] Department of Energy, Energy Information Administration, "Disclosure Policies," *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[451] The consumer brochure on electricity offer labeling is available at http://www.powertochoose.org/publications/efl_brochure.pdf.

[452] Reliant(2) at 9.

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oxide emissions and 25% reduction in sulfur dioxide emissions from power plants that were grandfathered when air permits were introduced under the Federal Clean Air Act. There reductions must be achieved by 2003 by retrofitting or shutting down the grandfathered units. In addition, distribution utilities that upgrade older generation facilities to meet emissions standards may recover the costs from retrofitting as stranded costs.[453] The PUC has adopted a renewable energy credit trading program to encourage cost-effective new renewable generation facilities.

[453]PUC Publication, Electric Restructuring to Improve Air Quality, *available at* www.puc.state.tx.us/nrelease/2000/082400.cfm.

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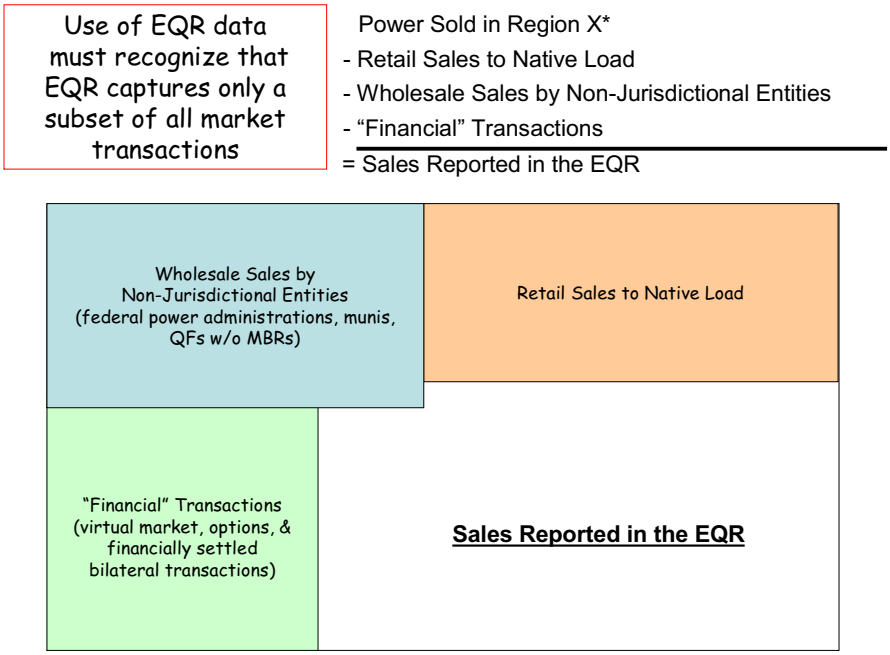
APPENDIX E
ANALYSIS OF CONTRACT LENGTH AND PRICE TERMS
COMPARISON OF NYISO, MISO AND SERC MARKETS USING 2005 EQR DATA

This analysis compares the short-term versus long-term sales volumes and prices in three regions using reported sales information from Electric Quarterly Reports (EQR), which are filed electronically on a quarterly basis at FERC by all holders of market-based-rate authorizations (MBRA). EQR data is available to the public on FERC's website. However, EQR data include only jurisdictional wholesale physical and booked out sales. The "physical" sales are power sales by MBRA holders physically delivered during the quarter. "Booked out" sales are power quantities that are sold, then repurchased at a later date, effectively undoing the prior sale. Depending on changes in market prices in the interim, the repurchase may produce profits or limit losses for the seller.

EQR limitations are best explained with the help of the diagram below, which is conceptual, not scaled, where the sales reported to EQR represent only a subset of all market transactions. Retail sales may be reportable to state commissions. Sales by non-jurisdictional entities may appear in some EIA reports. Financial transactions done on NYMEX are reportable to CFTC, but other financial transactions do not need to be reported. Sales reportable to EQR could have been transacted bilaterally, on RTO/ISO's, through ICE or through voice brokers, and credit cleared through ICE-LCH or NYMEX-ClearPort. Other transaction venues may develop. There is no complete aggregated market picture. Analysts can only try to make inferences from the partial market picture.



Though limited, this comparative analysis is informative. The task force selected NYISO, MISO and SERC as representative markets for the following reasons. NYISO provides a consistent data

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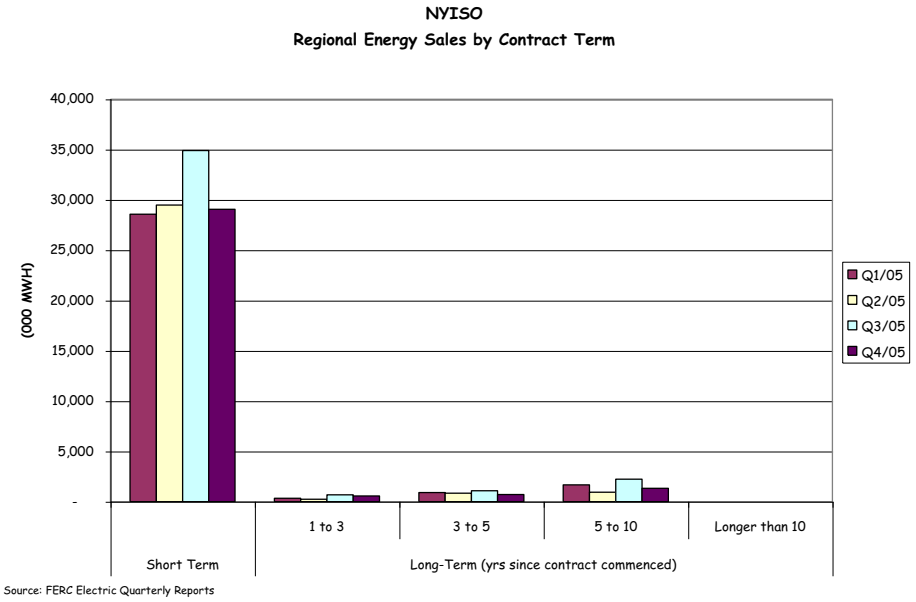
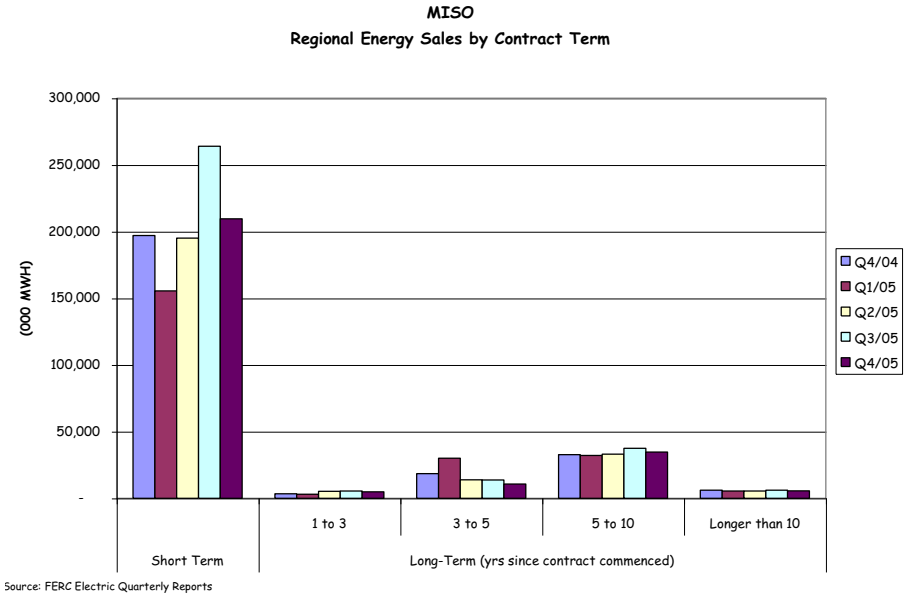
set for sales in its established, single-state organized market. MISO provides a consistent data set for sales in its new, multi-state organized part of the market (sales in Q1/05 occurred before the organized market started). SERC is an example of a purely bilateral wholesale market with relatively few participants (which increases the likelihood of consistent dataset).

The three graphs below show transaction volumes by vintage for each representative region.





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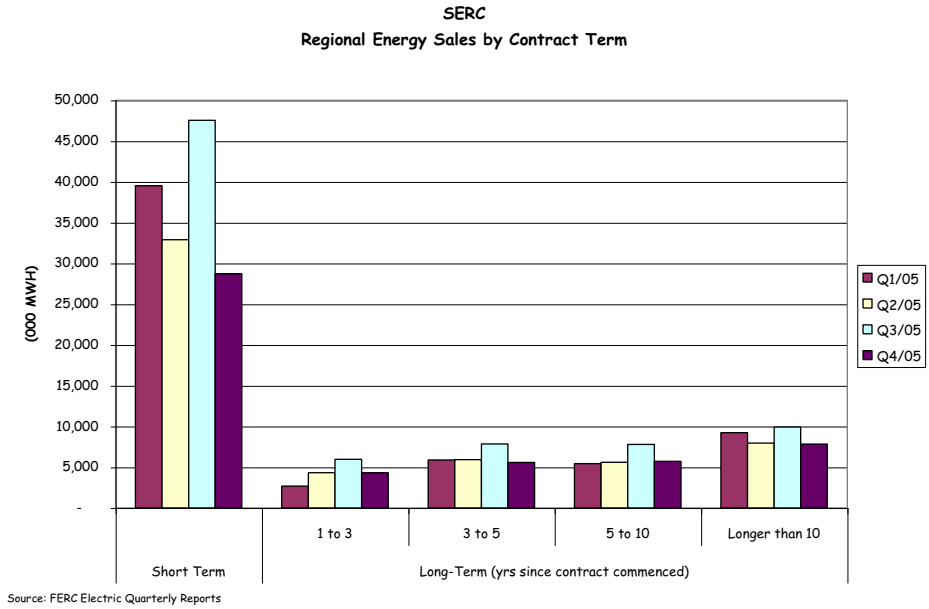

As noted earlier, EQR consists of sales transactions for power delivered during each quarter. Short term transactions are defined as transactions under contracts of one year or less or sales into organized markets, such transactions include bilateral sales as well as sales to NYISO and MISO. Long term transactions occur under contracts that have had a duration longer than a year since contracts were executed. For example, a contract initiated four years ago and still delivering power would be grouped under the 3 to 5 year vintage. A contract initiated 11 years ago would be grouped under the Longer than 10 years vintage. While there is a field in the EQR form for termination date, it is often not relevant in this context because many contracts are either evergreen, effective until cancelled or master agreements (with no time limits) with attachments for term-limited transactions. Major observations on the reported volumes are:

- a higher percentage of sales were short term in organized markets (91% in NYISO, 77% in MISO, 60% in SERC);
- relatively few contracts were older than 10 years (0% in NYISO, 2% in MISO, 16% in SERC);
- quarterly variation in quantities occurred primarily in sales under short term contracts.

Organized exchange markets like NYISO and MISO are designed to produce efficient and reliable daily or real-time spot market prices, with heavy reliance on bilateral financial and physical transactions to fill longer term needs between parties who would then settle these bilateral transactions using organized market spot prices as "index price." The high visibility of the spot markets, along with non-reportable financial transactions would naturally lead to a high percentage of short term transactions using EQR numbers in organized markets such as NYISO and MISO. The trend towards capacity or reliability pricing products in organized markets (e.g. RPM in PJM) also suggests that that organized markets may not rely on short term markets alone to give long term price signal for investment.

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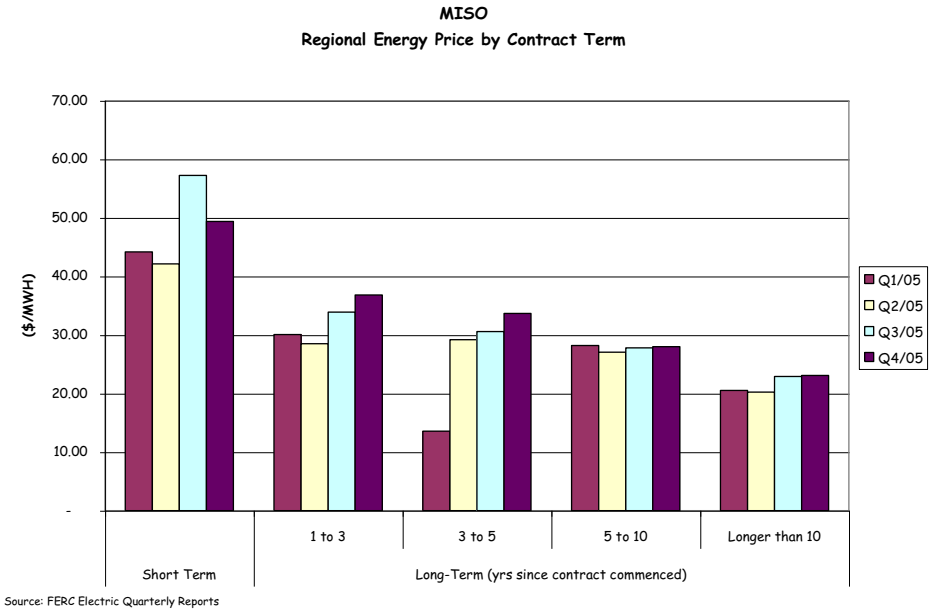
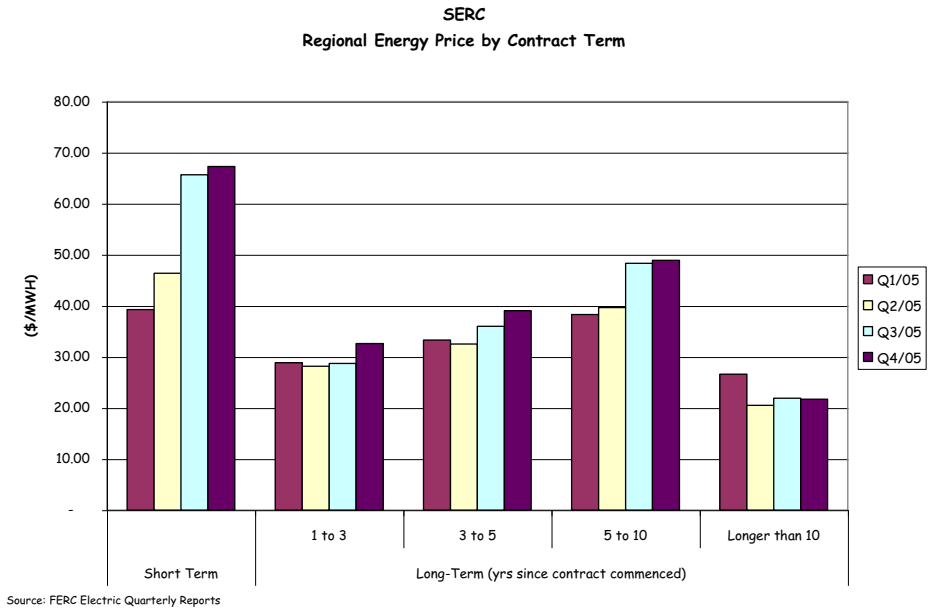
The higher proportion of long-term contracts at SERC may suggest more effective long term price signals than at non-organized markets. However, many of these long-term contracts are legacy contracts entered into before competitive markets were introduced. Some of these contracts are pegged to index prices that are formed with few reported transactions and therefore questionable liquidity.

The following three graphs show the price patterns by contract vintage in 2005.





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This analysis shows that prices under long-term contracts were somewhat lower than short-term prices in MISO and SERC, but not in NYISO. The short-term price changes are reflected in sales under long-term contracts. These changes may occur because some long-term contracts use indexed prices (*i.e.*, short term published reference prices).

It is difficult to draw definite conclusions on prices with only a quarter's worth of data. Furthermore, organized markets are evolving and will include capacity markets that could provide stronger price signals for long term investment.

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APPENDIX F
A BIBLIOGRAPHY OF PRIMARY INFORMATION ON ELECTRIC INDUSTRY RESTRUCTURING IN THE U.S.

The process of understanding the ins and outs of restructuring markets for electricity and transmission in the U.S. has been running full bore since the early 1990s. Accordingly, a large number of documents have been published intending to explain the basic engineering, economic and regulatory theories that support restructuring ideas. The intended audience of these studies has been various – from state regulators and legislators, to academics, public power managers, and the general public.

The 1815 Task Force members have *not* attempted to generate another primer on restructuring as part of its competition study. Instead, we refer the interested reader to a variety of sources that will allow him/her to learn more about the subjects that are of the most interest.

Some of these sources are older and contain slightly outdated references – but their theoretical arguments remain applicable to current debates.

NOTE: Inclusion of articles does not indicate the Task Force's endorsement of the theories presented.

General Restructuring Information Documents Available on the Web:

American Public Power Association, "Restructuring at the Crossroads, FERC electric Policy Reconsidered", December, 2004.
http://www.appanet.org/files/PDFs/APPAWhitePaperRestructuringatCrossroads1204.pdf

Matthew Brown and Richard P. Sedano, "A Comprehensive View U.S. Electric Restructuring with Policy Options for the Future", National Council on Electricity Policy, 2003.
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Energy Information Administration, "The Changing Structure of the Electric Power Industry 2000: An update", US Department of Energy, October, 2000
http://www.eia.doe.gov/cneaf/electricity/chg_stru_update/

William W. Hogan, "Competitive Electricity Market Design: A Wholesale Primer" working paper, December, 1998 http://stoft.com/metaPage/lib/Hogan-1998-Primer.pdf

William W. Hogan, "Market Design and Electricity Restructuring", presentation, Association of Power Exchanges (APEx), 2005 Annual Conference, Orlando FL, Presentation, November 1, 2005. http://ksghome.harvard.edu/~whogan/hogan_apex_110105.pdf

DOJ_NMG_ 0165335

Paul L. Joskow, "Markets for Power in the United States: An Interim Assessment" Energy Journal, Forthcoming, 2006.
http://stoft.com/metaPage/lib/Joskow-2006-power-market-assessment.pdf

Paul L. Joskow (1997), "Restructuring, Competition, and Regulatory Reform in the U.S. Electricity Sector", *Journal of Economic Perspectives* 11(3), 119-138.

On-Line Libraries of Electric Industry Restructuring Documents:

Harvard Electricity Policy Group
http://www.ksg.harvard.edu/hepg/papers.htm

Center for the Study of Energy Markets (CSEM) at the University of California Energy Institute (UCEI) at UC Berkeley: http://www.ucei.berkeley.edu/pubs-csemwp.html

Stephen Stoft Website Library: http://stoft.com/p/S2.html

Carnegie Mellon Electric Industry Center (CEIC):
http://wpweb2.tepper.cmu.edu/ceic/publications.htm

Books

Richard F. Hirsch Power Loss: The Origins of Deregulation and Restructuring in the American Electric Utility System (Hardcover) by Richard F. Hirsh, The MIT Press, December 3, 1999.

Sally Hunt, Making Competition Work in Electricity, Wiley Publishing, March 22nd, 2002.

Steven Stoft , Power System Economics: Designing Markets for Electricity, IEEE Press, Wiley-Interscience, 2002.

DOJ_NMG_ 0165336

APPENDIX G
CREDIT RATINGS* OF MAJOR AMERICAN
ELECTRIC GENERATION COMPANIES AS OF JULY 24, 2006**

Name	Credit Rating	Sales ($bil)	Profits ($bil)	Assets ($bil)	Market Value ($bil)
AES Corp.	B+	10.64	0.56	29.65	11.33
Allegheny Energy Inc	BB+	3.04	0.07	8.56	5.82
Alliant Energy Corp.	no rating	3.28	-0.01	7.78	3.87
Ameren Corp.	A-	6.78	0.63	18.16	10.33
American Electric Power Co., Inc.	BBB	11.9	0.81	36.17	14.36
Atmos Energy Corp.	BBB	5.89	0.15	6.62	2.13
CALPINE Corp.	D	9.23	-0.24	27.09	0.13
CenterPoint Energy, Inc.	BBB-	9.72	0.22	17.12	4.02
Cinergy Corp.	BBB	5.41	0.49	17.2	8.75
CMS Energy Corp.	B+	6.41	-0.08	16.02	3.1
Consolidated Edison	A	11.69	0.73	24.85	11.26
Constellation Energy	BBB+	17.13	0.63	21.47	10.48
Dominion Resources Inc	BBB+	18.04	1.04	52.58	25.59
DTE Energy Co.	BBB	9.02	0.54	23.36	7.7
Duke Energy Corp.	BBB	16.75	1.83	54.59	26.3
Edison International	BB	11.2	1.24	35.51	14.45
Energy East Corp.	BBB	5.3	0.26	11.45	3.7
Entergy-Koch	BBB-	10.11	0.92	29.97	15.04
Exelon Corp.	BBB+	15.36	0.97	42.39	38.06
FirstEnergy Corp.	BBB-	11.99	0.89	31.84	16.85
FPL Group, Inc.	A	11.85	0.89	33	16.56
KeySpan Corp.	A-	7.66	0.4	13.81	7.11
Kinder Morgan, Inc.	BBB	1.59	0.55	17.38	11.34
MDU Resources Group, Inc.	A-	3.46	0.28	4.42	4.23
Mirant Group	B+	3.7	NA	12.88	7.38
NiSource Inc.	BBB	7.89	0.31	17.96	5.6
Northeast Utilities	BBB	7.4	-0.25	12.57	3
NRG Energy Inc	B	2.36	0.11	7.8	3.76
NStar	A-	3.24	0.2	7.65	3.14
OGE Energy	A	6.98	0.17	5.72	2.6
Pepco Holdings, Inc.	BBB	7.73	0.32	14.22	4.5
Pacific Gas & Electric	BBB	11.7	0.92	34.07	13.02
Pinnacle West Capital Corp.	BBB-	2.99	0.18	12.07	4.05
PPL Corp.	BBB	6.22	0.69	18.04	12.09
Progress Energy Inc	BBB-	10.11	0.7	27.07	11.14
Public Service Enterprise Group, Inc.	BBB	12.43	0.68	29.82	17.43
Reliant Energy	B	9.73	-0.35	13.54	3.07

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Name	Credit Rating	Sales ($bil)	Profits ($bil)	Assets ($bil)	Market Value ($bil)
SCANA Corp.	A-	4.78	0.33	9.32	4.65
Sempra Energy	A	11.74	0.92	29.21	12.29
Sierra Pacific Resources	B+	2.96	0.09	8.12	2.61
Southern Co.	A	13.55	1.59	39.88	25.24
TECO Energy, Inc.	BB+	3.01	0.27	7.17	3.55
TXU Corp.	BBB-	10.44	1.78	24.91	25.17
Williams Companies, Inc.	BB+	12.58	0.32	33.66	12.36
Wisconsin Energy Corp.	A-	3.82	0.31	10.46	4.78
Wisconsin Public Service Resources	no rating	6.96	0.16	5.45	1.99
Xcel Energy Inc.	BBB	9.63	0.51	21.65	7.49

*credit rating is the "Long Term Issuer Default Rating" from Fitch Ratings (www.fitchratings.com)

**list drawn from United States-based generation companies on Forbes list of the top 2000 global firms (http://www.forbes.com/2006/03/29/06f2k_worlds-largest-public-companies_land.html)

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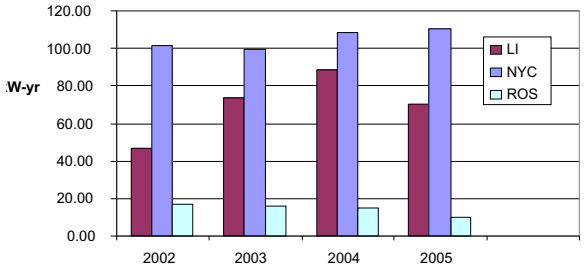
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 6:55 AM
To: Elwood, Courtney; Jennifer_R._Brosnahan@who.eop.gov; Elston, Michael (ODAG)
Cc: Swenson, Lily F; Katsas, Gregory (CIV)
Subject: FW: Energy Task Force --- Report to Congress
Attachments: second ed.-Interagency Energy Task Force Draft Report, July 25-for front office review.doc

Thought you might want to be aware of this.

From: McDonald, Bruce
Sent: Thursday, July 27, 2006 8:24 PM
To: Gorsuch, Neil M; Swenson, Lily F; Roland, Sarah E
Subject: Energy Task Force --- Report to Congress

Neil, Lily, and Sarah ---

In the 2005 Energy Policy Act, Congress created an Electric Energy Market Competition Task Force, with members from Justice, FTC, DOE, FERC, and Ag. I am the DOJ person on the task force. The Act calls for the task force to prepare a study of competition in U.S. electric energy markets. The penultimate draft of the report is attached. The final version will be sent to the Senate and House leadership and to committees with jurisdiction over the affected issues, including the two Judiciary Committees. In deciding how closely you may want to review this, you should know this is not a "DOJ" report, much less an Administration report, but a report from the task force itself. (I am told there is precedent for such reports to Congress. Nevertheless, DOE has sent the report to OMB for an informal review.) It is to some extent a compromise document, but the Antitrust Division will be comfortable that the document will not compromise ATR legal positions or otherwise be embarassing. It is a report on the state of competition and does not take positions on any proposed legislation. Tom Barnett has reviewed drafts and is reading this draft. This report is very long, and there is an executive summary.

Please let me know if you have any questions about this document. Any comments are requested by Tuesday, August 1.

--- Bruce

REPORT TO CONGRESS ON COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY

DRAFT

July 25, 2006

By The Electric Energy Market Competition Task Force

DOJ_NMG_ 0165341

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*Page cites & Figure/Table titles will be updated before the Final Report is issued

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EXECUTIVE SUMMARY

Congressional Request

Section 1815 of the Energy Policy Act of 2005 (the Act) requires the Electric Energy Market Competition Task Force (Task Force) to conduct a study of competition in wholesale and retail markets for electric energy in the United States.1 Section 1815(b)(2)(B) of the Act requires the Task Force to publish a draft final report for public comment 60 days prior to submitting the final version to Congress. The Task Force published a draft final report and sought comment on the preliminary observations contained in this draft report. Based on those comments, and other input received earlier, the Task Force hereby submits this report to Congress.

Task Force Activities

In preparing this report, the Task Force undertook several activities, as follows:

- Section 1815(c) of the Energy Policy Act of 2005 required the Task Force to "consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public." Accordingly, the Task Force published a Federal Register notice seeking comment on a variety of issues related to competition in wholesale and retail electric power markets to comply with this statutory obligation. The Task Force received over 80 comments that expressed a variety of opinions and analyses. These comments are available online for public review in the Task Force docket maintained by the Federal Energy Regulatory Commission under Docket No. AD05-17-000. The list of parties who submitted comments is attached as Appendix A.

- The Task Force met and discussed competition-related issues with a variety of representatives of the electric power industry in October/November 2005. These groups are listed in Appendix B.

- The Task Force prepared an annotated bibliography of the public cost/benefit studies that have attempted to analyze the status of wholesale and retail competition. Appendix C contains this bibliography.

The Task Force researched and analyzed the relevant features of seven states that have implemented retail competition. The states include: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas. These seven states represent the various

[1] The Task Force consists of 5 members: (1) one employee of the Department of Justice, appointed by the Attorney General of the United States; (2) one employee of the Federal Energy Regulatory Commission, appointed by the Chairperson of that Commission; (3) one employee of the Federal Trade Commission, appointed by the Chairperson of that Commission; (4) one employee of the Department of Energy, appointed by the Secretary of Energy; (5) one employee of the Rural Utilities Service (RUS), appointed by the Secretary of Agriculture.

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approaches that states have used to introduce retail competition where retail competition programs are active. Appendix D contains these individual state retail competition program profiles updating information prepared by the Federal Trade Commission staff.

- The Task Force published a draft report in the Federal Register for public comment on June 13, 2006, 71 Fed. Reg. 34,083 (2006). The notice accompanying the draft requested comments on the Task Force observations. The parties filing comments on the draft report are listed in Appendix A. Draft report comments are available for public review online in the Task Force docket maintained by the Federal Energy Regulatory Commission under Docket No. AD05-17-000.

- The Task Force reviewed the information gleaned from comments, interviews, and further research in preparing the draft report. Prior to publishing, the draft report, including the resulting observations and findings, was circulated within the Task Forcefor review and revised in response to comments received.

Federal and several state policymakers generally introduced competition in the electric power industry to overcome the perceived shortcomings of traditional cost-based regulation. In competitive markets, prices are expected to guide consumption and investment decisions to bring about an efficient allocation of resources.

Observations on Competition in Wholesale Electric Power Markets

For almost 30 years, Congress has taken steps to facilitate competition in wholesale electric power markets. The Public Utility Regulatory Policies Act of 1978, the Energy Policy Act of 1992, and the Energy Policy Act of 2005 all sought to promote competition by lowering entry barriers, increasing transmission access, or both. Federal electricity policies seek to strengthen competition but continue to rely on a combination of competition and regulation.

In responding to its statutory charge, the Task Force has sought to answer the following question:

> Has competition in wholesale markets for electricity resulted in sufficient generation supply and transmission to provide wholesale customers with the kind of choice that is generally associated with competitive markets?

To answer this question, the Task Force examined whether competition has elicited consumption and investment decisions that were expected to occur with wholesale market competition.

The Task Force found this question challenging to address. Regional wholesale electric power markets have developed differently since the beginning of widespread wholesale competition. Each region was at a different regulatory and structural starting point upon Congress' enactment of the Energy Policy Act of 1992 and FERC's adoption of Order No. 888, mandating nondiscriminatory access to the transmission grid. Some regions already had tight power pools, others were more disparate in their operation of generation and transmission. Some regions had higher population densities and thus more tightly configured transmission networks than did others. Some regions had access to fuel sources that were unavailable or less available in other

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regions (*e.g.*, natural gas supply in the Southeast, hydro-power in the Northwest). Some regions operate under a transmission open-access regime that has not changed since the early days of open access in 1996, while other regions have independent provision of transmission services and organized day-ahead exchange markets for electric power and ancillary services. These differences make it difficult to single out the determinants of consumption and investment decisions and thus make it difficult to evaluate the degree to which more competitive markets have influenced such decisions. Even the organized regional exchange markets have different features and characteristics.

Despite the difficulty of directly answering the question at hand, the Task Force's examination of wholesale competition has yielded some useful observations, as presented below.

Observations on Competitive Market Structures:

1. One approach to competition in wholesale markets is to base trades exclusively on bilateral sales directly negotiated between suppliers and scheduled through individual non-regionalized transmission owners. This approach predominates in the Northwest and Southeast. This traditional trading format allows for somewhat independent operation of transmission control areas and, in the view of some market participants, better accommodates historical contracts. However, prices and terms are more transaction-specific and, for some timeframes, less available publicly than in organized markets, which may result in less efficient generation dispatch. It can be difficult to efficiently coordinate transmission in these systems, as congestion costs and impacts are not readily apparent. A lack of centralized information about trades leaves the transmission owner with system security risks that necessitate constrained transmission capacity. In some of these markets, wholesale customers have difficulty gaining unqualified access to the transmission they would need to access competitively priced generation – thus limiting their ability to shop for least cost supply options.

2. Another approach to wholesale competition relies on entities that are independent of market participants to operate centralized regional transmission facilities and trading markets (Regional Transmission Organizations (RTOs) or Independent System Operators (ISOs)). Various forms of this approach have come to predominate in the Northeast, Mid-Atlantic, Midwest, Texas, and California. The market designs in these regions provide participants with guaranteed physical access to the transmission system (subject to transmission security constraints). These customers are responsible for the cost of that access (if they choose to participate), and thus are exposed to congestion price risks. This more open access to transmission can increase competitive options for wholesale customers and suppliers as compared to most bilateral markets. The transparency of prices in these markets can increase the efficiency of the trading process for sellers and buyers and can give clear price signals indicating the best place and time to build new generation. However, concerns have been raised about the inability to obtain long-term transmission access at predictable prices in these markets and the impact that this lack of long-term transmission can have on incentives to construct new generation. Some customers have raised concerns about high commodity price levels in these markets.

Observations on Generation Supply in Markets for Electricity

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Several options may be used to elicit adequate supply in wholesale markets:

1. One possible, but controversial, way to spur entry is to allow wholesale price spikes to occur when supply is short. The profits realized during these price spikes can provide incentives for generators to invest in new capacity. However, if wholesale customers have not hedged (or cannot hedge) against price spikes, then these spikes can lead to adverse customer reactions. Unfortunately, it can be difficult to distinguish high prices due to the exercise of market power from those due to genuine scarcity. Customers exposed to a price spike often assume that the spike is evidence of market abuse. Past price spikes have caused regulators and various wholesale market operators to adopt price caps in certain markets. Although price caps may limit price spikes and some forms of market manipulation, they can also limit legitimate scarcity pricing and impede incentives to build generation in the face of scarcity. Not all the caps in place may be necessary or set at appropriate levels.

2. "Capacity payments" also can help elicit new supply. Wholesale customers make these payments to suppliers to assure the availability of generation when needed. However, where there are capacity payments in organized wholesale markets, it is difficult for regulators to determine the appropriate level of capacity payments to spur entry without over-taxing market participants and customers. Also, capacity payments may elicit new generation when transmission or other responses to price changes might be more affordable and equally effective. Depending on their format, capacity payments also may discourage entry by paying uneconomical generation to continue running when market conditions otherwise would have led to the closure of that generation.

3. Building appropriate transmission facilities may encourage entry of new generation or more efficient use of existing generation. But, transmission owners may resist building transmission facilities if they also own generation and if the proposed upgrades would increase competition in their sheltered markets. Another challenge with transmission construction is that it is often difficult to assess the beneficiaries of transmission upgrades and, thus, it is difficult to identify who should pay for the upgrades. This challenge may cause uncertainty both for new generators and for merchant transmission owners. There can also be difficulties associated with uncertain revenue recovery due to unpredictable regulatory allowances for rate recovery.

4. Another option for ensuring adequate generation supply is through traditional regulatory mechanisms - regulatory control over electricity generators/suppliers. In this situation, monopoly utility providers operate under an obligation to plan and secure adequate generation to meet the needs of their customers. Regulators allow the utilities to earn a fair rate of return on their investment, thereby encouraging utility investment. However, this approach is not without risk to the utility as regulators have authority to disallow excessive costs. Furthermore, these traditional methods are imperfect and can in some cases lead to overinvestment, underinvestment, excessive spending and unnecessarily high costs. These methods can distort both investment and consumption decisions. Furthermore, under traditional regulation, ratepayers (rather than investors) may bear the risk of potential investment mistakes.

Observations on Competition in Retail Electric Power Markets

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The Task Force examined in detail the implementation of retail competition in seven statesl: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.

In most profiled states, retail competition began to be introduced in the late 1990s. States also implemented retail rate caps and distribution utility obligations, which are now just ending. The introduction of retail competition has been impeded by lack of entry by alternative suppliers and marketers to serve retail customers, due mostly to "provider of last resort" (POLR) price caps. This phenomenon makes it very difficult to ascertain whether retail competition will lower prices. The implementation of retail competition is a relatively new exercise, and retail competition policies involve a number of unresolved issues (including regulatory issues) that are likely to inhibit vigorous competition. Although in principle retail competition should produce price and other benefits for consumers, it should be easier to evaluate the benefits of competition in retail electricity markets once some of these issues have been resolved. Few alternative suppliers currently serve residential customers, although industrial customers have additional choices. To the extent that multiple suppliers serve retail customers, prices have not decreased as expected, and the range of new options and services is limited. Since retail competition began, most distribution utilities in the profiled states have either sold most of their generation assets or transferred them to unregulated affiliates.

One of the main impediments to retail competition has been the lack of entry by alternative suppliers and marketers to serve retail customers. Most states required the distribution utility to offer customers electricity at a regulated POLR price as a backstop or default if the customer did not choose an alternative electricity supplier or the chosen supplier went out of business. Many of these states capped the POLR service price for "transitional" multi-year periods that are now just ending. These caps have had the unintended effect of discouraging entry by competitive suppliers. Thus, it has been difficult for the Task Force to determine whether retail prices in the profiled states are higher or lower than they otherwise would be absent the introduction of retail competition. At the same time, there is some evidence that alternative suppliers have offered new retail products including "green" products that are more environmentally friendly for residential and non-residential customers and customized energy management products for large commercial and industrial customers.

When the rate caps expire, states must decide whether to continue POLR for all customer classes and how to price POLR service for each class.[2] Several states have rate caps that will expire in 2006 and 2007.

1. If regulators intend for the POLR service to be a proxy for efficient price signals, it must closely approximate a competitive price. The competitive price is based on supply and demand

[2] It is unlikely that states would drop the protection afforded retail customers by eliminating the availability of an electric provider (usually the local distribution utility) with an obligation to serve all customers that request and pay for electricity because they have not chosen an alternative competitive provider, they have been dropped by their alternative provider, or there are no competitive alternative providers serving the area. The twin challenges for policymakers are then how to assure that electric service remains available and how to price that service.

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at any given time. If the POLR service price does not closely match the competitive price, it is likely to distort consumption and investment decisions.[3]

2. If POLR prices remain fixed while prices for fuel and wholesale power are rising, customers may experience rate shock when the transition period ends. This rate shock can create public pressure to continue the fixed POLR rates at below-market levels. One regulatory response may be to phase in the price increase gradually, by deferring recovery of part of the supplier's costs. Although this approach reduces rate shock for customers, it is likely to distort retail electricity markets both in the short-term (when costs are deferred) and in the long-term (when the deferred costs are recovered). It is difficult to establish a POLR service price cap that will not distort retail electricity markets and the associated development of effective competition. The better practice is to make frequent adjustments to the cap (at least in order to reflect changes in fuel costs), or to abandon the cap altogether and utilize a competitive process to procure supply.

3. States have differing policy goals for establishing and maintaining POLR service in competitive retail markets that can affect entry of competitive retail suppliers. POLR service (or an equivalent provision) to serve customers of a supplier that has left the market, while the customer obtains another supplier, is the least intrusive form of POLR service, yet is consistent with concerns about potentially life-threatening effects of unanticipated loss of electric service. POLR service that goes beyond short-term access to the wholesale spot market involves providing a bundle of services that electricity marketers also can provide. A more expansive version of POLR service may hamper the development of alternative suppliers. The economic rationale for maintaining a POLR service obligation usually is limited to trying to correct some identifiable and substantial market imperfections. If a state adopts a more expansive version of POLR service, it should periodically review the rationale for continuing it.

4. Some states have different POLR service designs for different customer classes. POLR prices for large commercial and industrial customers have reflected wholesale spot market prices more than have POLR prices for residential customers. This approach generally has led the large customers to switch suppliers more than the small customers have. Also, more suppliers have made efforts to solicit these large customers. Large customers are logical leaders for retail choice because of their familiarity with energy procurement processes and because they are comfortable with decisions to adjust input use based on input prices. For smaller, less sophisticated customers, including residential customers, issues of awareness and access to comparative pricing information should be addressed as retail customer choice is introduced. Retail pricing that closely tracks wholesale prices provides efficient price signals to consumers. It creates incentives for customers to cut consumption during peak demand periods which, in turn, can reduce the risk that suppliers will exercise market power and can improve system reliability.

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[3] Theoretically, competitive prices provide efficient incentives for all resource allocation (supply and consumption) decisions, and thus encourage efficient allocation of resources, including use of existing capacity, new investment by incumbent suppliers, entry by new suppliers, consumption, new investments by consumers.

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5. Some states have used, or are proposing to use, auctions to procure POLR supply. Auctions may allow retail customers to get the benefit of competition in wholesale markets as suppliers compete to supply the necessary load. Various auction processes have been suggested.

6. Switching is important for retail electricity competition to work. Rules on switching should allow customers to switch easily but avoid unauthorized switching ("slamming"). One reason why retail competition for small customers may be slow to develop is that it may be difficult to for the consumer to find competitive supplier offers in the first place and to understand the terms and conditions of those offers. It also is unclear whether the effort to find this information is justified by the potential cost savings that can be realized. As and when there are more alternative suppliers, it may result in greater potential savings. But the need for clear and readily available information relating to competitive offers will remain. Customer aggregation is an approach that can reduce per-customer search and switching costs and thus generally can help in the development of retail competition. Opt-out customer aggregations are attractive because they can minimize transaction costs without limiting customer choice.

7. Section E of Chapter 4 presents a description of various approaches to overcoming some of the above-mentioned difficulties and to encouraging competition in retail electricity markets.

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CHAPTER 1
INDUSTRY STRUCTURE, LEGAL AND REGULATORY BACKGROUND, INDUSTRY TRENDS AND DEVELOPMENTS

For almost all of the twentieth century, the electric power industry was dominated by regulated monopoly utilities. Beginning in the late 1960s, however, a number of technological, economic, regulatory, and political developments initiated changes in the structure of the industry. In the 1970s, vertically-integrated utility companies (investor-owned, municipal, or cooperative) controlled over 95 percent of the electric generation in the United States. Typically, a single local utility sold and delivered electricity to retail customers under an exclusive franchise regulated under State law. Now, the electric power industry includes both utility and nonutility entities, including many new companies that produce, market and deliver electric energy to customers in wholesale and retail markets. By 2004, as a result of industry changes, electric utilities owned less than 60 percent of electric generating capacity. Increasingly, decisions affecting electric consumers and the rates they pay are split among Federal, State, and new private, regional entities. This chapter briefly describes the structural changes in the wholesale and retail electric power industry from the late 1960s until today. It provides a historical overview of the important legislative and regulatory changes that have occurred in the past several decades, as well as the trends seen over this time period that have contributed to increased competition in the electric power industry.

A. Industry Structure and Regulation

Participants in the electric power sector in the United States include investor-owned utilities, electric cooperatives; Federal, State, and municipal utilities, public utility districts, irrigation districts; cogenerators and onsite generators; nonutility independent power producers, affiliated power producers, power marketers, and independent transmission companies that generate, distribute, transmit, or sell electricity at wholesale or retail.

In 2004, there were 3,276 regulated retail electric providers supplying electricity to over 136 million customers. Retail electricity sales totaled almost $270 billion in 2004. Retail customers purchased more than 3.5 billion megawatt hours of electricity. Active retail electric providers include electric utilities, Federal agencies, and power marketers selling directly to retail customers. These entities differ greatly in size, ownership, regulation, customer load characteristics, and regional conditions. These differences are reflected in policy and regulation. Tables 1-1 to 1-5 provide selected statistics for the electric power sector by type of ownership in 2004 based on information reported to the United States Department of Energy (DOE), Energy Information Administration (EIA).

1. Investor-Owned Utilities

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Investor-owned utility operating companies (IOUs) are private, shareholder-owned companies ranging in size from small local operations serving a customer base of a few thousand to giant multi-state holding companies serving millions of customers. Most IOUs are or are part of a vertically-integrated system that owns or controls generation, transmission, and distribution facilities/resources required to meet the needs of the retail customers in their assigned service areas. Many IOUs have undergone significant restructuring and reorganization under State retail competition plans over the past decade, As a result, many IOUs in these states no longer own generation, but must procure the electricity they need for their retail customers from the wholesale markets.

IOUs continue to be a major presence in electric power industry. In 2004 there were 220 IOUs serving approximately 94 million retail distribution customers, accounting for 68.9 percent of all retail customers and 60.8 percent of retail electricity sales. IOUs directly own about 39.6 percent of total electric generating capacity and generated 44.8 percent of total generation in 2004 to meet their retail and wholesale sales.

IOUs provide service to retail customers under state regulation of territories, finances, operations, services, and rates. States that have not restructured retail electricity service generally regulate bundled retail electric rates of IOUs under traditional cost of service rate methods. In states that have restructured their IOUs and IOU regulation, distribution services continue to be provided under monopoly cost-of-service rates, but retail customer are free to shop for their electricity supplier. IOUs operate retail electric systems in every state but Nebraska.

Under the Federal Power Act (FPA)[4], the Federal Energy Regulatory Commission (FERC) regulates the wholesale electricity transactions (sales for resale) and unbundled transmission activities of IOUs (except in Alaska, Hawaii, and the ERCOT region of Texas).

2. Public Power Systems

The more than 2,000 public power systems include local, municipal, State, and regional public power systems, ranging in size from tiny municipal distribution companies to large systems like the Power Authority of the State of New York. Publicly owned systems operate in every State but Hawaii. About 1,840 of these public power systems are cities and municipal governments that own and control the day to day operation of their electric utilities.[5] Public power systems served over 19.6 million retail customers in 2004, or about 14.4 percent of all customers. Together, public power systems generated 10.3 percent of the Nation's power in 2004, but accounted for 16.7 percent of total electricity sales, reflecting the fact that many public systems are distribution-only utilities and purchase their power supplies from others. Public power systems own about 9.6 percent of total generating capacity. Public power systems are overwhelmingly transmission-and wholesale-market-dependent entities. According to the American Public Power Association, about 70 percent of public power retail sales were met from wholesale power purchases, including purchases from municipal joint action agencies by the

[4] 16 U.S.C. 719a et seq.

[5] American Public Power Association, comments.

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agencies' member systems. Only about 30 percent of the electricity for public power retail sales came from power generated by a utility to serve its own native load.[6]

Regulation of public power systems varies among States. In some States, the public utility commission exercises jurisdiction in whole or part over operations and rates of publicly-owned systems. In most States, public power systems are regulated by local governments or are self-regulated. Municipal systems are usually governed by the local city council or an independent board elected by voters or appointed by city officials. Other public power systems are operated by public utility districts, irrigation districts, or special State authorities.

On the whole, state retail deregulation/restructuring initiatives left untouched retail services in public power systems. However, some states allow public systems to adopt retail choice alternatives voluntarily.

3. Electric Cooperatives

Electric cooperatives are privately-owned non-profit electric systems owned and controlled by the members they serve. Members vote directly for the board of directors. In 2004, about 884 electric distribution cooperatives provided retail electric service to almost 16.6 million customers. In addition to these 884 distribution cooperatives, about 65 generation and transmission cooperatives (G&Ts) own and operate generation and transmission and secure wholesale power and transmission services from others to meet the needs of their distribution cooperative members and other rural native load customers. G&T systems and their members engage in joint planning and power supply operations to achieve some of the savings available under a vertically integrated utility structure for the benefit of their customers. Electric cooperatives operate in 47 States. Most electric cooperatives were originally organized and financed under the Federal rural electrification program and generally operate in primarily rural areas. Electric cooperatives provide electric service in all or parts of 83 percent of the counties in the United States.[7]

In 2004, electric cooperatives sold more than 345 million megawatt hours of electricity, served 12.2 percent of retail customers, and accounted for 9.7 percent of electricity sold at retail. Nationwide electric cooperatives generated about 4.7 percent of total electric generation. Electric cooperatives own approximately 4.2 percent of generating capacity

While some cooperative systems generate their own power and make sales of power in excess of their own members needs, most electric cooperatives are net buyers of power. Cooperatives nationwide generate only about half of the power needed to meet the needs of retail customers. Cooperatives secured approximately half of their power needs from other wholesale suppliers in 2004. Although cooperatives own and operate transmission facilities, almost all cooperatives are dependent on transmission service by others to deliver power to their wholesale and/or retail customers.

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[6] *Id.*

[7] National Rural Electric Cooperative Association, comments.

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Regulatory jurisdiction over cooperatives varies among the States: some States exercise considerable authority over rates and operations, while other States exempt cooperatives from State regulation. In addition to State regulation, cooperatives with outstanding loans under the Rural Electrification Act of 1936[8] also are subject to financial and operating requirements of the Rural Utilities Service (RUS), U.S. Department of Agriculture, which must approve borrower long-term wholesale power contracts, operating agreements, and transfers of assets.

Cooperatives that have repaid their RUS loans and that engage in wholesale sales or provide transmission services to others have been regulated by FERC as public utilities. EPACT 05 provided FERC additional discretionary jurisdiction over the transmission services provided by larger electric cooperatives.

4. Federal Power Systems

Federally-owned or chartered power systems include the Federal power marketing administrations, the Tennessee Valley Authority (TVA), and facilities operated by the U.S. Army Corps of Engineers, the Bureau of Reclamation, the Bureau of Indian Affairs, and the International Water and Boundary Commission. Wholesale power from Federal facilities (primarily hydroelectric dams) is marketed through four Federal power marketing agencies: Bonneville Power Administration, Western Area Power Administration, Southeastern Power Administration, and Southwestern Power Administration. The PMAs own and control transmission to deliver power to wholesale and direct service customers. PMAs may also purchase power from others to meet contractual needs and sell surplus power as available to wholesale markets. Existing legislation requires that the PMAs and TVA give preference in the sale of their generation output to public power systems and to rural electric cooperatives.

Together, Federal systems have an installed generating capacity of approximately 71.4 gigawatts (GW) or about 6.9 percent of total capacity. Federal systems provided 7.2 percent of the Nation's power generation in 2004. Although most Federal power sales are at the wholesale level, they do engage in some end-use sales of generation. Federal systems nationwide directly served 39,845 retail customers in 2004, mostly industrial customers and about 1.2 percent of retail load.

5. Nonutilities

[8] 7 U.S.C. 901 et seq.

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Nonutilities are entities that generate, transmit, or sell electric power, but that do not operate regulated retail distribution franchises.[9] They include wholesale non-utility affiliates of regulated utilities, merchant generators, qualifying facilities(QFs) (small power producers and industrial and commercial combined heat and power producers)[10], and power marketers that buy and sell power at wholesale or retail but that do not own generation, transmission, or distribution facilities. Independent transmission companies that own and operate transmission facilities but do not own generation or retail distribution facilities or serve retail customers are also included in this category.

Non-QF (qualifying facilities) wholesale generators engaged in wholesale power sales in interstate commerce are subject to FERC regulation under the FPA. Power marketers that sell at wholesale are also subject to FERC oversight. Power marketers that sell only at retail are subject to State jurisdiction and oversight in the States in which they operate. FERC regulates the interstate transmission services of independent transmission companies under the FPA. Independent transmission companies may also be organized and regulated as utilities in states in which they are located for planning, siting, permitting, and other purposes.

As retail electric providers, 152 power marketers reporting to EIA served about 6 million retail customers or about 4.4 percent of all retail customers and reported revenues of over $28 billion, on about 11.6 percent of retail electricity sold.

Nonutilities are a growing presence in the industry. In 2004 nonutilities owned or controlled approximately 408,699 megawatts or 39.6 percent of all electric generation capacity. In 1993 they owned only about 8 percent of generation. It is estimated that about half of nonutility generation capacity is owned by nonutility affiliates or subsidiaries of holding companies that also own a regulated electric utility.[11] Nonutilities accounted for about 33 percent of generation in 2004. Tables 1-1 through 1-5 summarize this information.

Table 1-1. U.S. Retail Electric Providers 2004

Ownership	Number of Electricity Providers	Percent of Total	Number of Customers			
			Full Service	Delivery only	Total	Percent of Total
Publicly-owned utilities	2,011	61.4	19,628,710	6,125	19,634,835	14.4

[9] "Nonutilites" – as that term is defined for EIA reporting purposes and as used here – may still be characterized as "utilities" and subject to public service regulation under State law and regulated as "public utilities" by FERC.

[10] Qualifying facilities (QFs) are small power producers using eligible alternative electric generating technologies and industrial and commercial cogenerators that have special status under the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. No. 95-617, 92 Stat. 3117.

[11] Edison Electric Institute, comments.

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Investor-owned utilities	220	6.7	90,970,557	287,9114	93,849,671	68.9
Cooperatives	884	27	16,564,780	12,170	16,576,950	12.2
Federal Power Agencies	9	0.3	39,843	2	39,845	0.03
Power Marketers	152	4.6	6,017,611	0	6,017,611	4.4
Total	3,276	100	133,221,501	2,897,411	136,118,912	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Notes:
Delivery-only customers represent the number of customers in a utility's service territory that purchase energy from an alternative supplier.
Ninety-eight percent of all power marketers' full-service customers are in Texas. Investor-owned utilities in the ERCOT region of Texas no longer report ultimate customers. Their customers are counted as full-service customers of retail electric providers (REPs), which are classified by the Energy Information Administration as power marketers. The REPs bill customers for full service and then pay the IOU for the delivery portion. REPs include the regulated distribution utility's successor affiliated retail electric provider that assumed service for all retail customers that did not select an alternative provider. Does not include U.S. territories.

Table 1-2. U.S Retail Electric Sales 2004
Sales to ultimate consumers in thousands of MWhs

	Full Service	Energy only	Total	Percent
Publicly-owned utilities	525,596	65,466	591,062	16.7
Investor-owned utilities	2,148,351	3,359	2,151,720	60.8
Cooperatives	344,267	890	345,157	9.7
Federal Power Agencies	41,169	352	41521	1.2
Power Marketers	207,696	203,202	410,898	11.6
Total	3,267,089	27,3269	3,540,358	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Notes: Energy-only revenue represents revenue from a utility's sales of energy outside of its own service territory. Total revenue shows the amount of revenue each sector receives from both bundled (full service) and unbundled (retail choice) sales to ultimate customers. Eighty-five percent of the energy-only revenue attributed to publicly owned utilities represents revenue from energy procured for California's investor-owned utilities by the California Department of Water Resources Electric Fund. Ninety-eight percent of power marketers' full-service sales and revenues occur in Texas. Investor-owned utilities in the ERCOT region of Texas no longer report sales or revenue to ultimate consumers on EIA 861.

Table 1-3. U.S. Retail Electric Providers 2004, Revenues from Sales to Ultimate Consumers

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	Sales in $ millions			
	Full Service	Energy only	Delivery	Total
Publicly-owned utilities	$37,734	$5,787	$27	$43,548
Investor-owned utilities	$162,691	$128	$8,746	$171,565
Cooperatives	$25,448	$37	$7	$25,492
Federal Power Agencies	$1,211	$13	$1	$1,224
Power Marketers	$17,163	$11,000	0	$28,162
Total	$244,247	$16,965	$8,761	$269,992

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861, 2004 data.

Table 1-4. U.S. Electricity Generation 2004

Electricity Generation 2004	Generation	
	(thousands of MWhs)	% of Total
Publicly-owned utilities	397,110	10.3
Investor-owned utilities	1,734,733	44.8
Cooperatives	181,899	4.7
Federal Power Agencies	278,130	7.2
Power Marketers	42,599	1.1
Non-utilities	1,235,298	31.9
Total	3,869,769	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-861 and EIA-906/920 for generation. Data are for 2004, adjusted for joint ownership.

Table 1-5. U.S. Electric Generation Capacity 2004

Ownership	Nameplate Capacity	% of Total
	(in MWs)	
Publicly-owned utilities	98,686	9.6
Investor-owned utilities	408,699	39.6
Cooperatives	43,225	4.2
Federal Power Agencies	71,394	6.9
Non-utilities	409,689	39.7
Total	1,031,692	100.0

Source: American Public Power Association, 2006-07 Annual Directory & Statistical Report, from Energy Information Administration Form EIA-860 for capacity, including adjustments for joint ownership. Data are for 2004.

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B. Growth of the Electric Power Industry

For a variety of legal, economic, and technological reasons, the electric utility industry in the United States developed as a collection of separate, mostly vertically-integrated monopoly franchises with wholesale and retail prices and services extensively regulated under State and Federal law. Many states have elected to maintain and adapt this model. The legacy of this vertically-integrated monopoly structure creates substantial challenges for State and Federal efforts to restructure the industry and to create new institutional arrangements to facilitate increased reliance on competitive market prices. This section provides a very brief overview of the evolutionary changes in the electric power industry.

1. The Rise of Electric Utility Monopolies and Public Utility Regulation

The earliest electric utilities in the late 19th century developed as small central station power plants with limited local distribution networks. Franchise rights granted by manufacturers and by municipal governments allowed use of public streets and rights of ways. These municipal franchises were often exclusive, but in some cities there was head-to-head competition among competing electric lighting company systems.[12] In addition, because lighting, electric motors, and traction were the major uses of electricity, customers could turn to alternatives – use of natural gas lighting – or the option of self-generation in the case of street railway, commercial, and industrial customers.[13] Many municipalities elected to create and operate their own electric utility systems.

Even in the early days, certain characteristics of the provision of electric power became apparent. Utility systems incurred high fixed costs for the investments in generating plant needed to meet peak load and to extend the delivery system but had relatively low operating costs so that their profits were determined by the percent of time the powerplant was in use. Complementary load diversity –such as the balancing of daytime traction and electric motor loads with evening lighting loads could raise generating plant utilization and revenues to offset fixed costs, and boost profits. The high capital costs for fixed electric plant created entry and exit barriers. Steady improvements in the size of generating plants and the efficiency of transmission and distribution systems allowed the enlargement of electric networks and economies of scale. Larger power plants could produce electricity more cheaply than many smaller individual plants. The substantial investment required for electric utility plants also spurred the creation of long-

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[12] Leonard. S. Hyman, *America's Electric Utilities: Past, Present and Future,* 3d edition, (Arlington, VA: Public Utility Reports, Inc., 1988), at p. 64 [Hereinafter Hyman]. In the City of Chicago, the city council granted 29 different electric franchises between 1882 and 1905; three of them were citywide.

[13] For more on the history of electric utilities see also, U.S. Department of Energy, Energy Information Administration, *The Changing Structure of the Electric Power Industry: 1970-1991*, at 57 (March 1993), available at http://tonto.eia.doe.gov/FTPROOT/electricity/0562.pdf [hereinafter EIA 1970-1991]. U.S. Department of Energy, Energy Information Administration, *The Changing Structure of the Electric Power Industry 2000: An Update,* Appendix A (October 2000) available at http://www.eia.doe.gov/cneaf/electricity/chg_stru_update/update2000.html [hereafter EIA Update 2000]

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term financing structures and the need for assurances to investors that the entity would be profitable and would remain financially viable long enough to repay the debt.

These characteristics led some to suggest that electric service could most economically and safely be provided by a single monopoly provider of integrated generation, transmission and distribution service and that, to avoid abuses of monopoly power, impartial state agencies should be created to award franchises, and establish rates and service standards. Among them was an early associate of Thomas Edison, Samuel Insull of Chicago Edison, who proposed state regulation of private utilities in a speech before the National Electric Light Association in 1898.[14] Insull went on to publicly characterize electricity production as a "natural monopoly."[15] The proposal for state regulation was not well received initially, but as private electric companies began to grow and consolidate and public concerns were raised over trusts in many industries, the concept began to gain support. In 1907, Wisconsin adopted legislation regulating electric utilities and was quickly joined by two other states. By 1916, 33 states had established state regulation of private electric utilities.[16]

Generally, under this approach, the state regulatory commission granted exclusive retail electric franchises to private companies within specified territories, protecting the utility from competition. In return, the utility assumed an obligation to provide safe and adequate service to all the retail customers within its territory under just and reasonable rates, terms and conditions overseen by the state. Often the utility was authorized to use public rights of way and eminent domain needed for electric facilities. To meet its obligation to serve, most private utilities built and controlled the generation, transmission, and distribution facilities needed to provide services to its customers. Electric rates were set to cover the companies' reasonable costs plus a fair return on their shareholders' investment. The utility could expect a right to reasonable compensation for its services, although recovery of a specific authorized rate of return was not guaranteed. Retail customers were charged a rate (price) based on the average system cost of production (including the investors' fair return on investment).

Private electric utilities continued to expand under the system of state regulation in place in the early 20th century. Most utilities built their own generation plants and transmission systems, primarily due to the cost and technological limitations on the distance over which electricity

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[14] Hyman, at 68.

[15] In economic literature, the concept of a "natural monopoly" developed over time as a rationalization for the regulation of electric utilities. In brief, a "natural monopoly" is an industry characterized by long-run decreasing costs where a single provider can supply product or service at a lower cost than competition. Alfred E. Kahn, *The Economics of Regulation: Principles and Institutions,* Vol. 1 (New York: John Wiley & Sons, Inc. 1970) at 11-12. Kahn also notes the substantial legal and historical "public interest" rationale for regulation of the electric utility industry. Economists have debated whether the electric utility industry or segments of it are natural monopolies for several decades. This debate focuses on the economic theory rationalization for regulation and not the public policy or legal basis for electric power regulation. See, for example, Vernon Smith, Regulatory Reform in the Electric Power Industry (1995) (working paper, on file with the Department of Economics, University of Arizona), and Richard F. Hirsch, Power Loss: The Origins of Deregulation and Restructuring in the American Electric Utility System, MIT Press (1999); Sharon Beder, *Power Play: The Fight To Control The World's Electricity,* W.W. Norton (2003).

[16] Hyman, p. 68.

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could be transmitted.[17] There was at first, little wholesale trade among utilities. As the industry grew, continued improvements in technology allowed expansion beyond the central cities and prices for electricity fell and demand increased substantially.

Over the same period, electric utility holding companies were created and began to acquire local private and municipal utilities. The local operating companies were regulated by the state. The utility holding companies were not regulated. The proliferation, consolidation, and complexity of utility holding companies resulted in a number of financial and securities abuses that were documented in an investigation by the Federal Trade Commission (FTC). The holding companies often became the sole providers of various services and products to the affiliated utilities and their costs were passed through to the retail customers. By 1932 the eight largest utility holding companies controlled 73 percent of the investor owned electric industry.[18]

In the beginning, the Federal role in the electric power industry was limited, but in the 1930s Congress enacted legislation that expanded Federal regulation and involvement in the electric industry. As a result of the FTC findings, Congress passed the Public Utility Holding Company Act of 1935 (PUHCA)[19], which required the break up and stringent Federal oversight of the activities of the large utility holding companies. The Federal Power Act of 1935 (FPA)[20] expanded the responsibilities of the Federal Power Commission to include the oversight and regulation of interstate sales of wholesale power (e.g., sales of power between utility systems) and interstate electricity transmission at wholesale by "public utilities" (i.e., investor-owned utilities). FPA jurisdiction over interstate sales closed a gap in effective electric industry regulation that had been identified by the Supreme Court in 1927.[21]

When the FPA was enacted, wholesale and interstate sales of electricity were limited. Most wholesale transactions were long-term power supply contracts by investor-owned utilities to sell and deliver power to neighboring public power and cooperative utilities. Over time utilities became more interconnected via high-voltage transmission networks that were constructed primarily for purposes of reliability but facilitated more opportunities for interstate trade. However, wholesale trade was slow to develop.

Until the late 1960s, the vertically-integrated monopoly utility model appeared to work reasonably well. Utilities were able to meet increasing demand for electricity at decreasing prices as advances in generation technology provided increased economies of scale with larger units and decreased costs.[22]

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[17] EIA, Update 2000.

[18] Hyman, p. 74.

[19] Act of Aug. 26, 1935, c. 687, Title I, sec. 33, 49 Stat. 438, 15 U.S.C. 79.

[20] Title II of the Public Utility Act of 1935 was the Federal Power Act, 16 U.S.C. 791a.,

[21] In *Public Utilities Commission of Rhode Island v. Attleboro Steam & Electric Co*., 273 U. S. 83 (1927), the Supreme Court ruled that State regulators were barred by the Commerce Clause from setting the prices of electricity sold across state lines.

[22] EIA 1970-1991.

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2. The Energy Crisis of the 1970s, PURPA, and the Expansion of Nonutility Generation and Wholesale Power Markets

The shift to a more competitive marketplace for electricity was a response to industry changes that began in the late 1960s and accelerated through the 1970s. Resulting financial stresses challenged the continuing profitability of the large vertically-integrated utility model and lent further support to criticisms of the traditional cost-of-service regulatory model that allowed pass through of higher costs and risks of construction to consumers.

At the end of the 1960s electricity demand and generation were increasing at an annual rate of 7.5 percent and residential rates were declining at an average annual rate of 1.5 percent.[23] Over the 1970s utilities shifted from decreasing unit costs and rapid growth to increasing unit costs and slower growth. Expected demand growth did not materialize. For the first time in the history of the industry, electricity rates rose consistently with retail rates increasing at an average annual rate of 11 percent per year over the decade. Demand and generation growth moderated to just 4 percent per year. Both average and peak electricity demand dropped significantly below projections and the robust growth levels seen in the 1960s.[24] But capacity continued to grow at a rate over 6 percent per year. By the early 1980s there was a considerable overhang of expensive new generating capacity without expected new revenues to pay for them.

New large nuclear and coal plants no longer yielded the dramatic improvements in economies of scale that earlier technological advances in generating plant size produced and that had sustained the industry's characterization as a long-term decreasing cost industry. Periods of rapid inflation and higher interest rates substantially increased the completion costs of large, baseload generating plants under construction.[25] New environmental and safety regulations required addition of pollution controls and design features that added to costs and construction time. Moreover, once in operation, many of the new larger units required more maintenance and longer downtimes than expected.. Thus, by the late 1970s, a newer, larger, generation facility no longer could be assumed to result in a more cost-efficient option than a smaller plant.[26]

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[23] EIA, Update 2000, at 114-115.

[24] This decline in part was due to economic conditions and to the fact that consumers reacted to electricity price increases, and growth in demand fell sharply. See U.S. Congress, Office of Technology Assessment, Electric Power Wheeling and Dealing: Technological Considerations for Increasing Competition 39, OTA-E-409 (Washington, DC: U.S. Government Printing Office, May 1989) [hereinafter U.S. Congress, Office of Technology Assessment].

[25] The costs of constructing new nuclear plants quadrupled between 1971 and 1976. Over 63 nuclear units were cancelled between 1975 and 1980. EIA, Update 2000, at 14-115.

[26] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 Fed. Reg. 21,540, FERC Stats. & Regs. ¶ 31,036, at 31,640-41 (1996), order on reh'g, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997); order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F..3d 667 (D.C. Cir. 2000), aff'd sub nom. New York v. FERC, 535 U.S. 1 (2002)[hereinafter Order No. 888].

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This experience stimulated interest in smaller, modular, more energy efficient generating units that eventually resulted in commercialization of aeroderivative gas turbine technology, which allowed smaller generation units to be constructed at lower costs, more quickly, and at less financial risk than large base load plants.[27] As a result, lower cost generation became a potential option available to customers captive to high cost generators and for nonutility generators to enter the market.

The difficulties plaguing utilities' generation construction programs were playing out over the same period as utility fuel prices escalated rapidly in response to the Arab oil embargo of 1973-1974 and subsequent world oil market disruptions. Significantly higher energy prices added to inflation and increased electric rates.[28]

Other developments also were substantial contributors to the growing interest in electric utility reforms in the 1970s-1980s. First, the Northeast major power blackout in 1965 raised concerns about the reliability of weakly coordinated bulk power system operating arrangements among utilities.[29] The nuclear accident at the Three Mile Island plant in Pennsylvania heightened concerns over safety and led to stringent new regulatory requirements for nuclear plants.

Criticism of the traditional cost of service utility regulation model by economists and policy analysts also increased during the 1970s with suggestions for alternate approaches to regulation and changes in industry structure. Critics of cost-based regulation argued that the industry structure provided limited opportunities for more efficient suppliers to expand, placed insufficient pressure on less efficient suppliers to improve their performance, and insulated customers from the cost impacts of energy use.[30]

Congress enacted the Public Utility Regulatory Policies Act of 1978 (PURPA)[31] as a response to the energy crises of the 1970s. The major goal of PURPA was to promote energy conservation and alternative energy technologies and to reduce oil and gas consumption through use of improved technology and regulatory reforms. A perhaps unanticipated side effect of PURPA was that it prompted a number of parties to see potential profits in the development of competitive generating plants. PURPA created an opportunity for nonutilities to emerge as important electric power producers. [32]

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[27] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,641.

[28] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,639, n.9.

[29] The response to the blackout included the formation of regional reliability councils and the North American Electric Reliability Council (NERC) to promote the reliability and adequacy of bulk power supply. EIA, Update 2000, at 109.

[30] Paul L. Joskow, The Difficult Transition to Competitive Electricity Markets in the U.S. 6-7 (AEI-Brookings Joint Ctr. for Regulatory Studies, Working Paper No. 03-13, 2003), available at http://www.aei-brookings.org/admin/authorpdfs/page.php?id=271 [hereinafter Joskow, Difficult Transition].

[31] Pub. L. No. 95-617, 92 Stat. 3117 (codified in U.S.C. sections 15, 16, 26, 30, 42, and 43).

[32] See EIA 1979-1991 at 22.

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Box 1-1: State Implementation of PURPA

PURPA required states to determine each utility's avoided costs of production. This cost was used to set the price for purchasing a QFs power. To encourage renewable and alternative energy generation, several states, including California, New York, Massachusetts, Maine, and New Jersey, required that utilities sign long-term contracts with QFs at prices that eventually ended up being much higher than the utilities' actual marginal savings of not producing the power itself (avoided costs). The result was that many utilities in these states entered into long-term purchase contracts at prices higher than those available in the competitive wholesale markets. The costs of these QF contracts were reflected in retail rates as cost pass-throughs. The experience added to the dissatisfaction with retail rate regulation.

PURPA required electric utilities to interconnect with and purchase power from cogeneration facilities and small power producers meeting the statutory criteria for a qualifying facility (QF). PURPA required that the QF be paid at the utility's incremental cost of production, which FERC, in a departure from cost-based rate approaches, defined as the utility's avoided cost of power.[33] Box 1-1 discusses how the implementation of PURPA encouraged nonutilities generation suppliers by guaranteeing a market for the electricity they produced.[34] PURPA changed prevailing views that vertically integrated public utilities were the only sources of reliable power[35] and showed that nonutilities could build and operate generation facilities effectively and without disrupting the reliability of the electric grid.[36]

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[33] PURPA specifically set forth criteria on who and what could qualify as QFs (mainly technology, size, and ownership criteria). Two types of QFs were recognized: cogenerators, which sequentially produce electric energy and another form of energy (such as heat or steam) using the same fuel source, and small power producers, which use waste, renewable energy, or geothermal energy as a primary energy source. See EIA 1970-1991 at 5.

[34] Id. at 24.

[35] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642.

[36] Joskow, Deregulation at 19.

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PURPA contributed substantially, both directly and indirectly, to the creation of an independent competitive generation sector.[37] The response to PURPA was dramatic.

Before passage of PURPA, nonutility generation was primarily confined to commercial and industrial facilities where the owners generated heat and power for their own use where it was advantageous to do so. Although nonutility generation facilities were located across the country, development was heavily concentrated geographically with about two thirds located in California and Texas. Nonutility generation development advanced in States where avoided costs were high enough to attract interest and where natural gas supplies were available. Federal law largely precluded electric utilities from constructing new natural gas plants during the decade following enactment of PURPA, but nonutility generators faced no such restriction and quickly turned to the new smaller gas turbines as the preferred generating technology.

Annual QF filings at FERC rose from 29 applications covering 704 megawatts in 1980 to 979 in 1986 totaling over 18,000 megawatts. From 1980 to 1990 FERC received a total of 4,610 QF applications for a total of 86,612 megawatts of generating capacity.[38]

Following PURPA, continued improvement in electric generating technology lowered costs and further contributed to an influx of new entrants in wholesale markets who could sell electric power profitably with smaller scale generators, including renewable energy technologies and more efficient, modular, gas turbines.[39] Other non-utility power producers that could not meet QF criteria began to build new capacity to compete in bulk power markets to meet the needs of utilities.[40] These new nonutility entities were known as merchant generators or Independent Power Producers (IPPs).[41] By 1991, nonutilities (QFs and IPPs) owned about six percent of the electric power generating capacity and produced about nine percent of the total electricity generated in the United States.[42] Nonutility generating facilities accounted for one-fifth of all additions to generating capacity in the 1980s.[43]

Beginning in the 1980s FERC allowed many new utility and non-utility generators to sell electric power supply at rates negotiated in wholesale markets, rather than rates established under cost of service formulas.[44]

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[37] Id. at 17.

[38] CONG. RESEARCH SERV., COMM. ON ENERGY AND COMMERCE, 102D CONG., ELECTRICITY A NEW REGULATORY ORDER? 92 (Comm. Print 1991).

[39] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,644.

[40] Joskow, Deregulation at 19.

[41] Order No. No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642.

[42] EIA 1970-1991 at vii.

[43] Id. at 27.

[44] See Order No. No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,643.

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In 1988 FERC solicited public comments on three notices of proposed rulemaking (NOPRs) concerning the pricing of electricity in wholesale transactions: 1) competitive bidding for new power requirements; 2) treatment of independent power producers; and 3) determination of avoided costs under PURPA.[45] These proposals would have moved towards greater use of a "non-traditional" market-based pricing approach in ratemaking as opposed to the agency's "traditional" cost-based approach. These FERC NOPRs proved controversial, and efforts to establish formal rules or policies adopting them were abandoned as commission membership changed. However, with the support of several Commission members and key FERC staff, the overall policy goals were still pursued on a case-by-case basis.

FERC laid the foundation for greater reliance on market-based mechanisms for Federal oversight of wholesale electricity prices on a case-by-case basis. Between 1983 and 1991, FERC considered more than 31 cases concerning approval of non-traditional rates involving independent power producers, power brokers/marketers, utility-affiliated power producers, and traditional franchised utilities. FERC approved all but four of these applications.[46] FERC staff wrote: "The Commission has accepted non-traditional rates where the seller or its affiliate lacked or had mitigated market power over the buyer, and there was no potential abuse of affiliate relationships which might directly or indirectly influence the market price and no potential abuse of reciprocal dealing between the buyer and seller."[47]
In its process of determining whether the seller could exercise market power over the buyer, the FERC considered whether the seller or its affiliates owned or controlled transmission that might prevent the buyer from accessing other sources of power. A seller with transmission control might be able to force the buyer to purchase from the seller, thus limiting competition and significantly influencing the price the buyer would have to pay. The FPA does not allow rates to reflect an exercise of such market power.[48]

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[45] See Regulations Governing Bidding Programs, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,324 (March 22, 1988), FERC Stats. & Regs. ¶ 32,455 (1988) (modified by 53 Fed. Reg. 16,882 (May 12, 1988)). This proposal would have adopted competitive bidding into the process of acquiring and pricing power from QFs and would have largely abandoned the prior avoided cost purchase rates.

See Regulations Governing Independent Power Producers, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,327 (March 22, 1988), FERC Stats. & Regs. ¶ 32,456 (1988) (modified by 53 Fed. Reg. 16882 (May 12, 1988)). This proposal would have relaxed rate review and regulation of wholesale sales by independent power producers, and other public utilities that did not operate retail distribution systems.

See Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities, and Interconnection Facilities, Notice of Proposed Rulemaking, 53 Fed. Reg. 9,331 (March 22 1988), FERC Stats. & Regs. ¶ 32,457 (1988) (modified by 53 Fed. Reg. 16882 (May 12, 1988)). This proposal would have revised the elements used in making administrative determinations of avoided costs for rates for utilities' PURPA QF purchases.

[46] Hearing on National Energy Security Act of 1991 (Title XV) Before the S. Comm. on Energy and Natural Resources, 102d Cong. 97 (1991) (Statement of Cynthia A. Marlette, Associate General Counsel for Hydroelectric and Electric, Federal Energy Regulatory Commission).

[47] Id. at 100.

[48] Id.

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The potential for control of transmission to create market power, and the challenge that such control created in moving to greater reliance on market-based rates, was recognized. "Because the Commission's very premise of finding market-based rates just and reasonable under the FPA is the absence or mitigation of market power, or the existence of a workably competitive market, and because the FPA mandates that the Commission prevent undue preference and undue discrimination, we believe the Commission is legally required to prevent abuse of transmission control and affiliate or any other relationships which may influence the price charged a ratepayer."[49]

Despite these developments, two limitations at that time were perceived to discourage development of competitive wholesale generation markets. First, IPPs and other generators of cheaper electric power could not easily gain access to the transmission grid to reach potential customers.[50] Under the FPA as then written, FERC authority to order transmission access was limited. FERC would subsequently find that "intervening" transmitting utilities would deny or limit transmission service to competing suppliers of generation service in order to protect demand for wholesale power supplied by their own generation facilities.[51] Second, unlike QFs that enjoyed a statutory exemption under PURPA, IPPs were subject to the Public Utility Holding Company Act of 1935 (PUHCA), which discouraged non-utilities from entering the generation business.[52]

3. The Energy Policy Act of 1992 and FERC Orders Nos. 888 and 889

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[49] Id. at 102.

[50] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,642-43.

[51] Joskow, Deregulation at 21. See Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,644.

[52] Joskow, Deregulation at 23. Under PUHCA, those public utility holding companies that did not qualify for an exemption were subject to extensive regulation of their financial activities and operations. These regulations limited the availability of exemptions and the growth and expansion of electric utility companies. PUHCA restricted utility operations to a single integrated public-utility system and prevented utility holding companies from owning other businesses that were not reasonably incidental or functionally related to the utility business. Further, registered holding companies had to obtain Securities and Exchange Commission (SEC) approval for the sale and issuance of securities, for transactions among their affiliates and subsidiaries and for services, sales, and construction contracts, and they were required to file extensive financial reports with the SEC.

Although PUHCA provided for limited exemptions, it was long criticized as discouraging new investment in the electric utility industry by non-utility entities. Mergers and acquisitions of utilities subject to PUHCA have largely been by other domestic and foreign utilities. Investment by entities outside the industry has been limited, as these entities avoid the extensive regulations imposed by PUHCA.

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The Energy Policy Act of 1992 (EPACT 92) [53] amended the FPA and PUHCA to address what were then seen as the two major limitations on the development of a competitive generation sector.

First, EPACT 92 created a new category of power producers, called exempt wholesale generators (EWGs).[54] An EWG is an entity that directly, or indirectly through one or more affiliates, owns or operates facilities dedicated exclusively to producing electric power for sale in wholesale markets.[55] EWGs are exempted from PUHCA regulations, thus eliminating a major barrier for utility-affiliated and nonaffiliated power producers that wanted to build or acquire new non-rate-based power plants to sell electricity at wholesale.[56]

Second, EPACT 92 expanded FERC's authority to order transmitting utilities to provide transmission service for wholesale power sales to any electric utility, Federal power marketing agency, or any person generating electric energy [57] The amendment provided for orders to be issued on a case by case basis following a hearing if certain protective conditions were met. Although FERC implemented this new mandatory wheeling authority, it ultimately concluded that procedural limitations limited its reach and a broader remedy was needed to effectively eliminate pervasive undue discrimination in the provision of transmission service that was hindering competition in wholesale markets.

In April 1996, FERC adopted Order No. 888 in exercise of its statutory obligation under the FPA to remedy undue transmission discrimination to ensure that transmission owners do not use their transmission facility monopoly to unduly discriminate against IPPs and other sellers of electric power in wholesale markets. In Order No. 888, the FERC found that undue discrimination and anticompetitive practices existed in the provision of electric transmission service by public utilities in interstate commerce, and determined that non-discriminatory open access transmission service was one of the most critical components of a successful transition to competitive wholesale electricity markets. Accordingly, FERC required all public utilities that own, control or operate facilities used for transmitting electric energy in interstate commerce to file open access transmission tariffs (OATTs) containing certain non-price terms and conditions and to "functionally unbundle" wholesale power services from transmission services.[58] To functionally unbundle, a public utility was required to: (1) take wholesale transmission services under the same tariff of general applicability as it offered its customers; (2) state separate rates for wholesale generation, transmission and ancillary services; and (3) rely on the same electronic

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[53] Pub. L. No. 102-486, 106 Stat. 2776 (1992),

[54] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,645.

[55] Joskow, Deregulation at 24.

[56] See *EIA 1970-1991* at 30; Joskow, Deregulation at 23.

[57] Pub. L. No. 102-486, 106 Stat. 2776 (1992) sec. 721-726.

[58] Order No. 888, FERC Stats. & Regs. ¶ 31,036 , at ¶ 31,654.

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information network that its transmission customers rely on to obtain information about the utility's transmission system.[59]

Concurrent with the issuance of Order No. 888, FERC issued Order No. 889[60] that imposed standards of conduct governing communications between the utility's transmission and wholesale power functions, to prevent the utility from giving its power marketing arm preferential access to transmission information. Order No. 889 requires each public utility that owns, controls, or operates facilities used for the transmission of electric energy in interstate commerce to create or participate in an Open Access Same-Time Information System, to provide information regarding available transmission capacity, prices, and other information that will enable transmission service customers to obtain open access non-discriminatory transmission service. [61]

In Order No. 888, FERC also encouraged grid regionalization through the formation of Independent Systems Operator (ISOs). Participating utilities would voluntarily transfer operating control of their transmission facilities to the ISO to ensure independent operation of the transmission grid.[62] The ISO would provide improved coordination, reliability, and efficient operation through regional control of the grid. [63] Participation in an ISO was voluntary, however, and it only embraced in some regions. It was not implemented in other areas.[64]

Together, Order Nos. 888 and 889 serve as the primary federal foundation for providing transmission service and information about the availability of transmission service.[65]

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[59] Id. Order No. 888 also clarified FERC's interpretation of the Federal/state jurisdictional boundaries over transmission and local distribution. While it reaffirmed that FERC has exclusive jurisdiction over the rates, terms, and conditions of unbundled retail transmission in interstate commerce by public utilities, it nevertheless recognized the legitimate concerns of state regulatory authorities for the development of competition within their states. FERC therefore declined to extend its unbundling requirement to the transmission component of bundled retail sales and reserved judgment on whether its jurisdiction extends to such transactions. The United States Supreme Court affirmed this element of Order No. 888. New York v. FERC, 535 U.S. 1 (2002).

[60] Open Access Same-Time Information System (Formerly Real-Time Information Networks) and Standards of Conduct, Order No. 889, 61 Fed. Reg. 21,737 (May 10, 1996), FERC Stats. & Regs. ¶ 31,035 at 31,583 (1996), order on reh'g, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 (1997), order on reh'g, Order No. 889-B, 81 FERC ¶ 61,253 (1997).

[61] Joskow, Deregulation at 29.

[62] EIA 2000 Update at 66.

[63] Id. at 66, 68, 80.

[64] Id. at 67.

[65] Joskow, Deregulation at 27-28.

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4. Retail Electricity Competition and State Electric Restructuring Initiatives

In the early 1990s, several states with high electricity prices began to explore opening retail electric service to competition. With retail competition, customers would choose their electricity supplier, but the delivery of electricity would still be done by the local distribution utility. Retail competition was expected to result in lower prices to retail customers, provide innovative services and pricing options, and shift the risks of new generation construction from ratepayers to competitive market providers.

The substantial rate disparity that existed among and between utilities in different states was an important impetus for state interest in retail competition. For example, in 1998, customers in New York paid more than two and one-half times the rates paid by customers in Kentucky. Rates in California were well over twice the rates in Washington.[66] Some of this disparity in retail prices among state can be attributed to different natural resource endowments across regions – such as the availability of hydroelectric resources in the Northwest and of abundant coal reserves in Kentucky and Wyoming -- which were reflected in low cost of electricity in these states. In contrast, in more urban states without these resources utilities invested heavily in large, new nuclear power plants, and coal plants, which often turned out to be more expensive than anticipated, adding to retail rates. Some utilities in high-cost states also had entered into long-term PURPA contracts that subsequently resulted in prices higher than the cost to acquire power in the wholesale market.[67] These QF contract costs were ultimately reflected in the regulated retail rates.[68]

Many large industrial customers viewed these disparities in utility rates among states as a competitive disadvantage and looked to retail competition as a way to secure lower cost electricity supplies. Additionally, many industrial customers had long contended that they subsidized lower rates for residential customers under state regulated rates. For example, a survey by the Electricity Consumers Resource Council in 1986 contended that industrial electricity consumers paid more than $2.5 billion annually in subsidies to other electricity customers (*e.g.*, commercial and residential customers). By allowing industrial customers to choose a new supplier, it was presumed that these subsidies could be avoided and industrial customer electricity prices would decrease.[69]

It was, thus, not surprising that many of the states that adopted plans to dramatically restructure retail electric service and to create competitive retail electric markets were those with higher prices.[70] (Figure 4-1 in Chapter 4 shows average retail electricity prices in 1995.) States with high electricity rates such as California and those in New England and the mid-Atlantic region,

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[66] EIA 2000 Update at ix.

[67] See discussion infra, Box 1-1.

[68] Joskow, Deregulation at 19.

[69] Electricity Consumers Resource Council, Profiles in Electricity Issues: Cost-of-Service Survey (Mar. 1986).

[70] EIA 2000 Update at 43.

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were among the most aggressive in adopting retail competition and restructuring electric service in the hope of making lower rates available to their retail customers. As of 2004 the disparity in retail prices among the states persisted, as illustrated in Figure 1-1, below.

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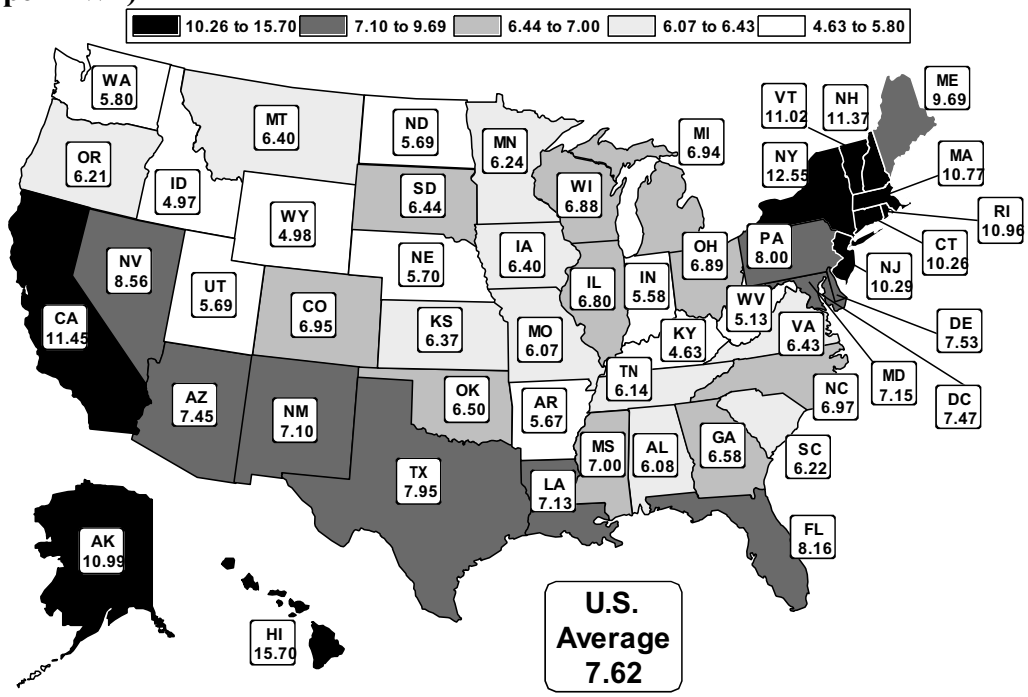
Figure 1-1: U.S. Electric Power Industry, Average Retail Price of Electricity by State, 2004 (cents per KWh)



Source: EIA, Electric Power Annual 2004, Figure 7.4

Most states considered the merits and implications of competition, deregulation, and industry restructuring, but not all states adopted retail competition plans. As of July 2000, 24 states and the District of Columbia had enacted legislation or passed regulatory orders to restructure their electric power industries. Two states had legislation or regulatory orders pending, while 16 states had ongoing legislative or regulatory investigations. There were only eight states where restructuring studies were not formally initiated.[71] The melt down of California's electricity markets and the ensuing Western Energy market crisis of 2000- 2001 is widely-perceived to have halted interest by states in restructuring retail markets. Since 2000, no additional states have announced plans to implement retail competition programs, and several states that had introduced such programs have delayed, scaled back, or repealed their programs entirely (see Figure 1-2 below).[72]

In 2006 retail electric customers in 30 states continue to receive service almost exclusively under a traditional regulated monopoly utility service franchise. These states include 44% of all U.S. retail customers which represents 49% of electricity demand. However, in 20 states and the

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[71] Id. at 81-82.

[72] Paul L. Joskow, Markets for Power in the United States: An Interim Assessment, ENERGY J. 2 (2006) [hereinafter Joskow, Interim Assessment].

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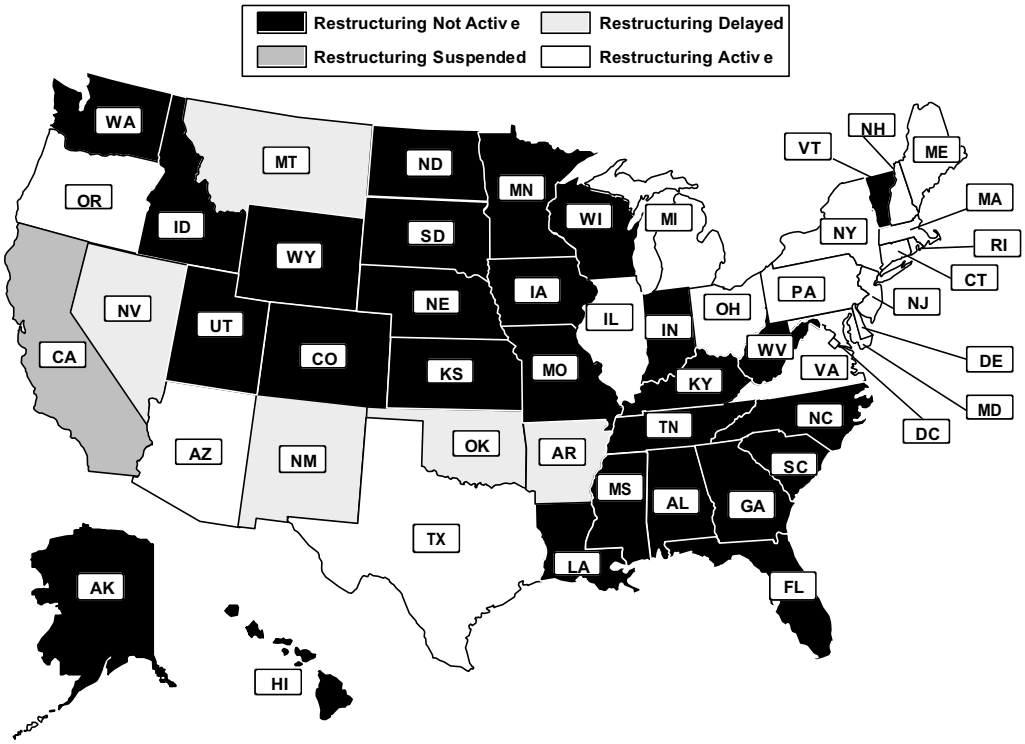
District of Columbia state electric restructuring plans remain in force that allow competitive retail providers to provide service to some if not all retail customers at prices set in the market. State retail restructuring plans often involved divestiture of generating assets previously owned by local vertically integrated utilities, with the result that the distribution utilities -- and any retail customers that they serve -- procure power from wholesale markets under long- or short-term bilateral contracts, and from wholesale spot markets, as state regulators allow.These jurisdictions include many of the Nation's largest states and account for over half of all retail customers and retail electricity loads. With some exceptions, competitive retail competition has been slow to develop in many of these states, particularly for residential customers. Without a competitive provider option, most customers continue to take service under regulated "provider of last resort" (POLR) rates. In some states, the rate freezes and rate caps on POLR rates approved by state regulators under retail restructuring cases are expiring and POLR rates are being revised sharply upward to reflect the higher costs of obtaining electricity in wholesale markets. State experience with electric competition and related issues are discussed in more detail in Chapter IV, Retail Competition and in Appendix D.

Figure 1-2: Status of State Electric Industry Restructuring Activity, 2003



Source: EIA, available at http://www.eia.doe.gov/cneaf/electricity/chg_str/restructure.pdf

5. <u>The Western Energy Market Crisis 2000-2001.</u>

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California opened its retail markets to competition and started spot markets for wholesale electricity in 1998. In response to the State plan, the three major investor-owned utilities divested most of their non-nuclear generation, turned over operation of transmission facilities to the new California ISO (CALISO), and were required to sell into and purchase power needed to serve their customers through the new California Power Exchange (CalPX) and the ISO. Retail rates were reduced, but at a level still well above the national average, and were frozen until the utilities recovered their stranded costs – at which point it was expected that competitive markets would drive prices much lower. San Diego Gas and Electric (SDG&E) fully recovered its stranded costs by summer of 1999 and retail rates of its customers were then allowed to reflect the utilities cost of obtaining power in the wholesale market. The retail rates of the other two major utilities remained frozen.

In late May 2000, the California ISO called its first Stage 2 power alert as system reserves fell below 5 percent. PX prices that had averaged about $27 per megawatt hour (MWh) in April spiked to over $50 in May, and continued spiking upwards eventually reaching a high of about $450 per MWh in January 2001. The substantially higher prices were quickly passed through and San Diego's customer bills tripled by mid-summer. California's other major utilities Pacific Gas and Electric (PG&E) and Southern California Edison (SCE) also were forced to pay the unexpectedly higher PX wholesale prices, but could not pass the increases through to retail customers as they were still under a rate freeze.

California's power market problems were not limited to price spikes. On June 14, 2000 the ISO imposed rolling blackouts in Pacific Gas and Electric Co's San Francisco service area because of shortages attributed to the maintenance shut down of several generating plants. These were the first of many power emergencies and blackouts affecting the state that did not end until July 2001.

In response to public concerns, investigations were quickly launched by the California Public Utilities Commission, the State's Attorney General, and the FERC. On August 2, 2000, SDG&E filed a complaint at FERC against all sellers in the PX and ISO markets and asked for a price cap of $250[73]. The Commission opened a formal investigation of the California market. A preliminary FERC staff report in November 2000 found that the market rules and structure were "seriously flawed" and, coupled with supply and demand imbalance, could result in rates that were not "just and reasonable."[74] Moreover, the staff report concluded that the State's market structure created the potential for abuse of market power when supplies were tight. The Commission proposed a number of interim emergency remedies that were put in place in December 2000.[75]

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[73] Federal Energy Regulatory Commission, "The Western Energy Crisis, the Enron Bankruptcy, and FERC's Response," a chronology [available online at http://www.ferc.gov/industries/electric/indus-act/wec/chron/chronology.pdf].

[74] Id.

[75] Id.

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The State's electric market problems continued, however. Market price spikes in California affected electricity pricing hubs and utilities across the West, including states that had not adopted retail competition and that were not members of the CALISO. Increased power costs to the region were estimated in the tens of billions and caused retail rates increases for customers in many Western states.[76] Multiple power emergencies were declared in California in December 2000, followed by blackouts in January, and March 2001. High wholesale market prices that the utilities were not allowed to recover through retail rates strained the finances of the State's three major IOUs. The State of California had to step into the breach to enter into long-term contracts to secure power on behalf of the utilities for their retail customers. The contract prices were set at some of the highest prices prevailing over this period.[77] The state suspended retail competition for all but large customers that already had contracts with competitive suppliers. In April, PG&E's retail electric utility subsidiary, one of the largest in the nation, filed for bankruptcy protection, later joined by a number of wholesale sellers involved in the market. Power prices did not return to "normal" ranges until fall of 2001.

Over this period, FERC issued a number of orders setting and lowering price caps, market monitoring requirements, and opening an investigation of possible market manipulation in the runup of natural gas prices in the West. The State, Federal, and private investigations ultimately uncovered a number of market abuses and regulatory gaps.[78] Many FERC and other proceedings arising out of the dysfunctional California markets continue today.[79] A number of energy traders eventually faced criminal charges for their actions.

The Western Energy Crisis of 2000-2001 had wide repercussions as other regions adapted their market rules and structures to avoid the problems encountered in the West.

6. Development of Regional Transmission Organizations and Regional Wholesale Markets

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[76] For example, the Idaho Public Utilities Commission commented that the pass-through power cost adjustment portion of retail rates increased between 30 to 50 percent as a direct result of the impacts of the western energy crisis. Idaho Public Utilities Commission, comments, March 2006.

[77] See box 4-3 in Chapter 4 of this report.

[78] See, e.g., California Attorney General's Energy White Paper, A Law Enforcement Perspective on the California Energy Crisis, Recommendations for Improving Enforcement and Protecting Consumers in Deregulated Energy Markets (Apr. 2004), available at http://ag.ca.gov/publications/energywhitepaper.pdf; Federal Energy Regulatory Commission, Final Report on Price Manipulation in Western Energy Markets: Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000 (March 26, 2003); U.S. General Accounting Office, Restructured Electricity Markets, California Market Design Enabled Exercise of Market Power, (June 2002), available at http://www.gao.gov/new.items/d02828.pdf.; Lockyer v. FERC, 383 F.3d 1006 (9th Cir., 2004); United States Senate, Committee on Governmental Affairs, Staff Memorandum, "Committee Staff Investigation of the Federal Energy Regulatory Commission's Oversight of Enron Corp" November 2002 [available at http://hsgac.senate.gov/_files/111202fercmemo.pdf].

[79] For more on FERC proceedings, see the FERC webpage, "Addressing the2000-2001 Western Energy Crisis" [http://www.ferc.gov/industries/electric/indus-act/wec.asp].

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Even after issuance of Order Nos. 888 and 889, FERC continued to receive complaints about transmission owners discriminating against independent generating companies. Transmission customers remained concerned that electric utilities' implementation of functional unbundling did not produce complete separation between operating the transmission system and marketing and selling electric power in wholesale markets. Also, there were concerns that Order No. 888 changes made some discriminatory behavior in transmission access more subtle and difficult to identify and document.

The electric industry continued to transform since FERC issued Order Nos. 888 and 889, in response to competitive pressures and state retail restructuring initiatives. Utilities today purchase more wholesale power to meet their load than in the past and are expanding reliance on availability of other utility transmission facilities for delivery of power. Retail competition increased significantly in the years following adoption of Order No. 888. These state initiatives brought about the divestiture of generation plants by traditional electric utilities. In addition, this period saw a number of mergers among traditional electric utilities and among electric utilities and gas pipeline companies, large increases in the number of power marketers and independent generation facility developers entering the marketplace, and the establishment of ISOs as managers of large parts of the transmission system. Trade in wholesale power markets has increased significantly and the Nation's transmission grid is being used more heavily and in new ways.

In response to continuing complaints of discrimination and lack of transmission availability and in the wake of an expanding competitive power industry, in December 1999, FERC issued Order No. 2000.[80] This order recognized that Order No. 888 set the foundation upon which to attain competitive electric markets, but did not eliminate the potential to engage in undue discrimination and preference in the provision of transmission service.[81] Thus, FERC concluded that regional transmission organizations (RTOs) could eliminate transmission rate pancaking,[82] increase region-wide reliability, and eliminate any residual discrimination in transmission services that can occur when the operation of the transmission system remains in the control of a vertically integrated utility. Accordingly, FERC encouraged the voluntary formation of RTOs.

RTOs are entities set up in response to FERC Order Nos. 888 and 2000 encouraging utilities to voluntarily enter into arrangements to operate and plan regional transmission systems on a nondiscriminatory open access basis. RTOs are independent entities that control and operate regional electric transmission grids for the purpose of promoting efficiency and reliability in the

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[80] Regional Transmission Organizations, Order No. 2000, FERC Stats. & Regs. ¶ 31,089, 65 Fed. Reg. 809 (Jan. 6, 2000), order on reh'g, Order No. 2000-A, FERC Stats. & Regs. ¶ 31,092, 65 Fed. Reg. 12,088 (March 8, 2000), aff'd, Public Utility District No. 1 v. FERC, 272 F.3d 607 (D.C. Cir. 2001) [hereinafter Order No. 2000].

[81] In Order No. 2000, FERC found that "opportunities for undue discrimination continue to exist that may not be remedied adequately by [the] functional unbundling [remedy of Order No. 888]." Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,105.

[82] The term "rate pancaking" refers to circumstances in which a transmission customer must pay separate access charges for each utility service territory crossed by the customer's contract path.

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operation and planning of the transmission grid and for ensuring non-discrimination in the provision of electric transmission services. RTOs do not own transmission.[83]

FERC has approved RTOs or ISOs in several regions of the country including the Northeast (PJM, New York ISO, ISO-New England), California, the Midwest (MISO) and the South (SPP), as shown in Figure 1-3 below. By the end of 2004, regions accounting for 68 percent of all economic activity in the United States had chosen the RTO option.[84]

In 2004 and 2005, the PJM RTO grid expanded substantially to include several additional service territories in the Midwest. In 2004, the territories serviced by Commonwealth Edison (ComEd), American Electric Power (AEP), and Virginia Electric and Power (VEPCO) joined PJM. The expansion continued in 2005 with the addition of Duquesne Light. The area now in PJM covers about 18 percent of total electricity consumption in the United States.[85]

In most cases, RTOs have assumed responsibility to calculate the amount of available transfer capability (ATC) for wholesale trades for member systems across the footprint of the RTO. RTOs also are responsible for coordinating regional planning, at least for facilities necessary for reliability above a certain voltage. As of 2004, all of the RTOs in operation coordinate dispatch of the generators in their systems and provide transmission services under a single RTO open access tariff.

In addition to operating the regional transmission grid, RTOs operate regional organized energy markets, including a short-term market which prices energy, congestion, and losses. RTOs in the East all offer day-ahead and real-time markets, while California and Texas offer real-time market alone. Further, all RTOs in current operation use or plan to use some form of locational pricing to manage transmission congestion and have independent market monitors that assess and report on market activities.[86] RTOs and regional wholesale markets are described in more detail in Chapter 3.

Figure 1-3: RTO Configurations in 2004
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[83] Current RTOs do not own transmission, but FERC's Order No. 2000 allowed for the formation of such "transco" organizations. Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,036-37.

[84] Fed. Energy Regulatory Comm'n, Office of Mkt. Oversight and Investigations, State of the Markets Report: An Assessment of Energy Markets in the United States in 2004, at 51 (2005) [hereinafter FERC State of the Markets Report 2005], available at http://www.ferc.gov/legal/staff-reports.asp.

[85] Id. at 53.

[86] Id. at 52.

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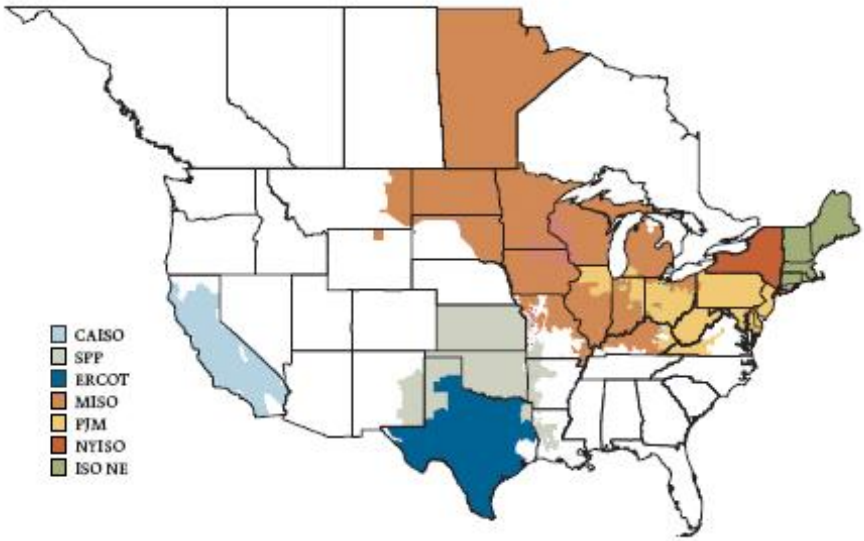

Source: FERC State of the Market Report for 2004, Figure 2, Page 53

NOTE: The above map shows the general location of approved RTOs. Not all transmitting utilities within the shaded area of an RTO are necessarily members of the RTO and some RTO members, for example in PJM-South are not shown in this map.

The RTO Model and regional organized wholesale markets have been voluntarily adopted by utilities and market participants in the Northeast, Mid-Atlantic, California, and parts of the Midwest and Southwest. In some states, participation in an RTO was required as part of the restructuring under the State retail competition plan. RTO members include utilities in states that have not adopted retail competition. State regulators often participate as members of advisory bodies to the RTOs and have been active parties in FERC proceedings involving RTOs. Although existing RTOs enjoy broad participation by utilities and competitive power suppliers, concerns over the high [87]costs of RTO implementation and operations, and oversight of RTO markets were reflected in comments filed with the Task Force.[88]

In other regions –the Southeast, the West outside of California, and other parts of the Midwest, RTOS have been considered, but formation has stalled. State regulators and utilities in these regions have found it difficult to assess the potential benefits and costs of establishing RTOs s and have been reluctant to create new institutional arrangements that could diminish local control over transmission facilities and could impose additional costs on retail customers.

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[87] Add cite to comments that mentioned this, APPA, NRECA, etc.

[88] See, for example, the draft report comments of the American Public Power Association, the National Rural Electric Cooperative Association, Alliance of State Leaders to Protect Electric Consumers, Wisconsin Load Serving Entities, Progress Energy, Inc. and Santee Cooper.

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7. August 2003 Blackout

On August 14, 2003, an electrical outage in Ohio precipitated a cascading blackout across seven other states and as far north as Ontario, leaving more than 50 million people without power.[89] The August 2003 blackout was the largest blackout in the history of the United States, leaving some parts of the nation without power for up to four days and costing between $4 billion and $10 billion.[90] The 2003 blackout was the eighth major blackout experienced in North America since the 1965 Northeast Blackout.

A Joint U.S.-Canada Power System Outage Task Force issued a final Blackout Report in April 2004. The Blackout Report identified factors that were common to some of the eight major outage occurrences from the 1965 Northeast Blackout through the 2003 Blackout, as shown below:

> (1) conductor contact with trees; (2) overestimation of dynamic reactive output of system generators; (3) inability of system operators or coordinators to visualize events on the entire system; (4) failure to ensure that system operation was within safe limits; (5) lack of coordination on system protection; (6) ineffective communication; (7) lack of "safety nets;" and (8) inadequate training of operating personnel.[91]

In addition to the Joint Study, other investigations were carried out by affected States and by the North American Electric Reliabity Council (NERC).[92]8. The Energy Policy Act of 2005

In August 2005, Congress passed the Energy Policy Act of 2005 (EPACT 2005),[93] which amended the core statutes (FPA, PURPA, PUHCA) governing the electric power industry. Among the notable provisions of EPACT 2005 are the following::

- Reliability: Authorizes FERC to certify an Electric Reliability Organization to propose and enforce reliability standards for the bulk power system. EPACT 2005 authorized penalties for violation of these mandatory standards.

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[89] U.S. Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations, April 2004, at 1.

[90] Id.

[91] Id. at 107.

[92] See, for example, the NERC blackout website materials [available at http://www.nerc.com/~filez/blackout.html], New York State Public Service Commission, NYPSC Staff Second Report on the August 13-14, 2003 Blackout, November 2005 [available at http://www.dps.state.ny.us], and the reports of the Michigan Public Service Commission [available at http:www.michigan.gov/mpsc].

[93] Pub. L. No. 109-58, 119 Stat. 594 (2005).

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- Transmission Siting: Authorizes the Secretary of Energy to conduct a study of electricity congestion within one year of the enactment of the Energy Policy Act, and every three years thereafter . Authorizes the Secretary of Energy to designate "National Interest Electric Transmission Corridors" based on these congestion studies. EPACT 05 also authorizes FERC in limited circumstances to approve the siting of transmission facilities in these corridors, in states which lack such authority or do not exercise it in a timely manner. Proponents of this new federal authority have argued that it will facilitate the construction of new transmission lines and, thus, help alleviate transmission congestion that can impair competition in electric markets.

- Transmission Investment Incentives: Requires FERC to establish incentive-based rate treatments for public utilities' transmission infrastructure in order to promote capital investment in facilities for the transmission of electricity, attract new investment with an attractive return on equity, encourage improvement in transmission technology, and allow for the recovery of prudently incurred costs related to reliability and improved transmission infrastructure. Proponents of this authority contend it will encourage the expansion of transmission capacity and, thus, help foster greater competition in electric markets.

- PURPA Reform: Permits FERC to terminate, prospectively, the obligation of electric utilities to buy power from QFs, such as industrial cogenerators. FERC may do so when the QFs in the relevant area have adequate opportunities to make competitive sales, as defined by EPACT 2005. The premise is that growth in competitive opportunities in electric markets is negating the need for PURPA's "forced sale" requirements.

- PUHCA Repeal: Repeals PUHCA 1935 and replaces it with new PUHCA 2005, which provides FERC and state access to books and records of holding companies and their members and provides that certain holding companies or states may obtain FERC-authorized cost allocations for non-power goods or services provided by an associate company to public utility members in the holding company. PUHCA 2005 also contains a mandatory exemption from the Federal books and records access provisions for entities that are holding companies solely with respect to EWGs, QFs or foreign utility companies. The goal of these provisions is to reduce legal obstacles to investment in the electric utility industry and, thus, help facilitate the construction of adequate energy infrastructure.

C. Recent Trends Related to Competition in the Electric Energy Industry

Given the previous reviewed of electric industry legal and regulatory background, this section discusses several more recent electric industry policy developments and characteristics.

1. Generation Additions and Increase in Nonutility Generation Suppliers

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Electric power industry restructuring has been largely sustained by technological improvements in gas turbines. No longer is it necessary to build a larger generating plant to gain operating efficiencies. Combined-cycle gas turbines reach maximum efficiency at 400 megawatts (MW), while aero-derivative gas turbines can be efficient at sizes as low as 10 MW. These new gas-fired combined cycle plants can be more energy efficient and less costly than the older oil and gas fired power plants.[94] Because of their smaller footprint and low emissions, gas turbine generators could often easily be located close to load and avoid the need to construct additional transmission. Coupled with the greater availability of transmission access as a result of the open access tariff provisions of FERC Order No. 888, it became feasible for generating plants hundreds of miles apart to compete with each other and for customers to have more choices in electricity suppliers.[95]

The market participation of utilities and other suppliers in the generation of electricity has changed over the past few decades. The change began in response to increases in energy costs in the 1970s-90s and the passage of PURPA, which facilitated the entry of nonutilities QFs as energy-efficient, environmentally-friendly, alternative sources of electric power. The change continued through the issuance of Order No. 888, which opened up the transmission grid to competiting wholesale electricity suppliers.[96] Until the early 1980s, the electric utilities' share of electric power production increased steadily, reaching 97 percent in 1979.[97] By 1991, however, the trend had reversed itself, and the electric utilities' share declined to 91 percent.[98] By 2004, regulated electric utilities' share of total generation continued to decline (63.1 percent in 2004 versus 63.4 percent in 2003) as nonutilities' share increased (28.2 percent versus 27.4 percent in 2003).[99]

This trend is illustrated by comparing the increases in capacity additions for utility and nonutility generation suppliers, as shown in Figure 1-4 below. While most of the existing capacity, and , most of the additions to capacity through the late 1980s, were built by electric utilities, their share of capacity additions declined in the 1990s. Between 1996 and 2004, roughly 74 percent of electricity capacity additions were made by nonutility power producers.

Figure 1-4: U.S. Electric Generating Capacity Additions: Non-Utility Growth Overtakes Utility in 2000-2004

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[94] EIA 2000 Update at ix. The size of the cost improvements depends on the underlying fuel prices.

[95] Id.

[96] Id. at 23.

[97] EIA 1970-1991 at vii.

[98] Id.

[99] U.S. Dept. of Energy, Energy Information Administration, Electric Power Annual 2004, at 2 (November 2005), available at http://www.eia.doe.gov/cneaf/electricity/epa/epa.pdf [hereinafter EIA Electric Power Annual 2004].

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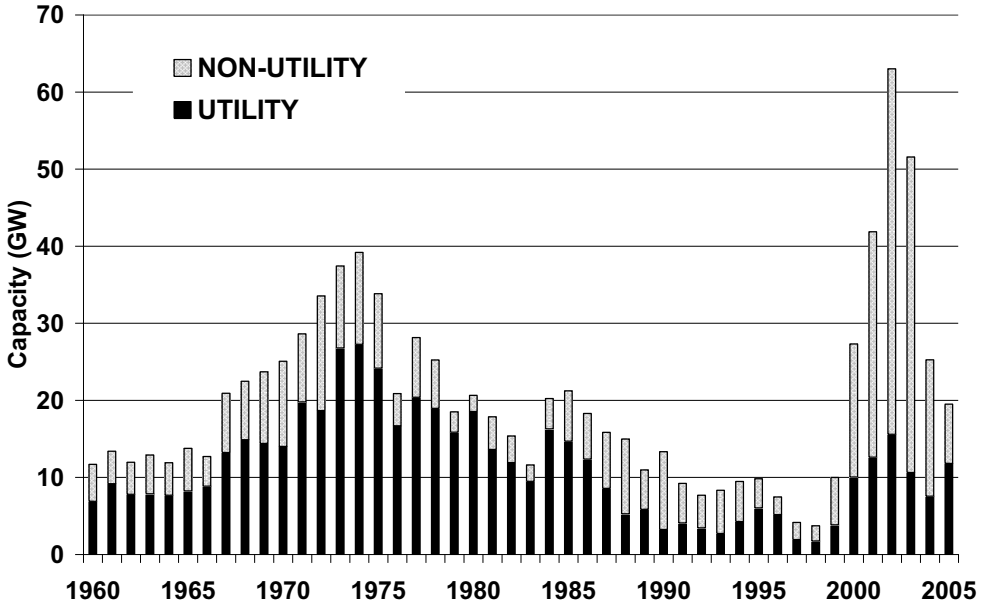

Source: FERC from analysis of Platts PowerDat data

The pattern of merchant generation investment outpacing utility investment may be shifting, however. Traditional regulated utilities, including public power and cooperative utilities, accounted for about 60 percent of capacity additions from 2005 through May 2006. In California, six new power plants began operations including four owned by public power utilities and two owned by IOUs.[100]

2. Transmission Investment

Despite these increased investments in new generation, the Edison Electric Institute (EEI) reports that investment in transmission by IOUs declined from 1975 through 1999. See Figure 1-5. Over that same period, electricity demand has more than doubled, resulting in a significant decrease in transmission capacity relative to demand. Box 1-2 discusses some suggested explanations for this trend of declining transmission investment. Since 1999 according to EEI surveys, transmission investment has increased annually. From 1999 to 2003 transmission investment by IOUs increased at 12 percent annually[101]. For 2004 to 2008, IOUs expect to invest about $28 billion in transmission, an almost 60 percent increase over the prior five-year period.

[100] American Public Power Association, draft report comments.

[101] Edison Electric Institute, "EEI Survey of Transmission Investment: Historical and Planned Capital Expenditures," May 2005, at p. 1.

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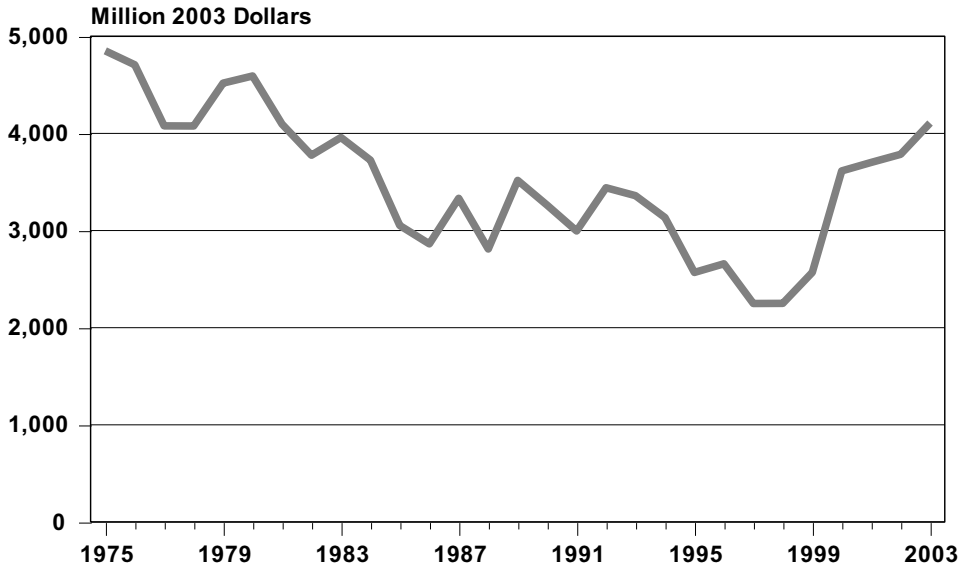
Figure 1.5: Transmission Expenditures of EEI Members, 1975-2003



Source: Edison Electric Institute
[FIGURE TO BE UPDATED]

[FIGURE TO BE UPDATED]

Figure 1-6: National Average Retail Prices of Electricity for Residential Customers

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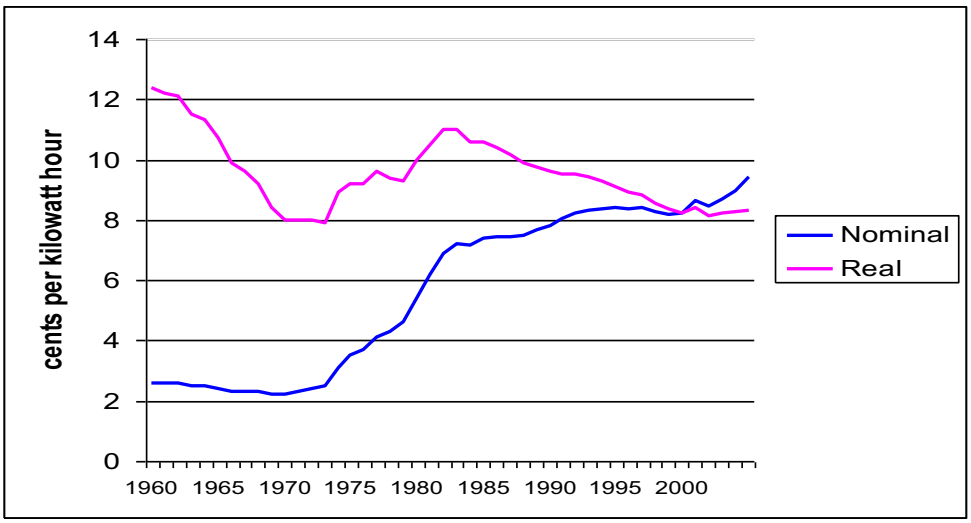

1- In chained (2000) dollars, calculated by using gross domestic product implicit price deflators.
Source: Energy Information Administration Annual Energy Review 2004

4. Changing Patterns of Fuel Use for Generation – Reaction to Increased Oil Prices and Clean-Air Environmental Regulations

For many years coal was the fuel most commonly to generate electricity, providing 46 percent of utilities' generation in 1970 and more than 50 percent since 1980. When world oil prices escalated in the 1970s, oil-fired and gasoline-fired generation's share of electricity supply began decreasing and utilities use of oil and gas for new generation was restricted by Federal law.

Hydroelectric power has also played a large role in the supply of electric power, but its share has declined relative to other major fuels mainly because there are a limited number of suitable sites for hydroelectric projects. Nuclear power grew to be the second largest fuel source in 1991 but was not expected to continue to increase.[102]

For nonutilities, natural gas has been the major fuel for new plant additions[103]. Indeed, new capacity added in recent years shows the prevalence of natural gas to fuel new plants. [104] As shown in Figure 1-7, recent plant additions illustrate this change in fuel sources. This increased

[102] EIA 1970-1991 at 20.

[103] During the 1990s, with natural gas prices at an all time low and availability of efficient, modular gas turbines, many nonutilities built natural gas generation facilities to enter wholesale markets. Today, as a result of restructuring-related asset sales and divestitures, nonutilities own and operate a broad mix of nuclear, coal, natural gas and renewable generation facilities that supply wholesale markets. Natural gas-fired generating capacity was 57 percent of nonutility generating capacity in 2004. According to the Electric Power Supply Association, based on EIA data, 36 percent of electriciity produced by competitive generators was coal-fired, 30 percent natural gas, 24 percent nuclear, 6 percent hydroelectric and other renewables, and four percent oil-fired. Electric Power Supply Association, draft report comments.

[104] EIA Electric Power Annual 2004 at 2.

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use of natural gas also is due, in part, to the Clean Air Act Amendments of 1990 (CAA) and state clean air requirements. The CAA sought to address the most widespread and persistent pollution problems caused by hydrocarbons and nitrogen oxides -- both of which are prevalent with traditional coal and petroleum-based generating plants. The CAA fundamentally changed the generation business because it would no longer be costless to emit air pollutants. As a result of these requirements, many generation owners and new generation plant developers turned to cleaner-burning natural gas as the fuel source for new generation plants. California has been very dependent on gas-fired generation because of its specific air quality standards.[105]

[105] Fed. Energy Regulatory Comm'n, The Western Energy Crisis, The Enron Bankruptcy, & FERC's Response, at 1, available at http://www.ferc.gov/industries/electric/indus-act/wec/chron/chronology.pdf

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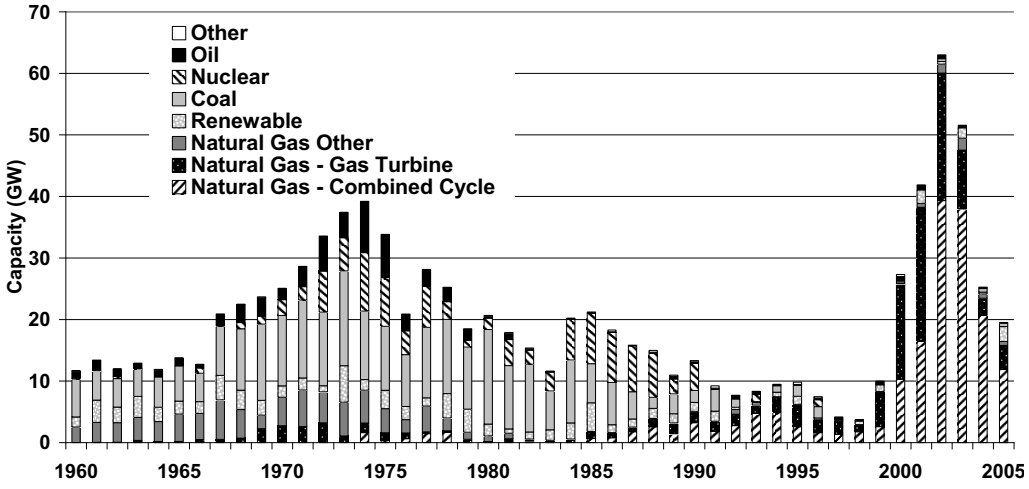
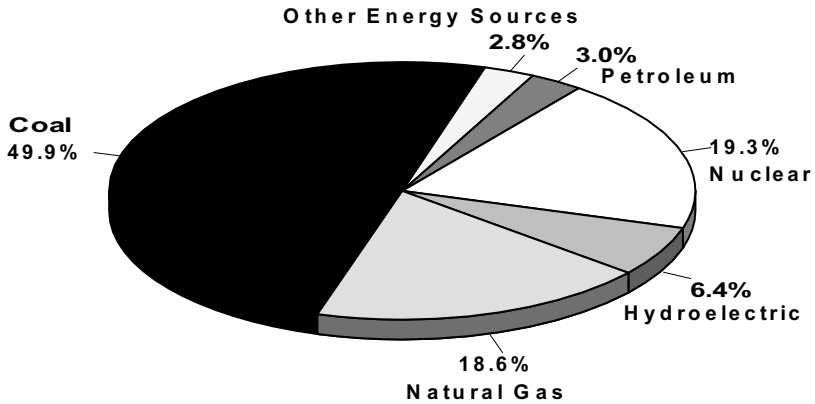
Figure 1-7: Natural Gas Plants Dominate New Generating Unit Additions



Source: FERC Analysis of Platts PowerDat data

The result of these plant additions through December 2005 is that 49.9 percent of the nation's electric power was generated at coal-fired plants (Figure 1-8). Nuclear plants contributed 19.3 percent, 18.6 percent was generated by natural gas-fired plants, and 2.5 percent was generated at petroleum liquid-fired plants. Conventional hydroelectric power provided 6.6 percent of the total, while other renewables (primarily biomass, but also geothermal, solar, and wind) and other miscellaneous energy sources generated the remaining electric power.

Figure 1-8: Net Generation Shares by Energy Source: Total (All Sectors), January-December 2005



Source EIA, Electric Power Monthly with data for December 2005.

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The trend toward gas-fueled capacity additions may be changing, however. In the coming years, more coal-fired generation capacity may be built as both utilities and nonutilities have announced new coal powerplant construction projects. Two major reasons may explain coal's resurgence: (1) the relative price of natural gas compared to coal has increased substantially in recent years and (2) the cost of environmental equipment for coal plants, such as scrubbers, has decreased. To the extent that combined-cycle gas-fired units were built on the assumption that natural gas would be relatively inexpensive and that cleaning technology for coal plants would drive the price of coal significantly higher, both these assumptions have proved questionable with time. The Department of Energy's Energy Information Administration (EIA) estimated only 573 megawatts of new coal generation would be added nationally in 2005, which compares with an estimate of 15,216 megawatts of gas-fired additions for the same year. For the year 2009, however, predicted trends shift - the EIA projects that 8,122 MW of new coal generation will be added that year, whereas only 5,451 MW of gas-fired generation additions are predicted for that year.[106] The Department of Energy predicts a resurgence of coal-fired generation will continue as far into the future as 2025.[107]

In addition to expected new coal generation, the higher gas prices and environmental concerns have renewed interest in nuclear generation. EPACT 2005 includes a number of provisions intended to encourage and facilitate the next generation of improved nuclear powerplants.

5. Fuel Price Trends

Natural gas prices have been increasing in recent years, due in part to the historically high level of petroleum prices. Natural gas prices experienced a 51.5 percent increase between 2002 and 2003, a 10.5 percent increase between 2003 and 2004, and a 37.6 percent increase between 2004 and 2005. Strong demand for natural gas, as well as natural gas production disruptions in the Gulf of Mexico, contributed to these price increases. As shown in Figure 1-9, for December 2005 the overall price of fossil fuels was influenced by the increases in price of natural gas. In December 2005, the average price for fossil fuels was $3.71 per MMBtu, 10.1 percent higher than for November 2005, and 44.4 percent higher than in December 2004. As natural gas prices increase relative to coal prices, the change may make development of clean-burning coal plants more economical than they were when natural gas fuel prices were lower.

Figure 1-9: Electric Power Industry Fuel Costs, January 2005 through December 2005

[106] See EIA Electric Power Annual 2004 at 17, table 2.4, available at http://www.eia.doe.gov/cneaf/electricity/epa/epat2p4.html.

[107] See U.S. Dept. of Energy, Nat'l Energy Tech. Lab, Tracking New Coal-Fired Power Plants, at 3-4, available at http://www.netl.doe.gov/coal/refshelf/ncp.pdf (predicting 85 GW of new coal capacity created by 2025).

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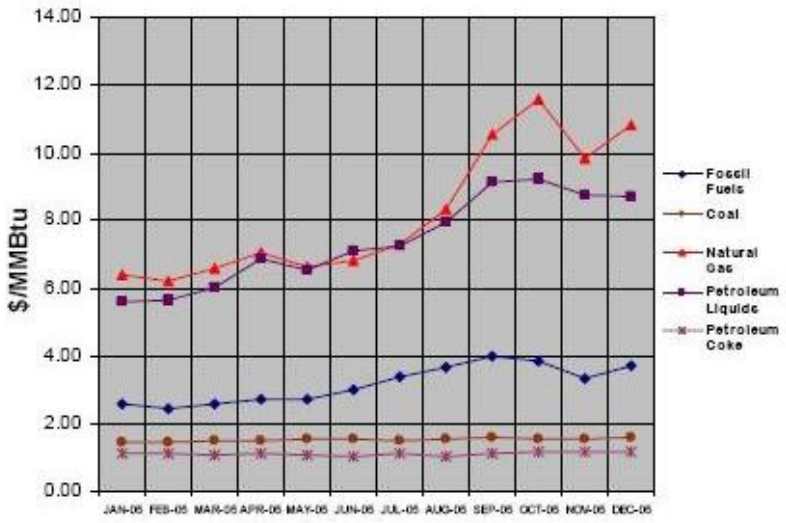

Source: Source EIA, Electric Power Monthly with data for January 2006.

[FIGURE TO BE UPDATED]

6. Mergers, Acquisitions, and Power Plant Divestitures of Investor-Owned Electric Utilities

Many IOUs have fundamentally reassessed their corporate strategies to function more as competitive, market-driven businesses in response to an increasingly competitive business environment.[108] One result is that there was a wave of mergers and acquisitions in the late 1980s through the late 1990s between traditional electric utilities and between electric utilities and gas pipeline companies.

IOUs also have divested a substantial number of generation assets to IPPs or transferred them to an unregulated nonutility subsidiary within the company.[109] Even though FERC-regulated IOUs have functionally unbundled generation from transmission, and some have formed RTOs and ISOs, many utilities have divested their power plants because of state requirements. Some states that opened the electric market to retail competition view the separation of power generation ownership from power transmission and distribution ownership as a prerequisite for retail competition. For example, California, Connecticut, Maine, New Hampshire, and Rhode Island enacted laws requiring utilities to divest their power plants. In other states, the state public utility commission may encourage divestiture to arrive at a quantifiable level of stranded costs for purposes of recovery during the transition to competition.[110]

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[108] See U.S. Congress, Office of Technology Assessment at 47.

[109] EIA 2000 Update at 91.

[110] Id. at 105-06.

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Since 1997, IOUs have divested power generation assets at unprecedented levels,[111] and these power plant divestitures have also reduced the total number of IOUs that own generation capacity.[112] A few utilities have decided to sell their power plants, as a business strategy, deciding that they cannot compete in a competitive power market. In a few instances, an IOU has divested power generation capacity to mitigate potential market power resulting from a merger.[113] As described in Table 1-6 below, between 1998 and 2001, over 300 plants, representing nearly 20% of U.S. installed generating capacity, changed ownership.

Since 2001 the financial difficulties of the merchant generating sector have prompted the sale or transfer of a substantial share of the merchant fleet. Some of the purchasers have been by traditional utilities, including public power and cooperative utilities.[114]

There was no significant electric power company merger activity from 2001 to 2004, but this changed in 2004, when utilities and financial institutions exhibited growing interest in mergers and acquisitions, prompting many analysts to herald 2004 as the inauguration of a new round of consolidation in the power sector.[115] One utility-to-utility acquisition was closed[116] and three were announced.[117] Most electric acquisitions in 2004 took place with the purchase of specific generation assets; many companies strove to stabilize financial profiles through asset sales. In aggregate, almost 36 GW of generation, or nearly 6 percent of installed capacity, changed hands in 2004.[118]

Table 1-6: Power Generation Asset Divestitures by Investor-Owned Electric Utilities, as of April 2000

Status Category	Capacity (GW)	Percent of Total	Percent of Total U.S. Generation Capacity

[111] Id. at 105.

[112] Id. at 91.

[113] Id. at 106.

[114] The EIA periodically reports on generation plant transfers. For a list of plants transferred in 2003- 2006, see the EIA Electric Power Montly, July 2006 [available at http://www.eia.doe.gov/cneaf/electricity/epm/tablees4.html].

[115] FERC State of the Markets Report 2005 at 30-32.

[116] Announced in December 2003, Ameren closed its acquisition of Illinois Power Co. in September 2004. Id. at 31.

[117] In January 2004, Black Hills Corp announced the acquisition of Cheyenne Light, Fuel & Power from Xcel Energy. In July 2004, PNM Resources, the parent of Public Service Company of New Mexico, announced the intention to acquire TNP Enterprises, the parent of Texas New Mexico Power Company from a group of private equity investors. Id. at 31-32. In December 2004, Exelon announced its intent to merge with PSEG, a plan that would create the nation's largest utility company by generation ownership, market capitalization, revenues, and net income. Id. at 32.

[118] Id. at 30.

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Sold	58.0	37	8
Pending Sale (Buyer Announced)	28.2	18	4
For Sale (No Buyer Announced)	31.9	20	4
Transferred to Unregulated Subsidiary	4.1	3	1
Pending Transfer to Unregulated Subsidiary	34.2	22	5
Total	156.5	100	22

Source: EIA 2000 Update, Table 19

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CHAPTER 2
CONTEXT FOR THE TASK FORCE'S STUDY OF COMPETITION IN WHOLESALE AND RETAIL ELECTRIC POWER MARKETS

This chapter provides the context and theoretical underpinnings to the Task Force's study of competition in wholesale and retail electric power markets. For approximately 70 years, state and federal policymakers regulated the generation, transmission, and distribution of electric power as natural monopolies – it was considered inefficient to have multiple sources of generation, transmission, and distribution facilities serving the same customers. The traditional "regulatory compact" required an electric power utility to serve all retail customers in a defined area in exchange for the opportunity to earn a reasonable return on its investment. This approach is often called "cost-based" or "cost-plus" regulation.

Technological and regulatory changes as discussed in Chapter 1 weakened the assumptions that underlay the historic natural monopoly treatment of the most capital intensive segment of the industry – the generation of electric power. Federal and several state policymakers introduced competition to provide for an economically efficient allocation of resources within the industry's generation. The expectation was that these efficiencies would lead to a lower end-use price of electricity than would the status quo. . This chapter describes the perceived shortcomings of traditional cost based regulation that motivated these regulatory changes. It also discusses the theoretical role of competitive price signals in guiding consumption and investment decisions[119]...

This chapter also incorporates consideration of three issues that policymakers confronted as they initially considered introducing competition into wholesale and retail electric power markets.

- *First*, end-use, and sometimes wholesale, customers under historical cost-based regulation often paid averaged prices for their electricity – prices that were calculated over an extended period of months or years that did not vary with their consumption or with variation in the cost of generating electric power. Thus electricity consumers did not receive economically accurate price signals to guide their consumption decisions. Similarly, suppliers did not receive economically accurate price signals to guide their short and long term sales of generation output.

- *Second*, regulators had historically encouraged local utilities to build or contract for sufficient generation to serve customers within their territories. These regulators blocked entry by independent generators or allowed the utilities to do so. These actions resulted in utilities owning nearly all generation assets within their own service territories. Under cost-based regulation, the regulator would set the price for electric power, which was an attempt to address possible market power abuses that otherwise could occur with the monopoly utility structure.

[119] For a full discussion of the theory of competition in electricity markets, see Steven Stoft, *Power System Economics: Designing Markets for Electricity,* IEEE Press, 2002.

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- Third, certain physical realities associated with electricity generation constrained regulatory and market options in this industry. The inability to economically store electric power means that electricity must generally be consumed as soon as it is generated – supply must always exactly equal demand in real time. The ability to deliver electric power depends, however, upon the availability and pricing of the regulated transmission grid.

A. Overview of Cost-Based Rate Regulation – Effect on Customer Prices and Investment Decisions

State policymakers imposed rate regulation on retail sales of electric power because allowing prices to be set by a monopoly utility was expected to lead to uneconomic results, namely higher prices with lower output. Regulators used cost-based regulation to meet state legal requirements to ensure sufficient output at reasonable prices for consumers.

1. Effect of Cost-Based Regulation on Customer Prices

Retail prices for most customers, although different for each customer class, often were average prices calculated over an extended period of months or years that did not vary with their consumption or with the costs of generating electric power. These rates were stable and often only varied by season (*e.g.*, summer rates may be higher than winter rates). Although time-based rates and certain regulated products such as interruptible or curtailable services have been used within the electric power industry for decades, they have not been applied to the vast majority of retail customers. In addition, many have argued that retail rate structures frequently contain cross-subsidies among customer classes.[120]

2. Effect on Investment Decisions

The usual market-based signal for efficient investment into a market – prices that align consumer demand with generators' supply under given market conditions – is unavailable under cost-based rate regulation of retail electric power prices. Under cost-based rate regulation, utilities could decide when to add generation, but their recovery of their costs for these investments was dependent on state regulators agreeing that the generation was necessary and prudent. (Most states also imposed siting regulation on construction of major electric power facilities). Thus, it was long term planners and regulators that determined when generation would be built, and it was consumers who bore the cost of investment risks once they had been approved by the state regulators. Utilities were reluctant to take investment risks that might end up being unrecoverable if the regulators deemed their cost unreasonable. By far, the most important of these decisions was for generation investment which constitutes the substantial majority of the capital investment in the electric power industry. While the intent of cost-based rate regulation was partly to keep price down, the unintended effect was sometimes to dampen investment in new capacity and innovation.[121] In making decisions, regulators struggled to strike the balance

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[120] Electricity Consumers Resource Council, Profiles in Electricity Issues: Cost-of-Service Survey (Mar. 1986).

[121] See e.g. The Economics and Regulation of Antitrust, at 6 -7.

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between reasonable rates and providing utilities with incentives to make necessary and sufficient investments.

Regulatory mistakes in setting rates too high or too low may lead to excessive or inadequate additions of new electric power generation and other forms of investment. If rates are set too high, utilities could earn a higher return on new generation investments than would be warranted by the cost of capital. The result could be overinvestment and overbuilding. If regulators were unlikely or unable to identify and disallow excessive construction costs, utilities had little incentive to design new generation plants in a cost-effective manner, . At the same time, regulatory disallowances of some costs imposed risk on utility decisions to elicit capital and build new generation, and investors sought compensation for this risk when they supplied capital to utilities.[122]

Indeed, a 1983 Department of Energy analysis of electric power generation plant construction showed that electric utilities (which were regulated under a cost-based regulatory regime) had little ability to control the construction costs of coal and nuclear generation plants. During the 1970s and early 1980s, the cost range per megawatt to build a nuclear plant varied by nearly 400 percent and for coal plants by 300%. The DOE study showed that some companies were not competent to manage such large-scale, capital-intensive projects. In addition, there was a tendency to custom design these plants, as opposed to use of a basic design and then refining it.[123]

Box 2-1
Market Prices

Market prices reflect myriad individual decisions about prices at which to sell or buy. Market prices are a mechanism that equalizes the quantity demanded and the quantity supplied. Rising prices signal consumers to purchase less and producers to supply more. Falling prices signal consumers to purchase more and producers to supply less. Prices will stop rising or falling when they reach the new equilibrium price: the price at which the quantity that consumers demand matches the quantity that producers supply.

One alternative to traditional rate-of-return regulation is price cap regulation. Under this approach, the regulator caps the price a firm is allowed to charge.[124] This alternative may

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[122] In the academic literature, the risk of utility overinvestment has been explained by the Averch-Johnson Effect. The Averch-Johnson Effect reflects that "a firm that is attempting to maximize profits is given, by the form of regulation itself, incentives to be inefficient. Furthermore, the aspects of monopoly control that regulation is intended to address, such as high prices, are not necessarily mitigated, and could be made worse, by the regulation." KENNETH E. TRAIN, OPTIMAL REGULATION 19 (1991). The Averch-Johnson Effect also predicts that if a regulator attempts to reduce a firm's profits by reducing its rate of return, the firm will have an incentive to further increase its relative use of capital. Id. at 56. Thus, the most obvious regulatory control within cost-base rate regulation creates further distortions. The Averch-Johnson Effect is sometimes thought to explain why a regulated firm is led to "gold plate" its facilities, i.e. incur excessive costs so long as those expenses can be capitalized.

[123] U.S. Dept. of Energy, The Future of Electric Power in America: Economic Supply for Economic Growth, June, 1983 (DOE/PE-0045).

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remedy some of the incentive problems of cost-based regulation. Another alternative is Integrated Resource Planning, which provided that choices about the building of new generation would be controlled by the regulator. Even with this oversight mechanism, regulators had few reference points to determine prudence in the choices that the builder made about design, efficiency, and materials.

In part, the struggles of regulators to ensure adequate supplies of power at reasonable rates led policy makers to examine whether competition could provide more timely and efficient incentives for what to consume and build. Advances in technology weakened the argument for treating generation as a natural monopoly, and thus set the stage for consideration of competitive pricing as an option for eliciting entry by new generators or expansion by existing generators. Generally, the assumption has remained that transmission and distribution shouldcontinue to be regulated operations.

B. Overview of the Role of Price in Competitive Wholesale and Retail Electric Power Markets

With competitive markets, the price of a commodity generally signals the relative value of that commodity compared to other goods and services The price signals the relative value of that commodity compared to other goods and services. How much a supplier will produce at a given price is determined by many things, including (in the long run) how much it must pay for the labor it hires, the land and resources it uses, the capital it employs, the fuel inputs it must purchase to generate the electric power, the transmission it must use to deliver the electric power to end users, and the risks associated with its investment. Consumers' overall willingness to pay for a product also is determined by a large variety of factors, such as the existence and prices of substitutes, income, and individual preferences.

1. Price Affects Customer Consumption

Price changes signal to customers in wholesale and retail markets that they should change their decisions about how much and when to consume electric power. Price increases generally provide a signal to customers to reduce the amount they consume. The dampening effect on price of a reduction in consumption helps consumers safeguard themselves against a supplier that may seek to exercise market power by increasing prices. By contrast, lower prices may encourage some customers to consume more than they would have at higher prices. Price changes thus play an important economic function by encouraging customers and suppliers to respond to changing market conditions. In the electric power industry, consumer's price responsiveness is often referred to as "demand response."[125]

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[124] Under price cap regulation, a firm can theoretically "produce with the cost-minimizing input mix [and] invest in cost-effective innovation." Train at 318. However, this dynamic only occurs where the price cap is fixed over time and the utility receives the benefit of cost reductions and cost-effective innovations. Further, the benefit of this increased efficiency "accrues entirely to the firm: consumers do not benefit from the production efficiency." Id. Where the price cap is adjusted over time, firms are induced to engage in strategic behavior. Additionally, "if, as . . . expected, the review of price caps is conducted like the price reviews under cost-base rate regulation, then the distinction blurs between price-cap regulation and cost-base rate regulation." Id at 319.

[125] U.S. Department of Energy, Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the

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The primary purpose of incorporating market driven prices into wholesale and retail electric power markets is to provide consumers with price signals that accurately reflect the underlying costs of production and thereby encourage efficient consumption patterns. Economic analysis suggest that the market dynamics produced by this type of pricing will result in lower overall prices (as compared with averaged-cost pricing).

Accurate price signals are expected to improve the efficiency of electric power production by more closely aligning the price that customers pay *for* and the value they place *on* electricity. In particular, by exposing customers (some or all) to prices based on marginal production costs, resources can be allocated more efficiently.[126] Accurate price signals also reduce cross subsidies between customers and customer classes .[127] Flat electricity prices based on average costs can lead customers to "over-consume—relative to an optimally efficient system in hours when electricity prices are higher than the average rates, and under-consume in hours when the cost of producing electricity is lower than average rates."[128] Exposure of customers to efficient price signals also has the benefit of increasing price response during periods of scarcity and high prices, which can help moderate generator market power and improve reliability.

When customers have many close substitutes for a particular good, a relatively small price increase will result in a relatively large reduction in how much they consume. For example, if natural gas were a very good substitute for electric power at comparable prices, then even a relatively small increase in the price of electric power could persuade many consumers to switch in part or entirely to natural gas, rather than electricity. To induce those consumers to return to using electricity, electricity prices would not need to fall by very much. However, when there are no close substitutes for electric power, prices may have to rise substantially to reduce consumption in order to restore the balance between the quantity supplied and the quantity demanded.

A substantial body of empirical literature has shown that, even if the retail price of electricity increases relatively quickly and sharply, the short-run consumption of electricity does not decline

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Energy Policy Act of 2005, February 2006 (DOE EPAct Report). The DOE EPAct Report discusses the benefits of demand response in electric power markets and makes recommendations to achieve these benefits.

[126] There is a substantial literature on setting rates based on marginal costs in the electric sector. See for example, M. Crew and P. Kleindorfer, Public Utility Economics. St. Martin's Press: New York, 1979 and B. Mitchell, W. Manning, and J. Paul Acton, Peak-Load Pricing. Ballinger: Cambridge, 1978. Other papers suggest that setting rates based on marginal costs will result in a misallocation of resources (see Borenstein, S., The Long-Run Efficiency of Real-Time Pricing, ENERGY JOURNAL, Vol. 26, No. 3, 2005). Nevertheless, the literature also indicates that marginal cost pricing may result in a revenue shortfall or excess, and standard rate-making practice is to require an adjustment (presumably to an inelastic component) to reconcile with embedded cost-of-service. Various rate structures to accomplish marginal-cost pricing include two-part tariffs (see Viscusi, Vernon, and Harrington, Economics of Regulation and Antitrust, MIT Press, 2000) and allocation of shortfalls to rate classes.

[127] The reduction of cross subsidies can be seen as having both positive and negative implications for society as a whole – depending on one's perspective and whether the cross-subsidy supports publicly acceptable goals – such as rural electrification.

[128] DOE EPAct Report, p. 7

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much. In economic terms it is said that the short-run demand for electricity, with respect to price, does not decline much for many customers. *See* Box 2-3. This inability to substitute other products for electricity in the short run means that changes in supply conditions (price of input fuels, etc.) are likely to cause wider price fluctuations than would be the case if customers could easily reduce their consumption when prices rise. Furthermore, electric power has few viable and economic substitutes for key end-uses such as refrigeration and lighting and thus the consequences for supply shortfalls can be significant.[129] In the long run, this effect may be somewhat muted as, with time, electricity customers may have more ability to adjust their consumption in response to price changes.

Box 2-2
Price Elasticity of Demand

The desire and ability of consumers to change the amount of a product they will purchase when its price increases is known as the price elasticity of demand for that product. The price elasticity of demand is the ratio of the percent change in the quantity demanded to the percent change in price. That is, if a 10 percent price increase results in a 5 percent decrease in the quantity demanded, the price elasticity of demand equals -0.5 (-5%/10%). If the ratio is close to zero demand is considered "inelastic", and demand is more "elastic" as the ratio increases, especially if the ratio is greater than -1. Short-run elasticities are typically lower than long-run elasticities.

[129] Estimates of the total costs in the United States due to August 14, 2003 blackout range between $4 billion and $10 billion. ELCON, The Economic Impacts of the August 2003 Blackout, February 2, 2004.

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Experience in New York, Georgia, California, and other states and pricing experiments have demonstrated that customers have adjusted their consumption, and can be at least somewhat responsive to short-run price changes (*i.e.*, have a non-zero short-run price elasticity of demand). Georgia Power's Real Time Pricing (RTP) tariff option has found that industrial customers who receive RTP based on an hour-ahead market are somewhat price-responsive (short-run price elasticities ranging from approximately -0.2 at moderate prices, to -0.28 at prices of $1/kWh or more). Among day-ahead RTP customers, short-run price elasticities range from approximately -0.04 at moderate prices to -0.13 at high prices. Limited responsiveness to price was also found in the National Grid RTP pricing program.[130]. A critical peak pricing experiment in California in 2004 determined that small residential and commercial customers are price responsive and will make significant reductions in consumption (13 percent on average, and as much as 27 percent when automated controls such as controllable thermostats were installed) during critical peak periods. In addition, the California pilot found that most customers who were placed on the CPP tariffs had a favorable opinion of the rates and would be interested in continuing in the program.[131]

The ability of a customer to respond to prices requires the following conditions: (1) that time-differentiated price signals are communicated to customers, (2) that customers have the ability to respond to price signals (*e.g.*, by reducing consumption and/or turning on an on-site generator), and (3) that customers have interval meters (*i.e.*, so the utility can determine how much power was used at what time and bill accordingly).[132] Most conventional metering and billing systems are not adequate for charging time-varying rates and most customers are not used to considering price changes in making electricity consumption decisions on a daily or hourly basis. There is, however, a significant effort underway to improve metering technology and infrastructure to better facilitate end-use price responsiveness.[133]

2. Supplier Responses Interact with Customer Demand Responses to Drive Production

Generation supply responses are equally important in the theoretical determination of an appropriate equilibrium market price. The extent of supply responses will depend on the cost of

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[130] Goldman, et al., "Does Real-Time Pricing Deliver Demand Response? A Case Study of Niagara Mohawk's Large Customer RTP Tariff," Lawrence Berkeley National Laboratory (Aug. 2004) available at http://drrc.lbl.gov/pubs/54974.pdf. and Hopper, Goldman and Neenan, "Demand response from Day-Ahead Hourly Pricing for Large Customers," 19:3 Electricity Journal 52 (Apr. 2006)

[131] Charles River Associates, Impact Evaluation of the California Statewide Pricing Pilot, Final Report, March 16, 2005, available at http://www.energy.ca.gov/demandresponse/documents/group3_final_reports/2005-03-24_SPP_FINAL_REP.PDF . Customers on a similar CPP program at Gulf Power also have high satisfaction with the program, which incorporates automated response to CPP events.

[132] EEI; PEPCO cautions that many customers, particularly residential and commercial customers, are relatively inflexible in responding to price changes due to constraints imposed by their operations and equipment.

[133] See 6/23/06 comments of the Mercatus Center of George Mason University in response to FERC Docket AD05-17 and U.S. Department of Energy, Benefits of Demand Response in Electricity Markets and Recommendations for Achieving Them: A Report to the United States Congress Pursuant to Section 1252 of the Energy Policy Act of 2005, February 2006 (DOE EPAct Report).

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increasing or decreasing output. Generally, the longer industry has to adjust to a change in demand, the lower will be the cost of expanding that output. With more time, firms have more opportunity to change their operations or invest in new capacity.

If the cost of increasing production is small, then a relatively small price increase may be enough to encourage existing producers to increase their production levels to provide additional supply in response to increased demand. If the cost of increasing electricity capacity is high, however, existing suppliers will not increase their production without a very strong price signal. In that case, customers would have to pay significantly higher prices to obtain additional supply. Additionally, if suppliers are already producing as much electric power as they can, increased demand can be met only from new capacity, and suppliers must be confident that prices will remain high enough for long enough to justify building a new generating plant.

These supply decisions are complicated because electric power cannot be stored economically, thus there are generally no inventories in electricity markets. Therefore, electricity generation must always exactly match electricity consumption.[134] The lack of inventories means that wholesale demand is completely determined by end-use demand [135]. Moreover, any distant generation must "travel" over a transmission system with its own limiting physical characteristics. [136] Transmission capability is required to allow customers access to distant generation sources. The transmission system is complicated by the fact that the dynamics of the AC transmission grid create network effects and can produce positive externalities (depending on the method used in accounting for transmission costs).[137] That is to say, where a transmission user is not charged for the congestion impacts of his or her use patterns, that user's actions can cause costs to others– costs which the causal party is not obligated to pay. This dynamic can distort the effect of price signals on dispatch efficiencies.

Moreover, aggregate retail demand fluctuates throughout the day, with higher demand during the day than at night. Fluctuating demand means that the transmission operator must have sufficient capacity to equal or exceed customer demand in real-time. Load serving entities (those entities that deliver power to meet demand or "load") must supply or procure sufficient capacity and energy (either in long-term contracts or short-term "spot" market purchases) to meet these varying loads. The costs of generating electricity are also highly variable, leading to wide disparity between the costs of generating electricity from generation plants that operate around-the-clock versus the cost of those that generate only during peak periods.

In any case, a higher price signals a legitimate economic profit opportunity, attracting resources where they are most highly valued. If customer demand decreases in response to rising prices, prices are likely to fall, all else equal. In that circumstance, falling demand signals suppliers to reduce the amount of electric power that they supply. Suppliers will reduce their generation to

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[134] APPA

[135] While the demand for surplus energy in wholesale markets can vary as a function of the cost of owned generation and existing contracts, the ultimate demand for energy is entirely a function of end-use load.

[136] Alcoa

[137] TAPS

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meet the new, lower level of consumer demand, and will not be inclined to consider any new capacity increases.

3. Customer and Supplier Behavior Responding to Price Changes in MarketsIn sum, the combined impact of consumers' and suppliers' responses to changed market conditions should produce a new market equilibrium price. Current prices must change when they create an imbalance between the quantity demanded and the quantity supplied. For example, when demand spikes, short-run prices might have to swing sharply higher to provide incentives for short-run supply increases. However, consumers do not have very many good substitutes for electric power, and suppliers usually cannot increase output instantly or transport distant available generation to increase the quantity supplied to a market. Even if higher prices give consumers and producers incentives to change their behavior, they may have little ability to do so in the short term. Over much longer time frames, however, both consumers and producers have more options to react to higher prices. The result is that long-run price increases usually will be much smaller than the short-run price increases needed to induce additional generation.

C. Comparing the Benefits to the Costs of Restructuring Markets for Electricity

While the shortcomings of cost of service regulation played major a role in the shift towards competitive electricity market structures, some market participants question whether the benefits of this shift outweigh the costs associated with establishing such markets. Indeed, some question whether electricity markets are, by nature, sufficiently competitive to warrant expectations of price reductions.[138] These parties note the cost of operating ISOs and the cost to consumers of market manipulations and failures. Respondents to these concerns suggest that these markets are too new to warrant passing such judgment – they note that these failures may well be a result of ill-advised market designs and they find benefits even in the face of such failures.

As various regulatory bodies considered whether to adopt more competitive markets for electricity, some did conduct formal cost-benefit studies to address this question of the relative benefits of the status quo vs. proposed policy changes. Indeed, the Task Force received many comments identifying, endorsing, or criticizing such studies. It would be a very significant task to fully examine, critique, and draw definitive conclusions from these widely varying studies. The task force did not have the resources or time to take on this task. Instead, we provide the reader with an annotated bibliography of many of these studies and include references to critiques of those studies. This bibliography is attached as Appendix C. We also refer the reader to the results of a recent Department of Energy review of RTO benefit cost studies – see Box 2-3.

[138] American Public Power Association, comments.

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Box 2-3

"A Review of Recent RTO Benefit-Cost Studies: Toward More Comprehensive Assessments of FERC Electricity Restructuring Policies"

By J. Eto, B. Lesieutre, and D. Hale, Prepared for the U.S. Department of Energy, December 2005

This paper provides a review of the state of the art in RTO Cost/Benefit studies and suggests methodological improvements for future studies. The study draws the following conclusions:

In recent years, government and private organizations have issued numerous studies of the benefits and costs of Regional Transmission Organizations (RTOs) and other electric market restructuring efforts. Most of these studies have focused on benefits that can be readily estimated using traditional production-cost simulation techniques, which compare the cost of centralized dispatch under an RTO to dispatch in the absence of an RTO, and on the costs associated with RTO start-up and operation. Taken as a whole, it is difficult to draw definitive conclusions from these studies because they have not examined potentially much larger benefits (and costs) resulting from the impacts of RTOs on reliability management, generation and transmission investment and operation, and wholesale electricity market operation.

Existing studies should not be criticized for often failing to consider these additional areas of impact, because for the most part neither data nor methods yet exist on which to base definitive analyses. The primary objective of future studies should not be to simply improve current methods, but to establish a more robust empirical basis for ongoing assessment of the electric industry's evolution. These efforts should be devoted to studying impacts that have not been adequately examined to date, including reliability management, generation and transmission investment and operational efficiencies, and wholesale electricity markets. Systematic consideration of these impacts is neither straightforward nor possible without improved data collection and analysis.

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CHAPTER 3
COMPETITION IN WHOLESALE ELECTRIC POWER MARKETS

A. Introduction and Overview

Congress required the Task Force to conduct a study of competition in wholesale electric power markets. Wholesale markets involve sales of electric power among generators, marketers, load serving entities (*i.e.*, distribution utilities and competitive retail providers) that ultimately resell the electric power to end-use customers (*e.g.*, residential, commercial, and industrial customers). Prior to the introduction of competition, vertically integrated utilities with excess electric power sold it to other utilities and to wholesale customers such as municipalities and cooperatives that had little or no generating capacity of their own. The Federal Energy Regulatory Commission (FERC) and its predecessor agency (the Federal Power Commission) regulated the prices, terms and conditions of interstate wholesale sales by investor-owned utilities. The desire of wholesale purchasers for access to competitive sources of electric power was a fundamental impetus to the opening of the generation sector to competition.[139]

Effective competition ensures an economically efficient allocation of resources. Congress in the Energy Policy Act of 1992 (EPACT 92) determined that competition in wholesale electric power markets would benefit from two changes to the traditional regulatory landscape: (1) expansion of FERC's authority to order utilities to transmit, or "wheel," electric power on behalf of others over their owned transmission lines; and (2) reduction of entry barriers so additional non-utility entry could occur. The former change permitted wholesale customers to purchase supply from distant generators and the latter change provided customers with competitive alternatives from independent entrants.[140]

As described in Chapter 2, an important component of effective market operation is customer response to prices. The demand for wholesale power, however, is derived entirely from consumption choices at the retail level. The fundamental nature of electric power operations – the inability to store electricity and the need to balance generation and use instantaneously – only intensifies the direct link between wholesale and retail electric power markets. But retail electricity prices are not set in wholesale markets. State regulators set the prices for retail customers. State regulators generally have treated wholesale rates as one input into retail prices. Regulated retail rates may dilute the direct impact of the price of wholesale power on retail prices.[141] Thus, retail consumption decisions have been guided by prices, terms, and conditions that often do not reflect directly the wholesale price to purchase the electric power or the cost

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[139] US v. Otter Tail Power Company, 410 U.S. 366 (1973) (the United States sued a vertically integrated utility for refusal to deal with the Town of Elbow Lake, MI, a town that was seeking alternative sources of wholesale power for a planned municipal distribution system).

[140] See EPACT 92 House Report. H.R. No. 102-474(I) at 138.

[141] See infra Chapter 1.

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generators incurred to produce it. As reviewed in Chapter 2, this disconnect can lead to inefficiencies in the cost of electricity generation leading to higher than necessary end-use prices.

The effects of this regulated price disconnect is heightened by the fact that one of the shortcomings of cost-based rate regulation has been its difficulty in providing incentives for investors to make economically efficient decisions concerning when, where, and how to build new generation. If competition is to allocate resources in an economically efficient manner, customers must have access to a sufficient number of competing suppliers either via transmission, incumbent generation, or from new local generation.[142]

Thus, in examining the success of competition to date, a fundamental question to ask is whether competition in wholesale markets has resulted in sufficient generation supply and transmission to provide wholesale customers with the kind of choice that is generally associated with competitive markets. This is the primary question we attempt to address in this chapter.

In examining this question, we have come to two observations. First, the answer to this question is difficult to derive because each region was at a different regulatory and structural starting point upon Congress's enactment of the Energy Policy Act of 1992. These differences make it difficult to single out the determinants of consumption and investment decisions and thus make it difficult to evaluate the degree to which more competitive markets have influenced such decisions. Even the organized exchange markets have different features and characteristics. For example, some regions already had tight power pools, while others were more disparate in their operation of generation and transmission. Some regions had higher population densities and thus more tightly configured transmission networks than did others. Some regions had access to fuel sources that were unavailable or less available in other regions (*e.g.*, natural gas supply in the Southeast, hydro-power in the Northwest). Some regions operate under a transmission open-access regime that has not changed since the early days of open access in 1996, while other regions have independent provision of transmission services and organized day-ahead exchange markets for electric power and ancillary services.

Second, competition in wholesale electric power markets may not lead to an efficient allocation of resources involving services that prevent cascading network collapse. Economics recognizes that if there are public good aspects to the delivery of a good or service, then regulation may be the best way to ensure the provision of the correct level of the good or service (although in particular circumstances a form of remedy for the problem may be available that is superior to regulation). This concept of network reliability will be helpful in enlightening the discussion on entry and capacity markets later in the chapter.

This chapter discusses the impact of competition for generation supply on the ability of wholesale customers to make economic choices among suppliers and for suppliers to make

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[142] In a 2002 report, the then-named General Accounting Office made a related point, connecting increasing competition to structural changes. U.S. Gen. Accounting Office, GAO-03-271, LESSONS LEARNED FROM ELECTRIC INDUSTRY RESTRUCTURING 21 (2002) ("Increasing the amount of competition requires structural changes within the electric industry, such as allowing a greater number of sellers and buyers of electricity to enter the market").

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economic investment decisions. It also addresses whether and how entry has occurred in several regions with different forms of competition (*e.g.*, the Midwest, Southeast, California, the Northwest, Texas, and the Northeast). This chapter also includes a discussion of how long-term purchase and supply contracts, capital requirements, regulatory intervention, and transmission investment affect supplier and customer decisions. The chapter concludes with observations on various regional experiences with wholesale competition.[143] These observations highlight the trade-offs involved with various policy choices used to introduce competition.

B. Background

Congress enacted the EPACT 92 to facilitate wholesale competition in the electric power industry. One of the stated purposes of the EPACT 92 was "to use the market rather than government regulation wherever possible both to advance energy security goals and to protect consumers."[144] Policy makers recognized that vertically integrated utilities had market power in both transmission and generation – that is they owned all transmission and nearly all generation plants within certain geographic areas. Congress, therefore, enhanced FERC's authority to order utilities, case-by-case, to transmit power for alternative sources of generation supply.

Today, vertically integrated utilities that operate their transmission systems generally offer transmission service under the terms of the standard Open Access Transmission Tariff (OATT) adopted by FERC in Order No. 888. The OATT requires a utility to offer the same level of transmission service, under the same terms and conditions and at the same rates that it provides to itself. Vertically integrated utilities (also referred to here as the transmission provider) offer two types of long-term transmission service under the OATT: network integration transmission service (network service) and point-to-point transmission service. See Box 3-1 for a description of both types of transmission service. For both services, the price has been predictable and stable over the long term.[145]

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[143] The New York State Public Service Commission correctly commented that another metric with which to measure competition is its effect on production efficiencies. The Task Force did not seek to quantify this effect, given the constraints of the Report.

[144] H.R. No. 102-474(I) at 133.

[145] The demand charge for long-term point-to-point transmission service is known in advance. For network service, the transmission customer pays a load ratio share of the transmission provider's FERC-approved transmission revenue requirement. Thus, even if redispatch to relieve transmission congestion occurs and the costs are charged to customers, or expansion is necessary and the costs of the expansion are added to the revenue requirement, the distribution of the costs over the whole system has allowed the charges to individual customers to remain relatively stable. Customers who take either kind of service have a right to continue taking service when their contract expires, although point-to-point customers may have to pay a different rate (up to the maximum rate stated in the transmission provider's tariff) for that service if another customer offers a higher rate.

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Box 3-1
How Transmission Services Are Provided Under the OATT:

OATT contracts can be for point to point (PTP) or "network" transmission service. Network integration transmission service allows transmission customers (e.g., load serving entities) to integrate their generation supply and load demand with that of the transmission provider.

A transmission customer taking network service designates "network resources," which includes all generation owned, purchased or leased by the network customer to serve its designated load, and individual network loads to which the transmission provider will provide transmission service. The transmission provider then provides transmission service as necessary from the customer's network resources to its network load. The customer pays a monthly charge for the basic transmission service, based on a "load ratio share" (*i.e.*, the percentage share of the total load on the system that the customer's load represents) of the transmission-owning and operating utility's "revenue requirement" (*i.e.*, FERC-approved cost-of-service plus a reasonable rate of return).

In addition to this basic charge, some additional charges may be incurred. For example, when a transmission customer takes network service, it agrees to "redispatch" its generators as requested by the transmission provider. Redispatch occurs when a utility, due to congestion, changes the output of its generators (either by producing more or less energy) to maintain the energy balance on the system. If the transmission provider redispatches its system due to congestion to accommodate a network customer's needs, the costs of that redispatch are passed through to all of the transmission provider's network customers, as well as to its own customers, on the same load-ratio share basis as the basic monthly charge.

Also, the transmission provider must plan, construct, operate and maintain its transmission system to ensure that its network customers can continue to receive service over the system. To the extent that upgrades or expansions to the system are needed to maintain service to a network customer, the costs of the upgrades or expansions are included in the transmission-owning utility's revenue requirement, thus impacting the load-ratio share paid by network customers.

Point-to-point transmission service, which is available on a firm or non-firm basis and on a long-term (one year or longer) or short-term basis, provides for the transmission of energy between designated points of receipt and designated points of delivery. Transmission customers that take this kind of service specify a contract path. A customer taking firm point-to-point transmission service pays a monthly demand charge based on the amount of capacity it reserves. Generally, the demand charge may be the higher of either the transmission provider's embedded costs to provide the service, or the incremental costs of any system expansion needed to provide the service. Also, if the transmission system is constrained, the demand charge may reflect the higher of the embedded costs or the transmission provider's "opportunity" costs, with the latter capped at incremental expansion costs.

The comments submitted in response to the Task Force's request raised several concerns as to transmission-dependent customers' access to alternative generator suppliers via OATTs. In particular, some commenters noted that there is a continued possibility of transmission discrimination in their region, and that the ability for transmission suppliers to discriminate can deny transmission-dependent customers access to alternative suppliers.[146] The commenters conclude that transmission discrimination can increase delivery risk because purchasers feared that their transmission transactions might be terminated for anticompetitive reasons by their

[146] APPA, TAPS. See also Midwest Stand Alone Transmission Companies.

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vertically integrated rival, were they to purchase generation from a generator who is not affiliated with the transmission provider. The fact that electricity cannot be stored economically and electricity demand is very inelastic in the short term heightens the ill- effects of this delivery risk.

One response to this risk is to turn over operation of the transmission grid in a region to an independent operator, like the ones that now operate in New England, New York, the Mid-Atlantic, Texas, and California ("organized markets"). With the market design in these regions, there is no risk that a wholesale customer will not be able to deliver power to its retail customers (although they remain exposed to price risk).[147] See Box 3-2 for a discussion of how transmission is provided in organized wholesale markets.

[147] Prior to wholesale competition, several of the regions listed had "power pools" of utilities that undertook some central economic dispatch of plants and divided the cost savings among the vertically integrated utility members.

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Box 3-2
How Transmission is Priced in an ISO or RTO

ISOs and RTOs (hereinafter RTOs) provide transmission service over a region under a single transmission tariff. They also operate organized electricity markets for the trading of wholesale electric power and/or ancillary services. Transmission customers in these regions schedule with the RTO injections and withdrawals of electric power on the system, instead of signing contracts for a specific type of transmission service with the transmission owner under an OATT.

The pricing for transmission service is substantially different in these regions than under the OATT. RTOs generally manage congestion on the transmission grid through a pricing mechanism called Locational Marginal Pricing (LMP). Under LMP, the price to withdraw electric power (whether bought in the exchange market or obtained through some other method) at each location in the grid at any given time reflects the cost of making available an additional unit of electric power for purchase at that location and time. In other words, congestion may require the additional unit of energy to come from a more expensive generating unit than the one that cannot be accessed due to the system congestion. In the absence of transmission congestion, all prices within a given area and time are the same. However, when congestion is present, the prices at various locations typically will not be the same, and the difference between any two locational prices represents the cost of transmission system congestion between those locations.

Because congestion on the grid changes constantly, a transmission customer is unable to determine beforehand the price for electric power at any location. To reduce this uncertainty, RTOs make a financial form of transmission rights available to transmission customers, as well as other market participants. Generally known as financial transmission rights (FTRs), they confer on the holder the right to receive certain congestion payments. Generally, an FTR allows the holder to collect the congestion costs paid by any user of the transmission system and collected by the RTO for electric power delivered over the specific path. In short, if a transmission customer holds an FTR for the path it takes service over, it will pay on net either no congestion charges (if the FTR matches the path exactly) or less congestion charges (if the FTR partially matches), providing a financial "hedge" against the uncertainty.

In general, FTRs are now available for one-year terms (or less), and are allocated to entities that pay access charges or fixed transmission rates. Pursuant to EPACT 05, FERC has begun a rulemaking to ensure the availability of long-term FTRs.

In regions with RTOs, wholesale electricity can be bought and sold through the use of negotiated bilateral contracts, through "standard commercial products" available in all regions, and through various products offered by the organized exchange market. For bilateral contracts, the contract can be individually negotiated and have terms and conditions unique to a single transaction. Standard products are available through brokers and over-the-counter (OTC) exchanges such as the NYMEX and Intercontinental Exchange (ICE).[148] Standard products have a standard set of specifications so that the main variant is price. Finally, there are organized exchange markets operated by the RTOs. In addition to offering transmission services, these organized exchange

[148] Companies can also limit their exposure to price swings through financial instruments rather than contracts for physical delivery of electricity. Such contracts are essentially a bet between two parties as to the future price level of a commodity. If the actual price for power at a given time and location is higher than a financial contract price, Party A pays Party B the difference; if the price is lower, Party B pays Party A the difference. In fact, in the United States electricity markets, such agreements are sometimes called "contracts for differences.." Purely financial contracts involve no obligation to deliver physical power. In this report, we discuss contracts for physical delivery rather than financial contracts, unless otherwise noted.

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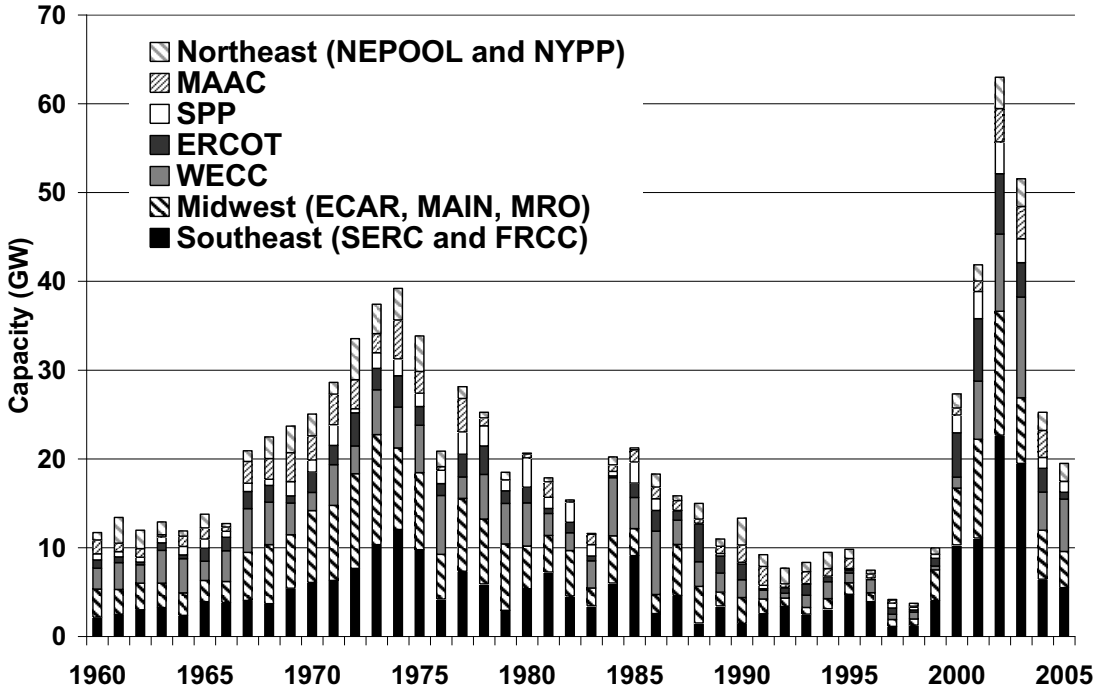
markets offer various products including electric power and ancillary services. Electric power markets typically involve sales of electric power in both real-time and day-ahead markets. Ancillary services include various categories of generation reserves such as spinning and non-spinning reserves in addition to Automatic Generation Control (AGC) for frequency control.

The question remains, however, whether the price signals described in Chapter 2 have functioned to elicit the consumption and investment decisions that were expected to occur with wholesale market competition? The next section reviews generation entry in different regions.

C. Generation Investment Has Varied by Region since Competition Increased in Wholesale Electric Power Markets

Since the adoption of open access transmission and the growth of competition, the amount of new generation investment has varied significantly by region. Figure 3-1 shows the overall pattern of new investment, broken down by region. A substantial amount of new investment has occurred in the Southeast, Midwest, and Texas. Other regions have not experienced as much investment. Wholesale customers obtain transmission services under different pricing formats in each region. Moreover, the regions that operate exchange markets for electric power and ancillary services use different forms of locational pricing, price mitigation, and capacity markets.

Figure 3-1: U.S. Electric Generating Capacity Additions (1960 – 2005)



Source: FERC Analysis of Platts PowerDat Data

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These regional differences provide some insight into the impact of different policy choices on the challenge to create markets with sufficient supply choices to support competition and to allocate resources efficiently.

1. Midwest

Wholesale Market Organization: In 2004, the Midwest RTO began providing transmission services to wholesale customers in its footprint. On April 1, 2005, the MISO commenced its organized electric power market operations. Prior to this time, wholesale customers obtained transmission under each utility's OATT and there were no centralized electric power exchange markets.

New Generation Investment: The Midwest experienced a wholesale price spike during the summer of 1998.[149] An increase in demand due to unusually hot weather combined with unexpected generation outages created a rapid spike in wholesale prices. A significant amount of new generation was built in response to the price spike as shown in Table 3-1. For example, from January 2002 through June 2003, the Midwest added 14,471 MW in capacity.[150]

Most of the new generation was gas-fired, even though the region as a whole relies primarily on coal-fired generation.[151] More- recent entry has in fact been coal fired, in part because of rising natural gas prices.[152] The results of this entry and the subsequent drop in wholesale power prices have included: (1) merchant generators in the region declaring bankruptcy; and (2) vertically-integrated utilities returning certain generation assets from unregulated wholesale affiliates to rate-base.

2. Southeast

Wholesale Market Organization: Wholesale customers in the region obtain transmission under each utility's OATT (*e.g.*, Entergy or Southern Companies). There are no centralized electric power markets specific to the region.

New Generation Investment: The Southeast's proximity to natural gas sources in the Gulf of Mexico and pipelines to transport that natural gas have made natural gas a popular fuel choice for those building plants in the region. The Southeast has seen considerable new generation construction as shown in Figure 3-1. More than 23,000 MW of capacity were added in the

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[149] Fed. Energy Regulatory Comm'n, Staff Report to the Fed. Energy Regulatory Comm'n on the Causes of Wholesale Electric Pricing Abnormalities in the Midwest During June 1998 (1998).

[150] FERC State of the Markets Report 2004 at 109.

[151] FERC State of the Markets Report 2004 at 50.

[152] FERC State of the Markets Report 2005 at 77.

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Southern control area between 2000 and 2005,[153] and several generation units owned by merchants or load-serving entities have been built in the Carolinas in the past few years.

A significant portion of the new generation in the Southeast was non-utility merchant generation. A number of merchant companies that built plants in the 1990s have sought bankruptcy protection. Often, the plants of the bankrupt companies have been purchased by local vertically-integrated utilities and cooperatives, such as Mirant's sale of its Wrightsville plant to Arkansas Electric Cooperative Corporation and NRG's sale of its Audrain plant to Ameren.[154] Even apart from bankruptcies, some independent power producers have withdrawn from the region.

3. California

Wholesale Market Organization: The California ISO began operation in 1998 to provide transmission services. Concurrently, a separate Power Exchange (PX) operated electric power exchanges. Subsequent to the 2000-01 energy crisis, California dissolved the PX.

New Generation Investment: Even prior to the California energy crisis, California was dependent on imported electric power from neighboring states. Much of the generation capacity for Southern California was built a substantial distance away from the population it serves, making the region heavily-dependent upon transmission. In the past few years, much of the generation in California has operated under long-term contracts negotiated by the State during the energy crisis.[155] Since 2000-01, demand has increased in California, but construction of local generation has not kept pace. Over 6,000 MW of new generation capacity has entered California in 2002-03, but very little of it was built in congested, urban areas like San Francisco, Los Angeles and San Diego.[156] The commenters acknowledged that significant new generation has been announced or built in California in the past few years, but most of the projects have been in Northern California.[157] In the past five years, transmission investment has improved links between Southern and Northern California and accessible generation investment in the Southwest more generally has increased.

4. The Northeast

a. New England

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[153] Southern Companies.

[154] See FITCH RATINGS, WHOLESALE POWER MARKET UPDATE (Mar. 13, 2006), available at http://www.fitchratings.com/corporate/sectors/special_reports.cfm?sector_flag=2&marketsector=1&detail=&body_content=spl_rpt.

[155] See supra, Chapter 1, for a more extensive discussion of the Western Energy Crisis of 2000 - 2001.

[156] FERC State of the Markets Report 2005 at 69; FERC State of the Markets Report 2004 at 41-43.

[157] California ISO.

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Wholesale Market Operation: The New England ISO (ISO-NE) provides transmission services as well as operating a centralized electric power market. Under the electric power pricing mechanism adopted by the New England ISO, certain units used to maintain local resource adequacy must bid into the energy markets at marginal costs under must-run reliability contracts. The fixed costs of these high-priced units are recovered from users in the pertinent reliability zone.

New Generation Investment: Much of the generation in New England has been built in less populated areas of the region, such as Maine, but much of the demand for power is in southern New England. From January 2002 through June 2003, ISO-NE added 4159 MW in capacity.[158] Capacity additions in 2004 were less than in the two previous years. In 2004, four generation projects came on line. Generation retirements in 2004 totaled 343 MW, of which 212 MW are deactivated reserves.

Demand growth in the organized New England markets has led to "load pockets," areas of high population density and high peak demand that lack adequate local supply to meet demand and for which transmission congestion prevents use of distant generation units to meet local demand. These pockets have not seen entry of generation to meet that demand. Transmission has not always been adequate to bridge this gap. In general, New England needs new generation in the congested areas of Boston and Southwest Connecticut or increased transmission investment to reduce congestion, though a significant transmission upgrade is expected to go into operation in the Boston area during the summer of 2006.

Moreover, the need for more supply in these load pockets historically has not been reflected in high locational prices that would signal investment.[159] In 2003, ISO-NE has recognized this issue and in 2003, it implemented a temporary measure known asas the Peaking Unit Safe Harbor (PUSH). PUSH enabled) mechanism, which was intended to enable greater cost recovery for high-cost, low-use units in designated congestion areas, although. PUSH units still may not bewere not, however, able to recover completely all their fixed costs.[160] ISO-NE also seeks to establish a locational As a replacement, in June 2006, FERC approved a settlement establishing a forward capacity productmarket in New England that will project the demand three years in advance and hold annual auctions to purchase power resources for the region's needs. This proposal is part of a settlement pending before FERC. ISO-NE originally proposed a different market model called Locational Installed Capacity (LICAP). That model was opposed by a variety of stakeholders.[161].[162] The forward capacity market includes a locational

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[158] FERC State of the Markets Report 2004 at 109.

[159] FERC State of the Markets Report 2005 at 83.

[160] FERC State of the Markets Report 2004 at 36.

[161] Press Release, ISO New England, ISO New England Announces Broad Stakeholder Agreement on New Capacity Market Design (Mar. 6, 2006), available at http://www.iso-ne.com/nwsiss/pr/2006/march_6_settlement_filing.pdf.

DOJ_NMG_ 0165409

component to account for areas where transmission congestion limits the ability to import capacity necessary to meet local demand.

b. New York

Wholesale Market Operation: The New York ISO (NYISO) provides transmission services as well as operating a centralized electric power market. On the one hand, NYISO uses price mitigation to guard against wholesale price spikes but, on the other, it allows high cost generators to be included in marginal locationlocational prices.

New Generation Investment: New York has traditionally built generation in less populated areas and moved it to more populated areas. For example, the New York Power Authority was responsible for getting hydroelectric power from the Niagara Falls area into more congested areas of the state. From January 2002 through June 2003, NYISO added 316 MW in capacity.[163] Three generating plants with a total summer capacity of 1,258 MW came on line in 2004. Three plants totaling 170 MW retired in 2004.[164]

Transmission constraints are therefore a concern, and currently, transmission constraints in and around New York City limit competition in the city and lead to more use of expensive local generation, thereby raising prices. NYISO uses price mitigation that seeks to avoid mitigating high prices that are the result of genuine scarcity, though NYISO has separate mitigation rules for New York City. In an effort to lessen distortion of market signals, NYISO includes the cost of running generators to serve load pockets in its calculation of locational prices. Thus, potential entrants get a more accurate price signal regarding investment in the load pocket.

In a further effort to spur new capacity construction, NYISO also sets a more generous "reference price" for new generators in their first three years of operation.[165] (Bids (bids above the reference prices may trigger price mitigation.)).[166] Unlike New England, New York is seeing new generation investment in aat least one congested area. Approximately 1,000 MW of new capacity is planned to enter into commercial operation in the New York City area in 2006. The fact that New York is better able than New England to match locational need with investment is likely due to clearer market price signals in New York, both in energy markets and capacity markets. In its comments, however, the Public Utility Law Project of New York contends that it

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[162] Devon Power LLC, 115 FERC ¶ 61,340 (2006); Press Release, ISO New England, ISO New England Announces Broad Stakeholder Agreement on New Capacity Market Design (Mar. 6, 2006), available at http://www.iso-ne.com/nwsiss/pr/2006/march_6_settlement_filing.pdf.

[163] FERC State of the Markets Report 2004 at 109.

[164] FERC State of the Markets Report 2005 at 97.

[165] FERC State of the Markets Report 2004 at 39.

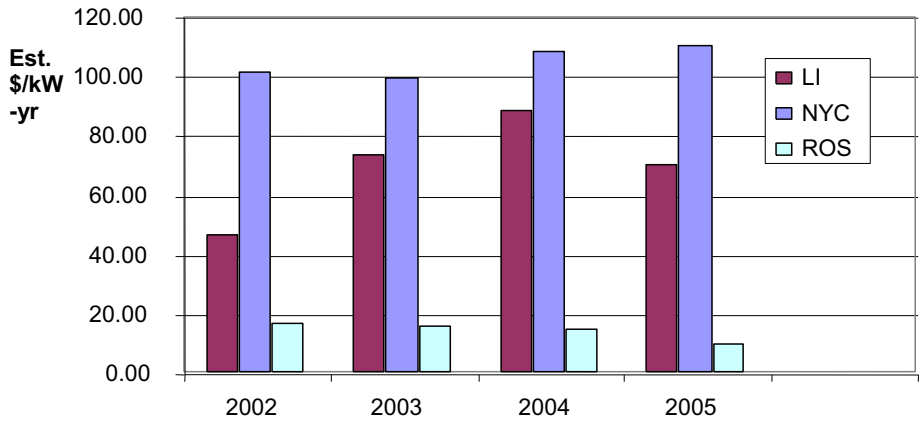
[166] FERC State of the Markets Report 2004 at 39.

DOJ_NMG_ 0165410

is public power agencies and traditional investor-owned utilities, not merchants responding to NYISO prices, that have invested in new infrastructure.

The effect of load pockets on prices are shown in Figure 3-2, which estimates the annual value of capacity based on weighted average results of three types of auctions run by the NYISO. Capacity prices are higher in the tighter supply areas of NYC and Long Island.

Figure 3-2: Estimate of Annual NY Capacity Values - All Auctions



c. PJM

Wholesale Market Operation: The PJM Interconnection provides transmission services as well as operating a centralized electric power market. PJM has both energy and capacity markets. PJM's energy market has locational prices. FERC recently approved the concept of PJM's proposal to shift to locational prices in its capacity markets.[167] The locational capacity market has not yet been implemented.

New Generation Investment: PJM capacity includes a broad mix of fuel types. Recent PJM expansion into new territories has added significant low-cost coal resources to PJM's overall generation mix, though NRECA in its comments notes that other parts of PJM lack sufficient generation as a result of inadequate capacity additions. From January 2002 through June 2003, PJM added 7458 MW in capacity.[168] Capacity additions in 2004 were lower than in the two previous years, especially considering that PJM added significant new territory in 2004. In 2004,

[167] Initial Order on Reliability Pricing Model, 115 FERC ¶ 61,079, *3 (2006).

[168] FERC State of the Markets Report 2004 at 109.

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4,202 MW of new generation was completed in PJM. During the year, 78 MW of generation was mothballed and 2,742 MW was retired.[169]

Like other areas, PJM depends on transmission to move power from the areas of low-cost generation to the areas of high demand. In PJM, the flow is generally from the western part of PJM, an area with significant low-cost coal-fired generation, to eastern PJM. The easternmost part of PJM is limited by a set of transmission lines, which at times limit the deliverability of generation from the west. This means that higher-cost generation must be run in the eastern region to meet local demand. Within the eastern region, there are also areas of still-more-limited transmission. As a result of these kinds of transmission limitations, generation in some areas that is not economical to run is being given reliability must-run (RMR) contracts to prevent it from retiring and possibly reducing local reliability.[170] Recently, three utilities in PJM have proposed major transmission expansions to increase capacity for moving power into eastern parts of PJM.[171] In its comments PJM contends that it is experiencing a "robust" level of new transmission investment for reliability upgrades.

5. Texas

Wholesale Market Operation: The Electric Reliability Council of Texas (ERCOT) manages the scheduling of power on an electric grid consisting of about 77,000 megawatts of generation capacity and 38,000 miles of transmission lines. ERCOT also manages financial settlement for market participants in Texas's deregulated wholesale bulk power and retail electric market. ERCOT is regulated by the Public Utility Commission of Texas. ERCOT is generally not subject to FERC jurisdiction because it is not integrated with other electric systems, *i.e.*, there is not interstate electric transmission. ERCOT is the only market in which regulatory oversight of the wholesale and retail markets is performed by the same governmental entity.

For each year, ERCOT determines a set of transmission constraints within its system which it deems Commercially Significant Constraints (CSCs). Once approved by the ERCOT Board, the CSCs and the resulting Congestion Zones are used by the ERCOT dispatch process for the next year. In 2005, ERCOT has six CSCs and five Congestion Zones. When the CSCs bind, ERCOT

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[169] FERC State of the Markets Report 2005 at 112.

[170] Id. at 188.

[171] American Electric Power proposes to build a new 765-kilovolt (kV) transmission line stretching from West Virginia to New Jersey, with a projected in-service date of 2014. AEP Interstate Project Summary, available at http://www.aep.com/newsroom/resources/docs/AEP_InterstateProjectSummary.pdf. Allegheny Power proposes to construct a new 500 kV transmission line, with a targeted completion date of 2011, which will extend from southwestern Pennsylvania to existing substations in West Virginia and Virginia and continue east to Dominion Virginia Power's Loudoun Substation. Allegheny Power Transmission Expansion Proposal, available at http://www.alleghenypower.com/TrAIL/TrAIL.asp. More recently, Pepco has proposed to build a 500-kv transmission line from Northern Virginia, across the Delmarva Peninsula and into New Jersey.

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economically dispatches generation units bid against load within each zone. To keep the system in balance in real time, ERCOT issues unit-specific instructions to manage Local (intrazonal) Congestion, then clears the zonal Balancing Energy Market. The balancing energy bids from all the generators are cleared in order of lowest to highest bid.[172]

At least one study argues that when there is local congestion, local market power is mitigated in ERCOT by ad hoc procedures that are aimed at keeping prices relatively low while maintaining transmission flows within limits. As a result, prices may be too low when there is local scarcity. In particular, prices may not be high enough to attract efficient new investment to provide long-term solutions to local market power problems. It is difficult for new entrants to contest such local markets, so that the local monopoly positions are essentially entrenched.[173]

New Generation Investment: In the late 1990s, developers added more than 16,000 megawatts of new capacity to the Texas market.[174] Certain aspects of the Texas market may make it attractive to new investment. Texas consumers directly pay (via their electricity bills) for updates to the transmission system required by the addition of new plants. In other states, FERC often requires developers to pay for system upgrades upfront and recoup the cost over time through credits against their transmission rates.[175] In addition, the Texas PUC plans to implement an energy-only resource adequacy market design in the fall of 2006 that requires incrementally raising the energy offer caps over time. More than 13,000 MWs of new capacity, scheduled to be online in the 2009-2011 timeframe, has been announced.[176]

Hybrid Wholesale/Retail Demand Response: ERCOT has a competitive market-based demand response program that allows competitive retailers, along with willing customers, to respond to market-based price signals. Under the Load Acting As a Resource Program ("LAAR"), customers bid demand response into ERCOT's ancillary services market for responsive reserve through their scheduling agent.[177] If needed by ERCOT, the load is then paid the market-clearing price for responsive reserve. The LAAR program is fully subscribed at 1,150 MWs.

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[172] ERCOT Response to the DOE Question Regarding the Energy Policy Act 2005, available at http://www.oe.energy.gov/document/ercot2.pdf.

[173] Ross Baldick and Hui Niu, Lessons Learned: The Texas Experience, available at http://www.ece.utexas.edu/~baldick/papers/lessons.pdf.

[174] U.S. Gen. Accounting Office, GAO-02-427, Restructured Electricity Markets, Three States' Experiences in Adding Generating Capacity 9 (2002).

[175] Id. at 19.

[176] Public Utility Commission of Texas.

[177] For more information regarding LAAR, *see* http://www.ercot.com/services/programs/load/laar/

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6. The Northwest

Wholesale Market Organization: Wholesale customers obtain transmission service through agreements executed pursuant to individual utility OATTs. There are no centralized exchange markets specific to the region, but there is an active bilateral market for short-term sales within the Northwest and to the Southwest and California which make use of centralized electronic exchange platforms (such as ICE). Several trading hubs with significant levels of liquidity are sources of price information. Multiple attempts to establish a centralized Northwest transmission operator have proven unsuccessful for a variety of reasons, including difficulties in applying standard restructuring ideas to a system dominated by cascading (i.e., interdependent nodes) hydroelectric generation and difficulties in understanding the potential cost shifts that might result in restructuring contract-based transmission rights.

New Generation Investment: The Northwest's generation portfolio is dominated by hydroelectric generation, which comprises roughly half of all generation resources in the region on an energy basis.[178] The remaining generation derives primarily from coal and natural gas resources, with smaller contributions from wind, nuclear and other resources. The hydroelectric share of generation has decreased steadily since the 1960s.

The Northwest's hydroelectric base allows the region to meet almost any capacity demands required of the region – but the region is susceptible to energy limitations (given the finite amount of water available to flow through dams). This ability to meet peak demand buffers incentives for building new generation, which might be needed to assure sufficient energy supplies during times of drought because in three years out of four, hydro generation can displace much of the existing thermal generation in the Northwest. There has, however, been generation addition in the past years to meet load growth and to attempt to capitalize on high-prices during the Western energy crisis of 2001-02. Due to high power purchase costs during this crisis, some utilities have added thermal resources as insurance against drought-induced energy shortages and high prices. Altogether, over 3800 MWs of new generation has been added to the Northwest Power Pool since 1995 – 75% of that was commissioned in 2001 or later.

D. Factors that Affect Investment Decisions in Wholesale Electric Power Markets

The Task Force examined comments on how competition policy choices have affected the investment decisions of both buyers and sellers in wholesale markets. A number of issues emerged including the difficulty of raising capital to build facilities that have revenue streams that are affected by changing fuel prices, demand fluctuations and regulatory intervention and a perceived lack of long term contracting options. Some comments to the Task Force assert that significant problems still exist in these markets, particularly steep price increases in some locations without the moderating effect of long-term contracting and new construction.[179] In

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[178] For a complete discussion of generation characteristics of the Northwest, *see* NW. POWER & CONN. COUNCIL, THE FIFTH NORTHWEST POWER AND CONSERVATION PLAN,, Ch. 2 (2005), available at http://www.nwcouncil.org/energy/powerplan/plan/Default.htm

[179] ELCON; NRECA; APPA.

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some markets, the problem is that prices are so low as to discourage entry by new suppliers, despite growing need.[180] Overall, the Task Force identified seven factors that affect investment decisions in wholesale power markets.

1. Long-Term Purchase Contracts – Wholesale Buyer Issues

Many wholesale buyers suggested that they had sought to enter into long-term contracts but found few or no offers.[181] The Task Force attempted to determine whether the facts supported these allegations by examining 2004-05 data collected by FERC through its Electric Quarterly Reports for three regions – New York, the Midwest, and the Southeast. Appendix E contains this analysis. Although not conclusive because of data limitations described in Appendix E, the analysis showed that contracts of less than one-year dominated each of the three regional markets examined and that in two of the markets, longer contract terms are associated with lower contract prices on a per MWh basis.

Three reasons may exist to explain the perceived lack of ability to enter long-term purchase power contracts.[182] First, the APPA commented that its members in RTO regions who attempt to procure power under long-term bilateral arrangements have found it difficult to arrange contracts with base-load and mid-merit generators at prices that reflect their long-term total cost structure. These generators, the APPA members assert, would rather sell in the exchange markets and obtain the market-clearing price, which may be higher than their long-term total costs at various times. Base-load and mid-merit generators may see relatively high profits when gas-fueled generators are the marginal units, particularly when natural gas prices rise. Box 3-2 describes how prices are set in organized exchange markets. Natural gas-fueled generators in a uniform price auction may see lower profits as their fuel costs rise, to the extent other generation becomes relatively more economical.[183] Stated another way, when natural gas units set the market price, these units may recover only a small margin over their operating costs, while nuclear and coal units recover larger margins. In contrast, the competitive model says that if long-term prices are greater than long-term costs then entry will occur. In fact, recent proposals for new generation show a significant number of proposals to build base-load and mid-merit generation. In addition, wholesale customers can invest in their own generation projects – either directly or through affiliates or joint ventures with other interested parties – if they are dissatisfied with the terms offered by incumbent suppliers.[184]

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[180] E.g., PJM; EPSA.

[181] ELCON.

[182] In competitive markets, customers also have the ability to build their own generation facility if they are unable to obtain the long-term purchase contracts that they seek.

[183] See, e.g., Public Advocate's Office of Maine, National Association of State Utility Consumer Advocates.

[184] The July 2006 Energy Velocity database shows that of the 165163 MW of generation that is permitted, proposed, application pending or having a feasibility study performed, 110 964 MW, about 2/3, is nuclear, combined cycle, coal-fired steam or integrated coal gasification technology (generation types typically considered base-load or mid-merit.)

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In addition, the very competitiveness of these markets cannot be assumed. For example, over ten years ago, FERC requested comments on a wholesale "PoolCo" proposal, which was the predecessor entity to today's organized electricity market with open transmission access.[185] At the time, the Department of Justice generally supported the emerging market form but warned:

> The existence of a PoolCo cannot guarantee competitive pricing, since there may be only a small number of significant sellers into or buyers from the pool. The Commission should not approve a PoolCo unless it finds that the level of competition in the relevant geographic markets would be sufficient to reasonably assure that the benefits of eliminating traditional rate regulation exceed the costs.[186]

The fact that the market-clearing price in organized exchange markets may be established by a subset of generators depending upon demand and transmission congestion heightens the competitiveness concern in the organized markets. At one end, generators with high costs do not have much impact on the market clearing prices when there is low demand and low transmission congestion, and conversely, generators with low costs do not have much impact on the market-clearing prices when there is high demand and high transmission congestion. There is a wide-range of market-clearing prices between these two end points based on the diversity of generator costs available in each region.[187] Indeed, some commenters specifically cited to recent studies of the electric industry that argue that a larger number of suppliers are needed to sustain competitive pricing in electricity markets than are needed for effective competition in other commodities.[188]

Second, the perceived lack of long-term purchase contracts may be due to limited trading opportunities to hedge these long-term commitments. Long-term contracts in other commodities are often priced with reference to a "forward price curve." A forward price curve graphs the price of contracts with different maturities. The forward prices graphed are instruments that can be used to hedge (or limit) the risk that market prices at the time of delivery may differ from the price in a long-term contract. In a market with liquid forward or futures contracts, parties to a long-term contract can buy or sell products of various types and durations to limit their risk due to such price differences. Currently, liquid electricity forward or futures markets often do not

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[185] Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-000.

[186] Comments of the U.S. Department of Justice, Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-00 filed March 2, 1995 at p. 6. See also Reply Comments of the U.S. Department of Justice, Inquiry Concerning Alternative Power Pooling Institutions Under the Federal Power Act, Docket No. RM94-20-00 filed April 3, 1995.

[187] See Comment of the Federal Trade Commission. Docket No. RM-04-7-000 (Jul. 16, 2004) at 7-8, available at http://www.ftc.gov/os/comments/ferc/v040021.pdf.

[188] APPA, Carnegie Mellon.

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extend beyond two to three years.[189] In some markets, one-year contracts are the longest products generally available; in markets where retail load is being served by contracts of fixed durations, such as the three-year obligations in New Jersey and Maryland, contracts for the duration of that period are slowly growing in number. But the relative lack of liquidity may discourage parties from signing long-term contracts, because they lack the ability to "hedge" these longer-term obligations.

Third, the availability of long-term purchase contracts depends on the availability and certainty of long-term delivery options. Particularly in organized markets, transmission customers have argued that the inability to secure firm transmission rights for multiple years at a known price introduces an unacceptable degree of uncertainty into resource planning, investment and contracting.[190] They report that this financial uncertainty has hurt their ability to obtain financing for new generation projects, especially new base-load generation.

Congress addressed this issue of insufficient long-term contracting in the context of RTOs and ISOs in EPACT05. In particular, section 1233 of EPACT05 provides that:

> [FERC] shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, <u>and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long-term basis for long-term power supply arrangements made, or planned, to meet such needs</u>.[191]

To implement this provision in RTOs and ISOs, FERC adopted new rules regarding FTRs in July 2006. The rules would require RTOs and ISOs to offer long-term firm transmission rights. FERC did not specify a particular type of long-term firm transmission right, but instead established guidelines for the design and administration of these rights, such as the length of terms the rights should have and the allocation of those rights to transmission customers.

2. <u>Long-Term Supply Contracts – Generation Investment Issues</u>

Commenters cited the certainty of long-term contracts as a critical requirement for obtaining financing for new generators.[192] These contracts, however, are vulnerable to certain regulatory risks. First, contracts are subject to regulation by FERC, and a party to a contract can ask FERC

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[189] Nodir Adilov, <u>Forward Markets, Market Power, and Capacity Investment</u> (Cornell Univ. Dep't of Econ. Job Mkt. Papers, 2005), <u>available at</u> http://www.arts.cornell.edu/econ/na47/JMP.pdf.

[190] APPA, TAPS.

[191] Pub. L. No. 109-58, § 1233, 119 Stat. 594, 958 (2005) (emphasis added).

[192] Constellation, Mirant.

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to change contract prices and terms, even if the specific contract has been approved previously.[193] For example, in 2001-2002 several wholesale purchasers of electric power requested that FERC modify certain contracts entered into during the California energy crisis. The customers alleged that problems in the California electricity exchange markets had caused their contracts to be unreasonable. The sellers argued that if FERC overrides valid contracts, market participants would not be able to rely on contracts when transacting for power and managing price risk. FERC declined to change the contracts.[194] FERC cited its obligation to respect contracts except when other action is necessary to protect the public interest.[195]

A second type of regulatory uncertainty involving bankruptcy may limit future market opportunities for merchant generators and, thus, reduce their ability to raise capital. In recent years, several merchant generators (NRG, Mirant and Calpine) have sought to use the bankruptcy process to break long-term power contracts.[196] These efforts, when successful, leave counterparties facing circumstances that they did not anticipate when they entered into their contracts. This risk may create an additional incentive to favor construction of generation by load serving entities or purchase from utility affiliates over wholesale purchases from merchant generators.[197] These disputes have spawned conflicting rulings in the courts. In particular, these cases have centered on separate, but intertwined, issues: first, where jurisdiction over efforts to end power contracts properly lies, as between FERC and the bankruptcy courts and to what extent courts may enjoin FERC from acting to enforce power contracts; and second, what standard applies to such efforts (that is, what showing must a party make to rid itself of a contract). As FERC and the courts have only recently begun to consider these questions, the law remains unsettled, as do parties' expectations.

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[193] In December 2005, FERC proposed to adopt a general rule on the standard of review that must be met to justify proposed modifications to contracts under the Federal Power Act and the Natural Gas Act. Standard of Review for Modifications to Filed Agreements, 113 FERC ¶ 61,317 (2005) (Proposed Rule). Specifically, FERC proposed that, in the absence of specified contractual language, a party seeking to change a contract must show that the change is necessary to protect the public interest. FERC explained that its proposal recognized the importance of providing certainty and stability in energy markets, and helped promote the sanctity of contracts. A final rule is pending.

[194] Nevada Power Company v. Enron, 103 FERC ¶ 61,353, order on reh'g, 105 FERC ¶ 61,185 (2003); Public Utilities Commission of California v. Sellers of Long Term Contracts, 103 FERC ¶ 61,354, order on reh'g, 105 FERC ¶ 61,182 (2003); PacifiCorp v. Reliant Energy Services, Inc., 103 FERC ¶ 61,355, order on reh'g, 105 FERC ¶ 61,184 (2003).

[195] See Northeast Utilities Service Co., *v FERC*, 55 F.3d 686, 689 (1st Cir. 1995).

[196] See Howard L. Siegel, The Bankruptcy Court vs. FERC- The Jurisdictional Battle, 144 PUB. UTIL. FORTNIGHTLY 34 (2006).

[197] Another factor creating a potential preference for self-built generation as opposed to long-term purchases is the treatment by some credit rating agencies of power purchase contracts as imputed debt. If a utility's self-built generation is treated as an asset but long-term purchase contracts are treated as imputed debt, it may cause utilities and state regulators to favor constructing and owning over purchasing. See EPSA.

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A third type of regulatory uncertainty concerns the regulated retail service offerings in states with retail competition.[198] The uncertainty of how much supply a distribution utility will need to satisfy its customers due to customer switching that can occur in retail markets can prevent or discourage those utilities from signing long-term contracts.[199] The extent of this disincentive is unclear if competitive options are available for distribution utilities to purchase needed supply or sell excess supply.

A fourth type of regulatory uncertainty is related to a general expectation of institutional instability in electricity regulation. Market participants sometimes argue that market rules and institutions change so frequently that current rules and trading mechanisms cannot be counted on – this can serve to deter new entry.[200] But, at the same time, many market participants continue to advocate changes in regulatory policy, even long-settled policy.

3. Risk and Reward in the Face of Price and Cost Volatility – Capital Requirements

New generation construction in wholesale markets is also a function of the ability of a company to acquire capital, either from internal sources or external capital markets. If a company can acquire the necessary capital it can build. There is no federal regulation of entry, and most states that have permitted retail competition have eliminated any "need-based" showing to build a generation plant.

Private capital has generally funded the electric power transmission network in the United States. Under traditional cost-base rate regulation, utility investment decisions were based in part on the promise of a regulated revenue stream with little associated risk to the utility. The ratepayers often bore the risk. Money from the capital markets was generally available when utilities needed to fund new infrastructure. One significant problem, however, was that regulators had limited ability to ensure that utilities spent their money wisely.[201] Regulatory disallowances of imprudent expenditures are viewed by investors as regulatory risk. The use of Integrated Resource Planning processes with opportunities for public and regulator participation in advance of resource procurement decisions by regulated utilities is believed by some to reduce the risks of later regulatory disallowances.[202]

In competitive markets, projects obtain funding based on anticipated market-based projections of costs, revenues and relevant risks factors. The ability to obtain funding is impacted by the

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[198] See infra Chapter 4 for a discussion of regulated service offerings in states with retail competition.

[199] Mirant, Constellation.

[200] Paul L. Joskow, Competitive Electricity Markets and Investment in New Generating Capacity, MIT Working Paper, (April 28, 2006.)

[201] CONG. BUDGET OFFICE, FINANCIAL CONDITION OF THE U.S. ELECTRIC UTILITY INDUSTRY (1986), available at http://www.cbo.gov/showdoc.cfm?index=5964&sequence=0.

[202] Southern, Duke.

DOJ_NMG_ 0165419

degree to which these projections compare with projected risks and returns for other investment opportunities.[203] Therefore, potential entrants to generation markets have to be able to convince the capital markets that new generation is a viable profitable undertaking. In the late 1990s investors appeared to prefer market investments to cost-based rate-regulated investments, as merchant generators were able to finance numerous generation projects, even without a contractual commitment from a customer to buy the power.[204]

In recent years, however, investors have generally favored traditional utilities over merchant generators when it comes to providing capital for large investments.[205] In part, this preference reflects the reduced profitability of many merchant generators in recent years, and the relative financial strength of many traditional utilities. It also may reflect a disproportionate impact of the collapse of credit and thus trading capability of non-utilities after Enron's financial collapse.[206] As shown in the Table in Appendix G, for example, virtually all of the companies rated A- or higher are traditional utilities, not merchant generators.

Investor preference for traditional utilities also may be affected by increasing volatility in electric power markets. As wholesale markets have opened to competition, investors recognized that income streams from the newly-built plants would not be as predictable as they had been in the past.[207] Under cost-based regulation, vertically integrated utilities' monopoly franchise service territories significantly limited the risk that they would not recover the costs of investments. Once generators had to compete for sales, generation plant investors were no longer guaranteed that construction costs would be repaid or that the output from plants could be sold at a profit.[208] Financing was more readily accessed for projects like combined cycle gas and particularly gas turbines that can be built relatively quickly and were viewed at the time to have a cost advantage compared with existing generation already in operation, including less efficient gas-fueled generators.[209] In 1996, the Energy Information Administration projected that 80% of electric generators between 1995 and 2015 would be combined cycle or combustion turbines.[210] Base-

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[203] Commodity Futures Trading Comm'n, The Economic Purpose of Futures Markets, available at http://www.cftc.gov/opa/brochures/opaeconpurp.htm.

[204] APPA.

[205] Task Force Meetings with Credit Agencies, see Appendix B.

[206] U.S. GEN. ACCOUNTING OFFICE, GAO-02-427, RESTRUCTURED ELECTRICITY MARKETS, THREE STATES' EXPERIENCES IN ADDING GENERATING CAPACITY 13 (2002).

[207] Connecticut DPUC.

[208] U.S. GEN. ACCOUNTING OFFICE, GAO-02-427, RESTRUCTURED ELECTRICITY MARKETS, THREE STATES' EXPERIENCES IN ADDING GENERATING CAPACITY 13 (2002).

[209] Energy Info. Admin., DOE/EIA-0562(96), The Changing Structure of the Electric Power Industry: An Update 38 (1996).

[210] Id.

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load units, such as coal plants, with construction and payout periods that would put capital at risk for a much longer period of time, were harder to finance.[211]

Box 3-3
The Use of Capacity Credits in Organized Wholesale Markets:

In theory, capacity credits could support new investment because suppliers and their investors would be assured a certain level of return even on a marginal plant that ran only in times of high demand. Capacity credits might allow merchant plants to be sufficiently profitable to survive even in competition with the generation of formerly-integrated local utilities that may have already recovered their fixed costs.

The increasing amount of new generation fueled by natural gas, however, has caused electricity prices to vary more frequently with natural gas prices, a commodity subject to wide swings in price.[212] With input costs varying widely, but merchant revenues often limited by contract or by regulatory price mitigation, investors may worry that merchant generators may not recover their costs and provide an attractive rate of return. Commenters suggest that competitive suppliers are beginning to focus on developing facilities fueled by other sources, citing 2006 announcements by NRG Energy, Inc. (investing $16 billion to develop 10,500 MW of nuclear, wind, and coal facilities), TXU (investing in multiple coal-fired plants), Constellation Energy and Exelon Corp. (developing a nuclear plant), BP and Edison Mission Group (investing $1 billion in a hydrogen-fueled plant) and AES (investing $1 billion in renewable technologies).[213]

4. Regulatory Intervention May Affect Investment Returns

Generation investors must expect to recover not only their variable costs but also an adequate return on their investment to maintain long-term financial viability. One way for suppliers to recover their investment is to charge high prices during periods of high demand. However, regulators may limit recovery of high prices during these periods, and thus may deter suppliers from making needed investments in new capacity that would be economical absent these price caps.

This dynamic leads to a chicken-and-egg conundrum: if there were efficient investment, there might not be a need for wholesale price or bid caps. More investment in capacity would lead to less scarcity, and thus fewer or shorter episodes of high prices that may require mitigation. By

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[211] Hearing on Nuclear Power, Before the Subcomm. on Energy of the S. Comm. on Energy & Nat'l Res., Mar. 4, 2004 (statement of Mr. James Asselstine, Managing Director, Lehman Brothers); see also NUCLEAR ENERGY INSTITUTE, INVESTMENT STIMULUS FOR NEW NUCLEAR POWER PLANT CONSTRUCTION: FREQUENTLY ASKED QUESTIONS, available at http://www.nei.org/documents/New_Plant_Investment_Stimulus.pdf.

[212] Natural Gas, Factors Affecting Prices and Potential Impacts on Consumers, Testimony Before the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, United States Senate; GA)-06-420T (February 13, 2006) at 7.

[213] EPSA.

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contrast, it may be that price regulation during high-priced hours diminishes the confidence of investors that they can rely on market forces (rather than regulation) to set prices. That diminished confidence in their ability to earn sufficient investment returns thus deters entry of new generation supply, thereby limiting competition and giving cause for price caps

Price mitigation through the use of price or bid caps has become an integral component of most organized markets. The use of mitigation has led generators to seek a supplemental revenue stream (capacity credits) to encourage entry of new supply. See Box 3-3 for a discussion of capacity credits.

In practice, however, the presence or absence of capacity credits has not always resulted in the predicted outcomes. California did not have capacity credits and did not experience much new generation, but two of the regions (the Southeast and Midwest) experienced significant new generation entry without capacity credits. Northeast RTOs with capacity credits continue to have some difficulty attracting entry, especially in major metropolitan areas.

As noted above, much of the new generation in the Southeast was non-utility merchant generation, and relied on the region's proximity to natural gas supplies. In the Midwest, in the late 1990s, largely uncapped prices were allowed to send price signals for investment. In California, price caps of various kinds have been used for a number of years, limiting price signals for new entry. In the Northeast, organized markets have offered capacity payments for long term investments in addition to electric power prices that are sometimes capped in the short term. Unfortunately, there is no conclusive result from any of these approaches – no one model appears to be the perfect solution to the problem of how to spur efficient investment with acceptable levels of price volatility.

Net revenue analyses for the centralized markets with price mitigation suggest that price levels are inadequate for new generation projects to recover their full costs. For example, in the last several years, net revenues in the PJM markets have been, for the most part, too low to cover the full costs of new generation in the region.[214] Based on 2004 data, net revenues in New England, PJM and California would have allowed a new combined-cycle plant to recover no more than 70% of its fixed costs.

Regulation also may interfere with efficient exit of generation plants due to the use of reliability-must-run requirements. In some load pockets in organized markets, plant owners are paid above-market prices to run plants that are no longer economical at the market-clearing price. For example, in its Reliability Pricing Model filing with FERC, PJM states, "PJM also has been forced to invoke its recently approved generation retirement rules to retain in service units needed for reliability that had announced their retirement. As the Commission often has held, this is a temporary and sub-optimal solution. Such compensation, like the reliability must run ("RMR") contracts allowed elsewhere, is outside the market, and permits no competition from,

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[214] Occasionally in the past few years net revenues have been sufficient to cover the costs of new peaking units, and in 2005 they were enough to cover the costs of a new coal plant. MARKET MONITORING UNIT, PJM INTERCONNECTION, LLC, 2005 STATE OF THE MARKET REPORT, at 118 (2006) [hereinafter PJM STATE OF THE MARKET REPORT 2005], available at http://www.pjm.com/markets/market-monitor/som.html.

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and sends no price signals to, other prospective solutions (such as new generation or demand resources) that might be more cost-effective."[215] To the extent that market rules allocate the cost of keeping these plants running to customers outside of the load pocket, such payments may distort price signals that, in the long run, could elicit entry. Graduated capacity payments that favor new entry of efficient plants may be a partial solution to retirement of inefficient old plants.

5. Investment in Transmission: A Necessary Adjunct to Generation Entry

Transmission access can be vital to the competitive options available to market participants. For example, merchant generators depend on the availability of transmission to sell power, and transmission constraints can limit their range of potential customers. Small utilities, such as many municipal and cooperative utilities, depend on the availability of transmission to buy wholesale power, and transmission constraints can limit their range of potential suppliers. Much of the transmission grid is owned by vertically-integrated, investor-owned utilities and, traditionally, these utilities have an incentive to limit the use by others of the grid, to the extent such use conflicts with sales by their own generation. In short, the availability of transmission is often the keystone in determining whether a generating facility is likely to be profitable and, thus, to elicit investment in the first instance.

Since FERC issued Order No. 888 in 1996, questions have arisen concerning the efficacy of various terms and conditions governing the availability of transmission. For example, transmission customers have raised concerns regarding the calculation of Available Transfer Capacity (ATC). Another area of concern is the lack of coordinated transmission planning between transmission providers and their customers. Finally, customers have raised concerns about aspects of transmission pricing. Based on these concerns, FERC in May 2006 proposed modifications to public utility tariffs to prevent undue discrimination in the provision of transmission services. FERC is soliciting public comments on its proposed modifications.

As discussed above, generation that is built where fuel supplies are readily available, but not necessarily near demand, and construction costs are low, rely heavily on readily available transmission. The Connecticut DPUC noted that while generation growth may have been sufficient for some regions such as New England as a whole, some localized areas had demand growth without increases in supply, raising prices in load pockets. If transmission access to the load pocket were available, a large base-load plant outside the load pocket might become an attractive investment proposition.

Less regulatory intervention in wholesale markets for generation may be necessary if transmission upgrades, rather than unrestricted high prices or capacity credits, are used to address the concerns about future generation adequacy. Although capacity credits may spur generators within a load pocket to add additional capacity, capacity credits may not be required for base-load plants outside the load pocket. Those base-load plants would not have the problem of average revenues falling below average costs because they would have access to more load, and be able to run profitably during more hours of the day. Similarly, price caps may be

[215] Initial Order on Reliability Pricing Model, 115 FERC ¶ 61,079, *3 (2006)

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unnecessary if improved transmission brought power from more base-load units into the congested areas. Prices would be lower because there would be less scarcity, and high cost units would be needed to run during fewer hours in the congested areas.

6. Some Types of Generation Investment May Not Be Adequate Without Government Intervention

As mentioned at the beginning of this chapter, "preventing network collapse" is a product that is a public good.[216] The public good nature of preventing network collapse means that the market may not elicit enough generation that has the technical capability (i.e. the ability to generate megawatts within a very short period of time) to prevent network collapse. An administrative process may be needed to bring about the correct level of generation technically capable of responding very quickly. It has been argued[217] that some of these processes may be so inadequate to this task of incenting the appropriate levels of technically capable generation that this failing explains to a significant degree the perceived lack of generation entry.

7. The Level of Investment in Demand Side Management Can Affect the Need for Generation and Transmission Investment

In Chapter 2 it was described how there is typically a disconnect between the prices in the wholesale markets and the prices that retail customers experience and how this disconnect can lead to wider price fluctuations than would be the case if customers could easily reduce their demand when prices rise. There are several means to influence the level of demand for power, including energy efficiency and demand response. Examples of energy efficiency includes giving customers incentives to replace inefficient refrigerators and air conditioners, or through appliance standards or more energy-efficient building codes. Demand response includes time-based rates and incentive-based demand response. Time-based rates include time-of-use pricing (i.e. customers face a peak price and an off-peak price), critical peak pricing (i.e., similar to time-of-use rates, but with a critical peak component that is invoked during system emergencies or periods of high wholesale prices), and real-time pricing (e.g. Georgia Power's RTP tariff). Incentive-based demand response includes interruptible rates, air-conditioner cycling, and independent system operator emergency demand response programs.

Energy efficiency and demand response programs, through their effect on demand, affect the amount of generation and transmission needed as well as the composition (i.e. composition of

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216 Public goods have two characteristics – "nonexclusiveness" and "nonrivalry." Nonexclusiveness means that others cannot be excluded from the use of the good (e.g. if one person refuses to pay taxes, that person still can enjoy public parks) and nonrivalry implies that one person's consumption of the good does not diminish another person's consumption (e.g. the fact that one person enjoys the increased safety engendered by military spending doesn't decrease another person's safety.) "Preventing network collapse" is nonexclusive because if the network collapses there is nothing one can do to escape it (unless one constructs freestanding on-site generation) and it is nonrivalrous because one person being protected from collapse does not preclude another person's being protected.

217 Joskow, op.cit.

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baseload, mid-merit and peaking generation) of investment. Two examples: Instituting new energy efficiency programs will reduce the demand for baseload generation and transmission (e.g. replacing old refrigerators) and the demand for mid-merit generation (e.g. replacing old air conditioners.) Instituting demand response programs that curtail output at peaks will reduce the need for peaking generation, will help resolve local load pockets, and can potential defer the need for new transmission enhancements. To date, energy efficiency has provided important benefits, but additional capability can be achieved. Demand response capability has been modest, between 3 and 7 percent in most regions of the country.[218] The use of energy efficiency and demand response will likely increase significantly in the next few years, especially after advanced, smart metering is installed.

E. Observations on Wholesale Market Competition

One of the most contentious issues currently facing federal regulators is whether the different forms of competition in wholesale markets have resulted in an efficient allocation of resources. The various approaches used by the different regions show the range of available options.

1. Open Access Transmission without an Organized Exchange Market

One option is to rely upon the OATT to make generation options available to wholesale customers. No centralized transmission operator or exchange market for electric power operates in regions taking this option (the Northwest and Southeast). There can be, however, active trading platforms in these regions which provide liquidity and price transparency in some day-ahead or longer-term markets – though the prices do not directly reflect the costs of congestion. For long term sales, wholesale customers shop for alternatives through bilateral contracts with suppliers. In both cases, customers separately arrange for transmission via the OATT. With a range of supply options to choose from, long-term bilateral contracts for physical supply can provide price stability that wholesale customers seek and a rough price signal to determine whether to build new generation or buy generation in wholesale markets. However, prices and terms can be unique to each transaction and may not be publicly available. Furthermore, the lack of centralized information about trades leaves transmission operators with system security risks that necessitate constrained transmission capacity. Where there is a lack of price transparency, this can add to the difficulty of pricing long-term contracts in these markets.

This model is extremely dependent on the availability of transmission capacity that is sufficient to allow buyers and sellers to connect. Thus, it also is dependent upon the accurate calculation and reporting of transmission capacity available to market participants. Short-term availability is not sufficient, even if accurately reported, to form a basis for long term decisions such as contracting for supply or building new generation. Not only must transmission be available, but also it must be seen to be available on a nondiscriminatory basis. As the FERC noted in Order 2000, persistent allegations of discrimination can discourage investment even if they are not proven. Without the assurance of long term transmission rights, wholesale customers may

[218] Commission Staff Report, "Assessment of Demand Response and Advanced Metering."

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remain dependent on local generation owned by one or only a few sellers and be denied the competitive options supplied by more distant generation. Similarly, new suppliers may have no means of competing with incumbent generators located close to traditional load.

2. Policy Options in Organized Wholesale Markets

In organized markets, market participants have access to an exchange market where prices for electric power are set in reference to supply offers by generators and demand by wholesale customers (including Load Serving Entities or LSEs). Such an exchange market could have prices set by a number of mechanisms. All existing U.S. exchange markets have a uniform price auction to determine the price of electric power. Uniform price auctions theoretically provide suppliers an incentive to bid their marginal costs, to maximize their chance of getting dispatched. The principal alternative to uniform price auctions is a pay-as-bid market.

The academic research on whether pay-as-bid auctions can actually result in lower prices has been evolving, and the results are at best mixed. Theoretically, pay-as-bid auctions do not result in lower market-clearing prices and may even raise prices, as suppliers base their bids on forecasts of market-clearing prices instead of their marginal costs. More recent research suggests that pay-as-bid can sometimes result in lower costs for customers.[219] But, the pay-as-bid approach may reduce dispatch efficiency, to the extent generator bids deviate from their marginal costs.[220] When considered from a practical perspective, it appears that academics and market designers generally agree that uniform price auctions produce economically efficient prices.

Currently, it may be true that in uniform price auction markets some generators (*e.g.*, coal- or nuclear-fueled units) are earning a return above those typically allowed under cost-based regulation, but other generators (*e.g.*, natural gas-fueled units) are earning returns below those typically allowed under cost-based regulation. In a competitive market, a unit's profitability in a uniform price auction will depend on whether, and by how much, its production costs are below the market clearing price. A uniform price auction may thus produce prices that are very high compared with the costs of some generators and yet not high enough to give investors an incentive to build new generation that could moderate prices going forward. The uniform price auction creates strong incentives for entry by low-cost generators that will be able to displace high cost generators in the merit dispatch order. Three policy options have been suggested to address the tension between market-clearing prices with uniform auction and entry.

a. Unmitigated Exchange Market Pricing

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[219] Par Holmberg, Comparing Supply Function Equilibria of Pay-as-Bid and Uniform Price Auctions (Uppsala University, Sweden Working Paper 2005:17, 2005); G. Federico & D. Rahman, Bidding in an Electricity Pay-As-Bid Auction (Nuffield College Discussion Paper No 2001-W5, 2001); Joskow, Difficult Transition at 6-7.

[220] Alfred E. Kahn, et al., Uniform Pricing or Pay-as-Bid Pricing: A Dilemma for California and Beyond (Blue Ribbon Panel Report, study commissioned by the California Power Exchange, 2001).

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One possible, but controversial, way to spur entry is to let wholesale market prices rise.[221] As discussed in Chapter 2, the market will likely respond in two ways. First, the resulting price spikes will attract capital and investment. To assure that the price signals elicit appropriate investment and consumption decisions, they must reflect the differences in prices of electricity available to serve particular locations. Where transmission capacity limits the availability of electric power from some generators within a regional market, the cost of supplying customers within the region may vary. Without locational prices, investors may not make wise choices about where to invest in new generation.

Unfortunately, it is difficult to distinguish high prices due to the exercise of market power from those due to genuine scarcity. High prices due to scarcity are consistent with the existence of a competitive market, and therefore perhaps suggest less need for regulatory intervention. High prices stemming from the exercise of market power in the form of withholding capacity may justify regulatory intervention. Being able to distinguish between the two situations is therefore important in markets with market-based pricing.[222]

Second, higher prices will likely signal to customers that they should change their decisions about how much and when to consume. Price increases signal to customers to reduce the amount they consume. Indeed, during the Midwest wholesale price spikes in the summer of 1998, demand fell during the period in which prices rose and customers purchased little supply during those periods.[223] For an efficient reduction in consumption to occur, however, retail customers must have the ability to react to accurate price signals. As discussed in Chapter 4, customers often have limited incentive, even in markets with retail competition, to reduce their consumption when the marginal cost of electricity is high. This is because retail rates in the short-term do not vary to account for the costs of providing the electricity at the actual time it was consumed.

b. Moderation of Price Volatility with Caps and Capacity Payments

To date, the alternative to unmitigated exchange market pricing has been price and bid caps in wholesale exchange markets. Although price and bid caps may moderate wide swings in market-clearing prices, not all the caps in place may be necessary to prevent exercise of market power or set at appropriate levels. Higher caps may strike a balance between the desires of policy makers to smooth out the peaks of the highest price spikes and the need to demonstrate where capital is required and can recover its full investment. Some argue, however, that high price caps may burden consumers with high prices and yet not allow prices to rise to the level

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[221] In theory, a pivotal supplier could bid $1 million or more and set the clearing price, so in practice the ISO would have still set a cap, albeit a high one. In its comments, the Texas PUC describes a plan it expects to adopt in summer 2006 to raise offer caps incrementally in its energy-only market. The Texas PUC expects to ultimately pay $3000 per megawatt-hour for energy in some hours of the year.

[222] See generally Edison Mission Energy, Inc. v. FERC, 394 F.3d 964 (D.C. Cir. 2005).

[223] Robert J. Michaels and Jerry Ellig, Price Spike Redux: A Market Emerged, Remarkably Rational, 137 PUB. UTIL. FORTNIGHTLY 40 (1999). Wholesale customers with supply contracts for which the prices were tied to the market price paid higher prices for electric power during those hours.

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that will actually insure that investors will recover the cost of new investment.[224] Thus prices can rise significantly and yet not elicit entry by additional supply that could moderate price in later periods.

Capacity payments are one way to ensure that investors recover their fixed costs. Capacity payments can provide a regular payment stream that, when added to electric power market income, can make a project more economically viable than it might be otherwise. Like any regulatory construct, however, capacity payments have limitations. It is difficult to determine the appropriate level of capacity payments to spur entry without over-taxing market participants and consumers. In addition, because capacity payments include a reserve margin added on to demand, capacity markets may be more susceptible to market power than energy markets and may not be viable without some form of mitigation.[225] Determining the appropriate level of mitigation is a challenge.

To the extent that capacity rules change, this creates a perception of risk about capacity payments that may limit their effectiveness in promoting investment and ultimately new generation. When rules change, builders and investors may also take advantage of short-term capacity payment spikes in a manner that is inefficient from a longer-term perspective.

If capacity payments are provided for generation, they may prompt generation entry when transmission or demand response would be more affordable and equally effective. Capacity payments also may disproportionately reward traditional utilities and their affiliates by providing significant revenues for units that are fully depreciated. Capacity payments also may discourage entry by paying uneconomical units to keep running instead of exiting the market. These concerns can be addressed somewhat by appropriate rules – e.g., NYISO's rules giving capacity payment preference to newly-entered units – but in general, it is difficult to tell whether capacity payments alone would spur economically efficient entry.

One issue that has arisen is whether capacity prices should be locational, similar to locational electric power prices. PJM, ISO-NE and NYISO have either proposed or implemented locational capacity markets that may increase incentives for building in transmission-constrained, high-demand areas. The combination of high electric power prices and high capacity prices in these areas may combine to create an adequate incentive to build generation in load pockets.[226]

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[224] Sometimes, in fact, entry may not be justified, even in the face of high prices. Potential entrants must consider the benefits as well as the costs of entry. Some areas may be so costly to enter, that it is more efficient for society as a whole to pay the higher prices rather than pay the high investment costs to build lower cost generation, institute price-responsive demand programs, or invest in transmission access to lower-cost generation.

[225] Making demand response eligible to meet reserve margins may ease these concerns.

[226] In the areas that need capacity the most – densely populated areas significantly bounded by topographical barriers such as oceans – land prices, environmental restrictions, aesthetic considerations, and other factors may make new generation more (or even prohibitively) expensive. In fact, there are some environmental restrictions that serve as de facto bars to new generation entry.

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c. Encouraging Additional Transmission Investment

Building the right transmission facilities may encourage entry of new generation or more efficient use of existing generation located electrically near, but outside, load pockets. But transmission expansion to serve increased or new load raises the difficulty of tying the economic and reliability benefits of transmission to particular consumers. In other words, because transmission investments can benefit multiple market participants, it is difficult to assess who should pay for the upgrade, particularly when some market participants do not do not require the transmission to meet their needs. This challenge may cause uncertainty about the price for transmission and about return on investment both for new generators and for transmission providers.

Merchant transmission lines, built by non-utilities, were once thought to be a solution to the need for long distance transmission lines. However, few merchant lines have been built. Financing has been difficult because of uncertainties about revenue. In addition, the need for rights-of-way and environmental approvals has had a chilling effect on potential merchant projects.[227] Provisions of the EPAct 2005 that allow for federal permitting of transmission projects under certain circumstances appear to have encouraged interest in new transmission projects, including merchant projects.[228]

If transmission entry can connect low-cost resources to high-demand areas, it is closely linked to the issues of generation entry. Transmission entry, however, can in theory remove the kinds of transmission congestion that results in higher prices in load pockets. Transmission entry may be a double-edged sword: if it is expected to occur, it would reduce the incentive of companies to consider generation entry, by eliminating the high prices they hope to capture.

Both generation and merchant transmission builders face the issue of dealing with an existing transmission owner or an RTO/ISO to obtain permission to build. Moreover, there are substantial difficulties to site new transmission lines. It is difficult to assess whether these risks are higher for transmission builders than for generation builders.

d. Governmental Control of Generation Planning and Entry

The final alternative is a regulatory rather than a market mechanism to assure that adequate generation is available to wholesale customers. As a method to spur investment, regulatory oversight of planning has some positive aspects, but it also has costs. Using regulation through governmentally determined resource planning to encourage entry could result in more entry than market-based solutions, but that entry may not occur where, when or in a way that most benefits customers. Regulatory oversight of investment also means regulators can bar entry for reasons other than efficiency. The stable rate of return on invested capital offered under rate-regulation

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[227] PJM INTERCONNECTION, LLC, PJM REGIONAL TRANSMISSION EXPANSION PLAN, at 20 (2006), available at http://www.pjm.com/planning/reg-trans-exp-plan.html.

[228] See note 274 [may need to update]. AEP and AES are both requesting that their proposed transmission project be designated as a National Interest Electric Transmission Corridor under the Energy Act 2005.

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can encourage investment. On the other hand, rate-regulation can lead to overinvestment, excessive spending and unnecessarily high costs. Regulation also does not provide the same market discipline that effective competition provides. Under regulation, mistakes as to where and how investments should be made may be borne by ratepayers. In competitive markets, the penalties for such mistakes would fall on management and shareholders. The specter of future accountability for investment decisions can lead to better decision-making at the outset.[229]

Some commenters were strongly supportive of Integrated Resource Planning, or other governmentally-supervised planning process, as a solution to the issue of optimal fuel diversity.[230] In particular, these commenters were concerned that the market acting alone creates boom-bust cycles where investors overreact to market signals and too many parties invest in one region, creating overcapacity, which in turn leads to lower prices. It is possible that regulatory oversight of planning would result in greater fuel diversity, and thus less exposure to risks associated with changes in fuel prices or availability. It would be difficult, however, for regulators in IRP processes to determine in advance the appropriate mix of fuels given the difficulty of projecting their prices. Regulators can make flawed resource decisions (and have done so in the past).

3. Market Oversight of Wholesale Energy Markets

Under current law, market oversight to prevent anticompetitive behavior is an important feature of competitive wholesale electricity markets. Consensus exists as to the necessity of market oversight and rules to ensure that wholesale electricity markets function efficiently and provide benefits to consumers. FERC's Office of Enforcement and state regulators perform this service by reviewing wholesale electricity markets and the reports of internal and independent market monitors.[231] Organized markets are also subject to ongoing scrutiny by state regulators and the independent market monitoring arms of RTOs.[232] In sum, market oversight continues to be a vital element of competitive wholesale markets and ongoing efforts exist to strengthen the oversight process.

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[229] Regulatory solutions, more so than market-based outcomes, may outlive the circumstances that made them seem reasonable.

[230] NYSEG, Idaho PUC.

[231] Federal and state antitrust enforcement agencies also have jurisdiction to challenge anticompetitive conduct in electricity markets.

[232] New York State Public Service Commission

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CHAPTER 4
COMPETITION IN RETAIL ELECTRIC POWER MARKETS

A. Introduction and Overview

Congress required the Task Force to conduct a study of competition in retail electricity markets. This chapter examines the development of competition in retail electricity markets and discusses the status of competition in the 16 states and District of Columbia that currently allow their customers to choose their electricity supplier.[233]

Although it has been almost a decade since states started to implement retail competition, residential customers in most of these states still have very little choice among suppliers. Indeed, in most of these states, few residential customers have a wide variety of alternative suppliers and pricing options from which to choose. Commercial and industrial ("C&I") customers have more choices and options than residential customers, but in several states the large industrial customers have become increasingly dissatisfied with increasing retail prices.

One of the main impediments to market-based competition has been the lack of entry by alternative suppliers and marketers to serve retail customers. Most states required the distribution utility to offer customers electricity at a regulated price as a backstop or default if the customer did not choose an alternative electricity supplier or the chosen supplier went out of business.[234] States argued that a regulated service was necessary to ensure universal access to affordable and reliable electricity.

States often set the price for the regulated service at a discount below then-existing rates and capped the price for multi-year periods. In some states, these initial discounts sought to approximate the anticipated benefits of competition for residential customers. Since then,

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[233] We adopt the convention of designating states as permitting retail competition on the basis of whether a state allows alternative suppliers to enter and obtain multiple, geographically dispersed customers. An even broader potential definition of retail competition would take into account policies that allow individual retail customers to provide some or all of their own generation needs (*i.e.,* to make rather than buy electricity). Onsite generation is a common occurrence in some industries in some sections of the country. Small onsite generation projects – often referred to as "Distributed Generation" or "Distributed Resources" projects – are gaining popularity as well. Many states that do not have retail choice in the conventional sense of the term do have provisions for various forms of onsite generation and net metering. Another broader form of retail competition involves municipal utilities or cooperatives, which are present in many states. National Rural Electric Cooperatives Association(2). These entities can be carved out of existing private utility distribution areas, or can be added back into them if the municipality decides to do so (or if the cooperative disbands). The *Otter Tail Power* case, 410 U.S. 366 (1973), was decided on the basis of this form of retail competition. If these broader definitions of "retail competition" were used, all or nearly all states would be designated as retail competition states.

[234] In this report, we refer to state-mandated and -regulated electrical service in states with consumer choice programs as "provider-of-last-resort" (POLR) service. A broad range of terms is used in different states to denote this type of service. Some states have more than one form of mandated service or have changed the form of POLR service over time. In many states, POLR service originated as an element in arrangements to pay the stranded (*i.e.*, non-recovered) costs of vertically integrated utilities – costs that may have become unrecoverable when the state adopted a retail customer choice approach.

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wholesale prices have increased. More than any other policy choice surrounding the introduction of retail competition, this requirement that distribution utilities offer service at low prices unwittingly impeded entry by alternative suppliers to serve retail customers, because new entrants cannot compete against a below-market regulated price.

States with prices regulated at below-market levels now face a "rate shock." On the one hand, rate caps for the regulated service that most residential customers use are set to expire, and states are loath to subject their customers to the substantially higher market prices that distribution utilities are indicating they must charge. These higher prices are particularly painful to customers that have limited ability to adjust their consumption in response to price increases. On the other hand, if states require distribution utilities to offer regulated service at below-market rates, then retail entry – and thus competition – will not occur. Moreover, below-market rates put the solvency of the distribution utility at risk and do not provide appropriate incentives for conservation.[235]

This conundrum is further complicated by the fact that most distribution utilities that offer the regulated service no longer own generation assets, and the supply contracts that were part of the agreements by which utilities divested generating assets were generally set to expire at the end of the transition period.[236] The utilities in many states sold their generation assets or transferred them to unregulated affiliates at the beginning of retail competition. Thus, distribution utilities that offer the regulated service must purchase supply in wholesale markets. Attempts to reassemble the vertically integrated distribution company face the reality that many generation assets may be more expensive now than when they were divested at the beginning of retail competition. If the utility repurchases these assets at the current higher prices, it is likely to have "sold low and bought high."

Except in cases in which retail prices are set by regulation without regard to current wholesale prices, the competitiveness of wholesale prices has a direct impact on the retail prices consumers pay.[237] For example, retail prices usually will reflect imperfections in the wholesale market,

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[235] Debt rating agencies may downgrade the creditworthiness of utilities in states that require utilities to sell at prices below their costs. For example, Moody's Investors Services reportedly has downgraded the creditworthiness of utilities in Maryland – in particular, Baltimore Gas & Electric, due to that firm's inability to pass on increased input costs to consumers, which "leaves BGE in a weakened state that makes it vulnerable to further downgrades and even insolvency if it faces further energy price shocks or other costs that the legislature deems cannot be passed on to customers." Patricia Hill, "Maryland Utilities Designated Near Junk," Washington Times (July 12, 2006), available at http://www.washingtontimes.com/functions/print,php?StoryID=20060711-103048-5690r.

[236] In most retail customer choice states, supply contracts ("vesting contracts") have been used to enable distribution utilities to offer POLR service at the capped price level after they have divested generating plants or transferred them to unregulated affiliates. The "rate shock" anticipated in these states is due in part to the lack of laddering in the vesting contracts beyond the end of the transition period, as defined in the legislation. There are two exceptions worth noting. In California, vesting agreements were deemphasized in favor on procurement at spot market prices. In upstate New York, vesting agreements were longer term and continue to have a moderating effect on average procurement prices for POLR service in the state. Public Utility Law Project of New York(2) at 36.

[237] Several commenters emphasized the potential spillovers from problems at the wholesale level to the retail level, including NYSPCS(2) at 3-4; APPA(2) at 4, 21-25; Consolidated Edison(2) at 2, 4-5; Direct Energy(2) at 7; Alliance for Retail Energy Markets(2) at 3-4; Industrial Consumers(2) at 9-10, 21-22; and Allegheny(2) at 15, 19.

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such as some wholesale suppliers' ability to exercise market power;[238] problems in market design that increase wholesale suppliers' costs; government subsidies to some suppliers for reasons other than to address market failures; transmission discrimination that prevents low-cost suppliers from reaching customers; or restrictions that delay or prevent entry and diffusion of low-cost generation technologies. Distortions in wholesale prices that lead to distortions in retail prices can cause inefficiencies in both consumption patterns and in investment decisions by retail customers. Ultimately these distortions are likely to reduce consumer welfare and raise private and social costs of production for goods made with electricity as an input.

This chapter addresses the status and impact of retail competition in seven states that the Task Force examined in detail: Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.[239] These seven states represent the various approaches that states have used to introduce retail competition.[240] The chapter also discusses why it is difficult at this time to determine whether retail prices are higher or lower than they would have been absent the move to retail competition.

In this chapter, we provide several observations based on the experiences of states that have implemented retail competition, with an emphasis on how states can minimize market distortions once rate caps expire. States with expiring rates caps face several choices regarding whether and how to rely on competition, rather than regulation, to determine the retail price for electric power.

B. Background on Provision of Electric Service and the Emergence of Retail Competition

For most of the 20th Century, local distribution utilities typically offered electric service at rates that varied among customer classes (*e.g.*, residential, commercial, and industrial). State

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[238] Retail competition and options for onsite generation can provide opportunities for a customer to find alternative supply sources, including self-generation, if the customer's present supplier tries to raise prices above the competitive level (*i.e.*, attempts to exercise market power).

[239] See Appendix D for each state profile.

[240] Restructured states as of May 2006 include Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia, plus the District of Columbia. The seven states profiled in Appendix D display a range of conditions that are similar to the other states with retail competition. Virginia is similar to Pennsylvania in that their transitions to retail competition are over approximately a 10-year period. Maine and Rhode Island are similar to New York and Texas in that prices for POLR service have been regularly adjusted to reflect changes in wholesale prices. Delaware, the District of Columbia, Illinois, Michigan, New Hampshire, Ohio, and Rhode Island share the situation faced by Maryland, where the transition period of fixed prices for residential and small C&I POLR service will end in the near future. Massachusetts's rate cap period ended recently. Many of the states poised to end the transition period are developing approaches to bring POLR prices for residential and small C&I customers up to market rates in stages rather than all at once. Several of these states also share Maryland's and New Jersey's interest in auctions for procuring POLR service supplies. Oregon's situation differs from the other states in that only nonresidential customers can shop, and that shopping is limited to a short window of time each year.

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regulatory bodies set these rates based on the utility's costs of generating, transmitting, and distributing electricity to customers. Locally elected boards oversaw the rates for customers of public power and cooperative utilities. For investor-owned systems, the regulated rate included an opportunity to earn an authorized rate of return on investments in utility plant used to serve customers. Public power and cooperative systems operate under a non-profit cost-of-service structure, and rates charged by such systems typically include a margin adequate to cover unanticipated costs and support new investment.

With minor variations, monopoly distribution utilities deliver electricity to retail customers.[241] Industrial customers sometimes can choose from more options than can small business and residential customers with regard to service offerings and rate structures (*e.g.*, "time-of-use" rates, which are lower when demand is lower during "off-peak" periods).[242]

Beginning in the early 1990s, several states with high electricity prices began to explore opening retail electric service to competition. As discussed in Chapter 1 and Figure 4-1, rates varied substantially among utilities, even within a single state. Some of the disparity was due to different natural resource endowments across regions, the most important of which are the hydroelectric resources in the Northwest and the abundant coal reserves in states such as Kentucky and Wyoming. Moreover, some states required utilities to enter into PURPA contracts at prices much higher than the utilities' avoided costs. In addition to these rate disparities, some industrial customers contended that their rates subsidized lower rates for residential customers.

Figure 4-1: U.S. Electric Power Industry, Average Retail Price of Electricity by State, 1995 (cents per kWh)

[241] Retail electric customers in 30 states continue to receive service almost exclusively under a traditional regulated monopoly utility service franchise. These states include 44% of all U.S. retail customers, accounting for 49% of electricity demand.

[242] For example, Georgia law allows any new customers with loads of 900 kilowatts or more to make a one-time selection from among competing eligible electric suppliers. Southern.

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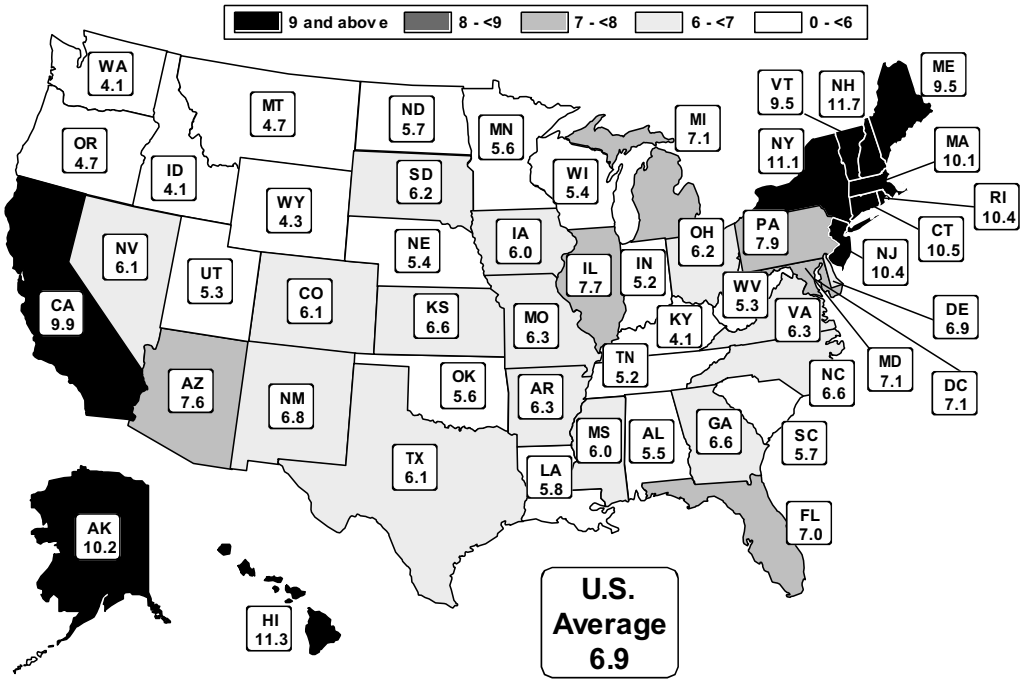

Source: EIA, The Changing Structure of the Electric Power Industry, Figure 11 (Dec. 1996).

With retail competition, customers could choose their electric supplier or marketer, but the local distribution utility would still deliver the electricity.[243] The idea was that customers could obtain electric service at lower prices if they could choose among suppliers. For example, they could buy from suppliers located outside their local market, from new entrants into generation, or from power marketers, any of which might charge lower prices than the local distribution utility. Moreover, the ability to choose among alternative suppliers would reduce market power that local suppliers might otherwise have, so that customers might enjoy lower prices from local suppliers than would otherwise be the case. Also, new suppliers might offer customers innovative price and other terms to purchase electricity (*e.g.*, they could improve the quality of service).

In 1996, California enacted a comprehensive electric restructuring plan to allow customers to choose their electricity supplier. To accommodate retail choice, California extensively restructured the electric power industry. The legislation:

(1) established an independent system operator (ISO) to operate the transmission grid throughout much of the state, so that all suppliers could access the transmission grid to serve their retail customers;
(2) established a separate wholesale trading market for electricity supply, so that utilities and alternative suppliers could purchase electricity to serve their retail customers;
(3) mandated a 10% immediate rate reduction for residential and small commercial

[243] FERC and the states will continue to regulate the price for transmission and distribution services, and the local distribution utility will continue to deliver the electricity in most states, regardless of which generation supplier the customer chooses.

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customers that did not choose an alternative supplier;
(4) authorized utilities to collect stranded costs related to generation investments that were unlikely to be as valuable in a competitive retail environment; and
(5) implemented an extensive public benefits program funded by retail ratepayers.[244]

Other states also enacted comprehensive retail competition legislation. New Hampshire enacted legislation in May 1996. Rhode Island (August 1996), Pennsylvania (December 1996), Montana (April 1997), Oklahoma (May 1997), and Maine (May 1997) followed suit. By January 2001, 22 states and the District of Columbia had adopted retail competition legislation. Regulatory commissions in four other states (including Arizona, which also enacted legislation) had issued orders requiring or endorsing retail choice for retail electric customers.

Several states – primarily those with low-cost electricity, such as Alabama, Colorado, North Carolina, and Wisconsin – concluded that retail competition would not benefit their customers.[245] For example, limitations on transmission access and high concentration among generation suppliers led Colorado to be concerned that suppliers would exercise market power to the detriment of customers. These states opted to keep traditional utility service.

States adopting retail competition plans generally did so to advance several goals, including:

- lower electricity prices than under traditional regulation, through access to lower-cost power in competitive wholesale markets where generators competed on price and performance;
- better service and more options for customers through competition from new suppliers;
- innovation in generating technologies, grid management, use of information technology, and new products and services for consumers; and
- improvements in the environment through displacement of dirtier, more expensive generating plants with cleaner, cheaper natural-gas-fired and renewable generation.

At the same time, under the restructured model, legislatures and regulators affirmed their support for the availability of electricity to all customers at reasonable rates, with the continuation of safe and reliable service and consumer protections under regulatory oversight. Boxes 4-1 and 4-2 describe the Pennsylvania and New Jersey Legislatures' findings and the expected results of retail competition.

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[244] California AB 1890, available at http://www.leginfo.ca.gov/pub/95-96/bill/asm/ab_1851-1900/ab_1890_bill_960924_chaptered.pdf.

[245] Wisconsin regulators apparently believed that retail competition might increase the cost of capital for new generation and transmission projects. Ebert(2) at 3.

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Box 4-1

Findings of the Pennsylvania Legislature

The findings of the Pennsylvania General Assembly demonstrate these varied goals:

(1) Over the past 20 years, the federal government and state government have introduced competition in several industries that previously had been regulated as natural monopolies.
(2) Many state governments are implementing or studying policies that would create a competitive market for the generation of electricity.
(3) Because of advances in electric generation technology and federal initiatives to encourage greater competition in the wholesale electric market, it is now in the public interest to permit retail customers to obtain direct access to a competitive generation market as long as safe and affordable transmission and distribution is available at levels of reliability that are currently enjoyed by the citizens and businesses of this Commonwealth.
(4) Rates for electricity in this commonwealth are on average higher than the national average, and significant differences exist among the rates of Pennsylvania electric utilities.
(5) Competitive market forces are more effective than economic regulation in controlling the cost of generating electricity.

Source: Pennsylvania HB 1509 (1995), available at
http://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTMhttp://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTMhttp://www.legis.state.pa.us/WU01/LI/BI/BT/1995/0/HB1509P4282.HTM

Box 4-2

Findings of the New Jersey Legislature

"The [New Jersey] Legislature finds and declares that it is the policy of this State to:

(1) Lower the current high cost of energy, and improve the quality and choices of service, for all of this State's residential, business and institutional consumers, and thereby improve the quality of life and place this State in an improved competitive position in regional, national and international markets;

(2) Place greater reliance on competitive markets, where such markets exist, to deliver energy services to consumers in greater variety and at lower cost than traditional, bundled public utility service; . . .

(4) Ensure universal access to affordable and reliable electric power and natural gas service;

(5) Maintain traditional regulatory authority over non-competitive energy delivery or other energy services, subject to alternative forms of traditional regulation authorized by the Legislature;

(6) Ensure that rates for non-competitive public utility services do not subsidize the provision of competitive services by public utilities; . . ."

C. Meltdown and Retrenchment

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Starting in the late spring 2000 and lasting into the spring of 2001, California experienced high natural gas prices, a strained transmission system, and generation shortages that resulted in blackouts. Wholesale electricity prices increased substantially during this time. State law capped residential POLR service rates at levels that were soon below the market price paid by utilities for wholesale electric power. One of California's large investor-owned utilities declared bankruptcy because it could not increase its retail rates to cover the high wholesale power prices. The state stepped in to buy electricity on behalf of two of the three IOUs operating in California.[246] California eventually suspended retail competition for most customers while it reconsidered how to assure adequate electric supplies and continuation of service at affordable rates in a competitive wholesale market environment. Although that suspension continues today, 12% of load in the state is supplied by alternative suppliers, some additional consumers remain eligible to switch to alternative suppliers, and new initiatives for municipal aggregation are being pursued.[247] Box 4-3 describes California's role in purchasing electricity and the all-time-high prices it paid, and continues to pay, for such electricity.

The experience in California and its ripple effects in the western region prompted several states to defer or abandon their efforts to implement retail competition. No additional states have adopted retail competition since 2000. Indeed, some states – including Arkansas and New Mexico – repealed retail competition plans that they previously had adopted.

Other populous states, such as Illinois, New Jersey, New York, Pennsylvania, and Texas, moved ahead with retail competition as planned. Some of these states have ended, or are about to end,

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[246] See, e.g., California Attorney General's Energy White Paper, A Law Enforcement Perspective on the California Energy Crisis, Recommendations for Improving Enforcement and Protecting Consumers in Deregulated Energy Markets (Apr. 2004), available at http://ag.ca.gov/publications/energywhitepaper.pdf; Federal Energy Regulatory Commission, Final Report on Price Manipulation in Western Energy Markets: Fact Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices, Docket No. PA02-2-000 (March 26, 2003); U.S. General Accounting Office, Restructured Electricity Markets, California Market Design Enabled Exercise of Market Power (June 2002), available at http://www.gao.gov/new.items/d02828.pdf.

[247] California Public Utility Commission(2); Alliance for Retail Energy Markets(2).

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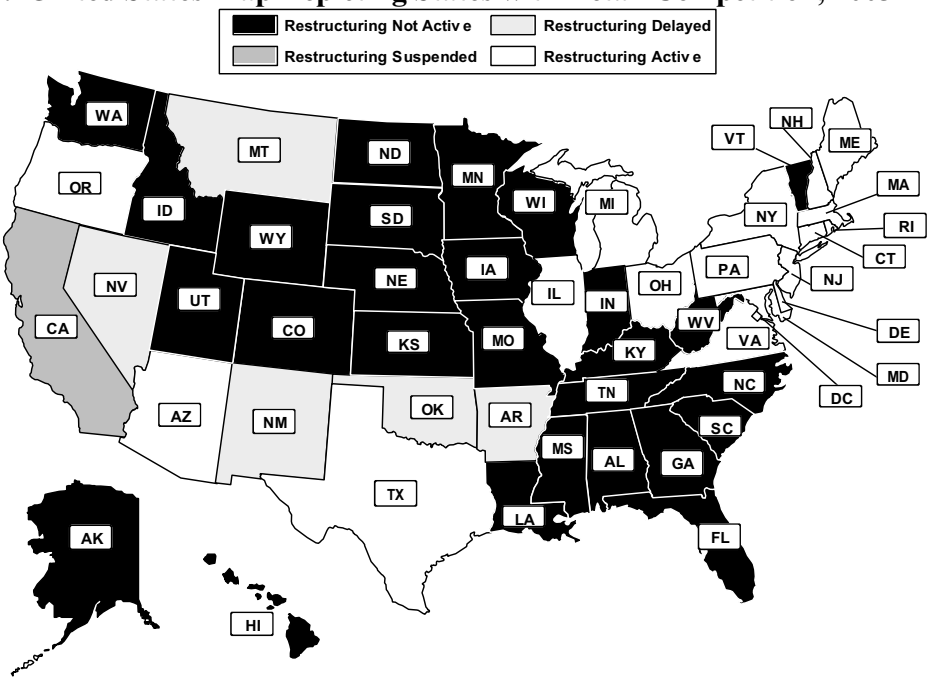
their POLR service rate caps and will soon purchase wholesale supplies for POLR service at market prices (although several of these states are developing approaches to slow the adjustment to market-based procurement). States such as New York and Texas, which have adjusted POLR prices to approximate market rates on an ongoing basis, do not face a potential discontinuity in POLR service prices.

As shown in Figure 4-2, 16 states and the District of Columbia have restructured at least some of the electric utilities in their states and allow at least some retail customers to purchase electricity directly from competitive retail suppliers. Restructured states as of April 2006 include Connecticut, Delaware, District of Columbia, Illinois, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia.

Figure 4-2: United States Map Depicting States with Retail Competition, 2003



Source: EIA, available at http://www.eia.doe.gov/cneaf/electricity/chg_str/restructure.pdf

Experience with Retail Competition

With the expected benefits of retail competition in mind, the Task Force examined seven states in depth to report the status of retail competition. These "profiled states" – Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas – represent the different approaches taken to introduce retail competition.

In most profiled states, competition has not developed as expected for all classes of customers. In general, few alternative suppliers currently serve residential customers. To the extent that there are multiple suppliers serving customers, prices have not decreased as expected, and the range of new options and services often is limited. The development of retail competition has been impeded to a considerable extent by the fact that several states still have capped residential

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POLR rates. C&I customers generally have more choices than do residential customers, in terms of both the number of suppliers and the degree to which services are customized.[248] Most large C&I customers do not have the option to take POLR service at discounted, regulated rates, and these customers can be more attractive to alternative suppliers because the ratio of sales to marketing costs is often perceived to be higher for these customers.

This section first reviews the status of retail competition in the profiled states, with an emphasis on entry of new suppliers, migration of customers to alternative suppliers,[249] and the difficulty of drawing conclusions about the effect of retail competition on prices due to the capped POLR service.[250] The section then discusses how regulated POLR service has distorted entry decisions by alternative suppliers. The section also discusses lessons learned from the use of POLR that may assist states as they decide how to structure future POLR service.

1. States Have Allowed Distant Suppliers to Access Local Customers and Have Encouraged Distribution Utilities to Divest Generation

The profiles revealed that each state took some measures to encourage entry of new suppliers to compete with the incumbent utility. Each of the profiled states adopted policies to allow suppliers other than the local incumbent distribution utility to gain access to local retail customers, by requiring the utilities in the state to join an ISO or a regional transmission organization (RTO). As discussed in Chapter 3, larger geographic markets for wholesale electricity enable retail suppliers and marketers to buy generation supplies from a wider range of local and distant sources (*e.g.*, neighboring utilities with excess generation, independent power producers, cogenerators, etc.). Even if no new generation facilities are built, independent operation and management of the transmission grid increases the choices available to retail customers and makes it more difficult for local generators to exercise market power.

Some states, including Massachusetts, New Jersey, and New York, ordered or encouraged utilities to divest generation assets to independent power producers (IPP), in order to eliminate

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[248] Many alternative suppliers reportedly have developed customized time-of-use and other forms of energy management contracts for large C&I customers. Wal-Mart at 10-11; Morgan; Direct Energy(2) at 3.

[249] The degree to which customers switch to alternative suppliers sometimes is used to measure the extent of retail competition. States with retail customer choice usually report these switching statistics. This can be a useful measure when the greatest concern is that the POLR service provider is obstructing switching, or that certain features of regulation (including lack of information about the retail choice process and below-market pricing of POLR service) are discouraging entry and active consumer shopping for electricity service.. Another way to gauge the success of retail competition policy is to conduct surveys of consumer awareness of retail choices and consumer perceptions of the difficulty of switching between suppliers, but such survey results are expensive to obtain and not available systematically. More generally, consumers can obtain the benefits of competition if existing competition, entry, or the threat of entry prevents incumbent suppliers from exercising market power manifested in the form of higher prices, lower product quality, or reduced innovation. In this sense, retail competition could be effective even without any switching to alternative suppliers. National Association of State Utility Consumer Advocates(2).

[250] There is no reason to believe, however, that retail competition in this market will not function as competition does in any market, by reducing prices.

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possible transmission discrimination or to secure accurate stranded cost valuations.[251] Although these divestitures have generally not required a utility to sell its generation assets to more than one company in order to eliminate the potential for the exercise of generation market power, generating facilities frequently have been sold to more than one IPP.[252] In other states, such as Illinois and Pennsylvania, several utilities voluntarily divested their generation assets by selling them or transfering them to unregulated affiliates.[253]

As a result of these divestitures, regulated distribution utilities in profiled states operate fewer generation plants than in the past. Distribution utilities that are required to serve customers must access the wholesale market to obtain generation supply to serve their customers. Table 4-1 shows the amount of a state's generation that was under operation by the state's utilities (*i.e.*, not operated by independent power producers or as combined heat and power facilities), both before and after the start of retail competition.

Table 4-1
Percentage of Utility Ownership of Generation Assets by State

State	Prior to Restructuring (1997)	2002
Illinois	97.0	9.1
Maryland	95.4	0.1
Massachusetts	86.6	9.0
New Jersey	81.2	6.8
New York	84.3	32.4
Pennsylvania	92.3	12.3
Texas	88.3	41.2

Source: U.S. Department of Energy, Energy Information Administration, State Profiles, Table 4 in each state profile, available at http://www.eia.doe.gov/cneaf/electricity/st_profiles/e_profiles_sum.html. The utility ownership percentage for New York in 2002 is higher than for other states with divestiture policies because it includes the hydroelectric and nuclear facilities of the Power Authority of the State of New York (even though that body is not a retail distribution utility).

Other states, such as Texas, limited the market share that any one generation supplier can hold in a region, thus providing an opportunity for other suppliers to enter.[254] Still others, such as New

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[251] See Massachusetts, New Jersey, and New York profiles, Appendix D. See also FTC Staff Report, Competition and Consumer Protection Perspectives on Electric Power Regulation Reform: Focus on Retail Competition, at 43 (2001) [hereinafter FTC Retail Competition Report].

[252] The prices of generation assets have been volatile since these divestitures occurred. Asset prices often are keyed not only to the cost of the fuel necessary to generate the electricity, but also to the location of the asset on the transmission grid.

[253] See Illinois and Pennsylvania profiles, Appendix D. See also FTC Retail Competition Report, Appendix A (profiles of Illinois and Pennsylvania).

[254] Texas profile, Appendix D.

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York, have helped organize introductory temporary discounts from alternative suppliers, thus providing customers an incentive to try out these new suppliers.[255]

2. Alternative Suppliers Serving Retail Customers and Migration Statistics

Substantial numbers of generation suppliers serve large industrial and large commercial customers in the profiled states. For example, in Massachusetts, over 20 direct suppliers provide service to C&I customers, along with over 50 licensed electricity brokers or marketers.[256] In Massachusetts, however, only four active suppliers serve residential customers.[257] In New Jersey, C&I customers can choose among nearly 20 suppliers, but residential customers have a choice of one or two competitive suppliers.[258]

Texas and New York are two states in which more than just a handful of suppliers serve residential customers. In Texas, residential customers can choose from approximately 15 suppliers.[259] In New York, between six and nine suppliers offer services to residential customers in each service territory.[260] With the notable exception of the Ohio municipal aggregation program described in Box 4-4, few, if any, suppliers have continuously provided service to residential customers in the other profiled states or in other retail competition states prior to the end of the respective transition periods.

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[255] New York profile, Appendix D.

[256] Massachusetts Department of Telecommunications and Energy, List of Competitive Suppliers/Electricity Brokers, available at http://www.mass.gov/dte/restruct/company.htm.

[257] Massachusetts Department of Telecommunications and Energy, Active Licensed Competitive Suppliers and Electricity Brokers, available at http://www.mass.gov/dte/restruct/competition/index.htm#Licensed%20Competitive%20Suppliers%20and%20Electricity%20Brokers.

[258] New Jersey Board of Public Utilities, List of Licensed Suppliers of Electric, available at http://www.bpu.state.nj.us/home/supplierlist.shtml. For example, in the Connectiv territory, there are 18 C&I suppliers and only one residential supplier. Eighteen suppliers serve C&I customers and one serves residential customers in the PSE&G service territory.

[259] Texas Public Utility Commission, Texas Electric Choice Compare Offers from Your Local Electric Providers, available at http://www.powertochoose.org/default.asp

[260] New York State Public Service Commission, Competitive Electric and Gas Marketer Source Directory, available at http://www3.dps.state.ny.us/e/esco6.nsf/. The NYSPSC reports that this range has moved to between 6 and 16 alternative suppliers, and the agency expects the number and variety of services offered by alternative suppliers to increase as New York State moves forward with retail competition. NYSPSC(2). Some listed suppliers may not be actively marketing to residential customers. Public Utility Law Project of New York(2) at 41-42.

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Box 4-4
Customer Choice Through Municipal Aggregation in Ohio

In New York, Texas, and most other states, retail customer switching occurs primarily through decisions by individual customers to pick a specific alternative retail supplier. In Ohio, however, most switching activity has occurred through aggregations of customers seeking a supplier under the statewide "Community Choice" aggregation option. The Ohio retail competition law provides for municipal referendums to seek an alternative supplier and allows municipalities to work together to find an alternative supplier. The largest aggregation pool, the Northeast Ohio Public Energy Council, is made up of 100 member communities and served approximately 500,000 residents at its peak. The Ohio program allows individual customers to opt out of the aggregation. In most other states, aggregation programs use an approach under which customers must specifically opt in to participate. Participation rates generally are much higher in opt-out than in opt-in programs. (NOPEC recently had to contract for supply with an affiliate of the distribution utility after the original supplier withdrew from the market).

The percentage of residential customers switching from the POLR service to an alternative competitive supplier is the greatest for those customers with more available generation suppliers. For example, in Massachusetts, 8.5% of residential customers had migrated to a competitive supplier as of December 2005.[261] Approximately 41% of large C&I customers had switched to alternative suppliers, representing 57.5% of the C&I load.[262] In states with a large number of suppliers serving residential customers, higher percentages of residential customers had switched to a new supplier (*e.g.,* approximately 26% chose a new supplier in Texas).[263] Of course, once alternative suppliers serve customers, the local distribution utility no longer provides generation supply, but instead continues to deliver electricity over its transmission and distribution system.

3. Retail Price Patterns by Type of Customer

Figure 4-3 shows average revenues per kilowatt hour for all customer types in the profiled states against the national average for the period 1990-2005. The U.S. national average was generally flat at 8 cents per kWh during this period. Rates in New York, Massachusetts, and New Jersey have generally been higher than the national average, and those in Texas, Pennsylvania, Maryland, and Illinois have been lower. In 2004 and 2005, retail prices in all states began to increase.

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[261] A substantial number of these switches are the result of community aggregations (principally the Cape Light Compact) rather than individual residential switches. Cape Light Compact(2) at 1-2.

[262] Massachusetts profile, Appendix D.

[263] Texas profile, Appendix D. There likely is a "chicken-or-egg" problem about whether more switching over time is attributable to a prior increase in the number of suppliers or vice-versa (or whether both effects interact).

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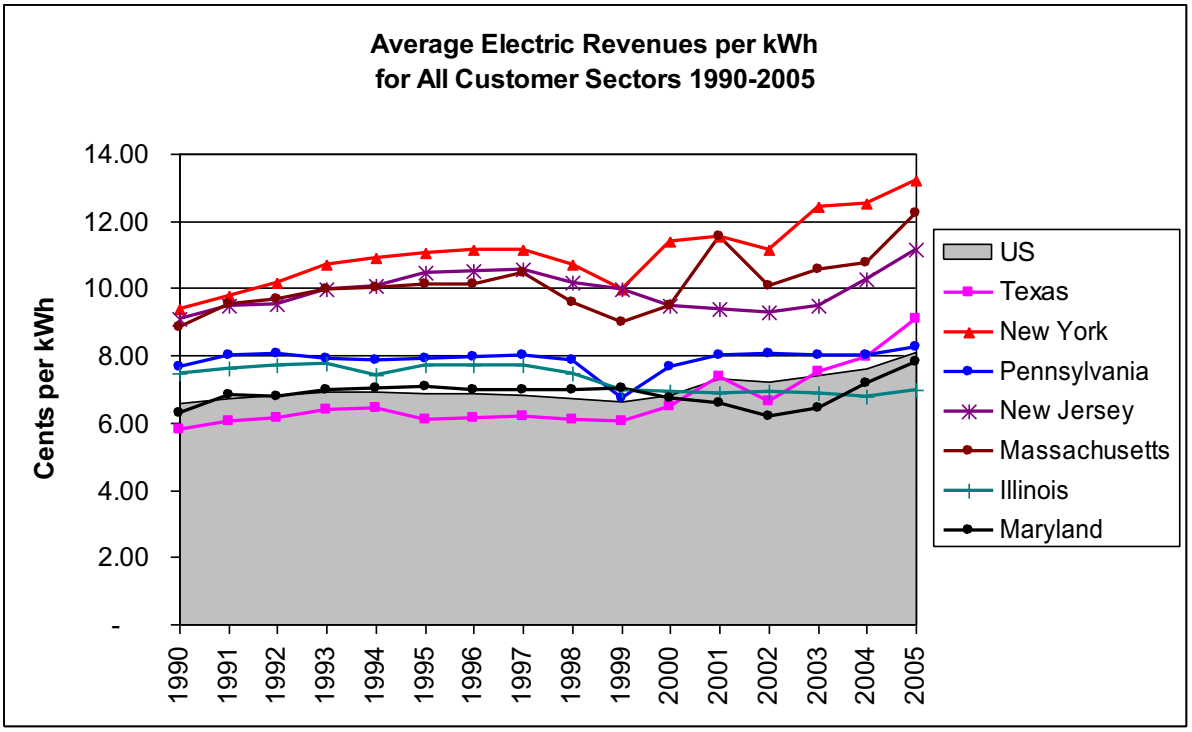
Figure 4-3. Average Revenues per kWh for Retail Customers, 1990-2005
Profiled States v. National Average



Source: EIA Form 861 data, and Monthly Electricity Report for average electric revenues per kWh all sectors, all retail providers.

a. Residential and Commercial Customers

It is difficult to draw conclusions about how competition has affected retail prices for residential customers in states in which residential customers continue to take capped POLR service (*e.g.*, Maryland, Illinois, Pennsylvania, and Texas). Comparisons of regulated prices shed little light on the price patterns resulting from retail competition.

For those states in which the residential rate caps have expired, POLR prices have increased recently. In New Jersey, residential rate caps on POLR service expired in the summer of 2003. Since then, the state has conducted an internet auction to procure POLR supply of various contract lengths (one- and three-year contracts). The state holds annual auctions to replace the suppliers with expiring contracts and to acquire additional supply. Rates for the generation portion of POLR service were flat in 2003 and 2004 after adjusting for deferred charges, but they increased in 2005 and 2006, with rates increasing approximately 13% between 2005 and 2006.[264]

In Massachusetts, capped POLR rates expired in February 2005. Since then customers who had not chosen an alternative supplier were still able to obtain POLR service. Massachusetts based

[264] New Jersey profile, Appendix D. See also Kenneth Rose, 2003 Performance of Electric Power Markets, Review Conducted for the Virginia State Corporation Commission, at II-19 (Aug. 29, 2003).

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the generation portion of the POLR service on the price of supply procured in wholesale markets through fixed-priced, short-term (three- or six-month) supply contracts. Rates for the generation portion of POLR service in the Boston Edison (north) territory increased from 7.5 to 12.7 cents per kWh from 2005 to 2006.[265]

b. Large Industrial Customers

Similar to the situation described above for residential and commercial customers, large industrial customers that continue to use a fixed price POLR service shed little light on price patterns. A number of states, however, have revised their POLR policies for large customers such that the POLR price for generation is a pass-through of the hourly wholesale price for electricity plus a fixed administrative fee. For example, Maryland, New Jersey, and New York have adopted this type of POLR pricing for large industrial customers.[266] As described above, substantial numbers of customers have switched to alternative suppliers in these states.

Large industrial customers described how their rates have increased since the beginning of retail competition.[267] Indeed, some commenters suggested that the Task Force compare prices for customers of a utility that operates in a state that did not implement retail competition against prices for customers of the same utility in a state that implemented retail competition in order to assess the effect of retail competition on rates.[268]

The difficulty with this type of comparison is that many factors unrelated to retail competition may simultaneously influence prices. For example, one state may have reduced cross-subsidies between customer classes while other states increased them. As a result, a price comparison between the two states for a class of customers would conflate competition and cross-subsidization effects. Access to different generators (with low or high prices) may be affected by transmission congestion, so that comparing two states as if they were in the same physical location would be misleading. The timing of rate adjustments may differ between states, so that a single snapshot comparison of rates would show a lower price in one state at one point in time, but would show a lower price in the other state at a different point in time – even if the net present values of typical bills in the two states were identical over a long observation period. Finally, some states may defer recovery of costs to a future time period, whereas other states choose not to. Thus, absent consideration of these and other factors, a simple price comparison between two states may not reveal whether retail competition has benefited customers. At this

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[265] Massachusetts profile, Appendix D.

[266] Although the POLR service price is based on the hourly wholesale price of electricity, customers in Maryland and New Jersey who purchase this service are unaware of the price until they consume the power or until they are billed. Galen Barbose, Charles Goldman, and Bernie Neenan, "The Role of Demand Response in Default Service Pricing," 19:3 *Electricity Journal* 64 (Apr. 2006).

[267] See, e.g., ELCON; Portland Cement; Alliance of State Leaders; Alcoa.

[268] Portland Cement; Lehigh Cement.

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point it is difficult for the Task Force to provide a definitive explanation of price differences between states.

4. Results of Efforts to Bring Accurate Price Signals into Retail Electric Power Markets

There is mixed evidence concerning the degree to which retail competition has resulted in efficient price signals to customers. Residential POLR service rate caps have not increased customer exposure to time-based rates.[269] In contrast, real-time pricing has been adopted as the POLR service available to the largest customers in New Jersey, Maryland, and New York.[270] The shift to real-time pricing has been eased by technical advances in metering that have increased the sophistication (and decreased the prices) of meters that record the volume of consumption in each small block of time.[271]

Commenters argue that POLR rate structure can have a major effect on customer price responsiveness, especially among larger customers. A broad spectrum of utilities, state regulators, and ISOs argue that variable rates permit customers to react to price changes by enabling customers to see clearly how much money they can save.[272] Indeed, the experience of the largest customers in National Grid USA's New York area suggests that, following the introduction of retail competition, customers using real-time pricing demonstrate price sensitivity.[273]

In states with traditional cost-based regulation, utilities have used various incentives to induce customers to reduce consumption during periods in which demand is high and transmission is congested (*e.g.*, hot summer days). In other instances, such as in New York State, independent

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[269] Rates for residential POLR service in the Consolidated Edison distribution areas in New York State, however, are reported to vary by month rather than being averaged over longer periods of time. Public Utility Law Project of New York(2) at 35-36.

[270] For discussion of the exposure to hourly prices among the entire class of the largest C&I customers, rather than just the customers still taking POLR service, see Galen Barbose, Charles Goldman, and Bernie Neenan, "The Role of Demand Response in Default Service Pricing," *supra*; Nicole Hopper, Charles Goldman, and Bernie Neenan, "Demand Response from Day-Ahead Hourly Pricing for Large Customers," 19:3 *Electricity Journal* 52 (Apr. 2006). The authors report that although most customers switch away from POLR service when it is an hourly price, they often select offers from alternative suppliers that contain elements of hourly pricing. Further, they report that the proportion of customers accepting hourly price aspects in their supply contracts – over 90% – is far higher when the price is set on the day-ahead spot market. The authors believe that the higher participation rates in hourly pricing under this circumstance are due to the early warning that customers get in the day-ahead market and the customers' consequently greater ability to respond to these pricing signals.

[271] Direct Energy(2) at 7; Mercatus Center at 2; CP Consulting at 2. Results from trial programs utilizing advanced meters for residential customers indicate that residential demand for air conditioning is more price sensitive than other uses, particularly if the response is automated. Robert Earle and Ahmad Faruqui, "Toward a New Paradigm for Valuing Demand Response," 19:4 *Electricity Journal* 21 (May 2006).

[272] Constellation; PEPCO; Southern; EEI; ICC; IURC; NYSPSC; ISO-NE.

[273] National Grid.

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transmission operators have successfully implemented demand response programs that are available to retail customers. In some instances, the existence of retail competition has discouraged the implementation of these traditional types of programs, particularly when POLR is no longer the responsibility of distribution utilities.[274] Without the need to maintain a portfolio of resources to meet POLR, distribution utilities may no longer value these types of programs as a resource to ensure reliable and efficient grid operation. Shifting the responsibility of grid operation and reliability to regional organizations such as ISOs/RTOs further decreases the direct interest by distribution utilities in these types of product offerings.

5. Retail Competition and Rural America

Many rural areas are served by small non-profit electric cooperative and public power utilities. Historically rural areas were among the last to be electrified and the most costly to serve. Customers are scattered over large geographic areas, and residential and small loads predominate. Although electric distribution cooperative service areas have been opened to competition under some state plans, no state has required municipal and/or public power utilities to implement retail competition.

As regards electric cooperatives, eight states with retail competition – Arizona, Delaware, Maine, Maryland, Michigan, New Hampshire, Pennsylvania, and Virginia – required cooperatives to implement retail competition in their service territories. With the exception of Pennsylvania, state public utility commissions regulated retail rates of electric cooperatives and approved the retail competition plans for each cooperative. Pennsylvania's restructuring legislation left the design and implementation of retail competition to the individual distribution cooperatives and their boards. The Pennsylvania Public Utility Commission is responsible for licensing competitive retail providers in cooperative service territories. Cooperative retail competition plans have been fully implemented in Delaware, Maine, New Hampshire, Pennsylvania, and Virginia. Some aspects of cooperative retail competition plans are still in administrative or judicial proceedings in Arizona and Michigan, the latter of which has allowed electric cooperatives to offer retail competition to a portion of their very large C&I customers. Action on extending competition to other customers in Michigan has been deferred.

Other states – including Illinois, Montana, New Jersey, Ohio, and Texas – allow electric cooperatives to opt in to retail competition on a vote of their boards or membership. None of these states regulates the rates or services of electric distribution cooperatives, so the design and implementation of cooperative retail competition plans are left to the individual cooperative. Licensing of competitive providers is handled by the state, but providers must enter into agreements with the cooperative in order to begin enrolling retail customers. A handful of individual cooperatives in Montana and Texas elected to provide retail competition options for their members.

It is difficult to track the progress of retail competition in rural areas because most states do not make switching data available or maintain up-to-date information on active suppliers in

[274] For example, PEPCO stopped actively supporting its air-conditioner DLC program when it divested its generation assets.

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cooperative service territories. Nevertheless, the Task Force was able to determine that there were few alternative competitive providers, if any, for residential customers of rural systems open to retail competition. There were no competitive providers enrolling customers in cooperative systems in Arizona, Maine, Maryland, New Hampshire, Pennsylvania, or Virginia in May 2006. In Delaware and Montana, competitive providers had been licensed to serve cooperative customers, but it is unclear whether any is currently enrolling customers. Licensed provider and switching information for Texas cooperatives is not yet available.

B. POLR Service Price Significantly Affects Entry of New Suppliers

Each of the profiled states has required local distribution utilities to offer a POLR service for customers who do not select an alternative generation service provider or whose supplier has exited the market. The price that the distribution utility charges for regulated POLR service is usually "fixed" for an extended period – that is, it does not vary with increases or decreases in wholesale prices. Generation accounts for the most significant portion of the POLR service price. Many states denote this component – which constitutes the amount that the customer avoids paying the distribution utility by choosing (and paying) an alternative generation service provider – as the "price to beat" or the "shopping credit."

The comments reported that the price of POLR service is the most significant factor affecting whether new suppliers will enter the market and compete to serve customers.[275] The POLR price is the price against which new suppliers, including unregulated affiliates of the distribution utility, must compete if they are to attract customers.[276] The frequency of change of the POLR service price, among other features of POLR service, can affect the competitive dynamics between different suppliers.

1. Contrasting Visions of POLR Service

[275] In addition to the policies surrounding POLR service discussed above, the comments identified other factors that depress or delay entry into retail markets.. For example, the Pennsylvania Consumer Advocate identified several factors that depressed retail entry by suppliers to serve residential customers, including "the acquisition costs associated with marketing programs to reach residential customers, the costs of serving such customers once acquired, and the rising prices for generation supply service in the wholesale market" PA OCA at 3. The Maine Public Advocate echoed these factors and also identified the "miscalculation by some suppliers as to the risks and rewards for retail electricity competition" ME PA at 3. The Industrial Consumers observed that retail markets are not fully competitive because of insufficient generation divestitures that left suppliers with market power. ELCON at 2. Another factor identified by Industrial Consumers is the inability of alternative suppliers to gain access to necessary transmission services to serve their customers. ELCON at 6. Others customers suggested that the lack of uniform rules throughout every service territory hinders entry for suppliers. Wal-Mart at 13. Other commenters argued that alternative suppliers need access to customer usage data from utilities to be able to market to prospective customers. Constellation at 43. Still others argued for no minimum stay requirements at POLR and constrained shopping windows, which can dampen entry. RESA at 30-31; Strategic at 10; Wal-Mart at 13. The lack of entry in most states makes it difficult for the Task Force to evaluate which additional factors are the most important.

[276] There is one potential exception: a supplier that offers a substantially different product – for example, "green" power from wind turbines – may be able to charge a higher price and still attract customers.

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The comments revealed two visions of how POLR service should function in the long term.[277] In the first vision, POLR is a long-term option for customers. Under this view, POLR service closely approximates traditional utility service, but in a market place with other sources of supply available to customers. POLR service under this vision often features prices that are fixed over extended periods of time. Government-regulated POLR service competes head-to-head with private, for-profit retail suppliers.[278] (This may be analogized to the United States Postal Service as a provider of parcel postage service in competition with for-profit package delivery services such as United Parcel Service, DHL, and Federal Express.) Alternative suppliers may grow as they find additional approaches to attract customers, but POLR service will likely retain a substantial portion of sales, particularly to residential customers. This type of POLR service serves as a yardstick against which alternative suppliers compete. Most states have adopted this vision of POLR service.[279]

In the second vision, POLR is a barebones, temporary service consisting of retail access to wholesale supply, provided primarily to customers that are between suppliers. In this vision, alternative suppliers serve the bulk of retail customers. The alternative suppliers compete primarily against each other with a variety of price and service offerings designed to attract different types of customers. This type of POLR service acts as a stopgap source of supply that ensures that electric service is not interrupted for customers when an alternative supplier leaves the market or is no longer willing to serve particular customers. Wholesale spot market prices, or prices that vary with each billing cycle, may be acceptable as the price for POLR service.[280] (A supply arrangement comparable to this version of POLR service is the high-risk pool for automobile insurance operated in any of several states.[281]) Texas and Massachusetts are current examples of this vision of POLR service, as is Georgia in its design for retail natural gas sales.[282]

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[277] Although state utility regulators often require that POLR service be provided or procured by the incumbent distribution utility, the task of providing or procuring POLR service could be carried out by other entities. Consolidated Edison(2). For example, it could be assigned to one or more alternative suppliers, awarded through a competitive bidding process, or assumed directly by the state utility regulator (as in Maine). In any case, the firm assigned to provide or procure POLR service may be exposed to the risk that this responsibility will be unprofitable because costs and demand are volatile or because state utility regulators impose costs on the provider of POLR service (such as switching incentives) during the transition to retail customer choice. This risk can create financial difficulties for the distribution utility or another entity with this responsibility. Consolidated Edison(2).

[278] See, e.g., ICC; PPL; PA OCA.

[279] See, e.g., PA OCA; NASUCA.

[280] See, e.g., RESA; Wal-Mart; NEMA; Suez.

[281] Most states have a mechanism by which high-risk drivers can obtain insurance. Often insurers in a state are assigned a portion of the pool of high-risk drivers based on each firm's share of drivers outside the pool. AIPSO manages many of the pools and maintains links with individual state programs at https://www.aipso.com/adc/DesktopDefault.aspx?tabindex=0&tabid=1. Similar plans are available in many states for individuals with prior health conditions who are seeking health insurance coverage. See Communicating for Agriculture and the Self-Employed, Comprehensive Health Insurance of High-Risk Individuals (19th ed. 2005).

[282] Texas will end its "price to beat" system in 2007 (Texas profile, Appendix D). Massachusetts ended its rate-capped POLR service in February 2005 (Massachusetts profile, Appendix D). In the Atlanta Gas Light distribution

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Some of profiled states incorporated aspects of both visions of POLR service for different types of customers. For example, New Jersey adopted the first approach for POLR service to residential customers and the second approach for POLR service to large C&I customers.[283] Large C&I customers are generally expected to be well-informed buyers with wide energy procurement experience, and accordingly some states determined that large C&I customers are more likely to be able to obtain quickly the benefits of retail competition without additional help from state regulators provided in the form of fixed POLR prices.

2. Key POLR Service Design Decisions

The profiled states took different approaches to designing their POLR service offerings. Key design decisions involved the pricing of the POLR, the duration of the POLR obligation, and how to acquire POLR supply. Each of these can affect entry conditions that alternative suppliers face. This section describes each of the decisions.

a. Pricing of POLR service:

The profiled states generally set the POLR price at the regulated price for electric power prevailing before the onset of retail competition, less a discount. The discounts usually persist over a specified multi-year period. Assuming that competition generally lowers prices, one rationale for the discounts was to provide a proxy for the effects of competition applied to customers viewed as less likely to be able quickly to obtain such savings for themselves. The Illinois POLR service discount, for example, was developed to bring local prices into line with regional prices. When retail competition began, Illinois customers in areas with relatively low prices before customer choice did not receive discounts below the previously regulated rates. In contrast, customers in the Commonwealth Edison territory – the area with the highest cost-based rates – received 20% discounts to bring retail POLR prices there into line with the regional average bundled service prices prevalent prior to the restructuring legislation.[284]

b. The extent and timing of pass-through of fuel cost changes:

States also have considered the extent to which they should adjust the regulated POLR price to allow for changes in the cost of fuel needed to generate electricity. Some states have separated fuel costs from other cost components, because fuel costs have been more volatile than other input prices. (Fuel costs are the largest variable cost component and can be calculated for each type of generation unit on the basis of public information.) These factors also suggest that a generation firm does not have much control over its fuel costs once the generation investment

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territory, the distribution utility petitioned the Georgia Public Service Commission to withdraw from retail sales. In Georgia, under the amended Natural Gas Competition and Deregulation Act of 1997, a customer who does not choose as alternative supplier is randomly assigned to an alternative supplier. Discussion and documentation about the Georgia natural gas retail competition program are available at http://www.psc.state.ga.us/gas/ngdereg.asp.

[283] New Jersey profile, Appendix D.

[284] Illinois profile, Appendix D.

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has been made. For example, Texas instituted twice-yearly adjustments in the POLR service (price to beat) price calculations. By adjusting POLR prices for changes in fuel costs, Texas regulators have been able to prevent the POLR price from slipping too far away from competitive price levels, thus maintaining the POLR price as a closer proxy for the competitive price.[285] If retail prices fall too far below wholesale prices, the POLR supplier may have financial difficulties, and alternative suppliers will be unlikely to enter or remain as active retailers.[286]

c. POLR price and the shopping credit:

When a retail customer picks an alternative supplier, the distribution utility with a POLR obligation avoids the costs of procuring generation supply for that consumer. The distribution utility therefore "credits" the customer's bill so that the customer pays the alternative supplier (rather than the utility) for the electricity supplied.[287] This avoided charge – the "shopping credit" – equals the regulated POLR service price. States have used two approaches to determine the level of the shopping credit. One view is that the shopping credit equals the avoided cost or the proportion of POLR procurement costs attributable to a departing customer. Maine, for example, has estimated avoided costs on this basis, with no additional estimated avoided costs.[288] This approach results in a lower shopping credit and total POLR price.

An alternative perspective is that the distribution utility also avoids "adders" (costs that are in addition to avoided procurement costs), including marketing and administrative costs.[289] This view results in a higher shopping credit and a higher total POLR price, creating "headroom" for potential entrants. In Pennsylvania, the POLR shopping credit included several other elements, such as avoided marketing and administrative costs.[290] Some observers attributed the early high

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[285] Texas profile, Appendix D. In contrast, a state with long lags in fuel cost adjustments would have retail prices well below market rates during periods of increasing fuel prices, and prices well above market rates during periods of declining fuel prices. A single snapshot comparison of prices would be misleading in these circumstances.

[286] See discussion of the California energy crisis, in which one of the state's utilities declared bankruptcy because, among other reasons, capped POLR rates were substantially below wholesale prices.

[287] The distribution utility continues to charge the customer a delivery charge (a "wires" charge) to cover the transmission and distribution expense.

[288] Thomas L. Welch, Chairman, Maine Public Utilities Commission, UtiliPoint PowerHitters interview (Jan. 24, 2003), available at http://mainegov-images.informe.org/mpuc/staying_informed/about_mpuc/commissioners/ph-welch.pdf.

[289] *See* Kenneth Rose, Electric Restructuring Issues for Residential and Small Business Customers, National Regulatory Research Institute Report NRRI 00-10 (June 2000), available at http://www.nrri.ohio-state.edu/dspace/bitstream/2068/610/1/00-10.pdf, for a discussions of adders and their relationship to wholesale prices and headroom for entrants in Pennsylvania and other states.

[290] Id.

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volume of switching to alternative suppliers in Pennsylvania to the additional avoidable costs that were included in the Pennsylvania shopping credit calculations.[291]

d. The multi-year period for POLR service:

Every state that implemented retail competition has determined how long POLR service should continue to be available to customers at a discount from prior regulated prices. The length of this period has generally corresponded to the distribution utility's collection of stranded generation costs. In a competitive retail environment, utilities no longer were assured that they could recover the costs of all of their state-approved generation investments. Most states faced claims of utility stranded costs associated with generation facilities that were unlikely to earn enough revenues to recover fixed costs once customers could seek out alternative, lower-priced retail suppliers. States allowed utilities with stranded costs to recover those costs through charges on distribution services that cannot be bypassed.[292]

Each state that authorized the collection of stranded costs faced decisions on how to determine these costs and the duration of the collection period. These decisions fundamentally altered the electric power industry and were at the center of some of the most contentious issues facing state regulators. Some states (for example, Maine and New York) required that some or all generation be sold to obtain a market-based determination of the level of stranded costs.[293] In other states, such as Illinois, utilities voluntarily divested generation assets. As noted above, the result of these divestitures is that generation no longer is primarily in the hands of regulated distribution utilities.[294]

e. Procurement for POLR service:

Because most utilities no longer own generation to satisfy all of their POLR obligations, they have taken different approaches to acquire the necessary generation supply. For example, the utilities in New Jersey that offer residential POLR service acquire generation supply through the use of three overlapping three-year contracts, with each contract covering approximately one-third of the projected load.[295] This "laddering" of supply contracts reduces the volatility of retail electricity prices for customers but does not assure that the prices paid by POLR service consumers are at the short-term competitive level.[296] Other states have used different ways to

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[291] Over time, the shopping credit in Pennsylvania faded in significance as the competitive rates increased relative to POLR service prices due to fuel cost increases. See the pattern of customer switching in the Pennsylvania profile in Appendix D.

[292] FTC Retail Competition Report, State Profiles, Appendix A.

[293] New York profile, Appendix D; New York State Profile in Appendix A to the FTC Retail Competition Report.

[294] Illinois profile, Appendix D.

[295] New Jersey profile, Appendix D.

[296] See, e.g., ME OPA.

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hedge the volatility in short-term energy prices. For example, New York distribution utilities have long-term supply contracts with the purchasers of their divested generation assets ("vesting contracts") based on pre-divestiture average generation prices.[297]

E. Observations on How POLR Service Policies Affect Competition

One of the most contentious issues currently facing state regulators is how to price POLR service once the rate caps expire. This situation is especially vexing for those states that had stranded cost recovery periods during which fixed POLR prices became substantially lower than current wholesale prices. The rate caps are expiring this year in Delaware, Illinois, Maryland, Ohio, and Rhode Island, and customers in those states that did not choose an alternative supplier are faced with potentially substantial increases in electricity prices relative to those in effect when retail competition began six or seven years ago. The various state POLR policies encompass the range of options available to these states.

It is difficult to discern a full set of best practices regarding retail competition because the rapid increase in fuel prices in recent years – leading to increases in wholesale prices – interacted dramatically with POLR service rate caps to cut short the experiences with other retail competition issues in most states. As a result, the range of experience upon which to draw regarding other aspects of retail competition is rather narrow, primarily consisting of what has occurred in New York State, Texas (within ERCOT), the Duquesne distribution area within Pennsylvania, Maine, Massachusetts (recently), and the large C&I customers in New Jersey, Illinois, and Maryland. Because each state faces different electricity supply and demand conditions, it is not possible to recommend a single approach for all states considering retail customer choice. Nonetheless, given these limitations, and consistent with the discussion elsewhere in this section, we offer the following observations on what appears to work well (and not to work well) in retail customer choice programs.

Minimum POLR Service: POLR service (or an equivalent provision) to serve customers of a supplier that has left the market, while the customer obtains another supplier, is the least intrusive form of POLR service yet is consistent with concerns about potentially life-threatening effects of unanticipated loss of electric service.

Treatment of Different Customer Risk Preferences: POLR service that goes beyond short-term access to the wholesale spot market involves providing a bundle of services that electricity marketers also can provide. States that embrace a more expansive version of POLR service should recognize that this step may hamper the development of alternative suppliers. The economic rationale for taking this step usually is limited to trying to correct some identifiable and substantial market imperfections. If a state adopts a more expansive version of POLR service, it should periodically review the rationale for continuing it.

POLR Service Price Caps: It is difficult to establish a POLR service price cap that will not distort retail electricity markets and the associated development of effective competition. The

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[297] New York profile, Appendix D.

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best practice is to make frequent adjustments to the cap (at least in order to reflect changes in fuel costs), or to abandon the cap altogether and utilize an objective, competitive process to procure supply.

Treatment of Different Customer Classes: Large customers are logical pioneers for retail choice because of their familiarity with energy procurement processes and because they are comfortable with decisions to adjust input use based on input prices. For smaller, less sophisticated customers, including residential customers, issues of awareness and access to comparative pricing information should be addressed as retail customer choice is introduced.

Switching Costs: Switching is important for retail electricity competition to work. States should strive to avoid rules that make switching more expensive or slower than is necessary to avoid unauthorized switching ("slamming").

Consumer Education: Becoming an informed and active consumer in an unfamiliar market requires that consumers be informed that they have choices and be provided with information about how to compare the available choices and how to switch suppliers (and any constraints on switching). A well-organized state website in Texas appears to work well for residential price comparisons. New York's program to encourage customers to try out alternative suppliers that agree to offer a temporary discount appears to educate many residential customers effectively about the ease of switching, without subsidizing the alternative suppliers.

Customer Aggregation: Customer aggregation is an approach that can reduce per-customer search and switching costs and thus generally can help in the development of retail competition. Opt-out customer aggregations may be worth considering because they can minimize transaction costs without limiting customer choice.

Entry: Entry is a key concept in retail electricity competition. States should strive to avoid rules that make entry more expensive or slower than the avoidance of fraudulent marketing activities requires. Areas for consideration include registration fees and delays, costs and delays in interacting with the distribution utility (metering, billing, treatment of receivables), security deposits for suppliers, rules regarding disconnecting retail customers for non-payment, and exit penalties.

1. POLR Service Price to Approximate the Market Price

For the POLR service price to provide economically efficient incentives for consumption and supply decisions and thereby maximize welfare, it must closely approximate a competitive market price, which will vary over time as supply and demand change.[298] If the POLR service

[298] Because the marginal cost of supplying electricity varies over the course of the day and season and because fuel costs sometimes are volatile, efficient retail prices for electricity are more volatile than the prices that customers are used to paying for electricity under traditional regulation. Electricity prices under traditional regulation typically reflect average costs for electricity and risk management over extended periods of time. In a retail choice environment, alternative suppliers can offer a variety of risk management (hedging) levels that range from full, immediate pass-through of wholesale spot market prices to fixed rates for extended periods. For a discussion of how much hedging is required to eliminate portions of volatility, see Severin Borenstein, "Customer Risk from Real-Time Retail Electricity Pricing: Bill Volatility and Hedgability," University of California Energy Institute CSEM

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price does not closely match the competitive price, it will distort consumption and investment decisions[299] and thereby lead to an inferior allocation of resources.[300] Competitive market prices align consumers' willingness to pay for a service with the marginal cost of providing it (where, in the long run, the marginal cost includes a competitive rate of return on investments). This alignment leads to an economically efficient allocation of resources, such that no alternate allocation of resources could lead to greater welfare for society as a whole.[301]

Experience within the profiled states shows that it is not easy to approximate the competitive price. Not only does the competitive price change when prices of inputs change, but the price also acts as an investment signal for new generation. The short-term competitive price for the electric generation component can move quickly and dramatically. Over the past several years, the initial fixed discounts for POLR service have resulted in POLR service prices that are below market prices or occasionally above market prices, but never at the short-term market price for long.[302] When POLR prices are below competitive levels, even efficient alternative suppliers

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Working Paper 155 (June 6, 2006), available at http://www.ucei.berkeley.edu/PDF/csemwp155.pdf. It is important to realize that these bundles of electricity and risk management can also constitute efficient retail prices, although they contain a cost component associated with the risk management services provided. If POLR service prices become more volatile, a customer with preferences for less risk will have incentives to search for an alternative supplier that offers a price/risk tradeoff that that customer prefers – slightly higher prices but less volatility. Alternative suppliers will have incentives to offer preferable price/risk alternatives in order to gain customers. Retail customers can also consider whether onsite generation or other forms of upstream vertical integration offer the price/risk combination that they most prefer.
In general, so long as there are customers served by alternative suppliers or upstream vertical integration is an option, the POLR price is only one component of the average market price.
In a traditional regulatory setting, utilities sometimes offer customers a discount if they agree to have their service interrupted during peak demand periods. The removal of restrictions on which customers can obtain interruptible service rates would allow more customers to improve the match between their risk preferences and the electric service that they receive. CMTC(2) at 25.

[299] Some commenters observed that cost averaging, cost deferrals, inaccurate cost allocations, double counting of costs, and price caps all can create distortions in consumption and investment that result in loss of consumer welfare. Strategic Energy(2) at 6; Constellation(2) at 8.

[300] There is a tradition in the electricity industry of providing discounts or other forms of assistance to low-income families. It may be in keeping with this tradition for states to examine whether the level of assistance for low-income families should be increased in response to price increases or greater price volatility. National Association of State Utility Consumer Advocates(2). Similarly, firms whose competitors are located in areas with stable or declining prices or diminishing price volatility could face financial distress, just as they would if they experienced other types of increased or more volatile input costs relative to their rivals. Firms with electricity-intensive production processes are likely to be particularly sensitive to increased prices or price volatility for electricity. ALCOA(2); CMTC(2) at 26.

[301] This statement would need to be qualified to the extent there is market power and to the extent there are unpriced externalities such as pollution.

[302] See, e.g., Wal-Mart; WPS Resources; ICC; PPL; RESA.

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cannot profit by entering or continuing to serve retail customers.[303] Firms with the POLR obligation can become financially distressed, as they did in California during its energy crisis.[304]

Some substantial percentage of the change in the market price is likely to be due to changes in fuel prices. A POLR service should adjust the retail electricity price for changes in the prices of fuels used by generators (at the margin). This is a more efficient pricing system than using a fixed price as a proxy for the market price. Moreover, a POLR price that is adjusted only infrequently to incorporate underlying fuel price changes will usually be either above or below the competitive market price.[305] A fixed or infrequently updated price creates incentives for customers to move back and forth from POLR service to alternative suppliers, based on which offers a lower rate to the customer. If permitted, this repeated switching may create additional costs for both POLR service providers and alternative suppliers, and also can reduce the certainty about procurement quantities upon which both POLR service and competitive suppliers may depend to make long-term supply arrangements. If there are other identifiable cost components that fluctuate widely, including them in POLR service price adjustments will also increase the likelihood that the POLR service price will be a reasonable proxy for the competitive price.

2. Lack of Market-Based Pricing Distorts Development of Competitive Retail Markets

A second issue arises when below-market POLR service prices persist during a period of rising fuel prices and correspondingly increasing wholesale supply prices. In these circumstances, customers are likely to experience a shock when POLR service prices are adjusted to reflect prevailing wholesale prices. This situation can create public pressure to continue the fixed POLR rates at below-market levels. For example, some jurisdictions have considered a gradual phase-in of the price increase to bring POLR prices to the market level. The shortfall between the market POLR price and the price that customers actually pay is usually deferred and collected later from the POLR provider's customers.

Although this approach reduces rate shock for customers, it is likely to distort retail electricity markets. First, a phase-in of the price increase continues to provide inaccurate price signals for customers and undermines incentives to reduce consumption. Second, it prevents entry of alternative suppliers by keeping the POLR rate below market levels for additional years. Third, it results in higher prices in future years as the deferred revenues are recovered, so that customers who purchase electricity later are unfairly penalized (overcharged). Fourth, if surcharges to pay for deferred revenues are not designed carefully, the charges can disrupt existing competition by forcing customers with alternative suppliers to pay for part of the deferred revenues. Fifth, if wholesale prices decline, customers will choose alternative suppliers, and this migration will create a stranded cost problem because the POLR provider will have lost customers on whom it had counted to pay the higher prices. Moreover, if the state prevents the stranded cost problem by imposing large exit fees on POLR service customers, POLR service customers will be locked in to the POLR provider, so that competition may not develop even after POLR service prices

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[303] See, e.g., Wal-Mart; RESA.

[304] See, e.g., EEI.

[305] See, e.g., RESA.

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rise to market levels. Finally, continued POLR service price caps in an environment of increasing wholesale prices increase can endanger the financial viability of the distribution utility.

3. Different POLR Services Designed for Different Classes of Customers

Some states have different POLR service designs for different customer classes. POLR service prices offered to large C&I customers generally have entailed less discounting from regulated rates or competitive market-based procurement and have been based on wholesale spot market prices.

Large C&I customers generally have a better understanding than do other customer classes of price risk and of the means and costs required to reduce that risk. In addition, suppliers often can customize service offerings to the unique needs of these large customers.[306] With their larger loads, large C&I customers also may be better equipped to respond to efficient price signals than other classes of customers. The result of this price response may be to improve system reliability and dissipate market power in peak demand periods.[307]

Large C&I customers have engaged in more switching to competitive providers in the states that have implemented this division between POLR service for large C&I customers and POLR service for residential and small C&I customers.[308] Many alternative suppliers have reportedly developed customized time-of-use contracts for large C&I customers.[309] Moreover, the profiled states show that there are a substantial number of suppliers actively serving large C&I customers. Box 4-5 describes the unique sign-up period that Oregon has developed for its nonresidential customers.

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[306] See, e.g., Wal-Mart at 10-11; Morgan.

[307] In Case 03-E-0641, the New York State Public Service Commission required New York utilities to file tariffs for mandatory real-time pricing (RTP) for large C&I customers. The order observed that "average energy pricing reduces customers' awareness of the relationship between their usage and the actual cost of electricity, and obscures opportunities to save on electric bills that would become apparent if RTP were used to reveal varying price signals." It further notes that "if a sufficient number of customers reduced load in response to RTP, besides benefiting themselves, the reduction in peak period usage would ameliorate extremes in electricity costs for all other customers."

[308] New Jersey profile, Appendix D; RESA.

[309] See, e.g., Consolidated Edison; Alliance for Retail Energy Markets; Constellation; PPL; RESA; NY PSC; Direct Energy; Reliant; PA OCA; Wal-Mart; Morgan.

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Box 4-5
Oregon's Annual Window for Switching for Nonresidential Customers

Oregon has a unique process by which nonresidential customers of the two large investor-owned distribution utilities in Oregon can switch to an alternative supplier. Nonresidential customers must make their selections during a limited annual window. The window must be at least five days in duration, but usually a month is allowed. In addition to picking the alternative supplier, the largest customers must select a contract duration. One option specifies a minimum duration of five years, with an annual renewal after that. As of 2005, alternative suppliers were anticipated to serve about 10% of load in one distribution area and about 2.1% in the other. The former utility offered choice beginning in 2003. The latter utility began customer choice in 2005. Detailed descriptions are available at http://www.oregon.gov/PUC/electric_restruc/indices/ORDArpt12-04.pdf.

It is not necessary to expose *all* customers to time-based prices in order to introduce price-responsiveness into retail markets.[310] As a first step, customers who are the most price-sensitive could be exposed to time-based rates. Niagara Mohawk in upstate New York has taken this approach for its largest customers, as have Maryland and New Jersey for their largest customers. California is considering setting real-time pricing as the default rate for medium-sized and larger C&I customers. Another means to introduce price-responsiveness is to provide customers with voluntary time-based rate programs, along with assistance in equipment purchase or financing. For example, the New York State Public Service Commission requires voluntary time-of-use pricing for residential customers, and the Illinois Legislature has required that residential customers be offered real-time pricing as a voluntary tariff. The point is that competition provides incentives for suppliers to offer customers the mix of products and services that matches their potentially diverse preferences.

4. Use of Auctions to Procure POLR Service

As discussed above, New Jersey has used an auction process to procure POLR supply for both residential and C&I customers. Illinois has proposed to use a similar auction when its rate caps expire. Auctions may allow retail customers to obtain the benefit of competition in wholesale markets as suppliers compete to supply the necessary load. However, as discussed in Chapter 3, if there is a load pocket, the use of an auction is unlikely to help this process, and thus the benefits of competition may not be as great.

5. Consumer Awareness of Customer Choice and Engendering Interest in Alternative Suppliers

Observers of restructuring in other industries have found that consumer switching from a traditional supplier to a new one can be a slow process. It took 15 years before AT&T lost half of its long-distance service customers to alternative suppliers.[311] One reason why retail electric

[310] Steven Braithwait and Ahmad Faruqui, The Choice Not to Buy: Energy Savings and Policy Alternatives for Demand Response, PUBLIC UTILITIES FORTNIGHTLY (Mar. 15, 2001)

[311] James Zolnierek, Katie Rangos, and James Eisner, Industry Analysis Division, Common Carrier Burerau, Federal Communications Commission, Long Distance Market Shares, Second Quarter 1998 , at 19-20 (Sept. 1998), available at http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/mksh2q98.pdf; Thomas L.

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competition could be slow to develop is that the expected gains from learning more about market choices may be too small to make the learning worthwhile,[312] particularly for residential customers with small loads.[313]

Both the pricing of POLR service and the provision of aid to consumers in computing the "shopping credit" may help encourage the more rapid development of retail competition, by making the rewards for active search sufficient to motivate search behavior by residential consumers. Some states that have low "shopping credits" have had little retail entry. Some states with retail competition have had substantial consumer education programs, including websites with orientation materials and price comparisons.[314] These initiatives help minimize the cost of learning more about market alternatives and thus can make market search beneficial to customers.

In a different approach to encouraging the development of retail competition, New York is helping to organize temporary discounts from alternative suppliers and ordering distribution utilities to make these discounts known to consumers who contact the utility.[315] These efforts have increased residential switching and reduced prices, at least for the short term. Experience indicates that once residential customers switch to alternative suppliers, they seldom return to POLR service once the temporary discounts no longer apply.[316]

Welch, Chairman, Maine Public Utilities Commission, UtiliPoint PowerHitters interview (Jan. 24, 2003) available at http://mainegov-images.informe.org/mpuc/staying_informed/about_mpuc/commissioners/ph-welch.pdf.

[312] Economists refer to this phenomenon as "rational ignorance." Clemson University, The Theory of Rational Ignorance, The Community Leaders' Letter, Economic Brief No. 29, available at http://www.strom.clemson.edu/teams/ced/econ/8-3No29.pdf.

[313] Paul L. Joskow, "Markets for Power in the United States: An Interim Assessment," Energy Journal (forthcoming 2006), available at http://stoft.com/metaPage/lib/Joskow-2006-power-market-assessment.pdf.

[314] See, e.g., ELCON; Progress Energy; Constellation; PEPCO; PA OCA.

[315] In Case 05-M-0858, the New York State Public Service Commission adopted the "PowerSwitch" alternative supplier referral program (first developed by Orange & Rockland) as the model for all utilities in the state.

[316] New York State Consumer Protection Board, Comment to the New York State Public Service Commission, Case 05-M-0334, Orange & Rockland Utilities, Inc., Retail Access Plan, at 5 (May 2, 2005). The Consumer Protection Board indicated that retail customers who have participated in "PowerSwitch" are returning to POLR service at a rate of less than 0.1% per month. The Board applauded PowerSwitch because it is completely voluntary and provides assured initial savings to consumers.

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APPENDIX A
LIST OF COMMENTERS WHO RESPONDED TO TASK FORCE NOTICES REQUESTING COMMENTS*

** Two notices were published in the Federal Register as FERC Docket Number AD05-17-000: (1) Notice Requesting Comments on Wholesale and Retail Electricity Competition, issued on October 13, 2005, and (2) Notice Requesting Comments on Draft Report to Congress on Competition in the Wholesale and Retail Markets for Electric Energy, issued on June 5, 2006. The actual comments can be found at FERC.gov*

The following parties filed comments in response to the notice issued October 13, 2005:

Alcoa, Inc. (Alcoa)

Allegheny Energy Companies (Allegheny)

Alliance for Retail Energy Markets

Ameren Services Company (Ameren)

American Antitrust Institute (AAI)

American Public Power Association (APPA)

Association of Large Distribution Cooperatives (Large Distribution Cooperatives)

BlueStar Energy Services, Inc. (BlueStar)

BP Energy Company (BP Energy)

California Independent System Operator Corporation (CAISO)

California Public Utilities Commission (California State Commission)

Cape Light Compact

Carnegie Mellon Electricity Industry Center (Carnegie Mellon)

CenterPoint Energy Houston Electric, LLC (CenterPoint)

Los Angeles Department of Water and Power (LADWP)

Commercial End Users: 7-Eleven, Inc, Big Lots Stores, Inc., Crescent Real Estate Equities, Federated Department Stores, Hines, JC Penney, Wal-Mart Stores, Inc.

COMPETE, Electric Power Supply Association (EPSA), Alliance for Retail Choice (ARC)

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Connecticut Department of Public Utility Control (Connecticut State Commission)

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (together, New York Companies)

Constellation Energy Group, Inc. (Constellation)

Council of Industrial Boiler Owners (CIBO)

Demand Response and Advanced Metering Coalition (DRAM Coalition)

Direct Energy Services, LLC (Direct Energy)

Dominion Resources Services, Inc. (Dominion)

Duke Energy Corporation (Duke)

Duquesne Light Company (Duquesne)

Edison Electric Institute (EEI)

Electric Power Supply Association (EPSA)

Electricity Consumers Resource Council (ELCON), American Chemistry Council, American Iron and Steel Institute, Coalition of Midwest Transmission Customers, PJM Industrial Customer Coalition, Illinois Industrial Energy Consumers, Industrial Energy Users - Ohio, and Multiple Intervenors (collectively, Industrial Consumers)

EnerNOC, Inc. (EnerNOC)

Exelon Corporation (Exelon)

Governor of the State of Rhode Island

Idaho Public Utilities Commission (Idaho State Commission)

Illinois Commerce Commission (Illinois State Commission)

Independent Power Producers of New York, Inc. (IPP NY)

Indiana Utility Regulatory Commission (Indiana State Commission)

Individual- Mike Holly; Sorgo Fuels

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Industrial Consumers: Portland Cement Association, American Forest and Paper Association, American Iron and Steel Institute, California Large Energy Consumers Association, Coalition of Midwest Transmission Customers, National Lime Association, PJM Industrial Customer Coalition

ISO New England Inc. (ISO New England)

ISO/RTO Council

Large Public Power Council (LPPC)

Lehigh Cement Company (Lehigh)

Maine Office of Public Advocate (Maine Public Advocate)

Midwest Independent Transmission System Operator Inc. (MISO)

Midwest Stand-Alone Transmission Companies

Mirant Corporation (Mirant)

Missouri Public Service Commission (Missouri State Commission)

National Association of Regulatory Utility Commissioners (NARUC)

National Association of State Utility Consumer Advocates (NASUCA)

National Energy Marketers Association (National Energy)

National Grid USA (National Grid)

National Rural Electric Cooperative Association (NRECA)

New Mexico Attorney General

New York Independent System Operator, Inc. (New York ISO)

New York State Department of Public Service (New York State Commission)

New York State Electric & Gas Corporation (New York G&E) and Rochester Gas & Electric Corporation (Rochester G&E) (together, New York and Rochester G&E)

North Carolina Utilities Commission, Public Staff - North Carolina Utilities Commission, and the Attorney General of the State of North Carolina (collectively, North Carolina Agencies)

Northeast Utilities

DOJ_NMG_ 0165462

NUCOR Corporation, Blue Ridge Power Agency, and the East Texas Electric Cooperative (collectively, Large Power Buyers)

Orlando Utilities Commission (Orlando Utilities)

Pennsylvania Office of Consumer Advocate (PA Consumer Advocate)

Pepco Holdings, Inc. (Pepco)

PJM Interconnection, LLC (PJM)

PNM Resources, Inc. (PNM)

PPL Companies (PPL)

Progress Energy, Inc. (Progress) and South Carolina Public Service Authority (Santee Cooper)

Public Utilities Commission of Ohio

Reliant Energy Inc. (Reliant)

Retail Energy Supply Association (RESA)

South Carolina Electric and Gas Company (South Carolina E&G)

Southern California Edison Company (SoCal Edison)

Southern Companies (Southern)

Southwest Transmission Dependent Utility Group (Southwest Transmission)

Steel Manufacturers Association (Steel Manufacturers)

Strategic Energy, LLC (Strategic Energy)

SUEZ Energy North America (SUEZ)

The Alliance of State Leaders Protecting Electricity Consumers (Alliance of State Leaders)

Transmission Access Policy Study Group (TAPS)

Transmission Agency of Northern California (TANC)

Virginia State Corporation Commission

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Wal-Mart Stores, Inc. (Wal-Mart)

WPS Resources Corporation (WPS)

Xcel Energy Services, Inc. (Xcel)

The following parties filed comments in response to the notice issued June 5, 2006:

Alcoa, Inc. (Alcoa)

Allegheny Energy Companies (Allegheny)

Alliance for Retail Energy Markets

Alliance of State Leaders Protecting Electricity Consumers

American Public Power Association (APPA)

Attorney General of California

California Department of Water Resources; State Water Project

Cape Light Compact

CMTC

Community Power Alliance

COMPETE

Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

(together, New York Companies)

Constellation Energy Group, Inc. (Constellation)

Direct Energy Services, LLC (Direct Energy)

Duquesne Light Company (Duquesne)

Edison Electric Institute (EEI)

Electric Power Supply Association (EPSA)

Individual (CP Consulting)

Individual (Mike Holly)

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Individual (OMB Professionals)

Individual (William D. Steinmeier)

Industrial Consumers: Portland Cement Association, American Forest and Paper Association, American Iron and Steel Institute, California Large Energy Consumers Association, Coalition of Midwest Transmission Customers, National Lime Association, PJM Industrial Customer Coalition

ISO New England Inc. (ISO New England)

ISO/RTO Council

Mercatus Center; George Mason University

Midwest Independent Transmission System Operator Inc. (MISO)

Midwest Stand-Alone Transmission Companies

National Association of State Utility Consumer Advocates (NASUCA)

National Grid USA (National Grid)

National Rural Electric Cooperative Association (NRECA)

New Mexico Attorney General

New York State Department of Public Service (New York State Commission)

New York State Electric & Gas Corporation (New York G&E)

Pacific Gas & Electric (PG&E)

PJM Interconnection, LLC (PJM)

Portland Cement

PPL Parties (PPL)

Progress Energy, Inc. (Progress) and South Carolina Public Service Authority (Santee Cooper)

Public Utility Law Project of New York

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Public Utilities Commission of Texas

Reliant Energy Inc. (Reliant)

Seattle City Light

Strategic Energy, LLC (Strategic Energy)

SUEZ Energy North America (SUEZ)

Transmission Access Policy Study Group (TAPS)

Wisconsin Load Serving Entities (Wisconsin LSEs)

Wisconsin Public Service Commission (Wisconsin PSC)

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APPENDIX B
TASK FORCE MEETINGS WITH OUTSIDE PARTIES

American Public Power Association – October 27, 2005
ArcLight Capital Partners LLC– November 9, 2005
Compete Coalition – October 27, 2005
Edison Electric Institute – October 26, 2005
Electric Power Supply Association – October 27, 2005
Electricity Consumers Resource Council – October 26, 2005
Fitch Ratings – November 9, 2005
Lehman Brothers – November 9, 2005
Merrill Lynch Commodities, Inc. – November 9, 2005
Moody's Investors Service – November 9, 2005
National Association of Regulatory Utility Commissioners – October 27, 2005
National Association of State Energy Officials – October 27, 2005
National Governors Association – October 26, 2005
National Rural Electric Cooperative Association – October 26, 2005
Public Utility Law Project – October 27, 2005
Standard & Poor's – November 9, 2005
SUEZ Energy North America – December 8, 2005

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APPENDIX C
AN ANNOTATED BIBLIOGRAPHY OF QUANTITATIVE COST BENEFIT ASSESSMENTS OF ELECTRIC INDUSTRY RESTRUCTURING PROPOSALS

Commenters on the 1815 study highlighted a wide variety of cost-benefit studies that seek to evaluate the electric power industry. Indeed , both proponents and opponents of electric industry restructuring have armed themselves with these types of analyses to support their respective positions. It can be challenging to understand these studies' sometimes contradictory results.

The 1815 Task Force reviewed roughly 30 cost-benefit analyses[317] in an attempt to better understand what they reveal. Based on this review, together with a review of the recent Department of Energy Report (A Review of Recent RTO Benefit-Cost Studies: Toward More Comprehensive Assessments of FERC Electricity Restructuring Policies" By J. Eto, B. Lesieutre, and D. Hale, December 2005), the Task Force has made the following observations:

1) **Many of the existing studies address only the benefits of restructuring proposals**. To the extent studies overlook the costs associated with institutional changes, they can provide an incomplete picture of impacts, and their results should be juxtapose to cost estimates. (See Appendix C: RTO West Benefits and Costs, "Economic Assessment of RTO Policy," and "Putting Competitive Power Markets to the Test The Benefits of Competition in America's Electric Grid: Cost Savings and Operating Efficiencies.").
.

2) **The benefits associated with some of the most significant motivations behind restructuring** – the maintenance of system reliability and the facilitation of lowest-cost electricity production (via incentives for innovation and low-cost construction) - **are very difficult to quantify** using current technology and are often left out of benefit assessments. "It is important that technically limited studies not be interpreted to suggest that impacts that they do not analyze are not significant."(Eto et. Al., p. 21).

3) **Existing methods and models used to estimate benefits are limited in what they can measure.** Many of these models also employ simplistic and often misleading assumptions about market behavior. Improving the models used to derive quantitative benefits is technically difficult – significant improvements would involve marrying the complexity of adequately modeling a 10,000+ bus transmission/generation system to the complexity of modeling realistic human behavior in markets. The capabilities of existing models are likely to be fairly static until computer technology advances enough to accommodate the memory needs associated with this complex modeling task.

4) **Modeling energy transmission and markets necessarily requires making a great deal of assumptions** given the significant limitations in data needed to "feed" these models . Thus, outputs of RTO modeling attempts vary widely based on the assumptions made by the parties doing the modeling – assumptions as to transmission configurations, weather, imports/exports,

[317] This review focuses on original studies – responses and critiques to these studies are listed under the "Alternate Views" table category.

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market behaviors, generation costs, etc. (See Appendix C: "Study of Costs, Benefits and Alternatives to Grid West", vs. "The Estimated Benefits of Grid West".)

5) **Another limitation of the studies is that they often only estimate the benefits to society as a whole. Determining the distribution of benefits and costs - who wins and who looses, or who wins the most - is an important piece of the decision making puzzle.** Unfortunately, it is much more difficult to measure the distribution of benefits than it is total social costs. Some efforts have been made in this direction with estimates of the end-use price impacts that restructuring has had or might have and with estimates of benefits that individual participants in electricity markets might accrue (See Appendix C: "Beyond the Crossroads, the Future Direction of Power Industry Restructuring" and "Competition Has Not Lowered Electricity Prices").

6) **Characteristics of the best restructuring cost-benefit studies**, given existing technology/data, include:

- Provision of clear and precise descriptions of assumptions, data sources, methods and technical detail.
- Where econometric models are used, study write-ups should provide regression methods and equations, goodness of fit measures, and results of any tests done to detect analytical flaws.
- An attempt to address all potential costs and benefits.
- An effort to address the distribution of impacts.

STUDIES OF BENEFITS IN THE US

Beyond the Crossroads: The Future Direction of Power Industry Restructuring

Region	US
Report Date	2005
Sponsor	Cambridge Energy Research Associates
Author/Contractor	Cambridge Energy Research Associates
Model/Method	CERA constructs average counterfactual prices as an econometric function of fuel prices and return on the rate base, for residential and industrial customers in four geographic territories based on 1992-1197 data.
Scope of Inquiry	Real price impacts on consumers of electric industry restructuring (study also addresses other restructuring policy issues on a non-quantitative basis)
Period Studied	1997-2004
Conclusion	U.S. residential electric consumers paid about $34 billion less for the electricity they consumed over the past seven years than they would have paid if traditional regulation had continued. Regional distribution of these benefits: NE $ 8 billion

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	Midwest: $ 8 billion South: $24 billion West: -$7 billion
Alternate Views	• American Public Power Association thinks figures are inflated: http://www.appanet.org/newsletters/washingtonreportdetail.cfm?ItemNumber=14977&sn.ItemNumber=0 • Comments to Electric Energy Market Competition Task Force by the National Rural Electric Cooperative Association, November 18, 2005 • The Electricity Journal, "A Response to Two Recent Studies that Purport to Calculate Electric Utility Restructuring Benefits Captured by Consumers," H. Spinner, Volume 19, No. 1 (January/February 2006) at 42-47.

Electricity Markets: Consumers Could Benefit from Demand Programs, but Challenges Remain

Region	US
Report Date	August, 2004
Sponsor	Report to the Chairman, Committee on Governmental Affairs, U.S. Senate
Author/Contractor	US GAO
Model/Method	Reviewed the literature, analyzed industry and participant data, and conducted interviews with state and federal officials (in FERC, the Department of Energy , and the GSA), industry experts, representatives from utilities, and customers
Scope of Inquiry	Examines the current and potential role for demand-response programs. Identifies (1) the types of demand-response programs currently in use; (2) the benefits of these programs; (3) the barriers to their introduction and expansion; and (4) where possible, instances in which these barriers have been overcome.
Period Studied	
Conclusion	Demand-response programs can benefit customers in regulated and restructured markets by improving market functions and enhancing the reliability of the electricity system Recent studies show that demand-response programs have saved millions of dollars—including about $13 million during a heat wave in New York State during 2001. A FERC-commissioned study reported that a moderate amount of demand-response could save about $7.5 billion annually in 2010.
Web Reference	http://www.gao.gov/new.items/d04844.pdf

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Staff Report on Cost Ranges for the Development and Operation of a Day One RTO
(FERC Docket No. PL04-16-000)

Region	Based on data from PJM, MISO, SWPP, and ERCOT
Report Date	October, 2004
Sponsor	FERC
Author/Contractor	FERC Staff
Model/Method	The analytical base for this Study rests largely on information gleaned from audit staff, FERC Form No. 1 data and interviews with and data responses from existing RTOs and Independent System Operators (ISOs).
Scope of Inquiry	To estimate the cost of developing a Day One RTO that provides independent and non-discriminatory transmission service and satisfies the minimum requirements of Order No. 2000 to operate as an RTO. Also estimates operating cost of a Day One RTO.
Period Studied	Various
Conclusion	• The average annual operating expense of a new Day One RTO would impact the average retail customer by approximately 0.02¢/KWh, or less than 0.3% of the customer's total bill. • Day One RTOs have required an investment outlay of between $38 million and $117 million and an annual revenue requirement of between $35 million and $78 million. • Cost overruns can result from changing plans mid-course, poor project management and extensive delays. • Cost data are not accounted for in a standardized way.
Web Reference	http://www.ferc.gov/EventCalendar/Files/20041006145934-rto-cost-report.pdf
Alternate Views	• "RTO Dollars and Sense: Financial Data Raises Doubts About Whether Deregulation Benefits Outweigh Costs," M. Lutzenhiser, Public Utilities Fortnightly, December, 2004. • "Commentary on FERC Staff Report on Day-1 RTO Cost" Alliance of State leaders Protecting Electricity Consumers, November, 2004: http://www.pacifier.com/~ppcpdx/Tx/Alliance%20Cost%20Study%20Report%2011-22-04%20FINAL.pdf

Impacts of the Federal Energy Regulatory Commission's Proposal for Standard Market Design

Region	United States
Report Date	April 30, 2003
Sponsor	US DOE Report to Congress
Author/Contractor	In addition to DOE staff, participants included contractors who supported the modeling (GE Power Systems Energy Consulting, OnLocation, Inc) and those who supported the analysis (Charles River Associates, Neenan Associates, and Ken Rose of NARUC).

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Model/Method	DOE's "Policy Office Electricity Modeling System" (POEMS) was used to assess wholesale and retail price impacts of SMD. GE MAPS was used to assess how the use of transmission networks will change under SMD. POEMS is an amalgam of several economic models (including EIA's National Energy Modeling System and TRADELEC) which forecasts trading volume and prices by NERC region. GE MAPS is an engineering model used to simulate the effects of a security constrained LMP market model on transmission patterns.
Scope of Inquiry	Assess the impacts of implementing FERC's Standard Electricity Market Design (SMD), as presented in FERC's July 31, 2002 proposed rule
Period Studied	
Conclusion	1. Estimated annual cost of implementing FERC's SMD Rule: $760 million ($.21/MWhr) 2. Average wholesale prices under SMD are estimated to decrease by 1% in 2005, increasing to 2% by 2020, relative to the non-SMD case. 3. The net benefit to all consumers of implementing SMD is estimated to be $1 billion/year for the first six years, dropping to $700 million by 2020. These figures are net of the $760 million estimated annual cost. (This implies total annual benefits of $1.46 to $1.76 billion, though this figure is not cited in the document). 4. Positive results are not consistent across regions – modeling suggests that end-use prices would rise in some regions and decrease in others.
Alternate Views	Commentary on DOE's Study of Standard Market Design, Alliance of State Leaders Protecting Electricity Consumers, June, 2003, http://www.pulp.tc/Alliance_Commentary_on_DOE_Study.pdf

Impact of the Creation of a Single MISO/PJM/SPP Power Market

Region	Midwest & Northeastern US
Report Date	2002
Sponsor	MISO-PJM-Southwest Power pool
Author/Contractor	Energy Security Analysis, Inc. (ESAI)
Model/Method	ZPM
Scope of Inquiry	Analyzes the impact of establishing a joint, common electricity market encompassing 26 states, the District of Columbia and the Canadian province of Manitoba (baseline is 2002 mix of ISOs and vertically integrated utilities
Period Studied	2002-2012
Conclusion	Benefits : $1.7 billion/year

Economic Assessment of RTO Policy

Region	United States
Report Date	2/26/2002
Sponsor	FERC

DOJ_NMG_ 0165472

Author/ Contractor	ICF Consulting
Model/Method	ICF's IPM (Integrated Planning Model) computer simulator. • Simulates current inefficiencies through cross-CA hurdle rates , then eliminates those hurdle rates and measures the efficiency impacts. • Assumes 5% improvement in transmission transfer capability and measures production cost impacts. • Capacity sharing benefits simulated. • Decreased reserve requirements (from 15% to 13%) • Assumes generator efficiency improvements in RTO Policy case.
Scope of Inquiry	Assesses economic costs and benefits of a national move toward RTOs, including improvements in transmission system operations with resulting enhancements to inter-regional trade, congestion management, reliability and coordination, and improved performance of Energy markets.
Period Studied	2002-2021
Conclusion	* $1-$10 billion/year in system production cost savings * NPV of production cost savings over 20 years: about $1 trillion • About 4% savings off of base case for 20 year period • NPV of start up costs $4.2-$7.3 billion (based on start up comparison of operating ISO/RTOs) – Net operating costs (as compared with base case) assumed to be near zero .
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/FERC%20ICF%20rtostudy_final_0226.pdf
Alternate Views	• "Comments of the California Electricity Oversight Board Proposed Pricing Policy for Efficient Operation and Expansion Of the Transmission Grid", FERC Docket No. PL03-01-000, 3/13/03 http://www.eob.ca.gov/attachments/PL03-1-000Comments.doc • "Comments of the New England Conference of Public Utilities Commissioners on Electricity Market Design and Structure", FERC Docket No. RM01-12-000 • Comment of the Staff of the Bureaus of Economics and Competition and the Office of the General Counsel of the Federal Trade Commission on Electricity Market Design and Structure, FERC Docket No. RM01-12-000, http://www.ftc.gov/be/v020014.pdf

DOJ_NMG_ 0165473

STUDIES OF BENEFITS IN THE MIDWEST

An RPM Case Study: Higher Costs for Consumers, Windfall Profits for Exelon

Region	PJM / Northern Illinois
Report Date	October 18, 2005
Sponsor	Illinois Citizens utility Board
Author/Contractor	Synapse Energy Economics / Ezra Hausman, Paul Peterson, David White, and Bruce Biewald
Model/Method	Comparison of baseline capacity revenues (derived from historical market data) with proposed RPM PJM price
Scope of Inquiry	Determine potential wealth transfer effects of proposed Reliability Pricing Model (RPM) by examining capacity revenues that might accrue to Exelon's Nuclear facilities in Northern Illinois if RPM is implemented.
Period Studied	June 2004 – June 2005
Conclusion	At the target RPM price, Exelon's nuclear plants in northern Illinois stand to gain almost $390 million in additional capacity revenues, compared to the 2004 capacity market price, at ratepayers' expense. At the maximum RPM price, these plants would receive a $1.2 billion increase in capacity revenues. At PJM's target price, RPM would amount to a rate increase for PJM ratepayers as a whole of over $5 billion every year, paid mostly to existing base load generation.
Web Reference	http://www.synapse-energy.com/Downloads/SynapseReport.2005-10.IL-CUB.RPM-Study--Higher-Costs-Windfall-Profits-for-Exelon.04-20.pdf

The Benefits and Costs of Wisconsin Utilities Participating in Midwest ISO Energy Markets

Region	Wisconsin
Report Date	March 26, 2004
Sponsor	MISO
Author/Contractor	Science Applications International Corporation
Model/Method	Production Cost/ Power Flow Modeling: PROMOD IV
Scope of Inquiry	Evaluates proposed financial transmission right allocations and overall impact of market participation on Wisconsin consumers.
Period Studied	2005 Calendar Year
Conclusion	Wisconsin and Michigan Upper Peninsula customers to save $51 million annually in wholesale power costs, net of costs of participating in markets.
Web Reference	http://www.midwestmarket.org/publish/Document/573257_ffe0fcee0f_-7f570a531528/_.pdf?action=download&_property=Attachment
Alternate Views	See comments of Wisconsin Load Serving Entities to Draft EPACT Section 1815 Report on Competition – FERC Docket AD05-17 – 6/26/06

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STUDIES OF BENEFITS IN THE NORTHEAST

Putting Competitive Power Markets to the Test The Benefits of Competition in America's Electric Grid: Cost Savings and Operating Efficiencies

Region	Eastern Interconnection
Report Date	July, 2005
Sponsor	BP Energy Company, Constellation Energy, Exelon Corporation, Mirant Corporation, NRG Energy, Inc., PSEG, Reliant Energy Inc., Shell Trading Gas and Power Company, Williams, and Suez Energy North America
Author/Contractor	Global Energy Decisions
Model/Method	Global Energy calculated the benefits of wholesale competition for the Eastern Interconnection as they occurred. Those results were compared with a simulation of market conditions without the changes in market rules that enabled wholesale competition. Consumers benefited if the study showed a positive difference between current market conditions and the simulation of the traditional market rules prior to wholesale competition. Model: EnerPriseTM Strategic Planning *powered by MIDAS Gold®* software
Scope of Inquiry	To identify and quantify the existing and foreseeable consumer benefits of competitive electricity markets.
Period Studied	1999-2003
Conclusion	Wholesale customers in the Eastern Interconnection have realized a $15.1 billion benefit during the time period measured due to electricity competition. This benefit derives primarily from differences in the cost of generation construction under the two scenarios.
Web Reference	http://www.globalenergy.com/competitivepower/competitivepower.pdf
Alternate Views	Global Energy Decision's "Putting Competitive Power Markets to the Test": An Alternative View of the Evidence http://www.nreca.org/Documents/PublicPolicy/NRECAAD0517final.pdf

Electricity Prices in PJM: A Comparison of Wholesale Power Costs in the PJM Market to Indexed Generation Service Costs

Region	PJM Interconnection
Report Date	June 3, 2003
Sponsor	PJM Interconnection, LLC
Author/Contractor	Synapse Energy (Biewald, Steinhurst, White, Roschelle)
Model/Method	estimates and compares two sets of annual prices: (1) the actual wholesale power costs (WPC) in the PJM market, and (2) prices in a scenario with

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	economic regulation continued from the mid-1990s to today so that the generation service costs (GSC) are the unbundled generation portion of the pre-deregulation cost-of-service rates
Scope of Inquiry	To illuminate the effect of restructuring on prices in the PJM interconnection.
Period Studied	1999-2003
Conclusion	while PJM deregulated costs fluctuate year-to-year, on average, the wholesale power costs over the five year period 1999 to 2004 have been lower than the indexed generation service costs.
Web Reference	http://www.pjm.com/documents/downloads/reports/synapse-report-pjm-electricity-prices.pdf

Erecting Sandcastles From Numbers: The CAEM Study of Restructuring Electricity Markets

Region	PJM
Report Date	Dec. 3, 2003
Sponsor	National Rural Electric Cooperative Association
Author/Contractor	Christiansen Associates (Moray, Kirsch, Braithwait, Eakin)
Model/Method	Analysis of CAEM study assumptions/ inputs
Scope of Inquiry	To review and critique the Center for Advancement of Energy Markets' (CAEM's) study entitled "Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region" (hereafter referred to as the "Study"), dated September 22, 2003.
Period Studied	1997-2002
Conclusion	The Study's quantitative results fail to demonstrate any relationship between these price changes and the economic effects of restructuring.
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/Christensen.crit.restruct.mkts.in.pjm.03-Dec.03.pdf
Alternate Views	See below: " Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region" at *http://www.caem.org/website/pdf/PJM.pdf*

Estimating the Benefits of Restructuring Electricity Markets: An Application to the PJM Region

Region	PJM
Report Date	October, 2003
Sponsor	Center for the Advancement of Energy Markets (CAEM)
Author/Contractor	R. Sutherland, CAEM
Model/Method	Measures decline in electricity prices during restructured period.
Scope of Inquiry	Estimates benefits of restructuring the electricity market in the PJM region.
Period Studied	1997-2002
Conclusion	Ultimate customers in the PJM region saved about $3.2 billion in 2002 from current restructuring efforts

DOJ_NMG_ 0165476

Web Reference	http://www.caem.org/website/pdf/PJM.pdf
Alternate Views	Erecting Sandcastles From Numbers: The CAEM Study of Restructuring Electricity Markets (see above at *http://www.ksg.harvard.edu/hepg/Papers/Christensen.crit.restruct.mkts.in.pjm.03-Dec.03.pdf)*

Northeast Regional RTO Proposal: Analysis of Impact on Spot Energy Prices

Region	Northeast
Report Date	April, 2002
Sponsor	PJM
Author/Contractor	PJM
Model/Method	Market Simulation – GE MAPS
Scope of Inquiry	Estimates the impact of implementing a Northeast RTO on regional spot market prices in the near term.
Period Studied	Simulation year: 2001
Conclusion	Net Benefits of $299 million. $188 to PJM <$22> to NYISO $96 to NE

Assessing Short Run Benefits from a Combined Northeast Market

Region	Northeast
Report Date	October 23, 2001
Sponsor	New York ISO
Author/Contractor	A. Hartshorn, S Harvey – LECG Consulting
Model/Method	Replicated Mirant methods: Statistical / econometric analysis using historic prices and flows. Looked at unconstrained transmission to determine correlation between prices. Extended the EEA analysis in time, improved on some elements of their methodology, and undertook some sensitivity analysis of Mirant estimates.
Scope of Inquiry	Potential benefits from implementing an interregional real-time dispatch in the Northeast. (Response to Mirant study of 2001)
Period Studied	10/00-8/01
Conclusion	Found that improvements in data and assumptions in Mirant study led to a material overstatement of the short-run benefits to New York consumers. Found large price impact benefits to PJM customers but little or negative price impacts for New York energy customers. Found overall decrease in energy payments for the combined region of $139 million for New York and $50 million for PJM on an annual basis.
Web Reference	http://www.ksg.harvard.edu/hepg/Papers/Assessing%20Short-Run%20Benefits%20from%20Combined%20NE%20Market%2010-23-

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Mirant Study*

Region	Northeast
Report Date	September 2001
Sponsor	Mirant
Author/Contractor	Energy and Environmental Analysis, Inc.
Model/Method	Statistical / econometric analysis using historic prices and flows. Looked at unconstrained transmission to determine correlation between prices. Assumes centralized dispatch would eliminate measured uneconomic flows.
Scope of Inquiry	Potential efficiency benefits that could be achieved by creating a single market for electricity in the Northeast. Model does not address net costs of establishing/operating a single Northeast RTO.
Period Studied	6/00-12/00
Conclusion	Net benefit of $440 million. $76 to PJM, $256 to NYISO, $108 to NE ISO.

** Not publicly available. Review based on secondary references.*

Competition Has Not Lowered U.S. Industrial Electricity Prices

Region	Connecticut, Massachusetts, Maine, New Hampshire, New York, and Rhode Island
Report Date	2005 (Published in the Electricity Journal, Vol. 18, No. 2 (2005) at 52-61)
Sponsor	Jay Apt
Author/Contractor	Jay Apt, Carnegie Mellon University
Model/Method	Used EIA price data to perform regression analysis on prices before and after competition.
Scope of Inquiry	Examines the effect of restructuring on prices paid by US industrial customers for electricity
Period Studied	1990-2004
Conclusion	Competition does not produce statistically significant price effects – rates in all states studied other than Maine increased an average of .8% per year prior to competition and they increased by 2% per year after competition.
Web Reference	http://wpweb2.tepper.cmu.edu/ceic/papers/ceic-05-01.asp

Economic Assessment of American Electric Power's Participation in PJM

Region	PJM combined with American Electric power
Report Date	December, 2003
Sponsor	American Electric Power (AEP)
Author/Contractor	Cambridge Energy Research Associates

DOJ_NMG_ 0165478

Model/Method	?
Scope of Inquiry	Quantifies the costs and benefits of AEP's integration into PJM markets.
Period Studied	?
Conclusion	$245M in 2004 declining to $188M in 2008

Economic and Reliability Assessment of a Northeastern RTO

Region	NYISO, ISO-NE
Report Date	August 23, 2002
Sponsor	NYISO, ISO-NE
Author/Contractor	NYISO/ISO-NE
Model/Method	GE MAPS
Scope of Inquiry	Assesses wholesale electricity market impacts and organizational impacts of establishing a Northeastern RTO (NERTO), including expected costs of implementation, savings from market efficiencies, savings from operational consolidation.
Period Studied	?
Conclusion	$220M/yr in 2005 $150M/yr in 2010

STUDIES OF BENEFITS IN THE NORTHWEST

BPA Grid West Benefit Assessment for Decision Point 2

Region	Northwest US
Report Date	August 4, 2005
Sponsor	Bonneville Power Administration
Author/Contractor	Internal BPA staff report –
Model/Method	Partially based on modeling conducted by Grid West (see "Estimated Benefits of Grid West") – Power World model used to derive benefits of control area consolidation and economic redispatch. Other analytical methods used to determine value of common regulation, reliability improvements, economic reserve markets, increased transmission usage, (measured in Gridview model), etc.
Scope of Inquiry	Potential benefits of adopting proposed Grid West design as compared with status quo.
Period Studied	Various – primarily examined 1 year historical period.
Conclusion	Reliability Benefits: $27 - $62 million annually Increased Transmission Capacity: $9 to $15 million annually Regulating Reserve benefits: $5-$8 million annually Redispatch Efficiencies: $41-$56 million annually Contingency Reserve Market Efficiencies: $20 to $30 million/year De-pancaking of transmission rate efficiencies: $4-$10 million **TOTAL**: $106 to $108 million

DOJ_NMG_ 0165479

Web Reference	http://www.bpa.gov/corporate/business/restructuring/Docs/2005/benefit%20assessment/BPA_Grid_West_Benefit_Assessment.pdf

The Estimated Benefits of Grid West

Region	Pacific Northwest
Report Date	July, 2005
Sponsor	Grid West Regional Representatives Group
Author/Contractor	Grid West Risk Reward Workgroup
Model/Method	PowerWorld, Gridview, miscellaneous spreadsheet analyses, surveys
Scope of Inquiry	Estimate the benefits related to Grid West formation
Period Studied	Various
Conclusion	Results presented as a menu: • The capacity cost savings associated with Grid West-managed contingency reserves range from $20 million to $73 million per year. • The estimated capacity cost savings associated with Grid West reducing the amount of regulating reserves range from $5 million to $26 million per year • The estimated production cost savings associated with Grid West-managed real-time energy balancing redispatch range from $41 million to $385 million per year • The estimated annualized value to the region of avoiding cascading disturbances ranges from $27 million to $83 million per year. • Avoiding momentary (less than 5 minutes) or sustained events (longer than 5 minutes but shorter than 12 hours) related to non-cascading transmission events has an estimated annualized value to the region ranging from $17 million to $203 million per year • The estimated increase in production costs from the existing practice of charging multiple or pancaked rates ranges from $4 million to $61 million per year. • The estimated reduction in production costs from more efficient prescheduled interchange facilitated by the RCS ranges from $18 million to $52 million per year. • The estimated savings associated with energy conservation, non-wires expansion, and demand-side measures facilitated by Grid West range from $1 million to $61 million per year.
Web Reference	http://www.gridwest.org/Doc/RR_PreliminaryReport_July192005.pdf

Study of Costs Benefits and Alternatives To Grid West

Region	Northwestern US
Report Date	October 15, 2004
Sponsor	Snohomish PUD
Author/Contractor	Henwood Energy & Margot Lutzenhiser of the Public Power Council
Model/Method	*Benefits*: MarketSym used to estimate the short term dispatch benefits

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	associated with rate de-pancaking and more liquid operating reserve markets *Costs*: Applies apply the average cost/MWh of operating PJM, NYISO, ISO NE, CAISO and ERCOT to Grid West's projected annual demand.
Scope of Inquiry	Study the costs, benefits and alternatives to forming Grid West
Period Studied	2004
Conclusion	Gross annual benefits to the region of $78 million Grid West Annual costs of $200 million. Net Benefits of <122 million>
Web Reference	http://www.snopud.com/content/external/documents/gridwest/henwood_gridwestfinal.pdf

RTO West Benefit/Cost Study

Region	Northwestern US
Report Date	March 11, 2002
Sponsor	RTO West
Author/Contractor	Tabors Caramanis and Associates
Model/Method	GE MAPS
Scope of Inquiry	This study looked at the impacts that removing pancaked transmission rates and sharing reserves would have on the cost of generation in the Northwest.
Period Studied	2004
Conclusion	• The net benefits of eliminating transmission rate pancakes and sharing reserves would be $305 million/year in the RTO West footprint, and $410 million for all of RTO West. • 40% of this benefit can be attributed to the elimination of rate pancaking, 60% to reserves sharing.
Web Reference	http://www.rtowest.com/Doc/BenCost_031102_RTOWestBCFinalRevised.pdf

RTO West Potential Benefits and Costs

Region	Northwest
Report Date	October 23, 2000
Sponsor	RTO West
Author/Contractor	RTO West Benefits/Cost Team
Model/Method	Aurora for production cost modeling, spreadsheet analyses for others
Scope of Inquiry	Identify and quantify benefits and costs to the regional electric power system that would occur as a result of implementing RTO West
Period Studied	Various
Conclusion	• Inconclusive production cost savings • Regulating reserve savings of $28 million annually over the RTO footprint.

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	• Reliability benefits of anywhere from $33 million to $328 million annually • RTO Annual Costs of $63-$76 million • Misc. qualitative benefits
Web Reference	http://www.rtowest.com/Doc/Benefit_Cost_Study_FinalDraft_Oct232000.PDF

STUDIES OF BENEFITS IN THE SOUTHEAST

Cost Benefit Study of the Proposed GridFlorida RTO

Region	Peninsular Florida
Report Date	December 12, 2005
Sponsor	Grid Florida, LLC
Author/Contractor	ICF Consulting
Model/Method	Production cost modeling using GE MAPS
Scope of Inquiry	Examined the costs and benefits to Peninsular Florida consumers of transforming the current decentralized market to a centrally organized market under two modes of operation – a Day-1 only RTO and a Delayed Day-2 RTO.
Period Studied	2004-2016
Conclusion	• The quantitative benefits to Peninsular Florida consumers of Day-1 Only RTO operation is $71 million over this period, while the quantitative start-up and operating costs of a "greenfield" Day-1 RTO is $775 million. Thus, the Day-1 RTO configuration reflects an estimated net loss of $704 million. • Whereas the quantifiable benefits under Delayed Day-2 RTO operation were substantial, and ranged from approximately $810 million in the Market Imperfection Case to almost $968 million in the Reference Case, the cost of a "greenfield" Delayed Day-2 RTO with wholly new systems, physical facilities and personnel, designed along FERC's Standard Market Design principles, is also very significant at $1.25 billion. • The GridFlorida Delayed Day-2 RTO could breakeven under the scenarios examined in this study if the net benefits from the qualitative factors and the change in utility operational costs should be within the range of $285 million and $443 million over the 13-year forecast period. • This study also indicates that the non-jurisdictional consumers would receive net positive benefits of $798 million from the implementation of a GridFlorida Delayed Day-2 RTO while jurisdictional consumers would receive a net loss of $1.1 billion.

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Web Reference	http://www.icfconsulting.com/Markets/Energy/doc_files/gridflorida-rto-report.pdf

Cost Benefit Analysis Performed for the SPP Regional State Committee

Region	Southwest Power Pool
Report Date	April 23rd, 2005, revised July 27, 2005
Sponsor	SPP Regional State Committee
Author/Contractor	Charles River Associates
Model/Method	a) Wholesale Energy Modeling using GE MAPS b) Allocation of Energy Market Impacts and Cost Impacts c) Qualitative Assessment of Energy Imbalance Impacts d) Qualitative Assessment of Market Power Impacts e) Aquila Sensitivity Cases
Scope of Inquiry	(1) an analysis of the probable costs and benefits that would accrue from consolidated services and functions (which include reliability coordination and regional tariff administration) and (2) the costs and benefits of SPP's implementation of an Energy Imbalance Service (EIS) market.
Period Studied	2006-2015
Conclusion	* In the Stand-Alone case, implementation of intra-SPP wheeling rates leads to a less efficient dispatch and thereby increases system-wide production costs in comparison with the Base case. * The EIS market is estimated to provide considerably more benefits than costs, with the net benefits being $373 million to the transmission owners under the SPP tariff over the 10-year study period
Web Reference	http://www.spp.org/Publications/CBARevised.pdf

Electric Competition in the States of Arkansas, Louisiana and Mississippi - Is There An Opportunity?

Region	Arkansas, Louisiana and Mississippi
Report Date	2004
Sponsor	Tractebel
Author/Contractor	Tractebel
Model/Method	Spreadsheet
Scope of Inquiry	?
Period Studied	?
Conclusion	Fuel savings: $610M/yr Fixed O&M savings: $280M/yr

The Benefits and Costs of Dominion Virginia Power Joining PJM

Region	Virginia
Report Date	June 25, 2003
Sponsor	Dominion Virginia Power (DVP

DOJ_NMG_ 0165483

Author/Contractor	Charles River Associates
Model/Method	GE MAPS
Scope of Inquiry	Assesses net benefits (to VG retail customers & to all retail and wholesale customers in DVP control) of DVP joining PJM to
Period Studied	2005-2014
Conclusion	Net Benefit to Virginia Retail Customers: $110.3 million for '05-'10: $476.6 million for '05-'14. Net Benefit to DVP customers: $127.4 million for '05-'10: $557.2 million for '05-'14.

The Benefits and Costs of Regional Transmission Organizations and Standard Market Design in the Southeast

Region	SE (SeTrans, Grid South, Grid Florida)
Report Date	11/6/02
Sponsor	Southeastern Association of Regulatory Commissioners
Contractor	Charles River Associates / GE Power Systems Engineering
Model/Method	GE MAPS (OPF/Production cost model) and a Financial Evaluation Module.
Scope of Inquiry	Net benefits of instituting SMD in SE (GridSouth, SeTrans & GridFlorida) of the US .
Period Studied	2004 - 2013
Conclusion	Mixed +150 to +$1,421for SeTrans; -$286 to +$84 for Grid South; -$25 to +248 for Grid Florida: ($Million 2003 dollars, PV over 10 years) *Note: Total Benefits are Net of Estimated Costs of Operating RTO*
Web Reference	http://www.crai.com/pubs/pub_2901.pdf

STUDIES OF BENEFITS IN TEXAS

Electric Reliability Council Of Texas, Market Restructuring Cost Benefit Analysis.

Region	ERCOT/ Texas
Report Date	11/30/2004
Sponsor	ERCOT
Author/Contractor	TCA/KEMA
Model/Method	a) **Energy Impact Assessment (EIA)**—quantified impacts to the energy market, system dispatch, energy prices, and resulting production system costs. (GE MAPS) b) **Backcast**—quantified optimized generation dispatch results for the ERCOT system for 2003 for comparison with those actually experienced.. c) **Implementation Impact Assessment (IIA)**—provided quantitative and qualitative treatment of implementation startup costs, ongoing costs, and other transition-related impacts for ERCOT and its market participants.. d) **Other Market Impact Assessment (OMIA)**—provided qualitative

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	treatment of a variety of other measures of impact of market designs not captured directly in the EIA.
Scope of Inquiry	focused on two alternative market design choices: a zonal market design (extant at the time of the study) and a nodal market design
Period Studied	2005-2014
Conclusion	Did not draw single conclusion – "the potential savings found in the Energy Impact Assessment, relative to the Implementation costs found in the Implementation Impact Assessment, suggest that the benefits of the TNM could outweigh the costs for the ERCOT region as a whole.
Web Reference	http://oldercot.ercot.com/TNT/default.cfm?func=documents&intGroupId=83&b

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APPENDIX D
STATE RETAIL COMPETITION PROFILES[318]

Illinois: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Customer choice in Illinois began in December 1997 with the enactment of the Electric Service Customer Choice and Rate Relief Act of 1997 (HB 362). HB 362 required a phase-in of retail competition, with larger customers able to choose an alternate generation supplier earlier in the transition. Specifically, customers eligible to choose their electric supplier as of October 1, 1999, included industrial and commercial customers with a demand of greater than 4 MW,[319] commercial customers with businesses at ten or more sites with an aggregate coincident peak demand of 9.5 megawatts or greater, and non-residential customers accounting for one-third of the remaining electricity use of their customer class. All other non-residential customers were allowed to choose a supplier as of December 31, 2000, and all residential customers as of May 1, 2002.[320] The mandatory transition period ends January 1, 2007.[321]

The Illinois Commerce Commission (ICC) oversees the transition to competition in the electric industry. On January 24, 2006, the ICC approved proposals from Commonwealth Edison, the Ameren companies, Central Illinois Public Service, Central Illinois Light Company and Illinois Power, to procure generation (for retail customers who do not switch to an alternative retail supplier) through a joint competitive reverse auction process. In order to reduce price increases after the transition period ends, the utilities have offered to phase in price increases at the end of the transition period for residential customers.

Services Open to Competition: Generation and metering services: The ICC promulgated rules that permit non-residential customers to choose a meter service provider other than the distribution utility.

The ICC permitted Commonwealth Edison to designate customers with a demand exceeding 3 MW as a competitive customer class.[322] No other classes of customers have been declared

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[318] Information in this appendix is derived in large part from – and updates information contained in – the Federal Trade Commission staff report entitled *Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition* (Sept. 2001), available at http://www.ftc.gov/reports/elec/electricityreport.pdf.

Because economic circumstances and state laws and regulations change, regulatory authorities in each state and market participants should be consulted for more detailed and up-to-date information on state retail choice programs.

[319] Average monthly maximum electrical demand on the electric utility's system during the 6 months equals the customer's highest monthly maximum demands in the 12 months ending June 30, 1999.

[320] 220 Ill. Comp. Stat. § 5/16-104 (West 2001).

[321] SB2081 enacted in June 2002 extended the transition period from January 1, 2005, to January 1, 2007.

[322] Order in Docket No. 02-0479.

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competitive to date. Competitive services are defined as those services provided under special contract, not provided under tariff, and any tariffed service that the ICC decides is competitive. A service is declared competitive only if it is offered by a provider other than the utility or its affiliate, to a defined customer group or area, at a competitive price, if the utility is likely to or has lost business to the competitor, and if there is adequate transmission system capacity.[323]

Consumer Options: Consumers have two options for service:

(1) They may either remain with the utility as a bundled customer (*i.e.*, receiving generation, transmission and distribution services); or
(2) They may choose to become a delivery services customer (*i.e.*, they only take distribution and transmission services from the utility). Delivery services customers may purchase generation services from another electric utility, from a competitive supplier, or from their own utility using the power purchase option (PPO).[324]

The PPO is a transitional option that is provided by distribution utilities as long as they are recovering stranded costs from customers (*see* Recovery of Stranded Costs/Transition Costs). Under PPO service, a non-residential delivery services customer (such as an industrial customer) can purchase electric power from the utility at a price that reflects wholesale costs. These customers may then assign the power purchased under the PPO to an alternative supplier. Under this option, the suppliers to whom customers have assigned PPO rights are, in effect, purchasing electricity from the utility and selling it to their customers.
Alternative Suppliers Licensed to Provide Service: All suppliers wishing to provide competitive supply service must have a certificate of service authority. In order to receive certification, a supplier must show technical, financial, and managerial capability.[325] A competitive supplier is required to maintain a license or permit bond in the amount of $30,000 if the supplier intends to serve only non-residential customers with maximum demand greater than 1 MW; $150,000 if the supplier intends to serve non-residential customers with annual electric consumption greater than 15,000 kWh; or $300,000 if the supplier wishes to be certified to serve all eligible retail customers.

In general, retail competition is much more active in the Commonwealth Edison territory than elsewhere in the state. In 2005, the number of active suppliers in each distribution utility's territory ranged from zero for MidAmerican, to nine for ComEd.[326] Over the 2000 to 2005 period, the number of suppliers increased in the AmerenCIPS service territory from 3 to 4. An alternative supplier entered the AmerenCILCO area for the first time in 2003 and the only alternative supplier left the MidAmerican area in 2001. The retailers have focused only on non-residential customers.

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[323] *Id.* at § 5/16-113.

[324] *Id.* at § 5/16-110.

[325] *Id.* at § 5/16-115.

[326] ICC, Competition in Illinois Retail Electric Markets in 2005, Table 2 (May 2006).

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Retail Pricing Trends: As Table 1 shows, retail prices for the residential sector rose about 7% between 1988 to 1997. Commercial and industrial prices rose by lesser amounts during that decade. Prices for all classes of customers declined after that decade through 2004, with the largest declines taking place in the residential sector due to mandatory rate reductions.

Table 1: Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	9.7	10	9.9	9.9	10.3	10.3	10	10.4	10.3	10.4	9.9	8.8	8.8	8.7	8.4	8.4	8.4
Commercial	7.5	7.8	7.8	7.9	8.1	8	7.7	7.9	8	7.9	7.8	7.4	7.2	7.4	7.5	7.3	7.5
Industrial	5.2	5.4	5.4	5.5	5.5	5.5	5.2	5.3	5.2	5.3	5.1	5	4.2	4.7	4.9	4.9	4.7
All Sectors	7.3	7.5	7.5	7.6	7.7	7.8	7.4	7.7	7.7	7.7	7.5	7	6.6	6.9	6.9	7.1	6.8

Source: Energy Information Administration

Price Changes for Provider of Last Resort (POLR) Service for Residential Customers: In accord with the restructuring legislation, there have been mandatory residential POLR service rate reductions instituted in 1998, which depend on how the utility's residential rate compared to the residential rate for all large investor owned utilities in the region at the time of the restructuring legislation. The rationale behind the restructuring legislation was that competition would tend to bring higher local rates down to the regional average, but there was uncertainty about whether residential customers would obtain these benefits of competition in a timely manner because of the relatively high expected marketing costs associated with residential customers. No mandated retail price reductions were applied to POLR service for non-residential customers.

There are six major utilities in Illinois with required residential rate reductions for customers that have not selected an alternative supplier. Rate reductions were designed to bring residential rates in line with regional rates at the time of the restructuring legislation and are shown in Table 2.[327] The larger discount rates were applied in two phases.

Table 2: Price Reductions from 1997 Cost-Based Rates by Distribution Utility

Distribution Utility	Reduction from 1997Regulated Prices
Commonwealth Edison	20% (15% August 1999, 5% October 2001)
AmerenIP	20% (two increments)
AmerenCILCO	5%
AmerenCIPS	5%
AmerenUE	5%
MidAmerican Energy	1.7%

Non-residential customers were able to elect "real-time pricing" beginning on October 1, 1998; residential customers were able to elect real-time pricing beginning on October 1, 2000.[328] Real-

[327]S.B. 24, amending H.B. 362, enacted June 30, 1999. Comment of the ICC to the Task Force, Question IV.B.2.

[328]*Id.* at § 5/16-107.

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time pricing is defined as pricing which varies hour by hour for non-residential customers, and on a periodic basis during the day for residential customers.[329] The largest residential real-time pricing effort is a pilot program involving 1,500 customers in the Commonwealth Edison territory operated by the Community Energy Cooperative.[330] Some non-residential customers may also have real-time pricing or other time of use rates, but statistics are unavailable.

POLR Service Provider: Utilities must provide traditional, bundled service for those customers who choose not to shop for a competitive supplier.[331] The POLR (standard offer) price is the price for bundled service (*i.e.*, service including generation, transmission, and delivery), which was set by the utility's last rate proceeding, less the amount of any rate reduction required in the restructuring law. This rate is frozen until January 1, 2007.

Recovery of Stranded Costs/Transition Costs: Utilities collect stranded costs from both POLR service customers as part of the rates and through a separate charge from retail customers with an alternative supplier.[332]

Switching Restrictions and Minimum Stay Requirements: Customers purchasing power from an alternate supplier are allowed to return to the utility after paying an administrative fee. A utility may require a returning customer with usage less than 15,000 kWh annually to stay with the utility for two years.[333]

Switching Activity: The degree to which customers have switched to delivery service from bundled service varies greatly between distribution franchise territories and classes of customers. Table 2 provides the switching statistics for the largest utilities franchise areas separated by customer type as of November 2005. As Table 3 indicates, the vast majority of switching activity is centered on the Commonwealth Edison distribution territory (which also has the largest load in the state). Lower levels of switching have taken place in the AmerenCILCO and AmerenIP areas, and there has been very little switching outside of these three areas.

Table 3: Illinois Switching to Alternative Suppliers as of November 30, 2005
% of Customers and (% of Load)

Firm and Usage In million kWh	Residential	Small C&I	Large C&I	Total
AmerenCILCO 461	0.0% (0.0%)	0.0% (0.1%)	2.2% (33.3%)	0.0% (15.4%)
AmerenCIPS 952	0.0% (0.0%)	0.2% (0.8%)	7.1% (4.1%)	0.0% (2.2%)
AmerenIP	0.0%	0.8%	29.8%	0.1%

[329] *Id.* at § 5/16-102.

[330] Robert Lieberman, ICC Commissioner, "Ruminations on Demand Response --- a View from Chicago" (October 28, 2005), *available at* http://www.raabassociates.org/Articles/Lieberman_10.28.05.ppt#299.

[331] *Id.* at § 5/16-103.

[332] *Id.* at § 5/16-108.

[333] *See* 220 Ill. Comp. Stat. § 5/16/-103(d).

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1,496	(0.0%)	(8.9%)	(41.7%)	(23.2%)
AmerenUE 265	0.0% (0.0%)	0.0% (0.0%)	2.5% (0.2%)	0.0% (0.1%)
ComEd 91,508	0.0% (0.0%)	6.0% (36.6%)	73.9% (58.3%)	0.6% (32.8%)
MidAmerican 139	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Source: Illinois Commerce Commission				

Table 4 shows the patterns of switching statement the 2003 to 2006 period. Residential switching has remained dormant over the whole period while large non-residential customers have switched much of their load to alternative suppliers. Small non-residential customers have been slower in switching to alternative suppliers and the load served declined slightly in 2006, but the share of alternative suppliers continue to be well above the levels in 2003.

Table 4: Illinois Retail Aggregate Customer Migration Statistics, 2003 to January 2006
% of Customers and (% of Load) Served by Alternative Suppliers

	2003	2004	January 2005	January 2006
Residential	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Small C&I	3.8% (30.2%)	4.4% (31.5%)	5.7% (38.4%)	5.9%) (36.7%)
Large C&I	58.6% (54.6%)	64.1% (56.6%)	73.0% (58.3%)	71.9% (58.7%)

Source: Illinois Commerce Commission
Note: The 2003 and 2004 figures are annual aggregates while the 2005 and 2006 figures are for the month of January. The 2005 and 2006 figures are estimated from the statistics for the Commonwealth Edison territory. Load in Commonwealth Edison accounts for approximately 96.5% of the load of IOUs. To be conservative, it was assumed that there was no switching outside of Commonwealth Edison, hence the Commonwealth Edison statistics for 2005 and 2006 were reduced by 3.5% to create the proxy for the state-wide value.

Public Benefits Programs: The restructuring act establishes three public benefits funds which are slated to expire at the end of 2006. Table 5 contains information about the public benefits program in Illinois.

Table 5: Illinois Public Benefits Programs*

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $		3.0	75.0	5.0	83.0
Mills/kWh		0.03	0.60	0.04	0.67
% revenue		0.03%	0.87%	0.06%	0.96%
Admin.		DCEO	DCEO	DCEO	

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Note: Trust Funds are administered by the Illinois Department of Commerce and Economic Opportunity (DCEO).

* In Dec97, PA 9D-551 was signed. It provided funding for EE, RE, LI (although EE and RE are at low levels) using non-bypassable, flat monthly charges on customer bills. (mills/kWh) equiv. includes $ from gas & elect. Also one-time ComEd $250 million Clean Energy Trust Fund ok'd by legis. May 99 (not in table).

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Separation of Generation and Transmission: Illinois did not require divestiture or functional separation. Thus, utilities may engage in both competitive and non-competitive services without forming a separate affiliate. All of the major utilities in Illinois chose to transfer generation assets to affiliates with the exception of Commonwealth Edison, which divested its fossil fuel generation plants.

State RTO Involvement: The restructuring legislation required Illinois utilities with transmission assets to join an RTO or ISO. Illinois utilities have joined either the Mid-West ISO or PJM West. Commonwealth Edison, for example, joined PJM West. The Ameren utilities joined the Mid-West ISO. MidAmerican has not joined an ISO, although it has received FERC authorization to engage an independent transmission operator.

Generation Capability:[334] Prior to the restructuring legislation (1997), utilities operated 97% of the generation capability in Illinois. By 2002, that figure dropped to 9.1%. The difference reflected the transfers and sales of generation assets to utility-affiliated entities and entry or expansion by independent power producers. Between 1997 and 2002, generation output in the state increased by 135 million megawatt-hours to 188 million megawatt-hours, a nearly 40% increase. During the 1993 to 1997 period, output in the state had shrunk by more than 5%.

Use of Customer Information: No customer specific information can be given to a supplier without customer authorization.[335]

Standardized Labeling:[336] "The 1997 Illinois restructuring law includes provisions for disclosing fuel mix and emissions by retail electricity suppliers. Final rules issued by the Illinois Commerce Commission (ICC) require retail suppliers to provide a bill insert to customers each quarter with a table and pie chart representing the sources of electricity used in the previous year, beginning in January 1999. Suppliers must also provide a table showing total emissions of carbon dioxide, nitrogen oxides, and sulfur dioxide, as well as the amount of high- and low-level nuclear waste attributable to the sources of electricity."

Renewable Energy Portfolio Standard: On July 19, 2005, the ICC adopted a voluntary renewable portfolio standard target for bundled retail load starting at 3% in 2007 and rising by one percent each year until it reaches 8% in 2013.[337] The ICC's resolution also includes targeted reductions in future load growth.

Maryland: Overview of Retail Competition Plan and Market Response

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[334] Department of Energy, Energy Information Administration, Illinois State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/illinois.pdf.

[335] *Id*. at § 5/16-122.

[336] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[337] ICC Resolution, "Response to Governor's Sustainable Energy Plan for the State of Illinois," 05-0437 (July 19, 2005).

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Administrator and Start Date: The Maryland General Assembly enacted the Maryland Electric Customer Choice and Competition Act (SB 300) on April 8, 1999. The Act allowed for a three-year phase-in approach to electric competition, but the Maryland Public Services Commission (PSC) allowed the utilities to start electric competition all at once for all customers on July 1, 2000. The PSC oversees the customer choice program.[338]

Services Open to Competition: Generation, billing, and metering.

Consumer Options: Customers may choose to remain with the distribution utility at PSC regulated prices until the end of the transition period; they may choose a competitive supplier; or they may choose to be aggregated with other customers. The transition period ends for most consumers in Maryland as of July 2006. In other areas, the period ends in 2008.

Alternative Suppliers Licensed to Provide Service: All alternative suppliers must be licensed by the PSC, and must show proof of technical and managerial competence, compliance with FERC requirements, and compliance with state and federal environmental laws.[339] A supplier must also give proof of financial integrity,[340] and the PSC assesses each competitive supplier's application for a license on a case-by-case basis to determine whether a letter of guarantee, bond, or letter of credit is needed, and in what amount.[341] Registered suppliers and registered suppliers seeking additional customers are available on the Maryland PSC's website. There are numerous registered and active suppliers for C&I customers. For residential customers, there are numerous registered suppliers but only two suppliers in three of the four major utility territories and none in the Allegheny Power territory.

Pricing Trends: As Table 6 shows, prices rose throughout the early 1990s for all sectors, then declined until 2002. Prices rose in 2003 and 2004. With the end of the transition period for most residential and small C&I customers in the state, POLR service is scheduled to be priced at market rates. Procurement contracts for POLR service starting in July 2006 are scheduled to result in price increases above existing POLR rates. For example, the scheduled price increase for customers in the BG&E distribution territory is reported to be 72%.[342] Because of concerns about the size of the expected price increase, a number of alternative proposals were developed to break the increase into smaller steps. Legislation just prior to the end of the transition period

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[338] Md. Code Ann., Pub. Util. Comp., '7-509 (2000).

[339] *Id.* at '7-507.b.

[340] *Id.* at '7-507.c.

[341] PSC Supplier Authorization Procedures (Mar. 17, 2000).

[342] Andrew Green, "Utility, Legislators Not Close on Rates," *Baltimore Sun* (April 4, 2006).

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included deferrals of revenues and dismissal of the members of the PSC. At the time of this writing, litigation regarding the latter provision is taking place.[343]

Table: 6 Maryland Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	6.7	6.9	7.2	7.9	8.0	8.2	8.4	8.4	8.3	8.3	8.4	8.4	8.0	7.7	7.7	7.7	7.8
Commercial	6.5	6.6	6.7	7.0	7.1	7.2	7.2	6.9	6.8	6.9	6.8	6.8	6.6	6.4	6.3	7.0	7.6
Industrial	4.4	4.7	5.1	5.5	5.4	5.5	5.3	4.2	4.2	4.2	4.1	4.3	4.1	4.4	4.0	4.9	6.0
All Sectors	5.8	6.0	6.3	6.8	6.8	7.0	7.0	7.1	7.0	7.0	7.0	7.0	6.8	6.6	6.2	6.5	7.2

Source: Energy Information Administration

Price Changes for Provider of Last Resort (or Regulated) Service: Individual distribution utility plans vary, but a cap for all distribution utilities was put into effect through 2004 and then extended for two to four years. During the initial four years, distribution utilities were required to decrease prices 3-7.5%.[344] During this period, if the distribution utility's Provider of Last Resort (POLR) price increased, transition charges decreased by a corresponding amount, so that standard offer customers did not have an overall price increase.[345]

Provider of Last Resort Service Provider: The distribution utilities provide POLR service in their respective territories until the end of the transition period (or longer if the PSC extends the period). A distribution utility can procure the electricity for its POLR customers from any supplier, including an affiliate. Individual utility settlements require the utility to be the POLR service provider for the entire rate cap/freeze period (which varies in length per utility) unless the Commission orders otherwise. POLR service rates and the respective terms were set in the individual utility settlements and are in effect for the entire rate cap/freeze period.

Recovery of Stranded Costs/Transition Costs: Distribution utilities were given an opportunity to recover all prudently incurred and verifiable net transition costs, subject to full mitigation.[346] Transition costs eligible for recovery include those that would be recoverable under rate-of-return regulation, but are not recoverable in a restructured electric market and costs that result from the creation of customer choice.[347] Stranded costs have been recovered through a competitive transition charge, and may be recovered over different lengths of time for each distribution utility. The PSC determines the amount of recoverable transition costs, as well as the amount of the charge to be levied to customers.

Switching Activity: Table 7 shows the proportion of customers and load taking service from alternative suppliers in each major utility distribution territory.

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[343] Patrice Hill, "Maryland Utilities Designated Near Junk," *The Washington Times* (July 12, 2006), *available at* http://www.washingtontimes.com/functions/print.php?StoryID=20060711-103048-5690r.

[344] Md. Code Ann., Pub. Util. Comp., '7-505.d (2000).

[345] PSC, Maryland Electric Choice FAQ, at www.psc.state.md.us/psc/electric/FAQ/overall.htm.

[346] Md. Code Ann., Pub. Util. Comp., '7-513 (2000).

[347] *Id.* at '7-501.p.

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Table 7: Retail Customers and Load Supplier by Alternative Providers in February 2006 % of Customers and (% of Load)				
Firm	Residential	Small C&I	Medium C&I	Large C&I
Allegheny Power	0.0% (0.0%)	0.1% (0.9%)	18.0% (19.3%)	58.1% (29.5%)
Baltimore G&E	0.0% (0.0%)	0.9% (1.7%)	17.2% (19.8%)	87.1% (93.4%)
Delmarva P&L	0.0% (0.0%)	1.9% (4.1%)	22.5% (28.6%)	91.0% (95.7%)
Potomac El.	5.8% (7.1%)	10.8% (14.0%)	14.2% (13.2%)	75.8% (83.3%)
Source: Maryland PSC				

Table 8 shows the state aggregate level of switching as of December for each year from 2000 to 2005.

Table 8: Maryland Retail Aggregate Customer Migration Statistics, 2001-2005. % of Customers and (% of Load) Served by Alternative Suppliers						
	Dec. 2000	Dec. 2001	Dec. 2002	Dec. 2003	Dec. 2004	Dec. 2005
Residential	0.6% (0.7%)	2.6% (3.4%)	3.3% (4.1%)	3.1% (3.8%)	2.2% (2.9%)	1.5% (1.9%)
Small C&I	1.2% (3.2%)	4.1% (9.8%)	6.2% (30.4%)	5.7% (27.8%)	3.6% (4.2%)	2.8% (3.4%)
Medium C&I					21.7% (24.6%)	17.7% (21.0%)
Large C&I					58.0% (75.1%)	78.6% (87.4%)
Source: Maryland PSC Note: Prior to 2004, Non-residential data were combined into a single category.						

Public Benefits Programs: Funds for a Universal Service Program will be collected from all customers, and may not be assessed on a per kilowatt-hour basis.[348]

Table 9: Maryland Public Benefits Programs

[348] Md. Code Ann., Pub. Util. Comp., '7-512.1 (2000).

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MD's restructuring law was signed in April 1999 including a $34 M/yr. tax funded Universal Service Fund. Additional funds from individual utility settlements.		Research & Develop.	Energy Efficiency	Low Income	Renewable Energy	Total
	Million $		Up to 1.0	34.0		34.0+
	Mills/kWh			0.51		0.51+
	% revenue			0.82		0.82+
	Admin.		Utility	State		
	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.					

Separation of Generation and Transmission: Divestiture of generation assets was not required, but functional, operational, structural or legal separation of regulated and non-regulated businesses or non-regulated affiliates was required by July 1, 2000.[349] Distribution utilities must provide a code of conduct to prevent their regulated service customers from subsidizing services of unregulated businesses.[350] A distribution utility can transfer any of its generation facilities or assets to an affiliate, if it desires.[351] Power generation affiliates can only sell power on the wholesale market, except for standard offer service suppliers. Retail sales affiliates may only buy power from the wholesale market.

State RTO Involvement: Maryland belongs to the multi-state PJM RTO.

Generation Capability: Prior to the restructuring legislation, utilities operated 95.4% of generating capability in Maryland. By 2002, that figure dropped to 0.1%. Between 1997 and 2002, generation capability increased from 11,713 to 11,859 MW accompanied by growth in the proportion of dual fired capacity.

Usage of Customer Information: Customer information cannot be released without a customer's consent, except for bill collection and credit rating purposes.[352] Customer lists containing names, addresses, and telephone numbers of customers may be sold to competitive suppliers. If a distribution utility intends to release such a list, it must inform its customers, and advise customers of their opportunity to prevent disclosure of their identifying information.[353]

Standardized Labeling:

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[349] *Id.* at '7-505.b(10).

[350] *Id.* at '7-505.b(13).

[351] *Id.* at '7-508.

[352] Md. Code Ann., Pub. Util. Comp., '7-505.b (2000).

[353] PSC Order 76110 (Apr. 25, 2000).

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- **Content:** Distribution utilities and competitive suppliers must provide customers with a uniform set of information on fuel mix and emissions. When actual data is unavailable, a regional average may be used. Labels have to include comparison of emissions and fuel mix to the regional average when information is available.[354]

- **Timing:** Labels must be provided to customers every six months.[355]

Renewable Energy Portfolio Standard: Maryland enacted a renewable energy portfolio standard in 2004. The standard gradually increases to 7.5% in 2019. A separate standard of 2.5% including hydroelectric and waste-to-heat generation applies throughout the period.

Massachusetts: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Electricity Restructuring in Massachusetts was initiated and is administered by the Department of Telecommunications and Energy (DTE). Retail competition began March 1, 1998, in accordance with the restructuring legislation enacted November 25, 1997.

Services Open to Competition: Generation only. Metering and billing are provided by the distribution utility.

Consumer Options: During the transition to competition, consumers had three types of choices to obtain their electricity supply: a) standard offer service, b) service through an aggregator, or c) service from a competitive supplier. If a supplier was unable to provide services, consumers then received a "default" service. Unlike most states that provided Provider of Last Resort (POLR) service, Massachusetts named its POLR service as standard offer service, and developed another regulated price for those customers for which their supplier no longer provided service ("default service"). The transition ended in February 2005, at which time standard offer service was discontinued for all customers. Currently, customers who have not chosen a competitive supplier receive default service from the distribution utility that procures generation services from wholesale suppliers. All retail customers are eligible for default service at any time, and may remain on default service indefinitely. Customers can also select an alternative supplier or be part of a group of customers served by an aggregator. For purposes of this summary, default service will be referred to as a type of Provider of Last Resort (POLR) service.

Alternative Suppliers Licensed to Provide Service: All alternative suppliers must be licensed to provide service to customers in Massachusetts.[356] Licensing regulations require a supplier to show technical and financial capability.[357] Massachusetts maintains a roster of registered competitive electricity suppliers including brokers and direct competitive suppliers. The roster

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[354] PSC Order 76241. See section below on advertising restrictions for supplier requirements to disclose pricing information to customers.

[355] Md. Code Ann., Pub. Util. Comp., '7-505.b (2000).

[356] Mass. Gen. Law ch. 164, §1F(1) (2001).
[357] Mass. Regs. Code tit. 220, §11.05(2) (2001).

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in February 2006 included 30 direct suppliers and twice as many brokers.[358] Ten of the suppliers offered service to residential customers as did a comparable number of brokers.

Pricing Trends: As Table 10 shows, prices for the residential and commercial sectors for the 1988 to 2004 period rose intermittently before peaking in 1997 and then declined before peaking again in 2001. Prices for the industrial sector rose intermittently in the 1990s and also peaked in 2001.

Table 10: Massachusetts Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	8.5	9.1	9.7	10.4	10.6	11.0	11.1	11.3	11.3	11.6	10.6	10.1	10.8	12.5	10.9	11.7	11.75
Commercial	7.7	8.1	8.6	9.2	9.3	9.7	9.8	9.9	9.9	10.3	9.4	8.9	9.0	11.6	10.0	10.5	11.0
Industrial	6.8	7.3	7.9	8.5	8.6	8.7	8.5	8.4	8.4	8.8	8.2	7.7	8.1	9.4	8.3	9.1	8.5
All Sectors	7.8	8.3	8.8	9.5	9.7	10.0	10.0	10.1	10.1	10.5	9.6	9.1	9.5	11.6	10.1	10.6	10.8

Source: Energy Information Administration

Price Changes for Standard Offer Service: Massachusetts set a minimum 10% reduction of the entire bill for all customers receiving standard offer service during the transition period. On September 1, 1999, the reduction increased to at least 15%, in order to adjust for inflation. These rate reductions applied to all distribution utilities.[359] Distribution utilities were authorized to use securitization to meet the second rate reduction effective September 1, 1999.[360]

Standard Offer Service Provider: Standard offer service was provided until February 2005 for customers who had not chosen a competitive supplier during the transition period. It was offered by the distribution utility, at rates which were set in advance, but subject to some adjustments.[361]

POLR (default service) is offered currently to customers who are not receiving service from a competitive supplier or aggregator. Former standard offer customers were offered POLR service at the end of the transition. The price for POLR service is based on the price of procuring it in the wholesale markets through fixed price short-term (three or six months) supply contracts. Distribution companies must procure electricity for default generation service through competitive bidding, although the DTE also may authorize a competitive supplier to provide POLR service.[362]

POLR service prices cover the energy portion of the total bill. Distribution rates, taxes, and fees are additional. POLR service prices follow wholesale prices. The default prices applicable to January of each year for the northern portion of the Boston Edison distribution area (Table 11) illustrate the pattern.

Table 11: Default Prices Applicable in January by Year, Boston Edison (north)

	1999	2000	2001	2002	2003	2004	2005	2006

[358] DTE, Mass. Competitive Electricity Suppliers (2/14/2006).
[359] Mass. Gen. Law ch. 164, §1B(b) (2001).
[360] *Id.* at §1G(c)(2).
[361] *Id.* at §1B(b).
[362] *Id.* at §1B(d).

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Residential	3.7	4.5	7.0	6.4	5.0	6.5	7.5	12.7
Commercial	3.7	4.5	7.0	6.6	5.2	6.6	7.3	12.3
Industrial	3.7	4.5	7.0	6.5	5.1	6.6	9.0	18.1
DTE, Fixed Default Service Prices in cents/kWh								

Recovery of Stranded Costs/Transition Costs: The restructuring legislation provided for the recovery of stranded costs through a non-bypassable charge to all customers.[363] This charge was capped by the DTE, and the DTE determined, on a case-by-case basis, the time period for recovery.[364]

Switching Restrictions and Minimum Stay Requirements: Customers can switch to or from POLR (default/basic) service.[365]

Switching Activity: Table 12 shows the proportion of customers and load taking service from alternative suppliers in each utility distribution territory. In the Commonwealth territory, switching by residential customers is much higher than any other area of the state. Much of this residential switching is attributable to community aggregations, principally the Cape Light Compact.[366]

Table 12: Retail Customers and Load Supplied by Alternative Providers in January 2006
% of Customers and (% of Load)

Firm and load in MWh	Residential	Small C&I	Medium C&I	Large C&I
Boston Edison 1,498,476	0.3% (0.6%)	2.0% (3.5%)	7.9% (13.6%)	34.0% (50.0%)
Cambridge 154,540	0.2% (0.3%)	6.7% (13.5%)	8.4% (12.4%)	33.6% (52.6%)
Commonwealth 403,108	54.2% (51.8%)	55.0% (57.5%)	44.3% (46.2%)	65.6% (70.5%)
Fitchburg 47,256	0.0% (0.0%)	3.8% (2.9%)	4.8% 15.5%	72.7% (86.6%)
Mass. Electric 1,995,096	2.1% (2.4%)	7.4% (12.2%)	31.1% (29.3%)	58.1% (66.2%)
Nantucket 12,547	0.2% (1.3%)	4.4% (6.6%)	23.6% (29.3%)	50.0% (53.2%)
Western Mass.	0.5% (0.7%)	6.6% (11.9%)	32.4% (36.8%)	60.2% (76.3%)
Source: Mass. Department of Telecommunications and Energy				

Table 13 shows the state aggregate levels of switching from January 2001 to January 2006. Although all customers of Massachusetts distribution utilities were eligible for retail access as of March 1, 1998, switching remained at minimum levels for residential and small C&I customers.

[363] *Id.* at §1G(a).

[364] *Id.* at §1G(e).

[365] David L. O'Connor, Commissioner, Mass. Division of Energy Resources, "Retail Competition: Managing a Difficult Transition," (April 6, 2001), p. 6, *available at* http://www.nga.org/Files/ppt/ElecOconnor.ppt.

[366] Cape Light Compact(2) at 1-2.

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Larger commercial and industrial customers were more likely to switch, but sometimes switched back to default service if default prices fell below prices from alternative suppliers. Subsequent to February 2005, the proportion of load served by alternative suppliers increased for all classes of customers.

Former standard offer customers either switched to competitive generation suppliers or started receiving POLR service at the end of February 2005. In December 2004, standard offer service applied to approximately 1.5 million customers with load of 1,959,705 MWh. The share of load served by competitive generators increased from 23.7% to 30.4% between December 2004 and December 2005 following the end of the standard offer service.

Table 13: Massachusetts Retail Aggregate Customer Migration Statistics, 2001-2006
% of Customers and (% of Load) Served by Alternative Suppliers

Date	Jan. 2001	Jan. 2002	Jan. 2003	Jan. 2004	Jan. 2005	Jan. 2006
Residential	0.1% (0.2%)	0.4% (0.4%)	2.8% (2.5%)	2.9% (2.6%)	2.7% (2.3%)	9.1% (7.6%)
Small C&I	0.6% (0.6%)	2.6% (4.4%)	8.8% (10.7%)	7.2% (11.3%)	6.8% (10.2%)	13.9% (21.2%)
Medium C&I	1.5% (2.1%)	7.4% (11.0%)	10.8% (17.2%)	11.3% (17.8%)	10.1% (16.5%)	14.9% (24.3%)
Large C&I	7.2% (13.3%)	20.1% (31.9%)	28.6% (43.1%)	32.4% (50.7%)	32.6% (48.9%)	45.7% (59.4%)

Source: Massachusetts Department of Telecommunications and Energy

Public Benefits Programs: The Massachusetts Public Benefits Programs are summarized in Table 14.

Table 14: Massachusetts Public Benefits Programs

		Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
In Nov97, comprehensive legislation was signed bringing retail access to all customers in 1996, included a non-bypassable wires	Million $		130.0	Incl.	26.0	156.0
	Mills/kWh		2.50	In	0.50	3.00
	% revenue		2.81%	EE	0.58%	3.38%
	Admin.		Utility	Utility	MTPC	

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charge for EE, RE and LI. LI must get at least .25 mills of the EE. In Feb. 2002, legislation was signed extending the SBC for five years, through Dec. 2007.	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm. Note: MTPC is part of the Massachusetts Technology Collaborative.

Separation of Generation and Transmission: The Massachusetts restructuring law required distribution utilities to divest their generation facilities (either by sale or by transfer to an affiliated company), if they sought to recover stranded costs.[367] If a distribution utility opted to transfer its generation assets to an affiliate, the two companies had to be strictly separated,[368] and distribution utilities were not be permitted to sell electricity at retail except to provide their customers with standard offer service (which has now ended).[369] Almost all of the distribution companies divested their assets to only one company.

State RTO Involvement: Massachusetts distribution utilities are within the footprint of the Independent System Operator of New England. Established in 1997, ISO-NE is responsible for managing energy markets and operating the transmission system in New England.

Generation Capability:[370] Prior to the restructuring legislation, utilities operated 86.6% of generating capability in Massachusetts. By 2002, that figure dropped to 9.0% with 91% belonging to independent power producers. Between 1997 and 2002, generation capability increased from 11,328 megawatts to 12,159 megawatts. Most of the new capacity uses natural gas.[371]

Usage of Customer Information: The distribution utility cannot release proprietary customer information to the affiliate without written consent of the customer. Historical usage information will be provided to a supplier who has received customer authorization to initiate service.[372]

Standardized Labeling:[373] "In February 1998, the Massachusetts Department of Telecommunications and Energy (DTE) issued final rules (220 CMR 11.06) requiring electric retailers to provide customers with a standard disclosure label containing information on price, fuel mix, emissions, and labor characteristics of generating sources on a quarterly basis, beginning September 1, 1998. Suppliers must also issue notices in all advertisements stating that disclosure labels are available upon request. Supply mix information must be based on market

[367] Mass. Gen. Law ch. 164, §1A(b)(2) (2001).
[368] *Id.* at §1A(c).
[369] *Id.* at §1A(b)(1).

[370] Department of Energy, Energy Information Administration, Massachusetts State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/massachusetts.pdf.

[371] EIA, State Electricity Profiles 2002, Massachusetts Electric Power Industry Generating Capability by Primary Energy Sources, 1993, 1997, and 2002.
[372] *Id.* at §11.04(12).

[373] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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settlement data or equivalent data provided by the Independent System Operator (ISO) available for the most recent one-year period. Data on carbon dioxide, nitrogen oxides, and sulfur dioxide emissions must be presented in a format comparing them to the regional average. Electricity providers are also required to report the percentage of power generated from sources that have union contracts with their employees and the percentage generated from sources that use replacement labor during labor disputes. Suppliers must submit a report to the DTE annually containing "statements of verification by the ISO or an independent auditor." Massachusetts is working with other New England states to develop a Generation Information System that will supply data for implementing the disclosure requirement."

Renewable Energy Portfolio Standard: Massachusetts enacted a minimum renewable energy portfolio standard on April 26, 2002. The standard started at 1% in 2003 and increases to 4% in 2009 in one half percent increments. After 2009, the standard is scheduled to increase in 1% increments at least through 2014.[374]

New Jersey: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The New Jersey Electric Discount and Energy Competition Act provided for retail choice to begin August 1, 1999, but the New Jersey Board of Public Utilities (BPU) delayed the start date to November 14, 1999 to give utilities more time to modify their computer systems to interact with competitive retail suppliers in order to ease customer switching.

Services Open to Competition: Generation is open to competition. Work on a policy to permit competition for other customer services, such as metering and billing, was suspended on June 23, 2004, for a minimum of two years.[375]

Consumer Options: New Jersey consumers can pick their own alternative supplier or join an aggregation of customers to contract with an alternative supplier. Customers received a "shopping credit" on their electric bill if they choose an alternative supplier. The shopping credit was also known as the "price to compare" and was the amount on a customer's bill that was credited to the customer if he chose an alternate supplier and did not receive basic generation service from the distribution utility.[376]

Customers that are not served by an alternative supplier receive Basic Generation Service (BGS), which is procured through periodic auctions. Large industrial customers with BGS are charged hourly prices that track wholesale spot market prices. BGS for other customer classes is

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[374] 225 CMR 14.00.

[375] New Jersey BUP, Order in the Matter of the Electric Discount and Energy Competition Act of 1999 Customers Account Services Proceeding: Consolidated Billing, Customer Data Card, & Competitive Metering. Energy Consultant: Amendment to Customer Usage Information Process (June 23, 2004), *available at* http://www.state.nj.us/bpu/wwwroot/energy/EX99090676_20040624.pdf.

[376] N.J. Stat. Ann. §48:3-51.3 (2001).

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laddered on a three year cycle.

Alternative Suppliers Licensed to Provide Service: New Jersey licensing standards provide that before receiving a license, new suppliers must show financial integrity and maintain a surety bond of $250,000 for an initial license. For a renewed license, suppliers have to maintain a bond at a level determined by the BPU.[377] Competitive suppliers must renew their licenses annually. The BPU website provides lists of alternative suppliers serving residential, commercial and industrial retail customers. As of February 2006, active alternative suppliers for residential customers range from 3 in the JCP&L territory, to 1 each in the Conectiv and PSE&G territories. None offer service to residential customers in the Rockland territory. For C&I customers, there are 6 active suppliers in the Rockland territory and 19 or 20 in each of the other territories.

Pricing Trends: As Table 15 shows, prices in all three sectors rose throughout the early part of the decade, reaching a peak in 1997. Prices for residential and commercial customers fell over the next several years before rising again, but not as high at the 1997 peak. For industrial customers, the same pattern is evident except that the 2004 price exceeded the 1997 peak.

Table 15: New Jersey Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	9.8	10.1	10.4	10.8	10.9	11.4	11.5	12.0	12.0	12.1	11.4	11.4	10.8	10.2	10.4	10.7	11.2
Commercial	8.4	8.8	8.9	9.3	9.3	9.7	9.8	10.2	10.3	10.4	10.1	9.7	8.6	9.1	8.9	9.3	10.0
Industrial	6.8	7.2	7.4	7.7	7.7	8.1	7.9	8.2	8.2	8.1	7.9	7.7	6.8	8.3	7.7	7.5	9.0
All Sectors	8.5	8.8	9.1	9.5	9.5	10.0	10.1	10.4	10.5	10.5	10.2	10.0	9.1	9.3	9.3	9.5	10.9

Source: Energy Information Administration

Price Changes for POLR (Basic Generation Service) Service: All customer classes were granted an initial 5% rate reduction with an additional reduction of at least 5% over the first three years of the transition period for POLR service. This entailed a reduction of at least 10% from April 1997 levels. The reductions were from the distribution portion of the customer's bill, so that even those customers that switched to a new supplier obtained the price reductions. Retail price caps expired in the summer of 2003.[378]

Beginning in 2002, New Jersey instituted the Basic Generation Service (BGS) Auction "to meet the electric demands of customers who have not selected an alternative supplier and to make BGS available on a competitive basis… The Internet BGS Auction, the first of its kind in the nation, was a descending clock auction…"[379] The bidding process for hourly priced electricity is separate from that for fixed price service and the latter involves three year supply contracts that supply one third of the anticipated load of fixed BGS. Table 16 shows the auction results for 2003 to 2005.

[377] BPU, Interim Licensing and Registration Standards §4.e.

[378] Jeanne M. Fox, N.J. B.P.U Chair, "New Jersey's BGS Auction: A Model for the Nation," *Public Utilities Fortnightly* (Sept. 2005), pp. 16-19.

[379] N.J. Board of Public Utilities Press Release, February 15, 2002.

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Table 16: Auction Results for Three Year Contracts Used to Ladder Fixed BGS Rates			
	Feb. 2003	Feb. 2004	Feb. 2005
Conectiv	5.529 cent/kWh	5.513	6.648
JCP&L	5.587	5.478	6.570
PSE&G	5.560	5.515	6.541
Rockland	5.601	5.597	7.179
Source: NJ BPU Press Releases of Feb. 5, 2003; Feb. 11, 2004; and Feb. 16, 2005. The Feb. 9, 2006, press release did not list the winning bid prices, but indicated that the average residential bill would increase 12% to 13.7% as a result of increases in the 2006 component of the laddered prices.			

POLR Service (BGS) Provider: Generation services were provided by the distribution companies for three years following the opening of retail competition.[380] Through BGS, all customer classes are eligible for generation service overseen by the BPU.[381] Non-residential customers who return to BGS are generally required to remain with that service for one year.[382] The auction system for procuring BGS has been in place since 2002, although rate caps applied until mid-2003.

Recovery of Stranded Costs/Transition Costs: The BPU determined the recoverable amount of stranded costs, and distribution utilities recovered most stranded costs over a maximum of 8 years, through a market transition charge (MTC).[383] All customers were be assessed this charge, except for off-grid customers who are exempt from exit fees.

Switching Restrictions and Minimum Stay Requirements: Customers can switch suppliers or return to their distribution company at any time, in accordance with the terms and conditions of their service agreement with their supplier or distribution company. A customer may not be charged a fee for switching suppliers.

Switching Activity: The Table 17 provides the switching statistics for large C&I customers in the major distribution territories as of December 2005.

Table 17: Customer Switching by Distribution Utility (December 2005) % of Customers and (% of Load) Served by Alternative Suppliers				
	Combined Residential and Non-Residential Fixed Rate	Residential Fixed Rate	Non-Residential Fixed Rate	Large C&I Hourly
Conectiv	0.0% (12.4%)	0.0%	0.3%	87.2% (95.7%)
JCP&L	0.1% (11.6%)	0.0%	0.4%	62.7% (87.7%)
PSE&G	0.1% (15.3%)	0.0%	0.7%	64.0% (84.0%)

[380] N.J. Stat. Ann. §48:3-57.9.a (2001).

[381] *Id.* at §48:3-51.3.

[382] NJ Ratepayer Comments at 7.

[383] *Id.* at §48:3-61.13.i.

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Rockland	0.0% (4.4%)	0.0%	0.3%	55.0% (70.3%)
Source: New Jersey BPU and *Restructuring Today* (January 27, 2006), p. 3. Note: New Jersey does not report separate residential and small C&I load of alternative suppliers.				

The number of residential customers served by alternative suppliers is and has remained very low with the peak of less than 6% in the Conectiv (Atlantic) distribution area in December 2000.[384] As of December 2005, less than 1,000 residential customers had alternative suppliers in the entire state.[385] As with the residential sector, the number of small C&I customers served by alternative suppliers peaked in December 2000 with 8.6% of customers and 16.3% of load for this class of customer served by alternative suppliers.[386] As of December 2005, less than 1% of small C&I customers had alternative suppliers, but they tended to be larger than average customers because the share of load exceeds the share of customer served by alternative suppliers.

The POLR service available to large C&I customers in New Jersey is priced on an hourly basis, CIEP, that tracks the wholesale spot market prices. Hence, large C&I customers wishing to hedge price volatility must do so by selecting an alternative supplier. New Jersey's experience has been that many large C&I customers prefer to buy from alternative suppliers when POLR service is priced on an hourly basis.

Table 18 provides aggregate switching data for residential and non-residential customers from 2003 to the end of 2005.

Table 18: New Jersey Retail Aggregate Customers Migration Statistics, 2003-2005 % of Customers and (% of Load) Served by Alternative Suppliers				
Year	2003 pre August	November 2003	December 2004	December 2005
Residential and Small C&I	(1 to 2%)	3.3% (12.5%)	0.3% (15.4%)	0.0% (13.6%)
Residential		3.6%	0.0%	0.0%
Small C&I		0.8%	1.8%	0.6%
Large C&I	~ 10%	66%		64.7% (83.9%)
Source: *Restructuring Today* various issues. Note: Archives of N.J. BPU switching statistics are not available. [SHOULD WE CONTACT?]				

<u>Public Benefits Programs</u>: Table 19 identifies the elements and New Jersey's public benefit programs.

Table 19: New Jersey Public Benefits Programs						
Restructuring law passed in Jan. 99.		Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total

[384] FTC Staff, Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition (2001), pp. A78 to A80.

[385] N.J. B.P.U, "New Jersey Electric Statistics," (December 2005).

[386] FTC Staff, Competition and Consumer Protection Perspectives on Electric Power Regulatory Reform: Focus on Retail Competition (2001), pp. A78 to A80.

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Requires funding for EE/RE at same level as existing DSM costs (approx. $235million/yr.) Full SBC is 3.6 mills. Half would pay for costs from prior year, half for programs. 25% of new must be RE. Numbers in table are new programs only set in BPU order Mar/01. LI separately funded at prior levels.	Million $		89.5	10.1	30.0	129+
	Mills/kWh		1.22	0.14	0.41	1.76
	% revenue		1.31%	0.15%	0.44%	1.89%
	Admin.		NJ BPU	Utility	NJ BPU	
	Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.					

Separation of Generation and Transmission: The restructuring act does not mandate divestiture, though the BPU may require a distribution utility to functionally separate its generation assets to the distribution utility's holding company or a related competitive business segment if there are market concentration concerns.[387] Electric distribution utilities had three options: divestiture, structural separation or functional separation. Of the four major distribution utilities in New Jersey, two divested nearly all of their generation, one divested most (but not all) of its generation, and the fourth transferred its generation assets to an unregulated affiliate.[388] In August 2000, PSE&G transferred approximately 10,200 MW of its electric generating facilities to PSEG Power, LLC, an unregulated power generation affiliate. The BPU approved the sale of Rockland Utility's generation assets to Southern Energy Affiliates in June 1999.[389]

State RTO Involvement: New Jersey is within the multi-state PJM region, an RTO that includes Pennsylvania, New Jersey, Maryland, Delaware, the District of Columbia, and parts of Virginia. In recent years, the PJM RTO has significantly expanded its geographic scope to the West and South of its original footprint. The PJM region is responsible for the operation of the region's wholesale electric market.

Generation Capability:[390] Prior to the restructuring legislation, utilities operated 81.2% of the generation capability in New Jersey. By 2002, that figure dropped to 6.8% after divestitures, transfers, and entry of new generators. Between 1997 and 2002, generation capability in the state increased from 16,855 megawatts to 18,384 megawatts, an increase of 9.1%. Nearly all of the increase was in dual fueled generators built by IPPs. During the 1993 to 1997 period, generating capability had increased by less than 3%.

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[387] *Id.* at §48:3-59.11.a.

[388] NJ Ratepayer Comments at 9.

[389] Rockland Utilities Divestiture Approval (June 24, 1999).

[390] Department of Energy, Energy Information Administration, New Jersey State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/new_jersey.pdf.

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Usage of Customer Information: Neither power suppliers nor distribution companies can disclose proprietary information, including historical payment and energy usage information without the written consent of the customer. Any third party who receives such information can only use it in order to provide continued electric service to the customer.[391]

Standardized Labeling:[392] "The New Jersey Board of Public Utilities (BPU) adopted an interim disclosure rule on July 26, 1999, in accordance with the state's restructuring law. The rule requires electricity suppliers to provide consumers with a uniform disclosure label containing information on fuel mix, carbon dioxide, sulfur dioxide, and nitrogen oxides emissions, as well as energy-efficiency efforts twice a year, effective August 1, 1999. Air pollutant emissions must be compared to the regional average. Suppliers should use data from the most recent 12-month period with a 3-month lag, unless such data are unavailable (as in the case of a new market entrant). Information must be provided for each product offered and verified by an independent auditor."

Renewable Energy Portfolio Standard: The New Jersey Board of Public Utilities adopted renewable energy portfolio standards on February 1, 2005. The standard starts at 3.25% for 2005 and rises to 6.5% by 2009. On August 31, 2005, the BPU authorized specific standards for two classes of renewable energy sources in addition to continuation of the existing solar requirements.

New York: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: Restructuring in New York State has taken place through orders of the New York State Public Service Commission (NYSPSC), rather than through legislative initiatives. Because the PSC phased in restructuring through PSC-approved utility restructuring plans over a three year period, each utility had a different timetable to transition to retail competition.

In 2004, the NYSPSC identified a number of "best practices" and ordered distribution utilities to submit plans to foster the development of retail competition.[393] Subsequently, the NYSPSC adopted statewide guidelines, based on the program developed by Orange and Rockland (O&R).[394] Under the guidelines, the distribution utility notifies any customers who contact the

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[391] *Id.* at §48:3-85.36.b.

[392] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[393] NYSPSC, Case 00-M-0504, "Statement of Policy on Further Steps toward Competition in Retail Energy Markets" (August 25, 2004).

[394] Case 05-M-0858 *et al*, "Order Adopting ESCO Referral Program Guidelines and Approving an ESCO Referral Program Subject to Modifications" (Dec. 22, 2005). NYSPSC(2) at 17.

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utility that they may try an alternative supplier for a two-month period without any penalty for leaving or returning to POLR service after the trial period. Alternative suppliers participating in the program offer a one-time 7% discount for the trial period. Customers can either pick an alternative supplier or have one randomly assigned and customers are can return to POLR service or to another alternative supplier at the end of the trial period. As the table on retail switching indicates below, switching levels in the O&R distribution territory are higher than in other territories.

On September 23, 2005, the PSC determined that the pace of development of real-time pricing was insufficient to moderate the effects of rising fuel costs.[395] To speed the development of real-time pricing, the PSC ordered that existing real-time pricing programs in some distribution territories be expanded to include all territories and that POLR service for large C&I customers be tied to real-time pricing.

Services Open to Competition: Generation, metering and billing. Distribution companies were required to file unbundled metering tariffs and calculate a "backout" credit for customers who choose a different meter service provider. The PSC's competitive metering and meter reading rules allow customers who choose a competitive supplier and customers who remain with the distribution utility to choose competitive metering services. Customers who choose competitive metering services must procure both meter and meter data services competitively. Distribution utilities are the providers of last resort for metering and meter data services.[396]

Consumer Options: New York retail electricity customers can select an alternative supplier or be part of an aggregation of consumers that obtain electric power from an alternative supplier. Customers not served by an alternative supplier receive POLR service from the distribution utility. POLR service for large C&I customers is offered on an hourly price basis that tracks wholesale spot market prices.

Alternative Suppliers Deemed Eligible to Provide Service: The New York PSC website provides lists of alternative suppliers in each distribution territory. For example, in February 2006, the number of alternative suppliers serving residential customers ranged from 6 in the Central Hudson and O&R territories to 13 in the National Grid (Niagara Mohawk) distribution territory. C&I customers generally had more alternative suppliers to choose from.

Pricing Trends: As shown in Table 20, prices generally increased through 1997 and then wavered before increasing to higher levels in 2003 and 2004.

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[395] NY PSC, Case 03-E-0641, "Order Instituting Further Proceedings and Requiring the Filing of Draft Tariffs" (September 23, 2005).

[396] NYPSC Case 00-E-0165 – In the Matter of Competitive Metering and Case 94-E-0952 – In the Matter of Competitive Opportunities Regarding Electric Service (Feb. 26, 2001).

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Table 20: New York Average Annual Price per KWh by Sector (nominal cents)																	
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Residential	10.5	10.9	11.4	12.0	12.4	13.2	13.6	13.9	14.0	14.1	13.7	13.3	14.1	14.0	13.6	14.3	14.5
Commercial	9.6	9.9	10.5	10.9	11.2	11.7	11.7	11.9	12.1	12.1	11.6	11.2	12.5	12.9	12.3	12.9	13.0
Industrial	4.9	5.3	5.8	6.2	6.5	6.7	6.8	5.8	5.6	5.2	5.0	4.8	4.9	5.6	5.2	7.1	7.0
All Sectors	8.5	8.9	9.4	9.6	10.2	10.7	10.9	11.1	11.1	11.1	10.7	10.4	11.2	8.8	8.7	12.4	12.6
Source: Energy Information Administration																	

Price Changes for POLR Service: Each distribution utility's restructuring plan laid out different POLR rate reduction plans:

- Central Hudson basic electric rates were frozen at 1993 levels through June 30, 2001, for all customers. In addition, large industrial customers who chose to remain with Central Hudson for their generation services received 5% per year rate reductions until mid-2001.

- Con Edison industrial customers received a 25% immediate rate decrease, which remained fixed for five years. All other customers received a 10% rate decrease, phased in over five years.

- Orange and Rockland residential customers received a 4% decrease in rates during 1995 and 1996, while industrial and commercial customers received rate reductions of 4-14%. On December 1, 1997 and on December 1, 1998, residential rates were reduced an additional 1%. Large industrial customer rates were reduced by approximately 8.5% on December 1, 1997.

- Rochester Gas and Electric residential and small commercial customers received a 7.5% rate decrease. Other commercial and most industrial customers received an 8% decrease. Large industrial customers received an 11.2% decrease. All decreases are being phased in over 5 years.

- New York State Electric and Gas industrial and large commercial customers (greater than 500 kW capacity) received a 5% per year rate decrease, for five years. Residential and small commercial and industrial customers have had their rates frozen at current levels for two years, bills reduced 1% in the third year of the plan, and a total decrease of 5% by the fifth year of the plan. Industrial and commercial customers who are not eligible for the 5% decrease received financial incentives for load growth to encourage business expansion.

- National Grid (Niagara Mohawk) customers received an overall rate decrease of an average of 4.3%. Residential and commercial customers were to have a 3.2% decrease phased in over three years. Industrial customers were to have decreases of approximately 13%. In addition, Niagara Mohawk rates for electricity and delivery were set until September 1, 2001. In 2001 and 2002, Niagara Mohawk was allowed to request limited rate increases for distribution services, and prices for some of the electricity sold to all customers will fluctuate with changes in market prices.

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POLR Service Provider: The distribution companies provide regulated POLR service for customers who do not choose a competitive supplier or who return to POLR service.[397]

Recovery of Stranded Costs/Transition Costs: Distribution utilities recover stranded costs (net of proceeds from selling generation assets) through a non-bypassable distribution charge. Distribution utilities were required use creative means to reduce the amount of stranded costs before they are considered for recovery. Stranded cost calculations and timing of recovery were determined on a case-by-case basis for each distribution utility.[398]

Switching Restrictions and Minimum Stay Requirements: The NY PSC is currently implementing a number of policies designed to encourage consumers to try alternative suppliers.[399] One of these, known at "ESCO Referral Programs," places limits on the ability of alternative suppliers to levy charges against departing customers.[400]

Switching Activity: The switching statistics for December 2005 in each distribution territory appear in the Table 21.

Table 21: New York Retail Customers and Load Supplied by Alternative Providers as of December, 2005 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Large C&I	Total
NY IOUs 8,614,367	6.7% (9.0%)	18.4% (45.4%)	55.6% (75.7%)	8.3% 38.5%
Central Hudson 465,350	.8% (1.0%)	3.0% (15.6%)	49.2% (74.7%)	1.2% (26.9%)
Con Ed 3,425,765	4.6% (5.5%)	14.1% (40.2%)	77.5% (85.1%)	5.9% (37.4%)
National Grid 2,644,403	6.0% (7.7%)	22.9% (53.6%)	69.2% (69.2%)	7.8% (38.4%)
NYSE&G 1,100,064	6.8% (9.6%)	23.1% (54.6%)	51.7% (88.3%)	9.1% (40.7%)
O&R 349,282	30.4% (34.6%)	32.4% (49.5%)	19.7% (27.5%)	30.6% (37.6%)
Rochester G&E 629,504	17.5% (21.5%)	39.5% (58.8%)	62.2% (71.5%)	20.0% (49.5%)
Source: New York PSC				

The aggregate switching statistics for the utility distribution territories in the states from 2000 to 2005 appear in Table 22. Load served by alternative suppliers has increased each year with the largest increases in 2004 and 2005. The percentage of customers served by alternative suppliers

[397]NYPSC Opinion 96-12, Opinion and Order Regarding Competitive Opportunities for Electric Service (May 20, 1996).

[398]Id.

[399] New York State Department of Public Service, *Staff Report on the State of Competitive Energy Markets: Progress to Date and Future Opportunities* (March 2, 2006), Electric and Natural Gas Retail Markets sections I to III.

[400] NYSPSC(2) at 18.

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increased from 1999 to 2002, declined in 2003, and resumed growing in 2004 and 2005.

Table 22: New York Aggregate Customer Migration Statistics, 1999-2005
% of Customers and (% of Load) Served by Alternative Suppliers

Year	1999	2000	2001	2002	2003	2004	2005
Residential	~1.6%	3.4%	4.8% (5.0%)	5.0% (5.6%)	4.2% (5.9%)	5.1% (7.2%)	6.7% (9.0%)
Small C&I	~4.3%	5.3%	6.2% (26.0%)	7.1% (30.0%)	8.0% (26.0%)	13.0% (36.2%)	18.4% (45.4%)
Large C&I					23.7% (45.1%)	48.1% (66.8%)	55.6% (75.7%)

Source: New York PSC, Electric Retail Access Migration Reports

Public Benefits Programs: New York's public benefit programs are charted in Table 23 below.

Table 23: New York Public Benefits Programs

In May95, the PSC issued Order 96-12 requiring all IOUs to file restructuring plans. A July98 Order set $78 million/year for an SBC, administered by NYSERDA. In Jan01 the PSC raised the SBC to $150 million/yr and extended it for 5 years. (Table shows allocation minus 10% held open.) R&D incl. $14 million/yr for RE. Table does not include $100 million/yr EE by Power Authorities

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $	26.0	87.0	22.0		150.0
Mills/kWh	0.26	0.83	0.21		1.42
% revenue	0.20%	0.69%	0.17%		1.18%
Admin.	NYSERDA	NYSERDA	NYSERDA		

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Notes: The administrator is the New York State Energy Research and Development Authority, supervised by the PSC.
On December 14, 2005, the PSC ordered that the System Benefit Charge be increased to $175 M annually and that the program be extended for five years (In the Matter of System Benefits Charges III, Case 05-M-0090, available at: http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/537570F2225B2852570D600700767/$File/05m0090_12_21_05.pdf?OpenElement

Separation of Generation and Transmission: The PSC encouraged total divestiture of generation, and it instructed distribution utilities to separate generation and energy service functions from transmission and distribution systems.[401] Each distribution utility company's restructuring agreement established different requirements for separation of generation and transmission.[402]

[401] NYPSC Opinion 96-12, Opinion and Order Regarding Competitive Opportunities for Electric Service (May 20, 1996).

[402] PSC Publication: PSC Rate and Restructuring Plan Fact Sheets, at www.dps.state.ny.us/energyarch.htm#facts.

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State RTO Involvement: New York distribution utilities belong to the New York ISO, formed in 1998. The New York ISO exercises operational control over most of New York's transmission systems, administers the ISO transmission tariff, and operates the New York Open Access Same Time Information System (OASIS).[403]

Generation Capability:[404] Prior to the restructuring regulations, utilities in New York operated 84.3% of the generation capability in the state. By 2002, that figure dropped to 32.4%. The difference reflected mandatory divestitures of generation to independent generation firms and entry or expansion of independent power producers. Between 1997 and 2002, generation capability in the state increased from 35,576 megawatts to 36,041 megawatts. In the previous 5-year period, generation capability had decreased. Dual fueled generation increased as a proportion of generation from 34.1% to 39.5%.

Use of Customer Information: Historical customer data will be provided by distribution companies to customers or their authorized designees. All historical data that a competitive supplier receives from the distribution company must be kept confidential, unless authorized for release by the customer. A distribution company cannot disclose customer information to competitive suppliers if the customer has notified the distribution company in writing that he does not authorize release. Thereafter, customer information can only be released to a competitive supplier with the customer's written authorization.[405]

Standardized Labeling:[406] On December 15, 1998, the New York Public Service Commission (PSC) issued an order requiring electric suppliers to use a standardized label to provide information to customers regarding the environmental impacts of electricity products semi-annually. Suppliers must disclose fuel mix compared to a statewide average and emissions of sulfur dioxide, nitrogen oxides, and carbon dioxide. Fuel source and emissions information are calculated by the Department of Public Service (DPS) and provided to retail suppliers quarterly. Calculations are based on a rolling annual average with data supplied from the Independent System Operator and the Energy Information Administration and verified by the DPS. The most recent reports of each load serving entity (2004) are available at http://www3.dps.state.ny.us/e/energylabel.nsf/ViewCat?ReadForm&View=LabelInfo&Cat=January+2004+-+December+2004&Count=80.

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[403]NYISO Frequently Asked Questions, at www.nyiso.com/public/services/customer_relations/faqs/index.jsp.

[404] Department of Energy, Energy Information Administration, New York State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/new_york.pdf.

[405]New York State Public Service Commission, Case 98-M-1343, Uniform Retail Access Business Practices, Appendix A, "Customer Information" (Apr. 14, 1999), at www.dps.state.ny.us/doc5743_appendix_a.pdf. For information on the acceptance of uniform retail access business practices in New York, *see* www.dps.state.ny.us/ubr.htm.

[406] Department of Energy, Energy Information Administration, "Disclosure Policies," *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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Renewable Energy Portfolio Standard: The New York PSC adopted a renewable energy portfolio standard on September 24, 2004. The policy calls for an increase in renewable energy used in the state from the then current level of 19% (mostly hydro) to 25% by 2013.

Pennsylvania: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The Electricity Generation Customer Choice and Competition Act was enacted on December 3, 1996. The Pennsylvania Electric Choice Pilot Program began in the fall of 1997, with 230,000 customers participating. These customers were able to begin shopping for their electric generation supplier beginning September 1, 1998. By January 2, 2000, electric choice was fully implemented in nearly all of Pennsylvania.[407] Retail competition is administered by the Pennsylvania Public Utility Commission (PUC).

Services Open to Competition: Generation. Generally the distribution company provides metering and billing services, although there are some areas in Pennsylvania in which the alternative supplier may provide these services.[408] Pennsylvania's efforts to allow licensed generation suppliers to provide metering and billing services to retail customers were suspended on August 12, 2002.[409]

Consumer Options: Pennsylvania consumers can select an alternative supplier or be part of an aggregation of consumers buying power from an alternative supplier. Consumers not served by an alternative supplier receive POLR service arranged by the local distribution utility.

Alternative Suppliers Licensed to Provide Service: Competitive suppliers must be licensed by the PUC to provide service to Pennsylvania customers.[410] As of February 2006, the Duquesne Light territory had 4 alternative suppliers serving residential customers and 20 serving C&I customers. In the PECO territory, 6 alternative suppliers were available for residential customers and 28 for C&I customers. Outside of these two territories, residential customers only have available premium priced green generation products while C&I customers had several alternative suppliers offering service.

Pricing Trends: Table 24 displays average retail prices in Pennsylvania by customer class from 1988 to 2004. Residential, commercial, and industrial retail prices have fluctuated within a narrow range since 1991.

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[407]Pennsylvania PUC Publication: Pennsylvania Electric Choice, Q&A. www.electrichoice.com/public/qa.html

[408]Pennsylvania PUC Publication: Pennsylvania Electric Choice, How to Shop Guide. www.electrichoice.com/public/guide.html

[409]Letter from the Pennsylvania PUC to the Energy Association of Pennsylvania approving an extension of a suspension of work of the Electronic Data Exchange Working Group as it relates to the implementation of competitive metering, Docket No. P-00021957 (February 5, 2004).

[410]66 Pa. Cons. Stat. §2809.A (2001).

DOJ_NMG_ 0165512

Table 24: Pennsylvania Average Annual Price per KWh by Sector (nominal cents)																	
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2000	2003	2004
Residential	8.7	8.9	9.2	9.6	9.7	9.6	9.6	9.7	9.7	9.9	9.9	9.2	9.1	9.7	9.7	9.6	9.6
Commercial	7.5	7.8	8.1	8.3	8.5	8.3	8.3	8.3	8.3	8.4	8.3	7.9	6.3	8.6	8.5	8.1	8.5
Industrial	5.5	5.8	6.0	6.3	6.2	6.0	5.9	5.9	5.9	5.9	5.6	5.2	4.3	5.8	5.8	6.1	5.9
All Sectors	7.1	7.4	7.7	8.0	8.0	7.9	7.9	7.9	8.0	8.0	7.9	7.4	6.6	8.0	8.1	8.0	8.0
Source: Energy Information Administration																	

Price Changes for POLR Service: POLR rates for distribution service were capped at January 1, 1997 levels until July 1, 2001. Rates for generation, including transition charges, were capped at January 1, 1997 levels until January 1, 2006.[411] In some distribution utility service areas, generation caps are in place until 2008-2011 because these distribution utilities will be collecting stranded costs over these longer periods. Many distribution utilities also extended distribution rate caps until 2003-2005. Pennsylvania did not require rate reductions, although several distribution utilities agreed to reduce rates in the first year of retail choice. These reductions were to be lowered and phased out over a two to three year period.[412]

Overall rate reductions, Table 25 for the first year ranged from 2.5% to 8% for the major utilities operating in Pennsylvania:[413]

Table 25: First Year Rate Reductions by Distribution Utility	
Distribution Utility	First Year Rate Reductions
APS	2.5%
MetEd	2.5%
PECO	8.0%
Penelec	3.0%
PPL	4.0%

Shopping credit rates are the rates that a customer pays for generation if he receives generation service from the utility rather than from a competitive supplier. Shopping credit rates increased over time, but fuel cost increases have been greater and the base rates are not adjusted under the Pennsylvania settlements with distribution utilities. The has resulted in the declining market shares for alternative suppliers and the exit of alternative suppliers.

POLR Service Provider: The distribution company provides POLR service for customers who do not choose a competitive supplier, for those who are unable to obtain service from a competitive supplier, or for customers whose suppliers do not deliver service. Distribution utilities must offer standard offer service as long as the distribution utility is collecting transition charges or until 100% of its customers have electric choice.[414] In June 2000, the PUC issued a

[411] 66 Pa. Cons. Stat. §2804.4 (2001).

[412] Comments of the Pennsylvania Utility Commission, Federal Trade Commission Retail Electricity Study (April 9, 2001).

[413] Ahmed Kaloko, Ph.D., Chief Economist, Pennsylvania Public Utility Commission, "Power 99– California & Pennsylvania Retail Market Development."

[414] 66 Pa. Cons. Stat. §2807.E (2001).

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change in the provision of POLR service, in order to prevent "gaming" of the system by customers who were returning to their distribution utility. During the summer, market prices rose, while POLR rates remained stable, below market rates. This caused customers to be either returned to POLR service by their suppliers or to return themselves to POLR service. Many distribution utilities require customers to remain with the distribution utility for a 12-month period after switching back to the POLR provider.

Competitive POLR Service: Some distribution utilities have arranged for competitive bidding to supply the generation services portion of POLR service for customers who do not affirmatively choose an alternative supplier. This option is known as Competitive Default Service (CDS). The PUC approved additional consumer protections for the initial phase in of CDS, including bidder qualifications, established creditworthiness, and bond limits. The PUC also reviewed the CDS annually to ensure that it is still benefited consumers.[415] The largest CDS effort took place in the PECO territory. PECO awarded a contract for 20% of its POLR service customers to The New Power Company. Additionally, 50,000 PECO customers were assigned to Green Mountain Energy, Inc. PECO customers assigned to the CDS provider received a two-percent discount on the shopping credit (the capped generation service rate). The CDS provider also provided no less than two percent of its supply from renewable resources and increased the use of renewable resources by one-half of a percent annually.[416] Due to concerns that POLR prices were insufficient to cover procurement costs, the CDS suppliers withdrew from this service. No alternative suppliers have been willing to supply on these terms at present. On December 10, 2005, the PUC decided to reopen POLR service issues for comment in preparation for the end of the transition period in distribution areas in addition to Duquesne.[417]

Recovery of Stranded Costs/Transition Costs: Stranded costs have been administratively determined by the PUC on a case-by-case basis. Utilities were not required to establish market-based valuation by selling generation assets. Stranded costs are fully recoverable through a non-bypassable charge to all consumers, collectible for up to nine years, unless the PUC orders an alternative payment period.[418] Table 26 shows each utility's allowable stranded costs recovery and the seven to 10 year recovery periods to collect there costs from customers.

Table 26: Transition/Stranded Costs:

Company	Allowable Stranded Cost Recovery	Length of Recovery
Allegheny Power	$670 million	10 years
Duquesne Light	$1,331 million	7 years
GPU Energy (Met Ed.)	$975 million	10 years
GPU Energy (Penelec)	$858 million	8 years
PECO	$5,024 million	8 ½ years
Pennsylvania Power and Light	$2,864 million	9 years
Pennsylvania Power Company	$234 million	9 years

[415] Id.

[416] Id.

[417] The order is *available at* http://www.puc.state.pa.us/PcDocs/578097.doc.

[418] 66 Pa. Cons. Stat. §2808.A, B (2001).

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UGI Utilities	$32.5 million	
West Penn Power Company	$524 million	7 years
Source: Company Restructuring Orders and Tables		

Switching Restrictions and Minimum Stay Requirements: Customers can switch suppliers at any time, although they are advised to check their supply agreement for any penalties which may apply for early termination of a supply contract. If a customer leaves POLR service and then returns, some POLR service providers require a minimum stay of 12 months.[419]

Switching Activity: At this point in time, retail switching activities are largely limited to the Duquesne Light distribution territory and to a lesser degree the PECO territory, as shown in Table 27.

Table 27: Pennsylvania Retail Customers and Load Supplied by Alternative Providers as of January 1, 2006 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Large C&I	Total
Allegheny Power	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)	0.0% (0.0%)
Duquesne Light	19.7% (18.5%)	20.3% (52.3%)	43.4% (83.6%)	19.8% (48.0%)
MetEd/Penelec	0.0% (0.0%)	0.0% (0.0%)	(0.1%) (5.6%)	0.0% (1.6%)
PECO	0.9% (1.0%)	23.8% (13.2%)	2.0% (1.2%)	3.2% (4.9%)
PennPower	0.0% (0.0%)	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)
PPL	0.0 (0.0%)	0.2 (0.7%)	0.3 (0.3%)	0.1 (0.3%)
UGI	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)	0.0 (0.0%)
Source: Pennsylvania Office of the Consumer Advocate				

[419] Pennsylvania PUC, Electric Choice Frequently Asked Questions (Are there any penalties for changing suppliers?), *available at* http://www.puc.state.pa.us/utilitychoice/faq.aspx?ut=ec#4.

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The first quarter aggregate switching statistics for the utility distribution territories in Pennsylvania from 2000 to 2006 appear in Table 28. Load served by alternative suppliers has decreased since 2000 with the exception of an increase in 2004. Alternative suppliers served a declining number of customers from 2001 to the present (with the exception of 2004).

Table 28: Pennsylvania Retail Aggregate Customer Migration Statistics, 1999-2006
% of Customers and (% of Load) Served by Alternative Suppliers

Year	2000	2001	2002	2003	2004	Oct. 2005	2006
Resident.	~7.8% (~7.6%)	~9.2% (~8.6%)	~10.3% (~9.1%)	~4.9% (~4.7%)	~8.2% (~7.9%)	2.9% (2.7%)	~2.3% (~2.1%)
C&I	~17.6% (~41.9%	~16.9% (~32.6%)	~3.7% (~7.8%)	~4.8% (~12.4%)	~13.5% (~13.9%)	9.6% (15.5%)	~8.9% (~14.5%)

Source: Pennsylvania Office of the Consumer Advocate
Note: Keystone Connection (Autumn 2005) provides the percentage of customers and load served by alternative suppliers as well as the total number of customers and load for residential customers and C&I customers separately for October 2005. Calculations for the other years take the number of shoppers or shoppers' load reported in January of that year and divides them by the related Pennsylvania totals from Oct. 2005. The resulting calculations are approximations because the total number of customers and the total load in the state may have changed from year to year.

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Public Benefits Programs: Table 29 identifies the Pennsylvania public benefit programs.

Table 29: Pennsylvania Public Benefits Programs

In Dec95, a restructuring laws was signed with retail access to be phased-in over 2 yrs starting in Jan99. The restructuring law resulted in PUC-approved restructuring settlement agreements for each electric company. Each settlement agreement created a system benefits fund for LI programs and a Sustainable Energy Fund (except for Duquesne).

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $	5.0		85.0	6.0	96.0
Mills/kWh	0.04		0.68	0.05	0.77
% revenue	0.05%		0.85%	0.06%	0.96%
Admin.	SEF	Utility	SEF		

Source: American Council for an Energy-Efficient Economy, Summary Table of Public Benefit Programs and Electric Utility Restructuring (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.
Note: Administrators are Sustainable Energy Funds in each area of the state.

Separation of Generation and Transmission: Generation must be separated from transmission and distribution, but distribution utilities are not required to divest facilities or reorganize corporate structure.[420] However, several utilities voluntarily divested generation assets either to independent companies or to unregulated affiliates.

State RTO Involvement: The restructuring legislation directs the PUC to encourage interstate power pools to enhance competition and to complement restructuring. Much of Pennsylvania belongs to the PJM RTO. In order to meet electric load in the PJM region, PJM coordinates with member companies and uses bilateral contracts and the spot market to secure power.[421] In March 2001, Allegheny Power and PJM filed with FERC a request to expand PJM by forming PJM-

[420] 66 Pa. Cons. Stat. §2804.5 (2001).

[421] Pennsylvania Public Utility Commission, Bureau of Conservation, Economics, and Energy Planning, "Electric Power Outlook for Pennsylvania: 1999-2004" (July 2000).

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West.[422]

Generation Capability:[423] Prior to the restructuring legislation, utilities in Pennsylvania operated 92.3% of generation capability in the state. By 2002, that figure dropped to 12.3%, despite the lack of a requirement for generation divestitures or transfers. The difference reflected voluntary divestitures to independent generators and transfers of generation to affiliates as well as expansion and entry of independent power producers. Between 1997 and 2002, generation capability in the state increase from 36,650 megawatts to 39,783 megawatts. Most of increase consisted of dual fueled generation.

Use of Customer Information: A customer can restrict the disclosure of his telephone number and his historical billing data. A distribution utility or supplier who intends to supply a third-party with this information must provide a customer with the means of restricting the release of this information, either through a signed form, orally, or electronically.[424] Customer information cannot be given preferentially by a distribution utility to its affiliate.[425] During the initial-phase in period of electric restructuring, a customer's name, address, telephone number, rate class, account number and load data were given to competitive suppliers as a result of the customer's enrollment into the electric choice program. The customer had the option of restricting the release of his telephone number and load data to suppliers. After this initial phase-in period, to assure that customers retain the ability to restrict disclosure of certain information to suppliers, the PUC directed distribution utilities to send forms to customers to give them the opportunity to restrict the release of load data, or of all information (name, address, rate class, and account number). Telephone numbers would not be released to suppliers under any circumstances.[426]

Standardized Labeling:[427] The Pennsylvania Public Utility Commission (PUC) issued final rules in April 1998 requiring retail electricity suppliers to "respond to reasonable requests made by consumers for information concerning generation energy sources." Suppliers must respond to such requests "by informing consumers that this information is included in the annual licensing report and that this report exists at the Commission." Requests for information on energy efficiency must be handled in a similar manner. Suppliers must verify fuel mix data through an independent auditor and submit this information in an annual report to the Commission. Suppliers that market electricity as "having special characteristics" such as being environmentally friendly, must have information available to substantiate their claims.

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[422]PJM Interconnection Press Release, "Allegheny Power and PJM File with FERC to Create PJM West" (Mar. 15, 2001). www.pjm.com/contributions/news-releases/2001/20010315-ap-pjm-file-with-ferc.pdf

[423] Department of Energy, Energy Information Administration, Pennsylvania State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/pennsylvania.pdf.

[424]*Id.* at §54.8.

[425]*Id.* at §54.122.2.

[426]Comments of the Pennsylvania Utility Commission, Federal Trade Commission Retail Electricity Study (April 9, 2001).

[427] Department of Energy, Energy Information Administration, "Disclosure Policies" *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

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Renewable Energy: Pennsylvania enacted a renewable portfolio standard through Act 213 in December 2004. The standard includes a gradual increase in generation from renewables to 18% over 15 years. Qualified renewables are divided into two groups: traditional (solar, wind, hydro, geothermal, biomass, and coal-mine methane) and other (waste coal, distributed generation, demand-side management, large-scale hydro, municipal waste, wood processing waste, and integrated combined coal gasification). Separate standards are set for the two groups---8% and 10% respectively.

Texas: Overview of Retail Competition Plan and Market Response

Administrator and Start Date: The Texas restructuring bill was signed June 18, 1999. The Public Utility Commission of Texas (PUC) administers the transition to retail competition, which began with a pilot program on June 1, 2001. Retail competition for all customer classes within ERCOT began January 1, 2002.[428] Competition is not open as yet in areas outside of ERCOT because the PUC is not convinced that retail competition is feasible without a regional transmission organization in these areas.[429]

Services Open to Competition: Generation and billing (retail sales). Competitive metering for certain commercial and industrial customers began January 1, 2004.

Consumer Options: Customers within ERCOT have the option of choosing a competitive supplier, choosing an aggregator, and, in the case of residential and small commercial customers, choosing POLR service (termed "price to beat" default service).

Alternative Suppliers Licensed to Provide Service: In order to be licensed to provide service in Texas, competitive suppliers must meet financial creditworthiness and technical standards.[430] There are numerous suppliers marketing to all classes of customers in Texas that are open for retail customer choice. In addition to the Texas POLR default service offer, there are several alternative suppliers actively serving retail residential customers in each distribution territory. The figure below is from the "August 2005 Report Card on Retail Competition"[431] showing the number of alternative suppliers available to residential customers, the number of products offered by these suppliers, and the number of alternative "green" offers for residential customers in the major distribution territories within ERCOT.

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[428] Tex. Util. Code Ann. §39.102 (2001).

[429] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), pp. 36-38, *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

[430] Tex. Util. Code Ann. §39.352-355 (2001).

[431] Available at http://www.puc.state.tx.us/electric/reports/RptCard/rptcrd/aug05rptcrd.pdf.

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TDSP	# of REPs Serving Residential Customers	# of Residential Products (Incl. PTB)	# of Renewable Products
TXU ED	13	20	5
Center Point	14	21	6
AEP Texas Central (CPL	13	17	5
TNMP	11	16	6
AEP Texas North (WTU)	10	12	3

Pricing Trends: Retail price averages in Texas have wavered over time with peaks occurring in 1994 and 2001, as shown in Table 30. Prices increased in 2003 and 2004 after declining in 2002.

Table 30: Texas Average Annual Price per KWh by Sector
(nominal cents)

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2030	2004
Residential	6.9	7.0	7.2	7.6	7.7	8.0	8.1	7.7	7.8	7.8	7.7	7.5	7.9	8.9	8.1	9.2	9.7
Commercial	6.0	6.1	6.2	6.6	6.7	6.9	7.0	6.6	6.7	6.7	6.6	6.5	6.8	7.7	7.0	7.8	7.9
Industrial	4.1	4.1	4.0	4.1	4.2	4.3	4.3	4.0	4.0	3.9	3.9	4.0	4.5	5.3	4.7	5.3	5.9
All Sectors	5.6	5.7	5.8	6.1	6.2	6.4	6.4	6.1	6.2	6.1	6.1	6.0	6.5	7.6	6.6	7.5	8.0

Source: Energy Information Administration

Price Changes for POLR (Default) Service: Distribution utility rates were frozen from September 1, 1999, levels until January 1, 2002.[432] On January 1, 2002, rates for residential and small commercial customers were reduced approximately 6% from January 1, 1999, levels. The January 1, 2002, reduced rate is called the "price to beat."[433] It is subject to adjustment twice per year, to reflect changes in fuel costs. Because Texas primarily relies on natural gas fueled generation, the increases in natural gas prices have resulted in substantial increases in the "price to beat." POLR (default) service is available from the distribution utility's competitive retail affiliate until January 1, 2007. Prior to January 1, 2005, affiliates of distribution utilities could offer services other than POLR (default) service only if at least 40% of residential or small commercial customers chose a competitive supplier not affiliated with the local distribution utility. Since January 1, 2005, affiliates of distribution utilities have been allowed to offer any service they wish in addition to POLR (default) service.

The Texas PUC provides information on the price to beat and on alternative supplier's prices in each distribution territory. The information includes a comparison of each alternative supplier's price to the POLR (default) price for different levels of consumption. Table 31 shows the POLR (default) price and the range of offers from alternative suppliers for a consumer using 1000 kWh or 2000 kWh. The premium price is generally for a 100% wind generation product.

Table 31: Texas POLR Service Price Compared to Alternative Suppliers
1000 kWh Consumption (January 2006)

	POLR Price (cents/kWh)	Lowest Alternative	Highest Alternative	POLR Price (cents/kWh)	Lowest Alternative	Highest Alternative

[432] *Id.* at §39.052.

[433] *Id.* at §39.202

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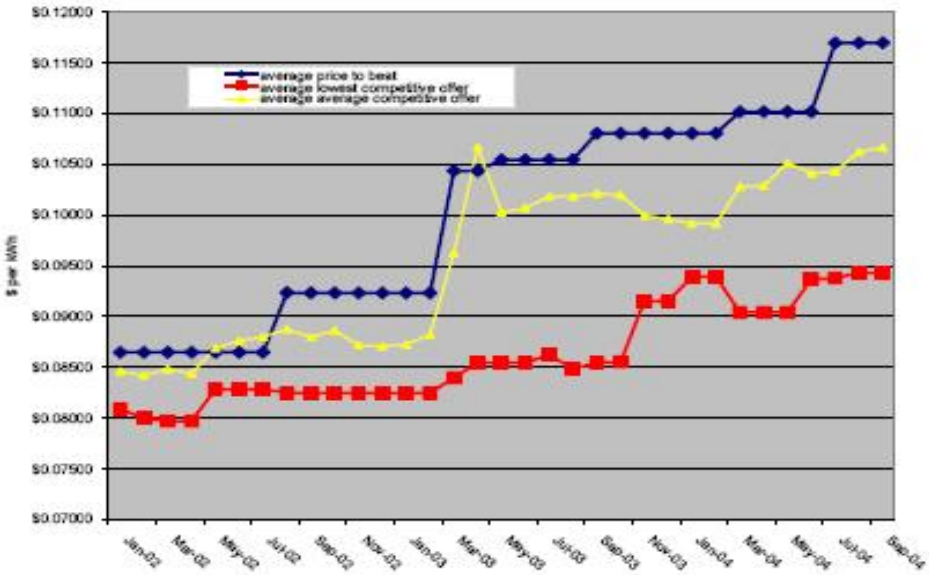
	For 1000 kWh	% discount	% premium	For 2000 kWh	% discount	% premium
West Texas Utilities	19.06	19%	4%	18.95		
TXU-SESCO	14.62	8%	10%	13.97	11%	8%
Texas-NM Power	14.48	8%	10%	14.77	11%	6%
Central Power	17.67	18%	6%	17.48	20%	6%
Centerpoint Energy	16.04	15%	9%	15.89	17%	8%
Source: Texas PUC, Retail Electric Service Rate Comparisons (January 2006 bill comparison)						

The PUC also has produced an aggregate comparison between the price to beat, the average offer of alternative suppliers, and the lowest offer of alternative suppliers. The figure below, from the PUC report to the 79th Texas Legislature, illustrates these comparisons.[434]

Figure 2: Average Residential Price to Beat vs. Average Competitive Offer vs. Average Lowest Competitive Offer, 2002 - 2004



Source: Average Annual Rate Comparison for Residential Electric Service, Entergy Gulf States, Inc. Tariff Rates, PUC Electric Division

POLR (Default) Service Provider: Until December 31, 2001, POLR (default) service was provided by the distribution utility. When competition for all customers began in 2002, POLR (default) customers were transferred to the retail affiliate of the distribution utility. The affiliates and independent retail suppliers are termed "retail electric providers" (REPs). Prices for POLR

[434] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

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(default) service were fixed at the "price to beat" plus fuel adjustments until January 1, 2007. Affiliated retail electric providers were allowed to offer only POLR (default) service (at the "price to beat") unless alternative suppliers attained a market share of 40% of residential or small commercial customers. In 2004, all but one of the affiliated retail electric providers within ERCOT (the separate transmission interconnection system in Texas) were granted permission to offer additional products.[435] Starting in 2005, all affiliated retail electric suppliers were allowed to offer other products in addition to POLR (default) services to all residential and small commercial customers.

Analysis by the Texas PUC concluded that POLR (default) service pricing has been below the pricing that would have prevailed under the prior cost of service regulatory regime. The tables below summarize the estimated regulated rates, the average of the five lowest competitive prices, the best competitive price, and the Price to Beat for the CenterPoint and TXU Service areas.

CenterPoint Energy Services Area	**2002**	**2003**	**2004**	**2005**
Estimated Regulated Price	11.1	12.0	12.7	13.9
Average of Lowest 5 Competetive Prices (actual)	8.2	9.0	9.8	11.4
Percentage Difference from Estimated Regulated price	26%	25%	23%	18%
Best Competetive Price	8.0	8.5	9.4	10.6
Percentage Difference from Estimated Regulated price	28%	29%	26%	24%
Reliant Energy Price to Beat	8.8	10.3	11.1	12.9

TXU Electric Delivery Service Area	**2002**	**2003**	**2004**	**2005**
Estimated Regulated Price	9.4	10.5	10.7	12.1
Average of Lowest 5 Competetive Prices (actual)	8.0	8.7	9.1	10.7
Percentage Difference from Estimated Regulated price	15%	17%	15%	12%
Best Competetive Price	7.8	8.4	8.7	10.1
Percentage Difference from Estimated Regulated price	17%	20%	19%	17%
TXU Energy Price to Beat	8.4	9.6	10.5	11.9

Source: PUC legislative report # 32198, "Electricity Pricing in Competitive Retail Markets in

[435] Public Utility Commission of Texas, "Scope of Competition in Electric Markets in Texas (January 2005), p. 24, *available at* http://www.puc.state.tx.us/electric/reports/scope/2005/2005scope_elec.pdf.

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Texas" (March 3, 2006).[436]

POLR Service Provider for other than Default Service: POLR service customers have been divided into three classes: residential, small non-residential, and large non-residential. POLR service providers supply customers in any or all of the three classes who either request POLR service or are assigned to POLR service because they are not receiving service from a REP, for any reason. The rates for this POLR service are established first through a competitive bidding process and, if no qualified bids are obtained, are then allocated to existing suppliers via a lottery process. A bidder to supply POLR service may bid for any customer class, or for more than one class. An affiliate of a distribution utility cannot bid to be the POLR service supplier in its own service territory during the period while the price to beat is in effect.[437]

The Texas PUC is currently reviewing its POLR service rules.[438]

Recovery of Stranded Costs/Transition Costs: Distribution utilities can recover all of their net non-mitigated stranded costs through a transition charge. The PUC determines the amount of stranded costs eligible for recovery, which includes uneconomic generation related assets, and purchased power contracts.

Switching Restrictions and Minimum Stay Requirements Process: A customer can switch suppliers at any time subject to the terms of his contract with the competitive supplier. There are no switching fees unless a customer requests a special meter reading. [439]

Switching Activity: Retail customers have been migrating to alternative suppliers in all of the distribution territories with the highest switching rates in the AEP Central and North areas, as shown in Table 32.

Table 32: Retail Customers and Load Supplied by Alternative Providers as of January 1, 2006 % of Customers and (% of Load)

Firm and Load in MWh	Residential	Small C&I	Total
TXU	26.3% (26.2%)	30.7% (64.7%)	26.4% (50.4%)
Centerpoint	26.8% (27.3%)	34.5% (60.7%)	27.5% (47.8%)
AEP Texas Central	27.0% (31.3%)	45.8% (81.4%)	29.4% (63.8%)

[436] The report is *available at* http://interchange.puc.state.tx.us/WebApp/Interchange/Documents/32198_7_504891.PDF.

[437] PUC Sub. Rules Section 25.43.

[438] Texas PUC Project No. 31416, Evaluation of Default Service for Residential Customers and Review of Rules Relating to the Price to Beat and Provider of Last Resort. Reliant(2) at 5.

[439] PUC Publication, Texas Electric Choice, Electricity Information-FAQ's, at www.powertochoose.org/residential/electricinfo/faq.html.

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AEP Texas North	33.2% (39.3%)	34.0% (78.7%)	31.9% (64.9%)
Texas NM Power	25.8% (29.9%)	35.0% (66.8%)	26.4% (56.0%)
Source: Texas Public Utility Commission Note: Texas does not provide separate distribution area statistics for large C&I customers.			

Retail customers have switched to alternative suppliers in increasing numbers and with an increasing proportion of load, as shown in Table 33.

Table 33: Texas Retail Aggregate Customer Migration Statistics, 2002-2005
% of Customers and (% of Load)

Year	2002	2003	2004	2005
Residential	7.4% (7.3%)	14.1% (15.0%)	19.9% (21.0%)	26.7% (27.5%)
Small C&I	11.5% (33.0%)	19.0% (44.1%)	26.7% (55.5%)	34.2% (65.1%)
Large C&I	19% (54%)	35% (60%)	42% (69%	53% (68%)

Sources: Texas Public Utility Commission
Note: The large C&I figures are for December 2002, December 2003, September 2004, and June 2005. The Residential and Small C&I figures are all from January expect the 2005 figure which is from September.

Public Benefits Programs: The Texas public benefit programs are presented in Table 34.

Table 34: Texas Public Benefits Programs

Restructuring Law signed in June 1999. Requires utilities to administer EE programs to achieve saving equivalent to 10% of annual load growth by 2004. PUC has established rates and procedures. Est. total annual cost is %80 million in 2003. Also a 10% LI rate discount & small SBC for customer educ. and LI assistance. Total LI is set at statutory maximum .65 mills/kWh.[440]

	Research & Development	Energy Efficiency	Low Income	Renewable Energy	Total
Million $		80.0	166.2		246.2
Mills/kWh		0.28	0.58		0.83
% revenue		0.43%	0.89%		1.28%
Admin.		Utility	PUCT		

Source: American Council for an Energy-Efficient Economy, "Summary Table of Public Benefit Programs and Electric Utility Restructuring" (December 2005) available at http://www.aceee.org/briefs/mktabl.htm.

[440] Although the System Benefit Funds are being collected, the Legislature did not appropriate any fund for a low-income discount or for customer education in the 2005 session. Some REPs are continuing to offer low-income discounts and other benefits to these customers on a voluntary basis. Funding will be reconsidered in the 2007 legislative session. Reliant(2) at 7.

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Separation of Generation and Transmission: By January 1, 2002, utilities were required to separate their business activities into three units: a wholesale electric power generation company, a retail electricity company (a "REP"), and a transmission and distribution company. This separation could take place either through the sale of assets to a third party, or by the creation of separate non-affiliated companies or separate affiliated companies owned by a common holding company.[441] After the beginning of retail competition, a distribution utility may not sell electricity or participate in the market for electricity except to procure electricity to serve its own needs.[442] Wholesale electric power generation companies that are affiliated with a distribution utility are required to auction off 15% of their installed generation capacity,[443] and no wholesale generator can own more than 20% of the installed capacity that can be sold in a region.[444] Before 2005, REP affiliates of transmission and distribution utilities could not offer competitive rates to residential and small commercial customers in the territory of the distribution utility, except as the POLR (default) service provider, until 40% of the residential or small business load in the territory is buying electricity from competitive suppliers.[445] The transmission system for most of Texas is operated independently from the owners of the transmission assets by ERCOT under PUC supervision.

State RTO Involvement: Most of Texas (approximately 85%) is in the ERCOT interconnection.[446] ERCOT began operations as an independent system operator in 1996. It is regulated by the Texas PUC rather than by the Federal Energy Regulatory Commission.[447] Transmission operations of distribution utilities outside of ERCOT are regulated by FERC.

Generation Capability:[448] Prior to the restructuring legislation, utilities operated 88.3% of generation capability in Texas. By 2002, that figure dropped to 41.2%, as divestitures, transfers to affiliates, and entry and expansion of independent generators took place. Between 1997 and 2002, generation capability in the state increased from 73,454 megawatts to 94,488 megawatts, an increase of 28.6%. Much of the growth in generation was fueled by natural gas. The share of

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[441] *Id.* at §39.051.

[442] *Id.* at §39.105.

[443] *Id.* at §39.153.

[444] *Id.* at §39.154.

[445] PUC Publication, Electric Competition-Fostering Competition, *available at* www.choiceenergyservices.com/residential/pdf/Competition.pdf>

[446] ERCOT is not electrically synchronized with the Eastern or Western Interconnects.

[447] ERCOT, "The Market Guide: A Guide to How the Electric Reliability Council of Texas (ERCOT) Facilitates the Competitive Power Market" (Feb. 22, 2001).

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[448] Department of Energy, Energy Information Administration, Texas State Profile, Table 4, *available at* http://www.eia.doe.gov/cneaf/electricity/st_profiles/texas.pdf.

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generation capability fueled by natural gas increased from 21.4% to 38.5%. Natural gas fueled generation more than doubled during the period.

Use of Customer Information: When the retail market opened to competition, distribution utilities were required to include customer name, address, and usage information on a list of eligible customers given to competitive suppliers.[449]

Standardized Labeling:[450] "On December 7, 2000, the Texas Public Utility Commission (PUC) issued rules requiring retail electric providers to use an Electricity Facts Label to disclose information twice a year on fuel mix and environmental impacts to their retail and small residential customers, in accordance with the state's restructuring law. The label must also be included in promotional material soliciting new customers. Fuel mix data must be compared to the state average, with energy generated from renewable resources to be listed under a single category. Emissions of carbon dioxide, sulfur dioxide, nitrogen oxides, and particulates, as well as the amount of nuclear waste generated, must be presented relative to the statewide average. According to rules adopted in August 2001, the Commission is developing a "generator scorecard" database with data on fuel mix and environmental impacts by generator to facilitate implementation of the disclosure requirements. The label is to be updated each year. Retail providers can also opt to purchase and retire "renewable energy credits" from generators to meet their disclosure requirements. Providers can project their fuel mix and emissions data for new products or products offered during the first year of competition. Any product marketed as "renewable" must include the renewable fuel mix percentage, unless it is supplied exclusively from renewable sources. Products marketed as "green" may contain some natural gas fuels along with renewable fuels if it can be shown that the natural gas was produced in Texas."[451]

Renewable Energy Portfolio Standard: Texas adopted a renewable energy portfolio standard on February 24, 2004. The standard establishes yearly new generation from renewables levels through 2019, rather than percentage requirements. The levels are 850 MW in 2004 and 2005, 1400 MW in 2006 and 2007, and 2000 MW in 2009 through 2019. In 2005, the RPS requirements were expanded to a total of 5,000 MW by 2015. Additional non-mandatory targets for renewables were established at the same time, along with a process that will allow the PUC to prioritize transmission development to facilitate delivery of energy from renewable sources.[452]

The original electric restructuring bill included many environmental protections, including that 50% of new generating capacity must come from natural gas, and that a percentage of electricity sold in Texas must come from renewable resources. The bill requires 50% reductions in nitrous

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[449] Reliant(2) at 8. PUC Publication, Consumer Protections in a Competitive Electric Market, *available at* http://www.powertochoose.org/publications/consumer_brochure.pdf.

[450] Department of Energy, Energy Information Administration, "Disclosure Policies," *available at* http://www.eere.energy.gov/greenpower/markets/disclosure.shtml?print.

[451] The consumer brochure on electricity offer labeling is available at http://www.powertochoose.org/publications/efl_brochure.pdf.

[452] Reliant(2) at 9.

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oxide emissions and 25% reduction in sulfur dioxide emissions from power plants that were grandfathered when air permits were introduced under the Federal Clean Air Act. There reductions must be achieved by 2003 by retrofitting or shutting down the grandfathered units. In addition, distribution utilities that upgrade older generation facilities to meet emissions standards may recover the costs from retrofitting as stranded costs.[453] The PUC has adopted a renewable energy credit trading program to encourage cost-effective new renewable generation facilities.

[453]PUC Publication, Electric Restructuring to Improve Air Quality, *available at* www.puc.state.tx.us/nrelease/2000/082400.cfm.

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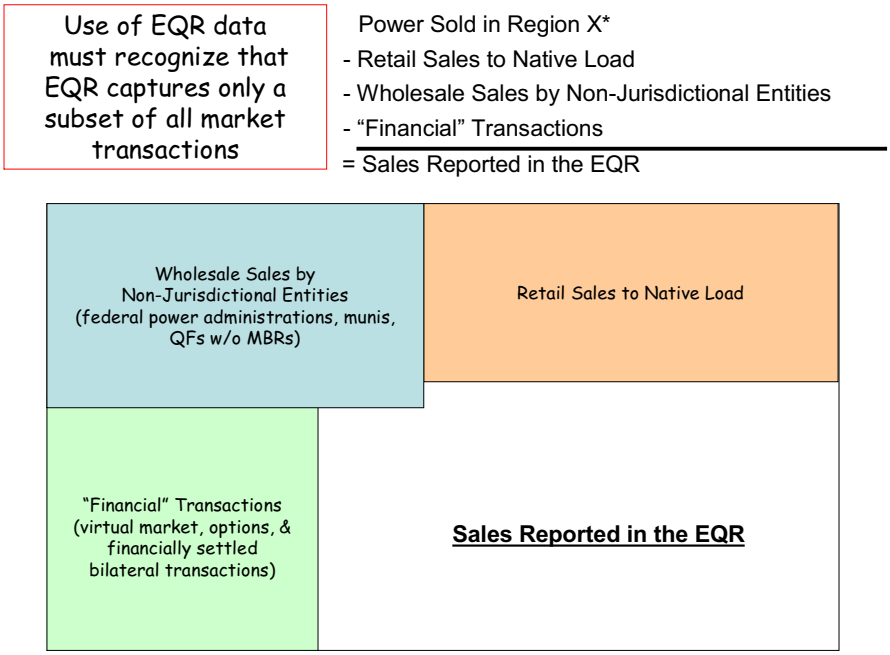
APPENDIX E
ANALYSIS OF CONTRACT LENGTH AND PRICE TERMS
COMPARISON OF NYISO, MISO AND SERC MARKETS USING 2005 EQR DATA

This analysis compares the short-term versus long-term sales volumes and prices in three regions using reported sales information from Electric Quarterly Reports (EQR), which are filed electronically on a quarterly basis at FERC by all holders of market-based-rate authorizations (MBRA). EQR data is available to the public on FERC's website. However, EQR data include only jurisdictional wholesale physical and booked out sales. The "physical" sales are power sales by MBRA holders physically delivered during the quarter. "Booked out" sales are power quantities that are sold, then repurchased at a later date, effectively undoing the prior sale. Depending on changes in market prices in the interim, the repurchase may produce profits or limit losses for the seller.

EQR limitations are best explained with the help of the diagram below, which is conceptual, not scaled, where the sales reported to EQR represent only a subset of all market transactions. Retail sales may be reportable to state commissions. Sales by non-jurisdictional entities may appear in some EIA reports. Financial transactions done on NYMEX are reportable to CFTC, but other financial transactions do not need to be reported. Sales reportable to EQR could have been transacted bilaterally, on RTO/ISO's, through ICE or through voice brokers, and credit cleared through ICE-LCH or NYMEX-ClearPort. Other transaction venues may develop. There is no complete aggregated market picture. Analysts can only try to make inferences from the partial market picture.



Though limited, this comparative analysis is informative. The task force selected NYISO, MISO and SERC as representative markets for the following reasons. NYISO provides a consistent data

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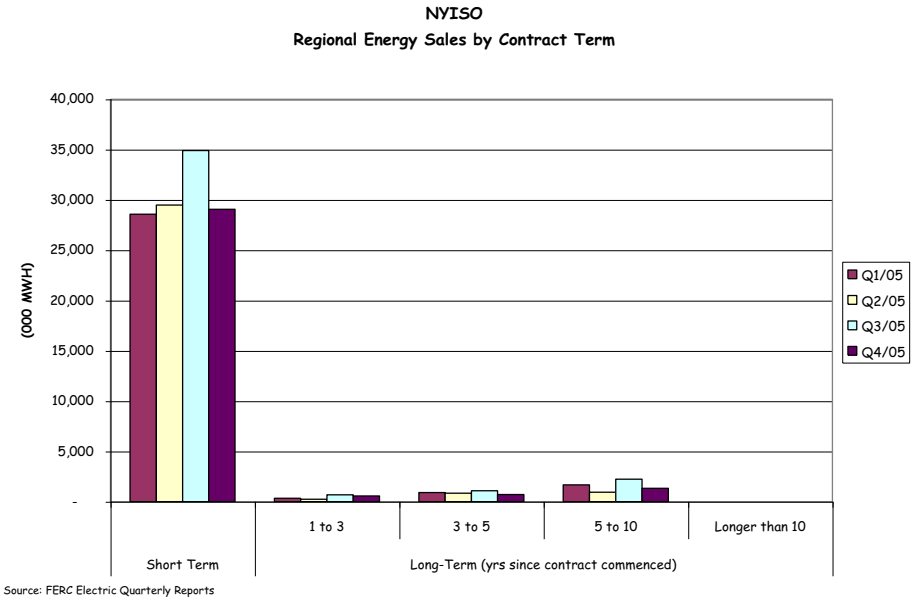
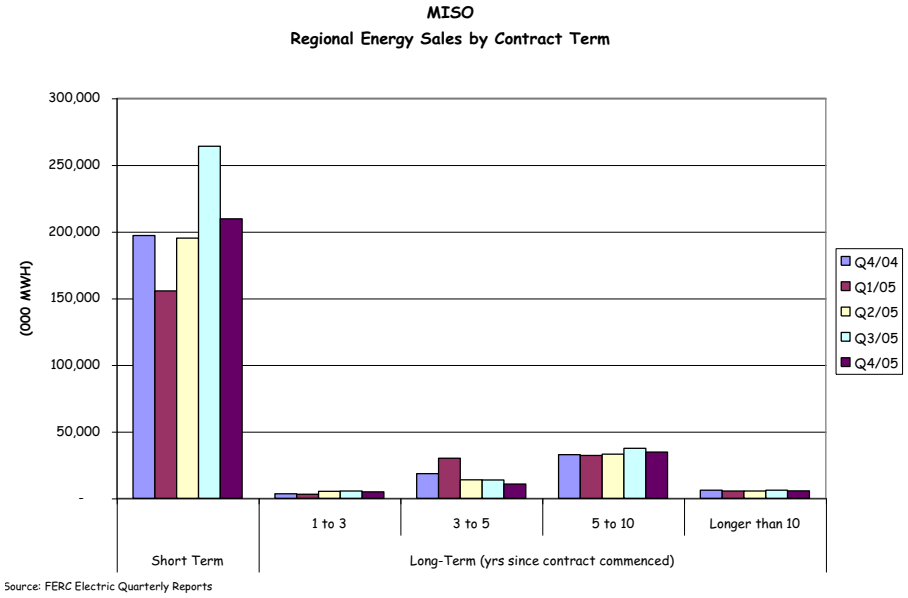
set for sales in its established, single-state organized market. MISO provides a consistent data set for sales in its new, multi-state organized part of the market (sales in Q1/05 occurred before the organized market started). SERC is an example of a purely bilateral wholesale market with relatively few participants (which increases the likelihood of consistent dataset).

The three graphs below show transaction volumes by vintage for each representative region.





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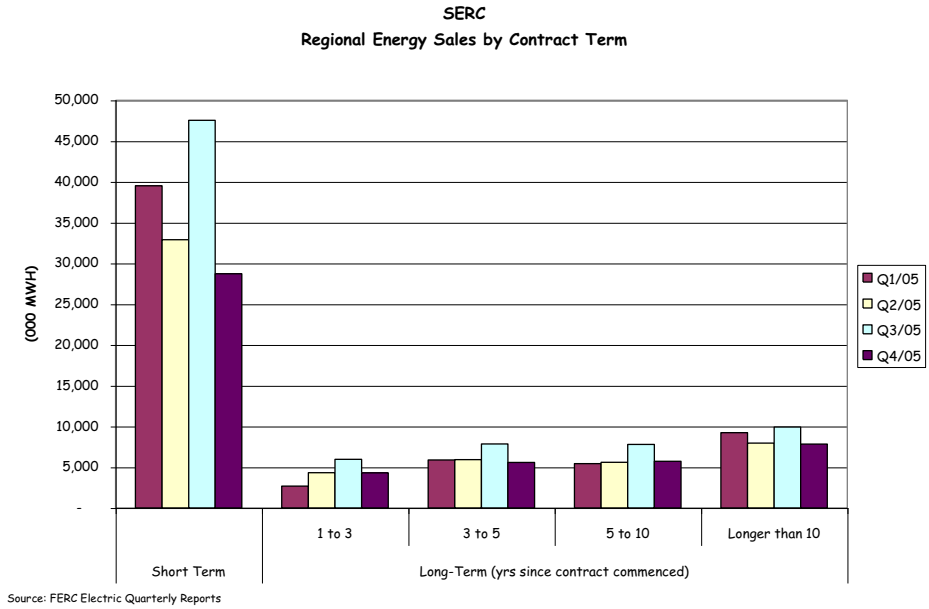

As noted earlier, EQR consists of sales transactions for power delivered during each quarter. Short term transactions are defined as transactions under contracts of one year or less or sales into organized markets, such transactions include bilateral sales as well as sales to NYISO and MISO. Long term transactions occur under contracts that have had a duration longer than a year since contracts were executed. For example, a contract initiated four years ago and still delivering power would be grouped under the 3 to 5 year vintage. A contract initiated 11 years ago would be grouped under the Longer than 10 years vintage. While there is a field in the EQR form for termination date, it is often not relevant in this context because many contracts are either evergreen, effective until cancelled or master agreements (with no time limits) with attachments for term-limited transactions. Major observations on the reported volumes are:

- a higher percentage of sales were short term in organized markets (91% in NYISO, 77% in MISO, 60% in SERC);
- relatively few contracts were older than 10 years (0% in NYISO, 2% in MISO, 16% in SERC);
- quarterly variation in quantities occurred primarily in sales under short term contracts.

Organized exchange markets like NYISO and MISO are designed to produce efficient and reliable daily or real-time spot market prices, with heavy reliance on bilateral financial and physical transactions to fill longer term needs between parties who would then settle these bilateral transactions using organized market spot prices as "index price." The high visibility of the spot markets, along with non-reportable financial transactions would naturally lead to a high percentage of short term transactions using EQR numbers in organized markets such as NYISO and MISO. The trend towards capacity or reliability pricing products in organized markets (e.g. RPM in PJM) also suggests that that organized markets may not rely on short term markets alone to give long term price signal for investment.

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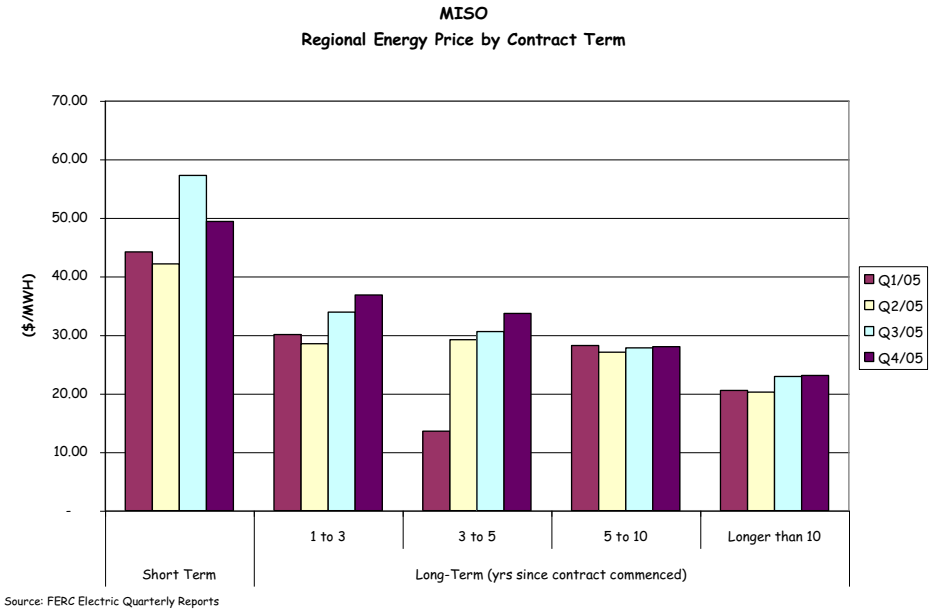
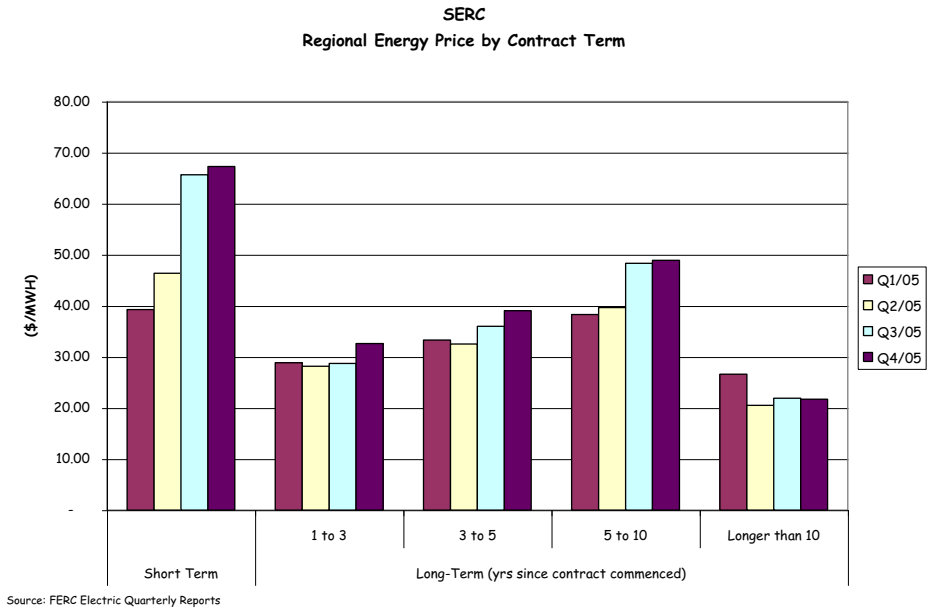
The higher proportion of long-term contracts at SERC may suggest more effective long term price signals than at non-organized markets. However, many of these long-term contracts are legacy contracts entered into before competitive markets were introduced. Some of these contracts are pegged to index prices that are formed with few reported transactions and therefore questionable liquidity.

The following three graphs show the price patterns by contract vintage in 2005.





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This analysis shows that prices under long-term contracts were somewhat lower than short-term prices in MISO and SERC, but not in NYISO. The short-term price changes are reflected in sales under long-term contracts. These changes may occur because some long-term contracts use indexed prices (*i.e.*, short term published reference prices).

It is difficult to draw definite conclusions on prices with only a quarter's worth of data. Furthermore, organized markets are evolving and will include capacity markets that could provide stronger price signals for long term investment.

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APPENDIX F
A BIBLIOGRAPHY OF PRIMARY INFORMATION ON ELECTRIC INDUSTRY RESTRUCTURING IN THE U.S.

The process of understanding the ins and outs of restructuring markets for electricity and transmission in the U.S. has been running full bore since the early 1990s. Accordingly, a large number of documents have been published intending to explain the basic engineering, economic and regulatory theories that support restructuring ideas. The intended audience of these studies has been various – from state regulators and legislators, to academics, public power managers, and the general public.

The 1815 Task Force members have *not* attempted to generate another primer on restructuring as part of its competition study. Instead, we refer the interested reader to a variety of sources that will allow him/her to learn more about the subjects that are of the most interest.

Some of these sources are older and contain slightly outdated references – but their theoretical arguments remain applicable to current debates.

NOTE: Inclusion of articles does not indicate the Task Force's endorsement of the theories presented.

General Restructuring Information Documents Available on the Web:

American Public Power Association, "Restructuring at the Crossroads, FERC electric Policy Reconsidered", December, 2004.
http://www.appanet.org/files/PDFs/APPAWhitePaperRestructuringatCrossroads1204.pdf

Matthew Brown and Richard P. Sedano, "A Comprehensive View U.S. Electric Restructuring with Policy Options for the Future", National Council on Electricity Policy, 2003.
http://www.ncouncil.org/pdfs/restruc.pdf

Matthew Brown and Richard P. Sedano, "Electricity Transmission, A Primer", National Council on Electricity Policy, June, 2004. http://www.ncouncil.org/pdfs/primer.pdf

Energy Information Administration, "The Changing Structure of the Electric Power Industry 2000: An update", US Department of Energy, October, 2000
http://www.eia.doe.gov/cneaf/electricity/chg_stru_update/

William W. Hogan, "Competitive Electricity Market Design: A Wholesale Primer" working paper, December, 1998 http://stoft.com/metaPage/lib/Hogan-1998-Primer.pdf

William W. Hogan, "Market Design and Electricity Restructuring", presentation, Association of Power Exchanges (APEx), 2005 Annual Conference, Orlando FL, Presentation, November 1, 2005. http://ksghome.harvard.edu/~whogan/hogan_apex_110105.pdf

DOJ_NMG_ 0165533

Paul L. Joskow, "Markets for Power in the United States: An Interim Assessment" Energy Journal, Forthcoming, 2006.
http://stoft.com/metaPage/lib/Joskow-2006-power-market-assessment.pdf

Paul L. Joskow (1997), "Restructuring, Competition, and Regulatory Reform in the U.S. Electricity Sector", *Journal of Economic Perspectives* 11(3), 119-138.

On-Line Libraries of Electric Industry Restructuring Documents:

Harvard Electricity Policy Group
http://www.ksg.harvard.edu/hepg/papers.htm

Center for the Study of Energy Markets (CSEM) at the University of California Energy Institute (UCEI) at UC Berkeley: http://www.ucei.berkeley.edu/pubs-csemwp.html

Stephen Stoft Website Library: http://stoft.com/p/S2.html

Carnegie Mellon Electric Industry Center (CEIC):
http://wpweb2.tepper.cmu.edu/ceic/publications.htm

Books

Richard F. Hirsch Power Loss: The Origins of Deregulation and Restructuring in the American Electric Utility System (Hardcover) by Richard F. Hirsh, The MIT Press, December 3, 1999.

Sally Hunt, Making Competition Work in Electricity, Wiley Publishing, March 22nd, 2002.

Steven Stoft , Power System Economics: Designing Markets for Electricity, IEEE Press, Wiley-Interscience, 2002.

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APPENDIX G
CREDIT RATINGS* OF MAJOR AMERICAN
ELECTRIC GENERATION COMPANIES AS OF JULY 24, 2006**

Name	Credit Rating	Sales ($bil)	Profits ($bil)	Assets ($bil)	Market Value ($bil)
AES Corp.	B+	10.64	0.56	29.65	11.33
Allegheny Energy Inc	BB+	3.04	0.07	8.56	5.82
Alliant Energy Corp.	no rating	3.28	-0.01	7.78	3.87
Ameren Corp.	A-	6.78	0.63	18.16	10.33
American Electric Power Co., Inc.	BBB	11.9	0.81	36.17	14.36
Atmos Energy Corp.	BBB	5.89	0.15	6.62	2.13
CALPINE Corp.	D	9.23	-0.24	27.09	0.13
CenterPoint Energy, Inc.	BBB-	9.72	0.22	17.12	4.02
Cinergy Corp.	BBB	5.41	0.49	17.2	8.75
CMS Energy Corp.	B+	6.41	-0.08	16.02	3.1
Consolidated Edison	A	11.69	0.73	24.85	11.26
Constellation Energy	BBB+	17.13	0.63	21.47	10.48
Dominion Resources Inc	BBB+	18.04	1.04	52.58	25.59
DTE Energy Co.	BBB	9.02	0.54	23.36	7.7
Duke Energy Corp.	BBB	16.75	1.83	54.59	26.3
Edison International	BB	11.2	1.24	35.51	14.45
Energy East Corp.	BBB	5.3	0.26	11.45	3.7
Entergy-Koch	BBB-	10.11	0.92	29.97	15.04
Exelon Corp.	BBB+	15.36	0.97	42.39	38.06
FirstEnergy Corp.	BBB-	11.99	0.89	31.84	16.85
FPL Group, Inc.	A	11.85	0.89	33	16.56
KeySpan Corp.	A-	7.66	0.4	13.81	7.11
Kinder Morgan, Inc.	BBB	1.59	0.55	17.38	11.34
MDU Resources Group, Inc.	A-	3.46	0.28	4.42	4.23
Mirant Group	B+	3.7	NA	12.88	7.38
NiSource Inc.	BBB	7.89	0.31	17.96	5.6
Northeast Utilities	BBB	7.4	-0.25	12.57	3
NRG Energy Inc	B	2.36	0.11	7.8	3.76
NStar	A-	3.24	0.2	7.65	3.14
OGE Energy	A	6.98	0.17	5.72	2.6
Pepco Holdings, Inc.	BBB	7.73	0.32	14.22	4.5
Pacific Gas & Electric	BBB	11.7	0.92	34.07	13.02
Pinnacle West Capital Corp.	BBB-	2.99	0.18	12.07	4.05
PPL Corp.	BBB	6.22	0.69	18.04	12.09
Progress Energy Inc	BBB-	10.11	0.7	27.07	11.14
Public Service Enterprise Group, Inc.	BBB	12.43	0.68	29.82	17.43
Reliant Energy	B	9.73	-0.35	13.54	3.07

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Name	Credit Rating	Sales ($bil)	Profits ($bil)	Assets ($bil)	Market Value ($bil)
SCANA Corp.	A-	4.78	0.33	9.32	4.65
Sempra Energy	A	11.74	0.92	29.21	12.29
Sierra Pacific Resources	B+	2.96	0.09	8.12	2.61
Southern Co.	A	13.55	1.59	39.88	25.24
TECO Energy, Inc.	BB+	3.01	0.27	7.17	3.55
TXU Corp.	BBB-	10.44	1.78	24.91	25.17
Williams Companies, Inc.	BB+	12.58	0.32	33.66	12.36
Wisconsin Energy Corp.	A-	3.82	0.31	10.46	4.78
Wisconsin Public Service Resources	no rating	6.96	0.16	5.45	1.99
Xcel Energy Inc.	BBB	9.63	0.51	21.65	7.49

*credit rating is the "Long Term Issuer Default Rating" from Fitch Ratings (www.fitchratings.com)

**list drawn from United States-based generation companies on Forbes list of the top 2000 global firms (http://www.forbes.com/2006/03/29/06f2k_worlds-largest-public-companies_land.html)

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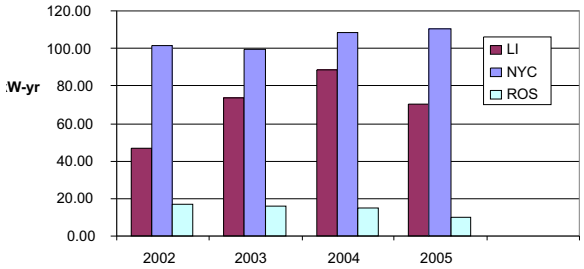
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 7:00 AM
To: [redacted]@pupress.princeton.edu'
Subject: Questions

[redacted] Is there a convenient time today or next week when we might speak? I have a couple questions for you and an update. Many thanks, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 9:44 AM
To: Shaw, Aloma A
Subject: Doj invitees
Attachments: doj invitees.wpd

I haven't counted so if we've gone over please let me know; I don't want to impose on oag unecessarily and am happy to cut this down

OAG
Everyone!

ODAG
Paul McNulty
Mike Elston
Ron Tenpas
Tom Monheim
Pat Rowan
David Margolis
Lee Otis
Mark Grider
Steve McFarland
Jane Horvath
Joan Meyer

OASG
Everyone! (incl. Katsas)

SG
Paul Clement
Greg Garre

OLC
Steve Bradbury
John Elwood
John Eisenberg
Michelle Boardman
Kevin Marshall
Steve Engel
Nate Forrester

CRIM
Alice Fisher
Matt Friedrich

CIV
Peter Keisler
Jeff Bucholtz
Carl Nichols
John Cohn
Stuart Schiffer
Jody Hunt
Doug Letter
Terry Henry

ATR

Tom Barnett
Scott Hammond
Gerald Masoudi
Bruce McDonald
David Meyer

ENRD
Sue Ellen Wooldridge
Matt McKeown
John Cruden
Eileen Sobeck
Ryan Nelson

TAX
Eileen O'Connor
Dana Boente
Richard Morrison
Fred Murray

CRT
Wan Kim
Rena Comisac
Grace Chung Becker
Lorena King
Tori (last name? Counsel to AAG)
David Palmer

OLP
Rachel Brand
Wanda Martinson
Richard Hertling
Kristi Macklin
David Best
Jamil Jaffer
Beth Cook

OLA
Will Moschella
Rebecca Seidel
Jim Clinger

OJP
Regina Schofield
Cybele Daley
David Hagy
Nick Tzitzon
Domingo Herraiz

Admin
Lee Lofthus

OPA
Tasia Scolinos
Brian Roehrkasse

OIPL
Crystal Jezierski
[deputy - can't recall her name]

USTrustees
Cliff White

Foreign Claims
Mauricio Tamargo

OVW
Diane Stuart

CRS
Sharee Freeman

EOUSA
Mike Battle

Full Name:	Jeb Boasberg
Last Name:	Boasberg
First Name:	Jeb

Full Name:	Judge Jeb Boasberg
Last Name:	Boasberg
First Name:	Judge
Business Address:	500 Indiana Ave NW Washington, DC 20001
Business:	[redacted]
E-mail:	[redacted]@dcsc.gov
E-mail Display As:	Judge Jeb Boasberg ([redacted])

From: [redacted]
Sent: Friday, July 28, 2006 10:11 AM
To: Gorsuch, Neil M
Subject: RE: Questions

Neil: just learned I have a meeting this morning from 10:45 until 11:30.
Otherwise I am around except for a lunch from noon to probably 1:30.
[redacted]

[redacted]
Press [redacted]

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, July 28, 2006 6:59 AM
To: [redacted] (Receipt Notification Requested) (IPM Return Requested)
Subject: Questions

[redacted] Is there a convenient time today or next week when we might speak?
I have a couple questions for you and an update. Many thanks, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 10:48 AM
To: [redacted]
Subject: RE: Questions

[redacted]

For the time being (ie probably until the end of August), I will keep my current email and cell --

neil.gorsuch@usdoj.gov
[redacted]

I will also always have my personal email --

[redacted]

Starting sometime in mid-August, I will also be reachable through the court; new contact info as follows --

U.S. Court of Appeals for the Tenth Circuit Byron White Court House 1823 Stout Street Denver, CO 80257 [redacted]@ca10.uscourts.gov

Finally, here's an updated biography, effective after I'm sworn in (slated for Aug 12) --

Neil M. Gorsuch is a Judge on the U.S. Court of Appeals for the Tenth Circuit. He holds a doctorate in legal philosophy from the University of Oxford and a law degree from Harvard University. A former clerk to U.S. Supreme Court Justices Byron White and Anthony Kennedy, he has published widely on assisted suicide and many other contemporary legal problems. He previously served as Principal Deputy to the Associate Attorney General and as Acting Associate Attorney General at the U.S. Department of Justice, and was a partner at the law firm of Kellogg, Huber, Hansen, Todd, Evans & Figel.

-----Original Message-----
From: [redacted] [mailto [redacted]]
Sent: Friday, July 28, 2006 10:11 AM
To: Gorsuch, Neil M
Subject: RE: Questions

Neil: just learned I have a meeting this morning from 10:45 until 11:30.
Otherwise I am around except for a lunch from noon to probably 1:30.
[redacted]

[redacted]

Press

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, July 28, 2006 6:59 AM
To: (Receipt Notification Requested) (IPM Return Requested)
Subject: Questions

- Is there a convenient time today or next week when we might speak? I have a couple questions for you and an update. Many thanks, Neil

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, July 28, 2006 11:39 AM
To: Gorsuch, Neil M
Subject: RE: Going away invitees

Neil:
Your list shows Brent McIntosh in WHCO, however, I show him in OLP. Is this the same person?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 5:42 PM
To: Shaw, Aloma A
Subject: Going away invitees

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 11:57 AM
To: Shaw, Aloma A
Subject: RE: Going away invitees

It is - he just moved from olp to whco

-----Original Message-----
From: Shaw, Aloma A
Sent: Friday, July 28, 2006 11:39 AM
To: Gorsuch, Neil M
Subject: RE: Going away invitees

Neil:
Your list shows Brent McIntosh in WHCO, however, I show him in OLP. Is this the same person?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 5:42 PM
To: Shaw, Aloma A
Subject: Going away invitees

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, July 28, 2006 12:03 PM
To: Gorsuch, Neil M
Subject: Fw: Farewell Reception for Neil Gorsuch

How can you leave us..... :(

-----Original Message-----
From: Meadows, Bessie L
To: Sours, Raquel; Beach, Andrew; Beck, Michael; Bennett, Catherine T; Boote, John; Elwood, Courtney; Goodling, Monica; Hicks, Os N; Jenkins, Linda A; Meadows, Bessie L; Oldham, Jeffrey L; Pacold, Martha M; Russell, Dravidian J; Sampson, Kyle; Schreiber, Jayne; Sellers, Kiahna (OAG); Smith, Mauri E; Stitt, Jason; Taylor, Jeffrey (OAG); Underhill, Deborah; Walker, Shelia M; Washington, Tracy T; Watlington, Robert; Williamson, Angela; McNulty, Paul J; Elston, Michael (ODAG); Tenpas, Ronald J (ODAG); Monheim, Thomas; Rowan, Patrick (ODAG); Margolis, David; Otis, Lee L; Grider, Mark (ODAG); McFarland, Steven T (ODAG); Horvath, Jane (ODAG); Meyer, Joan E (ODAG); Swenson, Lily F; Senger, Jeffrey M; Bottner, Andrea; Katsas, Gregory (CIV); Gunn, Currie (SMO); Shaw, Aloma A; Davis, Deborah J; Clement, Paul D; Garre, Gregory G; Bradbury, Steve; Elwood, John; Eisenberg, John; Boardman, Michelle; Marshall, C. Kevin; Engel, Steve; Forrester, Nate; Fisher, Alice; Friedrich, Matthew; Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Hunt, Jody (CIV); Letter, Douglas (CIV); Henry, Terry (CIV); Barnett, Thomas O.; Hammond, Scott; Masoudi, Gerald; McDonald, Bruce; Meyer, David L.; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Cruden, John (ENRD); Sobeck, Eileen (ENRD); Nelson, Ryan (ENRD); O'Connor, Eileen J. (AAG/TAX); Boente, Dana (USAVAE); Morrison, Richard T. (TAX); Murray, Fred F. (TAX); Kim, Wan (CRT); Comisac, Rena (CRT); Becker, Grace Chung (CRT); King, Loretta (CRT); Longwitz, Tobi (CRT); Palmer, David (CRT); Brand, Rachel; Martinson, Wanda; Hertling, Richard; Macklin, Kristi R; Best, David T; Jaffer, Jamil N; Cook, Elisebeth C; Moschella, William; Seidel, Rebecca; Clinger, James H; Schofield, Regina; Daley, Cybele; Hagy, David; Tzitzon, Nicholas; Herraiz, Domingo S.; Lofthus, Lee J; Scolinos, Tasia; Roehrkasse, Brian; Jezierski, Crystal; Holland, Eric W; White, Clifford; Tamargo, Mauricio J; Stuart, Diane; Freeman, Sharee; Battle, Michael (USAEO)
Sent: Fri Jul 28 11:59:47 2006
Subject: Farewell Reception for Neil Gorsuch

The Attorney General invites you to attend a farewell reception in honor of Neil M. Gorsuch, Principal Deputy Associate Attorney General, on Wednesday, the second day of August, at two-thirty o'clock, room 5111, RFK Main Bldg.

Judge_Mary_Beck_Briscoe@ca10.uscourts.gov

From: Judge_Mary_Beck_Briscoe@ca10.uscourts.gov
Sent: Friday, July 28, 2006 1:22 PM
To: Judge_Deanell_R_Tacha@ca10.uscourts.gov
Cc: Gorsuch, Neil M; [redacted]@ca10.uscourts.gov;
[redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov;
David_M_Ebel@ca10.uscourts.gov; [redacted]
Judge_Bobby_R_Baldock@ca10.uscourts.gov;
Judge_John_C_Porfilio@ca10.uscourts.gov;
Judge_Michael_R_Murphy@ca10.uscourts.gov;
Judge_Monroe_G_McKay@ca10.uscourts.gov;
Judge_Paul_Kelly@ca10.uscourts.gov;
Judge_Robert_H_McWilliams@ca10.uscourts.gov;
Judge_Robert_Henry@ca10.uscourts.gov;
Judge_Stephanie_K_Seymour@oknd.uscourts.gov;
Judge_Stephen_H_Anderson@ca10.uscourts.gov;
Judge_William_J_Holloway@ca10.uscourts.gov;
Judge_Harris_Hartz@ca10.uscourts.gov;
Judge_Michael_McConnell@ca10.uscourts.gov;
Robert_Hammervold@ca10.uscourts.gov;
[redacted]
Subject: Re:
Attachments: tmp.htm

The addition of our new colleagues is good news! I look forward to working with them.

I thought of our new colleagues this morning (and all of us judge-types) when reading the article in The Third Branch about our local hero, Judge Wesley Brown of Wichita, Kansas. When speaking about his lengthy judicial career, he said:

"I've never thought of my position as one of power. It's one of obligation. I'm here as a beneficiary of so may who have done so much. I owe them a great obligation, to be worthy of their trust."

This is another of his "rulings" I would affirm.

Judge Deanell R Tacha/CA10/10/USCOURTS
07/27/2006 07:27 PM

To
Judge William J Holloway/CA10/10/USCOURTS@USCOURTS, Judge Robert H McWilliams/CA10/10/USCOURTS@USCOURTS, Judge Monroe G McKay/CA10/10/USCOURTS@USCOURTS, Judge Stephanie K Seymour/CA10/10/USCOURTS@USCOURTS, Judge John C Porfilio/CA10/10/USCOURTS@USCOURTS, Judge Stephen H Anderson/CA10/10/USCOURTS@USCOURTS, Judge Bobby R Baldock/CA10/10/USCOURTS@USCOURTS, [redacted]CA10/10/USCOURTS@USCOURTS, [redacted]CA10/10/USCOURTS@USCOURTS, Judge Paul Kelly/CA10/10/USCOURTS@USCOURTS, Judge Robert Henry/CA10/10/USCOURTS@USCOURTS, Judge Mary Beck Briscoe/CA10/10/USCOURTS@USCOURTS, [redacted]/CA10/10/USCOURTS@USCOURTS, Judge Michael R Murphy/CA10/10/USCOURTS@USCOURTS, Judge_Harris_Hartz@ca10.uscourts.gov@USCOURTS, [redacted]CA10/10/USCOURTS@USCOURTS, Judge_Michael_McConnell@ca10.uscourts.gov@USCOURTS, [redacted]/CA10/10/USCOURTS@USCOURTS
cc
Neil.Gorsuch@usdoj.gov, [redacted]/CA10/10/USCOURTS@USCOURTS, [redacted]/CA10/10/USCOURTS@USCOURTS, [redacted]CA10/10/USCOURTS@USCOURTS Subject

I am pleased to report to you that both Judge Gorsuch and Judge Holmes are planning to sit with us in September. They will both be sitting on one case a day and an effort will be made to have each sit with as many judges as possible. They will both be sitting on the en bancs. Both of them plan to be sworn in privately in mid to late August and then have formal investitures at a later date. Judge Gorsuch will be resident in Denver so [redacted] Judge Holmes will be staying in Oklahoma City, but has all the usual dislocations of securing chambers, staff, clerks, etc. I know you will all be willing to assist them in every way you can. We are so fortunate to be welcoming these new colleagues. I know you join me in extending a hearty welcome. [redacted]

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

The addition of our new colleagues is good news! I look forward to working with them.

I thought of our new colleagues this morning (and all of us judge-types) when reading the article in *The Third Branch* about our local hero, Judge Wesley Brown of Wichita, Kansas. When speaking about his lengthy judicial career, he said:

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Judge Deanell R Tacha/CA10/10/USCOURTS

07/27/2006 07:27 PM

To Judge William J Holloway/CA10/10/USCOURTS@USCOURTS, Judge Robert H McWilliams/CA10/10/USCOURTS@USCOURTS, Judge Monroe G McKay/CA10/10/USCOURTS@USCOURTS, Judge Stephanie K Seymour/CA10/10/USCOURTS@USCOURTS, Judge John C Porfilio/CA10/10/USCOURTS@USCOURTS, Judge Stephen H Anderson/CA10/10/USCOURTS@USCOURTS, Judge Bobby R Baldock/CA10/10/USCOURTS@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS, Judge Paul Kelly/CA10/10/USCOURTS@USCOURTS, Judge Robert Henry/CA10/10/USCOURTS@USCOURTS, Judge Mary Beck Briscoe/CA10/10/USCOURTS@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS, Judge Michael R Murphy/CA10/10/USCOURTS@USCOURTS, Judge_Harris_Hartz@ca10.uscourts.gov@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS, Judge_Michael_McConnell@ca10.uscourts.gov@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS

cc Neil.Gorsuch@usdoj.gov, [redacted] CA10/10/USCOURTS@USCOURTS, [redacted] CA10/10/USCOURTS@USCOURTS [redacted] CA10/10/USCOURTS@USCOURTS [redacted]

Subject

I am pleased to report to you that both Judge Gorsuch and Judge Holmes are planning to sit with us in September. They will both be sitting on one case a day and an effort will be made to have each sit with as many judges as possible. They will both be sitting on the en bancs. Both of them plan to be sworn in privately in mid to late August and then have formal investitures at a later date. Judge Gorsuch will be resident in Denver so he will be [redacted] Judge Holmes will be staying in Oklahoma City, but has all the usual dislocations of securing chambers, staff, clerks, etc. I know you will all be willing to assist them in every way you can. We are so fortunate to be welcoming these new colleagues. I know you join me in extending a hearty welcome. I am grateful to [redacted] who are working with both of them on chambers issues.

Honorable Deanell Reece Tacha
U.S. Court of Appeals, Tenth Circuit
785.842.8556

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 1:32 PM
To: Bottner, Andrea
Subject: RE: BJS Federal Law Enforcement officers Report

Good thinking out of the box; I leave this in your and Monica's good hands.

From: Bottner, Andrea
Sent: Friday, July 28, 2006 1:23 PM
To: Gorsuch, Neil M
Cc: Goodling, Monica
Subject: BJS Federal Law Enforcement officers Report

Neil,
After reviewing the report, it is surprising to see that only 16% of federal officers are women. Given the fact that women are between 52-54% of the general population, we could be seen as not doing enough to entice women into these professions.

Perhaps, there is a way we could prepare for the release of the report by highlighting some of our women serving in these jobs. DOJ and DHS employ roughly 75% of federal officers, maybe there is a collaboration that could occur around the recruitment of qualified women and the importance of them serving.

I may be way off base with this type of thinking from the Associate's Office perspective, but wasn't sure.
Thanks!
Andi

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 1:34 PM
To: Shaw, Aloma A
Subject: FW: Proposed Statistical Policy Directive on Dissemination
Attachments: tmp.htm; Directive No. 4 FRN Draft.Hb.doc; DIR 3 1986 Text.doc
Importance: High

-----Original Message-----
From: Sampson, Kyle
Sent: Thursday, July 27, 2006 11:31 AM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Goodling, Monica
Subject: FW: Proposed Statistical Policy Directive on Dissemination
Importance: High

Neil/Greg, as the Leadership Office with line authority over OJP and BJS, will you please take the lead on this request from OMB. Please note the deadline of Monday, August 14. Thanks!

-----Original Message-----
From: MaryAnne_Calamas@omb.eop.gov [mailto:MaryAnne_Calamas@omb.eop.gov]
Sent: Thursday, July 27, 2006 11:22 AM
To: Sampson, Kyle; [redacted]@usda.gov; [redacted]@doc.gov; [redacted]@ed.gov; [redacted]@hq.doe.gov ; [redacted]@hhs.gov; [redacted]@dol.gov; [redacted]@dot.gov; [redacted]@do.treas.gov; [redacted]@epa.gov; [redacted]@nsf.gov; [redacted]@ssa.gov
Cc: Sedgwick, Jeffrey; [redacted]@ers.usda.gov; [redacted]@nass.usda.gov; [redacted]@census.gov; [redacted]@bea.gov; [redacted]@eia.doe.gov; [redacted]@cdc.gov; [redacted]@bls.gov; [redacted]@irs.gov; [redacted]@nsf.gov; [redacted]@ssa.gov; [redacted]@epa.gov; [redacted]@ed.gov; [redacted]@dot.gov; [redacted]@dot.gov; [redacted]@ed.gov; [redacted]@irs.gov; [redacted]@nsf.gov; [redacted]@ssa.gov; [redacted]@census.gov; maureen@ojp.usdoj.gov; [redacted]@eia.doe.gov; [redacted]@cdc.gov; [redacted]@bea.gov; [redacted]@nass.usda.gov; [redacted]@bls.gov [redacted]@ers.usda.gov; [redacted]@census.gov; Jonn_F._Morrall_III@omb.eop.gov; Elizabeth_L._Branch@omb.eop.gov; Katherine_K._Wallman@omb.eop.gov; Paul_Bugg@omb.eop.gov
Subject: Proposed Statistical Policy Directive on Dissemination

Steve Aitken requested that I send you the following message.

OMB's Office of Information and Regulatory Affairs (OIRA) is seeking your agency's review and comments on the attached draft of a new OMB Statistical Policy Directive -- which would apply to your agency -- that would set forth "Standards for the Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies."

The draft has already gone through extensive vetting within the Federal statistical community. We are now circulating the draft directive to agencies for a broader review. After this round of agency comment, we will make appropriate changes to the draft directive and publish it in the Federal Register as a proposal for public comment.

The proposal may in some cases require adjustments to existing agency procedures, and thus we wanted to provide an opportunity for your agency to review the draft proposal and provide comments to us informally, prior to the official public comment period.

To assist in your review, we have included below a brief background statement about the draft proposed directive. In addition, we have attached the current draft of the Federal Register notice, which includes the text of the draft directive, as well as a copy of OMB's existing Statistical Policy Directive Number 3, which provides the current standards that govern the dissemination of the designated Principal Federal Economic Indicators. As the Background statement explains, the draft directive would extend the principles of Directive 3 (but not all of its requirements and prohibitions) to a broader set of periodic Federal statistical releases.

In reviewing this material, you may find it helpful to contact the heads of the statistical agencies within your departments who are copied on this message. They are very familiar with this draft proposal, and in fact they may have already brought it to your attention.

We would appreciate your getting back to us by Monday, August 14th with any comments that your agency may have. Thank you for your consideration.

Background:

OMB's draft proposed directive on the Release and Dissemination of Statistical Products would extend the principles of OMB's longstanding Statistical Policy Directive Number 3 (governing the release of the Principal Federal Economic Indicators) to a broader set of statistical releases. As is the case with Directive 3, the draft proposal is designed to preserve and enhance the objectivity and transparency -- actual and perceived -- of the processes used to release and disseminate the Government's statistical products. Again, as with Directive 3, the draft directive seeks to ensure that the Federal Government's release and dissemination to the public of general purpose statistical information is done in a manner that is equitable, policy-neutral, timely, and transparent.

Although the draft directive is based on the same principles as Directive 3, the draft procedures would be less prescriptive than those in Directive 3. (This is because the data covered by the proposed directive are not considered to be as market-sensitive as the Principal Federal Economic Indicators, and they are released less frequently.) For example, in contrast to Directive 3, the proposed directive would provide the head of the statistical agency with the flexibility to decide the timing, embargo status, and modes of dissemination for the products covered by the draft directive.

The draft of the proposed directive was developed during the past two years by an interagency committee -- composed of representatives of the Federal statistical community -- working under the auspices of OIRA's Statistical and Science Policy Office and the Interagency Council on Statistical Policy. It has been drafted in accordance with the Paperwork Reduction Act, the Information Quality Act, and principles set forth by the National Academy of Sciences and the National Science Board. Also, in a recent report, GAO has recommended that the principles that govern the Principal Federal Economic Indicators be extended to a larger set of Federal statistical products.

COMPILATION, RELEASE, AND EVALUATION OF PRINCIPAL FEDERAL ECONOMIC INDICATORS *

Statistical series that are widely watched and heavily relied upon by government and the private sector as indicators of the current condition and direction of the economy must meet high standards of accuracy and reliability. Because such data series have significant commercial value, may affect the movement of commodity and financial markets, or may be taken as a measure of the impact of government policies, public release must be prompt and according to an established, publicly available schedule. The purpose of the procedures outlined in this directive is to assure that these data series meet specific accuracy, release, and accountability standards.

1. Designation of Principal Indicators

The Administrator for Information and Regulatory Affairs, Office of Management and Budget, will determine, after consultation with interested Federal agencies, the data series and estimates to be designated as principal Federal economic indicators and covered by this directive. The Administrator will review the designations annually.

2. Prompt Release

The interval between the period to which the data or estimates refer and the date when the data or estimates are released to the public shall be as short as practicable. Agencies should compile and release series that are issued quarterly or more frequently within 22 working days of the end of the reference period.

3. Release Schedule

The releasing agency is responsible for ensuring that the interested public is aware of the release time and date. The last report of each calendar year must contain the time and date of all reports in the upcoming year. In addition, each release will include an announcement of the time and date of the next release. The releasing agency shall provide a schedule of releases for the upcoming calendar year to the Statistical Policy Office, Office of Information and Regulatory Affairs, by December 15. Changes in the release schedule may occur only if special, unforeseen circumstances arise. The releasing agency must announce and fully explain any schedule changes as soon as it has determined they are unavoidable.

There should be one office in the agency that can provide the release schedule of all the agency's economic indicators. The name, address, and telephone number of this office should be readily available to the public. Agencies shall establish and maintain one or two times of day for the release of their principal economic indicators and shall only release indicators at such designated times.

4. Announcement of Changes

Agencies shall announce any planned change in data collection, analysis, or estimation methods that may affect the interpretation of a principal economic indicator as far in advance of the change as possible. The agency should include the announcement in a regular report of the economic indicator. When possible, a period of public comment should be provided between the announcement of an intended change and its implementation. At a minimum, for quarterly and monthly series, the agency shall announce the change at least three reports before the first report affected by the change. For weekly and annual series, the announcement should precede the first report affected by the change by at least three months. In the first report affected by the change, the agency should include a complete description of the change and its impact.

Agencies shall fully explain unforeseeable changes due to special circumstances as soon as they are known and in the first report affected by the change.

5. Release Procedure

The statistical agency that produces each principal economic indicator shall issue it in a press release or other printed report. The agency shall issue a press release where this will significantly speed up the dissemination of data to the public.

Each statistical agency shall be responsible for establishing procedures to assure that there is no premature release of information or data estimates during the time required for preparation of the public report. This includes the protection of public use data banks, which shall not receive any data or estimates until they are officially released. As soon as copies of materials for public release have been prepared, the agency shall physically secure them.

Except for the authorized distribution described in this section, agencies shall ensure that no information or data estimates are released before the official release time.

The agency will provide pre-release information to the President, through the Chairman of the Council of Economic Advisers, as soon as it is available. The agency may grant others pre-release access only under the following conditions:

(a) The agency head must establish whatever security arrangements are necessary and impose whatever conditions on the granting of access are necessary to ensure that there is no unauthorized dissemination or use.

(b) The agency head shall ensure that any person granted access has been fully informed of and agreed to these conditions.

(c) Any pre-release of information under an embargo shall not precede the official release time by more than 30 minutes.

(d) In all cases, pre-release access shall precede the official release time only to the extent necessary for an orderly review of the data.

All employees of the Executive Branch who receive pre-release distribution of information and data estimates as authorized above are responsible for assuring that there is no release prior to the official release time. Except for members of the staff of the agency issuing the principal economic indicator who have been designated by the agency head to provide technical explanations of the data, employees of the Executive Branch shall not comment publicly on the data until at least one hour after the official release time.

6. Preliminary Estimates and Revisions

Deciding when to release a principal economic indicator requires the balancing of accuracy and timeliness. Agencies should not withhold information needed to evaluate current economic conditions by imposing unnecessarily stringent accuracy requirements on preliminary estimates. However, agencies shall use the following guidelines when issuing and evaluating preliminary data and revisions:

(a) Agencies shall clearly identify figures as preliminary or revised.

(b) Agencies shall only release routine revisions of a principal economic indicator as part of the regular reporting schedule.

(c) If the difference between preliminary and final aggregate figures is large relative to average period-to-period differences, the agency must either take steps to improve the accuracy of preliminary estimates or delay release of estimates until a reliable estimate can be made.

(d) If preliminary estimates show signs of a consistent bias (for example, if revisions are consistently in the same direction), the agency shall take steps to correct this bias.

(e) Revisions occurring for routine reasons, such as benchmarking and updating of seasonality factors, shall be consolidated and released simultaneously.

(f) Revisions occurring for other than routine reasons shall be fully explained and shall be released as soon as corrections can be completed.

7. Granting of Exceptions

Prior to taking any action that may violate the provisions of this directive, the head of a releasing agency shall consult with the Administrator for Information

and Regulatory Affairs. If the Administrator determines that the action is in violation of the provisions of this directive, the head of the releasing agency may apply for an exception. The Administrator may authorize exceptions to the provisions in sections 2, 3, 4, 5, and 6 of this Directive. Any agency requesting an exception must demonstrate to the satisfaction of the Administrator that the proposed exception is necessary and is consistent with the purposes of the Directive.

8. Performance Evaluation

Each agency that issues a principal Federal economic indicator shall submit a performance evaluation of that indicator to the Statistical Policy Office, Office of Information and Regulatory Affairs, every three years. A schedule for the performance evaluation of data series or estimates designated as principal Federal economic indicators will be prepared by the Statistical Policy Office . The evaluation shall address the following issues:

(a) the accuracy and reliability of the series, e.g., the magnitude and direction of all revisions, the performance of the series relative to established benchmarks, and the proportion and effect of non-responses or responses received after the publication or preliminary estimates;

(b) the accuracy, completeness, and accessibility of documentation describing the methods used in compiling and revising the indicator;

(c) the agency's performance in meeting the designated release schedule and the prompt release objective of this directive;

(d) the agency's ability to avoid disclosure prior to the scheduled release time;

(e) any additional issues that the Administrator for the Information and Regulatory Affairs specifies in writing to the agency at least 6 months in advance of the scheduled submission date.

The evaluation will be reviewed by the Administrator to determine whether the indicator is prepared and published in conformity with all OMB statistical policies, standards, and guidelines. A summary of the year's evaluations and their reviews will be included in the annual report to Congress required by section 3514 of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

* Directive No. 3 published in the ***Federal Register***, Volume 50, No. 186, September 25, 1985, pp. 38932-38934.

OFFICE OF MANAGEMENT AND BUDGET

Statistical Policy Directive: Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies

AGENCY: Office of Management and Budget, Executive Office of the President

ACTION: Notice of Solicitation of Comments

SUMMARY: Under 44 U.S.C. 3504(e), the Office of Management and Budget (OMB) is soliciting public comment on a proposal to issue a new Statistical Policy Directive for the release and dissemination of statistical products produced by Federal statistical agencies. In its role as coordinator of the Federal statistical system, 44 U.S.C. 3504(e) requires OMB, among other responsibilities, to ensure the efficiency and effectiveness of the system as well as the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes. It also requires OMB to develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning the presentation and dissemination of statistical information. The 2001 Information Quality Act (PL. 106-554; H.R. 5658, Section 515, 114 Stat. 2763A-153 to 2763A-154 (2000), 44 U.S.C. Section 3516 note) similarly requires OMB, as well as all other Federal agencies, to maximize the quality, objectivity, utility, and integrity of information, including statistical information, provided to the public.

To operate efficiently and effectively, our democracy relies on the flow of objective, credible statistics to support the decisions of governments, businesses,

households, and other organizations. Any loss of trust in the integrity of the Federal statistical system and its products could lessen respondent cooperation with Federal statistical surveys, decrease the quality of statistical system products, and foster uncertainty about the validity of measures our Nation uses to monitor and assess its performance and progress.

To further support the quality and integrity of Federal statistical information, OMB is proposing a new Statistical Policy Directive designed to preserve and enhance the objectivity and transparency, in fact and in perception, of the processes used to release and disseminate the Government's statistical products. The procedures in the proposed directive are intended to ensure that statistical data releases adhere to data quality standards through equitable, policy-neutral, and timely release of information to the general public. Additional discussion of the proposal and a draft of the directive may be found in the SUPPLEMENTARY INFORMATION section below. OMB is seeking public comment on the desirability of issuing the proposed directive as well as suggestions to improve its clarity, efficiency, and usefulness.

EFFECTIVE DATE: To ensure consideration, all comments must be received in writing on or before [60 days from the **FR** publication date].

ADDRESSES: Please send all comments on this proposal to: Katherine K. Wallman, Chief Statistician, Office of Management and Budget, 10201 New Executive Office Building, Washington, DC 20503, telephone number: (202) 395-3093, FAX number:

DOJ_NMG_ 0165564

(202) 395-7245. All comments submitted in response to this notice will be made available to the public, including by posting them on OMB's website. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. You may send comments via E-mail to DisseminationDirective@omb.eop.gov with subject Comments0806. Because of delays in the receipt of regular mail, respondents are encouraged to use electronic communications.

Electronic Availability: This document is available on the Internet on the OMB website at www.omb.gov/inforeg/ssp/dissemination.

Availability of comment materials: In addition to posting on the OMB website, paper copies of all comments received will be available for public viewing at the Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA) during normal business hours, 9:00 a.m. to 5:30 p.m., in 10201 New Executive Office Building, 725 17th Street, NW, Washington, DC 20503. Please call Mabel Echols at (202) 395-3094 to make an appointment if you wish to view the comments received in response to this notice.

FOR FURTHER INFORMATION CONTACT: Paul Bugg, 10201 New Executive Office Building, Washington, DC 20503, E-mail address: pbugg@omb.eop.gov with subject Dissemination Directive, telephone number: (202) 395-3095, FAX number: (202) 395-7245.

DOJ_NMG_ 0165565

SUPPLEMENTARY INFORMATION:

Trust in the accuracy, objectivity, and reliability of Federal statistics is essential to the ongoing and increasingly complex policy and planning needs of governmental and private users of these products. Consequently, there has been a long-standing concern about the need to maintain public confidence in the objectivity of Federal statistics. For example, in 1962, the President's Committee to Appraise Employment and Unemployment Statistics, stated:

> The need to publish the information in a nonpolitical context cannot be overemphasized. … a sharper line should be drawn between the release of the statistics and their accompanying explanation and analysis, on the one hand, and the more general type of policy-oriented comment which is a function of the official responsible for policy making, on the other.

In 1971, the Nixon Administration was widely criticized for the way it publicly characterized some Bureau of Labor Statistics unemployment data at the time of their release. In response, the Congress instituted the monthly Joint Economic Committee hearings on the unemployment rate and OMB issued Statistical Policy Directive No. 3 to provide guidance to Executive branch agencies on the compilation and release of Principal Federal Economic Indicators. Directive No. 3 provides for the designation of statistical series that provide timely measures of economic activity as Principal Economic Indicators, and requires prompt but orderly release of such indicators. The stated purposes of Directive No. 3 are to preserve the time value of the economic indicators, strike a balance between timeliness and accuracy, provide for periodic evaluation of each

DOJ_NMG_ 0165566

indicator, prevent early access to information that may affect financial and commodity markets, and preserve the distinction between the policy-neutral release of data by statistical agencies and their interpretation by policy officials.

In 1973, the American Statistical Association--Federal Statistics Users' Conference Committee on the Integrity of Federal Statistics reported that:

> Nothing could undermine the politician and implementation of his policy recommendations as much as an accumulated and intense public distrust in the statistical basis for the decisions which the policy-maker must inevitably make, or in the figures by which the results of these decisions are measured. Unless definite action is taken to maintain public confidence in Federal statistics and in the system responsible for their production, there will be growing tendencies to distrust leadership.

With respect to trust in the Federal statistical system, President George H. W. Bush stated in 1990:

> It is of paramount importance to this Administration that these fundamental principles of the Federal statistical system are strictly maintained so that the accuracy and integrity of Government data are not threatened.

In 1995, the Congress reauthorized the Paperwork Reduction Act (PRA), which makes OMB responsible, among other requirements, for coordination of

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the Federal statistical system to ensure the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes.

In 1996, the United States subscribed to the International Monetary Fund's Special Data Dissemination Standard (SDDS), which guides over 60 member nations in the provision of their economic and financial data to the public. The elements of the SDDS for access, integrity, and quality emphasize transparency in the compilation and dissemination of statistics. For example,

- To support ready and equal access, the SDDS prescribes (a) advance dissemination of release calendars and (b) simultaneous release to all interested parties.

- To assist users in assessing the integrity of the data disseminated under the SDDS, the SDDS requires (a) the dissemination of the terms and conditions under which official statistics are produced and disseminated; (b) the identification of internal government access to data before release; (c) the identification of ministerial commentary on the occasion of statistical release; and (d) the provision of information about revision and advance notice of major changes in methodology.

- To assist users in assessing data quality, the SDDS requires (a) the dissemination of documentation on statistical methodology and (b) the dissemination of component detail, reconciliations with related data, and statistical frameworks that make possible cross-checks and checks of reasonableness.

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In 2001, the Congress passed the Information Quality Act, which directs OMB to issue Government-wide information quality guidelines to ensure the "quality, objectivity, utility, and integrity" of all information, including statistical information, disseminated by Federal agencies.

Last year, the National Research Council (NRC) of the National Academy of Sciences published the third edition of its *Principles and Practices for a Federal Statistical Agency,* which enumerates three principles and eleven core practices for Federal statistical agencies. The principles address: (1) relevance to policy issues, (2) credibility among data users, and (3) trust among data providers. Among the essential core practices, the NRC lists a strong measure of independence, wide dissemination of data, and commitment to quality and professional standards of practice.

The *Principles and Practices* report states that a credible and effective statistical organization:

> … must be, and must be perceived to be, free of political interference and policy advocacy. … Without the credibility that comes from a strong degree of independence, users may lose trust in the accuracy and objectivity of the agency's data, and data providers may become less willing to cooperate with agency requests. … It must be impartial and avoid even the appearance that its collection, analysis, and reporting processes might be manipulated for political purposes….

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> Elements of an effective dissemination program include: a variety of avenues for data dissemination, chosen to reach as broad a public as reasonably possible; procedures for release of information that preclude actual or perceived political interference; adherence to predetermined release schedules for important indicators serves to prevent even the appearance of manipulation of release dates for political purposes.

In May 2006, the National Science Board, which is charged with serving as adviser to the President and Congress on policy matters related to science and engineering research and education, concluded that:

> A clear distinction should be made between communicating professional research results and data versus the interpretation of data and results in a context that seeks to influence, through the injection of personal viewpoints, public opinion or the formulation of public policy. Delay in taking these actions may contribute to a potential loss of confidence by the American public and broader research community regarding the quality and credibility of Government sponsored scientific research results.

Moreover, in June 2006, the Government Accountability Office issued a report on Data Quality that finds that expanded use of key dissemination practices would further safeguard the integrity of Federal statistical data. This report discusses the desirability of OMB's issuing a new Statistical Policy Directive that extends dissemination procedures similar to those of the NRC's recommended practices and the long-standing Statistical

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Policy Directive No. 3 on the *Compilation, Release, and Evaluation of Principal Federal Economic Indicators* more broadly to encompass a larger set of Federal statistical products.

The proposed Statistical Policy Directive, presented below, extends the applicable processes of the NRC's recommended practices and Statistical Policy Directive No. 3, which applies only to Principal Federal Economic Indicators, to a greater range of Federal statistical products. The proposed directive seeks to address concerns with equitable, policy-neutral, and timely release and dissemination of general-purpose statistical information to the public and reinforce the integrity and transparency of the processes used to produce and release the Nation's statistical products. OMB welcomes comments on the desirability of issuing the proposed directive as well as suggestions to improve its clarity, efficiency, and usefulness.

Statistical Policy Directive No. XX

Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies

Authority and Purpose

This Directive provides guidance to Federal statistical agencies on the release and dissemination of statistical products. The Directive is issued under the authority of the

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Budget and Accounting Procedures Act of 1950 (31 U.S.C. 1104(d)), the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3504(e)), and Office of Management and Budget (OMB) policies including the Information Quality Act guidelines (67 **FR** 8451-8460) and OMB Circular No. A-130. Under the Information Quality Act (PL. 106-554; H.R. 5658, Section 515, 114 Stat. 2763A-153 to 2763A-154 (2000), 44 U.S.C. Section 3516 note) and associated guidelines, agencies are to maximize the quality, objectivity, utility, and integrity of information, including statistical information, provided to the public. This includes making information available on an equitable and timely basis. The procedures in this Directive are intended to ensure that statistical data releases adhere to data quality standards through equitable, policy-neutral, and timely release of information to the general public.

Introduction

Statistics produced by the Federal Government are used to shape policies, manage and monitor programs, identify problems and opportunities for improvement, track progress, and measure change. These statistics must meet high standards of reliability, accuracy, timeliness, and objectivity in order to provide a sound and efficient basis for decisions and actions by governments, businesses, households, and other organizations. These data must be objective and free of bias in their presentation and available to all in forms that are readily accessible and understandable.

To be collected and used efficiently, statistical products must gain and preserve the trust of

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the respondent and user communities; data must be collected and distributed free of any perceived or actual partisan intervention. Widespread recognition of the Federal statistical system's policy-neutral data collection and dissemination fosters such trust. This trust, in turn, engenders greater cooperation from respondents and higher quality statistics for data users.

1. Scope. This Statistical Policy Directive applies to the full range of statistical products disseminated by Federal statistical agencies or units. However, the Directive excludes coverage of the Principal Federal Economic Indicators addressed in Statistical Policy Directive No. 3, *Compilation, Release, and Evaluation of Principal Federal Economic Indicators,* which have their own established release and evaluation procedures. Statistical agencies or units are directly and solely responsible for the content, quality, and dissemination of their products. When implementing this Directive, statistical agencies must follow all relevant Statistical Policy Directives and guidance including the principles and practices presented in OMB's Information Quality Guidelines and Statistical Policy Directives providing standards and guidelines for statistical surveys.

2. Statistical Products. Statistical products are, generally, information dissemination products that are published or otherwise made available for public use that describe, estimate, forecast, or analyze the characteristics of groups, without identifying the persons, organizations, or individual data observations that comprise such groups. Statistical products include general-purpose tabulations, analyses, projections, forecasts, or other statistical reports. A press release announcing or presenting statistical data is defined as a

DOJ_NMG_ 0165573

statistical product and is covered by the provisions of this Directive. Federal statistical agencies or units may issue their statistical products in printed and/or electronic form, including via Internet sites. Agencies should assess the needs of data users and provide a range of products to address those needs by whatever means practicable. Information to help users interpret data accurately, including transparent descriptions of the sources and methodologies used to produce the data, must be equitably available for Federal statistical products. These products shall contain or reference appropriate information on the sources, methodologies, and limitations of the data as well as other information such as explanations of other related measures to assist users in the appropriate treatment and interpretation of the data.

3. Statistical Agencies or Units. As defined by the Confidential Information Protection and Statistical Efficiency Act of 2002 (116 STAT. 2963), a Federal statistical agency is an organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes. Statistical purpose means the description, estimation, or analysis of the characteristics of groups, without identifying the persons, organizations, or individual data observations that comprise such groups, as well as researching, developing, implementing, maintaining, or evaluating methods, administrative or technical procedures, or information resources that support such purposes. When a statistical agency is embedded within a Federal science agency that has specific statutory authority over matters covered in this directive, the provisions of this directive shall apply to the Federal science agency, unless such matters have been delegated to the embedded statistical agency. A statistical

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agency or unit may be labeled an administration, bureau, center, division, office, service, or similar title, so long as it is recognized as a distinct entity.

4. Timing of Release. The timing of the release of statistical products, including press releases, regardless of physical form or characteristic, shall be the sole responsibility of the statistical agency or unit that is directly responsible for the content, quality, and dissemination of the data. Agencies should strive to minimize the interval between the period to which the data refer and the date when the product is released to the public.

5. Notification of Release. Prior to the beginning of the calendar year, the releasing statistical agency shall annually provide the public with a schedule of when each regular or recurring statistical product is expected to be released during the upcoming calendar year by publishing it on its website. Agencies must issue any revisions to the release schedule in a timely manner on their websites.

6. Dissemination. Statistical agencies must ensure that all users have equitable and timely access to data that are disseminated to the public. If there are revisions to the data after an initial release, notification must also be given to the public about these changes in an equitable and timely manner. A statistical agency should strive for the widest, most accessible, and appropriate dissemination of its statistical products and ensure transparency in its dissemination practices by providing complete documentation of its dissemination policies on its website. The statistical agency is responsible for ensuring

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that this documentation remains accurate by reviewing and updating it regularly so that it reflects the agency's current dissemination practices.

In unusual circumstances, the requirement that all users initially have equitable and timely access to statistical products may be waived by the releasing statistical agency if the head of the agency determines that the value of a particular type of statistical product, such as health or safety information, is so time-sensitive to specific stakeholders that normal procedures to ensure equitable and timely access to all users would unduly delay the release of urgent findings to those to whom the information is critical. All such instances must be reported to OMB within 30 calendar days of the agency's waiver determination.

Agencies should use a variety of vehicles to attain a data dissemination program designed to reach data users in an equitable and timely manner. Agencies must publish statistical products available to the public on their websites and may also provide them in printed or other electronic formats. In undertaking any dissemination of statistical products, agencies must continue to ensure that they have fulfilled their responsibilities to preserve the confidentiality and security of respondent data. When appropriate to facilitate in-depth research, and feasible in the presence of resource constraints, statistical agencies should provide public access to microdata files with secure safeguards to protect the confidentiality of individually-identifiable responses and with readily accessible documentation, metadata, or other means to facilitate user access to and manipulation of the data.

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Statistical agencies are encouraged to use a variety of forums and strategies to release their statistical products. These include conferences, exhibits, presentations, workshops, list serves, the Government Printing Office, public libraries, and outreach to the media including news conferences and press releases as well as media briefings to improve the media's understanding of the data and the quality and extent of media coverage of the statistics.

a. Outreach to the Media

To accelerate and/or expand the dissemination of data to the public, statistical agencies are encouraged to issue a statistical press release when releasing their products. To maintain a clear distinction between statistical data and policy interpretations of such data, the statistical press release must be produced and issued by the statistical agency and must provide a policy-neutral description of the data; it must not include policy pronouncements or direct quotations from policy officials. Federal executive policy officials may issue separate independent statements on the data being released by the statistical agency.

The releasing statistical agency or unit may include data from additional studies, trend statistics, and complementary data including explanations of other related estimates in its statistical press release to provide context and enhance understanding of the data being released.

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b. Pre-Release Access to Final Statistical Products

To support the goal of maximizing the public's access to quality data, statistical agencies may provide pre-release access to their final statistical products. A statistical product is final when the releasing statistical agency determines that the product fully meets the agency's data quality standards and requires no further changes. The purpose of pre-release access is to foster improved public understanding of the data when they are first released and the accuracy of any initial commentary about the information contained in the product. Pre-release access to final statistical products may be provided under embargo or through secure pre-release access. The releasing statistical agency determines which final statistical products will be made available under these pre-release provisions and which method of pre-release will be employed.

c. Embargo

Embargo means that pre-release access is provided with the explicit acknowledgement of the receiving party that the information cannot be further disseminated or used in any unauthorized manner before a specific date and time.

The statistical agency may grant pre-release access via an embargo under the following conditions:

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1. The agency shall establish arrangements and impose conditions on the granting of an embargo that are necessary to ensure that there is no unauthorized dissemination or use.

2. The agency shall ensure that any person or organization granted access under an embargo has been fully informed of, and has acknowledged acceptance of, these conditions.

3. In all cases, pre-release access via an embargo shall precede the official release time only to the extent necessary for an orderly release of the data.

4. If an embargo is broken, the agency must release the data to the public immediately.

d. Secure Pre-Release Access

For some data that are particularly sensitive or move markets, statistical agency heads may choose to provide secure pre-release access. Secure pre-release access means that pre-release access is provided only within the confines of secure physical facilities with no external communications capability. When the head of a releasing statistical agency determines that secure pre-release access is required,

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the agency shall provide pre-release access to final statistical products only when it uses secure pre-release procedures.

7. Announcement of Changes in Data Series. Statistical agencies shall announce, in an appropriate and accessible manner as far in advance of the change as possible, significant planned changes in data collection, analysis, or estimation methods that may affect the interpretation of their data series. In the first report affected by the change, the agency must include a complete description of the change and its effects and place the description on its Internet site, if the report is not otherwise available there.

8. Revisions and Corrections of Data. For some statistical products, statistical agencies produce preliminary estimates or initial releases that will subsequently be updated and finalized. Whenever preliminary data are released, they must be identified as preliminary and the release must indicate that an updated or final revision is expected. In applicable cases, the expected date of such revisions must be included. Reference to the preliminary release and appropriate explanations of the methodology and reasons for the revisions must be provided or referenced in any updated or final releases.

Consistent with each agency's information quality guidelines, statistical agencies must also establish a policy for handling unscheduled corrections due to previously unrecognized errors. Agencies have an obligation to alert users as quickly as possible to any such changes, to explain corrections or revisions that result from any unscheduled

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corrections, and to make appropriate changes in all product formats -- including press releases.

9. Granting of Exceptions. Prior to taking any action that may violate the provisions of this Directive, the head of a releasing statistical agency shall consult with OMB's Administrator for Information and Regulatory Affairs. If the Administrator determines that the action is in violation of the provisions of this Directive, the head of the releasing statistical agency may apply for an exception. The Administrator may authorize exceptions to the provisions in sections 4, 5, 6, 7, and 8 of this Directive. Any agency requesting an exception must demonstrate to the satisfaction of the Administrator that the proposed exception is necessary and is consistent with the purposes of this Directive.

Steven D. Aitken

Acting Administrator,
Office of Information and Regulatory Affairs

DOJ_NMG_ 0165581

Steve Aitken requested that I send you the following message.

OMB's Office of Information and Regulatory Affairs (OIRA) is seeking your agency's review and comments on the attached draft of a new OMB Statistical Policy Directive -- which would apply to your agency -- that would set forth "Standards for the Release and Dissemination of Statistical Products Produced by Federal Statistical Agencies."

The draft has already gone through extensive vetting within the Federal statistical community. We are now circulating the draft directive to agencies for a broader review. After this round of agency comment, we will make appropriate changes to the draft directive and publish it in the *Federal Register* as a proposal for public comment.

The proposal may in some cases require adjustments to existing agency procedures, and thus we wanted to provide an opportunity for your agency to review the draft proposal and provide comments to us informally, prior to the official public comment period.

To assist in your review, we have included below a brief background statement about the draft proposed directive. In addition, we have attached the current draft of the *Federal Register* notice, which includes the text of the draft directive, as well as a copy of OMB's existing Statistical Policy Directive Number 3, which provides the current standards that govern the dissemination of the designated Principal Federal Economic Indicators. As the Background statement explains, the draft directive would extend the principles of Directive 3 (but not all of its requirements and prohibitions) to a broader set of periodic Federal statistical releases.

In reviewing this material, you may find it helpful to contact the heads of the statistical agencies within your departments who are copied on this message. They are very familiar with this draft proposal, and in fact they may have already brought it to your attention.

We would appreciate your getting back to us by Monday, August 14th with any comments that your agency may have. Thank you for your consideration.

Background:

OMB's draft proposed directive on the Release and Dissemination of Statistical Products would extend the principles of OMB's longstanding Statistical Policy Directive Number 3 (governing the release of the Principal Federal Economic Indicators) to a broader set of statistical releases. As is the case with Directive 3, the draft proposal is designed to preserve and enhance the objectivity and transparency -- actual and perceived -- of the processes used to release and disseminate the Government's statistical products. Again, as with Directive 3, the draft directive seeks to ensure that the Federal Government's release and dissemination to the public of general purpose statistical information is done in a manner that is equitable, policy-neutral, timely, and transparent.

Although the draft directive is based on the same principles as Directive 3, the draft procedures would be less prescriptive than those in Directive 3. (This is because the data covered by the proposed directive are not considered to be as market-sensitive as the Principal Federal Economic Indicators, and they are released less frequently.) For example, in contrast to Directive 3, the proposed directive would provide the head of the statistical agency with the flexibility to decide the timing, embargo status, and modes of dissemination for the products covered by the draft directive.

The draft of the proposed directive was developed during the past two years by an interagency committee -- composed of representatives of the Federal statistical community -- working under the auspices of OIRA's Statistical and Science Policy Office and the Interagency Council on Statistical Policy. It has been drafted in accordance with the Paperwork Reduction Act, the Information Quality Act, and principles set forth by the National Academy of Sciences and the National Science Board. Also, in a recent report, GAO has recommended that the principles that govern the Principal Federal Economic Indicators be extended to a larger set of Federal statistical products.

McNulty, Paul J

Subject:	Accepted: Updated: Component Appeal Hearing for FY 2008 Budget -- Tax Division
Location:	RFK Bldg, Room 4111
Start:	Tuesday, August 01, 2006 3:00 PM
End:	Tuesday, August 01, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 3:06 PM
To: Goodling, Monica
Subject: FYI

Attached to the back of my copy of this wk's weekly report are a couple (innocuous) emails btwn you and some job applicant. Thought you'd want to know… I am discarding my copy of those emails now.

Shaw, Aloma A

Subject:	Dana Boente
Location:	5706
Start:	Friday, July 28, 2006 4:30 PM
End:	Friday, July 28, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M

Wants to see you for 10 minutes to say farewell since he's unable to attend your ceremony.

Goodling, Monica

From: Goodling, Monica
Sent: Friday, July 28, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: RE: FYI

Appreciate the heads up. You should have seen me run from my office to Tracy's to see what/who got sent out. She is horrified and is pulling back the other copies she had distributed, but you're right, no harm done.

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 3:06 PM
To: Goodling, Monica
Subject: FYI

Attached to the back of my copy of this wk's weekly report are a couple (innocuous) emails btwn you and some job applicant. Thought you'd want to know… I am discarding my copy of those emails now.

Shaw, Aloma A

Subject:	Accepted: Dana Boente
Location:	5706
Start:	Friday, July 28, 2006 4:30 PM
End:	Friday, July 28, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Gunn, Currie (SMO)

Subject:	Updated: ENRD Bi-Weekly Meeting
Location:	5710
Start:	Wednesday, November 26, 2003 11:00 AM
End:	Wednesday, November 26, 2003 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gunn, Currie (SMO); McCallum, Robert (SMO); Sobeck, Eileen (ENRD); Cruden, John (ENRD); Gorsuch, Neil M; Pacold, Martha M; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; McCallum, Robert (SMO); Nelson, Ryan (ENRD); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, EvanMcCallum, Robert (SMO); Sobeck, Eileen (ENRD); Cruden, John (ENRD); Gorsuch, Neil M; Pacold, Martha M; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; McCallum, Robert (SMO); Nelson, Ryan (ENRD); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, Evan
Optional Attendees:	'Newton, Cullen (ENRD)'; Owens, Angela (ENRD); Miranda, Gail (ENRD); 'Bogan, Shanedda (JMD)'; Gunn, Currie (SMO)Newton, Cullen (ENRD); Owens, Angela (ENRD); Miranda, Gail (ENRD); Bogan, Shanedda (JMD); Gunn, Currie (SMO)

Addition of Gerald Masoudi

We have been experiencing problems with the Outlook calendar. While hoping to correct the problems we will be doing updates to the recurring meetings.

Attendees: Associate AG Robert McCallum, Neil Gorsuch, Sue Ellen Wooldridge AAG ENRD, Matt McKeown, Eileen Sobeck, John Cruden, Jeff Senger, Martha Pacold-OAG

POC: Currie Gunn x4-9500

Gunn, Currie (SMO)

Subject:	Accepted: Updated: ENRD Bi-Weekly Meeting
Location:	5710
Start:	Wednesday, November 26, 2003 11:00 AM
End:	Wednesday, November 26, 2003 12:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Treene, Eric (CRT)

From: Treene, Eric (CRT)
Sent: Friday, July 28, 2006 5:26 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT)
Subject: Newsletter

Neil and Greg,

Attached is a link to the June/July issue of Religious Freedom in Focus newsletter, which we will be sending out on Monday. Gordon Todd had previously reviewed these newsletters for the Associate's office. We sent a copy to Lily last Friday but have not heard back. We know you are very under-staffed and may not have comments, but if you do, please let us know by Monday at 2:00 p.m.

Thanks,

Eric

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 5:59 PM
To: Treene, Eric (CRT); Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

Subject to Greg, this looks fine to me.

From: Treene, Eric (CRT)
Sent: Friday, July 28, 2006 5:26 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT)
Subject: Newsletter

Neil and Greg,

Attached is a link to the June/July issue of Religious Freedom in Focus newsletter, which we will be sending out on Monday. Gordon Todd had previously reviewed these newsletters for the Associate's office. We sent a copy to Lily last Friday but have not heard back. We know you are very under-staffed and may not have comments, but if you do, please let us know by Monday at 2:00 p.m.

Thanks,

Eric

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Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Friday, July 28, 2006 6:07 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Kim, Wan (CRT)
Subject: Metrics

Following up on our conversation yesterday, here are the metrics for each of the four major AG CRT initiatives:

Trafficking: With about 2 months left in the current fiscal year, the Department has already convicted more trafficking defendants (55) than in any other single year on record.

Home Sweet Home: Doubling the number of paired fair housing tests to 410 by FY 2007, which will represent a record number of paired tests in a fiscal year since the inception of the program

First Freedom Project: A 25% increase overall in the Division's enforcement of religious discrimination matters.

Project Access for All: Record number of complaints referred to mediation this fiscal year. We anticipate that we will be able to reach this record number due to the record number of cases (close to 600) that we are on pace to offer for mediation this fiscal year.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 6:25 PM
To: Comisac, Rena (CRT); Katsas, Gregory (CIV); Sampson, Kyle; Comisac, Rena (CRT)
Cc: Kim, Wan (CRT); Katsas, Gregory (CIV)
Subject: RE: Metrics

Thanks very much, Rena. Am adding Kyle, Courtney, and Greg -- this is the info OMB requested on metrics discussed at this wk's Strat Init mtg.

From: Comisac, Rena (CRT)
Sent: Friday, July 28, 2006 6:07 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Kim, Wan (CRT)
Subject: Metrics

Following up on our conversation yesterday, here are the metrics for each of the four major AG CRT initiatives:

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Project Access for All: Record number of complaints referred to mediation this fiscal year. We anticipate that we will be able to reach this record number due to the record number of cases (close to 600) that we are on pace to offer for mediation this fiscal year.

From: USDOJ- Office of Public Affairs
Sent: Friday, July 28, 2006 6:25 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO VISIT NATIONAL HISPANIC CULTURAL CENTER

Department of Justice

FOR PLANNING PURPOSE ONLY
FRIDAY, JULY 28, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES
TO VISIT NATIONAL HISPANIC CULTURAL CENTER

WASHINGTON - Attorney General Alberto R. Gonzales will participate in a tour of the National Hispanic Cultural Center in Albuquerque, NM, on **MONDAY, JULY 31, 2006 at 2:35 P.M. MDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Facility Tour
(Stills and Video Only)

WHEN: **MONDAY, JULY 31, 2006**
2:35 P.M. MDT

WHERE: National Hispanic Cultural Center
1701 4th SW
Albuquerque, N.M.
POOL PRESS

NOTE: Still and video cameras only. No print coverage. Media wishing to cover the event should arrive no later than **2:05 P.M. MDT.** Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

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Image not available for this document, ID: 0.7.10316.43219-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, July 28, 2006 6:27 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING COMPREHENSIVE IMMIGRATION REFORM

Department of Justice

FOR PLANNING PURPOSE ONLY
FRIDAY, JULY 28, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING COMPREHENSIVE IMMIGRATION REFORM

WASHINGTON - Attorney General Alberto R. Gonzales will hold a press conference regarding comprehensive immigration reform in Albuquerque, NM, on **MONDAY, JULY 31, 2006 at 4:15 P.M. MDT.**

WHO: Attorney General Alberto R. Gonzales
David C. Iglesias, U.S. Attorney for the District of New Mexico
Other federal, state and local officials

WHAT: Press conference regarding comprehensive immigration reform.

WHEN: **MONDAY, JULY 31, 2006**
4:15 P.M. MDT

WHERE: U.S. Attorney's Office
Press Briefing Room
201 3rd Street NW
Albuquerque, N.M.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **3:45 P.M MDT**. All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

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Image not available for this document, ID: 0.7.10316.43212-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, July 28, 2006 7:22 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR JULY 31-AUGUST 4, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, JULY 28, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
July 31 – August 4, 2006

Monday, July 31

9:45 A.M. MDT

Attorney General Alberto R. Gonzales will deliver remarks before the National District Attorney's Association Summer Conference regarding Department of Justice Efforts in fighting child exploitation.
Eldorado Hotel
Anasazi Ballroom
309 W San Francisco St
Santa Fe, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Julie Warren at 202-305-5876.

11:20 A.M. MDT

Attorney General Alberto Gonzales will participate in a media availability with Governor Bill Richardson regarding comprehensive immigration reform.
State Capitol Building
Fourth Floor Cabinet Room
Santa Fe, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Julie Warren at 202-305-5876.

4:15 P.M. MDT

Attorney General Alberto R. Gonzales will hold a press conference regarding comprehensive immigration reform.
U.S. Attorney's Office
Press Briefing Room
201 3rd Street N.W.
Albuquerque, New Mexico

DOJ_NMG_ 0165601

OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486

Tuesday, August 1

2:30 P.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Armed Services Committee on the Boeing Global Settlement
Hart Senate Office Building
Room 216
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Armed Services Committee at 202-224-3871.

Wednesday, August 3

Events TBD

Thursday, August 4

Events TBD

Friday, August 5

Events TBD

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DOJ_NMG_ 0165602

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Image not available for this document, ID: 0.7.10316.43207-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, July 28, 2006 7:45 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 28, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Appeals Court Ruled in Jefferson Case
A federal appeals court today ordered a federal trial judge to ensure that Congressman William Jefferson, D-La., be given copies of seized evidence. The panel said Jefferson then must be given the opportunity to invoke legislative privilege claims with the trial judge.

Talking Point:
- We appreciate the court acting expeditiously. It is clear they understand the importance of moving this matter forward.

Justice Department Announces Agreement to Protect Voting Rights in Maine (Civil Rights)
The Justice Department today announced that it has reached an agreement with Maine officials that will help to ensure full access to voting for Maine's citizens with disabilities and to protect the accuracy and integrity of Maine's statewide voter registration list in accordance with the provisions of the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA).

Justice Department Reaches Agreement with Pennsylvania to Protect Voting Rights of Military and Overseas Citizens (Civil Rights)
The Justice Department today announced that it has reached an agreement with Pennsylvania officials to help ensure that military and overseas voters have an opportunity to participate fully in the state's federal elections. The agreement resolves a lawsuit filed by the Civil Rights Division in 2004 to enforce the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

Corrections Officials Reported more than 6,200 Sexual Violations in the Nation's Prisons and Jails during 2005 (OJP)
Federal, state and local corrections officials reported an estimated 6,241 allegations of sexual violence in prisons and jails during 2005, according to a report released today by the Justice Department's Bureau of Justice Statistics (BJS). The BJS report, *Sexual Violence Reported by Correctional Authorities, 2005*, said it was the equivalent of 2.8 allegations per 1,000 inmates, up from 2.5 per 1,000 inmates in prisons, jails, and other adult correctional facilities during 2004.

MONDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will participate in a live radio interview with Wake Up New Mexico, a program broadcast by KAGM-FM in Albuquerque. The interview will focus on immigration reform.

9:45 AM MDT	Attorney General Alberto R. Gonzales will deliver remarks at the summer conference of the National District Attorneys Association. Eldorado Hotel & Spa Anasazi Ballroom 309 W San Francisco St Santa Fe, N.M.
11:20 A.M. MDT	Attorney General Alberto R. Gonzales will participate in a media availability with New Mexico Governor Bill Richardson. Fourth Floor Cabinet Room State Capitol Building Santa Fe, N.M.
2:35 P.M. MDT	Attorney General Alberto R. Gonzales will participate in a tour of the National Hispanic Cultural Center in Albuquerque, NM. National Hispanic Cultural Center 1701 4th SW Albuquerque, N.M.
4:15 P.M. MDT	Attorney General Alberto R. Gonzales will hold a press conference regarding comprehensive immigration reform in Albuquerque, N.M. U.S. Attorney's Office Press Briefing Room 201 3rd Street NW Albuquerque, N.M.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Friday, July 28, 2006 10:17 PM
To: Gorsuch, Neil M; Treene, Eric (CRT)
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

For some reason, I cannot open the link.

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 5:59 PM
To: Treene, Eric (CRT); Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

Subject to Greg, this looks fine to me.

From: Treene, Eric (CRT)
Sent: Friday, July 28, 2006 5:26 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT)
Subject: Newsletter

Neil and Greg,

Attached is a link to the June/July issue of Religious Freedom in Focus newsletter, which we will be sending out on Monday. Gordon Todd had previously reviewed these newsletters for the Associate's office. We sent a copy to Lily last Friday but have not heard back. We know you are very under-staffed and may not have comments, but if you do, please let us know by Monday at 2:00 p.m.

Thanks,

Eric

\\crtwww03\WorkingWeb\crt\religdisc\newsletter\focus_18.htm

Freeman, Sharee

From: Freeman, Sharee
Sent: Friday, July 28, 2006 11:01 PM
To: Gorsuch, Neil M
Subject: Shooting in Seattle

CRS is part of the law enforcement and community response team to the shooting that just took place in a Jewish Center. I am working with my staff to cover all the bases to keep both communities calm. CNN is reporting it now.

Sent from my BlackBerry Wireless Handheld

Amber.JMD

From: Amber.JMD
Sent: Saturday, July 29, 2006 5:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Fort Collins, CO

From: AmberAlert-DOJ
Sent: Saturday, July 29, 2006 5:01:01 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Fort Collins, CO
Auto forwarded by a Rule

AMBER ALERT:Fort Collins,CO CHILD:W/F, 16 yrs, 5'01, 120lbs, Eyes:Blu Hair:Blond CALL (970) 221-6545
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1842

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, July 29, 2006 9:20 AM
To: Freeman, Sharee
Cc: Katsas, Gregory (CIV); Swenson, Lily F
Subject: Re: Shooting in Seattle

Thanks. Adding Greg and Lily.

-----Original Message-----
From: Freeman, Sharee
To: Gorsuch, Neil M
Sent: Fri Jul 28 23:01:08 2006
Subject: Shooting in Seattle

CRS is part of the law enforcement and community response team to the shooting that just took place in a Jewish Center. I am working with my staff to cover all the bases to keep both communities calm. CNN is reporting it now.

Sent from my BlackBerry Wireless Handheld

Treene, Eric (CRT)

From: Treene, Eric (CRT)
Sent: Sunday, July 30, 2006 9:08 AM
To: Katsas, Gregory (CIV); Gorsuch, Neil M
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: Re: Newsletter

I will get it to you later today in another form The server you are on may not synch with the civil rights server.

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M; Treene, Eric (CRT)
CC: Comisac, Rena (CRT); Swenson, Lily F
Sent: Fri Jul 28 22:16:41 2006
Subject: RE: Newsletter

For some reason, I cannot open the link.

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 5:59 PM
To: Treene, Eric (CRT); Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

Subject to Greg, this looks fine to me.

From: Treene, Eric (CRT)
Sent: Friday, July 28, 2006 5:26 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Cc: Comisac, Rena (CRT)
Subject: Newsletter

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Thanks,

Eric

\\crtwww03\WorkingWeb\crt\religdisc\newsletter\focus_18.htm

Treene, Eric (CRT)

From: Treene, Eric (CRT)
Sent: Sunday, July 30, 2006 6:03 PM
To: Katsas, Gregory (CIV); Gorsuch, Neil M
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

The newsletter text is pasted below. Thanks

Eric

Consent Decree Reached in Synagogue Discrimination Case

The Civil Rights Division reached a consent decree on July 7 with the City of Hollywood, Florida and the Hollywood Community Synagogue, which will allow the Orthodox Jewish synagogue to continue to operate out of the residential district where it is located. The Department of Justice had filed suit <http://www.usdoj.gov/crt/housing/documents/hollywoodcomp.htm> against the City of Hollywood in April 2005, arguing that the City's decision to deny the synagogue a special use permit to operate out of a residential district violated the Religious Land Use and Institutionalize Persons Act (RLUIPA) <http://www.usdoj.gov/crt/housing/housing_rluipa.htm>. The Department's suit was later consolidated with a separate suit brought by the synagogue.

The Chabad Lubavitch-affiliated synagogue in 2001 applied for a permit to operate out of two residential homes. After several hearings, and despite determinations by the zoning board to grant the synagogue a permit, the city commission ultimately denied the synagogue a permit to operate permanently from its properties. The United States' complaint alleged that the city had granted similar permits to numerous other houses of worship and nonreligious assemblies, and indeed had never before denied any place of worship a special permit to operate in a residential district. The Department further alleged that the city had not enforced the zoning code against other religious assemblies which were operating in the same district without permits.

On June 26, Judge Joan A. Lenard ruled <http://www.usdoj.gov/crt/religdisc/hollywood_decision.pdf> that Hollywood's procedures for reviewing zoning applications for houses of worship operating out of residential neighborhoods were facially unconstitutional, since they were vague and gave city officials unbridled discretion to refuse permits and the ability to covertly discriminate against houses of worship. On June 27, Judge Lenard also denied the City's motion for summary judgment <http://www.usdoj.gov/crt/religdisc/hollywood_decision_denial.pdf> against the United States, permitting the remainder of the case to go to trial. The parties reached an agreement as the judge prepared to impanel a jury.

Under the consent decree <http://www.usdoj.gov/crt/housing/documents/hollywoodsettle.pdf>, the synagogue can continue to operate permanently out of its current location as a matter of right, and may purchase additional properties within a block of its current location for expansion. The consent decree also requires city officials to undergo training on the requirements of RLUIPA, requires the city to adopt new complaint procedures, and requires periodic reporting to the Department of Justice. Under a separate agreement filed at the same time, the city agreed to pay the synagogue $2 million.

RLUIPA, enacted in 2000, prohibits religious discrimination in land-use and zoning decisions. Since 2001, the Civil Rights Division has reviewed more than 118 cases involving RLUIPA and has opened 26 full investigations. These have included investigations of unequal treatment of Christian, Jewish, Muslim, Hindu and Buddhist houses of worship and religious schools. Most of these have been resolved amicably through voluntary modification of potentially discriminatory zoning regulations. The Division also has filed three RLUIPA lawsuits. More information about RLUIPA can be found on the Civil Rights Division's Housing and Civil Enforcement homepage <http://www.usdoj.gov/crt/housing/rluipaexplain.htm>.

DOJ Defends Student's Right to Sing Religious Song

On June 19, the Civil Rights Division filed a friend-of-the-court brief <http://www.usdoj.gov/crt/religdisc/frenchtown_amicus_brief.pdf> in support of an eight-year-old girl who was forbidden from singing a Christian song in a school talent show because the song she wanted to sing was too religious. The suit, *O.T. v. Frenchtown Elementary School District Board of Education*, was filed by the student's parents in 2005 in federal district court in New Jersey. It argues that the school violated her constitutional rights by censoring her speech.

The talent show, held on a Friday night, consisted of songs, skits, and other performances by students, who selected and rehearsed their acts on their own. Each student was free to choose his or her own act, subject to a few basic guidelines barring acts using profanity or involving weapons, alcohol or drugs. However, when the plaintiff chose to sing a contemporary Christian song, "Awesome God," she was told that it was inappropriate because it contained an overtly religious message.

In its friend-of-the-court brief, the Civil Rights Division notes that there is a distinction between curricular speech, in which the schools have a great deal of control over content, and situations where a school invites children to speak on topics of their choosing. In the latter case, the schools may not discriminate on the basis of viewpoint, such as religious viewpoint. The brief points out that parents and students attending the event would not perceive the individual performances as the speech of the school, but rather would understand that each child's act was his or her own expression. And under the First Amendment, student speech cannot be censored based on its viewpoint absent a compelling justification.

For this same reason, the school's proffered justification that it had to censor the speech to satisfy the Constitution's Establishment Clause does not hold up to scrutiny, the brief argues. The Supreme Court has noted that there is a "critical difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect." Here, the speech was the

student's, not the school's, and this would be understood by the audience. The school thus had no compelling reason to censor the song, the brief argues.

DOJ Files Brief Clarifying the Equal Terms Provision of RLUIPA

On June 7, 2006, the Civil Rights Division filed a friend-of-the-court brief <http://www.usdoj.gov/crt/briefs/lighthouse.pdf> in *Lighthouse Institute for Evangelism, Inc. v. City of Long Branch* in the United States Court of Appeals for the Third Circuit, arguing that the district court had incorrectly applied an important section of the Religious Land Use and Institutionalized Persons Act (RLUIPA) <http://www.usdoj.gov/crt/housing/housing_rluipa.htm>protecting houses of worship from discrimination.

After Lighthouse Institute was denied a zoning permit to use its commercially-zoned property as a church, it filed suit under RLUIPA. One of its claims was under section 2(b)(1) of RLUIPA, which provides: "No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution." In ruling against the church, the court held that it was not enough that the church show discrimination, but that it also must show that the discrimination imposed a "substantial burden" on its religious exercise.

The Civil Rights Division's appeal brief argues that the court erred by importing the "substantial burden" test, which is contained in a different part of RLUIPA pertaining to different kinds of claims, to discrimination claims under 2(b)(1). The brief contends that the anti-discrimination provisions of RLUIPA, 2(b)(1), which bars discrimination in favor of secular uses and against religious ones, and 2(b)(2), which bars discrimination against particular religions, cannot be read to require the additional step of proving a "substantial burden." The brief states that "[u]nder this interpretation, a municipality could create a zone in which, for example, Christian churches may build on one-acre lots but Hindu temples must build on five acre lots, unless a Hindu congregation can show that this rule substantially burdens its religious exercise." The brief urges the appeals court to reverse this part of the trial court's decision.

DOJ Again Supports Bronx Household of Faith's Appeal to the Second Circuit

On July 16, the Civil Rights Division for the second time filed an amicus brief <http://www.usdoj.gov/crt/religdisc/bronx_brief.pdf> in the United States Court of Appeals for the Second Circuit, supporting a Christian congregation's right to rent school facilities from the New York City School Board on an equal basis with other civic and community groups, in *Bronx Household of Faith v. Board of Education of the City of New York*.

The city makes school facilities available after hours to groups for "social, civic and recreational meetings and entertainments, and other uses pertaining to the welfare of the community." Nearly 10,000 permits are issued per year under this policy allowing groups to use school facilities. Groups renting facilities have included sports leagues, Legionnaire Greys, Boy and Girl Scouts, community associations, a college for holding English instruction, and numerous diverse groups.

Bronx Household of Faith is a small, independent church that has sought to rent school facilities for Sunday worship. The school board, however, has long refused to rent facilities to groups that intend to engage in worship activities. After an initial round of litigation in the 1990's failed,

Bronx Household filed suit against the New York City School Board a second time in 2002, claiming that it was entitled to equal treatment based on the Supreme Court's 2001 decision in *Good News Club v. Milford*. In *Good News Club*, the Supreme Court held that a policy nearly identical to New York City's could not be used to bar a group from using school facilities after-hours that teaches morals and character to children through Bible study, games, prayer and songs. In June 2002, a federal court in New York ruled that, in light of the *Good News Club* decision, Bronx Household of Faith was likely to win the case and granted a temporary order allowing it to rent the school facilities as the case progressed. On appeal, the United States filed a friend-of-the-court brief supporting Bronx Household's position, and the appeals court affirmed <http://www.usdoj.gov/crt/briefs/bronx.pdf>. Since then, as the suit has proceeded, Bronx Household and 22 other congregations have used school facilities for Sunday services.

After the ruling, the school board modified its procedures, but the new provisions continued to deny churches equal access to its facilities. In May 2005, the United States filed a second friend-of-the-court brief, this time with the district court, urging it to grant a permanent injunction against the School Board. On November 17, the judge permanently barred the school from discriminating <http://www.usdoj.gov/crt/religdisc/bronx_household_2005_opinion.pdf> against the church. The City appealed to the Second Circuit. In its most recent friend-of-the-court brief, the United States argues: "The Board engaged in unconstitutional viewpoint discrimination by denying Bronx Household the same opportunity to promote its activities that other groups enjoy. Restrictions on private speech must be viewpoint neutral. In all relevant respects, Bronx Household's meetings did not differ from other groups' meetings that the Board permitted to use the school. Rather, the Board denied Bronx Household use of the school solely because of the religious perspective of its activities."

The brief points out that the city's efforts to argue that worship is a distinct, excludable category of speech ultimately fails. Worship, like the various diverse activities the city has permitted in the schools after hours, is a social and civic activity. It is also communicative in the same way that songs, speeches, secular rituals, and other activities engaged in by groups like the American Legion, the Boy Scouts and Girl Scouts, and other community organizations are. As the brief notes, in addition to the obvious communicative nature of sermons or homilies, "communal worship activities such as singing and prayers are also expressions among believers" and "communicate specific messages among participants and observes about the participants' world view." Worship thus is a form of speech protected by the First Amendment, the brief argues.

United States Department of Justice
Civil Rights Division
<http://www.usdoj.gov/crt/>

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Friday, July 28, 2006 10:17 PM
To: Gorsuch, Neil M; Treene, Eric (CRT)
Cc: Comisac, Rena (CRT); Swenson, Lily F
Subject: RE: Newsletter

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From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 5:59 PM
To: Treene, Eric (CRT); Katsas, Gregory (CIV)
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Thanks,

Eric

<\\crtwww03\WorkingWeb\crt\religdisc\newsletter\focus_18.htm>

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: Computer Security Awareness Training II (CSAT II) Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual Computer Security Awareness Training II (CSAT II) course. DOJ security regulations require that all employees and contractors receive Computer Security Awareness Training II (CSAT II) training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "Computer Security Awareness Training II (CSAT II)" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

noreply@usdoj.gov

From: noreply@usdoj.gov
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

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If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

From: [redacted]
Sent: Monday, July 31, 2006 7:30 AM
To: Gorsuch, Neil M
Subject: BPM on SOA Webcast
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe8812727d670d7972-fdf517777167017e72157373-fef8177574610d

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: bpmplus

Teleconference: dial [redacted]

Passcode: 485288 for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

https://tibcomc.webex.com/tibcomc/j.php?ED=86461357&UID=0
https://tibcomc.webex.com/tibcomc/j.php?ED=86461357&UID=0

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Visit the following URL to manage your subscriptions.
(http://cl.exct.net/subscription_center.aspx?s=fe0616707665077b70167177&j=fe8812727d670d7972&mid=fef8177574610d)

Visit the following URL to update your profile.
(http://cl.exct.net/profile_center.aspx?s=fe0616707665077b70167177&mid=fef8177574610d&j=fe8812727d670d7972)

Visit the following URL to unsubscribe.
(http://cl.exct.net/unsub_center.aspx?s=fe0616707665077b70167177&j=fe8812727d670d7972&mid=fef8177574610d)

To view this email as a web page, go here.

To ensure proper delivery of TIBCO emails to your inbox, please add us to your Address Book.

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Password: [redacted]

Teleconference: [redacted]

Passcode: [redacted] for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

Please click the link below to see more information, or to join the meeting.

https://tibcomc.webex.com/tibcomc/j.php?ED=86461357&UID=0

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McNulty, Paul J

Subject:	Canceled: Component Appeal Hearing for FY 2008 Budget -- OCDETF
Location:	RFK Bldg, Room 4111
Start:	Tuesday, August 01, 2006 4:30 PM
End:	Tuesday, August 01, 2006 5:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Dauphin, Dennis; Mattiello, Jonathan; Atsatt, MikkiElston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Dauphin, Dennis; Mattiello, Jonathan; Atsatt, Mikki
Importance:	High

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Dennis Dauphin, Jonathan Mattiello
Component OCDETF
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

McNulty, Paul J

Subject:	Canceled: Component Appeal Hearing for FY 2008 Budget -- Detention Trustee
Location:	RFK Bldg, Room 4111
Start:	Monday, August 7, 2006 2:00 PM
End:	Monday, August 7, 2006 3:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Atsatt, Mikki; Dauphin, Dennis; Locke, Jana MElston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Atsatt, Mikki; Dauphin, Dennis; Locke, Jana M
Importance:	High

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Dennis Dauphin, Jana Locke
Component Detention Trustee
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

McNulty, Paul J

Subject:	Canceled: Component Appeal Hearing for FY 2008 Budget -- OIG
Location:	RFK Bldg, Room 4111
Start:	Monday, August 7, 2006 4:00 PM
End:	Monday, August 7, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Atsatt, Mikki; Snell, Scott; Cvrkel, MarnyElston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Atsatt, Mikki; Snell, Scott; Cvrkel, Marny
Importance:	High

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Scott Snell, Marny Cvrkel
Component OIG
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Gunn, Currie (SMO)

Subject:	Canceled: OMB Meeting
Location:	17th & Penn - Room 254
Start:	Tuesday, August 1, 2006 10:00 AM
End:	Tuesday, August 1, 2006 11:00 AM
Recurrence:	Monthly
Recurrence Pattern:	day 1 of every 1 month from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Brand, RachelGorsuch, Neil M; Brand, Rachel
Importance:	High

Rachel Brand can not attend this first series of meetings. She will meet with Jeff Rosen on Aug 3 at 2:00. Neil is unable to attend the Aug 3 meeting due to his farewell ceremony. Rachel has agreed to meet with Mr. Rosen alone.

Jeff Rosen
John Knepper

Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 8:06 AM
To: Shaw, Aloma A
Subject: FW: General Rules of Behavior Course Completion Reminder

I've tried to log in but failed. I think I've followed the "logging on" directions -- neil.gorsuch@usdoj.gov and [redacted] Please could you contact the right folks and tell them? I'd hate for my computer system to shut down (as they threaten) in my last week here! Thanks.

-----Original Message-----
From: noreply@usdoj.gov [mailto:noreply@usdoj.gov]
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the

completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 8:07 AM
To: Shaw, Aloma A
Subject: FW: Computer Security Awareness Training II (CSAT II) Course Completion Reminder

Same problem with this separate course....

-----Original Message-----
From: noreply@usdoj.gov [mailto:noreply@usdoj.gov]
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: Computer Security Awareness Training II (CSAT II) Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual Computer Security Awareness Training II (CSAT II) course. DOJ security regulations require that all employees and contractors receive Computer Security Awareness Training II (CSAT II) training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "Computer Security Awareness Training II (CSAT II)" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Bottner, Andrea

From: Bottner, Andrea
Sent: Monday, July 31, 2006 9:07 AM
To: Gorsuch, Neil M
Subject: Tuesday afternoon OJP/ASG meeting

Hi Neil,
I had a question from OJP this morning as to whether the Tuesday afternoon meeting in the ASG office is still scheduled?
I told them I would check and get back to them.
Can you please fill me in?
Thanks!!
Andi

Andrea G. Bottner
Principal Deputy Director
Office on Violence Against Women
U.S. Department of Justice
800 K Street, NW
Suite 920
Washington, DC 20530
(202) 353-9355

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 10:57 AM
To: [redacted]
Subject: Contact info

My current office info is good through the end of the week. I will keep the email through the end of the month as well as cell [redacted] Starting next week my new contact info will be --

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257
(303) 335-2896
Judge_Neil_Gorsuch@ca10.uscourts.gov
[redacted]

JMD/SMO Help Desk

From: JMD/SMO Help Desk
Sent: Monday, July 31, 2006 11:01 AM
To: Gorsuch, Neil M
Subject: Case HD0000000109001 has been opened.

The JMD/SMO JCON Help Desk has opened a ticket in your name. Your ticket number is HD0000000109001. If you need further assistance, please call 616-7100.

Summary : ngorsuch\JMDMAIN-OAAG063 User leaving in August, wants to know if he has to take CSAT II

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, July 31, 2006 11:08 AM
To: Gorsuch, Neil M
Subject: Read: Writing Sample

[redacted]

From: [redacted]
Sent: Monday, July 31, 2006 11:13 AM
To: Gorsuch, Neil M
Subject: Re: Contact info

Got it. Good luck in the new job. Semper fi.
Sent via BlackBerry from Cingular Wireless

-----Original Message-----
From: "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov>
Date: Mon, 31 Jul 2006 10:55:21
To: [redacted] <[redacted] (Receipt Notification Requested) (IPM Return Requested)
Subject: Contact info

My current office info is good through the end of the week. I will keep the email through the end of the month as well as cell ([redacted]. Starting next week my new contact info will be --

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257
(303) 335-2896
Judge_Neil_Gorsuch@ca10.uscourts.gov
[redacted]

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: FW: For [redacted]

From: Meadows, Bessie L
Sent: Friday, July 28, 2006 5:40 PM
To: Shaw, Aloma A
Subject: FW: For [redacted]

FYI

From: Catapano, Debbie
Sent: Friday, July 28, 2006 5:15 PM
To: Meadows, Bessie L
Subject: RE: For [redacted]

Unfortunately, [redacted] will not be able to attend Mr. Gorsuch's farewell reception. Please pass [redacted] best wishes and personal regards along to Mr. Gorsuch. Thank you.

From: Meadows, Bessie L
Sent: Friday, July 28, 2006 3:42 PM
To: Catapano, Debbie
Subject: For [redacted]

The Attorney General invites you to attend a farewell reception in honor of Neil M. Gorsuch, Principal Deputy Associate Attorney General, on Wednesday, the second day of August, at two-thirty o'clock, Room 5111, RFK Main Building.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: FW: Farewell for Neil Gorsuch

-----Original Message-----
From: Meadows, Bessie L
Sent: Friday, July 28, 2006 5:41 PM
To: Shaw, Aloma A
Subject: FW: Farewell for Neil Gorsuch

FYI

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Friday, July 28, 2006 3:41 PM
To: Meadows, Bessie L
Subject: RE: Farewell for Neil Gorsuch

Bessie:

I'm so sorry, but it appears I will be out of town the afternoon of the second, and will have to miss Neil's farewell. My apologies.

[redacted]

-----Original Message-----
From: Bessie.L.Meadows@usdoj.gov [mailto:Bessie.L.Meadows@usdoj.gov]
Sent: Friday, July 28, 2006 10:08 AM
To: [redacted]
Subject: Farewell for Neil Gorsuch

The Attorney General invites you to attend a farewell reception in honor of Neil M. Gorsuch, Principal Deputy Associate Attorney General on Wednesday, the second day of August at two-thirty o'clock, Room 5111, RFK Main Building.

Pls. use the Visitors Entrance located between 9th & 10th Streets on Constitution Avenue, NW. Proper identification required.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 11:33 AM
To: Gorsuch, Neil M
Subject: FW: For [redacted]

From: Meadows, Bessie L
Sent: Friday, July 28, 2006 5:42 PM
To: Shaw, Aloma A
Subject: FW: For [redacted]

FYI

From: Calvert, Chris (CIV)
Sent: Friday, July 28, 2006 3:22 PM
To: Meadows, Bessie L
Subject: RE: For [redacted]

Hi Bessie - Thank you for the invitation for [redacted], but he'll have to decline because his orientation for judicial nominees is scheduled from 8:30-3:30.

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

From: Meadows, Bessie L
Sent: Friday, July 28, 2006 3:13 PM
To: Calvert, Chris (CIV)
Subject: For [redacted]

The Attorney General invites you to attend a farewell reception in honor of Neil M. Gorsuch, Principal Deputy Associate Attorney General, on Wednesday, the second day of August, at two-thirty o'clock, Room 5111, RFK Main Building.

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 31, 2006 11:39 AM
To: Gorsuch, Neil M
Subject: Read: Dinner on Mon Aug 7th?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 12:43 PM
To: Gorsuch, Neil M
Subject: RE: General Rules of Behavior Course Completion Reminder

You are not capitalizing the first letter of your name for the password, e.g., [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 8:06 AM
To: Shaw, Aloma A
Subject: FW: General Rules of Behavior Course Completion Reminder

I've tried to log in but failed. I think I've followed the "logging on" directions -- neil.gorsuch@usdoj.gov and [redacted] Please could you contact the right folks and tell them? I'd hate for my computer system to shut down (as they threaten) in my last week here! Thanks.

-----Original Message-----
From: noreply@usdoj.gov [mailto:noreply@usdoj.gov]
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?: You may stop the training at any time and come back to it at a

NEED TO STOP WITHOUT FINISHING?: You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

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If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 12:49 PM
To: Gorsuch, Neil M
Subject: Call Monica 3-4435

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 1:22 PM
To: Gorsuch, Neil M
Subject: Phone Call

Call [redacted]

Re: [redacted] wants to wish you farewell

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:25 PM
To: Shaw, Aloma A
Subject: Re: General Rules of Behavior Course Completion Reminder

Does than mean I have to do this even as a short timer?

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Mon Jul 31 12:42:58 2006
Subject: RE: General Rules of Behavior Course Completion Reminder

You are not capitalizing the first letter of your name for the password, e.g., [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 8:06 AM
To: Shaw, Aloma A
Subject: FW: General Rules of Behavior Course Completion Reminder

I've tried to log in but failed. I think I've followed the "logging on" directions -- neil.gorsuch@usdoj.gov and [redacted] Please could you contact the right folks and tell them? I'd hate for my computer system to shut down (as they threaten) in my last week here! Thanks.

-----Original Message-----
From: noreply@usdoj.gov [mailto:noreply@usdoj.gov]
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training administrator.

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password is composed of your name from your email address (John.q.public in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

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If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Burgess, Roy

From: Burgess, Roy
Sent: Monday, July 31, 2006 1:31 PM
To: Washington, Lessi M; David, Yunni B
Cc: Gorsuch, Neil M
Subject: RE: Mr. Neil Gorsuch CSAT II course

In view of Mr. Gorsuch's imminent departure and his completion of awareness courses in the past, he is not required to take the current course.

Roy Burgess
202.353.3531

From: Washington, Lessi M
Sent: Monday, July 31, 2006 12:08 PM
To: Burgess, Roy; David, Yunni B
Subject: Mr. Neil Gorsuch CSAT II course

Hello Roy and Yunni, How are you today?

I received a call from a Aloma Shaw for Mr. Neil Gorsuch in the Associate Attorney General' office. His last day is on Friday 8/4/6, he will be leaving DOJ. However he will still need to access to his account through August. He would like to know if he still has to take the CSATII Training course, since he is leaving Friday, and if he doesn't will his account privileges be suspended.
Can you let me know?

Thanks so much,
I appreciate it

Lessi
JCON Help Desk

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, July 31, 2006 1:44 PM
To: Gorsuch, Neil M
Subject: Status

Can we talk sometime today for 30 seconds?

What time will you be around that's not booked up?

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:48 PM
To: Jaffer, Jamil N
Subject: Re: Status

330 work?

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:44:16 2006
Subject: Status

Can we talk sometime today for 30 seconds?

What time will you be around that's not booked up?

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted](cell)
jamil.n.jaffer@usdoj.gov

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, July 31, 2006 1:48 PM
To: Gorsuch, Neil M
Subject: RE: Status

Yup. I'll come up unless I hear otherwise.

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted](cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:48 PM
To: Jaffer, Jamil N
Subject: Re: Status

330 work?

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:44:16 2006
Subject: Status

Can we talk sometime today for 30 seconds?

What time will you be around that's not booked up?

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted](cell)
jamil.n.jaffer@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:49 PM
To: Jaffer, Jamil N
Subject: Re: Status

I'm happy to come your way for a change.

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:48:16 2006
Subject: RE: Status

Yup. I'll come up unless I hear otherwise.

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:48 PM
To: Jaffer, Jamil N
Subject: Re: Status

330 work?

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:44:16 2006
Subject: Status

Can we talk sometime today for 30 seconds?

What time will you be around that's not booked up?

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Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, July 31, 2006 1:50 PM
To: Gorsuch, Neil M
Subject: RE: Status

No need for that - you're the one with a lifetime appointment. :)

But whatever works best for you is fine with me.

JJ
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jamil.n.jaffer@usdoj.gov

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Subject: Re: Status

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From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:48:16 2006
Subject: RE: Status

Yup. I'll come up unless I hear otherwise.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 2:00 PM
To: Jaffer, Jamil N
Subject: Re: Status

I will stop by yours

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:50:09 2006
Subject: RE: Status

No need for that - you're the one with a lifetime appointment. :)

But whatever works best for you is fine with me.

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Subject: Re: Status

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To: Gorsuch, Neil M
Sent: Mon Jul 31 13:48:16 2006
Subject: RE: Status

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To: Jaffer, Jamil N
Subject: Re: Status

330 work?

-----Original Message-----
From: Jaffer, Jamil N
To: Gorsuch, Neil M
Sent: Mon Jul 31 13:44:16 2006
Subject: Status

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jamil.n.jaffer@usdoj.gov

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, July 31, 2006 2:00 PM
To: Gorsuch, Neil M
Subject: RE: General Rules of Behavior Course Completion Reminder

JCON will get back with me today regarding that matter. I'll keep you posted. By the way, I finally completed my course and it wasn't bad. 17 pages of reading short paragraphs and you're done.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 1:25 PM
To: Shaw, Aloma A
Subject: Re: General Rules of Behavior Course Completion Reminder

Does than mean I have to do this even as a short timer?

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Mon Jul 31 12:42:58 2006
Subject: RE: General Rules of Behavior Course Completion Reminder

You are not capitalizing the first letter of your name for the password, e.g., [redacted]

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 8:06 AM
To: Shaw, Aloma A
Subject: FW: General Rules of Behavior Course Completion Reminder

I've tried to log in but failed. I think I've followed the "logging on" directions -- neil.gorsuch@usdoj.gov and [redacted] Please could you contact the right folks and tell them? I'd hate for my computer system to shut down (as they threaten) in my last week here! Thanks.

-----Original Message-----
From: noreply@usdoj.gov [mailto:noreply@usdoj.gov]
Sent: Monday, July 31, 2006 1:12 AM
To: Gorsuch, Neil M
Subject: General Rules of Behavior Course Completion Reminder

You are receiving this email as a reminder to take The Department of Justice (DOJ) annual General Rules of Behavior course. DOJ security regulations require that all employees and contractors receive General Rules of Behavior training annually. Failure to complete this course may result in loss of system access. If you believe you are receiving this notification in error, please see your training

system access. If you believe you are receiving this notification in error, please see your training administrator.

Review the instructions below and follow them to review the material and complete the course. There is additional information on the program's main screen to assist you. The course will take approximately 15-25 minutes to complete and must be completed by July 31, 2006.

LOGGING ON: Click on the link (https://jmdapps2.doj.gov/csatii). You log into CSAT II by using your external DOJ email address (e.g., john.q.public@usdoj.gov) as your LOGON ID. Your initial training password is composed of your name from your email address ("John.q.public" in this example) followed by @123. In this example the initial password would be John.q.public@123. Please note that the first letter of your name must be capitalized and the rest is 'lower case'. You will be prompted to choose a new password upon logging in to the training system for the first time.

LAUNCHING THE COURSE: After you have logged in, modified your password, and are then taken to the "Courses" screen, click on the course "General Rules of Behavior" under "Course Name". At the next screen, click on the blue triangle in order to start the training. You must have your browser set to allow pop-ups from this site.

NEED TO STOP WITHOUT FINISHING?; You may stop the training at any time and come back to it at a later date. Just log out, and when you are ready again, simply click on the link and log in again. The next time you log in, you'll be asked if you'd like to begin again or return to the point you left off. Your choice!

WHEN YOU HAVE FINISHED THE COURSE: When you have completed the training, please click on the "X" in the upper right hand corner of the pop-up window and then click on the purple bar at the top of the screen (where it says "click here when course is finished") to return to the course listing. Your completing the course meets your requirement for FY06. You receive instructions at the end of the course on how to print your certificate, should you desire one.

If you have any questions regarding accessing the course, please contact your component's Help Desk. Good luck with the course!

Thank you.

Gorsuch, Neil M

Subject:	speech
Start:	Tuesday, August 1, 2006 9:00 AM
End:	Tuesday, August 1, 2006 10:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 4:56 PM
To: Katsas, Gregory (CIV); Mercer, Bill (USAMT)
Subject: a/c waiver issue
Attachments: Conference Board Remarks-March 2-Ver 3.wpd; McCallum Testimony Final 03-06-06.doc; AttorneyClientWaiverMemo.pdf; USSC Testimony 03-15-06 v.3.doc; USSC Testimony 03-15-06 (short).doc; Waiver Memorandum.pdf

Some helpful background on the Thompson-McCallum memo issue

Neil M. Gorsuch
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U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

October 21, 2005

MEMORANDUM

TO: Heads of Department Components
United States Attorneys

FROM: Robert D. McCallum, Jr. RDM
Acting Deputy Attorney General

SUBJECT: Waiver of Corporate Attorney-Client and Work Product Protection

The Department of Justice places significant emphasis on the prosecution of corporate crimes. The Department's policy on charging business organizations is contained in the Memorandum from Deputy Attorney General Larry D. Thompson to Heads of Department Components and United States Attorneys, *Re: Principles of Federal Prosecution of Business Organizations* (Jan. 20, 2003) (hereinafter "*Thompson Memorandum*"), *reprinted in United States Attorneys' Manual*, tit. 9, Crim. Resource Manual, §§ 161-62. The *Thompson Memorandum* sets forth nine factors that federal prosecutors must consider in determining whether to charge a corporation or other business organization. One of the nine factors is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." *Thompson Memorandum* § II.A.4.

To ensure that federal prosecutors exercise appropriate prosecutorial discretion under the principles of the *Thompson Memorandum*, some United States Attorneys have established review processes for waiver requests that require federal prosecutors to obtain approval from the United States Attorney or other supervisor before seeking a waiver of the attorney-client privilege or work product protection. Consistent with this best practice, you are directed to establish a written waiver review process for your district or component. The *United States Attorneys' Manual* will be amended to reflect this policy. Such waiver review processes may vary from district to district (or component to component), so that each United States Attorney or component head retains the prosecutorial discretion necessary, consistent with their circumstances, to seek timely, complete, and accurate information from business organizations.

Remarks of
Associate Attorney General Robert McCallum
Delivered to the
Council of Chief Legal Officers
The Conference Board
March 2, 2006
Boca Raton, Florida

Thank you for that kind invitation to join you here in Florida. It is a pleasure to be with you this evening. And not just because it is currently ___ degrees in Washington, D.C. I very much appreciate the opportunity to discuss with you various issues that are of importance to Attorney General Alberto Gonzales and which may be of particular interest to you as leaders of some of America's most significant corporations.

This visit also gives me the opportunity to listen to you as representatives of corporate America and to report back to the AG about your concerns. The AG certainly recognizes that the role of corporate counsel has never been more challenging. Corporations today are adapting to new statutory and regulatory regimes and face increased scrutiny of all sorts. At the same time, American businesses are presented with unprecedented opportunities, both here and abroad, for growth and expansion. President Bush is committed to a low tax, pro-growth economic policy. He has actively addressed barriers to competition here at home and around the globe. And he has sought to enhance

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opportunities for Americans to reap the benefits of their innovation and efficiency through competition on a level global playing field. The AG is certainly interested in your views in all of these areas, although there will undoubtedly be differences in perspectives and emphasis.

Discussing these issues is also timely because last month marked the one year anniversary of Judge Gonzales' assumption of responsibility as our nation's chief law enforcement officer. He took that opportunity to reflect on what the Department has accomplished over the last year and to define our goals and set our priorities for the next year. That sort of annual assessment and planning is something that is very familiar to you in the business community.

Our DOJ priorities will not, for the most part, be any surprise to you: first and foremost, we are charged with combating and interdicting terrorism as part of the ongoing war on terror. Other priorities include reducing violent crime with particular emphasis on gangs and gun crime, attacking drug trafficking, especially the new scourge of methamphetamine; prosecuting cyber crime including the internet exploitation of children and enhancing the protection of intellectual property rights; enforcing civil rights and preserving civil liberties with a focus on voting rights, human trafficking, and fair housing; and, finally restoring and maintaining confidence in the integrity and ethics of both our public and private institutions through the

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prosecution of corruption and fraud at all levels.

Today, rather than discussing generally those broad priorities with you, I would like to get down in the weeds a little bit by touching briefly on a few more detailed issues that impact, or are part of, these six overarching areas and which I think might be of particular interest to you.

<u>Judicial Appointments</u>

Let me start with what many view as the most significant events in the legal world this past year, something that indirectly can impact each of these priorities, the confirmation of Chief Justice John Roberts and Associate Justice Samuel Alito to the Supreme Court of the United States.

These two men are widely recognized – even by their ideological detractors – as ranking among the preeminent legal minds of our generation.

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Each previously served this nation with distinction in a variety of positions in the White House and the Department of Justice. Prior to his confirmation, Chief Justice Roberts was regarded as one the foremost appellate advocates in the country, having argued a remarkable 39 cases before the Supreme Court. I happened to be on a panel with Justice Sandra Day O'Connor the day his nomination was announced by the President. She praised his nomination and told me that John was one of the five best advocates to appear before the Court during her entire tenure. High praise indeed. Justice Alito, for his part, served for fifteen years on the Third Circuit Court of Appeals, where he developed a record of careful and restrained judicial craftsmanship, and his law clerks over those many years, liberal Democrats and conservative Republican alike, turned out in droves to attest to Sam's remarkable legal mind and his even-handed objective, non-partisan, analytical approach to deciding every case.

President Bush has made clear his commitment to appointing highly-qualified men and women to the federal judiciary, who will interpret and apply the law rather than legislate from the bench. This philosophy of judicial restraint respects the rule of law, which in turn permits stability and predictability in the social and economic fabric of our nation, a matter of vital importance to all Americans.

This development is good news for corporate counsel as well. Businesses operate best when they can understand and

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predict their legal obligations. The rules governing areas such as labor and employment, tax, and the environment should be clear and consistently applied, as enacted by the legislative branch and signed into law by the executive branch, the two branches that are accountable to the governed through the political process.

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The importance of these nominations led some business groups to participate in the judicial confirmation process for the first time. The Administration was gratified by the support Justices Roberts and Alito received, for example, from the United States Chamber of Commerce and the National Association of Manufacturers. To those of you who were involved in that process, I say thank you for making your voices heard as concerned citizens. For those of you who were not involved, I ask you to consider being involved not only in such matters but also in the other great issues of the day whatever they may be. As leaders of your communities, it can and does make a difference.

Opening Markets & Promoting Fair Competition: Antitrust and Intellectual Property

The Department of Justice also remains focused on expanding opportunities for businesses to compete, both here and abroad, by leveling playing fields and lowering barriers to commerce. We know that given a fair shake, American companies can compete with anyone, anytime, anywhere. Two areas in particular I would like to highlight are our efforts fighting antitrust cartels and expanding protections for intellectual property.

Antitrust Efforts to Fight International Cartels

You may have seen news reports recently of a criminal investigation into an alleged international price fixing cartel in the air cargo market. This market includes both private and national air carriers. As this is an ongoing criminal

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investigation, I cannot say much about it. However, one remarkable item noted in the press reports is the involvement of foreign law enforcement and regulators in both Europe and Asia. One would have to question whether, a decade ago, foreign regulators would have joined the United States in a criminal investigation into a cartel that possibly included nationalized companies. This multi-national action reflects a lot of hard work in developing cooperative law enforcement relationships and educating other cultures about the benefits of open markets and fair, robust competition.

International cartels that target U.S. markets inflict significant injury on American businesses and consumers. Currently, there are more than 50 sitting grand juries investigating suspected international cartel activity, which accounts for almost half of the Antitrust Division's grand jury investigations. The subjects and targets of the Department's international antitrust investigations are located in roughly 25 different countries on six continents. Our investigations have uncovered meetings of international cartels in well over 100 cities in more than 35 countries, including most of the Far East and nearly every country in Western Europe.

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This Administration has prosecuted a remarkable range of international cartels covering markets including vitamins, textiles, construction, food and feed additives, chemicals, fine arts auctions, ocean tanker shipping, marine construction, and computers. The cartel activity uncovered in these cases has cost U.S. businesses and consumers billions of dollars annually.

In the last few years, the Department has prosecuted foreign executives from Austria, Belgium, Canada, France, Germany, Italy, Japan, Korea, Mexico, Norway, the Netherlands, Sweden, Switzerland, and the United Kingdom for engaging in cartel activity, resulting in heavy fines and, in some cases, imprisonment.

This growing worldwide consensus that international cartel activity victimizes businesses and consumers everywhere and the increased cooperation among law enforcement authorities around the world allows us to investigate and prosecute more effectively international cartels. It has provided us with increased access to foreign-located evidence and witnesses, which has been instrumental in the break-up of a number of international cartels. Let me give you one example.

Our investigation of bid-rigging on wastewater treatment plant construction contracts in Egypt, which were funded by USAID, was assisted by the execution of search warrants by foreign authorities. In that investigation, over

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100 German police officers assisted in the simultaneous execution of search warrants on multiple companies at several locations across Germany. In the past few years, foreign authorities from five different countries have executed search warrants at our request in more than a half-dozen of our international cartel investigations. This is a remarkable development in international cooperation.

Another significant improvement has been an expansion of international agreements addressing cartel activity. The Department has reached cooperation agreements with a number of foreign governments, including Brazil, Israel, Japan, and Mexico.

The bottom line here: safe harbors for international antitrust offenders are rapidly shrinking. And that can only be good for competition by American business.

Intellectual Property Protections

Turning to a different but related topic, one of the Department's priorities is the recognition and protection of intellectual property rights, both domestically and internationally. The American legal system has long recognized the salutary effects and economic benefits of such protections. Indeed, the protection of intellectual property is among the powers expressly delegated to Congress by Article I of the Constitution in 1789. Those benefits are undermined, however, when other nations permit, whether overtly or tacitly, infringement on intellectual property rights.

IP infringement is often ignored or marginalized in the public consciousness as not being a real crime that causes harm. After all, which is more reprehensible: murder, aggravated assault, robbery, or a heinous counterfeiting of the latest music CD? We think of violations of IP rights as producing only pure economic loss: i.e. lost sales of designer clothes or bags, counterfeit DVD movies etc. But the

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aggregate economic impact those violations can be astounding. And we should also never forget that those same IP rights that protect against counterfeit CDs can, when violated in other contexts have serious and lasting real world impact in terms of personal injury and property damage.

For example, in March 2002, a boy living in New York underwent a life saving liver transplant. After the operation, he began a regimen for recovery, which included a weekly injection to treat anemia. While the operation had appeared successful, his anemia did not improve. In fact, after receiving his weekly injection, he began to feel excruciating painful spasms in his legs. The doctors were baffled, and it took eight painful weeks to determine the cause. The medicine was counterfeit, and did not contain the dosage required to treat his condition.

Nor was this an isolated event. In another case, a pharmaceutical company discovered in circulation a counterfeit version of its pills made with a combination of floor wax and a yellow, lead-based paint normally used to mark roads.

And, during 2004, another child could have been killed one night when his cell phone battery exploded, setting fire to his desk, computer monitor and bedroom carpet. An investigation discovered that the battery had been counterfeit.

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Intellectual property violations are widespread. Criminals target highly identifiable, commonly used and respected trademarked items. Besides CDs, DVDs, watches, and designer purses, consider prescription drugs, automobile and airplane parts, batteries, insecticides, baby food, and satellite signals, just to name a few.

Misappropriation of intellectual property has a dramatic impact on the national economy. The Office of the United States Trade Representative estimates that intellectual property theft worldwide costs American companies some $250 billion a year. That's Billion with a "B". This in turn costs the American economy hundreds of millions of dollars in lost wages, investment dollars, and taxes, as well thousands of jobs.

To take a more narrow focus, the International Intellectual Property Association commissioned a recently-released study on the value of copyright industries. That study estimated that during 2002, American copyright industries accounted for 6 percent of the nation's gross domestic product. This $626 billion contribution exceeded the GDPs of nations including Taiwan and Australia. Also during 2002, these industries employed 5.48 million workers, or 4 percent of the workforce, and sold $89.26 billion to foreign nations.

The Department has committed substantial resources to fight intellectual property crime. The Criminal Division

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includes a Computer Crime and Intellectual Property Section, or CCIPS. CCIPS attorneys prosecute IP cases and provide specialized guidance and training to prosecutors around the country. CCIPS attorneys also develop relationships with foreign prosecutors to strengthen the global response to IP theft. From 2002 through 2004, CCIPS was expanded by more than 50 percent (22 to 35 attorneys).

In addition to CCIPS, which is housed in Washington, each United States Attorney's Office now includes at least one, if not more, Computer and Telecommunications Coordinator, or "CTC." These prosecutors are specially trained to prosecute computer and IP cases, and can coordinate and train their colleagues in these efforts.

In July 2001, the Department also established 12 CHIPS – Computer Hacking and Intellectual Property – Units. These teams, which are located around the country, work closely with local law enforcement and prosecutors to prosecute and prevent computer crime and intellectual property offenses.

These efforts have had dramatic results. For instance:

- **In September 2004, in Operation Digital Marauder, over $56 million in counterfeit software was seized, resulting in charges against 11 individuals in California, Washington, and Texas.**

- **In August 2004, in Operation Digital Gridlock, more than 40 terabytes of illegally copyrighted**

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materials was sized from computers in Texas, New York, and Wisconsin in the first federal action against "peer-to-peer" networks. For those of you who, like me, have no idea what 40 terabytes represents: consider for a moment that it is the equivalent of 60,000 movies or 10.5 million songs.

In 2004, the Department also took the extraordinary step of convening a task force to determine areas where we might enhance our enforcement efforts. The task force gave a number of recommendations designed to increase the Department's effectiveness. Attorney General Gonzales has accepted the Task Force's recommendations, and the Department is now working to implement them. These include:

- **Expanding the number of prosecutors deployed to fight intellectual property crimes, including setting up additional CHIPS units in key regions, and increasing the resources available to the CCIPS unit in Washington;**

- **Recommending increases in FBI resources devoted to IP investigations;**

- **And, focusing on international criminal organizations involved in intellectual property crimes.**

This last recommendation is particularly interesting, because it recognizes that IP crime is largely unlimited by

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national borders. In fact, as global interconnectivity grows through computers and satellite communications, intellectual property crimes can be committed transnationally, with a criminal in one country stealing property from another, and sending it to a third in mere minutes. Moreover, without the cooperation of local authorities, clandestine (or in some cases not-so-clandestine) factories can produce infringing products at a tremendous rate. These goods can then be injected into the global commerce stream where they become harder to detect.

The task force also made several recommendations on international cooperation, such as deploying personnel to key United States embassies (Hong Kong is one example) to serve as "Intellectual Property Law Enforcement Coordinators." These individuals would coordinate intellectual property enforcement efforts in the region and serve as a liaison with local law enforcement. Another example is the Department's negotiation of agreements to ensure cooperation on intellectual property crimes with all EU member countries.

The AG's report also stressed the need to train foreign prosecutors and law enforcement in handling these crimes, in essence to spread a culture of respect for intellectual property. During the last year, CCIPS prosecutors met with more than 2,000 prosecutors, investigators, judges and intellectual property experts from 94 countries to provide training and technical assistance, to study criminal intellectual property offenses in foreign countries, and to

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develop law enforcement contacts necessary for international protection of IP rights. The Department has already provided training on intellectual property enforcement for government officials from Brazil, Brunei, Cambodia, Chile, Colombia, Indonesia, Korea, Philippines, Malaysia, Mexico, Myanmar, Singapore, Thailand, and Vietnam.

At a time when many areas of the DOJ are facing resource cuts and reallocations, this increase in resources in this area is a very real indication of the AG's commitment to this important priority. The DOJ takes these IP issues seriously, and we are doing something about them, both criminally and civilly.

Corporate Cooperation & Waiver of Privilege

Also of interest to you all, I know, is the Department's effort to promote and enforce appropriate ethical and professional standards of integrity and responsibility in both the public and private sector. In the wake of corporate scandals like Enron and WorldCom and of public corruption scandals like the recent guilty plea of Congressman Randall "Duke" Cunningham, President Bush made clear that the nation cannot tolerate fraud and corruption which damages the confidence of our citizens and the world community in the fairness, honesty, and reliability of our public and private institutions.

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One issue with regard to the Department's enforcement of appropriate corporate conduct that has drawn significant comment and provoked much discussion has been the Department's consideration of a corporation's cooperation in making criminal charging decisions and sentencing recommendations - and more specifically waivers by corporation of applicable privileges as part of that cooperation.

In a memorandum dated January 20, 2003, then-Deputy Attorney General Larry Thompson set out the elements prosecutors should consider in determining whether to charge a corporation with a crime. Among these was cooperation and voluntary disclosure.

As was set out in the memo, a prosecutor may consider -- quote -- "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

This last point has raised concern in the private bar and in the business community, and we at DOJ have been actively engaged in a dialogue with the bar and representatives of business. For instance, last year at this time, we invited Bill Ide and others to come to a national conference of US Attorneys, not only to explain their perspective but also to listen to the views of the US

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Attorneys. There are definitely two important interests that all sides in this dialogue recognize and embrace: on the one hand, the societal benefits from the preservation of certain confidential communications under various legal privileges and, on the other hand, the societal benefits from the vigorous enforcement of the criminal laws establishing norms and standards for corporate and public conduct. Neither is absolute, and the real issue is determining the right balance when those important goals are or perhaps seem to be in conflict one with the other.

We have heard the claim that federal prosecutors abuse their prosecutorial discretion described in the Thompson memo by routinely demanding inappropriate waivers of privilege at the very outset of an investigation. Others have argued that, even if waivers are not routinely sought, the mere risk that a waiver might be sought will discourage corporate employees from seeking legal advice from their corporate counsel and from being truly candid with counsel about the factual circumstances surrounding their need or desire for the legal advice. It has been asserted that corporate counsel will be deterred from undertaking internal investigations or putting advice in writing based upon the mere perception, even if inaccurate, that waivers of privilege could possibly be sought. Let me take these in turn.

First, the concern of the overzealous prosecutor. The Thompson memorandum itself makes clear several factors to be considered regarding a charging decision, one of which is the corporation's cooperation with the investigation, and the

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waiver of privileges is not an absolute requirement in establishing a corporation's cooperation. Rather, the Thompson memo states that prosecutors should consider waiver "where necessary to provide timely and complete information" and then only as "one factor in evaluating the corporation's cooperation."

Second, the memo makes clear that a cooperative "disclosure" (note that I am not calling it a "waiver") may, under many circumstances, be limited and precisely defined so as not to constitute a technical waiver of some established legal privilege. The purpose of any waiver or disclosure is to provide the government with timely access to complete and accurate information necessary to its inquiry. This standard may be satisfied by factual information, the identification of witnesses, and the production of non-privileged documents. Other investigations may require more, including possibly redacted notes of witness interview's or even contemporaneous advice given to the corporation concerning the conduct at issue. Each investigation is unique, and each has aspects to it that are inherently dependent on the discretion of the prosecutor. I often describe this process with the peeling an onion analogy; prosecutors generally start with the least intrusive disclosures that don't involve any waiver of legal privileges and go further in a layered approach only as and when necessary, Indeed, absent appropriate circumstances, the Thompson memo suggests: "prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation."

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Thus, the Thompson memo is itself quite balanced and deferential to legal privileges, subject to the timely, accurate and complete information needs of the prosecutor. We at the Department continue to embrace the Thompson memo as appropriate guidance to federal prosecutors, and we do not believe that it has been or is being misapplied through "routine" requests for privilege waivers.

While we at DOJ remain committed to the standards set forth in the Thompson memo, we did want to be responsive to what I will call the "perception concern" I mentioned: that is the claim that even if waivers are not being inappropriately sought, there is a risk that they might be and so attorney client communication is "chilled". In October 2005, during a time when I was serving as Acting Deputy Attorney General, I issued additional guidance which I intended to address this issue in part. That guidance required each United States Attorney's Office, and each DOJ component, to develop written review procedures when waivers of privilege were necessary to obtain timely, complete, and accurate information from business organizations. While the review process may vary from office to office in order to accommodate local needs, a necessary element is that a prosecutor must have the approval of the United States Attorney or a supervisor-level AUSA before seeking a waiver of the attorney-client or work product privilege. This process ensures that waiver requests are based upon a deliberate and considered evaluation of all

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of the circumstances affecting the exercise of the prosecutor's discretion in that case.

The real issue, to my mind, regarding these waiver and disclosure issues is the issue of whether there can be a limited waiver or disclosure to regulators or prosecutors that does not necessarily result in the protected information becoming available to civil litigants in claims against the corporation. That is an issue on which we need to have much more discussion since there is no defined DOJ position on that concept at this time. The waiver rule generally has been that waiver of a privileged communication to one party waives the privilege as to all other parties. However, at least one court of appeals, the Eighth Circuit, has taken the contrary view with regard to disclosures to the government. Of course, other courts have disagreed with the Eighth Circuit. A number of proposals have been floated to address the problem. Bills have been introduced into Congress that would create a federal rule of privilege under which waiver to the government would not constitute a waiver in subsequent private civil litigation, and a Federal Rules Advisory Committee of the Judicial Conference has also discussed a proposal that would amend the Federal Rules of Evidence to achieve this same goal.

Let me assure you that the Department is actively engaged in this issue. We understand the importance of legal privileges in ensuring the free flow of candid communications between corporate counsel and their clients,

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and we understand that such appropriate communications can contribute to sound corporate governance. At the same time, we take very seriously our duty to enforce the criminal law as prosecutors, and we will use all of the appropriate prosecutorial tools to do so. Both factors benefit our society and our economy. The devil is, of course, always in the details, and so we at DOJ are interested in continuing this discussion on the civil litigation issue with all interested parties, including but not limited to representatives of the ABA and the business community.

Again, let me thank you very much for the invitation to join you this evening. Judge Gonzales very much values the Department's relationship with groups like yours within the private sector, and he is committed to developing and maintaining those relationships in order to allow for candid communication and the open exchange of ideas on issue of common interest, whether we agree on every point or not.

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Testimony of

Associate Attorney General Robert McCallum

Delivered to

The United States House of Representatives
Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security

March 7, 2006

Mr. Chairman, Ranking Member Scott, and members of the subcommittee, thank you for the opportunity to appear before you today.

President Bush, this Congress, and the American people have all embraced a zero tolerance policy when it comes to corporate fraud. In passing the landmark Sarbanes-Oxley legislation in 2002, Congress gave the Department clear marching orders: prosecute fully those who would use their positions of power and influence in corporate America to enrich themselves unlawfully, restoring confidence in our financial markets.

We have done exactly that. Specifically, Mr. Chairman, from July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents, as well as millions of dollars in damages for victims of fraud.

Much of our success depends on our ability to secure cooperation. As Chairman Sensenbrenner noted recently - quote -

> By encouraging and rewarding corporate cooperation, our laws serve the public interest in promoting corporate compliance, minimizing use of our enforcement resources, and leading to the prosecution and punishment of the most culpable actors.

The Department's approach in corporate fraud cases is set forth in the so-called "Thompson Memo." Pursuant to that Memorandum, the degree to which a corporation cooperates with a criminal investigation may be considered by

prosecutors as one factor when determining whether or not to charge the corporation with criminal misconduct.

Cooperation in turn depends on -- and here I quote -- "the corporation's willingness to identify the culprits within the corporation, including senior executives; to make witnesses available; to disclose the complete results of its internal investigation; and to waive attorney-client and work product protection."

Some critics have suggested that the Department is contemptuous of legal privileges. Nothing could be further from the truth. We recognize that the ability to communicate freely with counsel can serve legitimate and important functions and encourage responsible corporate stewardship.

At the same time, we all recognize that corporate fraud is often highly difficult to detect. Indeed, in recent years we have witnessed a series of highly complex corporate scandals, which would have been difficult to prosecute in a timely and efficient manner without corporate cooperation, including in some instances the waiver of privileges.

The Thompson memo carefully balances the legitimate interests furthered by the privilege, with the societal benefits of rigorous enforcement of the laws supporting ethical standards of conduct.

The so-called "McCallum Memo," issued during my tenure as Acting Deputy Attorney General last year, adds to this balance. The McCallum Memo first ensures that no federal prosecutor may request a waiver without supervisory review. Second, it requires each U.S. Attorney's Office to institute a written waiver review policy governing such requests.

Mr. Chairman, I recognize that despite these limitations there are some critics of the Department's approach. While I look forward to addressing specific concerns that Members of the Subcommittee may have about our policy during your questioning, let me make a few preliminary observations.

First, voluntary disclosure is but one factor in assessing cooperation, and cooperation in turn is but one factor among many considered in a charging decision. Disclosure thus is not required to obtain credit for cooperation in all cases; corporations may cooperate most readily without waiving anything simply by identifying the employees best situated to provide the government with relevant information. Nor can the government compel corporations to give waivers.

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Corporations are represented by sophisticated and accomplished counsel who are fully capable of calculating the benefit or harm of disclosure. Sometimes they agree; sometimes they do not. Whether to disclose information voluntarily always remains the corporation's choice. And in fact, voluntary disclosures are frequently initiated not by the government, but by corporate counsel.

Second, under our process, waivers of privileges should not be "routinely" sought. Indeed, they should be sought based upon a need for timely, complete, and accurate information, and requested pursuant to established guidelines, and only with supervisory approval.

Third, our approach should not diminish a corporation's willingness to undertake internal investigations. Wholly apart from the government's criminal investigations, corporate management owes shareholders a fiduciary duty to investigate potential wrongdoing and to take corrective action. To the extent that shareholders are best served by timely internal investigation and cooperation with the government, forestalling criminal charges, responsible management will always do so.

Finally, in some jurisdictions, voluntary disclosure to the government waives privileges as to civil litigation plaintiffs seeking money damages, thus compounding the corporation's litigation risk. Addressing this concern, the Evidence Committee is currently considering a rule that would limit use by others of privileged materials voluntarily provided by a corporation in cooperation with a governmental investigation. We will watch that debate with interest.

In summation, Mr. Chairman, we believe that we have struck an appropriate balance between traditional privileges and the American people's legitimate law enforcement needs.

Thank you again for the opportunity to testify, and I look forward to your questions.

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Testimony of

Associate Attorney General Robert McCallum

Before

The United States Sentencing Commission

March 15, 2006

Thank you Chairman Hinojosa, and members of the committee, for inviting the Justice Department to testify today. I will address the attorney-client privilege issue. Mr. Hertling will then address firearms, and Ms. Avergun will address steroids. We appreciate the opportunity to provide the Commission with our insights and experience.

As you know, the guideline commentary currently states clearly that waiver of privilege is not a prerequisite to securing a reduction in sentence for cooperation, except where necessary to provide timely and thorough disclosure of all known pertinent information. The Commission has been asked to amend this language to provide that waiver of privilege can never be considered in determining whether a business organization merits a reduction in sentence for cooperation.

Mr. Chairman, I have submitted a more lengthy statement for the record, which sets out the Department's views in full. In order to leave ample time to accommodate whatever questions the Commission has, let me confine myself to a few opening observations.

First, I find myself in the peculiar position of defending text that the Department neither sought nor enforces. In 2003-2004, the Commission undertook a lengthy and deliberative process to amend the Guidelines as they applied to organizational defendants. At that time, as the final report of the Commission's ad hoc committee makes clear, the United States saw no need to reference privilege waivers in the Guidelines. Rather, it was some of the parties today seeking to amend the text who two years ago argued that it was indispensable.

The Guidelines, particularly as applied to corporate entities, provide a model for behavior. As has been noted elsewhere, the revision of Section 8 was designed to create incentives for business organizations to self-investigate, self-report, and generally to create greater transparency and greater accountability. As currently written, the guidelines provide a roadmap for effective internal compliance efforts.

Frequent amendment, particularly on short notice and a thin record, undermines this goal.

Second, the government unqualifiedly opposes the proposed amendments. The proposed changes would be counterproductive to legitimate and important law enforcement efforts.

Section 8 of the Guidelines is intended to promote greater compliance, self-examination, and cooperation with law enforcement. Consideration of a corporation's voluntarily sharing privileged material is a key part of that regime. Corporations willing to cooperate, by sharing privileged materials if necessary, should get credit for doing so, just as individual defendants willing to cooperate with the government may be given a break.

Yet, you have been asked not only to remove the offending text, but to conclude that waiver should never be considered in determining whether a corporation has been cooperative. Hence, a corporation could claim full credit for cooperation with an investigation – a fact it would no doubt tout in the press – while hiding proof certain of its guilt.

This would undermine the Commission's efforts to develop greater transparency and ethical conduct by corporate management, and would further undermine the public's trust in our markets and business leaders. Chairman Hinojosa, members of the commission, I submit respectfully that this must not be the law.

Third, it has been argued that the Department routinely demands waivers of privilege on pain of prosecution. This is simply not the case.

The Department's own waiver requests are guided by then-Deputy Attorney General Thompson's January 2003 memorandum on charging business organizations. Under those rules, a prosecutor considering charging a business organization should consider a range of factors, only one of which is cooperation. Cooperation, in turn, comprises a number of elements, only one of which is waiver. The Department's policies make clear that waiver is not required to avoid indictment.

Moreover, such waiver requests as the Department does make are limited. Waiver requests focus principally on factual work product such as summaries and raw notes, rather than materials reflecting an attorney's mental processes, and rarely if

ever inquire into privileged materials concerning the Department's criminal investigation.

In 2004, the ad hoc committee surveyed the United States Attorney's Offices to determine for itself the rate at which waivers were being requested. The committee concluded that waiver requests occurred at a low rate: --quote-- "[R]equest for waiver . . . is the exception rather than the rule."

Since then, the only significant change in the Department's practice has been as to clarify the restrictions on the circumstances in which waiver may be sought. In an October 2005 memorandum, while Acting Deputy Attorney General, I directed each United States Attorney's Office to develop written guidelines for governing this process. Those guidelines must require the approval of either the United States Attorney or other appropriate supervising attorney before such a request may be made.

In the Department's experience, corporations are represented by sophisticated corporate counsel perfectly capable of evaluating the benefits of disclosure: sometimes they choose to; and sometimes they do not. Moreover, corporate attorneys are not at all shy about complaining to the Department about what they perceive as unfair tactics. Yet, the Office of Professional Responsibility has not received a single complaint of a prosecutor improperly demanding waiver.

Nothing introduced to the Commission demonstrates otherwise. The testimony submitted in November consists almost entirely of vague allegations, lacking in the contextual details necessary to evaluate whether a purported waiver request was proper. The surveys of corporate and defense counsel submitted to the Commission similarly lack scientific or statistical significance, and lack the detail necessary to properly appraise the allegations.

Fourth, the Commission has previously heard and rejected the arguments against ever allowing consideration of waiver.

First, corporate executives are unlikely to suspect compliance efforts. Wholly apart from any government investigation, corporate executives owe their shareholders a fiduciary obligation to know what is going on in their company, to investigate, and to fix problems. Most executives take that obligation seriously, and will conduct internal compliance programs.

Nor does the possibility of waiver undo the privilege for corporate employees seeking to speak with corporate counsel. It is already the case that an employee's discussions with corporate counsel are not privileged. Corporate counsel represents the business, not the individual, and is obliged to inform the employee of that fact at the start of any interview. Whatever additional disincentive to talk the possibility of disclosure adds is marginal at best.

Finally, it has been argued that waivers increase a corporation's civil exposure, as waiver to the government waives the privilege as to all other plaintiffs. While little has been said about this problem, I suspect that it is, in fact, foremost in the mind of corporate counsel.

We are not unmindful of this concern, and in fact several fixes have been proposed. Most significantly, the Rules Committee is considering a federal evidence rule that would specifically exempt disclosures made to law enforcement from waiver.

We at the Department will watch this development with interest, as should you at the Commission. I respectfully suggest in the event that such a rule is adopted much of the opposition heard by the Commission to the current commentary will dissipate.

Mr. Chairman, members of the committee, the Department respectfully urges you to let lie the text you adopted two years ago.

Thank you. I would be happy to answer any questions you may have.

Testimony of

Associate Attorney General Robert McCallum

Before

The United States Sentencing Commission

March 15, 2006

Thank you Chairman Hinojosa, and members of the committee, for inviting the Justice Department to testify today. I will address the attorney-client privilege issue. Mr. Hertling will then address firearms, and Ms. Avergun will address steroids. We appreciate the opportunity to provide the Commission with our insights and experience.

As you know, Chapter 8 of the sentencing guidelines, which regards the sentencing of business organizations, provides for a reduction in sentence for cooperation. Note 12 to Section 8C2.5 addresses the nature of cooperation. Specifically, it states that waivers of privilege are <u>not</u> a prerequisite to securing a reduction in sentence for cooperation, except where necessary to provide timely and thorough disclosure of all known pertinent information.

I find myself in the peculiar position of defending text that the Department neither sought nor enforces. This provision was in fact sought only two years ago by some of the very parties who now petition for its amendment. However, because the alternatives proposed would be counterproductive to legitimate and important law enforcement efforts, the Department urges the Commission not to revisit this recent amendment.

The contested text must be understood in its historical context. Three years ago, this Commission undertook a lengthy, careful, and deliberative process to amend Section 8 in light of Sarbanes-Oxley and the climate of heightened corporate responsibility. The Commission formed an ad hoc advisory committee to review in detail the rules governing organizational sentencing. That committee included some of the leading organizational and white collar crime practitioners. After extensive deliberation, in October 2003, that committee returned an exhaustive 136 page report, which included a full 12 page discussion on the effect of privilege waivers.

The committee fully canvassed the arguments both for and against the use of privilege waivers. Indeed, the committee's final report would be familiar reading for anyone familiar with the debate today.

The committee reviewed the memoranda issued by then-Deputy Attorneys General Holder and Thompson, addressing the consideration given to voluntary disclosures in determining corporate cooperation. The committee recognized that requests for waiver are neither automatic nor mandatory, and that the government's ultimate goal is to secure all information pertinent to alleged corporate wrongdoing, whether or not that requires waiver.

Of particular significance, the committee surveyed the United States Attorney's Offices to determine for itself the rate at which waivers were being requested. The committee concluded that waiver requests occurred at a low rate: "[R]equest for waiver . . . is the exception rather than the rule." Indeed, the Southern District of New York, the single largest United State Attorney's Office, reported having requested a waiver in only 4 cases.

Testimony from the defense bar, on the other hand, contended that the possibility of a future waiver of privilege would: (i) chill corporations' incentives to conduct internal investigations; (ii) chill employees' willingness to cooperate with corporate counsel; (iii) and expose the corporation to litigation risk from other civil plaintiffs. These are, of course, the same arguments sounded today.

The ad hoc committee's report is quite clear on one point--who sought the new language. I quote the committee's report – "The U.S. Department of Justice sees no need for mentioning privilege waivers in the organizational sentencing guidelines." Rather, this demand came from some of the very groups who now oppose it. Again, I quote – "Several members of the defense bar testified that the organizational sentencing guidelines' silence on this issue permits, if not encourages, the practice of requiring waivers. . . ." The absence of such a mention, they argued, "could create a danger that required waivers will become widespread and that organizations will be increasingly disciplined to self-police, self-report, and cooperate. . . ."

As requested by defense counsel, the ad hoc committee recommended language that made clear that waiver is not generally required in order for a corporation to be deemed cooperative, while also noting the possibility of some instances in which voluntary disclosure might be necessary in order to satisfy the requirements of cooperation.

The Commission, upon receipt of this report, extensively amended Section 8. This amendment included language directed to the defense bar's concerns. As you well know, Note 12 to Section 8C2.5 was amended to add the following language:

> Waiver of attorney-client privilege and of work product protections is not a prerequisite to a reduction in culpability score . . . unless such waiver is necessary in order to provide timely and thorough disclosure of all pertinent information known to the organization.

In its explanatory note, the Commission observed "that such waivers will be required on a limited basis," consistent with the government's testimony. This amendment substantially implemented the ad hoc committee's recommendation.

Now, barely two years later, the Commission is asked to perform an about-face. The relevant starting point, therefore, must be the question "What has changed?" The answer, Mr. Chairman, is "nothing that merits reconsideration."

In 2003 and 2004, the committee and the Commission were presented with and considered all of the arguments now raised. The Committee's report makes that clear.

The Thompson and Holder memoranda both pre-dated the ad hoc committee's inquiry. In fact, as regards waivers, the 2003 Thompson memorandum was substantially unchanged from the June 1999 Holder memo. Each made clear that waiver of privilege is not required for a business organization to be deemed cooperative. Rather, waiver is but one factor of many in the cooperation analysis, which in turn is but one factor in the Department's charging decision. This remains the case.

Nor have requests for extensive waivers become commonplace. Indeed, the Department deals routinely with sophisticated corporate counsel who are zealous in their defense, and not at all shy about complaining to the Department about what they perceive as unfair tactics. Yet, the Office of Professional Responsibility has not received a single complaint of a prosecutor improperly demanding waiver.

Even in those instances where it does request a waiver, the Department narrowly tailors its requests. Waiver requests focus first on factual materials – work product such as summaries and raw notes – rather than materials reflecting an attorney's

mental processes. Indeed, a corporation may well cooperate simply by directing the government to witnesses its counsel has determined to possess responsive information. Moreover, as the Thompson memorandum states: "Except in unusual circumstances, prosecutors should not seek a wavier with respect to communications and work product related to advice concerning the government's criminal investigation." Thus, under the Thompson memo, waiver is kept to a minimum.

In fact, the only significant change in the Department's practices from those considered in 2003 and 2004 clarifies the restrictions on the circumstances in which waiver may be sought. In an October 2005 memorandum, while Acting Deputy Attorney General, I directed each United States Attorney's Office to develop written guidelines for governing this process. Those guidelines must require the approval of either the United States Attorney or other appropriate supervising attorney before such a request may be made.

The proponents of the proposed amendment rely heavily on a survey distributed to the National Association of Criminal Defense Lawyers and the Association of Corporate Counsel. These, they argue, demonstrate that Federal authorities routinely demand the waiver of core privileged materials. I urge the Committee to study these surveys closely, for, respectfully, they cannot bear the weight put upon them.

As is admitted, the surveys lack scientific or statistical significance. Indeed, each distribution generated a low, and possibly self-selective, response set. Many questions are too general and lack sufficient context to be helpful. For instance, the conclusion that 96 percent of corporate counsel agree that the attorney client and work product privileges "serve an important purpose in facilitating their work" is remarkable only for the dissenting 4 percent.

I did think it interesting, however, that when asked whether, post-Enron, their client had "personally experienced an erosion in protections offered by privilege/work product," fully 70 percent of corporate counsel responded "no." This hardly squares with the dire picture painted by the survey's proponents.

These surveys compare poorly with the ad hoc committee's own inquiry in 2004, when it found that waiver requests are the exception, not the rule. The fact is that the government's approach has not changed since 2004. No party has submitted credible evidence to the contrary.

Also unchanged since 2004 is the need for corporate cooperation. From July 2002 through December 2005, the Department secured more than 900 corporate fraud convictions, including 85 presidents, 82 CEOs, 40 CFOs, 14 COOs, 17 corporate counsel or attorneys, and 98 vice-presidents. Many of these cases involved highly complex corporate scandals, which would have been difficult to prosecute in a timely and efficient manner without corporate cooperation, including in some instances the waiver of privileges. Absent cooperation, some of these crooks would have gone free, further undermining the public trust in our markets, and in our business institutions.

Section 8 of the guidelines is intended to promote greater compliance, self-examination, and cooperation with law enforcement. Consideration of a corporation's voluntarily sharing privileged material is a key part of that regime. Corporations willing to cooperate, by sharing privileged materials if necessary, should get credit for doing so, just as individual defendants willing to cooperate with the government may be given a break. Therefore, we urge you to leave in place the guidelines commentary.

Moving to the requests that you amend the commentary, it is instructive to note precisely what the Commission is being asked to do. The commentary today recognizes that waiver is not necessary for cooperation, except in certain circumstances. The proposed amendments would provide that non-disclosure may never be considered in determining whether a corporation has been cooperative. Hence, a corporation could claim full credit for cooperation with an investigation – a fact it would no doubt tout in the press – while hiding proof certain of its guilt.

The ad hoc committee in 2004 cited then-United States Attorney James Comey's testimony on this point, noting that "a prohibition on requests for waiver would not serve the public interest in pursuing wrongdoing because it would allow organizations to raise the organizational standing sentencing guidelines as a shield when prosecutors believe they are not doing enough to cooperate."

Such conduct would undermine, rather than further, the Commission's efforts to develop greater transparency and ethical conduct by corporate management, and would further undermine the public's trust in our markets and business leaders. Chairman Hinojosa, members of the commission, I submit respectfully that this must not be the law.

In addition to the commentary itself, the thinly veiled target of this criticism is the Department's own charging practice. Several witnesses asserted that the 2004

commentary legislatively sanctioned the Department's practices regarding waiver requests. Of course, it did no such thing: the Commission's sentencing guidelines and the Department's charging decisions are unrelated. However, the hope, no doubt, is that by repudiating the 2004 amendment, the Commission will be understood as repudiating the Department's approach. Yet the arguments raised before, and repeated today, provide no basis for such a change.

The Commission has heard from several substantial organizations and individuals urging change. Indeed, many of the individuals who have appeared before, or have written to, the Commission are friends and former colleagues of mine. Their arguments have, by and large, been previously considered by the Commission. However, let me address them briefly.

It has been asserted first and foremost that the commentary text supports a culture in which waivers are mandatory and routinely required. This claim is, however, inconsistent with the Department's rules and experience, and is largely unsupported.

The commentary makes clear that waiver requests are the exception and not the rule: waiver is <u>not</u> a prerequisite for cooperation, except where necessary to provide timely and thorough disclosure of all pertinent information. This is consistent with the Department's practice. As the Thompson memo states, "the Department does not . . . consider waiver . . . an absolute requirement"; rather it constitutes only "one factor in evaluating the corporation's cooperation."

The McCallum memo reinforces this selectivity by permitting waivers only pursuant to written guidelines requiring supervisory approval. In the Department's experience waivers are not routinely requested.

I have already addressed the surveys submitted to the Commission. In addition to these, some commentators have proffered to the Commission anecdotal assertions that the government routinely seeks waivers. These, unfortunately, lack the level of specificity necessary to be of use.

Indeed, the testimony submitted to the Commission in November contains but a single specific example of a Department attorney requesting a waiver. And in that instance, far from being cowed into a waiver, the company apparently declined the request.

The balance of the testimony simply asserts that the government routinely forces corporations to waive privileges, without specific example or context. Absent specificity, such assertions are difficult to evaluate. For example, it is a far different thing to ask a company to waive the work product privilege only to identify employees determined to have responsive information, than it is to demand the wholesale disclosure of core attorney-client privileged materials. The testimony fails to distinguish between the two, preferring to lump all such claims together.

In our experience, corporations are represented by competent and sophisticated counsel, who can evaluate for themselves the benefits and risks of disclosure. Sometimes they choose to; and sometimes they choose not to.

The second major criticism levied at the Guidelines is that by rewarding companies for waiving a privilege, the commentary undermines the effectiveness of internal corporate compliance programs. Management will either stop them entirely, or at least seriously water them down.

This assertion does not stand up in the face of experience. In our work we have seen neither a reduction in the effectiveness of internal compliance programs, nor an unwillingness to use them. Several reasons suggest why:

Wholly apart from any government investigation, corporate executives owe their shareholders a fiduciary obligation to know what is going on in their company, to investigate, and to fix problems. Most executives take that obligation seriously, and will conduct internal compliance programs.

Moreover, in many instances the internal investigation is undertaken by "new" management into the activities of "old" management. New management has a healthy personal interest in unearthing the sins of its predecessors – to make sure they are credited properly to the discredited former managers. Any delay could blur responsibility as to new management, and also extend the cloud over, and the financial impact to, the company.

In fact, an increased likelihood of disclosure to the government should increase, not decrease, management's desire to "get it right," which includes seeking careful legal counsel. In the event of scrutiny, it will not help a manager to have never sought legal advice, and to have shirked internal compliance efforts. Indeed, such conduct reflects a pre- rather than post-Enron mentality.

The third oft-sounded criticism is the assertion that an increased likelihood of disclosure to the government will deter employees from seeking out and speaking with corporate counsel. The ABA, for instance, testified to the importance of "the ability of the individuals with knowledge to speak candidly and confidentially with the lawyer conducting the investigation," and argued that "any uncertainty as to whether attorney-client and work product privileges will be honored makes it more difficult for companies to detect and remedy wrongdoing."

The flaw in this argument, however, is that no such privilege exists. It is hornbook law that corporate counsel does not represent individual employees, even the executives, but rather represents the company. In a conversation between an employee and corporate counsel, the privilege exists between the corporation and its lawyer, not between the individual and the lawyer. The privilege is the corporation's to keep or to waive as best suits its interest, not the employee's. Indeed, competent corporate counsel opens internal investigation interviews specifically by informing the employee of this fact. Whatever additional disincentive to talk the possibility of disclosure adds is marginal at best.

A related criticism claims that the guidelines present employees with a "Hobson's Choice" – speak to corporate counsel and risk disclosure, or risk adverse employment action. The blame here is misplaced, however, for the difficult choice is caused not by the risk of disclosure, but by the employment relationship itself. Employees simply do not have a right to hide from their employer information pertinent to their employment. A corporation's owners – the shareholders – have every right to expect management to take steps necessary to learn about their company's activities, legal or illegal. And, a corporation has every right to take action against those who engage in criminal activity, or refuse to cooperate with an internal investigation. Thus, even without the threat of disclosure to the government, the Hobson's Choice already exists, but only for those who have something to hide. The blameless employee fears neither talking to counsel, nor disclosure to the government.

A final argument against the use of waivers regards increased civil exposure. The majority rule is that where a corporation waives the privilege as to one party, including the government, the privilege is waived for that subject matter as to all parties. This, corporations fear, exposes them to substantial civil liability risk in the event that they cooperate with the government.

Interestingly, in all the testimony presented to the Commission in November, a total of six sentences were devoted to this subject. Yet, I suspect that it is, in fact, foremost in the mind of corporate counsel.

We are not unmindful of this concern, and in fact several fixes have been proposed. Most significantly, the Rules Committee is considering a federal evidence rule that would specifically exempt disclosures made to law enforcement from waiver.

We at the Department will watch this development with interest, as should you at the Commission. I respectfully suggest in the event that such a rule is adopted much of the opposition heard by the Commission to the current commentary will dissipate.

In conclusion, let me be as clear as I can be. It has been suggested to this Commission that waiver requests are routine and invasive. As attorneys we are naturally protective of our privileges, and we react viscerally to suggested encroachments thereupon. It is simply not the case, however, that the Department routinely issues broad-based demands for disclosure of attorney-client privileged communications. And, where it does request a waiver, such requests are narrow and focused. This approach predates, and is consistent with, the Commission's guidelines, which reward cooperation, including waivers where they occur. It is consistent with sound prosecutorial practice, that those with information regarding wrongdoing should be given incentives to unburden themselves. This has been and remains voluntary, and should not change.

Accordingly, the Department respectfully recommends that the Commission not revisit language it adopted barely two years ago.

I would be happy to answer any questions you may have.

U.S. Department of Justice

Criminal Division

Assistant Attorney General *Washington, D.C. 20530*

March 14, 2006

MEMORANDUM

To: All Criminal Division Section Chiefs and Deputies
All Criminal Division Prosecutors

From: Alice S. Fisher
Assistant Attorney General of the Criminal Division

Re: Considerations When Requesting Attorney-Client Privilege and Attorney Work Product Waivers

This Memorandum announces and outlines various factors that Criminal Division prosecutors should consider when requesting corporate attorney-client privilege and attorney work product waivers.

I. BACKGROUND

A. The Thompson Memorandum

The January 20, 2003 Memorandum of Deputy Attorney General Larry D. Thompson (the "Thompson Memo"), reprinted at United States Attorneys' Manual, Title 9, Crim. Resource Manual ("CRM") §§ 161-62, sets forth several factors for Department of Justice prosecutors to consider when deciding whether to charge a corporation with a crime. One of those factors is "the corporation's timely and voluntary disclosure of wrongdoing and its willingness to cooperate in the investigation of its agents, including, if necessary, the waiver of corporate attorney-client and work product protection." CRM § 162 at para II.A.4; *see also* U.S.S.G. § 8C2.5(g) & comment. (n. 12).

Privilege waivers are potentially useful in criminal investigations because they allow the government to "obtain statements of possible witnesses, subjects, and targets, without having to negotiate individual cooperation or immunity agreements." CRM § 162 at para. VI.B. Privilege waivers also help the government to "evaluate the completeness of a corporation's voluntary disclosure and cooperation." *Id.* Accordingly, the Thompson Memo authorizes prosecutors to request a corporation to waive the attorney-client and attorney work product protections - in appropriate circumstances - "both with respect to its internal investigation and with respect to communications between specific officers, directors and employees and counsel." *Id.*

The Thompson Memo emphasizes that a corporation's agreement to waive the privilege is "not an absolute requirement" and is only one factor in the calculation of whether a corporation has cooperated with the government. *Id.* The Thompson Memo also states that any waiver request should "ordinarily be limited to the factual internal investigation and any contemporaneous advice given to the corporation concerning the conduct at issue" and that "except in unusual circumstances, prosecutors should not seek a waiver with respect to communications and work product related to advice concerning the government's criminal investigation." *Id.* at n. 3.

B. The McCallum Memorandum

The October 21, 2005 Memorandum of Acting Deputy Attorney General Robert D. McCallum, Jr. (the "McCallum Memo"), reprinted at United States Attorneys' Manual, Title 9, CRM § 163, directs all U.S. Attorneys and Department of Justice component heads to adopt a written privilege waiver review process. The McCallum Memo states that any written privilege waiver review process should incorporate the "best practice" of requiring supervisor approval for all privilege waiver requests.

II. PRIVILEGE WAIVER CONSIDERATIONS

Although the Thompson Memo authorizes federal prosecutors to request waivers of the attorney-client and attorney work product protections, prosecutors should nevertheless be mindful that those protections serve an extremely important function in the U.S. legal system. The attorney-client privilege, for example, is one of the oldest and most sacrosanct privileges under U.S. law. *See Upjohn Co. v. U.S.*, 449 U.S. 383, 389 (1976). As the Supreme Court has stated, "its purpose is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." *Id.*

The McCallum Memo further emphasizes the importance of the attorney-client and attorney work product protections by requiring Department of Justice components and U.S. Attorneys to develop written waiver review policies to "ensure that federal prosecutors exercise appropriate prosecutorial discretion under the principles of the [Thompson Memo]."

Accordingly, this Memorandum outlines several factors that all Criminal Division prosecutors should consider when determining whether to seek supervisor sign-off for corporate privilege waivers and that Criminal Division Section Chiefs should consider when determining whether to authorize a waiver request pursuant to the Thompson Memo.

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A. Considerations Regarding Waiver Requests

1. Criminal Division prosecutors should obtain approval from their respective Section Chiefs before requesting a corporation or other business entity to waive the attorney-client or attorney work product protections. Prosecutors and Section Chiefs should follow the suggested procedures outlined below to ensure compliance with this Memorandum and the Thompson Memo.

2. Criminal Division prosecutors generally should not ask cooperating corporations (or other business entities) to waive the attorney-client or attorney work product protections unless the Criminal Division has a need for the privileged information to fulfill its law enforcement obligations. Whether a need exists generally depends upon, but is not limited to: (a) the likelihood and degree to which the privileged information will benefit the government's investigation as set forth in the Thompson Memo; and (b) whether the information sought can be obtained in a timely and complete fashion by using alternative measures and sources that do not require a waiver.

3. Any request for a waiver of the attorney-client or attorney work product protections should be narrowly drawn, consistent with the Criminal Division's law enforcement needs and obligations.

4. To the extent the Criminal Division needs a waiver (as discussed in paragraph 2, above), Criminal Division prosecutors generally should follow a step-by-step approach to requesting the privileged information. For example, prosecutors should first request purely factual information relating to the underlying misconduct (as opposed to attorney opinion work product or attorney interview notes). Examples of purely factual information could include, without limitation, copies of witness statements or purely factual interview memoranda regarding the underlying misconduct, organization charts created by company counsel, or fact chronologies created by counsel.

5. Only if the purely factual information is insufficient to fulfill the Criminal Division's law enforcement needs should prosecutors then request the corporation to provide attorney-client communications or attorney work product. Examples of such information could include, without limitation, contemporaneous legal advice regarding the underlying misconduct or attorney notes of witness interviews. The necessity of such material

DOJ_NMG_ 0165701

should be evaluated independently from the necessity of information described in paragraph 4, above.

6. Finally, as stated in the Thompson Memo, prosecutors should not seek a waiver of attorney-client communications and attorney work product related to the government's criminal investigation except in unusual circumstances. Examples of such "unusual circumstances" might include, without limitation, circumstances in which: the corporation's internal investigation was a "whitewash" intended to obstruct or mislead the government's investigation; counsel aided and abetted the corporation's original misconduct; or the corporation is relying upon an advice-of-counsel defense to the underlying misconduct.

7. Accordingly, only if the information described in paragraphs 4 and 5 above is insufficient to fulfill the Criminal Division's law enforcement needs should prosecutors then request a cooperating corporation to produce privileged communications or attorney work product reflecting advice about the government's criminal investigation. Examples of such information might include, without limitation, attorney analyses of whether and how the corporation should cooperate with the government's investigation or legal analyses of whether the corporation could prevail at trial.

B. Suggested Procedures Regarding Waiver Requests

1. Before requesting a corporation to waive the attorney-client or attorney work product protections, prosecutors should, first, request approval in writing from the appropriate Criminal Division Section Chief and, second, receive the Section Chief's written authorization to request a waiver.

2. The specific form of the waiver authorization request should be left to the discretion of the Section Chief, but prosecutors should provide the Section Chief with enough information (either in the written request itself or orally) to adequately assess the request in light of the considerations outlined in this Memorandum and the Thompson Memo.

3. Section Chiefs should either approve or deny waiver authorization requests consistent with the considerations set forth in this Memorandum and the Thompson Memo. Any waiver authorization should state the scope of the waiver authorized.

DOJ_NMG_ 0165702

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The considerations outlined above are effective immediately. These considerations supersede any existing Criminal Division policies and procedures that are inconsistent with this Memorandum. Please direct all questions regarding these considerations to the Office of the Assistant Attorney General.

DOJ_NMG_ 0165703

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 5:06 PM
To: McCallum, Robert (SMO)
Cc: [redacted]
Subject: RE: Dinner on Mon Aug 7th?

I'm very sorry I won't be able to make it on the 7th but know you will be in even better hands with [redacted] Do you plan to be in the office between now and Friday? I realize we've practiced at saying goodbye a few times but somehow I always thought it wasn't for "real" yet! Also, do you intend to be back in the USA between now and Christmas? I have an investiture to plan and if there's any chance of you stopping by Colorado on your to's and fro's, we'd love to have [redacted] but for the party.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 5:07 PM
To: [redacted]
Subject: FW: Robert's Farewell

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, July 27, 2006 3:12 PM
To: [redacted]
Subject: FW: Robert's Farewell

[redacted] Thanks so much for picking up the baton. The date Robert's aiming for now is the 7th and the list of folks follows below. If you need anything further from me, don't hesitate to call. Best, NMG

jeffrey.m.senger@usdoj.gov
lily.fu.swenson@usdoj.gov
pkeisler@civ.usdoj.gov
sschiffe@civ.usdoj.gov
gkatsas@civ.usdoj.gov
[redacted]@dhs.gov
[redacted]@dhs.gov
[redacted]@thune.senate.gov
Elizabeth.Kessler@usdoj.gov
Shannen_W._Coffin@ovp.eop.gov
[redacted]
Lreyes@who.eop.gov
[redacted]@hotmail.com
[redacted]@hotmail.com
[redacted]@hotmail.com

From: Gorsuch, Neil M
Sent: Wednesday, July 19, 2006 11:57 AM
To: Senger, Jeffrey M; Swenson, Lily F; Schiffer, Stuart (CIV);
Keisler, Peter D (CIV); Katsas, Gregory (CIV); Boudreaux, Chad (DHS);
[redacted]@thune.senate.gov' [redacted](DHS);
'Elizabeth.Kessler@usdoj.gov'; 'Shannen_W._Coffin@ovp.eop.gov';
[redacted]; 'Lreyes@who.eop.gov';
[redacted]

[redacted]; [redacted] Senger, Jeffrey M; [redacted]@notmail.com' [redacted]@hotmail.com'

Subject: Robert's Farewell

Friends,

We're hoping to arrange a send-off dinner for Robert either Aug. 9 or 10. The date is up in the air at the moment given Robert's schedule but I wanted to give you as much advance notice as possible. Hope you will be able to attend.

Warm regards,

Neil Gorsuch

Otus2005, Ag

Subject:	Accepted: Discuss 9/11 Speech
Start:	Tuesday, August 01, 2006 11:15 AM
End:	Tuesday, August 01, 2006 11:45 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

@omm.com

From: [redacted]

Sent: Monday, July 31, 2006 5:16 PM

To: Swenson, Lily F; Senger, Jeffrey M; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth (EOIR); Keisler, Peter D (CIV); Schiffer, Stuart (CIV) [redacted] (DHS) [redacted] @dhs.gov; [redacted] @thune.senate.gov; Shannen_W._Coffin@ovp.eop.gov; [redacted] @who.eop.gov; [redacted] @hotmail.com [redacted] @hotmail.com; [redacted] @hotmail.com

Subject: Farewell Dinner for Robert

Attachments: tmp.htm

Folks:

It has become a tradition, upon the departure of an ASG official, to ceremonially sacrifice a cow in his or her honor. Robert has set aside August 7 for this purpose, and I have booked a private room at Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening. Hope to see you all there; RSVPs to me, please.

Some of the e-mail addresses may be out of date or misstated above; if an address seems whacky to you, and you know the correct one, please forward. Thanks.

[redacted]

Folks:

It has become a tradition, upon the departure of an ASG official, to ceremonially sacrifice a cow in his or her honor. Robert has set aside August 7 for this purpose, and I have booked a private room at Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening. Hope to see you all there; RSVPs to me, please.

Some of the e-mail addresses may be out of date or misstated above; if an address seems whacky to you, and you know the correct one, please forward. Thanks.

[redacted]

[redacted]@omm.com

From: [redacted]
Sent: Monday, July 31, 2006 5:24 PM
To: Gorsuch, Neil M
Subject: FW: Farewell Dinner for Robert

Is there any reason for not including Jeff Bucholtz? My recollection is that he served under Robert briefly when he was head of Civil.

-----Original Message-----
From: Jeffrey.M.Senger@usdoj.gov [mailto:Jeffrey.M.Senger@usdoj.gov]
Sent: Monday, July 31, 2006 5:20 PM
To: [redacted]
Subject: RE: Farewell Dinner for Robert

Excellent. Mark me down.
Jeff

-----Original Message-----
From: [redacted]@omm.com [mailto[redacted]@omm.com]
Sent: Monday, July 31, 2006 5:16 PM
To: Swenson, Lily F; Senger, Jeffrey M; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth (EOIR); Keisler, Peter D (CIV); Schiffer, Stuart (CIV); [redacted] DHS) [redacted]@dhs.gov; [redacted]@thune.senate.gov; Shannen W. Coffin@ovp.eop.gov; [redacted]@who.eop.gov; [redacted]@hotmail.com [redacted]@hotmail.com; [redacted]@hotmail.com
Subject: Farewell Dinner for Robert

Folks:

It has become a tradition, upon the departure of an ASG official, to ceremonially sacrifice a cow in his or her honor. Robert has set aside August 7 for this purpose, and I have booked a private room at Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening. Hope to see you all there; RSVPs to me, please.

Some of the e-mail addresses may be out of date or misstated above; if an address seems whacky to you, and you know the correct one, please forward. Thanks.

[redacted]

From: USDOJ- Office of Public Affairs
Sent: Monday, July 31, 2006 5:27 PM
To: USDOJ- Office of Public Affairs
Subject: MAN SENTENCED TO OVER SIX YEARS IN PRISON FOR MAKING THREATS TO KILL THE PRESIDENT AND A FEDERAL JUDGE

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
MONDAY, JULY 31, 2006
WWW.USDOJ.GOV/USAO/GAN/

CONTACT: PATRICK CROSBY
PHONE: (404) 581-6016
FAX: (404) 581-6160

MAN SENTENCED TO OVER SIX YEARS IN PRISON FOR MAKING THREATS TO KILL THE PRESIDENT AND A FEDERAL JUDGE

ATLANTA - Michael Disch, 37, of Wheaton, Ill., was sentenced today in U.S. District Court on charges of making threats to injure and kill a federal judge and the President of the United States while incarcerated on state charges in Georgia, announced U.S. Attorney David E. Nahmias of the Northern District of Georgia.

"By threatening the President and a federal judge, this defendant committed serious crimes by which he intended to disrupt our criminal justice system," said U.S. Attorney Nahmias. "He also caused the government to expend resources to investigate the threats, which we must take seriously in every case. He will now pay by spending six and-a-half more years in prison."

Disch was sentenced to serve 77 months in prison, which will run consecutively to his state prison sentence, to be followed by three years of supervised release. Disch was convicted of these charges on May 15, 2006.

According to U.S. Attorney Nahmias and the information presented in court, Disch made the two death threats in violation of federal law while incarcerated on state charges in Georgia in June and August of 2004. Disch first made a series of interstate telephone calls from Atlanta to the U.S. Courthouse in Chicago relaying threats to injure and kill a U.S. District Court Judge who had previously sentenced him on unrelated charges. In addition, Disch sent a letter via U.S. mail to the White House threatening to kill the President. Federal law enforcement officials found no evidence indicating that Disch had prepared to carry through on his threats or that the targets were in any danger.

This case was investigated by Special Agents of the FBI and the U.S. Secret Service. Assistant U.S. Attorney Justin S. Anand prosecuted the case.

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Image not available for this document, ID: 0.7.10316.42122-000002

Otus2005, Ag

Subject: Canceled: Senior Management Meeting

Start: Friday, September 1, 2006 8:30 AM
End: Friday, September 1, 2006 9:00 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Not yet responded

Organizer: Otus2005, Ag
Required Attendees: Gorsuch, Neil M; Mercer, Bill (ODAG); Gorsuch, Neil M

Importance: High

When: Occurs every weekday effective 9/1/2006 until 9/30/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

From: USDOJ- Office of Public Affairs
Sent: Monday, July 31, 2006 6:15 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCING THE ADDITION OF TWENTY-FIVE FEDERAL PROSECUTORS TO U.S./MEXICO BORDER DISTRICTS

Department of Justice

FOR IMMEDIATE RELEASE — AG
MONDAY, JULY 31, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCING THE ADDITION OF TWENTY-FIVE FEDERAL PROSECUTORS TO U.S./MEXICO BORDER DISTRICTS

ALBUQUERQUE , NEW MEXICO

Good afternoon. Thank you all for coming.

Securing the Southwest Border is a top priority of the Department of Justice, and I'm pleased to be here to discuss the issue with New Mexico's U.S. Attorney, David Iglesias, as well as with Albuquerque Chief of Police Ray Schultz, Bernalillo County Sheriff Darren White, Robert Gilbert from the Border Patrol and Command General Kenny Montoya from the New Mexico National Guard.

Border security is an essential step toward achieving comprehensive immigration reform. It is an obvious, pressing task in the midst of a larger, complicated and emotional challenge.

As both the grandson of Mexican immigrants and as a law enforcement official, border security and immigration reform are close to my heart and always on my mind.

Regardless of our backgrounds or perspective on the issue, I know that none of us can ignore the security threat that exists due to the level of ease with which foreigners can enter our country illegally. It's a problem that we cannot delay solving.

I believe that we can still take pride in being an open country and a nation of immigrants, while also protecting our country from those who seek to harm us.

Successfully securing our borders will take manpower, the implementation of technology, the end of the practice of "catch and release," and a dedication at all levels of government – local, state and federal – to keeping the criminals out, period.

DOJ_NMG_ 0165715

It will also take comprehensive immigration reform – and for that, Congress needs to act.

The President does not want to militarize the borders, but he has called on Congress to provide funding for dramatic improvements.

Congress has responded, and we're very pleased to announce, today, that the United States Attorneys' Offices along the Southwest Border will now receive $2 million in supplemental funding to expand their capability to prosecute immigration and narcotics offenses on the border. We believe an increased chance of prosecution will make illegal crossing less attractive to criminals.

Twenty-five additional federal prosecutors will be deployed along the Southwest Border in the coming months.

Twenty of these prosecutors will be hired solely to prosecute immigration offenses, which means we will have the capacity to prosecute more alien smuggling cases, more criminal alien reentry cases, and more human trafficking cases on the border.

Five of these prosecutors will prosecute drug trafficking organizations responsible for smuggling illegal narcotics across our Southwest border, and will be funded through the Organized Crime Drug Enforcement Task Force (OCDETF) Program, a joint task force of the Departments of Justice, Treasury and Homeland Security.

We are also working with the Department of Homeland Security to identify up to ten DHS lawyers who will be designated as Special Assistant U.S. Attorneys to prosecute immigration offenses along the Southwest Border.

Immigration prosecutions are already on the rise – with an increase of 40 percent since the year 2000. But we know there is more to be done. The immediate hiring of these new AUSAs will help.

I look forward to the day when the efforts of these new AUSAs, and law enforcement all along the border, will be bolstered by comprehensive immigration reform. Again, this issue is in the hands of the Congress – I hope they will act responsibly, thoughtfully and expeditiously.

David will say a few words and then we'd be happy to take your questions.

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Image not available for this document, ID: 0.7.10316.42057-000002

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 31, 2006 6:20 PM
To: Gorsuch, Neil M
Subject: Read: Dinner on Mon Aug 7th?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Monday, July 31, 2006 6:25 PM
To: Gorsuch, Neil M
Subject: Are we doing OJP tomorrow at 2:00? Andi wanted to know if you wanted her to chair or will you chair to say your goodbyes.

From: USDOJ- Office of Public Affairs
Sent: Monday, July 31, 2006 6:25 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES RACE DISCRIMINATION CASE WITH OWNERS AND MANAGER OF PHILADELPHIA RENTAL PROPERTIES

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, JULY 31, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SETTLES RACE DISCRIMINATION CASE WITH OWNERS AND MANAGER OF PHILADELPHIA RENTAL PROPERTIES

WASHINGTON — The Justice Department today announced an agreement with the owners and manager of Philadelphia Rental Properties, to settle allegations of discrimination against an African American woman who had sought to rent a home. Under the settlement, which must still be approved by the U.S. District Court in Philadelphia, the defendants must pay $40,000 to the victim, undergo training, adopt and post a nondiscrimination policy and provide reports to the government.

"It is offensive that anyone would condition housing on the color of one's skin," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. “The Justice Department is committed to seeking out and prosecuting anyone who engages in illegal housing discrimination.”

The lawsuit alleged that Daniel Waisbord, acting as the property manager for Helene Waisbord and Ava Waisbord, discouraged an African American woman from renting one property, telling her that the neighbors would not like it and that she would be unwelcome there. The government further alleged that Daniel Waisbord attempted to steer her to a property in a different neighborhood, and that he eventually rented the first property to a white woman at a rental price that was lower than the one he quoted to the African American woman. The woman subsequently filed a fair housing complaint with the U.S. Department of Housing and Urban Development (HUD). After investigating the matter, HUD issued a charge of discrimination, and the matter was referred to the Justice Department, which filed the lawsuit earlier this year.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home, however, is not limited to the areas hit by Hurricane Katrina, but targets housing discrimination all over the country.

For more information about Operation Home Sweet Home, please visit our Web site, www.usdoj.gov/fairhousing. Individuals who believe that they may have been victims of housing

DOJ_NMG_ 0165721

discrimination can call our Housing Discrimination Tip Line (1-800-896-7793), email us at fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since January 1, 2001, the Justice Department's Civil Rights Division has filed 197 cases to enforce the Fair Housing Act, including 58 based on race discrimination. For more information about the Civil Rights Division and the laws it enforces, go to www.usdoj.gov/crt.

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06-480

DOJ_NMG_ 0165722

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Image not available for this document, ID: 0.7.10316.42036-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 6:50 PM
To: [redacted]
Subject: Re: Farewell Dinner for Robert

Egad. My oversight. Thanks for catching this.

-----Original Message-----
From: [redacted]
To: Gorsuch, Neil M
Sent: Mon Jul 31 17:24:17 2006
Subject: FW: Farewell Dinner for Robert

Is there any reason for not including Jeff Bucholtz? My recollection is that he served under Robert briefly when he was head of Civil.

-----Original Message-----
From: Jeffrey.M.Senger@usdoj.gov [mailto:Jeffrey.M.Senger@usdoj.gov]
Sent: Monday, July 31, 2006 5:20 PM
To: [redacted]
Subject: RE: Farewell Dinner for Robert

Excellent. Mark me down.
Jeff

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Monday, July 31, 2006 5:16 PM
To: Swenson, Lily F; Senger, Jeffrey M; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Kessler, Elizabeth (EOIR); Keisler, Peter D (CIV); Schiffer, Stuart (CIV); [redacted] (DHS); [redacted] @dhs.gov; [redacted] @thune.senate.gov; Shannen_W._Coffin@ovp.eop.gov; [redacted] Lreyes@who.eop.gov; [redacted] @hotmail.com; [redacted] @hotmail.com; [redacted] @hotmail.com
Subject: Farewell Dinner for Robert

Folks:

It has become a tradition, upon the departure of an ASG official, to ceremonially sacrifice a cow in his or her honor. Robert has set aside August 7 for this purpose, and I have booked a private room at Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening. Hope to see you all there; RSVPs to me, please.

Some of the e-mail addresses may be out of date or misstated above; if an address seems whacky to you, and you know the correct one, please forward. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 31, 2006 6:59 PM
To: Gorsuch, Neil M
Subject: Call [redacted]

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, July 31, 2006 8:02 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
July 31, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Discusses Immigration in New Mexico

Today, the Attorney General traveled to Santa Fe and Albuquerque New Mexico. While in Santa Fe, he participated in a regional radio interview regarding immigration reform, delivered remarks to the National District Attorney's Association on child exploitation, and held a media availability with Governor Richardson regarding immigration reform.

He then traveled to Albuquerque, where he met with *The Albuquerque Journal* editorial board, toured the National Hispanic Cultural Center, and participated in a press conference announcing the addition of 25 new prosecutors to federal law enforcement districts along the U.S./Mexico border.

Justice Department Settles Race Discrimination Case with Owners and Manager of Philadelphia Rental Properties (Civil Rights)

The Justice Department will announce an agreement with the owners and manager of Philadelphia Rental Properties, to settle allegations of discrimination against an African American woman who had sought to rent a home. Under the settlement, which must still be approved by the U.S. District Court in Philadelphia, the defendants must pay $40,000 to the victim, undergo training, adopt and post a nondiscrimination policy and provide reports to the government.

Syracuse University Report Points out Disparity in Rulings by Immigration Judges (EOIR)

A report shows huge differences among the nation's 208 immigration judges in how often they turn down requests for asylum. Immigrants can ask for asylum as a way to stay legally in the U.S. because they fear they will face persecution for political, religious or other reasons if they return to their home country. Judges' denial rates ranged from 10 percent of all requests to 98 percent, according to the study by Transactional Records Access Clearinghouse, a data research organization based at Syracuse University in New York. TRAC examined all asylum decisions by judges from 1994 to 1999 and from 2000 through the first few months of 2005.

(Talking Points)

- The Department has not yet had an opportunity to review the report in detail.

- In general, significant variation in grant rates is to be expected, in part because of variations in immigration judges' dockets. We have not yet had the chance to determine whether the variations noted in the report can all be so explained.

- As a result of the comprehensive review that Attorney General Gonzales directed the Deputy Attorney General and the Associate Attorney General to conduct, the Department has been carefully considering the work of the Executive Office for Immigration Review over several months and examining ways to improve its processes.

TUESDAY'S EXPECTED EVENTS/RELEASES:

2:30 P.M. EDT	Deputy Attorney General Paul J. McNulty will testify before the Senate Armed Services Committee on the Boeing Global Settlement Hart Senate Office Building Room 216 Washington, D.C.
7:00 p.m. MST	Assistant Attorney Rachel Brand Fisher of the Office of Legal Policy will deliver the keynote address for the dedication of the new police memorial plaza and annual police officer memorial service in Tucson, Arizona. Tucson Police Department 270 South Stone Ave Tucson, Arizona

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 1, 2006 8:13 AM
To: Shaw, Aloma A
Subject: One last person?

I know it's awfully late but wonder whether we might invite one more person for tomorrow? I very much doubt he will come but I feel very badly about not thinking of him sooner --

[redacted]@georgewbush.com

Goodling, Monica

From: Goodling, Monica
Sent: Tuesday, August 01, 2006 8:19 AM
To: Goodling, Monica
Subject: The Daily Update: 8/1/06

Hello! In DOJ news, please join me in congratulating Greg Katsas, who has been selected as the next Principal Deputy Associate Attorney General. As previously noted, Neil Gorsuch has been confirmed to the Tenth Circuit and will leave us this Friday. In other OASG news, Andi Bottner, who has been serving as the Principal Deputy Director of OVW, moves over to join the office as an acting Deputy Associate Attorney General.

Please also congratulate Theresa Pagliocca, who moves from OPA to OAG as our new Director of Advance. We also welcome Michael Beck, the AG's new Special Assistant, who joins us from the Peace Corps. Other new faces around DOJ include: Tessa Platt, who comes to the Department from a Fourth Circuit clerkship with Judge Shedd and joins OLP as a Counsel; Katherine Green, who hails from Auburn University and joins OIPL as a Research Assistant; and Russ Ferguson, who recently graduated from Duke University and joins ENRD as a Confidential Assistant. Welcome one and all!

****

<http://www.whitehouse.gov/>
AUGUST 1, 2006

Today, President Bush will participate in his annual physical at National Naval Medical Center in Bethesda, Maryland.

8:00 am:
EDT THE PRESIDENT participates in his Annual Physical
National Naval Medical Center | Bethesda, Maryland

President Bush Says Security Council Resolution Must Address "Root Causes" Of Middle East Conflict. THE PRESIDENT: "Secondly, I do believe that we ... have an opportunity to work with our partners and allies to put a Security Council resolution in place that - that obviously reduces violence, but also addresses the root causes of the problems, which were, you know, terrorist attacks from Lebanon into Israel. One of the things we have got to work on in order to address the root causes is strengthen the Siniora government. We want the - that young democracy in Lebanon to succeed. And one way to help it succeed is to help the Lebanese army move to the south, and then, with help from, you know, forces from elsewhere, begin to bring some security to the region, for the sake of the Lebanese people and the Israelis." (FOX News' "Your World With Neil Cavuto," 7/31/06)

Secretary Rice Meets With President Bush To Discuss Situation In The Middle East. "Secretary of State Condoleezza Rice returned to Washington from an eight-day diplomatic mission and met with President Bush and national security adviser Stephen Hadley. After the meeting, White House spokesman Peter Watkins said, 'The next step is to pursue a

United Nations Security Council resolution that will establish a sustainable cease-fire on an urgent basis.' <http://www.usatoday.com/news/world/2006-07-31-mideast-diplomacy_x.htm> ... During a visit to Miami, Bush said a cease-fire must be based on a larger agreement to create 'a long-lasting peace, one that is sustainable.' He urged Iran and Syria to stop backing Hezbollah with money and arms." (Bill Nichols and Andrea Stone, "U.N. Continues To Press For Mideast Resolution," USA Today, 7/31/06)

The Washington Post Says An Underlying Middle East Consensus Reaffirms The President's Call For A Sustainable Ceasefire. "Despite all the rhetoric about an immediate cease-fire and the predictable focus by media outlets around the world on Israel's mistakes and excesses, every party in the Middle East other than Hezbollah and its Syrian and Iranian sponsors believes that a resolution to the crisis that fails to achieve those conditions would be a catastrophe. In other words, it's not just President Bush who believes that a solution in Lebanon must address 'the root cause of the problems.'" <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/31/AR2006073101057.html> (Editorial, "A Solution For Lenabon," The Washington Post, 8/1/06)

President Bush Highlights Importance Of Free Trade During Speech At Port Of Miami. "The port is known as 'The Gateway of the Americas' for a reason, because international trade is one of the key reasons why Miami prospers,' Bush told a crowd gathered at the Coast Guard station east of Miami's downtown. <http://www.gainesville.com/apps/pbcs.dll/article?AID=/20060731/APN/607310817&template=printart> 'I don't know if the folks realize that because of trade - in other words, the ability to move products overseas - 120,000 jobs here in this part of the world are supported by trade.' ... With his brother, Florida Gov. Jeb Bush, sitting nearby, the president noted that Florida' imports to Mexico have increased dramatically since NAFTA was passed, and the state's trade with Chile was up since trade agreements was signed with the South American nation. 'Exports means work. Exports means vitality at our ports,' Bush said." (Adrian Sainz, "Bush Touts Miami's Port As Key For International Trade," The Associated Press, 7/31/06)

President Bush Says U.S. Economy Will "Remain Strong." THE PRESIDENT: "I believe that we're going to remain strong, precisely because of what you said. Look at what we have overcome to get here. ... It's a remarkable economy and a remarkable society that can overcome terrorist attacks, stock market corrections, corporate scandals, natural disasters, high energy prices. You know, the United States aggressively pursuing our ... security - and, yet, the economy is good. And the reason why is, is because, you know, people have got more money in their pockets to - which helps them unleash this great creativity of the American people. And, plus, we got great workers." (FOX News' "Your World With Neil Cavuto," 7/31/06)

President Bush Calls For Comprehensive Immigration Reform During Trip To Miami. "'The Coast Guard works hard to enforce our borders. We got hardworking people on the Mexican border working hard to enforce our borders,' the president said. 'And we'll provide more Border Patrol agents. And we'll provide new technologies to help those working hard. But in order to enforce the border, we have got to recognize that people

are sneaking in here to work; the best way to enforce the border is to have a rational way for people who are doing jobs Americans aren't doing to come to this country on a temporary basis so they can realize their dreams <http://www.miami.com/mld/miamiherald/15164766.htm> . We need a guest worker program as part of a comprehensive reform.'" ("Bush Renews Bid For Immigration Reform During Miami Port Visit," The Miami Herald, 8/1/06)

U.N. Passes Resolution Demanding Iran Suspend Uranium Enrichment By End Of Month. "The United Nations passed a resolution on Monday which gives Iran until the end of this month to suspend its enrichment activities or face 'appropriate measures' under Article 41 of Chapter 7 of the U.N. Charter, which pertains to economic sanctions. ... 'The Iranians still have a six-party package on the table that could take this along another route but we have said repeatedly that if Iran was unwilling to make the choice to move on the path toward cooperation, then the Security Council would have to act,' said Rice <http://news.yahoo.com/s/nm/20060731/wl_nm/nuclear_iran_rice_dc_1&printer=1;_ylt=AmXn1yvMtXKNyTJDd6SKfLFn.3QA;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> ." (Sue Pleming, "Rice Tells Iran To Heed UN, Or Face Sanctions," Reuters, 7/31/06)

FEMA Director R. David Paulison Discusses Improvements In Hurricane Preparedness Since Katrina. "Mr. Paulison, who replaced Michael D. Brown after Mr. Brown's resignation amid public complaints over his performance, said he had been briefing the president regularly on hurricane preparedness <http://www.nytimes.com/2006/08/01/washington/01bush.html?_r=1&ref=us&oref=slogin> . The most recent session was last Friday, he said, and included members of the president's cabinet. 'One of the things I talked about was the chain of command and how we're going to share information,' he said, adding that the president 'wants to make sure that information flow is going to move like it should move, and not end up like we did with Katrina last year.'" (Sheryl Gay Stolberg, "On Miami Trip, Bush Team Addresses Storm Readiness," The New York Times, 8/1/06)

Veterans Affairs Secretary Jim Nicholson Says VA Is A "World Leader In Patient Safety." "The Department of Veterans Affairs remains a world leader in patient safety and the use of technology in preventing errors associated with prescription drugs. All VA medical centers utilize a bar-coded wrist band system to make sure the right patient gets the right medication in the right dose at the right time. This system is integrated with VA's electronic health records, and the results are stunning. VA prescribes medication to patients with an accuracy rate of 99.993%, a standard that simply does not exist anywhere else in American health care <http://www.usatoday.com/news/opinion/editorials/2006-07-31-letters-va_x.htm> ." (Sec. R. James Nicholson, Op-Ed, "VA Blazes Path To Preventing Drug Errors, USA Today, 7/31/06)

The Wall Street Journal Highlights U.S. Manufacturing Strength. "Manufacturing strength has been one of the underreported stories of the last three years. Productivity has increased so rapidly that U.S. companies have been able to keep or grow their global market share and expand output. <http://online.wsj.com/article/SB115439836963123055.html?mod=opinion_mai

n_review_and_outlooks> And while manufacturing employment has grown only modestly, the rapid job losses of the late 1990s and earlier this decade are long over." (Editorial, "Manufacturing Lives," The Wall Street Journal, 8/1/06)

Surveys Show Satisfaction With Medicare Drug Plan. "'Overall coverage is quite high,' McFadden said. 'People by and large seem to have been able to handle it and understand it.' ... The Kaiser survey found that more than 80 percent of people in Medicare drug plans were satisfied with their particular plan. <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/31/AR2006073101015_pf.html%20> McFadden's survey found that 58 percent of respondents thought the new coverage was a 'major benefit.'... 'Virtually anyone who is using one prescription or more should be signed up,' McFadden said. 'It's a no-brainer.'" (Christopher Lee, "Surveys Show Satisfaction With Medicare Drug Plan," The Washington Post, 8/1/06)

Prospect Of Increased International Economic Support For Iraq Remains Promising. "A number of nations have expressed a willingness to help boost international economic support for Iraq, the Bush administration said Monday <http://news.yahoo.com/s/ap/20060731/ap_on_go_pr_wh/us_iraq_economy&printer=1;_ylt=Avd3ANce9elaB42o2vYt8OsGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE> . Deputy Treasury Secretary Robert Kimmitt, Bush's special envoy on the issue, said he was optimistic the necessary work will be completed in coming months so that an international conference to collect pledges of financial support can be held by the end of the November. He said France and Germany, two countries that opposed the U.S.-led Iraq war, are participating in meetings chaired by the government of Iraq and the United Nations over development of an International Compact for Iraq." (Martin Crutsinger, "Administration Optimistic On Iraq Support," The Associated Press, 7/31/06)

President Bush Discusses the Economy in Florida
<http://www.whitehouse.gov/news/releases/2006/07/20060731-1.html>

* Fact Sheet: A Day in Miami: President Bush Highlights Economic Growth and Hurricane Preparedness Efforts
<http://www.whitehouse.gov/news/releases/2006/07/20060731-2.html>

* In Focus: Jobs & Economy
<http://www.whitehouse.gov/infocus/economy/>

President Bush Tours Port of Miami
<http://www.whitehouse.gov/news/releases/2006/07/20060731-3.html>

President Meets with South Florida Entrepreneurs in Miami
<http://www.whitehouse.gov/news/releases/2006/07/20060731.html>

Text of a Letter from the President to the Speaker of the House of Representatives and the President of the Senate
<http://www.whitehouse.gov/news/releases/2006/07/20060731-6.html>

Personnel Announcement

<http://www.whitehouse.gov/news/releases/2006/07/20060731-5.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/07/20060731-7.html>

Press Briefing by FEMA Director David Paulison
<http://www.whitehouse.gov/news/releases/2006/07/20060731-4.html>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 8:22 AM
To: [redacted] 'judge_neil_gorsuch@ca10.uscourts.gov'
Subject: FW: Going away invitees
Attachments: going away invitees.wpd

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, July 27, 2006 5:42 PM
To: Shaw, Aloma A
Subject: Going away invitees

WHCO
Harriet Miers
William Kelley
Jennifer Brosnahan
Bob Hoyt
Brett Gerry
Leslie Fahrenkopf
Richard Klingler
Grant Dixton
Brent McIntosh

Staff Secty
Raul Yanes

OVP
[redacted]

NSC
Brad Wiegmann
Mike Allen

DOD
[redacted]

DPC
[redacted]

State
[redacted]
Robert McCallum (!)

ODNI
[redacted]

Colorado Senators Offices
Sen Allard
Sen Salazar
[redacted] (Allard aide)
[redacted] (same)

Other Hill
[redacted] (Sen Judiciary)
[redacted] (Sen Kyl)
[redacted] (Sen Graham)
[redacted] (Sen Graham)
Sen Graham

DC Cir
Judge Brett Kavanaugh
Judge David Sentelle
Chief Judge Doug Ginsburg
Chief Judge Thomas Hogan

Others
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 8:23 AM
To: [redacted] 'judge_neil_gorsuch@ca10.uscourts.gov'
Subject: FW: Doj invitees
Attachments: doj invitees.wpd

From: Gorsuch, Neil M
Sent: Friday, July 28, 2006 9:44 AM
To: Shaw, Aloma A
Subject: Doj invitees

I haven't counted so if we've gone over please let me know; I don't want to impose on oag unecessarily and am happy to cut this down

OAG
Everyone!

ODAG
Paul McNulty
Mike Elston
Ron Tenpas
Tom Monheim
Pat Rowan
David Margolis
Lee Otis
Mark Grider
Steve McFarland
Jane Horvath
Joan Meyer

OASG
Everyone! (incl. Katsas)

SG
Paul Clement
Greg Garre

OLC
Steve Bradbury
John Elwood
John Eisenberg
Michelle Boardman
Kevin Marshall
Steve Engel
Nate Forrester

CRIM
Alice Fisher
Matt Friedrich

CIV
Peter Keisler
Jeff Bucholtz
Carl Nichols
John Cohn
Stuart Schiffer
Jody Hunt
Doug Letter
Terry Henry

ATR

Tom Barnett
Scott Hammond
Gerald Masoudi
Bruce McDonald
David Meyer

ENRD
Sue Ellen Wooldridge
Matt McKeown
John Cruden
Eileen Sobeck
Ryan Nelson

TAX
Eileen O'Connor
Dana Boente
Richard Morrison
Fred Murray

CRT
Wan Kim
Rena Comisac
Grace Chung Becker
Lorena King
Tori (last name? Counsel to AAG)
David Palmer

OLP
Rachel Brand
Wanda Martinson
Richard Hertling
Kristi Macklin
David Best
Jamil Jaffer
Beth Cook

OLA
Will Moschella
Rebecca Seidel
Jim Clinger

OJP
Regina Schofield
Cybele Daley
David Hagy
Nick Tzitzon
Domingo Herraiz

Admin
Lee Lofthus

OPA
Tasia Scolinos
Brian Roehrkasse

OIPL
Crystal Jezierski
[deputy - can't recall her name]

USTrustees
Cliff White

Foreign Claims
Mauricio Tamargo

OVW
Diane Stuart

CRS
Sharee Freeman

EOUSA
Mike Battle

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 8:59 AM
To: Shaw, Aloma A
Subject: RE: One last person?

Absolutely! Thank you!

From: Shaw, Aloma A
Sent: Tuesday, August 01, 2006 8:38 AM
To: Gorsuch, Neil M
Subject: RE: One last person?

What about [redacted]?

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 8:13 AM
To: Shaw, Aloma A
Subject: One last person?

I know it's awfully late but wonder whether we might invite one more person for tomorrow? I very much doubt he will come but I feel very badly about not thinking of him sooner --

[redacted]@georgewbush.com

Otus2005, Ag

Subject:	Accepted: Updated: Discuss 9/11 Speech
Start:	Wednesday, August 02, 2006 9:45 AM
End:	Wednesday, August 02, 2006 10:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 9:18 AM
To: Shaw, Aloma A
Subject: bios

Please could you get for me (again) bios of the tenth circuit judges -- and now also a new request: bios for all district court judges in Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming. Thanks.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 1, 2006 9:48 AM
To: Gorsuch, Neil M
Subject: FW: bios

This is getting ridiculous

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 9:18 AM
To: Shaw, Aloma A
Subject: bios

Please could you get for me (again) bios of the tenth circuit judges -- and now also a new request: bios for all district court judges in Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming. Thanks.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 9:49 AM
To: Shaw, Aloma A
Subject: Re: bios

Sorry

-----Original Message-----
From: Shaw, Aloma A
To: Gorsuch, Neil M
Sent: Tue Aug 01 09:47:54 2006
Subject: FW: bios

This is getting ridiculous

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 9:18 AM
To: Shaw, Aloma A
Subject: bios

Please could you get for me (again) bios of the tenth circuit judges -- and now also a new request: bios for all district court judges in Colorado, Kansas, New Mexico, Oklahoma, Utah and Wyoming. Thanks.

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 01, 2006 9:52 AM
To: Gorsuch, Neil M
Subject: FW: Farewell for Neil Gorsuch

-----Original Message-----
From: Meadows, Bessie L
Sent: Tuesday, August 01, 2006 9:10 AM
To: Shaw, Aloma A
Subject: FW: Farewell for Neil Gorsuch

FYI

-----Original Message-----
From [redacted] [mailto [redacted]
Sent: Tuesday, August 01, 2006 8:59 AM
To: Meadows, Bessie L
Subject: FW: Farewell for Neil Gorsuch

Thank you very much for the invitation to attend the farewell reception in honor of Mr. Gorsuch. Unfortunately, [redacted] will not be able to attend. He will be on a flight to Minnesota.

Best,
[redacted]

-----Original Message-----
From: [redacted] - Chairman's Office
Sent: Tuesday, August 01, 2006 8:56 AM
To: [redacted] - Chairman's Office
Subject: FW: Farewell for Neil Gorsuch

-----Original Message-----
From: Bessie.L.Meadows@usdoj.gov [mailto:Bessie.L.Meadows@usdoj.gov]
Sent: Tuesday, August 01, 2006 8:47 AM
To: [redacted] - Chairman's Office
Subject: Farewell for Neil Gorsuch

The Attorney General invites you to attend a farewell reception in honor of Neil M. Gorsuch, Principal Deputy Associate Attorney General, on Wednesday, the second day of August, at two-thirty o'clock, Room 5111, RFK Main Building.

Pls. use the Visitors Entrance located between 9th & 10th Streets on Constitution Avenue, NW. Proper identification required. RSVP 202-514-2001

Gunn, Currie (SMO)

Subject:	Tenative benefits mtg w/Mary Lou Soffer
Start:	Tuesday, August 01, 2006 3:30 PM
End:	Tuesday, August 01, 2006 4:30 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gunn, Currie (SMO)

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, August 01, 2006 10:03 AM
To: Gorsuch, Neil M
Subject: FW: Farewell Dinner for Robert
Attachments: tmp.htm

Neil, this reminds me -- is someone organizing a proper sendoff for you? I don't know how much longer you'll be in town or how much free time you'll have during that period, but it would be a real shame if you left without being appropriately celebrated. If an appropriate celebration isn't already being planned, I'd be happy to plan one.

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Tuesday, August 01, 2006 9:53 AM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV)
Subject: FW: Farewell Dinner for Robert

Wrong addresses first time 'round. Please let me know if you two can make it next Monday.

> _____
> From: Boyle, Brian D.
> Sent: Monday, July 31, 2006 5:16 PM
> To: jeffrey.m.senger@usdoj.gov; lily.fu.swenson@usdoj.gov;
> pkeisler@civ.usdoj.gov; sschiffe@civ.usdoj.gov;
> [redacted]@dhs.gov; [redacted]@dhs.gov; [redacted]@thune.senate.gov;
> Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov;
> [redacted];
> Lreyes@who.eop.gov; [redacted];
> [redacted]; [redacted]; [redacted]
> [redacted] Gregory.Katsas@usdoj.gov;
> Peter.D.Keisler@usdoj.gov
> Subject: Farewell Dinner for Robert
>
> Folks:
>
> It has become a tradition, upon the departure of an ASG official, to
> ceremonially sacrifice a cow in his or her honor. Robert has set
> aside August 7 for this purpose, and I have booked a private room at
> Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening.
> Hope to see you all there; RSVPs to me, please.
>
> Some of the e-mail addresses may be out of date or misstated above; if
> an address seems whacky to you, and you know the correct one, please
> forward. Thanks.
>
> Brian

> Brian

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From: Boyle, Brian D.

Sent: Monday, July 31, 2006 5:16 PM

To: jeffrey.m.senger@usdoj.gov; lily.fu.swenson@usdoj.gov; pkeisler@civ.usdoj.gov; sschiffe@civ.usdoj.gov; [redacted]@dhs.gov; [redacted]@dhs.gov; [redacted]@thune.senate.gov; Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov; [redacted]@raytheon.com; [redacted]; Lreyes@who.eop.gov; [redacted]; [redacted]; [redacted]; [redacted]; Gregory.Katsas@usdoj.gov; Peter.D.Keisler@usdoj.gov

Subject: Farewell Dinner for Robert

Folks:

It has become a tradition, upon the departure of an ASG official, to ceremonially sacrifice a cow in his or her honor. Robert has set aside August 7 for this purpose, and I have booked a private room at Bobby Van's on 15th Street (between H and I) at 7:00 PM that evening. Hope to see you all there; RSVPs to me, please.

Some of the e-mail addresses may be out of date or misstated above; if an address seems whacky to you, and you know the correct one, please forward. Thanks.

Brian

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 1, 2006 10:11 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Farewell Dinner for Robert

That's really kind but the party tomorrow (to which I trust you've already been invited) is more than enough of a fete for me. I just hope you and other good friends will not lose touch though I'm taking my vows of poverty and obedience and heading off to the judicial monastery.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, August 01, 2006 10:03 AM
To: Gorsuch, Neil M
Subject: FW: Farewell Dinner for Robert

Neil, this reminds me -- is someone organizing a proper sendoff for you? I don't know how much longer you'll be in town or how much free time you'll have during that period, but it would be a real shame if you left without being appropriately celebrated. If an appropriate celebration isn't already being planned, I'd be happy to plan one.

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From: [redacted] [mailto:[redacted]
Sent: Tuesday, August 01, 2006 9:53 AM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV)
Subject: FW: Farewell Dinner for Robert

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> _____
> From: Boyle, Brian D.
> Sent: Monday, July 31, 2006 5:16 PM
> To: jeffrey.m.senger@usdoj.gov; lily.fu.swenson@usdoj.gov;
> pkeisler@civ.usdoj.gov; sschiffe@civ.usdoj.gov;
> [redacted]@dhs.gov; [redacted]@dhs.gov; [redacted]@thune.senate.gov;
> Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov;
> [redacted]; [redacted];
> Lreyes@who.eop.gov; [redacted];
> [redacted]; [redacted]; [redacted];
> [redacted]; Gregory.Katsas@usdoj.gov;
> Peter.D.Keisler@usdoj.gov
> Subject: Farewell Dinner for Robert
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> an address seems whacky to you, and you know the correct one, please
> forward. Thanks.
>
> Brian

McNulty, Paul J

Subject:	Accepted: Updated: Component Appeal Hearing for FY 2008 Budget -- Tax Division
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 3, 2006 10:00 AM
End:	Thursday, August 3, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	McNulty, Paul J

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 1, 2006 10:20 AM
To: Shaw, Aloma A
Subject: Email addresses

Could you send me a copy of the list of email addresses you composed for my farewell party? I'd like to pass along my forwarding address info to those folks. Thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Bucholtz, Jeffrey (CIV)

From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, August 1, 2006 10:28 AM
To: Gorsuch, Neil M
Subject: RE: Farewell Dinner for Robert

I'll certainly be there tomorrow (though maybe a bit late, because I have to go to [redacted] farewell beforehand -- he's the deputy director of the FTCA Staff, retiring after 32 years) and I certainly hope not to lose touch. I'm sorry we never were able to find a time to have you and your wife over to our house. I'm not going to insist on dragging you out for a dinner you don't want or don't have time for, but maybe if you'll be at Bobby Van's for Robert's dinner on Monday, we can sneak in a toast to you too.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 10:11 AM
To: Bucholtz, Jeffrey (CIV)
Subject: RE: Farewell Dinner for Robert

That's really kind but the party tomorrow (to which I trust you've already been invited) is more than enough of a fete for me. I just hope you and other good friends will not lose touch though I'm taking my vows of poverty and obedience and heading off to the judicial monastery.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Tuesday, August 01, 2006 10:03 AM
To: Gorsuch, Neil M
Subject: FW: Farewell Dinner for Robert

Neil, this reminds me -- is someone organizing a proper sendoff for you? I don't know how much longer you'll be in town or how much free time you'll have during that period, but it would be a real shame if you left without being appropriately celebrated. If an appropriate celebration isn't already being planned, I'd be happy to plan one.

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Tuesday, August 01, 2006 9:53 AM
To: Schiffer, Stuart (CIV); Bucholtz, Jeffrey (CIV)
Subject: FW: Farewell Dinner for Robert

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> From: Boyle, Brian D.
> Sent: Monday, July 31, 2006 5:16 PM
> To: jeffrey.m.senger@usdoj.gov; lily.fu.swenson@usdoj.gov;
> pkeisler@civ.usdoj.gov; ssschiffe@civ.usdoj.gov;

> pkeisler@civ.usdoj.gov; sschiffe@civ.usdoj.gov;
> [redacted]@dhs.gov; [redacted]@dhs.gov; [redacted]@thune.senate.gov;
> Elizabeth.Kessler@usdoj.gov; Shannen_W._Coffin@ovp.eop.gov;
> [redacted]
> Lreyes@who.eop.gov;
> [redacted]
> [redacted] Gregory.Katsas@usdoj.gov;
> Peter.D.Keisler@usdoj.gov
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> an address seems whacky to you, and you know the correct one, please
> forward. Thanks.
>
> Brian

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, August 1, 2006 10:42 AM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General August 1, 2006
Attachments: CRS AG Weekly 8-1-06.doc

Attached, please find CRS' Weekly Report to the Attorney General for August 1, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Conduct Arab, Muslim, and Sikh Cultural Awareness Program in Reno, NV***
  On August 9, 2006, CRS will be in Reno, NV to conduct its Arab, Muslim, and Sikh Cultural Awareness Program. The program will be conducted for a broad range of law enforcement agencies serving northern Nevada. The program is designed to promote cultural competency and positive relationships among government officials, law enforcement, and members of Arab, Muslim, and Sikh communities.

B. This Week

- ***CRS Monitoring Racial Tensions in Bellevue, WA***
  Since July 28, 2006, CRS has been in communication with Seattle law enforcement officials, local Jewish and Arab American community leaders, and various interdenominational organization representatives in response to racial tensions surrounding reports of the recent shooting of five Jewish women, one of whom died as a result, by a Muslim male suspect at the Jewish Federation of Greater Seattle. CRS provided contingency planning and technical assistance in an effort to defuse immediate tensions and will provide continued conciliation services as necessary.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0165761

- ***CRS Witnessed Signing of Memorandum of Understanding in Dimmitt, TX***
  On July 31, 2006, CRS was in Dimmitt, TX to facilitate the signing of a Memorandum of Understanding (MOU) among Dimmitt Independent School District Officials, local Hispanic community leaders, and concerned Hispanic parents. The MOU was developed in response to racial tensions surrounding concerns and allegations of disparate treatment directed towards Hispanic students and parents.

- ***CRS to Monitor Protest Rally in Sturgis, SD***
  On August 1-4, 2006, CRS will be in Sturgis, SD to provide technical assistance and contingency planning in anticipation of a planned demonstration to be held by members of the American Indian community to protest the upcoming motorcycle rally adjacent to Bear Butte, Native American sacred grounds. CRS will meet with American Indian Nation leaders and Sturgis law enforcement officials in an effort to ensure a safe event. The demonstration is planned for the second week of August.

C. Last Week

- ***CRS Conducted Racial Profiling Program in Harrisburg, PA***
  On July 28, 2006, CRS was onsite in Harrisburg, PA to conduct its national anti-bias-based policing program entitled, "Responding to Allegations of Racial Profiling: Building Trust Between the Police and Community," for local law enforcement officials, community leaders, and various state support agency representatives. The training was held in response to racial tensions surrounding reports of allegations of racial profiling directed towards minority community members and a recent incident involving the fatal shooting of an unarmed African American male by a Harrisburg police officer.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0165762

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 10:45 AM
To: [redacted]
Subject: RE: New job

Thanks so much for the kind words, [redacted] it was extremely kind of you to write. I hope you will let me know whenever you find yourself headed through Denver and that we manage to stay in touch even as I slip into the judicial monastery. It was a pleasure and privilege to work with you -- though I do wish we had had the chance to do so on the same side of a case! My new contact information, effective sometime in mid-August, follows below. Many thanks again and warmest regards, Neil

U.S. Court of Appeals for the Tenth Circuit Byron White Court House 1823 Stout Street Denver, CO 80257 Judge_Neil_Gorsuch@ca10.uscourts.gov
(303) 335-2896

Also: [redacted] will work

-----Original Message-----
From: [redacted] [mailto: [redacted]
Sent: Tuesday, August 01, 2006 10:03 AM
To: Gorsuch, Neil M
Subject: New job

Dear Neil,

I hope that this is the correct email address for you. I was delighted to hear that you got confirmed. Raises the overall quality of the judiciary by a whole percentage point. Glad to have someone of your quality serving on the bench.

All the best,

[redacted]

NOTICE:

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply or by telephone (call us collect at (202) 434-5000) and immediately delete this message and all its attachments.

==========

Sheetz, Deborah

From:	Sheetz, Deborah
Sent:	Tuesday, August 1, 2006 10:58 AM
To:	Shaw, Aloma A; Davis, Deborah J
Cc:	Swenson, Lily F; McFarland, Steven T (ODAG); Overstreet, Wanda S; Jezierski, Crystal; Gorsuch, Neil M; Goodling, Monica; Stuart, Diane; Schofield, Regina; Daley, Cybele; Hagy, David; McGarry, Beth; Tzitzon, Nicholas; Keehner, Laura; Fuentes, Maria; Kaplan, April; Pinkelman, James; Herraiz, Domingo S.; Sedgwick, Jeffrey; Flores, Robert; Schmitt, Glenn; Gillis, John; Greenhouse, Dennis; Alston, Michael; Merkle, Phillip; Madan, Rafael A.; Meldon, Jill; Fralick, Gerald; DeLeon, Joseph; Layne, Betty; Sheetz, Deborah; Bottner, Andrea; Mansour, Linda
Subject:	OJP Submission for the Attorney General's Weekly Report for July 30-August 5
Attachments:	730A.06.wpd

Hello Deborah,

Attached is OJP's submission for the Attorney General's Weekly Report for the week of July 30-August 5, 2006. Please let me know if you have any questions.

Thank you.

Deborah Sheetz
Public Affairs Specialist
Office of Communications
Office of Justice Programs
U.S. Department of Justice
202-514-9338
202-514-5958 (fax)
Deborah.sheetz@usdoj.gov

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Regina B. Schofield
Assistant Attorney General

SUBJECT: Weekly Report for the Week of July 30-August 5, 2006

NEXT WEEK

· ***First Responders**
On August 11 in Charleston, SC, Deputy Assistant Attorney General Hagy will give remarks at the First Responders Grant Forum.

· ***Prison Rape Elimination Act**
On August 11-13 in Charlotte, NC, Bureau of Justice Statistics Director Sedgwick will give remarks on Prison Rape Elimination Act data collection activities at the Association of State Correctional Administrators summer meeting. Bureau of Justice Assistance (BJA) staff will attend to discuss OJP and BJA corrections programs and initiatives.

On August 7 in Washington, DC, Bureau of Justice Assistance staff will attend the Prison Rape Elimination Act partners meeting to provide updates on the *Protecting Inmates and Safeguarding Communities Program* and to discuss next steps in the program.

· ***Victims**
On August 11-13 in Phoenix, AZ, Office for Victims of Crime Director Gillis will give opening remarks at the Parents of Murdered Children conference.

· ***White Collar Crime***
On August 11 in Richmond, VA, Bureau of Justice Assistance (BJA) staff will meet with National White Collar Crime Center senior leadership to discuss cybercrime initiatives and training as well as to develop strategies for integrating their cybercrime projects with related OJP and BJA initiatives.

· ***Gangs***

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On August 10-12 in Bonita Springs, FL, Bureau of Justice Assistance (BJA) staff will attend the National Alliance of Gang Investigators Association board of directors and advisory board members meeting to discuss OJP and BJA initiatives and issues related to gang enforcement and intelligence-focused gang investigators.

· ***Information Sharing***
On August 9-10 in Philadelphia, PA at the regional Fusion Center Conference, Bureau of Justice Assistance (BJA) staff will present on BJA information sharing projects and technical assistance available to fusion centers. The conference is sponsored by BJA and the Department of Homeland Security.

· ***Sentencing***
On August 7 in Philadelphia, PA, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks at the National Association of Sentencing Commissions annual conference.

· ***Statistics***
On August 6, the Bureau of Justice Statistics (BJS) is scheduled to release *Violent Felons in Large Urban Counties,* which presents data collected from a representative sample of felony cases that resulted in a felony conviction for a violent offense in 40 of the nation's 75 largest counties. The study tracks cases for up to one year from the date of filing through final disposition. Defendants convicted of murder, rape, robbery, assault, or other violent felony are described in terms of demographic characteristics (gender, race, Hispanic origin, age), prior arrests and convictions, criminal justice status at time of arrest, type of pretrial release or detention, type of adjudication, and sentence received.

THIS WEEK

· ****Juvenile Justice***
On August 4 in Washington, DC, Assistant Attorney General Schofield will give remarks at the Boys and Girls Club of America National Keystone Conference.

On August 5-6 in Detroit, MI at the National Bar Association convention, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will participate in discussions on mentoring, juvenile defenders, and disproportionate minority contact.

On August 4 in Denver, CO at the Helping America's Youth regional conference, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will make remarks at the panel on Boys in the Juvenile Justice System.

· ****Statistics***
On July 30, the Bureau of Justice Statistics (BJS) released *Sexual Violence Reported by Correctional Authorities, 2005,* which presents data from the Survey on Sexual Violence, 2005, an administrative records collection of incidents of inmate-on-inmate and staff-on-inmate sexual violence, by type, for adult prisons, jails, and other adult correctional

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facilities. The report provides an analysis of substantiated incidents, including where the incidents occur, time of day, number and characteristics of victims and perpetrators, nature of the injuries, impact on victims and sanctions imposed on perpetrators. The appendix tables include counts of sexual violence, by type, for all state systems, the Federal Bureau of Prisons, and all sampled jail jurisdictions. The report also includes an update on BJS activities related to implementation of data collections required under the Prison Rape Elimination Act of 2003. Key findings in the report include an increase in allegations of sexual violence in prison and jail from 5,386 in 2004 to 6,241 in 2005. Of these allegations, 38 percent involved staff sexual misconduct; 35 percent involved inmate-on-inmate nonconsensual sexual acts; 17 percent involved staff sexual harassment; and 10 percent involved abusive sexual contact. Correctional authorities substantiated 885 incidents of sexual violence in 2005, which was 15 percent of completed investigations and a decrease in the incidents per 1,000 inmates of 0.55 in 2004 to 0.40 in 2005. Half of the inmate-on-inmate sexual violence involved physical force or threat of force; two-thirds of staff misconduct was romantic. In prisons, 67 percent of the victims involved in staff sexual misconduct were male, while 62 percent of the perpetrators were female. In jails, 78 percent of victims of staff sexual misconduct were female and 87 percent of perpetrators were male. Staff were arrested or prosecuted in 45 percent of substantiated incidents of staff sexual misconduct and were discharged, fired, or resigned in 82 percent of such incidents.

On July 30, the Bureau of Justice Statistics released *Prosecutors in State Courts, 2005*, which presents findings from the 2005 National Survey of Prosecutors, the latest in a series of data collections from among the nation's 2,300 state court prosecutors' offices that tried felony cases in state courts of general jurisdiction. This study provides information on the number of staff, annual budget, and felony cases closed for each office. Information also is available on the use of DNA evidence, computer-related crimes, and terrorism cases prosecuted. Other survey data include special categories of felony offenses prosecuted, types of non-felony cases handled, number of felony convictions, number of juvenile cases proceeded against in criminal court, and work-related threats or assaults against office staff. Key findings in the report include that at least two-thirds of state court prosecutors had litigated a computer-related crime such as credit card fraud (80 percent), identity theft (69 percent), or transmission of child pornography (67 percent). Nearly all prosecutors offices (98 percent) reported their state had a domestic violence statute and 28 percent of the offices maintained a domestic violence prosecution unit. A quarter (24 percent) of the offices participated in a state or local task force for homeland security and one-third reported an office member attended training on homeland security issues.

On July 31, the Bureau of Justice Statistics (BJS) is scheduled to release the *National Corrections Reporting Program, 2002 CD-ROM*, which presents data on admissions, releases, and parole outcomes of persons in the nation's state prisons and parole systems, including demographic characteristics, offenses, sentence length, type of admission, time to be served, method of release, and actual time served of inmates exiting prison and parole. In 2002, 39 states reported data.

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- ***DNA**
  On August 3-6 in Honolulu, HI, National Institute of Justice Acting Director Schmitt will speak to the American Bar Association regarding Principals of Forensic DNA for Officers of the Court.

- ***Courts***
  On August 1-2 in Indianapolis, IN at the joint meeting of the Conference of Chief Justices and the Conference of State Court Administrators, Bureau of Justice Statistics (BJS) staff will present on state court data collection programs funded by BJS.

  On July 31 in Santa Fe, NM at the National District Attorneys' Association Summer Conference, Bureau of Justice Statistics (BJS) Director Sedgwick provided remarks highlighting BJS' 2005 report on the characteristics and workloads of the nation's 2,300 prosecutors' offices.

- ***Public Safety***
  On July 31-August 2 in Baltimore, MD at the National Forum on Criminal Justice and Public Safety, Bureau of Justice Assistance (BJA) Director Herraiz will provide opening remarks and BJA senior management and staff will present on several OJP and BJA programs and initiatives, including the Public Safety Officers' Benefits (PSOB) Program, preparing for a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. The Forum, sponsored by BJA, the National Criminal Justice Association, and the Integrated Justice Information Systems Institute, will highlight program and enforcement strategies to confront challenges such as gangs, drug trafficking and abuse, methamphetamine, and identity theft. BJA sessions will provide information about the PSOB Program, preparing for and confronting a pandemic outbreak, anti-gun and anti-gang initiatives, and justice and mental health collaborations. Federal, state, tribal, and local criminal justice and public safety officials and corporate representatives will examine promising practices, technologies, and strategies.

LAST WEEK

- ***Teen Dating Violence**
  On July 24-25 in Washington, DC, Assistant Attorney General Schofield, National Institute of Justice Acting Director Schmitt, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores gave opening remarks at the Teen Dating Violence Workshop. The purpose of the workshop was to provide a forum for discussion among researchers, practitioners, and federal agencies on issues related to teen dating violence. The workshop was used as a resource to identify gaps in the research and programs and to generate research questions that will help advance prevention and intervention efforts. Another goal of the workshop was to increase federal interagency coordination in the area of teen dating violence.

- ***Gangs***

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On July 26 in Palm Springs, CA, Deputy Assistant Attorney General Daley and Bureau of Justice Assistance Director Herraiz gave opening remarks at the Gang Resistance Education and Training (G.R.E.A.T.) Conference. The Bureau of Justice Assistance is helping to organize this year's training that addressed the needs of individuals implementing G.R.E.A.T. and those who want to become involved with the program.

- ***Information Sharing**
  On July 29-30 in Baltimore, MD at the Integrated Justice Information Systems Institute Summer Industry Briefing, Bureau of Justice Assistance Director Herraiz presented on the status of OJP's and BJA's information sharing projects.

- ***Victims***
  On July 27, the Office for Victims of Crime hosted a Web Forum discussion with the Senior Vice President of Security on Campus, Inc. regarding campus victimization and assistance services for crime victim service providers and related professionals.

- ***DNA***
  On July 27 in Pittsburgh, PA, National Institute of Justice staff visited Cybergenetics to discuss a software system that automatically reviews DNA data.

  On July 26-27 in Largo, FL, National Institute of Justice (NIJ) staff attended a tech transfer workshop featuring a DNA analysis tool developed under NIJ's DNA Research and Development Program.

- ***Law Enforcement***
  On July 27 in Washington, DC, National Institute of Justice staff moderated a panel at the National Community Policing Conference on the merits of closed circuit television in relation to cameras and crime.

- ***Parole and Probation***
  On July 22-26 in Chicago, IL at the American Probation and Parole Association's annual training institute, Bureau of Justice Assistance staff conducted a workshop on sex offender management. National Institute of Justice staff moderated a workshop on prisoner reentry efforts. Bureau of Justice Statistics staff provided an overview of the Prison Rape Elimination Act related data collections and the 2007 Survey of Sexual Assault reported by former prisoners as well as a demonstration of the Audio Computer-Assisted Self Interview survey instrument and its application to parolees.

- ***Computer Security***
  On July 24-25 in Santa Monica, CA, Bureau of Justice Statistics staff met with representatives from the RAND Corporation to discuss the status of the National Computer Security Survey (NCSS). The survey data, to be published in late 2006, provided national and industry-level estimates of the prevalence of computer security incidents against businesses and the resulting losses incurred by businesses.

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- ***Human Trafficking***
  On July 24-25 in Boston, MA the National Institute of Justice and the National Governors Association Center for Best Practices convened a regional meeting on human trafficking along the I-95 corridor to discuss the need for information sharing and coordinated strategies. Bureau of Justice Statistics staff presented data on national trends and state laws.

LONG-RANGE EVENTS

- On August 14-17 in Phoenix, AZ, the Community Capacity Development Office (CCDO) will host a Law Enforcement Conference that will focus on the latest technology trends in law enforcement to assist communities with preventing and controlling crime. The conference will provide opportunities to develop partnerships and strengthen relationships among community leaders, faith-based organizations, and local law enforcement. Assistant Attorney General Schofield, CCDO Director Greenhouse, Bureau of Justice Statistics Director Sedgwick, and CCDO Deputy Director Viera will give remarks at the conference.

- On August 14-17 in Las Vegas, NV, Community Capacity Development Office staff and Weed and Seed site representatives will participate in the Community Anti-Drug Coalitions of America (CADCA) Mid-Year Training Institute. CADCA's mission is to build and strengthen the capacity of community coalitions to create safe, healthy, and drug-free communities.

- On August 16-17 in Nashville, TN, National Institute of Justice (NIJ) Assistant Director Morgan will attend the Annual Meeting and Exhibition of the National Conference of State Legislatures and give remarks on the NIJ Forensic Science DNA program.

- On August 21 in Orlando, FL, Office for Victims of Crime Director Gillis will give remarks at the World Victims' Society Conference.

- On August 21-24 in Dallas, TX, Assistant Attorney General Schofield, Deputy Assistant Attorney General Daley, and Office of Juvenile Justice and Delinquency Prevention Administrator Flores will speak at the Crimes Against Children and Internet Crimes Against Children Training Conference.

- On August 24 in Baltimore, MD at the Annual National Leadership Conference, sponsored by the Underage Drinking Enforcement Training Center, Office of Juvenile

  Justice and Delinquency Prevention Administrator Flores will give luncheon keynote remarks commending attendees for their efforts to reduce underage drinking.

- On August 25 in Orlando, FL, Deputy Assistant Attorney General Daley will provide closing remarks at the National Organization for Victim Assistance annual conference. Office for Victims of Crime Director Gillis also will give remarks at the conference.

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- On August 28 in New Orleans, LA, Office for Victims of Crime Director Gillis will give remarks at the International Homicide Investigators Association conference.

- In August 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *Federal Law Enforcement Officers, 2004*, which reports the results of a biennial census of federal agencies employing personnel with arrest and firearms authority. Using agency classifications, the report presents the number of officers working in the areas of police patrol and response, criminal investigation and enforcement, security and protection, court operations, and corrections, by agency and state, as of September 2004. Data on gender and race of officers also are included.

- In August 2006, the Bureau of Justice Statistics is scheduled to release *Federal Criminal Justice Trends, 2003* which presents data on federal criminal justice trends from 1994-2003. This report summarizes the activities of agencies at each stage of the federal criminal case process. It includes 10-year trend statistics on the number arrested (with detail on drug offenses); number and disposition of suspects investigated by U.S. Attorneys; number of persons detained prior to trial; number of defendants in cases filed, convicted, and sentenced; and number of offenders under federal correctional supervision (incarceration, supervised release, probation, and parole).

- In August 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *State Court Organization, 2004*, which presents detailed comparative data by state trial and appellate courts in the United States. Topics covered include: the number of courts and judges; process for judicial selection; governance of court systems, including judicial funding, administration, staffing, and procedures; jury qualifications and verdict rules; and processing and sentencing procedures for criminal cases. Diagrams of court structure summarize the key features of each state's court organization. This fifth edition of *State Court Organization* is a joint effort of the Conference of State Court Administrators, the National Center for State Courts, and BJS.

- On September 6-8 in Atlanta, GA, the National Institute of Justice (NIJ), the DHS Science and Technology Directorate, and the DoD Office of the Assistant Secretary of Defense for Homeland Defense will co-host the Annual Technologies for Critical Incident Preparedness Conference and Exposition. The conference will bring together more than 1,200 state and local responders from a variety of public safety disciplines to show them the latest in response technologies and to provide an opportunity for

  participation in discussions with national and international experts. NIJ Acting Director Schmitt will give opening remarks.

- On September 7-8 in Washington, DC, Assistant Attorney General Schofield will give remarks at the OJP and Office of Victims of Crime Teen Dating Violence Workshop.

- On September 13 in Albany, NY, Office of Juvenile Justice and Delinquency Prevention

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Administrator Flores will give the keynote luncheon address at the Developing and Implementing Youth Courts training seminar sponsored by the National Youth Court Center.

- On September 17-21 in Seattle, WA, the Office for Victims of Crime will sponsor the National Association of Crime Victim Compensation Boards Conference.

- On September 18 in Washington, DC, Assistant Attorney General Schofield will provide opening remarks at the Law Enforcement Leadership Initiative Meeting. Deputy Assistant Attorney General Hagy also will speak.

- On September 19 in Washington, DC, Office for Juvenile Justice and Delinquency Prevention Administrator Flores will give the keynote luncheon address at the Persistently Safe Schools 2006 national conference, sponsored by the Hamilton Fish Institute on School and Community Violence.

- On September 19-21 in Baltimore, MD, National Institute of Justice staff will participate in the 2006 Biometrics Consortium Conference, which will address the latest trends in biometrics research, development and applications on biometric technologies, and the important role that biometrics can play in the identification and verification of individuals in this age of heightened security and privacy.

- On September 20 in Washington, DC Assistant Attorney General Schofield will give remarks at the Boys and Girls Club Congressional Breakfast.

- On September 20 in Fort Lauderdale, FL, Deputy Assistant Attorney General Hagy will give remarks at the Center for Substance Abuse Prevention annual grantee meeting.

- On September 21 in Boyds and Rockville, MD, Assistant Attorney General Schofield and Deputy Assistant Attorney General Hagy will visit the Maryland Department of Correction and Rehabilitation.

- On September 25 in New Orleans, LA at the National Network of Youth Ministries' National Mentor Recruitment Training, Office of Juvenile Justice and Delinquency Prevention Administrator Flores will give remarks commending attendees for their work in helping to provide mentors to at-risk youth.

- On September 26 in Orlando, FL Assistant Attorney General Schofield will give opening remarks at the Sex Offender Training Conference.

- On September 27 in Alexandria, VA, Assistant Attorney General Schofield will participate in the CNA Corporation Roundtable.

- On September 28 in Philadelphia, PA, Deputy Assistant Attorney General Daley will give remarks at the 3rd Regional Cold Case Training.

DOJ_NMG_ 0165772

- On October 2 in Washington, DC, Assistant Attorney General Schofield will give opening remarks at the Law Enforcement and Youth Partnerships for Crime Prevention conference.

- On October 3 in New Orleans, LA, Assistant Attorney General Schofield will give remarks at the Human Trafficking Conference

- On October 4-5 in Sacramento, CA, Assistant Attorney General Schofield will give remarks at the National Congress of American Indians Annual Conference.

- On October 12-13 in Denver, CO, the Bureau of Justice Statistics (BJS) will sponsor the BJS/Justice Research and Statistics Association annual conference. BJS Director Sedgwick will give the keynote address.

- On October 13-14 in Boston, MA, Deputy Assistant Attorney General Hagy and Bureau of Justice Assistance Director Herraiz will give a joint presentation at the Major Cities Chiefs meeting prior to the International Association of Chiefs of Police national meeting.

- On October 12-14 in Newport, RI, the Office for Victims of Crime will sponsor the National Association of VOCA Assistance Administrators Conference that will provide training to policymakers, managers, and staff of state VOCA assistance administrative agencies.

- On October 18-21 in Appleton, WI, Deputy Assistant Attorney General Daley will give remarks at the State Clearinghouse Conference.

- On October 23-25 in Washington, DC, at the Institute for Defense and Government Advancement Border Management Conference, National Institute of Justice staff will present on Biometric Technologies for Criminal Justice.

- On October 25 in Denver, CO, Deputy Assistant Attorney General Hagy will give closing remarks at the 2006 Regional Fusing the Fusion Centers Conference.

- On October 25 in Phoenix, AZ, Deputy Assistant Attorney General Daley will participate in the Medal of Valor Board meeting.

- On November 14-15 in Phoenix, AZ, Deputy Assistant Attorney General Daley will give remarks at the 4th Regional Cold Case Training.

- On December 7-9 in Palm Springs, CA on the Aqua Caliente Reservation, the Office for Victims of Crime will sponsor the National Indian Nations Conference.

DOJ_NMG_ 0165773

DIVISION/COMPONENT CONTACT

Cybele Daley, Deputy Assistant Attorney General, OJP, and Acting Director, Office of Communications
202/307-5933

DOJ_NMG_ 0165774

JKester@wc.com

From: [redacted]
Sent: Tuesday, August 01, 2006 11:23 AM
To: Gorsuch, Neil M
Subject: RE: New job

Be sure to look up [redacted], if you don"t know him already. I met him from working together on the Standing Committee on Rules; he is a very bright, friendly and delightful guy. Surely I'll look you up if ever I get out that way; I'll just follow the sound of the Gregorian chant. Best, John

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Tuesday, August 01, 2006 10:43 AM
Subject: RE: New job

Thanks so much for the kind words, [redacted] it was extremely kind of you to write. I hope you will let me know whenever you find yourself headed through Denver and that we manage to stay in touch even as I slip into the judicial monastery. It was a pleasure and privilege to work with you -- though I do wish we had had the chance to do so on the same side of a case! My new contact information, effective sometime in mid-August, follows below. Many thanks again and warmest regards, Neil

U.S. Court of Appeals for the Tenth Circuit Byron White Court House 1823 Stout Street Denver, CO 80257 Judge_Neil_Gorsuch@ca10.uscourts.gov
(303) 335-2896

Also: [redacted] will work

-----Original Message-----
From: [redacted] [mailto [redacted]
Sent: Tuesday, August 01, 2006 10:03 AM
To: Gorsuch, Neil M
Subject: New job

Dear Neil,
I hope that this is the correct email address for you. I was delighted to hear that you got confirmed. Raises the overall quality of the judiciary by a whole percentage point. Glad to have someone of your quality serving on the bench.
All the best,
[redacted]

NOTICE:

This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply or by telephone (call us collect at (202) 434-5000) and immediately delete this message and all its attachments.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 12:27 PM
To: Gunn, Currie (SMO)
Subject: Can you please move staff to 330?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, August 1, 2006 12:37 PM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 8.1.06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 8.1.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending August 4, 2006

NEXT WEEK

- No entries this period.

THIS WEEK

- ***Division Reached Settlement Agreement in Housing Discrimination Lawsuit:*** On July 31, the Division reached an agreement with the owners and manager of Philadelphia Rental Properties, to settle allegations of discrimination against an African American woman who had sought to rent a home. Under the settlement, which must still be approved by the U.S. District Court in Philadelphia, the defendants must pay $40,000 to the victim, undergo training, adopt and post a nondiscrimination policy and provide reports to the government.

- ***Division to Monitor Elections in Kansas and Tennessee:*** On August 1, Department personnel will monitor language assistance procedures in Ford County, KS. The county is covered by the bilingual election requirements of Section 203 of the Voting Rights Act, with respect to limited English-proficient voters who speak Spanish. On August 3, the Department will monitor the primary election in Shelby

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

County, TN. This is a closely contested primary and the United States Attorney for the Western District of TN requested that the Division monitor the election.

LAST WEEK

- ***Division Reached Voting Rights Consent Decree in Texas:***
  On July 27, the Board of Trustees of the North Harris Montgomery Community College District, TX, signed a proposed consent decree to settle a forthcoming lawsuit against the District for violating Section 5 of the Voting Rights Act of 1965. The District had failed to obtain either administrative or judicial preclearance prior to implementing a voting change, the postponement of its May 13 trustee and bond election. Defendants have agreed to comply fully with Section 5 in the future and reschedule the canceled election to November 7, 2006. The Section expects to file a complaint and the proposed consent decree later today. A three-judge court must still approve the Decree.

- ***Division Reached Voting Rights Agreements under HAVA and NVRA with Maine:***
  On July 28, the Division reached an agreement with Maine officials that will help to ensure full access to voting for Maine's citizens with disabilities and to protect the accuracy and integrity of Maine's statewide voter registration list in accordance with the provisions of the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA). The agreement sets forth the state's plan for ensuring that each polling place has a voting system that is fully accessible to individuals with disabilities and can generate a permanent paper record that can be manually audited. The agreement also sets forth the state's plan for creating a statewide computerized voter registration database that will help to identify and remove ineligible voters from the state's voter rolls.

LONG RANGE EVENTS

- Nothing to report

Division Contact: Tobi Longwitz – (202) 514-3846

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 01, 2006 12:47 PM
To: Gorsuch, Neil M
Subject: Read: Hi Aloma, are you aware of any guests for tomorrow that need special access, i.e., handicap?

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, August 1, 2006 1:01 PM
To: Gorsuch, Neil M
Subject: Read: Can you please move staff to 330?

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 1, 2006 1:03 PM
To: Gorsuch, Neil M
Subject: RE: Email addresses
Attachments: going away invitees.wpd

Neil:
Here are the actual email address for most of the outside invitees. You should be able to copy them all at once and place them in the "To" recipient section of your email. There were several offices of Judges and other high level officials that do not provid their email address and requested the invite by fax. I've also attached the wp list.

Harriet_Miers@who.eop.gov; william_k._kelley@who.eop.gov; Jennifer_R._Brosnahan@who.eop.gov; rhoyt@who.eop.gov; bgerry@who.eop.gov; Leslie_Fahrenkopf@who.eop.gov; richard_d._klingler@who.eop.gov; [redacted]; Raul_F._Yanes@omb.eop.gov; Shannen_W._Coffin@ovp.eop.gov; John_B._Wiegmann@nsc.eop.gov; Michael_Allen@nsc.eop.gov; [redacted]@dodgc.osd.mil; Ewilliams@who.eop.gov [redacted]@state.gov; [redacted]@state.gov; Robert.McCallum@usdoj.gov; [redacted]@dni.gov; [redacted]@judiciary.senate.gov; [redacted]@judiciary-rep.senate.gov; [redacted]@Lgraham.senate.gov; [redacted]@cadc.uscourts.gov; [redacted]@cadc.uscourts.gov; Bradford_A._Berenson@who.eop.gov; [redacted]; [redacted]dhs.gov; lreyes@who.eop.gov; Kenneth.Wainstein@usa.usdoj.gov; [redacted]; [redacted]@dcsc.gov; [redacted]

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 10:20 AM
To: Shaw, Aloma A
Subject: Email addresses

Could you send me a copy of the list of email addresses you composed for my farewell party? I'd like to pass along my forwarding address info to those folks. Thanks.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Harriet Miers	Harriet_Miers@who.eop.gov
William Kelley	william_k._kelley@who.eop.gov
Jennifer Brosnahan	Jennifer_R._Brosnahan@who.eop.gov
Bob Hoyt	rhoyt@who.eop.gov
Brett Gerry	bgerry@who.eop.gov
Leslie Fahrenkopf	Leslie_Fahrenkopf@who.eop.gov
Richard Klingler	richard_d._klingler@who.eop.gov
Grant Dixton	phone: 456-7900 fax invite 456-1647
[redacted]	[redacted]
Raul Yanes	Raul_F._Yanes@omb.eop.gov
Shannen Coffin	Shannen_W._Coffin@ovp.eop.gov
Brad Wiegmann	John_B._Wiegmann@nsc.eop.gov
Mike Allen	Michael_Allen@nsc.eop.gov
[redacted]	[redacted]@dodgc.osd.mil
Tevi Troy (DPC)	phone 456-5594 send invite to assistant Ewilliams@who.eop.gov
[redacted]	[redacted]@state.gov
[redacted]	[redacted]@state.gov
Robert McCallum	Robert.McCallum@usdoj.gov
[redacted]	[redacted]@dni.gov
Senator Allard Sean Conway	Fax invite (202) 224-6471)
Senator Ken Salazar	Fax invite (202) 228-5036
[redacted] (same)	Fax invite (202) 224-2207
[redacted] (Sen Judiciary)	Fax invite (202) 228-1115
[redacted] (Sen Kyl)	Fax invite (202) 224-2207
Senator Graham	[redacted]@judiciary.senate.gov
[redacted] (Sen Graham)	[redacted]@judiciary-rep.senate.gov
[redacted] (Sen Graham)	[redacted]@Lgraham.senate.gov
[redacted]	[redacted]@cadc.uscourts.gov
[redacted]	[redacted]@cadc.uscourts.gov
[redacted]	fax invite 216-7200
[redacted]	fax invite 216-7200
Brad Berenson	Bradford_A._Berenson@who.eop.gov
[redacted]	[redacted]
[redacted]	[redacted]@dhs.gov
Luis Reyes	lreyes@who.eop.gov
Ken Wainstein	Kenneth.Wainstein@usa.usdoj.gov

[redacted]	[redacted]
[redacted]	[redacted]@dcsc.gov
[redacted]	[redacted]

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Tuesday, August 01, 2006 2:13 PM
To: Gorsuch, Neil M
Subject: Re: Dinner on Mon Aug 7th?

I will be at the farewell reception tomorrow but probably won't be in the office Thurs or Friday of this week. [redacted] Doubtful that I will be able to make it to Colo on those official trips but who knows. You need to go ahead and get the ceremony behind you and proceed on with us there in spirit. Robt

-----Original Message-----
From: Gorsuch, Neil M
To: McCallum, Robert (SMO)
CC: [redacted]
Sent: Mon Jul 31 17:06:21 2006
Subject: RE: Dinner on Mon Aug 7th?

I'm very sorry I won't be able to make it on the 7th but know you will be in even better hands with [redacted] Do you plan to be in the office between now and Friday? I realize we've practiced at saying goodbye a few times but somehow I always thought it wasn't for "real" yet! Also, do you intend to be back in the USA between now and Christmas? I have an investiture to plan and if there's any chance of you stopping by Colorado on your to's and fro's, we'd love to have [redacted] out for the party.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 2:23 PM
To: McCallum, Robert (SMO)
Subject: RE: Dinner on Mon Aug 7th?

Delighted to hear you will be in tomorrow.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, August 01, 2006 2:13 PM
To: Gorsuch, Neil M
Subject: Re: Dinner on Mon Aug 7th?

I will be at the farewell reception tomorrow but probably won't be in the office Thurs or Friday of this week. [redacted] Doubtful that I will be able to make it to Colo on those official trips but who knows. You need to go ahead and get the ceremony behind you and proceed on with us there in spirit. Robt

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Shaw, Aloma A

From: Shaw, Aloma A
Sent: Tuesday, August 01, 2006 2:48 PM
To: Gorsuch, Neil M
Subject: Staff Meeting

Neil:

Mary Lou Soffer is coming over at 3:30 to discuss your benefits package. You'd asked Currie to reschedule Staff Mtg for that time. Would you like to cancel Staff or reschedule for another time?
Aloma

Gunn, Currie (SMO)

Subject:	Rescheduled Staff Meeting
Location:	OASG Conference Room - 5710
Start:	Wednesday, August 02, 2006 5:00 PM
End:	Wednesday, August 02, 2006 6:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Senger, Jeffrey M; Bottner, Andrea; Katsas, Gregory (CIV)Gorsuch, Neil M; Senger, Jeffrey M; Bottner, Andrea; Katsas, Gregory (CIV)

Soffer, Mary L

From: Soffer, Mary L
Sent: Tuesday, August 1, 2006 3:58 PM
To: Gorsuch, Neil M
Subject: FW: Contact at Federal Circuit Court

Mr. Gorsuch,
I just spoke with Lori Charlton regarding your last day with DOJ, and she wanted me to emphasize with you that it is more advantageous not to have a break in service between your DOJ position and the judge position. Currently, the NFC system shows you have 88 hours of annual leave (as of the end of payperiod 14, which ended 7/22/06). Is 8/4/06 going to be your last working day, and then you'll be on annual leave after that?

Mary Lou

From: Soffer, Mary L
Sent: Tuesday, August 01, 2006 3:51 PM
To: Gorsuch, Neil M
Subject: Contact at Federal Circuit Court

Mr. Gorsuch,
The individuals I have been dealing with are Lori Charlton (303-335-2825) and Vickie Parks.

Mary Lou Soffer
Employee Benefits Specialist
(202) 616-3480
(202) 616-3724 (fax)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 1, 2006 4:02 PM
To: Soffer, Mary L
Subject: RE: Contact at Federal Circuit Court

I will be working through 8/4 but remain on DOJ payroll on leave until I am sworn in as a judge.
Thanks.

From: Soffer, Mary L
Sent: Tuesday, August 01, 2006 3:58 PM
To: Gorsuch, Neil M
Subject: FW: Contact at Federal Circuit Court

Mr. Gorsuch,
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Mary Lou Soffer
Employee Benefits Specialist
(202) 616-3480
(202) 616-3724 (fax)

kluu@tibco.com

From:	kluu@tibco.com
Sent:	Tuesday, August 01, 2006 4:04 PM
To:	Gorsuch, Neil M
Subject:	SOA Now eJournal: Principles and Practices You Can Use
Attachments:	tmp.htm

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August 2006

ESB :The Road to Enterprise SOA

A Proven Approach to Effective SOA Governance

SOAP Over HTTP and JMS; Tips for Picking the Right Tool for the Job

Top Stories from the World of SOA

http://www.soanowjournal.com/best_practices_readmore.htm
A Proven Approach to Effective SOA Governance

Traditional IT governance models break down in SOA, and the benefits of migrating to SOA will not be realized unless IT realigns its structure and processes to the new category of assets that business services and enterprise integration offers.

In SOA, services are developed as shareable, reusable packages of business functionality. Once these components begin to be reused and development picks up, some inadequacies of traditional IT governance will become apparent. SOA features business services and reusable integration components that are essentially a new category of IT assets not owned by individual business units, application developers, or even IT itself. Traditional IT governance is based on an ownership model that can not support an SOA strategy long term.

http://www.soanowjournal.com/best_practices_readmore.htm

http://www.soanowjournal.com/techtalk_readmore.htm
SOAP Over HTTP and JMS; Tips for Picking the Right Tool for the Job

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HTTP was the first officially supported transport for SOAP, and has been widely adopted by application and infrastructure vendors as their chosen method for enabling system-to-system communication using web services.

HTTP wasn't designed for system-to-system communication, though, it was designed for synchronous point-to-point communications between web servers and browsers. This limits its usefulness as a service transport for the mix of synchronous and asynchronous point-to-point and multicast-based communication required to support SOA. Understanding the capabilities and limitations of HTTP will help you identify the best places to use it and when to consider other protocols like JMS, which was designed from the ground up to support efficient and varied means of system-to-system interactions.

http://www.soanowjournal.com/techtalk_readmore.htm

http://www.tibco.com/solutions/soa/resourcecenter.jsp

http://www.soanowjournal.com/topstory_readmore.htm
ESB: The Road to Enterprise SOA

As IT departments increasingly focus on using SOA to lower development costs and increase business agility, ESBs are a key first step in setting up an enterprise SOA. A checklist to gauge whether your ESB is enterprise-class.

How would you rate your IT environment? In a recent IDC survey,CIO Views: The Changing Role of IT, June 19, 2006, CIOs responded with a 7.6 (on a scale from 1 to 10) when asked if they had the appropriate level of technology to meet enterprise business needs and with a 6.3 when asked if they had the appropriate level of resources to meet enterprise business needs.

Note the emphasis on the word "appropriate" and you have the point. CIOs are looking for a level of technology and resources that would help them deliver on the enterprise business needs. The research also indicates that SOA is seeing a lot of traction. ESB is closely tied in to SOA initiatives. Having an

enterprise-class ESB could ensure SOA success. How do you check?

http://www.soanowjournal.com/topstory_readmore.htm

The Truth About SOA
Excellent overview of why, how and when you should (or should not) start thinking about implementing service-oriented architecture.

http://www.cio.com/archive/061506/soa.html
Read the story

SOA Gets Real
Great case studies about some companies that took the risk of a major commitment to SOA and are beginning to reap the rewards

http://www.infoworld.com/reports/SRrealsoa.html
Read the story

SOA: At the Forefront of Integrating Applications Companies are integrating applications and processes across their enterprises to better interact with customers, suppliers and partners-and fuel what can be significant cost savings.

http://www.baselinemag.com/article2/0,1540,1988702,00.asp
Read the story

http://www.tibco.com/solutions/soa/resourcecenter.jsp

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SOAP Over HTTP and JMS: Tips for Picking

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Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, August 1, 2006 4:19 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Miller, Charles S; Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 080106/Tax Division's Supplemental Report to AG 080106
Attachments:	AG_Report_08_01_2006 (2).DOC; AG Supplemental Report 080106.DOC

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Dana J. Boente
Assistant Attorney General (Acting)

SUBJECT: Supplemental Weekly Report

- ***Judge Kaplan Suppresses Two Proffers in KPMG Partners Case***
  On July 25, 2006, Judge Lewis Kaplan suppressed the proffer statements of defendants Richard Smith and Mark Watson. Judge Kaplan declined to suppress the proffers of seven other defendants. Judge Kaplan found that KPMG was acting on behalf of the prosecutors when the firm implicitly threatened to terminate Mr. Smith if he did not cooperate with the government. Similarly, Judge Kaplan found impermissibly coercive the threat to cease paying attorney fees for Mr. Watson, a former partner of the firm with limited means. Judge Kaplan concluded "that the government, both through the Thompson Memorandum and the actions of the USAO, quite deliberately coerced, and in any case significantly encouraged, KPMG to pressure its employees to surrender their Fifth Amendment rights." [*United States v. Jeffrey Stein et al.* (Southern District of New York)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division 202-514-2901.

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

A. NEXT WEEK

- ***Nothing significant to report.***

B. THIS WEEK

- ***Trial of Dentist Accused of Offshore Tax Evasion Commences***
  The tax fraud trial of Roy Lewis began on July 31, 2006. Roy Lewis is a dentist and former client of Tower Executive Resources. In October 2005, a grand jury returned an indictment charging Roy Lewis and his father with one count of conspiring to defraud the United States and four counts each of tax evasion. The indictment alleges that the defendants, father and son, transferred substantial amounts of untaxed income from their medical practices to offshore bank accounts. The father will be tried separately at a later date. The estimated tax loss in the case is approximately $1 million. [*United States v. Roy Albert Lewis* (Northern District of California)]

- ***District Court Hears Argument in Large Tax Shelter Case***
  On July 31, the District Judge Chesler heard argument on one of the plaintiff's three pending motions for summary judgment. The motion addresses the taxpayers' claim that the statute of limitations had expired before a deficiency was proposed because the transaction was adequately disclosed on the tax return. More than $500 million in tax, penalties, and interest is at stake in this litigation involving the successor to GAF Corporation. The company is controlled by New York billionaire Samuel J. Heyman. [*In re G-I Holdings* (District of New Jersey)]

C. LAST WEEK

- ***Court Allows Trial in Significant Hospital Employment Tax Case***
  On July 26, Chief Judge Beckwith denied the United States' motion for summary judgment in this case concerning whether salary stipends paid by teaching hospitals to medical residents are subject to employment tax. The ruling allows discovery to continue. The IRS states that the issue in this case is of widespread significance. Several billion dollars are at stake in pending administrative claims before the IRS. The Tax Division currently is defending 8 of these refund suits worth approximately $125 million. [*United States v. University Hospital* (Southern District of Ohio)]

- ***Judge in KPMG Case Orders Government to Seek Stay of Texas Civil Proceeding***
  On July 24, Judge Kaplan, the judge presiding over the criminal trial of former KPMG partners and others in the Southern District of New York, stated that it was his expectation that the government would make a new request to stay the civil case in the Eastern District of Texas involving tax shelters promoted by the accounting firm. Judge T. John Ward of the Eastern District of Texas previously has denied the United States' motion to stay the case pending the resolution of the New York criminal proceeding and has also declined to reconsider his decision. [*Klamath v. United States* (Eastern District of Texas)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-2901.

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, August 01, 2006 4:30 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Miller, Charles S; Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Wkly Rpt to AG, 080106
Attachments:	AG_Report_08_01_2006.DOC

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Eileen J. O'Connor
Assistant Attorney General

SUBJECT: Weekly Report

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- ***Nothing significant to report.***

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DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division (202) 514-2901.

Jenkins, Jacqueline D. (TAX)

From:	Jenkins, Jacqueline D. (TAX)
Sent:	Tuesday, August 01, 2006 4:31 PM
To:	Hechtkopf, Alan (TAX); Shaw, Aloma A; Reid, Ann Carroll (TAX); Salad, Bruce M. (TAX); Praylow, Carletta J (TAX); Miller, Charles S; Moore, Clara A. (TAX); Magnuson, Cynthia; Mullarkey, D. Patrick (TAX); Gustafson, David D. (TAX); Hubbert, David A. (TAX); Pincus, David I (TAX); Davis, Deborah J; Rothenberg, Gilbert S (TAX); DiCicco, John A. (TAX); Cohen, Jonathan S. (TAX); Young, Joseph E. (TAX); Hytken, Louise P. (TAX); Friend, Mark R. (TAX); Kearns, Michael J. (TAX); Alvarez, Michelle M. (TAX); Gorsuch, Neil M; Peabody, Payson R. (TAX); Ward, Richard R. (TAX); Watkins, Robert S. (TAX); Cimino, Ronald A. (TAX); Paguni, Rosemary E. (TAX); Heald, Seth G. (TAX); Catlett, Susanne S. (TAX); Graham, Valerie A. (TAX)
Subject:	Tax Division's Supplemental Report to AG, 080106
Attachments:	AG Supplemental Report 080106.DOC

August 1, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Dana J. Boente
Assistant Attorney General (Acting)

SUBJECT: Supplemental Weekly Report

- ***Judge Kaplan Suppresses Two Proffers in KPMG Partners Case***
  On July 25, 2006, Judge Lewis Kaplan suppressed the proffer statements of defendants Richard Smith and Mark Watson. Judge Kaplan declined to suppress the proffers of seven other defendants. Judge Kaplan found that KPMG was acting on behalf of the prosecutors when the firm implicitly threatened to terminate Mr. Smith if he did not cooperate with the government. Similarly, Judge Kaplan found impermissibly coercive the threat to cease paying attorney fees for Mr. Watson, a former partner of the firm with limited means. Judge Kaplan concluded "that the government, both through the Thompson Memorandum and the actions of the USAO, quite deliberately coerced, and in any case significantly encouraged, KPMG to pressure its employees to surrender their Fifth Amendment rights." [*United States v. Jeffrey Stein et al.* (Southern District of New York)]

DIVISION CONTACT

Payson R. Peabody, Counsel to the Assistant Attorney General, Tax Division 202-514-2901.

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Tuesday, August 1, 2006 4:51 PM
To: Elwood, Courtney; Scolinos, Tasia; Gorsuch, Neil M
Subject: Discuss 9/11 Speech

FYI - This meeting has been cancelled. The AG will reach out to Neil via phone either Thurs or Fri of this week.

Subject: Discuss 9/11 Speech

Start: Wed 8/2/2006 9:45 AM
End: Wed 8/2/2006 10:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Scolinos, Tasia; Gorsuch, Neil M; Elwood, Courtney

AG's Conference
AO: Kyle Sampson DOJ: Tasia Scolinos, Neil Gorsuch, Courtney Elwood

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 01, 2006 5:34 PM
To: USDOJ- Office of Public Affairs
Subject: TWO DEFENDANTS CONVICTED FOR CONSPIRACY AND BRIBERY INVOLVING FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 1, 2006
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CRM
(202) 514-2008
TDD (202) 514-1888

TWO DEFENDANTS CONVICTED FOR CONSPIRACY AND BRIBERY INVOLVING FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM

WASHINGTON – A jury in the District of Columbia convicted an employee and a volunteer of Washington, D.C., Veterans Affairs Medical Center (DCVAMC) on charges of conspiring to commit mail fraud and bribery and committing bribery, Attorney General Alice S. Fisher for the Criminal Division announced today.

LaTanya Andrews was a payroll technician for DCVAMC and Peter Turner was a volunteer driver for the organization. The jury found that Turner and Andrews conspired to file a forged Federal Employees Group Life Insurance (FEGLI) form falsely designating Turner as a life insurance beneficiary in the official personnel folder of a seriously ill employee of the DCVAMC. Turner then filed a fraudulent claim when the employee died, and obtained payment from the FEGLI program of approximately $20,500 – funds that should have been paid to the deceased employee's parents. The jury further found that Andrews used her official position within the DCVAMC payroll office to access the official personnel folder of the deceased employee and cause the false beneficiary form to be placed in that folder. In return for Andrew's assistance in the scheme, Turner paid her $1,000 from the proceeds of his fraudulent claim.

The Federal Employees Group Life Insurance (FEGLI) program is a term life insurance program operated by the Office of Personnel Management (OPM) for federal employees, including employees of the DCVAMC.

Sentencing for Turner and Andrews has not been set. The maximum penalties for the charges are as follows: Violation of the conspiracy statute is punishable by up to five years in prison, a fine of up to $250,000, or both. Violation of the bribery statute is punishable by up to 15 years in prison, a fine of up to $250,000, or both.

The case was prosecuted in the U.S. District Court for the District of Columbia by Trial Attorneys Daniel A. Petalas and Ann C. Brickley of the Public Integrity Section, headed by Brenda K. Morris, Acting Chief.

DOJ_NMG_ 0165808

The case was investigated jointly by the Office of Personnel Management, Office of the Inspector General, and the Department of Veterans Affairs, Office of the Inspector General.

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06-484

DOJ_NMG_ 0165809

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Image not available for this document, ID: 0.7.10316.41477-000002

Gunn, Currie (SMO)

Subject:	Canceled: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, August 03, 2006 10:00 AM
End:	Thursday, August 03, 2006 11:00 AM
Recurrence:	Weekly
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Shaw, Aloma A; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Katsas, Gregory (CIV)
Importance:	High

When: Thursday, August 03, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting canceled for 8/3/2006 per Tax.

Addition & Introduction of John DiCicco, Deputy Assistant AG

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Fred Murray, Tax

POC: Currie Gunn x4-9500

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Tuesday, August 1, 2006 5:42 PM
To: Gorsuch, Neil M
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech
Importance: High

Mr. Gorsuch,

I haven't had an opportunity to congratulate you yet on your appointment...Congratulations to you [redacted]

The AG would like to speak with you on Thurs at 9:00 AM regarding the 9/11 Speech. Will this time work for you? At which number can he call you to discuss?

Kiahna

Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
TBD
AO: Kyle Sampson DOJ: Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 5:47 PM
To: Sellers, Kiahna (OAG)
Subject: Re: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Thanks, Kiahna! The time works great and I can be reached then at my desk - 3051434. Though I will be in the office then, just in case my cell is [redacted]

-----Original Message-----
From: Sellers, Kiahna (OAG)
To: Gorsuch, Neil M
Sent: Tue Aug 01 17:42:26 2006
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Mr. Gorsuch,

I haven't had an opportunity to congratulate you yet on your appointment...Congratulations to you and your family!

The AG would like to speak with you on Thurs at 9:00 AM regarding the 9/11 Speech. Will this time work for you? At which number can he call you to discuss?

Kiahna

Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
TBD
AO: Kyle Sampson DOJ: Neil Gorsuch

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 01, 2006 5:48 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATE: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 1-4, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, AUGUST 1, 2006
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*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
August 1 – August 4, 2006

Tuesday, August 1

7:00 P.M. MDT

Assistant Attorney General Rachel Brand of the Office of Legal Policy will deliver the keynote address for the dedication of the new police memorial plaza and annual police officer memorial service in Tucson, Arizona.
Tucson Police Department
270 South Stone Ave
Tucson, Arizona
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Wednesday, August 2

9:30 A.M. EDT

Steven Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, will testify before the Senate Judiciary Committee on The Authority to Prosecute Terrorists Under The War Crime Provisions of Title 18
Dirksen Senate Office Building
Room 226
Washington, D.C.

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

2:30 P.M. EDT

Attorney General Alberto R. Gonzales will testify before the Senate Armed Services Committee regarding Military Commissions and Enemy Combatants.
Hart Senate Office Building
Room 216
Washington, D.C.

DOJ_NMG_ 0165815

Press inquiries regarding logistics should be directed to the Senate Armed Services Committee at 202-224-3871.

Thursday, August 3

Events TBD

Friday, August 4

Events TBD

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Image not available for this document, ID: 0.7.10316.41468-000002

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Tuesday, August 01, 2006 5:59 PM
To: Gorsuch, Neil M
Subject: [redacted] called, wanted to let you know that he would miss your farewell tomorrow. Sends his regrets.

Wright, Paula N

From:	Wright, Paula N
Sent:	Tuesday, August 1, 2006 6:29 PM
To:	Davis, Deborah J
Cc:	Shaw, Aloma A; Swenson, Lily F; Gorsuch, Neil M; Agostino, Helen
Subject:	Antitrust Division ~ 06 July 31-Weekly Report.WPD
Attachments:	06 July 31-Weekly Report.WPD

Washington, DC 20530-0001

WEEKLY REPORT OF THE ANTITRUST DIVISION:

MEMORANDUM FOR THE ATTORNEY GENERAL

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

FROM: Thomas O. Barnett
Assistant Attorney General
Antitrust Division

DATE: July 31, 2006

A. This Week

· ***United States v. Douglas A. Benit***
Benit, a former assistant school superintendent, was charged in May in a nine-count indictment relating to fraud in the federal E-Rate program, which provides Internet access and other telecommunications services to needy schools and libraries. The Division plans to seek a second indictment against Benit on August 2 in the Eastern District of Michigan, charging him with one count of mail fraud in connection with his ongoing scheme to obtain money by fraudulent means.

· ***Proposed Acquisition of Arcelor S.A. by Mittal Steel Company N.V.***
This week the Division expects to file a civil lawsuit in U.S. District Court in Washington, D.C., under Section 7 of the Clayton Act, to block the proposed $22.8 billion tender offer by Mittal to acquire its rival Arcelor. Such a lawsuit would include the simultaneous filing of a proposed consent decree that was negotiated with Mittal and previously announced on May 12. Pursuant to the decree, Mittal would divest Dofasco Inc., currently owned by Arcelor, to ThyssenKrupp AG. If unable to divest Dofasco, due to defensive measures taken by Arcelor during the tender offer, the decree would require Mittal to divest certain alternative assets to a buyer acceptable to the Division.

· ***MediaNews Group Inc.'s Acquisition of Bay Area Newspapers***
The Division expects to announce that it has decided to close its investigation of the acquisition by MediaNews Group Inc. of several newspapers in the San Francisco Bay area from McClatchy Co., Inc. Due to significant publicity

DOJ_NMG_ 0165821

concerning the investigation, prompted by a private antitrust lawsuit filed in the San Francisco division of the District Court for the Northern District of California, the Division will issue a closing statement explaining why it concluded that the transaction would not cause a substantial lessening of competition in the markets for the sale of daily newspapers and the sale of advertising in such newspapers.

B. Next Week

· ***United States v. Robert G. Moore***

As early as August 11, the Division is considering filing an Information under seal in the Northern District of Illinois charging Robert G. Moore with one count of conspiracy to solicit and receive bribes and one count of receiving bribes. The Information charges Moore with receiving bribes for steering contracts for goods and services to certain contractors while he was a government contracting official with the U.S. Army, stationed at Bagram Air Field in Afghanistan. Moore has agreed to plead guilty and cooperate with the Division's covert investigation. The plea agreement will contain a recommended sentence of 30-37 months. Moore also has agreed to pay restitution of $120,000 to the United States.

C. Last Week

United States v. Stolt-Nielsen S.A.; Stolt-Nielsen Transportation Group Ltd. (Liberia); Stolt-Nielsen Transportation Group Ltd. (Bermuda); Jacob Stolt-Nielsen, Jr.; Samuel A. Cooperman; Reginald J.R. Lee; and Richard B. Wingfield

On March 23, the U.S. Court of Appeals for the Third Circuit reversed an order by the U.S. District Court for the Eastern District of Pennsylvania, which had enjoined the Division from indicting the Stolt entities and Wingfield based on the claim that the Division's unilateral revocation of Stolt's conditional amnesty had violated due process. The Court of Appeals also denied petitions for rehearing en banc and motions to stay pending resolution of their petitions for *certiorari*. On July 25, the circuit Justice, Justice Souter, denied the Stolt defendants' motion to stay the mandate pending *certiorari*. On July 26, the Stolt defendants filed a renewed motion to stay with Justice Stevens.

· ***Bell Atlantic Corp. v. Twombly***

On June 26, the Supreme Court granted *certiorari* in this private class action case alleging that the major incumbent telephone providers engaged in a conspiracy to avoid competing in each other's traditional customer territories. In the case below, the District Court for the Southern District of New York dismissed the complaint for failure to state a claim, but the Court of Appeals for the Second Circuit reversed, holding that, although the complaint alleged no direct evidence of an anticompetitive agreement, it was sufficient to survive a motion to dismiss under the rules of notice pleading. The Antitrust Division is preparing a draft brief for the Solicitor General.

DOJ_NMG_ 0165822

- ***Proposed Acquisition of Falconbridge Ltd. by Inco Ltd.***

As previously reported, the Division filed a complaint and proposed consent decree on June 23 in U.S. District Court in Washington, D.C., to prevent Inco Ltd.'s proposed acquisition of its competitor Falconbridge Ltd. from harming competition in the market for high-purity nickel. Last week Inco announced that its bid for Falconbridge shares had failed and that Inco does not intend to acquire any of the shares tendered in response to its offer. As a result, the Division will move to withdraw its Complaint and terminate the ongoing judicial proceedings under the Tunney Act.

SBC Communications, Inc. Acquisition of AT&T Corp.; Verizon Communications Inc. Acquisition of MCI, Inc.

In October 2005, the Division filed civil lawsuits in U.S. District Court in Washington, D.C. (Sullivan, J.) challenging the proposed SBC/AT&T and Verizon/MCI mergers, along with proposed settlements that would resolve the Division's competitive concerns. The settlements are subject to the Tunney Act, which requires that the public be given an opportunity to comment before the court determines whether the settlements are in the public interest and, if such a determination is made, enters final judgments in the cases. The court has allowed amicus participation by two associations of telecommunications service providers, a New Jersey consumer advocacy group, New York Attorney General Eliot Spitzer, and Sprint Nextel. At a status conference on July 25, the court called for the Division to file evidentiary materials in support of its proposed settlements by August 7; opponents may comment until August 17; the Division may respond by August 28.

Meeting with French Officials

On July 25, DAAG Masoudi met with officials from the French economic and financial ministries regarding United States antitrust and intellectual property policies. The officials are collecting information as part of an effort to increase innovation in the French economy. The officials met separately with other agencies, including the Federal Trade Commission.

CONTACT PERSON: Jim O'Connell (353-4651)

DOJ_NMG_ 0165823

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, August 02, 2006 7:55 AM
Subject:	Attorney General's News Briefing for Wednesday, August 02, 2006
Attachments:	agnb060802.pdf; agnb060802.doc

This morning's Attorney General's News Briefing is attached.

Website: You can also read today's briefing, including searchable archive of past editions, at http://www.BulletinNews.com/justice.

Full-text Links: Clicking the hypertext links in our write-ups will take you to the newspapers' original full-text articles.

Interactive Table of Contents: Clicking a page number on the table of contents page will take you directly to that story.

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THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, AUGUST 2, 2006 7:45 AM EDT

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TERRORISM NEWS:

Court Rules Prosecutor May Inspect Reporters' Phone Records. A federal appeals court in New York has ruled that a federal prosecutor may inspect the telephone records of two New York Times reporters in an effort to identify their confidential sources. The New York Times (8/7, Liptak, 1.21M) reports, "The 2-to-1 decision, from a court historically sympathetic to claims that journalists should be entitled to protect their sources, reversed a lower court and dealt a further setback to news organizations, which have lately been on a losing streak in the federal courts." The case "arose from a Chicago grand jury's investigation into who told the two reporters, Judith Miller and Philip Shenon, about actions the government was planning to take against two Islamic charities, Holy Land Foundation in Texas and Global Relief Foundation in Illinois."

The Washington Post (8/2, A16, Lane, 748K) reports that the appeals court ruled that the Times "has no First Amendment or other legal right to refuse a demand for the records from the grand jury in Chicago, which was empaneled by US Attorney Patrick J. Fitzgerald." The decision "was the latest in a string of court defeats for media organizations seeking to protect confidential sources."

The New York Law Journal (8/2, Hamblett) reports, "Times reporters Judith Miller and Philip Shenon, respectively, learned of impending government searches of The Holy Land Foundation and the Global Relief Foundation that were held on Dec. 4 and Dec. 14, 2001. … The Times called the foundations for comment on the eve of the searches, and, according to the government, thereby jeopardized the safety of federal officers and compromised the searches, which were being conducted as part of a probe into the funding of terrorist activities." The Journal adds, "Patrick J. Fitzgerald, the U.S. Attorney for the Northern District of Illinois, sought, but was denied, cooperation from the Times on obtaining the phone records. He then threatened to have the grand jury issue a subpoena to third-party providers of phone services to the reporters. … Southern District of New York Judge Robert W. Sweet granted summary judgment for the Times, finding that the disclosure of the records was barred by both First Amendment and common law privileges. And even if the privileges were qualified, and Sweet found they were, he said, the government had not presented enough evidence to overcome them. … At the circuit, Winter said first that Sweet did not abuse his discretion by concluding he could exercise jurisdiction over the action."

White House Proposal Would Strengthen Military Courts. The Washington Post (8/2, A4, Smith, 748K) reports, "A draft Bush administration plan for special military courts seeks to expand the reach and authority of such 'commissions' to include trials, for the first time, of people who are not members of al-Qaeda or the Taliban and are not directly involved in acts of international terrorism." The proposal is called "controversial inside and outside the administration because defendants would be denied many protections guaranteed by the civilian and traditional military criminal justice systems." The article notes that uniformed military lawyers "have argued in recent days for retaining some routine protections for defendants that the political appointees sought to jettison," particularly objecting "to the provision allowing defendants to be tried in absentia."

Administration Appeals NSA Surveillance Ruling. The AP (8/2) reports, "The Bush administration appealed a court decision that allowed a lawsuit to go forward challenging the U.S. president's warrantless domestic spying program." The AP continues, "In rejecting government claims that the suit could expose state secrets and jeopardize the war on terror, U.S. District Judge Vaughn Walker ruled July 20 that the eavesdropping was so widely reported there appears to be no danger of spilling secrets. Walker also said he did not see how allowing the lawsuit to continue could threaten national security." The AP adds, "The case, which names AT&T Inc. as a defendant, is among three dozen lawsuits alleging telecommunications companies and the government are illegally intercepting communications without warrants. Walker is the only judge to rule against the government's claim of a "state secrets privilege." … A federal judge in Chicago dismissed a similar case last week, agreeing the government could invoke the privilege the U.S. Supreme Court first recognized in the McCarthy era."

UK Launches Terror Alert System. USA Today (8/2, 2.27M) reported that Britain yesterday launched its first public terrorism alert system and "rated the threat of an attack

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as severe, or highly likely." The system, "based on the US Homeland Security Department model, ranks threats as low, moderate, substantial, severe or critical. It was implemented after the deadly attacks on the London transit system last year to give the public more access to information."

The New York Times (8/2, Cowell, 1.21M) reports that "the threat level appeared on several Web sites, including www.intelligence.gov.uk, which is run by the espionage and counterterrorism establishment, and www.mi5.gov.uk, run by the domestic security service. … Unlike the previous secret grading system, which offered seven levels of threat, the new system has been simplified to five, from 'low' to 'critical,' meaning an attack is expected imminently." The Times adds, "Britain's apparent vulnerability relates to assumptions among intelligence experts that its military presence in Iraq as America's most resolute ally has helped make it a target."

Author Says Bangladesh Is A New Regional Hub For Terrorist Operations. Author Selig Harrison, former South Asia bureau chief for the Washington Post, writes in the Washington Post (8/2, A15, 748K), "While the United States dithers, a growing Islamic fundamentalist movement linked to al-Qaeda and Pakistani intelligence agencies is steadily converting the strategically located nation of Bangladesh into a new regional hub for terrorist operations that reach into India and Southeast Asia." Harrison asks, "What is the excuse for inaction in Bangladesh, where the incumbent government coddles Islamic extremists and a strong secular party is ready to govern?"

HOMELAND RESPONSE:

GAO Investigators Able To Pass Through Border Crossings With Fake IDs. A GAO study that found investigators were able to pass through nine border crossings with fake identification was the topic of reports on NBC and CBS last night. NBC Nightly News (8/01, story 6, 2:35, Williams, 9.87M) reported, "The US Customs and Border Protection service has 18,000 officers stationed at 317 different points of entry into the US. But when investigators used fake ID's they went right past the guards." NBC (Myers) called the results of the investigation "staggering," adding that none of the border agents "detected the phony ID's. In fact, at two crossings, agents didn't even check any ID's at all." Tom Kean, the chairman of the 9/11 Commission, was shown saying that such lapses at the border have "happened too often and the American people aren't safe because of it." Homeland Security official Paul Morris was shown saying, "It's important to note that we do acknowledge that the vulnerability exists and that it will continue as long as we have inconsistent and somewhat insecure documents." Myers: "The 9/11 commission and now DHS say the answer is to require passports for everyone crossing the border. Even Americans."

The CBS Evening News (8/01, story 9, 2:05, Schieffer, 7.66M) reported the "study suggests far too many" of the IDs used to cross the border are fakes." CBS (Keteyian) reported from a "top-secret government lab," where DHS "experts comb through a treasure trophy of personal IDs searching for fakes." However, "Three months ago, two government investigators showed just how easy it is to slip into this country when at a US border crossing like this one between Detroit and Canada, they presented counterfeit driver's licenses, and a fake birth certificate, but were still allowed entry into the United States." CBS (Keteyian) continued that "critics say…front-line inspectors still don't have enough training in technology…to tell the difference between counterfeit and authentic."

In an article appearing on no less than 125 news websites, the AP (8/1, Jordan) reported the GAO's "findings, to be presented to the Senate Finance Committee, come as Congress considers delaying a 2007 deadline requiring passports or a small number of previously approved tamperproof ID cards from all who enter the United States." DHS spokesman Jarrod Agen "conceded that agents sometimes cannot verify more than 8,000 different kinds of currently acceptable IDs without significantly slowing border traffic."

Szubin To Direct Treasury's Office Of Foreign Assets Control. Adam Szubin will take over as the new director of the Office of Foreign Assets Control, a Treasury Department agency that enforces economic sanctions against foreign countries and plans a key role in efforts to catch terror financiers, drug dealers and money launderers. The AP (8/1, Aversa) reported, "Szubin has been with the department for two years and has served as a senior adviser to Stuart Levey, undersecretary for terrorism and financial intelligence. Both Levey and Szubin were at the Justice Department before they moved to Treasury." The AP adds, "The naming of the new OFAC director follows revelations that the department — shortly after the Sept. 11,

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2001, terror attacks — began secretly tracking the finances of suspected terrorists by gaining access to a massive international data base of financial records."

9/11 Panel Suspected Pentagon Deception. The Washington Post (8/2, Eggen, 748K) reports, "Some staff members and commissioners of the Sept. 11 panel concluded that the Pentagon's initial story of how it reacted to the 2001 terrorist attacks may have been part of a deliberate effort to mislead the commission and the public." The 10-member panel "debated referring the matter to the Justice Department for criminal investigation, according to several commission sources. Staff members and some commissioners thought [there was] probable cause to believe that military and aviation officials violated the law by making false statements to Congress and to the commission, hoping to hide the bungled response to the hijackings." Ultimately the panel compromised by "turning over the allegations to the inspectors general for the Defense and Transportation departments, who can make criminal referrals if they believe they are warranted."

Tapes Reveal Confusion, Ineffectiveness In US Military Response To 9/11 Attacks. ABC World News Tonight (8/01, story 8, 2:50, Gibson, 8.78M) reported, "With the fifth anniversary of 9/11 approaching, we have a story of Air Force recordings made that day that have never been heard until now. They document the enormous confusion for the Air Force on 9/11. A Vanity Fair writer obtained the story for the September issue." ABC (McFadden) added, "The tapes were made here, inside an aluminum bunker at northern New York State at the Northeast Command Center. The 25 or so Air Force personnel on duty are charged with defending US air space from Boston to the Dakotas. … That morning, the military had only four armed fighter planes to defend a 500,000 square miles of American airspace. It took eight minutes to scramble, or launch, the first two fighters. And by then, American Flight 11 had already crashed into the World Trade Center." ABC added, "It's worth noting these tapes had to be subpoenaed by the 9/11 commission. And Governor Kean told me earlier today that it wasn't until the staff heard those tapes that they began to unravel the confusion and ineffectiveness of the military response."

Firefighters At Ground Zero Lost Equivalent Of 12 Years Of Lung Function. The CBS Evening News (8/01, story 8, 0:20, Schieffer, 7.66M) reported, "There is a startling new report out today about the health of firefighters involved in the rescue and recovery operation at ground zero after 9/11. It says the firefighters lost, on average, the equivalent of 12 years of lung function. Those who sucked in toxic air during the collapse of the twin towers lost the most lung capacity. Those who arrived later had less damage."

Georgia Governor Honors Jewell On 10th Anniversary Of Olympic Bombing. The Atlanta Journal-Constitution (8/2, Redmon, 399K) reports, "Gov. Sonny Perdue marked the 10th anniversary of the Centennial Olympic Park bombing Tuesday by commending former security guard Richard Jewell for his actions in the moments before the deadly attack. … 'The bottom line is this: His actions saved lives that day. He did what he was trained to do,' Perdue, who is seeking re-election, said with Jewell at his side at an afternoon news conference in the state Capitol." The Journal-Constitution notes, "Jewell was praised as a hero after the bombing, but days later The Atlanta Journal-Constitution and other media outlets identified him as the FBI's chief suspect. The FBI later cleared Jewell of any wrongdoing. He was never charged with a crime."

WAR NEWS:

Over 70 People Killed In Iraq Yesterday. The CBS Evening News (8/01, story 5, 0:15, Schieffer, 7.66M) reported, "The fighting in Lebanon is overshadowed the news from Iraq, but there has been no let-up in the war there. More than 70 people were killed today, including an American soldier who died in combat west of Baghdad. In the capital a car bomb exploded at a bank that pays Iraqi security forces. At least two dozen people were killed there."

NBC Nightly News (8/01, story 5, 1:55, Colt, 9.87M) reported, "More Mayhem in Baghdad this morning. Bombers targeted Iraqi soldiers lining up to cash their monthly paychecks. As many as 14 were killed in the pair of car bombs. Civilians among them. The twin blasts so powerful they shook windows a half mile away. North of Baghdad, more bombings killed at least 27 Iraqi policemen and soldiers in two separate attacks. Today's toll, at least 70 dead. Nearly half of them Iraqi security forces."

The Washington Times/AP (8/2, Reid) also reports on the "surge of bloodshed as US forces prepared to take back Baghdad's streets from gunmen. The dead included 20 Iraqi

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troops, a US soldier and a British soldier." The Washington Post (8/2, A11, Partlow, Al-Izzi, 748K), Los Angeles Times (8/2, Fleishman, Rasheed, 918K) and New York Times (8/2, Semple, 1.21M), among other sources, also report on yesterday's attacks.

US, Iraqis Involved In "Block-By-Block" Battle For Ramadi. Meanwhile, the Washington Post (8/2, A12, Tyson, 748K) reports from Ramadi that the city, "capital of Iraq's western Anbar province, has sunk into virtual anarchy under the stranglehold of a skilled, well-financed and ruthless insurgency. Now, for the first time, US and Iraqi forces are engaged in a block-by-block campaign to retake the area." The Post adds, "The US strategy here aims to avoid a full-scale military onslaught like the one that demolished much of the nearby city of Fallujah in November 2004, flattening hundreds of homes, emptying it of people and leaving it struggling to rebuild."

Biden Says A Political Solution Is Needed In Baghdad. Sen. Joe Biden said on MSNBC's Hardball (8/1), "I don't think much more is going to get better in Baghdad, even with the reinsertion of a couple American brigades. And the reason I say that is that there is a need for a political solution. The only way you're going to get some change in the insurgency…is you've got to be able to give the Sunnis a piece of the action. You have got to amend the constitution to guarantee them part of the oil revenue, which was the implicit promise when they voted on the constitution in December. And secondly, you've got to get this new government and this new prime minister to sign on, and have enough nerve to take on al-Sadr, and the Mahdi militia that's significantly infiltrated the police forces, that are walking around in uniforms and acting as death squads. You've got to clean that up. Absent doing those two things, putting another 100,000 troops in Baghdad at this point isn't going to solve the problem."

Colonel May Have Encouraged His Men To Go On "Killing Spree." ABC World News Tonight (8/01, story 5, 2:00, Gibson, 8.78M) reported, "We have exclusive, new details about the army's case against four American soldiers who were charged with murdering three Iraqi civilians outside the city of Samarra in early May. The Army opened a hearing on whether the soldiers are going to have to stand trial on murder charges." ABC (Karl) added, "The alleged murders took place as part of 'Operation Iron Triangle' in May. The target: a suspected al Qaeda training facility northwest of Baghdad. Army prosecutors say the four American soldiers detained three Iraqi men and then killed them, unarmed, in cold blood. The defendants claim they acted in self-defense. They also make a startling claim. They say they were under orders to kill all military-aged men in Iraq, whether armed or not. Even more remarkable, military sources familiar to the case say that appears to be true. Soldiers in this unit at least believed their commander, Colonel Michael Steele had issued an order to shoot to kill all Iraqi men in his operation. Col. Steele had a storied military background. His heroics portrayed in the movie 'Black Hawk Down.' It was his unit that came under attack in Somalia in 1993. In Iraq last November, he boasted about his unit's record of killing insurgents." ABC News "has learned that Colonel Steele is now under investigation for allegedly encouraging his men to go on a killing spree and has already been reprimanded. A source familiar with the investigation says Steele kept a 'kill board' tallying the number of Iraqis killed by units under his command. And that in some cases, he gave out commemorative knives to soldiers who killed Iraqis believed to be insurgents. Colonel Steele is not commenting publicly about any of this. But a source close to him tells ABC news, that he categorically denies the allegations."

Marine Names Murtha In Defamation Suit. The Washington Post (8/2, A5, White, 748K) reports, "A Marine Corps staff sergeant who led the squad accused of killing two dozen civilians in Haditha, Iraq, will file a lawsuit today in federal court in Washington claiming that Rep. John P. Murtha (D-Pa.) defamed him." Murtha had said to "news organizations in May that the Marine unit cracked after a roadside bomb killed one of its members and that the troops 'killed innocent civilians in cold blood.' Murtha also said repeatedly that the incident was covered up." The Post says the suit "could have interesting legal ramifications because [USMC Staff Sgt. Frank] Wuterich and the other members of his squad have not been charged and have not received any official investigative documentation about the Nov. 19 incident." One of Wuterich's attorneys "said the filing is designed partly to force Murtha to disclose what information he received from the Defense Department and the Marine Corps commandant to form his opinion, essentially trying to speed up the discovery process in a potential criminal trial."

Many Shiite Leaders Now Condemn Iraqi Government. McClatchy (8/2, Youssef) reports, "Many of

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the Shiite Muslim religious leaders who strongly backed the formation of the Iraqi government now are condemning it, warning that the country could descend into full revolt." Their statements, "observers said, reflect their effort to distance themselves from an increasingly unpopular government, one they once encouraged voters to risk their lives to support. In the process, they hope to win back support from the populace, the majority of which is Shiite." McClatchy adds, "The signs of defection are troublesome for US and Iraqi officials, and another possible sign that the American strategy is threatened." The Shiite leaders have pushed for formation of the government more aggressively than any other Iraqi group, and their frustrations come just as American and Iraqi officials had encouraged Sunni Muslims to participate in the nascent political process.

Johanns Meets With Iraqi Prime Minister In Baghdad. The Dow Jones Newswire (8/2) reports Agriculture Secretary Mike Johanns has arrived in Iraq for meetings with the country's agricultural producers to "strengthen the relationship and intensify collaboration" between the two countries, the USDA said in a statement. During a meeting with Iraqi Prime Minister Nuri al-Maliki, Johanns pledged to rebuild Iraq's food and agriculture sector by strengthening the country's extension services and universities.

Audit Denounces "Virtual Pandemic" Of Corruption In Iraq. The AP (8/2, Jelinek) reports, "Corruption is 'a virtual pandemic in Iraq,' threatening rebuilding efforts, international aid and citizen confidence needed for a fledgling democracy, a government report said Tuesday. One Iraqi official has estimated that corruption costs the country $4 billion annually. … The details are cited in the quarterly report by the Special Inspector General for Iraq Reconstruction."

The Washington Times (8/2, Scarborough, 88K) reports he report, released yesterday by Stuart W. Bowen, the special inspector general for Iraq reconstruction, says, "Corruption threatens to undermine Iraq's democracy." Bowen, however, also "reported some good news for the Iraqi people: Production of electricity and oil climbed for the first time in more than a year above prewar levels."

The New York Times (8/2, Glanz, 1.21M) says Bowen "is releasing the final version of the history to coincide with Mr. Bowen's appearance before the Senate Committee on Homeland Security and Governmental Affairs on Wednesday." Sen. Susan Collins, "the Maine Republican who heads the committee, said in a statement that there were lessons in the history for other huge reconstruction efforts, like the one following Hurricane Katrina. 'It is a story of mistakes made, plans poorly conceived or overwhelmed by ongoing violence, and of waste, greed and corruption that drained dollars that should have been used to build schools, improve the electrical grid, and repair the oil infrastructure,' Senator Collins said."

Iraqis Taking Over "Flailing" US Reconstruction Effort. The Washington Post (8/2, A1, Mosher, Witte, 748K) reports, "A flailing Iraq reconstruction effort that has been dominated for more than three years by US dollars and companies is being transferred to Iraqis, leaving them the challenge of completing a long list of projects left unfinished by the Americans." The Post adds, "While the handover is occurring gradually, it comes as U.S. money dwindles and American officials face a Sept. 30 deadline for choosing which projects to fund with the remaining $2 billion of the $21 billion rebuilding program. More than 500 planned projects have not been started, and the United States lacks a coherent plan for transferring authority to Iraqi control, a report released Tuesday concludes. In some cases, Iraqis are having to take over projects from American construction firms that were removed from jobs because of poor performance."

Roberts Denies He Is Delaying Iraq Intel Probe To Protect Administration. Bloomberg (8/2) reports that nine months after Senate Democrats called for a "closed session" to "embarrass" Senate Intelligence Committee chairman Pat Roberts into delivering on promises to lead a full Phase II investigation of the Bush Administration's handling of the intelligence used to justify the invasion of Iraq, they are still waiting. Democratic lawmakers, former administration officials and intelligence analysts say the inaction "is one example of Roberts's unqualified support for the Bush administration that goes beyond the Iraq probe to include quashing inquiries into the torture of prisoners and the monitoring of domestic phone calls and e-mails." Democratic lawmakers "have suggested that Roberts is delaying the report until after the November midterm elections to protect the administration from embarrassing disclosures." Roberts denies "that he had covered up or concealed anything."

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Baucus' Nephew Dies In Combat In Iraq. USA Today/AP (8/2) reports, "A nephew of Sen. Max Baucus was killed in combat in Iraq during the weekend, the senator's office said Tuesday. Marine Cpl. Phillip E. Baucus, 28, died Saturday in Anbar province, the Department of Defense said Tuesday. It did not immediately release further information."

Roll Call (8/2) reports Baucus said in a statement, "Our family is devastated by the loss of Phillip. … Phillip was an incredible person, a dedicated Marine, a loving son and husband, and a proud Montanan and American. He heroically served the country he loved and he gave it his all. We loved him dearly and we'll miss him more than words can ever express."

Loss In Mental Ability Linked To Soldiers' Service In Iraq. The New York Times (8/2, Carey, 1.21M) reports, "A large study of Army troops found that soldiers recently returned from duty in Iraq were highly likely to show subtle lapses in memory and in ability to focus, a deficit that often persisted for more than two months after they arrived home, researchers are reporting today." But "the returning veterans also demonstrated significantly faster reaction times than soldiers who had not been deployed, suggesting that some mental abilities had improved." The study, appearing in The Journal of the American Medical Association, is "the first to track carefully such changes in mental functioning over time in soldiers who deployed to a war zone and those who did not." The Los Angeles Times (8/2, Maugh, 918K) also reports the story.

More Than 1/3 Of NG Brigades Are Not Combat Ready. USA Today/AP (8/1) reports, "More than two-thirds of the Army National Guard's 34 brigades are not combat ready, mostly because of equipment shortages that will cost up to $21 billion to correct, the top National Guard general said." Lt. Gen. H. Steven Blum said that the Guard had the "same symptoms" but a "higher fever" than the active Army. Army officials have become "more open about the overall declining" readiness of the force, part of which is attributable to "Army units returning from the war [that] have either left tanks, trucks or other equipment behind or are bringing them home damaged. Once back, many soldiers either leave the Army or move to other posts, forcing leaders to train others to replace them."

Oldest Recruits Ever Join Army. USA Today (8/2, Brook, 2.27M) reports, "The Army has begun training the oldest recruits in its history, the result of a concerted effort to fill ranks depleted during the Iraq war. In June, five months after it raised the enlistment age limit from 35 to just shy of 40, the Army raised it to just under 42." It has "lowered the minimum physical requirements." Army records show that so far "only five people 40 and older" and "324 age 35 and older" have enlisted. Analyst Loren Thompson called putting 42-year-old soldiers on the front line "a bad idea" but said that correct use of the older soldiers "could be a real boon."

41-Year-Old Mother Joins Army. USA Today (8/2, Brook, 2.27M) reports that 41-year-old Margie Black and her daughter enlisted together in the Army. Her induction was made possible when Congress voted to "allow all services to raise the age limit." Only the Army did. Undersecretary for personnel David Chu "says better health care, diet and fitness mean that middle age needn't be a barrier to military service. Until this year, recruits could not have reached their 35th birthday prior to enlistment."

Three British Soldiers Killed In Afghanistan. The New York Times (8/2, Gall, 1.21M) reports, "Three British soldiers were killed and one wounded in an ambush in southern Afghanistan on Tuesday, just one day after NATO took over command of the region from the United States, a NATO military statement said." The Times adds, "Nine British soldiers have died in the two months since they were deployed to the province of Helmand, where they have encountered intense resistance from insurgents, often in well-laid ambushes."

The Washington Post (8/2, A9, Abrashi, 748K) reports that "meanwhile, Afghan and US-led foreign forces arrested four suspected al-Qaeda operatives near eastern Khost province's Sewakay village, a military statement said. No details were given on the suspects' nationalities."

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Levin Holding Up Wainstein Nomination To Anti-Terror Position. The AP (8/2, Sherman) reports, "Facing no opposition to his nomination, veteran federal prosecutor Kenneth Wainstein is waiting only for the Senate to confirm him as head of the Justice Department's new anti-terrorism division." The AP continues, "Wainstein's confirmation is being held up by a senatorial tradition that

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allows any one of the 100 members to keep the full Senate from voting on whether to confirm a nominee. … Sen. Carl Levin, a Michigan Democrat, has refused to budge on Wainstein's nomination, not because of any complaint about the nominee but to try to force the Justice Department's hand on another matter." The AP adds, "Levin has been pressing the Bush administration to supply more information from FBI agents who reported witnessing aggressive, at times abusive, interrogations of detainees at Guantanamo Bay, Cuba, a Defense Department facility. … It wasn't the Justice Department doing the interrogating, one department official said when asked about it, requesting anonymity because of continuing efforts to persuade Levin to allow a Senate vote. … Levin spokeswoman Tara Andringa would say only that Levin has been waiting more than a month for seven documents relevant to the Senate's consideration of Wainstein's nomination."

DOJ Attorney Launches Online Dating Service For Lawyers. The Legal Times (8/2, Schwartz) reports, "As a fortysomething single mother and attorney in Washington, D.C., Elena Albamonte had no trouble finding a date on Match.com, one of the biggest and most popular online dating services. … But it was nearly impossible for the Justice Department immigration lawyer and mother of two to find someone with whom she could actually have a conversation. Her dates, she says, were just too geeky, too awkward or too different from her." The Times continues, "Then she found herself on a date with a fellow attorney and realized how much they had in common. Granted, the guy didn't take her breath away. (in fact, they only went on five dates.) But Albamonte, 49, was struck by 'how easy it was to talk to him,' she says. 'It's amazing how much you have in common with someone who went to law school.'" The Times adds, "Perhaps, she thought, other attorneys were looking for a site that was tailored specifically to them. Why not, she wondered, have a site where you don't have to search through hundreds of listings to find someone who knows what it means when you talk about constitutional law class or the last time you wrote a brief? And why wait around for someone else to make it? … So Albamonte got to work creating LawyersinLove.com, a dating site strictly devoted to lawyers. She bought up the domain name, created a logo, and invested more than $45,000 in building a database and advertising." The Times notes, "As online dating has proliferated, specialized sites targeting professions, religious groups and hobbies have popped up on the Internet. For instance, there is Astro-Dating.com, for those who want to look for a mate whose astrological sign matches theirs, and conservativematch, designed for those politically and socially to the right. Of course, not everyone who spends her days dealing with lawyers may want to date one. But Albamonte is betting that her site -- open for a little more than a year -- will fill a need in the busy schedules of the hundreds of single law students, associates and partners across the city."

CORPORATE SCANDALS:

5th Circuit Panel Reverses Some Merrill Lynch Convictions. The AP (8/2, Flynn) reports, "A federal appeals court on Tuesday reversed several convictions against four former Merrill Lynch executives found guilty of helping engineer Enron's 1999 sale of mobile power plants to the brokerage to help the energy trader appear to have met earnings targets." The AP continues, "The three-judge panel of the 5th U.S. Circuit Court of Appeals found fault with the government's theory of fraud that led to the wire fraud and conspiracy convictions of James A. Brown, William Fuhs, Daniel Bayly and Robert S. Furst. Bayly is Merrill's former head of investment banking. .. The panel also ruled that the evidence was insufficient in Fuhs' case but upheld Brown's perjury and obstruction of justice convictions. … They were among five former executives found guilty of one count of conspiracy and two counts of wire fraud in November 2004 in connection with the sham sale of power barges anchored off the coast of Nigeria."

The Wall Street Journal (8/2, Emshwiller) reports that the ruling was "a setback for the Justice Department, adding that the "decision by a three-judge panel of the Fifth U.S. Circuit Court of Appeals in New Orleans had been signaled several weeks ago, when the appellate court ordered the release of three of the individuals pending a ruling in the case. At the time, observers said the court likely wouldn't have ordered such releases if it was planning to uphold the convictions." The Journal notes, "The convictions in a 2004 jury trial in Houston federal court were viewed by many observers as a major victory in the government's landmark investigation of the Enron scandal. It marked the only instance in which the government criminally charged any officials from the many big banks and brokerage firms that helped Enron construct its elaborate -- and prosecutors contend, often fraudulent -- financial statements. The case against the

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former Merrill officials was widely viewed as an effort by the government to send a message to the financial community about what is and isn't acceptable conduct in helping shape the financial structures of major corporations. … The government is likely to appeal yesterday's decision to the full Fifth U.S. Circuit Court of Appeals and possibly to the Supreme Court, observers say. Another possible reason for pursuing an appeal would be to get a clearer definition of what constitutes a deprivation of 'honest services' by an employee to his company in a corporate-fraud case -- an issue that played a large role in yesterday's appellate-panel decision."

The Houston Chronicle (8/2, Roper) reports, "The panel upheld…a conviction of perjury and obstruction of justice against Brown. … 'The Justice Department is reviewing the decision and considering our options,' said spokesman Bryan Sierra, declining to comment further on a devastating blow to the first case the Enron Task Force tackled." The Chronicle adds, "Bayly, Furst and Fuhs were released on bail earlier this year as they awaited the decision from the appeals court, a move that many observers believed was a sign that their convictions would be overturned. … For the court to issue such an order, a defendant has to show there is a substantial chance of a reversal in the case."

Jury Acquits Former Specialist Of Improper Trading. The Wall Street Journal (8/2, Bray) reports, "The government suffered its first defeat in prosecutions of allegedly improper trading activity on the New York Stock Exchange." The Journal continues, "A former 'specialist firm' trader on the NYSE floor was acquitted yesterday of allegations that he made improper trades for his firm's account in Eli Lilly & Co. ahead of public orders. The jury found Robert A. Scavone Jr. not guilty of one count of securities fraud, after 45 minutes of deliberations. … Mr. Scavone, 46 years old, a former trader with Van der Moolen Specialists USA LLC, had faced as many as 20 years in prison if convicted. 'I am thrilled that the system worked,' Mr. Scavone said in a statement. 'I went to trial because I had done nothing wrong.'" The Journal adds, "A spokesman for the U.S. Attorney's office in Manhattan said, 'Each of these cases is different. While we respect the jury's verdict in the Scavone case, we plan to proceed with the other cases.'" The Journal notes, "Barbara Geringswald, a juror on the case, said afterward that the jurors didn't feel the government's case was strong and that the evidence presented at trial didn't convince them 'beyond a reasonable doubt' that Mr.Scavone committed a crime. … 'It was quick and unanimous,' Ms. Geringswald said. … So far in the prosecutions, two traders have pleaded guilty, two were found guilty of one count apiece, and now one has been acquitted. Another 11 traders are expected to go to trial later this year and in 2007."

Former Mercury Interactive CEO Settles Options Backdating Dispute. The AP (8/2) reports, "Mercury Interactive Corp. on Tuesday said that its former CEO has agreed not to exercise his options for nearly half-million shares as part of a settlement for his part in stock option manipulation that caused the maker of business management software to overstate previous years' earnings." The AP continues, "In November, Mercury ousted its longtime CEO, Amnon Landan, as well as two other top executives after concluding they participated in stock 'backdating,' in which stock options are issued retroactively to coincide with low points in a company's share price. … According to documents it filed with the Securities and Exchange Commission Tuesday, the company entered into an agreement with Landan where he will not exercise his options to acquire 437,500 common shares granted with a record grant date of Jan. 3, 2003." The AP adds, "If, on or before a cutoff date of March 15, 2007, the company and Landan reach a settlement, then he will receive a credit of the lesser of either the settlement amount or about $2.8 million, which represents the difference between the exercise price of the 2003 options and the closing price of the company's common stock on July 14. … Despite the ongoing investigation, Hewlett-Packard Co. last week announced its intention to buy Mercury Interactive for $4.5 billion, the biggest acquisition the Palo Alto, Calif.-based computer and printer maker has made since it paid $19 billion for Compaq Computer Corp. in 2002."

DOJ Seen As Pressured For Hardline Tactics In White Collar Prosecutions. The Financial Times (8/2, Kirchgaessner) reports, "The Justice Department is coming under intense pressure to soften some of the tactics it embraced in the early half of the decade, when a spate of corporate fraud put the conviction of white collar criminals at the top of the Bush administration's law enforcement agenda." The Times continues, "A tough policy the department adopted in 2003 has been a sore point for

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legal experts and business lobbyists, who say it unlawfully forces individuals and companies to forgo their due process rights in order to avoid being indicted. … While the department has largely ignored such criticisms in the past, a recent ruling by a judge overseeing the government's case against former partners at KPMG, the auditing firm, in which its tactics were deemed to have violated the constitution, has prompted questions about whether the department will have to change its ways." The Times adds, "The issue is expected to be highlighted by the Republican chairman of the Senate judiciary committee, Arlen Specter, next month, raising the prospect that Congress could soon get involved in the fray. … For some critics, the issue is symptomatic of what they see as the Bush administration's disregard for both Congress and the judiciary – a charge that has been levied against the administration on issues ranging from the 'war on terror', to the alleged monitoring of domestic telephone calls, to the detention of enemy combatants without charge. … 'What is really interesting is that the department's position [as outlined in what is commonly referred to as the Thompson memo] was developed without any kind of congressional or judicial involvement. Since they seem unwilling to discuss it, you are going to continue to see frustration by the legislature and judicial branch,' says Stanton Anderson, senior legal counsel at the US Chamber of Commerce." The Times notes, "At the centre of the controversy are provisions in the Thompson memo that say prosecutors should weigh the level of a corporation's co-operation when deciding whether to indict a company, an act that can, like in the case of accounting giant Andersen, lead to the collapse of an entire company."

CRIMINAL LAW:

Gonzales Cites Protecting Children From Predators As Top Priority. The Santa Fe New Mexican (8/1) reports, "U.S. Attorney General Alberto Gonzales declared Monday at a conference in Santa Fe that protecting children from sexual predators is his top priority. … 'There is no crime I'm more dedicated to preventing,' Gonzales told members of the National District Attorneys Association at Eldorado Hotel and Spa. '(Protecting children) is more important than anything we do.'" The New Mexican continues, "Gonzales spoke to a packed audience for about 20 minutes before meeting with Gov. Bill Richardson on immigration issues. While Gonzales said district attorneys are vital on many fronts -- including the war on terror, stunting methamphetamine addiction and battling violent crime and gangs -- he spent most of his speech on the need to pursue and prosecute those who prey on children. … The attorney general provided brief overviews of several cases where children were raped and killed by known sex offenders and told attorneys that protecting those kids 'is the No. 1 part of your job.' He said one in five girls and one in 10 boys is sexually exploited before adulthood." The New Mexican adds, "Gonzales highlighted the Adam Walsh Child Safety Act of 2006 signed last week by President Bush as one of the tools federal prosecutors are using to prosecute 'these monsters.' He also talked about Project Safe Childhood, a program that aims to protect children from Internet predators who use sites like MySpace.com to lure victims. … He urged the prosecutors to work together with their federal colleagues and state attorneys general to make the programs work. 'There is so much work, unfortunately, to do,' Gonzales said."

Blogger Jailed For Refusing To Comply With Court Orders. A freelance journalist and blogger was jailed yesterday after refusing to turn over a video he took at an anticapitalist protest in San Francisco last summer. The New York Times (8/2, McKinley) reports that Josh Wolf also refused to testify before a grand jury looking into accusations that crimes were committed during the protest. Wolf "was taken into custody just before noon after a hearing in front of Judge William Alsup of Federal District Court. Found in contempt, Mr. Wolf was later moved to a federal prison in Dublin, Calif., and could be imprisoned until next summer, when the grand jury term expires, said his lawyer, Jose Luis Fuentes."

The San Francisco Chronicle (8/2, Egelko) reports, "Prosecutors contend that burning a police car is a federal crime because the San Francisco Police Department receives federal funds. Wolf and his lawyers accuse the government of manipulating the case to sidestep California's shield law, which allows journalists to withhold unpublished material and confidential sources from prosecutors. There is no federal shield law, and the state law does not apply in federal court." The Chronicle continues, "Wolf, 24, could be jailed until next July, when the grand jury's term expires. Alsup denied his requests for bail or for a 10-day stay while he asks the Ninth U.S. Circuit Court of Appeals to overturn the contempt order. … The case is 'a slam dunk for the government,'' the judge said at the end of a 2 1/2 - hour hearing. Noting that the events Wolf photographed took place

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in public and involved no confidential sources, Alsup said there was a 'legitimate need for law enforcement to have direct images of who was doing what to that police car.' … 'Every person, from the president of the United States down to you and me, has to give information to the grand jury if the grand jury wants it,' Alsup said. … Assistant U.S. Attorney Jeffrey Finigan told the judge that Wolf was 'placing himself above every other citizen in our society' by defying the grand jury. Finigan said the subpoena had been approved by Attorney General Alberto Gonzales, as provided by Justice Department guidelines in cases against journalists."

The AP (8/2) reports, "Wolf's lawyer, Jose Luis Fuentes, said that relinquishing the footage to a grand jury would be tantamount to his client becoming 'an arm of the government.' Because of the subpoena, Fuentes said, the underground groups Wolf chronicles are denying him access. … The American Civil Liberties Union said federal authorities are disregarding California's shield law, which generally allows journalists to decline to divulge unpublished material to state authorities. That shield, however, does not attach to federal investigations."

US Seeks Death Penalty In Fatal South Carolina Motel Fire. The Greenville (SC) News (8/2) reports, "Prosecutors will seek the death penalty against a man charged with setting fire to the Comfort Inn on Congaree Road more than two years ago that killed six people and injured 11, federal court documents show. … Eric Preston Hans, charged in connection with the Jan. 25, 2004, fire, has pleaded not guilty." The News adds, "Prosecutors filed a notice of intention to seek the death penalty against Hans Tuesday after U.S. Attorney General Alberto Gonzales authorized the office to seek the death sentence, according to a release."

The AP (8/2) reports, "U.S. Attorney Reggie Lloyd filed notice of intent to pursue the death penalty against Eric Preston Hans, 36, of Taylors after receiving authority to do so from U.S. Attorney General Alberto Gonzales, Lloyd's office said Tuesday in a release. … Hans was indicted in November on charges that he set fire to the Comfort Inn to kill 21-year-old Melba Leshawn Canty, who died in the fire with her 15-month-old son, Jaden. … The January 2004 fire also killed four more people and injured 11 other guests." The AP notes, "U.S. District Judge Henry M. Herlong Jr. postponed Hans' trial in February after attorneys said they needed additional time to prepare. … Lawyers said they needed more time because of the number of witnesses involved, as well as 'the need to obtain all potential evidence in mitigation' in the event Gonzales authorized Lloyd to see the death penalty."

New York Ranks Second Nationally For Federal Capital Cases. The New York Law Journal (8/2, Wise) reports, "More federal death penalty cases have been authorized in New York than in any other state, except Virginia, since capital punishment was reinstated for federal cases in 1988." The Journal continues, "Thirty-seven federal capital cases have been authorized in New York, compared with 50 in Virginia and 385 nationwide, according to data prepared by the Federal Death Penalty Resource Counsel Project, which was current as of July 14, 2006." The Journal adds, "Within New York, the U.S. Attorney's Office in the Southern District has prosecuted the most capital cases, 16; followed by the Eastern District, 15; the Northern District, 5; and the Western District, 1." The … Fourteen of the 37 capital cases in New York were resolved before going to trial. All of the 13 cases that went to trial resulted in at least one guilty verdict on a capital count, but none of the defendants was sentenced to death. Instead, they were sentenced to life in prison. … Ten other federal capital cases remain to be tried in New York, more than any other state but California, where 17 capital cases have yet to be tried to completion." The Journal notes, "An additional 52 defendants have been charged with capital-eligible crimes in New York, and are awaiting a determination by U.S. Attorney General Alberto Gonzales as to whether the death penalty will be sought. New York has more potential death penalty cases in the pipeline than any other state, according to the death penalty counsel project, which is funded by the Administrative Office of the U.S. Courts to provide information about capital punishment to assist judges and lawyers appointed to defend capital cases. … Nationwide, 161 capital cases have gone to trial, with 15 resulting in verdicts of not guilty on all capital counts in the case. The remaining 146 cases have resulted in 95 life sentences and 51 death sentences. To date, three death row inmates have been executed: two in Texas and one in Colorado. Defendants serving a life sentence will never be released, as there is no parole in the federal system."

Four Former New York Union Officials Plead Guilty To Corruption Charges. Three former officials of Laborers' International Union of North America Local 91 in the Niagara Falls area pleaded guilty yesterday to

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racketeering charges and a fourth former official pleaded guilty to extortion. The unexpected pleas came in the second week of their trial in Buffalo. The story was widely covered in New York press, with the New York Times, AP and WIVB-TV quoting Buffalo SAC Laurie Bennett as saying, "This has been the most significant F.B.I. criminal investigation in western New York in the past 20 years. I say that because of the widespread violence and the significant and devastating economic loss to the community."

The New York Times (8/2, Staba, 1.21M) reports, "For more than three decades, leaders of a powerful union used violence and intimidation against contractors, independent workers and even members of other unions to control the construction industry in the Niagara Falls area, according to federal prosecutors, strangling economic development in the process. On Tuesday, prosecutors declared victory in their long-running war against…Local 91." The AP (8/2, Thompson) adds, "The men were the final defendants in a massive government case that investigators began building in the mid-1990s. In all, 18 Local 91 members pleaded guilty or were convicted at trial. … Defense attorney Joel Daniels, representing former Local 91 President Mark Congi, said he felt the defense was holding its own against the government witnesses and evidence, but agreed to the plea to avoid the potential life prison term a jury conviction may have brought."

Former New Jersey Fire Marshal Sentenced To Six Months In Prison For Bribery. The AP (8/2) reports former Monmouth County fire marshal Patsy R. Townsend "was sentenced Tuesday to six months in prison for accepting a bribe in exchange for using his post to help others get work in the county." Townsend "must also serve five months under house arrest after completing his prison term and pay a $2,000 fine, under the sentence imposed by U.S. District Judge William J. Martini." The AP notes, "He pleaded guilty in March to a single charge of attempting to commit extortion under color of official right. At his plea hearing, Townsend admitted accepting $1,000 on Nov. 1, 2004, from an undercover FBI agent for helping the agent obtain emergency demolition contracts in Monmouth County."

The Newark Star-Ledger (8/2, Martin) adds, "The judge said the public -- and the officials who serve it -- need to know that bribery, extortion and the betrayal of public trust won't be treated lightly." Martini said during the sentencing hearing, "What was going on was a culture of corruption. … They thought they were really untouchable." The Star-Ledger notes Townsend "is among nearly two dozen elected officials, public employees and contractors county wide who have been charged or convicted since a long-running FBI corruption investigation went public early in 2005." The Asbury Park Press (8/2, Alexander) also reported on the sentence the wide-spread FBI investigation.

Gotti Offers To Testify At Trial, But Only About Own Actions. The AP (8/2, Caruso) reports, "John 'Junior' Gotti, according to his attorneys, is willing to do the unthinkable: Take the witness stand and testify about his life in the Mafia. In a letter filed in federal court on Tuesday, Gotti's lawyers said the reputed scion of the Gambino crime family is anxious to tell a jury about how he abandoned mob life after his last prison stint and has 'no allegiance to it.' He has only one condition: He doesn't want prosecutors asking him 'immaterial' questions about his affairs, the letter said." The AP adds, "While Gotti is prepared to testify about his own actions…he is unwilling to testify about 'certain facts' that 'might implicate other people in crimes.' … In other words, don't hold your breath for Gotti's testimony anytime soon." The New York Daily News (8/2, Zambito, 729K) notes Gotti lawyer Sarita Kedia wrote in the letter, "Mr. Gotti is indisposed to becoming a de facto cooperator by subjecting himself to the government's limitless queries about the crimes of others." US Distict Judge Shira Scheindlin "will decide in the coming weeks whether to limit prosecutors' questioning." The New York Post (8/2, Cornell, 608K) also briefly reports the story, under the headline "Gotti Will Testify If…"

US Cracking Down On ELF Arsonists Despite Group's Avoidance Of Physical Violence. In a story painting a generally sympathetic portrait of ELF arsonists, Rolling Stone (8/10, Grigoriadis) reports on the 1998 Vail ELF firebombing and how the group calling itself the Family "saw themselves as revolutionaries protecting the environment." However, Rolling Stone notes, "Although the elves always focused on destroying property and avoiding the loss of human life, the Bush administration now treats the ELF as the homegrown equivalent of Al Qaeda. Last year, FBI deputy assistant director John Lewis called the group—along with the ALF and an aggressive animal-liberation outfit called Stop Huntingdon Animal Cruelty—the nation's 'number-one domestic terrorism threat.' In the past three years, the administration has doubled the number of

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Joint Terrorism Task Forces...and many seem intent on busting arsonists like Avalon rather than catching killers like Osama bin Laden. In 2003, when activists including CalTech graduate students firebombed several SUV dealerships in Los Angeles, FBI director Robert Mueller responded by assigning the entire terrorism task force in L.A. to the case and personally briefed President Bush about it. In a post-9/11 world where every FBI agent wants to catch a terrorist, an 'eco-terrorist' is better than nothing." Rolling Stone adds, "Given the current environmental crisis facing the planet, even some of those responsible for putting the Family behind bars find themselves sympathizing with the group's motives. 'My heart's with these people,' says Kirk Engdall, the lead prosecutor in the case. 'We've got to save the planet for our children and grandchildren. Where they went wrong is when they resorted to violence.' ... Supporters in the environmental movement agree."

The Washington Post (8/1, C2, Carlson, 748K) reported on the Rolling Stone's "excellent article," calling it "a fascinating update of the old American story of idealists who turn violent, set in a subculture of anarchist coffeehouses, heavy-metal bands, radical vegans, neo-pagans and women who are herbalists by day and arsonists by night."

Texas Man Sentenced To 12½ Years In Prison For Investment Fraud. The AP (8/2) reports, "A federal judge on Tuesday sentenced an Amarillo businessman to more than 12 1/2 years in prison for operating a fraudulent investment company, according to a news release from the U.S. Attorney's Office." Phillip D. Phillips "collected about $1.7 million from investors, returned about $651,000 to them in checks purported to be dividends, and kept about $1.1 million" through his bogus firm, Sagebrush Securities. "The scheme fell apart when the president of Ironstreet," a legitimate securities company for which Phillips was a registered representative, "made a surprise visit to Amarillo and discovered Phillips operating the sham business out of the office. The SEC and the FBI began investigating a short time later, the release states."

California Woman Sentenced To Six Months In Halfway House For Katrina Fraud. The AP (8/1) reported, "A woman who posed as a Red Cross volunteer in a scam that bilked donations meant for Hurricane Katrina victims was sentenced to six months at a halfway house." Gina Liz Nicholas of Glendale, Calif., "also received three years of probation, 300 hours of community service, was fined $1,000 and was required to undergo psychiatric counseling at Monday's sentencing hearing." The AP notes, "She and two others were arrested in September 2005 outside a Best Buy store, where police said they had set up a table and collected as much as $2,000 over several days."

Wisconsin Man Pleads Guilty To Child Porn Possession. The Milwaukee Journal Sentinel (8/2, 259K) reported former school bus driver Robert E. Burkhardt "pleaded guilty Tuesday to possessing hundreds of images of child pornography on his home computer." Burkhardt "was scheduled to go to trial Tuesday but instead pleaded guilty to seven counts of possessing child pornography, all felonies. ... According to a criminal complaint, FBI agents executed a search warrant in March 2005 on Burkhardt's Belgium (WI) home and seized a computer, several compact and floppy discs and 30 photographs. The computer hard drive contained 181 pornographic images of children, and dozens more were found on computer discs, the complaint says."

National Forests See More Urban-Style Crime. The Christian Science Monitor (8/2, Clayton) reports, "Urban-style violence against forest rangers is intruding more than ever into the nation's public forests. ... Drug smugglers, armed robbers, and hard-partying or alienated city dwellers are setting up camp in the deep woods and clashing more with rangers, US Forest Service personnel say. What such incidents have in common is an urban grittiness, they say." The Monitor continues, "Two law-enforcement forest rangers in Lolo National Forest in western Montana last August tracked into the deep forest a man who had beaten his wife at a camping area. When cornered, the man unleashed his pit bull, which attacked the rangers, and bit one of them several times, according to a forest service report. They finally subdued the dog and arrested the man. ... 'It's really a microcosm of where we are with society,' says Jack Gregory, a special agent who heads the Law Enforcement and Investigations Branch of the US Forest Service's southern region, which includes 13 states and Puerto Rico. 'We've even had stickups in our campgrounds - these guys are doing armed robbery right there in the woods.'" The Monitor adds, "Many incidents, he says, relate to drugs and problems along the US border. In the West, Mexican cartels have moved into central California to grow marijuana on public lands, especially in the Sierra and the Stanislaus

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National Forests, he says. … When law-enforcement rangers in the Angeles National Forest in southern California entered a marijuana plantation in October, two suspects approached them. The men were ordered to surrender, and one did while the other fled. Shots were fired. In the end, authorities seized 78 kilograms of processed marijuana, shotguns and other guns. … Some violence stems from city life migrating into the woods. Domestic quarrels and altercations with intoxicated visitors on motorized vehicles aren't unusual anymore, according to forest service reports."

Authorities Missed Chances To Keep Maryland Predator From Slain Boy. The Baltimore Sun (8/2, Sentementes, Bykowicz) reports, "A series of caretakers and others knew that a registered child sex offender had befriended the 11-year-old boy he is now charged with killing, but they repeatedly failed to take steps that could have taken the man off the streets and away from children." The Sun continues, "Missed opportunities helped Melvin L. Jones Jr. stay out of trouble with his probation agents despite orders that he not go near children. Over the years, he regularly baby-sat Irvin J. Harris, accompanied the child and his friends to Artscape and to July 4 fireworks and went to the boy's school." The Sun adds, "In most cases, some officials and others who discovered Jones' predatory past did little beyond warning Irvin's mother or ordering the boy to stay away. The mother failed to heed the advice and let Jones, 52, hang out with her son. … 'We wish everybody in Irvin Harris's life had done things differently,' Baltimore Police Col. Fred H. Bealefeld III, chief of detectives, said at a news conference Tuesday. He called the child's death 'an enormous tragedy for everyone concerned.'" The Sun notes, "Interviews and a review of court records and police documents show that officials had many chances to flag Jones long before police say Irvin was repeatedly stabbed behind a church near his home in Northeast Baltimore: … Irvin accused Jones of grabbing his neck and squeezing it during a dispute on July 4, according to a police report, and his mother assured a city officer that she would follow through on charges. She never did. A detective later assigned to the case could not locate the mother or Irvin, and police said he was unable to track down Jones or verify that he was the same person accused of assaulting the boy."

Former Aide Says Harris Concealed DOJ Subpoena. The Tampa Tribune (8/2, Epstein) reports, "U.S. Senate candidate Katherine Harris received a grand jury subpoena from federal investigators and concealed the fact from top campaign advisers hired to help her deflect negative publicity, her former campaign manager has disclosed. … 'Yes, there was a subpoena. She didn't tell us,' said Glenn Hodas, Harris' third and most recent campaign manager. He said he learned of it in June while reviewing invoices from powerhouse Washington lawyer Benjamin J. Ginsberg and confronted his boss. … The invoices, Hodas said, were for work relating to a 'DOJ subpoena,' referring to the U.S. Department of Justice." The Tribune continues, "The discovery culminated in the latest round of staff departures, in mid-July, Hodas said. Those resignations included Hodas and a campaign spokesman. … 'Finding out about the subpoena caused me to wonder about what was going on and what else I didn't know, but I don't want to comment any further on what appears to be a pending investigation,' said Hodas, reached by telephone Tuesday." The Tribune adds, "His remarks echo those of another former top Harris strategist, Ed Rollins, who said in several interviews after quitting in the spring that he was worried 'about [Harris'] stories changing, about what I didn't know.' … The subpoena apparently was issued for campaign records as part of a Justice Department investigation of Harris' dealings with defense contractor Mitchell J. Wade." The Tribune notes, "The escalating inquiry by the Justice Department's Public Integrity Section already has involved interviews with Rollins, who conducted an internal inquiry for the campaign and said he spent two hours talking to investigators here, and Fred Asbell, who quit in June as Harris' chief of staff in Congress, Harris' fourth. … Harris has said she is cooperating with authorities and has been informed she is 'not a target.'"

CIVIL LAW:

DOJ Defends Boeing Settlement. The Seattle Times (8/2, Mundy) reports, "Despite embarrassing allegations involving two contracting scandals and criminal plea bargains by two of its executives, Boeing had a strong position with the Justice Department in its settlement negotiations, the government's chief attorney in the talks told a Senate panel Tuesday." The Times continues, "The settlement this spring, which included $50 million in criminal fines and $565 million in civil penalties, has been questioned by some senators as too loose and too lenient. … The deal precluded criminal prosecution of the company on those two

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matters and would have allowed Boeing to deduct settlement costs from its taxes." The Times adds, "In a hearing before the Senate Armed Services Committee, Deputy Attorney General Paul McNulty, who negotiated the settlement while the U.S. attorney for the Eastern District of Virginia, defended it as 'an outstanding resolution to an extremely difficult case.' … In a detailed explanation of the Justice Department's decision, McNulty noted there were limits to the government's potential punishment of Boeing, given its place as one of a few large defense contractors and its role in Pentagon projects that extend through 2020. … 'Contracts at issue are critical to national security; they cannot practicably be terminated,' McNulty said. He added that because there were 'extensive differences on factual and legal matters' with Boeing, the alternative was years of litigation. … The hearing was called July 18 by Sen. John Warner, R-Va, chairman of the Armed Services Committee, and John McCain, R-Ariz. They were concerned Boeing would deduct part of the fines from its taxes."

Boeing CEO Apologizes For Firm's Ethical Lapses. The AP (8/2, Daly) reports, "Boeing Co. chairman and CEO James McNerney apologized Tuesday for a series of scandals that forced out two of his predecessors and led the company to pay a record $615 million settlement to the Justice Department." The AP continues, "Appearing at a Senate hearing, McNerney said Boeing takes 'full responsibility for the wrongful acts of the former employees who brought dishonor on a great company and caused harm to the U.S. government and its taxpayers.'" The AP adds, "McNerney called the June 30 settlement - which ended a three-year federal investigation into the aerospace giant's defense contracting practices – 'tough but fair.' … Coupled with the loss of $1 billion worth of rocket launch contracts taken away by the Air Force, and the scandal's toll on Boeing's reputation, 'the settlement serves as a stark reminder of the direct impact that unethical conduct can have on our bottom line,' McNerney said. … McNerney, who took over as CEO of Chicago-based Boeing Co. in July 2005, won praise from members of the Senate Armed Services Committee for deciding not to seek a tax write-off worth as much as $200 million from the Justice Department settlement. Senators from both parties had worried that Boeing would seek the tax deduction, thereby diluting the settlement's impact."

Boeing Chief Executive W. James McNerny Jr. appeared before the Senate Armed Services Committee yesterday in what the New York Times (8/2, Wayne, 1.21M) calls an effort "to rebuild [the company's] reputation." McNerny's appearance "came on a day the committee examined Boeing's $615 million settlement with the government -- the largest ever for a military contractor -- that ended several ethics investigations into its dealings with the Pentagon." The "sharpest questions were directed not at Mr. McNerney, but at Paul J. McNulty, the deputy attorney general, who had negotiated the settlement."

The Wall Street Journal (8/2, Pasztor, Karp, 2.03M) reports, "Lawmakers applauded Boeing Co.'s decision to forgo tax deductions on a $615 million settlement of federal ethics violations, but said the case highlights the need for legislation barring companies from trying to pass on such penalties to taxpayers. Arizona Republican Sen. John McCain, a fierce Boeing critic during the weapons-acquisition scandals that led to the record settlement, praised the company's ethical turnaround and offered an olive branch" during yesterday's hearing. McCain "appealed to Boeing for help 'on addressing how we can reform a broken defense-procurement system.'"

Six Charities Sue Over Exclusion From Combined Federal Campaign. The Michael J. Fox Foundation for Parkinson's Research and five other nonprofit organizations are suing the federal government, claiming they were unfairly dropped from the list of organizations eligible to receive donations from federal employees. The Washington Post (8/2, A13, Weiss, 748K) reports that the groups "are asking a federal judge for a restraining order to prevent their exclusion from the official eligibility list for the Combined Federal Campaign. An estimated 1.3 million federal employees donate more than $250 million a year to the more than 22,000 national, local and international nonprofit groups included in the campaign, according to the Government Accountability Office. … The other groups that have sued are the American Association of Kidney Patients; the Allergy & Asthma Network Mothers of Asthmatics; the Sturge-Weber Foundation; the Navigators, which provides faith-based counseling and other services to US military personnel; and Awana Clubs International, a Christian youth evangelical group."

Typo In Deficit Reduction Bill Sparks Lawsuits. The National Law Journal (8/2, Baldas) reports, "An error in President Bush's Deficit Reduction Act

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has proven a Pandora's box, triggering lawsuits that question the legality of everything from new Medicare reimbursements to increases in court filing fees." The Journal continues, "At the center of this legal snafu? … A typo that caused the House and Senate to approve slightly different versions of the bill before it was signed into law. The mistake dealt with reimbursements for medical equipment rentals for Medicare patients." The Journal adds, "The Senate version included 13 months of funding, but a clerk mistakenly changed the wording to read 36 months, which is what the House approved. Bush signed the 13-month version. The mistake has caught the attention of lawyers and lawmakers, who, if successful in proving the act unconstitutional, can nullify the act, including parts they wish to alter. … Plaintiffs -- who in order to file suit have to prove that they were affected by the act -- include an Alabama lawyer who believes that the law will hurt his elderly clients; 11 Democratic congressmen who are challenging the constitutionality of the act; and Public Citizen, a consumer watchdog group upset over the $100 filing fee increase for federal civil litigation. The U.S. Department of Justice has declined comment on any litigation involving the act." The Journal notes, "In recent months, judges in New York and California have ruled against challenges to the constitutionality of the Deficit Reduction Act, holding that they do not have the authority to interfere in legislative procedures. The New York case is on appeal. OneSimple Loan v. U.S. Secretary of Education, No. 06 Civ. 2979 (S.D.N.Y); California v. Leavitt, No. CIV S-99-0355 (E.D. Calif.). … In court documents, the government has defended the constitutionality of the law, arguing that it has been signed by the leaders of both the House and Senate. … The government also has asserted that the courts should not "look behind an enrolled, certified bill to evaluate the inner workings of Congress."

CIVIL RIGHTS:

Four California Gang Members Convicted Of Hate Crimes. The AP (8/2) reports, "Four members of a Hispanic gang were convicted (in Los Angeles) Tuesday of conspiring to use violence, including murder, to push blacks out of their neighborhood in what prosecutors called one of the first high-profile federal prosecutions of a street gang as a hate group." The AP continues, "All four were found to have caused the death of a black man who was shot while parking his car in 1999 and a man who was shot while standing at a bus stop in 2000 in the largely Hispanic city of Highland Park, just east of Los Angeles. … The four face life in prison without parole. Sentencing begins Oct. 23." The AP adds, "For a guilty verdict, jurors had to find that the attacks were part of a conspiracy to violate the victims' right to live where they please and to use state-administered facilities, including public streets. … Authorities said it was one of the first prominent cases in which the U.S. Justice Department targeted a street gang with laws normally used to prosecute white supremacist groups such as skinhead organizations and the Ku Klux Klan. … During closing arguments last week, Justice Department attorney Bobbi Bernstein asked the jury to convict the four to send a message that America does not tolerate racial violence. … 'In America, these people don't get to beat people down or kill them because they don't want to see black skin in their neighborhood,' Bernstein said. 'Tell them that they did not own these streets, and they did not own that neighborhood.' … Defense attorneys claimed police concocted the conspiracy charges by tying together random attacks committed largely by unknown perpetrators. They also questioned the credibility of two former members of the Avenues gang who became government witnesses."

The Los Angeles Times (8/2, Mozingo) reports, "The four defendants — Gilbert 'Lucky' Saldana, 27; Alejandro 'Bird' Martinez, 28; Fernando 'Sneaky' Cazares, 25; and Porfirio 'Dreamer' Avila, 31 — face life in prison without the possibility of parole for their roles in the conspiracy. Sentencing for the first three was set for Oct. 23; for Avila, the date is Nov. 20." The Times adds, "From the start, the defense argued that prosecutors Alex Bustamante and Bobbi Bernstein had stretched civil rights statutes and Reconstruction-era anti-slavery laws way beyond their intended purposes to bring the case under federal jurisdiction. The judge denied their motions to dismiss the indictment on this basis, but the arguments will surely come up again in appeals court. … The Avenues date back to the 1950s and get their name from the numbered avenues that traverse the hills and ravines of Highland Park. The defendants on trial were part of the Tiny Locos, younger members of a clique called Avenues 43. … The compendium of crimes laid out against the gang members blended the most chilling aspects of old-time Deep South bigotry with a modern interracial rancor that has developed — to some extent — in struggling pockets of urban Los Angeles."

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DOJ Objects To Democrats Entering Alabama Voting Rights Case. The AP (8/2, Johnson) reports, "The U.S. Justice Department and Alabama Attorney General Troy King filed court documents Tuesday objecting to the Democratic Party's effort to intervene in a lawsuit over development of a statewide voter registration database." The AP continues, "Also Tuesday, the chairman of the predominately black Alabama Democratic Conference filed a motion asking to intervene, saying he felt someone needed to watch over the interest of black voters." The AP adds, "The filings come as U.S. District Judge Keith Watkins prepares to hold a hearing Wednesday on a recommendation from the Justice Department and King that Republican Gov. Bob Riley be put in charge of efforts to create the database as required by the federal Help America Vote Act. … Secretary of State Nancy Worley, a Democrat, was sued by the U.S. Justice Department for failing to meet a federal deadline for implementing a single statewide computerized voter registration database. State Democratic Party Chairman Joe Turnham filed a motion last week seeking to stop what he called "a partisan attempt" to put the Republican governor in charge of setting up the voter database. … In its filing, Justice Department attorneys argue that Turnham and the Democratic Party do not have legal standing to get involved in the case. … 'Mr. Turnham identifies no way that implementation of a HAVA-compliant database could possibly harm Alabama Democrats, and no way that the outcome of this litigation could affect the interests he claims to represent,' the Justice Department filing said. … The Justice Department takes exception to Turnham's contention that appointing Riley would be a political action."

Colorado Woman Sentenced To Two Months In Jail In Involuntary Servitude Case. In a widely-distributed story, the AP (8/2) reports, "A woman was sentenced to two months in jail Tuesday for effectively stealing the services of an Indonesian woman who prosecutors said was held as a virtual slave for four years. Sarah Khonaizan, 35, a Saudi citizen who lives in suburban Denver, also was ordered on the theft charge to pay $90,000 in restitution and was ordered not to have any contact with the 24-year-old woman. … Her attorney, Forrest Lewis, has said she wants to return to Saudi Arabia and will not fight deportation." The AP notes, "Prosecutors and FBI agents accused Khonaizan and her husband, Homaidan Al-Turki, 37, of hiding the woman's passport and forcing her to care for the family for four years." The Rocky Mountain News (8/2, Aguilar) adds, "She was given 15 days of credit for time served and will be deported to Saudi Arabia as soon as her sentence is complete."

Three Texas Republicans Join Forces To Back New Congressional Map. Roll Call (8/2, Drucker) reports Texas Reps. Henry Bonilla (R), Henry Cuellar (D) and Lamar Smith (R) "have banded together to recommend a new Congressional map to a federal court, hoping to limit the fallout new district boundaries could have on their political futures." With the Supreme Court "ruling in late June that the 23rd district violates the Voting Rights Act and ordering it redrawn, Bonilla has the most to lose. But the ripple effect of adjusting Bonilla's seat could be wide depending on the fix ordered by the court — and several Members could find themselves running in radically reshaped districts on Nov. 7." Rep. Lloyd Doggett (D) "declined to be interviewed for this story, but he released a statement indicating that he expects the court's cure for the 23rd district could leave even him worse off than Bonilla." A three-judge US District Court panel in Austin "is scheduled to hear oral arguments on Thursday, where lawyers representing the various interested parties will argue for their recommended maps and against those they dislike. A decision on how the 23rd district will be remedied to comply with the VRA is expected in the middle of this month and is very likely to take effect for the fall elections."

Union Files Complaint On Behalf Of Fired VA Worker With Cerebral Palsy. Last week, the Palo Alto Weekly (7/28, Hedayati) reported that Cheryl Hewitt, who suffers cerebral palsy, had been dismissed from a job as a social worker at the Palo Alto VA Medical Center. Coverage indicates that the American Federation of Government Employees Local 2110 has filed a complaint against VA with the Equal Employment Opportunity Commission. On Tuesday, the San Jose Mercury News and the AP both offered new coverage of the dispute. The AP offers relatively neutral coverage that features comments from Hewitt and her supporters and from the VA medical center. However, the Mercury News offers a 928-word feature that is sympathetic toward Hewitt.

In a story that appears in fewer than 10 outlets in California, the AP (8/1) reports that the American Federation of Government Employees Local 2110 "filed a complaint

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contesting the firing of a social worker with cerebral palsy, alleging the hospital where she worked failed to accommodate her disability." Hewitt "claims she was dismissed from her job at the Veterans Affairs Palo Alto Health Care System after she allowed her cousin to help her write down patient information as she struggled with her handwriting. Hospital managers told her that she violated patient confidentiality when the cousin wrote down last names and the last four digits of Social Security numbers, according to Hewitt." The union "claims Hewitt didn't receive anything that worked for her until after the incident that led to her dismissal." Meanwhile, "[h]ospital officials said they can't provide details about Hewitt's employment because of the complaint."

Mercury News Profiles "Cause Celebre In Disability Rights Community." The San Jose Mercury News (8/1, Patel) opens its story, "When people review Cheryl Hewitt's résumé, they see an award-winning social worker with 18 years of experience who is also a grass-roots organizer in the campaign for disability rights. When they meet the woman behind the résumé, they see a cerebral palsy victim in a wheelchair, her arms having spasms sporadically and her head sometimes tilted to one side. But last week, Hewitt drew notice as a worker who had just been fired, in an incident that had made her a cause celebre in the disability rights community." Bill Lutrell, speaking to an audience of 35 people, said, "You see before you a woman with a broken body but not a broken mind." The Mercury News writes, "Hospital officials said they can't provide details about Hewitt's employment because of the pending complaint but they hint that there were other problems." In an e-mail to the Mercury News, spokeswoman Kerri Childress writes, "The VA Palo Alto Health Care System recognizes that people with disabilities are valued and contributing members of our society."

OPM Criticized Over Recruitment, Retention Of Hispanic Workers. The Washington Post (8/2, D4, Barr, 748K) reports in its "Federal Diary" column, "A coalition of 40 Hispanic organizations yesterday faulted the Office of Personnel Management for failing to improve Hispanic hiring across government and called for congressional hearings on the issue. The National Hispanic Leadership Agenda gave the OPM an 'F,' saying that federal hiring of Hispanics has declined in recent years and that the percentage of Hispanics in the career Senior Executive Service appears to be on a downward trend."

Gay Marriage Debate Likened To Civil Rights Struggles Of The Past. Novelist and playwright Steve Kluger, writes in USA Today (8/2, 2.27M), "With advocacy groups and state courts pushing for new laws to bar same-gender marriage, gay adoption and civil unions…the global image that the United States has been laundering for well over 50 years seems to have developed ring-around-the-collar." Kluger adds, "In another handful of decades, same-gender marriage and full equality for non-heterosexual Americans will have been locked into place -- and history will regard our one-time opponents as shamefully as it now views Bull Connor, Orville Faubus, Lester Maddox and other legendary Apostates of Hate."

ANTITRUST:

Hutchison Seeks DOJ Recusal From Texas Air Field Dispute. The Fort Worth Star-Telegram (8/2, Montgomery) reports, "Sen. Kay Bailey Hutchison, in a scathing letter to Attorney Gen. Alberto Gonzales, demanded Tuesday that the Justice Department withdraw from further review of the Wright Amendment bill because of a 'factually and legally inaccurate' department memo that raised anti-trust concerns about the measure. … 'Allowing the Justice Department to review this matter would be equivalent to sending one to trial after the court had announced the verdict,' Hutchison, R-Texas, wrote." The Star-Telegram continues, "Hutchison released the letter amid fading prospects that the Senate would act on the legislation before quitting work Friday for the start of a monthlong congressional recess. House members went home last week without acting on the bill. … By repealing the 26-year-old Wright Amendment, the legislation would lift flight restrictions at Dallas Love Field after eight years. Hutchison's bill embraces the delicate compromise reached recently among the leaders of Dallas, Fort Worth, D/FW Airport, and American and Southwest airlines. Critics of the Wright Amendment say it's hampered competition in the North Texas air market and kept fares high. … Hutchison and other supporters of the repeal legislation hoped to push the bill through Congress without change, but the measure has encountered resistance in both chambers, fueled in part by an anonymous Justice Department staff memo last week that said the proposed

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changes would 'be hard-core per-se violations' of the Sherman Anti-Trust Act."

The AP (8/2, Gamboa) reports, "Department spokeswoman Gina Talamona said in a statement late Tuesday that the agency hopes to continue 'to have an open dialogue with Congress.'" The AP adds, "The Wright Amendment, named for its author, former House Speaker Jim Wright, restricts long-haul flights from Love Field to eight nearby states. Love is the home to discount carrier Southwest Airlines, which has long sought repeal of the law. Rival American has fought to keep it in place. … The agreement reached by local officials would repeal the 1979 Wright Amendment in eight years and reduce gates at Love Field from 32 to 20. Other airlines have objected to the gate reduction, saying it limits their ability to establish service at Love Field."

The Dallas Morning News (8/2, Dodge) reports, "The department's memo circulated around Capitol Hill and helped foment concerns about the proposal. … 'As a result of this unfortunate, unfair and very biased position regarding an important matter pending before Congress, the Department of Justice should recuse itself from further consideration of the Wright amendment legislation,' Ms. Hutchison wrote." The News adds, "Last week, a Justice spokeswoman indicated the comments were generated as part of a routine discussion with members of Congress. … 'We have been discussing with Congress the pending legislation and whether there are better ways to reach the goal of maximizing competition, but the administration has not taken a position on the legislation,' Justice spokeswoman Gina Talamona said last week." The News notes, "The Justice memo raised antitrust concerns about the proposal to cap the number of gates at Dallas Love Field at 20 and to tear down gates at the Legend terminal. The memo argued the restriction on gates would erase some of the cost breaks that travelers usually experience in markets that Southwest serves. … 'More broadly, the cap on gates at Love Field affects every other airline that would otherwise be attracted to the new competitive opportunities at Love Field, including low-cost carriers, such as JetBlue, as well as other legacy carriers, such as US Air,' the memo said."

The Dallas Business Journal (8/2) reports, "The agreement was forged by the cities of Dallas and Fort Worth, Fort Worth-based American Airlines Inc., Dallas-based Southwest Airlines and the Dallas/Fort Worth International Airport Board. It serves as the basis for Hutchison's bill, which was introduced last month and approved 21-1 by the Senate's Commerce Committee."

DOJ Says Mittal-Arcelor Merger Depends On Divestiture. The Baltimore Sun (8/2, Connolly) reports, "Mittal Steel Co. NV must sell either Sparrows Point or a sister plant in Weirton, W.Va., if it can't dispose of a Canadian subsidiary to resolve antitrust issues arising from its merger with Arcelor SA, Justice Department officials said yesterday." The Sun continues, "Saying the combined company would have a monopoly on tin production in the United States, the Justice Department filed a civil lawsuit in U.S. District Court in Washington yesterday to block the $33 billion merger if Mittal does not comply. … 'Without a divestiture of one of these steel mills, purchasers of tin mill products likely would have paid higher prices that would have harmed American consumers,' Thomas O. Barnett, assistant attorney general in charge of the department's antitrust division, said in a statement issued yesterday." The Sun adds, "Mittal, based in Rotterdam, Netherlands, promised the Justice Department that it would sell Canadian steel and tin manufacturer Dofasco, an Arcelor subsidiary, to German-owned ThyssenKrupp AG if its hostile takeover bid for Arcelor succeeded. … However, in one of a series of defensive moves to fend off Mittal, Luxembourg-based Arcelor transferred Dofasco to a Dutch trust to make any future sale difficult. … After a five-month battle, Arcelor's board agreed to a merger in late June after Mittal improved its offer for the third time and made concessions on corporate control. .. . Arcelor shareholders approved the deal last week. The combined company, to be called Arcelor-Mittal, would control 10 percent of the world's steel production with more than 110 million tons annually. … However, despite the merger agreement, Arcelor officials still refuse to sell Dofasco, which makes high-grade sheet metal for the auto industry. Arcelor will have majority control over the combined company's board seats, and will have influence in decision-making."

McClatchy Sells Part Of CareerBuilder.com Stake For $310 Million. The Sacramento Bee (8/2, Kasler) reports, "The McClatchy Co. on Tuesday sold a portion of its stake in CareerBuilder.com and two other Web sites for $310 million." The Bee continues, "The deal will leave Sacramento-based McClatchy with a 15 percent stake in CareerBuilder.com, which is considered one of the more successful classified-advertising Web sites. McClatchy had

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assumed a 33 percent share of CareerBuilder when it purchased Knight Ridder Inc." The Bee adds, "McClatchy also will reduce its stake in two other sites, leaving it with a 15 percent stake in the Internet shopping site ShopLocal.com and an 11.25 percent share of Topix.net, a news site. … McClatchy had inherited stakes in all three sites through the Knight Ridder purchase. But its partners in the sites, newspaper chains Gannett Co. Inc. and Tribune Co., had the right to buy McClatchy out. … After months of negotiations, the three publishers agreed to a deal that increased Tribune and Gannett's shares of all three Web sites. The two are paying McClatchy, which owns The Bee, a total of $310 million. … Also Tuesday, McClatchy announced it has wrapped up the sale of the Akron (Ohio) Beacon Journal for $165 million. The paper was sold to Black Press Ltd., a Canadian chain."

KKR Appears To Win Auction For Philips Unit. The Wall Street Journal (8/2, Sender) reports, "Kohlberg Kravis Roberts & Co. and Silver Lake Partners appear to have won a hotly contested auction for Philips Electronics NV's semiconductor division, according to people familiar with the matter. The price couldn't be immediately determined but is believed to exceed €8 billion ($10.25 billion)." The Journal continues, "It would be the second huge deal for KKR in as many weeks, following the investment firm's participation in a proposed $21 billion buyout of hospital giant HCA Inc. Silver Lake is best known for organizing last year's $11.3 billion buyout of SunGard Data Systems." The Journal adds, "KKR and Silver Lake of Menlo Park., Calif., beat out two rival groups -- the first consisting of Blackstone Group, London-based Permira Advisors and Texas Pacific Group; and the second including Apax Partners Worldwide LLC, Bain Capital and Francisco Partners, according to people familiar with the proposed deal. … The Philips unit is one of the world's largest makers of computer chips that power electronic equipment in such things as automobiles, telephones, radios and televisions. It employs more than 36,000 people. Previously, the company had said it would also consider an initial public offering of shares in the semiconductor division. … Deals like these are coming at a time when there are growing signs that debt-market investors are becoming less generous in providing financing for private-equity firms like KKR as they continue their unprecedented buying binge."

ENVIRONMENT:

DOJ Files Bankruptcy Claim Against Asarco. The Tacoma (WA) News Tribune (8/2, Blumenthal) reports, "The federal government has filed up to $1.3 billion in environmental cleanup claims against Asarco, the mining and smelting company that sought bankruptcy protection last year." The Tribune continues, "The federal claims represent only a portion of what Asarco may owe its creditors, including at least $500 million in asbestos exposure-related claims and hundreds of millions to states. Washington state filed a claim last week seeking up to $600 million." The Tribune adds, "Today marked the deadline for filing the claims with a Connecticut-based claims administrator appointed by the federal bankruptcy judge in Corpus Christi, Texas, who is handling the Asarco case. … The federal claims involve 31 Superfund and other sites in 14 states. .. . In a 55-page filing called a supplemental proof of claim, the U.S. Justice Department acknowledged that Asarco may not ultimately be liable for all the cleanup costs. At some sites, other companies may be responsible for a portion of the costs, and some of the cleanups are entangled in litigation. … But the Justice Department also said Asarco's bill for the cleanups could grow. … 'This supplemental proof of claim reflects certain known liabilities of Asarco to the United States,' federal lawyers said. 'The United States reserves the right to amend this supplemental proof of claim to assert subsequently discovered liabilities.'"

Federal Court Mulls Legality Of Administration's Forest Service Road Plan. The AP (8/2) reports, "A federal judge said Tuesday that the Bush administration had the right to overturn a ban on road construction in untouched parts of the national forests but questioned whether it could do so without weighing the possible environmental effects." The AP continues, "U.S. District Judge Elizabeth Laporte said the Forest Service appeared to be 'on solid ground' last year when it reversed a Clinton administration rule banning new roads on nearly a third of federal forests. … But she questioned whether the agency violated federal law by skipping environmental studies - the heart of two lawsuits brought by 20 environmental groups and the states of California, Oregon, New Mexico and Washington. The cases have since been consolidated, and all parties presented arguments Tuesday in Laporte's courtroom." The AP adds, "Laporte said she did not know

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when she would make a final decision in the case. … 'The court's role is not to endorse one approach over the other,' Laporte said, referring to Forest Service management plans. … Rather, she said, the question is whether federal procedures were violated when Bush overturned the ban on road building that President Clinton ordered in January 2001, eight days before he left office. If so, that could prompt Laporte to invalidate a new state-by-state management strategy endorsed by the Bush administration and restore the road-building ban." The AP n otes, "The legal dispute stems from the so-called 'roadless rule' that prohibited logging, mining and other development on 58.5 million acres of roadless forest land in 38 states and Puerto Rico. Of that, 97 percent is in 12 states: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming."

Court Rules BLM Must Widen View Of Nevada Gold Mining Effects. The AP (8/2, Ritter) reports, "A federal appeals court panel on Tuesday ordered a lower court to review the environmental effects of operations at two gold mines in northern Nevada in a ruling that advocates said could force closer scrutiny of the use of federal lands in the West." The AP continues, "Newmont Mining Corp., which owns the mines, downplayed the 9th U.S. Circuit Court of Appeals ruling, which instructed the Interior Department and Bureau of Land Management to consider cumulative effects of mining at two sites northwest of Carlin. … 'Operations continue as normal,' said Mary Korpi, a spokeswoman in Reno for Denver-based Newmont. 'Basically, we're very pleased with the ruling. We're not impacted.'" The AP adds, "Korpi noted that the court upheld most BLM and Interior findings on air quality, public water reserves, bonding to ensure reclamation of mined lands, a requirement for separate environmental studies on the two mines, and cumulative impacts for water. … However, the three-judge panel, quoting arguments by the environmental group Great Basin Mine Watch, also said the BLM 'cannot simply offer conclusions. … Rather, it must identify and discuss the impacts that will be caused by each successive (project),' the court said in San Francisco, 'including how the combination of those various impacts is expected to affect the environment.' … The judges overturned a lower court summary judgment for the government, but rejected most procedural challenges raised by Great Basin Mine Watch. The lawsuit stemmed from mining applications filed by Newmont in 1997 with the BLM field office in Elko."

Senate Passes Offshore Drilling Legislation. The Los Angeles Times (8/2, Simon, Reynolds, 918K) reports, "With political anxiety on Capitol Hill rising along with gasoline prices, the Senate voted Tuesday to open a large section of the Gulf of Mexico to oil and gas drilling, advancing the energy bill that stands the best chance of approval this year." The bill, approved 71-25, "now must be reconciled with a broader and more controversial House measure that would relax the decades-long ban on drilling in most coastal waters, including along the Pacific coast." The Times adds, "Senators from both parties, attuned to constituents' ire over high fuel costs, were eager to pass energy legislation before heading home for the summer recess. Eighteen Democrats joined 53 Republicans to support the Senate bill; 24 Democrats -- including California's Barbara Boxer and Dianne Feinstein -- and one independent were opposed."

The Washington Post (8/2, A7, Mufson, 748K) reports that "many lawmakers complained that, under the bill, four coastal states -- Louisiana, Texas, Alabama and Mississippi -- would receive revenue that belongs to the entire nation, and that Congress should not open more of the Outer Continental Shelf to drilling without taking action to increase energy efficiency. Republican leaders blocked an effort to attach an amendment to the bill that would have gradually raised US automobile fuel economy standards." House Resources Committee Chairman Richard W. Pombo "contends that the Senate version does not go far enough. The House measure would end the moratorium and permit drilling 50 miles or more from coastlines. States would have the option of passing legislation to bar drilling up to 100 miles from shore or to permit it to take place closer than 50 miles."

The Wall Street Journal (8/2, Meckler, 2.03M) says that "politically, the vote allows senators to go home for their August recess having voted for at least one piece of energy legislation, an attempt to respond to voter outrage over $3-a-gallon gasoline. Scores of bills have been introduced in the 11 months since Hurricane Katrina led to spiking prices, but Congress has yet to clear any of them." The drilling bill "is seen as the measure with the best chance for success."

The New York Times/AP (8/2) notes "the acres affected by the Senate measure are believed to contain 1.2 billion barrels of oil and nearly six trillion cubic feet of natural gas, enough to heat six million homes for 15 years." The bill

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"would create a 'zone of protection' for Florida that would stretch 125 to 300 miles from the state's beaches at various points. It would also funnel tens of millions of dollars to the four other Gulf Coast states as their share of future oil and gas revenues."

The Washington Times (8/2, DeBose, 88K) reports "a House version of the bill that passed last month includes the same acreage of Gulf waters, but also opens virtually all of the nation's Atlantic and Pacific coasts to exploration." It also "includes provisions to alter the federal-state split of oil and gas revenues that would net the highest-producing Gulf states -- Alabama, Mississippi, Louisiana and Texas -- as much as $600 billion over the next 15 years." The Senate legislation ":was praised as a way to immediately increase domestic oil supplies, lower gas prices and protect national security by reducing the nation's dependence on foreign oil. Democrats, however, complained that the bill did not include incentives for new energy resources, and some Republicans said it wouldn't open enough of the outer continental shelf to oil and gas exploration." USA Today (8/2, 2.27M) reports that Democratic Sen. Mark Dayton, "a critic of the bill, said that at best, 'this will supply a small amount of gas years from now.'"

NYTimes Criticizes Bill. The New York Times (8/2, 1.21M) editorializes, "Almost six months to the day after President Bush urged Congress in his State of the Union address to help break America's addiction to imported oil, the Senate approved a bill yesterday that would do nothing to cure that addiction and could actually make it worse." The bill "is bad fiscal policy, since one-third of the royalties that would normally accrue to all Americans from drilling in federal waters would flow to just four gulf states. Even as a drilling bill it makes little sense; to placate Florida's senators, it prohibits drilling in offshore areas that are richer in resources than the areas it opens up. And as energy policy it's hopelessly one-sided, encouraging production while ignoring consumption."

Scientists' Unions Say EPA Is Ignoring Sound Science. Unions representing staff scientists at EPA say the agency is bowing to political pressure and ignoring sound science by allowing the use of a group of toxic chemicals in agricultural pesticides. The New York Times (8/2, Janofsky, 1.21M) reports, "Leaders of several federal employee unions say the chemicals pose serious risks for fetuses, pregnant women, young children and the elderly through food and exposure and should not be approved by Thursday, the Congressional deadline for completing an agency review of thousands of substances in pesticides." In a letter to agency administrator, Stephen L. Johnson, sent May 25, the leaders wrote that "they believed that under priorities of E.P.A. management, 'the concerns of agriculture and the pesticide industry come before our responsibility to protect the health of our nation's citizens.'"

Energy Demand Rising As Heat Wave Grips Much Of Nation. With a heat wave gripping much of the nation, utilities and government officials yesterday called for conservation. The New York Times (8/2, Pérez-Peña, Wald, 1.21M) reports that "utility executives warned that the risk of breakdowns rises steadily as a heat wave wears on, and with today's temperatures expected to top yesterday's, with possible record highs along the East Coast, power companies were girding for a huge challenge. … Experts say demand is rising faster than the ability to meet it, which over the long run could pose the risk of both local and regional failures."

Clinton Foundation To Focus On Global Warming. Former President Bill Clinton yesterday said his Clinton Foundation will turn its attention to the issue of global warming. The New York Times (8/2, Steinhauer, 1.21M) reports that Clinton announced the new initiative at the University of California, Los Angeles. Clinton "said in an interview on Tuesday that his interest in climate issues arose during his presidency and had grown in recent years as he followed news reports on heat-trapping gases, watched with chagrin as the United States rejected the Kyoto Protocol and observed his wife, Senator Hillary Rodham Clinton, negotiate energy policy with 'Republicans who were recalcitrant on the issue.' He said he would focus heavily on the climate issue over the next year."

The Washington Post (8/2, A3, Eilperin, 748K) reports, "Twenty-two of the world's largest cities announced yesterday that they will work together to limit their contributions to global warming in an effort led by former president Bill Clinton. The Clinton Climate Initiative -- which will create an international consortium to bargain for cheaper energy-efficient products and share ideas on cutting greenhouse gas pollution -- includes Chicago, Los Angeles, Philadelphia and New York as well as Cairo, Delhi, London and Mexico City. While the group is not setting specific targets for reducing emissions, Clinton said he is confident the effort will both cut pollution

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and create jobs in the cities that contribute most to higher temperatures."

LATimes Criticizes Schwarzenegger, Blair Agreement On Global Warming. Under the headline, "Welcome Hot Air from Arnold and Blair," the Los Angeles Times (8/2, 918K) editorializes, "For all the fanfare that preceded it, the agreement on global warming signed Monday by British Prime Minister Tony Blair and Gov. Arnold Schwarzenegger is more a promise than a plan." The Times adds, "The bigger and more encouraging surprise is that two poll-challenged pols…would turn to global warming as a way to score points. That says a lot about the public's growing concern about the climate crisis. At least in California and Britain."

Tropical Storm Chris Could Become Season's First Hurricane. The CBS Evening News (8/01, story 6, 0:10, Schieffer, 7.66M) reported, "Forecasters say that Tropical Storm Chris could become a hurricane within 72 hours," making it this season's first. "The storm's current path will take it north of Puerto Rico. It would reach the Bahamas by Sunday and then head towards southeast coast of Florida."

California's Pursuit Of Petroleum-Free Transportation Said To Have Failed. A front page story in the Wall Street Journal (8/2, Ball, 2.03M), headlined, "Reality Check How California Failed In Efforts To Curb Its Addiction To Oil," reports on California's efforts to reduce its dependence on oil. The Journal notes, "For a quarter century, California has pursued petroleum-free transportation more doggedly than any other place in the US. It has tried to jump-start alternative fuels ranging from methanol to natural gas to electricity to hydrogen. None has hit the road in any significant way." The Journal notes, "At a time when President Bush is advocating alternative fuels, particularly ethanol, as an antidote to what he calls America's 'addiction' to oil, California's experience offers a reality check."

FBI/DEA/ATF/USMS:

4th Circuit Rules Shooting Victim May Sue Maryland FBI Agent. The Baltimore Sun (8/1, Dolan, 262K) reported that on Monday, "a federal appeals court gave a green light…to a lawsuit filed against an FBI agent in the shooting of a Pasadena man whom the agent mistook for a bank robber. Last year, U.S. District Judge J. Frederick Motz ruled that shooting victim Joseph C. Schultz could proceed to trial in the civil lawsuit against Special Agent Christopher Braga. The FBI agent appealed Motz's ruling, arguing that as a law enforcement officer, he had immunity from such claims." However, the 4th Circuit ruled, "In sum, there remain genuine issues of material fact as to the circumstances leading up to Agent Braga's decision to fire his weapon at Schultz." The AP (8/2) notes Schultz "said he was reaching to his right to unlock the door in response to shouted commands from another agent to open the door when Braga fired his gun. Braga said Schultz turned to the left, reached down toward the console and that he fired because he believed Schultz was going for a gun. Schultz sustained multiple fractures and other injuries to his head, face and mouth and underwent reconstructive surgery."

Doping Case Against Landis Seen As Tough To Refute. The New York Times (8/2, Macur, Kolata) reports that after spending several days in New York, Floyd Landis "has returned home to Southern California, where he will await his fate as Tour de France champion. But antidoping officials working on his case already have evidence that some experts say is convincing enough to show that Landis cheated to win the Tour, regardless of further testing or appeals." One test, "a sophisticated measure called a carbon isotope ratio test, will be difficult, if not impossible, for Landis to refute. The test examines the atomic makeup of testosterone in the urine and can determine if it is natural or synthetic. Landis failed that test, according to a person inside the International Cycling Union with knowledge of the results."

Fake Prescription Sales Expected To Climb To $75 Billion. In the Wall Street Journal (8/2), Nick Hughes, head of PA Consulting Group's Global Life Sciences Practice and a board member of Aegate, a drug authentication company, writes that analysts "forecast that sales of fake prescription medicines will reach $75 billion by the end of the decade. That would nearly double current levels and would outstrip the annual growth of legitimate pharmaceutical sales. … The World Health Organization estimates that up to 10% of the world's pharmaceuticals may be counterfeit. … In 2001, 66 deaths in the U.S. were

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attributed to the counterfeiting of the generic antibiotic Gentamicin."

70th Arrest Made In Connecticut Operation Targeting Drugs, Gangs. The Stamford, Connecticut Advocate (8/2) reports, "Police yesterday touted the 70th drug arrest in an undercover operation targeting drug dealers and gang members they blame for most of the city's crime. Operation Clean Streets uses officers from several towns and agents of the federal Drug Enforcement Administration…to make undercover drug buys. … Officials said the program seems to be working. Chief Brent Larrabee said drugs were much more available on the streets when Operation Clean Streets began in May."

Former DEA Agent Accused Of Lying To Investigators Is Sentenced. In Richmond, Virginia, the AP (8/1) reports a former DEA agent "was sentenced to two years probation and fined $7,500 Tuesday for lying to investigators about a sexual encounter with an informant. William Carter Harden…also was ordered to perform 100 hours of community service, according to court records. He faced a maximum of five years in prison and a $250,000 fine."

Drug-Running Linked To Disappearances Of Colombians. The AP (8/1) reports humble farmers and craftsmen "are among thousands of Colombians who have disappeared in the past decade in a war spearheaded by landowner-backed militias, known as paramilitaries, that boiled over in the countryside even as life got safer for upper-class urbanites. … While leftist rebels are responsible for some forced disappearances in Colombia's 'dirty war,' investigators and human rights activists blame the vast majority on the paramilitaries who emerged in the 1980s to fight the leftists but whose victims have more often been peasants who resisted extortion or were accused of sympathizing with the rebels. The violence was compounded by land disputes and the intrusion of drug-running into what began as a political war."

ATF Revokes Pennsylvania Gun Dealer's License. The AP (8/2, Walters) reports, "The federal government on Monday revoked the license of a gun shop that has been accused of making illegal gun sales and having its guns end up in the hands of criminals, including a person involved in the 1993 World Trade Center bombing." The AP continues, "The Bureau of Alcohol, Tobacco, Firearms and Explosives revoked the license of Lou's Loans, an administrative action that means the shop can no longer sell guns, ATF spokesman John Hageman said." The AP adds, "The lawsuit, which is pending, was initiated by the Washington-based Brady Center to Prevent Gun Violence on behalf of the family. It alleges that Lou's Loans was linked to at least 441 guns used in crimes between 1996 and 2000, and 178 guns linked to crime in 2003. The suit also alleges that Lou's Loans sold a gun supplied to a co-conspirator of the World Trade Center bombing. … 'We're happy to hear that the ATF has finally taken action against Lou's because we know that there have been decades of problems with Lou's Loans' business practices,' said Elizabeth S. Haile, a staff attorney with the Brady Center. … The agency declined to cite specific reasons for the action against Lou's Loans, citing federal law that prevents the release of information derived from gun-dealer records. Violations that can lead to such action include guns missing from inventory, evidence of illegal sales known as 'straw purchases,' failure to file a form when someone buys more than one gun over a five business-day period or failure to keep proper ATF records, Hageman said."

IMMIGRATION:

Gonzales Announces Addition Of Prosecutors For Border Areas. The AP (8/2, Korte) reports, "Attorney General Alberto Gonzales has outlined plans to add 20 new federal prosecutors to handle immigration related offenses and five others who will target drug trafficking in states along the border with Mexico. … 'We've heard the cries of our U.S. attorneys, who tell us they need additional resources,' Gonzales said Monday during a news conference at the U.S. attorney's office in Albuquerque." The AP adds, "Gonzales also challenged Congress to keep the money coming, saying comprehensive immigration reform will require more judges, marshals and bed space to fully secure the border. … [We need to ensure that as we increase our efforts on the front end of the process that we also have the ability at the back end to prosecute these folks,' he said. … The $2 million supplemental funding will help federal authorities assign prosecutors for border areas of California, Arizona, New Mexico and Texas to address human smuggling, illegal entry into the United States and document fraud. They also will target employers who hire undocumented immigrants."

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The Las Cruces (NM) Sun-News (8/2, Rubel) reports, "Gonzales said recent efforts to beef up enforcement on the border must be matched by similar improvements within the justice system. … 'As we look at enhancing the personnel and resources of the Department of Homeland Security on the front end, we need to be looking at what's going to happen at the back end,' Gonzales said. … 'When we apprehend individuals, will we have adequate resources to bring them to justice? Do we have enough marshals? Do we have enough prosecutors? Do we have enough jail space? These are all things we're debating right now in Washington.'" The Sun-News adds, "Gonzales was in Santa Fe Monday morning to address a national convention of district attorneys. At a news conference later in the morning with Gov. Bill Richardson, Gonzales said he had still not given up hope that an immigration reform package could be … 'Quite the contrary, the reason I'm out here is to show how important we think this issue is,' he said. 'We still believe it can be done this year, but we're also are realistic about the number of days that are left.'"

The Dallas Morning News (8/2, Jennings) reports, "Twenty assistant U.S. attorneys will be divided among five federal law enforcement districts, including the Southern and Western districts of Texas. … Those attorneys will focus solely on immigration-related offenses, such as human trafficking, illegal re-entry and illegal employment of immigrants. Five more assistant U.S. attorneys, one in each district, will be added to prosecute drug trafficking. … 'We welcome the additional resources,' said Nancy G. Herrera of the U.S. attorney's office in Houston. 'Particularly given the increase of law enforcement presence along the border. There is a need for additional assets in the United States attorney's offices to handle cases generated by that law enforcement effort.'"

The San Diego Union-Tribune (8/2, Soto) reports, "Some criticized the announcement as a token move, but local authorities said it would help with a crush of border crime." The Union-Tribune adds, "Department of Justice officials couldn't say yesterday how many of the immigration prosecutors would come to San Diego, where the U.S. Attorney's Office has come under criticism for a changed focus on border enforcement. … 'I don't know how many I'm going to get,' said U.S. Attorney Carol Lam. 'I'd love to have all 20.'" The Union-Tribune notes, "Since taking office in 2002, Lam has been picky about which immigration cases to prosecute, focusing, she said, on the worst of the worst. … The sheer number of people accused of crimes such as entering the country illegally and smuggling immigrants and drugs makes it impossible to prosecute everyone caught by authorities, she said. … 'We draw the line at whatever point we have the resources to handle,' she said. The new lawyers 'will allow us to move that line down in terms of the cases we're able to prosecute.'"

Sessions Says Pence-Hutchison Immigration Bill Must Not Become Law. Sen. Jeff Sessions writes in the Washington Times (8/2, 88K), "The Pence-Hutchison immigration-reform proposal, like the other prominent plans, fails to address critical issues relating to meaningful immigration reform. It must not become law. … This plan swallows hook, line and sinker the idea that as long as there is a foreign worker wanting to come to America, and an American company that wants to hire the individual, the foreign worker should be admitted, allowed to work and put on a path to citizenship. This concept violates the principle followed by every other nation in the world, that immigration policy should be based on the needs of the nation, not the desires of those that want low-cost labor."

WSJournal Says Limits On H-1b Visas Should Be Raised. An editorial in the Wall Street Journal (8/2, 2.03M) says that Congress has "long played politics" with the caps on H-1b visas, "giving in to Big Labor and other protectionists who claim US businesses hire foreign workers only because they can be paid less. In fact, these professionals must be paid prevailing wages and are also more expensive to hire, thanks to cumbersome immigration and Labor Department rules." The immigration bill passed by the Senate "would raise the limit on H-1b visas and, more importantly, allow it to fluctuate with market demand. Republican John Shadegg of Arizona recently introduced a companion bill in the House. The US has long been a magnet for the world's top talent. But in an increasingly global economy, US employers unable to attract the necessary human capital will lose to their competitors abroad."

TAX:

Senate Report On Tax Havens Focuses On Texas Brothers. The Dallas Morning News (8/2, Reddy) reports, "Offshore trusts directed in secret by billionaires Charles and Sam Wyly were at the center of a family effort to evade U.S. taxes and quietly funnel money back into expensive jewelry, art and investments, an

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investigation by a Senate subcommittee alleges." The News continues, "A report on offshore tax havens by wealthy individuals squarely targeted the Dallas businessmen as prime examples of abuse. … The two men also may have misled investors by circumventing federal financial disclosure requirements and misrepresenting their role in overseas trusts, the panel said." The News adds, "The report, written by Senate staff for a Tuesday hearing of the Senate's Permanent Subcommittee on Investigations, said the Wylys used a network of 58 offshore trusts and shell corporations in the Cayman Islands and the Isle of Man in the Irish Sea to skirt tens of millions of dollars in taxes and funnel hundreds of millions of dollars back into business investments. … The Wyly brothers, who also face a federal grand jury probe, did not appear at the hearing Tuesday after informing the panel that they would assert their Fifth Amendment rights not to testify. The subcommittee chairman, Sen. Norm Coleman, R-Minn., said the Justice Department had asked him not to compel their testimony because of the ongoing federal investigation. … The Wylys maintain that their actions were legal. Their attorney, William Brewer of Dallas, said they provided hundreds of thousands of documents and cooperated in the panel's yearlong investigation."

The Charlotte Observer (8/2, Funk, Rothacker) reports, "A contrite Bank of America told a Senate investigating panel Tuesday that it waited 'way too long' before demanding key information about accounts at the center of an alleged tax shelter scheme involving two Texas billionaire brothers." The Observer continues, "Michael Conn, a private banking executive with Bank of America, told the senators the bank's policies are more stringent now. But he acknowledged that, between 2002 and 2004, the Charlotte-based bank failed to get beneficial ownership information from offshore trusts that Senate investigators believe were controlled by Dallas entrepreneurs Sam and Charles Wyly. … Anti-money laundering provisions in the U.S. Patriot Act require banks to gather such information. … 'The bank fully recognizes that its delay in demanding (ownership) information from the customers of these brokerage accounts was inconsistent with the bank's commitment to knowing its customers,' Conn told the Senate's Permanent Subcommittee on Investigations. … He then laid out factors 'that explain, but do not excuse' the bank's lax oversight of its own accounts." The Observer notes, 'Conn was one of 14 witnesses at a daylong hearing that spotlighted what Michigan Sen. Carl Levin, the top Democrat on the panel, called the use by the wealthy of 'sham trusts, shell corporations and fake transactions' to avoid as much as $70 billion in taxes."

Senate Hears From Billionaires In Probe Of Offshore Tax Abuses. The Senate Permanent Subcommittee on Investigations, which is looking into the proliferation of offshore tax abuses, yesterday heard testimony from two billionaires accused of dodging taxes and their team of attorneys and financial advisers. The Wall Street Journal (8/2, Matthews, 2.03M) reports, "Haim Saban, a media mogul and co-founder of the Fox Family network, and Robert Wood Johnson IV, philanthropist and heir to the Johnson & Johnson pharmaceutical fortune," told the panel "that they simply followed the advice of trusted advisers when they tried to use a complicated scheme to avoid taxes on hundreds of millions of dollars in capital gains." Saban testified that he "paid nearly $50 million in fees to eliminate his tax liability, and now is in negotiations with the IRS to pay back taxes and penalties. Mr. Johnson said his payments…totaled about $5 million, and that he settled earlier this year with the IRS, paying back taxes and penalties."

Pearlstein Says Hearing Will Have Little Effect. Steven Pearlstein writes in the Washington Post (8/2, D1, 748K) that as yesterday's hearing ended, Sen. Carl Levin "declared the abuse of offshore tax havens by individuals, corporations and hedge funds to be 'totally out of control' -- the equivalent of 'economic warfare against the United States.' But it was hard to see that Levin's urgency, let along his sense of outrage, had much of an effect on the blue suits as they ambled out of the air-conditioned hearing room into the oppressive heat of the Washington afternoon. Another day, another hearing, another fee."

Treasury, IRS Propose Tougher Tax Rules For Multinational Companies. The Treasury Department and the IRS yesterday issued proposed regulations to revamp how companies account for the transfer of services and intellectual property to their affiliates in and outside the US. The Wall Street Journal (8/2, Matthews, 2.03M) reports that the proposed rules will likely result in "stricter tax compliance rules and bigger tax bites" for multinational companies operating in the US. The proposed rules, "while not exhaustive, attempt to simplify and stop companies from classifying the profits from intellectual property to the country with the mildest tax bite. The proposal also aims to clarify how companies classified certain taxable income from their affiliates."

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CONGRESS-ADMINISTRATION:

Three GOP Senators May Be Wavering On Bolton Confirmation. The Washington Post (8/2, A13, Kamen, 748K) reports in its "In the Loop" column that with the Senate Foreign Relations Committee holding off on a vote on UN Ambassador John Bolton's confirmation until September, "Hill chatter has it that maybe confirmation of Bolton's temporary appointment isn't a done deal after all. … The buzz is that three Republicans might be wavering: Sens. Chuck Hagel (Neb.), Lincoln D. Chafee (R.I.) and John E. Sununu (N.H.)." The Post adds that "Bolton backers on Foreign Relations said the confirmation is on track and the delay won't affect it."

FDA Nominee Faces Questions On Plan B. The Washington Post (8/2, A13, Weiss, 748K) reports, "Acting Food and Drug Administration Commissioner Andrew C. von Eschenbach struggled yesterday to convince a Senate committee that he deserves to lead the agency on a permanent basis, but his efforts were repeatedly undercut by tough questions about the agency's flagging reputation and its snail's-pace review of the emergency contraceptive pill Plan B." The Post adds, "Without exception, members of the Senate Committee on Health, Education, Labor and Pensions praised von Eschenbach's résumé, which includes a long and successful career at the University of Texas M.D. Anderson Cancer Center and a four-year stint as director of the National Cancer Institute." But "despite -- and in part because of -- von Eschenbach's surprise announcement Monday that the agency is reviving a stalled effort to make Plan B available without a prescription, the surgeon and three-time cancer survivor found himself accused of furthering the politicization that critics say has sullied the agency."

The AP (8/2, Bridges) says "senators hammered von Eschenbach about the timing and substance of a surprise FDA announcement." Democratic Sen. Tom Harkin said, "We all know what's going on here. … This is a disregard for science out of ideological concerns." The committee "did not vote on von Eschenbach's nomination. Sens. Hillary Clinton, D-N.Y., and Patty Murray, D-Wash., have placed a hold on the nomination until the FDA makes a final decision on the emergency contraceptive. Clinton said the hold was intended to 'draw a line' against 'politicizing the FDA.'"

McClatchy (8/2, Pugh) reports Von Eschenbach "testified that the decision to bar over-the-counter sales to women younger than 18 'was based primarily around our ability to manage' the sales of the drug, but he did not specify how. He also said input from public-comment letters helped determine the new age limit for 18-year-olds, but again did not explain how." The New York Times (8/2, Zernike, 1.21M) also reports the story under the headline "Despite Action On Plan B, FDA Nominee Is In Limbo."

NYTimes Says Democrats Are Right To Threaten To Block Confirmation. The New York Times (8/2, 1.21M) editorializes that "skeptical Democratic senators are right to threaten to block a confirmation vote on Dr. von Eschenbach as permanent commissioner until the agency actually decides whether the morning-after regimen can be made available without prescription, at least for women ages 18 and older." The Times adds, "Any attempt to hold up Dr. von Eschenbach's nomination could be circumvented by a recess appointment by President Bush. But if Dr. von Eschenbach hopes, as he said yesterday, to be the Senate's choice, not just the president's, he would be wise to ask Mr. Bush to let the process move forward."

Labor, Kennedy To Question Nominee's Work With Wal-Mart. The White House Bulletin/US News (8/1) reported Paul DeCamp, "nominated January 31 as Labor's administrator of the Wage and Hour Division, was set to face new questions today from labor Democrats led by Sen. Edward M. Kennedy." Kennedy aides "said today that they called for a hearing of the Senate Committee on Health, Education, Labor and Pensions to go over concerns about DeCamp's legal work for Wal-Mart and his efforts to limit overtime. It's part of a larger Democratic bid to focus on the huge retail employer and the Administration's opposition to greatly boosting the minimum wage, an issue Democrats believe they can use to their benefit in the fall elections." The AFL-CIO has "led the effort to block DeCamp and Kennedy is expected to touch on some of big labor's research into the nominee. On the AFL-CIO website, for example, they headline a critical article on DeCamp as 'Another Bush Fox Heading for the Henhouse.'" Kennedy's office said "the senator will focus on articles DeCamp has written that would cut the number of workers eligible for overtime; his representation of Wal-Mart in a sex discrimination case; and his policy work for Labor."

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Frist Will Only Consider Minimum Wage Hike If Linked To Estate Tax Reduction. The Senate is preparing for a showdown vote on Friday on a bill that packages an increase in the minimum wage with a reduction in the estate tax and several popular tax breaks. The AP (8/2, Dalrymple) reports Sen. Frist said the "only opportunity this year to increase the minimum wage and renew popular tax breaks will be linked to a reduction in the estate tax." But Sen. Reid "criticized the GOP's 'take it or leave it' approach." It's a "major political battle for both parties as they head toward an election with control of Congress at stake. Republicans hope to neutralize one of the Democrat's biggest issues, the minimum wage, while scoring a victory on one of their own, the estate tax." The bill "links a $2.10 increase in the $5.15 hourly federal minimum wage, phased in over three years, with a reduction of estate taxes." Carried along "in the package are a host of popular tax breaks that expired last year. They include a research and development credit for business, along with deductions for college tuition, state sales taxes and classroom supplies purchased by teachers."

CQ (8/1, Van Dongen, Crittenden) reports Majority Leader Bill Frist "will spend the week hunting for the votes he currently lacks to clear a bill that would cut the estate tax and raise the minimum wage — and he will delay the start of the chamber's August recess if necessary." Meanwhile, Minority Leader Harry Reid "is working overtime to try to defeat the estate tax-minimum wage measure (HR 5970), and he is likely to make the vote an important test of party loyalty during an election year." The "estate tax-minimum wage fight is shaping up as a battle of wills between Frist and Reid. While Frist said Tuesday he believed he would find 60 votes to clear the bill, Reid sounded equally certain that he would kill it."

The Atlanta Journal-Constitution (8/2, Geewax, 399K) reports Senate Republican leaders "adopted a 'now or never' stance Tuesday as they began an attempt this week to pass one bill to reduce inheritance taxes and another to overhaul the private pension system." If Frist "gets his way on taxes, the Senate could move quickly to approve the long-awaited pension package, which contains special aid for financially troubled airlines Delta and Northwest."

Bill "Loaded Up" With Popular Tax Breaks Aimed At Democratic Senators. The Washington Times (8/2, Fagan, 88K) reports "Republicans have loaded up the bill" with "a host of popular tax breaks that Democrats will find painful to oppose, including help for teachers, miners and college students." Several provisions "target Democrats in tough races and Republicans want to make them instant issues in this year's elections. For example, the bill has provisions to allow mine operators to write off half their expenditures for safety equipment, and gives them tax credits for some mine-rescue-training programs. Another provision provides a tax deduction to the timber industry." A Senate Republican aide "said the timber and mining tax breaks target two Democrats running for re-election in states where those industries play a major role in the economy -- Sens. Maria Cantwell of Washington and Robert C. Byrd of West Virginia, respectively."

CQ (8/1, Raju) reports the debate on the minimum wage/estate tax bill "could hinge on an obscure provision in the legislation that would provide cash for cleaning up abandoned coal mines. Senate Republicans are just a few votes short of what they need to clear the bill, (HR 5970), and the mining provision is aimed squarely at winning over two West Virginia Democrats — Robert C. Byrd and John D. Rockefeller IV." Republican strategists "hope that all of the coal provisions — but especially the mine reclamation language — will win over a critical few Senate Democratic votes." On June 8, "the six Democratic cosponsors" of the bill offered by Sen. Rick Santorum's "either were not present or voted against a motion to limit debate and call up a bill that would fully repeal the estate tax (HR 8). The 57-41 vote fell three short of the 60 votes needed to invoke cloture." Now, "at least two of the six — Byrd and Rockefeller — are mulling whether to back the new House package."

The Wall Street Journal (8/2, Rogers, 2.03M) reports, "Sparing no expense to win votes for estate-tax cuts, Republicans propose to revive generous business-travel deductions for spouses to appeal to Democrats from tourism-dependent states such as Hawaii." A provision "tucked into a House-passed estate- tax bill" authorizes "what amounts to a 17-month holiday during which the more-relaxed rules -- predating 1993 tax changes -- would again apply. The temporary arrangement would end Jan. 1, 2008, at an estimated cost to the Treasury of almost $60 million." Ways and Means Committee Chairman Bill Thomas (R., Calif.) "added it to the new estate-tax package in an apparent effort to woo Sen. Daniel Akaka (D., Hawaii) into supporting the bill in a showdown Senate vote Friday." Sen. Akaka is "caught up in a closely fought primary battle next month against Rep. Ed Case (D., Hawaii), who supports the estate-tax cut and has sought to present himself as a moderate appealing to independents in the open primary."

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House Republicans Could Face Campaign Ads On Minimum Wage. The White House Bulletin/US News (8/1) reported the Democratic Congressional Campaign Committee is "considering airing critical TV ads against Republicans who've voted to nix an increase in the minimum wage but OK'd a boost in their own pay." Insiders said that "they already tested the strategy in Indiana and plan to expand it in other states where there are close races. While in the past the issue was a winner only in poor, or blue collar districts populated with workers toiling at the low wage, Democrats now see it as a broader values issue." An official "explained that the wage is considered by most as too low and threatens the livelihood of those on it and that most voters are now sympathetic to their plight. Of special focus are Republicans who've also voted to boost their own congressional pay." Officials said that "all past votes, not just the latest, will be researched and used for any upcoming TV ads."

GOP Linkage Of Estate Tax, Minimum Wage Criticized. In his Washington Post column (8/2, A15), Harold Meyerson says, "Appended to the minimum wage hike that the vast majority of" Republicans "opposed was a provision genuinely dear to their hearts: A cut in the estate tax that chiefly benefits the super-rich and that will reduce government revenue over the next decade, according to the Center on Budget and Policy Priorities, by $753 billion. The shortfall could well lead to offsetting cuts in programs that benefit the same working poor that the minimum-wage increase would help. But who cares about the poor? The whole point of the exercise was to come up with a bill that might force some Democrats to vote for an estate tax cut they would otherwise oppose, and enable Republicans to claim they weren't really the Dickensian grotesques that many of them in fact are."

Pension Bill Would OK "Automatic Enrollment" For 401(k) Programs. The Los Angeles Times (8/2, Peterson, 918K) reports the employers of a "growing number of U.S. workers" have "steered them into retirement savings plans without waiting for them to ask. The practice, known as 'automatic enrollment' -- or, to some workers, 'forced saving' -- is a tradition-breaking effort to push people into putting money away for the future." Under the pension-reform bill "that the House approved Friday and the Senate is expected to take up this week, companies for the first time would be granted legal assurance that they could unilaterally shift some of a worker's pay into a retirement savings plan, such as a 401(k) program, unless the employee specifically opts out." That "could have ramifications for the economy: At a time when consumer spending is weakening, forced saving could worsen that trend by cutting into workers' disposable income. But advocates say the long-term benefits are worth any short-term pain."

Grassley CQ (8/1, Ota) reports, "They went to church Sunday and, by some accounts, Senate Finance Chairman Charles E. Grassley, R-Iowa, found religion in a plan to move the pension overhaul bill without his business tax cut extensions. At least that's the story one senator and several GOP aides are telling about a trip to an Iowa chapel that Grassley took over the weekend with Senate Majority Leader Bill Frist, R-Tenn." Grassley hasn't "said anything publicly in the way of an endorsement, but his mood, a senator said Tuesday, is markedly different than it was last week when he had a bitter exchange with Frist, who cut a deal with House Republicans to move the pension bill (HR 4) sans extensions." Republican aides "say Grassley agrees with the substance of both measures. But, as one put it, 'The problem we have here is that Grassley hasn't uttered a word on this. How do we know he's seen the light?'"

WPost Criticizes Pension Bill For Leniency To Airlines. The Washington Post (8/2, A14, 748K) editorializes that the House pension bill's "main focus is defined-benefit retirement plans. Employers are not putting enough money into these plans to fund the pension promises they've made: The gap is estimated to be $450 billion." Unfortunately, "the House phases these reforms in slowly, and it has been especially lenient toward airlines. Northwest and Delta are getting an astonishing 17 years in which to fund their pension promises, and they are allowed to assume that the investment returns on their pension assets will be 8.85 percent -- about a third higher than other companies are permitted to assume. American and Continental are being treated less generously, though they still get away with looser provisions than companies in other industries."

Cheney Remains Popular In Home State Of Wyoming. Roll Call (8/2, Jacobson) reports, "Blame the war in Iraq, his dry personal style or the frenzy over his Texas hunting accident, but nationally, Vice President Cheney's approval numbers are in the doldrums." A June Harris poll showed his national job approval rating at 31%-65%, but "there's always Cheney's home state of Wyoming. Here,

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discussions with politicos in both parties suggest that Cheney has retained much of his popularity in the Equality State." Democratic Gov. Dave Freudenthal said, "I think he still enjoys considerable support." Roll Call adds while Freudenthal's "assessment is based on anecdotal evidence from traveling the state rather than on poll data, he estimates that Cheney's in-state popularity is in the 'high 50s,' though he said it likely has slipped some over the past few years." While Cheney "took some ribbing in the national media when he had to rush back to Wyoming in 2000 to re-register to vote in his native state (he had voted in Texas while serving as CEO of Halliburton), people here say that Cheney remains a significant presence in the state. He lives in Jackson Hole and returns frequently with his family."

Annual Physical Finds Bush Healthy, Slightly Heavier. The AP (8/2, Loven) reports President Bush's doctors "pronounced him healthy and in better shape than most men his age Tuesday, but the president himself seemed a little upset about packing on some extra pounds." The doctors "treated a small precancerous lesion on his left arm but indicated it was nothing serious. They told him to use sunscreen and wear a hat." Bush's annual physical "took more than four hours and was conducted by a team of nine doctors, overseen by White House physician Richard Tubb and Dr. Kenneth Cooper, the president of the Cooper Aerobics Center in Dallas. The group included skin, hearing, heart, eye and sports medicine specialists." The scale "showed Bush at 196 pounds. He was 191.6 pounds at his exam last July. The physical also found the president shorter by a quarter of an inch, at 5 feet 11 1/2." A four-page "medical summary that accompanied the brief doctor's statement said Bush remains in the 'superior' fitness category for a man of his age, in the 99th percentile."

The New York Times (8/2, Stout, 1.21M) reports President Bush "continues to enjoy robust health but has put on a little weight, the White House said Tuesday after the president's annual physical examination." White House spokesman Tony Snow said, "He's up to 196, I believe." The Times adds Snow "said Mr. Bush's standing heart rate was 46 beats a minute and his cholesterol 174. Both are little changed from a year ago and are normal for a fit man Mr. Bush's age. He turned 60 on July 6." Bush "said, 'I'm doing fine, my health is fine,' after being examined at the National Naval Medical Center in Bethesda, Md. And he said he knew why he had put on weight since last summer: 'I probably ate too many birthday cakes.'"

The Washington Post (8/2, C3, Argetsinger, Roberts, 748K) reports, "Is President Bush a seesaw dieter? He gained six pounds in the year and a half before the 2004 elections, then lost eight pounds by last summer -- only to regain five pounds since then, according to the results of his annual physical yesterday. He now weighs in at 196. 'Too many birthday cakes,' explained POTUS, who celebrated his 60th last month, as he exited National Naval Medical Center." The Post adds doctors "nonetheless declared him 'fit for duty.'" White House spokesman Tony Snow said, "He's still healthier than we are."

Former White House Press Secretaries To Attend Final Briefing In Old Press Room. The Washington Post (8/2, C3, Argetsinger, Roberts, 748K) reports today is "the last day reporters will meet in the West Wing's ratty old press room, so a celebration is in order: Former White House press secretaries Jim Brady, Marlin Fitzwater, Jody Powell, Ron Nessen, Joe Lockhart and Dee Dee Myers will join Tony Snow at the last briefing this afternoon. The press corps is decamping across the street to Jackson Place until long-overdue renovations -- state-of-the-art technology and wider seats -- and rat extermination are completed next May."

Aides Question Cox's Use Of Member's Spouse Pin To Lobby Lawmakers. Roll Call (8/2, Akers) reports in its "Heard on the Hill" column that House and Senate aides "are buzzing" about Rebecca Cox, wife of former Rep. and current SEC Chairman Chris Cox, and her use of a Member's spouse pin while lobbying for Continental Airlines on the pension bill. Aides "saw Cox at 1:15 a.m. standing outside the office of Senate Majority Leader Bill Frist (R-Tenn.), where conferees were scheduled to be meeting (though, in reality, they had moved down the hall to another Senator's hideaway). Cox, they said, was wearing her spouse pin conspicuously on a necklace." A senior GOP aide "said he found Cox's move 'shocking' in this era of ethics and lobbying reform, though he had to acknowledge, grudgingly, that Cox did one heckuva job for Continental by snagging such great access."

"French" Fries Are Back In House Cafeterias. The Washington Times (8/2, Bellantoni, 88K)

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reports, "Three years after House Republicans trumpeted the new names to get back at the French for snubbing the coalition of the willing in Iraq, congressmen don't even want to talk about french fries, which are actually native to Belgium, and toast. Neither Reps. Bob Ney of Ohio nor Walter B. Jones of North Carolina, the authors of the culinary rebuke, were willing this week to say who led the retreat, as it were, from the frying pan. But retreat there has been, as a casual observer can see for himself in the House's basement cafeterias."

Efforts To Rein In Activist Judges Praised. Tom McClusky, vice president for government affairs for the Family Research Council, writes in USA Today (8/2, 2.27M), "Recent legislation seeking to rein in judicial activism is an effort to restrain judicial power within the limits of Constitutional design, not an attack on 'judicial independence.'" The courts "should not be allowed to operate as a legislative judiciary. They are subject to the same system of checks and balances that are ever-present in the US Constitution. … Judicial independence of opinions is a sacred foundation of government, but a court system answerable to no one dangerously weakens that foundation."

USA Today Decries "Assault" On Judicial Independence. An accompanying editorial in USA Today (8/2, 2.27M) says judges across the country "are facing a broad assault on their independence that threatens to undermine the nation's tradition of judicial autonomy and every citizen's ability to get a fair shake." USA adds, "Free speech gives everyone the right to boo the umpires, and the judges. But threats to sue, restrict, remove or even kill them for unpopular decisions have no place, either on the ball field or in the courtroom."

OTHER NEWS:

Paulson Says Economy Not Benefiting All Americans. The New York Times (8/2, Weisman, 1.21M) reports, "Treasury Secretary Henry M. Paulson Jr., delivering his first public remarks since taking office last month, said yesterday that he recognized that the economy was not benefiting all Americans. … It was an unusual concession from a high-ranking official in an administration that has spoken only glowingly of recent economic gains and has generally joined with Republicans in Congress by dismissing Democratic concerns about growing economic inequality in the United States as 'class warfare.'" The Times adds, "On the crucial issue of currency values, however, Mr. Paulson stuck much closer to the traditional script for Treasury secretaries, promising to support a strong dollar." But "he offered a hint that he might try to become even more active than his predecessor in dealing with tensions with China over its currency, which many economists say is set artificially low and is aimed at spurring exports to the United States."

The Wall Street Journal (8/2, Solomon, 2.03M) reports Paulson was "aiming to distinguish himself from his two most recent predecessors." He also "used his first speech to call for a bipartisan approach to reducing the budget deficit and acknowledged that the gap between the best- and worst-paid workers has widened on President Bush's watch." Paulson's "whirlwind schedule of New York appearances yesterday kicked off a campaign to establish the former Goldman Sachs chief executive as a voice on the economy who will reassert the Treasury Department's influence. That differs from Mr. Bush's first Treasury secretary, Paul O'Neill, and his second, John Snow, who was widely seen as a salesman of policies he didn't influence." While "he credited President Bush's tax cuts with spurring economic growth," Paulson "used his maiden speech not to serve as a cheerleader but to list financial and economic challenges facing the US."

The Financial Times (8/2, Luce) reports on the Secretary's "hard-hitting speech at Columbia University in New York," where he "set out an ambitious economic policy agenda for the remaining thirty months of the Bush administration. Mr Paulson pledged that the US would do what it could to revive the Doha round of world trade talks that collapsed in Geneva 10 days ago." He also "made a strong call for a renewed bipartisan effort to overhaul America's social security system and other entitlement programmes and a strong hint that America's controversial Sarbanes-Oxley (Sox) law should be diluted."

In what the Financial Times (8/2, Luce, Wighton) calls a "Clear hint" that he is ready to support reform of the Sarbanes-Oxley rules, Treasury Secretary Hank Paulson said in a speech "that he felt the regulatory 'pendulum' had swung too far in response to the Enron and WorldCom corporate scandals and that 'we need to go through a period of readjustment.'" Paulson "did not mention the Sarbanes-Oxley Act by name, but his comments will be taken as clear support for the growing number of US and foreign executives calling for a watering down of the rules." The Times adds, "Mr Paulson's comments, at the start of his speech, are the

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strongest indication yet that the administration of President George W. Bush is heeding the criticism of the rules."

Economic Reports Cast Doubt On Next Fed Move. The Financial Times (8/2, Hughes) reports, "Data on Tuesday showing both healthy economic activity and rising inflation have re-ignited the debate over whether the Federal Reserve will raise interest rates when it meets next week." The Institute for Supply Management's July manufacturing activity index "unexpectedly rose, reaching 54.7 from 53.8 and outstripping expectations of a slight dip. Earlier, the Commerce Department's personal income and expenditure report showed a rise in core inflation of 0.2 per cent in June for an annual rate of 2.4 per cent – above the Fed's 2 per cent 'comfort zone' assumed by the market."

The Wall Street Journal (8/2, Conkey, 2.03M) reports the Commerce report also "showed that inflation-adjusted consumer spending rose 0.2% in June for the third consecutive month, another sign that economic growth has moderated following a surge in the first quarter and another run-up in energy prices in the spring. Personal income rose 0.6% in June following a 0.4% gain in May, and the personal-saving rate was a negative 1.5% of disposable personal income in June compared with a negative 1.6% in May." USA Today (8/2, Kirchhoff, 2.27M) runs a similar story titled "Consumers Cut Spending In June," while the Christian Science Monitor (8/2, Scherer, 58K) reports that "if the economy is slowing down, as reports appear to indicate, it seems no one told the human resources department. Corporate bosses are still adding to payrolls in a relatively healthy manner, Wall Street economists say. It also appears that companies have yet to hand out the pink slips. … A robust labor market may well tip the Fed toward raising interest rates for the 18th consecutive time. But if there are signs that pressures on the labor market are easing, the Fed might feel more comfortable taking a pause."

Stocks Lower Yesterday. NBC Nightly News (8/1, story 10, 0:10, Williams, 9.87M) reported, "On Wall Street today, stocks finished lower. The Dow was down just under 60 points [to close at 11,125.73]. NASDAQ lost 29.5 points [to close at 2,061.99]." The Wall Street Journal (8/2, Browning, 2.03M) reports "the Standard & Poor's 500-stock index fell 0.45%, or 5.74 points, to 1270.92, up 1.8% this year."

MoveOn Wants Greater Say In Democratic Party's Direction. In its "Washington Wire" column on its web site, the Wall Street Journal (8/1, 2.03M) reported that the Democratic US Senate primary in Connecticut is "the most visible battle yet between the Democratic establishment and MoveOn.org's increasingly aggressive and influential online group's political arm, MoveOn Political Action." With "a $25 million budget and 3.2 million members…the group could make a big difference in close contests around the country. The price MoveOn is asking for that aid is a bigger voice in what Democrats would do with their power. The group that made its mark opposing President Bush's 2004 re-election is now trying, over the objections of some Democratic leaders, to push its own party leftward, particularly on Iraq."

Democratic Leaders Worry GOTV Plan Is Lacking. The Washington Post (8/2, A1, VandeHei, 748K) reports in a front page story, "Top Democrats are increasingly concerned that they lack an effective plan to turn out voters this fall, creating tension among party leaders and prompting House Democrats to launch a fundraising effort aimed exclusively at mobilizing Democratic partisans." Congressional aides said that at a meeting last week, House Minority Leader Nancy Pelosi "criticized Democratic National Committee Chairman Howard Dean for not spending enough party resources on get-out-the-vote efforts in the most competitive House and Senate races, according to congressional aides who were briefed on the exchange." Pelosi "has warned privately that Democrats are at risk of going into the November midterm elections with a voter-mobilization plan that is underfunded and inferior to the proven turnout machine run by national Republicans." The Democratic Senatorial and Congressional Campaign Committees "are creating their own get-out-the-vote operations instead, using money that otherwise would fund television advertising and other election-year efforts." DCCC Chairman Rahm Emanuel "is planning to ask lawmakers and donors to help fund a new turnout program run by House Democrats. He recruited Michael Whouley, a specialist in Democratic turnout, to help oversee it." The Post also notes Rep. Charles B. Rangel (N.Y.), "who would become chairman of the Ways and Means Committee if Democrats picked up the 15 seats needed to regain the majority, said in an interview yesterday that he will quit Congress if the party does not capitalize on an unparalleled opportunity."

Member Dues Boost DCCC's Coffers. Roll Call (8/2, Kornacki) reports a Federal Election Commission report

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"shows that House Democrats have raked in almost twice as much in campaign cash from Members as their Republican counterparts." House Republicans, meanwhile, cautioned "that the study's findings — which few would have predicted a year ago — offer an incomplete portrayal of the fundraising picture, because the House GOP's 'Battleground' initiative is just getting under way." Through June 30, the Democrats "had chipped in $15.1 million — almost twice the $7.9 million given by GOP Members to the NRCC. The figures do not account for contributions from Member-controlled political action committees, which can give up to $30,000 per cycle and which many Members tap to help meet their dues obligations." The report suggests "that dues money is a key reason why the Democratic Congressional Campaign Committee, in a surprising development, actually had $5.5 million more in cash on hand through the end of June than the National Republican Congressional Committee did." The DCCC's "balance as of June 20 was $31.9 million," while the NRCC has "$26.5 million in cash on hand as of June 30."

Lieberman Expects US Troop Withdrawal From Iraq This Year, Opposes Timetable. The New York Times (8/2, Medina, Confessore, 1.21M) reports Sen. Joseph I. Lieberman "said on Tuesday that he remained confident that the United States could begin withdrawing troops from Iraq as early as the end of this year, but he continued to oppose any efforts by his fellow Democrats to set a timetable for that withdrawal." Lieberman's comments "did not represent a change in his position on the war, which has become a central issue in his closely contested Democratic primary race against an antiwar candidate, Ned Lamont." But they "were among his most detailed remarks about Iraq in recent weeks, and come at a time when some of his allies have criticized him for having waited too long to address the concerns many Democrats have about the war." Lieberman said, "My own hope still is that we will be able to begin that withdrawal by the end of the year. I think that's going to be determined by experts on the ground."

Some Democrats Prepared To Campaign Against Lieberman. The New York Times (8/2, Kornblut, 1.21M) reports, "Some factions within the national Democratic Party are quietly preparing to campaign against" Sen. Lieberman "if he loses the primary on Tuesday and runs as an independent in the general election in November, numerous Democrats said yesterday." Although Mr. Lieberman "has attracted support from several of his Senate colleagues — and former President Bill Clinton appeared with him in the state last week — only a handful have pledged to remain loyal to him if he loses to his antiwar challenger" and "mounts an independent campaign." Some "forces within the party, including Senator John Kerry of Massachusetts, will be willing to campaign actively for Mr. Lamont if he is pitted against Mr. Lieberman in the general election, many Democratic officials said." Some Democratic officials "also say the Democratic National Committee will probably support Mr. Lamont if he wins the primary, though Howard Dean, the party's chairman, has been neutral leading up to the primary."

Connecticut Senate Primary Seen As Defining Race For Democratic Party. The Christian Science Monitor (8/2, Feldmann, 58K) reports Tuesday's Democratic Senate primary in Connecticut "is no longer just about one senator's career; it's about the future of the Democratic Party." A "primary victory by Ned Lamont, the businessman who took on" Sen. Lieberman "over his fierce support for the Iraq war and his criticism of Democrats who 'undermine presidential credibility' would embolden the Republican Party to paint the Democrats as untrustworthy on national security and willing to purge those who differ with the left, analysts say."

The Washington Post (8/2, C1, Segal, 748K) reports the Democratic Party rank-and-file "anger has transformed Lamont from unknown rich guy into Lieberman's worst nightmare." No matter what happens, the Lamont surge looks and sounds like a towel snap at the status quo. This is not merely about the war, say strategists with both camps, but the larger question of what Democrats should do to regain power -- and in the absence of power, how they should behave in opposition. Should they move to the center and accommodate the red-state voters who have sidelined them two elections in a row? Or move to the left and fight, consequences be damned? Leftward and fight, say a bunch of highly agitated bloggers, who have been pouring their fury into cyberspace and whipping up money and crowds for Lamont." What's "certain is that the blogs are flexing their political muscle just as a ballooning number of voters in Connecticut have come to the conclusion that their very blue state now needs a very blue senator. If nothing else, Lamont has excellent timing."

At-Risk GOP House Members Hope For Lieberman Loss, Three-Way Senate Race. Roll Call (8/2, Duran) reports that when Lieberman's "re-election campaign leapt from the snoozer to the must-watch column, national Democrats looking to pick up House seats there must have

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seen cause for alarm." A "showdown like the one between Lieberman and millionaire businessman Ned Lamont (D) certainly has the potential to suck up a state's political oxygen. Yet none of the three highly touted Democratic challengers in the Constitution State is ready to say that has happened — at least not yet." If Lieberman loses the primary, "how a three-way Senate contest would affect downballot races remains to be seen, but the spirited primary has not dampened enthusiasm for the House challengers, Democrats maintain." But Republicans "argue that a split between a sitting Democratic Senator and a newly minted Democratic nominee — should Lamont prevail Tuesday — inevitably is bad news for Diane Farrell, Joe Courtney and Chris Murphy, who hope to topple GOP Reps. Christopher Shays, Rob Simmons and Nancy Johnson, respectively."

McKinney Trails Johnson By 15 Points In Democratic Primary Runoff. WXIA-TV Atlanta (8/2, King) reports on its Internet site that a "new InsiderAdvantage/Majority Opinion poll for the Democratic primary runoff in Georgia's 4th Congressional district shows challenger Hank Johnson maintaining his lead over incumbent US Representative Cynthia McKinney by a full 15 percentage points as the runoff election looms closer." The poll shows 49% would vote for Johnson; 34% would vote for McKinney; and 17% were undecided. The "tracking survey of 300 likely voters was conducted the evening of July 31, and has a margin of error of plus or minus six percent."

CNN's The Situation Room (8/1, Cafferty) reported that the latest polling shows Rep. Cynthia McKinney "trailing by 15 percentage points heading into next Tuesday's runoff election against former DeKalb County commissioner Hank Johnson, who is also black. McKinney's congressional district is mostly black and heavily Democratic, so one could presume that the winner of that runoff next week will be the winner of the congressional seat."

Several Senior Republicans Face Unusual Challenges. The Los Angeles Times (8/2, Hook, 918K) reports, "With the political winds blowing squarely against the GOP, several senior lawmakers are facing unusually serious challenges that have forced them to dust off campaign tools that, in some cases, are a bit rusty." Rep. Deborah Pryce (R-Ohio) "decided to air her first television campaign ad early to set the tone for what promised to be a tough reelection fight. But when the ad was broadcast in June, it contained an embarrassing error." Pryce's "first name was spelled 'Deboarah.'" In California, Rep. John T. Doolittle (R-Roseville) "has agreed to debate a Democratic opponent for the first time in more than a decade. Rep. Richard W. Pombo (R-Tracy) has expanded his campaign staff beyond what had been a tight inner circle — and spent more money in the process." In Connecticut, GOP Rep. Nancy L. Johnson, "in her 24th year in Congress, has already aired five expensive television ads. In New York, supporters of Republican Rep. James T. Walsh of Syracuse goofed at one event by distributing 4-year-old campaign literature." With Democrats "needing a 15-seat gain to win control of the House, most of their top targets are junior GOP lawmakers or perennially vulnerable incumbents in swing districts. But they almost assuredly will have to beat more-entrenched Republicans like Pryce to win a majority." But the senior Republicans "have one advantage that Democrats did not have in 1994. Then, many of the party's incumbents did not realize they were in trouble until it was too late to do much about it. This year, GOP leaders already have sensed political danger and urged lawmakers to gear up."

Stem Cell Issue Could Be Key In Some House Races. Roll Call (8/2, Schmidt) reports Wisconsin State Assembly Speaker John Gard "repeatedly has backed state GOP efforts to ban human cloning that would impose limits on embryonic stem-cell research and also supported President Bush's veto of Congress' stem-cell bill last month." Democrats "across the country hope to take advantage of the positions of Republican candidates like Gard on stem cells, confident that a solid majority of Democrats and centrist voters believe blocking research on new embryonic lines will halt progress toward cures for diseases such as diabetes and Alzheimer's." Some believe "the issue could be pivotal in Wisconsin's most competitive Congressional contest, the race to replace Rep. Mark Green (R) in the Green Bay-area 8th district." Gard is "expected to win the Sept. 12 Republican primary easily over his Assembly colleague, Terri McCormick. The three candidates competing in the Democratic primary are allergist Steve Kagen, former Brown County Executive Nancy Nusbaum and business consultant Jamie Wall." A mid-July Fairbank, Maslin Maullin & Associates poll "conducted for Kagen's campaign showed him leading Gard by 10 points in a trial heat and gave Gard a 15-point lead over Nusbaum."

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New Hampshire May Move Presidential Primary To 2007. The AP (8/2, Magruder) reports New Hampshire "might schedule its presidential primary in late 2007 if the Democratic Party moves ahead with plans to add a caucus to the early nominating calendar," Secretary of State William Gardner said. Gardner said he "hopes he won't have to take that step, but he expects even more challenges to New Hampshire's tradition of holding the nation's earliest presidential primary." A Democratic National Committee panel "voted last month to let Nevada hold nominating caucuses in January 2008, between Iowa's traditional leadoff caucuses and New Hampshire's primary." If the Nevada plan "goes forward, New Hampshire law will require Gardner to decide whether the Nevada event is a 'similar election' to the New Hampshire primary. If he decides it is, the law would require him to schedule the primary at least a week earlier."

Marcus Suggests Changes To Congressional Fundraising Rules. Ruth Marcus writes in the Washington Post (8/2, A15, 748K), "Everyone knows that members of Congress have to spend ridiculous amounts of time raising money. Everyone knows that lobbyists have to give ridiculous amounts of money to members of Congress -- and spend ridiculous amounts of time helping them raise even more." But the "blizzard of round-the-clock check-writing opportunities offered a glimpse of the frenzied desperation of politics today, in which success is measured by the ability to devise clever new ways to wring more cash out of the same old crowd." Marcus adds that "a combination of beefed-up disclosure and tighter rules could help. Lobbyists ought to be required to report not only how much they've given to lawmakers but also how much they've collected for them. … More fundamentally: Bar lawmakers from using campaign funds to dispense cash to other politicians, directly or through party committees." Marcus also calls for the abolition of leadership PACs.

WSJournal Sees Lawyers As Culprits In Bogus Silicosis Suits. The Wall Street Journal (8/2, 2.03M) editorializes, "Last week the lawyers who've orchestrated the great silicosis lawsuit scam even tried to clam up before Congress. Still, the Members elicited some extraordinary information from these attorneys, who a federal judge blasted last year for having ginned up some 10,000 bogus silicosis cases." The Journal adds, "Last week's hearing left much unanswered, but it was a start. Federal and state investigations into the silicosis scam so far have focused mainly on doctors and screening companies who were on the front-lines of recruiting patients. It's now clear that these were small fry. They were taking orders from those who stood to profit most from more lawsuits: the lawyers. All roads lead back to them."

Rice Says US Will Oppose Any Ceasefire Lacking Provisions To Disarm Hezbollah. Secretary of State Condoleezza Rice took to the airwaves Tuesday to reiterate the US position that there "can be no cease-fire in the Middle East until there is a solid plan in place to disarm Hezbollah," the New York Times (8/2, Rutenberg, Shanker, 1.21M) reports. Rice "had seemed to be ready to hasten the diplomatic effort to end the crisis as she prepared to leave Jerusalem for home on Monday, saying a solution was possible this week." But following a meeting with President Bush at the White House Monday night, "the administration strongly reiterated its message: a cease-fire will not be hastened without a plan to make it a lasting one."

In an appearance on Fox News' The O'Reilly Factor (8/1), Rice said, "We think it's very important that after these events are over that we will not have a return to the status quo. … If we don't work for a ceasefire that will be lasting and enduring, then we're going to be right back here in several months talking about another ceasefire." Rice made similar comments on PBS NewsHour (8/1, Lehrer), saying, "The diplomacy is moving ahead. During the time that I was in the Middle East, I had a lot of very fruitful conversations with both the Lebanese and with the Israelis on what it would take to end this conflict on a basis that would not permit a return to the status quo." She also said a ceasefire this week "is entirely possible. Certainly, we're talking about days, not weeks, before we are able to get a cease-fire." The Washington Times (8/2, Mitnick, 88K) notes Rice's statement that a settlement could come this week.

Bush Said To Differ From Father On Attitude Toward Israel. The New York Times (8/2, Stolberg, 1.21M) analyzes the differences between President Bush and his father on US policy toward Israel, writing that "the first President Bush had been tough on Israel, especially the Israeli settlements in occupied lands." But in a March 2001 White House meeting, "the new president signaled a strong predisposition to support Israel. 'He told [Ariel] Sharon in that first meeting that I'll use force to protect Israel, which was kind of a shock to everybody,' said one person present, given

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anonymity to speak about a private conversation. 'It was like, 'Whoa, where did that come from?'" The Times says that while George H.W. Bush "viewed himself as a neutral arbiter in the delicate politics of the Middle East, the current president sees his role through the prism of the fight against terrorism. This President Bush, unlike his father, also has deep roots in the evangelical Christian community, a staunchly pro-Israeli component of his conservative Republican base."

US, France Disagree On Proposed UN Resolution. The AP (8/1, Raum) reports the Administration is now seeking a UN resolution linking an Israel-Lebanon cease-fire with a "broader plan for peace in the Middle East, despite rising international pressure for a simple no-strings-attached halt to the fighting." But the Washington Times (8/2, Kralev, 88K) reports the White House "hope for a lasting cease-fire in the Middle East this week dimmed yesterday as it scuffled with France" over the "sequence of a cease-fire and international force deployment." The New York Times (8/2, Sciolino, Bilefsky, 1.21M) reports the 25 EU nations "essentially gave their support" to the French proposal Tuesday, suggesting "a widening gap between the European and the American positions."

US Role In International Force Would Likely Be "Behind The Scenes." The AP (8/2, Burns) reports that if an "international force enters southern Lebanon to enforce a cease-fire between Israel and Hezbollah, the U.S. military is more likely to be a behind-the-scenes helper than a front-line leader. That means U.S. troops might ferry supplies and equipment by sea and air, assist with communications, share intelligence and perhaps deliver medicines and other humanitarian aid for Lebanese affected by the conflict."

UN's Malloch Brown Slams US, UK. The Financial Times (8/2, Nations) reports UN Deputy Secretary-General Mark Malloch Brown said that the US and Great Britain, "as 'the team that led on Iraq' they were poorly placed to take a leading role in diplomatic efforts on the crisis in Lebanon." In the "striking admonition," Malloch Brown told the FT "that the UK should take a back seat in dealing with the conflict, while the US should allow other countries to share the diplomatic lead."

Blair Urges "Renaissance" In Approach To Fighting Extremism. AFP (8/2, Hazlewood) reports British Prime Minister Tony Blair "called for a 'complete renaissance' of the global approach to tackling extremism, with as much emphasis on 'soft' power as military might." Addressing the World Affairs Council in Los Angeles, Blair "pledged to continue to work to halt hostilities in Lebanon -- where he was still hopeful of a settlement -- and in the wider Middle East." The Los Angeles Times (8/2, Trounson, Watanabe, 918K) says Blair "said he was urging a dramatic change in the approach taken by Western nations," saying that "greater efforts are needed to engage moderates in the Muslim and Arab world who might work alongside the West against those he described as radical, reactionary Muslims."

More Commentary. The major dailies yesterday did not run editorials on the Lebanon crisis, and there was no overarching theme in the columns or op-eds. In a USA Today op-ed (8/2), George E. Bisharat, professor at Hastings College of the Law in San Francisco, says all the "vivacity" of Beirut "was crushed, as Israel brought its iron fist down on Lebanon. The blow had been planned for at least a year, awaiting only the pretext of Hezbollah's capture of two Israeli soldiers. If Hezbollah attacked inside Israel — which the group denies — it violated Israel's sovereignty, took Israeli lives and was wrong, but that hardly justifies the destruction of a country." The "long-term trend should be obvious: Israel's violence, no matter how its leaders justify it, fails to provide its citizens with a sense of security. The Israeli army might beat back Hezbollah temporarily, only to create more numerous and radicalized foes than had existed before."

In his Washington Post column (8/2, A15), David Ignatius considers the lessons of the Yom Kippur War of October 1973 for the current crisis in Lebanon. The "1973 war seemed like the ultimate disaster: Israel's very survival was at stake in the early hours of the battle." Yet in "the long lens of history, the importance of the 1973 war is that it opened the door to peace. The Arabs, humiliated by earlier wars with Israel, could now claim a measure of dignity because of Anwar Sadat's bold attack across the canal. The Israelis learned that their Arab adversaries wouldn't run from battle as they had in the 1967 war. That gave them a stake in making peace, too." The 1973 "war marked a historic turning point, in ways that no one could initially have predicted. And it is just possible that the current conflict offers a similar opportunity. The key missing element, so far at least, is a Kissinger-level diplomatic commitment by the United States. Condoleezza Rice came close to a Lebanon peace deal last weekend, but to pull it off, she will need to move more toward Kissinger's stance of honest broker."

In a New York Times op-ed (8/2), former US Ambassador to the UN Nancy Soderberg says, "As the death

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tolls in Lebanon and Israel rise, calls for a robust international peacekeeping force are increasing. But history should serve as warning. As we all know, the United States and France learned the cost of a poorly planned presence in 1983 when Hezbollah suicide bombers blew up their barracks, killing 300 troops." Now the United Nations and European Union officials "are urging a strengthened force to 'sort out the question of disarmament of the militia' in southern Lebanon and 'guarantee sovereignty and freedom for Lebanon.' These are goals so ambitious that no peacekeeping force, not even NATO, could achieve them. In any case, one cannot deploy a peacekeeping force until the questions of disarmament and sovereignty have been addressed. Unless the path forward is agreed upon, the peacekeeping troops are at best without a clear mandate and at worst can become pawns in the negotiations."

In a New York Times (8/2, 1.21M) op-ed, author Adir Gurion Waldman, a former Israel Defense Forces infantry soldier, writes, "As pundits propose various diplomatic solutions to the crisis embroiling the region, lost in all of these suggestions is the Israel-Lebanon Monitoring Group, the one institution that in the past was able to prevent war in the Middle East." The group "was born a decade ago when, as today, Israel sought to root out Hezbollah from southern Lebanon." In the past, "after particularly egregious episodes of violence, the group was able to initiate immediate back-channel contacts that staved off reprisals."

Israel Expands Offensive, Moving Deeper Into Lebanon. Major media reports on the fighting in the Middle East focus on the Israeli expansion of its troop strength and on what the AP (8/2, Dakroub) calls a "major attack" launched by Israel "deep into Lebanon." The AP says the "ferocity of the battles" in the city of Baalbek, 80 miles north of Israel, "and across southern Lebanon on Tuesday, the determination of the Israelis to keep fighting and the minimal diplomatic progress toward a cease-fire all indicate the 3-week-old war is more likely to escalate than end soon." The CBS Evening News (8/01, story 3, 2:20, Schieffer, 7.66M) called it "a major new attack" by Israel, adding that Baalbek is "well north of the Israeli border, and not far from Syria."

ABC World News Tonight (8/01, story 4, 2:30, Gibson, 8.78M) reported Israeli forces "have widened and intensified their drive into Lebanon. The Israeli troops have driven deeper into that country than any time in the past three weeks. Most of the fighting is within 20 miles of the border," but "Lebanese forces say there are Israeli troops mounting an operation, 60 miles inside Lebanon." NBC Nightly News (8/01, story 4, 2:40, Williams, 9.87M) said this is "as far as Israel has been inside Lebanon since 1994," with Israel "doubling the size of its invasion force."

The Chicago Tribune (8/2, Greenberg, 623K) reports that Israel, "racing against time before a cease-fire is arranged," expanded its offensive, and USA Today (8/2, 1A, Katz, 2.27M) says Israel "opened a new front" in the war by focusing on the city, "about 10 miles from the border with Syria" and a former Syrian army headquarters. Syrian Ambassador to the US Imad Moustapha said on CNN's The Situation Room (8/1) that Israeli forces "are very close to our borders right now, and Syria would normally have to be on a very high level of alertness and readiness. And, of course, this is what Syria has done. … And the closer they come to the Syrian borders, the more the possibility is that a total war might erupt."

The Washington Post (8/2, A1, Finer, Moore, 748K) focuses on the movement of "thousands of Israeli soldiers" into southern Lebanon as the "intensified ground campaign to dislodge Hezbollah strongholds" continued. The New York Times (8/2, Smith, Erlanger, 1.21M) is the only major publication to put the troop number -- "up to 7,000 troops" -- in its lead. The Times says the troops, "backed by air support, tanks and armored bulldozers, entered at four places along the border, moving up to 4.5 miles inside." CNN's The Situation Room (8/1, Blitzer) reported Israel "distributed leaflets in villages north of the Litani River, warning Lebanese civilians to pick up and leave as soon as possible."

The Wall Street Journal (8/2, A4, Dreazen, 2.03M) says the "fitful pace of the negotiations at the United Nations is giving Israel time to step up its offensive." The Los Angeles Times (8/2, Ellingwood, 918K) reports that "at least three Israeli troops were killed in Tuesday's fighting," while Israel said its "ground forces killed at least 20 Hezbollah militants during the latest clashes, on top of the 250 or so slain in earlier battles. Hezbollah disputes the figures." Israeli Prime Minister Ehud Olmert said, "Every additional day is a day that erodes the power of this cruel enemy." The Financial Times (8/2, Morris, Khalaf) reports Israel did not confirm a report by Hezbollah "that up to 35 Israelis were killed in fighting at the border town of Ainta al-Shaab."

Israeli General Says Israel Will Push Hezbollah 15 Miles From Border. The Christian Science Monitor (8/2, Prusher, 58K) reports Israeli Brigadier General Shuki Shahar

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said the "48-hour-period Israel had set aside for a suspension of its airstrikes in Lebanon was coming to an end, and that when it does, Israel will resume attacks on Hizbullah positions through both aerial assaults and sizeable ground operations." He added that Israel "is starting to recapture areas that the Israeli army had occupied for about two decades when it pulled out in April 2000, and would try to push Hizbullah 15 miles away from the Israel-Lebanon border."

"Dovish" Peres Takes Firm Stance On Hezbollah. The AP (8/2, Schweid) reports Israeli Deputy Prime Minister Shimon Peres, "the dovish Israeli Nobel peace laureate," issued a "message of resolve" during an address at the Washington Institute for Near East Policy. Peres said "'we will not permit Hezbollah to return to south Lebanon' to attack Israel. Nor, he said, would Israel suspend its bombardment of Hezbollah weapons arsenals under a current partial cease-fire." But Peres said Israel "has no intention of reoccupying parts of Lebanon."

Polls Show Solid Israeli Support For War. The AP (8/2, Rabinowitz) reports Israeli polls show "wall-to-wall support" for the war against Hezbollah. A poll appearing in the newspaper Maariv Tuesday showed 80% in support of "the military's conduct during the offensive," and 74% saying "Olmert and his government were doing a great job."

Christian Lebanon "Stuck In The Middle" Of War. The New York Times (8/2, Tavernise, 1.21M) runs a report from the town of Ain Ebel, a "Christian village deep in southern Lebanon" where residents "witnessed ferocious battles between Israeli forces and Hezbollah fighters last week. … Lebanon's Christians are stuck in the middle of a war with which they do not identify." While they have been "long distrustful of Hezbollah," they do not "appreciate Israel's response, which lobs rockets into their houses and keeps their hilltop town shut tight."

Fighting Keeps Aid From Reaching Many Lebanese. The CBS Evening News (8/01, story 4, 2:05, Schieffer, 7.66M) reported that the "nearly nonstop fighting in southern Lebanon is keeping international relief from reaching civilians who are still trapped there." CBS profiled one "isolated town that was desperate for help," Marjeyoun, where aid finally arrived after weeks of waiting.

Hezbollah's Popularity In Lebanon Surges After Qana. The Washington Post (8/2, A11, Cody, 748K) reports Hezbollah "is riding a surge of popularity in Lebanon and has acquired increased influence in the Lebanese government and its component factions." The airstrikes on Qana "in particular built unity in the Lebanese population, in horror if not in politics. The shock of what happened there enveloped the border conflict in broad feelings of nationalism, rallying many Lebanese who are wary of Hezbollah to the flag of battle with Israel."

Lebanese Army Could Join In International Force. USA Today (8/2, Stinson, 2.27M) reports that though "the Lebanese armed forces have been on the sidelines" during the conflict, there is now "talk of deploying Lebanon's 70,000 soldiers in the south to provide a security presence that represents the government," not Hezbollah. Lebanon's forces could work with an international military force "to police any cease-fire."

Durbin, Sununu Push Bill To Allow Lebanese In US To Stay Longer. The Chicago Tribune/AP (8/2) reports Sens. Richard Durbin and John Sununu, "who is himself of Lebanese descent," are co-sponsoring a bill to allow Lebanese nationals now in the US "to remain here because ongoing hostilities in the Mideast make it unsafe for them to return home." The legislation "would make Lebanon eligible for temporary protected status for an initial one-year period."

Gaza Palestinians Raise Hezbollah Fighters To Hero Status. The New York Times (8/2, Myre, 1.21M) reports on Gaza Palestinians' identification of Hezbollah figures as heroes. At Gaza's "P.L.O. Flag Shop, a local store that specializes in Palestinian souvenirs, the best-selling items for the past couple of weeks have been posters, T-shirts, buttons and coffee mugs featuring Hezbollah's leader, Sheik Hassan Nasrallah." Palestinians "say the obsession with the Lebanese conflict is simple: Hezbollah has delivered deadly blows to Israel that Palestinians have not been able to inflict here on Israel's southern front."

Tehran Denounces UN Security Council's "Pressure." The AP (8/2, Dareini) reports Iranian President Mahmoud Ahmadinejad "rejected a U.N. Security Council deadline for it to suspend uranium enrichment, saying Tuesday Tehran would not be pressured into stopping its nuclear program." Ahmadinejad said publicly that Iran "would not give in to United Nations' threats. 'If some think they can still speak with threatening language to the Iranian nation, they must know that they are badly mistaken. Throughout Iran, there is one slogan: The Iranian nation considers the peaceful use of nuclear fuel production technology its right.'" The AFP (8/2) adds Ahmadinejad "has

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vowed that Iran would not bow to 'the language of force and threats.'" He "made no direct comment on the resolution but another senior official dismissed it as 'worthless.'"

Friedman Says Threatening Regime Change Is The Wrong Policy In Dealing With Rogue States. Thomas Friedman writes in the New York Times (8/2, 1.21M), "I seriously doubt the Bush team will succeed in curtailing the Iranian or North Korean nuclear programs until it resolves a contradiction that has been at the heart of this administration from the beginning: Is it for a change of regime or a change of behavior in Iran and North Korea? Because the Bush team has refused to make up its mind, it's gotten neither. All it's gotten are two better-armed rogues. How so? Go back to the impressive deal that the Bush team did pull off in 2003 to get Libya's leader, Muammar el-Qaddafi, to give up his crude nuclear weapons program. How did that happen?" Robert Litwak, the director of international security studies at the Woodrow Wilson Center "and an expert on rogue states," argues, "What actually brought Qaddafi around was a tacit but clear US security assurance that if he did give up his nuclear program the US would not seek to oust him from power." Friedman adds, "What has been missing from the Bush approach to Iran and North Korea is that kind of clear choice. … Both Iran and North Korea have a very high incentive to maintain ambiguity about their nuclear capabilities when we are so ambiguous about our intentions toward them."

More Commentary. In an editorial titled "Fiddling While Iran Arms," the Los Angeles Times (8/2, 918K) editorializes, "The leaders of Iran's extremist regime have repeatedly played the Security Council and other international bodies, making occasional cooperative noises and claiming that they're only interested in civilian power while continuing to accelerate their nuclear activities." The Times adds that "it's particularly disappointing that Russia and China continue to act as enablers for Iran's nuclear ambitions. The Security Council resolution was originally intended to impose sanctions Aug. 31 if Iran refused to suspend uranium enrichment . But Russia and China insisted on changing the wording. Now the council will only consider sanctions after that date. … In a month, Russian leaders will have to decide whether their economic and strategic interests lie with Iran or the West. They're not going to be able to delay forever."

Australia Expanding Uranium Production, Export. The New York Times (8/2, Bonner, 1.21M) reports, "At a time when the United States wants to reduce the amount of nuclear material washing around the world, one of Washington's major allies, Australia, is on the verge of expanding its production and export of uranium. The Australian prime minister, John Howard, one of President Bush's staunchest allies, says the country should also begin enriching uranium, a move directly counter to Mr. Bush's call for the uranium enrichment club to be limited to the handful of countries that already have the capacity." Howard, "leader of the center-right Liberal Party, says he does not see his country as confronting Washington, but as pursuing its best economic interests. … He said he had not informed Mr. Bush of his nuclear policies." The Bush Administration "has remained silent about Mr. Howard's proposals. 'We've made no official statement on the issue'" a press aide at the American Embassy in Canberra said Tuesday in response to a request for a comment." The Times adds, "At home, Mr. Howard's nuclear proposals have set off a spirited debate, marked by a dramatic U-turn on uranium mining by the leader of the opposition liberal Labor Party."

Australia To Hold WTO Summit Next Month. Bloomberg (8/2, Daley) reports Australia will hold a summit in September to "revive" world trade talks, which collapsed in Geneva last month, Trade Minister Mark Vaile said. WTO Director-General Pascal Lamy and delegates from 23 nations have been invited to the summit, to take place in Cairns on Sept. 20-22, Vaile said. The AP (8/2, McGuirk) reports the United States and Lamy "have accepted invitations" to attend the meeting. The US will be represented at the talks by US Trade Representative Susan Schwab and Agriculture Secretary Mike Johanns, Vaile said.

AFP (8/2, Johnson) says Vaile also confirmed media reports that Australia is proposing "a compromise that would involve the US cutting its farm subsidies by a further $5 billion and the EU reducing its tariffs by a further 5 percent."

Former WTO Chief Urges Lamy To Push For WTO Resolution. Peter Sutherland, former WTO chief and current chairman of BP and Goldman Sachs International, writes in a Wall Street Journal (8/2, 2.03M) op-ed, "A bad deal is worse than no deal at all is what some are saying in Washington. But is no deal really better than a worthwhile—if unspectacular—deal?" Failure to agree to a deal at Doha, Sutherland warns, "puts at risk the entire multilateral trading system that has served the world so well for half a century, and has been a poverty-reducing driver of globalization." A deal is still "within reach," but Sutherland says "politicians in

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some major trading countries are fearful of having to sell a compromise settlement, which may generate some heat in their capitals as elections approach." Therefore, he urges WTO chief Pascal Lamy to "put squarely on the table his best bets on the figures for tariff and subsidy reductions that would command—reluctant but perhaps relieved—consensus support among WTO members."

Castro Says He's In "Stable" Condition As World Reacts To Temporary Power Transfer.

The AP (8/2, Arrington) reports Fidel Castro "said Tuesday that his health was stable after surgery, according to a statement read on state television, as the Communist government tried to impose a sense of normalcy on the island's first day in 47 years without Castro in charge. Castro, who temporarily handed power to his younger brother Raul on Monday night after undergoing intestinal surgery, indicated the surgery was serious when he said: 'I can not make up positive news.'" But "he said his health was 'stable.'" The New York Times (8/2, McKinley, 1.21M) notes "State-run television showed no pictures of Mr. Castro, nor did it broadcast his voice. It remained unknown where the surgery took place or where he was recuperating."

The story received extensive attention from the network newscasts. ABC World News Tonight (8/01, story 2, 2:40, Kofman, 8.78M) reported from Miami that jubilant crowds were "celebrating Fidel Castro's failing health. But what is not clear, is whether this is an interruption in his long rule, or the begin beginning of the end. In Havana, they wait for news on the fate of the man who has dominated Cuba for the last half-century. Because most Cubans have lived there entire lives under Fidel Castro's iron rule few dare dismiss him."

The CBS Evening News (8/01, lead story, 3:05, Pitts, 7.66M) reported that "by all indications tonight, Castro is still alive, and two weeks shy of his eighth birthday, still up to his old tricks. Whether 79-year-old Fidel Castro is at death's door or not, this billboard in downtown Havana read, 'Vamos bien,' we're fine. The nation's official line today -- business as usual."

NBC Nightly News (8/01, lead story, 2:55, Mitchell, 9.87M) reported, " "Less than a month ago the Bush administration stepped up pressure on Castro by announcing it will spend $80 million to help Cubans prepare for democracy after he's gone. Tonight, the coast guard is watching for any sign that Cuban Americans might try to reach the island or that Cubans might try to get here. Brian?"

The AP (8/2, Gedda) reports, "The Bush administration dismissed Raul Castro, suddenly the acting leader in Cuba, as no more than a 'prison-keeper' on Tuesday as officials reviewed long-standing plans for the post-Fidel Castro era. 'The fact that you have an autocrat handing power off to his brother does not mark an end to autocracy,' White House spokesman Tony Snow said of the Castro brothers." US officials "tried to evaluate the meaning of Monday's announcement that Fidel Castro had temporarily relinquished power to Raul because of an intestinal illness. Fidel Castro will be 80 in less than two weeks; Raul is 75." Commerce Secretary Carlos Gutierrez," who was born in Cuba, addressed that issue at a news briefing without referring specifically to Venezuela. He said the US does not want to see anyone – 'any third party -- stand in the way of the rights of the Cuban people to elect their government.'" He also "rejected the Cuban government's suggestions that once the Castro era ends, Cuban-Americans will return to the island, reclaim the homes they abandoned and expel the current occupants."

The New York Times (8/2, Depalma, 1.21M) says the US is "warily monitoring the provisional transition in Havana, confident it has plans in place to assist pro-democracy groups in Cuba and to head off any mass exodus from the island." And Fox News' Special Report (8/1, Angle) reported, "The White House and State Department said the US has no plans to reach out to Raul Castro as he takes provisional authority in Cuba while his brother recovers. But the transfer of power, temporary though it may be, did bring a joyful and hopeful reaction today from Cuban exiles."

Under the headline, "Castro's Illness Opens Window On Cuba Transition," the Wall Street Journal (8/2, De Córdoba, Luhnow, Davis, 2.03M) says Raul Castro "is beginning what may be a long and uncertain transition from his legendary older brother's long rule over this communist island bastion." If Fidel Castro "is unable to return as president and Communist Party head, it is possible though improbable that Cuba will turn fairly quickly toward democracy, as Eastern Europe did after the fall of the Berlin Wall. Many Cuba analysts believe Raúl Castro would continue the Western Hemisphere's sole communist regime, and would rely heavily on money from Venezuelan leader Hugo Chávez to prop up the economy and tamp down dissent." While Raul "has a strong grip on the country's military, intelligence services and police," any permanent "successor to Fidel must be able to cope with the country's deep-seated economic problems,

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fatigue with a revolutionary regime nearly 50 years old, and hunger for change -- tempered perhaps by fear about a future without the charismatic Mr. Castro."

The New York Times (8/2, McKinley, 1.21M) reports the handover "also set off intense speculation about Cuba's future. Raúl…made no public appearances. He is 75 years old and seems to lack the charisma, political skill and rhetorical brilliance of his brother. His detractors in the United States say he will find it hard to hold the government together if Mr. Castro were to die." Assistant Secretary McCormack "made it clear on Tuesday that the United States would take an active role in shaping events on the island if the Cuban leader dies. 'The United States and the American people will do everything that we can to stand by the Cuban people in their aspirations for a democracy,' he said." The Washington Times (8/2, Behn, 88K) reports that "whatever Fidel's condition, State Department spokesman Sean McCormack said the United States was ready to help the island nation move on. 'We believe that the Cuban people aspire and thirst for democracy and that given the choice, they would choose a democratic government,' he said." The Times adds, "Reflecting that spirit, a news ticker atop the US Interests Section in Havana carried the message: 'All Cubans, including those under the dictatorship, can count on our help and support. We respect the wishes of all Cubans.'"

The Washington Post (8/2, A1, Deyoung, Roig-Franzia, 748K) titles its coverage, "For Castro, A First Step In Calculated Transition." Raul's assumption of presidential duties "marks the beginning of a long-planned transition designed to maintain iron-fisted control of the island after Fidel Castro's eventual death."

Roll Call (8/2, Ackley) reports, "Cuban Americans in Miami may have taken to the streets to celebrate the news that an ailing Fidel Castro temporarily has ceded leadership of his country — even if it is to his brother, Raul, his designated successor." But "on K Street, groups and businesses on both sides of the debate over U.S.-Cuba policy are expressing a more measured response. 'I think there's a heavy dose of overreaction,' said Kirby Jones, president of the US-Cuba Trade Association, a staunch advocate for changing U.S. policy toward Cuba and normalizing trade and commercial relations with the island." John Kavulich, senior policy adviser with the US Cuba Trade and Economic Council, "put it more bluntly. 'I think people this morning have taken too much Viagra,' he said. 'I'm hoping now they start taking some Valium.'"

USA Today (8/2, Nichols, 2.27M), Washington Post (8/2, A8, Whoriskey, 748K), Los Angeles Times (8/2, Williams, Miller, Spiegel, 918K) and New York Times (8/2, Goodnough, 1.21M) also run stories about reaction in the Miami exile community. The Washington Post (8/2, A8, Reel, 748K), meanwhile, analyzes reaction in Latin America, where the "79-year-old socialist icon has been basking in his warmest spotlight in decades in South America. With the help of promotion by regional leaders such as Morales and President Hugo Chávez of Venezuela -- where Cuban teachers and doctors have also been dispatched -- Castro has cultivated an image of the grandfatherly benefactor."

Some In Congress Call For Restoring Diplomatic Ties. USA Today (8/2, Kiely, 2.27M) reports, "The prospect of an end to Fidel Castro's regime in communist Cuba has already sparked renewed interest in Congress in restoring some ties with the island nation. Rep. Jeff Flake, an Arizona Republican who has traveled to Cuba four times, says he plans to introduce legislation in September that would allow US diplomatic contacts with Cuba." USA Today ads, "In the past five years, both the Senate and the House of Representatives have approved measures to end an embargo on trade with and travel to Cuba that dates to 1962. President Bush opposed lifting the embargo, and the measures never became law."

More Commentary. The New York Times (8/2, 1.21M) editorializes that "a historic passage of power has plainly begun. America's overriding interest is in a peaceful transition to the democratic and economically dynamic society that Cubans have dreamed of for decades. Given Cuba's educated population, the energy and skills of its people, and its advantageous location, that is not at all a utopian fantasy."

The Washington Post (8/2, A14, 748K) writes in an editorial, "A dictator who has deprived his able and culturally rich nation of freedom and prosperity for five decades may or may not finally be on his deathbed. But his country is clearly ready to move on."

The Wall Street Journal (8/2, 2.03M) editorializes, "Whether it comes sooner or later, Fidel Castro's death will be a moment of hope for the liberation of an island that was once a jewel of the Americas. If Raúl wants to go there, the US ought to help show him the way." Along similar lines, novelist Mario Vargas-Llosa writes in the Wall Street Journal (8/2, 2.03M), "Barring an unexpected comeback on the part of Fidel Castro, the fundamental question in Cuba now is

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whether Raúl Castro is in a position to perpetuate the communist regime, or whether the politicians (in the Council of State), the ideologues (in the Communist Party) and the soldiers (in the armed forces) -- and factions within each group -- will begin a power struggle. … Many experts expect Raúl Castro to follow the Chinese model. They point to the fact that he has traveled to Beijing on a number of occasions and that he expressed, as early as 1997, admiration for the combination of ruthless political control and market economics. They also think the signals he sent in 2001, hinting at some form of 'normalization' of relations with the US, betray a closet pragmatist."

Bush Renews Myanmar Sanctions. The AP (8/2) reports, "President Bush approved a renewal of sanctions against Myanmar's military junta on Tuesday, extending for a year import restrictions against the country's generals. Instead of embracing democracy and freeing pro-democracy leader Aung San Suu Kyi from detention, the White House said in a statement, 'the country slides deeper into self-imposed isolation and misrule.'"

Somalia's Government Orders Town Residents To Disarm. The AP (8/2, Hassan) reports, "Somalia's president told residents of the only town his government controls Tuesday that they have a week to give up their weapons or 'every single gun' would be seized by force." President Abdullahi Yusuf "said his government would pay people for any arms surrendered and that details of the disarmament plan would be released Wednesday."

Fighting Rages In Sri Lanka. The New York Times (8/2, Senanayake, 1.21M) reports from Sri Lanka, "Government jets pounded Tamil Tiger positions in the east after the rebels fired shells at a ship ferrying more than 800 troops, as a fight over an irrigation canal dragged the country closer to full-fledged war. The fighting began last week when the military sought to gain control of a waterway in rebel-held territory." The Tigers "want the withdrawal of all monitors called for in a 2002 truce who come from countries in the European Union, which added the group to its list of banned terrorist organizations in May."

Chavez Wants Military Alliance To Counter US Power. The Washington Times (8/2, Arostegui, 88K) reports, "Venezuelan President Hugo Chavez, on a world tour during which he signed a $3 billion arms deal with Russia, has begun talking about combining several of South America's largest armies to counter U.S. influence. 'We must form a defensive military pact between the armies of the region with a common doctrine and organization,' Mr. Chavez said July 5." In another speech "before he left for Moscow last week, Mr. Chavez said: 'We must form the armed forces of Mercosur, merging warfare capabilities of the continent.'" Chavez "elaborated on the rationale for a combined military during a visit to Bolivia in May on which he was accompanied by Venezuela's army chief, Gen. Raul Baduel. The need is for a Latin American alliance 'equivalent to NATO, with our own doctrine, not one that's handed down by the gringos.'"

Mexican Leftists Say They Will Expand Protests. The New York Times/AP (8/2, Press) reports, "Supporters of the leftist presidential candidate, Andrés Manuel López Obrador, who are occupying the cultural and financial heart of Mexico City, said they planned to expand protests to press the authorities to order a full recount of the election on July 2, which election officials said was won by the conservative candidate, Felipe Calderón, by half a percentage point." Backers of López Obrador "are considering seizing more streets, and some newly elected officials of his party may refuse to take office."

Meanwhile, USA Today (8/2, Llana, 2.27M) reports that in Mexico City, the "civil resistance campaign…is causing major disruptions. … Some Mexicans say the civil resistance campaign is further dividing an already polarized country and could cost the leftist candidate supporters who worry about how far he is willing to go."

Congo Candidates Alleges "Massive" Election Fraud. The Washington Post (8/2, A9, Timberg, 748K) reports, "One of Congo's four vice presidents said Tuesday that a historic national election on Sunday was marred by 'massive fraud' that must be remedied through new balloting in at least some parts of the country." Azarias Ruberwa, the former leader of a Rwandan-backed rebel group "who ran for president as head of Congolese Rally for Democracy," charged that "officials from the nation's Independent Electoral Commission stuffed ballot boxes to help President Joseph Kabila in Congo's first multiparty vote since 1960."

China Says It Is "Actively Cooperating" With US On Illegal Immigrants. The Wall Street Journal

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(8/2, A7, Oster, 2.03M) reports that in response to "US government allegations that it is refusing to take back some 40,000 illegal immigrants…whom Washington wants to deport," China's Ministry of Foreign Affairs said in a statement yesterday that it "is actively cooperating with related countries on dealing with the issue of returning illegal immigrants according to the principle of 'taking back after checking first.'" The ministry "said China issues the relevant documents and takes back deportable immigrants once it verifies they have Chinese citizenship and are from mainland China." However, DHS "and administration officials say the problem with the illegal immigrants awaiting repatriation is that China has been using the verification process as a delaying tactic. Spokesman Russ Knocke said Homeland Security Secretary Michael Chertoff secured promises from Chinese officials on a recent visit that they would work on speeding up the process."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"PLAGUE OF PLASTIC CHOKES THE SEAS."
"Fighting Intensifies As Israel Pushes Farther Into Lebanon."
"House GOP Incumbents Try New Stride To Beat Midterm Challenges."
"Making Saving For Retirement Automatic."
"In India, Graft Takes the Wheel"
"Castro Pronounces Condition Stable."

USA Today:
"Israelis Expand Lebanon Offensive."
"Americans Await Word On Castro."
"Army Makes Way For Older Soldiers."
"Colleges Are Textbook Cases Of Cybersecurity Breaches."
"Lighter Workout."

New York Times:
"Israel Expands Ground Forces Inside Lebanon."
"Bush's Embrace Of Israel Shows Gap With Father."
"City Dims Lights As Heat Strains The Power Grid."
"Castro Is 'Stable,' But His Illness Presents Puzzle."
"Washington Traffic Jam? Senators-Only Elevator."
"Postal Service Finds A Friend In The Internet."

Washington Post:
"Israel Moves Thousands Of Soldiers Into Lebanon."
"For One Toddler, Temporary Relief In A Cool Shower."
"Utilities Don't Wilt As Demand Sets Records."
"Audit: Much Undone In Rebuilding Iraq."
"For Castro, A First Step In Calculated Transition."
"Democrats Scrambling To Organize Voter Turnout."

Washington Times:
"Cuban Mull Life Without Fidel."
"Israel Expands Ground Offensive."
"D.C. Firehouse To Shut Down During Truck Repairs."
"Senate Approves Drilling In Gulf."
"Leaving A Bitter Taste."
"Hill Fries Free Be French Again."

Detroit Free Press:
"Toyota Outsells Ford For First Time."
"Everyman's Encyclopedia."
"Mideast Remarks haunt Dingell"
"Union Gives Notice, NWA Moves To Block Strike."
"Cooper To rock Fairgrounds."

Atlanta Journal-Constitution:
"Castro Puts brother In Tough Spot."
"Heat Wave Bears Down."
"Football Player Collapses, Dies After Team's Workout."
"Vets' Return With Psychological Hurdles, Study Finds."

Houston Chronicle:
"Slade, 3 Others Indicted."
"4 ex Merrill Lynch Execs' Convictions Overturned."
"Israel Steps Up Push Into Lebanon."
"Metro Undeterred By Lawmaker."
"Houston Sky No Limit For Prolific Architect."

Story Lineup From Last Night's Network News:
ABC: Heat Wave; Cuba-Castro's Health; Castro-White House; Israeli Offensive; US Soldiers-Murder Charges; Heat Wave-Cities; Auto Sales; New 9/11 Tapes; Cancer Trials.
CBS: Cuba-Castro's Health; Castro-Cuban-Americans; Israeli Offensive; Lebanese Residents-Aid; Iraq Violence; Tropical Storm Chris; Heat Wave; 9/11 Firefighters-Lung Damage; Homeland Security-Fake IDs; Mel Gibson-Apology.
NBC: Cuba-Castro's Health; Castro-Cuban-Americans; Heat Wave; Israeli Offensive; Iraq Violence; Homeland Security-Fake IDs; Mel Gibson-Apology; Texas-Flooding; Auto Sales; Stock Markets; MTV-25th Anniversary

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Heat Wave; TX-Flooding; Tropical Storm Chris; Israel-troops Into Lebanon; Cuba-Castro Surgery; Wall Street.

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CBS: Israel-Troops Into Lebanon; Cuba-Castro Surgery; TX-Flooding; Gibson-Drunk Driving Arrest.
NPR: EU foreign Ministers-Mideast War; Congressional Democrats-Iraq; Cuba-Castro Surgery; National Guard-Combat Readiness; Wall Street; Iraq Reconstruction Report; Paulson-Columbia University Speech.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends Ohioans for Blackwell reception, private residence, Kirtland Hills, Ohio.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9 a.m. AGRICULTURE, NUTRITION AND FORESTRY _ Forestry, Conservation and Rural Revitalization Subcommittee. Hearing on pending legislation on salvage logging on federal lands. Testimony from Deputy Interior Secretary Lynn Scarlett; Agriculture Under Secretary Mark Rey; National Association of Counties; Communities for Healthy Forests; Ouachita Timber Purchasers Group; Oregon State Senator Charlie Ringo; others. Location: Room 328-A, Russell.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS COMMITTEE _ Full committee. Hearing on the Toxic Substances Control Act and the chemicals management program at the EPA. Location: Room 406, Dirksen.

9:30 a.m. INDIAN AFFAIRS _ Full committee. Markup of pending legislation. Location: Room 485, Russell.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on ``The Authority to Prosecute Terrorists Under The War Crime Provisions of Title 18." Witnesses: Steven Bradbury, Acting Assistant Attorney General; Gen. Richard Myers, former chairman, Joint Chiefs of Staff; Maj. Gen. Scott Black, Judge Advocate General, US Army; Rear Adm. Bruce MacDonald, Judge Advocate General, US Navy; Maj. Gen. Jack Rives, Judge Advocate General, USAF; Brig. Gen. Kevin Sandkuhler, director Judge Advocate Division, USMC. Location: Room 226, Dirksen.

10 a.m. FINANCE _ Full committee. Hearing on fake IDs and border security. Testimony from Gregory Kutz, GAO; Jayson Ahern, Department of Homeland Security; Michael Everitt, Department of Homeland Security; Janice Kephart, 9/11 Security Solutions; David Shepherd, Director of Security, Venetian Resort Hotel, Las Vegas, NV; Bruce Reeves, AssureTec Systems, Manchester, NH; Scott Carr, Executive Vice President of Digimarc, Beaverton, Ore. Location: Room 215, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full committee. Hearing titled ``Iraq Reconstruction: Lessons Learned in Contracting and Procurement." Testimony from Stuart Bowen, special inspector general for Iraq reconstruction. Location: Room 342, Dirksen.

10:30 a.m. APPROPRIATIONS _ Legislative Branch subcommittee. Meets to review progress of the Capitol Visitor Center construction. Testimony from Alan Hantman, Architect of The Capitol; Doug Jacobs, Project Architect; Bernard Ungar, Director, Physical Infrastructure, GAO, others. Location: Room 138, Dirksen.

11:30 a.m. ENERGY AND NATURAL RESOURCES _ Full committee. Markup and vote on pending nominations. John Ray Correll to be director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior; Mark Myers to be director, U.S. Geological Survey, Department of the Interior; and Drue Pearce to be federal coordinator, Alaska Natural Gas Transportation Projects, Federal Energy Regulatory Commission. Location: Room 366, Dirksen.

2:30 p.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full committee. Hearing on the housing needs of veterans. Testimony from: Mark Johnston, HUD's deputy assistant secretary for Special Needs Assistance Programs; Keith Pedigo, Director of Loan Guaranty, Department of Veterans Affairs; Peter Dougherty, Director of Homeless Veterans Programs, Department of Veterans Affairs; National Coalition for Homeless Veterans and Volunteers of America. Location: Room 538, Dirksen.

2:30 p.m. JUDICIARY _ Constitution, Civil Rights and Property Rights subcommittee. Hearing titled ``Paying Your Own Way," on creating a fair standard for attorney fee awards in establishment clause cases. Testimony from the American Legion Department of California; American Jewish Congress; Wake Forest University Divinity School; others. Location: Room 226, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed hearing on pending intelligence matters. Location: Room 219, Hart. Notes: Closed.

US House: FLOOR SCHEDULE _ 11 a.m. House meets in pro-forma session.

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Other: CONSERVATIVE STUDENTS CONFERENCE _ Young Americas Foundation will host its 28th annual National Conservative Student Conference. More than 400 participants from 39 states and 179 colleges and universities will convene in the nations capital to learn about conservative ideas and how to advance them. Highlights: 9 a.m. Syndicated columnist Robert Novak. 11 a.m. David Horowitz, activist and author of ``The Professors." 7:30 p.m. Dinner banquet, with Sen. Sam Brownback, R-Kans. Location: George Washington University, Marvin Center, 800 21st St. NW.

STUDENT POLICY EXPO _ 9 a.m. Roosevelt Institution holds first policy expo, allowing students from across the country to present their original policy research. Speakers include Senator Dick Durbin of Illinois and John Podesta, former Clinton White House aide. Highlights: 9 a.m. Remarks by Sen. Durbin. 6 p.m. Remarks by John Podesta. Location: Academy for Educational Development, 1825 Connecticut Ave. NW.

GLOBAL WARMING _ 12:30 p.m. Environmental Defense holds teleconference briefing on ``The Science and Politics of Global Warming." Contacts: Charles Miller, 202-572-3364. Notes: To participate, call 800-362-0571; conference ID: climate.

IMMIGRATION REFORM _ 2 p.m. Coalition for Immigration Security teleconference on how comprehensive immigration reform will help national security. Participants: Elaine Dezenski, former Assistant Secretary for Policy Development; Brian Goebel, Sentinel HS Group and senior policy adviser, US Customs and Border Protection; Pancho Kinney, formerly with US Office of Homeland Security, others. Contacts: George Tzamaras, 202-216-2410. Notes: To participate, call 1-800-289-0572; confirmation code: 642332. (International callers: 913-981-5543).

ENERGY PERSPECTIVES _ 2:30 p.m. - 4:30 p.m. United States Energy Association member briefing. Presentation on ``the International Energy Agency's Energy Technology Perspectives: Scenarios and Strategies to 2050"; ``The U.S. Contribution to the World Energy Council Global Energy Scenarios to 2050 Study"; and the Rome 2007 World Energy Congress. Location: National Press Club, 14th and F Sts. NW.

PEACE ACTIVISTS-IRAQ _ 8:30 p.m. Peace activists mark 30th day of fast protesting the war in Iraq, and depart for meetings with Iraqi legislators in Jordan. They then plan to head for Lebanon. Location: Air France ticket counter, Dulles Airport, Va.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Court Rules Prosecutor May Inspect Reporters' Phone Records. A federal appeals court in New York has ruled that a federal prosecutor may inspect the telephone records of two New York Times reporters in an effort to identify their confidential sources. The New York Times (8/7, Liptak, 1.21M) reports, "The 2-to-1 decision, from a court historically sympathetic to claims that journalists should be entitled to protect their sources, reversed a lower court and dealt a further setback to news organizations, which have lately been on a losing streak in the federal courts." The case "arose from a Chicago grand jury's investigation into who told the two reporters, Judith Miller and Philip Shenon, about actions the government was planning to take against two Islamic charities, Holy Land Foundation in Texas and Global Relief Foundation in Illinois."

The Washington Post (8/2, A16, Lane, 748K) reports that the appeals court ruled that the Times "has no First Amendment or other legal right to refuse a demand for the records from the grand jury in Chicago, which was empaneled by US Attorney Patrick J. Fitzgerald." The decision "was the latest in a string of court defeats for media organizations seeking to protect confidential sources."

The New York Law Journal (8/2, Hamblett) reports, "Times reporters Judith Miller and Philip Shenon, respectively, learned of impending government searches of The Holy Land Foundation and the Global Relief Foundation that were held on Dec. 4 and Dec. 14, 2001. … The Times called the foundations for comment on the eve of the searches, and, according to the government, thereby jeopardized the safety of federal officers and compromised the searches, which were being conducted as part of a probe into the funding of terrorist activities." The Journal adds, "Patrick J. Fitzgerald, the U.S. Attorney for the Northern District of Illinois, sought, but was denied, cooperation from the Times on obtaining the phone records. He then threatened to have the grand jury issue a subpoena to third-party providers of phone services to the reporters. … Southern District of New York Judge Robert W. Sweet granted summary judgment for the Times, finding that the disclosure of the records was barred by both First Amendment and common law privileges. And even if the privileges were qualified, and Sweet found they were, he said, the government had not presented enough evidence to overcome them. … At the circuit, Winter said first that Sweet did not abuse his discretion by concluding he could exercise jurisdiction over the action."

White House Proposal Would Strengthen Military Courts. The Washington Post (8/2, A4, Smith, 748K) reports, "A draft Bush administration plan for special military courts seeks to expand the reach and authority of such 'commissions' to include trials, for the first time, of people who are not members of al-Qaeda or the Taliban and are not directly involved in acts of international terrorism." The proposal is called "controversial inside and outside the administration because defendants would be denied many protections guaranteed by the civilian and traditional military criminal justice systems." The article notes that uniformed military lawyers "have argued in recent days for retaining some routine protections for defendants that the political appointees sought to jettison," particularly objecting "to the provision allowing defendants to be tried in absentia."

Administration Appeals NSA Surveillance Ruling. The AP (8/2) reports, "The Bush administration appealed a court decision that allowed a lawsuit to go forward challenging the U.S. president's warrantless domestic spying program." The AP continues, "In rejecting government claims that the suit could expose state secrets and jeopardize the war on terror, U.S. District Judge Vaughn Walker ruled July 20 that the eavesdropping was so widely reported there appears to be no danger of spilling secrets. Walker also said he did not see how allowing the lawsuit to continue could threaten national security." The AP adds, "The case, which names AT&T Inc. as a defendant, is among three dozen lawsuits alleging telecommunications companies and the government are illegally intercepting communications without warrants. Walker is the only judge to rule against the government's claim of a "state secrets privilege." … A federal judge in Chicago dismissed a similar case last week, agreeing the government could invoke the privilege the U.S. Supreme Court first recognized in the McCarthy era."

UK Launches Terror Alert System. USA Today (8/2, 2.27M) reported that Britain yesterday launched its first public terrorism alert system and "rated the threat of an attack as severe, or highly likely." The system, "based on the US Homeland Security Department model, ranks threats as low, moderate, substantial, severe or critical. It was implemented after the deadly attacks on the London transit system last year to give the public more access to information."

The New York Times (8/2, Cowell, 1.21M) reports that "the threat level appeared on several Web sites, including www.intelligence.gov.uk, which is run by the espionage and counterterrorism establishment, and www.mi5.gov.uk, run by the domestic security service. … Unlike the previous secret grading system, which offered seven levels of threat, the new

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system has been simplified to five, from 'low' to 'critical,' meaning an attack is expected imminently." The Times adds, "Britain's apparent vulnerability relates to assumptions among intelligence experts that its military presence in Iraq as America's most resolute ally has helped make it a target."

Author Says Bangladesh Is A New Regional Hub For Terrorist Operations. Author Selig Harrison, former South Asia bureau chief for the Washington Post, writes in the Washington Post (8/2, A15, 748K), "While the United States dithers, a growing Islamic fundamentalist movement linked to al-Qaeda and Pakistani intelligence agencies is steadily converting the strategically located nation of Bangladesh into a new regional hub for terrorist operations that reach into India and Southeast Asia." Harrison asks, "What is the excuse for inaction in Bangladesh, where the incumbent government coddles Islamic extremists and a strong secular party is ready to govern?"

HOMELAND RESPONSE:

GAO Investigators Able To Pass Through Border Crossings With Fake IDs. A GAO study that found investigators were able to pass through nine border crossings with fake identification was the topic of reports on NBC and CBS last night. NBC Nightly News (8/01, story 6, 2:35, Williams, 9.87M) reported, "The US Customs and Border Protection service has 18,000 officers stationed at 317 different points of entry into the US. But when investigators used fake ID's they went right past the guards." NBC (Myers) called the results of the investigation "staggering," adding that none of the border agents "detected the phony ID's. In fact, at two crossings, agents didn't even check any ID's at all." Tom Kean, the chairman of the 9/11 Commission, was shown saying that such lapses at the border have "happened too often and the American people aren't safe because of it." Homeland Security official Paul Morris was shown saying, "It's important to note that we do acknowledge that the vulnerability exists and that it will continue as long as we have inconsistent and somewhat insecure documents." Myers: "The 9/11 commission and now DHS say the answer is to require passports for everyone crossing the border. Even Americans."

The CBS Evening News (8/01, story 9, 2:05, Schieffer, 7.66M) reported the "study suggests far too many" of the IDs used to cross the border are fakes." CBS (Keteyian) reported from a "top-secret government lab," where DHS "experts comb through a treasure trophy of personal IDs searching for fakes." However, "Three months ago, two government investigators showed just how easy it is to slip into this country when at a US border crossing like this one between Detroit and Canada, they presented counterfeit driver's licenses, and a fake birth certificate, but were still allowed entry into the United States." CBS (Keteyian) continued that "critics say…front-line inspectors still don't have enough training in technology…to tell the difference between counterfeit and authentic."

In an article appearing on no less than 125 news websites, the AP (8/1, Jordan) reported the GAO's "findings, to be presented to the Senate Finance Committee, come as Congress considers delaying a 2007 deadline requiring passports or a small number of previously approved tamperproof ID cards from all who enter the United States." DHS spokesman Jarrod Agen "conceded that agents sometimes cannot verify more than 8,000 different kinds of currently acceptable IDs without significantly slowing border traffic."

Szubin To Direct Treasury's Office Of Foreign Assets Control. Adam Szubin will take over as the new director of the Office of Foreign Assets Control, a Treasury Department agency that enforces economic sanctions against foreign countries and plans a key role in efforts to catch terror financiers, drug dealers and money launderers. The AP (8/1, Aversa) reported, "Szubin has been with the department for two years and has served as a senior adviser to Stuart Levey, undersecretary for terrorism and financial intelligence. Both Levey and Szubin were at the Justice Department before they moved to Treasury." The AP adds, "The naming of the new OFAC director follows revelations that the department — shortly after the Sept. 11, 2001, terror attacks — began secretly tracking the finances of suspected terrorists by gaining access to a massive international data base of financial records."

9/11 Panel Suspected Pentagon Deception. The Washington Post (8/2, Eggen, 748K) reports, "Some staff members and commissioners of the Sept. 11 panel concluded that the Pentagon's initial story of how it reacted to the 2001 terrorist attacks may have been part of a deliberate effort to mislead the commission and the public." The 10-member panel "debated referring the matter to the Justice Department for criminal investigation, according to several commission sources. Staff members and some commissioners thought [there was] probable cause to believe that military and aviation officials violated the law by making false statements to Congress and to the commission, hoping to hide the bungled response to the hijackings." Ultimately the panel compromised by "turning over the allegations to the inspectors general for the Defense and Transportation departments, who can make criminal referrals if they believe they are warranted."

Tapes Reveal Confusion, Ineffectiveness In US Military Response To 9/11 Attacks. ABC World News Tonight (8/01, story 8, 2:50, Gibson, 8.78M) reported, "With

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the fifth anniversary of 9/11 approaching, we have a story of Air Force recordings made that day that have never been heard until now. They document the enormous confusion for the Air Force on 9/11. A Vanity Fair writer obtained the story for the September issue." ABC (McFadden) added, "The tapes were made here, inside an aluminum bunker at northern New York State at the Northeast Command Center. The 25 or so Air Force personnel on duty are charged with defending US air space from Boston to the Dakotas. … That morning, the military had only four armed fighter planes to defend a 500,000 square miles of American airspace. It took eight minutes to scramble, or launch, the first two fighters. And by then, American Flight 11 had already crashed into the World Trade Center." ABC added, "It's worth noting these tapes had to be subpoenaed by the 9/11 commission. And Governor Kean told me earlier today that it wasn't until the staff heard those tapes that they began to unravel the confusion and ineffectiveness of the military response."

Firefighters At Ground Zero Lost Equivalent Of 12 Years Of Lung Function. The CBS Evening News (8/01, story 8, 0:20, Schieffer, 7.66M) reported, "There is a startling new report out today about the health of firefighters involved in the rescue and recovery operation at ground zero after 9/11. It says the firefighters lost, on average, the equivalent of 12 years of lung function. Those who sucked in toxic air during the collapse of the twin towers lost the most lung capacity. Those who arrived later had less damage."

Georgia Governor Honors Jewell On 10th Anniversary Of Olympic Bombing. The Atlanta Journal-Constitution (8/2, Redmon, 399K) reports, "Gov. Sonny Perdue marked the 10th anniversary of the Centennial Olympic Park bombing Tuesday by commending former security guard Richard Jewell for his actions in the moments before the deadly attack. … 'The bottom line is this: His actions saved lives that day. He did what he was trained to do,' Perdue, who is seeking re-election, said with Jewell at his side at an afternoon news conference in the state Capitol." The Journal-Constitution notes, "Jewell was praised as a hero after the bombing, but days later The Atlanta Journal-Constitution and other media outlets identified him as the FBI's chief suspect. The FBI later cleared Jewell of any wrongdoing. He was never charged with a crime."

WAR NEWS:

Over 70 People Killed In Iraq Yesterday. The CBS Evening News (8/01, story 5, 0:15, Schieffer, 7.66M) reported, "The fighting in Lebanon is overshadowed the news from Iraq, but there has been no let-up in the war there. More than 70 people were killed today, including an American soldier who died in combat west of Baghdad. In the capital a car bomb exploded at a bank that pays Iraqi security forces. At least two dozen people were killed there."

NBC Nightly News (8/01, story 5, 1:55, Colt, 9.87M) reported, "More Mayhem in Baghdad this morning. Bombers targeted Iraqi soldiers lining up to cash their monthly paychecks. As many as 14 were killed in the pair of car bombs. Civilians among them. The twin blasts so powerful they shook windows a half mile away. North of Baghdad, more bombings killed at least 27 Iraqi policemen and soldiers in two separate attacks. Today's toll, at least 70 dead. Nearly half of them Iraqi security forces."

The Washington Times/AP (8/2, Reid) also reports on the "surge of bloodshed as US forces prepared to take back Baghdad's streets from gunmen. The dead included 20 Iraqi troops, a US soldier and a British soldier." The Washington Post (8/2, A11, Partlow, Al-Izzi, 748K), Los Angeles Times (8/2, Fleishman, Rasheed, 918K) and New York Times (8/2, Semple, 1.21M), among other sources, also report on yesterday's attacks.

US, Iraqis Involved In "Block-By-Block" Battle For Ramadi. Meanwhile, the Washington Post (8/2, A12, Tyson, 748K) reports from Ramadi that the city, "capital of Iraq's western Anbar province, has sunk into virtual anarchy under the stranglehold of a skilled, well-financed and ruthless insurgency. Now, for the first time, US and Iraqi forces are engaged in a block-by-block campaign to retake the area." The Post adds, "The US strategy here aims to avoid a full-scale military onslaught like the one that demolished much of the nearby city of Fallujah in November 2004, flattening hundreds of homes, emptying it of people and leaving it struggling to rebuild."

Biden Says A Political Solution Is Needed In Baghdad. Sen. Joe Biden said on MSNBC's Hardball (8/1), "I don't think much more is going to get better in Baghdad, even with the reinsertion of a couple American brigades. And the reason I say that is that there is a need for a political solution. The only way you're going to get some change in the insurgency…is you've got to be able to give the Sunnis a piece of the action. You have got to amend the constitution to guarantee them part of the oil revenue, which was the implicit promise when they voted on the constitution in December. And secondly, you've got to get this new government and this new prime minister to sign on, and have enough nerve to take on al-Sadr, and the Mahdi militia that's significantly infiltrated the police forces, that are walking around in uniforms and acting as death squads. You've got to clean that up. Absent doing those two things, putting another 100,000 troops in Baghdad at this point isn't going to solve the problem."

Colonel May Have Encouraged His Men To Go On "Killing Spree." ABC World News Tonight (8/01,

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story 5, 2:00, Gibson, 8.78M) reported, "We have exclusive, new details about the army's case against four American soldiers who were charged with murdering three Iraqi civilians outside the city of Samarra in early May. The Army opened a hearing on whether the soldiers are going to have to stand trial on murder charges." ABC (Karl) added, "The alleged murders took place as part of 'Operation Iron Triangle' in May. The target: a suspected al Qaeda training facility northwest of Baghdad. Army prosecutors say the four American soldiers detained three Iraqi men and then killed them, unarmed, in cold blood. The defendants claim they acted in self-defense. They also make a startling claim. They say they were under orders to kill all military-aged men in Iraq, whether armed or not. Even more remarkable, military sources familiar to the case say that appears to be true. Soldiers in this unit at least believed their commander, Colonel Michael Steele had issued an order to shoot to kill all Iraqi men in his operation. Col. Steele had a storied military background. His heroics portrayed in the movie 'Black Hawk Down.' It was his unit that came under attack in Somalia in 1993. In Iraq last November, he boasted about his unit's record of killing insurgents." ABC News "has learned that Colonel Steele is now under investigation for allegedly encouraging his men to go on a killing spree and has already been reprimanded. A source familiar with the investigation says Steele kept a 'kill board' tallying the number of Iraqis killed by units under his command. And that in some cases, he gave out commemorative knives to soldiers who killed Iraqis believed to be insurgents. Colonel Steele is not commenting publicly about any of this. But a source close to him tells ABC news, that he categorically denies the allegations."

Marine Names Murtha In Defamation Suit. The Washington Post (8/2, A5, White, 748K) reports, "A Marine Corps staff sergeant who led the squad accused of killing two dozen civilians in Haditha, Iraq, will file a lawsuit today in federal court in Washington claiming that Rep. John P. Murtha (D-Pa.) defamed him." Murtha had said to "news organizations in May that the Marine unit cracked after a roadside bomb killed one of its members and that the troops 'killed innocent civilians in cold blood.' Murtha also said repeatedly that the incident was covered up." The Post says the suit "could have interesting legal ramifications because [USMC Staff Sgt. Frank] Wuterich and the other members of his squad have not been charged and have not received any official investigative documentation about the Nov. 19 incident." One of Wuterich's attorneys "said the filing is designed partly to force Murtha to disclose what information he received from the Defense Department and the Marine Corps commandant to form his opinion, essentially trying to speed up the discovery process in a potential criminal trial."

Many Shiite Leaders Now Condemn Iraqi Government. McClatchy (8/2, Youssef) reports, "Many of the Shiite Muslim religious leaders who strongly backed the formation of the Iraqi government now are condemning it, warning that the country could descend into full revolt." Their statements, "observers said, reflect their effort to distance themselves from an increasingly unpopular government, one they once encouraged voters to risk their lives to support. In the process, they hope to win back support from the populace, the majority of which is Shiite." McClatchy adds, "The signs of defection are troublesome for US and Iraqi officials, and another possible sign that the American strategy is threatened." The Shiite leaders have pushed for formation of the government more aggressively than any other Iraqi group, and their frustrations come just as American and Iraqi officials had encouraged Sunni Muslims to participate in the nascent political process.

Johanns Meets With Iraqi Prime Minister In Baghdad. The Dow Jones Newswire (8/2) reports Agriculture Secretary Mike Johanns has arrived in Iraq for meetings with the country's agricultural producers to "strengthen the relationship and intensify collaboration" between the two countries, the USDA said in a statement. During a meeting with Iraqi Prime Minister Nuri al-Maliki, Johanns pledged to rebuild Iraq's food and agriculture sector by strengthening the country's extension services and universities.

Audit Denounces "Virtual Pandemic" Of Corruption In Iraq. The AP (8/2, Jelinek) reports, "Corruption is 'a virtual pandemic in Iraq,' threatening rebuilding efforts, international aid and citizen confidence needed for a fledgling democracy, a government report said Tuesday. One Iraqi official has estimated that corruption costs the country $4 billion annually. … The details are cited in the quarterly report by the Special Inspector General for Iraq Reconstruction."

The Washington Times (8/2, Scarborough, 88K) reports he report, released yesterday by Stuart W. Bowen, the special inspector general for Iraq reconstruction, says, "Corruption threatens to undermine Iraq's democracy." Bowen, however, also "reported some good news for the Iraqi people: Production of electricity and oil climbed for the first time in more than a year above prewar levels."

The New York Times (8/2, Glanz, 1.21M) says Bowen "is releasing the final version of the history to coincide with Mr. Bowen's appearance before the Senate Committee on Homeland Security and Governmental Affairs on Wednesday." Sen. Susan Collins, "the Maine Republican who heads the committee, said in a statement that there were lessons in the history for other huge reconstruction efforts,

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like the one following Hurricane Katrina. 'It is a story of mistakes made, plans poorly conceived or overwhelmed by ongoing violence, and of waste, greed and corruption that drained dollars that should have been used to build schools, improve the electrical grid, and repair the oil infrastructure,' Senator Collins said."

Iraqis Taking Over "Flailing" US Reconstruction Effort. The Washington Post (8/2, A1, Mosher, Witte, 748K) reports, "A flailing Iraq reconstruction effort that has been dominated for more than three years by US dollars and companies is being transferred to Iraqis, leaving them the challenge of completing a long list of projects left unfinished by the Americans." The Post adds, "While the handover is occurring gradually, it comes as U.S. money dwindles and American officials face a Sept. 30 deadline for choosing which projects to fund with the remaining $2 billion of the $21 billion rebuilding program. More than 500 planned projects have not been started, and the United States lacks a coherent plan for transferring authority to Iraqi control, a report released Tuesday concludes. In some cases, Iraqis are having to take over projects from American construction firms that were removed from jobs because of poor performance."

Roberts Denies He Is Delaying Iraq Intel Probe To Protect Administration. Bloomberg (8/2) reports that nine months after Senate Democrats called for a "closed session" to "embarrass" Senate Intelligence Committee chairman Pat Roberts into delivering on promises to lead a full Phase II investigation of the Bush Administration's handling of the intelligence used to justify the invasion of Iraq, they are still waiting. Democratic lawmakers, former administration officials and intelligence analysts say the inaction "is one example of Roberts's unqualified support for the Bush administration that goes beyond the Iraq probe to include quashing inquiries into the torture of prisoners and the monitoring of domestic phone calls and e-mails." Democratic lawmakers "have suggested that Roberts is delaying the report until after the November midterm elections to protect the administration from embarrassing disclosures." Roberts denies "that he had covered up or concealed anything."

Baucus' Nephew Dies In Combat In Iraq. USA Today/AP (8/2) reports, "A nephew of Sen. Max Baucus was killed in combat in Iraq during the weekend, the senator's office said Tuesday. Marine Cpl. Phillip E. Baucus, 28, died Saturday in Anbar province, the Department of Defense said Tuesday. It did not immediately release further information."

Roll Call (8/2) reports Baucus said in a statement, "Our family is devastated by the loss of Phillip. … Phillip was an incredible person, a dedicated Marine, a loving son and husband, and a proud Montanan and American. He heroically served the country he loved and he gave it his all. We loved him dearly and we'll miss him more than words can ever express."

Loss In Mental Ability Linked To Soldiers' Service In Iraq. The New York Times (8/2, Carey, 1.21M) reports, "A large study of Army troops found that soldiers recently returned from duty in Iraq were highly likely to show subtle lapses in memory and in ability to focus, a deficit that often persisted for more than two months after they arrived home, researchers are reporting today." But "the returning veterans also demonstrated significantly faster reaction times than soldiers who had not been deployed, suggesting that some mental abilities had improved." The study, appearing in The Journal of the American Medical Association, is "the first to track carefully such changes in mental functioning over time in soldiers who deployed to a war zone and those who did not." The Los Angeles Times (8/2, Maugh, 918K) also reports the story.

More Than 1/3 Of NG Brigades Are Not Combat Ready. USA Today/AP (8/1) reports, "More than two-thirds of the Army National Guard's 34 brigades are not combat ready, mostly because of equipment shortages that will cost up to $21 billion to correct, the top National Guard general said." Lt. Gen. H. Steven Blum said that the Guard had the "same symptoms" but a "higher fever" than the active Army. Army officials have become "more open about the overall declining" readiness of the force, part of which is attributable to "Army units returning from the war [that] have either left tanks, trucks or other equipment behind or are bringing them home damaged. Once back, many soldiers either leave the Army or move to other posts, forcing leaders to train others to replace them."

Oldest Recruits Ever Join Army. USA Today (8/2, Brook, 2.27M) reports, "The Army has begun training the oldest recruits in its history, the result of a concerted effort to fill ranks depleted during the Iraq war. In June, five months after it raised the enlistment age limit from 35 to just shy of 40, the Army raised it to just under 42." It has "lowered the minimum physical requirements." Army records show that so far "only five people 40 and older" and "324 age 35 and older" have enlisted. Analyst Loren Thompson called putting 42-year-old soldiers on the front line "a bad idea" but said that correct use of the older soldiers "could be a real boon."

41-Year-Old Mother Joins Army. USA Today (8/2, Brook, 2.27M) reports that 41-year-old Margie Black and her daughter enlisted together in the Army. Her induction was made possible when Congress voted to "allow all services to raise the age limit." Only the Army did. Undersecretary for personnel David Chu "says better health care, diet and fitness mean that middle age needn't be a barrier to military service.

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Until this year, recruits could not have reached their 35th birthday prior to enlistment."

Three British Soldiers Killed In Afghanistan. The New York Times (8/2, Gall, 1.21M) reports, "Three British soldiers were killed and one wounded in an ambush in southern Afghanistan on Tuesday, just one day after NATO took over command of the region from the United States, a NATO military statement said." The Times adds, "Nine British soldiers have died in the two months since they were deployed to the province of Helmand, where they have encountered intense resistance from insurgents, often in well-laid ambushes."

The Washington Post (8/2, A9, Abrashi, 748K) reports that "meanwhile, Afghan and US-led foreign forces arrested four suspected al-Qaeda operatives near eastern Khost province's Sewakay village, a military statement said. No details were given on the suspects' nationalities."

DOJ:

Levin Holding Up Wainstein Nomination To Anti-Terror Position. The AP (8/2, Sherman) reports, "Facing no opposition to his nomination, veteran federal prosecutor Kenneth Wainstein is waiting only for the Senate to confirm him as head of the Justice Department's new anti-terrorism division." The AP continues, "Wainstein's confirmation is being held up by a senatorial tradition that allows any one of the 100 members to keep the full Senate from voting on whether to confirm a nominee. … Sen. Carl Levin, a Michigan Democrat, has refused to budge on Wainstein's nomination, not because of any complaint about the nominee but to try to force the Justice Department's hand on another matter." The AP adds, "Levin has been pressing the Bush administration to supply more information from FBI agents who reported witnessing aggressive, at times abusive, interrogations of detainees at Guantanamo Bay, Cuba, a Defense Department facility. … It wasn't the Justice Department doing the interrogating, one department official said when asked about it, requesting anonymity because of continuing efforts to persuade Levin to allow a Senate vote. … Levin spokeswoman Tara Andringa would say only that Levin has been waiting more than a month for seven documents relevant to the Senate's consideration of Wainstein's nomination."

DOJ Attorney Launches Online Dating Service For Lawyers. The Legal Times (8/2, Schwartz) reports, "As a fortysomething single mother and attorney in Washington, D.C., Elena Albamonte had no trouble finding a date on Match.com, one of the biggest and most popular online dating services. … But it was nearly impossible for the Justice Department immigration lawyer and mother of two to find someone with whom she could actually have a conversation. Her dates, she says, were just too geeky, too awkward or too different from her." The Times continues, "Then she found herself on a date with a fellow attorney and realized how much they had in common. Granted, the guy didn't take her breath away. (in fact, they only went on five dates.) But Albamonte, 49, was struck by 'how easy it was to talk to him,' she says. 'It's amazing how much you have in common with someone who went to law school.'" The Times adds, "Perhaps, she thought, other attorneys were looking for a site that was tailored specifically to them. Why not, she wondered, have a site where you don't have to search through hundreds of listings to find someone who knows what it means when you talk about constitutional law class or the last time you wrote a brief? And why wait around for someone else to make it? … So Albamonte got to work creating LawyersinLove.com, a dating site strictly devoted to lawyers. She bought up the domain name, created a logo, and invested more than $45,000 in building a database and advertising." The Times notes, "As online dating has proliferated, specialized sites targeting professions, religious groups and hobbies have popped up on the Internet. For instance, there is Astro-Dating.com, for those who want to look for a mate whose astrological sign matches theirs, and conservativematch, designed for those politically and socially to the right. Of course, not everyone who spends her days dealing with lawyers may want to date one. But Albamonte is betting that her site -- open for a little more than a year -- will fill a need in the busy schedules of the hundreds of single law students, associates and partners across the city."

CORPORATE SCANDALS:

5th Circuit Panel Reverses Some Merrill Lynch Convictions. The AP (8/2, Flynn) reports, "A federal appeals court on Tuesday reversed several convictions against four former Merrill Lynch executives found guilty of helping engineer Enron's 1999 sale of mobile power plants to the brokerage to help the energy trader appear to have met earnings targets." The AP continues, "The three-judge panel of the 5th U.S. Circuit Court of Appeals found fault with the government's theory of fraud that led to the wire fraud and conspiracy convictions of James A. Brown, William Fuhs, Daniel Bayly and Robert S. Furst. Bayly is Merrill's former head of investment banking. .. The panel also ruled that the evidence was insufficient in Fuhs' case but upheld Brown's perjury and obstruction of justice convictions. … They were among five former executives found guilty of one count of conspiracy and two counts of wire fraud in November 2004 in connection with the sham sale of power barges anchored off the coast of Nigeria."

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The Wall Street Journal (8/2, Emshwiller) reports that the ruling was "a setback for the Justice Department, adding that the "decision by a three-judge panel of the Fifth U.S. Circuit Court of Appeals in New Orleans had been signaled several weeks ago, when the appellate court ordered the release of three of the individuals pending a ruling in the case. At the time, observers said the court likely wouldn't have ordered such releases if it was planning to uphold the convictions." The Journal notes, "The convictions in a 2004 jury trial in Houston federal court were viewed by many observers as a major victory in the government's landmark investigation of the Enron scandal. It marked the only instance in which the government criminally charged any officials from the many big banks and brokerage firms that helped Enron construct its elaborate -- and prosecutors contend, often fraudulent -- financial statements. The case against the former Merrill officials was widely viewed as an effort by the government to send a message to the financial community about what is and isn't acceptable conduct in helping shape the financial structures of major corporations. … The government is likely to appeal yesterday's decision to the full Fifth U.S. Circuit Court of Appeals and possibly to the Supreme Court, observers say. Another possible reason for pursuing an appeal would be to get a clearer definition of what constitutes a deprivation of 'honest services' by an employee to his company in a corporate-fraud case -- an issue that played a large role in yesterday's appellate-panel decision."

The Houston Chronicle (8/2, Roper) reports, "The panel upheld…a conviction of perjury and obstruction of justice against Brown. … 'The Justice Department is reviewing the decision and considering our options,' said spokesman Bryan Sierra, declining to comment further on a devastating blow to the first case the Enron Task Force tackled." The Chronicle adds, "Bayly, Furst and Fuhs were released on bail earlier this year as they awaited the decision from the appeals court, a move that many observers believed was a sign that their convictions would be overturned. … For the court to issue such an order, a defendant has to show there is a substantial chance of a reversal in the case."

Jury Acquits Former Specialist Of Improper Trading. The Wall Street Journal (8/2, Bray) reports, "The government suffered its first defeat in prosecutions of allegedly improper trading activity on the New York Stock Exchange." The Journal continues, "A former 'specialist firm' trader on the NYSE floor was acquitted yesterday of allegations that he made improper trades for his firm's account in Eli Lilly & Co. ahead of public orders. The jury found Robert A. Scavone Jr. not guilty of one count of securities fraud, after 45 minutes of deliberations. … Mr. Scavone, 46 years old, a former trader with Van der Moolen Specialists USA LLC, had faced as many as 20 years in prison if convicted. 'I am thrilled that the system worked,' Mr. Scavone said in a statement. 'I went to trial because I had done nothing wrong.'" The Journal adds, "A spokesman for the U.S. Attorney's office in Manhattan said, 'Each of these cases is different. While we respect the jury's verdict in the Scavone case, we plan to proceed with the other cases.'" The Journal notes, "Barbara Geringswald, a juror on the case, said afterward that the jurors didn't feel the government's case was strong and that the evidence presented at trial didn't convince them 'beyond a reasonable doubt' that Mr.Scavone committed a crime. … 'It was quick and unanimous,' Ms. Geringswald said. … So far in the prosecutions, two traders have pleaded guilty, two were found guilty of one count apiece, and now one has been acquitted. Another 11 traders are expected to go to trial later this year and in 2007."

Former Mercury Interactive CEO Settles Options Backdating Dispute. The AP (8/2) reports, "Mercury Interactive Corp. on Tuesday said that its former CEO has agreed not to exercise his options for nearly half-million shares as part of a settlement for his part in stock option manipulation that caused the maker of business management software to overstate previous years' earnings." The AP continues, "In November, Mercury ousted its longtime CEO, Amnon Landan, as well as two other top executives after concluding they participated in stock 'backdating,' in which stock options are issued retroactively to coincide with low points in a company's share price. … According to documents it filed with the Securities and Exchange Commission Tuesday, the company entered into an agreement with Landan where he will not exercise his options to acquire 437,500 common shares granted with a record grant date of Jan. 3, 2003." The AP adds, "If, on or before a cutoff date of March 15, 2007, the company and Landan reach a settlement, then he will receive a credit of the lesser of either the settlement amount or about $2.8 million, which represents the difference between the exercise price of the 2003 options and the closing price of the company's common stock on July 14. … Despite the ongoing investigation, Hewlett-Packard Co. last week announced its intention to buy Mercury Interactive for $4.5 billion, the biggest acquisition the Palo Alto, Calif.-based computer and printer maker has made since it paid $19 billion for Compaq Computer Corp. in 2002."

DOJ Seen As Pressured For Hardline Tactics In White Collar Prosecutions. The Financial Times (8/2, Kirchgaessner) reports, "The Justice Department is coming under intense pressure to soften some of the tactics it embraced in the early half of the decade, when a spate of corporate fraud put the conviction of white collar criminals at

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the top of the Bush administration's law enforcement agenda." The Times continues, "A tough policy the department adopted in 2003 has been a sore point for legal experts and business lobbyists, who say it unlawfully forces individuals and companies to forgo their due process rights in order to avoid being indicted. … While the department has largely ignored such criticisms in the past, a recent ruling by a judge overseeing the government's case against former partners at KPMG, the auditing firm, in which its tactics were deemed to have violated the constitution, has prompted questions about whether the department will have to change its ways." The Times adds, "The issue is expected to be highlighted by the Republican chairman of the Senate judiciary committee, Arlen Specter, next month, raising the prospect that Congress could soon get involved in the fray. … For some critics, the issue is symptomatic of what they see as the Bush administration's disregard for both Congress and the judiciary – a charge that has been levied against the administration on issues ranging from the 'war on terror', to the alleged monitoring of domestic telephone calls, to the detention of enemy combatants without charge. … 'What is really interesting is that the department's position [as outlined in what is commonly referred to as the Thompson memo] was developed without any kind of congressional or judicial involvement. Since they seem unwilling to discuss it, you are going to continue to see frustration by the legislature and judicial branch,' says Stanton Anderson, senior legal counsel at the US Chamber of Commerce." The Times notes, "At the centre of the controversy are provisions in the Thompson memo that say prosecutors should weigh the level of a corporation's co-operation when deciding whether to indict a company, an act that can, like in the case of accounting giant Andersen, lead to the collapse of an entire company."

CRIMINAL LAW:

Gonzales Cites Protecting Children From Predators As Top Priority. The Santa Fe New Mexican (8/1) reports, "U.S. Attorney General Alberto Gonzales declared Monday at a conference in Santa Fe that protecting children from sexual predators is his top priority. … 'There is no crime I'm more dedicated to preventing,' Gonzales told members of the National District Attorneys Association at Eldorado Hotel and Spa. '(Protecting children) is more important than anything we do.'" The New Mexican continues, "Gonzales spoke to a packed audience for about 20 minutes before meeting with Gov. Bill Richardson on immigration issues. While Gonzales said district attorneys are vital on many fronts -- including the war on terror, stunting methamphetamine addiction and battling violent crime and gangs -- he spent most of his speech on the need to pursue and prosecute those who prey on children. … The attorney general provided brief overviews of several cases where children were raped and killed by known sex offenders and told attorneys that protecting those kids 'is the No. 1 part of your job.' He said one in five girls and one in 10 boys is sexually exploited before adulthood." The New Mexican adds, "Gonzales highlighted the Adam Walsh Child Safety Act of 2006 signed last week by President Bush as one of the tools federal prosecutors are using to prosecute 'these monsters.' He also talked about Project Safe Childhood, a program that aims to protect children from Internet predators who use sites like MySpace.com to lure victims. … He urged the prosecutors to work together with their federal colleagues and state attorneys general to make the programs work. 'There is so much work, unfortunately, to do,' Gonzales said."

Blogger Jailed For Refusing To Comply With Court Orders. A freelance journalist and blogger was jailed yesterday after refusing to turn over a video he took at an anticapitalist protest in San Francisco last summer. The New York Times (8/2, McKinley) reports that Josh Wolf also refused to testify before a grand jury looking into accusations that crimes were committed during the protest. Wolf "was taken into custody just before noon after a hearing in front of Judge William Alsup of Federal District Court. Found in contempt, Mr. Wolf was later moved to a federal prison in Dublin, Calif., and could be imprisoned until next summer, when the grand jury term expires, said his lawyer, Jose Luis Fuentes."

The San Francisco Chronicle (8/2, Egelko) reports, "Prosecutors contend that burning a police car is a federal crime because the San Francisco Police Department receives federal funds. Wolf and his lawyers accuse the government of manipulating the case to sidestep California's shield law, which allows journalists to withhold unpublished material and confidential sources from prosecutors. There is no federal shield law, and the state law does not apply in federal court." The Chronicle continues, "Wolf, 24, could be jailed until next July, when the grand jury's term expires. Alsup denied his requests for bail or for a 10-day stay while he asks the Ninth U.S. Circuit Court of Appeals to overturn the contempt order. … The case is 'a slam dunk for the government," the judge said at the end of a 2 1/2 - hour hearing. Noting that the events Wolf photographed took place in public and involved no confidential sources, Alsup said there was a 'legitimate need for law enforcement to have direct images of who was doing what to that police car.' … 'Every person, from the president of the United States down to you and me, has to give information to the grand jury if the grand jury wants it,' Alsup said. … Assistant U.S. Attorney Jeffrey Finigan told the judge that Wolf was 'placing himself above every other citizen in our society' by defying the grand jury. Finigan said the subpoena had been approved by

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Attorney General Alberto Gonzales, as provided by Justice Department guidelines in cases against journalists."

The AP (8/2) reports, "Wolf's lawyer, Jose Luis Fuentes, said that relinquishing the footage to a grand jury would be tantamount to his client becoming 'an arm of the government.' Because of the subpoena, Fuentes said, the underground groups Wolf chronicles are denying him access. … The American Civil Liberties Union said federal authorities are disregarding California's shield law, which generally allows journalists to decline to divulge unpublished material to state authorities. That shield, however, does not attach to federal investigations."

US Seeks Death Penalty In Fatal South Carolina Motel Fire. The Greenville (SC) News (8/2) reports, "Prosecutors will seek the death penalty against a man charged with setting fire to the Comfort Inn on Congaree Road more than two years ago that killed six people and injured 11, federal court documents show. … Eric Preston Hans, charged in connection with the Jan. 25, 2004, fire, has pleaded not guilty." The News adds, "Prosecutors filed a notice of intention to seek the death penalty against Hans Tuesday after U.S. Attorney General Alberto Gonzales authorized the office to seek the death sentence, according to a release."

The AP (8/2) reports, "U.S. Attorney Reggie Lloyd filed notice of intent to pursue the death penalty against Eric Preston Hans, 36, of Taylors after receiving authority to do so from U.S. Attorney General Alberto Gonzales, Lloyd's office said Tuesday in a release. … Hans was indicted in November on charges that he set fire to the Comfort Inn to kill 21-year-old Melba Leshawn Canty, who died in the fire with her 15-month-old son, Jaden. … The January 2004 fire also killed four more people and injured 11 other guests." The AP notes, "U.S. District Judge Henry M. Herlong Jr. postponed Hans' trial in February after attorneys said they needed additional time to prepare. … Lawyers said they needed more time because of the number of witnesses involved, as well as 'the need to obtain all potential evidence in mitigation' in the event Gonzales authorized Lloyd to see the death penalty."

New York Ranks Second Nationally For Federal Capital Cases. The New York Law Journal (8/2, Wise) reports, "More federal death penalty cases have been authorized in New York than in any other state, except Virginia, since capital punishment was reinstated for federal cases in 1988." The Journal continues, "Thirty-seven federal capital cases have been authorized in New York, compared with 50 in Virginia and 385 nationwide, according to data prepared by the Federal Death Penalty Resource Counsel Project, which was current as of July 14, 2006." The Journal adds, "Within New York, the U.S. Attorney's Office in the Southern District has prosecuted the most capital cases, 16; followed by the Eastern District, 15; the Northern District, 5; and the Western District, 1." The … Fourteen of the 37 capital cases in New York were resolved before going to trial. All of the 13 cases that went to trial resulted in at least one guilty verdict on a capital count, but none of the defendants was sentenced to death. Instead, they were sentenced to life in prison. … Ten other federal capital cases remain to be tried in New York, more than any other state but California, where 17 capital cases have yet to be tried to completion." The Journal notes, "An additional 52 defendants have been charged with capital-eligible crimes in New York, and are awaiting a determination by U.S. Attorney General Alberto Gonzales as to whether the death penalty will be sought. New York has more potential death penalty cases in the pipeline than any other state, according to the death penalty counsel project, which is funded by the Administrative Office of the U.S. Courts to provide information about capital punishment to assist judges and lawyers appointed to defend capital cases. … Nationwide, 161 capital cases have gone to trial, with 15 resulting in verdicts of not guilty on all capital counts in the case. The remaining 146 cases have resulted in 95 life sentences and 51 death sentences. To date, three death row inmates have been executed: two in Texas and one in Colorado. Defendants serving a life sentence will never be released, as there is no parole in the federal system."

Four Former New York Union Officials Plead Guilty To Corruption Charges. Three former officials of Laborers' International Union of North America Local 91 in the Niagara Falls area pleaded guilty yesterday to racketeering charges and a fourth former official pleaded guilty to extortion. The unexpected pleas came in the second week of their trial in Buffalo. The story was widely covered in New York press, with the New York Times, AP and WIVB-TV quoting Buffalo SAC Laurie Bennett as saying, "This has been the most significant F.B.I. criminal investigation in western New York in the past 20 years. I say that because of the widespread violence and the significant and devastating economic loss to the community."

The New York Times (8/2, Staba, 1.21M) reports, "For more than three decades, leaders of a powerful union used violence and intimidation against contractors, independent workers and even members of other unions to control the construction industry in the Niagara Falls area, according to federal prosecutors, strangling economic development in the process. On Tuesday, prosecutors declared victory in their long-running war against…Local 91." The AP (8/2, Thompson) adds, "The men were the final defendants in a massive government case that investigators began building in the mid-1990s. In all, 18 Local 91 members pleaded guilty or

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were convicted at trial. … Defense attorney Joel Daniels, representing former Local 91 President Mark Congi, said he felt the defense was holding its own against the government witnesses and evidence, but agreed to the plea to avoid the potential life prison term a jury conviction may have brought."

Former New Jersey Fire Marshal Sentenced To Six Months In Prison For Bribery. The AP (8/2) reports former Monmouth County fire marshal Patsy R. Townsend "was sentenced Tuesday to six months in prison for accepting a bribe in exchange for using his post to help others get work in the county." Townsend "must also serve five months under house arrest after completing his prison term and pay a $2,000 fine, under the sentence imposed by U.S. District Judge William J. Martini." The AP notes, "He pleaded guilty in March to a single charge of attempting to commit extortion under color of official right. At his plea hearing, Townsend admitted accepting $1,000 on Nov. 1, 2004, from an undercover FBI agent for helping the agent obtain emergency demolition contracts in Monmouth County."

The Newark Star-Ledger (8/2, Martin) adds, "The judge said the public -- and the officials who serve it -- need to know that bribery, extortion and the betrayal of public trust won't be treated lightly." Martini said during the sentencing hearing, "What was going on was a culture of corruption. … They thought they were really untouchable." The Star-Ledger notes Townsend "is among nearly two dozen elected officials, public employees and contractors county wide who have been charged or convicted since a long-running FBI corruption investigation went public early in 2005." The Asbury Park Press (8/2, Alexander) also reported on the sentence the wide-spread FBI investigation.

Gotti Offers To Testify At Trial, But Only About Own Actions. The AP (8/2, Caruso) reports, "John 'Junior' Gotti, according to his attorneys, is willing to do the unthinkable: Take the witness stand and testify about his life in the Mafia. In a letter filed in federal court on Tuesday, Gotti's lawyers said the reputed scion of the Gambino crime family is anxious to tell a jury about how he abandoned mob life after his last prison stint and has 'no allegiance to it.' He has only one condition: He doesn't want prosecutors asking him 'immaterial' questions about his affairs, the letter said." The AP adds, "While Gotti is prepared to testify about his own actions…he is unwilling to testify about 'certain facts' that 'might implicate other people in crimes.' … In other words, don't hold your breath for Gotti's testimony anytime soon." The New York Daily News (8/2, Zambito, 729K) notes Gotti lawyer Sarita Kedia wrote in the letter, "Mr. Gotti is indisposed to becoming a de facto cooperator by subjecting himself to the government's limitless queries about the crimes of others." US Distict Judge Shira Scheindlin "will decide in the coming weeks whether to limit prosecutors' questioning." The New York Post (8/2, Cornell, 608K) also briefly reports the story, under the headline "Gotti Will Testify If…"

US Cracking Down On ELF Arsonists Despite Group's Avoidance Of Physical Violence. In a story painting a generally sympathetic portrait of ELF arsonists, Rolling Stone (8/10, Grigoriadis) reports on the 1998 Vail ELF firebombing and how the group calling itself the Family "saw themselves as revolutionaries protecting the environment." However, Rolling Stone notes, "Although the elves always focused on destroying property and avoiding the loss of human life, the Bush administration now treats the ELF as the homegrown equivalent of Al Qaeda. Last year, FBI deputy assistant director John Lewis called the group—along with the ALF and an aggressive animal-liberation outfit called Stop Huntingdon Animal Cruelty—the nation's 'number-one domestic terrorism threat.' In the past three years, the administration has doubled the number of Joint Terrorism Task Forces…and many seem intent on busting arsonists like Avalon rather than catching killers like Osama bin Laden. In 2003, when activists including CalTech graduate students firebombed several SUV dealerships in Los Angeles, FBI director Robert Mueller responded by assigning the entire terrorism task force in L.A. to the case and personally briefed President Bush about it. In a post-9/11 world where every FBI agent wants to catch a terrorist, an 'eco-terrorist' is better than nothing." Rolling Stone adds, "Given the current environmental crisis facing the planet, even some of those responsible for putting the Family behind bars find themselves sympathizing with the group's motives. 'My heart's with these people,' says Kirk Engdall, the lead prosecutor in the case. 'We've got to save the planet for our children and grandchildren. Where they went wrong is when they resorted to violence.' … Supporters in the environmental movement agree."

The Washington Post (8/1, C2, Carlson, 748K) reported on the Rolling Stone's "excellent article," calling it "a fascinating update of the old American story of idealists who turn violent, set in a subculture of anarchist coffeehouses, heavy-metal bands, radical vegans, neo-pagans and women who are herbalists by day and arsonists by night."

Texas Man Sentenced To 12½ Years In Prison For Investment Fraud. The AP (8/2) reports, "A federal judge on Tuesday sentenced an Amarillo businessman to more than 12 1/2 years in prison for operating a fraudulent investment company, according to a news release from the U.S. Attorney's Office." Phillip D. Phillips "collected about $1.7 million from investors, returned about $651,000 to them in checks purported to be dividends, and kept about $1.1 million" through his bogus firm, Sagebrush Securities. "The

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scheme fell apart when the president of Ironstreet," a legitimate securities company for which Phillips was a registered representative, "made a surprise visit to Amarillo and discovered Phillips operating the sham business out of the office. The SEC and the FBI began investigating a short time later, the release states."

California Woman Sentenced To Six Months In Halfway House For Katrina Fraud. The AP (8/1) reported, "A woman who posed as a Red Cross volunteer in a scam that bilked donations meant for Hurricane Katrina victims was sentenced to six months at a halfway house." Gina Liz Nicholas of Glendale, Calif., "also received three years of probation, 300 hours of community service, was fined $1,000 and was required to undergo psychiatric counseling at Monday's sentencing hearing." The AP notes, "She and two others were arrested in September 2005 outside a Best Buy store, where police said they had set up a table and collected as much as $2,000 over several days."

Wisconsin Man Pleads Guilty To Child Porn Possession. The Milwaukee Journal Sentinel (8/2, 259K) reported former school bus driver Robert E. Burkhardt "pleaded guilty Tuesday to possessing hundreds of images of child pornography on his home computer." Burkhardt "was scheduled to go to trial Tuesday but instead pleaded guilty to seven counts of possessing child pornography, all felonies. … According to a criminal complaint, FBI agents executed a search warrant in March 2005 on Burkhardt's Belgium (WI) home and seized a computer, several compact and floppy discs and 30 photographs. The computer hard drive contained 181 pornographic images of children, and dozens more were found on computer discs, the complaint says."

National Forests See More Urban-Style Crime. The Christian Science Monitor (8/2, Clayton) reports, "Urban-style violence against forest rangers is intruding more than ever into the nation's public forests. … Drug smugglers, armed robbers, and hard-partying or alienated city dwellers are setting up camp in the deep woods and clashing more with rangers, US Forest Service personnel say. What such incidents have in common is an urban grittiness, they say." The Monitor continues, "Two law-enforcement forest rangers in Lolo National Forest in western Montana last August tracked into the deep forest a man who had beaten his wife at a camping area. When cornered, the man unleashed his pit bull, which attacked the rangers, and bit one of them several times, according to a forest service report. They finally subdued the dog and arrested the man. … 'It's really a microcosm of where we are with society,' says Jack Gregory, a special agent who heads the Law Enforcement and Investigations Branch of the US Forest Service's southern region, which includes 13 states and Puerto Rico. 'We've even had stickups in our campgrounds - these guys are doing armed robbery right there in the woods.'" The Monitor adds, "Many incidents, he says, relate to drugs and problems along the US border. In the West, Mexican cartels have moved into central California to grow marijuana on public lands, especially in the Sierra and the Stanislaus National Forests, he says. … When law-enforcement rangers in the Angeles National Forest in southern California entered a marijuana plantation in October, two suspects approached them. The men were ordered to surrender, and one did while the other fled. Shots were fired. In the end, authorities seized 78 kilograms of processed marijuana, shotguns and other guns. … Some violence stems from city life migrating into the woods. Domestic quarrels and altercations with intoxicated visitors on motorized vehicles aren't unusual anymore, according to forest service reports."

Authorities Missed Chances To Keep Maryland Predator From Slain Boy. The Baltimore Sun (8/2, Sentementes, Bykowicz) reports, "A series of caretakers and others knew that a registered child sex offender had befriended the 11-year-old boy he is now charged with killing, but they repeatedly failed to take steps that could have taken the man off the streets and away from children." The Sun continues, "Missed opportunities helped Melvin L. Jones Jr. stay out of trouble with his probation agents despite orders that he not go near children. Over the years, he regularly baby-sat Irvin J. Harris, accompanied the child and his friends to Artscape and to July 4 fireworks and went to the boy's school." The Sun adds, "In most cases, some officials and others who discovered Jones' predatory past did little beyond warning Irvin's mother or ordering the boy to stay away. The mother failed to heed the advice and let Jones, 52, hang out with her son. … 'We wish everybody in Irvin Harris's life had done things differently,' Baltimore Police Col. Fred H. Bealefeld III, chief of detectives, said at a news conference Tuesday. He called the child's death 'an enormous tragedy for everyone concerned.'" The Sun notes, "Interviews and a review of court records and police documents show that officials had many chances to flag Jones long before police say Irvin was repeatedly stabbed behind a church near his home in Northeast Baltimore: … Irvin accused Jones of grabbing his neck and squeezing it during a dispute on July 4, according to a police report, and his mother assured a city officer that she would follow through on charges. She never did. A detective later assigned to the case could not locate the mother or Irvin, and police said he was unable to track down Jones or verify that he was the same person accused of assaulting the boy."

Former Aide Says Harris Concealed DOJ Subpoena. The Tampa Tribune (8/2, Epstein) reports,

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"U.S. Senate candidate Katherine Harris received a grand jury subpoena from federal investigators and concealed the fact from top campaign advisers hired to help her deflect negative publicity, her former campaign manager has disclosed. … 'Yes, there was a subpoena. She didn't tell us,' said Glenn Hodas, Harris' third and most recent campaign manager. He said he learned of it in June while reviewing invoices from powerhouse Washington lawyer Benjamin J. Ginsberg and confronted his boss. … The invoices, Hodas said, were for work relating to a 'DOJ subpoena,' referring to the U.S. Department of Justice." The Tribune continues, "The discovery culminated in the latest round of staff departures, in mid-July, Hodas said. Those resignations included Hodas and a campaign spokesman. … 'Finding out about the subpoena caused me to wonder about what was going on and what else I didn't know, but I don't want to comment any further on what appears to be a pending investigation,' said Hodas, reached by telephone Tuesday." The Tribune adds, "His remarks echo those of another former top Harris strategist, Ed Rollins, who said in several interviews after quitting in the spring that he was worried 'about [Harris'] stories changing, about what I didn't know.' … The subpoena apparently was issued for campaign records as part of a Justice Department investigation of Harris' dealings with defense contractor Mitchell J. Wade." The Tribune notes, "The escalating inquiry by the Justice Department's Public Integrity Section already has involved interviews with Rollins, who conducted an internal inquiry for the campaign and said he spent two hours talking to investigators here, and Fred Asbell, who quit in June as Harris' chief of staff in Congress, Harris' fourth. … Harris has said she is cooperating with authorities and has been informed she is 'not a target.'"

CIVIL LAW:

DOJ Defends Boeing Settlement. The Seattle Times (8/2, Mundy) reports, "Despite embarrassing allegations involving two contracting scandals and criminal plea bargains by two of its executives, Boeing had a strong position with the Justice Department in its settlement negotiations, the government's chief attorney in the talks told a Senate panel Tuesday." The Times continues, "The settlement this spring, which included $50 million in criminal fines and $565 million in civil penalties, has been questioned by some senators as too loose and too lenient. … The deal precluded criminal prosecution of the company on those two matters and would have allowed Boeing to deduct settlement costs from its taxes." The Times adds, "In a hearing before the Senate Armed Services Committee, Deputy Attorney General Paul McNulty, who negotiated the settlement while the U.S. attorney for the Eastern District of Virginia, defended it as 'an outstanding resolution to an extremely difficult case.' … In a detailed explanation of the Justice Department's decision, McNulty noted there were limits to the government's potential punishment of Boeing, given its place as one of a few large defense contractors and its role in Pentagon projects that extend through 2020. … 'Contracts at issue are critical to national security; they cannot practicably be terminated,' McNulty said. He added that because there were 'extensive differences on factual and legal matters' with Boeing, the alternative was years of litigation. … The hearing was called July 18 by Sen. John Warner, R-Va, chairman of the Armed Services Committee, and John McCain, R-Ariz.. They were concerned Boeing would deduct part of the fines from its taxes."

Boeing CEO Apologizes For Firm's Ethical Lapses. The AP (8/2, Daly) reports, "Boeing Co. chairman and CEO James McNerney apologized Tuesday for a series of scandals that forced out two of his predecessors and led the company to pay a record $615 million settlement to the Justice Department." The AP continues, "Appearing at a Senate hearing, McNerney said Boeing takes 'full responsibility for the wrongful acts of the former employees who brought dishonor on a great company and caused harm to the U.S. government and its taxpayers.'" The AP adds, "McNerney called the June 30 settlement - which ended a three-year federal investigation into the aerospace giant's defense contracting practices – 'tough but fair.' … Coupled with the loss of $1 billion worth of rocket launch contracts taken away by the Air Force, and the scandal's toll on Boeing's reputation, 'the settlement serves as a stark reminder of the direct impact that unethical conduct can have on our bottom line,' McNerney said. … McNerney, who took over as CEO of Chicago-based Boeing Co. in July 2005, won praise from members of the Senate Armed Services Committee for deciding not to seek a tax write-off worth as much as $200 million from the Justice Department settlement. Senators from both parties had worried that Boeing would seek the tax deduction, thereby diluting the settlement's impact."

Boeing Chief Executive W. James McNerny Jr. appeared before the Senate Armed Services Committee yesterday in what the New York Times (8/2, Wayne, 1.21M) calls an effort "to rebuild [the company's] reputation." McNerny's appearance "came on a day the committee examined Boeing's $615 million settlement with the government -- the largest ever for a military contractor -- that ended several ethics investigations into its dealings with the Pentagon." The "sharpest questions were directed not at Mr. McNerney, but at Paul J. McNulty, the deputy attorney general, who had negotiated the settlement."

The Wall Street Journal (8/2, Pasztor, Karp, 2.03M) reports, "Lawmakers applauded Boeing Co.'s decision to forgo tax deductions on a $615 million settlement of federal ethics violations, but said the case highlights the need for

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legislation barring companies from trying to pass on such penalties to taxpayers. Arizona Republican Sen. John McCain, a fierce Boeing critic during the weapons-acquisition scandals that led to the record settlement, praised the company's ethical turnaround and offered an olive branch" during yesterday's hearing. McCain "appealed to Boeing for help 'on addressing how we can reform a broken defense-procurement system.'"

Six Charities Sue Over Exclusion From Combined Federal Campaign. The Michael J. Fox Foundation for Parkinson's Research and five other nonprofit organizations are suing the federal government, claiming they were unfairly dropped from the list of organizations eligible to receive donations from federal employees. The Washington Post (8/2, A13, Weiss, 748K) reports that the groups "are asking a federal judge for a restraining order to prevent their exclusion from the official eligibility list for the Combined Federal Campaign. An estimated 1.3 million federal employees donate more than $250 million a year to the more than 22,000 national, local and international nonprofit groups included in the campaign, according to the Government Accountability Office. … The other groups that have sued are the American Association of Kidney Patients; the Allergy & Asthma Network Mothers of Asthmatics; the Sturge-Weber Foundation; the Navigators, which provides faith-based counseling and other services to US military personnel; and Awana Clubs International, a Christian youth evangelical group."

Typo In Deficit Reduction Bill Sparks Lawsuits. The National Law Journal (8/2, Baldas) reports, "An error in President Bush's Deficit Reduction Act has proven a Pandora's box, triggering lawsuits that question the legality of everything from new Medicare reimbursements to increases in court filing fees." The Journal continues, "At the center of this legal snafu? … A typo that caused the House and Senate to approve slightly different versions of the bill before it was signed into law. The mistake dealt with reimbursements for medical equipment rentals for Medicare patients." The Journal adds, "The Senate version included 13 months of funding, but a clerk mistakenly changed the wording to read 36 months, which is what the House approved. Bush signed the 13-month version. The mistake has caught the attention of lawyers and lawmakers, who, if successful in proving the act unconstitutional, can nullify the act, including parts they wish to alter. … Plaintiffs -- who in order to file suit have to prove that they were affected by the act -- include an Alabama lawyer who believes that the law will hurt his elderly clients; 11 Democratic congressmen who are challenging the constitutionality of the act; and Public Citizen, a consumer watchdog group upset over the $100 filing fee increase for federal civil litigation. The U.S. Department of Justice has declined comment on any litigation involving the act." The Journal notes, "In recent months, judges in New York and California have ruled against challenges to the constitutionality of the Deficit Reduction Act, holding that they do not have the authority to interfere in legislative procedures. The New York case is on appeal. OneSimple Loan v. U.S. Secretary of Education, No. 06 Civ. 2979 (S.D.N.Y); California v. Leavitt, No. CIV S-99-0355 (E.D. Calif.). … In court documents, the government has defended the constitutionality of the law, arguing that it has been signed by the leaders of both the House and Senate. … The government also has asserted that the courts should not "look behind an enrolled, certified bill to evaluate the inner workings of Congress."

CIVIL RIGHTS:

Four California Gang Members Convicted Of Hate Crimes. The AP (8/2) reports, "Four members of a Hispanic gang were convicted (in Los Angeles) Tuesday of conspiring to use violence, including murder, to push blacks out of their neighborhood in what prosecutors called one of the first high-profile federal prosecutions of a street gang as a hate group." The AP continues, "All four were found to have caused the death of a black man who was shot while parking his car in 1999 and a man who was shot while standing at a bus stop in 2000 in the largely Hispanic city of Highland Park, just east of Los Angeles. … The four face life in prison without parole. Sentencing begins Oct. 23." The AP adds, "For a guilty verdict, jurors had to find that the attacks were part of a conspiracy to violate the victims' right to live where they please and to use state-administered facilities, including public streets. … Authorities said it was one of the first prominent cases in which the U.S. Justice Department targeted a street gang with laws normally used to prosecute white supremacist groups such as skinhead organizations and the Ku Klux Klan. … During closing arguments last week, Justice Department attorney Bobbi Bernstein asked the jury to convict the four to send a message that America does not tolerate racial violence. … 'In America, these people don't get to beat people down or kill them because they don't want to see black skin in their neighborhood,' Bernstein said. 'Tell them that they did not own these streets, and they did not own that neighborhood.' … Defense attorneys claimed police concocted the conspiracy charges by tying together random attacks committed largely by unknown perpetrators. They also questioned the credibility of two former members of the Avenues gang who became government witnesses."

The Los Angeles Times (8/2, Mozingo) reports, "The four defendants — Gilbert 'Lucky' Saldana, 27; Alejandro 'Bird' Martinez, 28; Fernando 'Sneaky' Cazares, 25; and

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Porfirio 'Dreamer' Avila, 31 — face life in prison without the possibility of parole for their roles in the conspiracy. Sentencing for the first three was set for Oct. 23; for Avila, the date is Nov. 20." The Times adds, "From the start, the defense argued that prosecutors Alex Bustamante and Bobbi Bernstein had stretched civil rights statutes and Reconstruction-era anti-slavery laws way beyond their intended purposes to bring the case under federal jurisdiction. The judge denied their motions to dismiss the indictment on this basis, but the arguments will surely come up again in appeals court. … The Avenues date back to the 1950s and get their name from the numbered avenues that traverse the hills and ravines of Highland Park. The defendants on trial were part of the Tiny Locos, younger members of a clique called Avenues 43. … The compendium of crimes laid out against the gang members blended the most chilling aspects of old-time Deep South bigotry with a modern interracial rancor that has developed — to some extent — in struggling pockets of urban Los Angeles."

DOJ Objects To Democrats Entering Alabama Voting Rights Case. The AP (8/2, Johnson) reports, "The U.S. Justice Department and Alabama Attorney General Troy King filed court documents Tuesday objecting to the Democratic Party's effort to intervene in a lawsuit over development of a statewide voter registration database." The AP continues, "Also Tuesday, the chairman of the predominately black Alabama Democratic Conference filed a motion asking to intervene, saying he felt someone needed to watch over the interest of black voters." The AP adds, "The filings come as U.S. District Judge Keith Watkins prepares to hold a hearing Wednesday on a recommendation from the Justice Department and King that Republican Gov. Bob Riley be put in charge of efforts to create the database as required by the federal Help America Vote Act. … Secretary of State Nancy Worley, a Democrat, was sued by the U.S. Justice Department for failing to meet a federal deadline for implementing a single statewide computerized voter registration database. State Democratic Party Chairman Joe Turnham filed a motion last week seeking to stop what he called "a partisan attempt" to put the Republican governor in charge of setting up the voter database. … In its filing, Justice Department attorneys argue that Turnham and the Democratic Party do not have legal standing to get involved in the case. … 'Mr. Turnham identifies no way that implementation of a HAVA-compliant database could possibly harm Alabama Democrats, and no way that the outcome of this litigation could affect the interests he claims to represent,' the Justice Department filing said. … The Justice Department takes exception to Turnham's contention that appointing Riley would be a political action."

Colorado Woman Sentenced To Two Months In Jail In Involuntary Servitude Case. In a widely-distributed story, the AP (8/2) reports, "A woman was sentenced to two months in jail Tuesday for effectively stealing the services of an Indonesian woman who prosecutors said was held as a virtual slave for four years. Sarah Khonaizan, 35, a Saudi citizen who lives in suburban Denver, also was ordered on the theft charge to pay $90,000 in restitution and was ordered not to have any contact with the 24-year-old woman. … Her attorney, Forrest Lewis, has said she wants to return to Saudi Arabia and will not fight deportation." The AP notes, "Prosecutors and FBI agents accused Khonaizan and her husband, Homaidan Al-Turki, 37, of hiding the woman's passport and forcing her to care for the family for four years." The Rocky Mountain News (8/2, Aguilar) adds, "She was given 15 days of credit for time served and will be deported to Saudi Arabia as soon as her sentence is complete."

Three Texas Republicans Join Forces To Back New Congressional Map. Roll Call (8/2, Drucker) reports Texas Reps. Henry Bonilla (R), Henry Cuellar (D) and Lamar Smith (R) "have banded together to recommend a new Congressional map to a federal court, hoping to limit the fallout new district boundaries could have on their political futures." With the Supreme Court "ruling in late June that the 23rd district violates the Voting Rights Act and ordering it redrawn, Bonilla has the most to lose. But the ripple effect of adjusting Bonilla's seat could be wide depending on the fix ordered by the court — and several Members could find themselves running in radically reshaped districts on Nov. 7." Rep. Lloyd Doggett (D) "declined to be interviewed for this story, but he released a statement indicating that he expects the court's cure for the 23rd district could leave even him worse off than Bonilla." A three-judge US District Court panel in Austin "is scheduled to hear oral arguments on Thursday, where lawyers representing the various interested parties will argue for their recommended maps and against those they dislike. A decision on how the 23rd district will be remedied to comply with the VRA is expected in the middle of this month and is very likely to take effect for the fall elections."

Union Files Complaint On Behalf Of Fired VA Worker With Cerebral Palsy. Last week, the Palo Alto Weekly (7/28, Hedayati) reported that Cheryl Hewitt, who suffers cerebral palsy, had been dismissed from a job as a social worker at the Palo Alto VA Medical Center. Coverage indicates that the American Federation of Government Employees Local 2110 has filed a complaint against VA with the Equal Employment Opportunity Commission. On Tuesday, the San Jose Mercury News and the AP both offered new coverage of the dispute. The AP offers relatively

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neutral coverage that features comments from Hewitt and her supporters and from the VA medical center. However, the Mercury News offers a 928-word feature that is sympathetic toward Hewitt.

In a story that appears in fewer than 10 outlets in California, the AP (8/1) reports that the American Federation of Government Employees Local 2110 "filed a complaint contesting the firing of a social worker with cerebral palsy, alleging the hospital where she worked failed to accommodate her disability." Hewitt "claims she was dismissed from her job at the Veterans Affairs Palo Alto Health Care System after she allowed her cousin to help her write down patient information as she struggled with her handwriting. Hospital managers told her that she violated patient confidentiality when the cousin wrote down last names and the last four digits of Social Security numbers, according to Hewitt." The union "claims Hewitt didn't receive anything that worked for her until after the incident that led to her dismissal." Meanwhile, "[h]ospital officials said they can't provide details about Hewitt's employment because of the complaint."

Mercury News Profiles "Cause Celebre In Disability Rights Community." The San Jose Mercury News (8/1, Patel) opens its story, "When people review Cheryl Hewitt's résumé, they see an award-winning social worker with 18 years of experience who is also a grass-roots organizer in the campaign for disability rights. When they meet the woman behind the résumé, they see a cerebral palsy victim in a wheelchair, her arms having spasms sporadically and her head sometimes tilted to one side. But last week, Hewitt drew notice as a worker who had just been fired, in an incident that had made her a cause celebre in the disability rights community." Bill Lutrell, speaking to an audience of 35 people, said, "You see before you a woman with a broken body but not a broken mind." The Mercury News writes, "Hospital officials said they can't provide details about Hewitt's employment because of the pending complaint but they hint that there were other problems." In an e-mail to the Mercury News, spokeswoman Kerri Childress writes, "The VA Palo Alto Health Care System recognizes that people with disabilities are valued and contributing members of our society."

OPM Criticized Over Recruitment, Retention Of Hispanic Workers. The Washington Post (8/2, D4, Barr, 748K) reports in its "Federal Diary" column, "A coalition of 40 Hispanic organizations yesterday faulted the Office of Personnel Management for failing to improve Hispanic hiring across government and called for congressional hearings on the issue. The National Hispanic Leadership Agenda gave the OPM an 'F,' saying that federal hiring of Hispanics has declined in recent years and that the percentage of Hispanics in the career Senior Executive Service appears to be on a downward trend."

Gay Marriage Debate Likened To Civil Rights Struggles Of The Past. Novelist and playwright Steve Kluger, writes in USA Today (8/2, 2.27M), "With advocacy groups and state courts pushing for new laws to bar same-gender marriage, gay adoption and civil unions…the global image that the United States has been laundering for well over 50 years seems to have developed ring-around-the-collar." Kluger adds, "In another handful of decades, same-gender marriage and full equality for non-heterosexual Americans will have been locked into place -- and history will regard our one-time opponents as shamefully as it now views Bull Connor, Orville Faubus, Lester Maddox and other legendary Apostates of Hate."

ANTITRUST:

Hutchison Seeks DOJ Recusal From Texas Air Field Dispute. The Fort Worth Star-Telegram (8/2, Montgomery) reports, "Sen. Kay Bailey Hutchison, in a scathing letter to Attorney Gen. Alberto Gonzales, demanded Tuesday that the Justice Department withdraw from further review of the Wright Amendment bill because of a 'factually and legally inaccurate' department memo that raised anti-trust concerns about the measure. … 'Allowing the Justice Department to review this matter would be equivalent to sending one to trial after the court had announced the verdict,' Hutchison, R-Texas, wrote." The Star-Telegram continues, "Hutchison released the letter amid fading prospects that the Senate would act on the legislation before quitting work Friday for the start of a monthlong congressional recess. House members went home last week without acting on the bill. … By repealing the 26-year-old Wright Amendment, the legislation would lift flight restrictions at Dallas Love Field after eight years. Hutchison's bill embraces the delicate compromise reached recently among the leaders of Dallas, Fort Worth, D/FW Airport, and American and Southwest airlines. Critics of the Wright Amendment say it's hampered competition in the North Texas air market and kept fares high. … Hutchison and other supporters of the repeal legislation hoped to push the bill through Congress without change, but the measure has encountered resistance in both chambers, fueled in part by an anonymous Justice Department staff memo last week that said the proposed changes would 'be hard-core per-se violations' of the Sherman Anti-Trust Act."

The AP (8/2, Gamboa) reports, "Department spokeswoman Gina Talamona said in a statement late Tuesday that the agency hopes to continue 'to have an open dialogue with Congress.'" The AP adds, "The Wright

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Amendment, named for its author, former House Speaker Jim Wright, restricts long-haul flights from Love Field to eight nearby states. Love is the home to discount carrier Southwest Airlines, which has long sought repeal of the law. Rival American has fought to keep it in place. … The agreement reached by local officials would repeal the 1979 Wright Amendment in eight years and reduce gates at Love Field from 32 to 20. Other airlines have objected to the gate reduction, saying it limits their ability to establish service at Love Field."

The Dallas Morning News (8/2, Dodge) reports, "The department's memo circulated around Capitol Hill and helped foment concerns about the proposal. … 'As a result of this unfortunate, unfair and very biased position regarding an important matter pending before Congress, the Department of Justice should recuse itself from further consideration of the Wright amendment legislation,' Ms. Hutchison wrote." The News adds, "Last week, a Justice spokeswoman indicated the comments were generated as part of a routine discussion with members of Congress. … 'We have been discussing with Congress the pending legislation and whether there are better ways to reach the goal of maximizing competition, but the administration has not taken a position on the legislation,' Justice spokeswoman Gina Talamona said last week." The News notes, "The Justice memo raised antitrust concerns about the proposal to cap the number of gates at Dallas Love Field at 20 and to tear down gates at the Legend terminal. The memo argued the restriction on gates would erase some of the cost breaks that travelers usually experience in markets that Southwest serves. … 'More broadly, the cap on gates at Love Field affects every other airline that would otherwise be attracted to the new competitive opportunities at Love Field, including low-cost carriers, such as JetBlue, as well as other legacy carriers, such as US Air,' the memo said."

The Dallas Business Journal (8/2) reports, "The agreement was forged by the cities of Dallas and Fort Worth, Fort Worth-based American Airlines Inc., Dallas-based Southwest Airlines and the Dallas/Fort Worth International Airport Board. It serves as the basis for Hutchison's bill, which was introduced last month and approved 21-1 by the Senate's Commerce Committee."

DOJ Says Mittal-Arcelor Merger Depends On Divestiture. The Baltimore Sun (8/2, Connolly) reports, "Mittal Steel Co. NV must sell either Sparrows Point or a sister plant in Weirton, W.Va., if it can't dispose of a Canadian subsidiary to resolve antitrust issues arising from its merger with Arcelor SA, Justice Department officials said yesterday." The Sun continues, "Saying the combined company would have a monopoly on tin production in the United States, the Justice Department filed a civil lawsuit in U.S. District Court in Washington yesterday to block the $33 billion merger if Mittal does not comply. … 'Without a divestiture of one of these steel mills, purchasers of tin mill products likely would have paid higher prices that would have harmed American consumers,' Thomas O. Barnett, assistant attorney general in charge of the department's antitrust division, said in a statement issued yesterday." The Sun adds, "Mittal, based in Rotterdam, Netherlands, promised the Justice Department that it would sell Canadian steel and tin manufacturer Dofasco, an Arcelor subsidiary, to German-owned ThyssenKrupp AG if its hostile takeover bid for Arcelor succeeded. … However, in one of a series of defensive moves to fend off Mittal, Luxembourg-based Arcelor transferred Dofasco to a Dutch trust to make any future sale difficult. … After a five-month battle, Arcelor's board agreed to a merger in late June after Mittal improved its offer for the third time and made concessions on corporate control. .. . Arcelor shareholders approved the deal last week. The combined company, to be called Arcelor-Mittal, would control 10 percent of the world's steel production with more than 110 million tons annually. … However, despite the merger agreement, Arcelor officials still refuse to sell Dofasco, which makes high-grade sheet metal for the auto industry. Arcelor will have majority control over the combined company's board seats, and will have influence in decision-making."

McClatchy Sells Part Of CareerBuilder.com Stake For $310 Million. The Sacramento Bee (8/2, Kasler) reports, "The McClatchy Co. on Tuesday sold a portion of its stake in CareerBuilder.com and two other Web sites for $310 million." The Bee continues, "The deal will leave Sacramento-based McClatchy with a 15 percent stake in CareerBuilder.com, which is considered one of the more successful classified-advertising Web sites. McClatchy had assumed a 33 percent share of CareerBuilder when it purchased Knight Ridder Inc." The Bee adds, "McClatchy also will reduce its stake in two other sites, leaving it with a 15 percent stake in the Internet shopping site ShopLocal.com and an 11.25 percent share of Topix.net, a news site. … McClatchy had inherited stakes in all three sites through the Knight Ridder purchase. But its partners in the sites, newspaper chains Gannett Co. Inc. and Tribune Co., had the right to buy McClatchy out. … After months of negotiations, the three publishers agreed to a deal that increased Tribune and Gannett's shares of all three Web sites. The two are paying McClatchy, which owns The Bee, a total of $310 million. … Also Tuesday, McClatchy announced it has wrapped up the sale of the Akron (Ohio) Beacon Journal for $165 million. The paper was sold to Black Press Ltd., a Canadian chain."

KKR Appears To Win Auction For Philips Unit. The Wall Street Journal (8/2, Sender) reports, "Kohlberg

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Kravis Roberts & Co. and Silver Lake Partners appear to have won a hotly contested auction for Philips Electronics NV's semiconductor division, according to people familiar with the matter. The price couldn't be immediately determined but is believed to exceed €8 billion ($10.25 billion)." The Journal continues, "It would be the second huge deal for KKR in as many weeks, following the investment firm's participation in a proposed $21 billion buyout of hospital giant HCA Inc. Silver Lake is best known for organizing last year's $11.3 billion buyout of SunGard Data Systems." The Journal adds, "KKR and Silver Lake of Menlo Park., Calif., beat out two rival groups -- the first consisting of Blackstone Group, London-based Permira Advisors and Texas Pacific Group; and the second including Apax Partners Worldwide LLC, Bain Capital and Francisco Partners, according to people familiar with the proposed deal. … The Philips unit is one of the world's largest makers of computer chips that power electronic equipment in such things as automobiles, telephones, radios and televisions. It employs more than 36,000 people. Previously, the company had said it would also consider an initial public offering of shares in the semiconductor division. … Deals like these are coming at a time when there are growing signs that debt-market investors are becoming less generous in providing financing for private-equity firms like KKR as they continue their unprecedented buying binge."

ENVIRONMENT:

DOJ Files Bankruptcy Claim Against Asarco. The Tacoma (WA) News Tribune (8/2, Blumenthal) reports, "The federal government has filed up to $1.3 billion in environmental cleanup claims against Asarco, the mining and smelting company that sought bankruptcy protection last year." The Tribune continues, "The federal claims represent only a portion of what Asarco may owe its creditors, including at least $500 million in asbestos exposure-related claims and hundreds of millions to states. Washington state filed a claim last week seeking up to $600 million." The Tribune adds, "Today marked the deadline for filing the claims with a Connecticut-based claims administrator appointed by the federal bankruptcy judge in Corpus Christi, Texas, who is handling the Asarco case. … The federal claims involve 31 Superfund and other sites in 14 states. .. . In a 55-page filing called a supplemental proof of claim, the U.S. Justice Department acknowledged that Asarco may not ultimately be liable for all the cleanup costs. At some sites, other companies may be responsible for a portion of the costs, and some of the cleanups are entangled in litigation. … But the Justice Department also said Asarco's bill for the cleanups could grow. … 'This supplemental proof of claim reflects certain known liabilities of Asarco to the United States,' federal lawyers said. 'The United States reserves the right to amend this supplemental proof of claim to assert subsequently discovered liabilities.'"

Federal Court Mulls Legality Of Administration's Forest Service Road Plan. The AP (8/2) reports, "A federal judge said Tuesday that the Bush administration had the right to overturn a ban on road construction in untouched parts of the national forests but questioned whether it could do so without weighing the possible environmental effects." The AP continues, "U.S. District Judge Elizabeth Laporte said the Forest Service appeared to be 'on solid ground' last year when it reversed a Clinton administration rule banning new roads on nearly a third of federal forests. … But she questioned whether the agency violated federal law by skipping environmental studies - the heart of two lawsuits brought by 20 environmental groups and the states of California, Oregon, New Mexico and Washington. The cases have since been consolidated, and all parties presented arguments Tuesday in Laporte's courtroom." The AP adds, "Laporte said she did not know when she would make a final decision in the case. … 'The court's role is not to endorse one approach over the other,' Laporte said, referring to Forest Service management plans. … Rather, she said, the question is whether federal procedures were violated when Bush overturned the ban on road building that President Clinton ordered in January 2001, eight days before he left office. If so, that could prompt Laporte to invalidate a new state-by-state management strategy endorsed by the Bush administration and restore the road-building ban." The AP n otes, "The legal dispute stems from the so-called 'roadless rule' that prohibited logging, mining and other development on 58.5 million acres of roadless forest land in 38 states and Puerto Rico. Of that, 97 percent is in 12 states: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming."

Court Rules BLM Must Widen View Of Nevada Gold Mining Effects. The AP (8/2, Ritter) reports, "A federal appeals court panel on Tuesday ordered a lower court to review the environmental effects of operations at two gold mines in northern Nevada in a ruling that advocates said could force closer scrutiny of the use of federal lands in the West." The AP continues, "Newmont Mining Corp., which owns the mines, downplayed the 9th U.S. Circuit Court of Appeals ruling, which instructed the Interior Department and Bureau of Land Management to consider cumulative effects of mining at two sites northwest of Carlin. … 'Operations continue as normal,' said Mary Korpi, a spokeswoman in Reno for Denver-based Newmont. 'Basically, we're very pleased with the ruling. We're not impacted.'" The AP adds, "Korpi noted that the court upheld most BLM and Interior

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findings on air quality, public water reserves, bonding to ensure reclamation of mined lands, a requirement for separate environmental studies on the two mines, and cumulative impacts for water. … However, the three-judge panel, quoting arguments by the environmental group Great Basin Mine Watch, also said the BLM 'cannot simply offer conclusions. … Rather, it must identify and discuss the impacts that will be caused by each successive (project),' the court said in San Francisco, 'including how the combination of those various impacts is expected to affect the environment.' … The judges overturned a lower court summary judgment for the government, but rejected most procedural challenges raised by Great Basin Mine Watch. The lawsuit stemmed from mining applications filed by Newmont in 1997 with the BLM field office in Elko."

Senate Passes Offshore Drilling Legislation. The Los Angeles Times (8/2, Simon, Reynolds, 918K) reports, "With political anxiety on Capitol Hill rising along with gasoline prices, the Senate voted Tuesday to open a large section of the Gulf of Mexico to oil and gas drilling, advancing the energy bill that stands the best chance of approval this year." The bill, approved 71-25, "now must be reconciled with a broader and more controversial House measure that would relax the decades-long ban on drilling in most coastal waters, including along the Pacific coast." The Times adds, "Senators from both parties, attuned to constituents' ire over high fuel costs, were eager to pass energy legislation before heading home for the summer recess. Eighteen Democrats joined 53 Republicans to support the Senate bill; 24 Democrats -- including California's Barbara Boxer and Dianne Feinstein -- and one independent were opposed."

The Washington Post (8/2, A7, Mufson, 748K) reports that "many lawmakers complained that, under the bill, four coastal states -- Louisiana, Texas, Alabama and Mississippi -- would receive revenue that belongs to the entire nation, and that Congress should not open more of the Outer Continental Shelf to drilling without taking action to increase energy efficiency. Republican leaders blocked an effort to attach an amendment to the bill that would have gradually raised US automobile fuel economy standards." House Resources Committee Chairman Richard W. Pombo "contends that the Senate version does not go far enough. The House measure would end the moratorium and permit drilling 50 miles or more from coastlines. States would have the option of passing legislation to bar drilling up to 100 miles from shore or to permit it to take place closer than 50 miles."

The Wall Street Journal (8/2, Meckler, 2.03M) says that "politically, the vote allows senators to go home for their August recess having voted for at least one piece of energy legislation, an attempt to respond to voter outrage over $3-a-gallon gasoline. Scores of bills have been introduced in the 11 months since Hurricane Katrina led to spiking prices, but Congress has yet to clear any of them." The drilling bill "is seen as the measure with the best chance for success."

The New York Times/AP (8/2) notes "the acres affected by the Senate measure are believed to contain 1.2 billion barrels of oil and nearly six trillion cubic feet of natural gas, enough to heat six million homes for 15 years." The bill "would create a 'zone of protection' for Florida that would stretch 125 to 300 miles from the state's beaches at various points. It would also funnel tens of millions of dollars to the four other Gulf Coast states as their share of future oil and gas revenues."

The Washington Times (8/2, DeBose, 88K) reports "a House version of the bill that passed last month includes the same acreage of Gulf waters, but also opens virtually all of the nation's Atlantic and Pacific coasts to exploration." It also "includes provisions to alter the federal-state split of oil and gas revenues that would net the highest-producing Gulf states -- Alabama, Mississippi, Louisiana and Texas -- as much as $600 billion over the next 15 years." The Senate legislation ":was praised as a way to immediately increase domestic oil supplies, lower gas prices and protect national security by reducing the nation's dependence on foreign oil. Democrats, however, complained that the bill did not include incentives for new energy resources, and some Republicans said it wouldn't open enough of the outer continental shelf to oil and gas exploration." USA Today (8/2, 2.27M) reports that Democratic Sen. Mark Dayton, "a critic of the bill, said that at best, 'this will supply a small amount of gas years from now.'"

NYTimes Criticizes Bill. The New York Times (8/2, 1.21M) editorializes, "Almost six months to the day after President Bush urged Congress in his State of the Union address to help break America's addiction to imported oil, the Senate approved a bill yesterday that would do nothing to cure that addiction and could actually make it worse." The bill "is bad fiscal policy, since one-third of the royalties that would normally accrue to all Americans from drilling in federal waters would flow to just four gulf states. Even as a drilling bill it makes little sense; to placate Florida's senators, it prohibits drilling in offshore areas that are richer in resources than the areas it opens up. And as energy policy it's hopelessly one-sided, encouraging production while ignoring consumption."

Scientists' Unions Say EPA Is Ignoring Sound Science. Unions representing staff scientists at EPA say the agency is bowing to political pressure and ignoring sound science by allowing the use of a group of toxic chemicals in agricultural pesticides. The New York Times (8/2, Janofsky, 1.21M) reports, "Leaders of several federal employee unions say the chemicals pose serious risks for fetuses, pregnant women, young children and the elderly through food and exposure and should not be approved by Thursday, the Congressional deadline for completing an agency review of

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thousands of substances in pesticides." In a letter to agency administrator, Stephen L. Johnson, sent May 25, the leaders wrote that "they believed that under priorities of E.P.A. management, 'the concerns of agriculture and the pesticide industry come before our responsibility to protect the health of our nation's citizens.'"

Energy Demand Rising As Heat Wave Grips Much Of Nation. With a heat wave gripping much of the nation, utilities and government officials yesterday called for conservation. The New York Times (8/2, Pérez-Peña, Wald, 1.21M) reports that "utility executives warned that the risk of breakdowns rises steadily as a heat wave wears on, and with today's temperatures expected to top yesterday's, with possible record highs along the East Coast, power companies were girding for a huge challenge. … Experts say demand is rising faster than the ability to meet it, which over the long run could pose the risk of both local and regional failures."

Clinton Foundation To Focus On Global Warming. Former President Bill Clinton yesterday said his Clinton Foundation will turn its attention to the issue of global warming. The New York Times (8/2, Steinhauer, 1.21M) reports that Clinton announced the new initiative at the University of California, Los Angeles. Clinton "said in an interview on Tuesday that his interest in climate issues arose during his presidency and had grown in recent years as he followed news reports on heat-trapping gases, watched with chagrin as the United States rejected the Kyoto Protocol and observed his wife, Senator Hillary Rodham Clinton, negotiate energy policy with 'Republicans who were recalcitrant on the issue.' He said he would focus heavily on the climate issue over the next year."

The Washington Post (8/2, A3, Eilperin, 748K) reports, "Twenty-two of the world's largest cities announced yesterday that they will work together to limit their contributions to global warming in an effort led by former president Bill Clinton. The Clinton Climate Initiative -- which will create an international consortium to bargain for cheaper energy-efficient products and share ideas on cutting greenhouse gas pollution -- includes Chicago, Los Angeles, Philadelphia and New York as well as Cairo, Delhi, London and Mexico City. While the group is not setting specific targets for reducing emissions, Clinton said he is confident the effort will both cut pollution and create jobs in the cities that contribute most to higher temperatures."

LATimes Criticizes Schwarzenegger, Blair Agreement On Global Warming. Under the headline, "Welcome Hot Air from Arnold and Blair," the Los Angeles Times (8/2, 918K) editorializes, "For all the fanfare that preceded it, the agreement on global warming signed Monday by British Prime Minister Tony Blair and Gov. Arnold Schwarzenegger is more a promise than a plan." The Times adds, "The bigger and more encouraging surprise is that two poll-challenged pols…would turn to global warming as a way to score points. That says a lot about the public's growing concern about the climate crisis. At least in California and Britain."

Tropical Storm Chris Could Become Season's First Hurricane. The CBS Evening News (8/01, story 6, 0:10, Schieffer, 7.66M) reported, "Forecasters say that Tropical Storm Chris could become a hurricane within 72 hours," making it this season's first. "The storm's current path will take it north of Puerto Rico. It would reach the Bahamas by Sunday and then head towards southeast coast of Florida."

California's Pursuit Of Petroleum-Free Transportation Said To Have Failed. A front page story in the Wall Street Journal (8/2, Ball, 2.03M), headlined, "Reality Check How California Failed In Efforts To Curb Its Addiction To Oil," reports on California's efforts to reduce its dependence on oil. The Journal notes, "For a quarter century, California has pursued petroleum-free transportation more doggedly than any other place in the US. It has tried to jump-start alternative fuels ranging from methanol to natural gas to electricity to hydrogen. None has hit the road in any significant way." The Journal notes, "At a time when President Bush is advocating alternative fuels, particularly ethanol, as an antidote to what he calls America's 'addiction' to oil, California's experience offers a reality check."

FBI/DEA/ATF/USMS:

4th Circuit Rules Shooting Victim May Sue Maryland FBI Agent. The Baltimore Sun (8/1, Dolan, 262K) reported that on Monday, "a federal appeals court gave a green light…to a lawsuit filed against an FBI agent in the shooting of a Pasadena man whom the agent mistook for a bank robber. Last year, U.S. District Judge J. Frederick Motz ruled that shooting victim Joseph C. Schultz could proceed to trial in the civil lawsuit against Special Agent Christopher Braga. The FBI agent appealed Motz's ruling, arguing that as a law enforcement officer, he had immunity from such claims." However, the 4th Circuit ruled, "In sum, there remain genuine issues of material fact as to the circumstances leading up to Agent Braga's decision to fire his weapon at Schultz." The AP (8/2) notes Schultz "said he was reaching to his right to unlock the door in response to shouted commands from another agent to open the door when Braga fired his gun. Braga said Schultz turned to the left, reached

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down toward the console and that he fired because he believed Schultz was going for a gun. Schultz sustained multiple fractures and other injuries to his head, face and mouth and underwent reconstructive surgery."

Doping Case Against Landis Seen As Tough To Refute. The New York Times (8/2, Macur, Kolata) reports that after spending several days in New York, Floyd Landis "has returned home to Southern California, where he will await his fate as Tour de France champion. But antidoping officials working on his case already have evidence that some experts say is convincing enough to show that Landis cheated to win the Tour, regardless of further testing or appeals." One test, "a sophisticated measure called a carbon isotope ratio test, will be difficult, if not impossible, for Landis to refute. The test examines the atomic makeup of testosterone in the urine and can determine if it is natural or synthetic. Landis failed that test, according to a person inside the International Cycling Union with knowledge of the results."

Fake Prescription Sales Expected To Climb To $75 Billion. In the Wall Street Journal (8/2), Nick Hughes, head of PA Consulting Group's Global Life Sciences Practice and a board member of Aegate, a drug authentication company, writes that analysts "forecast that sales of fake prescription medicines will reach $75 billion by the end of the decade. That would nearly double current levels and would outstrip the annual growth of legitimate pharmaceutical sales. … The World Health Organization estimates that up to 10% of the world's pharmaceuticals may be counterfeit. … In 2001, 66 deaths in the U.S. were attributed to the counterfeiting of the generic antibiotic Gentamicin."

70th Arrest Made In Connecticut Operation Targeting Drugs, Gangs. The Stamford, Connecticut Advocate (8/2) reports, "Police yesterday touted the 70th drug arrest in an undercover operation targeting drug dealers and gang members they blame for most of the city's crime. Operation Clean Streets uses officers from several towns and agents of the federal Drug Enforcement Administration…to make undercover drug buys. … Officials said the program seems to be working. Chief Brent Larrabee said drugs were much more available on the streets when Operation Clean Streets began in May."

Former DEA Agent Accused Of Lying To Investigators Is Sentenced. In Richmond, Virginia, the AP (8/1) reports a former DEA agent "was sentenced to two years probation and fined $7,500 Tuesday for lying to investigators about a sexual encounter with an informant. William Carter Harden…also was ordered to perform 100 hours of community service, according to court records. He faced a maximum of five years in prison and a $250,000 fine."

Drug-Running Linked To Disappearances Of Colombians. The AP (8/1) reports humble farmers and craftsmen "are among thousands of Colombians who have disappeared in the past decade in a war spearheaded by landowner-backed militias, known as paramilitaries, that boiled over in the countryside even as life got safer for upper-class urbanites. … While leftist rebels are responsible for some forced disappearances in Colombia's 'dirty war,' investigators and human rights activists blame the vast majority on the paramilitaries who emerged in the 1980s to fight the leftists but whose victims have more often been peasants who resisted extortion or were accused of sympathizing with the rebels. The violence was compounded by land disputes and the intrusion of drug-running into what began as a political war."

ATF Revokes Pennsylvania Gun Dealer's License. The AP (8/2, Walters) reports, "The federal government on Monday revoked the license of a gun shop that has been accused of making illegal gun sales and having its guns end up in the hands of criminals, including a person involved in the 1993 World Trade Center bombing." The AP continues, "The Bureau of Alcohol, Tobacco, Firearms and Explosives revoked the license of Lou's Loans, an administrative action that means the shop can no longer sell guns, ATF spokesman John Hageman said." The AP adds, "The lawsuit, which is pending, was initiated by the Washington-based Brady Center to Prevent Gun Violence on behalf of the family. It alleges that Lou's Loans was linked to at least 441 guns used in crimes between 1996 and 2000, and 178 guns linked to crime in 2003. The suit also alleges that Lou's Loans sold a gun supplied to a co-conspirator of the World Trade Center bombing. … 'We're happy to hear that the ATF has finally taken action against Lou's because we know that there have been decades of problems with Lou's Loans' business practices,' said Elizabeth S. Haile, a staff attorney with the Brady Center. … The agency declined to cite specific reasons for the action against Lou's Loans, citing federal law that prevents the release of information derived from gun-dealer records. Violations that can lead to such action include guns missing from inventory, evidence of illegal sales known as 'straw purchases,' failure to file a form when someone buys more than one gun over a five business-day period or failure to keep proper ATF records, Hageman said."

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IMMIGRATION:

Gonzales Announces Addition Of Prosecutors For Border Areas. The AP (8/2, Korte) reports, "Attorney General Alberto Gonzales has outlined plans to add 20 new federal prosecutors to handle immigration related offenses and five others who will target drug trafficking in states along the border with Mexico. … 'We've heard the cries of our U.S. attorneys, who tell us they need additional resources,' Gonzales said Monday during a news conference at the U.S. attorney's office in Albuquerque." The AP adds, "Gonzales also challenged Congress to keep the money coming, saying comprehensive immigration reform will require more judges, marshals and bed space to fully secure the border. … [We need to ensure that as we increase our efforts on the front end of the process that we also have the ability at the back end to prosecute these folks,' he said. … The $2 million supplemental funding will help federal authorities assign prosecutors for border areas of California, Arizona, New Mexico and Texas to address human smuggling, illegal entry into the United States and document fraud. They also will target employers who hire undocumented immigrants."

The Las Cruces (NM) Sun-News (8/2, Rubel) reports, "Gonzales said recent efforts to beef up enforcement on the border must be matched by similar improvements within the justice system. … 'As we look at enhancing the personnel and resources of the Department of Homeland Security on the front end, we need to be looking at what's going to happen at the back end,' Gonzales said. … 'When we apprehend individuals, will we have adequate resources to bring them to justice? Do we have enough marshals? Do we have enough prosecutors? Do we have enough jail space? These are all things we're debating right now in Washington.'" The Sun-News adds, "Gonzales was in Santa Fe Monday morning to address a national convention of district attorneys. At a news conference later in the morning with Gov. Bill Richardson, Gonzales said he had still not given up hope that an immigration reform package could be … 'Quite the contrary, the reason I'm out here is to show how important we think this issue is,' he said. 'We still believe it can be done this year, but we're also are realistic about the number of days that are left.'"

The Dallas Morning News (8/2, Jennings) reports, "Twenty assistant U.S. attorneys will be divided among five federal law enforcement districts, including the Southern and Western districts of Texas. … Those attorneys will focus solely on immigration-related offenses, such as human trafficking, illegal re-entry and illegal employment of immigrants. Five more assistant U.S. attorneys, one in each district, will be added to prosecute drug trafficking. … 'We welcome the additional resources,' said Nancy G. Herrera of the U.S. attorney's office in Houston. 'Particularly given the increase of law enforcement presence along the border. There is a need for additional assets in the United States attorney's offices to handle cases generated by that law enforcement effort.'"

The San Diego Union-Tribune (8/2, Soto) reports, "Some criticized the announcement as a token move, but local authorities said it would help with a crush of border crime." The Union-Tribune adds, "Department of Justice officials couldn't say yesterday how many of the immigration prosecutors would come to San Diego, where the U.S. Attorney's Office has come under criticism for a changed focus on border enforcement. … 'I don't know how many I'm going to get,' said U.S. Attorney Carol Lam. 'I'd love to have all 20.'" The Union-Tribune notes, "Since taking office in 2002, Lam has been picky about which immigration cases to prosecute, focusing, she said, on the worst of the worst. … The sheer number of people accused of crimes such as entering the country illegally and smuggling immigrants and drugs makes it impossible to prosecute everyone caught by authorities, she said. … 'We draw the line at whatever point we have the resources to handle,' she said. The new lawyers 'will allow us to move that line down in terms of the cases we're able to prosecute.'"

Sessions Says Pence-Hutchison Immigration Bill Must Not Become Law. Sen. Jeff Sessions writes in the Washington Times (8/2, 88K), "The Pence-Hutchison immigration-reform proposal, like the other prominent plans, fails to address critical issues relating to meaningful immigration reform. It must not become law. … This plan swallows hook, line and sinker the idea that as long as there is a foreign worker wanting to come to America, and an American company that wants to hire the individual, the foreign worker should be admitted, allowed to work and put on a path to citizenship. This concept violates the principle followed by every other nation in the world, that immigration policy should be based on the needs of the nation, not the desires of those that want low-cost labor."

WSJournal Says Limits On H-1b Visas Should Be Raised. An editorial in the Wall Street Journal (8/2, 2.03M) says that Congress has "long played politics" with the caps on H-1b visas, "giving in to Big Labor and other protectionists who claim US businesses hire foreign workers only because they can be paid less. In fact, these professionals must be paid prevailing wages and are also more expensive to hire, thanks to cumbersome immigration and Labor Department rules." The immigration bill passed by the Senate "would raise the limit on H-1b visas and, more importantly, allow it to fluctuate with market demand. Republican John Shadegg of Arizona recently introduced a companion bill in the House.

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The US has long been a magnet for the world's top talent. But in an increasingly global economy, US employers unable to attract the necessary human capital will lose to their competitors abroad."

TAX:

Senate Report On Tax Havens Focuses On Texas Brothers. The Dallas Morning News (8/2, Reddy) reports, "Offshore trusts directed in secret by billionaires Charles and Sam Wyly were at the center of a family effort to evade U.S. taxes and quietly funnel money back into expensive jewelry, art and investments, an investigation by a Senate subcommittee alleges." The News continues, "A report on offshore tax havens by wealthy individuals squarely targeted the Dallas businessmen as prime examples of abuse. … The two men also may have misled investors by circumventing federal financial disclosure requirements and misrepresenting their role in overseas trusts, the panel said." The News adds, "The report, written by Senate staff for a Tuesday hearing of the Senate's Permanent Subcommittee on Investigations, said the Wylys used a network of 58 offshore trusts and shell corporations in the Cayman Islands and the Isle of Man in the Irish Sea to skirt tens of millions of dollars in taxes and funnel hundreds of millions of dollars back into business investments. … The Wyly brothers, who also face a federal grand jury probe, did not appear at the hearing Tuesday after informing the panel that they would assert their Fifth Amendment rights not to testify. The subcommittee chairman, Sen. Norm Coleman, R-Minn., said the Justice Department had asked him not to compel their testimony because of the ongoing federal investigation. … The Wylys maintain that their actions were legal. Their attorney, William Brewer of Dallas, said they provided hundreds of thousands of documents and cooperated in the panel's yearlong investigation."

The Charlotte Observer (8/2, Funk, Rothacker) reports, "A contrite Bank of America told a Senate investigating panel Tuesday that it waited 'way too long' before demanding key information about accounts at the center of an alleged tax shelter scheme involving two Texas billionaire brothers." The Observer continues, "Michael Conn, a private banking executive with Bank of America, told the senators the bank's policies are more stringent now. But he acknowledged that, between 2002 and 2004, the Charlotte-based bank failed to get beneficial ownership information from offshore trusts that Senate investigators believe were controlled by Dallas entrepreneurs Sam and Charles Wyly. … Anti-money laundering provisions in the U.S. Patriot Act require banks to gather such information. … 'The bank fully recognizes that its delay in demanding (ownership) information from the customers of these brokerage accounts was inconsistent with the bank's commitment to knowing its customers,' Conn told the Senate's Permanent Subcommittee on Investigations. … He then laid out factors 'that explain, but do not excuse' the bank's lax oversight of its own accounts." The Observer notes, 'Conn was one of 14 witnesses at a daylong hearing that spotlighted what Michigan Sen. Carl Levin, the top Democrat on the panel, called the use by the wealthy of 'sham trusts, shell corporations and fake transactions' to avoid as much as $70 billion in taxes."

Senate Hears From Billionaires In Probe Of Offshore Tax Abuses. The Senate Permanent Subcommittee on Investigations, which is looking into the proliferation of offshore tax abuses, yesterday heard testimony from two billionaires accused of dodging taxes and their team of attorneys and financial advisers. The Wall Street Journal (8/2, Matthews, 2.03M) reports, "Haim Saban, a media mogul and co-founder of the Fox Family network, and Robert Wood Johnson IV, philanthropist and heir to the Johnson & Johnson pharmaceutical fortune," told the panel "that they simply followed the advice of trusted advisers when they tried to use a complicated scheme to avoid taxes on hundreds of millions of dollars in capital gains." Saban testified that he "paid nearly $50 million in fees to eliminate his tax liability, and now is in negotiations with the IRS to pay back taxes and penalties. Mr. Johnson said his payments…totaled about $5 million, and that he settled earlier this year with the IRS, paying back taxes and penalties."

Pearlstein Says Hearing Will Have Little Effect. Steven Pearlstein writes in the Washington Post (8/2, D1, 748K) that as yesterday's hearing ended, Sen. Carl Levin "declared the abuse of offshore tax havens by individuals, corporations and hedge funds to be 'totally out of control' -- the equivalent of 'economic warfare against the United States.' But it was hard to see that Levin's urgency, let along his sense of outrage, had much of an effect on the blue suits as they ambled out of the air-conditioned hearing room into the oppressive heat of the Washington afternoon. Another day, another hearing, another fee."

Treasury, IRS Propose Tougher Tax Rules For Multinational Companies. The Treasury Department and the IRS yesterday issued proposed regulations to revamp how companies account for the transfer of services and intellectual property to their affiliates in and outside the US. The Wall Street Journal (8/2, Matthews, 2.03M) reports that the proposed rules will likely result in "stricter tax compliance rules and bigger tax bites" for multinational companies operating in the US. The proposed rules, "while not exhaustive, attempt to simplify and stop companies from classifying the profits from intellectual property to the country with the mildest tax bite. The proposal also aims to clarify

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how companies classified certain taxable income from their affiliates."

CONGRESS-ADMINISTRATION:

Three GOP Senators May Be Wavering On Bolton Confirmation. The Washington Post (8/2, A13, Kamen, 748K) reports in its "In the Loop" column that with the Senate Foreign Relations Committee holding off on a vote on UN Ambassador John Bolton's confirmation until September, "Hill chatter has it that maybe confirmation of Bolton's temporary appointment isn't a done deal after all. … The buzz is that three Republicans might be wavering: Sens. Chuck Hagel (Neb.), Lincoln D. Chafee (R.I.) and John E. Sununu (N.H.)." The Post adds that "Bolton backers on Foreign Relations said the confirmation is on track and the delay won't affect it."

FDA Nominee Faces Questions On Plan B. The Washington Post (8/2, A13, Weiss, 748K) reports, "Acting Food and Drug Administration Commissioner Andrew C. von Eschenbach struggled yesterday to convince a Senate committee that he deserves to lead the agency on a permanent basis, but his efforts were repeatedly undercut by tough questions about the agency's flagging reputation and its snail's-pace review of the emergency contraceptive pill Plan B." The Post adds, "Without exception, members of the Senate Committee on Health, Education, Labor and Pensions praised von Eschenbach's résumé, which includes a long and successful career at the University of Texas M.D. Anderson Cancer Center and a four-year stint as director of the National Cancer Institute." But "despite -- and in part because of -- von Eschenbach's surprise announcement Monday that the agency is reviving a stalled effort to make Plan B available without a prescription, the surgeon and three-time cancer survivor found himself accused of furthering the politicization that critics say has sullied the agency."

The AP (8/2, Bridges) says "senators hammered von Eschenbach about the timing and substance of a surprise FDA announcement." Democratic Sen. Tom Harkin said, "We all know what's going on here. … This is a disregard for science out of ideological concerns." The committee "did not vote on von Eschenbach's nomination. Sens. Hillary Clinton, D-N.Y., and Patty Murray, D-Wash., have placed a hold on the nomination until the FDA makes a final decision on the emergency contraceptive. Clinton said the hold was intended to 'draw a line' against 'politicizing the FDA.'"

McClatchy (8/2, Pugh) reports Von Eschenbach "testified that the decision to bar over-the-counter sales to women younger than 18 'was based primarily around our ability to manage' the sales of the drug, but he did not specify how. He also said input from public-comment letters helped determine the new age limit for 18-year-olds, but again did not explain how." The New York Times (8/2, Zernike, 1.21M) also reports the story under the headline "Despite Action On Plan B, FDA Nominee Is In Limbo."

NYTimes Says Democrats Are Right To Threaten To Block Confirmation. The New York Times (8/2, 1.21M) editorializes that "skeptical Democratic senators are right to threaten to block a confirmation vote on Dr. von Eschenbach as permanent commissioner until the agency actually decides whether the morning-after regimen can be made available without prescription, at least for women ages 18 and older." The Times adds, "Any attempt to hold up Dr. von Eschenbach's nomination could be circumvented by a recess appointment by President Bush. But if Dr. von Eschenbach hopes, as he said yesterday, to be the Senate's choice, not just the president's, he would be wise to ask Mr. Bush to let the process move forward."

Labor, Kennedy To Question Nominee's Work With Wal-Mart. The White House Bulletin/US News (8/1) reported Paul DeCamp, "nominated January 31 as Labor's administrator of the Wage and Hour Division, was set to face new questions today from labor Democrats led by Sen. Edward M. Kennedy." Kennedy aides "said today that they called for a hearing of the Senate Committee on Health, Education, Labor and Pensions to go over concerns about DeCamp's legal work for Wal-Mart and his efforts to limit overtime. It's part of a larger Democratic bid to focus on the huge retail employer and the Administration's opposition to greatly boosting the minimum wage, an issue Democrats believe they can use to their benefit in the fall elections." The AFL-CIO has "led the effort to block DeCamp and Kennedy is expected to touch on some of big labor's research into the nominee. On the AFL-CIO website, for example, they headline a critical article on DeCamp as 'Another Bush Fox Heading for the Henhouse.'" Kennedy's office said "the senator will focus on articles DeCamp has written that would cut the number of workers eligible for overtime; his representation of Wal-Mart in a sex discrimination case; and his policy work for Labor."

Frist Will Only Consider Minimum Wage Hike If Linked To Estate Tax Reduction. The Senate is preparing for a showdown vote on Friday on a bill that packages an increase in the minimum wage with a reduction in the estate tax and several popular tax breaks. The AP (8/2, Dalrymple) reports Sen. Frist said the "only opportunity this year to increase the minimum wage and renew popular tax breaks will be linked to a reduction in the estate tax." But Sen. Reid "criticized the GOP's 'take it or leave it' approach." It's a "major political battle for both parties as they head toward an election with control of Congress at stake.

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Republicans hope to neutralize one of the Democrat's biggest issues, the minimum wage, while scoring a victory on one of their own, the estate tax." The bill "links a $2.10 increase in the $5.15 hourly federal minimum wage, phased in over three years, with a reduction of estate taxes." Carried along "in the package are a host of popular tax breaks that expired last year. They include a research and development credit for business, along with deductions for college tuition, state sales taxes and classroom supplies purchased by teachers."

CQ (8/1, Van Dongen, Crittenden) reports Majority Leader Bill Frist "will spend the week hunting for the votes he currently lacks to clear a bill that would cut the estate tax and raise the minimum wage — and he will delay the start of the chamber's August recess if necessary." Meanwhile, Minority Leader Harry Reid "is working overtime to try to defeat the estate tax-minimum wage measure (HR 5970), and he is likely to make the vote an important test of party loyalty during an election year." The "estate tax-minimum wage fight is shaping up as a battle of wills between Frist and Reid. While Frist said Tuesday he believed he would find 60 votes to clear the bill, Reid sounded equally certain that he would kill it."

The Atlanta Journal-Constitution (8/2, Geewax, 399K) reports Senate Republican leaders "adopted a 'now or never' stance Tuesday as they began an attempt this week to pass one bill to reduce inheritance taxes and another to overhaul the private pension system." If Frist "gets his way on taxes, the Senate could move quickly to approve the long-awaited pension package, which contains special aid for financially troubled airlines Delta and Northwest."

Bill "Loaded Up" With Popular Tax Breaks Aimed At Democratic Senators. The Washington Times (8/2, Fagan, 88K) reports "Republicans have loaded up the bill" with "a host of popular tax breaks that Democrats will find painful to oppose, including help for teachers, miners and college students." Several provisions "target Democrats in tough races and Republicans want to make them instant issues in this year's elections. For example, the bill has provisions to allow mine operators to write off half their expenditures for safety equipment, and gives them tax credits for some mine-rescue-training programs. Another provision provides a tax deduction to the timber industry." A Senate Republican aide "said the timber and mining tax breaks target two Democrats running for re-election in states where those industries play a major role in the economy -- Sens. Maria Cantwell of Washington and Robert C. Byrd of West Virginia, respectively."

CQ (8/1, Raju) reports the debate on the minimum wage/estate tax bill "could hinge on an obscure provision in the legislation that would provide cash for cleaning up abandoned coal mines. Senate Republicans are just a few votes short of what they need to clear the bill, (HR 5970), and the mining provision is aimed squarely at winning over two West Virginia Democrats — Robert C. Byrd and John D. Rockefeller IV." Republican strategists "hope that all of the coal provisions — but especially the mine reclamation language — will win over a critical few Senate Democratic votes." On June 8, "the six Democratic cosponsors" of the bill offered by Sen. Rick Santorum's "either were not present or voted against a motion to limit debate and call up a bill that would fully repeal the estate tax (HR 8). The 57-41 vote fell three short of the 60 votes needed to invoke cloture." Now, "at least two of the six — Byrd and Rockefeller — are mulling whether to back the new House package."

The Wall Street Journal (8/2, Rogers, 2.03M) reports, "Sparing no expense to win votes for estate-tax cuts, Republicans propose to revive generous business-travel deductions for spouses to appeal to Democrats from tourism-dependent states such as Hawaii." A provision "tucked into a House-passed estate- tax bill" authorizes "what amounts to a 17-month holiday during which the more-relaxed rules -- predating 1993 tax changes -- would again apply. The temporary arrangement would end Jan. 1, 2008, at an estimated cost to the Treasury of almost $60 million." Ways and Means Committee Chairman Bill Thomas (R., Calif.) "added it to the new estate-tax package in an apparent effort to woo Sen. Daniel Akaka (D., Hawaii) into supporting the bill in a showdown Senate vote Friday." Sen. Akaka is "caught up in a closely fought primary battle next month against Rep. Ed Case (D., Hawaii), who supports the estate-tax cut and has sought to present himself as a moderate appealing to independents in the open primary."

House Republicans Could Face Campaign Ads On Minimum Wage. The White House Bulletin/US News (8/1) reported the Democratic Congressional Campaign Committee is "considering airing critical TV ads against Republicans who've voted to nix an increase in the minimum wage but OK'd a boost in their own pay." Insiders said that "they already tested the strategy in Indiana and plan to expand it in other states where there are close races. While in the past the issue was a winner only in poor, or blue collar districts populated with workers toiling at the low wage, Democrats now see it as a broader values issue." An official "explained that the wage is considered by most as too low and threatens the livelihood of those on it and that most voters are now sympathetic to their plight. Of special focus are Republicans who've also voted to boost their own congressional pay." Officials said that "all past votes, not just the latest, will be researched and used for any upcoming TV ads."

GOP Linkage Of Estate Tax, Minimum Wage Criticized. In his Washington Post column (8/2, A15), Harold Meyerson says, "Appended to the minimum wage hike that the vast majority of" Republicans "opposed was a provision genuinely dear to their hearts: A cut in the estate tax that chiefly benefits the super-rich and that will reduce

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government revenue over the next decade, according to the Center on Budget and Policy Priorities, by $753 billion. The shortfall could well lead to offsetting cuts in programs that benefit the same working poor that the minimum-wage increase would help. But who cares about the poor? The whole point of the exercise was to come up with a bill that might force some Democrats to vote for an estate tax cut they would otherwise oppose, and enable Republicans to claim they weren't really the Dickensian grotesques that many of them in fact are."

Pension Bill Would OK "Automatic Enrollment" For 401(k) Programs. The Los Angeles Times (8/2, Peterson, 918K) reports the employers of a "growing number of U.S. workers" have "steered them into retirement savings plans without waiting for them to ask. The practice, known as 'automatic enrollment' -- or, to some workers, 'forced saving' -- is a tradition-breaking effort to push people into putting money away for the future." Under the pension-reform bill "that the House approved Friday and the Senate is expected to take up this week, companies for the first time would be granted legal assurance that they could unilaterally shift some of a worker's pay into a retirement savings plan, such as a 401(k) program, unless the employee specifically opts out." That "could have ramifications for the economy: At a time when consumer spending is weakening, forced saving could worsen that trend by cutting into workers' disposable income. But advocates say the long-term benefits are worth any short-term pain."

Grassley CQ (8/1, Ota) reports, "They went to church Sunday and, by some accounts, Senate Finance Chairman Charles E. Grassley, R-Iowa, found religion in a plan to move the pension overhaul bill without his business tax cut extensions. At least that's the story one senator and several GOP aides are telling about a trip to an Iowa chapel that Grassley took over the weekend with Senate Majority Leader Bill Frist, R-Tenn." Grassley hasn't "said anything publicly in the way of an endorsement, but his mood, a senator said Tuesday, is markedly different than it was last week when he had a bitter exchange with Frist, who cut a deal with House Republicans to move the pension bill (HR 4) sans extensions." Republican aides "say Grassley agrees with the substance of both measures. But, as one put it, 'The problem we have here is that Grassley hasn't uttered a word on this. How do we know he's seen the light?'"

WPost Criticizes Pension Bill For Leniency To Airlines. The Washington Post (8/2, A14, 748K) editorializes that the House pension bill's "main focus is defined-benefit retirement plans. Employers are not putting enough money into these plans to fund the pension promises they've made: The gap is estimated to be $450 billion." Unfortunately, "the House phases these reforms in slowly, and it has been especially lenient toward airlines. Northwest and Delta are getting an astonishing 17 years in which to fund their pension promises, and they are allowed to assume that the investment returns on their pension assets will be 8.85 percent -- about a third higher than other companies are permitted to assume. American and Continental are being treated less generously, though they still get away with looser provisions than companies in other industries."

Cheney Remains Popular In Home State Of Wyoming. Roll Call (8/2, Jacobson) reports, "Blame the war in Iraq, his dry personal style or the frenzy over his Texas hunting accident, but nationally, Vice President Cheney's approval numbers are in the doldrums." A June Harris poll showed his national job approval rating at 31%-65%, but "there's always Cheney's home state of Wyoming. Here, discussions with politicos in both parties suggest that Cheney has retained much of his popularity in the Equality State." Democratic Gov. Dave Freudenthal said, "I think he still enjoys considerable support." Roll Call adds while Freudenthal's "assessment is based on anecdotal evidence from traveling the state rather than on poll data, he estimates that Cheney's in-state popularity is in the 'high 50s,' though he said it likely has slipped some over the past few years." While Cheney "took some ribbing in the national media when he had to rush back to Wyoming in 2000 to re-register to vote in his native state (he had voted in Texas while serving as CEO of Halliburton), people here say that Cheney remains a significant presence in the state. He lives in Jackson Hole and returns frequently with his family."

Annual Physical Finds Bush Healthy, Slightly Heavier. The AP (8/2, Loven) reports President Bush's doctors "pronounced him healthy and in better shape than most men his age Tuesday, but the president himself seemed a little upset about packing on some extra pounds." The doctors "treated a small precancerous lesion on his left arm but indicated it was nothing serious. They told him to use sunscreen and wear a hat." Bush's annual physical "took more than four hours and was conducted by a team of nine doctors, overseen by White House physician Richard Tubb and Dr. Kenneth Cooper, the president of the Cooper Aerobics Center in Dallas. The group included skin, hearing, heart, eye and sports medicine specialists." The scale "showed Bush at 196 pounds. He was 191.6 pounds at his exam last July. The physical also found the president shorter by a quarter of an inch, at 5 feet 11 1/2." A four-page "medical summary that accompanied the brief doctor's statement said Bush remains in the 'superior' fitness category for a man of his age, in the 99th percentile."

The New York Times (8/2, Stout, 1.21M) reports President Bush "continues to enjoy robust health but has put

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on a little weight, the White House said Tuesday after the president's annual physical examination." White House spokesman Tony Snow said, "He's up to 196, I believe." The Times adds Snow "said Mr. Bush's standing heart rate was 46 beats a minute and his cholesterol 174. Both are little changed from a year ago and are normal for a fit man Mr. Bush's age. He turned 60 on July 6." Bush "said, 'I'm doing fine, my health is fine,' after being examined at the National Naval Medical Center in Bethesda, Md. And he said he knew why he had put on weight since last summer: 'I probably ate too many birthday cakes.'"

The Washington Post (8/2, C3, Argetsinger, Roberts, 748K) reports, "Is President Bush a seesaw dieter? He gained six pounds in the year and a half before the 2004 elections, then lost eight pounds by last summer -- only to regain five pounds since then, according to the results of his annual physical yesterday. He now weighs in at 196. 'Too many birthday cakes,' explained POTUS, who celebrated his 60th last month, as he exited National Naval Medical Center." The Post adds doctors "nonetheless declared him 'fit for duty.'" White House spokesman Tony Snow said, "He's still healthier than we are."

Former White House Press Secretaries To Attend Final Briefing In Old Press Room. The Washington Post (8/2, C3, Argetsinger, Roberts, 748K) reports today is "the last day reporters will meet in the West Wing's ratty old press room, so a celebration is in order: Former White House press secretaries Jim Brady, Marlin Fitzwater, Jody Powell, Ron Nessen, Joe Lockhart and Dee Dee Myers will join Tony Snow at the last briefing this afternoon. The press corps is decamping across the street to Jackson Place until long-overdue renovations -- state-of-the-art technology and wider seats -- and rat extermination are completed next May."

Aides Question Cox's Use Of Member's Spouse Pin To Lobby Lawmakers. Roll Call (8/2, Akers) reports in its "Heard on the Hill" column that House and Senate aides "are buzzing" about Rebecca Cox, wife of former Rep. and current SEC Chairman Chris Cox, and her use of a Member's spouse pin while lobbying for Continental Airlines on the pension bill. Aides "saw Cox at 1:15 a.m. standing outside the office of Senate Majority Leader Bill Frist (R-Tenn.), where conferees were scheduled to be meeting (though, in reality, they had moved down the hall to another Senator's hideaway). Cox, they said, was wearing her spouse pin conspicuously on a necklace." A senior GOP aide "said he found Cox's move 'shocking' in this era of ethics and lobbying reform, though he had to acknowledge, grudgingly, that Cox did one heckuva job for Continental by snagging such great access."

"French" Fries Are Back In House Cafeterias. The Washington Times (8/2, Bellantoni, 88K) reports, "Three years after House Republicans trumpeted the new names to get back at the French for snubbing the coalition of the willing in Iraq, congressmen don't even want to talk about french fries, which are actually native to Belgium, and toast. Neither Reps. Bob Ney of Ohio nor Walter B. Jones of North Carolina, the authors of the culinary rebuke, were willing this week to say who led the retreat, as it were, from the frying pan. But retreat there has been, as a casual observer can see for himself in the House's basement cafeterias."

Efforts To Rein In Activist Judges Praised. Tom McClusky, vice president for government affairs for the Family Research Council, writes in USA Today (8/2, 2.27M), "Recent legislation seeking to rein in judicial activism is an effort to restrain judicial power within the limits of Constitutional design, not an attack on 'judicial independence.'" The courts "should not be allowed to operate as a legislative judiciary. They are subject to the same system of checks and balances that are ever-present in the US Constitution. … Judicial independence of opinions is a sacred foundation of government, but a court system answerable to no one dangerously weakens that foundation."

USA Today Decries "Assault" On Judicial Independence. An accompanying editorial in USA Today (8/2, 2.27M) says judges across the country "are facing a broad assault on their independence that threatens to undermine the nation's tradition of judicial autonomy and every citizen's ability to get a fair shake." USA adds, "Free speech gives everyone the right to boo the umpires, and the judges. But threats to sue, restrict, remove or even kill them for unpopular decisions have no place, either on the ball field or in the courtroom."

OTHER NEWS:

Paulson Says Economy Not Benefiting All Americans. The New York Times (8/2, Weisman, 1.21M) reports, "Treasury Secretary Henry M. Paulson Jr., delivering his first public remarks since taking office last month, said yesterday that he recognized that the economy was not benefiting all Americans. … It was an unusual concession from a high-ranking official in an administration that has spoken only glowingly of recent economic gains and has generally joined with Republicans in Congress by dismissing Democratic concerns about growing economic inequality in the United States as 'class warfare.'" The Times adds, "On the crucial issue of currency values, however, Mr. Paulson stuck much closer to the traditional script for Treasury secretaries, promising to support a strong dollar." But "he offered a hint that he might try to become even more active

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than his predecessor in dealing with tensions with China over its currency, which many economists say is set artificially low and is aimed at spurring exports to the United States."

The Wall Street Journal (8/2, Solomon, 2.03M) reports Paulson was "aiming to distinguish himself from his two most recent predecessors." He also "used his first speech to call for a bipartisan approach to reducing the budget deficit and acknowledged that the gap between the best- and worst-paid workers has widened on President Bush's watch." Paulson's "whirlwind schedule of New York appearances yesterday kicked off a campaign to establish the former Goldman Sachs chief executive as a voice on the economy who will reassert the Treasury Department's influence. That differs from Mr. Bush's first Treasury secretary, Paul O'Neill, and his second, John Snow, who was widely seen as a salesman of policies he didn't influence." While "he credited President Bush's tax cuts with spurring economic growth," Paulson "used his maiden speech not to serve as a cheerleader but to list financial and economic challenges facing the US."

The Financial Times (8/2, Luce) reports on the Secretary's "hard-hitting speech at Columbia University in New York," where he "set out an ambitious economic policy agenda for the remaining thirty months of the Bush administration. Mr Paulson pledged that the US would do what it could to revive the Doha round of world trade talks that collapsed in Geneva 10 days ago." He also "made a strong call for a renewed bipartisan effort to overhaul America's social security system and other entitlement programmes and a strong hint that America's controversial Sarbanes-Oxley (Sox) law should be diluted."

In what the Financial Times (8/2, Luce, Wighton) calls a "Clear hint" that he is ready to support reform of the Sarbanes-Oxley rules, Treasury Secretary Hank Paulson said in a speech "that he felt the regulatory 'pendulum' had swung too far in response to the Enron and WorldCom corporate scandals and that 'we need to go through a period of readjustment.'" Paulson "did not mention the Sarbanes-Oxley Act by name, but his comments will be taken as clear support for the growing number of US and foreign executives calling for a watering down of the rules." The Times adds, "Mr Paulson's comments, at the start of his speech, are the strongest indication yet that the administration of President George W. Bush is heeding the criticism of the rules."

Economic Reports Cast Doubt On Next Fed Move. The Financial Times (8/2, Hughes) reports, "Data on Tuesday showing both healthy economic activity and rising inflation have re-ignited the debate over whether the Federal Reserve will raise interest rates when it meets next week." The Institute for Supply Management's July manufacturing activity index "unexpectedly rose, reaching 54.7 from 53.8 and outstripping expectations of a slight dip. Earlier, the Commerce Department's personal income and expenditure report showed a rise in core inflation of 0.2 per cent in June for an annual rate of 2.4 per cent – above the Fed's 2 per cent 'comfort zone' assumed by the market."

The Wall Street Journal (8/2, Conkey, 2.03M) reports the Commerce report also "showed that inflation-adjusted consumer spending rose 0.2% in June for the third consecutive month, another sign that economic growth has moderated following a surge in the first quarter and another run-up in energy prices in the spring. Personal income rose 0.6% in June following a 0.4% gain in May, and the personal-saving rate was a negative 1.5% of disposable personal income in June compared with a negative 1.6% in May." USA Today (8/2, Kirchhoff, 2.27M) runs a similar story titled "Consumers Cut Spending In June," while the Christian Science Monitor (8/2, Scherer, 58K) reports that "if the economy is slowing down, as reports appear to indicate, it seems no one told the human resources department. Corporate bosses are still adding to payrolls in a relatively healthy manner, Wall Street economists say. It also appears that companies have yet to hand out the pink slips. … A robust labor market may well tip the Fed toward raising interest rates for the 18th consecutive time. But if there are signs that pressures on the labor market are easing, the Fed might feel more comfortable taking a pause."

Stocks Lower Yesterday. NBC Nightly News (8/1, story 10, 0:10, Williams, 9.87M) reported, "On Wall Street today, stocks finished lower. The Dow was down just under 60 points [to close at 11,125.73]. NASDAQ lost 29.5 points [to close at 2,061.99]." The Wall Street Journal (8/2, Browning, 2.03M) reports "the Standard & Poor's 500-stock index fell 0.45%, or 5.74 points, to 1270.92, up 1.8% this year."

MoveOn Wants Greater Say In Democratic Party's Direction. In its "Washington Wire" column on its web site, the Wall Street Journal (8/1, 2.03M) reported that the Democratic US Senate primary in Connecticut is "the most visible battle yet between the Democratic establishment and MoveOn.org's increasingly aggressive and influential online group's political arm, MoveOn Political Action." With "a $25 million budget and 3.2 million members…the group could make a big difference in close contests around the country. The price MoveOn is asking for that aid is a bigger voice in what Democrats would do with their power. The group that made its mark opposing President Bush's 2004 re-election is now trying, over the objections of some Democratic leaders, to push its own party leftward, particularly on Iraq."

Democratic Leaders Worry GOTV Plan Is Lacking. The Washington Post (8/2, A1, VandeHei, 748K) reports in a front page story, "Top Democrats are increasingly concerned that they lack an effective plan to turn out voters this fall, creating tension among party leaders and prompting

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House Democrats to launch a fundraising effort aimed exclusively at mobilizing Democratic partisans." Congressional aides said that at a meeting last week, House Minority Leader Nancy Pelosi "criticized Democratic National Committee Chairman Howard Dean for not spending enough party resources on get-out-the-vote efforts in the most competitive House and Senate races, according to congressional aides who were briefed on the exchange." Pelosi "has warned privately that Democrats are at risk of going into the November midterm elections with a voter-mobilization plan that is underfunded and inferior to the proven turnout machine run by national Republicans." The Democratic Senatorial and Congressional Campaign Committees "are creating their own get-out-the-vote operations instead, using money that otherwise would fund television advertising and other election-year efforts." DCCC Chairman Rahm Emanuel "is planning to ask lawmakers and donors to help fund a new turnout program run by House Democrats. He recruited Michael Whouley, a specialist in Democratic turnout, to help oversee it." The Post also notes Rep. Charles B. Rangel (N.Y.), "who would become chairman of the Ways and Means Committee if Democrats picked up the 15 seats needed to regain the majority, said in an interview yesterday that he will quit Congress if the party does not capitalize on an unparalleled opportunity."

Member Dues Boost DCCC's Coffers. Roll Call (8/2, Kornacki) reports a Federal Election Commission report "shows that House Democrats have raked in almost twice as much in campaign cash from Members as their Republican counterparts." House Republicans, meanwhile, cautioned "that the study's findings — which few would have predicted a year ago — offer an incomplete portrayal of the fundraising picture, because the House GOP's 'Battleground' initiative is just getting under way." Through June 30, the Democrats "had chipped in $15.1 million — almost twice the $7.9 million given by GOP Members to the NRCC. The figures do not account for contributions from Member-controlled political action committees, which can give up to $30,000 per cycle and which many Members tap to help meet their dues obligations." The report suggests "that dues money is a key reason why the Democratic Congressional Campaign Committee, in a surprising development, actually had $5.5 million more in cash on hand through the end of June than the National Republican Congressional Committee did." The DCCC's "balance as of June 20 was $31.9 million," while the NRCC has "$26.5 million in cash on hand as of June 30."

Lieberman Expects US Troop Withdrawal From Iraq This Year, Opposes Timetable. The New York Times (8/2, Medina, Confessore, 1.21M) reports Sen. Joseph I. Lieberman "said on Tuesday that he remained confident that the United States could begin withdrawing troops from Iraq as early as the end of this year, but he continued to oppose any efforts by his fellow Democrats to set a timetable for that withdrawal." Lieberman's comments "did not represent a change in his position on the war, which has become a central issue in his closely contested Democratic primary race against an antiwar candidate, Ned Lamont." But they "were among his most detailed remarks about Iraq in recent weeks, and come at a time when some of his allies have criticized him for having waited too long to address the concerns many Democrats have about the war." Lieberman said, "My own hope still is that we will be able to begin that withdrawal by the end of the year. I think that's going to be determined by experts on the ground."

Some Democrats Prepared To Campaign Against Lieberman. The New York Times (8/2, Kornblut, 1.21M) reports, "Some factions within the national Democratic Party are quietly preparing to campaign against" Sen. Lieberman "if he loses the primary on Tuesday and runs as an independent in the general election in November, numerous Democrats said yesterday." Although Mr. Lieberman "has attracted support from several of his Senate colleagues — and former President Bill Clinton appeared with him in the state last week — only a handful have pledged to remain loyal to him if he loses to his antiwar challenger" and "mounts an independent campaign." Some "forces within the party, including Senator John Kerry of Massachusetts, will be willing to campaign actively for Mr. Lamont if he is pitted against Mr. Lieberman in the general election, many Democratic officials said." Some Democratic officials "also say the Democratic National Committee will probably support Mr. Lamont if he wins the primary, though Howard Dean, the party's chairman, has been neutral leading up to the primary."

Connecticut Senate Primary Seen As Defining Race For Democratic Party. The Christian Science Monitor (8/2, Feldmann, 58K) reports Tuesday's Democratic Senate primary in Connecticut "is no longer just about one senator's career; it's about the future of the Democratic Party." A "primary victory by Ned Lamont, the businessman who took on" Sen. Lieberman "over his fierce support for the Iraq war and his criticism of Democrats who 'undermine presidential credibility' would embolden the Republican Party to paint the Democrats as untrustworthy on national security and willing to purge those who differ with the left, analysts say."

The Washington Post (8/2, C1, Segal, 748K) reports the Democratic Party rank-and-file "anger has transformed Lamont from unknown rich guy into Lieberman's worst nightmare." No matter what happens, the Lamont surge looks and sounds like a towel snap at the status quo. This is not merely about the war, say strategists with both camps, but the larger question of what Democrats should do to regain power -- and in the absence of power, how they should behave in opposition. Should they move to the center and accommodate the red-state voters who have sidelined

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them two elections in a row? Or move to the left and fight, consequences be damned? Leftward and fight, say a bunch of highly agitated bloggers, who have been pouring their fury into cyberspace and whipping up money and crowds for Lamont." What's "certain is that the blogs are flexing their political muscle just as a ballooning number of voters in Connecticut have come to the conclusion that their very blue state now needs a very blue senator. If nothing else, Lamont has excellent timing."

At-Risk GOP House Members Hope For Lieberman Loss, Three-Way Senate Race. Roll Call (8/2, Duran) reports that when Lieberman's "re-election campaign leapt from the snoozer to the must-watch column, national Democrats looking to pick up House seats there must have seen cause for alarm." A "showdown like the one between Lieberman and millionaire businessman Ned Lamont (D) certainly has the potential to suck up a state's political oxygen. Yet none of the three highly touted Democratic challengers in the Constitution State is ready to say that has happened — at least not yet." If Lieberman loses the primary, "how a three-way Senate contest would affect downballot races remains to be seen, but the spirited primary has not dampened enthusiasm for the House challengers, Democrats maintain." But Republicans "argue that a split between a sitting Democratic Senator and a newly minted Democratic nominee — should Lamont prevail Tuesday — inevitably is bad news for Diane Farrell, Joe Courtney and Chris Murphy, who hope to topple GOP Reps. Christopher Shays, Rob Simmons and Nancy Johnson, respectively."

McKinney Trails Johnson By 15 Points In Democratic Primary Runoff. WXIA-TV Atlanta (8/2, King) reports on its Internet site that a "new InsiderAdvantage/Majority Opinion poll for the Democratic primary runoff in Georgia's 4th Congressional district shows challenger Hank Johnson maintaining his lead over incumbent US Representative Cynthia McKinney by a full 15 percentage points as the runoff election looms closer." The poll shows 49% would vote for Johnson; 34% would vote for McKinney; and 17% were undecided. The "tracking survey of 300 likely voters was conducted the evening of July 31, and has a margin of error of plus or minus six percent."

CNN's The Situation Room (8/1, Cafferty) reported that the latest polling shows Rep. Cynthia McKinney "trailing by 15 percentage points heading into next Tuesday's runoff election against former DeKalb County commissioner Hank Johnson, who is also black. McKinney's congressional district is mostly black and heavily Democratic, so one could presume that the winner of that runoff next week will be the winner of the congressional seat."

Several Senior Republicans Face Unusual Challenges. The Los Angeles Times (8/2, Hook, 918K) reports, "With the political winds blowing squarely against the GOP, several senior lawmakers are facing unusually serious challenges that have forced them to dust off campaign tools that, in some cases, are a bit rusty." Rep. Deborah Pryce (R-Ohio) "decided to air her first television campaign ad early to set the tone for what promised to be a tough reelection fight. But when the ad was broadcast in June, it contained an embarrassing error." Pryce's "first name was spelled 'Deboarah.'" In California, Rep. John T. Doolittle (R-Roseville) "has agreed to debate a Democratic opponent for the first time in more than a decade. Rep. Richard W. Pombo (R-Tracy) has expanded his campaign staff beyond what had been a tight inner circle — and spent more money in the process." In Connecticut, GOP Rep. Nancy L. Johnson, "in her 24th year in Congress, has already aired five expensive television ads. In New York, supporters of Republican Rep. James T. Walsh of Syracuse goofed at one event by distributing 4-year-old campaign literature." With Democrats "needing a 15-seat gain to win control of the House, most of their top targets are junior GOP lawmakers or perennially vulnerable incumbents in swing districts. But they almost assuredly will have to beat more-entrenched Republicans like Pryce to win a majority." But the senior Republicans "have one advantage that Democrats did not have in 1994. Then, many of the party's incumbents did not realize they were in trouble until it was too late to do much about it. This year, GOP leaders already have sensed political danger and urged lawmakers to gear up."

Stem Cell Issue Could Be Key In Some House Races. Roll Call (8/2, Schmidt) reports Wisconsin State Assembly Speaker John Gard "repeatedly has backed state GOP efforts to ban human cloning that would impose limits on embryonic stem-cell research and also supported President Bush's veto of Congress' stem-cell bill last month." Democrats "across the country hope to take advantage of the positions of Republican candidates like Gard on stem cells, confident that a solid majority of Democrats and centrist voters believe blocking research on new embryonic lines will halt progress toward cures for diseases such as diabetes and Alzheimer's." Some believe "the issue could be pivotal in Wisconsin's most competitive Congressional contest, the race to replace Rep. Mark Green (R) in the Green Bay-area 8th district." Gard is "expected to win the Sept. 12 Republican primary easily over his Assembly colleague, Terri McCormick. The three candidates competing in the Democratic primary are allergist Steve Kagen, former Brown County Executive Nancy Nusbaum and business consultant Jamie Wall." A mid-July Fairbank, Maslin Maullin & Associates poll "conducted for Kagen's campaign showed

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him leading Gard by 10 points in a trial heat and gave Gard a 15-point lead over Nusbaum."

New Hampshire May Move Presidential Primary To 2007. The AP (8/2, Magruder) reports New Hampshire "might schedule its presidential primary in late 2007 if the Democratic Party moves ahead with plans to add a caucus to the early nominating calendar," Secretary of State William Gardner said. Gardner said he "hopes he won't have to take that step, but he expects even more challenges to New Hampshire's tradition of holding the nation's earliest presidential primary." A Democratic National Committee panel "voted last month to let Nevada hold nominating caucuses in January 2008, between Iowa's traditional leadoff caucuses and New Hampshire's primary." If the Nevada plan "goes forward, New Hampshire law will require Gardner to decide whether the Nevada event is a 'similar election' to the New Hampshire primary. If he decides it is, the law would require him to schedule the primary at least a week earlier."

Marcus Suggests Changes To Congressional Fundraising Rules. Ruth Marcus writes in the Washington Post (8/2, A15, 748K), "Everyone knows that members of Congress have to spend ridiculous amounts of time raising money. Everyone knows that lobbyists have to give ridiculous amounts of money to members of Congress -- and spend ridiculous amounts of time helping them raise even more." But the "blizzard of round-the-clock check-writing opportunities offered a glimpse of the frenzied desperation of politics today, in which success is measured by the ability to devise clever new ways to wring more cash out of the same old crowd." Marcus adds that "a combination of beefed-up disclosure and tighter rules could help. Lobbyists ought to be required to report not only how much they've given to lawmakers but also how much they've collected for them. … More fundamentally: Bar lawmakers from using campaign funds to dispense cash to other politicians, directly or through party committees." Marcus also calls for the abolition of leadership PACs.

WSJournal Sees Lawyers As Culprits In Bogus Silicosis Suits. The Wall Street Journal (8/2, 2.03M) editorializes, "Last week the lawyers who've orchestrated the great silicosis lawsuit scam even tried to clam up before Congress. Still, the Members elicited some extraordinary information from these attorneys, who a federal judge blasted last year for having ginned up some 10,000 bogus silicosis cases." The Journal adds, "Last week's hearing left much unanswered, but it was a start. Federal and state investigations into the silicosis scam so far have focused mainly on doctors and screening companies who were on the front-lines of recruiting patients. It's now clear that these were small fry. They were taking orders from those who stood to profit most from more lawsuits: the lawyers. All roads lead back to them."

Rice Says US Will Oppose Any Ceasefire Lacking Provisions To Disarm Hezbollah. Secretary of State Condoleezza Rice took to the airwaves Tuesday to reiterate the US position that there "can be no cease-fire in the Middle East until there is a solid plan in place to disarm Hezbollah," the New York Times (8/2, Rutenberg, Shanker, 1.21M) reports. Rice "had seemed to be ready to hasten the diplomatic effort to end the crisis as she prepared to leave Jerusalem for home on Monday, saying a solution was possible this week." But following a meeting with President Bush at the White House Monday night, "the administration strongly reiterated its message: a cease-fire will not be hastened without a plan to make it a lasting one."

In an appearance on Fox News' The O'Reilly Factor (8/1), Rice said, "We think it's very important that after these events are over that we will not have a return to the status quo. … If we don't work for a ceasefire that will be lasting and enduring, then we're going to be right back here in several months talking about another ceasefire." Rice made similar comments on PBS NewsHour (8/1, Lehrer), saying, "The diplomacy is moving ahead. During the time that I was in the Middle East, I had a lot of very fruitful conversations with both the Lebanese and with the Israelis on what it would take to end this conflict on a basis that would not permit a return to the status quo." She also said a ceasefire this week "is entirely possible. Certainly, we're talking about days, not weeks, before we are able to get a cease-fire." The Washington Times (8/2, Mitnick, 88K) notes Rice's statement that a settlement could come this week.

Bush Said To Differ From Father On Attitude Toward Israel. The New York Times (8/2, Stolberg, 1.21M) analyzes the differences between President Bush and his father on US policy toward Israel, writing that "the first President Bush had been tough on Israel, especially the Israeli settlements in occupied lands." But in a March 2001 White House meeting, "the new president signaled a strong predisposition to support Israel. 'He told [Ariel] Sharon in that first meeting that I'll use force to protect Israel, which was kind of a shock to everybody,' said one person present, given anonymity to speak about a private conversation. 'It was like, 'Whoa, where did that come from?'" The Times says that while George H.W. Bush "viewed himself as a neutral arbiter in the delicate politics of the Middle East, the current president sees his role through the prism of the fight against terrorism. This President Bush, unlike his father, also has deep roots in the evangelical Christian community, a staunchly pro-Israeli component of his conservative Republican base."

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US, France Disagree On Proposed UN Resolution. The AP (8/1, Raum) reports the Administration is now seeking a UN resolution linking an Israel-Lebanon cease-fire with a "broader plan for peace in the Middle East, despite rising international pressure for a simple no-strings-attached halt to the fighting." But the Washington Times (8/2, Kralev, 88K) reports the White House "hope for a lasting cease-fire in the Middle East this week dimmed yesterday as it scuffled with France" over the "sequence of a cease-fire and international force deployment." The New York Times (8/2, Sciolino, Bilefsky, 1.21M) reports the 25 EU nations "essentially gave their support" to the French proposal Tuesday, suggesting "a widening gap between the European and the American positions."

US Role In International Force Would Likely Be "Behind The Scenes." The AP (8/2, Burns) reports that if an "international force enters southern Lebanon to enforce a cease-fire between Israel and Hezbollah, the U.S. military is more likely to be a behind-the-scenes helper than a front-line leader. That means U.S. troops might ferry supplies and equipment by sea and air, assist with communications, share intelligence and perhaps deliver medicines and other humanitarian aid for Lebanese affected by the conflict."

UN's Malloch Brown Slams US, UK. The Financial Times (8/2, Nations) reports UN Deputy Secretary-General Mark Malloch Brown said that the US and Great Britain, "as 'the team that led on Iraq' they were poorly placed to take a leading role in diplomatic efforts on the crisis in Lebanon." In the "striking admonition," Malloch Brown told the FT "that the UK should take a back seat in dealing with the conflict, while the US should allow other countries to share the diplomatic lead."

Blair Urges "Renaissance" In Approach To Fighting Extremism. AFP (8/2, Hazlewood) reports British Prime Minister Tony Blair "called for a 'complete renaissance' of the global approach to tackling extremism, with as much emphasis on 'soft' power as military might." Addressing the World Affairs Council in Los Angeles, Blair "pledged to continue to work to halt hostilities in Lebanon -- where he was still hopeful of a settlement -- and in the wider Middle East." The Los Angeles Times (8/2, Trounson, Watanabe, 918K) says Blair "said he was urging a dramatic change in the approach taken by Western nations," saying that "greater efforts are needed to engage moderates in the Muslim and Arab world who might work alongside the West against those he described as radical, reactionary Muslims."

More Commentary. The major dailies yesterday did not run editorials on the Lebanon crisis, and there was no overarching theme in the columns or op-eds. In a USA Today op-ed (8/2), George E. Bisharat, professor at Hastings College of the Law in San Francisco, says all the "vivacity" of Beirut "was crushed, as Israel brought its iron fist down on Lebanon. The blow had been planned for at least a year, awaiting only the pretext of Hezbollah's capture of two Israeli soldiers. If Hezbollah attacked inside Israel — which the group denies — it violated Israel's sovereignty, took Israeli lives and was wrong, but that hardly justifies the destruction of a country." The "long-term trend should be obvious: Israel's violence, no matter how its leaders justify it, fails to provide its citizens with a sense of security. The Israeli army might beat back Hezbollah temporarily, only to create more numerous and radicalized foes than had existed before."

In his Washington Post column (8/2, A15), David Ignatius considers the lessons of the Yom Kippur War of October 1973 for the current crisis in Lebanon. The "1973 war seemed like the ultimate disaster: Israel's very survival was at stake in the early hours of the battle." Yet in "the long lens of history, the importance of the 1973 war is that it opened the door to peace. The Arabs, humiliated by earlier wars with Israel, could now claim a measure of dignity because of Anwar Sadat's bold attack across the canal. The Israelis learned that their Arab adversaries wouldn't run from battle as they had in the 1967 war. That gave them a stake in making peace, too." The 1973 "war marked a historic turning point, in ways that no one could initially have predicted. And it is just possible that the current conflict offers a similar opportunity. The key missing element, so far at least, is a Kissinger-level diplomatic commitment by the United States. Condoleezza Rice came close to a Lebanon peace deal last weekend, but to pull it off, she will need to move more toward Kissinger's stance of honest broker."

In a New York Times op-ed (8/2), former US Ambassador to the UN Nancy Soderberg says, "As the death tolls in Lebanon and Israel rise, calls for a robust international peacekeeping force are increasing. But history should serve as warning. As we all know, the United States and France learned the cost of a poorly planned presence in 1983 when Hezbollah suicide bombers blew up their barracks, killing 300 troops." Now the United Nations and European Union officials "are urging a strengthened force to 'sort out the question of disarmament of the militia' in southern Lebanon and 'guarantee sovereignty and freedom for Lebanon.' These are goals so ambitious that no peacekeeping force, not even NATO, could achieve them. In any case, one cannot deploy a peacekeeping force until the questions of disarmament and sovereignty have been addressed. Unless the path forward is agreed upon, the peacekeeping troops are at best without a clear mandate and at worst can become pawns in the negotiations."

In a New York Times (8/2, 1.21M) op-ed, author Adir Gurion Waldman, a former Israel Defense Forces infantry soldier, writes, "As pundits propose various diplomatic solutions to the crisis embroiling the region, lost in all of these suggestions is the Israel-Lebanon Monitoring Group, the one institution that in the past was able to prevent war in the Middle East." The group "was born a decade ago when, as

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today, Israel sought to root out Hezbollah from southern Lebanon." In the past, "after particularly egregious episodes of violence, the group was able to initiate immediate back-channel contacts that staved off reprisals."

Israel Expands Offensive, Moving Deeper Into Lebanon. Major media reports on the fighting in the Middle East focus on the Israeli expansion of its troop strength and on what the AP (8/2, Dakroub) calls a "major attack" launched by Israel "deep into Lebanon." The AP says the "ferocity of the battles" in the city of Baalbek, 80 miles north of Israel, "and across southern Lebanon on Tuesday, the determination of the Israelis to keep fighting and the minimal diplomatic progress toward a cease-fire all indicate the 3-week-old war is more likely to escalate than end soon." The CBS Evening News (8/01, story 3, 2:20, Schieffer, 7.66M) called it "a major new attack" by Israel, adding that Baalbek is "well north of the Israeli border, and not far from Syria."

ABC World News Tonight (8/01, story 4, 2:30, Gibson, 8.78M) reported Israeli forces "have widened and intensified their drive into Lebanon. The Israeli troops have driven deeper into that country than any time in the past three weeks. Most of the fighting is within 20 miles of the border," but "Lebanese forces say there are Israeli troops mounting an operation, 60 miles inside Lebanon." NBC Nightly News (8/01, story 4, 2:40, Williams, 9.87M) said this is "as far as Israel has been inside Lebanon since 1994," with Israel "doubling the size of its invasion force."

The Chicago Tribune (8/2, Greenberg, 623K) reports that Israel, "racing against time before a cease-fire is arranged," expanded its offensive, and USA Today (8/2, 1A, Katz, 2.27M) says Israel "opened a new front" in the war by focusing on the city, "about 10 miles from the border with Syria" and a former Syrian army headquarters. Syrian Ambassador to the US Imad Moustapha said on CNN's The Situation Room (8/1) that Israeli forces "are very close to our borders right now, and Syria would normally have to be on a very high level of alertness and readiness. And, of course, this is what Syria has done. … And the closer they come to the Syrian borders, the more the possibility is that a total war might erupt."

The Washington Post (8/2, A1, Finer, Moore, 748K) focuses on the movement of "thousands of Israeli soldiers" into southern Lebanon as the "intensified ground campaign to dislodge Hezbollah strongholds" continued. The New York Times (8/2, Smith, Erlanger, 1.21M) is the only major publication to put the troop number -- "up to 7,000 troops" -- in its lead. The Times says the troops, "backed by air support, tanks and armored bulldozers, entered at four places along the border, moving up to 4.5 miles inside." CNN's The Situation Room (8/1, Blitzer) reported Israel "distributed leaflets in villages north of the Litani River, warning Lebanese civilians to pick up and leave as soon as possible."

The Wall Street Journal (8/2, A4, Dreazen, 2.03M) says the "fitful pace of the negotiations at the United Nations is giving Israel time to step up its offensive." The Los Angeles Times (8/2, Ellingwood, 918K) reports that "at least three Israeli troops were killed in Tuesday's fighting," while Israel said its "ground forces killed at least 20 Hezbollah militants during the latest clashes, on top of the 250 or so slain in earlier battles. Hezbollah disputes the figures." Israeli Prime Minister Ehud Olmert said, "Every additional day is a day that erodes the power of this cruel enemy." The Financial Times (8/2, Morris, Khalaf) reports Israel did not confirm a report by Hezbollah "that up to 35 Israelis were killed in fighting at the border town of Ainta al-Shaab."

Israeli General Says Israel Will Push Hezbollah 15 Miles From Border. The Christian Science Monitor (8/2, Prusher, 58K) reports Israeli Brigadier General Shuki Shahar said the "48-hour-period Israel had set aside for a suspension of its airstrikes in Lebanon was coming to an end, and that when it does, Israel will resume attacks on Hizbullah positions through both aerial assaults and sizeable ground operations." He added that Israel "is starting to recapture areas that the Israeli army had occupied for about two decades when it pulled out in April 2000, and would try to push Hizbullah 15 miles away from the Israel-Lebanon border."

"Dovish" Peres Takes Firm Stance On Hezbollah. The AP (8/2, Schweid) reports Israeli Deputy Prime Minister Shimon Peres, "the dovish Israeli Nobel peace laureate," issued a "message of resolve" during an address at the Washington Institute for Near East Policy. Peres said "'we will not permit Hezbollah to return to south Lebanon' to attack Israel. Nor, he said, would Israel suspend its bombardment of Hezbollah weapons arsenals under a current partial cease-fire." But Peres said Israel "has no intention of reoccupying parts of Lebanon."

Polls Show Solid Israeli Support For War. The AP (8/2, Rabinowitz) reports Israeli polls show "wall-to-wall support" for the war against Hezbollah. A poll appearing in the newspaper Maariv Tuesday showed 80% in support of "the military's conduct during the offensive," and 74% saying "Olmert and his government were doing a great job."

Christian Lebanon "Stuck In The Middle" Of War. The New York Times (8/2, Tavernise, 1.21M) runs a report from the town of Ain Ebel, a "Christian village deep in southern Lebanon" where residents "witnessed ferocious battles between Israeli forces and Hezbollah fighters last week. … Lebanon's Christians are stuck in the middle of a war with which they do not identify." While they have been "long distrustful of Hezbollah," they do not "appreciate Israel's response, which lobs rockets into their houses and keeps their hilltop town shut tight."

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Fighting Keeps Aid From Reaching Many Lebanese. The CBS Evening News (8/01, story 4, 2:05, Schieffer, 7.66M) reported that the "nearly nonstop fighting in southern Lebanon is keeping international relief from reaching civilians who are still trapped there." CBS profiled one "isolated town that was desperate for help," Marjeyoun, where aid finally arrived after weeks of waiting.

Hezbollah's Popularity In Lebanon Surges After Qana. The Washington Post (8/2, A11, Cody, 748K) reports Hezbollah "is riding a surge of popularity in Lebanon and has acquired increased influence in the Lebanese government and its component factions." The airstrikes on Qana "in particular built unity in the Lebanese population, in horror if not in politics. The shock of what happened there enveloped the border conflict in broad feelings of nationalism, rallying many Lebanese who are wary of Hezbollah to the flag of battle with Israel."

Lebanese Army Could Join In International Force. USA Today (8/2, Stinson, 2.27M) reports that though "the Lebanese armed forces have been on the sidelines" during the conflict, there is now "talk of deploying Lebanon's 70,000 soldiers in the south to provide a security presence that represents the government," not Hezbollah. Lebanon's forces could work with an international military force "to police any cease-fire."

Durbin, Sununu Push Bill To Allow Lebanese In US To Stay Longer. The Chicago Tribune/AP (8/2) reports Sens. Richard Durbin and John Sununu, "who is himself of Lebanese descent," are co-sponsoring a bill to allow Lebanese nationals now in the US "to remain here because ongoing hostilities in the Mideast make it unsafe for them to return home." The legislation "would make Lebanon eligible for temporary protected status for an initial one-year period."

Gaza Palestinians Raise Hezbollah Fighters To Hero Status. The New York Times (8/2, Myre, 1.21M) reports on Gaza Palestinians' identification of Hezbollah figures as heroes. At Gaza's "P.L.O. Flag Shop, a local store that specializes in Palestinian souvenirs, the best-selling items for the past couple of weeks have been posters, T-shirts, buttons and coffee mugs featuring Hezbollah's leader, Sheik Hassan Nasrallah." Palestinians "say the obsession with the Lebanese conflict is simple: Hezbollah has delivered deadly blows to Israel that Palestinians have not been able to inflict here on Israel's southern front."

Tehran Denounces UN Security Council's "Pressure." The AP (8/2, Dareini) reports Iranian President Mahmoud Ahmadinejad "rejected a U.N. Security Council deadline for it to suspend uranium enrichment, saying Tuesday Tehran would not be pressured into stopping its nuclear program." Ahmadinejad said publicly that Iran "would not give in to United Nations' threats. 'If some think they can still speak with threatening language to the Iranian nation, they must know that they are badly mistaken. Throughout Iran, there is one slogan: The Iranian nation considers the peaceful use of nuclear fuel production technology its right.'" The AFP (8/2) adds Ahmadinejad "has vowed that Iran would not bow to 'the language of force and threats.'" He "made no direct comment on the resolution but another senior official dismissed it as 'worthless.'"

Friedman Says Threatening Regime Change Is The Wrong Policy In Dealing With Rogue States. Thomas Friedman writes in the New York Times (8/2, 1.21M), "I seriously doubt the Bush team will succeed in curtailing the Iranian or North Korean nuclear programs until it resolves a contradiction that has been at the heart of this administration from the beginning: Is it for a change of regime or a change of behavior in Iran and North Korea? Because the Bush team has refused to make up its mind, it's gotten neither. All it's gotten are two better-armed rogues. How so? Go back to the impressive deal that the Bush team did pull off in 2003 to get Libya's leader, Muammar el-Qaddafi, to give up his crude nuclear weapons program. How did that happen?" Robert Litwak, the director of international security studies at the Woodrow Wilson Center "and an expert on rogue states," argues, "What actually brought Qaddafi around was a tacit but clear US security assurance that if he did give up his nuclear program the US would not seek to oust him from power." Friedman adds, "What has been missing from the Bush approach to Iran and North Korea is that kind of clear choice. … Both Iran and North Korea have a very high incentive to maintain ambiguity about their nuclear capabilities when we are so ambiguous about our intentions toward them."

More Commentary. In an editorial titled "Fiddling While Iran Arms," the Los Angeles Times (8/2, 918K) editorializes, "The leaders of Iran's extremist regime have repeatedly played the Security Council and other international bodies, making occasional cooperative noises and claiming that they're only interested in civilian power while continuing to accelerate their nuclear activities." The Times adds that "it's particularly disappointing that Russia and China continue to act as enablers for Iran's nuclear ambitions. The Security Council resolution was originally intended to impose sanctions Aug. 31 if Iran refused to suspend uranium enrichment . But Russia and China insisted on changing the wording. Now the council will only consider sanctions after that date. … In a month, Russian leaders will have to decide whether their economic and strategic interests lie with Iran or the West. They're not going to be able to delay forever."

Australia Expanding Uranium Production, Export. The New York Times (8/2, Bonner, 1.21M) reports, "At a time when the United States wants to reduce the

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amount of nuclear material washing around the world, one of Washington's major allies, Australia, is on the verge of expanding its production and export of uranium. The Australian prime minister, John Howard, one of President Bush's staunchest allies, says the country should also begin enriching uranium, a move directly counter to Mr. Bush's call for the uranium enrichment club to be limited to the handful of countries that already have the capacity." Howard, "leader of the center-right Liberal Party, says he does not see his country as confronting Washington, but as pursuing its best economic interests. … He said he had not informed Mr. Bush of his nuclear policies." The Bush Administration "has remained silent about Mr. Howard's proposals. 'We've made no official statement on the issue'" a press aide at the American Embassy in Canberra said Tuesday in response to a request for a comment." The Times adds, "At home, Mr. Howard's nuclear proposals have set off a spirited debate, marked by a dramatic U-turn on uranium mining by the leader of the opposition liberal Labor Party."

Australia To Hold WTO Summit Next Month. Bloomberg (8/2, Daley) reports Australia will hold a summit in September to "revive" world trade talks, which collapsed in Geneva last month, Trade Minister Mark Vaile said. WTO Director-General Pascal Lamy and delegates from 23 nations have been invited to the summit, to take place in Cairns on Sept. 20-22, Vaile said. The AP (8/2, McGuirk) reports the United States and Lamy "have accepted invitations" to attend the meeting. The US will be represented at the talks by US Trade Representative Susan Schwab and Agriculture Secretary Mike Johanns, Vaile said.

AFP (8/2, Johnson) says Vaile also confirmed media reports that Australia is proposing "a compromise that would involve the US cutting its farm subsidies by a further $5 billion and the EU reducing its tariffs by a further 5 percent."

Former WTO Chief Urges Lamy To Push For WTO Resolution. Peter Sutherland, former WTO chief and current chairman of BP and Goldman Sachs International, writes in a Wall Street Journal (8/2, 2.03M) op-ed, "A bad deal is worse than no deal at all is what some are saying in Washington. But is no deal really better than a worthwhile—if unspectacular—deal?" Failure to agree to a deal at Doha, Sutherland warns, "puts at risk the entire multilateral trading system that has served the world so well for half a century, and has been a poverty-reducing driver of globalization." A deal is still "within reach," but Sutherland says "politicians in some major trading countries are fearful of having to sell a compromise settlement, which may generate some heat in their capitals as elections approach." Therefore, he urges WTO chief Pascal Lamy to "put squarely on the table his best bets on the figures for tariff and subsidy reductions that would command—reluctant but perhaps relieved—consensus support among WTO members."

Castro Says He's In "Stable" Condition As World Reacts To Temporary Power Transfer. The AP (8/2, Arrington) reports Fidel Castro "said Tuesday that his health was stable after surgery, according to a statement read on state television, as the Communist government tried to impose a sense of normalcy on the island's first day in 47 years without Castro in charge. Castro, who temporarily handed power to his younger brother Raul on Monday night after undergoing intestinal surgery, indicated the surgery was serious when he said: 'I can not make up positive news.'" But "he said his health was 'stable.'" The New York Times (8/2, McKinley, 1.21M) notes "State-run television showed no pictures of Mr. Castro, nor did it broadcast his voice. It remained unknown where the surgery took place or where he was recuperating."

The story received extensive attention from the network newscasts. ABC World News Tonight (8/01, story 2, 2:40, Kofman, 8.78M) reported from Miami that jubilant crowds were "celebrating Fidel Castro's failing health. But what is not clear, is whether this is an interruption in his long rule, or the begin beginning of the end. In Havana, they wait for news on the fate of the man who has dominated Cuba for the last half-century. Because most Cubans have lived there entire lives under Fidel Castro's iron rule few dare dismiss him."

The CBS Evening News (8/01, lead story, 3:05, Pitts, 7.66M) reported that "by all indications tonight, Castro is still alive, and two weeks shy of his eighth birthday, still up to his old tricks. Whether 79-year-old Fidel Castro is at death's door or not, this billboard in downtown Havana read, 'Vamos bien,' we're fine. The nation's official line today -- business as usual."

NBC Nightly News (8/01, lead story, 2:55, Mitchell, 9.87M) reported, " "Less than a month ago the Bush administration stepped up pressure on Castro by announcing it will spend $80 million to help Cubans prepare for democracy after he's gone. Tonight, the coast guard is watching for any sign that Cuban Americans might try to reach the island or that Cubans might try to get here. Brian?"

The AP (8/2, Gedda) reports, "The Bush administration dismissed Raul Castro, suddenly the acting leader in Cuba, as no more than a 'prison-keeper' on Tuesday as officials reviewed long-standing plans for the post-Fidel Castro era. 'The fact that you have an autocrat handing power off to his brother does not mark an end to autocracy,' White House spokesman Tony Snow said of the Castro brothers." US officials "tried to evaluate the meaning of Monday's announcement that Fidel Castro had temporarily relinquished power to Raul because of an intestinal illness. Fidel Castro will be 80 in less than two weeks; Raul is 75." Commerce Secretary Carlos Gutierrez," who was born in Cuba, addressed that issue at a news briefing without referring specifically to Venezuela. He said the US does not want to

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see anyone – 'any third party -- stand in the way of the rights of the Cuban people to elect their government.'" He also "rejected the Cuban government's suggestions that once the Castro era ends, Cuban-Americans will return to the island, reclaim the homes they abandoned and expel the current occupants."

The New York Times (8/2, Depalma, 1.21M) says the US is "warily monitoring the provisional transition in Havana, confident it has plans in place to assist pro-democracy groups in Cuba and to head off any mass exodus from the island." And Fox News' Special Report (8/1, Angle) reported, "The White House and State Department said the US has no plans to reach out to Raul Castro as he takes provisional authority in Cuba while his brother recovers. But the transfer of power, temporary though it may be, did bring a joyful and hopeful reaction today from Cuban exiles."

Under the headline, "Castro's Illness Opens Window On Cuba Transition," the Wall Street Journal (8/2, De Córdoba, Luhnow, Davis, 2.03M) says Raul Castro "is beginning what may be a long and uncertain transition from his legendary older brother's long rule over this communist island bastion." If Fidel Castro "is unable to return as president and Communist Party head, it is possible though improbable that Cuba will turn fairly quickly toward democracy, as Eastern Europe did after the fall of the Berlin Wall. Many Cuba analysts believe Raúl Castro would continue the Western Hemisphere's sole communist regime, and would rely heavily on money from Venezuelan leader Hugo Chávez to prop up the economy and tamp down dissent." While Raul "has a strong grip on the country's military, intelligence services and police," any permanent "successor to Fidel must be able to cope with the country's deep-seated economic problems, fatigue with a revolutionary regime nearly 50 years old, and hunger for change -- tempered perhaps by fear about a future without the charismatic Mr. Castro."

The New York Times (8/2, McKinley, 1.21M) reports the handover "also set off intense speculation about Cuba's future. Raúl…made no public appearances. He is 75 years old and seems to lack the charisma, political skill and rhetorical brilliance of his brother. His detractors in the United States say he will find it hard to hold the government together if Mr. Castro were to die." Assistant Secretary McCormack "made it clear on Tuesday that the United States would take an active role in shaping events on the island if the Cuban leader dies. 'The United States and the American people will do everything that we can to stand by the Cuban people in their aspirations for a democracy,' he said." The Washington Times (8/2, Behn, 88K) reports that "whatever Fidel's condition, State Department spokesman Sean McCormack said the United States was ready to help the island nation move on. 'We believe that the Cuban people aspire and thirst for democracy and that given the choice, they would choose a democratic government,' he said." The Times adds, "Reflecting that spirit, a news ticker atop the US Interests Section in Havana carried the message: 'All Cubans, including those under the dictatorship, can count on our help and support. We respect the wishes of all Cubans.'"

The Washington Post (8/2, A1, Deyoung, Roig-Franzia, 748K) titles its coverage, "For Castro, A First Step In Calculated Transition." Raul's assumption of presidential duties "marks the beginning of a long-planned transition designed to maintain iron-fisted control of the island after Fidel Castro's eventual death."

Roll Call (8/2, Ackley) reports, "Cuban Americans in Miami may have taken to the streets to celebrate the news that an ailing Fidel Castro temporarily has ceded leadership of his country — even if it is to his brother, Raul, his designated successor." But "on K Street, groups and businesses on both sides of the debate over U.S.-Cuba policy are expressing a more measured response. 'I think there's a heavy dose of overreaction,' said Kirby Jones, president of the US-Cuba Trade Association, a staunch advocate for changing U.S. policy toward Cuba and normalizing trade and commercial relations with the island." John Kavulich, senior policy adviser with the US Cuba Trade and Economic Council, "put it more bluntly. 'I think people this morning have taken too much Viagra,' he said. 'I'm hoping now they start taking some Valium.'"

USA Today (8/2, Nichols, 2.27M), Washington Post (8/2, A8, Whoriskey, 748K), Los Angeles Times (8/2, Williams, Miller, Spiegel, 918K) and New York Times (8/2, Goodnough, 1.21M) also run stories about reaction in the Miami exile community. The Washington Post (8/2, A8, Reel, 748K), meanwhile, analyzes reaction in Latin America, where the "79-year-old socialist icon has been basking in his warmest spotlight in decades in South America. With the help of promotion by regional leaders such as Morales and President Hugo Chávez of Venezuela -- where Cuban teachers and doctors have also been dispatched -- Castro has cultivated an image of the grandfatherly benefactor."

Some In Congress Call For Restoring Diplomatic Ties. USA Today (8/2, Kiely, 2.27M) reports, "The prospect of an end to Fidel Castro's regime in communist Cuba has already sparked renewed interest in Congress in restoring some ties with the island nation. Rep. Jeff Flake, an Arizona Republican who has traveled to Cuba four times, says he plans to introduce legislation in September that would allow US diplomatic contacts with Cuba." USA Today ads, "In the past five years, both the Senate and the House of Representatives have approved measures to end an embargo on trade with and travel to Cuba that dates to 1962. President Bush opposed lifting the embargo, and the measures never became law."

More Commentary. The New York Times (8/2, 1.21M) editorializes that "a historic passage of power has plainly

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begun. America's overriding interest is in a peaceful transition to the democratic and economically dynamic society that Cubans have dreamed of for decades. Given Cuba's educated population, the energy and skills of its people, and its advantageous location, that is not at all a utopian fantasy."

The Washington Post (8/2, A14, 748K) writes in an editorial, "A dictator who has deprived his able and culturally rich nation of freedom and prosperity for five decades may or may not finally be on his deathbed. But his country is clearly ready to move on."

The Wall Street Journal (8/2, 2.03M) editorializes, "Whether it comes sooner or later, Fidel Castro's death will be a moment of hope for the liberation of an island that was once a jewel of the Americas. If Raúl wants to go there, the US ought to help show him the way." Along similar lines, novelist Mario Vargas-Llosa writes in the Wall Street Journal (8/2, 2.03M), "Barring an unexpected comeback on the part of Fidel Castro, the fundamental question in Cuba now is whether Raúl Castro is in a position to perpetuate the communist regime, or whether the politicians (in the Council of State), the ideologues (in the Communist Party) and the soldiers (in the armed forces) -- and factions within each group -- will begin a power struggle. … Many experts expect Raúl Castro to follow the Chinese model. They point to the fact that he has traveled to Beijing on a number of occasions and that he expressed, as early as 1997, admiration for the combination of ruthless political control and market economics. They also think the signals he sent in 2001, hinting at some form of 'normalization' of relations with the US, betray a closet pragmatist."

Bush Renews Myanmar Sanctions. The AP (8/2) reports, "President Bush approved a renewal of sanctions against Myanmar's military junta on Tuesday, extending for a year import restrictions against the country's generals. Instead of embracing democracy and freeing pro-democracy leader Aung San Suu Kyi from detention, the White House said in a statement, 'the country slides deeper into self-imposed isolation and misrule.'"

Somalia's Government Orders Town Residents To Disarm. The AP (8/2, Hassan) reports, "Somalia's president told residents of the only town his government controls Tuesday that they have a week to give up their weapons or 'every single gun' would be seized by force." President Abdullahi Yusuf "said his government would pay people for any arms surrendered and that details of the disarmament plan would be released Wednesday."

Fighting Rages In Sri Lanka. The New York Times (8/2, Senanayake, 1.21M) reports from Sri Lanka, "Government jets pounded Tamil Tiger positions in the east after the rebels fired shells at a ship ferrying more than 800 troops, as a fight over an irrigation canal dragged the country closer to full-fledged war. The fighting began last week when the military sought to gain control of a waterway in rebel-held territory." The Tigers "want the withdrawal of all monitors called for in a 2002 truce who come from countries in the European Union, which added the group to its list of banned terrorist organizations in May."

Chavez Wants Military Alliance To Counter US Power. The Washington Times (8/2, Arostegui, 88K) reports, "Venezuelan President Hugo Chavez, on a world tour during which he signed a $3 billion arms deal with Russia, has begun talking about combining several of South America's largest armies to counter U.S. influence. 'We must form a defensive military pact between the armies of the region with a common doctrine and organization,' Mr. Chavez said July 5." In another speech "before he left for Moscow last week, Mr. Chavez said: 'We must form the armed forces of Mercosur, merging warfare capabilities of the continent.'" Chavez "elaborated on the rationale for a combined military during a visit to Bolivia in May on which he was accompanied by Venezuela's army chief, Gen. Raul Baduel. The need is for a Latin American alliance 'equivalent to NATO, with our own doctrine, not one that's handed down by the gringos.'"

Mexican Leftists Say They Will Expand Protests. The New York Times/AP (8/2, Press) reports, "Supporters of the leftist presidential candidate, Andrés Manuel López Obrador, who are occupying the cultural and financial heart of Mexico City, said they planned to expand protests to press the authorities to order a full recount of the election on July 2, which election officials said was won by the conservative candidate, Felipe Calderón, by half a percentage point." Backers of López Obrador "are considering seizing more streets, and some newly elected officials of his party may refuse to take office."

Meanwhile, USA Today (8/2, Llana, 2.27M) reports that in Mexico City, the "civil resistance campaign…is causing major disruptions. … Some Mexicans say the civil resistance campaign is further dividing an already polarized country and could cost the leftist candidate supporters who worry about how far he is willing to go."

Congo Candidates Alleges "Massive" Election Fraud. The Washington Post (8/2, A9, Timberg, 748K) reports, "One of Congo's four vice presidents said Tuesday that a historic national election on Sunday was marred by 'massive fraud' that must be remedied through new balloting in at least some parts of the country." Azarias Ruberwa, the former leader of a Rwandan-backed rebel group "who ran for president as head of Congolese Rally for Democracy,"

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charged that "officials from the nation's Independent Electoral Commission stuffed ballot boxes to help President Joseph Kabila in Congo's first multiparty vote since 1960."

China Says It Is "Actively Cooperating" With US On Illegal Immigrants. The Wall Street Journal (8/2, A7, Oster, 2.03M) reports that in response to "US government allegations that it is refusing to take back some 40,000 illegal immigrants…whom Washington wants to deport," China's Ministry of Foreign Affairs said in a statement yesterday that it "is actively cooperating with related countries on dealing with the issue of returning illegal immigrants according to the principle of 'taking back after checking first.'" The ministry "said China issues the relevant documents and takes back deportable immigrants once it verifies they have Chinese citizenship and are from mainland China." However, DHS "and administration officials say the problem with the illegal immigrants awaiting repatriation is that China has been using the verification process as a delaying tactic. Spokesman Russ Knocke said Homeland Security Secretary Michael Chertoff secured promises from Chinese officials on a recent visit that they would work on speeding up the process."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"PLAGUE OF PLASTIC CHOKES THE SEAS."
"Fighting Intensifies As Israel Pushes Farther Into Lebanon."
"House GOP Incumbents Try New Stride To Beat Midterm Challenges."
"Making Saving For Retirement Automatic."
"In India, Graft Takes the Wheel"
"Castro Pronounces Condition Stable."

USA Today:
"Israelis Expand Lebanon Offensive."
"Americans Await Word On Castro."
"Army Makes Way For Older Soldiers."
"Colleges Are Textbook Cases Of Cybersecurity Breaches."
"Lighter Workout."

New York Times:
"Israel Expands Ground Forces Inside Lebanon."
"Bush's Embrace Of Israel Shows Gap With Father."
"City Dims Lights As Heat Strains The Power Grid."
"Castro Is 'Stable,' But His Illness Presents Puzzle."
"Washington Traffic Jam? Senators-Only Elevator."
"Postal Service Finds A Friend In The Internet."

Washington Post:
"Israel Moves Thousands Of Soldiers Into Lebanon."
"For One Toddler, Temporary Relief In A Cool Shower."
"Utilities Don't Wilt As Demand Sets Records."
"Audit: Much Undone In Rebuilding Iraq."
"For Castro, A First Step In Calculated Transition."
"Democrats Scrambling To Organize Voter Turnout."

Washington Times:
"Cuban Mull Life Without Fidel."
"Israel Expands Ground Offensive."
"D.C. Firehouse To Shut Down During Truck Repairs."
"Senate Approves Drilling In Gulf."
"Leaving A Bitter Taste."
"Hill Fries Free Be French Again."

Detroit Free Press:
"Toyota Outsells Ford For First Time."
"Everyman's Encyclopedia."
"Mideast Remarks haunt Dingell"
"Union Gives Notice, NWA Moves To Block Strike."
"Cooper To rock Fairgrounds."

Atlanta Journal-Constitution:
"Castro Puts brother In Tough Spot."
"Heat Wave Bears Down."
"Football Player Collapses, Dies After Team's Workout."
"Vets' Return With Psychological Hurdles, Study Finds."

Houston Chronicle:
"Slade, 3 Others Indicted."
"4 ex Merrill Lynch Execs' Convictions Overturned."
"Israel Steps Up Push Into Lebanon."
"Metro Undeterred By Lawmaker."
"Houston Sky No Limit For Prolific Architect."

Story Lineup From Last Night's Network News:
ABC: Heat Wave; Cuba-Castro's Health; Castro-White House; Israeli Offensive; US Soldiers-Murder Charges; Heat Wave-Cities; Auto Sales; New 9/11 Tapes; Cancer Trials.
CBS: Cuba-Castro's Health; Castro-Cuban-Americans; Israeli Offensive; Lebanese Residents-Aid; Iraq Violence; Tropical Storm Chris; Heat Wave; 9/11 Firefighters-Lung Damage; Homeland Security-Fake IDs; Mel Gibson-Apology.
NBC: Cuba-Castro's Health; Castro-Cuban-Americans; Heat Wave; Israeli Offensive; Iraq Violence; Homeland Security-Fake IDs; Mel Gibson-Apology; Texas-Flooding; Auto Sales; Stock Markets; MTV-25th Anniversary

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Heat Wave; TX-Flooding; Tropical Storm Chris; Israel-troops Into Lebanon; Cuba-Castro Surgery; Wall Street.
CBS: Israel-Troops Into Lebanon; Cuba-Castro Surgery; TX-Flooding; Gibson-Drunk Driving Arrest.
NPR: EU foreign Ministers-Mideast War; Congressional Democrats-Iraq; Cuba-Castro Surgery; National Guard-Combat Readiness; Wall Street; Iraq Reconstruction Report; Paulson-Columbia University Speech.

DOJ_NMG_ 0165910

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends Ohioans for Blackwell reception, private residence, Kirtland Hills, Ohio.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9 a.m. AGRICULTURE, NUTRITION AND FORESTRY _ Forestry, Conservation and Rural Revitalization Subcommittee. Hearing on pending legislation on salvage logging on federal lands. Testimony from Deputy Interior Secretary Lynn Scarlett; Agriculture Under Secretary Mark Rey; National Association of Counties; Communities for Healthy Forests; Ouachita Timber Purchasers Group; Oregon State Senator Charlie Ringo; others. Location: Room 328-A, Russell.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS COMMITTEE _ Full committee. Hearing on the Toxic Substances Control Act and the chemicals management program at the EPA. Location: Room 406, Dirksen.

9:30 a.m. INDIAN AFFAIRS _ Full committee. Markup of pending legislation. Location: Room 485, Russell.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on ``The Authority to Prosecute Terrorists Under The War Crime Provisions of Title 18." Witnesses: Steven Bradbury, Acting Assistant Attorney General; Gen. Richard Myers, former chairman, Joint Chiefs of Staff; Maj. Gen. Scott Black, Judge Advocate General, US Army; Rear Adm. Bruce MacDonald, Judge Advocate General, US Navy; Maj. Gen. Jack Rives, Judge Advocate General, USAF; Brig. Gen. Kevin Sandkuhler, director Judge Advocate Division, USMC. Location: Room 226, Dirksen.

10 a.m. FINANCE _ Full committee. Hearing on fake IDs and border security. Testimony from Gregory Kutz, GAO; Jayson Ahern, Department of Homeland Security; Michael Everitt, Department of Homeland Security; Janice Kephart, 9/11 Security Solutions; David Shepherd, Director of Security, Venetian Resort Hotel, Las Vegas, NV; Bruce Reeves, AssureTec Systems, Manchester, NH; Scott Carr, Executive Vice President of Digimarc, Beaverton, Ore. Location: Room 215, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full committee. Hearing titled ``Iraq Reconstruction: Lessons Learned in Contracting and Procurement." Testimony from Stuart Bowen, special inspector general for Iraq reconstruction. Location: Room 342, Dirksen.

10:30 a.m. APPROPRIATIONS _ Legislative Branch subcommittee. Meets to review progress of the Capitol Visitor Center construction. Testimony from Alan Hantman, Architect of The Capitol; Doug Jacobs, Project Architect; Bernard Ungar, Director, Physical Infrastructure, GAO, others. Location: Room 138, Dirksen.

11:30 a.m. ENERGY AND NATURAL RESOURCES _ Full committee. Markup and vote on pending nominations. John Ray Correll to be director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior; Mark Myers to be director, U.S. Geological Survey, Department of the Interior; and Drue Pearce to be federal coordinator, Alaska Natural Gas Transportation Projects, Federal Energy Regulatory Commission. Location: Room 366, Dirksen.

2:30 p.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full committee. Hearing on the housing needs of veterans. Testimony from: Mark Johnston, HUD's deputy assistant secretary for Special Needs Assistance Programs; Keith Pedigo, Director of Loan Guaranty, Department of Veterans Affairs; Peter Dougherty, Director of Homeless Veterans Programs, Department of Veterans Affairs; National Coalition for Homeless Veterans and Volunteers of America. Location: Room 538, Dirksen.

2:30 p.m. JUDICIARY _ Constitution, Civil Rights and Property Rights subcommittee. Hearing titled ``Paying Your Own Way," on creating a fair standard for attorney fee awards in establishment clause cases. Testimony from the American Legion Department of California; American Jewish Congress; Wake Forest University Divinity School; others. Location: Room 226, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed hearing on pending intelligence matters. Location: Room 219, Hart. Notes: Closed.

US House: FLOOR SCHEDULE _ 11 a.m. House meets in pro-forma session.

Other: CONSERVATIVE STUDENTS CONFERENCE _ Young Americas Foundation will host its 28th annual National Conservative Student Conference. More than 400 participants from 39 states and 179 colleges and universities will convene in the nations capital to learn about conservative ideas and how to advance them. Highlights: 9 a.m. Syndicated columnist Robert Novak. 11 a.m. David Horowitz, activist and author of ``The Professors." 7:30 p.m. Dinner banquet, with Sen. Sam Brownback, R-Kans. Location: George Washington University, Marvin Center, 800 21st St. NW.

STUDENT POLICY EXPO _ 9 a.m. Roosevelt Institution holds first policy expo, allowing students from across the country to present their original policy research. Speakers include Senator Dick Durbin of Illinois and John Podesta, former Clinton White House aide. Highlights: 9 a.m. Remarks by Sen. Durbin. 6 p.m. Remarks by John Podesta. Location: Academy for Educational Development, 1825 Connecticut Ave. NW.

DOJ_NMG_ 0165911

GLOBAL WARMING _ 12:30 p.m. Environmental Defense holds teleconference briefing on ``The Science and Politics of Global Warming." Contacts: Charles Miller, 202-572-3364. Notes: To participate, call 800-362-0571; conference ID: climate.

IMMIGRATION REFORM _ 2 p.m. Coalition for Immigration Security teleconference on how comprehensive immigration reform will help national security. Participants: Elaine Dezenski, former Assistant Secretary for Policy Development; Brian Goebel, Sentinel HS Group and senior policy adviser, US Customs and Border Protection; Pancho Kinney, formerly with US Office of Homeland Security, others. Contacts: George Tzamaras, 202-216-2410. Notes: To participate, call 1-800-289-0572; confirmation code: 642332. (International callers: 913-981-5543).

ENERGY PERSPECTIVES _ 2:30 p.m. - 4:30 p.m. United States Energy Association member briefing. Presentation on ``the International Energy Agency's Energy Technology Perspectives: Scenarios and Strategies to 2050"; ``The U.S. Contribution to the World Energy Council Global Energy Scenarios to 2050 Study"; and the Rome 2007 World Energy Congress. Location: National Press Club, 14th and F Sts. NW.

PEACE ACTIVISTS-IRAQ _ 8:30 p.m. Peace activists mark 30th day of fast protesting the war in Iraq, and depart for meetings with Iraqi legislators in Jordan. They then plan to head for Lebanon. Location: Air France ticket counter, Dulles Airport, Va.

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Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Wednesday, August 02, 2006 9:12 AM
To: Gorsuch, Neil M
Subject: RE: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Great, Neil. Thanks. For now, we have scheduled the call for 8/3 at 9AM. However, the call may be moved to either a meeting at 9AM (if AG is still here at DOJ) or the call may take place later on Thurs or Fri. Please stay tuned.

Kiahna

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, August 01, 2006 5:47 PM
To: Sellers, Kiahna (OAG)
Subject: Re: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Thanks, Kiahna! The time works great and I can be reached then at my desk - 3051434. Though I will be in the office then, just in case my cell is [redacted]

-----Original Message-----
From: Sellers, Kiahna (OAG)
To: Gorsuch, Neil M
Sent: Tue Aug 01 17:42:26 2006
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Mr. Gorsuch,

I haven't had an opportunity to congratulate you yet on your appointment...Congratulations to you [redacted]

The AG would like to speak with you on Thurs at 9:00 AM regarding the 9/11 Speech. Will this time work for you? At which number can he call you to discuss?

Kiahna

Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
TBD
AO: Kyle Sampson DOJ: Neil Gorsuch

Long, Linda E

Subject:	Updated: Component Appeal Hearing for FY 2008 Budget -- Tax Division
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 03, 2006 10:00 AM
End:	Thursday, August 03, 2006 10:45 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Johnson, Hurley; Yang, Sam; Atsatt, Mikki; O'Connor, Eileen J. (AAG/TAX); Murray, Fred F. (TAX)

When: Thursday, August 03, 2006 10:00 AM-10:45 AM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Neil Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Hurley Johnson, Sam Yang, Eileen O'Connor, Fred Murray
Component Tax Division
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Talamona, Gina

From: Talamona, Gina
Sent: Wednesday, August 02, 2006 12:05 PM
To: Seidel, Rebecca; Swenson, Lily F; Gorsuch, Neil M
Cc: Metcalfe, Daniel J
Subject: FOIA

Since we can't say anything to the reporter about the pending FOIA legislation the reporter has asked for a quote about the success of the FOIA executive order. Here's what we propose saying...

"This first-of-its kind FOIA Executive Order already has had a considerable positive impact on FOIA administration across the Executive Branch and has elevated it to new, very constructive heights," said Daniel J. Metcalfe, Director of the Office of Information and Privacy.

--Gina

McNulty, Paul J

Subject:	Updated: Component Appeal Hearing for FY 2008 Budget -- Tax Division
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 03, 2006 10:00 AM
End:	Thursday, August 03, 2006 10:45 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Johnson, Hurley; Yang, Sam; Atsatt, Mikki; O'Connor, Eileen J. (AAG/TAX); Murray, Fred F. (TAX)Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard; Johnson, Hurley; Yang, Sam; Atsatt, Mikki; O'Connor, Eileen J. (AAG/TAX); Murray, Fred F. (TAX)

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Neil Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Hurley Johnson, Sam Yang, Eileen O'Connor, Fred Murray
Component Tax Division
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Wednesday, August 2, 2006 2:56 PM
To: Gorsuch, Neil M
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Neil - can you provide us with a personal cell phone number in the event that the AG wants to call you sometime next week?

Kiahna

PS. Great party!
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
AG to call o: 202-305-1434, c: [redacted]
AO: Kyle Sampson DOJ: Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 2, 2006 2:58 PM
To: Sellers, Kiahna (OAG)
Subject: RE: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Kiahna, Thanks for the great party - it was so kind of OAG to host it! My office cell will be operational till the end of the month and it will be the best way to reach me next week -- [redacted]. If you ever find yourself headed out West (or ever want a job working with a federal judge), please give do let me know! All the best, Neil

---

From: Sellers, Kiahna (OAG)
Sent: Wednesday, August 02, 2006 2:56 PM
To: Gorsuch, Neil M
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Neil - can you provide us with a personal cell phone number in the event that the AG wants to call you sometime next week?

Kiahna

PS. Great party!

Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
AG to call o: 202-305-1434, c: [redacted]
AO: Kyle Sampson DOJ: Neil Gorsuch

Sellers, Kiahna (OAG)

From: Sellers, Kiahna (OAG)
Sent: Wednesday, August 02, 2006 3:13 PM
To: Gorsuch, Neil M
Subject: RE: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

I just might take you up on that offer, Judge!

Thanks for the info. We will let you know what the AG decides re the phone call.

Take care,
Kiahna

From: Gorsuch, Neil M
Sent: Wednesday, August 02, 2006 2:58 PM
To: Sellers, Kiahna (OAG)
Subject: RE: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Kiahna, Thanks for the great party - it was so kind of OAG to host it! My office cell will be operational till the end of the month and it will be the best way to reach me next week -- [redacted]. If you ever find yourself headed out West (or ever want a job working with a federal judge), please give do let me know! All the best, Neil

---

From: Sellers, Kiahna (OAG)
Sent: Wednesday, August 02, 2006 2:56 PM
To: Gorsuch, Neil M
Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Neil - can you provide us with a personal cell phone number in the event that the AG wants to call you sometime next week?

Kiahna

PS. Great party!

Subject: Phone Call to Neil Gorsuch to Discuss 9/11 Speech

Start: Thu 8/3/2006 9:00 AM
End: Thu 8/3/2006 9:15 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Sampson, Kyle; Gorsuch, Neil M

AG's Office
Sequence of Events
AG to call o: 202-305-1434, c: [redacted]
AO: Kyle Sampson DOJ: Neil Gorsuch

Otus2005, Ag

Subject:	Accepted: Updated: Phone Call to Neil Gorsuch to Discuss 9/11 Speech
Start:	Thursday, August 03, 2006 9:00 AM
End:	Thursday, August 03, 2006 9:15 AM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Otus2005, Ag

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 02, 2006 4:35 PM
To: USDOJ- Office of Public Affairs
Subject: MICHIGAN MAN CHARGED WITH FRAUD

Court document is attached below.

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 2, 2006
WWW.USDOJ.GOV

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

MICHIGAN MAN CHARGED WITH FRAUD

WASHINGTON — The Department of Justice announced today that a federal grand jury in Detroit returned an indictment against a Michigan man, charging him with criminal mail fraud by defrauding Countrywide Home Loans of a $120,000 line of credit.

Today's indictment charges that Douglas A. Benit applied for the line of credit while falsely representing his income, and drew funds from the $120,000 line of credit several times in April, May, and June 2006. According to the indictment, Benit used Federal Express to carry out the scheme from his home. The Department said that Benit drew from the line of credit on at least six occasions, receiving funds of more than $79,000.

On May 23, 2006, the same federal grand jury returned a nine-count indictment charging Benit, a former Assistant Superintendent at Ecorse Public Schools, together with his wife, for their alleged role in a fraudulent scheme to obtain almost $7.3 million from Ecorse public schools and the federal E-Rate program. Benit was arrested on May 24, 2006, and is currently under home detention pending his trial.

The charge announced today, a violation of 18 U.S.C. § 1341, carries a maximum fine of $250,000 or 20 years imprisonment, or both, and forfeiture.

DOJ_NMG_ 0165923

The investigation is being conducted jointly by the Antitrust Division's Cleveland Field Office and the Federal Bureau of Investigation.

###

06-486

Benit Indictment.pdf

DOJ_NMG_ 0165924

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	CRIMINAL NO.
Plaintiff,	FILED:
v.	HONORABLE:
D-1 DOUGLAS A. BENIT,	VIOLATION: 18 U.S.C. § 1341
Defendant.	OFFENSE: Mail Fraud

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times material to the indictment:

1. Countrywide Home Loans, Inc. ("Countrywide") was a mortgage lender headquartered in Calabasas, California with offices in Sunrise, Florida and Independence, Ohio.

2. DOUGLAS A. BENIT lived at his residence in Superior Township, Michigan.

COUNT ONE
(18 U.S.C. § 1341–Mail Fraud)

THE GRAND JURY CHARGES THAT:

3. The General Allegations, Paragraphs 1 to 2 are hereby incorporated in this Count.

4. Beginning on or about March 4, 2006 up to and including the date of this Indictment, in the Eastern District of Michigan and elsewhere, the Defendant, DOUGLAS A. BENIT,

DOJ_NMG_ 0165925

devised and intended to devise a scheme and artifice to defraud Countrywide as to a material matter and to obtain money or property, namely, a line of credit in the amount of $120,000, by means of materially false and fraudulent pretenses, representations, and promises.

MATTER AND MEANS

5. It was part of the scheme that the Defendant would apply for a line of credit on his residence at 3140 Andora Drive, Superior Township, Michigan 48198.

6. It was a further part of the scheme to defraud that the Defendant would submit and cause to be submitted on his behalf a loan application.

7. It was a further part of the scheme to defraud that the Defendant would falsely represent the amount of his income during the application process.

8. It was further part of the scheme to defraud that the Defendant would draw upon the line of credit. The following are examples of approximate dates and amounts that the Defendant drew upon the line of credit.

4/28/2006	$44,585.00
5/12/2006	$10,000.00
5/30/2006	$5,000.00
6/12/2006	$8,000.00
6/12/2006	$5,200.00
6/20/2006	$6,500.00

DOJ_NMG_ 0165926

THE USE OF THE MAILS

9. On or about March 9, 2006, in the Eastern District of Michigan, the Defendant, having devised and intended to devise a scheme and artifice to defraud as to a material matter and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme, knowingly caused to be delivered through a commercial interstate carrier, according to the directions thereon, a package sent via Federal Express from Countrywide Home Loans, Inc. 6100 Oak Tree Boulevard, Suite #310, Independence OH 44131 to Douglas Benit, 3140 Andora Drive, Ypsilanti, MI 48198.

All in violation of Title 18, United States Code, Section 1341.

FORFEITURE NOTICE

10. The allegations contained in Counts One of this Indictment are realleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 28, United States Code, Section 2461(c).

11. Pursuant to Title 28, United States Code, Section 2461(c), if the Defendant is convicted of mail fraud as set forth in Count One of this Indictment, he shall forfeit to the United States all right, title, and interest in any and all property constituting or derived from proceeds obtained directly or indirectly as a result of the aforesaid violation.

12. The interests of Defendant DOUGLAS A. BENIT subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), include, but are not necessarily limited to, at least $79,285.00.

13. The property subject to forfeiture includes, but is not necessarily limited to, real property,

DOJ_NMG_ 0165927

commonly known as 3140 Andora Drive, Superior Township, Michigan, 48198.

14. The property subject to forfeiture includes, but is not necessarily limited to, a 2006 Toyota Rav4, VIN JTMZD32V565002831, Michigan License Plate TXM-946.

15. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), the Defendant shall forfeit substitute property, up to the value described in Paragraphs 12-14 above, if by any act or omission of the Defendant, the property described in Paragraphs 12-14 above, or any portion thereof,

    (1) Cannot be located upon the exercise of due diligence;

    (2) Has been transferred or sold to, or disposed with, a third party;

    (3) Has been placed beyond the jurisdiction of the court;

    (4) Has been substantially diminished in value; or

    (5) Has been commingled with other property which cannot be divided without difficulty.

All pursuant to Title 28, United States Code, Section 2461(c), and Rule 32.2(a) of the Federal Rules of Criminal Procedure.

DOJ_NMG_ 0165928

THIS IS A TRUE BILL

FOREPERSON

STEPHEN J. MURPHY, III
United States Attorney
Eastern District of Michigan

SCOTT M. WATSON
Chief, Cleveland Field Office

THOMAS O. BARNETT
Assistant Attorney General

JON R. SMIBERT
[653645 -GA]

TIMOTHY A. WESTRICK
[0068153 -OH]

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Deputy Assistant Attorney General

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Plaza 9 Building
55 Erieview Plaza, Suite 700
Cleveland, OH 44114-1836
Telephone: (216) 522-4070
Fax: (216) 522-8332

MARC SIEGEL
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

Dated:

DOJ_NMG_ 0165929

Image not available for this document, ID: 0.7.10316.40731-000002

Image not available for this document, ID: 0.7.10316.40731-000003

Long, Linda E

Subject:	Tax Appeal Hearing for FY 2008 Budget - Wrap-up
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 3, 2006 10:45 AM
End:	Thursday, August 3, 2006 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Atsatt, Mikki; Johnson, Hurley; Yang, Sam

When: Thursday, August 03, 2006 10:45 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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

Attendees: Mike Elston, Mark Epley, Monica Goodling, Lee Lofthus, Neil Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Hurley Johnson, Sam Yang
JMD POC Shalini Parameswran 4-3056
ODAG POC: Linda Long 4-1904

McNulty, Paul J

Subject:	Tax Appeal Hearing for FY 2008 Budget - Wrap-up
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 03, 2006 10:45 AM
End:	Thursday, August 03, 2006 11:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Atsatt, Mikki; Johnson, Hurley; Yang, SamElston, Michael (ODAG); Epley, Mark D; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Hertling, Richard; Atsatt, Mikki; Johnson, Hurley; Yang, Sam

Attendees: Mike Elston, Mark Epley, Monica Goodling, Lee Lofthus, Neil Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling, Mikki Atsatt, Hurley Johnson, Sam Yang
JMD POC Shalini Parameswran 4-3056
ODAG POC: Linda Long 4-1904

Otus2005, Ag

Subject:	Updated: Phone Call to Neil Gorsuch to Discuss 9/11 Speech
Start:	Thursday, August 03, 2006 8:45 AM
End:	Thursday, August 03, 2006 9:00 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Gorsuch, Neil M

AG to call o: 202.305.1434, c: 202.532.5384
AO: Kyle Sampson (not attending) DOJ: Neil Gorsuch

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 02, 2006 6:25 PM
To: Katsas, Gregory (CIV)
Subject: OASG Assignments.doc
Attachments: OASG Assignments.doc

As discussed

Office of the Associate Attorney General
Portfolios - 4/1/2006

Lily Fu Swenson

ATR
CIV (except Consumer Litig., Cobell and Tobacco)
OIP
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Office of Dispute Resolution
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Legislative/Interagency Clearance
Weekly & Monthly Reports

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Wednesday, August 2, 2006 9:36 PM
To: Gorsuch, Neil M
Subject: [redacted]

[redacted]

[redacted]

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
[redacted](cell)
jamil.n.jaffer@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 3, 2006 8:29 AM
To: Elwood, Courtney
Subject: Morning mtg

The AG is calling me at my desk at 8.45 to discuss his 9/11 speech so I'm going to leave this morning's report to Greg. There are several items we discussed for him to report; if you want to speak about any of them don't hesitate to call later and I will try to touch base.

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, August 3, 2006 8:51 AM
To: Gorsuch, Neil M
Subject: Re: Morning mtg

Give me a call when you're free. Have one thing I'd like to mention to you.

-----Original Message-----
From: Gorsuch, Neil M
To: Elwood, Courtney
Sent: Thu Aug 03 08:28:37 2006
Subject: Morning mtg

The AG is calling me at my desk at 8.45 to discuss his 9/11 speech so I'm going to leave this morning's report to Greg. There are several items we discussed for him to report; if you want to speak about any of them don't hesitate to call later and I will try to touch base.

postmaster@eopds.eop.gov

From:	postmaster@eopds.eop.gov
Sent:	Thursday, August 3, 2006 9:33 AM
To:	Gorsuch, Neil M
Subject:	Delivery Status Notification (Failure)
Attachments:	ATTACHMENT.TXT

This is an automatically generated Delivery Status Notification.

Delivery to the following recipients failed.

Raul_F._Yanes@omb.eop.gov

Reporting-MTA: dns;SMEOP24.eopds.eop.gov
Received-From-MTA: dns;SGEOP09.eopds.eop.gov
Arrival-Date: Thu, 3 Aug 2006 09:32:39 -0400

Final-Recipient: rfc822;Raul_F._Yanes@omb.eop.gov
Action: failed
Status: 5.2.2
X-Display-Name: Yanes, Raul F.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 3, 2006 9:33 AM
To: Gorsuch, Neil M
Bcc: 'Harriet_Miers@who.eop.gov'; 'william_k._kelley@who.eop.gov'; 'Jennifer_R._Brosnahan@who.eop.gov'; 'rhoyt@who.eop.gov'; 'bgerry@who.eop.gov'; 'Leslie_Fahrenkopf@who.eop.gov'; 'richard_d._klingler@who.eop.gov'; 'Brent.McIntosh@aya.yale.edu'; 'Raul_F._Yanes@omb.eop.gov'; 'Shannen_W._Coffin@ovp.eop.gov'; 'John_B._Wiegmann@nsc.eop.gov'; 'Michael_Allen@nsc.eop.gov'; [redacted]@dodgc.osd.mil'; 'Ewilliams@who.eop.gov'; '[redacted]@state.gov'; '[redacted]@state.gov'; McCallum, Robert (SMO); '[redacted]@dni.gov'; '[redacted]@judiciary.senate.gov'; '[redacted]@judiciary-rep.senate.gov'; '[redacted]@Lgraham.senate.gov'; '[redacted]@cadc.uscourts.gov'; '[redacted]@cadc.uscourts.gov'; 'Bradford_A._Berenson@who.eop.gov'; '[redacted]'; [redacted] (DHS); 'lreyes@who.eop.gov'; 'Kenneth.Wainstein@usa.usdoj.gov'; '[redacted]'; '[redacted]@dcsc.gov'; '[redacted]@georgewbush.com'; McNulty, Paul J; Elston, Michael (ODAG); Tenpas, Ronald J (ODAG); Rowan, Patrick (ODAG); Margolis, David; Otis, Lee L; Grider, Mark (ODAG); Horvath, Jane (ODAG); Katsas, Gregory (CIV); Swenson, Lily F; Senger, Jeffrey M; Clement, Paul D; Garre, Gregory G; Bradbury, Steve; Elwood, John; Eisenberg, John; Boardman, Michelle; Engel, Steve; Forrester, Nate; Fisher, Alice; Friedrich, Matthew; Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Schiffer, Stuart (CIV); Hunt, Jody (CIV); Letter, Douglas (CIV); Henry, Terry (CIV); Hammond, Scott; Masoudi, Gerald; McDonald, Bruce; Meyer, David L.; Cruden, John (ENRD); Sobeck, Eileen (ENRD); Nelson, Ryan (ENRD); O'Connor, Eileen J. (AAG/TAX); Morrison, Richard T. (TAX); Murray, Fred F. (TAX); Comisac, Rena (CRT); Palmer, David (CRT); Brand, Rachel; Martinson, Wanda; Hertling, Richard; Macklin, Kristi R; Jaffer, Jamil N; Moschella, William; Seidel, Rebecca; Schofield, Regina; Daley, Cybele; Hagy, David; Herraiz, Domingo S.; Lofthus, Lee J; Scolinos, Tasia; Roehrkasse, Brian; Jezierski, Crystal; White, Clifford; Tamargo, Mauricio J; Stuart, Diane; Shaw, Aloma A; Gunn, Currie (SMO); Davis, [redacted]; '[redacted]'; Davis, Michael R. (USAVAE); '[redacted]'; '[redacted]'; 'Albert J. Boro Jr.'; Washington, Alicia N (SMO); 'Allyson Ho'; 'Alvaro Anillo'; Bottner, Andrea; 'Andrew C. McCarthy'; '[redacted] Huskey'; 'Barbara Ledeen'; '[redacted]'; Schlozman, Bradley (USAMOW); 'Brian A. Benczkowski'; 'Brian Boyle'; 'Brian Cashman'; 'Bruce Black'; 'Bruce Fein'; 'Candida P. Wolff'; '[redacted]@do.treas.gov'; 'Charles M. Oellermann'; 'Charles Macedo'; 'Chris Hatcher'; '[redacted]'; 'Christian P. Marrone Esq.'; 'Chuck Myers'; 'Dan Meron'; 'Dan S. Jackson'; Yang, Debra Wong (USACAC); 'Denise [redacted]'; 'E. Donald Elliott'; 'Ed Roberson'; '[redacted]'; 'Elizabeth King

Humphrey'; 'Eric J. Kadel Jr.'; '[redacted]'; '[redacted]@atg.state.il.us'; 'Giovanni Prezioso'; 'Gordon D. Todd'; Hank Handelsman (Business Fax); 'Jack D. Crouch'; 'James L. Arnone'; '[redacted]'; 'Jamie Brown'; 'Jan Elizabeth Acosta'; Card, Jean; 'Jeff Lamken'; 'Jeffrey B. Clark'; 'Jessica Bartlow'; '[redacted]'; 'John B. Wiegmann'; 'John C. O'Quinn'; 'John Caldwell'; 'John E. Daniel'; 'John Finnis'; 'John Greenya'; 'John Hernandez'; 'John T. Delacourt'; '[redacted]'; '[redacted]'; 'Karen L. Hecker'; 'Kelly Johnson'; '[redacted]'; 'Kevin Cameron'; 'Lorne Teitelbaum Ph. D.'; 'Louis Blair'; '[redacted]'; 'Marc_Kesselman'; 'Mark Filip'; 'Martin D. Litt'; 'Mary B. Neumayr'; 'Matt Engels'; '[redacted]@thune.senate.gov'; 'Matthew A. Kairis'; 'Matthew C. Waxman'; 'Maureen Ohlhausen'; 'Michael Allen'; 'Michael D. Nolan'; '[redacted]'; '[redacted]'; '[redacted]'; 'Neomi Rao'; 'Nicole Bruno'; 'Patrick F. Hoffer'; 'Patrick F. Philbin'; Matey, Paul (USANJ); '[redacted]'; 'Peter Schaumber'; 'Phil Meade'; 'Philip C. Berg'; [redacted] (DHS); Philip K. Howard (Business Fax); Brand, Rachel; 'Raul Yanes'; 'Richard M. Segal'; '[redacted]@truman.gov'; 'Sandra L. Hodgkinson'; 'Sarah Teslik'; 'Scott McInnis'; 'Sean Conway'; 'Sean Lindsay'; 'Shannen W. Coffin'; 'Stephanie W. Fields'; 'Stephanie. Pankau'; 'Stephen M. Brainerd'; Chemtob, Stuart; 'Susan G. Braden'; 'Suzanne Garment'; 'Todd Anderson'; 'Tony Calenda'; 'Zach Liscow'; 'William P. Marsan'; Monheim, Thomas; McFarland, Steven T (ODAG); Meyer, Joan E (ODAG); Marshall, C. Kevin; Cohn, Jonathan (CIV); Barnett, Thomas O.; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Boente, Dana J. (TAX); Kim, Wan (CRT); Becker, Grace Chung (CRT); King, Loretta (CRT); Best, David T; Cook, Elisebeth C; Clinger, James H; Tzitzon, Nicholas; Freeman, Sharee (CRT); Battle, Michael (USAEO); '[redacted]'; 'Bill Mercer'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@uschamber.com'; '[redacted]'; '[redacted]@hhs.gov'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]'; Bester, Matthew; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]@khhte.com'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]@khhte.com'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]'; '[redacted]';

[redacted]@state.co.us';
[redacted]@khhte.com';
[redacted];
[redacted]@khhte.com'; [redacted]@khhte.com';
[redacted];
[redacted];
[redacted];
[redacted];
[redacted] Berkowitz, Sean (USAILN); [redacted];
[redacted]@cadc.uscourts.gov';
[redacted]@cadc.uscourts.gov'; [redacted];
[redacted];
[redacted]@khhte.com';
[redacted];
[redacted];
[redacted]
[redacted]@khhte.com'; [redacted];
[redacted]; [redacted]; [redacted];
[redacted] 'John P. Schmitz';
Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Pacold, Martha M;
Oldham, Jeffrey L; Sellers, Kiahna (OAG); Sours, Raquel; Beach, Andrew;
Goodling, Monica; Meadows, Bessie L; Washington, Tracy T; Schreiber, Jayne;
Hicks, Os N; [redacted]

Subject: Contact Information

Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ. Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning. [redacted] I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

For the balance of the month, I am perhaps best reachable by cell [redacted]. My DOJ email will also remain operational until the end of August (neil.gorsuch@usdoj.gov).

My new contact information at the court house will be:

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]

[redacted] I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, August 3, 2006 9:46 AM
To:	Gorsuch, Neil M
Subject:	Emailing: ag_speech_060307
Attachments:	ag_speech_060307.url

The message is ready to be sent with the following file or link attachments:

Shortcut to: http://www.usdoj.gov/ag/speeches/2006/ag_speech_060307.html

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

[InternetShortcut]
URL=http://www.usdoj.gov/ag/speeches/2006/ag_speech_060307.html
Modified=D0B21F1203B7C60134

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 9:49 AM
To: Katsas, Gregory (CIV)
Subject: Is there a convenient time when you, Peter and I might speak about the OIP lawyer transfer issue?

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
fax: (202) 514-0238
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 3, 2006 9:54 AM
To: Katsas, Gregory (CIV)
Subject: Re: Is there a convenient time when you, Peter and I might speak about the OIP lawyer transfer issue?

Great - I am free after 3.

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
Sent: Thu Aug 03 09:48:32 2006
Subject: RE: Is there a convenient time when you, Peter and I might speak about the OIP lawyer transfer issue?

My secretary is trying to arrange it. Peter asked me to invite Jeff and Carl as well.

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 9:49 AM
To: Katsas, Gregory (CIV)
Subject: Is there a convenient time when you, Peter and I might speak about the OIP lawyer transfer issue?

Neil M. Gorsuch
Principal Deputy Associate Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, NW Room 5706 Washington, D.C. 20530 direct dial: (202) 305-1434 fax: (202) 514-0238 e-mail: neil.gorsuch@usdoj.gov

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, August 03, 2006 10:05 AM
To: Goodling, Monica
Subject: The Daily Update: 8/3/06

Good morning. Congratulations to U.S. Attorney Roz Mauskopf, who was nominated yesterday to become a United States District Judge for the Eastern District of New York. Also, for all the other former EDVA-ers out there who undoubtedly share a fair amount of affection and admiration for Magistrate Judge Liam O'Grady, you may be interested to know that he was nominated to become a United States District Judge for the Eastern District of Virginia. Have a great day.

****

<http://www.whitehouse.gov/>
AUGUST 3, 2006

This afternoon, the President will participate in a tour of Border Patrol and National Guard Assets at McAllen-Miller International Airport, followed by a demonstration of Border Patrol National Guard Skybox. President Bush will follow these events with remarks on comprehensive immigration reform in Anzalduas County Park.

1:50 pm:
CDT THE PRESIDENT participates in a Tour of Border Patrol and National Guard Assets
McAllen-Miller International Airport | McAllen, Texas

2:30 pm:
CDT THE PRESIDENT views a Demonstration of Border Patrol National Guard Skybox
Skybox | Mission, Texas

2:55 pm:
CDT THE PRESIDENT makes Remarks on Comprehensive Immigration Reform

Anzalduas County Park | Mission, Texas

President Bush Praises Efforts Of Ohio Rescue Workers. "President Bush, emerging from a bunker-like structure in Lake County Wednesday afternoon, praised the work of hundreds of Northeast Ohio rescue workers and their bosses who fought to rescue people during last week's flood. 'The local response was really good,' Bush said after a 30-minute briefing with emergency officials at the Lake County Emergency Operation and Communications Center <http://www.cleveland.com/news/plaindealer/index.ssf?/base/cuyahoga/1154593832281930.xml&coll=2> , a concrete structure built into a hillside in Kirtland. Though the meeting was closed to reporters, Bush made several brief comments about what he learned during the meeting." (Mark Naymik and Maggie Martin, "President Lauds Response To Flood In Lake County,"

The [Cleveland, OH] Plain Dealer, 8/3/06)

President Bush To Discuss Comprehensive Immigration Reform In Texas. "President Bush will visit Mission today to make a final pitch for his immigration plan before beginning his traditional August vacation at his ranch in Crawford. The president arrives early afternoon at McAllen-Miller International Airport. He will tour Border Patrol and National Guard air assets before giving a speech to a limited audience at Anzalduas County Park in Mission, the White House press office confirmed Wednesday. ... Most recently, after a meeting with Miami entrepreneurs on Monday, the president promised he was still working for a 'rational' immigration policy that will 'one, enforce the rule of law, and on the other hand be compassionate about how this country treats people <http://www.themonitor.com/SiteProcessor.cfm?Template=/GlobalTemplates/Details.cfm&StoryID=14590&Section=Local> .'" (Kaitlin Bell, "President Bush To Visit Today," McAllen [TX] Monitor, 8/3/06)

Presence Of American Troops Calms Baghdad's Most Violent Neighborhoods. "Iraqis living in Baghdad's most violent neighborhoods have been able to leave their homes safely for the first time in months, as American foot patrols moved in as part of a beefed-up security plan. An additional 3,700 U.S. troops deployed in the capital in the past two days to join the roughly 56,000 U.S. and Iraqi troops already in the city. The deployment is part of a six-week security operation intended to stop sectarian killings. 'Everybody knows that if Americans are there, then it is safe,' said one young man who had just brought his pregnant wife home from the hospital." <http://www.washingtontimes.com/world/20060802-104747-8329r.htm> ("Presence Of U.S. Troops Adds Calm," The Washington Times, 8/3/06)

Britain Expresses Optimism It Will Transfer Control Of Basra To Iraqi Security Forces Early Next Year. "Britain is likely to hand over control of the southern Iraqi province of Basra to local security forces early next year, Britain's top military official said Wednesday. <http://news.yahoo.com/s/ap/20060802/ap_on_re_mi_ea/britain_iraq;_ylt=AjDKHQeBXSlifW9iRWny68pvaA8F;_ylu=X3oDMTA0cDJlYmhvBHNlYwM> Sir Jock Stirrup, chief of Britain's defense staff, said coalition forces were making good progress in stabilizing the region - despite the death of a British soldier in the city of Basra on Tuesday and concerns security has worsened since the 2003 invasion. 'We are now on a good path to hand over provincial control of Basra some time in the first part of next year,' he told British Broadcasting Corp. radio. 'But these are difficult issues we are grappling with, and I can't forecast what will happen over the next several months.'" (David Stringer, "Brits May Hand Over Basra Control In '07," The Associated Press, 8/2/06)

Attorney General Gonzales Supports Military Tribunal System For Foreign Terrorism Suspects. "The Bush administration on Wednesday continued to push for a military tribunal system for foreign terrorism suspects that would bar them from access to classified evidence. Attorney General Alberto Gonzales, testifying before the Senate Armed Services Committee, also recommended that proposed legislation to create a tribunal system allow hearsay evidence and testimony obtained through coercion. ... 'In the midst of the current conflict, we must not share with captured terrorists the highly sensitive intelligence that may be relevant to military commission proceedings,' Gonzales told the panel.

<http://www.usatoday.com/printedition/news/20060803/a_gonzales03.art.htm> " (Kevin Johnson, "White House Pushes For Tribunals," USA Today, 8/3/06)

Federal Agencies Making More Progress Than Ever Under President's Management Agenda. "The administration's latest assessment shows agencies are making more progress than ever in managing their human capital, competitive sourcing, finances, e-government and budget-performance integration. <http://federaltimes.com/index.php?S=1995456> According to Clay Johnson, deputy director for management at the Office of Management and Budget, the number of green progress scores on the president's management agenda scorecard for the third quarter of fiscal 2006 is the highest it's ever been." (Aimee Curl, "Agencies Improve Management Scores," Federal Times, 8/2/06)

President Bush Visits White House Press Briefing Room Before Renovations Begin. "As on the closing night of a long-running play, a lot of the old stars came out for the White House briefing room's finale. There were press secretaries for five of the last six presidents, and reporters who have haunted the building since John F. Kennedy. ... The president joked about the conditions during his appearance. 'I know you've been complaining about the digs for a while,' he said <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/02/AR2006080201190.html> . 'Let me just say, we felt your pain.'" (Peter Baker, "Media Pull Out Of One Combat Zone," The Washington Post, 8/3/06)

President Visits White House Press Briefing Room Prior to Renovation <http://www.whitehouse.gov/news/releases/2006/08/20060802-3.html>

President Bush Tours Lake County Emergency Management Agency After Recent Flooding in Ohio <http://www.whitehouse.gov/news/releases/2006/08/20060802-5.html>

President Designates United States Postal Service Facilities <http://www.whitehouse.gov/news/releases/2006/08/20060802.html>

Memorandum for the Secretary of State <http://www.whitehouse.gov/news/releases/2006/08/20060802-1.html>

Nominations Sent to the Senate <http://www.whitehouse.gov/news/releases/2006/08/20060802-4.html>

Press Briefing by Tony Snow <http://www.whitehouse.gov/news/releases/2006/08/20060802-2.html>

[redacted]@gmail.com

From: [redacted]@gmail.com
Sent: Thursday, August 03, 2006 11:36 AM
To: Gorsuch, Neil M
Subject: Re: Contact Information
Attachments: tmp.htm

Dear Neil,

Congratulations on your confirmation (a bit late, on my part)! The people of the 10th Circuit are lucky to be served by you. I am also glad that you are able to return to Colorado.

[redacted]

Take care,
[redacted]

On 8/3/06, Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov> wrote:
>
> Dear Friends,
>
> As many of you know, tomorrow is my last day in the office at DOJ. Though > I expect to visit DC from time to time in coming weeks to facilitate The > Move, I am headed to Colorado Saturday morning. Louise and I will miss > those of you here and very much hope you will keep in touch. Please do be > sure to look us up whenever you're headed to God's Country. You are always > welcome in our home. My contact information follows --
>
> For the balance of the month, I am perhaps best reachable by cell [redacted] My DOJ email will also remain operational until the end of August > (neil.gorsuch@usdoj.gov).
>
> My new contact information at the court house will be:
>
> U.S. Court of Appeals for the Tenth Circuit > Byron White Court House > 1823 Stout Street > Denver, CO 80257
>
> chambers phone: [redacted]
> chambers email: [redacted]@ca10.uscourts.gov > Home email: [redacted]@hotmail.com
>
> Louise and I thank each of you for your continuing friendship and support.
>
> Warm wishes,
>
> Neil Gorsuch
>

>
>

Dear Neil,

Congratulations on your confirmation (a bit late, on my part)! The people of the 10th Circuit are lucky to be served by you. I am also glad that you are able to return to Colorado.

[redacted]

Take care,
[redacted]

On 8/3/06, **Neil.Gorsuch@usdoj.gov** <Neil.Gorsuch@usdoj.gov> wrote:

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chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]@hotmail.com

Louise and I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

O'Connor, Eileen J. (AAG/TAX)

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, August 03, 2006 1:30 PM
To: Gorsuch, Neil M
Subject: Hail and Farewell

Neil - It's been a great pleasure working with you. You will be a wonderful judge, and you will enjoy doing so. I look forward to keeping in touch.

Lee O'C.

Gunn, Currie (SMO)

Subject:	OASG Staff Rescheduled
Location:	Main Room 5710
Start:	Friday, August 04, 2006 11:00 AM
End:	Friday, August 04, 2006 11:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Senger, Jeffrey M; Katsas, Gregory (CIV); Gorsuch, Neil M; Bottner, AndreaSenger, Jeffrey M; Katsas, Gregory (CIV); Gorsuch, Neil M; Bottner, Andrea

Immediately following Group II Leadership

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 4:19 PM
To: Friedrich, Matthew
Subject: RE: Contact Information

Matt,

I feel very much the same way and look forward to many more afternoons streamside. The invitation is issued and open-ended. Please keep in touch - I am a big fan of yours and your charming wife and look forward to watching you go from success to success. And congratulations to Dabney on the sentencing commission! I was delighted to hear that news.

Warmest wishes,

Neil

From: Friedrich, Matthew
Sent: Thursday, August 03, 2006 9:55 AM
To: Gorsuch, Neil M; Gorsuch, Neil M
Subject: RE: Contact Information

Neil—

I haven't gotten to know you as well as I would have liked, but am very grateful we got at least a good streamside afternoon together. I hope we can stay in touch.

You are going to be a great judge. Everyone here is so proud that you are going to have such a great chance to serve.

I don't need to be asked twice to call to go fishing, so expect strange fishing-related messages to your chambers on occasion.

Best of luck to you, [redacted] and kids.

matt

From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Thursday, August 03, 2006 9:33 AM
To: Gorsuch, Neil M
Subject: Contact Information

Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ. Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning. [redacted] and I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

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chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]

[redacted] and I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

Williams, Angela (CIV)

Subject:	OIP Meeting
Location:	Room 5706
Start:	Thursday, August 3, 2006 4:00 PM
End:	Thursday, August 3, 2006 5:00 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Williams, Angela (CIV)
Required Attendees:	Gorsuch, Neil M; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)Gorsuch, Neil M; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV)

Metcalfe, Daniel J

From: Metcalfe, Daniel J
Sent: Thursday, August 03, 2006 5:49 PM
To: Steven_D._Aitken@omb.eop.gov; 'Kimberley_S._Luczynski@omb.eop.gov'; Swenson, Lily F
Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Subject: FOIA EO's implementation

Steve/Kimberley: Here are some basic facts for us to keep in mind as they tie into our discussion this afternoon of the FOIA EO's implementation:

o Under the EO, the AG is scheduled to submit a report to the President by October 14.

o All agencies will be concluding the first phase of their implementation of their FOIA improvement plans in mid-January (our written guidance says that they should take their efforts as far into the month of January as possible).

o All agencies must then report their initial implementation successes/deficiencies by February 1 (i.e., by their regular annual FOIA report deadline).

o Despite our best efforts, several agencies (most notably DHS, State, AID, and EOP/OA) failed to meet their June 14 deadline for the completion of their plans.

o Historically, dozens of agencies miss the February 1 deadline each year, with some (most notably Education and HUD) taking months longer.

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o A major part of the AG's report could be his recommendation that a memorandum be issued to all agencies that at a minimum would do the following:

1. Remind agencies that there remain only X months (i.e., until mid-January) for them to achieve as much success as possible in the implementation of their FOIA improvement plans during this important initial implementation phase; and

2. Exhort agencies in the strongest possible terms to be sure that they do everything necessary to meet the EO's February deadline, notwithstanding what their compliance pattern has been in the past.

o If such a memorandum were issued by the President, and issued by no later than September 27, this memorandum even could be "rolled out" at the Annual Symposium of the American Society of Access Professionals, which is being held at the Reagan Building here in Washington on September 26-27; several hundred agency reps will be there.

o It perhaps should go without saying that such a step would have maximum impact, for relatively minimal investment, and be entirely consistent with the robust manner in which we have implemented the EO through our governmentwide efforts during the past seven months.

o In any event, however, it will be most important for Justice, OMB, and the WH to be on the

same page with respect to the AG's report obligation, and to reach that point as soon as possible (especially if the AG's satisfaction of that obligation might be accelerated into September rather than October).

As I mentioned, I have raised this with Robert McCallum and do not by anything said seek to impinge on the AG's prerogative in this respect. I will cc Robert, Acting ASG Neil Gorsuch, and Lily Swenson on this as I'm leaving town for a few days this evening, and I look forward to the meeting that we have tentatively set for next Thursday morning to move forward on this as quickly as we can. Dan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 6:16 PM
To: Mauskopf, Roslynn (USANYE)
Subject: FW: The Daily Update: 8/3/06

Roz - Wonderful news! Congratulations and best of luck with the confirmation process. You will make a wonderful judge. Best regards, Neil

---

From: Goodling, Monica
Sent: Thursday, August 03, 2006 10:05 AM
To: Goodling, Monica
Subject: The Daily Update: 8/3/06

Good morning. Congratulations to U.S. Attorney Roz Mauskopf, who was nominated yesterday to become a United States District Judge for the Eastern District of New York. Also, for all the other former EDVA-ers out there who undoubtedly share a fair amount of affection and admiration for Magistrate Judge Liam O'Grady, you may be interested to know that he was nominated to become a United States District Judge for the Eastern District of Virginia. Have a great day.

****

<http://www.whitehouse.gov/>
AUGUST 3, 2006

This afternoon, the President will participate in a tour of Border Patrol and National Guard Assets at McAllen-Miller International Airport, followed by a demonstration of Border Patrol National Guard Skybox. President Bush will follow these events with remarks on comprehensive immigration reform in Anzalduas County Park.

1:50 pm:
CDT THE PRESIDENT participates in a Tour of Border Patrol and National Guard Assets
McAllen-Miller International Airport | McAllen, Texas

2:30 pm:
CDT THE PRESIDENT views a Demonstration of Border Patrol National Guard Skybox
Skybox | Mission, Texas

2:55 pm:
CDT THE PRESIDENT makes Remarks on Comprehensive Immigration Reform

Anzalduas County Park | Mission, Texas

President Bush Praises Efforts Of Ohio Rescue Workers. "President Bush, emerging from a bunker-like structure in Lake County Wednesday afternoon, praised the work of hundreds of Northeast Ohio rescue workers and their bosses who fought to rescue people during last week's flood.

'The local response was really good,' Bush said after a 30-minute briefing with emergency officials at the Lake County Emergency Operation and Communications Center <http://www.cleveland.com/news/plaindealer/index.ssf?/base/cuyahoga/1154593832281930.xml&coll=2> , a concrete structure built into a hillside in Kirtland. Though the meeting was closed to reporters, Bush made several brief comments about what he learned during the meeting." (Mark Naymik and Maggie Martin, "President Lauds Response To Flood In Lake County," The [Cleveland, OH] Plain Dealer, 8/3/06)

President Bush To Discuss Comprehensive Immigration Reform In Texas. "President Bush will visit Mission today to make a final pitch for his immigration plan before beginning his traditional August vacation at his ranch in Crawford. The president arrives early afternoon at McAllen-Miller International Airport. He will tour Border Patrol and National Guard air assets before giving a speech to a limited audience at Anzalduas County Park in Mission, the White House press office confirmed Wednesday. ... Most recently, after a meeting with Miami entrepreneurs on Monday, the president promised he was still working for a 'rational' immigration policy that will 'one, enforce the rule of law, and on the other hand be compassionate about how this country treats people <http://www.themonitor.com/SiteProcessor.cfm?Template=/GlobalTemplates/Details.cfm&StoryID=14590&Section=Local> .'" (Kaitlin Bell, "President Bush To Visit Today," McAllen [TX] Monitor, 8/3/06)

Presence Of American Troops Calms Baghdad's Most Violent Neighborhoods. "Iraqis living in Baghdad's most violent neighborhoods have been able to leave their homes safely for the first time in months, as American foot patrols moved in as part of a beefed-up security plan. An additional 3,700 U.S. troops deployed in the capital in the past two days to join the roughly 56,000 U.S. and Iraqi troops already in the city. The deployment is part of a six-week security operation intended to stop sectarian killings. 'Everybody knows that if Americans are there, then it is safe,' said one young man who had just brought his pregnant wife home from the hospital." <http://www.washingtontimes.com/world/20060802-104747-8329r.htm> ("Presence Of U.S. Troops Adds Calm," The Washington Times, 8/3/06)

Britain Expresses Optimism It Will Transfer Control Of Basra To Iraqi Security Forces Early Next Year. "Britain is likely to hand over control of the southern Iraqi province of Basra to local security forces early next year, Britain's top military official said Wednesday. <http://news.yahoo.com/s/ap/20060802/ap_on_re_mi_ea/britain_iraq;_ylt=AjDKHQeBXSlifW9iRWny68pvaA8F;_ylu=X3oDMTA0cDJlYmhvBHNlYwM> Sir Jock Stirrup, chief of Britain's defense staff, said coalition forces were making good progress in stabilizing the region - despite the death of a British soldier in the city of Basra on Tuesday and concerns security has worsened since the 2003 invasion. 'We are now on a good path to hand over provincial control of Basra some time in the first part of next year,' he told British Broadcasting Corp. radio. 'But these are difficult issues we are grappling with, and I can't forecast what will happen over the next several months.'" (David Stringer, "Brits May Hand Over Basra Control In '07," The Associated Press, 8/2/06)

Attorney General Gonzales Supports Military Tribunal System For Foreign Terrorism Suspects. "The Bush administration on Wednesday continued to

push for a military tribunal system for foreign terrorism suspects that would bar them from access to classified evidence. Attorney General Alberto Gonzales, testifying before the Senate Armed Services Committee, also recommended that proposed legislation to create a tribunal system allow hearsay evidence and testimony obtained through coercion. ... 'In the midst of the current conflict, we must not share with captured terrorists the highly sensitive intelligence that may be relevant to military commission proceedings,' Gonzales told the panel. <http://www.usatoday.com/printedition/news/20060803/a_gonzales03.art.htm> " (Kevin Johnson, "White House Pushes For Tribunals," USA Today, 8/3/06)

Federal Agencies Making More Progress Than Ever Under President's Management Agenda. "The administration's latest assessment shows agencies are making more progress than ever in managing their human capital, competitive sourcing, finances, e-government and budget-performance integration. <http://federaltimes.com/index.php?S=1995456> According to Clay Johnson, deputy director for management at the Office of Management and Budget, the number of green progress scores on the president's management agenda scorecard for the third quarter of fiscal 2006 is the highest it's ever been." (Aimee Curl, "Agencies Improve Management Scores," Federal Times, 8/2/06)

President Bush Visits White House Press Briefing Room Before Renovations Begin. "As on the closing night of a long-running play, a lot of the old stars came out for the White House briefing room's finale. There were press secretaries for five of the last six presidents, and reporters who have haunted the building since John F. Kennedy. ... The president joked about the conditions during his appearance. 'I know you've been complaining about the digs for a while,' he said <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/02/AR2006080201190.html> . 'Let me just say, we felt your pain.'" (Peter Baker, "Media Pull Out Of One Combat Zone," The Washington Post, 8/3/06)

President Visits White House Press Briefing Room Prior to Renovation <http://www.whitehouse.gov/news/releases/2006/08/20060802-3.html>

President Bush Tours Lake County Emergency Management Agency After Recent Flooding in Ohio <http://www.whitehouse.gov/news/releases/2006/08/20060802-5.html>

President Designates United States Postal Service Facilities <http://www.whitehouse.gov/news/releases/2006/08/20060802.html>

Memorandum for the Secretary of State <http://www.whitehouse.gov/news/releases/2006/08/20060802-1.html>

Nominations Sent to the Senate <http://www.whitehouse.gov/news/releases/2006/08/20060802-4.html>

Press Briefing by Tony Snow <http://www.whitehouse.gov/news/releases/2006/08/20060802-2.html>

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business Address: Block Markus & Williams LLC
1700 Lincoln Street, Suite 4000
Denver CO 80203

Business: [redacted]
Home: [redacted]
Business Fax: (303) 830-0809

E-mail: [redacted]
E-mail Display As: [redacted]

[redacted]

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business Address: PO Box 1504
Pacific Palisades CA 90272

Business: [redacted]
Mobile: [redacted]

US Atty (Tenet)

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

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Qwest
1801 California Street, Suite 900
Denver, CO 80202

Business: [redacted]
Business Fax: (303) 383-8583

E-mail: [redacted]
E-mail Display As:

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Home Address: [redacted]

E-mail: [redacted]
E-mail Display As: [redacted]

Full Name:	[redacted]
Last Name:	[redacted]
First Name:	[redacted]
Job Title:	General Counsel
Company:	Qwest
E-mail:	[redacted]
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Full Name: [redacted]
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Business Fax: [redacted]

E-mail: [redacted]@pillsburylaw.com
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DOJ_NMG_ 0165972

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 6:48 PM
To: O'Connor, Eileen J. (AAG/TAX)
Subject: RE: Hail and Farewell

Lee, It has been a great honor watching you run the Tax Division with such efficiency and tenacity and good humor. I admire you greatly and very much hope to stay in touch. Warmest wishes, Neil

---

From: O'Connor, Eileen J. (AAG/TAX)
Sent: Thursday, August 03, 2006 1:30 PM
To: Gorsuch, Neil M
Subject: Hail and Farewell

Neil - It's been a great pleasure working with you. You will be a wonderful judge, and you will enjoy doing so. I look forward to keeping in touch.

Lee O'C.

Full Name:
Last Name:
First Name:

Business Address: University of Iowa
Trauma and Burn Surgery

E-mail: @gmail.com
E-mail Display As: @gmail.com

Full Name:	[redacted]
Last Name:	
First Name:	
Company:	Dewey Ballantine
Business Address:	1301 Avenue of the Americas New York, New York 10019
Business:	(212) 259-7606
Business Fax:	(212) 259-6333
E-mail:	[redacted]@dbllp.com
E-mail Display As:	[redacted]@dbllp.com)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 3, 2006 7:09 PM
To: Katsas, Gregory (CIV); Swenson, Lily F
Subject: FW: FOIA EO's implementation

Thought Greg should see this

From: Metcalfe, Daniel J
Sent: Thursday, August 03, 2006 5:49 PM
To: Steven_D._Aitken@omb.eop.gov; 'Kimberley_S._Luczynski@omb.eop.gov'; Swenson, Lily F
Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Subject: FOIA EO's implementation

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Brand, Rachel

From: Brand, Rachel
Sent: Thursday, August 3, 2006 7:20 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Tzitzon, Nicholas

From:	Tzitzon, Nicholas
Sent:	Thursday, August 3, 2006 7:21 PM
To:	Gorsuch, Neil M
Subject:	Read: Contact Information

Jaffer, Jamil N

From:	Jaffer, Jamil N
Sent:	Thursday, August 3, 2006 7:24 PM
To:	Gorsuch, Neil M
Subject:	Read: Possible Times for this Week

Hagy, David

From: Hagy, David
Sent: Thursday, August 3, 2006 7:33 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 3, 2006 7:33 PM
To: Gorsuch, Neil M
Subject: Soffer

Mauskopf, Roslynn (USANYE)

From:	Mauskopf, Roslynn (USANYE)
Sent:	Thursday, August 03, 2006 7:44 PM
To:	Gorsuch, Neil M
Subject:	Read: FW: The Daily Update: 8/3/06
Attachments:	ATTACHMENT.TXT

Your message

To: Mauskopf, Roslynn (USANYE)
Subject: FW: The Daily Update: 8/3/06
Sent: Thu, 3 Aug 2006 18:16:10 -0400

was read on Thu, 3 Aug 2006 19:44:02 -0400

Final-Recipient: RFC822; RMauskopf@usa.doj.gov
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSExch-Correlation-Key: kw2oNfbvWEqaRHFEYt04Wg==
Original-Message-ID: <B2450DEB8F0C3444B0812B54FE39574B11B2FD14@jmd0082.jmd.doj.gov>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 7:49 PM
Cc: Gorsuch, Neil M
Subject: Alice

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 3, 2006 7:59 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
August 3, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Senator Landrieu Calls on Attorney General to Send More Resources to Louisiana (OPA)
In a press conference this afternoon in Washington, D.C., Senator Mary Landrieu announced that she had sent a letter to the Attorney General asking the Justice Department to send in more federal agents and prosecutors to cope with the rising violence.

Talking Points:

- We share Senator Landrieu's desire to assist law enforcement in New Orleans and look forward to discussing ways to enhance our ongoing efforts to support the criminal justice system there and in the entire Hurricane Katrina-affected region.

- We will continue to support state and local officials in their efforts to address violent crime in the New Orleans area.

- The Department provided background information to reporters on the federal government's ongoing efforts to support the criminal justice system in the greater New Orleans area including more than $20 million made available to the city of New Orleans and Orleans Parish to help rebuild the criminal justice system there

- The Department has also provided over $61 million in Justice Assistance Grants (JAG) and Katrina relief law-enforcement infrastructure funds the Department has made available to the state of Louisiana plus the continuing work of the Southeast Louisiana Criminal Justice Recovery Task Force, headed up by the U.S. Attorney's Office under the leadership of U.S. Attorney Letten.

Senate Democrats Put Hold on DOJ Nominees (OPA)
The Washington Post will publish a story about Democratic senators holding up key DOJ nominees from confirmation. Specifically they will focus on a letter sent today by Senators Durbin, Kennedy and Feingold to the President indicating they are placing a hold on Steve Bradbury's nomination to Assistant Attorney General for the Office of Legal Counsel over the Office of Professional Responsibility investigation issue. They will also highlight Senator Carl

Levin's hold on new National Security Division Assistant Attorney General nominee Ken Wainstein.

Talking Points (Bradbury):

- The Attorney General stated before the Senate two weeks ago that "Mr. Bradbury's work is critical, and I know that the Executive Branch and the Congress have benefited from his extraordinary talents."

- Because the Office of Legal Counsel is involved in rendering critically important legal advice for all executive branch agencies on numerous issues, it is unfortunate and surprising that the Senators would place a hold on his nomination.

- The letter also unfairly implies that Mr. Bradbury was to be a target of the Office of Professional Responsibility's investigation into the Terrorist Surveillance Program when the program was established in the fall of 2001 long before Mr. Bradbury was even an employee of the federal government – he became the acting head of Office of Legal Counsel in February 2005.

- Terrorist Surveillance Program's continuing success depends critically on keeping information about the Program's operations confidential, and the number of people who have access to the operational details of the Program is strictly limited to the minimum necessary, consistent with the effectiveness of these intelligence activities. But despite the sensitivity of the information involved, the Terrorist Surveillance Program has been, and continues to be, the subject of extensive oversight both by the Executive Branch and Congress.

- Congressional leaders, including the leaders of the Intelligence Committees, have been given regular, extensive briefings since the Program's early days. In the past seven months, the Attorney General has appeared at four congressional hearings; senior Administration officials have participated in numerous congressional briefings and discussions; and Department of Justice officials have written over a dozen letters to Congress and answered over a hundred questions for the record about the Program.

- The program is reviewed approximately every 45 days by officials at the highest levels of government including the Office of the Director of National Intelligence and the Department of Justice, as well as career lawyers and officials at NSA. That review includes scrutiny by the NSA Office of the General Counsel and by the agency's Inspector General, who—unlike the Office of Professional Responsibility—is specifically charged with overseeing the lawfulness of employees' actions in implementing NSA programs.

Talking Points (Wainstein):

- Senator Levin has thwarted the will of the Chairmen of the 9/11 Commission and the WMD Commission and other members of Congress in standing up the National Security

Division. Five years after 9/11, the American people rightly expect their government do everything it can to ensure the safety and security of the country; and Senator Levin is clearly obstructing that effort.

Justice Department Responds to Conyers and Waxman Letter Regarding U.S. Attorney's Office Funding (OPA)

Assistant Attorney General William E. Moschella replied today to a July 24, 2006, joint letter from Rep. John Conyers (D-MI) and Rep. Henry Waxman (D-CA) regarding funding for the U.S. Attorneys' Offices across the nation noting that the House fully funded the president's request for the U.S. Attorneys and the Senate Appropriations Committee nearly funded the President's request. He further noted that the full House and Senate Appropriations Committees recently marked up the Department's Appropriations bill and that "We are hopeful that the final number provided in cofnerence will provide the level of support our prosecutors need to do their jobs." Multiple media outlets may run stories on the Department's response as a follow-up to earlier articles on the U.S. Attorneys' funding issue.

Age Refining to Pay United States $9 Million to Resolve False Claims Act Allegations (Civil)

Age Refining Inc., the company's former affiliate, Age Transportation, and Albert Gonzalez, the founder and chairman emeritus of Age Refining have agreed to pay the United States $9 million and reform its business practices as part of a settlement to resolve allegations of false certification in connection with government contracts. The settlement resolves allegations that San Antonio-based Age Refining falsely certified its compliance with the provisions of the Historically Underutilized Business Zone (HUBZone Act of 1997) program in order to entitle the company to a price evaluation preference in connection with bidding for JP-8 jet fuel and other contracts with the Department of Defense.

Talking Points

- Federal contractors will be held accountable for their violations of procurement regulations.

- This settlement is an example of the Department's determination to ensure that federal funds are protected from fraud and abuse.

Justice Department Seeks to Block Alleged Tax Scam Involving Native American Casino Distributions (Tax)

The Justice Department announced today that it has sued two certified public accountants in U.S. District Court in Los Angeles, seeking to bar them from operating an alleged tax scam involving tribe members' income from the Chumash Casino Resort in Santa Ynez, Calif. According to the government's civil injunction complaint, the two professionals—Stephen Drake of Prescott, Ariz., and Kenneth Sorenson of Buellton, Calif.— devised and operate a tax fraud scheme that helps some members of the Santa Ynez Band of Chumash Indians claim bogus deductions on their federal income tax returns to offset income the members receive from the Band's casino operations.

Study Finds More Than Half of Convicted Violent Felons Had Prior Record (OJP)
Fifty-six percent of the violent felons convicted in the nation's 75 most populous counties from 1990 through 2002 had a prior conviction record, 38 percent had a prior felony conviction and 15 percent had been previously convicted for a violent felony, according to a new study released today by the Justice Department's Bureau of Justice Statistics. The data was gathered from a report that analyzed a sample of 9,000 convicted violent felons representing 33,000 cases from state courts in the most populous counties.

***New York Times* Story on Alleged Kerik Investigation (FBI)**
The New York Times requested confirmation that the FBI is pursuing a criminal investigation of former NYPD Police Commissioner Bernard Kerik. The *Times* had heard from outside sources that grand jury subpoenas were recently served in a federal case and it appears the alleged criminal activity involves Kerik's abuse of funds while serving as NYC Corrections Commissioner. FBI declined comment.

FRIDAY'S EXPECTED EVENTS/RELEASES:

None scheduled.

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Thursday, August 03, 2006 8:17 PM
To: Gorsuch, Neil M
Subject: Read: At Long Last, Victory in Waxman

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Thursday, August 03, 2006 9:26 PM
To: Gorsuch, Neil M
Subject: Read: FOIA EO's implementation

Pacold, Martha M

From: Pacold, Martha M
Sent: Thursday, August 03, 2006 11:14 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Thursday, August 3, 2006 11:49 PM
To: Gorsuch, Neil M
Subject: RE: FOIA EO's implementation

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From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 7:09 PM
To: Katsas, Gregory (CIV); Swenson, Lily F
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From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 8:09 AM
To: Katsas, Gregory (CIV)
Cc: Swenson, Lily F
Subject: Re: FOIA EO's implementation

Lily is the expert here but in her absence I can share what I know.

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
Sent: Thu Aug 03 23:49:03 2006
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Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Subject: FOIA EO's implementation

Steve/Kimberley: Here are some basic facts for us to keep in mind as they tie into our discussion this afternoon of the FOIA EO's implementation:

o Under the EO, the AG is scheduled to submit a report to the President by October 14.

o All agencies will be concluding the first phase of their implementation of their FOIA improvement plans in mid-January (our written guidance says that they should take their efforts as far into the month of January as possible).

o All agencies must then report their initial implementation successes/deficiencies by February 1

(i.e., by their regular annual FOIA report deadline).

o Despite our best efforts, several agencies (most notably DHS, State, AID, and EOP/OA) failed to meet their June 14 deadline for the completion of their plans.

o Historically, dozens of agencies miss the February 1 deadline each year, with some (most notably Education and HUD) taking months longer.

o GAO seems poised to recommend improvements in some agencies' plans (most particularly regarding the measurement of backlog reduction) by perhaps as soon as late September/early October, which could constrain the AG's report.

o A major part of the AG's report could be his recommendation that a memorandum be issued to all agencies that at a minimum would do the following:

1. Remind agencies that there remain only X months (i.e., until mid-January) for them to achieve as much success as possible in the implementation of their FOIA improvement plans during this important initial implementation phase; and

2. Exhort agencies in the strongest possible terms to be sure that they do everything necessary to meet the EO's February deadline, notwithstanding what their compliance pattern has been in the past.

o If such a memorandum were issued by the President, and issued by no later than September 27, this memorandum even could be "rolled out" at the Annual Symposium of the American Society of Access Professionals, which is being held at the Reagan Building here in Washington on September 26-27; several hundred agency reps will be there.

o It perhaps should go without saying that such a step would have maximum impact, for relatively minimal investment, and be entirely consistent with the robust manner in which we have implemented the EO through our governmentwide efforts during the past seven months.

o In any event, however, it will be most important for Justice, OMB, and the WH to be on the same page with respect to the AG's report obligation, and to reach that point as soon as possible (especially if the AG's satisfaction of that obligation might be accelerated into September rather than October).

As I mentioned, I have raised this with Robert McCallum and do not by anything said seek to impinge on the AG's prerogative in this respect. I will cc Robert, Acting ASG Neil Gorsuch, and Lily Swenson on this as I'm leaving town for a few days this evening, and I look forward to the meeting that we have tentatively set for next Thursday morning to move forward on this as quickly as we can. Dan

McNulty, Paul J

Subject:	Canceled: Component Appeal Hearing
Location:	RFK Bldg, Room 4111
Start:	Friday, August 4, 2006 3:00 PM
End:	Friday, August 4, 2006 4:00 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, RichardElston, Michael (ODAG); Epley, Mark D; Sampson, Kyle; Goodling, Monica; Lofthus, Lee J; Gorsuch, Neil M; Lauria-Sullens, Jolene; O'Leary, Karin; Schultz, Walter H; Parameswaran, Shalini; Hertling, Richard
Importance:	High

Attendees: Mike Elston, Mark Epley, Kyle Sampson, Monica Goodling, Lee Lofthus, Rich Gorsuch, Jolene Lauria-Sullens, Karin O'Leary, Walter Schultz, Richard Hertling
Component TBD
JMD POC: Shalini Parameswaran 4-3056
ODAG POC: Linda Long 4-1904

Gorsuch, Neil M

Subject:	Harriet
Start:	Friday, August 4, 2006 1:00 PM
End:	Friday, August 4, 2006 2:00 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Gorsuch, Neil M

[redacted]@apprisemedia.com

From: [redacted]@apprisemedia.com
Sent: Friday, August 04, 2006 8:45 AM
To: Gorsuch, Neil M
Subject: FW: See attachment
Attachments: gorsuch0628.pdf

Neil
You'll get a kick out of this article which [redacted] came upon online. [redacted] even managed to stumble further upon footnote number 9. Who'd have thought that would ever be located.

[redacted]

Updated June 28, 2006

REPORT ON TENTH CIRCUIT NOMINEE NEIL GORSUCH

President Bush has nominated Neil Gorsuch for a seat on the U.S. Court of Appeals for the Tenth Circuit. For the past year, Mr. Gorsuch has been the Principal Deputy to the Associate Attorney General at the U.S. Department of Justice. Mr. Gorsuch, a native of Colorado, is strongly supported by Colorado Republican Senator Wayne Allard, who called him "extremely qualified for this position," and a "top-flight nominee."[1] Colorado's other senator, Democrat Ken Salazar, a member of the "Gang of 14," introduced Mr. Gorsuch at his hearing before the Senate Judiciary Committee but has not thus far publicly endorsed the nomination.[2] Mr. Gorsuch has spent most of his career in private practice representing corporate clients. He has expressed strong personal opinions in several published pieces, including an op-ed criticizing Democrats and liberals for what he said was an "addiction" to constitutional litigation, a piece attacking plaintiffs' lawyers in securities fraud cases, and law review articles supporting federal term limits and opposing legalization of doctor-assisted efforts by the terminally ill to end their lives.

I. BRIEF BIOGRAPHY

Neil Gorsuch was born on August 29, 1967 in Denver, Colorado. He graduated from Columbia University in 1988 and Harvard Law School in 1991. He also obtained a doctorate in philosophy from Oxford University in 1995. While at Harvard, Mr. Gorsuch participated in the Harvard Prison Legal Assistance Project and the Harvard Defenders program. After law school, he clerked for Judge David Sentelle on the U.S. Court of Appeals for the D.C. Circuit, retired Supreme Court Justice Byron White and Justice Anthony Kennedy. From 1995-2005, Mr. Gorsuch worked at the firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, where he became a partner in 1998.

In private practice, Gorsuch primarily represented corporate clients and worked on large anti-trust, class action and securities litigation. During his time at the firm, Mr. Gorsuch drafted amicus briefs in three Supreme Court cases, each involving issues related to corporate class actions.[3]

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[1] Press Release, Senator Wayne Allard, Senator Allard Lauds Nomination of Neil Gorsuch to 10th Circuit Court of Appeals (May 9, 2006) (available at http://allard.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=231870&Month=5&Year=2006).

[2] Jared A. Taylor, *Denver Native Gorsuch Sails Through Hearing for 10th Circuit*, SCRIPPS HOWARD NEWS SERVICE, June 22, 2006.

[3] *See California Public Employees' Retirement Systems v. Fezlen*, 525 U.S. 215 (1999); *Devlin v. Scardelletti*, 536 U.S. 1 (2002); *Dura Pharmaceuticals v. Broudo*, 544 U.S. 336 (2005).

DOJ_NMG_ 0166000

In 2005, Mr. Gorsuch became Principal Deputy to the Associate Attorney General at the U.S. Department of Justice. The Associate Attorney General's Office is responsible for advising and assisting the Attorney General and the Deputy Attorney General in "formulating and implementing Departmental policies and programs pertaining to a broad range of civil justice, federal and local law enforcement, and public safety matters."[4] The Associate Attorney General's Office oversees important divisions at the Department of Justice, including the Antitrust, Civil, Civil Rights and Environment and Natural Resources Divisions.

In his Senate questionnaire, Mr. Gorsuch stated that his responsibilities include assisting in "managing the Department's civil litigating components" and making "[m]ajor litigation decisions in certain significant cases – such as whether to file suit, what motions and defenses to bring, whether and how to settle significant cases on advantageous terms [and] editing and reviewing trail and appellate court legal briefs and plotting case strategy."[5] The questionnaire does not specify, however, which cases and policies Mr. Gorsuch has weighed in on.

Mr. Gorsuch is a member of a variety of political, public service, scholarly and social organizations, including: the Republican National Lawyers Association; the conservation group Trout Unlimited; the Association of Marshall Scholars; and the University Club. He is also a member of the American Trial Lawyers Association. According to publicly available documents, since 1999 Gorsuch has contributed $3,050 to a variety of Republican candidates and causes.

II. PUBLISHED WRITINGS

While in college, Mr. Gorsuch co-founded a newspaper and a magazine at Columbia University. Both publications – *The Morningside Review* (the magazine) and *The Federalist* (the newspaper) – were intended to counter what Mr. Gorsuch and his co-founders saw as the predominance of liberal political views at Columbia during the mid-to-late 1980s. A review of available issues of the *The Morningside Review,* located in the Columbia archives, revealed two pieces authored by Mr. Gorsuch: one was a comment on U.S. policy in Afghanistan;[6] the other, a general defense of conservative political philosophy.[7] The Columbia archives also contain most, but not all, of the editions of the *The Federalist* published during Mr. Gorsuch's tenure at the paper. According to its initial statement of purpose, *The Federalist* attempted to provide a "classically liberal" forum for conservative students and others who want to air views not typically heard on campus.[8] Mr. Gorsuch, one of the paper's three founders, served on the board of editors and later as a contributor. Among other things, editorials published during his tenure encouraged a boycott of the Soviet Union, promoted the Strategic Defense Initiative ("Star Wars"), and attacked "political correctness" at Columbia. A search of the archives at Columbia

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[4] U.S. Department of Justice, http://www.usdoj.gov/aag/index.html (last visited June 20, 2006).
[5] Neil Gorsuch, Responses to Senate Judiciary Committee Questionnaire, at 8 (on file with Alliance for Justice).
[6] Neil M.T. Gorsuch, *The State Department vs. Afghanistan*, THE MORNINGSIDE REVIEW, Vol. V, Number 1, Winter 1986.
[7] Neil M.T. Gorsuch, *A Tory Defense*, THE MORNINGSIDE REVIEW, Vol. V, Number 3, Oct. 1986.
[8] *The Federalist*, http://www.columbia.edu/cu/thefed/v3/volume15/5/fedhistory.shtml (last visited June 20, 2006).

DOJ_NMG_ 0166001

University revealed only one piece directly attributed by Mr. Gorsuch. In it, he and his co-author argued against the movement to make fraternities and sororities at Columbia co-ed.[9]

During his professional career, Mr. Gorsuch's has had several pieces regarding his legal views published in academic journals and the popular press.

A. Views on Aspects of the Civil Justice System

In an op-ed published in the *National Review Online* shortly before he became a Department of Justice official, Mr. Gorsuch attacked "American liberals" for what he said was an over-reliance on constitutional litigation.[10] He asserted that liberals' "overweening addiction to the courtroom" negatively affects public policy by aggrandizing the courts and consequently dampening "social experimentation" by the legislative branches.[11] As a result, he argued, reliance on constitutional litigation has led to the politicization of the judiciary and the judicial selection process. Mr. Gorsuch also predicted that the "Left's alliance with trial lawyers and its dependence on constitutional litigation to achieve its social goals risks political atrophy," which will ultimately invite "permanent-minority status for the Democratic party."[12] Mr. Gorsuch concluded that the country would be much better off if liberals "kick[ed] their addiction to constitutional litigation" and attempted to "win elections rather than lawsuits."[13] Mr. Gorsuch was not similarly critical of constitutional litigation, initiated by conservative groups, aimed at invalidating public policies like land use and environmental regulation, campaign finance reform, affirmative action and gun control.

In another article, which discussed a securities fraud class action he handled for the national Chamber of Commerce as amicus, Mr. Gorsuch launched into an attack on plaintiffs' lawyers for using such cases as vehicles for "free ride[s] to fast riches." He concluded that that they involve "frivolous claims … [that] impose[] an enormous toll on the economy, affecting virtually every public corporation in America at one time or another and costing business billions of dollars in settlements every year."[14]

B. Views on End-of-Life Decisions

Mr. Gorsuch has written on the debate over whether state governments should permit what he refers to as doctor-assisted suicide. Throughout his writings, which include a forthcoming book and two significant law review articles,[15] he has rejected the underlying legal

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[9] [redacted] and Neil Gorsuch, *Coed Fraternity: Pro/Con*, THE FEDERALIST, Vol. II, Number 6, March 6, 1988.
[10] Neil Gorsuch, *Liberals' n' Lawsuits*, NATIONAL REVIEW, Feb. 7, 2005 (available at http://www.nationalreview.com/comment/gorsuch200502070742.asp).
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Neil M. Gorsuch and Paul B. Matey, *No Loss, No Gain*, LEGAL TIMES, Jan. 31, 2005.
[15] Neil M. Gorsuch, The Future of Assisted Suicide and Euthanasia (Princeton University Press forthcoming July 2006 see synopsis at http://www.pupress.princeton.edu/titles/8317.html); Neil M. Gorsuch, *The Legalization of Assisted Suicide and the Law of Unintended Consequences*, 2004 Wis. L. Rev. 1347 (2004); Neil M. Gorsuch, *The Right to Assisted Suicide and Euthanasia*, 23 Harv. J.L. & Pub. Pol'y 599, 641 (2000).

DOJ_NMG_ 0166002

and moral arguments put forward in support of legislation allowing doctors to assist terminally ill patients to end their lives.

In one comprehensive article he authored on the topic, Mr. Gorsuch reviewed the legal and historical context in which the modern debate has occurred. He concluded that legalizing doctor-assisted suicide is not supported by the law, by history or by morality. First, focusing primarily on common law traditions, Mr. Gorsuch rejected arguments that legalized assisted suicide is supported by history: "history does not support a right to assistance in suicide or euthanasia 'right.' To the contrary, there is a long-standing modern consensus aim[ed] at preventing suicide and punishing those who assist it."[16] Next, Mr. Gorsuch examined, and rejected, a variety of philosophical arguments invoked to support doctor-assisted suicide, including the neutrality principle (government should not be involved in making moral judgments about how people live their lives); the harm principle (government's only role is to prevent individuals from harming others); and the utilitarian approach (suggesting that the benefits of assisted suicide outweigh the costs).

Mr. Gorsuch's concluding argument against legalizing doctor-assisted suicide was that "the intentional taking of a human life by private persons is always wrong."[17] While making exceptions for killing in the context of war and criminal justice, Mr. Gorsuch posited that adherence to this principle correctly prevents society from venturing into "troubling territory," where it would "become[] enmeshed in making moral decisions about which [intentional killings] it deems permissible."[18] In support of his view, Mr. Gorsuch argued that common law traditions reflect the concept that all "intentional acts against human life" are wrong.[19] He concluded that given the lack of persuasive arguments by the proponents of assisted suicide, the common law traditions disfavoring the intentional taking of life, and the "persuasive moral reasoning," founded in the "recognition of the sanctity of life," legalizing "assisted suicide and euthanasia, plainly would not be permitted."[20]

C. <u>Views on Term Limits</u>

In a law review article defending the constitutionality of term limits, Mr. Gorsuch asserted that such limits serve an appropriate and legitimate purpose in regulating congressional elections.[21] The Framers, he argued, failed to include term limits in the Constitution because they believed frequent elections would preclude the continual re-election of incumbents. The advent of standing congressional committees and legislative seniority, however, has increased legislators' incentive to stay in office and thereby undermined the Framers' vision of short electoral terms. Term limits are thus necessary, Mr. Gorsuch concluded.

In making his argument for the constitutionality of term limits, Mr. Gorsuch emphasized the difference between a legally permissible "manner regulation," which implicates the

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[16] Neil M. Gorsuch, *The Right to Assisted Suicide and Euthanasia*, 23 Harv. J.L. & Pub. Pol'y 599, 641 (2000).
[17] *Id*. at 697.
[18] *Id*. at 701.
[19] *Id*. at 705.
[20] *Id*. at 710.
[21] Neil Gorsuch and Michael Guzman, *Will the Gentlemen Please Yield? A Defense of the Constitutionality of State-Imposed Term Limits*, 20 Hofstra L. Rev. 341 (1991).

DOJ_NMG_ 0166003

procedure of an election, and an impermissible "qualification," which augments the three constitutionally-enumerated qualifications: age, residence and citizenship. He argued that term limits are manner regulations because they involve procedural concerns, such as the general timing of the election, and because, in his view, the Supreme Court had suggested that regulations not involving age, residency and citizenship were manner regulations. In addition, Mr. Gorsuch suggested that state-imposed term limits do not hinder the First Amendment rights of free speech and assembly, as elected officials do not have an unfettered right to candidacy, and voters do not have a fundamental right to vote for particular individuals. He also asserted that Fourteenth Amendment equal protection rights are not implicated, as term limits do not discriminate against poor or minority candidates, impose only a minimal burden on incumbents, and work to treat all voters equally. In balancing the interests of candidates and voters against the interests animating term limits, Mr. Gorsuch found that term limits would have little negative impact.

Mr. Gorsuch's ideal term limit system was modeled on a measure passed in Colorado, which limited U.S. Senators and Representatives to twelve years in office but allowed them to run again after a four-year rotation out of office, though the term-limited former official was allowed to conduct a write-in campaign at any time. For Mr. Gorsuch, such a system would promote some of the "most basic and important" governmental interests by "[m]aintaining a representative democracy and limiting the influence of unfair electoral advantages … ."[22]

Mr. Gorsuch's arguments were ultimately rejected by the Supreme Court several years after he published his article. The Court embraced the idea that states may impose "manner" regulations on elections. But it found that the restrictions limiting electoral terms, as applied to federal elections, did not constitute such a regulation; rather, according to the Court, they were unconstitutional "qualifications" regulations.[23] The Court's decision invalidated state-imposed Congressional term limit laws throughout the country, including the Colorado law that Mr. Gorsuch held out as a model.

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[22] *Id*. at 379-380.
[23] *See U.S. Term Limits v. Thorton,* 514 U.S. 799 (1995).

DOJ_NMG_ 0166004

Shaw, Aloma A

Subject: Melanie Pustay

Start: Friday, August 04, 2006 10:15 AM
End: Friday, August 04, 2006 10:20 AM

Recurrence: (none)

Meeting Status: No response required

Organizer: Shaw, Aloma A

Wants to say a quick good-bye

Martinson, Wanda

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:31 AM
To: Gorsuch, Neil M
Subject: Rachel Brand

Rachel asked me to see if you'll be here at 5:30 - do you have 5 minutes?
(If not then, perhaps 2:45?)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 10:40 AM
To: Martinson, Wanda
Subject: RE: Rachel Brand

Absolutely! I will stop by at 5.30.

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:31 AM
To: Gorsuch, Neil M
Subject: Rachel Brand

Rachel asked me to see if you'll be here at 5:30 - do you have 5 minutes?
(If not then, perhaps 2:45?)

Martinson, Wanda

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:41 AM
To: Gorsuch, Neil M
Subject: RE: Rachel Brand

Or she can come see you if that's better. It's your last day, and you must be swamped. She missed your farewell due to official travel, and I think she wants to say a proper goodbye. Just let me know which location is best for you.
Thanks,
Wanda

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:40 AM
To: Martinson, Wanda
Subject: RE: Rachel Brand

Absolutely! I will stop by at 5.30.

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:31 AM
To: Gorsuch, Neil M
Subject: Rachel Brand

Rachel asked me to see if you'll be here at 5:30 - do you have 5 minutes?
(If not then, perhaps 2:45?)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:42 AM
To: Fisher, Alice
Subject: Farewell

Alice - I'm so sorry I didn't get more of a chance to talk with you Wednesday to say goodbye properly. I cannot think of anyone at DOJ I will miss more. You're the best of friends and the best of lawyers. I do hope you will keep in touch with me even as I'm put out to pasture, and I will certainly look forward to watching your career continue to soar. Much, much love, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; '[redacted]@ca10.uscourts.gov'
Subject: Unused leave

Ms. Soffer, I spoke with folks at the Tenth Circuit and they're clear that my unused leave is something DOJ can pay to me upon departure. Please can you confirm this will occur? Thanks so much, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Martinson, Wanda
Subject: RE: Rachel Brand

That's very kind and I'm happy to stop by there.

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:41 AM
To: Gorsuch, Neil M
Subject: RE: Rachel Brand

Or she can come see you if that's better. It's your last day, and you must be swamped. She missed your farewell due to official travel, and I think she wants to say a proper goodbye. Just let me know which location is best for you.
Thanks,
Wanda

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:40 AM
To: Martinson, Wanda
Subject: RE: Rachel Brand

Absolutely! I will stop by at 5.30.

From: Martinson, Wanda
Sent: Friday, August 04, 2006 10:31 AM
To: Gorsuch, Neil M
Subject: Rachel Brand

Rachel asked me to see if you'll be here at 5:30 - do you have 5 minutes?
(If not then, perhaps 2:45?)

Brand, Rachel

Subject:	Neil Gorsuch/Rachel Brand
Location:	Rachel's office - Neil will stop by
Start:	Friday, August 04, 2006 5:30 PM
End:	Friday, August 04, 2006 5:40 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Brand, Rachel
Required Attendees:	Gorsuch, Neil MGorsuch, Neil M

Brand, Rachel

Subject:	Accepted: Neil Gorsuch/Rachel Brand
Location:	Rachel's office - Neil will stop by
Start:	Friday, August 04, 2006 5:30 PM
End:	Friday, August 04, 2006 5:40 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Brand, Rachel

Shaw, Aloma A

Subject:	Car en route WH
Start:	Friday, August 04, 2006 1:15 PM
End:	Friday, August 04, 2006 1:15 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

Subject:	Car back to DOJ
Start:	Friday, August 04, 2006 1:50 PM
End:	Friday, August 04, 2006 1:50 PM
Recurrence:	(none)
Meeting Status:	No response required
Organizer:	Shaw, Aloma A

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, August 4, 2006 11:59 AM
To: Gorsuch, Neil M
Subject: Car over to WH

Harriet's assistant said you need to be over at the WH by 1:30. The motor pool says it takes at least 15 minutes to get over to the WH. You are scheduled to depart 10th St. gate at 1:15pm. The car will pick you up at 1:50.

Soffer, Mary L

From: Soffer, Mary L
Sent: Friday, August 4, 2006 12:18 PM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO); Shaw, Aloma A; '[redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

Yes, if you move from the Executive Branch to either the Judicial or the Legislative Branch, and you will not be covered by the Leave Act, you will receive a lump sum payment for your annual leave.

Mary Lou Soffer

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: Unused leave

Ms. Soffer, I spoke with folks at the Tenth Circuit and they're clear that my unused leave is something DOJ can pay to me upon departure. Please can you confirm this will occur? Thanks so much, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 12:45 PM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

Thanks so much. Are you the right person to make sure this happens? Thanks again.

From: Soffer, Mary L
Sent: Friday, August 04, 2006 12:18 PM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

Yes, if you move from the Executive Branch to either the Judicial or the Legislative Branch, and you will not be covered by the Leave Act, you will receive a lump sum payment for your annual leave.

Mary Lou Soffer

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: Unused leave

Ms. Soffer, I spoke with folks at the Tenth Circuit and they're clear that my unused leave is something DOJ can pay to me upon departure. Please can you confirm this will occur? Thanks so much, Neil

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, August 4, 2006 12:58 PM
To: Gorsuch, Neil M
Subject: Phone Calls

Jamil - cell [redacted]

[redacted] - [redacted]

[redacted] - [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 1:01 PM
To: Paulose, Rachel (USAMN)
Subject: Congratulations

I was delighted to hear the news of your nomination! Well done and what great news for the country.
NMG

Soffer, Mary L

From: Soffer, Mary L
Sent: Friday, August 4, 2006 1:05 PM
To: Gorsuch, Neil M
Subject: RE: Unused leave

I have sent a heads up email to the Payroll Supervisor (Bea Smith) to make sure this happens.

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 12:45 PM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

Thanks so much. Are you the right person to make sure this happens? Thanks again.

From: Soffer, Mary L
Sent: Friday, August 04, 2006 12:18 PM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

Yes, if you move from the Executive Branch to either the Judicial or the Legislative Branch, and you will not be covered by the Leave Act, you will receive a lump sum payment for your annual leave.

Mary Lou Soffer

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: Unused leave

Ms. Soffer, I spoke with folks at the Tenth Circuit and they're clear that my unused leave is something DOJ can pay to me upon departure. Please can you confirm this will occur? Thanks so much, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 1:09 PM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); '[redacted]@ca10.uscourts.gov'; Shaw, Aloma A
Subject: RE: Unused leave

Thanks!

From: Soffer, Mary L
Sent: Friday, August 04, 2006 1:05 PM
To: Gorsuch, Neil M
Subject: RE: Unused leave

I have sent a heads up email to the Payroll Supervisor (Bea Smith) to make sure this happens.

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 12:45 PM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

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From: Soffer, Mary L
Sent: Friday, August 04, 2006 12:18 PM
To: Gorsuch, Neil M
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: RE: Unused leave

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Mary Lou Soffer

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 10:44 AM
To: Soffer, Mary L
Cc: Gunn, Currie (SMO); Shaw, Aloma A; [redacted]@ca10.uscourts.gov'
Subject: Unused leave

Ms. Soffer, I spoke with folks at the Tenth Circuit and they're clear that my unused leave is something DOJ can pay to me upon departure. Please can you confirm this will occur? Thanks so much, Neil

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 1:10 PM
To: Acosta, Alex (USAFLS)
Subject: RE: Congratulations

Me too!

-----Original Message-----
From: Acosta, Alex (USAFLS)
Sent: Friday, August 04, 2006 1:02 PM
To: Gorsuch, Neil M
Subject: Re: Congratulations

Thanks.

And congrats on [redacted] as a clerk. He is destined for greatness. I suspect he will be back in DC someday.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@usdoj.gov>
To: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Fri Aug 04 13:01:15 2006
Subject: Congratulations

I was delighted to hear that the Senate has provided its advice and consent. Congratulations! All the best, NMG

Steven_D._Aitken@omb.eop.gov

From:	Steven_D._Aitken@omb.eop.gov
Sent:	Friday, August 04, 2006 1:30 PM
To:	Metcalfe, Daniel J; Kimberley_S._Luczynski@omb.eop.gov
Cc:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Subject:	RE: FOIA EO's implementation

Dan -- Thanks for sending over the information below. We'll coordinate on our end and get back to you to confirm whether the tentative Thursday meeting time works with folks here.

-----Original Message-----
From: Daniel.J.Metcalfe@usdoj.gov [mailto:Daniel.J.Metcalfe@usdoj.gov]
Sent: Thursday, August 03, 2006 5:54 PM
To: Luczynski, Kimberley S.; Lily.Fu.Swenson@usdoj.gov; Aitken, Steven D.
Cc: Robert.McCallum@usdoj.gov; Neil.Gorsuch@usdoj.gov; Lily.Fu.Swenson@usdoj.gov
Subject: FOIA EO's implementation

Steve/Kimberley: Here are some basic facts for us to keep in mind as they tie into our discussion this afternoon of the FOIA EO's implementation:

o Under the EO, the AG is scheduled to submit a report to the President by October 14.

o All agencies will be concluding the first phase of their implementation of their FOIA improvement plans in mid-January (our written guidance says that they should take their efforts as far into the month of January as possible).

o All agencies must then report their initial implementation successes/deficiencies by February 1 (i.e., by their regular annual FOIA report deadline).

o Despite our best efforts, several agencies (most notably DHS, State, AID, and EOP/OA) failed to meet their June 14 deadline for the completion of their plans.

o Historically, dozens of agencies miss the February 1 deadline each year, with some (most notably Education and HUD) taking months longer.

o GAO seems poised to recommend improvements in some agencies' plans (most particularly regarding the measurement of backlog reduction) by perhaps as soon as late September/early October, which could constrain the AG's report.

o A major part of the AG's report could be his recommendation that a memorandum be issued to all agencies that at a minimum would do the following:

1. Remind agencies that there remain only X months (i.e., until mid-January) for them to

achieve as much success as possible in the implementation of their FOIA improvement plans during this important initial implementation phase; and

2. Exhort agencies in the strongest possible terms to be sure that they do everything necessary to meet the EO's February deadline, notwithstanding what their compliance pattern has been in the past.

o If such a memorandum were issued by the President, and issued by no later than September 27, this memorandum even could be "rolled out" at the Annual Symposium of the American Society of Access Professionals, which is being held at the Reagan Building here in Washington on September 26-27; several hundred agency reps will be there.

o It perhaps should go without saying that such a step would have maximum impact, for relatively minimal investment, and be entirely consistent with the robust manner in which we have implemented the EO through our governmentwide efforts during the past seven months.

o In any event, however, it will be most important for Justice, OMB, and the WH to be on the same page with respect to the AG's report obligation, and to reach that point as soon as possible (especially if the AG's satisfaction of that obligation might be accelerated into September rather than October).

As I mentioned, I have raised this with Robert McCallum and do not by anything said seek to impinge on the AG's prerogative in this respect.
I will cc Robert, Acting ASG Neil Gorsuch, and Lily Swenson on this as I'm leaving town for a few days this evening, and I look forward to the meeting that we have tentatively set for next Thursday morning to move forward on this as quickly as we can. Dan

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 1:37 PM
To: 'Steven_D._Aitken@omb.eop.gov'; Metcalfe, Daniel J; 'Kimberley_S._Luczynski@omb.eop.gov'; Katsas, Gregory (CIV)
Cc: McCallum, Robert (SMO); Swenson, Lily F
Subject: Re: FOIA EO's implementation

Adding Greg Katsas, the new principal depty associate ag.

-----Original Message-----
From: Steven_D._Aitken@omb.eop.gov <Steven_D._Aitken@omb.eop.gov>
To: Metcalfe, Daniel J; Kimberley_S._Luczynski@omb.eop.gov <Kimberley_S._Luczynski@omb.eop.gov>
CC: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Sent: Fri Aug 04 13:29:57 2006
Subject: RE: FOIA EO's implementation

Dan -- Thanks for sending over the information below. We'll coordinate on our end and get back to you to confirm whether the tentative Thursday meeting time works with folks here.

-----Original Message-----
From: Daniel.J.Metcalfe@usdoj.gov [mailto:Daniel.J.Metcalfe@usdoj.gov]
Sent: Thursday, August 03, 2006 5:54 PM
To: Luczynski, Kimberley S.; Lily.Fu.Swenson@usdoj.gov; Aitken, Steven D.
Cc: Robert.McCallum@usdoj.gov; Neil.Gorsuch@usdoj.gov; Lily.Fu.Swenson@usdoj.gov
Subject: FOIA EO's implementation

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o Despite our best efforts, several agencies (most notably DHS, State, AID, and EOP/OA) failed to meet their June 14 deadline for the completion of their plans.

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o If such a memorandum were issued by the President, and issued by no later than September 27, this memorandum even could be "rolled out" at the Annual Symposium of the American Society of Access Professionals, which is being held at the Reagan Building here in Washington on September 26-27; several hundred agency reps will be there.

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o In any event, however, it will be most important for Justice, OMB, and the WH to be on the same page with respect to the AG's report obligation, and to reach that point as soon as possible (especially if the AG's satisfaction of that obligation might be accelerated into September rather than October).

As I mentioned, I have raised this with Robert McCallum and do not by anything said seek to impinge on the AG's prerogative in this respect.
I will cc Robert, Acting ASG Neil Gorsuch, and Lily Swenson on this as I'm leaving town for a few days this evening, and I look forward to the meeting that we have tentatively set for next Thursday morning to move forward on this as quickly as we can. Dan

Metcalfe, Daniel J

From: Metcalfe, Daniel J
Sent: Friday, August 4, 2006 1:37 PM
To: Gorsuch, Neil M
Subject: Out of Office AutoReply: FOIA EO's implementation

I will be out of town until Tuesday evening. For anything urgent, I can be reached through OIP's front office.

Senger, Jeffrey M

From: Senger, Jeffrey M
Sent: Friday, August 04, 2006 2:12 PM
To: Gorsuch, Neil M
Subject: Hi

Hi, Neil. Just wanted to say I understand your reasons for not going forward with my request, and I'm okay with it. No one ever promised me anything here. Anyway, it's been a pleasure working with you, keep in touch, and I wish you all the best.
Jeff

@aol.com

From: @aol.com
Sent: Friday, August 04, 2006 2:30 PM
To: Gorsuch, Neil M
Subject: Re: Contact Information
Attachments: tmp.htm

Neil,

This is a reply (busy as you must be) to which you needn't reply, if that makes sense. I just wanted to tell you that the reason I asked about Montana: I recently got an e-mail from a lawyer there, asking if I were the same with whom he had served on the U.S. Capitol Police in the early 1960s. He was asking because he'd seen an article in The Montana Lawyer, an article, as it turned out that they had reprinted from The Washington Lawyer without permission. I contacted the editor, who said his predecessor had told him they had permission, and asking if they could pay me a fee. I said I'd settle for $250, and that's the last I've heard from them. I've got them by the ... (what's the legal word for balls?)

Neil,

This is a reply (busy as you must be) to which you needn't reply, if that makes sense. I just wanted to tell you that the reason I asked about Montana: I recently got an e-mail from a lawyer there, asking if I were the same [redacted] with whom he had served on the U.S. Capitol Police in the early 1960s. He was asking because he'd seen an article [redacted] in The Montana Lawyer, an article, as it turned out that they had reprinted from The Washington Lawyer *without permission*. I contacted the editor, who said his predecessor had told him they had permission, and asking if they could pay me a fee. I said I'd settle for $250, and that's the last I've heard from them. I've got them by the ... (what's the legal word for balls?)

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 2:57 PM
To: Eisenberg, John
Subject: RE:

Please do try again - and mawkish email most welcome from you.

From: Eisenberg, John
Sent: Friday, August 04, 2006 2:30 PM
To: Gorsuch, Neil M
Subject:

I just tried to drop by between meetings, and I will try again in a few hours. Since I have your new email addresses, I can save mawkish email for later.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 2:58 PM
To: Senger, Jeffrey M
Subject: RE: Hi

Thanks so much for your understanding and friendship, Jeff. Best of luck to you on your next adventure at FDA and with your wedding. What a great couple of months for you lie ahead! Please stay in touch. Warmest wishes, Neil

-----Original Message-----
From: Senger, Jeffrey M
Sent: Friday, August 04, 2006 2:12 PM
To: Gorsuch, Neil M
Subject: Hi

Hi, Neil. Just wanted to say I understand your reasons for not going forward with my request, and I'm okay with it. No one ever promised me anything here. Anyway, it's been a pleasure working with you, keep in touch, and I wish you all the best.
Jeff

Wooldridge, Sue Ellen (ENRD)

From: Wooldridge, Sue Ellen (ENRD)
Sent: Friday, August 4, 2006 3:37 PM
To: Gorsuch, Neil M
Subject: Rule 16

You had asked if ENRD had comments on the revised Rule 16 rule and policy. ENRD has no comments.
Sue

Paulose, Rachel (USAMN)

From: Paulose, Rachel (USAMN)
Sent: Friday, August 04, 2006 3:50 PM
To: Gorsuch, Neil M
Subject: RE: Congratulations
Attachments: tmp.htm

Thank you very much for your gracious message, Neil. It is an honor to be a part of such an outstanding team.

You are so kind to think of me in the midst of your transition. I hope all is going well with your impending move.

Best,
RKP

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 12:01 PM
To: Paulose, Rachel (USAMN)
Subject: Congratulations

I was delighted to hear the news of your nomination! Well done and what great news for the country.
NMG

Thank you very much for your gracious message, Neil. It is an honor to be a part of such an outstanding team. You are so kind to think of me in the midst of your transition. I hope all is going well with your impending move.

Best,
RKP

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 12:01 PM
To: Paulose, Rachel (USAMN)
Subject: Congratulations

I was delighted to hear the news of your nomination! Well done and what great news for the country. NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 4:15 PM
To: Wooldridge, Sue Ellen (ENRD)
Cc: Katsas, Gregory (CIV)
Subject: RE: Rule 16

Thanks so much.

From: Wooldridge, Sue Ellen (ENRD)
Sent: Friday, August 04, 2006 3:37 PM
To: Gorsuch, Neil M
Subject: Rule 16

You had asked if ENRD had comments on the revised Rule 16 rule and policy. ENRD has no comments.
Sue

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Friday, August 04, 2006 5:35 PM
To: Gorsuch, Neil M
Subject: So Long

Neil:

I don't do good-byes well, so I'll simply say so long. It's been a pleasure knowing you and working for you. I wish you, [redacted] and the girls well. By the way, one of my all time favorite songs is sung by John Denver, "Rocky Mountain High!"

Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 6:38 PM
To: Shaw, Aloma A
Subject: RE: So Long

Aloma, I feel terribly that I was out when you left and we didn't get a chance to say a proper good bye. You've been absolutely wonderful to me and I cannot thank you enough for "showing me the ropes" and for all of your good humor day in and day out. I will miss you and [redacted] a lot and hope to stay in touch. Please could you email your home contact information? For now, alas, I don't really have one and the office info I forwarded is the best way to get ahold of me. Many, many thanks and best wishes, Neil

---

From: Shaw, Aloma A
Sent: Friday, August 04, 2006 5:35 PM
To: Gorsuch, Neil M
Subject: So Long

Neil:

I don't do good-byes well, so I'll simply say so long. It's been a pleasure knowing you and working for you. I wish you, [redacted] and the girls well. By the way, one of my all time favorite songs is sung by John Denver, "Rocky Mountain High!"

Aloma

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 6:56 PM
To: Jaffer, Jamil N
Subject: Thank You

However it turns out, thank you for all of your excellent help and advice over the last weeks and months. You've been a great friend. All the best, NMG

System Administrator

From:	System Administrator
Sent:	Friday, August 4, 2006 7:01 PM
To:	Wulf, David M.
Subject:	Undeliverable: Not read: FW: State statutes regarding arrest authority for federal LEOs
Attachments:	Not read: FW: State statutes regarding arrest authority for federal LEOs.msg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, August 4, 2006 7:01 PM
To: Wulf, David M.
Subject: Not read: FW: State statutes regarding arrest authority for federal LEOs

Katsas, Gregory (CIV)

From: Katsas, Gregory (CIV)
Sent: Friday, August 04, 2006 7:01 PM
To: Gorsuch, Neil M
Subject: Read: Hi

From: USDOJ- Office of Public Affairs
Sent: Friday, August 04, 2006 7:48 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 7 – 11, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 4, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
August 7 – August 11, 2006

Monday, August 7

Events TBD

Tuesday, August 8

11:15 A.M. EDT Attorney General Alberto R. Gonzales will participate in a press conference with local and state officials regarding anti-drug efforts in the Cincinnati area.
Talbert House
3123 Woodburn Ave.
Cincinnati, Ohio
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

Wednesday, August 9

Events TBD

Thursday, August 10

Events TBD

Friday, August 11

Events TBD

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DOJ_NMG_ 0166045

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Image not available for this document, ID: 0.7.10316.39414-000002

[redacted]@ftc.gov

From: [redacted]@ftc.gov
Sent: Friday, August 04, 2006 8:00 PM
To: Gorsuch, Neil M
Subject: BBQ

Neil: I realize I left off part of the RH and B order. It will be in total 14 lb pulled pork and 4 lbs pulled chicken, 13 packs of buns and 5 packs of minibuns. Total cost 211.67. While I'll be at the beach all week, I've got my blackberry and the catering menu!

From: USDOJ- Office of Public Affairs
Sent: Friday, August 04, 2006 8:15 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF ATF DIRECTOR CARL J. TRUSCOTT

Department of Justice

FOR IMMEDIATE RELEASE — AG
FRIDAY, AUGUST 4, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF ATF DIRECTOR CARL J. TRUSCOTT

"I want to express my sincere thanks to Carl for his service to our country. He has been a leader in the area of law enforcement, with a long and distinguished career in government service including the personal protection of four presidents while at the Secret Service before he took the helm of the ATF in 2004. I appreciate all of Carl's hard work and wish him the very best in his future endeavors."

# # #

06-502

DOJ_NMG_ 0166049

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Image not available for this document, ID: 0.7.10316.39421-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 4, 2006 8:19 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
August 4, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Truscott Resigns as Director of ATF (OPA)
Carl J. Truscott, Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, resigned today. The Attorney General released the following statement on Truscott's resignation.

"I want to express my sincere thanks to Carl for his service to our country. He has been a leader in the area of law enforcement, with a long and distinguished career in government service including the personal protection of four presidents while at the Secret Service before he took the helm of the ATF in 2004. I appreciate all of Carl's hard work and wish him the very best in his future endeavors."

Congress Approves Cybercrime Convention (OPA)
The Senate today endorsed the Cybercrime Convention, an international treaty that calls for global cooperation in fighting computer-related crimes. The Attorney General released the following statement on the passage of the Cybercrime Convention:

"The Cybercrime Convention - the first of its kind - will be a key tool for the United States in fighting global, information-age crime. This treaty provides important tools in the battles against terrorism, attacks on computer networks, and the sexual exploitation of children over the Internet, by strengthening U.S. cooperation with foreign countries in obtaining electronic evidence. The Convention is in full accord with all U.S. constitutional protections, such as free speech and other civil liberties, and will require no change to U.S. laws. I congratulate and thank the Senate for its advice and consent, and look forward to having the United States become a party to the convention at the earliest opportunity."

Former Broker to the Archdiocese of New York Pleads Guilty to Fraud, Tax and Obstruction of Justice Charges (Antitrust)
A former consultant for the central purchasing agent of the Archdiocese of New York pleaded guilty today to eight fraud, tax and obstruction of justice charges, the Department of Justice announced. The former consultant, Joseph J. DeRusso, is the last of four defendants to plead guilty to charges contained in a nine-count indictment filed on January 5, 2006. The plea

agreement recommends that DeRusso receive a sentence between 57 and 71 months in prison. Sentencing is scheduled to take place on November 17, 2006.

U.S. Civilian Translator Pleads Guilty to Offering Bribe to Iraqi Police Official (Criminal)
Faheem Mousa Salam, a former employee of a government contractor working in Iraq, has pleaded guilty to violating the Foreign Corrupt Practices Act by offering to bribe an Iraqi police official, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Kenneth L. Wainstein of the District of Columbia announced today.
During his guilty plea hearing, Salam admitted that in January 2006, he offered a senior Iraqi police official approximately $60,000 in exchange for the official's assistance with facilitating the sale of approximately 1,000 armored vests and a sophisticated map printer for approximately $1 million.

Three Face Charges On Distribution of Painkillers on Black Market (DEA)
United States Attorney Kevin V. Ryan announced that three individuals- two Bay Area residents and a Houston, Texas, resident – were charged in a 40-count indictment relating to the illegal distribution of large quantities of codeine and other painkillers from California to Texas. A federal grand jury in Oakland yesterday indicted Chuka E. Ogele and his wife Jeri Ogele of American Canyon, and Frederick Lamar Lindsey, of Houston, with illegally distributing controlled substances, conspiracy to illegally transport and distribute controlled substances, and money laundering, among other charges. The drugs distributed were estimated to be worth $2 million.

MONDAY'S EXPECTED EVENTS/RELEASES:

None scheduled.

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Friday, August 04, 2006 9:29 PM
To: Gorsuch, Neil M
Subject: Read: How was [redacted]?

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Friday, August 4, 2006 9:29 PM
To: Gorsuch, Neil M
Subject: Read: Thank You

Help Desk (JMD/FS/FASSG)

From:	Help Desk (JMD/FS/FASSG)
Sent:	Friday, August 4, 2006 11:10 PM
To:	Gorsuch, Neil M
Subject:	FMIS2 - Traveler/CC Payment Notification
Attachments:	DOC90.PDF

[redacted]

will be processed by Treasury on [redacted]

Your Travel Payment Confirmation Number is [redacted]
Travel Org:CEO

Please use this Confirmation/FMIS2 Document Number in any correspondence with any of the FMIS2 Help Desks or JMD Finance Staff.

Please print and save the attached voucher report for your records.

** NOTE: Allow 3-4 workdays from the Treasury processing
date for crediting of funds to your bank account

If this email was sent to you in error, PLEASE respond back with WRONG EMAIL in the subject line of the reply.
Otherwise No reply is neccessary.

Travel Voucher* JMD Reviewed * **-- Original --** **FMIS Doc#:3621354**

Traveler: GORSUCH, NEIL M. (Employee)
Email: NEIL.GORSUCH@USDOJ.GOV

Destination: SAN FRANCISCO,CA **Multiple Dest?:** No
Travel Dates: 06/15/2006 - 06/17/2006
Purpose: Operational (TDY)

Total Claimed:	[redacted]
Less (-) Adj.:	.00
Adv Rpy:	.00
To Card:	.00
Tax FD:	.00
Tax ST:	.00
Net To Traveler:	[redacted]
Paid via:	Direct Deposit

Trip Information

Trip Description:
9TH CIRCUIT COURT OF APPEALS ARGUMENT

Ticket Information:
Class: Coach **Location Desc** Domestic
Reason for Upgrade: Not Applicable

Processing Info

Submiting Office: CEO
Prepared by: ASHAW **On:** 07/12/2006

Processing Office: FSFOS
Processed by: DOMINGUEZ,CAROL **On:** 08/04/2006

Expense Summary/Accounting/Statement of Difference

Accounting Period: 200608 **Yregdoc:** 66337 **Liquidation:** Final

Travel Expense	Original Amount Claimed	Auditor Adjustment	Final Amount Paid	Reason For Adjustment
Transportation	[redacted]	[redacted]	[redacted]	.
Lodging	[redacted]	[redacted]	[redacted]	.
Lodging Tax	[redacted]	[redacted]	[redacted]	.
M & IE	[redacted]	[redacted]	[redacted]	.
Mileage	[redacted]	[redacted]	[redacted]	.
Taxi/Limo	[redacted]	[redacted]	[redacted]	.
Parking	[redacted]	[redacted]	[redacted]	.
Totals:	[redacted]	[redacted]	[redacted]	

*** Any suspended items may be resubmitted on a separate reclaim travel voucher with proper justification.**

Help Desk (JMD/FS/FASSG)

From:	Help Desk (JMD/FS/FASSG)
Sent:	Friday, August 4, 2006 11:10 PM
To:	Gorsuch, Neil M
Subject:	FMIS2 - Traveler/CC Payment Notification
Attachments:	DOC91.PDF

Your voucher for the trip to: ZZ (OTHER CITY) P, PA ending :06/09/2006 to be paid by Direct Deposit/EFT in the amount of: 965.80

will be processed by Treasury on 08/07/2006.

Your Travel Payment Confirmation Number is: [redacted]
Travel Org:CEO

Please use this Confirmation/FMIS2 Document Number in any correspondence with any of the FMIS2 Help Desks or JMD Finance Staff.

Please print and save the attached voucher report for your records.

** NOTE: Allow 3-4 workdays from the Treasury processing date for crediting of funds to your bank account

If this email was sent to you in error, PLEASE respond back with WRONG EMAIL in the subject line of the reply.
Otherwise No reply is neccessary.

Travel Voucher* JMD Reviewed * **-- Original --** **FMIS Doc#:3621355**

Traveler: GORSUCH, NEIL M. (Employee)
Email: NEIL.GORSUCH@USDOJ.GOV

Destination: ZZ (OTHER CITY) P,PA **Multiple Dest?:** No
Travel Dates: 06/06/2006 - 06/09/2006
Purpose: Operational (TDY)

Total Claimed:	[redacted]
Less (-) Adj.:	.00
Adv Rpy:	.00
To Card:	.00
Tax FD:	.00
Tax ST:	.00
Net To Traveler:	[redacted]
Paid via:	Direct Deposit

Trip Information

Trip Description:
D.C. CIRCUIT JUDICIAL CONFERENCE

Ticket Information:
Class: Coach **Location Desc** Domestic
Reason for Upgrade: Not Applicable

Processing Info

Submiting Office: CEO
Prepared by: ASHAW **On:** 06/14/2006

Processing Office: FSFOS
Processed by: DOMINGUEZ,CAROL **On:** 08/04/2006

Expense Summary/Accounting/Statement of Difference

Accounting Period: 200608 **Yregdoc:** 66332 **Liquidation:** Final

Travel Expense	Original Amount Claimed	Auditor Adjustment	Final Amount Paid	Reason For Adjustment
Lodging	[redacted]	[redacted]	[redacted]	.
Lodging Tax	[redacted]	[redacted]	[redacted]	.
M & IE	[redacted]	[redacted]	[redacted]	.
Mileage	[redacted]	[redacted]	[redacted]	.
Totals:	$[redacted]	[redacted]	$[redacted]	

* Any suspended items may be resubmitted on a separate reclaim travel voucher with proper justification.

Swenson, Lily F

From:	Swenson, Lily F
Sent:	Saturday, August 5, 2006 3:43 AM
To:	Gorsuch, Neil M
Subject:	Read: STAFFING: For Staff Review - Immigration Judge's Training Conference - Draft #2

Swenson, Lily F

From: Swenson, Lily F
Sent: Saturday, August 5, 2006 1:47 PM
To: Gorsuch, Neil M; Katsas, Gregory (CIV)
Subject: Re: FOIA EO's implementation

Sorry guys -- I've been in the [redacted] and completely out of bberry and cell contact... Until this am. Am sorting through the 176 emails that came rolling in over the last 30 mins. Hope to be able to respond to the most pressing of them shortly (although I am [redacted] and may lose bberry contact when we land). I feel terrible about the timing of this trip, I hope you haven't been too shorthanded this week.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
CC: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
Sent: Fri Aug 04 08:09:01 2006
Subject: Re: FOIA EO's implementation

Lily is the expert here but in her absence I can share what I know.

-----Original Message-----
From: Katsas, Gregory (CIV)
To: Gorsuch, Neil M
Sent: Thu Aug 03 23:49:03 2006
Subject: RE: FOIA EO's implementation

Is there some reason why we would want to recommend to the AG to recommend to the President to formally chastise other agencies regarding their impementation of the President's EO? Off the top of my head, none comes to mind.

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 7:09 PM
To: Katsas, Gregory (CIV); Swenson, Lily F
Subject: FW: FOIA EO's implementation

Thought Greg should see this

From: Metcalfe, Daniel J
Sent: Thursday, August 03, 2006 5:49 PM
To: Steven D. Aitken@omb.eop.gov; 'Kimberley S. Luczynski@omb.eop.gov'; Swenson, Lily F

To: Steven_D._Aitken@omb.eop.gov; Kimberley_S._Luczynski@omb.eop.gov ; Swenson, Lily F
Cc: McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F
Subject: FOIA EO's implementation

Steve/Kimberley: Here are some basic facts for us to keep in mind as they tie into our discussion this afternoon of the FOIA EO's implementation:

o Under the EO, the AG is scheduled to submit a report to the President by October 14.

o All agencies will be concluding the first phase of their implementation of their FOIA improvement plans in mid-January (our written guidance says that they should take their efforts as far into the month of January as possible).

o All agencies must then report their initial implementation successes/deficiencies by February 1 (i.e., by their regular annual FOIA report deadline).

o Despite our best efforts, several agencies (most notably DHS, State, AID, and EOP/OA) failed to meet their June 14 deadline for the completion of their plans.

o Historically, dozens of agencies miss the February 1 deadline each year, with some (most notably Education and HUD) taking months longer.

o GAO seems poised to recommend improvements in some agencies' plans (most particularly regarding the measurement of backlog reduction) by perhaps as soon as late September/early October, which could constrain the AG's report.

o A major part of the AG's report could be his recommendation that a memorandum be issued to all agencies that at a minimum would do the following:

1. Remind agencies that there remain only X months (i.e., until mid-January) for them to achieve as much success as possible in the implementation of their FOIA improvement plans during this important initial implementation phase; and

2. Exhort agencies in the strongest possible terms to be sure that they do everything necessary to meet the EO's February deadline, notwithstanding what their compliance pattern has been in the past.

o If such a memorandum were issued by the President, and issued by no later than September 27, this memorandum even could be "rolled out" at the Annual Symposium of the American Society of Access Professionals, which is being held at the Reagan Building here in Washington on September 26-27; several hundred agency reps will be there.

o It perhaps should go without saying that such a step would have maximum impact, for relatively minimal investment, and be entirely consistent with the robust manner in which we have implemented the EO through our governmentwide efforts during the past seven months.

o In any event, however, it will be most important for Justice, OMB, and the WH to be on the same page with respect to the AG's report obligation, and to reach that point as soon as possible (especially if the AG's satisfaction of that obligation might be accelerated into September rather than October).

As I mentioned, I have raised this with Robert McCallum and do not by anything said seek to impinge on the AG's prerogative in this respect. I will cc Robert, Acting ASG Neil Gorsuch, and Lily Swenson on this as I'm leaving town for a few days this evening, and I look forward to the meeting that we have tentatively set for next Thursday morning to move forward on this as quickly as we can. Dan

Wooldridge, Sue Ellen (ENRD)

From: Wooldridge, Sue Ellen (ENRD)
Sent: Saturday, August 05, 2006 5:58 PM
To: Gorsuch, Neil M
Subject: Re: Rule 16

You vare welcome. Best of luck to you and your family. Sue ----------
Sent from my BlackBerry Wireless Handheld

Sent Using U.S. DOJ/ENRD BES Server

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Wooldridge, Sue Ellen (ENRD) <SWooldridg@ENRD.USDOJ.GOV>
CC: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
Sent: Fri Aug 04 16:14:45 2006
Subject: RE: Rule 16

Thanks so much.

From: Wooldridge, Sue Ellen (ENRD)
Sent: Friday, August 04, 2006 3:37 PM
To: Gorsuch, Neil M
Subject: Rule 16

You had asked if ENRD had comments on the revised Rule 16 rule and policy. ENRD has no comments.
Sue

Wooldridge, Sue Ellen (ENRD)

From: Wooldridge, Sue Ellen (ENRD)
Sent: Saturday, August 5, 2006 5:58 PM
To: Gorsuch, Neil M
Subject: Read: Rule 16

Katsas, Gregory (CIV)

From:	Katsas, Gregory (CIV)
Sent:	Saturday, August 5, 2006 6:21 PM
To:	Gorsuch, Neil M
Subject:	Read: Rule 16

Schreiber, Jayne

From: Schreiber, Jayne
Sent: Saturday, August 05, 2006 8:07 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Amber.JMD

From: Amber.JMD
Sent: Saturday, August 05, 2006 10:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Detroit, MI

From: AmberAlert-DOJ
Sent: Saturday, August 05, 2006 10:35:18 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Detroit, MI
Auto forwarded by a Rule

AMBER ALERT:Detroit,MI CHILD:7 Black F 4'2" 65 lbs Eyes:Brown Hair:Brown CALL 313-596-5200
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1902

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Amber.JMD

From: Amber.JMD
Sent: Saturday, August 5, 2006 3:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Brooklyn Center, MN

From: AmberAlert-DOJ
Sent: Saturday, August 05, 2006 3:01:18 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Brooklyn Center, MN
Auto forwarded by a Rule

AMBER ALERT:Brooklyn Center,MN VEH:Red GMC Yukon TAG:FXN-038 CHILD:5 yo Asian M 2'7" 35 lbs Hr:Black SUSP:39 yo Asian M 5'4" 135 lbs Eyes:Brn CALL 763-503-3200
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1903

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Sunday, August 6, 2006 11:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Philadelphia, PA

From: AmberAlert-DOJ
Sent: Sunday, August 06, 2006 11:35:16 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Philadelphia, PA
Auto forwarded by a Rule

AMBER ALERT:Philadelphia,PA CHILD:1 years old Black M 2' 19 lbs Eyes:Brown Hair:Brown CALL 215-548-1305
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1904

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Swenson, Lily F

From: Swenson, Lily F
Sent: Sunday, August 6, 2006 7:47 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Swenson, Lily F

From: Swenson, Lily F
Sent: Sunday, August 6, 2006 7:47 PM
To: Gorsuch, Neil M
Subject: Read: FOIA EO's implementation

[redacted]

From: [redacted]
Sent: Monday, August 7, 2006 7:31 AM
To: Gorsuch, Neil M
Subject: Business Process Management on SOA Webcast
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe8b12737060037a71-fdf517777167017e72157373-fef8177574610d

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: [redacted]

Teleconference: dial [redacted]

Passcode: [redacted] for audio

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2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

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https://tibcomc.webex.com/tibcomc/j.php?ED=86461357&UID=0

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Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service-oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: [redacted]

Teleconference: dial [redacted]

Passcode: [redacted] for audio

To Join the webcast:

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2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

Please click the link below to see more information, or to join the meeting.

https://tibcomc.webex.com/tibcomc/j.php?ED=86461357&UID=0

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Bester, Matthew

From: Bester, Matthew
Sent: Monday, August 7, 2006 9:25 AM
To: Gorsuch, Neil M
Subject: Read: Contact Information

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, August 7, 2006 9:25 AM
Subject: Email Interruption

Email Interruption

Both inbound and outbound Internet e-mail is backlogged at this time for DOJ customers. The approximate delay is one hour. Inter-component e-mail flow is also affected at this time. We will notify you when the situation is resolved.

Check **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 9:49 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 7, 2006

Department of Justice

PRESS GUIDANCE
Monday, August 7, 2006

ATTORNEY GENERAL

No events scheduled.

PRESS RELEASES

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166078

Image not available for this document, ID: 0.7.10316.39270-000001

Image not available for this document, ID: 0.7.10316.39270-000002

Mercer, Bill (USAMT)

From: Mercer, Bill (USAMT)
Sent: Monday, August 07, 2006 9:49 AM
Subject: Read: a/c waiver issue
Attachments: ATTACHMENT.TXT

Your message

To: Katsas, Gregory (CIV); Mercer, Bill (USAMT)
Cc:
Subject: a/c waiver issue
Sent: Mon, 31 Jul 2006 14:56:12 -0600

was read on Mon, 7 Aug 2006 07:49:21 -0600

Final-Recipient: RFC822; BMercer@usa.doj.gov
Disposition: automatic-action/MDN-sent-automatically; displayed
X-MSExch-Correlation-Key: /IPV1DchEUqRL4xLPae1FA==

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, August 07, 2006 9:52 AM
To: Gorsuch, Neil M; [redacted]
Subject: RE: Thank You

Thanks for your very kind e-mail. The honor of working for you on this has been all mine - I have truly appreciated the opportunity to be a part of the beginning of what I believe will be an extremely distinguished career for you on the federal bench.

Best,

JJ

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

From: Gorsuch, Neil M
Sent: Friday, August 04, 2006 6:56 PM
To: Jaffer, Jamil N
Subject: Thank You

However it turns out, thank you for all of your excellent help and advice over the last weeks and months. You've been a great friend. All the best, NMG

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, August 7, 2006 10:00 AM
To: Gorsuch, Neil M; [redacted]
Subject: Update on [redacted]

[redacted] just called and said that in getting in touch with his recommenders, he learned that one of them (who is currently in Germany) was Judge Gorsuch's college roommate.

The professor asked [redacted] to get a phone number for the Judge, to call him personally, and [redacted] asked me for a phone number.

I said if the Professor sent me an e-mail, I would pass it on. I will do so when it arrives, but just wanted to give you a heads up.

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
[redacted] (cell)
jamil.n.jaffer@usdoj.gov

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, August 07, 2006 10:01 AM
To: [redacted]@hotmail.com; Gorsuch, Neil M
Subject: Commission

You had mentioned you might need some help with your commission. Let me know what I can do on that front.

JJ

Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
([redacted] (cell)
jamil.n.jaffer@usdoj.gov

Miller, Charles S

From: Miller, Charles S
Sent: Monday, August 07, 2006 10:03 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/7/06 Civil Division News

Blow struck against bankruptcy law

Suit over slain Oceanside officer's vest goes to trial

Whistle-blower Lawsuit Alleges E-voting Fraud

NATIONAL GUARD ADMITS EXPENSE MONIES OWED

Veteran allowed to sue over failure to diagnose parasitic disease

Dallas Morning News

August 7, 2006

Blow struck against bankruptcy law

By PAMELA YIP / The Dallas Morning News

Consumer attorneys have scored a significant victory against the new bankruptcy law.

A federal judge in Dallas ruled recently that a provision of the law is unconstitutional because it prevents lawyers from giving their best advice to clients in financial distress.

Critics of the Bankruptcy Abuse Prevention and Consumer Protection Act say the law, which went into effect last fall, caters to the credit card industry while putting unnecessary and harsh burdens on consumers who legitimately need relief from crushing debt loads.

Susan B. Hersh, a Dallas bankruptcy attorney, filed suit to challenge a provision of the law that forbids an

attorney from advising a client to take on additional debt before a bankruptcy filing.

The provision was intended to discourage unscrupulous bankruptcy filers from taking on debt with the expectation that it will be erased in the bankruptcy case.

U.S. District Judge David C. Godbey ruled the provision "was facially unconstitutional."

"Rather than changing the system to close the loopholes or penalize those who take on such debt, Congress ... enacted a prophylactic rule, banning the bankruptcy attorneys from advising their clients to take on additional debts 'in contemplation' of bankruptcy," Judge Godbey said.

"Without addressing all the complexities of the bankruptcy law, it seems quite possible that sometimes taking on more debt could be the most financially prudent option for someone considering bankruptcy."

Examples include refinancing a loan to get a lower interest rate and getting a car loan so a debtor has the means of getting to a job, Judge Godbey said. Thus, the provision in the law prevents lawyers from "advising clients to take actions that are lawful" and "unconstitutionally restricts Hersh's speech," the judge ruled.

Ms. Hersh said in an interview that the provision in the law is such an "arcane restriction on the attorney-client relationship that it was just absurd."

'Like a thief'

Overall, the bankruptcy law "made everybody out to being a crook, liar and thief," Ms. Hersh said.

"It treats everybody almost like a criminal when the majority are just unfortunate," Ms. Hersh said. "What they need to be able to do is to move on so they can rejoin the economy and the credit industry."

The provision was overly broad, said Howard Marc Spector, Ms. Hersh's attorney.

As a lawyer, he said, "They're paying me to draw these fine legal distinctions. But in this particular situation, there is no distinction. All advice regarding borrowing is illegal."

And the provision was unnecessary to boot, he said.

"The law says you can't discharge debts procured through fraud," he said.

Formal ruling pending

Judge Godbey hasn't issued a final judgment in the case, so for now the law is technically still in effect, the lawyers said. And even when there is a final judgment, the federal government can appeal.

"It is obviously a ruling that's still under review, and we've not made any determination of what our next step will be," Justice Department spokesman Charles Miller said.

Meanwhile, the Connecticut Bar Association and the National Association of Consumer Bankruptcy Attorneys have filed a lawsuit challenging the same provision that Ms. Hersh did.

Ultimately, Mr. Spector said, he hopes consumers can "go back to their bankruptcy lawyer, and rather than getting some double talk about what the bankruptcy lawyer can tell them to do, they can rely on the fact that their lawyer can give them all of the answers to their problems, not just part of the answers."

END

North County Times (San Diego, CA)

August 7, 2006

Suit over slain Oceanside officer's vest goes to trial

By: SCOTT MARSHALL - Staff Writer

NORTH COUNTY ---- When Tony Zeppetella became an Oceanside police officer, he knew about the danger he would face from men like the four-time convicted felon who shot and killed him three years ago during a traffic stop, Zeppetella's widow said.

He was not aware, Jamie Zeppetella added, of the dangers he faced as a result of decisions that may have left him with a bullet-resistant vest that may have failed him.

Whether Tony Zeppetella's vest actually failed remains in dispute, and is a central question for a jury to decide in a civil trial scheduled to begin this week to resolve a lawsuit Jamie Zeppetella filed against companies involved with making the vest ---- Second Chance Body Armor and Toyobo Co.

A spokesman for Toyobo, the maker of Zylon, a fiber used in the ballistic panels of Tony Zeppetella's bullet-resistant vest, said .evidence shows the bullet that killed Tony Zeppetella did not penetrate the vest and that Zylon fiber performed as it should have.

Jamie Zeppetella's attorney, Greg Emerson, disagreed, saying in recent interviews that the vest had a hole in it that should not be there, and that a vest made with other material, such as Kevlar, would have stopped the bullet that killed the police officer.

Jurors at the upcoming trial also are likely to hear evidence about officials from Toyobo and the vest manufacturer, Second Chance Body Armor, discussing potentially deadly problems with Zylon vests long before Zeppetella was shot, but not removing the vests from the market, Emerson said in recent interviews.

John T. Griffin, the attorney for Second Chance Body Armor, which manufactured the vest, did not respond to telephone messages requesting an interview about the upcoming trial.

Judge Michael Anello is scheduled to hear motions Tuesday to resolve disputes about what evidence will be presented to the jury that will hear the trial. The process of picking a jury is expected to begin Wednesday, with opening statements from the attorneys likely to occur Thursday, Emerson said.

Was the vest penetrated?

Jamie Zeppetella's lawsuit is reaching a jury trial more than three years after a traffic stop June 13, 2003, in the parking lot of the Navy Federal Credit Union at Avenida de la Plata and College Boulevard in Oceanside turned into a gunbattle that left Tony Zeppetella, 27, dead from 13 gunshot wounds.

Adrian George Camacho, 30, was later convicted of Zeppetella's murder and was sentenced to death for the crime.

In a June pretrial hearing in the civil case against Toyobo and Second Chance, Anello wrote that only three shots had contact with Tony Zeppetella's vest, including one that the vest stopped. One of the shots, identified in court documents as C-1, was the only bullet that killed Zeppetella, Anello wrote.

Toyobo's defense against Jamie Zeppetella's lawsuit has focused on that shot.

In a motion filed recently with the court, Toyobo said its expert was allowed to conduct a thorough examination of the vest July 13 and concluded that the bullet penetrated only five of the 24 layers of the ballistic panel in the vest before going out of the vest. Toyobo also argues that an expert hired by

Emerson has said that if the bullet exited the edge of the vest, he could not say the vest failed, and that the lawsuit should be dismissed.

"It did not penetrate the vest," Toyobo's U.S. spokesman, Kent Jarrell, said of the gunshot. "The vest did what it was supposed to do. It did what it was certified by the federal government to do. There's no evidence that Officer Zeppetella's vest failed or that Zylon was a factor in this tragic murder."

Emerson said the number of layers of the panel that the bullet went through does not matter, but that his expert does not agree that it only went through five layers.

"The bottom line is there is a hole in the vest," Emerson said. "What it did to the individual layers of the panel is irrelevant."

Widow eager for jury to hear case

Jamie Zeppetella has alleged in her lawsuit against Toyobo and Second Chance that Toyobo conducted tests that showed Zylon retained only 35 percent of its strength when exposed to visible light for six months. The tests also showed that Zylon weakened faster when exposed to the heat and humidity generated by an officer's body during normal wear of a bulletproof vest, according to the lawsuit.

Toyobo notified vest manufacturers, including Second Chance, of that data in 2001, two years before Tony Zeppetella was shot, the lawsuit alleged.

Jarrell said "there was some level of degradation" and that Toyobo regularly notified vest manufacturers of the characteristics of Zylon fiber.

"We felt it was still a good ballistic product," Jarrell said. "We did not pull it from the market. ... We felt it was proper for ballistic uses when it was properly designed by the manufacturers. We don't make bullet-resistant vests."

Jamie Zeppetella said in an interview last year that her husband had told her the Zylon vest he would wear as a police officer was lightweight, flexible and as protective as other vests, and that she did not learn of potential problems with the vest until three or four months after his death.

She said last week that she was eager for a jury to see the case she and Emerson have to present.

"Everybody can just see all the evidence we have of the really bad decisions these companies made," Zeppetella said.

Letters noted problems

Among the witnesses Emerson said he plans to call is Aaron Westrick, a former research director at Second Chance who wrote a memo Dec. 18, 2001, to Richard Davis, the founder of Second Chance and its president at the time, about the "Zylon situation." Westrick wrote that Second Chance should "immediately notify our customers of the degradation problems we are experiencing" with the Zylon vest models and that "lives and our credibility are at stake."

Davis testified at a deposition that he did not recall receiving that memo, but that Westrick had urged him in conversations to notify customers of the problem of Zylon losing strength.

Another piece of evidence jurors may see is a July 29, 2002, letter in which Davis wrote that Second Chance faced two problems: that Zylon seemed to be getting weaker faster than other material used in body armor and that newer ammunition was being promoted to the public.

In that letter, Davis wrote that the company's "options" for solutions included "operating as though nothing is wrong until one of our customers is killed or wounded" or "some other entity exposes the Zylon

problem."

Davis has testified in a deposition that in response to his letter, the company "changed paths," agreeing to do extensive testing on Zylon vests to figure out what was wrong. But the company did not recall any vests or directly advise police officers of concerns about them, Davis testified.

Second Chance Body Armor filed for bankruptcy in October 2004 in the wake of several lawsuits related to its Zylon vests. It later sold all of its assets to Armor Holdings Inc. for $45 million.

Among the other lawsuits against Second Chance and Toyobo is a case the U.S. Department of Justice filed to recover federal funds spent to help law enforcement officers and agencies buy bullet-resistant vests. That lawsuit is pending in the U.S. District Court in Washington, D.C.

In documents filed in that case, Davis and his attorney wrote that he was advised earlier this year that federal officials also have launched a criminal investigation, have impaneled and grand jury, and that criminal charges against him are "imminent."

Charles Miller, a spokesman for the U.S. Justice Department, declined to comment on whether a criminal investigation is taking place and said he is unaware of any charges having been filed yet against Davis or other company officials.

Jamie Zeppetella said her goal is to have Second Chance and Toyobo held accountable for their actions.

"(Camacho) pulled the trigger, but Tony went into his profession knowing about people like Camacho," she said. "That's why he wore a bulletproof vest. But he had no idea there were people like Second Chance and Toyobo out there that were putting on him something that was going to fail."

Jarrell said many shots were fired in close proximity in an "ugly, violent situation" for which Camacho was convicted, and that there is no evidence that Tony Zeppetella's vest failed.

"That's where the blame lies, with the man sitting on death row," Jarrell said.

END

Computerworld

August 7, 2006

Whistle-blower Lawsuit Alleges E-voting Fraud

Marc L. Songini

A federal whistle-blower lawsuit has been filed that claims one e-voting company knowingly sold electronic voting devices that did not perform as promised.

But details about the suit are sketchy because of secrecy rules surrounding whistle-blower litigation, according to Matt Schultz, an attorney at Levin Papantonio Thomas Mitchell Echsner & Proctor PA, the Pensacola, Fla.-based law firm that is handling the case. Schultz was assigned to the suit, but the lead attorneys are Mike Papantonio and Robert F. Kennedy Jr.

Kennedy, son of the late New York Sen. Robert F. Kennedy, gained attention with a recent story he wrote forRolling Stonemagazine in which he questioned the outcome of the 2004 presidential election. The whistle-blower lawsuit is not related to the allegations in the story.

The lawsuit was filed about four weeks ago, but Schultz was unable to divulge in which federal district the filing took place. He was also unable to discuss which e-voting machine vendor is targeted, because the document is under seal.

According to Schultz, employees at one of the four major e-voting vendors in the U.S. have testified to misrepresentations by the unnamed company about the accuracy, reliability and security of the direct recording electronic devices. DRE usually signifies a touch-screen voting system.

The lawsuit is not related to any particular election outcome. "This is about faulty machines being fobbed off on the government and being bought with federal money under the Help America Vote Act," Schultz said. Among its other mandates, HAVA stipulated that by last January, every election precinct in the country had to have an e-voting system that allowed handicapped voters to cast ballots unaided.

The suit has been filed under qui tam, or whistle-blower provisions of the False Claims Act, and remains under seal until the attorney general's office decides whether it will carry the suit forward, said Schultz.

Proponents of electronically enabled voting devices such as touch-screen or optical systems say the machines can tabulate votes with much greater accuracy than older punch-card ballot systems. Critics, however, have long argued that electronic devices are unreliable and subject to hacking and, without a paper trail, can't be properly audited.

END

AP

August 6, 2006

NATIONAL GUARD ADMITS EXPENSE MONIES OWED

Four Massachusetts service members claim they were not reimbursed thousands of dollars.

The Massachusetts National Guard acknowledged Friday it failed to reimburse some soldiers for expenses they incurred on security assignments after the Sept. 11, 2001, terrorist attacks.

The audit that revealed the error is ongoing, and the number of soldiers owed money and the amount of money involved are not known, said Guard spokesman Maj. Winfield Danielson.

The error was disclosed in a court hearing on a federal lawsuit filed by four soldiers who say they were not reimbursed for thousands of dollars they spent on gas, food and lodging when they protected sites such as Logan International Airport in Boston starting in 2001.

"Indeed some of the force protection soldiers may have been entitled to but did not receive the travel and per-diem reimbursement," Danielson said. "Everyone who is entitled to that and didn't receive it will be notified."

He said an administrative error resulted in some soldiers using incorrect paperwork. He added that it wasn't known whether the plaintiffs are among the soldiers who are owed money.

In court, Assistant U.S. Attorney Mark Quinlivan argued that the case, which also names the Department of Defense as a defendant, should be dismissed and handled instead in the U.S. Court of Federal Claims.

The lawsuit claims the soldiers' requests for compensation were repeatedly denied, and that their

commanding officers told them they could be taken off their missions if they didn't stop asking.

END

AP**Error! Hyperlink reference not valid.**August 7, 2006

Veteran allowed to sue over failure to diagnose parasitic disease

SWARTZ CREEK, Mich._An Army veteran can proceed with a federal lawsuit accusing the Department of Veterans Affairs of failing to diagnose a parasitic disease contracted while he was serving in Operation Desert Storm.

Arvid Brown, now 48, returned from the first Gulf War in 1991 but was not diagnosed with leishmaniasis until 1998. By then, his wife Janyce had contracted the disease and their two children were born with it and other ailments, according to medical reports.

Brown said that after returning from Desert Storm, his head, muscles and bones ached; he was losing strength; and was constantly exhausted but could not sleep. Veterans Affairs doctors could not pinpoint an ailment and denied him disability benefits in 1995, instead prescribing painkillers and mood-altering drugs.

Janyce Brown developed a series of ailments and died last year at age 43 of a rare, inoperable form of liver cancer. No definite link was established between her leishmaniasis and other diseases, although her husband said she was healthy before they met.

Janyce Brown sued the federal government and Veterans Affairs department for $125 million in 2004. But U.S. District Judge John Corbett O'Meara in Detroit, citing a 1950 U.S. Supreme Court decision, ruled the family couldn't sue for injuries suffered by a soldier on active duty.

The U.S. 6th Circuit Court of Appeals in Cincinnati partially overturned O'Meara's decision in July, saying the government was not liable for injuries suffered while Brown was on active duty but could be sued for what happened after he returned to Michigan.

Veterans Affairs spokesman Terry Jemison told The Detroit News for a story Monday that he could not comment on Brown's case while it is pending. But he said the department is aggressively studying Gulf War veterans' ailments and plans to spend $15 million a year on research for the next five years.

"They should not be allowed to just use us up and throw us away," said Brown, a Swartz Creek resident who is raising two disabled children, ages 9 and 10, on his disability income. "Somebody has got to be accountable."

The government has not disputed information in the Browns' medical reports compiled by Dr. Gregory Forstall, an infectious diseases specialist in Flint. But it might appeal the 6th Circuit ruling, the News said.

Leishmaniasis, a skin disease transmitted by bites from sand flies, is known as "Baghdad Boil" to U.S. soldiers in Iraq. One form can leave disfiguring lesions on the skin for months; Brown has the more deadly form, which attacks blood cells and the body's internal organs.

END

Sobeck, Eileen (ENRD)

From: Sobeck, Eileen (ENRD)
Sent: Monday, August 07, 2006 11:03 AM
Subject: Read: Contact Information

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Monday, August 07, 2006 11:04 AM
Subject: Emergency Server Re-Boot Today - 11:15 AM to 11:30 AM - JCON Customers located in the RFK Main Building / JMD0082
Importance: High

Emergency Server Re-Boot Today - 11:15 AM to 11:30 AM
JCON Customers located in the RFK Main Building / JMD0082

Due to intermittent problems on the RFK Main Building server, JMD0082, the server will be re-booted at 11:15 AM. Service will be restored by 11:30 AM.

When: **Today!** Monday, August 7, 11:15 AM to 11:30 AM

Event: Emergency Server Re-Boot

Users Effected: JCON Customers located in RFK Main Building, JMD0082

Suggested Action: **Please Shutdown and Power off your workstation - OK to log on at 11:30 am**

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to Shut Down and click the left button.
4. Choose the Shutdown and Power off option. This will log your workstation out of the SMO/JMD JCON network and power off the desktop.

Check the Intranet, **DOJNet,** at <http://10.173.2.12/> for additional information of Department wide interest, including an archive of selected JCON Broadcasts.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Monday, August 07, 2006 11:35 AM
Subject: E-mail Interruption Resolved

E-mail Interruption - Resolved

The inbound/outbound Internet e-mail and inter-component e-mail issus have been resolved.

Check **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

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Sprouse, Connie S

From: Sprouse, Connie S
Sent: Monday, August 07, 2006 12:51 PM
To: Gorsuch, Neil M
Subject: Cadre Verification for August
Attachments: OASG7-8-6.xls

Neil,

I am doing the Cadre Verification for August. I know you are busy, but can you verify the correctness of the list below? Thanks so much.....Connie

Connie Sprouse
Telecommunications Manager

Core Cadre	OASG	Gorsuch	Neil
Core Reserve	OASG	Senger	Jeffrey

Full Name:	Jamil Jaffer
Last Name:	Jaffer
First Name:	Jamil
Company:	SMO
Business Address:	Main Justice Bldg. 950 Penn Ave, NW Room 4239 Washington, DC 20530
Business:	202-307-0120
Home:	[redacted]
Mobile:	[redacted]
Business Fax:	202-514-2424
E-mail:	Jamil.N.Jaffer@SMOJMD.USDOJ.gov
E-mail Display As:	Jamil.N.Jaffer@SMOJMD.USDOJ.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 7, 2006 1:19 PM
To: Jaffer, Jamil N
Subject: Sorry abt earlier - can you give me a ring when you're free?

Gunn, Currie (SMO)

Subject:	Canceled: Civil Components Leadership Meeting Group I
Location:	5710
Start:	Monday, February 21, 2005 11:00 AM
End:	Monday, February 21, 2005 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	Gorsuch, Neil M; Todd, Gordon (SMO); McCallum, Robert (SMO); Gorsuch, Neil M
Optional Attendees:	Saull, Bradley (CRT)
Importance:	High

When: Occurs every Monday effective 2/21/2005 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Addition of Gregory Katsas - Principal Deputy Associate AG - Office of the Associate Attorney General

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

POC: Currie Gunn 4-9500

kluu@tibco.com

From:	kluu@tibco.com
Sent:	Monday, August 7, 2006 2:18 PM
To:	Gorsuch, Neil M
Subject:	SOA Webinar Series: TelCove on SOA Best Practices and more
Attachments:	tmp.htm

SOA Webinar Series

To view this email as a web page, go
http://view.exacttarget.com/?ffcb10-fe9512747563027d76-fdf317777767077b72137271-fef01677716d0d
here.

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Dear Neil

We invite you to join us for TIBCO's SOA webinar series focused on key SOA issues and challenges featuring industry analysts, TIBCO customers and TIBCO SOA experts. Upcoming webinars are listed below.

A Practitioner'sPerspective: Telcove on SOA Best Practices

Comehear Telcove's Chief Architectexplain their best practices for implementing SOA. This webinar will:

Outline Telcove's roadmap on how they got startedand expanded their SOA initiative across the company.

Show how they've benefitedfinancially and technically from SOA

Explain Telcove's technical bestpractices

Presenter:EricEricson,
VicePresident & Chief Architect TelCove

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26700&sessionid=1&mode=preview
More on this webinar

Tuesday

August 22, 2006

9 am PDT / 12 pm EDT

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26700&sessionid=1&mode=preview

https://event.on24.com/eventRegistration/EventLobbyServlet?target=registration.jsp&eventid=26435&sessionid=1&key=D78DB9618EB8CBB624101B3DDE9FFF2B&referrer=&sourcepage=register

Registration page enables you to register for any of three webinars

Integration: BPM's Dirty Little Secrect: Making Good with SOA

Join us for an educational session on why SOA is important to successful BPM implementations. Webinar topics include:

How SOA improves the flexibility of a BPM implementation

The effect SOA has on the daily lives of business people

Suggestions for how to evangelize the importance of SOA to the business-side

Presenters:Ken Vollmer, Forrester Integration & BPM Analyst, &
Jeff Kristick, TIBCO Senior Director of Product Marketing

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26025&sessionid=1&mode=preview

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26025&sessionid=1&mode=preview
More on this webinar

Tuesday

August 15, 2006

9 am PDT / 12 pm EDT

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26025&sessionid=1&mode=preview

https://event.on24.com/eventRegistration/EventLobbyServlet?target=registration.jsp&eventid=26435&sessionid=1&key=D78DB9618EB8CBB624101B3DDE9FFF2B&referrer=&sourcepage=register

Registration page enables you to register for any of three webinars

Open Standards for the SOA Development Lifecycleand Runtime Infrastructure: SCA and JBI

This webinar includes:

Overview of SCA and JBI

Outline of how to use SCA and JBI together across different developer technologies as part of an SOA

Roadmaps for SCA and JBI

Presenter:
Scott Vorthmann, PrincipalArchitect, TIBCO Software Inc.

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26711&sessionid=1&mode=preview
More on this webinar

Tuesday

August 29, 2006

9 am PDT / 12 pm EDT

http://event.on24.com/eventManager/presentation/html.jsp?profiletype=customHTML2&eventid=26711&sessionid=1&mode=preview

https://event.on24.com/eventRegistration/EventLobbyServlet?target=registration.jsp&eventid=26435&sessionid=1&key=D78DB9618EB8CBB624101B3DDE9FFF2B&referrer=&sourcepage=register

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A Practitioner's Perspective: Telcove on SOA Best Practices	
Come hear Telcove's Chief Architect explain their best practices for implementing SOA. This webinar will: • Outline Telcove's roadmap on how they got started and expanded their SOA initiative across the company. • Show how they've benefited financially and technically from SOA • Explain Telcove's technical best practices Presenter: Eric Ericson, Vice President & Chief Architect TelCove More on this webinar	**Tuesday August 22, 2006 9 am PDT / 12 pm EDT** Registration page enables you to register for any of three webinars
Integration: BPM's Dirty Little Secret: Making Good with SOA	
Join us for an educational session on why SOA is important to successful BPM implementations. Webinar topics include: • How SOA improves the flexibility of a BPM implementation • The effect SOA has on the daily lives of business people • Suggestions for how to evangelize the importance of SOA to the business-side Presenters: Ken Vollmer, Forrester Integration & BPM Analyst, & Jeff Kristick, TIBCO Senior Director of Product Marketing More on this webinar	**Tuesday August 15, 2006 9 am PDT / 12 pm EDT** Registration page enables you to register for any of three webinars
Open Standards for the SOA Development Lifecycle and Runtime Infrastructure: SCA and JBI	
This webinar includes: • Overview of SCA and JBI • Outline of how to use SCA and JBI together across different developer technologies as part of an SOA • Roadmaps for SCA and JBI	**Tuesday August 29, 2006 9 am PDT / 12 pm EDT**

Presenter: Scott Vorthmann, Principal Architect, TIBCO Software Inc. More on this webinar	Registration page enables you to register for any of three webinars

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 3:36 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUES LOS ANGELES LANDLORD FOR ENGAGING IN DISCRIMINATION ON THE BASIS OF RACE, NATIONAL ORIGIN, AND FAMILIAL STATUS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 7, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SUES LOS ANGELES LANDLORD FOR ENGAGING IN DISCRIMINATION ON THE BASIS OF RACE, NATIONAL ORIGIN, AND FAMILIAL STATUS

WASHINGTON — The Justice Department announced today that it has filed a lawsuit against Donald T. Sterling, Rochelle Sterling, the Sterling Family Trust, and the Korean Land Company L.L.C. (the Sterling Defendants) alleging housing discrimination on the basis of race, national origin, and family status.

The complaint, filed in the U.S. District Court for the Central District of California in Los Angeles, alleges that the Sterling Defendants refused to rent to non-Korean prospective tenants, misrepresented the availability of apartment units to non-Korean prospective tenants, and provided inferior treatment to non-Korean tenants in the Koreatown section of Los Angeles. The complaint also alleges that the Sterling Defendants refused to rent to African-American prospective tenants and misrepresented the availability of apartment units to African-American prospective tenants in the Beverly Hills section of Los Angeles.

"Aggressively enforcing the laws that protect the civil liberties of all Americans is a top priority of the Justice Department," said Attorney General Alberto R. Gonzales. "Through Operation Home Sweet Home and our continued enforcement efforts, we remain committed to protecting the rights of our nation's citizens to obtain housing without fear of discrimination."

"Equal access to housing is key to obtaining the American dream," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department is committed to investigating and prosecuting anyone who participates in such illegal and offensive discriminatory practices."

The complaint also alleges that the Sterling Defendants refused to rent to families with children and misrepresented the availability of apartment units to families with children throughout the buildings that they own or manage in Los Angeles County. It is further alleged that the Sterling Defendants made statements and published notices or advertisements in connection with the rental of apartment units that express a preference for Korean tenants in the Koreatown section of Los Angeles and express discrimination against African-Americans and families with children in Los Angeles County.

DOJ_NMG_ 0166106

"Here in Los Angeles, where housing is already at a premium, it is imperative that no one be denied housing simply because of their skin color, ethnic background or because they have children," said United States Attorney Debra Wong Yang. "The Justice Department is dedicated to ending all discriminatory housing practices, along with every other type of civil rights violation."

The suit seeks monetary damages to compensate the victims, civil penalties, and a court order barring future discrimination.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas hit by Hurricane Katrina and targets housing discrimination all over the country.

More information about Operation Home Sweet Home can be found on our Web site at http://www.usdoj.gov/fairhousing. Individuals who believe that they may have been victims of housing discrimination can call our Housing Discrimination Tip Line (1-800-896-7793), e-mail us at fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 198 cases to enforce the Fair Housing Act, including 59 based on race, 19 based on national origin, and 39 based on familial status. More information about the Civil Rights Division and the laws it enforces can be found at www.usdoj.gov/crt.

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06-503

DOJ_NMG_ 0166107

Image not available for this document, ID: 0.7.10316.39291-000001

Image not available for this document, ID: 0.7.10316.39291-000002

Gunn, Currie (SMO)

Subject:	Canceled: Civil Rights Weekly
Location:	5710
Start:	Thursday, February 10, 2005 11:00 AM
End:	Thursday, February 10, 2005 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Thursday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Katsas, Gregory (CIV)
Optional Attendees:	'Todd, Gordon (CRT)'
Importance:	High

When: Occurs every Thursday effective 2/10/2005 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Addition of Greg Katsas

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Asheesh Agarwal-CRT, Wan Kim-AAG CRT, Loretta King-CRT, Martha Pacold-OAG, Rena Comisa-CRT, Lily Swenson-OASG, Grace Becker-CRT, Tobi Longwitz

POC: Currie Gunn x4-9500

From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 4:16 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT TO MONITOR ELECTION IN GEORGIA

Department of Justice

FOR IMMEDIATE RELEASE — CRT
MONDAY, AUGUST 7, 2006 — (202) 514-2007
WWW.USDOJ.GOV/ — TDD (202) 514-1888

JUSTICE DEPARTMENT TO MONITOR ELECTION IN GEORGIA

WASHINGTON — The Justice Department today announced that on August 8, 2006, the federal government will monitor the primary runoff election in Sumter County, Ga., to ensure compliance with the Voting Rights Act.

Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act itself or by a federal court order. Federal observers will be assigned to monitor polling place activities in Sumter County, based on the special coverage provisions.

The observers will watch and record activities during voting hours at polling locations in the county. Civil Rights Division attorneys will coordinate the federal activities and maintain contact with local election officials.

Each year, the Justice Department deploys hundreds of observers and attorneys to monitor elections across the country. In 2004, a record 1,463 federal observers and 533 Department personnel were sent to monitor 163 elections in 105 jurisdictions in 29 states. This compares to the 640 federal observers and 103 Department personnel deployed in 2000.

DOJ_NMG_ 0166111

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice Web site at http://www.usdoj.gov/crt/voting/index.htm.

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06-504

DOJ_NMG_ 0166112

Image not available for this document, ID: 0.7.10316.39227-000001

Image not available for this document, ID: 0.7.10316.39227-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 5:02 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR NEIGHBORHOOD IN DOWNTOWN CINCINNATI

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, AUGUST 7, 2006
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR NEIGHBORHOOD IN DOWNTOWN CINCINNATI

WASHINGTON – Attorney General Alberto R. Gonzales will tour a neighborhood in downtown Cincinnati in conjunction with Department of Justice efforts to combat drug abuse on **TUESDAY, AUGUST 8, 2006, at 9:25 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Neighborhood Tour

WHEN: **TUESDAY, AUGUST 8, 2006**
9:25 A.M. EDT

WHERE: Downtown Neighborhood
Cincinnati, Ohio
OPEN PRESS
(B-Roll Coverage Only)

NOTE: Pre-set for B-Roll coverage of portions of the walking tour will be at **9:00 A.M. EDT.** All press inquiries regarding location and logistics should be directed to Theresa Pagliocca of the Department of Justice at (202) 532-3486 or to Todd Lindgren of the Office of Congressman Steve Chabot at (513) 684-2723.

# # #

06-505

DOJ_NMG_ 0166115

Image not available for this document, ID: 0.7.10316.39276-000001

Image not available for this document, ID: 0.7.10316.39276-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 5:04 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR TALBERT HOUSE ADAPT PROGRAM FACILITY

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, AUGUST 7, 2006
WWW.USDOJ.GOV

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(202) 514-2007
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR TALBERT HOUSE ADAPT PROGRAM FACILITY

WASHINGTON – Attorney General Alberto R. Gonzales will participate in a tour of the Talbert House's Alcohol and Drug Abuse Partnership Treatment (ADAPT) Program Facility for adults charged with felony drug offenses on **TUESDAY, AUGUST 8, 2006, at 10:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Tour of Talbert House's ADAPT Program Facility

WHEN: **TUESDAY, AUGUST 8, 2006**
10:00 A.M. EDT

WHERE: Talbert House
3009 Burnet Avenue
Cincinnati, Ohio
OPEN PRESS
(B-Roll Coverage Only)

NOTE: Pre-set for B-Roll coverage of the tour will be at **9:30 A.M. EDT.** All press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at (202) 532-3486 or Teri Nau of the Talbert House at 513-382-4299.

# # #

06-506

DOJ_NMG_ 0166118

DOJ_NMG_ 0166119

Image not available for this document, ID: 0.7.10316.39224-000001

Image not available for this document, ID: 0.7.10316.39224-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 07, 2006 5:06 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING JUSTICE DEPARTMENT EFFORTS TO COMBAT DRUG ABUSE

Department of Justice

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MONDAY, AUGUST 7, 2006
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING JUSTICE DEPARTMENT EFFORTS TO COMBAT DRUG ABUSE

WASHINGTON – Attorney General Alberto R. Gonzales will make remarks at a press conference with Congressman Steve Chabot and Cincinnati Police Chief Tom Streicher regarding Department of Justice efforts to combat drug abuse on **TUESDAY, AUGUST 8, 2006, at 11:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales
Congressman Steve Chabot
Tom Streicher, Chief, Cincinnati Police Department
Gregory Lockhart, U.S. Attorney for the Southern District of Ohio
Simon Leis, Sheriff, Hamilton County Sheriff's Office

WHAT: Press conference regarding Department of Justice efforts to combat drug abuse.

WHEN: **TUESDAY, AUGUST 8, 2006**
11:00 A.M. EDT

WHERE: Talbert House, Room 235
3009 Burnet Avenue
Cincinnati, Ohio
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **10:00 A.M. EDT.** All media must present valid photo ID and media credentials. All press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at (202) 532-3486 or to Teri Nau of the Talbert House at 513-382-4299.

# # #

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DOJ_NMG_ 0166123

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Image not available for this document, ID: 0.7.10316.39218-000002

[redacted]@gmail.com

From: [redacted]@gmail.com
Sent: Monday, August 07, 2006 5:38 PM
To: [redacted]@gmail.com
Subject: Fundraising for Crohn's research
Attachments: tmp.htm; Crohn_sDiseaseArticle.doc

In celebration of 5 years of wellness, I am running a series of triathlons/marathons in support of the Crohn's and Colitis Foundation of America (CCFA).

I hope that you will join me in raising money for the CCFA's ongoing research efforts by sponsoring my remaining races this season: a sprint triathlon, a half-Ironman triathlon, and the New York marathon. Every dollar donated will go to the CCFA's research funds; I am fully covering the cost of the races myself.

CCFA-supported research led directly to the development of the drug Remicade, the drug that sustains me today. Some further information on Crohn's and Remicade can be found in the attached excellent, if somewhat harrowingly familiar, article.

Donations can be made from anywhere in the world using a credit card at my fundraising website:

www.firstgiving.com/bretthouse

Contributions can be made anonymously and please know that every donation is a much appreciated sign of support. If you'd prefer not to use the web, please do contact me for other arrangements.

Donations made by IMF staff during October are eligible for a 50 percent match by the Fund. If you are an IMF staff member, please contact me and I can work with you to ensure your donation qualifies for the Fund's support.

Thank you very much for your kind consideration. I'll keep you posted on how the races go. And please forward this email as you think appropriate.

With every good wish,

[redacted]

****Apologies for cross posting****

Saturday Night magazine, April 21, 2001,Toronto. (www.saturdaynight.ca)

THE MAN WHO WAS SAVED BY A MOUSE

I suffer from an excruciating illness with no known cure. So I'm pinning my hopes on infusions of mouse DNA

by Robert Mason Lee/ Illustration by Jimmy Stevenson

By Robert Mason Lee

My face was pallid and streaming with sweat as I staggered through London's Heathrow Airport, aware of the crippling pain in my gut and an incipient nausea at the back of my throat. I walked over to the klm desk, knowing I was about to throw up. I hoped it would not be on the staff.

I told them I was a diabetic and needed a place to inject myself with insulin. They nodded sympathetically and told me of a quiet departure lounge where I might find an empty toilet. I grabbed my travelling companion and we headed there.

The whole thing was a lie. In fact, I had twenty milligrams of pure heroin in my pocket and I desperately needed a place to shoot up. We found an empty baby-changing cubicle and broke out the kit: rubber hose, syringes, and two ampoules, each containing a pellet of snow-white powder. I wrapped the hose around my upper arm and pulled it tight with my teeth -- not too tight, I remembered, or I would cut off the artery. What you want to achieve is about eighty millimetres' worth of diastolic pressure.

Meanwhile, my companion mixed the white powder with liquid prochlorperazine to combat the nausea brought about by that much opiate entering my bloodstream at once. She tapped the side of the syringe with her fingernail and made a few drops of heroin come out of the needle, which I always considered a waste. Then she rubbed the inside of my elbow with her fingertips, tickling the vein. By this time, my heart had nearly shut down in anticipation.

"Found it," she said. She punctured the vein and a silky banner of scarlet blood streamed backward into the syringe, turning the opiate mixture a dark pink. In some mysterious way, I always found this moment to be erotically charged, my flashback of blood held in suspension in her hands, release only a moment away.

She plunged the syringe home. I felt the shock to the chest, then the blessed relief of melting ice and birdsong.

Now is the time to pull back the veil: the heroin was not some illicit street drug, but a chemically identical substance called diamorphine hydrochloride. It is prescribed in the U.K., where I live for several months of the year, and doctors use it there to treat the severe pain of Crohn's disease, a debilitating condition I have lived with for more than two decades. The junkie scene at Heathrow Airport was merely my way of reducing the agony to the point where I could endure my flight.

Crohn's disease -- named after the American physician, B. B. Crohn, who first diagnosed it in 1932 -- is one of a number of chronic inflammatory bowel diseases that afflict about 100,000 Canadians. If you are among those who get it, then you are one sorry bastard, because it is considered among the most painful of diseases. It is a mystery illness, probably a virally triggered autoimmune disorder, but no one knows for sure. It has no known cause or cure and it can strike the digestive tract anywhere, but it usually does so at the point where the small and large intestines meet. By its very nature it is dark, secret, hidden, and frightening. There are many worse conditions to contract -- patients are far, far more likely to live with Crohn's disease than die from it. But there are few diseases so enigmatic, nor many which entail so much physical suffering.

When Crohn's strikes, it does so without warning or predictability. It could be five hours or five years between flare-ups, but the result is the same: grinding pain, accompanied by frequent vomiting and diarrhea, followed by worse pain, accompanied by obstruction and distention of the abdomen. What does Crohn's disease feel like? It feels like three processes at once. First, a mule is kicking you in the stomach. Second, some maniac is inflating your abdomen with a bicycle pump. Third, you are being impaled up the ass with a pointy stick. I suppose the sensation must compare with labour, as the pain comes in waves triggered by abdominal contractions. A better comparison would be an ectopic pregnancy, since the pain is also overlaid with distress and panic and a sense of something having gone terribly wrong. Still, all comparisons are odious. What it feels like most of all is that you are suddenly, and without warning, very, very sick.

The intestines are wired only to feel pain when they are distended, and then they register pain without mercy. By the time my abdomen is twice its normal size, I am usually riding the extreme fringes of distress, the place where weeping and praying to God and lashing out blindly at nurses has given way to mute, silent, death-like reproach and resignation. It is a place I have been hundreds of times, and the only thing that can bring relief, while waiting hours or days for the symptoms to abate, is the kindly intervention of the great god Morpheus, in all his opiate guises.

I've injected him in my veins and my buttocks, I've eaten him in tablets and drunk him in syrup, I've shoved him up my ass and I've worn him in a skin patch usually applied to the terminally ill. He never fails to offer relief and companionship and he is, perhaps, my greatest ally. Taking leave of him is always difficult, however, a hard and lonely voyage past the black dogs that surround him before returning to the land of the clear. I am talking here about withdrawal, cold turkey, the monkey. It means days of having every muscle ache, of craving another hit, of throwing up, of the feeling of being sealed inside a dark iron box, of sheer, precipitous hopelessness. I endure. It passes.

And it is worth the cost. When other medical treatments fail -- and they always, eventually, fail -- it is only opiates that make life worth living. The pain of Crohn's is so great that it makes patients of my vintage a risk factor for suicide.

It was twenty-odd years ago when Crohn's disease made its first appearance in my life. I was twenty and had been living in Sweden, in the town of Linköping, when I began to sicken with abdominal pain and weight loss. The condition was undiagnosed until doctors performed an exploratory surgery.

The Danish doctor in the Swedish hospital leaned over me and whispered that no matter what I thought of the next few minutes, I must remember that I wasn't going to die. If he intended to calm me, he had the opposite effect.

During the surgery (as with all my subsequent surgeries), doctors had examined the entire length of my intestine looking for Crohn's. In other words, I was eviscerated like a chicken in a factory; after the Crohn's was chopped out, the intestines were stuffed back into the abdominal cavity to sort themselves out. It was a lengthy operation and it left me with a mysterious bruise on my hip: "I think," said my Swedish nurse, "it's where the surgeon sat on you."

Some weeks after my discharge from hospital, I had to go back with swelling, heat, and redness along the suture, which ran the length of my abdomen from sternum to pubis. I was informed that the suture had become infected with staphylococcus, a bacteria strain resistant to antibiotics. The site would have to be drained at once. The doctor removed the surgical tape from the incision and the wound reopened as though a zipper were being drawn. About two litres of dark-brown chocolate pudding spilled out of the wound. This was the infection. It was followed by a ruptured membrane -- my omentum wall -- which was followed by the necks of pink flamingos -- the loops of my intestine.

Standing at the foot of the bed, my girlfriend fainted. I felt nothing, either physically or emotionally. I felt oddly detached as the nurses cleaned my guts and stuffed them back. Even I knew that the

inside bits of a person are supposed to stay inside, so evidently this was happening to someone other than me. Only, the doctor was right. That other guy did not die.

Surgery is no longer considered an option, except in the case of several life-threatening curve balls that Crohn's can throw at a patient. One is when the disease forms obstructions that can lead to the bowel bursting under pressure, which in turn leads to septicemia -- blood poisoning -- with an attendant risk of death. This has happened to me almost to the point where it is routine. Another is when Crohn's creates a fistula, a channel that it may decide to burn between one intestinal loop and another, or between itself and the surface of the skin, or it may content itself with rupturing a duodenal artery. Or the Crohn's may simply inflame such a length of gut that surgery is needed to feed the patient through a tube inserted in the abdomen. One thing you can say about Crohn's: it is busy, busy, busy.

I have lived with Crohn's long enough to have seen it understood primarily as a psychosomatic disorder (what I think of as the Dark Ages) to where it is understood, as it is today, largely as an autoimmune disorder (the Age of Enlightenment). No longer do Crohn's sufferers bear the additional burden of the belief that their illness is self-induced, the result of nerves, worry, or a flawed mental constitution -- at least among doctors, though this misapprehension is still common among lay people. Today, doctors understand the illness as a complex chain of events, probably triggered by an infectious agent such as a virus or bacteria, that causes the body's defences to attack an otherwise healthy gut. One curiosity: the disease occurs more frequently among northern peoples, and Canada may have the highest incidence in the world. Nobody knows why.

At the same time as my disease has seen the evolution of medical understanding, it has also followed the course of pharmaceutical progress. At the beginning of my illness, there was nothing more than war-vintage medicines to throw at Crohn's, and surgery was a frequent recourse. Since then, the medicines have improved as my condition has deteriorated, and, between them, the two have achieved a sort of balance. It's been a decade since my fourth, and last, abdominal surgery. But in order to stay well, I some years ago advanced to the forward reaches of modern pharmaceuticals. "You're pretty much a New England Journal of Medicine article, all by yourself," my doctor says.

I well remember my graduation to "big-gun" medications -- things like chemotherapy and neuroleptics -- because they made me so sick. Big-gun medicines are impressive -- you know they must be good for you because their side effects are so frightening. They are the result of lengthy research, they are expensive and, sometimes, they even work.

Because research into Crohn's is so sorely under-funded, patients tend to be served from the Hadassah bazaar of the medical community -- we get hand-me-down medicines, usually well worn from use in cancer, arthritis, organ transplant, and palliative-care treatment. The medicines I am prescribed (other than painkillers) total something like twenty-one tablets a day. I take chemo drugs to control my immune system, anti-inflammatory drugs to control the Crohn's activity, drugs to shut down one hormonal secretion and drugs to stimulate another -- bottles and bottles, all labelled, "Alice, take me." I also formerly had regular surgery to remove the damaged intestine, until doctors reasoned the chance of relapse was 100 percent within three months of the operation.

A few years ago, i awoke one morning to the familiar agony of the mule kicking me in the belly, and called my daughter in from the next room. She lives with her mother in another city. I had to tell her her visit was being cut short, since I had to go to the hospital.

A few phone calls later and my friends had rallied around. I had a ride to the hospital and she had one to the airport, but as we parted my daughter looked at me, for the first time ever, fearfully. She pulled away as I hugged her goodbye, curled herself up and said nothing. She had never been like that before, I thought.

But I had never been that sick before. Doctors quickly diagnosed a burst bowel and consequent blood infection. They flooded my body with intravenous antibiotics and inflammation-fighting steroids. As my temperature soared, my venous system became inflamed with the infection -- including the venous system of my brain. At the same time as I was fearful of losing my body, I had reason to fear losing my mind. I felt the tethers of reality loosen, one by one, as I slipped into another world. It was a magical and mythical world, but it was not this world. I felt immortal and empowered, but this was the result of a psychosis. Despite this, I remained self-aware: I knew there was a risk of death and that I was going insane.

I also knew the depths of my own reserves and I trusted my physicians' hands. My doctors reassured me that I would surely recover in both body and mind, but not for some while. For the next several months, I would have a psychosis induced by inflammation and steroids. I would simply have to live through -- and learn from -- the experience of insanity.

"Mankind has used psychosis to treat disease for ten thousand years," my doctor said. "I'm not about to interfere with that process now." I understood that he was talking about shamanism, mind-body medicine, whatever you want to call it, the idea that an otherworldly experience can effect a cure. After all, when a church prays for a parishioner, what is that but a shared psychosis? Mine would be more immediate and overwhelming, but it was not beyond the ken of human experience. This notion was comforting to me, and it goes without saying my doctor is a very wise man. Eventually, as I hope my writing allows, I recovered my lucidity. But the mind-altering experience of living for months in the moon's intuitive darkness, without the illumination of the intellectual sun, is one that I carry in my pocket, like a secret.

People are always telling me that because I have Crohn's disease I shouldn't be doing the fun things they are doing -- like having a beer, for example, or eating something other than brown rice. It is hugely annoying, because almost without exception these people do not know what they are talking about, recommending foods I know would leave me in hospital or warning me away from foods that I enjoy. I do my best to forgive these people their helpful instinct, because I understand the desire to heal as one of the primal social imperatives. We all think we are healers and feel called upon to help those in our tribe who are suffering (in particular, before it spreads). It's just that very few of us are good at healing, or tendering advice.

What I have found, instead, is that just about everyone is good at offering comfort. I have had the hands of compassion laid upon me by doctors, nurses, ambulance attendants, the women in my life, friends, the wives of friends, complete strangers in bus terminals. When it comes to offering solace, people have a natural ability which transcends social place or relationships. We just give, naturally, of ourselves to those in need. One small consolation of having such a painful illness is the many opportunities it allows others to show kindness; the one great reassurance is how seldom I have been disappointed. And I have accepted compassion willingly in my life, knowing that I am a small, cracked vessel for others to pour in their love.

Of course, because it involves the bowels and shit and puke, Crohn's disease will always be the subject of fear and prejudice -- as though the bowels and shit and puke were not essential parts of living. Crohn's patients have suffered nearly as much from society's distaste for anything to do with the bowels as from the disease itself. As evidence, I refer to the brief and inglorious appearance of Crohn's from the pen of Canada's leading man of letters.

In his 1997 Giller Prize-winning novel, Barney's Version, Mordecai Richler captures an aspect of social attitudes towards Crohn's that is undeniably sad, but just as undeniably true.

In the novel, a wealthy Duddy Kravitz is seeking to pave his way into high society through philanthropy, and is looking for a good cause to support. He briefly considers bulimia, since Princess Diana suffered from it, so "it could have lots of appeal for Westmount types." But he finds all the good diseases are taken. "I need a disease," he tells a doctor.

The doctor suggests Crohn's disease, explaining its symptoms to Duddy. "Oh, great," he replies, ". . . a charity for farters." He imagines inviting celebrities to sit on the board of a charity "for people who shit day and night." He imagines his wife throwing the annual Diarrhea Ball. "Listen," he concludes, rejecting the idea. "For my wife, it has to have some class."

I agree. Crohn's has no class. For most of my life, I hid from any public mention of having the disease. It was internal, and unpalatable, and about as socially acceptable as leprosy. I don't care about that any more. It is also my body's condition and my life's experience and this makes it, in a certain way, sacred. Even if it doesn't appeal to Westmount types.

The specialist in internal medicine sat across from me, a respectable-looking man with greying hair and cufflinks. I had already passed through the obstacle course of seeing three other doctors, two of them specialists, before meeting this man. I was a candidate for an experimental medicine intended to control Crohn's disease. The medicine is known as infliximab, or by its trade name, Remicade. Infliximab was developed as an anti-inflammatory drug that was discovered to be useful in controlling Crohn's disease in its active phases, and also in inhibiting the joint damage caused by rheumatoid arthritis. The trials were already full, but I was being considered on compassionate grounds. If approved, I would be the thirty-seventh person to enter the drug trial. I realized only when I sat across from him how desperately I wanted the doctor to say yes, how tired I had become of being sick.

I had been in pain for months despite my regimen of medicines, and while infliximab held out the prospect of relief, it also held out the prospect of devastating side effects, from catastrophic infections to anaphylactic shock. But these seemed remote in comparison to the immediacy of my symptoms. The specialist explained the side effects, and also explained that my body might reject the medicine, since I was, essentially, about to be injected with a laboratory mouse.

Infliximab is a new generation of medicine, my specialist explained. Here, he said, drawing four lines across a page of paper. Here are your lines of defence. The first was diet. Many Crohn's patients find it difficult to eat, since eating can be so painful, and the specialist emphasized the importance of maintaining vitamins and protein to fight the illness. The second line of defence were the anti-inflammatory drugs such as sulpha and corticosteroids. I had taken as much of these as my body could handle. The third was the chemotherapy drugs to suppress my immune system, since Crohn's is an immune response gone awry. Again, I was at the maximum safe dosage. There was a fourth defence, I knew -- the dreaded anti-rejection drugs -- but he didn't mention those. Instead, under the fourth line he wrote, "biologics."

Biological medicine works inside the body at the molecular level, he explained. In the case of infliximab, a mouse-human hybrid antibody is manipulated in such a way that it binds to a certain rogue protein molecule in the human gut, rendering it incapable of making a mistaken attack on the body's healthy intestine. This rogue protein has a marvellous, horror-movie name. It is called "tumour necrosis factor-alpha," or tnf-a, and it plays a fundamental role in triggering the cataclysmic chain of events that leads to gut inflammation. While no one yet knows the cause of Crohn's disease, the new medicine holds out the promise of interrupting its activity at an earlier stage.

While the drug has been approved in the United States for the treatment of Crohn's disease since August, 1998, it is still not openly available in Canada. Health authorities here were unconvinced that enough research had been done on dosage levels, so I was to be a guinea pig. The medicine is not only experimental, but high-priced -- each of my infusions would cost about $4,500 and I could require one every couple of months for a year. Luckily, the cost of the drug is covered while under trial.

The specialist finished his explanation and leaned back in his chair, crossed his arms and regarded me. "I can induce a remission in you, young man," he said. "I can't guarantee how long it will last."

He had said the magic word: remission. I didn't care how long it would last. A day without pain would be good. I left his office and walked out into the pale winter sunshine. It seemed a long time since anyone had called me a young man. It seemed a longer time since I had experienced the thing called hope.

Muriel Spark called the question of pain, or Job's question, "the only problem," in a novel with that title. So what then, is the answer? How could a merciful God allow suffering to exist?

My own response has been to accept both pain and pleasure as a richer, fuller experience of life than to experience either on its own. There is nothing more intimate than the relationship with the body. Living so routinely with pain as I do makes my relationship with my body more complex and involved. Not everyone feels the progress of a sandwich, inch by painful inch, through his digestion. I have. Not everyone nurses himself through day and night of unremitting agony, finding he still loves his body in spite of everything. I have. This involves a powerful commitment to the body, a loving kindness and a forgiveness. I have noticed I do not feel the same connection to myself when I am feeling well. I take myself, my body, for granted.

What frightens me is the extent to which this primary relationship is reflected in all the others -- the extent to which I may have become a pain-seeking missile in all my relationships. Pain, after all, at least has the advantage of being real and deeply felt, two qualities missing from many connections. "The problem with you people who have a chronic disease," my doctor once said, "is that you begin to think that pain is normal."

My body knows this much, this it has learned: Nature is much kinder than She is made out to be; and God is not always as merciful as He lets on.

The morning of my first infusion of infliximab -- the mouse medicine -- found me both nervous and excited. I read again the pamphlet from the doctor's office, which warned me against taking the infusion if I had a sensitivity to "mouse products." I wouldn't know, having never eaten one. I remembered the research nurse warning me against fathering a child in the next year, in case of genetic complications. I thought of the changes that were about to occur deep inside my body. Weird alchemy, mad science. I prayed to the powers that be for the best.

The infusion took four hours to complete. In contrast with the high-tech medicine I was about to be administered, the scene at hospital was mundane. I followed a rat's maze of linoleum corridors to the research unit, where a nurse guided me to a gurney. She set up an intravenous drip through a flow monitor and took my vital signs, then broke open the expensive vials of medicine. Normally, being treated for Crohn's involves hospital gowns and painful violations of the bodily orifices. This time, I didn't even have to remove my street clothes. Midway through the process, my specialist appeared, to put my fears to rest about being injected with an animal product. After all, horse urine has been used to make estrogen, pig pancreas has been used to make insulin. But it was, he warned, a "one-shot" deal. I would get only one round of infusions -- a "round" consisting of a number of infusions spaced over a year, according to need. After that, there was a high risk of developing a rejection mechanism against the foreign -- mouse -- protein. If the medicine did not work during the first round, I would not have a second chance.

I was told it would take about four weeks or so to feel the benefits of the infusion. I left a few days later to spend the winter holidays in England and actually felt better within a week -- a placebo effect? I enjoyed a brief respite from symptoms and downed great quantities of ale and fruitcake. This was not a great idea. Soon, I was taking more heroin to cope with the pain. The first infusion had not been strong enough. I returned to Canada after the holidays and phoned my specialist, begging for a second. There was a boring detour when routine blood work turned up an iron and B12 deficiency. Both are absorbed by the ileum, where my Crohn's is active. A normal person has iron stores of about twelve to three hundred ng/ml; mine were at one. I received a big bag of brown stuff through the veins, and a few weeks later, was declared fit for a second infusion.

The second infusion was more nerve-racking than the first -- what if this, too, failed? But this time, they got the dosage right. The mouse medicine overwhelmed the tnf-a protein, binding to their nasty little receptors so they couldn't cling to the intestinal membrane. This time, I experienced a dramatic reduction in pain and an increase in energy. For the first time in months, I had no need for opiates. For the first time in years, I could eat anything I wished.

Grapes are wonderful! Carrots are snappy! Eating a peach is a lush, incredible experience! Having returned to them after such a long absence, I can say that if I had to choose between sex on the one hand, and fruits and vegetables on the other, I would choose the food. After all, a man without an appetite for food soon loses his taste for sex as well, whereas a man with a healthy appetite has an appetite for all things.

Lucretius, the Roman Epicurean philosopher who had his own brush with divine madness, said that one has no right to complain about being removed from the banquet of life if one has been sitting there without taking part. I never again want to sit idly at the table of life. Give me food, cascade me with peaches, for as long as I live.

One summer, in my youth, I worked as a labourer on a farm in France. I knew nothing of Crohn's disease then, had no hole in my belly. At times in my dreams, I am returned there and to the sense of being intact, without disease. I slept in the barn's loft, which was used for the storage of apples. The loft had wide doors that I left open at night, so I could look at the stars while resting among the scent of fresh-picked apples. One night, I took a girl up there with me. That is the kind of banquet I am talking about, of life in abundance.

When I reflect on a life spent in the company of Mr. Crohn's, he hasn't kept me from the banquet. All of the important things in life -- enduring emotional relationships, the satisfaction of a writing career, the thrill of adventure, the joy of raising a child -- all of these have been granted to me. I owe Mr. Crohn's a debt of gratitude for the lessons he has taught. Having said that, should he now take his exit, I won't miss him one bit. He was a teacher, but his lessons were harsh, and I am now prepared for gentler instruction.

In celebration of 5 years of wellness, I am running a series of triathlons/marathons in support of the Crohn's and Colitis Foundation of America (CCFA).

I hope that you will join me in raising money for the CCFA's ongoing research efforts by sponsoring my remaining races this season: a sprint triathlon, a half-Ironman triathlon, and the New York marathon. Every dollar donated will go to the CCFA's research funds; I am fully covering the cost of the races myself.

CCFA-supported research led directly to the development of the drug Remicade, the drug that sustains me today. Some further information on Crohn's and Remicade can be found in the attached excellent, if somewhat harrowingly familiar, article.

Donations can be made from anywhere in the world using a credit card at my fundraising website:

www.firstgiving.com/bretthouse

Contributions can be made anonymously and please know that every donation is a much appreciated sign of support. If you'd prefer not to use the web, please do contact me for other arrangements.

Donations made by IMF staff during October are eligible for a 50 percent match by the Fund. If you are an IMF staff member, please contact me and I can work with you to ensure your donation qualifies for the Fund's support.

Thank you very much for your kind consideration. I'll keep you posted on how the races go. And please forward this email as you think appropriate.

With every good wish,

Brett

Apologies for cross posting

Full Name: [redacted]
Last Name: [redacted]
First Name: [redacted]

Business: [redacted]

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 7, 2006 7:53 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
August 7, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Media Inquiries into Search for Missing Students (FBI)
Media outlets began to inquire today about the disappearance of eleven Egyptian students, who recently arrived in the United States, but never appeared for classes. The FBI released the following statement today:

"The FBI in conjunction with our ICE partners at DHS has put out a BOLO (be-on-the-lookout) for eleven Egyptian students that arrived in the U.S. at JFK on July 29, 2006. The FBI and ICE would like to locate these eleven students in order to speak with them. At this point all they have done is not show up for a scheduled academic program and their visas have been revoked. We do not know of any association with any terrorist or criminal groups. There is no threat associated with these men. We have simply asked law enforcement's assistance in locating them so that the FBI and ICE may interview them. If anyone has information on their whereabouts, they are requested to contact the FBI or ICE."

Justice Department Sues Los Angeles Landlord for Engaging in Discrimination on the Basis of Race, National Origin, and Familial Status (Civil Rights)
The Justice Department announced today that it has filed a lawsuit against Donald T. Sterling, Rochelle Sterling, the Sterling Family Trust, and the Korean Land Company L.L.C. (the Sterling Defendants) alleging housing discrimination on the basis of race, national origin, and family status. The complaint, filed in the U.S. District Court for the Central District of California in Los Angeles, alleges that the Sterling Defendants refused to rent to non-Korean prospective tenants, misrepresented the availability of apartment units to non-Korean prospective tenants, and provided inferior treatment to non-Korean tenants in the Koreatown section of Los Angeles.

Justice Department to Monitor Election in Georgia (Civil Rights)
The Justice Department today announced that on August 8, 2006, the federal government will monitor the primary runoff election in Sumter County, Ga., to ensure compliance with the Voting Rights Act.

Talking Points:

- Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act itself or by a federal court order.

- Federal observers will be assigned to monitor polling place activities in Sumter County, based on the special coverage provisions.

TUESDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will travel to Cincinnati tomorrow to participate in a tour of a drug-affected neighborhood, tour a drug-rehab center, and hold a press conference with local officials including Congressman Steve Chabot. He will also participate in an editorial board meeting with the Cincinnati Enquirer.

2:00 P.M. EDT Officials from the Department of Justice – including representatives from the Criminal Division, the FBI, U.S. Marshals and the Office of Justice Programs – and the National Center for Missing & Exploited Children will host a pen-and-pad briefing (no cameras) about collective efforts to combat child exploitation issues.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 9:10 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE OFFICIALS TO HOST A PRESS ROUNDTABLE ON CHILD EXPLOITATION ISSUES WITH THE NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPARTMENT OF JUSTICE OFFICIALS TO HOST A PRESS ROUNDTABLE ON CHILD EXPLOITATION ISSUES WITH THE NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN

WASHINGTON – Officials from the Department of Justice—including representatives from the Criminal Division, the FBI, the U.S. Marshals and the Office of Justice Programs—and the National Center for Missing & Exploited Children will host a pen-and-pad briefing (no cameras) about collective efforts to combat child exploitation on **TUESDAY, AUGUST 8, 2006 at 2:00 P.M. EDT.**

WHO: Officials from:
Child Exploitation and Obscenity Section of the Criminal Division
National Center for Missing & Exploited Children
Federal Bureau of Investigation
U.S. Marshals Service
Office of Justice Programs

WHAT: Pen-and-Pad Roundtable (No Cameras)

WHEN: **TUESDAY, AUGUST 8, 2006**
2:00 P.M. EDT

WHERE: Criminal Division Conference Room, Room 2107
Robert F. Kennedy (Main Justice) Building
950 Constitution Avenue
Washington, DC 20530

NOTE: Press inquiries regarding logistics should be directed to Jaclyn Lesch or Bryan Sierra at (202) 514-2007.

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06-508

DOJ_NMG_ 0166139

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 10:06 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 8, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, August 8, 2006

ATTORNEY GENERAL

11:00 A.M. EDT The Attorney General will participate in a press conference with local officials regarding Department of Justice efforts to combat drug abuse following a tour of the Talbert House's Alcohol and Drug Abuse Partnership Treatment (ADAPT) Program Facility.
Talbert House
Room 325
3009 Burnet Avenue
Cincinnati, Ohio

PRESS RELEASES

The Civil Rights Division will issue a release on an ADA matter. (Magnuson)

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

The Environment and Natural Resources Division will issue a release on a settlement agreement. (Magnuson)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 11:02 AM
To: USDOJ- Office of Public Affairs
Subject: TWENTY-THREE NEW FEDERAL PROSECUTORS TO BE ADDED TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

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

TWENTY-THREE NEW FEDERAL PROSECUTORS TO BE ADDED TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

WASHINGTON – The United States Department of Justice announced today the addition of 23 new federal prosecutors to the Organized Crime Drug Enforcement Task Force (OCDETF) Program. Today's announcement is the second phase of the Justice Department's rollout of 28 OCDETF prosecutors, five of which are dedicated to the southwest border and were announced last week by Attorney General Alberto R. Gonzales in New Mexico.

The OCDETF Program works to disrupt and dismantle the most significant drug trafficking and money laundering organizations which supply illegal drugs to the United States. The Task Force brings together the expertise and statutory authorities of seven federal law enforcement agencies – including components of the Departments of Justice, Treasury and Homeland Security – and state and local partners, under the leadership of the United States Attorneys' Offices.

"Stopping the spread of drugs in our communities is one of the top priorities of the Justice Department," said Attorney General Gonzales. "These new prosecutors will be targeting the largest and most powerful drug trafficking organizations in the world."

During fiscal year 2005, OCDETF investigations resulted in 9,898 defendants charged and 7,856 convictions. In the same time period, OCDETF investigations resulted in seizures totalling $330 million. Including the 28 positions added as of today, 115 prosecutors have been added to the OCDETF Program since fiscal year 2004, for a total of 588.

The Department of Justice will add new OCDETF AUSAs to the following federal law enforcement districts: Middle District of Alabama, Northern District of Alabama, District of Arizona, Eastern District of Arkansas, Central District of California, Southern District of California, Middle District of Florida, Southern District of Florida, Northern District of Georgia, Northern District of Illinois, District of Kansas, Eastern District of Kentucky, District of Nebraska, District of New Hampshire, District of New Mexico, Eastern District of New York, Southern District of New York, Southern District of Ohio, Eastern District of Pennsylvania, District of Puerto Rico, Western District of Tennessee, Eastern District of Texas, Northern District of Texas, Southern District of Texas, Western District of Texas, Eastern District of Washington, Western District of Washington and the District of Wyoming.

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Image not available for this document, ID: 0.7.10316.39133-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 11:11 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING NEW FEDERAL PROSECUTORS TO BE ADDED TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING NEW FEDERAL PROSECUTORS TO BE ADDED TO THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PROGRAM

CINCINATTI, OHIO

Thank you, Congressman Chabot – it's a privilege to be here in Cincinnati, to enjoy the generous hospitality of the citizens of the Buckeye State.

I want to thank Neil Tilow from the Talbert House and the wonderful folks who participated in the roundtable before this – we had a productive conversation and I'm proud to see DOJ dollars at work in this fine facility. I appreciate this chance to be with U.S. Attorney Greg Lockhart and Police Chief Tom Streicher.

Before we talk about the challenge that Cincinnati and so many other communities face when it comes to the plague of drug use and violent crime, I'd like to announce some good news for those who are fighting to protect their children from the threat of drugs all over the country:

I have approved the allocation of 23 new Assistant U.S. Attorneys to U.S. Attorney's Offices nationwide, including one here in the Southern District of Ohio. These new AUSAs will be dedicated to the Organized Crime Drug Enforcement Task Force (OCDETF). Their sole focus will be to prosecute major drug trafficking organizations.

As many of you know, the OCDETF is at the heart of the Department of Justice's efforts to target and dismantle the trafficking organizations that bring drugs into our neighborhoods. It combines the expertise of multiple federal agencies, with foreign, state and local partners, to mount a comprehensive attack on major drug

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organizations and the financial infrastructure that supports them. We're proud to add a significant number of new prosecutors to this already-successful program.

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I know that Cincinnati has seen its share of pain when it comes to the subject of drug use, addiction and trade. Some people here know all too well that drugs can steal a childhood and extinguish dreams. You all have seen the trail of violent crime and destruction that networks of traffickers, dealers and affiliated gangs leave in their path.

So while Cincinnati has much to be proud of – strong families and great neighborhoods to raise those families in – I'm glad that there is an awareness that no neighborhood, no city, is ever immune from the destructive power of drugs or the reality of violent crime.

The ability of drugs to degrade a community and increase violent crime has been one of the more difficult things I've seen, up close, in my position as Attorney General. I've made combating methamphetamine a priority of our enforcement efforts and I am haunted by the stories of what that particular drug can do to individuals, families and communities.

While many are involved in drug use and drug trade voluntarily, the plague of drugs also claims innocent victims like the children of meth users. This cannot be tolerated by responsible government at any level.

As with any effective campaign against crime, coordination among local, state and federal officials is critical, through programs like Project Safe Neighborhood (PSN) and High Intensity Drug Trafficking Areas (HIDTA). I'm pleased to report that, in Cincinnati since 2003, 82 defendants have been sentenced to average of 78 months for gun violations arising out of our PSN initiative.

A child who grows up in a drug-infested, violent neighborhood is a child who has been robbed of hope. So I appreciate the solidarity of local law enforcement in Cincinnati and of Ohio's state and federal officials as we work together to make our neighborhoods safer and drug-free. Because it is our job, our highest calling, to make sure that our children can grow up with all the hope and opportunity that this great nation promises all of its citizens.

Thank you again for having me here in Cincinnati. May God continue to bless this fine city, our country and our collective efforts to protect our children.

Please welcome Cincinnati Police Chief Tom Streicher.

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Gunn, Currie (SMO)

Subject:	Canceled: OJP Bi-weekly Meeting
Location:	Main Room 5710
Start:	Tuesday, February 14, 2006 2:00 PM
End:	Tuesday, February 14, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Tuesday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	'Mercer, Bill (ODAG)'; Todd, Gordon (SMO); Todd, Gordon (SMO); Todd, Gordon (SMO); Katsas, Gregory (CIV); McCallum, Robert (SMO); Gorsuch, Neil M
Importance:	High

When: Occurs every 2 weeks on Tuesday effective 2/14/2006 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Addition of Greg Katsas & Andrea Bottner

Attendees: Regina Schofield-OJP, Nick Tziton-OJP, Cybele Daley-OJP, David Hagy-OJP, Beth McGarry-OJP, Maureen Henneberg-(A) BJS, Domingo Herraiz-BJA, Glenn Schmitt-NIJ, Robert Flores-OJJDP, John Gillis-OVC

POC: Currie Gunn x4-9500
OJP: Jo Palma - 5-9239

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 12:54 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ISSUES GUIDE TO HELP LOCAL GOVERNMENTS MEET ACCESSIBILITY NEEDS DURING NATURAL AND CIVIL EMERGENCIES

Department of Justice

FOR IMMEDIATE RELEASE — CRT
TUESDAY, AUGUST 8, 2006 — (202) 514-2007
WWW.USDOJ.GOV/ — TDD (202) 514-1888

JUSTICE DEPARTMENT ISSUES GUIDE TO HELP LOCAL GOVERNMENTS MEET ACCESSIBILITY NEEDS DURING NATURAL AND CIVIL EMERGENCIES

WASHINGTON - The Justice Department announced today that it has issued a newly revised and expanded publication to assist local government planners, first responders, and emergency staff prepare for and meet the unique needs of people with disabilities during natural and civil emergencies.

An ADA Guide for Local Governments: Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities, identifies potential problems in notifying, evacuating, transporting, sheltering, and providing information to people with disabilities during emergencies and offers commonsense solutions for preventing or minimizing those problems.

"Recent events taught us all that people with disabilities can be among the most vulnerable members of our communities during an emergency or natural disaster," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "All public officials should learn from the lessons of Hurricane Katrina and go forward better prepared to meet the needs of all of their citizens. We hope local officials will find this publication valuable and will follow the action steps it describes."

The Civil Rights Division has made it a priority to work with localities to ensure that the needs of persons with disabilities are met during an emergency. To date, the Division has entered into formal agreements with 28 communities under its Project Civic Access initiative to ensure that local governments include the interests of persons with disabilities in their emergency planning activities. Communities including Newark, N.J; Memphis, Tenn.; Arlington and Loudoun Counties, Va.; and Maui, Hawaii, have begun efforts to include the needs of persons with disabilities in their emergency preparations. The Department's revised guidance will provide even more information to help them.

The illustrated and clearly written 11-page guide can be viewed or downloaded from the Department's ADA Web site at http://www.ada.gov or ordered from the ADA Information Line at 800-514-0301 (voice) or

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800-514-0383 (TTY). Information Line staff can answer additional questions about emergency preparedness or any other ADA topics.

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Image not available for this document, ID: 0.7.10316.39110-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, August 08, 2006 1:28 PM
Subject: RFK Main Justice Entrance Update

RFK MAIN JUSTICE BUILDING SECURITY NOTICE

The Pennsylvania Avenue Employee Entrance will resume normal operating hours, 8:00 a.m. - 6:00 p.m. Monday - Friday, excluding Federal holidays, effective Wednesday August 9, 2006. Employees possessing a valid AEGIS access badge may enter and exit the MJB during normal operating hours.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Long, Linda E

Subject:	Canceled: DAG Component Budget Hearings Recap
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 10, 2006 2:30 PM
End:	Thursday, August 10, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Long, Linda E
Required Attendees:	Gorsuch, Neil M
Importance:	High

When: Thursday, August 10, 2006 2:30 PM-3:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: RFK Bldg, Room 4111

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Attendees: Mike Elston, Kyle Sampson, Monica Goodling, Mark Epley, Richard Hertling, Lee Lofthus, Jolene Lauria-Sullens, Walt Schultz, Karin O'Leary, Mikki Atsatt
JMD POC: Shalini Parameswaran/JMD 4-3056

McNulty, Paul J

Subject:	Canceled: DAG Component Budget Hearings Recap
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 10, 2006 2:30 PM
End:	Thursday, August 10, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, MikkiElston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, Mikki
Optional Attendees:	Parameswaran, ShaliniParameswaran, Shalini
Importance:	High

Attendees: Mike Elston, Kyle Sampson, Monica Goodling, Mark Epley, Richard Hertling, Lee Lofthus, Jolene Lauria-Sullens, Walt Schultz, Karin O'Leary, Mikki Atsatt
JMD POC: Shalini Parameswaran/JMD 4-3056

Full Name:	Vicky Parks
Last Name:	Parks
First Name:	Vicky
E-mail:	Vicky_Parks@ca10.uscourts.gov
E-mail Display As:	Vicky_Parks@ca10.uscourts.gov

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 2:22 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT WILL NOT OPPOSE PROPOSAL TO FORM TEXTILE RENTAL AND LAUNDRY SERVICES JOINT VENTURE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT WILL NOT OPPOSE PROPOSAL TO FORM TEXTILE RENTAL AND LAUNDRY SERVICES JOINT VENTURE

WASHINGTON — The Department of Justice today announced it will not oppose a proposal which would allow 10 textile maintenance companies to bid jointly to provide textile rental and laundry services to national healthcare outpatient centers. Based on representations made in the proposal by Linen Systems for Healthcare LLC, the Department concluded that the proposed joint venture is not likely to produce anticompetitive effects and could create a new competitor for national accounts.

Linen Systems for Healthcare requested a business review letter expressing the Department's enforcement intentions regarding the formation of the joint venture, which will operate under the name MEDtegrity. The proposed members seek to compete better for national account business from various types of healthcare outpatient centers. The proposal states that the growing number of national accounts seeking a single-source supplier of textile and rental services has left the 10 local suppliers at a competitive disadvantage against larger, multi-plant companies.

According to the request, the 10 member companies are not currently competitors because of significant distances between their plants. Price discussions among members will be limited to those necessary to prepare a joint bid, and additional limitations will be put in place to prevent the exchange of competitively sensitive information that does not relate to the joint venture. Member companies will remain free to bid for national business outside the joint venture and will continue to act independently of each other in seeking business within their own localities.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General for the Antitrust Division, to counsel for Linen Systems for Healthcare.

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"The proposed joint venture creates a new competitor for national healthcare outpatient center accounts without threatening to restrict output or harm competition among MEDtegrity members," Barnett said in the letter.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division would challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure, 28 C.F.R. § 50.6.

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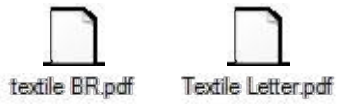
06-512



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Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

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(202) 514-2007
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06-512

DEPARTMENT OF JUSTICE
Antitrust Division

THOMAS O. BARNETT
Assistant Attorney General

Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
(202) 514-2401 / (202) 616-2645 (Fax)
E-mail: antitrust@usdoj.gov
Web site: http://www.usdoj.gov/atr

August 8, 2006

Steven John Fellman, Esq.
Galland, Kharasch, Greenberg,
Fellman & Swirsky, P.C.
1054 Thirty-First Street, N.W., Suite 200
Washington, D.C. 20007-4492

Dear Mr. Fellman:

This letter responds to your request on behalf of your client, Linen Systems for Healthcare, LLC, for the issuance of a business review letter pursuant to the Department of Justice's Business Review Procedure, 28 C.F.R. § 50.6. Linen Systems for Healthcare, a joint venture of regional textile maintenance companies, proposes jointly to market textile rental and laundry services to specialized healthcare clients under the trade name MEDtegrity. You have requested a statement of the Antitrust Division's current enforcement intention with respect to this proposal.

You represent that MEDtegrity is a joint venture of ten textile maintenance companies experienced in providing specialized textile rental and laundry services to the healthcare industry.[1] MEDtegrity members currently sell their services independently to various types of healthcare outpatient centers ("HOCs"). HOCs require specialized textile and laundry services due to the medical waste associated with their businesses.

Each healthcare textile rental and laundry service for HOCs operates its business similarly. Vans filled with clean textiles are dispatched at the beginning of the day. During the day, the driver follows a route, stopping at the customers' locations to drop off clean textiles and pick up soiled ones. The driver also may solicit other prospective customers if time permits. He or she then returns to the plant at the end of the workday with the soiled textiles. The textiles are taken into the plant for cleaning, and the van is serviced and maintained overnight.

Because of the use of this van-and-route system, you assert that healthcare textile rental and laundry firms generally are limited to servicing clients within a 100 mile radius of a plant.

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[1] The ten textile companies are: Admiral Linen and Uniform Service (Houston, Texas); CleanCare (Pittsburgh, Pennsylvania); Economy Linen and Towel Service (Dayton, Ohio); Faultless Linen (Kansas City, Missouri); Handcraft Uniform Rental Service (Richmond, Virginia); MedClean (Chicago, Illinois); MediCleanse (Renton, Washington); MediCo Professional Linen Service (Los Angeles, California); Sohn Linen (Lansing, Michigan); and Unitex Textile (Mt. Vernon, New York).

As a result, you contend that MEDtegrity's ten members are at a significant competitive disadvantage in competing against multiplant rivals for sales to national customers who desire to acquire their textile rental and laundry services from a single supplier. This competitive disadvantage threatens to become more significant for MEDtegrity's members because of what you perceive to be an increasing trend on the part of national customers to sole-source their services and supplies.

You contend that the ten textile maintenance company members should not be viewed as significant rivals of one another because, with one exception, the members' plants are more than 210 miles apart from each other.[2] You represent that this distance precludes them from competing in any significant way.

You suggest that many HOCs operate nationally, as part of a group or chain, and prefer to contract with textile rental and laundry services that can meet all their needs on a national basis. You have represented that, in recent years, several large national textile maintenance companies have captured a large and growing share of HOCs' textile and laundry business because these larger textile firms can provide services on a national basis. You assert that none of MEDtegrity's members has ever, singly or jointly, won a national supply contract and that each member has lost, or is faced with the prospect of losing, customers who demand services on a national basis. You submit that individual MEDtegrity members do not have the economic scale, including multiregional plant locations, to market their services on a national basis.

To enable themselves to compete for national account business, MEDtegrity's members propose to market their services as part of a joint venture. In each area where a national HOC's headquarters is located, a MEDtegrity member operating in the area will serve as the account manager for that facility. The account manager will meet with prospective customers' national account representatives and will have the authority to negotiate contracts on behalf of MEDtegrity. Price discussions among the members will be limited to those that are necessary to prepare the joint venture's national bids, and members will avoid exchanging any other nonpublic information.[3] The members would be free to bid for national business independently and outside of the joint venture and would continue to act independently of each other in seeking business within their own localities.

The local MEDtegrity member (account manager) will report the results of any meeting with a national HOC account to the MEDtegrity Executive Committee. The Executive

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[2] Two of the plants are 130 miles apart. One of these two plants currently services HOC clients. By contrast, the other plant does not compete for HOC business and is devoted to servicing hospitals. You represent that it would be more profitable for the second plant to continue to serve its current hospital clients than to switch to serve HOC clients.

[3] While unlikely, if there is ever a situation where two members are competing for the same regional business of the national HOC account, any pricing information involving the overlapping members will be submitted to the Executive Director on a confidential basis. He will then create a nationwide pricing proposal, such that the competing members will not be able to discern each other's prices.

DOJ_NMG_ 0166168

Committee is made up of some combination of members.[4] In those cases where a national HOC account solicits the services of MEDtegrity members, the account manager will give a copy of the national HOC account's written proposal to each MEDtegrity member. The fact that any national HOC account declined a proposal from MEDtegrity or failed to make a counteroffer will also be disclosed to the entire MEDtegrity membership.

The local MEDtegrity member (account manager) will consult with MEDtegrity members and report whether the member is willing to perform the services under the terms and conditions offered by the national HOC account. The account manager will forward to the national HOC account a list of those MEDtegrity members that are willing to provide services in accordance with the HOC's specifications. You have represented that there will be no limitation on the rights of any MEDtegrity member to contact the national accounts directly and offer to perform the services at a price lower or higher than the price set forth in MEDtegrity's proposal to the national HOC account. You have further represented that, other than the discussions with the account manager and Executive Director described above, individual MEDtegrity members will not discuss among themselves whether they intend to accept, reject, or make a counteroffer to any particular national account's proposal. You state that, beyond training staff to meet the Occupational Safety and Health Administration's blood borne pathogens standard, there are few or no barriers to entry to the healthcare textile rental and laundry services market. Finally, we understand that there will be no limitation on the rights of any MEDtegrity member to accept or reject business from national HOC accounts.

In the same vein, each national HOC account will make its own unilateral decision whether to participate in the MEDtegrity marketing program and may convey that decision to the Executive Director. Moreover, any national HOC account that wishes to participate in the MEDtegrity marketing program will have the right to pick and choose among those MEDtegrity members with whom it will deal. There will be no requirement that a national HOC account deal with all or a minimum subset of MEDtegrity members.

Based on your representations, we conclude that the formation and operation of the MEDtegrity joint venture is not likely to produce anticompetitive effects. The proposed joint venture creates a new competitor for national HOC accounts without threatening to restrict output or harm competition among MEDtegrity members. Moreover, the rules of the joint venture will limit information exchanges among its members that might have the potential to reduce price competition that could theoretically take place outside the joint venture. If the facts you represented are accurate, the potential for competition among joint venture members outside the joint venture is limited by the lack of any significant geographic overlap, so the limitations on information exchanges appear to be prophylactic measures. Consequently, based on the information and assurances that you have provided to us, the Department of Justice, Antitrust Division, has no present intention to challenge the proposed MEDtegrity marketing program.

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[4] The Executive Director presides over the Executive Committee. The Executive Director is not a MEDtegrity member. Karl Buhl, of Karl Buhl Consulting (Tampa, Florida), will serve as the Executive Director. He is not associated with any MEDtegrity member or any of their competitors.

DOJ_NMG_ 0166169

This letter expresses the Division's current enforcement intention and is predicated on the accuracy of the information and assertions that you have presented to us. In accordance with its normal practice, the Division reserves the right to bring an enforcement action in the future if the actual activities of MEDtegrity or its members prove to be anticompetitive in purpose or effect in any market.

This statement is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6. Pursuant to its terms, your business review request and this letter will be made publicly available immediately, and any supporting data will be made publicly available within thirty days of the date of this letter, unless you request that any part of the material be withheld in accordance with Paragraph 10(c) of the Business Review Procedure.

Sincerely,

Thomas O. Barnett
Assistant Attorney General

DOJ_NMG_ 0166170

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 3:46 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUES CALVERT PROPERTIES INC. AND ITS PRESIDENT FOR SEXUAL HARASSMENT IN MISSOURI

Department of Justice

FOR IMMEDIATE RELEASE — CRT
TUESDAY, AUGUST 8, 2006 — (202) 514-2007
WWW.USDOJ.GOV/ — TDD (202) 514-1888

JUSTICE DEPARTMENT SUES CALVERT PROPERTIES INC. AND ITS PRESIDENT FOR SEXUAL HARASSMENT IN MISSOURI

WASHINGTON — The Justice Department today filed a lawsuit against Calvert Properties Inc. and company president, Harold W. Calvert, alleging a pattern or practice of sexual harassment of female tenants.

The complaint, filed in the U.S. District Court for the Western District of Missouri, alleges that Calvert and his company engaged in a pattern or practice of discrimination based on sex. Specifically, the complaint alleges that Harold Calvert subjected female tenants to unwanted verbal sexual advances; unwanted physical sexual advances; forcible physical contact with the sexual parts of his body; inappropriate statements; and threats of eviction when they refused or objected to his sexual advances. The complaint also alleges that Calvert Properties did not take reasonable preventive or corrective measures to curtail and prevent the discriminatory conduct of Harold Calvert.

"Housing is a fundamental need, and no woman should be victimized while trying to obtain shelter for herself and her family," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "Landlords looking to prey on their female tenants should be on notice: The Department of Justice has stepped up our enforcement of this immoral and illegal behavior."

"Individuals are entitled to live securely in their residences without being subjected to discriminatory and degrading treatment by landlords acting as sexual predators," said U.S. Attorney Bradley J. Schlozman. "The abuse – both physical and emotional – evidenced by the tenants in this case is simply unconscionable and will not be tolerated by this Department."

The suit seeks monetary damages to compensate the victims, civil penalties, and a court order barring future discrimination.

Fighting illegal housing discrimination is a top priority of the Justice Department. Since January 21, 2001, the Justice Department's Civil Rights Division has almost doubled the number of cases alleging a pattern

DOJ_NMG_ 0166171

or practice of sexual harassment by landlords as compared to the preceding five and-a-half years. In February 2006, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas hit by Hurricane Katrina, and targets housing discrimination all over the country.

For more information about Operation Home Sweet Home, please visit our Web site, http://www.usdoj.gov/fairhousing. The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Individuals who believe that they may have been victims of housing discrimination can call our Housing Discrimination Tip Line (1-800-896-7793), email us at fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777. For more information about the Civil Rights Division and the laws it enforces, go to http://www.usdoj.gov/crt.

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06-511

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Image not available for this document, ID: 0.7.10316.38960-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 7:11 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER HAGERSTOWN POLICE OFFICER PLEADS GUILTY TO CIVIL RIGHTS CHARGES

Department of Justice

FOR IMMEDIATE RELEASE — CRT
TUESDAY, AUGUST 8, 2006 — (202) 514-2007
WWW.USDOJ.GOV/ — TDD (202) 514-1888

FORMER HAGERSTOWN POLICE OFFICER PLEADS GUILTY TO CIVIL RIGHTS CHARGES

Defendant Threatened African American Hagerstown High School Students and City Council Member While Serving as a Boonesboro Police Officer

BALTIMORE — Jeffrey Shifler, 42, of Maugansville, Md., plead guilty today to a two count criminal indictment charging him with interference with attendance at public schools and interference with housing, announced Assistant Attorney General Wan J. Kim of the Civil Rights Division and U.S. Attorney Rod J. Rosenstein of the District of Maryland. The charges stem from threats Shifler made against African American students at two Hagerstown high schools and against an African American Hagerstown City Council member.

"Any threat of violence based on bigotry is abhorrent. It is even worse when the threat is made by an officer against kids," said Assistant Attorney General Kim. "The Department of Justice is committed to prosecuting any individual who illegally perpetuates hatred."

"When a law enforcement officer makes racist threats against government officials and school students, it is a threat to the very fabric of our society," said U.S. Attorney Rosenstein. "We will vigorously investigate and prosecute hate crimes and make certain that the criminals who commit them are punished."

According to the statement of facts provided to the court as part of the plea, Shifler was a police officer with the Hagerstown Police Department for about 16 years. On Nov. 3, 2003, Shifler was terminated for cause and then became employed as a police officer with the Boonesboro Police Department.

On Nov. 29, 2005, Shifler anonymously called the Washington County Board of Education and stated, "There are two guns at North [Hagerstown] High and two guns at South [Hagerstown] High. We're going to blow the niggers away." The school was locked down, limiting access into and out of the school as well as student and staff mobility within the school, resulting in substantial interference with public school operations.

On Jan. 9, 2006, Shifler anonymously called North Hagerstown High School and falsely

DOJ_NMG_ 0166175

reported the presence of guns in the school. On Jan. 10, 2006, Shifler anonymously called South Hagerstown High School, threatening to take African-American hostages and kill them. On Jan. 24, 2006, Shifler anonymously called E. Russell Hicks Middle School in Hagerstown and said, "David and Jimmy have a .22 in their locker and are going to use it on teachers, then they are going to go to Western Heights [Middle School] and use it on Rupenthal [the school principal]," or words to that effect. On all three occasions, the schools were locked down, resulting in substantial interference with public school operations.

Shifler further admitted that on Jan. 31, 2006, he anonymously called the home of Hagerstown City Council member Alesia Parson-McBean, stating in part "We're the KKK. We're about to take you down and burn your house. The end is near, nigger." Ms. Parson-McBean contacted "911" for emergency assistance.

In 2004 and 2005, Ms. Parson-McBean and her supporters, who are members of the African-American community in Hagerstown, received anonymous, racially-charged letters from Shifler. The letters, one of which was written on photocopied Hagerstown Police Department letterhead, threatened harm to Ms. Parson-McBean and her supporters if she did not withdraw from the City Council election.

Shifler faces a maximum sentence of 10 years in prison followed by three years of supervised release and a $250,000 fine on each count. U.S. District Judge J. Frederick Motz has scheduled sentencing for Dec. 8, 2006. Shifler remains in federal custody.

Assistant Attorney General Kim and U.S. Attorney Rosenstein commended the investigative work performed by the FBI. Mr. Rosenstein and Mr. Kim thanked Assistant U.S. Attorney Stephen M. Schenning, Trial Attorney Ryan Morrison and Senior Litigation Counsel Mark Blumberg of the U.S. Department of Justice Civil Rights Division, Criminal Section, who are prosecuting the case.

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Image not available for this document, ID: 0.7.10316.38932-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 08, 2006 7:18 PM
To: USDOJ- Office of Public Affairs
Subject: 24 INDIVIDUALS INDICTED IN MARRIAGE FRAUD SCHEME DESIGNED TO EVADE U.S. IMMIGRATION LAWS

Department of Justice

United States Attorney Brett L. Tolman
District of Utah

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 8, 2006
WWW.USDOJ.GOV

CONTACT: MELODIE RYDALCH
PHONE: (801) 325-3206
FAX: (801) 524-6926

24 INDIVIDUALS INDICTED IN MARRIAGE FRAUD SCHEME DESIGNED TO EVADE U.S. IMMIGRATION LAWS

SALT LAKE CITY – A federal grand jury indictment unsealed today in Salt Lake City charges 24 individuals in connection with a sophisticated marriage fraud scheme designed to help Vietnamese nationals enter or remain in the United States while evading provisions of U.S. immigration laws.

The indictment was announced by U.S. Attorney Brett L Tolman of the District of Utah; Special Agent in Charge Charles "Chuck" DeMore of the U.S. Immigration and Customs Enforcement (ICE) Office of Investigations in San Francisco; Special Agent in Charge Thomas Depenbrock of the U.S. Department of State Bureau of Diplomatic Security San Francisco Field Office; and Director Mario Ortiz of the Denver District of the U.S. Citizenship and Immigration Service (USCIS).

The 79-count indictment, which was returned by a grand jury on Aug. 3, 2006, stems from a multi-agency investigation that began with a tip from a citizen and continued over a period of 18 months. The charges in the indictment include conspiracy to defraud the United States; encouraging or inducing an illegal alien to come to, enter or reside in the United States (alien smuggling); marriage fraud; visa fraud; and aggravated identity theft.

The defendants charged in the indictment are Hoa Thanh Vo, 40, of West Valley City; Henry Ngoc Nguyen, 45, of West Jordan; Buu Van Troung of West Jordan; Ngoc Hoa Huynh (aka "Noa," "Nora," "Norwa"), 33, of West Jordan; Huu Luong Huynh (aka "John Huynh"), 31, of South Jordan; Danh Huy Do, 33, of West Valley City; James Hugh McClurg, 48, of Sandy; Tinh Huu Cao, 37, of West Jordan; Lanh Ta Huynh, 52, of West Jordan; Dzung Tan Huynh (aka "Jace"), 43, of Sandy; My Chau Tran (aka "Leelee," "Lily"), 29, of South Jordan; Hue Thi Huynh, 40, of West Jordan; Tri Dung Minh Nguyen (aka "Yoon"), 40, of West Valley City; Mischelle Lien Polish, 33, of Murray; Cuc Thi Nguyen (aka "Kathy Nguyen) of South Jordan; Billy Chanh Tran, 47, of Las Vegas; Thi Tho Nguyen, 55, of Salt Lake City; Gary Minh Nguyen, 38, of West Valley City; Johnathan Quy Tran, 49, of Salt Lake City; Winona Juan Fischer (aka "Wendy Fischer"), 56, of Salt Lake

DOJ_NMG_ 0166179

City; Dung Lee, age and residence unknown; Hieu Dinh Hoang, 34, of West Valley City; Tamy Ta, 56, of Sandy; and Yen Thi Pham, 35, of Sandy. Most of the defendants are naturalized U.S. citizens.

The indictment alleges the defendants recruited U.S. citizens to travel to Vietnam to enter into fictitious engagements or fraudulent marriages to facilitate the unlawful entry of the Vietnamese nationals into the United States. On occasion, U.S. citizens were recruited to enter into fraudulent marriages with Vietnamese nationals already in the United States.

"The scheme alleged in this indictment takes the concept of 'arranged marriage' to a new level," U.S. Attorney Tolman said. "Those charged in this indictment exploited a process intended to assist families. Their subversion was motivated by greed. The purpose of this indictment is two-fold. First, we want to disrupt and punish this criminal activity. Second, it is important to all of the agencies involved in this case that we restore the integrity of the marriage visa process."

The indictment alleges the defendants paid U.S. citizens between $500 and $10,000, in addition to travel and other related expenses, in exchange for an agreement to enter into the fictitious engagements or marriages. Defendants told the U.S. citizen recruits that they would not have to live with their Vietnamese spouse once he or she entered the United States, and that they would only have to remain married for a limited period of time.

According to the indictment, the defendants charged each Vietnamese national approximately $30,000 for their assistance in obtaining documents from the U.S. government authorizing the entry or continued residency of the Vietnamese nationals into the United States.

The indictment also alleges the defendants accompanied the citizen recruits to Vietnam and organized or participated in elaborate but fraudulent engagement ceremonies. The defendants also compiled "evidence" of the relationship to be submitted in conjunction with immigration applications. Most commonly, this included photos of the parties designed to give the appearance of a meaningful and long-lasting relationship. In fact, the indictment alleges, the parties spend only a short time together in Vietnam traveling from location to location, changing their clothes at each stop before taking additional photos.

The indictment does not include charges against any of the U.S. citizen recruits or petitioners. Federal prosecutors say the U.S. citizens have admitted their involvement in the scheme and are cooperating with the investigation. A final decision about whether they will be charged has not been made.

As part of the anti-fraud task force lead by ICE, USCIS Fraud Detection and National Security (FDNS) officials reviewed more than 1,000 documents, including between 400 and 600 applications and petitions. FDNS' biggest role in the investigation was identifying related individuals, retrieving documents and establishing a database to maintain these cases as evidence for future use. USCIS officers also performed marriage fraud interviews on cases related to this investigation.

Since the execution of arrest warrants on Monday, 21 arrests have been made with Dung Lee, Billy Chanh Tran and Lanh Ta Huynh remaining at large. The potential maximum penalties for the counts charged in the indictment include up to five years in prison for conspiracy to defraud the United States; up to 10 years in prison for alien smuggling; up to five years in prison for marriage fraud; up to 10 years in prison for visa fraud; and a two-year minimum mandatory prison sentence to be served consecutive to any other sentence for aggravated identity theft.

The indictment also seeks forfeiture of property, money and other proceeds the defendants obtained directly or indirectly as a result of the alleged criminal conduct. It also seeks a money judgment of $1,380,000 representing the amount of proceeds obtained as a result of the offenses charged in the indictment.

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Defendants charged in indictments are presumed innocent unless or until proven guilty in court.

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Image not available for this document, ID: 0.7.10316.38935-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 8, 2006 7:59 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ DAILY NEWS WRAP

PUBLIC AFFAIRS DAILY NEWS WRAP
August 8, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Travels to Cincinnati, Announces Additional OCDETF Prosecutors (OPA)
The Attorney General traveled to Cincinnati today where he participated in a tour of a drug-affected neighborhood, and held a press conference with local officials announcing the addition of new federal prosecutors to be added to the Organized Crime Drug Enforcement Task Force program. He also participated in an editorial board meeting with the Cincinnati Enquirer.

DOJ Pen and Pad on Child Exploitation (OPA)
Officials from the Department of Justice—including representatives from the Criminal Division, the FBI, the U.S. Marshals and the Office of Justice Programs—and the National Center for Missing & Exploited Children held a pen-and-pad briefing about collective efforts to combat child exploitation.

Justice Department Sues Calvert Properties Inc. and Its President for Sexual Harassment in Missouri (Civil Rights)
The Justice Department today filed a lawsuit against Calvert Properties Inc. and company president, Harold W. Calvert, alleging a pattern or practice of sexual harassment of female tenants. The complaint, filed in the U.S. District Court for the Western District of Missouri, alleges that Calvert and his company engaged in a pattern or practice of discrimination based on sex. Specifically, the complaint alleges that Harold Calvert subjected female tenants to unwanted verbal sexual advances; unwanted physical sexual advances; forcible physical contact with the sexual parts of his body; inappropriate statements; and threats of eviction when they refused or objected to his sexual advances.

Justice Department Issues Guide to Help Local Governments Meet Accessibility Needs During Natural and Civil Emergencies (Civil Rights)
The Justice Department announced today that it has issued a newly revised and expanded publication to assist local government planners, first responders, and emergency staff prepare for and meet the unique needs of people with disabilities during natural and civil emergencies. *An ADA Guide for Local Governments: Making Community Emergency Preparedness and Response Programs Accessible to People with Disabilities*, identifies potential problems in

notifying, evacuating, transporting, sheltering, and providing information to people with disabilities during emergencies and offers commonsense solutions for preventing or minimizing those problems.

Florida Charter Boat Captain Pleads Guilty to Shooting at Dolphins (Environment and Natural Resources Division)
Christopher Kevin Weaver, a charter boat captain from Panama City, Fla. pleaded guilty today to one misdemeanor count of violating the federal Marine Mammal Protection Act (MMPA), the Justice Department announced. Weaver faces a maximum one year in prison and/or a $100,000 fine for knowingly and unlawfully shooting at one or more dolphins in U.S. waters. Weaver, who was on the bridge of the *LEO TOO*, fired a .357 caliber handgun at the dolphin while it was in the water near the boat.

Talking Points:

- The MMPA prohibits the taking of any marine mammal, including dolphins, in waters or lands under the jurisdiction of the United States.

- "Take" as defined in the Act, means to harass, hunt, capture or kill; or attempt to harass, hunt, capture, or kill any marine mammal.

- "Harassment," also defined by the Act, means any act, pursuit, torment or annoyance which has the potential to injure a marine mammal in the wild or has the potential to disturb a marine mammal by causing disruption of behavioral patterns, including, but no limited to, migration, breathing, nursing, breeding, feeding or sheltering.

Media Inquiries on Missing Egyptian Students (FBI)
The FBI continued to receive media inquiries today into the Be-On-the-Lookout (BOLO) notice for 11 missing Egyptian students who have failed to report to class at Montana State University.

Talking Points:

- The FBI and ICE along with State and local police continue to work to locate and interview these students. This remains an active investigation. There is no threat associated with these students.There is no additional information available at this time.

Missing Desktop from VA Contractor (FBI)
WFO is assisting the Veteran's Administration Inspector General in the investigation of the theft of a desktop computer from a VA contractor, Unisys. The computer contained VA patient records from VA Hospitals in Pittsburgh and Philadelphia. Fairfax County PD in VA and Unisys Security are also assisting. At this time, the VA is contemplating the announcement of a reward for the return of the computer.

FBI Sends Letter to Congressmen Regarding Puerto Rico Incident (FBI)
Several media outlets have requested an FBI response to the letter which was sent to Congressmen Gutierrez, Serrano, and Velazquez on August 4, 2006 by FBI Assistant Director

Eleni Kalisch with respect to an incident that occurred between the FBI, local members of the media and protesters on Feb. 10, 2006 in Rio Piedras, Puerto Rico. The letter from the FBI's Office of Congressional Affairs advised that the inspection division's inquiry had been completed into the FBI's use of force, particularly pepper spray.

Talking Points:

- This matter was initially referred to the DOJ Office of Inspector General for investigation who declined and referred it back to the FBI for handling. FBI Headquarters concluded that no excessive force was directed against members of the media; that the use of less than lethal force (pepper-spray) was warranted; that no violation of Civil Rights occurred; and that no federal laws or FBI policies were violated.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

The Environment and Natural Resources Division will issue a press release.

The Civil Rights Division will issue a press release.

12:15 P.M. The Attorney General will deliver remarks at the Immigration Judges Training Conference. The Office of Public Affairs will issue a release on the event.

5:00 P.M. The Deputy Attorney General will participate in an interview with Frontline regarding DOJ's role in fighting terrorism in the five years since 9/11.

The Deputy Attorney General tomorrow will hold a press conference with officials from the SEC and FBI regarding a criminal matter in a corporate fraud case.

Beach, Andrew

From: Beach, Andrew
Sent: Tuesday, August 8, 2006 9:44 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

Barnett, Thomas O.

From: Barnett, Thomas O.
Sent: Wednesday, August 9, 2006 9:29 AM
To: Gorsuch, Neil M
Subject: Read: Contact Information

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 9:29 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

WASHINGTON – Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice and the Securities and Exchange Commission (SEC) will hold a press conference regarding a corporate fraud matter **TODAY, AUGUST 9, 2006, at 1:30 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Linda Thomsen, Director of the Division of Enforcement, SEC
James "Chip" Burrus, Acting Assistant Director, FBI
Roslynn R. Mauskopf, U.S. Attorney, Eastern District of New York

WHAT: Press Conference

WHEN: **TODAY, AUGUST 9, 2006**
1:30 P.M. EDT

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **1:00 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.38906-000002

Marshall, C. Kevin

From: Marshall, C. Kevin
Sent: Wednesday, August 09, 2006 10:10 AM
To: Gorsuch, Neil M
Subject: Read: Contact Information

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 10:49 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 9, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 09, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Criminal Division will issue a release on a child pornography matter. (Sierra)

The Antitrust Division will issue a release. (Talamona)

The Environmental and Natural Resources Division will issue a release on a Superfund matter. (Magnuson)

EVENTS/HEARINGS

1:30 PM EDT Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice and the Securities and Exchange Commission (SEC) will hold a press conference regarding a corporate fraud matter.
Department of Justice
Robert F. Kennedy Building
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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DOJ_NMG_ 0166195

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Image not available for this document, ID: 0.7.10316.38908-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 11:56 AM
To: USDOJ- Office of Public Affairs
Subject: PORTLAND, ORE. MAN INDICTED ON CHILD PORNOGRAPHY CHARGES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

PORTLAND, ORE. MAN INDICTED ON CHILD PORNOGRAPHY CHARGES

WASHINGTON – A federal grand jury in Portland, Ore. has returned a three-count indictment charging an Oregon man, Allan Montgomery, with possession of child pornography, making a material false statement to federal investigators, and being an accessory after the fact in assisting another Oregon man while he was under investigation for child pornography related charges, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Karin J. Immergut for the District of Oregon announced today.

The indictment returned on Aug. 8 charges Montgomery with possessing child pornography on a DVD; making a material false, fictitious statement or representation in connection with a matter within the jurisdiction of the executive branch of the government of the United States; and assisting another Oregon man, Lester Weber, under investigation for child pornography charges, in order to prevent his apprehension, trial, or punishment.

The indictment alleges that Montgomery knowingly possessed the images containing child pornography between on or about Dec. 3, 2004 and Feb. 5, 2005. Montgomery is also alleged to have made a materially false statement to federal law enforcement when he stated he found and destroyed evidence of a sexual relationship between Weber and a minor child. Finally, the indictment alleges that the defendant – knowing that Weber possessed child pornography – assisted Weber in order to hinder his apprehension, trial, or punishment.

If convicted, Montgomery faces up to 10 years in prison for the possession of child pornography charge, up to five years in prison for the false statement charge, and up to 15 years in prison for the accessory after the fact charge. He also faces a possible fine of up to $250,000 for the child pornography and false statement counts and up to $125,000 for the accessory count. The government is seeking the forfeiture of the child pornography and related computer equipment used in this case.

The case is being prosecuted by Assistant U.S. Attorney Greg R. Nyhus of the U.S. Attorney's Office for the District of Ore. and Trial Attorney Steve Grocki of the Department of Justice Child Exploitation and Obscenity Section. The case was investigated by U.S. Immigration and Customs Enforcement.

An indictment is only a charge and is not evidence of guilt. A defendant is entitled to fair trial in which it will be the government's burden to prove guilt beyond a reasonable doubt.

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Image not available for this document, ID: 0.7.10316.38900-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 1:18 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES OUTLINES REFORMS FOR IMMIGRATION COURTS AND BOARD OF IMMIGRATION APPEALS

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

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

ATTORNEY GENERAL ALBERTO R. GONZALES OUTLINES REFORMS FOR IMMIGRATION COURTS AND BOARD OF IMMIGRATION APPEALS

WASHINGTON – The Department of Justice will implement new measures to enhance the performance of the Immigration Courts and the Board of Immigration Appeals, Attorney General Alberto R. Gonzales announced today in remarks at the Immigration Judges' Training Conference.

The announcement comes after the completion of a comprehensive review of the Immigration Courts and the Board that was initiated by the Attorney General in January 2006, following reports of judges failing to display temperament and produce work that meets the Department's standards. Based on the results of the review, the Attorney General directed the implementation of 22 new measures.

"The review has left me reassured of the talent and professionalism that exists in the Immigration Courts and at the Board of Immigration Appeals," said Attorney General Alberto R. Gonzales. "I am secure in the knowledge that our immigration judges and Board members stand ready to serve their country in discharging their demanding responsibilities to apply the rule of law and protect the Constitution. But there is room for improvement, and I believe these new measures will assist them greatly in their important work."

The new measures include the following key reforms needed to improve the performance and quality of work of the nation's immigration court system, based on the findings of the review.

Performance Evaluations

The first of the reforms is the establishment of performance evaluations to enable EOIR leadership to review periodically the work and performance of each immigration judge and member of the Board of Immigration Appeals. Just as performance appraisal records are used elsewhere in the Justice Department to assess the work of personnel at all levels, EOIR performance evaluations will allow for identification of areas where an immigration judge or Board member may need improvement while fully respecting his or her role as an adjudicator. The evaluations will also include an assessment by EOIR's Director during an immigration judge's initial two-year trial period as to whether a new appointee possesses the appropriate judicial temperament and skills for the job and to take steps to improve that performance if needed.

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EOIR, working with the Office of Professional Responsibility and the Office of the Inspector General, will also conduct a review of its current complaint-handling procedures and develop a plan to standardize these procedures, clearly define the roles of the different offices charged with administering them, and ensure a timely and proportionate response to complaints.

Immigration Law Exam

To ensure that all immigration judges are proficient in the key principles of immigration law, the Attorney General has instructed EOIR to develop an examination testing for familiarity with these principles. Each newly appointed immigration judge and Board member appointed after December 31, 2006, will be required to pass the exam before he or she begins to adjudicate matters. Additional measures directed to improve judges' performance include improved training for immigration judges, Board members, and EOIR staff.

Sanctions Power

To ensure that immigration judges have the tools they need to control their courtrooms and to protect the adjudicatory system from fraud and abuse, EOIR will consider and, where appropriate, draft proposed revisions to the existing rules that provide sanction authority for false statements, frivolous behavior, and other gross misconduct. EOIR will also draft a new proposed rule that creates a strictly defined and clearly delineated authority to sanction by civil money penalty an action (or inaction) in contempt of an immigration judge's proper exercise of authority. To make sure that statutory limits on this power are respected, the proposal will provide for substantial oversight, such as approval by the EOIR Director or another overseeing body, and the Department would anticipate that it would be used sparingly. By better enabling judges to address frivolous submissions and to maintain an appropriate atmosphere in their courtrooms, we will reduce the pressures that may have contributed to intemperate conduct in the past.

Likewise the Board of Immigration Appeals should have the ability to sanction effectively litigants and counsel for strictly defined categories of gross misconduct. EOIR therefore will consider and, where appropriate, draft proposed revisions to the existing rules that provide sanction authority to the Board of Immigration Appeals.

Increased Resources

To give the immigration courts the resources needed to execute their duties appropriately, the Department will seek budget increases, starting in FY 2008, which will be aimed at hiring more immigration judges and judicial law clerks, focusing on those Immigration Courts where the need is greatest; and hiring more staff attorneys to support the Board. In addition, the Board will be increased by the addition of four permanent members and the continued use of temporary Board members to fulfill the Board's needs is encouraged.

Technological and Support Improvements

Several improvements will also be made to the Immigration Courts' ability to record, transcribe, and interpret court proceedings. The improvements include:

- Replacing the Immigration Courts' current tape recording system with a digital recording system, and ensuring that the Immigration Courts' other information management systems are efficient and innovative.
- A plan to be developed by EOIR to strengthen the transcription of oral decisions.
- A plan to be developed by EOIR to strengthen interpreter selection. The plan will address, among other things, ways to improve the screening, hiring, certification and evaluation of staff interpreters; and ways to ensure that contract interpreters meet similar standards of quality.

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Improvements to the Streamlining Reforms

Furthermore, the new reforms will make adjustments to the Board's "streamlining" practices to, among other things, encourage the increased use of one-member written opinions to address poor or intemperate immigration judge decisions that reach the correct result but would benefit from discussion or clarification, and to allow the limited use of three-member written opinions (as opposed to one-member written opinions) to provide greater analysis in a small class of particularly complex cases. Streamlining, which the Department originally instituted in 1999 and expanded in 2002, brought much-needed efficiency to the Board's administrative review process, enabling the Board to eliminate a large backlog and to provide respondents with a final, reviewable administrative action in a reasonable amount of time. The adjustments to streamlining included in the new reforms balance the Board's need to explain its reasoning more fully in certain types of cases, with its existing and predicted caseload, its existing resources and the need to provide respondents with a final decision in a timely fashion.

Also included in the new reforms are measures for drafting a new code of conduct specifically applicable to immigration judges and Board members; improved mechanisms to detect poor conduct and quality by immigration judges and Board members; a pilot program to assign one or more Assistant Chief Immigration Judges to serve regionally, near the Immigration Courts they oversee; improved complaint procedures for inappropriate conduct by adjudicators; and new procedures by which immigration judges and Board members may refer cases of immigration fraud and abuse for investigation.

As part of the comprehensive review conducted over the past several months, the Deputy Attorney General and the Associate Attorney General assembled a review team that traveled to nearly 20 Immigration Courts and the Board of Immigration Appeals, conducted more than 200 interviews of stakeholders, administered an online survey to hundreds of participants, and analyzed thousands of pages of material in an effort to assess the strengths and weaknesses of the immigration court system.

EOIR is charged under the authority of the Attorney General with adjudicating immigration cases, including cases involving detained aliens, criminal aliens, and aliens seeking asylum. EOIR is headed by a Director who reports to the Deputy Attorney General, and contains, among other offices, all the trial-level Immigration Courts and the Board of Immigration Appeals, which decides appeals from Immigration Court decisions.

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Department of Justice

MEASURES TO IMPROVE THE IMMIGRATION COURTS AND THE BOARD OF IMMIGRATION APPEALS

On January 9, 2006, the Attorney General directed the Deputy Attorney General and the Associate Attorney General to undertake a comprehensive review of the Immigration Courts and the Board of Immigration Appeals. The review team they assembled traveled to nearly 20 Immigration Courts and the Board, conducted more than 200 interviews of stakeholders, administered an online survey to hundreds of participants, and analyzed thousands of pages of material in an effort to assess the strengths and weaknesses of the immigration court system. The Deputy Attorney General and the Associate Attorney General have now briefed the Attorney General on the review team's findings and have provided him with their recommendations for reform.

Based on that advice, the Attorney General is directing the implementation of the following measures.

1. *Performance Evaluations*

With the assistance of the Director of the Executive Office for Immigration Review (EOIR), the Deputy Attorney General will develop and implement a process to enable EOIR leadership to review periodically the work and performance of each immigration judge and member of the Board of Immigration Appeals. Just as performance appraisal records are used elsewhere in the Department to assess the work of personnel at all levels, EOIR performance evaluations will allow for identification of areas where an immigration judge or Board member may need improvement while fully respecting his or her role as an adjudicator. Given the size and structure of the immigration court system, a formal process to allow supervisors within EOIR to evaluate and improve the work of its adjudicators is appropriate at this time.

2. *Evaluation During Two-Year Trial Period*

Like many other Department employees, newly appointed immigration judges and Board members have a two-year trial period of employment. The Director of EOIR will use that period both to assess whether a new appointee possesses the appropriate judicial temperament and skills for the job and to take steps to improve that performance if needed. In addition, the Director of EOIR will provide a short report to the Deputy Attorney General on the temperament and skills of each newly appointed immigration judge or Board member roughly four months prior to the expiration of the two-year trial period. The assessment will be done in a way that fully respects the adjudicator's role.

3. *Examination on Immigration Law*

Immigration judges and Board members should be proficient in the principles of immigration law. To ensure that is true, all immigration judges and Board members appointed after December 31, 2006, will have to pass a written examination demonstrating familiarity with key principles of immigration law before they begin to adjudicate matters. The Director of EOIR will develop such an immigration law exam and submit it to the Deputy Attorney General. The Director may consider the appropriateness of a training course prior to the administration of the examination.

4. *Improved Training for Immigration Judges and Board Members*

It is important that training for immigration judges and Board members be comprehensive and up to date. The Director of EOIR will conduct a review of EOIR's current training programs for immigration judges and Board members, develop a plan based on that review to strengthen training, and submit the plan to the Deputy Attorney General. The plan will address, among other things, (i) whether expansion of the training program for new immigration judges and Board members is warranted, (ii) ways to ensure that immigration judges and Board members receive continuing education that is appropriate to their level of experience and instructive about current developments in the field of immigration law, and (iii) ways to ensure that immigration judges are trained on properly crafting and dictating oral decisions. The Director will consult the Director of the Federal Judicial Center with respect to this and other training-related measures.

5. *Improved Training and Guidance for EOIR Staff*

The Director of EOIR will conduct a review to assess how well Immigration Court and Board of Immigration Appeals staff are performing their functions and provide a plan for improvement, including any additional training the Director deems appropriate in areas such as case management. In particular, the Director's review will consider how well the Board's staff attorneys are performing their screening and drafting duties and develop a plan based on that review to strengthen these areas. The plan will address, among other things, ways to (i) improve the guidance and training provided to staff attorneys—especially on major recurring issues (*e.g.*, correct screening standards, proper standards of review, and how to craft effective draft opinions), and (ii) ensure that Board members provide staff attorneys with appropriate guidance in drafting decisions in individual cases, consistent with the policies and directives of the Director of EOIR and the Chairman of the Board of Immigration Appeals. The Director will submit the plan to the Deputy Attorney General.

6. *Improved On-Bench Reference Materials and Decision Templates*

Immigration judges should have available to them up-to-date reference materials and standard decision templates that conform to the law of the circuits in which they sit. The Director of EOIR is encouraged promptly to form a committee composed of immigration judges and other EOIR personnel to undertake the task of developing these materials.

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7. *Mechanisms To Detect Poor Conduct and Quality*

While most immigration judges and Board members perform their difficult duties with skill and dedication, as in any large organization, instances of poor conduct and quality can occur from time to time. To ensure that those instances are promptly detected, the Director of EOIR will establish regular procedures (1) for Board members and the Civil Division's Office of Immigration Litigation (OIL) to report adjudications that reflect immigration judge temperament problems or poor Immigration Court or Board quality to him and to the Chief Immigration Judge and the Chairman of the Board of Immigration Appeals; and (2) for the Chief Immigration Judge and the Chairman of the Board to track and report to the Director statistics that may signal problems in temperament or quality (*e.g.*, unusually high reversal rates, unusually frequent or serious complaints, and unusually significant backlogs).

8. *Analysis and Recommendations Regarding Disparities in Asylum Grant Rates*

A recent study has highlighted apparent disparities among immigration judges in asylum grant rates. The Director of EOIR, in consultation with the Acting Chief Immigration Judge, will review this study and provide an analysis and, if appropriate, recommendations to the Deputy Attorney General with respect to this issue.

9. *Pilot Program To Deploy Supervisors to Regional Offices*

To test whether the Immigration Courts would benefit from having Assistant Chief Immigration Judges assigned regionally rather than at EOIR headquarters, the Acting Chief Immigration Judge will consider assigning one or more of the Assistant Chief Immigration Judges to serve regionally, near the Immigration Courts that he or she oversees, on a pilot basis. After the conclusion of this assignment, the Chief Immigration Judge will report to the Deputy Attorney General and the Director of EOIR on whether the assignment improved managerial contact and oversight in those courts. The Acting Chief Immigration Judge will also consider piloting other mechanisms for improving the management of the Immigration Courts.

10. *Code of Conduct*

The Director of EOIR will draft a Code of Conduct specifically applicable to immigration judges and Board members and, after consultation with the Counsel for Professional Responsibility and the Director of the Office of Attorney Recruitment and Management, submit it to the Deputy Attorney General. Thereafter, it will be available online to counsel and litigants who appear before the Immigration Courts and the Board.

11. *Complaint Procedures*

The Department takes seriously complaints of inappropriate conduct by its adjudicators. Procedures already exist within EOIR, the Office of Professional Responsibility (OPR), and the Office of the Inspector General (OIG) to address them. In

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light of the serious and sometimes sensitive nature of these complaints, the following additional measures will be taken to improve the quality and speed of the Department's complaint-handling processes. The Director of EOIR, in consultation with the Counsel for Professional Responsibility and the Inspector General, will conduct a review of EOIR's current procedures for handling complaints against its adjudicators, and will develop a plan based on that review to (i) standardize complaint intake procedures; (ii) create a clearance process that will clearly define the roles of EOIR, OPR, and OIG in the handling of any particular complaint; and (iii) ensure a timely and proportionate response. The Director of EOIR will conduct the review and submit a plan to the Deputy Attorney General.

12. *Improvements to the Streamlining Reforms*

Much commentary has been directed at the reforms that the Department instituted in 1999 and then expanded in 2002 to streamline the Board of Immigration Appeals' procedures for hearing appeals. Critics believe that these reforms have led the Board of Immigration Appeals to dedicate insufficient review to some matters and to produce too few published precedential decisions. Proponents of these reforms, on the other hand, have observed that streamlining brought much-needed efficiency to the review process, enabling the Board to eliminate a large backlog and to provide respondents with a final, reviewable administrative action in a reasonable amount of time. Having carefully considered the existing and predicted caseload, the existing resources, the need to review respondents' claims adequately, and the need to provide respondents with a final decision in a timely fashion, the Department has concluded that it is neither necessary nor feasible to return to three-member review of all cases without recreating unacceptable backlogs. Some adjustments to streamlining, however, are appropriate to allow the Board to improve and better explain its reasoning in certain cases. Accordingly, the following adjustments will be made to the Board's rules.

- The Director of EOIR will draft a proposed rule that will adjust streamlining practices to (i) encourage the increased use of one-member written opinions to address poor or intemperate immigration judge decisions that reach the correct result but would benefit from discussion or clarification; and (ii) allow the limited use of three-member written opinions—as opposed to one-member written opinions—to provide greater legal analysis in a small class of particularly complex cases. The Director of EOIR will submit a draft of the proposed rule to the Assistant Attorney General for Legal Policy.

- The Director of EOIR will draft a proposed rule that will revise processes for publishing opinions of three-member panels as precedential to provide for publication if a majority of panel members or a majority of permanent Board members votes to publish the opinion, or if the Attorney General directs publication. The Director of EOIR will submit a draft of the proposed rule to the Assistant Attorney General for Legal Policy.

- The Assistant Attorney General for Legal Policy, in consultation with EOIR and the Civil Division, will draft a proposed rule that would return cases to the Board for

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reconsideration when OIL identifies a case that has been filed in federal court and, in OIL's view, warrants reconsideration.

From time to time, the streamlining rules may need to be adjusted to meet the exigencies and needs of the Board and the parties who litigate before it. Accordingly, the Deputy Attorney General and the Director of EOIR will monitor the effect of these adjustments closely to ensure that they are appropriate in light of the Board's changing workload, and the Deputy Attorney General will reevaluate the effectiveness of these adjustments after they have been in effect for two years.

13. *Practice Manual*

The immigration judges, and the counsel and litigants who appear before them, would benefit from having a Practice Manual that describes a set of best practices for the Immigration Courts. Working with the immigration judges, the Director of EOIR will draft such a Manual and submit it to the Deputy Attorney General. It will be available online to counsel and litigants who appear before the Immigration Courts.

14. *Updated and Well-Supervised Sanction Authorities for Immigration Judges for Frivolous or False Submissions and Egregious Misconduct*

Immigration judges should have the tools necessary to control their courtrooms and to protect the adjudicatory system from fraud and abuse. The Director of EOIR will consider, and where appropriate, draft proposed revisions to the existing rules that provide sanction authority for false statements, frivolous behavior, and other gross misconduct, *see* 8 C.F.R. 1003.101–109, and will draft a new proposed rule that creates a strictly defined and clearly delineated authority to sanction by civil money penalty an action (or inaction) in contempt of an immigration judge's proper exercise of authority. Because the authority to impose a civil monetary sanction exists only for conduct "in contempt of an immigration judge's proper exercise of authority" (8 U.S.C. 1229a(b)(1)), its use will require substantial oversight (*e.g.*, approval by the Director of EOIR or another overseeing body), and one would anticipate it would be used sparingly. The Director, after consultation with the Counsel for Professional Responsibility, will submit proposed rules to the Assistant Attorney General for Legal Policy.

15. *Updated Sanctions Power for the Board*

Likewise, the Board of Immigration Appeals should have the ability to sanction effectively litigants and counsel for strictly defined categories of gross misconduct. The Director of EOIR will consider, and where appropriate, draft proposed revisions to the existing rules that provide sanction authority to the Board. I ask the Director, after consultation with the Counsel for Professional Responsibility, to submit any proposed revisions to the Assistant Attorney General for Legal Policy.

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16. *Seek Budget Increases*

With its workload having increased significantly in recent years and still further increases in caseload being anticipated, EOIR has demonstrated a need for additional resources. The Deputy Attorney General and the Director of EOIR will prepare a plan as soon as possible to seek budget increases, starting in FY 2008, for (i) the hiring of more immigration judges and judicial law clerks, focusing on those Immigration Courts where the need is greatest; and (ii) the hiring of more staff attorneys to support the Board of Immigration Appeals.

17. *Increase in Size of the Board*

The Director of EOIR will draft and submit to the Assistant Attorney General for Legal Policy a proposed rule to increase the size of the Board of Immigration Appeals from 11 to 15, by adding four permanent members. In addition, the Director is encouraged to continue the use of temporary Board members to fulfill the needs of the Board of Immigration Appeals.

18. *Updated Recording System and Other Technologies*

For some time, EOIR has been considering the need to replace the Immigration Courts' tape recording system with a digital recording system. The Director will provide the Deputy Attorney General with a plan and timeline for accomplishing this project. The plan and timeline will include the steps necessary to begin piloting a digital audio recording system during the next fiscal year, and to begin nationwide implementation of that system as soon as feasible.

In general, it is important to ensure that EOIR's use of technology—from the digital recording system to an electronic docket management system—is efficient, innovative, and compatible with the information management systems of users of EOIR's systems.

19. *Improved Transcription Services*

The Director of EOIR will conduct a review of EOIR's current transcription services and develop a plan based on that review to strengthen the transcription of oral decisions, including improving the timeliness of transcription to the extent feasible. The Director will submit the plan to the Deputy Attorney General.

20. *Improved Interpreter Selection*

Likewise, the Director of EOIR will conduct a review of its current interpreter selection process and develop a plan based on that review to strengthen interpreter selection. The plan will address, among other things, (i) ways to improve the screening, hiring, certification, and evaluation of staff interpreters, and (ii) ways to ensure that contract interpreters meet similar standards of quality. The Director will submit the plan to the Deputy Attorney General.

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21. *Referral of Immigration Fraud and Abuse*

The Director of EOIR, in consultation with the Director of the Executive Office for United States Attorneys, will develop a procedure by which immigration judges and Board members may refer cases of immigration fraud and abuse to the appropriate investigative body for appropriate action, including possible future referral to and prosecution by the U.S. Attorney's Offices. The Director will notify the immigration judges and Board members of that procedure.

22. *Expanded and Improved EOIR-sponsored* Pro Bono *Programs*

The Director of EOIR will consider forming a committee to oversee the expansion and improvement of EOIR's *pro bono* programs. Such a committee will be composed of immigration judges, representatives of the Board, other EOIR personnel, representatives of the Department of Homeland Security and the private immigration bar, and any other participants whom the Director deems necessary.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 1:33 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER EXECUTIVES OF COMVERSE TECHNOLOGY INC. CHARGED WITH BACKDATING MILLIONS OF STOCK OPTIONS AND CREATING A SECRET STOCK OPTIONS SLUSH FUND

Attached please find copies of the criminal complaint, the civil action complaint and the arrest warrant.

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

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

FORMER EXECUTIVES OF COMVERSE TECHNOLOGY INC. CHARGED WITH BACKDATING MILLIONS OF STOCK OPTIONS AND CREATING A SECRET STOCK OPTIONS SLUSH FUND

Former CEO, CFO and General Counsel Charged with Fraudulently Reaping Millions in Profits
$45 Million Seized in U.S. Accounts

WASHINGTON – Three former executives of Comverse Technology Inc. ("Comverse"), a publicly-held computer software company, were charged today for their roles in orchestrating a long-running scheme to manipulate the grant of millions of Comverse stock options to themselves and to employees, the Department of Justice announced today. Former Chief Executive Officer Jacob "Kobi" Alexander, former Chief Financial Officer David Kreinberg, and former General Counsel William F. Sorin allegedly orchestrated the scheme by fraudulently backdating the options and operating a secret stock options slush fund.

The charges were announced by Deputy Attorney General Paul J. McNulty and Director of the Division of Enforcement Linda Thomsen of the Securities and Exchange Commission (SEC), joined by U.S. Attorney Roslynn R. Mauskopf of the Eastern District of New York and Acting Assistant Director James "Chip" Burrus of the FBI. The charges stem from a coordinated investigation led by the Department of Justice's Corporate Fraud Task Force.

Alexander, Krienberg and Sorin, all of whom resigned from Comverse on May 1, 2006, in the midst of an internal company investigation relating to options backdating, have been charged by criminal complaint filed in the Eastern District of New York with conspiracy to commit securities fraud, mail fraud and wire fraud. According to the complaint, between 1998 and 2002, the defendants reaped millions of dollars in profits as a result of their scheme and issued false and misleading financial statements to the company's shareholders and the investing public regarding the true value of the options grants.

"The Justice Department is determined to see that our markets operate fairly and honestly," said Deputy Attorney General McNulty. "Investors take risks and do their best to see into the future when picking companies in which to invest. We cannot allow corporate leaders to operate under different rules, using 20-20

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hindsight to line their own pockets. We will continue to pursue misconduct in any boardroom where we find it."

In two related actions, the government seized over $45 million from two investment accounts held in the United States in Alexander's name based on his alleged participation in a stock options fraud and a money laundering scheme involving the secret transfer of more than $57 million to accounts in Israel in an effort to conceal the funds from U.S. authorities. In addition, the SEC commenced a civil fraud and injunctive case against all three defendants for their roles in causing Comverse to publicly file false annual and quarterly financial reports and proxy statements from 1991 through 2005.

Initial appearances for Kreinberg and Sorin are scheduled for this afternoon before U.S. Magistrate Judge Viktor Pohorelsky in Brooklyn, N.Y. An arrest warrant has been issued for Alexander.

"As alleged in the complaint, the defendants abused their positions in order to enrich themselves and favored employees at the expense of the investing public," stated U.S. Attorney Mauskopf. "By backdating these options, the defendants, in effect, gave themselves and others an opportunity to place a bet in the middle of a race -- a bet that paid off handsomely."

"The alleged scheme of these defendants in back-dating options victimized both Comverse shareholders and the American people," said Assistant Director Burrus of the FBI. "Their alleged fraud affected the company's bottom line by deliberately misstating earnings, a material misrepresentation to shareholders."

As alleged in the complaint, from 1998 through 2001, Comverse adopted stock option plans designed to provide additional compensation for executives, including the defendants, and other employees. In the company's proxy statements and other public filings, the defendants represented that the options would be priced at "fair market value" on the date the options were granted. According to the public filings, the pricing of the stock options under the plans would serve shareholder interests because executives and employees who received the options would continue to work diligently to promote the success of the company and thereby contribute to a rise in the stock price.

However, as alleged in the complaint, Alexander, Kreinberg and Sorin fraudulently backdated the options awarded under each of these stock option plans to days when the stock was trading at periodic low points. As a result, the options were granted below fair market value, that is, below the trading price on the date the options were actually granted. For example, in 1999 the defendants set the option price $35 a share below the fair market value on the day the options were actually granted. Alexander allegedly took for himself more than 300,000 of those backdated options, for a paper profit of over $11 million.

The grant of options below fair market value carries significant disclosure, accounting and tax consequences. For example, the value of such options must be recorded as a compensation expense against the company's revenue and therefore, can significantly reduce the company's reported earnings. In addition, the grant of such options must be disclosed to the shareholders because these options: (1) erode the incentives of executives and employees to work for the future of the company because such options are at least in part a bonus for past service; (2) impose a cost on the company because the company is committed to selling its stock at a discounted price; and (3) reduce the earnings of the company.

As alleged in the complaint, the defendants fraudulently circumvented these accounting and disclosure rules by secretly backdating the grant documents and by issuing false proxy statements and periodic public filings misrepresenting that Comverse's stock options were granted at fair market value.

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In addition to the backdating scheme, the complaint also alleges that Alexander and Kreinberg generated hundreds of thousands of backdated options, which they parked in a secret slush fund to be used at Alexander's sole discretion to benefit favored employees. To create the slush fund, Alexander and Kreinberg inserted dozens of fictitious names into the list of option recipients submitted to the Compensation Committee of the Board of Directors. Once the Committee approved these options, Alexander and Kreinberg deposited the options in an account aptly named "Phantom" (later re-named "Fargo").

According to the complaint, on two occasions in 2000, Alexander transferred a total of approximately 88,000 options from the slush fund to another top executive. Although the options had a four-year vesting period, on each occasion, Alexander made the options immediately exercisable. The executive exercised the options the day after receiving them, when the stock was trading at nearly double the strike price, and sold the stock at a profit of $4 million.

The defendants' alleged scheme came to light in early March 2006, when a reporter from the *Wall Street Journal* called Comverse and inquired about the unusual pattern in the timing of the company's stock option grants. In response, the defendants attempted to cover up their scheme by authorizing false statements to be made to the reporter, and by lying to an in-house lawyer for Comverse and to the company's outside auditor. Additionally, Kreinberg logged onto Comverse's computer and attempted to alter a database to hide the slush fund's existence.

The charges in the complaint are merely allegations, and the defendants are innocent unless and until proven guilty.

The government's case is being prosecuted by Assistant U.S. Attorneys Ilene Jaroslaw, Linda Lacewell, Sean Casey and Kathleen Nandan. The investigation was led by the FBI New York Field Office.

# # #

06-517

Comverse - Criminal Complaint....

Comverse - Civil Complaint.pdf...

Comverse - Arrest Warrant.pdf

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

ALL FUNDS ON DEPOSIT AT:
CITIGROUP SMITH BARNEY ACCOUNT
NO. 600-00338 HELD IN THE
NAME OF KOBI ALEXANDER and
CITIGROUP SMITH BARNEY ACCOUNT
NO. 600-27694 HELD IN THE
NAME OF KOBI J. ALEXANDER,

Defendants.

- - - - - - - - - - - - - - - - X

WARRANT FOR ARREST
OF ARTICLES IN REM

CV-06-3730

Garaufis, J.

Reyes, M.J.

To: FEDERAL BUREAU OF INVESTIGATION, THE UNITED STATES MARSHALS SERVICE, and/or ANY OTHER DULY AUTHORIZED LAW ENFORCEMENT OFFICER:

WHEREAS, a Verified Complaint In Rem was filed on July 31, 2006 in the United States District Court for the Eastern District of New York, alleging that the all funds on deposit at: Citigroup Smith Barney Account No. 600-00338, held in the name of Kobi Alexander, and Citigroup Smith Barney Account No. 600-27694, held in the name of Kobi J. Alexander (together, the "defendant accounts"), are subject to seizure and forfeiture to the United States of America, pursuant to 18 U.S.C. §§ 981 and 984;

WHEREAS, the Court being satisfied that based on the Verified Complaint In Rem, there is probable cause to believe that the defendant accounts are subject to seizure and forfeiture for the above-described reasons and that grounds for issuance of a Summons and Warrant for Arrest of Articles In Rem exist pursuant to Supplemental Rule C(3) of the Supplemental Rules for Certain Admiralty and Maritime Claims;

YOU ARE THEREFORE HEREBY COMMANDED to arrest and seize the defendant accounts; and

YOU ARE FURTHER COMMANDED to maintain custody of the defendant accounts until further order of this Court respecting the same. The Federal Bureau of Investigation, the United States Marshals Service, authorized agents, duly designated representatives and/or contractors shall use their discretion and whatever means appropriate to protect and maintain the defendant accounts; and

IT IS FURTHER ORDERED that the Federal Bureau of Investigation, the United States Marshals Service, or their authorized agents, representatives and/or contractors shall serve upon all potential claimants to the defendant accounts a copy of this Warrant and the Verified Complaint In Rem in a manner consistent with the principles of service of process of an action in rem under the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure; and

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IT IS FURTHER ORDERED that a return of this Warrant shall be promptly made to the Court identifying the individuals upon whom copies were served and the manner employed; and

IT IS FURTHER ORDERED that all persons claiming an interest in the defendant accounts shall file their verified claim and statement of interest within thirty (30) days after service of the complaint or final publication of notice of the filing of the complaint, whichever is earlier, or within such additional time as the Court may allow, pursuant to 18 U.S.C. § 983(a)(4) and Rule C(6) of the Supplemental Rules for Certain Admiralty and Maritime Claims, and shall serve and file their answers to the verified complaint within twenty (20) days after the filing of the verified claim with the Office of the Clerk, United States District Court for the Eastern District of New York, with a copy thereof sent to Assistant United States Attorney Kathleen A. Nandan, United States Attorney's Office, Eastern District of New York, One Pierrepont Plaza, 16th Floor, Brooklyn, New York 11201.

Dated: Brooklyn, New York
July 31, 2006

UNITED STATES MAGISTRATE JUDGE

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SLR:KAN
2006vo1266

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA,

Plaintiff,

- against -

ALL FUNDS ON DEPOSIT AT: CITIGROUP SMITH BARNEY ACCOUNT NO. 600-00338 HELD IN THE NAME OF KOBI ALEXANDER and CITIGROUP SMITH BARNEY ACCOUNT NO. 600-27694 HELD IN THE NAME OF KOBI J. ALEXANDER,

Defendants.

- - - - - - - - - - - - - - - - X

VERIFIED COMPLAINT
IN REM

Civil Action No.
06-3730
(Garaufis, J.)
(Reyes, M.J.)

Plaintiff United States of America, by its attorney, ROSLYNN R. MAUSKOPF, United States Attorney for the Eastern District of New York, KATHLEEN A. NANDAN, Assistant United States Attorney, of counsel, for its complaint alleges as follows:

NATURE OF THE ACTION

1. This is a civil action in rem brought by the United States of America to forfeit and condemn to the use of the United States of America Citigroup/Smith Barney Account No. 600-00338 (the "338 Account") and Citigroup/Smith Barney Account No. 600-27694 (the "694 Account")(collectively the "Defendant Accounts").

2. The Defendant Accounts are subject to forfeiture

pursuant to 18 U.S.C. § 981 as constituting the proceeds of mail, wire, and securities fraud and as having been involved in money laundering activity.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1345 and 1355.

4. Venue is proper pursuant to 28 U.S.C. § 1355 in that the acts and omissions giving rise to the forfeiture occurred in the Eastern District of New York.

FACTS

A. Background

5. Comverse Technology, Inc. ("CTI") is a New York corporation with its headquarters in Woodbury, New York.[1] In 1986, it became a publicly traded corporation and its common stock was traded on the NASDAQ National Market System ("NASDAQ") (symbol: CMVT). Through a wholly-owned subsidiary, CTI was a provider of software and software systems for communication and billing services. Other CTI business units provided analytic software-based solutions for communications interception, networked video security and business intelligence, and service-enabling signaling software for wireline, wireless and Internet communications. CTI was a component stock in the S&P 500 and

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[1] In 2005, CTI moved its headquarters to Manhattan, but it continued to maintain offices on Long Island.

NASDAQ-100 indices. CTI's shareholders were located throughout the United States, including in the Eastern District of New York.

6. As a public company, CTI was required to comply with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public. Under the SEC's rules and regulations, CTI and its officers were required to file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) which included financial statements that accurately presented CTI's financial condition and the results of its business operations in accordance with Generally Accepted Accounting Principles ("GAAP"). CTI was also required to disseminate and file annual proxy statements to shareholders (on Form 14-A) setting forth accurate information about matters to be brought to a vote at annual shareholder meetings.

7. Jacob Alexander, also known as "Kobi Alexander," was a founder of CTI. He became Chairman of CTI in September 1986 and served as President of CTI from its formation until January 2001. In April 1987, he was named CEO. Alexander reviewed and approved CTI's public filings. On May 1, 2006, CTI announced in a press release that Alexander and certain other

officers had resigned their positions from CTI. During the time that he served as CEO and Chairman, Alexander signed CTI's annual and quarterly public filings.

8. As set forth more fully below, Alexander and others fraudulently back-dated options granted by CTI and, in so doing, made material misrepresentations to the SEC and the investing public. By backdating the options, Alexander generated millions of dollars in proceeds. Alexander then used the Defendant Accounts to launder the proceeds of the fraud by wiring nearly $60,000,000 to Israel in an attempt to conceal the proceeds from the U.S. authorities.

B. The Backdating of Options

9. An option is the right to buy a share of stock on a future date (typically at the end of a vesting period) at a set price, known as the "exercise" or "strike" price. The exercise price is ordinarily the trading price of the stock (i.e., the fair market value) on the day that the option was granted by a corporation's board of directors or, typically, the board's compensation committee. The holder of an option makes a profit by exercising the option to buy the stock at the end of the vesting period at the locked-in exercise price, and selling the stock when it is trading at a higher price than the exercise price. Options with an exercise price equal to the current trading price of the underlying stock are commonly referred to as

being "at the money"; options with an exercise price below the current trading price of the stock are "in the money"; and options with an exercise price above the current trading price of the stock are "under water." Options that are in the money have a so-called "paper profit" associated with them, meaning that the options have value based on the difference between the exercise price and the current trading price, although the holder has not yet reaped the actual profit by exercising the option and selling the stock, and may need to wait until the end of a vesting period to do so.

10. When a company grants in-the-money options, i.e., options with an exercise price below the current trading price, this event has significant accounting, disclosure and tax consequences as set forth below. One way for executives to reap the benefit of in-the-money-options while evading these accounting, disclosure and tax consequences is to backdate the options so as to conceal the fact that the company has granted in-the-money options.

11. Backdated options are options that are intended to appear to have been granted on a certain date at the fair market value (i.e., the trading price) of the underlying stock on the date of the grant, but were actually granted on a later date. One motive for backdating is to fix a lower exercise price for the options, thereby awarding in-the-money options and inflating

the gain to the holder of the options. Backdated options, therefore, are typically backdated to a date on which the stock was trading at a lower price than the price on the day of the actual grant. By fixing an earlier date as a grant date, the company makes it appear that the options were granted at fair market value - the trading price of the stock on that earlier date. In this way, the holder of the option has received in-the-money options and therefore has a head start on the spread between the exercise price and the current trading price. One motive for backdating is to evade the accounting, disclosure, and tax consequences of granting in-the-money options.

12. The granting of in-the-money options has significant accounting consequences. Essentially, the granting of in-the-money options conveys compensation and therefore should be "expensed" (i.e., deducted from revenue as a compensation expense). Specifically, during the relevant period, CTI followed Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), which provides that a company need not expense options granted at the money. This means that CTI was not required to deduct from revenue any compensation expense for granting options priced at the money on the date of the grant. However, under APB 25, CTI was required to expense any options granted with an exercise price *less* than the fair market value of the underlying shares on the date of the grant

(i.e., in-the-money options). Backdating options would lead to a violation of this accounting rule if CTI did not expense the in-the-money option grants over the vesting period. It also would have the effect of understating management compensation.

13. The granting of in-the-money options has significant consequences for shareholders and therefore must be disclosed in the company's filings. CTI acknowledged in its proxy statements that it was required to obtain shareholder approval of its stock option plans in order to meet certain tax requirements set forth below and for stock underlying incentive stock options to be approved for trading on NASDAQ. During the years at issue, CTI's stock option plans, as described in and attached to CTI's proxy statements and approved by shareholders, required that "incentive stock options," which qualify for certain beneficial tax treatment explained below, be priced at the money or higher. Backdating options to an earlier date when the stock was trading at a lower price would violate the terms of the plan in that respect. The plans did allow CTI to grant in-the-money "nonqualified options" (i.e., options not intended to qualify as incentive options). However, in the proxy statements and other public filings, and in communications with certain large institutional investors, CTI repeatedly represented that all stock options (incentive and nonqualified) were granted with an exercise price equal to the fair market value of the

underlying shares on the purported date of the grant.

14. Although some plans had a three year vesting period, CTI's stock option plans during the relevant years typically provided for a vesting period of four years. Under this provision of the plans, 25 percent of the options would vest at the end of the first year, and 6 1/4 percent of the options would vest every quarter after that (for an aggregate rate of 25 percent per year). Thus, the award of in-the-money options would allow employees to cash in their profits on 25 percent of their options at the end of a year, and the rest in increments according to the schedule just described. The backdating of options would cause an improper truncation (of weeks or months, depending on the extent of the backdating) of the requisite vesting period in violation of the plan.

15. CTI presented its proposed stock option plans to shareholders for their approval. CTI promoted its stock option plans to shareholders on the premise that these plans would serve shareholder interests because executives and employees would work harder to contribute to a rise in the stock price if they had a stake in the future success of the company. Options granted in the money would undermine that premise by serving at least in part as a bonus, rather than as an incentive. Granting secretly backdated, in-the-money options also disguises the fact that the company is paying higher compensation to executives and

employees. Furthermore, secretly backdated, in-the-money options provide a fraudulent discount to the exercise price of the underlying shares in violation of the terms of the shareholder-approved plan with respect to incentive stock options and the company's public disclosures with respect to all options. By granting in-the-money options, the company forgoes using cash to compensate its employees and instead conveys to the employees a right to pay less than the investing public for shares of company stock. The undisclosed paper gain in the options rewards an employee for prior service rather than providing an incentive for future service, without disclosure or shareholder approval of this kind of compensation.

16. Secretly backdating options to achieve an exercise price below the fair market value of the stock disadvantages and misleads shareholders because - due to the need to expense the options - stated profits are, or should be, reduced, and if they are not reduced, then the financial statements are false. In addition, the exercise of in-the-money options boosts the number of outstanding shares without requiring a commensurate capital contribution, thereby diluting the value of other shareholders' holdings.

17. The granting of in-the-money options costs a company money because it contractually obligates the company to sell stock to its own employees at a discounted price. It

disadvantages shareholders because employees get an immediate discount on the exercise price of the options. For these reasons, among others, the company must disclose the granting of in-the-money options.

18. Secretly backdating options to a date with a lower trading price of the stock could lead to improper tax treatment by the recipients of the options as well as the company issuing them.

C. Alexander and the Backdating Scheme

19. Alexander and others engaged in a scheme to backdate millions of stock options to themselves and CTI employees to days when the stock of CTI was trading at periodic low points. They backdated company-wide grants from 1998 through 2001, and they backdated grants of options to new employees. Alexander, who was awarded by far the most options every year, made millions of dollars in profits on paper as a result of these in-the-money grants.

20. From 1991 through 2005, Alexander exercised options (granted from 1991 through 2003) and sold stock worth over $150 million, of which more than $138 million was profit. Preliminary analysis shows that almost $6.4 million of that profit was due to backdating. In 2000 alone, due to the exercise of options granted in 1994, Alexander made total profits of approximately $86 million, of which approximately $1.3 million

was due to backdating. In 2005 and early 2006, Alexander exercised over $11 million worth of backdated options that were previously underwater until they were fraudulently repriced in 2002, as set forth in detail below, and approximately $5.3 million of this amount was profit. Additionally, between 1998 and 2002, Alexander received approximately $2 million in total salary and approximately $15.5 million in total bonuses from CTI.

21. In addition to the backdating scheme described above, Alexander and others used fictitious names to generate hundreds of thousands of backdated options, which they then parked in a secret slush fund designed to evade the requirements of CTI's stock option plans. Alexander unilaterally awarded options from this slush fund to favored employees.

22. Alexander reviewed and approved CTI's proxy statements, annual and quarterly filings, and stock option plans, all of which contained material misstatements designed to conceal the fraudulent backdating scheme.

23. For example, on April 30, 2002, CTI filed its annual report on Form 10-K, covering the fiscal year ended January 31, 2002. The financial statements in this report were false and misleading because the defendants had caused CTI to fail to expense the backdated, in-the-money options. The financial statements contained the following footnote in relevant part with respect to options:

> The Company applies Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations in accounting for its option plans. Accordingly, *as all options have been granted at exercise prices equal to fair market value on the date of grant, no compensation expense has been recognized by the Company in connection with its stock-based compensation plans.*

(Emphasis added). Because Alexander had caused CTI to issue backdated options during calendar year 2001, he knew these statements were false. CTI's annual reports for FYE January 31, 1999, January 31, 2000, and January 31, 2001, filed on April 26, 1999, May 1, 2000, and April 30, 2001, respectively, contained similar statements which Alexander knew to be false. Alexander signed these false annual reports.

24. In addition, during the years at issue, Alexander and others caused CTI to issue quarterly filings containing financial statements which he knew to be false because he knew that CTI had failed to expense backdated options granted at less than the fair market value of the stock on the date of the grant. These false quarterly filings included CTI's quarterly report for the period ending October 31, 2001, filed on December 14, 2001. Alexander signed these false quarterly reports.

25. During the relevant period, a significant percentage of CTI's stock was owned by institutional investors. Certain of these institutional investors were opposed to stock option plans that allowed the company to grant options with

exercise prices below the fair market value of the underlying stock. As set forth above, CTI's plans allowed the company to issue nonqualified stock options (but not incentive stock options) with exercise prices below the fair market value of the underlying stock, although CTI repeatedly represented in its public filings that it had never done so. When the stock option plans were presented to shareholders for approval, the provision allowing grants of in-the-money nonqualified options caused concern among certain institutional investors, who pressed CTI to commit that it would not in fact issue options priced in that manner. Alexander was aware of these concerns and falsely represented to these institutional investors that CTI would not issue any options with an exercise price below the fair market value of the underlying stock.

D. The Defendant Accounts

26. As set forth above, Alexander generated over $138 million in gross proceeds from the backdating scheme. In January 2006 alone, he generated over $10.7 million in gross proceeds from the sale of CTI stock obtained through the exercise of the backdated options. The proceeds of these January 2006 sales were placed into the 338 Account.

27. Alexander also transferred significant amounts of money from the 694 Account into the 338 Account, thereby commingling illegal proceeds with other funds. For example, in

January 2006, he transferred $800,000 from the 694 Account to the 338 Account. After learning of the investigation into his activities, on July 25, 2006, Alexander transferred nearly $7 million from the 694 Account into the 338 Account.

28. Between July 14, 2006 and July 28, 2006, Alexander - fully aware the investigation into his activities - wired over $57,000,000 from the 338 Account to Israel. These transfers were designed to conceal the tainted funds from U.S. authorities.

FIRST CAUSE OF ACTION

29. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 28 herein.

30. The Defendant Accounts were involved in transactions and attempted transactions that: (1) were designed to conceal or disguise the nature, location and source of the proceeds generated by the backdating scheme; and (2) transmitted funds or monetary instruments, which represent the proceeds of some form of unlawful activity, from a place in the United States to or through a place outside the United States, in order to conceal or disguise the nature, location, and source of the proceeds of a specified unlawful activity, to wit, mail, wire, and securities fraud, in violation of 18 U.S.C. § 1956.

31. The Defendant Funds are therefore subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

SECOND CAUSE OF ACTION

32. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 28 herein.

33. The 338 Account contains funds constituting the proceeds of a specified unlawful activity, to wit, mail, wire, and securities fraud, and is therefore subject to forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984.

CONCLUSION

WHEREFORE, plaintiff, United States of America, requests: (1) that a Warrant of this Court be issued for the arrest of the Defendant Accounts; (2) that this complaint be sealed until such time as the affidavit in support of the arrest warrant for Alexander is unsealed; (3) that upon unsealing of this complaint, due notice of these proceedings be given to all interested persons; (4) that the Defendant Accounts be forfeited and condemned to the use and benefit of the United States of America; (5) and that plaintiff be awarded its costs and

disbursements in this action and for such other and further relief as this Court deems just and proper.

Dated: Brooklyn, New York
July 31, 2006

ROSLYNN R. MAUSKOPF
United States Attorney
Eastern District of New York
One Pierrepont Plaza, 16th Floor
Brooklyn, New York 11201

By: Kathleen A. Nandan
Kathleen A. Nandan(KN 6601)
Assistant United States Attorney
(718) 254-6409

VERIFICATION

1. I am a Special Agent with the Federal Bureau of Investigation.

2. I have read the within verified complaint *in rem*.

3. The matters contained in the within verified complaint *in rem* are true and accurate to the best of my knowledge, information and belief.

4. The source of my information and the grounds for my belief are my personal knowledge, information provided by the Securities and Exchange Commission and other law enforcement officers, and the official files and records of the Federal Bureau of Investigation.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: New York, New York
July 31, 2006

KEVIN RIORDAN
Special Agent
Federal Bureau of Investigation

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M-06-817

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

JACOB ALEXANDER,
also known as "Kobi Alexander,"
DAVID KREINBERG and
WILLIAM F. SORIN,

Defendants.

----------X

TO BE FILED UNDER SEAL

AFFIDAVIT IN SUPPORT
OF ARREST WARRANTS

(18 U.S.C. § 371)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- X

TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

JACOB ALEXANDER,
also known as "Kobi Alexander,"
DAVID KREINBERG and
WILLIAM F. SORIN,

Defendants.

AFFIDAVIT IN SUPPORT
OF ARREST WARRANTS

(18 U.S.C. § 371)

- X

EASTERN DISTRICT OF NEW YORK, SS:

KEVIN RIORDAN, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about and between 1998 and 2002, within the Eastern District of New York and elsewhere, the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN, together with others, did knowingly and willfully conspire to (1) use and employ manipulative and deceptive devices and contrivances directly and indirectly, by use of means and instrumentalities of interstate commerce and the mails, in contravention of Rule 10b-5 of the Rules and Regulations of the United States Securities and Exchange Commission (Title 17, Code of Federal Regulations, Section 240.10b-5), and directly and indirectly to (a) employ devices, schemes and artifices to defraud; (b) make

untrue statements of material fact and omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engage in acts, practices and a course of business which would and did operate as a fraud and deceit upon members of the investing public, in connection with purchases and sales of the securities of Comverse Technology, Inc., in violation of Title 15, United States Code, Sections 78j(b) and 78ff; and (2) devise a scheme and artifice to defraud shareholders and the investing public, and to obtain money and property from shareholders and the investing public by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, and attempting to do so, (a) to cause mail matter to be delivered by the United States Postal Service according to the directions thereon, in violation of Section 1341 of Title 18 of the United States Code, and (b) to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, in violation of Section 1343 of Title 18 of the United States Code.

(Title 18, United States Code, Section 371).

The source of your deponent's information and the grounds for his belief are as follows:[1/]

[1/]Because the purpose of this Affidavit is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts of which I am aware. Where actions, conversations and statements of others are related in this Affidavit, they are related in substance and in part. In addition, all dates set forth in this Affidavit are approximate and inclusive.

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INTRODUCTION

1. I have been a Special Agent with the Federal Bureau of Investigation for four years. I am primarily responsible for investigating white-collar crime, including violations of the federal securities laws.

2. I have personally participated in the investigation of certain former officers and employees of Comverse Technology Inc. ("CTI"), including the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN. I have also spoken to other agents concerning this investigation and am familiar with information that has been developed during the course of this investigation. The facts set forth in this Affidavit are derived from, among other investigative techniques, interviews of witnesses, review of documents obtained pursuant to subpoenas, and review of documents produced by CTI and other sources.

BACKGROUND

A. The Business of Comverse

3. At all times relevant to this Affidavit, CTI was a New York corporation with its headquarters in Woodbury, New York.[2] Beginning in 1986, CTI was a publicly traded corporation, the common stock of which was traded on the NASDAQ National Market System ("NASDAQ") (symbol: CMVT). Through Comverse Inc., a wholly-owned subsidiary, CTI was a provider of software and software systems for communication and billing services. Other CTI business units included: Verint Systems (NASDAQ: VRNT), based in Woodbury, New York, a

[2]In 2005, CTI moved its headquarters to Manhattan, but continued to maintain offices on Long Island.

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provider of analytic software-based solutions for communications interception, networked video security and business intelligence; and Ulticom (NASDAQ: ULCM), a provider of service-enabling signaling software for wireline, wireless and internet communications. CTI was a component stock in the S&P 500 and NASDAQ-100 indices. CTI's shareholders were located throughout the United States, including in the Eastern District of New York.

4. As a public company, CTI was required to comply with the rules and regulations of the United States Securities and Exchange Commission (the "SEC"). The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately recorded and disclosed to the investing public. Under the SEC's rules and regulations, CTI and its officers were required to file with the SEC quarterly reports (on Form 10-Q) and annual reports (on Form 10-K) which included financial statements that accurately presented CTI's financial condition and the results of its business operations in accordance with Generally Accepted Accounting Principles ("GAAP"). CTI was also required to disseminate and file annual proxy statements to shareholders (on Form 14-A) setting forth accurate information about matters to be brought to a vote at annual shareholder meetings.

B. The Defendants

5. On May 1, 2006, CTI announced in a press release that ALEXANDER, KREINBERG and SORIN had resigned their positions from CTI in the midst of an internal investigation by a Special Committee of CTI's Board of Directors (the "Special Committee"). Until that time, the defendants held various executive positions during specified periods at CTI

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as set forth below.[3]

6. ALEXANDER, a founder of CTI, was the Chief Executive Officer ("CEO") of CTI and Chairman of the Board of Directors.[4] ALEXANDER reviewed and approved CTI's public filings. As CEO and Chairman, ALEXANDER signed CTI's annual and quarterly public filings. ALEXANDER received a bachelor's degree in economics from Hebrew University of Jerusalem, and a master's degree in finance from New York University.

7. KREINBERG was the Chief Financial Officer ("CFO") of CTI, reporting to ALEXANDER.[5] KREINBERG is a certified public accountant ("CPA") and was previously a senior manager at Deloitte & Touche LLP, CTI's outside auditor.[6] KREINBERG reviewed and approved CTI's public filings. During his tenure as CFO, KREINBERG signed CTI's annual and quarterly public filings. KREINBERG received a bachelor's degree in accounting from Yeshiva University, and a master's degree in finance and international business from Columbia University.

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[3]The information in this section and in paragraph 3 is based on interviews of CTI's employees, and is corroborated by CTI's public filings and press releases.

[4]ALEXANDER was a director of CTI from its formation, and became Chairman in September 1986. ALEXANDER served as President of CTI from its formation until January 2001. In April 1987, ALEXANDER was named CEO.

[5]Beginning in April 1996, KREINBERG was Vice President of Finance and Treasurer. He was named Vice President of Finance and CFO in May 1999, and Executive Vice President and CFO in September 2002.

[6]KREINBERG still holds a CPA license but allowed his registration to lapse when he left Deloitte & Touche LLP.

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8. SORIN was CTI's General Counsel from the company's inception, reporting to ALEXANDER.[7] SORIN was also Corporate Secretary and a Director of CTI. SORIN drafted and participated in drafting CTI's stock option plans and public filings, and he signed CTI's annual filings and submitted the proxy statements. SORIN is an attorney, a member of the New York bar, and a graduate of Harvard Law School.

BACKDATING TO EVADE THE ACCOUNTING, DISCLOSURE AND TAX CONSEQUENCES OF GRANTING IN-THE-MONEY OPTIONS

A. The Process of Granting Options, Generally

9. This investigation concerns the backdating of CTI's option grants. An option is the right to buy a share of stock on a future date (typically at the end of a vesting period) at a set price, known as the "exercise" or "strike" price. The exercise price is ordinarily the trading price of the stock (i.e., the fair market value) on the day that the option was granted by a corporation's board of directors or, typically, the board's compensation committee. The holder of an option makes a profit by exercising the option to buy the stock at the end of the vesting period at the locked-in exercise price, and selling the stock when it is trading at a higher price than the exercise price. Options with an exercise price equal to the current trading price of the underlying stock are commonly referred to as being "at the money"; options with an exercise price below the current trading price of the stock are "in the money"; and options with an exercise price above the current trading price of the stock are "under water." Options that are in the money have a so-called "paper profit" associated with them, meaning that the options have

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[7]From CTI's inception until 2003, SORIN was General Counsel of CTI, then the highest legal position within CTI. In 2003, a new General Counsel was named and SORIN was named Senior General Counsel.

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value based on the difference between the exercise price and the current trading price, although the holder has not yet reaped the actual profit by exercising the option and selling the stock, and may need to wait until the end of a vesting period to do so.

10. To illustrate these principles by way of example, a compensation committee may decide to grant 100,000 options to the company's CEO on June 1 with an exercise price at the fair market value of the underlying stock. If the stock's trading price on June 1 is $40 per share, the CEO is granted 100,000 options at $40 per share. One month later, if the stock price has risen to $50 per share, the CEO's options are "in the money," and the CEO has a paper profit of one million dollars ($10 x 100,000). If, on the other hand, the stock price has dropped to $30 per share, the CEO's options are "under water," because the CEO would lose money ($10 per share) upon the exercise of the options at the exercise price of $40 per share and the sale of that stock at the trading price of $30 per share.

11. When a company grants in-the-money options, i.e., options with an exercise price below the current trading price, this event has significant accounting, disclosure and tax consequences as set forth below. One way for executives to reap the benefit of in-the-money-options while evading these accounting, disclosure and tax consequences is to backdate the options so as to conceal the fact that the company has granted in-the-money options.

B. The Backdating of Options

12. Backdated options are options that are intended to appear to have been granted on a certain date at the fair market value (i.e., the trading price) of the underlying stock on the date of the grant, but were actually granted on a later date. One motive for backdating is to fix a lower exercise price for the options, thereby awarding in-the-money options and inflating

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the gain to the holder of the options. Backdated options, therefore, are typically backdated to a date on which the stock was trading at a lower price than the price on the day of the actual grant. By fixing an earlier date as a grant date, the company makes it appear that the options were granted at fair market value – the trading price of the stock on that earlier date. In this way, the holder of the option has received in-the-money options and therefore has a head start on the spread between the exercise price and the current trading price. One motive for backdating is to evade the accounting, disclosure, and tax consequences of granting in-the-money options.[8]

i. Accounting Consequences

13. The granting of in-the-money options has significant accounting consequences. Essentially, the granting of in-the-money options conveys compensation and therefore should be "expensed" (i.e., deducted from revenue as a compensation expense). Specifically, during the relevant period, CTI followed Accounting Principles Board Opinion No. 25, Accounting for Stock Issued to Employees ("APB 25"), which provides that a company need not expense options granted at the money. This means that CTI was not required to deduct from revenue any compensation expense for granting options priced at the money on the date of the grant. However, under APB 25, CTI was required to expense any options granted with an exercise price *less* than the fair market value of the underlying shares on the date of the grant (i.e., in-the-money options).[9] Backdating options would lead to a violation of this accounting

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[8]With respect to the following subsections, I have conferred with Assistant U.S. Attorneys familiar with the legal, tax and accounting issues described.

[9]Under APB 25, a company is required to recognize compensation expense from stock options unless the employee will pay an exercise price at least equal to the quoted market price of the stock on the measurement date. The measurement date is the date when both the number of shares that individuals are entitled to receive and the exercise price are known. Effective for

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rule if CTI did not expense the in-the-money option grants over the vesting period. Notably, misstatements (such as the failure to expense the grant of in-the-money options) that have the effect of increasing management's compensation, or which involve concealment of an unlawful transaction, "may well render material a quantitatively small misstatement of a financial statement item."[10]

ii. Shareholder Impact and Disclosure Issues

14. The granting of in-the-money options has significant consequences for shareholders and therefore must be disclosed in the company's filings. CTI acknowledged in its proxy statements that it was required to obtain shareholder approval of its stock option plans in order to meet certain tax requirements set forth below and for stock available to be used for incentive stock options to be approved for trading on NASDAQ. During the years at issue, CTI's stock option plans, as described in and attached to CTI's proxy statements and approved by shareholders, required that "incentive stock options," which qualify for certain beneficial tax treatment explained below, be priced at the money or higher. Backdating options to an earlier

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fiscal years beginning after June 15, 2005, FAS No. 123R, Share-Based Payments, requires companies to expense the fair value of stock options over the employee's vesting period, even where the options were granted at the money.

[10]SEC Staff Accounting Bulletin: No. 99 ("SAB 99") – Materiality (Nov. 2, 1999), 1999 WL 1123073, 17 C.F.R., pt. 211, subpt B. The SEC's Office of Chief Accountant issues Staff Accounting Bulletins to provide "interpretations and practices followed by the [SEC's] Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws." Id. SAB 99 "provides guidance in applying materiality thresholds to the preparation of financial statements filed with the Commission and the performance of audits of those financial statements." Id. Although SAB 99 does not have the force of law, the Second Circuit has described it as "thoroughly reasoned and consistent with existing law," and found that it provides "persuasive guidance for evaluating the materiality of an alleged misrepresentation." United States v. Ganino, 228 F.3d 154, 162 (2d Cir. 2000).

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date when the stock was trading at a lower price would violate the terms of the plan in that respect. The plans did allow CTI to grant in-the-money "nonqualified options" (i.e., options that were not eligible to receive the beneficial tax treatment set forth below). However, as set forth in detail below, in the proxy statements and other public filings, and in communications with certain large institutional investors, CTI repeatedly represented that all stock options (incentive and nonqualified) were granted with an exercise price equal to the fair market value of the underlying shares on the purported date of the grant.

15. CTI's stock option plans during the relevant years typically provided for a vesting period of four years.[11] Under this provision of the plans, 25 percent of the options would vest at the end of the first year, and 6 1/4 percent of the options would vest every quarter after that (for an aggregate rate of 25 percent per year). Thus, the award of in-the-money options would allow employees to cash in their profits on 25 percent of their options at the end of a year, and the rest in increments according to the schedule just described. The backdating of options would cause an improper truncation (of weeks or months, depending on the extent of the backdating) of the requisite vesting period in violation of the plan.

16. As set forth in detail below, CTI presented its proposed stock option plans to shareholders for their approval. CTI promoted its stock option plans to shareholders on the premise that these plans would serve shareholder interests because executives and employees would work harder to contribute to a rise in the stock price if they had a stake in the future success of the company. Options granted in the money would undermine that premise by serving at least in part as a bonus, rather than as an incentive. Granting secretly backdated, in-the-money

[11]Some plans had a three-year vesting period.

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options also disguises the fact that the company is paying higher compensation to executives and employees. Furthermore, secretly backdated, in-the-money options provide a fraudulent discount to the exercise price of the underlying shares in violation of the terms of the shareholder-approved plan with respect to incentive stock options and the company's public disclosures with respect to all options. By granting in-the-money options, the company forgoes using cash to compensate its employees and instead conveys to the employees a right to pay less than the investing public for shares of company stock. The undisclosed paper gain in the options rewards an employee for prior service rather than providing an incentive for future service, without disclosure or shareholder approval of this kind of compensation.

17. Secretly backdating options to achieve an exercise price below the fair market value of the stock disadvantages and misleads shareholders because – due to the need to expense the options – stated profits are, or should be, reduced, and if they are not reduced, then the financial statements are false. In addition, the exercise of in-the-money options boosts the number of outstanding shares without requiring a commensurate capital contribution, thereby diluting the value of other shareholders' holdings.

18. The granting of in-the-money options costs a company money because it contractually obligates the company to sell stock to its own employees at a discounted price. It disadvantages shareholders because employees get an immediate discount on the exercise price of the options. For these reasons, among others, the company must disclose the granting of in-the-money options.[12]

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[12]"Full disclosure of [management] remuneration is necessary to informed voting and investment decisions, regardless of whether the company's board of directors or its security holders have approved the remuneration package received by management because of the

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iii. Tax Consequences

19. Grants to Employees. Secretly backdating options to a date with a lower trading price of the stock could lead to improper tax treatment as well. For incentive stock options, employees need not pay ordinary income taxes on the difference between the exercise price and the market price at the time of the exercise as long as they hold the stock for the requisite holding period.[13] Rather, the employee pays tax at the lower capital gains rate on the disposition, based on the exercise price. At the same time, the company may not deduct on its corporate income tax returns any compensation expense for the difference between the exercise price and the market price of the stock upon exercise of the option. However, to qualify as an incentive stock option, the grant must be at the money. Otherwise, the purportedly incentive stock option reverts to nonqualified status. For nonqualified (i.e., non-incentive) options, the employee pays ordinary income tax on the difference between the exercise price and the market price at the time of the exercise, and the company is entitled to deduct that same amount as compensation expense. Thus, the granting of backdated, in-the-money incentive stock options could lead to the filing of false individual income tax returns, to the detriment of the United States Treasury.

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substantial influence of management in determining its remuneration. In addition, a determination of the value of any new securities being offered and of any securities already owned, an analysis of the use of corporate funds and assets and an assessment of the value of management to a corporation necessitate the presentation of complete remuneration information." SEC Release No. 5856 - Disclosure of Management Remuneration (1977), 1977 WL 186972.

[13]To enjoy these tax benefits, the employee must hold the options for one year from the date of grant and for an additional year from the date of exercise.

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20. Grants to Highly-Paid Executives. Also pertinent is the impact of backdating on the deductibility of executive compensation. The Internal Revenue Code ("I.R.C."), Section 162(m), generally limits the deductibility of certain executive compensation to one million dollars per executive per year. An exception is made for certain performance-based compensation, including stock options granted at the money. In its proxy statements and other public filings, as set forth in detail below, CTI falsely represented that all stock options intended to qualify as performance-based compensation under I.R.C. Section 162(m) were granted at the money. The award of in-the-money options, due to backdating, could lead a company to violate Section 162(m) and file false tax returns by deducting improperly valued options as executive compensation expense.

THE BACKDATING SCHEME

21. As set forth in detail below, the investigation has disclosed that ALEXANDER, KREINBERG and SORIN engaged in a scheme to backdate millions of stock options to themselves and their employees to days when the stock of CTI was trading at periodic low points.[14] The defendants backdated every company-wide grant from 1998 through 2001, and they backdated grants of options to new employees. ALEXANDER was awarded by far the most options every year, and KREINBERG and SORIN typically ranked in the top ten in terms of the most options awarded. ALEXANDER made millions of dollars in profits on paper as a result of these in-the-money grants, while KREINBERG and SORIN each made in excess of a million

[14]Documents and witness interviews show that KREINBERG, with SORIN's knowledge, engaged in a similar scheme at Ulticom, a former wholly-owned subsidiary of CTI, once Ulticom went public.

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dollars in profits on paper.

22. The defendants reaped substantial personal gain from their fraudulent conduct. From 1991 through 2005, ALEXANDER exercised options (granted from 1991 through 2003) and sold stock worth approximately $150 million, of which approximately $138 million was profit. Preliminary analysis shows that almost $6.4 million of that profit was due to backdating.[15] In 2000 alone, due to the exercise of options granted in 1994,[16] ALEXANDER made total profits of approximately $86 million, of which approximately $1.3 million was due to backdating. Also, in 2005 and early 2006, ALEXANDER exercised over $11 million worth of backdated options that were previously underwater until they were fraudulently repriced in 2002, as set forth in detail below, and approximately $5.3 million of this amount was profit.

23. From 1996 through 2006, KREINBERG exercised options (granted from 1994 through 2003) and sold stock worth approximately $18 million. He gained approximately $12.6 million in profits. Preliminary analysis shows that nearly $1 million of these profits was due to backdating.[17]

24. From 1998 to 2001, SORIN exercised options (granted from 1991 through 1999) and sold stock worth approximately $17 million. He gained approximately $14 million in

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[15]From 1998 through 2002, ALEXANDER received approximately $2 million in total salary and approximately $15.5 million in total bonuses from CTI.

[16]As set forth in the last section of this Affidavit, KREINBERG has told the Special Committee that the backdating scheme was already in effect when he joined CTI, which was in 1994.

[17]From 2000 (the first year after KREINBERG was made CFO in mid-1999) through 2002, KREINBERG received approximately $560,000 in total salary and approximately $270,000 in total bonuses from CTI.

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profits. Preliminary analysis shows that more than $1 million of these profits was due to backdating.[18]

A. The Process of Backdating

25. Until approximately 1997 or 1998, SORIN handled the paperwork necessary for the issuance of grants, with assistance from another employee (the "Assistant").[19] Beginning in approximately 1997 or 1998, ALEXANDER asked the Assistant to assume the burden of most of the paperwork for the options process, in coordination with SORIN.

26. During this latter period, typically, ALEXANDER contacted the Assistant to advise that the company would be making a grant, and that the managers of CTI's various business units would be sending proposed lists of employees and the recommended number of options to be issued to each of them. Upon receipt of this data, the Assistant compiled a comprehensive list of proposed employees and the recommended number of options for each person (the "grantee list"). The grantee list was in constant flux as managers added, deleted, and changed employee names and option amounts.

27. Once this list was completed for purposes of submission to the Stock Option and Remuneration Committee ("the "Compensation Committee") of the Board of Directors, either ALEXANDER or KREINBERG, at various times, instructed the Assistant to prepare packets for the Compensation Committee.[20] At this stage, ALEXANDER or

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[18]From 1998 through 2002, SORIN received almost $1 million in fees from CTI.

[19]The information in this section is generally derived from debriefings of the Assistant and other witnesses, and a detailed review of documents.

[20]The Compensation Committee was usually asked to act by having each member sign a form of unanimous written consent. Under New York law and CTI's by-laws, for the form to be

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KREINBERG gave the Assistant a prior date when the stock was trading at a lower price (the backdated date) and the strike price (the price of the stock on that backdated day) to insert into the unanimous written consent form as the effective date of the grant (an "as of" date). The Assistant then sent, typically via overnight courier, the grantee list and the unanimous written consent forms to the members of the Compensation Committee. The Assistant typically included a cover letter with instructions. The cover letters typically bore the true date of the submission to the Compensation Committee, and attached unanimous written consents with backdated "as of" dates and prices. The unanimous written consent forms, for which SORIN had created the template, did not, however, reflect the true date of submission to the Compensation Committee; nor did they contain a place for the Committee members to indicate the actual date that they signed the forms. The only date reflected on the forms was the backdated "as of" date of the grant. This was done to conceal the true date of the grant. SORIN received contemporaneous copies of these documents.

28. The following day, the Assistant typically received signed unanimous written consents by fax from each member of the Compensation Committee, although the receipt of these was sometimes delayed. The Assistant later received the original unanimous written consents by overnight courier.

29. Until approximately 2002, the defendants treated the grantee list as a work in progress even after the Compensation Committee had approved it. Both the names of employees receiving grants and the number of options granted to individuals changed at the

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effective as corporate action, all members of the Committee must agree. The unanimous written consent was in lieu of a meeting, in person or by telephone, in which a quorum of the Committee could act.

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request of management, although the total number of options granted was not increased. Prior to 1996, SORIN managed and maintained stock option data in an Excel spreadsheet, and from 1996 to the present, the Assistant managed the option data through a software program called "Equity Edge." The Assistant used templates provided by SORIN to create the unanimous written consent forms and related option agreements.

30. My co-case agent and I have interviewed several members of the Compensation Committee. Two long-serving members indicated that they typically received telephone calls from SORIN prior to receiving the unanimous written consent forms. In those calls, SORIN generally indicated the total number of options to be issued, and the number to be issued to ALEXANDER. Based on that information, these two members gave what they believed to be oral consent for the grants, although one of them reserved the right to change his/her mind upon reviewing the proposed grantee list.[21] These members then subsequently received unanimous written consent forms memorializing grants that were "as of" a prior date. Upon receiving these unanimous written consent forms, these two members assumed, in reliance on SORIN, that the date of the grants was "as of" the date of the telephone calls (when in fact, the investigation has shown that those calls came after the "as of" dates, and no corporate action whatsoever occurred on the "as of" dates). Both members stated that they did not know that the "as of" date carried a lower trading price and did not intend to grant in-the-money options. A

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[21]I am informed by an Assistant U.S. Attorney that, under New York corporate law and CTI's by-laws, oral consent of Compensation Committee members communicated individually to the company was not sufficient to serve as corporate action approving the grant. Moreover, the unanimous written consent was not effective until the company received the written consent of all members. This is to be distinguished from a telephonic board meeting, for example, in which a quorum of members discuss and then vote on an issue.

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third member, who joined the Compensation Committee in time to participate in one of the grants in late 2001, indicated that he/she was not asked to give and did not give oral consent for that grant, and did not intend to grant in-the-money options.

31. Another long-serving member of the Compensation Committee was ALEXANDER's sister, whose former husband had formed the company with ALEXANDER. In an interview with the Special Committee, ALEXANDER's sister provided a version of the process generally consistent with that of the two long-serving members, as described in the prior paragraph. To my knowledge, no member of the Compensation Committee has stated that he or she received a call about the options on any of the "as of" dates listed on the unanimous written consent forms. Moreover, as set forth in the last section of this Affidavit, the defendants have admitted that no corporate action occurred on the "as of" dates, because ALEXANDER "looked back" to pick a date with a lower stock price, and SORIN placed calls to the Compensation Committee after the "as of" dates listed on the unanimous written consent forms.

B. Backdating of Company-Wide Grants

32. The defendants repeatedly backdated CTI's annual company-wide option grants to themselves, other executives and employees, as set forth in part below.

i. The 1998 Company-Wide Grant

33. For the year 1998, CTI issued a company-wide option grant dated "as of" October 9, 1998. However, the grant did not occur on that date. Rather, in an e-mail dated October 15, 1998, the Assistant stated that the grantee list would be going to the Compensation Committee the next day. By cover letter also dated October 15, 1998, the Assistant sent to the Compensation Committee unanimous written consent forms dated as of October 9, 1998. On

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October 9, 1998, CTI's stock price was $30, the second lowest price on any day in 1998;[22] on October 15, it was $36.50, and generally continued to climb thereafter. Thus, the options were in the money by at least $6.50 per share. The total number of options granted was approximately 744,000, with 250,000 awarded to ALEXANDER (paper profit of $1.625 million), 10,000 to KREINBERG (who was not yet CFO) (paper profit of $65,000), and 7,500 to SORIN (paper profit of $48,750). ALEXANDER received the most options – five times as many as any other employee.[23] Only eight employees received more options than KREINBERG.

ii. The 1999 Company-Wide Grant

34. For the year 1999, CTI issued a company-wide grant dated "as of" October 18, 1999. However, as the defendants knew, the grant did not occur on that date. Records show that the grant did not occur until late November at the earliest. Specifically, on November 24, 1999, the Assistant sent an e-mail to KREINBERG and others, with a copy to ALEXANDER, stating: "I understand from Kobi that he had approved the listing of grants as submitted. I then sent the appropriate documentation to the Stock Option Committee of the Board of Directors and should get their approvals today." On October 18, 1999, the backdated day selected for the grant, CTI's stock was trading at $93, the lowest price since the last shareholder meeting of October 9, 1999, when the shareholders approved the 1999 stock option plan.[24] The earliest possible date

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[22]The previous day, on October 8, 1998, the stock closed six cents lower, at $29.94.

[23]Two executives received 50,000 options each.

[24]As set forth below, CTI disclosed in its 1999 proxy statement, filed on September 7, 1999, that it did not have enough stock reserved under its pre-1999 stock option plans to make another company-wide grant. Therefore, CTI had to wait until the shareholder meeting on October 9, 1999, before issuing a company-wide grant. This means that the defendants could not backdate to a day before October 9, 1999 without attracting suspicion.

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that the October 18, 1999, grant, with an exercise price of $93, was approved was on November 24, 1999 (the date of the Assistant's e-mail), when the stock was trading at $128.813. The stock was trending upward. This means that the options were in the money by at least $35.813 per share. The total number of options granted was over 3.83 million, with 315,000 awarded to ALEXANDER (paper profit of over $11 million), 37,500 to KREINBERG (paper profit of over $1.3 million), and 30,000 to SORIN (paper profit of over $1 million). ALEXANDER received the most options – almost four times more than any other employee.[25] Only seven employees received more options than KREINBERG did, and only nine received more than SORIN did.

35. With respect to this same 1999 grant, SORIN ensured that other documents, notifying employees of the grant, were backdated as well. Specifically, by e-mail dated April 13, 2000, the Assistant relayed an instruction from SORIN to backdate the notice of grant from CTI to its employees. In particular, the Assistant wrote: "Per Bill Sorin, date them the date of the grant – October 18, 1999." By omitting true date information, SORIN's conduct helped hide the fact that the grants were backdated.

iii. The 2000 Company-Wide Grant

36. For the year 2000, CTI issued a company-wide option grant dated "as of" November 30, 2000. However, as the defendants knew, the grant did not occur on that date. In an e-mail dated December 13, 2000, the Assistant stated that he/she understood from KREINBERG that "the option information has been finalized – it is November 30th at $85 per share." (In fact, the stock closed at $86.19 on November 30, 2000). CTI's stock price on

[25]One executive received 80,000 options.

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November 30, 2000 was at its lowest point since the company's annual meeting on September 14, 2000, when the shareholders approved CTI's 2000 stock option plan.[26] The stock price on December 13, 2000, when the Assistant learned the chosen, backdated exercise date, was $112.125, or more than $27 above the (incorrect) price of $85 (rather than $86.19) used for November 30, 2000. The total number of options awarded was over 8.7 million, with 600,000 to ALEXANDER, 100,000 to KREINBERG, and 40,000 to SORIN.[27] Over 3,000 employees received options in this grant. ALEXANDER received the most options -- more than twice as many as any other employee.[28] Only three employees received more options than KREINBERG, and only ten received more than SORIN did.

37. KREINBERG told the Assistant that SORIN had obtained oral approval from the members of the Compensation Committee, and therefore, he/she did not need to compile or send a grantee list. Instead, the Assistant was instructed to input the relevant information into the Equity Edge database and, once that was done, to forward unanimous

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[26]Given the size of the prior year's grant (3.8 million options), and the maximum amount of shares authorized for options under that year's plan (3.5 million options, plus whatever unvested options became available when employees left the company), it appears likely that CTI had to await approval of its 2000 stock option plan, as set forth below, at its annual shareholder meeting on September 14, 2000, before issuing a company-wide grant.

[27]This would have yielded paper profits of $16.2 million to ALEXANDER, $2.7 million to KREINBERG, and $1.08 million to SORIN. However, the defendants' scheme that year failed to enrich them. By the time the Compensation Committee executed the unanimous written consents several months later, on March 2, 2001, the options were under water. Specifically, the stock fell below $85 on February 26, 2001, for the first time since November 30, 2000 (the backdated day of the grant), and continued to fall, trading at $76 per share several days later when the Compensation Committee received the unanimous written consent forms. As set forth below, these underwater options were repriced a little over a year later.

[28]One executive received 250,000 options.

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written consent forms, along with an Equity Edge report, to the Compensation Committee. The Assistant did so by cover letter dated March 2, 2001.

iv. The 2001 Company-Wide Grant

38. For the year 2001, CTI issued a company-wide grant dated "as of" October 22, 2001. However, as the defendants knew, the grant did not occur on that date. By cover letter dated November 28, 2001, the Assistant sent members of the Compensation Committee unanimous written consent forms dated as of October 22, 2001, and the grantee list.[29] CTI's stock price on October 22, 2001 was $16.05, the second lowest price of the year in 2001;[30] the price on November 28, 2001, was $21.01, and generally continued to rise. Thus, the options were in the money by nearly $5 or more per share. The total number of options granted was more than 9.4 million, with 600,000 to ALEXANDER (paper profit of $3 million), 125,000 to KREINBERG (paper profit of $625,000) and 27,000 to SORIN (paper profit of $135,000).

C. Backdating for New Hires

39. In addition to the backdating of company-wide option grants to executives and employees, the investigation has shown that the defendants arranged to reward new employees with in-the-money options backdated to days before the new employees had actually begun work. This was improper for two reasons. First, the defendants did not disclose these in-the-money grants to shareholders or account for them correctly. Second, CTI's option plans in effect at the time did not allow the granting of options to non-employees (other than directors).

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[29]CTI made changes to the list as late as January 2002.

[30]The stock was trading fifteen cents lower, at $15.90 per share, the next day, on October 23, 2001.

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Because the grants were made effective before the new employees joined the company, the grants were being awarded to persons who were, as of the backdated date, non-employees of the company.

40. For example, by e-mail dated March 9, 2000, the Assistant requested information about the hire date of a particular employee ("New Hire #1") in connection with the October 18, 1999 grant so that the Assistant could create an account in the Equity Edge database. In response, the Assistant was informed that New Hire #1 was hired on "November 1, 1999," two weeks *after* the purported date ("as of" October 18, 1999) of the grant. Apart from the backdating problem with this grant, described above, this was improper because CTI's 1999 stock option plan did not permit the award of options to non-employees (other than directors). Moreover, CTI's stock price on October 18, 1999, the stated date of the grant, was $93 per share; the price on New Hire #1's start date of November 1 was $109.625 per share, giving New Hire #1 a paper profit of $16.625 per option.

41. In a separate incident, e-mail correspondence dated late August and early September of 2000 discloses that ALEXANDER had promised 40,000 options at a price of $76.125 to an employee joining the company ("New Hire #2") on Sunday, September 17, 2000. To fulfill ALEXANDER's promise, by e-mail dated August 31, 2000, KREINBERG asked SORIN to arrange for "a remuneration committee minute granting the 40,000" to New Hire #2, and directed the Assistant to give SORIN the latest date when the stock was trading at the promised price of $76.125. The Assistant could not find a date with that exact price; the closest price was $76.025, on August 11, 2000. When informed of these facts, on September 5, 2000, New Hire #2's manager stated that he/she was "positive" that New Hire #2 would accept this

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lower exercise price, which would benefit New Hire #2. On Monday, September 18, 2000, the first trading date after New Hire #2 joined the payroll, CTI's stock price was $86.75, over $10 more than New Hire #2's exercise price. Apart from the backdating problem with this grant, CTI's 2000 stock option plan did not permit the granting of options to non-employees (other than directors). Nonetheless, New Hire #2 received in-the-money options, bearing an "as of" date when he/she did not work at the company, and made a profit, on paper, of over $400,000.[31]

THE PHANTOM/FARGO OPTIONS SLUSH FUND

42. In addition to the backdating scheme described above, the investigation has disclosed that ALEXANDER and KREINBERG used fictitious names to generate hundreds of thousands of backdated options, which they then parked in a secret slush fund designed to evade the requirements of CTI's stock option plans. ALEXANDER unilaterally awarded options from this slush fund to favored employees, with KREINBERG's knowledge, and KREINBERG falsified documents in order to hide the slush fund from the Compensation Committee and CTI's outside auditor.

43. The details of this aspect of the fraud include the following. In or about October 1999, ALEXANDER and KREINBERG instructed the Assistant to create a secret account in which to park options, to be available for ALEXANDER and KREINBERG to dole out to employees, as ALEXANDER saw fit, for recruitment and retention purposes. The Assistant created the secret account, as instructed, and initially named it "I.M. Fanton" [sic], a

[31]On Friday, September 15, the last trading date before New Hire #2 joined the company, CTI's trading price was $90.6875, at least $14 more than the exercise price on New Hire #2's options, leading to an immediate profit on paper of over $560,000.

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derivation of "Phantom," later changing the name to "Fargo" (the "Phantom/Fargo account").[32]

44. At various times, ALEXANDER or KREINBERG instructed the Assistant to manufacture options to be parked in the Phantom/Fargo account. Specifically, they directed the Assistant to insert dozens of fictitious names into the proposed grantee list to be given to the Compensation Committee for the 1999 company-wide options grant (which, as described above, was backdated), and to propose approximately 5,000 options for each of these fictitious individuals. The purpose of this maneuver was to deceive the Compensation Committee into awarding grants to nonexistent persons, in small amounts that would not attract the Committee's attention.[33] The Assistant created the fictitious names, mixing and matching first and last names of his/her personal acquaintances, and interspersed them in the grantee list sent to the Compensation Committee, as instructed. After the Compensation Committee approved the grantee list, ALEXANDER and KREINBERG directed the Assistant to record the aggregate[34] of at least 200,000 options in the Phantom/Fargo account within the Equity Edge database. A subsequent 2-for-1 stock split resulted in a doubling of the number of Phantom/Fargo options.

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[32]The Assistant named the account "Fanton" after seeing "Phantom of the Opera," and explained that the name fit what he/she was being asked to do (i.e., create phantom employees). The Assistant changed the account name to "Fargo" (based on the movie of the same name) after thinking better of the wisdom of calling it "Phantom."

[33]As the defendants knew, members of the Compensation Committee sometimes asked questions of management if an employee whose name the members did not recognize was to receive more than 10,000 options.

[34]Some of these options were first transferred to other employees in small amounts before the Assistant entered the remaining options into the Phantom/Fargo account in Equity Edge.

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45. In 2000, at ALEXANDER and KREINBERG's direction, the Assistant assigned an additional lump sum of over 200,000 options to the Phantom/Fargo account in Equity Edge. For this year, it was not necessary for the Assistant to create fictitious names, because, as set forth above, no separate grantee list was submitted to the Compensation Committee for the 2000 company-wide grant. Instead, the Committee was given a printout from the Equity Edge database along with the unanimous written consent forms. As a consequence, ALEXANDER and KREINBERG were able to instruct the Assistant to assign options directly to the Phantom/Fargo account. In addition, KREINBERG directed the Assistant to remove the line item for the Phantom/Fargo account from the Equity Edge report going to the Compensation Committee for that year's grant. This act of concealment was designed to deceive the Committee into approving a total number of options (which, as set forth above, were backdated) that would include the amount assigned to the Phantom/Fargo account, without the Committee being able to see the Phantom/Fargo line item.

46. In connection with the 2001 company-wide grant ("as of" the backdated date of October 22, 2001), ALEXANDER and KREINBERG directed the Assistant to insert within the grantee list going to the Compensation Committee an additional twenty-five fictitious employees to receive approximately 10,000 options each. Upon approval by the Compensation Committee, the Assistant entered the aggregate of approximately 250,000 options into the Phantom/Fargo account in Equity Edge.

47. On several occasions, ALEXANDER and KREINBERG arranged for options to be transferred from the Phantom/Fargo account to executives and employees of CTI. On one occasion in August 2000, ALEXANDER and KREINBERG instructed the Assistant to

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transfer within the Equity Edge system approximately 48,000 options from Phantom/Fargo into the account of a top executive in Israel (the "Israeli executive") because the Israeli executive was unhappy with his/her compensation. Although the options had a four-year vesting period, ALEXANDER directed the Assistant to make the options for the Israeli executive immediately exercisable. This immediate vesting completely defeated the purpose of stock options as stated in CTI's public filings, to retain and incentivize CTI's employees.

48. The Israeli executive exercised the options the next day, when the stock was trading at nearly double the exercise price, and thereupon immediately sold his/her stock, realizing an instant $2 million profit, the equivalent of a cash bonus in that amount. In an e-mail notifying the Israeli executive about this grant of options, KREINBERG evinced his awareness of the effect on shareholders by stating: "Please try and have [the broker] sell the shares in slowly and not in one shot, so that the market can absorb the shares slowly and not hit the stock price."

49. In or about December 2000, another set of over 40,000 options from the Phantom/Fargo account was transferred to the same Israeli executive. These options were similarly made immediately exercisable, yielding another profit of approximately $2 million to the Israeli executive.[35]

50. KREINBERG took steps to secrete the Phantom/Fargo account from CTI's outside auditor, Deloitte & Touche LLP ("Deloitte & Touche"). In approximately 2000 or 2001, KREINBERG instructed the Assistant to remove from an Equity Edge report requested by

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[35]Based on the investigation, I am aware of other instances in which options were transferred from the Phantom/Fargo account to various employees of and consultants to CTI and its affiliates. These options were similarly made immediately vesting.

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Deloitte & Touche a particular page that reflected the existence of Phantom/Fargo.[36] The Assistant followed this instruction and physically removed the page with Phantom/Fargo account information from the report given to Deloitte & Touche. I have reviewed workpapers of Deloitte & Touche which show the same page missing from Equity Edge printouts in multiple years once the Phantom/Fargo account was opened.

51. At the instruction of ALEXANDER and KREINBERG, the Assistant closed the Phantom/Fargo account in Equity Edge on April 29, 2002.

FALSE AND MISLEADING STATEMENTS IN CTI'S PUBLIC FILINGS

52. From the inception of CTI, SORIN drafted and approved the company's proxy statements, annual and quarterly filings, and stock option plans. The proxy statements and annual filings were sent to CTI's shareholders by United States mail. KREINBERG participated in drafting financial portions of the filings. ALEXANDER and KREINBERG reviewed and approved these documents. Several employees have informed me that ALEXANDER carefully reviewed the draft filings, flagging typographical and other errors. According to one employee, ALEXANDER bragged about his meticulous review, saying, "How many CEOs do you know who read every word of the footnotes?" Set forth below is a description of some of the false statements and misrepresentations the defendants knowingly made about option grants in these publicly filed documents.

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[36]Because Phantom was misspelled as "Fanton" in Equity Edge, entries for Fanton and Fargo would appear on the same page alphabetically.

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A. Proxy Statements and Stock Option Plans

i. The 1999 Proxy Statement and 1999 Stock Option Plan

53. On September 7, 1999, CTI filed a proxy statement for an annual shareholder meeting to be held on October 8, 1999 in Melville, New York. The matters to be brought to a vote, as SORIN explained as Secretary of the Board, included: (1) amending the certificate of incorporation to increase from 100 million to 300 million the aggregate number of authorized shares of CTI's common stock, and (2) adopting CTI's 1999 Stock Incentive Compensation Plan (the "1999 Plan"), which the Board of Directors had approved and recommended to shareholders.

54. The proxy statement explained that one of the reasons for increasing the total number of authorized shares was that additional shares would be necessary to implement the 1999 Plan. On April 30, 1999, only 38,513 shares remained available for option grants under the Company's existing stock option plans. Under the 1999 Plan, 3.5 million additional shares would be made available for new options. The proxy statement acknowledged that the issuance of additional stock could adversely affect existing shareholders by diluting earning per share and voting power.

55. The proxy statement noted that the 1999 Plan would be administered by independent directors serving on the Compensation Committee, which would have the authority to determine "recipients, the timing of [a]wards and the type, size and terms of each [a]ward." The 1999 Plan would authorize both incentive and nonqualified stock options. However, the incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 1999 Plan would have to be issued at fair market value of the stock "on the grant date."

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56. Underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the proxy statement falsely stated: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." This statement was false and misleading because the defendants had backdated the options to earlier dates when the stock was trading at a lower price. The proxy statement also represented that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," to build employees' long term commitment to CTI, and to meet the requirements of I.R.C. Section 162(m). These statements were false and misleading because the granting of in-the-money options effectively gave employees in part a bonus rather than a pure incentive to work hard to increase the stock price. Backdating the options did not fully align the interests of employees and shareholders, or put them on the same footing; employees had an advantage. Moreover, backdating eroded the requisite period of vesting, since the vesting period began from the backdated date.

57. At the annual meeting on October 8, 1999, the shareholders approved the 1999 Plan. As set forth above, with this new Plan in hand, in November 1999, the defendants issued a company-wide grant backdated to October 18, 1999, and ALEXANDER and KREINBERG launched the fraudulent Phantom/Fargo scheme.

ii. The 2000 Proxy Statement and 2000 Stock Option Plan

58. On July 20, 2000, CTI filed a preliminary proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New

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York, on September 15, 2000.[37] The matters to be brought to a vote, as explained by SORIN, Secretary of the Board, included: (1) amending the certificate of incorporation to increase the number of authorized shares from 300 million to 600 million; and (2) adopting the 2000 Stock Incentive Compensation Plan (the "2000 Plan"), under which up to nine million shares would be newly available for the issuance of options.

59. The 2000 proxy statement contained substantially the same false and misleading statements as the 1999 proxy statement.[38] At the annual meeting, the shareholders approved the 2000 Plan. As set forth above, the defendants then backdated a company-wide grant with a false date of November 30, 2000.

iii. The 2001 Proxy Statement and 2001 Stock Option Plan

60. On May 11, 2001, CTI filed a proxy statement regarding matters to be brought to a vote at the annual shareholder meeting to be held in Melville, New York, on June 15, 2001. The matters to be brought to a vote, as explained by SORIN, Secretary of the Board, included adopting the 2001 Stock Incentive Compensation Plan (the "2001 Plan"), under which 9.7 million shares would be newly available for the issuance of options.

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[37]The definitive proxy statement was filed May 11, 2001, and contained the same representations as the preliminary statement.

[38]Specifically, the 2000 proxy statement falsely stated that incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 2000 Plan would be issued at fair market value of the stock "on the grant date." Underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the 2000 proxy statement falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." The 2000 proxy statement repeated the misleading claim that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," build employees' long term commitment to CTI, and meet the requirements of I.R.C. Section 162(m).

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61. The 2001 proxy statement contained substantially the same false and misleading statements as the 1999 and 2000 proxy statements.[39]

62. At the annual meeting, the shareholders approved the 2001 Plan. As set forth above, the defendants subsequently backdated a company-wide grant with a false date of October 22, 2001.

iv. Special 2001 Proxy Statement and Repricing of Options

63. On December 13, 2001, CTI filed a proxy statement for a special shareholder meeting to be held in Melville, New York on January 29, 2002. The purpose of the meeting, as explained by SORIN as Secretary of the Board, was to approve the repricing of underwater options (i.e. options whose exercise price was greater than the current trading price of the stock). If approved, the options would be reissued and repriced at the fair market value of the stock no earlier than six months and one day following cancellation of the existing options.

64. In this proxy statement, CTI falsely stated: "Options granted by the Company under the Company's stock incentive compensation plans have exercise prices not less than market price of the Company's Common Stock as reported on the NASDAQ National Market System as of the respective dates of grant." Under a table disclosing options granted in the prior fiscal year (ending January 31, 2001), as the defendants knew, the proxy

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[39]Specifically, the 2001 proxy statement stated that incentive stock options and any options designated as an I.R.C. Section 162(m) award under the 2001 Plan would be issued at fair market value of the stock "on the grant date." In addition, underneath a table disclosing option grants to CTI executives during the prior fiscal year, as the defendants knew, the proxy statement falsely stated: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." The proxy repeated the misleading claim that stock options were designed to align the "interests of employees with the objectives of shareholders, generally," build employees' long term commitment to CTI, and meet the requirements of I.R.C. Section 162(m).

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statement, referring to the options in the table, falsely represented: "The exercise price of the options is equal to the fair market value of the underlying shares at the date of grant." These statements were false and misleading because the options had been backdated to dates when the stock was trading at a lower price. The proxy statement represented: "The Exchange Offer is intended to realign the exercise price of previously granted options with the current trading price of the Company's Common Stock and thereby better enable the Company to motivate and retain its employees and achieve the Company's business goals." This statement was false and misleading because the defendants failed to disclose that the starting point (i.e., the exercise price) of the underwater options was below the fair market value of the underlying stock at the time of the grant.

65. At the special shareholder meeting, the shareholders approved the repricing plan.

B. Annual and Quarterly Reports

66. On April 30, 2002, CTI filed its annual report on Form 10-K, covering the fiscal year ended January 31, 2002. The financial statements in this report were false and misleading because the defendants had caused CTI to fail to expense the backdated, in-the-money options. The financial statements contained the following footnote in relevant part with respect to options:

> The Company applies Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to Employees," and related interpretations in accounting for its option plans. Accordingly, *as all options have been granted at exercise prices equal to fair market value on the date of grant, no compensation expense has been recognized by the Company in connection with its stock-based compensation plans.*

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(Emphasis added). Because the defendants had caused CTI to issue backdated options during calendar year 2001, the defendants knew these statements were false. CTI's annual reports for fiscal years ending January 31, 1999, January 31, 2000, and January 31, 2001, filed on April 26, 1999, May 1, 2000, and April 30, 2001, respectively, contained similar statements which the defendants knew to be false. ALEXANDER, KREINBERG and SORIN signed these false annual reports.

67. In addition, during the years at issue, the defendants caused CTI to issue quarterly filings containing financial statements which the defendants knew to be false because the defendants knew that CTI had failed to expense backdated options granted at less than the fair market value of the stock on the date of the grant. These false quarterly filings included CTI's quarterly report for the period ending October 31, 2001, filed on December 14, 2001. ALEXANDER and KREINBERG signed these false quarterly reports.

FALSE AND MISLEADING STATEMENTS TO INSTITUTIONAL INVESTORS

68. During the relevant period, a significant percentage of CTI's stock was owned by institutional investors. As the defendants knew, certain of these institutional investors were opposed to stock option plans (and some had internal policies to that effect) that allowed the company to grant options with exercise prices below the fair market value of the underlying stock. As set forth above, CTI's plans allowed the company to issue nonqualified stock options (but not incentive stock options) with exercise prices below the fair market value of the underlying stock, although CTI repeatedly represented in its public filings that it had never done so. When the stock option plans were presented to shareholders for approval, the provision allowing grants of in-the-money nonqualified options caused concern among certain institutional

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investors, who pressed CTI to commit that it would not in fact issue options priced in that manner. As explained below, the defendants were aware of these concerns and falsely represented to these institutional investors that CTI would not issue any options with an exercise price below the fair market value of the underlying stock.

69. In or about early June 2001, two institutional investors voted or indicated their intention to vote against CTI's proposed 2001 Stock Option Plan (the "2001 Plan"). CTI sought to reverse those votes before the shareholder meeting scheduled for June 15, 2001. On or about June 8, 2001, CTI's investor relations representative (the "IR Representative") sent an e-mail about this issue to SORIN with copies to ALEXANDER and KREINBERG. The subject line of the e-mail stated that two investors were "willing to change vote in favor if we give them a few assurances in writing." In the e-mail, the IR Representative quoted a "list of demands" from one of the institutional investors (Investor #1), which controlled nearly 8 million shares. The "list of demands" is excerpted in relevant part below:

> In order to vote in favor of your firm's option plan, we would need to receive a letter, signed by the CEO or CFO of Comverse, certifying that notwithstanding the terms of the option plan, Comverse has never used, and will not in the future use, any of the following features of the plan:
> ...
>
> 3. [A]ny other option, with an exercise price less than the FMV [fair market value] at time of grant of the option.
> ...
>
> If you can fax me a letter to this effect, I will be able to change [Investor #1's] vote.

70. In the same June 8, 2001, e-mail to the defendants, the IR Representative wrote that another institutional investor (Investor #2) wanted an e-mail "stating that we will not

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issue below market options (he said write that we never have, and will not; I'm guessing we can skip the part about the past)." Investor #2 owned over 17.3 million shares, or more than ten percent, of CTI's stock, making it CTI's second largest shareholder at the time.

71. In response to the concerns expressed by the institutional investors through the IR Representative, on June 11, 2001, SORIN drafted letters, which ALEXANDER and KREINBERG approved, addressed to both institutional investors. With respect to Investor #1, the letter falsely stated that CTI would not, without Investor #1's prior approval, "[g]rant any options . . . having an exercise or purchase price below the fair market value of the underlying shares at the date of grant or award." With respect to Investor #2, the letter falsely stated that CTI would not, without Investor #2's prior approval, "grant any options under the plan having an exercise price below the fair market value of the underlying shares at the date of grant." The IR Representative forwarded this representation by e-mail to Investor #2. As the defendants knew, these representations were false and misleading because the defendants had repeatedly engaged in the practice of issuing backdated, in-the money options, and intended to continue to do so. In fact, after the 2001 Plan was approved at the shareholder meeting on June 15, 2001, as set forth in detail above, the defendants arranged for CTI to issue a company-wide grant of in-the-money options with a backdated effective date of October 22, 2001.

FALSE AND MISLEADING STATEMENTS AND, FINALLY, ADMISSIONS, ONCE THE SCHEME COMES TO LIGHT IN MARCH 2006

72. As set forth in detail below, the defendants' unlawful scheme began to come to light in early March 2006, when a reporter from the Wall Street Journal (the "WSJ reporter") called CTI to inquire about an unusual pattern in the timing of CTI's stock option

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grants. From that moment, ALEXANDER, KREINBERG and SORIN attempted to manufacture a coherent explanation of their unlawful conduct. In so doing, they: (a) approved false statements to be made to the WSJ, the financial paper of record for the investing public; (b) lied directly to a high-ranking in-house lawyer for CTI (the "CTI Lawyer"); and (c) lied to CTI's outside auditor. When the story they delivered began to fall apart, they began to make admissions about their conduct, yet tried to justify their unlawful behavior. KREINBERG tampered with evidence important to the Special Committee, and then hid this conduct from the Special Committee, while SORIN asserted a series of half-truths and evasions to the Special Committee.

A. Lies Occasioned by the Wall Street Journal Inquiry

73. On Friday, March 3, 2006, the WSJ reporter telephoned the Chairman of CTI's Compensation Committee (the "CC Chairman") in connection with a forthcoming article about an unusual pattern in the timing of CTI's stock option grants.[40] Later that evening, the WSJ reporter provided the CC Chairman charts showing that CTI had typically granted options to its executives on days when CTI's stock was trading at low points for relevant periods from 1991 through 2001. The CC Chairman faxed these charts to the CTI Lawyer, who in turn faxed them to ALEXANDER.[41] After reviewing the charts, ALEXANDER attempted to explain the

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[40]I have reviewed contemporaneous e-mails, faxes and other documents produced by CTI concerning communications with the WSJ.

[41]I have participated in debriefings of the CTI Lawyer. The CTI Lawyer did not participate in the process of granting CTI's stock options during the years in question and is not implicated in this investigation. The information obtained in this section is generally derived from debriefings of the CTI Lawyer and other employees of CTI, and from documents.

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unusual pattern by falsely telling the CTI Lawyer, in substance, "we picked good days" to issue stock options, meaning that the grant dates were fortuitous rather than backdated.[42] During the weekend, KREINBERG repeated this false statement to the CTI Lawyer.

74. On Sunday, March 5, 2006, ALEXANDER, KREINBERG, SORIN and the CTI Lawyer met at the offices of CTI in Manhattan to discuss the inquiry from the WSJ reporter. During this meeting, the defendants all falsely stated that ALEXANDER had noticed a dip in the stock price and picked that date, the same day, for an options grant. ALEXANDER expressed his view that there was "nothing wrong with that."

75. On Monday, March 6, 2006, after persons at CTI spoke again with the WSJ reporter, the CTI Lawyer met again with ALEXANDER, KREINBERG and SORIN, for the purpose of determining how to respond to the WSJ reporter's inquiry. During this meeting, ALEXANDER, KREINBERG and SORIN all falsely stated in substance that CTI had acted quickly when the stock price dropped, meaning that each grant date was selected and the grant approved on the day of a dip in the stock price, all within the same day. On March 5 or 6, 2006, SORIN falsely told the CTI Lawyer that the grants were done appropriately.

76. On Tuesday, March 7, 2006, based on false information provided by ALEXANDER, KREINBERG and SORIN to the CTI Lawyer, CTI issued a statement by e-mail to the WSJ reporter, approved by the defendants, stating: "Regarding your questions from yesterday, our response is: 'all grants of stock options to our management and employees were made in accordance with the applicable laws and regulations.' " The same day, the WSJ reporter

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[42]Where actions, conversations and statements of others are related in this Affidavit, including by quotation, they are related in substance and in part.

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replied:

> Thanks for the response. I guess I was hoping for an answer to at least the basic question, which was: Did the board actually approve and grant the options on the dates listed in my table? Obviously it would be good to have answers to the other questions, but I think that one is of paramount importance.

This e-mail from the WSJ reporter provoked additional internal discussion at CTI, in which ALEXANDER, KREINBERG and SORIN repeated their same false statements to the CTI Lawyer that the grants were approved on the date of a dip in the stock price.

77. On Wednesday, March 8, 2006, again based on false information provided by ALEXANDER, KREINBERG and SORIN to the CTI Lawyer, CTI released a second statement to the WSJ reporter stating: "Regarding your question below, [the CC Chairman] has the following response: 'the options were approved on the dates in your table.' " Later that day, the defendants met with the CTI Lawyer and outside counsel for CTI. Before the meeting, the CTI Lawyer made it clear to the defendants that outside counsel for CTI represented CTI and not the defendants. During the meeting, SORIN claimed for the first time – falsely – that he had telephoned members of the Compensation Committee "*seriatim*" on the day of the dip in the stock price and obtained their oral approval to grant the options that day. SORIN further claimed that he had followed up on a subsequent date with unanimous written consent forms to members of the Compensation Committee to confirm their prior oral approval of the grants. As the discussion progressed, SORIN changed his story to say that perhaps only some calls were made to Committee members that day, and then to say that perhaps the calls were actually made a few days later.

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B. Admissions and False Statements to the CTI Lawyer

78. On Thursday, March 9, 2006, ALEXANDER, SORIN and KREINBERG met with lawyers at a law firm in Manhattan. Upon their return to the offices of CTI, the defendants asked to meet with the CTI Lawyer. During this meeting, they announced that they had retained a law firm to represent them individually. The CTI Lawyer cautioned the defendants that the CTI Lawyer represented CTI and not the defendants. The defendants explained that there might be "issues," because, "hypothetically speaking," in substance, the calls to the Compensation Committee were not made on the date of the grant, and they had "looked back" during the option grant process. The CTI Lawyer abruptly terminated the conversation and stated his/her intent to call an emergency meeting of the Board of Directors to report this turn of events. The CTI Lawyer immediately began that process. Subsequently, ALEXANDER and KREINBERG repeatedly told the CTI Lawyer that he/she was overreacting and importuned the CTI Lawyer to handle the internal investigation personally instead of hiring independent counsel. The CTI Lawyer declined the defendants' request.

79. On Friday, March 10, 2006, the Board of Directors of CTI met and decided to form a Special Committee to investigate the timing of the company's grant of stock options.

80. On Sunday, March 12, 2006, CTI issued a statement to the WSJ as follows: "We are withdrawing our previous comments, and we are replacing them with the following: 'We are currently reviewing our option grants. Accordingly, the earlier statements should not be used.' " In a subsequent e-mail (responding to an e-mail inquiry by the WSJ reporter), the CC Chairman confirmed that his/her prior statement to the WSJ, that "the options

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were approved on the dates in your table," was withdrawn as well.

81. On Monday, March 13, 2006, ALEXANDER and KREINBERG asked to speak again with the CTI Lawyer. The CTI Lawyer again repeated his/her admonition that he/she did not represent them. ALEXANDER and KREINBERG stated that their own lawyers were in the process of making a presentation to CTI's outside counsel in order to "come clean." ALEXANDER and KREINBERG then made a series of admissions to the CTI Lawyer, including, in substance, the following: (a) the grant dates were backdated because they had been picked after the fact; (b) there were grants to fictitious individuals, known as "Phantom;" (c) an account known as "Fargo" was created to store the "Phantom" options to be issued as needed (without Compensation Committee approval) for certain employees to receive grants; (d) Phantom/Fargo was in operation from 1998 until 2002; (e) the purpose of Phantom/Fargo was to compensate employees and not high-level executives; (f) Phantom/Fargo was justifiable because it helped employee retention; and (g) Phantom/Fargo was shut down in April 2002, with the advent of Sarbanes-Oxley[43] and a more stringent enforcement "environment."

82. Subsequently, in another conversation with the CTI Lawyer, ALEXANDER tried to justify his conduct by saying he had to do this to retain people, the stock was "going crazy," it was a different environment in the 1990s, and everyone in Silicon Valley was "doing it" (i.e. backdating). He also stated he had used Fargo options for employees and not

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[43]Before certain provisions of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley") became effective on August 29, 2002, option grants were required to be reported in annual proxy statements and on Form 5, due within 45 days of the end of the fiscal year. One of the effects of Sarbanes-Oxley was to amend Section 16(a) of the Securities Exchange Act of 1934 to require officers to report option grants on Form 4 within 48 hours of the grant. This 48-hour reporting requirement made it much more difficult for a company to backdate options.

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himself. In a separate conversation with the CTI Lawyer, KREINBERG deflected blame to ALEXANDER by saying that the practice of backdating was in place when KREINBERG joined CTI, and that Phantom/Fargo was ALEXANDER's idea.

83. On Tuesday, March 14, 2006, after CTI announced its internal investigation, CTI's stock dropped from the previous day's close of $29.15 to end at $24.85, for a one-day decline of nearly 15 percent. Subsequently, on April 17, 2006, CTI announced that it expected to restate its financial statements for several fiscal years due to the failure to record compensation expense associated with the issuance of stock options.

84. On Saturday, March 18, 2006, the WSJ published an article on the timing of option grants and the possibility of backdating, including at CTI. With respect to the pattern of CTI's granting options repeatedly during dips in the stock price, the article stated: "The odds of such a pattern occurring by chance are around 1 in six billion, according to the Journal's analysis."[44]

C. Lies to CTI's Auditor in March 2006

85. On or about March 9 and 10, 2006, KREINBERG called a Deloitte & Touche partner who was supervising an unrelated audit of CTI's financial statements (the "Audit Partner").[45] During these calls, KREINBERG notified the Audit Partner about the WSJ inquiry and the formation of the Special Committee, and falsely claimed that CTI's employee option

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[44]C. Forelle & J. Bandler, "The Perfect Payday: Some CEOs Reap Millions by Landing Stock Options When They Are Most Valuable. Luck – or Something Else?" WSJ (A1), Mar. 18, 2006. The WSJ had alerted CTI to these odds by e-mail prior to publishing the article.

[45]This audit partner was not on the audit team for CTI during the relevant years.

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grants were made in accordance with applicable law. KREINBERG falsely suggested that he had no personal knowledge of the option grant process, and he blamed any discrepancies on the "sloppy" work habits of CTI's former CFO.[46] KREINBERG falsely told the Audit Partner that the former CFO had picked a good day to grant options, which, KREINBERG explained, meant a day when the former CFO saw a dip in the stock and believed the price would rise. KREINBERG falsely told the Audit Partner that, on the same day as the dip in the stock price, the former CFO called each member of CTI's Compensation Committee to obtain their approval to grant options, followed by the requisite paperwork a short time later. KREINBERG made no mention of the Phantom/Fargo account. In short, KREINBERG falsely led the Audit Partner to believe that this was a small, manageable problem that KREINBERG had inherited rather than the product of concerted action by himself and other top-level executives.

86. On or about March 12, 2006, KREINBERG and SORIN together made a call to the Audit Partner, during which SORIN made a series of false and misleading statements. Specifically, SORIN falsely stated that, during the option grant process, he had received calls from ALEXANDER, KREINBERG or the former CFO informing him that CTI was going to make a grant of options on that very same day. SORIN falsely claimed that he then called and reached each member of the Compensation Committee to get their oral consent to the options grant on the same day that ALEXANDER or KREINBERG had called SORIN about initiating a grant of options. When the Audit Partner asked SORIN whether he was certain that he had reached every member of the Compensation Committee on the very same day ALEXANDER or

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[46]KREINBERG became CTI's CFO in May 1999, but performed many of the functions of the CFO prior to that date, according to knowledgeable employees of CTI.

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KREINBERG contacted him, SORIN falsely responded that he believed he reached each member that same day and later added that he could not recall any instance when he did not reach all of the members on that same day. SORIN further falsely claimed that when he spoke with the members of the Compensation Committee, he informed them of the total number of options to be granted to all CTI employees and the number of options to be granted to each member of senior management. Finally, SORIN falsely stated that he had dated the unanimous written consent forms using the date he had placed the telephone call to the members of the Compensation Committee.

D. Tampering with Equity Edge Options Database

87. The investigation has shown that, in addition to making the series of false statements described above, KREINBERG tampered with evidence important to the Special Committee's inquiry, as that Committee was being formed. Specifically, in March 2006, after the WSJ began inquiring about CTI's option grants, KREINBERG told the Assistant that he had used the Assistant's password to access the Equity Edge options database.[47] In reviewing the database, KREINBERG saw that the Phantom/Fargo account in Equity Edge reflected two close-out dates, April 29, 2002 (the date that the Assistant closed the Phantom/Fargo account) and June 20, 2002 (the date of the company-wide repricing of options, pursuant to which all eligible options were canceled). After noticing this, as KREINBERG told the Assistant, on or about March 10, 2006, KREINBERG changed the Phantom/Fargo close-out date from April 29, 2002 to June 20, 2002. KREINBERG explained to the Assistant that he did this to bury the

[47]In 2006, KREINBERG had "read-only" privileges in Equity Edge; the Assistant had "write" privileges.

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Phantom/Fargo account in the hundreds of accounts that reflected a June 20, 2002 close-out date, so that the Phantom/Fargo account would not stand out.

88. During this conversation, KREINBERG referred to himself as an "idiot" and asked the Assistant to help him. KREINBERG insisted that he had reversed the change he had initially made, but was concerned that the "last modified" date in Equity Edge would reveal that someone had accessed the Phantom/Fargo account in March 2006. At KREINBERG's request, the Assistant made an inconsequential global change within Equity Edge, thus accessing all the accounts, so that every account would reflect a single "last modified" date, and not just the Phantom/Fargo account that KREINBERG had tampered with.[48]

89. On Monday, March 20, 2006, after participating in an interview with the Special Committee, KREINBERG admitted to the CTI Lawyer that he had used someone else's password to access Equity Edge and change the close-out date for the Phantom/Fargo account from April to June 2002. KREINBERG explained that this would help hide the account because millions of other grants had been repriced and closed out in June 2002, and therefore Phantom/Fargo would not stand out if it bore the same close-out date. KREINBERG stated that he had tried to undo the change he made, and realized that both the change and reversal of the change would be detectable in the computer system.

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[48]The reason for making an inconsequential change was to change the "last modified" date of all accounts without actually changing the substance of those accounts.

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E. False and Misleading Statements and Admissions to the Special Committee

i. Admissions by ALEXANDER

90. On March 16, 2006, ALEXANDER was interviewed by the attorneys for the Special Committee.[49] ALEXANDER explained that the options process started with SORIN calling the Compensation Committee and telling the members about a forthcoming grant – specifically the size of the grant company-wide, and how many options the top two or three executives were to receive. When asked whether some of the options were dated with dates prior to any meeting of the committee to approve the grant, ALEXANDER admitted that they were, and noted, in substance, that "we" tried to pick good prices for the sake of the employees. When asked if the "as of" date was the date that SORIN spoke to the Compensation Committee, ALEXANDER conceded that the majority of the unanimous written consents contained an "as of" date predating SORIN's calls to the committee. He added that, as far as he knew, "everyone" was doing it this way, apparently referring to other technology companies. When asked about whether a particular employee knew about the backdating of options, ALEXANDER noted that it was no secret.

91. With regard to Phantom/Fargo, ALEXANDER stated that either he or KREINBERG came up with the idea, and then admitted, "It might as well be me." ALEXANDER explained that the Phantom/Fargo account was used in certain situations to retain or recruit employees. ALEXANDER admitted that both he and KREINBERG gave instructions to the Assistant to generate options for the Phantom/Fargo account using fictitious names hidden

[49]CTI has provided the government with information about the defendants' statements to the Special Committee.

DOJ_NMG_ 0166285

in grantee lists submitted to the Compensation Committee. ALEXANDER admitted knowing about certain grants of options from the Phantom/Fargo account, and stated that approximately 270,000 options flowed out of that account. ALEXANDER specifically admitted that he had authorized the transfer of Phantom/Fargo options to the Israeli executive who exercised and sold them, making $2 million in one day.

ii. Omissions and Admissions by KREINBERG

92. On March 16, 2006, in his first interview with the attorneys for the Special Committee, KREINBERG admitted that, in the grants prior to 2002, he and ALEXANDER looked for the low price of the stock when setting an option grant date. He recalled that it was starting in approximately 1998 that he and ALEXANDER discussed which dates would be good to have as "as of" option dates. KREINBERG stated that ALEXANDER communicated the chosen dates to SORIN.

93. During this same interview, KREINBERG admitted that he and ALEXANDER created Phantom/Fargo because ALEXANDER felt it was important to be able to have options available for special circumstances, such as dealing with a disgruntled employee. KREINBERG acquiesced. KREINBERG provided details about how the account was funded, both through the use of fictitious grant information sent to the Compensation Committee, and by shifting unvested options from the accounts of departing employees to the Phantom/Fargo account. KREINBERG identified two instances in which Phantom/Fargo options were granted to employees, including the Israeli executive who had received vested, in-the-money options, and who realized an instant $2 million profit. KREINBERG claimed that the backdating of CTI options and the use of Phantom/Fargo ended in April 2002.

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94. On March 20, 2006, in the second of his three interviews with the attorneys for the Special Committee, after having been told that the Special Committee was aware of facts that KREINBERG had failed to disclose in his first interview, KREINBERG admitted for the first time that he had accessed Equity Edge with the Assistant's password on March 10, 2006, and had changed the April 29, 2002 close-out date on the Phantom/Fargo account to June 20, 2002, to hide the Phantom/Fargo account among other accounts in which options were canceled under the repricing plan on June 20, 2002. KREINBERG stated that he immediately re-thought his decision and attempted to change the close-out date back to April 29, 2002. KREINBERG further admitted that he had asked the Assistant for help in masking when he had last accessed the Phantom/Fargo account.

iii. Half-Truths and Evasions by SORIN

95. SORIN's statements to the Special Committee have been marked by a series of half-truths and evasions. On March 23, 2006, SORIN was interviewed by the attorneys for the Special Committee. During the interview, SORIN admitted that options were backdated, but later in the interview tried to retract this admission. SORIN said that the "as of" option grant date had, at least sometimes, been picked days or weeks subsequent to the "as of" date. He claimed minimal recall of the specifics – when this occurred, how many times, when it started. SORIN claimed that the practice was common in his experience, and said that it did not distinguish the company. When asked whether he thought this was legal, SORIN stated, in substance, that he did not remember having analyzed at the time whether it was legal or not, but the fact that it went through him means that he thought it was legal. SORIN subsequently admitted that the process was "screwed up."

DOJ_NMG_ 0166287

96. When asked who told him he could backdate the unanimous written consents, SORIN stated that he could do it because, as he explained it in substance, the Compensation Committee in effect ratified management's selection of the option grant date. SORIN did not remember articulating to ALEXANDER or KREINBERG that this practice was acceptable, but SORIN claimed that he thought that it was at the time. When asked what he meant when he said that now, in hindsight, "maybe" disclosure was not proper, SORIN replied, in substance, that he was not sure and did not know, and that he would have to think about it, as he had not practiced law in many years.[50]

97. SORIN said that he did not know what he thought "back then," but that he now realized that CTI options were granted below fair market value. When asked what steps he had taken at the time to ensure the accuracy of the CTI proxy statements that the options were granted with a strike price at the fair market value of the stock, SORIN said that he did not take any steps.

98. SORIN advised that, after the WSJ inquiry, ALEXANDER told him that he and KREINBERG were going to acknowledge backdating the options. SORIN said that he told ALEXANDER that this was not as "clear cut" a case as he was presenting it. SORIN and ALEXANDER then reviewed the option grant process together and discussed the fact that pricing had been an issue in selecting the grant date. SORIN admitted to the attorneys for the Special Committee that, in fact, "it happened on at least some occasions." When asked what he was referring to, SORIN admitted that the date in the "papers" preceded his discussions with the

[50]CTI's publicly-filed proxy statements during the years in question, and as recently as the last such filing in 2005, described SORIN as "an attorney engaged in private practice." SORIN submitted these proxy statements as Secretary of the Board.

DOJ_NMG_ 0166288

Compensation Committee.

99. SORIN was asked whether he understood that ALEXANDER did not have the power to give option grants, and SORIN agreed that was correct. When asked whether he understood that only the Compensation Committee had that power, SORIN retorted that he did not want to get into "technical stuff."

CONCLUSION

WHEREFORE, based on the foregoing, your deponent respectfully requests that warrants issue for the arrest of the defendants JACOB ALEXANDER, also known as "Kobi Alexander," DAVID KREINBERG and WILLIAM F. SORIN so that they may be dealt with according to law.

WHEREFORE, your deponent respectfully requests that this Affidavit and the resulting warrants be sealed until such time as the defendants have been arrested, when they shall be automatically unsealed as necessary to facilitate the defendants' arraignments.

KEVIN RIORDAN
Special Agent
Federal Bureau of Investigation

Sworn to before me this
31st day of July, 2006

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

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Image not available for this document, ID: 0.7.10316.38926-000005

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 1:36 PM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: CORPORATE FRAUD TASK FORCE

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

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

FACT SHEET:
CORPORATE FRAUD TASK FORCE

Since its creation by Executive Order in July 2002, the Corporate Fraud Task Force (CFTF) has spearheaded the Administration's effort to prosecute corporate malfeasance, protect the jobs of hard-working Americans, and restore confidence to the marketplace. Through the coordinated efforts of several federal agencies, the CFTF is sending a clear message that criminal activities in the corporate world will be swiftly and decisively prosecuted. By acting to deter fraud, the Task Force is also helping to restore shareholder and employee trust and demonstrating to the American people that the vast majority of corporate leaders are still honest and hardworking. With today's indictment of three former executives of Comverse Technology Inc., the Justice Department furthers its commitment to the American worker, investor, and honest taxpayers.

Since its inception, the Task Force has contributed to the following:

- Securing more than 1,000 corporate fraud convictions;
- Convicting more than 100 corporate CEOs and presidents with some type of corporate fraud crime in connection with more than 600 filed cases;
- Convicting more than 100 vice-presidents;
- Convicting more than 30 CFOs; and
- Charging more than 1,300 defendants.

Significant cases prosecuted criminally include, among others: Former Enron CEOs Jeffrey Skilling and Kenneth Lay, convicted on charges including conspiracy, securities fraud, wire fraud, and making false statements; Worldcom Chief Executive Officer Bernard Ebbers, convicted on fraud charges in the Southern District of New York; a deferred prosecution agreement with America Online in the Eastern District of Virginia; Adelphia Chief Executive Officer John Rigas, convicted on charges of securities fraud, bank fraud, and conspiracy in the Southern District of New York; a deferred prosecution agreement with Computer Associates, prosecuted in the Eastern District of New York.

The work of the CFTF is ongoing. The Task Force will continue to seek to successfully:

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- Restore confidence to the marketplace;
- Provide fair and accurate information to the investing public;
- Reward shareholder and employee trust; and
- Protect jobs and savings of hard-working Americans.

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06-521

DOJ_NMG_ 0166293

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Image not available for this document, ID: 0.7.10316.38747-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 3:01 PM
To: USDOJ- Office of Public Affairs
Subject: GOVERNMENT SETTLEMENTS ENSURE CLEANUP OF CONTAMINATED SITES IN NEW JERSEY

Department of Justice

ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

DOJ (202) 514-2007
EPA (212) 637-3651
TDD (202) 514-1888

GOVERNMENT SETTLEMENTS ENSURE CLEANUP OF CONTAMINATED SITES IN NEW JERSEY

WASHINGTON – The Department of Justice and the Environmental Protection Agency (EPA) announc today that they have reached separate agreements with NCH Corporation (NCH) and FMC Corporation (FMC) t resolve claims against them relating to the costs of cleanup at the Higgins Farm and Higgins Disposal Superfund in Somerset County, N.J. Both companies have agreed to reimburse the federal government for costs incurred cl up the contamination found in the soil and ground water at the sites.

As a part of these settlements, NCH will take over operating the ground water treatment plant that EPA b the Higgins Farm site, saving the government approximately $12 million in future costs. NCH has also agreed t EPA more than $2 million to cover past cleanup costs at both sites. FMC has agreed to pay EPA almost $17 mil including $14.5 million for EPA's cleanup costs at Higgins Farm. Under an earlier agreement with EPA entered 2004, FMC constructed and began operating a ground water treatment plant at the Higgins Disposal site. The Department of Energy is also paying more than $9 million to cover past and future cleanup costs at both sites.

"The government has spent millions of dollars cleaning up contaminated soil and ground water at both th Higgins Farm and Higgins Disposal Sites," said Sue Ellen Wooldridge, Assistant Attorney General for the Justic Department's Environment and Natural Resources Division. "We are pleased that today's settlements help ensu the government is reimbursed for its work, and we reaffirm our commitment to ensuring that hazardous waste si cleaned up."

"These settlements illustrate how Superfund is supposed to work – making polluters pay for cleaning up said Regional Administrator Alan J. Steinberg. "Now, we can continue to operate treatment facilities at the sites will address any remaining contamination."

The Higgins Farm Superfund site is located in a rural area along Route 518 in Franklin Township. The s approximately 75 acres in size and is currently operated as a cattle farm. In March 1989, EPA placed the Higgin site on the National Priorities List (NPL) of the country's most contaminated sites.

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The Higgins Disposal Superfund site is located on a 37.6-acre parcel on Laurel Avenue in Franklin Towr From the 1950s to 1985, the site owner operated a waste disposal business including a landfill and waste transfer station. The owner's family currently maintains a residence on the site, an equestrian facility (Hasty Acres Ridin Club) and a truck repair shop. In August 1990, EPA placed the Higgins Disposal site on the NPL.

The Department of Justice lodged both consent decrees today in the U.S. District Court for the District of Jersey. The consent decrees will be subject to a 30-day public comment period and subsequent judicial approval are available on the Justice Department website at http://www.usdoj.gov/enrd/Consent_Decrees.html.

For more information about the Higgins Disposal site: http://www.epa.gov/region02/superfund/npl/0200359c.htı

For more information about the Higgins Farm site: http://www.epa.gov/region02/superfund/npl/0201094c.htm.

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DOJ_NMG_ 0166297

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Image not available for this document, ID: 0.7.10316.38886-000002

Image not available for this document, ID: 0.7.10316.38886-000003

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Wednesday, August 09, 2006 3:48 PM
To: Gorsuch, Neil M
Subject: Have you gotten

Rachel's letter on behalf of Mark Champoux.

Jamil Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (office)
(202) 305-5465 (cell)
jamil.n.jaffer@usdoj.gov

Otus2005, Ag

Subject: Canceled: Senior Management Meeting

Start: Tuesday, August 1, 2006 8:30 AM
End: Tuesday, August 1, 2006 9:00 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Not yet responded

Organizer: Otus2005, Ag
Required Attendees: Gorsuch, Neil M; Gorsuch, Neil M

Importance: High

When: Occurs every weekday effective 8/1/2006 until 8/31/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston, Greg Katsas

Otus2005, Ag

Subject: Canceled: Senior Management Meeting

Start: Thursday, August 10, 2006 8:30 AM
End: Thursday, August 10, 2006 9:00 AM

Recurrence: Daily
Recurrence Pattern: every weekday from 8:30 AM to 9:00 AM

Meeting Status: Not yet responded

Organizer: Otus2005, Ag
Required Attendees: Gorsuch, Neil M; Gorsuch, Neil M; Mercer, Bill (ODAG)

Importance: High

When: Thursday, August 10, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Kristi Macklin, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 5:14 PM
To: USDOJ- Office of Public Affairs
Subject: UTAH MAN CHARGED FOR INTERCEPTING HIS FORMER EMPLOYER'S ELECTRONIC MAIL

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

UTAH MAN CHARGED FOR INTERCEPTING HIS FORMER EMPLOYER'S ELECTRONIC MAIL

WASHINGTON – A Utah man has been charged for illegally intercepting the e-mail of two officials at his former employer, a high-technology company in Salt Lake City, the Justice Department announced today.

William K. Dobson, 55, of Salt Lake City has been charged in a three-count criminal indictment, two for intercepting electronic communications and a third for illegally obtaining information from a protected computer.

The indictment alleges that Dobson had worked for a high-technology company that he had helped co-found and in which he remained a minority stockholder. After Dobson left the company over business and financial disagreements, he surreptitiously accessed the company's e-mail system on two occasions to insert instructions that would intercept the electronic mail of the company's chief executive officer and its vice president of engineering and send them to a new, unauthorized e-mail inbox that Dobson had created on the company's system. The indictment further alleges that Dobson programmed his home computer to download these e-mails from the company for over a month, until his home was searched by the FBI in connection with this investigation. The indictment further alleges that Dobson read many of these e-mails, which included both business and personal information.

If convicted, Dobson faces a maximum sentence of 15 years in prison, to be followed by up to three years of supervised release, a fine of up to $250,000 or twice the monetary gain or loss, and restitution to the victims.

The case was investigated by the FBI and is being prosecuted by Senior Counsel Scott L. Garland and Trial Attorney Josh Goldfoot of the Criminal Division's Computer Crime and Intellectual Property Section and Assistant U.S. Attorney Jonathan Boyd of the District of Utah.

The details in the indictment are allegations. The defendants are presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

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Image not available for this document, ID: 0.7.10316.38739-000002

fhcsDJ@opm.gov

From: fhcsDJ@opm.gov
Sent: Wednesday, August 9, 2006 6:01 PM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 6:12 PM
To: USDOJ- Office of Public Affairs
Subject: CITGO PETROLEUM AND ENVIRONMENTAL MANAGER INDICTED FOR ENVIRONMENTAL CRIMES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

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

CITGO PETROLEUM AND ENVIRONMENTAL MANAGER INDICTED FOR ENVIRONMENTAL CRIMES

WASHINGTON — A federal grand jury in Corpus Christi, Texas, returned a 10-count indictment today, charging Citgo Petroleum Corporation, its subsidiary, Citgo Refining and Chemicals Co., and the environmental manager at its Corpus Christi East Plant Refinery with criminal violations of the Clean Air Act (CAA) and the Migratory Bird Treaty Act (MBTA), the Justice Department announced.

Citgo was indicted on two counts of operating their refinery in Corpus Christi in violation of the National Emission Standard for Benzene Waste Operations and two counts of operating open top tanks as oil water separators without first installing the emission controls required by federal and state regulations. The CAA regulations require Citgo to control the emission of benzene from waste water produced at the refinery.

The indictment also charges the refinery's environmental manager, Philip Vrazel, with failing to identify in a report filed with the Texas Commission on Environmental Quality (TCEQ) for the year 2000 all of the points in the refinery wastewater system where a potentially harmful chemical, benzene, was generated. An accurate report is required by regulations to be filed with the TCEQ annually.

Benzene is a hazardous air pollutant found to cause cancer in people exposed to small amounts of the chemical. Congress passed the CAA, and the Environmental Protection Agency (EPA) prescribed regulations governing the operation of refineries to limit the amount of benzene that can potentially be emitted to the atmosphere at such facilities. According to the indictment, Citgo operated its Corpus Christi refinery in 2000 with more than 57 megagrams of benzene in waste streams that were exposed to the air. A megagram is equal to one metric ton. Federal regulations limit refineries to operating with no more than six megagrams of benzene in their exposed waste streams. Citgo is also charged with operating in 2001 with more than seven megagrams of benzene in its exposed waste streams.

Regulations governing the construction and operation of new sources of hazardous air pollutants require oil water separators to be fitted with emission control devices to prevent the release of benzene and other harmful chemicals into the environment. According to the indictment, Citgo used two large open top tanks as oil water separators between January 1994 and May 2003 without the required emission controls. During an

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unannounced inspection in March 2002, TCEQ inspectors found approximately 4.5 million gallons of oil in the two open top tanks.

According to the indictment, Citgo Refining and Vrazel are also facing five counts of violating the MBTA for the illegal taking of protected birds. The birds were found coated with oil as a result of landing in the open top tanks. The tanks attract the birds and, thus, must be fitted with nets or other equipment to prevent the birds from entering or landing in the oil. The MBTA implements international treaties that protect birds which migrate between countries by requiring permits and placing limits on the taking of certain species.

If convicted, Citgo faces fines of up to $500,000 or twice the gross economic gain (whichever is greater) and five years of probation. Vrazel faces fines of up to $500,000 and up to five years in prison.

This case is being prosecuted by Senior Litigation Counsel Howard P. Stewart of the Justice Department's Environmental Crimes Section and William R. Miller, Special Assistant U.S. Attorney for the Southern District of Texas. The criminal case is the result of a joint investigation by the EPA, the U.S. Fish and Wildlife Service, the Federal Bureau of Investigation, the Texas Parks and Wildlife Division and the Texas Commission on Environmental Quality.

An indictment contains only allegations. The defendants are presumed innocent unless and until proven guilty.

# # #

06-319

DOJ_NMG_ 0166311

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Image not available for this document, ID: 0.7.10316.38731-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 6:38 PM
To: USDOJ- Office of Public Affairs
Subject: LAWTON MAN ARRESTED FOR FRAUD RELATED TO HURRICANE KATRINA

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 9, 2006
WWW.USDOJ.GOV

CONTACT: BOB TROESTER
PHONE: (405) 553-8809
FAX: (405) 553-8742

LAWTON MAN ARRESTED FOR FRAUD RELATED TO HURRICANE KATRINA

OKLAHOMA CITY — Atari Finley, 26, of Lawton, Okla., was sentenced to five months in prison for cashing a $2,000 FEMA hurricane relief check obtained by fraud, U.S. Attorney John C. Richter for the Western District of Oklahoma, announced today. Finley was also ordered to serve five months of home confinement at the conclusion of his prison term and to pay restitution to FEMA.

According to a superseding indictment filed on Feb. 22, 2006, Finley cashed a Hurricane Katrina disaster relief check made out in his name on Sept. 23, 2005. When he entered a guilty plea on April 12 of this year, he admitted that he knew he was not entitled to any disaster relief money because he had never lived at the Louisiana address on his application for FEMA assistance.

A co-defendant in the case, Sheila A. Perry of Lawton, also pled guilty to obtaining Hurricane Katrina disaster relief money illegally and is scheduled to be sentenced on Aug. 23.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force, chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office and the Executive Office for U.S. Attorneys, among others.

This case was the result of an investigation conducted by the Department of Homeland Security's Office of the Inspector General, the U.S. Secret Service, and the U.S. Postal Inspection Service. The case was prosecuted by Assistant U.S. Attorney Scott E. Williams.

Reference is made to the superseding indictment, the judgment, and other public court filings for further information.

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Image not available for this document, ID: 0.7.10316.38724-000002

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, August 9, 2006 7:21 PM
To: Goodling, Monica
Subject: The Daily Update: 8/9/06

It's a little late for a daily update, but I couldn't let the day pass without reporting on last night's Main Justice vs. AGAC softball game. For those of you who missed it...

"In the Loop: Gonzales Takes No Prisoners," *The Washington Post*, August 9, 2006

This just in from the ballpark at Fort McNair: The Justice Department's softball team beat the visiting U.S. attorneys' team 8-4 yesterday, clinching their best-of-three series, two games to none. Attorney General *Alberto R. Gonzales* pitched a complete seven-inning game for the winners, made a fine catch on a line drive back up the middle and went 2-for-3 at the plate with a run batted in. Despite a field full of lawyers, there were no disputed calls by the umpire. "There was no umpire," explained Justice Department spokesman *Brian Roehrkasse*. "The DOJ respects the rule of law."

In other DOJ news, please welcome Catalina Cabral to DOJ this week. Catalina joins OLA following a year at the WH Office of Presidential Correspondence. Also, if anyone is interested in attending a Wolftrap performance this weekend, please let me know asap (we will not provide more than two tickets per appointee). Performances include:

Friday, August 11 The Irish Tenors

Saturday, August 12 Peter, Paul and Mary

Sunday, August 13 Bella Fleck/Flecktones

Best, Monica

****

<http://www.whitehouse.gov/>
AUGUST 9, 2006

No public events.

Deputy Assistant To The President Peter Wehner Says President Bush's Freedom Agenda Is Both "Morally Compelling" And The "Best Hope For Peace." "The people of the Middle East have for generations suffered under tyranny and been raised on hatred. Democracy and the accompanying rise in free institutions are what they deserve, and what our own security demands. The Freedom Agenda is morally compelling because liberty is better than bondage. But there is also a strong realpolitik argument in favor of the Freedom Agenda. In the words of President Bush, 'The survival of liberty in our land increasingly depends on the success of liberty in other lands. The best hope for peace in our world is the expansion of freedom in all the world <http://online.wsj.com/article/SB115508182073730496.html?mod=todays_us_opinion> .'" (Peter Wehner, Op-Ed, "Democracy And Its Discontents," The Wall Street Journal, 8/9/06)

Half Of The Iraqi Army's Ten Divisions Have Taken Control Of Primary Security Responsibility. "U.S. military commanders on Tuesday handed over to their Iraqi counterparts primary security responsibility for a swath of northern territory extending from the foothills of Iraq's eastern mountains all the way west to the Syrian border <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/08/AR2006080800125_pf.html> . ... Five of the Iraqi army's 10 divisions now have primary responsibility for security in their areas, and FOB Dagger becomes the 48th of 110 U.S. bases handed over to Iraqi control. 'Half of the Iraqi army is now under control of Iraqis,' said the country's national security adviser, Mowaffak al-Rubaie. 'We believe they will be much more competent in fighting terrorism. We know our way around.'" (Andy Mosher, "Swath Of North Turned Over To Iraqi Army," The Washington Post, 8/8/06)

Army Lt. General Peter Chiarelli Discusses Plan To Secure Baghdad. LT. GENERAL CHIARELLI: "And I hope you know this decision was not made lightly. This will be the defining battle of this particular campaign. We've got to take back Baghdad. ... I think it will work because we have a government. And it will be a government that will be in power for four years. And they understand the necessity to move forward in Baghdad." (ABC's "World News Tonight," 8/8/06)

Secretary Of Energy Samuel Bodman Expresses Confidence In Oil Supply. "Energy Secretary Samuel Bodman said Tuesday it could take months to resume normal shipments of Alaska oil, but that there are adequate supplies to make up for the loss to West Coast refineries. 'My sense is we're in pretty reasonable shape,' Bodman told a news conference <http://news.yahoo.com/s/ap/20060808/ap_on_go_ca_st_pe/alaska_oil&printer=1;_ylt=AqFUquMHn1fin8lT0lmS94aWwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> . ... In addition, said Bodman, there are indications that other producers, including Saudi Arabia, have spare capacity and can divert oil to the West Coast, if necessary. Also, the government is prepared to make available oil from the Strategic Petroleum Reserve, if necessary, he noted. 'We believe we know how to handle this type of situation ... There appears to be adequate supplies,' Bodman said." (H. Josef Hebert, "Bodman Confident Oil Supply Can Recover," The Associated Press, 8/8/06)

USA Today Says Alaskan Pipeline Shutdown Shows The Need To Expand U.S. Oil Production. "Second, the shutdown highlights the need to expand domestic oil production, which is dangerously concentrated in Alaska and the hurricane-prone Gulf of Mexico <http://www.usatoday.com/news/opinion/2006-08-08-energy-dependence-our_x.htm> . ... A moratorium on drilling off the Atlantic and Pacific coasts has been in effect for 25 years. Efforts to drill in Alaska's Arctic National Wildlife Refuge, with reserves that rival Prudhoe Bay, have so far been thwarted by environmental concerns. ... But newer technology, along with tougher oversight by regulators, can minimize the impact of drilling." (Editorial, "Loss Of One Oil Field Stings; Scores More Lie Untapped," USA Today, 8/8/06)

President Bush Challenges His Aides In Three Mile Run. "President Bush knows how to turn up the heat on his staff. Tugging at their pride, and perhaps straining their loyalty, the exerciser in chief presided Tuesday over the latest inductees into the 100-Degree Club - the clique of White House aides brave (or perhaps gullible) enough to run three miles in the

blazing August sun of central Texas. ... Bush, a one-time avid jogger who was forced to stop after developing knee problems in 2003, rode circles on his bicycle around the runners, offering playful taunts and encouragement. 'You can do it! Come on!' he told one aide as the group trotted along a path through the president's 1,600-acre Prairie Chapel Ranch
<http://www.latimes.com/news/printedition/asection/la-na-bush9aug09,1,1326005.story?coll=la-news-a_section> ." (Peter Wallsten, "Bush Tells Staff To Make A Run For It," The Los Angeles Times, 8/9/06)

Ask the White House: Samuel Bodman, Secretary of Energy
<http://www.whitehouse.gov/ask/20060808.html>

Press Gaggle by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060808.html>

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 09, 2006 8:22 PM
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Subject: TRANSCRIPT OF PRESS CONFERENCE REGARDING THE INDICTMENT OF THREE FORMER COMVERSE TECHNOLOGY INC. EXECUTIVES

Department of Justice

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TRANSCRIPT OF PRESS CONFERENCE REGARDING THE INDICTMENT OF THREE FORMER COMVERSE TECHNOLOGY INC. EXECUTIVES

WASHINGTON, D.C.

MR. MCNULTY: Good afternoon. I'm Paul McNulty, the Deputy Attorney General, and I am joined on this stage by Roslynn Mauskopf, the United States Attorney for the Eastern District of New York; Chip Burrus, who is the Assistant Director of the Criminal Division for the FBI; and Linda Thomsen, who is the director of enforcement for the Securities and Exchange Commission.

Today, in Brooklyn the federal courthouse for the Eastern District of New York, the Department of Justice unsealed a complaint charging three, former-senior officers of Comverse Technology, Inc. with conspiring to violate our nation's securities laws and to commit mail and wire fraud. Those charged are Jacob "Kobi" Alexander, David Kreinberg, and William F. Sorin.

Mr. Alexander is Comverse's founder, former CEO, and former chairman of the board. He had an active role in preparing and signing the company's quarterly and annual securities filings. Mr. Kreinberg is Comverse's former CFO, and was responsible for the corporation's annual and quarterly securities filings, and Mr. Sorin is Comverse's former general counsel and corporate secretary, and in those duties signed Comverse's annual securities filings and proxy statements.

The criminal complaint outlines a broad-ranging scheme to defraud the investing public through the improper granting of stock options for Comverse's stock. Through that scheme, the three defendants repeatedly ensured that they and others at the corporation received the option to buy stock at prices well below the stock's market price, in violation of the company's shareholder-approved, stock-option plans.

As just one example, in the fall of 2001, the defendants caused options to be granted to themselves and others to buy stock at the share price in effect on October 22, 2001. That date happened to be the second-lowest share price in all of 2001, yet the board's compensation committee did not approve the grants until November 28, 2001, at the earliest, when the share price had risen nearly $5 per share. As a result, Alexander received options worth

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approximately $3 million, Kreinberg received options worth $625,000, and Sorin received options worth $135,000.

At the same time, the defendants repeatedly, falsely indicated with their statements to shareholders and the investing public that it was company practice to grant options only at the prevailing market price. They conducted this scheme by routinely creating false paperwork that showed the options having been granted on dates earlier than the actual dates, a practice known as backdating. Unsurprisingly, given the perfect vision of hindsight, these early dates consistently coincided with dates when the stock was at a low point, ensuring that the options had substantial value when actually granted.

In addition, defendants Alexander and Kreinberg participated in the creation of an options slush fund that allowed Alexander to award options to favored employees without the knowledge or consent of the compensation committee and without appropriate disclosure to the investing public. These options, too, were often backdated, in violation of company policy and statements to the investing public.

Today's action seeks to bring those responsible for these practices to direct account. In addition to criminal charges, the Department has also initiated action to freeze bank accounts worth $45 million, used to launder the proceeds of the scheme, and it has initiated forfeiture proceedings. The criminal charges brought today are only an allegation, of course. All defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law.

Stock options can be a valuable tool for compensating employees. When used appropriately and honestly disclosed, they can ensure that employees have a direct incentive to improve the business and its share price, benefiting the company's shareholders. But when options are backdated to a time when the share price was lower, and without honest disclosure, those options are simply theft from shareholders. The employee gets something of value without taking any steps to improve the company, and without the shareholder ever knowing that the compensation has been paid. Those who engage in such practices must be held responsible.

Now this is not a new effort. A little over four years ago, the President created the Corporate Fraud Task Force as one piece of a multipart initiative to return transparency, accountability, and integrity to our markets. And since that time, the Justice Department has criminally prosecuted more than 1,000 defendants for corporate fraud, including nearly 170 CEOs and corporate presidents, more than 30 CFOs, and nearly 20 corporate counsel.

Other actions by the SEC and by the Congress have also done much to improve corporate accountability. Yet where large sums are at stake, there will always be those who will be tempted to ignore the rules and abuse their positions for their own benefit. Thus we must remain diligent to maintain our hard-won gains in improving our markets.

Investor confidence is critical to our markets, and honesty in corporate leadership is critical to that confidence. Thus the Department of Justice remains steadfast in its determination to hold to account those who violate the investing public's trust. Today's action is simply the latest demonstration of that ongoing but essential effort.

I want to thank, in particular, Roslynn Mauskopf's team in Eastern Virginia (sic), including Ilene Jaroslaw, Linda Lacewell, Sean Casey, Kathleen Nanden. These Assistant United States Attorneys have worked with her in bringing this case, along with many others at the FBI and at the SEC. And I'd like now to recognize Chip Burrus from the FBI to make a statement. Chip.

MR. BURRUS: Thank you, Paul. Thank you, Paul; thank you, Roslynn, and thank you, Linda, for your leadership and fortitude in attacking the deceitful abused of corporate power as we see here today.

Today's complaint represents yet another in a sad, continuing parade of ruined lives and shattered corporations. Since the formation of the President's Corporate Fraud Task Force in 2002, the FBI and its partners have convicted

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more than 400 people in a variety of fraud schemes. Right now there are more than 260 FBI agents working on 420 corporate-fraud and securities-fraud cases to protect the investing public.

This includes 45 instances of backdated stock options, the newest trend in investor-fleecing. Backdated stock options is such an innocent-sounding name, but it's the corporate equivalent of placing a bet after the race has been run.

In what can only be called an abuse of corporate power, these executives, through fraud and deceit, rewarded themselves and their friends, at the expense of the investing public. Mr. Alexander is alleged to have used the scheme to steal $6 million from the corporation. Kreinberg and Sorin also allegedly each netted a million dollars each. Mr. Kreinberg and Mr. Sorin both turned themselves in to the FBI early this morning.

By fraudulently backdating these options and not reporting the awards, the defendants deceived the investing public. They created a slush fund that was used to secretly reward corporate insiders, in one instance netting an executive $4 million in instant profit.

Comverse, a billion dollar publicly traded company and its shareholders were plundered by these modern-day pirates and they must be held accountable. And they will be held accountable in the court of law.

I want to congratulate the men and women of the New York's FBI office who have been working on this case: the prosecutors, the Department of Justice, and the dedicated employees of the Securities and Exchange Commission. Andy Arena and David Chavez in particular worked very hard on this case, and they're here to talk to you, perhaps, afterwards, about the investigation, should you so desire.

I'd like to now introduce Linda Thomsen, but before I go, I want to tell you this is a very strong partnership of the FBI, the Department of Justice dedicated prosecutors, and the Securities and Exchange Commission. We're not going to quit. Linda.

MS. THOMSEN: Thank you, Chip. Good afternoon, everyone. First, I'd like to commend the Deputy Attorney General and everyone at the Department of Justice, especially the team for the United States Attorney's Office for the Eastern District of New York and the Federal Bureau of Investigation who are responsible for the criminal case the Deputy Attorney General just announced.

I'd also like to echo the remarks about the President's Corporate Fraud Task Force. The Securities and Exchange Commission is a proud member of that taskforce and it has been our privilege to work with the other members, especially the Department of Justice, U.S. Attorney's Offices throughout the country, and the Federal Bureau of Investigation, to make sure that corporate fraud is pursued and effectively addressed.

Today's actions, as have been noted, are part of that effort. Today, the Securities and Exchange Commission filed civil, fraud charges against Jacob Alexander, former chairman and chief executive officer of Comverse Technology, Incorporated; David Kreinberg, Comverse's former chief financial officer; and William Sorin, Comverse's former general counsel. Our complaint, the result of an intensive, five-month investigation, alleges that each of them took part in a decade-long fraud. Their scheme, we allege, was designed to give themselves and others undisclosed, in-the-money stock options by backdating stock-option grants to coincide with historically low closing prices of Comverse common stock.

The complaint alleges, among other things, that between 1999 and 2000, Misters Alexander and Kreinberg created a slush fund of backdated options. They directed that options be granted to fictitious employees and later used these options, some of which were immediately exercisable, to recruit and retain personnel.

Each of the former executives realized substantial personal gains from the exercise of illegally backdated option

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grants and the subsequent sale of Comverse common stock. Collectively they realized millions. Mr. Alexander realized at least $138 million in gain from the exercise and sale of backdated options. At least $6.4 million of that personal gain represents the undisclosed, in-the-money portion of those grants at the time of the grants. For Mr. Kreinberg, the personal gain is over $13 million, of which, at least $1 million represents the in-the-money portion of the grants. And for Mr. Sorin, the gain is of $14 million, of which approximately $1 million represents the in-the-money portion.

According to the SEC's complaint, in the decade between 1991 and 2001, Mr. Alexander repeatedly used hindsight to select a date when the closing price of Comverse's common stock was at or near a quarterly or annual low. Mr. Alexander later communicated this date and closing price to Mr. Sorin, the general counsel, in order for it to be used as the date of an exercised price for a grant of converse options. Mr. Sorin, with Mr. Alexander's knowledge, created company records that falsely indicated a committee of Comverse's board of directors had actually approved the option grant on the date Mr. Alexander had cherry-picked, when, in fact, the committee had not acted and did not act until a later date.

Mr. Kreinberg joined the scheme no later than 1998 and assisted Mr. Alexander in selecting grant dates, which coincided with historically low share prices for Comverse stock. The complaint alleges Mr. Kreinberg knew that the company records reflected false grant dates. The complaint also alleges that Mr. Kreinberg, with Mr. Sorin's knowledge, initiated a similar backdating scheme at AltCom, Inc., a publicly traded, majority-owned subsidiary of Comverse. Both Comverse and AltCom have publicly announced that they expect to restate their historical financial results for multiple years.

As we have said before, we will pursue fraudulent conduct related to stock options wherever and whenever it occurs. Today's action, the result of a five-month investigation, which is continuing, is another example of our commitment. It also reflects the dedication and commitment of our investigative team, led by Antonia Sheehan and Christopher Cante.

Thank you very much, and now I give the podium back to Mr. McNulty.

MR. MCNULTY: Thank you, Linda. And I'll take any questions you might have. Yes.

QUESTION: I'm just wondering -- this is your second case now in backdating -- if you guys have a handle on what's the scope of the problem here, and is this yet another scandal that is facing corporate America?

MR. MCNULTY: Well, we do have a significant number. I'm not going to try to pin it down precisely, but we do have a significant number of investigations going on. Both the SEC and the Department of Justice have significant number of investigations. It remains to be seen how many of those investigations will result in individuals being charged, and I don't want to speculate on that either. We'll have to see.

But the fact that there are a significant number of investigations indicates that this is a problem that is extensive that has -- is receiving a great deal of attention from the enforcement community. And I expect that there will be more accountability down the road in this area. Yes.

QUESTION: In the press materials it mentions that there's $57 million that was transferred to accounts in Israel. Is there any way of freezing that money or can you tell me what might be happening to that money?

MR. MCNULTY: I actually don't know if there's any ability to get at the money there. If either one of you do, if you want to say something, also.

MS. MAUSKOPF: As we indicate, we have been using every tool at our disposal to try and trace money related to the fraud alleged in this complaint. $45 million has been frozen here in the United States. We are aware of other

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monies and are continuing our investigation to ensure that we can freeze and, where lawfully appropriate, recoup the gains from this fraud.

QUESTION: Do you all know where Mr. Alexander is and how close are you to apprehending him?

MR. MCNULTY: I'm not going to comment today on his whereabouts. The other two defendants have surrendered themselves, and we are in the process of getting a hold of Mr. Alexander, but I won't say anything more than that.

QUESTION: Could you tell us whether he's in the United States?

MR. MCNULTY: I'm not going to common on that.

QUESTION: Back to the scope of the problem, the number that's been reported is about 80, the stock backdating investigations, is that a good universe? And, secondly, a long history of those big investigations with ENRON and WorldCom -- was it a surprise to you that you found this massive fraud, another way for corporate executives to enrich themselves after all the titans of industry claim that they've cleaned up their accounting practices?

MR. MCNULTY: Well, a number of these offenses, as you can see in this case, actually occurred some time ago. And there is something to be said about that pattern where the actions occur at one time but perhaps change as a result of new reporting requirements to the SEC, and then there's been a lot of restatements, which have brought this to the attention -- it's come to the attention of law enforcement in different ways, actually, but that certainly the restatements have been one way that this has led to a number of investigations.

On your original question about numbers. I think that number sounds like it might be actually a combination of both numbers that you have used.

MS. THOMSON: That is a number a number that the SEC has announced of civil investigations, and that number is still good.

QUESTION: Has a grand jury indicted these men?

MR. MCNULTY: This is a complaint that we have today and an indictment would follow, subsequent to an actual complaint.

QUESTION: So have they been officially charged?

MR. MCNULTY: Yes, they have been officially charged by way of this complaint, through a criminal complaint. Yes.

QUESTION: A question for Linda. How much money are you seeking in disgorgement from these three men? Is it $138 million for Mr. Alexander or just the $6.4 million?

MS. THOMSEN: We will seek all available disgorgement, and that will be developed during the course of the case.

QUESTION: So it depends? We're not quite sure yet?

MS. THOMSEN: We will seek as much disgorgement as we can legally get for the conduct.

QUESTION: Up to a maximum of $138 million?

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MS. THOMSEN: I think we have to see where -- how the facts play out in terms of the options that were granted and exercised, any other options that may be other benefits, perhaps compensation in addition to options. So the number will subject to the proof and evidence as we go forward with the case, but we are seeking as much disgorgement as we lawfully can.

QUESTION: Some surveys suggest that 17 percent of public companies have some problem with backdating. Do you have a sense of how many of those are criminal type of problems or are there just sort of legitimate mistakes that can be made?

MR. MCNULTY: I wouldn't venture to identify a percentage, but I will acknowledge that within all of the cases or incidents involving backdating there's going to be a variety of factual circumstances and that's going to affect whether or not the government has a case that can go forward. Some may include mistakes that were made, sloppiness in paperwork, where there isn't evidence of an intent to actually deceive the shareholders, the board, the investing public. Others are going to show, again, that kind of intent. There is going to be clear evidence of what was being done in order to take advantage of low points in the stock-price value and so forth. So it's going to be determined by the facts of the case, but it's clear that some of what may be called a backdating issue may not in fact result in any criminal prosecution.

QUESTION: Have you looked at any cases where you've looked into the backdating and there hasn't been the intent of fraud and you've closed cases?

MR. MCNULTY: The answer, I guess, is yes because we're looking at a lot of cases, and some are being pursued and others are not being pursued as aggressively or don't seem to be heading in a path where there might be charges brought. So I don't have a sense of how many we could call closed cases, but based on the information I'm gathering from the field and what folks are doing in their investigations, they're certainly identifying some cases that have a stronger body of evidence to suggest that there was a clear criminal intent.

QUESTION: Have IRS agents been included in the investigation with regard to the -- tax accounting for the options?

MR. MCNULTY: Yes, we are working with IRS in this matter because you're right; there are certainly significant tax implications to these cases. And, as you know, the IRS is on the Corporate Fraud Task Force.

We actually met, the Corporate Fraud Task Force did, two weeks ago, discussed this at some length, and talked about the way in which it's important to coordinate closely with the IRS. And each case will differ a bit as to how involved the IRS will be.

In this case, have you had the IRS involved yet in the investigation?

MS. MAUSKOPF: We've had some involvement.

MR. MCNULTY: Yeah, we've had -- we're going to have the IRS in this case, as well, but we'll see where that goes.

QUESTION: Mr. McNulty, on another topic: There's reports that one of the eleven missing Egyptian students has been arrested. Do you have any more information on that?

MR. MCNULTY: I don't have any more information on that particular individual. What I can tell is just, the FBI has said and Immigration and Customs Enforcement has said that they're attempting to locate all of the Egyptian students that arrived and determine not only obviously their whereabouts but their reason for being here.

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But there is no indication that there is any threat associated with their presence. But there is an active effort, an energetic effort, to identify where they are.

QUESTION: So you don't have any more information on that?

MR. MCNULTY: I don't have any more information on this individual, no.

QUESTION: How concerned are you about these missing students and what is being done to find them?

MR. MCNULTY: As I said, there's an active effort. We're on the lookout for those individuals, active effort to identify them, but no information to suggest that there's any threat associated with their whereabouts or why they're here.

QUESTION: Why then was a BOLO issued if there was no threat? Or maybe this is for Mr. Burrus. Naturally there's been a lot of interest because of what's going on in the Middle East. You can understand that there's public concern whether warranted or not when this report came out, and so there was a BOLO which indicated obvious official concern. And yet you say that there's no threat, so help explain why this was put out there for public consumption, and yet there's no threat.

MR. MCNULTY: I think all I'll say is that it was determined to be a prudent thing to do to make the necessary efforts to identify the individuals, the prudent and responsible thing to do. But at the same time, while we make those efforts then that course requires the cooperation of law enforcement and so BOLOs are a means by which that cooperation is obtained. That is, in a sort of operational sense.

So that method corresponds with the need to be prudent and responsible here, but no reason for that to be associated with a specific threat. It's just appropriate to make that clear to the public.

QUESTION: I had just a quick question following on my colleague's question about the money figures. You've identified about $8.5 million of profits to the three executives that was attributed to the backdating. That doesn't strike me as huge given recent corporate scandals. Do you have a figure of the grants to all employees that are attributable to backdating?

MR. MCNULTY: All grants -- not yet. No. That process will be ongoing as we gather more information. The numbers you have here relate to the amount of money that may be directly associated with the backdating or certainly was used to facilitate, if it wasn't directly resulting from -- facilitating the ability to commit the fraud and bring the fraudulently obtained money in. So that sorting out is going to occur forward. So we freeze the money that constitutes the broadest scope of what we believe would be forfeitable and then we will gather more information and begin to sort out the number.

QUESTION: So those bank-account figures, the $57 million, the $40 million, you're not sure at this point how much of that constitutes fraudulently obtained profits?

MR. MCNULTY: Correct. Yes.

QUESTION: Was there anything special about the case of Rocade and Comverse that made these two companies the first to get charged? You said you have several ongoing investigations, I mean was it just the first two that you got to or were they particularly brazen or could you just --

MR. MCNULTY: A couple of things stand out. One is that the strength of evidence in both cases, from the government's perspective -- that's something will be have to be determined in a court of law, but government felt

that we had especially clear, strong evidence to support the charges brought.

In this particular case, we also had the added benefit of cooperation. If you look at some of the dates in here, you'll note that this conduct became known only in March of this year, and here we are today in early August. So you see that a great deal has been accomplished in a relatively short period of time, and that's attributable to the fact that we got good cooperation from Comverse and the assistance that companies often provide in bringing information to light that they have found through their efforts, and we see this operating here.

And so that helped get sufficient information faster, and that's the kind of cooperative approach that we really seek from corporations. We think that the corporations have a fiduciary duty to their stockholders, to the investing public to provide that cooperation to the government. And when they respond appropriately, it can bring these matters into a clear view, we can hold the right people accountable, and, as a result, the marketplace is stronger. And I hope that we see more of that in the cases to come.

Thank you all very much.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
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PUBLIC AFFAIRS DAILY NEWS WRAP
August 9, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Attorney General Gonzales Announces 22 New Measures to Enhance Immigration Courts and Board of Immigration Appeals (OPA)
Today, Attorney General Alberto R. Gonzales announced the implementation of 22 new measures to enhance the performance of the Immigration Courts and the Board of Immigration Appeals. The new measures are designed to improve the performance and quality of work of the nation's immigration court system.

Talking Points

- Immigration Judges and Board Members stand ready to serve their country in discharging their demanding responsibilities to apply the rule of law and protect the Constitution.

- These new measures will assist them greatly in their important work.

Deputy Attorney General Announces Charges Against Three Comverse Inc. Executives (OPA)
Today, Deputy Attorney General Paul J. McNulty held a press conference with officials from the SEC and FBI and announced charges filed against three executives of Comverse Technology, Inc., for secretly backdating their stock options.

Talking Points

- The Justice Department is determined to see that our markets operate fairly and honestly.

- We cannot allow corporate leaders to operate under different rules, using 20-20 hindsight to line their own pockets.

- We will continue to pursue misconduct in any boardroom where we find it.

Deputy Attorney General Participated in Interview Regarding DOJ Anti-Terrorism Efforts After 9/11 (OPA)

Today, Deputy Attorney General Paul J. McNulty participated in an interview with Frontline regarding the Department's efforts to fight terrorism after 9/11. The interview is expected to be included in a documentary piece regarding the government's overall anti-terror efforts in the five years since 9/11.

ATF Personnel Participate in Emergency Preparedness Drill in St. Louis (ATF)
Today, ATF personnel participated in an emergency preparedness drill at Busch Stadium in St. Louis with the Department of Homeland Security and numerous other federal, state and city first responder agencies. The exercise included 5,000 volunteer victims, 1,000 of them undergoing decontamination.

FBI Arrests Three Egyptian Students Traveling with Revoked Visas (FBI)
Today, the FBI received multiple media inquiries into the arrest of one of the Egyptian students in Minneapolis and two in New Jersey whose visas were revoked. The other eight students remain missing.

Talking Points

- Today, the Manville (New Jersey) Police Department took custody of Mohamed Ragab Mohamed Abd Alla, a 22 year-old Egyptian national, and Ebrahim Mabrouk Moustafa Abdou, a 22 year-old Egyptian national. The Manville Police Department contacted U.S. Immigration and Customs Enforcement (ICE) and FBI agents who responded immediately.

- ICE agents took custody of both individuals on administrative immigration violations as out-of-status students. Preliminary investigation by ICE and FBI agents has not identified any credible or imminent threat posed by Mr. Abdou or Mr. Abd Alla.

- Earlier today, FBI and ICE agents also arrested 21 year-old Egyptian National Eslam Ibrahim Mohamed El-Dessouki in Minneapolis. The arrest occurred without incident.

- El-Dessouki was taken into custody on an administrative immigration violation as an out-of-status student. He was located through source information obtained in the joint FBI-ICE investigation and is currently in the custody of ICE officials. Preliminary investigation has not identified any credible or imminent threat posed by El-Dessouki

- The FBI and ICE investigation is ongoing, as we remain interested in locating and interviewing the other eight Egyptian students who failed to report for their academic program at Montana State University.

Four Suspects Arrested in Iraq for the Kidnapping of Jill Carroll (FBI)
Today, four people were arrested for the kidnapping of Christian Science Monitor reporter Jill Carroll in Iraq.

Talking Points

- The FBI is pleased with the recent developments in Iraq where four people have been arrested for the hostage taking of U.S. citizen Jill Carroll.

- Throughout this extraterritorial investigation, the FBI played a critical role in the Hostage Working Group based in Baghdad, working closely with the Department of Defense, the Department of State, and other important partners.

- During the investigation, the FBI also established a close working relationship with the victim's family.

- Following Ms. Carroll's release from captivity, the FBI's Office for Victim Assistance worked diligently to reunite her with her family.

- The matter remains an ongoing FBI investigation and any questions about potential prosecution will be addressed at a later date.

Portland, Ore. Man Indicted on Child Pornography Charges (Criminal)
Today, a federal grand jury in Portland, Ore. returned a three-count indictment charging an Oregon man, Allan Montgomery, with possession of child pornography, making a material false statement to federal investigators, and being an accessory after the fact in assisting another Oregon man while he was under investigation for child pornography related charges.

Utah Man Charged for Intercepting His Former Employer's Electronic Mail (Criminal)
Today, a Utah man was charged for illegally intercepting the e-mail of two officials at his former employer, a high-technology company in Salt Lake City. William K. Dobson, of Salt Lake City has been charged in a three-count criminal indictment, two for intercepting electronic communications and a third for illegally obtaining information from a protected computer.

Government Settlements Ensure Cleanup of Contaminated Sites in New Jersey (ENRD)
Today, the Department of Justice and the Environmental Protection Agency announced that they have reached separate agreements with NCH Corporation and FMC Corporation to resolve claims against them relating to the costs of cleanup at the Higgins Farm and Higgins Disposal Superfund sites in Somerset County, N.J. Both companies have agreed to reimburse the federal government for costs incurred cleaning up the contamination found in the soil and ground water at the sites.

Talking Points

- We are pleased that today's settlements help ensure that the government is reimbursed for its work, and we reaffirm our commitment to ensuring that hazardous waste sites are cleaned up.

- These settlements illustrate how Superfund is supposed to work – making polluters pay for cleaning up sites.

Citgo Petroleum and Environmental Manager Indicted for Environmental Crimes (ENRD)

Today, a federal grand jury in Corpus Christi, Texas, returned a 10-count indictment, charging Citgo Petroleum Corporation, its subsidiary, Citgo Refining and Chemicals Co., and the environmental manager at its Corpus Christi East Plant Refinery with criminal violations of the Clean Air Act (CAA) and the Migratory Bird Treaty Act (MBTA). Citgo was indicted on two counts of operating their refinery in Corpus Christi in violation of the National Emission Standard for Benzene Waste Operations and two counts of operating open top tanks as oil water separators without first installing the emission controls required by federal and state regulations. The CAA regulations require Citgo to control the emission of benzene from waste water produced at the refinery.

THURSDAY'S EXPECTED EVENTS/RELEASES:

None scheduled.

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Wednesday, August 9, 2006 8:53 PM
To:	Otis, Lee L; Swenson, Lily F; Pacold, Martha M
Cc:	Sampson, Kyle; Gorsuch, Neil M
Subject:	FW: NALJ Statement
Attachments:	NALJ Statement.pdf

Lily, Lee, and Martha --

I didn't pause long enough today to tell you what a tremendous job you did conducting this review and developing these directives. This was an exceedingly difficult project, and you accomplished it with the highest professionalism and hard work. I know that the Attorney General and Kyle share this view and, like me, are very grateful.

Unfortunately, of course, the work's not over. As Kevin said, it's time to "roll up our sleeves." But we'll talk soon enough about next steps . . . for the moment, enjoy a job well done.

Courtney

-----Original Message-----
From: Ohlson, Kevin (EOIR)
Sent: Wednesday, August 09, 2006 4:49 PM
To: Elwood, Courtney; Pacold, Martha M; Otis, Lee L; Swenson, Lily F
Subject: FW: NALJ Statement

Courtney, Martha, Lee, and Lily -

After talking to many of the immigration judges, I am convinced that the Attorney General's remarks were VERY well received today. This point is underscored by the attached message from the IJ union which we just received. I think this is a very positive development (despite the expected qualms the union has about the performance evaluations), and I am very grateful to the Attorney General for taking the time to address us, and to all of you who put in so much hard work on this topic. We at EOIR are now committed to rolling up our sleeves and making the Attorney General's directives a reality.

Kevin

Attached is the release by the IJ Union in response to the AG's Review.

Fax: TO FRAN MOONEY
703·605·0365

Press Release of the National Association of Immigration Judges
August 9, 2006

The National Association of Immigration Judges was honored to be addressed by Attorney General Alberto R. Gonzales at the Immigration Judges training conference today.

The NAIJ was pleased to hear that the Attorney General was assured by the results of his recent review of the Immigration Courts, which confirmed the professionalism, talent and competence of the Immigration Judge corps as a whole. The Attorney General acknowledged that the reports of intemperance by Immigration Judges are limited to rare occurrences and are not systemic. The NAIJ is most appreciative that the Attorney General acknowledged the dedication of our corps and the many difficult circumstances under which our courts operate.

The NAIJ is carefully reviewing the 22 measures that the Attorney General has directed to be implemented and believes many will improve the court – such as improved training and reference materials, improvement in streamlining at the Board of Immigration Appeals, implementation of sanctions authority for the courts and the Board, increased staffing, updated and improved technologies and transcription services, and expanded and improved *pro bono* programs.

However, the NAIJ has concerns with the idea that performance evaluations would address any problems identified by the review and believes this program may greatly jeopardize judicial independence and thoughtful decision-making. While we strongly support an appropriate code of conduct and a fair, transparent, and timely discipline system, we do not have sufficient information on the changes contemplated by the Attorney General to take a position on those recommendations at this time.

In any event, the NAIJ stands ready to work with the Office of the Chief Immigration Judges and the Director of the Executive Office for Immigration Review, either collegially or through collective bargaining, to develop and implement these measures that will impact on the working conditions of Immigration Judges.

Sampson, Kyle

From: Sampson, Kyle
Sent: Wednesday, August 9, 2006 9:12 PM
To: Elwood, Courtney; Otis, Lee L; Swenson, Lily F; Pacold, Martha M
Cc: Gorsuch, Neil M
Subject: Re: NALJ Statement

I second the motion!

-----Original Message-----
From: Elwood, Courtney
To: Otis, Lee L; Swenson, Lily F; Pacold, Martha M
CC: Sampson, Kyle; Gorsuch, Neil M
Sent: Wed Aug 09 20:53:15 2006
Subject: FW: NALJ Statement

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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 10, 2006 5:35 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN JOINT PRESS CONFERENCE WITH HOMELAND SECURITY SECRETARY MICHAEL CHERTOFF REGARDING A NATIONAL SECURITY MATTER

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, AUGUST 10, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN JOINT PRESS CONFERENCE WITH HOMELAND SECURITY SECRETARY MICHAEL CHERTOFF REGARDING A NATIONAL SECURITY MATTER

WASHINGTON – Attorney General Alberto R. Gonzales will participate in a joint press conference with Department of Homeland Security Secretary Michael Chertoff, FBI Director Robert Mueller and Transportation Security Administration (TSA) Assistant Secretary Kip Hawley regarding a national security matter **TODAY, AUGUST 10, 2006 at 8:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales
Department of Homeland Security Secretary Michael Chertoff
FBI Director Robert Mueller
TSA Assistant Secretary Kip Hawley

WHAT: Press conference

WHEN: **TODAY, AUGUST 10, 2006**
8:00 A.M. EDT

WHERE: Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, NW
Washington, D.C.
OPEN PRESS

NOTE: Media wishing to attend must present valid press credentials and arrive no later than 7:40 A.M. EDT to the Massachusetts Avenue entrance of the Nebraska Avenue Complex. Media inquiries regarding logistics should be directed to the Department of Homeland Security Press Office at 202-282-8010.

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# # #

06-523

DOJ_NMG_ 0166340

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Image not available for this document, ID: 0.7.10316.38715-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 10, 2006 10:00 AM
To: USDOJ- Office of Public Affairs
Subject: Press Guidance for August 10, 2006

Department of Justice

PRESS GUIDANCE
Thursday, August 10, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166343

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Image not available for this document, ID: 0.7.10316.38688-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 10, 2006 10:40 AM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE REGARDING BRITISH AIRLINE TERROR PLOT

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 10, 2006
WWW.USDOJ.GOV

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

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE REGARDING BRITISH AIRLINE TERROR PLOT

WASHINGTON, D.C.

Let me begin by repeating and emphasizing something that Secretary Chertoff said. And that is we have a very serious investigation that is proceeding in the United Kingdom. And we want to be very, very careful as we try to inform and educate the American public about saying too much that might in any way jeopardize that investigation or a subsequent prosecution.

And so we ask for your patience in asking and receiving information. But we'll try to be as forthcoming as we can, as quickly as we can. But, again, we don't want to do anything that may in any way jeopardize or adversely affect an investigation or prosecution in the United Kingdom or perhaps even in this country.

Now, since 9/11, the threat reporting has consistently shown that there is a vicious and determined enemy that is intent on harming American lives. And every day it's September 12th for those of us tasked with protecting America, and we know that our counterparts abroad feel the same way.

Today's announcement is a true testament to the hundreds of hours of patient work by British authorities. Their vigilance has led to the unraveling of this deadly plot by terror cells based in the U.K., a plot, as Mike indicated, designed to detonate bombs aboard commercial airliners en route to the United States, potentially killing hundreds of innocent people.

On behalf of the American people, I want to thank the British authorities for their tremendous efforts to disrupt this deadly scheme.

Although the law enforcement investigation is ongoing, I want to update you on the preliminary information that we have available at this time. We will, as Secretary Chertoff indicated, continue to provide additional information as it becomes available.

DOJ_NMG_ 0166346

The perpetrators who were arrested overnight were extremists who had gone beyond just stating a desire to kill Americans. Their plotting turned to action as they took several steps to carry out their deadly plan. Their focus appears to have been on the use of liquid explosives. We are still assessing the links to Al Qaida, however, a plot of this sophistication is suggestive of Al Qaida tactics, as Secretary Chertoff mentioned.

From the beginning of the investigation, we have been in constant contact with our counterparts in the U.K. We share the same philosophy of prevention, a sense of urgency to dismantle these terrorist cells before an attack occurs.

The FBI and other law enforcement intelligence agencies have worked closely with our colleagues at MI5 on all aspects of this case, and they have aggressively pursued every domestic lead that has arisen from the intelligence that led to these arrests.

As Secretary Chertoff said, while there is currently no indication of any plotting within the United States, the federal government is taking immediate steps to increase security measures in the aviation sector.

The FBI, the Department of Homeland Security and the entire intelligence community will continue to aggressively pursue every lead and shred of intelligence that arises from this or any other terrorism case. This has been our practice since 9/11, and today is no different from any other day in that sense.

The American people should know that everything that can be done to protect them is being done by law enforcement and intelligence professionals around the country and abroad.

We ask that people continue on with their normal lives, but with some extra patience as the professionals do their jobs, especially at the airports around the country.

As we have stated many times before, we are a nation at war. Today's actions are a stark reminder that the threat is real and that we have a deadly enemy who still wakes every morning thinking of new ways to kill innocent men, women and children, and dreams every night about wrecking the destruction on freedom-loving countries.

Our enemies should know that we are just as equally intent on stopping them. We will continue to work around the clock with our colleagues around the world to dismantle their operations one person at a time.

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Image not available for this document, ID: 0.7.10316.38697-000002

Mauskopf, Roslynn (USANYE)

From: Mauskopf, Roslynn (USANYE)
Sent: Thursday, August 10, 2006 12:06 PM
To: Gorsuch, Neil M
Subject: RE: The Daily Update: 8/3/06
Attachments: tmp.htm

And belated congrats to you too!!

I'm also hoping all goes well with my confirmation process -- but since I just learned that you've stolen Jamil Jaffer, my guiding hand up to this point, I'm getting concerned!!

Roz

From: Gorsuch, Neil M
Sent: Thursday, August 03, 2006 6:16 PM
To: Mauskopf, Roslynn (USANYE)
Subject: FW: The Daily Update: 8/3/06

Roz - Wonderful news! Congratulations and best of luck with the confirmation process. You will make a wonderful judge. Best regards, Neil

---

From: Goodling, Monica
Sent: Thursday, August 03, 2006 10:05 AM
To: Goodling, Monica
Subject: The Daily Update: 8/3/06

Good morning. Congratulations to U.S. Attorney Roz Mauskopf, who was nominated yesterday to become a United States District Judge for the Eastern District of New York. Also, for all the other former EDVA-ers out there who undoubtedly share a fair amount of affection and admiration for Magistrate Judge Liam O'Grady, you may be interested to know that he was nominated to become a United States District Judge for the Eastern District of Virginia. Have a great day.

****

<http://www.whitehouse.gov/ <http://www.whitehouse.gov/> >
AUGUST 3, 2006

This afternoon, the President will participate in a tour of Border Patrol and National Guard Assets at McAllen-Miller International

Airport, followed by a demonstration of Border Patrol National Guard Skybox. President Bush will follow these events with remarks on comprehensive immigration reform in Anzalduas County Park.

1:50 pm:
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Skybox | Mission, Texas

2:55 pm:
CDT THE PRESIDENT makes Remarks on Comprehensive Immigration Reform

Anzalduas County Park | Mission, Texas

President Bush Praises Efforts Of Ohio Rescue Workers. "President Bush,

emerging from a bunker-like structure in Lake County Wednesday afternoon, praised the work of hundreds of Northeast Ohio rescue workers

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>
593832281930.xml&coll=2> , a concrete structure built into a hillside in

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brief comments about what he learned during the meeting." (Mark Naymik and Maggie Martin, "President Lauds Response To Flood In Lake County," The [Cleveland, OH] Plain Dealer, 8/3/06)

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entrepreneurs on Monday, the president promised he was still working for

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Presence Of American Troops Calms Baghdad's Most Violent Neighborhoods. "Iraqis living in Baghdad's most violent neighborhoods have been able to

leave their homes safely for the first time in months, as American foot patrols moved in as part of a beefed-up security plan. An additional 3,700 U.S. troops deployed in the capital in the past two days to join the roughly 56,000 U.S. and Iraqi troops already in the city. The deployment is part of a six-week security operation intended to stop sectarian killings. 'Everybody knows that if Americans are there, then it is safe,' said one young man who had just brought his pregnant wife home from the hospital."
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DKHQeBXSlifW9iRWny68pvaA8F;_ylu=X3oDMTA0cDJlYmhvBHNlYwM> Sir Jock Stirrup, chief of Britain's defense staff, said coalition forces were making good progress in stabilizing the region - despite the death of a British soldier in the city of Basra on Tuesday and concerns security has worsened since the 2003 invasion. 'We are now on a good path to hand

over provincial control of Basra some time in the first part of next year,' he told British Broadcasting Corp. radio. 'But these are difficult issues we are grappling with, and I can't forecast what will happen over the next several months.'" (David Stringer, "Brits May Hand

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scorecard for the third quarter of fiscal 2006 is the highest it's ever been." (Aimee Curl, "Agencies Improve Management Scores," Federal Times, 8/2/06)

President Bush Visits White House Press Briefing Room Before Renovations

Begin. "As on the closing night of a long-running play, a lot of the old

stars came out for the White House briefing room's finale. There were press secretaries for five of the last six presidents, and reporters who

have haunted the building since John F. Kennedy. ... The president joked

about the conditions during his appearance. 'I know you've been complaining about the digs for a while,' he said <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/02/AR20060
<http://www.washingtonpost.com/wp-dyn/content/article/2006/08/02/AR20060
>
80201190.html> . 'Let me just say, we felt your pain.'" (Peter Baker, "Media Pull Out Of One Combat Zone," The Washington Post, 8/3/06)

President Visits White House Press Briefing Room Prior to Renovation <http://www.whitehouse.gov/news/releases/2006/08/20060802-3.html
<http://www.whitehouse.gov/news/releases/2006/08/20060802-3.html> >

President Bush Tours Lake County Emergency Management Agency After Recent Flooding in Ohio
<http://www.whitehouse.gov/news/releases/2006/08/20060802-5.html
<http://www.whitehouse.gov/news/releases/2006/08/20060802-5.html> >

President Designates United States Postal Service Facilities
<http://www.whitehouse.gov/news/releases/2006/08/20060802.html
<http://www.whitehouse.gov/news/releases/2006/08/20060802.html> >

Memorandum for the Secretary of State
<http://www.whitehouse.gov/news/releases/2006/08/20060802-1.html
<http://www.whitehouse.gov/news/releases/2006/08/20060802-1.html> >

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/08/20060802-4.html
<http://www.whitehouse.gov/news/releases/2006/08/20060802-4.html> >

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060802-2.html
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Attorney General Gonzales Supports Military Tribunal System For Foreign Terrorism Suspects. "The Bush administration on Wednesday continued to push for a military tribunal system for foreign terrorism suspects that would bar them from access to classified evidence. Attorney General Alberto Gonzales, testifying before the Senate Armed Services Committee, also recommended that proposed legislation to create a tribunal system allow hearsay evidence and testimony obtained through coercion. ... 'In the midst of the current conflict, we must not share with captured terrorists the highly sensitive intelligence that may be relevant to military commission proceedings,' Gonzales told the panel. <http://www.usatoday.com/printedition/news/20060803/a_gonzales03.art.htm> " (Kevin Johnson, "White House Pushes For Tribunals," USA Today, 8/3/06)

Federal Agencies Making More Progress Than Ever Under President's Management Agenda. "The administration's latest assessment shows agencies are making more progress than ever in managing their human capital, competitive sourcing, finances, e-government and budget-performance integration. <http://federaltimes.com/index.php?S=1995456> According to Clay Johnson, deputy director for management at the Office of Management and Budget, the number of green progress scores on the president's management agenda scorecard for the third quarter of fiscal 2006 is the highest it's ever been." (Aimee Curl, "Agencies Improve Management Scores," Federal Times, 8/2/06)

President Bush Visits White House Press Briefing Room Before Renovations Begin. "As on the closing night of a long-running play, a lot of the old stars came out for the White House briefing room's finale. There were press secretaries for five of the last six presidents, and reporters who have haunted the building since John F. Kennedy. ... The president joked about the conditions during his appearance. 'I know you've been complaining about the digs for a while,' he said <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/02/AR2006080201190.html> . 'Let me just say, we felt your pain.'" (Peter Baker, "Media Pull Out Of One Combat Zone," The Washington Post, 8/3/06)

President Visits White House Press Briefing Room Prior to Renovation <http://www.whitehouse.gov/news/releases/2006/08/20060802-3.html>

President Bush Tours Lake County Emergency Management Agency After Recent Flooding in Ohio
<http://www.whitehouse.gov/news/releases/2006/08/20060802-5.html>

President Designates United States Postal Service Facilities
<http://www.whitehouse.gov/news/releases/2006/08/20060802.html>

Memorandum for the Secretary of State
<http://www.whitehouse.gov/news/releases/2006/08/20060802-1.html>

Nominations Sent to the Senate
<http://www.whitehouse.gov/news/releases/2006/08/20060802-4.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060802-2.html>

Goodling, Monica

From: Goodling, Monica
Sent: Thursday, August 10, 2006 12:17 PM
To: Goodling, Monica
Subject: The Daily Update: 8/10/06

Good morning. This morning, the Attorney General participated in a press conference with DHS Secretary Mike Chertoff, Director Mueller, and other Administration officials. For your information, below please find their statements. If you are traveling in the coming days, you may find it helpful to check what items are prohibited at the following website: http://www.tsa.gov/press/happenings/threat-change.shtm. Best, Monica

Press Conference with Secretary Chertoff, Attorney General Alberto Gonzales, Transportation Security Administration Assistant Secretary Kip Hawley, FBI Director Robert Mueller, and Other Senior Administration Officials

Prepared Remarks:

Good morning. I would like to provide you with the latest information that we have on recent events in the United Kingdom, and an update on the actions that we are taking to protect our citizens and to keep air travel safe and secure.

As you are aware, British authorities have arrested at least 21 extremists, alleged to have engaged in a plot to detonate liquid explosives onboard multiple commercial aircraft departing from the United Kingdom and bound for the United States. This plot appears to have been well planned and well-advanced, with a significant number of operatives. The terrorists planned to carry the components of the bombs – including liquid explosive ingredients and detonating devices – disguised as beverages, electronic devices, and other common objects.

While the operation was centered in Britain, we believe it was international in scope.

We believe that the arrests in Britain have significantly disrupted this threat. We cannot assume, however, that it has been completely thwarted, or that we have fully identified and neutralized all members of this terrorist network.

While there is currently no indication of any plotting within the United States, the federal government is taking immediate steps to increase security measures in the aviation sector.

First, the United States Government has raised the nation's threat level to our highest level of alert, Severe or Red, for commercial flights originating in the United Kingdom bound for the United States. This adjustment coordinates our alert level with the Critical, or highest, alert level that has been implemented in the United Kingdom.

Further, as a precaution against any loose ends in the plot, and against any would-be copy-cats who may be inspired to conduct similar attacks, we will also raise the threat level to High, or Orange, for all domestic commercial aviation and for flights arriving in the United States from overseas.

More specifically, in light of the nature of the liquid explosive devices designed by the plotters, we are temporarily banning all liquids as carry-ons in the cabin. No liquids or gels will be allowed in carry-on baggage. They must be checked. We will make exceptions for baby formula and medicines, but be prepared to present these items for inspection at the checkpoint. This will allow us to make adjustments to our screening tactics based on what we learn from this investigation.

In general, packing lightly and minimizing clutter will do a great deal to make the screening process easier and faster.

The Transportation Security Administration (TSA) will be implementing a series of security measures – some visible and some not visible -- to ensure the security of the traveling public and the Nation's transportation system.

TSA is immediately implementing changes to airport screening procedures to prevent liquids or gels of any kind in carry-on baggage. The Federal Air Marshals Service (FAMS) will provide expanded mission coverage for flights from the United Kingdom to the United States.

U.S. Customs and Border Protection will increase enforcement efforts in international arrival areas including the use of advanced targeting tools, special response teams including baggage and aircraft search teams, baggage x-ray equipment, specially-trained canine units, and explosive detection technology. These measures will be constantly evaluated and updated when circumstances warrant.

We recognize that these measures are inconvenient. But they are proportionate to the very real threat to the lives of innocent people. What is important is that we are taking every prudent step to thwart new tactics of terror.

Today, air traffic is safe. Air traffic will remain safe, precisely because of the measures we are implementing today.

As always, the American public should remain aware, and report any activity they deem suspicious to local authorities or other appropriate law enforcement agencies.

The American public can be assured that the United States Government is doing everything in its power, under the leadership of President Bush, and in cooperation with our British allies, to defend our nations. We will continue to provide updates throughout the day as appropriate, and now I'd like to turn to Attorney General Gonzales.

Statement by Attorney General Alberto Gonzales:

Let me begin by repeating and emphasizing something that Secretary Chertoff said. And that is we have a very serious investigation that is proceeding in the United Kingdom. And we want to be very, very careful as we try to inform and educate the American public about saying too much that might in any way jeopardize that investigation or a subsequent prosecution.

And so we ask for your patience in asking and receiving information. But we'll try to be as forthcoming as we can, as quickly as we can. But, again, we don't want to do anything that may in any way jeopardize or adversely affect an investigation or prosecution in the United Kingdom or perhaps even in this country.

Now, since 9/11, the threat reporting has consistently shown that there is a vicious and determined enemy that is intent on harming American lives. And every day it's September 12th for those of us tasked with protecting America, and we know that our counterparts abroad feel the same way.

Today's announcement is a true testament to the hundreds of hours of patient work by British authorities. Their vigilance has led to the unraveling of this deadly plot by terror cells based in the U.K., a plot, as Mike indicated, designed to detonate bombs aboard commercial airliners en route to the United States, potentially killing hundreds of innocent people.

On behalf of the American people, I want to thank the British authorities for their tremendous efforts to disrupt this deadly scheme.

Although the law enforcement investigation is ongoing, I want to update you on the preliminary information that we have available at this time. We will, as Secretary Chertoff indicated, continue to provide additional information as it becomes available.

The perpetrators who were arrested overnight were extremists who had gone beyond just stating a desire to kill Americans. Their plotting turned to action as they took several steps to carry out their deadly plan. Their focus appears to have been on the use of liquid explosives. We are still assessing the links to Al Qaida, however, a plot of this sophistication is suggestive of Al Qaida tactics, as Secretary Chertoff mentioned.

From the beginning of the investigation, we have been in constant contact with our counterparts in the U.K. We share the same philosophy of prevention, a sense of urgency to dismantle these terrorist cells before an attack occurs.

The FBI and other law enforcement intelligence agencies have worked closely with our colleagues at MI5 on all aspects of this case, and they have aggressively pursued every domestic lead that has arisen from the intelligence that led to these arrests.

As Secretary Chertoff said, while there is currently no indication of any plotting within the United States, the federal government is taking immediate steps to increase security measures in the aviation sector.

The FBI, the Department of Homeland Security and the entire intelligence community will continue to aggressively pursue every lead and shred of intelligence that arises from this or any other terrorism case. This has been our practice since 9/11, and today is no different from any other day in that sense.

The American people should know that everything that can be done to protect them is being done by law enforcement and intelligence professionals around the country and abroad.

We ask that people continue on with their normal lives, but with some extra patience as the professionals do their jobs, especially at the airports around the country.

As we have stated many times before, we are a nation at war. Today's actions are a stark reminder that the threat is real and that we have a deadly enemy who still wakes every morning thinking of new ways to kill innocent men, women and children, and dreams every night about wrecking the destruction on freedom-loving countries.

Our enemies should know that we are just as equally intent on stopping them. We will continue to work around the clock with our colleagues around the world to dismantle their operations one person at a time.

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<http://www.whitehouse.gov/>
AUGUST 10, 2006

This morning, President Bush will participate in a tour of Fox Valley Metal-Tech in Green Bay, Wisconsin, which he will follow with a statement on America's strong economy. Later, the President will attend a Gard for Congress reception.

11:00 am:
CDT THE PRESIDENT participates in a Tour of Fox Valley Metal-Tech
Fox Valley Metal-Tech | Green Bay, Wisconsin

11:35 am:
CDT THE PRESIDENT makes a Statement on the Economy

Fox Valley Metal-Tech | Green Bay, Wisconsin

12:50 pm:
CDT THE PRESIDENT attends a Gard for Congress Reception
Private Residence | Oneida, Wisconsin

U.S. Raises Air Security Alert Level To Red. "The U.S. government raised the security alert on passenger planes to its highest level for the first time on Thursday after Britain said it had foiled a plot to blow up flights to the United States <http://go.reuters.com/newsArticle.jhtml?type=topNews&storyID=13147130&src=rss/topNews> . The U.S. Department of Homeland Security said it was taking an unprecedented step by raising the threat level for commercial flights originating in the United Kingdom to 'severe,' or red. ... Homeland Security took immediate steps that included barring passengers from carrying liquids, including beverages, hair gels and lotions, on planes." (Todd Eastham, "US Raises Air Security Alert To Red For First Time," Reuters, 8/10/06)

White House Press Secretary Tony Snow Emphasizes "We Want An End To Violence" In The Middle East. "The White House said Wednesday neither Israel nor Hezbollah should escalate their month-old war, as Israel decided to widen its ground invasion in southern Lebanon. ... 'We are working hard now to bridge differences between the United States position and some of the positions of our allies,' Snow told reporters in Texas, where President Bush was vacationing. 'We want an end to violence and we do not want escalations <http://news.yahoo.com/s/ap/20060810/ap_on_go_pr_wh/us_mideast_39&printer=1;_ylt=ApYQe04ech7EbEMJ0csoMjcGw_IE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE->.' ... 'The Lebanese army, while an absolutely essential part of any solution, is not itself independently capable of dealing with the problem, at least not yet,' Snow said." (Nedra Pickler, "U.S. Seeks End To Escalation In Mideast," The Associated Press, 8/10/06)

ICE Installs Seven New Fugitive-Operations Teams To Enforce Immigration And Customs Laws. "U.S. Immigration and Customs Enforcement (ICE) yesterday said seven new fugitive-operations teams are now functioning in Atlanta; Houston; Los Angeles; Newark, N.J.; Phoenix; Raleigh, N.C.; and Washington. Department of Homeland Security Assistant Secretary Julie L. Myers, who heads the organization charged with enforcing immigration and customs laws, said the new teams bring to 45 the number of fugitive-hunting operations nationwide. 'The United States is a land of opportunity, but it is also a nation of laws,' said Mrs. Myers. 'As such, an immigration judge's order of removal is not optional and must be followed. The addition of these new fugitive teams increases ICE's ability to aggressively pursue immigration violators as part of our nationwide interior-enforcement strategy <http://www.washingtontimes.com/national/20060809-110541-6527r.htm> .'" (Jerry Seper, "ICE Adds Seven Teams To Pursue Fugitives," The Washington Times, 8/10/06)

Fugitive Operations Teams Show Increased Enforcement Efforts. "'If there was a way for individuals coming just to work to come out of the shadows, we could focus on those who don't want to come out and are a threat to national security and public safety,' Assistant Secretary for Homeland Security Julie Myers, who's in charge of ICE, told The

Associated Press. AP print, photo and video journalists accompanied immigration officers on the Tuesday raid. Combined with thousands of National Guard troops at the U.S.-Mexican border and dramatic increases in the number of bed space at detention centers to reduce 'catch-and-release' cases, the teams fit President Bush's pledge to beef up enforcement <http://www.ledger-enquirer.com/mld/ledgerenquirer/15229854.htm> ." (Giovanna Dell'orto, "Booming Fugitive Teams Show Enforcement, Deportation Happen," The Associated Press, 8/9/06)

Attorney General Alberto Gonzales Announces Reform Of Immigration Court System. "Attorney General Alberto R. Gonzales warned the nation's 215 immigration judges on Wednesday that they all faced annual performance evaluations for the first time and regular scrutiny to detect high reversal rates, frequent complaints or unusual backlogs <http://www.nytimes.com/2006/08/10/washington/10immig.html?hp&ex=1155182400&en=81f90e6928573940&ei=5094&partner=homepage> . ... Mr. Gonzales said he intended to prepare a budget request to hire more immigration judges, staff lawyers and law clerks. Other proposals include giving judges appointed after this year an immigration law exam and a two-year probation, upgrading electronic equipment in courts where judges now handle manual tape recorders themselves, and giving judges the power to fine lawyers for frivolous filings or false statements." (Nina Bernstein, "Immigration Judges Facing Performance Reviews," The New York Times, 8/10/06)

Vice President Cheney Says The Democratic Party Wants To Return To A "Pre-9/11 Mind-Set." "Vice President Dick Cheney said the race showed there is a significant segment of the Democratic Party that wants to return to 'a pre-9/11 mind-set. <http://news.yahoo.com/s/ap/20060810/ap_on_el_ge/lieberman_6> ' 'It's an unfortunate development, I think, from the standpoint of the Democratic Party to see a man like Lieberman pushed aside because of his willingness to support an aggressive posture in terms of our national security strategy,' Cheney said from Jackson, Wyo. 'When we see the Democratic Party reject one of its own - a man they selected to be their vice presidential nominee just a few short years ago - that would seem to say a lot about the state the party's in today,' he said." (Stephanie Reitz, "Democrats Abandon Lieberman, Back Lamont," The Associated Press, 8/9/06)

Secretary Of Commerce Carlos Gutierrez Will Lead Business Delegation In Effort To Increase Exports To China. "Commerce Secretary Carlos Gutierrez said Wednesday he will lead a delegation of business executives to China this fall as part of an effort to boost exports and reduce America's record trade deficit. 'China is one of our fastest growing export markets and we are having a great year,' Gutierrez said <http://news.yahoo.com/s/ap/20060809/ap_on_go_ca_st_pe/us_china_trade&printer=1;_ylt=Aq1MEYvAFnsXZ2AyOAOgN9mWwvIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> in an interview with The Associated Press. Through May, U.S. exports to China were up by 37 percent from the same period a year ago, and that increase came on top of 19 percent growth in U.S. exports to China in 2005." (Martin Crutsinger, "China Trade Mission Aims To Boost Exports," The Associated Press, 8/9/06)

U.S. Departments Of Agriculture And Interior Expand Bird Flu Monitoring. "The government on Wednesday expanded its monitoring of wild migratory

birds for a deadly bird flu virus to cover the entire nation and U.S. territories in the Pacific. ... 'This move to test thousands more wild birds throughout the country will help us to quickly identify, respond and control the virus if it arrives in the United States,' said Agriculture Secretary Mike Johanns <http://www.cbsnews.com/stories/2006/08/10/ap/tech/mainD8JD7GE00.shtml> . 'Because we cannot control wild birds, our best protection is an early warning system.' ... The Agriculture and Interior departments are providing $4 million to state agencies to collect samples from specific species of migratory birds winging along four major U.S. migratory bird flyways." (John Heilprin, "Bird Flu Monitoring Expands Nationally," The Associated Press, 8/10/06)

Secretary Of State Condoleezza Rice Pushes Grassroots Diplomacy To Better Position U.S. For International Response. "Bob Whitehead has been in the vanguard of a new, very grass-roots push by the Bush administration to make up for the diplomatic damage done by the Iraq war and to try and leave the U.S. better positioned to respond to - and possibly even pre-empt - conflagrations of the future. Instead of dictating terms from on high, the administration is trying to nudge along reforms from below, often far from national capitals. ... 'When the very terrain of history is shifting beneath our feet we must transform old diplomatic institutions to serve new diplomatic purposes,' Ms. Rice said in a January speech at Georgetown University that formally launched the effort <http://online.wsj.com/article_print/SB115515302287431295.html> ." (Neil King, Jr., "Rice Pushes Envoys To Spend Time In Hardship Posts," The Wall Street Journal, 8/10/06)

Treasury Secretary Henry Paulson Initiates Efforts To Address International Economic Issues. "With the encouragement of the White House, Mr. Paulson has been considering steps, including the establishment of an interagency working group on international economic issues led by the Treasury Department, to fulfill President Bush's pledge to make him the administration's chief economic policy maker. Mr. Paulson has conferred daily with the chief White House economic policy maker, Al Hubbard, and has been meeting with various Cabinet members to put his plans in motion, the officials said <http://www.nytimes.com/2006/08/10/business/10paulson.html?ref=business> ." (Steven R. Weisman, "Paulson Reinforces His Reach," The New York Times, 8/10/06)

Veterans Affairs Secretary Jim Nicholson Promises Credit Protection For Veterans. "VA Secretary Jim Nicholson said his department had arranged for a data analysis company to detect potential patterns of credit misuse for up to 26.5 million veterans whose names, birth dates and Social Security numbers were on a laptop and hard drive taken last May from a VA data analyst's Maryland home. VA subcontractor Unisys Corp. also agreed to provide one year of free credit monitoring for as many as 38,000 veterans after the company last week lost a desktop computer containing their data at its offices in Reston, Va. ... 'VA remains unwavering in its resolve to become the leader in protecting personal information, training and educating our employees in best practices,' Nicholson said <http://abcnews.go.com/Politics/print?id=2294626> ." (Hope Yen, "Credit Protection Due Vets in Data Theft," The Associated Press, 8/10/06)

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/08/20060809.html>

Interview of the Vice President by Wire Service Reporters
<http://www.whitehouse.gov/news/releases/2006/08/20060809-2.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060809-1.html>

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, August 10, 2006 12:24 PM
To: Elwood, Courtney; Otis, Lee L; Pacold, Martha M
Cc: Sampson, Kyle; Gorsuch, Neil M
Subject: RE: NALJ Statement

Thanks for your kind words and for all of the time and energy you invested in this. You gave us great guidance along the way. I think yesterday was a success -- even the press has gone easy on us, it seems. There's a lot to do yet to get EOIR firing on all cylinders, but I'm confident you'll have all the fine help you'll need to get the job done.

From: Elwood, Courtney
Sent: Wednesday, August 09, 2006 8:53 PM
To: Otis, Lee L; Swenson, Lily F; Pacold, Martha M
Cc: Sampson, Kyle; Gorsuch, Neil M
Subject: FW: NALJ Statement

Lily, Lee, and Martha --

I didn't pause long enough today to tell you what a tremendous job you did conducting this review and developing these directives. This was an exceedingly difficult project, and you accomplished it with the highest professionalism and hard work. I know that the Attorney General and Kyle share this view and, like me, are very grateful.

Unfortunately, of course, the work's not over. As Kevin said, it's time to "roll up our sleeves." But we'll talk soon enough about next steps . . . for the moment, enjoy a job well done.

Courtney

-----Original Message-----
From: Ohlson, Kevin (EOIR)
Sent: Wednesday, August 09, 2006 4:49 PM
To: Elwood, Courtney; Pacold, Martha M; Otis, Lee L; Swenson, Lily F
Subject: FW: NALJ Statement

Courtney, Martha, Lee, and Lily -

After talking to many of the immigration judges, I am convinced that the Attorney General's remarks were VERY well received today. This point is underscored by the attached message from the IJ union which we just received. I think this is a very positive development (despite the expected qualms the union has about the performance evaluations), and I am very grateful to the Attorney General for taking the time to address us, and to all of you who put in so much hard work on this topic. We at EOIR are now committed to rolling up our sleeves and making the Attorney General's directives a reality.

Kevin

Attached is the release by the IJ Union in response to the AG's Review.

Gunn, Currie (SMO)

From: Gunn, Currie (SMO)
Sent: Thursday, August 10, 2006 2:04 PM
To: Gorsuch, Neil M
Subject: FW: Neil Gorsuch
Importance: High

See the e-mail below. Can you provide me with a resignation letter asap. You can fax it to the office and I will make certain all the necessary parties get copies. The fax number is 202-514-0238. Thanks,

[redacted]

Currie

-----Original Message-----
From: Gresham, Nina C
Sent: Thursday, August 10, 2006 10:40 AM
To: Gunn, Currie (SMO)
Subject: FW: Neil Gorsuch

FYI.

-----Original Message-----
From: Goodling, Monica
Sent: Wednesday, August 09, 2006 6:27 PM
To: Gresham, Nina C
Cc: Merkle, Candice K; Mahoney, Sherry A; Markham, Rodney
Subject: RE: Neil Gorsuch

Neil has not yet prepared anything in writing, as the appointment has just been signed by the President and he is in Colorado, but we have confirmed orally that Neil is ready to be dropped from DOJ's payroll effective today, as he will become a judiciary branch employee tomorrow. I believe his office can help you prepare a SF52, if one is needed. Thank you.

-----Original Message-----
From: Gresham, Nina C
Sent: Wednesday, August 09, 2006 4:00 PM
To: Goodling, Monica
Cc: Merkle, Candice K; Mahoney, Sherry A; Markham, Rodney
Subject: RE: Neil Gorsuch

Monica,

I have been checking with your office several times today. I found out from Tracey Washington who checked with others about this case. She mentioned that you have been busy with meetings with the AG. The last Tracey and I talked she noted that you would be getting out of your latest meeting and could get back to me with the status of the resignation action. She also mentioned that your office was

already aware of the new appointment for Neil Gorsuch for tomorrow.

Please let us know if you have something in writing (i.e., SF52, email, letter) from Gorsuch regarding his resignation as of today so that was can process through the NFC system.

Thanks,
Nina
514-0677

-----Original Message-----
From: Merkle, Candice K
To: Gresham, Nina C
CC: Markham, Rodney; Mahoney, Sherry A
Sent: Wed Aug 09 11:44:23 2006
Subject: FW: Neil Gorsuch

Nina, will you need to do something today? [redacted] has requested to be notified (email below)

-----Original Message-----
From: Soffer, Mary L
Sent: Wednesday, August 09, 2006 11:41 AM
To: Markham, Rodney; Mahoney, Sherry A; Merkle, Candice K
Cc: Santangelo, Mari (JMD)
Subject: FW: Neil Gorsuch
Importance: High

Please see below - since Neil Gorsuch will be sworn in as a Judge tomorrow, we will have to separate him from DOJ today. Since he is moving from the Executive Branch to the Judicial Branch and he will not be covered by the Leave Act, he will
receive a lump sum payment for his annual annual leave which he was not able to use.

**He will need to modify his resignation date on his sf-52, or else submit something in writing changing his separation date. Please see [redacted]'s phone number below - [redacted] wants confirmation that this will be processed as a separation effective today.
Thanks

Mary Lou Soffer

-----Original Message-----
From: [redacted]@ca10.uscourts.gov [mailto [redacted]@ca10.uscourts.gov]
Sent: Wednesday, August 09, 2006 11:19 AM
To: Soffer, Mary L
Cc: [redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov;
[redacted]@ca10.uscourts.gov
Subject: RE: Neil Gorsuch

Mary Lou,
You had asked me to let you know when I heard the exact date that Mr. Gorsuch would be sworn in as a judge. I just found out that will be happening tomorrow, 8/10/06. I know he was working at DOJ through 8/4/06 and initially planned on being on annual leave for this entire week but

since he is going to be sworn in tomorrow, his last day on the books with DOJ will need to be today. This means he will have two extra days of annual leave that he did not use.

Please let me know - today - that there is not a problem with this and that his final separation from DOJ will be COB today as he will be transferring to this office effective tomorrow. If you need confirmation from Mr. Gorsuch directly, let me know so that I can ask him to do that. If you have any questions, be sure to give me a call at [redacted]

Thanks again for all your work to make this transfer go smoothly!

[redacted]

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, August 10, 2006 3:47 PM
Subject: JCON Desktop and Server Security Patch - Tonight

JCON Desktop and Server Security Patch

When: Friday, August 11, 2006, 12:01 AM to 6:00 AM

Customers Effected: All SMO/JMD JCON Customers

Actions Required: **Log off, but leave your PC powered on tonight** - prior to Friday, August 11, 2006

If your PC is logged on to the system during this time, it will be logged off, and rebooted when the security updates are remotely applied to your PC.

This service outage will include all JCON desktops and servers.

Unavailable Services: Email Services (messages will be queued until service is restored)
Dial in / (JSRA) Citrix customers
Logging on to JCON Network
H:\ Drive
G:\ Drive
M:\ Drive
Network Printers
Internet Access
BlackBerry (PIN to PIN messaging is available)

Available Services: Pin to Pin BlackBerry Messaging

Thank you for helping us as we strive to make the JCON network more secure.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Beach, Andrew

Subject:	Canceled: Strategic Initiatives Staff Meeting
Location:	OAG Conf Rm 5228
Start:	Monday, August 14, 2006 1:30 PM
End:	Monday, August 14, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Goodling, Monica; Pacold, Martha M; Oldham, Jeffrey L; Mercer, Bill (ODAG); Gorsuch, Neil M; Brand, Rachel; Scolinos, Tasia; Jezierski, Crystal; Moschella, William; Sellers, Kiahna (OAG); Fisher, Alice; Masugi, Ken (OPA); Battle, Michael (USAEO); Jezierski, Crystal; Coughlin, Robert; Friedrich, Matthew; Elston, Michael (ODAG); Schofield, Regina; Card, Jean; Pagliocca, Theresa
Importance:	High

When: Monday, August 14, 2006 1:30 PM-2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

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Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Bill Mercer, Neil Gorsuch, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Jean Card, Ken Masugi, Mike Battle, Mike Elston, Regina Schofield, Theresa Pagliocca

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Friday, August 18, 2006 8:30 AM
End:	Friday, August 18, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M
Importance:	High

When: Friday, August 18, 2006 8:30 AM-9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Rachel Brand, Crystal Jezierski, Mike Elston

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 10, 2006 5:02 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT WILL NOT OPPOSE AMERICAN TRUCKING ASSOCIATIONS' PROPOSAL

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 10, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT WILL NOT OPPOSE AMERICAN TRUCKING ASSOCIATIONS' PROPOSAL

WASHINGTON — The Department of Justice announced today that it will not oppose a proposal by the American Trucking Associations Inc. (ATA) to develop and publicize model agreements for motor carriers and freight transportation brokers. The Department said the model agreements are not likely to be anticompetitive.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General for the Antitrust Division, to counsel for the ATA. The ATA is the national trade association representing the interests of motor carriers, state trucking associations, and national trucking conferences.

The ATA requested a business review letter from the Division expressing its enforcement intentions regarding the ATA's proposal to develop and publicize two model agreements for use between motor carriers and brokers that would contain terms commonly used in the industry. Motor carriers and transportation brokers can use the model agreements to negotiate the terms and conditions of contracts between them for the motor carriage of goods. The agreements contain clauses, among others, related to the shipment service to be rendered, liability for the cargo, and the role of indemnity if the service is not adequately performed. According to the request, the availability of such model agreements will ease the competitive disadvantage of small brokers brought about by the expense of drafting contracts with multiple carriers.

"Making the model agreements available to the trucking industry is not likely to reduce competition," Barnett said in the letter. "The model agreements do not contain any provisions specifying rates to be charged or other competitively significant terms, and use of the agreements or any of their provisions will be left to the determination of each company acting independently."

In the proposal, the ATA stated that both motor carriers and brokers will be able to use the model agreements or any of their provisions during contract negotiations. The ATA represented that all of the rate-related and other competitively significant terms of the model agreements will be left blank, to be negotiated individually by the parties, and that the model agreements will be discretionary such that the motor carriers and brokers can individually decide whether to incorporate their terms.

DOJ_NMG_ 0166374

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division would challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, Department of Justice, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure, 28, C.F.R. § 50.6.

###

06-524

DOJ_NMG_ 0166375

DEPARTMENT OF JUSTICE
Antitrust Division

THOMAS O. BARNETT
Assistant Attorney General

Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
(202) 514-2401 / (202) 616-2645 (Fax)
E-mail: antitrust@usdoj.gov
Web site: http://www.usdoj.gov/atr

August 10, 2006

Kenneth P. Ewing, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Dear Mr. Ewing:

This letter responds to your request for the issuance of a business review letter pursuant to the Department of Justice's Business Review Procedure, 28 C.F.R. § 50.6. You have requested a statement of the Antitrust Division's current enforcement intentions with respect to a proposal by your client, the American Trucking Associations, Inc. ("ATA"), to develop and publicize model agreements between motor carriers and freight transportation brokers.[1]

The ATA is the national trade association representing the interests of motor carriers, state trucking associations, and national trucking conferences. You have stated that the ATA would like to develop and publicize two model agreements between motor carriers and freight transportation brokers – a long-form "Model Broker-Carrier Agreement" and a "Short-Form Model Broker-Motor Carrier Agreement" (collectively, the "Model Broker Agreements") – to help increase efficiency in contract negotiations and reduce transactional costs for all parties. According to your representations, the Model Broker Agreements will be made available to ATA members to use on a voluntary basis at their sole discretion. Motor carriers and brokers will be free to choose whether to use any of the agreements' individual provisions or the agreements in their entireties.

You indicate that all terms in the Model Broker Agreements for rates and charges, including the basic freight charge, mileage charge, fuel surcharges, loading and unloading

[1] In 2002, the ATA requested, and received, a favorable business review letter for a similar proposal to develop and circulate a model contract for use by motor carriers and shippers. (*See* Business Review Letter issued to American Trucking Associations on November 15, 2002.) The ATA later finalized and published on its website, in conjunction with the National Industrial Transportation League, a "Model Truckload Carrier/Shipper Agreement" in November 2004.

charges, detention clauses and drop clauses, would be left blank for each carrier to negotiate individually with brokers. Likewise, non-rate terms that address the geographic scope, commodities covered, invoicing and payment, carrier insurance and broker bonds, and dispute resolution would be left blank for each carrier to negotiate separately with brokers. You also claim that the Model Broker Agreements will not cause or increase the likelihood of competitors sharing competitively sensitive information.

You contend that there is little, if any, likelihood that the Model Broker Agreements would adversely affect competition. Instead, you claim that the creation of the Model Broker Agreements will have several procompetitive benefits. You represent generally that the Model Broker Agreements can reduce the costs of negotiating contracts and of dispute resolution. You claim that the Model Broker Agreements will make alternative contract terms easily available to smaller brokers who may regularly deal with only a few carriers, and may enhance all brokers' ability to negotiate for different terms when dealing with carriers using their own forms or offering variations from the Model Broker Agreements' terms. You also claim that the Model Broker Agreements will lower barriers to entry by allowing new freight brokers to concentrate their limited resources on tasks other than developing contract forms. Finally, you claim that use of the Model Broker Agreements may increase competition among trucking companies by reducing the costs of changing carriers by simplifying brokers' comparisons among carriers. In addition, the spread of standard contract language may also simplify and facilitate interlining between carriers, allowing smaller or regional carriers to expand their reach and thus be better able to compete with larger or national carriers.

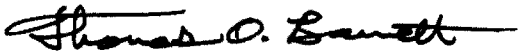
Based upon the representations made in your request, the documents and information submitted in support of your request, and the information obtained during our own review, the Department has no present intention of challenging the proposal to develop and publicize the Model Broker Agreements. Making the model agreements available to the trucking industry is not likely to reduce competition. The model agreements do not contain any provisions specifying rates to be charged or other competitively significant terms, and use of the agreements or any of their provisions will be left to the determination of each company acting independently. Thus, carriers will remain free to compete by offering their individually determined contract terms and provisions to brokers. Moreover, the proposed Model Broker Agreements could have procompetitive effects by improving the efficiency of contract negotiations, potentially reducing shipping rates.

This letter expresses the Department's current enforcement intention and is issued in reliance on the information and representations contained in ATA's submissions. In accordance with our normal practices, the Department reserves the right to bring any enforcement action in the future should circulation of the Model Broker Agreements prove to be anticompetitive in purpose or effect.

This statement is made in accordance with the Department's Business Review Procedure 28 C.F.R. § 50.6. Pursuant to its terms, your business review request and this letter will be made publicly available immediately, and any supporting data will be made publicly available within

30 days of the date of this letter, unless you request that part of the material be withheld in accordance with Paragraph 10(c) of the Business Review Procedure.

Yours sincerely,



Thomas O. Barnett

Image not available for this document, ID: 0.7.10316.38672-000002

Image not available for this document, ID: 0.7.10316.38672-000003

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Friday, August 18, 2006 8:30 AM
End:	Friday, August 18, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Sampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Katsas, GregorySampson, Kyle; Taylor, Jeffrey (OAG); Elwood, Courtney; Mercer, Bill (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Scolinos, Tasia; Moschella, William; Brand, Rachel; Jezierski, Crystal; Gorsuch, Neil M; McNulty, Paul J; Goodling, Monica; Elston, Michael (ODAG); Katsas, Gregory
Importance:	High

AG's Conference Room
DOJ: Paul McNulty, Robert McCallum, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Jeff Oldham, Martha Pacold, Tasia Scolinos, Rachel Brand, Crystal Jezierski, Mike Elston

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 10, 2006 5:49 PM
To: Gunn, Currie (SMO)
Subject: Re: Neil Gorsuch

Currie, I think I took care of this via email to Mary Lou earlier today, but if she needs anything more please let me know. Thanks! Neil

-----Original Message-----
From: Gunn, Currie (SMO)
To: Gorsuch, Neil M
Sent: Thu Aug 10 14:03:41 2006
Subject: FW: Neil Gorsuch

See the e-mail below. Can you provide me with a resignation letter asap. You can fax it to the office and I will make certain all the necessary parties get copies. The fax number is 202-514-0238. Thanks,

Currie

-----Original Message-----
From: Gresham, Nina C
Sent: Thursday, August 10, 2006 10:40 AM
To: Gunn, Currie (SMO)
Subject: FW: Neil Gorsuch

FYI.

-----Original Message-----
From: Goodling, Monica
Sent: Wednesday, August 09, 2006 6:27 PM
To: Gresham, Nina C
Cc: Merkle, Candice K; Mahoney, Sherry A; Markham, Rodney
Subject: RE: Neil Gorsuch

Neil has not yet prepared anything in writing, as the appointment has just been signed by the President , but we have confirmed orally that Neil is ready to be dropped from DOJ's payroll effective today, as he will become a judiciary branch employee tomorrow. I believe his office can help you prepare a SF52, if one is needed. Thank you.

-----Original Message-----
From: Gresham, Nina C
Sent: Wednesday, August 09, 2006 4:00 PM
To: Goodling, Monica

To: Gooding, Monica
Cc: Merkle, Candice K; Mahoney, Sherry A; Markham, Rodney
Subject: RE: Neil Gorsuch

Monica,

I have been checking with your office several times today. I found out from Tracey Washington who checked with others about this case. She mentioned that you have been busy with meetings with the AG. The last Tracey and I talked she noted that you would be getting out of your latest meeting and could get back to me with the status of the resignation action. She also mentioned that your office was already aware of the new appointment for Neil Gorsuch for tomorrow.

Please let us know if you have something in writing (i.e., SF52, email, letter) from Gorsuch regarding his resignation as of today so that was can process through the NFC system.

Thanks,
Nina
514-0677

-----Original Message-----
From: Merkle, Candice K
To: Gresham, Nina C
CC: Markham, Rodney; Mahoney, Sherry A
Sent: Wed Aug 09 11:44:23 2006
Subject: FW: Neil Gorsuch

Nina, will you need to do something today? [redacted] has requested to be notified (email below)

-----Original Message-----
From: Soffer, Mary L
Sent: Wednesday, August 09, 2006 11:41 AM
To: Markham, Rodney; Mahoney, Sherry A; Merkle, Candice K
Cc: Santangelo, Mari (JMD)
Subject: FW: Neil Gorsuch
Importance: High

Please see below - since Neil Gorsuch will be sworn in as a Judge tomorrow, we will have to separate him from DOJ today. Since he is moving from the Executive Branch to the Judicial Branch and he will not be covered by the Leave Act, he will
receive a lump sum payment for his annual annual leave which he was not able to use.

**He will need to modify his resignation date on his sf-52, or else submit something in writing changing his separation date. Please see [redacted]'s phone number below - [redacted] wants confirmation that this will be processed as a separation effective today.
Thanks

Mary Lou Soffer

-----Original Message-----
From [redacted]@ca10.uscourts.gov [mailto [redacted]@ca10.uscourts.gov]
Sent: Wednesday, August 09, 2006 11:19 AM

To: Soffer, Mary L
Cc: [redacted]@ca10.uscourts.gov; [redacted]@ca10.uscourts.gov;
[redacted]@ca10.uscourts.gov
Subject: RE: Neil Gorsuch

Mary Lou,
You had asked me to let you know when I heard the exact date that Mr. Gorsuch would be sworn in as a judge. I just found out that will be happening tomorrow, 8/10/06. I know he was working at DOJ through 8/4/06 and initially planned on being on annual leave for this entire week but since he is going to be sworn in tomorrow, his last day on the books with DOJ will need to be today. This means he will have two extra days of annual leave that he did not use.

Please let me know - today - that there is not a problem with this and that his final separation from DOJ will be COB today as he will be transferring to this office effective tomorrow. If you need confirmation from Mr. Gorsuch directly, let me know so that I can ask him to do that. If you have any questions, be sure to give me a call at [redacted]

Thanks again for all your work to make this transfer go smoothly!

[redacted]

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 10, 2006 7:30 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 10, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Attorney General Gonzales Participates in Press Conference Regarding Airline Terror Plot (OPA)
Today, Attorney General Alberto R. Gonzales participated in a press conference regarding the arrest of 24 individuals in the United Kingdom with Department of Homeland Security Secretary Michael Chertoff, FBI Director Robert Mueller and TSA Assistant Secretary Kip Hawley. The individuals are suspected of plotting a massive series of attacks against flights en route from England to the United States. The investigation is ongoing in the UK and a number of investigative activities remain underway.

The Homeland Security Threat Advisory System has been elevated to red, the highest alert level, for commercial flights originating out of the United Kingdom and bound for the United States. At the same time, the U.S. government has raised the nation's threat level to orange or "high" for all commercial aviation operating in or destined for the United States. The rest of the nation remains at yellow or "elevated" risk for attack.

The story received significant media attention. The Attorney General appeared on the Rush Limbaugh Show and ABC Radio to discuss the matter. He also appeared on ABC Nightline with Terry Moran, CNBC with Maria Bartiromo, FOX News Big Story with John Gibson, PBS with Charlie Rose, and MSNBC with Rita Cosby.

FBI Director Mueller was interviewed by NBC News reporter Pete Williams and *New York Times* reporter David Johnston.

Talking Points

- The Department of Justice and the Federal Bureau of Investigation will aggressively pursue all potential leads and intelligence information resulting from the U.K. investigation to ensure everything is being done to protect the American people. At this time, there is no current indication of any terrorist plot in the U.S.

- As has been reported in the past, al-Qaeda and its affiliates have a sustained interest in targeting public transportation systems.

- We have been sharing information and cooperating with domestic and international law enforcement and intelligence authorities related to the recently foiled terrorist plot in the UK to launch simultaneous attacks against airliners traveling from the UK to the US using liquid explosives.

- At this time there is no specific or credible information regarding plotting within the US.

- At the same time, the FBI, through our Joint Terrorism Task Forces, is operating at a heightened level to pursue all information and leads and to continue investigating suspected activities here and abroad with our partners from the US and international law enforcement and intelligence community.

- People should be patient, but they need not cancel their travel plans. They simply need to be aware there may be some delays, and they may want to check with their carriers to see whether they ought to adjust their arrival times at airports.

- The American public can be assured that the United States government will continue to do everything in its power, under the leadership of President Bush and in cooperation with our British and other allies, to defend our nations and our world.

FBI Arrests Three Additional Egyptian Students (FBI)
Today, three additional missing Egyptian students were located, two outside Baltimore, MD, and a third at Chicago O'Hare Airport. These individuals are now in ICE custody. Five students remain outstanding.

Matt Friedrich Testifies Regarding Presidential Kleptocracy Initiative (Criminal)
Today, Principal Deputy Assistant Attorney General Matt Friedrich and officials from the Departments of State and Treasury briefed media on a major new Presidential initiative to internationalize the effort to fight corruption.

FRIDAY'S EXPECTED EVENTS/RELEASES:

Attorney General Gonzales to Participate in Numerous Media Interviews (OPA)
Tomorrow, the Attorney General is scheduled to participate in radio interviews regarding the terror arrests with the Mike Gallagher Show, the Glenn Beck Program and Melanie Smith of USA Radio Network. He may also participate in television interviews.

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Intel Cmte hearings

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Senate Judiciary Committee - Corrected

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Senate Judiciary Committee - Corrected

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Hill briefing

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: LATEST version of USA Today

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: USA Today update

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: USA Today update

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Privacy and Civil Liberties - House staff call

Moschella, William

From: Moschella, William
Sent: Thursday, August 10, 2006 8:01 PM
To: Gorsuch, Neil M
Subject: Not read: Letter to Chief Judges

Beach, Andrew

Subject:	Canceled: Strategic Initiatives Staff Meeting
Location:	OAG Conf Rm 5228
Start:	Monday, July 03, 2006 1:30 PM
End:	Monday, July 03, 2006 2:30 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 1:30 PM to 2:30 PM
Meeting Status:	Not yet responded
Organizer:	Beach, Andrew
Required Attendees:	Mercer, Bill (ODAG); Gorsuch, Neil M; Masugi, Ken (OPA)
Importance:	High

When: Occurs every Monday effective 7/3/2006 until 9/25/2006 from 1:30 PM to 2:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: OAG Conf Rm 5228

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

Attending: Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Martha Pacold, Jeff Oldham, Rachel Brand, Tasia Scolinos, Crystal Jezierski, Will Moschella, Andy Beach, Kiahna Sellers, Alice Fisher, Jean Card, Mike Battle, Mike Elston, Regina Schofield, Theresa Pagliocca, Greg Katsas

postmaster@jconmail.usdoj.gov

From:	postmaster@jconmail.usdoj.gov
Sent:	Thursday, August 10, 2006 12:10 PM
To:	Gorsuch, Neil M
Subject:	Delivery Status Notification (Delay)
Attachments:	ATT145472.txt; Out of Office AutoReply: The Daily Update: 8/3/06.msg

This is an automatically generated Delivery Status Notification.

THIS IS A WARNING MESSAGE ONLY.

YOU DO NOT NEED TO RESEND YOUR MESSAGE.

Delivery to the following recipients has been delayed.

IMCEAWT-RoslynnMauskopf@jconmail.usdoj.gov

Reporting-MTA: dns;MAIL-MSGE-220.JCONMAIL.DOJ.GOV
Received-From-MTA: dns;JMD-MSGE-EFE11.JCONMAIL.DOJ.GOV
Arrival-Date: Thu, 10 Aug 2006 12:08:14 -0400

Final-Recipient: rfc822;IMCEAWT-RoslynnMauskopf@jconmail.usdoj.gov
Action: delayed
Status: 4.4.7
Will-Retry-Until: Sat, 12 Aug 2006 12:08:14 -0400
X-Display-Name: Mauskopf, Roslynn (USANYE)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 10, 2006 12:10 PM
To: Mauskopf, Roslynn (USANYE)
Subject: Out of Office AutoReply: The Daily Update: 8/3/06

After August 4, I will be residing in Colorado. My successor as PDASG is Greg Katsas.

I will continue checking this e-mail account periodically until the end of August. If you need to reach me promptly, please call my cell: [redacted]

My contact information in Colorado is:

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257
(303) 335-2896
Office email: Judge_Neil_Gorsuch@ca10.uscourts.gov
Home email: [redacted]

postmaster@jconmail.usdoj.gov

From:	postmaster@jconmail.usdoj.gov
Sent:	Friday, August 11, 2006 4:53 AM
To:	Gorsuch, Neil M
Subject:	Delivery Status Notification (Delay)
Attachments:	ATT15967.txt; Out of Office AutoReply: New Temporary Cell Number.msg

This is an automatically generated Delivery Status Notification.

THIS IS A WARNING MESSAGE ONLY.

YOU DO NOT NEED TO RESEND YOUR MESSAGE.

Delivery to the following recipients has been delayed.

[redacted]

Reporting-MTA: dns;MAIL-MSGE-220.JCONMAIL.DOJ.GOV
Received-From-MTA: dns;JMD-MSGE-EFE11.JCONMAIL.DOJ.GOV
Arrival-Date: Thu, 10 Aug 2006 16:50:39 -0400

Final-Recipient: rfc822[redacted]
Action: delayed
Status: 4.4.7
Will-Retry-Until: Sat, 12 Aug 2006 16:50:39 -0400

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 10, 2006 4:52 PM
To: [redacted]
Subject: Out of Office AutoReply: New Temporary Cell Number

After August 4, I will be residing in Colorado. My successor as PDASG is [redacted]

I will continue checking this e-mail account periodically until the end of August. If you need to reach me promptly, please call my cell: [redacted]

My contact information in Colorado is:

U.S. Court of Appeals for the Tenth Circuit Byron White Court House 1823 Stout Street Denver, CO 80257 [redacted] Office email: [redacted]@ca10.uscourts.gov Home email: [redacted]@hotmail.com

From: [redacted]
Sent: Friday, August 11, 2006 7:31 AM
To: Gorsuch, Neil M
Subject: BPM on SOA Webcast
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe9812747365057d70-fdf517777167017e72157373-fef8177574610d

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: [redacted]

Teleconference: dial [redacted]

Passcode: [redacted] for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

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Rescheduled

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service-oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

New Date: Thursday, August 17th, 2006

Time: 12:00 p.m EDT

To attend this meeting, you must first register for it. Please click this link to see more information, and register for this meeting.
https://tibcomc.webex.com/tibcomc/j.php?ED=86656367&RG=1

Once you have registered for the meeting, you will receive an email message confirming your registration. This message will provide the information that you need to join the meeting.

For Help or Support:
Go to https://tibcomc.webex.com/tibcomc/mc click Assistance, then Click Help or click Support.

TIBCO contac[redacted] email[redacted]@tibco.com

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Friday, August 11, 2006 8:14 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Friday, August 11, 2006
Attachments:	agnb060811.pdf; agnb060811.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, AUGUST 11, 2006 7:45 AM EDT

TODAY'S EDITION

Terrorism News:

Disrupted Terror Plot Could Have Killed Thousands 3
Three More Missing Egyptian Students Apprehended 13
Michigan Men Face Additional Terrorism Charge As Lawyer Alleges Discrimination 13

Homeland Response:

Court Consolidates Eavesdropping Lawsuits Against Phone Companies 14
Arab-American Students Accused Of Supporting Terrorism . 14
Seattle Jewish Center Shooter Weighing Guilty Plea 14
Judge Refuses To Dismiss Case Against AIPAC Lobbyists 14

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Thirty-Five Killed In Attack On Iraq's Holiest Shiite Shrine 15
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Commander Says UK Forces In Afghanistan Involved In Worst Fighting Since WWII 15

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Mercer To Serve As Associate Attorney General 15
Leone's Departure Said To Signal Bigger DOJ Role In Nacchio Case 15
Love Terminal Attorney Wants DOJ Involved In Wright Amendment Talks 16
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SEC Charges Ex-Endocare Executives With Fraud 16
Options-Pricing Probes Top 100 As Nvidia, Electronic Arts Reveal Investigations 17
Lay Lawyers Begin Move To Let Estate Act On His Behalf 17
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TERRORISM NEWS:

Disrupted Terror Plot Could Have Killed Thousands. The AP (8/11, Quinn) reports, "British police said Thursday they thwarted a terrorist plot, possibly just days away, to blow up US-bound jetliners over the Atlantic and kill thousands. Chilling accounts leaked by investigators described a plan…that would use liquid explosives concealed as everyday carry-on items and common electronic devices to bring down 10 planes in a nearly simultaneous strike." The bombs "were to be assembled on the aircraft apparently using a liquid explosive — most likely peroxide -- and detonated by such devices as a disposable camera or a music player, two American law enforcement officials told The Associated Press. The officials spoke on condition of anonymity because Britain asked that no information be released."

The Financial Times (8/11, Sherwood, Sevastopulo) reports, "After an unprecedented surveillance operation led by MI5, the security service, in close co-operation with US authorities, British police moved to disrupt the alleged suicide bomb plot, which could have been launched in the next few days." The plan "would have caused casualties on a scale to rival the September 11 attacks. John Reid, UK home secretary, said the 'loss of life of civilians would have been on an unprecedented scale.'"

Gonzales Says US Agents Worked Closely With UK To Track Leads. Attorney General Gonzales was asked on Fox News The Big Story With John Gibson (8/10), "What was the role the United States played in the investigation and the apprehension of these terror suspects in London?" Gonzales: "Well, you know, we've got a strong cooperative relationship with the British authorities. We've worked with them on many investigations, and this was no exception. There were information, tips and leads here within the United States that the FBI, the Department of Justice, other law enforcement and intelligence agencies, that we followed up on. The FBI had over 20 agents running down each of these leads."

On ABC's Nightline (8/10), Gonzales said the plot "has been on our radar screen for, I would say, quite some time. …. We had a couple hundred FBI agents involved in running down the tips and leads. Let me reassure the American public that we're not aware of any plot here in America. And we did our job in running down those leads. But we're very active in getting information. Whatever information we learned to the British authorities. … We have a good sense of the scope of the plot. But we also know we have a smart, patient, and determined enemy. And I think it's safe to say that the investigation continues. We have disrupted the threat. But I'm not prepared. I don't think this government or the British government's prepared to say we ended the threat."

Baltimore Sun Says Gonzales' "Tone Was All Wrong." The Baltimore Sun (8/11, 262K) editorializes, "The best public appearances were by officials who were clear, informative, unemotional and nonrhetorical." DHS Secretary Michael Chertoff "managed his morning news conference admirably." Attorney General Gonzales "and, to a lesser extent, President Bush tried to sound notes of high passion and purple purpose, and their tone was all wrong. In some ways, an emotional response is part of what terrorists are hoping to provoke. Levelheadedness is better."

UK, Pakistan, US Had Been Trailing Plotters For Several Months. The Washington Post (8/11, A1, Whitlock, Linzer, 748K) reports, "Counterterrorism officials said the basic outline of the conspiracy was known for several months. Investigators from New York to Islamabad, Pakistan, said they were briefed by their British counterparts late last year. … Some US counterterrorism officials said plans originally were to allow the conspiracy to develop even further. But US and British investigators made a sudden decision this week to close down the operation after they became increasingly worried that there were other bombers they had been unable to locate or identify, U.S. officials said."

The Washington Times (8/11, Gertz, Hudson, 88K) notes, "British and Pakistani officials stepped up an eight-month investigation to prevent a 'dry run'" of the attack. "The terrorist suspects had been under surveillance since December and the plot could have been carried out 'within days,' officials said. U.S. officials publicly congratulated Britain for the arrest, but privately two officials suggested that electronic surveillance of terror suspects in Pakistan and Britain provided the initial clues to the plot."

USA Today (8/11, Diamond, Johnson, Leinwand, 2.27M) reports, "In interviews Thursday, three US law enforcement officials and three US intelligence officials familiar with the details of the months-long investigation described why it was jolted into crisis mode. … The law enforcement and intelligence officials, who requested anonymity because they were not authorized to discuss the

investigation publicly, said there were several signs the plot was unfolding: Several of the suspects bought large quantities of common household ingredients such as hydrogen peroxide and citric acid, which could be used to make an explosive compound known as HMDT. … The alleged plotters… appeared to be testing various blends of the ingredients to try to come up with an explosive powerful enough to bring down a jet. They also allegedly tried to develop a formula that could be turned into an explosive with minimal effort on a plane." Also, "a few key suspects in the alleged plot returned to London from Pakistan recently," and "there was evidence indicating that the alleged plotters had planned a "dry run" in which they would test their ability to get the liquid ingredients past security at London's Heathrow Airport and board a jet."

The Wall Street Journal (8/11, Mollenkamp, Cummins, Crawford, Block, 2.03M) reports, "One US federal agent briefed on the investigation said the operation may have been planned for as early as this weekend, possibly with a dress rehearsal followed by the real strike a few days later."

Investigation Continues; Little Publicly Known About Arrested Suspects. The CBS Evening News (8/10, story 2, 3:20, Smith, 7.66M) reported, "It's not over." CBS (Macvicar) added, "The police operation is still ongoing. At least 24 people are now in custody, most of them British born, many of Pakistani descent. The youngest is just 17. The police are searching for at least five more suspects." Deputy Assistant Commissioner Peter Clark, Scotland Yard: "The alleged plot has global dimensions. The investigation reached a critical point last night when the decision was made to take urgent action." Macvicar: "Though police didn't move until last night, Britain's Prime Minister briefed President Bush on Sunday."

USA Today (8/11, 5A, Stinson, Soriano, 2.27M) notes, "Almost no information has been released by officials about 24 suspects arrested Thursday," as "searches continued throughout the day, and police cordoned off streets in several places." French Interior Minister Nicolas Sarkozy "said the group 'appears to be of Pakistani origin,' but he did not give a precise source for the information. … Lord Nazir Ahmed, a member of the House of Lords and leading figure in Britain's Muslim community, said he 'heard through the grapevine' that the suspects arrested in the plot were young British Muslim men of Pakistani background."

Terror Plot Dominates News. The British terror plot dominated the networks news last night, which was focused on the story almost to the exclusion of any other material. ABC, CBS, and NBC devoted 19 segments of their newscasts -- a total of about 47 minutes -- to the story. The network reports tended to include the same general information about what's known about the plot and the new security measures. ABC World News Tonight (8/10, 2:30, lead story, 3:20, Watt, 8.78M) reported, "The tension here in London could not have been higher today. The British government, very publicly raised the terror threat alert to critical." The "plan was simple and terrifying. To blow up as many as ten planes from the Britain to the US. All those arrested are British-born Muslims. Most of Pakistani origin. One of them is a woman. Sources tell ABC News at least two suspects had prepared so-called martyrdom tapes as they finalized their plans." The CBS Evening News (8/10, lead story, 3:45, Smith, 7.66M) noted "the United States raised the terror alert level on transatlantic flights from Britain to red, the first time that highest of alerts has ever been used," while NBC Nightly News (8/10, lead story, 3:00, Williams, 9.87M) said "the way we travel by air has been altered, perhaps forever, because of what investigators here are calling a busted-up plot to blow commercial airliners out of the sky."

The Los Angeles Times (8/11, Spiegel, Meyer, Stobart, 918K) reports, "A British anti-terror official, who like others spoke on condition of anonymity because the investigation is ongoing, said the suspects planned to blow up as many as 10 US-bound planes in waves of three over the mid-Atlantic." They "had researched flight routes and determined that US-bound jets tend to fly in batches toward their destinations, the official said."

The Baltimore Sun (8/11, Richissin, 262K) reports "a US intelligence official said the plotters had hoped to target flights to major airports in New York, Washington and California." The Washington Post (8/11, A1, Anderson, DeYoung, 748K) reports, "Counterterrorism officials said the plotters intended to strike at United, American and Continental airline flights," and "a US intelligence official, who would not be quoted by name, said that British Airways flights were also targeted, although it did not appear that plans had progressed to 'specific flights' on specific days."

The Washington Times (8/11, Webb, 88K) reports "officials" said "they were confident that they had nabbed the primary terrorists in the planned attack, which could have matched the death toll of September 11, 2001, had it been successful." However, "five suspects remained at large and were the subject of an intense manhunt, intelligence officials

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told The Washington Times." British officials "said 24 suspects had been arrested. Most were thought to be young Britons of Pakistani origin."

DHS Secretary Chertoff said on CNN's The Situation Room (8/10) yesterday, "It's clear that the plot that was disrupted by British authorities over the last 24 hours was a plot that involved suicide bombing. And the plan was to have multiple suicide bombings on aircraft, essentially at the same time. So we know that the people involved were, in fact, intending or expecting to lose their own lives." Chertoff added that "the British courts are very careful and very strict about what we can say, so I don't want to spoil the prosecution in Britain, but I do want to emphasize this was a case that would have involved the loss of an enormous amount of innocent life had the plot been successful."

Chertoff was also interviewed on the CBS Evening News (8/10, story 4, 2:30, Smith, 7.66M), where Harry Smith said it was "stunning" that approaching the five-year anniversary of 9/11, "that intense hatred and that willingness to die for this cause has not abated at all." Chertoff: "Well, you know, Harry, that's the fascinating thing, because we consider a five-year anniversary a significant anniversary. But if you look at what people like bin Laden have written and said over the years, they still get agitated about events that happened 400 or 500 years ago. So their grievances and their sense of memory spans centuries. We're often taxed in terms of perseverance, even after a couple of years. And that's why really the critical weapon that we have to have in this struggle against terror is resolution and steadfastness."

US Officials Concerned About Threats From Fundamentalist Groups In Europe. Under the headline "UK Seen As Weak Link By The US," the Financial Times (8/11, Sevastopulo) reports news of the latest plot "will probably renew concern about threats to the US, which has not seen a terrorist attack on its soil since 2001, from fundamentalist groups based in Europe. … One former senior US intelligence official told the FT that Washington had long considered the UK a weak link in combating Islamist terrorism, partly because it had not clamped down on radical Islamist activity at mosques. He added that while MI5, Britain's security service, was now perceived to be better at dealing with terrorism, the UK was hampered by legal impediments to a clampdown because of civil liberties."

Plot May Suggest Al Qaeda's Continued Operational Survival. The New York Times (8/11, Shane, 1.21M) reports, "Intelligence and counterterrorism officials said yesterday that the scale and sophistication of the scheme…could mean that Al Qaeda, whose central command has been severely damaged since 2001, was again able to direct attacks. But some specialists on the shifting networks of international terrorism said the alternative explanation -- that homegrown British jihadists had managed to conceive a plot of such ambition — might hold even graver implications for the future." FBI Director Robert Mueller "said in an interview that the scope and targets of the thwarted plot were 'suggestive of Al Qaeda direction and planning,' and other top officials said the plan reflected the terrorist network's penchant for spectacular and simultaneous assaults." Secretary Chertoff was asked on MSNBC's Hardball (8/10) about al Qaeda involvement. Chertoff said, "We are looking at the evidence. … We haven't seen all the evidence yet and rather than jump to a conclusion, I want to reserve the final judgment until we really have all the facts."

The Washington Post (8/11, A1, DeYoung, 748K) reports, "Strong indications of an al-Qaeda link…suggest that the terrorist network has survived and adapted despite heavy blows to its leadership and organizational structure over the past five years, U.S. intelligence officials said." The Post adds that "the alleged British plot 'is really, really serious,' one intelligence official insisted yesterday. 'This is the real deal. … This was not the Moorish Nation,' he said, referring to the arrest this summer in Miami of a ragtag, FBI-infiltrated group allegedly plotting to blow up the Sears Tower in Chicago. 'We have reason to believe that this is an al-Qaeda-related operation." However, "Others were withholding judgment." Georgetown Security Studies Program director Daniel L. Byman said that "he is 'still very skeptical until I see more evidence of how close these guys really were' to al-Qaeda. 'I've read too many breathless FBI statements' over the years, he said."

NBC Nightly News (8/10, story 2, 3:00, Williams, 9.87M) asked, "How real was this?" NBC (P. Williams) added, "US officials say this was a carefully thought-out and well-financed operation, with all the earmarks of al Qaeda. … For the past several days, the FBI has feverishly looked for any potential ties to people in the US but has so far found none." Mueller: "We literally in the last couple of weeks have had hundreds of FBI agents around the country tracking down every lead and we have not found to date any plotters here in the United States." NBC Nightly News (8/10, story 6, 2:45, Williams, 9.87M) also reported in its "In Depth" segment that "the FBI says the plot…had all the earmarks of al Qaeda," and NBC

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(Myers) noted "the Pakistani connection," "martyrdom videos," the similarity to the 1995 Philippines plot, and recent messages from al Zawahri and bin Laden all suggest al Qaeda involvement. Myers added, "If this is indeed the work of al Qaeda, many counter-terror experts see it as proof that al Qaeda has been able to reconstitute itself despite heavy losses since 9/11."

The CBS Evening News (8/10, story 5, 2:05, Smith, 7.66M) also reported that the plot was "awfully familiar" to the Philippines plot, and CBS (Martin) added that "there was one key difference. In Manila, the terrorists mixed their explosives ahead of time and conducted a test run by plants one small bomb under a seat aboard this Philippine airliner," but the UK plotters planned to mix "their explosives after they boarded the aircraft. … That change of tactic shows why no one should take comfort from the fact this latest plot was disrupted. Terrorists learn from their mistakes."

ABC World News Tonight (8/10, story 2, 2:40, Gibson, 8.78M) noted that "authorities have been watching this plot develop for some time." ABC (Ross) noted, "The London plot is a carbon copy" of the Philippine plot. "It was led by now-imprisoned al Qaeda leader, Ramzi Yousef." Former FBI Special Agent Jack Cloonant: "Ramzi Yousef was going to bring on the plane, liquid, in contact lens fluid. And put this into saturated material, into a stuffed doll that he was going to put on the plane and explode with a Casio watch." Ross: "As the British continue to hunt for five other suspected terrorists, there is growing concern there could be a plan 'B.'" The New York Times (8/11, Bonner, Weiser, 1.21M) also examines the similarities to the Philippine plot, under the headline "Echoes Of Early Design To Use Chemicals To Blow Up Airliners."

The Christian Science Monitor (8/11, Rice-Oxley, 58K) runs a similar report under the headline "Foiled Terror Plot On Scale Of 9/11," in which it says "Bruce Hoffman, an expert on terrorism at the RAND Corp. in Washington, notes that it's typical of Al Qaeda to go back to targets and improve their techniques on past attacks. The successful attack on the USS Cole in 2000 followed a failed bid to sink the USS Sullivan in 1999. The 9/11 attack came eight years after the limited attack on the World Trade Center in 1993."

The New York Times (8/11, Cowell, Filkins, 1.21M) reports, "Officials said the plot…bore the hallmarks of Al Qaeda and involved links to plotters in Pakistan. Late Thursday, the authorities in Pakistan said an unspecified number of arrests had been made there, too. An American counterterrorism official…said several of the plotters had traveled to Pakistan in the last few weeks and might have met there with at least one person affiliated with Al Qaeda. The official said it was after that person's arrest by Pakistani authorities that the British, fearing that word of the detainment would send the plotters into hiding, decided to move in." The AP (8/11, Haven) adds, "Counterterrorism officials said Thursday the plan thwarted in London appears to bear the fingerprints of al-Qaida, and may even have been 'the Big One' they have been dreading since Sept. 11, 2001."

However, the Los Angeles Times (8/11, Meyer, 918K) reports that "authorities are still not sure whether they think the alleged plot…was the work of Al Qaeda or an operation launched by British citizens of Pakistani descent. The most likely answer is that the alleged conspiracy was a potent combination of the two, with at least one dangerous Pakistani militant organization thrown into the mix as well, according to intelligence and law enforcement officials." A "US intelligence official" told the LATimes, "There hasn't been anyone in a long time who is serious about this stuff who thinks it begins and ends with Al Qaeda."

On ABC World News Tonight (8/10, story 5, 2:00, Gibson, 8.78M), former counter-terrorism adviser Richard Clarke was asked, "the President called them Islamic fascists," but ABC reporter Brian Ross "pointed out that the alleged mastermind of all of this has links to al Qaeda. So, is this al Qaeda?" Clarke: "It's al Qaeda or a variation of al Qaeda. And what today's plot reminds us, is that five years after 9/11, the United States has not eliminated al Qaeda. We eliminated Nazi Germany and imperial Japan in under four years. But five years into this war against al Qaeda, they're out there, still plotting major attacks against the United State

FBI, DHS Issue Nationwide Law Enforcement Alert About Liquid Explosives. Time (8/10, Bennett, Waller, 4.03M) reports on its Web site, "FBI and Department of Homeland Security officials quickly alerted law enforcement agencies around the country to the peroxide-based liquid explosives the London plotters planned to bring aboard the American-bound planes. An alert the FBI and DHS sent out Thursday to state and local law enforcement agencies — which is classified 'For Official Use Only' and was obtained by TIME — warns them that the peroxide-based explosives could also be employed in future attacks here. … The report describes how a terrorist would assemble bombs with" TATP and HMTD.

Pittsburgh FBI Agents On Alert. KDKA-TV Pittsburgh (8/10) reported, "Local investigators are reacting to the

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heightened alert status at the nation's airports. … At FBI Headquarters in Pittsburgh, it's a job the joint terrorism task force takes very seriously. … Not only did authorities stop the actual terrorist plot, they stopped it before they went ahead with their dry run. Agents here say that's proof anti-terrorism efforts are working."

"Suspicious Note" Prompts FBI, TSA Questioning Of Texas-Bound JetBlue Passengers. The AP (8/11, Weber) reports, "Texas airports responding to the terrorist threat announced Thursday increased security measures, including detaining and questioning passengers traveling aboard a JetBlue flight from Boston to Austin after the crew found a 'suspicious note' on board. The note appeared to be written in Arabic, but investigators later determined that it was Cyrillic lettering…said Erik Vasys, an FBI spokesman. It also appeared the note was 'purposely hidden in one of the lavatories,' he said. 'The note had no connections to terrorism and contained no threat,' Vasys said." The AP adds, "The 59 passengers and four crew members aboard Flight 1263 were escorted off the plane and questioned by FBI and the Transportation Security Administration agents," and "they were later released; no arrests were made."

New Security Procedures Ban Liquids, Gels In Carry-On Luggage. As part of their comprehensive coverage on the London terror plot, each of the network news broadcasts last night ran in depth stories examining the impact of new security rules at airports in the US. ABC World News Tonight (8/10, story 3, 3:05, Gibson, 8.78M) reported that at Newark's airport today, the security line "was more than one-quarter of a mile long." ABC (Stark) added that "never before in the history of this country has security been raised to the highest level, code red. … Unsuspecting travelers showed up at airports this morning to find that the rules had changed overnight." Stark continued that Secretary Chertoff called the banning of new items, including beverages, shampoo, suntan lotion, toothpaste, hair gel and makeup "a necessary precaution." Chertoff was shown saying, "I would rather have more protection and then scale it back as we become more reassured than underestimating the problem and find out, God forbid, that we made a tragic mistake."

USA Today (8/11, Soriano, Nichols, 2.27M) reports, "Air travelers in the USA face chaos and disruption for the foreseeable future in the wake of an alleged plot to blow up several US-bound aircraft over the Atlantic. Homeland Security Secretary Michael Chertoff said Thursday that until a full investigation is completed into the plot reportedly thwarted by British authorities, stringent new security measures will remain in place at US airports."

The CBS Evening News (8/10, story 3, 2:40, Smith, 7.66M) called the situation a "travel nightmare," adding that "lines were long and tempers were short" at airports across the country." CBS (Orr) added, "Security lines inched along and hundreds of flights were delayed as screeners meticulously searched for common everyday household items and toiletries which terrorists could mix together on board to create a lethal explosive."

The New York Times (8/11, Peters, Kanter, 1.21M) reports TSA chief Kip Hawley advised passengers to "De-clutter" their bags. "That is something very easy to do as you pack your bag," he said. "Leave the liquids at home, drink them." The Times adds that while Secretary Chertoff said the restrictions on liquids "were temporary…he indicated that they would remain in place while the Transportation Security Administration refined its screening procedures so it could more thoroughly examine liquids."

NBC Nightly News (8/10, story 3, 2:55, Costello, 9.87M) reported that it had "been a day of long lines and confusion, as the nation yet again adjusted to a new travel reality." NBC had a reporter at Los Angeles International, who said the lines were "massive and a lot of the passengers know they May miss their plane. They tell me they're ok with the increased security measures because they'd rather be safe than sorry." A reporter at New York's Kennedy Airport said, "Late today passengers began arriving here from London, tired, relieved, with many agreeing it was probably the safest flight they've ever been on in their lives."

Under the headline "Liquids And Gels Discarded With Weary Surrender," the Washington Post (8/11, A1, Kunkle, Harris, 748K) reports new security measures "created a state of manageable pandemonium that lasted for hours at Baltimore-Washington International Thurgood Marshall, Reagan National and Dulles International airports. But the disruptions were endured in an overall spirit of solidarity and goodwill as word of the plot sank in." The Post adds, "By afternoon, the crowds had thinned and calm had returned but for the occasional moment of drama."

The CBS Evening News (8/10, story 9, 2:15, Smith, 7.66M) aired a separate piece focusing on the concerns of travelers, whose fears about air travel "returned in a big way today after news of the airline bombing plot." A woman named Michelle Provost was shown saying, "Our 14-year-old niece coming in, she has had flight anxiety and that she's in

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the midst of this today so hopefully her mom is shielding her from whatever is going on."

Inability To Detect Liquid Explosives Seen As Security Shortfall. The New York Times (8/11, Wald, Lipton, 1.21M) reports, "Despite knowing for years that liquid explosives posed a threat to airline safety, security agencies have made little progress in deploying technology that could help defend against such attacks, security experts say." Most of the upgraded equipment in use at airports following 9/11 "is still oriented toward preventing a metallic gun or other easily identifiable weapon from being carried aboard; it cannot distinguish shampoo from an explosive." Meanwhile, "James Jay Carafano, senior fellow at Heritage Foundation in Washington and an expert on domestic security, said that in the last year, officials at the highest levels of the department recognized the seriousness of the threat posed by liquid explosives and had been pushing aggressively to introduce equipment that could help. But no such devices are ready to be rolled out."

Likewise, the Wall Street Journal (8/11, Meckler, Ball, Bryan-low, 2.03M) adds, "For all the advancements in aviation security since 9/11, the ingredients for deadly explosives could be easily carried through airport checkpoints and onto an airplane -- until yesterday, that is." Former DHS IG Clark Kent Ervin called it "a huge area of vulnerability." The Journal adds, "With all the screening for weapons in carry-on luggage, it may now be easier to blow up a plane than to hijack one."

The Washington Post (8/11, A11, Stein, 748K) reports, "While hesitant to provide a specific recipe that would aid terrorists, several experts said it would not be difficult to obtain a liquid explosive or chemical mixture that could be smuggled" onto a commercial airplane." DHS Deputy Secretary Michael Jackson said the agency is "doing some testing of machines that test liquids. There's nothing that's currently suitable for mass deployment, but there are some promising technologies that we're looking at."

Under the headline "Plot Exposes Weak Spot In Aviation," USA Today (8/11, Levin, Vergano, 2.27M) reports the plot "struck at the core of a fundamental weakness in aviation security around the globe: the inability to spot explosives made from seemingly harmless ingredients. That's the bad news. If there's any good news, says former FBI explosives expert J. Christopher Ronay, it's that bringing down an airliner with a bomb is not guaranteed. A terrorist's success would depend on where the bomb was planted." However, "typical methods used to detect explosives at airports -- swabs that test the exterior of luggage and explosive detection machines -- would largely be useless against" common household ingredients.

The New York Times (8/11, Chang, Broad, 1.21M) reports that "some of those liquid explosives can be readily bought, and others can be put together from hundreds of different kinds of chemicals that are not hard to obtain." Jimmie C. Oxley, an expert on the chemistry of explosives at the University of Rhode Island who has advised federal officials, said, 'Now that the terrorists have staked out our vulnerabilities, that's where the threat has gone, and we'll have to respond.' But, once new equipment gets into airports to lessen the threat of liquid explosives, Dr. Oxley said, terrorists will 'look for the next vulnerability.'"

Bush Blasts "Islamic Fascists," Urges Patience With New Airline Security Measures. The AP (8/11, Pickler) reports, "President Bush said Thursday that a foiled plot to blow up multiple flights from Britain to the United States shows 'this nation is at war with Islamic fascists.'" The President "laid the blame for the would-be attack squarely on al-Qaida-type terrorism." The President "read from remarks he had written himself on sheets of white paper. He spoke for just two minutes and took no questions. His brief message, aside from focusing on the 'stark reminder' of the US-led global war on terror, mostly appeared to be a promise that his administration was working to keep citizens safe."

CNN's The Situation Room (8/10, King) reported, "In his remarks in Wisconsin, the President saying in his view the American people are safer now than they were just before 9/11, and the President also going out of his way to thank the British intelligence services for their work in this case."

The Milwaukee Journal Sentinel (8/11, Borowski, Walters reports "Bush's visit Thursday to Wisconsin was meant to launch his efforts to help GOP candidates this fall, though even before his plane landed the stop took on extra importance." The terrorist plot "that was thwarted in London overnight allowed Bush to reassert himself as a determined leader in a time of national unease. Indeed, a podium and satellite truck were rushed to Austin Straubel International Airport so Bush could make remarks as soon as he stepped off the plane, which landed at 10:42 a.m." The Green Bay Press-Gazette (8/11, McBride) notes Bush "addressed the nation from the tarmac at Austin Straubel International Airport in Ashwaubenon immediately after getting off Air Force One this morning."

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Bush's comments were noted in all three network newscasts last night. On ABC World News Tonight (8/10, story 4, 0:10, Gibson, 8.78M), Bush was shown saying, "This nation is at war with Islamic fascists who will use any means to -- to destroy those of us who love freedom. To hurt our nation." Gibson: "The President said Americans should continue to travel. But be patient at those security checkpoints." The CBS Evening News (8/10, story 4, 2:30, Smith, 7.66M) ran the same clip of Bush, and reported, "President Bush is urging Americans to be patient with the inconveniences that come with the heightened security at our airports. On a visit to Green Bay, Wisconsin, today, Mr. Bush commented on the bombing plot calling it part of the ongoing war on terror."

NBC Nightly News (8/10, story 4, 0:55, Williams, 9.87M), which also ran the same clip, reported Bush "used some harsh new language to describe the alleged plotters of this operation today." NBC (Gregory) added, "It was late yesterday afternoon when the President got official word that these arrested were imminent. That word after days of intense conversations between US and British authorities, including the President speaking to British Prime Minister Tony Blair. Aides say it was a stressful time. Everyone was 'on the edge of their seat,' waiting for these arrests to go down. Officials say the President who traveled to Wisconsin today, approved the elevation of the terror threat level last night and you see him here reacting to the arrests with strong language." A Bush advisor "later said the use of that term, Islamic fascist, is meant to convey the idea, the argument, that while violent extremism takes different forms, it's part of one movement against the West."

The Los Angeles Times (8/11, Sahagun, 918K) notes Bush "was widely criticized by Muslim leaders on Thursday for saying that the foiled plot to blow up airliners over the Atlantic was a triumph in the 'war against Islamic fascists. Already resentful of the intense scrutiny they have endured since Sept. 11, Muslims said the politically charged phrase unfairly attaches one of the world's great traditions with Nazism and totalitarianism -- and fuels hostility against Islam and Muslims in America." It also "contradicts Bush's own earlier statements by that Islam is a 'religion of peace.'" The Times adds, "Over the past five years, administration officials and conservative talk show hosts have frequently referred to al-Qaida, terrorists and Iraqi insurgents as 'Islamo fascists,' recalling World War II when America fought to rid the world of Hitler and Mussolini. Now, Muslims say, the administration is artfully relying on similar rallying cries to convince Americans of their moral high ground in the fight against terror."

Bush First Learned Of Plot On Sunday. CNN's The Situation Room (8/10, Malveaux) reported, "We have learned that…Bush first learned about this developing terrorist plot on Sunday. … Now, we have been told over the last four days or so that the President has been briefed by intelligence, security and law enforcement officials about…the possibility of this impending attack, and that it was yesterday that" he "got another update from Blair. British authorities saying that they were seeing signs of something imminent and that it was time to move." CNN added, "It was last night that…Bush gave the green light to the Homeland Security Council and to Chertoff, his Secretary, to raise that alert level, the travel alert level, to the highest level possible. And then aides say, of course, that the President was not necessarily given a heads up on the arrests that happened overnight, or he was not woken up overnight, but he certainly was updated early in the morning."

Fox News' Special Report (8/10, Baier) reported, "Senior aides say the President had full briefings on the terrorist plots several days in a row this week at his Texas ranch, including a detailed video teleconference with British Prime Minister Tony Blair Sunday. Aides say the President was adamant that word of the British operation not leak."

GOP Strategists "Uneasy" About Bush Continuing His Vacation. The New York Times (8/11, Stolberg, 1.21M) reports, "As Americans stood in long lines at airports, Mr. Bush went ahead with his planned trip to Wisconsin to raise money for a Republican Congressional candidate and to speak about the economy during a stop at a metal factory. … He later flew back to his ranch…and aides said there were no plans for him to cut short his stay." Democrats "seized on Mr. Bush's decision not to return to Washington as evidence that the president was disconnected. Several senior Republican strategists were also uneasy with the possibility that images of…Bush's activities in the past week, including bicycle rides in the 100-degree Texas heat, could be used to accuse him of being too casual about the potential terrorist threat." The Times adds "some Republicans, when promised anonymity so they could speak freely about their criticisms, said Mr. Bush had to be careful not to appear out of touch, as his critics and even some of his allies said he did last summer when Hurricane Katrina devastated the Gulf Coast. … 'A policy of casual nonchalance is not a winning strategy,' said one Republican close to the White House, who suggested

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that the president should, at the least, deliver a primetime television address from the Crawford ranch."

Parties Scramble For Political Edge. The AP (8/11, Sidoti) reports, "Republicans and Democrats clashed over the war on terror on Thursday within hours of the disclosure of a thwarted terrorist plot in Britain, each side accusing the other of doing too little to deter the threat of attack." Throughout the day, "the accusations grew more heated with Republicans and Democrats criticizing each other for using the day's events for political gain." The AP adds, "To be sure, both sides are seeking political advantage on national security. Voters will choose a new Congress Nov. 7, and polls show the public favoring Democratic control of Congress over Republicans who have been in power for a dozen years. Additionally, recent polls have found that the Republican edge on terrorism and protecting the country has eroded over the past few months."

Under the headline "Arrests Bolster GOP Bid To Claim Security As Issue," the New York Times (8/11, Nagourney, 1.21M) reports Republicans "seized on the arrests of terrorism suspects in Britain yesterday to bolster a White House campaign to turn national security issues to their advantage this fall, arguing that the nation needs tough Republican policies to protect Americans from threats from abroad." The Times adds, "Officials in both parties said they viewed the arrests as critical in determining how they would approach the fall campaign, with Republicans saying it could be a turning point in a year in which they have been on the defensive over the war in Iraq and other issues." The developments "played neatly into the White House-led effort, after Senator Joseph I. Lieberman, Democrat of Connecticut, lost on Tuesday to an antiwar primary challenger, to remind voters of the threats facing the nation and to cast Democrats as timid on national defense."

The Washington Times (8/11, Curl, Dinan, 88K) reports "Democrats said Mr. Bush has not done enough on homeland security, with House Minority Leader Nancy Pelosi of California saying Mr. Bush has ignored key recommendations of the September 11 commission on airport security. … Although Democrats said they plan to focus on how Mr. Bush has failed to shore up defenses, Republicans said the key issue is taking the fight to terrorists." Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, said yesterday, "With the Patriot Act, FISA courts and other intelligence programs, we can learn what the terrorists know and where they go, and then we have a chance to disrupt them. … But it is those same tools that saved the day today that the Democratic leadership have repeatedly tried to vote down, thereby weakening America's intelligence efforts and lowering our guard against terrorism."

A similar piece in the Wall Street Journal (8/11, McKinnon, 2.03M) says "the foiled plot takes some of the wind out of the sails of the Democratic Party's resurgent liberal wing, said Michael O'Hanlon, a military analyst at the Brookings Institution, a Washington think tank. Moderate Democrats who oppose a quick pullout from Iraq 'probably feel a little more like the news is back on our side of the argument,' he said." Democrats "chided Republicans for an RNC fund-raising letter sent out yesterday over former New York Mayor Rudy Giuliani's name that invoked the war on terror. Republicans said the letter had been drafted several days ago and was in the pipeline before the arrests were announced. They acknowledged it was a mistake to send it yesterday, and said they stopped sending it around noon."

The Washington Post (8/11, A12, VandeHei, Baker, 748K) titles its story "Both Parties Claim Edge As Terror Is Reinforced As A Campaign Topic," and reports, "Unlike in the 2004 election, when Republicans clearly benefited from the terrorism issue and a general sense of insecurity among many voters, the politics are muddled this year. The latest Washington Post-ABC News poll, conducted last week, found Democrats with an eight-point edge when people were asked which party they trusted more to handle terrorism issues." Democratic pollster Mark Mellman said, "I can't help but admit that I had a small knot in my stomach this morning. It was eerily familiar. But upon reflection, we are in a fundamentally different place in 2006 than we were in 2002 and 2004. For two or three generations, Republicans have, in the main, had a very substantial advantage on national security. The reality is, they have squandered that advantage in the sands of Iraq."

Echoing that argument, the AP (8/11, Hunt) reports, "National security traditionally has been an issue that favors Republicans. Bush won re-election with a tough-on-terrorism argument and the promise that the United States was better off confronting terrorists in Afghanistan and Iraq than battling them at home. In Bush's view, Iraq and the war on terror are one and the same." But "Americans appear to be tiring of that argument after more than three years of fighting in Iraq, a death toll of nearly 2,600 U.S. troops and a price tag of more than $320 billion."

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Schwarzenegger, Romney Activate National Guard To Bolster Security. The AP (8/11) reports, "Gov. Arnold Schwarzenegger activated the National Guard Thursday to bolster security at California airports after authorities said they had foiled a terror plot involving US-bound planes from Britain. … Some 300 Guard troops were to be deployed by late Thursday to at least three large airports -- in Los Angeles, San Francisco and Oakland -- where direct flights from Europe were scheduled to arrive." The troops "were to remain at the airports until the nation's threat-alert level is lowered, an aide to the governor said. Their precise role would be determined by airport authorities, said Adjutant General William H. Wade II, the head of the California National Guard."

The AP (8/11, Donald) also reports "members of the Massachusetts National Guard were sworn in as deputy sheriffs Thursday to help ease congestion at Logan International Airport, where news of a foiled terror plot in Britain targeting US-bound flights prompted heightened security measures." Gov. Mitt Romney "spoke to about 50 members of the 972nd Military Police Company who were deployed to the airport to man new Logan security checkpoints -- at each departure gate -- where passengers will be screened again, after going through terminal security. 'I appreciate your honor and integrity,' he said, 'your willingness to respond so quickly to the emergency that we face.'"

Homeland Security Response Receives Favorable Reviews. Under the headline "Homeland Security Department Praised For Its Response," the Washington Post (8/11, A13, Hsu, Goo, 748K) reports DHS' "domestic response to yesterday's arrests in Britain drew cautious praise," with Secretary Chertoff emerging "as the undisputed public face and voice of the US government response in Washington, outlining a 'well-planned and well-advanced plot' in carefully choreographed statements that began before dawn and continued with television interviews into the night." The elevation of the threat warning system to red for commercial flights from the United Kingdom to the United States and new security measures for airline passengers "drew few complaints yesterday, compared with other terrorism alerts since 2003, which often provoked conflicting or critical remarks from authorities such as the attorney general, the mayor of New York City and congressional committee chairmen."

Secretary Chertoff himself was also praised by the Baltimore Sun (8/11, 262K), which says in an editorial, "The best public appearances were by officials who were clear, informative, unemotional and nonrhetorical. Michael Chertoff, the secretary of Homeland Security, managed his morning news conference admirably. Attorney General Alberto Gonzales and, to a lesser extent, President Bush tried to sound notes of high passion and purple purpose, and their tone was all wrong. In some ways, an emotional response is part of what terrorists are hoping to provoke. Levelheadedness is better."

TSA Criticized For Failure To Anticipate Liquid Explosives Plot. In a Los Angeles Times op-ed (8/11), Susan and Joseph Trento say, "After spending $20 billion on aviation security, we still have not developed a defense against ideas terrorists had six years before 9/11. It doesn't require a genius to figure out that terrorists might try a version of Operation Bojinka again. There was a sense of absolute panic in the TSA's announcement that liquids would not be permitted on airplanes. Yet security experts have been recommending for years that carry-on baggage be strictly limited."

More Commentary. The Wall Street Journal, Los Angeles Times and New York Times, in their editorials, waded into the political angle of the latest terrorist plot. The rest of pieces in the opinion pages of today's major newspapers instead focused on how to combat terrorist plots by Islamic extremists. The Journal took Democrats to task for opposing what it calls necessary tactics in the war on terror, while the Times criticized Vice President Cheney for suggesting Democrats who support candidates like Connecticut Senate primary winner Ned Lamont encourage "al Qaeda types."

The Wall Street Journal (8/11, 2.03M) editorializes that Democrats who "claim to want 'focus' on the war on terror have wanted it fought without the intelligence, interrogation and detention tools necessary to win it. And if they cite 'cooperation' with our allies as some kind of magical answer, they should be reminded that the British and other European legal systems generally permit far more intrusive surveillance and detention policies than the Bush Administration has ever contemplated. Does anyone think that when the British interrogate those 20 or so suspects this week that they will recoil at harsh or stressful questioning?"

The New York Times (8/11, 1.21M) editorializes, "On Wednesday, when the administration already knew that British

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agents were rounding up suspects in what they believed was a plot to blow up planes en route to the United States, Vice President Dick Cheney had a telephone interview with reporters to discuss the defeat of Senator Joseph Lieberman of Connecticut in a Democratic primary." Cheney's "main point was clear: In rejecting Mr. Lieberman, who supported the war in Iraq, the Democrats were encouraging 'the Al Qaeda types.' Within the Democratic ranks, the vice president added, 'there's a significant body of opinion that wants to go back — I guess the way I would describe it is sort of the pre-9/11 mind-set, in terms of how we deal with the world we live in.'" But Democrat Ned Lamont "lives in Greenwich, a suburb full of commuters who work in New York high-rise buildings. They are completely aware of the way international terrorism can come crashing down on an ordinary family, leaving the survivors stunned and bereft. A dozen of their neighbors died at the World Trade Center. They will never be able to go back to a 'pre-9/11 mind-set.'"

The Los Angeles Times (8/11, 918K) says in an editorial, "It has been difficult at times to take Washington's terrorism warnings very seriously, or to be very impressed by past law enforcement coups in this conflict. The administration has tended to use the war as a cheap political instrument and has called a few too many triumphant news conferences trumpeting disrupted terrorist conspiracies that turned out to be little more than amateurs incapable of pulling off the attacks they fantasized about. But Thursday's news felt different. In part, this is because it was a British operation, and last year's London subway bombing revealed the frightening radicalism of some segments of Britain's Muslim community."

Making a similar argument, Eugene Robinson writes in the Washington Post (8/11, A19, 748K), "When unsmiling agents at the airport take away your contact lens solution, your toothpaste, and your cologne or after-shave, remember Osama bin Laden. Remember the real war on terrorism that the Bush administration and its allies decided not to fight, preferring cowboy-style military adventures." Robinson adds, "The revelation yesterday of the elaborate plot to blow up airliners over the Atlantic Ocean with liquid explosives reminds us of the real threats we face -- as opposed to the phantom threats that George W. Bush and Tony Blair have conjured to justify their disastrous war in Iraq."

USA Today (8/11, 2.27M) says in an editorial that the news "showed that gaping holes remain in the air-security network put in place since 9/11, even though the U.S. government has lavished more attention and money on this area of homeland defense than any other." Looking ahead, Americans "will have to ask themselves some serious questions. Do they want to spend the billions it will take to make air travel virtually impregnable? Or is the money better spent on robust intelligence and offensive capabilities?"

The Washington Post (8/11, A18, 748K) says in an editorial, "It's inevitable that politicians will weave this latest development into campaign narratives. Critics of the administration will say it proves that President Bush and his wars have not made the nation safer and that more effort has to be made to reduce the alienation of Muslims in Europe and elsewhere. Bush partisans will say it proves the need for his aggressive approach." In "our view, point-scoring from either side isn't very useful. Over the past couple of years, as the threat seemed to recede, maybe it seemed okay to shape positions on terrorism based on polling results and electoral prospects. Now, we're reminded, that isn't acceptable, and neither are the stale and unproductive either-or arguments the nation gradually slid into. We have to conduct intensive police investigations and protect civil liberties; protect the ports and take the fight to the enemy and reach out to broader Muslim communities. And we need to understand that no approach is going to make the nation absolutely safe anytime soon."

The Washington Post (8/11, A18, 748K) say in an editorial, "Most air travelers took the beefed-up security -- and the occasionally interminable waits that followed -- in stride. First- and business-class passengers in most airports, on the other hand, didn't have to. As usual, higher-class passengers skipped most of the security queues at hubs such as Dulles and Los Angeles international airports. That's hardly fair."

In a Wall Street Journal op-ed (8/11), former New York Times reporter Judith Miller says the "latest plot should concern Washington because it suggests that militant Islamist terrorism is likely to continue to grow, and that its targets continue to be American. That said, there is something of a silver lining to this terrifying trend: The alienation felt by many Muslims in Western lands is not common in the US. And given the integration of Muslims from many Arab and non-Muslim lands in American life, the Muslim rage that devastated Parisian suburbs last summer and shredded the tolerant culture of the Netherlands is not widespread here."

In a Wall Street Journal op-ed (8/11), William Shawcross says, "It took President Bush to tell the truth to

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Britain about the alleged massive plot to blow U.S.-bound airliners out of the sky. In his first comment on the apparently foiled attempt, he put it simply: 'This was a stark reminder that this nation is at war with Islamic fascists.' He is right, but in the first news reports in Britain yesterday, the words 'Islamic' or 'Muslim' were hardly mentioned, let alone the dread word 'fascist.' Instead the common code-words on television were that the 24 men arrested were 'British-born' and 'of Pakistani origin.' No mention of their Islamist ideology." In Europe, "the truth is so terrible that we are in denial. Perhaps it is understandable. We simply do not know how to deal with the fact that we really are threatened by a vast fifth column, that there are thousands of European-born people, in Britain, in France, in Holland, in Denmark -- everywhere -- who wish to destroy us."

Three More Missing Egyptian Students Apprehended. In a widely distributed story, the AP (8/11, Hernandez) reports, "Six of the 11 Egyptian exchange students who recently entered the United States and failed to show up for their college program were in custody today after three more were arrested, officials said. Police arrested Ahmed Mohamed Mohamed Abou El Ela, 22, at O'Hare International Airport after he tried to check in for a Chicago-to-Montana flight using an invalid ticket marked for a New York departure, Chicago police said. … Two other students, El Sayed Ahmed Elsayed Ibrahim, 20, and Alaa Abd El Fattah Ali El Bahnasawi, 20, were arrested at a residence in Dundalk, Md. ..by U.S. Immigration and Customs Enforcement agents, the FBI said." The AP notes, "None of the students is considered a terrorism risk, and FBI officials stressed there are no ties between the Egyptians and the alleged terror plot broken up by British authorities." CNN.com (8/10) added, "Their discovery came a day after three others were found and taken into custody. The bureau has a nationwide alert out for the remaining students with their names, ages, passport numbers and photos."

The Chicago Tribune (8/11, Heinzmann, McCarthy, 623K) reports Chicago Police Officer Tim Bolger said that El Ela "wanted to exchange the ticket and 'was acting in a strange, erratic behavior.'" El Ela "raised his voice with airline agents and told the woman to call the university to confirm he was a student there. The woman did, but a university representative told her to contact authorities immediately, Bolger said. … Police later learned that he had apparently taken a bus from New York to Chicago, police spokeswoman Monique Bond said." The Baltimore Sun (8/11, Dechter, 262K) reports ICE agents took Ibrahim and El Bahnasawi into custody "at a Dundalk 'residential location,' according to a statement. 'It appears they came here on a student visa, but intended to stay and get a job,' said Dean Boyd, a spokesman for the immigration agency." The Sun notes, Federal authorities continued to emphasize today that they have no reason to believe the missing Egyptian students were dangerous."

Michigan Men Face Additional Terrorism Charge As Lawyer Alleges Discrimination. In a widely-distributed story, the AP (8/11, Karush) reports, "Attorneys for two Arab-American college students accused of supporting terrorism through the sale of mobile phones said their clients were victims of discrimination, while authorities charged them Thursday with an additional felony. 'These are all-American kids that unfortunately, in this day and age since 9-11, have names that call them into question,' said defense attorney Rolf Baumgartel." Osama Sabhi Abulhassan and Ali Houssaiky of Dearborn, Mich., were "charged Wednesday with money laundering in support of terrorism. On Thursday, prosecutors added soliciting or providing support for acts of terrorism. … A judge ordered them held on $200,000 bond each." The AP notes, "FBI spokesman Mike Brooks in Cincinnati said the case had no link to the alleged plot to blow up U.S.-bound planes that British authorities said they thwarted Thursday."

The Detroit News (8/11, Hansen, Sinclair, Mullen) reports, "Raymond Smith, the lawyer for Abulhassan, said the men were buying phones to be sold for a Metro Detroit business. … 'If it were Joe Smith going in there to buy these phones, we wouldn't be here,' he said. 'But I told my guy, "Your name is Osama."'" The News notes, "Federal authorities in Ohio and Michigan said they were aware of the matter, but, for now, the case remains a local investigation." The News adds, "Abulhassan graduated with a 3.95 grade-point average and counted a National Leadership Merit Award among the eight scholarship honors he earned on his way to enrolling at the University of Michigan. … Houssaiky was the captain of the 2003 football team, a Metro all-star running back and a recruit on the Grand Valley State University football team. … Fordson High Principal Imad Fadlallah, who is also a friend and neighbor of the Abulhassan family, said police blew the incident out of proportion."

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HOMELAND RESPONSE:

Court Consolidates Eavesdropping Lawsuits Against Phone Companies. The Wall Street Journal/AP (8/11) reports, "A federal panel of judges has consolidated 17 lawsuits filed throughout the US against telephone companies accused of helping the Bush administration monitor Americans' communications without warrants." The Judicial Panel on Multidistrict Litigation "transferred the cases to US District Judge Vaughn Walker, who last month declined to dismiss one of the lawsuits brought against the federal government and AT&T Inc., according to an order released yesterday." The consolidated lawsuits also "target Verizon Communications Inc., BellSouth Corp. and their affiliates. The panel ruled that 26 other lawsuits with similar allegations also may be moved to Judge Walker, who took the bench in 1990 after being nominated by the first President Bush."

Arab-American Students Accused Of Supporting Terrorism. The AP (8/11, Karush) reports, "Attorneys for two Arab-American college students accused of supporting terrorism through the sale of mobile phones said their clients were victims of discrimination, while authorities charged them Thursday with an additional felony. 'These are all-American kids that unfortunately, in this day and age since 9-11, have names that call them into question,' said defense attorney Rolf Baumgartel." The AP adds, "Authorities stopped Osama Sabhi Abulhassan, 20, and Ali Houssaiky, 20, both of Dearborn, Mich., on a traffic violation Tuesday in Ohio. Authorities said they found airplane passenger lists and information on airport security checkpoints, along with $11,000 cash and 12 phones, in their car." Prosecutors said investigators also "found a map that showed locations of Wal-Mart stores from Ohio through Kentucky, Tennessee and the Carolinas."

Seattle Jewish Center Shooter Weighing Guilty Plea. The AP (8/11, Blankinship) reports alleged Seattle Jewish center shooter Naveed Afzal Haq "said little at his brief arraignment Thursday, but his court-appointed attorney, C. Wesley Richards, told King County Superior Court Judge Michael Trickey that Haq 'is indicating that it is his desire to enter guilty pleas.' Richards said he was not aware before the hearing that Haq intended to plead guilty. At Richards' request, Trickey continued the hearing until Tuesday. The judge also granted a prosecution request to bar Haq from having contact with victims of the shooting, or volunteers and employees of the Jewish Federation."

Judge Refuses To Dismiss Case Against AIPAC Lobbyists. The New York Times (8/11, Lewis, 1.21M) reports that a judge yesterday refused to dismiss the government's case against two pro-Israel lobbyists charged with improperly receiving and transmitting secret national security information. Judge, T. S. Ellis of the United States District Court in Alexandria, Va., ruled "that the sections of the Espionage Act prohibiting such activity were not unconstitutionally vague. Nor does the act improperly limit the lobbyists' constitutional rights to engage in influencing government policy, he wrote. … The ruling means the case will proceed against the lobbyists, Steven J. Rosen and Keith Weissman, former officials of the American Israel Public Affairs Committee."

The AP (8/11, Barakat) reports, "Attorneys for the two former lobbyists with the American Israel Public Affairs Committee argued that the 1917 Espionage Act is unconstitutionally broad and vague, as it seeks to bar receipt or disclosure of 'information related to the national defense' to 'persons not entitled to receive it.' They also argued that prosecutors were out of bounds for using the statute in an unprecedented manner: prosecuting lobbyists who in the normal course of business discuss policy issues with government officials."

The Washington Post (8/11, A5, Markon, 748K) reports, "Legal and privacy experts said Ellis may have opened the door to criminal prosecutions of reporters or newspapers for publishing classified information. The possibility of such prosecutions has swirled around Washington since the New York Times broke a story last December about the National Security Agency's surveillance of terrorist-related calls between the United States and abroad."

The Los Angeles Times (8/11, Schmitt, 918K) reports, "The ruling is a significant victory for the Bush administration, which has been trying to clamp down on media disclosures of anti-terrorism programs since the Sept. 11 attacks. At the same time, legal experts said, it could chill the ability of a broad segment of the public -- including lobbyists, academics and journalists -- to learn about the inner workings of government and expose misconduct or controversial programs of public interest."

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WAR NEWS:

Thirty-Five Killed In Attack On Iraq's Holiest Shiite Shrine. ABC World News Tonight (8/10, story 7, 0:15, Gibson, 8.78M) reported, "In the Middle East day, still another devastating suicide bombing has added to the sectarian tensions in Iraq. 35 people died and 120 were wounded in the attack outside a revered site for Shiite Muslims, a mosque in Najaf. Sunni Muslims claimed responsibility." NBC Nightly News (8/10, story 7, 0:20, Williams, 9.87M) said "Shiite leaders blame Sunni loyalists of Saddam Hussein."

The CBS Evening News (8/10, story 6, 0:15, Smith, 7.66M) reported, "Even by recent standards of violence, this was an especially bad day in Iraq. More than 70 Iraqis were killed."

USA Today/AP (8/11) reports "a Sunni group -- Jamaat Jund al-Sabaha, or 'Soldiers of the Prophet's Companions' -- said it carried out the attack." It "warned in an Internet posting that Shiites should beware, as 'our swords are capable of reaching deep in your regions.'" It was "the deadliest attack since July 18, when 53 people were killed by a suicide bombing in Najaf's twin city, Kufa." The Washington Times (8/11, 88K) also runs the AP story.

The Washington Post (8/11, A1, Mosher, Sarhan, 748K) notes "the shrine is revered as the burial place of Ali, the son-in-law and cousin of the prophet Muhammad. Belief by some Muslims that Ali was unjustly denied his rightful place as Muhammad's successor in the 7th century gave rise to the Party of Ali, or Shia Ali, which evolved into the Shiite branch of Islam." The New York Times (8/11, Wong, 1.21M) and Los Angeles Times (8/11, Fleishman, Fakhrildeen, 918K) run similar reports.

Army Predicts It Will Meet Recruiting Goal This Year. The AP (8/11, Jelinek) reports, "The Army says it will meet its 2006 recruiting goal, pulling itself up from a severe shortfall last year. The Pentagon's largest service -- and the one bearing the brunt of the burden in the wars in Iraq and Afghanistan -- enlisted 10,890 people last month." That "brings the total to 62,505 for the year and puts the Army on course to meet its goal of 80,000 for the budget year ending next month, Jeff Spara, Army recruiting division chief, said Thursday."

The Washington Times (8/11, Gertz, Scarborough, 88K) reports in its "Inside the Ring" column, "A good sign in the war on terror: U.S. Army Special Operations Command in June met its annual goal for signing up Green Beret candidates — three months before the fiscal year ends Sept. 30. There are strains on the current Special Forces units, as private employers offer big bucks for counterterrorism experts and security details. But Army soldiers continue to apply to become Green Berets in ample numbers."

Commander Says UK Forces In Afghanistan Involved In Worst Fighting Since WWII. AFP (8/11) reports, "British soldiers in Afghanistan are involved in some of the worst and most prolonged fighting since World War II, the British commander of NATO forces in the country said. 'This sort of thing hasn't really happened so consistently, I don't think, since the Korean War (in 1952) or the Second World War (in 1939),' Lieutenant General David Richards told the BBC World Service." Richards's comments "came after news on Wednesday that another British soldier, Private Leigh Reeves, 25, was killed in Afghanistan, the 18th since November 2001 when the country's troops were deployed there."

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Mercer To Serve As Associate Attorney General. The Washington Post (8/11, A17, Kamen, 748K) reports in its "In the Loop" column, "William W. Mercer, formerly top aide to Deputy Attorney General Paul J. McNulty and more recently U.S. attorney for Montana, is said to be heading back to this area to become associate attorney general, the No. 3 job at the Justice Department."

Leone's Departure Said To Signal Bigger DOJ Role In Nacchio Case. The Denver Post (8/10, Vuong, 256K) reports Acting US Attorney Bill Leone, "the lead prosecutor in the insider trading case against former Qwest chief executive Joe Nacchio, said today that he plans to leave the Department of Justice and go back to private practice. Leone said he has informed Troy Eid, the incoming U.S. attorney for Colorado, of his plans to withdraw from the case."

The Rocky Mountain News (8/11, Smith) says Leone's departure "likely means Washington, D.C., will take a more active role" in the Nacchio prosecution. Leone said he "thinks the Nacchio case remains in 'great shape and I'm

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confident that between our office and the Department of Justice the case is going to be left in good hands.'"

Love Terminal Attorney Wants DOJ Involved In Wright Amendment Talks. The Dallas Business Journal (8/11, Jordan) reports Love Terminal Partners attorney William A. Brewer III "wants the Justice Department to take part in Wright Amendment legislation discussions -- the opposite of the view taken by Sen. Kay Bailey Hutchison, R-Texas, who introduced the legislation." In a letter to Attorney General Gonzales, Brewer called for "an even-handed analysis of the antitrust, constitutional and economic implications of the bill." The letter "comes on the heels of a letter Sen. Hutchison wrote last week to Gonzales asking the Justice Department to remove itself from the Wright Amendment debate. But Brewer said in his letter that it is proper for the Justice Department to review legislation that adversely affects interstate commerce."

US Asks For World's Help In Taking On Kleptocrats. Voice of America (8/10, Gollust) reports DOJ, State Department, and Treasury Department officials said Thursday that the US is asking countries around the world to join in "battling corruption by high-level government officials. Officials say bribery and theft siphon hundreds of billions of dollars from government coffers every year, and that people in developing nations are hardest-hit." President Bush hopes to build on anti-corruption commitments made at last month's G8 summit "with a new international drive against so-called 'kleptocrats' -- high-level functionaries in various governments enriching themselves through bribe-taking and outright theft." Among those the State Department defines as kleptocrats are ex-presidents Sani Abacha of Nigeria, Arnoldo Aleman of Nicaragua, Alberto Fujimori of Peru, and Saddam Hussein of Iraq.

CORPORATE SCANDALS:

DOJ Files More Charges Against Ex-Brocade Executives. EE Times (8/10, McGrath) reports DOJ has filed more charges against two former Brocade Communications Systems executives "who were charged with securities fraud last month." Ex-president Gregory Reyes and ex-vice president of human resources Stephanie Jensen "were charged in a 12-count indictment with a scheme to backdate stock option grants to give employees favorably priced options without recording necessary compensation expenses," US Attorney Kevin Ryan said. DOJ "continues to signal its intention to take a hard line against individuals that have been implicated in the ongoing scandal over historical stock options granting practices -- Thursday's indictment was handed down just one day after three executives from software vendor Comverse Technology Inc. were charged with orchestrating a scheme to manipulate the grant of millions of Comverse stock options to themselves and to employees."

The San Jose Mercury News (8/11, Kravets, 242K) reports the indictment "came a day after U.S. Magistrate Edward Chen declined to dismiss the single-count charges over the objections of defense lawyers, who argued that any backdating was meant to attract employees to the San Jose-based maker of data storage devices, not to skew financial results. The lawyers also maintained the two had no criminal intent to deceive shareholders."

The San Jose Mercury News (8/11, Schwanhausser, 242K) additionally reports that "defense lawyers argued in court Wednesday that the U.S. Attorney would find it difficult to win on the initial securities fraud charge because prosecutors would need to prove the executives intended to deceive shareholders. Reyes' lawyer, Richard Marmaro, said in a statement Thursday that Brocade's records are 'fraught with inadvertent errors' by human resources and finance department employees. But, he added, 'not a single document suggests fraud' by Reyes. To win conviction, prosecutors still must prove Reyes and Jensen's intent, but it could be easier to prove mail fraud, falsified books or that they conspired to cover up their actions, experts say." The Brocade case "is being closely watched because it is the first time executives have been criminally charged in the growing scandal. But it's particularly relevant in Silicon Valley, home to the largest concentration of companies under investigation by the SEC and Justice Department."

SEC Charges Ex-Endocare Executives With Fraud. The Los Angeles Times/Bloomberg (8/11) reports the SEC has charged ex-Endocare Inc. CEO Paul Mikus and former CFO John Cracchiolo with fraud, "saying that the two 'significantly overstated' income. The alleged fraud occurred during 2001 and 2002, with the company overstating revenue as much as 33% in one quarter," the SEC said. The company produces devices to treat cancers and prostate

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ailments. In July, Endocare agreed to pay $750,000 to settle an SEC investigation of accounting issues.

Options-Pricing Probes Top 100 As Nvidia, Electronic Arts Reveal Investigations. Bloomberg (8/11, Green) reports, "The number of companies with stock options grants under scrutiny passed 100 as Nvidia Corp., Electronic Arts Inc. and a half dozen others disclosed probes, fueling concern that the rising tally will erode investor confidence. … At least 105 companies have disclosed internal or federal probes, according to data compiled by Bloomberg News. Nineteen people have lost their jobs, five face criminal charges and one of them -- Comverse Inc. founder Jacob Alexander -- didn't show up for his arraignment yesterday. Dozens of companies have said they can't file financial reports on time, and uncertainty about their true picture may disrupt investment decisions." Bloomberg notes, "The FBI said yesterday criminal probes of 45 companies are under way, and the SEC has said it is investigating more than 80."

Lay Lawyers Begin Move To Let Estate Act On His Behalf. The New York Daily News (8/11, 729K) reports lawyers for Enron founder Ken Lay "started a process that could wipe out his criminal record by letting Lay's estate act on his behalf in any further criminal proceedings. Federal prosecutors didn't oppose the motion. Lay's widow Linda intends to represent the estate as executor. Once the estate takes over the case, it can move to vacate Lay's conviction, court papers said."

ImClone To Remain Independent. The Houston Chronicle (8/11, 535K) reports ImClone Systems has decided to "remain independent after mulling its options, including a sale of the company, for eight months." The decision led shares to fall 13% Thursday. ImClone also announced it is "resuming a search for a permanent chief executive to replace interim CEO Joseph Fischer and that it asked financier Carl Icahn," who holds about 10% of ImClone shates, to run for a position on its board.

CRIMINAL LAW:

Pentagon Officials Resign Amid Cunningham Investigations. The top two officials of Counterintelligence Field Activity at the Pentagon resigned this week amid the investigation into the scandal surrounding former Rep. Randy "Duke" Cunningham. The Washington Post (8/11, Kirkpatrick, 748K) reports that the officials, David Burtt III, the director of Counterintelligence Field Activity, and Joseph Hefferon, the deputy director, resigned as investigators examined their agency's classified contracts with a businessman who has pleaded guilty to bribing department officials and Cunningham. Their departures "come as the House intelligence committee is preparing its own report on corrupt favors performed by Mr. Cunningham as a member of the panel."

Assistant US Attorney Expresses Doubts About Gotti Prosecution. The AP (8/11, Neumeister) reports, "A prosecutor said Thursday he had doubts about the government's ability to proceed to trial next week against John 'Junior' Gotti after a judge tossed out most of the charges the government added to the case three months ago. The unusual admission by Assistant U.S. Attorney Victor Hou came as he asked U.S. District Judge Shira Scheindlin to clarify what effect her decision earlier this week to dismiss new racketeering and money laundering charges would have on evidence." Scheindlin "seemed to resolve some of the prosecutor's fears when she said the government could still introduce new evidence it believes might convince a jury that Gotti continued to benefit from mob activities even after he claimed to have left organized crime." The New York Daily News (8/11, Zambito, 729K) adds that "the feds are considering dropping charges against…Gotti after a judge whacked much of their case. But that doesn't mean prosecutors plan to give the mob scion a slide. They may ask a grand jury to charge him again in a superseding indictment. … Higher-ups from the Manhattan U.S. attorney's office attended yesterday's hearing as prosecutors figure their next move."

Prosecutors, Defense Agree To Pellicano Trial Delay. The Los Angeles Times (8/11, Krikorian, 918K) reports, "Federal prosecutors and defense attorneys in the racketeering and wiretapping case of private investigator Anthony Pellicano and six others have agreed to postpone a scheduled trial date until February because the defense needs more time to prepare. The postponement, described in court papers filed late Wednesday, still must be approved by U.S. District Judge Dale S. Fischer." The Times notes, "The postponement comes as attorneys on both sides of the

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complex case have been wrangling over the validity of search warrants used to seize tape-recordings and documents from Pellicano's Sunset Boulevard office in late 2002 and early 2003, and the production of FBI interview reports and other government evidence." Terree Bowers, representing co-defendant Terry Christensen criticized "the government for failing to 'provide a comprehensive picture of the evidence.'"

BetOnSports Customers Unsure If They Will Be Refunded. The AP (8/11) reports BetOnSports PLC customers "are wondering if they'll ever get their money back after a judge's temporary restraining order forced BetOnSports to disable its Web site, blocking access to player accounts, and employees said the company was closing." The company faces a "22-count indictment on fraud and racketeering charges in the U.S. District Court in St. Louis." US Attorney Catherine Hanaway said last month's restraining order "requires BetOnSports to return any money that American customers have tied up with the site." Hanaway said if the company "doesn't return the money, the U.S. government has every right to seize it" since the bets "were placed illegally, violating the 1961 federal Wire Act."

Bloomberg (8/11, Weeks) reports, "A U.S. federal court last month ordered Betonsports to stop taking bets from the United States, its main market, and return deposits paid by American bettors. The bookmaker also was indicted on charges including racketeering."

CIA Provides Libby With Summaries Of Cheney Security Briefings. In a widely-distributed story, the AP (8/11, Apuzzo) reports, "The CIA says it has provided short summaries of Vice President Dick Cheney's daily security briefings to defense attorneys for his indicted former chief of staff," Lewis "Scooter" Libby. "The documents, which were provided in response to a March court order, summarize a wide range of national security issues that consumed the working day of Cheney" and Libby, whose lawyers "believe the daily security briefings will document his overwhelming workload." The AP notes, "The briefing summaries cover the period in the summer of 2003 when Libby was allegedly discussing Plame's CIA identity with journalists. They also cover several weeks in the fall of 2003 when Libby was questioned by the FBI and March 2004 when Libby testified before a federal grand jury."

Former Minneapolis City Councilman Convicted Of Bribery Charges. The AP (8/11) reports former Minneapolis City Councilman Dean Zimmermann "was convicted Thursday in federal court on charges related to taking bribes from a developer who had business before the city." US Attorney Rachel Paulose said, "Minnesotans have the right to expect that elected officials will work for the public good and not for what they might gain personally through back-room deals." However, The AP adds, "Betsy Barnum, former state chair of Zimmermann's Green Party, said, 'I think this is not justice and don't think he's guilty of any crime. I'm sorry to see the FBI engaged in this sort of thing. … Entrapment isn't too strong a word for what they did to him.'" The Minneapolis Star Tribune (8/11, Furst, 398K) notes, "From his supporters there were feelings of dismay and disbelief, and from Zimmermann himself, a reiteration that he is innocent. From the FBI there was satisfaction that a federal jury had convicted the former Minneapolis City Council member Thursday of three counts of taking bribes," and "from the prosecutor there was a more muted response." Assistant US Attorney John Docherty said, "I recognize this is not a good day for the people of Minneapolis. ... It is not a good thing when an elected official has been found beyond a reasonable doubt to have violated the public trust." Minnesota Public Radio (8/10, Williams) also reported on the verdict.

US Says Connecticut Trash Hauler Illegally Diverted Millions Of Dollars. The AP (8/11) reports, "A Danbury trash magnate arrested in a Mafia case in June diverted millions of dollars from his businesses to his minor league hockey team, no show jobs, race cars and questionable stockholder repayments, federal authorities said Thursday." James Galante "carved out exclusive routes for his companies and paid Genovese crime family boss Matthew 'Matty the Horse' Ianniello $120,000 a year for mob muscle to enforce his territories, authorities said. That meant higher prices for businesses and homeowners, authorities said." The AP notes, "In a related development Thursday, another trash hauler became the first defendant in the case to plead guilty." CRP Carting manager David Magel "pleaded guilty to a racketeering charge in U.S. District Court in New Haven."

Federal Investigators Bust International Sex-Trafficking Ring. In a widely-distributed story, the AP

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(8/11) reports, "Authorities said nine people were arrested Thursday as investigators broke an international sex-trafficking ring that smuggled Asian women into the U.S. in shipping containers. Seven conspirators in a 'highly organized national network prostitution ring' were arrested in Seattle and two in Los Angeles, the U.S. attorney's office said." Yong Jun Kang of Seattle is accused of "operated brothels in Portland, Ore., and Seattle, where he and others would bring Asian women, most of whom were in the United States illegally." The AP notes, "Authorities said the 21-month investigation by the FBI, U.S. Immigration and Customs Enforcement and Seattle police used confidential informants, court-approved wiretaps and Global Positioning Satellite units to identify participants."

The Seattle Post-Intelligencer (8/11, Gutierrez, 129K) adds, "Once in the United States, the women were moved every 10 to 14 days among brothels in Seattle and other cities across the country to keep the selections 'fresh' for customers and to thwart law enforcement, said John McKay, U.S. attorney for Western Washington. … The FBI, the Bureau of Immigration and Customs Enforcement and the Seattle Police Department conducted the investigation, which continues." The Seattle Times (8/11, Bowermaster, 217K) notes, "The arrests were made during early-morning raids at five locations. … Wiretaps employed from May 31 through Thursday indicate that at least 40 Asian prostitutes worked brief stints at the Seattle-area brothels. Investigators said the women came from at least nine different countries, including China, Malaysia and Hong Kong."

Oxnard, California, Launches Gang Sweep. The Los Angeles Times (8/11, Griggs, 918K) reports Oxnard, California, police, "targeting gang crime," led a "multi-agency task force early Thursday on a citywide sweep, serving numerous search warrants, arresting more than two dozen people and confiscating several weapons and small amounts of drugs. Twenty-eight males and three females were arrested, including 10 juveniles, police said. A shotgun, three pistols, hundreds of rounds of ammunition and homemade clubs were confiscated along with 2 ounces of marijuana and less than a gram of heroin." Those involved included the DOJ, US Marshals, Ventura County Sheriff's Department, and the Port Hueneme Police Department.

Berkeley, California, Police Officer Investigated For Theft. The Oakland Tribune (8/11, Bender) reports, "For a second time this year, a Berkeley police officer is under investigation for theft. Berkeley police internal affairs investigators and the U.S. Department of Justice are both investigating a 30-year-old Berkeley police officer for allegedly taking money from a detainee and not returning it, sources said Thursday." The Oakland Tribune "is not naming the officer, who was hired in 2003, because he has not been arrested or charged with a crime. He is on administrative leave pending the outcome of the investigation. Sources said the officer confiscated some cash from someone he had contact with while on the job, and kept a portion of it. A citizen's complaint launched the investigation, sources said."

Eleventh Circuit Upholds "Cuban Five" Convictions. The Miami Herald (8/11, Weaver, Woods, 310K) reports that in a 10-2 decision released late Wednesday, the 11th Circuit ruled that "decades of community hatred toward Fidel Castro," "Cuban military killings of exile pilots" and "bitter custody disputes over rafter Elián González" did not affect "the right to a fair jury trial in Miami for five Cuban men convicted of spying for the Castro government." US Attorney Alexander Acosta "said Thursday his office was 'gratified' with the ruling, citing Miami federal Judge Joan Lenard's impaneling of an unbiased jury." The Herald notes, "The so-called Cuban Five, accused of being part of an espionage network that spied on U.S. military installations and Miami exile groups, were convicted five years ago by a dozen federal jurors in one of South Florida's most politically laden criminal cases." Former US Attorney Guy Lewis said, "This wasn't one of those circumstantial cases. This was a case that the FBI investigated for years ... The bottom line is, once you get a verdict, it's hard to overturn."

Federal Judge Delays Sentence In Texas Child Porn Case. The Austin American-Statesman (8/11, Kreytak) reports, "Gates Enoch admitted in March to gathering more than 150 images of children engaged in sex acts on his computer, and on Thursday he was scheduled to be sentenced for his crime in federal court in Austin." But at "the end of an hourlong hearing in which Enoch, the 20-year-old son of a former Texas Supreme Court justice, again admitted to gathering as well as distributing the illegal images, Senior U.S. District Judge James Nowlin said he was unable to declare him guilty." Nowlin said he "is not treating

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Enoch differently because of his father, although he did say that he rarely in 35 years as a federal judge has approached a sentencing with so much concern. He said he is taking such care because Enoch was so young — he had just turned 18 — when he was charged in the case."

Colorado Man Charged With Possession Of Child Pornography. KMGH-TV Denver (8/10) reported, "A 31-year-old man has been charged with the distributing of child pornography. Jason Paul Craig, from Steamboat Springs, was also charged with possession of child pornography. Police said they searched Craig's home on June 7 and arrested him the same day on charges of possession of marijuana. Police said FBI agents seized Craig's computer and found that he had allegedly distributed child pornography."

Florida Man Charged With Child Porn Possession. The Lakeland (FL) Ledger (8/10) reports Joseph Bass of Bartow, Fla., "has been arrested on charges of possession of child pornography, according to the Attorney General's office." Bass "was arrested Tuesday after investigators conducting an investigation through the Internet said they located his collection of pornographic videos of children. Bass had the pornographic images on his computers, where they were discovered by an Internet investigator with Attorney General Charlie Crist's Child Predator CyberCrime Unit, according to the Attorney General's office." Authorities "with the FBI Innocent Images Task Force, the Polk County Sheriff's Office and the Lee County Sheriff's Office assisted with the investigation and arrest."

Connecticut, FBI Investigating Alleged Hacking Of Lieberman Campaign Web Site. The AP (8/11) reports Sen. Joe Lieberman's campaign Web site "remained offline Thursday, and federal and state authorities were investigating why it crashed on the eve of this week's defeat in a high-profile primary." The site, Joe2006.com, "appeared to have suffered from a so-called 'denial of service' attack, in which computers overwhelm a site with fake traffic, preventing real visitors from getting through or, in this case, causing it to crash, said Richard M. Smith, an Internet security consultant in Brookline, Mass." Connecticut Attorney General Richard Blumenthal "said the state is investigating, along with the FBI."

Fugitive Mother Remains In Canadian Custody. The Norristown (PA) Times Herald (8/11, Gibbons) reports Canadian authorities "have assured" Montgomery County, Pennsylvania, authorities that fugitive Claudia Librett "will remained locked up until a Canadian criminal court hearing can be held on the provisional arrest warrant that the U.S. Department of Justice has filed against her in behalf of the county and on an anticipated request for bail by Librett." Librett fled the US 2003 with her "then-three-year-old daughter during a bitter custody battle, will not take place for another couple of weeks."

Woman Accused Of Killing Husband With Boiling Oil Surrenders To Police. In a widely-distributed story, the AP (8/11) reports, "A woman accused of killing her husband by pouring hot cooking oil on him turned herself in to authorities Thursday after more than a week on the run." Edna Mae Sanders "faces a murder charge and was the focus of an intense search by authorities, including the FBI." She "surrendered at the sheriff's department in Hancock County early Thursday, officials said. They said Sanders was being held in the county jail on $1 million bond, and that her children were in their father's custody."

2000 Mourners Honor California Patrol Officer Killed By Hit-And-Run Driver. The San Francisco Chronicle (8/11, B2, Jones, 405K) reports, "In a tearful tribute that mixed country music, family snapshots and plenty of choked-up 'Semper Fi' salutes, family, friends and more than 1,000 law enforcement officers bid farewell to California Highway Patrol officer Brent Clearman at a somber public memorial service on Thursday. Clearman, 33, an Iraq war veteran in the Marine Corps and sniper specialist, was killed Saturday by a hit-and-run driver in Oakland." The Chronicle notes, "His peers said it was no surprise Clearman chose Oakland to start his law enforcement career. 'Many (CHP officers) would be happy to work in a nice quiet part of the state, but not Brent,' said his friend and fellow Marine, Art Scotto, an FBI agent in Los Angeles. 'He narrowed his choices to Oakland and south L.A. He loved a challenge.'"

KXTV-TV Sacramento (8/10) reported, "Friends and family honored the life of the soft-spoken and reserved former Marine, saying Clearman sought out difficult challenges. One of Clearman's friends, FBI agent Art Scotto, said Clearman wanted the challenge of serving in either Oakland or South Los Angeles after finishing CHP training in 2004."

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Bay City News Service (8/10) noted Scotto "said Clearman 'was soft-spoken, respectful and reserved, but he wasn't soft in any way.' Scotto, who became friends with Clearman while they both served in the Marines, said when Clearman joined the CHP in 2004, he narrowed his assignment choices to Oakland and South Los Angeles 'because he wanted a challenge' and those two cities are considered difficult places to work because of high crime rates."

CIVIL LAW:

Kaiser To Pay $2 Million Fine To Settle Kidney Transplant Program Case. The Los Angeles Times (8/11, Ornstein, Weber, 918K) reports, "Kaiser Permanente has agreed to pay a $2-million fine after state HMO regulators found that its Northern California kidney transplant program imperiled hundreds of patients, in some cases delaying critical surgeries or losing track of patients altogether, officials with the California Department of Managed Health Care announced today. … The fine is part of a consent decree that stipulates a series of corrective actions Kaiser must take, said Cindy Ehnes, director of the managed-care agency."

GlaxoSmithKline Agrees To Settle Price Inflation Suits. The AP (8/10) reports GlaxoSmithKline "has agreed to spend more than $41 million in restitution to end claims by more than 40 states that it inflated the prices of drugs used by cancer patients and others." The settlement with the DOJ, New York Attorney General Eliot Spitzer, and National Association of Medicaid Fraud Control Units "will include more than $1.5 million in restitution to New York state's Medicaid program for cancer drugs and $940,000 in connection with pricing of an antibiotic." In a "separate settlement of a private class action lawsuit, the drug company will also fund a $40 million restitution fund for the poor and needy who use the Medicaid health care system nationwide and New York's Elderly Pharmaceutical Insurance Coverage plan."

UnitedHealth Will Miss Financial Report Deadline. The Minneapolis Star Tribune (8/11, Phelps, 398K) reports that the "cloud over UnitedHealth Group Inc. continues to darken" as the company announced it "would miss the deadline for its second-quarter financial report." Since spring, UnitedHealth's stock option program for top executives" has been the subject of reviews and investigations by the Securities and Exchange Commission (SEC), the IRS, the U.S. Department of Justice and the Minnesota attorney general's office."

Litigation Costs Faulted For Tenet's Wide Second-Quarter Loss. The Dallas Business Journal (8/11) reports Tenet Healthcare "posted a much wider loss for the second quarter, hurt by litigation costs." Tenet reported a net loss of $398 million, or 85 cents a share, for the quarter. The company "says it has resolved the most significant of the legal issues facing the company. In June, Tenet agreed to pay $725 million as part of a U.S. Department of Justice settlement to resolve government investigations into Medicare billing and physician arrangements. Also, as part of the settlement, Tenet agreed to waive $175 million in Medicare payments for past services."

CIVIL RIGHTS:

DOJ Sues California Clinic Over "Racial Code Words." UPI (8/10) reports DOJ is suing the Arthritis and Orthopedic Clinic in Los Gatos, California, "on behalf of a former clerk who says she was fired for protesting the use of racial code words." Tomeika Broussard "was the only black employee" at the clinic "when she lost her job in 2004. She says she was warned when she started working there about her supervisor's use of coded language."

ANTITRUST:

Hearst Will Pay $299 Million To MediaNews. The Silicon Valley/San Jose Business Journal (8/11) reports Hearst Corp. "will pay $299 million to MediaNews Group Inc. in the next phase of a complex deal to create a partnership between the two newspaper publishers." If the deal is completed, MediaNews "will return part of the money to buy the St. Paul Pioneer Press and Monterey County Herald from Hearst."

DaimlerChrysler Unit Sues GM. The AP (8/11) reports DaimlerChrysler AG heavy truck unit Freightliner LLC has sued General Motors "over what Freightliner calls 'predatory and discriminatory' activities related to the selling of heavier-duty automatic transmissions. GM's Allison

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Transmission unit, a division since 1929, controls virtually the entire transmission market for a niche of vehicles that includes diesel-powered buses, recreational vehicles and walk-in vans, according to the Freightliner suit. The suit alleges that GM is leveraging that 'monopoly' status to squeeze out new competitors and boost its share in other corners of the heavy-duty market, like large highway-bound trucks."

Company Opposes Realty Minimum-Service Laws. Inman News (8/10, Roberts) reports Angie's List, a "company that operates an online database with consumer reviews of local contractors," is lobbying against a law enacted July 1 in Indiana requiring licensees to "perform a specific set of services for clients." Similar legislation is being considered in Michigan. Owner Angie Hicks said the "Indiana law 'is anticompetitive and limits the choices consumers have for selling their home. Homeowners with experience in the selling process should have the freedom to decide what they can handle, and in turn have the option to save potentially thousands of dollars in commission fees.'" DOJ and the FTC "have issued statements in opposition to these laws in several states."

ENVIRONMENT/INDIAN AFFAIRS:

DOJ Files Charges Against Citgo Petroleum. KRIS-TV Corpus Christi, Texas (8/10) reported, "In a startling move this week, the Department of Justice is bringing criminal charges against Citgo Petroleum Corporation and the head of environmental compliance at the company's refinery here in Corpus Christi. The charges relate to environmental violations that allegedly were broken in several areas of the facility. Late Wednesday evening, Citgo released a statement that said the company intends to 'vigorously defend itself again these charges.' The statement said that once all the evidence is heard, no criminal conduct will be found."

FBI/DEA/ATF/USMS:

El Paso Businessman Questioned Former FBI SAC's Role In Racetrack Deal. The El Paso Times (8/11, Gilot, Borunda) reports, "Former El Paso FBI special agent in charge Hardrick Crawford had a 'symbiotic relationship' with Juárez Racetrack owner Jose Maria Guardia, according to testimony Thursday in Crawford's ongoing trial. … Horse racing businessman Steve Molnar testified he met Crawford at a dinner at the Juárez Racetrack when Molnar was part of a group looking to possibly invest in the track in 2002. The deal eventually fell through." The Times adds, "Crawford, who used his FBI e-mail, stated there was an 'symbiotic relationship' with Guardia in an e-mail exchange with Molnar that was presented as evidence. 'I kept wondering what in the world is our government doing with this squirrely operation,' Molnar said on the witness stand."

FBI Soon To Provide New York AG With Ferry Probe Findings. The Rochester Democrat & Chronicle (8/11, Orr) reports, "The FBI will soon present government lawyers with any evidence it has of criminal wrongdoing related to the Rochester ferry project, the head of the agency's Western New York office said Thursday. Rochester Mayor Robert Duffy last week asked the FBI and the state Attorney General to expedite their inquiries into the private company that ran the ferry between Rochester and Toronto in the summer of 2004." FBI Buffalo SAC Laurie J. Bennett "said agency investigators will present information to the United State Attorney's office, 'probably shortly,' and ask prosecutors to decide whether there is evidence of a crime. The aim is 'to give some finality to it, to say we will move forward with a criminal prosecution, or there will be none,' Bennett said. She declined to characterize the FBI's findings."

FBI Completes Investigation North Carolina Police Beating Death. The AP (8/11) reports, "The FBI has completed its investigation of the beating death of a Davidson County Jail inmate, an agency spokesman said Thursday as the trial of one of two former detention officers charged in the death continued. Ronald Eugene Parker, 44, is being tried on a charge of second-degree murder in the death of Carlos Claros Castros, 28, a Honduran immigrant living in Thomasville who was jailed on allegations of driving while impaired." The AP adds "FBI spokesman Ken Lucas in Charlotte said that Parker and Brandon Huie, the other former detention officer, 'possibly face federal charges' in the case. … Investigators handed over the facts of the investigation to the U.S. Department of Justice, he said."

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FBI Task Force Arrests Internet Predator In Ohio. The Mesabi (MN) Daily News (8/11, Pugh) reports, "The FBI Internet Task Force arrested a Minnesota man Thursday at" a Massillon, Ohio mall's food court "after he allegedly traveled to the area to have sex with a 14-year-old girl." Police "arrested Donald R. Lindstrom, 48, of Babbitt, at 4:36 p.m. in the Belden Village Food Court in nearby Jackson Township and charged him with unlawful sex with a minor, a fourth-degree felony and two charges of importuning, a fifth-degree felony solicitation of a minor using a computer and a phone." This "marks the 88th arrest in the nearly four-year history of the FBI Internet Task Force, which consists of area officers in Massillon, Alliance, the Tuscarawas County Sheriff's Department and the State Probation Office."

Meth Lab Seized In Mexico. The AP (8/10) reports Mexican authorities "have seized a large-scale methamphetamine laboratory in western Mexico. DEA Administrator Karen P. Tandy said the lab was discovered on a ranch in Tlajomulco de Zuniga, just outside the city of Guadalajara in western Jalisco state, on Aug. 1. Authorities arrested four people and seized about 220 pounds of finished methamphetamine, 790 gallons of solvents and chemicals and four barrels of iodine, during the raid. … Tandy said Jalisco Judicial Police officers had received a week of training from the DEA prior to the seizure." FOX News posted the AP story on its Web site.

Raids Target "Massive" Ecstasy Ring, Five Arrested In San Francisco Area. The San Francisco Chronicle (8/10, 405K) reports five Bay Area residents "were arrested and a sixth suspect is being sought after federal authorities conducted a series of raids intended to break up what they called a massive Ecstasy drug-smuggling ring based at a Hillsborough home. Authorities say that Johnson Mai, the alleged ringleader, and a cohort brought into the country at least 906 kilograms…of ecstasy to be distributed in the Bay Area, Los Angeles and Houston. … Mai and his crew squirreled away the Ecstasy inside high-end pianos, BMW transmissions and leather sofas, according to officials with the U.S. Drug Enforcement Administration."

Two Hurt In Arkansas Helicopter Crash During Drug Investigation. The Arkansas Democrat Gazette (8/10) reports an Arkansas National Guard pilot and a state police trooper were "injured Wednesday morning when their helicopter crashed in eastern Carroll County." The two were "working on an investigation that also involved the U. S. Drug Enforcement Administration and the Carroll County sheriff's office." The Guard unit "provides aerial and ground support to the state's counterdrug operation program." The men "were in one of two helicopters searching for marijuana plants around Long Creek, along with a ground unit."

In North Carolina, 27 Face Federal Drug Charges. The Hickory (NC) Daily Record (8/11) writes, "Twenty-seven people were federally indicted in two separate drug busts. Fourteen people were indicted June 28. … Thirteen people were indicted in a separate drug ring bust on July 27. Their names were released Thursday. … Thirteen people are charged with felony conspiracy to possess with intent to distribute meth." Among the suspects, "Brandon David Collins…of Lenoir has been declared a DEA fugitive."

The Charlotte (NC) Observer (8/10, Torralba) also reports on the indictments.

Suspected Heroin-Fentanyl Lab Found In Raid, Philadelphia Fugitive Arrested. Wilmington, Delaware's News Journal (8/10) reports federal authorities "investigating a possible heroin-fentanyl lab at an area motel evacuated the building and some neighboring apartments after the discovery of two suspected explosives. Guests at the Riverview Motel…were ordered out of their rooms. … James Thomas Owen, 28, of Delaware County, Pa., who was wanted on federal drug charges in Philadelphia, was arrested in the raid. … A DEA lab team from Philadelphia will determine whether the lab is a source of the bad heroin responsible for as many as nine deaths and dozens of overdoses since April."

Three Sentenced In California For Trying To Buy 1.8 Million Pseudoephedrine Pills. Three Men The Modesto (CA) Bee (8/10) reports a federal judge last week gave three Turlock men hefty sentences on charges of trying to buy 1.8 million pseudoephedrine pills. That amount packs enough ephedrine to produce 183 pounds of methamphetamine. … A jury convicted the men of participating in a drug conspiracy after a trial in U.S. District Court in Fresno. … At trial, prosecutors presented recordings of the defendants negotiating to buy 22 buckets of pills, which

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filled a rental truck, for $220,000." The Bee says the men received 14- to 16-year prison sentences.

Mother's Killing In New York Linked To Reputed Drug Gang Member. Journal News (8/10) reports nearly five years after Tasha Murray "was gunned down…federal prosecutors continue to track down those they say are responsible for her death. Tuere Barnes, a reputed member of a violent Peekskill drug gang, has been indicted by a federal grand jury on charges of depraved indifference murder in the shooting of Murray. … In March 2004, Peekskill police and federal Drug Enforcement Administration agents arrested Tuere Barnes and more than a dozen other members of the Barnes gang after a racketeering indictment was unsealed in U.S. District Court in White Plains."

Drug Suspect Arrested In Pennsylvania Following Chase. The Times Leader (8/10) reports a crack cocaine distribution investigation turned into a high-speed pursuit through the streets of Wilkes-Barre Wednesday morning," according to state police. … State troopers and agents from the federal Drug Enforcement Agency attempted to stop Sean 'Bounty' Herbert," but he fled. He was later arrested. "State police and the DEA have been following Herbert's crack cocaine distribution for over [a] year."

In New Jersey, DEA Helps First Responders Identify Meth Labs. The Record (8/10) reports law enforcement officials "say there are less-publicized drawbacks of home-cooked methamphetamine: its toxicity and risk of exploding. That's what could happen in makeshift meth labs, where untrained amateurs mix toxic -- and sometimes lethal -- chemicals, using crude home appliances, officials with the Drug Enforcement Administration told first responders from Bergen County on Wednesday. 'What we are trying to do is help first responders identify small, toxic meth labs so they can make cautious decisions when they go into a location where there is a clandestine lab,' DEA spokesman Doug Collier said during a daylong workshop that drew about 100 firefighters and EMS workers."

Family Discusses Guilty Verdict Following Killing Of DEA Agent From Tucson. KVOA-TV, Tucson (8/10) reports on its Web site that the family of a "murdered drug enforcement agent from Tucson says they're thankful a jury has sided with them. Richard Fass was murdered in 1994 during an undercover drug sting and on Tuesday, a jury found Augustin Vasquez Mendoza guilty of that killing. The last 12 years has been an emotional roller coaster for the Fass family but this guilty verdict is allowing them to move on."

"Target America" Exhibit Opens In Chicago. On its Web site, WLS-TV, Chicago (8/10) reports, "An eye opening look at the damage illegal drugs can have on a person's life is the focus of a new exhibit at the Museum of Science and Industry. Mayor Daley and officials with the Drug Enforcement Administration were on hand Thursday morning for the official opening of the exhibit called 'Target America.' The exhibit begins with an in-depth look at drug production, how they are smuggled into the US and how drug use affects society."

WMAQ-TV, Chicago (8/10) reports that among the items "contained in the exhibit are a working meth laboratory, images of the effects of the brain of a cocaine binge, and a briefcase that contains secret compartments. 'After 9/11, the DEA really recognized that there was a link into what was going on in the world and drug abuse,' said Garrison Courtney of the DEA."

More Than 50 Suspected Gang Members Arrested In Maryland. The Washington Post (8/11, B1, Hernandez, 748K) reports Maryland police "have arrested 53 suspected gang members and seized drugs, guns and money in a wide-ranging effort to dismantle two factions of the Crips that have taken root in Frederick, Washington and Carroll counties. … Police officials said the gangs appeared to be led by men from Las Vegas and New York who recruited locals…to serve as soldiers in the gang."

The Baltimore Sun (8/11, Shields, 262K) reports some who were arrested "face charges that include: attempted murder, assault with intent to murder, armed robbery, assault on police, use of a handgun in commission of a crime, importing drugs into the state and distribution of drugs."

The AP (8/11, Dishneau) writes, "It was the biggest arrest in Maryland of the nationwide Crips gang."

Baseball Officials Say Fewer Players Are Failing Drug Tests. The New York Times (8/11, Curry, 1.21M) reports that as the 2006 season "moves toward its stretch run, baseball officials have become cautiously encouraged by the sizable reduction in the number of players

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who have tested positive for performance-enhancing drugs or other banned substances this year. With less than four months remaining in the calendar year, 34 players — two in the major leagues and 32 in the minor leagues — have tested positive. At this time last year, 86 players had failed tests, and by the time the year concluded, the number had reached 93, with 81 in the minor leagues and 12 in the majors."

Chicago Cubs Manager To Testify As Mitchell Investigation Continues. The AP (8/11) reports Chicago Cubs manager Dusty Baker "will testify in the Mitchell investigation into steroid use in baseball, and said he assumed he was called because of his relationships with Barry Bonds and Sammy Sosa. Baker managed Bonds with the San Francisco Giants and had Sosa with the Cubs. Former Senate Majority Leader George Mitchell was appointed by commissioner Bud Selig to look into the steroids problem."

Cable TV Coverage. ESPN (8/10, 6:30 p.m.) reported, "Murray Chass reports in today's New York Times that lead investigator George Mitchell wants to talk with Dusty Baker. Baker managed Barry Bonds for 10 years and Sammy Sosa for two, and is known [for] being incredibly protective of his players."

Local TV Coverage. WGN-TV, Chicago (8/10, 9:00 p.m.) reported, "Manager Dusty Baker says he'll testify in baseball's steroid investigation. He says he assumes it was because he managed both Barry Bonds and Sammy Sosa that he was asked to testify."

IAAF: Track Coach Under Investigation For Alleged Doping Violations. According to the AP (8/10), track and field's world governing body "is investigating the coach of sprinter Justin Gatlin for alleged doping violations. The International Association of Athletics Federations said Thursday the probe into the activities of Trevor Graham will be carried out in conjunction with the U.S. Anti-Doping Agency. At least six athletes who trained under Graham have received doping suspensions. Graham, however, has always denied direct knowledge or involvement with drug use."

Local TV Coverage. WMAZ-TV, Macon, Georgia (8/10, 6:00 p.m.) reported, "Track and field's world governing body is investigating the coach of sprinter Justin Gatlin for alleged doping violations. The International Association of Athletics Federations says. The probe into the activities of Trevor Graham will be carried out in conjunction with the US Anti- doping Agency. At least six athletes who trained under Graham have received doping suspensions."

FDA Warns Pharmacies About Distributing Unapproved Copies Of Brand-Name Drugs. USA Today (8/11, Appleby, 2.27M) reports the FDA has "warned three large pharmacies that they are violating federal law in making and distributing 'thousands of doses' of their own versions of drugs used by asthmatics and others with respiratory ills. The move addresses what the FDA says is a growing problem: Some pharmacies are mass-producing unapproved copies of brand-name drugs, for no proven medical reason, under less-stringent safety and sterility rules than the agency sets for drugmakers."

IMMIGRATION:

Immigration Judges Sign Labor Pact With Justice Department. The Washington Post (8/11, Barr, 748K) reports in its "Federal Diary" column, "After seven years of negotiations, the Justice Department and a union representing 218 immigration judges signed their first collective-bargaining agreement yesterday." Leaders "of the union, the National Association of Immigration Judges, said the contract would improve communication between Justice headquarters and the judges, who serve in 53 cities and detention centers across the country, by guaranteeing quarterly meetings to discuss security, workload and other issues." Working conditions "were a factor in the formation of the union. For most judges, weekly workloads allow only four hours off the bench and require 36 hours on. During hearings, judges have little staff assistance and often operate tape machines. They issue extemporaneous verbal rulings at the end of hearings."

CONGRESS-ADMINISTRATION:

Stock Markets Rebound Despite Terror Plot News. The Wall Street Journal (8/11, Browning, 2.03M) reports, "After falling for four consecutive days on fears of a weakening economy, the Dow Jones Industrial Average finally rebounded -- despite news of an extensive new terrorist plot. Some professional investors professed amazement that US stocks would fall on good news -- the end to Federal Reserve interest-rate increases -- and then rebound on bad news. …

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More than anything, the markets' relaxed response to the news of a foiled attack on aircraft leaving Britain underlined once again that investors are becoming inured to terrorism fears, reacting only when there is clear economic damage." The Dow industrials "were down only 31.46 points at the day's low, shortly after the opening bell, by which time U.S. investors had heard about the terror plot. The blue-chip index finished ahead 48.19 points, or 0.44%, at 11124.37, up 3.8% this year." The Standard & Poor's 500-stock index "rose 0.46%, or 5.86 points, to 1271.81, up 1.9% this year. The Nasdaq Composite Index advanced 0.56%, or 11.46 points, to 2071.74, down 6.1% in 2006." USA Today (8/11, Shell, 2.27M) headlines its story "Markets Prove Immune To Terror Plot," while the Washington Post (8/11, D1, Masters, Blustein, 748K) titles a similar report "Wall Street Stays Calm, Ends Higher."

NBC Nightly News (8/10, story 9, 0:20, Williams, 9.87M) reported, "Traders bet the travelers will cut back on flying so crude prices dropped more than $2 a barrel, reversing that trend. That helped buoy the stock market."

The Washington Times (8/11, Hill, Price, 88K) says "Wall Street and Main Street have grown accustomed to the idea that the United States is a favored target of extremists since the September 11 terrorist attacks, analysts say, and Americans are inclined to react only if something bad really happens." Adds the Times, "One factor contributing to their unflappable attitude: No terrorist attack has occurred on American soil since 2001."

July Federal Budget Deficit Smaller Than Last Year's. The Wall Street Journal (8/11, 2.03M) reports, "The federal government ran a budget deficit of $33.2 billion in July, far narrower than the $53.37 billion gap a year earlier, as government receipts soared, the Treasury Department said yesterday." The department's "monthly budget statement shows receipts jumped more than 12% to a record $159.76 billion last month from a year earlier. Outlays fell 1.3% to $192.96 billion." The July deficit "was consistent with the Congressional Budget Office's estimate of a $33 billion budget shortfall during the month. The CBO said most of the reduction of the July deficit from a year earlier reflected a shift in the timing of government payments compared with last year."

NBC Nightly News (8/10, story 9, 0:20, Williams, 9.87M) reported, "The White House projects the deficit for the year will be down from last year's rate. But still, the fourth highest on record in the US."

Data Suggest US Economy Slowing Down. McClatchy (8/11, Hall) reports, "From bustling Wall Street to the quiet corridors of the Federal Reserve, there's widespread agreement that the once-sizzling U.S. economy is slowing. The question now is what's next: a return to stable, modest growth or a skid into recession." The answer "will play out in the months ahead. It depends on whether soaring energy prices ease, inflation threats diminish and the slumping housing sector stabilizes or sinks." In addition to a slowdown in the housing market, "second-quarter growth slipped to a 2.5 percent annual rate after a red-hot 5.6 percent from January through March. Unemployment rose in July to 4.8 percent from 4.6 percent, and the 113,000 nonfarm jobs added in July were below expectations." Meanwhile, "oil and gasoline prices keep climbing. That threatens to keep inflation far above the Federal Reserve's comfort zone of 1-2 percent annual growth."

The Wall Street Journal (8/11, Izzo, 2.03M) reports "this month's WSJ.com economic forecasting survey showed projections for gross domestic product and employment growth were cut, while forecasts for consumer prices and oil prices were lifted." Economists "continued to nudge higher their estimates of the probability of a recession over the next 12 months; on average, they put the likelihood at 26%, up from 20% in June and just 15% in February." The Journal adds, "Economists, on average, forecast GDP growth at a 2.8% annual rate for the third quarter, the first time their forecast for that quarter has been under 3% since the economic forecasting survey first asked about the period in November 2005."

Meanwhile, the New York Times (8/11, Andrews, 1.21M) reports, "In the cool and quiet marble corridors of the Federal Reserve, the strategy for taming inflation sounds painless, even soothing: a 'soft landing' for the economy after several years of flying high. … Many economists, though, warn that the soft landing may seem anything but soft, and suggest that the Fed is either too rosy about the looming slowdown or naïve about the difficulty of reaching its goal for inflation. In practice, the Fed has achieved only one true soft landing -- in 1994-95, when, under the leadership of Alan Greenspan, it was able to slow the economy enough to cool spending and ease inflation pressure but not so much as to cause a big jump in unemployment." But "even Mr.

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Greenspan, whose ability to fine-tune policy made him famous, presided over two formal recessions, in 1991 and in 2001."

Trade Deficit Down In June. The AP (8/11, Crutsinger) reports, "America's trade deficit showed a slight improvement as strong global growth pushed US exports to a record level. That helped offset a surge in Chinese imports and record crude oil prices." The deficit "declined 0.3 percent in June, compared with May, dropping to $64.8 billion, still the fifth largest imbalance on record, the Commerce Department reported Thursday." The deficit "is running at an annual rate of $768 billion through the first six months of this year, putting the country on track to see a fifth straight record imbalance. Last year's deficit was $716.7 billion." The Wall Street Journal (8/11, Conkey, 2.03M) and New York Times (8/11, Porter, 1.21M) also report the story.

Terror Comments Overshadow Bush Remarks On Economy. The Wall Street Journal (8/11, Schlesinger, 2.03M) reports in its "Washington Wire" column, "'Bush boom' softens as economy shows new weakness. Voters will likely head to polls with unemployment rising. … Bush touts economy in Wisconsin factory tour, but terror remarks overshadow."

Study Finds Immigrants Not Hurting American Job Market. The AP (8/11, Ohlemacher) reports, "Big increases in immigration since 1990 have not hurt employment prospects for American workers, says a study released Thursday." The report "comes as Congress and much of the nation are debating immigration policy, a big issue in this fall's midterm congressional elections." The Pew Hispanic Center "found no evidence that increases in immigration led to higher unemployment among Americans, said Rakesh Kochhar, who authored the study."

The New York Times (8/11, Preston, 1.21M) says "the study, based on Census Bureau data, found that 14 states with high immigration rates after 1990, including Texas, Nevada and Georgia, also had higher-than-average employment rates for American-born workers. Those 14 states accounted for 24 percent of American workers." But "in eight states that had big increases in immigrants in the same period, among them Arizona and Tennessee, employment rates for American workers were below average. Those states were home to 15 percent of American workers."

The Washington Post (8/11, D1, Hart, 748K) reports, "Some economists expressed reservations about the [report's] technique yesterday, arguing that////broad statewide data do not give an accurate picture of immigration's effects on the labor market. 'There's an age, gender and educational component to this story that this report does not address,' said Andrew Sum, director of the Center for Labor Market Studies at Northeastern University." The Pew report "found that nearly 25 percent of native-born workers live in states where rapid growth of the immigrant population occurred at the same time as above-average employment prospects. Only 15 percent of American workers live in high-immigration states with below-average employment prospects, the report found."

The Washington Times (8/11, Dinan, 88K), however, says "a study by the Center for Immigration Studies, which has yet to be released, argues that immigrants harm younger workers at the lower end of educational achievement." The Times also reports the Pew study "did not consider immigrants' effects on wages."

Administration Mulls Bipartisan Effort To Rein In Entitlement Spending. Officials in the Bush Administration and on Capitol Hill say the Administration has begun to sound out lawmakers about a new bipartisan effort to control the costs of Medicare, Medicare and Social Security following this year's elections. The Washington Post (8/11, A7, Abramowitz, 748K) reports, "No specific plan has been advanced, and administration officials are proceeding gingerly given the political debacle that beset the White House last year when President Bush promoted a plan to create private accounts in the Social Security program. But they have been sending strong signals in recent weeks that they want to try something again after the elections in November."

Spellings Commission Approves Report On Overhaul Of US Higher Education. USA Today (8/11, Marklein, 2.27M) reports US Secretary of Education Margaret Spellings' Commission on the Future of Higher Education met yesterday and "signaled near-unanimous support for a set of proposals that the report says would, if adopted, produce 'institutions and programs that are more nimble, more efficient and more effective.'" Those proposals include "overhauling the financial aid system and holding colleges and universities more accountable for their students' progress." Commissioner David Ward, president of the American Council on Education, "was a holdout. He said the

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report's one-size-fits-all approach could be counterproductive, given the diversity of missions in higher education."

The New York Times (8/11, Dillon, 1.21M) reports the commission "approved a final report on Thursday that urges a broad shake-up of American higher education. It calls for public universities to measure learning with standardized tests, federal monitoring of college quality and sweeping changes in financial aid" including an increase in the size of Pell grants. The commission "also called on policy makers and leaders in higher education to find new ways to control costs, saying college tuition should grow no faster than median family income, although it opposed price controls."

Quarles Leaving Treasury To Return To Private Sector. Randal Quarles, the Treasury Department's top domestic finance adviser has announced that he will resign this fall to return to the private sector. The Wall Street Journal (8/11, Solomon, 2.03M) reports that Quarles' departure "gives new Treasury Secretary Henry Paulson an early opportunity to put his stamp on policy operations. Mr. Paulson is expected to name a successor within weeks."

Army Corps Of Engineers Commander To Step Down. The Army announced last night that Lt. Gen. Carl Strock, the head of the Army Corps of Engineers will resign. The New York Times (8/11, Schwartz, 1.21M) reports that Strock "asked Francis J. Harvey, the secretary of the Army, that he be allowed to resign "based on family and personal reasons, which the secretary of the Army honors and supports," according to the Army announcement."

Lawmakers Seek Answers From BP On Pipeline Maintenance. The Financial Times (8/11, Kirchgaessner) reports, "BP is facing a barrage of questions from lawmakers in Washington about the management of its oil pipeline nearly one week after the company shut down production at Prudhoe Bay, the largest oil field in the US." Texas Rep. Joe Barton (R) "said he would hold a hearing on September 7 to probe BP's handling of severe corrosion in its oil-transit lines." The Times says, "Two other lawmakers called for a full investigation into early reports that BP had failed to use internal inspection devices, known as smart pigs, in the eastern area of the oilfield in a timely manner. The company "is already under investigation by the Department of Justice, Department of Transportation, and the Environmental Protection Agency for its management of the Prudhoe Bay field and the discovery in March of a 5,000-barrel oil spill in Alaska."

DOT Gives BP OK To Continue Operating Part Of Oil Field. USA Today (8/11, Healey, Heath, 2.27M) reports, "The Department of Transportation said late Thursday that oil giant BP can continue operating, at least temporarily, one of its Prudhoe Bay oil field pipelines while BP repairs corroded pipelines serving the rest of the field. The DOT order says, however, that BP must test both the western line and, more extensively, the closed eastern line to determine their conditions, and tell DOT how it plans to repair the eastern section." DOT's "order means BP can continue pumping 120,000 barrels of Alaskan North Slope crude oil per day through the western line. That should ease the shock to the western USA." The company "says it will decide before next week how much of the western line production it will maintain." DOT "inspectors are at the site, hoping to determine how bad the damage is on the eastern lines that are closed and how safe the western lines are."

LA Times Blasts BP, Calls For Tougher Pipeline Regulations. In an editorial, the Los Angeles Times (8/11, 918K) writes, "BP has worked hard to establish itself as a bona fide green company," but "any accolades for this forward-looking approach are gravely undermined by a trio of recent disasters: a deadly Texas refinery explosion in 2005, one of the largest Alaska pipeline spills ever in March and now the unprecedented closure of the nation's largest oilfield because of astonishingly poor maintenance." The Times writes, "BP will probably -- and deservedly -- face costly consequences for its neglect. But going forward, Congress and federal regulators need to enact tougher regulations for all feeder pipelines. As for BP, restoring its reputation demands a thorough review of worker safety and pipeline maintenance." The Times concludes, "Achieving energy security will mean relying less on oil, wherever it comes from."

Fed Ex Chief, Former Joint Chiefs Member Say Oil Dependence Threatens Security And Prosperity. In a Washington Post (8/11, 748K) op-ed, FedEx chief Frederick W. Smith and, a Joint Chiefs of Staff member P. X. Kelley write, "Our respective personal experiences -- running a global transportation and logistics company and spearheading the establishment of an independent U.S. Central Command in the Middle East -- convince us that America's extreme dependence on oil is an unacceptable

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threat to national security and prosperity. During the coming months, we will be co-chairing the Energy Security Leadership Council, a new and intensive effort by business executives and retired military officers to advance a national energy strategy for reducing U.S. oil dependence." They write, "The most substantial, rapid and cost-effective gains are almost certain to be achieved by making our transportation system more fuel-efficient ." They argue that, "[p]ure market economics will never solve this problem" and that "[g]overnment leadership is absolutely necessary." Finally, they stress that the government "must sustain a strategic energy policy even if oil prices drop in the medium term. This is only fitting given the size and nature of the threat."

Sheehan Protest In Crawford Drawing Less Attention. The Washington Post (8/11, A2, Fletcher, 748K) reports that last weekend, antiwar protestor Cindy Sheehan "led a small group of protesters here on a march along the narrow, winding road leading to President Bush's 1,600-acre ranch, about seven miles from Camp Casey. And Tuesday, she joined a small group of protesters just outside the Secret Service checkpoint. But, so far, the demonstrations have been modest, and the news coverage and the reaction have been muted -- which is far different from the reaction Sheehan engendered last year during her 26-day peace vigil here." Despite "the stir created by Sheehan's protests last year and the unabated casualties in Iraq, there have been no celebrity sightings so far this year -- unless one was to count Sheehan herself." Sheehan's "growing celebrity has caused her critics to charge that she is profiting from the tragedy of her son's death, making her more professional protester than grieving mother."

Lieberman Cites UK Terror Plot To Criticize Lamont. The New York Times (8/11, Healy, Medina, 1.21M) reports Sen. Joseph I. Lieberman "seized on the reports of a terror plot yesterday to attack Ned Lamont, his Democratic opponent for re-election, saying that Mr. Lamont's goal of withdrawing American troops from Iraq by a fixed date would constitute a 'victory' for extremists." Speaking at a campaign event in Waterbury, Connecticut, Lieberman said, "If we just pick up like Ned Lamont wants us to do, get out by a date certain, it will be taken as a tremendous victory by the same people who wanted to blow up these planes in this plot hatched in England. It will strengthen them, and they will strike again." The Times adds Lamont "denounced Mr. Lieberman's remarks, and some other Democrats and political analysts questioned the senator's use of a national security hazard to buttress a political attack, especially against another Democrat."

The AP (8/11, Haigh) reports Lieberman "set out on his go-it-alone re-election campaign Thursday and seized on the terror arrests in Britain to argue that his Democratic opponent, Ned Lamont, does not fully understand the danger facing the nation." Lieberman's stop "in Waterbury was his first public event since losing Tuesday's Democratic primary, dismissing his campaign staff and launching his independent bid. He seized on the terror plot in Britain to criticize Lamont's opposition to the war in Iraq." Lieberman said, "I'm worried that too many people, both in politics and out, don't appreciate the seriousness of the threat to American security and the evil of the enemy that faces us — more evil or as evil as Nazism and probably more dangerous than the Soviet communists we fought during the long Cold War."

Pryor Endorses Lieberman. The AP (8/11, Haigh) reports Sen. Lieberman also "picked up an endorsement from Arkansas Sen. Mark Pryor, the first Senate Democrat to support him since the primary." Lieberman has "also received support from some Republicans. President Bush's top adviser, Karl Rove, told reporters Thursday that he called Lieberman on primary night and wished him well."

"White House Official" Analyzes Connecticut Results. The Wall Street Journal (8/11, McKinnon, 2.03M) reports that yesterday, "a senior White House official took the unusual step of speaking on background to reporters aboard Air Force One about the politics of the war on terror. The official said that the results in Connecticut showed that voters were coming around to the administration's view that the global war on terror must be won despite the high costs." Lamont's "margin 'went from 13 to six to four in the last 10 days of the campaign,' the official said. 'And I think that's in part because at the end of the day, people look at the consequences of failure and the consequences of victory. … So, if you have Lamont Democrats who say, 'Bring 'em home, turn away, and it will all be over,' the American people say, 'You're kidding yourself. We're in a war, and the only way you walk away from a war is as a victor, defeating the enemy.'"

Iraq Vets Back Lieberman's Independent Bid. In a Wall Street Journal op-ed (8/11), Wade Zirkle, executive director of VetsForFreedom.org, and Josh Clark, a specialist in the Connecticut National Guard who served in Baghdad,

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say, "Joseph Lieberman's primary loss might be a satisfying victory for the partisan extremes, but it is a sharp blow to bipartisan efforts to prevail in a global war that may span generations." As American servicemen "who together served three tours in Iraq, we can attest to the discouragement those in battle endure in the face of a domestic politics that has a seemingly singular focus on controversy and negativism." Sen. Lieberman "made it clear that a nation cannot effectively fight a war by looking in the rearview mirror. Too often it appears we are fighting a war among ourselves instead of against the enemy. This is all the more reason why Joe Lieberman is needed now as an independent voice to represent America's troops and their interests abroad in the war on terror."

Lieberman Website Remains Down After Apparent "Denial Of Service" Attack. The AP (8/11, Eaton-Robb) reports Sen. Lieberman's "campaign Web site remained offline Thursday, and federal and state authorities were investigating why it crashed on the eve of this week's defeat in a high-profile primary." The site, Joe2006.com, "appeared to have suffered from a so-called 'denial of service' attack, in which computers overwhelm a site with fake traffic, preventing real visitors from getting through or, in this case, causing it to crash, said Richard M. Smith, an Internet security consultant in Brookline, Mass." The AP adds Lieberman "said the outage is hindering efforts to raise campaign money." Lieberman said, "But of course that's the world we live in, that anybody, anywhere in the world, if able to, can hack into another site anywhere else in the world." The AP adds Lieberman's campaign "denied speculation among liberal Web pundits that the centrist Democrat's Web site had simply crashed because it used a low-budget Web host unable to handle the volume." Connecticut Attorney General Richard Blumenthal "said the state is investigating, along with the FBI."

More Commentary On Lieberman. In his Wall Street Journal column (8/11), Daniel Henninger says, "That was unfortunate timing this week for the Lamont Democrats, declaring themselves officially the antiwar party within 24 hours of the Brits foiling an Islamic terror plot to spread thousands of U.S.-bound bodies across the North Atlantic, or perhaps across New York, Boston and Washington as the planes descended." From "the perspective as of yesterday of getting on a U.S. airliner, who would you rather have in the Senate formulating policy toward this threat -- Ned Lamont or Joe Lieberman? Well, the Democratic Party would rather have Ned Lamont. That commitment was sealed Wednesday when Mr. Lieberman's longtime colleagues in the Senate, in one of the least edifying spectacles in recent political history, pledged their troth to the one-issue neophyte, Ned Lamont. Sens. Kennedy, Kerry, Clinton, Biden, Reid and, most embarrassing of all, Chris Dodd of Connecticut, participated in what can only be seen as a tragic Shakespearean assassination of a former colleague. With the knifing of Joe Lieberman, the Democrats have locked in as the antiwar party."

In his Washington Post column (8/11, A19), Charles Krauthammer says, "The reflexive antiwar sentiments underlying Ned Lamont's victory in Connecticut will prove disastrous for the Democrats in the long run -- the long run beginning as early as November '08." Apart "from the Carter success of 1976 -- an idiosyncratic post-Watergate accident -- the 'blame America first' Democrats were not even competitive on foreign policy for the rest of the Cold War. It was not until the very disappearance of the Soviet Union that the American citizenry would once again trust a Democrat with the White House." Vietnam "cost the Democrats 40 years in the foreign policy wilderness. Anti-Iraq sentiment gave the antiwar Democrats a good night on Tuesday, and may yet give them a good year or two. But beyond that, it will be desolation."

In his USA Today column (8/11), Al Neuharth says, "Lieberman's loss in the Democratic Party primary clearly was an anti-Iraq war and anti-President Bush protest. The most damaging campaign ads showed Bush kissing Lieberman on the cheek. That was a 'kiss of death.' All national polls show strong anti-war and anti-Bush sentiment. But in my travels I continue to be surprised that the 'Don't cut and run' and 'Stay the course' slogans being peddled by Bush and company still play well." Neuharth predicts the GOP will retain majorities in the Senate with 53 seats and House with 220 seats, adding, "That post-election majority for Republicans in both houses means two more years of the best and worst of Bush, like it or not."

In his Washington Post column (8/11, A19), E.J. Dionne says when "he announced he was running as an independent, Lieberman issued a ringing condemnation of 'petty partisanship and angry vitriol.' He denounced those who offered 'insults instead of ideas' and said the purpose of politics is 'to lift up, not to tear down.' True, and there could hardly be any more offensive examples of petty partisanship than the vitriolic screeds issued by" Vice President Cheney,

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Republican National Committee Chairman Ken Mehlman and White House spokesman Tony Snow – "coming, as they did, just a day before we learned of a new terrorist plot against us. We'll never achieve authentic bipartisanship until a crowd that has clung to power by dividing us into bitter camps gets the rebuke it deserves. In the meantime, Lieberman might usefully send a copy of his speech to his friends in the White House. They divide us at our peril."

In his New York Times op-ed (8/11), Paul Krugman says Sen. Lieberman has "been wrong at every step of the march into the Iraq quagmire — all the while accusing anyone who disagreed with him of endangering national security. Again, on what planet would Mr. Lieberman be considered 'sensible'? But I know the answer: on Planet Beltway." Lieberman, "sounding just like Dick Cheney -- and acting as a propaganda tool for Republicans trying to Swift-boat the party of which he still claims to be a member -- suggested that the changes in Iraq policy that Mr. Lamont wants would be 'taken as a tremendous victory by the same people who wanted to blow up these planes in this plot hatched in England. In other words, not only isn't Mr. Lieberman sensible, he may be beyond redemption."

Ohio Attorney General Says GOP's Pick Can Take Ney's Spot On Ballot. The AP (8/11, McCarthy) reports Ohio Attorney General Jim Petro said the Republican Party's "favored candidate to take Rep. Bob Ney's spot on the ticket can legally do so under Ohio law." Secretary of State Ken Blackwell "had sought the opinion" as the GOP "considered how to replace Ney, who announced this week he would not seek re-election. State Sen. Joy Padgett is the leading candidate, and would be eligible to enter a special primary or replace Ney on the November ballot, the attorney general said."

Cook Says Democrats In Position To Retake House. McClatchy (8/11, Thomma) reports that just as voters "are about to tune in to this fall's battle for control of the House of Representatives, many Republican incumbents are running away from President Bush out of fear that they'll be caught in an anti-Bush tidal wave that could sweep them from power." But "at least one widely respected analyst thinks it may not be enough." Political analyst Charles Cook said, "Time is running out for Republicans. Unless something dramatic happens before Election Day, Democrats will take control of the House." McClatchey adds, "Underlining the threat to Republicans: Bush's low standing and Democrats' intense desire to punish him and his party." Cook said, "Bush's numbers are consistent with a tidal wave."

Groups Push Female Candidates For State Level Offices. USA Today (8/11, Jones, 2.27M) reports, "A number of groups are pushing female candidates for state-level offices across the USA. The goal is to bring different perspectives to the political debate, draw disenchanted voters to the polls and widen the pool of female candidates. The percentage of female state legislators has hovered near 22% for the past decade." USA notes that some of the organizations involved in the effort are: EMILY's List, the Pennsylvania Women's Campaign Fund and Georgia's WIN List.

Pearlstein Says Democrats Could Use Senators Like Cardin. Steven Pearlstein writes in the Washington Post (8/11, D1, 748K) that none of the three leading Democratic candidates for the US Senate in Maryland "is itching for Sunni-like holy war against the Republican Shiites, at least not as it concerns business and economic issues." Kweisi Mfume, "the most dogmatically liberal of the major candidates," is "likely to find himself unduly reliant on the Maryland State Teachers Association, which endorsed his candidacy." Josh Rales "comes across as painfully naive." It "might have helped if Rales had gained some experience in the minor leagues of politics before making his bid for a spot in the majors." Pearlstein adds that Ben Cardin "is the preferred candidate of the Democratic establishment. … I'll leave it to others to decide whether Cardin is the best candidate to defeat Lt. Gov. Michael Steele in November. But if Democrats want any hope of governing after the election, they could sure use more senators like Ben Cardin."

Labor Movement Plans Cooperation For Midterm Elections. The Christian Science Monitor (8/11, Paulson, 58K) reports a year "after America's labor movement saw its largest schism in decades, unions are gearing up for a high-stakes political battle in November." It is "the first test of how the split between the AFL-CIO and the new seven-union Change to Win labor federation will affect the political activities of the labor movement. It's also a chance for unions to demonstrate that they still wield political heft despite dwindling membership." The coming elections

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"were a key topic at separate meetings in Chicago this week of the American Federation of State, County, and Municipal Employees (AFSCME) and the executive council of the AFL-CIO. In one promising sign for labor's fall push to help Democrats, the rival federations have launched a national committee to coordinate political activities." But "there are still some clear differences. When Change to Win split off last year, one key reason was its philosophy that organizing, not politics, was where the labor movement should be focused. And that is showing up this fall. Whereas the AFL-CIO is active in hundreds of races, Change to Win - at least at a national level - is zeroing in on three," the gubernatorial races in Michigan, Ohio, and Pennsylvania.

AFSCME Announces Plans To Boost Political, Organization Effort. The New York Times (8/11, Greenhouse, 1.21M) reports the American Federation of State, County and Municipal Employees "announced plans yesterday to spend $60 million more a year to campaign for universal health coverage, to unionize 70,000 workers annually and to register 280,000 union members to vote." The union, "the largest of the 53 unions in the A.F.L.-C.I.O., announced what it called a 21st Century Initiative, pledging to become one of the most aggressive unions in organizing and in politics."

OTHER NEWS:

State, Local Governments Move To Reduce Greenhouse Gases. State and local officials are adopting policies and forming international alliances designed to reduce greenhouse gases even as lawmakers in Washington remain deadlocked on how best to address the issue. The Washington Post (8/11, A1, Eilperin, 748K) reports, "The initiatives, which include demands that utilities generate some of their energy using renewable sources and mandates for a reduction in emissions from motor vehicles, have emboldened clean-air advocates who hope they will form the basis for broader national action. But in the meantime, some businesses say the local and state actions are creating a patchwork of regulations that they must contend with." According to the Post, "22 states and the District of Columbia have set standards demanding that utilities generate a specific amount of energy -- in some cases, as high as 33 percent -- from renewable sources by 2020. And 11 states have set goals to reduce greenhouse gas emissions by as much as 80 percent below 1990 levels by 2050."

Florida Candidates Participate In Annual Possum Event. A front page story in the Wall Street Journal (8/11, Francis, 2.03M) reports, "In most states, political candidates march in parades and kiss babies. In Florida, they also handle possums. In years past, Gov. Jeb Bush did it, and all but one of his serious would-be successors in this year's election have tried their hand at it. Other handlers of possums or observers of possum-handling this summer include two U.S. Senate hopefuls and at least three would-be state judges, along with candidates for agriculture secretary, state chief financial officer and a slew of local and county positions." The event, Wausau's annual Fun Day and Possum Festival, "is in its 37th year. Here, candidates shake hands with potential constituents, cheer the Little Miss Fun Day contestants and place bids on possums to raise funds for local charities -- scoring points with potential voters. Then they hold up their writhing winnings for the obligatory possum photograph."

US To Reach 300 Million Population Mark In October. ABC World News Tonight (8/10, story 9, 1:30, Gibson, 8.78M) reported the Census Bureau "said today the US population will reach the 300 million mark in October. It took this country 139 years after independence, 1915, to reach 100 million in population. Then, 52 years to reach 200 million. And now, just 39 years to reach 300 million. And how the country has changed since we had just 100 million people."

Comptroller General Makes Case For Transparent Financial Reporting. US Comptroller General David M. Walker writes in a letter to USA Today (8/11, 2.27M), "I am a longstanding and strong supporter of clear, consolidated and more transparent financial reporting on the sustainability of Social Security, Medicare and other social insurance programs and the related intergenerational equity implications. For example, a new Statement of Fiscal Sustainability would provide a consolidated look at the cost implications of the government's current commitments compared with long-term revenue estimates. … As I travel the country speaking out about our nation's long-term fiscal challenges, I find that Americans -- once they have complete information -- are increasingly

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concerned about the debt being placed on our children and grandchildren."

US, France Agree On Main Points Of Security Council Resolution. CNN's The Situation Room (8/10, Blitzer) reported, "Diplomatic sources tell CNN the United States and France now agree on the main points of the resolution" to stop the Mideast conflict, "including a call for Lebanese and United Nations forces to deploy to southern Lebanon at the same time that Israeli forces and Hezbollah militants withdraw from the region."

In a similar report, the CBS Evening News (8/10, story 7, 0:25, Smith, 7.66M) said "UN diplomats report they're near agreement on a cease-fire resolution and say a vote could come as early as tomorrow. But CBS News has learned Israel is telling the United States it needs to continue military operations in Lebanon for another month to establish a buffer zone." ABC World News Tonight (8/10, story 8, 0:15, Gibson, 8.78M) reported, "There are signs to end progress between Israel and Hezbollah. … Progress but not a done deal." And NBC Nightly News (8/10, story 8, 0:25, Williams, 9.87M) reported "the Lebanese are being consulted, and Secretary of State Condoleezza Rice will travel to New York first thing tomorrow morning, we're told, and will push for a vote tomorrow."

Meanwhile, under the headline "Setback For UN Draft Resolution On Lebanon," the Washington Post (8/11, A10, Lynch, Wright, 748K) reports Beirut "on Thursday raised objections to a US- and French-backed draft resolution aimed at ending the fighting between Hezbollah and Israel because it does not call for an immediate cease-fire and because the proposed new international force would have a broad mandate to use military firepower." The move "complicated U.S. and French efforts to finalize negotiations on a resolution intended to set the stage for a gradual Israeli withdrawal from southern Lebanon." Lebanese Foreign Minister Fawzi Salloukh "told al-Jazeera that the resolution is unacceptable because it does not resolve a number of Lebanese concerns, including Beirut's call for Israeli forces to withdraw immediately." Russian PermRep Vitaly Churkin "expressed frustration with the slow pace of diplomacy and offered a separate resolution calling for a 72-hour humanitarian truce."

In more positive coverage, the AP (8/11, Wadhams) says Washington and Paris "were close to a deal on a Security Council resolution," but "diplomats said they were still trying to overcome last-minute Lebanese objections to the draft. Increasingly impatient that diplomacy has taken so long, Russia introduced its own resolution Thursday calling for a blanket 72-hour humanitarian cease-fire in Lebanon."

But the Financial Times (8/11, Biedermann, Devi, Birchall) adds Ambassador Bolton "said on Thursday there was no agreement yet on the US and French resolution calling for an end to the fighting between Israel and Lebanon's Hizbollah but that he hoped for one on Friday."

The New York Times (8/11, Erlanger, Hoge, 1.21M) reports, "In New York, ambassadors from the five permanent members of the United Nations Security Council, Britain, China, France, Russia and the United States, failed Thursday to reach agreement on the resolution." But Bolton "said work would continue through the night and that a vote could still be held on Friday."

The New York Times (8/11, Hoge, 1.21M) says Washington and Paris "struggled" Thursday "to agree on a resolution… Ambassadors from the two countries and the three other permanent members of the Security Council, Britain, China and Russia, were focusing [Thursday] evening on a formula that would have the Israelis depart in phases while the Lebanese Army, along with a reinforced Unifil, the United Nations peacekeeping force, moved progressively into the area." The Times notes, "It was the second meeting of the day for the so-called permanent five as pressure intensified on the Security Council to take decisive action to end the conflict, which was entering its fifth week unchecked."

Israel Takes Strategic High Ground, Delays Ground Offensive. The Washington Times/AP (8/11, Torchia) reports, "Israel grabbed strategic high ground in southern Lebanon yesterday but delayed a major push north, as diplomats cited progress on a UN cease-fire resolution that could go to a vote soon."

The Christian Science Monitor (8/11, Prusher, 58K) reports, "On Wednesday, Israel's security cabinet voted to expand ground operations that could include sending thousands more soldiers deep into south Lebanon, in a push military officials say would continue for at least another month." But "Thursday, Israeli leaders said that was only a decision enabling a broader ground war, not an order to execute it." Israel "will hold off on the incursion to give diplomats more time to work toward a cease-fire."

The Washington Post (8/11, A8, Cody, Moore, 748K) reports Israeli aircraft "fired missiles at a radio tower in

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downtown Beirut on Thursday and dropped leaflets warning residents of the Lebanese capital that more extensive bombing, whose 'painful and severe results will not be limited' to Hezbollah fighters, is on the way." The Post ads, "Early Friday, eight powerful explosions resounded across Beirut, and local news reports said Israeli jets were pounding Hezbollah strongholds in the southern Dahiya suburb, the Associated Press reported. The reports said a bridge was also hit in Akkar province, 60 miles north of Beirut. There was no immediate word of casualties, according to AP."

Meanwhile, says USA Today (8/11, 2.27M), "Hezbollah missiles rained down on northern Israel, killing a woman and a toddler in an Israeli Arab village, medics told the AP. More than 3,400 missiles have been fired into Israel, according to the Israeli army."

Hezbollah's Resilience Noted. McClatchy (8/11, Rosenberg, Nissenbaum) reports, "As Israel prepares to expand its war against Hezbollah deeper into southern Lebanon, its army is discovering that its opponent is no ragtag guerrilla force. … Military officers along the northern border now refer to Hezbollah as a serious army and predict that the next phase of the war will be measured in weeks, if not months." That "suggests a long and bloody campaign that is likely to significantly increase Israeli casualties." The Christian Science Monitor (8/11, Blanford, 58K) addresses the same issue in a story titled "Hizbullah's Resilience Built On Years Of Homework," reporting, "Even seasoned observers with the United Nations peacekeeping force in south Lebanon, known as UNIFIL, whose headquarters lies at the foot of the hillside, are baffled at how the guerrillas have managed to survive and keep up their steady rocket fire."

Discontent Seen Among Israeli Reservists. The Washington Post (8/11, A10, Finer, Moore, 748K) reports, "As increasing numbers of Israel's reserve soldiers are ordered out of their civilian jobs and to the front lines of combat, they are voicing growing alarm over inadequate equipment and training in the face of large-scale casualties in their ranks. Two of the largest death tolls of the four-week-long conflict have involved reserve soldiers: Thirteen of the 15 troops killed in combat Wednesday were reservists, and 12 reserve soldiers died last Sunday when a Hezbollah rocket smashed into the parking lot where they were gathered, near Israel's northern border." The Post adds, "The combination of the high death tolls and the mounting discontent among the reserve troops and their families has reverberated through Israeli society, where both military service and reserve duty are mandatory. As much as Israel mourns the death of any soldier, nothing strikes closer to the soul of Israel than the deaths of reserve troops."

Israeli Peace Movement Urges Diplomatic Resolution Of Conflict. The Los Angeles Times (8/11, King, 918K) reports a month "into the war in Lebanon, Israel's long-quiescent peace movement is suddenly issuing a ringing call to arms." The "still-small peace camp was spurred into action by the Israeli government's authorization this week of a broader ground invasion in Lebanon." Organizers "of an antiwar rally in Tel Aviv for the first time brought in what are regarded in this bookish country as big guns: a trio of Israel's best-known authors. The three -- Amos Oz, David Grossman and A.B. Yehoshua -- have all spoken out strongly against past conflicts, and wield considerable moral authority here." Though it "drew only several thousand people, Thursday's rally had a much different tone than protests organized previously by far-left groups. Absent this time were strident denunciations of the government and the army. Instead, the protesters waved blue-and-white Israeli flags as they shouted, 'Negotiate now!'"

Anti-"US-Israeli War" Demonstration To Circle White House. The Washington Post (8/11, B3, Dvorak, 748K) reports Washington, DC, is "becoming a stage where passions on both sides of the Israel-Hezbollah conflict are being played out with a series of protests, vigils and rallies in Washington in recent weeks, with more to come." The "largest demonstration -- billed as a protest of the 'U.S.-Israeli war' -- is expected to draw 'tens of thousands' of people who plan to surround the White House tomorrow, said Tony Kutayli, communications coordinator for the Washington-based American-Arab Anti Discrimination Committee, one of the groups helping coordinate participants arriving from across the country." The "primary organizer for tomorrow's protest is the ANSWER Coalition, which helped coordinate the September antiwar rally."

US Likely To Approve Israeli Request For Antipersonnel Rockets. The New York Times (8/11, Cloud, 1.21M) reports Israel has "asked the Bush administration to speed delivery of short-range antipersonnel rockets armed with cluster munitions, which it could use to strike Hezbollah missile sites in Lebanon, two American officials said Thursday." The request "for M-26 artillery rockets, which are fired in barrages and carry hundreds of grenade-like bomblets that scatter and explode over a broad area, is likely to be approved shortly, along with other arms, a

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senior official said." But some State Department officials "have sought to delay the approval because of concerns over the likelihood of civilian casualties, and the diplomatic repercussions."

Some Palestinian Authority Officials Examine Self-Dissolution. The Wall Street Journal (8/11, Chazan, 2.03M) reports Israel's war with Hezbollah "has overshadowed a looming crisis in the West Bank and the Gaza Strip, where conditions have deteriorated to the point that some in the Palestinian government are exploring the prospect of its self-dissolution." The "economic and political breakdown has put new stresses on a population already racked by falling incomes and high unemployment. But the unraveling of the Palestinian Authority, starved of cash and with several of its ministers in Israeli jails, could have disastrous consequences for Israel as well: International law dictates that as an occupying force, it would have to take over full responsibility for the well-being of 3.9 million Palestinians."

Friedman Says Hezbollah Will Pay Price After Ceasefire. In his New York Times column (8/11), Thomas Friedman says the "only way that the fighting in south Lebanon will be brought to a close is if all the parties accept a cease-fire and the imposition of a robust international peacekeeping force, led by France, along the Israel-Lebanon border — supplanting Hezbollah. The morning after that cease-fire goes into effect, everyone knows what will happen: Hezbollah's leader, Hassan Nasrallah — no matter how battered his forces and how much damage his reckless war has visited on Lebanon — will crawl out of his bunker and declare a 'great victory.'" But "sorry, been there, heard that, and I don't buy it. What matters in war, alas, is the balance of destruction on the ground and the political weight it exerts over time." Israel "needs to keep its eyes on the prize. It's already inflicted enormous damage on Hezbollah and its community, but Nasrallah will only have to pay the full price for inviting all that destruction once the guns fall silent on the morning after the morning after. So let's get there as soon as possible."

Chavez Says Castro Fighting "A Great Battle For Life." The CBS Evening News (8/10, story 8, , Smith, 7.66M) reported, "Cuba's government has said almost nothing about Fidel Castro's condition since he had intestinal surgery early last week, but today Castro's friend and ally, Venezuelan President Hugo Chavez said he has contacted the Cuban President and describes him as fighting 'a great battle for life.' Even so, Chavez said he's optimistic Castro will recover."

The AP (8/11) reports Chavez added, "From here, let's pray to God for Fidel and his recovery, and he's fighting a great battle." His statement "was the most serious yet from a close Castro ally in describing the 79-year-old Cuban leader's condition. But Chavez also predicted, with a laugh, that Castro would defy the US government's plans for a transition in Cuba and emerge from a hospital where he is being treated to reassume the presidency."

Commerce Department To Take Lead On Cuba Aid Effort. The Washington Post (8/11, A17, Kamen, 748K) reports in its "In the Loop" column, "The Bush administration is preparing a large humanitarian aid effort should chaos occur in the transition to a post-Fidel Cuba, including the delivery of food, medicine, clothing, tents and such. Folks at the Agency for International Development assumed they would take the lead on this because they, working with private relief organizations, traditionally do these things. But they weren't picked. Turns out the Commerce Department, not heretofore known to have much expertise in disaster relief, will take the lead role. Buzz is that's because Commerce is headed by Cuban-born Carlos M. Gutierrez."

WSJournal Celebrates TV Marti's Success At Avoiding Regime's Jamming. The Wall Street Journal (8/11, 2.03M) editorializes, "It's a safe bet that Fidel Castro is not tuning into TV Marti from his hospital bed, assuming he isn't yet in a morgue. Ever since the US broadcast service was launched by the US government in 1990, joining Radio Marti in providing Cubans with honest reporting about their country and the world, El Maximo Lider has succeeded in jamming many telecasts. Not any more." The Journal adds, "On Saturday night at 6, TV Marti went airborne."

NYTimes Says Ney Retirement Will Not Contain Influence-Peddling Scandal. An editorial in the New York Times (8/11, 1.21M) says, "Having done nothing to rein in the influence-peddling culture of Congress, Republican leaders apparently hope to contain the scandal as an election issue by pushing Representative Bob Ney of Ohio into retirement. But Mr. Ney's sudden withdrawal from the re-election campaign is only another reminder to skeptical voters of the Capitol's craven preoccupation with easy-money politics underwritten by special interests and power lobbyists." The Times adds, "The Ney affair was a reminder of the fate of another Abramoff crony, former

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Representative Tom DeLay of Texas, who has tried to disappear from public judgment as a candidate on the November ballot. … It will be fascinating to watch this November as Congress comes up for grabs and Republicans fight to keep Mr. DeLay's long Texas shadow from being cast nationally as a symbol of the money culture that infects the Capitol."

WPost Says Maryland Lawmakers Should Protect State Workers From Arbitrary Firing. An editorial in the Washington Post (8/11, A18, 748K) says that upon taking office, Maryland Gov. Robert Ehrlich removed 340 state workers from their jobs. Some of them were culled by "Republican party hack" Joseph Steffen, "a high school graduate with no relevant managerial or personnel experience, based on who-knows-what criteria." The Post adds, "Legislation enacted in the past decade empowered the governor, at a whim, to fire any of some 6,000 state workers, more than the president can fire at will from the federal government. That is wildly excessive and an invitation to abuse, as the Steffen episode illustrates." The Post says lawmakers should identify "a sensible list of positions -- senior managers, executive secretaries and the like -- who may be removed when a new administration takes office, and offering some protection against arbitrariness to the rest of the state's workforce."

LATimes Criticizes Trial Lawyers Group's Name Change. The Los Angeles Times (8/11, 918K) says in an editorial, "A rose by any other name may smell as sweet, but the Assn. of Trial Lawyers of America has apparently concluded that its perfectly descriptive moniker is malodorous. The group has decided to rechristen itself the American Assn. for Justice, not to be confused with the Justice League of America (an alliance of comic-book superheroes) or the Institute for Justice (a libertarian public-interest law firm opposed to eminent domain)." ATLA's name change, "apparently triggered by the successful efforts to demonize the term 'trial lawyer,' is a classic example of abstract euphemism replacing -- and distorting -- a perfectly specific phrase. George Orwell denounced such linguistic evasion in his classic 1946 essay, 'Politics and the English Language.' 'The great enemy of clear language is insincerity,' Orwell wrote. 'When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink.'"

NYTimes Encourages Companies To Build "Green Buildings." The New York Times (8/11, 1.21M) editorializes, "Buildings are something of an energy-efficiency blind spot in this country. Public attention tends to focus largely on automobile companies and mileage, but houses and skyscrapers consume more energy than cars. According to the Energy Department, residential and commercial buildings account for 40 percent of total energy consumption in this country, versus just 28 percent for the entire transportation sector. Companies are seeing the light on what are known as green buildings and the lower operating costs that come with them. … Companies can choose to be energy-wasting dinosaurs, but in an age of escalating prices, they'll go extinct. In business, the company with the lowest costs usually wins."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Terror Attacks Were 'Very Near.'"
"Girls Just Want To Be Plugged In -- To Everything."
"Winging It Once Again."
"Casual Is Working Full Time."
"Humble Ingredients For A Deadly Purpose."
"Al Qaeda Imprint Debated."

USA Today:

"Report Proposals."
"Plot Exposes Weak Spot In Aviation."
"Panel Calls For 'Urgent Reform' Of Higher Education."
"Restrictions In Effect At U.S. Airports."
"Precautions Jam Air Travel."

New York Times:

"Plan Was To Sneak Liquid Explosives On Planes."
"Liquid Threat Is Hard To Detect."
"Officials Cite Scale And Sophistication Of Plane Plot."
"Israel Asks U.S. To Ship Rockets With Wide Blast."
"For Californians, Deadly Heat Cut A Broad Swath."

Washington Post:

"Plot To Bomb U.S.-Bound Jets Is Foiled."
"Cities, States Setting Rules On Emissions."
"Suicide Bomber Kills Dozens Outside Shiite Shrine in Iraq."

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"Investigation Tracked Suspects To Pakistan."
"Signs Point To A Surviving Terror Network."
"Travelers Endure Long Waits With Goodwill."

Washington Times:
"Britain Foils Airline Plot."
"Growing Accustomed To Nation's fate."
"Scramble Starts For Political Advantage."
"New restrictions Dog Airports, Delaying Travelers In Long Lines."
"US Moves Aviation To Code Red For 1st Time."

Detroit Free Press:
"Air Scare, Plot to Bomb 10 Jets Foiled; A 9/11 Was Days Away."

Atlanta Journal-Constitution:
"In Flight Terror Foiled."
"Atlanta Population Boom Turns Inward."

Houston Chronicle:
"Foiled Terrorist Plot Was In Its Final Stages."
"If You're Traveling Today…"
"UT Spending Millions Here To Build On Its reputation."
"Houston Woman's Gift Of Life Reaches The NFL."

Story Lineup From Last Night's Network News:
ABC: UK Airplane Terror Plot; Al Qaeda Suspected; New Airport Security; Bush Response; Al Qaeda Threat; Airplane Vulnerability; Iraq-Sectarian Violence; Middle East Conflict; US Population-300 Million; Middle East Conflict.
CBS: UK Airplane Terrorist Plot; Terror Threat Level; New Airport Security; Bush Response; Ongoing Terrorist Plots; Iraq-Sectarian Violence; Middle East Conflict; Castro's Health; New Airport Security.
NBC: UK Airline Terror Plot; Al Qaeda Suspected; New Airport Security; Bush Response; Terrorism Analysis; Al Qaeda Suspected; Iraq Sectarian Violence; Middle East Conflict; Stock Markets; Air Travel Changes.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: UK Terror Plot; Oil Prices; India-US Citizen Terror Alert; Iraq-US KIA.
CBS: UK Terror Plot; US Flight Delays; Israel-Lebanon Attacks; UN-Mideast War Resolution.
NPR: UK Terror Plot; US Flight Delays; China-Typhoon; Wall Street; UN-Mideast War Resolution; Army-2006 Recruitment Goal.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends Republican National Committee reception. Crawford, Texas. Closed press.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: MIDEAST-RALLY _ 12 p.m. Volunteers unload logistical materials, as they setup for Saturday's rally against U.S. and Israeli actions in Lebanon and Palestine. Location: Lafayette Park.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, AUGUST 11, 2006 7:45 AM EDT

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TERRORISM NEWS:

Disrupted Terror Plot Could Have Killed Thousands. The AP (8/11, Quinn) reports, "British police said Thursday they thwarted a terrorist plot, possibly just days away, to blow up US-bound jetliners over the Atlantic and kill thousands. Chilling accounts leaked by investigators described a plan…that would use liquid explosives concealed as everyday carry-on items and common electronic devices to bring down 10 planes in a nearly simultaneous strike." The bombs "were to be assembled on the aircraft apparently using a liquid explosive — most likely peroxide -- and detonated by such devices as a disposable camera or a music player, two American law enforcement officials told The Associated Press. The officials spoke on condition of anonymity because Britain asked that no information be released."

The Financial Times (8/11, Sherwood, Sevastopulo) reports, "After an unprecedented surveillance operation led by MI5, the security service, in close co-operation with US authorities, British police moved to disrupt the alleged suicide bomb plot, which could have been launched in the next few days." The plan "would have caused casualties on a scale to rival the September 11 attacks. John Reid, UK home secretary, said the 'loss of life of civilians would have been on an unprecedented scale.'"

Gonzales Says US Agents Worked Closely With UK To Track Leads. Attorney General Gonzales was asked on Fox News The Big Story With John Gibson (8/10), "What was the role the United States played in the investigation and the apprehension of these terror suspects in London?"

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Gonzales: "Well, you know, we've got a strong cooperative relationship with the British authorities. We've worked with them on many investigations, and this was no exception. There were information, tips and leads here within the United States that the FBI, the Department of Justice, other law enforcement and intelligence agencies, that we followed up on. The FBI had over 20 agents running down each of these leads."

On ABC's Nightline (8/10), Gonzales said the plot "has been on our radar screen for, I would say, quite some time. …. We had a couple hundred FBI agents involved in running down the tips and leads. Let me reassure the American public that we're not aware of any plot here in America. And we did our job in running down those leads. But we're very active in getting information. Whatever information we learned to the British authorities. … We have a good sense of the scope of the plot. But we also know we have a smart, patient, and determined enemy. And I think it's safe to say that the investigation continues. We have disrupted the threat. But I'm not prepared. I don't think this government or the British government's prepared to say we ended the threat."

Baltimore Sun Says Gonzales' "Tone Was All Wrong." The Baltimore Sun (8/11, 262K) editorializes, "The best public appearances were by officials who were clear, informative, unemotional and nonrhetorical." DHS Secretary Michael Chertoff "managed his morning news conference admirably." Attorney General Gonzales "and, to a lesser extent, President Bush tried to sound notes of high passion and purple purpose, and their tone was all wrong. In some ways, an emotional response is part of what terrorists are hoping to provoke. Levelheadedness is better."

UK, Pakistan, US Had Been Trailing Plotters For Several Months. The Washington Post (8/11, A1, Whitlock, Linzer, 748K) reports, "Counterterrorism officials said the basic outline of the conspiracy was known for several months. Investigators from New York to Islamabad, Pakistan, said they were briefed by their British counterparts late last year. … Some US counterterrorism officials said plans originally were to allow the conspiracy to develop even further. But US and British investigators made a sudden decision this week to close down the operation after they became increasingly worried that there were other bombers they had been unable to locate or identify, U.S. officials said."

The Washington Times (8/11, Gertz, Hudson, 88K) notes, "British and Pakistani officials stepped up an eight-month investigation to prevent a 'dry run'" of the attack. "The terrorist suspects had been under surveillance since December and the plot could have been carried out 'within days,' officials said. U.S. officials publicly congratulated Britain for the arrest, but privately two officials suggested that electronic surveillance of terror suspects in Pakistan and Britain provided the initial clues to the plot."

USA Today (8/11, Diamond, Johnson, Leinwand, 2.27M) reports, "In interviews Thursday, three US law enforcement officials and three US intelligence officials familiar with the details of the months-long investigation described why it was jolted into crisis mode. … The law enforcement and intelligence officials, who requested anonymity because they were not authorized to discuss the investigation publicly, said there were several signs the plot was unfolding: Several of the suspects bought large quantities of common household ingredients such as hydrogen peroxide and citric acid, which could be used to make an explosive compound known as HMDT. … The alleged plotters… appeared to be testing various blends of the ingredients to try to come up with an explosive powerful enough to bring down a jet. They also allegedly tried to develop a formula that could be turned into an explosive with minimal effort on a plane." Also, "a few key suspects in the alleged plot returned to London from Pakistan recently," and "there was evidence indicating that the alleged plotters had planned a "dry run" in which they would test their ability to get the liquid ingredients past security at London's Heathrow Airport and board a jet."

The Wall Street Journal (8/11, Mollenkamp, Cummins, Crawford, Block, 2.03M) reports, "One US federal agent briefed on the investigation said the operation may have been planned for as early as this weekend, possibly with a dress rehearsal followed by the real strike a few days later."

Investigation Continues; Little Publicly Known About Arrested Suspects. The CBS Evening News (8/10, story 2, 3:20, Smith, 7.66M) reported, "It's not over." CBS (Macvicar) added, "The police operation is still ongoing. At least 24 people are now in custody, most of them British born, many of Pakistani descent. The youngest is just 17. The police are searching for at least five more suspects." Deputy Assistant Commissioner Peter Clark, Scotland Yard: "The alleged plot has global dimensions. The investigation reached a critical point last night when the decision was made to take urgent action." Macvicar: "Though police didn't move until last night, Britain's Prime Minister briefed President Bush on Sunday."

USA Today (8/11, 5A, Stinson, Soriano, 2.27M) notes, "Almost no information has been released by officials about 24 suspects arrested Thursday," as "searches continued throughout the day, and police cordoned off streets in several places." French Interior Minister Nicolas Sarkozy "said the group 'appears to be of Pakistani origin,' but he did not give a precise source for the information. … Lord Nazir Ahmed, a member of the House of Lords and leading figure in Britain's Muslim community, said he 'heard through the grapevine' that the suspects arrested in the plot were young British Muslim men of Pakistani background."

Terror Plot Dominates News. The British terror plot dominated the networks news last night, which was focused

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on the story almost to the exclusion of any other material. ABC, CBS, and NBC devoted 19 segments of their newscasts -- a total of about 47 minutes -- to the story. The network reports tended to include the same general information about what's known about the plot and the new security measures. ABC World News Tonight (8/10, 2:30, lead story, 3:20, Watt, 8.78M) reported, "The tension here in London could not have been higher today. The British government, very publicly raised the terror threat alert to critical." The "plan was simple and terrifying. To blow up as many as ten planes from the Britain to the US. All those arrested are British-born Muslims. Most of Pakistani origin. One of them is a woman. Sources tell ABC News at least two suspects had prepared so-called martyrdom tapes as they finalized their plans." The CBS Evening News (8/10, lead story, 3:45, Smith, 7.66M) noted "the United States raised the terror alert level on transatlantic flights from Britain to red, the first time that highest of alerts has ever been used," while NBC Nightly News (8/10, lead story, 3:00, Williams, 9.87M) said "the way we travel by air has been altered, perhaps forever, because of what investigators here are calling a busted-up plot to blow commercial airliners out of the sky."

The Los Angeles Times (8/11, Spiegel, Meyer, Stobart, 918K) reports, "A British anti-terror official, who like others spoke on condition of anonymity because the investigation is ongoing, said the suspects planned to blow up as many as 10 US-bound planes in waves of three over the mid-Atlantic." They "had researched flight routes and determined that US-bound jets tend to fly in batches toward their destinations, the official said."

The Baltimore Sun (8/11, Richissin, 262K) reports "a US intelligence official said the plotters had hoped to target flights to major airports in New York, Washington and California." The Washington Post (8/11, A1, Anderson, DeYoung, 748K) reports, "Counterterrorism officials said the plotters intended to strike at United, American and Continental airline flights," and "a US intelligence official, who would not be quoted by name, said that British Airways flights were also targeted, although it did not appear that plans had progressed to 'specific flights' on specific days."

The Washington Times (8/11, Webb, 88K) reports "officials" said "they were confident that they had nabbed the primary terrorists in the planned attack, which could have matched the death toll of September 11, 2001, had it been successful." However, "five suspects remained at large and were the subject of an intense manhunt, intelligence officials told The Washington Times." British officials "said 24 suspects had been arrested. Most were thought to be young Britons of Pakistani origin."

DHS Secretary Chertoff said on CNN's The Situation Room (8/10) yesterday, "It's clear that the plot that was disrupted by British authorities over the last 24 hours was a plot that involved suicide bombing. And the plan was to have multiple suicide bombings on aircraft, essentially at the same time. So we know that the people involved were, in fact, intending or expecting to lose their own lives." Chertoff added that "the British courts are very careful and very strict about what we can say, so I don't want to spoil the prosecution in Britain, but I do want to emphasize this was a case that would have involved the loss of an enormous amount of innocent life had the plot been successful."

Chertoff was also interviewed on the CBS Evening News (8/10, story 4, 2:30, Smith, 7.66M), where Harry Smith said it was "stunning" that approaching the five-year anniversary of 9/11, "that intense hatred and that willingness to die for this cause has not abated at all." Chertoff: "Well, you know, Harry, that's the fascinating thing, because we consider a five-year anniversary a significant anniversary. But if you look at what people like bin Laden have written and said over the years, they still get agitated about events that happened 400 or 500 years ago. So their grievances and their sense of memory spans centuries. We're often taxed in terms of perseverance, even after a couple of years. And that's why really the critical weapon that we have to have in this struggle against terror is resolution and steadfastness."

US Officials Concerned About Threats From Fundamentalist Groups In Europe. Under the headline "UK Seen As Weak Link By The US," the Financial Times (8/11, Sevastopulo) reports news of the latest plot "will probably renew concern about threats to the US, which has not seen a terrorist attack on its soil since 2001, from fundamentalist groups based in Europe. … One former senior US intelligence official told the FT that Washington had long considered the UK a weak link in combating Islamist terrorism, partly because it had not clamped down on radical Islamist activity at mosques. He added that while MI5, Britain's security service, was now perceived to be better at dealing with terrorism, the UK was hampered by legal impediments to a clampdown because of civil liberties."

Plot May Suggest Al Qaeda's Continued Operational Survival. The New York Times (8/11, Shane, 1.21M) reports, "Intelligence and counterterrorism officials said yesterday that the scale and sophistication of the scheme…could mean that Al Qaeda, whose central command has been severely damaged since 2001, was again able to direct attacks. But some specialists on the shifting networks of international terrorism said the alternative explanation -- that homegrown British jihadists had managed to conceive a plot of such ambition — might hold even graver implications for the future." FBI Director Robert Mueller "said in an interview that the scope and targets of the thwarted plot were 'suggestive of Al Qaeda direction and planning,' and other top officials said the plan reflected the terrorist network's penchant for spectacular and simultaneous assaults." Secretary Chertoff was asked on MSNBC's

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Hardball (8/10) about al Qaeda involvement. Chertoff said, "We are looking at the evidence. … We haven't seen all the evidence yet and rather than jump to a conclusion, I want to reserve the final judgment until we really have all the facts."

The Washington Post (8/11, A1, DeYoung, 748K) reports, "Strong indications of an al-Qaeda link…suggest that the terrorist network has survived and adapted despite heavy blows to its leadership and organizational structure over the past five years, U.S. intelligence officials said." The Post adds that "the alleged British plot 'is really, really serious,' one intelligence official insisted yesterday. 'This is the real deal. … This was not the Moorish Nation,' he said, referring to the arrest this summer in Miami of a ragtag, FBI-infiltrated group allegedly plotting to blow up the Sears Tower in Chicago. 'We have reason to believe that this is an al-Qaeda-related operation." However, "Others were withholding judgment." Georgetown Security Studies Program director Daniel L. Byman said that "he is 'still very skeptical until I see more evidence of how close these guys really were' to al-Qaeda. 'I've read too many breathless FBI statements' over the years, he said."

NBC Nightly News (8/10, story 2, 3:00, Williams, 9.87M) asked, "How real was this?" NBC (P. Williams) added, "US officials say this was a carefully thought-out and well-financed operation, with all the earmarks of al Qaeda. … For the past several days, the FBI has feverishly looked for any potential ties to people in the US but has so far found none." Mueller: "We literally in the last couple of weeks have had hundreds of FBI agents around the country tracking down every lead and we have not found to date any plotters here in the United States." NBC Nightly News (8/10, story 6, 2:45, Williams, 9.87M) also reported in its "In Depth" segment that "the FBI says the plot…had all the earmarks of al Qaeda," and NBC (Myers) noted "the Pakistani connection," "martyrdom videos," the similarity to the 1995 Philippines plot, and recent messages from al Zawahri and bin Laden all suggest al Qaeda involvement. Myers added, "If this is indeed the work of al Qaeda, many counter-terror experts see it as proof that al Qaeda has been able to reconstitute itself despite heavy losses since 9/11."

The CBS Evening News (8/10, story 5, 2:05, Smith, 7.66M) also reported that the plot was "awfully familiar" to the Philippines plot, and CBS (Martin) added that "there was one key difference. In Manila, the terrorists mixed their explosives ahead of time and conducted a test run by plants one small bomb under a seat aboard this Philippine airliner," but the UK plotters planned to mix "their explosives after they boarded the aircraft. … That change of tactic shows why no one should take comfort from the fact this latest plot was disrupted. Terrorists learn from their mistakes."

ABC World News Tonight (8/10, story 2, 2:40, Gibson, 8.78M) noted that "authorities have been watching this plot develop for some time." ABC (Ross) noted, "The London plot is a carbon copy" of the Philippine plot. "It was led by now-imprisoned al Qaeda leader, Ramzi Yousef." Former FBI Special Agent Jack Cloonant: "Ramzi Yousef was going to bring on the plane, liquid, in contact lens fluid. And put this into saturated material, into a stuffed doll that he was going to put on the plane and explode with a Casio watch." Ross: "As the British continue to hunt for five other suspected terrorists, there is growing concern there could be a plan 'B.'" The New York Times (8/11, Bonner, Weiser, 1.21M) also examines the similarities to the Philippine plot, under the headline "Echoes Of Early Design To Use Chemicals To Blow Up Airliners."

The Christian Science Monitor (8/11, Rice-Oxley, 58K) runs a similar report under the headline "Foiled Terror Plot On Scale Of 9/11," in which it says "Bruce Hoffman, an expert on terrorism at the RAND Corp. in Washington, notes that it's typical of Al Qaeda to go back to targets and improve their techniques on past attacks. The successful attack on the USS Cole in 2000 followed a failed bid to sink the USS Sullivan in 1999. The 9/11 attack came eight years after the limited attack on the World Trade Center in 1993."

The New York Times (8/11, Cowell, Filkins, 1.21M) reports, "Officials said the plot…bore the hallmarks of Al Qaeda and involved links to plotters in Pakistan. Late Thursday, the authorities in Pakistan said an unspecified number of arrests had been made there, too. An American counterterrorism official…said several of the plotters had traveled to Pakistan in the last few weeks and might have met there with at least one person affiliated with Al Qaeda. The official said it was after that person's arrest by Pakistani authorities that the British, fearing that word of the detainment would send the plotters into hiding, decided to move in." The AP (8/11, Haven) adds, "Counterterrorism officials said Thursday the plan thwarted in London appears to bear the fingerprints of al-Qaida, and may even have been 'the Big One' they have been dreading since Sept. 11, 2001."

However, the Los Angeles Times (8/11, Meyer, 918K) reports that "authorities are still not sure whether they think the alleged plot…was the work of Al Qaeda or an operation launched by British citizens of Pakistani descent. The most likely answer is that the alleged conspiracy was a potent combination of the two, with at least one dangerous Pakistani militant organization thrown into the mix as well, according to intelligence and law enforcement officials." A "US intelligence official" told the LATimes, "There hasn't been anyone in a long time who is serious about this stuff who thinks it begins and ends with Al Qaeda."

On ABC World News Tonight (8/10, story 5, 2:00, Gibson, 8.78M), former counter-terrorism adviser Richard Clarke was asked, "the President called them Islamic fascists," but ABC reporter Brian Ross "pointed out that the alleged mastermind of all of this has links to al Qaeda. So, is this al Qaeda?" Clarke: "It's al Qaeda or a variation of al Qaeda. And what today's plot reminds us, is that five years

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after 9/11, the United States has not eliminated al Qaeda. We eliminated Nazi Germany and imperial Japan in under four years. But five years into this war against al Qaeda, they're out there, still plotting major attacks against the United State

FBI, DHS Issue Nationwide Law Enforcement Alert About Liquid Explosives. Time (8/10, Bennett, Waller, 4.03M) reports on its Web site, "FBI and Department of Homeland Security officials quickly alerted law enforcement agencies around the country to the peroxide-based liquid explosives the London plotters planned to bring aboard the American-bound planes. An alert the FBI and DHS sent out Thursday to state and local law enforcement agencies — which is classified 'For Official Use Only' and was obtained by TIME — warns them that the peroxide-based explosives could also be employed in future attacks here. … The report describes how a terrorist would assemble bombs with" TATP and HMTD.

Pittsburgh FBI Agents On Alert. KDKA-TV Pittsburgh (8/10) reported, "Local investigators are reacting to the heightened alert status at the nation's airports. … At FBI Headquarters in Pittsburgh, it's a job the joint terrorism task force takes very seriously. … Not only did authorities stop the actual terrorist plot, they stopped it before they went ahead with their dry run. Agents here say that's proof anti-terrorism efforts are working."

"Suspicious Note" Prompts FBI, TSA Questioning Of Texas-Bound JetBlue Passengers. The AP (8/11, Weber) reports, "Texas airports responding to the terrorist threat announced Thursday increased security measures, including detaining and questioning passengers traveling aboard a JetBlue flight from Boston to Austin after the crew found a 'suspicious note' on board. The note appeared to be written in Arabic, but investigators later determined that it was Cyrillic lettering…said Erik Vasys, an FBI spokesman. It also appeared the note was 'purposely hidden in one of the lavatories,' he said. 'The note had no connections to terrorism and contained no threat,' Vasys said." The AP adds, "The 59 passengers and four crew members aboard Flight 1263 were escorted off the plane and questioned by FBI and the Transportation Security Administration agents," and "they were later released; no arrests were made."

New Security Procedures Ban Liquids, Gels In Carry-On Luggage. As part of their comprehensive coverage on the London terror plot, each of the network news broadcasts last night ran in depth stories examining the impact of new security rules at airports in the US. ABC World News Tonight (8/10, story 3, 3:05, Gibson, 8.78M) reported that at Newark's airport today, the security line "was more than one-quarter of a mile long." ABC (Stark) added that "never before in the history of this country has security been raised to the highest level, code red. … Unsuspecting travelers showed up at airports this morning to find that the rules had changed overnight." Stark continued that Secretary Chertoff called the banning of new items, including beverages, shampoo, suntan lotion, toothpaste, hair gel and makeup "a necessary precaution." Chertoff was shown saying, "I would rather have more protection and then scale it back as we become more reassured than underestimating the problem and find out, God forbid, that we made a tragic mistake."

USA Today (8/11, Soriano, Nichols, 2.27M) reports, "Air travelers in the USA face chaos and disruption for the foreseeable future in the wake of an alleged plot to blow up several US-bound aircraft over the Atlantic. Homeland Security Secretary Michael Chertoff said Thursday that until a full investigation is completed into the plot reportedly thwarted by British authorities, stringent new security measures will remain in place at US airports."

The CBS Evening News (8/10, story 3, 2:40, Smith, 7.66M) called the situation a "travel nightmare," adding that "lines were long and tempers were short" at airports across the country." CBS (Orr) added, "Security lines inched along and hundreds of flights were delayed as screeners meticulously searched for common everyday household items and toiletries which terrorists could mix together on board to create a lethal explosive."

The New York Times (8/11, Peters, Kanter, 1.21M) reports TSA chief Kip Hawley advised passengers to "De-clutter" their bags. "That is something very easy to do as you pack your bag," he said. "Leave the liquids at home, drink them." The Times adds that while Secretary Chertoff said the restrictions on liquids "were temporary…he indicated that they would remain in place while the Transportation Security Administration refined its screening procedures so it could more thoroughly examine liquids."

NBC Nightly News (8/10, story 3, 2:55, Costello, 9.87M) reported that it had "been a day of long lines and confusion, as the nation yet again adjusted to a new travel reality." NBC had a reporter at Los Angeles International, who said the lines were "massive and a lot of the passengers know they May miss their plane. They tell me they're ok with the increased security measures because they'd rather be safe than sorry." A reporter at New York's Kennedy Airport said, "Late today passengers began arriving here from London, tired, relieved, with many agreeing it was probably the safest flight they've ever been on in their lives."

Under the headline "Liquids And Gels Discarded With Weary Surrender," the Washington Post (8/11, A1, Kunkle, Harris, 748K) reports new security measures "created a state of manageable pandemonium that lasted for hours at Baltimore-Washington International Thurgood Marshall, Reagan National and Dulles International airports. But the disruptions were endured in an overall spirit of solidarity and goodwill as word of the plot sank in." The Post adds, "By

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afternoon, the crowds had thinned and calm had returned but for the occasional moment of drama."

The CBS Evening News (8/10, story 9, 2:15, Smith, 7.66M) aired a separate piece focusing on the concerns of travelers, whose fears about air travel "returned in a big way today after news of the airline bombing plot." A woman named Michelle Provost was shown saying, "Our 14-year-old niece coming in, she has had flight anxiety and that she's in the midst of this today so hopefully her mom is shielding her from whatever is going on."

Inability To Detect Liquid Explosives Seen As Security Shortfall. The New York Times (8/11, Wald, Lipton, 1.21M) reports, "Despite knowing for years that liquid explosives posed a threat to airline safety, security agencies have made little progress in deploying technology that could help defend against such attacks, security experts say." Most of the upgraded equipment in use at airports following 9/11 "is still oriented toward preventing a metallic gun or other easily identifiable weapon from being carried aboard; it cannot distinguish shampoo from an explosive." Meanwhile, "James Jay Carafano, senior fellow at Heritage Foundation in Washington and an expert on domestic security, said that in the last year, officials at the highest levels of the department recognized the seriousness of the threat posed by liquid explosives and had been pushing aggressively to introduce equipment that could help. But no such devices are ready to be rolled out."

Likewise, the Wall Street Journal (8/11, Meckler, Ball, Bryan-low, 2.03M) adds, "For all the advancements in aviation security since 9/11, the ingredients for deadly explosives could be easily carried through airport checkpoints and onto an airplane -- until yesterday, that is." Former DHS IG Clark Kent Ervin called it "a huge area of vulnerability." The Journal adds, "With all the screening for weapons in carry-on luggage, it may now be easier to blow up a plane than to hijack one."

The Washington Post (8/11, A11, Stein, 748K) reports, "While hesitant to provide a specific recipe that would aid terrorists, several experts said it would not be difficult to obtain a liquid explosive or chemical mixture that could be smuggled" onto a commercial airplane." DHS Deputy Secretary Michael Jackson said the agency is "doing some testing of machines that test liquids. There's nothing that's currently suitable for mass deployment, but there are some promising technologies that we're looking at."

Under the headline "Plot Exposes Weak Spot In Aviation," USA Today (8/11, Levin, Vergano, 2.27M) reports the plot "struck at the core of a fundamental weakness in aviation security around the globe: the inability to spot explosives made from seemingly harmless ingredients. That's the bad news. If there's any good news, says former FBI explosives expert J. Christopher Ronay, it's that bringing down an airliner with a bomb is not guaranteed. A terrorist's success would depend on where the bomb was planted." However, "typical methods used to detect explosives at airports -- swabs that test the exterior of luggage and explosive detection machines -- would largely be useless against" common household ingredients.

The New York Times (8/11, Chang, Broad, 1.21M) reports that "some of those liquid explosives can be readily bought, and others can be put together from hundreds of different kinds of chemicals that are not hard to obtain." Jimmie C. Oxley, an expert on the chemistry of explosives at the University of Rhode Island who has advised federal officials, said, 'Now that the terrorists have staked out our vulnerabilities, that's where the threat has gone, and we'll have to respond.' But, once new equipment gets into airports to lessen the threat of liquid explosives, Dr. Oxley said, terrorists will 'look for the next vulnerability.'"

Bush Blasts "Islamic Fascists," Urges Patience With New Airline Security Measures. The AP (8/11, Pickler) reports, "President Bush said Thursday that a foiled plot to blow up multiple flights from Britain to the United States shows 'this nation is at war with Islamic fascists.'" The President "laid the blame for the would-be attack squarely on al-Qaida-type terrorism." The President "read from remarks he had written himself on sheets of white paper. He spoke for just two minutes and took no questions. His brief message, aside from focusing on the 'stark reminder' of the US-led global war on terror, mostly appeared to be a promise that his administration was working to keep citizens safe."

CNN's The Situation Room (8/10, King) reported, "In his remarks in Wisconsin, the President saying in his view the American people are safer now than they were just before 9/11, and the President also going out of his way to thank the British intelligence services for their work in this case."

The Milwaukee Journal Sentinel (8/11, Borowski, Walters reports "Bush's visit Thursday to Wisconsin was meant to launch his efforts to help GOP candidates this fall, though even before his plane landed the stop took on extra importance." The terrorist plot "that was thwarted in London overnight allowed Bush to reassert himself as a determined leader in a time of national unease. Indeed, a podium and satellite truck were rushed to Austin Straubel International Airport so Bush could make remarks as soon as he stepped off the plane, which landed at 10:42 a.m." The Green Bay Press-Gazette (8/11, McBride) notes Bush "addressed the nation from the tarmac at Austin Straubel International Airport in Ashwaubenon immediately after getting off Air Force One this morning."

Bush's comments were noted in all three network newscasts last night. On ABC World News Tonight (8/10, story 4, 0:10, Gibson, 8.78M), Bush was shown saying, "This nation is at war with Islamic fascists who will use any means to -- to destroy those of us who love freedom. To hurt our nation." Gibson: "The President said Americans should

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continue to travel. But be patient at those security checkpoints." The CBS Evening News (8/10, story 4, 2:30, Smith, 7.66M) ran the same clip of Bush, and reported, "President Bush is urging Americans to be patient with the inconveniences that come with the heightened security at our airports. On a visit to Green Bay, Wisconsin, today, Mr. Bush commented on the bombing plot calling it part of the ongoing war on terror."

NBC Nightly News (8/10, story 4, 0:55, Williams, 9.87M), which also ran the same clip, reported Bush "used some harsh new language to describe the alleged plotters of this operation today." NBC (Gregory) added, "It was late yesterday afternoon when the President got official word that these arrested were imminent. That word after days of intense conversations between US and British authorities, including the President speaking to British Prime Minister Tony Blair. Aides say it was a stressful time. Everyone was 'on the edge of their seat,' waiting for these arrests to go down. Officials say the President who traveled to Wisconsin today, approved the elevation of the terror threat level last night and you see him here reacting to the arrests with strong language." A Bush advisor "later said the use of that term, Islamic fascist, is meant to convey the idea, the argument, that while violent extremism takes different forms, it's part of one movement against the West."

The Los Angeles Times (8/11, Sahagun, 918K) notes Bush "was widely criticized by Muslim leaders on Thursday for saying that the foiled plot to blow up airliners over the Atlantic was a triumph in the 'war against Islamic fascists. Already resentful of the intense scrutiny they have endured since Sept. 11, Muslims said the politically charged phrase unfairly attaches one of the world's great traditions with Nazism and totalitarianism -- and fuels hostility against Islam and Muslims in America." It also "contradicts Bush's own earlier statements by that Islam is a 'religion of peace.'" The Times adds, "Over the past five years, administration officials and conservative talk show hosts have frequently referred to al-Qaida, terrorists and Iraqi insurgents as 'Islamo fascists,' recalling World War II when America fought to rid the world of Hitler and Mussolini. Now, Muslims say, the administration is artfully relying on similar rallying cries to convince Americans of their moral high ground in the fight against terror."

Bush First Learned Of Plot On Sunday. CNN's The Situation Room (8/10, Malveaux) reported, "We have learned that…Bush first learned about this developing terrorist plot on Sunday. … Now, we have been told over the last four days or so that the President has been briefed by intelligence, security and law enforcement officials about…the possibility of this impending attack, and that it was yesterday that" he "got another update from Blair. British authorities saying that they were seeing signs of something imminent and that it was time to move." CNN added, "It was last night that…Bush gave the green light to the Homeland Security Council and to Chertoff, his Secretary, to raise that alert level, the travel alert level, to the highest level possible. And then aides say, of course, that the President was not necessarily given a heads up on the arrests that happened overnight, or he was not woken up overnight, but he certainly was updated early in the morning."

Fox News' Special Report (8/10, Baier) reported, "Senior aides say the President had full briefings on the terrorist plots several days in a row this week at his Texas ranch, including a detailed video teleconference with British Prime Minister Tony Blair Sunday. Aides say the President was adamant that word of the British operation not leak."

GOP Strategists "Uneasy" About Bush Continuing His Vacation. The New York Times (8/11, Stolberg, 1.21M) reports, "As Americans stood in long lines at airports, Mr. Bush went ahead with his planned trip to Wisconsin to raise money for a Republican Congressional candidate and to speak about the economy during a stop at a metal factory. … He later flew back to his ranch…and aides said there were no plans for him to cut short his stay." Democrats "seized on Mr. Bush's decision not to return to Washington as evidence that the president was disconnected. Several senior Republican strategists were also uneasy with the possibility that images of…Bush's activities in the past week, including bicycle rides in the 100-degree Texas heat, could be used to accuse him of being too casual about the potential terrorist threat." The Times adds "some Republicans, when promised anonymity so they could speak freely about their criticisms, said Mr. Bush had to be careful not to appear out of touch, as his critics and even some of his allies said he did last summer when Hurricane Katrina devastated the Gulf Coast. … 'A policy of casual nonchalance is not a winning strategy,' said one Republican close to the White House, who suggested that the president should, at the least, deliver a primetime television address from the Crawford ranch."

Parties Scramble For Political Edge. The AP (8/11, Sidoti) reports, "Republicans and Democrats clashed over the war on terror on Thursday within hours of the disclosure of a thwarted terrorist plot in Britain, each side accusing the other of doing too little to deter the threat of attack." Throughout the day, "the accusations grew more heated with Republicans and Democrats criticizing each other for using the day's events for political gain." The AP adds, "To be sure, both sides are seeking political advantage on national security. Voters will choose a new Congress Nov. 7, and polls show the public favoring Democratic control of Congress over Republicans who have been in power for a dozen years. Additionally, recent polls have found that the Republican edge on terrorism and protecting the country has eroded over the past few months."

Under the headline "Arrests Bolster GOP Bid To Claim Security As Issue," the New York Times (8/11, Nagourney, 1.21M) reports Republicans "seized on the arrests of

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terrorism suspects in Britain yesterday to bolster a White House campaign to turn national security issues to their advantage this fall, arguing that the nation needs tough Republican policies to protect Americans from threats from abroad." The Times adds, "Officials in both parties said they viewed the arrests as critical in determining how they would approach the fall campaign, with Republicans saying it could be a turning point in a year in which they have been on the defensive over the war in Iraq and other issues." The developments "played neatly into the White House-led effort, after Senator Joseph I. Lieberman, Democrat of Connecticut, lost on Tuesday to an antiwar primary challenger, to remind voters of the threats facing the nation and to cast Democrats as timid on national defense."

The Washington Times (8/11, Curl, Dinan, 88K) reports "Democrats said Mr. Bush has not done enough on homeland security, with House Minority Leader Nancy Pelosi of California saying Mr. Bush has ignored key recommendations of the September 11 commission on airport security. … Although Democrats said they plan to focus on how Mr. Bush has failed to shore up defenses, Republicans said the key issue is taking the fight to terrorists." Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, said yesterday, "With the Patriot Act, FISA courts and other intelligence programs, we can learn what the terrorists know and where they go, and then we have a chance to disrupt them. … But it is those same tools that saved the day today that the Democratic leadership have repeatedly tried to vote down, thereby weakening America's intelligence efforts and lowering our guard against terrorism."

A similar piece in the Wall Street Journal (8/11, McKinnon, 2.03M) says "the foiled plot takes some of the wind out of the sails of the Democratic Party's resurgent liberal wing, said Michael O'Hanlon, a military analyst at the Brookings Institution, a Washington think tank. Moderate Democrats who oppose a quick pullout from Iraq 'probably feel a little more like the news is back on our side of the argument,' he said." Democrats "chided Republicans for an RNC fund-raising letter sent out yesterday over former New York Mayor Rudy Giuliani's name that invoked the war on terror. Republicans said the letter had been drafted several days ago and was in the pipeline before the arrests were announced. They acknowledged it was a mistake to send it yesterday, and said they stopped sending it around noon."

The Washington Post (8/11, A12, VandeHei, Baker, 748K) titles its story "Both Parties Claim Edge As Terror Is Reinforced As A Campaign Topic," and reports, "Unlike in the 2004 election, when Republicans clearly benefited from the terrorism issue and a general sense of insecurity among many voters, the politics are muddled this year. The latest Washington Post-ABC News poll, conducted last week, found Democrats with an eight-point edge when people were asked which party they trusted more to handle terrorism issues." Democratic pollster Mark Mellman said, "I can't help but admit that I had a small knot in my stomach this morning. It was eerily familiar. But upon reflection, we are in a fundamentally different place in 2006 than we were in 2002 and 2004. For two or three generations, Republicans have, in the main, had a very substantial advantage on national security. The reality is, they have squandered that advantage in the sands of Iraq."

Echoing that argument, the AP (8/11, Hunt) reports, "National security traditionally has been an issue that favors Republicans. Bush won re-election with a tough-on-terrorism argument and the promise that the United States was better off confronting terrorists in Afghanistan and Iraq than battling them at home. In Bush's view, Iraq and the war on terror are one and the same." But "Americans appear to be tiring of that argument after more than three years of fighting in Iraq, a death toll of nearly 2,600 U.S. troops and a price tag of more than $320 billion."

Schwarzenegger, Romney Activate National Guard To Bolster Security. The AP (8/11) reports, "Gov. Arnold Schwarzenegger activated the National Guard Thursday to bolster security at California airports after authorities said they had foiled a terror plot involving US-bound planes from Britain. … Some 300 Guard troops were to be deployed by late Thursday to at least three large airports -- in Los Angeles, San Francisco and Oakland -- where direct flights from Europe were scheduled to arrive." The troops "were to remain at the airports until the nation's threat-alert level is lowered, an aide to the governor said. Their precise role would be determined by airport authorities, said Adjutant General William H. Wade II, the head of the California National Guard."

The AP (8/11, Donald) also reports "members of the Massachusetts National Guard were sworn in as deputy sheriffs Thursday to help ease congestion at Logan International Airport, where news of a foiled terror plot in Britain targeting US-bound flights prompted heightened security measures." Gov. Mitt Romney "spoke to about 50 members of the 972nd Military Police Company who were deployed to the airport to man new Logan security checkpoints -- at each departure gate -- where passengers will be screened again, after going through terminal security. 'I appreciate your honor and integrity,' he said, 'your willingness to respond so quickly to the emergency that we face.'"

Homeland Security Response Receives Favorable Reviews. Under the headline "Homeland Security Department Praised For Its Response," the Washington Post (8/11, A13, Hsu, Goo, 748K) reports DHS' "domestic response to yesterday's arrests in Britain drew cautious praise," with Secretary Chertoff emerging "as the undisputed public face and voice of the US government response in Washington, outlining a 'well-planned and well-advanced plot'

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in carefully choreographed statements that began before dawn and continued with television interviews into the night." The elevation of the threat warning system to red for commercial flights from the United Kingdom to the United States and new security measures for airline passengers "drew few complaints yesterday, compared with other terrorism alerts since 2003, which often provoked conflicting or critical remarks from authorities such as the attorney general, the mayor of New York City and congressional committee chairmen."

Secretary Chertoff himself was also praised by the Baltimore Sun (8/11, 262K), which says in an editorial, "The best public appearances were by officials who were clear, informative, unemotional and nonrhetorical. Michael Chertoff, the secretary of Homeland Security, managed his morning news conference admirably. Attorney General Alberto Gonzales and, to a lesser extent, President Bush tried to sound notes of high passion and purple purpose, and their tone was all wrong. In some ways, an emotional response is part of what terrorists are hoping to provoke. Levelheadedness is better."

TSA Criticized For Failure To Anticipate Liquid Explosives Plot. In a Los Angeles Times op-ed (8/11), Susan and Joseph Trento say, "After spending $20 billion on aviation security, we still have not developed a defense against ideas terrorists had six years before 9/11. It doesn't require a genius to figure out that terrorists might try a version of Operation Bojinka again. There was a sense of absolute panic in the TSA's announcement that liquids would not be permitted on airplanes. Yet security experts have been recommending for years that carry-on baggage be strictly limited."

More Commentary. The Wall Street Journal, Los Angeles Times and New York Times, in their editorials, waded into the political angle of the latest terrorist plot. The rest of pieces in the opinion pages of today's major newspapers instead focused on how to combat terrorist plots by Islamic extremists. The Journal took Democrats to task for opposing what it calls necessary tactics in the war on terror, while the Times criticized Vice President Cheney for suggesting Democrats who support candidates like Connecticut Senate primary winner Ned Lamont encourage "al Qaeda types."

The Wall Street Journal (8/11, 2.03M) editorializes that Democrats who "claim to want 'focus' on the war on terror have wanted it fought without the intelligence, interrogation and detention tools necessary to win it. And if they cite 'cooperation' with our allies as some kind of magical answer, they should be reminded that the British and other European legal systems generally permit far more intrusive surveillance and detention policies than the Bush Administration has ever contemplated. Does anyone think that when the British interrogate those 20 or so suspects this week that they will recoil at harsh or stressful questioning?"

The New York Times (8/11, 1.21M) editorializes, "On Wednesday, when the administration already knew that British agents were rounding up suspects in what they believed was a plot to blow up planes en route to the United States, Vice President Dick Cheney had a telephone interview with reporters to discuss the defeat of Senator Joseph Lieberman of Connecticut in a Democratic primary." Cheney's "main point was clear: In rejecting Mr. Lieberman, who supported the war in Iraq, the Democrats were encouraging 'the Al Qaeda types.' Within the Democratic ranks, the vice president added, 'there's a significant body of opinion that wants to go back — I guess the way I would describe it is sort of the pre-9/11 mind-set, in terms of how we deal with the world we live in.'" But Democrat Ned Lamont "lives in Greenwich, a suburb full of commuters who work in New York high-rise buildings. They are completely aware of the way international terrorism can come crashing down on an ordinary family, leaving the survivors stunned and bereft. A dozen of their neighbors died at the World Trade Center. They will never be able to go back to a 'pre-9/11 mind-set.'"

The Los Angeles Times (8/11, 918K) says in an editorial, "It has been difficult at times to take Washington's terrorism warnings very seriously, or to be very impressed by past law enforcement coups in this conflict. The administration has tended to use the war as a cheap political instrument and has called a few too many triumphant news conferences trumpeting disrupted terrorist conspiracies that turned out to be little more than amateurs incapable of pulling off the attacks they fantasized about. But Thursday's news felt different. In part, this is because it was a British operation, and last year's London subway bombing revealed the frightening radicalism of some segments of Britain's Muslim community."

Making a similar argument, Eugene Robinson writes in the Washington Post (8/11, A19, 748K), "When unsmiling agents at the airport take away your contact lens solution, your toothpaste, and your cologne or after-shave, remember Osama bin Laden. Remember the real war on terrorism that the Bush administration and its allies decided not to fight, preferring cowboy-style military adventures." Robinson adds, "The revelation yesterday of the elaborate plot to blow up airliners over the Atlantic Ocean with liquid explosives reminds us of the real threats we face -- as opposed to the phantom threats that George W. Bush and Tony Blair have conjured to justify their disastrous war in Iraq."

USA Today (8/11, 2.27M) says in an editorial that the news "showed that gaping holes remain in the air-security network put in place since 9/11, even though the U.S. government has lavished more attention and money on this area of homeland defense than any other." Looking ahead, Americans "will have to ask themselves some serious

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questions. Do they want to spend the billions it will take to make air travel virtually impregnable? Or is the money better spent on robust intelligence and offensive capabilities?"

The Washington Post (8/11, A18, 748K) says in an editorial, "It's inevitable that politicians will weave this latest development into campaign narratives. Critics of the administration will say it proves that President Bush and his wars have not made the nation safer and that more effort has to be made to reduce the alienation of Muslims in Europe and elsewhere. Bush partisans will say it proves the need for his aggressive approach." In "our view, point-scoring from either side isn't very useful. Over the past couple of years, as the threat seemed to recede, maybe it seemed okay to shape positions on terrorism based on polling results and electoral prospects. Now, we're reminded, that isn't acceptable, and neither are the stale and unproductive either-or arguments the nation gradually slid into. We have to conduct intensive police investigations and protect civil liberties; protect the ports and take the fight to the enemy and reach out to broader Muslim communities. And we need to understand that no approach is going to make the nation absolutely safe anytime soon."

The Washington Post (8/11, A18, 748K) say in an editorial, "Most air travelers took the beefed-up security -- and the occasionally interminable waits that followed -- in stride. First- and business-class passengers in most airports, on the other hand, didn't have to. As usual, higher-class passengers skipped most of the security queues at hubs such as Dulles and Los Angeles international airports. That's hardly fair."

In a Wall Street Journal op-ed (8/11), former New York Times reporter Judith Miller says the "latest plot should concern Washington because it suggests that militant Islamist terrorism is likely to continue to grow, and that its targets continue to be American. That said, there is something of a silver lining to this terrifying trend: The alienation felt by many Muslims in Western lands is not common in the US. And given the integration of Muslims from many Arab and non-Muslim lands in American life, the Muslim rage that devastated Parisian suburbs last summer and shredded the tolerant culture of the Netherlands is not widespread here."

In a Wall Street Journal op-ed (8/11), William Shawcross says, "It took President Bush to tell the truth to Britain about the alleged massive plot to blow U.S.-bound airliners out of the sky. In his first comment on the apparently foiled attempt, he put it simply: 'This was a stark reminder that this nation is at war with Islamic fascists.' He is right, but in the first news reports in Britain yesterday, the words 'Islamic' or 'Muslim' were hardly mentioned, let alone the dread word 'fascist.' Instead the common code-words on television were that the 24 men arrested were 'British-born' and 'of Pakistani origin.' No mention of their Islamist ideology." In Europe, "the truth is so terrible that we are in denial. Perhaps it is understandable. We simply do not know how to deal with the fact that we really are threatened by a vast fifth column, that there are thousands of European-born people, in Britain, in France, in Holland, in Denmark -- everywhere -- who wish to destroy us."

Three More Missing Egyptian Students Apprehended. In a widely distributed story, the AP (8/11, Hernandez) reports, "Six of the 11 Egyptian exchange students who recently entered the United States and failed to show up for their college program were in custody today after three more were arrested, officials said. Police arrested Ahmed Mohamed Mohamed Abou El Ela, 22, at O'Hare International Airport after he tried to check in for a Chicago-to-Montana flight using an invalid ticket marked for a New York departure, Chicago police said. … Two other students, El Sayed Ahmed Elsayed Ibrahim, 20, and Alaa Abd El Fattah Ali El Bahnasawi, 20, were arrested at a residence in Dundalk, Md. ..by U.S. Immigration and Customs Enforcement agents, the FBI said." The AP notes, "None of the students is considered a terrorism risk, and FBI officials stressed there are no ties between the Egyptians and the alleged terror plot broken up by British authorities." CNN.com (8/10) added, "Their discovery came a day after three others were found and taken into custody. The bureau has a nationwide alert out for the remaining students with their names, ages, passport numbers and photos."

The Chicago Tribune (8/11, Heinzmann, McCarthy, 623K) reports Chicago Police Officer Tim Bolger said that El Ela "wanted to exchange the ticket and 'was acting in a strange, erratic behavior.'" El Ela "raised his voice with airline agents and told the woman to call the university to confirm he was a student there. The woman did, but a university representative told her to contact authorities immediately, Bolger said. … Police later learned that he had apparently taken a bus from New York to Chicago, police spokeswoman Monique Bond said." The Baltimore Sun (8/11, Dechter, 262K) reports ICE agents took Ibrahim and El Bahnasawi into custody "at a Dundalk 'residential location,' according to a statement. 'It appears they came here on a student visa, but intended to stay and get a job,' said Dean Boyd, a spokesman for the immigration agency." The Sun notes, Federal authorities continued to emphasize today that they have no reason to believe the missing Egyptian students were dangerous."

Michigan Men Face Additional Terrorism Charge As Lawyer Alleges Discrimination. In a widely-distributed story, the AP (8/11, Karush) reports, "Attorneys for two Arab-American college students accused of supporting terrorism through the sale of mobile phones said their clients were victims of discrimination, while authorities charged them Thursday with an additional felony.

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'These are all-American kids that unfortunately, in this day and age since 9-11, have names that call them into question,' said defense attorney Rolf Baumgartel." Osama Sabhi Abulhassan and Ali Houssaiky of Dearborn, Mich., were "charged Wednesday with money laundering in support of terrorism. On Thursday, prosecutors added soliciting or providing support for acts of terrorism. … A judge ordered them held on $200,000 bond each." The AP notes, "FBI spokesman Mike Brooks in Cincinnati said the case had no link to the alleged plot to blow up U.S.-bound planes that British authorities said they thwarted Thursday."

The Detroit News (8/11, Hansen, Sinclair, Mullen) reports, "Raymond Smith, the lawyer for Abulhassan, said the men were buying phones to be sold for a Metro Detroit business. … 'If it were Joe Smith going in there to buy these phones, we wouldn't be here,' he said. 'But I told my guy, "Your name is Osama."'" The News notes, "Federal authorities in Ohio and Michigan said they were aware of the matter, but, for now, the case remains a local investigation." The News adds, "Abulhassan graduated with a 3.95 grade-point average and counted a National Leadership Merit Award among the eight scholarship honors he earned on his way to enrolling at the University of Michigan. … Houssaiky was the captain of the 2003 football team, a Metro all-star running back and a recruit on the Grand Valley State University football team. … Fordson High Principal Imad Fadlallah, who is also a friend and neighbor of the Abulhassan family, said police blew the incident out of proportion."

HOMELAND RESPONSE:

Court Consolidates Eavesdropping Lawsuits Against Phone Companies. The Wall Street Journal/AP (8/11) reports, "A federal panel of judges has consolidated 17 lawsuits filed throughout the US against telephone companies accused of helping the Bush administration monitor Americans' communications without warrants." The Judicial Panel on Multidistrict Litigation "transferred the cases to US District Judge Vaughn Walker, who last month declined to dismiss one of the lawsuits brought against the federal government and AT&T Inc., according to an order released yesterday." The consolidated lawsuits also "target Verizon Communications Inc., BellSouth Corp. and their affiliates. The panel ruled that 26 other lawsuits with similar allegations also may be moved to Judge Walker, who took the bench in 1990 after being nominated by the first President Bush."

Arab-American Students Accused Of Supporting Terrorism. The AP (8/11, Karush) reports, "Attorneys for two Arab-American college students accused of supporting terrorism through the sale of mobile phones said their clients were victims of discrimination, while authorities charged them Thursday with an additional felony. 'These are all-American kids that unfortunately, in this day and age since 9-11, have names that call them into question,' said defense attorney Rolf Baumgartel." The AP adds, "Authorities stopped Osama Sabhi Abulhassan, 20, and Ali Houssaiky, 20, both of Dearborn, Mich., on a traffic violation Tuesday in Ohio. Authorities said they found airplane passenger lists and information on airport security checkpoints, along with $11,000 cash and 12 phones, in their car." Prosecutors said investigators also "found a map that showed locations of Wal-Mart stores from Ohio through Kentucky, Tennessee and the Carolinas."

Seattle Jewish Center Shooter Weighing Guilty Plea. The AP (8/11, Blankinship) reports alleged Seattle Jewish center shooter Naveed Afzal Haq "said little at his brief arraignment Thursday, but his court-appointed attorney, C. Wesley Richards, told King County Superior Court Judge Michael Trickey that Haq 'is indicating that it is his desire to enter guilty pleas.' Richards said he was not aware before the hearing that Haq intended to plead guilty. At Richards' request, Trickey continued the hearing until Tuesday. The judge also granted a prosecution request to bar Haq from having contact with victims of the shooting, or volunteers and employees of the Jewish Federation."

Judge Refuses To Dismiss Case Against AIPAC Lobbyists. The New York Times (8/11, Lewis, 1.21M) reports that a judge yesterday refused to dismiss the government's case against two pro-Israel lobbyists charged with improperly receiving and transmitting secret national security information. Judge, T. S. Ellis of the United States District Court in Alexandria, Va., ruled "that the sections of the Espionage Act prohibiting such activity were not unconstitutionally vague. Nor does the act improperly limit the lobbyists' constitutional rights to engage in influencing government policy, he wrote. … The ruling means the case will proceed against the lobbyists, Steven J. Rosen and Keith Weissman, former officials of the American Israel Public Affairs Committee."

The AP (8/11, Barakat) reports, "Attorneys for the two former lobbyists with the American Israel Public Affairs Committee argued that the 1917 Espionage Act is unconstitutionally broad and vague, as it seeks to bar receipt or disclosure of 'information related to the national defense' to 'persons not entitled to receive it.' They also argued that prosecutors were out of bounds for using the statute in an unprecedented manner: prosecuting lobbyists who in the normal course of business discuss policy issues with government officials."

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The Washington Post (8/11, A5, Markon, 748K) reports, "Legal and privacy experts said Ellis may have opened the door to criminal prosecutions of reporters or newspapers for publishing classified information. The possibility of such prosecutions has swirled around Washington since the New York Times broke a story last December about the National Security Agency's surveillance of terrorist-related calls between the United States and abroad."

The Los Angeles Times (8/11, Schmitt, 918K) reports, "The ruling is a significant victory for the Bush administration, which has been trying to clamp down on media disclosures of anti-terrorism programs since the Sept. 11 attacks. At the same time, legal experts said, it could chill the ability of a broad segment of the public -- including lobbyists, academics and journalists -- to learn about the inner workings of government and expose misconduct or controversial programs of public interest."

WAR NEWS:

Thirty-Five Killed In Attack On Iraq's Holiest Shiite Shrine. ABC World News Tonight (8/10, story 7, 0:15, Gibson, 8.78M) reported, "In the Middle East day, still another devastating suicide bombing has added to the sectarian tensions in Iraq. 35 people died and 120 were wounded in the attack outside a revered site for Shiite Muslims, a mosque in Najaf. Sunni Muslims claimed responsibility." NBC Nightly News (8/10, story 7, 0:20, Williams, 9.87M) said "Shiite leaders blame Sunni loyalists of Saddam Hussein."

The CBS Evening News (8/10, story 6, 0:15, Smith, 7.66M) reported, "Even by recent standards of violence, this was an especially bad day in Iraq. More than 70 Iraqis were killed."

USA Today/AP (8/11) reports "a Sunni group -- Jamaat Jund al-Sabaha, or 'Soldiers of the Prophet's Companions' -- said it carried out the attack." It "warned in an Internet posting that Shiites should beware, as 'our swords are capable of reaching deep in your regions.'" It was "the deadliest attack since July 18, when 53 people were killed by a suicide bombing in Najaf's twin city, Kufa." The Washington Times (8/11, 88K) also runs the AP story.

The Washington Post (8/11, A1, Mosher, Sarhan, 748K) notes "the shrine is revered as the burial place of Ali, the son-in-law and cousin of the prophet Muhammad. Belief by some Muslims that Ali was unjustly denied his rightful place as Muhammad's successor in the 7th century gave rise to the Party of Ali, or Shia Ali, which evolved into the Shiite branch of Islam." The New York Times (8/11, Wong, 1.21M) and Los Angeles Times (8/11, Fleishman, Fakhrildeen, 918K) run similar reports.

Army Predicts It Will Meet Recruiting Goal This Year. The AP (8/11, Jelinek) reports, "The Army says it will meet its 2006 recruiting goal, pulling itself up from a severe shortfall last year. The Pentagon's largest service -- and the one bearing the brunt of the burden in the wars in Iraq and Afghanistan -- enlisted 10,890 people last month." That "brings the total to 62,505 for the year and puts the Army on course to meet its goal of 80,000 for the budget year ending next month, Jeff Spara, Army recruiting division chief, said Thursday."

The Washington Times (8/11, Gertz, Scarborough, 88K) reports in its "Inside the Ring" column, "A good sign in the war on terror: U.S. Army Special Operations Command in June met its annual goal for signing up Green Beret candidates — three months before the fiscal year ends Sept. 30. There are strains on the current Special Forces units, as private employers offer big bucks for counterterrorism experts and security details. But Army soldiers continue to apply to become Green Berets in ample numbers."

Commander Says UK Forces In Afghanistan Involved In Worst Fighting Since WWII. AFP (8/11) reports, "British soldiers in Afghanistan are involved in some of the worst and most prolonged fighting since World War II, the British commander of NATO forces in the country said. 'This sort of thing hasn't really happened so consistently, I don't think, since the Korean War (in 1952) or the Second World War (in 1939),' Lieutenant General David Richards told the BBC World Service." Richards's comments "came after news on Wednesday that another British soldier, Private Leigh Reeves, 25, was killed in Afghanistan, the 18th since November 2001 when the country's troops were deployed there."

DOJ:

Mercer To Serve As Associate Attorney General. The Washington Post (8/11, A17, Kamen, 748K) reports in its "In the Loop" column, "William W. Mercer, formerly top aide to Deputy Attorney General Paul J. McNulty and more recently U.S. attorney for Montana, is said to be heading back to this area to become associate attorney general, the No. 3 job at the Justice Department."

Leone's Departure Said To Signal Bigger DOJ Role In Nacchio Case. The Denver Post (8/10, Vuong, 256K) reports Acting US Attorney Bill Leone, "the lead prosecutor in the insider trading case against former Qwest chief executive Joe Nacchio, said today that he plans to leave the Department of Justice and go back to private practice.

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Leone said he has informed Troy Eid, the incoming U.S. attorney for Colorado, of his plans to withdraw from the case."

The Rocky Mountain News (8/11, Smith) says Leone's departure "likely means Washington, D.C., will take a more active role" in the Nacchio prosecution. Leone said he "thinks the Nacchio case remains in 'great shape and I'm confident that between our office and the Department of Justice the case is going to be left in good hands.'"

Love Terminal Attorney Wants DOJ Involved In Wright Amendment Talks. The Dallas Business Journal (8/11, Jordan) reports Love Terminal Partners attorney William A. Brewer III "wants the Justice Department to take part in Wright Amendment legislation discussions -- the opposite of the view taken by Sen. Kay Bailey Hutchison, R-Texas, who introduced the legislation." In a letter to Attorney General Gonzales, Brewer called for "an even-handed analysis of the antitrust, constitutional and economic implications of the bill." The letter "comes on the heels of a letter Sen. Hutchison wrote last week to Gonzales asking the Justice Department to remove itself from the Wright Amendment debate. But Brewer said in his letter that it is proper for the Justice Department to review legislation that adversely affects interstate commerce."

US Asks For World's Help In Taking On Kleptocrats. Voice of America (8/10, Gollust) reports DOJ, State Department, and Treasury Department officials said Thursday that the US is asking countries around the world to join in "battling corruption by high-level government officials. Officials say bribery and theft siphon hundreds of billions of dollars from government coffers every year, and that people in developing nations are hardest-hit." President Bush hopes to build on anti-corruption commitments made at last month's G8 summit "with a new international drive against so-called 'kleptocrats' -- high-level functionaries in various governments enriching themselves through bribe-taking and outright theft." Among those the State Department defines as kleptocrats are ex-presidents Sani Abacha of Nigeria, Arnoldo Aleman of Nicaragua, Alberto Fujimori of Peru, and Saddam Hussein of Iraq.

CORPORATE SCANDALS:

DOJ Files More Charges Against Ex-Brocade Executives. EE Times (8/10, McGrath) reports DOJ has filed more charges against two former Brocade Communications Systems executives "who were charged with securities fraud last month." Ex-president Gregory Reyes and ex-vice president of human resources Stephanie Jensen "were charged in a 12-count indictment with a scheme to backdate stock option grants to give employees favorably priced options without recording necessary compensation expenses," US Attorney Kevin Ryan said. DOJ "continues to signal its intention to take a hard line against individuals that have been implicated in the ongoing scandal over historical stock options granting practices -- Thursday's indictment was handed down just one day after three executives from software vendor Comverse Technology Inc. were charged with orchestrating a scheme to manipulate the grant of millions of Comverse stock options to themselves and to employees."

The San Jose Mercury News (8/11, Kravets, 242K) reports the indictment "came a day after U.S. Magistrate Edward Chen declined to dismiss the single-count charges over the objections of defense lawyers, who argued that any backdating was meant to attract employees to the San Jose-based maker of data storage devices, not to skew financial results. The lawyers also maintained the two had no criminal intent to deceive shareholders."

The San Jose Mercury News (8/11, Schwanhausser, 242K) additionally reports that "defense lawyers argued in court Wednesday that the U.S. Attorney would find it difficult to win on the initial securities fraud charge because prosecutors would need to prove the executives intended to deceive shareholders. Reyes' lawyer, Richard Marmaro, said in a statement Thursday that Brocade's records are 'fraught with inadvertent errors' by human resources and finance department employees. But, he added, 'not a single document suggests fraud' by Reyes. To win conviction, prosecutors still must prove Reyes and Jensen's intent, but it could be easier to prove mail fraud, falsified books or that they conspired to cover up their actions, experts say." The Brocade case "is being closely watched because it is the first time executives have been criminally charged in the growing scandal. But it's particularly relevant in Silicon Valley, home to the largest concentration of companies under investigation by the SEC and Justice Department."

SEC Charges Ex-Endocare Executives With Fraud. The Los Angeles Times/Bloomberg (8/11) reports the SEC has charged ex-Endocare Inc. CEO Paul Mikus and former CFO John Cracchiolo with fraud, "saying that the two 'significantly overstated' income. The alleged fraud occurred during 2001 and 2002, with the company overstating revenue as much as 33% in one quarter," the SEC said. The company produces devices to treat cancers and prostate ailments. In July, Endocare agreed to pay $750,000 to settle an SEC investigation of accounting issues.

Options-Pricing Probes Top 100 As Nvidia, Electronic Arts Reveal Investigations. Bloomberg (8/11, Green) reports, "The number of companies with stock

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options grants under scrutiny passed 100 as Nvidia Corp., Electronic Arts Inc. and a half dozen others disclosed probes, fueling concern that the rising tally will erode investor confidence. … At least 105 companies have disclosed internal or federal probes, according to data compiled by Bloomberg News. Nineteen people have lost their jobs, five face criminal charges and one of them -- Comverse Inc. founder Jacob Alexander -- didn't show up for his arraignment yesterday. Dozens of companies have said they can't file financial reports on time, and uncertainty about their true picture may disrupt investment decisions." Bloomberg notes, "The FBI said yesterday criminal probes of 45 companies are under way, and the SEC has said it is investigating more than 80."

Lay Lawyers Begin Move To Let Estate Act On His Behalf. The New York Daily News (8/11, 729K) reports lawyers for Enron founder Ken Lay "started a process that could wipe out his criminal record by letting Lay's estate act on his behalf in any further criminal proceedings. Federal prosecutors didn't oppose the motion. Lay's widow Linda intends to represent the estate as executor. Once the estate takes over the case, it can move to vacate Lay's conviction, court papers said."

ImClone To Remain Independent. The Houston Chronicle (8/11, 535K) reports ImClone Systems has decided to "remain independent after mulling its options, including a sale of the company, for eight months." The decision led shares to fall 13% Thursday. ImClone also announced it is "resuming a search for a permanent chief executive to replace interim CEO Joseph Fischer and that it asked financier Carl Icahn," who holds about 10% of ImClone shates, to run for a position on its board.

CRIMINAL LAW:

Pentagon Officials Resign Amid Cunningham Investigations. The top two officials of Counterintelligence Field Activity at the Pentagon resigned this week amid the investigation into the scandal surrounding former Rep. Randy "Duke" Cunningham. The Washington Post (8/11, Kirkpatrick, 748K) reports that the officials, David Burtt III, the director of Counterintelligence Field Activity, and Joseph Hefferon, the deputy director, resigned as investigators examined their agency's classified contracts with a businessman who has pleaded guilty to bribing department officials and Cunningham. Their departures "come as the House intelligence committee is preparing its own report on corrupt favors performed by Mr. Cunningham as a member of the panel."

Assistant US Attorney Expresses Doubts About Gotti Prosecution. The AP (8/11, Neumeister) reports, "A prosecutor said Thursday he had doubts about the government's ability to proceed to trial next week against John 'Junior' Gotti after a judge tossed out most of the charges the government added to the case three months ago. The unusual admission by Assistant U.S. Attorney Victor Hou came as he asked U.S. District Judge Shira Scheindlin to clarify what effect her decision earlier this week to dismiss new racketeering and money laundering charges would have on evidence." Scheindlin "seemed to resolve some of the prosecutor's fears when she said the government could still introduce new evidence it believes might convince a jury that Gotti continued to benefit from mob activities even after he claimed to have left organized crime." The New York Daily News (8/11, Zambito, 729K) adds that "the feds are considering dropping charges against…Gotti after a judge whacked much of their case. But that doesn't mean prosecutors plan to give the mob scion a slide. They may ask a grand jury to charge him again in a superseding indictment. … Higher-ups from the Manhattan U.S. attorney's office attended yesterday's hearing as prosecutors figure their next move."

Prosecutors, Defense Agree To Pellicano Trial Delay. The Los Angeles Times (8/11, Krikorian, 918K) reports, "Federal prosecutors and defense attorneys in the racketeering and wiretapping case of private investigator Anthony Pellicano and six others have agreed to postpone a scheduled trial date until February because the defense needs more time to prepare. The postponement, described in court papers filed late Wednesday, still must be approved by U.S. District Judge Dale S. Fischer." The Times notes, "The postponement comes as attorneys on both sides of the complex case have been wrangling over the validity of search warrants used to seize tape-recordings and documents from Pellicano's Sunset Boulevard office in late 2002 and early 2003, and the production of FBI interview reports and other government evidence." Terree Bowers, representing co-defendant Terry Christensen criticized "the government for failing to 'provide a comprehensive picture of the evidence.'"

BetOnSports Customers Unsure If They Will Be Refunded. The AP (8/11) reports BetOnSports PLC customers "are wondering if they'll ever get their money back after a judge's temporary restraining order forced BetOnSports to disable its Web site, blocking access to player accounts, and employees said the company was closing." The company faces a "22-count indictment on fraud and racketeering charges in the U.S. District Court in St. Louis." US Attorney Catherine Hanaway said last month's restraining order "requires BetOnSports to return any money

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that American customers have tied up with the site." Hanaway said if the company "doesn't return the money, the U.S. government has every right to seize it" since the bets "were placed illegally, violating the 1961 federal Wire Act."

Bloomberg (8/11, Weeks) reports, "A U.S. federal court last month ordered Betonsports to stop taking bets from the United States, its main market, and return deposits paid by American bettors. The bookmaker also was indicted on charges including racketeering."

CIA Provides Libby With Summaries Of Cheney Security Briefings. In a widely-distributed story, the AP (8/11, Apuzzo) reports, "The CIA says it has provided short summaries of Vice President Dick Cheney's daily security briefings to defense attorneys for his indicted former chief of staff," Lewis "Scooter" Libby. "The documents, which were provided in response to a March court order, summarize a wide range of national security issues that consumed the working day of Cheney" and Libby, whose lawyers "believe the daily security briefings will document his overwhelming workload." The AP notes, "The briefing summaries cover the period in the summer of 2003 when Libby was allegedly discussing Plame's CIA identity with journalists. They also cover several weeks in the fall of 2003 when Libby was questioned by the FBI and March 2004 when Libby testified before a federal grand jury."

Former Minneapolis City Councilman Convicted Of Bribery Charges. The AP (8/11) reports former Minneapolis City Councilman Dean Zimmermann "was convicted Thursday in federal court on charges related to taking bribes from a developer who had business before the city." US Attorney Rachel Paulose said, "Minnesotans have the right to expect that elected officials will work for the public good and not for what they might gain personally through back-room deals." However, The AP adds, "Betsy Barnum, former state chair of Zimmermann's Green Party, said, 'I think this is not justice and don't think he's guilty of any crime. I'm sorry to see the FBI engaged in this sort of thing. … Entrapment isn't too strong a word for what they did to him.'" The Minneapolis Star Tribune (8/11, Furst, 398K) notes, "From his supporters there were feelings of dismay and disbelief, and from Zimmermann himself, a reiteration that he is innocent. From the FBI there was satisfaction that a federal jury had convicted the former Minneapolis City Council member Thursday of three counts of taking bribes," and "from the prosecutor there was a more muted response." Assistant US Attorney John Docherty said, "I recognize this is not a good day for the people of Minneapolis. ... It is not a good thing when an elected official has been found beyond a reasonable doubt to have violated the public trust." Minnesota Public Radio (8/10, Williams) also reported on the verdict.

US Says Connecticut Trash Hauler Illegally Diverted Millions Of Dollars. The AP (8/11) reports, "A Danbury trash magnate arrested in a Mafia case in June diverted millions of dollars from his businesses to his minor league hockey team, no show jobs, race cars and questionable stockholder repayments, federal authorities said Thursday." James Galante "carved out exclusive routes for his companies and paid Genovese crime family boss Matthew 'Matty the Horse' Ianniello $120,000 a year for mob muscle to enforce his territories, authorities said. That meant higher prices for businesses and homeowners, authorities said." The AP notes, "In a related development Thursday, another trash hauler became the first defendant in the case to plead guilty." CRP Carting manager David Magel "pleaded guilty to a racketeering charge in U.S. District Court in New Haven."

Federal Investigators Bust International Sex-Trafficking Ring. In a widely-distributed story, the AP (8/11) reports, "Authorities said nine people were arrested Thursday as investigators broke an international sex-trafficking ring that smuggled Asian women into the U.S. in shipping containers. Seven conspirators in a 'highly organized national network prostitution ring' were arrested in Seattle and two in Los Angeles, the U.S. attorney's office said." Yong Jun Kang of Seattle is accused of "operated brothels in Portland, Ore., and Seattle, where he and others would bring Asian women, most of whom were in the United States illegally." The AP notes, "Authorities said the 21-month investigation by the FBI, U.S. Immigration and Customs Enforcement and Seattle police used confidential informants, court-approved wiretaps and Global Positioning Satellite units to identify participants."

The Seattle Post-Intelligencer (8/11, Gutierrez, 129K) adds, "Once in the United States, the women were moved every 10 to 14 days among brothels in Seattle and other cities across the country to keep the selections 'fresh' for customers and to thwart law enforcement, said John McKay, U.S. attorney for Western Washington. … The FBI, the Bureau of Immigration and Customs Enforcement and the Seattle Police Department conducted the investigation, which continues." The Seattle Times (8/11, Bowermaster, 217K) notes, "The arrests were made during early-morning raids at five locations. … Wiretaps employed from May 31 through Thursday indicate that at least 40 Asian prostitutes worked brief stints at the Seattle-area brothels. Investigators said the women came from at least nine different countries, including China, Malaysia and Hong Kong."

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Oxnard, California, Launches Gang Sweep. The Los Angeles Times (8/11, Griggs, 918K) reports Oxnard, California, police, "targeting gang crime," led a "multi-agency task force early Thursday on a citywide sweep, serving numerous search warrants, arresting more than two dozen people and confiscating several weapons and small amounts of drugs. Twenty-eight males and three females were arrested, including 10 juveniles, police said. A shotgun, three pistols, hundreds of rounds of ammunition and homemade clubs were confiscated along with 2 ounces of marijuana and less than a gram of heroin." Those involved included the DOJ, US Marshals, Ventura County Sheriff's Department, and the Port Hueneme Police Department.

Berkeley, California, Police Officer Investigated For Theft. The Oakland Tribune (8/11, Bender) reports, "For a second time this year, a Berkeley police officer is under investigation for theft. Berkeley police internal affairs investigators and the U.S. Department of Justice are both investigating a 30-year-old Berkeley police officer for allegedly taking money from a detainee and not returning it, sources said Thursday." The Oakland Tribune "is not naming the officer, who was hired in 2003, because he has not been arrested or charged with a crime. He is on administrative leave pending the outcome of the investigation. Sources said the officer confiscated some cash from someone he had contact with while on the job, and kept a portion of it. A citizen's complaint launched the investigation, sources said."

Eleventh Circuit Upholds "Cuban Five" Convictions. The Miami Herald (8/11, Weaver, Woods, 310K) reports that in a 10-2 decision released late Wednesday, the 11th Circuit ruled that "decades of community hatred toward Fidel Castro," "Cuban military killings of exile pilots" and "bitter custody disputes over rafter Elián González" did not affect "the right to a fair jury trial in Miami for five Cuban men convicted of spying for the Castro government." US Attorney Alexander Acosta "said Thursday his office was 'gratified' with the ruling, citing Miami federal Judge Joan Lenard's impaneling of an unbiased jury." The Herald notes, "The so-called Cuban Five, accused of being part of an espionage network that spied on U.S. military installations and Miami exile groups, were convicted five years ago by a dozen federal jurors in one of South Florida's most politically laden criminal cases." Former US Attorney Guy Lewis said, "This wasn't one of those circumstantial cases. This was a case that the FBI investigated for years ... The bottom line is, once you get a verdict, it's hard to overturn."

Federal Judge Delays Sentence In Texas Child Porn Case. The Austin American-Statesman (8/11, Kreytak) reports, "Gates Enoch admitted in March to gathering more than 150 images of children engaged in sex acts on his computer, and on Thursday he was scheduled to be sentenced for his crime in federal court in Austin." But at "the end of an hourlong hearing in which Enoch, the 20-year-old son of a former Texas Supreme Court justice, again admitted to gathering as well as distributing the illegal images, Senior U.S. District Judge James Nowlin said he was unable to declare him guilty." Nowlin said he "is not treating Enoch differently because of his father, although he did say that he rarely in 35 years as a federal judge has approached a sentencing with so much concern. He said he is taking such care because Enoch was so young — he had just turned 18 — when he was charged in the case."

Colorado Man Charged With Possession Of Child Pornography. KMGH-TV Denver (8/10) reported, "A 31-year-old man has been charged with the distributing of child pornography. Jason Paul Craig, from Steamboat Springs, was also charged with possession of child pornography. Police said they searched Craig's home on June 7 and arrested him the same day on charges of possession of marijuana. Police said FBI agents seized Craig's computer and found that he had allegedly distributed child pornography."

Florida Man Charged With Child Porn Possession. The Lakeland (FL) Ledger (8/10) reports Joseph Bass of Bartow, Fla., "has been arrested on charges of possession of child pornography, according to the Attorney General's office." Bass "was arrested Tuesday after investigators conducting an investigation through the Internet said they located his collection of pornographic videos of children. Bass had the pornographic images on his computers, where they were discovered by an Internet investigator with Attorney General Charlie Crist's Child Predator CyberCrime Unit, according to the Attorney General's office." Authorities "with the FBI Innocent Images Task Force, the Polk County Sheriff's Office and the Lee County Sheriff's Office assisted with the investigation and arrest."

Connecticut, FBI Investigating Alleged Hacking Of Lieberman Campaign Web Site. The AP (8/11) reports Sen. Joe Lieberman's campaign Web site "remained offline Thursday, and federal and state authorities were investigating why it crashed on the eve of this week's defeat in a high-profile primary." The site, Joe2006.com, "appeared to have suffered from a so-called 'denial of service' attack, in which computers overwhelm a site with fake traffic, preventing real visitors from getting through or, in this case, causing it to crash, said Richard M. Smith, an Internet

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security consultant in Brookline, Mass." Connecticut Attorney General Richard Blumenthal "said the state is investigating, along with the FBI."

Fugitive Mother Remains In Canadian Custody. The Norristown (PA) Times Herald (8/11, Gibbons) reports Canadian authorities "have assured" Montgomery County, Pennsylvania, authorities that fugitive Claudia Librett "will remained locked up until a Canadian criminal court hearing can be held on the provisional arrest warrant that the U.S. Department of Justice has filed against her in behalf of the county and on an anticipated request for bail by Librett." Librett fled the US 2003 with her "then-three-year-old daughter during a bitter custody battle, will not take place for another couple of weeks."

Woman Accused Of Killing Husband With Boiling Oil Surrenders To Police. In a widely-distributed story, the AP (8/11) reports, "A woman accused of killing her husband by pouring hot cooking oil on him turned herself in to authorities Thursday after more than a week on the run." Edna Mae Sanders "faces a murder charge and was the focus of an intense search by authorities, including the FBI." She "surrendered at the sheriff's department in Hancock County early Thursday, officials said. They said Sanders was being held in the county jail on $1 million bond, and that her children were in their father's custody."

2000 Mourners Honor California Patrol Officer Killed By Hit-And-Run Driver. The San Francisco Chronicle (8/11, B2, Jones, 405K) reports, "In a tearful tribute that mixed country music, family snapshots and plenty of choked-up 'Semper Fi' salutes, family, friends and more than 1,000 law enforcement officers bid farewell to California Highway Patrol officer Brent Clearman at a somber public memorial service on Thursday. Clearman, 33, an Iraq war veteran in the Marine Corps and sniper specialist, was killed Saturday by a hit-and-run driver in Oakland." The Chronicle notes, "His peers said it was no surprise Clearman chose Oakland to start his law enforcement career. 'Many (CHP officers) would be happy to work in a nice quiet part of the state, but not Brent,' said his friend and fellow Marine, Art Scotto, an FBI agent in Los Angeles. 'He narrowed his choices to Oakland and south L.A. He loved a challenge.'"

KXTV-TV Sacramento (8/10) reported, "Friends and family honored the life of the soft-spoken and reserved former Marine, saying Clearman sought out difficult challenges. One of Clearman's friends, FBI agent Art Scotto, said Clearman wanted the challenge of serving in either Oakland or South Los Angeles after finishing CHP training in 2004." Bay City News Service (8/10) noted Scotto "said Clearman 'was soft-spoken, respectful and reserved, but he wasn't soft in any way.' Scotto, who became friends with Clearman while they both served in the Marines, said when Clearman joined the CHP in 2004, he narrowed his assignment choices to Oakland and South Los Angeles 'because he wanted a challenge' and those two cities are considered difficult places to work because of high crime rates."

CIVIL LAW:

Kaiser To Pay $2 Million Fine To Settle Kidney Transplant Program Case. The Los Angeles Times (8/11, Ornstein, Weber, 918K) reports, "Kaiser Permanente has agreed to pay a $2-million fine after state HMO regulators found that its Northern California kidney transplant program imperiled hundreds of patients, in some cases delaying critical surgeries or losing track of patients altogether, officials with the California Department of Managed Health Care announced today. … The fine is part of a consent decree that stipulates a series of corrective actions Kaiser must take, said Cindy Ehnes, director of the managed-care agency."

GlaxoSmithKline Agrees To Settle Price Inflation Suits. The AP (8/10) reports GlaxoSmithKline "has agreed to spend more than $41 million in restitution to end claims by more than 40 states that it inflated the prices of drugs used by cancer patients and others." The settlement with the DOJ, New York Attorney General Eliot Spitzer, and National Association of Medicaid Fraud Control Units "will include more than $1.5 million in restitution to New York state's Medicaid program for cancer drugs and $940,000 in connection with pricing of an antibiotic." In a "separate settlement of a private class action lawsuit, the drug company will also fund a $40 million restitution fund for the poor and needy who use the Medicaid health care system nationwide and New York's Elderly Pharmaceutical Insurance Coverage plan."

UnitedHealth Will Miss Financial Report Deadline. The Minneapolis Star Tribune (8/11, Phelps, 398K) reports that the "cloud over UnitedHealth Group Inc. continues to darken" as the company announced it "would miss the deadline for its second-quarter financial report." Since spring, UnitedHealth's stock option program for top executives" has been the subject of reviews and investigations by the Securities and Exchange Commission (SEC), the IRS, the U.S. Department of Justice and the Minnesota attorney general's office."

Litigation Costs Faulted For Tenet's Wide Second-Quarter Loss. The Dallas Business Journal (8/11) reports Tenet Healthcare "posted a much wider loss for the second quarter, hurt by litigation costs." Tenet reported a

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net loss of $398 million, or 85 cents a share, for the quarter. The company "says it has resolved the most significant of the legal issues facing the company. In June, Tenet agreed to pay $725 million as part of a U.S. Department of Justice settlement to resolve government investigations into Medicare billing and physician arrangements. Also, as part of the settlement, Tenet agreed to waive $175 million in Medicare payments for past services."

CIVIL RIGHTS:

DOJ Sues California Clinic Over "Racial Code Words." UPI (8/10) reports DOJ is suing the Arthritis and Orthopedic Clinic in Los Gatos, California, "on behalf of a former clerk who says she was fired for protesting the use of racial code words." Tomeika Broussard "was the only black employee" at the clinic "when she lost her job in 2004. She says she was warned when she started working there about her supervisor's use of coded language."

ANTITRUST:

Hearst Will Pay $299 Million To MediaNews. The Silicon Valley/San Jose Business Journal (8/11) reports Hearst Corp. "will pay $299 million to MediaNews Group Inc. in the next phase of a complex deal to create a partnership between the two newspaper publishers." If the deal is completed, MediaNews "will return part of the money to buy the St. Paul Pioneer Press and Monterey County Herald from Hearst."

DaimlerChrysler Unit Sues GM. The AP (8/11) reports DaimlerChrysler AG heavy truck unit Freightliner LLC has sued General Motors "over what Freightliner calls 'predatory and discriminatory' activities related to the selling of heavier-duty automatic transmissions. GM's Allison Transmission unit, a division since 1929, controls virtually the entire transmission market for a niche of vehicles that includes diesel-powered buses, recreational vehicles and walk-in vans, according to the Freightliner suit. The suit alleges that GM is leveraging that 'monopoly' status to squeeze out new competitors and boost its share in other corners of the heavy-duty market, like large highway-bound trucks."

Company Opposes Realty Minimum-Service Laws. Inman News (8/10, Roberts) reports Angie's List, a "company that operates an online database with consumer reviews of local contractors," is lobbying against a law enacted July 1 in Indiana requiring licensees to "perform a specific set of services for clients." Similar legislation is being considered in Michigan. Owner Angie Hicks said the "Indiana law 'is anticompetitive and limits the choices consumers have for selling their home. Homeowners with experience in the selling process should have the freedom to decide what they can handle, and in turn have the option to save potentially thousands of dollars in commission fees.'" DOJ and the FTC "have issued statements in opposition to these laws in several states."

ENVIRONMENT/INDIAN AFFAIRS:

DOJ Files Charges Against Citgo Petroleum. KRIS-TV Corpus Christi, Texas (8/10) reported, "In a startling move this week, the Department of Justice is bringing criminal charges against Citgo Petroleum Corporation and the head of environmental compliance at the company's refinery here in Corpus Christi. The charges relate to environmental violations that allegedly were broken in several areas of the facility. Late Wednesday evening, Citgo released a statement that said the company intends to 'vigorously defend itself again these charges.' The statement said that once all the evidence is heard, no criminal conduct will be found."

FBI/DEA/ATF/USMS:

El Paso Businessman Questioned Former FBI SAC's Role In Racetrack Deal. The El Paso Times (8/11, Gilot, Borunda) reports, "Former El Paso FBI special agent in charge Hardrick Crawford had a 'symbiotic relationship' with Juárez Racetrack owner Jose Maria Guardia, according to testimony Thursday in Crawford's ongoing trial. … Horse racing businessman Steve Molnar testified he met Crawford at a dinner at the Juárez Racetrack when Molnar was part of a group looking to possibly invest in the track in 2002. The deal eventually fell through." The Times adds, "Crawford, who used his FBI e-mail, stated there was an 'symbiotic relationship' with Guardia in an e-mail exchange with Molnar that was presented as evidence. 'I kept wondering what in the world is our government doing with this squirrely operation,' Molnar said on the witness stand."

FBI Soon To Provide New York AG With Ferry Probe Findings. The Rochester Democrat & Chronicle (8/11, Orr) reports, "The FBI will soon present government lawyers with any evidence it has of criminal wrongdoing related to the Rochester ferry project, the head of the agency's Western New York office said Thursday. Rochester Mayor Robert Duffy last week asked the FBI and the state Attorney General to expedite their inquiries into the private

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company that ran the ferry between Rochester and Toronto in the summer of 2004." FBI Buffalo SAC Laurie J. Bennett "said agency investigators will present information to the United State Attorney's office, 'probably shortly,' and ask prosecutors to decide whether there is evidence of a crime. The aim is 'to give some finality to it, to say we will move forward with a criminal prosecution, or there will be none,' Bennett said. She declined to characterize the FBI's findings."

FBI Completes Investigation North Carolina Police Beating Death. The AP (8/11) reports, "The FBI has completed its investigation of the beating death of a Davidson County Jail inmate, an agency spokesman said Thursday as the trial of one of two former detention officers charged in the death continued. Ronald Eugene Parker, 44, is being tried on a charge of second-degree murder in the death of Carlos Claros Castros, 28, a Honduran immigrant living in Thomasville who was jailed on allegations of driving while impaired." The AP adds "FBI spokesman Ken Lucas in Charlotte said that Parker and Brandon Huie, the other former detention officer, 'possibly face federal charges' in the case. … Investigators handed over the facts of the investigation to the U.S. Department of Justice, he said."

FBI Task Force Arrests Internet Predator In Ohio. The Mesabi (MN) Daily News (8/11, Pugh) reports, "The FBI Internet Task Force arrested a Minnesota man Thursday at" a Massillon, Ohio mall's food court "after he allegedly traveled to the area to have sex with a 14-year-old girl." Police "arrested Donald R. Lindstrom, 48, of Babbitt, at 4:36 p.m. in the Belden Village Food Court in nearby Jackson Township and charged him with unlawful sex with a minor, a fourth-degree felony and two charges of importuning, a fifth-degree felony solicitation of a minor using a computer and a phone." This "marks the 88th arrest in the nearly four-year history of the FBI Internet Task Force, which consists of area officers in Massillon, Alliance, the Tuscarawas County Sheriff's Department and the State Probation Office."

Meth Lab Seized In Mexico. The AP (8/10) reports Mexican authorities "have seized a large-scale methamphetamine laboratory in western Mexico. DEA Administrator Karen P. Tandy said the lab was discovered on a ranch in Tlajomulco de Zuniga, just outside the city of Guadalajara in western Jalisco state, on Aug. 1. Authorities arrested four people and seized about 220 pounds of finished methamphetamine, 790 gallons of solvents and chemicals and four barrels of iodine, during the raid. … Tandy said Jalisco Judicial Police officers had received a week of training from the DEA prior to the seizure." FOX News posted the AP story on its Web site.

Raids Target "Massive" Ecstasy Ring, Five Arrested In San Francisco Area. The San Francisco Chronicle (8/10, 405K) reports five Bay Area residents "were arrested and a sixth suspect is being sought after federal authorities conducted a series of raids intended to break up what they called a massive Ecstasy drug-smuggling ring based at a Hillsborough home. Authorities say that Johnson Mai, the alleged ringleader, and a cohort brought into the country at least 906 kilograms…of ecstasy to be distributed in the Bay Area, Los Angeles and Houston. … Mai and his crew squirreled away the Ecstasy inside high-end pianos, BMW transmissions and leather sofas, according to officials with the U.S. Drug Enforcement Administration."

Two Hurt In Arkansas Helicopter Crash During Drug Investigation. The Arkansas Democrat Gazette (8/10) reports an Arkansas National Guard pilot and a state police trooper were "injured Wednesday morning when their helicopter crashed in eastern Carroll County." The two were "working on an investigation that also involved the U. S. Drug Enforcement Administration and the Carroll County sheriff's office." The Guard unit "provides aerial and ground support to the state's counterdrug operation program." The men "were in one of two helicopters searching for marijuana plants around Long Creek, along with a ground unit."

In North Carolina, 27 Face Federal Drug Charges. The Hickory (NC) Daily Record (8/11) writes, "Twenty-seven people were federally indicted in two separate drug busts. Fourteen people were indicted June 28. … Thirteen people were indicted in a separate drug ring bust on July 27. Their names were released Thursday. … Thirteen people are charged with felony conspiracy to possess with intent to distribute meth." Among the suspects, "Brandon David Collins…of Lenoir has been declared a DEA fugitive."

The Charlotte (NC) Observer (8/10, Torralba) also reports on the indictments.

Suspected Heroin-Fentanyl Lab Found In Raid, Philadelphia Fugitive Arrested. Wilmington, Delaware's News Journal (8/10) reports federal authorities "investigating a possible heroin-fentanyl lab at an area motel evacuated the building and some neighboring apartments after the discovery of two suspected explosives. Guests at the Riverview Motel…were ordered out of their rooms. … James Thomas Owen, 28, of Delaware County, Pa., who was wanted on federal drug charges in Philadelphia, was arrested in the raid. … A DEA lab team from Philadelphia will determine whether the lab is a source of the bad heroin responsible for as many as nine deaths and dozens of overdoses since April."

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Three Sentenced In California For Trying To Buy 1.8 Million Pseudoephedrine Pills. Three Men The Modesto (CA) Bee (8/10) reports a federal judge last week gave three Turlock men hefty sentences on charges of trying to buy 1.8 million pseudoephedrine pills. That amount packs enough ephedrine to produce 183 pounds of methamphetamine. … A jury convicted the men of participating in a drug conspiracy after a trial in U.S. District Court in Fresno. … At trial, prosecutors presented recordings of the defendants negotiating to buy 22 buckets of pills, which filled a rental truck, for $220,000." The Bee says the men received 14- to 16-year prison sentences.

Mother's Killing In New York Linked To Reputed Drug Gang Member. Journal News (8/10) reports nearly five years after Tasha Murray "was gunned down…federal prosecutors continue to track down those they say are responsible for her death. Tuere Barnes, a reputed member of a violent Peekskill drug gang, has been indicted by a federal grand jury on charges of depraved indifference murder in the shooting of Murray. … In March 2004, Peekskill police and federal Drug Enforcement Administration agents arrested Tuere Barnes and more than a dozen other members of the Barnes gang after a racketeering indictment was unsealed in U.S. District Court in White Plains."

Drug Suspect Arrested In Pennsylvania Following Chase. The Times Leader (8/10) reports a crack cocaine distribution investigation turned into a high-speed pursuit through the streets of Wilkes-Barre Wednesday morning," according to state police. … State troopers and agents from the federal Drug Enforcement Agency attempted to stop Sean 'Bounty' Herbert," but he fled. He was later arrested. "State police and the DEA have been following Herbert's crack cocaine distribution for over [a] year."

In New Jersey, DEA Helps First Responders Identify Meth Labs. The Record (8/10) reports law enforcement officials "say there are less-publicized drawbacks of home-cooked methamphetamine: its toxicity and risk of exploding. That's what could happen in makeshift meth labs, where untrained amateurs mix toxic -- and sometimes lethal -- chemicals, using crude home appliances, officials with the Drug Enforcement Administration told first responders from Bergen County on Wednesday. 'What we are trying to do is help first responders identify small, toxic meth labs so they can make cautious decisions when they go into a location where there is a clandestine lab,' DEA spokesman Doug Collier said during a daylong workshop that drew about 100 firefighters and EMS workers."

Family Discusses Guilty Verdict Following Killing Of DEA Agent From Tucson. KVOA-TV, Tucson (8/10) reports on its Web site that the family of a "murdered drug enforcement agent from Tucson says they're thankful a jury has sided with them. Richard Fass was murdered in 1994 during an undercover drug sting and on Tuesday, a jury found Augustin Vasquez Mendoza guilty of that killing. The last 12 years has been an emotional roller coaster for the Fass family but this guilty verdict is allowing them to move on."

"Target America" Exhibit Opens In Chicago. On its Web site, WLS-TV, Chicago (8/10) reports, "An eye opening look at the damage illegal drugs can have on a person's life is the focus of a new exhibit at the Museum of Science and Industry. Mayor Daley and officials with the Drug Enforcement Administration were on hand Thursday morning for the official opening of the exhibit called 'Target America.' The exhibit begins with an in-depth look at drug production, how they are smuggled into the US and how drug use affects society."

WMAQ-TV, Chicago (8/10) reports that among the items "contained in the exhibit are a working meth laboratory, images of the effects of the brain of a cocaine binge, and a briefcase that contains secret compartments. 'After 9/11, the DEA really recognized that there was a link into what was going on in the world and drug abuse,' said Garrison Courtney of the DEA."

More Than 50 Suspected Gang Members Arrested In Maryland. The Washington Post (8/11, B1, Hernandez, 748K) reports Maryland police "have arrested 53 suspected gang members and seized drugs, guns and money in a wide-ranging effort to dismantle two factions of the Crips that have taken root in Frederick, Washington and Carroll counties. … Police officials said the gangs appeared to be led by men from Las Vegas and New York who recruited locals…to serve as soldiers in the gang."

The Baltimore Sun (8/11, Shields, 262K) reports some who were arrested "face charges that include: attempted murder, assault with intent to murder, armed robbery, assault on police, use of a handgun in commission of a crime, importing drugs into the state and distribution of drugs."

The AP (8/11, Dishneau) writes, "It was the biggest arrest in Maryland of the nationwide Crips gang."

Baseball Officials Say Fewer Players Are Failing Drug Tests. The New York Times (8/11, Curry, 1.21M) reports that as the 2006 season "moves toward its stretch run, baseball officials have become cautiously encouraged by the sizable reduction in the number of players who have tested positive for performance-enhancing drugs or

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other banned substances this year. With less than four months remaining in the calendar year, 34 players — two in the major leagues and 32 in the minor leagues — have tested positive. At this time last year, 86 players had failed tests, and by the time the year concluded, the number had reached 93, with 81 in the minor leagues and 12 in the majors."

Chicago Cubs Manager To Testify As Mitchell Investigation Continues. The AP (8/11) reports Chicago Cubs manager Dusty Baker "will testify in the Mitchell investigation into steroid use in baseball, and said he assumed he was called because of his relationships with Barry Bonds and Sammy Sosa. Baker managed Bonds with the San Francisco Giants and had Sosa with the Cubs. Former Senate Majority Leader George Mitchell was appointed by commissioner Bud Selig to look into the steroids problem."

Cable TV Coverage. ESPN (8/10, 6:30 p.m.) reported, "Murray Chass reports in today's New York Times that lead investigator George Mitchell wants to talk with Dusty Baker. Baker managed Barry Bonds for 10 years and Sammy Sosa for two, and is known [for] being incredibly protective of his players."

Local TV Coverage. WGN-TV, Chicago (8/10, 9:00 p.m.) reported, "Manager Dusty Baker says he'll testify in baseball's steroid investigation. He says he assumes it was because he managed both Barry Bonds and Sammy Sosa that he was asked to testify."

IAAF: Track Coach Under Investigation For Alleged Doping Violations. According to the AP (8/10), track and field's world governing body "is investigating the coach of sprinter Justin Gatlin for alleged doping violations. The International Association of Athletics Federations said Thursday the probe into the activities of Trevor Graham will be carried out in conjunction with the U.S. Anti-Doping Agency. At least six athletes who trained under Graham have received doping suspensions. Graham, however, has always denied direct knowledge or involvement with drug use."

Local TV Coverage. WMAZ-TV, Macon, Georgia (8/10, 6:00 p.m.) reported, "Track and field's world governing body is investigating the coach of sprinter Justin Gatlin for alleged doping violations. The International Association of Athletics Federations says. The probe into the activities of Trevor Graham will be carried out in conjunction with the US Anti- doping Agency. At least six athletes who trained under Graham have received doping suspensions."

FDA Warns Pharmacies About Distributing Unapproved Copies Of Brand-Name Drugs. USA Today (8/11, Appleby, 2.27M) reports the FDA has "warned three large pharmacies that they are violating federal law in making and distributing 'thousands of doses' of their own versions of drugs used by asthmatics and others with respiratory ills. The move addresses what the FDA says is a growing problem: Some pharmacies are mass-producing unapproved copies of brand-name drugs, for no proven medical reason, under less-stringent safety and sterility rules than the agency sets for drugmakers."

IMMIGRATION:

Immigration Judges Sign Labor Pact With Justice Department. The Washington Post (8/11, Barr, 748K) reports in its "Federal Diary" column, "After seven years of negotiations, the Justice Department and a union representing 218 immigration judges signed their first collective-bargaining agreement yesterday." Leaders "of the union, the National Association of Immigration Judges, said the contract would improve communication between Justice headquarters and the judges, who serve in 53 cities and detention centers across the country, by guaranteeing quarterly meetings to discuss security, workload and other issues." Working conditions "were a factor in the formation of the union. For most judges, weekly workloads allow only four hours off the bench and require 36 hours on. During hearings, judges have little staff assistance and often operate tape machines. They issue extemporaneous verbal rulings at the end of hearings."

CONGRESS-ADMINISTRATION:

Stock Markets Rebound Despite Terror Plot News. The Wall Street Journal (8/11, Browning, 2.03M) reports, "After falling for four consecutive days on fears of a weakening economy, the Dow Jones Industrial Average finally rebounded -- despite news of an extensive new terrorist plot. Some professional investors professed amazement that US stocks would fall on good news -- the end to Federal Reserve interest-rate increases -- and then rebound on bad news. … More than anything, the markets' relaxed response to the news of a foiled attack on aircraft leaving Britain underlined once again that investors are becoming inured to terrorism fears, reacting only when there is clear economic damage." The Dow industrials "were down only 31.46 points at the day's low, shortly after the opening bell, by which time U.S. investors had heard about the terror plot. The blue-chip index finished ahead 48.19 points, or 0.44%, at 11124.37, up 3.8% this year." The Standard & Poor's 500-stock index "rose 0.46%, or 5.86 points, to 1271.81, up 1.9% this year. The Nasdaq Composite Index advanced 0.56%, or 11.46 points, to 2071.74, down 6.1% in 2006." USA Today (8/11, Shell, 2.27M) headlines its story

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"Markets Prove Immune To Terror Plot," while the Washington Post (8/11, D1, Masters, Blustein, 748K) titles a similar report "Wall Street Stays Calm, Ends Higher."

NBC Nightly News (8/10, story 9, 0:20, Williams, 9.87M) reported, "Traders bet the travelers will cut back on flying so crude prices dropped more than $2 a barrel, reversing that trend. That helped buoy the stock market."

The Washington Times (8/11, Hill, Price, 88K) says "Wall Street and Main Street have grown accustomed to the idea that the United States is a favored target of extremists since the September 11 terrorist attacks, analysts say, and Americans are inclined to react only if something bad really happens." Adds the Times, "One factor contributing to their unflappable attitude: No terrorist attack has occurred on American soil since 2001."

July Federal Budget Deficit Smaller Than Last Year's. The Wall Street Journal (8/11, 2.03M) reports, "The federal government ran a budget deficit of $33.2 billion in July, far narrower than the $53.37 billion gap a year earlier, as government receipts soared, the Treasury Department said yesterday." The department's "monthly budget statement shows receipts jumped more than 12% to a record $159.76 billion last month from a year earlier. Outlays fell 1.3% to $192.96 billion." The July deficit "was consistent with the Congressional Budget Office's estimate of a $33 billion budget shortfall during the month. The CBO said most of the reduction of the July deficit from a year earlier reflected a shift in the timing of government payments compared with last year."

NBC Nightly News (8/10, story 9, 0:20, Williams, 9.87M) reported, "The White House projects the deficit for the year will be down from last year's rate. But still, the fourth highest on record in the US."

Data Suggest US Economy Slowing Down. McClatchy (8/11, Hall) reports, "From bustling Wall Street to the quiet corridors of the Federal Reserve, there's widespread agreement that the once-sizzling U.S. economy is slowing. The question now is what's next: a return to stable, modest growth or a skid into recession." The answer "will play out in the months ahead. It depends on whether soaring energy prices ease, inflation threats diminish and the slumping housing sector stabilizes or sinks." In addition to a slowdown in the housing market, "second-quarter growth slipped to a 2.5 percent annual rate after a red-hot 5.6 percent from January through March. Unemployment rose in July to 4.8 percent from 4.6 percent, and the 113,000 nonfarm jobs added in July were below expectations." Meanwhile, "oil and gasoline prices keep climbing. That threatens to keep inflation far above the Federal Reserve's comfort zone of 1-2 percent annual growth."

The Wall Street Journal (8/11, Izzo, 2.03M) reports "this month's WSJ.com economic forecasting survey showed projections for gross domestic product and employment growth were cut, while forecasts for consumer prices and oil prices were lifted." Economists "continued to nudge higher their estimates of the probability of a recession over the next 12 months; on average, they put the likelihood at 26%, up from 20% in June and just 15% in February." The Journal adds, "Economists, on average, forecast GDP growth at a 2.8% annual rate for the third quarter, the first time their forecast for that quarter has been under 3% since the economic forecasting survey first asked about the period in November 2005."

Meanwhile, the New York Times (8/11, Andrews, 1.21M) reports, "In the cool and quiet marble corridors of the Federal Reserve, the strategy for taming inflation sounds painless, even soothing: a 'soft landing' for the economy after several years of flying high. … Many economists, though, warn that the soft landing may seem anything but soft, and suggest that the Fed is either too rosy about the looming slowdown or naïve about the difficulty of reaching its goal for inflation. In practice, the Fed has achieved only one true soft landing -- in 1994-95, when, under the leadership of Alan Greenspan, it was able to slow the economy enough to cool spending and ease inflation pressure but not so much as to cause a big jump in unemployment." But "even Mr. Greenspan, whose ability to fine-tune policy made him famous, presided over two formal recessions, in 1991 and in 2001."

Trade Deficit Down In June. The AP (8/11, Crutsinger) reports, "America's trade deficit showed a slight improvement as strong global growth pushed US exports to a record level. That helped offset a surge in Chinese imports and record crude oil prices." The deficit "declined 0.3 percent in June, compared with May, dropping to $64.8 billion, still the fifth largest imbalance on record, the Commerce Department reported Thursday." The deficit "is running at an annual rate of $768 billion through the first six months of this year, putting the country on track to see a fifth straight record imbalance. Last year's deficit was $716.7 billion." The Wall Street Journal (8/11, Conkey, 2.03M) and New York Times (8/11, Porter, 1.21M) also report the story.

Terror Comments Overshadow Bush Remarks On Economy. The Wall Street Journal (8/11, Schlesinger, 2.03M) reports in its "Washington Wire" column, "'Bush boom' softens as economy shows new weakness. Voters will likely head to polls with unemployment rising. … Bush touts economy in Wisconsin factory tour, but terror remarks overshadow."

Study Finds Immigrants Not Hurting American Job Market. The AP (8/11, Ohlemacher) reports, "Big

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increases in immigration since 1990 have not hurt employment prospects for American workers, says a study released Thursday." The report "comes as Congress and much of the nation are debating immigration policy, a big issue in this fall's midterm congressional elections." The Pew Hispanic Center "found no evidence that increases in immigration led to higher unemployment among Americans, said Rakesh Kochhar, who authored the study."

The New York Times (8/11, Preston, 1.21M) says "the study, based on Census Bureau data, found that 14 states with high immigration rates after 1990, including Texas, Nevada and Georgia, also had higher-than-average employment rates for American-born workers. Those 14 states accounted for 24 percent of American workers." But "in eight states that had big increases in immigrants in the same period, among them Arizona and Tennessee, employment rates for American workers were below average. Those states were home to 15 percent of American workers."

The Washington Post (8/11, D1, Hart, 748K) reports, "Some economists expressed reservations about the [report's] technique yesterday, arguing that////broad statewide data do not give an accurate picture of immigration's effects on the labor market. 'There's an age, gender and educational component to this story that this report does not address,' said Andrew Sum, director of the Center for Labor Market Studies at Northeastern University." The Pew report "found that nearly 25 percent of native-born workers live in states where rapid growth of the immigrant population occurred at the same time as above-average employment prospects. Only 15 percent of American workers live in high-immigration states with below-average employment prospects, the report found."

The Washington Times (8/11, Dinan, 88K), however, says "a study by the Center for Immigration Studies, which has yet to be released, argues that immigrants harm younger workers at the lower end of educational achievement." The Times also reports the Pew study "did not consider immigrants' effects on wages."

Administration Mulls Bipartisan Effort To Rein In Entitlement Spending. Officials in the Bush Administration and on Capitol Hill say the Administration has begun to sound out lawmakers about a new bipartisan effort to control the costs of Medicare, Medicare and Social Security following this year's elections. The Washington Post (8/11, A7, Abramowitz, 748K) reports, "No specific plan has been advanced, and administration officials are proceeding gingerly given the political debacle that beset the White House last year when President Bush promoted a plan to create private accounts in the Social Security program. But they have been sending strong signals in recent weeks that they want to try something again after the elections in November."

Spellings Commission Approves Report On Overhaul Of US Higher Education. USA Today (8/11, Marklein, 2.27M) reports US Secretary of Education Margaret Spellings' Commission on the Future of Higher Education met yesterday and "signaled near-unanimous support for a set of proposals that the report says would, if adopted, produce 'institutions and programs that are more nimble, more efficient and more effective.'" Those proposals include "overhauling the financial aid system and holding colleges and universities more accountable for their students' progress." Commissioner David Ward, president of the American Council on Education, "was a holdout. He said the report's one-size-fits-all approach could be counterproductive, given the diversity of missions in higher education."

The New York Times (8/11, Dillon, 1.21M) reports the commission "approved a final report on Thursday that urges a broad shake-up of American higher education. It calls for public universities to measure learning with standardized tests, federal monitoring of college quality and sweeping changes in financial aid" including an increase in the size of Pell grants. The commission "also called on policy makers and leaders in higher education to find new ways to control costs, saying college tuition should grow no faster than median family income, although it opposed price controls."

Quarles Leaving Treasury To Return To Private Sector. Randal Quarles, the Treasury Department's top domestic finance adviser has announced that he will resign this fall to return to the private sector. The Wall Street Journal (8/11, Solomon, 2.03M) reports that Quarles' departure "gives new Treasury Secretary Henry Paulson an early opportunity to put his stamp on policy operations. Mr. Paulson is expected to name a successor within weeks."

Army Corps Of Engineers Commander To Step Down. The Army announced last night that Lt. Gen. Carl Strock, the head of the Army Corps of Engineers will resign. The New York Times (8/11, Schwartz, 1.21M) reports that Strock "asked Francis J. Harvey, the secretary of the Army, that he be allowed to resign "based on family and personal reasons, which the secretary of the Army honors and supports," according to the Army announcement."

Lawmakers Seek Answers From BP On Pipeline Maintenance. The Financial Times (8/11, Kirchgaessner) reports, "BP is facing a barrage of questions from lawmakers in Washington about the management of its oil pipeline nearly one week after the company shut down production at Prudhoe Bay, the largest oil field in the US."

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Texas Rep. Joe Barton (R) "said he would hold a hearing on September 7 to probe BP's handling of severe corrosion in its oil-transit lines." The Times says, "Two other lawmakers called for a full investigation into early reports that BP had failed to use internal inspection devices, known as smart pigs, in the eastern area of the oilfield in a timely manner. The company "is already under investigation by the Department of Justice, Department of Transportation, and the Environmental Protection Agency for its management of the Prudhoe Bay field and the discovery in March of a 5,000-barrel oil spill in Alaska."

DOT Gives BP OK To Continue Operating Part Of Oil Field. USA Today (8/11, Healey, Heath, 2.27M) reports, "The Department of Transportation said late Thursday that oil giant BP can continue operating, at least temporarily, one of its Prudhoe Bay oil field pipelines while BP repairs corroded pipelines serving the rest of the field. The DOT order says, however, that BP must test both the western line and, more extensively, the closed eastern line to determine their conditions, and tell DOT how it plans to repair the eastern section." DOT's "order means BP can continue pumping 120,000 barrels of Alaskan North Slope crude oil per day through the western line. That should ease the shock to the western USA." The company "says it will decide before next week how much of the western line production it will maintain." DOT "inspectors are at the site, hoping to determine how bad the damage is on the eastern lines that are closed and how safe the western lines are."

LA Times Blasts BP, Calls For Tougher Pipeline Regulations. In an editorial, the Los Angeles Times (8/11, 918K) writes, "BP has worked hard to establish itself as a bona fide green company," but "any accolades for this forward-looking approach are gravely undermined by a trio of recent disasters: a deadly Texas refinery explosion in 2005, one of the largest Alaska pipeline spills ever in March and now the unprecedented closure of the nation's largest oilfield because of astonishingly poor maintenance." The Times writes, "BP will probably -- and deservedly -- face costly consequences for its neglect. But going forward, Congress and federal regulators need to enact tougher regulations for all feeder pipelines. As for BP, restoring its reputation demands a thorough review of worker safety and pipeline maintenance." The Times concludes, "Achieving energy security will mean relying less on oil, wherever it comes from."

Fed Ex Chief, Former Joint Chiefs Member Say Oil Dependence Threatens Security And Prosperity. In a Washington Post (8/11, 748K) op-ed, FedEx chief Frederick W. Smith and, a Joint Chiefs of Staff member P. X. Kelley write, "Our respective personal experiences -- running a global transportation and logistics company and spearheading the establishment of an independent U.S. Central Command in the Middle East -- convince us that America's extreme dependence on oil is an unacceptable threat to national security and prosperity. During the coming months, we will be co-chairing the Energy Security Leadership Council, a new and intensive effort by business executives and retired military officers to advance a national energy strategy for reducing U.S. oil dependence." They write, "The most substantial, rapid and cost-effective gains are almost certain to be achieved by making our transportation system more fuel-efficient ." They argue that, "[p]ure market economics will never solve this problem" and that "[g]overnment leadership is absolutely necessary." Finally, they stress that the government "must sustain a strategic energy policy even if oil prices drop in the medium term. This is only fitting given the size and nature of the threat."

Sheehan Protest In Crawford Drawing Less Attention. The Washington Post (8/11, A2, Fletcher, 748K) reports that last weekend, antiwar protestor Cindy Sheehan "led a small group of protesters here on a march along the narrow, winding road leading to President Bush's 1,600-acre ranch, about seven miles from Camp Casey. And Tuesday, she joined a small group of protesters just outside the Secret Service checkpoint. But, so far, the demonstrations have been modest, and the news coverage and the reaction have been muted -- which is far different from the reaction Sheehan engendered last year during her 26-day peace vigil here." Despite "the stir created by Sheehan's protests last year and the unabated casualties in Iraq, there have been no celebrity sightings so far this year -- unless one was to count Sheehan herself." Sheehan's "growing celebrity has caused her critics to charge that she is profiting from the tragedy of her son's death, making her more professional protester than grieving mother."

Lieberman Cites UK Terror Plot To Criticize Lamont. The New York Times (8/11, Healy, Medina, 1.21M) reports Sen. Joseph I. Lieberman "seized on the reports of a terror plot yesterday to attack Ned Lamont, his Democratic opponent for re-election, saying that Mr. Lamont's goal of withdrawing American troops from Iraq by a fixed date would constitute a 'victory' for extremists." Speaking at a campaign event in Waterbury, Connecticut, Lieberman said, "If we just pick up like Ned Lamont wants us to do, get out by a date certain, it will be taken as a tremendous victory by the same people who wanted to blow up these planes in this plot hatched in England. It will strengthen them, and they will strike again." The Times adds Lamont "denounced Mr. Lieberman's remarks, and some other Democrats and political analysts questioned the senator's use of a national security hazard to buttress a political attack, especially against another Democrat."

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The AP (8/11, Haigh) reports Lieberman "set out on his go-it-alone re-election campaign Thursday and seized on the terror arrests in Britain to argue that his Democratic opponent, Ned Lamont, does not fully understand the danger facing the nation." Lieberman's stop "in Waterbury was his first public event since losing Tuesday's Democratic primary, dismissing his campaign staff and launching his independent bid. He seized on the terror plot in Britain to criticize Lamont's opposition to the war in Iraq." Lieberman said, "I'm worried that too many people, both in politics and out, don't appreciate the seriousness of the threat to American security and the evil of the enemy that faces us — more evil or as evil as Nazism and probably more dangerous than the Soviet communists we fought during the long Cold War."

Pryor Endorses Lieberman. The AP (8/11, Haigh) reports Sen. Lieberman also "picked up an endorsement from Arkansas Sen. Mark Pryor, the first Senate Democrat to support him since the primary." Lieberman has "also received support from some Republicans. President Bush's top adviser, Karl Rove, told reporters Thursday that he called Lieberman on primary night and wished him well."

"White House Official" Analyzes Connecticut Results. The Wall Street Journal (8/11, McKinnon, 2.03M) reports that yesterday, "a senior White House official took the unusual step of speaking on background to reporters aboard Air Force One about the politics of the war on terror. The official said that the results in Connecticut showed that voters were coming around to the administration's view that the global war on terror must be won despite the high costs." Lamont's "margin 'went from 13 to six to four in the last 10 days of the campaign,' the official said. 'And I think that's in part because at the end of the day, people look at the consequences of failure and the consequences of victory. … So, if you have Lamont Democrats who say, 'Bring 'em home, turn away, and it will all be over,' the American people say, 'You're kidding yourself. We're in a war, and the only way you walk away from a war is as a victor, defeating the enemy.'"

Iraq Vets Back Lieberman's Independent Bid. In a Wall Street Journal op-ed (8/11), Wade Zirkle, executive director of VetsForFreedom.org, and Josh Clark, a specialist in the Connecticut National Guard who served in Baghdad, say, "Joseph Lieberman's primary loss might be a satisfying victory for the partisan extremes, but it is a sharp blow to bipartisan efforts to prevail in a global war that may span generations." As American servicemen "who together served three tours in Iraq, we can attest to the discouragement those in battle endure in the face of a domestic politics that has a seemingly singular focus on controversy and negativism." Sen. Lieberman "made it clear that a nation cannot effectively fight a war by looking in the rearview mirror. Too often it appears we are fighting a war among ourselves instead of against the enemy. This is all the more reason why Joe Lieberman is needed now as an independent voice to represent America's troops and their interests abroad in the war on terror."

Lieberman Website Remains Down After Apparent "Denial Of Service" Attack. The AP (8/11, Eaton-Robb) reports Sen. Lieberman's "campaign Web site remained offline Thursday, and federal and state authorities were investigating why it crashed on the eve of this week's defeat in a high-profile primary." The site, Joe2006.com, "appeared to have suffered from a so-called 'denial of service' attack, in which computers overwhelm a site with fake traffic, preventing real visitors from getting through or, in this case, causing it to crash, said Richard M. Smith, an Internet security consultant in Brookline, Mass." The AP adds Lieberman "said the outage is hindering efforts to raise campaign money." Lieberman said, "But of course that's the world we live in, that anybody, anywhere in the world, if able to, can hack into another site anywhere else in the world." The AP adds Lieberman's campaign "denied speculation among liberal Web pundits that the centrist Democrat's Web site had simply crashed because it used a low-budget Web host unable to handle the volume." Connecticut Attorney General Richard Blumenthal "said the state is investigating, along with the FBI."

More Commentary On Lieberman. In his Wall Street Journal column (8/11), Daniel Henninger says, "That was unfortunate timing this week for the Lamont Democrats, declaring themselves officially the antiwar party within 24 hours of the Brits foiling an Islamic terror plot to spread thousands of U.S.-bound bodies across the North Atlantic, or perhaps across New York, Boston and Washington as the planes descended." From "the perspective as of yesterday of getting on a U.S. airliner, who would you rather have in the Senate formulating policy toward this threat -- Ned Lamont or Joe Lieberman? Well, the Democratic Party would rather have Ned Lamont. That commitment was sealed Wednesday when Mr. Lieberman's longtime colleagues in the Senate, in one of the least edifying spectacles in recent political history, pledged their troth to the one-issue neophyte, Ned Lamont. Sens. Kennedy, Kerry, Clinton, Biden, Reid and, most embarrassing of all, Chris Dodd of Connecticut, participated in what can only be seen as a tragic Shakespearean assassination of a former colleague. With the knifing of Joe Lieberman, the Democrats have locked in as the antiwar party."

In his Washington Post column (8/11, A19), Charles Krauthammer says, "The reflexive antiwar sentiments underlying Ned Lamont's victory in Connecticut will prove disastrous for the Democrats in the long run -- the long run beginning as early as November '08." Apart "from the Carter success of 1976 -- an idiosyncratic post-Watergate accident -- the 'blame America first' Democrats were not even competitive on foreign policy for the rest of the Cold War. It

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was not until the very disappearance of the Soviet Union that the American citizenry would once again trust a Democrat with the White House." Vietnam "cost the Democrats 40 years in the foreign policy wilderness. Anti-Iraq sentiment gave the antiwar Democrats a good night on Tuesday, and may yet give them a good year or two. But beyond that, it will be desolation."

In his USA Today column (8/11), Al Neuharth says, "Lieberman's loss in the Democratic Party primary clearly was an anti-Iraq war and anti-President Bush protest. The most damaging campaign ads showed Bush kissing Lieberman on the cheek. That was a 'kiss of death.' All national polls show strong anti-war and anti-Bush sentiment. But in my travels I continue to be surprised that the 'Don't cut and run' and 'Stay the course' slogans being peddled by Bush and company still play well." Neuharth predicts the GOP will retain majorities in the Senate with 53 seats and House with 220 seats, adding, "That post-election majority for Republicans in both houses means two more years of the best and worst of Bush, like it or not."

In his Washington Post column (8/11, A19), E.J. Dionne says when "he announced he was running as an independent, Lieberman issued a ringing condemnation of 'petty partisanship and angry vitriol.' He denounced those who offered 'insults instead of ideas' and said the purpose of politics is 'to lift up, not to tear down.' True, and there could hardly be any more offensive examples of petty partisanship than the vitriolic screeds issued by" Vice President Cheney, Republican National Committee Chairman Ken Mehlman and White House spokesman Tony Snow – "coming, as they did, just a day before we learned of a new terrorist plot against us. We'll never achieve authentic bipartisanship until a crowd that has clung to power by dividing us into bitter camps gets the rebuke it deserves. In the meantime, Lieberman might usefully send a copy of his speech to his friends in the White House. They divide us at our peril."

In his New York Times op-ed (8/11), Paul Krugman says Sen. Lieberman has "been wrong at every step of the march into the Iraq quagmire — all the while accusing anyone who disagreed with him of endangering national security. Again, on what planet would Mr. Lieberman be considered 'sensible'? But I know the answer: on Planet Beltway." Lieberman, "sounding just like Dick Cheney -- and acting as a propaganda tool for Republicans trying to Swift-boat the party of which he still claims to be a member -- suggested that the changes in Iraq policy that Mr. Lamont wants would be 'taken as a tremendous victory by the same people who wanted to blow up these planes in this plot hatched in England. In other words, not only isn't Mr. Lieberman sensible, he may be beyond redemption."

Ohio Attorney General Says GOP's Pick Can Take Ney's Spot On Ballot. The AP (8/11, McCarthy) reports Ohio Attorney General Jim Petro said the Republican Party's "favored candidate to take Rep. Bob Ney's spot on the ticket can legally do so under Ohio law." Secretary of State Ken Blackwell "had sought the opinion" as the GOP "considered how to replace Ney, who announced this week he would not seek re-election. State Sen. Joy Padgett is the leading candidate, and would be eligible to enter a special primary or replace Ney on the November ballot, the attorney general said."

Cook Says Democrats In Position To Retake House. McClatchy (8/11, Thomma) reports that just as voters "are about to tune in to this fall's battle for control of the House of Representatives, many Republican incumbents are running away from President Bush out of fear that they'll be caught in an anti-Bush tidal wave that could sweep them from power." But "at least one widely respected analyst thinks it may not be enough." Political analyst Charles Cook said, "Time is running out for Republicans. Unless something dramatic happens before Election Day, Democrats will take control of the House." McClatchey adds, "Underlining the threat to Republicans: Bush's low standing and Democrats' intense desire to punish him and his party." Cook said, "Bush's numbers are consistent with a tidal wave."

Groups Push Female Candidates For State Level Offices. USA Today (8/11, Jones, 2.27M) reports, "A number of groups are pushing female candidates for state-level offices across the USA. The goal is to bring different perspectives to the political debate, draw disenchanted voters to the polls and widen the pool of female candidates. The percentage of female state legislators has hovered near 22% for the past decade." USA notes that some of the organizations involved in the effort are: EMILY's List, the Pennsylvania Women's Campaign Fund and Georgia's WIN List.

Pearlstein Says Democrats Could Use Senators Like Cardin. Steven Pearlstein writes in the Washington Post (8/11, D1, 748K) that none of the three leading Democratic candidates for the US Senate in Maryland "is itching for Sunni-like holy war against the Republican Shiites, at least not as it concerns business and economic issues." Kweisi Mfume, "the most dogmatically liberal of the major candidates," is "likely to find himself unduly reliant on the Maryland State Teachers Association, which endorsed his candidacy." Josh Rales "comes across as painfully naive." It "might have helped if Rales had gained some experience in the minor leagues of politics before making his bid for a spot in the majors." Pearlstein adds that Ben Cardin "is the

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preferred candidate of the Democratic establishment. … I'll leave it to others to decide whether Cardin is the best candidate to defeat Lt. Gov. Michael Steele in November. But if Democrats want any hope of governing after the election, they could sure use more senators like Ben Cardin."

Labor Movement Plans Cooperation For Midterm Elections. The Christian Science Monitor (8/11, Paulson, 58K) reports a year "after America's labor movement saw its largest schism in decades, unions are gearing up for a high-stakes political battle in November." It is "the first test of how the split between the AFL-CIO and the new seven-union Change to Win labor federation will affect the political activities of the labor movement. It's also a chance for unions to demonstrate that they still wield political heft despite dwindling membership." The coming elections "were a key topic at separate meetings in Chicago this week of the American Federation of State, County, and Municipal Employees (AFSCME) and the executive council of the AFL-CIO. In one promising sign for labor's fall push to help Democrats, the rival federations have launched a national committee to coordinate political activities." But "there are still some clear differences. When Change to Win split off last year, one key reason was its philosophy that organizing, not politics, was where the labor movement should be focused. And that is showing up this fall. Whereas the AFL-CIO is active in hundreds of races, Change to Win - at least at a national level - is zeroing in on three," the gubernatorial races in Michigan, Ohio, and Pennsylvania.

AFSCME Announces Plans To Boost Political, Organization Effort. The New York Times (8/11, Greenhouse, 1.21M) reports the American Federation of State, County and Municipal Employees "announced plans yesterday to spend $60 million more a year to campaign for universal health coverage, to unionize 70,000 workers annually and to register 280,000 union members to vote." The union, "the largest of the 53 unions in the A.F.L.-C.I.O., announced what it called a 21st Century Initiative, pledging to become one of the most aggressive unions in organizing and in politics."

OTHER NEWS:

State, Local Governments Move To Reduce Greenhouse Gases. State and local officials are adopting policies and forming international alliances designed to reduce greenhouse gases even as lawmakers in Washington remain deadlocked on how best to address the issue. The Washington Post (8/11, A1, Eilperin, 748K) reports, "The initiatives, which include demands that utilities generate some of their energy using renewable sources and mandates for a reduction in emissions from motor vehicles, have emboldened clean-air advocates who hope they will form the basis for broader national action. But in the meantime, some businesses say the local and state actions are creating a patchwork of regulations that they must contend with." According to the Post, "22 states and the District of Columbia have set standards demanding that utilities generate a specific amount of energy -- in some cases, as high as 33 percent -- from renewable sources by 2020. And 11 states have set goals to reduce greenhouse gas emissions by as much as 80 percent below 1990 levels by 2050."

Florida Candidates Participate In Annual Possum Event. A front page story in the Wall Street Journal (8/11, Francis, 2.03M) reports, "In most states, political candidates march in parades and kiss babies. In Florida, they also handle possums. In years past, Gov. Jeb Bush did it, and all but one of his serious would-be successors in this year's election have tried their hand at it. Other handlers of possums or observers of possum-handling this summer include two U.S. Senate hopefuls and at least three would-be state judges, along with candidates for agriculture secretary, state chief financial officer and a slew of local and county positions." The event, Wausau's annual Fun Day and Possum Festival, "is in its 37th year. Here, candidates shake hands with potential constituents, cheer the Little Miss Fun Day contestants and place bids on possums to raise funds for local charities -- scoring points with potential voters. Then they hold up their writhing winnings for the obligatory possum photograph."

US To Reach 300 Million Population Mark In October. ABC World News Tonight (8/10, story 9, 1:30, Gibson, 8.78M) reported the Census Bureau "said today the US population will reach the 300 million mark in October. It took this country 139 years after independence, 1915, to reach 100 million in population. Then, 52 years to reach 200 million. And now, just 39 years to reach 300 million. And how the country has changed since we had just 100 million people."

Comptroller General Makes Case For Transparent Financial Reporting. US Comptroller General David M. Walker writes in a letter to USA Today (8/11, 2.27M), "I am a longstanding and strong supporter of clear, consolidated and more transparent financial reporting on the sustainability of Social Security, Medicare and other social insurance programs and the related intergenerational equity implications. For example, a new Statement of Fiscal Sustainability would provide a consolidated look at the cost implications of the government's current commitments compared with long-term revenue estimates. … As I travel

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the country speaking out about our nation's long-term fiscal challenges, I find that Americans -- once they have complete information -- are increasingly concerned about the debt being placed on our children and grandchildren."

US, France Agree On Main Points Of Security Council Resolution. CNN's The Situation Room (8/10, Blitzer) reported, "Diplomatic sources tell CNN the United States and France now agree on the main points of the resolution" to stop the Mideast conflict, "including a call for Lebanese and United Nations forces to deploy to southern Lebanon at the same time that Israeli forces and Hezbollah militants withdraw from the region."

In a similar report, the CBS Evening News (8/10, story 7, 0:25, Smith, 7.66M) said "UN diplomats report they're near agreement on a cease-fire resolution and say a vote could come as early as tomorrow. But CBS News has learned Israel is telling the United States it needs to continue military operations in Lebanon for another month to establish a buffer zone." ABC World News Tonight (8/10, story 8, 0:15, Gibson, 8.78M) reported, "There are signs to end progress between Israel and Hezbollah. … Progress but not a done deal." And NBC Nightly News (8/10, story 8, 0:25, Williams, 9.87M) reported "the Lebanese are being consulted, and Secretary of State Condoleezza Rice will travel to New York first thing tomorrow morning, we're told, and will push for a vote tomorrow."

Meanwhile, under the headline "Setback For UN Draft Resolution On Lebanon," the Washington Post (8/11, A10, Lynch, Wright, 748K) reports Beirut "on Thursday raised objections to a US- and French-backed draft resolution aimed at ending the fighting between Hezbollah and Israel because it does not call for an immediate cease-fire and because the proposed new international force would have a broad mandate to use military firepower." The move "complicated U.S. and French efforts to finalize negotiations on a resolution intended to set the stage for a gradual Israeli withdrawal from southern Lebanon." Lebanese Foreign Minister Fawzi Salloukh "told al-Jazeera that the resolution is unacceptable because it does not resolve a number of Lebanese concerns, including Beirut's call for Israeli forces to withdraw immediately." Russian PermRep Vitaly Churkin "expressed frustration with the slow pace of diplomacy and offered a separate resolution calling for a 72-hour humanitarian truce."

In more positive coverage, the AP (8/11, Wadhams) says Washington and Paris "were close to a deal on a Security Council resolution," but "diplomats said they were still trying to overcome last-minute Lebanese objections to the draft. Increasingly impatient that diplomacy has taken so long, Russia introduced its own resolution Thursday calling for a blanket 72-hour humanitarian cease-fire in Lebanon."

But the Financial Times (8/11, Biedermann, Devi, Birchall) adds Ambassador Bolton "said on Thursday there was no agreement yet on the US and French resolution calling for an end to the fighting between Israel and Lebanon's Hizbollah but that he hoped for one on Friday."

The New York Times (8/11, Erlanger, Hoge, 1.21M) reports, "In New York, ambassadors from the five permanent members of the United Nations Security Council, Britain, China, France, Russia and the United States, failed Thursday to reach agreement on the resolution." But Bolton "said work would continue through the night and that a vote could still be held on Friday."

The New York Times (8/11, Hoge, 1.21M) says Washington and Paris "struggled" Thursday "to agree on a resolution… Ambassadors from the two countries and the three other permanent members of the Security Council, Britain, China and Russia, were focusing [Thursday] evening on a formula that would have the Israelis depart in phases while the Lebanese Army, along with a reinforced Unifil, the United Nations peacekeeping force, moved progressively into the area." The Times notes, "It was the second meeting of the day for the so-called permanent five as pressure intensified on the Security Council to take decisive action to end the conflict, which was entering its fifth week unchecked."

Israel Takes Strategic High Ground, Delays Ground Offensive. The Washington Times/AP (8/11, Torchia) reports, "Israel grabbed strategic high ground in southern Lebanon yesterday but delayed a major push north, as diplomats cited progress on a UN cease-fire resolution that could go to a vote soon."

The Christian Science Monitor (8/11, Prusher, 58K) reports, "On Wednesday, Israel's security cabinet voted to expand ground operations that could include sending thousands more soldiers deep into south Lebanon, in a push military officials say would continue for at least another month." But "Thursday, Israeli leaders said that was only a decision enabling a broader ground war, not an order to execute it." Israel "will hold off on the incursion to give diplomats more time to work toward a cease-fire."

The Washington Post (8/11, A8, Cody, Moore, 748K) reports Israeli aircraft "fired missiles at a radio tower in downtown Beirut on Thursday and dropped leaflets warning residents of the Lebanese capital that more extensive bombing, whose 'painful and severe results will not be limited' to Hezbollah fighters, is on the way." The Post ads, "Early Friday, eight powerful explosions resounded across Beirut, and local news reports said Israeli jets were pounding Hezbollah strongholds in the southern Dahiya suburb, the Associated Press reported. The reports said a bridge was also hit in Akkar province, 60 miles north of Beirut. There was no immediate word of casualties, according to AP."

Meanwhile, says USA Today (8/11, 2.27M), "Hezbollah missiles rained down on northern Israel, killing a woman and

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a toddler in an Israeli Arab village, medics told the AP. More than 3,400 missiles have been fired into Israel, according to the Israeli army."

Hezbollah's Resilience Noted. McClatchy (8/11, Rosenberg, Nissenbaum) reports, "As Israel prepares to expand its war against Hezbollah deeper into southern Lebanon, its army is discovering that its opponent is no ragtag guerrilla force. … Military officers along the northern border now refer to Hezbollah as a serious army and predict that the next phase of the war will be measured in weeks, if not months." That "suggests a long and bloody campaign that is likely to significantly increase Israeli casualties." The Christian Science Monitor (8/11, Blanford, 58K) addresses the same issue in a story titled "Hizbullah's Resilience Built On Years Of Homework," reporting, "Even seasoned observers with the United Nations peacekeeping force in south Lebanon, known as UNIFIL, whose headquarters lies at the foot of the hillside, are baffled at how the guerrillas have managed to survive and keep up their steady rocket fire."

Discontent Seen Among Israeli Reservists. The Washington Post (8/11, A10, Finer, Moore, 748K) reports, "As increasing numbers of Israel's reserve soldiers are ordered out of their civilian jobs and to the front lines of combat, they are voicing growing alarm over inadequate equipment and training in the face of large-scale casualties in their ranks. Two of the largest death tolls of the four-week-long conflict have involved reserve soldiers: Thirteen of the 15 troops killed in combat Wednesday were reservists, and 12 reserve soldiers died last Sunday when a Hezbollah rocket smashed into the parking lot where they were gathered, near Israel's northern border." The Post adds, "The combination of the high death tolls and the mounting discontent among the reserve troops and their families has reverberated through Israeli society, where both military service and reserve duty are mandatory. As much as Israel mourns the death of any soldier, nothing strikes closer to the soul of Israel than the deaths of reserve troops."

Israeli Peace Movement Urges Diplomatic Resolution Of Conflict. The Los Angeles Times (8/11, King, 918K) reports a month "into the war in Lebanon, Israel's long-quiescent peace movement is suddenly issuing a ringing call to arms." The "still-small peace camp was spurred into action by the Israeli government's authorization this week of a broader ground invasion in Lebanon." Organizers "of an antiwar rally in Tel Aviv for the first time brought in what are regarded in this bookish country as big guns: a trio of Israel's best-known authors. The three -- Amos Oz, David Grossman and A.B. Yehoshua -- have all spoken out strongly against past conflicts, and wield considerable moral authority here." Though it "drew only several thousand people, Thursday's rally had a much different tone than protests organized previously by far-left groups. Absent this time were strident denunciations of the government and the army. Instead, the protesters waved blue-and-white Israeli flags as they shouted, 'Negotiate now!'"

Anti-"US-Israeli War" Demonstration To Circle White House. The Washington Post (8/11, B3, Dvorak, 748K) reports Washington, DC, is "becoming a stage where passions on both sides of the Israel-Hezbollah conflict are being played out with a series of protests, vigils and rallies in Washington in recent weeks, with more to come." The "largest demonstration -- billed as a protest of the 'U.S.-Israeli war' -- is expected to draw 'tens of thousands' of people who plan to surround the White House tomorrow, said Tony Kutayli, communications coordinator for the Washington-based American-Arab Anti Discrimination Committee, one of the groups helping coordinate participants arriving from across the country." The "primary organizer for tomorrow's protest is the ANSWER Coalition, which helped coordinate the September antiwar rally."

US Likely To Approve Israeli Request For Antipersonnel Rockets. The New York Times (8/11, Cloud, 1.21M) reports Israel has "asked the Bush administration to speed delivery of short-range antipersonnel rockets armed with cluster munitions, which it could use to strike Hezbollah missile sites in Lebanon, two American officials said Thursday." The request "for M-26 artillery rockets, which are fired in barrages and carry hundreds of grenade-like bomblets that scatter and explode over a broad area, is likely to be approved shortly, along with other arms, a senior official said." But some State Department officials "have sought to delay the approval because of concerns over the likelihood of civilian casualties, and the diplomatic repercussions."

Some Palestinian Authority Officials Examine Self-Dissolution. The Wall Street Journal (8/11, Chazan, 2.03M) reports Israel's war with Hezbollah "has overshadowed a looming crisis in the West Bank and the Gaza Strip, where conditions have deteriorated to the point that some in the Palestinian government are exploring the prospect of its self-dissolution." The "economic and political breakdown has put new stresses on a population already racked by falling incomes and high unemployment. But the unraveling of the Palestinian Authority, starved of cash and with several of its ministers in Israeli jails, could have disastrous consequences for Israel as well: International law dictates that as an occupying force, it would have to take over full responsibility for the well-being of 3.9 million Palestinians."

Friedman Says Hezbollah Will Pay Price After Ceasefire. In his New York Times column (8/11), Thomas Friedman says the "only way that the fighting in south Lebanon will be brought to a close is if all the parties accept a cease-fire and the imposition of a robust international peacekeeping force, led by France, along the Israel-Lebanon border — supplanting Hezbollah. The morning after that cease-fire goes into effect, everyone knows what will happen:

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Hezbollah's leader, Hassan Nasrallah — no matter how battered his forces and how much damage his reckless war has visited on Lebanon — will crawl out of his bunker and declare a 'great victory.'" But "sorry, been there, heard that, and I don't buy it. What matters in war, alas, is the balance of destruction on the ground and the political weight it exerts over time." Israel "needs to keep its eyes on the prize. It's already inflicted enormous damage on Hezbollah and its community, but Nasrallah will only have to pay the full price for inviting all that destruction once the guns fall silent on the morning after the morning after. So let's get there as soon as possible."

Chavez Says Castro Fighting "A Great Battle For Life." The CBS Evening News (8/10, story 8, , Smith, 7.66M) reported, "Cuba's government has said almost nothing about Fidel Castro's condition since he had intestinal surgery early last week, but today Castro's friend and ally, Venezuelan President Hugo Chavez said he has contacted the Cuban President and describes him as fighting 'a great battle for life.' Even so, Chavez said he's optimistic Castro will recover."

The AP (8/11) reports Chavez added, "From here, let's pray to God for Fidel and his recovery, and he's fighting a great battle." His statement "was the most serious yet from a close Castro ally in describing the 79-year-old Cuban leader's condition. But Chavez also predicted, with a laugh, that Castro would defy the US government's plans for a transition in Cuba and emerge from a hospital where he is being treated to reassume the presidency."

Commerce Department To Take Lead On Cuba Aid Effort. The Washington Post (8/11, A17, Kamen, 748K) reports in its "In the Loop" column, "The Bush administration is preparing a large humanitarian aid effort should chaos occur in the transition to a post-Fidel Cuba, including the delivery of food, medicine, clothing, tents and such. Folks at the Agency for International Development assumed they would take the lead on this because they, working with private relief organizations, traditionally do these things. But they weren't picked. Turns out the Commerce Department, not heretofore known to have much expertise in disaster relief, will take the lead role. Buzz is that's because Commerce is headed by Cuban-born Carlos M. Gutierrez."

WSJournal Celebrates TV Marti's Success At Avoiding Regime's Jamming. The Wall Street Journal (8/11, 2.03M) editorializes, "It's a safe bet that Fidel Castro is not tuning into TV Marti from his hospital bed, assuming he isn't yet in a morgue. Ever since the US broadcast service was launched by the US government in 1990, joining Radio Marti in providing Cubans with honest reporting about their country and the world, El Maximo Lider has succeeded in jamming many telecasts. Not any more." The Journal adds, "On Saturday night at 6, TV Marti went airborne."

NYTimes Says Ney Retirement Will Not Contain Influence-Peddling Scandal. An editorial in the New York Times (8/11, 1.21M) says, "Having done nothing to rein in the influence-peddling culture of Congress, Republican leaders apparently hope to contain the scandal as an election issue by pushing Representative Bob Ney of Ohio into retirement. But Mr. Ney's sudden withdrawal from the re-election campaign is only another reminder to skeptical voters of the Capitol's craven preoccupation with easy-money politics underwritten by special interests and power lobbyists." The Times adds, "The Ney affair was a reminder of the fate of another Abramoff crony, former Representative Tom DeLay of Texas, who has tried to disappear from public judgment as a candidate on the November ballot. … It will be fascinating to watch this November as Congress comes up for grabs and Republicans fight to keep Mr. DeLay's long Texas shadow from being cast nationally as a symbol of the money culture that infects the Capitol."

WPost Says Maryland Lawmakers Should Protect State Workers From Arbitrary Firing. An editorial in the Washington Post (8/11, A18, 748K) says that upon taking office, Maryland Gov. Robert Ehrlich removed 340 state workers from their jobs. Some of them were culled by "Republican party hack" Joseph Steffen, "a high school graduate with no relevant managerial or personnel experience, based on who-knows-what criteria." The Post adds, "Legislation enacted in the past decade empowered the governor, at a whim, to fire any of some 6,000 state workers, more than the president can fire at will from the federal government. That is wildly excessive and an invitation to abuse, as the Steffen episode illustrates." The Post says lawmakers should identify "a sensible list of positions -- senior managers, executive secretaries and the like -- who may be removed when a new administration takes office, and offering some protection against arbitrariness to the rest of the state's workforce."

LATimes Criticizes Trial Lawyers Group's Name Change. The Los Angeles Times (8/11, 918K) says in an editorial, "A rose by any other name may smell as sweet, but the Assn. of Trial Lawyers of America has apparently concluded that its perfectly descriptive moniker is malodorous. The group has decided to rechristen itself the American Assn. for Justice, not to be confused with the Justice League of America (an alliance of comic-book superheroes) or the Institute for Justice (a libertarian public-interest law firm opposed to eminent domain)." ATLA's name change, "apparently triggered by the successful efforts to demonize the term 'trial lawyer,' is a classic example of abstract euphemism replacing -- and distorting -- a perfectly specific phrase. George Orwell denounced such linguistic

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evasion in his classic 1946 essay, 'Politics and the English Language.' 'The great enemy of clear language is insincerity,' Orwell wrote. 'When there is a gap between one's real and one's declared aims, one turns as it were instinctively to long words and exhausted idioms, like a cuttlefish spurting out ink.'"

NYTimes Encourages Companies To Build "Green Buildings." The New York Times (8/11, 1.21M) editorializes, "Buildings are something of an energy-efficiency blind spot in this country. Public attention tends to focus largely on automobile companies and mileage, but houses and skyscrapers consume more energy than cars. According to the Energy Department, residential and commercial buildings account for 40 percent of total energy consumption in this country, versus just 28 percent for the entire transportation sector. Companies are seeing the light on what are known as green buildings and the lower operating costs that come with them. … Companies can choose to be energy-wasting dinosaurs, but in an age of escalating prices, they'll go extinct. In business, the company with the lowest costs usually wins."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Terror Attacks Were 'Very Near.'"
"Girls Just Want To Be Plugged In -- To Everything."
"Winging It Once Again."
"Casual Is Working Full Time."
"Humble Ingredients For A Deadly Purpose."
"Al Qaeda Imprint Debated."

USA Today:
"Report Proposals."
"Plot Exposes Weak Spot In Aviation."
"Panel Calls For 'Urgent Reform' Of Higher Education."
"Restrictions In Effect At U.S. Airports."
"Precautions Jam Air Travel."

New York Times:
"Plan Was To Sneak Liquid Explosives On Planes."
"Liquid Threat Is Hard To Detect."
"Officials Cite Scale And Sophistication Of Plane Plot."
"Israel Asks U.S. To Ship Rockets With Wide Blast."
"For Californians, Deadly Heat Cut A Broad Swath."

Washington Post:
"Plot To Bomb U.S.-Bound Jets Is Foiled."
"Cities, States Setting Rules On Emissions."
"Suicide Bomber Kills Dozens Outside Shiite Shrine in Iraq."
"Investigation Tracked Suspects To Pakistan."
"Signs Point To A Surviving Terror Network."
"Travelers Endure Long Waits With Goodwill."

Washington Times:
"Britain Foils Airline Plot."
"Growing Accustomed To Nation's fate."
"Scramble Starts For Political Advantage."
"New restrictions Dog Airports, Delaying Travelers In Long Lines."
"US Moves Aviation To Code Red For 1st Time."

Detroit Free Press:
"Air Scare, Plot to Bomb 10 Jets Foiled; A 9/11 Was Days Away."

Atlanta Journal-Constitution:
"In Flight Terror Foiled."
"Atlanta Population Boom Turns Inward."

Houston Chronicle:
"Foiled Terrorist Plot Was In Its Final Stages."
"If You're Traveling Today…"
"UT Spending Millions Here To Build On Its reputation."
"Houston Woman's Gift Of Life Reaches The NFL."

Story Lineup From Last Night's Network News:
ABC: UK Airplane Terror Plot; Al Qaeda Suspected; New Airport Security; Bush Response; Al Qaeda Threat; Airplane Vulnerability; Iraq-Sectarian Violence; Middle East Conflict; US Population-300 Million; Middle East Conflict.
CBS: UK Airplane Terrorist Plot; Terror Threat Level; New Airport Security; Bush Response; Ongoing Terrorist Plots; Iraq-Sectarian Violence; Middle East Conflict; Castro's Health; New Airport Security.
NBC: UK Airline Terror Plot; Al Qaeda Suspected; New Airport Security; Bush Response; Terrorism Analysis; Al Qaeda Suspected; Iraq Sectarian Violence; Middle East Conflict; Stock Markets; Air Travel Changes.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: UK Terror Plot; Oil Prices; India-US Citizen Terror Alert; Iraq-US KIA.
CBS: UK Terror Plot; US Flight Delays; Israel-Lebanon Attacks; UN-Mideast War Resolution.
NPR: UK Terror Plot; US Flight Delays; China-Typhoon; Wall Street; UN-Mideast War Resolution; Army-2006 Recruitment Goal.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends Republican National Committee reception. Crawford, Texas. Closed press.

VICE PRESIDENT CHENEY — No public schedule.

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US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: MIDEAST-RALLY _ 12 p.m. Volunteers unload logistical materials, as they setup for Saturday's rally against U.S. and Israeli actions in Lebanon and Palestine. Location: Lafayette Park.

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Goodling, Monica

From: Goodling, Monica
Sent: Friday, August 11, 2006 9:38 AM
To: Goodling, Monica
Subject: The Daily Update: 8/11/06

<http://www.whitehouse.gov/>
AUGUST 11, 2006

No public events.

President Bush: "This Nation Is At War With Islamic Facists Who Will Use Any Means To Destroy Those Of Us Who Love Freedom." NBC'S DAVID GREGORY: "It was late [Wednesday] afternoon when the President got official word that these arrests were imminent. That word after days of intensive conversations between British and American authorities, including the President speaking to British Prime Minister Tony Blair. Aides said that it was a stressful time, everybody quote 'on the edge of their seat,' waiting for these arrests to go down. The President was in Wisconsin [Thursday], officials saying that last night he gave official approval to elevate that terror threat level to the highest level, and you see him here reacting to the arrests with strong language." PRESIDENT BUSH: "This nation is at war with Islamic fascists who will use any means to destroy those of us who love freedom, to hurt our nation." (NBC's "Nightly News," 8/10/06)

Plot To Bomb U.S.-Bound Jets Is Foiled. "A plot to simultaneously blow up as many as 10 U.S.-bound passenger jets with liquid explosives hidden in carry-on luggage was foiled with the arrest of 24 suspects, British and U.S. officials said Thursday. Tough new security measures snarled air traffic through the day and filled departure lounges in Britain and the United States with crowds of frustrated travelers. British authorities had been secretly watching the alleged conspirators, most of them British citizens of Pakistani origin, since late last year, officials said, and moved in to make arrests after concluding they were close to trying to stage their suicide attacks. Officials warned that some members of the plot may remain at large. The U.S. Department of Homeland Security increased its threat level for U.S.-bound commercial flights from Britain to 'red' - <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081000152.html> the first use of this highest terrorism alert signaling imminent attack, invoked in this case out of prudence to conform with a British alert <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081000152.html> ." (John Ward Anderson and Karen DeYoung, "Plot To Bomb U.S.-Bound Jets Is Foiled,"The Washington Post, 8/11/06)

Homeland Security Department Receives Praise For Its Response To Terror Plot. "The domestic response to yesterday's arrests in Britain drew cautious praise for the Bush administration's often beleaguered Department of Homeland Security. Secretary Michael Chertoff yesterday emerged as the undisputed public face and voice of the U.S. government

response in Washington, outlining a 'well-planned and well-advanced plot' in carefully choreographed statements that began before dawn and continued with television interviews into the night <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081001645.html> ." (Spencer S. Hsu and Sara Kehaulani Goo, "Homeland Security Department Praised For Its Response," The Washington Post, 8/11/06)

The Wall Street Journal: Foiled Terror Plot Shows The Importance Of Counterterrorism Policies. "As we approach the fifth anniversary of 9/11 without another major attack on U.S. soil, now is the right moment to consider the policies that have protected us - and those in public life who have fought those policies nearly every step of the way <http://online.wsj.com/article/SB115525721864632879.html?mod=opinion_main_review_and_outlooks> . ... As the time since 9/11 has passed, many of America's elites have begun to portray U.S. government policies as a greater threat than the terrorists themselves. George Soros and others have said this explicitly, and their political allies in Congress and the media have staged a relentless campaign against the very practices that saved innocent lives this week. We doubt that many Americans who will soon board an airplane agree." (Editorial, "'Mass-Murder' Foiled," The Wall Street Journal, 8/11/06)

Wall Street Stays Calm, Ends Higher. "The initial, gut reaction by financial markets was predictable: When news flashes brought word of a suspected terrorist plot to bomb airplanes, stock prices plummeted. But although European markets ended down, U.S. investors overcame early morning jitters and the stock market finished up for the day for the first time in five trading sessions <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081000331.html> . Analysts said that what might on first glance seem like a paradoxical reaction actually made sense. Many traders have factored terrorism risks into their thinking and are learning to see disrupted plots as good news, they said." (Brooke A. Masters and Paul Blustein, "Wall Street Stays Calm, Ends Higher," The Washington Post, 8/11/06)

U.S. And Allies Near Deal On UN Resolution To End Middle East Conflict. "The United States and France were close to a deal on a Security Council resolution aimed at ending the month-long conflict between Israel and Hezbollah and could break the diplomatic deadlock at last on Friday. But diplomats said they were still trying to overcome last-minute Lebanese objections to the draft. ... The new proposal appears to eliminate the prospect of a multinational force that would patrol a buffer zone between Israel and Lebanon, opting instead to considerably beef up the existing U.N. force in Lebanon, known as UNIFIL, and to make it more powerful <http://www.chron.com/disp/story.mpl/ap/world/4109739.html> ." (Nick Wadhams, "U.S., France Near Deal On Mideast Draft," The Associated Press, 8/10/06)

Increasing Government Receipts Shrink The Federal Budget Deficit. "The federal government ran a budget deficit of $33.2 billion in July, far narrower than the $53.37 billion gap a year earlier, as government receipts soared, the Treasury Department said yesterday <http://online.wsj.com/article/SB115526670736833095.html?mod=economy_lead_story_lsc> . The department's monthly budget statement shows receipts jumped more than 12% to a record $159.76 billion last month from a year earlier. Outlays fell 1.3% to $192.96 billion." ("July Budget Deficit

Shrank As Receipts Increased Over 12%," The Wall Street Journal, 8/11/06)

President Bush Remains Eager To Cut Entitlement Spending. "The Bush administration has begun sounding out lawmakers and other key figures about mounting a new bipartisan effort to rein in the costs of Medicare, Medicaid and Social Security after the midterm elections, according to officials in the administration and on Capitol Hill. ... The new Treasury secretary, former Goldman Sachs chief Henry M. Paulson Jr., has made it clear that a major reason he took the job is to tackle the rising cost of government health and Social Security spending, which he described last week as 'the biggest economic issue facing our country.' <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081001508.html> " (Michael Abramowitz, "President Remains Eager To Cut Entitlement Spending," The Washington Post, 8/11/06)

Study Finds Immigrants Do Not Hurt U.S. Jobs. "High levels of immigration in the past 15 years do not appear to have hurt employment opportunities for American workers, according to a new report <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081001711.html> . The Pew Hispanic Center analyzed immigration state by state using U.S. Census data, evaluating it against unemployment levels. No clear correlation between the two could be found. Other factors, such as economic growth, have likely played a larger role in influencing the American job market, said Rakesh Kochhar, principal author of the report and an economist at the Pew Hispanic Center in the District." (Kim Hart, "Study Finds Immigrants Don't Hurt U.S. Jobs," The Washington Post, 8/11/06)

U.S. Envoy Asks China To Release Activist. "A top U.S. diplomat said Thursday that she had urged Chinese officials to release a blind rural lawyer who was detained after exposing forced abortions and sterilizations in eastern China. Assistant Secretary of State Ellen R. Sauerbrey told reporters that she raised the case of Chen Guangcheng on the sidelines of the China-U.S. Global Issues Forum, being held in Beijing. 'We believe that there has been a certain violation of normal standards and are urging China to release him from imprisonment,' <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/10/AR2006081001538.html> said Sauerbrey, who is in charge of the State Department's Bureau of Population, Refugees and Migration." (Maureen Fan, "U.S. Envoy Asks China To Release Activist," The Washington Post, 8/11/06)

U.S. Issues Terror Warning In India. "The U.S. Embassy in India's capital warned Friday that foreign militants, possibly al-Qaida members, may be planning to carry out bombings in two major Indian cities in the coming days <http://www.foxnews.com/story/0,2933,207891,00.html> . An e-mail sent to American citizens registered with the embassy said New Delhi, the capital, and Bombay, the country's financial and entertainment hub, were the targets of the alleged plot, and that the attacks were believed to be planned around India's Independence Day, which falls on Aug. 15." (Matthew Rosenberg, "U.S. Issues Terror Warning In India," The Associated Press, 8/11/06)

Education Department Panel's Report Urges Higher Education Shake-Up. "A federal commission approved a final report on Thursday that urges a broad shake-up of American higher education. It calls for public

universities to measure learning with standardized tests, federal monitoring of college quality and sweeping changes in financial aid. <http://www.nytimes.com/2006/08/11/education/11educ.html> The panel also called on policy makers and leaders in higher education to find new ways to control costs, saying college tuition should grow no faster than median family income, although it opposed price controls. The report recommended bolstering Pell grants, the basic building block of federal student aid, by making the program cover a larger percentage of public college tuition." (Sam Dillon, "Panel's Report Urges Higher Education Shake-Up," The New York Times, 8/11/06)

U.S. Population To Reach 300 Million In October. ABC'S CHARLIE GIBSON: "Turning to this country and a milestone. The Census Bureau, whose numbers so often reflect what is going on in our nation, said today the U.S. population will reach the 300 million mark in October. It took this country 139 years after independence, 1915, to reach 100 million in population. Then, 52 years to reach 200 million. And now, just 39 years to reach 300 million." (ABC's "World News," 8/10/06)

President Heralds U.S. Economy, Small Business in Wisconsin
<http://www.whitehouse.gov/news/releases/2006/08/20060810-4.html>

* In Focus: Jobs & Economy
<http://www.whitehouse.gov/infocus/economy/>

President Bush Discusses Terror Plot Upon Arrival in Wisconsin
<http://www.whitehouse.gov/news/releases/2006/08/20060810-3.html>

* In Focus: Homeland Security
<http://www.whitehouse.gov/infocus/homeland/>

President's Statement on Kleptocracy
<http://www.whitehouse.gov/news/releases/2006/08/20060810.html>

* Fact Sheet: National Strategy to Internationalize Efforts Against Kleptocracy
<http://www.whitehouse.gov/news/releases/2006/08/20060810-1.html>

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 10:09 AM
To: USDOJ- Office of Public Affairs
Subject: Press Guidance for August 11, 2006

Department of Justice

PRESS GUIDANCE
Friday, August 11, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Civil Rights Division will tentatively issue a release on an employment discrimination matter. (Magnuson)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166481

Image not available for this document, ID: 0.7.10316.38571-000001

Image not available for this document, ID: 0.7.10316.38571-000002

Amber.JMD

From: Amber.JMD
Sent: Friday, August 11, 2006 10:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Bremerton, WA

From: AmberAlert-DOJ
Sent: Friday, August 11, 2006 10:35:23 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Bremerton, WA
Auto forwarded by a Rule

AMBER ALERT:Bremerton,WA VEH:1995 White Ford F350 TAG:WA A64111X CHILD:W/F,3yr,3',40lb Hai:lt brn SUSP:41yr Male, 5'11,140lb Eye:Brn Hai:Brn CALL 360-308-5400
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1922

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Miller, Charles S

From: Miller, Charles S
Sent: Friday, August 11, 2006 10:47 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/11/06 Civil Division News

MDL Panel Consolidates Telecom Spy Lawsuits

Federal eavesdropping cases to be consolidated

GlaxoSmithKline settles claim of inflating prices on cancer drugs

EMERSON IMPOSES NEW LUMBER DEADLINE, HINTS AT SIDE LETTER

Wall Street Journal LawBlog

August 11, 2006, 8:25 am

MDL Panel Consolidates Telecom Spy Lawsuits

Posted by Peter Lattman

The Judicial Panel on Multidistrict Litigation has consolidated 17 lawsuits filed against telephone companies accused of helping the Bush administration wiretap consumers' telephone conversations without warrants.

The MDL panel yesterday transferred the cases to U.S. District Judge Vaughn Walker, who last month declined to dismiss one of the lawsuits brought against the government and AT&T. In that ruling he rejected the government's argument that the AT&T case had to be dropped because it could expose state secrets and jeopardize the war on terror. Because the warrantless eavesdropping program had been so widely reported, Walker ruled, there was no danger of exposing secrets.

We appreciate MDL cases for their longwinded "In re" titles, such as "In re Western States Wholesale Natural Gas Antitrust Litigation" and "In re Currency Conversion Fee Antitrust Litigation." This one has

been named “In Re National Security Agency Telecommunications Records Litigation.”

END

San Jose Mercury News

August 11, 2006

Federal eavesdropping cases to be consolidated

BY PETE CAREY, SAN JOSE (CALIF.) MERCURY NEWS

A federal panel is transferring 17 class-action lawsuits against telecommunications companies that allegedly cooperated with a warrantless government eavesdropping program to a San Francisco federal\l "l" judge's courtroom.

The cases, from 13 federal court districts around the United States, will be heard by U.S. District Judge Vaughn Walker. The defendants include AT&T, Verizon and BellSouth in cases brought by citizens and public interest groups, who say the companies cooperated with eavesdropping on the communications of millions of Americans by the National Security Agency.

Walker already is presiding over a class-action suit brought against AT&T by the Electronic Frontier Foundation, or EFF, and four related cases.

He recently ruled against AT&T and the U.S. Department of Justice, which wanted the case dismissed because it involves state secrets. Walker said it was too early in the case to grant the request. His decision has been appealed.

EFF's lawsuit contends that AT&T allowed the NSA to illegally monitor millions of its customers' e-mails and voice communications from a "secret room" in a telecommunications center in San Francisco.

The government's warrantless eavesdropping program was disclosed in December by the New York Times. A former technician at AT&T'sSan Francisco telecommunications center later disclosed the existence of the NSA's secret room there.

President Bush has acknowledged authorizing a warrantless communications monitoring program. The administration contends that the president's wartime powers give him the authority to run an electronic surveillance program without a warrant or Justice Department certification, and that the monitoring is necessary to uncover terror plots and related activity.

Congress is considering legislation that would turn the matter over to a secret federal court that reviews government eavesdropping projects.

In consolidating the17 cases in San Francisco, the federal panel noted that Walker's court was where the first case was filed. That case is "significantly advanced," said the Judicial Panel on Multidistrict Litigation, and Walker is "already well versed in the issues presented by the litigation," the panel noted.

END

AP

August 11, 2006

GlaxoSmithKline settles claim of inflating prices on cancer drugs

By MICHAEL GORMLEY

Associated Press Writer

ALBANY, N.Y._GlaxoSmithKline Inc. has agreed to pay more than $41 million in restitution to end claims by more than 40 states that it inflated the prices of drugs used by cancer patients and others.

The settlement announced Thursday with the U.S. Justice Department, National Association of Medicaid Fraud Control Units and New York Attorney General Eliot Spitzer will include more than $1.5 million in restitution to New York state's Medicaid program for cancer drugs and $940,000 in connection with pricing of an antibiotic, Spitzer said.

With some state lawsuits still pending on behalf of consumers and government health plans, the company expects eventually to pay a total of $70 million, said Mary Anne Rhyne, spokeswoman for the British company. They include civil actions by the attorneys general of New York, California, Connecticut, Nevada, Montana and Arizona.

The cost will be covered by the company's existing legal reserve, she said.

She said testimony showed states and health plans chose to use the company's drugs at the set prices "although it has been widely known for years that (average wholesale price) exceeds the prices actually paid by physicians, pharmacies and others," according to the company's prepared statement.

"Nevertheless, GSK has agreed to settle the cases, without admitting wrongdoing, to put this historical matter behind it," the company stated.

Connecticut Attorney General Richard Bluementhal called it a "brazen scheme."

"The fraud is especially shameful because the company sought toincrease sales my manipulating prices instead of competing honestly," he said.

In a separate settlement of a private class action lawsuit, the drug company will also fund a $40 million restitution fund for the poor and needy who use the Medicaid health care system nationwide and New York's Elderly Pharmaceutical Insurance Coverage plan, Spitzer said. That suit was settled in federal court in Boston.

"Our lawsuit helped stop a long-standing practice that inflated the cost of drugs for people suffering from cancer and cheated the Medicaid system" Spitzer said. "Today's settlement provides significant restitution for consumers and the Medicaid program."

Spitzer had accused the company of inflating average wholesale prices of drugs in the class "anti-emetics" that help patients overcome the nausea and other effects of chemotherapy to fight cancer. In turn, health plans and consumers overpaid and government health plans reimbursed drug stores and physicians based on the inflated prices. People on Medicare, the health plan for the elderly, also overpaid because they allegedly paid a percentage of the inflated prices, Spitzer said.

An inflated average wholesale price also allowed the company to market the drugs to health care providers as coming with a "spread" between the wholesale price and actual price that could be pocketed by doctors and others to choose the GlaxoSmithKline product, Spitzer said.

The company also paid the New York Attorney General's Office $750,000 for the cost of the investigation.

END

Inside US Trade

August 11, 2006

EMERSON IMPOSES NEW LUMBER DEADLINE, HINTS AT SIDE LETTER

Canadian Trade Minister David Emerson this week gave the Canadian industry an August 21 deadline to agree to the softwood lumber deal negotiated by the U.S. and Canadian governments. He also for the first time suggested a willingness to secure additional commitments from the U.S. government in order to get the necessary industry support.

Following an Aug. 9 meeting with Canadian lumber chief executive officers, Emerson told reporters that Canada's government would talk with provincial officials and the Office of the U.S. Trade Representative about "matters where clarification is required." He also said there are often "addendum" or side letters to trade agreements, although he indicated Canada so far has not made any such suggestions to the U.S.

The Coalition for Fair Lumber Imports, the main group representing U.S. mills, has said it would not accept additional changes to the lumber deal announced in July by the two governments, and it has urged the Bush Administration not to renegotiate the deal. A U.S. industry source said the Canadian government could offer clarifications on the deal to its industry, but said U.S. mills were not interested in changes.

Emerson did not specify what issues needed to be clarified, or what could possibly be addressed in a side letter, but a handful of issues have prevented much of the Canadian industry from supporting the deal.

To meet the deal's terms, Canada must convince its industry to drop litigation in the lumber fight. It also must convince U.S. importers, which are generally affiliated with Canadian mills, to agree to allow a portion of their deposits to be left in the United States. Importers representing at least 95 percent of the deposits collected on Canadian lumber to the U.S. must agree to this part of the deal.

This would allow $500 million to be redistributed to members of the Coalition for Fair Lumber Imports.

Emerson said the Canadian government is focused on getting lumber companies to drop litigation, and said he would need indications by Aug. 21 that this can be achieved. A spokesman for Emerson said this is necessary if Canada's government is to prepare legislation to implement the deal, which it hopes to have considered by Parliament next month. The legislation would introduce an export tax on softwood lumber to be collected by provinces. The tax would replace antidumping and countervailing duties on Canadian lumber.

At the same time, Emerson warned that if the deal on the table does not go forward, there would be no new talks with the U.S. in the foreseeable future.

Since a tentative deal on softwood lumber was announced in late April, U.S. prices have collapsed to $296 per thousand board feet at the end of last week. Prices were above $360 when the tentative deal was reached.

If the deal were to take effect with current prices in effect, Canada would have to assess the highest

export tax under the deal, which is 15 percent.

The main objections to the deal in Canada revolve around its termination clause, which would allow the U.S. to kill the agreement after it is in effect for two years and start a new trade case three years into the agreement. Some mills argue this is too short a peace for them to concede to leave about $1 billion in deposits in the United States. The rest of the $5 billion would be returned to importers of record. Mills have also objected to the deal's so-called "running rules" that would govern the monitoring of the agreement, including the monthly accounting of imports (Inside U.S. Trade, July 7).

Attorneys for the Coalition this week argued that Canada risks higher antidumping duties on lumber if it does not agree to the settlement. The argument seems to be aimed at convincing members of the Canadian parliament to support the current deal.

In an Aug. 3 letter to Leon Benoit, chairman of the Canadian Parliament's standing committee on international trade, an attorney representing the Coalition argued that dumping margins resulting from a new investigation would be several times higher than the current 3.5 percent rate found in the administrative review on lumber completed by the U.S. Commerce Department in May 2006.

While precise projections are not possible, "we are comfortable in suggesting it would be several times the magnitude of the 3.5% found in the most recent administrative review," the letter from Peter Clark of Grey, Clark, Shih and Associates, Limited, said.

The letter predicted that several factors would cause margins to increase, including increased costs that are making Canadian lumber more expensive to produce, as well as other cost increases such as rising U.S. rail freight rates and higher fuel and energy prices.

It also cited reductions in U.S. market prices due to softening demand, and at the same time, the stronger Canadian dollar, which should be prompting Canadian mills to raise their U.S. prices in order to maintain the same profit levels.

These changes are key because the dumping margin is found by comparing the sales price of lumber in Canada to the price of Canadian lumber sales in the United States. The letter implied that if these new factors mean Canada should be increasing prices in the U.S., but is actually lowering these prices, the dumping margin could increase.

U.S. industry sources said margins could increase either through an administrative review of the existing lumber duties, or through a new investigation that could be brought if the current antidumping and countervailing orders on Canadian softwood lumber were dropped. Those orders are in some jeopardy because of last month's decision by the U.S. Court of International Trade, which found the Bush Administration misapplied U.S. law in order to keep lumber duties in place after a North American Free Trade Agreement panel essentially ordered the duties to be removed (Inside U.S. Trade, July 28).

While the administration may appeal this decision, an industry source suggested it is also possible the U.S. government could decide to instead drop the orders, allowing the U.S. industry to petition for new cases.

Elliot Feldman, an attorney with Baker & Hostetler LLP, which represents the Canadian lumber company Tembec, in an Aug. 4 letter to Benoit criticized Clark's predictions and said there are also reasons to think dumping margins will not increase. This letter also argued the Coalition is unlikely to bring a new petition for lumber duties if the current orders are eliminated.

Feldman wrote that Commerce would probably not be able to use the so-called "zeroing" methodology in determining the dumping margin due to a string of WTO decisions, including one that is due next week. Zeroing refers to Commerce's practice of ignoring negative dumping values when calculating an average dumping rate, a practice that generally drives the average margin higher.

Without zeroing, Feldman argued, the dumping margin calculated by Commerce in the last two administrative reviews would have been below the de minimis rate, which would extinguish the dumping order. In response, a U.S. industry source acknowledged zeroing has an impact on margins but said the other market factors mentioned in the Clark letter "dwarf" the zeroing impact.

Feldman also argued that the dumping margins Commerce found in its initial 2000-2001 investigation were affected by the distortions in the North American lumber market caused by the softwood lumber agreement. Without a similar deal, he argued, these distortions would not exist and Commerce would not be able to find the basis for dumping.

Feldman also said Clark's conclusions about how "certain macroeconomic changes" would affect the dumping margin have no predictive value because Clark does not have the data Commerce would use in making its decision, or Commerce's dumping calculation programs.

Finally, the letter argued that there is a real possibility that the Coalition would not have the resources or support to bring a new lumber petition, and that it will not be able to meet the standing requirements to bring a case. It gives a number of reasons for this, including that Coalition member International Paper is selling its lumber assets and will no longer be in the lumber business, and that a repealed U.S. law that allows duties collected in unfair trade cases to be redistributed to U.S. companies can no longer be used to promise petition supporters a big payoff.

Under U.S. law, petitioners must represent at least 25 percent of U.S. production of the good in question, and at least 50 percent of the sum total of supporters and opponents of the petition must support it. Companies that are neutral do not count toward the sum total.

A U.S. industry source countered that it is "wishful thinking" to believe the Coalition would not be able to garner the industry support to bring another case. He also expressed confidence that even if a U.S. company purchases International Paper's timber interests and then opposes a new petition, the Coalition could still garner enough support to meet the standing requirements. If a Canadian company purchased these interests, it would not count toward the sum total of industry for the purpose of standing requirements.

The U.S. industry source also insisted the Byrd law is not the main reason why U.S. timber companies chose to support the last lumber petition, and that this pales as an incentive compared to the impact of Canadian lumber on the U.S. market.

END

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Friday, August 11, 2006 12:06 PM
Subject: Kids Day at DOJ - Wednesday, August 23, 2006

Kids Day at DOJ - Wednesday, August 23, 2006

You are invited to bring your children, ages 7 to 12, to a special program in the Courtyard of the Federal Bureau of Investigation's JEH Building **9:00 a.m. to 12:00 noon, August 23**, to learn about the U.S. Department of Justice. However, SPACE IS LIMITED! Participants will be accepted on a first-come, first-serve basis by pre-registration only.

DOJ Kids Day will once again feature a DOJ "component fair". Kids will be able to visit tables with information about DOJ components and programs.

To register your child, send this form (one form per child) by fax to JMD Personnel Staff, on (202) 514-6669, **no later than 5:00 p.m. on August 15, 2006**. NO APPLICANTS WILL BE CONSIDERED AFTER AUGUST 15th and registration forms will only be accepted by fax. Preference will be given to children who did not participate in last year's event.

Employee's Name:_____

Employee's Office Phone:_____

Bureau/Division/Office:_____

Fax:_____

Work Address (Bldg./Room):_____

Child's Name:_____

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Amber.JMD

From: Amber.JMD
Sent: Friday, August 11, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Smyrna, GA

From: AmberAlert-DOJ
Sent: Friday, August 11, 2006 12:35:21 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Smyrna, GA
Auto forwarded by a Rule

AMBER ALERT:Smyrna,GA VEHICLE:2003 Red Trk Ford TAG:GA 2563APF CHILD:Hisp, F, 1 month old, SUSPECT:Hisp, M, 30's Hair:Blk shaved CALL 770-499-3920
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1942

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Friday, August 11, 2006 1:44 PM
Subject: Required Action to be Performed Prior to Leaving for the Night - Tonight

To All SMO/JMD JCON Computer Customers:

Last nights Microsoft security patch push went very successful. There were a few PCs that didn't receive the patch due to the power being off on the units. We are asking you again, prior to leaving tonight, please make sure **the power is on to your PC.** It is very important that all PCs receive the pending Microsoft security patches.

Required Action: Log off, but leave your PC powered on tonight - prior to leaving Friday, August 11, 2006

Thank you for your assistance in making sure we all have dependable, secure, and available resources.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 2:38 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT OBTAINS LEASE FOR ADDITIONAL OFFICE SPACE TO CONSOLIDATE OFFICES IN DOWNTOWN WASHINGTON

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 11, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT OBTAINS LEASE FOR ADDITIONAL OFFICE SPACE TO CONSOLIDATE OFFICES IN DOWNTOWN WASHINGTON

Consolidation will Provide Cost Savings and Administrative Efficiencies

WASHINGTON — The Department of Justice announced today that it has acquired a lease for additional office space in downtown Washington as part of the Department's ongoing efforts to consolidate its offices in the metropolitan area. The Department said that the move will provide costs savings and administrative and management efficiencies.

The General Services Administration acquired a 15-year lease at the Liberty Square building located at 450 5th Street, N.W., Washington, D.C., on behalf of the Department on Aug. 3, 2006. The approximately 460,000 square feet of office space has a total contract value of about $300 million over the term of the lease. The building was the former headquarters of the Securities and Exchange Commission.

As a result of the lease, the Department will now have 1.3 million square feet of office space housing and about 4,000 employees within blocks of the Main Justice Robert F. Kennedy (RFK) building.

"This consolidation will save taxpayers more than $37 million over 15 years," said Lee J. Lofthus, Acting Assistant Attorney General for Administration. "This project continues our efforts to reduce the number of Department of Justice components housed in multiple locations, and along with the cost savings, will provide administrative and management efficiencies."

The Department will begin phasing employees into the Liberty Square building beginning in Fall 2007. Approximately 1,500 employees will relocate to the new building. The building will consolidate sections of the Antitrust Division and the Civil Division. The relocation will also enable the Department to continue to implement its plans to establish the new National Security Division.

The Department of Justice currently has about 10,000 employees in 30 different buildings in the metropolitan area. The move into the Liberty Square building will allow the Department to release space in five of those locations.

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06-527

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Image not available for this document, ID: 0.7.10316.38564-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 3:17 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT OBTAINS 200TH INJUNCTION SINCE 2001 LAUNCH OF INITIATIVE TO STOP TAX FRAUD PROMOTION

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 11, 2006
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JUSTICE DEPARTMENT OBTAINS 200TH INJUNCTION SINCE 2001 LAUNCH OF INITIATIVE TO STOP TAX FRAUD PROMOTION

WASHINGTON – The Justice Department announced today that the preliminary injunction ordered this week by a federal judge in Michigan is the 200th injunction the Department has obtained since it launched its initiative to stop the promotion of tax fraud schemes and the preparation of false or fraudulent tax returns. Under the leadership of Assistant Attorney General Eileen J. O'Connor, the Justice Department's Tax Division began targeting these activities for coordinated civil and criminal enforcement in 2001.

An injunction is a civil court order prohibiting a party from a specific course of action. It is often the fastest way to stop the promotion of tax fraud, including the preparation of false returns. Criminal prosecution authorized by the Tax Division puts tax-fraud scheme promoters and preparers of false returns in jail and secures monetary restitution. The Tax Division often pursues both civil and criminal remedies in a case, sometimes simultaneously. Since 2001, it has been the policy of the Justice Department to use all available civil and criminal tools to enforce the tax laws.

The case that resulted in the 200th injunction bars Joyce M. Stone, her son Charles J. Freed and their company, Stone and Associates, all of Hillsdale, Mich., from preparing any income tax returns for another person or entity. It is a preliminary injunction. According to the government's complaint in the case, Stone and Freed prepare customers' income tax returns claiming improper deductions.

According to government filings and an IRS audit of returns prepared by Stone, Freed and another defendant, and cited by the court in its opinion, the defendants understated their customers' tax liability by an average of nearly $6,300 per return. The court noted that Stone, Freed and a third defendant have prepared more than 3,000 returns for customers since the start of 2005, including 1,786 in 2006. More information about this case and the recently obtained preliminary injunction is available at http://www.usdoj.gov/tax/txdv06525.htm

DOJ_NMG_ 0166498

"With each passing day, tax fraud promotions - including fraudulent return preparation - can ensnare more customers and cost the federal Treasury and honest taxpayers more and more in unpaid taxes and fraudulently obtained refunds," said Eileen J. O'Connor, Assistant Attorney General for the Justice Department's Tax Division. "It makes sense to shut down these activities as quickly as possible. In appropriate cases, the Tax Division will also authorize prosecution of the offenders."

"Injunctions are an important component of our overall program to reduce tax fraud. They put the unscrupulous tax preparers on notice that the government is on to them and will take further action as appropriate," said IRS Commissioner Mark W. Everson.

During the past five years, the Tax Division has obtained injunctions barring the promotion and use of tax fraud schemes that include falsely reporting "zero income" on tax returns; failing to withhold, report and pay payroll and income taxes; and using trusts to conceal ownership or control of assets. Additionally, injunctions were obtained for falsely claiming that Native American casino gaming proceeds are tax exempt; falsely claiming that only income from foreign sources is taxable; using a "corporation sole" to avoid tax; and purporting to pay employees in commodities such as milk.

The Justice Department also has obtained injunctions against numerous return preparers who prepare false or fraudulent returns.

More information about the Tax Division's injunction cases from 2001 to 2006 is available on the Justice Department website at http://www.usdoj.gov/tax/taxpress2006.htm.

Information about the Justice Department's Tax Division can be found at http://www.usdoj.gov/tax.

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Image not available for this document, ID: 0.7.10316.38417-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 3:24 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL COURT PERMANENTLY BARS SEATTLE MAN FROM PROMOTING ALLEGED TAX-FRAUD SCHEMES

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FEDERAL COURT PERMANENTLY BARS SEATTLE MAN FROM PROMOTING ALLEGED TAX-FRAUD SCHEMES

Disbarred Lawyer May Not Use Bogus Entities to Help Customers Violate Tax Laws

WASHINGTON – A federal court in Seattle has permanently enjoined previously disbarred Seattle attorney Bruce Hawkins from promoting tax fraud schemes, the Justice Department announced today. The government complaint alleged that Bruce Hawkins helped set up bogus limited partnerships in Nevis, West Indies so that customers could claim that income from such partnerships is not subject to U.S. tax. According to the complaint, Hawkins also allegedly helped customers set up bogus Nevada limited partnerships that customers used to treat personal expenses as deductible business expenses.

The injunction requires Hawkins to give the Justice Department a list of his customers' names, addresses, e-mail addresses, Social Security numbers, and telephone numbers. More information about this case, including a copy of the government complaint, is available at http://www.usdoj.gov/tax/txdv06156.htm.

Since 2001, the Justice Department has sought and obtained injunctions against more than 180 tax scam promoters and tax preparers. Information about these cases is available at http://www.usdoj.gov/tax/taxpress2006.htm. Information about the Justice Department's Tax Division can be found at http://www.usdoj.gov/tax.

# # #

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Image not available for this document, ID: 0.7.10316.38408-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 3:33 PM
To: USDOJ- Office of Public Affairs
Subject: DANVILLE, CALIF. DENTIST CONVICTED OF TAX FRAUD

Department of Justice

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DANVILLE, CALIF. DENTIST CONVICTED OF TAX FRAUD

Hid $300,000 in Income from IRS in Offshore Bank Accounts

WASHINGTON - Roy Albert Lewis, a dentist from Danville, Calif., was convicted yesterday of conspiring to defraud the United States and evading his income taxes for 1998 through 2001, the Justice Department and Internal Revenue Service (IRS) announced.

According to the indictment and evidence introduced at trial, in approximately 1995, Lewis became a client of Tower Executive Resources, a Denver organization which promoted a tax evasion scheme involving the use of false invoices. Lewis's medical practice paid bogus expenses to Tower for items such as franchise, consulting, or management fees to generate huge tax deductions. Tower then deposited the bulk of those funds into a secret offshore bank account which Lewis controlled.

Over a ten-year period, Lewis sent $300,000 to this secret offshore bank account through the Tower system. In addition, when the IRS learned of the Tower scheme and audited the defendant, he stopped filing income tax returns and falsely claimed that he believed that the law did not require him to file.

Lewis's father, Leroy Albert Lewis, an oral surgeon, was also charged with conspiracy to defraud the United States and attempting to evade tax on income he earned from his medical practice by his participation in the Tower program. He is awaiting trial.

"The jury's verdict in this case assures honest taxpayers that those who willfully dodge their tax obligations will be held accountable," said Eileen J. O'Connor, Assistant Attorney General for the Department

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of Justice's Tax Division. "Taxpayers should be wary of promoters who promise that transferring your income and assets offshore will dramatically reduce or
eliminate your federal tax liability."

"The government will not tolerate the use of offshore banking to hide income to evade taxes," said Nancy Jardini, IRS Chief, Criminal Investigation. "Honest, hard-working taxpayers can have confidence that the IRS will hold accountable individuals, regardless of their occupation, who engage in abusive tax evasion schemes."

In April 2005, two promoters of the Tower scheme, Paul D. Harris and Lester R. Retherford, were convicted of conspiracy and willfully aiding and assisting in the preparation of fraudulent tax returns after a trial in Denver. Retherford was sentenced on December 16, 2005 to 48 months in prison and three years of supervised release. On January 18, 2006, Harris was sentenced to five and one-half years in prison, followed by three years of supervised release, Numerous other Tower clients across the country have either pleaded guilty or have been found guilty of tax offenses for engaging in conduct similar to the conduct alleged in the indictment against the Lewises.

Lewis faces a maximum sentence of five years in prison and a $250,000 fine for each of the charges. U.S. District Judge Susan Illston has not yet scheduled a date for sentencing.

Assistant Attorney General O'Connor thanked Tax Division trial attorneys Robert Livermore and Edward Russo who prosecuted the case. She also thanked the special agents and revenue agents of the IRS, whose assistance was essential to the successful investigation and prosecution of the case.

# # #

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Image not available for this document, ID: 0.7.10316.38412-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 3:58 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE DISABLED AMERICAN VETERANS CONVENTION

Department of Justice

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FRIDAY, AUGUST 11, 2006
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE DISABLED AMERICAN VETERANS CONVENTION

Washington, D.C. - Attorney General Alberto R. Gonzales will deliver remarks at the Disabled American Veterans Convention in Chicago, Ill. on **Monday, August 14 at 10:00 A.M. CDT** about Department of Justice efforts to protect the civil rights of veterans. Following his remarks, the Attorney General will participate in a media availability.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the Disabled American Veterans Association
Media Availability

WHEN: **MONDAY, AUGUST 14, 2006**
10:00 A.M. CDT

WHERE: Conrad International Ballroom
Hilton Chicago
720 South Michigan Avenue
Chicago, Ill.

Media Availability to follow
Grand Foyer
Hilton Chicago
720 South Michigan Avenue
Chicago, Ill.

DOJ_NMG_ 0166510

NOTE: **Pre-set for open press coverage of the Attorney General's remarks will be at 9:40 A.M. CDT.** Press inquiries regarding logistics should be directed to Andy Beach of the Department of Justice at 202-353-5929.

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Image not available for this document, ID: 0.7.10316.38409-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 3:59 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES SEXUAL DISCRIMINATION AND RETALIATION LAWSUIT AGAINST ESCAMBIA COUNTY, ALA., BOARD OF EDUCATION

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 11, 2006
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JUSTICE DEPARTMENT SETTLES SEXUAL DISCRIMINATION AND RETALIATION LAWSUIT AGAINST ESCAMBIA COUNTY, ALA., BOARD OF EDUCATION

WASHINGTON – The Department of Justice today announced that it has reached a settlement agreement resolving the Department's lawsuit alleging sexual discrimination and retaliation in employment against the Escambia County, Ala., Board of Education.

The government's lawsuit, filed in March 2005, alleged violations of Title VII of the Civil Rights Act. Specifically, the lawsuit alleges that the board engaged in unlawful employment discrimination by subjecting Betty J. Hooks, a former custodial employee, to a sexually hostile work environment and retaliated against her by terminating her employment for complaining about what she reasonable believed to be sexual harassment against her. Hooks joined the government's lawsuit as a plaintiff-intervenor.

"There is no excuse for sexual harassment in the workplace," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department is committed to making certain that all employees are treated equally according to law."

The proposed consent decree, which must be approved by the U.S. District Court for the Southern District of Alabama, Southern Division, requires the Escambia County Board of Education to provide a total of $165,000 in compensation to Ms. Hooks, including $62,000 in attorneys fees for her private counsel; adopt procedures to ensure that all complaints of sexual harassment are properly investigated; ensure that its sexual harassment policy is distributed to all current employees and is posted in all buildings of the school district; provide new employees with a copy of the policy and require their signed acknowledgment of its existence; and provide training to all of its employees regarding Title VII's prohibition against sexual harassment.

Additional information about the Civil Rights Division of the Justice Department is available on its website at http://www.usdoj.gov/crt/.

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Image not available for this document, ID: 0.7.10316.38392-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 4:29 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION: FEDERAL COURT PERMANENTLY BARS SEATTLE MAN FROM PROMOTING ALLEGED TAX-FRAUD SCHEMES

Department of Justice

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FRIDAY, AUGUST 11, 2006
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FEDERAL COURT PERMANENTLY BARS SEATTLE MAN FROM PROMOTING ALLEGED TAX-FRAUD SCHEMES

Disbarred Lawyer May Not Use Bogus Entities to Help Customers Violate Tax Laws

WASHINGTON -- A federal court in Seattle has permanently enjoined previously disbarred Seattle attorney Bruce Hawkins from promoting tax-fraud schemes. The government complaint alleged that Bruce Hawkins helped set up bogus limited partnerships in Nevis, West Indies so that customers could claim that income from such partnerships is not subject to U.S. tax.

According to the complaint, Hawkins also allegedly helped customers set up bogus Nevada limited partnerships that customers used to treat personal expenses as deductible business expenses. More information about this case, including a copy of the government complaint, is available at http://www.usdoj.gov/tax/txdv06156.htm.

Since 2001, the Justice Department has sought and obtained injunctions against more than 200 tax-scam promoters and tax preparers. Information about these cases is available at http://www.usdoj.gov/tax/taxpress2006.htm. Information about the Justice Department's Tax Division can be found at http://www.usdoj.gov/tax.

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Image not available for this document, ID: 0.7.10316.38381-000003

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 4:36 PM
To: USDOJ- Office of Public Affairs
Subject: MEMBERS OF "KILLING EVERY SPOT" STREET GANG SENTENCED TO FEDERAL PRISON

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 11, 2006
www.usdoj.gov/usao/gan

CONTACT: PATRICK CROSBY
PHONE: (404) 581-6000
FAX: (404) 581-6181

MEMBERS OF "KILLING EVERY SPOT" STREET GANG SENTENCED TO FEDERAL PRISON

GAINESVILLE, Ga. – David Ramirez, 24, Carlos Alvarado-Castillo, 22, Adam Cruz, 24, Rene Antonio Ortiz-Penado, 22, and Juan Ramirez, 28, all of Gainesville, were sentenced today by U.S. District Judge Richard W. Story on charges of violating the federal Racketeering Influenced and Corrupt Organizations (RICO) statute by operating the criminal street gang "Killing Every Spot" (KES). Juan Ramirez was also sentenced for discharging a firearm in the commission of a violent felony. Also sentenced was Ignacio Chavez-Olivarez, 42, of Gainesville, for possession of methamphetamine with the intent to distribute.

"The KES gang was a menace to Gainesville and the entire Hall County area. We are proud to have worked with city, county and federal investigators to dismantle the gang and take its key members off the streets," stated U.S. Attorney David E. Nahmias.

David Ramirez was sentenced to 11 years, three months in prison to be followed by three years of supervised release. Ramirez was convicted of these charges on March 24, 2006.

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Carlos Alvarado-Castillo was sentenced to five years, three months in prison to be followed by three years of supervised release. Alvarado was convicted of these charges on March 10, 2006.

Adam Cruz was sentenced to two years, nine months in prison to be followed by three years of supervised release. Cruz was convicted of these charges on March 24, 2006.

Rene Antonio Ortiz-Penado was sentenced to three years, nine months in prison to be followed by three years of supervised release. Ortiz was convicted of these charges on March 10, 2006.

Juan Ramirez was sentenced to 12 years, nine months in prison to be followed by three years of supervised release. Ramirez was convicted of these charges on March 10, 2006.

Ignazio Chavez-Olivarez was sentenced to four years, three months in prison to be followed by three years of supervised release. Chavez was convicted of these charges on March 10, 2006.

According to Nahmias and the information and evidence presented in court, KES was formed in late 1998. David Ramirez was the recognized leader of KES. KES allied itself with a larger street gang, "18th Street," and members of the two gangs joined forces in Gainesville against members of other gangs. Many of the offenses committed in furtherance of the conspiracy resulted from this gang warfare.

Hall County Sheriff Steve Cronic, whose Gang Task Force agents, along with agents from the Federal Bureau of Investigation (FBI) and U.S. Immigration and Customs Enforcement (ICE), conducted the investigation leading to this case, said his department is pleased with the outcome of the case. Cronic noted that he believes that "the community was well served by the success of this case." City of Gainesville Police Chief Frank Hooper, whose detectives are also assigned to the Gang Task Force, applauded the resolution of this case, saying, "this successful outcome is the result of a high degree of cooperation between federal, state and local law enforcement." Both Cronic and Hooper said that they anticipated further joint investigations of the gang activity in Gainesville and Hall County.

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Assistant U.S. Attorney H. Allen Moye and Special Assistant U.S. Attorney Thomas W. Hayes of the Prosecuting Attorneys Council of Georgia prosecuted the case.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 5:02 PM
To: USDOJ- Office of Public Affairs
Subject: PLEA AGREEMENT IN U.S. V. ROGER STILLWELL
Attachments: Plea Agreement.pdf; Plea Agreement Attachment A.pdf

Attached please find the court documents filed in the U.S. District Court in the District of Columbia in *U.S. v. Roger Stillwell*.

ATTACHMENT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No.
	)	
ROGER G. STILLWELL,	)	18 U.S.C. § 1018
	)	(Making a False Certificate or Writing)
Defendant.	)	
	)	

FACTUAL BASIS FOR PLEA

The United States of America, by and through its undersigned attorneys within the United States Department of Justice, Criminal Division, Public Integrity Section and Fraud Section, and the defendant, ROGER G. STILLWELL, personally and through his undersigned counsel, hereby stipulate to the following facts pursuant to U.S. Sentencing Guideline § 6A1.1 and Rule 32(c)(1) of the Federal Rules of Criminal Procedure:

1. From in or about June 2001, and continuing through all times relevant to this Information, defendant ROGER G. STILLWELL worked for the U.S. Department of the Interior ("DOI") as a permanent employee. The DOI is a department or agency within the executive branch of the United States Government.

2. At all relevant times hereto, defendant ROGER G. STILLWELL worked full-time as the Commonwealth of the Northern Mariana Islands ("CNMI") Desk Officer within DOI's Office of Insular Affairs, housed in the DOI Headquarters Building, located in the District of Columbia.

3. Beginning in or about Fiscal Year 2001, and continuing through all times relevant to this Information, defendant ROGER G. STIILLWELL was required to complete, execute,

certify, and submit annual Executive Branch Confidential Financial Disclosure Reports (*i.e.*, OGE Form 450) documenting, among other things, all gifts of a certain value he received from specified sources.

4. The Confidential Financial Disclosure Reports provided the Government with a mechanism for determining actual or potential conflicts of interest between an employee's public responsibilities and his or her private interests and activities. It was material to defendant ROGER G. STILLWELL's supervisors and relevant ethics personnel that the defendant respond accurately and truthfully about whether he received gifts in excess of a certain value from outside sources with business before DOI because this information was used to determine whether the defendant had actual or potential conflicts of interest.

5. On or about October 27, 2004, defendant ROGER G. STILLWELL prepared, executed, and certified as "true, complete, and correct to the best of [his] knowledge" a Confidential Financial Disclosure Report wherein he falsely certified that he did not receive any gifts from one source totaling more than $285.

6. On or about December 12, and December 15, 2003, respectively, defendant ROGER G. STILLWELL was offered, received, and accepted gifts from Jack Abramoff, who at the time was a Washington, D.C. lobbyist who sought official action by DOI. The gifts defendant STILLWELL accepted from Abramoff included:

A. Four (4) tickets to attend the December 12, 2003 Washington Redskins vs. the Tampa Bay Buccaneers professional football game at FedEx Field, located in Landover, Maryland, with an approximate face value of $316 and an actual cost of approximately $2,147.20.

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B. Two (2) tickets to attend the December 15, 2003 Simon & Garfunkel concert at the MCI Center, located in Washington, D.C., with an approximate value of $166.

7. In executing, certifying, and submitting the October 27, 2004 Confidential Financial Disclosure Report for Fiscal Year 2003, defendant ROGER G. STILLWELL knew that his DOI supervisors and relevant ethics personnel would use the information contained therein to determine whether an actual or potential conflict of interest existed between defendant STILLWELL's public responsibilities and his private interest and activities.

8. In doing so, defendant ROGER G. STILLWELL knowingly made and delivered as true a certificate and writing he was authorized to make as a public officer containing statements which he knew to be materially false.

Dated: June 5, 2006

FOR THE DEFENDANT:

ROGER G. STILLWELL
DEFENDANT

JUSTIN P. MURPHY, ESQ.
RICHARD L. BEIZER, ESQ.
Crowell & Moring
1001 Pennsylvania Ave.,
NW Washington, DC 20004
T: 202-624-2536 / T: 202-624-2590
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FOR THE UNITED STATES:

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Acting Chief
Public Integrity Section

By:
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DOJ_NMG_ 0166532

PAUL E. PELLETIER
Acting Chief, Fraud Section

GUY D. SINGER
NATHANIEL B. EDMONDS
Trial Attorneys
Fraud Section
U.S. Department of Justice
Washington, DC

DOJ_NMG_ 0166533

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No.
	)	
ROGER G. STILLWELL,	)	18 U.S.C. § 1018
	)	(Making a False Certificate or Writing)
Defendant.	)	
	)	

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, ROGER G. STILLWELL, agree as follows:

1. The defendant is entering into this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.

2. The defendant knowingly, voluntarily, and truthfully admits the facts contained in the attached Factual Basis for Plea.

3. The defendant agrees to plead guilty to an Information charging him with one count of Making and Using a False Certificate or Writing in violation of 18 U.S.C. § 1018 (Class A misdemeanor). The defendant admits that he is guilty of this crime, and the defendant understands that he will be adjudicated guilty of this offense if the Court accepts his guilty plea.

4. The defendant understands the nature of the offense to which he is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalty for a violation of 18 U.S.C. § 1018 includes: one year of imprisonment, a fine of $100,000, and a mandatory special assessment of $25. The defendant also understands that the Court may

impose a term of supervised release to follow any incarceration in accordance with Title 18, United States Code, Section 3583, and that, in this case, the authorized term of supervised release is not more than one year. 18 U.S.C. § 3583(b)(3). The defendant also understands that the Court may impose restitution, costs of incarceration, supervision, and prosecution.

5. If the Court accepts defendant's plea of guilty, and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for crimes described in the Factual Basis for Plea, attached as "Exhibit A" to this agreement, or discussed with the defendant during his interview with the United States on or about January 3, 2006. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

6. The defendant understands and agrees that Federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in determining a reasonable sentence. Defendant also understands that sentencing is within the discretion of the Court and that the Court is not bound by this agreement. Defendant understands that facts that determine the offense level will be found by the Court at sentencing and that, in making those determinations, the Court may consider any reliable evidence, including hearsay, as well as provisions or stipulations in this plea agreement. Both parties agree to recommend that the Sentencing Guidelines should apply pursuant to United States v. Booker, 543 U.S. 220 (2005), and its progeny, and that the final Sentencing Guidelines offense level as calculated herein provides for a reasonable sentence. Defendant further understands the obligation of the United States to provide all relevant information regarding the defendant, including charged and uncharged criminal offenses, to the U.S. Probation Office in

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accordance with Paragraph 7 below.

7. Except to the extent that it would be inconsistent with other provisions of this agreement, the United States and the defendant reserve, at the time of sentencing, the right of allocution; that is, the right to describe fully, both orally and in writing, to the Court the nature, seriousness, and impact of the defendant's misconduct related to the charges against him or to any factor lawfully pertinent to the sentence in this case. The United States will also advise the Court of the nature, extent, and timing of the defendant's cooperation. The defendant further understands and agrees that in exercising this right, the United States may solicit and make known to the U.S. Probation Office and the Court the views of the law enforcement agencies which investigated this matter.

8. The defendant and the United States agree that the following U.S. Sentencing Guidelines ("Sentencing Guidelines") analysis applies to this case:

a. The offense of Making a False Certificate or Writing, 18 U.S.C. § 1018, is governed by U.S.S.G. § 2B1.1 (2003).

b. The total offense level applicable to the defendant is Level 6, based upon U.S.S.G. § 2B1.1(a)(2), before taking into consideration a reduction for Acceptance of Responsibility under U.S.S.G. § 3E1.1(a).

c. The United States agrees that it will recommend that the Court reduce by two levels the Sentencing Guideline applicable to the defendant's offense, pursuant to U.S.S.G § 3E1.1(a), based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. The United States further agrees that it: (1) will not oppose a sentence at the low end of the applicable Sentencing Guideline; and (2) will not

DOJ_NMG_ 0166536

ask that the defendant be detained pending sentencing. The United States, however, will not be required to make this or any other recommendation specified herein if any of the following occurs: (1) the defendant fails or refuses to make a full, accurate, and complete disclosure to the United States or the Probation Office of the circumstances surrounding the relevant offense conduct; (2) the defendant is found to have misrepresented facts to the United States prior to entering this plea agreement; (3) the defendant commits any misconduct after entering into this plea agreement, including but not limited to, committing a state or Federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official; or (4) the defendant fails to comply with the terms of this plea agreement.

d. The defendant understands that his Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the Probation Office. The defendant acknowledges that the United States has not promised or agreed that the defendant will or will not fall within any particular Criminal History Category and that such determinations could affect his Sentencing Guideline range and/or offense level as well as his ultimate sentence.

e. The parties agree that U.S.S.G. § 5E1.2 provides that the Court shall impose a fine in an amount to be determined after the Court has determined the applicable guideline for the offense, unless the Court finds that the defendant is unable to pay a fine.

DOJ_NMG_ 0166537

9. The defendant and the United States agree that neither party will seek, advocate for, or suggest in any way an adjustment to or a departure from the Sentencing Guidelines other than those explicitly set forth in this agreement or for a sentence outside of the range determined to be applicable under the advisory Sentencing Guidelines. In the event that the defendant breaches this plea agreement, the United States may move for upward departures based upon any grounds the United States deems appropriate.

10. The defendant agrees that he will cooperate fully, completely, and truthfully with all investigators and attorneys of the United States, by truthfully providing all information in his possession relating directly or indirectly to all criminal activity and related matters which concern the subject matter of this investigation and of which he has knowledge, or relating to other matters deemed relevant to the United States. This includes, but is not limited to, participating in a full debriefing by attorneys and investigators within the U.S. Department of Justice, Criminal Division, Public Integrity Section and Fraud Section, the U.S. Department of the Interior Office of the Inspector General, and the Federal Bureau of Investigation *prior to sentencing*. The parties agree that the defendant has the right to the presence and advise of counsel during this and any future debriefing by the United States in connection with this matter unless affirmatively waived by the defendant.

11. The defendant agrees that, if the Court accepts his guilty plea, he will voluntarily and immediately resign his position within the U.S. Department of the Interior upon the written request of an authorized official within the Department of the Interior. The defendant further agrees that, should he seek employment with the United States Government within the next five (5) years, he will notify any potential Federal employer of this conviction.

DOJ_NMG_ 0166538

12. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution, if any, the defendant may be ordered to pay. The defendant understands that the sentence in this case will be determined solely by the Court, with the assistance of the Probation Office, and that the Court may impose the maximum sentence permitted by the statute. The Court is not obligated to follow the recommendations of either party at the time of sentencing. The defendant will not be permitted to withdraw his guilty plea regardless of the sentence recommended by the Probation Office or imposed by the Court.

13. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to appeal any sentence within the maximum provided in the statute of conviction (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatever, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

14. If the defendant fails to comply with any of the terms and conditions set forth in this agreement, the United States may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

a. The defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, or any other Federal rule, that the defendant's statements pursuant

DOJ_NMG_ 0166539

to this agreement or any leads derived therefrom should be suppressed or are inadmissible;

b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

15. The parties agree that if the Court does not accept defendant's plea of guilty, then this agreement will be null and void.

16. The defendant understands that this agreement is binding only upon the Criminal Division of the U.S. Department of Justice. This agreement does not bind any other prosecutor's office or agency. It also does not bar or compromise any civil or administrative claim pending or that may be made against defendant. If requested, however, the Public Integrity Section and the Fraud Section will bring this agreement to the attention of any other prosecuting jurisdiction and ask that jurisdiction to abide by the provisions of this plea agreement. The defendant understands that other prosecuting jurisdictions retain discretion over whether to abide by the provisions of this agreement

17. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

DOJ_NMG_ 0166540

June 5, 2006

FOR THE DEFENDANT:

ROGER G. STILLWELL
DEFENDANT

JUSTIN P. MURPHY, ESQ.
RICHARD L. BEIZER, ESQ.
Crowell & Moring
1001 Pennsylvania Ave.,
NWWashington, DC 20004
T: 202-624-2536 / T: 202-624-2590
F: 202-628-5116

FOR THE UNITED STATES:

ANDREW LOURIE
Acting Chief
Public Integrity Section

By: _____
ARMANDO O. BONILLA
KARTIK K. RAMAN
Trial Attorneys
Public Integrity Section
Criminal Division
U.S. Department of Justice
1400 New York Avenue, NW – 12th Floor
Washington, DC 20005
T: 202-616-2983 / F: 202-514-3003
PAUL E. PELLETIER
Acting Chief, Fraud Section

GUY D. SINGER
NATHANIEL B. EDMONDS
Trial Attorneys
Fraud Section
U.S. Department of Justice
Washington, DC

DOJ_NMG_ 0166541

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 8:20 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 14 – AUGUST 18, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 11, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR August 14 – August 18, 2006

Monday, August 14

10:00 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks before the Disabled American Veterans 85th National Convention regarding Department of Justice Civil Rights issues, and hold a media availability following his remarks.
Chicago Hilton
720 South Michigan Avenue
Chicago, Illinois
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Beach at 202-353-5929.

Tuesday, August 15

Events TBD

Wednesday, August 16

8:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the World Affairs Council of Pittsburgh regarding the subject of *Stopping Terrorists Before they Strike: The Justice Department's Power of Prevention.*
Omni William Penn Hotel
530 William Penn Place
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486

DOJ_NMG_ 0166542

10:20 A.M. EDT Attorney General Alberto R. Gonzales will hold a press availability following a tour of the Allegheny County Emergency Operations Center.
400 North Lexington Street
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

Thursday, August 17

3:45 P.M. EDT Attorney General Alberto R. Gonzales will hold a press conference regarding the Department of Justice's Project Safe Neighborhoods program.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
OPEN PRESS

Press inquiries regarding logistics should be directed to Kathleen Blomquist at 202-532-5761.

Friday, August 18

Events TBD

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DOJ_NMG_ 0166543

Image not available for this document, ID: 0.7.10316.38358-000001

Image not available for this document, ID: 0.7.10316.38358-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 11, 2006 8:30 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 11, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

U.S.-U.K. Airline Plot (OPA)
Media continue to report extensively on the thwarted plot to blow up commercial airliners. Today, Attorney General Alberto R. Gonzales participated in radio interviews regarding the U.K. terror arrests with the Mike Gallagher Show, the Glenn Beck Program and Melanie Smith of USA Radio Network. He also participated in a television interview with Pete Williams from NBC News.

ABA Adopts Proposal Regarding Thompson Memorandum (OPA)
A joint proposal of the New York State Bar Association and the American Bar Association Task Force on Attorney-Client Privilege that calls on the federal government to change policies set out in the Thompson Memorandum has been adopted by the ABA House of Delegates, its policy-making body.

Talking Points

- The Department remains committed to the principles and guidance set out in the Thompson Memorandum, but we will continue, as always, to listen to individuals and groups with concerns about the Department's policies or procedures.

- The Department's guidance for investigating and prosecuting corporate fraud continues to work as evidenced by the more than 1,000 corporate fraud convictions since 2002. Our approach is designed to protect the American investor.

- The Justice Department looks at many factors when investigating and charging a corporation. The corporation's willingness to cooperate in an investigation is only one of nine factors we examine and which are detailed in the Thompson memorandum. We look at the seriousness of the offense, its pervasiveness, the corporation's past history, harm to shareholders, and the adequacy of compliance programs among other things.

- The government does not force corporations to do anything that is not in their business interest to do. If companies decide that they will cooperate with the government, and in doing so decide they are not going to pay the legal fees in defense of those executives

who have been accused of committing fraud, that is a business decision made after weighing all the costs and benefits of cooperating. These corporations have ample monetary resources and rely on many advisors, legal and otherwise, in making their decisions. We believe they have a responsibility to make the right choices for innocent shareholders and employees, but it is their choice to make, not ours.

Stolen DOT Laptop (OPA)
A Department of Transportation's Office of Inspector General laptop was taken from a government vehicle in Florida on July 27. The laptop contained thousands of drivers' and pilots' records which had been collected as part of DOJ-related investigations into possible fraud.

Talking Points

- We are working with the Department of Transportation as they investigate the loss of the laptop and are unable to comment at this time.

Deputy FBI Director Interviewed by *Washington Post* (FBI)
Today, Deputy FBI Director John Pistole was interviewed by *Washington Post* reporter Dan Eggen and *USA Today* reporter Kevin Johnson on FBI counterterrorism efforts related to the plot. The story is expected to run over the weekend. Executive Associate FBI Director Phil Mudd also participated in a background interview with Washington Post reporter Karen DeYoung.

ATF Investigation Leads to Federal Arson Charge Against Kansas Man (ATF)
Today, Frank Jerome Robinson, of Topeka, Kansas, was charged with one count of arson for starting a fire that killed a 53-year-old woman on Tuesday in her second-story apartment. Conviction on a charge of arson which results in death carries a maximum penalty of life in prison, or, under certain circumstances, the death penalty. Any decision to seek the death penalty would be made by U.S. Attorney General Alberto Gonzales.

Talking Points

- All the agencies involved, including the Topeka Police Department, the Topeka Fire Department and the Kansas State Fire Marshal, are working cooperatively to see that this very serious crime is prosecuted.

Interior Employee Pleads Guilty To Failing to Report Abramoff Gifts (Criminal)
Department of the Interior (DOI) employee Roger G. Stillwell has pleaded guilty to a charge of falsely certifying his Fiscal Year 2003 Executive Branch Confidential Financial Disclosure Report (a misdemeanor). Stillwell, 66, entered his plea today before Magistrate Judge Alan Kay in U.S. District Court for the District of Columbia. Under the terms of a plea agreement, Stillwell faces a maximum sentence of one year in prison and a $100,000 fine. A sentencing date was set for October 26, 2006.

Federal Panel Sends Consolidated NSA Surveillance Suits to San Francisco Judge (Civil)

The Judicial Panel on Multidistrict Litigation has ordered that seventeen cases challenging the legality of the NSA's domestic surveillance program be transferred to the Chief Judge of the US Northern District of California.

The panel assigned the cases to Chief Judge Vaughn Walker. Justice Department attorneys asked the JPML to consolidate a group of coordinated lawsuits brought by the American Civil Liberties Union against telecommunications companies so that the government can invoke the state secrets privilege and have all the cases dismissed.

Last week, Walker refused to dismiss a separate lawsuit against AT&T brought by the Electronic Frontier Foundation alleging that AT&T violated citizens' rights to privacy and several federal statutes when it allowed the NSA to use its infrastructure to wiretap U.S. citizens as part of the domestic surveillance program. The Department invoked the state secrets privilege, but Judge Walker ruled that the case should continue. He has since delayed the lawsuit pending an appeal to the US Court of Appeals for the Ninth Circuit.

Justice Department Settles Sexual Discrimination and Retaliation Lawsuit Against Escambia County, Ala., Board of Education (Civil Rights)

The Department of Justice today announced that it has reached a settlement agreement resolving the Department's lawsuit alleging sexual discrimination and retaliation in employment against the Escambia County, Ala., Board of Education. The government's lawsuit, filed in March 2005, alleged violations of Title VII of the Civil Rights Act. Specifically, the lawsuit alleges that the board engaged in unlawful employment discrimination by subjecting Betty J. Hooks, a former custodial employee, to a sexually hostile work environment and retaliated against her by terminating her employment for complaining about what she reasonably believed to be sexual harassment against her.

Talking Points

- There is no excuse for sexual harassment in the workplace. The Justice Department is committed to making certain that all employees are treated equally according to law.

Federal Court Permanently Bars Seattle Man from Promoting Alleged Tax-Fraud Schemes (Tax)

A federal court in Seattle has permanently enjoined previously disbarred Seattle attorney Bruce Hawkins from promoting tax-fraud schemes. The government complaint alleged that Bruce Hawkins helped set up bogus limited partnerships in Nevis, West Indies so that customers could claim that income from such partnerships is not subject to U.S. tax.

Danville, Calif. Dentist Convicted of Tax Fraud (Tax)

Roy Albert Lewis, a dentist from Danville, Calif., was convicted yesterday of conspiring to defraud the United States and evading his income taxes for 1998 through 2001, the Justice Department and Internal Revenue Service (IRS) announced. According to the indictment and evidence introduced at trial, in approximately 1995, Lewis became a client of Tower Executive Resources, a Denver organization which promoted a tax evasion scheme involving the use of false invoices.

Justice Department Obtains 200th Injunction since 2001 Launch of Initiative to Stop Tax Fraud Promotion (Tax)

The Justice Department announced today that the preliminary injunction ordered this week by a federal judge in Michigan is the 200th injunction the Department has obtained since it launched its initiative to stop the promotion of tax fraud schemes and the preparation of false or fraudulent tax returns. Under the leadership of Assistant Attorney General Eileen J. O'Connor, the Justice Department's Tax Division began targeting these activities for coordinated civil and criminal enforcement in 2001.

Federal Court Bars Michigan Tax-Return Preparers from Preparing Returns for Others (Tax)

A federal judge in Kalamazoo, Mich. has barred Joyce M. Stone and Charles J. Freed, both of Hillsdale, Michigan, from preparing income tax returns for others, the Justice Department announced today. U.S. Judge Richard Alan Enslen entered the preliminary injunction order, which also bars Stone, Freed and their company, Stone and Associates, from aiding or assisting others in the preparation of income tax returns and from engaging in any other conduct that substantially interferes with the enforcement of the internal revenue laws.

MONDAY'S EXPECTED EVENTS/RELEASES:

Attorney General Gonzales to Visit Chicago (OPA)

On Monday, the Attorney General is scheduled to deliver remarks before the Disabled American Veterans Convention in Chicago. Immediately following his remarks, he will participate in a media availability and a brief interview with WGN Radio. While in Chicago, the Attorney General will meet with the Editorial Board of *The Chicago Tribune*.

Amber.JMD

From: Amber.JMD
Sent: Friday, August 11, 2006 8:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Avon, CO

From: AmberAlert-DOJ
Sent: Friday, August 11, 2006 8:35:22 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Avon, CO
Auto forwarded by a Rule

AMBER ALERT:Avon,CO CHILD:15 His/F 5FT2 120LB Eye:Br Hair:Br CHILD:11 His/M 4FT8 98LB Eyes:Br Hair:Br SUSP:31 His/M 5FT3 145LBS Eyes:Br Hair:Bl CALL970-479-2200
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1923

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, August 12, 2006 9:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Meadview, AZ

From: AmberAlert-DOJ
Sent: Saturday, August 12, 2006 9:01:19 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Meadview, AZ
Auto forwarded by a Rule

AMBER ALERT:Meadview,AZ VEH:1998 White 4dr sed Suz TAG:AZ 629TRW CHILD:3 yo White M 3' 45 lbs Hr:Brn SUSP:36 yo White M 5' 10" 140 lbs Hr:Brn CALL 928-753-2141
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1943

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, August 12, 2006 9:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Meadview, AZ

From: AmberAlert-DOJ
Sent: Saturday, August 12, 2006 9:35:32 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Meadview, AZ
Auto forwarded by a Rule

AMBER ALERT UPDATE:Meadview,AZ VEH:1998 White 4dr sed Suz TAG:AZ 629TBW CHILD:3 yo White M 3' 45 lbs Hr:Brn SUSP:36 yo White M 5' 10" 140 lbs Hr:Brn CALL 928-75
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1943

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, August 12, 2006 12:36 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Meadview, AZ

From: AmberAlert-DOJ
Sent: Saturday, August 12, 2006 12:35:39 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Meadview, AZ
Auto forwarded by a Rule

UPDATE AMBER ALERT:Meadview,AZ VEH:1998 White 4dr sed Suz TAG:AZ 629TBW CHILD:3 yo White M 3' Hr:Brn SUSP:36 yo White M 5' 10" 140 lbs Hr:Brn CALL 928-753-2141
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1943

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

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Sent: Saturday, August 12, 2006 3:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Avon, CO

From: AmberAlert-DOJ
Sent: Saturday, August 12, 2006 3:35:23 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
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UPDATE AMBER ALERT:Avon,CO CHILD:15 His/F 5FT2 120LB Hair:Br CHILD:11 His/M 4FT8 98LB Eye:Br Hair:Br SUSP:31 His/M 5FT3 145LB Eye:Br Hair:Bl CALL970-479-2200
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1923

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Gunn, Currie (SMO)

Subject:	Canceled: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, August 14, 2006 2:00 PM
End:	Monday, August 14, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); 'Coleman, Tim (ODAG)'; Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory
Importance:	High

When: Monday, August 14, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting canceled per EOUST.

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

POC: Currie Gunn x49500

Meyer, Joan E (ODAG)

From: Meyer, Joan E (ODAG)
Sent: Monday, August 14, 2006 9:19 AM
To: Gorsuch, Neil M
Subject: Read: Contact Information

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, August 14, 2006 9:48 AM
Subject: JCON BROADCAST, WEEK OF AUGUST 14, 2006

JCON BROADCAST, WEEK OF AUGUST 14, 2006

1. **Blood Drive – August 17, 2006**
2. **Beware of "Vishing"**
3. **Research Classes Offered by Library Staff**

Blood Drive - August 17, 2006

The American Red Cross is reporting that the local blood supply is well below normal. Hospitals usually have a three- to five-day supply of blood; however, most hospitals have as little as a half-day supply. The American Red Cross asks all eligible donors to help save a life by donating blood. A healthy person 18 years or older who weighs more than 110 pounds may be considered for a blood donation.

The American Red Cross will conduct a blood drive from **8:30 a.m. to 2:00 p.m., on Thursday, August 17, 2006, in the Great Hall of the Robert F. Kennedy Main Justice Building**. Please contact your component's recruiter or call Lynn Sutton on 305-8986 to schedule your appointment. Volunteers who donate blood may be granted up to four hours of excused absence for recuperative purposes.

HAVE A HEART! DONATE THE GIFT OF LIFE!

Beware of "Vishing"

Many people are aware of "phishing," (pronounced: fish-ing) in which e-mail recipients are directed to a fake website seeking their financial details, but they might not know about a new Internet scam called "vishing," which is short for "voice phishing". "Vishing" uses Voice over Internet Protocol (VoIP) phones instead of a bogus web link to steal financial information.

A recent incident involved customers from Santa Barbara Bank and Trust in California. Internet con artists sent account holders e-mails asking them to telephone the bank. Customers who responded heard a recorded message asking them to enter their account details. A second incident earlier this month involved Paypal customers.

VoIP service providers allow their customers to pick a telephone number that appears to be based elsewhere, so it is possible for fraudsters to pick a phone number in the same area code

and prefix of a major bank despite being physically located somewhere hundreds of miles away in another city or State.

Always remember that a financial institution already has your personal information, so if you get an unsolicited telephone call where someone is asking you to provide or confirm any of your personal information, immediately hang up and call your financial institution. (Source: FEDINFO E-LetterIssue 2006-4.)

Should you experience identity theft, call Employee Assistance for additional information at 800-626-0385.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, August 14, 2006 9:55 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 14, 2006

Department of Justice

PRESS GUIDANCE
Monday, August 14, 2006

ATTORNEY GENERAL

10:00 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks before the Disabled American Veterans 85th National Convention regarding Department of Justice Civil Rights issues, and hold a media availability following his remarks.
Chicago Hilton
720 South Michigan Avenue
Chicago, Illinois
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Beach at 202-353-5929.

PRESS RELEASES

The Department of Justice will issue a press release on the Attorney General's announcement today regarding Civil Rights issues.

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Miller, Charles S

From: Miller, Charles S
Sent: Monday, August 14, 2006 10:28 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
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DHS will not seek full appeals court review of labor decision

Fla. hospital to pay $3.5 million in cost-reporting case

Anti-kickback laws prompting drugmakers to closely monitor IITs.

Property owners sue feds over Hayman fire

Algerian man released after five years in detention in US following Sept. 11

A Look Ahead to First Oral Arguments of New Supreme Court Term

Government Executive Magazine Daily Briefing

August 14, 2006

DHS will not seek full appeals court review of labor decision

By Karen Rutzick

The Homeland Security Department does not plan to exercise one of its options for challenging the decision of a panel of appellate judges to enjoin its new labor relations system, a department official told *Government Executive* Friday.

DHS has until midnight Friday to ask the full U.S. Court of Appeals for the District of Columbia to reconsider the decision of three of its judges, but expects not to do so, the official said. That decision broadened a lower court's ruling against the labor relations portion of the department's personnel reforms.

DHS still can ask the Supreme Court to review its case. The department has until Sept. 25 to decide, and the official said the department has reserved judgment on whether to do so.

If DHS opts not to appeal, or is rejected by the Supreme Court, then officials will have to rewrite regulations governing the collective bargaining, adverse actions and appeals parts of the department's sweeping new human resources system.

The appellate panel, which included two judges appointed by Republican presidents and one Democrat-appointed judge considered to be an expert in public sector labor relations law, unanimously objected to provisions in the system allowing DHS to negate collective bargaining agreements after the fact.

The panel also ruled that the department's attempt to drastically narrow the scope of what unions are allowed to bargain over was illegal.

A group of five unions sued DHS last year when it published final regulations to implement the new labor relations system as part of a larger human resources overhaul authorized when Congress created the department. Last summer, District Court Judge Rosemary Collyer enjoined the labor system before it even began, and the department appealed.

National Treasury Employees Union President Colleen Kelley said she had not heard from agency officials since the June appeals decision. She wrote DHS Secretary Michael Chertoff a letter the day after the decision asking for a meeting, but said she did not receive a reply.

On Friday Kelley praised DHS for signaling that it will not pursue a rehearing from the full appeals court, but said she was disappointed that the department continues to consider seeking a Supreme Court review. "Such an action ignores the reality that the proposed personnel system fails to comport with the law enacted by Congress," she said.

Kelley urged DHS to "abandon this pursuit and sit down with NTEU to develop a system that meets the needs of DHS employees, the agency and the country."

Without a new labor relations system, DHS would have to bargain with unions over the pay-for-performance, market-based pay, paybands and other personnel reforms included in the department's larger package.

The appeals judges found that DHS illegally changed the role of the Federal Labor Relations Authority -- an independent agency that oversees federal management-labor disputes -- without having the authority to do so. DHS set up its own internal Homeland Security Labor Relations Board, with members appointed by the secretary, to handle the disputes, and relegated the FLRA to an appellate role.

The Defense Department, which designed a system largely inspired by DHS, also lost a lower court case. Defense is still waiting for the court to schedule oral arguments on its appeal.

END

Modern HealthCare

August 11, 2006

Fla. hospital to pay $3.5 million in cost-reporting case

Mount Sinai Medical Center, Miami Beach, Fla., will pay nearly $3.5 million to settle allegations that it failed to report to Medicare the rebates and credits received from a cancer-care firm contracted to provide outpatient cancer therapies. The government said the rebates and credits should have been included on

the 685-bed hospital's Medicare cost reports from 1996 to 2001, offsetting some of the management fees paid to the company, Comprehensive Cancer Centers.

Mount Sinai also signed a five-year corporate integrity agreement with HHS' inspector general's office. The agreement requires the hospital to use an independent organization to review billing, compliance and claims.

In a news release, the U.S. attorney's office in Miami said the settlement covers what the hospital owed Medicare and a penalty. A Mount Sinai spokesman said the hospital did not admit wrongdoing in the settlement. "We're pleased to put this behind us and move forward," the spokesman said.

END

Pharma Marketletter

August 14, 2006

Anti-kickback laws prompting drugmakers to closely monitor IITs.

Pharmaceutical companies are keeping close checks on the investigator-initiated clinical studies of their drugs, often referred to as investigator-initiated trials, or IITs.

For years, such trials were supported by drug companies, primarily in the form of grant money supplied to investigators who approached the companies with novel investigative ideas. However, such support went largely unchecked - companies lacked centralized resources for IIT oversight and, in many cases, product teams were not even aware that tests of their drugs were being supported from elsewhere within the company, comments a new report from pharmaceutical business intelligence firm Cutting Edge Information.

Over the past several years, it says, concerns about exposure to legal liability, primarily from the US Department\l "I" of\l "I" Justice\l "I"/Office of Inspector General anti-kickback laws, have elevated the importance of IITs, which have captured the attention of senior management at the many pharmaceutical companies that are building dedicated departments. These departments, usually housed within the medical affairs or clinical development function, help keep tabs on the investigator-run trials.

Starting to reap benefits of ITT oversight

"Companies are starting to reap the benefits of dedicated, centralized IIT oversight," says Jon Hess, research team leader at Cutting Edge. "Apart from closing the gap on legal exposure, centralized decision-making enables companies to apply strategy to IIT grant funding and improve study tracking and awareness, and eliminate 'idea shopping,' a practice where MSLs and sales reps would pitch investigators' ideas to every corner of the company until they found someone with a budget to support the study," he added.

Mr Hess is also chief author of a new industry report, Managing Investigator Initiated Clinical Trials: Structure, Process and Strategy, which is available on Cutting Edge's web site, www.InvestigatorInitiatedTrials.com.

Yet, despite the risks of failing to closely monitor IIT activities, much of the industry has yet to organize its IIT management centrally. A survey of companies conducted by Cutting Edge in July 2006 revealed that 50% of responding firms still do not have dedicated IIT management departments. In fact, Mr Hess says, that number is actually much higher, as many of the smaller "pharmas and biotechs" that the survey did

not reach do not have resources dedicated to IIT oversight.

END

AP

August 12, 2006

Property owners sue feds over Hayman fire

DENVER_The owners of four properties burned in the largest wildfire on record in Colorado sued\l "l" the federal government Friday, alleging Forest Service missteps allowed the blaze to grow out of control.

In a suit filed in U.S. District Court, Colorado Springs attorney D. Robert Jones alleged the Forest Service is responsible for the actions of forestry worker Terry Lynn Barton, the 42-year-old woman who pleaded guilty to starting the Hayman fire that spread to 138,000 acres in 2002.

The lawsuit faults the Forest Service for allowing Barton to patrol the forest alone the day she set the fire, for clogging radio channels with a weather report when she tried to report the fire, and failing to properly train Barton.

The suit lists plaintiffs Wallace White; Laurie Glauth and the Zelma L. Worden Trust; Charles and Marcia Phillips and the Phillips Family Trust; and Gary and Sandra Bieske. It does not specify how much of their property burned or what financial losses they suffered.

A Forest Service spokesman could not immediately be reached after business hours Friday.

The suit is the second filed against the government regarding the fire in less than three months. Three insurance companies joined forces June 14 in a suit demanding $7.04 million. A federal response to that suit is due Monday, U.S. Attorney's Office spokesman Jeff Dorschner said Friday.

Barton is appealing her 12-year prison sentence handed down on state charges. She is also serving a six-year sentence on federal charges in a federal prison in Texas.

END

AP

August 14, 2006

Algerian man released after five years in detention in US following Sept. 11

By TOM HAYS

Associated Press Writer

TORONTO_The date was Sept. 12, 2001, but Algerian native Benemar "Ben" Benatta was clueless about the destruction one day earlier.

About a week before, Canadian officials had stopped Benatta as he entered the country from Buffalo to seek political asylum. On that Sept. 11, he was quietly transferred to a U.S. immigration lockup where a day passed before FBI agents told him what the rest of the world already knew: terrorists had attacked the World Trade Center and Pentagon.

It slowly dawned on Benatta that as a Muslim man with a military background he was likely to be caught up in the U.S. dragnet that soon followed. The FBI didn't accuse him of being a terrorist, at least not outright. But agents kept asking if he could fly an airplane.

"They gave me a feeling that I was Suspect No. 1," he said in a recent interview.

The veiled accusations and denials would continue for nearly five years _ despite official findings in 2001 that he had no terrorist links and in 2003 that authorities had violated his rights by colluding to keep him in custody.

Of the estimated 1,200 mostly Arab and Muslim men detained nationwide as potential suspects or witnesses in the Sept. 11 investigation, Benatta would earn a dubious distinction: Human rights groups say the former Algerian air force lieutenant was locked up the longest.

His journey through the American justice system concluded July 20 when a deal was finalized for his return to Canada. In the words of his lawyer, the idea was to "turn back the clock" to when he first crossed the border.

But time did not stand still for Benatta: The clock ran for 1,780 days. The man detained at 27 was now 32.

"I say to myself from time to time, maybe what happened ... it was some kind of dream," he said. "I never believed things like that could happen in the United States."

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Sporting a gray T-shirt and cargo shorts, Benatta eased his muscular frame into a white plastic chair in the backyard of a Toronto halfway house for immigrant asylum-seekers and talked about how it felt to be free.

"You start to look around and take in everything _ the wind in your face, the breeze _ everything," he said.

The youngest of 10 children in a middle-class family, Benatta recalled always wanting to be military man like his father. But after he joined the air force, he grew disillusioned. Algerian soldiers, he said, were abusive toward civilians. And militant Muslims were out for blood.

"I was in harm's way in my country," he said.

Benatta entered a six-month training program for foreign air force engineers in Virginia in December 2000, plotting from the start to desert and flee to Canada. In June 2001, he left a hotel the night before his scheduled flight back to Algeria. He lived briefly in New York before arriving Sept. 5 on Canada's doorstep.

A week later, Canadian authorities were escorting him back over the Rainbow Bridge in Niagara Falls, where they turned him over to U.S. immigration officers. On Sept. 16, U.S. marshals took him into custody, put him on a small jet and flew him to a federal jail in New York City's Brooklyn borough that became a clearing house for detainees\l "l" who were labeled "of interest" to the FBI following the Sept\l "l". 11\l "l" attacks.

One remark by a marshal stuck in his head: "Where you're going, you won't need shoes anymore."

In Brooklyn, he was locked down _ minus his shoes _ 24 hours a day between FBI interrogations. When

he continued to deny any involvement in the attacks, agents threatened to send him back to Algeria. As a deserter, he was certain he would be tortured.

"That was all my thinking all of the time _ they were signing my execution warrant," he said.

Prison guards, he said, dispensed humiliation in steady doses _ rapping on his cell door every half hour to interrupt his sleep, stepping on his leg shackles hard enough to scar his ankles, locking him in an outdoor exercise cage despite freezing temperatures, and conducting arbitrary strip searches.

The alleged abuses would have been bad enough, but Benatta was never charged with a crime.

The FBI grillings stopped sometime in November 2001, when an internal report was prepared saying he was cleared. On paper, he was no longer a terror suspect.

No one bothered to tell him.

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December turned to March with Benatta still under lockdown in Brooklyn, without any contact with the outside world. "Each day, with that kind of conditions, is like a year," he said.

Finally, in April, he received word that he would be transferred to Buffalo to face federal charges of carrying a phony ID when first detained. Benatta was denied bail while he fought the case. But for the first time he was allowed into the general population of federal defendants housed at an immigration detention center.

He also had access to the news, and was shocked by the images accompanying anniversary stories about the Sept. 11 attacks.

"It was the first time I'd really seen what happened," he said.

It wasn't until the second anniversary of the attacks that U.S. Magistrate H. Kenneth Schroeder Jr., in a bluntly worded ruling, found that Benatta's detainment for a deportation\l "l" hearing was "a charade."

Though terrible, the Sept. 11 attacks "do not constitute an acceptable basis for abandoning our constitutional principles and rule of law by adopting an 'end justifies the means' philosophy," Schroeder wrote. Based on that decision, another judge tossed out the case on Oct. 3, 2003.

"That gave me so much hope," Benatta said. "For me, it's like (the judge) had so much nerves. He gave me some kind of hope in the judicial system all over again."

His hopes were dashed by an ensuing standoff: Benatta demanded asylum. Immigration authorities wanted him deported for overstaying his visa.

An immigration court\l "l" first set bail at $25,000 (euro20,000), then ruled he should stay behind bars indefinitely _ a situation a United Nations human rights group decried as a "de facto prison sentence." Most asylum seekers are released pending the outcome of their cases.

It took another two years before a Manhattan attorney, Catherine M. Amirfar, found a solution: She convinced Canadian authorities to let her client apply for asylum there without jailing him.

"Canada was willing to take him back and turn back the clock five years," she said. "Of course, Benemar will never get those five years back."

The last detainee was deported in his prison smock without an apology. He remembers cold stares when he ate his first meal at a fast food restaurant and went to a mall to buy clothes.

Today, there's no more confinement. But he's still caught in waiting game, this time to see whether Canada will grant him asylum _ a decision at least six months away. He also wonders if he can regain enough spirit to start a new life.

"Now I'm not the same person," he said. "When I came to the United States, I was optimistic. I had so much energy. That's not the case now."

END

Law.com
08-14-2006

A Look Ahead to First Oral Arguments of New Supreme Court Term

Howard J. Bashman

In less than two months, the U.S. Supreme Court will begin its October term 2006. The Court's October 2006 oral argument calendar, released in mid-July 2006, contains nine hours of oral argument over a total of four days between Oct. 3 and Oct. 11. Below, I preview the questions presented in the cases that will be argued before the Supreme Court in October 2006.

The very first hour of oral argument of the Court's new term will occur on the morning of Oct. 3, when two cases presenting precisely the same issue of federal immigration law will be argued together. The question presented in the consolidated cases of *Lopez v. Gonzales* and *Toledo-Flores v. United States* is whether an alien who is convicted of a drug crime that is a felony under state law, and has been sentenced under state law to more than one year of imprisonment, has committed an "aggravated felony" for purposes of federal immigration law even though the same offense is generally punishable under federal law only as a misdemeanor. The *Lopez* case arises from the 8th Circuit, while the *Toledo-Flores* case arises from the 5th Circuit. Both courts ruled against the alien, in conflict with rulings from the 2nd, 3rd, 6th and 9th Circuits.

The second case scheduled for oral argument on Oct. 3 is *Ornaski v. Belmontes*, in which the State of California challenges a 9th Circuit ruling that invalidated, because of the perceived inadequacy of a jury instruction known as "factor (k)," a death sentence imposed on a state prisoner. The precise issue is whether "factor k" sufficiently allows the jury, at the penalty phase, to consider mitigating evidence of the defendant's pre-crime background and character. 9th Circuit Judge Stephen Reinhardt, whose decisions the Supreme Court frequently reverses, wrote the decision that the Supreme Court has agreed to review.

On Oct. 4, the Supreme Court will begin its day by hearing oral argument in the patent law case of *MedImmune, Inc. v. Genentech, Inc.* The case presents the interesting question of whether a patent licensee must refuse to pay royalties and commit a breach of the license agreement before suing to declare the patent invalid, unenforceable or not infringed. The Federal Circuit ruled that no "case of actual controversy" existed under the Declaratory Judgment Act for MedImmune to sue Genentech to challenge the patent or its infringement in the absence of a license so long as MedImmune complies with the terms of its license agreement with Genentech.

The second case scheduled for oral argument on Oct. 4 is *BP America Production Co. v. Watson*. The case involves a dispute between BP America and the federal government over whether the federal government's administrative order demanding payment under the federal Mineral Leasing Act was timely. The D.C. Circuit, in an opinion by then-Circuit Judge John G. Roberts Jr., ruled that the federal

government's demand for payment was timely. Both Chief Justice Roberts and Justice Stephen G. Breyer recused themselves from the order granting certiorari, so it appears that only seven justices will participate in the consideration and decision of this case.

The Court has scheduled three hours of oral argument for Oct 10. The first case scheduled for argument that day is *United States v. Resendiz-Ponce*, which presents the question whether the omission of an element from a federal indictment can constitute harmless error. The 9th Circuit answered "no." A dissent from the 9th Circuit's denial of rehearing en banc in a different case presenting the same issue argued persuasively that the omission should be allowed to constitute harmless error at least when "the defendant has actual notice of the missing element in advance of trial, evidence of the missing element is introduced, the jury is properly instructed about the element, and the finder of fact finds the element beyond a reasonable doubt."

The second case scheduled for oral argument on Oct. 10 is *Global Crossing Telecommunications, Inc. v. Metrophones Telecommunications, Inc.*, and it too arises from the 9th Circuit. At issue in the case is whether a provider of pay phone services can sue a long distance carrier for alleged violations of the Federal Communications Commission's regulations concerning compensation for coinless pay phone calls. The 9th Circuit answered that question in the affirmative.

The third and final case scheduled for oral argument on Oct. 10 is *Norfolk Southern Railway Co. v. Sorrell.* The Supreme Court has agreed to review the ruling of an intermediate state appellate court in Missouri. The question presented is whether, in a lawsuit brought by an injured railroad employee under the Federal Employers Liability Act, the causation standard for employee contributory negligence differs from the causation standard for railroad negligence.

Oct. 11 is the final day of oral arguments for the Court's October 2006 oral argument session, and the day begins with the argument of a case that is of interest to sentencing law gurus nationwide and also those who prosecute and defend criminal cases in the State of California. In *Cunningham v. California*, the question presented is whether California's Determinate Sentencing Law violates the 6th and 14th Amendments to the U.S. Constitution by permitting California state court judges at sentencing to impose enhanced sentenced based on their determination of facts neither found by the jury nor admitted by the defendant.

The second and final case to be argued on Oct. 11 is another interesting criminal law case arising from the 9th Circuit. At issue in *Carey v. Musladin* is whether the 9th Circuit, exercising federal habeas corpus jurisdiction, properly overturned the murder conviction of a defendant who claimed he was denied a fair trial in California state court because the victim's relatives appeared in court wearing buttons with the deceased's picture on them. Once again, Judge Reinhardt is the author of the decision under review, and his majority opinion for a divided three-judge panel begins, "At a murder trial in which the central question is whether the defendant acted in self-defense, are a defendant's constitutional rights violated when spectators are permitted to wear buttons depicting the 'victim'?" Reinhardt's opinion answers that question in the affirmative.

Although none of the 2006 term's blockbuster opinions may emerge from the Court's very first oral argument session, it does appear that the 9th Circuit is well on its way to being reversed in at least three of the four cases to be argued in October. Stay tuned for additional oral argument previews as the Supreme Court schedules more cases for argument in the months ahead.

END

From: USDOJ- Office of Public Affairs
Sent: Monday, August 14, 2006 11:27 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DISABLED AMERICAN VETERANS NATIONAL CONVENTION

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 14, 2006
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PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DISABLED AMERICAN VETERANS NATIONAL CONVENTION

CHICAGO, ILLINOIS

Thank you, Joe, and thank you all so much for having me here today.

Events in the Middle East, the fighting in Iraq and Afghanistan, and the recent disruption in the United Kingdom of a plot to explode liquid bombs aboard in flight airliners remind us all that the world is as dangerous today as when you wore proudly your uniform. In the face of these challenges, our servicemen and women continue to march forward to defend our neighborhoods and way of life, to defend our values, to defend America.

For me, it is deeply humbling to be here, in a room filled with heroes. For your service, for your sacrifice, I wish to thank you. I thank you both personally and on behalf of my family – because we feel so blessed to enjoy the freedoms you have protected – and I thank you on behalf of our President, who I have known as a leader, as a boss, and as a good friend. I know how much the people of our armed forces mean to George Bush the man, as well as to George Bush the Commander in Chief. His support and his heart are with those who serve, and those who have served, always.

I also wish to thank the Disabled American Veterans for its leadership in preserving the rights of disabled veterans. You are one of the leading voices for veterans across this great nation. We listen to your concerns and always welcome your views. I am honored that you have welcomed me here today and given me the opportunity to let you know that the Justice Department makes it a priority to enforce the Civil Rights laws for American veterans, and how dedicated the Department is to that job.

A well-known poem by Father Dennis Edward O'Brien of the U.S. Marine Corps is particularly relevant to this

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topic. I imagine you all know this short piece by heart, but I hope you don't mind hearing Father O'Brien's profound words again this morning:

"It is the soldier, not the reporter,
Who has given us freedom of the press.
It is the soldier, not the poet,
Who has given us freedom of speech.
It is the soldier, not the organizer,
Who has given us the freedom to demonstrate.
It is the soldier, Who salutes the flag, Who serves beneath the flag, and whose coffin is draped by the flag,
Who allows the protestor to burn the flag."

Those truths have perhaps never been expressed more clearly or more simply.

It is because of these truths – because it is America's soldiers who won and who protect our incredible freedoms – that the law of our land gives certain protections to those who serve.

The law recognizes that although we can never thank you enough for your service, we can take away some of the worries that soldiers might face when they are deployed. So we, in the government, make these promises:

We promise that a soldier's job will still be theirs when they come home; that they cannot be discriminated against by their employer for their military service.

We promise that a soldier will be able to vote in our elections while they are serving, and that their vote will be counted.

And we promise soldiers that their financial security will be protected. They will have procedural protections in civil actions, like lawsuits or property re-possessions, when serving overseas.

These three basic civil rights are enforced by the Department of Justice, and I can assure you that the Department's staff and prosecutors are deeply committed to these enforcement efforts. We feel that it is an honor to serve those in uniform in this way. It is our way of saying thank you for your service.

But our dedication and hard work on the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the Servicemembers Civil Relief Act (SCRA) are meaningless to soldiers who don't know that they have these rights. That's why the Department is focusing on making sure that our men and women in uniform are aware of these protections and can learn more about them.

I'm pleased to announce today that the Department of Justice has just launched a new website – www.servicemembers.gov – where servicemembers and their families can go to learn about these civil rights. The site provides some original content as well as links to important information provided by many of our sister

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agencies – like the Department of Labor and the IRS. In this way, the site will provide servicemembers – and the people who support and employ them – with a single location where they can go to learn about their rights.

Servicemembers.gov is also a good place to begin if a soldier thinks that they have been denied any of these rights; the site provides clear instructions, for example, on how to file a claim.

Disabled American Veterans has a terrific network of members and supporters, and I hope that your community will find this new website to be a user-friendly and information-rich resource. The Justice Department relies, in part, on groups like yours to get the word out about this new tool. So thank you for helping us help our men and women in uniform.

This will be the first time, the first war, when veterans returning from conflict will have near-universal access to the Internet. I am hopeful that this website will take advantage of that fact, and that knowledge of the civil rights protected by these important laws will become near-universal as well.

I'd like to give you a few examples of civil rights cases that the Department is involved in right now, to illustrate that this issue is not about laws or statutes written on paper; it's about real people, real soldiers and their families, who need and deserve the protection of the country they have sacrificed so much to protect.

The Department has recently filed its first class-based USERRA [you-SAIR-uh] complaint, alleging that American Airlines violated rights of employees who are also pilots in the military. The case was brought on behalf of Mark Woodall, Michael McMahon and Paul Madson – three military pilots who were also employed by American Airlines as commercial pilots – and alleges that American Airlines reduced the employment benefits of those pilots who had taken military leave, while not reducing the same benefits for pilots who had taken similar, non-military leave.

Since its enactment in 1994, this law has prohibited employers from discriminating or retaliating against an employee or applicant for employment because of such person's past, current or future military obligation. But in this, the first class-action case under this statute, the Department hopes to provide important precedent that will allow us to enforce the law even more vigorously in the future.

In another vivid example of the people for whom we enforce these laws, the Department recently won a consent decree from an employer who terminated employment of a service man named Richard White the very same day that Richard told his boss he was being called to active duty. The consent decree requires the employer to pay back wages to Mr. White.

What leads an employer to treat a soldier like an inconvenience is something for a higher power to judge. But here on earth, we have USERRA, and we'll use it for Richard White and for soldiers like him, as often as is necessary.

In recent years, with so many uniformed services personnel serving in remote locations such as Iraq and Afghanistan, the Justice Department has made it an even higher priority to monitor compliance with the

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Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

Earlier this year, for example, we addressed long-standing structural issues affecting uniformed military personnel posted both in this country and overseas who wished to vote in North Carolina, South Carolina, and Alabama. These states had run-off elections which were too close in time to the primary to allow these voters to receive and return ballots. With the cooperation of state election officials, we were able to redress each of these violations.

As the 2006 general election approaches, we will continue vigilant protection of the voting rights of servicemembers, their families, and other overseas citizens. On August 4, 2006, I sent a letter to all state election officials.

The letter urges that every possible effort be taken to send overseas ballots as early as feasible before the election and to adopt new procedures to facilitate delivery and return of ballots, especially for those who are defending our country in remote or combat locations. To be denied the chance to vote would be an unacceptable insult to the men and women who protect the very right to vote.

I want to touch, last, on the enforcement of the Servicemembers Civil Relief Act. Thanks to this law, men and women currently serving in Iraq and Afghanistan have procedural protections in place that will allow them to be less distracted by litigation back home – by someone trying to repossess a leased car, evict their spouse and children, sell their house at an auction, or run up penalties on credit cards with 21 percent interest rates. It's hard to respond to a civil lawsuit while you're focused on improvised explosive devices, and the law protects servicemembers for that reason.

As any military officer will tell you, enforcement of this provision is a readiness and morale issue. Men and women in uniform, like all Americans, have to honor their obligations.
However, Congress long ago decided, wisely I think, to provide protections to them against lawsuits while deployed overseas on active duty.

Most individuals and institutions comply with this law as soon as a servicemember or military lawyer educates them about the law. In the event, however, that an individual servicemember is denied a protection, the Civil Rights Division and the United States Attorneys' Offices stand ready to step in and participate in cases.

President Calvin Coolidge once said that "The nation which forgets its defenders will be itself forgotten."

At the Department of Justice, our nation's defenders are remembered every day. We are ever-aware that sons, daughters, mothers and fathers have voluntarily exchanged civilian clothes for military uniforms and the obligations of military service – and for that they deserve our deepest, ongoing thanks and our vigorous enforcement of their civil rights protections.

Thank you so much for having me here today. May God bless you and the work of this organization, and may He continue to bless the United States of America.

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From: USDOJ- Office of Public Affairs
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Subject: ATTORNEY GENERAL ANNOUNCES NEW WEB SITE FOR VETERANS AND MEMBERS OF THE ARMED SERVICES

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 14, 2006
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(202) 514-2007
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ATTORNEY GENERAL ANNOUNCES NEW WEB SITE FOR VETERANS AND MEMBERS OF THE ARMED SERVICES

WASHINGTON — Attorney General Alberto R. Gonzales today announced the launch of a new Web site designed to safeguard the civilian employment rights, voting rights and financial security of members of the Armed Services and veterans. The Web site, http://www.servicemembers.gov is a partnership between the Justice Department and other federal agencies that oversee these protections.

"Every day, men and women of our nation's armed forces put their lives on the line to protect the freedoms we enjoy, and it is our responsibility to ensure that their rights are protected in return," said Attorney General Alberto R. Gonzales. "Through this new website, members of the armed services will have the information they need about the rights guaranteed to them by law. At the Justice Department, we are proud to help those in uniform both know about the rights they have and vigorously defend those rights under the rule of law."

The Web site, launched today, offers information and resources about three laws passed specifically to protect servicemembers. The Uniformed Services and Reemployment Rights Act (USERRA) prohibits employers from discriminating or retaliating against an employee or applicant for employment because of past, current, or future military obligation. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) requires that states allow certain groups of citizens, including servicemembers and their families, to register and vote absentee in a timely manner in elections for federal offices. The Servicemembers' Civil Relief Act (SCRA) provides civil protections for military personnel while on active duty.

The Justice Department has brought multiple cases on behalf of servicemembers or veterans. Most recently, the Justice Department reached an agreement with Connecticut to protect the voting rights of military and overseas voters. The Department also filed the first class-action lawsuit under USERRA against American Airlines for its failure to provide the same employment benefits to its pilots who had taken military leave as it had provided to its pilots who had taken similar types of non-military leave. In another case, the Department took action to protect the rights of residents of a nursing home under contract with Veteran's Administration in New Mexico.

The site serves as "one stop shopping" for servicemembers and veterans and will provide useful information and links to services provided by the Justice Department and other federal agencies. The site

DOJ_NMG_ 0166577

answers commonly asked questions involving rights and protections. The site also provides contact information and directions to file complaints with the Justice Department and other federal agencies which investigate and prosecute possible civil rights violations.

# # #

06-532

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Image not available for this document, ID: 0.7.10316.38241-000002

Jaffer, Jamil N

From: Jaffer, Jamil N
Sent: Monday, August 14, 2006 1:21 PM
To: Gorsuch, Neil M; '[redacted]@hotmail.com'
Subject: Tenth Circuit Judicial Conference

Judge,

I spoke briefly to [redacted] about the Judicial Conference and she spoke briefly with [redacted], the Deputy Circuit Executive who will get back with you on the conference. I did make clear to [redacted] that you had not made any decisions about clerk attendance but were only inquiring as to the normal course of operations. My sense from [redacted] is that occasionally a clerk or two will attend, but that is usually when a judge is on the planning committee and has work that needs to be done. But, it's also not clear to me that you could not take clerks along with you should you choose to do so.

Best,

JJ
Jamil N. Jaffer
Counsel
Office of Legal Policy
United States Department of Justice
(202) 307-0120 (direct)
([redacted] (cell)
jamil.n.jaffer@usdoj.gov

From: USDOJ- Office of Public Affairs
Sent: Monday, August 14, 2006 2:01 PM
To: USDOJ- Office of Public Affairs
Subject: LAW ENFORCEMENT OFFICIALS ANNOUNCE DISTRIBUTION OF ASSET FORFEITURE PAYMENTS STEMMING FROM NATIONAL WORKSITE ENFORCEMENT INVESTIGATION

Department of Justice

United States Attorney Thomas A. Marino
Middle District of Pennsylvania

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 14, 2006
www.usdoj.gov/usao/pam

CONTACT: HEIDI HAVENS
PHONE: (717) 221-4482
FAX: (717) 221-4582

FEDERAL, STATE AND LOCAL LAW ENFORCEMENT OFFICIALS ANNOUNCE DISTRIBUTION OF ASSET FORFEITURE PAYMENTS STEMMING FROM NATIONAL WORKSITE ENFORCEMENT INVESTIGATION

HARRISBURG, Pa. – Two Pennsylvania law enforcement agencies have received payments totaling more than $2,500,000 from the Department of Homeland Security out of a landmark $15 million global civil and criminal settlement arising out an investigation into the alleged hiring of illegal aliens by independent contractors who provided cleaning services to Wal-Mart stores throughout the U.S. from 1998 through 2003, U.S. Attorney Thomas A. Marino of the Middle District of Pennsylvania, U.S. Immigration and Customs Enforcement (ICE) Assistant Secretary Julie Myers, Attorney General Thomas Corbett of the Commonwealth of Pennsylvania and Chief Mark Flynn of the Honesdale Police Department announced today.

According to federal officials, the Pennsylvania Office of the Attorney General received $2,254,511.30 and the Honesdale Police Department received $253,632.52 in asset forfeiture equitable sharing payments as a result of their crucial roles in this joint five-year investigation, which culminated in 2005.

This asset sharing represents the culmination of this joint local, state and federal effort to investigate the alleged employment of undocumented aliens by various cleaning companies which formerly provided cleaning services to Wal-Mart stores throughout the United States. This investigation was conducted by ICE agents, the U.S. Attorney's Office of the Middle District of Pennsylvania, with the assistance of the Pennsylvania Attorney General's Office and the Honesdale Police Department.

According to federal officials, the asset sharing announced today reflected the indispensable roles of these state and local agencies in this investigation. Federal officials noted that both the Honesdale Police Department and the Office of Attorney General for the Commonwealth of Pennsylvania played vital roles in the successful investigation of this immigration case. The Honesdale Police Department was one of the first law enforcement agencies to bring this alleged employment of illegal aliens to the attention of the Department of Homeland Security and provided essential support and assistance to the initial local aspects of this nationwide investigation. The Pennsylvania Attorney General's Office, in turn, worked with local and federal officials

DOJ_NMG_ 0166582

developing this local matter into a state-wide investigation and ultimately into an investigation which was nationwide in its scope.

That nationwide investigation culminated on Oct. 23, 2003, with a series of immigration enforcement actions at some 60 Wal-Mart stores in 21 states. In these enforcement actions, ICE agents arrested approximately 245 undocumented aliens employed by the cleaning contractors and put them in deportation proceedings. ICE agents made arrests at Wal-Mart stores located in Alabama, Arkansas, Arizona, Connecticut, Delaware, Kentucky, Massachusetts, Maryland, Michigan, North Carolina, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia. Following these enforcement actions, officials at Wal-Mart contacted federal authorities and entered into a civil revolution which included the payment of $11 million through the U.S. Attorney's Office to the Treasury Forfeiture Fund for the purpose of promoting future law enforcement programs and activities in this field by ICE. In addition to this civil settlement, 12 Missouri-based cleaning contractor corporations were convicted of charges in federal court in Pennsylvania for their alleged involvement in the illegal employment of undocumented aliens in Pennsylvania and elsewhere between 1998 and 2002 and consented to the forfeiture of an additional $4 million to the United States.

"The partnership between local, state and federal law enforcement agencies is the key to our success protecting the public, and enforcing the law, including this nation's immigration laws. Here in central Pennsylvania we are fortunate to have outstanding state and local law enforcement partners like the Pennsylvania State Attorney General and the Honesdale Police Department, whose work we recognize today. Because of the hard work and dedication of these law enforcement partners, a major immigration investigation with nationwide implications for employers throughout the United States, was brought to a highly successful conclusion," stated U.S. Attorney Thomas A. Marino.

"This investigation demonstrates what can be achieved when local, state, and federal law enforcement agencies work together in targeting employers that use cheap, illegal labor as a business model. Without the work of the Honesdale Police Department and the Pennsylvania Attorney General's office, this case would not have moved forward. We are pleased to recognize their substantial contributions to this landmark investigation," stated ICE Assistant Secretary Myers.

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Image not available for this document, ID: 0.7.10316.38235-000002

Powell, SeLena Y

From: Powell, SeLena Y
Sent: Monday, August 14, 2006 5:01 PM
To: Powell, SeLena Y
Subject: ODAG Farewell for Theodore Cooperstein

Please join ODAG in bidding farewell to Theodore (Ted) Cooperstein.

Date: Wednesday, August 16, 2006

Time: 3:30 p.m.

Place: Room 4111 Main/RFK

RSVP **not necessary.**

SeLena Y. Powell
Office Manager
Office of the Deputy Attorney General
U.S. Department Of Justice
Washington, D.C. 20530
Tel: 202.305.9772; Fax: 202.514.9077
Email: SeLena.Y.Powell@USDOJ.GOV

From: USDOJ- Office of Public Affairs
Sent: Monday, August 14, 2006 5:45 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATE: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 14 – AUGUST 18, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 11, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR August 15 – August 18, 2006

Tuesday, August 15

Events TBD

Wednesday, August 16

8:30 A.M. EDT

Attorney General Alberto R. Gonzales will deliver remarks before the World Affairs Council of Pittsburgh regarding the subject of *Stopping Terrorists Before they Strike: The Justice Department's Power of Prevention.*
Omni William Penn Hotel
530 William Penn Place
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486

10:20 A.M. EDT

Attorney General Alberto R. Gonzales will hold a press availability following a tour of the Allegheny County Emergency Operations Center.
400 North Lexington Street
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

DOJ_NMG_ 0166587

3:25 P.M. EDT Attorney General Alberto R. Gonzales will hold a press conference regarding the Department of Justice's Project Safe Neighborhoods program.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
OPEN PRESS

Press inquiries regarding logistics should be directed to Kathleen Blomquist at 202-532-5761.

Thursday, August 17

Events TBD

Friday, August 18

Events TBD

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DOJ_NMG_ 0166588

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Image not available for this document, ID: 0.7.10316.38217-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 14, 2006 6:37 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 14, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Gonzales Delivered Remarks in Chicago (OPA)
Today, Attorney General Alberto R. Gonzales today announced the launch of a new Web site designed to safeguard the civilian employment rights, voting rights and financial security of members of the Armed Services and veterans. The Web site, http://www.servicemembers.gov is a partnership between the Justice Department and other federal agencies that oversee these protections.

Talking Points

- Every day, men and women of our nation's armed forces put their lives on the line to protect the freedoms we enjoy, and it is our responsibility to ensure that their rights are protected in return.
- Through this new website, members of the armed services will have the information they need about the rights guaranteed to them by law.
- At the Justice Department, we are proud to help those in uniform both know about the rights they have and vigorously defend those rights under the rule of law.

Attorney General Press Conference Remarks on British Terrorism Laws (OPA)
Press reported that the Attorney General in a press conference in Chicago stated that the Department of Justice would consider the 28-day detention period before bringing charges for terror suspects and other-related measures in UK terrorism laws used in the investigation which resulted in thwarting a plot to blow up several airliners.

Talking Point

- The Attorney General has only committed to a review to evaluate and compare the United Kingdom's counter-terrorism laws with those in the United States. Any changes to our existing terrorism laws would only be considered after extensive review and discussion to ensure that such a change would be necessary, appropriate and constitutional.

TUESDAY'S EXPECTED EVENTS/RELEASES:

It is expected that the Department will have a drug-related announcement tomorrow.

Williamson, Angela

From: Williamson, Angela
Sent: Tuesday, August 15, 2006 8:46 AM
To: Williamson, Angela
Subject: The Daily Update: 8/15/06

<http://www.whitehouse.gov/>
AUGUST 15, 2006

This morning, President Bush will travel to the National Counterterrorism Center, where he will participate in a National Security Council and Homeland Security Council briefing and meet with the Counterterrorism Team. The President will then make a statement, before attending lunch with the Counterterrorism and Homeland Security Teams. After lunch, President Bush will meet with the Homeland Security Team.

In August 2004, the President established the National Counterterrorism Center (NCTC) to serve as the primary organization in the United States Government for integrating and analyzing all intelligence pertaining to terrorism and counterterrorism and to conduct strategic operational planning by integrating all instruments of National power.

9:55 am:
EDT THE PRESIDENT participates in a National Security Council and Homeland Security Council Briefing
National Counterterrorism Center | McLean, Virginia

10:45 am:
EDT THE PRESIDENT meets with the Counterterrorism Team
National Counterterrorism Center | McLean, Virginia

11:45 am:
EDT THE PRESIDENT makes a Statement
National Counterterrorism Center | McLean, Virginia

11:55 am:
EDT THE PRESIDENT attends Lunch with the Counterterrorism and Homeland Security Teams
National Counterterrorism Center | McLean, Virginia

1:00 pm:
EDT THE PRESIDENT meets with the Homeland Security Team
National Counterterrorism Center | McLean, Virginia

President Bush Says Hezbollah "Suffered A Defeat" In Mideast Crisis.
"As a U.N.-imposed truce seemed to be holding yesterday, Bush made clear that he blames Hezbollah and its patrons, Iran and Syria, for igniting the conflict. 'We recognize that the responsibility for this lies with Hezbollah,' Bush said. 'Responsibility lies also with Hezbollah's state sponsors, Iran and Syria.' ... 'Hezbollah attacked Israel, Hezbollah

started the crisis, and Hezbollah suffered a defeat in this crisis,' the president said <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/14/AR2006081400094.html> . ... 'History is clear: The freedom agenda did not create the terrorists or their ideology,' he said. 'But the freedom agenda will help defeat them both.'" (Michael A. Fletcher, "Hezbollah The Loser In Battle, Bush Says," The Washington Post, 8/15/06)

State Department Spokesman Sean McCormack Says Middle East Cease Fire Will "Strengthen Democracy In Lebanon." "The U.N.-declared cease-fire in Lebanon, if fully implemented, would be a strategic setback for Iran and Syria because it would strengthen democracy in Lebanon <http://news.yahoo.com/s/ap/20060814/ap_on_go_ca_st_pe/us_mideast&printer=1> and stabilize the border with Israel, the State Department said Monday. 'You will not have Hezbollah roaming freely in the south of Lebanon,' spokesman Sean McCormack said. 'Iran and Syria will not have had the ability to rearm Hezbollah.'" (Barry Schweid, "U.S. Touts Mideast Cease-Fire Prospects," The Associated Press, 8/14/06)

Homeland Security Officials Call For More Information Sharing On Airline Passenger Data. "'It's absolutely essential for aviation security for the U.S. government to have that information and match it against our watch lists in advance of departure,' <http://www.nytimes.com/2006/08/15/world/europe/15visa.html?_r=1&oref=slogin> said Jay Ahern, chief of field operations at Customs and Border Protection. Mr. Ahern said the department hoped new rules could take effect late this year or early next year. He said the rules proposed by the department would require information to be turned over an hour before takeoff, though information on anyone checking in late could be provided as little as 15 minutes before the flight. ... In an interview on Sunday, Michael Chertoff, the secretary of homeland security, said the vulnerabilities had existed too long. He said he hoped the British plot might persuade the airlines and European authorities to drop objections to his department's proposal." (Eric Lipton and Scott Shane, "U.S. Officials Say Plot Shows Need For More Sharing Of Passenger Data," The New York Times, 8/15/06)

Justice Department To Conduct Side-By-Side Review Of American And British Counterterrorism Laws. "Attorney General Alberto R. Gonzales on Monday ordered a side-by-side review of American and British counterterrorism laws as a first step toward determining whether further changes in American law are warranted. ... Asked about Britain's 28-day policy, he said, 'That may be something we want to look at,' according to an account by The Associated Press. But he also said: 'Is it consistent with our Constitution? We have to look at that.' ... 'The attorney general has committed to a review to evaluate and compare the terrorism laws in the United Kingdom with those in the United States,' said Brian Roehrkasse, a department spokesman. 'Any changes to our existing terrorism laws would only be considered after extensive review and discussion to ensure that such a change would be necessary, appropriate and constitutional.' <http://www.nytimes.com/2006/08/15/washington/15detain.html> " (Eric Lichtblau, "In Wake Of Plot, Justice Dept. Will Study Britain's Terror Laws," The New York Times, 8/15/06)

President Bush Signs Legislation Making Mount Soledad Veterans Memorial Federal Property. "President Bush on Monday signed a law transferring a

29-foot-tall Latin cross high on a hill in San Diego to the federal government, stepping into a long-running dispute over the separation of church and state. Mr. Bush, in the latest unusual action designed to save the Mount Soledad cross, in the La Jolla district, sided firmly with cross supporters who acknowledge that it is the pre-eminent symbol of Christianity but contend that it forms part of a secular war memorial. ... Mayor Jerry Sanders, a Republican, praised the move in an interview as a 'great thing for us' because 'the memorial is a fabric of San Diego.' <http://www.nytimes.com/2006/08/15/us/15soledad.html?ref=washington> " (Randal C. Archibold, "Bush Signs Law To Save War Memorial Cross," The New York Times, 8/15/06)

President Clinton And Bill Gates Praise The President's Emergency Plan For AIDS Relief. "Both men praised the Bush administration's program, Pepfar, the President's Emergency Plan for AIDS Relief, a five-year, $15 billion program that serves 16 countries, 13 of them in Africa. One part of the program aims to help provide pregnant women with the pills to have healthy babies. Mr. Clinton said, 'Pepfar, on balance, has done a terrific amount of good.' Mr. Gates said, 'On the treatment front, Pepfar is a great success, and we need to get that story out.' 'It's incredible in its impact,' Mr. Gates said. 'Lives are being saved, and this thing is being run very well.' <http://www.nytimes.com/2006/08/15/world/americas/15aids.html?ref=world> " (Lawrence K. Altman, "A Familiar Pair Urge Greater Attention For AIDS," The New York Times, 8/15/06)

Veterans Affairs Department To Upgrade Data Security For Agency Computers. "Following a series of embarrassing data security breaches, the Department of Veterans Affairs on Monday announced it would upgrade all the agency's computers with a new encryption technology to be first installed on the agency's laptops within a month. 'A system-wide encryption program will be a tremendous step forward in improving the safety and security of sensitive veteran information,' <http://news.yahoo.com/s/ap/20060815/ap_on_go_ca_st_pe/va_data_protection_3&printer=1> said VA Secretary Jim Nicholson. Encryption is a process by which confidential information on a computer is scrambled and made unreadable until a user decrypts it, usually with a password. ... The agency said it expects to have all of its laptop computers fully encrypted within four weeks, followed by encryption of desktop computers." ("Veterans Affairs Upgrades Data Security," The Associated Press, 8/14/06)

President Discusses Foreign Policy During Visit to State Department
<http://www.whitehouse.gov/news/releases/2006/08/20060814-3.html>

* In Focus: Global Diplomacy
<http://www.whitehouse.gov/infocus/globaldiplomacy/>

President Meets with Secretary of Defense and Defense Policy and Programs Team
<http://www.whitehouse.gov/news/releases/2006/08/20060814.html>

* In Focus: Defense <http://www.whitehouse.gov/infocus/defense/>

President Signs H.R. 5683, S. 250, H.R. 3682, and H.R. 3693
<http://www.whitehouse.gov/news/releases/2006/08/20060814-4.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060814-1.html>

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 10:09 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 15, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, August 15, 2006

ATTORNEY GENERAL

No scheduled public events.

PRESS RELEASES

The Antitrust Division will issue a press release regarding a criminal sentencing in an antitrust case. (Talamona)

The Tax Division will issue a press release regarding a tax fraud matter. (Miller)

The Environmental and Natural Resources Division will issue a press release regarding a civil matter. (Magnuson)

The Office of Justice Programs will issue a press release regarding a Weed and Seed grant. (Peterson)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.38188-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 11:57 AM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL GOVERNMENT REACHES SETTLEMENT WITH PIPELINE COMPANIES REGARDING CRUDE OIL SPILLS

Department of Justice

ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

DOJ (202) 514-2007
EPA (404) 562-8327
TDD (202) 514-1888

FEDERAL GOVERNMENT REACHES SETTLEMENT WITH PIPELINE COMPANIES REGARDING CRUDE OIL SPILLS

Pipeline Companies to Pay $2.87 Million Civil Penalty
For Oil Spills in Kentucky and Louisiana

WASHINGTON – The federal government today reached a settlement with Mid-Valley Pipeline Company (Mid-Valley) and pipeline operator Sunoco Pipeline L.P. (SPLP), requiring the companies to pay a $2.57 million penalty relating to a January 2005 spill that dumped more than 260,000 gallons of crude oil into the Kentucky and Ohio Rivers.

The complaint and consent decree also address the government's claim under the Clean Water Act against Mid-Valley and the pipeline operator, Sun Pipe Line Company (Sun), for the spill of 63,000 gallons of crude oil due to pipeline corrosion on Nov. 24, 2000, into Campit Lake in Claiborne Parish, La. The settlement requires Mid-Valley and Sun to pay a federal civil penalty of $300,000 for that spill.

The consent decree, filed today in the U.S. District Court for the Eastern District of Kentucky, represents the combined efforts of both the U.S. and the Commonwealth of Kentucky, which is party to the settlement.

"Today's agreement demonstrates the Justice Department's on-going efforts along with other federal and state agencies, to enforce our environmental laws," said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department's Environmental and Natural Resources Division. "The spill in the Kentucky River was serious, and today's settlement will ensure that the defendants are being held responsible for their actions."

"This settlement underscores the commitment of both the Environmental Protection Agency and our state partners to maintain an aggressive enforcement program that protects human health and the environment," said Jimmy Palmer, EPA Regional Administrator. "This joint effort shows once again that, working together, we can achieve decisive, and very effective, results."

DOJ_NMG_ 0166600

Mid-Valley and SPLP will pay $1.4 million to the United States, and $1.17 million to Kentucky in penalties for the Kentucky spill. In addition, Mid-Valley and SPLP will perform measures to enhance future spill response preparation, and will reimburse the Commonwealth for response costs of more than $120,000. The defendants have already reimbursed federal response costs of at least $234,000. The settlement also requires Mid-Valley and SPLP to donate $230,000 to a non-profit organization dedicated to improving the environment of Kentucky.

The spill in Kentucky from the Mid-Valley Pipeline occurred on January 26, 2005, as a result of a girth weld failure in 22-inch diameter pipe that had been laid in 1950. The oil spill harmed hundreds of migratory waterfowl. The oil slick was over 17 miles long and reached the Ohio River.

The settlement resolves claims asserted in the complaint – filed jointly with the consent decree – pursuant to the federal Clean Water Act and the Kentucky environmental law. This settlement is in addition to the approximately $9.5 million defendants spent on their response action to clean up the Kentucky spill. The Clean Water Act makes it unlawful to "discharge oil or any hazardous substances into or upon the navigable waters of the United States [or] adjoining shorelines" and makes owners, operators, or any person in charge of onshore oil facilities which illegally discharge oil or hazardous waste liable for civil penalties.

The $300,000 penalty for the Louisiana spill is in addition to the $2.2 million spent by the defendants in response costs and restoration, and to the over $26,000 reimbursed for federal response costs.

The penalty money paid to the United States for these spills will be deposited in the federal Oil Spill Liability Trust Fund.

The proposed consent decree is subject to a 30-day public comment period and court review and approva can be obtained on the Justice Department Web site at http://www.usdoj.gov/enrd/Consent_Decrees.html.

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06-534

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Image not available for this document, ID: 0.7.10316.38147-000003

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, August 15, 2006 12:04 PM
Subject: Removal of Temporary Power Cables in the RFK MAIN Justice Building

Removal of Temporary Power Cables in the RFK MAIN Justice Building

Beginning Wednesday morning, August 16, Justice Building Services will be removing temporary power cables that are currently being used to feed the emergency circuitry in the RFK MAIN Justice Building. This process will take all day Wednesday to complete. While this is being done, please do NOT have anything plugged into the emergency outlets. Emergency outlets are the solid red outlets located in all of the computer rooms, wire closets and facilities rooms. This does not apply to outlets in office space that have a red triangle designation on them. Once the work is completed, power will be restored to those outlets and you may begin to use the emergency outlets on Thursday, August 17. Any questions may be directed to Dick Naber at 514-1611.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 12:51 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR DEPARTMENT OFFICIALS TO HOLD PRESS CONFERENCE

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

SENIOR DEPARTMENT OFFICIALS TO HOLD PRESS CONFERENCE

WASHINGTON—Assistant Attorney General Alice S. Fisher of the Criminal Division, Deputy Administrator Michele Leonhart of the Drug Enforcement Administration (DEA), and Stuart Nash, Director of the Justice Department's Organized Crime and Drug Enforcement Task Force (OCDETF) will hold a press conference on a drug-related matter.

WHO: Assistant Attorney General Alice S. Fisher, Criminal Division
Deputy Administrator Michele Leonhart, DEA
Stuart Nash, Director, OCDETF

WHAT: Press Conference

WHEN: **TUESDAY, AUGUST 15, 2006**
3:00 P.M. EDT

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **2:30 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-535

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Image not available for this document, ID: 0.7.10316.38124-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 3:02 PM
To: USDOJ- Office of Public Affairs
Subject: PUERTO RICO ATTORNEY SENTENCED TO 33 MONTHS IN PRISON FOR OBSTRUCTION OF JUSTICE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

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

PUERTO RICO ATTORNEY SENTENCED TO 33 MONTHS IN PRISON FOR OBSTRUCTION OF JUSTICE

WASHINGTON — A San Juan attorney was sentenced to serve 33 months in prison for obstruction of justice in relation to federal investigations involving a kickback scheme to defraud a fast food chain operator, the Justice Department announced today. The attorney was also sentenced to 120 hours of unpaid community service and three years of supervised release.

Eugenio A. Guardiola Ramirez (Guardiola) was sentenced today in U.S. District Court in Puerto Rico by Judge Hector Laffitte for his involvement in a conspiracy to obstruct justice and obstruction of justice in connection with federal investigations by the U.S. General Services Administration, Office of Inspector General (GSA-OIG), and a federal grand jury into a kickback scheme to defraud Tricon Restaurants International. Tricon, which was recently purchased by Encanto Restaurants, owns and operates fast food restaurants in Puerto Rico.

"The Antitrust Division will hold accountable those who seek to impede the federal investigative and judicial process," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Today's sentence demonstrates that commitment."

Guardiola was indicted on Jan. 11, 2006 and convicted on March 22, 2006 for his role in the conspiracy. The indictment charged that Guardiola attempted to conceal the true nature of the kickback payments by attempting to persuade witnesses to provide false information about the kickback payments to the grand jury and the GSA-OIG. The indictment also charged that Guardiola drafted a phony services contract to conceal the true nature of the kickback payments.

Between March and May 2004 Guardiola interfered with and obstructed the GSA-OIG and federal grand jury investigations into illegal kickback payments made by his clients, Gate Engineering Corporation, an electrical contractor, and its president, Albith Colón, to Jorge Luis Matos Burgos (Matos), then a Tricon employee, the Department said.

On May 19, 2005, Gate and Colón pleaded guilty to conspiring to commit mail fraud in connection with the scheme to defraud Tricon and to making illegal kickback payments to Matos in exchange for Matos

DOJ_NMG_ 0166610

awarding Gate more than $1 million worth of electrical contracts on behalf of Tricon. Gate and Colón are awaiting sentencing.

On Aug. 18, 2005, Matos was convicted at trial of the same charge and on November 15, 2005, he was sentenced to serve 12 months and one day in jail and two years of supervised release.

Anyone with information concerning bid rigging or kickbacks in Puerto Rico should contact the Atlanta Office of the Department of Justice, Antitrust Division at 404-331-7100.

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Image not available for this document, ID: 0.7.10316.38113-000002

Full Name:	Neil Gorsuch
Last Name:	Gorsuch
First Name:	Neil
E-mail:	judge_neil_gorsuch@ca10.uscourts.gov
E-mail Display As:	judge_neil_gorsuch@ca10.uscourts.gov

DOJ_NMG_ 0166614

Full Name:	Jamil Jaffer
Last Name:	Jaffer
First Name:	Jamil
E-mail:	[redacted]
E-mail Display As:	[redacted]

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 3:11 PM
To: USDOJ- Office of Public Affairs
Subject: INTERNATIONAL BLACK TAR HEROIN TRAFFICKING GROUP DISMANTLED

Department of Justice

DRUG ENFORCEMENT ADMINISTRATION

FOR IMMEDIATE RELEASE — CRM
TUESDAY, AUGUST 15, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

INTERNATIONAL BLACK TAR HEROIN TRAFFICKING GROUP DISMANTLED

'Operation Black Gold Rush' Leads to 138 Arrests in 15 Cities

WASHINGTON – More than 130 defendants have been indicted and hundreds of thousands of dollars seized as part of an international operation targeting the trafficking of black tar heroin in the United States, Assistant Attorney General Alice S. Fisher of the Criminal Division, Administrator Karen P. Tandy for the Drug Enforcement Administration (DEA), and Stuart Nash, Director of the Justice Department's Organized Crime and Drug Enforcement Task Force, announced today.

The multi-state investigation, called "Operation Black Gold Rush," included arrests in 15 U.S. cities and 10 indictments in eight federal judicial districts, along with state charges. More than 17 kilograms of black tar heroin—a potent form of heroin that is dark and sticky in appearance—were also seized in the operation.

As of today, a total of 138 people have been arrested on federal and state charges in connection with the operation. In the Southern District of Indiana, an indictment charged 13 defendants with conspiracy to distribute one kilogram or more of heroin. Additionally, 15 individuals have been charged in the state of Indiana, 28 individuals have been arrested and indicted in Ohio, 47 individuals in Tennessee, seven in Colorado and 11 individuals in North Carolina. On Aug. 2, 2006, a federal grand jury in the District of South Carolina returned two indictments charging 26 individuals with drug-related offenses.

"This operation demonstrates that the Department of Justice is as committed as ever to eradicating the flood of illegal and dangerous narcotics like black tar heroin," said Assistant Attorney General Alice S. Fisher of the Criminal Division. "Law enforcement across the country will continue to work diligently to shut down these operations and keep our neighborhoods free of the poison being spread by these criminals."

"Operation Black Gold Rush exposed a network of over 100 illegal aliens who controlled a pipeline of heroin operating from Nayarit, Mexico to Nashville, Tennessee and at least 14 cities in between," said DEA Administrator Karen P. Tandy. "Today, DEA ruptured that pipeline, stopping the flow of heroin to our streets."

DOJ_NMG_ 0166616

"Operation Black Gold Rush" started with a single seizure of heroin. This DEA-led investigation, which began in November 2005, involved the cooperative efforts of federal, state and local law enforcement agencies. Members of the trafficking organization charged in the indictments are alleged to have been responsible for importing and distributing approximately eight kilograms of black tar heroin monthly from Mexico into the United States—which could be sold at an estimated street value of more than $2 million. The organization allegedly used illegal aliens as couriers, who were part of a "call and deliver" system of drug distribution whereby a customer could have his heroin literally delivered to the front door. The illicit proceeds were allegedly laundered by the organization's financial managers using a combination of wire remitters and bulk currency transport.

To date, the government has seized more than $500,000 in cash representing illegal proceeds from this operation—$260,000 prior to today and $250,000 today alone.

"Operation Black Gold Rush" is a joint investigation involving operations in 15 cities—Nashville, Memphis and Knoxville in Tennessee; Indianapolis; Columbus and Cincinnati, Ohio; Denver; Los Angeles and Riverside, California; Charlotte, North Carolina; Columbia, Greenville, Charleston and Florence in South Carolina; and Phoenix, Arizona. The investigation also involved eight U.S. Attorney's Offices, the Criminal Division's Narcotic and Dangerous Drug Section, Special Operations Division, and the Justice Department's Organized Crime and Drug Enforcement Task Force, along with U.S. Immigration and Customs Enforcement, the Internal Revenue Service, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and various state and local law enforcement agencies.

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06-536

DOJ_NMG_ 0166617

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Image not available for this document, ID: 0.7.10316.38086-000002

Image not available for this document, ID: 0.7.10316.38086-000003

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 4:19 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE WORLD AFFAIRS COUNCIL OF PITTSBURGH

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE WORLD AFFAIRS COUNCIL OF PITTSBURGH

WASHINGTON– Attorney General Alberto R. Gonzales will deliver remarks before the World Affairs Council of Pittsburgh on *Stopping Terrorists Before they Strike: The Justice Department's Power of Prevention* on **WEDNESDAY, AUGUST 16, 2006, at 8:30 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before World Affairs Council regarding Department of Justice efforts to prevent terrorism

WHEN: **WEDNESDAY, AUGUST 16, 2006**
8:30 A.M. EDT

WHERE: Omni William Penn Hotel
Monongahela Room
530 William Penn Place
Pittsburgh, Pennsylvania
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **8:00 A.M. EDT**. All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486 or Elisa Vettier of the World Affairs Council of Pittsburgh at 412-818-2629.

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Image not available for this document, ID: 0.7.10316.38015-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 4:26 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR ALLEGHENY COUNTY EMERGENCY OPERATIONS CENTER, MEET WITH LAW ENFORCEMENT OFFICIALS, AND PARTICIPATE IN PRESS CONFERENCE

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO TOUR ALLEGHENY COUNTY EMERGENCY OPERATIONS CENTER, MEET WITH LAW ENFORCEMENT OFFICIALS, AND PARTICIPATE IN PRESS CONFERENCE

WASHINGTON – Attorney General Alberto R. Gonzales will tour the Allegheny County Emergency Operations Center, meet with federal, state and local law enforcement officials, and participate in a press conference on **WEDNESDAY, AUGUST 16, 2006** at the Allegheny County Emergency Operations Center in Pittsburgh, Pa.

WHO: Attorney General Alberto R. Gonzales

WHAT:
*Tour of Allegheny County Emergency Operations Center
*Meeting with federal, state and local law enforcement officials
*Remarks at a press conference with Mary Beth Buchanan, U.S. Attorney for the Western District of Pennsylvania

WHEN:

TOUR OF EMERGENCY OPERATIONS CENTER
Wednesday, August 16, 2006
9:35 A.M. EDT
Note: B-roll Pool Coverage Only

MEETING WITH LAW ENFORCEMENT OFFICIALS
Wednesday, August 16, 2006
9:50 A.M. EDT
Note: Pool Coverage Only

DOJ_NMG_ 0166625

PRESS CONFERENCE WITH U.S. ATTORNEY MARY BETH BUCHANAN FOLLOWING MEETING WITH
Wednesday, August 16, 2006
10:20 A.M. EDT
Note: Open Press

WHERE: Allegheny County Emergency Operations Center
400 North Lexington Street
Pittsburgh, Pa.

NOTE: Pool camera for tour of Emergency Operations Center and meeting with law enforcement officials must pre-set **no later than 9:00 A.M. EDT.** All camera crews wishing to cover the press conference must pre-sent **no later than 9:15 A.M. EDT.** All other media wishing to cover the press conference must arrive **no later than 9:40 A.M. EDT.** All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486 or Margaret Philbin of the U.S. Attorney's Office at 412-606-4608.

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06-539

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Image not available for this document, ID: 0.7.10316.38011-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 4:32 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO MEET WITH PROJECT SAFE NEIGHBORHOOD TASK FORCE AND DELIVER REMARKS AT PRESS CONFERENCE IN ROANOKE, VIRGINIA

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, AUGUST 15, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO MEET WITH PROJECT SAFE NEIGHBORHOOD TASK FORCE AND DELIVER REMARKS AT PRESS CONFERENCE IN ROANOKE, VIRGINIA

WASHINGTON – Attorney General Alberto R. Gonzales will meet with the Project Safe Neighborhood Task Force and participate in a press conference at the U.S. Attorney's Office in Roanoke, Va. **WEDNESDAY, AUGUST 16, 2006**.

WHO: Attorney General Alberto R. Gonzales

WHAT: *Meeting with the Project Safe Neighborhood Task Force
*Remarks at Press Conference with U.S. Attorney John Brownlee

WHEN: **MEETING WITH PROJECT SAFE NEIGHBORHOOD TASK FORCE**
Wednesday, August 16, 2006
2:40 P.M. EDT
Note: Pool Coverage at Top

PARTICIPATION IN PRESS CONFERENCE WITH JOHN BROWNLEE, U.S. ATTORNEY FOR THE WESTERN DISTRICT OF VIRGINIA
Wednesday, August 16, 2006
3:25 P.M. EDT
Note: Open Press

WHERE: U.S. Attorney's Office
310 1st Street, S.W.
Roanoke, Va.

DOJ_NMG_ 0166629

NOTE: Pre-set for pool coverage of meeting with Project Safe Neighborhood Task Force is **no later than 2:10 P.M. EDT**. Pre-set for press conference is **no later than 2:45 P.M. EDT.** All press inquiries regarding logistics should be directed to Kathleen Blomquist of the Department of Justice at 212-363-0623 or Heidi Coy of the U.S. Attorney's Office at 540-293-3582.

# # #

06-540

DOJ_NMG_ 0166630

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Image not available for this document, ID: 0.7.10316.38007-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 15, 2006 8:14 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 15, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Gonzales Travels to Pittsburgh, Pa. and Roanoke, Va. (OPA)
Tomorrow, the Attorney General will travel to Pittsburgh, Pennsylvania. There, he will deliver a speech before the World Affairs Council of Pittsburgh regarding DOJ efforts to fight terrorism, meet with law enforcement officials and participate in a press conference. He will also travel to Roanoke, Virginia, where he will meet with law enforcement officials and participate in a press conference on Project Safe Neighborhood.

TracFones not Related to Terror Nexus (FBI)
The FBI has reported continued media interest in TracFones and the arrests of individuals in possession of high quantities of cell phones. At this point, there has been no nexus to terrorism identified associated with these incidents.

Forty-Two Defendants Charged for Involvement in Human Trafficking Ring (FBI)
Today, 42 defendants (brothel owners, brothel managers and livery drivers) were charged for their involvement in a large-scale human trafficking/prostitution ring operating throughout the northeastern United States.

Nancy Grace to Interview FBI Official (Tentative) (FBI)
Today, CNN's Nancy Grace Show requested a live interview via satellite with officials from the Houston Field Office, possibly for tonight's program, to discuss fugitive Jacqueline Tarsa LeBaron. The Houston Office is working with the US Attorney's office to schedule the interview.

ABC Primetime to Interview Innocence Lost Subject Gabriel Prudholm (FBI)
Today, ABC's "Primetime Live" traveled to Houston, Texas to interview Innocence Lost subject Gabriel Prudholm, convicted last week on two counts of Compelling Prostitution and Sexual Assault. The interview will be part of two shows highlighting the FBI's Innocence Lost Initiative.

Assistant Attorney General Fisher Announced Indictment of 130 Individual on Heroin Trafficking Charges (Criminal)

Today, Alice Fisher, Assistant Attorney General for the Criminal Division, participated in a press conference announcing the indictment of 130 defendants allegedly responsible for importing black tar heroin from Mexico into the United States.

Talking Points

- Operation Black Gold Rush exposed a network of over 100 illegal aliens who controlled a pipeline of heroin operating from Nayarit, Mexico to Nashville, Tennessee and at least 14 cities in between.

- This operation demonstrates that the Department of Justice is as committed as ever to eradicating the flood of illegal and dangerous narcotics like black tar heroin.

- Law enforcement across the country will continue to work diligently to shut down these operations and keep our neighborhoods free of the poison being spread by these criminals.

Puerto Rico Attorney Sentenced to 33 Months in Prison for Obstruction of Justice (Tax)
A San Juan attorney was sentenced to serve 33 months in prison for obstruction of justice in relation to federal investigations involving a kickback scheme to defraud a fast food chain operator, the Justice Department announced today. The attorney was also sentenced to 120 hours of unpaid community service and three years of supervised release.

Federal Judge Stops Tax Refund Fraud by Two Florida Tax Return Preparers (Tax)
On August 8, a federal judge permanently barred Jean-Marie Boucicaut and Marie Thelemarque of Orlando, Fla., and Boucicaut's company, Tax Review Corporation, from preparing federal tax returns for others, the Justice Department announced today. The court also ordered Boucicaut and Thelemarque to return $772,449 plus interest to the United States that they fraudulently obtained by intercepting and cashing 593 tax refund checks of other persons.

Federal Government Reaches Settlement with Pipeline Companies Regarding Crude Oil Spills (Environmental and Natural Resources Division)
Today, the federal government today reached a settlement with Mid-Valley Pipeline Company (Mid-Valley) and pipeline operator Sunoco Pipeline L.P. (SPLP), requiring the companies to pay a $2.57 million penalty relating to a January 2005 spill that dumped more than 260,000 gallons of crude oil into the Kentucky and Ohio Rivers. The complaint and consent decree also address the government's claim under the Clean Water Act against Mid-Valley and the pipeline operator, Sun Pipe Line Company (Sun), for the spill of 63,000 gallons of crude oil due to pipeline corrosion on Nov. 24, 2000, into Campit Lake in Claiborne Parish, La. The settlement requires Mid-Valley and Sun to pay a federal civil penalty of $300,000 for that spill.

Talking Points

- Today's agreement demonstrates the Justice Department's on-going efforts along with other federal and state agencies, to enforce our environmental laws.

- The spill in the Kentucky River was serious, and today's settlement will ensure that the defendants are being held responsible for their actions.

Department of Justice Announces Over $15 Million to Support Anti-Crime Community Efforts (Office of Justice Programs)
Today, Assistant Attorney General Regina B. Schofield announced grant awards to 32 newly designated Weed and Seed sites and continuing support to 55 existing sites nationwide to fight crime and restore community infrastructure. The funding is administered by the Community Capacity Development Office, a component of the U.S. Department of Justice's Office of Justice Programs.

Talking Points

- This funding helps rebuild and restructure communities that have suffered because of criminal activity and social decay.

- These strategies encourage residents to work with law enforcement agencies to deter crime, identify resources, and restore community cohesiveness.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

8:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the World Affairs Council of Pittsburgh on *Stopping Terrorists Before they Strike: The Justice Department's Power of Prevention.*
Omni William Penn Hotel
530 William Penn Place
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486

9:35 A.M. EDT Attorney General Alberto R. Gonzales will tour the Allegheny County Emergency Operations Center.
400 North Lexington Street
Pittsburgh, Pennsylvania
B-ROLL POOL COVERAGE ONLY

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

9:50 A.M. EDT Attorney General Alberto R. Gonzales will meet with federal, state and local law enforcement officials in Pittsburgh, Pa.
400 North Lexington Street
Pittsburgh, Pennsylvania
POOL COVERAGE ONLY

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

10:20 A.M. EDT

Attorney General Alberto R. Gonzales will participate in a press conference with U.S. Attorney Mary Beth Buchanan after meeting with federal, state and local law enforcement officials.
400 North Lexington Street
Pittsburgh, Pennsylvania
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

1:00 P.M. EDT

Julie Myers, Assistant Secretary for Immigration and Customs Enforcement, Mike Garcia, U.S. Attorney for the Southern District of New York, Ambassador John Miller, and FBI Assistant Director in Charge Mark Mershon will participate in a joint press conference to announce multi-state raids of Korean brothels.
Location TBD
OPEN PRESS

2:40 P.M. EDT

Attorney General Alberto R. Gonzales will participate in a meeting with the Project Safe Neighborhood Task Force in Roanoke, Va.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
POOL COVERAGE AT TOP

All press inquiries regarding logistics should be directed to Kathleen Blomquist at 212-363-0623.

3:25 P.M. EDT

Attorney General Alberto R. Gonzales will hold a press conference regarding the Department of Justice's Project Safe Neighborhood program.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
OPEN PRESS

All press inquiries regarding logistics should be directed to Kathleen Blomquist at 212-363-0623.

[redacted]@opm.gov

From: [redacted]@opm.gov
Sent: Wednesday, August 16, 2006 3:42 AM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: [redacted]
Password: [redacted]

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

Williamson, Angela

From: Williamson, Angela
Sent: Wednesday, August 16, 2006 9:02 AM
To: Williamson, Angela
Subject: The Daily Update: 8/16/06

<http://www.whitehouse.gov/>
AUGUST 16, 2006

Today, President Bush will participate in a tour of Harley-Davidson Vehicle Operations in York, Pennsylvania, and a roundtable on the economy, which he will follow with a statement. The President will later attend a Lynn Swann for Governor reception.

2:25 pm:
EDT THE PRESIDENT participates in Tour of Harley-Davidson Vehicle Operations
Harley-Davidson Vehicle Operations | York, Pennsylvania

2:50 pm:
EDT THE PRESIDENT participates in Roundtable on the Economy
Harley-Davidson Vehicle Operations | York, Pennsylvania

3:50 pm:
EDT THE PRESIDENT makes a Statement
Harley-Davidson Vehicle Operations | York, Pennsylvania

5:20 pm:
EDT THE PRESIDENT attends Lynn Swann for Governor Reception
Lancaster Host Resort & Conference Center | Lancaster, Pennsylvania

President Bush Discusses Homeland Security At The National Counterterrorism Center. "'America is safer than it has been, yet it is not yet safe <http://news.yahoo.com/s/ap/20060815/ap_on_go_pr_wh/bush&printer=1> ,' Bush told reporters at the National Counterterrorism Center just outside Washington. ... Bush credited the workers at the center with helping to bring about last week's arrests of more than two dozen people in England and Pakistan in what officials say was a plot to blow up as many as 10 passenger planes between Britain and the United States. 'That plot and this building and the work going on here is really indicative of the challenge we face - not only this week, but this year and the years to come,' he said." (Nedra Pickler, "Bush Says U.S. Safer, But Not Yet Safe," The Associated Press, 8/15/06)

Homeland Security Secretary Chertoff Says Counterterrorism Strategy "Must Remain Flexible" To Prevent Attacks. "Our No. 1 priority is always protecting American citizens and travelers to the United States. <http://www.usatoday.com/news/opinion/editorials/2006-08-15-chertoff-security_x.htm> Today, air travel remains safe, and there is no current evidence that elements of this terrorist plot are active within the

United States. But we must fully maintain current security measures to thwart copycats. ... Two principles form the core of our strategy. First, we always review our prevention efforts in light of emerging threats, not only for past threats. Second, we do not put our reliance on one layer of defense, but we look to multiple layers that are much more difficult to penetrate." (Sec. Michael Chertoff, Op-Ed, "We Must Remain Flexible," USA Today, 8/15/06)

TSA Administrator Kip Hawley Discusses Airport Security Measures. "TSA officials say they have several teams of officers trained to identify the behavior patterns of potential terrorists. Those teams are deployed in at least 10 airports, including Dulles. Officials plan to add more such teams in coming months. ... 'I call them the movie-script plots, that there are many, many, many scenarios that you can come up with and then look for individual solutions,' Hawley said. 'The answer is to have layered solutions that bring in intelligence, law enforcement, all the partners working together to make it impossible for someone to get off a successful attack.' <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/15/AR2006081501200.html> " (Del Quentin Wilber, "Aviation Officials Defend Security Measures," The Washington Post, 8/16/06)

Institute For Homeland Security Director Randall Larsen Says TSA Head Kip Hawley Showed Foresight By Focusing On Bomb Detection. "The head of the Transportation Security Administration, Kip Hawley, has been trying to move TSA's focus to this new threat since he took office last year <http://online.wsj.com/article/SB115569914424337036.html?mod=opinion_main_commentaries> . His initial attempts to do so were met with scorn. 'TSA says it is OK to take knives on airplanes.' Remember the headlines and guffaws, the lambasting from many in Congress? Of course, that was not what Mr. Hawley really meant. Rather, it was a matter of priorities: Shift the focus away from nail files and grade-school scissors and toward the far greater risk - bombs that are virtually undetectable by the technology currently in use. He was right; we should make the best use of our limited resources to block this more likely avenue of attack." (Randall Larsen, Op-Ed, "The Real Threat: Bombs," The Wall Street Journal, 8/16/06)

Secretary Of State Rice Calls Middle East Cease-Fire Agreement "A Victory For All Who Are Committed To Moderation And Democracy." "Last Friday we took an important step toward that goal with the unanimous passage of U.N. Resolution 1701. Now the difficult, critical task of implementation begins. ... The implementation of Resolution 1701 will not only benefit Lebanon and Israel; it also has important regional implications. Simply put: This is a victory for all who are committed to moderation and democracy in the Middle East <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/15/AR2006081501095.html> - and a defeat for those who wish to undermine these principles with violence, particularly the governments of Syria and Iran." (Sec. Condoleezza Rice, Op-Ed, "A Path To Lasting Peace," The Washington Post, 8/16/06)

Secretary Rice Calls For Hezbollah To Disarm. "If Hezbollah resists international demands to disarm, Rice said, 'one would have to assume that there will be others who are willing to call Hezbollah what we are willing to call it, which is a terrorist organization.' ... Rice said Hezbollah's military strength had been undercut and predicted that any

political benefit for the group would 'be very short-lived.' 'We need to let the dust settle, literally, and then the question will be asked of Hezbollah: Exactly what did they achieve? <http://www.usatoday.com/printedition/news/20060816/1a_lede16_dom.art.htm> ' she said. 'They achieved the displacement of hundreds of thousands of Lebanese. They achieved the destruction of Lebanese infrastructure and housing and neighborhoods.'" (Susan Page, "Rice: Not U.N.'s Job To Disarm Hezbollah," USA Today, 8/16/06)

Treasury Department Freezes Assets Of Two Syrian Officials. "The Treasury Department froze the assets of two Syrian officials on Tuesday, alleging they had played key roles in support of terrorist organizations. 'Until Syria takes concrete steps to become a responsible member of the international community, the United States will make known rogue actors supporting the country's destabilizing agenda,' Pat O'Brien, Treasury's assistant secretary for terrorist financing, said in a statement announcing the action. ... 'It's aimed at financially isolating individuals and entities that are directly or significantly contributing to Syria's support for designated terrorist groups,' <http://news.yahoo.com/s/ap/20060815/ap_on_go_ca_st_pe/treasury_assets_1&printer=1> Snow told reporters at the White House." ("Treasury Freezes U.S. Assets Of Syrians," Martin Crutsinger, The Associated Press, 8/15/06)

Vice President Cheney Says A Sudden Troop Withdrawal From Iraq Would "Invite More Terrorist Attacks In The Future." "But the vice president spent the bulk of his speech addressing the war against terrorism and the Democrats, pointing out the ongoing 'vigorous debate' on how to deal with the situation in Iraq. He dismissed Democrats who called for a troop pullout deadline, saying it was a 'bad idea.' He criticized Rep. Jack Murtha, D-Pa., for his suggestion that troops be pulled back to Okinawa and his use of examples of previous pullouts. 'If we follow U.S. Rep. Murtha's advice and withdraw from Iraq the same way we withdrew from Beirut in 1983 or Mogadishu in 1993, we will simply validate the al-Qaida strategy and invite more terrorist attacks in the future <http://www.eastvalleytribune.com/index.php?sty=71770> ,' Cheney said." ("Vice President Stumps For Arizona Republicans," The Associated Press, 8/15/06)

Consumer Choice And Competition Drive Down Average Premiums For Medicare Prescription Drug Coverage. "Federal officials announced Tuesday that the average premium for Medicare prescription drug coverage next year would be about $24 a month, which is the same as this year and 40 percent less than first estimated for 2007. ... The drug benefit is delivered by private insurance companies under contract to Medicare. Insurers compete with one another by offering lower premiums and more extensive benefits. The competition and the choices made by beneficiaries evidently drove down the average premiums for this year and next. 'Competition and choice in health care are working,' <http://www.nytimes.com/2006/08/16/us/16medicare.html?hp&ex=1155787200&en=4c0a2ef89430c51a&ei=5094&partner=homepage> said Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services." (Robert Pear, "Medicare Sees No Increase In Premium For Drugs," The New York Times, 8/16/06)

College Admissions Test Score Average Increases. "The high-school class

of 2006 made the biggest gain in years on the ACT college-admissions test, in an improvement test administrators attributed to federal and state initiatives to bolster instruction. ... Students scored an average of 21.1 this year - the highest since 1991 and up from 20.9 in 2005. ... Richard Ferguson, chief executive officer, said the improved results are a sign that elementary-school reforms launched under the federal No Child Left Behind law <http://online.wsj.com/article/SB115569809027237011.html?mod=todays_us_marketplace> and various state and local initiatives are beginning to pay dividends in the upper grades. 'We do see movement in a lot of places where there are efforts to improve the quality of instruction in the school setting,' he said." (Robert Tomsho, "Class Of '06 Scores Major Gain On ACT College-Admissions Test," The Wall Street Journal, 8/16/06)

State Department Begins Issuing Passports With Upgraded Technology. "The digital era arrived in Foggy Bottom this week when the State Department began issuing new 'electronic passports' to the public. The passport has a special chip in the rear cover bearing the same biographical information found in the front cover. ... These passports are hard to counterfeit and provide an extra layer of security, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/14/AR2006081400937.html> Tischler said. They include 'anti-skimming' technology to prevent the personal information from being intercepted by identity thieves, according to the department." ("U.S. Issues Chip-Equipped Passports," The Washington Post, 8/16/06)

State Governments Save More Money Due To Improving Economies And Conservative Forecasts. "State lawmakers are saving lots of money for a rainy day because of improving economies and conservative economic forecasts, a report released Tuesday says. State governments saved about $1 out of every $10 in their budgets in the most recent fiscal year, according to a survey released at the annual meeting of the National Conference of State Legislatures. The $57 billion total saved by legislatures around the country marks a 25 percent jump from the previous budget year and is one of the highest levels in decades <http://news.yahoo.com/s/ap/20060815/ap_on_re_us/state_budgets&printer=1> ." (Erik Schelzig, "Study Finds States Saving More Money," The Associated Press, 8/15/06)

Stocks Rise On Positive Prices Report. "An unexpected drop in wholesale prices sent stocks soaring Tuesday <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/15/AR2006081500273.html> , with the Dow Jones industrials climbing more than 130 points as Wall Street gained renewed confidence in the Federal Reserve's management of inflation and the economy. ... Prices at the wholesale level, with food and fuel prices removed, fell 0.3 percent in July, according to the Labor Department, the best showing for core inflation in nine months. Including energy and food, wholesale prices edged up 0.1 percent, well below the 0.5 percent jump in June." ("Stocks Shoot Up On Prices Report," The Associated Press, 8/16/06)

President Bush Meets with Counterterrorism Team <http://www.whitehouse.gov/news/releases/2006/08/20060815.html>

* In Focus: National Security
<http://www.whitehouse.gov/infocus/nationalsecurity/>

Statement on Federal Disaster Assistance for Texas
<http://www.whitehouse.gov/news/releases/2006/08/20060815-3.html>

Vice President's Remarks at a Luncheon for Arizona Victory 2006
<http://www.whitehouse.gov/news/releases/2006/08/20060815-2.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/08/20060815-1.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060815-4.html>

Gunn, Currie (SMO)

Subject:	Canceled: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, August 16, 2006 10:00 AM
End:	Wednesday, August 16, 2006 11:00 AM
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L; Katsas, Gregory
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)
Importance:	High

When: Wednesday, August 16, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Please delete old series. New mtg w/addition of Gordon Todd and removal of Dan Meron

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 10:14 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 16, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 16, 2006

ATTORNEY GENERAL

Attorney General Alberto R. Gonzales delivered remarks today before the World Affairs Council of Pittsburgh on *Stopping Terrorists Before they Strike: The Justice Department's Power of Prevention.*

9:35 A.M. EDT Attorney General Alberto R. Gonzales will tour the Allegheny County Emergency Operations Center, followed by a meeting with law enforcement officials and a press conference with U.S. Attorney Mary Beth Buchanan.
400 North Lexington Street
Pittsburgh, Pennsylvania
Note: Tour is B-Roll pool coverage only. Meeting with law enforcement officials is pool coverage only. Press conference is open press.

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

2:40 P.M. EDT Attorney General Alberto R. Gonzales will participate in a meeting with the Project Safe Neighborhood Task Force in Roanoke, Va.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
POOL COVERAGE AT TOP

All press inquiries regarding logistics should be directed to Kathleen Blomquist at 212-363-0623.

3:25 P.M. EDT Attorney General Alberto R. Gonzales will hold a press conference regarding the Department of Justice's Project Safe Neighborhood program.
U.S. Attorney's Office for the Western District of Virginia
310 1st Street, S.W.
11th Floor Conference Room
Roanoke, Virginia
OPEN PRESS

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All press inquiries regarding logistics should be directed to Kathleen Blomquist at 212-363-0623.

PRESS RELEASES

The Tax Division will issue a press release regarding a tax fraud matter. (Miller)

The Civil Rights Division will issue a release. (Magnuson)

EVENTS/HEARINGS

12:00 P.M. EDT Deputy Attorney General Paul J. McNulty will participate in a press conference with Maria Cino, Acting Secretary of the Department of Transportation, and others to announce a new national enforcement crackdown on impaired driving.
Montgomery County Police and Fire Training Academy
9710 Great Seneca Highway
Rockville, Maryland 20850
OPEN PRESS

All press inquiries regarding logistics should be directed to Ellen Martin of the National Highway Traffic Safety Administration at 202-366-9550.

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166646

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Image not available for this document, ID: 0.7.10316.37970-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 10:45 AM
To: USDOJ- Office of Public Affairs
Subject: PRESIDENT GEORGE W. BUSH GRANTED PARDONS

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 16, 2006
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President George W. Bush granted pardons to the following 17 individuals:

James Leon Adams — Simpsonville, South Carolina

Offense: Selling firearms to out of state residents and falsifying firearms records; 18 U.S.C. §§ 922(b) (3), 922(m), and 924(a)

Sentence: January 27, 1976; District of South Carolina; two years probation and a $1,000 fine

Tony Dale Ashworth — Winnsboro, South Carolina

Offense: Unlawful transfer of a firearm; 26 U.S.C. §§ 5861(e) and 5871

Sentence: July 19, 1989; District of South Carolina; three years probation conditioned on the performance of 300 hours community service

Randall Leece Deal — Clayton, Georgia

Offense:
1. Liquor law violation; Title 26, U.S.C.
2. Liquor law violation; Title 26, U.S.C.
3. Conspiracy to violate the liquor laws, Title 26, U.S.C.

Dates:
1. June 23, 1960; Northern District of Georgia; two years probation
2. and 3. April 29, 1964 and May 8, 1964; Northern District of Georgia; 18 months imprisonment, suspended, two years probation

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William Henry Eagle Wenatchee, Washington

Offense: Possessing an unregistered still, carrying on the business of a distiller without giving the required bond, and manufacturing mash on other than lawfully qualified premises; 26 U.S.C. §§ 5601(a)(1), 5601(a)(4), and 5601(a)(7)

Date: March 23, 1972; Eastern District of Arkansas; two years probation

Robert Carter Eversole Summerville, Georgia

Offense: Conspiracy to commit theft from an interstate shipment; 18 U.S.C. § 371

Date: June 18, 1984; Eastern District of Tennessee; five years probation, with the special conditions that he pay $4,038 in restitution and perform 100 hours of community service

Kenneth Clifford Foner Niobrara, Nebraska

Offense: Conspiracy to impede the functions of the FDIC, commit embezzlement as a bank officer, make false entries in the records of an FDIC-insured bank, and commit bank fraud; 18 U.S.C. §§ 371, 656, 1005, and 1344

Date: July 19, 1991; District of Nebraska; five years probation, conditioned upon performance of 1,000 hours of community service and payment of $17,750 in restitution

Victoria Diane Frost Medina, Ohio

Offense: Conspiracy to possess and distribute L-Ephedrine Hydrochloride, 21 U.S.C. § 846

Date: April 25, 1994; Western District of New York; three years probation, including six months' home confinement; $3,000 fine

William Grover Frye Indianapolis, Indiana

Offense: 1. Absence without leave (two specifications), Article 86, UCMJ, 10 U.S.C. § 886; escape from lawful confinement, Article 95, UCMJ, 10 U.S.C. § 895 2. Sale of a stolen motor vehicle moving in interstate commerce; 18 U.S.C. § 2313

Date: 1. October 3, 1968; United States Army general court-martial; confinement at hard labor for one year, forfeiture of all pay and

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allowances, and a bad conduct discharge, as approved by the convening authority on November 14, 1968
2. October 15, 1973; Southern District of Indiana; two years probation

Stanley Bernard Hamilton — Richton Park, Illinois

Offense: Altering U.S. postal money orders; 18 U.S.C. § 500

Date: September 13, 1990; Southern District of Mississippi; three years probation, conditioned upon confinement for 30 days in a community treatment center and payment of a $1,000 fine

Melodie Jean Hebert — Scituate, Rhode Island

Offense: Conspiracy to defraud the United States by making false claims; 18 U.S.C. §§ 371, 1001

Date: February 23, 1984; District of Rhode Island; two years probation, conditioned upon payment of $1,250 in restitution

James Ernest Kinard, Jr. — Stuart, Florida

Offense: Failure by a licensed firearms dealer to make appropriate entries in firearms records required to be kept by law (four counts); making false entries by a licensed firearms dealer in firearms records required to be kept by law; 18 U.S.C. §§ 922(m) and 2

Date: March 26, 1984; District of South Carolina; five years' probation; conditioned upon performance of 1,000 hours community service and payment of restitution in an amount to be determined by the U.S. Probation Officer and a $12,000 fine

Devin Timothy Kruse — San Clemente, California

Offense: Unauthorized absence, Article 86, UCMJ, 10 U.S.C. § 886

Date: November 28, 1978; United States Coast Guard special court-martial; reduction to pay grade E-2 and a $450 fine, as approved by the convening authority on February 13, 1979

Gerard Murphy — Rayne, Louisiana

Offense: Theft of a motor vehicle from a U.S. Air Force base, 18 U.S.C. §§ 7 and 13

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Date: March 14, 1972; Middle District of Florida; one year probation

Joseph Mathew Novak Kent, Ohio

Offense: Possession and transfer of an illegal weapon, 18 U.S.C. §§ 922(o)(1) and 924(a)(2)

Date: December 2, 1994; Northern District of Ohio; two years probation, with the special condition that he serve six months home confinement, and a $2,000 fine

John Louis Ribando Le Mars, Iowa

Offense: 1. Possession with intent to distribute a controlled substance (marijuana); 21 U.S.C. § 841(a) (1)
2. Conspiracy to possess with intent to distribute a controlled substance (marijuana); importing a controlled substance (marijuana); 21 U.S.C. §§ 841(a) (1), 846, 952(a), 960(a) (1), and 963

Date: 1. November 15, 1976; Central District of California; five years imprisonment followed by five years special parole
2. July 11, 1978; Central District of California; six months confinement in a jail-type institution, ten years special parole, and five years probation, conditioned upon performance of 1,200 hours of charitable work and payment of a $1,000 fine; consecutive to No. 1

Edward Rodriguez Trevino, Jr. Honolulu, Hawaii

Offense: Larceny, Article 121, UCMJ, 10 U.S.C. § 921; United States Navy special court-martial

Date: September 19, 1997; United States Navy special court-martial; three months confinement, forfeiture of pay and allowance for three months, and reduction in pay grade, as approved by the convening authority on October 3, 1997

Jerry Dean Walker Newark, Delaware

Offense: Possession with intent to distribute cocaine, 21 U.S.C. § 841(a) (1)

Date: April 10, 1989; Western District of North Carolina; three years imprisonment, as amended October 19, 1989

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Image not available for this document, ID: 0.7.10316.37968-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 10:46 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE WORLD AFFAIRS COUNCIL OF PITTSBURGH ON STOPPING TERRORISTS BEFORE THEY STRIKE: THE JUSTICE DEPARTMENT'S POWER OF PREVENTION

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 16, 2006
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AG
(202) 514-2007
TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE WORLD AFFAIRS COUNCIL OF PITTSBURGH ON *STOPPING TERRORISTS BEFORE THEY STRIKE: THE JUSTICE DEPARTMENT'S POWER OF PREVENTION*

PITTSBURGH, PENNSYLVANIA

Good morning.

I remember the morning of September 11th, 2001 as if it were yesterday. I did not lose a friend or loved one, nor was I nearby the World Trade Center towers or Pentagon as people died. But like so many others working in government that day, I am an American and I love my country.

And so the horrific images, the heroic stories of that day, and the days and weeks that followed still make me stop and shake my head in disbelief.

In a few weeks, we will mark the five-year anniversary of those attacks. During this period, our way of life has changed so much. Our children and grandchildren will grow up in a world much different than ours. With advances in technology, such as the Internet, change is natural, of course, among successive generations. But the most dramatic change is the nature of the enemy our country today faces – a stateless enemy sometimes hidden and nurtured here in our neighborhoods, taking advantage of the very laws they mock with their killing and destruction, as a shield from detection and prosecution.

Much has changed, but the threat remains and so much our determination to prevent terrorism.

Last Thursday, we had a vivid example of the prevention of terrorism with the disruption of what would have been a major terrorist attack with massive casualties. Thanks to the vigilance of the British authorities, a terrorist plot to kill more innocent men, women and children was disrupted.

It was an international success for intelligence and law enforcement, with over 200 FBI agents working with their British counterparts to investigate every possible lead here in America, to make sure that plotting was not taking place on this side of the Atlantic as well.

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Our investigation into this disrupted plot is ongoing. The FBI continues to work with its counterparts overseas to analyze the evidence seized. From this, we will track down every possible lead to ensure that there is no threat to the homeland.

Last week's events are a chilling reminder of the threats that continue to exist. As the President has said, "The terrorists have to succeed only once to achieve their goal of mass murder, while we have to succeed *every time* to stop them."

Staying one step ahead of ideologically-driven killers who do not value human life, who do not respect the rule of law, and whose organizational structure is constantly evolving, requires constant attention and tireless dedication.

So, for those of us in government whose job it is to protect our country from terrorism, every day is September 12th…

Every day is that day after.

The day of questioning and probing.

The day of anger and determination.

The day of commitment and re-dedication.

The day of urgency and purpose.

Never again.

The concept of prevention, while always in the picture of law enforcement, took on a particular meaning and urgency after September 11th.

Prevention is the goal of all goals when it comes to terrorism because we simply cannot and *will not* wait for these particular crimes to occur before taking action. Investigating and prosecuting terrorists after they have killed our countrymen would be an unworthy goal. Preventing terrorism is a meaningful and daily triumph.

At the Department of Justice, our strategy of prevention is built on four primary pillars of activity:

First, aggressive criminal and intelligence investigations.

Second, utilization of partnerships, information-gathering and collaboration at every level: international, national, state and local.

Third, prosecution and incarceration of terrorists. And, finally, containment of the radicalization that leads to homegrown, al Qaeda-inspired terrorists.

Let me address briefly each in turn.

Investigation

The aggressive national security investigations (the combination of criminal and terrorist investigations), where we use every lawful tool to prevent terrorism, forms the first pillar of our strategy.

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Winning the war on terror requires us to win the war of getting information. Like tiny but important pieces of a complicated puzzle, we can now take the most innocuous, seemingly unrelated pieces of information and connect the dots of a complex terrorist plot.

The reasons are many. The Patriot Act closed law-enforcement and intelligence gaps so that a local cop can check a national terrorist list when he arrests a thief or drug dealer and the FBI can check with the CIA when investigation a ring of art thieves.

The Foreign Intelligence Surveillance Act – commonly referred to as FISA – has been available since 1978 to gather foreign intelligence through electronic surveillance. It, too, is a valuable tool in investigations.

Senator Arlen Specter is currently sponsoring legislation that would update FISA in light of today's new technologies. I applaud his effort to ensure that this important anti-terror tool is kept current and urge the Congress to support this important piece of legislation.

To enhance our abilities to conduct aggressive national security investigations we reformed the FBI, establishing a Directorate of Intelligence to oversee all FBI intelligence activities.

And the FBI has enhanced its workforce, doubling the number of intelligence analysts, hiring additional linguists and implementing new training.

There are now intelligence groups in every single FBI field office where analysts, linguists and surveillance specialists work as teams. These Field Intelligence Groups play a major role in making sure that the FBI gathers the intelligence we need and then shares that intelligence with counterparts in law enforcement and the intelligence community.

Field intelligence groups participate in Joint Terrorism Task Forces – what FBI Director Mueller calls the "eyes and ears" of communities around the country. We have increased the number of joint terrorism task forces from 35 to 103.

These are a few of the steps we have taken, working with Congress, to enhance our ability to investigate terrorism-related activities.

Cooperation

The second pillar of our strategy is cooperation. "It takes a network to defeat a network." This is a central truth of the campaign to prevent terrorist attacks and illustrates our widespread use of partnerships and cooperation at every level of government.

Last week's disruption of the UK bomb plot highlights the success of international cooperation. Our prosecutors train one another, share information and one another's sensitive intelligence. The level of cooperation between the United States and our foreign counterparts is outstanding and is truly the untold story of the war on terror.

At home, we have dramatically improved collaboration among federal agencies. Indeed, we have applied a new mentality of *constant* sharing and communicating with our partners – and this includes our state and local partners as well.

We are standing up intelligence fusion centers across the country because we realize that partnerships increase our abilities exponentially. The FBI is a relatively small organization of 12,000 agents when compared to the 800,000 state and local law enforcement officers across the country. Our combined abilities are so much greater, so united we will stand.

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I also want to note that, at every level, the *people* of this country are partners in this effort to prevent terrorism. Tips are welcomed by federal, state and local intelligence and law enforcement officials. We must remember that with the vigilance of both the people and the government, our network can dwarf that of the terrorists.

Prosecution

Third, aggressive investigations, facilitated by cooperation with our partners, leads to arrests and prosecutions – and this is where prevention is most visible. Putting a would-be terrorist behind bars is a tangible example of protecting the American people.

Central to these efforts, of course, is the question of *when* to arrest and begin prosecution. Simply put, we need to gather enough information and evidence during our investigations to ensure a successful prosecution, but we absolutely cannot wait too long, allowing a plot to develop to its deadly fruition. Let me be clear, preventing the loss of life is our paramount objective. Securing a successful prosecution is not worth the cost of one innocent life.

Determining when to arrest would-be terrorists depends on countless factors like the dangerousness of the possible attack, the parties involved, and the imminence of the plot becoming operational.

No two cases are the same and decisions about arrest are difficult ones that must be made on a case-by-case basis by career professionals using their best judgment – keeping in mind that we need to protect sensitive intelligence sources and methods *and* sometimes rely upon foreign evidence in making a case.

Although every situation is different, and flexibility is critical, there is one thing that does fit every case: adherence to civil liberties and the rule of law. Those concerned with civil liberties should be reassured, and all Americans should find satisfaction in knowing that we are fighting terrorists according to our constitution.

Radicalization

Finally, our last pillar is countering radicalization. I am often asked whether we are safe. We are safer than we were on September 11th, but we are not yet safe. We have new tools, new laws and we have re-organized our government. We now have a Department of Homeland Security, focused totally on security, and we are much better at sharing information.

The fact is that while we have had significant success on some fronts, new fronts on this war have developed.

We've taken away the 'home base' for al Qaeda in Afghanistan. We've destroyed training camps, cut off funding channels, and disrupted means of communication. We have captured or killed many of al Qaeda's key leaders. This has weakened and fractured al Qaeda.

It has also driven al Qaeda to the Internet, where their ideology has inspired and radicalized others. There are between 5,000 and 6,000 extremist websites on the Internet, each one encouraging extremists to cultivate relationships with like-minded people. These are the home-grown terrorists that you have heard about.

This radicalization is happening online and can therefore develop anywhere, in virtually any neighborhood, and in any country.
Academic settings, mosques and community centers can ferment radicalization as well. Anywhere that the disaffected can gather can become a home-base for the development of radicalism.

Radicalization is also occurring in prisons. The FBI's National Joint Terrorism Task Force and the Bureau of Prisons are working to stem the growth of these intentions behind bars. We are also working with academic

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leaders to identify potential recruiting venues. But we must also identify the recruiters themselves, the leaders of these homegrown cells.

The threat of homegrown terrorist cells – radicalized online, in prisons and in other groups of socially isolated souls – may be as dangerous as groups like al Qaeda, if not more so. They certainly present new challenges to detection.

It is therefore essential that we continue to develop the tools we need to investigate their actions and intentions with the help of our partners, and prosecute those who travel down the road of radicalization.

Next Steps

I want to close by mentioning a few steps that we need to take in the immediate future to keep our prevention efforts robust.

At the Department of Justice, there is a critical restructuring step that needs to be finalized: the establishment of a new National Security Division. Acting on a recommendation of the WMD Commission, the President directed me to bring together the Justice Department's national security elements to create a division that would specialize in intelligence and other national security matters and respond to priorities set by the Director of National Intelligence.

The new structure has been worked out – but unfortunately the Senate has not yet confirmed its leader, the President's nominee to be Assistant Attorney General for National Security, Ken Wainstein. It is extremely important that Ken's confirmation be among the very first items of business when the Senate returns to business in September. To delay his confirmation is to lose precious days in the campaign to prevent terrorism.

The nominee to be Assistant Attorney General of the Criminal Division, Alice Fisher, also awaits Senate confirmation. The Senate's failure to confirm these two fine public servants is unconscionable and hampers our efforts to do all we can at the Department of Justice to keep America safe.

As I mentioned earlier, we need to update FISA. Senator Specter's legislation addressing that issue, as well as the terrorist surveillance program, should be passed.

I am also optimistic that Congress will act soon to establish a solid statutory basis for the military commission process, so that trials of captured al Qaeda terrorists can move forward again and we can bring them to justice. We have been in ongoing conversations with Congress in recent weeks to establish such a system, and we are optimistic that we'll soon have legislation that protects the security of the United States while also affording detainees a full and fair process.

Conclusion

I would like to end these remarks as I began them, with a note about the ongoing threat and our ongoing vigilance.

While time has a tendency to numb both the pain of loss and the desire for justice that our nation felt five years ago, I am confident that each of the employees of the United States government who work on preventing terrorism brings a Flight-93-type passion to their jobs every day.

They know that every day is important and that distance from 9/11 does not mean distance from the threat. These professionals know that safety is won and maintained 24 hours at a time on a clock that never stops.

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I think Winston Churchill would have been proud of those serving in our armed forces – who fight terrorism by helping to establish its antithesis, which is democracy, hope and opportunity – and our civilians in government who investigate and prosecute the enemy at home and abroad.

Remember Churchill's words: "Never give in--never, never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy."

At the Department of Justice, never giving in means we steadfastly pursue the goal, every day, of preventing terrorism.

Thank you. May God bless you and may he continue to bless this great nation.

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@truman.gov

From: @truman.gov
Sent: Wednesday, August 16, 2006 10:52 AM
To: Gorsuch, Neil M
Attachments: tmp.htm; vcf

Neil,

Hope this email reaches you. Belated Congratulations on your confirmation! Will there be a formal investiture?

Executive Secretary

Harry S. Truman Scholarship Foundation

712 Jackson Place, N.W. 20006

[redacted]

truman

[redacted]**@truman.gov** **(Preferred Internet)**

Version
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Name

Family: [redacted]
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Suffix:

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Organization
truman

Electronic Mail Address (Preferred Internet)
[redacted]@truman.gov

Last Revision
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Neil,

Hope this email reaches you. Belated Congratulations on your confirmation! Will there be a formal investiture?

Executive Secretary
Harry S. Truman Scholarship Foundation
712 Jackson Place, N.W. 20006

Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, August 16, 2006 11:11 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/16/06 Civil Division News

Panama Refuses to Shelter Terrorist

Lawsuit over Port of L.A.'s Pier 400 is tossed by judge; Rancho Palos Verdes litigant who served as his own attorney and supporters express shock over the ruling in case alleging improper use of funds

AAFES goods stored in Aviano at mercy of Italian court

Press Release: VALERIE PLAME WILSON AND FORMER AMBASSADOR JOSEPH WILSON NAME SUCCESSOR COUNSEL

Prensa Latina (Cuba)

August 16, 2006

Panama Refuses to Shelter Terrorist

Panama, Aug 16 (Prensa Latina) Panamanian Foreign Minister Samuel Lewis Navarro denied Wednesday that his government plans to receive international terrorist Luis Posada Carriles, detained in the US since May 2005.

The also first vice president rejected some reports of presumed pressure from the White House on Panama to receive the criminal.

What I can say categorically, on behalf of the Government, is there is no possibility that Panama is accepting Posada Carriles, stated Lewis Navarro.

Posada Carriles was arrested in Panama along with three accomplices when he was planning to assassinate Cuban President Fidel Castro at the 2000 Ibero-American Summit in that country.

Shortly before leaving office, then Panamanian President Mireya Moscoso pardoned the terrorists, who left the country supported by her administration s officials.

Several Panamanian figures have said those pardons were unconstitutional both because they were uncommon crimes and because their trial had not been concluded.

Among Posada s long list of terrorist activities is the October 1976 mid-air explosion of a Cuban airplane with 73 passengers aboard off the Barbados coast, as well as bomb attacks on Havana hotels in 1997, one of which killed Italian tourist Fabio di Celmo.

END

Daily Breeze (Torrance, CA)

August 16, 2006

Lawsuit over Port of L.A.'s Pier 400 is tossed by judge; Rancho Palos Verdes litigant who served as his own attorney and supporters express shock over the ruling in case alleging improper use of funds.

By Matt Krasnowski and Donna Littlejohn
DAILY BREEZE

A judge has thrown out a lawsuit by a Rancho Palos Verdes man alleging that more than $100 million in federal funds were improperly used to support a container terminal on Pier 400 at the Port of Los Angeles.

Longtime port critic Stanley Mosler filed the false-claims lawsuit against the port in 2002 under a federal whistle-blower statute and named the United States as a plaintiff. But lawyers for the U.S. Department of Justice and the state attorney general refused to join in the complaint.

Mosler, who is not a lawyer but an accountant, has represented himself since February 2005, when his lawyer withdrew from the case.

U.S. District Judge S. James Otero ruled in a decision entered in federal court Tuesday that under the federal False Claims Act, a lay person has no legal authority to pursue the lawsuit and represent the United States.

Mosler "has no statutory or other authority to represent the interests of the United States," the five-page ruling states.

"Lay persons are not subject to the same ethical considerations that govern the conduct of attorneys and lack the necessary skills to prosecute complicated (False Claims Act) claims," the decision adds.

The ruling notes that Mosler has not had a lawyer for more than a year and admitted once that there has been a "disinclination of attorneys to join this case."

Contacted by telephone, Mosler said he was taken aback by the decision because he has represented himself for 18 months and that Otero was considering motions to decide the lawsuit on its merits.

"Needless to say, I'm surprised at the decision disqualifying me at this stage of the litigation," Mosler said.

"If I had an attorney I would file a motion for reconsideration because the court has not ruled on the merits of the case.

"I recognized that this was a problem all along, but the judge did not seem to object and there is case law that states I can represent myself; however, there is more case law that says I can't."

Mosler said he will now pursue hiring a lawyer and has 10 days to file a motion for reconsideration.

Officials said if Mosler prevailed in the lawsuit, it could cost the city up to $3.6 billion.

City Attorney's Office spokesman Jonathan Diamond said Otero's decision backs the city's position.

"The court has affirmed our view and the view of the state and federal government's that there was no merit to this suit," he said. "The City Attorney's Office has worked diligently against this claim that could have exceeded $3 billion."

The issue of Mosler's ability to pursue the lawsuit as a lay person had been pending before Otero since the start of the year. But the judge has let it linger for months. Since then, lawyers and Mosler were preparing for the case as if it was headed for trial on Aug. 29. Three weeks ago Otero scratched the trial date.

In dismissing the lawsuit, Otero deemed a host of other pending motions moot and ordered the case closed.

Besides the port, defendants in the lawsuit include the city of Los Angeles, harbor department, former port Executive Director Larry Keller and Danish shipping giant Maersk Inc.

Mosler's supporters in the community expressed dismay at the news.

"I'm just appalled," said Bonnie Christensen of San Pedro. "There's no way they can deny, with all the information he has, that (the port) is wrong and he is right."

In recent months, several residents have appeared before the harbor commissioners -- all appointed after Mosler first filed the lawsuit -- urging them to stop spending money to defend the port's position in the matter.

On Tuesday, several questioned why the ruling took so long, allowing Mosler to spend so many months moving forward at his own expense with the lawsuit.

"This is adding insult to injury," said Janet Gunter of San Pedro. "This is just another illustration of how the public is powerless in fighting injustice with a government agency."

Doug Epperhart, president of the Coastal San Pedro Neighborhood Council, said he wasn't surprised by the ruling.

"I was wondering how they were going to get out of this one," Epperhart said. "It seems it's perfectly OK to ignore the intent of the law as long as you follow the letter of the law."

Lawsuit over Port of L.A.'s Pier 400 is tossed by judge

"It kind of gives the message to the community that we have no recourse when we feel we've been wronged," said Kathleen Woodfield of San Pedro. "I guess everyone understands how deep the port's pockets are so even a law firm would look at this and say, 'Can we afford $11 million or more to fight this?' "

Diamond defended the spending on outside counsel, saying it "was a wise investment of time, energy and cost" given the potential loss of billions of dollars. The $1.9 million included successful efforts to convince the federal and state officials not to join Mosler's lawsuit.

"Now that the case is dismissed, we're exploring the possibility of recovering legal fees to recoup these expenses for the taxpayers," Diamond said.

Mosler filed a false claims lawsuit against the port in March 2002, accusing officials of misusing $108 million in federal funds to construct Pier 400, a 484-acre container terminal.

Pier 400 originally was envisioned as a liquid bulk terminal called "energy island" that would pull terminals handling hazardous materials away from residential communities. The port's 1979 master plan called for separating those uses from neighborhoods.

Port officials, however, said they ultimately could not force companies to move and so instead began negotiating to move Maersk into the Pier 400 space.

Keller worked for Maersk before joining the Port of Los Angeles in 1996.

Officials with the U.S. Army Corps of Engineers have said in the past they were aware of the Maersk project and supported its completion.

END

Stars and Stripes

August 16, 2006

AAFES goods stored in Aviano at mercy of Italian court

AVIANO, Italy — The fate of thousands of dollars worth of Army and Air Force Exchange Services merchandise stored at a warehouse in Aviano is in limbo until an Italian judge returns to the bench.

Roberto Russi, a lawyer representing former base employee Mauro Martin, said Tuesday he is waiting for approval to seize and sell the merchandise to settle Martin's 22,000 euro claim against the U.S. government.

But the judge hearing the case won't be back in his courtroom in Pordenone until at least the end of the month.

Martin worked at the base from 1975 to 1991 and was owed money after his employment ended. He alleges the U.S. illegally paid off his debts to a creditor instead of giving him the money. Three Italian court decisions have supported his claims.

The AAFES warehouse was targeted because it is located off Aviano Air Base and more accessible to the public. AAFES has referred comment to the base. Base officials have said the matter is being handled by the Department of Justice.

Charles Miller, a DOJ spokesman, said in an e-mail Friday that there was no information the department could "provide at this time."

END

Citizens for Responsibility and Ethics in Washington (CREW)

August 15, 2006

Press Release: VALERIE PLAME WILSON AND FORMER AMBASSADOR JOSEPH WILSON NAME SUCCESSOR COUNSEL

Washington D.C. - Former CIA officer Valerie Plame Wilson and her husband former Ambassador Joseph Wilson announced today that they have engaged the non-profit, public interest organization Citizens for Responsibility and Ethics in Washington (CREW) as successor counsel and Joseph Cotchett and Frank Pitre with the law firm of Cotchett, Pitre, Simon & McCarthy as trial counsel in their case against Vice President Dick Cheney, his former Chief of Staff I. Lewis "Scooter" Libby, top Presidential advisor Karl Rove and other unnamed current and former administration officials. Erwin Chemerinsky, Professor at Duke University School Of Law, will continue to serve in the case as co-counsel.

The Wilsons have filed a sweeping federal civil lawsuit against the defendants for their involvement in intentionally exposing Valerie Wilson's classified CIA status to reporters in order to punish and seek revenge against Joseph Wilson for publicly disputing statements made by President Bush in his 2003 State of the Union address justifying the war in Iraq.

During this next phase of the litigation, the Wilsons will work closely with their new legal counsel in their efforts to uncover the truth surrounding the leak, to ensure all relevant public officials are held accountable for their actions and to deter similar offenses from being committed in the future.

END

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 12:10 PM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY, ADMIRAL THAD ALLEN AND DEA CHIEF MICHAEL BRAUN TO HOLD PRESS CONFERENCE

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 16, 2006
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TDD (202) 514-1888

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY, ADMIRAL THAD ALLEN AND DEA CHIEF MICHAEL BRAUN TO HOLD PRESS CONFERENCE

WASHINGTON— Deputy Attorney General Paul J. McNulty, Admiral Thad Allen, and DEA Chief of Operations Michael Braun will hold a press conference announcing the arrest of a high-profile narcotics target **TODAY, AUGUST 16, 2006 at 2:00 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Admiral Thad Allen, Commandant of the U.S. Coast Guard
Michael Braun, Chief of DEA Operations

WHAT: Press Conference announcing arrest of a high-profile narcotics target

WHEN: **TODAY, AUGUST 16, 2006**
2:00 P.M. EDT

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **1:30 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.37958-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 1:23 PM
To: USDOJ- Office of Public Affairs
Subject: HASTINGS MAN PLEADS GUILTY TO CROSS BURNING

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 16, 2006
WWW.USDOJ.GOV

CRT (202) 514-2007
USAO (813) 274-6352
TDD (202) 514-1888

HASTINGS MAN PLEADS GUILTY TO CROSS BURNING

WASHINGTON – Neal Chapman Coombs, a 50-year-old resident of Hastings, Fla., pleaded guilty to a racially-motivated civil rights crime involving a cross burning, the Justice Department announced today.

In a one-count information filed on Aug. 10, 2006, Coombs was charged with knowingly and willfully intimidating and interfering with an African-American family that was negotiating for the purchase of a house in Hastings, Fla., by threat of force and the use of fire. Specifically, the information alleges that Coombs' actions were motivated by the family's race and that he burned a cross on property adjacent to the house.

Today, Coombs waived his right to indictment in open court before U.S. Magistrate Judge Howard T. Snyder, and pleaded guilty to the civil rights crime pursuant to a written plea agreement. The maximum penalty Coombs faces is 10 years in prison, a $250,000 fine, three years of supervised release, and a special assessment of $100.

"Cross burning remains a vicious symbol of hatred," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "All families have the right to live where they choose, undisturbed by such racist threats. This prosecution sends a clear message that we will not tolerate this criminal conduct."

"No one in our country should have to suffer the fear and intimidation caused by such a cruel act of racism," said Paul I. Perez, U.S. Attorney for the Middle District of Florida. "We will continue to ensure this type of outrageous conduct is investigated, prosecuted and punished."

"The investigation of violations of Civil Rights remains a top priority for the Federal Bureau of Investigation," said Michael J. Folmar, Special Agent in Charge of the Jacksonville Division of the FBI. "As such, the FBI will vigorously investigate and seek the prosecution of these egregious acts of violence, intimidation, and racism."

According to the plea agreement, in the afternoon of Jan. 15, 2006, an African-American family of four was looking at a house for sale located at 9710 Crotty Avenue, Hastings, in St. Johns County. The family was accompanied by their real estate agent and his wife. The parents were in the process of negotiating to purchase the house.

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While the parents were looking at the inside of the house with the real estate agent, their son (who was 15-years-old), and their daughter (who was 12-years-old), were sitting on the front porch of the house with the real estate agent's wife. The son noticed some ducks flying by and left the porch to get a better look. The son walked to the front yard, where he noticed the next door neighbor, Neal Chapman Coombs, standing in his front yard talking in a loud voice, apparently to a man who was walking by on the street. Coombs, who is Caucasian, made a remark about having a "house-warming." Coombs also made some derogatory remarks about the boy's family, including referring to them as "niggers."

Erected in Coombs' front yard was a set of wooden beams in the shape of a cross. The cross, which was approximately six feet tall, faced the house the family was considering purchasing. Coombs squirted a flammable liquid from a bottle onto the cross, and lit the cross on fire. Coombs then looked at the boy and told him, "I don't want to see you around here again, boy."

The son went inside the house and told his parents what had happened. The entire family, the real estate agent, and his wife went to the front yard and watched the cross burn in front of them.

The boy's mother was alarmed and frightened by both Coombs' actions and words to the son, making her unwilling to purchase or live in the house they had been viewing. The father and children were equally alarmed by the incident, causing feelings of intimidation and disinterest in living in the house.

The case was investigated by the Federal Bureau of Investigation. The case was prosecuted by Assistant U.S. Attorney Scot Morris and Andrew J. Kline of the Department of Justice's Civil Rights Division.

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06-542

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Image not available for this document, ID: 0.7.10316.37959-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 3:47 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES VISITS ROANOKE, VIRGINIA TO HIGHLIGHT PROJECT SAFE NEIGHBORHOODS ACCOMPLISHMENTS

Department of Justice

FOR IMMEDIATE RELEASE — AG
WEDNESDAY, AUGUST 16, 2006 — (202) 514-2007
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ATTORNEY GENERAL ALBERTO R. GONZALES VISITS ROANOKE, VIRGINIA TO HIGHLIGHT PROJECT SAFE NEIGHBORHOODS ACCOMPLISHMENTS

ROANOKE, Va. – Attorney General Alberto R. Gonzales today visited Roanoke, Va. to highlight recent Project Safe Neighborhoods (PSN) accomplishments in the city and met with the PSN Task Force. In 2001 President George W. Bush initiated Project Safe Neighborhoods as a comprehensive, strategic approach to reducing gun crime in the nation. The initiative links federal, state and local efforts with community leaders to effectively deter gun crime. It also ensures that appropriate funding reaches all levels of gun violence enforcement.

"Project Safe Neighborhoods combats gun violence and fosters safer communities nationwide through both law enforcement and prevention -- two goals that have been given equal time and effort here in Roanoke," stated Attorney General Albert R. Gonzales. "I applaud the cooperative work of the members of this task force, and their unfailing efforts to keep Roanoke a safe place to live."

In the last five years the number of firearms prosecutions has more than doubled in the Western District of Virginia. In 2005, there were 215 federal firearms cases prosecuted in the Western District of Virginia. Already in 2006, 144 firearms cases have been filed.

"One of our top goals is to stop gun violence by taking illegal firearms out of our communities. With the help of our federal, state and local partners we are making the goals of Project Safe Neighborhoods a reality," said U.S. Attorney John Brownlee.

The members of the Roanoke PSN Task Force include the following law enforcement officials:

- Captain George W. Austin, Va. State Police
- Master Trooper Darryl Bowling, Va. State Police
- Sheriff Fred Newman, Washington County, Va.
- Sheriff Tim Carter, Shenandoah County, Va.
- Chief A.L. "Joe" Gaskins, Roanoke City Police Department

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- Chief James Ray Lavinder, Roanoke County Police Department
- Chief James R. Bryant, Salem Police Department
- Chief Charles W. Bennett, Lynchburg Police Department
- Chief Michael E. Rogers, Martinsville Police Department
- Chief Philip Broadfoot, Danville Police Department
- Chief Timothy J. Longo, Charlottesville Police Department
- Colonel Donald G. Harper, Chief, Harrisonburg Police Department

Since the program's launch, there have been significant increases in gun crime prosecutions nationwide. In FY 2005 the Department filed 10,841 federal firearms cases, a 73% increase since PSN's inception. Over 93% of those offenders received prison terms and over 68% were sentenced to three or more years in prison.

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06-546

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Image not available for this document, ID: 0.7.10316.37619-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 6:28 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY BEFORE THE SENATE COMMITTEE ON ARMED SERVICES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 16, 2006
WWW.USDOJ.GOV

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TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY, ADMIRAL THAD ALLEN AND DEA CHIEF MICHAEL BRAUN AT THE PRESS BREIFING ON THE APPREHENSION OF FRANSISCO JAVIER ARELLANO FELIX

WASHINGTON, D.C.

DEPUTY ATTORNEY GENERAL McNUTLY: Good afternoon, ladies and gentlemen. I'm very pleased to be joined on stage by Admiral Thad Allen, the Commandant of the Coast Guard and Michael Braun, the Assistant Administrator for Operations of the Drug Enforcement Administration.

We are here today to announce the apprehension of one of the world's major drug traffickers. The Arellano Felix organization is the largest and most violent drug trafficking organization operating in the Tijuana/Baja California/Mexico area.

Eleven individuals, representing the top hierarchy of the Arellano Felix organization, including Francesco Javier Arellano Felix were named in an indictment unsealed on July 8, 2003, in the Southern District of California. The indictment charges these individuals with racketeering offenses, conspiracy to import and distribute cocaine and marijuana, and a conspiracy to commit money laundering. The indictment carries penalties of up to life in prison. And in addition, it includes forfeiture of almost $300 million. The indictment also alleges that the leadership of the Arellano Felix organization, I'll refer to it as AFO, negotiated directly with Colombian cocaine trafficking organizations, including the FARC, for the purchase of multi-ton shipments of cocaine and received those shipments by sea and air in Mexico, and then arranged for smuggling of the cocaine into the United States.

The indictment specifies the role of Francisco Javier Arellano Felix in the enterprise as one who participated in the most major decisions of the AFO and specifies that he was in charge of the organizations Tijuana and Mexicali operations after the arrest in Mexico of a codefendant back in May of 2000.

The indictment also alleges that the Arellano Felix organization recruited, trained and armed groups of bodyguards and assassins responsible for protecting the leaders of the organization, and for conducting assassinations of rival drug traffickers, suspected cooperators and Mexican law enforcement and military

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personnel; along with members of the news media. The charges specifically allege 20 murders in the United States and Mexico that were carried out by the Arellano Felix organization.

Now, in addition to that indictment, which as I said was unsealed July 8, 2003, information developed during a 14-month fugitive investigation revealing that AFO leader Francisco Javier Arellano Felix and others were expected to use the fishing vessel Doc Holliday, a U.S. documented vessel. And so, on August 14th, just two days ago, DEA received information that this vessel, Doc Holliday, was approximately 15 nautical miles off the shore of La Paz, Mexico. And acting on this lead the DEA requested that the United States Coast Guard interdict the vessel. Following the interdiction of the vessel in international waters a boarding took place by the US Coast Guard personnel and eight adults and three juveniles were discovered on board and detained.

One of the individuals aboard the vessel, who was traveling under an alias, later identified himself as the same Francisco Javier Arellano Felix that I have described in this indictment. He is a CPOT meaning he is a person who has been designated on a Consolidated Priority Organizational Target List.

All of the individuals are being transported by the Coast Guard to San Diego. Francisco Javier Arellano Felix will be arraigned in the very near future on the indictment. This case is the result of extraordinary coordination and cooperation between the governments of Mexico and the United States. I especially want to thank Mexican Attorney General Daniel Cabeza de Vaca for his leadership and partnership in these efforts. It takes teamwork like this in order to accomplish such a significant arrest.

I also want to give special recognition to the United States Attorney's Office in the Southern District of California for the charges that were pending that led to the arrest of the fugitive and to the men and women of the Drug Enforcement Administration and the US Coast Guard for its courageous and devoted work.

I now would like to introduce Mike Braun from the Drug Enforcement Administration. Michael.

MR. BRAUN: Good afternoon. The DEA arrests a lot of high-level drug traffickers, that's nothing new, but to say that Javier -- excuse me -- Francisco Javier Arellano Felix is just another drug trafficker is an understatement. This guy happens to be, as the Deputy Attorney General mentioned, one of the 45 most notorious, most wanted, drug traffickers in the world. So, this is not your average arrest and Javier is not your average drug trafficker.

For over a decade the AFO family has dominated the Mexican drug trade and flooded our nation with literally tons and hundreds of tons of a variety of drugs; cocaine, marijuana, methamphetamine and heroin to name just a few. That dynasty, built on drugs and ruthless violence, began to topple in 2002 with the death of one of the Arellano Felix brothers and the arrest of another; and was further weakened with the 2003 indictment of the major remaining organization leaders by the US Attorney's Office in San Diego.

The DEA and our Mexican counterparts have pursued those leaders relentlessly ever since. And it's important that you know that Javier was one of the most ruthless thugs that was involved in drug trafficking around the world. The organization that he led was under investigation in Mexico. There are pending charges in Mexico, and as we've said, there are pending charges in San Diego that he and other members will be charged with or will be brought forward on those charges.

It's also important to understand, though, that we considered him such a threat to our country that the United States State Department issued a $5 million bounty for his capture a few years ago. He was the last strong hold in the declining AFO family cartel when we arrested his brother Benjamin back in 2002. We called it the beginning of the end of the AFO. Today we've got this brutal organization in a choke-hold and we are not letting up. Our Mexican authorities -- our Mexican counterparts that we work with very closely with and the

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DEA is absolutely full-court press at this point. We're piling on, if you will, and moving this initiative and this ongoing investigation even more forward.

We at the DEA are in the job to protect our country, to take drugs off the street, to protect our kids, and to make our streets safe. Today this announcement, this huge success for law enforcement, basically is what our job is all about. It's what we live for.

Finally, I have to mention this, and hopefully I don't embarrass the Commandant by saying this, but we would not be here today if it were not for the outstanding support rendered by our US Coast Guard. And it is in testament to this dynamic, very flexible, maritime force -- the flexibility that is needed as our nation continues to wage war in our war against drugs and in our war against terrorism. Thank you very much.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Mike. And you said it very well in terms of the kind of appreciation we have for the Coast Guard. And we think of the Coast Guard constantly out there rescuing individuals on the seas and yet those of us in law enforcement know them as a major partner in our effort to go after organized drug trafficking organizations. And I want to thank, also the Admiral, and introduce him now.

ADMIRAL ALLEN: It's a pleasure to be here today and be part of this historic event. We have long been partners with the Department of Justice and the Drug Enforcement Administration on other long war, the war on drugs.

On Monday morning, August 14th, the Coast Guard was requested by DEA to take part in an interagency operation off the coast of Baja, California. At approximately 9:00 in the morning on Monday the Coast Guard cutter Monsoon was positioned off shore. Based on prior law enforcement work and intelligence intercepted a 43-foot recreational boat and conducted a boarding with the crew of the Monsoon, which is crewed by 28 Coast Guard personnel; it was augmented by two personnel from our Maritime Safety and Security team based in Los Angeles.

As a result of the boarding we encountered 11 individuals, three minors and eight adults. Based on the identity verification associated with those individuals, and the fact that there were warrants out they were placed under arrest by the Coast Guard. They are currently on board the Coast Guard cutter Monsoon en route San Diego under the escort of another Coast Guard cutter.

I would just like to reaffirm what was said previously. This is an extraordinary example of interagency cooperation and coordination. Drug interdiction remains a vital core mission of the United States Coast Guard and the Department of Homeland Security. But I think, moreover, it demonstrates the flexibility and agility of the Department of Homeland Security to simultaneously deal with an event of this magnitude while dealing with the heightened threat period that we're going through right now.

We're proud to be partners with the Drug Enforcement Administration and the Department of Justice, as we have been for the entire 35 years I've been in the Coast Guard. It is an honor to be here today.

Thank you.

DEPUTY ATTORNEY GENERAL McNUTLY: Thank you, Commandant.

Q Can you tell us anything about the tip that came in about the Doc Holliday or how you found out that the Doc Holliday was where it was and whether anybody will be getting that $5 million reward?

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DEPUTY ATTORNEY GENERAL McNUTLY: There aren't a lot of details we are prepared to share about this because of the sensitivity of the law enforcement effort. Although I will give Mike a chance to take a crack at your question. But generally speaking, we're going to limit the information we're providing to the fact that the arrest has occurred and that we received a tip on it.

I'm not sure about the award, I'll see if Mike has a response on that -- or anything else, Mike.

MR. BRAUN: I can't answer your question with respect to the award -- reward. I don't have that answer at this point. We'll certainly find out in the future. I can tell you that this successful intervention on the part of the Coast Guard was part of a very long, very complex, undercover operation that was backstopped by highly technical means and support.

Q So, is it possible no one will get any part of that reward?

MR. BRAUN: That's possible.

Q Was there any other member of the drug cartel of the Arellano Felix apprehended among those 11 adults?

DEPUTY ATTORNEY GENERAL McNUTLY: Well, we're currently not specifying other individuals in the group but all individuals have been detained at this point. And more information will be forthcoming as to other potential charges.

Q What is going to happen to the minors that were apprehended? And also, how this operation is going to impact or diminish the Arellano Felix Organization within the United States?

DEPUTY ATTORNEY GENERAL McNUTLY: First, with regard to the minors, that too will be determined here in the very near future. No decision as of right now has been made on that. With regard to the organization, I think Mike said it well when he talked about the fact that this is huge blow to the organization -- the head of the snake, if you will, and that that represents obviously a significant impact on such a powerful drug trafficking organization. It is, however, a large organization and much more remains to be done. But we think that this, combined with an number of the other efforts that have preceded it, will have a noticeable impact; not just on Mexico, but also in the Untied States in terms of the ability to bring drugs into the country and the violence that has occurred on this side of the border in the San Diego area in particular.

Q And Mr. Arellano is going to remain here in the US under custody, maybe to respond for the charges against him?

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Q Is there -- this is related to the last question -- there is at least one other brother, Eduardo, I think, that's wanted on equal $5 million reward. And it makes me wonder if you can talk about the extent to which this organization can continue to operate as it has without Javier Arellano Felix? Is it a crippling blow? How do you describe it?

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MR. BRAUN: Well, let me just lay out the family structure. Ramon is dead. Benjamin is in La Palma Prison in Mexico and has been there for quite some time after he was successfully arrested -- investigated and arrested by Mexican authorities. Eduardo is out and about in Mexico, but our most recent intelligence does not identify him as one who is capable of leading the organization at this point in time.

So, as Deputy Attorney General McNulty said, we feel like we've taken the head off the snake here. That's not to say that there may not be one or more members within the organization that are capable of stepping up and taking over and running operations; that's yet to be seen. But we can tell you that we are -- we and our Mexican authorities and other federal law enforcement agencies in our country that we work very closely with -- again, at this point we are full-court press at this point to do as much damage as we possibly can against this organization. They are extremely vulnerable right now. So, again, we're piling on.

Q Mr. Braun, still on the same issue, is the United States pursuing the extradition of Benjamin into the US? I understand that his legal problems are reaching some kind of an end in Mexico.

MR. BRAUN: I believe that we are. We'll have to get back with you, though.

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MR. BRAUN: Let me answer your last question first. We trust the Mexican authorities. We work very closely with Mexican authorities every single day of the week, not only on this investigation but on an number of joint investigations. So, we do trust them. And I can tell you that they contributed significantly to this investigation at every step of the way. I'm not at liberty to talk about the details at this point. They'll come out certainly at some time in the future.

And you're going to have to refresh my memory on the first part of your question.

Q What is the relation between Mayo Zambada and the --

MR. BRAUN: Okay, yes. Look the Tijuana corridor, as you know, there has been a turf battle going on for quite some time between the AFO and the Federation. There are a number of syndicates that comprise the Federation. Do I believe personally, based on past experience, do my Mexican counterparts believe based on their past experience that someone is going to fill in the gap in this corridor at some point in the future? Absolutely, without question, someone will, some organization will.

Q Given the fact that the indictment lays out the fact that this defendant is part of a conspiracy that's responsible for 20 murders is the Department in a position where they could seek the death penalty if this goes to trial?

DEPUTY ATTORNEY GENERAL McNUTLY: I don't have any further information on that point right now.

Q Regarding the Doc Holliday, is the boat registered under any of the aliases of Javier Araiano?

ADMIRAL ALLEN: Issues associated with the ownership and the registration of the boat are being developed as the investigation goes forward. We have no information we can release at this time.

Q General, please, can you help us -- give us some information about the plane that was sent to Logan with a woman who was detained -- will she face any federal charges?

DEPUTY ATTORNEY GENERAL McNUTLY: All I can tell you about that situation right now is that we are closely monitoring it, but facts are still coming in. I'm not in a position to give you any definitive answers to questions about what will happen on that.

Q Mr. Braun, can you tell us just about the operation of the AFO in Peru? According to some reports in Mexico they were working directly with cocaine producers in Peru, do you have any reports about that?

MR. BRAUN: We've talked about this before. I can tell you -- well, you know, all of the cocaine that's on the global market originates, for the most part, in three countries in South America, Colombia, Peru, Bolivia -- are there connections with Peru? Absolutely. Because the AFO is moving a great deal of cocaine for Colombian organizations across the southwest border -- are there links? Yes. But I'm not prepared to go into detail at this point.

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06-547

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Image not available for this document, ID: 0.7.10316.37625-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 6:30 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION: TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY, ADMIRAL THAD ALLEN AND DEA CHIEF MICHAEL BRAUN AT THE PRESS BREIFING ON THE APPREHENSION OF FRANSISCO JAVIER ARELLANO FELIX

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 16, 2006
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TDD (202) 514-1888

TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY, ADMIRAL THAD ALLEN AND DEA CHIEF MICHAEL BRAUN AT THE PRESS BREIFING ON THE APPREHENSION OF FRANSISCO JAVIER ARELLANO FELIX

WASHINGTON, D.C.

DEPUTY ATTORNEY GENERAL McNUTLY: Good afternoon, ladies and gentlemen. I'm very pleased to be joined on stage by Admiral Thad Allen, the Commandant of the Coast Guard and Michael Braun, the Assistant Administrator for Operations of the Drug Enforcement Administration.

We are here today to announce the apprehension of one of the world's major drug traffickers. The Arellano Felix organization is the largest and most violent drug trafficking organization operating in the Tijuana/Baja California/Mexico area.

Eleven individuals, representing the top hierarchy of the Arellano Felix organization, including Francesco Javier Arellano Felix were named in an indictment unsealed on July 8, 2003, in the Southern District of California. The indictment charges these individuals with racketeering offenses, conspiracy to import and distribute cocaine and marijuana, and a conspiracy to commit money laundering. The indictment carries penalties of up to life in prison. And in addition, it includes forfeiture of almost $300 million. The indictment also alleges that the leadership of the Arellano Felix organization, I'll refer to it as AFO, negotiated directly with Colombian cocaine trafficking organizations, including the FARC, for the purchase of multi-ton shipments of cocaine and received those shipments by sea and air in Mexico, and then arranged for smuggling of the cocaine into the United States.

The indictment specifies the role of Francisco Javier Arellano Felix in the enterprise as one who participated in the most major decisions of the AFO and specifies that he was in charge of the organizations Tijuana and Mexicali operations after the arrest in Mexico of a codefendant back in May of 2000.

The indictment also alleges that the Arellano Felix organization recruited, trained and armed groups of bodyguards and assassins responsible for protecting the leaders of the organization, and for conducting

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assassinations of rival drug traffickers, suspected cooperators and Mexican law enforcement and military personnel; along with members of the news media. The charges specifically allege 20 murders in the United States and Mexico that were carried out by the Arellano Felix organization.

Now, in addition to that indictment, which as I said was unsealed July 8, 2003, information developed during a 14-month fugitive investigation revealing that AFO leader Francisco Javier Arellano Felix and others were expected to use the fishing vessel Doc Holliday, a U.S. documented vessel. And so, on August 14th, just two days ago, DEA received information that this vessel, Doc Holliday, was approximately 15 nautical miles off the shore of La Paz, Mexico. And acting on this lead the DEA requested that the United States Coast Guard interdict the vessel. Following the interdiction of the vessel in international waters a boarding took place by the US Coast Guard personnel and eight adults and three juveniles were discovered on board and detained.

One of the individuals aboard the vessel, who was traveling under an alias, later identified himself as the same Francisco Javier Arellano Felix that I have described in this indictment. He is a CPOT meaning he is a person who has been designated on a Consolidated Priority Organizational Target List.

All of the individuals are being transported by the Coast Guard to San Diego. Francisco Javier Arellano Felix will be arraigned in the very near future on the indictment. This case is the result of extraordinary coordination and cooperation between the governments of Mexico and the United States. I especially want to thank Mexican Attorney General Daniel Cabeza de Vaca for his leadership and partnership in these efforts. It takes teamwork like this in order to accomplish such a significant arrest.

I also want to give special recognition to the United States Attorney's Office in the Southern District of California for the charges that were pending that led to the arrest of the fugitive and to the men and women of the Drug Enforcement Administration and the US Coast Guard for its courageous and devoted work.

I now would like to introduce Mike Braun from the Drug Enforcement Administration. Michael.

MR. BRAUN: Good afternoon. The DEA arrests a lot of high-level drug traffickers, that's nothing new, but to say that Javier -- excuse me -- Francisco Javier Arellano Felix is just another drug trafficker is an understatement. This guy happens to be, as the Deputy Attorney General mentioned, one of the 45 most notorious, most wanted, drug traffickers in the world. So, this is not your average arrest and Javier is not your average drug trafficker.

For over a decade the AFO family has dominated the Mexican drug trade and flooded our nation with literally tons and hundreds of tons of a variety of drugs; cocaine, marijuana, methamphetamine and heroin to name just a few. That dynasty, built on drugs and ruthless violence, began to topple in 2002 with the death of one of the Arellano Felix brothers and the arrest of another; and was further weakened with the 2003 indictment of the major remaining organization leaders by the US Attorney's Office in San Diego.

The DEA and our Mexican counterparts have pursued those leaders relentlessly ever since. And it's important that you know that Javier was one of the most ruthless thugs that was involved in drug trafficking around the world. The organization that he led was under investigation in Mexico. There are pending charges in Mexico, and as we've said, there are pending charges in San Diego that he and other members will be charged with or will be brought forward on those charges.

It's also important to understand, though, that we considered him such a threat to our country that the United States State Department issued a $5 million bounty for his capture a few years ago. He was the last strong hold in the declining AFO family cartel when we arrested his brother Benjamin back in 2002. We called it the beginning of the end of the AFO. Today we've got this brutal organization in a choke-hold and we are not letting up. Our Mexican authorities -- our Mexican counterparts that we work with very closely with and the

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DEA is absolutely full-court press at this point. We're piling on, if you will, and moving this initiative and this ongoing investigation even more forward.

We at the DEA are in the job to protect our country, to take drugs off the street, to protect our kids, and to make our streets safe. Today this announcement, this huge success for law enforcement, basically is what our job is all about. It's what we live for.

Finally, I have to mention this, and hopefully I don't embarrass the Commandant by saying this, but we would not be here today if it were not for the outstanding support rendered by our US Coast Guard. And it is in testament to this dynamic, very flexible, maritime force -- the flexibility that is needed as our nation continues to wage war in our war against drugs and in our war against terrorism. Thank you very much.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Mike. And you said it very well in terms of the kind of appreciation we have for the Coast Guard. And we think of the Coast Guard constantly out there rescuing individuals on the seas and yet those of us in law enforcement know them as a major partner in our effort to go after organized drug trafficking organizations. And I want to thank, also the Admiral, and introduce him now.

ADMIRAL ALLEN: It's a pleasure to be here today and be part of this historic event. We have long been partners with the Department of Justice and the Drug Enforcement Administration on other long war, the war on drugs.

On Monday morning, August 14th, the Coast Guard was requested by DEA to take part in an interagency operation off the coast of Baja, California. At approximately 9:00 in the morning on Monday the Coast Guard cutter Monsoon was positioned off shore. Based on prior law enforcement work and intelligence intercepted a 43-foot recreational boat and conducted a boarding with the crew of the Monsoon, which is crewed by 28 Coast Guard personnel; it was augmented by two personnel from our Maritime Safety and Security team based in Los Angeles.

As a result of the boarding we encountered 11 individuals, three minors and eight adults. Based on the identity verification associated with those individuals, and the fact that there were warrants out they were placed under arrest by the Coast Guard. They are currently on board the Coast Guard cutter Monsoon en route San Diego under the escort of another Coast Guard cutter.

I would just like to reaffirm what was said previously. This is an extraordinary example of interagency cooperation and coordination. Drug interdiction remains a vital core mission of the United States Coast Guard and the Department of Homeland Security. But I think, moreover, it demonstrates the flexibility and agility of the Department of Homeland Security to simultaneously deal with an event of this magnitude while dealing with the heightened threat period that we're going through right now.

We're proud to be partners with the Drug Enforcement Administration and the Department of Justice, as we have been for the entire 35 years I've been in the Coast Guard. It is an honor to be here today.

Thank you.

DEPUTY ATTORNEY GENERAL McNUTLY: Thank you, Commandant.

Q Can you tell us anything about the tip that came in about the Doc Holliday or how you found out that the Doc Holliday was where it was and whether anybody will be getting that $5 million reward?

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DEPUTY ATTORNEY GENERAL McNUTLY: There aren't a lot of details we are prepared to share about this because of the sensitivity of the law enforcement effort. Although I will give Mike a chance to take a crack at your question. But generally speaking, we're going to limit the information we're providing to the fact that the arrest has occurred and that we received a tip on it.

I'm not sure about the award, I'll see if Mike has a response on that -- or anything else, Mike.

MR. BRAUN: I can't answer your question with respect to the award -- reward. I don't have that answer at this point. We'll certainly find out in the future. I can tell you that this successful intervention on the part of the Coast Guard was part of a very long, very complex, undercover operation that was backstopped by highly technical means and support.

Q So, is it possible no one will get any part of that reward?

MR. BRAUN: That's possible.

Q Was there any other member of the drug cartel of the Arellano Felix apprehended among those 11 adults?

DEPUTY ATTORNEY GENERAL McNUTLY: Well, we're currently not specifying other individuals in the group but all individuals have been detained at this point. And more information will be forthcoming as to other potential charges.

Q What is going to happen to the minors that were apprehended? And also, how this operation is going to impact or diminish the Arellano Felix Organization within the United States?

DEPUTY ATTORNEY GENERAL McNUTLY: First, with regard to the minors, that too will be determined here in the very near future. No decision as of right now has been made on that. With regard to the organization, I think Mike said it well when he talked about the fact that this is huge blow to the organization -- the head of the snake, if you will, and that that represents obviously a significant impact on such a powerful drug trafficking organization. It is, however, a large organization and much more remains to be done. But we think that this, combined with an number of the other efforts that have preceded it, will have a noticeable impact; not just on Mexico, but also in the Untied States in terms of the ability to bring drugs into the country and the violence that has occurred on this side of the border in the San Diego area in particular.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 16, 2006 7:53 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 16, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Gonzales Travels to Pittsburgh, Pennsylvania and Roanoke, Virginia (OPA)

Today, the Attorney General traveled to Pittsburgh, Pennsylvania. There, he delivered a speech before the World Affairs Council of Pittsburgh regarding DOJ efforts to fight terrorism, met with law enforcement officials and participated in a press conference. While in Pittsburgh, he conducted an interview with Salena Zito, a reporter from *The Pittsburgh Post-Gazette,* and an interview via satellite with Wolf Blitzer; both interviews regarded DOJ efforts to prevent terrorism.

The Attorney General also traveled to Roanoke, Virginia, where he met with law enforcement officials and participated in a press conference on Project Safe Neighborhood.

Deputy Attorney General McNulty Announced Capture of High Profile Drug Trafficker (Criminal)

Deputy Attorney General Paul J. McNulty, Admiral Thad Allen, Commandant of the U.S. Coast Guard, and Michael Braun, Chief of DEA Operations, participated in a press conference today announcing the capture of Francisco Javier Arellano-Felix, a high-profile Mexican drug trafficker.

Media Expresses Interest in U.S./British Anti-Terror Tools (OPA)

Several media outlets have inquired about DOJ's assessment of our anti-terror tools as compared to those used by the British government.

Talking Points

- The Attorney General has only committed to a review to evaluate and compare the United Kingdom's counter-terrorism laws with those in the United States.

- Any changes to our existing terrorism laws would only be considered after extensive review and discussion to ensure that such a change would be necessary, appropriate and constitutional.

TracFones not Related to Terror Nexus (FBI)
The FBI has reported continued media interest in TracFones and the arrests of individuals in possession of high quantities of cell phones. At this point, there has been no nexus to terrorism identified associated with these incidents.

Chip Burrus Named Assistant Director for the Criminal Investigative Division (FBI)
On August 15, 2006, FBI Director Robert S. Mueller, III named James H. "Chip" Burrus to be Assistant Director (AD) for the Criminal Investigative Division (CID) at FBI Headquarters. The CID is responsible for coordinating, managing, and directing all criminal investigative programs nationwide. These investigations focus on public corruption, violation of civil rights, gangs, organized crime, financial crimes including corporate fraud and health care fraud, violent crimes and the Office of Victim Assistance. Burrus had been the Acting AD since February 2006.

United Flight 923 Diverted to Boston (FBI)
Today, the FBI received multiple inquires from *Wall Street Journal*, ABC, FOX News, NBC, and WTOP related to United Flight 923 bound for Dulles that was diverted to Boston as a result of an unruly passenger. Tomorrow, the passenger will be charged with disruption of a flight crew.

***The Washington Post* to Feature Story on New FBI Agents (FBI)**
Tomorrow, *The Washington Post* will print a piece written by Metro reporter Sari Horwitz regarding the training of new agents. The story will consist of two parts. The first part will be an FBI Counterterrorism (CT) policy story which will discuss the FBI Special Agent career path and post new agent CT training. The second part of the story will focus on the New Agent training process post 9/11 with an emphasis on CT training and the unique backgrounds of the people entering the Academy to be trained as Special Agents. This was a long term project which involved a significant number of visits to the FBI Academy during the 18 week training process. The FBI Academy provided Ms. Horwitz with unprecedented access to New Agents Class 06-01 during their training cycle which culminated with their graduation on February 17th.

Nancy Grace Show Requested Updated Information on Jury Duty Scams (FBI)
Today, the FBI provided information to the Nancy Grace Show's Phil Rosenbaum for an update on the status of jury duty scams for the show's new segment "Justice Nation" which focuses on scams and frauds.

Rick Schmitt Conducted Interviews Regarding Field Intelligence Groups (FBI)
Los Angeles Times reporter Rick Schmitt has interviewed numerous FBI officials regarding a story on Field Intelligence Groups. It is unclear when the story will run.

Media Inquiries on Arrest in Jon Benet Ramsey Case (Criminal)
Several requests came in from the national media regarding reports of an arrest in Thailand in the Jon Benet Ramsey murder case. The Office of International Affairs in DOJ's Criminal Division facilitated an arrest request from the Boulder, Colorado District Attorney's Office to the Thai government, and the Royal Thai Police arrested the individual in Bangkok early today. The arrest was on a local charge in Boulder; there are no federal charges pending against the

individual and the Department is not commenting on whether or how the defendant may be returned to the United States.

Florida Man Pleads Guilty to Cross Burning (Civil Rights)
Today, Neal Chapman Coombs, of Hastings, Fla., pleaded guilty to a racially-motivated civil rights crime involving a cross burning. In a one-count information filed on Aug. 10, 2006, Coombs was charged with knowingly and willfully intimidating and interfering with an African-American family that was negotiating for the purchase of a house in Hastings, Fla., by threat of force and the use of fire. Specifically, the information alleges that Coombs' actions were motivated by the family's race and that he burned a cross on property adjacent to the house.

Talking Points

- Cross burning remains a vicious symbol of hatred. All families have the right to live where they choose, undisturbed by such racist threats.

- No one in our country should have to suffer the fear and intimidation caused by such a cruel act of racism.

- This prosecution sends a clear message that we will not tolerate this criminal conduct.

Justice Department Sues to Halt Alleged Business Tax Scams (Tax)
The Justice Department announced today that it has sued two Southern Californians—David Clancy Jr. of Hacienda Heights and Jovita Arcaro of Rancho Cucamonga—seeking to block them from promoting two alleged tax scams. Also named as defendants are a number of businesses that Clancy and Arcaro allegedly operate— Ideal Management Ltd.; Ideal Financial Partners Ltd.; Ideal Payroll Plus Ltd.; Ideal Advisors Ltd.; Ideal Payroll Plus II Ltd.; Onestone Ltd.; Bluestone Management Ltd.; and Hillstone Advisors Ltd.

THURSDAY'S EXPECTED EVENTS/RELEASES:

No public events scheduled.

From: [redacted]
Sent: Thursday, August 17, 2006 8:01 AM
To: Gorsuch, Neil M
Subject: Reminder: BPM on SOA Webcast
Attachments: tmp.htm

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Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: [redacted]

Teleconference: dial [redacted]

Passcode: [redacted] for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

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Rescheduled

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New Date: Thursday, August 17th, 2006

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Subject:	Attorney General's News Briefing for Thursday, August 17, 2006
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THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, AUGUST 17, 2006 7:45 AM EDT

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TERRORISM NEWS:

Gonzales Says Broad Global Network Foiled Terror Plot. The AP (8/17, Cowden) reports, "It takes a network of international intelligence and law enforcement agencies to defeat terror groups such as al-Qaida, and last week's disruption of a terror plot in Britain is an example of how that cooperation can work, Attorney General Alberto Gonzales said Wednesday." The AP continues, "Gonzales sidestepped the question of the whether the United States moves to quickly to break up suspected terror plots. Some critics have said British agents were able to round up more suspects by watching the alleged plot to blow up U.S.-bound jetliners unfold. … 'Decisions about arrest are difficult ones that must be made on a case-by-case basis,' Gonzales said in a speech to the World Affairs Council of Pittsburgh." The AP adds, "He didn't discuss a U.S. role in disrupting the British terror plot, but said 200 FBI agents are working with the British to investigate leads in the U.S. and agents are assisting with evidence analysis overseas. … Gonzales also stressed the importance of closely monitoring extremist Web sites, prisons and other venues that have been used to recruit radicals. Academic settings, mosques and community centers could also be potential hubs for radicals, he said. … 'Isolated souls may be as dangerous as al-Qaida, if not more so,' he said."

The Pittsburgh Tribune-Review (8/17, Cato) reports, "Americans lulled into a false sense of security since the 9/11 attacks should heed last week's foiled plot in London as a wake-up call, U.S. Attorney General Alberto Gonzales said Wednesday during his first visit to Pittsburgh." The Tribune-Review continues, "The country's chief law enforcement official said homegrown terrorists could be a menace to the United States. … 'We are safer than we were on Sept. 11, but we are not yet safe,' Gonzales told members of the World Affairs Council of Pittsburgh at the Omni William Penn Hotel, Downtown. 'The threat of homegrown cells -- radicalized online, in prisons and in other groups of socially isolated souls -- may be as dangerous as al-Qaida, if not more so.'" The Tribune-Review adds, "Americans could figure centrally in future plots in the U.S., Gonzales said later after touring the Allegheny County Emergency Response Center in Point Breeze. … 'The radicalization of people in this country is something we're looking at,' Gonzales said."

The Pittsburgh Post-Gazette (8/17, Ward) reports that Gonzales' speech "focused on the efforts by the Department of Justice to protect the United States from terrorism. … 'During this period, our way of life has changed very much,' Mr. Gonzales said. 'The most dramatic change is the nature of the enemy our country now faces.' … The new enemy, he said, is patient and smart. It also has the capacity to recruit new members from around the world simply by using the Internet. … 'Winning the war on terrorism requires us to win the war of information.'"

The Pittsburgh Business Times (8/17) reports, "The nation's 80th attorney general, who took only written questions read by council president Schuyler Foerster, said the arrests of 24 people involved with the alleged terror plot was an 'international success,' but that the investigation into the plan is ongoing. … 'We have to approach every day like it's Sept. 12,' Gonzales said. 'Every day is that day after.'" The Times notes, "Gonzales said the Department of Justice has several challenges in 'facing a stateless enemy' such as Al Qaeda, and that it 'takes a network to defeat a network.'"

Fox News' Special Report (8/16, Baier) also reported on Gonzales' a speech in Pennsylvania, where he "said last week's thwarted terror plot in Great Britain should remind Americans of just how dangerous the enemy still is." Gonzales was shown saying, "This is what I worry about most in my job as Attorney General, is are we doing everything we can do to make sure that America is as safe as possible." Fox News adds, "The answer is no, according to Massachusetts Congressman Edward Markey and other top Democrats." Rep. Markey was shown saying, "This foiled attempt should be nothing more than one additional wakeup call to the Bush administration that they must close the remaining gaping loopholes."

CNN's "The Situation Room (8/16, Blitzer) interviewed Gonzales. Asked if there was evidence that the UK terror plot involved al Qaeda, Gonzales said, "If you look at the facts and the circumstances of this particular plot, as we understand it, it is certainly suggestive of previous al Qaeda plots and certainly suggestive of previous al Qaeda thinking about how to carry out a deadly plot. So it's something that we're still evaluating."

Gonzales Warns Of Extremist Groups On The Internet. The Los Angeles Times (8/17, Meyer) reports, "Atty. Gen. Alberto R. Gonzales said Wednesday that more than

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5,000 Internet sites were being used by extremists to train and coordinate internationally, filling the gap caused by the crackdown on the Al Qaeda terrorist network. … He also rebutted allegations circulating in recent days that the United States somehow prompted British authorities to move prematurely against a suspected London-area cell allegedly planning attacks on airliners with homemade liquid bombs." The Times continues, "Gonzales' estimate suggests a significant expansion of the Internet infrastructure used by Islamic extremists in recent years to mobilize their efforts. Several counter-terrorism officials inside and outside the U.S. government said they were not familiar with the specific numbers quoted by the nation's top law enforcement official, but added that they had seen a dramatic increase in Internet use by Islamic extremists. … Since late 2001, the United States and its allies have demolished Al Qaeda's home base in Afghanistan, killed or captured some of its leaders, cut off many outside funding channels and disrupted some means of communication. … But those efforts have driven Al Qaeda members to the Internet, 'where their ideology has inspired and radicalized others,' Gonzales said in a speech to the World Affairs Council of Pittsburgh. … 'There are between 5,000 and 6,000 extremist websites on the Internet, each one encouraging extremists to cultivate relationships with like-minded people,' he said. … 'This radicalization is happening online and can therefore develop anywhere, in virtually any neighborhood, and in any country.'"

Bill Clinton Says White House "Playing Politics" With UK Terror Plot. MSNBC's "Hardball" (8/16, Shuster) reports, "With Vice President Cheney and President Bush both drawing attention to last week's foiled terror blot, former President Clinton, during an interview on ABC News, accused the administration of playing politics with the London arrests." Clinton was shown saying, "They seem to be anxious to tie it to al Qaeda. If that's true, how come we have got seven times as many troops in Iraq as in Afghanistan?" MSNBC added, "President Clinton has generally refrained from sharp criticism of the Bush administration, and the unusually pointed remarks prompted a return shot from the White House." White House spokesman Tony Snow was shown saying, "He doesn't know what we are doing to go after al Qaeda. Period. He doesn't know. We are not broadcasting it."

Asked about remarks by former President Clinton that Republicans should not "play politics" with the British plot, Gonzales said he hadn't seen the comments, adding, "No one should be playing politics with this particular situation. We're not trying to tie it to al Qaeda. You just asked me a question as to the ties of al Qaeda. We want to be very, very careful in the information that we disclose to the American people. We want the facts -- the information -- to be accurate."

Gonzales Says US Should Weigh Changes To Anti-Terror Laws Carefully, Rejects Profiling. CNN's "The Situation Room (8/16, Blitzer) interviewed Attorney General Alberto Gonzales. Asked if he supported changing US laws so authorities could hold suspects for 28 days, as is possible in the UK, Gonzales said, "I think that there are serious questions as to whether or not that would be constitutional. And, obviously, as to whether or not a particular tool or enforcement mechanism would be something that we would want, we would have to answer the question: Is it constitutional? Is it effective? Is it something that we absolutely need?"

Asked if the US should change rules on racial or ethnic profiling, Gonzales said, "I think that, you know, taking action against someone solely because of their race and solely because of their religion, I think, is problematic. I do believe it is appropriate to engage in threat profiling, that you have -- if you have information about a particular threat, if you have certain facts that we ought to be looking for, I think we have an obligation to the American people to use that information to try to disrupt the threat. The president, however, believes very strongly -- and he's against racial profiling."

Airlines, Security Experts Call For Profiling. The Wall Street Journal (8/17, Michaels, 2.03M) reports, "Continued delays at London airports following last week's foiled terrorist plot are prompting some airline officials and security specialists to call for passenger-profiling techniques to reduce the number of travelers subject to intensive searches. Advocates of the measures say trained airport and airline staff at security checkpoints should be allowed to judge which passengers aren't likely to pose a terrorist threat -- such as old women and families with small children -- and let them pass quickly through security." Screeners "could then focus more carefully on inspecting other travelers. Passengers behaving oddly or with unusual travel details would also be subject to more thorough screening, advocates of profiling say." But "opponents have two basic objections: They say passenger profiling is an infringement of civil rights, and not effective in the long run."

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King Endorses Racial Profiling In Terror Fight. Long Island Newsday (8/17, Palmer) reports, "Declaring that airport screeners shouldn't be hampered by 'political correctness,' House Homeland Security Chairman Peter King has endorsed requiring people of 'Middle Eastern and South Asian' descent to undergo additional security checks because of their ethnicity and religion." Newsday continues, "Discussing the recent revelation of an alleged plot in England to blow up U.S.-bound airliners, the Seaford Republican said yesterday that, 'if the threat is coming from a particular group, I can understand why it would make sense to single them out for further questioning.' … King, who has said that all Muslims aren't terrorists but that all recent terrorists are Muslim, favors an ethnic and religious profiling scheme that would include foreign and American-born travelers. 'I would give the investigators and screeners a lot of discretion as to where it ends,' he said." Newsday notes, "Despite King's endorsement of such a process, it is a technique that has been widely dismissed as a legitimate law enforcement tool. … NYPD Commissioner Ray Kelly, a childhood friend of King's whom the congressman calls one of the nation's leading counter-terrorism officials, has previously called racial profiling 'nuts' and 'ineffective,' and eliminated the practice when he oversaw the U.S. Customs Service. … The U.S. Justice Department issued a policy three years ago banning racial profiling and Attorney General Alberto Gonzales said yesterday that he doesn't favor the practice. … 'I think that, you know, taking action against someone solely because of their race and solely because of their religion I think is problematic,' Gonzales said."

UK Judge Approves Continued Detention Of Alleged Bomb Plotters. ABC World News Tonight (8/16, story 3, 0:15, Gibson, 8.78M) reported that "a London judge did give British police more time to hold the 23 suspects arrested last week in that alleged plot to bomb airliners. This will give the police an opportunity to gather additional evidence before formally presenting their case." NBC Nightly News (8/16, story 3, 0:10, Brown, 9.87M) also briefly reported on the ruling, and the Chicago Tribune (8/17, Hedges, Madhani, 623K) notes, "Defense attorneys leaving the hearing…declined to discuss the proceedings," but "one solicitor…said on the condition of anonymity that 'they [the government] have got to start explaining some of this. They haven't said anything and they're going to owe people an explanation.'"

The AP (8/17, Moore) reports, "Scotland Yard later said a person arrested Tuesday as part of its investigation into the plot was released without charge. … The judicial order was the first major test of a new terrorism law that lets suspects be held for as long as 28 days without charge," and "Scotland Yard said that 21 of the suspects could be detained for questioning through Aug. 23, while another two could be detained until Aug. 21." The Washington Post (8/17, A19, 748K) runs a truncated version of the AP story.

Intelligence Officials Say Suspect In Pakistan Was Contact With Al Qaeda Operative. The CBS Evening News (8/16, story 4, 1:00, Schieffer, 7.66M) reported, "There was also a development in the case that set off this hair-trigger plot." CBS (MacVicar) added that the possible links to al Qaeda "become more important and much more interesting. They focus around (Rashid) Rauf, who is in custody in Pakistan. Intelligence officials have told CBS news it is become increasingly clear that Rauf wasn't a ring leader but a go-between carrying messages from senior al Qaeda operatives, and the al Qaeda operative's name is Rabia. He was number three in al Qaeda -- the senior operational commander, the man in charge of international operations -- and he was killed last fall in November in a US predator strike targeting senior al Qaeda leadership on the Pakistan border. It gives you an idea, if he died in November, just how long they've been thinking about this."

The New York Times (8/17, Gall, 1.21M) notes, "Rauf has emerged as the main coordinating figure of the London case. … 'He became a central figure in all this,' said a senior government official who insisted on anonymity because of the investigation. 'He was a connecting figure and central to it.' Mr. Rauf came to the notice of British investigators who traced telephone calls between him and people in Britain who were under surveillance, the official said."

Europeans To Combine Anti-Terror Efforts. The New York Times (8/17, Timmons, Pfanner, 1.21M) reports British, Finnish, German, Portuguese, Slovenian and French security officials "pledged Wednesday to increase their cooperation to fight terrorism, saying they may begin by blocking certain Internet sites, using fingerprinting or iris-scanning technology, and training Muslim preachers to discourage militancy." The ministers "laid out proposals that signaled a shift for Europe, which has been loath to limit individual freedoms or to try to impose a uniform set of values." The agreement commits the leaders to "speed up

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plans to increase cooperation between the intelligence forces in their home countries, and allow them to share information directly with their counterparts. They also plan to step up cooperation on research into explosives, particularly liquid explosives."

The Financial Times (8/17, Adams, Bokhari) also reports the story, noting John Reid, Britain's home secretary, "urged all European countries to adopt a similar approach to that of the UK, which has banned liquids and gels from being carried on board aircraft since last week's terrorism alert."

USA Today (8/17, Stinson, 2.27M) reports Reid "said civil liberties must be re-examined in the face of possible 'mass murder' by terrorists. 'As we face the threat of mass murder, we have to accept that the rights of the individual that we enjoy must and will be balanced with the collective right of security and the protection of life and limb that our citizens demand,' said Reid, Britain's top law enforcement official."

Egyptian Falsely Accused In Post-9/11 Probe Remains "Angry" But "Not Bitter." In his New York Times (8/17, 1.21M) column, Bob Herbert recounts a telephone conversation with Abdallah Higazy, who was detained in the FBI investigation after 9/11 when a "hotel security guard claimed to have found an aviation radio…in the safe in Mr. Higazy's room." After Higazy "was handcuffed, strip-searched and thrown into prison — as a material witness," he says "an F.B.I. agent, Michael Templeton, told him during an interview that if he didn't cooperate, his family in Cairo would be put at the mercy of Egyptian security, which Mr. Templeton would later acknowledge has a reputation for torture." However, "It turned out that the security guard, Ronald Ferry, had been lying." Higazy, who "is now a teacher in Cairo, told me he is angry with Mr. Ferry and Mr. Templeton, but that he's not bitter."

Term "Islamofascism" Said To Obscure Widespread Muslim Support For Terror. In an op-ed for the Wall Street Journal (8/17, 2.03M) British philosopher Roger Scruton writes that the term "Islamofascism" has "caught on, not least because it provides a convenient way of announcing that you are not against Islam but only against its perversion by the terrorists. But this prompts the question whether terrorism is really as alien to Islam as we should all like to believe." According to Scruton, "The majority of European Muslims do not approve of terrorism. But there are majorities and majorities. According to a recent poll, a full quarter of British Muslims believe that the bombs of last summer in London were a legitimate response to the 'war on terror.' Public pronouncements from Muslim leaders treat Islamist terrorism as a lamentable but understandable response to the West's misguided policies. And the blood-curdling utterances of the Wahhabite clergy, when occasionally reported in the press, sit uneasily with the idea of a 'religion of peace.' All this leads to a certain skepticism among ordinary people, whose 'racist' or 'xenophobic' prejudices are denounced by the media as the real cause of Muslim disaffection.

HOMELAND RESPONSE:

Chertoff Says US Boosting Airline Security Procedures. The AP (8/17, Jordan) reports, "Airline passengers soon will have their names checked against the US 'no-fly' list before flights take off for the United States, the homeland security chief said Wednesday." The requirement, "resisted by the airline industry for fear of costly delays, could be in place by early next year. It would make permanent a security measure temporarily put in place for flights from Britain after last week's foiled plot to bomb trans-Atlantic flights. Currently, airlines have to submit their passenger lists for international flights 15 minutes after takeoff." Homeland Security Secretary Michael Chertoff said in an interview with the AP, "This is part of our border authority. … The reason we haven't moved this is because the airlines were concerned about what they would do about passengers who would come up at the last minute, and they don't want to hold the flights up. Our position has been: Isn't it better to know before the plane takes off than to turn the plane around? Which I think is correct. So we're on a course to getting this piece nailed down."

Bush Says Flying Remains Safe. USA Today (8/17, A3, 2.27M) reports, "President Bush said Wednesday that he believes flying is safe and not a big inconvenience, even after an alleged terrorist plot to blow up jets headed to the USA was thwarted and new security measures were put in place. 'I think most people clearly understand that government, when it reacts to a threat, does so for their own interests,' Bush said in an interview. Bush said he is often asked whether he would let his family fly. 'The answer is, yes, I would.'" USA adds, "Bush said he believes Americans have adapted. 'People are able to make the adjustments necessary to deal with the current situation,' he said."

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TSA Testing Passenger Observation Program At Some Airports. ABC World News Tonight (8/16, story 7, 3;00, Gibson, 8.78M) reported, "There are 43,000 airport screeners in the United States. But Congress and the 9/11 commission have sharply criticized the procedures they employ as woefully inadequate to thwart terrorists. The government has been testing new tactics in hopes of preventing an attack." ABC (Thomas) added, "Since December, at several airports around the country, the government has been quietly deploying uniform and undercover agents, who do nothing but watch the behavior of airline passengers. Every passenger." Waverly Cousin, TSA Security Supervisor: "Our officers have trained to look for multiple signs of deceptions, multiple signs of fear. One of the things what we would be looking for someone who would be profusely sweating." Thomas: "Other suspicious behavior the government is looking for includes incessant blinking of the eyes, excessive fidgeting with clothes, acting evasive if approached. The SPOT program, or screening passengers by observation technique, is being rolled out at a dozen airports across the country, including in Washington, Miami and Minneapolis."

The New York Times (8/17, Lipton, 1.21M) runs a similar story under the headline "Faces, Too, Are Searched At US Airports," in which it says that "even in its infancy, the program has elicited some protests. At one airport, passengers singled out solely because of their behavior have at times been threatened with detention if they did not cooperate, raising constitutional issues that are already being argued in court. Some civil liberties experts said that the program, if not run properly, could turn into another version of racial profiling." Other concerns "were raised this week by two of the foremost proponents of the techniques, a former Israeli security official and a behavioral psychologist who developed the system of observing involuntarily muscular reactions to gauge a person's state of mind."

Ridge Says "Pre-Screening" Should Be Next Step. On MSNBC's "Hardball" (8/16, Matthews), former Homeland Security Secretary Tom Ridge said, "I think we've made people safer. I think we are playing much better offense, and in offense, I mean by intelligence sharing and getting these terrorists before they attack, and the Brits did a fabulous job there. And certainly a better defense. We have more security measures in place. But we are up against some strategic actors who have a different timeframe than we do. We are in this for the long hall, so, although we are good now, we've got to get better, and at no time will we ever guarantee absolute safety." Ridge acknowledged that many screening procedures have not actually caught suspected terrorists, adding, "The next step has to be a lot bolder than anything they have done before, and that is pre-screening passengers."

White House Defends Homeland Security's Performance. Fox News' Special Report (8/16, Baier) reports, "Senior Administration officials insist the Homeland Security Department is making the right investments in airport security and say the outrage from Democrats can be directly tied to the upcoming midterm elections." White House spokesman Tony Snow was shown saying, "It's interesting that every time we have a success, Democrats come out and complain. Now, I don't quite understand that, unless they're seeking desperately some political advantage out of a success story. What they ought to be doing is saying, Good, let's continue to work together to make it better. And I think that's an important tone to strike."

No Terrorism In Diverted London-To-Washington Flight. ABC World News Tonight (8/16, story 2, 3:00, Gibson, 8.78M) reported, "There was terror scare on a flight from London to Washington, DC United flight 923, never got to Washington. But landed, instead, in Boston. The pilot declared an emergency, and military jets rendezvoused with the plane. In the end, there was no terror plot. But such is the apprehension that there were anxious moments."

The CBS Evening News (8/16, story 2, 0:45, Orr, 7.66M) reported, "What happened is a woman on a flight from London to Washington Dulles started creating a disturbance in the air. The pilot did the right thing. He elected to land early at Boston's Logan. The woman was detained, and all the bags were laid out on the tarmac, bomb-sniffing dogs went bag boy bag to make sure there were no explosives. Of course, none were found." NBC Nightly News (8/16, story 2, 2:20, Williams, 9.87M) also said "there is no hint of terrorism in this case."

The AP (8/17, Donald) reports, "Gov. Mitt Romney said the 59-year-old woman was from Vermont and became so claustrophobic and upset that she needed to be restrained. The FBI in Boston said the woman, a US citizen, was arrested on charges of interfering with a flight crew." Passengers "said two plainclothes men on board and flight attendants ran up the aisle and tackled the petite woman, slamming her into the bathroom door, throwing her to the ground and putting her in handcuffs, passengers said." The Washington Post (8/17, A4, Wilber, Rondeaux, 748K), New York Times (8/17, Zezima,

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1.21M), USA Today (8/17, Levin, Johnson, 2.27M), Los Angeles Times (8/17, Mehren, 918K) and Washington Times (8/17, Hudson, Cella, 88K), among other sources, run similar reports this morning.

US Accuses Cell Phone Suspects Of Fraud As Michigan Drops Terrorism Charges. In a widely-distributed story, the AP (8/17, Karush) reports, "Three Palestinian-American men who were found with nearly 1,000 cell phones were charged Wednesday with federal fraud conspiracy and money laundering." Maruan Muhareb, Adham Othman and Louai Othman "had been charged there with collecting or providing materials for terrorist acts and surveillance of a vulnerable target for terrorist purposes," but Michigan prosecutor Mark Reene "asked a judge Wednesday to dismiss those charges. Nabih Ayad, an attorney for the three men, called the charges 'outrageous' and accused state and federal officials of 'scratching each other's backs' by shifting jurisdictions. The federal complaint contains no mention of terrorism." The AP notes, "The FBI said this week there was no imminent threat to the bridge and no information linking the men to known terrorist groups. … Reene said Wednesday that he was 'deeply troubled' by the FBI's statement" on Monday that there was no evidence linking the three to terrorism. "He called it 'a very peculiar development' and complained that he found about it through the media."

The Detroit News (8/17, Egan) notes that Reene, who "was criticized after both the FBI and Michigan State Police said Monday the men had no links to terrorism, withdrew those charges in Tuscola County District Court. But Reene told reporters he dropped the charges only because the federal government is taking over the case and said: 'We won't back up even a quarter-inch on those charges.'" The News notes, "FBI Special Agent Andrea Kinzig said in a complaint filed Wednesday the Texas men were among several small groups of individuals traveling around the country and buying large numbers of cell phones at major retailers such as Wal-Mart and Kmart. … The practice violates trademarks and is a form of counterfeiting, she said."

Recent Arrests Reflect Rising Concern About Wireless Technology. The Christian Science Monitor (8/17, Knickerbocker, 58K) reports, "The arrests and release of five young Arab-American men who bought hundreds of cellphones in the Midwest show broader concerns about wireless technology in an era of global terrorism." The Monitor notes that "cellphones have become a tool of choice for those wanting to stay a step ahead of government wiretappers as well as for insurgents triggering bombs. Reselling them on the black market also has become a way of funding illicit activities. … In Florida, for example, prosecutors and FBI agents investigating a cell of Colombian drug dealers had gotten 23 separate wiretaps against cell members and leaders, but failed to make a strong enough case because the suspects were constantly changing cellphones."

Port Of Seattle Terminal Evacuated By Container Explosives Scare. The CBS Evening News (8/16, story 3, 0:25, Schieffer, 7.66M) reported that "there's another scare going on tonight out in Seattle." CBS (Orr) added, "A couple of containers from a ship, containers from Pakistan, had authorities worried for quite a while. Bomb dogs in checking these containers alerted for potential explosives. … We just got recent word that no explosives so far have been found. The evacuation remains in place, but this is expected to also have been cleared very soon." The AP (8/17) adds, "Officials are still trying to determine exactly what is in the containers. It was not immediately clear why the dogs were mistaken. … U.S. Customs and Border Protection agents used a 'gamma-ray' device to peer through the containers' steel walls to determine what they contained, said spokesman Mike Milne. It detected some of the items did not appear to match what was listed on the containers' manifest, he added."

NYC Releases Last Batch Of 9/11 Recordings. ABC World News Tonight (8/16, story 4, 2:45, Gibson, 8.78M) reported New York, City "made public more than 1,600 telephone calls made to emergency services on 9/11. They opened a new window into the heroism and the terror and the mass confusion of that morning. Families of those who died find the tapes hard to listen to. And so does everyone else." ABC went on to play several segments from calls placed by victims stuck in the WTC towers. NBC Nightly News (8/16, story 6, 2:50, Brown, 9.87M) notes that part of one of the recordings was played at the trial of Zacharias Moussaoui. NBC added, "Family members who fought for the release of the tapes say they provide missing links and believe New York and other cities can only learn from the failures of that day."

The New York Times (8/17, Dwyer, 1.21M) reports that yesterday's release "might be the final major disclosure of

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records" relating to 911. According to the Times, "The recordings were released in response to a freedom of information request for a variety of city records made by The New York Times in January 2002. After the administration of Mayor Michael R. Bloomberg refused to release the records, citing privacy and law-enforcement concerns, families of Sept. 11 victims joined a lawsuit filed by The Times. The state Court of Appeals ruled more than a year ago that most of the material should be disclosed, but agreed with the city's position that the voices of callers to the 911 system should not be made public, citing privacy considerations. One batch of records was released in March, but because of what Mayor Bloomberg called a "breakdown" at the Fire Department, many other recordings were not collected until recently." The Los Angeles Times (8/17, Barry, 918K) reports that on Tuesday Fire Commissioner Nicholas Scoppetta "announced that members of his staff had overlooked a large number of recordings. Fire department officials say they are confident they have provided all the recordings sought in the lawsuit." USA Today (8/17, Moore, 2.27M) notes that tapes "of 1,631 calls to fire dispatchers…include the voices of 19 New York City firefighters and two emergency medical techs who were among the 343 fire department personnel killed. … The tapes include 10 911 calls from office workers trapped in the towers.

Tapes Portrayed As Evidence Of Giuliani Administration's Lack Of Foresight. The Washington Post (8/17, A3, Powell, Garcia, 748K) reports former mayor Rudolph W. Giuliani "testified several years ago that the firefighters who died were 'standing their ground' to help victims. But the release of the tapes Wednesday reinforced what earlier tapes, investigations and a new book – 'Grand Illusion: The Untold Story of Rudy Giuliani and 9/11' -- have made clear: That Giuliani and his top aides did not put in place a clear chain of command for police officers and firefighters, which led to much confusion at the scene. And firefighters never heard calls to leave because they carried outmoded radios that did not work inside the stairwells of the burning towers."

New York State Legislation Benefits Families Of Workers Sickened At Ground Zero. In an op-ed for the New York Times (8/17, 1.21M) Baruch College's Stan Altman writes that "an estimated 40,000 police, firefighters and other workers…did rescue and cleanup on 'the pile' after Sept. 11, 2001, while the remains of the buildings — not to mention their contents, jet fuel and other debris — smoldered for weeks, poisoning the air with mercury, lead, dioxin, asbestos, copper and dozens of other substances. Today, increasing numbers of emergency service workers are reporting breathing and digestive problems and rashes, and their incidence of cancer is higher than normal. At least one death, that of Detective James Zadroga in January, from heart and lung complications, has been linked by a medical examiner to work at Ground Zero; six other responders in their 30's and 40's have died from causes like heart failure and lung cancer. On Monday, Gov. George E. Pataki signed a law ordering New York City to pay more generous death benefits to the families of Sept. 11 responders who die from these illnesses."

Bids For Dubai Ports World's US Operations Due Friday. The Washington Times (8/17, Sparshott, 88K) reports, "Dubai Ports World is moving ahead with a plan to spin off its recently acquired U.S. operations, with preliminary bids from suitors due tomorrow." The firm "promised to sell P&O Ports North America Inc. to an American buyer by September after Congress protested the takeover of U.S. port terminal operations by the state-owned company from the Middle East." The Times says DPW "is not commenting on the sale, and potential buyers had to sign confidentiality agreements before receiving a detailed description of the U.S. operations." SSA Marine, owned by Seattle company Carrix Inc.; Maher Terminals of Port Elizabeth, N.J.; and "U.S. investment banks" including Goldman Sachs and the Carlyle Group are listed as potential buyer/operators.

New Orleans Woman Bush Visited Still Waiting For Home To Be Rebuilt. NPR's All Things Considered (8/16, Greene) broadcast a 7 1/2-minute feature on the aftermath of Hurricane Katrina that was highly critical of the federal response, though not directly critical of President Bush. The report focused on Ethel Williams, a 74-year-old resident of the Ninth Ward who was visited by Bush on April 27. At that time, Bush said her home would be rebuilt. But NPR said that "since that day, not so much has happened. Her house has stood gutted, just as it was when the President left. Mrs. Williams has been living with her daughter in a part of the city across the Mississippi River." NPR interviewed Williams and visited her house with her, reporting that while "Williams did get some initial help from FEMA, and the White House says she's in line to get federal

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rebuilding money that will be allocated by the state," she says "Bush gave her idea her house could be totally rebuilt within a few months." But Williams "says she's not angry at anyone, especially not the President. She never voted for Mr. Bush, but she says she really felt a connection with him that day in April. She now calls the President a friend." On whether Bush will follow through for her, Williams said, "He has a lot to think about other than me, and he'll do it. You can't get me to say he won't, because he will."

Group Urges Disaster Preparation Focused On Pregnant Women, Newborns. The Washington Post (8/17, A9, Lakshmi, 748K) reports that in the aftermath of last year's hurricanes, the White Ribbon Alliance for Safe Motherhood, based in Washington, is urging disaster preparation focused on pregnant women and newborns. The Post leads its report by noting that in the days after Hurricane Katrina hit Louisiana, "about 125 critically ill newborn babies and 154 pregnant women were evacuated to Woman's Hospital in Baton Rouge," and it was "at least 10 days before some of the infants and mothers were reunited." White Ribbon Executive Director Theresa Shaver said, "International relief agencies have detailed guidelines for helping pregnant women, infants and new mothers in disasters around the world. But in the United States, it is not yet integral to our preparedness plans."

Thousands In Mississippi Suing Insurers Over Denied Katrina Claims. On its front page, the Wall Street Journal (8/17, A1, Pleven, 2.03M) reports on the "thousands of Mississippi homeowners" suing their insurers over claims they were "unfairly denied compensation for destruction wreaked a year ago by Hurricane Katrina." The cases tend to resolve around the issue of whether damage was "caused by the storm's winds, making it an event covered by most policies," or "by the wall of water that slammed ashore, something that insurers typically exclude." In Mississippi, "the cases are complicated by the fact that much of the state's legal and political leadership has chips in the game." Sen. Trent Lott, Rep. Gene Taylor, and at least two judges are among those who have sued their insurers.

WSJournal Skeptical About Claims. In a related editorial, the Wall Street Journal (8/17, A8, 2.03M) derides the claims as tests of "whether Katrina victims can rewrite their insurance contracts in a way that amounts to political robbery. Private insurers have long had 'flood exclusions' in their contracts -- which is one reason the federal government has offered flood insurance for nearly 40 years. When Katrina hit, these private insurers offered to pay homeowners for wind damage -- as their contracts required -- but not for destruction due to flooding. … The suits threaten to raise the cost of insurance, if not deny coverage entirely, to millions of Americans beyond those hurt by Katrina."

WAR NEWS:

Sectarian Violence Still Rising In Iraq. USA Today/AP (8/17) reports, "Bombs killed 21 people in central Baghdad on Wednesday, and gunmen attacked the governor's office in Iraq's second-largest city -- another sign of unrest in the Shiite heartland as US troops step up operations in the capital after the deadliest month for civilians of the war." One bomb "exploded late in the morning near day laborers waiting for work in the central Nahda district, killing eight people and wounding 28, police Lt. Bilal Ali said. Two nearly simultaneous car bombs exploded Wednesday evening in the Batayween area of central Baghdad, killing 13 people and wounding 55, police Lt. Ali Mutaab said. The blasts sent a huge cloud of black smoke over the troubled city."

The New York Times (8/17, Von Zielbauer, 1.21M) reports, "Iraqi security forces and British troops fought Shiite militias and tribesmen in two major cities south of Baghdad on Wednesday in sustained battles that left two policemen and a dozen militiamen dead." The violence "underscored the tenuous grip the Iraqi government maintains even in regions not under the sway of Sunni Arab insurgents." In Basra, "a gun battle erupted between Iraqi Army troops and members of the dominant local tribe, the Bani Asad, apparently angered by the killing on Tuesday of a tribal leader, Faisal Raji al-Asadi, government officials in Basra said." In Karbala, "the violence on Wednesday took on a different hue, as security forces controlled by Shiites who are aligned with the main pro-Iranian bloc, the Supreme Council for the Islamic Revolution in Iraq, fought militiamen loyal to a local Shiite cleric opposed to Iran's influence in Iraq. The battle led security forces to cordon off the city to most nonresidents and impose a curfew."

The Washington Post (8/17, A1, Raghavan, 748K), meanwhile, says that "as US and Iraqi forces focus their efforts on taming sectarian violence in Baghdad, Wednesday's bloodshed served as a reminder of the tenuous security conditions across Iraq, and how precariously the country teeters on the edge of civil war." Northern "cities such as Mosul, which had faced constant attacks, are experiencing new waves of violence along ethnic and

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political fault lines. Tensions also are rising between US and Iraqi forces and the powerful anti-American cleric Moqtada al-Sadr, who is emerging as the main Shiite obstacle to U.S. efforts to establish order and security in Baghdad as well as in the south."

Average Of 110 Iraqis A Day Killed Last Month. ABC World News Tonight (8/16, story 6, 0:15, Gibson, 8.78M) reported on a "sobering announcement by the Iraqi government, today. The Deputy Health Minister there said nearly 3,500 Iraqis died last month in sectarian or political violence. That's an average of 110 every day. And that is the highest monthly civilian death toll since the war began." NBC Nightly News (8/16, story 4, 0:50, Brown, 9.87M) reported on those "grim news from Iraq."

"Senior Defense Department Official" Says Insurgency Has Gotten Worse. The New York Times (8/17, Gordon, Mazzetti, Shanker, 1.21M) reports, "The number of roadside bombs planted in Iraq rose in July to the highest monthly total of the war, offering more evidence that the anti-American insurgency has continued to strengthen despite the killing of the terrorist leader Abu Musab al-Zarqawi. … The bomb statistics -- compiled by American military authorities in Baghdad and made available at the request of The New York Times -- are part of a growing body of data and intelligence analysis about the violence in Iraq that has produced somber public assessments from military commanders, administration officials and lawmakers on Capitol Hill." A "senior Defense Department official who agreed to discuss the issue only on condition of anonymity because he was not authorized to speak for attribution" said, "The insurgency has gotten worse by almost all measures, with insurgent attacks at historically high levels. … The insurgency has more public support and is demonstrably more capable in numbers of people active and in its ability to direct violence than at any point in time." The Times adds, "A separate, classified report by the Defense Intelligence Agency, dated Aug. 3, details worsening security conditions inside the country and describes how Iraq risks sliding toward civil war, according to several officials who have read the document or who have received a briefing on its contents."

Aides Deny Bush Expressing "Frustration" With Maliki Government. NBC Nightly News (8/16, story 5, 1:00, Brown, 9.87M) reported, "The Bush Administration continues to insist publicly that Iraq is not spiraling down into civil war. But behind the scenes there is serious concern about what's happening on the ground and what to do about it. NBC (Gregory) added "Bush advisors deny the President is publicly expressing frustration with the Iraqi government and Prime Minister Al Maliki, who he has been supportive of certainly. Privately nobody is sugar-coating the problem. … Officials say the President himself has pressured the Maliki government to take tough stands particularly against Shi'ia militias aligned with Maliki's party and make some tough political decisions. They recognize that time is not on their side. There is great pressure to bring the troops back to the United States. As one aide said the Maliki government has a window of opportunity to show real progress. There is also political pressure on this White House at a time when it say its is adapting the strategy in Iraq to win. They recognize they have to show progress soon as well."

Memorial To Slain Children Destroyed In Baghdad. The New York Times (8/17, Cave, 1.21M) runs a feature on the insurgent attack that destroyed a memorial marking the death of two dozen Baghdad children "who were killed last summer when a car bomber sped into a crowd receiving candy from American troops. A monument to life -- a statue of debris from the attack set on a pedestal with the victims' names -- had become another casualty of what many here now consider an undeclared civil war." Muhammad Khaitan, father of one of the children, said, "All they left was the foundation. They don't want the next generation to remember how we suffered."

Carroll Saga Continues With Tale Of Kidnapper's Wife's Desire For Martyrdom. The Christian Science Monitor (8/17, Carroll, Grier, 58K) runs the fourth installment of "Hostage: The Jill Carroll Story," which focuses on Carroll's learning that the wife of one of her kidnappers wanted to become a suicide bomber: "'Um Ali wants to be a martyr. She wants to drive a car bomb!' he said, beaming. Of course, she'd have to wait, since she was now four months pregnant. It is forbidden in Islam to kill a fetus at that age, he explained. … I was still unused to captivity, still learning the boundaries, both physical and mental, that my kidnappers had imposed. I didn't want to offend. But I was shocked at the talk of a mother's suicide; shocked that Um Ali would blush at her husband's praise of this plan."

Forensic Scientists Build Mass Murder Case Against Saddam. The New York Times (8/17, Semple, 1.21M) reports the "victims of mass murder under Saddam

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Hussein are slowly brought back to life" in "makeshift laboratories" in Baghdad, where forensic scientists from around the world have spent two years shifting through "bones, clothes, identity papers and spent bullet casings exhumed from mass graves to build criminal cases against Mr. Hussein and to reconstruct the victims' final moments." Investigators have so far "excavated nine mass graves -- from among the more than 200 scattered around the country containing, by some estimates, tens of thousands of victims."

Turley Laments Efforts To Keep Names, Images Of War Dead Silent. In a USA Today (8/17, 2.27M) op-ed, Jonathan Turley examines cases of backlash against those who have publicized the names of soldiers killed in Iraq, as well as efforts to prevent dissemination of images of caskets, and writes, "When Congress starts to regulate the images that can be used to oppose the war, you know things are not going well on the home front. It wants to deny opponents of any face or name that would remind citizens of the true costs. … Whether it is caskets, funerals or even T-shirts, the politicians would prefer to keep the fallen out of sight and out of mind."

DOJ:

Massachusetts Prosecutor Tapped For Stint At Main Justice. The Springfield (MA) Republican (8/17, Barry) reports, "A federal prosecutor who has won more than a dozen convictions in city corruption cases has accepted a high-level post with the U.S. Department of Justice's public integrity office, which combats fraud on the national stage." The Republican continues, "While refusing to discuss details of the move, Assistant U.S. Attorney William M. Welch II yesterday confirmed he has accepted a temporary assignment as acting deputy chief in the division probing former Republican lobbyist Jack Abramoff's dealings with elected officials. Abramoff pleaded guilty to federal corruption charges in January, agreeing to testify against lawmakers and others who allegedly accepted graft. … 'My court docket permitting, I am going down there for a six-month detail and nothing more,' Welch said yesterday during a brief phone interview, squelching speculation about his long-term future. 'Any other rumor or conjecture is not appropriate.' … Welch is shuttling between here and the nation's capital, for now." The Republican adds, 'A spokesman for the Justice Department did not return calls. There was some shuffling of leadership in the public integrity office after division chief Noel L. Hillman took a federal judgeship in New Jersey earlier this year. … Welch, 43, will work under Hillman's successor, Edward Nucci, and a principal deputy chief. He will work alongside two other deputy chiefs supervising white collar prosecutions.

CORPORATE SCANDALS:

Former Engineered Support Director Resists Options Probes. The St. Louis Post-Dispatch (8/17, McLaughlin, Patrick) reports, "A former director at Engineered Support Systems is resisting attempts by federal investigators to secure information about the defense contractor's stock option program, the Post-Dispatch has learned." The Post-Dispatch continues, "The U.S. attorney's office in St. Louis and the Securities and Exchange Commission are investigating whether the timing of stock option grants at Engineered Support was manipulated to boost the pay of top executives. Earl W. Wims, a former Engineered Support director and compensation committee member, recently received a grand jury subpoena regarding the government's investigation into the backdating of options." The Post-Dispatch adds, "Several dozen U.S. corporations are being investigated for backdating. Last week, the Justice Department brought criminal charges against three former executives at Comverse Technology Inc., including the company's former chief executive, who is considered an FBI fugitive. … At Engineered Support, the federal investigation centers on stock options awarded in the years before the company was sold in January to New Jersey-based DRS Technologies Inc. for about $2 billion. … Wims argues in his court filing that the government has better sources than him for internal documents and information since he has been off the board since the acquisition. He joined the board in 1992."

SEC Probes Berkshire Deals. Bloomberg (8/17, Stein) reports, "U.S. securities regulators probing Berkshire Hathaway Inc.'s reinsurance units are examining transactions with a predecessor of St. Paul Travelers Cos. and former subsidiaries of Prudential Financial Inc., a filing shows." Bloomberg continues, "Berkshire's General Re Corp., the largest U.S. reinsurer, briefed the Securities and Exchange Commission about the deals on June 13, the Stamford, Connecticut-based company said in a second-quarter filing with state insurance regulators. Two former General Re

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executives invoked their Fifth Amendment right not to testify about the Prudential agreement, according to the filing." Bloomberg adds, 'Prudential, the second-largest U.S. life insurer, and St. Paul, the No. 2 commercial insurer, are among more than a dozen companies to become entangled in probes of a type of reinsurance regulators say can be used to manipulate earnings. At General Re, five former managers, including the company's previous chief executive officer, have been criminally charged over transactions with American International Group Inc. … 'As evidence comes in, more questions arise and the scope of the inquiry becomes broader,' said Christopher Bebel, a former federal prosecutor in Houston not involved in the investigations. … Prudential, based in Newark, New Jersey, previously said the SEC was examining contracts that its property and casualty units entered into between 1997 and 2002 with an unidentified counterparty. The units were sold to Palisades Safety & Insurance Association and Liberty Mutual Group in 2003."

DOJ, Lay Attorneys Battle Over Expunging Verdict. The Washington Post (8/17, D1, Johnson) reports, "Lawyers for Enron Corp. founder Kenneth L. Lay yesterday asked a judge to erase his conviction on fraud and conspiracy charges, citing his death last month before he could appeal a jury verdict." The Post continues, "The request signals that Lay's record soon could be wiped clean, seriously complicating the government's attempts to seize his remaining assets. Legal experts explain that the system hesitates to label people guilty if they have not had a chance to appeal and that it is loath to punish dead people or their estates." The Post adds, "A federal jury convicted Lay of six criminal counts in May, at the same time that a judge found him guilty of four more charges stemming from personal bank loans. Lay, 64, faced the prospect of spending the rest of his life in prison. But he died before he could be sentenced or mount an appeal. … 'The court should enter an order vacating his conviction and dismissing the indictment,' defense lawyers Michael W. Ramsey and Samuel J. Buffone wrote in papers filed in Houston."

The AP (8/17, Hays) reports, "Federal prosecutors will oppose a request by lawyers for Kenneth Lay to legally clear the late convicted Enron Corp. founder's name." The AP continues, "Lawyers for Lay's estate filed court papers Wednesday formally asking a judge to erase Lay's convictions and dismiss the indictment against him because he died before he had appealed. Lay was convicted of 10 counts of fraud, conspiracy and lying to banks in two separate cases on May 25, and died of heart disease July 5. … However, a one-sentence addition to the filing revealed that prosecutors aren't willing to rubber-stamp the request." The AP notes, "The filing noted that Lay's attorney Michael Ramsey had 'conferred with (prosecutor) Kathy Ruemmler who indicated the government will oppose this motion.' … If U.S. District Judge Sim Lake clears Lay's record, that would thwart the government's bid to seek $43.5 million in ill-gotten gains prosecutors allege he pocketed by participating in Enron's fraud. The government could still pursue those gains in civil court, but they would have to compete with other litigants, if any, also pursuing Lay's estate. … 'The Department of Justice remains committed to pursuing all available legal remedies and to reclaim for victims the proceeds of crimes committed by Ken Lay,' said Justice Department spokesman Bryan Sierra."

Wife Of Jailed Former Tyco CEO Files For Divorce. USA Today (8/17, Farrell, Mccoy) reports, "Karen Mayo Kozlowski, the wife of former Tyco CEO Dennis Kozlowski and the woman whose $2 million birthday party in Sardinia came to represent an era of executive excess, wants a divorce." USA continues, "Her husband is serving a sentence of 8? to 25 years in prison after being convicted last year of stealing hundreds of millions of dollars from Tyco." USA adds, "In a court filing in Palm Beach, Fla., Karen Kozlowski declares the marriage 'irretrievably broken,' seeks half of her husband's assets and attempts to put a lien on their mansion and estate in Boca Raton, Fla., purchased with a $30 million interest-free loan from Tyco. … Karen Kozlowski's attempt to get half of her husband's property, as well as a promise of future financial support, could run into trouble. During sentencing in New York last September, State Supreme Court Justice Michael Obus ordered Dennis Kozlowski to pay $167 million in restitution and fines. Since then, Kozlowski has sold an expensive New York apartment and put the proceeds in escrow, according to the Manhattan District Attorney's office."

CRIMINAL LAW:

Suspect Arrested JonBenet Ramsey Case, Calls Death "Accident." In a widely-distributed story, the AP (8/17, Wannabovorn) reports, "The American suspect in the JonBenet Ramsey murder case said publicly Thursday he was with the 6-year-old when she died and called her

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death 'an accident,' a stunning admission that will help answer 10 years of questions in the unsolved murder case. 'I was with JonBenet when she died,' John Mark Karr told reporters in Bangkok, visibly nervous and stuttering as he spoke. … Police said Karr, 41, admitted to the killing after he was arrested Wednesday at his downtown Bangkok apartment by Thai and American authorities. Karr will be taken to Colorado within the next week where he will face charges of murder, kidnapping and child sexual assault, Ann Hurst, Department of Homeland Security attache at the American Embassy in Bangkok, said at a news conference in Bangkok." USA Today (8/17, Kenworthy, 2.27M) notes, "Lin Wood, the Ramsey family attorney, said Karr is a schoolteacher who once lived in Conyers, Ga., outside Atlanta. The Ramseys lived in the Atlanta suburb of Dunwoody for several years before moving to Colorado in 1991. … U.S. Immigration and Customs Enforcement officers assisted Boulder County authorities and the Royal Thai Police in locating the suspect, the federal agency said."

ABC World News Tonight (8/16, lead story, 2:00, Gibson) reported, "JonBenet Ramsey was killed in her family's Boulder, Colorado, home, almost ten years ago. The investigation has had many leads but no arrests, until now. We learned a short while ago that there is now a suspect in custody, in Thailand. … The man is John Mark Karr. And he is wanted in questioning in connection for the murder of JonBenet Ramsey." The suspect "has a prior arrest in 2001 for possession of child pornography …"

The CBS Evening News (8/16, lead story, 3:10, Schieffer) reported that Karr ", "has not yet been charged with murder, but a development like this in a 10-year-old cold case is significant."

The AP (8/17, Tsai) reports, "A former schoolteacher was arrested in Thailand in the slaying of 6-year-old beauty queen JonBenet Ramsey - a surprise breakthrough in a lurid, decade-old murder mystery that had cast a cloud of suspicion over her parents." The AP continues, "Ramsey family attorney Lin Wood identified the suspect as John Mark Karr, 41. Federal officials, speaking on condition of anonymity Wednesday, confirmed the name, and one law enforcement official told The Associated Press that Boulder police had tracked him down online." The AP adds, "Wood said the arrest vindicated JonBenet's parents, John and Patsy Ramsey. Patsy Ramsey died of ovarian cancer June 24. … 'John and Patsy lived their lives knowing they were innocent, trying to raise a son despite the furor around them,' Lin Wood said. 'The story of this family is a story of courage, and story of an American injustice and tragedy that ultimately people will have to look back on and hopefully learn from.'" The AP notes, "A source close to the investigation said Karr confessed to elements of the crime. Also, a law enforcement source, speaking on condition of anonymity, told the AP that Karr had been communicating periodically with somebody in Boulder who had been following the case and cooperating with law enforcement officials. … District Attorney Mary Lacy said the arrest followed several months of work, but she said no details would be released until Thursday. … U.S. authorities said Karr was being held in Bangkok on unrelated sex charges, but Thai police Lt. Gen. Suwat Tumrongsiskul said he was unaware of any criminal charges the suspect faced in Thailand."

The Washington Times (8/17, Richardson) reports, "U.S. authorities said he confessed to the crime after he was arrested in Bangkok on an unrelated sexual-assault charge, adding that he knew certain details about the crime that had not been released publicly."

The New York Times (8/17, Barron) reports, "The arrest put a fresh spotlight on a case that once dominated newspaper headlines, television newscasts and supermarket tabloids. For years, as investigators followed hundreds of leads but seemingly made little headway, John and Patsy Ramsey lived under what Ms. Lacy's predecessor once called 'the umbrella of suspicion.' … The Ramseys repeatedly denied any involvement in their daughter's death, on Christmas night in 1996, even as one detective who had worked on the case speculated that Mrs. Ramsey had struck JonBenet by accident and then wrote a ransom note to deflect attention."

The Washington Post (8/17, A1, Reid, Hsu) reports, "Karr was arrested on sex charges unrelated to JonBenet's slaying after several months of investigation, officials said. Boulder County District Attorney Mary Lacy said investigators from her office were heading to Thailand to question the suspect and bring him to Colorado. Lawyers said this could take days or weeks, depending on whether Karr contests his extradition and whether Thailand decides to expel him." The Post notes, "Nathaniel Karr, 34, who lives in the Atlanta area, said he had been contacted by scores of news organizations and told that his brother had been arrested. In a telephone interview, he said his brother had lived in Alabama and California but 'to my knowledge had never set foot in Colorado.' Public records indicate that John Karr had lived in

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Conyers and Petaluma, Calif. It is not clear when he went to Thailand."

USA Today (8/17, Kenworthy) reports, "U.S. Immigration and Customs Enforcement officers assisted Boulder County authorities and the Royal Thai Police in locating the suspect, the federal agency said."

The Los Angeles Times (8/17, Fausset, Silverstein) reports, "The arrest — which was made by the Royal Thai Police with the assistance of U.S. immigration officials — opens a new chapter in the unsolved mystery. Little was known Wednesday about Karr's alleged motive, or his relationship, if any, with the Ramseys. It also is unclear whether he is the sole suspect in the 1996 Colorado slaying. The district attorney's office refused to grant interviews Wednesday. A news conference is planned for today."

Former Chicago City Clerk's Adviser Sentenced To 30 Months In Prison. The Chicago Tribune (8/17, Coen, 623K) reports, "Salvatore 'Sam' Gammicchia's last-minute attempt to claim he told witnesses in the Hired Truck investigation not to lie to federal investigators did not impress a federal judge Wednesday. U.S. District Judge Charles Norgle sentenced the onetime political adviser to former City Clerk James Laski to 30 months in prison for obstruction of justice." Gammicchia "had pleaded guilty in May to attempting to influence a witness going before a grand jury to testify about paying Laski to get city business for trucks in the scandal-plagued program." The AP (8/17, Robinson) adds that Norgle said during the sentencing, "This is a very clear case of the defendant doing what he could to get others to lie to the grand jury." The AP notes, "Gammicchia told agents he once promised Laski that he would threaten to break Laski aide Michael Jones's leg and actually did warn Jones that if he talked he would have to go into the witness protection program." The Chicago Sun-Times (8/17, Korecki) also reports on the sentencing.

Former BetOnSports CEO Released On Bail. The AP (8/17, Leonard) reports, "The former chief executive of online gambling company BetOnSports was freed on $1 million bond Wednesday after spending nearly a month behind bars following his arrest on racketeering and fraud charges." The AP continues, "David Carruthers, 48, was released after a hearing before U.S. District Judge Mary Ann Medler. He had been expected to be freed as early as Monday but it took days to work out technical details. Among those details: A dedicated phone line had to be installed at the residence where he will stay." The AP adds, "Carruthers must remain in the St. Louis area until his trial. According to the terms of his bond, Carruthers will live at a hotel in the suburb Clayton. He will not be allowed to leave the hotel except for court appearances, meetings with his attorney or medical emergencies. … During the hearing, Carruthers asked the judge if the home-incarceration was 24 hours a day. She said it was." The AP notes, "The charges against Carruthers are part of a 22-count indictment against London-based BetOnSports PLC being prosecuted by U.S. Attorney Catherine Hanaway in St. Louis. Carruthers was chief executive of the company until shortly after his arrest, when he was fired. … The case is one of the largest U.S. prosecutions of an online gambling company and has caused BetOnSports to close all of its U.S.-focused operations." The Financial Times (8/17, Pimlott) adds, "He will not be allowed to leave the hotel while he awaits trial in the midwestern town except for court appearances, meetings with his legal team or medical emergencies. He will also have to wear an electronic tracking tag. Federal prosecutors demanded that Mr Carruthers' $1m bond should not come from the BetonSports, but his lawyer would not say where the money came from."

Florida Man Indicted On Katrina Relief Fraud Charges. The AP (8/17) reports, "A federal grand jury has accused a Florida man of creating a bogus Hurricane Katrina relief Web site and several other bogus sites meant to gather sensitive financial information from would-be donors. Jovany Desir, 20, of Miami, was charged with wire fraud in the five-count indictment issued Wednesday. The investigation was undertaken in Pittsburgh because the purported relief effort was said to be linked to an American Red Cross chapter in western Pennsylvania, authorities said. Another bogus site mimicked the Web site for Pittsburgh-based PNC Bank, they said. Desir is accused of creating 'phishing' Web sites over several months last year."

Bush Issues 17 Pardons For Minor Crimes. The AP (8/17, Sniffen) reports, "President Bush pardoned 17 minor criminals Wednesday. Most weren't even sentenced to prison. The longest sentence any of the 17 received was five years behind bars." The AP continues, "Bush has now issued 99 pardons and sentence commutations during five years

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and seven months in office, mainly to clear the name of people who committed relatively minor offenses and served their sentences long ago." The AP adds, "He remains the stingiest of postwar presidents in this regard. By comparison, Bill Clinton issued 457 in eight years in office; Bush's father, George H. W. Bush, issued 77 in four years in office; Ronald Reagan issued 406 in eight years, and Jimmy Carter issued 563 in four years. Since World War II, the largest number of pardons and commutations - 2,031 - was issued by Harry S. Truman, who served 82 days short of eight years."

Child Porn Probes Spark Dispute Over Online Data Retention. Newhouse News Service (8/17, ORR) reports, "Flint Waters, a Wyoming lawman, was hot on the trail of one of the most disturbing pieces of child pornography he could have imagined, a video depicting the rape of a 2-year-old. … He followed the digital trail to a computer in Colorado, but when he asked the Internet Service Provider, Comcast, to identify the source of the file, the company said it could not comply because it had already deleted the crucial identifying data." Newhouse continues, "For investigators, it was a digital dead end. A year later, the video, the rapist and the little girl are still out there somewhere. … 'It would really be beneficial to us if this information is there as long as possible,' said Waters, a Wyoming special agent who heads the technical committee of the Internet Crimes Against Children Task Force. … 'A year is probably a pretty decent compromise,' he added." Newhouse adds, 'Waters, the Justice Department and other law enforcement officials want ISPs like Comcast to warehouse data on their subscribers' online activities. Some are suggesting the information be held as long as two years. … But whoa, say privacy advocates, who see mandatory data retention as unnecessarily extending the government's reach into people's online private lives. … Justice Department officials have held several closed-door meetings with major Internet players -- AOL, Comcast, Verizon, Google, Microsoft -- as well as with privacy advocates. While the companies and groups oppose data retention, some of those invited to attend said they were surprised and grateful to be included in the process."

Former NBA Player Arrested By Secret Service After Shooting Near White House. The AP (8/17) reports, "Former NBA player Lonny Baxter was arrested by uniformed Secret Service agents on Wednesday after shots were fired from a vehicle about two blocks from the White House." Baxter, "was taken into custody around 2:30 a.m. after a witness flagged down a Secret Service agent and reported shots fired from a white sport-utility vehicle, said Secret Service spokesman Eric Zahren. Officers stopped the vehicle, which Baxter was driving, near the intersection of 17th and I streets in Northwest Washington." The Baltimore Sun (8/17, Fuller, 262K) says that "according to charging documents, Secret Service police in downtown Washington heard two gunshots about 2:30 a.m. in the vicinity of 17th and H streets NW." The Washington Post (8/17, B1, Klein, Cauvin, 748K) also reports the story.

Widow Of Slain Pennsylvania Doctor Indicted. The Pittsburgh Post-Gazette (8/17, Simonich) reports, "Donna Moonda ended her 14-year marriage to a wealthy doctor by hiring a gunman to murder him, a grand jury in Cleveland charged yesterday. … The grand jurors indicted her on four felonies, two more than she was held on when she was arrested last month." The Post-Gazette continues, "The indictments allege that Mrs. Moonda, 47, of Hermitage, Mercer County, hired the young drug dealer she was having an affair with to kill her husband on the Ohio Turnpike. … In return, Damian Bradford, 25, said she promised him half of the inheritance and life insurance proceeds she expected to collect." The Post-Gazette adds, "Dr. Gulam Moonda, 69, a Mercer County urologist, had willed her his mansion and 20 percent of his estate. She thought her portion was worth at least $3 million, according to Mr. Bradford. … He pleaded guilty last month to shooting Dr. Moonda. Now he hopes to receive a sentence of no more than 17 1/2 years in prison in return for his testimony against Mrs. Moonda. … U.S. District Judge David Dowd has delayed a decision on punishment for Mr. Bradford to see whether he cooperates with prosecutors in their case against Mrs. Moonda."

Los Angeles Fire Captain Arrested For Murder. The Los Angeles Times (8/17, Blankstein, Surdin) reports, "A 23-year veteran Los Angeles city fire captain was arrested today for allegedly killing a woman after police said they found a trail of blood that stretched nearly a half-mile between the suspect's home and the crime scene." The Times continues, "LAPD Lt. Paul Vernon said that a resident called police after finding the nude body of the woman about 1:30 a.m. today in the 5100 block of Loleta

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Avenue in Eagle Rock. … The fire captain, David Jaime Deltoro, 50, was booked on suspicion of murder after being questioned for several hours by detectives from the LAPD Robbery-Homicide Division. … 'We are going to have to wait for the coroner's investigation to determine the cause of death,' Vernon said. 'We will be looking at whether she was killed in the home, in the truck, or at the location where the body was found.'" The Times notes, "The victim, whose name has not been released, was pronounced dead at the scene. Investigators followed tire tracks and a trail of blood and body tissue from the location of the woman's body for several blocks to the home of the fire captain in the 5100 block of Vincent Avenue."

US Announces Drunk Driving Crackdown. The CBS Evening News (8/16, story 8, 0:15, Schieffer) reported, "The Federal Government announced what is said to be the biggest crackdown ever on people who drive drunk. Police in every state will be out in record numbers manning sobriety checkpoints and random stops between this Friday and Labor Day. There will also be an ad campaign aimed at discouraging drunk driving."

WSJournal Claims AIPAC Espionage Indictment Is Politically Motivated. In an editorial, the Wall Street Journal (8/17, 2.03M) argues that the Department of Justice "is breaking all precedent" is by indicting AIPAC's Steven Rosen and Keith Weissman "for a 'conspiracy' to pass on information from" former Pentagon analyst Lawrence Franklin "to at least one journalist and one employee of the Israeli Embassy. To our knowledge no such secondary sources have ever been prosecuted in this fashion." According to the Journal, "The current prosecution has its own suspicious political beginnings, with some of the early leaks to the media suggesting that Mr. Franklin deserved his fate because he was one of those 'neocons' who got us into Iraq. … More broadly, this use of the Espionage Act amounts to the imposition, by executive fiat, of a U.S. version of Britain's Official Secrets Act. That law criminalizes the publication -- and even the re-publication -- of certain kinds of information. This kind of 'prior restraint' on the press is alien to the American legal tradition of First Amendment rights. If Attorney General Alberto Gonzales thinks we need an Official Secrets Act, then he ought to say so and ask Congress to debate and pass it, rather than let his prosecutors impose one by the back door."

CIVIL LAW:

Democratic Fundraiser Is Lead Attorney In Plame Suit Against Cheney. In a column for the San Francisco Chronicle (8/17), Phillip Matier and Andrew Ross write, "Joe Cotchett, a top Democratic fundraiser, trial lawyer and longtime wine and restaurant partner of San Francisco Mayor Gavin Newsom, has just been named to lead ex-CIA officer Valerie Plame Wilson's big lawsuit against Vice President Dick Cheney, his former chief of staff Lewis 'Scooter' Libby and presidential adviser Karl Rove. … And with the ex-Army Special Forces Col. Cotchett's take-no-prisoners approach to lawyering, you can bet this case will be a doozy." Matier and Ross continue, "In the suit, Wilson and her husband, former Ambassador Joe Wilson, accuse Rove, Cheney and Libby of intentionally exposing Valerie Wilson's classified CIA status to reporters in retaliation for ex-envoy Joe Wilson publicly challenging President Bush's evidence justifying the war in Iraq. … There is already speculation that Cheney, citing executive immunity, will go untouched -- and that the real target is Republican kingmaker Rove. … Still, Cotchett said he intends to pull Cheney into the fray, as well. … 'I'm going to take his deposition,' said Cotchett." Matier and Ross add, "No sooner was it announced that Cotchett would be leading the case than word came that Cheney would be represented by no less than Attorney General Alberto Gonzales and Washington lawyer Emmet T. Flood -- one of the attorneys who defended President Bill Clinton against impeachment charges."

Privacy Rights Group Files Complaint Against AOL With FTC. The AP (8/17) reports, "The backlash against AOL's recent release of its subscribers' search requests continued Wednesday as a privacy rights group filed a Federal Trade Commission complaint alleging the breach was intentional." The AP continues, "AOL spokesman Andrew Weinstein scoffed at the allegation made by the World Privacy Forum, reiterating earlier descriptions of the breakdown as a 'mistaken release' by a bumbling researcher." The AP adds, "The San Diego-based World Privacy Forum's filing follows a similar complaint by the Electronic Frontier Foundation,a civil liberties group in San Francisco. … Both groups are urging the FTC to investigate and possibly penalize AOL for its unauthorized release of about 19 million search requests made by about 658,000

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subscribers during a three-month period ending in May. … The FTC complaints allege AOL - owned by Time Warner Inc. -engaged in unfair or deceptive business practices by exposing its subscribers' information, which included requests for online pornography, murder tips and medical advice."

Judge Denies Motion To Dismiss Suit Against New Orleans Gun Confiscation. The AP (8/17, Foster) reports, "A federal lawsuit accusing the city of illegally confiscating firearms during the chaos that followed Hurricane Katrina was kept alive by a federal judge Wednesday." The AP continues, "U.S. District Judge Carl Barbier denied a motion by the city of New Orleans to dismiss a suit by the National Rifle Association and the Second Amendment Foundation. The groups sued Mayor Ray Nagin and New Orleans Police Chief Warren Riley over the confiscation of guns following Hurricane Katrina." The AP adds, "The city asked the judge to dismiss the suit for lack of jurisdiction, saying 'the states, and by extension their political subdivisions, are free to proscribe the possession of firearms.' … The court rejected the motion, ruling the city did nothing to back up 'the brazen assertion' that the second amendment did not apply. … The suit says that during and after the Aug. 29 storm, 'Mayor Nagin ordered the New Orleans police and other law enforcement entities under his authority to evict persons from their homes and to confiscate the lawfully possessed firearms.'"

CIVIL RIGHTS:

6th Circuit Rules Michigan Discriminates Against Some Girls Sports In Scheduling. The AP (8/17) reports, "A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati upheld a lower court's opinion that" Michigan's prep athletic schedule "discriminates against girls in some sports." The suit argued that because "girls in Michigan play basketball in the fall and volleyball in the winter, the opposite of collegiate schedules" that "limits the exposure of Michigan's female prep athletes and may hurt their chances to win sports scholarships."

West Virginia School Board Fights To Continue Displaying Poster Of Jesus. The Washington Times (8/17, Price, 88K) reports, "A divided school board in West Virginia has decided to use about $150,000 in donated money to fund a legal fight to keep a print of Jesus Christ on display in one of its high schools that has been there for more than 40 years. Two weeks ago, the board voted 3 to 2 to proceed with a court battle to retain the picture at Bridgeport High School, if $150,000 in private funding was raised. 'We raised that amount in nine days,' board member Mike Queen said yesterday. He said one family contributed $53,000, and there were also donations from celebrities, such as Pat Boone and country singer Stella Parton." The Times notes, "The school board is fighting a lawsuit filed earlier this summer by Americans United for Separation of Church and State and the ACLU of West Virginia,"

Cross-Racial Adoption On The Rise. The New York Times (8/17, Clemetson, Nixon) reports, "When Martina Brockway and Mike Timble, a white couple in Chicago, decided to adopt a child, Ms. Brockway went to an adoption agency presentation at a black church to make it clear they wanted an African-American baby. … Ms. Brockway and Mr. Timble are among a growing number of white couples pushing past longtime cultural resistance to adopt black children. In 2004, 26 percent of black children adopted from foster care, about 4,200, were adopted transracially, nearly all by whites. That is up from roughly 14 percent, or 2,200, in 1998, according to a New York Times analysis of data from the National Data Archive on Child Abuse and Neglect at Cornell University and from the Department of Health and Human Services." The Times adds, "The 2000 census — the first in which information on adoptions was collected — showed that just over 16,000 white households included adopted black children. Adoption experts say there has been a notable increase since 2000. … The reasons for the increase are varied. The Multiethnic Placement Act and its amendments prohibited federally financed agencies from denying adoption based on race. The foster care system has sharply changed in recent years and now includes financial incentives for finding more adoptive families. … The combination of legal changes and greater embracing of multicultural families — Americans have adopted more than 200,000 children from overseas in the past 15 years — have lessened resistance from both blacks and whites. The long wait for white children and the high costs of international adoptions — typically $15,000 to $35,000 — also play a role. … And agencies are offering courses to help adoptive parents

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enter the process with more cultural openness and awareness."

ANTITRUST:

Danone Seeks Acquisitions, But May Itself Be Takeover Target. The Wall Street Journal (8/17, Clevstrom) reports, "After a decade-long reorganization, Groupe Danone SA is hungry for acquisitions. But many say the French dairy, beverage and biscuit firm remains itself a tasty morsel." The Journal continues, "Danone plans to spend between €500 million and €1 billion, or between about $640 million and $1.3 billion, a year over the next three to five years on acquisitions, Danone Chief Financial Officer Antoine Giscard D'Estaing said in an interview." The Journal adds, "The added spending, which compares with about €200 million for acquisitions in 2005, will be channeled into small and medium purchases aimed at expanding Danone's operations to around 80 countries from the current 40. Among the markets Danone is examining are Chile, Tunisia, Thailand, China and Eastern Europe, Mr. Giscard D'Estaing said. … It could be the right time for a new strategy: The maker of Evian water, Danone yogurt and Lu cookies has spent the past 10 years cleaning up its portfolio, selling noncore assets in the beer, pasta and sauces sectors."

Teck Drops Plan To Boost Bid For Inco. The Wall Street Journal (8/17, Heinzl) reports, "In a sign that investor appetite for surging mining stocks amid a world-wide industry merger frenzy may be sated for now, Teck Cominco Ltd. said it won't proceed with a planned increased offer of 20.03 billion Canadian dollars (US$17.83 billion) for Inco Ltd." The Journal continues, "The development appears to leave Brazil's Cia. Vale do Rio Doce -- with its all-cash offer of C$19.35 billion, or C$86 an Inco share -- in the driver's seat to acquire the big Canadian nickel producer. Inco continues to endorse a cash-and-stock bid by Phoenix copper producer Phelps Dodge Corp., though investors are likely to prefer the all-cash bid. Phelps Dodge's offer was valued at about C$89.31 an Inco share as of yesterday's closing prices." The Journal adds, "Teck, a Vancouver, British Columbia, mining concern, attempted to sell C$5.73 billion of shares to institutional investors in order to help finance its bid for Inco, but Teck said it wasn't able to complete the share issue "on terms that made sense" for the company. A Teck spokesman said some investors that balked at Teck's terms for the share issue would have agreed to buy shares at a price lower than what Teck was seeking. He declined to say what price Teck was seeking."

RR Donnelley Considers Buyout Offers. The Wall Street Journal (8/17, Berman, Sender) reports, "Giant printer R.R. Donnelley & Sons Co. is entertaining offers to be bought by leveraged buyout firms, people familiar with the matter said yesterday." The Journal continues, "The Chicago-based company -- with a market capitalization of $7.4 billion -- is a logical target for these buyout shops, which seek companies with steady cash flows that can be used to pay down debt used to fund an acquisition." The Journal adds, "At least two buyout groups are considering offers, said one person familiar with the matter. One group is comprised of Carlyle Group, Madison Dearborn Partners and Thomas H. Lee Partners. A second bidding group includes Blackstone Group and Texas Pacific Group, according to another person familiar with the matter."

Australian Gaming firm Withdraws Bid For Unitab. Bloomberg (8/17, Waide) reports, "Tabcorp Holdings Ltd., Australia's biggest gaming company, withdrew its $1.5 billion hostile offer for Unitab Ltd. after antitrust opposition, leaving Tattersall's Ltd. the only bidder for the sports betting chain." Bloomberg continues, "Tabcorp said it won't challenge the regulatory ruling that ends its plan to control off-track betting on horse races in the country's three most populous states. … Buying Brisbane-based Unitab would reduce Tattersall's dependence on lotteries and slot machines and allow it to bid for Tabcorp's wagering license in Victoria state when it expires in 2012. To succeed, it may have to raise it's A$1.8 billion stock offer, which values Unitab shares at less than their current price. … 'It is a takeover by Tattersall's of Unitab without a premium for control,' said Mark Wilson, a Sydney-based analyst at Deutsche Bank. The Melbourne-based company needs to raise its bid to win approval from Unitab shareholders, who vote on the offer Aug. 21, Wilson said. … The antitrust regulator has said it won't block a deal between Tattersall's and Unitab."

ENVIRONMENT:

New Alaska Oil Leases Offered Despite Pipeline Uproar. The AP (8/17, Hebert) reports, "The Interior Department is set to open a vast area of

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environmentally sensitive wetlands in Alaska to new oil drilling, even as opponents point to corroding pipelines to the east at Prudhoe Bay as a reason to keep the area off-limits." The AP continues, "The tens of thousands of acres in and around Lake Teshekpuk on Alaska's North Slope are part of the oil-rich Barrow Arch that also includes the Prudhoe Bay fields that have kept oil flowing for decades." The AP adds, "The lease sale, opposed by environmentalists and some members of Congress, comes as federal regulators and a House committee investigate inspection and maintenance programs of BP Alaska, where widespread pipeline corrosion forced the partial shutdown of Prudhoe Bay oil production Aug. 6. … BP Alaska is a subsidiary of London-based BP PLC. … Government geologists believe at least 2 billion barrels of oil and huge amounts of natural gas lie beneath the coastal lagoons, river deltas and sedge grass meadows - an area also where caribou give birth to their calves and thousands of geese migrate each summer to molt. … Within days, the Interior Department will open tracts in the lake area for leasing, with the winning bids to be announced in late September."

WPost Calls For "Foolproof Plan" On Nuclear Waste Storage. In an editorial headlined "That Eerie Green Glow," the Washington Post (8/17, A24, 748K) suggests that "as the nation rushes back to the future by embracing atomic energy, the industry and government have to solve one little problem left over from the past: how to deal with nuclear waste." The Post discusses the package of Energy Department incentives to induce new spending on nuclear reactors, including "$2 billion in federal risk insurance to companies applying to build nuclear power plants" but adds that the DOE "must prove early on that it has a politically and technically viable plan for storing the deadly radioactive waste that nuclear power plants produce," which the Post calls a "smoldering problem for the agency." The Post concludes, "the federal government needs a foolproof plan to dispose" of spent fuel before Americans can have "confidence in nuclear power."

NYTimes Suggests Decades Of Bombing May Have Contaminated Vieques. In an editorial, the New York Times (8/17, 1.21M) notes Vieques, "a small island off the coast of Puerto Rico, made headlines a few years back when environmental activists engaged in civil disobedience aimed at forcing the Navy to stop using it for bombing practice. The Navy bowed to the pressure and departed in May 2003, leaving behind 60 years worth of bomb fragments and an untold amount of unexploded ordnance. It also left behind an obligation to clean the place up, an obligation made more urgent by the possibility of a link between the damage on the ground — the pollution of the soil and the local water supply — and a variety of physical ailments that have been detected among residents. … But studies by the Puerto Rican Health Department and universities show the need for further investigation. Cancer rates among Vieques's 9,300 inhabitants run 27 percent higher than the rates in other parts of Puerto Rico. There also are unusually high levels of heavy metals in the plant, animal and human population, as well as high levels of childhood asthma and mercury contamination."

FBI/DEA/ATF/USMS:

FBI Seen As Struggling To Update Post-9/11 Quantico Training. Under the headline "Old-School Academy In Post-9/11 World," the Washington Post (8/17, A1, Horwitz, 748K) reports in the next installment of its "Five Years Later" series, "Since the FBI came under withering criticism for its part in the intelligence community's failure to prevent" 9/11, "the bureau has added 37 hours of counterterrorism training at Quantico for new agents. But that represents just 5 percent of the curriculum, and only one hour is about Islam, Arabic culture and understanding the terrorist mind-set." The Post adds, "In a graduation speech at the U.S. Military Academy at West Point this May, President Bush declared: 'We have transformed the FBI into an agency whose primary focus is stopping terrorism,'" and FBI Director Robert Mueller has "promised the training would reflect that new role." Quantico "is where the bureau must translate the rhetoric of its director and the president into a curriculum that prepares future agents for a new mission. … 'It's way beyond what it's been in the past,' said Keith Slotter, the academy's deputy assistant director for training. … But the majority of the 701.5 hours is devoted, as it has been for decades, to traditional law enforcement skills."

Meanwhile, the Washington Post (8/17, A14, Horwitz, 748K) follows the training of "the 50 members of class '06-01,' the first of 750 agents-in-training who will graduate from the FBI Academy this year. … Thirty students…had been in the military or law enforcement, traditional recruiting grounds for the FBI. But others came from the highly educated

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nontraditional backgrounds the bureau has tried to emphasize." The Post goes on to detail the class's firearms and physical training, as well as the its "Orders" session, and notes that on graduation day this past February, "Class 06-01 lined up for a photograph with FBI Director Robert S. Mueller III, who swore members in as special agents. 'We are on the front lines for America,' he told them. 'Will you develop the source that provides the intelligence we need to disrupt a terrorist plot? We must continue to change because the terrorists certainly will.'"

Gonzales Touts Gun Prosecutions Under Project Safe Neighborhoods. The AP (8/17, Lindsey) reports, "Federal prosecutions of firearms charges have more than doubled in the Western District of Virginia since an initiative aimed at reducing gun violence was launched five years ago, Attorney General Alberto R. Gonzales said Wednesday (in Roanoke, VA)." The AP continues, "Gonzales visited Roanoke to meet briefly with members of the Project Safe Neighborhoods task force, which includes representatives from 25 local, state and federal law enforcement agencies. He said he was grateful for its work. … 'It really has made a difference in communities in this part of Virginia,' he said at a news conference afterward." The AP adds, "Gonzales, who took office in 2005, said law enforcement's biggest obligation is to create environments where children can feel safe. … 'It is hard to have big dreams if you grow up in a neighborhood where you're scared,' he told police chiefs from around the district and other task force members. … From 1996 to 2000, federal gun prosecutions in the district averaged 87 a year, according to Heidi Coy, a spokeswoman for the U.S. attorney's office. Since 2001, when Project Safe Neighborhoods was approved, they have averaged 193 annually. There were 215 firearms cases prosecuted in 2005, and 144 have been filed so far this year. … Local and state officials often want gun violations prosecuted at the federal level because the penalties are stiffer, Gonzales said."

Reputed Mexican "Drug Lord" Captured Off Southern California Coast. There are more than 300 media references to Monday's arrest of reputed drug gang leader Francisco Javier Arellano Felix. For example, The AP (8/16) reports federal drug agents "arrested Mexican drug lord Francisco Javier Arellano-Felix, a leader of a major violent gang responsible for digging elaborate tunnels to smuggle drugs under the U.S. border." He was "captured by Drug Enforcement Administration agents and the U.S. Coast Guard on Monday while he was deep-sea fishing about 15 miles off the coast of Mexico's Baja California peninsula. Arellano-Felix is wanted in both the U.S. and Mexico for his role as a leader in the violent and sophisticated Tijuana-based Arellano-Felix gang, which includes seven brothers and four sisters from the Arellano family." The gang is "blamed for 20 murders in the U.S. and Mexico."

In a separate story, the AP (8/16, Spagat) writes that Arellano Felix "was a suspected strongman in one of Mexico's oldest and most notorious drug cartels until his capture aboard a U.S.-registered sport fishing boat. 'In the underworld, he was known as the enforcer. He was the violent hand, the one in charge of executions,' said Victor Clark Alfaro, director of the Binational Center for Human Rights in Tijuana, Mexico, the home to the cartel. … The cartel is believed to have lost influence in recent years. It recently ceded control of Mexicali, an important drug corridor about 120 miles east of Tijuana." A version of the AP story was published in newspapers and/or posted on the Web sites of the Wall Street Journal, USA Today, Forbes, the Los Angeles Times, San Francisco Chronicle, Houston Chronicle, Chicago Tribune, Seattle Post Intelligencer, and the UK's Guardian.

The New York Times (8/16, Stout) reports Arellano Felix "was one of 11 suspects caught on Monday morning by D.E.A. agents and Coast Guard members while they were fishing about 15 miles off the Baja Peninsula. … The officials praised the cooperation of their Mexican counterparts in arresting Mr. Arellano Felix. Gang members are suspected of killing Mexican lawmen as well as rival drug-dealers, sometimes after torture. The gang was also linked to the murder of a Roman Catholic cardinal in 1993."

In a separate story, the New York Times (8/17, Steinhauer, McKinley) reports federal officials "said…Arellano Félix, 37, was one of the last remaining ring leaders of the Arellano Félix gang. The group, based in Tijuana, is charged in several killings."

The Los Angeles Times (8/17, Enriquez, Krikorian) reports the arrest "was based on a 2003 U.S. indictment that charged [Arellano Felix] with conspiracy, smuggling and murder. A $5 million bounty had been offered for his capture, as the reputed leader of the so-called Arellano Felix Organization. At its height in the late-1990s, the cartel was believed responsible for supplying nearly half of the cocaine

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sold in the United States, a significant chunk of what officials estimate is a $60 billion-a-year illegal drug trade."

According to the San Diego Union-Tribune (8/16, Gross), Mike Braun of the U.S. Drug Enforcement Administration "characterized Arellano as 'the last stronghold of a declining family cartel.' He was one of 11 alleged cartel leaders indicted in federal court in San Diego in 2003 on narcotics, racketeering and conspiracy charges. … For two decades, the name Arellano Felix has been synonymous among U.S. and Mexican law enforcement with large-scale drug trafficking – and with money, power and murder – on both sides of the border. Hundreds of murders in Baja California have been attributed to the group, as well as the attempt to kill noted Tijuana journalist Jesus Blancornelas."

The Washington Post (8/17, Pomfret) reports U.S. authorities "estimated that the cartel paid out millions of dollars a year in bribes to local police in Mexico. Since then, the AFO's notoriety has skyrocketed."

The Washington Times (8/17) reports, Deputy Attorney General Paul J. McNulty "said the Arellano-Felix organization negotiated directly with Colombian cocaine-trafficking organizations, including the Revolutionary Armed Forces of Colombia, or FARC, for the purchase of multiton shipments of cocaine, received those shipments by sea and air in Mexico, and then arranged for smuggling the cocaine into the United States."

Bloomberg (8/16, Rowley) writes, "The arrest was announced by Coast Guard and Drug Enforcement Administration officials in Washington. Arellano Felix had been placed on the drug agency's top fugitive list in 2002 along with his three brothers, the DEA said. They are accused of operating a drug ring that ships cocaine and marijuana to the U.S."

Canada's CBC News (8/16) reports DEA officials "said they received a tip concerning the boat's location and asked the coast guard to intercept it while in international waters. Eleven people on board the Dock Holiday, including Arellano-Felix, were detained and are being taken to San Diego." The indictment "alleges Arellano-Felix is a key leader in the AFO, which is believed responsible for smuggling massive shipments of cocaine and marijuana across the U.S. border from the Tijuana area. The leaders were indicted on charges of racketeering, conspiracy to import and distribute cocaine and marijuana and conspiracy to money launder."

On its Web site, CNN (8/17) reports Coast Guard Commandant Thad Allen "said the DEA alerted him Monday morning that intelligence showed Arellano-Felix was aboard the chartered 43-foot recreational fishing vessel Dock Holiday, 15 miles off the coast near La Paz, Mexico. Arellano-Felix was traveling under an alias, but eventually confirmed his identity, officials said. Eight other adults and three juveniles also were detained. Officials said two of the men in custody are believed to be Arturo Villareal-Heredia and Marco Fernandez, both described by the DEA as 'assassins' for the Arellano-Felix organization."

KPBS, San Diego (8/16) reports on its Web site that DEA Chief of Operations Mike Braun "says his agency has the cartel in a chokehold. 'We're piling on and moving this ongoing investigation even more forward. This huge success for law enforcement it's what we live for.'"

BBC News (8/16) reports Arellano-Felix "was arrested on a boat in a joint US-Mexican operation off Mexico's Baja California peninsula. Washington had offered a reward of $5m (£2.6m) for his capture."

ABC News (8/17, Wolf) reports, "A tip led the Coast Guard to board Javier Arellano Felix's 43-foot recreational boat…Monday morning after authorities conducted undercover operations aimed at his arrest for the past 14 months, according to Michael Braun, chief of operations for the Drug Enforcement Agency. … 'For more than a decade, the Arellano Felix organization has flooded the United States with hundreds of tons of cocaine, marijuana and other drugs,' Braun said. 'Now, we have got this brutal organization in a choke hold.' … Neither Braun nor McNulty would elaborate on the circumstances surrounding the tip that led to Javier Arellano Felix's arrest, nor would they identify any of the seven adults and three minors who were onboard the Doc Holliday with Arellano Felix."

AFP (8/17, Handley) reports, "McNulty said the United States had received a tip that Arellano Felix was aboard the boat and sent the Coast Guard to interdict it. They found Arellano Felix on board traveling under an alias. … He also credited Arellano Felix's capture to 'extraordinary coordination and cooperation' between Mexico and the United States." AFP notes, "Known as 'El Tigrillo,' or the little tiger, Arellano Felix was involved in the 1993 assassination of Roman Catholic Cardinal Juan Jesus Posadas Ocampo at the Guadalajara airport, according to Mexican authorities. … He allegedly took the leadership of the gang after the arrest in 2003 of his brother Benjamin and the death of another brother, Ramon."

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Javier Seen As "Playboy," Not Gang Leader. McClatchy Newspapers (8/16, Samuels) reports the longtime editor of the Tijuana weekly newspaper Zeta, Jesus Blancornelas, "dismissed the characterization of Arellano Felix as the leader of the group. Blancornelas, who nearly died in 1997 at the hands of the cartel, said the youngest member of the Arellano Felix family plays no significant role in the organization." Blancornelas characterized Arellano Felix as the "playboy of the family" who "stole drugs" from the family. "Perhaps the more significant capture, Blancornelas said, is the reported arrest of another cartel operative, Arturo Villareal, who apparently was with Arellano Felix. 'His job was to receive the drugs and get them into the United States,' Blancornelas said."

Network TV Coverage. ABC World News Tonight (8/16, story 8, 0:15, Gibson) reported, "The alleged leader of one of Mexico's most-feared drug cartels has been captured. Prosecutors say Javier Arellano Felix headed the ring. The gang allegedly dug smuggling tunnels under the border, including one we told you about that led into San Diego."

The CBS Evening News (8/16, story 7, 2:00, Schieffer) reported, "Major news tonight in the war on drugs. Francisco Javier Arellano, who heads one of the major drug cartels in Mexico, went deep sea fishing off the Baja Peninsula and managed to get himself caught by the US Coast Guard. … He was one of US law enforcement's most-wanted criminals…one of the most ruthless of the Tijuana-based Arellano-Felix cartel, picked up Monday by the US Coast Guard in international waters." Michael Braun, DEA: 'This guy happens to be one of the 45 most notorious, most wanted drug traffickers in the world. So this is not your average arrest.'"

Cable TV Coverage. CNN (8/16, 4:00 p.m.) reported, He and his brother top the list accused of shipping massive amounts of cocaine and marijuana into the U.S. … Officials describe his organization as one of most dangerous and most successful in the world. In fact, it was the cartel behind the big tunnel uncovered back in January that connected California and Mexico. Arellano-Felix is one of the DEA's most wanted. He had a $5 million bounty on his head. He was indicted in 2003 for…money laundering and conspiring to import huge amounts of drugs into the United States. Officials say they got a tip a few days ago that he was on board a fishing vessel."

FOX's Special Report with Brit Hume (8/16, 7:00 p.m.) reported, "A tip led authorities to the man. The DEA described him as one of the most wanted drug traffickers in the world."

Trainer Could Be Jailed Again For Not Cooperating In Investigation Of Bonds. The AP (8/17, Elias) reports federal prosecutors "will ask a judge to throw Barry Bonds' personal trainer back in jail Thursday if he again refuses to testify, this time before a newly assembled grand jury that is reportedly also investigating track coach Trevor Graham. … Anderson has refused on four different occasions to testify before federal grand juries investigating Bonds. He was released from prison July 20 after serving 15 days for refusing to testify, but only after that grand jury's term expired. … Some legal experts see Anderson as the key to proving…perjury allegations, since Bonds reportedly testified that the trainer gave him two substances that fit the description of 'the cream' and 'the clear' — two performance-enhancing drugs linked to BALCO."

McClatchy Newspapers (8/16, Almond) reports the government "believes Bonds intentionally lied under oath in 2003 when he told another grand jury he didn't knowingly take steroids. He said he took substances he thought were flaxseed oil and an arthritis balm; authorities say those products were steroids known as 'the clear' and 'the cream.' Anderson could help the government's perjury case by explaining drug calendars and other documents with Bonds' name that were seized from the trainer's…home in 2003."

California Senate Approves Bill Distinguishing Hemp From Marijuana. The AP (8/16, Thompson) reports California farmers "could legally grow industrial hemp under a bill approved Wednesday by the state Senate that distinguishes hemp from its widely grown distant cousin: marijuana. … The legislation would require that the hemp crop be tested before harvesting to make sure it has only a trace amount of tetrahydrocannabinols, or THC, the drug in marijuana. No matter the concentration of THC, hemp currently can't be legally grown in the United States without a difficult-to-get permit from the U.S. Drug Enforcement Administration. … The Office of National Drug Control Policy has opposed legalizing hemp cultivation, saying hemp crops could be used to hide marijuana cultivation by mixing the two plants in the field."

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Report: Opium Poppy Cultivation Hits Record Levels In Afghanistan. The AP (8/16) reports opium cultivation in Afghanistan "has hit record levels -- up by more than 40 percent from 2005 -- despite hundreds of millions in counternarcotics money. … A Western anti-narcotics official in Kabul said about 370,650 acres of opium poppy was cultivated this season -- up from 257,000 acres in 2005 -- citing their preliminary crop projections. The previous record was 323,700 acres in 2004, according to the U.N. Office on Drugs and Crime."

Mueller Appoints Burrus Criminal Investigative Division Chief. In a widely-distributed story, the AP (8/17) reports, "James H. 'Chip' Burrus, a 23-year FBI veteran, has been named assistant director in charge of the bureau's criminal investigative division. Burrus, who has been acting chief of the division since February, will supervise investigations of public corruption, civil rights violations, gangs, organized crime, financial crimes and violent crimes. He was appointed by FBI Director Robert S. Mueller, the bureau announced Wednesday." The AP notes that "Burrus has served on the security detail for three attorneys general, won an FBI director's award for work in Indian country as assistant chief of the Minneapolis office, assisted with the recovery of kidnaping victim Elizabeth Smart as chief of the Salt Lake City office and spent a year and a half as deputy chief of the criminal investigative division."

Mueller Names Thornton First Female San Francisco SAC. The San Francisco Chronicle (8/16, B3, Bulwa, 405K) reported, "A veteran FBI agent who led offices in Arizona and Alabama will soon become the first woman to head the FBI's San Francisco division…an agency spokeswoman said Tuesday. Charlene Thornton will replace Joe Ford," who "recently was selected as the agency's associate deputy director, the third-ranking official. FBI Director Robert Mueller officially designated Thornton for her new assignment as special agent in charge on Aug. 4. Her start date has not yet been determined, said Special Agent LaRae Quy, a spokeswoman for the San Francisco division." The Chronicle noted that Thornton "now serves as assistant director of the inspection division at FBI headquarters, where she investigates employee misconduct and evaluates agency programs to make sure that they are lawful and effective." Bay City News Wires (8/16) added, "Quy said she does not know when Thornton will begin her new position in the San Francisco bureau, but looks forward to her arrival. Quy said Thornton's previous experience as special agent in charge both in Birmingham and Phoenix should prove useful in her new position." The AP (8/17) also briefly reports on Thornton's appointment.

Former El Paso SAC Found Guilty Of Lying To Investigators. The AP (8/17) reports former FBI El Paso SAC Hardrick Crawford on Wednesday was found guilty "of two counts of lying to investigators about his relationship with a Mexican race track owner. … Crawford, who left his job in 2003, was acquitted of three other charges of lying to investigators. He has denied any wrongdoing." El Paso Times (8/17, Fonce-Olivas) notes, "Out of five counts, Crawford was found guilty on count two, which alleged Crawford concealed material facts from the FBI on June 6, 2003…and on count three, which alleged Crawford made false statements in Office of Government Ethics Public Financial Disclosure Reports submitted to the FBI for calendar year 2002 regarding gifts allegedly received. Crawford will be sentenced on Nov. 9."

IMMIGRATION:

Federal Agents Bust East-Coast Korean Prostitution Ring. The New York Times (8/17, Vasquez, 1.21M) reports, "Law enforcement officials yesterday announced the arrest of 31 people who they said were involved in running an international prostitution ring that operated at least 19 brothels in the Northeast. … Many of the houses in what officials described as a 'network of Korean-owned brothels stretching from Rhode Island to Washington, D.C.,' claimed to be legitimate businesses like massage parlors, health spas and acupuncture clinics." US Attorney Michael Garcia said at the press conference, "This exploitation is not a back-alley business. It happens in residential areas of our nation's capital, it happens in the West 20's in New York City." The AP (8/17, Neumeister) notes DHS Assistant Secretary Julie L. Myers "said the United States was seeking to break the backs of the human trafficking rings by increasing the number of investigations of smugglers and traffickers and targeting the financial proceeds of the criminal organizations."

Newsday (8/17, DeStefano) reports that "71 Korean immigrant women were taken to special locations by agents of U.S. Immigration and Customs Enforcement for in-depth

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interviews to see if they were coerced or forced to work as prostitutes to pay off their travel debts." Myers said that "none of the 71 women were arrested and they were being given medical attention and other assistance." She added that "the women could be eligible for special visas if they cooperate in the probe and were found to be forced sex workers." Newsday notes, "Investigators were reluctant to put a dollar value on the 19 sex businesses busted. But FBI special agent Andrew Arena said the individual women could expect to earn $2,000 to $20,000 a month at the brothels." The New York Daily News (8/17, Kadushin, Zambito, 729K) notes, "As Tae Hoon Kim paced the sidewalk outside his Queens apartment building, using a cell phone to broker jobs for dozens of Korean prostitutes, the feds were listening in, according to court papers filed yesterday in Manhattan Federal Court. A bug placed in Kim's phone in March helped city cops and federal agents unravel" the ring.

The New York Sun (8/17, Goldstein) reports, "Federal authorities learned of the network of brothels while investigating possible police corruption last year in Flushing, Queens, an FBI agent, Andrew Arena, said at a news conference yesterday. … It was 'an international scheme,' Ms. Myers said. 'It was not just a couple of brothels.'" The New York Post (8/17, Graves, 608K) also reports the story, under the headline "'New York' Korean Sex-Slave Ring Smashed."

The Washington Times (8/17, Cella, Seper) reports, "Federal agents yesterday said they raided five brothels and arrested four persons in Northwest as part of a multistate human-trafficking and prostitution operation involving women recruited from South Korea with the promise of making money to support their families back home. … The arrests took place during raids by U.S. Immigration and Customs Enforcement (ICE) and FBI agents at locations in Baltimore, New York, Pennsylvania, Connecticut, Rhode Island, North Carolina and California." The Times adds, "In the District, federal agents targeted five brothels that were masquerading as massage parlors or spas. … The establishments were 14K Spot, which operated in a basement in the 1400 block of K Street Northwest; Downtown Spa, in the 1000 block of Vermont Avenue Northwest; OK Spa, in the 2400 block of Wisconsin Avenue Northwest; Cleveland Park Holistic Health, on the second floor of a building in the 3500 block of Connecticut Avenue Northwest; and Royal Spa, in the 500 block of 10th Street Northwest. … Authorities said that four persons were arrested at those locations and that 23 women were taken into custody."

The Baltimore Sun (8/17, Dolan) reports, "The Moonlight Spa across from Woodlawn High School advertised massage services alongside its tanning booths. Federal authorities said Wednesday that the suite at the strip mall once offered much, much more." The Sun continues, "Inside, authorities allege, had been the local outpost for a prostitution ring that stretched from Rhode Island to Washington, D.C. Prosecutors in New York have charged 31 people, including at least four from Maryland, with using seemingly lawful businesses to house prostitutes imported from Korea, transport them up and down the East Coast and amass millions of dollars from sex services." The Sun adds, "Security was so elaborate at the Baltimore County operation that authorities said it had not one, but two hidden compartments to stash prostitutes in case of a police raid. … Court-approved wiretaps on cell phones revealed the location of one secret closet at Moonlight, according to court papers. … But Mark Bastan, acting special agent in charge of the Baltimore office of U.S. Immigration and Customs Enforcement, said his agents didn't immediately know about a second one behind a kitchen cabinet when they stormed the storefront Tuesday afternoon."

Border Patrol Agents Assigned As "Bodyguards" For National Guard. Under the headline "A New Role For The Undermanned Border Patrol," the Washington Times (8/17, Seper, 88K) reports National Guard troops deployed along the US-Mexico border "have been assigned bodyguards -- some of the same agents the soldiers were sent to relieve." Veteran CBP agents in Arizona say they "were issued standing orders to be within five minutes of National Guard troops along the border and that Border Patrol units were pulled from other regions to protect the Guard units -- leaving their own areas short-handed." The agents, "who refer to the assignment as 'the nanny patrol,' said most of the Guard troops are not allowed to carry loaded weapons."

Immigrant Activist Takes Refuge From Deportation Inside Chicago Church. The Chicago Tribune (8/17, Avila, 623K) reports immigrant activist Elvira Arellano, who has taken refuge in a Chicago church, "braced herself Wednesday for a lengthy standoff with the government" as she defies a deportation order. The Tribune says "ministers, friends and U.S. Rep. Luis Gutierrez (D-Ill.) came by to offer

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support to an illegal immigrant now considered a fugitive." In 2002, Arellano was arrested for working illegally at O'Hare International Airport. As lawmakers "helped her get temporary stays of deportation, Arellano became a vocal advocate for illegal immigrants." The Washington Post (8/17, A10, Lydersen, 748K) says she has "become a vocal leader of the burgeoning immigrant rights movement. She has visited Washington to lobby lawmakers, and she spoke with Mexican President Vicente Fox during a Chicago area visit in 2004." But an ICE spokesperson Gail Montenegro said, "ICE is required to enforce the nation's laws fairly without any regard for a person's ability to generate publicity and support." While Montenegro "would not say whether agents will go to the church," she did say ICE "has the authority to arrest anyone in violation of immigration law anywhere in the US."

TAX:

Judge Orders Two Floridians To Stop Preparing Tax Returns. The Orlando Business Journal (8/17) reports, "A federal judge ruled on Aug. 8 that Jean-Marie Boucicaut and Marie Thelemarque of Orlando, and Boucicaut's Tax Review Corp. company, can no longer prepare federal tax returns for others." The Journal continues, 'In addition, the Department of Justice ordered Boucicaut and Thelemarque to return $772,449 plus interest to the United States its says they fraudulently got by intercepting and cashing 593 tax refund checks of other people. … 'The Justice Department and the Internal Revenue Service are working vigorously to halt the preparation and filing of false and fraudulent income tax returns,' says Eileen J. O'Connor, assistant attorney general for the Justice Department's tax division, in a release. 'People who prepare fraudulent refund claims are cheating honest taxpayers and often their customers, as well.'" The Journal adds, "The defendants filed amended income tax returns without authorization for people who did not know that returns had been filed on their behalf, Chief Judge William J. Zloch of the U.S. District Court for the Southern district of Florida in Miami found. … The government alleged that the defendants obtained tax information from copies of old tax returns given to them after the defendants offered to help taxpayers recover money allegedly owed to them by the IRS. The defendants used this information to prepare returns requesting tax refunds based on false credits and bogus deductions and directed the IRS to send the requested refund checks directly to them, the court said."

CONGRESS-ADMINISTRATION:

Bush Touts Free Trade, Accuses Opponents Of Pushing "Cut-And-Run" Strategy In Iraq. The Washington Post (8/17, A2, Fletcher, 748K) reports President Bush yesterday "spent the afternoon in southeastern Pennsylvania, where he…visited a Harley-Davidson plant, in an effort to shine a light on his handling of the economy and boost" Republican Lynn Swann's "candidacy for governor." Both efforts, adds the Post, "have been struggling lately." The New York Times (8/17, Rutenberg, 1.21M) says that appearing for Swann, Bush "picked up his party's attack against Democrats for having what the Republicans have called the wrong approach to the fight against terrorism." But "his was a kinder, gentler approach than the one used by Vice President Dick Cheney and others in recent days." Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee, "responded by saying, 'Misstating the Democrats' position on Iraq doesn't change the fact that the White House's Iraq policy has been a tragic failure.'"

The Washington Times/AP (8/16) reports from York, PA, that Bush "hopped on a Harley-Davidson at a motorcycle factory yesterday as he made an election-year pitch for Republican stewardship of the economy." Bush also "held a round-table discussion with Harley-Davidson workers about the US economy, which has showed recent signs of slowing." The President "said he discussed with the workers the need for government to open up markets for US products around the world. 'The more Harleys sold in a place like Vietnam or China or India, the more likely that somebody is going to be able to find work,' Mr. Bush said."

USA Today (8/17, Lynch, 2.27M) reports from York that as Bush "flew here Wednesday to cultivate support for free trade, he did so against darkening sentiment at home and abroad. Negotiations over a new global trade deal are moribund." In "a 25-minute interview with USA Today," Bush said, "My concern is that this kind of fear of globalization causes a reaction that will cause us to lurch toward protectionism. That's my biggest concern." Treasury Secretary Henry Paulson "earlier this month called for 'thinking more creatively' about helping those who lose out

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from globalization." But "in the interview Wednesday, the president dismissed the need for new initiatives to address worker unease. Existing trade-adjustment funds, which provide retaining aid for some workers who lose their jobs because of foreign competition, and community college programs are adequate, he said."

The York Daily Record (8/17) reports that "donning sunglasses similar to the ones worn by U2 front man Bono…Bush strutted into the motorcycle maker's Softail plant Wednesday afternoon for a two-hour foray." He "stopped to sign an autograph, frequently shook hands with workers and later straddled a shiny blue-and-white Softail Deluxe, rewing the engine to workers' screams and hollers." After dismounting, "he looked directly into the press cameras, took off his sunglasses, posed, nodded his head and laughed before stepping out of the test booth."

The CBS Evening News (8/16, story 9, 0:25, Schieffer, 7.66M), which was the only network to mention Bush's trip, showed Bush on the motorcycle wearing sunglasses. The President, said CBS, "ripped off those safety goggles because he said they made him look like rock star Bono. Which was all right, of course, since the bike was standing still. Mrs. Bush was campaigning in another state. We have had no comment from her on all of this so far."

The York Dispatch (8/17, Schillinger) says the President "spent a little more than an hour at the plant before jumping back on his helicopter, Marine One, and heading to Lancaster for a fund-raising reception for Republican gubernatorial candidate Lynn Swann." At a fundraiser for Swann in Lancaster, says the AP (8/17, Riechmann), "Bush said critics of his Iraq policies are advocating a 'cut-and-run strategy that would draw terrorists to American soil. … Even though he spoke at a political event, Bush kept the criticism of his opponents gentle, and left partisan politics out of it. His critics are mostly Democrats who contend he has not outlined a plan for success in Iraq. They are increasingly supportive of a timetable for bringing troops home." Bush "raised an estimated $650,000 in much-needed cash for Swann, who trails Rendell in fundraising and the polls."

The Pittsburgh Post-Gazette (8/17, Mauriello, 241K) says "the president's declining popularity does not make his stumping for Swann any less valuable, political analysts said. That's because yesterday's presidential visit was more about fund raising than politics, they said."

The Harrisburg Patriot-News (PA) (8/17, Smith, 107K) reports that "while some candidates have avoided appearing close to Bush, Swann did not mask his enthusiasm over the president's visit." Swann "told the crowd how impressed his parents were by the president's support of their son. 'This is cool,' Swann said, 'because the president of the United States is here for their baby boy Lynn.'" The Philadelphia Inquirer (8/17, Worden, Couloumbis, 399K) notes "the latest poll, released today, shows Rendell with a commanding 19 point lead over Swann. The Quinnipiac University survey has Rendell with a 57 to 38 percent lead among likely voters."

The Intelligence Journal (8/17, Pidgeon) reports Bush "bypassed 120 protesters camped out at the Host's main entrance when the motorcade turned off the highway and proceeded to the fundraiser by way of an alternative entrance." The President "spoke for 25 minutes, spent 10 minutes shaking hands and left the Host about 6 p.m to return to the White House."

The Christian Science Monitor (8/17, Feldmann, 58K) reports that as Republicans "struggle to keep control of Congress, each new headline that relates some sign of progress in battling terrorism - President Bush's strongest issue - is a boon." Bush's political team, "led by Karl Rove, has made clear that for the third straight election, it will play the national security issue hard. The strategy worked in 2002 and 2004, but with the Iraq war - a central front in the war on terror - and Bush himself persistently unpopular, prospects for 2006 remain uncertain. And this time, the Democrats are not ceding the national-security mantle to the GOP." Whether or not "the terrorism/national security issue can help Bush and his party in November, it's been clear for weeks that Bush is better off avoiding certain congressional districts. In many of the closest House races, Republican incumbents are openly distancing themselves from Bush on Iraq and on wedge issues such as stem-cell research - with the party leadership's blessing."

McClatchy Newspapers (8/17, Hutcheson) reports Republicans and Democrats "are beating each other up on the issue of terrorism in the wake of the alleged London airplane plot, but polls show that most Americans are far more worried about the war in Iraq." That is "bad news for President Bush and his Republican allies because, with congressional elections less than 100 days away, most voters don't think the war was worth it and don't like Bush's handling of it. Pollsters say that any boost the president gets from the alleged plot to blow up trans-Atlantic aircraft isn't likely to alter negative opinions about the war." Pollster John Zogby said,

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"Iraq is far and away the Number 1 issue. Nothing comes even close."

Cheney Also Criticizes Democrats On Iraq At Campaign Event. The AP (8/17, Gouras) reports that at a campaign event for Sen. Conrad Burns in Whitefish, Montana, Vice President Dick Cheney "blasted Democrats for not supporting the war in Iraq, and said Montanans need to re-elect" Burns "to make sure the administration can carry out its wartime plans." Cheney said "the administration is sticking by its plan to stay in Iraq as long as it takes to make sure the country is stable. He said it would be wrong to set deadlines for withdrawing troops." The AP adds state Sen. John Tester "has blasted the administration for leading the nation into Iraq on false pretenses. Democrats are banking that Cheney, whose image has suffered in recent years, will hurt the GOP campaigns more than help them."

IG Probes Yielding Stiffer Punishments. Government Executive (8/17, Mandel) reports, "Suspensions and debarments resulting from inspector general actions nearly doubled in 2005, and personnel actions rose more than 40 percent, according to a report released Tuesday by two IG groups." GE continues, "Suspensions and debarments, which are proceedings to exclude parties from federal contracts, grants, loans and other transactions, rose 97 percent in fiscal 2005 to 9,918 from 5,045 the previous year, the report from the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency stated. Those groups are composed of presidentially appointed and agency-appointed inspectors general, respectively. … Personnel actions including reprimands, suspensions, demotions and firings of government, contractor and grantee employees increased to 2,819 in 2005, from 1,989 the previous year." GE adds, "Marilyn Richardson, liaison for the PCIE vice chairman, said the increases did not necessarily indicate a spike in malfeasance compared with the year before, noting that some proceedings can take more than a year to complete. But 'the OIGs have been more aggressive,' she said. Richardson declined to elaborate on the agency breakdown of the figures or in what areas the offices had concentrated on. … In addition to the suspensions and debarments, the report noted that 57 IG offices secured $20 billion in 2005 in potential savings from audit recommendations and investigative recoveries. … That amounted to $15.7 billion in funds that agency managers agreed could be put to better use, according to the recommendations of their IG offices, and $4.3 billion in payments from investigations with IG involvement. Those figures represented funds agreed to in fiscal 2005, but include funding and payments stemming from old investigations that were finalized in 2005."

Despite Budget Constraints, Legal Services Executives Enjoy Perks. The Washington Post/AP (8/17, A23, Margasak) reports the Federal program "that provides legal help to poor Americans turns away half its applicants for lack of resources. But that has not stopped executives from lavishing expensive meals, chauffeur-driven rides and foreign trips on themselves." Agency documents "detail the luxuries that executives of the Legal Services Corp. have given themselves with federal money -- from $14 'Death by Chocolate' desserts to $400 chauffeured drives to locations within taxicab distance of their offices." The "government-funded corporation has spacious headquarters in Georgetown -- with views of the Potomac and rent significantly higher than that of other tenants in the same building. And Legal Services board members wrote themselves a policy that doubled the amount they can claim for meals, compared with staff employees."

Legal Services Head Rebuts Criticism On Spending. The Fulton County Daily Report (8/17, Ringel) reports, "Frank B. Strickland, the chairman of the board of the Legal Services Corp., on Tuesday vigorously defended the group from charges of wasting taxpayer dollars. … 'These are legitimate costs,' said Strickland, who has chaired the LSC, a congressionally established nonprofit that funds legal aid programs around the country, since 2003. Strickland also is a partner in the Atlanta firm Strickland Brockington Lewis." The Report continues, "A story by The Associated Press said that LSC board members lavished money on trips to Puerto Rico, expensive meals and chauffeur-driven cars. … Sen. Charles Grassley, R-Iowa, said Legal Services executives were 'living high off the hog' by permitting board members to receive up to 200 percent of an allowable meal expense as long as they ate together. … Strickland bristled at criticism of the board's holding three of their four annual meetings outside of Washington. He said that visiting cities around the country is 'vastly more beneficial' than meeting in Washington because the trips allow board members to hear from local legal aid attorneys, clients and judges who have a personal knowledge of legal aid needs." The Report notes, "He explained the board's trip to Puerto Rico allowed the

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members to see the largest single program served by the Legal Services Corp., one that had not been visited in the three decades since the LSC was established. … Strickland also provided a point-by-point response prepared by the LSC to other aspects of the AP story and a similar story aired on CBS News."

White House Press Office Uses Internet To Respond To Press Stories. The AP (8/17, Riechmann) reports the Bush White House "fires off electronic rebuttals when it has a beef with news stories, broadcasts or statements by its critics, shooting its retorts directly into reporters' e-mail inboxes and posting them on the Internet." Bush officials "say their 'Setting the Record Straight' memos, which dispute passages in stories aired and printed about the president, are about seeking the truth. Democrats and other targets of the memos say they're more about spin than rebuttal." Counselor to the President Dan Bartlett said, "The primary purpose is that un-rebutted charges on important issues sometimes become viewed as fact." Even if "attempts are made to fix mistakes, corrections published in newspapers or broadcast on TV aren't always seen, Bartlett said. It's essential, especially in today's era of Internet chat rooms and 24-hour news, that the White House issue its rebuttal as soon as possible, he said." The AP adds Democrats "dismiss the aggressive tactic, and say it suggests the Bush White House is on the defense, fighting an uphill battle over ratings."

Official Says US, EU Open Skies Agreement Can Be Completed By Years' End. The Wall Street Journal (8/17, Jolis, 2.03M) reports transportation spokesman Stefaan De Rynck said "an open-skies agreement between the European Union and the U.S. can be salvaged and signed by the end of the year." The announcement "comes one day after the U.S. said it would delay relaxing restrictions on foreign ownership of its airlines, which the EU said was needed for any open-skies deal to be signed." De Rynck said "Deputy Secretary of Transportation Maria Cino promised EU Transport Commissioner Jacques Barrot that the U.S. will have eased its ownership regulations by" the end of the year.

Few States Win Approval For Plans To Meet No Child Left Behind Teacher Standards. The AP (8/17, Feller) reports the U.S. Education Department has found that most states "still face an enormous challenge" in satisfying the No Child Left Behind Act's requirement that there be "highly qualified teachers in every core academic class." The department ruled that 37 states, D.C. and Puerto Rico "must submit new data or plans this fall" while four states "must submit new plans and undergo monthly auditing of their teacher quality data" and nine states received "favorable reviews for handing in complete plans and creative ideas about how they will improve."

States Seek To Ease Teacher Shortages. The Wall Street Journal (8/17, Chaker, 2.03M) reports that while NCLB is "tightening requirements for teachers to meet certain standards," many states are facing difficulties in filling teaching positions due to increased "demand for teachers…in a number of fields" and "a flood of" retiring "experienced, baby-boomer teachers" while "relatively few new teachers are sticking with the profession." Eighteen states "have passed measures encouraging teaching" including attempts to lure teachers out of retirement, pay raises and streamlined teacher certification.

Trend Toward High School Graduation Exams Said To Be Slowing. The AP (8/17, Feller) reports, "After years of momentum, the drive to make students pass a test to graduate from high school has stalled -- and it's likely to stay that way" according to a report issued yesterday by the Center on Education Policy. The report found that "not a single state adopted a new graduation-exam requirement in 2006, and one state even took a step back." The Center's president, Jack Jennings, said that indicates "a kickback against testing." But already 22 states with "about two-thirds of the nation's 15 million public high school students are required to pass" an exit exam and "three others are phasing in these 'exit exams' by 2012."

USA Today (8/17, King, 2.27M) adds the report found a lot of variation in the level of the exams. While "most are aligned to 10th-grade standards," some "test on eighth-grade material" and others "tie it to the 11th grade." Also, "most states test just for writing, reading and math," but some "test for subjects such as history and science." Every state allows students several chances to pass. The impetus for such exams is said to come from "the business community" while objections come from "those representing poor and immigrant students."

States Address Rising Costs Of College Textbooks. USA Today (8/17, Marklein, Walton, 2.27M) reports, "Concerns over spiraling college textbook prices

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have prompted state legislators to introduce more than 40 bills and resolutions in 15 states this year." Meanwhile, Congress will be holding hearings "next month" and "a report is due in May." States are developing a number of approaches including "rental programs" and sales tax exemptions but "a key focus this year has been on faculty" with states urging those who choose the texts to consider the costs to students when making their selections.

Coalition Encourages Public Investigation Of Earmarks. In the Washington Post's "Special Interests" column (8/17, A23), Judy Sarashon says, "A coalition of odd bedfellows is trying to bring more transparency to earmarking by encouraging citizens to get involved in tracking who is trying to get what money for which special interest. And all of this will be online and available to the public." The coalition "includes the Sunlight Foundation, Citizens Against Government Waste, Porkbusters.org, Human Events Online and the Washington Examiner newspaper. They created a single database of earmarks, but each organization is presenting the database on its own Web site and asking the public to participate in different ways."

Inappropriate Use Of Email By Federal Workers Examined. In his Washington Post's "Federal Diary" column (8/17, D4), Stephen Barr says, "Inappropriate workplace use of e-mail is not new. But as e-mail increasingly substitutes for face-to-face conversation, it seems that more employees send messages that get them into trouble." Scott Bloch, the head of the federal Office of Special Counsel, said, "When people are on the Internet or using e-mail, there is almost an unconscious dimension they have entered." The Post adds that as a "general rule, each federal agency sets out guidelines for the use of government resources, including office computers." In the Federal sector, Bloch's office "has brought cases against public employees who have been accused of violating the Hatch Act, a law that restricts certain partisan activities by government workers. In some of the cases, e-mail served as evidence of electioneering or advocating for a candidate."

Pension Reform Said To "Modestly Improve Retirement Security." USA Today (8/17, 2.27M) editorializes that defined benefit pensions are "increasingly a relic of an era when large companies in established industries — steel, airlines, autos — enjoyed healthy profits, robust market share and limited competition. As those companies have run into financial problems, managements have sought ways to trim or shed their pension obligations. Thursday, President Bush is set to sign a bill that was intended to safeguard those traditional pensions for the estimated 44 million Americans covered by private sector plans. … Does the bill guarantee that? No. Does it modestly improve retirement security? Yes. The legislation does nothing to prevent companies from converting traditional pensions to less generous plans, or from entering bankruptcy and dumping their pension plans on the Pension Benefit Guaranty Corp. (PBGC), which makes good on at least a portion of pension commitments when companies default. What the legislation does is toughen the rules so companies that do offer traditional pensions fully fund them and pay reasonable premiums to the PBGC to make sure the agency has funds to absorb plans that go belly up."

OTHER NEWS:

Positive Reports On Inflation Boost Stocks. USA Today (8/17, Shell, 2.27M) reports, "Stocks hit their highest levels in three months Wednesday after a second tame inflation reading in as many days increased hopes on Wall Street that the Federal Reserve will be able to ward off inflation without doing major harm to the economy. The government reported Wednesday that consumer prices, excluding volatile food and energy costs, rose just 0.2% in July, below the 0.3% gain analysts had expected. Couple that with Tuesday's sharper-than-expected decline in prices at the wholesale level, and evidence is building that inflation risks may be receding." That's "good news for Wall Street. A reduction in inflation jitters makes it less likely that the Fed, which left short-term interest rates unchanged earlier this month for the first time in more than two years, will have to resume its rate-tightening campaign." The Dow Jones industrials "rallied 97 points, or 0.9%, to 11,327, its highest since May 16." The Financial Times (8/17, O'Doherty) says "the S&P 500 was up 0.8 per cent, or 9.85 points, at 1,295.43, while the Nasdaq Composite was up 1.6 per cent, or 34.53 points, at 2,149.54." The Wall Street Journal (8/17, Browning, 2.03M), among other sources, also reports the stock numbers.

The New York Times (8/17, Uchitelle, 1.21M) runs a similar story titled "Inflation Gives Signs Of Slowing," while the Wall Street Journal (8/17, Conkey, 2.03M) says "underlying

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inflation eased in July for the first time in several months, a reprieve for the economy that suggests the Federal Reserve's campaign of interest-rate increases may be at an end." USA Today (8/17, Kirchhoff, 2.27M) also says the inflation data "data appear to validate the Federal Reserve's prediction that slowing growth will eventually reduce inflation, and its decision last week to pause from further increases in short-term interest rates, some economists said." The markets "certainly saw it that way."

However, the Washington Post (8/17, D1, Henderson, 748K) runs a story headlined "Cost Of Living Gets Costlier," in which it reports, "After poring over reams of data, the Labor Department reported yesterday that inflation rose last month, eating into people's paychecks and savings at a quickening clip. … Textbooks, whose prices have risen at a brisk 6.2 percent pace in the past year, are among the many goods and services that are becoming more expensive as inflation persists at some of the highest levels in 15 years. … Fruits and vegetables are up 3.7 percent for the year ending in July. Airfares are up. Hospital bills rose. Hotel room rates are rising. Rents are up.":

Adult-Guardianship Disputes On The Rise. The Wall Street Journal (8/17, Silverman) reports, "Mark Glasser and Suzanne Mathews are in a bitter battle over the care of Lillian Glasser. But they're not divorcing spouses, fighting over a child. They are siblings, fighting over whether their 86-year-old mother, Lillian Glasser, needs a guardian, and if so, who should play that role. Mrs. Glasser has an estimated fortune of $25 million, and the case has already generated more than $3 million in legal and other fees amid court battles in two states." The Journal continues, "Some of the thorniest custody battles these days are over the care of elderly parents, spouses or grandparents. As longevity increases, a growing number of siblings and other family members are fighting over where elderly parents should live, who should be their primary caregiver, and who should control their finances. … The custody fights are shining a spotlight on adult guardianship, in which a person is named by a court to manage an incapacitated adult's finances or personal care. Amid a patchwork of different state laws on the subject, more states are updating their guardianship laws and are seeking to make battles less complicated by making their laws more uniform." The Journal adds, "There are no reliable national statistics on the number of guardianships -- let alone disputes -- but some attorneys who focus on elder law say that such feuds are on the rise."

Custody Battle Over Virginia Teen Ends In Settlement. The Washington Post (8/17, A1, Markon) reports, "The family of a Virginia teenager who has refused conventional medical treatment for cancer reached a settlement yesterday with state officials, agreeing that he will be seen by a new oncologist while continuing his alternative therapy." The Post continues, "The compromise means that Starchild Abraham Cherrix, 16, will not have to undergo chemotherapy against his will, as a judge had ordered. Officials in Accomack County on Virginia's Eastern Shore had accused his parents of medical neglect for allowing him to seek alternative treatment from a clinic in Mexico." The Post adds, "The settlement, reached the day the dispute was to go to trial, ended a case that has attracted attention nationally and pitted parental rights against the government's obligation to protect the health of children. With politicians of both major parties weighing in, the battle began to take on overtones of the controversy surrounding Terri Schiavo, the brain-damaged Florida woman whose medical care led to multiple court decisions and high-profile political involvement. .. . Under state and federal court decisions, parents are usually allowed to make medical decisions for their children, legal and medical experts said. But some states, including Virginia, allow judges to override parental decisions if they believe a child's health is endangered -- as initially happened to Cherrix. … It is uncommon for such disputes about treatment to go to court, experts said. When they do, they often involve matters of religious principle, such as when Jehovah's Witnesses refuse to allow children to have blood transfusions."

First Lady Raises Funds For GOP Candidates In Three States. The AP (8/17, Sewell) reports First Lady Laura Bush "helped raise money for Republican candidates in three states Wednesday in crucial midterm elections." Mrs. Bush "campaigned in Ohio, Kentucky and West Virginia, headlining a fundraising luncheon for U.S. Sen. Mike DeWine in suburban Kettering. President Bush has been at two Ohio fundraisers this year for DeWine, being challenged by Democratic U.S. Rep. Sherrod Brown." Mrs. Bush also "raised money in Lexington, Ky., for Rep. Geoff Davis, being opposed by Democratic former Rep. Ken Lucas, and Fairmont, W.Va., for congressional candidate

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Chris Wakim, facing Democratic incumbent Rep. Alan Mollohan."

MSNBC's "Hardball" (8/16, Shuster) reports that with President Bush and Vice President Cheney "forced to defend unpopular foreign policies, the GOP is dispatching First Lady Laura Bush to talk about domestic issues. Near Chicago, the Democratic candidate for Congress is Tammy Duckworth, an Iraq war veteran and double amputee. On Tuesday, Laura Bush campaigned for Duckworth's opponent, Peter Roskam." Mrs. Bush was shown saying, "We know that in the United States House of Representatives, Peter Roskam will support tax cuts. And the tax cuts are what fueled our economy."

Santorum Seen As Making Gains By Running Away From Bush. The Wall Street Journal (8/17, Lueck, 2.03M) reports the Pennsylvania Senate race between Democrat Bob Casey Jr. and Republican Sen. Rick Santorum "is a barometer for a crucial question this election year: Will widespread public anger -- about Mr. Bush and issues ranging from war to scandal -- lead voters to toss out large numbers of Republican incumbents and end Republican control of Congress? Or can Republicans do enough to distance themselves from their party's leader and his track record to hang on?" This campaign "suggests it could go either way. Polls have consistently shown Mr. Casey, now state treasurer, with a strong lead throughout the year. But two recent surveys have shown Mr. Santorum closing the gap" to six or seven points from 18 points. Santorum's gains "came after an advertising and campaigning blitz that played down his ties to the White House and the congressional Republican leadership. When President Bush arrived in Lancaster, Pa., yesterday to campaign for the Republican gubernatorial candidate, Mr. Santorum was 130 miles away campaigning at an agricultural event." During a "recent campaign swing, the senator rarely mentioned Mr. Bush, and when he did, it was generally to point out where they differed -- even if the differences were modest."

Allen Meets With Indian-American PAC Leaders Over "Macaca" Gaffe. In an effort to stanch the ongoing mini-media frenzy over his reference to the campaign worker of rival James Webb as "Macaca," Sen. George Allen yesterday met with leaders of the Indian American political community. The AP (8/17, Barakat) reports, "Members of the US Indian Political Action Committee said they have received hundreds of e-mails about the comments Allen made Friday at a speech that S.R. Sidarth was videotaping." Sonjay Puri, "a northern Virginia businessman and founder and director of the PAC, which claims 30,000 members," said, "Obviously this is something that has us very, very concerned. The remarks are very insensitive." The AP adds Allen has "said he apologizes to Sidarth if he took any offense, but the 20-year-old college student has said he thinks Allen's remarks were an attempt to highlight Sidarth's race in what he says was an all-white crowd." Puri, who "described himself as nonpartisan, said the PAC has had good relations with Allen and he has been receptive to the group's political interests on issues including the economy and immigration. But he added that said Allen faces a 'lot of bridges to be mended.'"

The Washington Times (8/17, McLaughlin, 88K) reports Puri said "Allen has been supportive of his community's concerns but will have to regain its trust and votes after making a racially insensitive comment." Puri said, "This kind of statement puts everything into a wash, so we need to work with him so we can rebuild the relationship."

The Washington Post (8/17, B1, Craig, Shear, 748K), on the front page of its Metro section (yesterday's report had run on A1) says Webb "commented about the controversy for the first time Wednesday, saying that he thinks Allen 'knew what he was saying' when he addressed S.R. Sidarth, a 20-year-old from Fairfax County, as 'Macaca' at a GOP rally Friday. The term, which refers to a genus of monkey, is an ethnic slur in some cultures."

McCain Endorses Allen. The Washington Post (8/17, B1, Craig, Shear, 748K) reports Sen. John McCain "came to the heart of Virginia's military community" in Norfolk yesterday "to boost the fortunes of Sen. George Allen (R), hours after Democratic candidate James Webb issued his harshest critique to date of how Republicans have handled Iraq and the fight against terrorism." The "dueling events highlighted the central themes of Virginia's Senate race -- Iraq, terror and foreign policy -- while focusing on the state's large contingent of veterans, who make up about 10 percent of eligible voters." McCain's endorsement "at a rally in Norfolk was designed to showcase Allen's support for the military and veterans." The Post adds Allen's event with McCain "was partly overshadowed by continuing criticism over comments Allen made last week to a Webb volunteer of Indian descent that many have said were demeaning and insensitive."

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Anticipating Change Of Control, Washington Lobby Firms Hiring More Democrats. The Washington Post (8/17, A1, Birnbaum, 748K) reports in a front page story, "Washington lobbying firms, trade associations and corporate offices are moving to hire more well-connected Democrats in response to rising prospects that the opposition party will wrest control of at least one chamber of Congress from Republicans in the November elections." In "what lobbyists are calling a harbinger of possible upheaval on Capitol Hill, many who make a living influencing government have gone from mostly shunning Democrats to aggressively recruiting them as lobbyists over the past six months or so." In June, "one of Washington's largest lobbying law firms, DLA Piper Rudnick Gray Cary LLP, transferred the chairmanship of its government affairs practice from a Republican, Thomas F. O'Neil III, to a prominent Democrat, James J. Blanchard, a former governor and congressman from Michigan." Lobbying managers "have for years tended to hire Republicans because both Congress and the White House are controlled by the GOP, and access to officials at both places is lobbying's stock in trade. But, in recent months, many of Washington's top lobbyists said in interviews that their decision-making has been altered by an emerging consensus among election experts that the Democrats will boost their numbers in the House and the Senate in the midterm elections Nov. 7 and have a strong shot of winning a majority in the House."

Democrats Fire Back At GOP, Lieberman Over Charge Lamont Weak On National Security. The New York Times (8/17, Medina, 1.21M) reports Democratic leaders "supporting Ned Lamont's Senate campaign struck back yesterday at attacks suggesting that their party's support of him portrayed the Democrats as weak on national security." White House officials, "national Republican leaders and Mr. Lamont's opponent, Senator Joseph I. Lieberman, have said that Mr. Lamont's position on the war — calling for a timeline for troop withdrawal in Iraq — would embolden terrorists." Asked about the attacks "in an appearance in New York City, Senator Hillary Rodham Clinton said she had 'deep regret that there's any effort to politicize the war on terror,' but she did not actually name Mr. Lieberman or criticize Republicans directly." Lamont "held a press conference Wednesday afternoon specifically to counter the attacks from Republicans, calling them 'outrageous' and 'disrespectful' of Connecticut voters."

Lamont Says Lieberman Wanted To Invade Iraq Since 1991. On MSNBC's "Hardball" (8/16, Matthews), Democratic Connecticut Senate candidate Ned Lamont said, "I think Senator Lieberman has been egging the United States to invade Iraq ever since 1991. He was there in 1998 for the Iraq Liberation Act and he still wants to stay the course. Now it's three and a half years later and we see what a bloody mess we're in now." Asked why Bill Clinton, who is now supporting Lamont, signed "the Iraq Liberation Act in '98," Lamont said, "I don't think he was talking about an invasion. I think at that point he was talking about ways that we might be able to aid some groups within Iraq." Asked to handicap the race with Lieberman and Republican Alan Schlesinger, Lamont said, "This is a progressive state. The Democrats are united in this race. They really know that Joe Lieberman has been wrong on the war. He's too close to President Bush. He has got a stay the course strategy. At the end of the day it's going to be Schlesinger and Lieberman who are splitting the Republican vote. We are going to do very well with independents. I am a guy that started up a business from scratch. I'm going to shake things up in Washington, DC. I think moderates and independents respect that. And we have got a strong Democratic support going into the election."

Biden Says He'll Support Lamont. On MSNBC's "Hardball" (8/16, Matthews), host Chris Matthews asked Sen. Joe Biden whether he would support colleague Joseph Lieberman or Democratic nominee Ned Lamont in the Connecticut Senate race. Biden said, "I stand for the Democratic candidate. Joe is my good friend. I told Joe when I went up there campaigning for them, I want to lead the Democratic Party. I've got to abide by the Democratic Party's ruling. But look, here's my worry: I don't know enough to know, but I wouldn't bet my daughter's graduate school tuition on the fact that the Republicans don't find a substitute for the Republican candidate, as we did in New Jersey." Biden said he would not "take an active role by being against Joe. I'm not going to take an active role by discouraging any of Joe's friends. I'm going to take an active role in trying to elect the Democrat."

Broder Calls Blackwell's Poor Showing In Ohio Harbinger For Republicans. In his Washington Post column (8/17, A25), David Broder says "that when the Columbus Dispatch's respected poll recently reported that Republican Secretary of State Ken Blackwell was trailing Democratic Rep. Ted Strickland by 20 points in

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the race for governor of Ohio, there was dismay but no shock among his fellow Republicans. Those I interviewed during a recent visit here said they had seen it coming for a long time." But it "is a political earthquake. Democrats have not been able to win a single statewide office in Ohio for most of the past decade -- and are completely shut out of power in the capitol at this moment." Broder adds that what he heard in Ohio, "and in subsequent interviews at the National Governors Association convention in Charleston, S.C. -- from one Republican after another signaled serious trouble for the GOP across a broad swath of states from Pennsylvania to Oklahoma in key midterm election contests for House, Senate and governor." The "impression these Republicans had is that support for GOP candidates had nose-dived this summer -- in part because of the chaos conveyed by the daily televised scenes of destruction in Iraq and Lebanon and in part because of the dismal reputation built by the Republican Congress that is home to many of the endangered GOP candidates." A leading Minnesota Republican "told me that polls there show 'the bottom has dropped out' of Rep. Mark Kennedy's challenge to Hennepin County Attorney Amy Klobuchar, the Democratic candidate for an open Democratic Senate seat." In Wisconsin, Rep. Mark Green "is lagging slightly behind Democratic Gov. Jim Doyle. In Oklahoma, Rep. Ernest J. Istook Jr. is far worse off in his challenge to Democratic Gov. Brad Henry. And in Iowa, Rep. Jim Nussle, the strong early favorite to capture the open governorship from the Democrats, now finds himself in a real battle with Democrat Chet Culver."

Democrats Increase Priority Of State Secretary Of State Posts. USA Today (8/17, Lawrence, 2.27M) reports the "political battle for control of the federal government has opened up a new front: the obscure but vital state offices that determine who votes and how those votes are counted." The state post "of secretary of State was a backwater until 2000, when Florida's Katherine Harris became a central figure in the presidential recount controversy. Now national Democratic groups and White House prospects, unhappy about Harris' decisions and those of Republican Kenneth Blackwell in Ohio two years ago, are pouring resources into contests for the job." At least three Democratic political action committees "are spotlighting secretary of State candidates, most of them in states where they expect the presidential vote to be close. Colorado, Iowa, Michigan, Minnesota, Nevada and Ohio top their lists." The officials "control most voting regulations and influence state purchases of voting machines. Looking ahead to 2008, Democrats say they want people they trust in those offices." Iowa Gov. Tom Vilsack, "a 2008 presidential prospect whose Heartland PAC is helping several secretary of State candidates," said, "There's a growing concern about whether votes are cast and, if so, whether they're properly counted. We have to restore people's confidence in the system."

Hillary Clinton Says Ad Linking Her To Bin Laden Is "Outrageous." CNN's "The Situation Room (8/16, Blitzer) reported Sen. Hillary Clinton is "calling a new attack ad against her outrageous." The ad by Republican candidate John Spencer "accuses Senator Clinton of being soft on terror. And it features a photo of Osama bin Laden to try to drive home that charge." Clinton "calls it a -- quote – 'terrible injustice' to her. … A terrible injustice -- accused of being accused of being in league, somehow, with Osama bin Laden."

Biden Says He's Definitely Running For President In 2008. On MSNBC's "Hardball" (8/16, Matthews), Sen. Joseph Biden emphatically told host Chris Matthews "I am, I am" running for president in 2008. Biden discussed his alternative to the Bush Administration's policy on Iraq, saying, "The world has figured and the bad guys have figured out that we are absolutely tied down and tethered to Iraq. And Iraq is going to hell in a hand basket." Biden added that while "people criticize the plan that I put out," it is "the only plan out there about how to separate these parties, how to give more local autonomy, how to give the Sunnis a piece of the action in terms of the oil, and how to work out a deal with the major powers to keep the other nations out. Absent something like that, Chris, unless you give these groups breathing room, nothing else is going to happen. It's going to be a civil war."

Democratic Contenders Target Wal-Mart. The New York Times (8/17, Nagourney, Barbaro, 1.21M) reports Sen. Joseph R. Biden Jr. "delivered a 15-minute, blistering attack to warm applause from Democrats and union organizers here on Wednesday. But Mr. Biden's main target was not Republicans in Washington, or even his prospective presidential rivals. It was Wal-Mart, the nation's largest private employer." Among Democrats, Biden "is not alone. Across Iowa this week and across much of the country this month, Democratic leaders have found a new rallying cry

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that many of them say could prove powerful in the midterm elections and into 2008: Denouncing Wal-Mart for what they say are substandard wages and health care benefits." Six Democratic presidential contenders "have appeared at rallies like the one Mr. Biden headlined, along with some Democratic candidates for Congress in some of the toughest-fought races in the country." The "focus on Wal-Mart is part of a broader strategy of addressing what Democrats say is general economic anxiety and a growing sense that economic gains of recent years have not benefited the middle class or the working poor." Some Democrats "expressed concern about the direction the party was heading, saying it could turn back efforts by such party leaders as former President Bill Clinton to erase the image of the party as anti-business and scare off corporations that might be inclined to make contributions."

2008 Campaign Said To Be "Ratcheting Up." MSNBC's "Hardball" (8/16, Shuster) reports presidential politics are "ratcheting up. New York Senator Hillary Rodham Clinton gave a speech today on volunteerism, an issue with national appeal. Republican frontrunner John McCain spoke earlier this week in Iowa, host of the first presidential caucuses in 2008. Today McCain headed to Virginia for a rally with Senator George Allen, who remains under fire for comments about this man working for the Democratic challenger," whom he referred to as "macaca." MSNBC added that in his "second apology in as many days, Allen said, quote, 'I am concerned that my comments have been greatly misunderstood by members of the media. In singling our the Webb campaign's cameraman, I was trying to make the point that Jim Webb had never been to that part of Virginia. I never wanted to embarrass or demean anyone, and I apologize if my comments offended this young man.'"

DSCC Pulls Ad That Included Montage Of Illegal Aliens, Dictators. The Washington Times (8/17, Hurt, 88K) reports the Democratic Senatorial Campaign Committee (DSCC) "yesterday pulled an ad from its Web site after Hispanic groups accused Democrats of unfairly equating illegal aliens to terrorists." In a letter to Democratic Senatorial Campaign Committee Chairman Charles Schumer, Houston City Council member Carol Alvarado, a Democrat, said, "To liken Latino immigrants to bazooka-toting terrorists not only undermines the positive relationship our party has with this community, but it also lowers us to a despicable level as breeders of unfounded fear and hatred." The Times adds the "35-second ad, released on its Web site earlier this week, criticizes the Bush administration as leaving America unsecured by showing illegal aliens scaling a border fence. That scene is mixed with images of Osama bin Laden and North Korean President Kim Jong-il."

GOP Voters May Have Tired Of Chafee, Other GOP Moderates. In a Wall Street Journal op-ed (8/17), Journal editorial board member Kimberly Strassel says that if Sen. Lincoln Chafee "has one thing going for him in his upcoming primary, it's fear -- and don't think this perennial thorn in the GOP's side doesn't know it. In a recent debate against his more conservative primary challenger, he made the choice clear to voters: 'Who can win in November?'" Rhode Island's "few Republicans have been thinking of little else ever since Steve Laffey, the pork-busting mayor of Cranston, challenged the Senate's most liberal Republican to a showdown. The duel has forced upon them one of the more noteworthy choices in this year's election. Do they renominate Mr. Chafee, whose irritating voting record may make him more electable in this state that went 59% for John Kerry? Or do they vote their conscience for the upstart, and potentially lose a Senate seat -- and even the majority?" But "GOP voters, frustrated by Washington earmarking, scandal and obstructionism, may have decided their particular breed of Republicans just aren't worth the trouble. That's the mood up here in Rhode Island, where I heard the phrase 'We might as well have a Democrat' so many times I quit writing it down."

Kerry Signs Fundraising Appeal On Behalf Of Lamont, Menendez, Akaka. The AP (8/17, Miga) reports Sen. John Kerry "tapped his 3 million-person e-mail list on Wednesday to deliver a fundraising appeal for" Ned Lamont. Kerry's e-mail is quoted as saying, ""Ned Lamont has caused a national stir by successfully challenging the Bush position on Iraq that ignores the utter failure of the President's policy." The AP notes the Kerry e-mail also "touted two Democratic Senate incumbents facing tough fights this fall, Robert Menendez of New Jersey and Daniel Akaka of Hawaii. Both oppose the war."

NYTimes Says Corzine Has Been Hampered By Former AG's Problems. The New York Times

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(8/17, 1.21M), in an editorial, writes that Zulima Farber, the New Jersey attorney general, "who resigned this week after inappropriately intervening in a police traffic stop of her companion in May, had no excuse for not knowing how important it was to avoid even the appearance of impropriety. After all, she had served as one of the leaders of Gov. Jon Corzine's ethics advisory group during his pre-inauguration transition. Yet she dug in her heels after the incident came to light, insisting she had done nothing wrong. Her obtuseness has been costly to Mr. Corzine, draining momentum from his drive to tighten New Jersey's notoriously lax standards of governmental ethics."

WPost Criticizes Maryland's "Inadequate" Campaign Finance Reporting Rules. The Washington Post (8/17, A24, 748K) says in an editorial, "Maryland voters got their first glimpse this week into who is providing the money to power the campaigns of candidates in state and local elections. That the information came this late does not reflect well on the state. Maryland's rules for campaign finance disclosure are so inadequate that information provided to the public is neither timely nor comprehensive." Maryland law "flies against a nationwide movement toward more frequent and fuller disclosure."

NYTimes, WSJournal Weigh In On Pluto Status. The New York Times (8/17, 1.21M) argues in an editorial, "A panel appointed by the International Astronomical Union thinks it has come up with a dandy compromise to the years-long struggle over whether we should continue to count Pluto as a planet. The trouble is, the new definition of a planet will include an awful mélange of icy rocks found on the outer fringes of the solar system. It would be far better to expel Pluto from the planetary ranks altogether, leaving us to bask in the comfortable presence of the eight classical planets that were discovered before 1900 and have excited wonder ever since." The Times adds that, even though it may have scientific value, the proposed new definition "is an abomination culturally. When the astronomical union votes on the matter next week, it ought to reject the new definition and summon the courage to scratch Pluto from the list of planets."

The Wall Street Journal (8/17, 2.03M), on the other hand, editorializes, "Scientists being what they are, not everyone is happy with the new definition, and the Astronomical Union will put it to a formal vote next week. We neither endorse nor oppose the candidacies of Xena, Charon and others to the planetary union. But we do think that science needs to be open to new discoveries and information that challenge old views. There hasn't been much of that lately in some of the earthly sciences, so it's good to see openness flourishing in the heavenly ones."

US Literacy Rate Lags Behind That Of Some Third World Nations. In an op-ed for USA Today (8/17, 2.27M), Colorado education commissioner William J. Moloney writes, "nearly one-third of all U.S. school children have serious literacy deficits. If you think this is just a problem of poor children, think again. Among first-year college students, one-quarter require remediation for literacy deficiencies. Actually, poor children do quite well regarding literacy — as long as they don't live in the USA. As former U.S. Education secretary Rod Paige frequently pointed out, all of the generally impoverished English-speaking nations of the Caribbean have higher literacy rates than the USA's. Similarly, studies among poor children in Africa show levels of English literacy that would be the envy of any U.S. city. … As the ominous implications for our future gradually emerge, U.S. policymakers to ordinary citizens will be left wondering how to explain this education deficit."

Lebanon Orders Troops Into South Without Mandate To Disarm Hezbollah. Under the headline "From The Dust Of War, A More Potent Hezbollah?" USA Today (8/17, Jervis, Stone, 2.27M) reports, "As residents of Beirut's suburbs returned this week to their ruined neighborhoods after the start of a cease-fire, they came back to a place dramatically transformed by Hezbollah, whose military branch proved far tougher and better armed than even its staunchest supporters could have imagined." USA Today adds, "By holding out for more than a month against Israel, the most powerful military in the Middle East, 'Hezbollah showed it is a powerhouse,' says Fawas Gerges, a Middle East expert who teaches at Sarah Lawrence College in Bronxville, N.Y." An "early sign of Hezbollah's new political strength: The Lebanese Cabinet announced Wednesday that its soldiers won't try to disarm the guerrillas, as demanded by the United Nations cease-fire resolution, when the 15,000 government troops start deploying in the south today. Instead, the soldiers will collect any weapons Hezbollah fighters agree to give up."

The Washington Times (8/17, Pisik, 88K) runs a similar story under the headline "Beirut Cools To Disarming

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Hezbollah," reporting "the prospect that a triumphal Hezbollah militia will give up its weapons slumped yesterday." The Lebanese Cabinet "was largely silent on the issue." The Chicago Tribune (8/17, Spolar, 623K) also says "questions mounted over Hezbollah's influence in the border area and whether the guerrilla group still would operate freely there."

On its front page today, the Washington Post (8/17, A1, Cody, Lynch, 748K) reports on the "compromise arrangement that allows the Hezbollah militia to retain some of its arms caches near the border with Israel." The nearly 15,000 Lebanese troops week try "to defuse a threat to the UN cease-fire that went into effect Monday morning." The Post says Hezbollah's refusal to disarm "risked undercutting the cease-fire accord, because the Lebanese military had declared it would deploy in the border hills only if Hezbollah fighters and weapons were pulled back. And without the Lebanese army to join U.N. forces along the border, Israeli officials said, they would not order the remaining Israeli soldiers to return home." Beirut "tried to overcome the standoff with a compromise whose contours remained indistinct." Hezbollah "welcomed the army deployment and its ministers voted with the cabinet majority. But political sources involved in the decision said Hezbollah did so on condition that the army pledge not to look closely at whether all of the militia's armaments and missile stores were carried out of the border zone." The Post says the "jockeying over" these details "betrayed increased sectarian tensions within Lebanon's fractured leadership." The Post adds, "At the United Nations in New York on Wednesday, Israeli Foreign Minister Tzipi Livni urged Secretary General Kofi Annan to ensure the complete disarmament of Hezbollah and to prevent it from being rearmed by Iran and Syria."

Fox News' Special Report (8/16, Rosen) reports Livni "said her said her purpose in meeting with UN Secretary General Kofi Annan was to ensure, as she put it, that this time the will of the world body is actually implemented in southern Lebanon. Afterwards, she reaffirmed Israel's willingness to withdraw fully from the region, but not before a viable international force is deployed to fill the security vacuum." Livini was shown saying, "We think that the Lebanese government monitoring the borders, I think that it's not enough and we expect that the international community or the new international force will assist the Lebanese government."

The New York Times (8/17, Kifner, Worth, 1.21M) says Beirut "finessed the delicate issue of disarming Hezbollah," whose "fighters were not expected to resist the soldiers, nor to hand over their weapons. Instead, they probably would simply put their weapons into hiding and melt away into the civilian population." The Times adds, "Whether this approach would satisfy the terms of" UNSCR 1701, "particularly in the eyes of Israel, the United States and potential contributors to an international peacekeeping force, remained in doubt."

Slow Pace Of Relief, Role In Rebuilding Said To Buttress Hezbollah. In a 1,319-word article, the Wall Street Journal (8/17, Solomon, Beatty, 2.03M) reports, "International aid is starting to flow into Lebanon as a three-day-old cease-fire takes hold, but U.S. hopes of winning the peace are plagued by logistical hurdles, political tensions and an absence of cash from Western sources that could ultimately undermine the war-ravaged country's rehabilitation." While the WFP warns of impending cash flow problems, "the lack of public and private American largess has bred bitterness among some Lebanese officials. They say that compared with the massive amounts of money Iran has funneled into southern Lebanon through its Hezbollah allies, the response from the US and other Western nations has been negligible. In the battle for regional influence, these officials say, Tehran and its theocratic leaders are clearly trumping the Bush administration." The Journal adds, "Getting aid and reconstruction funds to the Lebanese government is crucial," because they have been told "to undertake the tricky task of disarming Hezbollah," and Beirut "will need all the political capital it can accrue in the communities hit hardest by the war." In addition to Iran, other "Arab governments have helped make up for the small amount of Western aid." The Journal notes that private US giving has "raised far larger sums for relief efforts in Israel."

All the networks reported on that topic. ABC World News Tonight (8/16, story 5, 2:10, Gibson, 8.78M) also reported Hezbollah's work is enabling the militant group to win hearts and minds. And the US government is rambling to find out how it might compete" ABC (Berman) added, "In the devastated parts of this country today. It was Hezbollah cleaning the streets. Hezbollah clearing the rubble. Hezbollah registering the names of the homeless."

The CBS Evening News (8/16, story 6, 2:30, Schieffer, 7.66M) said Hezbollah "has begun to capitalize" on the rebuilding process. CBS (Pizzey) added, "Hezbollah controls access everywhere, and their efforts here are a natural extension of what the group has been doing for years, serving poor people in areas the Lebanese government ignored. This is the Hezbollah version of an insurance agency, a school room where officials take details of people looking for

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help. They promise to inspect the damage and pay out up to $10,000 within 72 hours and make no apologies about where the money comes from."

NBC Nightly News (8/16, story 7, 1:45, Savidge, 9.87M) added, "As the government struggles, Hezbollah acts. Speaking on TV the leader of Hezbollah promised tens of thousands of people made homeless he will pay their rent for a year, rebuild the houses and furnish them."

The Los Angeles Times (8/17, Wallace, 918K), in a story headlined "Hezbollah Leads Lebanon Cleanup," says the group "has emerged as the lead player in the cleanup in the towns and villages of southern Lebanon. It has the volunteers, owns the equipment, and has spent years burnishing its image as the champion of ordinary people, from poor tobacco farmers to doctors and lawyers, who see Hezbollah as much more than a militia." USA Today (8/17, Jervis, 2.27M) and the Washington Times (8/17, Sands, 88K) run similar stories.

US Military's Assessment Of Lebanon War At Odds With Bush's. The CBS Evening News (8/16, story 5, 2:00, Schieffer, 7.66M) reported, "President Bush took a sharp exception the other day when the Hezbollah terrorist group claimed victory in the recent fighting in Lebanon. Well, what the President said in public does not appear to be what his own military advisers have concluded in private." CBS (Martin) added, "A US military assessment of the month-long war in Lebanon shows that Hezbollah and Iran came out clearly ahead of Israel in achieving their goals. That's different from…Bush's public claim that Hezbollah suffered a defeat." Bush: "Hezbollah, of course, has got a fantastic propaganda machine and they're claiming victories, but how can you claim victory when at one time you were a state within a state, safe within southern Lebanon, and now you're going to be replaced by a Lebanese army and an international force?" Martin: "The assessment agrees Hezbollah may no longer have a secure position in southern Lebanon, but it also lists a number of successes: Bolstered its image in the Arab world by take the fight to Israel, maintained its ability to launch rocket attacks against northern Israel, came through the fighting with its leadership and their ability to command operations intact. Iran, which armed Hezbollah and trained its fighters, came out of war with increased credibility. As for Israel, which was reputed to have the best army in the Middle East, the assessment says it failed to knock out Hezbollah, and further damaged its image in the Arab world with an offensive that drove up to one-quarter of Lebanon's population from their homes."

Peres Also Says Hezbollah Was Defeated. On MSNBC's "Hardball" (8/16, Matthews), Vice Prime Minster Shimon Peres said, "Hezbollah itself was quite beaten and they have to answer, why did they go to war? What are the reasons? What are the purposes? What did they achieve? They know the cause, they don't know the answers." Asked to assess Hezbollah's performance, Peres said, "I think in their imagination before the war was by far greater of an idea. 12,000 missiles, they can bring Israel on to here knees. This did not happen."

Israel's Deterrent Capability Seen As Damaged. CNN's "The Situation Room (8/16, Hancocks) reports, "The conflict in southern Lebanon is over, but Hezbollah has not been crippled, their rockets not stopped by Israel's military might, and the two Israeli soldiers whose kidnapping sparked four weeks of deadly fighting are still in enemy hands. But most worrying of all for Israel, believe some analysts, is damage done to its military deterrence in the Arab world." But Israel's "political echelon here consistently refers back to the United Nations resolution, considering it a diplomatic victory."

CNN's "The Situation Room (8/16, Lawrence) reports, "Now it is quiet. But the Israelis that you talk to have this sense of dread. One Israeli woman said, it's like the Katyushas did more than just damage homes and -- and injury people. They damaged this myth that -- that some Israelis were living under that they were safe from Hezbollah, that that has been shattered now."

Israeli Public Opposes Ceasefire, Disapproves Of Leaders' Performance. The Financial Times (8/17, Devi) reports, "The Israeli politicians most closely associated with the conflict in Lebanon on Wednesday saw their popularity ratings further eroded amid intensifying demands for an official inquiry into the war's management." Prime Minister Ehud Olmert and Defense Minister Amir Peretz "saw their ratings rise" in the "early days of the conflict," but "Olmert's approval has fallen to 40 per cent from 78 per cent at the height of the war and Mr Peretz to 28 per cent from 61 per cent." The Times notes, "In a separate poll, 70 per cent of Israelis were opposed to the ceasefire."

The Los Angeles Times (8/17, Chu, 918K) reports the "troops are trickling home. But among those preparing to return, two Israeli soldiers are most conspicuous by their absence." They are Ehud Goldwasser and Eldad Regev, "and it was in their name that Israel went to war in Lebanon

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five weeks ago. The mission, officials declared at the time, was clear: to rescue the two young reservists, who were captured July 12 while on border patrol by Hezbollah guerrillas." Now, "as a tenuous cease-fire takes hold, the people of this tiny country are faced with the painful realization that their army, the most powerful in the Middle East, failed to achieve that objective, despite more than a month of bloodshed and grievous losses on both sides."

The Washington Post (8/17, A21, Struck, 748K) reports, "Thousands of Israelis are returning now to their homes near the Lebanese border. They are bitter and angry about what many call a futile war, and what others call an outright loss." That sentiment was "reflected in a national poll released Wednesday, showing that public support for the government of Israeli Prime Minister Ehud Olmert has plummeted. The poll by the Maariv newspaper showed that Olmert's support had dropped from 78 percent on July 19, shortly after the war began, to 40 percent."

France Will Lead UN Border Force. The Financial Times (8/17, Khalaf, Arnold, Birchall, MacDonald) reports Paris "announced on Wednesday that it would take command of a strengthened United Nations force in Lebanon, throwing its weight behind the Lebanese government's plan to send its army into the south of the country on Thursday." The Times calls the move "an important boost for the UN." Defense Minister Michele Alliot-Marie "warned the UN must learn from the mistakes of previous peacekeeping operations and give the new 15,000 strong force a 'very precise' mission with 'sufficiently important' resources, or it risked being a 'catastrophe.'" The Times notes, "France, the former colonial power in Lebanon, is expected to provide the biggest contingent of 2,000 to 4,000 troops." An analysis piece in the Financial Times (8/17, Arnold, Khalaf, Birchall, MacDonald) says France's leadership "is being viewed in Paris as a high-stakes gamble that could salvage the end of Jacques Chirac's presidency, but could also end in bloody failure."

Lebanese Bury Dead. The New York Times (8/17, Fattah, 1.21M) reports that yesterday, "Lebanon's dead became symbols of closure as towns and villages throughout the south began burying their loved ones." Families "mourned for relatives and towns honored the bodies of Hezbollah fighters in ceremonies in the rubble-strewn villages of the south, vowing never to forget the price they paid in the fight against Israel." Health officials "began releasing bodies from the main morgue in Tyre, calling on families to begin burying their loved ones in their home villages instead of a mass grave near the morgue, where more than 200 others have been buried until families can claim them."

War Correspondents Flock To Middle East Conflict. The Washington Times (8/17, Mansfield, 88K) reports during the "past four weeks, with round-the-clock coverage of the skirmishes between Israel and Hezbollah, various faces have emerged as marquee players -- not only appearing on the daily news, but blogging on the various Internet sites and producing in-depth specials." People "such as CNN's Anderson Cooper (now in London for the foiled bombing plot), John Roberts and Brig. Gen. James 'Spider' Marks, Fox News' Jennifer Griffin, NBC's Richard Engel, CBS' Lara Logan and, of course, the nightly news anchormen, including NBC's Brian Williams and CNN's Wolf Blitzer, have dropped in and out of the war zones." Insiders "refer to the newbies as 'Katyusha catchers,' ducking and weaving while sirens wail and their modern epaulets unravel, putting themselves in harm's way for the sake of a good live shot."

WPost Says Hezbollah Already Violating UNSCR 1701. The Washington Post (8/17, A24, 748K) says in an editorial, "Who won the 34-day war in Lebanon? Hezbollah says it did; President Bush claims the opposite. In fact, much of the answer depends on what happens next. It's more than possible that Hezbollah will rearm, resume its prior positions and present an even greater threat to Israel in a year or two than it did before. But things could go differently if Lebanon's government, the United Nations and the major powers of the Security Council keep the promises they made last week." Those "looking for gloomy signs would not have been disappointed yesterday. Hezbollah, the radical Shiite militia and political party, was violating U.N. Security Council Resolution 1701 in numerous ways, including by failing to disarm and by failing to free the Israeli soldiers with whose kidnapping it precipitated the war last month."

More Commentary. The New York Times (8/17, 1.21M) says in an editorial, "Hezbollah is taking charge of reconstruction in south Lebanon, while the world is still dithering over the makeup of a peacekeeping force." Many Lebanese "are furiously blaming the United States as well as Israel for their suffering. Whatever anger they may also harbor toward Hezbollah for provoking the war is being more than neutralized by the militia's swift on-the-scene response and the large piles of cash it is handing out, courtesy of Iran."

In a Washington Post op-ed (8/17, A25), former special envoy Dennis Ross says, "Can the terms of U.N. Security Council Resolution 1701 be fulfilled without Syria being part

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of the equation? It doesn't seem likely. Implementation of this resolution will depend to a large degree on the Syrians -- unless, of course, the new international force deployed with the Lebanese army can both prevent resupply to Hezbollah and bolster Lebanon's military so it can fulfill the role envisioned for it in the resolution." The "more determined Syria is to frustrate implementation of the resolution, the more the international force will need a capability and a mandate to be aggressive in stopping efforts to get arms to Hezbollah and in preventing its restoration as a fighting force."

In a New York Times op-ed (8/17), Scott Atran, a research scientist at the National Center for Scientific Research in Paris, the University of Michigan and the John Jay College of Criminal Justice in New York City, says, "We can hope that multinational cooperation will help to secure Israel's border with Lebanon. But what about the Palestinian issue, which has been seemingly pushed to the back burner by the war in Lebanon? A bold gesture now by Israel would surprise its adversaries, convey strength, and even catch domestic political opposition off guard. And as strange as it may seem, were the United States able to help Israel help Hamas, it might turn the rising tide of global Muslim resentment. Recent discussions I've had with Hamas leaders and their supporters around the globe indicate that Israel might just find a reasonable and influential bargaining partner." Hamas's "top elected official, Prime Minister Ismail Haniya, now accepts that to stop his people's suffering, his government must forsake its all-or-nothing call for Israel's destruction."

No Word On Kidnapped Fox News Reporters. Fox News' Special Report (8/16, Hume) reports, "Two days after our FOX NEWS colleagues, national correspondent Steve Centanni and freelance cameraman, Olaf Wiig, a New Zealander, were kidnapped in Gaza, we still have no word on their whereabouts or condition. Steve and Olaf were taken at gunpoint from their vehicle near the Palestinian security headquarters on Monday. No one has claimed responsibility."

The Washington Post (8/17, A19, Hadid, 748K) reports, "The wife of a kidnapped Fox News cameraman made a public plea Wednesday to his kidnappers to release him and a fellow journalist. Palestinian officials said they had no firm leads on where the two men are being held." The cameraman, "Olaf Wiig, 36, of New Zealand, and American reporter Steve Centanni, 60, were taken Monday from their TV van near the Palestinian security services headquarters." Wiig's wife, Anita McNaught, "appealed to the kidnappers to free her husband and Centanni."

US Backs Pakistan's Latest Strategy To Quell Insurrection. In a critical piece, McClatchy (8/17, Landay) writes that a "U.S.-backed plan to defeat Islamist militants in Pakistan's autonomous tribal areas has backfired badly, and the Bush administration is working with Pakistan to come up with a new strategy to defuse the insurrection." Pakistani President Pervez Musharraf "'sees that what he was doing wasn't working,' said one U.S. official who's familiar with the new plan. 'He really has a mess.'" The Musharraf government is now attempting to negotiate truces areas, expand local police forces, and "introduce development projects to reward tribal leaders who break with the militants." The White House "has pledged millions of dollars to the new effort."

Bush To Meet With South Korea's Roh Next Month. AFP (8/17) reports President Bush will meet with South Korean President Roh Moo-Hyun September 14 in Washington for talks on a bilateral trade pact and North Korea's nuclear ambitions, the White House said. Bush "looks forward to reviewing with President Roh progress in relations since their last bilateral meeting on issues including our free trade agreement negotiations and the six-party talks" on Pyongyang's nuclear programs, said spokesman Tony Snow. "The two leaders also will discuss critical regional and global issues, including winning the war on terror, stopping the proliferation of weapons of mass destruction, and promoting an open international economic order," said Snow.

Foreign Minister Says Iran Willing To Discuss Suspending Enrichment. The Financial Times (8/17, Roshanzamir, Smyth) reports Iranian Foreign Minister Manouchehr Mottaki "said on Wednesday Tehran was ready to negotiate about suspending uranium enrichment, the most sensitive part of its nuclear programme." Tehran "had previously ruled out the step," and "is also due by August 22 to respond to an incentive package offered by" the West. "Mottaki suggested Iran was not ready to suspend enrichment before talks, as the" authors of the package have "demanded." The Times notes skeptical reaction from London, and says Mottaki's "conciliatory

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remarks also clashed with Tuesday's speech by" President Ahmadinejad, "who said Iran had lost trust in the Europeans – meaning France, Britain and Germany."

Ayatollah Khamenei Lauds Hezbollah's "Victory." The AP (8/17, Dakroub) reports Iranian leader Ayatollah Ali Khamenei, "in a message to Hezbollah head Sheik Hassan Nasrallah, described the militant group's clashes with Israel as a 'victory' for Islam. 'Your unprecedented holy war and steadfastness are beyond the limits of my description. It's a divine victory. It is a victory of Islam,' Khamenei said in the message read by an announcer on Hezbollah's Al-Manar television." Khamenei, widely considered the ultimate authority in Iran and a key backer of Hezbollah, "said the U.S.-Israeli plan for 'a new Middle East' had been shattered by Hezbollah's resistance against Israel's 34-day military offensive in Lebanon." He blamed Israel for Lebanese civilian deaths and infrastructure damage, and "lashed out at President Bush for declaring that the Israeli assault in Lebanon was self-defense and had defeated the Shiite guerrillas."

Holocaust Denial Art Show Opens In Tehran. The Washington Post (8/17, A20, Hafezi, 748K) reports organizers of a Tehran art show "say the exhibition of more than 200 entries from Iran's International Holocaust Cartoons Contest aims to challenge Western taboos about discussing the Holocaust, in which 6 million Jews died." One organizer is quoted saying, "This is a test of the boundaries of free speech espoused by Western countries. We wanted to challenge European taboos. Why should questioning the Holocaust be a taboo? Why should anyone who talks about it be fined or jailed?" The Post notes, "The initial plans for a contest about the Holocaust provoked a storm of condemnation and revulsion in some countries, including the United States, which called the idea 'outrageous.'"

New Global AIDS Coordinator Defends Policy Approach. The Financial Times (8/17, Jack) reports Global AIDS Coordinator (S/GAC) Mark Dybul "denied on Wednesday allegations that the agency was putting morality before saving lives." He "argued that US policies were inspired by scientific evidence and not morality, with critics using 'sound bites rather than a nuanced public health approach.'" The Times says experts attending the International Aids Conference in Toronto "have criticized" the Administration's Emergency Plan for Aids Relief "for focusing on abstinence and monogamous relationships over condom distribution in the prevention of HIV/Aids." Dybul "said there was 'no public health basis' for a traditional approach of 'just throwing condoms at people.' At the same time, he stressed the US was giving out more condoms – 477m so far this year, up from 320m in 2001." Dybul "did he feel constrained by his mandate to spend a third of Pepfar's prevention budget on discouraging sexual promiscuity. 'Overall we have flexibility,' he said, adding that Pepfar offered a 'compassionate response' to prostitution."

Prominent Preacher, AIDS Fund Head Team Up To Enlist Faith Groups In AIDS Fight. USA Today (8/17, Sternberg, 2.27M) reports, "Evangelist and best-selling author Rick Warren and Richard Feachem, who oversees billions in AIDS spending, said Wednesday that they'll team up to channel more money to faith-based groups in Warren's global church network." Warren is the founder of California's Saddleback Church and "claims a network of 400,000 churches of various denominations," while Feachem is the director of the Global Fund to Fight AIDS, Tuberculosis and Malaria, where "he has raised nearly $10 billion from donor nations and private groups to fund prevention and treatment efforts in 131 countries." USA Today says the men "represent a mix of money and influence, and their agreement is typical of the off-stage brokering at the 16th International AIDS Conference."

WHO Official Says Child AIDS Patients Not Getting Antiretroviral Drugs. The New York Times (8/17, Altman, 1.21M) reports WHO AIDS program head Dr. Kevin De Cock told the 16th International AIDS Conference that "efforts to greatly expand antiretroviral treatment for AIDS in poor countries are not reaching a vast majority of children who need it." De Cock "said that an estimated 2.3 million children 15 and under around the world are infected with H.I.V., the virus that causes AIDS, and that 800,000 of them needed antiretroviral drugs to stay alive," roughly ten percent of whom "are receiving therapy." The Times notes, "While the children account for 14 percent of AIDS deaths, they make up only 6 percent of recipients of antiretroviral drug therapy. Many of the children are orphans." Transmission of AIDS from mother to infant also remains a serious problem in developing nations, De Cock said.

Russia-Japan Island Dispute Escalates After Shooting. The Financial Times (8/17, Pilling) reports, "A Russian border patrol boat shot dead a Japanese crab fisherman in Russian-controlled waters near Japan's

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northern island of Hokkaido, highlighting continued tension between the countries over ownership of four disputed islands." Tokyo "protested against the shooting, saying it reserved the right to press for an apology, punishment of the perpetrators and compensation," and also asked "for the immediate release of three other Japanese crewman, all from the Nemuro peninsula on the eastern tip of Hokkaido, who were being held by Russian authorities." The Times says "the incident will stir anger in Japan," because "return of the islands, which were occupied by Moscow while Japan was being bombed by nuclear weapons during the second world war, is a cause celebre of the Japanese right and a long-standing goal of Japan's foreign ministry." Foreign Minister Shinzo Abe, likely Japan's next premier, "is also a strong proponent of stepping up diplomatic efforts to press for the islands' return."

Lopez Obrador's Political Allies May Choose Governing Over Protesting. The Wall Street Journal (8/17, Lyons, 2.03M) reports on left-wing Mexican politicians' difficulties reconciling their recent electoral gains with Andres Manuel Lopez Obrador's continuing protest against the presidential vote. While Lopez Obrador's allies in his PRD party "vow to back his pledge to continue protests for 'years,' if necessary, some in the leftist camp are tiring of his tactics and worrying they are putting their movement's historic electoral gains at risk. Indeed, unlike their standard bearer, many on the left won their races by wide margins." Conservatives "are betting the protest will dissipate in coming months as his camp's interests splinter and winning politicians are sworn into office -- and are expected to show they can rule, not disrupt." The Journal says "defections by a few key supporters could undermine [Lopez Obrador's] movement and smooth the way for Felipe Calderon, the conservative who won the presidential balloting, to take office and begin cobbling together a governing coalition."

Coast Guard Arrests Alleged Mexican Drug Trafficking Kingpin. The Los Angeles Times (8/17, Enriquez, Krikorian, 918K) reports Francisco Javier Arellano Felix, "the accused leader of a violent Tijuana crime family that allegedly smuggled hundreds of tons of cocaine and marijuana into the United States, was captured by the U.S. Coast Guard while deep-sea fishing off the southern tip of Baja California." The Times says Felix's "arrest was based on a 2003 U.S. indictment that charged him with conspiracy, smuggling and murder. A $5 million bounty had been offered for his capture, as the reputed leader of the so-called Arellano Felix Organization." That "cartel was believed responsible for supplying nearly half of the cocaine sold in the United States," and is accused of "at least a score of murders of police officers, journalists, and rivals, as well as the accidental killing of Roman Catholic Cardinal Juan Jesus Posadas Ocampo during a 1993 shootout among cartel rivals at the Guadalajara airport." Felix "now faces life in prison if convicted on charges that cover the cartel's purchase of tons of cocaine from Colombia that, beginning in 1986, were smuggled into California through Mexico via tunnels, vehicles, airplanes, helicopters and in backpacks. The cartel is accused of trading money and guns for cocaine from the leftist Revolutionary Armed Forces of Colombia guerrilla group."

Chavez To Nationalize Telecoms Unless Pension Payments Are Made. The Wall Street Journal (8/17, 2.03M) reports Venezuelan President Hugo Chavez "threatened to nationalize Venezuela's largest telecommunications company if it doesn't comply with a court order to make pension payments to former employees." Chavez said on television that he would give Compania Anonima Nacional Telefonos de Venezuela, or CANTV, "a 'prudent' grace period to comply, but he didn't specify how long that period would be." The Journal notes that Verizon Communications Inc. "owns a 28.5% stake in CANTV, according to its last annual filing with the Securities and Exchange Commission. Spokesman Peter Thonis declined to comment on the situation."

US Anti-Castro Propaganda Said To Have Mixed Results. The Christian Science Monitor (8/17, Richey, 58K) details continuing US efforts to "spread democracy" in Cuba by broadcasting anti-Castro messages. "Welcome to the newest front in Washington's propaganda war against" the Castro brothers. "US officials are stepping up efforts to encourage the Cuban people to end Mr. Castro's 47-year revolution with a revolution of their own." The Monitor adds, "How effective this information 'invasion' may be is a matter of considerable debate. The Cubans have worked to jam TV Martí for years. The new plane and its high-powered transmitter were pressed into action Aug. 5 and are still in the testing phase. But officials say initial indications are positive." However, the Monitor says, "Critics scoff at such claims. They

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see information warfare directed at Cuba as an expensive boondoggle related more to the political power of anti-Castro Cuban-Americans than to any demonstrable impact on bringing free elections to Cuba."

New Ukrainian Prime Minister Wins Russian Assurance On Natural Gas Prices. The Wall Street Journal (8/17, Cullison, 2.03M) reports, "Ukraine's new pro-Russian prime minister said that he has secured Moscow's assurance that it will forgo any steep price increase for natural gas this year, and that he is moving toward an agreement that would guarantee deliveries for next year as well." The Journal says, "Prime Minister Viktor Yanukovych's progress should allay fears of another disruptive gas dispute between Moscow and Kiev." His "rapid progress in gas talks contrasts with that of the previous government, which was dominated by Western-leaning members of the Orange Revolution who were pressured by Moscow to pay sharply higher prices." Yanukovych "said he managed to stave off radical price increases, which analysts say would be ruinous to Ukraine's energy-hungry economy."

Indonesian Insider Recounts East Timor's Long Road To Independence. The New York Times (8/17, Perlez, 1.21M) reports, "The seemingly closed chapter" of Indonesia's long military occupation of East Timor "was reopened this month with a new book by Ali Alatas, the former longtime foreign minister and ambassador to the United Nations. It is the first account by an Indonesian insider who tried to steer some of the events — which at critical moments involved the United States, the United Nations and, at all times, the heavy hand of the Indonesian Army." The Times calls Alatas "always amicable, always accessible," and says he "was respected in New York as a quintessential diplomat handed the tricky task of representing his country during the rule of a secretive and authoritarian leader, President Suharto." The Times adds, "For the most part, [Alatas] sticks to the narrow diplomatic history, rarely veering into what the army was doing on the ground, and mostly hinting rather than asserting that the army's actions made the diplomatic track so tortuous."

US Entrepreneur Works To Wire Rwanda To Internet. In a 2,153-word report on its front page, the Wall Street Journal (8/17, Rhoads, 2.03M) details entrepreneur Greg Wyler's efforts to wire the country of Rwanda to the Internet. "There are a few hurdles. One is a battered communications tower atop this 14,787-foot volcanic peak. The air is too thin for helicopters to transport the several tons of equipment needed for repairs," but Wyler's "company, Terracom, expects the tower to start beaming services in the coming months, including, for the first time, cellphone coverage, Internet access and television. Rwanda is among the least-connected countries in the world. Mr. Wyler wants it to be the first completely wired African nation, with citizens paying $80 a month for Terracom's Internet service." The Journal explains the myriad challenges facing such an effort in Rwanda, but says President Paul Kagame's "ultimate goal is to transform Rwanda into a Singapore-like hub for business and investment in east Africa. He has lured back from abroad several million Rwandans -- many with Western skills and education -- to help the country catch up with the modern world."

Author Says Japan Should Use Regional Diplomacy To Build Trust. In an op-ed in today's Washington Post (8/17, A25, 748K), professor and author G. John Ikenberry says Japan's "serious geopolitical problem" is its failure "to eliminate the suspicions and grievances that still linger in China and Korea about Japan's militarist past. … The result is that Japan -- 61 years after its surrender and the inauguration of its long, peaceful return to the international community -- remains isolated and incapable of providing leadership in a region that is quickly transforming in the shadow of a rising China." Ikenberry says the US faces a similar problem, and says Washington "has urged Tokyo along the course of great power 'normalization.' Indeed, some Washington strategists envisage Japan as America's "Britain in the East" -- a normalized and militarily capable ally that can stand should-to-shoulder with the United States as it operates around the world." Ikenberry says the idea suffers because "normalization and historical reconciliation are working at cross-purposes." He describes "a grand irony in the geopolitical hole that Japan has dug for itself" – while Japan "has actually been remarkably successful in defining a postwar identity for itself," and "the wider world admires and respects Japan -- and its distinctive civilian-style great power role, its neighbors do not." Ikenberry suggests Germany as a "model" for future Japanese reconciliation efforts. Tokyo should aim to become the "regional leader in defining the parameters of a new cooperative East Asian order." Washington "also needs to rethink its vision of the U.S.-Japan

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alliance," because the British model will not work, Ikenberry says. He concludes, "Today the Middle East burns -- but East Asia simmers. Tokyo and Washington should use the coming months to turn down the heat and add some new ingredients to the pot."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Faithful To God, Science."
"Suspect Is Held In Ramsey Slaying."
"LAPD's Crime Offensive On Skid Row Is Slipping."
"Anguish of 9/11 Returns In Newly Released Tapes."
"U.S. Arrests Reputed Chief Of Drug Cartel."
"State Farm Abandons ZIP Code Rates Plan."
"Cease-Fire In The Middle East."

USA Today:
"Costly Textbooks Get A Closer Look."
"From The Dust Of War, A More Potent Hezbollah?."
"Top Vote Counter Becomes Prize Job."
"Targeted Races."

New York Times:
"Insurgent Bombs Directed at G.I.'s Increase In Iraq."
"Eye on Election, Democrats Run As Wal-Mart Foe."
"Lebanon Sends National Army To Patrol South."
"Breaking Through Adoption's Racial Barriers."
"Schoolteacher Arrested In JonBenet Ramsey Case."
"Faces, Too, Are Searched At U.S. Airports."

Washington Post:
"Lebanon Sending Troops Into South."
"Minority Party's Stock Is Rising."
"More Schools in Montgomery, State Fail To Meet Federal Goals."
"Rival Shiite Militias Clash In Southern Iraq."
"Fight Over Child's Care Ends In Compromise."
"Old-School Academy In Post-9/11 World."
"VRE Repairs, Tardiness Fuel Ridership Drop."
"Suspect Arrested In Ramsey Slaying."
"Over 18 Weeks, An Arduous Path To The Badge."

Washington Times:
"A New Role For The Undermanned Border Patrol."
"Beirut Cools To Disarming Hezbollah."
"Arrest Made In JonBenet Slaying."
"Dubai Ports Seeking U.S. Bids."
"Skin Test Diagnose Alzheimer's Early."

Atlanta Journal-Constitution:
"Medicare Asset law rejected."
"Former Atlanta man Arrested In JonBenet Slaying."
"Simple test Could Save Teen Athletes."
"Parents Home? Teens Say pass the Pot Anyway."

Houston Chronicle:
"DEA: Arrest Has Cartel In 'Chokehol'."
"It's Deja Blue For Astros After Being Swept By Cubs."
"Finally A Break In Coldest Of Cases."
"Audit Finds TSU Mismanaged Funds."
"54 HISD Campuses Could Be 'On Notice.'"
"How We Differ from our Cousin, The Chimp."

Story Lineup From Last Night's Network News:
ABC: JonBenet Case; Airplane Terror Scare; British Judge Terrorism Plot; 9/11 Tapes Released; Rebuilding Lebanon; Sectarian Violence Death Toll; New Airplane Security; Mexican Drug Lord; Cherrix Special Cancer Treatment; Mutombo Builds Hospital.
CBS: JonBenet Case; Airplane Terrorism Scare; Seattle Terrorism Scare; Terrorist Plot Unfolded; Bush's Response; Rebuilding Lebanon; War On Drugs; Drunk Driving Crack Down; Bush In PA; Investing In Water; New Planet.
NBC: Jon Benet Case; Airplane Terrorism Scare; Terrorist Plot Unfolded; Iraq Violence; US Iraq Unrest; 9/11 Tapes Released; Rebuilding Lebanon; Cherrix Special Cancer Treatment; Drive In Movies.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Signs H.R. 4 - Pension Protection Act of 2006. Room 450, Eisenhower EOB.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: ISRAEL-LEBANON _ 9:30 a.m. The Center for Strategic and International Studies holds a briefing with analyst Anthony Cordesman on his recent visit to the Israel-Lebanon border. Location: 4th floor conference room, 1800 K St. NW.

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PEACE CORPS _ 10 a.m. Foreign Minister Leila Rachid of Paraguay addresses the Peace Corps staff and returning volunteers. Location: Shriver Hall, 111 20th St. NW.

POPULATION-MIGRATION _ 10 a.m. The Population Reference Bureau holds a news conference to release its 2006 World Population Data Sheet, which includes information on the forces shaping migration rates as well as the latestest demographic, health and environmental data. Location: National Press Club.

TEENS-SUBSTANCE ABUSE _ 10 a.m. Joseph A. Califano Jr., chairman and president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and former HEW secretary, holds a news briefing to release the findings from CASA's 11th annual back to school report, ``National Survey of American Attitudes on Substance Abuse XI: Teens and Parents." The report shows that, among other things, that even when parents are present, American teen parties are awash in alcohol, marijuana, and drugs. Location: Henry J. Kaiser Family Foundation building, 1330 G St. NW.

NATO-AFGHANISTAN _ 10:30 a.m. Gen. James L. Jones, NATO's supreme allied commander, Europe and commander of the European Command will conduct a news briefing to provide an update of NATO and USEUCOM operations, including NATO's International Security and Assistance Force in Afghanistan. Location: Pentagon briefing room.

BUDGET OUTLOOK _ 11 a.m. The Congressional Budget Office holds a press briefing on the Summer Update to the 2006 Budget and Economic Outlook. CBO Acting Director Donald Marron will conduct the briefing. Location: Congressional Budget Office, Room 483, Ford House Office Building, 2nd and D Streets SW.

BUSH-IRAQ _ 11 a.m. Two retired generals and a former National Security Council member hold a telephone news conference to release an open letter to President Bush signed by twenty-one of their colleagues calling for a dramatic change in U.S. policy on Iraq and Iran on grounds that the Administrations ``hard line has proven ineffective and counterproductive. Contacts: Timi Gerson, 202-822-5200. Notes: RSVP required to obtain callin information.

BUDGET-REAX _ 2 p.m. The Center on Budget and Policy Priorities will hold a conference call briefing to discuss the report that the Congressional Budget Office will release Thursday morning detailing CBO's revised outlook for the budget and the economy. Contacts: Michelle Bazie, 202-408-1080.

WELFARE REFORM _ 2 p.m. Forum on ``Welfare Reform at 10: Marking the Milestone." Topics include: ``96 Reform: What It Was and Why It Worked," with Robert Rector, Heritage Foundation; Ron Haskins, Brookings; Michael Wiseman, GWU; others. Also: Lawrence Mead, NYU; Jason Turner, Heritage Foundation; June O'Neil, Baruch College; Mark Greenberg, Center for Law and Social Policy; Wade Horn, Administration for Children and Families, HHS; others. Location: Allison Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

PENSIONS-HUMAN RIGHTS _ 2:30 p.m. The Human Rights Campaign holds a telephone briefing to discuss key provisions of the Federal Pension Protection Act. Contacts: Luis Vizcaino, 202-216-1547. Notes: Callin number: 866-468-3121 5-10 minutes before the start time; press 1 to joint the call; enter passcode 4440 and the -sign.

BUDGET-REAX _ 3 p.m. Rep. John Spratt and Sen. Kent Conrad hold a telephone news conference to discuss the Congressional Budget Office August Budget and Economic Update. Contacts: Tom Kahn, 202-226-7200.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, AUGUST 17, 2006 7:45 AM EDT

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TERRORISM NEWS:

Gonzales Says Broad Global Network Foiled Terror Plot. The AP (8/17, Cowden) reports, "It takes a network of international intelligence and law enforcement agencies to defeat terror groups such as al-Qaida, and last week's disruption of a terror plot in Britain is an example of how that cooperation can work, Attorney General Alberto Gonzales said Wednesday." The AP continues, "Gonzales sidestepped the question of the whether the United States moves to quickly to break up suspected terror plots. Some critics have said British agents were able to round up more suspects by watching the alleged plot to blow up U.S.-bound jetliners unfold. … 'Decisions about arrest are difficult ones that must be made on a case-by-case basis,' Gonzales said in a speech to the World Affairs Council of Pittsburgh." The AP adds, "He didn't discuss a U.S. role in disrupting the British terror plot, but said 200 FBI agents are working with the British to investigate leads in the U.S. and agents are assisting with evidence analysis overseas. … Gonzales also stressed the importance of closely monitoring extremist Web sites, prisons and other venues that have been used to recruit radicals. Academic settings, mosques and community centers could also be potential hubs for radicals, he said. … 'Isolated souls may be as dangerous as al-Qaida, if not more so,' he said."

The Pittsburgh Tribune-Review (8/17, Cato) reports, "Americans lulled into a false sense of security since the 9/11 attacks should heed last week's foiled plot in London as a wake-up call, U.S. Attorney General Alberto Gonzales said Wednesday during his first visit to Pittsburgh." The Tribune-Review continues, "The country's chief law enforcement official said homegrown terrorists could be a menace to the United States. … 'We are safer than we were on Sept. 11, but we are not yet safe,' Gonzales told members of the World Affairs Council of Pittsburgh at the Omni William Penn Hotel, Downtown. 'The threat of homegrown cells -- radicalized online, in prisons and in other groups of socially isolated souls -- may be as dangerous as al-Qaida, if not more so.'" The Tribune-Review adds, "Americans could figure centrally in future plots in the U.S., Gonzales said later after touring the Allegheny County Emergency Response Center in Point Breeze. … 'The radicalization of people in this country is something we're looking at,' Gonzales said."

The Pittsburgh Post-Gazette (8/17, Ward) reports that Gonzales' speech "focused on the efforts by the Department of Justice to protect the United States from terrorism. … 'During this period, our way of life has changed very much,' Mr. Gonzales said. 'The most dramatic change is the nature of the enemy our country now faces.' … The new enemy, he said, is patient and smart. It also has the capacity to recruit new members from around the world simply by using the Internet. … 'Winning the war on terrorism requires us to win the war of information.'"

The Pittsburgh Business Times (8/17) reports, "The nation's 80th attorney general, who took only written questions read by council president Schuyler Foerster, said the arrests of 24 people involved with the alleged terror plot was an 'international success,' but that the investigation into the plan is ongoing. … 'We have to approach every day like it's Sept. 12,' Gonzales said. 'Every day is that day after.'" The Times notes, "Gonzales said the Department of Justice has several challenges in 'facing a stateless enemy' such as Al Qaeda, and that it 'takes a network to defeat a network.'"

Fox News' Special Report (8/16, Baier) also reported on Gonzales' a speech in Pennsylvania, where he "said last week's thwarted terror plot in Great Britain should remind Americans of just how dangerous the enemy still is." Gonzales was shown saying, "This is what I worry about most in my job as Attorney General, is are we doing everything we can do to make sure that America is as safe as possible." Fox News adds, "The answer is no, according to Massachusetts Congressman Edward Markey and other top Democrats." Rep. Markey was shown saying, "This foiled attempt should be nothing more than one additional wakeup call to the Bush administration that they must close the remaining gaping loopholes."

CNN's "The Situation Room (8/16, Blitzer) interviewed Gonzales. Asked if there was evidence that the UK terror plot involved al Qaeda, Gonzales said, "If you look at the facts and the circumstances of this particular plot, as we understand it, it is certainly suggestive of previous al Qaeda plots and certainly suggestive of previous al Qaeda thinking about how to carry out a deadly plot. So it's something that we're still evaluating."

Gonzales Warns Of Extremist Groups On The Internet. The Los Angeles Times (8/17, Meyer) reports, "Atty. Gen. Alberto R. Gonzales said Wednesday that more than 5,000 Internet sites were being used by extremists to train and coordinate internationally, filling the gap caused by the crackdown on the Al Qaeda terrorist network. … He also rebutted allegations circulating in recent days that the United States somehow prompted British authorities to move prematurely against a suspected London-area cell allegedly planning attacks on airliners with homemade liquid bombs." The Times continues, "Gonzales' estimate suggests a significant expansion of the Internet infrastructure used by Islamic extremists in recent years to mobilize their efforts. Several counter-terrorism officials inside and outside the U.S. government said they were not familiar with the specific

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numbers quoted by the nation's top law enforcement official, but added that they had seen a dramatic increase in Internet use by Islamic extremists. … Since late 2001, the United States and its allies have demolished Al Qaeda's home base in Afghanistan, killed or captured some of its leaders, cut off many outside funding channels and disrupted some means of communication. … But those efforts have driven Al Qaeda members to the Internet, 'where their ideology has inspired and radicalized others,' Gonzales said in a speech to the World Affairs Council of Pittsburgh. … 'There are between 5,000 and 6,000 extremist websites on the Internet, each one encouraging extremists to cultivate relationships with like-minded people,' he said. … 'This radicalization is happening online and can therefore develop anywhere, in virtually any neighborhood, and in any country.'"

Bill Clinton Says White House "Playing Politics" With UK Terror Plot. MSNBC's "Hardball" (8/16, Shuster) reports, "With Vice President Cheney and President Bush both drawing attention to last week's foiled terror blot, former President Clinton, during an interview on ABC News, accused the administration of playing politics with the London arrests." Clinton was shown saying, "They seem to be anxious to tie it to al Qaeda. If that's true, how come we have got seven times as many troops in Iraq as in Afghanistan?" MSNBC added, "President Clinton has generally refrained from sharp criticism of the Bush administration, and the unusually pointed remarks prompted a return shot from the White House." White House spokesman Tony Snow was shown saying, "He doesn't know what we are doing to go after al Qaeda. Period. He doesn't know. We are not broadcasting it."

Asked about remarks by former President Clinton that Republicans should not "play politics" with the British plot, Gonzales said he hadn't seen the comments, adding, "No one should be playing politics with this particular situation. We're not trying to tie it to al Qaeda. You just asked me a question as to the ties of al Qaeda. We want to be very, very careful in the information that we disclose to the American people. We want the facts -- the information -- to be accurate."

Gonzales Says US Should Weigh Changes To Anti-Terror Laws Carefully, Rejects Profiling. CNN's "The Situation Room (8/16, Blitzer) interviewed Attorney General Alberto Gonzales. Asked if he supported changing US laws so authorities could hold suspects for 28 days, as is possible in the UK, Gonzales said, "I think that there are serious questions as to whether or not that would be constitutional. And, obviously, as to whether or not a particular tool or enforcement mechanism would be something that we would want, we would have to answer the question: Is it constitutional? Is it effective? Is it something that we absolutely need?"

Asked if the US should change rules on racial or ethnic profiling, Gonzales said, "I think that, you know, taking action against someone solely because of their race and solely because of their religion, I think, is problematic. I do believe it is appropriate to engage in threat profiling, that you have -- if you have information about a particular threat, if you have certain facts that we ought to be looking for, I think we have an obligation to the American people to use that information to try to disrupt the threat. The president, however, believes very strongly -- and he's against racial profiling."

Airlines, Security Experts Call For Profiling. The Wall Street Journal (8/17, Michaels, 2.03M) reports, "Continued delays at London airports following last week's foiled terrorist plot are prompting some airline officials and security specialists to call for passenger-profiling techniques to reduce the number of travelers subject to intensive searches. Advocates of the measures say trained airport and airline staff at security checkpoints should be allowed to judge which passengers aren't likely to pose a terrorist threat -- such as old women and families with small children -- and let them pass quickly through security." Screeners "could then focus more carefully on inspecting other travelers. Passengers behaving oddly or with unusual travel details would also be subject to more thorough screening, advocates of profiling say." But "opponents have two basic objections: They say passenger profiling is an infringement of civil rights, and not effective in the long run."

King Endorses Racial Profiling In Terror Fight. Long Island Newsday (8/17, Palmer) reports, "Declaring that airport screeners shouldn't be hampered by 'political correctness,' House Homeland Security Chairman Peter King has endorsed requiring people of 'Middle Eastern and South Asian' descent to undergo additional security checks because of their ethnicity and religion." Newsday continues, "Discussing the recent revelation of an alleged plot in England to blow up U.S.-bound airliners, the Seaford Republican said yesterday that, 'if the threat is coming from a particular group, I can understand why it would make sense to single them out for further questioning.' … King, who has said that all Muslims aren't terrorists but that all recent terrorists are Muslim, favors an ethnic and religious profiling scheme that would include foreign and American-born travelers. 'I would give the investigators and screeners a lot of discretion as to where it ends,' he said." Newsday notes, "Despite King's endorsement of such a process, it is a technique that has been widely dismissed as a legitimate law enforcement tool. … NYPD Commissioner Ray Kelly, a childhood friend of King's whom the congressman calls one of the nation's leading counter-terrorism officials, has previously called racial profiling 'nuts' and 'ineffective,' and eliminated the practice when he oversaw the U.S. Customs

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Service. … The U.S. Justice Department issued a policy three years ago banning racial profiling and Attorney General Alberto Gonzales said yesterday that he doesn't favor the practice. … 'I think that, you know, taking action against someone solely because of their race and solely because of their religion I think is problematic,' Gonzales said."

UK Judge Approves Continued Detention Of Alleged Bomb Plotters. ABC World News Tonight (8/16, story 3, 0:15, Gibson, 8.78M) reported that "a London judge did give British police more time to hold the 23 suspects arrested last week in that alleged plot to bomb airliners. This will give the police an opportunity to gather additional evidence before formally presenting their case." NBC Nightly News (8/16, story 3, 0:10, Brown, 9.87M) also briefly reported on the ruling, and the Chicago Tribune (8/17, Hedges, Madhani, 623K) notes, "Defense attorneys leaving the hearing…declined to discuss the proceedings," but "one solicitor…said on the condition of anonymity that 'they [the government] have got to start explaining some of this. They haven't said anything and they're going to owe people an explanation.'"

The AP (8/17, Moore) reports, "Scotland Yard later said a person arrested Tuesday as part of its investigation into the plot was released without charge. … The judicial order was the first major test of a new terrorism law that lets suspects be held for as long as 28 days without charge," and "Scotland Yard said that 21 of the suspects could be detained for questioning through Aug. 23, while another two could be detained until Aug. 21." The Washington Post (8/17, A19, 748K) runs a truncated version of the AP story.

Intelligence Officials Say Suspect In Pakistan Was Contact With Al Qaeda Operative. The CBS Evening News (8/16, story 4, 1:00, Schieffer, 7.66M) reported, "There was also a development in the case that set off this hair-trigger plot." CBS (MacVicar) added that the possible links to al Qaeda "become more important and much more interesting. They focus around (Rashid) Rauf, who is in custody in Pakistan. Intelligence officials have told CBS news it is become increasingly clear that Rauf wasn't a ring leader but a go-between carrying messages from senior al Qaeda operatives, and the al Qaeda operative's name is Rabia. He was number three in al Qaeda -- the senior operational commander, the man in charge of international operations -- and he was killed last fall in November in a US predator strike targeting senior al Qaeda leadership on the Pakistan border. It gives you an idea, if he died in November, just how long they've been thinking about this."

The New York Times (8/17, Gall, 1.21M) notes, "Rauf has emerged as the main coordinating figure of the London case. … 'He became a central figure in all this,' said a senior government official who insisted on anonymity because of the investigation. 'He was a connecting figure and central to it.' Mr. Rauf came to the notice of British investigators who traced telephone calls between him and people in Britain who were under surveillance, the official said."

Europeans To Combine Anti-Terror Efforts. The New York Times (8/17, Timmons, Pfanner, 1.21M) reports British, Finnish, German, Portuguese, Slovenian and French security officials "pledged Wednesday to increase their cooperation to fight terrorism, saying they may begin by blocking certain Internet sites, using fingerprinting or iris-scanning technology, and training Muslim preachers to discourage militancy." The ministers "laid out proposals that signaled a shift for Europe, which has been loath to limit individual freedoms or to try to impose a uniform set of values." The agreement commits the leaders to "speed up plans to increase cooperation between the intelligence forces in their home countries, and allow them to share information directly with their counterparts. They also plan to step up cooperation on research into explosives, particularly liquid explosives."

The Financial Times (8/17, Adams, Bokhari) also reports the story, noting John Reid, Britain's home secretary, "urged all European countries to adopt a similar approach to that of the UK, which has banned liquids and gels from being carried on board aircraft since last week's terrorism alert."

USA Today (8/17, Stinson, 2.27M) reports Reid "said civil liberties must be re-examined in the face of possible 'mass murder' by terrorists. 'As we face the threat of mass murder, we have to accept that the rights of the individual that we enjoy must and will be balanced with the collective right of security and the protection of life and limb that our citizens demand,' said Reid, Britain's top law enforcement official."

Egyptian Falsely Accused In Post-9/11 Probe Remains "Angry" But "Not Bitter." In his New York Times (8/17, 1.21M) column, Bob Herbert recounts a telephone conversation with Abdallah Higazy, who was detained in the FBI investigation after 9/11 when a "hotel security guard claimed to have found an aviation radio…in the safe in Mr. Higazy's room." After Higazy "was handcuffed, strip-searched and thrown into prison — as a material witness," he says "an F.B.I. agent, Michael Templeton, told him during an interview that if he didn't cooperate, his family in Cairo would be put at the mercy of Egyptian security, which Mr. Templeton would later acknowledge has a reputation for torture." However, "It turned out that the security guard, Ronald Ferry, had been lying." Higazy, who "is now a teacher in Cairo, told me he is angry with Mr. Ferry and Mr. Templeton, but that he's not bitter."

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Term "Islamofascism" Said To Obscure Widespread Muslim Support For Terror. In an op-ed for the Wall Street Journal (8/17, 2.03M) British philosopher Roger Scruton writes that the term "Islamofascism" has "caught on, not least because it provides a convenient way of announcing that you are not against Islam but only against its perversion by the terrorists. But this prompts the question whether terrorism is really as alien to Islam as we should all like to believe." According to Scruton, "The majority of European Muslims do not approve of terrorism. But there are majorities and majorities. According to a recent poll, a full quarter of British Muslims believe that the bombs of last summer in London were a legitimate response to the 'war on terror.' Public pronouncements from Muslim leaders treat Islamist terrorism as a lamentable but understandable response to the West's misguided policies. And the blood-curdling utterances of the Wahhabite clergy, when occasionally reported in the press, sit uneasily with the idea of a 'religion of peace.' All this leads to a certain skepticism among ordinary people, whose 'racist' or 'xenophobic' prejudices are denounced by the media as the real cause of Muslim disaffection.

HOMELAND RESPONSE:

Chertoff Says US Boosting Airline Security Procedures. The AP (8/17, Jordan) reports, "Airline passengers soon will have their names checked against the US 'no-fly' list before flights take off for the United States, the homeland security chief said Wednesday." The requirement, "resisted by the airline industry for fear of costly delays, could be in place by early next year. It would make permanent a security measure temporarily put in place for flights from Britain after last week's foiled plot to bomb trans-Atlantic flights. Currently, airlines have to submit their passenger lists for international flights 15 minutes after takeoff." Homeland Security Secretary Michael Chertoff said in an interview with the AP, "This is part of our border authority. … The reason we haven't moved this is because the airlines were concerned about what they would do about passengers who would come up at the last minute, and they don't want to hold the flights up. Our position has been: Isn't it better to know before the plane takes off than to turn the plane around? Which I think is correct. So we're on a course to getting this piece nailed down."

Bush Says Flying Remains Safe. USA Today (8/17, A3, 2.27M) reports, "President Bush said Wednesday that he believes flying is safe and not a big inconvenience, even after an alleged terrorist plot to blow up jets headed to the USA was thwarted and new security measures were put in place. 'I think most people clearly understand that government, when it reacts to a threat, does so for their own interests,' Bush said in an interview. Bush said he is often asked whether he would let his family fly. 'The answer is, yes, I would.'" USA adds, "Bush said he believes Americans have adapted. 'People are able to make the adjustments necessary to deal with the current situation,' he said."

TSA Testing Passenger Observation Program At Some Airports. ABC World News Tonight (8/16, story 7, 3;00, Gibson, 8.78M) reported, "There are 43,000 airport screeners in the United States. But Congress and the 9/11 commission have sharply criticized the procedures they employ as woefully inadequate to thwart terrorists. The government has been testing new tactics in hopes of preventing an attack." ABC (Thomas) added, "Since December, at several airports around the country, the government has been quietly deploying uniform and undercover agents, who do nothing but watch the behavior of airline passengers. Every passenger." Waverly Cousin, TSA Security Supervisor: "Our officers have trained to look for multiple signs of deceptions, multiple signs of fear. One of the things what we would be looking for someone who would be profusely sweating." Thomas: "Other suspicious behavior the government is looking for includes incessant blinking of the eyes, excessive fidgeting with clothes, acting evasive if approached. The SPOT program, or screening passengers by observation technique, is being rolled out at a dozen airports across the country, including in Washington, Miami and Minneapolis."

The New York Times (8/17, Lipton, 1.21M) runs a similar story under the headline "Faces, Too, Are Searched At US Airports," in which it says that "even in its infancy, the program has elicited some protests. At one airport, passengers singled out solely because of their behavior have at times been threatened with detention if they did not cooperate, raising constitutional issues that are already being argued in court. Some civil liberties experts said that the program, if not run properly, could turn into another version of racial profiling." Other concerns "were raised this week by two of the foremost proponents of the techniques, a former Israeli security official and a behavioral psychologist who developed the system of observing involuntarily muscular reactions to gauge a person's state of mind."

Ridge Says "Pre-Screening" Should Be Next Step. On MSNBC's "Hardball" (8/16, Matthews), former Homeland Security Secretary Tom Ridge said, "I think we've made people safer. I think we are playing much better offense, and in offense, I mean by intelligence sharing and getting these terrorists before they attack, and the Brits did a fabulous job there. And certainly a better defense. We have more security measures in place. But we are up against some strategic actors who have a different timeframe than we do. We are in this for the long hall, so, although we are good now, we've got to get better, and at no time will we ever

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guarantee absolute safety." Ridge acknowledged that many screening procedures have not actually caught suspected terrorists, adding, "The next step has to be a lot bolder than anything they have done before, and that is pre-screening passengers."

White House Defends Homeland Security's Performance. Fox News' Special Report (8/16, Baier) reports, "Senior Administration officials insist the Homeland Security Department is making the right investments in airport security and say the outrage from Democrats can be directly tied to the upcoming midterm elections." White House spokesman Tony Snow was shown saying, "It's interesting that every time we have a success, Democrats come out and complain. Now, I don't quite understand that, unless they're seeking desperately some political advantage out of a success story. What they ought to be doing is saying, Good, let's continue to work together to make it better. And I think that's an important tone to strike."

No Terrorism In Diverted London-To-Washington Flight. ABC World News Tonight (8/16, story 2, 3:00, Gibson, 8.78M) reported, "There was terror scare on a flight from London to Washington, DC United flight 923, never got to Washington. But landed, instead, in Boston. The pilot declared an emergency, and military jets rendezvoused with the plane. In the end, there was no terror plot. But such is the apprehension that there were anxious moments."

The CBS Evening News (8/16, story 2, 0:45, Orr, 7.66M) reported, "What happened is a woman on a flight from London to Washington Dulles started creating a disturbance in the air. The pilot did the right thing. He elected to land early at Boston's Logan. The woman was detained, and all the bags were laid out on the tarmac, bomb-sniffing dogs went bag boy bag to make sure there were no explosives. Of course, none were found." NBC Nightly News (8/16, story 2, 2:20, Williams, 9.87M) also said "there is no hint of terrorism in this case."

The AP (8/17, Donald) reports, "Gov. Mitt Romney said the 59-year-old woman was from Vermont and became so claustrophobic and upset that she needed to be restrained. The FBI in Boston said the woman, a US citizen, was arrested on charges of interfering with a flight crew." Passengers "said two plainclothes men on board and flight attendants ran up the aisle and tackled the petite woman, slamming her into the bathroom door, throwing her to the ground and putting her in handcuffs, passengers said." The Washington Post (8/17, A4, Wilber, Rondeaux, 748K), New York Times (8/17, Zezima, 1.21M), USA Today (8/17, Levin, Johnson, 2.27M), Los Angeles Times (8/17, Mehren, 918K) and Washington Times (8/17, Hudson, Cella, 88K), among other sources, run similar reports this morning.

US Accuses Cell Phone Suspects Of Fraud As Michigan Drops Terrorism Charges. In a widely-distributed story, the AP (8/17, Karush) reports, "Three Palestinian-American men who were found with nearly 1,000 cell phones were charged Wednesday with federal fraud conspiracy and money laundering." Maruan Muhareb, Adham Othman and Louai Othman "had been charged there with collecting or providing materials for terrorist acts and surveillance of a vulnerable target for terrorist purposes," but Michigan prosecutor Mark Reene "asked a judge Wednesday to dismiss those charges. Nabih Ayad, an attorney for the three men, called the charges 'outrageous' and accused state and federal officials of 'scratching each other's backs' by shifting jurisdictions. The federal complaint contains no mention of terrorism." The AP notes, "The FBI said this week there was no imminent threat to the bridge and no information linking the men to known terrorist groups. … Reene said Wednesday that he was 'deeply troubled' by the FBI's statement" on Monday that there was no evidence linking the three to terrorism. "He called it 'a very peculiar development' and complained that he found about it through the media."

The Detroit News (8/17, Egan) notes that Reene, who "was criticized after both the FBI and Michigan State Police said Monday the men had no links to terrorism, withdrew those charges in Tuscola County District Court. But Reene told reporters he dropped the charges only because the federal government is taking over the case and said: 'We won't back up even a quarter-inch on those charges.'" The News notes, "FBI Special Agent Andrea Kinzig said in a complaint filed Wednesday the Texas men were among several small groups of individuals traveling around the country and buying large numbers of cell phones at major retailers such as Wal-Mart and Kmart. … The practice violates trademarks and is a form of counterfeiting, she said."

Recent Arrests Reflect Rising Concern About Wireless Technology. The Christian Science Monitor (8/17, Knickerbocker, 58K) reports, "The arrests and release of five young Arab-American men who bought hundreds of cellphones in the Midwest show broader concerns about wireless technology in an era of global terrorism." The Monitor notes that "cellphones have become a tool of choice for those wanting to stay a step ahead of government wiretappers as well as for insurgents triggering bombs. Reselling them on the black market also has become a way of funding illicit activities. … In Florida, for example, prosecutors and FBI agents investigating a cell of Colombian drug dealers had gotten 23 separate wiretaps against cell members and leaders, but failed to make a strong enough case because the suspects were constantly changing cellphones."

Port Of Seattle Terminal Evacuated By Container Explosives Scare. The CBS Evening News (8/16, story 3, 0:25, Schieffer, 7.66M) reported that

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"there's another scare going on tonight out in Seattle." CBS (Orr) added, "A couple of containers from a ship, containers from Pakistan, had authorities worried for quite a while. Bomb dogs in checking these containers alerted for potential explosives. … We just got recent word that no explosives so far have been found. The evacuation remains in place, but this is expected to also have been cleared very soon." The AP (8/17) adds, "Officials are still trying to determine exactly what is in the containers. It was not immediately clear why the dogs were mistaken. … U.S. Customs and Border Protection agents used a 'gamma-ray' device to peer through the containers' steel walls to determine what they contained, said spokesman Mike Milne. It detected some of the items did not appear to match what was listed on the containers' manifest, he added."

NYC Releases Last Batch Of 9/11 Recordings. ABC World News Tonight (8/16, story 4, 2:45, Gibson, 8.78M) reported New York, City "made public more than 1,600 telephone calls made to emergency services on 9/11. They opened a new window into the heroism and the terror and the mass confusion of that morning. Families of those who died find the tapes hard to listen to. And so does everyone else." ABC went on to play several segments from calls placed by victims stuck in the WTC towers. NBC Nightly News (8/16, story 6, 2:50, Brown, 9.87M) notes that part of one of the recordings was played at the trial of Zacharias Moussaoui. NBC added, "Family members who fought for the release of the tapes say they provide missing links and believe New York and other cities can only learn from the failures of that day."

The New York Times (8/17, Dwyer, 1.21M) reports that yesterday's release "might be the final major disclosure of records" relating to 911. According to the Times, "The recordings were released in response to a freedom of information request for a variety of city records made by The New York Times in January 2002. After the administration of Mayor Michael R. Bloomberg refused to release the records, citing privacy and law-enforcement concerns, families of Sept. 11 victims joined a lawsuit filed by The Times. The state Court of Appeals ruled more than a year ago that most of the material should be disclosed, but agreed with the city's position that the voices of callers to the 911 system should not be made public, citing privacy considerations. One batch of records was released in March, but because of what Mayor Bloomberg called a "breakdown" at the Fire Department, many other recordings were not collected until recently." The Los Angeles Times (8/17, Barry, 918K) reports that on Tuesday Fire Commissioner Nicholas Scoppetta "announced that members of his staff had overlooked a large number of recordings. Fire department officials say they are confident they have provided all the recordings sought in the lawsuit." USA Today (8/17, Moore, 2.27M) notes that tapes "of 1,631 calls to fire dispatchers…include the voices of 19 New York City firefighters and two emergency medical techs who were among the 343 fire department personnel killed. … The tapes include 10 911 calls from office workers trapped in the towers.

Tapes Portrayed As Evidence Of Giuliani Administration's Lack Of Foresight. The Washington Post (8/17, A3, Powell, Garcia, 748K) reports former mayor Rudolph W. Giuliani "testified several years ago that the firefighters who died were 'standing their ground' to help victims. But the release of the tapes Wednesday reinforced what earlier tapes, investigations and a new book – 'Grand Illusion: The Untold Story of Rudy Giuliani and 9/11' -- have made clear: That Giuliani and his top aides did not put in place a clear chain of command for police officers and firefighters, which led to much confusion at the scene. And firefighters never heard calls to leave because they carried outmoded radios that did not work inside the stairwells of the burning towers."

New York State Legislation Benefits Families Of Workers Sickened At Ground Zero. In an op-ed for the New York Times (8/17, 1.21M) Baruch College's Stan Altman writes that "an estimated 40,000 police, firefighters and other workers…did rescue and cleanup on 'the pile' after Sept. 11, 2001, while the remains of the buildings — not to mention their contents, jet fuel and other debris — smoldered for weeks, poisoning the air with mercury, lead, dioxin, asbestos, copper and dozens of other substances. Today, increasing numbers of emergency service workers are reporting breathing and digestive problems and rashes, and their incidence of cancer is higher than normal. At least one death, that of Detective James Zadroga in January, from heart and lung complications, has been linked by a medical examiner to work at Ground Zero; six other responders in their 30's and 40's have died from causes like heart failure and lung cancer. On Monday, Gov. George E. Pataki signed a law ordering New York City to pay more generous death benefits to the families of Sept. 11 responders who die from these illnesses."

Bids For Dubai Ports World's US Operations Due Friday. The Washington Times (8/17, Sparshott, 88K) reports, "Dubai Ports World is moving ahead with a plan to spin off its recently acquired U.S. operations, with preliminary bids from suitors due tomorrow." The firm "promised to sell P&O Ports North America Inc. to an American buyer by September after Congress protested the takeover of U.S. port terminal operations by the state-owned company from the Middle East." The Times says DPW "is not commenting on the sale, and potential buyers had to sign confidentiality agreements before receiving a detailed description of the U.S. operations." SSA Marine, owned by Seattle company Carrix Inc.; Maher Terminals of Port

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Elizabeth, N.J.; and "U.S. investment banks" including Goldman Sachs and the Carlyle Group are listed as potential buyer/operators.

New Orleans Woman Bush Visited Still Waiting For Home To Be Rebuilt. NPR's All Things Considered (8/16, Greene) broadcast a 7 1/2-minute feature on the aftermath of Hurricane Katrina that was highly critical of the federal response, though not directly critical of President Bush. The report focused on Ethel Williams, a 74-year-old resident of the Ninth Ward who was visited by Bush on April 27. At that time, Bush said her home would be rebuilt. But NPR said that "since that day, not so much has happened. Her house has stood gutted, just as it was when the President left. Mrs. Williams has been living with her daughter in a part of the city across the Mississippi River." NPR interviewed Williams and visited her house with her, reporting that while "Williams did get some initial help from FEMA, and the White House says she's in line to get federal rebuilding money that will be allocated by the state," she says "Bush gave her idea her house could be totally rebuilt within a few months." But Williams "says she's not angry at anyone, especially not the President. She never voted for Mr. Bush, but she says she really felt a connection with him that day in April. She now calls the President a friend." On whether Bush will follow through for her, Williams said, "He has a lot to think about other than me, and he'll do it. You can't get me to say he won't, because he will."

Group Urges Disaster Preparation Focused On Pregnant Women, Newborns. The Washington Post (8/17, A9, Lakshmi, 748K) reports that in the aftermath of last year's hurricanes, the White Ribbon Alliance for Safe Motherhood, based in Washington, is urging disaster preparation focused on pregnant women and newborns. The Post leads its report by noting that in the days after Hurricane Katrina hit Louisiana, "about 125 critically ill newborn babies and 154 pregnant women were evacuated to Woman's Hospital in Baton Rouge," and it was "at least 10 days before some of the infants and mothers were reunited." White Ribbon Executive Director Theresa Shaver said, "International relief agencies have detailed guidelines for helping pregnant women, infants and new mothers in disasters around the world. But in the United States, it is not yet integral to our preparedness plans."

Thousands In Mississippi Suing Insurers Over Denied Katrina Claims. On its front page, the Wall Street Journal (8/17, A1, Pleven, 2.03M) reports on the "thousands of Mississippi homeowners" suing their insurers over claims they were "unfairly denied compensation for destruction wreaked a year ago by Hurricane Katrina." The cases tend to resolve around the issue of whether damage was "caused by the storm's winds, making it an event covered by most policies," or "by the wall of water that slammed ashore, something that insurers typically exclude." In Mississippi, "the cases are complicated by the fact that much of the state's legal and political leadership has chips in the game." Sen. Trent Lott, Rep. Gene Taylor, and at least two judges are among those who have sued their insurers.

WSJournal Skeptical About Claims. In a related editorial, the Wall Street Journal (8/17, A8, 2.03M) derides the claims as tests of "whether Katrina victims can rewrite their insurance contracts in a way that amounts to political robbery. Private insurers have long had 'flood exclusions' in their contracts -- which is one reason the federal government has offered flood insurance for nearly 40 years. When Katrina hit, these private insurers offered to pay homeowners for wind damage -- as their contracts required -- but not for destruction due to flooding. … The suits threaten to raise the cost of insurance, if not deny coverage entirely, to millions of Americans beyond those hurt by Katrina."

WAR NEWS:

Sectarian Violence Still Rising In Iraq. USA Today/AP (8/17) reports, "Bombs killed 21 people in central Baghdad on Wednesday, and gunmen attacked the governor's office in Iraq's second-largest city -- another sign of unrest in the Shiite heartland as US troops step up operations in the capital after the deadliest month for civilians of the war." One bomb "exploded late in the morning near day laborers waiting for work in the central Nahda district, killing eight people and wounding 28, police Lt. Bilal Ali said. Two nearly simultaneous car bombs exploded Wednesday evening in the Batayween area of central Baghdad, killing 13 people and wounding 55, police Lt. Ali Mutaab said. The blasts sent a huge cloud of black smoke over the troubled city."

The New York Times (8/17, Von Zielbauer, 1.21M) reports, "Iraqi security forces and British troops fought Shiite militias and tribesmen in two major cities south of Baghdad on Wednesday in sustained battles that left two policemen and a dozen militiamen dead." The violence "underscored the tenuous grip the Iraqi government maintains even in regions not under the sway of Sunni Arab insurgents." In Basra, "a gun battle erupted between Iraqi Army troops and members of the dominant local tribe, the Bani Asad, apparently angered by the killing on Tuesday of a tribal leader, Faisal Raji al-Asadi, government officials in Basra said." In Karbala, "the violence on Wednesday took on a different hue, as security forces controlled by Shiites who are aligned with the main pro-Iranian bloc, the Supreme Council for the Islamic Revolution in Iraq, fought militiamen loyal to a local Shiite cleric opposed to Iran's influence in Iraq. The battle led security forces to cordon off the city to most nonresidents and impose a curfew."

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The Washington Post (8/17, A1, Raghavan, 748K), meanwhile, says that "as US and Iraqi forces focus their efforts on taming sectarian violence in Baghdad, Wednesday's bloodshed served as a reminder of the tenuous security conditions across Iraq, and how precariously the country teeters on the edge of civil war." Northern "cities such as Mosul, which had faced constant attacks, are experiencing new waves of violence along ethnic and political fault lines. Tensions also are rising between US and Iraqi forces and the powerful anti-American cleric Moqtada al-Sadr, who is emerging as the main Shiite obstacle to U.S. efforts to establish order and security in Baghdad as well as in the south."

Average Of 110 Iraqis A Day Killed Last Month. ABC World News Tonight (8/16, story 6, 0:15, Gibson, 8.78M) reported on a "sobering announcement by the Iraqi government, today. The Deputy Health Minister there said nearly 3,500 Iraqis died last month in sectarian or political violence. That's an average of 110 every day. And that is the highest monthly civilian death toll since the war began." NBC Nightly News (8/16, story 4, 0:50, Brown, 9.87M) reported on those "grim news from Iraq."

"Senior Defense Department Official" Says Insurgency Has Gotten Worse. The New York Times (8/17, Gordon, Mazzetti, Shanker, 1.21M) reports, "The number of roadside bombs planted in Iraq rose in July to the highest monthly total of the war, offering more evidence that the anti-American insurgency has continued to strengthen despite the killing of the terrorist leader Abu Musab al-Zarqawi. … The bomb statistics -- compiled by American military authorities in Baghdad and made available at the request of The New York Times -- are part of a growing body of data and intelligence analysis about the violence in Iraq that has produced somber public assessments from military commanders, administration officials and lawmakers on Capitol Hill." A "senior Defense Department official who agreed to discuss the issue only on condition of anonymity because he was not authorized to speak for attribution" said, "The insurgency has gotten worse by almost all measures, with insurgent attacks at historically high levels. … The insurgency has more public support and is demonstrably more capable in numbers of people active and in its ability to direct violence than at any point in time." The Times adds, "A separate, classified report by the Defense Intelligence Agency, dated Aug. 3, details worsening security conditions inside the country and describes how Iraq risks sliding toward civil war, according to several officials who have read the document or who have received a briefing on its contents."

Aides Deny Bush Expressing "Frustration" With Maliki Government. NBC Nightly News (8/16, story 5, 1:00, Brown, 9.87M) reported, "The Bush Administration continues to insist publicly that Iraq is not spiraling down into civil war. But behind the scenes there is serious concern about what's happening on the ground and what to do about it. NBC (Gregory) added "Bush advisors deny the President is publicly expressing frustration with the Iraqi government and Prime Minister Al Maliki, who he has been supportive of certainly. Privately nobody is sugar-coating the problem. … Officials say the President himself has pressured the Maliki government to take tough stands particularly against Shi'ia militias aligned with Maliki's party and make some tough political decisions. They recognize that time is not on their side. There is great pressure to bring the troops back to the United States. As one aide said the Maliki government has a window of opportunity to show real progress. There is also political pressure on this White House at a time when it say its is adapting the strategy in Iraq to win. They recognize they have to show progress soon as well."

Memorial To Slain Children Destroyed In Baghdad. The New York Times (8/17, Cave, 1.21M) runs a feature on the insurgent attack that destroyed a memorial marking the death of two dozen Baghdad children "who were killed last summer when a car bomber sped into a crowd receiving candy from American troops. A monument to life -- a statue of debris from the attack set on a pedestal with the victims' names -- had become another casualty of what many here now consider an undeclared civil war." Muhammad Khaitan, father of one of the children, said, "All they left was the foundation. They don't want the next generation to remember how we suffered."

Carroll Saga Continues With Tale Of Kidnapper's Wife's Desire For Martyrdom. The Christian Science Monitor (8/17, Carroll, Grier, 58K) runs the fourth installment of "Hostage: The Jill Carroll Story," which focuses on Carroll's learning that the wife of one of her kidnappers wanted to become a suicide bomber: "'Um Ali wants to be a martyr. She wants to drive a car bomb!' he said, beaming. Of course, she'd have to wait, since she was now four months pregnant. It is forbidden in Islam to kill a fetus at that age, he explained. … I was still unused to captivity, still learning the boundaries, both physical and mental, that my kidnappers had imposed. I didn't want to offend. But I was shocked at the talk of a mother's suicide; shocked that Um Ali would blush at her husband's praise of this plan."

Forensic Scientists Build Mass Murder Case Against Saddam. The New York Times (8/17, Semple, 1.21M) reports the "victims of mass murder under Saddam Hussein are slowly brought back to life" in "makeshift laboratories" in Baghdad, where forensic scientists from around the world have spent two years shifting through "bones, clothes, identity papers and spent bullet casings

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exhumed from mass graves to build criminal cases against Mr. Hussein and to reconstruct the victims' final moments." Investigators have so far "excavated nine mass graves -- from among the more than 200 scattered around the country containing, by some estimates, tens of thousands of victims."

Turley Laments Efforts To Keep Names, Images Of War Dead Silent. In a USA Today (8/17, 2.27M) op-ed, Jonathan Turley examines cases of backlash against those who have publicized the names of soldiers killed in Iraq, as well as efforts to prevent dissemination of images of caskets, and writes, "When Congress starts to regulate the images that can be used to oppose the war, you know things are not going well on the home front. It wants to deny opponents of any face or name that would remind citizens of the true costs. … Whether it is caskets, funerals or even T-shirts, the politicians would prefer to keep the fallen out of sight and out of mind."

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Massachusetts Prosecutor Tapped For Stint At Main Justice. The Springfield (MA) Republican (8/17, Barry) reports, "A federal prosecutor who has won more than a dozen convictions in city corruption cases has accepted a high-level post with the U.S. Department of Justice's public integrity office, which combats fraud on the national stage." The Republican continues, "While refusing to discuss details of the move, Assistant U.S. Attorney William M. Welch II yesterday confirmed he has accepted a temporary assignment as acting deputy chief in the division probing former Republican lobbyist Jack Abramoff's dealings with elected officials. Abramoff pleaded guilty to federal corruption charges in January, agreeing to testify against lawmakers and others who allegedly accepted graft. … 'My court docket permitting, I am going down there for a six-month detail and nothing more,' Welch said yesterday during a brief phone interview, squelching speculation about his long-term future. 'Any other rumor or conjecture is not appropriate.' … Welch is shuttling between here and the nation's capital, for now." The Republican adds, 'A spokesman for the Justice Department did not return calls. There was some shuffling of leadership in the public integrity office after division chief Noel L. Hillman took a federal judgeship in New Jersey earlier this year. … Welch, 43, will work under Hillman's successor, Edward Nucci, and a principal deputy chief. He will work alongside two other deputy chiefs supervising white collar prosecutions.

CORPORATE SCANDALS:

Former Engineered Support Director Resists Options Probes. The St. Louis Post-Dispatch (8/17, McLaughlin, Patrick) reports, "A former director at Engineered Support Systems is resisting attempts by federal investigators to secure information about the defense contractor's stock option program, the Post-Dispatch has learned." The Post-Dispatch continues, "The U.S. attorney's office in St. Louis and the Securities and Exchange Commission are investigating whether the timing of stock option grants at Engineered Support was manipulated to boost the pay of top executives. Earl W. Wims, a former Engineered Support director and compensation committee member, recently received a grand jury subpoena regarding the government's investigation into the backdating of options." The Post-Dispatch adds, "Several dozen U.S. corporations are being investigated for backdating. Last week, the Justice Department brought criminal charges against three former executives at Comverse Technology Inc., including the company's former chief executive, who is considered an FBI fugitive. … At Engineered Support, the federal investigation centers on stock options awarded in the years before the company was sold in January to New Jersey-based DRS Technologies Inc. for about $2 billion. … Wims argues in his court filing that the government has better sources than him for internal documents and information since he has been off the board since the acquisition. He joined the board in 1992."

SEC Probes Berkshire Deals. Bloomberg (8/17, Stein) reports, "U.S. securities regulators probing Berkshire Hathaway Inc.'s reinsurance units are examining transactions with a predecessor of St. Paul Travelers Cos. and former subsidiaries of Prudential Financial Inc., a filing shows." Bloomberg continues, "Berkshire's General Re Corp., the largest U.S. reinsurer, briefed the Securities and Exchange Commission about the deals on June 13, the Stamford, Connecticut-based company said in a second-quarter filing with state insurance regulators. Two former General Re executives invoked their Fifth Amendment right not to testify about the Prudential agreement, according to the filing." Bloomberg adds, 'Prudential, the second-largest U.S. life insurer, and St. Paul, the No. 2 commercial insurer, are among more than a dozen companies to become entangled in probes of a type of reinsurance regulators say can be used to manipulate earnings. At General Re, five former managers, including the company's previous chief executive officer, have been criminally charged over transactions with American International Group Inc. … 'As evidence comes in, more questions arise and the scope of the inquiry becomes broader,' said Christopher Bebel, a former federal prosecutor

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in Houston not involved in the investigations. … Prudential, based in Newark, New Jersey, previously said the SEC was examining contracts that its property and casualty units entered into between 1997 and 2002 with an unidentified counterparty. The units were sold to Palisades Safety & Insurance Association and Liberty Mutual Group in 2003."

DOJ, Lay Attorneys Battle Over Expunging Verdict. The Washington Post (8/17, D1, Johnson) reports, "Lawyers for Enron Corp. founder Kenneth L. Lay yesterday asked a judge to erase his conviction on fraud and conspiracy charges, citing his death last month before he could appeal a jury verdict." The Post continues, "The request signals that Lay's record soon could be wiped clean, seriously complicating the government's attempts to seize his remaining assets. Legal experts explain that the system hesitates to label people guilty if they have not had a chance to appeal and that it is loath to punish dead people or their estates." The Post adds, "A federal jury convicted Lay of six criminal counts in May, at the same time that a judge found him guilty of four more charges stemming from personal bank loans. Lay, 64, faced the prospect of spending the rest of his life in prison. But he died before he could be sentenced or mount an appeal. … 'The court should enter an order vacating his conviction and dismissing the indictment,' defense lawyers Michael W. Ramsey and Samuel J. Buffone wrote in papers filed in Houston."

The AP (8/17, Hays) reports, "Federal prosecutors will oppose a request by lawyers for Kenneth Lay to legally clear the late convicted Enron Corp. founder's name." The AP continues, "Lawyers for Lay's estate filed court papers Wednesday formally asking a judge to erase Lay's convictions and dismiss the indictment against him because he died before he had appealed. Lay was convicted of 10 counts of fraud, conspiracy and lying to banks in two separate cases on May 25, and died of heart disease July 5. … However, a one-sentence addition to the filing revealed that prosecutors aren't willing to rubber-stamp the request." The AP notes, "The filing noted that Lay's attorney Michael Ramsey had 'conferred with (prosecutor) Kathy Ruemmler who indicated the government will oppose this motion.' … If U.S. District Judge Sim Lake clears Lay's record, that would thwart the government's bid to seek $43.5 million in ill-gotten gains prosecutors allege he pocketed by participating in Enron's fraud. The government could still pursue those gains in civil court, but they would have to compete with other litigants, if any, also pursuing Lay's estate. … 'The Department of Justice remains committed to pursuing all available legal remedies and to reclaim for victims the proceeds of crimes committed by Ken Lay,' said Justice Department spokesman Bryan Sierra."

Wife Of Jailed Former Tyco CEO Files For Divorce. USA Today (8/17, Farrell, Mccoy) reports, "Karen Mayo Kozlowski, the wife of former Tyco CEO Dennis Kozlowski and the woman whose $2 million birthday party in Sardinia came to represent an era of executive excess, wants a divorce." USA continues, "Her husband is serving a sentence of 8? to 25 years in prison after being convicted last year of stealing hundreds of millions of dollars from Tyco." USA adds, "In a court filing in Palm Beach, Fla., Karen Kozlowski declares the marriage 'irretrievably broken,' seeks half of her husband's assets and attempts to put a lien on their mansion and estate in Boca Raton, Fla., purchased with a $30 million interest-free loan from Tyco. … Karen Kozlowski's attempt to get half of her husband's property, as well as a promise of future financial support, could run into trouble. During sentencing in New York last September, State Supreme Court Justice Michael Obus ordered Dennis Kozlowski to pay $167 million in restitution and fines. Since then, Kozlowski has sold an expensive New York apartment and put the proceeds in escrow, according to the Manhattan District Attorney's office."

CRIMINAL LAW:

Suspect Arrested JonBenet Ramsey Case, Calls Death "Accident." In a widely-distributed story, the AP (8/17, Wannabovorn) reports, "The American suspect in the JonBenet Ramsey murder case said publicly Thursday he was with the 6-year-old when she died and called her death 'an accident,' a stunning admission that will help answer 10 years of questions in the unsolved murder case. 'I was with JonBenet when she died,' John Mark Karr told reporters in Bangkok, visibly nervous and stuttering as he spoke. … Police said Karr, 41, admitted to the killing after he was arrested Wednesday at his downtown Bangkok apartment by Thai and American authorities. Karr will be taken to Colorado within the next week where he will face charges of murder, kidnapping and child sexual assault, Ann Hurst, Department of Homeland Security attache at the American Embassy in Bangkok, said at a news conference in Bangkok." USA Today (8/17, Kenworthy, 2.27M) notes, "Lin Wood, the Ramsey family attorney, said Karr is a schoolteacher who once lived in Conyers, Ga., outside Atlanta. The Ramseys lived in the Atlanta suburb of Dunwoody for several years before moving to Colorado in 1991. … U.S. Immigration and Customs Enforcement officers assisted Boulder County authorities and the Royal Thai Police in locating the suspect, the federal agency said."

ABC World News Tonight (8/16, lead story, 2:00, Gibson) reported, "JonBenet Ramsey was killed in her family's Boulder, Colorado, home, almost ten years ago. The

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investigation has had many leads but no arrests, until now. We learned a short while ago that there is now a suspect in custody, in Thailand. … The man is John Mark Karr. And he is wanted in questioning in connection for the murder of JonBenet Ramsey." The suspect "has a prior arrest in 2001 for possession of child pornography …"

The CBS Evening News (8/16, lead story, 3:10, Schieffer) reported that Karr ", "has not yet been charged with murder, but a development like this in a 10-year-old cold case is significant."

The AP (8/17, Tsai) reports, "A former schoolteacher was arrested in Thailand in the slaying of 6-year-old beauty queen JonBenet Ramsey - a surprise breakthrough in a lurid, decade-old murder mystery that had cast a cloud of suspicion over her parents." The AP continues, "Ramsey family attorney Lin Wood identified the suspect as John Mark Karr, 41. Federal officials, speaking on condition of anonymity Wednesday, confirmed the name, and one law enforcement official told The Associated Press that Boulder police had tracked him down online." The AP adds, "Wood said the arrest vindicated JonBenet's parents, John and Patsy Ramsey. Patsy Ramsey died of ovarian cancer June 24. … 'John and Patsy lived their lives knowing they were innocent, trying to raise a son despite the furor around them,' Lin Wood said. 'The story of this family is a story of courage, and story of an American injustice and tragedy that ultimately people will have to look back on and hopefully learn from.'" The AP notes, "A source close to the investigation said Karr confessed to elements of the crime. Also, a law enforcement source, speaking on condition of anonymity, told the AP that Karr had been communicating periodically with somebody in Boulder who had been following the case and cooperating with law enforcement officials. … District Attorney Mary Lacy said the arrest followed several months of work, but she said no details would be released until Thursday. … U.S. authorities said Karr was being held in Bangkok on unrelated sex charges, but Thai police Lt. Gen. Suwat Tumrongsiskul said he was unaware of any criminal charges the suspect faced in Thailand."

The Washington Times (8/17, Richardson) reports, "U.S. authorities said he confessed to the crime after he was arrested in Bangkok on an unrelated sexual-assault charge, adding that he knew certain details about the crime that had not been released publicly."

The New York Times (8/17, Barron) reports, "The arrest put a fresh spotlight on a case that once dominated newspaper headlines, television newscasts and supermarket tabloids. For years, as investigators followed hundreds of leads but seemingly made little headway, John and Patsy Ramsey lived under what Ms. Lacy's predecessor once called 'the umbrella of suspicion.' … The Ramseys repeatedly denied any involvement in their daughter's death, on Christmas night in 1996, even as one detective who had worked on the case speculated that Mrs. Ramsey had struck JonBenet by accident and then wrote a ransom note to deflect attention."

The Washington Post (8/17, A1, Reid, Hsu) reports, "Karr was arrested on sex charges unrelated to JonBenet's slaying after several months of investigation, officials said. Boulder County District Attorney Mary Lacy said investigators from her office were heading to Thailand to question the suspect and bring him to Colorado. Lawyers said this could take days or weeks, depending on whether Karr contests his extradition and whether Thailand decides to expel him." The Post notes, "Nathaniel Karr, 34, who lives in the Atlanta area, said he had been contacted by scores of news organizations and told that his brother had been arrested. In a telephone interview, he said his brother had lived in Alabama and California but 'to my knowledge had never set foot in Colorado.' Public records indicate that John Karr had lived in Conyers and Petaluma, Calif. It is not clear when he went to Thailand."

USA Today (8/17, Kenworthy) reports, "U.S. Immigration and Customs Enforcement officers assisted Boulder County authorities and the Royal Thai Police in locating the suspect, the federal agency said."

The Los Angeles Times (8/17, Fausset, Silverstein) reports, "The arrest — which was made by the Royal Thai Police with the assistance of U.S. immigration officials — opens a new chapter in the unsolved mystery. Little was known Wednesday about Karr's alleged motive, or his relationship, if any, with the Ramseys. It also is unclear whether he is the sole suspect in the 1996 Colorado slaying. The district attorney's office refused to grant interviews Wednesday. A news conference is planned for today."

Former Chicago City Clerk's Adviser Sentenced To 30 Months In Prison. The Chicago Tribune (8/17, Coen, 623K) reports, "Salvatore 'Sam' Gammicchia's last-minute attempt to claim he told witnesses in the Hired Truck investigation not to lie to federal investigators did not impress a federal judge Wednesday. U.S. District Judge Charles Norgle sentenced the onetime political adviser to former City Clerk James Laski to 30 months in prison for obstruction of justice." Gammicchia "had pleaded guilty in May to attempting to influence a witness going before a grand jury to testify about paying Laski to get city business for trucks in the scandal-plagued program." The AP (8/17, Robinson) adds that Norgle said during the sentencing, "This is a very clear case of the defendant doing what he could to get others to lie to the grand jury." The AP notes, "Gammicchia told agents he once promised Laski that he would threaten to break Laski aide Michael Jones's leg and actually did warn Jones that if he talked he would have to

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go into the witness protection program." The Chicago Sun-Times (8/17, Korecki) also reports on the sentencing.

Former BetOnSports CEO Released On Bail. The AP (8/17, Leonard) reports, "The former chief executive of online gambling company BetOnSports was freed on $1 million bond Wednesday after spending nearly a month behind bars following his arrest on racketeering and fraud charges." The AP continues, "David Carruthers, 48, was released after a hearing before U.S. District Judge Mary Ann Medler. He had been expected to be freed as early as Monday but it took days to work out technical details. Among those details: A dedicated phone line had to be installed at the residence where he will stay." The AP adds, "Carruthers must remain in the St. Louis area until his trial. According to the terms of his bond, Carruthers will live at a hotel in the suburb Clayton. He will not be allowed to leave the hotel except for court appearances, meetings with his attorney or medical emergencies. … During the hearing, Carruthers asked the judge if the home-incarceration was 24 hours a day. She said it was." The AP notes, "The charges against Carruthers are part of a 22-count indictment against London-based BetOnSports PLC being prosecuted by U.S. Attorney Catherine Hanaway in St. Louis. Carruthers was chief executive of the company until shortly after his arrest, when he was fired. … The case is one of the largest U.S. prosecutions of an online gambling company and has caused BetOnSports to close all of its U.S.-focused operations." The Financial Times (8/17, Pimlott) adds, "He will not be allowed to leave the hotel while he awaits trial in the midwestern town except for court appearances, meetings with his legal team or medical emergencies. He will also have to wear an electronic tracking tag. Federal prosecutors demanded that Mr Carruthers' $1m bond should not come from the BetonSports, but his lawyer would not say where the money came from."

Florida Man Indicted On Katrina Relief Fraud Charges. The AP (8/17) reports, "A federal grand jury has accused a Florida man of creating a bogus Hurricane Katrina relief Web site and several other bogus sites meant to gather sensitive financial information from would-be donors. Jovany Desir, 20, of Miami, was charged with wire fraud in the five-count indictment issued Wednesday. The investigation was undertaken in Pittsburgh because the purported relief effort was said to be linked to an American Red Cross chapter in western Pennsylvania, authorities said. Another bogus site mimicked the Web site for Pittsburgh-based PNC Bank, they said. Desir is accused of creating 'phishing' Web sites over several months last year."

Bush Issues 17 Pardons For Minor Crimes. The AP (8/17, Sniffen) reports, "President Bush pardoned 17 minor criminals Wednesday. Most weren't even sentenced to prison. The longest sentence any of the 17 received was five years behind bars." The AP continues, "Bush has now issued 99 pardons and sentence commutations during five years and seven months in office, mainly to clear the name of people who committed relatively minor offenses and served their sentences long ago." The AP adds, "He remains the stingiest of postwar presidents in this regard. By comparison, Bill Clinton issued 457 in eight years in office; Bush's father, George H. W. Bush, issued 77 in four years in office; Ronald Reagan issued 406 in eight years, and Jimmy Carter issued 563 in four years. Since World War II, the largest number of pardons and commutations - 2,031 - was issued by Harry S. Truman, who served 82 days short of eight years."

Child Porn Probes Spark Dispute Over Online Data Retention. Newhouse News Service (8/17, ORR) reports, "Flint Waters, a Wyoming lawman, was hot on the trail of one of the most disturbing pieces of child pornography he could have imagined, a video depicting the rape of a 2-year-old. … He followed the digital trail to a computer in Colorado, but when he asked the Internet Service Provider, Comcast, to identify the source of the file, the company said it could not comply because it had already deleted the crucial identifying data." Newhouse continues, "For investigators, it was a digital dead end. A year later, the video, the rapist and the little girl are still out there somewhere. … 'It would really be beneficial to us if this information is there as long as possible,' said Waters, a Wyoming special agent who heads the technical committee of the Internet Crimes Against Children Task Force. … 'A year is probably a pretty decent compromise,' he added." Newhouse adds, 'Waters, the Justice Department and other law enforcement officials want ISPs like Comcast to warehouse data on their subscribers' online activities. Some are suggesting the information be held as long as two years. … But whoa, say privacy advocates, who see mandatory data retention as unnecessarily extending the government's reach into people's online private lives. … Justice Department officials have held several closed-door meetings with major Internet players -- AOL, Comcast, Verizon, Google, Microsoft -- as well as with privacy advocates. While the companies and groups oppose data retention, some of those invited to attend said they were surprised and grateful to be included in the process."

Former NBA Player Arrested By Secret Service After Shooting Near White House. The AP (8/17) reports, "Former NBA player Lonny Baxter was arrested by uniformed Secret Service agents on Wednesday after shots were fired from a vehicle about two blocks from the White House." Baxter, "was taken into custody around 2:30 a.m. after a witness flagged down a Secret Service agent and reported shots fired from a white sport-utility vehicle, said

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Secret Service spokesman Eric Zahren. Officers stopped the vehicle, which Baxter was driving, near the intersection of 17th and I streets in Northwest Washington." The Baltimore Sun (8/17, Fuller, 262K) says that "according to charging documents, Secret Service police in downtown Washington heard two gunshots about 2:30 a.m. in the vicinity of 17th and H streets NW." The Washington Post (8/17, B1, Klein, Cauvin, 748K) also reports the story.

Widow Of Slain Pennsylvania Doctor Indicted. The Pittsburgh Post-Gazette (8/17, Simonich) reports, "Donna Moonda ended her 14-year marriage to a wealthy doctor by hiring a gunman to murder him, a grand jury in Cleveland charged yesterday. … The grand jurors indicted her on four felonies, two more than she was held on when she was arrested last month." The Post-Gazette continues, "The indictments allege that Mrs. Moonda, 47, of Hermitage, Mercer County, hired the young drug dealer she was having an affair with to kill her husband on the Ohio Turnpike. … In return, Damian Bradford, 25, said she promised him half of the inheritance and life insurance proceeds she expected to collect." The Post-Gazette adds, "Dr. Gulam Moonda, 69, a Mercer County urologist, had willed her his mansion and 20 percent of his estate. She thought her portion was worth at least $3 million, according to Mr. Bradford. … He pleaded guilty last month to shooting Dr. Moonda. Now he hopes to receive a sentence of no more than 17 1/2 years in prison in return for his testimony against Mrs. Moonda. … U.S. District Judge David Dowd has delayed a decision on punishment for Mr. Bradford to see whether he cooperates with prosecutors in their case against Mrs. Moonda."

Los Angeles Fire Captain Arrested For Murder. The Los Angeles Times (8/17, Blankstein, Surdin) reports, "A 23-year veteran Los Angeles city fire captain was arrested today for allegedly killing a woman after police said they found a trail of blood that stretched nearly a half-mile between the suspect's home and the crime scene." The Times continues, "LAPD Lt. Paul Vernon said that a resident called police after finding the nude body of the woman about 1:30 a.m. today in the 5100 block of Loleta Avenue in Eagle Rock. … The fire captain, David Jaime Deltoro, 50, was booked on suspicion of murder after being questioned for several hours by detectives from the LAPD Robbery-Homicide Division. … 'We are going to have to wait for the coroner's investigation to determine the cause of death,' Vernon said. 'We will be looking at whether she was killed in the home, in the truck, or at the location where the body was found.'" The Times notes, "The victim, whose name has not been released, was pronounced dead at the scene. Investigators followed tire tracks and a trail of blood and body tissue from the location of the woman's body for several blocks to the home of the fire captain in the 5100 block of Vincent Avenue."

US Announces Drunk Driving Crackdown. The CBS Evening News (8/16, story 8, 0:15, Schieffer) reported, "The Federal Government announced what is said to be the biggest crackdown ever on people who drive drunk. Police in every state will be out in record numbers manning sobriety checkpoints and random stops between this Friday and Labor Day. There will also be an ad campaign aimed at discouraging drunk driving."

WSJournal Claims AIPAC Espionage Indictment Is Politically Motivated. In an editorial, the Wall Street Journal (8/17, 2.03M) argues that the Department of Justice "is breaking all precedent" is by indicting AIPAC's Steven Rosen and Keith Weissman "for a 'conspiracy' to pass on information from" former Pentagon analyst Lawrence Franklin "to at least one journalist and one employee of the Israeli Embassy. To our knowledge no such secondary sources have ever been prosecuted in this fashion." According to the Journal, "The current prosecution has its own suspicious political beginnings, with some of the early leaks to the media suggesting that Mr. Franklin deserved his fate because he was one of those 'neocons' who got us into Iraq. … More broadly, this use of the Espionage Act amounts to the imposition, by executive fiat, of a U.S. version of Britain's Official Secrets Act. That law criminalizes the publication -- and even the re-publication -- of certain kinds of information. This kind of 'prior restraint' on the press is alien to the American legal tradition of First Amendment rights. If Attorney General Alberto Gonzales thinks we need an Official Secrets Act, then he ought to say so and ask Congress to debate and pass it, rather than let his prosecutors impose one by the back door."

CIVIL LAW:

Democratic Fundraiser Is Lead Attorney In Plame Suit Against Cheney. In a column for the San Francisco Chronicle (8/17), Phillip Matier and Andrew Ross write, "Joe Cotchett, a top Democratic fundraiser, trial lawyer and longtime wine and restaurant partner of San Francisco Mayor Gavin Newsom, has just been named to lead ex-CIA officer Valerie Plame Wilson's big lawsuit against Vice President Dick Cheney, his former chief of staff Lewis 'Scooter' Libby and presidential adviser Karl Rove. … And with the ex-Army Special Forces Col. Cotchett's take-no-prisoners approach to lawyering, you can bet this case will be a doozy." Matier and Ross continue, "In the suit, Wilson and her husband, former Ambassador Joe Wilson, accuse Rove, Cheney and Libby of intentionally exposing Valerie Wilson's classified CIA status to reporters in retaliation for ex-envoy Joe Wilson publicly challenging President Bush's evidence

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justifying the war in Iraq. … There is already speculation that Cheney, citing executive immunity, will go untouched -- and that the real target is Republican kingmaker Rove. … Still, Cotchett said he intends to pull Cheney into the fray, as well. … 'I'm going to take his deposition,' said Cotchett." Matier and Ross add, "No sooner was it announced that Cotchett would be leading the case than word came that Cheney would be represented by no less than Attorney General Alberto Gonzales and Washington lawyer Emmet T. Flood -- one of the attorneys who defended President Bill Clinton against impeachment charges."

Privacy Rights Group Files Complaint Against AOL With FTC. The AP (8/17) reports, "The backlash against AOL's recent release of its subscribers' search requests continued Wednesday as a privacy rights group filed a Federal Trade Commission complaint alleging the breach was intentional." The AP continues, "AOL spokesman Andrew Weinstein scoffed at the allegation made by the World Privacy Forum, reiterating earlier descriptions of the breakdown as a 'mistaken release' by a bumbling researcher." The AP adds, "The San Diego-based World Privacy Forum's filing follows a similar complaint by the Electronic Frontier Foundation,a civil liberties group in San Francisco. … Both groups are urging the FTC to investigate and possibly penalize AOL for its unauthorized release of about 19 million search requests made by about 658,000 subscribers during a three-month period ending in May. … The FTC complaints allege AOL - owned by Time Warner Inc. -engaged in unfair or deceptive business practices by exposing its subscribers' information, which included requests for online pornography, murder tips and medical advice."

Judge Denies Motion To Dismiss Suit Against New Orleans Gun Confiscation. The AP (8/17, Foster) reports, "A federal lawsuit accusing the city of illegally confiscating firearms during the chaos that followed Hurricane Katrina was kept alive by a federal judge Wednesday." The AP continues, "U.S. District Judge Carl Barbier denied a motion by the city of New Orleans to dismiss a suit by the National Rifle Association and the Second Amendment Foundation. The groups sued Mayor Ray Nagin and New Orleans Police Chief Warren Riley over the confiscation of guns following Hurricane Katrina." The AP adds, "The city asked the judge to dismiss the suit for lack of jurisdiction, saying 'the states, and by extension their political subdivisions, are free to proscribe the possession of firearms.' … The court rejected the motion, ruling the city did nothing to back up 'the brazen assertion' that the second amendment did not apply. … The suit says that during and after the Aug. 29 storm, 'Mayor Nagin ordered the New Orleans police and other law enforcement entities under his authority to evict persons from their homes and to confiscate the lawfully possessed firearms.'"

CIVIL RIGHTS:

6th Circuit Rules Michigan Discriminates Against Some Girls Sports In Scheduling. The AP (8/17) reports, "A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati upheld a lower court's opinion that" Michigan's prep athletic schedule "discriminates against girls in some sports." The suit argued that because "girls in Michigan play basketball in the fall and volleyball in the winter, the opposite of collegiate schedules" that "limits the exposure of Michigan's female prep athletes and may hurt their chances to win sports scholarships."

West Virginia School Board Fights To Continue Displaying Poster Of Jesus. The Washington Times (8/17, Price, 88K) reports, "A divided school board in West Virginia has decided to use about $150,000 in donated money to fund a legal fight to keep a print of Jesus Christ on display in one of its high schools that has been there for more than 40 years. Two weeks ago, the board voted 3 to 2 to proceed with a court battle to retain the picture at Bridgeport High School, if $150,000 in private funding was raised. 'We raised that amount in nine days,' board member Mike Queen said yesterday. He said one family contributed $53,000, and there were also donations from celebrities, such as Pat Boone and country singer Stella Parton." The Times notes, "The school board is fighting a lawsuit filed earlier this summer by Americans United for Separation of Church and State and the ACLU of West Virginia,"

Cross-Racial Adoption On The Rise. The New York Times (8/17, Clemetson, Nixon) reports, "When Martina Brockway and Mike Timble, a white couple in Chicago, decided to adopt a child, Ms. Brockway went to an adoption agency presentation at a black church to make it clear they wanted an African-American baby. … Ms. Brockway and Mr. Timble are among a growing number of white couples pushing past longtime cultural resistance to adopt black children. In 2004, 26 percent of black children adopted from foster care, about 4,200, were adopted transracially, nearly all by whites. That is up from roughly 14 percent, or 2,200, in 1998, according to a New York Times analysis of data from the National Data Archive on Child Abuse and Neglect at Cornell University and from the Department of Health and Human Services." The Times adds, "The 2000 census — the first in which information on adoptions was collected — showed that just over 16,000 white households included adopted black children. Adoption experts say there has been a notable increase since 2000. … The reasons for the

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increase are varied. The Multiethnic Placement Act and its amendments prohibited federally financed agencies from denying adoption based on race. The foster care system has sharply changed in recent years and now includes financial incentives for finding more adoptive families. … The combination of legal changes and greater embracing of multicultural families — Americans have adopted more than 200,000 children from overseas in the past 15 years — have lessened resistance from both blacks and whites. The long wait for white children and the high costs of international adoptions — typically $15,000 to $35,000 — also play a role. … And agencies are offering courses to help adoptive parents enter the process with more cultural openness and awareness."

ANTITRUST:

Danone Seeks Acquisitions, But May Itself Be Takeover Target. The Wall Street Journal (8/17, Clevstrom) reports, "After a decade-long reorganization, Groupe Danone SA is hungry for acquisitions. But many say the French dairy, beverage and biscuit firm remains itself a tasty morsel." The Journal continues, "Danone plans to spend between €500 million and €1 billion, or between about $640 million and $1.3 billion, a year over the next three to five years on acquisitions, Danone Chief Financial Officer Antoine Giscard D'Estaing said in an interview." The Journal adds, "The added spending, which compares with about €200 million for acquisitions in 2005, will be channeled into small and medium purchases aimed at expanding Danone's operations to around 80 countries from the current 40. Among the markets Danone is examining are Chile, Tunisia, Thailand, China and Eastern Europe, Mr. Giscard D'Estaing said. … It could be the right time for a new strategy: The maker of Evian water, Danone yogurt and Lu cookies has spent the past 10 years cleaning up its portfolio, selling noncore assets in the beer, pasta and sauces sectors."

Teck Drops Plan To Boost Bid For Inco. The Wall Street Journal (8/17, Heinzl) reports, "In a sign that investor appetite for surging mining stocks amid a world-wide industry merger frenzy may be sated for now, Teck Cominco Ltd. said it won't proceed with a planned increased offer of 20.03 billion Canadian dollars (US$17.83 billion) for Inco Ltd." The Journal continues, "The development appears to leave Brazil's Cia. Vale do Rio Doce -- with its all-cash offer of C$19.35 billion, or C$86 an Inco share -- in the driver's seat to acquire the big Canadian nickel producer. Inco continues to endorse a cash-and-stock bid by Phoenix copper producer Phelps Dodge Corp., though investors are likely to prefer the all-cash bid. Phelps Dodge's offer was valued at about C$89.31 an Inco share as of yesterday's closing prices." The Journal adds, "Teck, a Vancouver, British Columbia, mining concern, attempted to sell C$5.73 billion of shares to institutional investors in order to help finance its bid for Inco, but Teck said it wasn't able to complete the share issue "on terms that made sense" for the company. A Teck spokesman said some investors that balked at Teck's terms for the share issue would have agreed to buy shares at a price lower than what Teck was seeking. He declined to say what price Teck was seeking."

RR Donnelley Considers Buyout Offers. The Wall Street Journal (8/17, Berman, Sender) reports, "Giant printer R.R. Donnelley & Sons Co. is entertaining offers to be bought by leveraged buyout firms, people familiar with the matter said yesterday." The Journal continues, "The Chicago-based company -- with a market capitalization of $7.4 billion -- is a logical target for these buyout shops, which seek companies with steady cash flows that can be used to pay down debt used to fund an acquisition." The Journal adds, "At least two buyout groups are considering offers, said one person familiar with the matter. One group is comprised of Carlyle Group, Madison Dearborn Partners and Thomas H. Lee Partners. A second bidding group includes Blackstone Group and Texas Pacific Group, according to another person familiar with the matter."

Australian Gaming firm Withdraws Bid For Unitab. Bloomberg (8/17, Waide) reports, "Tabcorp Holdings Ltd., Australia's biggest gaming company, withdrew its $1.5 billion hostile offer for Unitab Ltd. after antitrust opposition, leaving Tattersall's Ltd. the only bidder for the sports betting chain." Bloomberg continues, "Tabcorp said it won't challenge the regulatory ruling that ends its plan to control off-track betting on horse races in the country's three most populous states. … Buying Brisbane-based Unitab would reduce Tattersall's dependence on lotteries and slot machines and allow it to bid for Tabcorp's wagering license in Victoria state when it expires in 2012. To succeed, it may have to raise it's A$1.8 billion stock offer, which values Unitab shares at less than their current price. … 'It is a takeover by Tattersall's of Unitab without a premium for control,' said Mark Wilson, a Sydney-based analyst at Deutsche Bank. The Melbourne-based company needs to raise its bid to win approval from Unitab shareholders, who vote on the offer Aug. 21, Wilson said. … The antitrust regulator has said it won't block a deal between Tattersall's and Unitab."

ENVIRONMENT:

New Alaska Oil Leases Offered Despite Pipeline Uproar. The AP (8/17, Hebert) reports, "The Interior Department is set to open a vast area of environmentally

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sensitive wetlands in Alaska to new oil drilling, even as opponents point to corroding pipelines to the east at Prudhoe Bay as a reason to keep the area off-limits." The AP continues, "The tens of thousands of acres in and around Lake Teshekpuk on Alaska's North Slope are part of the oil-rich Barrow Arch that also includes the Prudhoe Bay fields that have kept oil flowing for decades." The AP adds, "The lease sale, opposed by environmentalists and some members of Congress, comes as federal regulators and a House committee investigate inspection and maintenance programs of BP Alaska, where widespread pipeline corrosion forced the partial shutdown of Prudhoe Bay oil production Aug. 6. … BP Alaska is a subsidiary of London-based BP PLC. … Government geologists believe at least 2 billion barrels of oil and huge amounts of natural gas lie beneath the coastal lagoons, river deltas and sedge grass meadows - an area also where caribou give birth to their calves and thousands of geese migrate each summer to molt. … Within days, the Interior Department will open tracts in the lake area for leasing, with the winning bids to be announced in late September."

WPost Calls For "Foolproof Plan" On Nuclear Waste Storage. In an editorial headlined "That Eerie Green Glow," the Washington Post (8/17, A24, 748K) suggests that "as the nation rushes back to the future by embracing atomic energy, the industry and government have to solve one little problem left over from the past: how to deal with nuclear waste." The Post discusses the package of Energy Department incentives to induce new spending on nuclear reactors, including "$2 billion in federal risk insurance to companies applying to build nuclear power plants" but adds that the DOE "must prove early on that it has a politically and technically viable plan for storing the deadly radioactive waste that nuclear power plants produce," which the Post calls a "smoldering problem for the agency." The Post concludes, "the federal government needs a foolproof plan to dispose" of spent fuel before Americans can have "confidence in nuclear power."

NYTimes Suggests Decades Of Bombing May Have Contaminated Vieques. In an editorial, the New York Times (8/17, 1.21M) notes Vieques, "a small island off the coast of Puerto Rico, made headlines a few years back when environmental activists engaged in civil disobedience aimed at forcing the Navy to stop using it for bombing practice. The Navy bowed to the pressure and departed in May 2003, leaving behind 60 years worth of bomb fragments and an untold amount of unexploded ordnance. It also left behind an obligation to clean the place up, an obligation made more urgent by the possibility of a link between the damage on the ground — the pollution of the soil and the local water supply — and a variety of physical ailments that have been detected among residents. … But studies by the Puerto Rican Health Department and universities show the need for further investigation. Cancer rates among Vieques's 9,300 inhabitants run 27 percent higher than the rates in other parts of Puerto Rico. There also are unusually high levels of heavy metals in the plant, animal and human population, as well as high levels of childhood asthma and mercury contamination."

FBI/DEA/ATF/USMS:

FBI Seen As Struggling To Update Post-9/11 Quantico Training. Under the headline "Old-School Academy In Post-9/11 World," the Washington Post (8/17, A1, Horwitz, 748K) reports in the next installment of its "Five Years Later" series, "Since the FBI came under withering criticism for its part in the intelligence community's failure to prevent" 9/11, "the bureau has added 37 hours of counterterrorism training at Quantico for new agents. But that represents just 5 percent of the curriculum, and only one hour is about Islam, Arabic culture and understanding the terrorist mind-set." The Post adds, "In a graduation speech at the U.S. Military Academy at West Point this May, President Bush declared: 'We have transformed the FBI into an agency whose primary focus is stopping terrorism,'" and FBI Director Robert Mueller has "promised the training would reflect that new role." Quantico "is where the bureau must translate the rhetoric of its director and the president into a curriculum that prepares future agents for a new mission. … 'It's way beyond what it's been in the past,' said Keith Slotter, the academy's deputy assistant director for training. … But the majority of the 701.5 hours is devoted, as it has been for decades, to traditional law enforcement skills."

Meanwhile, the Washington Post (8/17, A14, Horwitz, 748K) follows the training of "the 50 members of class '06-01,' the first of 750 agents-in-training who will graduate from the FBI Academy this year. … Thirty students…had been in the military or law enforcement, traditional recruiting grounds for the FBI. But others came from the highly educated nontraditional backgrounds the bureau has tried to emphasize." The Post goes on to detail the class's firearms and physical training, as well as the its "Orders" session, and notes that on graduation day this past February, "Class 06-01 lined up for a photograph with FBI Director Robert S. Mueller III, who swore members in as special agents. 'We are on the front lines for America,' he told them. 'Will you develop the source that provides the intelligence we need to disrupt a terrorist plot? We must continue to change because the terrorists certainly will.'"

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Gonzales Touts Gun Prosecutions Under Project Safe Neighborhoods. The AP (8/17, Lindsey) reports, "Federal prosecutions of firearms charges have more than doubled in the Western District of Virginia since an initiative aimed at reducing gun violence was launched five years ago, Attorney General Alberto R. Gonzales said Wednesday (in Roanoke, VA)." The AP continues, "Gonzales visited Roanoke to meet briefly with members of the Project Safe Neighborhoods task force, which includes representatives from 25 local, state and federal law enforcement agencies. He said he was grateful for its work. … 'It really has made a difference in communities in this part of Virginia,' he said at a news conference afterward." The AP adds, "Gonzales, who took office in 2005, said law enforcement's biggest obligation is to create environments where children can feel safe. … 'It is hard to have big dreams if you grow up in a neighborhood where you're scared,' he told police chiefs from around the district and other task force members. … From 1996 to 2000, federal gun prosecutions in the district averaged 87 a year, according to Heidi Coy, a spokeswoman for the U.S. attorney's office. Since 2001, when Project Safe Neighborhoods was approved, they have averaged 193 annually. There were 215 firearms cases prosecuted in 2005, and 144 have been filed so far this year. … Local and state officials often want gun violations prosecuted at the federal level because the penalties are stiffer, Gonzales said."

Reputed Mexican "Drug Lord" Captured Off Southern California Coast. There are more than 300 media references to Monday's arrest of reputed drug gang leader Francisco Javier Arellano Felix. For example, The AP (8/16) reports federal drug agents "arrested Mexican drug lord Francisco Javier Arellano-Felix, a leader of a major violent gang responsible for digging elaborate tunnels to smuggle drugs under the U.S. border." He was "captured by Drug Enforcement Administration agents and the U.S. Coast Guard on Monday while he was deep-sea fishing about 15 miles off the coast of Mexico's Baja California peninsula. Arellano-Felix is wanted in both the U.S. and Mexico for his role as a leader in the violent and sophisticated Tijuana-based Arellano-Felix gang, which includes seven brothers and four sisters from the Arellano family." The gang is "blamed for 20 murders in the U.S. and Mexico."

In a separate story, the AP (8/16, Spagat) writes that Arellano Felix "was a suspected strongman in one of Mexico's oldest and most notorious drug cartels until his capture aboard a U.S.-registered sport fishing boat. 'In the underworld, he was known as the enforcer. He was the violent hand, the one in charge of executions,' said Victor Clark Alfaro, director of the Binational Center for Human Rights in Tijuana, Mexico, the home to the cartel. … The cartel is believed to have lost influence in recent years. It recently ceded control of Mexicali, an important drug corridor about 120 miles east of Tijuana." A version of the AP story was published in newspapers and/or posted on the Web sites of the Wall Street Journal, USA Today, Forbes, the Los Angeles Times, San Francisco Chronicle, Houston Chronicle, Chicago Tribune, Seattle Post Intelligencer, and the UK's Guardian.

The New York Times (8/16, Stout) reports Arellano Felix "was one of 11 suspects caught on Monday morning by D.E.A. agents and Coast Guard members while they were fishing about 15 miles off the Baja Peninsula. … The officials praised the cooperation of their Mexican counterparts in arresting Mr. Arellano Felix. Gang members are suspected of killing Mexican lawmen as well as rival drug-dealers, sometimes after torture. The gang was also linked to the murder of a Roman Catholic cardinal in 1993."

In a separate story, the New York Times (8/17, Steinhauer, McKinley) reports federal officials "said…Arellano Félix, 37, was one of the last remaining ring leaders of the Arellano Félix gang. The group, based in Tijuana, is charged in several killings."

The Los Angeles Times (8/17, Enriquez, Krikorian) reports the arrest "was based on a 2003 U.S. indictment that charged [Arellano Felix] with conspiracy, smuggling and murder. A $5 million bounty had been offered for his capture, as the reputed leader of the so-called Arellano Felix Organization. At its height in the late-1990s, the cartel was believed responsible for supplying nearly half of the cocaine sold in the United States, a significant chunk of what officials estimate is a $60 billion-a-year illegal drug trade."

According to the San Diego Union-Tribune (8/16, Gross), Mike Braun of the U.S. Drug Enforcement Administration "characterized Arellano as 'the last stronghold of a declining family cartel.' He was one of 11 alleged cartel leaders indicted in federal court in San Diego in 2003 on narcotics, racketeering and conspiracy charges. … For two decades, the name Arellano Felix has been synonymous among U.S. and Mexican law enforcement with large-scale drug trafficking – and with money, power and murder – on both sides of the border. Hundreds of murders in Baja California have been attributed to the group, as well as the attempt to kill noted Tijuana journalist Jesus Blancornelas."

The Washington Post (8/17, Pomfret) reports U.S. authorities "estimated that the cartel paid out millions of dollars a year in bribes to local police in Mexico. Since then, the AFO's notoriety has skyrocketed."

The Washington Times (8/17) reports, Deputy Attorney General Paul J. McNulty "said the Arellano-Felix organization negotiated directly with Colombian cocaine-trafficking organizations, including the Revolutionary Armed Forces of Colombia, or FARC, for the purchase of multiton shipments of cocaine, received those shipments by sea and air in Mexico,

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and then arranged for smuggling the cocaine into the United States."

Bloomberg (8/16, Rowley) writes, "The arrest was announced by Coast Guard and Drug Enforcement Administration officials in Washington. Arellano Felix had been placed on the drug agency's top fugitive list in 2002 along with his three brothers, the DEA said. They are accused of operating a drug ring that ships cocaine and marijuana to the U.S."

Canada's CBC News (8/16) reports DEA officials "said they received a tip concerning the boat's location and asked the coast guard to intercept it while in international waters. Eleven people on board the Dock Holiday, including Arellano-Felix, were detained and are being taken to San Diego." The indictment "alleges Arellano-Felix is a key leader in the AFO, which is believed responsible for smuggling massive shipments of cocaine and marijuana across the U.S. border from the Tijuana area. The leaders were indicted on charges of racketeering, conspiracy to import and distribute cocaine and marijuana and conspiracy to money launder."

On its Web site, CNN (8/17) reports Coast Guard Commandant Thad Allen "said the DEA alerted him Monday morning that intelligence showed Arellano-Felix was aboard the chartered 43-foot recreational fishing vessel Dock Holiday, 15 miles off the coast near La Paz, Mexico. Arellano-Felix was traveling under an alias, but eventually confirmed his identity, officials said. Eight other adults and three juveniles also were detained. Officials said two of the men in custody are believed to be Arturo Villareal-Heredia and Marco Fernandez, both described by the DEA as 'assassins' for the Arellano-Felix organization."

KPBS, San Diego (8/16) reports on its Web site that DEA Chief of Operations Mike Braun "says his agency has the cartel in a chokehold. 'We're piling on and moving this ongoing investigation even more forward. This huge success for law enforcement it's what we live for.'"

BBC News (8/16) reports Arellano-Felix "was arrested on a boat in a joint US-Mexican operation off Mexico's Baja California peninsula. Washington had offered a reward of $5m (£2.6m) for his capture."

ABC News (8/17, Wolf) reports, "A tip led the Coast Guard to board Javier Arellano Felix's 43-foot recreational boat…Monday morning after authorities conducted undercover operations aimed at his arrest for the past 14 months, according to Michael Braun, chief of operations for the Drug Enforcement Agency. … 'For more than a decade, the Arellano Felix organization has flooded the United States with hundreds of tons of cocaine, marijuana and other drugs,' Braun said. 'Now, we have got this brutal organization in a choke hold.' … Neither Braun nor McNulty would elaborate on the circumstances surrounding the tip that led to Javier Arellano Felix's arrest, nor would they identify any of the seven adults and three minors who were onboard the Doc Holliday with Arellano Felix."

AFP (8/17, Handley) reports, "McNulty said the United States had received a tip that Arellano Felix was aboard the boat and sent the Coast Guard to interdict it. They found Arellano Felix on board traveling under an alias. … He also credited Arellano Felix's capture to 'extraordinary coordination and cooperation' between Mexico and the United States." AFP notes, "Known as 'El Tigrillo,' or the little tiger, Arellano Felix was involved in the 1993 assassination of Roman Catholic Cardinal Juan Jesus Posadas Ocampo at the Guadalajara airport, according to Mexican authorities. … He allegedly took the leadership of the gang after the arrest in 2003 of his brother Benjamin and the death of another brother, Ramon."

Javier Seen As "Playboy," Not Gang Leader. McClatchy Newspapers (8/16, Samuels) reports the longtime editor of the Tijuana weekly newspaper Zeta, Jesus Blancornelas, "dismissed the characterization of Arellano Felix as the leader of the group. Blancornelas, who nearly died in 1997 at the hands of the cartel, said the youngest member of the Arellano Felix family plays no significant role in the organization." Blancornelas characterized Arellano Felix as the "playboy of the family" who "stole drugs" from the family. "Perhaps the more significant capture, Blancornelas said, is the reported arrest of another cartel operative, Arturo Villareal, who apparently was with Arellano Felix. 'His job was to receive the drugs and get them into the United States,' Blancornelas said."

Network TV Coverage. ABC World News Tonight (8/16, story 8, 0:15, Gibson) reported, "The alleged leader of one of Mexico's most-feared drug cartels has been captured. Prosecutors say Javier Arellano Felix headed the ring. The gang allegedly dug smuggling tunnels under the border, including one we told you about that led into San Diego."

The CBS Evening News (8/16, story 7, 2:00, Schieffer) reported, "Major news tonight in the war on drugs. Francisco Javier Arellano, who heads one of the major drug cartels in Mexico, went deep sea fishing off the Baja Peninsula and managed to get himself caught by the US Coast Guard. … He was one of US law enforcement's most-wanted criminals…one of the most ruthless of the Tijuana-based Arellano-Felix cartel, picked up Monday by the US Coast Guard in international waters." Michael Braun, DEA: 'This guy happens to be one of the 45 most notorious, most wanted drug traffickers in the world. So this is not your average arrest.'"

Cable TV Coverage. CNN (8/16, 4:00 p.m.) reported, He and his brother top the list accused of shipping massive amounts of cocaine and marijuana into the U.S. … Officials describe his organization as one of most dangerous and most successful in the world. In fact, it was the cartel behind the big tunnel uncovered back in January that connected

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California and Mexico. Arellano-Felix is one of the DEA's most wanted. He had a $5 million bounty on his head. He was indicted in 2003 for…money laundering and conspiring to import huge amounts of drugs into the United States. Officials say they got a tip a few days ago that he was on board a fishing vessel."

FOX's Special Report with Brit Hume (8/16, 7:00 p.m.) reported, "A tip led authorities to the man. The DEA described him as one of the most wanted drug traffickers in the world."

Trainer Could Be Jailed Again For Not Cooperating In Investigation Of Bonds. The AP (8/17, Elias) reports federal prosecutors "will ask a judge to throw Barry Bonds' personal trainer back in jail Thursday if he again refuses to testify, this time before a newly assembled grand jury that is reportedly also investigating track coach Trevor Graham. … Anderson has refused on four different occasions to testify before federal grand juries investigating Bonds. He was released from prison July 20 after serving 15 days for refusing to testify, but only after that grand jury's term expired. … Some legal experts see Anderson as the key to proving…perjury allegations, since Bonds reportedly testified that the trainer gave him two substances that fit the description of 'the cream' and 'the clear' — two performance-enhancing drugs linked to BALCO."

McClatchy Newspapers (8/16, Almond) reports the government "believes Bonds intentionally lied under oath in 2003 when he told another grand jury he didn't knowingly take steroids. He said he took substances he thought were flaxseed oil and an arthritis balm; authorities say those products were steroids known as 'the clear' and 'the cream.' Anderson could help the government's perjury case by explaining drug calendars and other documents with Bonds' name that were seized from the trainer's…home in 2003."

California Senate Approves Bill Distinguishing Hemp From Marijuana. The AP (8/16, Thompson) reports California farmers "could legally grow industrial hemp under a bill approved Wednesday by the state Senate that distinguishes hemp from its widely grown distant cousin: marijuana. … The legislation would require that the hemp crop be tested before harvesting to make sure it has only a trace amount of tetrahydrocannabinols, or THC, the drug in marijuana. No matter the concentration of THC, hemp currently can't be legally grown in the United States without a difficult-to-get permit from the U.S. Drug Enforcement Administration. … The Office of National Drug Control Policy has opposed legalizing hemp cultivation, saying hemp crops could be used to hide marijuana cultivation by mixing the two plants in the field."

Report: Opium Poppy Cultivation Hits Record Levels In Afghanistan. The AP (8/16) reports opium cultivation in Afghanistan "has hit record levels -- up by more than 40 percent from 2005 -- despite hundreds of millions in counternarcotics money. … A Western anti-narcotics official in Kabul said about 370,650 acres of opium poppy was cultivated this season -- up from 257,000 acres in 2005 -- citing their preliminary crop projections. The previous record was 323,700 acres in 2004, according to the U.N. Office on Drugs and Crime."

Mueller Appoints Burrus Criminal Investigative Division Chief. In a widely-distributed story, the AP (8/17) reports, "James H. 'Chip' Burrus, a 23-year FBI veteran, has been named assistant director in charge of the bureau's criminal investigative division. Burrus, who has been acting chief of the division since February, will supervise investigations of public corruption, civil rights violations, gangs, organized crime, financial crimes and violent crimes. He was appointed by FBI Director Robert S. Mueller, the bureau announced Wednesday." The AP notes that "Burrus has served on the security detail for three attorneys general, won an FBI director's award for work in Indian country as assistant chief of the Minneapolis office, assisted with the recovery of kidnaping victim Elizabeth Smart as chief of the Salt Lake City office and spent a year and a half as deputy chief of the criminal investigative division."

Mueller Names Thornton First Female San Francisco SAC. The San Francisco Chronicle (8/16, B3, Bulwa, 405K) reported, "A veteran FBI agent who led offices in Arizona and Alabama will soon become the first woman to head the FBI's San Francisco division…an agency spokeswoman said Tuesday. Charlene Thornton will replace Joe Ford," who "recently was selected as the agency's associate deputy director, the third-ranking official. FBI Director Robert Mueller officially designated Thornton for her new assignment as special agent in charge on Aug. 4. Her start date has not yet been determined, said Special Agent LaRae Quy, a spokeswoman for the San Francisco division." The Chronicle noted that Thornton "now serves as assistant director of the inspection division at FBI headquarters, where she investigates employee misconduct and evaluates agency programs to make sure that they are lawful and effective." Bay City News Wires (8/16) added, "Quy said she does not know when Thornton will begin her new position in the San Francisco bureau, but looks forward to her arrival. Quy said Thornton's previous experience as special agent in charge both in Birmingham and Phoenix should prove useful in her new position." The AP (8/17) also briefly reports on Thornton's appointment.

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Former El Paso SAC Found Guilty Of Lying To Investigators. The AP (8/17) reports former FBI El Paso SAC Hardrick Crawford on Wednesday was found guilty "of two counts of lying to investigators about his relationship with a Mexican race track owner. … Crawford, who left his job in 2003, was acquitted of three other charges of lying to investigators. He has denied any wrongdoing." El Paso Times (8/17, Fonce-Olivas) notes, "Out of five counts, Crawford was found guilty on count two, which alleged Crawford concealed material facts from the FBI on June 6, 2003…and on count three, which alleged Crawford made false statements in Office of Government Ethics Public Financial Disclosure Reports submitted to the FBI for calendar year 2002 regarding gifts allegedly received. Crawford will be sentenced on Nov. 9."

IMMIGRATION:

Federal Agents Bust East-Coast Korean Prostitution Ring. The New York Times (8/17, Vasquez, 1.21M) reports, "Law enforcement officials yesterday announced the arrest of 31 people who they said were involved in running an international prostitution ring that operated at least 19 brothels in the Northeast. … Many of the houses in what officials described as a 'network of Korean-owned brothels stretching from Rhode Island to Washington, D.C.,' claimed to be legitimate businesses like massage parlors, health spas and acupuncture clinics." US Attorney Michael Garcia said at the press conference, "This exploitation is not a back-alley business. It happens in residential areas of our nation's capital, it happens in the West 20's in New York City." The AP (8/17, Neumeister) notes DHS Assistant Secretary Julie L. Myers "said the United States was seeking to break the backs of the human trafficking rings by increasing the number of investigations of smugglers and traffickers and targeting the financial proceeds of the criminal organizations."

Newsday (8/17, DeStefano) reports that "71 Korean immigrant women were taken to special locations by agents of U.S. Immigration and Customs Enforcement for in-depth interviews to see if they were coerced or forced to work as prostitutes to pay off their travel debts." Myers said that "none of the 71 women were arrested and they were being given medical attention and other assistance." She added that "the women could be eligible for special visas if they cooperate in the probe and were found to be forced sex workers." Newsday notes, "Investigators were reluctant to put a dollar value on the 19 sex businesses busted. But FBI special agent Andrew Arena said the individual women could expect to earn $2,000 to $20,000 a month at the brothels." The New York Daily News (8/17, Kadushin, Zambito, 729K) notes, "As Tae Hoon Kim paced the sidewalk outside his Queens apartment building, using a cell phone to broker jobs for dozens of Korean prostitutes, the feds were listening in, according to court papers filed yesterday in Manhattan Federal Court. A bug placed in Kim's phone in March helped city cops and federal agents unravel" the ring.

The New York Sun (8/17, Goldstein) reports, "Federal authorities learned of the network of brothels while investigating possible police corruption last year in Flushing, Queens, an FBI agent, Andrew Arena, said at a news conference yesterday. … It was 'an international scheme,' Ms. Myers said. 'It was not just a couple of brothels.'" The New York Post (8/17, Graves, 608K) also reports the story, under the headline "'New York' Korean Sex-Slave Ring Smashed."

The Washington Times (8/17, Cella, Seper) reports, "Federal agents yesterday said they raided five brothels and arrested four persons in Northwest as part of a multistate human-trafficking and prostitution operation involving women recruited from South Korea with the promise of making money to support their families back home. … The arrests took place during raids by U.S. Immigration and Customs Enforcement (ICE) and FBI agents at locations in Baltimore, New York, Pennsylvania, Connecticut, Rhode Island, North Carolina and California." The Times adds, "In the District, federal agents targeted five brothels that were masquerading as massage parlors or spas. … The establishments were 14K Spot, which operated in a basement in the 1400 block of K Street Northwest; Downtown Spa, in the 1000 block of Vermont Avenue Northwest; OK Spa, in the 2400 block of Wisconsin Avenue Northwest; Cleveland Park Holistic Health, on the second floor of a building in the 3500 block of Connecticut Avenue Northwest; and Royal Spa, in the 500 block of 10th Street Northwest. … Authorities said that four persons were arrested at those locations and that 23 women were taken into custody."

The Baltimore Sun (8/17, Dolan) reports, "The Moonlight Spa across from Woodlawn High School advertised massage services alongside its tanning booths. Federal authorities said Wednesday that the suite at the strip mall once offered much, much more." The Sun continues, "Inside, authorities allege, had been the local outpost for a prostitution ring that stretched from Rhode Island to Washington, D.C. Prosecutors in New York have charged 31 people, including at least four from Maryland, with using seemingly lawful businesses to house prostitutes imported from Korea, transport them up and down the East Coast and amass millions of dollars from sex services." The Sun adds, "Security was so elaborate at the Baltimore County operation that authorities said it had not one, but two hidden compartments to stash prostitutes in case of a police raid. … Court-approved wiretaps on cell phones revealed the location of one secret closet at Moonlight, according to court papers.

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… But Mark Bastan, acting special agent in charge of the Baltimore office of U.S. Immigration and Customs Enforcement, said his agents didn't immediately know about a second one behind a kitchen cabinet when they stormed the storefront Tuesday afternoon."

Border Patrol Agents Assigned As "Bodyguards" For National Guard. Under the headline "A New Role For The Undermanned Border Patrol," the Washington Times (8/17, Seper, 88K) reports National Guard troops deployed along the US-Mexico border "have been assigned bodyguards -- some of the same agents the soldiers were sent to relieve." Veteran CBP agents in Arizona say they "were issued standing orders to be within five minutes of National Guard troops along the border and that Border Patrol units were pulled from other regions to protect the Guard units -- leaving their own areas short-handed." The agents, "who refer to the assignment as 'the nanny patrol,' said most of the Guard troops are not allowed to carry loaded weapons."

Immigrant Activist Takes Refuge From Deportation Inside Chicago Church. The Chicago Tribune (8/17, Avila, 623K) reports immigrant activist Elvira Arellano, who has taken refuge in a Chicago church, "braced herself Wednesday for a lengthy standoff with the government" as she defies a deportation order. The Tribune says "ministers, friends and U.S. Rep. Luis Gutierrez (D-Ill.) came by to offer support to an illegal immigrant now considered a fugitive." In 2002, Arellano was arrested for working illegally at O'Hare International Airport. As lawmakers "helped her get temporary stays of deportation, Arellano became a vocal advocate for illegal immigrants." The Washington Post (8/17, A10, Lydersen, 748K) says she has "become a vocal leader of the burgeoning immigrant rights movement. She has visited Washington to lobby lawmakers, and she spoke with Mexican President Vicente Fox during a Chicago area visit in 2004." But an ICE spokesperson Gail Montenegro said, "ICE is required to enforce the nation's laws fairly without any regard for a person's ability to generate publicity and support." While Montenegro "would not say whether agents will go to the church," she did say ICE "has the authority to arrest anyone in violation of immigration law anywhere in the US."

TAX:

Judge Orders Two Floridians To Stop Preparing Tax Returns. The Orlando Business Journal (8/17) reports, "A federal judge ruled on Aug. 8 that Jean-Marie Boucicaut and Marie Thelemarque of Orlando, and Boucicaut's Tax Review Corp. company, can no longer prepare federal tax returns for others." The Journal continues, 'In addition, the Department of Justice ordered Boucicaut and Thelemarque to return $772,449 plus interest to the United States its says they fraudulently got by intercepting and cashing 593 tax refund checks of other people. … 'The Justice Department and the Internal Revenue Service are working vigorously to halt the preparation and filing of false and fraudulent income tax returns,' says Eileen J. O'Connor, assistant attorney general for the Justice Department's tax division, in a release. 'People who prepare fraudulent refund claims are cheating honest taxpayers and often their customers, as well.'" The Journal adds, "The defendants filed amended income tax returns without authorization for people who did not know that returns had been filed on their behalf, Chief Judge William J. Zloch of the U.S. District Court for the Southern district of Florida in Miami found. … The government alleged that the defendants obtained tax information from copies of old tax returns given to them after the defendants offered to help taxpayers recover money allegedly owed to them by the IRS. The defendants used this information to prepare returns requesting tax refunds based on false credits and bogus deductions and directed the IRS to send the requested refund checks directly to them, the court said."

CONGRESS-ADMINISTRATION:

Bush Touts Free Trade, Accuses Opponents Of Pushing "Cut-And-Run" Strategy In Iraq. The Washington Post (8/17, A2, Fletcher, 748K) reports President Bush yesterday "spent the afternoon in southeastern Pennsylvania, where he…visited a Harley-Davidson plant, in an effort to shine a light on his handling of the economy and boost" Republican Lynn Swann's "candidacy for governor." Both efforts, adds the Post, "have been struggling lately." The New York Times (8/17, Rutenberg, 1.21M) says that appearing for Swann, Bush "picked up his party's attack against Democrats for having what the Republicans have called the wrong approach to the fight against terrorism." But "his was a kinder, gentler approach than the one used by Vice President Dick Cheney and others in recent days." Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee, "responded by saying, 'Misstating the Democrats' position on Iraq doesn't change the fact that the White House's Iraq policy has been a tragic failure.'"

The Washington Times/AP (8/16) reports from York, PA, that Bush "hopped on a Harley-Davidson at a motorcycle factory yesterday as he made an election-year pitch for Republican stewardship of the economy." Bush also "held a round-table discussion with Harley-Davidson workers about the US economy, which has showed recent signs of slowing." The President "said he discussed with the workers the need for government to open up markets for US products around

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the world. 'The more Harleys sold in a place like Vietnam or China or India, the more likely that somebody is going to be able to find work,' Mr. Bush said."

USA Today (8/17, Lynch, 2.27M) reports from York that as Bush "flew here Wednesday to cultivate support for free trade, he did so against darkening sentiment at home and abroad. Negotiations over a new global trade deal are moribund." In "a 25-minute interview with USA Today," Bush said, "My concern is that this kind of fear of globalization causes a reaction that will cause us to lurch toward protectionism. That's my biggest concern." Treasury Secretary Henry Paulson "earlier this month called for 'thinking more creatively' about helping those who lose out from globalization." But "in the interview Wednesday, the president dismissed the need for new initiatives to address worker unease. Existing trade-adjustment funds, which provide retaining aid for some workers who lose their jobs because of foreign competition, and community college programs are adequate, he said."

The York Daily Record (8/17) reports that "donning sunglasses similar to the ones worn by U2 front man Bono…Bush strutted into the motorcycle maker's Softail plant Wednesday afternoon for a two-hour foray." He "stopped to sign an autograph, frequently shook hands with workers and later straddled a shiny blue-and-white Softail Deluxe, revving the engine to workers' screams and hollers." After dismounting, "he looked directly into the press cameras, took off his sunglasses, posed, nodded his head and laughed before stepping out of the test booth."

The CBS Evening News (8/16, story 9, 0:25, Schieffer, 7.66M), which was the only network to mention Bush's trip, showed Bush on the motorcycle wearing sunglasses. The President, said CBS, "ripped off those safety goggles because he said they made him look like rock star Bono. Which was all right, of course, since the bike was standing still. Mrs. Bush was campaigning in another state. We have had no comment from her on all of this so far."

The York Dispatch (8/17, Schillinger) says the President "spent a little more than an hour at the plant before jumping back on his helicopter, Marine One, and heading to Lancaster for a fund-raising reception for Republican gubernatorial candidate Lynn Swann." At a fundraiser for Swann in Lancaster, says the AP (8/17, Riechmann), "Bush said critics of his Iraq policies are advocating a 'cut-and-run strategy that would draw terrorists to American soil. … Even though he spoke at a political event, Bush kept the criticism of his opponents gentle, and left partisan politics out of it. His critics are mostly Democrats who contend he has not outlined a plan for success in Iraq. They are increasingly supportive of a timetable for bringing troops home." Bush "raised an estimated $650,000 in much-needed cash for Swann, who trails Rendell in fundraising and the polls."

The Pittsburgh Post-Gazette (8/17, Mauriello, 241K) says "the president's declining popularity does not make his stumping for Swann any less valuable, political analysts said. That's because yesterday's presidential visit was more about fund raising than politics, they said."

The Harrisburg Patriot-News (PA) (8/17, Smith, 107K) reports that "while some candidates have avoided appearing close to Bush, Swann did not mask his enthusiasm over the president's visit." Swann "told the crowd how impressed his parents were by the president's support of their son. 'This is cool,' Swann said, 'because the president of the United States is here for their baby boy Lynn.'" The Philadelphia Inquirer (8/17, Worden, Couloumbis, 399K) notes "the latest poll, released today, shows Rendell with a commanding 19 point lead over Swann. The Quinnipiac University survey has Rendell with a 57 to 38 percent lead among likely voters."

The Intelligence Journal (8/17, Pidgeon) reports Bush "bypassed 120 protesters camped out at the Host's main entrance when the motorcade turned off the highway and proceeded to the fundraiser by way of an alternative entrance." The President "spoke for 25 minutes, spent 10 minutes shaking hands and left the Host about 6 p.m to return to the White House."

The Christian Science Monitor (8/17, Feldmann, 58K) reports that as Republicans "struggle to keep control of Congress, each new headline that relates some sign of progress in battling terrorism - President Bush's strongest issue - is a boon." Bush's political team, "led by Karl Rove, has made clear that for the third straight election, it will play the national security issue hard. The strategy worked in 2002 and 2004, but with the Iraq war - a central front in the war on terror - and Bush himself persistently unpopular, prospects for 2006 remain uncertain. And this time, the Democrats are not ceding the national-security mantle to the GOP." Whether or not "the terrorism/national security issue can help Bush and his party in November, it's been clear for weeks that Bush is better off avoiding certain congressional districts. In many of the closest House races, Republican incumbents are openly distancing themselves from Bush on Iraq and on wedge issues such as stem-cell research - with the party leadership's blessing."

McClatchy Newspapers (8/17, Hutcheson) reports Republicans and Democrats "are beating each other up on the issue of terrorism in the wake of the alleged London airplane plot, but polls show that most Americans are far more worried about the war in Iraq." That is "bad news for President Bush and his Republican allies because, with congressional elections less than 100 days away, most voters don't think the war was worth it and don't like Bush's handling of it. Pollsters say that any boost the president gets from the alleged plot to blow up trans-Atlantic aircraft isn't likely to alter negative opinions about the war." Pollster John

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Zogby said, "Iraq is far and away the Number 1 issue. Nothing comes even close."

Cheney Also Criticizes Democrats On Iraq At Campaign Event. The AP (8/17, Gouras) reports that at a campaign event for Sen. Conrad Burns in Whitefish, Montana, Vice President Dick Cheney "blasted Democrats for not supporting the war in Iraq, and said Montanans need to re-elect" Burns "to make sure the administration can carry out its wartime plans." Cheney said "the administration is sticking by its plan to stay in Iraq as long as it takes to make sure the country is stable. He said it would be wrong to set deadlines for withdrawing troops." The AP adds state Sen. John Tester "has blasted the administration for leading the nation into Iraq on false pretenses. Democrats are banking that Cheney, whose image has suffered in recent years, will hurt the GOP campaigns more than help them."

IG Probes Yielding Stiffer Punishments. Government Executive (8/17, Mandel) reports, "Suspensions and debarments resulting from inspector general actions nearly doubled in 2005, and personnel actions rose more than 40 percent, according to a report released Tuesday by two IG groups." GE continues, "Suspensions and debarments, which are proceedings to exclude parties from federal contracts, grants, loans and other transactions, rose 97 percent in fiscal 2005 to 9,918 from 5,045 the previous year, the report from the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency stated. Those groups are composed of presidentially appointed and agency-appointed inspectors general, respectively. … Personnel actions including reprimands, suspensions, demotions and firings of government, contractor and grantee employees increased to 2,819 in 2005, from 1,989 the previous year." GE adds, "Marilyn Richardson, liaison for the PCIE vice chairman, said the increases did not necessarily indicate a spike in malfeasance compared with the year before, noting that some proceedings can take more than a year to complete. But 'the OIGs have been more aggressive,' she said. Richardson declined to elaborate on the agency breakdown of the figures or in what areas the offices had concentrated on. … In addition to the suspensions and debarments, the report noted that 57 IG offices secured $20 billion in 2005 in potential savings from audit recommendations and investigative recoveries. … That amounted to $15.7 billion in funds that agency managers agreed could be put to better use, according to the recommendations of their IG offices, and $4.3 billion in payments from investigations with IG involvement. Those figures represented funds agreed to in fiscal 2005, but include funding and payments stemming from old investigations that were finalized in 2005."

Despite Budget Constraints, Legal Services Executives Enjoy Perks. The Washington Post/AP (8/17, A23, Margasak) reports the Federal program "that provides legal help to poor Americans turns away half its applicants for lack of resources. But that has not stopped executives from lavishing expensive meals, chauffeur-driven rides and foreign trips on themselves." Agency documents "detail the luxuries that executives of the Legal Services Corp. have given themselves with federal money -- from $14 'Death by Chocolate' desserts to $400 chauffeured drives to locations within taxicab distance of their offices." The "government-funded corporation has spacious headquarters in Georgetown -- with views of the Potomac and rent significantly higher than that of other tenants in the same building. And Legal Services board members wrote themselves a policy that doubled the amount they can claim for meals, compared with staff employees."

Legal Services Head Rebuts Criticism On Spending. The Fulton County Daily Report (8/17, Ringel) reports, "Frank B. Strickland, the chairman of the board of the Legal Services Corp., on Tuesday vigorously defended the group from charges of wasting taxpayer dollars. … 'These are legitimate costs,' said Strickland, who has chaired the LSC, a congressionally established nonprofit that funds legal aid programs around the country, since 2003. Strickland also is a partner in the Atlanta firm Strickland Brockington Lewis." The Report continues, "A story by The Associated Press said that LSC board members lavished money on trips to Puerto Rico, expensive meals and chauffeur-driven cars. … Sen. Charles Grassley, R-Iowa, said Legal Services executives were 'living high off the hog' by permitting board members to receive up to 200 percent of an allowable meal expense as long as they ate together. … Strickland bristled at criticism of the board's holding three of their four annual meetings outside of Washington. He said that visiting cities around the country is 'vastly more beneficial' than meeting in Washington because the trips allow board members to hear from local legal aid attorneys, clients and judges who have a personal knowledge of legal aid needs." The Report notes, "He explained the board's trip to Puerto Rico allowed the members to see the largest single program served by the Legal Services Corp., one that had not been visited in the three decades since the LSC was established. … Strickland also provided a point-by-point response prepared by the LSC to other aspects of the AP story and a similar story aired on CBS News."

White House Press Office Uses Internet To Respond To Press Stories. The AP (8/17, Riechmann) reports the Bush White House "fires off electronic rebuttals when it has a beef with news stories, broadcasts or statements by its critics, shooting its retorts directly into reporters' e-mail inboxes and posting them on the

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Internet." Bush officials "say their 'Setting the Record Straight' memos, which dispute passages in stories aired and printed about the president, are about seeking the truth. Democrats and other targets of the memos say they're more about spin than rebuttal." Counselor to the President Dan Bartlett said, "The primary purpose is that un-rebutted charges on important issues sometimes become viewed as fact." Even if "attempts are made to fix mistakes, corrections published in newspapers or broadcast on TV aren't always seen, Bartlett said. It's essential, especially in today's era of Internet chat rooms and 24-hour news, that the White House issue its rebuttal as soon as possible, he said." The AP adds Democrats "dismiss the aggressive tactic, and say it suggests the Bush White House is on the defense, fighting an uphill battle over ratings."

Official Says US, EU Open Skies Agreement Can Be Completed By Years' End. The Wall Street Journal (8/17, Jolis, 2.03M) reports transportation spokesman Stefaan De Rynck said "an open-skies agreement between the European Union and the U.S. can be salvaged and signed by the end of the year." The announcement "comes one day after the U.S. said it would delay relaxing restrictions on foreign ownership of its airlines, which the EU said was needed for any open-skies deal to be signed." De Rynck said "Deputy Secretary of Transportation Maria Cino promised EU Transport Commissioner Jacques Barrot that the U.S. will have eased its ownership regulations by" the end of the year.

Few States Win Approval For Plans To Meet No Child Left Behind Teacher Standards. The AP (8/17, Feller) reports the U.S. Education Department has found that most states "still face an enormous challenge" in satisfying the No Child Left Behind Act's requirement that there be "highly qualified teachers in every core academic class." The department ruled that 37 states, D.C. and Puerto Rico "must submit new data or plans this fall" while four states "must submit new plans and undergo monthly auditing of their teacher quality data" and nine states received "favorable reviews for handing in complete plans and creative ideas about how they will improve."

States Seek To Ease Teacher Shortages. The Wall Street Journal (8/17, Chaker, 2.03M) reports that while NCLB is "tightening requirements for teachers to meet certain standards," many states are facing difficulties in filling teaching positions due to increased "demand for teachers…in a number of fields" and "a flood of" retiring "experienced, baby-boomer teachers" while "relatively few new teachers are sticking with the profession." Eighteen states "have passed measures encouraging teaching" including attempts to lure teachers out of retirement, pay raises and streamlined teacher certification.

Trend Toward High School Graduation Exams Said To Be Slowing. The AP (8/17, Feller) reports, "After years of momentum, the drive to make students pass a test to graduate from high school has stalled -- and it's likely to stay that way" according to a report issued yesterday by the Center on Education Policy. The report found that "not a single state adopted a new graduation-exam requirement in 2006, and one state even took a step back." The Center's president, Jack Jennings, said that indicates "a kickback against testing." But already 22 states with "about two-thirds of the nation's 15 million public high school students are required to pass" an exit exam and "three others are phasing in these 'exit exams' by 2012."

USA Today (8/17, King, 2.27M) adds the report found a lot of variation in the level of the exams. While "most are aligned to 10th-grade standards," some "test on eighth-grade material" and others "tie it to the 11th grade." Also, "most states test just for writing, reading and math," but some "test for subjects such as history and science." Every state allows students several chances to pass. The impetus for such exams is said to come from "the business community" while objections come from "those representing poor and immigrant students."

States Address Rising Costs Of College Textbooks. USA Today (8/17, Marklein, Walton, 2.27M) reports, "Concerns over spiraling college textbook prices have prompted state legislators to introduce more than 40 bills and resolutions in 15 states this year." Meanwhile, Congress will be holding hearings "next month" and "a report is due in May." States are developing a number of approaches including "rental programs" and sales tax exemptions but "a key focus this year has been on faculty" with states urging those who choose the texts to consider the costs to students when making their selections.

Coalition Encourages Public Investigation Of Earmarks. In the Washington Post's "Special Interests" column (8/17, A23), Judy Sarashon says, "A coalition of odd bedfellows is trying to bring more transparency to earmarking by encouraging citizens to get involved in tracking who is trying to get what money for which special interest. And all of this will be online and available to the public." The coalition "includes the Sunlight Foundation, Citizens Against Government Waste, Porkbusters.org, Human Events Online and the Washington Examiner newspaper. They created a single database of earmarks, but each organization is presenting the database on its own Web site and asking the public to participate in different ways."

Inappropriate Use Of Email By Federal Workers Examined. In his Washington Post's "Federal Diary" column (8/17, D4), Stephen Barr says, "Inappropriate

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workplace use of e-mail is not new. But as e-mail increasingly substitutes for face-to-face conversation, it seems that more employees send messages that get them into trouble." Scott Bloch, the head of the federal Office of Special Counsel, said, "When people are on the Internet or using e-mail, there is almost an unconscious dimension they have entered." The Post adds that as a "general rule, each federal agency sets out guidelines for the use of government resources, including office computers." In the Federal sector, Bloch's office "has brought cases against public employees who have been accused of violating the Hatch Act, a law that restricts certain partisan activities by government workers. In some of the cases, e-mail served as evidence of electioneering or advocating for a candidate."

Pension Reform Said To "Modestly Improve Retirement Security." USA Today (8/17, 2.27M) editorializes that defined benefit pensions are "increasingly a relic of an era when large companies in established industries — steel, airlines, autos — enjoyed healthy profits, robust market share and limited competition. As those companies have run into financial problems, managements have sought ways to trim or shed their pension obligations. Thursday, President Bush is set to sign a bill that was intended to safeguard those traditional pensions for the estimated 44 million Americans covered by private sector plans. … Does the bill guarantee that? No. Does it modestly improve retirement security? Yes. The legislation does nothing to prevent companies from converting traditional pensions to less generous plans, or from entering bankruptcy and dumping their pension plans on the Pension Benefit Guaranty Corp. (PBGC), which makes good on at least a portion of pension commitments when companies default. What the legislation does is toughen the rules so companies that do offer traditional pensions fully fund them and pay reasonable premiums to the PBGC to make sure the agency has funds to absorb plans that go belly up."

OTHER NEWS:

Positive Reports On Inflation Boost Stocks. USA Today (8/17, Shell, 2.27M) reports, "Stocks hit their highest levels in three months Wednesday after a second tame inflation reading in as many days increased hopes on Wall Street that the Federal Reserve will be able to ward off inflation without doing major harm to the economy. The government reported Wednesday that consumer prices, excluding volatile food and energy costs, rose just 0.2% in July, below the 0.3% gain analysts had expected. Couple that with Tuesday's sharper-than-expected decline in prices at the wholesale level, and evidence is building that inflation risks may be receding." That's "good news for Wall Street. A reduction in inflation jitters makes it less likely that the Fed, which left short-term interest rates unchanged earlier this month for the first time in more than two years, will have to resume its rate-tightening campaign." The Dow Jones industrials "rallied 97 points, or 0.9%, to 11,327, its highest since May 16." The Financial Times (8/17, O'Doherty) says "the S&P 500 was up 0.8 per cent, or 9.85 points, at 1,295.43, while the Nasdaq Composite was up 1.6 per cent, or 34.53 points, at 2,149.54." The Wall Street Journal (8/17, Browning, 2.03M), among other sources, also reports the stock numbers.

The New York Times (8/17, Uchitelle, 1.21M) runs a similar story titled "Inflation Gives Signs Of Slowing," while the Wall Street Journal (8/17, Conkey, 2.03M) says "underlying inflation eased in July for the first time in several months, a reprieve for the economy that suggests the Federal Reserve's campaign of interest-rate increases may be at an end." USA Today (8/17, Kirchhoff, 2.27M) also says the inflation data "data appear to validate the Federal Reserve's prediction that slowing growth will eventually reduce inflation, and its decision last week to pause from further increases in short-term interest rates, some economists said." The markets "certainly saw it that way."

However, the Washington Post (8/17, D1, Henderson, 748K) runs a story headlined "Cost Of Living Gets Costlier," in which it reports, "After poring over reams of data, the Labor Department reported yesterday that inflation rose last month, eating into people's paychecks and savings at a quickening clip. … Textbooks, whose prices have risen at a brisk 6.2 percent pace in the past year, are among the many goods and services that are becoming more expensive as inflation persists at some of the highest levels in 15 years. … Fruits and vegetables are up 3.7 percent for the year ending in July. Airfares are up. Hospital bills rose. Hotel room rates are rising. Rents are up.":

Adult-Guardianship Disputes On The Rise. The Wall Street Journal (8/17, Silverman) reports, "Mark Glasser and Suzanne Mathews are in a bitter battle over the care of Lillian Glasser. But they're not divorcing spouses, fighting over a child. They are siblings, fighting over whether their 86-year-old mother, Lillian Glasser, needs a guardian, and if so, who should play that role. Mrs. Glasser has an estimated fortune of $25 million, and the case has already generated more than $3 million in legal and other fees amid court battles in two states." The Journal continues, "Some of the thorniest custody battles these days are over the care of elderly parents, spouses or grandparents. As longevity increases, a growing number of siblings and other family members are fighting over where elderly parents should live, who should be their primary caregiver, and who should control their finances. … The custody fights are shining a spotlight on adult guardianship, in which a person is named by a court to

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manage an incapacitated adult's finances or personal care. Amid a patchwork of different state laws on the subject, more states are updating their guardianship laws and are seeking to make battles less complicated by making their laws more uniform." The Journal adds, "There are no reliable national statistics on the number of guardianships -- let alone disputes -- but some attorneys who focus on elder law say that such feuds are on the rise."

Custody Battle Over Virginia Teen Ends In Settlement. The Washington Post (8/17, A1, Markon) reports, "The family of a Virginia teenager who has refused conventional medical treatment for cancer reached a settlement yesterday with state officials, agreeing that he will be seen by a new oncologist while continuing his alternative therapy." The Post continues, "The compromise means that Starchild Abraham Cherrix, 16, will not have to undergo chemotherapy against his will, as a judge had ordered. Officials in Accomack County on Virginia's Eastern Shore had accused his parents of medical neglect for allowing him to seek alternative treatment from a clinic in Mexico." The Post adds, "The settlement, reached the day the dispute was to go to trial, ended a case that has attracted attention nationally and pitted parental rights against the government's obligation to protect the health of children. With politicians of both major parties weighing in, the battle began to take on overtones of the controversy surrounding Terri Schiavo, the brain-damaged Florida woman whose medical care led to multiple court decisions and high-profile political involvement. .. . Under state and federal court decisions, parents are usually allowed to make medical decisions for their children, legal and medical experts said. But some states, including Virginia, allow judges to override parental decisions if they believe a child's health is endangered -- as initially happened to Cherrix. … It is uncommon for such disputes about treatment to go to court, experts said. When they do, they often involve matters of religious principle, such as when Jehovah's Witnesses refuse to allow children to have blood transfusions."

First Lady Raises Funds For GOP Candidates In Three States. The AP (8/17, Sewell) reports First Lady Laura Bush "helped raise money for Republican candidates in three states Wednesday in crucial midterm elections." Mrs. Bush "campaigned in Ohio, Kentucky and West Virginia, headlining a fundraising luncheon for U.S. Sen. Mike DeWine in suburban Kettering. President Bush has been at two Ohio fundraisers this year for DeWine, being challenged by Democratic U.S. Rep. Sherrod Brown." Mrs. Bush also "raised money in Lexington, Ky., for Rep. Geoff Davis, being opposed by Democratic former Rep. Ken Lucas, and Fairmont, W.Va., for congressional candidate Chris Wakim, facing Democratic incumbent Rep. Alan Mollohan."

MSNBC's "Hardball" (8/16, Shuster) reports that with President Bush and Vice President Cheney "forced to defend unpopular foreign policies, the GOP is dispatching First Lady Laura Bush to talk about domestic issues. Near Chicago, the Democratic candidate for Congress is Tammy Duckworth, an Iraq war veteran and double amputee. On Tuesday, Laura Bush campaigned for Duckworth's opponent, Peter Roskam." Mrs. Bush was shown saying, "We know that in the United States House of Representatives, Peter Roskam will support tax cuts. And the tax cuts are what fueled our economy."

Santorum Seen As Making Gains By Running Away From Bush. The Wall Street Journal (8/17, Lueck, 2.03M) reports the Pennsylvania Senate race between Democrat Bob Casey Jr. and Republican Sen. Rick Santorum "is a barometer for a crucial question this election year: Will widespread public anger -- about Mr. Bush and issues ranging from war to scandal -- lead voters to toss out large numbers of Republican incumbents and end Republican control of Congress? Or can Republicans do enough to distance themselves from their party's leader and his track record to hang on?" This campaign "suggests it could go either way. Polls have consistently shown Mr. Casey, now state treasurer, with a strong lead throughout the year. But two recent surveys have shown Mr. Santorum closing the gap" to six or seven points from 18 points. Santorum's gains "came after an advertising and campaigning blitz that played down his ties to the White House and the congressional Republican leadership. When President Bush arrived in Lancaster, Pa., yesterday to campaign for the Republican gubernatorial candidate, Mr. Santorum was 130 miles away campaigning at an agricultural event." During a "recent campaign swing, the senator rarely mentioned Mr. Bush, and when he did, it was generally to point out where they differed -- even if the differences were modest."

Allen Meets With Indian-American PAC Leaders Over "Macaca" Gaffe. In an effort to stanch the ongoing mini-media frenzy over his reference to the campaign worker of rival James Webb as "Macaca," Sen. George Allen yesterday met with leaders of the Indian American political community. The AP (8/17, Barakat) reports, "Members of the US Indian Political Action Committee said they have received hundreds of e-mails about the comments Allen made Friday at a speech that S.R. Sidarth was videotaping." Sonjay Puri, "a northern Virginia businessman and founder and director of the PAC, which claims 30,000 members," said, "Obviously this is something that has us very, very concerned. The remarks are very insensitive." The AP adds Allen has "said he apologizes to

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Sidarth if he took any offense, but the 20-year-old college student has said he thinks Allen's remarks were an attempt to highlight Sidarth's race in what he says was an all-white crowd." Puri, who "described himself as nonpartisan, said the PAC has had good relations with Allen and he has been receptive to the group's political interests on issues including the economy and immigration. But he added that said Allen faces a 'lot of bridges to be mended.'"

The Washington Times (8/17, McLaughlin, 88K) reports Puri said "Allen has been supportive of his community's concerns but will have to regain its trust and votes after making a racially insensitive comment." Puri said, "This kind of statement puts everything into a wash, so we need to work with him so we can rebuild the relationship."

The Washington Post (8/17, B1, Craig, Shear, 748K), on the front page of its Metro section (yesterday's report had run on A1) says Webb "commented about the controversy for the first time Wednesday, saying that he thinks Allen 'knew what he was saying' when he addressed S.R. Sidarth, a 20-year-old from Fairfax County, as 'Macaca' at a GOP rally Friday. The term, which refers to a genus of monkey, is an ethnic slur in some cultures."

McCain Endorses Allen. The Washington Post (8/17, B1, Craig, Shear, 748K) reports Sen. John McCain "came to the heart of Virginia's military community" in Norfolk yesterday "to boost the fortunes of Sen. George Allen (R), hours after Democratic candidate James Webb issued his harshest critique to date of how Republicans have handled Iraq and the fight against terrorism." The "dueling events highlighted the central themes of Virginia's Senate race -- Iraq, terror and foreign policy -- while focusing on the state's large contingent of veterans, who make up about 10 percent of eligible voters." McCain's endorsement "at a rally in Norfolk was designed to showcase Allen's support for the military and veterans." The Post adds Allen's event with McCain "was partly overshadowed by continuing criticism over comments Allen made last week to a Webb volunteer of Indian descent that many have said were demeaning and insensitive."

Anticipating Change Of Control, Washington Lobby Firms Hiring More Democrats. The Washington Post (8/17, A1, Birnbaum, 748K) reports in a front page story, "Washington lobbying firms, trade associations and corporate offices are moving to hire more well-connected Democrats in response to rising prospects that the opposition party will wrest control of at least one chamber of Congress from Republicans in the November elections." In "what lobbyists are calling a harbinger of possible upheaval on Capitol Hill, many who make a living influencing government have gone from mostly shunning Democrats to aggressively recruiting them as lobbyists over the past six months or so." In June, "one of Washington's largest lobbying law firms, DLA Piper Rudnick Gray Cary LLP, transferred the chairmanship of its government affairs practice from a Republican, Thomas F. O'Neil III, to a prominent Democrat, James J. Blanchard, a former governor and congressman from Michigan." Lobbying managers "have for years tended to hire Republicans because both Congress and the White House are controlled by the GOP, and access to officials at both places is lobbying's stock in trade. But, in recent months, many of Washington's top lobbyists said in interviews that their decision-making has been altered by an emerging consensus among election experts that the Democrats will boost their numbers in the House and the Senate in the midterm elections Nov. 7 and have a strong shot of winning a majority in the House."

Democrats Fire Back At GOP, Lieberman Over Charge Lamont Weak On National Security. The New York Times (8/17, Medina, 1.21M) reports Democratic leaders "supporting Ned Lamont's Senate campaign struck back yesterday at attacks suggesting that their party's support of him portrayed the Democrats as weak on national security." White House officials, "national Republican leaders and Mr. Lamont's opponent, Senator Joseph I. Lieberman, have said that Mr. Lamont's position on the war — calling for a timeline for troop withdrawal in Iraq — would embolden terrorists." Asked about the attacks "in an appearance in New York City, Senator Hillary Rodham Clinton said she had 'deep regret that there's any effort to politicize the war on terror,' but she did not actually name Mr. Lieberman or criticize Republicans directly." Lamont "held a press conference Wednesday afternoon specifically to counter the attacks from Republicans, calling them 'outrageous' and 'disrespectful' of Connecticut voters."

Lamont Says Lieberman Wanted To Invade Iraq Since 1991. On MSNBC's "Hardball" (8/16, Matthews), Democratic Connecticut Senate candidate Ned Lamont said, "I think Senator Lieberman has been egging the United States to invade Iraq ever since 1991. He was there in 1998 for the Iraq Liberation Act and he still wants to stay the course. Now it's three and a half years later and we see what a bloody mess we're in now." Asked why Bill Clinton, who is now supporting Lamont, signed "the Iraq Liberation Act in '98," Lamont said, "I don't think he was talking about an invasion. I think at that point he was talking about ways that we might be able to aid some groups within Iraq." Asked to handicap the race with Lieberman and Republican Alan Schlesinger, Lamont said, "This is a progressive state. The Democrats are united in this race. They really know that Joe Lieberman has been wrong on the war. He's too close to President Bush. He has got a stay the course strategy. At the end of the day it's going to be Schlesinger and Lieberman who are splitting the Republican vote. We are going to do

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very well with independents. I am a guy that started up a business from scratch. I'm going to shake things up in Washington, DC. I think moderates and independents respect that. And we have got a strong Democratic support going into the election."

Biden Says He'll Support Lamont. On MSNBC's "Hardball" (8/16, Matthews), host Chris Matthews asked Sen. Joe Biden whether he would support colleague Joseph Lieberman or Democratic nominee Ned Lamont in the Connecticut Senate race. Biden said, "I stand for the Democratic candidate. Joe is my good friend. I told Joe when I went up there campaigning for them, I want to lead the Democratic Party. I've got to abide by the Democratic Party's ruling. But look, here's my worry: I don't know enough to know, but I wouldn't bet my daughter's graduate school tuition on the fact that the Republicans don't find a substitute for the Republican candidate, as we did in New Jersey." Biden said he would not "take an active role by being against Joe. I'm not going to take an active role by discouraging any of Joe's friends. I'm going to take an active role in trying to elect the Democrat."

Broder Calls Blackwell's Poor Showing In Ohio Harbinger For Republicans. In his Washington Post column (8/17, A25), David Broder says "that when the Columbus Dispatch's respected poll recently reported that Republican Secretary of State Ken Blackwell was trailing Democratic Rep. Ted Strickland by 20 points in the race for governor of Ohio, there was dismay but no shock among his fellow Republicans. Those I interviewed during a recent visit here said they had seen it coming for a long time." But it "is a political earthquake. Democrats have not been able to win a single statewide office in Ohio for most of the past decade -- and are completely shut out of power in the capitol at this moment." Broder adds that what he heard in Ohio, "and in subsequent interviews at the National Governors Association convention in Charleston, S.C. -- from one Republican after another signaled serious trouble for the GOP across a broad swath of states from Pennsylvania to Oklahoma in key midterm election contests for House, Senate and governor." The "impression these Republicans had is that support for GOP candidates had nose-dived this summer -- in part because of the chaos conveyed by the daily televised scenes of destruction in Iraq and Lebanon and in part because of the dismal reputation built by the Republican Congress that is home to many of the endangered GOP candidates." A leading Minnesota Republican "told me that polls there show 'the bottom has dropped out' of Rep. Mark Kennedy's challenge to Hennepin County Attorney Amy Klobuchar, the Democratic candidate for an open Democratic Senate seat." In Wisconsin, Rep. Mark Green "is lagging slightly behind Democratic Gov. Jim Doyle. In Oklahoma, Rep. Ernest J. Istook Jr. is far worse off in his challenge to Democratic Gov. Brad Henry. And in Iowa, Rep. Jim Nussle, the strong early favorite to capture the open governorship from the Democrats, now finds himself in a real battle with Democrat Chet Culver."

Democrats Increase Priority Of State Secretary Of State Posts. USA Today (8/17, Lawrence, 2.27M) reports the "political battle for control of the federal government has opened up a new front: the obscure but vital state offices that determine who votes and how those votes are counted." The state post "of secretary of State was a backwater until 2000, when Florida's Katherine Harris became a central figure in the presidential recount controversy. Now national Democratic groups and White House prospects, unhappy about Harris' decisions and those of Republican Kenneth Blackwell in Ohio two years ago, are pouring resources into contests for the job." At least three Democratic political action committees "are spotlighting secretary of State candidates, most of them in states where they expect the presidential vote to be close. Colorado, Iowa, Michigan, Minnesota, Nevada and Ohio top their lists." The officials "control most voting regulations and influence state purchases of voting machines. Looking ahead to 2008, Democrats say they want people they trust in those offices." Iowa Gov. Tom Vilsack, "a 2008 presidential prospect whose Heartland PAC is helping several secretary of State candidates," said, "There's a growing concern about whether votes are cast and, if so, whether they're properly counted. We have to restore people's confidence in the system."

Hillary Clinton Says Ad Linking Her To Bin Laden Is "Outrageous." CNN's "The Situation Room (8/16, Blitzer) reported Sen. Hillary Clinton is "calling a new attack ad against her outrageous." The ad by Republican candidate John Spencer "accuses Senator Clinton of being soft on terror. And it features a photo of Osama bin Laden to try to drive home that charge." Clinton "calls it a -- quote – 'terrible injustice' to her. … A terrible injustice -- accused of being accused of being in league, somehow, with Osama bin Laden."

Biden Says He's Definitely Running For President In 2008. On MSNBC's "Hardball" (8/16, Matthews), Sen. Joseph Biden emphatically told host Chris Matthews "I am, I am" running for president in 2008. Biden discussed his alternative to the Bush Administration's policy on Iraq, saying, "The world has figured and the bad guys have figured out that we are absolutely tied down and tethered to Iraq. And Iraq is going to hell in a hand basket." Biden added that while "people criticize the plan that I put out," it is "the only plan out there about how to separate these

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parties, how to give more local autonomy, how to give the Sunnis a piece of the action in terms of the oil, and how to work out a deal with the major powers to keep the other nations out. Absent something like that, Chris, unless you give these groups breathing room, nothing else is going to happen. It's going to be a civil war."

Democratic Contenders Target Wal-Mart. The New York Times (8/17, Nagourney, Barbaro, 1.21M) reports Sen. Joseph R. Biden Jr. "delivered a 15-minute, blistering attack to warm applause from Democrats and union organizers here on Wednesday. But Mr. Biden's main target was not Republicans in Washington, or even his prospective presidential rivals. It was Wal-Mart, the nation's largest private employer." Among Democrats, Biden "is not alone. Across Iowa this week and across much of the country this month, Democratic leaders have found a new rallying cry that many of them say could prove powerful in the midterm elections and into 2008: Denouncing Wal-Mart for what they say are substandard wages and health care benefits." Six Democratic presidential contenders "have appeared at rallies like the one Mr. Biden headlined, along with some Democratic candidates for Congress in some of the toughest-fought races in the country." The "focus on Wal-Mart is part of a broader strategy of addressing what Democrats say is general economic anxiety and a growing sense that economic gains of recent years have not benefited the middle class or the working poor." Some Democrats "expressed concern about the direction the party was heading, saying it could turn back efforts by such party leaders as former President Bill Clinton to erase the image of the party as anti-business and scare off corporations that might be inclined to make contributions."

2008 Campaign Said To Be "Ratcheting Up." MSNBC's "Hardball" (8/16, Shuster) reports presidential politics are "ratcheting up. New York Senator Hillary Rodham Clinton gave a speech today on volunteerism, an issue with national appeal. Republican frontrunner John McCain spoke earlier this week in Iowa, host of the first presidential caucuses in 2008. Today McCain headed to Virginia for a rally with Senator George Allen, who remains under fire for comments about this man working for the Democratic challenger," whom he referred to as "macaca." MSNBC added that in his "second apology in as many days, Allen said, quote, 'I am concerned that my comments have been greatly misunderstood by members of the media. In singling our the Webb campaign's cameraman, I was trying to make the point that Jim Webb had never been to that part of Virginia. I never wanted to embarrass or demean anyone, and I apologize if my comments offended this young man.'"

DSCC Pulls Ad That Included Montage Of Illegal Aliens, Dictators. The Washington Times (8/17, Hurt, 88K) reports the Democratic Senatorial Campaign Committee (DSCC) "yesterday pulled an ad from its Web site after Hispanic groups accused Democrats of unfairly equating illegal aliens to terrorists." In a letter to Democratic Senatorial Campaign Committee Chairman Charles Schumer, Houston City Council member Carol Alvarado, a Democrat, said, "To liken Latino immigrants to bazooka-toting terrorists not only undermines the positive relationship our party has with this community, but it also lowers us to a despicable level as breeders of unfounded fear and hatred." The Times adds the "35-second ad, released on its Web site earlier this week, criticizes the Bush administration as leaving America unsecured by showing illegal aliens scaling a border fence. That scene is mixed with images of Osama bin Laden and North Korean President Kim Jong-il."

GOP Voters May Have Tired Of Chafee, Other GOP Moderates. In a Wall Street Journal op-ed (8/17), Journal editorial board member Kimberly Strassel says that if Sen. Lincoln Chafee "has one thing going for him in his upcoming primary, it's fear -- and don't think this perennial thorn in the GOP's side doesn't know it. In a recent debate against his more conservative primary challenger, he made the choice clear to voters: 'Who can win in November?'" Rhode Island's "few Republicans have been thinking of little else ever since Steve Laffey, the pork-busting mayor of Cranston, challenged the Senate's most liberal Republican to a showdown. The duel has forced upon them one of the more noteworthy choices in this year's election. Do they renominate Mr. Chafee, whose irritating voting record may make him more electable in this state that went 59% for John Kerry? Or do they vote their conscience for the upstart, and potentially lose a Senate seat -- and even the majority?" But "GOP voters, frustrated by Washington earmarking, scandal and obstructionism, may have decided their particular breed of Republicans just aren't worth the trouble. That's the mood up here in Rhode Island, where I heard the phrase 'We might as well have a Democrat' so many times I quit writing it down."

Kerry Signs Fundraising Appeal On Behalf Of Lamont, Menendez, Akaka. The AP (8/17, Miga) reports Sen. John Kerry "tapped his 3 million-person e-mail list on Wednesday to deliver a fundraising appeal for" Ned Lamont. Kerry's e-mail is quoted as saying, ""Ned Lamont has caused a national stir by successfully challenging the Bush position on Iraq that ignores the utter failure of the President's policy." The AP notes the Kerry e-mail also "touted two Democratic Senate incumbents facing tough

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fights this fall, Robert Menendez of New Jersey and Daniel Akaka of Hawaii. Both oppose the war."

NYTimes Says Corzine Has Been Hampered By Former AG's Problems. The New York Times (8/17, 1.21M), in an editorial, writes that Zulima Farber, the New Jersey attorney general, "who resigned this week after inappropriately intervening in a police traffic stop of her companion in May, had no excuse for not knowing how important it was to avoid even the appearance of impropriety. After all, she had served as one of the leaders of Gov. Jon Corzine's ethics advisory group during his pre-inauguration transition. Yet she dug in her heels after the incident came to light, insisting she had done nothing wrong. Her obtuseness has been costly to Mr. Corzine, draining momentum from his drive to tighten New Jersey's notoriously lax standards of governmental ethics."

WPost Criticizes Maryland's "Inadequate" Campaign Finance Reporting Rules. The Washington Post (8/17, A24, 748K) says in an editorial, "Maryland voters got their first glimpse this week into who is providing the money to power the campaigns of candidates in state and local elections. That the information came this late does not reflect well on the state. Maryland's rules for campaign finance disclosure are so inadequate that information provided to the public is neither timely nor comprehensive." Maryland law "flies against a nationwide movement toward more frequent and fuller disclosure."

NYTimes, WSJournal Weigh In On Pluto Status. The New York Times (8/17, 1.21M) argues in an editorial, "A panel appointed by the International Astronomical Union thinks it has come up with a dandy compromise to the years-long struggle over whether we should continue to count Pluto as a planet. The trouble is, the new definition of a planet will include an awful mélange of icy rocks found on the outer fringes of the solar system. It would be far better to expel Pluto from the planetary ranks altogether, leaving us to bask in the comfortable presence of the eight classical planets that were discovered before 1900 and have excited wonder ever since." The Times adds that, even though it may have scientific value, the proposed new definition "is an abomination culturally. When the astronomical union votes on the matter next week, it ought to reject the new definition and summon the courage to scratch Pluto from the list of planets."

The Wall Street Journal (8/17, 2.03M), on the other hand, editorializes, "Scientists being what they are, not everyone is happy with the new definition, and the Astronomical Union will put it to a formal vote next week. We neither endorse nor oppose the candidacies of Xena, Charon and others to the planetary union. But we do think that science needs to be open to new discoveries and information that challenge old views. There hasn't been much of that lately in some of the earthly sciences, so it's good to see openness flourishing in the heavenly ones."

US Literacy Rate Lags Behind That Of Some Third World Nations. In an op-ed for USA Today (8/17, 2.27M), Colorado education commissioner William J. Moloney writes, "nearly one-third of all U.S. school children have serious literacy deficits. If you think this is just a problem of poor children, think again. Among first-year college students, one-quarter require remediation for literacy deficiencies. Actually, poor children do quite well regarding literacy — as long as they don't live in the USA. As former U.S. Education secretary Rod Paige frequently pointed out, all of the generally impoverished English-speaking nations of the Caribbean have higher literacy rates than the USA's. Similarly, studies among poor children in Africa show levels of English literacy that would be the envy of any U.S. city. … As the ominous implications for our future gradually emerge, U.S. policymakers to ordinary citizens will be left wondering how to explain this education deficit."

Lebanon Orders Troops Into South Without Mandate To Disarm Hezbollah. Under the headline "From The Dust Of War, A More Potent Hezbollah?" USA Today (8/17, Jervis, Stone, 2.27M) reports, "As residents of Beirut's suburbs returned this week to their ruined neighborhoods after the start of a cease-fire, they came back to a place dramatically transformed by Hezbollah, whose military branch proved far tougher and better armed than even its staunchest supporters could have imagined." USA Today adds, "By holding out for more than a month against Israel, the most powerful military in the Middle East, 'Hezbollah showed it is a powerhouse,' says Fawas Gerges, a Middle East expert who teaches at Sarah Lawrence College in Bronxville, N.Y." An "early sign of Hezbollah's new political strength: The Lebanese Cabinet announced Wednesday that its soldiers won't try to disarm the guerrillas, as demanded by the United Nations cease-fire resolution, when the 15,000 government troops start deploying in the south today. Instead, the soldiers will collect any weapons Hezbollah fighters agree to give up."

The Washington Times (8/17, Pisik, 88K) runs a similar story under the headline "Beirut Cools To Disarming Hezbollah," reporting "the prospect that a triumphal Hezbollah militia will give up its weapons slumped yesterday." The Lebanese Cabinet "was largely silent on the issue." The Chicago Tribune (8/17, Spolar, 623K) also says "questions mounted over Hezbollah's influence in the border area and whether the guerrilla group still would operate freely there."

On its front page today, the Washington Post (8/17, A1, Cody, Lynch, 748K) reports on the "compromise arrangement

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that allows the Hezbollah militia to retain some of its arms caches near the border with Israel." The nearly 15,000 Lebanese troops week try "to defuse a threat to the UN cease-fire that went into effect Monday morning." The Post says Hezbollah's refusal to disarm "risked undercutting the cease-fire accord, because the Lebanese military had declared it would deploy in the border hills only if Hezbollah fighters and weapons were pulled back. And without the Lebanese army to join U.N. forces along the border, Israeli officials said, they would not order the remaining Israeli soldiers to return home." Beirut "tried to overcome the standoff with a compromise whose contours remained indistinct." Hezbollah "welcomed the army deployment and its ministers voted with the cabinet majority. But political sources involved in the decision said Hezbollah did so on condition that the army pledge not to look closely at whether all of the militia's armaments and missile stores were carried out of the border zone." The Post says the "jockeying over" these details "betrayed increased sectarian tensions within Lebanon's fractured leadership." The Post adds, "At the United Nations in New York on Wednesday, Israeli Foreign Minister Tzipi Livni urged Secretary General Kofi Annan to ensure the complete disarmament of Hezbollah and to prevent it from being rearmed by Iran and Syria."

Fox News' Special Report (8/16, Rosen) reports Livni "said her said her purpose in meeting with UN Secretary General Kofi Annan was to ensure, as she put it, that this time the will of the world body is actually implemented in southern Lebanon. Afterwards, she reaffirmed Israel's willingness to withdraw fully from the region, but not before a viable international force is deployed to fill the security vacuum." Livini was shown saying, "We think that the Lebanese government monitoring the borders, I think that it's not enough and we expect that the international community or the new international force will assist the Lebanese government."

The New York Times (8/17, Kifner, Worth, 1.21M) says Beirut "finessed the delicate issue of disarming Hezbollah," whose "fighters were not expected to resist the soldiers, nor to hand over their weapons. Instead, they probably would simply put their weapons into hiding and melt away into the civilian population." The Times adds, "Whether this approach would satisfy the terms of" UNSCR 1701, "particularly in the eyes of Israel, the United States and potential contributors to an international peacekeeping force, remained in doubt."

Slow Pace Of Relief, Role In Rebuilding Said To Buttress Hezbollah. In a 1,319-word article, the Wall Street Journal (8/17, Solomon, Beatty, 2.03M) reports, "International aid is starting to flow into Lebanon as a three-day-old cease-fire takes hold, but U.S. hopes of winning the peace are plagued by logistical hurdles, political tensions and an absence of cash from Western sources that could ultimately undermine the war-ravaged country's rehabilitation." While the WFP warns of impending cash flow problems, "the lack of public and private American largess has bred bitterness among some Lebanese officials. They say that compared with the massive amounts of money Iran has funneled into southern Lebanon through its Hezbollah allies, the response from the US and other Western nations has been negligible. In the battle for regional influence, these officials say, Tehran and its theocratic leaders are clearly trumping the Bush administration." The Journal adds, "Getting aid and reconstruction funds to the Lebanese government is crucial," because they have been told "to undertake the tricky task of disarming Hezbollah," and Beirut "will need all the political capital it can accrue in the communities hit hardest by the war." In addition to Iran, other "Arab governments have helped make up for the small amount of Western aid." The Journal notes that private US giving has "raised far larger sums for relief efforts in Israel."

All the networks reported on that topic. ABC World News Tonight (8/16, story 5, 2:10, Gibson, 8.78M) also reported Hezbollah's work is enabling the militant group to win hearts and minds. And the US government is rambling to find out how it might compete" ABC (Berman) added, "In the devastated parts of this country today. It was Hezbollah cleaning the streets. Hezbollah clearing the rubble. Hezbollah registering the names of the homeless."

The CBS Evening News (8/16, story 6, 2:30, Schieffer, 7.66M) said Hezbollah "has begun to capitalize" on the rebuilding process. CBS (Pizzey) added, "Hezbollah controls access everywhere, and their efforts here are a natural extension of what the group has been doing for years, serving poor people in areas the Lebanese government ignored. This is the Hezbollah version of an insurance agency, a school room where officials take details of people looking for help. They promise to inspect the damage and pay out up to $10,000 within 72 hours and make no apologies about where the money comes from."

NBC Nightly News (8/16, story 7, 1:45, Savidge, 9.87M) added, "As the government struggles, Hezbollah acts. Speaking on TV the leader of Hezbollah promised tens of thousands of people made homeless he will pay their rent for a year, rebuild the houses and furnish them."

The Los Angeles Times (8/17, Wallace, 918K), in a story headlined "Hezbollah Leads Lebanon Cleanup," says the group "has emerged as the lead player in the cleanup in the towns and villages of southern Lebanon. It has the volunteers, owns the equipment, and has spent years burnishing its image as the champion of ordinary people, from poor tobacco farmers to doctors and lawyers, who see Hezbollah as much more than a militia." USA Today (8/17, Jervis, 2.27M) and the Washington Times (8/17, Sands, 88K) run similar stories.

US Military's Assessment Of Lebanon War At Odds With Bush's. The CBS Evening News (8/16, story 5, 2:00,

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Schieffer, 7.66M) reported, "President Bush took a sharp exception the other day when the Hezbollah terrorist group claimed victory in the recent fighting in Lebanon. Well, what the President said in public does not appear to be what his own military advisers have concluded in private." CBS (Martin) added, "A US military assessment of the month-long war in Lebanon shows that Hezbollah and Iran came out clearly ahead of Israel in achieving their goals. That's different from…Bush's public claim that Hezbollah suffered a defeat." Bush: "Hezbollah, of course, has got a fantastic propaganda machine and they're claiming victories, but how can you claim victory when at one time you were a state within a state, safe within southern Lebanon, and now you're going to be replaced by a Lebanese army and an international force?" Martin: "The assessment agrees Hezbollah may no longer have a secure position in southern Lebanon, but it also lists a number of successes: Bolstered its image in the Arab world by take the fight to Israel, maintained its ability to launch rocket attacks against northern Israel, came through the fighting with its leadership and their ability to command operations intact. Iran, which armed Hezbollah and trained its fighters, came out of war with increased credibility. As for Israel, which was reputed to have the best army in the Middle East, the assessment says it failed to knock out Hezbollah, and further damaged its image in the Arab world with an offensive that drove up to one-quarter of Lebanon's population from their homes."

Peres Also Says Hezbollah Was Defeated. On MSNBC's "Hardball" (8/16, Matthews), Vice Prime Minster Shimon Peres said, "Hezbollah itself was quite beaten and they have to answer, why did they go to war? What are the reasons? What are the purposes? What did they achieve? They know the cause, they don't know the answers." Asked to assess Hezbollah's performance, Peres said, "I think in their imagination before the war was by far greater of an idea. 12,000 missiles, they can bring Israel on to here knees. This did not happen."

Israel's Deterrent Capability Seen As Damaged. CNN's "The Situation Room (8/16, Hancocks) reports, "The conflict in southern Lebanon is over, but Hezbollah has not been crippled, their rockets not stopped by Israel's military might, and the two Israeli soldiers whose kidnapping sparked four weeks of deadly fighting are still in enemy hands. But most worrying of all for Israel, believe some analysts, is damage done to its military deterrence in the Arab world." But Israel's "political echelon here consistently refers back to the United Nations resolution, considering it a diplomatic victory."

CNN's "The Situation Room (8/16, Lawrence) reports, "Now it is quiet. But the Israelis that you talk to have this sense of dread. One Israeli woman said, it's like the Katyushas did more than just damage homes and -- and injury people. They damaged this myth that -- that some Israelis were living under that they were safe from Hezbollah, that that has been shattered now."

Israeli Public Opposes Ceasefire, Disapproves Of Leaders' Performance. The Financial Times (8/17, Devi) reports, "The Israeli politicians most closely associated with the conflict in Lebanon on Wednesday saw their popularity ratings further eroded amid intensifying demands for an official inquiry into the war's management." Prime Minister Ehud Olmert and Defense Minister Amir Peretz "saw their ratings rise" in the "early days of the conflict," but "Olmert's approval has fallen to 40 per cent from 78 per cent at the height of the war and Mr Peretz to 28 per cent from 61 per cent." The Times notes, "In a separate poll, 70 per cent of Israelis were opposed to the ceasefire."

The Los Angeles Times (8/17, Chu, 918K) reports the "troops are trickling home. But among those preparing to return, two Israeli soldiers are most conspicuous by their absence." They are Ehud Goldwasser and Eldad Regev, "and it was in their name that Israel went to war in Lebanon five weeks ago. The mission, officials declared at the time, was clear: to rescue the two young reservists, who were captured July 12 while on border patrol by Hezbollah guerrillas." Now, "as a tenuous cease-fire takes hold, the people of this tiny country are faced with the painful realization that their army, the most powerful in the Middle East, failed to achieve that objective, despite more than a month of bloodshed and grievous losses on both sides."

The Washington Post (8/17, A21, Struck, 748K) reports, "Thousands of Israelis are returning now to their homes near the Lebanese border. They are bitter and angry about what many call a futile war, and what others call an outright loss." That sentiment was "reflected in a national poll released Wednesday, showing that public support for the government of Israeli Prime Minister Ehud Olmert has plummeted. The poll by the Maariv newspaper showed that Olmert's support had dropped from 78 percent on July 19, shortly after the war began, to 40 percent."

France Will Lead UN Border Force. The Financial Times (8/17, Khalaf, Arnold, Birchall, MacDonald) reports Paris "announced on Wednesday that it would take command of a strengthened United Nations force in Lebanon, throwing its weight behind the Lebanese government's plan to send its army into the south of the country on Thursday." The Times calls the move "an important boost for the UN." Defense Minister Michele Alliot-Marie "warned the UN must learn from the mistakes of previous peacekeeping operations and give the new 15,000 strong force a 'very precise' mission with 'sufficiently important' resources, or it risked being a 'catastrophe.'" The Times notes, "France, the former colonial power in Lebanon, is expected to provide the biggest contingent of 2,000 to 4,000 troops." An analysis piece in the Financial Times (8/17, Arnold, Khalaf, Birchall, MacDonald) says France's leadership "is being viewed in Paris as a high-

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stakes gamble that could salvage the end of Jacques Chirac's presidency, but could also end in bloody failure."

Lebanese Bury Dead. The New York Times (8/17, Fattah, 1.21M) reports that yesterday, "Lebanon's dead became symbols of closure as towns and villages throughout the south began burying their loved ones." Families "mourned for relatives and towns honored the bodies of Hezbollah fighters in ceremonies in the rubble-strewn villages of the south, vowing never to forget the price they paid in the fight against Israel." Health officials "began releasing bodies from the main morgue in Tyre, calling on families to begin burying their loved ones in their home villages instead of a mass grave near the morgue, where more than 200 others have been buried until families can claim them."

War Correspondents Flock To Middle East Conflict. The Washington Times (8/17, Mansfield, 88K) reports during the "past four weeks, with round-the-clock coverage of the skirmishes between Israel and Hezbollah, various faces have emerged as marquee players -- not only appearing on the daily news, but blogging on the various Internet sites and producing in-depth specials." People "such as CNN's Anderson Cooper (now in London for the foiled bombing plot), John Roberts and Brig. Gen. James 'Spider' Marks, Fox News' Jennifer Griffin, NBC's Richard Engel, CBS' Lara Logan and, of course, the nightly news anchormen, including NBC's Brian Williams and CNN's Wolf Blitzer, have dropped in and out of the war zones." Insiders "refer to the newbies as 'Katyusha catchers,' ducking and weaving while sirens wail and their modern epaulets unravel, putting themselves in harm's way for the sake of a good live shot."

WPost Says Hezbollah Already Violating UNSCR 1701. The Washington Post (8/17, A24, 748K) says in an editorial, "Who won the 34-day war in Lebanon? Hezbollah says it did; President Bush claims the opposite. In fact, much of the answer depends on what happens next. It's more than possible that Hezbollah will rearm, resume its prior positions and present an even greater threat to Israel in a year or two than it did before. But things could go differently if Lebanon's government, the United Nations and the major powers of the Security Council keep the promises they made last week." Those "looking for gloomy signs would not have been disappointed yesterday. Hezbollah, the radical Shiite militia and political party, was violating U.N. Security Council Resolution 1701 in numerous ways, including by failing to disarm and by failing to free the Israeli soldiers with whose kidnapping it precipitated the war last month."

More Commentary. The New York Times (8/17, 1.21M) says in an editorial, "Hezbollah is taking charge of reconstruction in south Lebanon, while the world is still dithering over the makeup of a peacekeeping force." Many Lebanese "are furiously blaming the United States as well as Israel for their suffering. Whatever anger they may also harbor toward Hezbollah for provoking the war is being more than neutralized by the militia's swift on-the-scene response and the large piles of cash it is handing out, courtesy of Iran."

In a Washington Post op-ed (8/17, A25), former special envoy Dennis Ross says, "Can the terms of U.N. Security Council Resolution 1701 be fulfilled without Syria being part of the equation? It doesn't seem likely. Implementation of this resolution will depend to a large degree on the Syrians -- unless, of course, the new international force deployed with the Lebanese army can both prevent resupply to Hezbollah and bolster Lebanon's military so it can fulfill the role envisioned for it in the resolution." The "more determined Syria is to frustrate implementation of the resolution, the more the international force will need a capability and a mandate to be aggressive in stopping efforts to get arms to Hezbollah and in preventing its restoration as a fighting force."

In a New York Times op-ed (8/17), Scott Atran, a research scientist at the National Center for Scientific Research in Paris, the University of Michigan and the John Jay College of Criminal Justice in New York City, says, "We can hope that multinational cooperation will help to secure Israel's border with Lebanon. But what about the Palestinian issue, which has been seemingly pushed to the back burner by the war in Lebanon? A bold gesture now by Israel would surprise its adversaries, convey strength, and even catch domestic political opposition off guard. And as strange as it may seem, were the United States able to help Israel help Hamas, it might turn the rising tide of global Muslim resentment. Recent discussions I've had with Hamas leaders and their supporters around the globe indicate that Israel might just find a reasonable and influential bargaining partner." Hamas's "top elected official, Prime Minister Ismail Haniya, now accepts that to stop his people's suffering, his government must forsake its all-or-nothing call for Israel's destruction."

No Word On Kidnapped Fox News Reporters.

Fox News' Special Report (8/16, Hume) reports, "Two days after our FOX NEWS colleagues, national correspondent Steve Centanni and freelance cameraman, Olaf Wiig, a New Zealander, were kidnapped in Gaza, we still have no word on their whereabouts or condition. Steve and Olaf were taken at gunpoint from their vehicle near the Palestinian security headquarters on Monday. No one has claimed responsibility."

The Washington Post (8/17, A19, Hadid, 748K) reports, "The wife of a kidnapped Fox News cameraman made a public plea Wednesday to his kidnappers to release him and a fellow journalist. Palestinian officials said they had no firm leads on where the two men are being held." The cameraman, "Olaf Wiig, 36, of New Zealand, and American reporter Steve Centanni, 60, were taken Monday from their TV van near the Palestinian security services headquarters."

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Wiig's wife, Anita McNaught, "appealed to the kidnappers to free her husband and Centanni."

US Backs Pakistan's Latest Strategy To Quell Insurrection. In a critical piece, McClatchy (8/17, Landay) writes that a "U.S.-backed plan to defeat Islamist militants in Pakistan's autonomous tribal areas has backfired badly, and the Bush administration is working with Pakistan to come up with a new strategy to defuse the insurrection." Pakistani President Pervez Musharraf "'sees that what he was doing wasn't working,' said one U.S. official who's familiar with the new plan. 'He really has a mess.'" The Musharraf government is now attempting to negotiate truces areas, expand local police forces, and "introduce development projects to reward tribal leaders who break with the militants." The White House "has pledged millions of dollars to the new effort."

Bush To Meet With South Korea's Roh Next Month. AFP (8/17) reports President Bush will meet with South Korean President Roh Moo-Hyun September 14 in Washington for talks on a bilateral trade pact and North Korea's nuclear ambitions, the White House said. Bush "looks forward to reviewing with President Roh progress in relations since their last bilateral meeting on issues including our free trade agreement negotiations and the six-party talks" on Pyongyang's nuclear programs, said spokesman Tony Snow. "The two leaders also will discuss critical regional and global issues, including winning the war on terror, stopping the proliferation of weapons of mass destruction, and promoting an open international economic order," said Snow.

Foreign Minister Says Iran Willing To Discuss Suspending Enrichment. The Financial Times (8/17, Roshanzamir, Smyth) reports Iranian Foreign Minister Manouchehr Mottaki "said on Wednesday Tehran was ready to negotiate about suspending uranium enrichment, the most sensitive part of its nuclear programme." Tehran "had previously ruled out the step," and "is also due by August 22 to respond to an incentive package offered by" the West. "Mottaki suggested Iran was not ready to suspend enrichment before talks, as the" authors of the package have "demanded." The Times notes skeptical reaction from London, and says Mottaki's "conciliatory remarks also clashed with Tuesday's speech by" President Ahmadinejad, "who said Iran had lost trust in the Europeans – meaning France, Britain and Germany."

Ayatollah Khamenei Lauds Hezbollah's "Victory." The AP (8/17, Dakroub) reports Iranian leader Ayatollah Ali Khamenei, "in a message to Hezbollah head Sheik Hassan Nasrallah, described the militant group's clashes with Israel as a 'victory' for Islam. 'Your unprecedented holy war and steadfastness are beyond the limits of my description. It's a divine victory. It is a victory of Islam,' Khamenei said in the message read by an announcer on Hezbollah's Al-Manar television." Khamenei, widely considered the ultimate authority in Iran and a key backer of Hezbollah, "said the U.S.-Israeli plan for 'a new Middle East' had been shattered by Hezbollah's resistance against Israel's 34-day military offensive in Lebanon." He blamed Israel for Lebanese civilian deaths and infrastructure damage, and "lashed out at President Bush for declaring that the Israeli assault in Lebanon was self-defense and had defeated the Shiite guerrillas."

Holocaust Denial Art Show Opens In Tehran. The Washington Post (8/17, A20, Hafezi, 748K) reports organizers of a Tehran art show "say the exhibition of more than 200 entries from Iran's International Holocaust Cartoons Contest aims to challenge Western taboos about discussing the Holocaust, in which 6 million Jews died." One organizer is quoted saying, "This is a test of the boundaries of free speech espoused by Western countries. We wanted to challenge European taboos. Why should questioning the Holocaust be a taboo? Why should anyone who talks about it be fined or jailed?" The Post notes, "The initial plans for a contest about the Holocaust provoked a storm of condemnation and revulsion in some countries, including the United States, which called the idea 'outrageous.'"

New Global AIDS Coordinator Defends Policy Approach. The Financial Times (8/17, Jack) reports Global AIDS Coordinator (S/GAC) Mark Dybul "denied on Wednesday allegations that the agency was putting morality before saving lives." He "argued that US policies were inspired by scientific evidence and not morality, with critics using 'sound bites rather than a nuanced public health approach.'" The Times says experts attending the International Aids Conference in Toronto "have criticized" the Administration's Emergency Plan for Aids Relief "for focusing on abstinence and monogamous relationships over condom distribution in the prevention of HIV/Aids." Dybul "said there was 'no public health basis' for a traditional approach of 'just throwing condoms at people.' At the same time, he stressed the US was giving out more condoms – 477m so far this year, up from 320m in 2001." Dybul "did he feel constrained by his mandate to spend a third of Pepfar's prevention budget on discouraging sexual promiscuity. 'Overall we have flexibility,' he said, adding that Pepfar offered a 'compassionate response' to prostitution."

Prominent Preacher, AIDS Fund Head Team Up To Enlist Faith Groups In AIDS Fight. USA Today (8/17, Sternberg, 2.27M) reports, "Evangelist and best-selling author Rick Warren and Richard Feachem, who oversees billions in AIDS spending, said Wednesday that they'll team up to

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channel more money to faith-based groups in Warren's global church network." Warren is the founder of California's Saddleback Church and "claims a network of 400,000 churches of various denominations," while Feachem is the director of the Global Fund to Fight AIDS, Tuberculosis and Malaria, where "he has raised nearly $10 billion from donor nations and private groups to fund prevention and treatment efforts in 131 countries." USA Today says the men "represent a mix of money and influence, and their agreement is typical of the off-stage brokering at the 16th International AIDS Conference."

WHO Official Says Child AIDS Patients Not Getting Antiretroviral Drugs. The New York Times (8/17, Altman, 1.21M) reports WHO AIDS program head Dr. Kevin De Cock told the 16th International AIDS Conference that "efforts to greatly expand antiretroviral treatment for AIDS in poor countries are not reaching a vast majority of children who need it." De Cock "said that an estimated 2.3 million children 15 and under around the world are infected with H.I.V., the virus that causes AIDS, and that 800,000 of them needed antiretroviral drugs to stay alive," roughly ten percent of whom "are receiving therapy." The Times notes, "While the children account for 14 percent of AIDS deaths, they make up only 6 percent of recipients of antiretroviral drug therapy. Many of the children are orphans." Transmission of AIDS from mother to infant also remains a serious problem in developing nations, De Cock said.

Russia-Japan Island Dispute Escalates After Shooting. The Financial Times (8/17, Pilling) reports, "A Russian border patrol boat shot dead a Japanese crab fisherman in Russian-controlled waters near Japan's northern island of Hokkaido, highlighting continued tension between the countries over ownership of four disputed islands." Tokyo "protested against the shooting, saying it reserved the right to press for an apology, punishment of the perpetrators and compensation," and also asked "for the immediate release of three other Japanese crewman, all from the Nemuro peninsula on the eastern tip of Hokkaido, who were being held by Russian authorities." The Times says "the incident will stir anger in Japan," because "return of the islands, which were occupied by Moscow while Japan was being bombed by nuclear weapons during the second world war, is a cause celebre of the Japanese right and a long-standing goal of Japan's foreign ministry." Foreign Minister Shinzo Abe, likely Japan's next premier, "is also a strong proponent of stepping up diplomatic efforts to press for the islands' return."

Lopez Obrador's Political Allies May Choose Governing Over Protesting. The Wall Street Journal (8/17, Lyons, 2.03M) reports on left-wing Mexican politicians' difficulties reconciling their recent electoral gains with Andres Manuel Lopez Obrador's continuing protest against the presidential vote. While Lopez Obrador's allies in his PRD party "vow to back his pledge to continue protests for 'years,' if necessary, some in the leftist camp are tiring of his tactics and worrying they are putting their movement's historic electoral gains at risk. Indeed, unlike their standard bearer, many on the left won their races by wide margins." Conservatives "are betting the protest will dissipate in coming months as his camp's interests splinter and winning politicians are sworn into office -- and are expected to show they can rule, not disrupt." The Journal says "defections by a few key supporters could undermine [Lopez Obrador's] movement and smooth the way for Felipe Calderon, the conservative who won the presidential balloting, to take office and begin cobbling together a governing coalition."

Coast Guard Arrests Alleged Mexican Drug Trafficking Kingpin. The Los Angeles Times (8/17, Enriquez, Krikorian, 918K) reports Francisco Javier Arellano Felix, "the accused leader of a violent Tijuana crime family that allegedly smuggled hundreds of tons of cocaine and marijuana into the United States, was captured by the U.S. Coast Guard while deep-sea fishing off the southern tip of Baja California." The Times says Felix's "arrest was based on a 2003 U.S. indictment that charged him with conspiracy, smuggling and murder. A $5 million bounty had been offered for his capture, as the reputed leader of the so-called Arellano Felix Organization." That "cartel was believed responsible for supplying nearly half of the cocaine sold in the United States," and is accused of "at least a score of murders of police officers, journalists, and rivals, as well as the accidental killing of Roman Catholic Cardinal Juan Jesus Posadas Ocampo during a 1993 shootout among cartel rivals at the Guadalajara airport." Felix "now faces life in prison if convicted on charges that cover the cartel's purchase of tons of cocaine from Colombia that, beginning in 1986, were smuggled into California through Mexico via tunnels, vehicles, airplanes, helicopters and in backpacks. The cartel is accused of trading money and guns for cocaine from the leftist Revolutionary Armed Forces of Colombia guerrilla group."

Chavez To Nationalize Telecoms Unless Pension Payments Are Made. The Wall Street Journal (8/17, 2.03M) reports Venezuelan President Hugo Chavez "threatened to nationalize Venezuela's largest telecommunications company if it doesn't comply with a court order to make pension payments to former employees." Chavez said on television that he would give Compania Anonima Nacional Telefonos de Venezuela, or CANTV, "a 'prudent' grace period to comply, but he didn't specify how long that period would be." The Journal notes that Verizon

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Communications Inc. "owns a 28.5% stake in CANTV, according to its last annual filing with the Securities and Exchange Commission. Spokesman Peter Thonis declined to comment on the situation."

US Anti-Castro Propaganda Said To Have Mixed Results. The Christian Science Monitor (8/17, Richey, 58K) details continuing US efforts to "spread democracy" in Cuba by broadcasting anti-Castro messages. "Welcome to the newest front in Washington's propaganda war against" the Castro brothers. "US officials are stepping up efforts to encourage the Cuban people to end Mr. Castro's 47-year revolution with a revolution of their own." The Monitor adds, "How effective this information 'invasion' may be is a matter of considerable debate. The Cubans have worked to jam TV Martí for years. The new plane and its high-powered transmitter were pressed into action Aug. 5 and are still in the testing phase. But officials say initial indications are positive." However, the Monitor says, "Critics scoff at such claims. They see information warfare directed at Cuba as an expensive boondoggle related more to the political power of anti-Castro Cuban-Americans than to any demonstrable impact on bringing free elections to Cuba."

New Ukrainian Prime Minister Wins Russian Assurance On Natural Gas Prices. The Wall Street Journal (8/17, Cullison, 2.03M) reports, "Ukraine's new pro-Russian prime minister said that he has secured Moscow's assurance that it will forgo any steep price increase for natural gas this year, and that he is moving toward an agreement that would guarantee deliveries for next year as well." The Journal says, "Prime Minister Viktor Yanukovych's progress should allay fears of another disruptive gas dispute between Moscow and Kiev ." His "rapid progress in gas talks contrasts with that of the previous government, which was dominated by Western-leaning members of the Orange Revolution who were pressured by Moscow to pay sharply higher prices." Yanukovych "said he managed to stave off radical price increases, which analysts say would be ruinous to Ukraine's energy-hungry economy."

Indonesian Insider Recounts East Timor's Long Road To Independence. The New York Times (8/17, Perlez, 1.21M) reports, "The seemingly closed chapter" of Indonesia's long military occupation of East Timor "was reopened this month with a new book by Ali Alatas, the former longtime foreign minister and ambassador to the United Nations. It is the first account by an Indonesian insider who tried to steer some of the events — which at critical moments involved the United States, the United Nations and, at all times, the heavy hand of the Indonesian Army." The Times calls Alatas "always amicable, always accessible," and says he "was respected in New York as a quintessential diplomat handed the tricky task of representing his country during the rule of a secretive and authoritarian leader, President Suharto." The Times adds, "For the most part, [Alatas] sticks to the narrow diplomatic history, rarely veering into what the army was doing on the ground, and mostly hinting rather than asserting that the army's actions made the diplomatic track so tortuous."

US Entrepreneur Works To Wire Rwanda To Internet. In a 2,153-word report on its front page, the Wall Street Journal (8/17, Rhoads, 2.03M) details entrepreneur Greg Wyler's efforts to wire the country of Rwanda to the Internet. "There are a few hurdles. One is a battered communications tower atop this 14,787-foot volcanic peak. The air is too thin for helicopters to transport the several tons of equipment needed for repairs," but Wyler's "company, Terracom, expects the tower to start beaming services in the coming months, including, for the first time, cellphone coverage, Internet access and television. Rwanda is among the least-connected countries in the world. Mr. Wyler wants it to be the first completely wired African nation, with citizens paying $80 a month for Terracom's Internet service." The Journal explains the myriad challenges facing such an effort in Rwanda, but says President Paul Kagame's "ultimate goal is to transform Rwanda into a Singapore-like hub for business and investment in east Africa. He has lured back from abroad several million Rwandans -- many with Western skills and education -- to help the country catch up with the modern world."

Author Says Japan Should Use Regional Diplomacy To Build Trust. In an op-ed in today's Washington Post (8/17, A25, 748K), professor and author G. John Ikenberry says Japan's "serious geopolitical problem" is its failure "to eliminate the suspicions and grievances that still linger in China and Korea about Japan's militarist past. … The result is that Japan -- 61 years after its surrender and the inauguration of its long, peaceful return to the international community -- remains isolated and incapable of providing leadership in a region that is quickly transforming in the shadow of a rising China." Ikenberry says the US faces a similar problem, and says Washington "has urged Tokyo along the course of great power 'normalization.' Indeed, some Washington strategists envisage Japan as America's "Britain in the East" -- a normalized and militarily capable ally that can stand should-to-shoulder with the United States as it operates around the world." Ikenberry says the idea suffers because "normalization and historical reconciliation are working at cross-purposes." He describes "a grand irony in the geopolitical hole that Japan has dug for itself" – while Japan "has actually been remarkably successful in defining a

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postwar identity for itself," and "the wider world admires and respects Japan -- and its distinctive civilian-style great power role, its neighbors do not." Ikenberry suggests Germany as a "model" for future Japanese reconciliation efforts. Tokyo should aim to become the "regional leader in defining the parameters of a new cooperative East Asian order." Washington "also needs to rethink its vision of the U.S.-Japan alliance," because the British model will not work, Ikenberry says. He concludes, "Today the Middle East burns -- but East Asia simmers. Tokyo and Washington should use the coming months to turn down the heat and add some new ingredients to the pot."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Faithful To God, Science."
"Suspect Is Held In Ramsey Slaying."
"LAPD's Crime Offensive On Skid Row Is Slipping."
"Anguish of 9/11 Returns In Newly Released Tapes."
"U.S. Arrests Reputed Chief Of Drug Cartel."
"State Farm Abandons ZIP Code Rates Plan."
"Cease-Fire In The Middle East."

USA Today:
"Costly Textbooks Get A Closer Look."
"From The Dust Of War, A More Potent Hezbollah?."
"Top Vote Counter Becomes Prize Job."
"Targeted Races."

New York Times:
"Insurgent Bombs Directed at G.I.'s Increase In Iraq."
"Eye on Election, Democrats Run As Wal-Mart Foe."
"Lebanon Sends National Army To Patrol South."
"Breaking Through Adoption's Racial Barriers."
"Schoolteacher Arrested In JonBenet Ramsey Case."
"Faces, Too, Are Searched At U.S. Airports."

Washington Post:
"Lebanon Sending Troops Into South."
"Minority Party's Stock Is Rising."
"More Schools in Montgomery, State Fail To Meet Federal Goals."
"Rival Shiite Militias Clash In Southern Iraq."
"Fight Over Child's Care Ends In Compromise."
"Old-School Academy In Post-9/11 World."
"VRE Repairs, Tardiness Fuel Ridership Drop."
"Suspect Arrested In Ramsey Slaying."
"Over 18 Weeks, An Arduous Path To The Badge."

Washington Times:
"A New Role For The Undermanned Border Patrol."
"Beirut Cools To Disarming Hezbollah."
"Arrest Made In JonBenet Slaying."
"Dubai Ports Seeking U.S. Bids."
"Skin Test Diagnose Alzheimer's Early."

Atlanta Journal-Constitution:
"Medicare Asset law rejected."
"Former Atlanta man Arrested In JonBenet Slaying."
"Simple test Could Save Teen Athletes."
"Parents Home? Teens Say pass the Pot Anyway."

Houston Chronicle:
"DEA: Arrest Has Cartel In 'Chokehol'."
"It's Deja Blue For Astros After Being Swept By Cubs."
"Finally A Break In Coldest Of Cases."
"Audit Finds TSU Mismanaged Funds."
"54 HISD Campuses Could Be 'On Notice.'"
"How We Differ from our Cousin, The Chimp."

Story Lineup From Last Night's Network News:
ABC: JonBenet Case; Airplane Terror Scare; British Judge Terrorism Plot; 9/11 Tapes Released; Rebuilding Lebanon; Sectarian Violence Death Toll; New Airplane Security; Mexican Drug Lord; Cherrix Special Cancer Treatment; Mutombo Builds Hospital.
CBS: JonBenet Case; Airplane Terrorism Scare; Seattle Terrorism Scare; Terrorist Plot Unfolded; Bush's Response; Rebuilding Lebanon; War On Drugs; Drunk Driving Crack Down; Bush In PA; Investing In Water; New Planet.
NBC: Jon Benet Case; Airplane Terrorism Scare; Terrorist Plot Unfolded; Iraq Violence; US Iraq Unrest; 9/11 Tapes Released; Rebuilding Lebanon; Cherrix Special Cancer Treatment; Drive In Movies.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Signs H.R. 4 - Pension Protection Act of 2006. Room 450, Eisenhower EOB.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: ISRAEL-LEBANON _ 9:30 a.m. The Center for Strategic and International Studies holds a briefing with analyst Anthony Cordesman on his recent visit to the Israel-Lebanon border. Location: 4th floor conference room, 1800 K St. NW.

PEACE CORPS _ 10 a.m. Foreign Minister Leila Rachid of Paraguay addresses the Peace Corps staff and returning volunteers. Location: Shriver Hall, 111 20th St. NW.

POPULATION-MIGRATION _ 10 a.m. The Population Reference Bureau holds a news conference to release its

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2006 World Population Data Sheet, which includes information on the forces shaping migration rates as well as the latestest demographic, health and environmental data. Location: National Press Club.

TEENS-SUBSTANCE ABUSE _ 10 a.m. Joseph A. Califano Jr., chairman and president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and former HEW secretary, holds a news briefing to release the findings from CASA's 11th annual back to school report, ``National Survey of American Attitudes on Substance Abuse XI: Teens and Parents." The report shows that, among other things, that even when parents are present, American teen parties are awash in alcohol, marijuana, and drugs. Location: Henry J. Kaiser Family Foundation building, 1330 G St. NW.

NATO-AFGHANISTAN _ 10:30 a.m. Gen. James L. Jones, NATO's supreme allied commander, Europe and commander of the European Command will conduct a news briefing to provide an update of NATO and USEUCOM operations, including NATO's International Security and Assistance Force in Afghanistan. Location: Pentagon briefing room.

BUDGET OUTLOOK _ 11 a.m. The Congressional Budget Office holds a press briefing on the Summer Update to the 2006 Budget and Economic Outlook. CBO Acting Director Donald Marron will conduct the briefing. Location: Congressional Budget Office, Room 483, Ford House Office Building, 2nd and D Streets SW.

BUSH-IRAQ _ 11 a.m. Two retired generals and a former National Security Council member hold a telephone news conference to release an open letter to President Bush signed by twenty-one of their colleagues calling for a dramatic change in U.S. policy on Iraq and Iran on grounds that the Administrations ``hard line has proven ineffective and counterproductive. Contacts: Timi Gerson, 202-822-5200. Notes: RSVP required to obtain callin information.

BUDGET-REAX _ 2 p.m. The Center on Budget and Policy Priorities will hold a conference call briefing to discuss the report that the Congressional Budget Office will release Thursday morning detailing CBO's revised outlook for the budget and the economy. Contacts: Michelle Bazie, 202-408-1080.

WELFARE REFORM _ 2 p.m. Forum on ``Welfare Reform at 10: Marking the Milestone." Topics include: ``96 Reform: What It Was and Why It Worked," with Robert Rector, Heritage Foundation; Ron Haskins, Brookings; Michael Wiseman, GWU; others. Also: Lawrence Mead, NYU; Jason Turner, Heritage Foundation; June O'Neil, Baruch College; Mark Greenberg, Center for Law and Social Policy; Wade Horn, Administration for Children and Families, HHS; others. Location: Allison Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

PENSIONS-HUMAN RIGHTS _ 2:30 p.m. The Human Rights Campaign holds a telephone briefing to discuss key provisions of the Federal Pension Protection Act. Contacts: Luis Vizcaino, 202-216-1547. Notes: Callin number: 866-468-3121 5-10 minutes before the start time; press 1 to joint the call; enter passcode 4440 and the -sign.

BUDGET-REAX _ 3 p.m. Rep. John Spratt and Sen. Kent Conrad hold a telephone news conference to discuss the Congressional Budget Office August Budget and Economic Update. Contacts: Tom Kahn, 202-226-7200.

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Williamson, Angela

From: Williamson, Angela
Sent: Thursday, August 17, 2006 8:48 AM
To: Williamson, Angela
Subject: The Daily Update: 8/17/06

<http://www.whitehouse.gov/>
AUGUST 17, 2006

Today, President Bush will sign the Pension Protection Act of 2006, the most comprehensive reform to America's pension system in over thirty years.

1:15 pm:
EDT THE PRESIDENT signs H.R. 4, the Pension Protection Act of 2006
The White House | Washington, DC

President Bush To Sign Pension Protection Act. "Sweeping new rules aimed at prodding companies into shoring up their pension plans and ensuring that workers get the retirement benefits they've been promised are about to become law <http://news.yahoo.com/s/ap/20060817/ap_on_go_pr_wh/pensions_overhaul_2&printer=1> . President Bush planned to sign the bill Thursday and has already praised it as 'the most comprehensive reforms to America's pension system in over 30 years.' The massive legislation reflects the evolution of workers' retirement benefits ... It could also save taxpayers from funding a multibillion-dollar bailout of the federal agency that insures pension plans." (Mary Dalrymple, "Bush To Sign Massive Pension Overhaul," The Associated Press, 8/17/06)

President Bush Tours Harley-Davidson Plant And Discusses His Agenda To Keep The Economy Growing. "Following his roughly 40-minute tour, Bush then participated in a closed-door roundtable discussion with Ziemer, Gates, Harley Vice President of Government Affairs Tim Hoelter and five manufacturing employees. ... 'It's a direct correlation between exports and jobs. In other words the more Harleys that are sold in a place like Vietnam or China or India, the more likely that somebody's going to be able to find work,' the president said. ... 'We hope Congress makes the research and development tax credit a permanent part of the tax code,' Bush said. <http://www.ydr.com/politics/ci_4192187> 'That encourages folks here at Harley to make new investments. It means that the work force becomes more productive. It means that the product is more likely to be able to compete.'" ("Rockin' Harley," The York [PA] Daily Record, 8/17/06)

In An Interview With USA Today, President Bush Discusses The Importance Of Free Trade To A Strong American Economy. "'My concern is that this kind of fear of globalization causes a reaction that will cause us to lurch toward protectionism. That's my biggest concern <http://www.usatoday.com/printedition/money/20060817/1b_bushcov17.art.htm> ,' the president said in a 25-minute interview with USA TODAY. ... A

study by the Institute for International Economics says the typical American household gained $10,000 annually from postwar trade liberalization. ... The aim of Wednesday's presidential drop-by was to highlight one of globalization's winners. Indeed, Harley is welcome evidence there's more to trade than cheap Chinese T-shirts." (David J. Lynch, "On The Harley Free-Trade Brigade," USA Today, 8/17/06)

President Bush Says A Sudden Withdrawal From Iraq "Would Be A Defeat For The United States In A Key Battleground In The Global War On Terror." "Referring to the war in Iraq, Mr. Bush said: 'There's some good people in our country who believe we should cut and run. They're not bad people when they say that, they're decent people.' But he added, 'I just happen to believe they're wrong, and they're wrong for this reason: this would be a defeat for the United States in a key battleground in the global war on terror.' <http://www.nytimes.com/2006/08/17/washington/17bush.html?ref=us> ... Referring to the disruption of the plot in Britain, he said, 'And so we've got to use new tactics, new efforts, new assets to protect ourselves against an enemy that will strike us at any moment.'" (Jim Rutenberg, "President Joins In G.O.P. Attacks On Democrats About Terrorism," The New York Times, 8/17/06)

Attorney General Gonzales Says International Cooperation Led To Successful Disruption Of London Terror Plot. "The disruption of a terror plot by British authorities last week is an example of international intelligence authorities working successfully together, Attorney General Alberto Gonzales said Wednesday <http://www.phillyburbs.com/pb-dyn/news/103-08162006-698710.html> . Speaking to the World Affairs Council of Pittsburgh, Gonzales said it takes a network of international intelligence and law enforcement agencies to defeat terror networks, such as al-Qaida. ... In his speech, Gonzales acknowledged the importance of closely monitoring extremist Web sites, prisons and other venues that have been used to recruit radicals. Academic settings, mosques and community centers could also be potential hubs for radicals, he said." (Michael Cowden, "Gonzales: International Cooperation Needed To Destroy Terrorism," The Associated Press, 8/17/06)

Attorney General Gonzales Says More Extremists Are Using The Internet To Train And Coordinate Internationally. "Atty. Gen. Alberto R. Gonzales said Wednesday that more than 5,000 Internet sites were being used by extremists to train and coordinate internationally, filling the gap caused by the crackdown on the Al Qaeda terrorist network. ... 'These are the home-grown terrorists that you have heard about,' he said, referring to the alleged plot in Britain and to other recent plots and attacks by Al Qaeda sympathizers. ...Gonzales also said that Britain and the U.S. favored stopping terrorists before they could act, even if that meant ultimately losing convictions in court. 'Simply put, we need to gather enough information and evidence during our investigations to ensure a successful prosecution,' he said. 'But we absolutely cannot wait too long, allowing a plot to develop to its deadly fruition. <http://www.latimes.com/news/printedition/asection/la-na-terror17aug17,1,4562679,print.story?coll=la-news-a_section%20> '" (Josh Meyer, "Extremists Are Homing In On The Internet, Says Gonzales," Los Angeles Times, 8/17/06)

President Bush Says Air Travel Remains Safe. "President Bush said Wednesday that he believes flying is safe and not a big inconvenience,

even after an alleged terrorist plot to blow up jets headed to the USA was thwarted and new security measures were put in place. 'I think most people clearly understand that government, when it reacts to a threat, does so for their own interests,' Bush said in an interview. <http://www.usatoday.com/printedition/news/20060817/a_bushbox17.art.htm> ... Bush said he believes Americans have adapted. 'People are able to make the adjustments necessary to deal with the current situation,' he said." ("Flying Is Safe, Bush Says," USA Today, 8/17/06)

Department Of Homeland Security Implements Tighter Airline Passenger Checks. "Airline passengers soon will have their names checked against the U.S. 'no-fly' list before flights take off for the United States, the homeland security chief said Wednesday. ... 'This is part of our border authority,' Homeland Security Secretary Michael Chertoff said in an interview with The Associated Press. 'The reason we haven't moved this is because the airlines were concerned about what they would do about passengers who would come up at the last minute, and they don't want to hold the flights up,' Chertoff said. 'Our position has been: Isn't it better to know before the plane takes off than to turn the plane around? Which I think is correct. So we're on a course to getting this piece nailed down.'" <http://news.yahoo.com/s/ap/20060816/ap_on_go_ca_st_pe/chertoff_ap_interview&printer=1%20> (Lara Jakes Jordan, "U.S. Beefing Up Passenger Checks," The Associated Press, 8/17/06)

Transportation Security Administration Uses "Behavior Detection Officers" To Screen For Threats. "Taking a page from Israeli airport security, the transportation agency has been experimenting with this new squad, whose members do not look for bombs, guns or knives. Instead, the assignment is to find anyone with evil intent. ... 'The observation of human behavior is probably the hardest thing to defeat, <http://www.nytimes.com/2006/08/17/washington/17screeners.html?_r=1&ref=washington&oref=slogin> ' said Waverly Cousin, a former police officer and checkpoint screener who is now the supervisor of the behavior detection unit at Dulles. 'You just don't know what I am going to see.'" (Eric Lipton, "Faces, Too, Are Searched At U.S. Airports," The New York Times, 8/17/06)

White House Expresses Support Of Iraqi Prime Minister Maliki's Government. "President George W. Bush is not frustrated with the leadership of the new Iraqi government and does not expect an 'overnight success,' White House spokesman Tony Snow said on Wednesday. <http://news.yahoo.com/s/nm/20060816/pl_nm/iraq_usa_bush_dc_1&printer=1> ... 'You've got a government that is brand new,' Snow said. 'This is a guy who has a series of challenges before him with this government and the president is impressed not only by his determination to get the job done, but the fact is that he is working aggressively to do these things,' Snow said. 'We don't expect him to be an overnight success in dealing with all these problems, nobody can be, but the president certainly supports Prime Minister Maliki.'" ("W. House: Bush Not Frustrated With Iraqi Government," Reuters, 8/17/06)

White House Says Search For Osama Bin Laden Saw "Reorganization, Not A Reduction In Effort And Commitment." "The White House denied on Wednesday that the U.S. hunt for Osama bin Laden has been downgraded after the CIA disbanded a unit set up in the 1990s to oversee the search for the al Qaeda leader. ... White House spokesman Tony Snow opened his

daily briefing with a statement addressing Reid's charges, saying the CIA had reshaped the unit to deal with a more diffuse threat from al Qaeda. 'But the notion that the president has shut down a program designed to capture Osama bin Laden is utterly without foundation. It was a reorganization, not a reduction in effort and commitment,' Snow said <http://news.yahoo.com/s/nm/20060816/pl_nm/bush_binladen_dc_2> ." ("W. House Denies Hunt For Bin Laden Downgraded," Reuters, 8/16/06)

U.S. Troops Adopt More Personal Approach In Baghdad. "U.S. troops are patrolling the streets in some Baghdad neighborhoods on foot in a new bid to win the trust of Iraqis, an unusual sight for many residents more used to seeing them travel in armored vehicle convoys <http://news.yahoo.com/s/nm/20060817/ts_nm/iraq_baghdad_dc_3> . Taking a more personal approach to Iraqis long critical of heavy handed tactics is part of the strategy aimed at reclaiming Baghdad's most dangerous neighborhoods from insurgents and easing communal strife. ... 'Certainly there is a renewed emphasis on troops interacting with the people,' he said when asked whether the U.S. military was adopting a new tactic with the foot patrols." (Ross Colvin, "US Troops Patrol Baghdad On Foot To Win Trust," Reuters, 8/17/06)

Stock Market Surges After More Positive Inflation News. "Another jolt of positive inflation news propelled the Dow Jones Industrial Average up almost 100 points, to its highest finish in three months. <http://online.wsj.com/article/SB115577495667537828.html?mod=todays_us_money_and_investing> After surging 132 points Tuesday when July wholesale prices came in weaker than expected, the Dow industrials yesterday added 96.86 points, or 0.86%, as July consumer prices also were benign. ... Richard Fisher, president of the Federal Reserve Bank of Dallas, said in a speech that 'the economy has downshifted' and is growing at 'a slower, more sustainable pace,' without any signs of recession." (E.S. Browning, "Inflation Exhale: Dow Industrials Rally 96 Points," The Wall Street Journal, 8/17/06)

U.S. Global AIDS Coordinator Mark Dybul Emphasizes "Nuanced Public Health Approach" Employed By PEPFAR. "In an interview with the Financial Times, Mark Dybul, who was sworn in last week as US global aids co-ordinator, argued that US policies were inspired by scientific evidence and not morality, with critics using 'sound bites rather than a nuanced public health approach <http://www.ft.com/cms/s/19b85c64-2d45-11db-851d-0000779e2340.html> .' ... However, Mr Dybul, a 42-year-old scientist, said there was 'no public health basis' for a traditional approach of 'just throwing condoms at people.' At the same time, he stressed the US was giving out more condoms - 477m so far this year, up from 320m in 2001." (Andrew Jack, "Aids Chief Denies Morality Comes Before Life," Financial Times, 8/17/06)

President Discusses Economy During Visit to Pennsylvania <http://www.whitehouse.gov/news/releases/2006/08/20060816-5.html>

* In Focus: Jobs & Economy <http://www.whitehouse.gov/infocus/economy/>

President Bush to Welcome President Roh Moo-hyun of the Republic of Korea <http://www.whitehouse.gov/news/releases/2006/08/20060816.html>

Remarks by the President at Lynn Swann for Governor Reception
<http://www.whitehouse.gov/news/releases/2006/08/20060816-9.html>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/08/20060816-3.html>

Ask the White House: Dr. Matthew Slaughter, Member of the Council of Economic Advisers <http://www.whitehouse.gov/ask/20060816.html>

Press Briefing by Tony Snow
<http://www.whitehouse.gov/news/releases/2006/08/20060816-1.html>

Gunn, Currie (SMO)

Subject:	Canceled: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, August 17, 2006 10:00 AM
End:	Thursday, August 17, 2006 11:00 AM
Recurrence:	Weekly
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Shaw, Aloma A; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Katsas, Gregory (CIV); Katsas, Gregory
Importance:	High

When: Thursday, August 17, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Mtg for this week canceled.

Addition & Introduction of John DiCicco, Deputy Assistant AG

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Fred Murray, Tax

POC: Currie Gunn x4-9500

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 17, 2006 10:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Ridley Township, PA

From: AmberAlert-DOJ
Sent: Thursday, August 17, 2006 10:01:02 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Ridley Township, PA
Auto forwarded by a Rule

AMBER ALERT:Ridley Township,PA VEH:70/80's Whi Van,possibly Ford Econoline,CHILD:W/F,15, 5'8,Hai:Drk,SUSP:W/M,40's,5'10,140,Hai:Red, N on Fernwood@6AM,CALL 911
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1962

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 10:33 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 17, 2006

Department of Justice

PRESS GUIDANCE
Thursday, August 17, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Tax Division will issue a press release regarding a tax fraud matter. (Miller)

The Civil Rights Division will issue a press release on an Americans with Disabilities Act matter. (Magnuson)

The Civil Rights Division will issue a press release on a housing discrimination matter. (Magnuson)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166799

Image not available for this document, ID: 0.7.10316.37569-000001

Image not available for this document, ID: 0.7.10316.37569-000002

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, August 17, 2006 12:04 PM
To: Battle, Michael (USAEO); Beach, Andrew; Brand, Rachel; Card, Jean; Elwood, Courtney; Fisher, Alice; Friedrich, Matthew; Goodling, Monica; Gorsuch, Neil M; Jezierski, Crystal; McNulty, Paul J; Mercer, Bill (ODAG); Mercer, Bill (USAMT); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roehrkasse, Brian; Sampson, Kyle; Schofield, Regina; Scolinos, Tasia; Sellers, Kiahna (OAG); Taylor, Jeffrey (OAG)
Subject: FW: Obituary for Mike Elston's [redacted]
Attachments: tmp.htm

FYI

-----Original Message-----
From: Powell, SeLena Y
Sent: Thursday, August 17, 2006 11:59 AM
To: Sampson, Kyle
Subject: FW: Obituary for Mike Elston's [redacted]

FYI

-----Original Message-----
From: Powell, SeLena Y
Sent: Thursday, August 17, 2006 11:53 AM
To: Hoisington, Jana; Moore, Miriam (ODAG); Adams, Michael G (ODAG); Alikhan, Arif (ODAG); Bennett, Betenia; Brinkley, Winnie; Caballero, Luis (ODAG); Cardwell, Christine; Connor, Mark; Epley, Mark D; Grider, Mark (ODAG); Henderson, Charles V; Horvath, Jane (ODAG); Im, Saovaluck; Irving, John (ODAG); Jackson, Marjorie L; John, Jeff; Johnson, Willie E Jr.; Keasley, Monica (ODAG); Long, Linda E; Margolis, David; McAtamney, James A; McFarland, Steven T (ODAG); Meyer, Joan E (ODAG); Monheim, Thomas; Moye, Pam; Nash, Stuart (ODAG); Otis, Lee L; Purpura, Michael M (ODAG); Raman, Mythili (ODAG); Rowan, Patrick (ODAG); Sesker, Sonya J; Shults, Frank (ODAG); Tenpas, Ronald J (ODAG); Thiemann, Robyn (ODAG); Williams, Shayne; McNulty, Paul J; Goodling, Monica; Mercer, Bill (USAMT); Rosenberg, Chuck (USAVAE); Rybicki, James (USAVAE); Davis, John S. (USAVAE)
Subject: Obituary for Mike Elston's [redacted]

http://www.rrstar.com/apps/pbcs.dll/classifieds?Category=OBITUARIES

[redacted]

[redacted]

http://www.rrstar.com/apps/pbcs.dll/classifieds?Category=OBITUARIES

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 12:42 PM
To: USDOJ- Office of Public Affairs
Subject: PONY BASEBALL INC. AGREES TO PROVIDE EQUAL OPPORTUNITY TO PLAYERS WITH DISABILITIES

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

PONY BASEBALL INC. AGREES TO PROVIDE EQUAL OPPORTUNITY TO PLAYERS WITH DISABILITIES

WASHINGTON — PONY Baseball Inc., a youth baseball and softball organization, has reached an agreement under the Americans with Disabilities Act (ADA) to ensure that players who are disabled, including those who are deaf or hard of hearing, have an equal opportunity to participate in PONY's baseball and softball leagues, the Justice Department announced today. The settlement resolves a complaint by a PONY player who is deaf.

"Playing baseball is a summertime joy for kids in this country. I am pleased that today's agreement opens up PONY's baseball and softball leagues for children with disabilities," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division.

The Department's investigation was triggered by a complaint from the parents of Justin "Pono" Tokioka who alleged that PONY denied their son access to a sign language interpreter during a baseball tournament in violation of the ADA.

The settlement agreement resolves Tokioka's complaint and provides nationwide relief. Among other things, PONY has agreed to:

- Modify its rules to specifically allow players to use sign language interpreters during games.
- Provide, in conjunction with PONY's local leagues, sign language interpreters for players who are deaf or hard of hearing.
- Make reasonable modifications to PONY's rules and practices to allow players with disabilities an equal opportunity to participate in PONY's baseball and softball games.
- Appoint an ADA coordinator who will be responsible for ensuring that PONY responds properly to requests for auxiliary aids, including sign language interpreters, and requests for reasonable modifications.
- Have PONY's ADA coordinator and board of directors trained on the requirements of title III of the ADA.
- Pay Justin Tokioka $30,000 in damages.

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"Children who are deaf, or have other disabilities, are entitled to participate equally in youth sports," said Ed Kubo, U.S. Attorney for the District of Hawaii. "Youth leagues should be on notice that their policies and practices cannot limit the participation of children with disabilities."

PONY Baseball Inc., headquartered in Washington, Penn., has 3,500 baseball and softball leagues throughout the United States. Approximately 450,000 children participate in those leagues.

People interested in finding out more about the ADA or the agreement can call the Justice Department's toll-free ADA Information Line at 1-800-514-0301 or 1-800-514-0383 (TTY), or access its ADA website at http://www.ada.gov.

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06-549

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Image not available for this document, ID: 0.7.10316.37453-000002

jcherry@gwb43.com

From: jcherry@gwb43.com
Sent: Thursday, August 17, 2006 2:11 PM
To: jcherry@gwb43.com
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

Do you know the following individual? If so, would you recommend him for a position in the Bush Administration?

Thank you for your continued service to the President.

Jane Cherry

Associate Director

Office of Political Affairs

The White House

Washington, DC 20502

jcherry@gwb43.com

Do you know the following individual? If so, would you recommend him for a position in the Bush Administration?

Thank you for your continued service to the President.

Jane Cherry
Associate Director
Office of Political Affairs
The White House
Washington, DC 20502
jcherry@gwb43.com

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 2:32 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT FROM THE DEPARTMENT OF JUSTICE ON TODAY'S RULING ON THE TERRORIST SURVEILLANCE PROGRAM

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

STATEMENT FROM THE DEPARTMENT OF JUSTICE ON TODAY'S RULING ON THE TERRORIST SURVEILLANCE PROGRAM

The Terrorist Surveillance Program is a critical tool that ensures we have in place an early warning system to detect and prevent a terrorist attack. In the ongoing conflict with al-Qaeda and its allies, the President has the primary duty under the Constitution to protect the American people. The Constitution gives the President the full authority necessary to carry out that solemn duty, and we believe the program is lawful and protects civil liberties. Because the Terrorist Surveillance Program is an essential tool for the intelligence community in the War on Terror, the Department of Justice has appealed the District Court's order. The parties have also agreed to a stay of the injunction until the District Court can hear the Department's motion for a stay pending appeal.

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06-550

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Image not available for this document, ID: 0.7.10316.37440-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 3:01 PM
To: USDOJ- Office of Public Affairs
Subject: FIRST AMERICAN CIVILIAN CONVICTED OF DETAINEE ABUSE DURING WARS IN IRAQ AND AFGHANISTAN

Department of Justice

Acting United States Attorney George E.B. Holding
Eastern District of North Carolina

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
www.usdoj.gov/usao/nce

CONTACT: ELISABETH M. REGAN
PHONE: (919) 856-4845
FAX: (919) 856-4487

FIRST AMERICAN CIVILIAN CONVICTED OF DETAINEE ABUSE DURING WARS IN IRAQ AND AFGHANISTAN

RALEIGH, N.C.-- David A. Passaro, 40, of Lillington, N. C., was convicted on all four counts charged in the indictment by a jury in U.S. District Court, Raleigh, N.C., following a seven-day trial before U.S. District Judge Terrence W. Boyle, Acting U.S. Attorney George E. B. Holding announced today. Passaro was found guilty on one count of felony assault resulting in serious bodily harm and guilty on three counts of misdemeanor simple assault.

"Today a North Carolina jury showed the world that no one is above or beneath the laws of the United States," Acting U.S. Attorney George E.B. Holding said. "Nearly 8,000 miles from here, Passaro brutally assaulted an Afghan detainee. By the hard work of the CIA, FBI, USMS, and federal prosecutors, Passaro has been brought to justice."

Evidence presented at the trial showed that Passaro, a contractor working on behalf of the Central Intelligence Agency (CIA), was stationed at the U.S. Army base at Asadabad in the Kunar Province of Afghanistan in June, 2003. On June 18, 2003, Passaro and military personnel took an Afghan man named Abdul Wali into custody after he had surrendered himself at the front gate of the Asadabad Base. Wali was wanted for questioning in rocket attacks on the base and was placed in a detention cell located within the base. Evidence presented in the trial also established that on June 19, 2003, and June 20, 2003, Passaro interrogated Wali about the rocket attacks, and that during these interrogations Passaro beat Wali using his hands and feet, a mag-lite and a large spotting light. Wali died on June 21, 2003, while still in custody at Asadabad Base.

Passaro is the first American civilian charged and convicted of mistreating a detainee during the wars in Iraq and Afghanistan.

The maximum penalty for the felony conviction is 10 years in prison and a $250,000 fine and the simple assaults have a maximum penalty of six months each. Sentencing will be at a later date.

DOJ_NMG_ 0166814

This case was referred to the Department of Justice by the CIA and investigated by the CIA's Office of Inspector General, FBI and the U. S. Marshal's Service. The case was prosecuted by Assistant U. S. Attorney James A. Candelmo from the Eastern District of North Carolina and by Assistant U. S. Attorney Michael P. Sullivan from the Southern District of Florida, Counter Terrorism Section of the Criminal Division of the Department of Justice.

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Image not available for this document, ID: 0.7.10316.37434-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 3:29 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS BRIEFING

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, AUGUST 17, 2006
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(202) 514-2007
TDD (202) 514-1888

*****Media Advisory*****

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS BRIEFING

WASHINGTON – Attorney General Alberto R. Gonzales will hold a press briefing **TODAY, AUGUST 17, 2006 at 4:00 P.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Press Briefing

WHEN: **TODAY, AUGUST 17, 2006 at 4:00 P.M. EDT**

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-553

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Image not available for this document, ID: 0.7.10316.37435-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 4:04 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF RACE DISCRIMINATION AGAINST MINNEAPOLIS LANDLORD

Department of Justice

FOR IMMEDIATE RELEASE — CRT
THURSDAY, AUGUST 17, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF RACE DISCRIMINATION AGAINST MINNEAPOLIS LANDLORD

WASHINGTON — The Justice Department announced an agreement today with the owners and managers of two rental properties in Minneapolis, Minn., to resolve allegations of systemic discrimination against African-American tenants. Under the settlement, which must still be approved by the U.S. District Court in Minneapolis, the defendants must pay $525,000 to the affected households, hire an independent management company to operate the rental properties, post and publish non-discriminatory policy, and take steps to clear up the records of several persons who the United States alleges Kreisler attempted to evict for discriminatory reasons, so that the housing court records do not reflect adversely on their rental history. The defendants will also pay a $50,000 civil penalty.

"It is offensive and illegal to deny equal access to housing based on the color of one's skin," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department is committed to aggressively enforcing our civil rights laws that protect our most fundamental rights and values from such discriminatory practices."

The U.S. Attorney for the District of Minnesota, Rachel K. Paulose said, "All Minnesotans have the right to expect fair and lawful treatment when searching for a home for themselves and their children. This office will continue to fight vigorously against discrimination in housing."

The lawsuit alleged that Robert Kreisler Jr. and his affiliated companies violated the Fair Housing Act when they discriminated against African-American tenants at two apartment complexes located at 2500 Blaisdell and 2421 Pillsbury in Minneapolis. Specifically, the government's complaint alleged that defendants sought to evict African-American tenants, required them permanently to vacate their apartments due to renovations, failed to provide them necessary and requested maintenance, and denied that apartments were available to rent when, in fact, they were available.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of

DOJ_NMG_ 0166821

Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas affected by Hurricane Katrina and targets housing discrimination all over the country.

More information about Operation Home Sweet Home, can be found at <http://www.usdoj.gov/fairhousing>. Individuals who believe that they may have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 21, 2001, the Justice Department's Civil Rights Division has filed 200 cases to enforce the Fair Housing Act, including 59 based on race. For more information about the Civil Rights Division and the laws it enforces, visit <http://www.usdoj.gov/crt>.

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06-548

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Image not available for this document, ID: 0.7.10316.37428-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 4:14 PM
To: USDOJ- Office of Public Affairs
Subject: TWO CITY COUNCIL MEMBERS AND A POLITICAL CONSULTANT PLEAD GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
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(202) 514-2007
TDD (202) 514-1888

TWO CITY COUNCIL MEMBERS AND A POLITICAL CONSULTANT PLEAD GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

WASHINGTON – Two sitting members of the Gadsden, Alabama City Council and a political consultant pleaded guilty to participating in a bribery and wire fraud conspiracy that operated from August 2005 through February 2006, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Jimmy L. Armstrong, 70, a member of the Gadsden City Council; Fred L. Huff, 66, a member of the Gadsden City Council; and Larry R. Thompson, 55, a private political consultant entered guilty pleas this afternoon in U.S. District Court in Birmingham, Ala., before the Honorable L. Scott Coogler. All three defendants were charged with one count of conspiring to commit federal programs bribery and honest services wire fraud. The charges relate to a bribery scheme in which Thompson, working with an individual who was cooperating with the FBI, made cash payments to influence and reward members of the Gadsden City Council for their votes in connection with a real estate development. The charges arise from Operation Costly Influence, a covert investigation conducted by the FBI.

As part of their plea agreements, Armstrong and Huff each admitted that they agreed to enrich themselves by soliciting and accepting cash bribes from Thompson and the cooperating witness. They did so with the intent of being influenced and rewarded in connection with two votes they both cast that aided a mixed-use real estate development along the banks of the Coosa River in Gadsden. Armstrong admitted accepting two cash payments totaling $800 for his votes supporting the development, and Huff admitted accepting four cash payments totaling $1,600 for his votes supporting the development. Thompson admitted that he solicited cash payments from the cooperating witness in exchange for Thompson's help in advancing the real estate development, and that portions of the money were used to make cash payments to the members of the City Council. Thompson made cash payments himself, and he helped the cooperating witness make cash payments, including instructing the witness on how to pass the money and what to say to the members of the City Council.

"Two members of the Gadsden City Council today admitted to a shocking betrayal of the public's trust – the selling of their Council votes for cash," said Assistant Attorney General Fisher. "There is no place in government for the buying or selling of an elected official's votes. The Department of Justice remains firmly committed to exposing and prosecuting such public corruption crimes at the federal, state and local level."

DOJ_NMG_ 0166825

Carmen S. Adams, Special Agent in Charge, Federal Bureau of Investigation, stated: "Public corruption remains a high priority within the FBI, and these guilty pleas today are evidence of how the FBI continues to aggressively pursue corruption at all levels of government. The citizens of Alabama have a right to expect honest services from their public officials. Unfortunately, a small minority abuse their positions for private gain, undermining the integrity of all government operations. I encourage anyone with any information concerning possible public corruption to contact the FBI's Public Corruption Tipline at 1-877-628-2533 or online at http://reportcorruption.fbi.gov."

The conspiracy charge carries a maximum penalty of five years in prison and a $250,000 fine. Each defendant has agreed to cooperate in this ongoing investigation.

These cases are being investigated by the FBI. They are being prosecuted by Trial Attorney John P. Pearson and Senior Trial Attorney John W. Scott of the Public Integrity Section of the Criminal Division, U.S. Department of Justice, headed by Acting Section Chief Edward C. Nucci.

# # #

06-552

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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 4:25 PM
To: USDOJ- Office of Public Affairs
Subject: LOUISIANA MEDICAL CENTER TO PAY UNITED STATES $3.8 MILLION TO SETTLE ALLEGATIONS OF FRAUD

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

LOUISIANA MEDICAL CENTER TO PAY UNITED STATES $3.8 MILLION TO SETTLE ALLEGATIONS OF FRAUD

WASHINGTON - Our Lady of Lourdes Regional Medical Center has agreed to pay the United States $3.8 million to settle claims that they defrauded Medicare, TRICARE and Medicaid from 1999 to 2003, the Justice Department and the U.S. Attorney for the District of Western Louisiana announced today.

Today's civil settlement resolves allegations that the Lafayette, La., facility violated the False Claims Act by submitting claims for medically unnecessary elective angiogram, medically unnecessary elective angioplasty, and medically unnecessary elective stenting procedures performed at the hospital by Dr. Mehmood Patel between from 1999 to 2003.

"Today's settlement demonstrates the United States' determination to make sure health care providers do not overcharge federal health care programs," said Assistant Attorney General Peter Keisler, head of the Justice Department's Civil Division.

The allegations arose from a lawsuit filed by Dr. Christopher Mallavarapu, a cardiologist and former professional colleague of Dr. Patel. Under the whistleblower provisions of the federal False Claims Act, private individuals are allowed to sue on behalf of the United States and receive a portion of the proceeds of a settlement or judgment awarded against a defendant. As part of today's settlement, Dr. Mallavarapu will receive $760,000. The United States intervened in the lawsuit, and it was unsealed, on May 5, 2006, in Lafayette.

DOJ_NMG_ 0166829

"We applaud the investigators and prosecutors who continue to aggressively pursue on every front those who defraud and undermine government programs such as the Medicare program," said Donald W. Washington, U.S. Attorney for the Western District of Louisiana.
"Every tax dollar diverted by false claims or simply poor procedures reduces the system's ability to assist those needing medical treatment. We will use every civil or criminal tool available to my office to recover funds diverted by fraud or other mis-use."

"Fraudulent furnishing of medically unnecessary invasive procedures not only causes financial harm but puts patients at significant risk," said Daniel Levinson, Inspector General of the Department of Health & Human Services. "The Office of Inspector General will vigorously investigate such cases and require appropriate corrective action to safeguard future patient care."

The civil investigation and settlement were jointly handled by the Office of the U.S. Attorney for the Western District of Louisiana and the Civil Division of the Justice Department.

The action is entitled *United States ex rel. Christopher T. Mallavarapu v. Acadiana Cardiology, LLC et al.*, Civil Action No: 04-1732 (W.D. La.).

# # #

06-554

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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 4:50 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER MANAGER OF RENTAL APARTMENTS IN ALABAMA FOUND GUILTY OF RACE DISCRIMINATION

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

FORMER MANAGER OF RENTAL APARTMENTS IN ALABAMA FOUND GUILTY OF RACE DISCRIMINATION

WASHINGTON – Milburn Long, a former apartment manager in Boaz, Ala., was found guilty by a judge in federal court, of engaging in race discrimination due to his refusal to rent apartments to African-Americans, the Justice Department announced today. He was ordered to pay a civil penalty of $10,000 to the government.

In an opinion issued on Aug. 16, U.S. District Judge Lynwood Smith ruled that in 2003, Long repeatedly violated the federal Fair Housing Act by refusing to rent apartments to African-Americans at the Park Place Apartments complex and telling others that he would not rent to African-Americans. Judge Smith declared that district courts "should not tolerate the loathsome act of discriminating among citizens on the basis of race," and that the civil penalty sends "a message to other apartment owners and leasing agents that violation of the Fair Housing Act entails serious consequences."

The Department conducted an investigation of Park Place Apartments through the use of fair housing testers – individuals who pose as renters for purposes of gathering information about possible discriminatory practices in the rental of apartments. The Department filed a lawsuit against Mr. Long and his employer, Dawson Development Co., in 2005 claiming that the defendants had refused to rent to African-Americans. Earlier this year, Dawson Development settled its part of the case, agreeing to pay $17,000 for a civil penalty and $32,700 to compensate individuals who were subjected to the alleged discriminatory housing practices. The case against Mr. Long proceeded to trial where the Department presented evidence that Long had offered apartments at Park Place to the white testers but not to the African-American testers.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in the United States. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas affected by Hurricane Katrina and targets housing discrimination all over the country.

DOJ_NMG_ 0166833

More information about Operation Home Sweet Home, can be found at <http://www.usdoj.gov/fairhousing>. Individuals who believe that they may have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 21, 2001, the Justice Department's Civil Rights Division has filed 201 cases to enforce the Fair Housing Act, including 59 based on race. More information about the Civil Rights Division and the laws it enforces can be found at http://www.usdoj.gov/crt.

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06-555

DOJ_NMG_ 0166834

Image not available for this document, ID: 0.7.10316.37411-000001

Image not available for this document, ID: 0.7.10316.37411-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 5:25 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT FROM THE DEPARTMENT OF JUSTICE ON TODAY'S RULING IN UNITED STATES V. PHILIP MORRIS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

STATEMENT FROM THE DEPARTMENT OF JUSTICE ON TODAY'S RULING IN UNITED STATES V. PHILIP MORRIS

We are pleased with the Court's finding of liability on the part of the defendants, but disappointed that the Court did not impose all of the remedies sought by the government. Nevertheless, we are hopeful that the remedies that were imposed by the Court can have a significant, positive impact on the health of the American public. We are continuing to review the Court's 1,652 page opinion.

# # #

06-556

DOJ_NMG_ 0166837

Image not available for this document, ID: 0.7.10316.37409-000001

Image not available for this document, ID: 0.7.10316.37409-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 17, 2006 5:27 PM
To: USDOJ- Office of Public Affairs
Subject: REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT A PRESS BRIEFING ON THE TERRORIST SURVEILLANCE PROGRAM RULING

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 17, 2006
WWW.USDOJ.GOV

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

REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT A PRESS BRIEFING ON THE TERRORIST SURVEILLANCE PROGRAM RULING

WASHINGTON, D.C.

ATTORNEY GENERAL GONZALES: Last December, the President of the United States confirmed to the American people that the United States government was engaged in electronic surveillance of communications involving al Qaeda, which -- as you know, the United States has been at war with al Qaeda for almost five years, September 11 of 2001. We have talked about this program on numerous occasions to the American people and to the American Congress.
It is a very narrow program, again, focused on communications with al Qaeda where one end of the phone call -- communication is foreign, outside of the United States.

It has been very effective. We've had numerous statements by leaders of the intelligence community about the effectiveness of this program in protecting America.

We also believe very strongly that the program is lawful. It has been reviewed by a number of lawyers within the administration, including lawyers out at the NSA, including lawyers at the Department of Justice.

It is a program that is reviewed periodically for its continued effectiveness. It is reviewed periodically to ensure that it remains lawful.

It has been very important for the security of our country.

As you know, today, a district court judge in Michigan ruled that the program was unlawful. We disagree with the decision -- respectfully disagree with the decision -- of the judge, and we have appealed the decision. And we -- there is a stay in place, and so we will continue to utilize the program to ensure that America is safer.

With that, I'm happy to take any questions you have. Yes, ma'am.

Q. Mr. Attorney General, in view of the fact that two judges have now found that there's sufficient information on the public record to describe the program for them to assess it, do you now regret any of the public statements you and the White House have made in describing the program?

DOJ_NMG_ 0166840

ATTORNEY GENERAL GONZALES: Well, obviously that was a tactical decision that had to be made early in this matter.

I think the decision by the President was that it was sufficiently important to reassure the American people, given the disclosure of the program, to reassure the American people about the narrow scope of the program, to reassure the American people the program had been carefully reviewed for this lawfulness, to reassure the American people that the program is routinely monitored. And of course we believe it was the right decision to reassure the American people that the President is doing what he believes is necessary, consistent with the Constitution, to protect this country from further attacks from al Qaeda.

Q. Judge Gonzales, how does this ruling impact your efforts to work with Senator Specter to get a law passed which would resolve the issues that are of concern to the judge in this case?

ATTORNEY GENERAL GONZALES: Well, of course, we continue to believe that the program is lawful and that the legislation is not necessary. However, we have committed to Senator Specter that if the legislation is passed, that the President would submit the program to the FISA Court to test its constitutionality.

We are still analyzing the opinion of the judge, but it would appear that if legislation were passed, that it would address some of the concerns raised by the judge in her opinion.

Q. The plaintiffs, the ACLU, said this afternoon that they think that this ruling will impact the legislative debate on this issue, and I wondered if you agreed with that.

ATTORNEY GENERAL GONZALES: I think that's a matter I think you need to ask members of Congress. Obviously, it will play -- I suspect it will play some kind of role, but it's kind of hard to predict at this moment in fact how it's going to impact the discussion.

Q. Judge Gonzales, do you think this ruling will be upheld on appeal? And if it is and if the program has to be terminated even temporarily, what do you think the impact is going to be on your ongoing intelligence -- (off mike)?

ATTORNEY GENERAL GONZALES: We have confidence in the lawfulness of this program, and that's why the appeal has been lodged. This is an important program. We have leaders of the intelligence community who have testified to Congress that it's been effective in protecting America.

And so we're going to do everything that we can do in the courts to allow this program to continue because it is effective, has been effective in protecting America.

Q. Judge, following up on Terry's question, with respect to your legislation, as I understand it, authorizes the consolidation of challenges to programs such as this in the FISA Court. And I'm wondering -- I'm presuming that was with -- was that an intention to avoid the sort of result that you're presented with today?

And secondly, are you going to continue to push for that provision and basically to nullify the judge's ruling? And do you think you'll meet any resistance, or do you -- or how are you going to proceed on that?

ATTORNEY GENERAL GONZALES: Well, one of the problems -- one of the challenges that we're facing is that we do have multiple litigation around the country on this issue, and it seems to me that it will create confusion if we have judges issuing rulings that are different in scope. And it's for that reason that we ask for a consolidation, and some of these cases have been consolidated. This particular case was not consolidated. And

DOJ_NMG_ 0166841

so we'll have to evaluate what the ramifications are this decision vis-a-vis the other cases that have been consolidated.

I think it makes sense if we can get all of this -- get these questions before, you know, one central court, like the FISA Court, and we can have one decision, I think that would be beneficial.

Q. If I could change topics for a minute, Judge Kessler at 4:30 is going to issue her decision in the tobacco lawsuit. We have you here now. Is there anything you can say? Have you been briefed? Anything you can tell us about the decision of the tobacco lawsuit?

ATTORNEY GENERAL GONZALES: I look forward to reading Judge Kessler's decision.

That's all I can say. I don't know -- I have no advanced knowledge about what the decision is.

Q. You've been one of the main movers by the NSA program, first the White House and now at the Justice Department. How -- at a personal level, how disappointed are you by this? And are you surprised -- (off mike)?

ATTORNEY GENERAL GONZALES: I'm surprised by the -- I really haven't studied the opinion. Some of the lawyers have read it, and I'm not sure I should comment publicly about their views about the analysis. So give me an opportunity to read it. Obviously, of course, I'm disappointed. I believe very strongly that the President does have the authority to authorize this kind of conduct in a time -- particularly in a time of war, conduct that's very consistent with what other Presidents have done in a time of war. And we believe the authority comes from the authorization to use military force and from his constitutional authority as commander in chief.

Q. Following up on the British investigation, there are a couple of things. Do you know of any new arrests of key people in Pakistan in this case, as has been reported? And do you have any information on any new or additional arrests anywhere else relating to this case today?

ATTORNEY GENERAL GONZALES: What I can say is this is a very complicated case and we're in a very sensitive stage of the investigation. I've had conversations with Home Secretary Reid and from Attorney General Peter Goldsmith in the U.K., who have both asked that we express -- that we -- that we exercise extreme care in commenting about facts relating to this investigation because there is a different legal system that operates in the United Kingdom versus the United States of America.

We have been successful, I think, in protecting America for these past five years from another attack because of the cooperation and collaboration that exists with our friends and allies, and we want to be a good partner to the U.K. in this particular case. And so, you know, as much as I'd like to talk about additional facts related to this case, I'm not going to at this time. As soon as we can give the American public additional information, we will do so.

Q. And at the risk of belaboring this, on the British -- on the review that you asked for -- the side-by-side review, so-called -- of British laws and U.S. laws, where is that going? What is the time frame? What are you looking for?

ATTORNEY GENERAL GONZALES: Well, let me talk a little bit about that.

You know, every time there is a plot or a hint of a plot, we look to see what al Qaeda is doing. What is the threat, whether it's against the United States or not? Because we need to know what is al Qaeda thinking about doing -- possibly doing against the United States. That happens with respect to every plot or possible plot. This is no exception.

In addition, we look to see what has the response to that threat been.

So we look to see what did the U.K. do in this particular case, and what did we do in this particular case, looking at the threat, looking at our response. We do that in every case to see whether or not -- are we in the best position to address this emerging threat against the United States of America? And that's what's going on in this particular case, is we're looking to see, okay, what did the members of this -- of this group intend to do, and do we have the tools in place that the U.K. -- what tools did the U.K. have in place to address this threat?

And so this is what we do with respect to every plot or potential plot, and that's what we're doing now, and that is ongoing.

As you might imagine, we are still learning about the threat. And it's hard to evaluate what additional tools that we need without fully understanding the nature of the threat. So we need a little bit more time to fully understand the nature of the threat before we can make a definitive decision as to what additional tools might be helpful in preventing similar threats in the future.

Q. Like longer detentions, for example?

ATTORNEY GENERAL GONZALES: Again, it's too early to tell. We've got a lot of great tools here in the United States that don't exist in the United Kingdom, and obviously we want to pursue those tools that are absolutely constitutional and those tools that would be effective in addressing another threat against the United States.

Q. Judge Gonzales, there's been some suggestion that the threat wasn't as imminent as first reported. What do you know, and what are you able to say about that?

ATTORNEY GENERAL GONZALES: I can say that it was well-advanced. I can certainly say that. It was well-advanced. I don't want to get into any other detail beyond that. Again, at the appropriate time, I think hopefully we'll be able to give much more detail about how far along the plot was.

But I am comfortable saying that it was well-advanced.

Q. Can you say whether the NSA program played any role in first?

ATTORNEY GENERAL GONZALES: Again, what I can say is we used all the tools that we believe were lawful in order to gather information that would be helpful in connection with this investigation.

Thank you very much.

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Image not available for this document, ID: 0.7.10316.37404-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 17, 2006 6:17 PM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: Obituary for Mike Elston's [redacted]
Attachments: tmp.htm

-----Original Message-----
From: Sampson, Kyle
To: Battle, Michael (USAEO); Beach, Andrew; Brand, Rachel; Card, Jean; Elwood, Courtney; Fisher, Alice; Friedrich, Matthew; Goodling, Monica; Gorsuch, Neil M; Jezierski, Crystal; McNulty, Paul J; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>; Mercer, Bill (USAMT); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roehrkasse, Brian; Sampson, Kyle; Schofield, Regina; Scolinos, Tasia; Sellers, Kiahna (OAG); Taylor, Jeffrey (OAG)
Sent: Thu Aug 17 12:03:34 2006
Subject: FW: Obituary for Mike Elston's [redacted]

FYI

-----Original Message-----
From: Powell, SeLena Y
Sent: Thursday, August 17, 2006 11:59 AM
To: Sampson, Kyle
Subject: FW: Obituary for Mike Elston's [redacted]

FYI

-----Original Message-----
From: Powell, SeLena Y
Sent: Thursday, August 17, 2006 11:53 AM
To: Hoisington, Jana; Moore, Miriam (ODAG); Adams, Michael G (ODAG); Alikhan, Arif (ODAG); Bennett, Betenia; Brinkley, Winnie; Caballero, Luis (ODAG); Cardwell, Christine; Connor, Mark; Epley, Mark D; Grider, Mark (ODAG); Henderson, Charles V; Horvath, Jane (ODAG); Im, Saovaluck; Irving, John (ODAG); Jackson, Marjorie L; John, Jeff; Johnson, Willie E Jr.; Keasley, Monica (ODAG); Long, Linda E; Margolis, David; McAtamney, James A; McFarland, Steven T (ODAG); Meyer, Joan E (ODAG); Monheim, Thomas; Moye, Pam; Nash, Stuart (ODAG); Otis, Lee L; Purpura, Michael M (ODAG); Raman, Mythili (ODAG); Rowan, Patrick (ODAG); Sesker, Sonya J; Shults, Frank (ODAG); Tenpas, Ronald J (ODAG); Thiemann, Robyn (ODAG); Williams, Shayne; McNulty, Paul J; Goodling, Monica; Mercer, Bill (USAMT); Rosenberg, Chuck (USAVAE); Rybicki, James (USAVAE); Davis, John S. (USAVAE)
Subject: Obituary for Mike Elston's [redacted]

http://www.rrstar.com/apps/pbcs.dll/classifieds?Category=OBITUARIES

http://www.rrstar.com/apps/pbcs.dll/classifieds?Category=OBITUARIES

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 17, 2006 7:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Houston, TX

From: AmberAlert-DOJ
Sent: Thursday, August 17, 2006 7:01:02 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Houston, TX
Auto forwarded by a Rule

UPDATE AMBER ALERT:Houston,TX CHILD:13 Hispanic F 5FT1 130LBS Eyes:Brown Hair:Brown SUSPECT:42 Black M CALL 713-731-5335
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1982

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 17, 2006 10:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: New York, NY

From: AmberAlert-DOJ
Sent: Thursday, August 17, 2006 10:01:15 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: New York, NY
Auto forwarded by a Rule

UPDATE AMBER ALERT:New York,NY VEHICLE:Green SUV Dodge Suburban TAG:NY DPB8184 CHILD:Black F SUSPECT:39 Black M 6FT4 220LBS CALL 866-NYS-AMBER
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=1983

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 9:48 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 18, 2006

Department of Justice

PRESS GUIDANCE
Friday, August 18, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Civil Division will issue a press release on a False Claims Act matter. (Miller)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.37354-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 2:11 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ANNOUNCES SETTLEMENT AGREEMENT ON ACCESSIBILITY ISSUES WITH THE MADONNA INN

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 18, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT ANNOUNCES SETTLEMENT AGREEMENT ON ACCESSIBILITY ISSUES WITH THE MADONNA INN

WASHINGTON - A settlement agreement reached with Madonna Inn Inc. under Title III of the Americans with Disabilities Act (ADA) will make the landmark roadside Inn more accessible to people with disabilities, the Justice Department announced today.

"People with disabilities too often face unreasonable barriers to enjoying many things most of us take for granted, such as traveling and staying in a hotel or motel," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "Today's settlement is a positive step towards ensuring that persons with disabilities enjoy fully the freedom to travel."

Each of the 108 rooms in this well-known lodging facility located just off the 101 freeway on California's Central Coast is uniquely decorated with a special theme and color scheme, including the five designated accessible rooms (Golfer, Vintage, Mt. Vernon, Rose, and Desert Sands). The Inn has agreed to remove barriers to access in each of the designated accessible rooms. In the future, should the Inn grow and expand, the settlement requires additional accessible rooms to be added in compliance with the agreement. The Inn will also provide different bed types in three of the rooms (or two rooms that adjoin from the inside for the price of one); equipment to make rooms accessible to individuals with hearing and vision disabilities; and it will provide additional amenities such as a patio or fireplace in at least two of these rooms.

In addition, the agreement will provide greater access to other spaces and elements throughout the Inn and restaurant. The agreement also provides that the Inn will modify its guest reservation policies to provide more opportunities for people with disabilities to stay at the Inn.

Anyone interested in finding out more about the ADA or the agreement can call the Justice Department's toll-free ADA Information Line at 800-514-0301 or 800-514-0383 (TTY), or access its ADA Web site at http://www.ada.gov.

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06-557

DOJ_NMG_ 0166855

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Image not available for this document, ID: 0.7.10316.37322-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 3:45 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER OPENING ADDRESS AT THE CRIMES AGAINST CHILDREN CONFERENCE IN DALLAS

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 18, 2006
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER OPENING ADDRESS AT THE CRIMES AGAINST CHILDREN CONFERENCE IN DALLAS

WASHINGTON – Attorney General Alberto R. Gonzales will deliver the opening address at the 18th Annual Crimes Against Children Conference in Dallas, Texas on **MONDAY, AUGUST 21, 2006 at 8:30 A.M. CDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Opening Address at the Crimes Against Children Conference
Media Availability

WHEN: **Monday, August 21, 2006**
8:30 A.M. CDT

WHERE: Hyatt Regency Dallas
300 Reunion Blvd West
Dallas, Texas

NOTE: Pre-set for address is no later than **7:45 A.M. CDT**. Pre-set for media availability is no later than **9:00 A.M. CDT**. Press inquiries regarding logistics should be directed to Andy Beach of the Department of Justice at 202-353-5929 or Kathy Colvin of the U.S. Attorney's Office of the Northern District of Texas at 817-988-0157.

# # #

06-559

DOJ_NMG_ 0166858

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Image not available for this document, ID: 0.7.10316.37172-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 4:01 PM
To: USDOJ- Office of Public Affairs
Subject: ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL FOR ECONOMIC ANALYSIS

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 18, 2006
WWW.USDOJ.GOV

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

ANTITRUST DIVISION NAMES NEW DEPUTY ASSISTANT ATTORNEY GENERAL FOR ECONOMIC ANALYSIS

Dennis W. Carlton to Serve as Deputy Assistant Attorney General for Economic Analysis

WASHINGTON — Thomas O. Barnett, Assistant Attorney General for the Department of Justice's Antitrust Division, today announced that Dennis W. Carlton has been appointed to serve as the Deputy Assistant Attorney General for Economic Analysis.

"We are privileged to have such a preeminent and respected leader in the economic field join the Antitrust Division,"said Barnett. "Dennis will bring a wealth of experience and insight to our team, and we all look forward to working with him."

As Deputy Assistant Attorney General, Carlton will supervise all economic analysis within the Antitrust Division and direct the Division's Economic Analysis Group. Carlton is scheduled to join the Division in October 2006.

Since 1977, Carlton has been associated with Lexecon, a premier economic consulting firm, where he served as president from 1997 to 2001 and currently serves as senior managing director. He has also been a professor of economics at the University of Chicago's Graduate School of Business since 1984, specializing in industrial organization and theoretical and applied economics. Carlton has previously taught economics at the University of Chicago's law school and economics department, as well as the Massachusetts Institute of Technology.

Carlton has written numerous articles on market behavior and antitrust issues and has served as co-editor of the Journal of Law and Economics since 1980. In 1990, he co-authored *Modern Industrial Organization*, which has since been translated into four other languages and is now in its fourth edition. His economic expertise has also been requested on a wide range of industry matters including transportation, utilities, and telecommunications.

DOJ_NMG_ 0166861

In June 2006, Carlton was a featured speaker at the inaugural session of the joint public hearings hosted by the Department of Justice and Federal Trade Commission that are examining the antitrust treatment of single-firm conduct. He is currently the sole economist serving on the Antitrust Modernization Commission, a Congressional commission examining the U.S. antitrust laws. He also served as a consultant on the Horizontal Merger Guidelines for the Department from 1991 to 1992.

Carlton graduated *summa cum laude* from Harvard University in 1972 with an A.B. in applied math and economics. At the Massachusetts Institute of Technology, he received a Masters in Operations Research in 1974 and a Ph.D. in Economics in 1975.

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06-558

DOJ_NMG_ 0166862

Department of Justice

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Carlton has written numerous articles on market behavior and antitrust issues and has served as co-editor of the Journal of Law and Economics since 1980. In 1990, he co-authored *Modern Industrial Organization*, which has since been translated into four other languages and is now in its fourth edition. His economic expertise has also been requested on a wide range of industry matters including transportation, utilities, and telecommunications.

In June 2006, Carlton was a featured speaker at the inaugural session of the joint public hearings hosted by the Department of Justice and Federal Trade Commission that are examining the antitrust treatment of single-firm conduct. He is currently the sole economist serving on the Antitrust Modernization Commission, a Congressional commission examining the U.S. antitrust laws. He also served as a consultant on the Horizontal Merger Guidelines for the Department from 1991 to 1992.

Carlton graduated *summa cum laude* from Harvard University in 1972 with an A.B. in applied math and economics. At the Massachusetts Institute of Technology, he received a Masters in Operations Research in 1974 and a Ph.D. in Economics in 1975.

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06-558

Image not available for this document, ID: 0.7.10316.37340-000002

Image not available for this document, ID: 0.7.10316.37340-000003

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 5:59 PM
To: USDOJ- Office of Public Affairs
Subject: BEVERLY ENTERPRISES INC. TO PAY $20 MILLION FOR FALSE CLAIMS BY FORMER SUBSIDIARY

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 18, 2006
WWW.USDOJ.GOV

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

BEVERLY ENTERPRISES INC. TO PAY $20 MILLION FOR FALSE CLAIMS BY FORMER SUBSIDIARY

WASHINGTON – Beverly Enterprises Inc. has agreed to pay the United States and the State of California $20 million to settle allegations that its former wholly owned subsidiary, MK Medical, violated the civil False Claims Act, the Justice Department announced today.

The government alleged that MK Medical submitted false claims for payment to the Medicare and Medi-Cal programs from 1998 until 2002, while Beverly owned the company. MK Medical, a now-defunct wholesaler of durable medical equipment (DME), allegedly billed Medicare and Medi-Cal for DME provided to the programs' beneficiaries without obtaining the proper claims and medical documentation.

"This agreement reflects the government's determination to prevent fraud and abuse by ensuring that health care providers comply with program safeguards regarding critical documentation," said Assistant Attorney General Peter D. Keisler of the Justice Department's Civil Division.

Beverly has agreed to settle these allegations by paying $14,487,278 to the United States and $5,512,722 to the state of California. No action has been filed in court. The Medicare program is funded by the federal government, while the Medi-Cal program is jointly funded by the federal government and California.

"Health care fraud is one of the priorities of this office," said Kevin V. Ryan, U.S. Attorney for the Northern District of California, whose office participated in the investigation. "We are committed to pursuing allegations of fraud against federal health care programs, and to safeguarding federal funds against false claims."

The investigation was conducted by the Justice Department's Civil Division, the U.S. Attorney's Office for the Northern District of California in San Francisco, the Office of Inspector General for the Department of Health and Human Services and the Federal Bureau of Investigation.

DOJ_NMG_ 0166866

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06-560

DOJ_NMG_ 0166867

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Image not available for this document, ID: 0.7.10316.37326-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 7:59 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 21-25, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 18, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
August 21 – August 25, 2006

Monday, August 21

8:30 A.M. CDT

Attorney General Alberto R. Gonzales will deliver the opening address at the 18th Annual Crimes Against Children Conference and afterward hold a Media Availability. Regina Schoefield, Assistant Attorney General for the Office of Justice Programs, will deliver remarks at the conference following the Attorney General.
Hyatt Regency Dallas
300 Reunion Boulevard West
Dallas, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Andy Beach of the Department of Justice at 202-353-5929 or Kathy Colvin of the U.S. Attorney's Office of the Northern District of Texas at 817-988-0157.

3:00 P.M. CDT

Attorney General Alberto R. Gonzales will hold a press conference on Department of Justice efforts to combat violent crime in New Orleans with U.S. Attorney Jim Letten for the Eastern District of Louisiana and Chief Warren Riley of the New Orleans Police Department
Location TBD
New Orleans, Louisiana
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at the Department of Justice at 202-532-3486.

Tuesday, August 22

DOJ_NMG_ 0166870

11:25 A.M. EDT Attorney General Alberto R. Gonzales and U.S. Attorney for the Eastern District of Kentucky Amul R. Thapar, will tour the Children's Advocacy Center in Lexington, Ky. and hold a media availability.
Children's Advocacy Center
183 Walton Avenue
Lexington, Kentucky
OPEN PRESS

All press inquiries regarding logistics should be directed to Evan Peterson at the Department of Justice at 202-353-5748.

Wednesday, August 23

Events TBD

Thursday, August 24

Events TBD

Friday, August 25

Events TBD

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DOJ_NMG_ 0166871

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Image not available for this document, ID: 0.7.10316.37166-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 18, 2006 8:58 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 18, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Visits Dallas and New Orleans (OPA)
On Monday, the Attorney General will deliver a speech in Dallas, followed by a media availability discussing DOJ efforts to protect children through Project Safe Childhood. New initiatives include a partnership with the Ad Council and the National Center for Missing and Exploited Children to create an ad campaign to protect children from online predators.

Later in the day, the Attorney General will visit New Orleans, where he will hold a press conference to discuss federal resources that are being dedicated to fight violent crime. New DOJ initiatives will be announced. He will also meet with local law enforcement officials and Louisiana political leadership.

Media Continues to Inquire Regarding Yesterday's Ruling in Terrorist Surveillance Program (OPA)
The Justice Department continued to receive media calls on yesterday's ruling regarding TSP.

Yesterday, the following statement was issued by the Justice Department in response to the ruling:

- The Terrorist Surveillance Program is a critical tool that ensures we have in place an early warning system to detect and prevent a terrorist attack. In the ongoing conflict with al-Qaeda and its allies, the President has the primary duty under the Constitution to protect the American people. The Constitution gives the President the full authority necessary to carry out that solemn duty, and we believe the program is lawful and protects civil liberties. Because the Terrorist Surveillance Program is an essential tool for the intelligence community in the War on Terror, the Department of Justice has appealed the District Court's order. The parties have also agreed to a stay of the injunction until the District Court can hear the Department's motion for a stay pending appeal.

Media Inquiries on Arrest in JonBenet Ramsey Case (FBI)

The media continues to be interested in the arrest of John Mark Karr in Thailand in connection with the JonBenet Ramsey murder case. There is no significant DOJ connection to the investigation.

NBC to Air Segment on FBI's New Agent Training (FBI)
This weekend, NBC will air a short segment on the FBI's New Agent Training based on information reported in the 08/17/2006 *Washington Post* article by Dana Priest. FBI Quantico cooperated with NBC and provided b-roll of the Academy. Following the publication of Priest's article, the FBI also provided a statement to NBC to clarify certain inaccuracies in Ms. Priest's article.

FBI Submitted Letter to the *Washington Post* Responding to Dana Priest Article (FBI)
The FBI submitted a "Letter to the Editor" of The Washington Post under the signature of Deputy Assistant Director Keith Slotter in response to Thursday's article by Dana Priest on New Agent Training. The article contended that FBI training puts too much emphasis on police training and not enough attention on fighting terrorism.

***Los Angeles Times* to Run Story on FBI Field Intelligence Groups (FBI)**
Los Angeles Times reporter Rick Schmitt's story on the FBI's Field Intelligence Groups is expected to run this Sunday.

Beverly Enterprises Inc. to Pay $20 Million for False Claims by Former Subsidiary (Civil)
Beverly Enterprises Inc. has agreed to pay the United States and the State of California $20 million to settle allegations that its former wholly owned subsidiary, MK Medical, violated the civil False Claims Act, the Justice Department announced today. The government alleged that MK Medical submitted false claims for payment to the Medicare and Medi-Cal programs from 1998 until 2002, while Beverly owned the company.

Talking Point

- This agreement reflects the government's determination to prevent fraud and abuse by ensuring that health care providers comply with program safeguards regarding critical documentation.

Antitrust Division Names New Deputy Assistant Attorney General for Economic Analysis (Antitrust)
Thomas O. Barnett, Assistant Attorney General for the Department of Justice's Antitrust Division, today announced that Dennis W. Carlton has been appointed to serve as the Deputy Assistant Attorney General for Economic Analysis. As Deputy Assistant Attorney General, Carlton will supervise all economic analysis within the Antitrust Division and direct the Division's Economic Analysis Group. Carlton is scheduled to join the Division in October 2006.

Justice Department Announces Settlement Agreement on Accessibility Issues with the Madonna Inn (Civil Rights)

A settlement agreement reached with Madonna Inn Inc. under Title III of the Americans with Disabilities Act (ADA) will make the landmark roadside Inn more accessible to people with disabilities, the Justice Department announced today. Each of the 108 rooms in this well-known lodging facility located just off the 101 freeway on California's Central Coast is uniquely decorated with a special theme and color scheme, including the five designated accessible rooms (Golfer, Vintage, Mt. Vernon, Rose, and Desert Sands).

Talking Points

- People with disabilities too often face unreasonable barriers to enjoying many things most of us take for granted, such as traveling and staying in a hotel or motel.

- Today's settlement is a positive step towards ensuring that persons with disabilities enjoy fully the freedom to travel.

MONDAY'S EXPECTED EVENTS/RELEASES:

8:30 A.M. CDT

Attorney General Alberto R. Gonzales will deliver the opening address at the 18th Annual Crimes Against Children Conference and afterward hold a Media Availability. Regina Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver remarks at the conference following the Attorney General.
Hyatt Regency Dallas
300 Reunion Boulevard West
Dallas, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Andy Beach of the Department of Justice at 202-353-5929.

3:15 P.M. CDT

Attorney General Alberto R. Gonzales will hold a press conference on Department of Justice efforts to combat violent crime in New Orleans with U.S. Attorney Jim Letten for the Eastern District of Louisiana and Chief Warren Riley of the New Orleans Police Department
Port of New Orleans
1350 Port of New Orleans Place
New Orleans, La.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at the Department of Justice at 202-532-3486.

Williamson, Angela

From: Williamson, Angela
Sent: Monday, August 21, 2006 8:50 AM
To: Williamson, Angela
Subject: The Daily Update: 8/21/06

<http://www.whitehouse.gov/>
AUGUST 21, 2006

No public events.

President Bush Discusses The Strong U.S. Economy. "President Bush said Friday the nation's economy was performing well, credited tax cuts for spurring the growth, and said the country was on track to halve its deficit by 2008. Speaking at Camp David after meeting with his economic team, Bush said the economy was growing at a strong pace and unemployment remained low. 'The foundation of our economy is strong,' he said. 'Things are good for American workers, good for entrepreneurs. And that's good for the country. <http://money.cnn.com/2006/08/18/news/economy/bush/index.htm?section=money_latest> '" ("Bush Reassures On Economy," CNNMoney.com, 8/18/06)

President Bush Says America Will Defeat Terrorism By Strengthening Democracy In The Middle East. "President Bush said Saturday that his administration's determination to remain in Iraq and its efforts to end violence in Lebanon are key to protecting the U.S. from future terrorist attacks. ... 'It is no coincidence that two nations that are building free societies in the heart of the Middle East - Lebanon and Iraq - are also the scenes of the most violent terrorist activity,' Bush said in his weekly radio address. <http://news.yahoo.com/s/ap/20060819/ap_on_go_pr_wh/bush_19&printer=1> 'We will defeat the terrorists by strengthening young democracies across the broader Middle East.'" (Jennifer Loven, "Bush: Iraq War Keystone In Terror Fight," The Associated Press, 8/19/06)

Iraqi Ambassador To The U.S. Samir Sumaida'ie Says America Should Stand "Firm For Democracy" In Iraq. "As the debate on Iraq rages on, we hear more and more voices that call for throwing in the towel and leaving the mess to Iraqis to sort out. ... Our enemies' strategy has never changed: creating mayhem and making Iraq ungovernable, thereby driving the Americans and their allies out, and installing a Saddam Hussein look-alike to 'make peace.' In pursuing this strategy, they have forged many alliances and changed course and tactics many times. Just as they kept to their strategy and adapted, we should do the same. In this context, 'staying the course' should mean being ready to adapt and learn while also standing firm for democracy and for a new vision for the country and the region. If we abandon our effort, our enemies win by default <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/20/AR2006082000529_pf.html> ." (Samir Sumaida'ie, Op-Ed, "A Call To Support Democracy," The Washington Post, 8/21/06)

Kurdish Genocide Trial For Saddam Hussein Begins Today. "On Monday, Youssef and his neighbors in Nizarkeh, now home to scores of poor Kurdish families, plan to tune their television sets to watch the Anfal trial of Hussein; Ali Hassan al-Majeed, also known here as 'Chemical Ali,' who ran the campaign; and six other defendants. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/20/AR2006082000663.html> The trial is to be held in Baghdad. Both Hussein and Majeed are charged with genocide, while the others are charged with crimes against humanity." (Sudarsan Raghavan, "For Kurds, A Long Wait For Justice," The Washington Post, 8/21/06)

President Bush Strongly Disagrees With Ruling On Terror Surveillance Program. "President Bush on Friday criticized a federal court ruling that said his warrantless wiretapping program is unconstitutional, declaring that opponents 'do not understand the nature of the world in which we live.' 'I strongly disagree with that decision, strongly disagree,' Bush said, striking his finger on a podium to underscore his point. 'That's why I instructed the Justice Department to appeal immediately, and I believe our appeals will be upheld.'... 'If al-Qaida is calling in to the United States, we want to know why they're calling,' Bush said <http://abcnews.go.com/Politics/print?id=2332106> ." (Deb Riechmann, "Bush Blasts Court Ruling On Surveillance," The Associated Press, 8/18/06)

Senator John McCain (R-AZ) Says Judge Taylor's Decision On Terrorist Surveillance Program Is A "Drastic Overreach." SEN. McCAIN: "I disagree with both the rhetoric and the reasoning, and so do most constitutional scholars. It's a very much of an overreach. Look, I think that, you know, Senator Specter and others have had questions about the broad aspects of this surveillance programs, but nobody believes that we shouldn't have these, and to just declare all of them to, to be eliminated or unconstitutional I think is a drastic overreach. We need to have surveillance, we all know that, from the events of, that just took place a few day ago in London. So I disagree with it. I think that that ruling will be stayed." <http://www.msnbc.msn.com/id/14390980/> (NBC's "Meet The Press," 8/20/06)

Scholar James Wilson Says Terror Surveillance Program Ruling Ignores Important Precedents. "What is most striking ... is that she nowhere discusses the approval of warrantless searches by other and higher federal courts <http://online.wsj.com/article/SB115612635868740748.html?mod=opinion_main_commentaries> . In 1980, the Court of Appeals for the fourth circuit held (U.S. v. Truong Dinh Hung) that 'the Executive need not always obtain a warrant for foreign intelligence surveillance.' ... In 2002 the FISA review court itself held (In Re: Sealed Case) that the president 'did have inherent authority to conduct warrantless searches to obtain foreign intelligence information.'" (James Q. Wilson, Op-Ed, "Pre-Emptive Surveillance," The Wall Street Journal, 8/21/06)

The Wall Street Journal Says Mount Soledad Veterans Memorial Case Is "A Particularly Compelling Argument For Judicial Restraint." "The 29-foot cross atop the Mount Soledad Veterans Memorial in San Diego is safe, for now, from the atheist litigant who wants it torn down. Congress passed legislation this summer to make the local memorial a national one, using the federal government's eminent-domain power to buy the land on which it sits. And this week President Bush approved the purchase. ... For

now, though, what distinguishes this particular battle over the separation of church and state is that voters have repeatedly gone to the polls to affirm their desire to leave the cross in place, only to see their will thwarted by judges. <http://online.wsj.com/article/SB115586805752839090.html> This makes the Mount Soledad Memorial case a particularly compelling argument for judicial restraint." (Editorial, "A Cross We Want To Bear," The Wall Street Journal, 8/18/06)

The Washington Post Says Many Americans Have A "Grossly Distorted Image" That Ignores Positive Contributions Of Immigrants. "There's a pernicious image of America's immigrants circulating: unskilled laborers scaling fences along unguarded borders; undocumented workers taking jobs that pay both under the table and under the minimum wage; packed inner-city enclaves filled with newcomers who don't speak English and demand an inordinate amount of government services. That is a grossly distorted image and an incomplete presentation of the facts, at least in the Washington area. It also overshadows a much more complex - and positive - reality. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/20/AR2006082000517_pf.html> " (Editorial, "One In Five," The Washington Post, 8/21/06)

Department Of Health And Human Services To Implement Welfare Reforms To Strengthen Families And End Cycle Of Poverty. "New 'common sense' work definitions will steer more adults toward preparing for work, searching for work or landing jobs - 'the only activities that can lead you not just out of welfare dependency, but out of poverty as well,' said Wade F. Horn <http://www.washingtontimes.com/national/20060821-122913-8076r.htm> , assistant secretary for children and families in the Department of Health and Human Services (HHS). New $150 million-a-year funding streams for family strengthening are both a welfare-prevention and welfare-intervention strategy, added Mr. Horn. 'When children are born in the context of a stable and healthy marriage, they are significantly less likely to be poor and significantly less likely to be in need of welfare.'" (Cheryl Wetzstein, "10 Years After, Welfare Reformers Look To Build On Gains," The Washington Times, 8/21/06)

President Bush Meets with Economic Advisors
<http://www.whitehouse.gov/news/releases/2006/08/20060818-1.html>

* In Focus: Jobs & Economy
<http://www.whitehouse.gov/infocus/economy/>

President Bush to Welcome President Alan Garcia of Peru
<http://www.whitehouse.gov/news/releases/2006/08/20060818.html>

President's Radio Address
<http://www.whitehouse.gov/news/releases/2006/08/20060819.html>

Ask the White House: Ambassador R. Nicholas Burns, Under Secretary of State for Political Affairs
<http://www.whitehouse.gov/ask/20060818.html>

Press Briefing on the President's Meeting with Economic Advisors
<http://www.whitehouse.gov/news/releases/2006/08/20060818-2.html>

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 9:12 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING DEPARTMENT OF JUSTICE EFFORTS TO COMBAT VIOLENT CRIME AND MEET WITH LOCAL LEADERS

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, AUGUST 21, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE REGARDING DEPARTMENT OF JUSTICE EFFORTS TO COMBAT VIOLENT CRIME AND MEET WITH LOCAL LEADERS

WASHINGTON – Attorney General Alberto R. Gonzales will visit New Orleans to highlight Department of Justice efforts to combat violent crime in New Orleans on **MONDAY, AUGUST 21, 2006**. During his visit, he will tour hurricane damaged law enforcement facilities and meet with federal, state and local law enforcement and government leaders.

WHO: Attorney General Alberto R. Gonzales
U.S. Attorney Jim Letten for the Eastern District of Louisiana
Other federal, state and local officials

WHAT: Press conference regarding meeting with federal, state and local law enforcement and government leaders to discuss Department of Justice efforts to combat violent crime

WHEN: **PRESS CONFERENCE**
3:15 P.M. CDT
Port of New Orleans
1350 Port of New Orleans Place
New Orleans, Louisiana
OPEN PRESS

Note: Pre-set for press conference is **at 2:30 P.M. CDT**. Press inquiries regarding logistics should be directed to Theresa Pagliocca at the Department of Justice at 202-532-3486.

MEETING WITH LAW ENFORCEMENT AND GOVERNMENT LEADERS

DOJ_NMG_ 0166881

3:50 P.M. CDT
Eighth Floor Conference Room
U.S. Attorney's Office
500 Poydras Street
New Orleans, Louisiana
POOL COVERAGE (B-Roll only)

Note: For pool coverage information, please contact Theresa Pagliocca at the Department of Justice at 202-532-3486.

# # #

06-561

DOJ_NMG_ 0166882

Image not available for this document, ID: 0.7.10316.36894-000001

Image not available for this document, ID: 0.7.10316.36894-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 10:04 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE 18TH ANNUAL CRIMES AGAINST CHILDREN CONFERENCE

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE 18TH ANNUAL CRIMES AGAINST CHILDREN CONFERENCE

DALLAS, TEXAS

Good morning.

It's always great to come home to Texas, and I'm especially glad to be here to discuss a topic that is close to my heart, and that's protecting our kids.

The arrest of suspected terrorist nearly two weeks ago in the United Kingdom reminded us that while it has been five years since America was attacked on September 11th, we are still in a war against terrorism. All of us in the law enforcement community are dedicated to this effort to protect our way of life, our values and the rule of law.

Why do we fight?

We fight for our children, that they may enjoy the promise of America. We fight for their innocence and their dreams. It is a fight for our future.

And whether or not Americans choose to acknowledge it, we are in a similar fight for our children. Fighting terrorism remains the number one priority for the Department of Justice. But the truth remains that our children are at substantial risk of being harmed by a sexual predator. In order to confront this threat to America, we must rise up together as soldiers in the armies of compassion called to action by President Bush.

I think for everyone here today – even those who may not be parents – it's true that we have a calling and are on a mission to protect children. This is our responsibility . . . our motivation . . . our daily objective.

DOJ_NMG_ 0166885

Unfortunately, the daily objective of others is dark and sinister. Harming our children, preying upon their innocence, is the aim of sexual predators.

Make no mistake, this is a war.

It is a wrenching reality that, every day, children are sexually solicited online.

Every day.

Every day, these criminals are looking for children to hurt. Every day, they are visiting chat rooms where our children think they are safe. Every day, they look at child pornography with hopes of performing those sick acts themselves, and perhaps documenting their crimes for bragging rights with other depraved individuals.

The only response to their horrific ambitions is to respond with greater perseverance:

Every day, we must re-dedicate ourselves to investigating, catching and prosecuting these depraved individuals.

Every day, we must educate children and parents about the threat.

And every day, we must talk to our own kids about what they are seeing, what they are hearing, and who they are communicating with on the Internet.

The Internet has made the global responsibility of protecting our kids even more challenging. While being perhaps the greatest invention of our generation, this tool has also, unfortunately, provided elements that criminals love: a cloak of anonymity, speed of communication, and global access to potential victims. The Internet has provided pedophiles with limitless back rooms, dark shadows, and escape routes. It has made it hard to find the criminal but terribly easy to see the crime.

The internet also allows them to brag about their crimes, creating a sick field of competition to see who can produce the most unthinkable photos or videos of rape and molestation. In their perverse eyes, this means the younger, the better.

Most images today of child pornography depict actual sexual abuse of real children. Each image literally documents a crime scene. These are not just "pornographic" pictures or videos. They are images of graphic sexual and physical abuse of innocent children, sometimes even babies. We need to get the public—as well as government officials—to start thinking about it in the right terms. It is brutal, it is heinous, and it is criminal.

The challenge we face in cyberspace was underscored by a new national survey, released just in the last few weeks, conducted by University of New Hampshire researchers for the National Center for Missing and Exploited Children. The study revealed that a full third of all kids aged 10 to 17 who used the Internet were exposed to unwanted sexual material. Much of it was extremely graphic.

DOJ_NMG_ 0166886

There was some good news in the survey. It found that there has been some reduction in the number of children who have received an online sexual solicitation. One in seven children surveyed this time had received an online sexual solicitation, which is a six percent improvement over the one in five children who received such solicitations in the last survey, conducted five years ago. This likely means that parents and kids are becoming more aware of the dangers online, and more responsible in the way they use the Internet.

That said, we still have a lot of work to do. One in seven kids getting solicited is one in seven too many.

And this most recent survey showed that there has been no letting up of aggressive online sexual solicitations, where the most depraved of the pedophiles actually try to make in-person contact with a child.

Which leads me back to my first point: every day. Every day they try to hurt our kids, and every day we work to stop them.

The haunting message that these criminal acts against children occur every day in America has been echoed effectively in the Ad Council's Public Service Announcements on the subject.

And I am pleased to announce, today, that the Department of Justice is partnering with the National Center for Missing and Exploited Children and the Ad Council on a new series of PSAs.

This new campaign of PSAs will build on the great work already done by NCMEC and the Ad Council to raise awareness about the dangers of online sexual exploitation of kids, and to help parents and kids protect against online sexual predators.

With advertising campaigns like these, we will continue to raise the profile of these issues, while sending the message to teens and parents about online dangers. The new series of PSAs will be distributed in early 2007, and we are proud to partner with NCMEC and the Ad Council on this important effort.

I also want to talk about what we are doing at the Justice Department, and in partnership with all of you, to protect our children, but I think it's important to mention, first, some of the victims who we are fighting for. Because ultimately we fight to prevent future crimes, but we do so in the name of those who have already suffered so much.

We fight for the nine-year-old girl who was molested by a hotel camp counselor on a family vacation. In the state of shock, hurt and confusion over what had happened to her, she actually feared that her parents might love her less because of what had happened.

We fight in honor of Jessica Lunsford, who was raped, wrapped in plastic bags and buried alive, left holding a stuffed dolphin, alone, to die by asphyxiation when she was just nine years old.

We fight for Jetseta Gage, who was 10 years old when a family friend abducted her, took her to an abandoned mobile home southwest of Iowa City, and raped and killed her.

DOJ_NMG_ 0166887

We know that we can't bring back Jessica or Jetseta, but we can do everything in our power to protect every innocent child … today and every day going forward.

Our ultimate goal, again, is prevention.

Because a child who has been abused sexually bears a scar so deep, all the justice in the world can never heal it completely. We can never make things quite right, ever again. There is no moment when we can say, "It's all better."

As a law-enforcement official, and as a parent, I am dedicated to preventing these horrific crimes. I know that all of you feel the same way. We want to be able to tell America's children, our children, "you're safe."

***

The Adam Walsh Child Protection and Safety Act of 2006, signed by the President in July, will help us keep our children safe by preventing these crimes. It requires sex offender registrations and those requirements have teeth. It enhances penalties and helps us keep sex offenders away from our kids after they've been released from prison.

I also want to specifically mention two things that this historic legislation did to bolster our efforts at the Department of Justice to protect children:

First, the new law establishes the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office, and it assigns the Office numerous important functions relating to the sex offender registry. The SMART Office will be led by a Presidentially-appointed Director. We are working now to establish this Office, and it will be critical to our ongoing efforts to protect kids.

Second, the Justice Department's "Project Safe Childhood," launched earlier this year, was also given statutory authority by the Adam Walsh bill. As all of you know, it is the centerpiece of the Department's efforts to protect America's children.

I want to talk a little bit about Project Safe Childhood. I see the campaign to protect our children as a strong, three-legged stool: one leg is the federal contribution led by U.S. Attorneys; another is state and local law enforcement, including the outstanding work of the Internet Crimes Against Children task forces funded by the Department's Office of Justice Programs; and the third is non-governmental organizations, like the National Center for Missing and Exploited Children -- without which we wouldn't have the Cybertipline and victim advocates.

None of our efforts can stand alone. All must involve high levels of sharing and coordination. And that's what Project Safe Childhood is all about.

DOJ_NMG_ 0166888

This important initiative promises more federal resources, but my hope is that its greatest achievement will be that of increased collaboration and cooperation.

I know that you all are the experts, so I want to thank you for your hard work and dedication. But I also ask for your partnership, because Project Safe Childhood is all about bringing together a blend of expertise, joined by a shared solidarity of commitment to protecting kids.

Project Safe Childhood aims to be comprehensive – covering all the things you do, from investigations to prosecutions, to prevention, to the treatment of abused or exploited children. But it won't work without you.

Already, the project has helped us identify some trends and needs, and that's good. For example, we've heard from many of you that a greater federal presence was needed in some states and localities because of insufficient criminal laws, weak sentencing schemes, or inadequate resources to provide meaningful punishment to child exploiters and abusers.

So while we will do all we can at the federal level, and utilize partnerships to their fullest, we also strongly encourage state legislatures to look at the laws they have on the books and make them stronger if need be. The vast majority of states have done this, and legislators are to be commended, but adequate protections are not universal and they need to be.

I encourage legislatures to look at whether officers and prosecutors in their jurisdiction have sufficient subpoena powers for child exploitation cases.

In states where it is not already the law, the possession of child pornography – even without the intent to distribute – should be made a felony.

And some states need to increase the sentences available for certain kinds of abuse and exploitation.

When it comes to strengthening state law, we must, once again, work together. Our united efforts can bring about positive change in state laws governing child exploitation offenses. This will allow us to attack sexual predators in a comprehensive fashion, maximizing punishment and deterrence at both the federal and state levels throughout the entire Nation.

Our fight against the proliferation of child pornography and abuse doesn't stop at our borders, either. It demands a global strategy. This makes it imperative that we pay attention to the laws governing child sexual exploitation in other nations.

Many countries have astonishingly lenient punishments for child pornography offenses. For instance, in several nations the production of child pornography is punished with only a fine or imprisonment of less than six months or a year. Simple possession is punishable merely by a fine. Just as we need some states to strengthen their laws to punish child sex offenders, we must encourage some foreign lawmakers to strengthen their laws as well.

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On a law enforcement level, the Justice Department is already actively involved in fighting child pornography worldwide. We participate in international law enforcement groups such as Interpol, we station federal law enforcement agents from the FBI and other agencies abroad, and we work closely with foreign law enforcement officers to investigate and prosecute cases. With many of you, we are committed to waging this battle against child predators in every corner of the world.

***

I know that everyone in this room today is working on tough, innovative approaches to protecting children, and I want to thank all of you again for your efforts and your partnership. The more we work together, the more children we will protect from the crimes that cause wounds that never heal.

There is a vast and frightening network of criminals or would-be criminals who seek to hurt our children. But we have a network, too. And it, too, is vast. It stretches from coast to coast, from city to city, and includes every parent, every school, every police station, every courthouse, every victim's advocate and every volunteer. Our network, when used to its greatest potential, can defeat these predators who crush the very souls of their victims.

Together, we can get the dangerous pedophiles off of our streets, out of our neighborhoods, and off of the Internet.

I thank you for your dedication to this cause and I look forward to continuing this fight, together. I am but one soldier in the armies of compassion I mentioned earlier. But you can count on me to be by your side, fighting shoulder to shoulder—our voices united as one.

May God bless and guide your important work, and may he continue to bless this great nation. Thank you.

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Image not available for this document, ID: 0.7.10316.36901-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 10:07 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ANNOUNCES PARTNERSHIP WITH AD COUNCIL AND NCMEC IN PSA CAMPAIGN

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
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(202) 514-2007
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DEPARTMENT OF JUSTICE ANNOUNCES PARTNERSHIP WITH AD COUNCIL AND NCMEC IN PSA CAMPAIGN

WASHINGTON – Attorney General Alberto R. Gonzales announced a Department of Justice partnership with the National Center for Missing & Exploited Children® (NCMEC) and the Ad Council in a new series of public service advertisements (PSAs) designed to help raise awareness about the dangers of online child sexual exploitation. Part of the Department of Justice's Project Safe Childhood, this series of ads will target teen girls with a message of protecting themselves by not posting images or information that might put them at risk for online victimization.

The sexual victimization of children - including child pornography offenses and enticement crimes - is a widespread problem in the United States. The Internet continues to provide new avenues for child predators to contact and groom their victims. According to "Online Victimization of Youth: Five Years Later," a Department of Justice study, one in seven child Internet users has received sexual solicitations, one in three has been exposed to unwanted sexual material and one in 11 has been harassed. Also according to the study one in three child Internet users had communicated with someone that they did not know in person and one in nine formed close relationships with someone they met online.

"The existence of online predators is a very real threat for children using the Internet," said Attorney General Alberto R. Gonzales. "This ad campaign will raise awareness to help safeguard against sexual exploitation and abuse by encouraging children to protect their identities and images when socializing online."

"A recent survey shows a large increase in the proportion of youth posting personal information and pictures online so this is a timely campaign," said Ernie Allen, president and CEO of NCMEC. "Our partnership

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with the Department of Justice will help us address this potential threat to kids by educating teens about how this activity could put them at risk for victimization."

Developed in 2004 by NCMEC and the Ad Council with the pro-bono assistance of Merkley + Partners, the initial campaign, entitled "Help Delete Online Predators," focused on educating parents about online sexual exploitation. The ads guided parents and guardians on what they can do to help protect their children from online predators and encouraged them to report sexual solicitations to NCMEC's CyberTipline at www.cybertipline.com. The second series of PSAs, released in 2005, aimed to deter teen girls from forming online relationships with unfamiliar people by delivering the message, "Don't Believe the Type." The ads warned teen girls that online predators are skilled at manipulating teens into potentially exploitative and dangerous situations. Teens were also encouraged to visit cybertipline.com to learn how to protect themselves and to report incidents.

Following the success of the previous campaigns in alerting both parents and children to the threat of online sexual exploitation, the new series of PSAs will be distributed in early 2007. The new campaign will continue to engage teenage Internet users with the message of protecting themselves online by not posting images or information that might put them at risk for victimization.

In February 2006, Attorney General Gonzales announced the creation of Project Safe Childhood (PSC), an initiative designed to protect children from sexual abuse and exploitation through the Internet. PSC is intended to help law enforcement and community leaders develop a coordinated strategy to prevent, investigate and prosecute sexual predators, abusers and pornographers who target children.

In addition to partnering with NCMEC and the Ad Council, the Department of Justice has undertaken several other initiatives to achieve the goals of PSC. A primary focus of the project is to integrate federal, state and local law enforcement efforts to investigate and prosecute child exploitation cases. This year, the Department of Justice awarded grants totaling $13,850,000 to the Internet Crimes Against Children (ICAC) program, a national network of 46 regional task forces funded by the Department's Office of Justice Programs. Additionally, each U.S. Attorney has partnered with ICAC Task Forces that exist within his or her district and other federal, state and local law enforcement partners working in the district to implement PSC.

AD CAMPAIGN PARTNERS

The National Center for Missing & Exploited Children (NCMEC)

NCMEC is a 501(c)(3) nonprofit organization, which works in cooperation with the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention. NCMEC works to combat possession, manufacturing and distribution of child pornography; online enticement of children for sexual acts; child prostitution and child sexual tourism; extra-familial child sexual molestation; unsolicited obscene material sent to a child; and misleading domain names. To date, NCMEC has handled more than 401,000 reports of these offenses from the public though its congressionally mandated CyberTipline, with more than 18,600 of those reports categorized as online enticement of children for sexual acts. For more information about NCMEC, call its toll-free 24 hotline at 1-800-THE-LOST (1-800-843-5678) or visit www.missingkids.com.

The Advertising Council

The Ad Council is a private, non-profit organization with a rich history of marshalling volunteer talent from the advertising and media industries to deliver critical messages to the American public. Having produced literally thousands of PSA campaigns addressing the most pressing social issues of the day, the Ad Council has effected, and continues to effect tremendous positive change by raising awareness, inspiring action, and saving lives. To learn more about the Ad Council and its campaigns, visit www.adcouncil.org.

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Merkley + Partners

Merkley + Partners (www.merkleyandpartners.com) is a leading full service, integrated marketing communications firm specializing in Consumer Advertising. Founded in 1993, M+P has 214 employees and manages over $500 million in client billing. Headquartered in New York City, clients include: Arby's Restaurant Group, Citigroup, E-Loan, the Ferrero Company, Mercedes-Benz, Novartis and several others. M+P is a wholly owned subsidiary of the Omnicom Group Inc. (NYSE: OMC), a leading global marketing and communications company.

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Image not available for this document, ID: 0.7.10316.37163-000002

Image not available for this document, ID: 0.7.10316.37163-000003

Shaw, Aloma A

From: Shaw, Aloma A
Sent: Monday, August 21, 2006 10:36 AM
To: Gorsuch, Neil M
Subject: Read: So Long

fhcsDJ@opm.gov

From: fhcsDJ@opm.gov
Sent: Monday, August 21, 2006 3:02 PM
To: Gorsuch, Neil M
Subject: Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/dj/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

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From: [redacted]
Sent: Monday, August 21, 2006 3:43 PM
To: [redacted]
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

[redacted]

[redacted]

Office of Political Affairs

The White House

Washington, DC 20502

[redacted]

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,
Jane

Jane Cherry
Associate Director
Office of Political Affairs
The White House
Washington, DC 20502
jcherry@gwb43.com

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 4:23 PM
To: USDOJ- Office of Public Affairs
Subject: TWO HOUSTON RESIDENTS CHARGED WITH FILING MULTIPLE FALSE CLAIMS FOR FEMA ASSISTANCE

Department of Justice

United States Attorney Donald J. DeGabrielle
Southern District of Texas

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
www.usdoj.gov/usao/txs

CONTACT: JOHN YEMBRICK
PHONE: (713) 567-9388
FAX: (713) 718-3389

TWO HOUSTON RESIDENTS CHARGED WITH FILING MULTIPLE FALSE CLAIMS FOR FEMA ASSISTANCE

HOUSTON – Two Houston residents, Curtis Caldwell, 28, and Ernest Tutt Jr., 22, have been indicted with fraudulently obtaining thousands of dollars in FEMA Hurricane Katrina and Rita disaster assistance, U.S. Attorney Donald J. DeGabrielle Jr. announced today. Special agents of the U.S. Postal Inspection Service, the Department of Homeland Security's Office of Inspector General, and the Social Security Administration's Office of Inspector General arrested Caldwell and Tutt today at their residence in Houston. Both men appeared before U.S. Magistrate Judge Mary Milloy today and are scheduled to appear again tomorrow at 11:30 a.m. for a bond hearing.

The indictment returned against Caldwell on Aug. 16, 2006, accuses him of filing 22 separate applications with FEMA for Hurricanes Katrina and Rita disaster assistance between Sept. 11, 2005, and Oct. 27, 2005, falsely listing primary residences in New Orleans and Lake Charles, even though Caldwell was residing in Houston before, during and after the hurricanes. The indictment further alleges Caldwell used his own name and Social Security number in the first application he filed, but in the remaining claims used a variation of his actual name (such as using a different middle initial) and

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Social Security numbers belonging to other individuals. Caldwell is charged with 14 counts of mail fraud based on the 14 checks that FEMA mailed to him as a result of the false applications he allegedly filed. Additionally, Caldwell is charged with three counts of aggravated identity theft based on his alleged unauthorized use of others' Social Security numbers during the commission of his mail fraud scheme. The indictment seeks a judgment ordering Caldwell to forfeit the $28,000 he allegedly obtained by fraud from FEMA.

Tutt, charged in a separate indictment also returned on Aug. 16, 2006, is charged with filing 17 separate applications between Sept. 12, 2005, and Oct. 27, 2005, with FEMA for Hurricanes Katrina and Rita disaster assistance listing primary residences in New Orleans and Lake Charles, even though Tutt was residing in Houston before, during and after the hurricanes. The indictment further alleges that Tutt used his own name and social security number in the first application he filed, but in the remaining claims used a variation of his actual name (such as using a different middle initial) and Social Security numbers belonging to other individuals. Tutt is charged with 10 counts of mail fraud based on the 10 checks FEMA mailed to him as a result of the false applications he allegedly filed. Tutt is also charged with three counts of aggravated identity theft based on his alleged unauthorized use of others' Social Security numbers during the commission of his mail fraud scheme. The indictment seeks a judgment ordering Tutt to forfeit the $20,358 Tutt allegedly obtain by fraud from FEMA.

Each mail fraud count carries a maximum sentence of 20 years in prison without parole and a $250,000 fine upon conviction. Each aggravated identity theft count carries a mandatory consecutive sentence of two years in prison.

With the return of these two indictments, a total of 28 individuals have been charged in the Southern District of Texas with fraud relating to Hurricane Katrina or Hurricane Rita.

The U.S. Attorney's Office for the Southern District of Texas is a member of the Department of Justice's Hurricane Katrina Fraud Task Force, created by Attorney General Alberto R. Gonzales to deter, detect and prosecute unscrupulous individuals who try to take advantage of the Hurricane Katrina and Hurricane Rita disasters. Headed by Assistant Attorney General Alice S. Fisher, the Task Force is comprised of federal, state, and local law enforcement investigating agencies and the U.S. Attorney's Offices in the Gulf Coast region and nationwide.

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This case was investigated by the U.S. Postal Inspection Service, with assistance from the Department of Homeland's Security Office of Inspector General, the Social Security Administration's Office of Inspector General and the Small Business Administration's Office of Inspector General. The case is being prosecuted by Assistant U.S. Attorney Gregg Costa.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline at 1-866-720-5721 24 hours a day, seven days a week until further notice. Information can also be emailed to the inspector general at dhsoighotline@dhs.gov or sent by surface mail with as many details as possible, to:

Department of Homeland Security
Washington, DC. 20528
Attn: Office of Inspector General, Hotline

An indictment is a formal accusation of criminal conduct, not evidence. A defendant is presumed innocent unless and until convicted through due process of law.

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Image not available for this document, ID: 0.7.10316.36876-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 4:27 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL GONZALES ANNOUNCES NEW RESOURCES TO FIGHT VIOLENT CRIME IN NEW ORLEANS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
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(202) 514-2007
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ATTORNEY GENERAL GONZALES ANNOUNCES NEW RESOURCES TO FIGHT VIOLENT CRIME IN NEW ORLEANS

NEW ORLEANS – Today, Attorney General Alberto R. Gonzales visited New Orleans and announced additional federal resources to help fight violent crime that has risen in the months following Hurricane Katrina.

During his visit, the Attorney General toured state and local law enforcement facilities that remain damaged from Hurricane Katrina, including the Orleans Parish criminal justice complex and the New Orleans Police Department's headquarters. He met with federal, state and local law enforcement officials to discuss ongoing collaborative efforts to fight crime and rebuild the community. The Attorney General also met with members of the Louisiana Congressional delegation and state and local government officials to discuss how the federal government can best assist state and local law enforcement in combating violent crime.

"The people of New Orleans deserve the chance to rebuild their city without the threat of violent crime," said Attorney General Gonzales. "That's why the Justice Department is committed to continuing our support of state and local law enforcement and to finding new ways to help reduce crime and strengthen the criminal justice system."

Following the meeting with law enforcement, Attorney General Gonzales outlined additional resources the Justice Department will dedicate to fight violent crime in New Orleans, including:

- The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will send four special agents to the region to supplement the Violent Crime Impact Team that focuses on reducing gun crime. The U.S. Marshals Service will send four additional deputy marshals to supplement the Crescent Star Fugitive Task Force that locates and arrests violent felony fugitives.

- Ten attorneys will be temporarily assigned to the region to assist in prosecuting firearms, drug and immigration cases with a federal nexus, and an additional nine federal prosecutors will be hired who will assist with fraud and violent crime cases.

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- The Federal Bureau of Investigation (FBI) and state and local law enforcement recently launched a Violent Crime Intelligence Initiative that gathers information on violent criminals, develops a most violent offenders list and distributes that information to federal, state and local law enforcement.

In addition, the Attorney General announced forthcoming resources to rebuild communities and provide ways for the residents of New Orleans to keep their children safe and to assist law enforcement:

- The Justice Department will work with local law enforcement and the National Police Athletic League (PAL) to establish a new PAL chapter in the city for the children of New Orleans. The PAL chapter will be made possible by a grant from the Justice Department's Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention, which will also support the PAL mission through technical assistance and other prevention resources that benefit America's youth.

- The Department of Justice will provide funds for and help establish Safe Havens in the three New Orleans Weed and Seed Sites by the fall of 2006. Safe Havens provide a secure recreation and learning environment for Weed and Seed communities, keeping children off the streets and out of trouble.

- The Boys and Girls Clubs of America will re-establish the clubs that were destroyed by Hurricane Katrina with funding provided through the Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention.

- The ATF will relaunch the 24-hour ATF Gun Hotline which allows citizens to report the illegal use and possession of firearms for federal response. The hotline phone number (504-581-GUNS) will be advertised in public service announcements throughout New Orleans.

These new resources build upon the Department's efforts in the last year to rebuild the greater New Orleans criminal justice system. Following Hurricane Katrina, the U.S. Attorney's Office in the Eastern District of Louisiana was a driving force in the creation and continued vitality of the Southeast Louisiana Criminal Justice Recovery Task Force, and the Department has made more than $20 million in grants available to the city of New Orleans and Orleans Parish to help rebuild the criminal justice system. In total, over $61 million in justice assistance grants and Katrina relief law-enforcement infrastructure funds have been made available to the state of Louisiana.

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 4:28 PM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: DEPARTMENT OF JUSTICE LAW ENFORCEMENT EFFORTS IN NEW ORLEANS, LOUISIANA

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
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TDD (202) 514-1888

FACT SHEET: DEPARTMENT OF JUSTICE LAW ENFORCEMENT EFFORTS IN NEW ORLEANS, LOUISIANA

The Department of Justice is committed to working in partnership with state and local law enforcement and communities to combat violent crime. As part of this effort, the Department has allocated additional resources to New Orleans following Hurricane Katrina. Both new and existing programs and resources include the following:

Funding

- The Department of Justice has made more than $20 million available to the city of New Orleans and Orleans Parish to help rebuild the criminal justice system there. In total, the Department has made available to the state of Louisiana over $61 million in justice assistance grants (JAG) and Katrina relief law enforcement infrastructure funds.

United States Attorney's Office

- The Department will temporarily assign 10 attorneys to New Orleans to assist the U.S. Attorney's office for the Eastern District of Louisiana. These attorneys will focus on prosecuting firearms, drug and immigration cases.

- The Department will hire nine additional Assistant U.S. Attorneys (AUSAs) in the Eastern District of Louisiana. The AUSAs will be tasked with assisting fraud and violent crime prosecutions.

Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

- The ATF will assign four additional ATF Special Agents to New Orleans to supplement the Violent Crime Impact Team (VCIT), which focuses on reducing gun crime. With the addition of these agents, the VCIT initiative will be staffed by 10 ATF Special Agents and six New Orleans Police Officers. These Special Agents and task force officers identify and pursue recidivist offenders who are considered the "worst of the worst" and who reside and operate in the designated VCIT area. In addition, the VCIT

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jointly operates with the New Orleans Police Department (NOPD) within the designated area during peak hours of criminal activity.

- The ATF will relaunch the 24-hour ATF Gun Hotline which allows citizens to report the illegal use and possession of firearms for federal response. The hotline phone number (504-581-GUNS) will be advertised in public service announcements throughout New Orleans.

Drug Enforcement Administration

- The High Intensity Drug Trafficking Area Task Force Group is comprised of Drug Enforcement Agency agents working in partnership with detectives from the NOPD. This group focuses exclusively on violent drug trafficking organizations and violent offenders who have a prior criminal history involving aggravated offenses as well as a direct nexus to drug trafficking within the inner city.

Federal Bureau of Investigation (FBI)

- The FBI, in partnership with federal, state, and local law enforcement, has recently launched a Violent Crime Intelligence Initiative to gather information on violent criminals. The initiative integrates intelligence from law enforcement agencies and creates a mechanism to distribute this intelligence to federal, state and local law enforcement in New Orleans and the surrounding areas.

- The FBI currently operates the Violent Gang Safe Streets Task Force which includes officers from the NOPD and the Jefferson Parish Sheriff's Office. The Task Force is staffed with 13 FBI special agents and 13 officers from area police departments and sheriffs' offices and focuses on the most violent subjects—whether associated with an organized gang or working in a more loose-knit fashion with other subjects.

United States Marshals Service (USMS)

- The USMS will assign four additional Deputy Marshals to supplement the Crescent Star Fugitive Task Force. The Crescent Star Fugitive Task Force locates and arrests violent felony fugitives across 13 parishes in the Eastern District of Louisiana, and includes representatives from the NOPD, the Orleans Parish Criminal Sheriff's Office, the St. Charles Parish Sheriff's Office, Louisiana Probation and Parole, and the Coast Guard Investigative Services. These Deputy Marshals will assist in targeting and apprehending sex offenders and will prioritize violent offenders identified by the Crescent Star Fugitive Task Force.

- The Crescent Star Fugitive Task Force supports the NOPD's Violent Offender Warrant Squad by conducting weekly fugitive round-ups on targeted violators. The Crescent Star Fugitive Task Force is also assisting the Louisiana Probation and Parole Department in tracking down more than two thousand wanted probation and parole offenders, whose whereabouts are unknown since Hurricane Katrina.

- In addition, the USMS Technical Operations Group (TOG) will be made available to assist and prioritize cases from the Crescent Star Fugitive Task Force. The TOG provides the USMS, other federal agencies, and any requesting state or local law enforcement agency with support in electronic surveillance, aerial surveillance, communications, as well as analysis and intelligence, related to fugitive investigations.

Office of Justice Programs (OJP)

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- The Justice Department will work with local law enforcement and the National Police Athletic League (PAL) to establish a new PAL chapter in the city for the children of New Orleans. The PAL chapter will be made possible by a grant from the Justice Department's Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention, which will also support the PAL mission through technical assistance and other prevention resources that benefit America's youth.

- The Department of Justice will provide funds and help establish Safe Havens in the three New Orleans Weed and Seed Sites by the fall of 2006. Safe Havens provide a secure recreation and learning environment for Weed and Seed communities, keeping children off the streets and out of trouble.

- The Boys and Girls Clubs of America will re-establish the clubs that were destroyed by Hurricane Katrina with funding provided through the Bureau of Justice Assistance and Office of Juvenile Justice and Delinquency Prevention.

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 4:31 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING NEW RESOURCES TO FIGHT VIOLENT CRIME IN NEW ORLEANS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
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PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING NEW RESOURCES TO FIGHT VIOLENT CRIME IN NEW ORLEANS

NEW ORLEANS, LOUISIANA

Thank you, Jim. Good afternoon, everyone.

I am reminded, whenever I come here, that the winds and water of Katrina did not take away the hope and spirit of this city.

No one understands New Orleans' fighting spirit better than the dedicated officers who have joined me on the stage today. Thank you for all that you do for your community and for your country.

We just had an honest and candid discussion along with Chairman Powell, Federal Coordinator of Gulf Coast Rebuilding, and I am concerned about the recent increase in crime and specifically violent crime. Justice must be served, even during difficult times. Although Katrina may have temporarily altered this landscape, we cannot allow her to change the foundation of laws.

Fighting crime anywhere in America is best done at the local and state level, because those officials understand their communities best. But when infrastructures are damaged and resources are compromised – and I've seen vivid evidence of that reality here in New Orleans today – it is appropriate for the federal government to come alongside a community. That's what the Department of Justice has been doing throughout the past year, and it's what we'll continue to do with some additional resources that I am announcing today.

I appreciate being here with U.S. Attorney Jim Letten because he really has been a key leader in efforts to rebuild the greater New Orleans criminal justice system. His office has been a driving force behind the building,

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funding successes, and continued vitality of the Southeast Louisiana Criminal Justice Recovery Task Force whose goal is to encourage a regional, multi-disciplinary approach to rebuilding the greater New Orleans criminal justice system.

With the help of law enforcement partnerships at every level, we'll continue to fight violent crime in New Orleans while she is rebuilt. In addition to the coordination and funds that the Department has already provided, we are adding the following tools:

- The Bureau of Alcohol, Tobacco, Firearms, and Explosives will assign four additional special agents to the New Orleans to supplement the Violent Crime Impact Team, which focuses on reducing gun crime.

- The U.S. Marshals Service will assign four additional Deputy Marshals to supplement the Crescent Star Fugitive Task Force.

- The Department will assign 10 Special Assistant U.S. Attorneys to New Orleans to assist in prosecuting firearms, drug and immigration cases with a federal nexus.

- In addition, the Department is providing funding to hire an additional nine Assistant U.S. Attorneys who will assist with the fraud and violent crime caseload.

- The Federal Bureau of Investigation, in partnership with state and local law enforcement, has recently launched a Violent Crime Intelligence Initiative to gather information on violent persons, develop an offender list, and distribute that information to federal, state and local law enforcement.

We will also be providing resources to rebuild communities and prevent violent crime by keeping kids safe and off the streets. For example, we're proud to be providing funding to help establish a Boys and Girls Club and Police Athletic League in New Orleans.

The Department has also provided funding through the Weed and Seed program to establish Safe Havens – secure, accessible facilities where a variety of youth and social services are grouped for convenience and safety – in the three New Orleans Weed and Seed sites.

We'll be engaging the community to assist law enforcement in cracking down on violent crime, in part by reestablishing the ATF Gun Hotline, which allows citizens to report the illegal use and possession of firearms around the clock. I encourage the citizens of New Orleans to take back their neighborhoods by calling (504) 581-GUNS.

When local knowledge and understanding is supplemented by state and federal help and coordination, a network develops that is stronger than any criminal threat. Working together, we will take back the neighborhoods of New Orleans – away from the killers and drug dealers who stifle the hope of the city's children. Together, we will return the neighborhoods to the families who built them.

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Thank you; I'd be happy to take your questions now.

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 5:13 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO MEET WITH PROJECT SAFE CHILDHOOD TASK FORCE, TOUR CHILDREN'S ADVOCACY CENTER AND HOLD MEDIA AVAILABILITY REGARDING PROJECT SAFE CHILDHOOD IN LEXINGTON, KENTUCKY

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, AUGUST 21, 2006
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AG
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO MEET WITH PROJECT SAFE CHILDHOOD TASK FORCE, TOUR CHILDREN'S ADVOCACY CENTER AND HOLD MEDIA AVAILABILITY REGARDING PROJECT SAFE CHILDHOOD IN LEXINGTON, KENTUCKY

WASHINGTON – Attorney General Alberto R. Gonzales will meet with the Project Safe Childhood Task Force in Lexington, Kentucky, tour the Children's Advocacy Center and hold a Media Availability immediately following to discuss Department of Justice efforts to protect children through Project Safe Childhood on **TUESDAY, AUGUST 22, 2006**.

WHO: Attorney General Alberto R. Gonzales
Amul R. Thapar, U.S. Attorney for the Eastern District of Kentucky
Jack Adams, Commissioner of the Kentucky State Police

WHAT: Meeting with Project Safe Childhood Task Force
Tour of Children's Advocacy Center
Media Availability to highlight Department of Justice efforts to protect children through Project Safe Childhood

WHEN: **MEETING WITH PROJECT SAFE CHILDHOOD TASK FORCE**
Tuesday, August 22, 2006
10:00 A.M. EDT
POOL COVERAGE AT TOP

TOUR OF CHILDREN'S ADVOCACY CENTER
Tuesday, August 22, 2006
11:00 A.M. EDT
POOL COVERAGE AT TOP

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MEDIA AVAILABILITY
Tuesday, August 22, 2006
11:25 A.M. EDT
OPEN PRESS

WHERE: **MEETING WITH PROJECT SAFE CHILDHOOD TASK FORCE**
6th Floor Conference Room
U.S. Attorney's Office
110 West Vine Street
Lexington, Ky.

TOUR OF CHILDREN'S ADVOCACY CENTER AND MEDIA AVAILABILITY
Children's Advocacy Center
183 Walton Avenue
Lexington, Ky.

NOTE: All media must present valid photo ID and media credentials. Media wishing to cover the Attorney General's meeting with the Project Safe Childhood Task Force should arrive **no later than 9:30 A.M. EDT.** Media wishing to cover the Attorney General's tour of the Children's Advocacy Center should arrive **no later than 10:30 A.M. EDT.** Pre-set for media availability is **no later than 11:15 A.M. EDT**. All press inquiries regarding logistics should be directed to Evan Peterson at the Department of Justice at 202-353-5748.

# # #

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Image not available for this document, ID: 0.7.10316.36833-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 5:58 PM
To: USDOJ- Office of Public Affairs
Subject: EIGHT DEFENDANTS ARRESTED BY THE FBI AND CHARGED WITH CONSPIRING TO PROVIDE MATERIAL SUPPORT AND RESOURCES TO A FOREIGN TERRORIST ORGANIZATION AND RELATED OFFENSES

Additional information attached below.

Department of Justice

United States Attorney Roslynn R. Mauskopf
Eastern District of New York

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 21, 2006
www.usdoj.gov/nye

CONTACT: ROBERT NARDOZA
PHONE: (718) 254-6323
FAX: (718) 254-6300

EIGHT DEFENDANTS ARRESTED BY THE FBI AND CHARGED WITH CONSPIRING TO PROVIDE MATERIAL SUPPORT AND RESOURCES TO A FOREIGN TERRORIST ORGANIZATION AND RELATED OFFENSES

Four Defendants are Caught in an Undercover Sting Operation Attempting to Purchase a Large Number of Surface-to-Air Missiles, Missile Launchers, and Hundreds of AK-47 Automatic Rifles

BROOKLYN, N.Y. — Two complaints were unsealed this morning in U.S. District Court in Brooklyn charging eight defendants with multiple crimes, including conspiracy to provide material support and resources to a designated foreign terrorist organization – the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers). Four of the defendants were arrested on Long Island, N.Y., on Aug. 19, 2006, after three of them traveled to New York from Canada to attempt to purchase from an agent acting in an undercover capacity Russian-made SA-18 surface-to-air missiles, missile launchers, AK-47s and other weapons to be used by the LTTE in its rapidly escalating conflict against the Sri Lankan military. These four defendants were acting at the direction of senior LTTE leadership in Sri Lanka.

In the second complaint, multiple defendants are charged with providing material support to the LTTE that included the procurement of military equipment and dual use technology, fund raising and money laundering through "front" charitable organizations and U.S. bank accounts. The complaint also charges that the defendants attempted to obtain classified information, conspired to bribe U.S. public officials in an effort to remove the LTTE from the U.S. State Department's list of Foreign Terrorist Organizations, and dealt in illegal financial transactions with LTTE.

As alleged in both complaints, the defendants are closely connected with LTTE leadership in Sri Lanka, and many of them have personally met with LTTE leader, Velupillai Prabhakaran, and other senior leaders of the terrorist group.

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The defendants arrested in the Eastern District of New York are scheduled to have their initial appearances this afternoon before U.S. Magistrate Judge Marilyn D. Go at the U.S. Courthouse in Brooklyn, N.Y.

"The multi-faceted scheme by members and supporters of the Sri Lankan organization known as the Tamil Tigers demonstrates the need for continued vigilance in the global war against terrorists," said Attorney General Alberto R. Gonzales. "These defendants allegedly sought to obtain, through a variety of means, weapons and materials to carry out a deadly campaign of violence. We will use every tool in our power to disrupt the activities of those who seek to harm others, both here and abroad."

"As charged, for more than 15 years, the LTTE has waged a war of terror, assassinations, and suicide bombings in Sri Lanka and elsewhere," stated U.S. Attorney Roslynn R. Mauskopf. "We refuse to allow the LTTE and its supporters to use the United States as a source of supply for weapons, technology, and financial resources." Ms. Mauskopf added that the investigation is continuing.

"Today's arrests of high level Tamil Tiger financiers and operatives are a clear example of the FBI's ability to combine long term, complex intelligence gathering, terrorism prevention, and law enforcement," stated Leslie G. Wiser Jr., FBI Special Agent-in-Charge, Newark Field Office. "This weekend's operation has severely impaired the Tamil Tigers' ability to acquire funding and weapons for their ongoing terror operations in Sri Lanka."

The investigation leading to the arrests announced today was conducted by the Newark Division of the Federal Bureau of Investigation's Joint Terrorism Task Force (JTTF), with assistance provided by more than 20 of the FBI's Field Offices, including New York, New Haven, Conn., Buffalo, N.Y., Seattle, Wa., Baltimore, Md., Chicago, and San Jose, Calif.; the U.S. Attorney's Office for the District of Connecticut; U.S. Immigration and Customs Enforcement (ICE); the U.S. Department of State; the Royal Canadian Mounted Police National Security Program; and British law enforcement authorities.

The LTTE

According to the complaints, the LTTE was founded in 1976 and uses illegal methods to raise money, acquire weapons and technology, and publicize its cause of establishing an independent Tamil state in northern Sri Lanka. The LTTE began its armed conflict against the Sri Lankan government in 1983, and utilizes a guerrilla strategy that often includes acts of terrorism. With an army of several thousand combatants, the LTTE controls most of the northern and eastern coastal areas of Sri Lanka. The complaints allege that over the past 15 years, the LTTE has conducted approximately 200 suicide bombings, resulting in the deaths of hundreds of victims, and carried out numerous political assassinations, including the May 1991 assassination of former Indian Prime Minister Rajiv Gandhi; the 1993 assassination of the President of Sri Lanka, Ranasinghe Premadasa; the July 1999 assassination of Neelan Thiruchelvam, a member of the Sri Lankan parliament; the June 2000 assassination of C.V. Goonaratne, the Sri Lankan Industry Minister; and the August 2006 assassination of the Sri Lankan government's peace secretariat, Ketheshwaran Loganathan. Beginning in 2002, the LTTE and the Sri Lankan government operated under a tenuous cease-fire agreement, but that agreement has essentially ended, and since April 2006, more than 1,700 people have been killed in the escalating conflict.

In 1997, the LTTE was designated by the U.S. State Department as a Foreign Terrorist Organization and, therefore, may not legally raise money or procure specified equipment or materials in the United States.

Attempts to Bribe Purported State Department Officials

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According to one complaint, Murugesu Vinayahamoorthy, a senior LTTE supporter, Nachimuthu Socrates, a LTTE supporter in North America, and other defendants attempted and conspired to bribe purported U.S. State Department officials to remove the LTTE from the State Department's Foreign Terrorist Organization list. Beginning in 2004 and continuing over a period of several months, the defendants met with a confidential informant (CI-1) who was operating under law enforcement supervision and two purported State Department officials, identified in the complaint as UC-1 and UC-2, and discussed the financial terms of the bribe, including a $1 million up-front payment. During one meeting, the complaint alleges that Vinayagamoorthy said that he had traveled to the United States for the meeting on behalf of senior LTTE leadership in Sri Lanka, and that the LTTE "leader"– referring to Velupillai Prabhakaran – would make the ultimate decision as to how much the LTTE was willing to pay the State Department officials. During some of these meetings, UC-1 and Socrates also discussed the sale of classified United States intelligence information to the LTTE. The complaint alleges that Socrates made interim bribery payments to the CI to give to UC-1. Ultimately, the defendants put the scheme on hold due to "the prevailing climate" in Sri Lanka.

According to the complaint, in December 2005, Socrates met with UC-1 and CI-1 in order to purchase a purported classified intelligence document concerning the LTTE which made reference to an investigation by the United States and a foreign government into the Tamil Rehabilitation Organization (TRO), a charitable organization suspected of being a "front" for a LTTE fund raising organization. Although the document was presented to the defendants as containing classified information, it was created by the FBI for purposes of the investigation. Socrates and CI-1 gave UC-1 $1,000 in cash, and UC-1 permitted Socrates to review the document. Socrates, in turn, passed the information to Vinayagamoorthy.

Attempt to Purchase Surface-to-Air Missiles

As alleged in the other complaint filed today, in July 2006, CI-1 received a telephone call, which was consensually recorded, from a LTTE supporter, Nadarasa Yogarasa (YOGA). Yoga believed that the CI had a relationship with a black market arms dealer who could acquire heavy military artillery, including missiles. On July 31, 2006, CI-1, Yoga, and Sathajhan Sarachandran (Satha), a LTTE supporter, met at a location in Queens, N.Y., and in a recorded conversation Satha discussed the types of weapons he wanted to purchase on behalf of the LTTE, specifically, surface-to-air missiles to be used against "the Kfir," a reference to the Israeli-made Kfir fighter jet aircraft used by the Sri Lankan military against the LTTE. Satha, a Canadian citizen who had traveled to New York from Canada for this meeting, advised CI-1 that he was taking direction from Pottu Amman, who handled "outside purchasing" of arms. Pottu Amman leads the intelligence and operations wing of the LTTE. On Aug. 7, 2006, CI-1 and YOGA met at another location in Queens and discussed various weapons that the LTTE needed, including AK-47s and truck-mounted missile systems.

On Aug. 18, 2006, Satha, Sahilal Sabaratnam (Sahil), identified in the complaint as the "financial guy," and Thiruthanikan Thanigasalam (Thani) traveled to the United States by car from Canada. Sahil and Thani, both Canadian citizens, are LTTE supporters.

On Saturday, Aug. 19, 2006, CI-1 met Satha, Sahil, and Thani at a location in Queens, and then they drove to another location on Long Island, where they met for several hours with two undercover law enforcement officers (identified in the complaint as UC-1 and UC-2). The meeting was consensually recorded. At the outset, UC-1 asked the defendants what they wanted to purchase, and Thani said, "We need something for Kfir," the Israeli-made fighter jets. UC-1 asked, "You want to shoot this airplane down?" Thani said yes. Thani also said they wanted weaponry to destroy boats. The defendants discussed using bank accounts in Switzerland, St. Croix, or other offshore locations to finance the purchase, and Thani stated that the defendants wanted delivery to occur ship-to-ship in the Indian Ocean. Thani and Sahil requested UC-2, who posed as a technical expert in military weaponry, to travel to Sri Lanka to train the ultimate users of the arms. Thani indicated that in the future, they wanted to purchase between 50 and 100 surface-to-air missiles, but would start with the smaller quantity of 10, obtain training on them in Sri Lanka and, if the missiles worked well, buy the

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remainder. During the meeting, the parties discussed the quantity and price of the missiles and AK-47 assault rifles, and agreed that an initial shipment would consist of 10 SA-18 surface-to-air missiles and 500 AK-47s, and that UC-2 would provide technical training on the use of the missiles. The parties also discussed a total price of between $900,000 and $937,500 for the equipment and the training. Satha, Sahil, and Thani then examined an SA-18 missile, which was brought into the room in a long wooden crate, as well as the missile's firing tube and trigger mechanism, and two AK-47 assault weapons.

LTTE Procurement Activities

As detailed in the complaints, the defendants used several e-mail accounts in the United States to inquire about or purchase military arms, unmanned aerial vehicles for jamming radio transmissions and radar, submarine design software, flight lessons, cell towers, radio controller equipment, global positioning system equipment, short wavelength radio equipment, radio and satellite equipment, air traffic equipment, cameras, computers, and a host of other items to be used by the LTTE. They also allegedly used U.S.-based bank accounts to launder money for LTTE-funded activities, including the purchase of operational equipment and travel to and from Sri Lanka.

LTTE Fund Raising in North America

The complaints allege that the defendants' conspiracy to provide material support to LTTE included fund raising in the United States and Canada, relying on "front" charitable organizations to give the fund raising the appearance of legitimacy. These organizations were also used to send goods and material to LTTE in Sri Lanka.

Maximum Sentences Defendants Face if Convicted

If convicted, the defendants face the following maximum sentences: 15 years for conspiracy to provide material support to a designated terrorist organization, 10 years for dealing in property of a specially designated terrorist, and five years for conspiracy to bribe public officials. The charges in the complaints are merely allegations, and the defendants are presumed innocent unless and until proven guilty.

The government's case is being prosecuted by Assistant U.S. Attorneys Jeffrey Knox, Robert M. Radick, and Gurbir Grewal, under the supervision of Kelly T. Currie, Chief of the U.S. Attorney's Office Violent Crimes and Terrorism Section.

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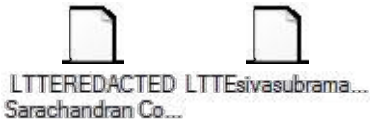

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M-06- 889

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - -X

UNITED STATES OF AMERICA

- against -

SATHAJHAN SARACHANDRAN,
also known as "Satha,"
SAHILAL SABARATNAM,
also known as "Sahil" and
"Shakil,"
THIRUTHANIKAN THANIGASALAM,
also known as "Thani,"
NADARASA YOGRARASA,
also known as "Yoga," and
[redacted]

Defendants.

- - - - - - - - - - - - - - - - - - -X

UNDER SEAL

C O M P L A I N T

(18 U.S.C. §§ 2339B and 3551 et seq.)

EASTERN DISTRICT OF NEW YORK, SS:

JAMES J. TARECO, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about and between 2003 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants SATHAJHAN SARACHANDRAN, also known as "Satha," SAHILAL SABARATNAM, also known as "Sahil" and "Shakil,"

THIRUTHANIKAN THANIGASALAM, also known as "Thani," NADARASA YOGRARASA, also known as "Yoga," and [redacted] together with others, did knowingly and intentionally conspire to provide material support and resources to a foreign terrorist organization, to wit, Liberation Tigers of Tamil Eelam.

(Title 18, United States Code, Sections 2339B(a)(1) and 3551 et seq.)

The source of your deponent's information and the grounds for his belief are as follows:[1/]

1. I have been a Special Agent of the Federal Bureau of Investigation ("FBI"), for over nine years. My information about this investigation comes from my personal participation in this investigation and a review of e-mails, tapes and transcripts of certain consensually recorded meetings and telephone calls, intercepted telephone communications and other physical and documentary evidence.

FACTS AND CIRCUMSTANCES

I. BACKGROUND

2. Since 1999, FBI agents and other law enforcement personnel assigned to the Joint Terrorism Task Force ("JTTF") have been conducting an investigation of individuals and

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[1/] Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

charitable organizations for violating United States criminal law by providing material support to the Liberation Tigers of Tamil Eelam ("LTTE" or "Tamil Tigers"). Tamils are a minority ethnic group within Sri Lanka, and the LTTE, also known as the Tamil Tigers, was founded in 1976 and uses illegal methods to raise money, acquire weapons and technology and publicize its cause of establishing an independent Tamil state in northern Sri Lanka. The LTTE started its armed conflict against the Sri Lankan Government in 1983, and has utilized a guerrilla strategy that often includes acts of terrorism. The LTTE controls most of the northern and eastern coastal areas of Sri Lanka, but has conducted operations throughout the island. The LTTE has several thousand armed combatants in Sri Lanka.

3. The group's elite Black Tiger squad is notorious for its suicide bombings. Over the past 15 years, the LTTE has conducted roughly 200 suicide bombings. Major recent terrorist attacks include: on June 15, 2006, the LTTE detonated a remote controlled claymore mine, blowing-up an overcrowded civilian bus and killing 64 people, including 15 children; on April 25, 2006, a female suicide bomber targeted Sri Lanka's top military commander, seriously wounding him and killing eight people; on July 7, 2004, a female LTTE suicide bomber blew herself up inside a police station in Sri Lanka's capital, killing five police officers and violating a two-year cease fire; on July 24, 2001,

LTTE suicide bombers attacked Sri Lanka's main air base (and only international airport), killing 12 people and destroying 13 aircraft; on October 2, 2000, an LTTE suicide bomber killed 23 people, including a Muslim political candidate who was contesting parliamentary elections; on December 18, 1999, 38 people were killed by LTTE suicide bombers in two attacks on election rallies; and on January 25, 1998, LTTE suicide bombers attacked Sri Lanka's holiest Buddhist shrine and killed 16 people. The LTTE is also notorious for political assassinations, including the May 1991 assassination of former Indian Prime Minister Rajiv Gandhi; the 1993 assassination of the President of Sri Lanka, Ranasinghe Premadasa; the July 1999 assassination of Neelan Thiruchelvam, a member of the Sri Lankan parliament who was involved in a government-sponsored peace initiative; the attempted assassination of Sri Lankan President Chandrika Kumaratunga in December 1999; and the June 2000 assassination of C.V. Goonaratne, the Sri Lankan Industry Minister.

4. Until recently, the LTTE and the Sri Lankan government were operating under a tenuous cease-fire agreement reached in 2002, but over the period of the last several months, the agreement has rapidly crumbled. On November 18, 2005, Mahinda Rajapakse was elected Prime Minister of Sri Lanka. LTTE strongly opposes Rajapakse, and on November 27, 2005, LTTE leader Velupillai Prabhakaran issued an ultimatum that the LTTE would

intensify its attacks in 2006 if Tamils were not given an independent homeland. In the months immediately following Prabhakaran's speech, the LTTE conducted numerous attacks, including the murder of 15 Sri Lankan Army soldiers and three Muslim civilians in multiple attacks in early December 2005, the abduction of three Sri Lankan Navy sailors on December 22, the murder of several sailors on December 23 and, as noted, the targeting of Sri Lanka's top military commander and murder of eight individuals on April 25, 2006.

5. The fighting between the LTTE and the Sri Lankan government has escalated even further over the course of the past month. In August 2006, for example, the LTTE has launched attacks on the government-controlled Jaffna Peninsula in northern Sri Lanka, which the LTTE claims as the cultural homeland of the Tamil minority. The Sri Lankan army responded with artillery and mortar fire, and media reports have indicated that since August 11, 2006, approximately 800 LTTE fighters and government soldiers have been killed in the fighting in Jaffna. Warfare has also broken out in the eastern port of Trincomalee, where fighting over an irrigation channel controlled by the LTTE has reportedly resulted in the deaths of 400 soldiers and rebels. Assassinations and targeted bombings have also escalated. On August 12, 2006, the deputy chief of the Sri Lankan government's peace secretariat, Ketheshwaran Loganathan, was murdered by

gunmen in the capitol of Colombo, and on August 14, 2006, Pakistan's ambassador to Sri Lanka escaped injury after a roadside bombing in downtown Colombo that reportedly killed four members of the Sri Lanka army and three bystanders. Additionally, seventeen employees of the international aid agency Action Contre la Faim, which worked on tsunami reconstruction and provided water and sanitation services, were found shot to death in the town of Muttur, and the Sri Lankan Army and the LTTE have blamed each other for the killings.

6. In light of the escalating violence in Sri Lanka, Erik Solheim, the Norwegian official who originally negotiated the cease-fire, has reportedly said that "only the skeleton of the cease-fire is left." The LTTE has been even more explicit, with S. Elilan, an LTTE official in Trincomalee, reportedly stating that "the cease-fire is over."

7. The LTTE manages its worldwide operations through a hierarchical organizational structure. As discussed, the head of the LTTE is Velupillai Prabhakaran. Prabhakaran maintains close oversight over almost all aspects of the LTTE's worldwide activities. S.P. Tamilselvan is the head of the LTTE's political wing. Pottu Amman leads the intelligence and operations wing. Veerakathi Manivannan, also known as "Castro," is the LTTE's "International Communications Secretariat."

8. The LTTE relies heavily upon supporters in the

United States, Europe, Canada, Australia and elsewhere to raise and launder money, acquire intelligence and purchase technology and military arms and equipment.

9. The LTTE has been designated by the United States State Department as a Foreign Terrorist Organization since 1997, and is banned in several other countries as well. As such, the LTTE cannot legally raise money or procure operational equipment or other materials in the United States. Individuals involved in these activities or other forms of material support are subject to federal prosecution under 18 U.S.C. § 2339B and other statutes.

II. ARMS DEAL

10. On or about July 30, 2006, a confidential informant ("CI-1")[2/] received a telephone call from the defendant NADARASA YOGARASA ("YOGA"). Based on prior dealings, YOGA believed that CI-1 had a relationship with a black market arms dealer who could acquire heavy military artillery, including missiles. The call was consensually recorded, and was conducted

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[2/] The government has been working with CI-1 since 1999. CI-1 was convicted of a drug trafficking felony in the Eastern District of New York in 1994, and started working with the government while on supervised release for that conviction (with the approval of the Court). In exchange for his cooperation, CI-1 has received INS parole documents enabling him to stay in the United States, as well as financial assistance. To date, CI-1 has provided extremely credible information that has been corroborated by consensual recordings, e-mails, financial documents and review of public records.

in the Tamil language. According to a draft summary translation,[3] YOGA advised CI-1 that someone wanted to meet with CI-1 about a potential arms deal. CI-1 and YOGA agreed that the three would meet to discuss the deal the next day at a location in Queens, New York.

11. As planned, on or about July 31, 2006, CI-1, YOGA and an individual subsequently identified as defendant SATHAJHAN SARACHANDRAN ("SATHA"), met at the agreed-upon location. SATHA, who had traveled to New York from Canada for this meeting, advised CI-1 that he was taking direction from Pottu Amman, who handled "outside purchasing" of arms for the LTTE. Pottu Amman leads the intelligence and operations wing of the LTTE. According to published reports, Pottu Amman was among the early members of the LTTE, is alleged to have masterminded the 1991 assassination of Indian Prime Minister Rajiv Gandhi, and was appointed by LTTE leader Prabhakaran to retake the northern Sri Lankan peninsula of Jaffna after the Sri Lankan military took control of the peninsula from the LTTE in about December 1995.

12. In advising the types of weapons sought on behalf of the LTTE, SATHA told CI-1 that they needed "the ones for up to the Kfir." "Kfir" is an Israeli-made fighter jet, which the Sri

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[3] Unless otherwise specified, conversations among CI-1, YOGARASA and SATHA were consensually recorded and conducted primarily in the Tamil language. The descriptions herein are based on draft summary translations.

Lankan military has been using, with success, against the LTTE. In other words, SATHA told YOGA and CI-1 that he was seeking weapons to use against Sri Lankan military jet aircraft. SATHA explained that a "big guy" in Canada was Pottu Amman's direct contact and was going "there" - a reference to LTTE-controlled territory in Sri Lanka - to get a list of the items they wanted to purchase. CI-1 asked SATHA if he had ever met with "Thaliavar," which means the "leader" in Tamil, a common name used to describe LTTE leader Velupillai Prabhakaran. SATHA said that he had met him three years ago. SATHA also told CI-1 that if he assisted them with this project, CI-1 would have the satisfaction of knowing that he had helped his country.

13. After the meeting, YOGA gave CI-1 SATHA's e-mail address. Later that day, at the FBI's direction, CI-1 sent an e-mail to SATHA with a subject line of "met you today" and the following message: "Thanks for meeting. I will contact my guy to see what he has. If it is ok do you want me to send you pictures of the merchandise. If you need to contact me you can respond to this email or call my cell . . ." On or about August 1, 2006, SATHA replied to CI-1's e-mail, stating: "Thanks for the quick e-mail. I am waiting for your merchandise pictures."

14. On or about August 2, 2006, the FBI sent another e-mail from CI-1's account to SATHA. The e-mail stated, "here are photos of what my guy has available. Sa 18 Russian made

shoulder fired. Let me know if your guys are interested. Give me a list of what they want and I'll ask him what he can get." Attached to the e-mail were two photographs of a Russian-made SA 18 surface-to-air missile.

15. On or about August 5, 2006, SATHA received an e-mail from YOGA with the subject line, "test . . . rajah usa."[4] The e-mail contained a message in the Tamil language, which is roughly translated, "Please send it to this e-mail." The next day, August 6, SATHA sent a reply e-mail to YOGA with the following message: "I received your e-mail. I need catlog [sic] for something for sky and any american made Ak47 rifle. Please inform ASAP." "AK47 rifle" is a reference to a type of assault rifle.

16. On or about August 7, 2006, CI-1 and YOGA met in Queens, New York. They again discussed various weapons that the LTTE wanted to purchase, including, among other things, AK-47s and truck-mounted missile systems. CI-1 and YOGA also called SATHA in Canada on his mobile telephone. SATHA stated, in sum and substance, that he received CI-1's e-mail, and had forwarded it "over there," - i.e., to LTTE leadership in Sri Lanka.

17. On or about August 8, 2006, SATHA sent an e-mail to his LTTE contact in Sri Lanka who works for Pottu Amman, the

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[4] E-mails of SATHA and YOGA were obtained pursuant to court-authorized search warrants.

head of intelligence and operations for the LTTE. The e-mail quotes the prices for the Russian-made missiles: "sa18 $75,000 US 1 reusable and 1 needle," and "1 needle $50,000 US." "Needle" is a code word used to refer to the missile. SATHA attached to the e-mail the two photographs of the missile that CI-1 had e-mailed to SATHA.

18. On or about August 11, 2006, CI-1 and SATHA spoke on the telephone. The call was consensually recorded. SATHA told CI-1 that "we have shown it to 'Periyappa' over there," and that he was very interested. "Periyappa" literally means "father's older brother," and is used to describe someone of high stature. CI-1 asked SATHA whether "uncle" had seen the pictures, and SATHA responded that "even people above him have seen it." CI-1 said that "the only person above him is 'Thaliavar' himself" - i.e., Prabhakaran, the leader of the LTTE - and SATHA said, "Then who else?" SATHA then added that he had been tasked to look into the details about this project.

19. On or about August 14, 2006, an undercover law enforcement officer posing as the black market arms dealer ("UC-1") called SATHA on the telephone. The call was consensually recorded, and was conducted in English. SATHA told UC-1 that he had heard a lot about him, and that "unfortunately we need to meet fast, uh, ASAP." He explained that one of his partners just arrived from another country and that they wanted to meet with

UC-1 about "how we can proceed with business." SATHA emphasized that "We are very serious about this matter. Nothing about the joke or nothing about that, like wasting your time and my time . . ."

20. SATHA mentioned to UC-1 the possibility of meeting at the border or at "your place," i.e., the New York metropolitan area. UC-1 replied that "I'm not up there at the border right now. . . And if I come up to the border . . . I'm not dragging this stuff up there." SATHA said, "I got it, so we are to come [ ] to you, right?" UC-1 replied, "It depends if you want to see it. If you just want to get together and talk. . . But, but if you want, if you're serious about it and you want to do this . . . you make arrangements, decide . . . what airport you want to come in, [ ] I'll have [CI-1] pick you up and bring you to me." SATHA agreed, and said that he needed to talk to UC-1 about the "logistic problem" - "how we gonna' get em' and stuff like that." SATHA said that one of his partners, subsequently identified by SATHA as defendant [redacted], was responsible for the "technical side," and that he would speak with him about the details of the purchase.

21. UC-1 concluded the call by telling SATHA: "The only thing I ask you is one favor. [ ] Don't waste my time." SATHA again stressed how "serious" they were about the deal. UC-1 stated, "No disrespect but you gotta be able to do it. If

you're gonna' do it we'll do it. If you're not gonna' do it, forget about it." SATHA agreed, and said that they would also look over the "security part" of the deal. SATHA said that as long as CI-1 was there, there would be no issue.

22. On or about August 15, 2005, SATHA called CI-1 on the telephone. The call was consensually recorded. SATHA said that "he has arrived," i.e., that the "big guy" in Canada who had traveled to Sri Lanka to obtain a list of weapons that the LTTE wanted to acquire,-had returned. SATHA stated that he and the "big guy" were planning on traveling to New York on Friday evening, August 18, and that they wanted to meet with UC-1 on Saturday morning, August 19. He said that four people, including himself, were coming for the meeting, that "we have done extensive research on things and 99%, 90% it is okay with us to pick it up." SATHA said that they wanted to purchase between 50 to 100 "needles" - i.e. - Russian-made SA 18 surface-to-air missiles - and to inform UC-1 that they wanted this higher quantity. SATHA explained to CI-1 that, "Sometimes getting five or ten needles is not worth it. [] It has to be obtained in bulk. At our rate if we fire ten at least two will hit." SATHA told CI-1 to "tell him [UC-1] that we are all quite serious."

23. SATHA and CI-1 had additional telephone conversations to further discuss the specifics of their trip to New York. The calls were consensually recorded. They also

discussed where the missiles would be delivered, and SATHA said they have to reach "Thongal" - Tamil for "island" - which CI-1 understood to be a code for Sri Lanka. CI-1 asked about payment, and SATHA replied that "the guy who is coming is aware of that" and would be able to discuss the details. SATHA added that another "detail" was loading the missiles, and said "If he could ship it to our destination we will arrange to get it all cleared at the other side. We will take care of it at the other shore."

24. On Friday, August 18, 2006, defendants SATHA, [redacted], SAHILAL SABARATNAM ("SAHIL") and THIRUTHANIKAN THANIGASALAM ("THANI") attempted to drive across the border from Canada to New York. They were questioned by a U.S. Customs official about the purpose of their trip, and they claimed that they were going to Buffalo, New York for a bachelor party. The Customs official ran their names through a government database and discovered that defendant [redacted] had a criminal record. The Customs official advised [redacted] that he would not be permitted to enter the United States. SATHA, SAHIL and THANI passed through the border in their vehicle to New York, while [redacted] took a taxi cab back to Canada.

25. On Saturday morning, August 19, 2006, CI-1 talked to YOGA on the telephone. The two discussed the arms deal that was scheduled to take place that day, and YOGA instructed CI-1 to call him afterward for an update. CI-1 subsequently met

defendants SATHA, SAHIL and THANI at a location in Long Island, New York. An undercover agent ("UC-4") drove to the location. SATHA, SAHIL, THANI and CI-1 got into CI-1's vehicle and followed UC-4's vehicle to a location in Long Island.

26. SATHA, SAHIL, THANI and CI-1 met for several hours with UC-1 and another undercover law enforcement officer posing as a technical expert in military weaponry ("UC-2") at the Long Island location. The meeting was consensually recorded. At the beginning of the meeting, UC-1 asked the defendants what they wanted to purchase. THANI stated that "We need something for Kfir," and they discussed that "Kfir" were the Israeli-made fighter jets. UC-1 asked, "You want to shoot this airplane down?" THANI said yes. THANI also explained that they needed weaponry to destroy boats.

27. UC-1 stressed the importance of having the financial terms and manner of payment in place before delivery of any weapons is made, and THANI later explained that they could have money available by "Monday or Tuesday," meaning August 21 or 22, 2006. During the meeting, SATHA and SAHIL repeatedly attempted to place a call on a cellular telephone to their contact about the specifics of the payment funds transfer. The parties discussed using bank accounts in Switzerland, St. Croix or other offshore locations. SAHIL, who was identified as the "financial guy," explained that the accounts they used would have

to be active accounts. Specifically, SAHIL explained, in sum and substance, "If there is no activity in the account and you throw in a million dollars, that is going to raise a red flag. They will freeze the accounts on both sides." The parties discussed depositing the money into an account that CI-1 controlled and, after UC-1 effectuated the transfer of the arms, the money would be transferred to UC-1.

28. The defendants SATHA, SAHIL and THANI explained that defendant [redacted], whom they described as the "scientist" and expert in technical issues, was stopped at the U.S.-Canadian border and turned around. However, they said that defendant SAHIL was also an expert in technical issues.

29. The parties also discussed how the arms would be transferred. THANI stated that they wanted delivery to occur ship-to-ship in the Indian Ocean. (Sri Lanka is located in the Indian Ocean off the southern coast of India.) THANI and SAHIL explained that UC-1 would no longer be responsible after the arms were transferred to their ship.

30. Training of LTTE fighters in Sri Lanka on operating the missiles was also discussed. THANI said that this was a very important issue. UC-1 said that they could either be trained by video or that UC-2 could provide the training himself. THANI and SAHIL said that they wanted UC-2 to travel to Sri Lanka to train the ultimate users of the arms, and promised that UC-2

would be kept safe from the major fighting occurring in Sri Lanka now. UC-1 asked how the fighters were currently being trained, and SAHIL and THANI said that they used simulators. SAHIL stated that UC-2 would be training "the guys on the ground."

31. UC-1 asked whether "you guys" currently have the Russian-made SA 18 surface-to-air missiles. THANI said no, that they currently have "7s," a reference to the Russian-made SA 7 surface-to-air missile. THANI said that the "7s" are not effective in hitting aircraft. He explained that it currently took two to three missiles to hit an aircraft. Public source reporting confirms that the LTTE utilizes SA 7 surface-to-air missiles. THANI also explained that they wanted to purchase AK-47s, a type of assault rifle. He said that they currently use Chinese-made AK-47s, but that they are "garbage." He specifically asked for American- or Russian-made weapons.

32. During the meeting, the parties discussed the quantity and price of the SA 18s and AK-47s that the defendants SATHA, SAHIL and THANI were attempting to buy. The parties agreed that an initial shipment would consist of 10 SA 18 missiles and 500 AK-47s, and that UC-2 would provide technical training on the use of the missiles. The parties also discussed a total price of between $900,000 and $937,500 for the missiles, the AK-47s and the training.

33. During the meeting, UC-1 asked the defendants SATHA, SAHIL and THANI if they wanted to see an SA 18 surface-to-air missile and the AK-47s they were discussing. Defendant THANI indicated that he wanted to see the items, and UC-2, with assistance, brought in a long wooden crate containing an SA 18 missile. As UC-2 began to open the crate, defendant SAHIL, commenting on the crate, said that it looked like a "casket." UC-1 responded that the missiles would put quite a few people in caskets, and defendant SAHIL laughed and said "Yes." Another undercover law enforcement officer ("UC-3") then brought in a large cardboard box containing two AK-47 assault rifles.

34. UC-2 opened the crate containing the SA 18 missile and brought the missile components, including the firing tube and a trigger mechanism, to a nearby desk. Defendants SATHA, SAHIL and THANI all approached the desk to look at the missile, and UC-2 explained the components and how the missile worked. As UC-2 described the missile, THANI picked up the missile tube and placed it in his shoulder, in the same manner as it would be used to shoot down a plane. THANI discussed the speed of the aircraft that would be shot down with the missile, SATHA asked about how far ahead of a target aircraft the missile tube could be aimed, and SAHIL asked about the speed of the missile. SATHA, SAHIL and THANI also each looked into the barrel of the missile tube, to view what UC-2 had told them was a live missile.

35. After SATHA, SAHIL and THANI had viewed the SA 18, UC-2 indicated that he would show them the AK-47s. SATHA, SAHIL and THANI each held the AK-47s in the firing position, and when UC-1 inquired whether they wanted a model with a rigid wooden stock or a collapsible stock, THANI said, "We need the quality," and indicated that he wanted the model with the collapsible stock. UC-1 asked if they already had the model with the collapsible stock, and THANI responded, "Oh yes we have tons of them, tons of them, 40,000, 50,000 people carrying this." Public source reporting confirms that the LTTE relies heavily upon Russian-made AK-47s.

36. During the course of the meeting, SAHIL and THANI also asked about various other weapons and military items. For example, THANI discussed with UC-2 the use and availability of anti-tank missiles, "fire finders" that would enable the LTTE to track the location from which enemy fire had come, and surface-to-surface missiles that could be used for attacking targets such as ships. Defendant SAHIL also asked about the availability of other weaponry, including American- and French-made surface-to-air missiles, and a "forty-forty," which, based on the conversation, appears to have been a reference to a multiple launch rocket system (MLRS) that can fire multiple surface-to-surface rockets simultaneously. UC-1 also asked if the defendants were interested in night vision equipment, and THANI

said they were. However, when UC-2 took out night vision goggles and handed them to THANI, THANI indicated that the goggles were only "Generation 2," and that they wanted "Generation 3."

37. UC-2 subsequently gave a signal to fellow law enforcement officers, and defendants SATHA, SAHIL and THANI were placed under arrest.

38. Following the above-described meeting regarding the arms deal, CI-1 met with defendant YOGA at a location in Queens. The meeting was consensually recorded. Based on a debriefing of CI-1, YOGA asked CI-1 about the meeting with the purported arms dealer that included CI-1 and defendants SATHA, SAHIL and THANI. CI-1 reported the details of the meeting, including that the defendants had viewed a missile and an AK-47 assault rifle. YOGA expressed pleasure with the results of the meeting. Following the meeting with CI-1, YOGA was arrested.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for defendant [redacted] and that the defendants SATHAJHAN SARACHANDRAN, also known as "Satha," SAHILAL SABARATNAM, also known as "Sahil" and "Shakil," THIRUTHANIKAN THANIGASALAM, also known as "Thani," NADARASA YOGRARASA, also known as "Yoga," be dealt with according to law.

Because of the nature and content of the charges alleged herein, the government requests that the complaint and arrest warrants be filed under seal until further order of this Court.

JAMES J. TARECO
Special Agent
Federal Bureau of Investigation

Sworn to before me this
21st day of August, 2006

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

KTC:JHK

M-06- 887

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNDER SEAL

UNITED STATES OF AMERICA

C O M P L A I N T

- against -

(18 U.S.C. §§ 2339B, 371, 201 and 3551 et seq.; 50 U.S.C. § 1705(b))

[redacted]

THIRUKUMARAN SIVASUBRAMANIAM,
MURUGESU VINAYAGAMOORTHY,
also known as "Dr. Moorthy"
and "Vinayagamoorthy Murugesu,"
VIJAYSHANTHAR PATPANATHAN,
also known as "Chandru,"
[redacted]
NACHIMUTHU SOCRATES, and
[redacted]

Defendants.

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EASTERN DISTRICT OF NEW YORK, SS:

JAMES J. TARECO, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, in or about and between 2003 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants [redacted] THIRUKUMARAN SIVASUBRAMANIAM, MURUGESU VINAYAGAMOORTHY, also known as "Dr. Moorthy" and "Vinayagamoorthy Murugesu," VIJAYSHANTHAR PATPANATHAN, also known as "Chandru," [redacted] NACHIMUTHU SOCRATES and [redacted] did knowingly and intentionally conspire to provide material support and resources to a foreign terrorist organization, to wit, Liberation Tigers of Tamil Eelam.

(Title 18, United States Code, Sections 2339B(a)(1) and 3551 et seq.)

Upon information and belief, in or about and between 2003 and the present, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants [redacted] MURUGESU VINAYAGAMOORTHY, also known as "Dr. Moorthy" and "Vinayagamoorthy Murugesu," VIJAYSHANTHAR PATPANATHAN, also known as "Chandru," [redacted]

[redacted] and NACHIMUTHU SOCRATES, did knowingly and intentionally conspire to bribe public officials, in violation of 18 U.S.C. § 201.

(Title 18, United States Code, Section 371 and 3551 et seq.)

Upon information and belief, in or about and between January 2005 and April 2005, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants [redacted] THIRUKUMARAN SIVASUBRAMANIAM, MURUGESU VINAYAGAMOORTHY, also known as "Dr. Moorthy" and "Vinayagamoorthy Murugesu," and [redacted] did willfully deal in property of a specially designated terrorist, to wit, the Liberation Tigers of Tamil Eelam, in violation of 31 C.F.R. § 595.24.

(Title 50, United States Code, Section 1705(b))

The source of your deponent's information and the grounds for his belief are as follows:[1/]

1. I have been a Special Agent of the Federal Bureau of Investigation ("FBI"), for over nine years. My information about this investigation comes from my personal participation in this investigation and a review of e-mails, transcripts of

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[1/] Because the purpose of this Complaint is to state only probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

certain consensually recorded meetings and telephone calls, intercepted telephone communications, financial documents and other physical and documentary evidence.

FACTS AND CIRCUMSTANCES

I. BACKGROUND

2. Since 1999, FBI agents and other law enforcement personnel assigned to the Joint Terrorism Task Force ("JTTF") have been conducting an investigation of individuals and charitable organizations for violating United States criminal law by providing material support to the Liberation Tigers of Tamil Eelam ("LTTE" or "Tamil Tigers"). Tamils are a minority ethnic group within Sri Lanka, and the LTTE, also known as the Tamil Tigers, was founded in 1976 and uses illegal methods to raise money, acquire weapons and technology and publicize its cause of establishing an independent Tamil state in northern Sri Lanka. The LTTE started its armed conflict against the Sri Lankan Government in 1983, and has utilized a guerrilla strategy that often includes acts of terrorism. The LTTE controls most of the northern and eastern coastal areas of Sri Lanka, but has conducted operations throughout the island. The LTTE has roughly 8,000 to 10,000 armed combatants in Sri Lanka, including 3,000 to 6,000 trained fighters.

3. The group's elite Black Tiger squad is notorious for its suicide bombings. Over the past 15 years, the LTTE has

conducted roughly 200 suicide bombings. Major recent terrorist attacks include: on June 15, 2006, the LTTE detonated a remote controlled claymore mine, blowing-up an overcrowded civilian bus and killing 64 people, including 15 children; on April 25, 2006, a female suicide bomber targeted Sri Lanka's top military commander, seriously wounding him and killing eight people; on July 7, 2004, a female LTTE suicide bomber blew herself up inside a police station in Sri Lanka's capital, killing five police officers and violating a two-year cease fire; on July 24, 2001, LTTE suicide bombers attacked Sri Lanka's main air base (and only international airport), killing 12 people and destroying 13 aircraft; on October 2, 2000, an LTTE suicide bomber killed 23 people, including a Muslim political candidate who was contesting parliamentary elections; on December 18, 1999, 38 people were killed by LTTE suicide bombers in two attacks on election rallies; and on January 25, 1998, LTTE suicide bombers attacked Sri Lanka's holiest Buddhist shrine and killed 16 people.

4. The LTTE is also notorious for political assassinations, including the May 1991 assassination of former Indian Prime Minister Rajiv Gandhi; the 1993 assassination of the President of Sri Lanka, Ranasinghe Premadasa; the July 1999 assassination of Neelan Thiruchelvam, a member of the Sri Lankan parliament who was involved in a government-sponsored peace initiative; the attempted assassination of Sri Lankan President

Chandrika Kumaratunga in December 1999; and the June 2000 assassination of C.V. Goonaratne, the Sri Lankan Industry Minister.

5. The LTTE and the Sri Lankan government have been operating under a tenuous cease-fire agreement since 2002. In the past several months, however, the agreement has fallen apart almost entirely. On November 18, 2005, Mahinda Rajapakse was elected Prime Minister of Sri Lanka. LTTE strongly opposes Rajapakse, and on November 27, 2005, LTTE leader Velupillai Prabhakaran issued an ultimatum that LTTE would intensify its attacks in 2006 if Tamils were not given an independent homeland. In the months following Prabhakaran's speech, the LTTE has conducted numerous attacks, including the murder of 15 Sri Lankan Army soldiers and three Muslim civilians in multiple attacks in early December 2005, the abduction of three Sri Lankan Navy sailors on December 22, the murder of several sailors on December 23 and, as noted, the targeting of Sri Lanka's top military commander and murder of eight individuals on April 25, 2006. Since April 2006, more than 500 people have been killed in the escalating conflict. LTTE's recent attacks have been condemned by the international community, including statements by the United States State Department, United Nations Secretary General Kofi Annan, the European Union and the Indian government.

6. The LTTE relies heavily upon supporters in the United States, Europe, Canada, Australia and elsewhere to raise and launder money, acquire intelligence, purchase technology and military arms and equipment, and improperly influence elected politicians and other government officials.

7. The LTTE has been designated by the United States State Department as a Foreign Terrorist Organization since 1997, and is banned in several other countries as well. As such, the LTTE cannot legally raise money or procure operational equipment or other materials in the United States. Individuals involved in these activities or other forms of material support are subject to federal prosecution under 18 U.S.C. § 2339B and other statutes. The United States' designation of the LTTE as a terrorist organization has significantly hindered the LTTE's propaganda campaign to portray itself as a legitimate "liberation" movement for the Tamil population in Sri Lanka. However, rather than abandoning their terrorist tactics — suicide bombings targeting innocent civilians, assassinations of political figures, use of children as soldiers, etc. - to change its image in the international community, the LTTE has attempted to bribe its way off the Foreign Terrorist Organization list, has resorted to secret fundraising through front charitable organizations in the United States, and has relied upon supporters in the U.S. and U.S.-based e-mail accounts to acquire

operational equipment and technological know-how from illegal dealers and unsuspecting North American companies.

8. The LTTE manages its worldwide operations through a hierarchical organizational structure. As discussed, the head of the LTTE is Velupillai Prabhakaran. Prabhakaran maintains close oversight over almost all aspects of the LTTE's worldwide activities. S.P. Tamilselvan is the head of the LTTE's political wing. Sanumganadan Sivashankar, also known as "Pottu Amman," leads the intelligence and operations wing. Veerakathi Manivannan, also known as "Castro," is the LTTE's "International Communications Secretariat."

9. Defendant [redacted] is a principal liaison between Prabhakaran and other LTTE leadership and LTTE supporters in North America, Europe and Asia, and is actively involved in procuring operational equipment from around the world. Defendants MURUGESU VINAYAGAMOORTHY ("MOORTHY") and [redacted] are senior LTTE supporters who have direct and frequent contact with LTTE leadership in Sri Lanka and are often dispatched by the LTTE to countries around the world, including the United States, to facilitate LTTE projects. MOORTHY and [redacted] serve as intermediaries between LTTE supporters in the United States, Europe and elsewhere and the Sri Lankan

leadership. Defendants [redacted], [redacted] [redacted], NACHIMUTHU SOCRATES, VIJAYSHANTHAR PATPANATHAN, also known as "Chandru," [redacted], THIRUKUMARAN SIVASUBRAMANIAM and [redacted] are LTTE supporters in North America.

10. As discussed below, the defendants - and several others - are engaged in a far-reaching conspiracy to provide material support to the LTTE, in violation of 18 U.S.C. § 2339B. The defendants' material support consisted of the procurement of military equipment, communications devices and other technology, fundraising and money laundering through front charitable organizations, and a myriad of other criminal activity, including conspiracy to bribe public officials, attempting to obtain classified information, dealing in financial transactions with a designated Foreign Terrorist Organization, and money laundering, among other crimes.

II. TARGETING OF UNITED STATES PUBLIC OFFICIALS

A. Bribery of Purported State Department Officials

11. Defendants MOORTHY, [redacted], SOCRATES, [redacted] [redacted], [redacted] and CHANDRU have resorted to bribery to persuade purported U.S. State Department officials to remove the LTTE from the Foreign Terrorist Organization ("FTO") list, disclose classified intelligence about the LTTE and enable the defendant [redacted] to travel freely to and from the United States.

1. Removal of Ban on LTTE

12. In April 2004, LTTE senior leadership in Sri Lanka dispatched defendant [redacted] from India to New York to attempt to have the LTTE removed from the terrorist list. Defendant CHANDRU helped to facilitate [redacted]'s trip. CHANDRU explained to a confidential informant ("CI-1")[2] that the LTTE "leader" had sent [redacted] to the United States to try to get the ban on the LTTE removed, and that [redacted] would be meeting with the "leader" again the next month, May 2004. The conversation was consensually recorded and conducted in the Tamil language. I have reviewed a draft summary translation.[3]

13. [redacted] returned to the United States in June 2004. On or about June 25, 2004, CI-1, CHANDRU and defendant NACHIMUTHU SOCRATES met [redacted] at Newark International

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[2] The government has been working with CI-1 since 1999. CI-1 was convicted of a drug trafficking felony in the Eastern District of New York in 1994, and started working with the government while on supervised release for that conviction (with the approval of the Court). In exchange for his cooperation, CI-1 has received INS parole documents enabling him to stay in the United States, as well as financial assistance. To date, CI-1 has provided extremely credible information that has been corroborated by consensual recordings, e-mails, financial documents and review of public records.

[3] Unless otherwise specified, all conversations and meetings involving CI-1 were consensually recorded. In conversations and meetings involving CI-1 and the defendants, the participants spoke primarily in the Tamil language. The descriptions of those conversations are based on draft summary translations. In meetings in which the purported U.S. government officials - UC-1, UC-2 and UC-3 - participated, the parties spoke primarily in English.

Airport in Newark, New Jersey. Three days later, CI-1 picked-up [redacted] at the Port Authority bus terminal in Manhattan, and the two drove to CI-1's residence in Staten Island. During the drive, [redacted] explained to CI-1 how he recently returned from a meeting in LTTE-controlled territory in Sri Lanka with the "leader," as well as Pottu Amman, a reference to Sanumganadan Sivashankar, head of the LTTE's intelligence and operations wing. At CI-1's apartment, [redacted] and CI-1 discussed the possibility of bribing CI-1's U.S. government sources to persuade the United States government to remove the LTTE from the terrorist list. [redacted] told CI-1 that he was serious about having the ban against the LTTE lifted, and instructed CI-1 to talk to his government sources about the plan's feasibility. CI-1 said that the main issue with his sources would be money. [redacted] identified potential financial contributors and arranged a meeting with a prospective contributor.

14. Between September 2004 and April 2005, defendant SOCRATES met with an undercover law enforcement officer posing as a purported State Department official, UC-1, five times at CI-1's apartment in Staten Island. The meetings took place on or about September 17, 2004, October 6, 2004, December 15, 2004, March 22, 2005 and April 19, 2005. Defendant [redacted] accompanied SOCRATES to the September 17 meeting. During these meetings, SOCRATES, [redacted], UC-1 and CI-1 discussed in detail the

financial terms and conditions of the bribe to remove the United States' ban of the LTTE. UC-1 made it clear that the LTTE would have to pay him millions of dollars to get the ban lifted. During some of these meetings, UC-1 and SOCRATES also discussed the sale of classified United States intelligence information to the LTTE.

15. SOCRATES made interim bribery payments to UC-1. After the December 15, 2004 meeting, SOCRATES gave CI-1 a check for $500 to give to UC-1. At the April 19, 2005 meeting, SOCRATES gave UC-1 $5,000 in cash "to prove that we are not empty handed every time."

16. In July 2005, the LTTE again sent defendant [redacted] to New York to meet with the purported State Department official, UC-1, as well as with another undercover law enforcement officer posing as a more senior State Department official ("UC-2"), about the bribery. [redacted], SOCRATES, UC-1, UC-2 and CI-1 met at CI-1's Staten Island apartment on July 7, 2005. Prior to the meeting, [redacted] emphasized to SOCRATES and CI-1 that he did not want the State Department officials to know that he was an LTTE representative; he wanted to characterize his involvement in terms of political support. During the meeting, the parties discussed financial terms of the bribery, including a $1 million up-front payment. SOCRATES also inquired about whether UC-1 and UC-2 could stop the United States

government from sending arms to the Sri Lankan government, and whether UC-2 could provide intelligence about this issue.

17. Defendants MOORTHY and [redacted] also became involved in the scheme to bribe State Department officials. On or about August 9, 2005, defendant MOORTHY sent an e-mail to [redacted], explaining that "the person who helped us get the man to come from A wishes to come. He says he has some thing [sic] important needing to be discussed with Ty. . . . He probably plans to do this while I am there." "The person" is a reference to [redacted], and "the man to come from A" is a reference to an individual who traveled to Sri Lanka from "A" - i.e., "America," - as discussed more fully in paragraphs 30-35 below.

18. In September 2005, MOORTHY and [redacted] traveled to Sri Lanka and met with LTTE leadership. In late September 2005, the LTTE sent MOORTHY to the United States to meet with the purported State Department officials. On or about September 29, 2005, MOORTHY, SOCRATES, UC-1, UC-2 and CI-1 met at CI-1's Staten Island apartment. MOORTHY made it clear that he had traveled to the United States for the meeting on behalf of senior LTTE leadership in Sri Lanka, and that the LTTE "leader" - i.e., Prabhakaran - would make the ultimate decision as to how much the LTTE was willing to bribe the State Department officials to remove the LTTE from the terrorist list:

> Moorthy: I'm not going to talk to the leader myself, straight. There's no phone

> communication. So it has to be passed to somebody else, and that person will pass over to him. [] And the decision will be between these three.
>
> UC-2: Well, who, who would you go to that has enough weight to talk to the leader?
>
> Moorthy: It is my weight transmitted to him. Nobody else has (UI).
>
> UC-2: So you and in conjunction with the leader, are essentially making the decision.
>
> Moorthy: I'm not making the decision, I'm passing the information to him and he makes the decision. [] I don't really make any decision at all and if he says, 'okay we have a million dollars a million dollars we can agree.'
>
> UC-2: Well how do you you know, just from your own personal assessment, how do you feel about the idea?
>
> Moorthy: I'll tell you a few things . . . Are they financially that muscular? I don't think they are that. So they may not agree to the magnitude. . . . They are very strict businessmen. . . .
>
> UC-2: I understand that's good business that makes good sense. . . I won't make a move until I know that money is available.

19. The purported U.S. State Department officials repeatedly emphasized to MOORTHY that in order for the LTTE to be removed from the list of foreign terrorist organizations and, more importantly, remain off the list, the LTTE would have to renounce suicide bombings and the use of children as soldiers. MOORTHY tried to justify the LTTE's tactics and explained that if war broke out again, suicide bombings were inevitable:

> As far as suicide bombing was concerned there was no option . . . Even the people who are sending them there or the people who are going, is not because they just want to go and destruct something. They, their aim is a goal. Like the professor in Chicago, who recently developed such study and he say, they are working toward a goal. Provided that goal is achieved it will stop. . . . You know, there's not peace - ceasefire tells us to stop the suicide bombing; it's not our intention to be suicide bombers but it is forced upon us. We have no other means . . . But one of the things I happen to, I feel I have to mention is, if you, in the event of war happening, I think it is inevitable that suicide bombing will be used.

20. After the meeting, MOORTHY, SOCRATES and CI-1 discussed their next steps. MOORTHY said that the most that Prahbakaran would agree to was $1 million, and that it would have to be a cash payment - no banks involved. MOORTHY said that he would go back to London and communicate to LTTE leadership in Sri Lanka through his "channel." MOORTHY also explained that in his experience with LTTE leadership, "When you present something, you get thousand questions. Otherwise, if he [Prabhakaran] considers this an important thing, he will say 'varalaam' [translation: 'it can come.'] He will ask me if I could go and then I will have to go in one day and meet him."

21. Upon returning to London, MOORTHY promptly contacted, via e-mail, his "channel," defendant [redacted]. On or about October 4, 2005, MOORTHY sent [redacted] an e-mail including various payment alternatives for a bribery scheme.

Over the next few weeks, MOORTHY and [redacted] had several additional e-mail communications about the scheme. On or about October 16, 2005, MOORTHY e-mailed defendant [redacted] to update him on his communication with LTTE leadership: "I am in touch - giving replies for clarification. I have raised a question as to the extent of seriousness and interest in getting involved which would dictate the further step like needing dirct [sic] discussions." On or about October 21, MOORTHY sent [redacted] another e-mail, explaining that, "Guidance is that it has to be a must and likelyhood [sic] of confiding is getting less. The effort is likely to be fruitless due to the prevailing climate there." On or about November 2, 2005, MOORTHY sent another e-mail to [redacted], explaining that "Sivaperuman has informed that the plan related to the visit I did is to be dropped for the moment." MOORTHY, [redacted] and others often refer to Prabhakaran as "Sivaperuman," which is a Hindu God.

2. Classified TRO Document

22. The defendants were determined to maintain and expand their illicit relationship with the purported State Department officials. On or about December 2, 2005, SOCRATES met with UC-1 and CI-1 concerning the purchase of a purported classified intelligence document about the LTTE.[4/] Socrates and

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[4/] The document was not a genuine classified document. It was created by the FBI for purposes of this investigation.

CI-1 gave UC-1 $1,000 in cash, and UC-1 permitted Socrates to view and take notes about the document, which references a joint investigation by the United States and a foreign government into the Tamil Rehabilitation Organization ("TRO"), a suspected LTTE front fundraising organization. The document states that U.S. and foreign government authorities interviewed four TRO officers, and learned that TRO had transmitted a large sum of money from London to Sri Lanka. The document further states that the U.S. authorities concluded that this information did not warrant continued investigation of the TRO in the United States, and that the investigation had ceased.

23. The next morning, December 3, SOCRATES called [redacted] to inform him about the meeting and the document.[5/] They discussed offering UC-1 a $50,000 annual salary to provide additional information going forward. On or about December 10, [redacted] and SOCRATES called MOORTHY to relay to MOORTHY the information contained in the document. SOCRATES, concerned about secrecy and their phones being tapped, asked MOORTHY whether he was in a "good place" and talking on a "random number." MOORTHY told SOCRATES and [redacted] to talk "in a hidden way." [redacted] then explained the contents of the document to MOORTHY.

[5/] All telephone conversations referenced herein in which CI-1 and/or UC-1 and UC-2 did not participate were intercepted pursuant to court-authorized wiretaps.

24. During this call, [redacted] and SOCRATES also talked to MOORTHY about establishing a "continuous, working relationship" with UC-1 to continue getting information. They talked about the importance of being able to "get the information and send it over there" - to Sri Lanka - and that they needed to pay UC-1 so that "the merchandise will continue to come." They also discussed the difficulty of passing information to the LTTE in Sri Lanka, and SOCRATES and [redacted] suggested that MOORTHY should "go there" - to Sri Lanka - to correct the situation. [redacted] asked MOORTHY whether decisions could be made without getting approval from Sri Lanka, but MOORTHY explained that "approval has to come from them . . . Either the one we talk with should obtain it or he should give it to that side."

3. Classified Terrorist Watch List Document

25. [redacted] and SOCRATES also bribed UC-1 to give them a purportedly classified document concerning [redacted] being listed on a United States terrorist watch list. On or about January 8, 2006, U.S. Customs officials temporarily detained [redacted] as he was trying to board a flight from Toronto, Canada to the United States. [redacted] immediately called SOCRATES to inform him what had happened. SOCRATES then called CI-1, and they discussed contacting CI-1's "friend" - UC-1 - to find out why [redacted] had been stopped. After several telephone calls among [redacted], SOCRATES and CI-1, SOCRATES

met with UC-1 and CI-1 on February 18, 2006, in Staten Island. SOCRATES gave UC-1 an envelope containing $1,000 cash, and UC-1 allowed SOCRATES to read a purported secret report on [redacted], which detailed the circumstances of his detention. UC-1 and SOCRATES discussed the document, and UC-1 told SOCRATES that, going forward, [redacted] should be able to travel without getting detained. SOCRATES then called [redacted], handed the phone to UC-1, and UC-1 explained to [redacted] the circumstances of his detention.

III. LTTE PROCUREMENT ACTIVITIES

26. The LTTE purchases arms and other military equipment, communications devices and other technology from countries around the world. As discussed, defendant [redacted] is a principal LTTE procurement officer. He has used several U.S.-based e-mail accounts to purchase and/or inquire about, among other items, military arms, unmanned aerial vehicles for "jamming of radio and radar," submarine design, flight lessons, cell towers, radio controller equipment, global positioning system ("GPS") equipment, short wavelength radio equipment, radio and satellite equipment, air traffic equipment, cameras, computers and engineering publications. As discussed below, defendants [redacted], [redacted], SIVASUBRAMANIAM, [redacted], and MOORTHY, among several others, have facilitated these transactions for [redacted] and/or other co-conspirators.

A. [redacted]

27. Defendant [redacted], who resides in Canada, has assisted [redacted] and other LTTE officials in Sri Lanka in researching and acquiring, in the United States and elsewhere, aviation equipment, submarine and warship design software and communications equipment.

28. [redacted] has used student couriers to smuggle items into LTTE-controlled territory. On or about October 23, 2005, [redacted] e-mailed three students about their travel to Sri Lanka, and explained to them in explicit detail how to deceive Sri Lankan customs officials at the airport in Colombo about the purpose of their trip, how they would be transported up to LTTE-controlled territory, and how to smuggle the materials that [redacted] would provide to them - including books, "sparton compasses," a "javad gps receiver," an "RFMD computer boards kit," laptop computers and other items - past Sri Lankan army officials. [redacted] explained, among other things:

> Here is the info you'll need . . . read it/ print it/ delete this email afterwards. It contains important info so read it all but don't share with others. . .
>
> [D]on't tell anyone besides your family about your departure; you idiots already told way too much people. . .
>
> Pack up properly! There is lots of money being dumped on these things; pack smartly. . . Put the stuff I gave properly

and put teddies and chocolates to cover up although they are not problematic; just computer stuff. . .

When you land in Sri Lanka . . . [o]nly speak in English near them [customs officials]; never speak in Tamil in front of singalese guys. So, tell customs guys you are here on vacation and will travel around whole island with your family. . . See Colombo address below to give in customs form. . . When the guy checks the boarding pass, just smile and show him and tell him there's only personal clothes and chocolates, etc (gifts for family). Give him a bag of chocolate. If they ask you what things are for: SAY it is gift for family and try to make up some BS. . .

When you get out of this part, you should see Mayooran there. . . He will put you on a van to Vanni [LTTE controlled territory]. Before that, give him the things you need to give him and pickup anything he gives (not sure if he will give you anything yet). . .

From airport, you got about 8 hour journey to Vanni. . .

You get to army checkpoint after vavuniya. This is the most trickiest part but it is not a problem at all. . . You will be asked to take out the suitcases and open for them to see. Put the suitcases without any problematic things in the back of the van first; so when you have to take out the bags. . take these out first. . . Give them like 1 bag of chocolate for all of them and smile. Give cigarette too. . . If they ask about anything; say they are gift for family; they are computer parts. Make up some BS. . remember, speak in chilling way only in English. DO NOT tell these guys or at airport that you are going to Vanni . . . do not say vanni or kilinochchi [LTTE headquarters]. Say you are just visiting around family; nothing else; not helping; no nothing else. . .

> Now you get to the tigers checkpoint, only 5 minutes away. . . Tell them [redacted] [redacted] sent you and that you will be in vanni for 2 months. . .
>
> In kilinochchi town, go to nanthavanam which is right beside the sports ground. There, tell them [redacted] [redacted] sent you and you need to see Elil. I need to know that you arrived safely and more importantly all the things got there safely ☺. . .
>
> Take everything to Vanni and give to Elil who will be your person there. . . [E]verything else give to Elil so he will distribute to people you will work with. . .

29. [redacted] also facilitated the purchase of "towers" for [redacted]. In an e-mail dated September 29, 2004, [redacted] told [redacted] that, "We're ready to buy the equipment, but still need to hear from you regarding . . . 1. height of towers (2) 2. distance between towers 3. would you be able to build a tower at the checkpoint, etc. . 4. height of hill where tower 2 is located Please call me to speak about this so that we can order the parts tomorrow." In March 2005, [redacted] provided [redacted] with a contact at Raytheon Aircraft Company, a large military contractor. By e-mail dated March 15, 2005, [redacted] told [redacted] that the contact "[w]orks on air traffic radars. He does talk a lot but does little . . . but see if he's of any use to you."

30. Defendants [redacted], SIVASUBRAMANIAN and [redacted] have also used U.S. based bank accounts to launder money for LTTE-funded activities, including the purchase of

operational equipment and travel to and from Sri Lanka. For example, in or about March 2005, SIVASUBRAMANIAN and [redacted], in coordination with [redacted], used their U.S. bank accounts to launder $13,150 in LTTE funds to pay for two individuals to travel to LTTE-controlled territory in Sri Lanka. Intercepted e-mail communications and consensually-recorded meetings reveal that Castro, the LTTE International Secretariat, in coordination with defendants MOORTHY and [redacted], orchestrated the payment from a Swiss bank account to the accounts used by SIVASUBRAMANIAM and [redacted].

31. On or about March 17, 2005, [redacted] received an e-mail from a New York travel agency which has its bank account at a JPMorgan Chase branch in Queens, New York. The e-mail related to a "Trip to Colombo" - Colombo is the capital of Sri Lanka - and explained that "the fare for these tickets are USD 6679 each." The e-mail also identified the travel agency's bank account number at JPMorgan Chase. On March 21, [redacted] forwarded this e-mail to MOORTHY in London, telling him that "this is the info. for the tickets you wanted." MOORTHY, in turn, sent e-mails to Castro, who is the LTTE's International Communications Secretariat, with flight and ticket cost information concerning the trip, as well as the travel agency's bank account number.

32. On or about March 24, MOORTHY sent Castro another e-mail, asking, "Has the money for the ticket been transfered [sic] already?" MOORTHY sent Castro another e-mail, explaining that "the ticketting [sic] agent is asking for eviden [sic] of transfer. Is it possible to provide some evidence? Please ckeck [sic] that the transfer has taken place and forward some reference to Mr. [redacted] [sic]."

33. On or about March 27, MOORTHY sent an e-mail to Castro, asking him to "Please again confirm with Europe whether they have sent the money. If they have - Get the detail to whom - including he [sic] name of the bank, address of the bang [sic] . . . and pass them to Mr. [redacted] [sic] as soon as possible today please."

34. On or about March 28, 2005, defendant [redacted] sent [redacted] an e-mail explaining that "both money is deposited . . $7150 from california And $6000 from seattle They will both fax you right now." [redacted] then received, via fax, copies of the wire transfer requests. [redacted] forwarded the wire transfer documents to the travel agency in New York, and the travel agency sent an e-mail to [redacted] confirming that the airline tickets had been mailed via "DHL" to [redacted].

35. Analysis of the wire transfer requests and other bank records reveal that the $13,150 was laundered as follows:

defendant [redacted] wired $7,180 to a travel agency's JPMorgan Chase bank account in Queens, New York from his bank account at Wells Fargo; defendant SIVASUBRAMANIAM wired $6,000 from a Bank of America bank account to the travel agency's account in Queens, New York; and two days later, the Wells Fargo and Bank of America accounts were reimbursed by wire transfers from a UBS bank account in Zurich, Switzerland.

B. [redacted]

36. In March 2006, defendants [redacted] and [redacted] conspired to purchase approximately $22,000 of submarine and warship design software from a U.K. company. According to its website, the company was incorporated "under an initiative from U.K. Central Government and U.K. Ministry of Defence," and its "primary purpose was to enhance and make commercially available a [60 million British Pound] MoD [Ministry of Defense] development of Warship and Submarine design and analysis software." Based on the purchase order attached to an e-mail sent by [redacted] to [redacted], the software that [redacted] and [redacted] arranged to purchase included a "Solid Modeller" that, according to the company's website, "enables the designer to create a solid model of a marine vehicle," a program that "allows the designer to assess the stability of a submarine," and other programs that enable a designer to "perform dynamic simulations of submarine

manoeuvres," "analyze the structure of axisymmetric submarine pressure hulls," estimate "longitudinal weight distribution" during the design process and assess the power of a vessel using regression analysis. [redacted] and [redacted] were concerned about questions regarding why they wanted to purchase military software. In one e-mail, [redacted] advised [redacted], "They are asking me a lot of questions. I don't want to sound suspicious, so want to give them a good answer. Please see if you can or whoever has a good idea about it to describe what we are going to use it for." In response, [redacted] devised an elaborate scheme to make it appear as if the software was merely for a school project.

37. [redacted] and [redacted] also attempted to purchase night vision equipment from a company in British Columbia, Canada. To deceive the company, [redacted] told the company's representative that the products were for "a fourth year design project we are doing at our university." [redacted] also assisted [redacted] in purchasing and shipping computer equipment, electronics components and communications equipment, and wire transferred over $5,000, at [redacted]'s instruction, to two companies in Singapore that distribute smoldering equipment.

C. [redacted]

38. Defendant [redacted], who used his bank account to launder funds from the LTTE, has also assisted [redacted] and [redacted] in purchasing technology. By e-mail dated October 5, 2004, [redacted] provided [redacted] with three web sites and quotes for sourcing a short wave car radio antenna. On or about January 17, 2005, [redacted] provided [redacted], by e-mail, a quote of $2,749 for a Dell computer. On or about March 15, 2005, [redacted] outsourced for [redacted] microprocessors from "IC Distributors," a source of electronic components and integrated circuits. On or about October 28, 2005, [redacted] sent an e-mail to [redacted] with links to two web sites for United States companies for sourcing torches with LED technology.

39. [redacted] also helped [redacted] establish accounts to purchase materials for the LTTE. By e-mail dated February 9, 2004, [redacted] informed [redacted] of the "step by step" procedure for opening an account at Paypal. Paypal is an account-based system that permits anyone with an e-mail account purchase materials online using a credit card or bank account. [redacted] also told [redacted] that, "What I'm telling you is that if you need anything, I can buy using my paypal account."

40. Further, [redacted], with the assistance of [redacted], arranged to help smuggle scientific magazines to [redacted] in LTTE-controlled territory in Sri Lanka. By e-mail

dated August 22, 2005, [redacted] told [redacted] that, "I have received a box of magazines just last week. I will be handing over to [redacted] [[redacted]] who always has volunteers coming to Vanni [LTTE-controlled area of Sri Lanka]. I will let you know who'll be taking the magazines."

D. THIRUKUMARAN SIVASUBRAMANIAM

41. Defendant SIVASUBRAMANIAM, in addition to using his bank account to launder money for the LTTE, has assisted [redacted] in procuring technology in the United States for the LTTE and laundering money for the purchases through different bank accounts. In April 2006, for example, [redacted], SIVASUBRAMANIAN, [redacted] and other co-conspirators acquired approximately $12,000 of technology from companies in the United States. On or about April 29, 2006, SIVASUBRAMANIAM sent an e-mail to [redacted] detailing purchases that he and three other individuals had made. SIVASUBRAMANIAM identified for [redacted] the "list of things I have paid for," and specified $1,000 for "Ramanam" (a reference to defendant [redacted]), amounts for other co-conspirators, and over $4,000 for "myself" - i.e., SIVASUBRAMANIAM - which was for purchases of a "camera and case and battery," "labtop" [sic], "4 G memory card" and $250 for "my great service." SIVASUBRAMANIAM told [redacted] that "I will deposit check for myself for that amount next week... I will deposit check to [co-conspirator] on

Monday as well..." On May 1, 2006, SIVASUBRAMANIAM sent a follow-up e-mail to [redacted], explaining that "I have deposited $12520 into account. And I also deposited $4700 into [ ] account today... I hope you have money in your account..."

D. MURUGESU VINAYAGAMOORTHY

42. Defendant MOORTHY has also facilitated purchases for [redacted], S.P. Tamilselvan, the head of the LTTE's political wing, and others. For example, in January 2004, MOORTHY assisted [redacted] in purchasing Thuraya satellite telephone "scratch cards" from Applied Satellite Technology. In addition, on or about November 12, 2004, MOORTHY e-mailed Tamilselvan, explaining, "We are hoping to be there on [November 14, 2004]. We are hoping to sort out the things that were sent through TRO when we are there." In December 2004, MOORTHY e-mailed [redacted] about several computers that had been purchased for him and, apparently, taken to Sri Lanka during his (MOORTHY's) trip there in November 2004.

43. MOORTHY also maintains and manages several bank accounts and credit cards for [redacted] in the U.K.

IV. LTTE FUNDRAISING IN NORTH AMERICA

44. The defendants' conspiracy to provide material support to the LTTE also includes fundraising in the United States and Canada. The LTTE relies on front charitable organizations, including the Tamil Rehabilitation Organization

("TRO") and World Tamil Coordinating Committee ("WTCC"), among others, to give their fundraising activities the appearance of legitimacy. The WTCC openly sells LTTE propaganda and literature on their websites, and have held fundraising events in which the featured speakers - with LTTE flags flying behind them on stage - openly called for those in attendance to support the LTTE. As discussed above, these organizations are also used to smuggle goods to the LTTE in Sri Lanka.

45. Defendant CHANDRU is affiliated with both TRO and the WTCC, and is an active LTTE fundraiser. His phone number is listed as a New York contact on the TRO's website, and CHANDRU is the secretary of the WTCC. CHANDRU has traveled to LTTE-controlled territory in Sri Lanka to meet with the senior leadership of the organization. In or about October 2003, CHANDRU told CI-1 that, during his trip, he met the "leader," (a reference to Prabhakaran), as well as Castro, Balaraj (a reference to Colonel Balaraj, the head of the LTTE military wing), and Pottu Amman (a reference to Sanumganadan Sivashankar, head of the LTTE's Intelligence and Operations wing), among several others. CHANDRU also said that he was supposed to meet with Colonel Soosai, a reference to Thamodarampillai Sivanesan, the commander of the Sea Tigers - the LTTE's navy - but that Soosai was busy and instead called CHANDRU on a cellular telephone. CHANDRU told CI-1 that he told Colonel Soosai that he

wanted to go with him to the sea, and added, laughing, that Soosai responded that they will train him and send him on the next ship for a suicide mission. CHANDRU also gave CI-1 a detailed description of how he was covertly transported through the jungles on a motorcycle to where the LTTE leaders resided.

46. CHANDRU has acknowledged to CI-1 that he has laundered money for the LTTE and that "we have sent millions" through the TRO. CHANDRU also detailed to CI-1 how the LTTE raises money in the U.S. and Canada. He said that, in total, more money is raised in Canada, but that the LTTE relies more heavily on donors in the United States for time-sensitive financing needs.

47. On or about June 25, 2004, CHANDRU told CI-1 about being stopped by immigration officials for suspected money laundering for the LTTE. He explained that "the one time they capture me for money [UI], I did not take money with me. . . Before that I have taken money several times in several ways but they never checked me and capture me. For my luck, that day I did not take any money." CHANDRU also told CI-1 that, "from here [U.S.], taking money out or bringing money in is not a big problem," but that "sending money from Canada is a problem." For this reason, CHANDRU said, "from the beginning (money) was brought from there [Canada] to here [U.S.]." CHANDRU also noted that "after the money reaches the destination the people who are

involved in the process are ready for anything. After the money has reached, we have no problem in going to the jail. . . One guy going to jail is better than the loss we incur by getting caught."

V. ALIEN SMUGGLING

48. Defendant CHANDRU and others have also conspired to bribe public officials to smuggle family members and associates into the United States from Sri Lanka. In or about October 2001, CHANDRU and CI-1 met multiple times at CI-1's Staten Island apartment and elsewhere. CHANDRU gave CI-1 photographs and biographical information for two aliens ("Alien 1" and "Alien 2") whom CHANDRU wanted to smuggle into the United States from Sri Lanka. CHANDRU believed that CI-1 had a relationship with a corrupt INS officer ("UC-3") who could prepare fraudulently obtained I-512 forms[6] for the aliens for a bribery fee of $6,000 per alien. The aliens could then use the forms to illegally gain entry into the United States. Fraudently obtained I-512 forms were subsequently prepared and provided to CHANDRU to give to Aliens 1 and 2.

49. On or about January 18, 2002, Alien 2 arrived at Newark International Airport via Singapore Airlines and was

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[6] INS Form 512 is entitled "Authorization for the Parole of an Alien into the United States." When properly completed and approved by the INS, INS Form 512's grant advance parole into the United States to aliens, subject to inspection at the port of entry into the country.

paroled into the United States. CHANDRU met CI-1 at the airport, gave him $5,500 of the $6,000 bribery payment and said he would pay the remaining balance at a later date. On or about March 1, 2002, Alien 1 arrived at Newark International Airport via Singapore Airlines and was paroled into the United States. CHANDRU paid CI-1 the $6,000 fee for Alien 1.

50. In or about February 2002, CHANDRU met CI-1 at his Staten Island apartment and gave him the remaining $500 for Alien 2. He also provided CI-1 with a FedEx envelope containing biographical information and photographs for four additional aliens ("Alien 3," "Alien 4," "Alien 5" and "Alien 6") to be smuggled into the United States. On or about March 15, 2002, CHANDRU provided CI-1 with biographical information and photographs for three more aliens ("Alien 7," "Alien 8," and "Alien 9"). On or about April 4, 2002, fraudulently obtained I-512 forms were issued for Alien 7, Alien 8 and Alien 9. CI-1 gave CHANDRU the false I-512 forms for Alien 8 and Alien 9 on or about April 7 and for Alien 7 on or about April 12. Fraudulently obtained I-512 forms were issued for Alien 4 and Alien 5 on or about April 30, 2002.

51. On or about May 10, 2002, Alien 5, Alien 7 and Alien 9 arrived at Newark International Airport via Singapore Airlines. CHANDRU was at the airport and paid CI-1 $13,500 of the $18,000 due for Alien 5, Alien 7 and Alien 9. On or about

July 1, 2002, Alien 4 arrived at Newark International Airport via Singapore Airlines. CHANDRU paid CI-1 $6,000 for Alien 4, as well as the remaining $4,500 balance due for Alien 7, Alien 8 and Alien 9.

52. In or about March 2006, CHANDRU met with CI-1 and UC-3. CHANDRU said that Alien 2 and Alien 4 were facing deportation proceedings in Buffalo, New York, and that CHANDRU was willing to pay UC-3 to stop their deportation. UC-3 agreed to assist CHANDRU for $3,000. On or about March 19, 2006, CHANDRU made a $1,400 payment to CI-1 to give to UC-3, and subsequently paid CI-1 the remaining balance.

WHEREFORE, your deponent respectfully requests that arrest warrants be issued for defendants [redacted], also known as "[redacted]," [redacted], THIRUKUMARAN SIVASUBRAMANIAM, MURUGESU VINAYAGAMOORTHY, also known as "Dr. Moorthy" and "Vinayagamoorthy Murugesu," VIJAYSHANTHAR PATPANATHAN, also known as "Chandru," [redacted], also known as [redacted], also known as "[redacted]," NACHIMUTHU SOCRATES and [redacted], so that they may be dealt with according to law.

Because of the nature and content of the charges alleged herein, the government requests that the complaint and arrest warrants be filed under seal until further order of this Court.

Tareco SA FBI, NK

JAMES J. TARECO
Special Agent
Federal Bureau of Investigation

Sworn to before me this
18 Day of August, 2006

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

A TRUE COPY
ATTEST
DATE 8/21/2006
ROBERT C. HEINEMAN
BY
CLERK
DEPUTY CLERK

Image not available for this document, ID: 0.7.10316.36910-000003

Image not available for this document, ID: 0.7.10316.36910-000004

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 21, 2006 10:41 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 21, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Visits Dallas and New Orleans (OPA)
Today, the Attorney General delivered a speech in Dallas and participated in a media availability discussing DOJ efforts to protect children through Project Safe Childhood. New initiatives include a partnership with the Ad Council and the National Center for Missing and Exploited Children to create an ad campaign to protect kids from online predators.

The Attorney General also visited New Orleans, where he held a press conference to discuss federal resources that are being dedicated to fight violent crime. New DOJ initiatives were announced, including $20 million to help rebuild the criminal justice system in New Orleans and Orleans Parish. He also met with local law enforcement officials and Louisiana political leadership.

***USA Today* to Publish Story on Partial DNA Matches in FBI's National DNA Index (FBI)**
The FBI Laboratory recently issued an interim policy for reporting partial DNA matches found in the National DNA Index System (NDIS). *USA Today* reporter Richard Willing is working on a story for tomorrow on a partial DNA match in a Denver case being prosecuted by the Denver District Attorney. This inquiry is not related to the JonBenet Ramsey murder investigation.

***Newsweek* Web-Publishes Piece on FBI Computer Systems (FBI)**
Today, *Newsweek* reporter Jonathan Alter web-published a story on the FBI's computer systems, referencing Trilogy, VCF and Sentinel. It is expected that the piece will be featured in the next print edition of *Newsweek*.

***USA Today* Inquires Regarding Stolen Credit Card Statistics (FBI)**
Today, *USA Today* reporter Byron Acohido inquired about stolen credit cards and requested statistics that were reported during the recent DefCon/Black Hat Conference in Las Vegas presented by FBI Special Agent Tom Grasso. It is expected that the story will run later this week.

***Executive Week* Provided with Comments Regarding Sentinel (FBI)**
Today, the FBI Office of the Chief Information Officer provided *Government Executive Week* reporter David Perera with written comments regarding the Sentinel Program, specifically the

cost-plus-award fee and safeguards the FBI has in place in the Lockheed Martin contract. It is unclear when the story is going to run.

Media Inquires Regarding Escaped West Virginia Prisoner (FBI)
Today, several media outlets inquired about the hunt for an escaped prisoner in Blacksburg, VA, near the Virginia Tech Campus. The suspect was recaptured.

Federal Court Dismissed One Count of Three Count Indictment Against Padilla (Criminal)
Today, a federal court in Florida dismissed Count One of the indictment which charged Jose Padilla, Adham Hassoun, and Kifah Jayyousi with conspiracy to murder, main and kidnap individuals overseas. The basis for the Court's dismissal was a legal finding that Count One (conspiring to murder, maim, and kidnap persons in a foreign country) inappropriately charged the same offenses as Counts Two (conspiring to provide material support to terrorists) and Three (providing material support to terrorists). DOJ is considering all legal options, including an appeal of the decision.

Eight Defendants Arrested by the FBI and Charged with Conspiring to Provide Material Support and Resources to a Foreign Terrorist Organization and Related Offenses (Criminal)
Two complaints were unsealed this morning in U.S. District Court in Brooklyn charging eight defendants with multiple crimes, including conspiracy to provide material support and resources to a designated foreign terrorist organization – the Liberation Tigers of Tamil Eelam (LTTE or Tamil Tigers). Four of the defendants were arrested on Long Island, N.Y., on Aug. 19, 2006, after three of them traveled to New York from Canada to attempt to purchase from an agent acting in an undercover capacity Russian-made SA-18 surface-to-air missiles, missile launchers, AK-47s and other weapons to be used by the LTTE in its rapidly escalating conflict against the Sri Lankan military. These four defendants were acting at the direction of senior LTTE leadership in Sri Lanka.

In the second complaint, multiple defendants are charged with providing material support to the LTTE that included the procurement of military equipment and dual use technology, fund raising and money laundering through "front" charitable organizations and U.S. bank accounts. The complaint also charges that the defendants attempted to obtain classified information, conspired to bribe U.S. public officials in an effort to remove the LTTE from the U.S. State Department's list of Foreign Terrorist Organizations, and dealt in illegal financial transactions with LTTE.

Talking Points

- The multi-faceted scheme by members and supporters of the Sri Lankan organization known as the Tamil Tigers demonstrates the need for continued vigilance in the global war against terrorists.

- These defendants allegedly sought to obtain, through a variety of means, weapons and materials to carry out a deadly campaign of violence.

- We will use every tool in our power to disrupt the activities of those who seek to harm others, both here and abroad.

Justice Department Seeks Temporary Restraining Order against Springfield, Mass. (Civil Rights)
The Justice Department filed a motion to seek a temporary restraining order or preliminary injunction against Springfield, Mass. for failing to comply with Sections 203 and 208 of the Voting Rights Act. The Civil Rights Division filed a complaint against the jurisdiction earlier this month.

Talking Points:

- Springfield has been under obligation to comply with the law since 1992.
- The Department has sent them multiple letters indicating that non-compliance could result in a suit being filed and engaged in numerous discussions with the city.
- Local leaders have complained of non-compliance issues.
- They currently fail to serve over 60 percent of voters who need language assistance.
- They interfere with voters' own efforts to get assistance.
- The Justice Department will continue to vigorously enforce the VRA.

Salt Lake City Man Sentenced to 60 Months in Prison for Role in Tax and Investment Fraud Scheme (Tax)
Today, Edward T. Woodger of Salt Lake City was sentenced to 60 months in prison for conspiring to defraud the United States and to commit mail and wire fraud in connection with the promotion of a tax fraud scheme. U.S. District Judge Ted Stewart also ordered Woodger to pay restitution in the amount of $2,943,865 and to serve three years of supervised release upon the completion of his term of imprisonment.

TUESDAY'S EXPECTED EVENTS/RELEASES:

10:00 A.M. Attorney General Alberto R. Gonzales will meet with the Project Safe Childhood Task Force in Lexington, Kentucky
6th Floor Conference Room
U.S. Attorney's Office
110 West Vine Street
Lexington, Ky.
POOL COVERAGE AT TOP

All press inquiries regarding logistics should be directed to Evan Peterson at the Department of Justice at 202-353-5748.

11:00 A.M. Attorney General Alberto R. Gonzales will tour the Children's Advocacy Center in Lexington, Kentucky
Children's Advocacy Center
183 Walton Avenue
Lexington, Ky.
POOL COVERAGE AT TOP

All press inquiries regarding logistics should be directed to Evan Peterson at the Department of Justice at 202-353-5748.

11:25 A.M. Attorney General Alberto R. Gonzales will participate in a media availability with Amul R. Thapar, U.S. Attorney for the Eastern District of Kentucky and Jack Adams, Commissioner of the Kentucky State Police
Children's Advocacy Center
183 Walton Avenue
Lexington, Ky.
OPEN PRESS

All press inquiries regarding logistics should be directed to Evan Peterson at the Department of Justice at 202-353-5748.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 21, 2006 11:31 PM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: Amazing statement on Al Jazeera television . . .
Attachments: tmp.htm

-----Original Message-----
From: [redacted]@ao.uscourts.gov <[redacted]@ao.uscourts.gov>
Sent: Fri Aug 18 20:00:16 2006
Subject: Fw: Amazing statement on Al Jazeera television . . .

This is very powerful!

Very thought provoking!!

---------- Forwarded message ----------

: Fw: Amazing statement on Al Jazeera television . .
Here is a strong and amazing statement on Al Jazeera television. The woman is Wafa Sultan, an Arab-American psychologist from Los Angeles. I would suggest watching it ASAP because I don't know how long the link will be active.

http://switch3.castup.net/cunet/gm.asp?ai=214&ar=1050wmv&ak=null

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http://switch3.castup.net/cunet/gm.asp?ai=214&ar=1050wmv&ak=null

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 9:58 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 22, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, August 22, 2006

ATTORNEY GENERAL

10:00 A.M. Attorney General Alberto R. Gonzales will meet with the Project Safe Childhood Task Force in Lexington, Ky.
6th Floor Conference Room
U.S. Attorney's Office
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Children's Advocacy Center
183 Walton Avenue
Lexington, Ky.
OPEN PRESS

All press inquiries regarding logistics should be directed to Evan Peterson of the Department of Justice at 202-353-5748.

DOJ_NMG_ 0166995

PRESS RELEASES

The Criminal Division will issue a release on an obscenities matter. (Sierra)

The Civil Rights Division will issue a release on a criminal matter. (Magnuson)

The Civil Rights Division will issue a release on a criminal matter. (Magnuson)

The Tax Division will issue a release on a tax fraud matter. (Miller)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0166996

Image not available for this document, ID: 0.7.10316.36810-000001

Image not available for this document, ID: 0.7.10316.36810-000002

Williamson, Angela

From: Williamson, Angela
Sent: Tuesday, August 22, 2006 9:58 AM
To: Williamson, Angela
Subject: The Daily Update: 8/22/06

<http://www.whitehouse.gov/>
AUGUST 22, 2006

This afternoon, President Bush will participate in a panel on health transparency in Minnetonka, Minnesota. The President believes Americans should have reliable information about the prices and quality of most common medical procedures, and he will sign an Executive Order today to help increase access to this information. The President will later attend a Bachmann for Congress and Minnesota Republican Party Reception.

2:35 pm:
CDT THE PRESIDENT participates in a Panel on Health Transparency
Minneapolis Marriott Southwest | Minnetonka, Minnesota

4:45 pm:
CDT THE PRESIDENT attends Bachmann for Congress and Minnesota Republican Party Reception
Private Residence | Wayzata, Minnesota

President Bush To Sign Executive Order Making Health Care Information More Accessible. "An executive order being signed Tuesday by President Bush is designed to help people make more informed decisions about doctors and hospitals <http://news.yahoo.com/s/ap/20060822/ap_on_go_pr_wh/bush_health_transparency_2&printer=1> . Four federal agencies will be required to compile information about the quality and price of care they pay for and share that information with their customers and each other. 'We're all about being cost-conscious,' said Health and Human Services Secretary Mike Leavitt. 'It's just the American way. We clip coupons. We check for bargain flights on the Web. We carefully research major purchases. But when it comes to health care, we lack the tools to compare either quality or the costs.'" (Kevin Freking, "Bush Seeks Better Health Care Cost Info," The Associated Press, 8/22/06)

President Bush Says Pulling Troops Out Of Iraq Too Quickly Would Be A "Huge Mistake." "While acknowledging that raging sectarian violence and mounting U.S. casualties in Iraq are 'straining the psyche of our country,' Bush said that withdrawing U.S. troops before the nation is stabilized would be disastrous. 'Leaving before the job would be done would send a message that America really is no longer engaged, nor cares about the form of governments in the Middle East,' he said. 'Leaving before the job was done would send a signal to our troops that the sacrifices they made were not worth it. Leaving before the job is done would be a disaster, and that's what we're saying.' ... 'There's a lot of people - good, decent people - saying "Withdraw now." They're absolutely wrong. It would be a huge mistake for this country.'"

<http://www.washingtonpost.com/wp-dyn/content/article/2006/08/21/AR20060
82100209.html> (Michael Fletcher and Glenn Kessler, "Bush Says Iraq Pullout Would Be 'A Disaster,'" The Washington Post, 8/22/06)

President Bush Urges Quick Deployment Of UN Peacekeeping Troops To Lebanon To Enforce Cease-Fire. "President Bush called Monday for a swift deployment of United Nations peacekeeping troops to southern Lebanon to help enforce a fragile cease-fire, as European governments continued to put off committing their forces to the effort. 'The need is urgent,' Mr. Bush said during an hourlong news conference. 'The international community must now designate the leadership of this new international force, give it robust rules of engagement and deploy it as quickly as possible to secure the peace.'
<http://www.nytimes.com/glogin?URI=http://www.nytimes.com/2006/08/22/was
hington/22prexy.html&OQ=_rQ3D1Q26refQ3Dworld&OP=7569be0eQ2FsQ2BQ26ks-mQ7
DHQ60mmqQ7EsQ7E99Zs9Q3DsQ7EQ7EsQ2B)HtcQ7BeqmQ7BsQ7EQ7E2Q60Q26wn8tqQ23F>
Mr. Bush said the United States would contribute $230 million in relief and reconstruction aid to Lebanon, and would also prod American companies to help the effort." (Helene Cooper, "Bush Calls Need For Robust Lebanon Force 'Urgent,' As Europeans Continue To Seek Specifics," The New York Times, 8/22/06)

President Bush Says The Federal Government Has Already Committed $110 Billion To Hurricane Recovery Efforts. "'I went to New Orleans in Jackson Square and made a commitment that we would help the people there recover,' Bush said... 'I also want the people down there to understand that it's going to take a while to recover. This was a huge storm,' Bush said at a Washington news conference, where he also asked for patience in dealing with the escalating violence in Iraq. Bush, who plans to visit New Orleans for the one-year anniversary observances next Tuesday, said the federal government already has committed $110 billion to hurricane recovery efforts
<http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-6/115622433
990990.xml&coll=1> ." (Bruce Alpert, "Bush Repeats Pledge To Aid Recovery," The New Orleans Times-Picayune, 8/22/06)

Iraqi National Security Adviser Mowaffaq Al-Rubaie Says Violence Is Slowing In Baghdad. "The level of violence in Baghdad has fallen sharply since July thanks to troop reinforcements and the new government's efforts to reconcile warring Shi'ites and Sunnis, Iraq's national security adviser said on Tuesday.
<http://thestar.com.my/news/story.asp?file=/2006/8/22/worldupdates/2006-
08-22T160106Z_01_NOOTR_RTRJONC_0_-264426-2&sec=Worldupdates> ... 'This is absolutely not a civil war,' Rubaie told Reuters in an interview during a visit to Japan. 'Al Qaeda tried for that for three years and failed miserably. But it has created a crack between Shias and Sunnis.' ... He challenged the notion that violence was out of control in the Iraqi capital, saying it had peaked last month. 'The surge was only until mid-July,' he said. 'The number of attacks is down from mid-July by 45 percent and extra-judicial murders ... are down 35 percent since mid-July. We're there, we're definitely on the mend.'" (John Chalmers, "Iraq Security Adviser Says Violence Levels Falling," Reuters, 8/22/06)

Iraqi Colonel Works To Unite Baghdad Neighborhood. "'I'm trying to make people believe in the Iraqi army,' Razzaq says at the next stop, where a sidewalk vendor gives him a complimentary sandwich from his cart. 'They will feel more safe.' ... Twice a day, Razzaq patrols the troubled

neighborhoods in his battalion's sector of Baghdad. He's checking on his troops, who have set up checkpoints in the area. <http://www.usatoday.com/news/world/iraq/2006-08-21-razzaq-cover_x.htm> And he's listening to what merchants, local leaders and ordinary people have to say about security in their neighborhoods. ... He says he uses diplomacy as often as combat to neutralize militias and insurgents in his sector. That's a departure from the military under Saddam Hussein, which preferred to rule through fear." (Jim Michaels, "Colonel Walks Baghdad 'To Make People Believe,'" USA Today, 8/22/06)

Iraqi Police Recruiting Drive "The Most Successful" Since Beginning Of Operation Iraqi Freedom. "More than 500 Iraqi men have joined the police in restive Anbar province a focal point of the Sunni Arab insurgency in the most successful recruiting drive by U.S. and Iraqi forces in the country, the U.S. military said Tuesday. <http://abcnews.go.com/International/print?id=2341154> ... Maj. Lowell Rector, head of the police transition team for RCT-7, called the recruiting drive the most successful the U.S. and Iraqi forces had launched since the U.S.-led invasion of Iraq in March 2003, according to the statement. He attributed the success to consistent pay for recruits and better police equipment." (Vijay Joshi, "Over 500 Iraqis Join Police In Anbar," The Associated Press, 8/22/06)

Press Conference by the President
<http://www.whitehouse.gov/news/releases/2006/08/20060821.html>

* In Focus: Peace in the Middle East
<http://www.whitehouse.gov/infocus/mideast/>

Memorandum for the Secretary of State
<http://www.whitehouse.gov/news/releases/2006/08/20060821-2.html>

Women's Equality Day 2006
<http://www.whitehouse.gov/news/releases/2006/08/20060821-3.html>

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, August 22, 2006 10:38 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/22/06 Civil Division News

U.S. prosecutors sue to block release of details of domestic surveillance

D.C. Federal Judge Slams Lawyers for Role in Hiding Tobacco Risks

Former Beverly, U.S. settle for $20 million

Judge Overturns $10M Verdict Against Iraq War Contractor in Fraud Case

Man who sued port gets lawyer

Report offers look at drug firm's marketing strategy

ACLU contends DEA violated Armenian couple's civil rights

AP

August 22, 2006

U.S. prosecutors sue to block release of details of domestic surveillance

PORTLAND, Maine_Federal prosecutors sued state utility regulators and Verizon Communications Inc. to block the release of information related to the government's domestic surveillance program.

The Public Utilities Commission on Aug. 9 ordered Verizon to provide a sworn statement about the National Security Agency's warrantless eavesdropping program. The PUC was reacting to alleged privacy law violations.

Complying with the order would "place Verizon in a position of having to confirm or deny the existence of information that cannot be confirmed or denied without causing exceptionally grave harm to national security," according to the suit filed Monday.

Commission spokesman Phil Lindley did not return a message Monday.

In May, Verizon said it would not discuss any relationship with the NSA program, but denied reports that it had provided customer call data or records.

The Justice Department has also sued to prevent disclosure of similar confidential information in New Jersey and Missouri.

END

Legal Times
August 22, 2006

D.C. Federal Judge Slams Lawyers for Role in Hiding Tobacco Risks

Emma Schwartz

Judge Gladys Kessler's scorn for the tobacco industry was evident in her 1,742-page opinion last week, which found that nine cigarette manufacturers and two trade groups had conspired to hide the truth about smoking's adverse health consequences for more than 50 years.

Her wrath, though, was directed not only at company executives at the forefront of the multibillion-dollar tobacco industry but also at the lawyers she said aided the decades-long project to illegally shade the industry from scrutiny.

"At every stage, lawyers played an absolutely central role in the creation and perpetuation of the Enterprise and the implementation of its fraudulent schemes," the D.C. federal judge wrote. She pointed to how both in-house counsel and outside law firms "devised" and "coordinated" strategy, directed scientists' research in favor of the industry, destroyed documents and "took shelter behind baseless assertions of attorney client privilege."

Although the majority of the incidents of lawyers' malfeasance took place decades ago, some of the wrongdoing appeared to continue into the most recent case, which was brought by the Justice Department in 1999. As recently as 2004, Kessler disqualified Neil Koslowe of Shearman & Sterling from representing British American Tobacco Services because he had been involved in the government's case as a lawyer for the Justice Department.

While the tobacco industry will have to funnel millions into reworking its marketing schemes, lawyers may find themselves under further scrutiny if people injured by the companies decide to file suit. "Any time you see such a strongly worded opinion, that tends to capture the attention of the plaintiffs bar," says Kevin Rosen, head of the legal malpractice group at Gibson, Dunn & Crutcher. But, Rosen added, in the same way that some law firms were immediately dismissed from liability in the Enron litigation while others faced steep penalties, the outcome of any subsequent suits could vary widely.

Numerous lawyers and firms aided the tobacco industry over the years, but Kessler's opinion highlighted three firms in particular: Covington & Burling; Jacob, Medinger & Finnegan; and Shook, Hardy & Bacon.

One of the law firms' key roles was running the Tobacco Institute, a trade association that sought to cast doubt on the scientific relationship between smoking and disease. Shook Hardy and "particularly Covington & Burling became the guiding strategist for the Enterprise and were deeply involved in

implementation of those strategies once adopted," Kessler wrote. Covington, led by partner John Rupp (now the managing partner of the firm's London office), reviewed agenda proposals before they were sent to the institute's member companies, and Covington "cleared press releases issued by the Tobacco Institute," Kessler wrote.

Kessler specifically noted the misconduct of Robert Northrip of Shook Hardy, who would "normally bill either three or four tobacco companies" for his time at one meeting for the institute.

Both firms denied any wrongdoing. "We believe that our firm acted appropriately and played a legitimate role as advocates for our clients," Covington said in a statement.

John Murphy, chairman of Shook Hardy, declined to give any specific comment on Kessler's ruling but said his firm "represents each and every one of our clients in an ethical manner."

Attorneys also played a key role in the Council for Tobacco Research, where they pushed funding for projects hoping "to obtain and develop witnesses favorable to Defendants for testimony before Congress and other regulatory bodies, for use in litigation and for support of industry public statements," wrote Kessler.

In the 1960s this effort included input from major firms, including Chadbourne & Parke; White & Case; Davis, Polk & Wardell; and Shook Hardy.

Lawyers also were involved in suppressing scientific research and destroying documents that were adverse to the companies' public and litigation positions.

In 1983, for instance, R.J. Reynolds decided to "remove Council for Tobacco Research and related smoking and health materials from our premises for legal reason," Kessler quoted from a company document. The materials were sent to Jacob Medinger. Similarly, in 1985, British American Tobacco Co. sent "contentious" research reports to Robert Maddox, an attorney in Louisville, Ky.

In short, Kessler saw the lawyers' involvement as "a sad and disquieting chapter in the history of an honorable and often courageous profession."

END

Arkansas Democrat Gazette

August 22, 2006

Former Beverly, U.S. settle for $20 million

Legal officials at Golden Ventures, the Fort Smith-based support services division of the former Beverly Enterprises Inc., last week agreed to a $ 20 million, out-of-court settlement with the U. S. Department of Justice.

The Justice Department on Friday announced the agreement after it alleged MK Medical, the nursing home operator's wholly-owned medical equipment subsidiary, cheated Medicare and Medi-Cal, a health care program jointly funded by the state of California and federal government.

"We are committed to pursuing allegations of fraud against federal health care programs, and to safeguarding federal funds against false claims," said Kevin V. Ryan, U. S. Attorney for the Northern District of California.

Under the False Claims Act, the government alleged the defunct operating unit failed to obtain proper

claims and medical documentation during a four-year period ending in 2002.

Beverly agreed to pay $ 14. 5 million to the U. S. government and $ 5. 5 million to California. Beverly has until Sept. 1 to finalize the settlement payment, according to terms in the Justice Department's press release.

In an e-mailed statement, the privately-held nursing home operator said it initiated the settlement with federal investigators.

"Our company conducted a thorough review and audit, and we proactively notified the government so we could resolve the issue and repay the money owed," Blair Jackson, a Golden Ventures spokesman, wrote. "We are glad to put this situation behind us."

The durable medical equipment wholesaler delivered items, such as oxygen tanks and wheelchairs, to primarily California residents at their home, Jackson said. MK Medical was based in Fresno, Calif.

Beverly became Golden Gate National Senior Care Holdings LLC in March after a $ 2. 29 billion acquisition by a subsidiary of San Franciso-based Fillmore Capital Partners.

This month, the company that bought the former Beverly Enterprises Inc. announced a name change that will affect 283 its nursing homes and assisted living centers nationwide. However, 82 leased facilities will retain the Beverly name. Golden Gate National Senior Care Holdings LLC became Golden Horizons which oversees Golden Ventures — the name of the Fort Smith-based support service division employing about 600 people.

END

The Associated Press
08-22-2006

Judge Overturns $10M Verdict Against Iraq War Contractor in Fraud Case

Matthew Barakat

A federal judge has overturned on a technicality a $10 million jury verdict against a military contractor accused of defrauding the U.S. government in the first months of the Iraq war.

The award, levied in March against Virginia-based Custer Battles LLC, had been the first civil fraud verdict arising from the Iraq war.

A former Custer Battles employee had sued under a whistleblower statute, alleging that the company used shell companies and false invoices to vastly overstate its expenses on a $3 million contract to assist in establishing a currency to replace the Iraqi dinar used during Saddam Hussein's regime.

The verdict reached $10 million because the law calls for triple damages, plus penalties, fines and legal costs.

But U.S. District Judge T.S. Ellis III, in a ruling made public Friday, ruled that Custer Battles' accusers failed to prove that the U.S. government was ever defrauded. Any fraud that occurred was perpetrated instead against the Coalition Provisional Authority, formed to run Iraq until a government was established.

Ellis ruled that the trial evidence failed to show that the U.S. government was the victim, even though U. S. taxpayers ultimately footed the bill.

Alan Grayson, lawyer for whistleblowers Robert Isakson and William Baldwin, said he would appeal. He faulted the Bush administration for creating the CPA in a manner that essentially allowed it to act as a money launderer for unscrupulous military contractors.

"The Bush administration incompetently created this Frankenstein monster called Coalition Provisional Authority. They did it without thinking about it. They blundered into it," Grayson said.

In pretrial motions, Custer Battles' lawyers had advanced a similar argument about CPA's status. Ellis allowed the trial to go forward and said a case could be made to show that defrauding the CPA was tantamount to defrauding the United States.

Ellis had prodded the Justice Department to weigh in on the CPA's status. Government lawyers argued that the CPA should be considered a U.S. entity, but only for the purpose of the whistleblower law.

The judge said in his ruling that the plaintiffs failed to establish the CPA as a U.S. entity during the three-week trial this year.

Custer Battles' attorneys portrayed Ellis' ruling as a broad vindication of their clients' actions.

"The fact of the matter is that (Custer Battles founders) Scott Custer and Mike Battles did what they were contracted to do under unimaginably difficult circumstances," defense lawyer Robert Rhoad said in a statement.

Ellis left intact the jury's $165,000 wrongful termination verdict in favor of Baldwin, one of the whistleblowers.

A lawsuit involving an even larger Custer Battles contract to provide security at the Baghdad airport has not yet gone to trial. That lawsuit will face similar obstacles, Grayson said.

END

Daily Breeze

8/22/06

Man who sued port gets lawyer

Stanley Mosler, whose case was dismissed because he had no legal counsel, expects motion asking judge to reconsider to be filed this week.By Matt Krasnowski
Copley News Service

Longtime port critic Stanley Mosler has retained a lawyer and will ask a judge this week to reconsider a decision throwing out a lawsuit alleging more than $100 million in federal funds were improperly used to support a container terminal on Pier 400.

Mosler, a Rancho Palos Verdes accountant who had been acting as his own lawyer in the false-claims lawsuit since February 2005, and Beverly Hills lawyer Alan Gutman filed paperwork Friday asking that Gutman be deemed Mosler's new lawyer.

Obtaining a lawyer could be key to reviving Mosler's 2002 lawsuit, which he filed under a federal whistle-blower statute and in which he named the United States as a plaintiff.

In a decision released last week, U.S. District Judge S. James Otero sided with lawyers for the port and dismissed the suit, saying under the federal False Claims Act a layperson has no legal authority to pursue

the complaint and represent the interests of the United States. Otero wrote that nonlawyers "lack the necessary skills to prosecute complicated" false-claims lawsuits.

Mosler and Gutman said Monday that they expect a motion will be filed later this week asking Otero to reconsider his dismissal.

"We expect that the motion that will be brought will provide the court with a sufficient legal basis to reinstate the case," Gutman said.

"We trust the court will grant the motion," Mosler said. "There is a presumption in federal courts that cases be decided on the merits, not on whether a party can afford to engage legal counsel."

Besides the port, the lawsuit names the city of Los Angeles, the harbor department, former port Executive Director Larry Keller and Danish shipping giant Maersk Inc. as defendants.

Nick Velasquez, a spokesman for the City Attorney's Office, said his office had no comment about the new developments.

Mosler's lawsuit alleges the port engaged in a bait-and-switch scheme and misused $108 million in federal funds to construct Pier 400, a 484-acre container terminal.

The pier was originally supposed to be a liquid bulk terminal called "energy island" that would keep terminals handling hazardous materials away from residential neighborhoods.

But port officials said they could not force companies to move so they instead negotiated with Maersk to move into Pier 400.

Lawyers for the U.S. Department of Justice and the state attorney general refused to join in Mosler's complaint. Still, officials have said the city could lose as much as $3.6 billion if Mosler's lawsuit succeeds.

END

Charleston, WV, Gazette

August 22, 2006

Report offers look at drug firm's marketing strategy

By Phil Kabler
Staff writer

An analysis in this week's issue of the Annals of Internal Medicine provides unprecedented insight into one pharmaceutical company's multimillion-dollar campaign to promote a new drug — two-thirds of which went to payments to physicians for "professional education" programs.

The article outlines a $40 million annual marketing campaign by Parke-Davis to promote the drug gabapentin — a campaign that emphasized payments to doctors who gave lectures, published research or otherwise encouraged colleagues to prescribe the drug.

From 1993 to 1997, documents showed that doctors the drug company identified as "thought leaders" and "key influencers" — including department chairmen at major medical schools — each received honoraria and grants totaling between $10,250 and $158,250 from Parke-Davis.

"It's not that people are selling their souls directly ... but it's a whole series of conflicts of interest that add

up," Dr. Michael Steinman, lead author of the report, said Monday.

Published by the American College of Physicians, the article analyzes more than 8,000 pages of documents obtained from a federal whistleblower suit against Parke-Davis by Dr. David Franklin, an employee of the company.

The company, which has since become a division of Pfizer, settled the suit for $430 million in 2004.

The case involved promoting off-label uses of the drug, approved by the Food and Drug Administration as an anti-seizure medicine. In settling the suit, the company admitted it promoted the prescribing of gabapentin for pain, psychiatric conditions, migraines and other unapproved uses.

However, the suit provided a wealth of company documents and depositions outlining the marketing strategy for the drug — a strategy involving payments to physicians that Steinman, a staff physician with the San Francisco Veterans' Administration Medical Center, described as "very disturbing."

According to the 1998 marketing plan, the company budgeted $40 million to promote gabapentin, with $19.1 million directed to professional education, including speakers' bureaus, advisory boards and dinner meetings, and $3.16 million for physician honoraria and travel expenses.

By comparison, advertising in medical journals and distribution of samples of gabapentin each accounted for $1.2 million of the budget.

"Doctors have been doing this for decades," Steinman said Monday of direct-to-physician marketing.

Steinman said he believes most patients are aware that doctors receive meals and gifts from drug manufacturers, but would be appalled by the scale of direct-to-physician marketing.

"It's the same way that we disapprove of our congressmen taking large gifts from lobbyists," he said.

In West Virginia, physician groups recently successfully lobbied the state Pharmaceutical Cost Management Council to water down new drug company disclosure forms for "gifts, grants, or payments" to doctors.

While he wasn't directly familiar with issues in West Virginia, Steinman said he understands why doctors would oppose detailed disclosures of direct-to-physician spending by drug companies.

"These payments are not explicit bribes, but I do view them as being intended to curry favor with doctors for their products," he said.

Amy Tolliver, with the West Virginia State Medical Association, said Monday that no one with the WVSMA has had an opportunity to read the article.

Wanda Moebius, spokeswoman for national drug industry lobby PhRMA, directed questions about the article to Pfizer.

"It's a product-specific issue," she said. "That story was about one product."

END

AP

August 22, 2006

ACLU contends DEA violated Armenian couple's civil rights

ALBUQUERQUE_The American Civil Liberties Union of New Mexico has sued\l "l" the U.S\l "l". Drug Enforcement Administration and two law enforcement officers, contending an Armenian couple whose Amtrak train stopped here last year were illegally searched and roughed up.

The ACLU filed the lawsuit Monday in U.S. District Court in Albuquerque on behalf of Diana Arutinova and her partner, Edgar Manukian. The Burbank, Calif., residents are seeking unspecified compensatory and punitive damages.

Special Agent Steve Robertson, a spokesman for the DEA, said the agency does not comment on pending litigation.

"Obviously if there's an ongoing judicial process, it's unfair to any of the parties involved to make a comment right now," he said.

Arutinova and Manukian were traveling last August when their train stopped for about 40 minutes. During that time, the two were told by an officer that they were "suspicious," according to the lawsuit.

The two were ordered to the luggage area of the train car, and their bags were searched. At one point, an officer pulled bras and underwear from Arutinova's personal bag and examined them with an exaggerated smile, while the other two officers laughed, made coarse jokes and called the couple inappropriate names, the lawsuit says.

The lawsuit contends that things went from bad to worse after the illegal search. The couple asked the officers for their names, badge numbers and the names of their watch commanders. DEA Agent Jay Perry then pushed Manukian toward the train door and said, 'You want my name? What are you going to do about it, (expletive)?'" the lawsuit says. Perry then threw his business card at the couple.

Arutinova stepped between the men, and Perry grabbed her right arm, "pushed her against the wall and shook her so hard that her head struck the wall," the lawsuit says.

Perry then dragged Arutinova by the arm back down the hall toward the couple's room, striking her head against the wall two or three more times, the lawsuit says. He stopped only when Arutinova began to scream, the ACLU contends.

Manukian later was grabbed by the arm when he failed to comply with the officers' demand that he turn over a camera, which he used to take pictures of Arutinova's discolored arm, the lawsuit says.

"Clearly the officers were trying to cover their tracks by seizing the camera," said Peter Simonson, executive director of the ACLU. "The act was as cowardly as it was illegal."

The ACLU claims Arutinova, who was employed as a phlebologist, was forced to quit due to her injuries.

"This was a gross abuse of power," Simonson said. "The agents had Arutinova and Manukian at their mercy and they used the opportunity to entertain themselves and to terrorize the couple."

END

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, August 22, 2006 10:41 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Emailing: weekly 8-22-06.wpd
Attachments:	weekly 8-22-06.wpd

Attached is the weekly report for week ending 8.22.06.

The message is ready to be sent with the following file or link attachments:

weekly 8-22-06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

August 22, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending August 25, 2006

NEXT WEEK

· No entries this period.

THIS WEEK

· ***Sentencing in Case on Violation of the Civil Rights of an Arab-American Family:*** On August 22, sentencing is scheduled to occur in United States v. Nix (Northern District of Illinois). On March 6, defendant Eric Nix entered a guilty plea to violating one count of 42 U.S.C. §3631 (housing interference with the use of fire) for igniting an explosive device inside a van owned by a Palestinian family while the van was parked in front of their home.

· ***Hartford Men Plead Guilty for Involvement in Trafficking and Prostitution Ring:*** On August 22, Ronald Martinez of West Hartford, Connecticut pleaded guilty to transporting women across state lines for the purpose of engaging in prostitution, money laundering, conspiracy, and use of a facility in interstate commerce to promote prostitution. Co-defendant Jerome Hargrove pleaded guilty to one count of conspiracy in the same ten co-defendant case on August 21. Martinez and Hargrove were charged in a sixty four-count superceding indictment, along with eight other co-defendants, on August 8, 2006. Three of the co-defendants in that indictment were charged with the sex

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

trafficking of minors and sex trafficking by force, fraud, and coercion. As a condition of the plea, Martinez admitted to running his own prostitution business in Hartford, Connecticut, driving prostitutes to and from Massachusetts to engage in commercial sex acts, using the telephone to promote his prostitution business, and conspiring with others to use the telephone to promote their respective prostitution businesses.

LAST WEEK

- ***Court Found Former Rental Manager Guilty of Housing Discrimination:***
On August 16, Milburn Long, a former apartment manager in Boaz, Ala., was found guilty by a federal judge in Alabama, of engaging in race discrimination due to his refusal to rent apartments to African-Americans. He was ordered to pay a civil penalty of $10,000 to the government. U.S. District Judge Lynwood Smith ruled that in 2003, Long repeatedly violated the federal Fair Housing Act by refusing to rent apartments to African-Americans at the Park Place Apartments complex and telling others that he would not rent to African-Americans. Judge Smith declared that district courts "should not tolerate the loathsome act of discriminating among citizens on the basis of race," and that the civil penalty sends "a message to other apartment owners and leasing agents that violation of the Fair Housing Act entails serious consequences."

- ***Division Reached Settlement with PONY Baseball on Accessibility:***
On August 17, the Division reached a settlement agreement with PONY Baseball Inc., a youth baseball and softball organization, to resolve a complaint by a PONY player who is deaf. The Division investigated allegations that PONY violated the ADA by refusing to allow the father of a player who is deaf to provide sign language interpreting for his son during tournament games. PONY's rules limited the number of coaches in the game and the league ruled that the father, who was only providing sign language interpreting, had to be included in the total number of coaches for his son's team. In the settlement, PONY agreed to: modify its rules to specifically allow players to use sign language interpreters during games; provide, in conjunction with PONY's local leagues, sign language interpreters for players who are deaf or hard of hearing; make reasonable modifications to PONY's rules and practices to allow players with disabilities an equal opportunity to participate in PONY's baseball and softball games; appoint an ADA Coordinator who will be responsible for ensuring that PONY responds properly to requests for auxiliary aids, including sign language interpreters, and requests for reasonable modifications; have PONY's ADA Coordinator and Board of Directors trained on the requirements of title III of the ADA; and pay Justin Tokioka $30,000 in damages.

- ***Division Secures Guilty Plea in a Florida Cross Burning Case:***
On August 16, Neal Coombs pleaded guilty to violating 42 U.S.C. §3631 (interference with housing rights) in United States v. Coombs (Middle District of Florida). On January 15, defendant Coombs burned a cross on property adjacent to a house an African American family was planning to purchase in Hastings. As defendant Coombs lit the

cross with a flammable liquid, he threatened an African American youth, who was in the front yard at the time.

· ***Division Reached Settlement in Housing Discrimination Case:***
On August 17, the Division filed a Consent Decree in United States v. Kreisler, Jr., a/k/a Bob Peterson, et al. (District Minneapolis). The United States' complaint in this pattern or practice case alleges that Kreisler violated the Fair Housing Act when he discriminated against black tenants at two apartment complexes that he owns and manages. Under the terms of the Consent Decree, the Defendants would be required to pay $525,000, hire an independent management company to operate the rental properties, post and publish a nondiscrimination policy, and correct the rental records of several former tenants against whom Defendants filed unlawful detainer actions. Defendants will also pay a $50,000 civil penalty.

LONG RANGE EVENTS

· No entries this period.

Division Contact: Tobi Longwitz – (202) 514-3846

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 11:31 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. DEPARTMENT OF JUSTICE AWARDS $400,000 TO KENTUCKY TO COMBAT INTERNET CRIMES AGAINST CHILDREN

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 22, 2006
WWW.USDOJ.GOV

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

U.S. DEPARTMENT OF JUSTICE AWARDS $400,000 TO KENTUCKY TO COMBAT INTERNET CRIMES AGAINST CHILDREN

WASHINGTON – Attorney General Alberto R. Gonzales today announced an award from the Department of Justice's Office of Justice Programs (OJP) of $400,000 to the Kentucky State Police to continue funding of the Kentucky Internet Crimes Against Children (ICAC) task force. The ICAC program encourages communities to develop regional, state or multi-state, jurisdictional, and agency responses to technology-facilitated sexual crimes against children. The Kentucky task force began in 2003 and combines the skills of law enforcement officers, prosecutors, and computer specialists throughout the region in effective enforcement efforts against Internet crime.

"The ICAC task forces are critical to our Nation's effort to safeguard young people from online victimization and abuse," said Attorney General Alberto R. Gonzales of the new funding announced today. "As a father and as the chief law enforcement officer, I care deeply about these issues, and I've made protecting our children a priority for the Justice Department. We're proud to partner with and continue supporting the ICAC task forces."

In 2005, the Kentucky State Police ICAC task force investigated 313 complaints of child enticement, resulting in 22 arrests of individuals intent on meeting children for sexual encounters or who manufactured, traded, or possessed child pornography.

"As long as our children use the Internet, there will unfortunately be predators who seek to exploit them," said Regina B. Schofield, Assistant Attorney General for the Office of Justice Programs. "Since their inception just eight years ago, our Internet Crimes Against Children task forces have made over 7,000 arrests. This grant shows that the Department of Justice is committed to supporting the ICAC task forces and our state and local law enforcement as they seek to make their communities safe from Internet predators."

Nationwide, between October 1, 2005, and June 30, 2006, the Justice Department-funded ICAC task forces have received over 13,800 complaints of technology-facilitated child sexual exploitation, which includes the possession, distribution, and creation of child pornography, as well as attempts by individuals to lure and travel to meet children for sexual encounters. Investigations initiated from complaints have led to over 1,400 arrests, forensic examinations of more than 6,600 computers, over 2,500 case referrals to non-ICAC law

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enforcement agencies, and the provision of training for more than 8,000 law enforcement officers and prosecutors.

ICAC task force members have been asked to help train law enforcement worldwide in methods to combat Internet crimes against children. ICAC task force presentations, publications, and public service announcements have reached hundreds of thousands of teenagers, parents, educators, and others interested in safe Internet practices for young people.

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an assistant attorney general and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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06-568

DOJ_NMG_ 0167015

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Image not available for this document, ID: 0.7.10316.36783-000002

Diegor, Melody L. (CRS)

From:	Diegor, Melody L. (CRS)
Sent:	Tuesday, August 22, 2006 11:34 AM
To:	CRS AG Weekly Report Recipients
Subject:	CRS AG Weekly 8.22.06
Attachments:	CRS AG Weekly 8-22-06.doc

Attached please find CRS' Weekly Report to the Attorney General for August 22, 2006.

Melody L. Diegor
Confidential Assistant to the Deputy Director
US Department of Justice
Community Relations Service
(202) 353-1806

August 22, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Monitor Klu Klux Klan Rally in Gettysburg, PA***
  On September 2, 2006, CRS will be in Gettysburg, PA to provide technical assistance and contingency planning for a planned rally to be held at the Gettysburg National Park by the Klu Klux Klan. CRS has been in communication with local law enforcement and National Park Service Police officials prior to the event and will be onsite to monitor the event to ensure community safety.

- ***CRS to Provide Assistance for Protest March in Pensacola, FL***
  On September 1, 2006, CRS will be in Pensacola, FL to provide contingency planning and self-marshalling training for local community leaders and members in anticipation of an upcoming demonstration held to reportedly protest allegations of police use of force, following the deaths of several African American males while in the custody of the Escambia County Sheriff's Department.

B. This Week

- ***CRS Hosts National Staff Conference in Minneapolis, MN***
  On August 21-25, 2006, CRS is hosting its 2006 National Staff Conference in Minneapolis, MN. Highlights of the conference include management-related and CRS programmatic trainings for staff.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0167019

- ***CRS Monitored Protest March in Riverside, NJ***
  On August 20, 2006, CRS was onsite in Riverside, NJ to provide technical assistance and contingency planning for a planned demonstration held by Hispanic community members to reportedly protest illegal immigration-related legislation. CRS was in communication with event organizers and Riverside Police Department officials to ensure a safe event. The event proceeded without incident.

C. Last Week

- ***CRS Convened Mediation in Dos Palos, CA***
  On August 15, 2006, CRS was in Dos Palos, CA to convene mediation among Dos Palos Unified School District administrators and local Latino community leaders. The mediation is being held in response to community racial tensions surrounding allegations of disparate treatment and racial discrimination directed towards Latino students. CRS will continue to provide mediation services as necessary.

- ***CRS Convened Pre-Mediation in Irving, TX***
  On August 12, 2006, CRS was in Irving, TX to conduct pre-mediation services among Irving Independent School District administrators and local minority community leaders. The mediation is being conducted in response to community racial tensions surrounding allegations of inadequate minority representation among school staff and racial insensitivity directed towards minority parents and students.

- ***CRS Conducted Law Enforcement Mediation Program in Keene, NH***
  On August 16, 2006, CRS was onsite in Keene, NH to conduct its Law Enforcement Mediation (LEM) Program for Keene State College security officers. The program was conducted in response to reports of racial tensions on the campus following several alleged hate incidents. The LEM program is designed to enhance dispute resolution skills among law enforcement officials in working with multi-cultural and racial communities.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0167020

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 12:14 PM
To: USDOJ- Office of Public Affairs
Subject: MICHIGAN COUPLE PLEADS GUILTY TO OBSCENITY VIOLATIONS

Department of Justice

FOR IMMEDIATE RELEASE CRM
TUESDAY, AUGUST 22, 2006 (202)514-2088
WWW.USDOJ.GOV TDD (202) 514-1888

MICHIGAN COUPLE PLEADS GUILTY TO OBSCENITY VIOLATIONS

WASHINGTON – A Brutus, Mich. couple pleaded guilty to charges stemming from a business they operated for the purpose of selling obscene videos, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Margaret Chiara of the Western District of Michigan announced today.

John Mart Messer entered guilty pleas in U.S. District Court in Grand Rapids, Mich. on Monday to one count of engaging in the business of selling or distributing obscene matter and one count of receiving child pornography. His wife, Deborah Messer, pleaded guilty to one count of aiding and abetting the operation of a business of selling or distributing obscene matter. Mr. Messer faces a mandatory minimum penalty of five years in prison on the child pornography charge. The maximum penalty for Mrs. Messer's offense is five years in prison. Sentencing is scheduled for Nov. 27, 2006.

Mr. Messer began selling sexually explicit videotapes in 1996 through JMM Products, Inc., a company he founded for that purpose, and continued to do so until his arrest earlier this year. The videotapes included graphic depictions of hardcore sex acts between humans and between humans and animals. The videotapes were advertised through a mail order catalog prepared with the assistance of Mrs. Messer, who also aided and abetted her husband by depositing some of the company's products in the mail and by typing customer lists and helping to keep the company's books.

U.S. Attorney Margaret Chiara said the convictions in this case would be helpful in demonstrating the commitment of the Department of Justice to the enforcement of federal obscenity and child pornography laws. "The distribution of obscene materials such as these threatens the well-being of American families and must not be tolerated," she said.

The case was prosecuted by Trial Attorney Sheila Phillips of the Obscenity Prosecution Task Force and Assistant U.S. Attorney Brian Delaney, Chief of the Criminal Division of the U.S. Attorney's Office for the Western District of Michigan. The case was investigated by the FBI. The Obscenity Prosecution Task Force, part of the Criminal Division of the Justice Department, investigates and prosecutes the producers and distributors of hardcore pornography that meets the test for obscenity as defined by the U.S. Supreme Court.

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06-569

DOJ_NMG_ 0167022

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Image not available for this document, ID: 0.7.10316.36690-000002

Term_Membership@cfr.org

From: Term_Membership@cfr.org
Sent: Tuesday, August 22, 2006 4:50 PM
To: Term_Membership@cfr.org
Subject: Term Member Advisor Program

Dear DC Term Member,

As we head into the fall, we are once again looking for Term Members who might be willing to serve as Advisors to one of our 25 DC-area new first-year members. This year's Advisor program is being coordinated by Alisa Newman Hood and Maren Leed, and includes a few modifications from the program in the past. Although Advisors will still be paired with a new member, they will also be part of a 6-person (or in one case 8-person) "team." The intent of the Team concept is to allow new members to develop a connection with 2-3 of their peers, as well as 3-4 current term members, giving them a slightly larger group to help integrate them as quickly as possible into the program.

Term Member Advisory Committee members have been asked to serve as Team Leaders, but we still need 17 other Term Members who are willing to serve as Advisors. We are trying to avoid making the Advisor role too structured - it is mostly designed to allow new members to see at least one friendly face when the come to their first few Council events. However, we do ask that Advisors be responsible for a few small tasks:

- introduce yourself to your Advisee by email or phone prior to the initial orientation meeting on September 14

- attend the September 14 orientation meeting, and introduce yourself to your Advisee (and ideally the rest of your Team)

- do your best to attend at least one outside get-together with your Team (your Team Leader will be responsible for setting this up within 3 weeks of the orientation meeting)

Any additional arrangements between Advisors and Advisees are up to you and your Advisee.

If you're willing to take part, please respond to this email no later than Wednesday, August 30.

Thanks in advance for your help,

[redacted]

Assistant Director, Term Member Program
Council on Foreign Relations
58 East 68th Street
New York, NY 10021
Phone [redacted] Fax (212) 434-9801

Term_Membership@cfr.org

From: Term_Membership@cfr.org
Sent: Tuesday, August 22, 2006 5:24 PM
To: Term_Membership@cfr.org
Subject: Fw: TM Advisor Program--Orientation Meeting Date Correction!

Dear DC Term Member,
My apologies for sending an additional email.
The Orientation Meeting will be Monday, September 18 (not September 14).
Thanks,
[redacted]
----- Forwarded by Term_Membership/NY/CFR on 08/22/2006 05:19 PM -----

Term_Membership/NY/CFR
08/22/2006 04:49 PM

To
Term_Membership/NY/CFR
cc

Subject
Term Member Advisor Program

Dear DC Term Member,

As we head into the fall, we are once again looking for Term Members who might be willing to serve as Advisors to one of our 25 DC-area new first-year members. This year's Advisor program is being coordinated by Alisa Newman Hood and Maren Leed, and includes a few modifications from the program in the past. Although Advisors will still be paired with a new member, they will also be part of a 6-person (or in one case 8-person) "team." The intent of the Team concept is to allow new members to develop a connection with 2-3 of their peers, as well as 3-4 current term members, giving them a slightly larger group to help integrate them as quickly as possible into the program.

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If you're willing to take part, please respond to this email no later than Wednesday, August 30.

Thanks in advance for your help,

[redacted]

Assistant Director, Term Member Program
Council on Foreign Relations
58 East 68th Street
New York, NY 10021
Phone [redacted] Fax (212) 434-9801

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 5:58 PM
To: USDOJ- Office of Public Affairs
Subject: GREENVILLE WOMAN INDICTED AND DETAINED ON HURRICANE KATRINA FRAUD

Department of Justice

United States Attorney Leura G. Canary
Middle District of Alabama

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 22, 2006
www.usdoj.gov/usao/alm

CONTACT: RETTA GOSS
PHONE: (334) 223-7280
FAX: (334) 223-7560

GREENVILLE WOMAN INDICTED AND DETAINED ON HURRICANE KATRINA FRAUD

MONTGOMERY, Ala. — Alethia Adrianne Scott, 39, of Greenville, Ala., was detained today in relation to a federal indictment charging her with fraudulently obtaining disaster assistance from the Federal Emergency Management Agency (FEMA) in the wake of Hurricane Katrina, U.S. Attorney Leura G. Canary announced. The indictment, returned on Aug. 15, 2006, alleges that Scottby submitted an application for benefits to FEMA claiming that she had suffered damage to a trailer she owned as her primary residence in Stockton, Ala. In fact, Scott did not reside in Stockton, did not own a trailer, and did not suffer the losses claimed.

As a result of the claims, Scott received four checks totaling $26,200. Scott has been charged with four counts of theft of government property. If convicted of all four counts, the statutory maximum penalty is 40 years in prison.

Scott was arrested by the U.S. Marshals Service on Aug. 18, 2006, and her detention hearing was held today before Chief U.S. Magistrate Judge Charles Coody. Scott was detained after Judge Coody determined there were no conditions or combination of conditions that could ensure her appearance at trial. Trial has been set for Oct. 30, 2006, before the Honorable Judge Myron Thompson.

The U.S. Attorney's Office of the Middle District of Alabama is a member of the Department of Justice's Hurricane Katrina Fraud Task Force, created by Attorney General Alberto R. Gonzales in September 2005 to deter, detect, investigate and prosecute disaster-related federal crimes. The Task Force, chaired by Assistant Attorney General Alice S. Fisher of Department's Criminal Division, is comprised of federal, state and local law enforcement agencies, the Executive Office for U.S. Attorneys, and U.S. Attorneys Offices from the Gulf Coast region and nationwide. This matter was investigated by the Department of Homeland Security's Office of Inspector General and is being prosecuted by Assistant U.S. Attorney Christopher A. Snyder. Thus far, the Middle District of Alabama has charged a total of 14 Hurricane Katrina and Rita fraud-related cases.

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DOJ_NMG_ 0167030

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Image not available for this document, ID: 0.7.10316.36692-000002

From:
Sent: Tuesday, August 22, 2006 7:03 PM
To:
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

Office of Political Affairs

The White House

Washington, DC 20502

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks

Office of Political Affairs
The White House
Washington, DC 20502

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 7:19 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 22, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Visits Lexington, Kentucky (OPA)
Today, the Attorney General visited Lexington, Ky., where he met with the local Project Safe Childhood Task Force and participated in a media availability regarding DOJ efforts to keep children safe through Project Safe Childhood, an anti-child porn initiative. He also announced an award from the Department of Justice's Office of Justice Programs of $400,000 to the Kentucky State Police to continue funding of the Kentucky Internet Crimes Against Children task force

FBI's Infragard Conference Begins (FBI)
The Infragard Conference began today in Washington, DC lasting through 08/24/2006. Cyber Assistant Director James Finch spoke as well as other FBI representatives.

Michigan Couple Pleads Guilty to Obscenity Violations (Criminal)
Today, a Brutus, Mich. couple pleaded guilty to charges stemming from a business they operated for the purpose of selling obscene videos. John Mart Messer entered guilty pleas in U.S. District Court in Grand Rapids, Mich. on Monday to one count of engaging in the business of selling or distributing obscene matter and one count of receiving child pornography. His wife, Deborah Messer, pleaded guilty to one count of aiding and abetting the operation of a business of selling or distributing obscene matter. Mr. Messer faces a mandatory minimum penalty of five years in prison on the child pornography charge. The maximum penalty for Mrs. Messer's offense is five years in prison. Sentencing is scheduled for Nov. 27, 2006.

Illinois Man sentenced for Bias-Motivated Crime (Civil Rights)
Eric K. Nix, of Burbank, Illinois, was sentenced today to 15 months in prison for violating the housing rights of an Arab-American family. Nix had earlier pleaded guilty to a bias-motivated incident that occurred in March 2003, when Nix detonated an explosive in a van belonging to the Arab-American family. The explosive caused extensive damage to the van, which was parked in front of the family's home in Burbank. The sentence was a downward departure; however, the judge took into account the previous six months that the defendant served in prison - which combined with today's sentence, is 21 months - what the guidelines suggest. Since September 11, 2001, the Department of Justice has investigated more than 700 bias-motivated incidents

involving allegations of violence or threats against individuals perceived to be Muslim, or of Arab, Middle Eastern, or South Asian origin.

Federal Court Bars Arizona Tax Preparer from Preparing Tax Returns (Tax)
Today, a federal judge in Phoenix has permanently barred Jeffrey R. Hunn, of Snowflake, Ariz. from preparing federal tax returns for others. U.S. District Court Judge Frederick J. Martone found that Hunn's fraudulent tax return preparation had resulted in approximately $1.5 million in harm and potential harm to the federal Treasury.

Judge Rules Against the Government in Giant Sequoia Monument Case (Environmental and Natural Resources)
A judge in the Northern District of CA ruled against the government on National Environmental Policy Act grounds in the Giant Sequoia Monument case. This case involves the Forest Service's environmental plan for the Sequoia National Forest. The decision is under review and we have not yet made any decision regarding appeal.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Interviews Regarding First Anniversary of Hurricane Katrina (OPA)
Tomorrow, the Attorney General will participate in round-robin television interviews with CNN, Fox, ABC, CBS, and NBC regarding the first anniversary of Hurricane Katrina. He will specifically discuss DOJ efforts to combat violent crime in New Orleans and the Hurricane Katrina Fraud Task Force.

Shaw, Aloma A

Subject:	Canceled: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, August 23, 2006 10:00 AM
End:	Wednesday, August 23, 2006 11:00 AM
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L; Katsas, Gregory
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)
Importance:	High

When: Wednesday, August 23, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Meeting for 8/23/06 is cancelled.

Please delete old series. New mtg w/addition of Gordon Todd and removal of Dan Meron

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 9:30 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 23, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 23, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.36668-000002

Williamson, Angela

From: Williamson, Angela
Sent: Wednesday, August 23, 2006 10:11 AM
To: Williamson, Angela
Subject: The Daily Update: 8/23/06

<http://www.whitehouse.gov/>
AUGUST 23, 2006

This morning, President Bush will meet with Rockey Vaccarella, whose home in St. Bernard Parish was destroyed by Katrina. Mr. Vaccarella has traveled through the South to spread a message of hope and dedication to rebuilding. In the evening, the President will attend a Friends of George Allen reception.

9:55 am:
EDT THE PRESIDENT participates in a meeting with Rockey Vaccarella
The White House | Washington, DC

5:35 pm:
EDT THE PRESIDENT attends Friends of George Allen Reception
Private Residence | Alexandria, Virginia

Rockey Vaccarella To Meet With President Bush. "But Rockey Vaccarella, who clung to the rooftop of his flooded Meraux home for more than four hours after Hurricane Katrina hit before swimming to safety, said he felt compelled to come to the nation's capital with a mock but realistic-looking FEMA trailer to pass on a message to President Bush. And even though almost everyone told him it was a lost cause, Vaccarella will get his meeting with Bush - not for dinner but a private session at the White House this morning <http://www.nola.com/news/t-p/washington/index.ssf?/base/news-1/1156316874183270.xml&coll=1> . ...'I know some people think I'm an oddball who stood on his roof for 4½ hours, but I really wanted to thank the president for the FEMA trailers and all that he has done, but to remind him that while you have the whole world on your plate, just don't forget about us down south,' Vaccarella said." (Bruce Alpert, "St. Bernard Man To Meet With Bush," The New Orleans Times-Picayune, 8/23/06)

President Bush Signs Executive Order To Increase Transparency In The Health Care System. "President Bush signed a measure Tuesday ordering federal agencies to do more to inform beneficiaries about the cost and quality of their health-care services, which federal officials hailed as a major step toward bringing greater efficiency to the nation's medical system. The executive order requires four federal agencies that oversee large health-care programs to gather information about the quality and price of care, and to share that information with one another and with program beneficiaries. ... 'The fact is, if you have excellent information about quality, about service and about price, people make good decisions,' Bush said during a roundtable here to discuss the initiative. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/22/AR2006082200330.html> " (Michael Fletcher, "Bush Signs Order On Health Care," The Washington Post, 8/23/06)

President Bush Congratulates Afghan President Hamid Karzai On Afghanistan's

Independence Day. "US President George W. Bush telephoned Afghan President Hamid Karzai to discuss issues like security in post-Taliban Afghanistan, the White House said. Bush 'called President Karzai to congratulate him on Afghanistan's Independence Day. They discussed security, education and regional cooperation,' spokeswoman Dana Perino told reporters on Tuesday. <http://news.yahoo.com/s/afp/20060823/wl_sthasia_afp/usafghanistanbushkarzai&printer=1> The conversation lasted about 10 minutes, according to Perino, who said nothing about the statement from Karzai's office that the Afghan leader had accepted Bush's invitation to visit the United States." ("Bush, Karzai, Discuss Afghan Security," Agence France Press, 8/22/06)

Conflict Of Interest Raised In Court Ruling On Surveillance Program. "The federal judge who ruled last week that President Bush's eavesdropping program was unconstitutional is a trustee and an officer of a group that has given at least $125,000 to the American Civil Liberties Union in Michigan, a watchdog group said Tuesday <http://www.nytimes.com/2006/08/23/washington/23judge.html?hp&ex=1156305600&en=655f19d78b0e7342&ei=5094&partner=homepage> . ... 'The system relies on judges to exercise good judgment, and we need more information and more explanation about what the court's involvement was in support of the A.C.L.U.,' said Tom Fitton, president of Judicial Watch, which gained attention in the 1990's for ethics accusations against President Bill Clinton." (Eric Lichtblau, "Conflict Of Interest Is Raised In N.S.A. Ruling," The New York Times, 8/23/06)

Top U.S. Commander In Iraq "Encouraged" By Progress Of Operation Together Forward In Baghdad. "'We are cautiously optimistic and encouraged by all the indicators that we are seeing,' Army Maj. Gen. William Caldwell told reporters in the Iraqi capital in an assessment of Operation Together Forward. ... 'There in fact has been a downturn in the level of violence within Baghdad over the last three weeks,' he said. 'The prime minister and his government has formulated a plan that is in fact proven at this point to have been very effective. <http://www.washingtontimes.com/national/20060822-102259-4847r.htm> And time will tell - months will tell how effective it really is, but the initial indicators are very positive.'" (Rowan Scarborough, "General Sees 'Some Normalcy' Of Life In Baghdad," The Washington Times, 8/23/06)

U.S. Ambassador To Iraq Zalmay Khalilzad Says America Must Stand By The Iraqi Government's Efforts To Secure Baghdad. "To combat this complex problem, Iraq's national unity government, led by Prime Minister Nouri al-Maliki, has made securing Baghdad its top priority. ... These programs are already beginning to show positive results. The Iraqi Ministry of Defense reports that the crime rate in Doura has been reduced by 80%. In the Rashid district, Sunni and Shiite political leaders, tribal leaders and imams met and signed an agreement forswearing violence. ... Although much difficult work still remains to be done, it is imperative that we give the Iraqis the time and material support necessary to see this plan through, and to win the Battle of Baghdad <http://online.wsj.com/article/SB115628769204442748.html?mod=opinion_main_commentaries> ." (Zalmay Khalilzad, Op-Ed, "The Battle Of Baghdad," The Wall Street Journal, 8/23/06)

Coalition Forces Capture More Than 100 Known And Suspected Terrorists In Iraq. "U.S. and Iraqi forces captured more than 100 known and suspected terrorists, including one linked to the February bombing of a Shiite shrine that triggered a wave of sectarian bloodshed, a U.S. spokesman said Tuesday. Raids by Iraqi and coalition forces this past week led to the captures, said Maj. Gen. William Caldwell, a U.S. military spokesman. ... Among those arrested was a Saudi al-Qaeda member preparing men for suicide operations, a U.S. statement said. Also arrested,

Caldwell said, was a suspect directly linked to the Feb. 22 bombing of the Shiite shrine in Samarra, which set off a cycle of reprisal attacks by Shiites and Sunnis. <http://www.usatoday.com/printedition/news/20060823/a_iraqnews23.art.htm> " ("Coalition Raids Yield 100-Plus Arrests," The Associated Press, 8/23/06)

Administration Officials Discuss Progress In Hurricane Recovery Efforts. FEDERAL COORDINATOR OF GULF COAST REBUILDING DON POWELL: "The President ... is fulfilling his commitment to rebuild the Gulf Coast better and stronger. And this commitment is demonstrated by several areas. Stronger levees: For 98 percent of the New Orleans metropolitan area population, the levees are at pre-Katrina levels or better, and they're on their way to becoming better than ever before. Housing: Under the leadership of the President, the Congress has provided almost $17 billion to rebuild damaged housing and other critical infrastructure across the Gulf Coast. This money, up to $150,000 per household, is beginning to flow in the area. ... As I mentioned, it won't happen overnight, but I'm convinced that the groundwork is being laid for a vibrant Gulf Coast area <http://www.whitehouse.gov/news/releases/2006/08/20060822-5.html> ." (Press Briefing On Gulf Coast Rebuilding, Washington, DC, 8/23/06)

Federal Coordinator Of Gulf Coast Rebuilding Discusses Hurricane Recovery Efforts. "The scope of the rebuilding effort is massive and the people who saw their homes and businesses destroyed by the disaster are naturally impatient. The area affected by Katrina 'is seven times larger than Manhattan,' Powell reminded reporters at a Monitor-sponsored luncheon on Tuesday. <http://www.csmonitor.com/2006/0823/p25s01-usmb.html> 'More than 1.5 million people were affected ... 800,000 citizens were forced to live outside their homes. This was the largest displacement of people since the great Dust Bowl.' ... While there is an ongoing debate about the adequacy of the government's efforts to rebuild the levees in New Orleans, Powell contends the city is safe. 'I would move my family to New Orleans - better still, most important, my grandchildren.'" (David Cook, "Donald Powell," The Christian Science Monitor, 8/23/06)

President Bush Awards Presidential Service Award To Hurricane Recovery Volunteer. "University of Minnesota medical student David Jewison, who spent several weeks last year helping evacuees from Gulf Coast hurricanes, will receive accolades today from President Bush during the president's Minnesota visit. <http://www.twincities.com/mld/pioneerpress/news/local/15328877.htm> Jewison, 27, will receive a presidential service award when Bush arrives in Minnesota around 2 p.m. today. 'I'm not going to receive this award just for me. I am definitely receiving this award for all the people that responded,' said Jewison, who lives in Minneapolis." (Rachel Stassen-Berger, Bush To Honor Minnesota Volunteer During Visit," St. Paul Pioneer Press, 8/22/06)

Former Presidents Bush And Clinton Describe Compassion Displayed In Response To Hurricane Katrina. "It was typical of the American spirit that, after the skies opened up, so did the hearts of our people. ... To help channel this outpouring of goodwill, President Bush asked us to join together to raise funds to assist the recovery effort. America's response to this collaborative effort - the Bush-Clinton Katrina Fund - has been overwhelming. Some 60,000 donors have given more than $129 million to The Fund. ... That compassion, coupled with the courage and determination of the people at the center of the storm, is why we are confident the Gulf Coast will not only survive in the years ahead, but also thrive in the decades to come. <http://www.usatoday.com/news/opinion/editorials/2006-08-22-bush-clinton-katrina_x.htm> " (George H.W. Bush and Bill Clinton, Op-Ed, "In Katrina, Compassion Met Adversity," USA Today, 8/22/06)

U.S. Ambassador To The UN John Bolton Discusses Response To Iran's Proposal. "The U.S. and its European allies plan today to weigh whether to move ahead on Iran sanctions within the United Nations Security Council, after Tehran said it was willing to open 'serious talks' on its nuclear program but wouldn't freeze uranium enrichment. ... John Bolton, the U.S. ambassador to the U.N., said the Bush administration is ready to begin formulating a Security Council resolution to impose economic sanctions if Tehran's response is deemed unsatisfactory. 'We will obviously study the Iranian response carefully,' he said, 'but we are also prepared if it does not meet the terms set by the permanent five foreign ministers to proceed here in the Security Council, as ministers have agreed, with economic sanctions <http://online.wsj.com/article/SB115624874388242131.html?mod=home_whats_news_us> .'" (Neil King, "U.S. Allies To Discuss Sanctions After Iran Offers Nuclear Talks," The Wall Street Journal, 8/23/06)

Wisconsin Law Professor Ann Althouse Criticizes Judge Taylor's Ruling On The Terrorist Surveillance Program. "Immensely difficult matters of First and Fourth Amendment law, separation of powers, and the relationship between the Foreign Intelligence Surveillance Act and the Authorization for Use of Military Force are disposed of in short sections that jump from assorted quotations of old cases to conclusory assertions of illegality <http://www.nytimes.com/2006/08/23/opinion/23althouse.html?_r=2&hp=&oref=slogin&pagewanted=print&oref=sloginhttp://www.nytimes.com/2006/08/23/opinion/23althouse.html?_r=2&hp=&oref=slogin&pagewanted=print&oref=slogin> . ... And, indeed, the president is not claiming he has powers outside of the Constitution. He isn't arguing that he's above the law. He's making an aggressive argument about the scope of his power under the law. It is a serious argument, and judges need to take it seriously." (Ann Althouse, Op-Ed, "A Law Unto Herself," The New York Times, 8/23/06)

The Wall Street Journal Says His Second Trial Should Remind The World That Saddam Hussein's Brutality Should Not Have Been Tolerated. "In the case of Saddam, the U.S. and its allies finally did act to rid the Middle East of a megalomaniac <http://online.wsj.com/article/SB115629108807442825.html?mod=opinion_main_review_and_outlooks> who had invaded Kuwait, attacked Iran, gassed his own people, tossed out U.N. weapons inspectors, harbored terrorists including Abu Musab al-Zarqawi, retained the infrastructure for making WMD even if he lacked stockpiles (see the Duelfer report), plotted to kill a former American President, and harbored a grudge against the U.S. that could have played out in many ways to harm Americans." (Editorial, "Saddam's WMD," The Wall Street Journal, 8/23/06)

Partnership Between FDA And MIT Will Develop System To Detect Prescription Drug Problems. "The Food and Drug Administration and the Massachusetts Institute of Technology have agreed to develop an automated system to detect unanticipated problems with prescription drugs and medical devices. The system would scour federal and private health-care databases in real time for unusual and emerging patterns that could indicate potential safety concerns. ... A more automated system capable of mining on the fly multiple databases, including those compiled by health insurance providers and agencies such as the Department of Veterans Affairs, would be better at recognizing patterns that suggest problems, Gottlieb said. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/22/AR2006082201036_pf.html> " ("Preventive Care For Medical Databases," The Associated Press, 8/23/06)

President Bush Discusses Health Transparency in Minnesota <http://www.whitehouse.gov/news/releases/2006/08/20060822-4.html>

* Fact Sheet: Health Care Transparency: Empowering Consumers to Save on Quality Care <http://www.whitehouse.gov/news/releases/2006/08/20060822.html>

* Executive Order: Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs <http://www.whitehouse.gov/news/releases/2006/08/20060822-2.html>

* In Focus: Health Care <http://www.whitehouse.gov/infocus/healthcare/>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/08/20060822-3.html>

Press Gaggle by Dana Perino and Health and Human Services Secretary Leavitt
<http://www.whitehouse.gov/news/releases/2006/08/20060822-1.html>

Press Briefing on Gulf Coast Rebuilding
<http://www.whitehouse.gov/news/releases/2006/08/20060822-5.html>

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 1:37 PM
To: USDOJ- Office of Public Affairs
Subject: TWO MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

TWO MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Ronald A. Guidry, 43, and Debbie A. Foster, 34, were sentenced in federal court today by U.S. District Court Judge Frank J. Polozola on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced.

Guidry, of Baton Rouge, pleaded guilty to count one of an indictment charging him with making a false claim for Hurricane Katrina disaster assistance benefits. He was sentenced to three years probation, a $1,000 fine, $2,000 in restitution, and 100 hours of community service.

Foster, of Baton Rouge, pleaded guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. She was sentenced to three years probation, $2,000 in restitution, and 50 hours of community service.

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The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigations of these matters. The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney of the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 2:37 PM
To: USDOJ- Office of Public Affairs
Subject: COLOMBIAN KINGPIN EXTRADITED FOR SMUGGLING MORE THAN $100 MILLION WORTH OF COCAINE INTO THE UNITED STATES

Department of Justice

United States Attorney Michael J. Garcia
Southern District of New York

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/nys

CONTACT: SDNY PRESS OFFICE
PHONE: (212) 637-2600
FAX: (212) 637-0053

COLOMBIAN KINGPIN EXTRADITED FOR SMUGGLING MORE THAN $100 MILLION WORTH OF COCAINE INTO THE UNITED STATES

NEW YORK – Manuel Felipe Salazar-Espinosa, a/k/a "Hoover," has been extradited from Columbia to the United States, U.S. Attorney Michael J. Garcia of the Southern District of New York, Special Agent in Charge John P. Gilbride of the U.S. Drug Enforcement Agency in New York, New York City Police Commissioner Raymond W. Kelly and New York State Police Superintendent Wayne E. Bennet announced today. Salazar-Espinosa, an international drug kingpin who allegedly smuggled more than $100 million worth of cocaine into the United States, faces narcotics-trafficking and money-laundering charges in the Southern District of New York. Salazar-Espinosa landed yesterday evening at White Plains Airport, and will be arraigned today in Manhattan federal court.

According to a previously unsealed indictment, from 2002 to July 2005 Salazar-Espinosa led an international narcotics-trafficking enterprise that transported ton-quantity shipments of cocaine by sea onboard speedboats from Colombia to Panama. After the cocaine arrived in Panama, Salazar-Espinosa's organization secreted the drugs inside heavy machinery which was then transported by special cargo vessels from Panama to Mexico, it was charged. In Mexico, according to the indictment, the cocaine was removed from inside the machinery and turned over to a Mexican drug transportation organization which smuggled the narcotics into the United States to New York and other cities. Between 2002 and July 2005, Salazar-Espinosa's criminal organization allegedly transported more than 5,000 kilograms of cocaine, worth more than $100 million, from Colombia to Panama to Mexico for ultimate importation into the United States and New York City.

Colombian authorities, pursuant to a request for a provisional arrest from the United States, arrested Salazar-Espinosa in Cali, Colombia on May 23, 2005. Two months later, in July 2005, Panamanian law enforcement officers seized more than 1,300 kilograms of cocaine, worth more than $25 million, that Salazar-Espinosa's organization had hidden in the arm of a large crane in a warehouse outside of Panama City. The cocaine seized in Panama was allegedly destined for Mexico and ultimately the United States.

"The extradition of yet another international cocaine kingpin reaffirms our commitment to prosecuting the world's most powerful drug lords," stated U.S. Attorney Michael J. Garcia. "We will continue to work with our law

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enforcement partners here and in Colombia to ensure that cartel leaders who target the United States ultimately face justice in an American courtroom."

"Salazar-Espinosa is responsible for the shipment of thousands of pounds of cocaine into American neighborhoods," stated Special Agent in Charge John P. Gilbride of the U.S. Drug Enforcement Agency in New York. "Today he faces the consequence of his criminal activity: extradition to the United States. The DEA stands firmly with our local and international law enforcement partners in this battle against the world's drug kingpins, and we will continue to identify those individuals who make millions of dollars from illegal narcotic shipments into the United States and put them out of business."

If convicted, Salazar-Espinosa faces a maximum sentence of life in prison and a mandatory minimum sentence of 10 years in prison, although the United States has provided assurances to Colombia that it will not seek a life sentence for Salazar-Espinosa or any other defendant extradited from Colombia.

U.S. Attorney Garcia praised the investigative efforts of the Drug Enforcement Administration, the New York City Police Department and the New York State Police, as well as the New York Drug Enforcement Task Force.

The prosecution is being conducted by the Office's International Narcotics Trafficking Unit. Assistant U.S. Attorneys Eric Snyder and Anirudh Bansal are in charge of the prosecution.

The charges contained in these indictment are merely accusations, and Salazar-Espinosa is presumed innocent unless and until proven guilty.

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Image not available for this document, ID: 0.7.10316.36658-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 4:57 PM
To: USDOJ- Office of Public Affairs
Subject: ARREST IN BATON ROUGE, LOUISIANA, ON CHARGES OF CONSPIRACY, RECEIPT AND POSSESSION OF STOLEN TRADE SECRETS, WIRE FRAUD, ILLEGAL MONETARY TRANSACTIONS, AND PERJURY

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ARREST IN BATON ROUGE, LOUISIANA, ON CHARGES OF CONSPIRACY, RECEIPT AND POSSESSION OF STOLEN TRADE SECRETS, WIRE FRAUD, ILLEGAL MONETARY TRANSACTIONS, AND PERJURY

BATON ROUGE, La. – Wen Shyu Liu (also known as David W. Liou), 69, formerly of Baton Rouge, La., was arrested yesterday in Seattle, Wash., on charges of conspiracy, receipt and possession of stolen trade secrets, wire fraud, illegal monetary transactions, perjury, and asset forfeiture by FBI and Immigration and Customs Enforcement agents, U.S. Attorney David R. Dugas announced today. All charges are associated with stolen trade secrets of Dow Chemical Company which Liou is alleged to have attempted to market to companies in the People's Republic of China. A 15-count indictment had been returned by a federal grand jury on March 24, 2005. Liou was arrested on an intercontinental flight, inbound to Seattle from Taipei, Taiwan.

The indictment alleges that Liou had worked for Dow from 1965 until he retired in March 1992. During his career at Dow, it is alleged that Liou worked in research and development and had signed employment and retirement agreements with Dow prohibiting his ability to disclose Dow's trade secrets and other confidential information without written permission of Dow.

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The indictment alleges that beginning on an unknown date and continuing until at least Oct. 31, 2001, Liou knowingly conspired with others to: (1) steal, appropriate without authorization, and obtain by fraud, trade secrets related to Tyrin® CPE (an elastomeric brand of chlorinated polyethylene polymer), which had been developed by Dow; (2) copy and convey Dow's Tyrin® CPE trade secrets; and (3) receive and possess Dow's Tyrin® CPE trade secrets, knowing such information to have been stolen without authorization. The indictment further alleges that Liou hired employees and former employees of Dow who had worked for Dow in producing Tyrin® CPE to prepare a detailed engineering package to sell to prospective Chinese companies.

Liou was charged in the March 2005 indictment with the following: one count of conspiracy to steal, appropriate and obtain by fraud trade secrets, to copy, transmit and convey those trade secrets, and to receive and possess those stolen trade secrets, a conviction for which has a maximum term of in prison of 10 years and a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $250,000; one count of receipt and possession of stolen trade secrets, with the same maximum penalties as the conspiracy count; eight counts of wire fraud, a conviction for which offense has a maximum term of imprisonment of thirty years in prison per count if the offense is found to have affected a financial institution, plus a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $1,000,000; three counts of illegal monetary transaction, a conviction for which offense has a maximum term of imprisonment of ten years per count and a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $250,000; and two counts of perjury, a conviction for which has a maximum term of imprisonment of five years per count and a $250,000 fine.

Thus, if convicted of all counts, Liou faces up to a 300 year term in prison, and a fine, the greatest of $9,750,000, or twice the gross gain he received or twice the gross loss he caused.

This case was investigated by the FBI and the U.S. Attorney's Office for the Middle District of Louisiana, and is being prosecuted by Assistant U.S. Attorney Ian F. Hipwell. U.S. Attorney Dugas thanked FBI Special Agent Joe Quinn and ICE Special Agent Andrew Henrickson, both of Seattle, for their diligence in finding and arresting Liou. U.S. Attorney David R. Dugas said that protection of the trade secrets of American companies is a high priority of this Administration.

DOJ_NMG_ 0167055

Liou is scheduled to appear before a United States magistrate judge in Seattle at approximately 2:30 p.m. PDT today.

Note: An indictment is a determination by a grand jury that there is probable cause to believe that offenses have been committed by the defendant. The defendant, of course, is presumed innocent until and unless he is proven guilty at trial.

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Image not available for this document, ID: 0.7.10316.36639-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 5:10 PM
To: USDOJ- Office of Public Affairs
Subject: LAWTON WOMAN SENTENCED TO SERVE TWO YEARS IN PRISON FOR THEFT OF FEMA HURRICANE KATRINA RELIEF FUNDS

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
WWW.USDOJ.GOV

CONTACT: BOB TROESTER
PHONE: (405) 553-8999
FAX: (405) 553-8742

LAWTON WOMAN SENTENCED TO SERVE TWO YEARS IN PRISON FOR THEFT OF FEMA HURRICANE KATRINA RELIEF FUNDS

Five Lawton Residents Now Convicted for FEMA Related Fraud

OKLAHOMA CITY – Shelia Ann Perry, 38, of Lawton, Okla. was sentenced today by U.S. District Judge Vicki Miles-LaGrange to serve 24 months in prison for theft of Federal Emergency Management (FEMA) Hurricane Katrina disaster relief funds, U.S. Attorney John C. Richter of the Western District of Oklahoma announced. Ms. Perry was also ordered to pay restitution to FEMA in the amount of $18,000.

According to a superseding indictment filed on Feb. 22, 2006, Perry cashed a Hurricane Katrina disaster relief check made out in her name on Sept. 16, 2005. When she entered a guilty plea on May 4 of this year, she admitted that she knew when she cashed the check that she was not entitled to any disaster relief money because she lived in Lawton at the time of Hurricane Katrina and did not live at the Louisiana address on her application for FEMA assistance. Ms. Perry has also

DOJ_NMG_ 0167059

admitted that she played a leadership role in the activities of others who received money from FEMA through fraud.

"Those seeking to defraud FEMA following the devastation of Hurricane Katrina do not just live in the states hit by the hurricane," stated U.S. Attorney Richter. "This case, as well as many others pursued by the Department of Justice Katrina Fraud Task Force, demonstrates that individuals throughout the country have greedily sought to exploit the suffering of others for their personal benefit. We have zero tolerance for FEMA fraud which seeks to steal taxpayer money intended to help those harmed by the hurricane disaster."

Within the last five months, there have been five individuals who have been sentenced and/or convicted of FEMA fraud related offenses in the Western District of Oklahoma. The following two were charged with Perry:

- On March 24, 2006, Sean Donnell Williams, 27, of Lawton, was sentenced to serve five years probation and pay $2,000 in restitution after pleading guilty to theft of FEMA funds. Williams had been detained on FEMA fraud-related charges since Nov. 1, 2005. Williams is scheduled to appear before a federal judge for a probation violation hearing on Sept. 6, 2006.

- On Aug. 11, 2006, Atari Finley, 26, of Lawton, was sentenced to serve five months in prison followed by 150 days home confinement and three years supervised release. Finley pled guilty to cashing a Hurricane Katrina disaster relief check and admitted that he knew when he cashed the check that he was not entitled to any disaster relief money because he had never lived at the Louisiana address on his application for FEMA assistance. He was also ordered to pay $2,000 in restitution.

The following were separate cases:

- On May 16, 2006, Jacqueline Marie Sutton, 37, of Lawton, was sentenced to five years probation and ordered to pay $2,000 in restitution after pleading guilty to filing a false claim for FEMA funds.

DOJ_NMG_ 0167060

- On Aug. 11, 2006, Ebony Pandora Majors, 28, of Lawton, plead guilty to filing a false claim for FEMA rental assistance. Majors is awaiting sentencing and faces up to one year in prison and a $250,000 fine.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate and prosecute disaster-related federal crimes, such as charity fraud and insurance fraud. This task force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes members from the FBI, the Federal Trade Commission, the Postal Inspection Service and the Executive Office of United States Attorneys, among others.

This case is the result of an investigation conducted by the Oklahoma Economic Crime and Identity Theft Task Force, the Department of Homeland Security's Office of Inspector General, the U.S. Secret Service, and the U.S. Postal Inspection Service, and the Hurricane Katrina Fraud Task Force. It was prosecuted by Assistant U.S. Attorney Scott E. Williams and Assistant U.S. Attorney Vicki Zemp Behenna.

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DOJ_NMG_ 0167061

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Image not available for this document, ID: 0.7.10316.36488-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 6:25 PM
To: USDOJ- Office of Public Affairs
Subject: SIXTEEN DEFENDANTS INDICTED FOR IDENTITY THEFT

Department of Justice

United States Attorney Bradley J. Schlozman
Western District of Missouri

FOR IMMEDIATE RELEASE
WEDNESDAY, AUG. 23, 2006
www.usdoj.gov/usao/mow

CONTACT: DON LEDFORD
PHONE: (816) 426-4220
FAX: (816) 426-4176

SIXTEEN DEFENDANTS INDICTED FOR IDENTITY THEFT

KANSAS CITY, Mo. — Sixteen defendants have been indicted by a federal grand jury for participating in an identity theft conspiracy, U.S. Attorney Bradley J. Schlozman of the Western District of Missouri announced today.

Carlton Strother, 38, Arlester E. Scott, Jr., 41, Michelle Williams, 39, Cedric Anson, 36, Henry Durham, Jr., 37, Charles W. Vann, 32, Miles W. Thomas, 34, Kolet Boudreaux, 28, Sheri L. Zuber, 38, and Curtis Ray Brown, 50, all of Kansas City, Mo.; Barbara Deluce, 59, Stephen T. Edenfield, 33, and Stacy R. Neal, 32, all of Lee's Summit, Mo.; Hope G. Madewell, 28, of Overland Park, Kan.; Tarik I. Liwaru, 34, of Kansas City, Kan., and Chandra L. Jenkins, 27, of Plano, Texas, were charged in a 37-count superseding indictment returned under seal by a federal grand jury in Kansas City on Aug. 10, 2006. That indictment, which replaces an indictment that was returned under seal on March 15, 2006, was unsealed and made public upon the arrest and initial court appearances of several defendants.

"Two separate conspiracies, both using stolen identity information and counterfeit Kansas driver's licenses, resulted in significant losses for a number of victims," U.S. Attorney Schlozman explained. "Conspirators used stolen identity information to open credit accounts and make purchases at stores like Sam's Club, Target, Old Navy, Home Depot and others. They also used the stolen identity information to finance an automobile purchase and to apply for cellular telephone service. A second conspiracy involved the use of stolen identity information to obtain more than $1 million in mortgages. Conspirators obtained three separate mortgages to purchase homes in Lee's Summit and Kansas City, as well as lines of credit and credit cards at a bank in Texas."

DOJ_NMG_ 0167064

According to Special Agent in Charge Charles Green of the U.S. Secret Service, the indictment is the result of a long-term investigation that involved local, state and federal agencies.

The federal indictment alleges that, between March 3, 2005, and Sept. 26, 2005, Strother, Williams, Anson, Brown, Liwaru, Deluce, Durham, Madewell, Scott and Vann participated in a conspiracy to commit identity theft by obtaining personal identification information of persons together with their personal credit information, then using a personal computer to create counterfeit driver's licenses in the names of the identity theft victims for the purpose of making unauthorized applications for credit. Personal identity information of the identity theft victims was allegedly stolen from two Kansas City-area businesses – Jeremy Franklin Suzuki and Hearthside Lending, a real estate loan brokerage – that kept large volumes of credit information of their customers, including credit bureau reports that reflected the creditworthiness of each identity theft victim. Scott, a former employee of Jeremy Franklin Suzuki, allegedly agreed to participate in the conspiracy by stealing credit bureau reports obtained by the car dealership in connection with the financing of automobile sales, then sold them to Strother.

According to the indictment, the conspirators who managed the scheme recruited others to the conspiracy by promising them a share of the proceeds. The identity theft victims' financial information was used by the conspirators to make computer-generated counterfeit Kansas driver's licenses, containing the information of the identity theft victims but with the photo of one of the recruited conspirators. The conspirators allegedly used the stolen identities and counterfeit driver's licenses to make instant credit applications at retail stores while posing as the identity theft victims. Once the instant credit applications were approved, they made credit purchases of goods at the stores.

The federal indictment further charges Strother with aggravated identity theft. Those counts allege 17 specific instances from March 9, 2005, through Sept. 25, 2005, in which Strother used stolen identity information in order to defraud retail stores (and credit card companies that serviced the credit accounts of those stores) by opening credit accounts using the identity and credit information of identity theft victims and then using the credit accounts to effect transactions of at least $1,000 within a one-year period.

The federal indictment alleges that, from January 2006 to March 24, 2006, Strother, Thomas, Edenfield, Neal, Boudreaux, Jenkins and Zuber, together with unindicted co-conspirators who are not identified by name, conspired to defraud financial institutions and mortgage companies by making applications for real estate mortgages and other forms of credit using the identities and credit worthiness of identity theft victims. They allegedly obtained means of identification consisting of names, dates of birth, and Social Security numbers of others without their authority or knowledge and used that identity information to apply for mortgage loans to purchase real estate. According to the indictment, the proceeds of the mortgage loans were applied to fraudulent accounts of non-existent business entities in order for the conspirators to take cash out of each transaction.

The federal indictment alleges that conspirators agreed to acquire stolen identification and personal financial information from area mortgage companies, including from Boudreaux, a former employee of Hartley Mortgage Company. The conspirators allegedly found a source to provide counterfeit Kansas driver's licenses through an unindicted co-conspirator, who purchased them from Strother. The conspirators who managed the scheme allegedly recruited others by promising to share of the proceeds derived from the mortgage transactions.

According to the indictment, conspirators used stolen identity information to obtain three separate mortgages for two residential properties in Lee's Summit and one property in Kansas City, totaling $1,166,000. Conspirators allegedly opened bank accounts in the names of identity theft victims and non-existent businesses,

DOJ_NMG_ 0167065

then had a portion of the loan proceeds wired to those accounts. Conspirators allegedly withdrew funds from those accounts and shared the proceeds.

Co-defendants Thomas and Zuber also traveled to Dallas, according to the indictment, where they opened a private mailbox account at a UPS store then proceeded to a Wells Fargo Bank branch to open two business accounts, all using the same stolen identity information. Jenkins, who at the time was an employee of the Wells Fargo branch, allegedly opened the business accounts and used the stolen identity information to make four applications for business lines of credit and credit cards at Wells Fargo Bank.

The charges contained in the indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

This case is being prosecuted by Assistant U.S. Attorney John E. Cowles. It was investigated by the U.S. Secret Service Financial Crimes Task Force, including officers from the Independence, Mo., Police Department, the Kansas City, Mo., Police Department, the Kansas City, Kan., Police Department, the Overland Park, Kan., Police Department, the Johnson County, Kan., Sheriff's Department, the U. S. Postal Inspection Service, and IRS-Criminal Investigation.

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DOJ_NMG_ 0167066

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Image not available for this document, ID: 0.7.10316.36640-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 7:46 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 23, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Attorney General Participated in Interviews Regarding First Anniversary of Hurricane Katrina (OPA)
Today, the Attorney General participated in round-robin television interviews with ABC, CBS, CNN, Fox, and NBC regarding the first anniversary of Hurricane Katrina. He specifically focused on DOJ efforts to combat violent crime in New Orleans and the Hurricane Katrina Fraud Task Force. David Dugas, U.S. Attorney for the Middle District of Louisiana, also participated in a television interview with ABC News on the same topic.

Colombian Kingpin Extradited for Smuggling more than $100 Million Worth of Cocaine into the United States (OPA)
Today, Manuel Felipe Salazar-Espinosa, a/k/a "Hoover," was extradited from Columbia to the United States. Salazar-Espinosa, an international drug kingpin who allegedly smuggled more than $100 million worth of cocaine into the United States, faces narcotics-trafficking and money-laundering charges in the Southern District of New York. Salazar-Espinosa landed yesterday evening at White Plains Airport and will be arraigned today in Manhattan federal court.

Suspicious Behavior Grounds Northwest Airlines Jet (FBI)
Today, the pilot of a Northwest Airlines passenger jet en route from Amsterdam Schiphol Airport to Mumbai turned the aircraft around shortly after takeoff when it was reported that several passengers were acting in a suspicious manner. After the aircraft returned safely to the airport, Dutch authorities detained 12 passengers and questioned them. There was no immediate word on the results of their questioning or whether the incident was in any way related to terrorism. No additional security measures have been announced at the airport and other passengers aboard the Northwest flight were allowed to disembark freely and reschedule their onward travel.

***Chicago Tribune* Inquires Regarding Operation Hard Cell Arrests (FBI)**
Today, *Chicago Tribune* reporter Andy Zajac inquired about the recent arrests in Operation Hard Cell, the Tamil Tigers, and the alleged connection to a named U.S. Congressman. FBI declined to comment and referred the reporter to the EDNY.

Media Inquires into Virgin Island Hate Crimes Investigation (Civil Rights)
Media have inquired about whether DOJ will issue a report on a hate crimes investigation in the Virgin Islands. The matter is still under review.

Talking Point

- The Civil Rights investigation of this matter is still pending.

THURSDAY'S EXPECTED EVENTS/RELEASES:

11:00 A.M. CDT	Assistant Attorney General Alice Fisher of the Criminal Division will participate in a news conference at the U.S. Attorney's Office in Gulfport, Miss. with U.S. Attorney Dunn Lampton and others to announce developments in a Katrina fraud criminal case. U.S. Attorney's Office 1575 20th Avenue 2nd Floor Gulfport, Miss. **OPEN PRESS**

fhcsDJ@opm.gov

From:	fhcsDJ@opm.gov
Sent:	Thursday, August 24, 2006 11:26 AM
To:	Gorsuch, Neil M
Subject:	Reminder Notification--Governmentwide Survey on Human Capital
Attachments:	msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/DJ/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 11:28 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. ARRESTS PROVIDER OF HIZBALLAH TV IN NEW YORK AREA

Department of Justice

United States Attorney Michael J. Garcia
Southern District of New York

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/nys

CONTACT: HEATHER TASKER
PHONE: (212) 637-2600
FAX: (212) 637-0053

U.S. ARRESTS PROVIDER OF HIZBALLAH TV IN NEW YORK AREA

NEW YORK – Javed Iqbal, a.k.a. "John Iqbal," 42, of Staten Island, N.Y., has been arrested and charged with conspiring to violate the International Emergency Economic Powers Act (IEEPA), U.S. Attorney Michael J. Garcia of the Southern District of New York and Assistant Director in Charge Mark Mershon of the New York Office of the FBI announced today. Specifically, the complaint alleges that through a company called HDTV Ltd. located in Brooklyn, Iqbal and others provided customers in the New York area with satellite broadcasts of al Manar, which is a television station owned and/or operated by Hizballah.

The Department of Treasury named al Manar as a Specially Designated Global Terrorist entity in March 2006, thereby making it a crime to, among other things, engage in business transactions with al Manar. In conjunction with the arrest, agents executed search warrants at both HDTV's Brooklyn office and Iqbal's Staten Island residence where, it is alleged, Iqbal maintained several satellite dishes.

Iqbal was arrested Wednesday and will be presented today in Manhattan federal court before U.S. Magistrate Judge Gabriel W. Gorenstein, who will decide whether Iqbal is detained or released on bail pending further proceedings.

U.S. Attorney Garcia praised the efforts of the FBI's Joint Terrorist Task Force in conducting the investigation.

The charges contained in the complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

Assistant U.S. Attorney Stephen Miller is in charge of the prosecution.

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Image not available for this document, ID: 0.7.10316.36435-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 1:26 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR INDIVIDUALS INDICTED FOR $700,000 DEBRIS REMOVAL FRAUD IN RELATION TO HURRICANE KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/mss

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

FOUR INDIVIDUALS INDICTED FOR $700,000 DEBRIS REMOVAL FRAUD IN RELATION TO HURRICANE KATRINA FRAUD

JACKSON, Miss.– Four individuals have been indicted for conspiracy to defraud the United States involving the creation and submission of fraudulent debris removal load slips in the amount of $716,677, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today. Those charged in the indictment include Allen Kitto, 24, of Dundee, Fla., Clinton K. Miller, 28, of Carriere, Miss., Devin Chuter, 23, of Picayune, Miss., and Lauren Robertson, 23, of Picayune, Miss.

The indictment charges that Kitto owned and operated J.A.K. DC&ER Inc., a debris removal contracting company working as a sub-contractor in Pearl River County, Miss., and that Miller, Chuter and Robertson worked for a debris removal monitoring company operating in Pearl River County, Miss. Chuter and Robertson allegedly signed false debris load slips misrepresenting that debris was loaded onto trucks on the roadway when Chuter and Robertson were not present at the loading site and, in most instances, created and signed the false load slips at their residences.

The false debris load slips misrepresented that certain trucks, belonging to and under the control of Kitto, were hauling loads of debris at a time when the trucks identified on the debris load slips were not in operation on the roadway or at the dump site listed on the load slips. The false debris load slips also misrepresented that loads of debris were delivered to a designated dump site in Pearl River County, Miss. when in truth and fact no debris was delivered to the dump site. Miller allegedly collected the false load slips from his co-conspirators and submitted them to the debris monitoring company who would, in turn, submit the false load slips to the prime contractor for payment to Kitto. The indictment also charges that Kitto, in an effort to conceal the conspiracy, would deposit the funds obtained through the conspiracy into a bank account opened in the name of one of his employees and then write a check to an unindicted co-conspirator who would then pay Kitto and Miller. Miller would then pay Chuter and Robertson for completing and signing the false load slips along with an extra amount of money for "hush money."

DOJ_NMG_ 0167076

This indictment comes as a result of a joint investigation conducted by the FBI and the U.S. Department of Homeland Security (DHS). The maximum penalty for conspiracy to defraud the United States is five years in prison and a $250,000 fine.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division - includes the FBI, the U. S. Inspectors General community, the U. S. Secret Service, the U. S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who file false and fraudulent claims.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-Office of the Inspector General Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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Image not available for this document, ID: 0.7.10316.36423-000002

[redacted]@state.co.us

From: [redacted]@state.co.us
Sent: Thursday, August 24, 2006 2:58 PM
To: Gorsuch, Neil M; [redacted]@hotmail.com
Subject: RE: Contact Information
Attachments: tmp.htm

Neil,

Are you all in town yet? I have tickets to Sunday's Bronco game. It is only pre-season but if you are free and interested, I would love for you to join me.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 8/3/2006 4:50 PM
>>>

[redacted] - Thanks for the kind note; would love to get together when I hit town! All the best, Neil

-----Original Message-----
From: [redacted]@state.co.us [mailto: [redacted]@state.co.us]
Sent: Thursday, August 03, 2006 1:45 PM
To: Gorsuch, Neil M
Subject: Re: Contact Information

Neil, Congratulations! Your appointment is great news. Especially that you will be reurning to the fold here in Denver. I look forward to your arrival and hope that we can get together soon.

You can contact me at work below or home:

[redacted]

mobile [redacted]

****

[redacted]
Assistant Attorney General
Natural Resources & Environment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
303-866-5040
Fax: 303-866-3558
[redacted]@state.co.us

PRIVILEGED / CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION This message and its attachments are confidential and intended for the use of the addressee. Any unauthorized

dissemination, copying or distribution of this communication is strictly prohibited. If you have received this e-mail in error, please delete the original message and notify me at the above-listed e-mail address.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 08/03/06 7:32 AM

>>>

Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ.
Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning [redacted] and I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

For the balance of the month, I am perhaps best reachable by cell [redacted] My DOJ email will also remain operational until the end of August (neil.gorsuch@usdoj.gov)
.

My new contact information at the court house will be:

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]@hotmail.com

[redacted]nd I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

Neil,

Are you all in town yet? I have tickets to Sunday's Bronco game. It is only pre-season but if you are free and interested, I would love for you to join me.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 8/3/2006 4:50 PM >>>
[redacted] - Thanks for the kind note; would love to get together when I hit town! All the best, Neil

-----Original Message-----
From: [redacted]@state.co.us [mailto:[redacted]@state.co.us]
Sent: Thursday, August 03, 2006 1:45 PM
To: Gorsuch, Neil M
Subject: Re: Contact Information

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You can contact me at work below or home:

[redacted]

mobile: [redacted]

****
[redacted]
Assistant Attorney General
Natural Resources & Environment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
303-866-5040
Fax: 303-866-3558
[redacted]@state.co.us

PRIVILEGED / CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION
This message and its attachments are confidential and intended for the use of the addressee. Any unauthorized dissemination, copying or distribution of this communication is strictly prohibited. If you have received this e-mail in error, please delete the original message and notify me at the above-listed e-mail address.
>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 08/03/06 7:32 AM
>>>
Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ. Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning. [redacted] and I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

For the balance of the month, I am perhaps best reachable by cell [redacted] My DOJ email will also remain operational until the end of August (neil.gorsuch@usdoj.gov).

My new contact information at the court house will be:

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]@hotmail.com

[redacted] and I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, August 24, 2006 2:58 PM
Subject: JCON Scheduled System Maintenance (PRAO & WMO)

JCON Scheduled System Maintenance

When: Sunday, August 27, 2006, 12:01 AM to 1:00 AM

Event: Scheduled System Maintenance

Customers Affected: Professional Responsibility Advisory Office and Wireless Management Office SMO/JMD JCON Customers

Actions Required: Log off, then power off your computer before you leave work for the weekend
and prior to Sunday, August 27, 2006, 12:01 AM

Unavailable Services: BlackBerry
Dial in / (JSRA) Citrix customers
Email Services into and out of DOJ (messages will be queued until service is restored)
G:\ Drive
H:\Drive
Internet Access
KVS Email Archiving
Logging on to JCON Network
M:\ Drive
Network Printers

Available Services: Pin to Pin BlackBerry Messaging

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to Shut Down and click the right button.
4. Choose the Shutdown and Power off option. This will log your workstation out of the JMD/SMO JCON network and power off the desktop.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

McNulty, Paul J

Subject:	Canceled: DAG Component Budget Hearings Recap
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 10, 2006 2:30 PM
End:	Thursday, August 10, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, MikkiElston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, Mikki
Optional Attendees:	Parameswaran, ShaliniParameswaran, Shalini
Importance:	High

Attendees: Mike Elston, Kyle Sampson, Monica Goodling, Mark Epley, Richard Hertling, Lee Lofthus, Jolene Lauria-Sullens, Walt Schultz, Karin O'Leary, Mikki Atsatt
JMD POC: Shalini Parameswaran/JMD 4-3056

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Thursday, August 24, 2006 3:48 PM
To: [redacted]@cfr.org
Subject: Term Member Trip to the NY Fed
Attachments: TMFedTripRevised.DOC

Dear Term Member--

Several spots have opened up for the term member trip to the New York Federal Reserve on September 7, 2006.

If you are interested in attending the trip, please RSVP to this email as soon as possible. **Please only respond if you know for certain you can attend.**

I have attached the trip agenda and additional information regarding the trip is below.

Please contact me with any questions.

Sincerely,

[redacted]

(See attached file: TMFedTripRevised.DOC) _____

Getting to the Federal Reserve Bank of New York

Directions for traveling to the Fed by subway can be found online at http://www.newyorkfed.org/aboutthefed/ny_directions.html

When you arrive, please enter the main building at 33 Liberty Street. Term members must be pre-registered through the Council to gain access to the building and upon arrival must present a government-issued identification card that includes a photograph, such as a driver's license or passport.

The Federal Reserve strongly recommends that Term Members arrive early, as we expect a large group and security screening will take several minutes.

Background information

You can read more about the Federal Reserve System and the New York Fed at http://www.newyorkfed.org/aboutthefed/introtothefed.html.

Council on Foreign Relations
Term Member Day Trip to the
Federal Reserve Bank of New York

Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
Thursday, September 7, 2006

Meetings to be held in the Board Room, 10th Floor

8:00 a.m. – 8:30 a.m.	Arrivals, Security Clearance, Coffee Reception *Please access the building through the 33 Liberty Street entrance*
8:30 a.m. - 9:00 a.m.	"Welcome: the Role of the 'Fed' in the U.S. Economy" Speaker: [redacted], *First Vice President**
9:00 a.m. - 10:00 a.m.	"Financial Services: Being the (Central) Banker's Bank" Speakers: • [redacted] *Executive Vice President*, Financial Services; • [redacted], *Senior Vice President,* Central Bank and International Account Services, Markets Group, • [redacted], *Senior Vice President and Chief of Staff*, Executive Office
10:00 a.m. – 10:15 a.m.	Break
10:15 a.m. – 11:00 a.m.	"Promoting Sound Risk Management in the Banking Sector" Speakers: • [redacted], *Executive Vice President*, Bank Supervision • [redacted], *Senior Vice President,* Bank Supervision

* Life Member, Council on Foreign Relations

DRAFT

11:00 a.m. - 11:45 p.m.	"Maintaining Sound Payments Systems: the Fed's Reaction During September 11th" Speakers: • [redacted], *Assistant Vice President,* Electronic Payments, and • [redacted], *Vice President*, Markets Group
11:45 a.m.-12:00 p.m.	Break
12:00 p.m. - 1:30 p.m.	Lunch with Bank staff and discussion: "Financial Stability, Monetary Policy, and International Considerations (China)" Speakers: • [redacted], *Executive Vice President,* Research and Statistics; • [redacted], *Vice President*, Markets Group; and • [redacted], *International Officer*, Emerging Markets and International Affairs • Moderator: [redacted], *Assistant Vice President*, Public Information Location: Executive Dining Room, 10th Floor, 33 Liberty Street
1:40 p.m. – 2:15	"The Fed In Transition: Thoughts and Observations" Speaker: Timothy Geithner, *President* and Vice Chairman of the Federal Open Market Committee* Location: Board Room, 10th Floor, 33 Liberty Street
2:15 p.m. -2:20	Break
2:30 p.m. – 3:15 p.m.	Tour of the Gold Vault
3:15 p.m.	Conclusion of the Term Member Visit *Term Members are free to visit two exhibits in the Fed's museum space on their own: "Drachmas, Doubloons and Dollars: The History of Money," co-sponsored by the American Numismatic Society, and the interactive "FedWorks" exhibit.*

DRAFT

* Life Member, Council on Foreign Relations

DOJ_NMG_ 0167089

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 5:20 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Bobby Joe Weatherton, 49, of Prairieville, La., pled guilty to count one of an indictment charging him with making a false claim for Hurricane Katrina disaster assistance benefits, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today. He was sentenced to three years probation and a fine of $500 by U.S. District Court Judge James J. Brady. Weatherton had already paid $2,000 in restitution.

The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such

DOJ_NMG_ 0167090

as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact U.S. Attorney David R. Dugas or First Assistant U.S. Attorney Lyman Thornton at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721 24-hours a day, seven days a week until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 7:34 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 24, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Assistant Attorney General Fisher Participates in Press Conference in Gulfport, Miss. (OPA)
Assistant Attorney General Alice Fisher of the Criminal Division traveled to Gulfport, Miss. today to meet with local members of the Hurricane Katrina Fraud Task Force, which she chairs. While there, Fisher attended a news conference at the U.S. Attorney's Office in Gulfport with U.S. Attorney Dunn Lampton and others to announce developments in a Katrina fraud criminal case.

Four Individuals Indicted for $700,000 Debris Removal Fraud in Relation to Hurricane Katrina Fraud (OPA)
Today, four individuals were indicted for conspiracy to defraud the United States involving the creation and submission of fraudulent debris removal load slips in the amount of $716,677. Those charged in the indictment include Allen Kitto of Dundee, Fla., Clinton K. Miller of Carriere, Miss., Devin Chuter of Picayune, Miss., and Lauren Robertson of Picayune, Miss. The indictment charges that Kitto owned and operated J.A.K. DC&ER Inc., a debris removal contracting company working as a sub-contractor in Pearl River County, Miss., and that Miller, Chuter and Robertson worked for a debris removal monitoring company operating in Pearl River County, Miss. Chuter and Robertson allegedly signed false debris load slips misrepresenting that debris was loaded onto trucks on the roadway when Chuter and Robertson were not present at the loading site and, in most instances, created and signed the false load slips at their residences.

Media Expresses Interest in Fugitive Sighting (FBI)
Today, the FBI received several calls related to a citing in Sri Lanka of fugitive Kobi Alexander, a Comverse executive. The FBI is referring calls to FBI NY and EDNY, but is requesting the public's assistance in locating Mr. Alexander.

Assistant Director Miller Participates in Infragard Conference (FBI)
Today, FBI Assistant Director John Miller was a panelist at the Infragard Conference on Information Sharing and Interoperability in Washington.

Explosions at Ammunition Factory in Louisiana (ATF)

Today, there was a series of explosions at Camp Minden, formerly known as the Louisiana Army Ammunition Depot. A private company known as Explo was disarming 750-pound bombs when a bomb exploded, causing a fire and setting off other bombs. Two truck loads of at least 50 bombs are still in danger of exploding. A two mile area has been cleared due to the danger. Only one minor injury has been reported. The company, located in Minden, LA, recycles the explosives for use in the mining industry. The ATF anticipates it will be approximately two days before they will be able to enter the facility to further investigate the matter.

FRIDAY'S EXPECTED EVENTS/RELEASES:

The Civil Rights Division will tentatively issue a release on a criminal matter.

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 9:56 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 25, 2006

Department of Justice

PRESS GUIDANCE
Friday, August 25, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division will issue a release on a computer crime and intellectual property matter. (Sierra)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167096

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Image not available for this document, ID: 0.7.10316.36413-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 12:13 PM
To: USDOJ- Office of Public Affairs
Subject: OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE SENTENCED TO SIX YEARS IN PRISON

Department of Justice

FOR IMMEDIATE RELEASE — CRM
FRIDAY, AUGUST 25, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE SENTENCED TO SIX YEARS IN PRISON

Defendant Made More Than $4.1 Million in Illegal Revenue

WASHINGTON— The owner of a massive for-profit software piracy website was sentenced in federal court to six years in prison, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today.

In addition to the prison term, Danny Ferrer, 37, of Lakeland, Fla., was also ordered by U.S. District Judge T.S. Ellis III to forfeit the proceeds of his illegal conduct, pay restitution of more than $4.1 million, and perform 50 hours of community service. The ordered forfeiture involves a wide array of assets, including numerous airplanes, a helicopter, boats, and cars, which Ferrer had purchased with the profits from his illegal enterprise. In particular, Ferrer forfeited a Cessna 152; a Cessna 172RG; a Model TS-11 ISKRA aircraft; a RotorWay International helicopter; a 1992 Lamborghini; a 2005 Hummer; a 2002 Chevrolet Corvette; two 2005 Chevrolet Corvettes; a 2005 Lincoln Navigator; an IGATE G500 LE Flight Simulator; a 1984 twenty-eight foot Marinette hardtop express boat; and an ambulance. Ferrer has also agreed to surrender the proceeds of sales of two fire trucks that were also bought with his illegal proceeds.

"Danny Ferrer obtained millions of dollars worth of luxury items by stealing and pirating the works of others. But now, the cars and planes and boats he paid for with the proceeds of his crime are being taken by the government, and he will spend six years in jail," said Assistant Attorney General Fisher. "The Department of Justice is committed to vigorous enforcement of the law and protection of intellectual property rights."

"Modern day pirates ought to expect modern day penalties," said U.S. Attorney Rosenberg. "We are very pleased with the sentence imposed today – one of the longest ever imposed for software piracy – and trust that it sends a strong message to those who pilfer the intellectual property of others."

Beginning in late 2002 and continuing until its shutdown by the FBI on Oct. 19, 2005, Ferrer and his co-conspirators operated the www.BUYSUSA.com website, which sold copies of software products that were copyrighted by companies such as Adobe Systems Inc., Autodesk, and Macromedia Inc. at prices substantially below the suggested retail price. The software products purchased on the website were reproduced on CDs and

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distributed through the mail. The operation included a serial number that allowed the purchaser to activate and use the product. Further investigation established that, during the time of its operation, www.BUYSUSA.com illegally sold more than $4.1 million of copyrighted software. These sales resulted in losses to the owners of the underlying copyrighted products of nearly $20 million.

After receiving complaints from copyright holders about Ferrer's website, an undercover FBI agent made a number of purchases of business and utility software from the site, which were delivered by mail to addresses in the Eastern District of Virginia.

Ferrer pleaded guilty before Judge Ellis on June 15, 2006, to one count of conspiracy and one count of criminal copyright infringement for selling pirated software through the mail.

This investigation was conducted by agents of the Federal Bureau of Investigation's Washington Field Office. The Business Software Alliance, a trade association which represents leading computer software companies, provided significant assistance to the investigation. Jay V. Prabhu, Trial Attorney for the Criminal Division's Computer Crime and Intellectual Property Section, and Edmund P. Power, Assistant U.S. Attorney for the Eastern District of Virginia, prosecuted the case on behalf of the government.

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06-570

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Image not available for this document, ID: 0.7.10316.36381-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 1:38 PM
To: USDOJ- Office of Public Affairs
Subject: ARMY RESERVE OFFICER PLEADS GUILTY TO MONEY LAUNDERING CONSPIRACY INVOLVING STOLEN CURRENCY AND FRAUD IN IRAQ

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

ARMY RESERVE OFFICER PLEADS GUILTY TO MONEY LAUNDERING CONSPIRACY INVOLVING STOLEN CURRENCY AND FRAUD IN IRAQ

WASHINGTON – Bruce D. Hopfengardner, a lieutenant colonel in the U.S. Army Reserve, pleaded guilty to two conspiracy charges in a scheme to defraud the Coalition Provisional Authority - South Central Region (CPA-SC) in Al-Hillah, Iraq, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

At today's hearing before the Honorable Colleen Kollar-Kotelly, U.S. District Judge for the U.S. District Court for the District of Columbia, Hopfengardner, 46, of Frederick, Va., admitted conspiring to commit wire fraud and to launder funds in connection with a scheme to steal currency designated for the reconstruction of Iraq and to steer contracts to a contractor in exchange for money and property. Hopfengardner also admitted to smuggling stolen currency into the United States in March 2004 when he returned from Iraq on leave.

According to the court documents filed in connection with the plea, beginning in about November 2003, Hopfengardner was assigned as an advisor to the CPA-SC region in Al-Hillah, Iraq, where he was responsible for managing various construction projects. A criminal information alleges that, in connection with those projects, he, Robert Stein and others steered contracts to Philip Bloom, a U.S. citizen operating construction services and security companies in Iraq, in exchange for cars (including a Yukon Denali), expensive jewelry, computers and other items of value. The information alleges that Bloom caused wire transfers originating in Iraq to bank accounts in the United States controlled by Hopfengardner during the period of February 2004 to July 2004. According to the information, Bloom sent approximately $175,000 in laundered funds to Hopfengardner, and purchased a Yukon Denali in June 2004.

"A Lieutenant Colonel in the U.S. Army today admits to a disturbing abuse of his position, in scheming with others to defraud the government for their own personal and financial gain," said Assistant Attorney General Fisher. "The Department of Justice remains committed to prosecuting all cases that undermine the reconstruction of Iraq."

Hopfengardner has agreed to forfeit all property involved in the money laundering conspiracy including a 2004 Yukon Denali, a Harley Davidson motorcycle, camera equipment, a Breitling watch valued at

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approximately $5,700, and a computer. Hopfengardner has also agreed to entry of a judgment of forfeiture of $144,500.

Hopfengardner faces up to 20 years in prison, a five-year term of supervised release, and a fine of $500,000.

On April 18, 2006, Bloom pleaded guilty to conspiracy, bribery and money laundering before Judge Colleen Kollar-Kotelly, U.S. District Judge for the District of Columbia. Stein pleaded guilty before Judge Kollar-Kotelly on Feb. 2, 2006, to five charges – conspiracy, bribery, money laundering and two weapons charges. Both are in custody awaiting sentencing.

Hopfengardner is the first military officer to plead guilty to charges related to the conspiracy. On Nov. 30, 2005, Michael Wheeler of Amherst Junction, Wis., a lieutenant colonel in the U.S. Army Reserve, was arrested in connection with the investigation. On Dec. 15, 2005, Debra Harrison, 47, of Trenton, N.J., also a lieutenant colonel in the U.S. Army Reserve, was arrested in connection with the investigation. She is presently released on bond.

This case was prosecuted by Trial Attorneys Mark Yost and Patrick Murphy of the Asset Forfeiture and Money Laundering Section of the Criminal Division; and Trial Attorneys James A. Crowell IV and Ann C. Brickley of the Public Integrity Section. The case is being investigated by the Special Inspector General for Iraq Reconstruction, IRS Criminal Investigations, U.S. Immigration and Customs Enforcement at the Department of Homeland Security, U.S. Department of State Office of Inspector General, and the Federal Bureau of Investigation-Washington Field Office.

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06-571

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Image not available for this document, ID: 0.7.10316.36376-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 3:50 PM
To: USDOJ- Office of Public Affairs
Subject: MARYLAND MAN SENTENCED TO 15 YEARS FOR PROVIDING MATERIAL SUPPORT TO TERROR GROUP

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
www.usdoj.gov/usao/vae

CONTACT: JIM RYBICKI
PHONE: (703) 842-4050
FAX: (703) 549-5202

MARYLAND MAN SENTENCD TO 15 YEARS FOR PROVIDING MATERIAL SUPPORT TO TERROR GROUP

ALEXANDRIA, Va. – Ali Asad Chandia was sentenced today to 15 years in prison for conspiring to and providing material support to the terrorist organization Lashkar-e-Taiba, U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today. He was also sentenced to three years of supervised release at the completion of his incarceration.

On June 6, 2006, a jury unanimously found Chandia, 29, of College Park, Md., guilty of conspiracy to provide material support and resources to terrorists, conspiracy to provide material support and resources to a designated foreign terrorist organization, Lashkar-e-Taiba, and providing material support and resources to a designated foreign terrorist organization.

The evidence at trial established that during a three-month trip to Pakistan in 2001-2002, Chandia met and allied himself with Mohammed Ajmal Khan, a British citizen of Pakistani descent. Khan, who is currently serving a nine-year sentence in the United Kingdom for directing a terrorist organization, served as a military procurement official for Lashkar-e-Taiba.

DOJ_NMG_ 0167107

Chandia assisted Khan in procuring military-purpose equipment for Lashkar-e-Taiba for use in its violent jihad against India. He gave safe harbor to Khan during Khan's visits to the United States in 2002 and 2003, and allowed Khan to use his home computer to pursue the acquisition of equipment such as unmanned aerial vehicles, night-vision equipment and wireless video cameras. Khan also used the defendant's computer to confirm the purchase of $17,000 of Kevlar anti-ballistic material that Khan had purchased for Lashkar-e-Taiba.

In a search of Chandia's home conducted on May 8, 2003, the FBI found audiotapes and other materials manifesting his commitment to violent jihad. On the front seat of Chandia's car, the FBI also found a CD-ROM containing videos glorifying the Sept. 11, 2001, terrorist attacks, Osama bin Laden and the 19 hijackers who carried out the attacks. They also found a CD-ROM containing still photographs of persons jumping to their deaths from the World Trade Center towers.

"Terrorist organizations like Lashkar-e-Taiba rely on a network of individuals to carry out their deadly operations," U.S. Attorney Rosenberg stated today. "Ali Asad Chandia was a member of that network for Lashkar-e-Taiba, and he will now spend a very long period of time in prison for providing material support in furtherance of its violent agenda."

The Washington, D.C. and Baltimore field offices of the FBI investigated the case, led by Special Agent Christopher Mamula. The Anti-Terrorist Branch of New Scotland Yard in the United Kingdom also provided substantial assistance in the investigation.

The case was prosecuted by Assistant U.S. Attorney David H. Laufman and Department of Justice Trial Attorney John T. Gibbs.

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Image not available for this document, ID: 0.7.10316.36352-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 5:06 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTIONAL OFFICER INDICTED FOR FEMA FRAUD

Department of Justice

United States Attorney Donald W. Washington
Western District of Louisiana

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
www.usdoj.gov/usao/law

CONTACT: DONALD W. WASHINGTON
PHONE: (337) 262-6618
FAX: (337) 262-6680

CORRECTIONAL OFFICER INDICTED FOR FEMA FRAUD

SHREVEPORT, La. – Cicero Patterson, 45, of Alexandria, La., has been indicted by a federal grand jury for claiming to be a hurricane victim in order to fraudulently obtain FEMA relief funds, U.S. Attorney Donald W. Washington of the Western District of Louisiana announced today.

The indictment charges Patterson, a correctional officer at the U.S. Penitentiary in Pollock, La., with three counts of wire fraud and one count of theft of public funds. The indictment alleges that in September 2005, Patterson applied for federal disaster relief, falsely claiming that due to Hurricane Katrina, his primary residence which he was purportedly renting in New Orleans, had been damaged and that his automobile had been damaged and could not be driven. Patterson also falsely claimed in his application for federal disaster relief that he had lost work due to Hurricane Katrina. Based on the information provided to FEMA, Patterson allegedly received a wire transfer in the amount of $10,391.

The indictment further alleges that in December 2005, Patterson falsely informed FEMA that he had spent all or part of the rental assistance which had been provided by FEMA on essential needs and he lacked sufficient additional funding to address those needs. Based on Patterson's

DOJ_NMG_ 0167111

request for additional funds from FEMA, he allegedly received a wire transfer of funds from FEMA in the amount of $2,028.

Patterson is scheduled to be arraigned before U.S. Magistrate Judge James Kirk in U.S. District Court in Alexandria, La. on Aug. 30, 2006 at 10:30 a.m.

If convicted, Patterson faces a maximum of 20 years on the charge of wire fraud, 10 years in prison on the charge of theft, and a $250,000 fine.

An indictment is merely an accusation and a defendant is presumed innocent unless and until proven guilty. Defendants are entitled to a presumption of innocence under the law, and the government has the burden of proving every element of the charges beyond a reasonable doubt.

The charges resulted from an investigation conducted by the U.S. Department of Justice's Office of Inspector General and the U.S. Department of Homeland Security's Office of the Inspector General. This individual brings the total to 32 defendants who have been charged in the Western District of Louisiana with violations related to FEMA relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division - includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

This case was investigated by the U.S. Department of Justice's Office of Inspector General and the U.S. Department of Homeland Security's Office of the Inspector General, and is being prosecuted by Assistant U.S. Attorneys Allison D. Bushnell and Alexander C. Van Hook.

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Image not available for this document, ID: 0.7.10316.36349-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 6:54 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 28-SEPTEMBER 1, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 25, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR August 28 – September 1, 2006

Monday, August 28

Events TBD

Tuesday, August 29

11:45 A.M. MDT John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

Wednesday, August 30

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

DOJ_NMG_ 0167115

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Thursday, August 31

Events TBD

Friday, September 1

Events TBD

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Image not available for this document, ID: 0.7.10316.36345-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 7:38 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 25, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

ABC News to Air Story on Katrina Fraud (OPA)
On Monday, ABC News will air a story on Good Morning America and World News Tonight regarding those who defrauded the government in the wake of Hurricane Katrina. U.S. Attorney David Dugas of the Middle District of Louisiana was interviewed for the story. It is expected to feature the Department's anti-fraud enforcement efforts in a positive light.

FBI Responds to Media Inquiries Regarding Security Incidents Aboard Flights (FBI)
Today, the FBI responded to multiple media inquiries related to several recent security incidents involving US flights, including the flight from England to Chicago that was re-routed to Bangor, Maine because of security concerns.

***New York Times* Working on Story Regarding London Plot (FBI)**
New York Times reporter Don Vanatta, based in London, is working on a story for Sunday on the investigation into the disrupted terror plot in England. The FBI referred him to British authorities.

Fox News Programs to Feature Four Fugitives Wanted by FBI (FBI)
On August 26, the Fox News program "The Lineup" will feature Section Chief John Gillies of the Violent Crimes Section. He will discuss Anthony Dewater, Gary Lee St. John, Patty Ann & Phillip Kenley, and Frantz Dieudonne, all wanted for crimes against children.

On August 26, the Fox News program "America's Most Wanted" will highlight a number of cases of interest to the FBI, including two sex predators and a suspected murderer.

***Wall Street Journal* interviews Assistant Director Burrus Regarding Gangs (FBI)**
Today, *Wall Street Journal* reporter Gary Fields interviewed Assistant Director Chip Burrus on MS-13 and Central American Gangs. The story is expected to run next week.

Operator of Massive For-Profit Software Piracy Website Sentenced (Criminal)
The owner of a massive for-profit software piracy website was sentenced in federal court to six years in prison. In addition to the prison term, Danny Ferrer, of Lakeland, Fla., was also

ordered by U.S. District Judge T.S. Ellis III to forfeit the proceeds of his illegal conduct, pay restitution of more than $4.1 million, and perform 50 hours of community service. The ordered forfeiture involves a wide array of assets, including airplanes, a helicopter, boats and cars, all of which Ferrer had purchased with the profits from his illegal enterprise.

Talking Point

- The Department of Justice is committed to vigorous enforcement of the law and protection of intellectual property rights.

Army Reserve Officer Pleads Guilty to Money Laundering Conspiracy Involving Stolen Currency and Fraud in Iraq (Criminal)

Bruce D. Hopfengardner, a lieutenant colonel in the U.S. Army Reserve, pleaded guilty to two conspiracy charges in a scheme to defraud the Coalition Provisional Authority - South Central Region (CPA-SC) in Al-Hillah, Iraq. At today's hearing before the Honorable Colleen Kollar-Kotelly, U.S. District Judge for the U.S. District Court for the District of Columbia, Hopfengardner, of Frederick, Va., admitted conspiring to commit wire fraud and to launder funds in connection with a scheme to steal currency designated for the reconstruction of Iraq and to steer contracts to a contractor in exchange for money and property. Hopfengardner also admitted to smuggling stolen currency into the United States in March 2004 when he returned from Iraq on leave.

Talking Point

- The Department of Justice remains committed to prosecuting all cases that undermine the reconstruction of Iraq.

FRIDAY'S EXPECTED EVENTS/RELEASES:

1:30 P.M. EDT	Deputy Attorney General Paul J. McNulty will hold a press conference regarding a corporate fraud matter with U.S. Attorney Michael Sullivan of the District of Massachusetts and officials from the SEC and the U.S. Postal Inspection Service. Department of Justice Robert F. Kennedy Building 950 Constitution Avenue, NW Washington, DC

All press inquiries regarding logistics should be directed to the Department of Justice Office of Public Affairs at 202-514-2007.

Amber.JMD

From: Amber.JMD
Sent: Monday, August 28, 2006 2:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Leesburg, FL

From: AmberAlert-DOJ
Sent: Monday, August 28, 2006 2:01:02 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Leesburg, FL
Auto forwarded by a Rule

AMBER ALERT:Leesburg,FL CHILD:2 Asian M 3'0 35 Eyes:Bro Hair:Bro LAST SEEN IN BLUE & GREEN STRIPPED SHIRT, OR NO SHIRT, DENIM SHORTS & DIAPER CALL 352-787-2121
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2002

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Monday, August 28, 2006 5:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Scottsdale, AZ

From: AmberAlert-DOJ
Sent: Monday, August 28, 2006 5:01:11 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Scottsdale, AZ
Auto forwarded by a Rule

AMBER ALERT:Scottsdale,AZ CAR:1999 White 4dr Chrysler TAG:AZ 850-NVR CHLD:5 W/F 4'0 Eye:Blu Hair:Lt bro SUSPECT:33 W/M 6'0 Eye:Blu Hair:Blo CALL 480-312-5000
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2003

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 9:03 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

Department of Justice

FOR PLANNING PURPOSE ONLY
MONDAY, AUGUST 28, 2006
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TDD (202) 514-1888

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

WASHINGTON – Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice, Securities and Exchange Commission (SEC) and U.S. Postal Inspection Service will hold a press conference regarding a corporate fraud matter **TODAY, AUGUST 28, 2006, at 1:30 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Linda Thomsen, Director of the Division of Enforcement, SEC
Michael J. Sullivan, U.S. Attorney, District of Massachusetts
Peter Zegarac, Inspector in Charge of the U.S. Postal Inspection Service, Boston District

WHAT: Press Conference

WHEN: **TODAY, AUGUST 28, 2006**
1:30 P.M. EDT

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **12:30 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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DOJ_NMG_ 0167124

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Image not available for this document, ID: 0.7.10316.36073-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 10:02 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 28, 2006

Department of Justice

PRESS GUIDANCE
Monday, August 28, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Department of Justice will issue a release on a corporate fraud matter. (Sierra)

The Tax Division will issue a release on a tax fraud matter. (Miller)

EVENTS/HEARINGS

1:30 P.M. EDT	Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice, Securities and Exchange Commission (SEC) and U.S. Postal Inspection Service will hold a press conference regarding a corporate fraud matter. Seventh Floor Conference Room Department of Justice 950 Constitution Avenue, N.W. Washington, D.C. **OPEN PRESS**

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167127

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Image not available for this document, ID: 0.7.10316.36091-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, August 28, 2006 11:12 AM
Subject: JCON BROADCAST, WEEK OF AUGUST 28, 2006

JCON BROADCAST, WEEK OF AUGUST 28, 2006

1. **Fire Alarm Testing in the RFK MAIN Justice Building**
2. **Temporary Closure of the 10th Street Entrance**
3. **Research Classes Offered by Library Staff**

Fire Alarm Testing in the RFK MAIN Justice Building

On Thursday, August 31, 2006, the Justice Building Services (JBS) and GSA's Life Safety and Fire Alarm Shop will be performing a fire alarm test of the audible and visual devices throughout the Main Justice Building. This test is required because of the damage that was done to the building's fire alarm system during the flood. The audio and visual devices will be activated, and the test will run for about one hour. There are some preliminary tests (silent tests) that will need to be completed prior to the actual alarm test. This is being done in order to reduce the time needed for the actual alarm test. Prior to the start of the test, an announcement will be made giving instructions to building occupants while the test is being conducted. If there are any questions or concerns, please call JBS on 514-2186 or 514-1611.

Temporary Closure of the 10th Street Entrance

The 10th Street vehicle and pedestrian turnstile entrance at the Main Justice Building will be closed from 7:00 p.m., Friday , September 8, 2006, until 6:00 a.m., Sunday, September 10, 2006. During this time, all vehicle and pedestrian traffic must enter through the 9th Street gate.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

fhcsDJ@opm.gov

From: fhcsDJ@opm.gov
Sent: Monday, August 28, 2006 12:30 PM
To: Gorsuch, Neil M
Subject: Final Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/DJ/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 28, 2006 12:31 PM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: Term Member Trip to the NY Fed
Attachments: TMFedTripRevised.DOC

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Aug 24 15:48:08 2006
Subject: Term Member Trip to the NY Fed

Dear Term Member--

Several spots have opened up for the term member trip to the New York Federal Reserve on September 7, 2006.

If you are interested in attending the trip, please RSVP to this email as soon as possible. **Please only respond if you know for certain you can attend.**

I have attached the trip agenda and additional information regarding the trip is below.

Please contact me with any questions.

Sincerely,

[redacted]

(See attached file: TMFedTripRevised.DOC) _____

Getting to the Federal Reserve Bank of New York

Directions for traveling to the Fed by subway can be found online at http://www.newyorkfed.org/aboutthefed/ny_directions.html

When you arrive, please enter the main building at 33 Liberty Street. Term members must be pre-registered through the Council to gain access to the building and upon arrival must present a government-issued identification card that includes a photograph, such as a driver's license or passport.

The Federal Reserve strongly recommends that Term Members arrive early, as we expect a large group and security screening will take several minutes.

Background information

You can read more about the Federal Reserve System and the New York Fed at http://www.newyorkfed.org/aboutthefed/introtothefed.html.

Council on Foreign Relations
Term Member Day Trip to the
Federal Reserve Bank of New York

Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
Thursday, September 7, 2006

Meetings to be held in the Board Room, 10th Floor

8:00 a.m. – 8:30 a.m.	Arrivals, Security Clearance, Coffee Reception *Please access the building through the 33 Liberty Street entrance*
8:30 a.m. - 9:00 a.m.	"Welcome: the Role of the 'Fed' in the U.S. Economy" Speaker: [redacted], *First Vice President**
9:00 a.m. - 10:00 a.m.	"Financial Services: Being the (Central) Banker's Bank" Speakers: • [redacted], *Executive Vice President*, Financial Services; • [redacted], *Senior Vice President,* Central Bank and International Account Services, Markets Group, • [redacted], *Senior Vice President and Chief of Staff*, Executive Office
10:00 a.m. – 10:15 a.m.	Break
10:15 a.m. – 11:00 a.m.	"Promoting Sound Risk Management in the Banking Sector" Speakers: • [redacted], *Executive Vice President*, Bank Supervision • [redacted], *Senior Vice President,* Bank Supervision

* Life Member, Council on Foreign Relations

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11:00 a.m. - 11:45 p.m.	"Maintaining Sound Payments Systems: the Fed's Reaction During September 11th" Speakers: • [redacted], *Assistant Vice President,* Electronic Payments, and • [redacted], *Vice President*, Markets Group
11:45 a.m.-12:00 p.m.	Break
12:00 p.m. - 1:30 p.m.	Lunch with Bank staff and discussion: "Financial Stability, Monetary Policy, and International Considerations (China)" Speakers: • [redacted], *Executive Vice President,* Research and Statistics; • [redacted], *Vice President*, Markets Group; and • [redacted], *International Officer*, Emerging Markets and International Affairs • Moderator: [redacted], *Assistant Vice President*, Public Information Location: Executive Dining Room, 10th Floor, 33 Liberty Street
1:40 p.m. – 2:15	"The Fed In Transition: Thoughts and Observations" Speaker: Timothy Geithner, *President* and Vice Chairman of the Federal Open Market Committee* Location: Board Room, 10th Floor, 33 Liberty Street
2:15 p.m. -2:20	Break
2:30 p.m. – 3:15 p.m.	Tour of the Gold Vault
3:15 p.m.	Conclusion of the Term Member Visit *Term Members are free to visit two exhibits in the Fed's museum space on their own: "Drachmas, Doubloons and Dollars: The History of Money," co-sponsored by the American Numismatic Society, and the interactive "FedWorks" exhibit.*

DRAFT

* Life Member, Council on Foreign Relations

DOJ_NMG_ 0167137

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 1:00 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER DEPUTY OF HARRISON COUNTY SHERIFF'S DEPARTMENT CHARGED IN DEATH OF INMATE

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 28, 2006
WWW.USDOJ.GOV

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

FORMER DEPUTY OF HARRISON COUNTY SHERIFF'S DEPARTMENT CHARGED IN DEATH OF INMATE

WASHINGTON – Ryan Michael Teel, a former Deputy of the Harrison County, Miss. Sheriff's Department, was indicted on charges relating to the circumstances surrounding the death of an inmate, Jessie Lee Williams Jr., who died as a result of injuries sustained at the Harrison County Adult Detention Center on February 4, 2006. The two-count criminal indictment was announced today by Wan J. Kim, Assistant Attorney General of the Civil Rights Division and Dunn Lampton, U.S. Attorney for the Southern District of Mississippi.

Count one of the indictment alleges that Teel assaulted Williams, thereby depriving him of his constitutionally-protected civil rights. It is further alleged that Teel's conduct involved an attempt to kill Williams, resulting in his bodily injury and death.

The second count alleges that Teel obstructed justice by falsifying an official report with intent to obstruct an investigation into the assault on Williams.

If convicted, Teel faces a maximum penalty of life in prison on count one of the indictment, and a maximum penalty of 20 years in prison and a fine of $250,000 on count two.

A criminal indictment represents an accusation only, and that all criminal defendants in every criminal case are entitled to the presumption of innocence unless or until otherwise proven guilty.

Assistant Attorney General Kim and U.S. Attorney Lampton commended the Federal Bureau of Investigation and the Mississippi Bureau of Investigation for spearheading and devoting significant resources to this investigation.

Assistant U.S. Attorney Jack Lacey, and Special Litigation Counsel Lisa Krigsten and Trial Attorney John Richmond from the Civil Rights Division are prosecuting this case for the government.

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Image not available for this document, ID: 0.7.10316.36055-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 1:43 PM
To: USDOJ- Office of Public Affairs
Subject: PRUDENTIAL FINANCIAL SUBSIDIARY AGREES TO PAY $600 MILLION TO SETTLE SECURITIES FRAUD ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 28, 2006
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PRUDENTIAL FINANCIAL SUBSIDIARY AGREES TO PAY $600 MILLION TO SETTLE SECURITIES FRAUD ALLEGATIONS

Agreement is Largest Resolution of "Market Timing" Case

WASHINGTON -- Prudential Equity Group LLC (PEG), a broker-dealer subsidiary of Prudential Financial Inc. (Prudential), has entered into a deferred prosecution agreement in which PEG has admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual fund shares dating back to 1999 and agreed to a payment of $600 million in fines, restitution and penalties.

The agreement was announced today by Deputy Attorney General Paul J. McNulty, chairman of the President's Corporate Fraud Task Force, who was joined by Director of the Division of Enforcement Linda Thomsen of the Securities and Exchange Commission (SEC), U.S. Attorney Michael J. Sullivan of the District of Massachusetts, and Peter Zegarac, Inspector in Charge of the U.S. Postal Inspection Service's (USPIS) Boston District.

The Justice Department has also entered into a separate compliance agreement with PEG's parent company, Prudential. Under the terms of that compliance agreement, Prudential will also cooperate with the Justice Department in its ongoing investigation and will maintain policies and procedures relating to the integrity of the compliance functions across its various affiliated entities. The compliance agreement provides that the General Counsel of Prudential shall make periodic reports to the Prudential Board of Directors Audit Committee as to the appropriateness and effectiveness of the compliance plan. It also requires the General Counsel to provide the reports to the U.S. Attorney in the District of Massachusetts, along with a certification that the reports include all material information bearing on the effectiveness of the compliance plan.

According to a statement of facts accompanying the agreement, from 1999 through June 2003, a number of brokers at PEG's predecessor entity, Prudential Securities Inc. (PSI), engaged in a scheme to defraud mutual funds and their shareholders by using deceptive practices to place thousands of prohibited market timing trades on behalf of the brokers' clients, which were typically sophisticated hedge funds. The brokers were able to place these trades, thereby generating commissions for themselves and illicit profits for their clients, by manipulating trade information sent over the automated mutual fund trading system PSI used to communicate trades to mutual funds. Through the automated system, brokers were able to defeat efforts by the mutual funds

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to block their abusive market timing trading, by placing their trades in multiple accounts, often with multiple identities, to make it appear that the trades were coming from many different, unrelated brokers representing many different, unrelated clients.

"This is a great victory for the investing public," said Deputy Attorney General McNulty. "The deceptive trading practices at Prudential were compromising the integrity of many mutual funds. Investors were dealt a bad hand by corporate con-men who stacked the deck against them. This resolution sends a strong message to predatory traders who dupe the system to reap millions in illegal profits."

U.S. Attorney Sullivan stated, "It is critically important for the public to have confidence in the integrity of our financial systems. The conduct at issue here was particularly troublesome, because it undermined the integrity and utility of the automated, standardized mutual fund trading system, a system that was created to bring greater efficiency to the trading of mutual funds."

According to the statement of facts, on multiple occasions, the brokers' deceptive conduct came to the attention of senior management at PSI, who failed to stop the activity. Mutual fund companies repeatedly sent letters and e-mail to PSI imposing blocks on further market timing activity by the brokers. Some of these communications notified PSI that the brokers were engaged in deceptive practices to continue placing market timing trades.

Despite the communications by the mutual fund companies, PSI continued to issue brokers additional accounts for the clients engaged in timing; continued to issue additional broker identification or "FA" numbers to brokers that were used with the market timing clients; failed to utilize controls that could limit the brokers' ability to engage in the deceptive practices; failed to comply with mutual fund companies' requests that the market timing conduct of the brokers cease; misled some mutual fund companies by representing to them that PSI could and would stop the brokers from trading in their funds, and then failing to do so; failed to implement appropriate policies designed to prevent the brokers from engaging in the deceptive practices; and failed to impose any discipline upon any of the brokers even under circumstances where senior PSI managers were actually aware of the brokers' deceptive conduct.

As part of the settlement, $270 million will be paid into the SEC Fair Fund, a fund set up to compensate victims of the fraudulent conduct. The $300 million criminal penalty will be paid directly to the U.S. Treasury and $25 million is being paid to the USPIS Consumer Fraud Fund to assist in future fraud detection and deterrence efforts. There is also a $5 million civil penalty being paid to the Secretary of the Commonwealth of Massachusetts.

In addition to the payment, PEG has also agreed to abide by a variety of terms and conditions for a period of five years, including cooperation with the Justice Department in its ongoing investigation of abusive and fraudulent trading in mutual fund shares.

To date, three individuals associated with the fraudulent trading at PEG's Boston branch office – Martin Druffner, Skifter Ajro and Robert Shannon – have pleaded guilty to wire and securities fraud charges. Druffner and Ajro are awaiting sentencing. Shannon was sentenced in July 2006.

This is an ongoing investigation, and the Justice Department and the U.S. Attorney's Office in the District of Massachusetts are continuing their investigation of other individuals and entities for fraudulent trading in mutual funds.

The case was investigated by the U.S. Attorney's Office in the District of Massachusetts, the USPIS, the SEC, and the Secretary of the Commonwealth of Massachusetts' Securities Division. It is being prosecuted by Assistant U.S. Attorney Jack Pirozzolo of the Economic Crimes Unit.

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Since its creation by Executive Order in July 2002, the Corporate Fraud Task Force (CFTF) has spearheaded the administration's effort to prosecute corporate malfeasance, protect the jobs of hard-working Americans, and restore confidence to the marketplace. Through the coordinated efforts of several federal agencies, the CFTF is sending a clear message that criminal activities in the corporate world will be swiftly and decisively prosecuted. By acting to deter fraud, the Task Force is also helping to restore shareholder and employee trust and demonstrating to the American people that the vast majority of corporate leaders are still honest and hardworking.

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Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 2, 2006 8:30 AM
End:	Monday, October 2, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Oldham, Jeffrey L; Pacold, Martha M; Gorsuch, Neil M; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Occurs every weekday effective 10/2/2006 until 10/31/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Tasia Scolinos, Evan Young, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Wednesday, November 1, 2006 9:30 AM
End:	Wednesday, November 1, 2006 10:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Oldham, Jeffrey L; Pacold, Martha M; Gorsuch, Neil M; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Occurs every weekday effective 11/1/2006 until 11/30/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Evan Young, Tasia Scolinos, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 6:12 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT PRESS CONFERENCE REGARDING PRUDENTIAL EQUITY GROUP SECURITIES FRAUD ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 28, 2006
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TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT PRESS CONFERENCE REGARDING PRUDENTIAL EQUITY GROUP SECURITIES FRAUD ALLEGATIONS

DEPUTY ATTORNEY GENERAL McNULTY: Good afternoon. The crackdown on corporate fraud continues. Today we are announcing a major victory in our continuing efforts to combat corporate fraud, and this time it is directed at fraudulent trading in mutual funds.

Joining me in this afternoon's announcement are Michael Sullivan, the United States Attorney for Massachusetts, Peter Zegarac, who is the Inspector in Charge of the Boston Office at the United States Postal Inspection Service, and Linda Thomsen, Director of the Division of Enforcement of the Securities and Exchange Commission, and Susan Merrill, Chief of Enforcement of the New York Stock Exchange.

Today we are announcing that Prudential Equity Group, a broker-dealer subsidiary of Prudential Financial, Inc., has entered a deferred prosecution agreement with the Department of Justice. They have admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual funds and have agreed to pay $600 million in fines, restitution and penalties. This is the largest resolution of a market timing case to date.

Prudential Equity has also agreed to comply with a number of conditions, including the cooperation with the Department of Justice in its ongoing investigation of abusive and fraudulent trading in mutual fund shares.

Assuming they fully comply with the terms of the agreement, which will last for five years, the Department will not prosecute Prudential Equity for securities fraud.

The Department has also entered a separate compliance agreement with Prudential Equity's parent company, Prudential Financial. Under this agreement, Prudential Financial will also cooperate with our ongoing investigation and will maintain policies and procedures relating to the integrity of the compliance functions across its affiliated entities.

The compliance agreement requires Prudential to make periodic reports to the Prudential Board of Directors' Audit

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Committee as to the appropriateness and effectiveness of the compliance plan. These reports will also go to the U.S. Attorney in Massachusetts, along with a certification that the reports include all material information bearing on the effectiveness of the compliance plan.

Today's announcement is a victory for law enforcement agencies committed to stopping abusive mutual fund practices. But more importantly, it's a victory for investors in mutual funds. And I have more to say about that in a moment.

Not only does this agreement hold accountable corporate executives, but through it, we ensure that millions of dollars will be available to compensate innocent investors harmed by the fraudulent practices.

A significant portion of Prudential Equity's payment, $270 million, will be paid into the SEC's Fair Fund to compensate victims of the fraudulent conduct.

This settlement also requires payment of substantial criminal penalty, $300 million, to be paid directly to the United States Treasury, and $25 million to be paid to the Postal Inspection Services Consumer Fraud Fund.

Finally, the company will pay a $5 million civil penalty to the Secretary of the Commonwealth of Massachusetts.

Let me explain briefly how this fraud worked and give some details of the scheme that was used in this case. From 1999 through June of 2003, a number of brokers at Prudential Securities -- that's Prudential Equity's predecessor entity -- committed securities fraud by engaging in prohibited market timing trades on behalf of their clients. Now market timing trades is basically taking advantage of time zone trading and fluctuations on the share values between the late afternoon calculations of net share value by mutual funds, doing so in very large number, very large way, buying and dumping these shares.

These brokers defeated safeguards designed to protect against such illegal market timing trades by using false accounts and false identities to give the impression that the trades were coming from many different unrelated brokers representing many different clients. One group of brokers in Boston repeatedly used these deceptive practices to circumvent mutual fund restrictions.

Efforts by the mutual funds to stop this practice were foiled. Many of the affected funds screened for market timing trades by broker identification number, also known as the FA number, and customer account numbers.

When irregularities were found, these fund companies complained to Prudential Securities that the Boston-based brokers had violated trading limitations. Some mutual funds even announced steps they had taken to preclude the Boston brokers from further trading, while others asked Prudential Securities to block further trades by the group in the fund.

Now to circumvent these efforts, the brokers used at least 14 FA numbers and 183 customer accounts for what were, in reality, only 7 clients. And by using these deceptive practices, the brokers were able to create the impression that the trading originated from many brokers and represented many different customers.

In fact, what appeared to be thousands of separate transactions submitted by many brokers for many unrelated customers was actually a systematic pattern of market timing by a small number of brokers on behalf of their hedge fund clients. At least two dozen brokers throughout the Prudential Securities system were involved in deceptive mutual fund market timing.

From 2001 through 2003, these brokers generated in excess of $50 million in commissions and in excess of $100 million in profits for their hedge fund clients. Some of these brokers were among the highest fee producers for the company.

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Prudential Equity Group admits that on multiple occasions, the brokers' deceptive conduct came to the attention of senior management at Prudential Securities, who failed to stop the activity. Prudential Securities' repeated unambiguous and clear requests from mutual fund companies informing it that the market trading timing from Prudential brokers must be stopped.

Despite these communications, Prudential Securities continued to issue brokers additional accounts and FA numbers and failed to institute controls to stop these deceptive practices and protect mutual funds. The company also failed to impose any discipline upon any of the brokers even where certain senior managers were actually aware of the brokers' deceptive conduct.

To date, three individuals associated with the fraudulent trading at Prudential Equity Group's Boston, Massachusetts branch office -- Martin Druffner, Skifter Arjo and Robert Shannon -- have pled guilty to wire and securities fraud charges. Our investigation continues of other individuals and entities for fraudulent trading in mutual funds.

With today's announcement, the small investor logs in another victory in our fight against corporate fraud.

Mutual fund investing has become a necessity for many Americans. More and more Americans rely on mutual funds as a primary investment. Mutual fund investments can substitute for pension plans and standard bank accounts. Mutual fund shares now represent a large portion of the life savings of the average American.

Unfortunately, there are some in the securities business, predators motivated solely by greed, who continually find new schemes to exploit our financial markets and to line their pockets with illegal profits. When uncovered, their criminal conduct erodes trust, breeds cynicism and casts doubts on the public's ability to choose safe investment vehicles for its hard-earned dollars.

This resolution goes a long way in restoring the public's trust. It could not have been accomplished without the hard work of our nation's prosecutors and law enforcement agencies.

The Justice Department thanks the United States Postal Inspection Service, the Securities and Exchange Commission, the Secretary of the Commonwealth of Massachusetts Securities Division, and other civil regulators for their help in reaching this resolution, including the New York Stock Exchange.

This team put forth an extraordinary effort, and will continue to do so to root out abusive and fraudulent trading practices in the mutual fund industry.

I am pleased now to recognize the United States Attorney for the District of Massachusetts, Michael Sullivan, for a brief statement. Michael?

U.S. ATTORNEY SULLIVAN: Thank you. Thank you, Mr. McNulty. It's a pleasure for me to be here. Let me begin by just thanking and recognizing the Deputy Attorney General in the Department of Justice for their leadership in the effort to combat corporate fraud.

I'd also like to acknowledge the extraordinary commitment and hard work of the agents, investigators and prosecutors assigned to this investigation, the United States Postal Inspection Services, the Securities and Exchange Commission, and the United States Attorney's Office.

Our investigation into abusive trading in mutual funds is ongoing. We will continue to aggressively investigate, and if appropriate, prosecute individuals and entities involved in deceptive and fraudulent conduct in the mutual fund marketplace.

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The conduct at issue here was particularly troublesome, because it was the conduct that undermined the integrity and utility of the automated standardized mutual fund trading system, a system that was created to bring greater efficiency for the trading of mutual funds. Indeed, by 2003, some funds had withdrawn from the system because of the abusive trading which these brokers were engaged. This prosecution is, at least in part, of our restoring confidence in the way that mutual funds are bought and sold.

The conduct in this case not only undermined the integrity of the automated mutual fund trading system, but it ultimately came at the expense of the majority of mutual fund investors who followed the rules and used mutual funds as they were intended to be used; as long-term investment vehicles.

The deceptive conduct here allowed brokers and their hedge fund clients to reap millions of dollars in commissions and trading profits while harming the investment return of the average, long-term mutual fund shareholders.

The repeated and deceptive conduct in an industry which has become for many Americans the place where they invest most of their retirement savings, is what made this case a priority for the Department of Justice and one that justified a commitment of the extensive criminal investigative resources used.

The Department and U.S. Attorney's Offices around the country are committed to vigorously investigating, and if appropriate, prosecuting individuals and entities that threaten the integrity of the mutual fund marketplace.

Though we were faced with many important challenges, addressing corporate fraud and white collar crime continues to be a top priority. And I am hopeful that today's agreement with Prudential will send a clear message to corporate American that the Department of Justice aggressively investigates and prosecutes those who jeopardize the integrity of our nation's financial systems.

Thank you.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Mike. This is by far not the first time and certainly won't be the last time that I have the privilege of sharing the stage with Linda Thomsen, who directs enforcement at the Securities and Exchange Commission.

The partnership between the Department of Justice and the Securities and Exchange Commission has never been stronger. And I appreciate once again Linda being here to represent the SEC and its role in this case. Linda?

DIRECTOR THOMSEN: Thank you, Paul. Thank you, and good afternoon. Today's actions reflect the latest step in a sustained effort at the federal, state and self-regulatory levels to address harm to mutual fund investors. The actions just described by the Deputy Attorney General and the United States Attorney for the District of Massachusetts reflect the seriousness of the misconduct here.

In addition to these actions, the Massachusetts Securities Division, the NASD, the New Jersey Bureau of Securities, the New York Attorney General, the New York Stock Exchange, and the Securities and Exchange Commission, have initiated proceedings relating to the illegal behavior by Prudential Securities Inc. and its registered representatives.

I'd like to commend all of the individuals at the Department of Justice, especially those in the District of Massachusetts, at the United States Postal Service, and those in the state offices in Massachusetts, New Jersey and New York, at the NASD and the New York Stock Exchange, and of course my colleagues at the SEC, for all of the diligence and hard work today's actions reflect.

Today the Securities and Exchange Commission has filed two actions. The first is a settled administrative action

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against Prudential in connection with the active and aggressive acts of deception by its brokers. These practices were designed to hide the brokers' identities and the identities of their hedge fund customers to place market timing trades in mutual funds when those mutual funds were attempting to block market timing, which was harming their investors.

Mutual fund companies sent more than a thousand letters and e-mails to Prudential, many of them notifying the company that its representatives were using deceptive trading practices, and asking Prudential to stop the activity. High level officers of Prudential were aware of the complaints, but the company failed to take action to stop the fraud.

As a result of this settled action, $270 million will be distributed to harmed mutual funds and their shareholders.

Today's second SEC action is an unsettled civil action against four former brokers of Prudential, whom we allege engaged in this fraud; Frederick O'Meally, Brian Corbett, Michael Silver, and Jason Ginder. I should note that previously, in November of 2003, we filed suit against six other individuals, five other former Prudential brokers and their branch manager, for similar activity.

In today's action against the individual brokers, we allege that each of the defendants engaged in an array of deceptive conduct, all designed to allow hedge fund customers to engage in market timing in mutual funds when those funds were actively attempting to prevent harm to their investors by halting such trading.

Among other things, we allege that the defendants used more than 750 different customer accounts to process transactions, using dozens, and in one instance hundreds, of different account numbers for the same customer. In this action, which has been filed in federal court in New York, we seek the full panoply of available remedies, including injunctions, disgorgement and penalties.

As I mentioned at the outset, today's actions are part of a sustained effort by many in law enforcement to address mutual fund abuse. To date, the SEC has brought dozens of actions and collected over $3 billion for distribution to harmed funds and investors. Many, many dedicated individuals have contributed to this effort.

Today's SEC actions are the result of the work of an intrepid team in our Boston office; David Bergers, John Dugan, Beth Lehman, Stuart Feldman, Frank Huntington, Maureen Harrington, and Cara Ramos.

And I thank you very much.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Linda. I also think a significant component of this case is the role of the United States Postal Inspection Service. We have a lot of discussion about the resources of the FBI in the area of white collar crime post-9/11, and I think this case illustrates how part of the answer to that demand upon the FBI are the other agencies that are more than ready to step up and invest enormous resources. And the Postal Inspectors did just that.

This is a huge case. The commitment they made to it and the resources they put out to make it possible are really extraordinary, and it should send a message to the entire enforcement community that a key partner in this effort has been and will continue to be the Postal Inspector. So I'm glad that Peter Zegarac is here to say a brief word. Peter?

INSPECTOR ZEGARAC: Thank you, Mr. McNulty. My name is Peter Zegarac, and I am the Postal Inspector in charge of our Boston Division. The United States Postal Inspection Service is very proud of its long history of protecting the American consumer from fraudulent and deceptive practices through the use of the United States mail. This significant settlement is the culmination of more than two years of dedicated Postal Inspectors conducting more than 100 interviews and reviewing millions of electronic and physical documents to protect the

DOJ_NMG_ 0167152

American public and the integrity of the United States mail.

We wish to recognize the outstanding cooperative efforts of all of our regulatory and law enforcement partners, and especially those of the United States Attorney's Office for the District of Massachusetts.

DEPUTY ATTORNEY GENERAL McNULTY: And again, thank you, Susan, for the New York Stock Exchange role in this case. I'm happy to answer any questions you might have. Yes?

QUESTION: I have a question, a two-part question regarding part of the settlements. First, I notice there is a waiver involved in the -- attorney-client privilege waiver. And secondly, this line that Prudential is to make best efforts to make available for interviews its employees and former employees.

In light of Judge Kaplan's recent ruling on KPMG, I'm just wondering if you could speak to your decision or the U.S. Attorney on implementing this and whether you have concerns about how a court would view this in light of Judge Kaplan's ruling. And as a second part to that, whether you've given Prudential any guidance on how to get their employees to cooperate, and whether attorney fees played a part in that.

DEPUTY ATTORNEY GENERAL McNULTY: Okay. Well, you've referenced the judge's -- in the Southern District of New York's ruling about the issue of attorney's fees. And this agreement addresses the question of attorney-client waiver.

The waiving of attorney-client privileged information is a standard piece of the settlements that the Department of Justice has reached in the past. And as you know, there are many agreements that we've reached in our effort to combat corporate fraud.

This agreement contains a provision of a similar nature. However, I'd note that in this waiver provision, there are some distinctions made. And it represents the kind of distinctions that the Department of Justice has been prepared and has made and is willing to continue to make as we try to work these out on a case-by-case basis.

Here we have an agreement that makes a distinction between providing information that the company has that preceded the date on which the discovery and the discontinuance of -- I shouldn't say discovery, necessarily, but the discontinuance of the practices.

It doesn't include information that the company received after that date from attorneys that might involve strategic planning or other defense-related things, things that to go what might be seen as more of a core of attorney-client communications.

So this agreement represents an effort to try to make some distinctions in the area of the waiver, not that we have to always make those distinctions, because there may be circumstances where that's not appropriate. But certainly it requires a waiver where that information is a part of the overall cooperation environment.

And that's the key here. There is every reason for Prudential to be cooperative. This is an agreement involving a different corporate structure really from then until now, which by the way, is why this deferred prosecution agreement is being reached as opposed to a criminal prosecution, because there are some real differences in terms of structure from past to present.

And, therefore, with that cooperation in mind and their willingness to work with the government to get to the bottom of it, to figure out what occurred, providing information that's relevant to our investigation is expected and is consistent with cooperating. So it has a waiver provision of that sort, of that nature.

As to providing the cooperation or providing access to individuals, that, too, is a common piece of a corporate fraud

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settlement, to provide information, to provide access. This doesn't address, at least I'll -- to the best of my knowledge; I'll check with Mike -- the issue of fees. This just deals with access. And so that, too, is different from the issue going on in the Southern District of New York case.

Yes?

QUESTION: Why did the settlement take three years to reach?

DEPUTY ATTORNEY GENERAL McNULTY: Well, in terms of the settlement reached in three years, I think what we're dealing with is a process that follows a common pattern of beginning with an investigation that involves individuals and their conduct. This case involves multiple jurisdictions and multiple investigations of conduct, and as those things go, they build step-by-step from individuals to the larger interests.

I mentioned a moment ago the evolving nature of the corporate structure. You have Prudential Financial, Wachovia entered into a joint venture to create PEG, this Prudential Equity Group, which was the -- basically the legacy of Prudential, of PSI. And that adds a layer of complexity to the settlement and discussions as to how the agreement is going to affect these other entities.

But I'd say that this one moved along in pretty much the standard pace, because of the movement from individuals, their prosecutions. Remember, here we have three individuals who have already been convicted, and I think two have been sentenced. One awaits sentencing. Is that? Two await sentencing. So I see it as basically following a typical timeline as you work your way towards a deferred prosecution agreement.

Yes?

QUESTION: I think you at one point mentioned there were as many as two dozen people involved in Prudential alone. Doing the math between civil and criminal charges, ten people have been charged so far. What about the other 14?

DEPUTY ATTORNEY GENERAL McNULTY: Well, there is an ongoing investigation. I think that's probably the simplest way to put that, rather than try to sort out who is in what category, let's just say that the criminal investigation will continue.

QUESTION: Have all the investigations and the lawsuits put an end to this practice on a widespread scale?

DEPUTY ATTORNEY GENERAL McNULTY: At least as it relates to PEG and its practices. But -- and so this represents a global settlement with regard to these brokers and this corporate entity. Does your question go to the larger?

QUESTION: The industry as a whole.

DEPUTY ATTORNEY GENERAL McNULTY: I think that the SEC would say that they have multiple investigations in the area. Do you want to speak to any of that?

MS. THOMSEN: As I said earlier, we've already brought dozens of cases. Our number is I think nearing or around 90 or so. We have had many recoveries, and there are still some matters in the hopper, but on an ongoing basis, I think the industry has noticed what we're doing. I don't think the industry wants to be in a position where its investors don't have confidence in the industry. So my hope and expectation is that we will see far fewer of this kind of -- far less of this kind of conduct on a going forward basis.

DEPUTY ATTORNEY GENERAL McNULTY: This case reveals how the mutual fund -- mutual funds

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themselves are working very hard at trying to protect themselves from this kind of more predatory activity, and despite those efforts, were being foiled and frustrated. So it reveals a lot of that policing effort that they do themselves.

Yes?

QUESTION: I don't see this in the paper, or maybe I skipped over it, but let me go over it, because I want to make sure I have it right. One of you all said that this activity generated more than $50 million in commissions for Prudential and more than $100 million in profits for the hedge fund clients. Is that right?

DEPUTY ATTORNEY GENERAL McNULTY: Yeah. Right. I said that in my statement. And we have, yeah, 50 million in commissions, in excess of 50 million in commissions, and in excess of 100 million in profits for their hedge fund clients.

QUESTION: Okay. I just wanted to make sure I had that right. And also the -- this being the largest resolution of a market timing case, is that in dollar terms? You're referring to the $600 million figure there?

DEPUTY ATTORNEY GENERAL McNULTY: I am. Mike?

MR. SULLIVAN: Six hundred and fifty-seven million dollar settlement earlier.

DEPUTY ATTORNEY GENERAL McNULTY: There was a case out of New York that involved two companies, and the combined, or the sum of the two equals more. So this is the largest single company payment.

Yes?

QUESTION: Yes. You mentioned periodic reporting. And I'm sorry, could you list again who is reporting and who they're reporting to?

DEPUTY ATTORNEY GENERAL McNULTY: Okay. Do you want to take a crack at that, Mike?

MR. SULLIVAN: Sure.

DEPUTY ATTORNEY GENERAL McNULTY: All right.

MR. SULLIVAN: I'll be very brief. I think it's actually laid out in the compliance memo with Prudential. But, yes, the agreement is that counsel for Prudential is going to be reporting on a regular basis to the board at Prudential, and then reporting to the U.S. Attorney's Office concerning ongoing compliance efforts.

QUESTION: I'm just curious about how you came to this dollar amount. One of the things that some people might say is notable here is that late trading wasn't involved, which is sort of another egregious element.

DEPUTY ATTORNEY GENERAL McNULTY: Well, that's certainly been a matter given careful consideration, and I think it was the opinion of the enforcement agencies involved in this case that this was the conduct that fit all of the facts and the law in the area.

The SEC has its own way of trying to calculate the loss in the context of an investigation like this and came to that amount. The criminal penalty is something that is the sort of result of an extensive negotiation and so forth. But I think the SEC's figure here connects with its best efforts to calculate actual losses. Does that?

Okay, yes.

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QUESTION: Of the seven clients you mentioned aware of what was going on here, are they facing penalties?

DEPUTY ATTORNEY GENERAL McNULTY: I think I'll not answer that question directly, because there is an ongoing investigation. I'll stop there. Thank you.

QUESTION: You talked a little bit about the company's changing corporate structure as one reason you decided not to bring charges against them. Any other reasons for entering into this deferred prosection?

DEPUTY ATTORNEY GENERAL McNULTY: Well, there are a lot of factors that go into a decision to have a deferred prosecution agreement, and I've touched on a few of them in terms of the cooperation generally speaking, the nature of the company leadership or structure in relation to where the conduct has occurred. That would be the issue of the restructuring that has taken place here.

The compliance efforts that were made at different times preceding what would be the need or requirement to do it under the agreement. I think that's a factor. General knowledge of senior officials of a company to the specific information, although that is not necessarily something that's going to spare a company of a prosecution versus a deferred agreement, because that knowledge is imputed to the leadership if it's occurring in certain ways.

But I think it's a variety of factors, as I've mentioned here, that create a solid case for a deferred prosecution agreement as opposed to the prosecution of the company itself. We look at those on a case-by-case basis, and one of the issues that affects the question of waiver is that the companies have to realize that they face the real possibility of prosecution, and those companies have to do things to demonstrate their good will when it comes to an agreement to not prosecute.

QUESTION: A question.

DEPUTY ATTORNEY GENERAL McNULTY: Yes?

QUESTION: Maybe this is in the release, but what's the timeframe for the deferred prosecution? At what point did Prudential say, okay, whatever lingering cloud is there is off of us?

DEPUTY ATTORNEY GENERAL McNULTY: Five years.

QUESTION: Five years?

DEPUTY ATTORNEY GENERAL McNULTY: Yes. Thank you all very much.

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Image not available for this document, ID: 0.7.10316.36042-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 7:16 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 28, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Deputy Attorney General McNulty Held Press Conference Regarding Settlement with Prudential Equity Group (OPA)
Today, Deputy Attorney General Paul J. McNulty held a press conference announcing that Prudential Equity Group LLC (PEG) has entered into a deferred prosecution agreement in which it admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual fund shares and has agreed to pay $600 million in fines, restitution and penalties. This fine is the largest resolution of a "Market Timing" case to date. The Deputy Attorney General was joined by U.S. Attorney Michael Sullivan from the District of Massachusetts and officials from the SEC and the U.S. Postal Inspection Service.

NBC Nightly News to Air Story Hurricane Katrina Fraud (OPA)
Tomorrow, NBC Nightly News will air a story regarding Department of Justice efforts to combat Hurricane Katrina Fraud. The story will feature an interview with U.S. Attorney David Dugas, of the Middle District of Louisiana.

FBI Assistant Director Interviewed Regarding FBI Efforts after Katrina (FBI)
Today, *USA Today* reporter Kevin Johnson interviewed Assistant Director Chip Burrus regarding FBI efforts in the gulf region one year after the landfall of Hurricane Katrina It is unclear when the story will run.

FBI Deputy Director Interviewed Regarding FBI Efforts to Combat Terror (FBI)
Today, *McClatchy* reporters Greg Gordon and Marisa Taylor interviewed FBI Deputy Director John Pistole to discuss progress and challenges in combating terrorism in the five years since 9/11. This story is expected to run this week.

Former Deputy of Harrison County Sheriff's Department Charged in Death of Inmate (Civil Rights)
Ryan Michael Teel, a former Deputy of the Harrison County, Miss. Sheriff's Department, was indicted on charges relating to the circumstances surrounding the death of an inmate, Jessie Lee Williams Jr., who died as a result of injuries sustained at the Harrison County Adult Detention Center on February 4, 2006. Teel was indicted on two counts: one alleges that Teel assaulted

Williams, thereby depriving him of his constitutionally-protected civil rights. It is further alleged that Teel's conduct involved an attempt to kill Williams, resulting in his bodily injury and death. The second count alleges that Teel obstructed justice by falsifying an official report with intent to obstruct an investigation into the assault on Williams. If convicted, Teel faces a maximum penalty of life in prison on count one of the indictment, and a maximum penalty of 20 years in prison and a fine of $250,000 on count two.

TUESDAY'S EXPECTED EVENTS/RELEASES:

11:00 A.M. EDT

The FBI will host a press availability regarding *FBI Technology and Connecting the Dots*. Participants will include FBI Executive Assistant Director Willie Hulon, Executive Assistant Director Kerry Haynes, Chief Information Officer Zal Azmi, Deputy Assistant Director Tom Harrington and Supervisory Special Agent Gurvis Grigg.

11:45 A.M. MDT

John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

Owens, Angela (ENRD)

From:	Owens, Angela (ENRD)
Sent:	Tuesday, August 29, 2006 9:54 AM
To:	Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Ferguson, Russ (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Magnuson, Cynthia; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim; Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Stoller, Stacy (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)
Subject:	Attached is ENRD's Weekly Report to the AG...
Attachments:	#103940-v1-AG_Weekly_-_Aug__29.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

- ***Submission of Demand Letter Under Consent Decree in Exxon Valdez Oil Spill Case***

On Thursday, August 31, 2006, ENRD plans to submit a letter to Exxon Mobil in United States v. Exxon Corp. (D. Alaska), demanding payment of the $92 million estimated cost of a habitat restoration project for which we presented plans to Exxon on June 1. The demand letter is the necessary next step in asserting a claim under the Reopener for Unknown Conditions provision in the 1991 Consent Decree that resolved claims for natural resource damages arising from the Exxon VALDEZ oil spill. The letter will be co-signed by the Assistant Attorney General and the Alaska Attorney General.

LAST WEEK

- ***Favorable Decision in Northwest Environmental Advocates v. National Marine Fisheries Service (9th Cir.)***

On August 23, 2006, a divided panel of the Ninth Circuit affirmed the district court's grant of summary judgment for the Army Corps of Engineers ("the Corps"). The majority's decision

allows the Corps' Columbia River Channel Improvement Project, which will deepen 103 miles of the Columbia River by three feet to allow easier passage by cargo ships, to proceed. Over a lengthy dissent, the majority rejected plaintiff Northwest Environmental Advocates' argument that the Corps had violated the National Environmental Protection Act by failing to take a "hard look" at the environmental and economic impacts of the project.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0167163

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 10:22 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE

Department of Justice

PRESS GUIDANCE
Tuesday, August 29, 2006

ATTORNEY GENERAL

The Attorney General arrived in Baghdad on Tuesday to meet with and thank Department of Justice officials working in Iraq to rebuild the country's legal and law enforcement infrastructure. The Attorney General also met with high-ranking Iraqi officials, including Deputy Prime Minister Barham Salih and Chief Justice of the Higher Juridical Council Medhat Al-Mahmoud, as well as U.S. military personnel.

PRESS RELEASES

The Criminal Division will issue a release on a public corruption matter in Alabama (Sierra).

The Civil Division will issue a release on a health care settlement. (Miller)

The Tax Division will issue a release. (Miller)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167164

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Image not available for this document, ID: 0.7.10316.35849-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 10:37 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 29, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, August 29, 2006

ATTORNEY GENERAL

The Attorney General will visit Department of Justice officials and high-ranking Iraqi officials in Baghdad.

PRESS RELEASES

The Civil Division will issue a release on a settlement matter. (Miller)

EVENTS/HEARINGS

11:00 A.M. EDT

The FBI will host a press availability regarding *FBI Technology and Connecting the Dots*. Participants will include FBI Executive Assistant Director Willie Hulon, Executive Assistant Director Kerry Haynes, Chief Information Officer Zal Azmi, Deputy Assistant Director Tom Harrington and Supervisory Special Agent Gurvis Grigg.
SIOC Executive Briefing Room
FBI Building
935 Pennsylvania Ave. NW
Washington, DC
OPEN PRESS

Press inquiries regarding logistics should be directed to Cathy Milhoan of the FBI at 202-324-3691.

11:45 A.M. MDT

John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

DOJ_NMG_ 0167167

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167168

Image not available for this document, ID: 0.7.10316.35844-000001

Image not available for this document, ID: 0.7.10316.35844-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 11:24 AM
To: USDOJ- Office of Public Affairs
Subject: SCHERING TO PAY $435 MILLION FOR THE IMPROPER MARKETING OF DRUGS AND MEDICAID FRAUD

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/MA

CONTACT: CHRISTINA STERLING
PHONE: (617) 748-3100
FAX: (617) 748-3992

SCHERING TO PAY $435 MILLION FOR THE IMPROPER MARKETING OF DRUGS AND MEDICAID FRAUD

BOSTON – Schering-Plough Corporation, together with its subsidiary, Schering Sales Corporation, have agreed to pay a total of $435 million to resolve criminal charges and civil liabilities in connection with illegal sales and marketing programs for its drugs Temodar, for use in the treatment of brain tumors and metastases, and Intron A, for use in treatment of superficial bladder cancer and hepatitis C. The resolution also pertains to Medicaid fraud involving Schering's drugs Claritin RediTabs, a non-sedating antihistamine and K-Dur, used in treating stomach conditions.

Schering Sales Corporation will pay a $180 million criminal fine and, together with Schering-Plough Corporation, another $255 million to settle civil liabilities, U.S. Attorney Michael J. Sullivan of the District of Massachusetts, Regional Inspector General Joseph Moraski of the Department of Health and Human Services, Special Agent in Charge Mark Dragonetti of the U.S. Food and Drug Administration (FDA), Special Agent in Charge Edward Bradley of the Defense Department's Criminal Investigation Service, and Special Agent in Charge Jeffrey Hughes of the Department of Veteran's Affairs announced today. Today's global resolution ensures that the federal Medicaid program and each of the State Medicaid agencies, which paid for prescriptions of Claritin RediTabs and K-Dur, will obtain the benefit of the best price offered by Schering to commercial purchasers of those drugs, and will ensure that Schering pays appropriate damages for improperly promoting its drugs for uses not approved by the FDA and from offering or paying kickbacks to physicians to prescribe those drugs.

"The Justice Department is committed to rooting out and prosecuting health care fraud," said Deputy Attorney General Paul J. McNulty. "It is vital to public health and safety that pharmaceutical companies are deterred from improperly marketing their drugs to doctors and patients to treat illnesses that these drugs are not approved to treat. This settlement sends a clear message to the pharmaceutical industry that the Justice Department will not tolerate these deceptive and illegal marketing practices."

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"The American people, as both taxpayers and consumers, expect our health care system to be free from fraud and corruption," stated U.S. Attorney Sullivan. "The pharmaceutical industry has an obligation to ensure that all rules, regulations and laws are complied with. To do less erodes public confidence, compromises the patient physician relationship and adds costs to important government programs. We will not tolerate attempts to profit at the expense of the ill and needy in our society."

To resolve the criminal charges, Schering Sales Corporation has agreed to plead guilty to a one count criminal conspiracy to make false statements to both the FDA regarding its improper drug promotional activity and to the Health Care Financing Administration regarding its best price for certain drugs, and to pay a $180 million criminal fine. As a result of its criminal conviction, Schering Sales will be excluded permanently from participation in all federal health care programs.

Schering Plough Corporation also agreed to settle its civil False Claims Act liabilities and liabilities under the Food Drug and Cosmetic Act for a total of $255 million. Specifically, Schering will pay approximately $159 million, plus interest, to the United States in civil damages for losses suffered by the Medicare program, the federal portion of the Medicaid program, the Veteran's Administration, the Department of Defense and the Federal Employees Health Benefits program as a result of Schering's improper drug promotion and marketing misconduct, and Medicaid rebate fraud. Schering will also pay a total of $91,602,000, plus interest, to settle its civil liabilities to the fifty states and the District of Columbia for losses the state Medicaid programs suffered. In addition, Schering will refund $3,921,090 to the Public Health Service (PHS) programs that also were entitled to a lower price on certain drugs.

The first object of the conspiracy, to which Schering Sales will plead guilty, charges that it conspired with others to give free Claritin Redi-Tabs to a major health maintenance organization to disguise a new lower price being offered to the HMO to obtain its business. Drug manufacturers are required to report their best price on drugs provided to certain commercial customers, including HMOs, to the Health Care Financing Administration ("HCFA"), and to pay quarterly rebates to the Medicaid program, the nation's taxpayer funded health insurance program for the poor and disabled, to be sure the Medicaid program obtains the benefit of that low price. From April 1998 through 1999, Schering Sales reported a false best price to HCFA, which failed to include the new low price of Claritin Redi-Tabs provided to the HMO, to avoid paying millions of dollars in additional rebates to the Medicaid program.

"Investigation of prescription drug fraud is a priority of the Office of Inspector General (OIG) and resolution of this case stems from OIG's strong relationship with our law-enforcement partners," said Daniel R. Levinson, Inspector General of the U.S. Department of Health and Human Services. "In addition to enforcement, OIG strongly supports implementation of compliance measures by pharmaceutical companies that are designed to address all risk areas of their business - whether they be pricing, marketing or promotional practices. The expanded
Corporate Integrity Agreement with Schering-Plough incorporates additional ways for OIG and the Company to monitor these issues and minimize the risk of off-label promotion."

"The Centers for Medicare & Medicaid Services is committed to protect the Medicare program for beneficiaries and taxpayers, and with the implementation of the prescription drug benefit, it is even more important for the Government to fully investigate health care fraud relating to prescription drugs," said CMS Administrator Mark B. McClellan, M.D., Ph.D. "At the same time, drug manufacturers have a duty to implement strong compliance measures that will address all risk areas of their business including pricing, marketing or promotions. "

The second object of the conspiracy, to which Schering Sales will plead guilty, charges that it conspired with others to make false statements to the FDA in response to the FDA's inquiry regarding certain illegal

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promotional activities by the Company's sales representatives at a national medical conference for oncologists. Those false statements were designed to reassure the FDA that the promotional activities were isolated and not directed by home office, when in fact, the activities were widespread and part of the national marketing plan. In addition, the Company sought to falsely lull the FDA into believing that it had taken appropriate steps to reinforce the message with its sales representatives that such promotional activities were prohibited, when in fact, the Company knew and expected that those activities would continue.

"The FDA takes seriously its responsibilities to protect consumers from products that are promoted for unapproved uses," says Margaret Glavin, the FDA's Associate Commissioner for regulatory affairs. "Pharmaceutical manufacturers who mislead FDA place consumers at risk."

The civil settlement resolves allegations that Schering-Plough Corporation and Schering Sales knowingly caused the submission of false and/or fraudulent claims for Schering's drugs that were not eligible for reimbursement. These included the government's claims that (1) Schering misreported its best price to HCFA on Claritin ReidTabs to evade Medicaid rebate liability, (2) Schering misreported its best price on private-labeled K-Dur to HCFA to evade Medicaid rebate liability, (3) Schering overcharged the PHS entities because of its misreporting of best price to HCFA, (4) Schering induced physicians to start patients on Intron A for Hepatitis C by paying them remuneration through three marketing programs, (5) Schering induced physicians to use Temodar for certain patients with brain tumors and brain metastases and to use Intron A for certain patients with superficial bladder cancer through improper preceptorships, sham advisory boards, lavish entertainment, and improper placement of clinical trials; and (6) Schering knowingly promoted off label uses of Temodar for certain brain tumors and brain metastases and Intron A for superficial bladder cancer despite not having FDA approval.

Schering-Plough Corporation will be subject to an amendment to its existing Corporate Integrity Agreement. That amendment requires Schering to continue extensive work that the Company has undertaken in the last two years to monitor and correct the shortcomings in Schering's drug sales, marketing and pricing activities. After the activities were uncovered by the government, Schering-Plough cooperated with the investigation and actively worked on compliance issues through a significantly expanded compliance department.

The investigation was conducted by the Food and Drug Administration's Regional Office of Criminal Investigations in both Boston and Miami; the Department of Health and Human Services' Office of Inspector General, Office of Investigations; the Defense Criminal Investigative Service of the Department of Defense; and the United States Office of Veteran's Affairs' Office of the Inspector General.

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Image not available for this document, ID: 0.7.10316.35842-000002

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, August 29, 2006 11:53 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 8.29.06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 8.29.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report for the Week ending September 1, 2006

NEXT WEEK

· ***Trial Begins in Human Trafficking Case Involving Saudi Princess:***
On September 5, trial is scheduled to begin in United States v. Al Jader (District of Massachusetts). On March 29, 2005, defendant Hana F. Al Jader was charged with violating two counts each of forced labor and attempted forced labor, document servitude, falsification of records, visa fraud, and harboring an alien in the United States. Defendant Al Jader, a Saudi Princess, is charged with unlawfully harboring two Indonesian women and forcing them to work as domestic servants in her suburban Boston home. The women had their passports and immigration documents confiscated in order to maintain their services as domestic laborers.

THIS WEEK

· No entries this period.

LAST WEEK

· ***Sentencing in Case on Violation of the Civil Rights of an Arab-American Family:***
On August 22, in United States v. Nix (Northern District of Illinois), defendant Eric Nix was sentenced to 15 months in prison. On March 6, defendant Eric Nix entered a guilty plea to violating one count of housing interference with the use of fire for igniting an explosive device inside a van owned by a Palestinian family while the van was parked in front of their home. Previously, in a separate but related case, defendant Daniel Alba

· ***Hartford Men Plead Guilty for Involvement in Trafficking and Prostitution Ring:***

On August 22, Ronald Martinez of West Hartford, Connecticut pleaded guilty to transporting women across state lines for the purpose of engaging in prostitution, money laundering, conspiracy, and use of a facility in interstate commerce to promote prostitution. Co-defendant Jerome Hargrove pleaded guilty to one count of conspiracy in the same ten co-defendant case on August 21. Martinez and Hargrove were charged in a sixty four-count superceding indictment, along with eight other co-defendants, on August 8, 2006. Three of the co-defendants in that indictment were charged with the sex trafficking of minors and sex trafficking by force, fraud, and coercion. As a condition of the plea, Martinez admitted to running his own prostitution business in Hartford, Connecticut, driving prostitutes to and from Massachusetts to engage in commercial sex acts, using the telephone to promote his prostitution business, and conspiring with others to use the telephone to promote their respective prostitution businesses.

LONG RANGE EVENTS

· No entries this period.

Division Contact: Kimani S. Little, (202) 305-4441

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, August 29, 2006 12:21 PM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 8.29.2006
Attachments: CRS AG Weekly 8-29-06.doc

Attached, please find CRS' Weekly Report to the Attorney General for August 29, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

B. This Week

- ***CRS to Monitor Klu Klux Klan Rally in Gettysburg, PA***
  On September 2, 2006, CRS will be in Gettysburg, PA to provide technical assistance and contingency planning for a planned rally to be held by the Klu Klux Klan at the Gettysburg National Park. CRS has been in communication with Gettysburg law enforcement officials, U.S. National Park Service officials, and local community leaders to provide contingency planning in an effort to ensure community safety.

- ***CRS to Monitor Demonstration in Farmington, NM***
  On September 2, 2006, CRS will be onsite in Farmington, NM to provide technical assistance and conciliation services as needed for a planned memorial demonstration to be held by local community members to express concerns and protest recent reports of an alleged hate-related incident and police use of force incident directed towards Native American community members. Racial tensions among the local city and police department and Native American community are heightened. This continues previous CRS case work in Farmington, following community tensions surrounding the recent shooting death of a Native American male by a Farmington police officer during an altercation. CRS will be in communication with Farmington Police Department officials and local community members and leaders to ensure community safety for the planned event.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

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C. Last Week

- ***CRS Monitored White Supremacist March in Jaffrey, NH***
  On August 26, 2006, CRS was onsite in Jaffrey, NH to monitor and provide technical assistance to ensure community safety for a planned white supremacist march and rally and counter-protests. CRS was in communication with Jaffrey law enforcement officials and community members to provide contingency planning prior to the event. The event proceeded without incident.

- ***CRS Monitored Protest March in Farmers Branch, TX***
  On August 26, 2006, CRS was in Farmers Branch, TX to provide technical assistance and contingency planning for a demonstration held by local civil rights and minority community leaders at the Farmers Branch City Hall to protest proposed illegal immigration-related legislation. CRS was in communication with city officials and community leaders and members prior to the event to ensure community safety. The event was attended by approximately 300 protestors and 25 counter-demonstrators and proceeded without incident.

- ***CRS Monitored Protest March in Maywood, CA***
  On August 26, 2006, CRS was onsite in Maywood, CA to provide technical assistance and conciliation services as necessary for a planned demonstration to protest illegal immigration and potential counter-demonstrations. CRS was in communication with Maywood and Los Angeles County law enforcement officials, Los Angeles County Human Relations Commission representatives, and local community leaders to provide contingency planning prior to the event to ensure community safety. The event proceeded without incident.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0167181

From: [redacted]
Sent: Tuesday, August 29, 2006 1:52 PM
To: [redacted]
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 2:45 PM
To: USDOJ- Office of Public Affairs
Subject: FIFTEEN INDIVIDUALS INDICTED FOR FEMA FRAUD IN ALABAMA

Department of Justice

United States Attorney Alice H. Martin
Northern District of Alabama

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/ALN

CONTACT: JILL ELLIS
PHONE: (205) 244-2015
FAX: (205) 244-2171

FIFTEEN INDIVIDUALS INDICTED FOR FEMA FRAUD IN ALABAMA

BIRMINGHAM, Ala.– Fifteen individuals have been indicted by a federal grand jury in Alabama on allegations of fraud and theft resulting from claims filed with the Federal Emergency Management Agency (FEMA), U.S. Attorney Alice H. Martin, Special Agent in Charge J. Christopher Murphy and Assistant Special Agent in Charge Roy Sexton, both of the U.S. Secret Service, announced today. The indictments filed allege fraud and theft of federal disaster relief funds from Hurricanes Katrina and Rita which devastated parts of the south in 2005.

"The defendants are charged today with consciously setting out to steal money meant for Hurricane victims," U.S. Attorney Martin stated during a press conference today. "They will now face the consequences of the federal justice system."

Special Agents from the U.S. Secret Service led the investigations that resulted in indictments filed against the following individuals:

- Wyshondra Latricia Coleman, 22; Angenica Michelle Jackson, 24; Emily Jackson Bibbs, 41; Shannon Yvonne Bibbs, 23; Jaquetta Shuna Jackson, 23; and Tequica Piketa Jackson, 24, all of Bessemer, Ala., have been charged with false claims against the government and theft of government money or property. The defendants filed with FEMA, claiming to be residents of Texas during the landfall of Hurricane Rita. They reported property damage on their claims for emergency relief funds. A $2,000 U.S. Treasury check was issued to each individual based on the fraudulent information provided. The defendants allegedly cashed the checks knowing the information they provided was false.

- Larry Williams, 36; Pearlie Mae Jefferson, 48; and Talonya Laquese Jackson, 27, all of Bessemer, Ala., have been charged with making false claims against the government and theft of government property or money. As alleged in the indictment, the defendants submitted requests for FEMA funds and each received a $2,000 U.S. Treasury check. The defendants allegedly cashed the checks knowing the information provided was false and untrue.

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- Derrick D. Pettus, 27, of Birmingham, Ala., has been charged with making false claims against the government and theft of government money or property. Pettus filed a claim with FEMA and claimed to be a resident of New Orleans during the land fall of Hurricane Katrina. As a result of the FEMA claim, a U.S. Treasury Check in the amount of $2,000 was mailed to Pettus at his address in Birmingham, Ala.. Pettus cashed the Treasury check knowing the information he provided was false.

- Lakeysha L. Wyatt, 29, of Birmingham, Ala., has been charged with making false claims against the government and theft of government money or property. Wyatt made a claim for immediate assistance claiming to be a resident of Galveston, Texas, during the landfall of Hurricane Rita. As a result FEMA issued a U.S. Treasury check in the amount of $2,000, and mailed the check to Wyatt at her address in Ensley, Ala.. Wyatt then cashed the check knowing the information submitted was false and untrue.

- Steve Small, 30, of Birmingham, Ala., has been charged with making false claims against the government and theft of government property. A claim was filed with FEMA for immediate assistance on behalf of Small. In the request for emergency relief funds, Small claimed to be a resident of New Orleans during the landfall of Hurricane Katrina. FEMA mailed an emergency relief check to Small at his Birmingham address. Small then cashed the check knowing the information submitted was false and untrue.

- Nanette Williams, 39; Terkesha Linette Smith, 31; and Ashley Shatara Johnson, 20, each of Birmingham, Ala., have been charged with making false claims against the government and theft of government money or property. It is alleged that the defendants submitted a request for FEMA funds and received a $2,000 U.S. Treasury check. Williams, Smith, and Johnson each allegedly cashed the check knowing the information provided was false and untrue.

"These indictments are just the tip of the spear regarding the investigations of fraud and theft of disaster relief funds provided by FEMA," states Special Agent in Charge J. Christopher Murphy of the U.S. Secret Service. "We follow a zero tolerance policy regarding theft of taxpayer dollars, therefore we intend to fully investigate and present the evidence of fraud and theft for prosecution of the person or persons who perpetrated it."

The maximum penalty for making false claims against the government is five years in prison and a fine of $250,000 or both. The maximum penalty for theft of government property or money is ten years in prison and a fine of up to $250,000 or both.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate and prosecute disaster-related federal crime, such as charity fraud and insurance fraud. This task force, chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, U.S. Department of Justice, includes members from the Department of Homeland Security, Federal Bureau of Investigation, Federal Trade Commission, and U.S. Postal Inspection Service. The U.S. Attorney's Office for the Northern District of Alabama as well as law enforcement in the Northern District are members of the Task Force.

These cases were investigated by the U.S. Department of Homeland Security, U.S. Secret Service. Assistant U.S. Attorneys John H. England, III, and E. Vincent Carroll are prosecuting these matters on behalf of the U.S. Government.

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Image not available for this document, ID: 0.7.10316.35810-000003

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 4:20 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GADSDEN, ALABAMA PUBLIC OFFICIAL PLEADS GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER GADSDEN, ALABAMA PUBLIC OFFICIAL PLEADS GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

WASHINGTON – The former director of the Gadsden Commercial Development Authority pleaded guilty to participating in a bribery and wire fraud conspiracy that operated from August 2005 through February 2006, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Cathy Back, 53, entered a guilty plea this afternoon in U.S. District Court in Birmingham, Ala., before the Honorable L. Scott Coogler. She was charged with one count of conspiring to commit federal programs bribery and honest services wire fraud. The charge relates to a bribery scheme in which Back worked with Larry R. Thompson, a private political consultant, to make cash payments to influence and reward members of the Gadsden City Council for their votes in connection with a real estate development. Thompson, along with City Council Members Jimmy L. Armstrong and Fred L. Huff, have already pleaded guilty to a similar charge. The charges arise from Operation Costly Influence, a covert investigation conducted by the FBI.

As part of her plea agreement, Back admitted that she conspired with Thompson to offer cash payments to four members of the Gadsden City Council with the intent of influencing and rewarding them in connection with their votes that aided a mixed-use real estate development along the banks of the Coosa River in Gadsden. Back agreed to assist Thompson in advancing the interest of the real estate development through corrupt means, and that the conspirators tried to disguise the nature of the cash payments by calling them "campaign contributions." Back also admitted that she allowed a witness, who was cooperating with the FBI, to leave cash intended for Thompson in her office.

The conspiracy charge carries a maximum penalty of five years in prison and a $250,000 fine. Back has agreed to cooperate in this ongoing investigation.

These cases are being investigated by the FBI. They are being prosecuted by Trial Attorney John P. Pearson and Senior Trial Attorney John W. Scott of the Public Integrity Section of the Criminal Division, headed by Acting Section Chief Edward C. Nucci.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 5:46 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: LYMAN THORNTON
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Dana L. Joseph, 23, of Donaldsonville, La., pled guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today. She was sentenced to five years probation, 60 days of home detention and $2,000 in restitution by U.S. District Court Judge James J. Brady.

The U.S. Department of Homeland Security's Office of Inspector General conducted the investigation of this matter. The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be e-mailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.35796-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:06 PM
To: USDOJ- Office of Public Affairs
Subject: WICHITA MAN SENTENCED TO MORE THAN 19 YEARS IN PRISON ON CHILD PORN CHARGES

Department of Justice

United States Attorney Eric Melgren
District of Kansas

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/KS

CONTACT: JIM CROSS
PHONE: (316) 269-6481
FAX: (316) 269-6420

WICHITA MAN SENTENCED TO MORE THAN 19 YEARS IN PRISON ON CHILD PORN CHARGES

WICHITA, Kan. – Steven C. Perrine, 53, was sentenced to more than 19 years in federal prison for receiving and distributing child pornography, U.S. Attorney Eric Melgren of the District of Kansas announced today.

Perrine was convicted in June 2006 on four counts including one count of distributing child pornography, one count of receiving child pornography, one count of possessing child pornography and one count of unlawfully possessing a firearm after a felony conviction.

"Mr. Perrine was on probation from a prior conviction for the sexual exploitation of a minor when he was arrested in this case," said U.S. Attorney Eric Melgren. "He had seven computer hard drives containing thousands of images of child pornography."

Evidence presented at trial showed that Perrine used the name "stevedragonslayer" in a Yahoo chat room on Sept. 2, 2005, when he played videos containing child pornography for another Yahoo user who was in contact with him from Pennsylvania via computer. The other Yahoo user alerted police in Pennsylvania. Investigators followed an electronic trail to Perrine, who was a subscriber to Internet service provided by Cox Communications.

Investigators determined that Perrine had pleaded guilty on Oct. 14, 2003, in Sedgwick County District Court to one count of sexual exploitation of a child. On Dec. 22, 2005, investigators served a search warrant at Perrine's home in Wichita where they seized firearms as well as two computers containing images of child pornography.

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Melgren commended the Federal Bureau of Investigation, the Wichita Police Department and the Exploited and Missing Child Unit (EMCU), as well as the Moon Township Police Department and the Leetsdale Police Department in Pennsylvania, all of which investigated the case.

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Image not available for this document, ID: 0.7.10316.35790-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:37 PM
To: USDOJ- Office of Public Affairs
Subject: GANG TASK FORCE SWEEP NETS 17 GANG MEMBERS AND ASSOCIATES ON DRUG AND GUN CHARGES

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE CONTACT: BOB TROESTER
TUESDAY, AUGUST 29, 2006 PHONE: (405) 553-8999
www.usdoj.gov FAX: (405) 553-8742

GANG TASK FORCE SWEEP NETS 17 GANG MEMBERS AND ASSOCIATES ON DRUG AND GUN CHARGES

OKLAHOMA CITY – Approximately 100 federal and local law enforcement officers fanned out across the Oklahoma City area today to execute 17 sealed federal arrest warrants relating to drug and gun charges brought against various gang members and their associates. State search warrants were also executed.

A joint investigation by the Oklahoma City Metropolitan Gang Task Force used an Oklahoma City Police Department undercover officer and a confidential informant to make controlled purchases of firearms and cocaine powder and crack cocaine from known street gang members and their associates. This effort was the product of the Project GRIND which seeks to have Gangs, Removed, Isolated Neutralized, and Dismantled from our streets and neighborhoods.

As of today, federal complaints have been unsealed charging the following 17 individuals from Oklahoma City with gun charges, drug charges, or both: Rayne Alisa Osborn, 23; DeWayne Antwon Thompson, 19; Roy Lee Wilson, Jr., 32; Hubert H. House, III, 31; Traci L. Johnson, 22 ; Allen Lamar Carson, 28; Dedric Steven Marshall, 29; and Kenisha Marna Kees, 18.

The following individuals are currently in state custody on other charges: Derlon Bray, 21 and Remington R. Leathers, 21.

The following individuals are currently fugitives: Kendric Raymond Marshall, 29; Vicki L. Wilson, 51; Rochelle Lashawn Hopkins, 27; DeJuan Martez Covington, 23; Colin Dewone Bruner, 22; Clarence Demotric Williams, 30; and Raquinda Reynesia Walker, 23. Anyone with information about the location of the fugitives is asked to contact law enforcement authorities.

In February 2006, Attorney General Alberto R. Gonzales unveiled the Department of Justice's plan to combat gang violence across America. This strategy is two-fold. First, prioritize prevention programs to provide America's youth and offenders returning to the community with opportunities that help them resist gang involvement. Second, ensure robust enforcement policies when gang-related violence does occur. The

DOJ_NMG_ 0167200

Attorney General's program expands the successful Project Safe Neighborhoods program to include new and enhanced anti-gang efforts.

On May 23, 2006, U.S. Attorney John C. Richter, Oklahoma County District Attorney Wes Lane, FBI Special Agent in Charge Sal Hernandez, ATF Special Agent in Charge Ronnie Carter, and Oklahoma City Police Department Chief Bill Citty publicly announced the formation of the Oklahoma City Metropolitan Gang Task Force. The task force goal is simple: "All for one, one for all" in the fight against violent street gangs. The local strategy implements the Attorney General's two priorities: Prosecution and Prevention.

Under the prosecution prong, federal, state and local law enforcement partner agencies in the Oklahoma City metropolitan area will conduct joint strategic and priority targeting of violent street gangs such as today's operation. By operating in a task force made up of federal and state agents, officers and prosecutors working closely together each day on gang issues, traditional barriers that often exist between investigating agencies and prosecuting offices will be broken down. This approach will yield a greater continuity and coordination of investigations and prosecutions to strategically eradicate illegal gang activity.

Under the prevention prong, the task force will work to implement community prevention and outreach programs to address the personal, family, and community factors that cause young people to choose gangs over better, safer, and more productive alternatives.

Law enforcement agencies involved in this Oklahoma City Metropolitan Gang Task Force investigation and today's initiative are the Oklahoma City Police Department, Warr Acres Police Department, ATF, FBI, U.S. Marshal's Service, and Oklahoma County Sheriff. The federal cases are being prosecuted by Assistant U.S. Attorneys Mark Yancey, Sandy Coats, Lee Borden, Jeb Boatman, and Ed Kumiega.

The public is reminded that the criminal complaints are merely an accusations and that the defendants are presumed innocent unless and until proven guilty. Reference is made to the criminal complaints and supporting affidavits for further information.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:58 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 29, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Travels to Baghdad (OPA)
Today, Attorney General Alberto R. Gonzales visited Baghdad, where he met with and thanked Department of Justice officials working in Iraq. He also met with U.S. military personnel and high-ranking Iraqi officials, including Deputy Prime Minister Barham Salih and Chief Justice of the Higher Juridical Council Medhat Al-Mahmoud.

FBI Holds Press Availability Regarding the Use of Technology to Prevent Terrorism (FBI)
Today, the FBI hosted a press availability on *FBI Technology and Connecting the Dots*. Participants included FBI Executive Assistant Director Willie Hulon, Chief Information Officer Zal Azmi and Supervisory Special Agent Gurvais Grigg. Approximately 30 reporters attended and a number of them asked follow-up questions both on and off-camera.

FBI Fugitive Captured in Nevada (FBI)
Today, Warren Steed Jeffs, a fugitive on the FBI's Ten Most Wanted list, was apprehended by the Nevada Highway Patrol after a routine traffic stop near Las Vegas. This evening, FBI Assistant Director Chip Burrus will appear on Catherine Crier Live (Court TV) and Anderson Cooper 360 (CNN) regarding the capture.

Former Gadsden, Alabama Public Official Pleads Guilty to Participating in Bribery and Wire Fraud Conspiracy (Criminal)
Today, the former director of the Gadsden Commercial Development Authority pleaded guilty to participating in a bribery and wire fraud conspiracy that operated from August 2005 through February 2006. Cathy Back entered a guilty plea in U.S. District Court in Birmingham, Ala., before the Honorable L. Scott Coogler. She was charged with one count of conspiring to commit federal programs bribery and honest services wire fraud. The charge relates to a bribery scheme in which Back worked with Larry R. Thompson, a private political consultant, to make cash payments to influence and reward members of the Gadsden City Council for their votes in connection with a real estate development. Thompson, along with City Council Members Jimmy L. Armstrong and Fred L. Huff, have already pleaded guilty to a similar charge. The charges arise from Operation Costly Influence, a covert investigation conducted by the FBI.

Pharmaceutical Giant Reaches Settlement with Justice Department (Civil)
Today, Schering-Plough Corp. agreed to pay $435 million and plead guilty to conspiracy to settle a federal investigation into marketing of its drugs for unapproved uses and overcharging Medicaid for certain drugs. Investigators found evidence that Schering-Plough marketed drugs for so-called "off-label" uses for which they were not approved by government regulators, even though doctors can individually choose to prescribe drugs for those purposes. The company agreed to pay $255 million to resolve civil aspects of the previously disclosed investigation. A subsidiary, Schering Sales Corp., will pay a criminal fine of $180 million and plead guilty to one count of conspiracy to make false statements to the government. As part of the settlement, the drug maker also said it would add a section to an existing corporate integrity agreement it has with the Office of Inspector General of the U.S. Department of Health and Human Services. The agreement requires the company to monitor its sales, marketing and drug pricing, and correct past abuses.

Talking Points

- The Justice Department is committed to rooting out and prosecuting health care fraud.
- It is vital to public health and safety that pharmaceutical companies are deterred from improperly marketing their drugs to doctors and patients to treat illnesses that these drugs are not approved to treat.
- This settlement sends a clear message to the pharmaceutical industry that the Justice Department will not tolerate these deceptive and illegal marketing practices.

Justice Department Seeks to Bar Former Jackson Hewitt Franchise Manager from Preparing Tax Returns (Tax)
Today, the United States asked a federal court in Fresno, Calif. to bar David Meals from preparing federal income tax returns for others. During last year's tax filing season, Meals managed Jackson Hewitt's tax preparation franchise in Hanford, Calif. Jackson Hewitt, a franchise operation headquartered in Parsipanny, N.J., is the nation's second largest tax preparation service company. The government's complaint alleges that during that time, Meals, a former IRS employee, personally prepared or supervised other Jackson Hewitt employees who prepared 105 federal income tax returns falsely claiming tax exemption for casino-gaming proceeds paid to members of the Tachi Yokut Indian Tribe. The complaint states that the returns improperly sought more than $826,000 in tax refunds.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, August 29, 2006 10:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Decatur, GA

From: AmberAlert-DOJ
Sent: Tuesday, August 29, 2006 10:35:18 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Decatur, GA
Auto forwarded by a Rule

AMBER ALERT:Decatur,GA VEH:06 Silv Dodge Charger GA ADY0659 CHILD:7Mos B/M 2FT3 20LB Eye:Bro Hair:Bla SUSP:16 B/M 5FT11 140LB Eye:Bro Hair:Bla CALL 404-294-2554
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2022

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 9:49 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

WASHINGTON – Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum **TODAY, AUGUST 30, 2006, at 11:45 A.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Remarks at the National Violent Crime Summit

WHEN: **TODAY, AUGUST 30, 2006**
11:45 A.M. EDT

WHERE: Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

NOTE: Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-578

DOJ_NMG_ 0167208

Image not available for this document, ID: 0.7.10316.35318-000001

Image not available for this document, ID: 0.7.10316.35318-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 9:51 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 30, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 30, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167211

Image not available for this document, ID: 0.7.10316.35311-000001

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Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, August 30, 2006 10:40 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/30/06 Civil Division News

Judge says he will rule soon on charity's wiretapping suit; government says security at risk

Lawyers Seeking White House Records

US judge passes on government request for Guantanamo documents

Schering-Plough to Pay $435 Million, Plead Guilty to Settle Probe

Federal whistleblower case loses steam

Beverly Manor owner to pay settlement

After a 19-Year Battle, Judge Rules L.A. 8's Aiad Barakat Deserves U.S. Citizenship

AP

August 30, 2006

Judge says he will rule soon on charity's wiretapping suit; government says security at risk

By TIM FOUGHT

Associated Press Writer

PORTLAND, Ore._A federal judge suggested Tuesday that he would try to keep alive a lawsuit that challenges President Bush's domestic wiretapping program, while taking steps not to disclose classified information.

U.S. District Judge Garr King said he expected to render his decision next week in a case involving an Oregon-based Islamic charity that the government said had links to al-Qaida leader Osama bin Laden. The charity believes it was illegally wiretapped and says a document the government accidentally gave to its lawyers in 2004 bolsters its case.

The government said the document must be kept secret and any further court action involving it would lead to security breaches. The government has asked King to dismiss the charity's lawsuit.

In a hearing, King and the charity's lawyers talked about ways to keep the lawsuit alive without disclosing information about the classified document. Government lawyers resisted the idea.

King said federal judges handling similar cases in which national security concerns and the rights of plaintiffs clashed had tried to find ways around the problem, such as editing sensitive documents.

"It seems to me the cases have instructed the courts to be original," King told lawyers from the Justice Department. "I don't hear that from you at all."

Justice Department lawyer Andrew Tannenbaum said that U.S. National Intelligence Director John Negroponte had reviewed the case and determined that the government cannot confirm or deny information about intelligence-gathering without tipping its hand to terrorists.

"That very fact _ whether they were subject to surveillance _ is a privileged fact," Tannenbaum said.

Lawyers for the Al-Haramain Islamic Foundation said that the domestic wiretap program has been made public, disclosed by journalists and then confirmed by President Bush.

The foundation, once based in Ashland, closed after the government identified its parent organization as a terrorist group. The organization denied wrongdoing, saying that it collected money for a prayer house and for distributing religious pamphlets to prisoners.

END

AP

Aug. 29, 2006, 3:18PM

Lawyers Seeking White House Records

By DAVID B. CARUSO Associated Press Writer

NEW YORK — A pair of public interest lawyers said Tuesday they plan to subpoena the White House for any documents showing whether the Bush administration approved a secret program to examine the phone records of millions of Americans.

New Jersey attorneys Carl Mayer and Bruce Afran represent more than two dozen people who have sued Verizon Communications Inc., AT&T Inc. and BellSouth Corp., claiming the telecommunications companies violated privacy laws by turning over phone records to the National Security Agency.

The lawyers said they suspected the administration had begun obtaining the records even before the Sept. 11 attacks, which, if true, would raise questions about whether the program was initiated to combat terrorism.

"We want to find out when they started going after these records. We want to find out who authorized it.

Was it Dick Cheney? Was it someone else? And, frankly, we want to find out if they were using it improperly," Mayer said.

Justice Department lawyers representing the administration have argued that disclosing detailed information about the government's counterterrorism efforts, or even acknowledging whether the NSA phone records program exists, would be damaging to national interests.

The attorneys said they also planned to subpoena Verizon for documents.

Similar lawsuits have been filed nationwide, some of which have now been consolidated before a federal judge in San Francisco.

A Justice Department spokesman declined to comment Tuesday on the prospect of a subpoena. A Verizon spokesman also declined to comment.

Verizon has consistently denied that it provided the NSA with customer phone records, but has declined to discuss whether such an action was taken by its newly acquired long-distance subsidiary, MCI.

BellSouth has denied participating in the NSA program. AT&T has declined to comment on whether it turned over call information to the NSA.

END

AGENCE FRANCE PRESSE ENGLISH WIRE

August 30, 2006

US judge passes on government request for Guantanamo documents

WASHINGTON, Aug 29, 2006 (AFP) - A federal judge has refused to rule on a US government request to review documents seized from prisoners at the Guantanamo, Cuba prison camp, including confidential attorney-client exchanges.

US District Judge Richard Leon decided Monday that his Washington court did not have the jurisdiction to authorize or forbid the Justice Department review, part of an investigation of Guantanamo prisoner suicides.

After the suicide of three Guantanamo prisoners on June 10, the US Army launched an investigation to determine whether their suicides had been aided. Investigators seized all of the prisoners' documents -- amounting to a half tonne of personal notes, mail, photographs and legal documents.

According to the army, an analysis of certain of these documents had revealed that some prisoners had used paper reserved for their communications with their lawyers to communicate among themselves.

Citing this discovery, the government asked the federal court in early July for authorization to study all the documents, and filed the same request in each of dozens of prisoners' appeals of their detention currently under review by the federal court.

Leon said he was refraining from ruling on these matters, "under circumstances where the Court of Appeals could shortly determine that these matters are not the province of this Court."

But the judge warned the Justice Department that the merits of its review system will ultimately be overseen by a court that will be held responsible for these issues.

The Center for Constitutional Rights hailed Tuesday the judge's decision.

CCR attorney Gitanjali Gutierrez, who coordinates CCR's defense of the Guantanamo detainees, said in a statement: "With its ruling, the Court has thoroughly rejected the (President George W. Bush) administration's attempt to confiscate all of the papers of those detained at Guantanamo without judicial authorization.

"The court turned back an unprecedented invasion of attorney-client privilege."

END

The Associated Press
08-30-2006

Schering-Plough to Pay $435 Million, Plead Guilty to Settle Probe

Schering-Plough Corp. said Tuesday it has agreed to pay $435 million and will plead guilty to conspiracy to settle a federal investigation into its drug sales and marketing practices and its clinical trial programs.

Kenilworth, N.J.-based Schering-Plough said it will pay $255 million to resolve civil aspects of the previously disclosed investigation. A subsidiary, Schering Sales Corp., will pay a criminal fine of $180 million and plead guilty to one count of conspiracy under the agreement, which is subject to court approval.

Schering-Plough said the settlement resolves an investigation by the U.S. Department of Justice and the U.S. Attorney's Office in Boston that began before a new management team took over at the company in April 2003.

Schering-Plough said it had adequate cash in a litigation reserve to cover the settlement costs.

As part of the settlement, the drugmaker also said it would add a section to an existing corporate integrity agreement it has with the Office of Inspector General of the U.S. Department of Health and Human Services.

END

Falquier Times-Democrat

August 29, 2006

Federal whistleblower case loses steam

By: Cheryl K. Chumley

It may be a federal civil case, but recent actions are boding well for a local man who has spent the past weeks battling a behind-the-scenes accuser who charges fraud and corruption on overseas contracts.

Douglas Combs, a former Warrenton resident who now lives in Amissville and holds chief executive officer and director titles for the financial services firm Windmill International, Ltd., has been indirectly tied

in various news accounts to a company that was found guilty of fraud and conspiracy.

That company, Custer Battles LLC, was part of a 2003 civil whistleblower case that wrapped up with a jury finding in favor of the plaintiffs, Robert Isakson and William Baldwin, represented by attorney Alan Grayson.

The immediate outcome of this finding was that Custer Battles, owned by Scott Custer and Mike Battles, was banned from contracting in Iraq with the government.

A $10 million judgment was also awarded the plaintiffs, but that portion of the ruling became subject to appeal and further court scrutiny.

Fast-forward to 2006, and a second whistle-blower case emerged - reportedly brought by at least one person from the 2003 whistleblowers' case, only this time reportedly naming Combs and his company as possible defendants with possible ties to Custer Battles.

Whistleblower, or qui tam, cases are filed largely as sealed charges, and it's up to the Department of Justice to determine whether the paperwork listing the allegations are ever released for public viewing. That Combs and his business are formally under investigation for ties to Custer Battles, then, cannot be independently verified. His name enters the picture by way only of an Associated Press story, carried forth by other media outlets, in which the reporter claims personal receipt of a copy of the whistle-blower documents.

Combs, however, maintains his innocence and in a Times-Democrat story a couple of weeks ago, characterized his company, his fellow colleagues and his own plight as those of "victims," wrongfully accused by a press that has "bad information."

But now, from his perspective at least, relief could be on the horizon.

Earlier this month, a federal judge threw out the $10 million judgment against Custer Battles - and in so doing, opened the doors to hope for Combs, Windmill's director and chief operating officer, Peter Majeranowski, and other business colleagues facing the threat of current whistleblower pursuits.

The reason for the overturning was more technicality than any finding of innocence. The judge, according to an Aug. 19 Washington Post story, found that while facts did seem to show Custer Battles had illegally overpriced bills to the government, the fraud had occurred against the Coalition Provisional Authority - the interim international entity that was in charge of forging Iraq's new government - rather than against the United States itself.

Therefore, the judge found, terms of the whistleblower actions are not applicable.

Still, technicality or not, the reversal seems to put a new light on the current whistleblower effort, Majeranowski said.

"(Since) qui tam actions are allowed in cases involving fraud against the U.S. Government, and since the Court of Appeals has now held that the Coalition Provisional Authority is not the U.S. Government" when it comes to whistleblower cases, he wrote, in e-mailed answer to a couple of questions, "all qui tam cases ... against Custer Battles must be dismissed by the district courts."

The significance, he summed, is this: "Without having a copy of the sealed suit like the AP, we have to conclude that other (whistleblower) cases involving the CPA, including ours, may be thrown out."

Regardless, even had the 2003 whistleblower case culminated with an actual awarding of $10 million, Combs has said that a clearing of his name from this current qui tam action was forthcoming - it was just a matter of time.

"The only thing they have on us," the attorney for Windmill said during an earlier interview, "is the mistaken belief" that a link, either direct or indirect, exists with Custer Battles.

END

Petaluma Argus Courier

August 30, 2006

Beverly Manor owner to pay settlement

The company that operates 82 nursing homes and one assisted living center in the U.S., including Beverly Manor in Petaluma, has agreed to pay the state of California and the U.S. $20 million to settle allegations that it submitted false reimbursements claims to Medicare and Medi-Cal programs, U.S. attorney Kevin Ryan announced this month.

Beverly Manor officials said they are unaware if any of the false claims involved their center.

In March, Golden Horizons, based in Fort Smith, Ark., completed a $2.29 billion acquisition of Beverly Enterprises, which the attorney accused of defrauding California's federally funded Medi-Cal health program for indigent people and the federal Medicare health plan for elderly and disabled people.

The attorney's office alleges that from 1998 to 2002, a Beverly Enterprises subsidiary, the now-defunct MK Medical, violate the civil False Claims Act by billing Medicare and Medi-Cal for durable medical equipment without obtaining proper documentation and altering files in several instances.

Golden Horizons, which was not charged in court, has agreed to pay $5.5 million to the state and $14.5 million to the federal government to settle the claims.

In two earnings releases in 2002, Beverly Enterprises stated that it discovered over-billing of government payers during a third-party audit of MK, and notified them of possible overpayments.

The investigation was conducted by the Justice Department's Civil Division, U.S. Attorney General's Office for the Northern District of California in San Francisco, Federal Bureau of Investigation and Office of Inspector General for the Department of Health and Human Services.

END

Washington Report on Middle East Affairs

August 2006

After a 19-Year Battle, Judge Rules L.A. 8's Aiad Barakat Deserves U.S. Citizenship

By Pat McDonnell Twair

"I'M READY TO RULE," U.S. District Judge Stephen V. Wilson announced June 23, after three and a half days of tedious and sometimes contentious litigation.

Observers in his Los Angeles courtroom sat upright, leaning forward to hear the decision that would make

or break the life of Aiad Barakat, one of the L.A. 8, who was suing the U.S. government for denying him citizenship.

It took courage for Barakat, a legal U.S. resident since 1997, to take on the government, which in January 1987 arrested him, six other Palestinians and the Kenyan wife of one of the men for their alleged association with the Palestinian Front for the Liberation of Palestine. Shackled in irons, they were held in federal prison for six weeks.

None of the eight was accused of terrorism, but the government has been relentless in its efforts to deport them. They have remained in the U.S. because of a 1989 ruling by Judge Wilson which found portions of federal law granting deportation for political advocacy or affiliation unconstitutional.

Judge Wilson displayed a sense of timing worthy of a great stage director. Each day, he closed proceedings with a cliff-hanger as he stated to the government or petitioner's attorneys that he might rule for them if their evidence could convince him.

The suspense and tension were palpable as the Reagan-appointed judge said he had read more than 60 cases dealing with the issue. In each of the three government charges, the jurist declared, he viewed the evidence with the burden of proof on Barakat. Barakat and his legal team overcame that burden, however, and Judge Wilson granted his petition for citizenship.

Outside the courtroom, Barakat was hugged by friends and relatives. "Justice is served after waiting 20 years," he exclaimed.

Then the 6' 4" Palestinian phoned his mother in Jenin, in the Israeli-occupied West Bank, to tell her the good news.

Barakat's battle is not entirely over, however. The government has 60 days to appeal Judge Wilson's ruling.

Commented ACLU attorney Ahilan Arulanatham, who represented Barakat along with three other nationally known lawyers: "It was a very fact-intensive testimony that would be very difficult to reverse on appeal."

"Even if the government attempted to retroactively deport Aiad with a provision in the PATRIOT Act," noted immigration specialist and National Lawyers Guild attorney Marc Van Der Hout, "it would violate Judge Wilson's orders. I don't think they're going to do that."

On the first day of the trial Georgetown University Law Center professor David Cole, Barakat's lead attorney, summarized the government's reasons for denying Barakat U.S. citizenship.

"The government charged that Barakat lied in U.S. immigration interviews when he said he was not a member of the PFLP. In fact," Cole pointed out, "the petitioner said he only belonged to the CDP (Coalition for a Democratic Palestine), USOMEN (U.S. Organization for Medical and Educational Needs) and GUPS (General Union of Palestinian Students)."

At this point in the proceedings, an unrecognizable name came up: Ali Kased. Many hours were devoted to Kased, whom the government contended was a member of the PFLP because in the May 2005 issue of the PFLP magazine it ran an obituary for Kased describing him as a PFLP member.

Barakat and his attorneys insisted that Aiad only knew Kased as a spokesman for the CDP who made speeches at events in Southern California.

Much time was devoted to the definition of *hafles,* some of which were attended by both Kased and Barakat. Are they large fund-raising parties, or small gatherings for speeches, singing and dancing? It would have been helpful to have an academic expert on Arabic—but, as became apparent the next day, the government translator was no expert.

On the second day of testimony, a grainy, nearly inaudible tape of a three-day CDP retreat in 1986 was presented to the judge. At the close of the event, the secretly filmed FBI tape showed Kased talking to Barakat and seven other men. The government translation of a statement by Kased was: "We are all leaders [in the PFLP]."

Cole argued that his team of Arabic translators could not identify the statement on the flawed tape. Nor, added Arulanantham, was there any record that the government translator, Harold Cubert, had any basis or certification for understanding Arabic.

This reporter queried Phyllis Bennis, a fellow of the Institute for Policy Studies, who sat with the petitioner's attorneys. According to Bennis, the government translator studied conversational Arabic for one year at Hebrew University and took another course at Princeton University.

The *Washington Report* sought to confirm this information with Cubert, who sat in the courtroom throughout the trial, but he said he was forbidden to speak to the press.

The government then withdrew Cubert as a witness, obliging Barakat's attorneys to withdraw their witnesses as well.

Cole addressed the bench: "Today, the petitioner is a middle-aged man, as opposed to 1987, when he was a young activist. He is the father of a 17-year-old son and a 10-year-old daughter. He is the supervisor of as many as 100 workers on construction sites. He helped renovate a church and build a mosque. He wants to be a citizen so he can vote, and be protected by the First Amendment and visit his mother, who is not well. He couldn't be with his father on his deathbed, because it was unlikely he would be allowed to re-enter the U.S."

The government's third charge was that Barakat was untruthful when he said he didn't remember a four-page note handwritten by someone else about the distribution of the PFLP magazine. The notes were recovered during the 1987 raid of Barakat's apartment; his fingerprints were on them.

The judge told the government attorney on the third day of testimony: "You're shooting blanks. Zero plus zero equals zero."

While this was encouraging for Barakat's case, the proceedings seemed to favor the government when prosecutors recalled that when an immigration investigator asked Aiad about banners and emblems of Palestinian organizations, he replied, "These are front organzations."

Barakat's attorneys then showed the actual interview in which he stated in his heavily accented English: "These are different organizations."

In addressing the issue of Barakat's fingerprints on the distribution notes, Judge Wilson noted that others lived in Barakat's apartment and the notes could have been addressed to any of them.

Providing the government does not challenge his forthcoming petition for naturalization, Barakat could become the first of the L.A. 8 to obtain U.S. citizenship.

The senior members of the eight, Khader Hamidi and Michel Shehadeh, hold green cards but face deportation. Last summer, with no explanation, their scheduled cases were abruptly called off by the government. Hamidi's Kenyan wife, Julie, has a green card, as does Amjad Obeid. Naim Sharif says he still is living in immigration limbo with a worker's permit, as is Obeid's brother Ayman, who is a bank manager. The eighth, Bashar Amer, returned to the West Bank.

Barakat's formidable team of attorneys represented him *pro bono.* How much, we wonder, did the government's legal team cost U.S. taxpayers?

END

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 11:18 AM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

CORRECTION: PEN AND PAD ONLY (NO CAMERAS)

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 30, 2006
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DAG
(202) 514-2007
TDD (202) 514-1888

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

WASHINGTON – Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum **TODAY, AUGUST 30, 2006, at 11:45 A.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Remarks at the National Violent Crime Summit

WHEN: **TODAY, AUGUST 30, 2006**
11:45 A.M. EDT

WHERE: Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
PEN AND PAD ONLY (NO CAMERAS)

NOTE: This event is pen and pad only (no cameras). Press inquiries regarding logistics should be directed to Joshua Ederheimer of the Police Executive Research Forum at 202-557-4858 or the Department of Justice Office of Public Affairs at 202-514-2007.

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06-579

DOJ_NMG_ 0167222

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Image not available for this document, ID: 0.7.10316.35289-000002

Gunn, Currie (SMO)

Subject:	Canceled: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, March 15, 2006 11:00 AM
End:	Wednesday, March 15, 2006 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO)
Importance:	High

When: Occurs every Wednesday effective 3/15/2006 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Addition of Evan Young-OAG

Attendees: (A) ASG Greg Katsas, Peter Keisler-AAG Civil, Lily Swenson-OASG, Jeff Senger-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Evan Young-OAG

POC: Currie Gunn

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 1:14 PM
To: USDOJ- Office of Public Affairs
Subject: NEW YORK MAN ENTERS GUILTY PLEA FOR HIS ROLE IN AN INTERSTATE CHILD PROSTITUTION RING

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

NEW YORK MAN ENTERS GUILTY PLEA FOR HIS ROLE IN AN INTERSTATE CHILD PROSTITUTION RING

WASHINGTON – A pimp from New York City who recruited and prostituted minor girls in several U.S. cities pleaded guilty in federal court, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Christopher J. Christie of the District of New Jersey announced today.

Demetrius Lemus, 37, of New York City entered a plea of guilty today before U.S. District Judge Freda L. Wolfson to conspiracy to transport minors to engage in prostitution.

According to the plea agreement, Lemus was part of a prostitution ring operating from 1999 through 2005 in various U.S. cities, including Atlantic City, N.J.; New York City (including Manhattan and Hunts Point in the Bronx); Las Vegas; Boston; and Miami. Other members of the conspiracy, including Melissa Ramlakhan, Anna Argyroudis, Emily Collins-Koslosky, Jacqueline Collins-Koslosky and Kemyra Jemerson, allegedly recruited and transported young girls to and from various cities in order to have them work as prostitutes for pimp Matthew D. Thompkins. Members of the conspiracy would also hide the proceeds of the illegal prostitution enterprise by converting the proceeds into U.S. postal and Western Union money orders in amounts under the legal reporting requirement of $3,000. To date, over $800,000 in U.S. postal and Western Union money orders have been identified as having been purchased and used by members of the conspiracy. Ramlakhan, Argyroudis, Emily and Jacqueline Collins-Koslosky, and Jemerson have all pleaded guilty and are awaiting sentencing. Thompkins is scheduled for trial in January 2007.

Lemus faces a mandatory minimum of five years in prison to a maximum of 30 years and a $250,000 fine. Sentencing is scheduled for Dec. 8, 2006.

The case is part of the "Innocence Lost" initiative, a cooperative effort to prevent and prosecute cases involving child prostitution between the FBI, the Criminal Division's Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children. To date, the Innocence Lost Initiative has resulted in 228 open investigations, 543 arrests, 86 complaints, 121 informations or indictments, and 94 convictions in both the federal and state systems.

DOJ_NMG_ 0167226

The case is being investigated by Special Agent Daniel Garrabrant of the FBI and Special Agent Tara Nevrincean of the U.S. Postal Service, Office of Inspector General and is being prosecuted by Trial Attorney Sherri A. Stephan of the Child Exploitation and Obscenity Section and Assistant U.S. Attorney Jason Richardson of the District of New Jersey in Camden.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 1:40 PM
To: USDOJ- Office of Public Affairs
Subject: MARYLAND MAN SENTENCED TO 15 YEARS IN PRISON FOR PRODUCING AND POSSESSING MORE THAN ONE MILLION IMAGES OF CHILD PORNOGRAPHY

Department of Justice

United States Attorney Rod J. Rosenstein
District of Maryland

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 30, 2006
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CONTACT: VICKIE LEDUC
PHONE (410) 209-4885
FAX (410) 962-3091

MARYLAND MAN SENTENCED TO 15 YEARS IN PRISON FOR PRODUCING AND POSSESSING MORE THAN ONE MILLION IMAGES OF CHILD PORNOGRAPHY

Defendant Who Downloaded and Created Child Pornography at His Government Office was Arrested in Italy After His Case was Featured on "America's Most Wanted"

GREENBELT, Md. — Robert M. Carey, 52, of Bowie, Md. was sentenced today to 15 years in prison, followed by three years of supervised release for producing and possessing child pornography, announced U. S. Attorney Rod J. Rosenstein, of the District of Maryland. U.S. District Judge Roger W. Titus also ordered Carey to pay more than $50,000 in restitution to a family victim.

"Every photograph of child pornography is evidence of a crime," stated U.S. Attorney Rosenstein. "This case demonstrates both the scope and the severity of the harm caused by online child pornography. The defendant not only downloaded more than one million pictures of abused children, he also sexually abused a child and took his own pictures. I am grateful to 'America's Most Wanted' for helping to bring so many fugitives to justice and protect other people from becoming victims."

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Carey is the third federal fugitive and the second child molester brought to justice in Maryland this year after being featured on the television program "America's Most Wanted." Thomas Evered was sentenced on Jan. 27, 2006, to serve 10 years in prison for producing child pornography. Kendall Charles Alexander was sentenced on April 21, 2006, to serve 27 years in prison for armed bank robbery.

According to the statement of facts presented to the court at Carey's guilty plea on May 19, 2006, Carey was employed at the National Oceanographic and Atmospheric Administration (NOAA) since 1974. Carey used government computers at his office and home to access child pornography over the Internet. In Aug. 2005, federal law enforcement agents searched Carey's NOAA office and residence, and recovered more than one million images of prepubescent girls and girls in their early teens in erotic or sexually graphic poses contained in photo albums, DVDs, CD ROMs and on the computers. Carey admitted to downloading child pornography for approximately 10 years at work.

Among the images recovered during the execution of the search warrant at his residence were images of a family member taken when the minor female was between eight and 13 years old. Many of these images were sexually explicit, and included photographs taken at Carey's NOAA office. These images also included photographs of sexual acts between Carey and the minor.

Carey fled the United States after his Dec. 21, 2005 indictment. He was featured on the television show "America's Most Wanted" on Jan. 21, 2006. Carey was arrested on Jan. 24, 2006, after turning himself in to U.S. officials in Rome, Italy. He has remained in custody since that time.

U. S. Attorney Rod J. Rosenstein thanked the U.S. Department of Commerce's Office of Inspector General for its investigative work. Mr. Rosenstein also praised Assistant U. S. Attorney David I. Salem, who prosecuted the case.

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From: USDOJ- Office of Public Affairs
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Subject: JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH SPRINGFIELD, MASSACHUSETTS

Department of Justice

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JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH SPRINGFIELD, MASSACHUSETTS

WASHINGTON – The Justice Department today reached a successful resolution of a lawsuit against the city of Springfield, Mass., regarding allegations that the city violated the rights of minority voters under two key provisions of the Voting Rights Act. Under today's settlement, the city has agreed to a court order providing full relief.

"The right to vote is fundamental for all American citizens," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "This enforcement action under the Voting Rights Act opens the door to equal voting rights for all the citizen voters of Springfield."

The Voting Rights Act requires that certain jurisdictions with a substantial minority-language voter population must provide all voting materials and assistance in the minority language as well as in English. The complaint, filed in the U.S. District Court for the District of Massachusetts, charged that Springfield failed to do so.

The Voting Rights Act also assures voters who need assistance in voting, such as those unable to see or read the ballot, the right to receive that assistance from a person of their choice, other than the voter's employer or union representative. The complaint charged the city with preventing limited English proficient Hispanic voters from securing such assistance.

The consent agreement, which still must be approved by a federal court, requires Springfield to take the necessary steps to comply with federal law. It also permits the Justice Department to monitor future elections in the city.

The agreement was reached following a Monday hearing in which the Department presented evidence from 40 Springfield citizens establishing a violation of the Voting Rights Act. At the close of the hearing, the

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court advised the parties of its inclination to order temporary relief requested by the Civil Rights Division unless the city agreed to a permanent plan by noon today. Today's agreement followed.

The Civil Rights Division has launched a major initiative to ensure compliance with all of the provisions of the Voting Rights Act with respect to all citizens of all racial groups in all areas of the United States. Since 2002, the Civil Rights Division has filed three-fourths of all cases to protect the right of voters needing assistance in the history of the Act, and 60 percent of all minority language cases it has filed in the entire previous history of the Voting Rights Act. As a result of this work and other lawsuits brought since 2002, the Department has brought a majority of all cases it ever has filed under the substantive provisions of the Voting Rights Act to protect Hispanic and Asian voters, and the first cases ever filed to protect the voting rights of Filipino and Vietnamese voters. This is the second recent case the Division has filed in Massachusetts, and follows a successful lawsuit on behalf of Hispanic, Chinese and Vietnamese voters in Boston. The Division has filed additional successful Voting Rights Act lawsuits across the country, with cases in Arizona, California, Florida, Georgia, New York, Pennsylvania, Tennessee, Texas and Washington. There are also active complaints in Ohio & Mississippi.

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931. More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice website at http://www.usdoj.gov/crt/voting/index.htm.

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From: USDOJ- Office of Public Affairs
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To: USDOJ- Office of Public Affairs
Subject: THE NATION'S FEDERAL CRIMINAL JUSTICE CASELOAD GREW SUBSTANTIALLY DURING TEN-YEAR PERIOD

REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT Bureau of Justice Statistics

WEDNESDAY, AUGUST 30, 2006 Contact: Stu Smith: 202-307-0784

www.ojp.usdoj.gov/bjs After hours: 301-983-9354

THE NATION'S FEDERAL CRIMINAL JUSTICE CASELOAD GREW SUBSTANTIALLY DURING TEN-YEAR PERIOD

WASHINGTON — The number of suspects and defendants processed in the federal criminal justice system grew substantially during the 10-year period of 1994 to 2003, the Justice Department's Bureau of Justice Statistics (BJS) announced today. U.S. federal prosecutors investigated more than 130,000 suspects during 2003 (a new record), up from 99,000 men and women in 1994.

Immigration offenses drove the growing case load, BJS noted, increasing by an average annual 14 percent in immigration arrests and 25 percent in prison sentences for immigration convictions.

Drug offenses were the felonies most frequently disposed of in federal district courts during the decade. There were 20,219 such cases during 1994 (with a 86 percent conviction rate) and 28,597 cases in 2003 (with a 92 percent conviction rate). There were 3,673 felony weapons cases disposed of in 1994 (85 percent conviction rate) and 8,147 cases concluded during 2003 (90 percent conviction rate).

The number of weapons offenders in federal prison grew by an average annual 10 percent during the 1994 to 2003 period, and the number of federal drug law offenders in prison grew by an average annual 6 percent.

The number of non-citizens in the federal criminal justice system increased steadily from 1994 through 2003. The U.S. Marshals Service arrested and booked 131,064 suspects during 2003, of which 38 percent were non-citizens, compared to 27 percent in 1994.

A substantial share of the case load was born by federal officials in the southwest's five federal judicial districts (Southern California, Arizona, New Mexico and Southern and Western Texas.) The region processed 31 percent of all federal suspects arrested and booked during the 1994-2003 period, 19 percent of all

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investigated suspects, 23 percent of the cases filed in U.S. District Courts and 28 percent of offenders sentenced to federal prison.

During 2003 federal prisons released 40,780 inmates, who had served an average 33 months for all crimes, compared to an average of 25 months for those released during 1994.

The report, "Federal Criminal Justice Trends, 2003" (NCJ- 205331), is the first in a new series to track changes in the federal criminal justice system. It employed data from eight federal agencies to describe the enforcement of several thousand statutes in the U.S. Criminal Code. The report was written by BJS statistician Mark Motivans. Following publication, the report can be found at: www.ojp.usdoj.gov/bjs/abstract/fcjt03.htm

For additional information about the Bureau of Justice Statistics statistical reports programs, please visit the BJS website at: www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

# # #

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Bureau of Justice Statistics

Federal Criminal Justice Trends, 2003

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Bureau of Justice Statistics

Jeffrey L. Sedgwick
Director

World Wide Web site:
http://www.ojp.usdoj.gov/bjs

For information contact
National Criminal Justice Reference Service
1-800-851-3420

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Federal Criminal Justice Trends, 2003

Federal Justice Statistics Program

Mark Motivans

August 2006, NCJ 205331

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U.S. Department of Justice
Bureau of Justice Statistics

Jeffrey L. Sedgwick
Director

This Bureau of Justice Statistics Report was prepared using data from the Federal Justice Statistics Program (FJSP). The FJSP is managed by the Bureau of Justice Statistics (BJS) and the Urban Institute under BJS grant number 2005-BJ-CX-K004. Principal staff at BJS are Mark Motivans and Steven K. Smith. Principal staff at the Urban Institute are William Adams, Christine Arriola, Avi Bhati, Kamala Mallik Kane, Barbara Parthasarathy, Laura Winterfield, and Yan Yuan. Thomas H. Cohen provided statistical review. Carolyn C. Williams, Tom Hester, Marianne Zawitz, Joanna Bradford, and Rhonda Keith of BJS provided editorial review.

This report is made possible through the cooperation of the following Federal agencies and their staffs: The United States Marshals Service (USMS), the Administrative Office of the United States Courts (AOUSC), the Executive Office for U.S. Attorneys (EOUSA), and the Federal Bureau of Prisons (BOP). The staff who provided expert advice about the source records include: Joe Briggs (USMS); James Tauber (DEA); Steven Schlesinger, Catherine Whitaker, and Pragati Patrick (AOUSC); Siobhan Sperin and Barbara Tone (EOUSA); and Christine Kitchens (USSC).

BJS authorizes any person to reproduce, publish, translate, or otherwise use all or any part of the material in this publication; citation to source, however, is appreciated.
An electronic version of this report and the data underlying graphics may be found on the BJS Internet Home Page (http://www.ojp.usdoj.gov/bjs/). The BJS-sponsored Federal Justice Statistics Resource Center (FJSRC) Internet Home Page (http://fjsrc.urban.org) provides online access to the Federal Justice database. Users may download data from the Federal Justice database for independent analysis or use the online query system to quickly obtain customized statistics.

To order additional copies of this report or CD-ROMs containing the Federal Justice database, call the National Criminal Justice Reference Service at 1-800-851-3420.

http://www.ojp.usdoj.gov/bjs/

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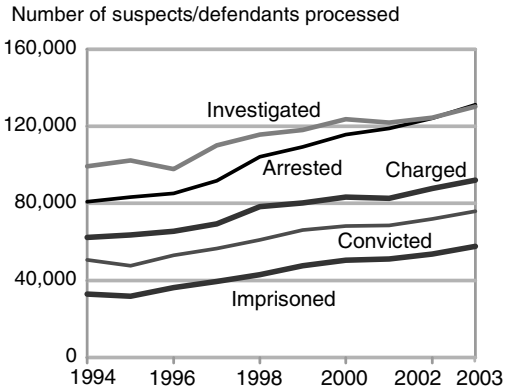
Federal criminal justice trends, 1994-2003

Number of suspects/defendants increased steadily across all stages of the Federal criminal justice system

Stage	Number of suspects/ defendants processed 1994	2003
Suspects investigated	99,251	130,078
Suspects arrested and booked	80,730	131,064
Defendants charged	62,327	92,085
Defendants convicted	50,701	75,805
Defendants sentenced to prison	33,022	57,629



Sources: Executive Office for U.S. Attorneys, central system file, U.S. Marshals Service Prisoner Tracking System, Administrative Office of the U.S. Courts, criminal master file, fiscal year.

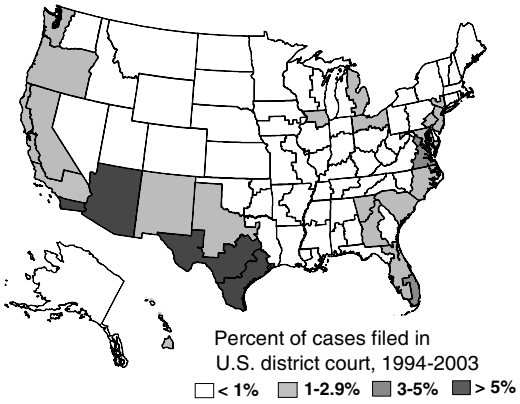
Drug offenders most prevalent; immigration and weapon offenders increased most rapidly

• The 10-year average annual increase was greatest for immigration (ranging from 14% for arrests to 25% for prison sentences imposed) and weapon offenses (ranging from 10% for prosecution to 11% for matters investigated by U.S. attorneys).

• Drug offenses remained the most prevalent offense across stages over 10-year period.

Southwest United States produced a disproportionate share of suspects and defendants processed

• Five of 94 Federal judicial districts (Southern District of California, District of Arizona, District of New Mexico and Southern and Western Districts of Texas) comprised 31% of all suspects arrested and booked, 19% of suspects investigated, 23% of defendants in cases filed in U.S. district court, and 28% of offenders sentenced to prison (1994-2003).



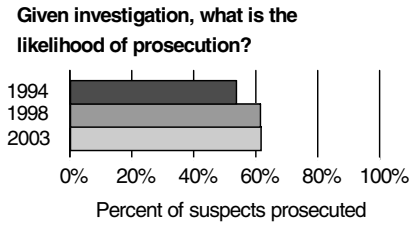
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

Likelihood of prosecution, conviction, and imprisonment sentence increased

• The percent of suspects prosecuted (of matters concluded by U.S. attorneys) increased from 54% in 1994 to 62% in 2003.

• Eighty-nine percent of defendants were convicted in 2003 (of those charged) compared with 83% in 1994. The conviction rate for drug defendants increased from 86% in 1994 to 92% in 2003.

• The percent of offenders sentenced to prison (of those convicted) increased from 65% in 1994 to 76% in 2003. Eighty-three percent of defendants convicted of a felony were sentenced to prison in 2003 compared with 78% in 1994.



Source: Executive Office for U.S. Attorneys, central system file, fiscal year.

Rate of pretrial detention increased

• Seventy-six percent of defendants terminating pretrial services in 2003 were detained compared with 58% in 1994.

• Fifty-nine percent of defendants in 2003 had a prior conviction at initial hearing compared with 48% in 1994.

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Criminal trials declined

• Jury trials decreased from 8% of cases concluded in 1994 to 4% in 2003.

• Ninety-six percent of convictions in U.S. district court in 2003 were the result of guilty pleas compared with 91% in 1994.

Number of Federal prison inmates increased

• The Federal prison population increased an average of 7% each year from 1994-2003. The largest average annual increases over this period were for immigration (24%) and weapon offenses (10%). Drug offenders comprised 57% of prisoners in 2003 compared to 61% in 1994.

• The average prison term imposed decreased from 63 months in 1994 to 59 months in 2003. The average prison term imposed declined for drug offenders from 84 months in 1994 to 82 months in 2003 and increased for violent offenders from 92 months in 1994 to 98 months in 2003.

• Offenders released for the first time from Federal prison served an average of 33 months in prison in 2003 compared to 25 months in 1994.

• 26% of inmates in Federal prison at fiscal yearend 2003 had served 5 years in prison up from 9% in 1994. Of those who had served 5 or more years at yearend 2003, 22% were over the age of 50.

Federal sentencing guidelines applied in most cases

• Sixty-nine percent of offenders sentenced in 2003 received sentences within ranges set forth under the Federal sentencing guidelines (compared with 72% in 1994).

• Sixty-nine percent of immigration offenders were sentenced within the Federal sentencing guidelines in 2003 (compared with 91% in 1994).

• Just over half of offenders (54%) sentenced under the Federal sentencing guidelines from 1994-2003 were assigned the lowest criminal history score level as determined by the guidelines at sentencing.

• The percent of drug offenders receiving a 5-year or greater statutory minimum sentence under the Federal sentencing guidelines decreased from 66% in 1996 to 60% in 2003.

Supervised release most common form of Federal community supervision

• Offenders on Federal supervised release surpassed the number of offenders on probation from 1994 to 2003. Offenders on supervised release comprised 70% of offenders on community supervision in 2003 compared with 39% in 1994.

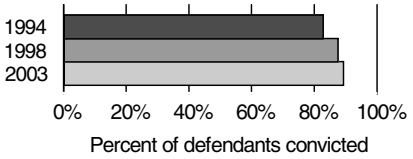
• Offenders on Federal parole comprised 3% of offenders under supervision in 2003 compared with 15% in 1994.

Drug offenders on Federal supervision increased

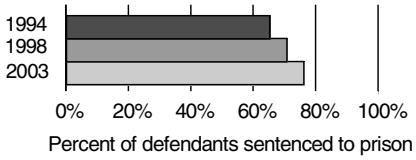
• Drug offenders surpassed property offenders as most common offense under Federal supervision in 1999. Drug offenders increased from 32% of those on supervision in 1994 to 42% in 2003.

• Forty percent of offenders under Federal supervision in 2003 reported a drug abuse history compared with 31% in 1994.

Given prosecution, what is the likelihood of conviction?



Given conviction, what is the likelihood of imprisonment?

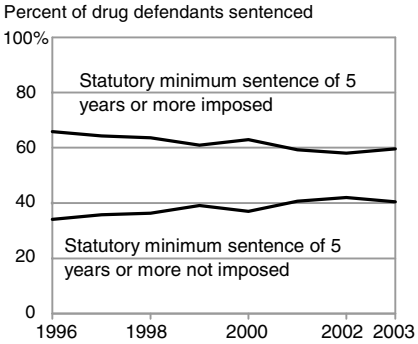


Sources: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

Percent of defendants receiving within range sentences underFederal sentencing guidelines

Most serious offense	1994	2003
All offenses	71.7%	69.4%
Violent offenses	75.0	75.7
Property offenses	81.1	78.2
Drug offenses	60.8	62.4
Public-order offenses	75.3	72.3
Weapon offenses	77.3	76.8
Immigration offenses	90.7	68.5

Source: U.S. Sentencing Commission monitoring file, fiscal year.



Source: U.S. Sentencing Commission monitoring file, fiscal year.

DOJ_NMG_ 0167250

Arrests and bookings by the U.S. Marshals Service

Drug offenses were the most prevalent offense among suspects arrested and booked by U.S. Marshals.

- Immigration offenses had the greatest net increase (18,843 more arrests in 2003 than 1994).

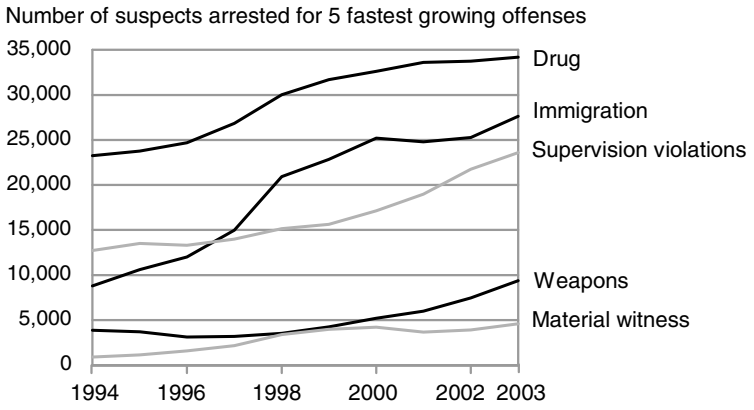


Figure 1

Suspects arrested and booked by the U.S. Marshals Service increased an average of 6% annually from 1994-2003.

Table 1. Suspects arrested for Federal offenses and booked by the U.S. Marshals Service, by type of offense, 1994-2003

Most serious offense	Number arrested and booked 1994	1999	2002	2003	Average annual change 1994-2003	Profile percent 1994	2003
All arrests	80,730	109,340	124,074	131,064	5.6%	100.0%	100.0%
Violent	3,905	4,254	4,723	4,484	2.0	4.8	3.5
Property	15,540	16,569	17,268	17,258	1.2	19.3	13.3
Drug	23,268	31,867	33,730	34,217	4.4	28.9	26.4
Weapon	3,885	4,268	7,488	9,416	11.9	4.8	7.3
Immigration	8,777	22,849	25,270	27,620	14.2	10.9	21.3
Material witness	886	4,016	3,918	4,615	21.9	1.1	3.6
Supervision violations	12,719	15,603	21,777	23,605	7.3	15.8	18.2
Public-order	11,596	9,841	8,772	8,591	-3.1	14.4	6.6

DOJ_NMG_ 0167251

Four Federal judicial districts along the Southwest border comprised 54% of the growth in arrests and bookings between 1994 and 2003.

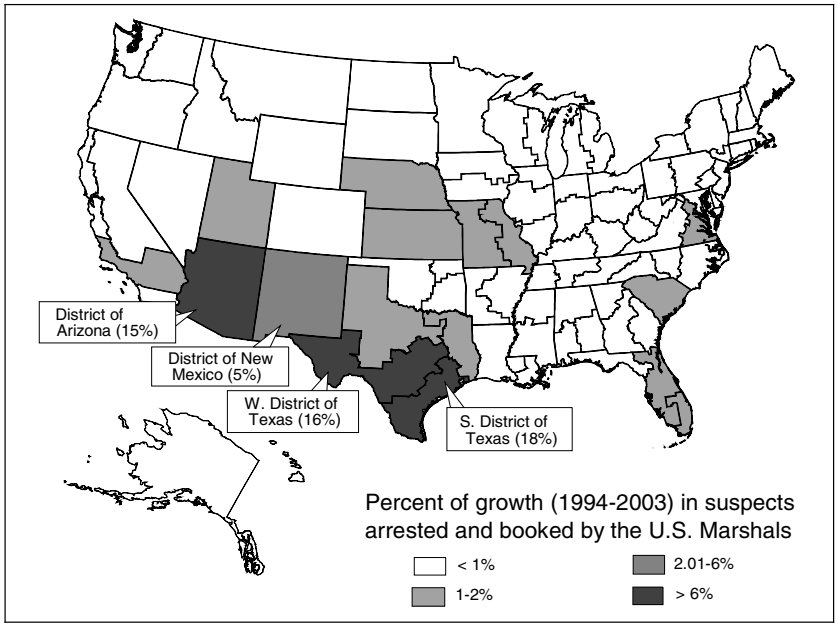


Figure 2

Table 2. Characteristics of suspects arrested and booked by the U.S. Marshals Service, 1994-2003

Suspect characteristics	Number and percent arrested and booked 1994	2003	In 2003 suspects were most likely to be —
Number arrested	80,730	131,064	
Gender			
Male	85.3%	86.1%	◗ Male (86%)
Female	14.7	13.9	
Race			
White	66.5%	70.5%	◗ White (71%)
Black or African American	29.8	25.8	
American Indian or Alaska Native	1.4	1.8	
Asian/Native Hawaiian or Other Pacific Islander	2.3	1.8	
Age at arrest			
Under 19 years	1.8%	1.6%	
19-20 years	5.0	5.1	
21-30 years	37.3	39.7	◗ 21-30 years (40%)
31-40 years	31.3	30.4	
Over 40 years	24.7	23.3	
Citizenship			
U.S. citizen	73.0%	62.1%	◗ U.S. citizen (62%)
Non-U.S. citizen	27.0	37.9	

DOJ_NMG_ 0167252

Illegal entry/reentry offenses comprised the bulk of U.S. Marshals Service arrests for immigration offenses.

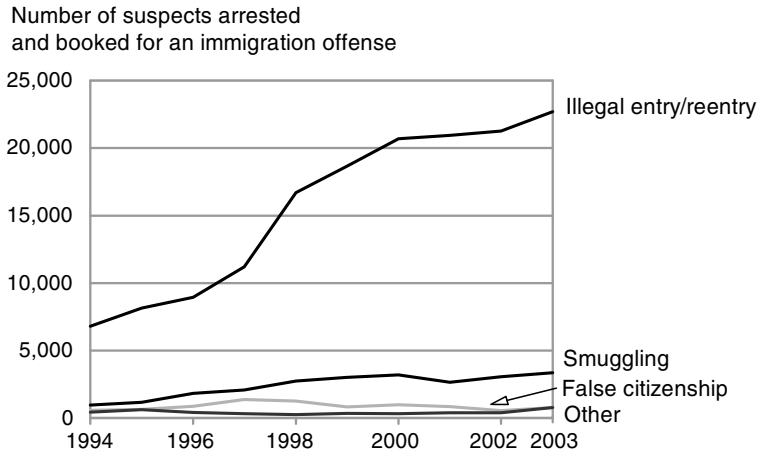


Figure 3

Table 3. Characteristics of immigration suspects arrested and booked by the U.S. Marshals Service, 1994-2003

Suspect characteristics	Number and percent 1994	Number and percent 2003	In 2003 suspects were most likely to be —
All arrestees	8,777	27,620	
Gender			
Male	91.7%	93.0%	◗ Male (93%)
Female	8.3	7.0	
Race			
White	91.3%	96.5%	◗ White (97%)
Black or African American	6.4	2.5	
American Indian or Alaska Native	0.2	0.2	
Asian/Native Hawaiian or Other Pacific Islander	2.1	0.8	
Age at arrest			
Under 19 years	2.9%	1.8%	
19-20 years	8.1	5.3	
21-30 years	52.2	45.2	◗ 21-30 years (45%)
31-40 years	28.1	32.8	
Over 40 years	8.8	15.0	
Citizenship			
U.S. citizen	3.6%	6.6%	
Non-U.S. citizen	96.4	93.4	◗ Non-U.S. citizen (93%)

DOJ_NMG_ 0167253

Non-U.S. citizens comprised a growing share of suspects arrested and booked by the U.S. Marshals.

- In 2003 non-U.S. citizens made up 38% of suspects arrested compared to 27% in 1994.

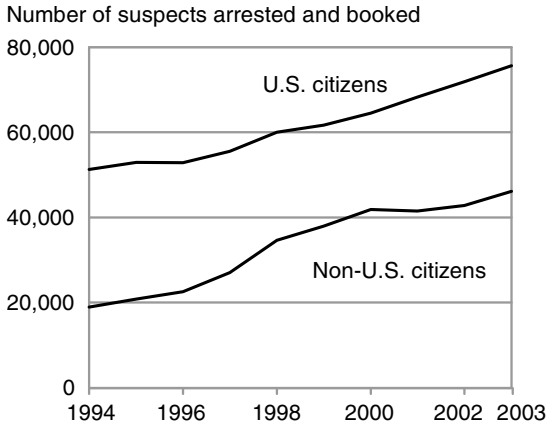


Figure 4

Citizens of Mexico comprised the largest share of non-U.S. citizen suspects arrested and booked by the U.S. Marshals Service from 1994 to 2003.

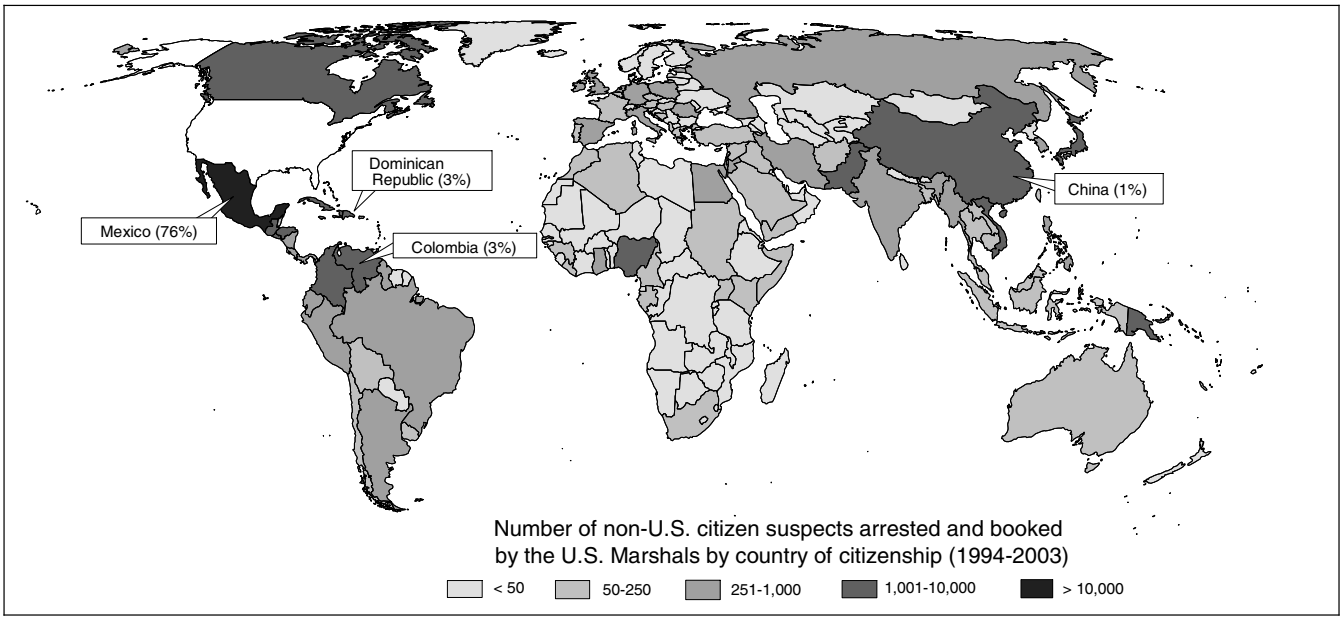


Figure 5

DOJ_NMG_ 0167254

Drug arrests by the Drug Enforcement Administration

The number of drug arrests by the Drug Enforcement Administration reached a peak in 1999.

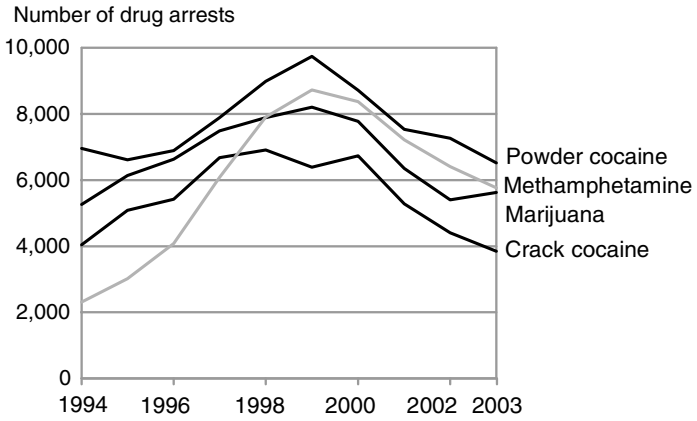


Figure 6

Methamphetamine arrests comprised 22% of Drug Enforcement Administration arrests in 2003 compared with 11% of arrests in 1994.

Table 4. Suspects arrested by the Drug Enforcement Administration, by type of drug at arrest, 1994-2003

Most serious offense at arrest	Number of drug suspects arrested by the Drug Enforcement Administration				Average annual change 1994-2003	Profile percent	
	1994	1999	2002	2003		1994	2003
All arrests	21,693	38,886	29,145	26,850	3.1%	100.0%	100.0%
Cocaine powder	6,967	9,745	7,261	6,522	-0.2	32.1	24.3
Crack cocaine	4,048	6,387	4,400	3,842	0.6	18.7	14.3
Marijuana	5,260	8,204	5,402	5,633	1.4	24.3	21.0
Methamphetamine	2,311	8,727	6,406	5,766	12.9	10.7	21.5
Opiates	1,966	3,394	2,387	2,280	2.6	9.1	8.5
Other or non-drug	1,141	2,429	3,289	2,807	11.7	5.3	10.5

DOJ_NMG_ 0167255

From 1994 to 2003 the Drug Enforcement Administration made more than 26,000 methamphetamine arrests, 44% of all domestic methamphetamine arrests, in 4 States: California, Texas, Arizona, and Missouri.

- Twenty-five percent of DEA arrests for methamphetamine were in California.

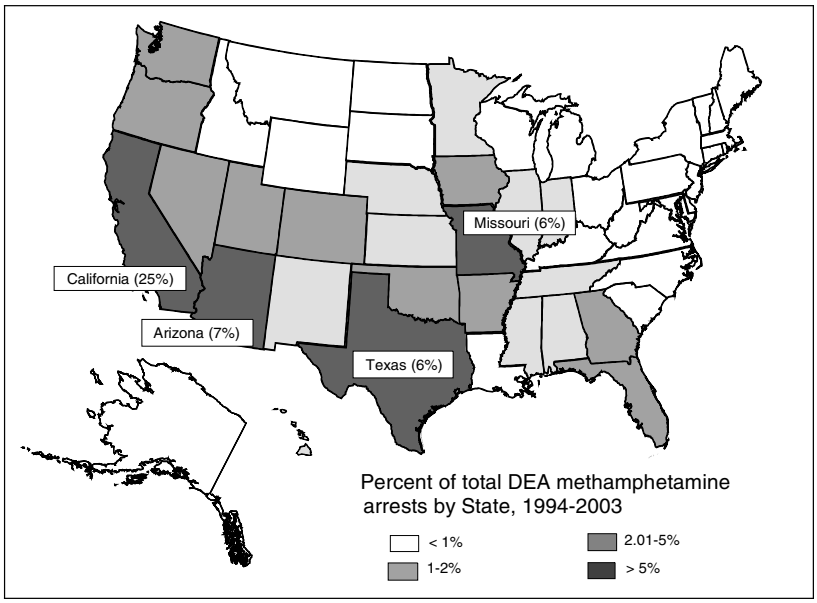


Figure 7

Demographic characteristics of suspects arrested for methamphetamine remained mostly the same between 1995 and 2003.

Table 5. Characteristics of suspects arrested by the Drug Enforcement Administration, 1995-2003

Suspect characteristics	All arrests: Number and percent of arrested 1995	All arrests: Number and percent of arrested 2003	Methamphetamine: Number and percent of arrested 1995	Methamphetamine: Number and percent of arrested 2003	In 2003 methamphetamine suspects were most likely to be —
All arrestees	24,486	26,850	3,020	5,766	
Gender					
Male	84.1%	84.2%	81.9%	80.2%	➧ Male (80%)
Female	15.9	15.8	18.1	19.8	
Race					
White	64.5%	70.0%	93.8%	93.5%	➧ White (94%)
Black or African American	33.9	27.5	1.6	2.5	
American Indian or Alaska Native	0.2	0.5	0.2	0.7	
Asian/Native Hawaiian or Other Pacific Islander	1.4	2.0	4.5	3.3	
Ethnicity					
Hispanic or Latino	41.2%	43.0%	32.3%	40.2%	
Not Hispanic or Latino	58.8	57.0	67.7	59.8	➧ Not Hispanic or Latino (60%)
Age at arrest					
Under 19 years	3.4%	2.0%	1.5%	1.7%	
19-20 years	5.8	5.7	3.9	5.3	
21-30 years	41.7	43.9	38.6	40.9	➧ 21-30 years (41%)
31-40 years	30.1	29.3	36.4	31.1	
Over 40 years	18.9	19.1	19.6	20.9	
Citizenship					
U.S. citizen	74.4%	77.0%	76.4%	77.9%	➧ U.S. citizen (78%)
Non-U.S. citizen	25.6	23.0	23.6	22.1	

DOJ_NMG_ 0167256

The number of suspects referred for immigration and weapons matters increased steadily from 1994-2003.

- Suspects referred for drug offenses also increased and remained the most prevalent offense of referral.

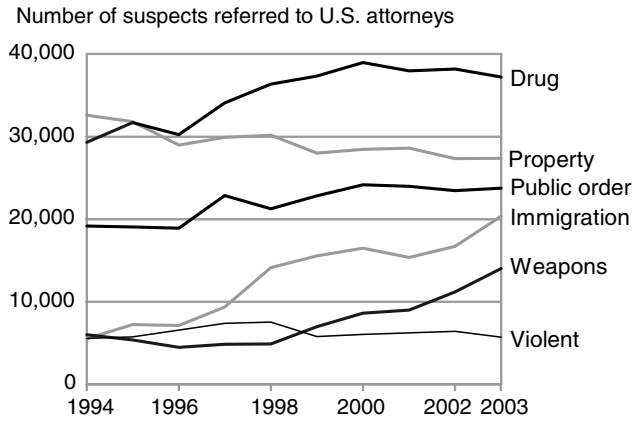


Figure 8

The number of suspects in matters referred to U.S. attorneys increased an average of 3% each year from 1994-2003.

- Suspects referred for property offenses declined an annual average of 2%.

Table 6. Suspects in matters referred to U.S. attorneys by type of offense, 1994-2003

Most serious offense investigated	Number of suspects referred to U.S. attorneys				Average annual change	Profile percent	
	1994	1999	2002	2003	1994-2003	1994	2003
All matters referred	99,251	117,994	124,335	130,078	3.1%	100.0%	100.0%
Violent	5,570	5,768	6,392	5,688	0.9	5.7	4.4
Property	32,579	28,011	27,321	27,375	-1.8	33.2	21.3
Fraudulent	28,491	24,200	24,019	24,261	-1.7	29.0	18.9
Other	4,088	3,811	3,302	3,114	-2.8	4.2	2.4
Drug offenses	29,311	37,313	38,150	37,416	2.9	29.9	29.1
Weapons	5,996	6,982	11,200	14,022	11.4	6.1	10.9
Immigration	5,526	15,539	16,699	20,341	16.8	5.6	15.8
Public order	19,143	22,816	23,472	23,717	2.7	19.5	18.4
Regulatory	5,059	6,332	4,738	5,366	1.2	5.2	4.2
Other	14,084	16,484	18,734	18,351	3.6	14.4	14.3

DOJ_NMG_ 0167257

Immigration suspects referred to U.S. attorneys

The number of suspects investigated for illegal reentry increased more than other types of immigration offenses.

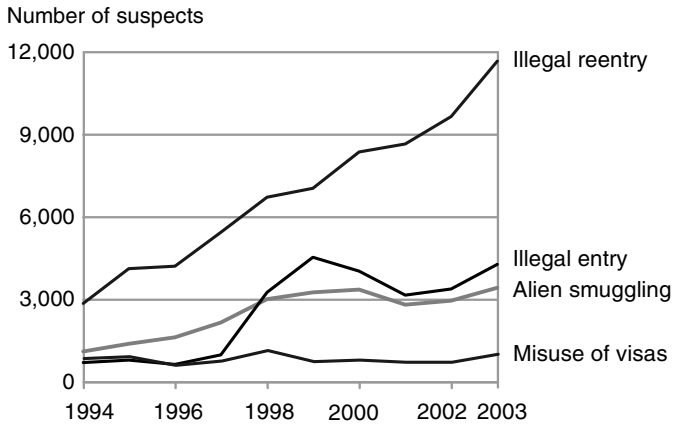


Figure 9

Sixty-three percent of immigration matters referred to U.S. attorneys from 1994-2003 were from the five Federal judicial districts along the U.S.-Mexico border.

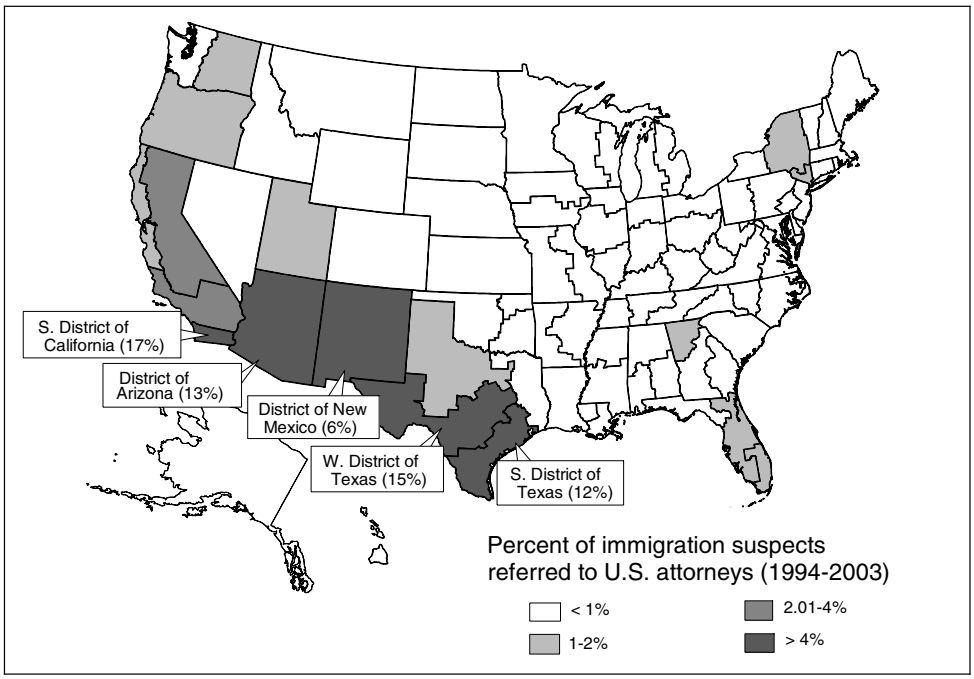


Figure 10

DOJ_NMG_ 0167258

Drug suspects referred to U.S. attorneys

The number of suspects investigated for trafficking increased more than conspiracy and other drug offenses.

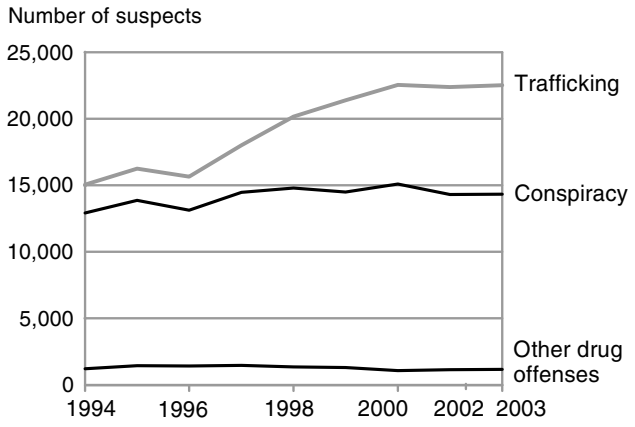


Figure 11

Five Federal judicial districts comprised 26% of all drug suspects referred to U.S. attorneys from 1994 to 2003.

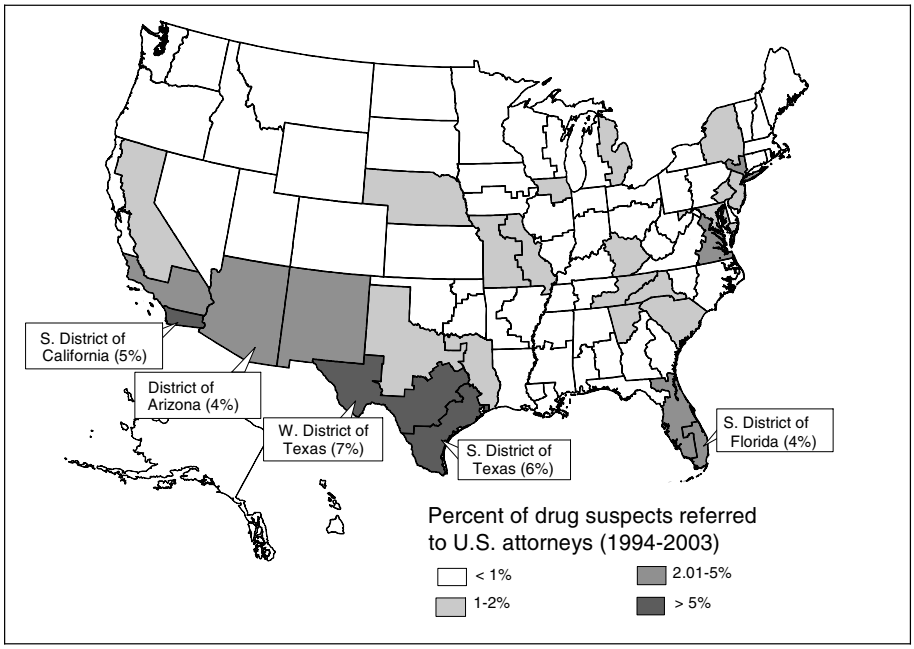


Figure 12

DOJ_NMG_ 0167259

Firearm suspects referred to U.S. attorneys

Investigations of firearm suspects increased an annual average of 11% from 1994-2003.

- Suspects referred for firearm possession comprised 90% of firearm referrals in 2003 compared with 64% in 1994.

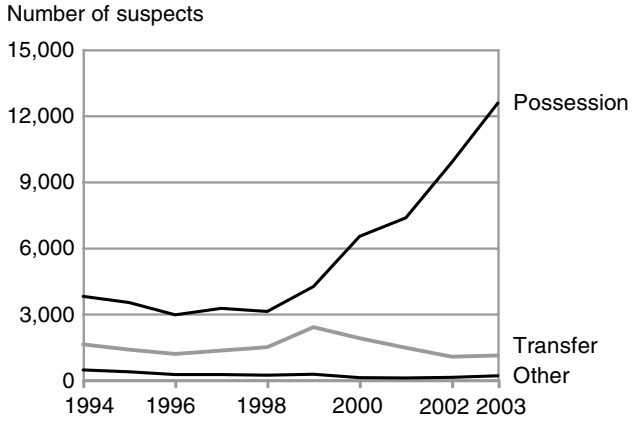


Figure 13

Six Federal judicial districts each comprised 3% or more of all suspects investigated for firearm matters from 1994 to 2003.

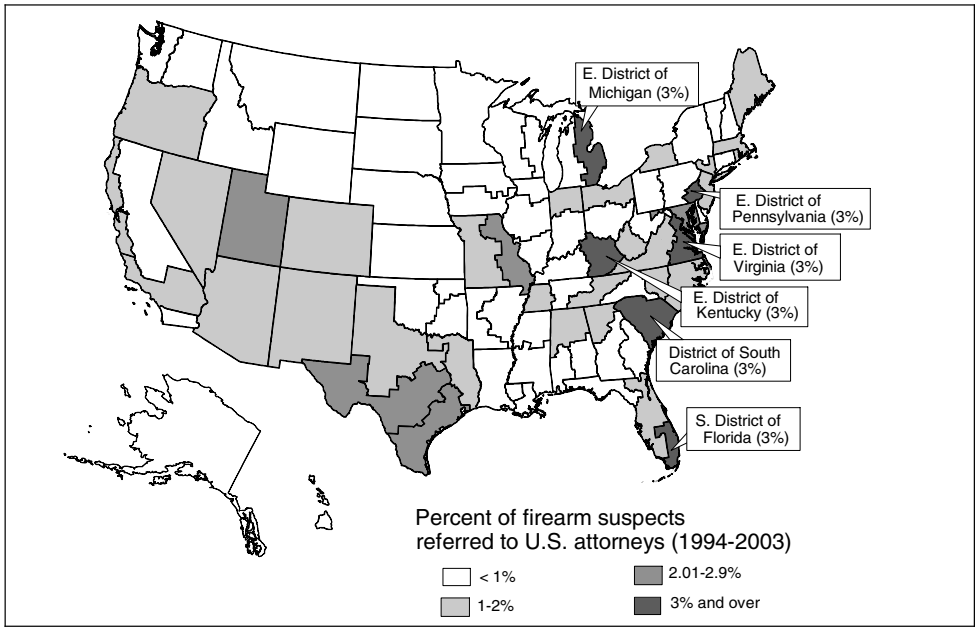


Figure 14

DOJ_NMG_ 0167260

U.S. attorneys prosecuted 80,106 suspects in 2003 compared to 50,802 in 1994.

- Matters concluded by U.S. magistrate increased by a yearly average of 6% from 1994-2003.

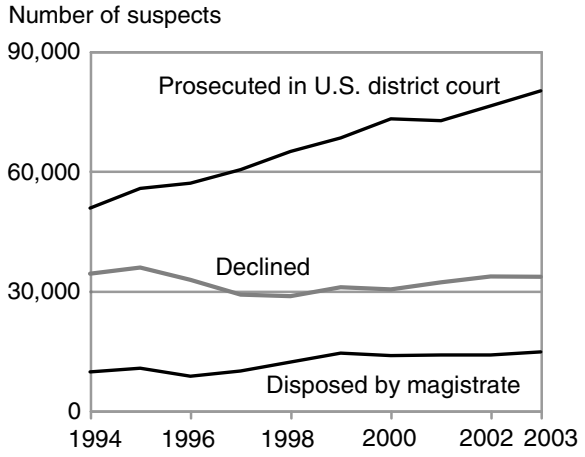


Figure 15

Sixty-two percent of suspects were prosecuted by U.S. attorneys in 2003, up from 54% in 1994.

- The median time from receipt of a matter to its disposition (prosecution, declination, disposal by U.S. magistrate) decreased from just over 3 months in 1994 to less than 2 months in 2003.

- The number of suspects in matters declined decreased from 36% of matters concluded in 1994 to 26% in 2003.

Table 7. Suspects in matters concluded by U.S. attorneys by disposition and median case processing time, 1994-2003

	Percent of all matters concluded		Number		Average annual change	Median case processing time	
	1994	2003	1994	2003	1994-2003	1994	2003
All suspects	100.0%	100.0%	94,980	128,518	3.5%	3.3 mo	1.7 mo
Prosecuted before U.S. district court judge	53.5	62.3	50,802	80,106	5.2	0.9	0.9
Declined prosecution	36.2	26.2	34,424	33,602	-0.1	12.7	13.7
Concluded by U.S. magistrate	10.3	11.5	9,754	14,810	5.5	1.0	2.1

DOJ_NMG_ 0167261

I. Initial hearing/Pretrial release

The number of defendants terminating pretrial services increased by an average of 6% each year from 1994 to 2003.

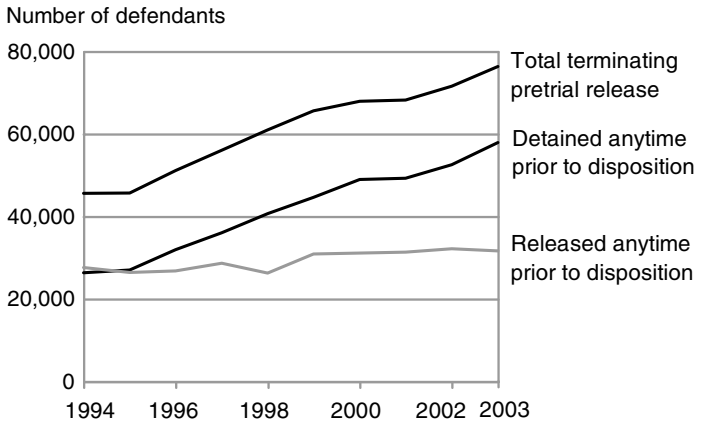


Figure 16

The number of defendants detained at anytime prior to trial increased by an annual average of 9%.

- Nearly a third of detained defendants terminating pretrial services were charged with a drug offense.
- Defendants charged with immigration offenses had the largest increase of those receiving pretrial detention.
- The percent of defendants detained prior to case termination increased from 58% in 1994 to 76% by 2003.

Table 8. Number of pretrial defendants detained at any time prior to case termination, by offense

Most serious offense charged	Number of defendants terminating pretrial services				Average annual change 1994-2003	Profile percent	
	1994	1999	2002	2003		1994	2003
All cases terminated	45,584	65,559	71,572	76,305	6.0%	100.0%	100.0%
All defendants detained	26,299	44,626	52,515	57,856	9.3	57.7	75.8
Violent	2,478	2,778	2,549	2,611	1.1	5.4	3.4
Property	3,138	4,301	5,531	5,930	7.5	6.9	7.8
Drug offenses	14,292	21,221	23,346	23,578	5.9	31.4	30.9
Weapons	1,747	1,900	3,670	4,763	12.7	3.8	6.2
Immigration	3,225	11,440	13,966	17,232	21.5	7.1	22.6
Public order	1,419	2,986	3,407	3,655	11.5	3.1	4.8

DOJ_NMG_ 0167262

Five Federal judicial districts along the Southwest U.S. border comprised 48% of the growth in persons detained at any time prior to trial from 1994 to 2003.

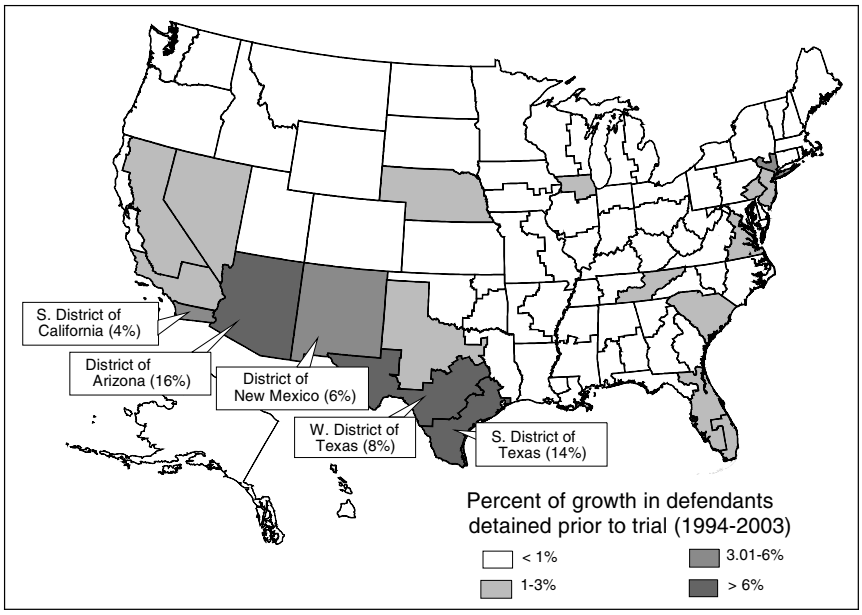


Figure 17

Unsecured bond remained the primary method of release for defendants released any time prior to case disposition during the 1994-2003 period.

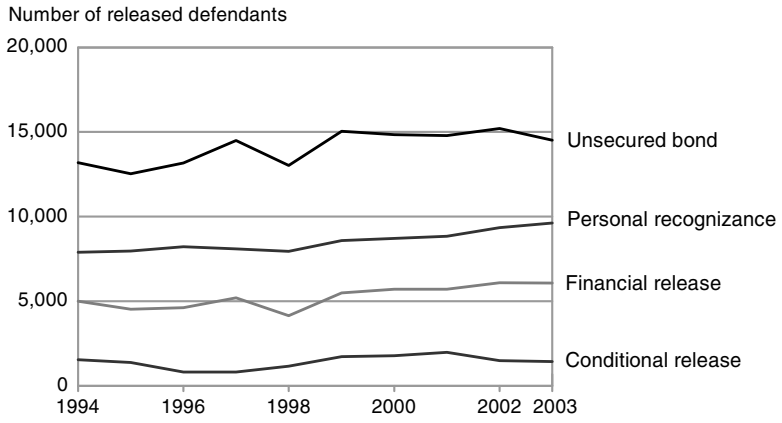


Figure 18

DOJ_NMG_ 0167263

A greater percentage of defendants released prior to trial violated a condition of their release (technical violation, new crime, failure to appear) in 2003 (20%) compared with 1994 (15%).

Table 9. Behavior of defendants released prior to trial by offense, 1994 and 2003

	1994					2003				
	Total	Behavior of defendants released prior to trial —				Total	Behavior of defendants released prior to trial —			
Most serious offense	defendants released	No violations	Technical violations	New crime	Failure to appear	defendants released	No violations	Technical violations	New crime	Failure to appear
All offenses	27,607	84.8%	10.9%	3.2%	2.3%	31,613	80.2%	18.2%	3.4%	2.2%
Violent	1,174	79.2	15.8	4.5	2.2	1,156	77.7	20.9	3.0	2.8
Property	9,748	89.8	6.9	2.7	1.5	10,349	87.7	11.2	2.3	1.4
Drug	9,814	76.3	17.7	4.2	3.8	10,776	70.2	27.8	4.9	3.1
Weapons	1,478	79.5	14.1	5.9	2.2	2,562	68.5	28.7	6.9	2.7
Immigration	1,357	96.0	1.5	1.0	1.7	1,463	81.7	16.5	2.3	4.3
Public-order	3,959	93.4	4.9	1.2	1.1	5,240	91.9	7.3	1.3	1.0

DOJ_NMG_ 0167264

Most defendants in pretrial cases commenced from 1994-2003 had a prior conviction.

- The proportion of pretrial defendants with a prior conviction at initial hearing has been increasing.

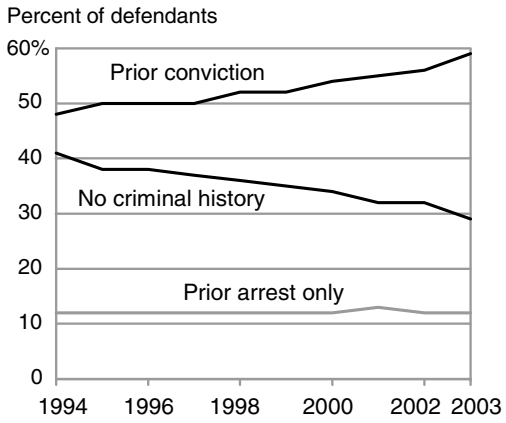


Figure 19

The characteristics of defendants with a prior conviction varied modestly from all offenders.

Table 10. Characteristics of defendants at initial hearing in Federal district court, 1994-2003

Defendant characteristics	All defendants at initial hearing 1994	All defendants at initial hearing 2003	Defendants with a prior conviction 1994	Defendants with a prior conviction 2003	In 2003 defendants with a prior conviction were most likely to be —
All defendants	49,853	83,419	23,690	48,919	
Gender					
Male	83.8%	85.2%	90.7%	90.7%	◗ Male (91%)
Female	16.2	14.8	9.3	9.3	
Race					
White	65.6%	71.0%	60.6%	67.3%	◗ White (67%)
Black or African American	30.2	24.6	36.4	29.2	
American Indian or Alaska Native	1.5	2.0	1.7	2.1	
Asian/Native Hawaiian or Other Pacific Islander	2.7	2.5	1.3	1.4	
Ethnicity					
Hispanic or Latino	31.1%	44.1%	26.7 %	42.0%	
Not Hispanic or Latino	68.9	55.9	73.3	58.0	◗ Not Hispanic or Latino (58%)
Age at arrest					
Under 19 years	4.3%	3.8%	2.6%	2.0%	
19-20 years	3.0	2.9	2.5	2.2	
21-30 years	37.9	39.6	39.3	40.3	◗ 21-30 years (40%)
31-40 years	29.9	30.0	33.0	32.8	
Over 40 years	25.0	23.7	22.5	22.7	
Citizenship					
U.S. citizen	74.7%	63.4%	81.1%	67.1%	◗ U.S. citizen (67%)
Non-U.S. citizen	25.3	36.6	18.9	32.9	

DOJ_NMG_ 0167265

II. Cases filed and terminated in U.S. district court

From 1994 to 2003, 23% of criminal cases were filed in Federal judicial districts along the Southwest U.S. border.

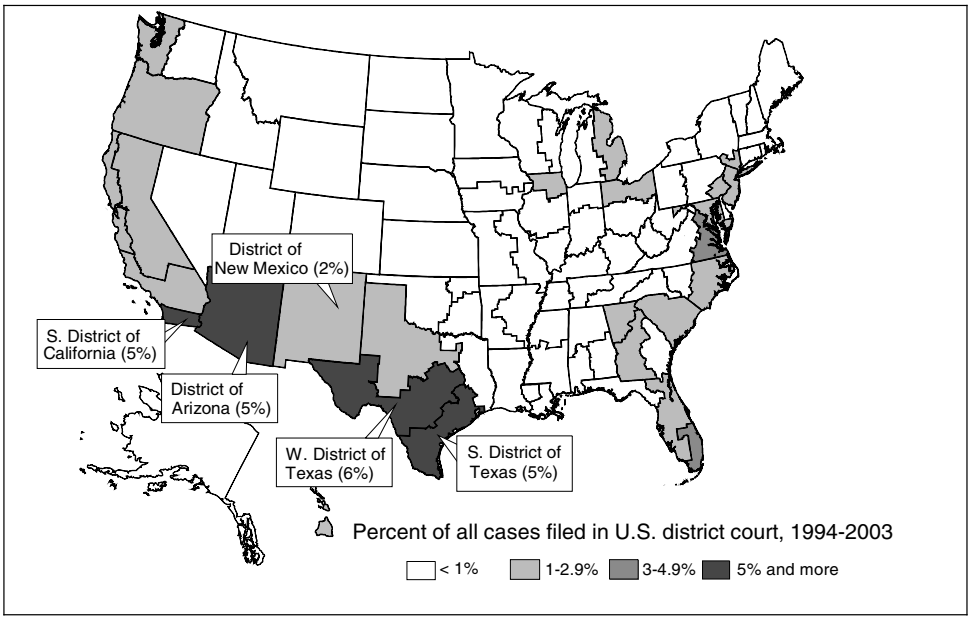


Figure 20

Defendants in criminal cases concluded in U.S. district court increased at a yearly average of 4% from 1994 to 2003 with immigration offenses increasing at the greatest rate.

- The percent of defendants convicted increased for all types of felonies.

Table 11. Number of defendants in cases concluded in U.S. district court and percent convicted, 1994-2003

	Defendants in cases concluded						
	Percent		Number		Average annual change	Percent of defendants convicted	
Most serious offense charged	1994	2003	1994	2003	1994-2003	1994	2003
All offenses	100.0%	100.0%	61,404	85,106	3.8%	82.6%	89.1%
Felonies	77.0	87.4	47,292	74,370	5.3	86.2	92.1
Violent offenses	5.3	3.6	3,227	3,040	-0.4	87.9	90.5
Property offenses	21.5	17.6	13,182	14,965	1.5	87.3	91.2
Drug offenses	32.9	33.6	20,219	28,597	4.2	85.9	91.9
Weapon offenses	6.0	9.6	3,673	8,147	9.7	85.2	89.8
Immigration offenses	3.9	17.8	2,371	15,149	24.0	92.2	96.6
Public-order offenses	7.5	5.3	4,620	4,472	0.0	81.0	86.4
Misdemeanors	23.0	12.6	14,111	10,736	-2.7	70.4	68.1

DOJ_NMG_ 0167266

Three Federal judicial districts had a trial rate (percent of bench or jury trials of all concluded cases) that was more than double the national average of 6% from 1994-2003. Three districts had a trial rate that was less than half the national average.

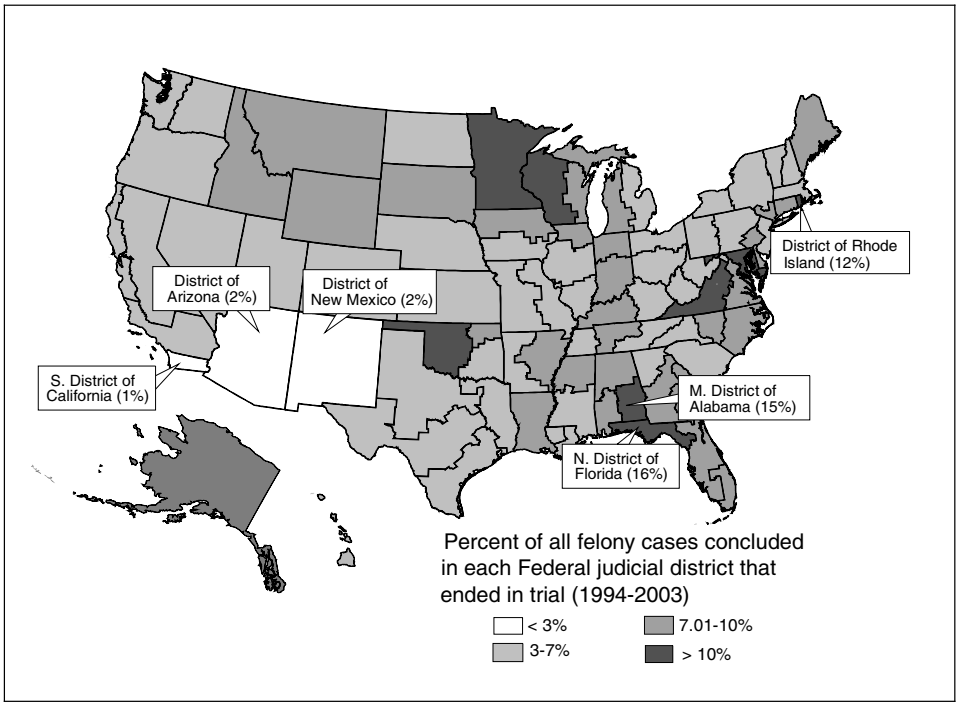


Figure 21

The proportion of all defendants convicted in the Federal courts increased from 83% during 1994 to 89% in 2003.

- The median case processing time from case filing to disposition increased from 5 months in 1994 to 6 months in 2003.
- Cases concluded before a jury declined from 4,639 in 1994 to 2,909 in 2003.

Table 12. Adjudication outcomes of defendants in cases concluded in U.S. district courts and median case processing time, 1994-2003

Adjudication outcomes	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Median case processing time 1994	Median case processing time 2003
All defendants in cases concluded	100.0%	100.0%	61,404	85,106	3.8%	5.4 mo	6.1 mo
Convicted	82.6%	89.1%	50,701	75,805	4.7%	5.4 mo	6.1 mo
Guilty plea	74.8	85.3	45,958	72,589	5.3	5.2	6.0
Jury trial	6.3	2.9	3,857	2,431	-4.6	9.6	13.2
Bench trial	0.8	0.4	495	333	1.7	0.3	4.4
No contest	0.6	0.5	391	452	4.0	0.0	0.0
Not convicted	17.4%	10.9%	10,703	9,301	-1.2%	5.1 mo	6.0 mo
Dismissed	15.3	10.0	9,366	8,541	-0.6	5.4	6.2
Acquitted by jury	1.3	0.6	782	478	-5.1	6.0	6.5
Acquitted by court	0.9	0.3	555	282	-4.0	0.0	0.0

DOJ_NMG_ 0167267

In 2003 the most common types of counsel at case termination were public defender and Criminal Justice Act appointed counsel.

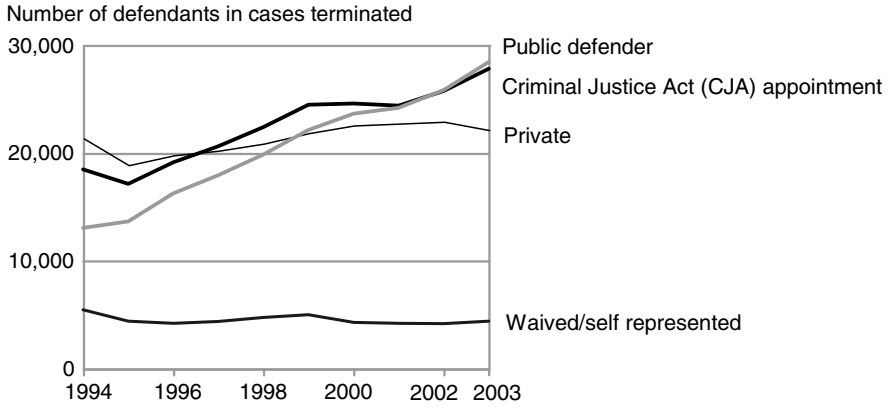


Figure 22

Type of counsel at case termination varied by type of offense:

- In 2003 more than 40% of the caseload for Criminal Justice Act-appointed and private counsel was made up of drug offenses.

- Immigration offenses comprised almost one-third of the caseload for public defenders in 2003.

Table 13. Type of counsel of defendants in cases terminated by offense, adjudication outcome, and median case processing time, 1994-2003

	CJA appointment		Private counsel		Public defender		Waived/self representation	
	1994	2003	1994	2003	1994	2003	1994	2003
Total cases concluded	18,503	27,828	21,408	22,198	13,073	28,481	5,470	4,437
All offenses	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Felonies	90.7	95.2	85.1	92.8	80.8	90.5	4.4	2.0
Violent offenses	6.8	4.0	2.5	2.0	10.3	5.0	0.1	0.1
Property offenses	21.1	16.2	27.7	24.8	22.3	16.4	1.4	0.5
Drug offenses	44.6	43.3	36.9	42.4	25.1	22.3	1.4	0.7
Weapon offenses	7.8	9.1	4.4	8.2	8.8	12.8	0.5	0.2
Immigration offenses	4.1	18.7	1.3	5.7	9.9	30.1	0.2	0.2
Public-order offenses	6.2	3.9	12.3	9.7	4.4	3.9	0.8	0.2
Misdemeanors	9.3	4.8	14.9	7.2	19.2	9.5	95.6	98.0
All outcomes	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Convicted	88.4	93.6	88.2	92.0	89.5	93.2	65.3	62.1
Guilty plea	78.7	89.6	79.5	87.5	84.6	91.1	57.2	51.3
Jury trial	9.1	3.8	7.3	3.9	4.4	1.7	0.5	0.4
Bench trial	0.4	0.2	0.6	0.4	0.3	0.3	4.8	2.2
No contest	0.3	0.1	0.7	0.2	0.2	0.1	2.8	8.3
Not convicted	11.6	6.4	11.8	8.0	10.5	6.8	34.7	37.9
Dismissed	9.7	5.7	9.5	6.9	9.3	6.3	28.7	33.9
Acquitted by jury	1.5	0.6	1.7	0.9	0.9	0.4	0.0	0.0
Acquitted by court	0.3	0.1	0.6	0.2	0.3	0.1	6.1	4.0
Median case processing time	6.3mo.	6.7mo.	6.1mo.	7.7mo.	4.7mo.	5.2mo.	0.1 mo.	1.0 mo.

DOJ_NMG_ 0167268

Defendants convicted in U.S. District courts in 1996 differed from those convicted in 2003.

Table 14. Characteristics of defendants convicted in U.S. district courts, 1996 and 2003

Suspect characteristics	Number and percent of defendants convicted 1996	2003	In 2003 compared to 1996, there was an increase in the share of —
All defendants	53,076	75,805	
Gender			
Male	84.3%	86.8%	◗ Male defendants
Female	15.7	13.2	
Race			
White	65.0%	71.2%	◗ White defendants
Black or African American	30.0	24.8	
Other*	5.0	4.0	
Ethnicity			
Hispanic or Latino	31.3%	42.6%	◗ Hispanic or Latino defendants
Not Hispanic or Latino	68.7	57.4	
Age at arrest			
Under 19 years	0.7%	0.7%	
19-20 years	4.0	4.2	
21-30 years	37.1	39.2	◗ Defendants ages 21-30 years
31-40 years	31.4	31.0	
Over 40 years	26.7	24.9	
Citizenship			
U.S. citizen	72.1%	64.1%	
Non-U.S. citizen	27.9	35.9	◗ Non-U.S. citizen defendants
Criminal record			
No convictions	47.3%	37.4%	
Prior adult convictions	52.7	62.6	◗ Defendants with a prior conviction
Education			
Less than high school graduate	40.5%	47.6%	◗ Defendants with less than a high school education
High school graduate	29.7	29.7	
Some college	21.9	17.0	
College graduate	7.9	5.7	

*Includes "American Indian or Alaska Native," "Asian," and "Native Hawaiian or Other Pacific Islander."

DOJ_NMG_ 0167269

III. Defendants sentenced

Seventy-six percent of sentenced defendants received some imprisonment in 2003 compared with 65% in 1994.

- The percent of sentenced defendants receiving a prison sentence increased across all felony offenses for the 10-year period.

Table 15. Number of defendants convicted in U.S. district courts and percent receiving prison sentence, by offense

Most serious offense of conviction	Number of defendants convicted				Average annual change	Percent of convicted defendants sentenced to prison	
	1994	1999	2002	2003	1994-2003	1994	2003
All offenses	50,701	66,055	71,798	75,805	4.7%	65.1%	76.0%
Felonies	39,624	55,864	63,238	67,036	6.1	78.4	83.3
Violent offenses	2,704	2,715	2,578	2,643	0.0	93.1	93.2
Property offenses	11,113	12,232	13,101	13,311	2.1	57.7	59.7
Drug offenses	16,400	23,476	26,234	25,582	5.4	91.3	92.0
Weapon offenses	3,232	3,423	5,563	6,970	9.4	89.8	92.3
Immigration offenses	2,152	9,357	11,132	14,199	24.7	86.3	87.3
Public-order offenses	4,023	4,661	4,630	4,331	1.1	59.9	70.1
Misdemeanors	11,072	10,118	8,499	8,767	-2.4	17.6	20.7

During 2003 the average prison sentence was greatest for violent (98 months), weapons (84 months), and drug offenders (82 months).

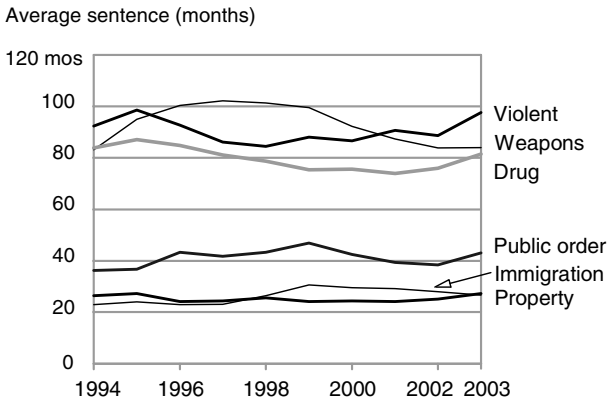


Figure 23

DOJ_NMG_ 0167270

The average prison sentence imposed decreased from 63 months in 1994 to 59 months in 2003.

- The number of defendants sentenced to prison increased at a yearly average of 7% over the 10-year period.

Table 16. Defendants receiving a prison sentence and mean sentence imposed in months, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Mean prison sentence imposed (in months) 1994	Mean prison sentence imposed (in months) 2003
All offenses	100.0%	100.0%	33,022	57,629	6.5%	62.6 mo	58.9 mo
Felonies	94.1	96.8	31,070	55,811	6.9	65.6	60.4
Violent	7.6	4.3	2,518	2,462	0.0	92.3	97.6
Property	19.4	13.8	6,411	7,948	2.5	26.4	27.4
Drug	45.3	40.9	14,973	23,544	5.5	83.9	81.5
Weapons	8.8	11.2	2,901	6,431	9.7	83.2	84.0
Immigration	5.6	21.5	1,857	12,390	24.8	22.9	26.7
Public order	7.3	5.3	2,410	3,036	3.1	36.3	43.1
Misdemeanors	5.9	3.2	1,948	1,818	0.0	12.3	9.1

Probation-only sentences imposed decreased at an annual average of 1% across the 10-year period.

Table 17. Defendants receiving a probation-only sentence, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003
All offenses	100.0%	100.0%	12,781	11,322	-1.3%
Felonies	60.1	65.4	7,677	7,406	-0.3
Violent	1.3	1.1	164	130	-1.2
Property	33.9	36.6	4,327	4,143	-0.2
Drug	9.4	10.6	1,204	1,204	0.4
Weapons	2.3	3.9	296	436	6.9
Immigration	1.7	3.6	217	406	18.4
Public order	11.5	9.6	1,469	1,087	-0.4
Misdemeanors	39.9	34.6	5,103	3,914	-2.8

DOJ_NMG_ 0167271

Most Federal judicial districts (81 out of 94) sentenced defendants within the ranges determined by the U.S. Sentencing Guidelines at least 60% of the time from 1994-2003.

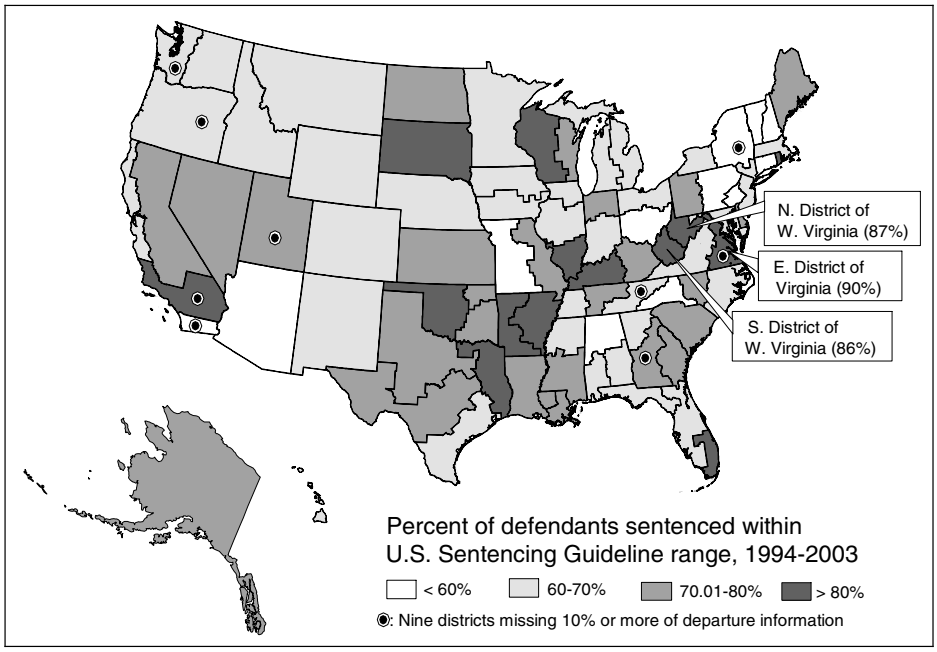


Figure 24

Defendants convicted and sentenced for property and violent offenses were more likely to be sentenced within the ranges determined by the U.S. Sentencing Guidelines than defendants convicted of drug or immigration offenses from 1994-2003.

- The percent of immigration offenders sentenced within the guidelines decreased from 91% in 1994 to 69% in 2003.

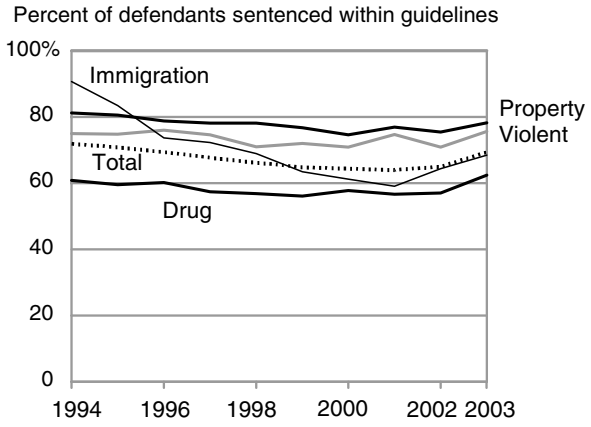


Figure 25

DOJ_NMG_ 0167272

Sixty-nine percent of defendants sentenced in 2003 received sentences within ranges set forth under the Federal sentencing guidelines (compared with 72% in 1994).

- Substantial assistance departures (where a defendant receives a reduction in the guideline sentence for assisting the Government) comprised 16% of sentences in 2003 compared with 20% in 1994.

- One percent or less of defendants sentenced between 1994 and 2003 received an upward departure (where a defendant receives a more severe sentence due to aggravating factors).

Table 18. Defendants sentenced under the U.S. Sentencing Guidelines, 1994 and 2003

	1994					2003				
Most serious offense	Total defendants sentenced	Within guidelines	Downward departure	Substantial assistance	Upward departure	Total defendants sentenced	Within guidelines	Downward departure	Substantial assistance	Upward departure
All offenses	39,971	71.7%	7.6%	19.6%	1.2%	70,258	69.4%	13.8%	15.9%	0.8%
Violent offenses	2,724	75.0	10.7	10.7	3.6	2,555	75.7	11.7	9.4	3.2
Property offenses	10,544	81.1	7.0	10.7	1.1	14,192	78.2	7.7	13.2	0.9
Drug offenses	16,753	60.8	7.2	31.5	0.6	26,640	62.4	10.9	26.1	0.6
Public-order offenses	4,840	75.3	7.9	15.3	1.6	5,533	72.3	13.8	12.5	1.4
Weapon offenses	2,720	77.3	9.4	11.5	1.9	6,947	76.8	9.2	12.5	1.4
Immigration offenses	2,338	90.7	7.2	1.1	1.1	14,051	68.5	28.7	2.6	0.3

The percent of drug offenders sentenced who received a statutory minimum sentence of 5 years or more under the Federal sentencing guidelines decreased from 66% in 1996 to 60% in 2003.

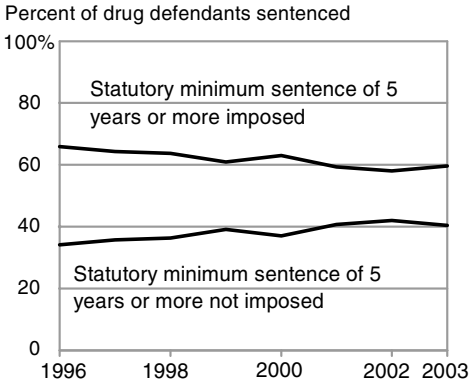


Figure 26

DOJ_NMG_ 0167273

Just over half (54%) of defendants sentenced under the Federal sentencing guidelines from 1994-2003 were assigned the lowest criminal history score level as determined by the guidelines at sentencing.

Percent distribution of defendants sentenced under U.S. Sentencing Guidelines, by the final cell used to determine sentence

	Offense severity score	Criminal history score: Least severe I	II	III	IV	V	Most severe VI	Row total Percent	Row total Number
Least Zone A	1	--%	--%	--%	--%	--%	--%	--%	105
severe	2	1	--	--	--	--	--	1%	5,913
	3	--	--	--	--	--	--	--%	1,925
	4	2	--	--	--	--	--	3%	14,532
	5	--	--	--	--	--	--	1%	3,076
	6	3	1	1	--	--	--	5%	23,667
	7	1	--	--	--	--	--	2%	11,117
	8	2	--	--	--	--	--	3%	16,774
Zone B	9	2	--	--	--	--	--	3%	12,262
	10	4	1	1	1	--	1	6%	31,548
Zone C	11	1	--	--	--	--	--	2%	11,492
	12	3	--	1	--	--	--	4%	21,378
Zone D	13	4	1	1	--	--	--	7%	34,549
	14	1	--	--	--	--	--	2%	9,069
	15	3	--	--	--	--	--	4%	20,129
	16	1	--	--	--	--	--	2%	7,462
	17	2	--	1	--	--	--	4%	20,487
	18	1	--	--	--	--	--	1%	7,103
	19	2	--	--	--	--	--	4%	17,754
	20	1	--	--	--	--	--	1%	6,540
	21	3	1	2	2	1	2	10%	51,345
	22	1	--	--	--	--	--	1%	6,547
	23	2	1	1	--	--	--	5%	25,295
	24	1	--	--	--	--	--	1%	6,509
	25	2	--	1	--	--	--	4%	18,326
	26	1	--	--	--	--	--	1%	6,205
	27	2	--	--	--	--	--	3%	16,157
	28	1	--	--	--	--	--	1%	4,694
	29	2	1	1	--	--	1	4%	20,275
	30	--	--	--	--	--	--	1%	5,464
	31	1	--	1	--	--	1	3%	16,932
	32	--	--	--	--	--	--	1%	5,057
	33	1	--	--	--	--	--	2%	9,080
	34	--	--	--	--	--	1	1%	7,314
	35	--	--	--	--	--	--	1%	6,215
	36	--	--	--	--	--	--	1%	2,825
	37	--	--	--	--	--	--	1%	3,543
	38	--	--	--	--	--	--	1%	2,677
	39	--	--	--	--	--	--	--%	1,404
	40	--	--	--	--	--	--	--%	1,959
	41	--	--	--	--	--	--	--%	816
Most	42	--	--	--	--	--	--	--%	983
severe	43	--	--	--	--	--	--	--%	2,202
Column total		54% 266,745	11% 55,060	14% 69,162	8% 39,111	5% 23,074	9% 45,554	100% --	-- 498,706

Note: Offense severity score is the final offense level as determined by the court and ranges from 1 to 43. Criminal history category (1–6) is the final criminal history category as determined by the court.
--Less than 1 percent. Detail percentages may not sum to totals due to rounding.

Figure 27

DOJ_NMG_ 0167274

The safety valve provision permits the court to impose a sentence without regard to the statutory drug minimum taking into account the defendant's criminal history, role in offense and cooperation with authorities as well as whether offense involved death/injury, weapons or violence (see: 18 U.S.C. § 3553(f)).

Drug defendants in 3 Federal judicial districts received the safety valve provision at nearly double the national rate of 30%.

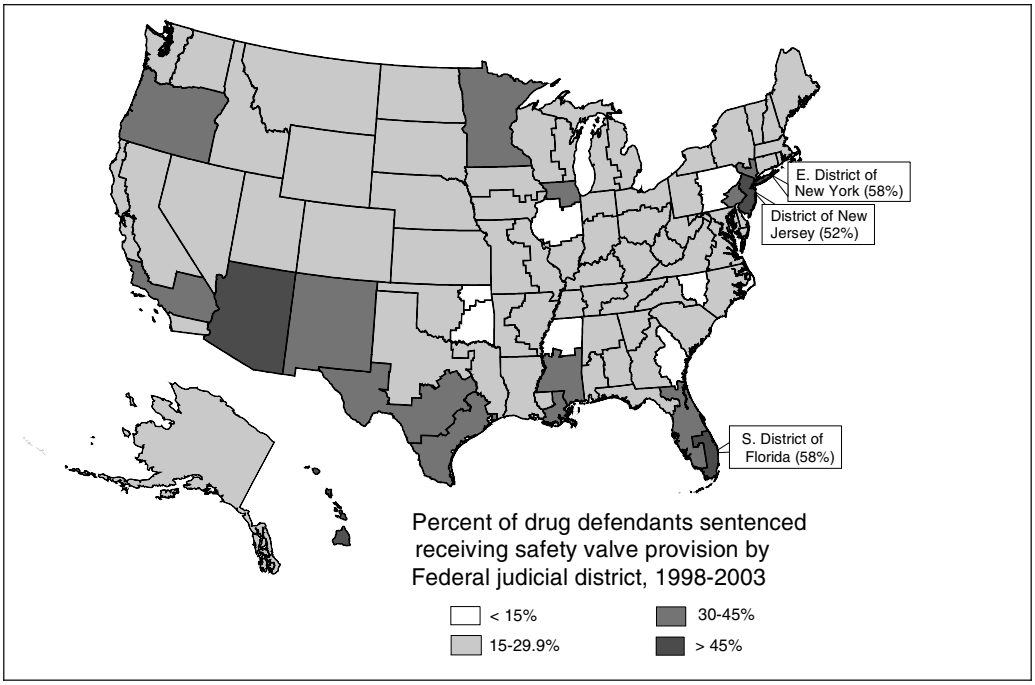


Figure 28

The safety valve provision was increasingly used for drug offenders over this period: 38% of drug defendants received the safety valve provision in 2003 compared with 25% in 1998.

Table 19. Federal drug offenders sentenced under the Federal Sentencing Guidelines and receiving safety valve, 1998-2003

	Drug defendants sentenced	Drug defendants receiving safety valve	
Year	Number	Number	Percent
1998	20,267	4,814	25.3%
1999	22,566	5,053	24.9
2000	23,424	5,547	26.1
2001	24,349	5,566	25.4
2002	25,692	8,470	37.4
2003	26,047	8,802	38.3

DOJ_NMG_ 0167275

Some offenders assisting the Government in investigations and prosecution of others met the criteria for a reduction in sentence under Rule 35(b) of the Federal Rules of Criminal Procedure.

- Twenty-nine percent of Rule 35(b) defendant resentencings from 1992 to 2001 occurred in four Federal judicial districts.

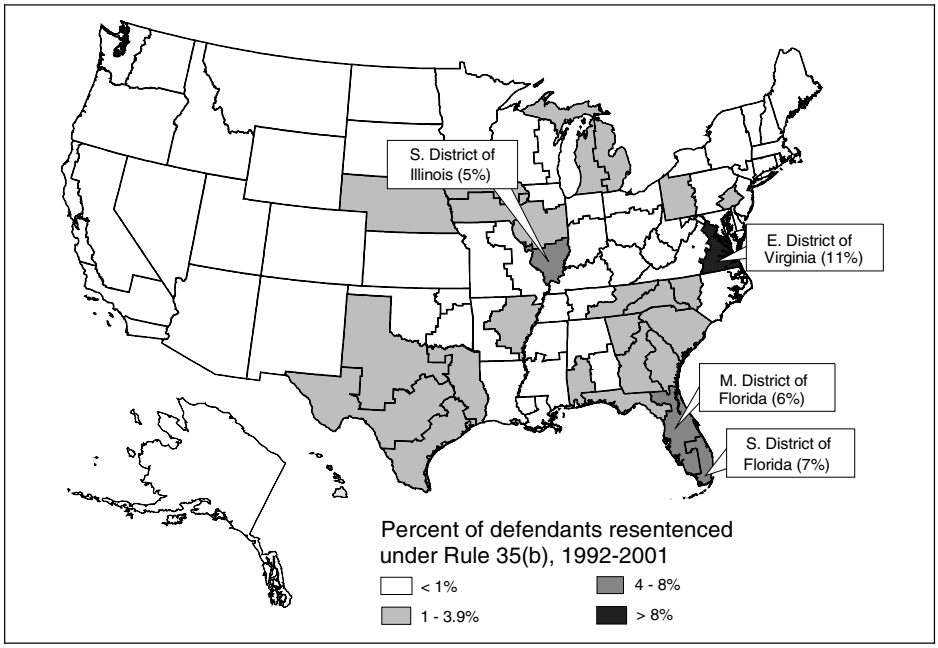


Figure 29

Between 1992 and 2001, average sentence length reductions for prisoners resentenced under Rule 35(b) ranged from 36% to 43%.

Table 20. Federal offenders resentenced pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure after providing substantial assistance to the Government, 1992-2001

Year entering prison	Number of offenders	Average sentence imposed		Average percent reduction
		Original	New	
1992	1,210	138.0 mo.	80.3 mo.	42%
1993	1,761	136.6	77.8	43
1994	1,676	132.8	80.0	40
1995	1,517	126.1	73.2	42
1996	1,650	125.3	73.7	41
1997	1,700	119.6	71.2	40
1998	1,839	117.1	72.2	38
1999	1,838	114.3	73.0	36
2000	1,940	111.5	69.6	38
2001	1,769	104.4	65.5	37

DOJ_NMG_ 0167276

IV. Cases appealed

Guideline-based appeals comprised 85% of appeals terminated from 1994-2003.

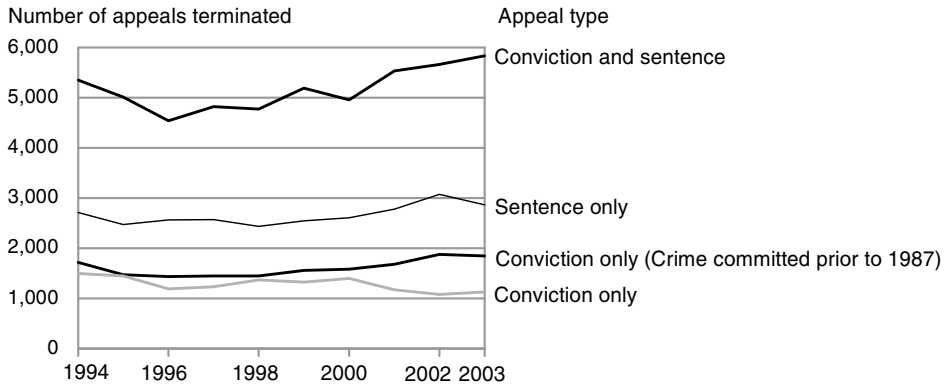


Figure 30

Criminal appeals increased an annual average of 2% from 1994-2003 with the bulk of this growth occurring among appellants with an immigration offense as the most serious offense of conviction.

- The rate of appeals per 100 convictions decreased from 21 appeals per 100 convictions in 1994 to 16 appeals per 100 convictions in 2003.
- The rate of appeals for drug offenses decreased the most over this period.

Table 21. Number of criminal appeals filed in U.S. district court, 1994-2003

Offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Number of convictions 1994	Number of convictions 2003	Appeals per 100 convictions 1994	Appeals per 100 convictions 2003
All offenses	100.0%	100.0%	10,674	11,968	1.7%	50,701	75,805	21	16
Violent offenses	8.3	5.3	856	601	-3.0	2,704	2,643	32	23
Property offenses	18.8	16.2	1,949	1,842	-0.1	11,113	13,311	18	14
Drug offenses	49.3	40.0	5,102	4,565	-0.7	16,400	25,582	31	18
Public-order offenses	10.0	7.8	1,037	894	-0.7	4,023	4,331	26	21
Weapon offenses	11.0	14.7	1,141	1,681	6.0	3,232	6,970	35	24
Immigration offenses	2.5	16.0	261	1,821	25.5	2,152	14,199	12	13

DOJ_NMG_ 0167277

Most criminal appeals terminated from 1994 to 2003 (77%) were terminated on the merits of the case; and, of these, the majority (85%) affirmed the decision of the lower court in whole or in part.

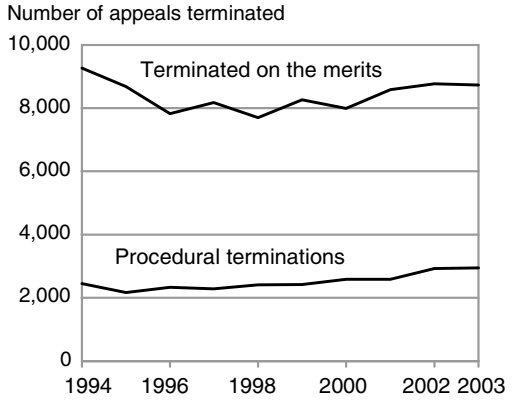


Figure 31

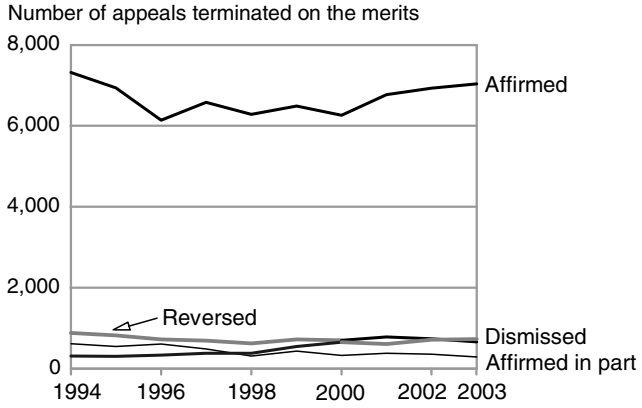


Figure 32

DOJ_NMG_ 0167278

I. Offenders in the custody and under the jurisdiction of the Federal Bureau of Prisons

Most offenders under the jurisdiction of the Federal Bureau of Prisons were classified as medium or low custody from 1995-2003.

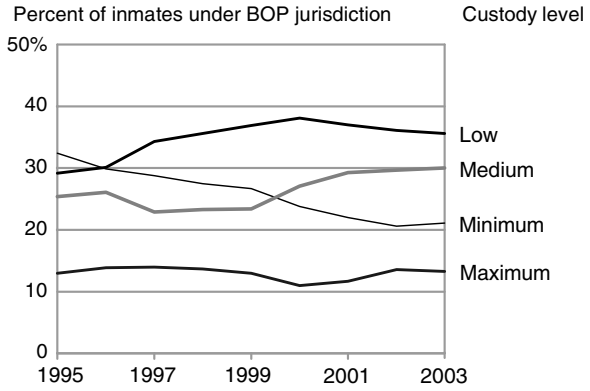


Figure 33

Offenders under the jurisdiction and in custody of the Federal Bureau of Prisons increased at similar rates from 1994 to 2003 — an average annual rate of 7%.

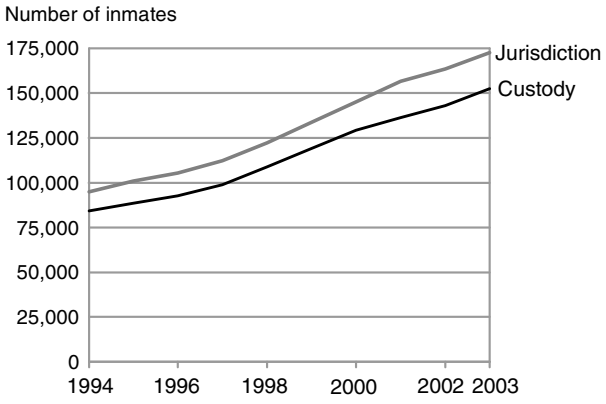


Figure 34

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II. Offenders in the custody of the Federal Bureau of Prisons

Drug offenders comprised 57% of the Federal prison population in 2003 compared with 61% in 1994. Immigration (24%) and weapon offenders (10%) increased at the greatest rate from 1994 to 2003.

Table 22. Offenders in the custody of the Federal Bureau of Prisons at fiscal yearend by major offense category, 1994-2003

Commitment offense	Number				Average annual change	Percent	
	1994	1999	2002	2003	1994-2003	1994	2003
All offenses	84,253	118,265	143,031	152,459	6.8%	100.0%	100.0%
Violent	11,111	13,121	13,549	13,525	2.2	13.3	8.9
Property	7,880	8,581	10,100	10,634	3.5	9.5	7.0
Drug	50,555	67,925	81,052	85,789	6.1	60.7	56.7
Weapons	6,769	9,439	13,725	16,014	10.1	8.1	10.6
Immigration	2,486	10,156	15,571	16,903	24.4	3.0	11.2
Public-order	4,512	6,711	7,951	8,438	7.3	5.4	5.6

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Characteristics of the Federal prison population changed moderately from 1994 to 2003.

Table 23. Characteristics of offenders in the custody of the Federal Bureau of Prisons, 1994-2003

Offender characteristics	All offenses: Number and percent 1994	All offenses: Number and percent 2003	Drug offenses: Number and percent 1994	Drug offenses: Number and percent 2003	In 2003 offenders in Federal prison for a drug offense were most likely to be —
All inmates	84,253	152,459	50,555	85,789	
Gender					
Male	92.1%	93.1%	91.2%	92.0%	◗ Male (92%)
Female	7.9	6.9	8.8	8.0	
Race					
White	62.1%	58.1%	61.9%	53.9%	◗ White (54%)
Black or African American	35.3	39.0	36.8	44.5	
American Indian or Alaska Native	1.5	1.6	0.3	0.4	
Asian/Native Hawaiian or Other Pacific Islander	1.1	1.3	1.1	1.2	
Ethnicity					
Hispanic or Latino	25.1%	32.1%	31.3%	33.0%	
Not Hispanic or Latino	74.9	67.9	68.7	67.0	◗ Not Hispanic or Latino (67%)
Age at fiscal yearend					
Under 19 years	0.1%	0.4%	0.1%	0.2%	
19-20 years	1.3	3.3	1.0	3.2	
21-30 years	30.1	41.3	31.6	44.2	◗ 21-30 years old (44%)
31-40 years	35.9	33.0	36.4	32.3	
Over 40 years	32.6	22.1	30.9	20.2	
Citizenship					
U.S. citizen	77.5%	72.2%	71.8%	74.1%	◗ U.S. citizen (74%)
Non-U.S. citizen	22.5	27.8	28.2	25.9	

Male offenders comprised 93% of inmates in the custody of the Federal Bureau of Prisons in 2003 and increased an annual average of 7% from 1994 to 2003; females comprised 7% of inmates in 2003 and increased by an annual average of 6% from 1994 to 2003.

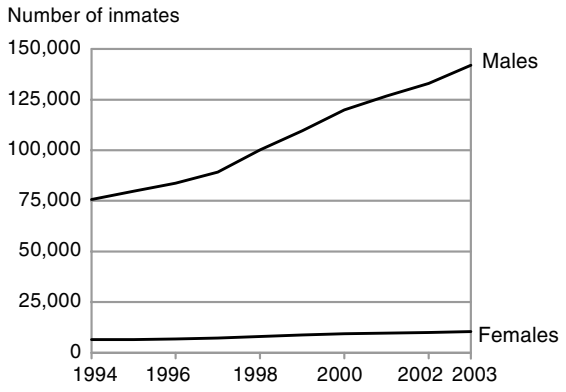

Figure 35

DOJ_NMG_ 0167281

Twenty-six percent of offenders in the custody of the Federal Bureau of Prisons in 2003 had been incarcerated more than 5 years compared with 9% of offenders in 1994.

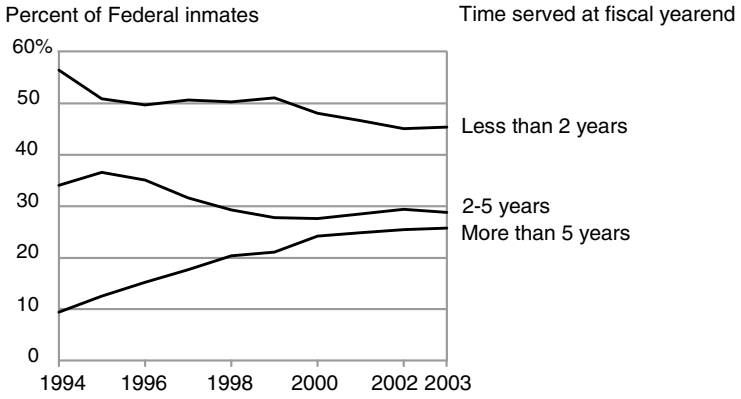

Figure 36

Inmates 50 years and older comprised 13% of the population in the custody of the Federal Bureau of Prisons and 22% of the inmates who had served 5 years or more at fiscal yearend 2003.

Table 24. Characteristics of inmates in the custody of the Bureau of Prisons, by age at fiscal yearend, 1994 and 2003

	Age of inmate					
	60 and older		50-59 years		Under 50 years	
Suspect characteristics	1994	2003	1994	2003	1994	2003
All inmates	2,370	4,908	7,535	14,641	72,313	132,882
Gender						
Male	2.9%	3.2%	9.2%	9.5%	87.8%	87.2%
Female	2.3	3.1	8.3	10.5	89.4	86.4
Race						
White	3.8%	4.4%	11.6%	11.6%	84.6%	84.0%
Black or African American	1.4	1.5	5.0	6.7	93.6	91.8
Native American or Alaska Native	2.5	3.0	5.6	7.6	91.8	89.3
Asian/Native Hawaiian or Other Pacific Islander	2.2	3.9	9.2	10.6	88.6	85.5
Ethnicity						
Hispanic or Latino	2.0%	2.2%	8.2%	7.8%	89.8%	90.0%
Not Hispanic or Latino	3.2	3.7	9.5	10.5	87.3	85.9
Time served						
Less than 2 years	2.4%	2.3 %	7.9%	7.1%	89.7%	90.6%
2-5 years	2.8	2.2	9.5	7.6	87.7	90.2
More than 5 years	5.8	6.0	15.7	16.3	78.5	77.7
Commitment offense						
Violent	2.4%	3.7 %	8.0%	13.0%	89.6%	83.3%
Property	5.5	7.1	15.5	15.9	79.0	77.0
Drug	2.4	2.8	8.4	8.9	89.2	88.3
Weapon	1.7	2.0	6.5	7.6	91.8	90.5
Immigration	0.4	0.7	2.2	4.7	97.3	94.6
Public order	7.9	9.0	17.4	16.7	74.6	74.3

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Expected time to be served in Federal prison increased an average of 5% each year (1987-2003) from 23 months in 1987 to 48 months in 2003.

- Actual time served also increased an average of 5% each year over the same period from 15 months in 1987 to 33 months in 2003.

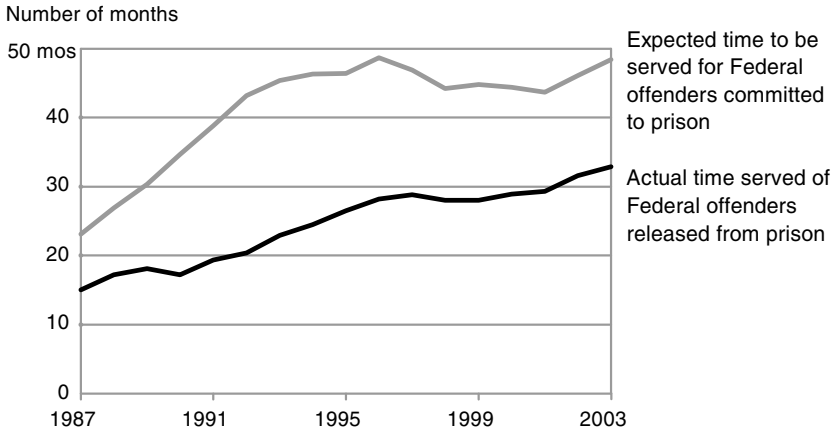

Figure 37

Of offenders who had been released from Federal prison for the first time, the average prison time served was 33 months in 2003 compared with 25 months in 1994.

- Increases in average time served were greatest for weapon offenders followed by immigration, and drug offenders.

Table 25. Number of first releases from Federal prison, by offense, and mean time to first release, 1994-2003

	Percent		Number		Average annual change	Mean time served	
Commitment offense	1994	2003	1994	2003	1994-2003	1994	2003
All offenses	100.0%	100.0%	28,409	40,780	4.2%	24.5 mo	32.9 mo
Violent offenses	5.9	4.9	1,667	1,971	1.9	53.0	63.5
Property offenses	22.0	16.2	6,202	6,533	0.6	15.4	16.4
Drug offenses	41.2	37.4	11,650	15,052	3.0	33.9	44.3
Weapon offenses	4.9	7.9	1,397	3,184	10.0	26.5	42.7
Immigration offenses	16.9	26.0	4,777	10,479	9.6	5.9	21.1
Public-order offenses	9.0	7.5	2,553	3,013	2.0	19.8	25.4

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III. Offenders on Federal supervision

The number of offenders on supervision (probation, supervised release, and parole) increased an average of 3% per year from 1994 to 2003.

- More than two of three offenders on Federal supervision in 2003 were on supervised release.

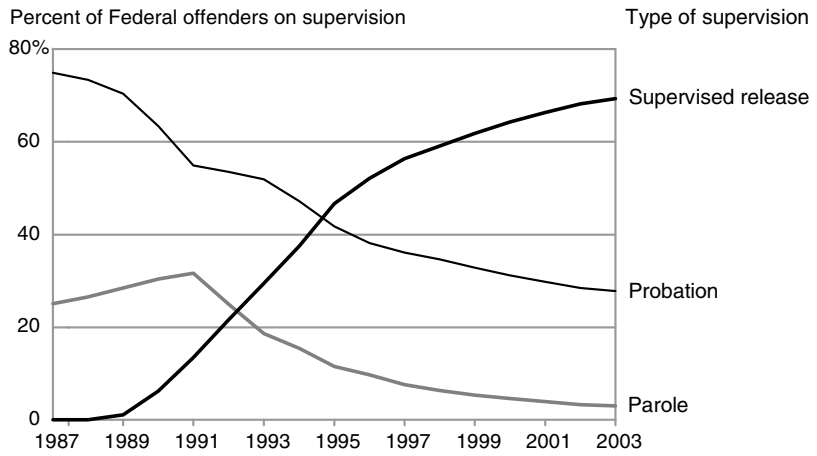

Figure 38

Drug offenses surpassed property offenses as most common offense of offenders under Federal supervision.

- Forty-two percent of defendants under supervision were convicted of drug offenses in 2003 compared with 32% in 1994.

Table 26. Offenders under Federal supervision at fiscal yearend, by offense 1994-2003

Commitment offense	Number of offenders 1994	1999	2002	2003	Average annual change 1994-2003	Percent of offenders 1994	2003
All offenses	86,904	96,044	107,367	108,976	2.6%	100.0%	100.0%
Felonies	73,978	85,372	97,518	99,172	3.3	85.1	91.0
Violent offenses	4,504	5,468	6,281	6,328	3.9	5.2	5.8
Property offenses	28,276	28,128	29,268	29,011	0.3	32.5	26.6
Drug offenses	28,039	37,688	44,980	45,981	5.7	32.3	42.2
Weapon offenses	3,883	4,121	5,662	6,648	6.4	4.5	6.1
Immigration offenses	1,075	1,323	2,095	2,180	8.9	1.2	2.0
Public-order offenses	8,162	8,355	9,039	8,838	1.1	9.4	8.3
Misdemeanors	12,296	10,672	9,849	9,804	-2.9	14.9	9.0

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Offenders under supervised release increased at an average annual rate of 9% between 1994 and 2003.

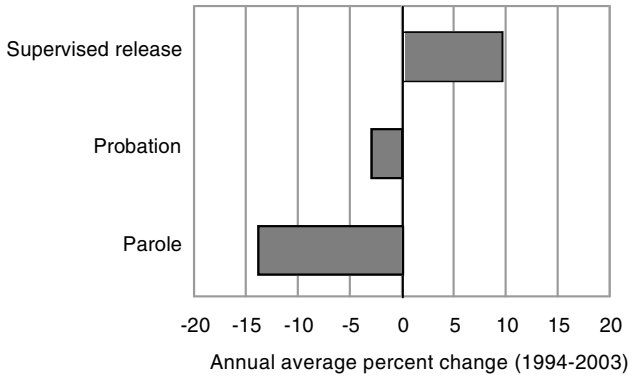

Figure 39

Characteristics of offenders under Federal supervision from 1994-2003 varied by type of supervision. For example, 23% of offenders on probation at yearend 2003 had a known drug history compared to 47% of offenders on supervised release and 44% of offenders on parole.

Table 27. Characteristics of Federal offenders under supervision at fiscal yearend, by type of supervision, 1994-2003

	Total offenders under supervision		Type of supervision					
			Probation		Supervised release		Parole	
Offender characteristic	1994	2003	1994	2003	1994	2003	1994	2003
All offenders	86,904	108,976	40,058	29,971	34,091	75,766	12,755	3,239
Gender								
Male	79.5	78.2%	72.5	66.1%	82.2	82.2%	94.4	96.9%
Female	20.5	21.8	27.5	33.9	17.8	17.8	5.6	3.1
Race								
White	70.3	61.7%	70.7	67.1%	70.1	60.0%	69.3	51.4%
Black or African American	26.1	33.5	24.8	26.7	26.6	35.7	28.7	46.2
Native American or Alaska Native	1.5	2.1	1.4	2.8	1.6	1.8	1.2	1.9
Asian/Native Hawaiian or Other Pacific Islander	2.2	2.7	3.0	3.4	1.8	2.4	0.8	0.6
Age								
16-18 years	0.5	0.4%	1.1	1.5%	0.0	0.0%	0.0	0.0%
19-20 years	2.0	2.1	3.2	4.5	1.4	1.2	0.0	0.0
21-30 years	26.7	29.6	28.0	30.2	31.7	30.4	8.8	5.4
31-40 years	33.3	30.7	30.2	26.6	35.7	32.9	36.3	16.6
Over 40 years	37.5	37.2	37.4	37.2	31.1	35.5	54.9	78.0
Education								
Less than high school graduate	32.2	32.6%	26.1	24.8%	36.2	35.1%	41.2	43.8%
High school graduate	35.1	36.8	36.0	35.4	34.8	37.4	33.5	36.0
Some college	22.5	22.1	25.1	26.7	21.1	20.6	17.9	16.1
College graduate	10.1	8.5	12.8	13.2	8.0	6.9	7.5	4.1
Drug abuse								
Drug history	31.0	40.1%	18.3	23.0%	40.8	46.7%	44.6	44.4%
No known abuse	69.0	59.9	81.7	77.0	59.2	53.3	55.4	55.6

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Drug offenders under Federal supervision increased from 30,198 in 1994 to 47,826 in 2003.

Table 28. Characteristics of offenders under Federal supervision at fiscal yearend, 1994-2003

Offender characteristics	All offenses Percent 1994	All offenses Percent 2003	Drug offenses Percent 1994	Drug offenses Percent 2003	In 2003 offenders under Federal supervision for a *drug* offense were most likely to be —
All offenders	86,904	108,976	30,198	47,826	
Gender					
Male	79.5%	78.2%	83.9%	82.2%	◗ Male (82%)
Female	20.5	21.8	16.1	17.8	
Race					
White	70.3%	61.7%	73.4%	60.9%	◗ White (61%)
Black or African American	26.1	33.5	24.7	36.7	
Native American or Alaska Native	1.5	2.1	0.7	0.8	
Asian/Native Hawaiian or Other Pacific Islander	2.2	2.7	1.2	1.6	
Ethnicity					
Hispanic or Latino	17.2%	19.4%	27.2%	26.9%	
Not Hispanic or Latino	82.8	80.6	72.8	73.1	◗ Not Hispanic or Latino (73%)
Age					
16-18 years	0.5%	0.4%	0.5%	0.3%	
19-20 years	2.0	2.1	1.8	1.9	
21-30 years	26.7	29.6	28.5	32.4	
31-40 years	33.3	30.7	36.7	33.0	◗ 31-40 years old (33%)
Over 40 years	37.5	37.2	32.5	32.4	
Education					
Less than high school graduate	32.2%	32.6%	40.2%	39.9%	◗ Less than high school education (40%)
High school graduate	35.1	36.8	34.8	38.5	
Some college	22.5	22.1	19.2	18.0	
College graduate	10.1	8.5	5.8	3.5	
Drug abuse					
Drug history	31.0%	40.1%	53.6%	56.4%	◗ Have drug abuse history (56%)
No known abuse	69.0	59.9	46.4	43.6	

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Five Federal judicial districts along the Southwest U.S. border and the Central district of California comprised 32% of the growth in offenders under Federal supervision from 1994 to 2003.

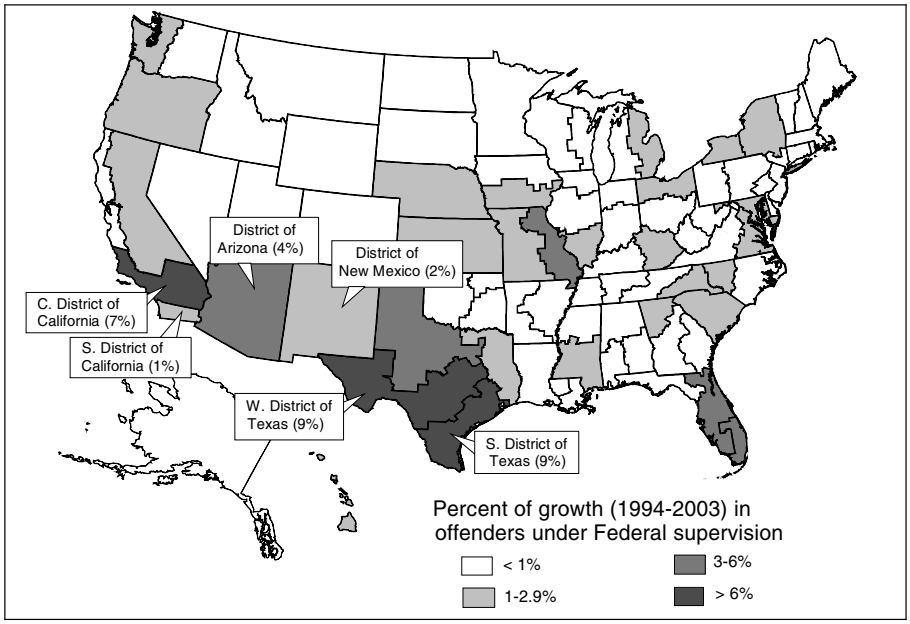

Figure 40

Parolees were more likely to violate conditions of supervision (technical violation, new crime) than offenders on supervised release or probation in 2003.

Table 29. Offenders terminating Federal supervision at fiscal yearend, by type of supervision and outcome, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003
Probation					
All terminations	100.0%	100.0%	18,989	15,489	-2.2%
No violation/no new crime	83.8	80.3	15,899	12,433	
Technical violations	10.1	11.5	1,918	1,775	
New crime	3.9	6.3	740	981	
Administrative case closure/other	2.2	1.9	426	300	
Supervised release					
All terminations	100.0%	100.0%	10,490	30,585	12.8%
No violation/no new crime	58.2	61.9	6,102	18,917	
Technical violations	25.7	23.2	2,691	7,085	
New crime	12.3	12.8	1,288	3,922	
Administrative case closure/other	3.8	2.2	398	661	
Parole					
All terminations	100.0%	100.0%	5,681	1,504	-13.1%
No violation/no new crime	63.6	51.9	3,615	781	
Technical violations	17.9	27.6	1,015	415	
New crime	12.9	14.7	734	221	
Administrative case closure/other	5.6	5.8	316	87	

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Figure notes

Figure 1, p. 1. Shows the top five offenses in terms of net and percent growth in suspects arrested and booked by the U.S. Marshals Service from 1994-2003. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 2, p. 2. The following districts are not shown on map: District of Columbia (2-6%); Puerto Rico (<1%); Guam (<1%); Virgin Islands (<1%); Northern Mariana Islands (<1%). The Western District of North Carolina did not report arrests in 1994. The map shows the percent distribution of the net increase in arrests between 1994 and 2003 (50,334) by Federal judicial district. Percentages shown are rounded. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 3, p. 3. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 4, p. 4. Citizenship status was missing in 13% of cases in 1994, 9% in 1998, and 7% in 2003. Yearly average of 9% missing citizenship status (1994-2003). Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 5, p. 4. A total of 1,044,078 suspects were arrested and booked by U.S. Marshals from 1994-2003. Of these, 9% were missing country of citizenship (948,077). Of cases with country of citizenship, 35% were non-U.S. Citizens. These 327,825 arrests are displayed by country of citizenship in map. Percentages based on non-missing cases. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 6, p. 5. Source: Drug Enforcement Administration Defendant Statistical System, fiscal year.

Figure 7, p. 6. Percent distribution based on total number of methamphetamine arrests by the Drug Enforcement Administration (N=59,903) by State. Not shown on map: Alaska (0.2%); Guam (0.4%); Hawaii (1.3%); Virgin Islands, and Puerto Rico (each < 0.1%). Source: Drug Enforcement Administration Defendant Statistical System, fiscal year.

Figure 8, p. 7. Matters referred to U.S. attorneys by selected offenses. A matter is a referral that an assistant U.S. attorney spends more than 1 hour investigating. The most serious offense investigated is based on the criminal lead charge as determined by the assistant U.S. attorney for the criminal matter. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 9, p. 8. Illegal reentry includes: 8 U.S.C. § 1326; Illegal entry 8 U.S.C. § 1325; alien smuggling 8 U.S.C. §§ 1322-1324, 8 U.S.C. § 1327; and misuse of visas 18 U.S.C. § 1546, 8 U.S.C. §§ 1252-1253, 8 U.S.C. §§ 1321 (lead charge). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 10, p. 8. Percent distribution based on total number of immigration (as lead charge) matters referred to U.S. attorneys from 1994-2003 (N=127,550) by Federal judicial district. Not shown on map: District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands (each representing less than 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 11, p. 9. Drug trafficking includes: 21 U.S.C. § 841 and 21 U.S.C § 960; Conspiracy includes: 21 U.S.C. § 846 & 21 U.S.C § 963; "Other drug offenses" include: drug possession, protected location offenses, manufacturing offenses, continuing criminal enterprise offenses, sale/importation of drug paraphernalia, and transhipment of controlled substances (lead charge). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 12, p. 9. Percent distribution based on number of drug matters referred to U.S. attorneys (as lead charge) from 1994-2003 with non-missing data (350,215) by Federal judicial district. Not shown on map: Puerto Rico (1.4%); District of Columbia (1.1%); Virgin Islands and Northern Mariana Islands (each < 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 13, p. 10. The following statutes were used to classify firearms into three categories: 18 U.S.C. §§ 922-924; 18 U.S.C §§ 929-930, 26 U.S.C § 5812, 26 U.S.C § 5822, 26 U.S.C § 5841, 26 U.S.C § 5842, 26 U.S.C § 5861 (lead charge). See Appendix Table 3 in Federal Firearm Offenders, 1992-98 (BJS Special Report, NCJ 180795, 2000). Note: Firearms matters are a subset of weapon referrals shown in Table 6. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 14 , p. 10. Percent distribution based on number of firearm (as lead charge) matters referred to U.S. attorneys from 1994 to 2003 with non-missing data (75,135) by Federal judicial district. Not shown on map: District of Columbia (2%); Guam, Virgin Islands, Puerto Rico, Northern Mariana Islands (each < 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 15, p. 11. Excludes matters which were declined immediately. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 16, p. 12. Includes defendants who terminated pretrial services during fiscal years 1994-2003. Includes only those defendants whose cases were filed by complaint, indictment, or information. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 17, p. 13. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands (each <1%). Based on net increase in pretrial detention between 1994 and 2003 (31,557). The percent

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distribution of this net difference is shown by Federal judicial district. Source: Pretrial Services Agency, Pretrial Services Act Information System data base, fiscal year.

Figure 18, p. 13. Includes defendants released prior to trial during the fiscal year. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 19, p. 15. Includes defendants who had an initial hearing in U.S. district court from 1994-2003. Prior criminal history is determined only for those defendants whose PSA records explicitly showed no prior conviction. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 20, p. 16. Shows the percent distribution of cases filed calculated by summing the number of cases filed in each district and displaying the percent contribution to the overall total by Federal judicial district. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, Northern Mariana Islands, and the District of Columbia (comprising 3% of all cases filed). Percents are rounded. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 21, p. 17. The trial rate is computed for each district by dividing the number of cases concluded in which a bench or jury trial occurred into the total number of cases concluded in that district. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, Northern Mariana Islands, and the District of Columbia (trial rates range from 6% to 12%). The displayed percent is rounded. The District of Columbia had a trial rate of 12%. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 22, p. 18. Type of counsel at the time of case termination. A total of 4% of cases concluded from 1994-2003 were missing type of counsel. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 23, p 20. Average prison sentence imposed on defendants convicted and sentenced to any prison term during the fiscal year. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 24, p. 22. Map shows the rate at which a Federal judicial district imposed sentences within ranges as determined by the U.S. Sentencing Guidelines. The rate is computed by dividing the number of sentences that were within guideline range by the total number of sentences imposed during fiscal years 1994-2003 (based on non-missing data). The following districts were missing 5% or more of departure information: C. District of CA (38%); E. District of VA (25%); S. District of CA (18%); E. District of NY (15%); W. District of WA (16%); District of UT (15%): District of OR (11%); M. District of TN (10%); M. District of GA (10%); District of GU (9%); W. District of NC (9%); M. District of AL (8%); W. District of KY (8%); S. District of NY (7%); N. District of CA (8%); District of CO (7%); N. District of NY (7%); S. District of FL (7%); District of PR (7%); S. District of GA (6%); N. District of IN 6%); and, N. District of IL (5%). Overall, 6% of cases from 1994-2003 were missing departure information. The displayed percent is rounded. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 25, p. 22. Percent of defendants sentenced within ranges determined by the U.S. Sentencing Guidelines based on non-missing data. A maximum of 9% of cases were missing departure information for a particular year. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 26, p. 23. Includes defendants sentenced under Chapter 2, Part D of the U.S. Sentencing Guidelines: Trafficking, protected locations, continuing criminal enterprise, communications facility, rent/manage drug establishment, and simple possession. Percentages based on non-missing cases. Less than 1% of cases missing information on mandatory-minimum sentence. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 27, p. 24. Figure depicts the sentencing grid used to determine sentence imposed. Along the vertical axis are 43 offense levels which are ranked in terms of severity of offense from least (1) to most (43). Each Federal offense is associated with an offense severity score. The offense level is subject to modification depending upon aggravating and mitigating factors. The horizontal axis shows the defendant's criminal history score. A criminal history score of 1 corresponds to the mildest criminal history (including no prior convictions/arrests). The criminal history score increases with the magnitude and/or seriousness of the defendant's prior criminal history. The sentencing grid (shown in figure) is used to locate the cell corresponding to the defendant's final offense severity score and criminal history score. A frequency of the final cell used to determine the defendant's sentence was generated for all defendants sentenced under the Federal guidelines from 1994 to 2003. This distribution is shown in figure. For example, 3% of all defendants sentenced under the guidelines from 1994 to 2003 were sentenced in the cell corresponding to an offense severity score of 6 and a criminal history score of 1. Darker shading refers to cells with a relatively greater share of the total percent of sentences imposed across this 10-year period. Lighter shading refers to cells with a relatively lesser share of the total sentences imposed. Of 530,433 defendants sentenced, 31,727 were missing information on offense severity/criminal history score. A small share of defendants were sentenced under more than one guideline and are not displayed. There were a total of 498,706 cases with complete information on final

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criminal history score and offense severity score. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 28, p. 25. Map shows the rate for each Federal judicial district of sentenced drug offenders who received a safety valve provision. For example Title 18 §3553(f), provides for relief from statutory minimum sentences with 1) Government's recommendation and 2) if the defendant meets the following criteria: no more than 1 criminal history point, no use of violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with offense; offense did not result in death or serious bodily injury to any person; defendant was not an organizer, leader, manager, or supervisor of others in the offense and was not engaged in continuing criminal enterprise; defendant has truthfully provided to the Government. Percents based on non-missing data. Missing ranged from 6% of cases in 1994 to 12% in 2003 (missing safety valve and/or complete guideline application information). Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 29, p. 26. The map shows the distribution of resentencing under Rule 35(b) by Federal judicial district. Rule 35(b) of the Federal Rules of Criminal Procedure permits the reduction of sentence for substantial assistance to the Government. Upon the Government's motion within 1 year of sentencing, the court may reduce the offender's sentence if the offender provided substantial assistance in the investigation or prosecution of another person and that the reduction in sentence complies with the Federal sentencing guidelines and policy statement by the U.S. Sentencing Commission. The Government may make a motion more than 1 year after sentencing to reduce the sentence of an offender if the information wasn't known to the defendant 1 year or more after sentencing or the information provided to the Government within 1 year of sentencing did not become useful to the Government until more than 1 year after sentencing. Source: Federal Bureau of Prisons (BOP), online Sentry System.

Figure 30, p.27. Figure excludes other guideline based appeals. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 31, p. 28. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 32, p. 28. Figure excludes other dispositions. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 33, p. 29. The number of offenders under BOP jurisdiction in 1994 is for period ending Dec. 31st. Source: Federal Bureau of Prisons as reported in Prisoners in 1994, BJS Bulletin <www.ojp.usdoj.gov/bjs>. The number of offenders under BOP jurisdiction from 1995-2003 is for period ending Sept. 30th. Source: Federal Bureau of Prisons, State of the Bureau, <www.bop.gov>. The number of offenders under BOP custody from 1994-2003 is for period ending Sept. 30th. Source: Federal Bureau of Prisons as reported in the Compendium of Federal Justice Statistics, <www.ojp.usdoj.gov/bjs>.

Figure 34, p. 29. Source: Federal Bureau of Prisons, online Sentry System.

Figure 35, p. 31. Data include offenders sentenced in Federal courts (excludes persons committed by the D.C. Superior Court). Source: Federal Bureau of Prisons, online Sentry System.

Figure 36, p. 32. Percentages based on non-missing cases. Data include offenders sentenced in Federal courts (excludes persons committed by the D.C. Superior Court). Source: Federal Bureau of Prisons, online Sentry System.

Figure 37, p. 33. Time served calculated from prisoner's arrival into BOP jurisdiction until first release from prison, plus any jail time served and credited. Note: Beginning in 2000, average time served is calculated for offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Figure 38, p. 34. Note: Data for 1987 through 1994 are based on a count of the supervised population as of June 30. Beginning in 1995 data are based on a count as of September 30. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System (FPSIS), fiscal year.

Figure 39, p. 35. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System, fiscal year.

Figure 40, p. 37. The difference was taken between the number of inmates under Federal supervision at fiscal yearend 1994 and in 2003. This difference provides the net growth for offenders under Federal supervision between 1994 and 2003 and the percent distribution of the net growth is displayed by Federal judicial district on the map. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System, fiscal year.

Table notes

Table 1, p. 1. Percentages based on non-missing cases. Missing comprised less than 1% for each year. Source: U.S. Marshals Service (USMS) Prisoner Tracking System (PTS), fiscal year.

Table 2, p. 2. Percentages based on non-missing cases. In 1994 the following were missing: citizenship (13%), and gender, age, and race (each <2%). In 2003 missing included citizenship

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(7%) and gender, age, and race (each <2%). Source: U.S. Marshals Service (USMS), Prisoner Tracking System.

Table 3, p. 3. Percentages based on non-missing cases. In 1994 missing included citizenship (6%), and gender, age and race (each <1%). In 2003 missing included citizenship (5%), and gender, age, and race (<1%). Information on suspect ethnicity not available. Source: U.S. Marshals Service (USMS), Prisoner Tracking System.

Table 4, p. 5. Other or non-drug includes paraphernalia and other items. Source: Drug Enforcement Administration (DEA), Defendant Statistical System.

Table 5, p. 6. Percentages based on non-missing cases. The following describes the maximum missing data for each variable across offense categories: sex (<1%), race (< 4%), ethnic (< 9%), age (<2%), and citizenship (<6%). 1995 is the base year due to missing demographic data for 1994. Source: Drug Enforcement Administration (DEA), Defendant Statistical System.

Table 6, p. 7. Percentages based on non-missing cases. About 1% of cases each year are missing offense information. Source: Executive Office for the U.S. Attorney, Central System File.

Table 7, p. 11. Only records which show a matter terminated by reason of declination, disposition by a U.S. Magistrate, or filed as a case in U.S. district court were selected. Matters "declined immediately" — those cases in which the U.S. attorney spent less than 1 hour investigating — were excluded. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Table 8, p. 12. Detained defendants included defendants who were detained at any time prior to case termination. Totals include defendants whose offense category could not be determined. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 9, p. 14. Total includes defendants whose offense category could not be determined. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 10, p. 15. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 11, p. 16. Most serious offense is based on the offense carrying the maximum statutory penalty. Includes defendants whose offense category could not be determined. See *Methodology* for a listing of detailed offense categories within each major offense category. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 12, p. 17. Case processing time is computed from case filing to disposition. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 13, p. 18. Note: Most serious offense is based on the disposition offense with the most severe sentence. Includes offenders whose offense category could not be determined or whose sentence was unknown. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 14, p. 19. Percentages based on non-missing cases. Offender characteristics could not be determined for 16%-20% of defendants across characteristics in 1996. In 2003 missing information comprised less than 1% across characteristics. Table was created by matching the AOUSC master data files with the U.S. Sentencing Commission (USSC) monitoring system files and the Pretrial Services Agency (PSA) data files. Source: Compendium of Federal Justice Statistics, <www.ojp.usdoj.gov/bjs>.

Table 15, p. 20. Percentages based on non-missing cases. Missing data comprised less than 1% for each year. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 16, p. 21. Note: Most serious offense is based on the disposition offense with the most severe sentence. Includes offenders whose offense category could not be determined or whose sentence was unknown. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 17, p. 21. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 18, p. 23. Percentages based on non-missing cases. Four percent of cases sentenced in 1994 were missing departure information and/or offenses information. In 2003, 8% of cases were missing departure and/or offense information. Downward departure category includes Government-initiated departures. Source: U.S. Sentencing Commission, Monitoring Data Base.

Table 19, p. 25. Percents are based on non-missing data. Includes defendants sentenced under Chapter 2, Part D of the U.S. Sentencing Guidelines: Trafficking, protected locations, continuing criminal enterprise, communications facility, rent/manage drug establishment, and simple possession. Six percent of cases in 1994 were missing safety valve and/or complete guideline application information. In 2003 12% of cases were missing safety valve and/or guideline application information. Source: U.S. Sentencing Commission, Monitoring Data Base.

Table 20, p. 26. Source: Database with special data set covering all prisoner admissions 1986-1997 and subsequently updated with annual Federal Bureau of Prisons, online Sentry System to capture resentencing.

Table 21, p. 27. Offenses represent the statutory offense of conviction against a defendant in a criminal appeal. Includes offenders whose offense category could not be determined. Number of defendants

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convicted derived from 1994 and 2003 defendants in cases terminated. Source: Administrative Office of the U.S. Courts, Court of Appeals File and Criminal Master File, fiscal year.

Table 22, p. 30. Data includes only offenders sentenced in Federal court. Total includes prisoners whose offense category could not be determined. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 23, p. 31. Percentages based on non-missing cases. Data includes only offenders sentenced in Federal court. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 24, p. 32. Percentages based on non-missing cases. Data includes only offenders sentenced in Federal court. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 25, p. 33. Note: Most serious offense is based on the offense having the longest sentence. Starting in 2000 the universe for this table includes offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. Includes prisoners whose offense category could not be determined. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 26, p. 34. Most serious offense of conviction is based on the offense with the longest sentence imposed. Includes offenders under the three major forms of supervision: probation, supervised release, and parole. Includes offenders whose offense category could not be determined. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 27, p. 35. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 28, p. 36. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 29, p. 37. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

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The Federal justice database

The source of data for all tables in *Federal Criminal Justice Trends* is the Bureau of Justice Statistics (BJS) Federal justice database. The database is constructed from source files provided by the U.S. Marshals Service (USMS), the Drug Enforcement Administration (DEA), the Executive Office for U.S. Attorneys (EOUSA), the Administrative Office of the U.S. Courts (AOUSC), the United States Sentencing Commission (USSC), and the Federal Bureau of Prisons (BOP). AOUSC also maintains the data collected by the U.S. Court of Appeals and the Federal Probation and Supervision Information System (FPSIS).

The universe of the BJS Federal justice database includes criminal suspects investigated for violations of Federal criminal law, criminal suspects arrested for violations of Federal criminal law, defendants in Federal pretrial cases opened, defendants in cases filed in U.S. district courts, and offenders entering Federal corrections and correctional supervision.

Wherever possible matters or cases were selected based on an event that occurred during each fiscal year (October 1 through September 30) from 1994 through 2003.

The offense classification procedure used in this report is based on the classification system followed by the AOUSC. Specific offenses in the AOUSC classification are combined to form the BJS categories shown in this report's tables (see Compendium of Federal Justice Statistics, 2003 (NCJ 210299) available on-line from the Bureau of Justice Statistics website.

Felony and misdemeanor distinctions are provided where possible. Felony offenses are those with a maximum penalty of more than 1 year in prison. Misdemeanor offenses have a maximum penalty of 1 year or less.

Offenses in the tables are classified, at the most general level, into felony and misdemeanor categories. Felonies are divided into six main level offense classifications: violent, property, drug, public-order, weapon and immigration offenses. Property and public-order offenses have two sub-levels. The main-level and sub-group categories are composed of individual offense types. When possible drug offenses are divided into the individual offense level.

"Other public-order offenses" include detail at the individual offense type level. Table M.1 shows a list of specific offenses under each offense category.

Table M.1. Breakout of main category offenses

Felonies								
Violent offenses	Property offenses		Drug offenses	Public-order offenses		Weapon offenses	Immigration offenses	Misdemeanors
	Fraudulent	Other		Regulatory	Other			
Murder	Embezzlement	Burglary	Trafficking	Agriculture	Tax law violations	Weapons violations	Immigration offenses	Larceny
Negligent manslaughter	Fraud	Larceny	Possession	Antitrust	Bribery			Drug possession
Assault	Forgery	Motor vehicle theft	Other drug offenses	Food and drug	Perjury, contempt, and intimidation			Immigration
Robbery	Counterfeiting	Arson and explosives		Transportation	National defense			Traffic offense
Sexual abuse		Transportation of stolen property		Civil rights	Racketeering/ extortion			Other misdemeanors
Kidnaping		Other property offenses		Communications	Gambling			Fraudulent property
Threats against the President				Custom laws	Nonviolent sex offenses			
				Postal laws	Obscene material			
				Other regulatory offenses	Wildlife offenses			
					Environmental			
					All other felonies			

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Source agencies for Criminal Justice Trends data tables

Data source agency — data files	Description of data files contents
United States Marshals Service (USMS) — Prisoner Tracking System (PTS)	Contains data on suspects arrested for violations of Federal law, by Federal enforcement agencies and data on characteristics of Federal arrestees.
Drug Enforcement Administration (DEA) — Defendant Statistical System	Contains data on suspects arrested by DEA agents and includes information on characteristics of arrestees and type of drug for which arrested.
Executive Office for U.S. Attorneys (EOUSA) — Central System Files	Contains information on the investigation and prosecution of suspects in criminal matters received and concluded, and criminal cases filed and terminated. The central system files contain defendant-level records about the processing of matters and cases.
AOUSC: Pretrial Services Agency (PSA) — Pretrial Services Act Information System	Contains data on defendants interviewed, investigated, or supervised by pretrial services. The information covers defendants' pretrial hearings, detentions, and releases from the time they are interviewed through the disposition of their cases in district court. The data describe pretrial defendants processed by Federal pretrial service agencies within each district.
Administrative Office of the U.S. Courts (AOUSC) — Criminal Master File	Contains information about the criminal proceedings against defendants whose cases were filed in U.S. district courts. Includes information on felony defendants, Class A misdemeanants — whether handled by U.S. district court judges or U.S. magistrates — and other misdemeanants provided they were handled by U.S. district court judges. The information in the data files cover criminal proceedings from case filing through disposition and sentencing.
United States Sentencing Commission (USSC) — Monitoring Data Base	Contains information on criminal defendants sentenced pursuant to the provisions of the Sentencing Reform Act of 1984. It is estimated that more than 90% of felony defendants in the Federal criminal justice system are sentenced pursuant to the SRA of 1984. Data files are limited to those defendants whose records have been obtained by the U.S. Sentencing Commission.
AOUSC: Court of Appeals	Contains information on criminal appeals filed and terminated in U.S. Courts of Appeals. Includes information on the nature of the criminal appeal, the underlying offense, and the disposition of the appeal.
AOUSC — Federal Probation and Supervision Information System (FPSIS)	Contains information about supervision provided by probation officers for persons placed on probation or supervised release from prison. The files contain records of individuals entering, or currently on supervision, as well as records of offenders terminating supervision.
Bureau of Prisons (BOP): Extract from BOP's online Sentry System	The data extracts contain information on all offenders released from prison over a specific period of time plus information about the offenders in prison when the data extracts are made. The information covers the time that offenders enter prison until their release from the jurisdiction of the Bureau of Prisons. Excludes prisoners sentenced by a District of Columbia Superior Court judge for violations of the DC Criminal Code.

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Table A.1. Suspects arrested for Federal offenses and booked by USMS, by offense, 1994-2003

Most serious offense	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	80,730	83,324	85,195	91,747	104,119	109,340	115,589	118,896	124,074	131,064
Violent offenses[c]	3,905	3,873	4,519	4,801	4,989	4,254	4,250	4,843	4,723	4,484
Property offenses	15,540	16,245	16,191	16,288	16,786	16,569	16,842	16,824	17,268	17,258
Fraudulent[c]	11,919	12,804	12,729	12,912	13,219	13,116	13,432	13,397	13,976	14,169
Other[c]	3,621	3,441	3,462	3,376	3,567	3,453	3,410	3,427	3,292	3,089
Drug offenses	23,268	23,768	24,682	26,843	30,012	31,867	32,630	33,589	33,730	34,217
Public-order offenses	11,596	10,336	9,578	9,324	9,234	9,841	10,063	9,156	8,772	8,591
Regulatory	530	697	656	749	775	752	621	687	524	425
Other	11,066	9,639	8,922	8,575	8,459	9,089	9,442	8,469	8,248	8,166
Weapon offenses[d]	3,885	3,724	3,131	3,235	3,539	4,268	5,203	6,007	7,488	9,416
Immigration offenses[d]	8,777	10,600	12,026	14,994	20,942	22,849	25,205	24,794	25,270	27,620
Supervision violations	12,719	13,498	13,304	13,995	15,157	15,603	17,133	18,978	21,777	23,605
Material witness	886	1,143	1,617	2,169	3,398	4,016	4,203	3,679	3,918	4,615
Unknown or indeterminable offenses	154	137	147	163	62	73	60	1,026	1,128	1,258

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.2. Suspects in criminal matters investigated by U.S. attorneys, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	99,251	102,220	97,776	110,034	115,692	117,994	123,559	121,818	124,335	130,078
Violent offenses[c]	5,570	5,720	6,570	7,354	7,527	5,768	6,036	6,225	6,392	5,688
Property offenses	32,579	31,759	28,962	29,916	30,125	28,011	28,423	28,608	27,321	27,375
Fraudulent[c]	28,491	27,836	25,245	25,854	26,328	24,200	24,679	25,275	24,019	24,261
Other[c]	4,088	3,923	3,717	4,062	3,797	3,811	3,744	3,333	3,302	3,114
Drug offenses	29,311	31,686	30,227	34,027	36,355	37,313	38,959	37,944	38,150	37,416
Public-order offenses	19,143	19,036	18,918	22,857	21,244	22,816	24,180	23,980	23,472	23,717
Regulatory	5,059	5,371	5,154	5,423	6,541	6,332	5,737	5,411	4,738	5,366
Other	14,084	13,665	13,764	17,434	14,703	16,484	18,443	18,569	18,734	18,351
Weapon offenses[d]	5,996	5,376	4,462	4,870	4,907	6,982	8,589	8,989	11,200	14,022
Immigration offenses[d]	5,526	7,256	7,122	9,366	14,114	15,539	16,495	15,378	16,699	20,341
Unknown or indeterminable offenses	1,126	1,387	1,515	1,644	1,420	1,565	877	694	1,101	1,519

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.3. Suspects in criminal matters concluded by U.S. attorneys, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	94,980	102,309	98,454	99,459	106,022	113,933	117,450	118,978	124,081	128,518
Violent offenses[c]	5,339	5,399	6,107	6,570	6,865	5,631	5,641	5,845	6,330	5,765
Property offenses	31,752	33,888	31,038	28,633	27,461	28,314	27,713	28,120	29,083	28,270
Fraudulent[c]	28,038	29,861	27,294	25,157	23,712	24,575	24,186	24,786	25,543	25,020
Other[c]	3,714	4,027	3,744	3,476	3,749	3,739	3,527	3,334	3,540	3,250
Drug offenses	27,697	31,261	30,708	32,072	33,991	36,765	37,009	37,543	38,424	38,537
Public-order offenses	18,313	18,469	17,960	17,462	18,659	20,906	22,375	22,784	23,139	22,023
Regulatory	4,990	5,264	4,843	4,582	5,427	5,698	5,840	5,484	4,947	4,902
Other	13,323	13,205	13,117	12,880	13,232	15,208	16,535	17,300	18,192	17,121
Weapon offenses[d]	5,992	5,732	4,673	4,646	4,742	5,919	7,753	8,715	10,126	12,954
Immigration offenses[d]	5,299	6,660	6,929	8,774	13,249	15,201	16,110	15,350	16,197	20,378
Unknown or indeterminable offenses	588	900	1,039	1,302	1,055	1,197	849	621	782	591

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.4. Suspects in criminal matters concluded by U.S. attorneys: Number prosecuted before U.S. district court judge, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	50,802	55,703	56,938	60,383	64,993	68,384	73,090	72,648	76,314	80,106
Violent offenses[c]	3,256	3,223	3,784	4,153	4,294	3,327	3,403	3,493	3,402	3,218
Property offenses	14,680	15,918	15,270	14,544	14,353	14,032	14,675	14,733	15,634	15,046
Fraudulent[c]	12,683	13,858	13,337	12,663	12,408	12,319	12,988	13,044	13,919	13,525
Other[c]	1,997	2,060	1,933	1,881	1,945	1,713	1,687	1,689	1,715	1,521
Drug offenses	19,427	21,445	21,548	24,400	26,266	28,372	28,917	29,583	29,411	29,259
Public-order offenses	6,585	6,746	7,209	6,309	5,930	6,476	7,401	6,502	6,816	6,640
Regulatory	1,297	1,509	1,396	1,332	1,571	1,648	1,862	1,557	1,240	1,305
Other	5,288	5,237	5,813	4,977	4,359	4,828	5,539	4,945	5,576	5,335
Weapon offenses[d]	3,821	3,758	2,935	3,192	3,347	4,149	5,026	5,599	7,105	9,202
Immigration offenses[d]	2,789	4,305	5,830	7,243	10,505	11,794	13,414	12,488	13,693	16,529
Unknown or indeterminable offenses	244	308	362	542	298	234	254	250	253	212

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes suspects whose cases were filed in U.S. district court before a district court judge.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.5. Suspects in criminal matters concluded by U.S. magistrates, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	9,754	10,710	8,684	10,007	12,243	14,545	13,916	14,080	14,093	14,810
Violent offenses[c]	264	295	295	352	305	308	329	306	351	316
Property offenses	1,781	2,043	1,771	1,919	2,171	2,321	1,978	1,667	1,771	1,917
Fraudulent[c]	1,536	1,743	1,511	1,635	1,651	1,678	1,368	1,185	1,194	1,299
Other[c]	245	300	260	284	520	643	610	482	577	618
Drug offenses	1,821	2,456	2,262	1,903	1,561	2,132	1,966	1,736	1,937	2,426
Public-order offenses	3,432	3,514	3,216	4,167	5,205	6,074	6,915	7,653	7,624	7,077
Regulatory	198	224	275	266	386	445	637	560	618	781
Other	3,234	3,290	2,941	3,901	4,819	5,629	6,278	7,093	7,006	6,296
Weapon offenses[d]	189	190	137	153	116	110	161	178	173	214
Immigration offenses[d]	2,217	1,989	775	1,229	2,374	2,935	2,199	2,339	1,959	2,712
Unknown or indeterminable offenses	50	223	228	284	511	665	368	201	278	148

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes defendants in misdemeanor cases which were terminated in U.S. district court before a U.S. magistrate.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.6. Suspects in criminal matters concluded by U.S. attorneys: Number declined prosecution, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	34,424	35,896	32,832	29,069	28,786	31,004	30,444	32,250	33,674	33,602
Violent offenses[c]	1,819	1,881	2,028	2,065	2,266	1,996	1,909	2,046	2,577	2,231
Property offenses	15,291	15,927	13,997	12,170	10,937	11,961	11,060	11,720	11,678	11,307
Fraudulent[c]	13,819	14,260	12,446	10,859	9,653	10,578	9,830	10,557	10,430	10,196
Other[c]	1,472	1,667	1,551	1,311	1,284	1,383	1,230	1,163	1,248	1,111
Drug offenses	6,449	7,360	6,898	5,769	6,164	6,261	6,126	6,224	7,076	6,852
Public-order offenses	8,296	8,209	7,535	6,986	7,524	8,356	8,059	8,629	8,699	8,306
Regulatory	3,495	3,531	3,172	2,984	3,470	3,605	3,341	3,367	3,089	2,816
Other	4,801	4,678	4,363	4,002	4,054	4,751	4,718	5,262	5,610	5,490
Weapon offenses[d]	1,982	1,784	1,601	1,301	1,279	1,660	2,566	2,938	2,848	3,538
Immigration offenses[d]	293	366	324	302	370	472	497	523	545	1,137
Unknown or indeterminable offenses	294	369	449	476	246	298	227	170	251	231

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes suspects whose matters were declined for prosecution by U.S. attorneys upon review.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.7. Defendants in cases proceeded against in U.S. district courts, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	62,327	63,547	65,480	69,351	78,172	80,031	83,251	82,614	87,727	92,085
Felonies	47,341	50,483	52,656	57,022	64,769	67,442	71,072	70,837	76,163	80,354
Violent offenses[c]	3,222	2,838	3,457	3,603	3,763	2,976	3,135	3,178	3,308	3,167
Property offenses	13,155	13,837	14,130	13,890	14,955	14,779	15,237	14,764	16,126	15,732
Fraudulent[c]	10,301	10,909	11,525	11,371	12,401	12,028	12,659	12,293	13,511	13,142
Other[c]	2,854	2,928	2,605	2,519	2,554	2,751	2,578	2,471	2,615	2,590
Drug offenses	20,275	20,983	21,677	24,693	28,021	29,306	29,455	30,301	30,673	30,668
Trafficking	20,052	20,191	20,522	23,403	26,318	27,296	27,734	28,315	28,406	28,532
Possession / other	223	792	1,155	1,290	1,703	2,010	1,721	1,986	2,267	2,136
Public-order offenses	4,679	4,747	4,351	4,273	4,489	4,907	5,136	4,595	4,851	4,829
Regulatory	1,256	1,265	1,123	1,117	1,359	1,245	1,264	1,218	1,021	1,006
Other	3,423	3,482	3,228	3,156	3,130	3,662	3,872	3,377	3,830	3,823
Weapon offenses[d]	3,557	4,212	3,651	3,837	4,287	4,924	6,073	6,495	8,104	9,961
Immigration offenses[d]	2,453	3,866	5,390	6,726	9,254	10,550	12,036	11,504	13,101	15,997
Misdemeanors[c]	14,980	13,036	12,774	12,267	13,254	12,474	12,104	11,703	11,493	11,651
Unknown or indeterminable offenses	6	28	50	62	149	115	75	74	71	80

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.8. Defendants in cases terminating in U.S. district courts, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	61,404	56,480	61,434	64,956	69,769	75,723	76,952	77,145	80,424	85,106
Felonies	47,292	44,462	49,283	53,097	57,054	62,839	65,656	66,112	70,225	74,370
Violent offenses[c]	3,227	2,864	3,091	3,241	3,470	3,093	2,964	2,977	2,927	3,040
Property offenses	13,182	12,426	12,816	13,725	13,493	14,055	14,080	13,950	14,767	14,965
Fraudulent[c]	10,193	9,817	10,260	11,152	10,965	11,587	11,590	11,563	12,324	12,468
Other[c]	2,989	2,609	2,556	2,573	2,528	2,468	2,490	2,387	2,443	2,497
Drug offenses	20,219	18,189	20,305	22,374	24,317	27,008	27,274	28,227	29,300	28,597
Trafficking	20,056	17,823	19,486	21,379	22,952	25,334	25,579	26,501	27,254	26,495
Possession / other	163	366	819	995	1,365	1,674	1,695	1,726	2,046	2,102
Public-order offenses	4,620	4,098	4,117	4,107	4,010	4,837	4,690	4,402	4,645	4,472
Regulatory	1,383	1,181	1,151	1,069	1,104	1,306	1,229	1,166	1,129	906
Other	3,237	2,917	2,966	3,038	2,906	3,531	3,461	3,236	3,516	3,566
Weapon offenses[d]	3,673	3,674	3,843	3,485	3,901	4,087	5,049	5,814	6,556	8,147
Immigration offenses[d]	2,371	3,211	5,111	6,165	7,863	9,759	11,599	10,742	12,030	15,149
Misdemeanors[c]	14,111	11,989	12,115	11,795	12,611	12,793	11,214	10,952	10,131	10,736
Unknown or indeterminable offenses	1	29	36	64	104	91	82	81	68	0

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.9. Defendants in cases terminating in U.S. district courts: Percent convicted, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	82.6%	84.2%	86.4%	87.1%	87.4%	87.2%	88.6%	88.8%	89.3%	89.1%
Felonies	86.2	86.6	89.0	89.8	90.1	90.5	91.5	91.5	91.9	92.1
Violent offenses[c]	87.9	88.7	88.1	89.9	90.3	89.9	90.3	90.3	92.1	90.5
Property offenses	87.3	87.5	89.5	89.7	90.0	90.4	91.0	90.6	90.8	91.2
Fraudulent[c]	87.7	88.0	89.6	89.8	90.0	90.6	91.0	90.8	90.9	91.2
Other[c]	85.9	85.6	89.5	89.3	90.1	89.9	90.9	89.7	90.1	91.1
Drug offenses	85.9	85.6	88.3	89.3	89.5	89.9	91.2	91.6	92.4	91.9
Trafficking	86.0	85.5	88.3	89.3	89.4	89.8	91.3	91.5	92.4	91.9
Possession / other	78.5	88.3	88.2	89.0	91.3	91.2	90.7	92.8	92.4	91.9
Public-order offenses	81.0	83.3	84.5	85.9	87.2	86.2	87.3	87.1	87.7	86.4
Regulatory	81.3	79.8	82.5	85.7	84.9	83.7	86.6	84.8	87.3	82.9
Other	80.8	84.7	85.2	85.9	88.1	87.1	87.6	88.0	87.8	87.4
Weapon offenses[d]	85.2	84.8	87.5	87.6	87.5	88.6	88.4	90.0	89.0	89.8
Immigration offenses[d]	92.2	93.6	96.1	95.9	94.7	95.4	95.9	95.1	95.3	96.6
Misdemeanors[c]	70.4	75.2	75.6	74.8	75.2	71.2	71.6	73.0	71.0	68.1

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.10. Offenders convicted and sentenced in U.S. district courts, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	50,701	47,556	53,076	56,570	60,958	66,055	68,156	68,533	71,798	75,805
Felonies	39,624	37,713	42,992	46,878	50,494	55,864	59,123	59,363	63,238	67,036
Violent offenses[c]	2,704	2,423	2,660	2,876	3,078	2,715	2,557	2,604	2,578	2,643
Property offenses	11,113	10,569	11,125	12,010	11,862	12,232	12,454	12,349	13,101	13,311
Fraudulent[c]	8,671	8,484	9,055	9,919	9,752	10,203	10,396	10,359	11,107	11,323
Other[c]	2,442	2,085	2,070	2,091	2,110	2,029	2,058	1,990	1,994	1,988
Drug offenses	16,400	14,778	17,365	19,115	20,867	23,476	24,206	25,088	26,234	25,582
Trafficking	16,197	14,322	16,485	18,057	19,417	21,698	22,275	23,248	24,174	23,521
Possession / other	203	456	880	1,058	1,450	1,778	1,931	1,840	2,060	2,061
Public-order offenses	4,023	3,836	3,880	3,962	3,958	4,661	4,585	4,347	4,630	4,331
Regulatory	1,309	1,177	1,169	1,211	1,187	1,410	1,376	1,410	1,403	1,136
Other	2,714	2,659	2,711	2,751	2,771	3,251	3,209	2,937	3,227	3,195
Weapon offenses[d]	3,232	3,062	3,033	2,871	3,160	3,423	4,196	4,925	5,563	6,970
Immigration offenses[d]	2,152	3,045	4,929	6,044	7,569	9,357	11,125	10,050	11,132	14,199
Misdemeanors[c]	11,072	9,818	10,054	9,636	10,375	10,118	8,961	9,100	8,499	8,767
Unknown or indeterminable offenses	5	25	30	56	89	73	72	70	61	2

Note: Most serious offense is based on the disposition offense with the most severe sentence.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.11. Offenders convicted and sentenced in U.S. district courts: Number sentenced to prison, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	33,022	31,805	36,373	39,431	43,041	47,659	50,451	51,057	53,682	57,629
Felonies	31,070	29,759	34,345	37,747	41,420	46,070	49,070	49,509	52,246	55,811
Violent offenses[c]	2,518	2,209	2,419	2,619	2,808	2,489	2,360	2,399	2,408	2,462
Property offenses	6,411	6,215	6,559	7,110	7,114	7,204	7,462	7,744	7,746	7,948
Fraudulent[c]	4,868	4,928	5,322	5,871	5,860	6,067	6,272	6,537	6,654	6,737
Other[c]	1,543	1,287	1,237	1,239	1,254	1,137	1,190	1,207	1,092	1,211
Drug offenses	14,973	13,502	15,984	17,637	19,280	21,694	22,352	23,074	23,951	23,544
Trafficking	14,841	13,133	15,248	16,718	18,013	20,117	20,633	21,422	22,107	21,704
Possession / other	132	369	736	919	1,267	1,577	1,719	1,652	1,844	1,840
Public-order offenses[d]	2,410	2,279	2,427	2,456	2,424	3,065	2,989	2,686	3,053	3,036
Regulatory	644	572	540	603	506	627	647	597	641	542
Other	1,766	1,707	1,887	1,853	1,918	2,438	2,342	2,089	2,412	2,494
Weapon offenses[d]	2,901	2,803	2,773	2,663	2,914	3,191	3,834	4,541	5,134	6,431
Immigration offenses[d]	1,857	2,751	4,183	5,262	6,880	8,427	10,073	9,065	9,954	12,390
Misdemeanors[c]	1,948	2,039	2,020	1,679	1,590	1,556	1,356	1,515	1,408	1,818
Unknown or indeterminable offenses	4	7	8	5	31	33	25	33	28	0

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Number of offenders includes offenders given life and death sentences, and includes new law offenders given prison-community split sentences (prison and conditions of alternative community confinement). Number of offenders also includes offenders given mixed sentences of prison plus probation, applicable only to offenders sentenced pursuant to laws applicable prior to the Sentencing Reform Act of 1984.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.12. Criminal appeals filed, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	10,674	10,162	10,889	10,521	10,535	10,251	9,162	11,281	11,569	11,968
Violent offenses[c]	856	700	685	739	742	559	490	591	606	601
Property offenses	1,949	1,767	2,093	1,972	1,947	1,739	1,482	1,681	1,726	1,842
Fraudulent[c]	1,410	1,323	1,581	1,519	1,439	1,338	1,164	1,299	1,389	1,478
Other[c]	539	444	512	453	508	401	318	382	337	364
Drug offenses	5,102	4,499	5,099	4,750	4,845	4,513	3,843	4,529	4,689	4,565
Public-order offenses[d]	1,037	886	985	1,050	878	954	827	1,024	876	894
Regulatory	288	220	196	224	178	162	150	144	128	137
Other	749	666	789	826	700	792	677	880	642	757
Weapon offenses[d]	1,141	1,034	1,183	1,135	982	1,070	872	1,266	1,386	1,681
Immigration offenses[d]	261	277	353	417	693	934	1,179	1,654	1,679	1,821
Unknown or indeterminable offenses	328	999	491	458	448	482	469	536	607	564

Note: Appeals were classified into the offense category that represents the offense of conviction. Offenses represent the statutory offense charged against a defendant in a criminal appeal.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.13. Offenders convicted and sentenced in U.S. district courts: Number sentenced to probation only, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	12,781	11,602	11,789	12,046	12,108	12,408	11,937	11,473	11,774	11,322
Felonies	7,677	7,030	7,138	7,387	7,208	7,491	7,477	7,386	7,818	7,406
Violent offenses[c]	164	198	209	223	235	182	149	160	118	130
Property offenses	4,327	3,987	4,035	4,275	4,044	4,171	4,166	3,805	4,349	4,143
Fraudulent[c]	3,477	3,217	3,238	3,475	3,249	3,340	3,372	3,102	3,542	3,434
Other[c]	850	770	797	800	795	831	794	703	807	709
Drug offenses	1,204	992	1,011	1,054	1,092	1,134	1,130	1,249	1,345	1,204
Trafficking	1,139	926	888	940	952	981	971	1,105	1,175	1,043
Possession / other	65	66	123	114	140	153	159	144	170	161
Public-order offenses	1,469	1,428	1,278	1,343	860	1,405	1,373	1,481	1,343	1,087
Regulatory	575	531	542	522	582	665	619	712	630	474
Other	894	897	736	821	278	740	754	769	713	613
Weapon offenses[d]	296	221	229	182	208	190	297	326	340	436
Immigration offenses[d]	217	204	376	310	769	409	362	365	323	406
Misdemeanors[c]	5,103	4,556	4,631	4,612	4,844	4,879	4,416	4,051	3,925	3,914
Unknown or indeterminable offenses	1	16	20	47	56	38	44	36	31	2

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Number of offenders includes offenders given probation plus conditions of confinement, such as home confinement or intermittent confinement.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.14. Offenders convicted and sentenced in U.S. district courts: Mean number of months of imprisonment imposed, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	62.6 mo	63.3 mo	61.7 mo	59.3 mo	58.9 mo	58.1 mo	56.8 mo	56.7 mo	57.1 mo	58.9 mo
Felonies	65.6	66.8	64.6	61.5	60.6	59.6	58.0	58.0	58.4	60.4
Violent offenses[c]	92.3	98.5	92.7	86.1	84.4	88.1	86.6	90.7	88.6	97.6
Property offenses	26.4	27.3	24.1	24.4	25.6	24.1	24.3	24.2	25.1	27.4
Fraudulent[c]	20.0	21.9	21.1	22.1	22.4	22.4	22.5	22.3	23.5	24.9
Other[c]	46.2	47.5	37.0	35.2	40.4	33.0	33.4	34.9	34.8	41.1
Drug offenses	83.9	87.1	84.8	81.1	78.7	75.4	75.6	73.9	76.0	81.5
Trafficking	84.2	87.7	85.1	81.3	78.3	74.8	75.2	73.6	75.7	81.4
Possession / other	45.6	66.4	77.1	77.7	84.3	83.4	81.1	78.9	79.6	82.9
Public-order offenses	36.3	36.7	43.2	41.8	43.3	47.0	42.5	39.4	38.4	43.1
Regulatory	32.2	27.8	26.7	26.5	27.8	26.3	28.0	23.6	25.9	33.5
Other	37.9	39.7	48.0	46.8	47.4	52.4	46.5	43.9	41.8	45.2
Weapon offenses[d]	83.2	95.0	100.3	102.1	101.3	99.5	92.2	87.3	83.8	84.0
Immigration offenses[d]	22.9	24.0	22.9	23.0	26.4	30.7	29.5	29.2	27.9	26.7
Misdemeanors[c]	12.3	9.8	11.1	10.1	11.6	10.8	10.3	10.0	9.6	9.1

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Calculations exclude offenders given life or death sentences, and old law offenders given mixed sentences of prison plus probation. For new law offenders given prison-community split sentences, only the prison portion of the sentence is included in calculations.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.15. Offenders under Federal supervision at the end of the fiscal year, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	86,904	84,848	88,165	90,471	92,270	96,044	99,264	103,348	107,367	108,976
Felonies[c]	73,978	73,626	76,834	79,575	81,324	85,372	88,847	93,113	97,518	99,172
Violent offenses[d]	4,504	4,463	4,791	4,945	5,554	5,468	5,795	6,163	6,281	6,328
Property offenses	28,276	27,287	27,240	27,540	27,346	28,128	28,697	28,851	29,268	29,011
Fraudulent[d]	22,411	21,832	22,066	22,586	22,532	23,252	23,846	23,947	24,439	24,300
Other[d]	5,865	5,455	5,174	4,954	4,814	4,876	4,851	4,904	4,829	4,711
Drug offenses	28,039	29,106	31,843	33,662	35,184	37,688	39,616	42,333	44,980	45,981
Trafficking	26,665	26,648	28,505	29,870	31,228	33,559	35,362	38,001	40,414	41,380
Possession / other	1,374	2,458	3,338	3,792	3,956	4,129	4,254	4,332	4,566	4,601
Public-order offenses	8,162	8,059	7,846	7,961	7,681	8,355	8,475	8,773	9,039	8,838
Regulatory	2,252	2,176	2,097	2,168	2,162	2,323	2,410	2,604	2,570	2,484
Other	5,910	5,883	5,749	5,793	5,519	6,032	6,065	6,169	6,469	6,354
Weapon offenses[e]	3,883	3,704	3,840	3,908	4,026	4,121	4,517	4,977	5,662	6,648
Immigration offenses[e]	1,075	939	1,174	1,396	1,270	1,323	1,535	1,807	2,095	2,180
Misdemeanors[d]	12,926	11,222	11,331	10,896	10,946	10,672	10,417	10,235	9,849	9,804

Note: Most serious offense of conviction is based on the offense with the longest sentence imposed. Number of offenders includes offenders under active supervision at the close of the fiscal year. This population includes offenders under the three major forms of supervision: probation, supervised release, and parole. Included under parole are two less common types of old law release: mandatory release and special parole. Excluded from the number of offenders under active supervision reported in the table are offenders released to military parole and offenders under community supervision prior to sentencing (such as during pretrial release or pretrial investigation).

[a]Starting in 1999 nonviolent sex offenses were reclassified from “Violent offenses” to “Public-order offenses.”

[b]Includes offenders whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[c]Includes offenders whose felony offense category could not be determined. A felony offense category could not be determined for 70 offenders during 1994, 118 during 1995, 158 during 1996, 264 during 1997, 264 during 1998, 289 during 1999, 212 during 2000, 208 during 2001, 193 during 2002, and 180 during 2003.

[d]In this table “Violent offenses” may include nonnegligent manslaughter; “Fraudulent property” excludes tax fraud; “Other nonfraudulent property” excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[e]Beginning in 2001 “Weapon” and “Immigration” offenses became major offense categories. Previously, these offenses were classified within “Public-order offenses.”

Table A.16. Population at the end of the fiscal year in Federal prisons, by offense, 1994-2003

Most serious original offense of conviction	1994	1995	1996	1997	1998[a]	1999[b]	2000[b,c]	2001[b,c]	2002[b,c]	2003[b,c]
All offenses[d]	84,253	88,323	92,346	98,601	108,279	118,265	129,329	136,395	143,031	152,459
Violent offenses[e]	11,111	11,281	11,392	11,537	12,451	13,121	12,973	13,385	13,549	13,525
Property offenses	7,880	7,819	7,766	8,128	8,560	8,581	9,849	9,988	10,100	10,634
Fraudulent[e]	5,725	5,822	5,807	6,147	6,463	6,551	7,497	7,605	7,798	8,227
Other[e]	2,155	1,997	1,959	1,981	2,097	2,030	2,352	2,383	2,302	2,407
Drug offenses	50,555	52,634	55,049	58,456	62,712	67,925	73,389	77,210	81,052	85,789
Trafficking	50,175	52,254	54,726	58,048	62,266	67,404	72,775	76,695	80,596	85,289
Possession / other	380	380	323	408	446	521	614	515	456	500
Public-order offenses	4,512	4,779	5,047	5,649	6,071	6,711	7,527	7,609	7,951	8,438
Regulatory	878	894	919	1,013	1,058	1,048	1,205	1,148	1,217	1,249
Other	3,634	3,885	4,128	4,636	5,013	5,663	6,322	6,461	6,734	7,189
Weapon offenses[f]	6,769	7,420	7,669	8,049	8,697	9,439	10,652	12,150	13,725	16,014
Immigration offenses[f]	2,486	3,420	4,476	5,454	7,430	10,156	13,676	15,012	15,571	16,903
Unknown or indeterminable offenses	940	970	947	1,328	2,358	2,332	1,263	1,041	1,083	1,156

Note: Most serious offense is based on the offense having the longest sentence.

[a]The yearend population for 1998 was adjusted to reflect an additional 1,013 prisoners reported in the Compendium of Federal Justice Statistics, 1998.

[b]Starting in 1999 nonviolent sex offenses were reclassified from “Violent offenses” to “Public-order offenses.”

[c]Starting in 2000 the universe for this table includes offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. See Methodology for more information.

[d]Includes prisoners whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[e]In this table “Violent offenses” may include nonnegligent manslaughter; “Fraudulent property” excludes tax fraud; and “Other nonfraudulent property” excludes fraudulent property and includes destruction of property and trespassing.

[f]Beginning in 2001 “Weapon” and “Immigration” offenses became major offense categories. Previously, these offenses were classified within “Public-order offenses.”

DOJ_NMG_ 0167302

Image not available for this document, ID: 0.7.10316.35866-000002

jcherry@gwb43.com

From:	jcherry@gwb43.com
Sent:	Wednesday, August 30, 2006 5:50 PM
To:	jcherry@gwb43.com
Subject:	PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments:	tmp.htm

Howard Schweitzer of Bethesda, MD (Currently Acting General Counsel and Corporate Secretary, Export-Import Bank; Former Deputy General Counsel and Corporate Secretary, Export-Import Bank) is one of many candidates being considered for a position in the Bush Administration. Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

Jane

Howard Schweitzer of Bethesda, MD (Currently Acting General Counsel and Corporate Secretary, Export-Import Bank; Former Deputy General Counsel and Corporate Secretary, Export-Import Bank) is one of many candidates being considered for a position in the Bush Administration. Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,
Jane

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 6:24 PM
To: USDOJ- Office of Public Affairs
Subject: WICHITA EMPLOYER ADMITS TO KNOWINGLY HIRING ILLEGAL ALIENS

Department of Justice

United States Attorney Eric F. Melgren
District of Kansas

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV/USAO/KS/PRESS.HTM

CONTACT: JIM CROSS
PHONE: (316) 269-6481
FAX: (316) 269-6420

WICHITA EMPLOYER ADMITS TO KNOWINGLY HIRING ILLEGAL ALIENS

WICHITA, Ka. – A Wichita company, its owner, and a manager pleaded guilty Wednesday to knowingly hiring illegal aliens and agreed to pay a total of $210,000 in fines. Bob Eisel Powder Coatings Inc., Owner and President Bob Eisel, and General Manager Kenric "Butch" Steinert, all of Wichita, pleaded guilty during a hearing before U.S. District Judge Wesley E. Brown. The remaining co-defendant in the case, company foreman Troy Hook, of Clearwater, was arraigned Wednesday and pleaded not guilty.

The defendants each pleaded guilty to one count of making a false statement on an I-9 Employment Eligibility Verification Form that fraudulently certified employee Francisco Javier Avila-Garcia had provided genuine documents qualifying him to be employed. A 28-count indictment filed earlier this month charged that since 1997 the company routinely employed undocumented foreign nationals, primarily from Mexico, knowing they were providing false identification documents to be employed.

"There is a message here for law abiding employers," said U.S. Attorney Eric Melgren, of the District of Kansas. "Knowingly assisting illegal aliens to appear qualified for employment in this country is a crime." The Bob Eisel company singled itself out for criminal prosecution, Melgren said, by deliberately trying to get around federal laws requiring workers to submit documents verifying their right to work in the United States.

According to the pleas, in 2002, the company began receiving letters from the Social Security Administration warning that employees were working under Social Security numbers that had not been assigned to them or were being used by more than one person. In response, Eisel, Steinert and Hook notified employees of the problem and directed them to obtain different numbers if they wanted to remain employed.

A Bob Eisel employee named Francisco Javier Avila-Garcia helped employees whose identities Social Security questioned to obtain false documents. Poncho periodically received $100 cash for each employee, which Stein obtained from the office safe. Once the false documents were obtained, the company created

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paperwork terminating the employees under the old names and then rehired the same employees under new names. The employees filled out new paperwork including employment applications, I-9 Employment Eligibility Verifications, and W-4 Employee's Withholding Allowance Certificates. With Eisel's knowledge, Steinert completed and signed employer certification documents stating "the above listed documents appear to be genuine and related to the employee named...and that to the best of my knowledge the employee is eligible to work in the United States."

The count to which the defendants pleaded guilty carries a maximum penalty of five years in federal prison and a $250,000 fine. Judge Brown will determine the sentence at a hearing Nov. 15. The plea agreement outlines the following proposed sentence: a $175,000 fine for the company; a $25,000 fine for Bob Eisel; a $10,000 fine for Kenric Steinert, and a sentence at the low end of the guidelines.

Immigration and Customs Enforcement and the Social Security Administration investigated the case. Assistant U.S. Attorney Brent Anderson is prosecuting.

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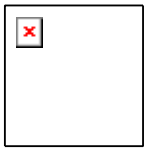
Image not available for this document, ID: 0.7.10316.34973-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 6:26 PM
To: USDOJ- Office of Public Affairs
Subject: SUSPENDED SAN ANTONIO POLICE OFFICER CONVICTED OF SEXUAL ASSAULT

Department of Justice



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WEDNESDAY, AUGUST 30, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

SUSPENDED SAN ANTONIO POLICE OFFICER CONVICTED OF SEXUAL ASSAULT

WASHINGTON – San Antonio Police Department Officer, Dean Gutierrez, was convicted in federal court for violating the civil rights of a private citizen following a traffic stop, the Justice Department announced today.

The jury found Gutierrez guilty of willfully violating the civil rights of the victim, who is transgendered, through aggravated sexual assault. Evidence at trial showed that on June 10, 2005, the defendant stopped the victim and asked whether the victim wanted to go to jail or get in the car with the defendant. The defendant then drove the victim to a remote location, removed the victim from the car, and forced the victim to engage in sexual activity. During this sexual assault, the defendant also physically assaulted the victim. The jury found that the defendant's conduct amounted to aggravated sexual assault, a felony, that carries a sentence of up to life in prison and up to $250,000 in fines. A sentencing hearing is scheduled on Dec. 1, 2006, at 10:00 a.m. CST before District Court Judge Xavier Rodriguez.

"Law enforcement officers are responsible for protecting citizens. Using one's official authority to forcibly violate another individual, as the defendant did in this case, is disturbing and abhorrent," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division.

In announcing the conviction, Assistant Attorney General Kim commended the U.S. Attorney's Office, the Criminal Section of the Civil Rights Division, the Federal Bureau of Investigation, and the San Antonio Police Department for their work on this investigation and prosecution.

Assistant U.S. Attorney Bill Baumann and Civil Rights Division attorney Jim Felte prosecuted this case for the government.

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06-583

DOJ_NMG_ 0167311

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Image not available for this document, ID: 0.7.10316.34967-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 7:17 PM
To: USDOJ- Office of Public Affairs
Subject: TWO FEMA EMPLOYEES SENTENCED TO PRISON TERMS FOLLOWING FEDERAL BRIBERY CONVICTIONS IN NEW ORLEANS

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV/USAO/LAE

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4978

TWO FEMA EMPLOYEES SENTENCED TO PRISON TERMS FOLLOWING FEDERAL BRIBERY CONVICTIONS IN NEW ORLEANS

NEW ORLEANS – Two Federal Emergency Management Administration (FEMA) officials working in the New Orleans region following Hurricane Katrina were sentenced in federal court to 21 months imprisonment and fined $20,000 each, U.S. Attorney Jim Letten of the Eastern District of Louisiana announced today. Andrew Rose and Loyd Holliman, both residents of Colorado, were FEMA Disaster Assistance employees who were charged with managing the FEMA LB Landry base camp located in New Orleans, La., and were public officials in their capacity as employees of FEMA.

Both defendants were arrested by special agents of the FBI and Department of Homeland Security's Office of Inspector General in January of 2006 following an undercover investigation which began after both Rose and Holliman approached a Louisiana businessman under contract for $1 million in food services, demanding that the businessman illegally kick back to them an initial payment of $20,000 and weekly payments of $5,000 as payment for the contract. After the Louisiana businessman reported the matter to federal authorities, an intensive two-month undercover investigation utilizing electronic surveillance captured both Rose and Holliman demanding bribes and receiving $20,000 in cash from the cooperating businessman. The two defendants were placed under arrest by FBI and Department of Homeland Security's Office of the Inspector General special agents.

"I want to recognize and thank the courageous Louisiana businessman who wasted no time in reporting the illegal and corrupt conduct of these two government representatives to federal authorities, which resulted in the successful conclusion of this important corruption case," stated U.S. Attorney Letten. "We in federal enforcement, as the guardians of the public trust, will continue to remain vigilant, focused, aggressive and committed to punishing those unscrupulous individuals who seek to illegally enrich themselves at the expense of our needy citizens, and to further deter any such corrupt conduct by citizens or public servants alike."

DOJ_NMG_ 0167315

This matter was investigated by special agents of the FBI and agents of the Department of Homeland Security's Office of the Inspector General. This case was prosecuted by Assistant U.S. Attorneys James R. Mann and Salvador Perricone.

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Image not available for this document, ID: 0.7.10316.34964-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 7:22 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 30, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

Attorney General Travels to Qatar (OPA)
Today, Attorney General Alberto R. Gonzales traveled to Doha, Qatar. There, he met with Justice Department employees who work in the Department's attaché at the US Embassy in Doha, met with a number of high level Qatari officials to discuss cooperation on terrorism and law enforcement, and participated in a roundtable with print media.

Deputy Attorney General Delivers Remarks before National Violent Crime Summit (OPA)
Today, Deputy Attorney General Paul J. McNulty delivered remarks to state and local law enforcement leaders at the National Violent Crime Summit in Washington. He discussed the ways the Justice Department can help combat violent crime on the state and local level. The event was open to print media only.

Associated Press Interviews FBI Assistant Director Regarding New Orleans after Hurricane Katrina (FBI)
Today, Associated Press reporter Mike Sniffen conducted an interview with FBI Assistant Director Chip Burrus regarding the state of New Orleans one year after Hurricane Katrina.

ABC News Inquires Regarding Security Breach at AT&T (FBI)
Today, Jason Ryan of ABC News inquired about a security breach at AT&T involving unauthorized access to the personal information of customers who purchased Internet products from the AT&T online store.

Meth Seizure Shatters Georgia Record Set Just Two Weeks Ago (ATF)
Today, federal, state and local law enforcement authorities in North Georgia announced the record seizure of approximately 341 pounds of suspected crystal methamphetamine ("ice") in Gainesville, Georgia. A federal criminal complaint has been filed against three brothers, Alejandro Martinez-Menera, Socorro Martinez-Menera, and Sacarias Martinez-Menera, charging them with possession with intent to distribute methamphetamine. A fourth defendant, Arnulfo Pineda-Rivera, is also charged with growing a large number of marijuana plants and with illegally re-entering the United States after deportation.

New York Man Pleads Guilty For Participation in Child Prostitution Ring (Criminal)
A pimp from New York City who recruited and prostituted minor girls in several U.S. cities pleaded guilty in federal court in New Jersey today. Demetrius Lemus of New York City entered a plea of guilty today before U.S. District Judge Freda L. Wolfson to conspiracy to transport minors to engage in prostitution. According to the plea agreement, Lemus was part of a prostitution ring operating from 1999 through 2005 in various U.S. cities, including Atlantic City, N.J.; New York City; Las Vegas; Boston; and Miami.

Justice Department Settles Voting Rights Lawsuit with Springfield, Massachusetts (Civil Rights)
Today, the Justice Department today reached a successful resolution of a lawsuit against the city of Springfield, Mass., regarding allegations that the city violated the rights of minority voters under two key provisions of the Voting Rights Act. Under today's settlement, the city has agreed to a court order providing full relief.

Talking Points

- The Civil Rights Division has launched a major initiative to ensure compliance with all of the provisions of the Voting Rights Act with respect to all citizens of all racial groups in all areas of the United States.

- Since 2002, the Civil Rights Division has filed three-fourths of all cases to protect the right of voters needing assistance in the history of the Act, and 60 percent of all minority language cases it has filed in the entire previous history of the Voting Rights Act.

- As a result of this work and other lawsuits brought since 2002, the Department has brought a majority of all cases it ever has filed under the substantive provisions of the Voting Rights Act to protect Hispanic and Asian voters, and the first cases ever filed to protect the voting rights of Filipino and Vietnamese voters.

- This is the second recent case the Division has filed in Massachusetts, and follows a successful lawsuit on behalf of Hispanic, Chinese and Vietnamese voters in Boston.

- The Division has filed additional successful Voting Rights Act lawsuits across the country, with cases in Arizona, California, Florida, Georgia, New York, Pennsylvania, Tennessee, Texas and Washington. There are also active complaints in Ohio & Mississippi.

Suspended San Antonio Police Officer Convicted Of Sexual Assault (Civil Rights)
Today, San Antonio Police Department Officer, Dean Gutierrez, was convicted in federal court for violating the civil rights of a private citizen following a traffic stop. The jury found Gutierrez guilty of willfully violating the civil rights of the victim, who is transgendered, through aggravated sexual assault. The conviction, a felony, carries a sentence of up to life in prison and up to $250,000 in fines.

Talking Points

- Law enforcement officers are responsible for protecting citizens.

- Using one's official authority to forcibly violate another individual, as the defendant did in this case, is disturbing and abhorrent.

The Nation's Federal Criminal Justice Caseload Grew Substantially During Ten-Year Period (OJP)

Today, the Office of Justice Programs Bureau of Justice Statistics announced that the number of suspects and defendants processed in the federal criminal justice system grew substantially during the 10-year period of 1994 to 2003. U.S. federal prosecutors investigated more than 130,000 suspects during 2003 (a new record), up from 99,000 men and women in 1994. Immigration offenses drove the growing case load increasing by an average annual 14 percent in immigration arrests and 25 percent in prison sentences for immigration convictions.

THURSDAY'S EXPECTED EVENTS/RELEASES:

The Civil Rights Division will issue two separate press releases regarding housing matters.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, August 30, 2006 8:45 PM
Subject: Internet Browser and email problem

Internet Browser and email problem

The Department of Justice is currently expericing an Internet browser and email problem. Please be advised, email to and from the internet is being delayed sporadically. Mail will be held and delivered as soon as services are restored.

BlackBerry services are also interrupted due to the Internet connection problem. Only PIN to PIN is available for all BlackBerry users.

Unavailable Services: BlackBerry (PIN to PIN messaging is available)
Internet Email Services

Available Services: BlackBerry PIN to PIN Messaging

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 5:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Tucson, AZ

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 5:01:10 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Tucson, AZ
Auto forwarded by a Rule

AMBER ALERT:Tucson,AZ CHILD:11 White F 5'4" 90 lbs Eyes:Blue Hair:Dirty blonde CALL 520-741-4900
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2042

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 9:40 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 31, 2006

Department of Justice

PRESS GUIDANCE
Thursday, August 31, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

EVENTS/HEARINGS

No public events scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167324

Image not available for this document, ID: 0.7.10316.34957-000001

Image not available for this document, ID: 0.7.10316.34957-000002

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, August 31, 2006 11:06 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/31/06 Civil Division News

Force Protection settles with $1.8 million payment

Press Release: False Claims Scheme Charged on Big Dig Contract, Reports U.S. Attorney

State to get $10.4M from Medicaid settlement

Jury convicts business owner in Medicare fraud scheme

EDITORIAL: A Judge Clears The Smoke

AP

August 30, 2006

Lloyd: Force Protection settles with $1.8 million payment

Associated Press

COLUMBIA, S.C. - A South Carolina defense contractor that makes armored vehicles for the Pentagon has agreed to pay the government $1.8 million to resolve allegations brought in a whistleblower lawsuit, U.S. Attorney Reginald I. Lloyd said Wednesday.

The suit claimed Force Protection Inc. of Ladson "failed to advance payments to expedite production of armored vehicles for the U.S. military," Lloyd said in a news release.

The company, whose vehicles are used Afghanistan and Iraq to find and remove bombs, denied any wrongdoing.

The case was filed in U.S. District Court in South Carolina by Justin Lucey, a Mount Pleasant attorney, on behalf of two former employees of Force Protection, Lloyd said. He identified the two as Perry Chomyn and Robin Swain.

"The settlement resolves Force's potential liability under the False Claims Act arising from the whistleblower's complaint," Lloyd's release said.

The two former employees "will receive $315,000 as their share of the proceeds of the settlement" and got "and additional $105,000 in attorney fees and settlement of their employment-related claims," the statement said.

Company vice president Mike Aldrich told The (Charleston) Post and Courier that the company agreed to the settlement over an accounting technicality.

"We're pleased with the settlement and are especially happy with the investigation, which was extensive and which found that none of the criminal allegations, and especially that none of the safety allegations, were substantiated," Aldrich told the paper.

The company said it took a charge of $1.93 million in the second quarter to cover the settlement and interest charges, plus legal fees for the former employees who filed the lawsuit.

Lucey said his clients also were satisfied with the settlement.

"We believe we contributed to making these vehicles safer for our soldiers by bringing this suit, and we are happy to have reached this settlement," he said.

In a recent filing with the Securities and Exchange Commission, the company said it agreed to settle over an issue involving an advance payment as part of its work for the Joint Explosive Ordnance Disposal Rapid Response Vehicle.

The lawsuit claimed the company used the payment "for purposes other than that to which the United States government had intended."

The company said the error essentially amounted to depositing the payment into the wrong bank account.

Force Protection employs 550 workers at its Ladson plant - up from just 12 employees two and a half years ago.

END

PRNewswire

Wednesday August 30, 5:41 pm ET

Press Release: False Claims Scheme Charged on Big Dig Contract, Reports U.S. Attorney

BOSTON, Aug. 30 /PRNewswire/ -- A Fairhaven man was charged today in federal court with submitting false time and materials slips on a Big Dig contract. The scheme involved the systematic, fraudulent billing of apprentice electricians at the higher rate of pay for journeymen, resulting in continuing overpayments by the Central Artery/Tunnel project to the subcontractor.

United States Attorney Michael J. Sullivan, Theodore L. Doherty III, Special Agent in Charge of the Department of Transportation Inspector General's Office in New England, and Gordon S. Heddell,

Inspector General for the U.S. Department of Labor/Office of Labor Racketeering announced today that STEVEN M. BOWERS, age 54, of 6 Silver Shell Beach, Fairhaven, MA, was charged in a multi-count Indictment with conspiracy to defraud the United States with respect to claims, submitting false claims, conspiracy to commit fraud on a federal highway project and submitting false statements with respect to work performed on a federal highway project.

Additionally, two former co-workers of Bowers at Mass. Electric Construction Company ("MECC"), BRIAN DI RE, of Winchester, MA and RICHARD JOYCE, of Norwood, MA have entered into plea agreements with the U.S. Attorney's Office as a result of their roles in the scheme. Both DI RE and JOYCE have agreed to plead guilty to an Information alleging one count of conspiracy to submit false claims.

The Indictment alleges that beginning in or about January 2003 through June of 2005, BOWERS, the Senior Project Manager for MECC on the I-93 tunnel finishes contract, along with DI RE, the Project Manager, and JOYCE, the General Foreman, engaged in a scheme of over-billing the Central Artery/Tunnel Project by falsely categorizing apprentice electricians as journeyman on work MECC performed. The work was performed on a time and materials basis, which meant the contractor, MECC, was paid for the time spent by each employee, as opposed to a fixed price for the work under contract. MECC was also paid 10% of its total time and materials billings to cover overhead, plus an additional 10% of that total for a profit margin. The scheme involved more than 500 instances of over-billing during the course of the conspiracy and resulted in false claims for more than $80,000.

United States Attorney Michael Sullivan said, "Today's indictment demonstrates our commitment to intensively investigate the Big Dig and prosecute illegal conduct when we find it. The submission of false claims to defraud the United States, as alleged in the indictment, is unacceptable in any context. No amount of fraud or corruption will be tolerated. The Big Dig Task Force, comprised of agents from the U.S. Department of Transportation, Massachusetts State Police, U.S. Department of Labor and Federal Bureau of Investigation, will continue its investigation and I would encourage anyone with relevant information to contact federal authorities."

If convicted on these charges, BOWERS faces up to ten years imprisonment, to be followed by three years of supervised release, and a $250,000 fine.

The case was investigated by the Department of Transportation, Inspector General's Office and the Department of Labor/Office of Labor Racketeering. It is being prosecuted by Assistant U.S. Attorneys Fred M. Wyshak, Jr., Anthony E. Fuller and Jeffrey M. Cohen of Sullivan's Public Corruption Unit.

The details contained in the indictment are allegations. The defendant is presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

END

The Business Journal of Jacksonville

August 30, 2006

State to get $10.4M from Medicaid settlement

A multi-million dollar settlement with pharmaceutical giant Schering-Plough Corp. will inject more than $10.4 million into Florida's Medicaid program.

The state's share is part of a $435-million nationwide settlement with the drug manufacturer, in which a Schering-Plough subsidiary pled guilty to conspiracy.

The Florida Attorney General's office disclosed the plea.

It explained a federal investigation revealed Schering Sales Corp., a unit of Schering-Plough, engaged in misconduct including misreporting the "best price" for several of its drugs, including popular allergy drug Claritin.

"By inflating the best prices, Schering-Plough undercut the value of rebates the state Medicaid programs were supposed to receive for the drugs," the attorney general's office explained.

The office said the investigation also revealed Schering-Plough engaged in improper marketing of a drug intended to treat brain tumors.

The attorney general's office said the company pushed the drug for other purposes not approved by the Food and Drug Administration.

"Schering-Plough was also accused of paying improper kickbacks to doctors to encourage them to use Schering-Plough's products when they treated patients," the office added.

The settlement resolves allegations surrounding Schering-Plough's best price reporting practices as well as off-label marketing practices and kickbacks, the attorney general's office said. The settlement was negotiated by the U.S. Justice Department and the National Association of Medicaid Fraud Control units.

END

Business Journal (KANSAS CITY)

August 30, 2006

Jury convicts business owner in Medicare fraud scheme

A federal jury on Wednesday convicted the owner of a medical supply business for his role in a scheme to defraud Medicare of millions of dollars through a program that provides motorized wheelchairs to patients.

Kennedy Igbokwe, 28, a citizen of Nigeria, was found guilty of health care fraud and multiple counts of illegally structuring currency transactions and money laundering, said Bradley Schlozman, U.S. Attorney for the Western District of Missouri.

Igbokwe owns and operates Cardinal Healthcare in Kansas City.

The jury in U.S. District Court in Kansas City deliberated less than an hour before returning the guilty verdicts to U.S. District Judge Gary Fenner, ending a trial that began Monday, Schlozman said in a release.

Under the scheme, Igbokwe bribed two physicians to falsely verify that Medicare beneficiaries were so physically disabled that they needed motorized wheelchairs. Igbokwe then submitted numerous fraudulent claims to Medicare for power wheelchairs.

But after receiving about $4,000 from Medicare for each of the false claims, Igbokwe would either provide the beneficiary with a less expensive power scooter or no power scooter at all, Schlozman said.

"This collusion of crooked business owners and bribed physicians resulted in a massive fraud that involved millions of dollars and nearly 1,000 Medicare recipients," Schlozman said.

As part of the scheme, which took place between January 2002 and September 2005, Igbokwe and his co-defendants submitted more than $5 million worth of false claims to Medicare. They actually received about $2 million, Schlozman said.

Igbokwe also was found guilty of:

19 counts of structuring currency transactions to evade the federal reporting requirements Four counts of money laundering One forfeiture count that requires forfeiture of $500,000 and all the funds in a bank account

Under federal statutes, Igbokwe faces a sentence of as much as 145 years in federal prison without parole, plus a fine of as much as $6 million and an order of restitution.

Four others pleaded guilty to their roles in the health care fraud scheme, Schlozman said:

Kenneth Agugua, 47, a permanent resident alien from Nigeria with addresses in both Kansas City and Houston, pleaded guilty Aug. 23 to health care fraud. Agugua owns and operates Primecare Management Inc., a durable medical equipment company in Kansas City. Godwin Iloka, 38, a naturalized U.S. citizen from Nigeria residing in Lee's Summit, pleaded guilty July 12. Iloka owns and operates Xcellent Medical Service in Raytown and Xcellent Medical Services in Kansas City. Amazair McAllister, 48, of Blue Springs, pleaded guilty July 10 to health care fraud. A physician at the time of the scheme, McAllister agreed to surrender his medical licenses and cease practicing medicine. McAllister also will forfeit $100,000 to the government, which represents the proceeds of his criminal activities. Ambrose Wotorson, 70, a naturalized U.S. citizen from Liberia residing in Kansas City, pleaded guilty Feb. 24 to health care fraud. Wotorson was a licensed osteopathic physician and surgeon during the time of the fraud scheme but has surrendered his medical license and no longer practices medicine.

Each of the four other defendants face as much as 10 years in federal prison plus a fine of as much as $250,000 and orders of restitution.

Sentencing hearings for all five defendants will be set pending the completion of presentence investigations by the U.S. Probation Office.

END

Hartford Courant

August 31, 2006

EDITORIAL: A Judge Clears The Smoke

Aug. 31--Leave it to Wall Street to view a recent federal ruling against tobacco companies as a victory.

In a powerfully worded statement, U.S. District Court Judge Gladys Kessler ruled this month that tobacco companies lied and illegally conspired for more than five decades to profit from addiction, illness and suffering among Americans. The companies "suppressed research, they destroyed documents, they manipulated the use of nicotine so as to increase and perpetuate addiction ... and they abused the legal system in order to achieve their goal."

Judge Kessler, who sits in Washington, D.C., ordered the companies to stop using "low tar" "light" and "mild" to describe their cigarettes. She also ordered them to undertake a multibillion-dollar media campaign to set the record straight. In terms of penalties, however, the judge reluctantly concluded that

the federal civil racketeering law prevented her from seizing the companies' profits from its past practices. And so a $130 billion penalty sought by the Justice Department to pay for anti-smoking efforts was rejected.

Wall Street analysts hailed the ruling as a victory, saying it kept the companies' profitability intact.

It's a frustrating conclusion. A sizable penalty would have hit the tobacco companies where it hurts the worst. But the judge's ruling exposed these companies as merchants of death and misery and characterized their lawyers as seedy enablers. Calling this ruling a victory is like a guy claiming he foiled a mugging because, although he lost his teeth and his clothes are in tatters, his wallet is still intact.

Tobacco companies may still be profitable, but the judge's ruling exposes the extent of their moral bankruptcy more clearly than ever.

END

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 12:11 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT AND COMMONWEALTH OF KENTUCKY REACH SETTLEMENT REGARDING CONDITIONS AT THE COMMUNITIES AT OAKWOOD DEVELOPMENTAL CENTER

Department of Justice

FOR IMMEDIATE RELEASE CRT
THURSDAY, AUGUST 31, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT AND COMMONWEALTH OF KENTUCKY REACH SETTLEMENT REGARDING CONDITIONS AT THE COMMUNITIES AT OAKWOOD DEVELOPMENTAL CENTER

WASHINGTON – The Justice Department today reached a court-enforceable settlement agreement with the Commonwealth of Kentucky regarding civil rights violations at the Communities at Oakwood (Oakwood), a center for persons with developmental disabilities, in Somerset, Ken. The five-year agreement requires the Commonwealth to implement reforms to ensure that individual residents at the facility are adequately protected from harm and provided adequate supports and services. The agreement replaces and strengthens a 2004 out-of-court settlement between the Department and the Commonwealth.

"It is a Justice Department priority to protect the civil rights of all Americans, including these vulnerable institutionalized persons," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "People in the care of the Commonwealth are entitled to be safe and provided with adequate treatment."

"We are constantly striving to protect our most vulnerable citizens," said Amul R. Thapar, U.S. Attorney for the Eastern District of Kentucky. "This agreement is a very positive step in that direction."

The Department reviewed the facility after reaching the 2004 settlement and found that numerous ongoing civil rights violations continued at Oakwood. Specifically, the Department found that the facility fails to protect individuals from harm; fails to provide adequate supports and services to individuals, including behavioral, psychology and psychiatric services, general medical and nursing care, and physical and nutritional therapy; and fails to ensure adequate discharge planning and placement in the most appropriate, integrated setting. The facility also received 22 citations in 2005 and 2006 from the Commonwealth's own Office of Inspector General for the Cabinet for Health and Family Services, including preventable deaths, sexual abuse, and failure to adequately address residents' maladaptive behaviors. Furthermore, Commonwealth prosecutors have criminally charged numerous Oakwood staff for abuse of residents.

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Two serious incidents occurred in recent months: one in which four staff were charged with beating a resident with a broom handle on several occasions, and another other incident in which four staff were charged with beating a resident and fracturing his nose. In addition, a former Oakwood female staff member was sentenced earlier this month to serve two years for dragging a resident by her shirt collar, hitting her with a shoe, and slamming her head into a wall.

Under the terms of the agreement filed in court today, the Commonwealth will implement a remedial plan to correct all of the violations identified by the Department and will submit to court supervision of its efforts.

The Civil Rights Division conducted its investigation pursuant to the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA). The statute allows the federal government to identify and root out systemic abuses such as those identified in this case, rather than focus on individual civil rights violations.

The Civil Rights Division has successfully resolved similar investigations of other facilities for persons with developmental disabilities in states including Connecticut, Indiana, Iowa, Louisiana, New Jersey, and Tennessee, and in the District of Columbia and the Commonwealth of Puerto Rico. The Division has pending investigations of facilities for persons with developmental disabilities in Arkansas, California, Missouri, Texas, and Washington.

The Department of Justice's CRIPA enforcement effort reaches beyond facilities for persons with developmental disabilities. Since 2001, the Department of Justice has opened 64 investigations into the terms and conditions of confinement at nursing homes, mental health facilities, residences for persons with developmental disabilities, juvenile justice facilities, jails and prisons.

More information about the Special Litigation Section of the Justice Department's Civil Rights Division can be found at http://www.usdoj.gov/crt/split/index.html.

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Image not available for this document, ID: 0.7.10316.34945-000002

Image not available for this document, ID: 0.7.10316.34945-000003

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 1:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Bensalem, PA

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 1:35:19 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Bensalem, PA
Auto forwarded by a Rule

AMBER ALERT:Bensalem,PA VEH:97 Red 4D Buick Regal TAG:PA FXY9677, CHILD:Blk/Hisp 3yo,39",35 lb Hai:Blk,COMPANION:B/F,SUSP:B/M, 19 yo,6'5,170lb Hai:Blk CALL 911
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2062

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 2:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Bensalem, PA

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 2:35:18 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Bensalem, PA
Auto forwarded by a Rule

UPDATE AMBER ALERT:Bensalem,PA VEH:97 Red 4D Buick Regal TAG:PA FXY9677,CHILD:Blk/Hisp 3yo,35 lb Hai:Blk,COMPANION:B/F,SUSP:B/M,19 yo,6'5,170lb Hai:Blk CALL 911
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2062

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 3:47 PM
To: USDOJ- Office of Public Affairs
Subject: WORKFORCE CENTRAL FLORIDA & WORKFORCE CENTRAL FLORIDA FOUNDATION TO PAY $3.4 MILLION TO SETTLE GRANT FRAUD ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 31, 2006
WWW.USDOJ.GOV

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

WORKFORCE CENTRAL FLORIDA & WORKFORCE CENTRAL FLORIDA FOUNDATION TO PAY $3.4 MILLION TO SETTLE GRANT FRAUD ALLEGATIONS

WASHINGTON – Workforce Central Florida and Workforce Central Florida Foundation Inc. have agreed to pay the United States $3,483,664.19 to settle claims that they defrauded the U.S. Department of Labor, and U.S. Department of Health and Human Services, the Justice Department announced today.

Workforce Central Florida (WCF) receives federal grants to provide such services as job placement and training, temporary cash assistance, and special support services such as subsidized child care and transportation. The civil settlement resolves allegations that WCF and the Workforce Central Florida Foundation, both located in Lake Mary, Fla., violated the False Claims Act by misusing federal grant funds to make improvements to their privately-owned administrative office and One-Stop Center and by then charging excessive lease costs to federal grants.

"Today's settlement illustrates the importance that the United States places on ensuring that organizations make proper use of federal grants," said Assistant Attorney General Peter D. Keisler of the Department's Civil Division.

The allegations arose from a lawsuit filed by Educational Career Development Inc., under the whistleblower provisions of the False Claims Act, a federal law that allows private individuals, called relators,

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to sue on behalf of the United States. The lawsuit was unsealed on June 26, 2006 in Orlando. The relator in this case will receive $627,059.55 as its share of the proceeds.

The civil investigation and settlement was handled by the Civil Division of the Justice Department.

The action is entitled *United States ex rel. Educational Career Development Inc. v. Central Florida Regional Workforce Development Board, Inc. and Workforce Central Florida, Inc., (Fawsett, J.)*, 6:04-cv-93-Orl-19DAB (M.D. Fl.).

# # #

06-586

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Image not available for this document, ID: 0.7.10316.34934-000002

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, August 31, 2006 4:04 PM
Subject: Service Interruption: All of SMO/JMD JCON

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. This upgrade will be performed on resources located in the Rockville Date Center. Be advised that there is no risk of data loss.

When: Saturday, Sept. 2, 2006, 10:00pm to Sunday, Sept. 3, 2006, 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: **All SMO/JMD Customers**

Unavailable Services, All Customers *(except Rockville & RFK Main)*:
Email Services
Internet Resources
G:\ Drive Resources
M:\Drive Resources
Citrix remote access
Enterprise Applications
BlackBerry *(PIN to PIN messaging is available)*

Unavailable Services, Rockville and RFK Main Customers:
All of the items listed above
H:\ Drive
Network Printers

Available Services, All Customers *(except Rockville & RFK Main)*:
H:\ Drive
Network Printers
BlackBerry PIN to PIN Messaging

Available Services, Rockville and RFK Main Customers:
BlackBerry PIN to PIN Messaging

Suggested Action: Please leave your workstation logged off and powered off during this service period.
To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.

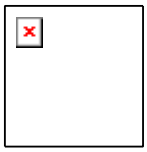
3. Click “Shut Down”.
4. Choose the “Shutdown and Power off” option.
5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 4:25 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF SEX DISCRIMINATION AGAINST MINNEAPOLIS LANDLORDS

Department of Justice



FOR IMMEDIATE RELEASE CRT
THURSDAY, AUGUST 31, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF SEX DISCRIMINATION AGAINST MINNEAPOLIS LANDLORDS

WASHINGTON — The Justice Department today announced an agreement with the owners and managers of several rental properties in and around Minneapolis, Minnesota to settle the federal government's allegations of systemic discrimination against female tenants. Under the settlement, which be approved by the U.S. District Court in Minn., the defendants must pay $352,500 to affected households and pay a civil penalty of $35,000.

"No woman seeking housing for herself or her family should be subjected to such disgusting, degrading and discriminatory treatment," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department will remain vigilant in fighting housing discrimination and prosecuting landlords who prey on female tenants."

"Minnesota is a wonderful place to live and raise a family," said Rachel K. Paulose, U.S. Attorney for the District of Minnesota. "We will not allow a few bad rental property owners and managers to tarnish the reputations of the many good people who provide affordable housing to women and their families across the state."

The lawsuit alleged that Robert Wones, as an owner and as a management employee of S& R Property Management; Howard Melin; Welty Properties Inc.; and Shumel Management (the corporate defendants), violated the Fair Housing Act when Wones subjected female tenants to severe, pervasive and unwelcome sexual harassment at eight separate apartment complexes located in and around Minneapolis. Specifically, the complaint alleged that Wones engaged in unwelcome sexual touching of female tenants, made unwelcome sexual advances, conditioned the terms of women's tenancy on the granting of sexual favors, and took adverse actions against female tenants who refused or objected to his sexual advances.

DOJ_NMG_ 0167346

Under the settlement, the corporate defendants who employed Wones are prohibited from future discrimination based on sex. The agreement also provides that Wones, who does not currently own or manage rental properties, must hire an independent management company to operate any rental property that he acquires in the future.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas hit by Hurricane Katrina, and targets housing discrimination all over the country.

More information about Operation Home Sweet Home, can be found at http://www.usdoj.gov/fairhousing. Individuals who believe that they may have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since January 21, 2001, the Justice Department's Civil Rights Division has almost doubled the number of pattern or practice of sexual harassment cases filed under the Fair Housing Act, as compared to the preceding five and a half years. For more information about the Civil Rights Division and the laws it enforces, go to http://www.usdoj.gov/crt.

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Image not available for this document, ID: 0.7.10316.34936-000003

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Thursday, August 31, 2006 4:33 PM
To: Gorsuch, Neil M
Subject: 9/15 CFR Meeting: Liberals and the War on Terror

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email [redacted]@cfr.org
Meetings Response Line Te[redacted]
Fax [redacted]

DC MEETING

VOICES OF THE NEXT GENERATION:
LIBERALS AND THE WAR ON TERROR

WITH

[redacted]

With the new "Voices of the Next Generation" series, the Council seeks to identify and feature fresh, young voices in the nation's foreign policy discourse. At the first meeting of the series, Peter Beinart will discuss liberalism, the war on terror, and America's role in the world.

Friday, September 15, 2006

8:00-8:30 AM Breakfast Reception
8:30-9:30 AM Meeting

at

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

If any of the information below is incorrect please update it by clicking on the link below:
http://www.cfr.org/member/contact_edit.html

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: [redacted]
Fax: [redacted]
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 6:53 PM
To: USDOJ- Office of Public Affairs
Subject: THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE

THURSDAY, AUGUST 31, 2006

WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
(225) 389-0443
FAX: (225) 389-0561

THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Three Louisiana residents were sentenced in federal court on fraud charges related to hurricane disaster relief programs, announced U. S. Attorney David R. Dugas, of the Middle District of Louisiana.

Josette Williams, 29, of Baton Rouge, La., pled guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. She was sentenced by U.S. District Court Judge John V. Parker to five years probation, 50 hours of community service, and $14,749.51 in restitution. The U.S. Secret Service and the U.S. Department of Homeland Security, Office of Inspector General, conducted the investigation of this matter.

Antonio D. Shelton, 21, Takeisha D. Hinton, 21, both of Baton Rouge, La., each pled guilty to count one of an indictment charging them with making a false claim for Hurricane Katrina disaster

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assistance benefits. Shelton and Hinton were each sentenced by U.S. District Court Chief Judge Ralph E. Tyson to three years probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of Inspector General and the Federal Bureau of Investigation conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In Sept. 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225 389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24-hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.34886-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 7:37 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 31, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney to Visit with British Counterparts (OPA)

Today, Attorney General Alberto R. Gonzales traveled to the United Kingdom where he will participate in closed press meetings with his British counterparts and receive an update on the investigation into the thwarted airline terror plot.

Talking Points

- The Attorney General led a full and productive trip to the Middle East where he visited multiple countries, including Iraq, and met with numerous Justice Department officials and his foreign counterparts to discuss cooperative efforts in law enforcement and combating terrorism.

- The Department of Justice is committed to establishing the rule of law in Iraq, Afghanistan and numerous countries throughout the Middle East as evidenced by the significant amount of Department personnel stationed in these countries. Because of the importance to this commitment, this is the Attorney General's third trip to region in the last year.

Media Continues to Cover the Capture of Fugitive Warren Jeffs (FBI)

Today, FBI Special Agent in Charge Steve Martinez appeared on MSNBC's "Rita Cosby" and Fox's "John Gibson Show" to discuss the arrest of FBI fugitive Warren Jeffs. Tomorrow, CNN's "Anderson Cooper 360" is expected to air a one-hour special on Warren Jeffs. The FBI did not provide comment for this program.

FBI Assistant Director Participated in Interview with BBC (FBI)

FBI Assistant Director John Miller conducted on-camera interview today with BBC News regarding the fifth anniversary of Sept. 11.

CNN to Air Interview with FBI Special Agent (FBI)

This evening, CNN's "Paula Zahn Show" will air an interview with FBI Special Agent Brad Garrett regarding his investigation of the CIA shooting which resulted in the arrest of Top Ten Most Wanted fugitive Amil Khan Kasi.

Media Inquiries Regarding TRAC Report on Terrorism Prosecutions (OPA)
The Department received numerous media inquiries today requesting comment regarding the TRAC report on terrorism prosecutions since Sept. 11. The TRAC report has been released on an embargoed basis for Monday, Sept. 4, 2006. The Department of Justice is preparing a response.

Media Inquires Regarding Reports of Search in Alaska Legislative Offices (Criminal)
Today, the Justice Department received several requests from Alaskan media regarding reports of federal investigators executing search warrants in various cities in Alaska including several legislative offices in the Capitol building. The Department is not commenting or confirming any details at this time.

Workforce Central Florida & Workforce Central Florida Foundation to Pay $3.4 Million to Settle Grant Fraud Allegations (Civil)
Today, Workforce Central Florida (WCF) and Workforce Central Florida Foundation Inc. have agreed to pay the United States $3,483,664.19 to settle claims that they defrauded the U.S. Department of Labor, and U.S. Department of Health and Human Services. The civil settlement resolves allegations that WCF and the Workforce Central Florida Foundation violated the False Claims Act by misusing federal grant funds to make improvements to their privately-owned administrative office and One-Stop Center and by then charging excessive lease costs to federal grants.

Talking Points

- Today's settlement illustrates the importance that the United States places on ensuring that organizations make proper use of federal grants.

Justice Department and Commonwealth of Kentucky Reach Settlement Regarding Conditions at the Communities at Oakwood Developmental Center (Civil Rights)
Today, the Justice Department reached a court-enforceable settlement agreement with the Commonwealth of Kentucky regarding civil rights violations at the Communities at Oakwood (Oakwood), a center for persons with developmental disabilities, in Somerset, Ken. The five-year agreement requires the Commonwealth to implement reforms to ensure that individual residents at the facility are adequately protected from harm and provided adequate supports and services. The agreement replaces and strengthens a 2004 out-of-court settlement between the Department and the Commonwealth.

Talking Points

- The Civil Rights Division has successfully resolved similar investigations of other facilities for persons with developmental disabilities in states including Connecticut, Indiana, Iowa, Louisiana, New Jersey, and Tennessee, and in the District of Columbia and the Commonwealth of Puerto Rico.

- The Division has pending investigations of facilities for persons with developmental disabilities in Arkansas, California, Missouri, Texas, and Washington.

- The Department of Justice's CRIPA enforcement effort reaches beyond facilities for persons with developmental disabilities.

- Since 2001, the Department of Justice has opened 64 investigations into the terms and conditions of confinement at nursing homes, mental health facilities, residences for persons with developmental disabilities, juvenile justice facilities, jails and prisons.

Justice Department Settles Allegations of Sex Discrimination against Minneapolis Landlords (Civil Rights)

The Justice Department today announced an agreement with the owners and managers of several rental properties in and around Minneapolis, Minnesota to settle the federal government's allegations of systemic discrimination against female tenants. Under the settlement, which be approved by the U.S. District Court in Minn., the defendants must pay $352,500 to affected households and pay a civil penalty of $35,000.

Talking Points

- Fighting illegal housing discrimination is a top priority of the Justice Department.

- In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live.

THURSDAY'S EXPECTED EVENTS/RELEASES:

Tomorrow, the Environmental and Natural Resources Division will send its demand letter to Exxon Mobil, regarding the 1991 Exxon Valdez oil spill on Prince William Sound in Alaska. When asked for comment, the Department will issue the following statement:

"The Justice Department, together with the state of Alaska, has delivered to Exxon a demand letter regarding the Reopener provision of the 1991 consent decree. The letter is a step required under the settlement to maintain our right to assert a claim. The letter does not signal the commencement of litigation, however, the governments retain the option to initiate litigation if and when we choose to do so."

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 10:04 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 1, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 01, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Civil Rights Division will tentatively issue a release. (Magnuson)

EVENTS/HEARINGS

No public events scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.34889-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 12:28 PM
To: USDOJ- Office of Public Affairs
Subject: Justice Department and Equal Employment Opportunity Commission Settle Ohio Religious Discrimination Lawsuits

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV
WWW.EEOC.GOV

For Department of Justice
(202) 514-2007, TTY (202) 514-1888
For EEOC
(202) 663-4900, TTY (202) 663-4494

JUSTICE DEPARTMENT AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION SETTLE OHIO RELIGIOUS DISCRIMINATION LAWSUITS

WASHINGTON – The Justice Department and the U.S. Equal Employment Opportunity Commission (EEOC) today announced a consent decree to resolve religious discrimination lawsuits filed against the state of Ohio; the Ohio Environmental Protection Agency; the Ohio Department of Administrative Services; and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO. The lawsuits alleged that the state defendants and the union violated federal employment discrimination laws by failing to respect the rights of employees with religious objections to supporting the union.

The union and the state defendants permit employees who are members of churches that historically have opposed unionization to pay an amount equivalent to their dues to charity. However, they refuse to allow employees who do not belong to such churches, but nonetheless have sincere religious objections to supporting the union, to make a charitable donation instead of paying dues or fees. The suit was prompted by the case of a man who objected to associating with or supporting the union on religious grounds because of its support of abortion and same-sex marriage.

The Justice Department's lawsuit under Title VII of the Civil Rights Act of 1964 against the state defendants, and a Title VII suit by the EEOC against the union, were consolidated by the U.S. District Court for the Southern District of Ohio. If approved by the court, the proposed consent decree would require religious accommodations of state employees with sincere religious objections to associating with or financially supporting unions, whether or not they are members and adherents of a particular religion.

"The law protects the religious observances, practices, and beliefs of all Americans," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "I applaud the Ohio state officials for working with the Department to resolve this case."

The vigorous enforcement of Title VII against public employers is a priority of the Justice Department's Civil Rights Division. Additional information about the Civil Rights Division is available at http://www.usdoj.gov/crt.

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EEOC Regional Attorney Jacqueline H. McNair said, "The resolution of this litigation will protect approximately 37,000 public employees covered by the State of Ohio's collective bargaining agreement with the Ohio Civil Service Employees Association."

Public employees in Ohio who are not covered by this consent decree may contact the EEOC's Cleveland Field Office at (216) 522-2001 for information about their rights regarding substituting charitable contributions for dues and fees as a religious accommodation.

In addition to enforcing Title VII, which prohibits discrimination based on race, color, sex, religion, and national origin, the EEOC enforces the Age Discrimination in Employment Act, the Equal Pay Act, the Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act, and sections of the Civil Rights Act of 1991. The EEOC does not have statutory authority to sue state or local governments under Title VII or the ADA. Further information about the EEOC is available on its web site at http://www.eeoc.gov.

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Image not available for this document, ID: 0.7.10316.34861-000003

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 5:05 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 4-8, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
September 4 – September 8, 2006

Monday, September 4

Labor Day Holiday

Tuesday, September 5

5:00 P.M. CDT Solicitor General Paul Clement will address the Baylor University Law School and campus community.
Jones Concert Hall
1114 S. University Drive
One Bear Place
Waco, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Scott-Fogleman of the Baylor Law School at 254-710-6275, or to the Office of Public Affairs at 202-514-2007.

Wednesday, September 6

10:00 A.M. EDT Deputy Attorney General McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*
Dirksen Senate Office Building
Room 215
Washington, D.C.

DOJ_NMG_ 0167368

OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Thursday, September 7

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

1:05 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the Manhattan Institute regarding the Government's International and Domestic Contributions to the War on Terror.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

Friday, September 8

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 5:40 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

4 MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

JACKSON, Miss. – Four individuals have entered guilty pleas in U. S. District Court for Federal Emergency Management Agency (FEMA) fraud in the wake of Hurricane Katrina, announced U.S. Attorney Dunn Lampton, of the Southern District of Mississippi.

Marion Griffin, of Morton, Miss, pleaded guilty to theft and conversion of Hurricane Katrina disaster assistance funds. Griffin fraudulently received and spent $2,000 in FEMA disaster assistance funds which were obtained after Griffin claimed a false address in Moss Point. Griffin lived in Scott County, and not at the address claimed at the time Hurricane Katrina hit the Mississippi Gulf Coast.

Glenda Spangler, of Morton, Miss, pleaded guilty to making a false and fraudulent claim to FEMA for Hurricane Katrina disaster assistance by providing a false address in Pascagoula, and claiming hurricane damage at that address. Spangler lived in Scott County, and not at the address claimed at the time Hurricane Katrina hit the Mississippi Gulf Coast.

Charles Lyles, of Brookhaven, Miss, pleaded guilty to a mail fraud scheme which resulted in Lyles fraudulently obtaining FEMA hurricane relief benefits and hotel accommodations paid for by FEMA. Lyles admitted that he lied about his primary residence in his FEMA application by using an address in Brookhaven.

Karynette Arnold, of Jackson, Miss, pleaded guilty to making a false statement to FEMA by using a fictitious address in Jackson as her primary residence and claiming damage to that residence. The address claimed by Arnold was an abandoned home.

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All defendants are scheduled to be sentenced before U.S. District Judge Tom S. Lee on Dec. 1, 2006 at 9:00 a.m.

The maximum sentence for the Spangler and Arnold is five years and a $250,000 fine. The maximum sentence for Griffin is 10 years in prison and a $250,000 fine. The maximum sentence for Lyles is 20 years and a $250,000 fine.

In September 2005, Attorney General Alberto R. Gonzales created the national Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force, chaired by Assistant Attorney General for the Criminal Division, Alice S. Fisher, includes members from the FBI, the Federal Trade Commission, the Department of Labor Office of Inspector General, the Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who engage in fraud associated with the hurricanes.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

U. S. Attorney Lampton stressed that these charges represent accusations only and all defendants are entitled to a presumption of innocence.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 8:08 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 1, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Attorney General to Participate in Media Interviews (OPA)
On Tuesday, Attorney General Alberto R. Gonzales will be interviewed by Patty Reinert of *The Houston Chronicle* as part of a profile piece she is writing on the Attorney General's role within the Administration. He will also participate in television interviews with ABC, BBC, CBS, CNN, Fox, NBC, Telemundo and Univision regarding the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe. The Attorney General will also participate in a roundtable with Justice Department beat reporters on same topic.

Department Issues Embargoed Statement on TRAC Report (OPA)
On Sunday evening, the Transactional Records Access Clearinghouse (TRAC) at Syracuse University will release a report from embargo which is critical of Department of Justice terrorism prosecutions. The thrust of the report is to shed doubt on the effectiveness of the Administration's overall counterterrorism efforts and, specifically, its record in prosecuting terrorism cases. The Department responded with a statement pointing out the report's flaws, also embargoed until Sunday evening.

Talking Points

- The most recent report from Transactional Records Access Clearinghouse (TRAC) once again ignores the reality of how the war on terrorism is prosecuted in federal courts across the country and the value of early disruption of potential terrorist acts by proactive prosecution.

- The report presents misleading analysis of Department of Justice statistics to suggest that the threat of terrorism may be inaccurate or exaggerated. The Department of Justice disagrees with this suggestion completely.

- This report does not take into account the significance of the Justice Department's successful strategy of prevention through prosecution, which has helped protect this country from terrorists since the attacks of Sept. 11th. The Department will continue to employ this strategy and work tirelessly to prevent another attack on U.S. soil.

FBI Receives Media Inquiries Regarding Project Strikeback (FBI)
Today, the FBI received numerous media inquiries regarding Project Strikeback, a joint FBI/Department of Education Office of Inspector General initiative that examined student records of individuals being investigated as part of the Pentbom investigation. FBI Assistant Director John Miller issued the following statement:

- "During the 911 investigation and continually since, much of the intelligence has indicated terrorists have exploited programs involving student visas and financial aid. In some student loan frauds identity theft has been a factor. When we asked for the cooperation of the Department of Education's Office of The Inspector General it was to run names of subjects already material to counter-terrorism investigations against the databases to look for evidence of either student loan fraud or identity theft. No records of people other than those already under investigation were called for. This was not a sweeping program, in that it involved only a few hundred names. This is part of our mission, which is to take the leads we have and investigate them. There was no attempt to conceal these efforts, in that they were referenced in publicly available briefings to Congress and to the General Accountability Office (GAO)."

Justice Department and EEOC Settle Religious Discrimination Suits in Ohio (Civil Rights)
The Justice Department and the U.S. Equal Employment Opportunity Commission (EEOC) today reached a settlement to resolve religious discrimination lawsuits filed against the state of Ohio; the Ohio Environmental Protection Agency; the Ohio Department of Administrative Services; and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO. The lawsuits alleged that the state defendants and the union violated federal employment discrimination laws by failing to respect the rights of employees with religious objections to supporting the union. The union and the state defendants permit employees who are members of churches that historically have opposed unionization to pay an amount equivalent to their dues to charity. However, they refuse to allow employees who do not belong to such churches, but nonetheless have sincere religious objections to supporting the union, to make a charitable donation instead of paying dues or fees. The suit was prompted by the case of a man who objected to associating with or supporting the union on religious grounds because of its support of abortion and same-sex marriage.

Talking Points

- The vigorous enforcement of Title VII against public employers is a priority of the Justice Department's Civil Rights Division.

Justice Department Sues to Stop Alleged Tax Fraud Scheme Involving Bogus Tax Exempt Organizations (Tax)
The Justice Department announced today that it has sued to block William J. Kennedy of Livermore, Calif., from selling an alleged tax fraud scheme. The complaint, filed in U.S. District Court in San Francisco, alleges that Kennedy falsely advised customers that they can use an entity known as a "corporation sole" to avoid paying federal income taxes. Kennedy conducted his business through an entity he calls the "Ear of Malchus," which is referenced in

the New Testament. According to the complaint, the IRS estimates that Kennedy's tax-fraud scheme results in an annual loss to the federal Treasury of $500,000.

TUESDAY'S EXPECTED EVENTS/RELEASES:

5:00 P.M. CDT Solicitor General Paul Clement will address the Baylor University Law School and campus community.
Jones Concert Hall
1114 S. University Drive
One Bear Place
Waco, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Scott-Fogleman of the Baylor Law School at 254-710-6275, or to the Office of Public Affairs at 202-514-2007.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 05, 2006 8:15 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 5, 2006
WWW.USDOJ.GOV

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

********Media Advisory********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

WASHINGTON – Attorney General Alberto R. Gonzales will hold a pen-and-pad briefing with Department of Justice beat reporters focusing on the progress made by the Justice Department to prevent terrorism and keep America safe before the fifth anniversary of Sept. 11 on **TUESDAY, SEPTEMBER 5, 2006 at 11:45 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Pen-and-Pad briefing with Department of Justice beat reporters
(No cameras)

WHEN: **TUESDAY, SEPTEMBER 5, 2006 at 11:45 A.M. EDT**

WHERE: Attorney General's Conference Room (Room 5111)
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.

NOTE: Pen-and-Pad briefing for Department of Justice beat reporters only (no cameras). All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-589

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Image not available for this document, ID: 0.7.10316.34837-000002

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Tuesday, September 5, 2006 4:30 PM
End:	Tuesday, September 5, 2006 5:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C; Katsas, Gregory
Optional Attendees:	'Reyes, Luis (SMO)'

When: Tuesday, September 05, 2006 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, September 05, 2006 10:20 AM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 5, 2006

JCON BROADCAST, WEEK OF SEPTEMBER 5, 2006

1. **Immigration Reform Demonstration, Thursday, September 7, 2006**
2. **Temporary Closure of the 10th Street Entrance**
3. **Research Classes Offered by Library Staff**

Immigration Reform Demonstration, Thursday, September 7, 2006

Local and Federal law enforcement authorities are expecting approximately 300,000 demonstrators to gather from 2:30 p.m. to 6:30 p.m., Thursday, September 7, 2006, on the National Mall, between 3rd & 17th Streets NW, to rally for immigration reform. At approximately 6:30 p.m., the demonstrators will leave the National Mall via 3rd Street NW and will march west on Pennsylvania Avenue NW, south on 15th Street NW, and west on Constitution Avenue NW entering the Washington Monument grounds at 16th Street NW. It is anticipated that street closures for this march will impact traffic flow around the Main Justice Building, as well as Pennsylvania Avenue NW, Constitution Avenue NW, and cross streets between 3rd Street NW and the Washington Monument grounds. If you have any questions regarding this matter, please contact Reid Hilliard, Assistant Director, SEPS, on (202) 514-1441.

Temporary Closure of the 10th Street Entrance

The 10th Street vehicle and pedestrian turnstile entrance at the Main Justice Building will be closed from 7:00 p.m., Friday, September 8, 2006, until 6:00 a.m., Sunday, September 10, 2006. During this time, all vehicle and pedestrian traffic must enter through the 9th Street gate.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are

open to all DOJ staff. Please see the current class list at:
http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 05, 2006 5:34 PM
To: USDOJ- Office of Public Affairs
Subject: SAUDI NATIONAL CONVICTED OF VISA FRAUD AND HARBORING ILLEGAL ALIENS

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 5, 2006
WWW.USDOJ.GOV/MA

CONTACT: SAMANTHA MARTIN
PHONE: (617) 748-3139
FAX: (617) 748-3992

SAUDI NATIONAL CONVICTED OF VISA FRAUD AND HARBORING ILLEGAL ALIENS

BOSTON – A Saudi national living in Winchester, Mass. pleaded guilty today in federal court to charges of visa fraud and harboring of illegal aliens relating to her employment of two domestic servants.

Hana F. Al Jader, 40, of Winchester, pleaded guilty before U.S. District Judge Reginald J. Lindsay to two counts of visa fraud and two counts of harboring illegal aliens for private financial gain in connection with her employment of two women from Indonesia as domestic servants, Assistant Attorney General Wan J. Kim of the Civil Rights Division; U. S. Attorney Michael J. Sullivan of the District of Massachusetts, Special Agent in Charge Bruce M. Foucart of Immigration and Customs Enforcement, and Special Agent in Charge Kenneth W. Kaiser of the FBI, announced today.

At today's plea hearing, the prosecutor told the Court that Al Jader, who has resided in Winchester and Arlington since the mid-1990's with her invalid husband, Prince Mohamed Al Saud, brought the two Indonesian women to the United States in 2003 to work as domestic servants. In order to obtain visas for the women, Al Jader was required to submit to the U.S. Embassy in Saudi Arabia a copy of a work contract guaranteeing that the women would be paid $1,500 a month and would work no more than eight hours daily. However, when the women arrived in the United States, they were required to work – cooking, cleaning, serving meals, caring for the severely disabled Prince, and serving at frequent parties – routinely in excess of eight hours per day. Al Jader paid them only $300 a month which, at their request, was wired to their families in Indonesia.

In July 2003, Al Jader, through an attorney, filed applications with the Bureau of Citizenship and Immigration Services for a six-month extension of the visas for her domestic servants. In connection with the extension application, Al Jader submitted another employment contract, which again represented falsely that the servants were each being paid $1,500 per month and working only eight hours per day. Based on the false information provided in the contracts, the servants' visas were extended, however, when those extensions expired, Al Jader failed to apply for or obtain any additional extensions. Despite the fact that the servants' legal status had expired, Al Jader continued to employ them for the next 11 months at the same pay rate of $300 per month.

DOJ_NMG_ 0167386

In exchange for Al Jader's plea of guilty to these charges, her agreement to pay restitution of approximately $98,000 to each of the servants, and her acceptance of a stipulated order of deportation to her native Saudi Arabia, the government agreed to dismiss pending charges of forced labor and document servitude against Al Jader.

Judge Lindsay scheduled sentencing for Dec. 12, 2006, at 2:30 p.m. Al Jader faces a maximum punishment of 10 years in prison, to be followed by three years supervised release, and a fine of $250,000 on each of the four counts.

The case was investigated by agents from Immigration and Customs Enforcement and the FBI. It is being prosecuted by Assistant U.S. Attorney S. Theodore Merritt and Special Litigation Counsel Lou DeBaca and Trial Attorney Barbara Kay Bosserman, both of the Department of Justice's Civil Rights Division.

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DOJ_NMG_ 0167387

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Image not available for this document, ID: 0.7.10316.34758-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 5, 2006 7:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 5, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participates in Media Interviews and Roundtable
Today, Attorney General Alberto R. Gonzales led a roundtable with Justice Department beat reporters and participated in television interviews with ABC, BBC, CBS, CNN, Fox, NBC, Telemundo and Univision regarding the 5th anniversary of Sept. 11, 2001 and Justice Department efforts to prevent terrorism and keep America safe. The Attorney General also participated in an interview with Patty Reinert of *The Houston Chronicle,* who is writing a profile piece on the Attorney General's role within the Administration.

48 Hours Airs Special Regarding Terrorism (FBI)
Tonight, 48 Hours will air a one-hour special on terrorism hosted by Katie Couric. In preparation for the special, 48 Hours requested statistics regarding the FBI's budget, personnel data and investigations both before and after Sept. 11.

FBI Director Mueller to Host Pen and Pad Briefing with Print Reporters (FBI)
Tomorrow, FBI Director Robert Mueller will host a pen and pad press briefing with select print reporters at FBI Headquarters regarding the state of the FBI five years after Sept. 11.

FBI and DHS to Issue Joint Press Release Regarding Fingerprint Identification Systems (FBI)
Tomorrow, the Department of Homeland Security (DHS) and the FBI are expected to issue a joint press release with updated information regarding the status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

The Environmental and Natural Resources Division will tentatively issue a release on a vessel pollution matter.

The Bureau of Justice Statistics will issue a release.

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*

Dirksen Senate Office Building
Room 215
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.

Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Cruden, John (ENRD)

From: Cruden, John (ENRD)
Sent: Wednesday, September 06, 2006 9:26 AM
Subject: Not read: Contact Information

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 10:44 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 6, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, September 6, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division will issue a release on a fraud matter. (Lesch)

The Antitrust Division will issue a release on a criminal matter. (Talamona)

The Environmental and Natural Resources Division will issue a release on a vessel pollution matter. (Magnuson)

The Bureau of Justice Statistics will issue a release. (Peterson)

EVENTS/HEARINGS

10:00 A.M. EDT Deputy Attorney General McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*
Dirksen Senate Office Building
Room 215
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

11:00 A.M. EDT J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, will testify before the Senate Judiciary Committee regarding examining competition in group healthcare.
Dirksen Senate Office Building

DOJ_NMG_ 0167393

Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167394

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Image not available for this document, ID: 0.7.10316.34713-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 6, 2006 10:56 AM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: 9/15 CFR Meeting: Liberals and the War on Terror

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M
Sent: Thu Aug 31 16:33:19 2006
Subject: 9/15 CFR Meeting: Liberals and the War on Terror

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel [redacted]
Fax [redacted]

DC MEETING

VOICES OF THE NEXT GENERATION:
LIBERALS AND THE WAR ON TERROR

WITH

[redacted]

With the new "Voices of the Next Generation" series, the Council seeks to identify and feature fresh, young voices in the nation's foreign policy discourse. At the first meeting of the series, Peter Beinart will discuss liberalism, the war on terror, and America's role in the world.

Friday, September 15, 2006

8:00-8:30 AM Breakfast Reception
8:30-9:30 AM Meeting

8:30-9:30 AM Meeting

at

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

If any of the information below is incorrect please update it by clicking on the link below:
http://www.cfr.org/member/contact_edit.html

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: [redacted]
Fax: [redacted]
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 11:01 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 6, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks focusing on the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror* on **THURSDAY, SEPTEMBER 7, 2006 at 1:00 P.M. EDT**.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks regarding the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe.

WHEN: **THURSDAY, SEPTEMBER 7, 2006**
1:00 P.M. EDT.

WHERE: **Roosevelt Hotel**
East 45th Street at Madison Avenue
New York City
OPEN PRESS

NOTE: Pre-set for television camera crews is **12:00 P.M. EDT**. Print journalists should arrive **no later than 12:30 P.M. EDT.** All press inquiries regarding logistics should be directed to William Zeiser of the Manhattan Institute at 516-448-5489 or Theresa Pagliocca of the Department of Justice at 202-532-3486.

# # #

06-592

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Image not available for this document, ID: 0.7.10316.34708-000002

From: Gorsuch, Neil M
Sent: Wednesday, September 06, 2006 11:02 AM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE
Attachments: Picture (Metafile); Picture (Metafile)

-----Original Message-----
From: USDOJ- Office of Public Affairs
To: USDOJ- Office of Public Affairs
Sent: Wed Sep 06 11:01:05 2006
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

FOR PLANNING PURPOSES ONLY AG
WEDNESDAY, SEPTEMBER 6, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

*******MEDIA ADVISORY*******

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

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WHERE: Roosevelt Hotel
East 45th Street at Madison Avenue
New York City
OPEN PRESS

NOTE: Pre-set for television camera crews is 12:00 P.M. EDT. Print journalists should arrive no later than 12:30 P.M. EDT. All press inquiries regarding logistics should be directed to [redacted] of the Manhattan Institute at [redacted] or Theresa Pagliocca of the Department of Justice at 202-532-3486.

# # #
06-592

DOJ_NMG_ 0167403

Image not available for this document, ID: 0.7.10316.34671-000001

Image not available for this document, ID: 0.7.10316.34671-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 12:07 PM
To: USDOJ- Office of Public Affairs
Subject: STUDY FINDS MORE THAN HALF OF ALL PRISON AND JAIL INMATES HAVE MENTAL HEALTH PROBLEMS

THE REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT Bureau of Justice Statistics
WEDNESDAY, SEPTEMBER 6, 2006 Contact: Stu Smith: 202-307-0784
www.ojp.usdoj.gov/bjs After hours: 301-983-9354

STUDY FINDS MORE THAN HALF OF ALL PRISON AND JAIL INMATES HAVE MENTAL HEALTH PROBLEMS

WASHINGTON — More than half of all prison and jail inmates, including 56 percent of state prisoners, 45 percent of federal prisoners and 64 percent of local jail inmates, were found to have a mental health problem, according to a new study published today by the Justice Department's Bureau of Justice Statistics (BJS).

The findings represent inmates' reporting symptoms rather than an official diagnosis of a mental illness. The study determined the presence of mental health problems among prison and jail inmates by asking them about a recent history or symptoms of mental disorders that occurred in the last year.

Among the inmates who reported symptoms of a mental disorder:

- 54 percent of local jail inmates had symptoms of mania, 30 percent major depression and 24 percent psychotic disorder, such as delusions or hallucinations.
- 43 percent of state prisoners had symptoms of mania, 23 percent major depression and 15 percent psychotic disorder.
- 35 percent of federal prisoners had symptoms of mania, 16 percent major depression and 10 percent psychotic disorder.

Female inmates had higher rates of mental health problems than male inmates — in state prisons, 73 percent of females and 55 percent of males; in federal prisons, 61 percent of females and 44 percent of males; and in local jails, 75 percent of females and 63 percent of males.

Mental health problems were primarily associated with violence and past criminal activity. An estimated percent of state prisoners and 44 percent of jail inmates who had a mental health problem had a current or past violent offense. About a quarter of both state prisoners (25 percent) and jail inmates (26 percent) had served thre or more prior sentences to incarceration.

DOJ_NMG_ 0167406

Inmates with a mental health problem also had high rates of substance dependence or abuse in the year before their admission:

- 74 percent of state prisoners and 76 percent of local jail inmates were dependent on or abusing drugs or alcohol.
- 37 percent of state prisoners and 34 percent of jail inmates said they had used drugs at the tim of their offense.
- 13 percent of state prisoners and 12 percent of jail inmates had used methamphetamines in the month before their offense.

Among inmates who had mental health problems, 13 percent of state prisoners and 17 percent of jail inmates said they were homeless in the year before their incarceration. About a quarter of both state prisoners (2 percent) and jail inmates (24 percent) who had a mental health problem reported past physical or sexual abuse.

About one in three state prisoners with mental health problems, one in four federal prisoners and one in six jail inmates had received mental health treatment since admission. Taking a prescribed medication was the most common type of treatment — 27 percent in state prisons, 19 percent in federal prisons, and 15 percent in local jails.

The findings in this report were based on a nationally representative sample of prisoners (in 2004) and jail inmates (in 2002). Approximately 14,500 state prisoners, 3,700 federal prisoners and 7,000 jail inmates completed face-to-face interviews.

The report, "Mental Health Problems of Prison and Jail Inmates" (NCJ-213600) was written by BJS statisticians Doris J. James and Lauren E. Glaze. Following publication, the report can be found at: www.ojp.usdoj.gov/bjs/abstract/mhppji.htm

For additional information about the Bureau of Justice Statistics statistical reports programs, please visit the BJS website at: http://www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

# # #

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U.S. Department of Justice
Office of Justice Programs

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Bureau of Justice Statistics
Special Report

September 2006, NCJ 213600

Mental Health Problems of Prison and Jail Inmates

Doris J. James and
Lauren E. Glaze
BJS Statisticians

At midyear 2005 more than half of all prison and jail inmates had a mental health problem, including 705,600 inmates in State prisons, 70,200 in Federal prisons, and 479,900 in local jails. These estimates represented 56% of State prisoners, 45% of Federal prisoners, and 64% of jail inmates. The findings in this report were based on data from personal interviews with State and Federal prisoners in 2004 and local jail inmates in 2002.

Mental health problems were defined by two measures: a recent history or symptoms of a mental health problem. They must have occurred in the 12 months prior to the interview. A recent history of mental health problems included a clinical diagnosis or treatment by a mental health professional. Symptoms of a mental disorder were based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

	Percent of inmates in —		
Mental health problem	State prison	Federal prison	Local jail
Any mental problem	56%	45%	64%
Recent history	24	14	21
Symptoms	49	40	60

More than two-fifths of State prisoners (43%) and more than half of jail inmates (54%) reported symptoms that met the criteria for mania. About 23% of State prisoners and 30% of jail inmates reported symptoms of major depression. An estimated 15% of State prisoners and 24% of jail inmates reported symptoms that met the criteria for a psychotic disorder.

Highlights

High prevalence of mental health problems among prison and jail inmates

	Percent of inmates in —			
	State prison		Local jail	
Selected characteristics	With mental problem	Without	With mental problem	Without
Criminal record				
Current or past violent offense	61%	56%	44%	36%
3 or more prior incarcerations	25	19	26	20
Substance dependence or abuse	74%	56%	76%	53%
Drug use in month before arrest	63%	49%	62%	42%
Family background				
Homelessness in year before arrest	13%	6%	17%	9%
Past physical or sexual abuse	27	10	24	8
Parents abused alcohol or drugs	39	25	37	19
Charged with violating facility rules*	58%	43%	19%	9%
Physical or verbal assault	24	14	8	2
Injured in a fight since admission	20%	10%	9%	3%

*Includes items not shown.

- Nearly a quarter of both State prisoners and jail inmates who had a mental health problem, compared to a fifth of those without, had served 3 or more prior incarcerations.
- Female inmates had higher rates of mental health problems than male inmates (State prisons: 73% of females and 55% of males; local jails: 75% of females and 63% of males).
- About 74% of State prisoners and 76% of local jail inmates who had a mental health problem met criteria for substance dependence or abuse.
- Nearly 63% of State prisoners who had a mental health problem had used drugs in the month before their arrest, compared to 49% of those without a mental health problem.
- State prisoners who had a mental health problem were twice as likely as those without to have been homeless in the year before their arrest (13% compared to 6%).
- Jail inmates who had a mental health problem (24%) were three times as likely as jail inmates without (8%) to report being physically or sexually abused in the past.
- Over 1 in 3 State prisoners and 1 in 6 jail inmates who had a mental health problem had received treatment since admission.
- State prisoners who had a mental health problem were twice as likely as State prisoners without to have been injured in a fight since admission (20% compared to 10%).

A quarter of State prisoners had a history of mental health problems

Among all inmates, State prisoners were most likely to report a recent history of a mental health problem (table 1). About 24% of State prisoners had a recent history of a mental health problem, followed by 21% of jail inmates, and 14% of Federal prisoners.

A recent history of mental health problems was measured by several questions in the BJS' inmate surveys. Offenders were asked about whether in the past 12 months they had been told by a mental health professional that they had a mental disorder or because of a mental health problem had stayed overnight in a hospital, used prescribed medication, or received professional mental health therapy. These items were classified as indicating a recent history of a mental health problem.

State prisoners (18%), Federal prisoners (10%), and jail inmates (14%) most commonly reported that they had used prescribed medication for a mental problem in the year before arrest or since admission. They were least likely to report an overnight stay in a hospital for a mental health problem. Approximately, 5% of inmates in State prisons, 2% in Federal prisons, and 5% in local jails reported an overnight stay in a hospital for a mental health problem.

Prevalence of symptoms of mental disorders among prison and jail inmates

The Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002, included a modified structured clinical interview for the DSM-IV. The surveys collected information on experiences of inmates in the past 12 months that would indicate symptoms of major depression, mania, or psychotic disorders. The surveys did not assess the severity or duration of the symptoms, and no exclusions were made for symptoms due to medical illness, bereavement, or substance use. Inmates in mental hospitals or otherwise physically or mentally unable to complete the surveys were excluded from the sample.

Estimates of DSM-IV symptoms of mental disorder provide a baseline indication of mental health problems among inmates rather than a clinical diagnosis of mental illness. Major depression or mania symptoms covered a range of feelings and behaviors, such as persistent sadness, loss of interest in activities, insomnia or hypersomnia, psychomotor agitation, and persistent anger or irritability.

Insomnia or hypersomnia and persistent anger were the most frequently reported major depression or mania episodes with nearly half of jail inmates (49%) reporting these symptoms. Attempted suicide was the least reported symptom by State prisoners (13%), Federal prisoners (6%) and local jail inmates (13%).

A psychotic disorder was indicated by any signs of delusions or hallucinations during the 12-month period. Delusions were characterized by the offenders' belief that other people were controlling their brain or thoughts, could read their mind, or were spying on them. Hallucinations included reports of seeing things others said they did not see or hearing voices others did not hear. Approximately, 24% of jail inmates, 15% of State prisoners, and 10% of Federal prisoners reported at least one symptom of psychotic disorder (table 1).

Symptoms in past 12 months or since admission	Percent of inmates in — State prison	Federal prison	Local jail
Major depressive or mania symptoms			
Persistent sad, numb or empty mood	32.9%	23.7%	39.6%
Loss of interest or pleasure in activities	35.4	30.8	36.4
Increased or decreased appetite	32.4	25.1	42.8
Insomnia or hypersomnia	39.8	32.8	49.2
Psychomotor agitation or retardation	39.6	31.4	46.2
Feelings of worthlessness or excessive guilt	35.0	25.3	43.0
Diminished ability to concentrate or think	28.4	21.3	34.1
Ever attempted suicide	13.0	6.0	12.9
Persistent anger or irritability	37.8	30.5	49.4
Increased/decreased interest in sexual activities	34.4	29.0	29.5
Thoughts of revenge	28.4	21.3	34.1
Psychotic disorder symptoms			
Delusions	11.8%	7.8%	17.5%
Hallucinations	7.9	4.8	13.7

Note: Data are based on inmate self-report in the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. See *References* for sources on measuring symptoms of mental disorders based on a modified Structured Clinical Interview for the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

Number of positive responses	Percent of inmates in — State prison	Federal prison	Local jail
Major depressive disorder symptoms			
0	29.5%	38.8%	22.8%
1-2	26.1	27.9	23.8
3-4	20.5	17.1	23.0
5 or more	23.9	16.2	30.4
Mania disorder symptoms			
0	27.3%	35.6%	22.5%
1	21.5	23.3	17.0
2	20.5	17.7	20.1
3	17.7	14.0	22.0
4	13.1	9.4	18.4
Psychotic disorder symptoms			
0	84.6%	89.8%	76.0%
1	11.1	7.8	16.8
2	4.2	2.4	7.2

DOJ_NMG_ 0167409

Symptoms of mental disorder highest among jail inmates

Jail inmates had the highest rate of symptoms of a mental health disorder (60%), followed by State (49%), and Federal prisoners (40%). Symptoms of a mental health disorder were measured by a series of questions adopted from a structured clinical interview for diagnosing mental disorders based on the DSM-IV (see box on page 2 and *References* for sources on DSM-IV measures). The questions addressed behaviors or symptoms related to major depression, mania, or psychotic disorders that occurred in the 12 months before the interview.

To meet the criteria for major depression, inmates had to report a depressed mood and decreased interest or pleasure in activities, along with 3 additional symptoms of depression. In order to meet the criteria for mania, inmates had to report 3 symptoms during the 12-month period. For a psychotic disorder, 1 symptom of delusions or hallucinations met the criteria.

The high rate of symptoms of mental health disorder among jail inmates may reflect the role of local jails in the criminal justice system. Jails are locally operated correctional facilities that receive offenders after an arrest and hold them for a short period of time, pending arraignment, trial, conviction, or sentencing. Among other functions, local jails hold mentally ill persons pending their movement to appropriate mental health facilities.

While jails hold inmates sentenced to short terms (usually less than 1 year), State and Federal prisons hold offenders who typically are convicted and sentenced to serve more than 1 year. In general, because of the longer period of incarceration, prisons provide a greater opportunity for inmates to receive a clinical mental health assessment, diagnosis, and treatment by a mental health professional.[1]

[1]Persons who have been judged by a court to be *mentally incompetent to stand trial* or *not guilty by reason of insanity* are not held in these correctional facilities and are not covered by this report.

Table 1. Recent history and symptoms of mental health problems among prison and jail inmates

Mental health problem	Percent of inmates in — State prison	Federal prison	Local jail
Any mental health problem	56.2%	44.8%	64.2%
Recent history of mental health problem[a]	24.3%	13.8%	20.6%
Told had disorder by mental health professional	9.4	5.4	10.9
Had overnight hospital stay	5.4	2.1	4.9
Used prescribed medications	18.0	10.3	14.4
Had professional mental health therapy	15.1	8.3	10.3
Symptoms of mental health disorders[b]	49.2%	39.8%	60.5%
Major depressive disorder	23.5	16.0	29.7
Mania disorder	43.2	35.1	54.5
Psychotic disorder	15.4	10.2	23.9

Note: Includes inmates who reported an impairment due to a mental problem. Data are based on the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. See *Methodology* for details on survey sample. See *References* for sources on measuring symptoms of mental disorder based on a Structured Clinical Interview for the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

[a]In year before arrest or since admission.

[b]In the 12 months prior to the interview.

Table 2. Prevalence of mental health problems among prison and jail inmates

Mental health problem	State prison inmates Number	State prison inmates Percent	Federal prison inmates Number	Federal prison inmates Percent	Local jail inmates Number	Local jail inmates Percent
Any mental health problem*	705,600	56.2%	70,200	44.8%	479,900	64.2%
History and symptoms	219,700	17.5	13,900	8.9	127,800	17.1
History only	85,400	6.8	7,500	4.8	26,200	3.5
Symptoms only	396,700	31.6	48,100	30.7	322,900	43.2
No mental health problem	549,900	43.8%	86,500	55.2%	267,600	35.8%

Note: Number of inmates was estimated based on the June 30, 2005 custody population in State prisons (1,255,514), Federal prisons (156,643, excluding 19,311 inmates held in private facilities), and local jails (747,529).

*Details do not add to totals due to rounding. Includes State prisoners, Federal prisoners, and local jail inmates who reported an impairment due to a mental problem.

High proportion of inmates had symptoms of a mental health disorder without a history

Around 4 in 10 local jail inmates and 3 in 10 State and Federal prisoners were found to have symptoms of a mental disorder without a recent history (table 2). A smaller proportion of inmates had both a recent history and symptoms of mental disorder: 17% in State prisons, 9% in Federal prisons, and 17% in local jails.

An estimated 7% of State prisoners, 5% of Federal prisoners, and 3% of local jail inmates were found to have a recent history of a mental health problem and no symptoms.

About 1 in 10 persons age 18 or older in the U.S. general population met DSM-IV criteria for symptoms of a mental health disorder

• An estimated 11% of the U.S. population age 18 or older met criteria for mental health disorders, based on data in the National Epidemiologic Survey on Alcohol and Related Conditions, 2001-2002 (NESARC).

• Similar to the prison and jail inmate populations, females in the general population had higher rates of mental disorders than males (12% compared to 9%).

	Percent of U.S. population age 18 or older with symptoms of a mental disorder Total	Male	Female
Any symptom	10.6%	8.7%	12.4%
Major depression[a]	7.9	5.5	10.1
Mania disorder[a]	1.8	1.6	2.0
Psychotic disorder[b]	3.1	3.2	3.1

Note: See *Methodology* for sources on mental health disorders in the general population.

[a]In the last 12 months, not excluding symptoms due to bereavement, substance use, or a medical condition.

[b]Based on life-time occurrence.

Source: National Institute on Alcohol Abuse and Alcoholism, NESARC, 2001-2002.

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Table 3. Prison and jail inmates who had a mental health problem, by selected characteristics

Characteristic	Percent of inmates in — State prison	Federal prison	Local jail
All inmates	56.2%	44.8%	64.2%
Gender			
Male	55.0%	43.6%	62.8%
Female	73.1	61.2	75.4
Race			
White[a]	62.2%	49.6%	71.2%
Black[a]	54.7	45.9	63.4
Hispanic	46.3	36.8	50.7
Other[a,b]	61.9	50.3	69.5
Age			
24 or younger	62.6%	57.8%	70.3%
25-34	57.9	48.2	64.8
35-44	55.9	40.1	62.0
45-54	51.3	41.6	52.5
55 or older	39.6	36.1	52.4

[a]Excludes persons of Hispanic origin.
[b]Includes American Indians, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, and inmates who specified more than one race.

Table 4. Homelessness, employment before arrest, and family background of prison and jail inmates, by mental health status

Characteristic	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Homelessness in past year	13.2%	6.3%	6.6%	2.6%	17.2%	8.8%
Employed in month before arrest[a]	70.1%	75.6%	67.7%	76.2%	68.7%	75.9%
Ever physically or sexually abused before admission	27.0%	10.5%	17.0%	6.4%	24.2%	7.6%
Physically abused	22.4	8.3	13.7	5.4	20.4	5.7
Sexually abused	12.5	3.8	7.3	1.7	10.2	3.2
While growing up —						
Ever received public assistance[b]	42.5%	30.6%	33.3%	24.9%	42.6%	30.3%
Ever lived in foster home, agency or institution	18.5	9.5	9.8	6.3	14.5	6.0
Lived most of the time with —						
Both parents	41.9%	47.7%	45.4%	50.5%	40.5%	49.1%
One parent	43.8	40.8	39.8	38.8	45.4	40.4
Someone else	11.6	10.2	13.5	10.3	12.0	9.4
Parents or guardians ever abused —	39.3	25.1	33.3	20.0	37.3	18.7
Alcohol	23.6	16.9	21.7	15.4	23.2	14.1
Drugs	3.1	1.9	2.2	1.4	2.7	1.1
Both alcohol and drugs	12.7	6.2	9.4	3.2	11.5	3.4
Neither	60.7	74.9	66.7	80.0	62.7	81.3
Family member ever incarcerated —	51.7%	41.3%	44.6%	38.9%	52.1%	36.2%
Mother	7.2	4.0	5.0	3.2	9.4	3.4
Father	20.1	13.4	15.3	9.9	22.1	12.6
Brother	35.5	29.4	29.4	27.0	34.8	25.8
Sister	7.0	5.1	5.5	4.2	11.3	5.1
Child	2.7	2.3	3.4	2.8	4.0	2.6
Spouse	1.7	0.9	2.6	1.8	2.4	0.9

[a]The reference period for jail inmates was in the month before admission.
[b]Public assistance includes public housing, AFDC, food stamps, Medicaid, WIC, and other welfare programs.

Mental health problems more common among female, white, and young inmates

Female inmates had much higher rates of mental health problems than male inmates. An estimated 73% of females in State prisons, compared to 55% of male inmates, had a mental health problem (table 3). In Federal prisons, the rate was 61% of females compared to 44% of males; and in local jails, 75% of females compared to 63% of male inmates.

The same percentage of females in State prisons or local jails (23%) said that in the past 12 months they had been diagnosed with a mental disorder by a mental health professional. This was almost three times the rate of male inmates (around 8%) who had been told they had a mental health problem.

Mental problem*	Percent of inmates in — State prison: Male	State prison: Female	Local jail: Male	Local jail: Female
Recent history	22%	48%	18%	40%
Diagnosed	8	23	9	23
Overnight stay	5	9	4	9
Medication	16	39	12	30
Therapy	14	32	9	23
Symptoms	48%	62%	59%	70%

*See table 1 for detailed description of categories.

The prevalence of mental health problems varied by racial or ethnic group. Among State prisoners, 62% of white inmates, compared to 55% of blacks and 46% of Hispanics, were found to have a mental health problem. Among jail inmates, whites (71%) were also more likely than blacks (63%) or Hispanics (51%) to have a mental health problem.

The rate of mental health problems also varied by the age of inmates. Inmates age 24 or younger had the highest rate of mental health problems and those age 55 or older had the lowest rate. Among State prisoners, an estimated 63% of those age 24 or younger had a mental health problem, compared to 40% of those age 55 or older. An estimated 70% of local jail inmates age 24 or younger had a mental health problem, compared to 52% of those age 55 or older.

Homelessness, foster care more common among inmates who had mental health problems

State prisoners (13%) and local jail inmates (17%) who had a mental health problem were twice as likely as inmates without a mental health problem (6% in State prisons; 9% in local jails) to have been homeless in the year before their incarceration (table 4).

About 18% of State prisoners who had a mental health problem, compared to 9% of State prisoners who did not have a mental problem, said that they had lived in a foster home, agency, or institution while growing up.

Among jail inmates, about 14% of those who had a mental health problem had lived in a foster home, agency, or institution while growing up, compared to 6% of jail inmates who did not have a mental health problem.

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Low rates of employment, high rates of illegal income among inmates who had mental problems

An estimated 70% of State prisoners who had a mental health problem, compared to 76% of those without, said they were employed in the month before their arrest. Among Federal prisoners, 68% of those who had a mental health problem were employed, compared to 76% of those who did not have a mental problem.

Among jail inmates, 69% of those who had a mental health problem reported that they were employed, while 76% of those without were employed in the month before their arrest.

Of State prisoners who had a mental health problem, 65% had received income from wages or salary in the month before their arrest. This percentage was larger for inmates without a mental health problem (71%). Over a quarter (28%) of State prisoners who had a mental health problem reported income from illegal sources, compared to around a fifth (21%) of State prisoners without a mental problem.

Sources of income[a]	Percent of State prison inmates: With mental problem	Without
Wages, salary	65%	71%
Welfare	6	4
Assistance from family or friends	14	8
Illegal income	28	21
Compensation payments[b]	9	6

[a]Includes personal income in month before arrest, except for compensation which was in the month before admission.
[b]Includes Supplemental Security Income (SSI) payments and pension.

Table 5. Substance dependence or abuse among prison and jail inmates, by mental health status

Substance dependence or abuse	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Any alcohol or drugs	74.1%	55.6%	63.6%	49.5%	76.4%	53.2%
Dependence	53.9	34.5	45.1	27.3	56.3	25.4
Abuse only	20.2	21.1	18.5	22.2	20.1	27.8
Alcohol	50.8%	36.0%	43.7%	30.3%	53.4%	34.6%
Dependence	30.4	17.9	25.1	12.7	29.0	11.8
Abuse only	20.4	18.0	18.6	17.7	24.4	22.8
Drugs	61.9%	42.6%	53.2%	39.2%	63.3%	36.0%
Dependence	43.8	26.1	37.1	22.0	46.0	17.6
Abuse only	18.0	16.5	16.1	17.2	17.3	18.4
No dependence or abuse	25.9%	44.4%	36.4%	50.5%	23.6%	46.8%

Note: Substance dependence or abuse was based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). For details, see *Substance Dependence, Abuse and Treatment of Jail Inmates, 2002*, <http://www.ojp.usdoj.gov/bjs/abstract/sdatji02.htm>.

Past physical or sexual abuse more prevalent among inmates who had mental health problems

State prisoners who had a mental health problem (27%) were over two times more likely than those without (10%) to report being physically or sexually abused in the past.

Jail inmates who had a mental health problem were three times more likely than jail inmates without to have been physically or sexually abused in the past (24% compared to 8%).

Family members of inmates with mental problems had high rates of substance use and incarceration

Inmates who had a mental health problem were more likely than inmates without to have family members who abused drugs or alcohol or both. Among State prisoners, 39% of those who had a mental health problem reported that a parent or guardian had abused alcohol, drugs, or both while they were growing up. In comparison, 25% of State prisoners without a mental problem reported parental abuse of alcohol, drugs, or both.

A third (33%) of Federal prisoners who had a mental health problem, compared to a fifth (20%) of those without, reported that a parent or guardian had abused alcohol, drugs, or both while they were growing up.

An estimated 37% of jail inmates who had a mental health problem said a parent had abused alcohol, drugs, or both while they were growing up. This was almost twice the rate for jail inmates without a mental health problem (19%).

The majority of prison and jail inmates who had a mental health problem (52%) reported that they had a family member who had been incarcerated in the past. Among those without a mental health problem, about 41% of State inmates and 36% of jails inmates reported that a family member had served time.

Over a third of both State prisoners and local jail inmates who had a mental health problem (35%) had a brother who had served time in prison or jail. The rate for inmates without a mental health problem was 29% in State prisons and 26% in local jails.

High rates of both mental health problems and substance dependence or abuse among State prison and local jail inmates

- An estimated 42% of inmates in State prisons and 49% in local jails were found to have both a mental health problem and substance dependence or abuse.
- Slightly less than a quarter (24%) of State prisoners and a fifth (19%) of local jail inmates met the criteria for substance dependence or abuse only.

Mental health problems and substance dependence or abuse	Percent of inmates in — State prison	Federal prison	Local jail
Both	41.7%	28.5%	48.7%
Dependence or abuse only	24.4	27.3	18.9
Mental problems only	14.5	16.3	15.0
None	19.5	27.8	17.3

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Inmates who had mental health problems had high rates of substance dependence or abuse

Among inmates who had a mental health problem, local jail inmates had the highest rate of dependence or abuse of alcohol or drugs (76%), followed by State prisoners (74%), and Federal prisoners (64%) (table 5). Substance dependence or abuse was measured as defined in the DSM-IV.[2]

Among inmates without a mental health problem, 56% in State prisons, 49% in Federal prisons, and 53% in local jails were dependent on or abused alcohol or drugs.

[2]For a detailed description of the DSM-IV measures, see *Substance Dependence, Abuse and Treatment of Jail inmates, 2002,* <http://www.ojp.usdoj.gov/bjs/abstract/sdatji02.htm.>

By specific type of substance, inmates who had a mental health problem had higher rates of dependence or abuse of drugs than alcohol. Among State prisoners who had a mental problem, 62% were dependent on or abused drugs and 51% alcohol. An estimated 63% of local jail inmates who had a mental problem were dependent on or abused drugs, while about 53% were dependent on or abused alcohol.

When dependence was estimated separately from abuse only, local jail inmates who had a mental health problem had the highest rate of drug dependence (46%). They were two and a half times more likely to be dependent on drugs than jail inmates without a mental problem (18%).

Table 6. Substance use among prison inmates and convicted jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Type of substance	With mental problem	Without	With mental problem	Without	With mental problem	Without
Alcohol or drugs						
Regular use[a]	87.1%	77.2%	82.3%	75.4%	89.9%	78.7%
In month before offense	80.3	70.4	75.8	68.1	81.6	69.6
At time of offense	53.2	42.5	41.1	30.6	53.8	42.8
Drugs						
Regular use[a]	75.5%	61.2%	71.0%	59.2%	78.1%	57.5%
In month before offense	62.8	49.1	57.1	45.2	62.1	41.7
At time of offense	37.5	25.8	31.1	23.0	34.0	19.8
Alcohol						
Regular use[a]	67.9%	58.3%	66.0%	58.2%	72.6%	61.8%
In month before offense	61.7	52.5	59.5	53.6	80.7	74.1
At time of offense	34.0	27.5	21.7	15.1	35.0	30.4
Binge drinking[b]	43.5	29.5	37.8	25.7	48.2	29.9

[a]Regular alcohol use is defined as daily or almost daily or more than once a week for more than a month. Regular drug use is defined as once a week or more for at least one month.
[b]Binge drinking is defined as having consumed a fifth of liquor in a single day, or the equivalent of 20 drinks, 3 bottles of wine, or 3 six-packs of beer.

Table 7. Drug use in the month before the offense among convicted prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Types of drug used in month before offense	With mental problem	Without	With mental problem	Without	With mental problem	Without
Any drug	62.8%	49.1%	57.1%	45.2%	62.1%	41.7%
Marijuana or hashish	45.7%	33.3%	41.2%	32.0%	43.4%	27.1%
Cocaine or crack	24.4	17.9	21.1	15.5	24.2	14.7
Heroin/opiates	8.9	7.2	7.2	4.7	9.6	4.6
Depressants[a]	7.3	3.0	6.7	2.7	8.5	2.0
Methamphetamines	12.6	8.8	10.9	9.6	11.7	6.2
Other stimulants[b]	5.8	2.8	4.5	2.5	5.2	2.4
Hallucinogens[c]	8.0	3.4	9.3	3.0	7.5	2.9

[a]Include barbiturates, tranquilizers, and quaaludes.
[b]Include amphetamines.
[c]Include LSD, PCP, and ecstasy.

A larger percentage of State prisoners who had a mental health problem than those without were found to be dependent on drugs (44% compared to 26%). Among Federal prisoners, 37% who had a mental health problem were found to be dependent on drugs, compared to 22% of those without.

State prisoners (30%) and local jail inmates (29%) who had a mental health problem had about the same rate of alcohol dependence. A quarter of Federal prisoners (25%) who had a mental problem were dependent on alcohol.

Over a third of inmates who had mental health problems had used drugs at the time of the offense

Over a third (37%) of State prisoners who had a mental health problem said they had used drugs at the time of the offense, compared to over a quarter (26%) of State prisoners without a mental problem (table 6). Also, over a third (34%) of local jail inmates who had a mental health problem said they had used drugs at the time of the offense, compared to a fifth (20%) of jail inmates who did not have a mental problem.

Marijuana or hashish was the most common drug inmates said they had used in the month before the offense (table 7). Among inmates who had a mental health problem, more than two-fifths of those in State prisons (46%), Federal prisons (41%), or local jails (43%) reported they had used marijuana or hashish in the month before the offense.

Almost a quarter of inmates in State prisons or local jails who had a mental health problem (24%) reported they had used cocaine or crack in the month before the offense. A smaller percentage of inmates who had a mental health problem had used methamphetamines in the month before the offense — 13% of State prisoners, 11% of Federal prisoners, and 12% of jail inmates.

Binge drinking prevalent among inmates who had mental problems

Inmates who had a mental health problem were more likely than inmates without a mental problem to report a

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binge drinking experience. Among State prisoners who had a mental health problem, 43% said they had participated in binge drinking in the past, compared to 29% of State prisoners without mental problems.

Similarly, jail inmates who had mental problems (48%) had a much higher rate of binge drinking than jail inmates without mental problems (30%).

Inmates who had a mental problem were more likely than inmates without to have been using alcohol at the time of the offense (State prisoners, 34% compared to 27%; Federal prisoners, 22% compared to 15%; and jail inmates, 35% compared to 30%.)

Violent offenses common among State prisoners who had a mental health problem

Among State prisoners who had a mental health problem, nearly half (49%) had a violent offense as their most serious offense, followed by property (20%) and drug offenses (19%) (table 8). Among all types of offenses, robbery was the most common offense (14%), followed by drug trafficking (13%) and homicide (12%).

An estimated 46% of State prisoners without a mental health problem were held for a violent offense, including 13% for homicide and 11% for robbery.

About 24% of State prisoners without a mental problem were held for drug offenses, particularly drug trafficking (17%).

Almost an equal percentage of jail inmates who had a mental health problem were held for violent (26%) and property (27%) offenses. About 12% were held for aggravated assault. Jail inmates who had a mental health problem were two times more likely than jail inmates without a mental problem to be held for burglary (8% compared to 4%).

Table 8. Most serious offense among prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Most serious offense	With mental problem	Without	With mental problem	Without	With mental problem	Without
Total	100%	100%	100%	100%	100%	100%
Violent offenses	49.0%	46.5%	16.0%	13.2%	26.5%	23.7%
Homicide	11.6	12.9	2.5	2.3	2.6	2.5
Sexual assault*	11.0	10.4	1.1	0.7	3.4	3.6
Robbery	13.6	11.3	9.6	7.6	5.7	5.1
Assault	10.5	9.7	2.0	1.9	12.5	10.5
Property offenses	19.6%	17.7%	7.2%	6.1%	26.9%	19.7%
Burglary	8.6	7.7	0.7	0.3	7.9	4.2
Larceny/theft	4.2	3.5	0.5	0.4	7.7	5.6
Fraud	3.0	2.7	4.9	4.5	5.3	4.2
Drug offenses	19.3%	23.8%	51.3%	58.3%	23.4%	27.0%
Possession	5.7	6.3	2.0	3.8	10.1	12.3
Trafficking	12.9	17.0	47.7	52.6	11.6	12.9
Public-order offenses	11.9%	11.9%	22.3%	19.0%	22.6%	29.3%
Weapons	2.6	2.4	14.0	8.5	2.3	1.4
DWI/DUI	2.2	3.2	0.2	0.2	5.5	8.1

Note: Summary categories include offenses not shown.
*Includes rape and other sexual assault.

Table 9. Use of weapon, by mental health status of convicted violent State prison and local jail inmates

	Percent of inmates in —			
	State prison		Local jail	
Use of weapons	With mental problem	Without	With mental problem	Without
Any weapon	37.2%	36.9%	20.6%	21.2%
Firearm	24.4	27.5	12.3	13.1
Knife or sharp object	10.2	7.4	6.1	5.1
Other weapons*	3.7	2.7	2.8	4.0
No weapon	62.8%	63.1%	79.4%	78.8%
Number of violent inmates	328,670	242,524	60,787	34,305

Note: Details do not add to total because inmates may have used more than one weapon.
*Other weapons include blunt objects, stun guns, toy guns, or other specified weapons.

Use of a weapon did not vary by mental health status

Convicted violent offenders who had a mental health problem were as likely as those without to have used a weapon during the offense (table 9). An estimated 37% of both State prisoners who had a mental problem and those without said they had used a weapon during the offense.

By specific type of weapon, among convicted violent offenders in State prisons who had a mental health problem, slightly less than a quarter (24%) had used a firearm, while a tenth (10%) had used a knife or sharp object.

Violent criminal record more prevalent among inmates who had a mental health problem

State prisoners who had a mental health problem (61%) were more likely than State prisoners without (56%) to have a current or past violent offense.

	Percent of State prison inmates with violent criminal record	
Violent criminal record	With mental problem	Without
Any violent offense	61%	56%
Current violent offense, no prior	13	17
Violent recidivist	47	39

Note: Details may not add to total due to rounding.

Among repeat offenders, an estimated 47% of State prisoners who had a mental health problem were violent recidivists, compared to 39% of State prisoners without a mental problem (table 10).

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Nearly a third (32%) of local jail inmates who had a mental health problem were repeat violent offenders, while about a quarter (22%) of jail inmates without a mental problem were violent recidivists.

A larger proportion of inmates who had a mental health problem had served more prior sentences than inmates without a mental problem (table 11). An estimated 47% of State prisoners who had a mental health problem, compared to 39% of those without, had served 3 or more prior sentences to probation or incarceration. Among jail inmates, 42% of those with a mental health problem had served served 3 or more prior sentences to probation or incarceration, compared to 33% of jail inmates without a mental problem.

State prisoners who had mental health problems had longer sentences than prisoners without

Overall, State prisoners who had a mental health problem reported a mean maximum sentence that was 5 months longer than State prisoners without a mental problem (146 months compared to 141 months) (table 12). Among jail inmates, the mean sentence for those who had a mental problem was 5 months shorter than that for jail inmates without a mental problem (40 months compared to 45 months).

By most serious offense, excluding offenders sentenced to life or death, both violent State prisoners who had a mental health problem and those without had about the same mean sentence length. Violent State prisoners who had a mental health problem were sentenced to serve a mean maximum sentence length of 212 months and those without, 211 months.

Among prisoners sentenced to life or death, there was little variation in sentence length by mental health status (not shown in table). About 8% of State prisoners who had a mental health problem and 9% of those without were sentenced to life or death. Among Federal prisoners, 3% of both those who had a mental health problem and those without were sentenced to life or death.

Table 10. Criminal record of prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Criminal record	With mental problem	Without	With mental problem	Without	With mental problem	Without
No prior sentence	20.5%	27.0%	32.2%	36.9%	34.9%	43.3%
Current violent offense	13.4	16.9	5.1	4.9	12.1	13.8
Current drug offense	3.1	5.1	15.2	21.6	8.8	12.6
Current other offense	4.1	5.0	11.9	10.4	14.0	16.8
Violent recidivist	47.4%	39.2%	27.5%	23.8%	31.9%	22.4%
Current and prior violent	17.2	13.4	7.4	4.4	9.9	6.8
Current violent only	17.7	15.3	4.9	4.4	11.4	6.9
Prior violent only	12.5	10.4	15.3	15.0	10.5	8.7
Nonviolent recidivist	32.0%	33.8%	40.3%	39.2%	33.2%	34.3%
Prior drugs only	3.0	4.0	7.1	9.5	3.0	3.4
Other prior offenses	29.0	29.8	33.2	29.8	30.2	30.9

Note: Excludes inmates for whom offense and prior probation or incarceration sentences were unknown.

Table 11. Number of prior probation or incarceration sentences among prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Number of prior sentences	With mental problem	Without	With mental problem	Without	With mental problem	Without
0	22.1%	28.5%	34.1%	38.3%	24.5%	30.6%
1	15.3	16.1	14.9	16.5	16.8	18.9
2	15.5	16.8	15.6	14.9	16.7	17.2
3-5	26.3	24.0	21.3	20.1	22.8	20.3
6-10	13.9	10.6	10.0	7.1	12.4	8.6
11 or more	6.9	4.0	4.0	3.1	6.7	4.4

Note: Excludes inmates for whom prior probation or incarceration sentences were unknown.

Table 12. Mean maximum sentence length and mean total time expected to serve, by mental health status and offense

	Mean maximum sentence length[a]		Mean total time expected to serve until release[b]	
Most serious offense	With mental problem	Without	With mental problem	Without
State prison inmates				
All offenses[c]	146 mos	141 mos	93 mos	89 mos
Violent	212	211	139	138
Property	103	96	60	58
Drug	84	94	48	50
Public-order	81	66	51	40
Federal prison inmates				
All offenses[c]	128 mos	135 mos	99 mos	106 mos
Violent	174	202	119	131
Property	70	53	63	58
Drug	131	139	103	112
Public-order	102	100	87	83
Local jail inmates				
All offenses[c]	40 mos	45 mos	14 mos	18 mos
Violent	67	73	18	31
Property	41	36	16	14
Drug	40	59	18	25
Public-order	16	16	7	8

[a]Based on the total maximum sentence for all consecutive sentences. Excludes inmates for whom offense was unknown.
[b]Based on time served when interviewed and time to be served until the expected date of release. Excludes inmates for whom admission date or expected release date were unknown.
[c]Includes other offenses not shown.

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State prisoners who had a mental health problem expected to serve 4 months longer than those without

Overall, the mean time State prisoners who had a mental health problem expected to serve was 4 months longer than State prisoners without a mental problem (93 months compared to 89 months). Among convicted jail inmates who expected to serve their time in a local jail, there was little variation by mental health status in the amount of time expected to be served. About 55% of those who had a mental problem, and 54% of those without, expected to serve 6 months or less (table 13).

Table 13. Mean time expected to be served by convicted local jail inmates sentenced to jail

Mean time expected to be served	Percent of convicted local jail inmates: With mental problem	Without
Less than 3 months	27.4%	26.8%
3 to 6 months	27.9	27.3
7 to 12 months	24.0	22.4
13 to 24 months	9.7	8.7
25 to 36 months	3.7	3.4
37 to 60 months	3.2	5.0
More than 5 years	4.0	6.4
Number of inmates	115,290	72,356

Note: Excludes inmates for whom admission date or expected release date were unknown.

A third of State prisoners who had mental health problems had received treatment since admission

State prisoners who had a mental health problem (34%) had the highest rate of mental health treatment since admission, followed by Federal prisoners (24%) and local jail inmates (17%) (table 14).

All Federal prisons and most State prisons and jail jurisdictions, as a matter of policy, provide mental health services to inmates, including screening inmates at intake for mental health problems, providing therapy or counseling by trained mental health professionals, and distributing psychotropic medication.[3]

[3]See *Mental Health Treatment in State Prisons, 2000,* <http://www.ojp.usdoj.gov/bjs/abstract/mhtsp00.htm> and *Census of Jails, 1999,* <http://www.ojp.usdoj.gov/bjs/abstract/cj99.htm>.

Table 14. Mental health treatment received by inmates who had a mental health problem

Type of mental health treatment	Percent of inmates who had a mental problem in — State prison	Federal prison	Local jails
Ever received mental health treatment	49.3%	35.3%	42.7%
Had overnight hospital stay	20.0	9.5	18.0
Used prescribed medications	39.5	28.0	32.7
Had professional mental health therapy	35.4	25.6	31.1
Received treatment during year before arrest	22.3%	14.9%	22.6%
Had overnight hospital stay	5.8	3.2	6.6
Used prescribed medications	15.8	10.1	16.9
On prescribed medication at time of arrest	11.3	7.3	12.3
Had professional mental health therapy	11.5	8.0	12.3
Received treatment after admission	33.8%	24.0%	17.5%
Had overnight hospital stay	5.4	2.7	2.2
Used prescribed medications	26.8	19.5	14.8
Had professional mental health therapy	22.6	15.1	7.3

Note: Excludes other mental health treatment.

Table 15. Mental health treatment received by all State prison inmates, 2004 and 1997

Type of mental health treatment	Percent of State prison inmates: 2004	1997
Ever any mental health treatment	31.2%	28.3%
Had overnight hospital stay	12.2	10.7
Used prescribed medications	23.9	18.9
Had professional mental health therapy	21.6	21.8
Had other mental health treatment	3.6	3.3
Received treatment after admission	19.3%	17.4%
Had overnight hospital stay	3.1	3.8
Used prescribed medications	15.1	12.3
Had professional mental health therapy	12.7	12.3
Had other mental health treatment	1.9	1.9
Number of inmates	1,226,171	1,059,607

More than a fifth of inmates (22%) in State prison who had a mental health problem had received mental health treatment during the year before their arrest, including 16% who had used prescribed medications, 11% who had professional therapy, and 6% who had stayed overnight in a hospital because of a mental or emotional problem.

Among jail inmates who had a mental health problem, an estimated 23% had received treatment during the year before their arrest: 17% had used medication, 12% had received professional therapy, and 7% had stayed overnight in a hospital because of a mental or emotional problem.

Taking a prescribed medication for a mental health problem was the most common type of treatment inmates who had a mental health problem had received since admission to prison or jail. About 27% of State prisoners, 19% of Federal prisoners, and 15% of jail inmates who had a mental problem had used prescribed medication for a mental problem since admission.

An overnight stay in a hospital was the least likely method of treatment inmates had received since admission. Among inmates who had a mental problem, about 5% of those in State prisons, 3% in Federal prisons, and 2% in local jails had stayed overnight in a hospital for a mental problem.

Use of medication for a mental health problem by State prisoners rose between 1997 and 2004

The proportion of State prisoners who had used prescribed medication for a mental health problem since admission to prison rose to 15% in 2004, up from 12% in 1997 (table 15). There was little change in the percentage of inmates who reported an overnight stay in a hospital since admission (around 3%), or in the percentage who had received professional mental health therapy (around 12%).

State prisoners who said they had ever used prescribed medication for a mental or emotional problem in the past rose to 24% in 2004, up from 19% in 1997. Overall, 31% of State prisoners said they had ever received mental health treatment in the past, up from 28% in 1997.

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Among jail inmates, in 2002 around 30% said they had received treatment for a mental health problem in the past, up from 25% in 1996. The proportion who had received treatment since admission (11%) was unchanged.

Mental health treatment	Percent of jail inmates 2002	1996
Ever any treatment	30%	25%
Overnight stay	12	10
Medication	22	17
Therapy	22	18
Other treatment	3	3
Since admission	11%	11%
Overnight stay	1	1
Medication	9	9
Therapy	5	4
Other treatment	1	--

--Less than 0.5%.

Rule violations and injuries from a fight more common among inmates who had a mental health problem

Prison or jail inmates who had a mental health problem were more likely than those without to have been charged with breaking facility rules since admission (table 16). Among State prisoners, 58% of those who had a mental health problem, compared to 43% of those without, had been charged with rule violations.

An estimated 24% of State prisoners who had a mental health problem, compared to 14% of those without, had been charged with a physical or verbal assault on correctional staff or another inmate. Among Federal prisoners who had a mental health problem, 15% had been charged with a physical or verbal assault on correctional staff or another inmate compared to 7% of those without a mental problem.

Jail inmates who had a mental health problem were twice as likely as those without to have been charged with facility rule violations (19% compared to 9%).

Inmates in local jails who had a mental health problem were also four times as likely as those without to have been charged with a physical or verbal assault on correctional staff or another inmate (8% compared to 2%).

A larger percentage of inmates who had a mental health problem had been injured in a fight since admission than those without a mental problem (State prisoners, 20% compared to 10%; Federal prisoners, 11% compared to 6%; jail inmates, 9% compared to 3%).

Three-quarters of female inmates in State prisons who had a mental health problem met criteria for substance dependence or abuse

Female State prisoners who had a mental health problem were more likely than those without to —

- meet criteria for substance dependence or abuse (74% compared to 54%),
- have a current or past violent offense (40% compared to 32%),
- have used cocaine or crack in the month before arrest (34% compared to 24%),
- have been homeless in the year before arrest (17% compared to 9%).

They were also more likely to report —

- 3 or more prior sentences to probation or incarceration (36% compared to 29%),
- past physical or sexual abuse (68% compared to 44%),
- parental abuse of alcohol or drugs (47% compared to 29%),
- a physical or verbal assault charge since admission (17% compared to 6%).

Characteristics of females in State prison, by mental health status

Selected characteristics	Percent of female inmates: With mental problem	Without
Criminal record		
Current or past violent offense	40.4%	32.2%
3 or more prior probations or incarcerations	35.9	28.7
Substance dependence or abuse	74.5%	53.6%
Alcohol	41.7	25.8
Drugs	65.5	45.6
Drug use in month before arrest*	63.7%	49.5%
Cocaine or crack	33.9	24.2
Methamphetamines	17.1	16.3
Family background		
Homeless in year before arrest	16.6%	9.5%
Past physical or sexual abuse	68.4	44.0
Parent abused alcohol or drugs	46.9	29.1
Charged with violating facility rules*	50.4%	30.6%
Physical or verbal assault	16.9	5.7
Injured in a fight since admission	10.3%	3.8%

*Includes items not shown.

Table 16. Disciplinary problems among prison and jail inmates since admission, by mental health status

Type of disciplinary problem since admission	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Charged with rule violations*	57.7%	43.2%	40.0%	27.7%	19.0%	9.1%
Assault	24.1	13.8	15.4	6.9	8.2	2.4
Physical assault	17.6	10.4	11.0	5.4	4.7	1.6
Verbal assault	15.2	6.7	7.9	2.4	5.2	0.9
Injured in a fight	20.4%	10.1%	11.4%	5.8%	9.3%	2.9%

*Includes violations not shown (for example: possession of a weapon, stolen property or contraband, drug law violations, work slowdowns, food strikes, setting fires or rioting, being out of place, disobeying orders, abusive language, horseplay, or failing to follow sanitary regulations).

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Methodology

The findings in this report are based on data in the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. Conducted every 5 to 6 years since 1972, the BJS' inmate surveys are the only national source of detailed information on criminal offenders, particularly special populations such as drug and alcohol users and offenders who have mental health problems.

The survey design included a stratified two-stage sample where facilities were selected in the first stage and inmates to be interviewed in the second stage. In the second sampling stage, interviewers from the Census Bureau visited each selected facility and systematically selected a sample of inmates. Computer-assisted personal interviewing (CAPI) was used to conduct the interviews.

Survey of Inmates in State and Federal Correctional Facilities, 2004

The State prison sample was selected from a universe of 1,585 facilities. A total of 287 State prisons participated in the survey; 2 refused, 11 were closed or had no inmates to survey, and 1 was erroneously included in the universe. A total of 14,499 inmates in the State facilities were interviewed; 1,653 inmates refused to participate, resulting in a second-stage nonresponse rate of 10.2%.

The Federal prison sample was selected from 148 Federal prisons and satellite facilities. Thirty-nine of the 40 prisons selected participated in the survey. After the initial sample of inmates was drawn, a secondary sample of 1 in 3 drug offenders was selected. A total of 3,686 inmates in Federal facilities were interviewed and 567 refused to participate, resulting in a second-stage nonresponse rate of 13.3%.

Survey of Inmates in Local Jails, 2002

The local jail sample was selected from a universe of 3,365. Overall, 465 jails were selected, and interviews were held in 417 jails; 39 jails refused or were excluded for administrative reasons; and 9 were closed or had no inmates. A total of 6,982 inmates were interviewed; 768 inmates refused to participate, resulting in a second-stage nonresponse rate of 9.9%.

Accuracy of survey estimates

The accuracy of the survey estimates depends on sampling and measurement errors. Sampling errors occur by chance because a sample of inmates rather than all inmates were interviewed. Measurement error can be attributed to many sources, such as nonresponse, recall difficulties, differences in the interpretation of questions among inmates, and processing errors.

The sampling error, as measured by an estimated standard error, varies by the size of the estimate and the size of the base population. These standard errors may be used to construct confidence intervals around percentages. For example, the 95% confidence interval around the percentage of jail inmates in 2002 who had a mental health problem is approximately 64.2% plus or minus 1.96 times .83% (or 62.6% to 65.8%). Standard error tables for data in this report are provided in the Appendix which is available in the electronic version of the report at <http://www.ojp.usdoj.gov/bjs/abstract/mhppji.htm>.

A detailed description of the methodology for the State and Federal Prison survey, including standard error tables and links to other reports or findings, is available on the BJS Website <http://www.ojp.usdoj.gov/bjs/abstract/sicf04.htm>. A detailed description of the methodology for the Survey of Inmates in Local Jails is available at <http://webapp.icpsr.umich.edu/cocoon/NACJD-STUDY/04359.xml>.

Measures of mental health problems in the general population

Caution should be used when making comparisons between prison and jail inmates and the general population based on the a 12-month DSM-IV structured interview. There are significant variations in the questionnaire design and data analysis. For example, questions on the severity or duration of symptoms and questions about whether symptoms are due to breavement, substance use, or a medical condition may vary from survey to survey.

For details on the methodology used in the National Epidemiologic Survey on Alcohol and Related Conditions, sponsored by the National Institute on Alcohol Abuse and Alcoholism, see the Data Reference Manual, <http://niaa.census.gov/>. For additional information on the prevalence of mental disorders in the general population, see the National Survey on Drug Use and Health, sponsored by the Substance Abuse and Mental Health Services Administration, <http://www.oas.samhsa.gpv/nsduh.htm>. Also, see the National Comorbidity Survey Replication Study, sponsored primarily by the National Institute of Mental Health, <http://www.nimh.nih.gov/healthinformation/ncs-r.cfm>.

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Doris J. James and Lauren E. Glaze wrote this report, under the supervision of Allen J. Beck. Laura M. Maruschak, Todd D. Minton, and Tracy L. Snell verified the report. Rebecca L. Medway provided programming assistance. Tina Dorsey edited the report and Jayne Robinson prepared it for final printing, under the supervision of Marianne Zawitz.

Tracy L. Snell, under the supervision of Allen J. Beck, was project manager for the Survey of Inmates in State and Federal Correctional Facilities.

For the State and Federal prisoners survey, at the U.S. Census Bureau Steven M. Bittner, Colette Heiston, and Kenneth Mayo carried out questionnaire design, data collection and processing, under the supervision of Marilyn M. Monahan, Demographic Surveys Division. Renee Arion programmed the questionnaire and Dave Keating programmed the listing instrument, under the supervision of Rob Wallace, Technologies Management Office. Programming assistance in the Demographic Surveys Division was provided by Chris Alaura, Mildred Ballenger, Bach-Loan Nguyen, and Scott Raudabaugh, under the supervision of David Watt.

Dave Hornick and Danielle N. Castelo, Demographic Surveys Methods Division, under the supervision of Thomas F. Moore, designed the sample and weighting specifications. Sydnee Chattin-Reynolds and Luis Padilla, Field Division, under the supervision of Richard Ning, coordinated the field operations. The affiliations for the Census Bureau date to the time of the survey.

Contributors to the Survey of Inmates in Local Jails are listed in *Profile of Jail Inmates, 2002*, at <http://www.ojp.usdoj.gov/bjs/abstract/pji02.htm>.

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This report in portable document format and in ASCII and its related statistical data and tables— including appendix tables— are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/mhppji.htm>

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 1:39 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF DIANE M. STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF DIANE M. STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN

WASHINGTON – Attorney General Alberto R. Gonzales today issued the following statement on the resignation of Diane M. Stuart, Director of the Office on Violence Against Women:

"Since 2001, Diane Stuart has been a strong advocate for, and defender of, women and families throughout the Nation," said Attorney General Gonzales. "Her leadership in implementing President Bush's Family Justice Center Initiative is a tremendous achievement that will have an ongoing, positive impact on the lives of women, men and children hurt by domestic violence. Diane's service to women and families has made a tremendous difference in countless lives across America."

Diane M. Stuart was appointed as Director of the Office on Violence Against Women by President George W. Bush in 2001 and was confirmed by the U.S. Senate in 2003. During her tenure with the Justice Department, Stuart was responsible for implementing the President's Family Justice Center Initiative, through which $20 million was awarded to 15 sites to develop co-located services for victims of domestic violence. Currently, 11 family justice centers around the country are in operation, and all 15 centers will be open by the close of 2006. An important focus of Stuart's work has been promoting a coordinated community response, facilitating the collaboration of law enforcement, advocacy groups and members of the community in addressing the problem of domestic violence.

As Director, Stuart also succeeded, among other things, in establishing training "institutes" for judges, prosecutors, and law enforcement; developing the Safety for Indian Women Initiative; leading the office in the development and implementation of the Judicial Demonstration Oversight Initiative, the "Greenbook" Initiative, and the Supervised Visitation Demonstration Program; and increasing the number of grant and cooperative agreement awards by 50 percent.

Stuart will resign from the Department of Justice in October, and plans to return to her home state of Utah.

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Image not available for this document, ID: 0.7.10316.34597-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 2:38 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

Department of Justice

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WEDNESDAY, SEPTEMBER 6, 2006
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********Media Advisory********

SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON – Senior officials from the Departments of Justice and Defense will hold a background briefing regarding proposed legislation establishing military commissions today, **WEDNESDAY, SEPTEMBER 6, 2006 at 4:00 PM. EDT.**

WHO: Senior Officials from the Departments of Justice and Defense

WHAT: Background briefing on proposed legislation for military commissions

WHEN: **WEDNESDAY, SEPTEMBER 6, 2006 at 4:00 P.M. EDT**

WHERE: **Teleconference**
Call-in Number: 800-860-2442
Request "DOJ–DOD Conference Call"

NOTE: All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-594

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Image not available for this document, ID: 0.7.10316.34586-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 2:56 PM
To: USDOJ- Office of Public Affairs
Subject: SHIPPING COMPANY PLEADS GUILTY TO VESSEL POLLUTION

Department of Justice

FOR IMMEDIATE RELEASE ENRD
WEDNESDAY, SEPTEMBER 6, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

SHIPPING COMPANY PLEADS GUILTY TO VESSEL POLLUTION

Korean Vessel Used Hoses to Bypass Pollution Prevention Equipment

WASHINGTON – The Sun Ace Shipping Company, based in Seoul, South Korea, has pleaded guilty to a one-count information for violating the Act to Prevent Pollution from Ships, in relation to the operation of a bulk carrier vessel the *M/V Sun New*, the Justice Department announced today.

Specifically, the defendant, which was the operator and manager of a fleet of five ships, is charged with knowingly failing to maintain an accurate Oil Record Book that fully recorded the disposal of oil residue and bilge into the ocean and then falsifying records to conceal illegal discharges. A joint factual statement filed in District Court in New Jersey stated that, on the night of Jan. 3, 2006, U.S. Coast Guard inspectors boarded the *Sun New* and discovered that members of the engine room crew has used bypass hoses to discharge oily wastes overboard into the ocean without using the vessel's oil-water separator. Upon further investigation, inspectors discovered that the crew of the *Sun New* had disposed of oil waste into the ocean at least twice during the voyage from South Korea to New Jersey.

Engine room operations on board large oceangoing vessels such as the *Sun New* generate large amounts of waste oil. International and U.S. law prohibit the discharge of waste oil without treatment by an Oily Water Separator. The law also requires that all overboard discharges be recorded in an Oil Record Book, a required log which is regularly inspected by the Coast Guard.

Per the terms of the plea agreement, the Sun Ace Shipping Company will pay a $400,000 penalty and a $100,000 community service payment to the National Fish and Wildlife Program, Delaware Estuary Grants Program, which will be used to protect and restore the natural resources of the Delaware Estuary and its watershed. The Sun Ace Shipping Company will also be subject to a three year term of probation, during which its vessels will be banned from U.S. ports and waters.

Earlier this month, a grand jury in Newark, N.J., returned a three-count indictment charging the Chief Engineer and the Second Engineer of *M/V Sun New* with conspiracy, obstruction of justice, and a violation of the Act to Prevent Pollution from Ships in connection with the use of two bypass hoses used to discharge sludge and oil contaminated bilge waste overboard into the ocean.

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Today's case was investigated by marine inspectors from Coast Guard Sector Delaware Bay, and special agents from the Coast Guard Investigative Service and the Environmental Protection Agency Criminal Investigation Division. The case is being prosecuted by Trial Attorney David Kehoe in the Environmental Crimes Section in the Justice Department's Environment and Natural Resources Division.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 3:09 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER REGIONAL DIRECTOR OF ITXC CORP PLEADS GUILTY IN FOREIGN BRIBERY SCHEME

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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(202) 514-2008
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FORMER REGIONAL DIRECTOR OF ITXC CORP PLEADS GUILTY IN FOREIGN BRIBERY SCHEME

WASHINGTON – A former regional manager of ITXC Corporation pleaded guilty to a one-count criminal information in U.S. District Court in Trenton, N.J., Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Yaw Osei Amoako, 55, of Hillsborough, N.J., pleaded guilty to conspiring to violate the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA) and to violate the Travel Act in connection with the payment of approximately $266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers and employees of foreign-owned carriers in various African countries. The Honorable Garrett E. Brown scheduled a sentencing date for Dec. 11, 2006 at 1 p.m. Amoako faces up to five years in prison and a $250,000 fine.

From 1999 through 2004, Amoako was employed as a regional manager for Africa by former ITXC Corporation, which was a publicly-traded corporation that provided telecommunication services, primarily Voice Over Internet Protocol services, to carriers across the globe. Amoako was responsible for negotiating and obtaining contracts with foreign telecommunications companies in Africa on ITXC's behalf. Amoako was also responsible for hiring third-party sales agents in African countries to assist ITXC in negotiating its contracts.

According to the information, Amoako conspired with other former ITXC employees and officers to make payments to employees of foreign-state owned telecommunications carriers and employees of foreign-owned carriers so that those employees would use their influence to assist ITXC in obtaining and retaining contracts with the foreign carriers. Amoako and his co-conspirators offered to pay the employees commissions based on the amount of traffic that ITXC received from the contract the employee helped award to ITXC. The employees of the state-owned telecommunications companies were foreign officials as defined by the FCPA. The commissions totaled approximately $266,000 from 2001 until May 2004.

Specifically, the information charges that Amoako and his co-conspirators caused ITXC to pay approximately $166,000 in commissions to a foreign official at Nitel, which was a telecommunications company wholly-owned by the Nigerian government; approximately $26,000 in commissions to a foreign

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official at Rwandatel, which was wholly-owned by the Rwandan government; and approximately $74,000 in commissions to an employee of Sonatel, which was partly-owned by the Senegalese government.

The case is being prosecuted by Deputy Chiefs James McMahon and Mark F. Mendelsohn, and Trial Attorney Mary K. Dimke of the Criminal Division's Fraud Section. The case is being investigated by the Federal Bureau of Investigation.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 3:10 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 12

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 12

Session to be Held in Washington, D.C. to Focus on International Issues

WASHINGTON - The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the fourth in a series of planned joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on September 12, 2006, in Washington, D.C. As previously announced, these public hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months.

The first panel on September 12 will focus on how foreign antitrust enforcers apply their laws to allegations of anticompetitive single-firm conduct. The second panel on September 12 will focus on international antitrust practice in the single-firm conduct area. Both panels will be held at the FTC's Satellite Building at 601 New Jersey Ave., N.W., Washington, D.C., Conference Room C.

Further information is provided below:

Morning Session (9:30 AM - 12:00 PM): International Enforcement Perspectives

Philip Lowe is the Director General for Competition of the European Commission.

Hideo Nakajima is the Deputy Secretary General, General Secretariat, of the Japan Fair Trade Commission.

Eduardo Pérez Motta is the President of the Mexican Federal Competition Commission.

Sheridan Scott is the Commissioner of Competition of the Canadian Competition Bureau.

Afternoon Session (1:30 PM - 4:00 PM): Practitioner and Academic Perspectives

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George Addy is a partner at Davies Ward Phillips & Vineberg LLP and former head of the Canadian Competition Bureau.

Margaret Bloom is a senior consultant at Freshfields Bruckhaus Deringer and a Visiting Professor at the School of Law, King's College London.

Paul Lugard is the Head of Antitrust for Royal Philips Electronics N.V.

James F. Rill is a partner at Howrey LLP and former Assistant Attorney General, Antitrust Division, Department of Justice.

The public and press are invited to attend the hearings. Seating will be on a first-come, first-served basis. Interested parties may submit written comments to the Antitrust Division and the FTC.

Further information about the hearings will be posted on the Antitrust Division's Web site at http://www.usdoj.gov/atr/public/hearings/single_firm/sfchearing.htm and on the FTC's Web site at http://www.ftc.gov/os/sectiontwohearings/index.htm. Individuals seeking more information on the hearings should contact Gail Kursh, Deputy Chief, Legal Policy Section, Antitrust Division, at singlefirmconduct@usdoj.gov, or Patricia Schultheiss, FTC, at section2hearings2@ftc.gov.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 3:57 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATED: SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

UPDATE: CONFERENCE CALL MOVED TO 4:30 P.M. EDT.

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 6, 2006
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********MEDIA ADVISORY********

SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON – Senior officials from the Departments of Justice and Defense will hold a background briefing regarding proposed legislation establishing military commissions today, **WEDNESDAY, SEPTEMBER 6, 2006 at 4:30 PM. EDT.**

WHO: Senior Officials from the Departments of Justice and Defense

WHAT: Background briefing on proposed legislation for military commissions

WHEN: **TODAY, SEPTEMBER 6, 2006 at 4:30 P.M. EDT**

WHERE: **Teleconference**
Call-in Number: 800-860-2442
Request "DOJ–DOD Conference Call"

NOTE: All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-594

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, September 6, 2006 4:12 PM
Subject: ATTORNEY GENERAL'S ANNUAL AWARDS RECIPIENTS ANNOUNCED

ATTORNEY GENERAL'S ANNUAL AWARDS RECIPIENTS ANNOUNCED

Attorney General Alberto R. Gonzales has selected the recipients of the Attorney General's 54th Annual Awards. You may view a list of awards recipients at http://www.usdoj.gov/jmd/ps/guiawards.htm. Congratulations are extended to the awards recipients!

DOJ employees in the Washington Metropolitan Area are invited to attend the awards ceremony, which will be held on at *2:00 p.m., Tuesday, September 12, 2006 at Constitution Hall*. Departmental identification is required for entry. Shuttle service will be provided from the Robert F. Kennedy Main Justice Building.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 5:00 PM
To: USDOJ- Office of Public Affairs
Subject: STOLT-NIELSEN S.A. INDICTED ON CUSTOMER ALLOCATION, PRICE FIXING, AND BID RIGGING CHARGES FOR ITS ROLE IN AN INTERNATIONAL PARCEL TANKER SHIPPING CARTEL

Department of Justice

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STOLT-NIELSEN S.A. INDICTED ON CUSTOMER ALLOCATION, PRICE FIXING, AND BID RIGGING CHARGES FOR ITS ROLE IN AN INTERNATIONAL PARCEL TANKER SHIPPING CARTEL

Two Subsidiaries and Two Executives also Indicted

WASHINGTON — A federal grand jury in Philadelphia today returned an indictment against London-based Stolt-Nielsen S.A., two of its subsidiaries, and two executives for participating in a conspiracy to allocate customers, fix prices, and rig bids on contracts of affreightment for parcel tanker shipping of products to and from the United States and elsewhere, the Department of Justice announced. Including today's charges, five companies and five individuals have been charged and fines totaling more than $62.3 million have resulted from the Department's ongoing antitrust investigation of the parcel tanker shipping industry.

Stolt-Nielsen S.A., its subsidiaries--Stolt-Nielsen Transportation Group Ltd. of Liberia and Stolt-Nielsen Transportation Group Ltd. of Bermuda (collectively SNTG)--and U.S. citizen Samuel A. Cooperman and New Zealand citizen Richard B. Wingfield, were charged with the parcel tanker conspiracy today in U.S. District Court in Philadelphia. Cooperman is the former chairman, president and chief executive officer of SNTG. Wingfield is the former executive vice president and managing director of tanker trading for SNTG. Both of the subsidiaries have had offices in Greenwich, Conn.

"The indictment charges Stolt-Nielsen and its executives with serious antitrust crimes-- price fixing, customer allocation, and bid rigging," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Cracking down on international cartels is the Antitrust Division's top priority and the Division will continue its efforts to aggressively pursue such illegal activity."

Parcel tanker shipping is the transportation of bulk chemicals, edible oils, acids, and other specialty liquids by compartmentalized deep sea vessels. A contract of affreightment is a contract between a customer and a parcel tanker shipping company for the transportation of bulk liquids from port to port.

The alleged conspiracy began at least as early as August 1998 and continued until as late as November 2002. The indictment charges that representatives of Stolt-Nielsen entities and two competitor companies met

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and agreed not to compete for one another's customers for contracts of affreightment. The defendants are charged with carrying out the secret agreement in a variety of ways, including:

- Refraining from seeking business from one another's customers, or alternatively, when asked to bid by such customers, declining to bid or submitting fraudulent bids with intentionally high prices;

- Discussing customers and prices for contracts of affreightment to avoid competition;

- Preparing, updating, and exchanging customer lists to facilitate implementation of the agreement; and

- Continuing to carry out the conspiracy through meetings and discussions and assuring competitors that the conspiracy remained in effect, even after discovery of certain evidence of the conspiracy by Stolt-Nielsen's then-general counsel.

In March 2004, the Antitrust Division revoked the conditional leniency that had previously been granted to the Stolt-Nielsen entities under the Division's Corporate Leniency Program. Stolt-Nielsen's conditional leniency was predicated on a number of representations made by the company, including a promise that the company "took prompt and effective action to terminate its part in the anticompetitive activity being reported upon discovery of the activity." The Division revoked the conditional leniency after it learned from other sources that top Stolt-Nielsen executives, including its managing director Wingfield, had continued to meet with competitors and participate in the conspiracy for months after the scheme's discovery by Stolt-Nielsen's then-general counsel, and that Stolt had both withheld and provided false and misleading information about the true extent of the conspiracy.

In February 2004, Stolt-Nielsen S.A., Stolt-Nielsen Transportation Group Ltd. of Bermuda, and Wingfield filed lawsuits seeking an injunction to prevent the Antitrust Division from indicting them. The U.S. District Court for the Eastern District of Pennsylvania granted the injunction in January 2005. In March 2006, the Court of Appeals for the Third Circuit reversed the District Court decision and, in June 2006, denied petitions for rehearing. Attempts by SNTG and Wingfield to recall and stay the mandate of the Third Circuit failed, and on Aug. 24, 2006, the District Court dissolved the injunction against the Antitrust Division.

"Stolt-Nielsen is the first company to have its conditional leniency revoked since the current program was announced in 1993," said Barnett. "Removing a company from the Corporate Leniency Program is not something the Division takes lightly but regrettably was necessary in this case to maintain the integrity of the program, which requires that those in the program provide full and truthful cooperation."

Each of the defendants is charged with participating in the conspiracy to suppress competition in violation of the Sherman Act. The maximum penalty for the conviction of a Sherman Act violation occurring before June 22, 2004, is three years imprisonment and a fine of $350,000 for individuals and a fine of $10 million for companies. The maximum fines may be increased, however, to twice the gain derived from the crime or twice the loss suffered by the victims if either of those amounts is greater than the Sherman Act maximum fines.

Today's charges result from the Division's ongoing investigation of the parcel tanker shipping industry being conducted by the Philadelphia Field Office, in conjunction with the Philadelphia Office of the Federal Bureau of Investigation.

In the fall of 2003, shipping company Odfjell Seachem AS pleaded guilty to participating in a conspiracy to allocate customers, rig bids, and fix prices in the parcel tanker shipping industry and was sentenced to pay a $42.5 million fine. Two Odfjell executives, Bjorn Sjaastad and Erik Nilsen, also pleaded

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guilty for their roles in the same conspiracy. Sjaastad was sentenced to four months in prison and a $250,000 fine, and Nilsen was sentenced to three months in prison and a $25,000 fine.

In early 2004, a second company, Jo Tankers B.V., also pleaded guilty to conspiring to eliminate competition on contracts of affreightment in the parcel tanker shipping industry. Jo Tankers was sentenced to pay a fine of $19.5 million, and its former co-managing director, Hendrikus van Westenbrugge, pleaded guilty and was sentenced to pay a fine of $75,000 and to serve three months in prison.

Anyone with information concerning price fixing or other anticompetitive conduct in the parcel tanker shipping industry should contact the Philadelphia Field Office of the Antitrust Division at 215-597-7405.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 5:39 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR OKLAHOMA RESIDENTS CHARGED WITH CONSPIRACY TO FRAUDULENTLY OBTAIN FEMA HURRICANE KATRINA RELIEF FUNDS

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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CONTACT: BOB TROESTER
PHONE: (405) 553-8999
FAX: (405) 553-8888

FOUR OKLAHOMA RESIDENTS CHARGED WITH CONSPIRACY TO FRAUDULENTLY OBTAIN FEMA HURRICANE KATRINA RELIEF FUNDS

OKLAHOMA CITY – A federal grand jury in Oklahoma has indicted four residents for conspiracy to commit wire fraud and theft of public funds related to Federal Emergency Management Agency (FEMA) Hurricane Katrina disaster relief funds announced U.S. Attorney John C. Richter of the Western District of Oklahoma. Those indicted include Kimiesha K. Hill, 24; Laniecia L. Hooper, 40; Doris J. McDaniels, 61; and Thomas Gene Perry, 44; all of Lawton, Okla.

According to the indictment, from September to October of 2005, the defendants, who had suffered no damage from Hurricane Katrina, conspired between themselves and others to submit false and fraudulent on-line applications for Hurricane Katrina relief funds to be sent through the internet from Lawton, Okla., to FEMA's national registration center for disaster assistance located in Denton, Texas. The indictment alleges that based on the false and fraudulent applications, FEMA either electronically wire-transferred $2,000 to the conspirators' bank accounts or mailed $2,000 disaster relief checks to the defendants who either cashed them or deposited them into bank accounts.

According to the indictment, Hill and Hooper solicited and recruited additional conspirators to participate in the fraudulent scheme and provide a portion of the proceeds to previously convicted individuals, Shelia Ann Perry and Jacqueline Marie Sutton, in exchange for the opportunity to participate in the scheme. Two weeks ago, Perry was sentenced to serve 24 months in prison and ordered to pay restitution of $18,000 after pleading guilty to theft of Hurricane Katrina funds. In May, Sutton was sentenced to five years probation and ordered to pay $2000 in restitution after pleading guilty to filing a false claim for FEMA funds.

If convicted, Hill, Hooper, McDaniels and Perry each face up to 10 years in prison and a $250,000 fine.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate, and prosecute disaster-related federal crimes, such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant

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Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office of United States Attorneys, and others.

This case is prosecuted by Assistant U.S. Attorney Jim Robinson.

The public is reminded that the indictment is merely an accusation and that the defendants are presumed innocent unless and until proven guilty. Reference is made to the indictment for further information.

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Image not available for this document, ID: 0.7.10316.34302-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 6:30 PM
To: USDOJ- Office of Public Affairs
Subject: SIX MORE INDICTED IN BATON ROUGE ON FRAUD CHARGES RELATED TO HURRICANE DISASTER RELIEF PROGRAMS

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

SIX MORE INDICTED IN BATON ROUGE ON FRAUD CHARGES RELATED TO HURRICANE DISASTER RELIEF PROGRAMS

BATON ROUGE, La. – A federal grand jury returned indictments against six more Louisiana residents on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today.

Timothy E. DeClouet, 38, of New Iberia, La., was charged in a one-count indictment with wire fraud in obtaining disaster unemployment benefits for alleged losses resulting from Hurricane Rita. DeClouet is charged with defrauding the Louisiana Department of Labor (LDOL) and the Federal Emergency Management Administration (FEMA) by applying for benefits under the disaster unemployment assistance program from on or about Sept. 29, 2005, to on or about June 27, 2006, while allegedly failing to notify LDOL of his employment after the storm. These funds were intended for persons who had become unemployed as a result of the disaster. The charges resulted from an investigation by the Department of Labor's Office of the Inspector General. If convicted, DeClouet faces a maximum sentence of 20 years in prison, a $250,000 fine, or both.

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Wanda Turner, 28, of New Iberia, La., was charged in a one-count indictment with wire fraud in obtaining disaster unemployment benefits for alleged losses resulting from Hurricane Rita. Turner is charged with defrauding LDOL and FEMA by applying for benefits under the Unemployment Insurance program (administered by LDOL and funded from both private employment contributions and the federal government), the Extended Benefits program (also funded from private employment contributions and the federal government), and the disaster unemployment assistance program (administered by the LDOL and funded by FEMA), from on or about Oct. 31, 2005, to on or about May 19, 2006, while allegedly failing to notify LDOL of her employment after the storm. The charges resulted from an investigation by the Department of Labor's Office of the Inspector General. If convicted, Turner faces a maximum sentence of 20 years in prison, a $250,000 fine, or both.

Koieasha Jones, 26, of Baton Rouge, La., was charged in a two-count indictment with making a false and fraudulent claim for disaster assistance benefits and with illegal conversion of a check from FEMA for expedited disaster assistance. The charges resulted from an investigation conducted by the U.S. Secret Service and the U.S. Department of Homeland Security's Office of Inspector General. If convicted on the first count, Jones faces a maximum sentence of five years in prison, a $250,000 fine, or both. If convicted on the second count, Jones faces a maximum sentence of 10 years in prison, a $250,000 fine, or both.

Robin Becnel, 44, of Baton Rouge, La., was charged in a one-count indictment with illegal conversion of a check from FEMA for expedited disaster assistance. The charge resulted from an investigation conducted by the U.S. Secret Service and the U.S. Department of Homeland Security's Office of Inspector General. If convicted, Becnel faces a maximum sentence of 10 years in prison, a $250,000 fine, or both.

Bridgette N. Toney, 24, of Baton Rouge, La., was charged in a two-count indictment with making a false and fraudulent claim for disaster assistance benefits and with making false and fraudulent statements to FEMA The charges resulted from an investigation conducted by the U.S. Department of Homeland Security's Office of Inspector General. If convicted, Toney faces a maximum sentence of five years in prison, a $250,000 fine, or both.

Edwin L. Franklin, 24, of Port Allen, La., was charged in a two-count indictment with making false and fraudulent claims for disaster assistance benefits and with making false and fraudulent

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statements to FEMA. The charges resulted from an investigation conducted by the FBI. If convicted, Franklin faces a maximum sentence of five years in prison, a $250,000 fine, or both.

These six individuals bring to 74 the total number of defendants who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.34298-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 8:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 6, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Justice Department Officials Support President's Announcement (OPA)
Department of Justice officials today participated in interviews supporting the President's announcement on the High Value Terrorist Detainee Program and the Military Commission Act of 2006. Attorney General Alberto R. Gonzales participated in a teleconference with the editorial board of *USA Today* and Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, participated in a background conference call with reporters and a conference call with legal and academic experts.

Deputy Attorney General Testifies before Senate Finance Committee (OPA)
Deputy Attorney General Paul J. McNulty testified today before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*

Acting Assistant Attorney General Testifies Before House Judiciary Subcommittee (OPA)
Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, testified before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security today regarding statutory advisories for the Terrorist Surveillance Program.

Letter from Former DOJ Officials on Thompson Memo (OPA)
Today, former senior DOJ officials sent a letter to Attorney General Gonzales criticizing several of the Department's policies in the Thompson Memorandum for investigating and prosecuting corporate fraud.

Talking Points

- The Department received the letter and appreciates the views of former Justice Department leadership who are now members of the private bar; however, we must disagree with their criticisms of the Thompson Memorandum.

- The Memorandum's guidance is triggered only after prosecutors have determined that a company can be indicted for criminal activity. Rather than "demand" or "require" a corporation's waiver of attorney-client privilege, a corporation may decide to waive its privilege in the course of cooperating with the government's investigation to avoid being criminally charged.

- This is why corporations, in many instances, waive this privilege without the government's request. This guidance does not promote a 'culture of waiver'; it promotes good corporate governance.

FBI Director Mueller Hosted Pen and Pad Briefing with Print Reporters (FBI)
Today, FBI Director Robert Mueller hosted a pen and pad press briefing with select print reporters at FBI Headquarters regarding the state of the FBI five years after Sept. 11.

FBI and DHS Issue Joint Press Release Regarding Fingerprint Identification Systems (FBI)
Today, the Department of Homeland Security (DHS) and the FBI issued a joint press release with updated information regarding the status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System.

DEA Administrator Participates in Pen and Pad Briefing (DEA)
Today, DEA Administrator Karen P. Tandy led a pen and pad briefing with several members of the media including *USA Today*, CNN, NBC, CBS, ABC, *Topics in Pain Management, Pain Medicine News,* and *Government Executive* to discuss a proposed rule that will make it easier for patients with chronic pain or other chronic conditions, to avoid multiple trips to a physician. It will allow a physician to prescribe up to a 90-day supply of Schedule II controlled substances during a single office visit, where medically appropriate.

Former Regional Director of ITXC Corp Pleads Guilty In Foreign Bribery Scheme (Criminal)
A former regional manager of ITXC Corporation pleaded guilty to a one-count criminal information in U.S. District Court in Trenton, N.J. Yaw Osei Amoako, of Hillsborough, N.J., pleaded guilty to conspiring to violate the anti-bribery provisions of the Foreign Corrupt Practices Act and to violate the Travel Act in connection with the payment of approximately $266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers and employees of foreign-owned carriers in various African countries. Amoako faces up to five years in prison and a $250,000 fine.

Filing in U.S. v. Jeffrey Skilling and Kenneth Lay (Criminal)
Today the Government filed a motion in the Southern District of Texas in opposition to the Lay estate's motion to vacate his conviction and dismiss the indictment. The Department also sent to Capitol Hill proposed legislation to ensure restitution and other victims' rights by reversing the judicially created "abatement" doctrine that wipes clean a criminal conviction if the convicted defendant dies between conviction and the conclusion of his direct appeal.

Talking Points

- The proposed legislation does away with the harmful and unwarranted effects of the abatement doctrine. It preserves duly obtained criminal convictions, and protects the rights of crime victims to restitution and the government to forfeiture, while also ensuring fair access to appellate review, which was the primary concern that gave birth to the doctrine.

- Under current law, the abatement doctrine holds that the death of a convicted criminal defendant while his direct appeal is pending negates the entire criminal proceeding, including the effect of the defendant's conviction.

- While common sense requires that punishments such as imprisonment, probationary supervision and fines terminate when a convicted defendant dies, no valid rationale supports abating a remedial measure like restitution to crime victims pursuant to a duly entered restitution order. Similarly, there is no good reason why forfeiture of a convicted defendant's criminal proceeds should not be carried out as a remedial civil action.

Deputy Assistant Attorney General Testifies Before Senate Judiciary Committee (Antitrust)
Today, J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, testified today before the Senate Judiciary Committee. He discussed the Division's efforts to protect competition in the health care marketplace.

Stolt-Nielsen S.A. Indicted on Customer Allocation, Price Fixing, and Bid Rigging Charges for its Role in an International Parcel Tanker Shipping Cartel (Antitrust)
A federal grand jury in Philadelphia today returned an indictment against London-based Stolt-Nielsen S.A., two of its subsidiaries, and two executives for participating in a conspiracy to allocate customers, fix prices, and rig bids on contracts of affreightment for parcel tanker shipping of products to and from the United States and elsewhere. Including today's charges, five companies and five individuals have been charged and fines totaling more than $62.3 million have resulted from the Department's ongoing antitrust investigation of the parcel tanker shipping industry.

Shipping Company Pleads Guilty to Vessel Pollution (Environmental and Natural Resources Division)
The Sun Ace Shipping Company, based in Seoul, South Korea, pleaded guilty today to a one-count information for violating the Act to Prevent Pollution from Ships, in relation to the operation of a bulk carrier vessel the *M/V Sun New*. The defendant, which was the operator and manager of a fleet of five ships, is charged with knowingly failing to maintain an accurate Oil Record Book that fully recorded the disposal of oil residue and bilge into the ocean and then falsifying records to conceal illegal discharges. A joint factual statement filed in District Court in New Jersey stated that, on the night of Jan. 3, 2006, U.S. Coast Guard inspectors boarded the *Sun New* and discovered that members of the engine room crew has used bypass hoses to discharge oily wastes overboard into the ocean without using the vessel's oil-water separator.

Statement of Attorney General Alberto R. Gonzales on the Resignation of Diane M. Stuart, Director of the Office on Violence Against Women (OVW)
Attorney General Alberto R. Gonzales today issued the following statement on the resignation of Diane M. Stuart, Director of the Office on Violence Against Women:

- "Since 2001, Diane Stuart has been a strong advocate for, and defender of, women and families throughout the Nation," said Attorney General Gonzales. "Her leadership in implementing President Bush's Family Justice Center Initiative is a tremendous achievement that will have an ongoing, positive impact on the lives of women, men and children hurt by domestic violence. Diane's service to women and families has made a tremendous difference in countless lives across America."

THURSDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Meet with Editorial Board of *The Wall Street Journal*
Tomorrow, while in New York City, Attorney General Alberto R. Gonzales will meet with the editorial board of *The Wall Street Journal.*

FBI Director Mueller to Participate in Television Interviews
Tomorrow, FBI Director Robert Mueller will participate in one-on-one television interviews with NBC, CNN, ABC, and Fox News regarding the state of the FBI five years after Sept. 11.

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

1:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the Manhattan Institute regarding the Government's International and Domestic Contributions to the War on Terror.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 10:00 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 7, 2006

Department of Justice

PRESS GUIDANCE
Thursday, September 07, 2006

ATTORNEY GENERAL

1:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks focusing on the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror*.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

PRESS RELEASES

The Antitrust Division will issue a release on a merger related matter. (Talamona)

The Bureau of Justice Statistics will issue a release. (Peterson)

EVENTS/HEARINGS

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

10:00 A.M. EDT Microsoft Status Conference Hearing

DOJ_NMG_ 0167467

The Honorable Colleen Kollar-Kotelly
U.S. District Court for the District of Columbia
333 Constitution Ave., NW
Washington, D.C.

Press inquiries regarding logistics should be directed to the U.S. District Court of the District of Columbia at 202-354-3000.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167468

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Image not available for this document, ID: 0.7.10316.34256-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 1:19 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE MANHATTAN INSTITUTE: LAW ENFORCEMENT AND THE PREVENTION OF TERRORISM FIVE YEARS AFTER 9/11

Department of Justice

FOR IMMEDIATE RELEASE — AG
THURSDAY, SEPTEMBER 7, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE MANHATTAN INSTITUTE:
LAW ENFORCEMENT AND THE PREVENTION OF TERRORISM FIVE YEARS AFTER 9/11

NEW YORK, NEW YORK

Good morning.

I am honored to be here in New York, to talk with you about our shared efforts to protect American neighborhoods and communities.

As we approach the fifth anniversary of the attacks on September 11, it is natural that Americans look back and take stock of where we are and what we have accomplished together as a nation. The President and others in his administration have spoken often, and will continue to speak, to the American people about the current threat of terrorism. I intend to talk about it today in the context of law enforcement cooperation.

But before I do, let me assure you that I have not forgotten about the need to address traditional, non- terrorism crime on the streets of our cities, towns and neighborhoods. I know all of you are well aware of the ongoing battle against traditional criminals in our country because you are the on the front line, day in and day out. We have not and will not lose sight of the need to assist you in the fight against the sexual predators, the drug dealers, and the gangs that terrorize law-abiding citizens in our communities.

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I intend to continue to pursue more resources to help you, and I hope to be able to provide additional training, investigators and prosecutors to address traditional crimes. We must remember, however, that while there are more than 800,000 state and local law enforcement officials in this country, there are only 12,000 federal law enforcement officials. In a post 9/11 world, the number one priority of federal law enforcement agencies must be the prevention of another terrorist attack…a mission that I know you understand we all share.

No one can truly be free to pursue the American dream—even in neighborhoods free of drugs, gangs and violent crime—if they live in fear of a terrorist attack. All of us in government – in law enforcement , in intelligence and in the military – have accomplished a great deal to protect our neighborhoods over the past five years because we didn't wait to act. We began thinking through our response on the very day of the attacks.

Five years ago on September 11th, just before 7:00 that night, I was waiting for the return of Marine One to the South Lawn of the White House. I stood outside the Oval Office with former Counselor to the President Karen Hughes, ready to meet the President and begin the work of defending America.

The President was purposeful when he arrived. His face was serious as he approached me and Karen. As he met us and then entered the White House he didn't say a word – he just nodded his head slightly. We followed him into the Oval Office – which was being set up for his 8:30 address to the nation – and then into his private dining room.

There, the three of us sat down with Condi Rice, Andy Card and Ari Fleischer, rolled up our sleeves and we started to work.

***

This battle against terrorism is fought on a clock that never stops and our partnership is one that must never have gaps. You know this all too well. So I'm glad to have this chance to talk with all of you about what we are doing, <u>together</u>, to prevent terrorist attacks… what <u>our</u> network is doing to stop and ultimately defeat <u>their</u> network.

If there is one thing that all Americans will be thinking and saying when we mark a terrible anniversary on Monday, it will be the simple phrase "never again." And the goal of "never again" cannot be achieved by the federal government alone, by any state government alone, or by any local police force alone. Our network of prevention is instead the key to protecting the American people.

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When Vice President Cheney spoke to the Manhattan Institute in January, he pointed out that terrorists were at war with our country long before September 11th. They had killed American soldiers in Beirut in 1983 and in Mogadishu in 1993. They had bombed our embassies in Kenya and Tanzania in 1998. They had attacked the USS Cole in 2000. They had even struck our homeland once before, attempting to destroy the World Trade Center in 1993.

But it was on September 11th, 2001, that the United States of America said "enough," "no more," and "never again."

Since then we have been on the offensive and we have made significant progress.

We've taken away the "home base" for al Qaeda in Afghanistan. We've destroyed training camps, cut off funding channels, and disrupted means of communication.

Architects of the September 11th attacks have been captured and interrogated… and we have learned vital information from them which has enabled us to prevent further attacks. As you heard the President announce yesterday, Khalid Sheikh Mohammed, Abu Zubaydah, and Ramzi bin al Shibh today await justice at Guantanamo Bay.

We have disrupted plots and put homegrown radicals behind bars. As we all know, in early August, British authorities disrupted what would have been a major terrorist attack with massive casualties.

In that case, and in plot disruptions on our own soil involving homegrown radicals, we have seen the evolution of the threat since the destruction of al Qaeda's home base.

Today, al Qaeda stays organized and active in cyberspace, where their ideology recruits, inspires and radicalizes others. Their virtual outreach – as you well know – is finding disaffected souls in neighborhoods, mosques, prisons and universities all over the world, including our own backyards.

No two terror cells or plots are alike. Some are directly linked to al Qaeda, some are inspired by the ideology and seek actual ties with the group after they begin plotting, and some are simply inspired by the hatred without the ability to organize internationally. But there is a clear trend in al Qaeda's efforts to recruit terrorists who already live in the countries targeted for attack.

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Recently, we've seen would-be terrorists who were – at the very least – inspired by al Qaeda's ideology in London and Madrid, in Los Angeles, Toledo, Miami and Atlanta.

Some homegrown terrorists have stronger ties to al Qaeda than others, but they all appear to be part of a well-organized and flexible global network of terror bound by fanaticism, by a terrible common cause of murder and destruction.

It takes a network to defeat a network. Our network, bound by the common cause of stopping the terrorists, is a formidable force, one that will ultimately prevail in this war.

A successful network must have three primary characteristics:

First, outstanding coordination of partners and resources. Second, constant flexibility. And third, perhaps most important, an infinite passion to prevail.

We take the terrorist threat so seriously because we recognize that their network possesses those characteristics.

Fortunately, our network has them, too.

Coordination

First, let's talk about coordination – theirs and ours.

As I mentioned before, the Internet has enabled our enemy to reach out to a global audience of potential terrorists. With a reduced ability to recruit and train on a home base, radical websites and the periodic release of key messages from al Qaeda leadership seek to find and encourage network membership all over the world.

They've put other modern technologies to use as well: Cell phones keep the terrorist network in touch, an inexpensive and universally available form of information-sharing and collaboration that knows no borders.

They use digital cameras to document potential targets – creating surveillance files that can be easily and widely shared. Their research, contained on something as small as a thumb-drive or CD, is easily slipped in a pocket or an envelope – for travel or shipping and eventual sharing with partners all over the globe.

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As Commissioner Andy Hayman knows, technology has been integral to terrorist communications. Information shared about target locations, such as New York or Washington, can be sent over the internet in a matter of moments to cities in the United States, the United Kingdom or around the globe. In a recent case, our network disrupted theirs. We must imagine, however, that digital research is traveling from city to city every single day as terrorist partners help one another pursue their horrific goals.

Coordination within our network is both national and international, aided by advanced technology as well. And since terrorists only have to succeed once and our efforts have to succeed every time, our coordination has to be even better than theirs.

Last month's disruption of the UK bomb plot highlights the success of international cooperation. Our prosecutors train one another and share and protect one another's sensitive intelligence. The level of cooperation between the United States and our foreign counterparts is outstanding and is truly the untold story of the war on terror.

At home, as you know, we have dramatically improved collaboration among federal, state and local intelligence and law enforcement agencies. The Patriot Act officially brought down the wall between intelligence and law enforcement investigations, but our respect for one another and our shared purpose of protecting American citizens has been just as important in bringing down the wall in practice – in establishing a new mentality of constant sharing and communicating.

I'm extremely proud of our teamwork and mutual respect; I hope everyone in this room today who works in law enforcement is as well.

Joint Terrorism Task Forces are perhaps the best example of how the walls that used to divide us are simply gone, how law enforcement and intelligence are woven together like one continuous piece of fabric.

In JTTFs, federal, state and local officials work side-by-side, as one seamless team, sharing access to data and working together on analysis – because it is easier to connect the dots when all of those dots are shared on common ground.

JTTFs are the "eyes and ears" of communities around the country, and since September 11th we have increased the number of JTTFs from 35 to 103.

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Chief Bratton, from Los Angeles, can attest to how well the JTTF structure works. Because it was a local officer in your area who worked in a JTTF who connected the dots that led to the eventual arrest of radicals plotting to attack government buildings and synagogues in Los Angeles last August. Chief Timoney, you also saw the effectiveness of the JTTF structure because of the work done to disrupt the cell targeting Miami in Liberty City.

These cases are good examples of what happens when resources are pooled and partners with specific skill-sets work together. A local cop is uniquely equipped to notice when something just isn't right in their own communities, and to aggressively follow-up -- when robberies are really the means to accomplish something else ... as was done in the case of those gas station hold-ups in LA. or as was done in Charlotte, North Carolina when local law enforcement observed vans being loaded with cigarettes which led to uncovering a Hizballah cell; or in Western Washington when local law enforcement observed individuals in remote locations shooting guns which led to uncovering the planning of a terrorist training camp.

The federal government offers the best, most comprehensive databases where local cops can find out if their gut instincts are correct. When a good "nose" for foul play is working side-by-side with a comprehensive source of intelligence, dots are connected and our network is performing at its best. Coordination leads to victory, one plot disruption at a time.

Flexibility

Next, flexibility.

In the terrorist network, this means changing, quickly, the location and coordination of training when the home base is dismantled. It means recognizing that shoe bombs don't work, so liquid explosives need to be developed.

Five years ago it meant using boxcutters and the element of surprise.

Our enemy is creative and sharp. They learn from their mistakes and literally brainstorm, every day, about new ways to surprise us, new ways to destroy us. Their imaginations are evil, but also nimble – which is a deadly combination.

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This flexible approach is embraced by all terrorist followers. So dedicated are they to their cause that they will adjust to whatever environment and circumstance they face to continue forth with their goals.

Our network is nimble as well. We brainstorm, too, about what the enemy might do next and how we can stop them. We employ experts who strive to forecast the terrorists' depraved creativity.

We watch, closely, how their network is evolving and we make adjustments to our tactics and focus accordingly. For example, right now, we know that local police departments are in the best position to identify homegrown radicals, so our network will be led by you on that front; we are flexible enough to shift leads as needed.

When necessary, we have developed tools to increase our flexibility. The Terrorist Surveillance Program helped us to quickly adapt to a situation in which we needed to collect intelligence quickly, from sources and technologies that we had never mined before.

We also quickly changed the way we looked at the traditional equation of criminal justice, which used to be:

- A crime is committed.
- An investigation ensues.
- An arrest is made.
- Prosecution finishes the story.

We had to change this storyline for terrorists because we cannot, we will not, wait for terrorist acts to be committed before apprehending and prosecuting these criminals.

We seek to arrest them for the crime of plotting to commit terrorist acts against our country or for other crimes that they are committing as part of their plot development.

Flexibility even within this new equation is crucial because no two cases are the same and decisions about when to arrest are difficult ones that must be made on a case-by-case basis by career professionals using their best judgment – keeping in mind that we need to protect sensitive intelligence sources and methods and sometimes rely upon foreign evidence in making a case.

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I think that our network's flexibility when it comes to investigation and prosecution has been successful, but I will note that there is one thing that we won't be flexible on, and that's adherence to civil liberties and the rule of law. We can be adaptable in our fight, but our Constitution is always the stable ground from which we spring.

Passion

I want to conclude my remarks with a discussion of passion: theirs and ours. Because it is this element of our networks that will be a test of wills… and our will to save lives and freedom simply must prevail over their will to destroy them.

Their network is bound by ideological fanaticism… by hate and a desire to destroy our way of life so that their beliefs can prevail over the world's people.

Our network is bound by what may be more simply described as the love of justice and a desire to protect what we know is good.

We are motivated by our love of freedom. Our love for our children. And by a deeply-held belief that our beloved country is the beacon of hope for the world because of its embrace of liberty. We have an inherent sense that what our Founding Fathers established here is something very much worth protecting

Their network does not tire. Their passion is an infinite fuel that we have seen burning for decades.

And our network, as the President has often said, will not tire, will not falter, and will not fail. Because our passion is actually deeper than theirs, and our defense of freedom will be eternal.

I had a chance, last week, to visit for the second time the front-lines of the war on terror in Iraq. And the steadfast resolve of our men and women in uniform, as well as our civil servants who are there to help the Iraqi people stand up their new government, was inspirational.

These men and women work in a dangerous environment, with daily temperatures well over 100 degrees. They are away from their families. But everyone I met was energetic and proud…so proud to serve a country that has given us all so much. The Americans on the front lines believe what they are doing is important, so important

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that they are willing to risk their lives for the mission. Just being in their presence made this grandson of immigrants so incredibly proud to be an American.

To have seen these men and women at work in Iraq, and every day here at home in the ranks of law enforcement, is to know that we will prevail in this decisive ideological struggle.

During a previous, world-wide ideological struggle, Winston Churchill's passion and dedication in the midst of a war was evident in these words:

"Never give in--never, never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy."

In our jobs, in our network, never giving in means we steadfastly pursue the goal, every day, of preventing terrorism, of protecting free and innocent souls.

Our network will prevail. And I'm proud to serve in it, side-by-side with all of you.

Thank you. May God bless you and may he continue to bless this great nation.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 1:43 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: VIOLENT CRIME RATE UNCHANGED DURING 2005, THEFT RATE DECLINED

EMBARGOED FOR RELEASE UNTIL SUNDAY, SEPTEMBER 10, 2006 AT 4:30 P.M. EDT
THE REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT
SUNDAY, SEPTEMBER 10, 2006
www.ojp.usdoj.gov/bjs

Bureau of Justice Statistics
Contact: Stu Smith: 202-307-0784
After hours: 301-983-9354

VIOLENT CRIME RATE UNCHANGED DURING 2005, THEFT RATE DECLINED

WASHINGTON — The violent crime rate in 2005 was unchanged from the previous year, the Justice Department's Bureau of Justice Statistics (BJS) announced today. However, the property crime rate declined from 2004 to 2005 because of a decrease in theft.

Last year's criminal victimizations included an estimated 18 million property crimes (burglaries, motor vehicle thefts and household thefts); 5.2 million violent crimes (rapes or sexual assaults, robberies, aggravated assaults and simple assaults); and 227,000 personal thefts (picked pockets and snatched purses). Measured offenses include those reported to police as well as those that go unreported. With the exception of theft, victimization rates for every type of crime measured were unchanged from their 2004 levels.

Violent crime and property crime rates in 2005, as estimated by BJS's National Crime Victimization Survey, are at the lowest levels recorded since 1973 — the first year that such data were available. The rate of every major violent and property crime measured by the survey fell significantly between 1993 and 2005. The violent crime rate fell 58 percent during that period, and the property crime rate declined by 52 percent. The number of violent crimes decreased from an estimated 11 million in 1993 to 5.2 million in 2005.

The survey compared two-year average crime rates, 2002-03 vs. 2004-05, and found no changes in the rates for the major types of violent and property crime. However, there was some indication that the average annual rates of attempted or threatened violence, completed robbery with injury, and simple assault without injury declined from 2002-03 to 2004-05. Annual data on criminal victimization for 2005 are available on the BJS Web site at: www.ojp.usdoj.gov/bjs/pubalp2.htm

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Most demographic groups examined did not experience a change in violent or property crime rates from 2002-03 to 2004-05. Among the groups that experienced declines in violent crime rates were females, persons who have never been married, 16-19 year olds, persons residing in households earning less than $7,500 per year, and those residing in suburban areas. Households in the Northeast experienced a decline in property crime. No demographic group that was examined experienced an increase in violent or property crime during this time period.

Between 1993 and 2005 the overall rate of firearm violence declined from 5.9 per 1,000 persons age 12 or older to two per 1,000. In 2004 the rate was 1.4 per 1,000 and in 2003 it was 1.9 per 1,000. During 2005 offenders armed with a firearm accounted for nine percent of all non-lethal violent crimes.

The percentage of violent and property crimes reported to the police remained unchanged between 2004 and 2005. In 2005, 47 percent of violent crimes and 40 percent of property crimes were reported to police. Thirty-eight percent of rapes and sexual assaults were reported to the authorities, as were 42 percent of simple assaults, 52 percent of robberies and 62 percent of aggravated assaults. About 83 percent of motor vehicle thefts were reported.

The report, "Criminal Victimization, 2005" (NCJ-214644) was written by BJS statistician Shannan M. Catalano. Following publication, the report can be found at www.ojp.usdoj.gov/bjs/abstract/cv05.htm.

For additional information about the Bureau of Justice Statistics statistical reports programs, please visit the BJS Web site at: www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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U.S. Department of Justice
Office of Justice Programs

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Bureau of Justice Statistics Bulletin

September 2006, NCJ 214644

National Crime Victimization Survey

Criminal Victimization, 2005

by Shannan M. Catalano, Ph.D.
BJS Statistician

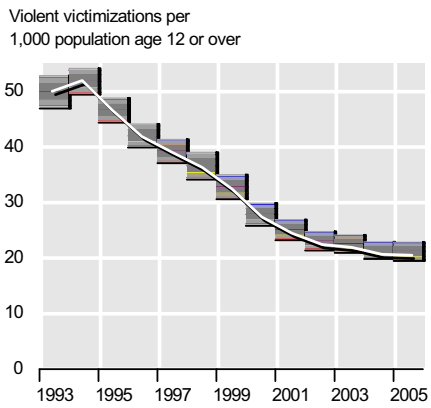
In 2005 U.S. residents age 12 or older experienced an estimated 23 million violent and property victimizations, according to the National Crime Victimization Survey (NCVS). These criminal victimizations included an estimated 18 million property crimes (burglary, motor vehicle theft, and theft), 5.2 million violent crimes (rape or sexual assault, robbery, aggravated assault, and simple assault), and 227,000 personal thefts (pocket picking and purse snatching).

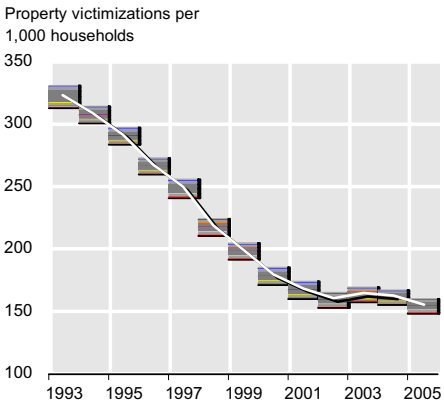
Because of a decline in the rate of theft, the overall property crime rate declined between 2004 and 2005. Victimization rates for every other major type of crime measured by the survey were unchanged. For completed robbery with injury and simple assault without minor injury, aggregate rates for the period 2004-05 were somewhat lower than those for 2002-03. The 1-year (2004-2005) and 2-year (2002-03 to 2004-05) change estimates indicate that at the national level crime rates remain stabilized at the lowest overall levels experienced since 1973.

Between 1993 (when the NCVS was redesigned) and 2005, the violent crime rate decreased 58%, from 50 to 21 victimizations per 1,000 persons age 12 or older. Property crime declined 52%, from 319 to 154 per 1,000 households.

Highlights

The overall violent crime rate remained unchanged between 2004 and 2005, while the property crime rate declined





Each vertical bar shows the range within which the true victimization rate was likely to fall.
For discussion of displaying estimates, see <http://www.ojp.usdoj.gov/bjs/abstract/dvctue.htm>.

- For most crimes, aggregated rates for the two-year period 2004-05 were unchanged from 2002-03, while minor declines were seen for some forms of robbery and simple assault without injury.
- From 1993 to 2005, the violent crime rate was down 58%, from 50 to 21 victimizations per 1,000 persons age 12 or older.
- During 2005, 24% of all violent crime incidents were committed by an armed offender, including 9% by an offender with a firearm.
- The rate of firearm violence increased between 2004 and 2005, from 1.4 to 2.0 victimizations per 1,000 persons age 12 or older.
- Males were most vulnerable to violence by strangers (54% of the violence against males), while females were most often victimized by nonstrangers (64%).
- Males, blacks, and persons age 24 or younger continued to be victimized at higher rates than females, whites, and persons age 25 or older in 2005.
- During 2005, 47% of all violent victimizations and 40% of all property crimes were reported to the police.

In 2005, according to victims, 47% of violent crimes were reported to the police, up from 43% in 1993. The proportion of property crimes reported to the police also increased to 40% in 2005, from 33% in 1993.

Criminal victimization, 2004-05

The NCVS collects data on nonfatal crimes against persons age 12 or older, reported and not reported to the police, from a nationally representative sample of U.S. households. (See *Methodology*, page 11.) Information on homicide is obtained from the Uniform Crime Reporting (UCR) program of the FBI.

Crimes measured by the NCVS

Violent crimes include rape or sexual assault, robbery, aggravated assault, and simple assault. Property crimes include household burglary, motor vehicle theft, and theft.

The overall violent crime rate remained stable between 2004 and 2005, while the overall property crime rate declined due to a drop in household theft from 123 to 116 victimizations per 1,000 households.

Murder/nonnegligent manslaughter

Based on preliminary 2005 data from the FBI, the number of persons murdered in the United States increased 4.8% between 2004 and 2005. In 2004, 16,140 persons were murdered; the estimate for 2005 is about 16,910 victims of murder. Based on these preliminary data, the homicide rate for 2005 is an estimated 5.7 per 100,000 individuals.

Preliminary data suggest that while increases in the number of murders occurred in all regions of the country, the greatest increases were in the Midwest (5.8%) and South (5.3%).

Table 1. Criminal victimization, numbers and rates, 2004 and 2005

	Number of victimizations		Victimization rate (per 1,000 persons age 12 or older or per 1,000 households)	
Type of crime	2004	2005	2004	2005
All crimes	24,061,140	23,440,720	~	~
Violent crimes[a]	5,182,670	5,173,720	21.4	21.2
Rape/sexual assault	209,880	191,670	0.9	0.8
Robbery	501,820	624,850	2.1	2.6
Assault	4,470,960	4,357,190	18.5	17.8
Aggravated	1,030,080	1,052,260	4.3	4.3
Simple	3,440,880	3,304,930	14.2	13.5
Personal theft	224,070	227,070	0.9	0.9
Property crimes	18,654,400	18,039,930	161.1	154.0*
Household burglary	3,427,690	3,456,220	29.6	29.5
Motor vehicle theft	1,014,770	978,120	8.8	8.4
Theft	14,211,940	13,605,590	122.8	116.2*

Note: The total population age 12 or older was an estimated 241,703,710 in 2004 and 244,493,430 in 2005.
The total number of households was 115,775,570 in 2004 and 117,110,800 in 2005.
~Not applicable.
*The difference from 2004 to 2005 is significant at the 95%-confidence level.
[a]The NCVS is based on interviews with victims and therefore cannot measure murder. See *Methodology,* pages 11 and 12.

Murder and victim characteristics, 2004

In 2004, the year in which the most recent comprehensive data are available, the FBI reported a total of 16,140 murders or nonnegligent manslaughters. The total represented a 2.4% decrease from the 16,530 murders recorded in 2003. The FBI defines murder in its annual *Crime in the United States* as the willful (nonnegligent) killing of one human being by another. Justifiable homicides, attempted murder, and deaths caused by negligence, suicide, or accident are not included. The FBI's UCR program collects data on murder from over 17,000 city, county, and State law enforcement agencies.

Though the rate and level of homicide change from year to year, the relationship between victim characteristics and homicide tends to remain the same. For example, as in previous years, in 2004 —

- Most murder victims were male (78%).
- When the race of the murder victim was known, about half were white (49.8%), almost half were black (47.6%), and about 2.6% were of another race.
- When information on the victim-offender relationship was available, 77% of the offenders were known to the victim, while 23% were a stranger to the victim.
- Firearms were used in the majority of murders (70%).
- Offenders were most often male (90%) and age 18 or older (92%).
- Homicide is generally intraracial.
- Arguments were the most often cited circumstance leading to murder (44%).
- Homicides occurred in connection with another felony (such as rape, robbery, or arson) in 23% of incidents.

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Criminal victimization, 2002-03 and 2004-05

Comparing the 2-year average annual rates, criminal victimization changed somewhat in three sub-categories of crime rates from 2002-03 to 2004-05 (text box, table 2).

During this period there were indications that the average annual rates of attempted or threatened violence, completed robbery with injury, and simple assault without injury declined somewhat from 2002-03 to 2004-05.

Estimating change in crime victimization rates

Since 1995 the NCVS has undergone sample reductions because of the escalating costs of data collection. At the same time, the rate of crime remains at the lowest levels in the past thirty years. The combination of the two — fewer survey respondents and less crime — has resulted in a diminished ability to detect statistically significant year-to-year changes in rates.

Comparing 2-year average rates provides a picture of the continuing decline in some categories of crime. Annual detailed tables of victimization counts and per capita rates are located on the BJS website at <www.ojp.usdoj.gov/bjs/abstract/cv05.htm>.

Table 2. Criminal victimization, average annual number and rates, 2002-2003 and 2004-05

	Average annual number of victimizations		Average annual victimization rate (per 1,000 persons age 12 or older or per 1,000 households)		
Type of crime	2002-03	2004-05	2002-03	2004-05	Percent change[a]
All crimes	23,624,420	23,750,930	~	~	
Personal crimes[b]	5,541,620	5,403,770	23.5	22.2	-5.6%
Crimes of violence	5,371,570	5,178,200	22.8	21.3	-6.6
Completed violence[c]	1,704,040	1,697,830	7.2	7.0	-3.5
Attempted/threatened violence	3,667,530	3,480,370	15.6	14.3	-8.1‡
Rape/Sexual assault	223,290	200,780	0.9	0.8	-12.9
Rape/Attempted rape	142,380	115,570	0.6	0.5	-21.4
Rape	81,320	64,080	0.3	0.3	-23.7
Attempted rape	61,060	51,500	0.3	0.2	-18.3
Sexual assault	80,910	85,210	0.3	0.4	2.0
Robbery	554,310	563,340	2.4	2.3	-1.6
Completed/property taken	381,880	357,280	1.6	1.5	-9.4
With injury	165,090	126,520	0.7	0.5	-25.8‡
Without injury	216,780	230,770	0.9	0.9	3.1
Attempted to take property	172,440	206,060	0.7	0.8	15.7
With injury	48,160	67,550	0.2	0.3	35.9
Without injury	124,290	138,520	0.5	0.6	7.9
Assault	4,593,970	4,414,080	19.5	18.2	-6.9
Aggravated	1,045,610	1,041,170	4.4	4.3	-3.6
With injury	338,930	354,050	1.4	1.5	1.2
Threatened with weapon	706,680	686,890	3.0	2.8	-5.9
Simple	3,548,360	3,372,910	15.1	13.9	-7.9
With minor injury	837,770	846,680	3.6	3.5	-2.1
Without injury	2,710,590	2,526,230	11.5	10.4	-9.7‡
Personal theft[d]	170,050	225,570	0.7	0.9	28.5
Property crimes	18,082,800	18,347,170	161.1	157.6	-2.2%
Household burglary	3,225,670	3,441,960	28.7	29.6	2.8
Completed	2,703,910	2,904,810	24.1	24.9	3.5
Forcible entry	1,016,990	1,082,000	9.1	9.3	2.5
Unlawful entry without force	1,686,920	1,822,820	15.0	15.7	4.1
Attempted forcible entry	521,770	537,150	4.6	4.6	-0.8
Motor vehicle theft	1,010,620	996,450	9.0	8.6	-5.0
Completed	772,070	776,940	6.9	6.7	-3.0
Attempted	238,550	219,520	2.1	1.9	-11.3
Theft	13,846,520	13,908,770	123.4	119.4	-3.2
Completed[e]	13,379,380	13,350,110	119.2	114.6	-3.8
Less than $50	4,188,450	4,096,570	37.3	35.2	-5.7
$50-$249	4,603,610	4,751,350	41.0	40.8	-0.5
$250 or more	3,323,300	3,245,710	29.6	27.9	-5.9
Attempted	467,140	558,660	4.2	4.8	15.3

Note: The total population age 12 or older was 231,589,260 in 2002; 239,305,990 in 2003; 241,703,710 in 2004; and 244,493,430 in 2005. The total number of households was 110,323,840 in 2002; 114,136,930 in 2003; 115,775,570 in 2004; and 117,110,800 in 2005.
~Not applicable.
‡The difference from 2002-2003 to 2004-05 is significant at the 90%-confidence level.
[a]Percent change was calculated using unrounded rates.
[b]The NCVS is based on interviews with victims and therefore cannot measure murder.
[c]Completed violent crimes include rape, sexual assault, robbery with or without injury, aggravated assault with injury, and simple assault with minor injury.
[d]Includes pocket picking, completed purse snatching, and attempted purse snatching.
[e]Includes thefts with unknown losses.

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Comparing victim characteristics, 2002-03 and 2004-05

Violent victimization rates remained unchanged from 2002-03 to 2004-05 for most demographic categories of victims examined.

Gender

Violent crime rates for females declined somewhat from 2002-03 to 2004-05.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Male	25.9	25.2	-2.6%
Female	19.9	17.6	-11.7‡

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Marital status

Rates of violence against persons who were never married declined somewhat from 2002-03 to 2004-05, from 42 to 38 victimizations per 1,000 persons age 12 or older.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Never married	42.4	38.4	-9.5%‡
Married	10.4	10.0	-3.9
Widowed	5.3	5.0	-4.5
Divorced/separated	33.0	32.3	-2.0

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Age

For persons 16 to19 years old, violent crime rates fell from 56 to 45 victimizations per 1,000 persons. Despite apparent differences, there was no detectable change for persons in other age groups.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
12-15 years	48.1	46.9	-2.5%
16-19 years	55.6	45.0	-19.0*
20-24 years	45.4	45.0	-0.9
25-34 years	26.3	23.7	-10.0
35-49 years	18.3	17.7	-3.5
50-64 years	10.5	11.2	6.8
65+ years	2.7	2.3	-15.1

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

Annual household income

There are indications that the rate of violent victimization declined for persons in households earning less than $7,500 per year. There was no detectable change for persons in other income categories.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Less than $7,500	47.7	38.1	-20.2%‡
$7,500-$14,999	31.1	32.9	5.6
$15,000-$24,999	28.1	27.1	-3.5
$25,000-$34,999	26.0	24.1	-7.4
$35,000-$49,999	23.5	22.0	-6.1
$50,000-$74,999	20.8	21.6	3.8
$75,000 or more	18.2	16.7	-8.2

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Region and location of residence

Crime rates remained stable for persons residing in all regions of the country (Northeast, Midwest, South, and West). Between 2002-03 and 2004-05, violent crime decreased 12% for persons residing in suburban areas but remained unchanged in urban and rural areas.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Northeast	19.9	17.7	-11.4%
Midwest	24.7	23.4	-5.3
South	20.4	19.1	-6.5
West	27.3	25.7	-5.8
Urban	30.6	29.4	-3.9%
Suburban	20.7	18.3	-11.7*
Rural	18.0	18.1	0.7

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

Comparing household characteristics, 2002-03 and 2004-05

Annual household income

Property crime rates were unchanged for households in all income categories between 2002-03 and 2004-05.

	Average annual rate of property crimes per 1,000 households		
	2002-03	2004-05	Percent change
Less than $7,500	196.8	198.8	1.0%
$7,500-$14,999	167.2	177.9	6.4
$15,000-$24,999	175.7	169.0	-3.8
$25,000-$34,999	171.3	171.5	0.1
$35,000-$49,999	176.3	168.1	-4.7
$50,000-$74,999	163.3	161.4	-1.2
$75,000 or more	173.3	173.7	0.2

Region, location, and homeownership

A decline of 12% in property crime rates was measured in the Northeast, 2002-03 to 2004-05. No difference in rates was observed in other regions of the country.

Despite apparent changes, rates of property crime remained stable for households in urban (207), suburban (142), and rural (130) areas.

From 2002-03 to 2004-05, average annual property crime rates remained stable for residential renters and homeowners.

	Average annual rate of property crimes per 1,000 households		
	2002-03	2004-05	Percent change
Northeast	119.5	105.5	-11.7%*
Midwest	158.0	162.2	2.7
South	154.3	152.5	-1.1
West	213.5	205.3	-3.8
Urban	215.8	207.3	-3.9%
Suburban	145.1	142.3	-1.9
Rural	127.6	129.8	1.7
Owned	140.0	139.6	-0.3%
Rented	206.7	196.8	-4.8

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

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Table 3. Rates of criminal victimization and percent change, 1993 and 2005

Type of crime	Victimization rates (per 1,000 persons age 12 or older or per 1,000 households) 1993	2005	Percent change[a] 1993-2005
Personal crimes[b]	52.2	22.1	-57.7%*
Crimes of violence	49.9	21.2	-57.6*
Completed violence[c]	15.0	6.8	-54.8*
Attempted/threatened violence	34.9	14.4	-58.8*
Rape/Sexual assault	2.5	0.8	-68.6*
Rape/Attempted rape	1.6	0.5	-66.7*
Rape	1.0	0.3	-71.6*
Attempted rape	0.7	0.2	-64.5*
Sexual assault	0.8	0.3	-68.5*
Robbery	6.0	2.6	-57.4*
Completed/property taken	3.8	1.7	-55.3*
With injury	1.3	0.6	-55.1*
Without injury	2.5	1.1	-55.4*
Attempted to take property	2.2	0.9	-61.0*
With injury	0.4	0.3	-34.1
Without injury	1.8	0.6	-67.0*
Assault	41.4	17.8	-57.0*
Aggravated	12.0	4.3	-64.1*
With injury	3.4	1.4	-60.3*
Threatened with weapon	8.6	3.0	-65.7*
Simple	29.4	13.5	-54.0*
With minor injury	6.1	3.3	-46.7*
Without injury	23.3	10.3	-55.9*
Personal theft[d]	2.3	0.9	-59.6*
Property crimes	318.9	154.0	-51.7%*
Household burglary	58.2	29.5	-49.3*
Completed	47.2	24.8	-47.5*
Forcible entry	18.1	9.1	-49.6*
Unlawful entry without force	29.1	15.6	-46.2*
Attempted forcible entry	10.9	4.7	-56.5*
Motor vehicle theft	19.0	8.4	-56.0*
Completed	12.4	6.6	-46.7*
Attempted	6.6	1.7	-73.7*
Theft	241.7	116.2	-51.9*
Completed[e]	230.1	112.0	-51.3*
Less than $50	98.7	34.8	-64.7*
$50-$249	76.1	39.8	-47.8*
$250 or more	41.6	27.6	-33.7*
Attempted	11.6	4.2	-64.0*

Note: In 1993 the total population age 12 or older was 211,524,770; and 244,493,430 in 2005.
The total number of households in 1993 was 99,927,410; and 117,110,800 in 2005.
*The difference is significant at the 95%-confidence level.
[a]Differences between the annual rates shown do not take into account changes that may have occurred during interim years.
[b]The NCVS is based on interviews with victims and therefore cannot measure murder.
[c]Completed violent crimes include rape, sexual assault, robbery with or without injury, aggravated assault with injury, and simple assault with minor injury.
[d]Includes pocket picking, completed purse snatching, and attempted purse snatching.
[e]Includes theft with unknown losses.

Victimization trends, 1993-2005

The rate of every major violent and property crime measured in the NCVS — rape or sexual assault, robbery, aggravated assault, simple assault, burglary, theft, and motor vehicle theft — fell significantly between 1993 and 2005 (table 3).

Violent crime

The overall violent crime rate fell 58% from 50 to 21 violent victimizations per 1,000 persons age 12 or older between 1993 to 2005 (figure 1). Other significant declines were measured in the rates of rape or sexual assault (down 69%), robbery (down 57%), aggravated assault (down 64%), and simple assault (down 54%).

Property crime

From 1993 through 2005, the rate of overall property crime declined significantly, as did the rate for all major types of property crime (figure 2). The household burglary rate fell 49%; the motor vehicle theft rate fell 56%; and the theft rate fell 52%. The declines in motor vehicle theft and theft were greater for attempted crimes than for completed crimes.

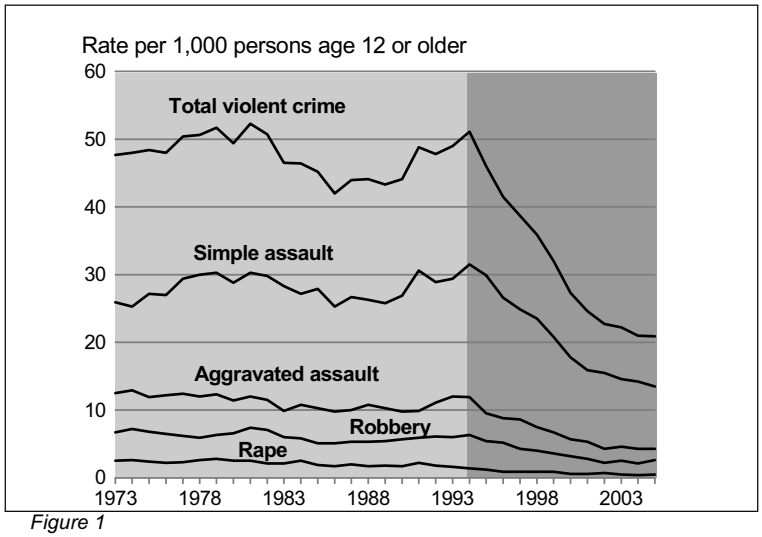

Figure 1

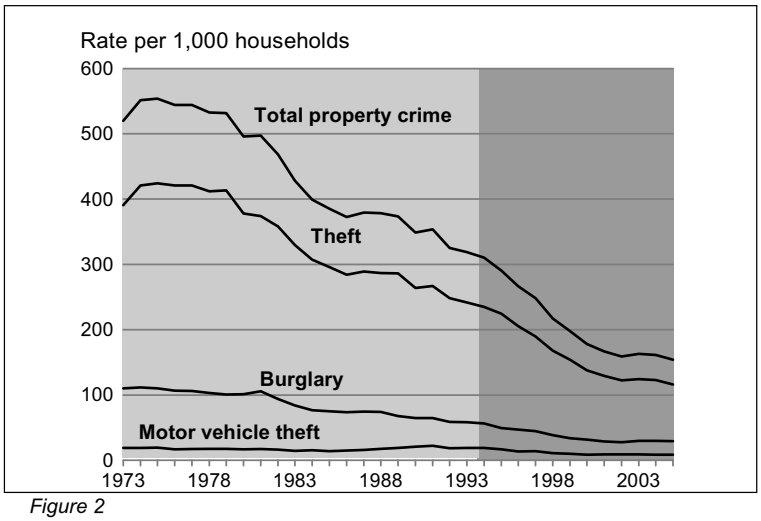

Figure 2

Note: Data collected before the NCVS redesign during 1992 (the lightly shaded areas) have been made comparable to the post-redesign data. All data was re-estimated to account for the effects of the redesign. Rape excludes sexual assault for this trend analysis.

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Characteristics of victims, 1993-2005

Violent victimization declined in every demographic group between 1993 and 2005 (table 4). For males, the rate of violence declined 57%, from 60 to 26 victimizations per 1,000 males. The rate of violence against females declined by 58%, from 41 to 17 victimizations per 1,000 females.

In 2003 new definitions for race and ethnicity were implemented in the NCVS survey that prevent long term comparisons (See *Methodology* on page 11 for further details). Using these new definitions, in 2005 the rate of violence for whites was 20.1 per 1,000; for blacks, 27.0 per 1,000; and for other races (American Indian, Alaska Native, Asian, Native Hawaiian and Pacific Islander), 13.9 per 1,000.

Violent crime rates declined 39% for victims residing in households earning $15,000 to $24,999 per year, from 49 to 30 victimizations per 1,000 persons age 12 or older. Violent crime rates for individuals living in households in all other income categories declined by nearly 50% or more.

Property crime rates fell for every demographic group considered between 1993 and 2005 (figures 4, 5, and 6 and table 5). Households in every region of the country experienced declines in property crime

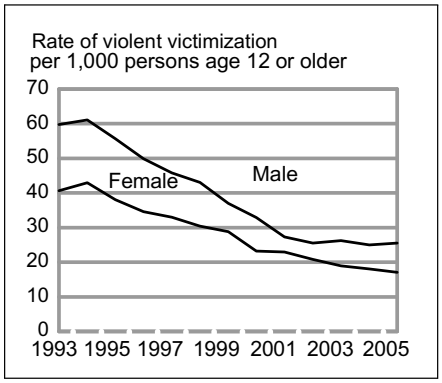

Figure 3 - Violent crime and gender

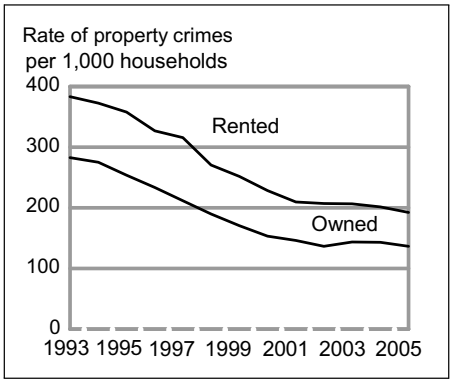

Figure 4 - Property crime and homeownership

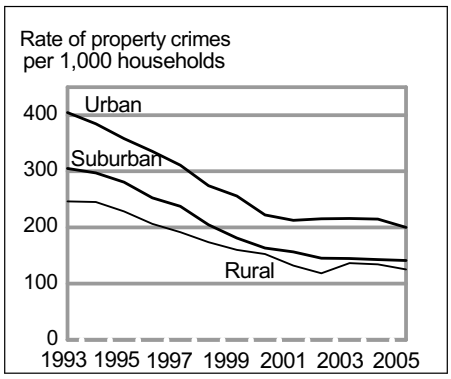

Figure 5 - Property crime and location of residence

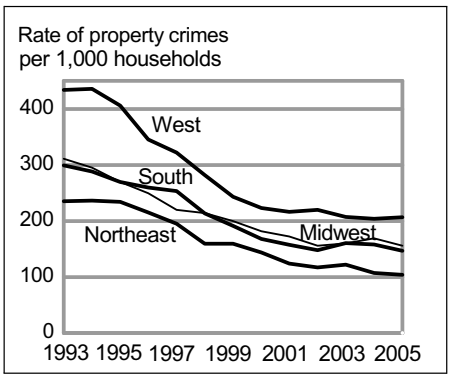

Figure 6 - Property crime and region

Table 4. Violent victimization rates for selected demographic groups, 1993-2005

Demographic characteristic of victim	Number of violent crimes per 1,000 persons age 12 or older													Percent change, 1993-2005
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
Gender														
Male	59.8	61.1	55.7	49.9	45.8	43.1	37.0	32.9	27.3	25.5	26.3	25.0	25.5	-57.4%*
Female	40.7	43.0	38.1	34.6	33.0	30.4	28.8	23.2	23.0	20.8	19.0	18.1	17.1	-58.0*
Race														
White	47.9	50.5	44.7	40.9	38.3	36.3	31.9	27.1	24.5	22.8	21.5	21.0	20.1	-58.0%*
Black	67.4	61.3	61.1	52.3	49.0	41.7	41.6	35.3	31.2	27.9	29.1	26.0	27.0	-59.9*
Other race	39.8	49.9	41.9	33.2	28.0	27.6	24.5	20.7	18.2	14.7	16.0	12.7	13.9	-65.1*
Two or more races	--	--	--	--	--	--	--	--	--	--	67.7	51.6	83.6	--
Hispanic origin														
Hispanic	55.2	61.6	57.3	44.0	43.1	32.8	33.8	28.4	29.5	23.6	24.2	18.2	25.0	-54.7%*
Non-Hispanic	49.5	50.7	45.2	41.6	38.3	36.8	32.4	27.7	24.5	23.0	22.3	21.9	20.6	-58.4*
Annual household income														
Less than $7,500	84.7	86.0	77.8	65.3	71.0	63.8	57.5	60.3	46.6	45.5	49.9	38.4	37.7	-55.5%*
$7,500-$14,999	56.4	60.7	49.8	52.1	51.2	49.3	44.5	37.8	36.9	31.5	30.8	39.0	26.5	-53.0*
$15,000-$24,999	49.0	50.7	48.9	44.1	40.1	39.4	35.3	31.8	31.8	30.0	26.3	24.4	30.1	-38.6*
$25,000-$34,999	51.0	47.3	47.1	43.0	40.2	42.0	37.9	29.8	29.1	27.0	24.9	22.1	26.1	-48.8*
$35,000-$49,999	45.6	47.0	45.8	43.0	38.7	31.7	30.3	28.5	26.3	25.6	21.4	21.6	22.4	-50.9*
$50,000-$74,999	44.0	48.0	44.6	37.5	33.9	32.0	33.3	23.7	21.0	18.7	22.9	22.1	21.1	-52.0*
$75,000 or more	41.3	39.5	37.3	30.5	30.7	33.1	22.9	22.3	18.5	19.0	17.5	17.0	16.4	-60.3*

Note: Annual rates are based on interviews conducted during the calendar year. Following guidelines from the Office of Management and Budget, beginning in 2003 NCVS collected race separately for persons identifying with one race and those identifying with two or more races. Because about 0.9% of survey respondents identified two or more races, the impact on victimization rates for each race is small. See *Methodology*, page 11.
--Not available.
*1993-2005 difference is significant at the 95%-confidence level.

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Table 5. Property crime rates by selected household characteristics, 1993-2005

Demographic characteristic of household	Number of property crimes per 1,000 households													Percent change, 1993-2005
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
Region														
Northeast	235.6	236.6	234.1	215.2	195.6	159.3	159.5	143.7	123.9	117.0	122.1	107.1	103.9	-55.9%*
Midwest	311.2	295.2	269.6	249.6	219.9	214.0	199.9	181.9	172.3	155.8	160.2	168.8	155.8	-49.9*
South	299.4	288.6	269.9	259.9	253.8	213.5	191.4	167.8	157.5	147.8	160.5	158.3	146.8	-51.0*
West	434.5	436.1	406.0	345.6	322.2	282.3	243.1	223.4	216.4	219.9	207.4	204.0	206.5	-52.5*
Ownership														
Owned	282.5	275.2	253.7	233.7	211.7	189.6	170.4	153.4	146.3	136.4	143.5	142.8	136.5	-51.7%*
Rented	383.5	372.7	357.7	327.1	316.0	270.6	251.9	228.3	209.6	207.0	206.4	201.4	192.3	-49.9*
Location of residence														
Urban	404.8	384.7	358.3	335.8	311.1	274.2	256.3	222.1	212.8	215.3	216.3	214.7	200.0	-50.6%*
Suburban	305.1	297.2	280.6	252.6	238.0	204.5	181.4	163.7	156.7	145.3	144.8	143.2	141.4	-53.7*
Rural	246.4	245.2	228.4	206.4	191.7	173.5	159.8	152.6	131.9	118.3	136.6	134.4	125.1	-49.2*
Annual household income														
Less than $7,500	305.9	299.6	304.3	282.7	258.8	209.0	220.8	220.9	184.6	188.9	204.6	197.1	200.6	-34.4%*
$7,500-$14,999	285.9	299.1	267.1	247.5	236.3	229.8	200.1	167.1	181.6	166.7	167.7	181.5	174.3	-39.0*
$15,000-$24,999	307.0	308.1	289.8	273.1	242.4	211.0	214.9	193.1	179.2	172.1	179.2	167.8	170.4	-44.5*
$25,000-$34,999	336.7	305.2	294.8	285.1	260.3	233.8	199.1	192.2	170.4	161.7	180.7	169.3	173.9	-48.4*
$35,000-$49,999	342.7	326.9	301.5	287.6	271.7	221.7	207.6	192.9	176.4	175.4	177.1	176.2	159.9	-53.3*
$50,000-$74,999	374.4	364.1	333.2	284.0	270.9	248.6	213.6	181.9	178.8	158.3	168.1	167.0	155.9	-58.4*
$75,000 or more	400.3	356.0	350.4	304.6	292.8	248.6	220.4	197.2	180.0	169.8	176.4	176.5	171.0	-57.3*

Note: Annual rates are based on interviews conducted during the calendar year.
See the *Methodology* in <http://www.ojp.usdoj.gov/bjs/pub/pdf/cvusmeth.pdf>.
*1993-2005 difference is significant at the 95%-confidence level.

Table 6. Rates of violent crime and personal theft, by gender, race, Hispanic origin, and age, 2005

Demographic characteristic of victim	Population	Victimizations per 1,000 persons age 12 or older						
		Violent crimes						Personal theft
		All	Rape/ sexual assault	Robbery	Assault			
					Total	Aggra-vated	Simple	
Gender								
Male	118,937,730	25.5	0.1*	3.8	21.5	5.6	15.9	0.8
Female	125,555,710	17.1	1.4	1.4	14.3	3.1	11.2	1.0
Race								
White	200,263,410	20.1	0.6	2.2	17.2	3.8	13.4	0.9
Black	29,477,880	27.0	1.8	4.6	20.6	7.6	13.0	1.7
Other race	12,522,090	13.9	0.5*	3.0	10.4	2.5*	7.9	0.2*
Two or more races	2,230,050	83.6	3.8*	1.8*	78.0	16.6	61.5	0.0*
Hispanic origin								
Hispanic	31,812,270	25.0	1.1*	4.0	19.9	5.9	14.0	1.0*
Non-Hispanic	211,629,880	20.6	0.7	2.4	17.5	4.1	13.4	0.9
Age								
12-15	17,061,940	44.0	1.2*	3.5	39.3	8.7	30.6	1.3*
16-19	16,524,940	44.2	3.2	7.0	33.9	9.7	24.2	1.6*
20-24	20,363,570	46.9	1.1*	5.5	40.3	10.0	30.3	1.5*
25-34	39,607,310	23.6	0.7*	3.1	19.9	4.7	15.2	1.0
35-49	65,707,720	17.5	0.6*	1.9	15.0	3.2	11.8	1.0
50-64	50,164,650	11.4	0.6*	1.4	9.3	2.4	7.0	0.6*
65 or older	35,063,310	2.4	0.0*	0.6*	1.9	0.8*	1.1	0.4*

Note: The National Crime Victimization Survey includes as violent crime rape, sexual assault, robbery, and assault. Because the NCVS interviews persons about their victimizations, murder and manslaughter cannot be included. Racial and ethnic categories in 2005 are not comparable to categories used prior to 2003.
See *Methodology* on page 11 for a discussion.
*Based on 10 or fewer sample cases.

rates of 50% or more. Property crime rates for households that owned or rented their homes also showed a decline of at least 50%.

Households in urban areas (down 51%), suburban areas (down 54%), and rural areas (down 49%) experienced similar declines in property crime rates from 1993 to 2005.

Households with annual incomes of less than $15,000 experienced smaller declines in property crime rates than households with annual incomes of $25,000 or more between 1993 and 2005.

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Table 7. Rates of violent crime and personal theft, by household income, marital status, region, and location of residence of victims, 2005

Demographic characteristic of victim	Population	Victimizations per 1,000 persons age 12 or older: Violent crimes: All	Rape/ sexual assault	Robbery	Assault: Total	Aggravated	Simple	Personal theft
Household income								
Less than $7,500	8,367,490	37.7	2.2*	5.6	29.9	9.7	20.1	3.2*
$7,500-$14,999	14,798,200	26.5	0.6*	4.9	21.0	6.8	14.2	1.6*
$15,000-$24,999	22,414,530	30.1	1.4*	3.5	25.2	6.4	18.8	1.1*
$25,000-$34,999	22,504,200	26.1	1.7	2.8	21.6	5.2	16.4	1.0*
$35,000-$49,999	30,575,740	22.4	0.9*	2.5	19.0	4.3	14.7	1.1*
$50,000-$74,999	35,692,930	21.1	0.5*	1.8	18.8	4.3	14.5	0.6*
$75,000 or more	52,979,190	16.4	0.6*	2.1	13.7	2.6	11.1	1.0
Marital status								
Never married	79,664,210	37.4	1.4	4.8	31.2	7.7	23.5	1.5
Married	122,198,090	10.3	0.2*	1.0	9.0	2.4	6.6	0.5
Divorced/separated	26,079,910	31.7	1.5	3.8	26.4	5.2	21.2	1.1*
Widowed	14,312,360	6.1	0.8*	1.4*	4.0	0.5*	3.6	0.8*
Region								
Northeast	43,951,390	19.3	0.6*	2.4	16.3	3.6	12.7	0.9
Midwest	57,895,360	22.8	0.7	3.2	18.9	4.7	14.2	0.9
South	88,262,190	18.5	0.9	2.1	15.5	3.8	11.7	1.1
West	54,384,500	25.2	0.9	2.7	21.6	5.2	16.4	0.7
Location of residence								
Urban	67,384,160	29.8	1.5	4.7	23.6	6.0	17.6	1.6
Suburban	120,424,060	18.6	0.7	1.9	16.0	3.6	12.4	0.6
Rural	56,685,220	16.4	0.1*	1.4	14.9	3.8	11.0	0.9

Note: The National Crime Victimization Survey includes as violent crime rape, sexual assault, robbery, and assault. Because the NCVS interviews persons about their victimizations, murder and manslaughter cannot be included.
*Based on 10 or fewer sample cases.

Characteristics of violent crime victims, 2005

Males, blacks, and persons age 24 or younger continued to be victimized at higher rates than females, whites, and persons age 25 or older in 2005 (table 6).

Gender of victim

Males were victims of overall violent crime, robbery, total assault, aggravated assaults and simple assault at rates higher than females. Females were more likely than males to be victims of rape or sexual assault.

Race of victim

Blacks were victims of overall violence, rape, robbery, and aggravated assault at rates higher than those for whites in 2005. Blacks were also more likely than persons of other races to be victims of violence.

Beginning in 2003 survey respondents were able to self-identify with more than one race. In 2005, persons of two or more races were victims of overall violence at significantly higher rates than whites, blacks, and persons of other races.

Hispanic origin of victim

Hispanics were victims of overall violence, robbery, and aggravated assault at rates somewhat higher than those of non-Hispanics in 2005. Hispanics and non-Hispanics were equally likely to experience rape or sexual assault, simple assault, and theft.

Age of victim

As in previous years, there was a general pattern of decreasing crime rates for persons of older age groups. Persons age 25 or older experienced lower victimization rates than younger individuals. Persons age 16-19 experienced robbery at rates higher than persons in other age groups, except ages 20-24.

Household income

There was a general pattern of decreasing victimization rates for persons residing in households with higher incomes. Persons in households with an annual income under $7,500 were more likely to be victims of robbery and assault than members of households with incomes of $35,000 or more. Persons of all income categories were equally likely to experience rape or sexual assault (table 7).

Differences in robbery rates among persons in income categories below $35,000 were not statistically significant.

Marital status of victims

Persons who were never married experienced somewhat higher rates of overall violence than did persons of other marital status categories. Persons who were married and widowed were equally likely to experience rape or sexual assault. Persons who were married were more likely than persons who were divorced or separated to experience assault. Married and divorced or separated persons were equally likely to experience robbery.

Region

Despite apparent differences, persons residing in the Midwest (3.2 per 1,000), Northeast (2.4 per 1,000), and West (2.7 per 1,000) were equally likely to experience robbery victimizations. There was some indication that the rate of robbery was lower in the South than in the Midwest.

Location of residence

Urban residents experienced overall crimes of violence, robbery, and assault at rates higher than those for suburban and rural residents. Except for the crime of rape or sexual assault, suburban and rural residents had statistically similar rates of violence.

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Characteristics of households experiencing property crime, 2005

Annual household income

Households earning less than $7,500 per year were more likely to experience burglary than households earning more than $15,000 per year. While theft rates varied across income levels, no patterns emerged (table 8).

Region, locality, and homeownership

Rates of overall property crime were lowest for households in the Northeast (104 per 1,000). Households in the West experienced higher overall property victimization rates (206 per 1,000) than those in other regions. For households located in the South and Midwest, the rates of overall property crime were statistically similar.

Northeastern households were less likely to experience burglary than were households in other regions of the country.

Western households continued to experience the highest rates of motor vehicle theft in 2005. Northeastern and Midwestern households were equally likely to experience motor vehicle theft.

Table 8. Property crime rates, by household income, region, residence, and homeownership of households victimized, 2005

Characteristic of household	Number of households	Victimizations per 1,000 households: Total	Burglary	Motor vehicle theft	Theft
Household income					
Less than $7,500	5,099,390	200.6	55.1	9.4	136.0
$7,500-$14,999	8,611,570	174.3	46.7	9.8	117.8
$15,000-$24,999	11,648,340	170.4	41.7	12.4	116.3
$25,000-$34,999	11,100,360	173.9	33.4	9.9	130.6
$35,000-$49,999	14,111,900	159.9	30.2	6.6	123.0
$50,000-$74,999	15,538,130	155.9	23.2	7.2	125.5
$75,000 or more	21,484,030	171.0	23.9	7.1	140.0
Region					
Northeast	21,191,890	103.9	18.1	5.9	79.9
Midwest	27,836,820	155.8	34.8	6.8	114.1
South	42,851,180	146.8	31.3	7.2	108.4
West	25,230,910	206.5	30.3	14.1	162.2
Location of residence					
Urban	33,045,250	200.0	37.7	12.7	149.6
Suburban	56,101,350	141.4	24.7	7.7	109.0
Rural	27,964,200	125.1	29.4	4.6	91.1
Homeownership					
Owned	80,293,070	136.5	25.3	6.1	105.1
Rented	36,817,730	192.3	38.6	13.3	140.3

Rates of burglary, motor vehicle theft, and household theft were highest for households located in urban areas. Suburban households were victims of motor vehicle theft and theft at rates higher than those of rural households. Rates of burglary were somewhat higher for rural households than for suburban households but lower than rates of burglary in urban areas.

In 2005 households that owned their home (137 per 1,000) were less likely to experience all types of property crime than households that rented their home (192 per 1,000).

Table 9. Victim and offender relationship, 2005

Relationship with victim	Violent crime: Number	Violent crime: Percent	Rape/sexual assault: Number	Rape/sexual assault: Percent	Robbery: Number	Robbery: Percent	Aggravated assault: Number	Aggravated assault: Percent	Simple assault: Number	Simple assault: Percent
Male victims										
Total	3,028,370	100%	15,130	100%*	452,760	100%	665,600	100%	1,894,880	100%
Nonstranger	1,295,870	43%	0	0%*	104,900	23%	282,240	42%	908,740	48%
Intimate	78,180	3	0	0*	14,520	3*	7,460	1*	56,200	3
Other relative	138,390	5	0	0*	9,560	2*	36,920	6	91,910	5
Friend/acquaintance	1,079,310	36	0	0*	80,830	18	237,860	36	760,620	40
Stranger	1,637,700	54%	15,130	100%*	333,390	74%	356,750	54%	932,430	49%
Relationship unknown	94,810	3%	0	0%*	14,470	3%*	26,620	4%*	53,720	3%
Female victims										
Total	2,145,340	100%	176,540	100%	172,090	100%	386,660	100%	1,410,050	100%
Nonstranger	1,382,640	64%	128,440	73%	85,150	50%	240,580	62%	928,470	66%
Intimate	389,100	18	49,980	28	15,480	9*	47,980	12	275,660	20
Other relative	162,760	8	11,880	7*	2,560	2*	35,240	9*	113,070	8
Friend/acquaintance	830,790	39	66,580	38	67,100	39	157,370	41	539,740	38
Stranger	731,450	34%	45,050	26%	81,860	48%	141,080	37%	463,460	33%
Relationship unknown	31,240	2%*	3,050	2%*	5,080	3%*	5,000	1%*	18,120	1%*

Note: Percentages may not total to 100% because of rounding.
*Based on 10 or fewer sample cases.

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Table 10. Presence of weapons in violent incidents, 2005

Presence of offender's weapon	Violent crime		Rape/sexual assault		Robbery		Simple and aggravated assault	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	4,718,330	100%	188,960	100%	569,470	100%	3,959,900	100%
No weapon	3,181,460	67%	159,860	85%	219,090	39%	2,802,510	71%
Weapon	1,146,870	24%	12,310*	7%*	275,210	48%	859,350	22%
Firearm	419,640	9	5,940*	3*	149,820	26	263,880	7
Knife	286,810	6	6,360*	3*	65,290	12	215,150	5
Other	386,440	8	0*	0*	53,670	9	332,770	8
Type not ascertained	53,990	1	0*	0*	6,440*	1*	47,550	1
Don't know	390,000	8%	16,790*	9%*	75,170	13%	298,030	8%

Note: Percentages may not total to 100% because of rounding. If the offender was armed with more than one weapon, the crime is classified based on the most serious weapon present.
*Based on 10 or fewer sample cases.

Characteristics of the violent crime incident

Victim-offender relationship

Historically, females have been most often victimized by someone they knew, while males were more likely to be victimized by a stranger. This finding continued during 2005 (table 9).

Of those offenders victimizing females, 18% were described as intimates and 34% as strangers. In contrast, of those offenders victimizing males, 3% were described as intimates and 54% as strangers. Women reported being raped or sexually assaulted by a friend or acquaintance in 38% of such victimizations.

Presence of weapons

An estimated 24% of all violent crime incidents were committed by an armed offender (table 10). As in previous years, the presence of a firearm during a violent crime was related to the type of crime. Three percent of rape or sexual assault victimizations, 7% of assault victimizations, and 26% of robberies were committed by an offender with a firearm.

Between 1993 and 2005, the overall rate of firearm violence declined significantly from 5.9 to 2.0 victimizations per 1,000 persons age 12 or older.

The rate of firearm violence increased between 2004 and 2005, from 1.4 to 2.0 victimizations per 1,000 individuals. In 2003 the rate was 1.9 per 1,000 (not shown in table).

Firearm	1993	2005
Incidents	1,054,820	419,640
Victimizations	1,248,250	477,040
Firearm crime		
Rate per 1,000 persons 12 or older	5.9	2.0*
Percent of all violent incidents	11.0%	8.9%

*The 1993-2005 difference is significant at the 95%-confidence level.

Reporting to the police

During 2005, 47% of all violent victimizations and 40% of all property crimes were reported to the police. The percentage of aggravated assault reported to the police (62%) was higher than the percentage for rape or sexual assault (38%) and simple assault (42%). It was also somewhat higher than that for robbery (52%).

Fifty-six percent of burglaries and 32% of household thefts were reported to the police in 2005. Motor vehicle theft was the property crime most frequently reported to the police (83%).

	Percent of crime reported to the police, 2005
Violent crime	47.4%
Rape/sexual assault	38.3
Robbery	52.4
Aggravated assault	62.4
Simple assault	42.3
Personal theft	35.2%
Property crime	39.6%
Burglary	56.3
Motor vehicle theft	83.2
Theft	32.3

Reporting and victim characteristics

In 2005, violent crimes against females (55%) were more likely to be reported to police than crimes against males (42%). Rates of reporting for violent victimizations did not differ for males or females across racial and ethnic categories.

Victim gender, race, and Hispanic origin	Percent of crime reported to the police, 2005	
	Violent	Property
Total	47.4%	39.6%
Male	42.4%	40.0%
White	42.8	39.6
Black	41.5	44.0
Other	49.0	37.2
Hispanic	43.5%	37.8%
Non-Hispanic	42.3	40.3
Female	54.6%	39.2%
White	53.9	38.8
Black	58.3	44.7
Other	58.1	30.2
Hispanic	60.3%	36.8%
Non-Hispanic	53.5	39.6

Note: Total includes estimates for persons identifying with two or more races, not shown separately. Racial categories displayed are for persons who identified one race only.

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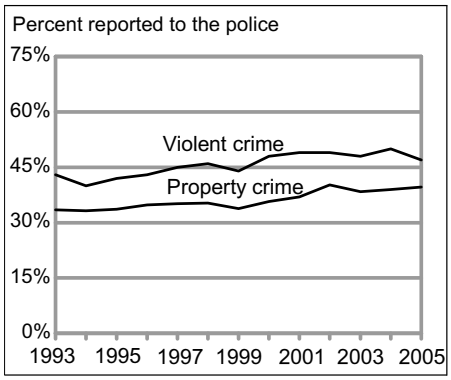

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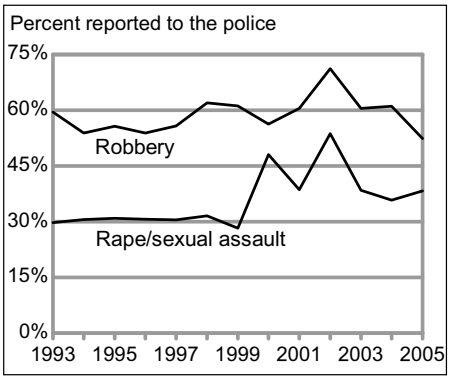

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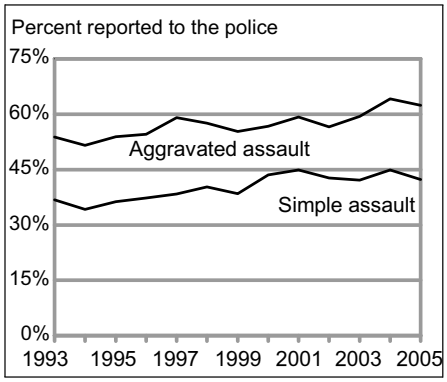


Figure 9

Reporting crime to the police, 1993-2005

The percentage of violent and property crime reported to the police remained unchanged between 2004 and 2005 (figures 7, 8, and 9).

With the exception of rape or sexual assault and robbery, reporting to the police of violent and property crime increased between 1993 and 2005.

Aggravated assault reported to the police increased from 54% to 62%, and simple assault reported to the police increased from 37% to 42% between 1993 and 2005. During the same period, burglary reported to the police increased from 50% to 56%; motor vehicle theft increased from 75% to 83%; and theft increased from 26% to 32% (figures 10, 11, and 12).

Methodology

This Bulletin presents data on nonlethal violence and property crimes from the National Crime Victimization Survey (NCVS). It also presents data on homicide from the FBI's Uniform Crime Reporting program.

Victimization rates are based on data collected during the calendar year. In 2005, about 77,200 households and 134,000 individuals age 12 or older were interviewed for the NCVS. The response rate was 90.7% of eligible households and 84.3% of eligible individuals.

Since 2003 the Office of Management and Budget's (OMB) guidelines mandate that individuals in household surveys be allowed to choose more than one racial category. In prior years they were asked to select a single primary race.

Racial categories presented in this report consist of the following: white only, black only, other race only (American Indian, Alaska Native, Asian, Native Hawaiian and Pacific Islander if only one of these races is given), and two or more races (all persons of any race indicating two or more races).

Individuals are asked whether they are of Hispanic origin before being asked about their race, and are asked directly if they are of Spanish, Hispanic, or Latino origin.

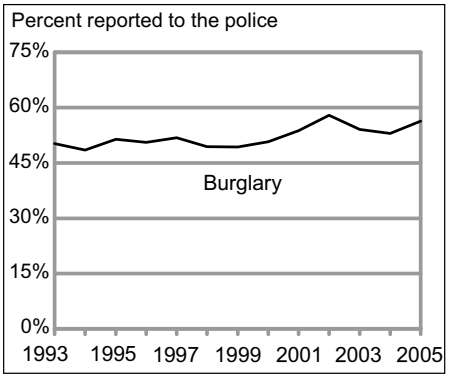
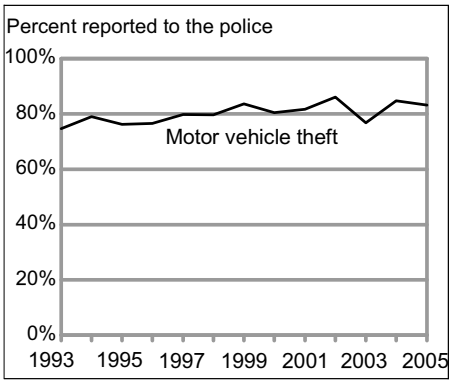


Figure 10



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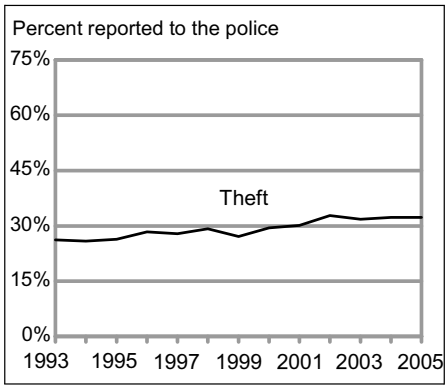

Figure 12

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Office of Justice Programs
Bureau of Justice Statistics

Washington, DC 20531

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Standard error computations

Comparisons of percentages and rates made in this report were tested to determine if observed differences were statistically significant. Differences described as higher, lower, or different passed a test at the 0.05 level of statistical significance (95% confidence level). Differences described as somewhat, slightly, marginally, or some indication passed a test at the 0.10 level of statistical significance (90% confidence level). Caution is required when comparing estimates not explicitly discussed in this Bulletin.

This report in portable document format and in ASCII and its related statistical data and tables — are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/>.

Office of Justice Programs

Partnerships for Safer Communities
http://www.ojp.usdoj.gov

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jeffrey Sedgwick is the director.

Shannan M. Catalano, Ph.D., wrote this report under the supervision of Michael Rand. Cathy T. Maston and Stephen Karger provided statistical review. Marianne Zawitz produced the Highlight figures. Allen J. Beck edited this report. Tina Dorsey produced the report and Jayne Robinson prepared the report for final print, under the supervision of Doris J. James.

NCVS data collection and processing were conducted for BJS by the U.S. Census Bureau.

September 2006, NCJ 214644

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Subject: FOREIGN OPERATOR OF OBSCENE WEB SITES ARRESTED ON FEDERAL OBSCENITY CHARGES

Department of Justice

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FOREIGN OPERATOR OF OBSCENE WEB SITES ARRESTED ON FEDERAL OBSCENITY CHARGES

WASHINGTON – Danilo Simoes Croce, 42, of Sao Paulo, Brazil, was arrested in Orlando, Fla. on charges of conspiracy to distribute obscene matters, the Department of Justice and the U.S. Postal Inspection Service announced today. If convicted, Croce faces up to five years in prison and a $150,000 fine.

According to documents filed in the District Court in Orlando, Croce and his corporation, Lex Multimedia, operated web sites offering obscene videos for download or delivery in the U.S. The videos depicted bukkake, fisting, and depictions of defecation, urination, and vomiting in conjunction with sex acts. These web sites are being hosted on web servers in Texas. Croce's videos are delivered to his U.S. customers by mail and common carriers from a location in Orlando, Fla.

"The investigative efforts in this case not only fully endorse the Postal Inspection Service's commitment to the Attorney General's initiative against hard core pornography, it sends a loud message to those involved that they operate at enormous risk of apprehension," said Henry Gutierrez, Inspector-in-Charge, U.S. Postal Inspection Service in Miami.

An arrest is not proof of guilt. The defendant is presumed innocent until and unless he is found guilty.

The case is being prosecuted by Trial Attorneys Richard D. Green and Matthew Buzzelli of the Obscenity Prosecution Task Force within the Criminal Division's Child Exploitation and Obscenity Section and Assistant U.S. Attorney Roger Handberg of the U.S. Attorneys' Office for the Middle District of Florida.

The obscenity investigation is being led the U.S. Postal Inspection Service. Investigative assistance was also provided by agents from the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security from Orlando, Fla.

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Department of Justice

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JUSTICE DEPARTMENT REQUIRES DIVESTITURES IN ALLTEL'S ACQUISITION OF MIDWEST WIRELESS

Sale of Assets in Minnesota Will Preserve Competition for Rural Consumers of Mobile Wireless Services

WASHINGTON — ALLTEL Corporation has agreed to divest assets in rural areas of Minnesota in order to proceed with its $1.075 billion acquisition of Midwest Wireless Holdings LLC, the Justice Department announced today. The Department said that the deal as originally proposed would have resulted in higher prices, lower quality, and diminished investment in network improvements for consumers of mobile wireless telecommunications services in four areas where both ALLTEL and Midwest Wireless currently operate.

The Department's Antitrust Division filed a civil lawsuit today in U.S. District Court in Minneapolis to block the proposed transaction. At the same time, the Department filed a proposed consent decree that, if approved by the court, would resolve the lawsuit and the Department's anticompetitive concerns.

ALLTEL and Midwest Wireless are regional mobile wireless telecommunications service providers and serve many rural markets. Although a combination of these two regional providers gives the merged firm the benefit of having a larger service area footprint, the divestitures are required to assure continued competition in specific markets where ALLTEL and Midwest Wireless are each other's most significant competitors, the Department said.

"The Department's action ensures that wireless telephone consumers will continue to obtain the benefits of competition--lower prices and higher quality," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "The required divestitures preserve competition in rural areas where consumers often have fewer choices for wireless telephone services."

Under the terms of the proposed consent decree, the merged firm must divest ALLTEL's mobile wireless telecommunications services business, including cellular spectrum and customers, in four Minnesota

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areas that are comprised of 28 counties. ALLTEL is not required to divest assets used solely to provide roaming services in these four areas to carriers who use GSM technology; Midwest Wireless does not currently offer this service in these areas and therefore the proposed acquisition will not lessen competition in providing the service.

ALLTEL must make the divestitures in the following counties: Blue Earth, Brown, Chippewa, Cottonwood, Fairbault, Freeborn, Jackson, Kandiyohi, Lac qui Parle, Le Sueuer, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Waseca, Watowan and Yellow Medicine.

ALLTEL, headquartered in Little Rock, Arkansas, is the fifth-largest provider of mobile wireless voice and data services in the United States, serving approximately 11 million customers. ALLTEL also provides roaming and other wireless services in 35 states to other mobile wireless providers who use the CDMA, TDMA and GSM technologies. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

Midwest Wireless, with headquarters in Mankato, Minnesota, serves approximately 440,000 wireless customers in three states. Midwest Wireless also provides roaming and other wireless services to other mobile wireless providers who use CDMA technology. In 2005, Midwest Wireless earned approximately $264 million in revenues.

The Department has coordinated with the Federal Communications Commission (FCC) throughout its investigation, and the transaction is also subject to review by the FCC. The State of Minnesota joined the Department's lawsuit and proposed decree.

As required by the Tunney Act, the proposed settlement, along with the Department's Competitive Impact Statement, will be published in *The Federal Register*. Any person may submit written comments concerning the proposed settlement during a 60-day comment period to Nancy M. Goodman, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530 (202-514-5621).

At the conclusion of the 60-day comment period, the U.S. District Court for the District of Minnesota may enter the proposed consent decree upon finding that it is in the public interest.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA, *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants*.	**COMPETITIVE IMPACT STATEMENT** **Case No.**

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants entered into a Transaction Agreement dated November 17, 2005, pursuant to which ALLTEL Corporation ("ALLTEL") will acquire Midwest Wireless Holdings L.L.C. ("Midwest Wireless"). Plaintiffs filed a civil antitrust Complaint on September 7, 2006 seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for mobile wireless telecommunications services in four geographic areas in the state of Minnesota in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of

competition would result in consumers facing higher prices and lower quality or quantity of mobile wireless telecommunications services.

At the same time the Complaint was filed, the parties moved this Court to enter a Preservation of Assets Order and plaintiff United States lodged a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required to divest ALLTEL's mobile wireless telecommunications services businesses and related assets in four markets ("Divestiture Assets"). Under the terms of the Preservation of Assets Order, defendants will take certain steps to ensure that (a) these assets are preserved and that the Divestiture Assets are operated as competitively independent, economically viable and ongoing businesses; (b) they will remain independent and uninfluenced by defendants or the consummation of the transaction; and (c) competition is maintained during the pendency of the ordered divestiture.

Plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. Defendants have also stipulated that they will comply with the terms of the Preservation of Assets Order and the proposed Final Judgment from the date of signing of the Preservation of Assets Stipulation, pending entry of the proposed Final Judgment by the

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Court and the required divestiture. Should the Court decline to enter the proposed Final Judgment, defendants have also committed to continue to abide by its requirements and those of the Preservation of Assets Order until the expiration of time for appeal.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

ALLTEL, with headquarters in Little Rock, Arkansas, is a corporation organized and existing under the laws of the state of Delaware. ALLTEL is the fifth largest provider of mobile wireless voice and data services in the United States by number of subscribers; it serves approximately 11 million customers. It provides mobile wireless telecommunications services in 233 rural service areas and 116 metropolitan statistical areas located within 35 states and roaming services to other mobile wireless providers who use CDMA, TDMA and GSM technology in these areas. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

Midwest Wireless, with headquarters in Mankato, Minnesota, is a privately held Delaware limited liability company. Midwest Wireless provides wireless service in 14 rural service areas and one metropolitan statistical area located in Minnesota, Iowa and Wisconsin and has approximately 440,000 customers. In 2004, Midwest Wireless earned approximately $264 million in revenues.

Pursuant to a Transaction Agreement dated November 17, 2005, ALLTEL will acquire Midwest Wireless for $1.075 billion in cash. If this transaction is consummated,

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ALLTEL and Midwest Wireless combined would have approximately 11.5 million subscribers, with $7.8 billion in revenues and operations in 35 states.

The proposed transaction, as initially agreed to by defendants, would lessen competition substantially for mobile wireless telecommunications services in four markets. This acquisition is the subject of the Complaint and proposed Final Judgment filed by plaintiffs.

B. Mobile Wireless Telecommunications Services Industry

Mobile wireless telecommunications services allow customers to make and receive telephone calls and use data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. This mobility is highly prized by customers, as demonstrated by the more than 180 million people in the United States who own mobile wireless telephones. In 2005, revenues for the sale of mobile wireless telecommunications services in the United States were over $113 billion. To provide these services, mobile wireless telecommunications services providers must acquire adequate and appropriate spectrum, deploy an extensive network of switches, radio transmitters, and receivers, and interconnect this network with those of local and long-distance wireline telecommunications providers and other mobile wireless telecommunications services providers.

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The first wireless voice systems were based on analog technology, now referred to as first-generation or "1G" technology. These analog systems were launched after the FCC issued the first licenses for mobile wireless telephone service: two cellular licenses (A-block and B-block) in each geographic area in the early to mid-1980s. The licenses are in the 800 MHz range of the radio spectrum, each license consists of 25 MHz of spectrum, and they are issued for each Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") (collectively, "Cellular Marketing Areas" or "CMAs"), with a total of 734 CMAs covering the entire United States. In 1982, one of the licenses was issued to the incumbent local exchange carrier in the market, and the other was issued by lottery to someone other than the incumbent.

In 1995, the FCC allocated and subsequently issued licenses for additional spectrum for the provision of Personal Communications Services ("PCS"), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1.9 GHz range of the radio spectrum and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, E, and F, which consist of 10 MHz each. Geographically, the A and B-block 30 MHz licenses are issued by Major Trading Areas ("MTAs"), and C, D, E, and F-block licenses are issued by Basic Trading Areas ("BTAs"), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital

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services, thereby increasing capacity, shrinking handsets, and extending battery life. In 1996, one provider, a specialized mobile radio ("SMR" or "dispatch") spectrum licensee, began to use its SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or "push-to-talk," service.

Today, more than 99% of the U.S. population lives in counties where mobile wireless telecommunications services operators offer digital service, and nearly all mobile wireless voice service has migrated to second-generation or "2G" digital technologies: TDMA (time division multiple access), GSM (global standard for mobile, a type of TDMA standard used by all carriers in Europe), and CDMA (code division multiple access). Mobile wireless telecommunications services providers have chosen to build their networks on these incompatible technologies and most have chosen CDMA or GSM, with TDMA having been orphaned by equipment vendors. (The SMR providers use a fourth incompatible technological standard better suited to the spectrum they own, and, as SMR licensees, they have no obligation to support a specific technology standard.) Even more advanced technologies ("3G") have begun to be deployed for voice and data. In all of the geographic areas alleged in the complaint, ALLTEL and Midwest Wireless own the 25 MHz cellular licenses and each own some additional PCS licenses. Cellular spectrum, because of its propagation characteristics, is more efficient to use in serving rural areas.

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C. The Competitive Effects of the Transaction on Mobile Wireless Telecommunications Services

ALLTEL's proposed acquisition of Midwest Wireless will substantially lessen competition in mobile wireless telecommunications services in four relevant geographic areas. Mobile wireless telecommunications services include both voice and data services provided over a radio network and allow customers to maintain their telephone calls or data sessions without wires, such as when traveling. Fixed wireless services and other wireless services that have a limited range (e.g., Wi-Fi) do not offer a viable alternative to mobile wireless telecommunications services primarily because customers using these services cannot maintain a call or data session while moving from one location to another.

Most customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they are located and travel on a regular basis: home, work, other areas they commonly visit, and areas in between. The number and identity of mobile wireless telecommunications services providers varies from geographic area to geographic area, along with the quality of their services and the breadth of their geographic coverage, all of which are significant factors in customers' purchasing decisions. Mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, effectively varying the actual price for customers by geographic area.

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The relevant geographic markets for mobile wireless telecommunications services are, therefore, local in nature. The FCC has licensed a limited number of mobile wireless telecommunications services providers in these and other geographic areas based upon the availability of radio spectrum. These FCC spectrum licensing areas often represent the core of the business and social sphere where customers face the same competitive choices for mobile wireless telecommunications services. Although not all FCC spectrum licensing areas are relevant geographic areas for the purpose of analyzing the antitrust impact of this transaction, the FCC spectrum licensing areas that encompass the four geographic areas of concern in this transaction are where consumers in these communities principally use their mobile wireless telecommunications services. As described in the Complaint, the relevant geographic markets where the transaction will substantially lessen competition for mobile wireless telecommunications services are represented by the following FCC spectrum licensing areas which are all RSAs in southern Minnesota: Minnesota RSA-7 (CMA 488), Minnesota RSA-8 (CMA 489), Minnesota RSA-9 (CMA 490), and Minnesota RSA-10 (CMA 491). These four RSAs include the counties of Blue Earth, Brown, Chippewa, Cottonwood, Fairbault, Freeborn, Jackson, Kandiyohi, Lac qui Parle, Le Sueuer, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Waseca, Watowan and Yellow Medicine.

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The four geographic markets of concern for mobile wireless telecommunications services were identified by a fact-specific, market-by-market analysis that included consideration of, but was not limited to, the following factors: the number of mobile wireless telecommunications services providers and their competitive strengths and weaknesses; ALLTEL's and Midwest Wireless's market shares along with those of the other providers; whether additional spectrum is or is likely soon to be available; whether any providers are limited by insufficient spectrum or other factors in their ability to add new customers; the concentration of the market, and the breadth and depth of coverage by different providers in each market; and the likelihood that any provider would expand its existing coverage.

ALLTEL and Midwest Wireless both own businesses that offer mobile wireless telecommunications services in the four relevant geographic areas. The companies' combined market shares for mobile wireless telecommunications services in the relevant markets as measured in terms of subscribers range from over 60% to nearly 95%. In each relevant geographic market, Midwest Wireless has the largest market share, and, in all but one RSA, ALLTEL is the second-largest mobile wireless telecommunications services provider. In all of the relevant geographic markets, ALLTEL and Midwest Wireless own the only 800 MHz band cellular spectrum licenses which are more efficient in serving rural areas than 1900 MHz band PCS spectrum. As a result of holding the cellular spectrum licenses and being early entrants into these markets, ALLTEL's and Midwest

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Wireless's networks provide greater depth and breadth of coverage than their competitors, which are operating on PCS spectrum in the relevant geographic markets, and thus are more attractive to consumers.

In addition, mobile wireless telecommunications services providers with partial coverage in a geographic area do not aggressively market their services in this location because potential customers would use their wireless telephones primarily in places where these providers have no network. In theory, these less built-out providers could service residents of these rural areas through roaming agreements but, as a practical matter, when service is provided on another carrier's network, the providers would have to pay roaming charges to, and rely on, that carrier to maintain the quality of the network. Because of these constraints, the other providers who own partially built-out networks in the four geographic areas are reluctant to market their services to rural residents of these areas. Therefore, ALLTEL and Midwest Wireless are likely closer substitutes for each other than the other mobile wireless telecommunications services providers in the relevant geographic markets. Additionally, postmerger in these markets, there will be insufficient remaining competitors, with the type of coverage desired by customers, and the ability to compete effectively to defeat a small, but significant price increase by the merged firm.

The relevant geographic markets for mobile wireless telecommunications services are highly concentrated. As measured by the Herfindahl-Hirschman Index ("HHI"), which is commonly employed in merger analysis and is defined and explained in Appendix A to

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the Complaint, concentration in these markets ranges from over 3600 to more than 5600, which is well above the 1800 threshold at which the Department considers a market to be highly concentrated. After ALLTEL's proposed acquisition of Midwest Wireless is consummated, the HHIs in the relevant geographic markets will range from over 4700 to over 9100, with increases in the HHI as a result of the merger ranging from over 1000 to over 4100.

Competition between ALLTEL and Midwest Wireless in the relevant geographic markets has resulted in lower prices and higher quality in mobile wireless telecommunications services than would otherwise have existed in these geographic markets. If ALLTEL's proposed acquisition of Midwest Wireless is consummated, the competition between ALLTEL and Midwest Wireless in mobile wireless telecommunications services will be eliminated in these markets and the relevant geographic markets for mobile wireless telecommunications services will become substantially more concentrated. As a result, the loss of competition between ALLTEL and Midwest Wireless increases the likelihood of unilateral actions by the merged firm in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements.

Entry by a new mobile wireless telecommunications services provider in the relevant geographic markets would be difficult, time-consuming, and expensive, requiring

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the acquisition of spectrum licenses and the build-out of a network. Expansion by providers who hold spectrum in these areas and are only partially built-out is also unlikely as the relevant geographic markets are rural service areas where the combined firm would own all of the available 800 MHz spectrum. Due to propagation characteristics of 800 MHz cellular spectrum and 1900 MHz PCS spectrum, the 800 MHz signals can cover a substantially broader area than the 1900 MHz signals. The estimated coverage advantage of the 800 MHz spectrum in rural areas ranges from two to as much as five times greater than PCS. In rural markets, this difference results in higher build-out costs for PCS networks than for cellular networks. The high costs of constructing PCS networks in rural markets combined with the relatively low population density makes it less likely that carriers that own PCS spectrum would build out in the relevant geographic markets. Therefore, new entry in response to a small but significant price increase for mobile wireless telecommunications services by the merged firm in the relevant geographic markets would not be timely, likely, or sufficient to thwart the competitive harm that would result from ALLTEL's proposed acquisition of Midwest Wireless.

For these reasons, plaintiffs concluded that ALLTEL's proposed acquisition of Midwest Wireless will likely substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of mobile wireless telecommunications services in the relevant geographic markets.

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III. Explanation of the Proposed Final Judgment

The divestiture requirements of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in mobile wireless telecommunications services in the four geographic markets of concern. The proposed Final Judgment requires defendants, within 120 days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest the Divestiture Assets. The Divestiture Assets are essentially ALLTEL's entire mobile wireless telecommunications services business and 800 MHz cellular spectrum in the four markets where ALLTEL and Midwest Wireless are each other's closest competitors for mobile wireless telecommunications services. These assets must be divested in such a way as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, that they will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

The merged firm may retain ALLTEL's PCS wireless spectrum in the four geographic areas and ALLTEL's GSM roaming business, including GSM roaming contracts and equipment. ALLTEL's PCS spectrum is used primarily to provide roaming services to other providers who use GSM technology. Midwest Wireless does not currently provide GSM roaming and therefore the proposed acquisition will not lessen competition in providing these services. In requiring divestitures, plaintiffs seek to make certain that the

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potential buyer acquires all the assets it may need to be a viable competitor and replace the competition lost by the merger. The 25 MHz of cellular spectrum that must be divested will support the operation and expansion of the mobile wireless telecommunications services businesses being divested, allowing the buyer to be a viable competitor to the merged entity.

The proposed Final Judgment requires that the Divestiture Assets be divested to a single acquirer who, as a result, will be able to supply service to customers that require mobile wireless telecommunications service throughout southern rural Minnesota in the same way that ALLTEL is currently able to provide that service. This provision resolves concerns about the loss of competition for customers that demand coverage over a combination of Minnesota FCC licensing areas, in addition to the concerns due to eliminating competition within each licensing area.

A. Timing of Divestitures

In antitrust cases involving mergers or joint ventures in which plaintiff United States seeks a divestiture remedy, it requires completion of the divestitures within the shortest time period reasonable under the circumstances. In this case, Section IV.A of the proposed Final Judgment requires the divestiture of the Divestiture Assets, within 120 days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later. Plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota may extend the date for divestiture of the Divestiture Assets by up to 60

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days. Because the FCC's approval is required for the transfer of the wireless licenses to a purchaser, Section IV.A provides that if applications for transfer of a wireless license have been filed with the FCC, but the FCC has not acted dispositively before the end of the required divestiture period, the period for divestiture of those assets shall be extended until five days after the FCC has acted.

The divestiture timing provisions of the proposed Final Judgment will ensure that the divestitures are carried out in a timely manner, and at the same time will permit defendants an adequate opportunity to accomplish the divestitures through a fair and orderly process. Even if all Divestiture Assets have not been divested upon consummation of the transaction, there should be no adverse impact on competition given the limited duration of the period of common ownership and the detailed requirements of the Preservation of Assets Order.

B. Use of a Management Trustee

The Preservation of Assets Stipulation and the Preservation of Assets Order, submitted simultaneously with this Competitive Impact Statement, ensures that, prior to divestiture, the Divestiture Assets are maintained and remain an economically viable ongoing business concern. The Divestiture Assets will remain preserved, independent and uninfluenced by defendants, so that competition is maintained during the pendency of the ordered divestiture.

The Preservation of Assets Order appoints a management trustee selected by plaintiff United States upon consultation with plaintiff Minnesota to oversee the Divestiture Assets in

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the relevant geographic markets. The appointment of a management trustee in this unique situation is required because the Divestiture Assets are not independent facilities that can be held separate and operated as standalone units by the merged firm. Rather, the Divestiture Assets are an integral part of a larger network, and to maintain their competitive viability and economic value, they should remain part of that network during the divestiture period. To insure that these assets are preserved and supported by defendants during this period, yet run independently, a management trustee is necessary to oversee the continuing relationship between defendants and these assets. The management trustee will have the power to operate the Divestiture Assets in the ordinary course of business, so that they will remain preserved, independent, and uninfluenced by defendants, and so that the Divestiture Assets remain an ongoing and economically viable competitor to defendants and to other mobile wireless telecommunications services providers. The management trustee will preserve the confidentiality of competitively sensitive marketing, pricing, and sales information; insure defendants' compliance with the Preservation of Assets Order and the proposed Final Judgment; and maximize the value of the Divestiture Assets so as to permit expeditious divestiture in a manner consistent with the proposed Final Judgment.

The Preservation of Assets Order provides that defendants will pay all costs and expenses of the management trustee, including the cost of consultants, accountants, attorneys, and other representatives and assistants hired by the management trustee as are reasonably necessary to carry out his or her duties and responsibilities. After his or her appointment

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becomes effective, the management trustee will file monthly reports with plaintiffs setting forth the efforts to accomplish the goals of the Preservation of Assets Order and the proposed Final Judgment and the extent to which defendants are fulfilling their responsibilities. Finally, the management trustee may become the divestiture trustee, pursuant to the provisions of Section V of the proposed Final Judgment.

C. Use of a Divestiture Trustee

In the event that defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by plaintiff United States upon consultation with plaintiff Minnesota to effect the divestitures. As part of this divestiture, defendants must relinquish any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control. Pursuant to Section V of the proposed Final Judgment, the divestiture trustee will own and control the Divestiture Assets until they are sold to a final purchaser, subject to safeguards to prevent defendants from influencing their operation.

Section V details the requirements for the establishment of the divestiture trust, the selection and compensation of the divestiture trustee, the responsibilities of the divestiture trustee in connection with the divestiture and operation of the Divestiture Assets, and the termination of the divestiture trust. The divestiture trustee will have the obligation and the sole responsibility, under Section V.D, for the divestiture of any transferred Divestiture Assets. The divestiture trustee has the authority to accomplish divestitures at the earliest

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possible time and "at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee." In addition, to insure that the divestiture trustee can promptly locate and divest to an acceptable purchaser, plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, may require defendants to include additional assets, or allow defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the divestiture trustee.

The divestiture trustee will not only have responsibility for sale of the Divestiture Assets, but will also be the authorized holder of the wireless licenses, with full responsibility for the operations, marketing, and sales of the wireless businesses to be divested, and will not be subject to any control or direction by defendants. Defendants will no longer have any role in the ownership, operation, or management of the Divestiture Assets following consummation of the transaction, as provided by Section V, other than the right to receive the proceeds of the sale, and certain obligations to provide support to the Divestiture Assets, and cooperate with the divestiture trustee in order to complete the divestiture, as indicated in Section V.L and in the Preservation of Assets Order.

The proposed Final Judgment provides that defendants will pay all costs and expenses of the divestiture trustee. The divestiture trustee's commission will be structured, under Section V.G of the proposed Final Judgment, so as to provide an incentive for the divestiture trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the divestiture trustee will file

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monthly reports with the Court and plaintiffs setting forth his or her efforts to accomplish the divestitures. Section V.J requires the divestiture trustee to divest the Divestiture Assets to an acceptable purchaser no later than six months after the assets are transferred to the divestiture trustee. At the end of six months, if all divestitures have not been accomplished, the trustee and plaintiff United States upon consultation with plaintiff Minnesota, will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the transaction in the provision of mobile wireless telecommunications services. The divestitures of the Divestiture Assets will preserve competition in mobile wireless telecommunications services by maintaining an independent and economically viable competitor in the relevant geographic markets.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

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V. Procedures Available for Modification of the Proposed Final Judgment

Plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that plaintiff United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to plaintiff United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of plaintiff United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to:

Nancy M. Goodman
Chief, Telecommunications and Media Enforcement Section
Antitrust Division, U.S. Department of Justice
1401 H Street, N.W., Suite 8000
Washington, DC 20530

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The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. Plaintiff United States could have continued the litigation and sought preliminary and permanent injunctions against ALLTEL's acquisition of Midwest Wireless. Plaintiff United States is satisfied, however, that the divestiture of assets and other relief described in the proposed Final Judgment will preserve competition for the provision of mobile wireless telecommunications services in the relevant markets and, thus, would achieve all or substantially all of the relief the government would have obtained through litigation, but without the time and expense of a trial.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60 day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(1). In making that determination, the Court shall consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a

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determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B).[1] As the United States Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the consent judgment is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the consent judgment may positively harm third parties. *See United States v. Microsoft Corp.*, 56 F.3d 1448, 1458-62 (D.C. Cir. 1995).

With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460-62. Courts have held that

[1] In 2004, Congress amended the APPA to ensure that courts take into account the above-quoted list of relevant factors when making a public interest determination. *Compare* 15 U.S.C.§ 16(e) (2004), *with* 15 U.S.C. § 16 (e)(1) (2006) (substituting "shall" for "may" in directing relevant factors for courts to consider and amending list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms). On the points discussed herein, the 2004 amendments did not alter the substance of the Tunney Act, and the pre-2004 precedents cited below remain applicable.

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> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest*." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In making its public interest determination, a district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case. *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. AT&T Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette Co.*, 406 F. Supp. at 716), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

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[2] *Cf. BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"); *see generally Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

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Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Id*. at 1459-60.

In its 2004 amendments to the Tunney Act, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16 (e)(2). This language codified the intent of the original 1974 statute, expressed by Senator Tunney in the legislative history: "The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

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United States v. Mid-Am. Dairymen, Inc., 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by plaintiff United States in formulating the proposed Final Judgment.

Dated: September 7, 2006

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA Department of Justice, Antitrust Division 1401 H Street, N.W., Suite 8000 Washington, D.C. 20530, and STATE OF MINNESOTA Minnesota Attorney General's Office 445 Minnesota Street, Suite 1200 St. Paul, Minnesota 55101 *Plaintiffs*, v. ALLTEL CORPORATION One Allied Drive Little Rock, Arkansas 72202 and MIDWEST WIRELESS HOLDINGS L.L.C. 2000 Technology Drive Mankato, Minnesota 56002 *Defendants*.	**COMPLAINT** **Case No.**

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Minnesota, by its Attorney General Mike Hatch, bring this civil action to enjoin the merger of two mobile wireless telecommunications

service providers, ALLTEL Corporation ("ALLTEL") and Midwest Wireless Holdings L.L.C. ("Midwest Wireless"), and to obtain other relief as appropriate. Plaintiffs allege as follows:

1. ALLTEL entered into an agreement to acquire Midwest Wireless, dated November 17, 2005, under which the two companies would combine their mobile wireless telecommunications services businesses ("Transaction Agreement"). Plaintiffs seek to enjoin this transaction because it will substantially lessen competition for mobile wireless telecommunications services in several geographic markets where ALLTEL and Midwest Wireless are each other's most significant competitor.

2. ALLTEL provides mobile wireless telecommunications services in 35 states serving approximately 11 million subscribers. Midwest Wireless provides mobile wireless telecommunications services in three Midwestern states serving approximately 440,000 subscribers. The combination of ALLTEL and Midwest Wireless will substantially lessen competition for mobile wireless telecommunications services in four geographic areas in southern Minnesota where currently both ALLTEL and Midwest Wireless operate. As a result of the proposed acquisition, residents of these mostly rural areas will face the likelihood of increased prices, diminished quality or quantity of services provided, and less investment in network improvements for these services.

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I. JURISDICTION AND VENUE

3. This Complaint is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18. Plaintiff Minnesota, by and through its Attorney General, brings this action in its sovereign capacity and as parens patriae on behalf of the citizens, general welfare, and economy of the State of Minnesota under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

4. ALLTEL and Midwest Wireless both provide mobile wireless telecommunications services in the State of Minnesota, as well as other states. The provision of mobile wireless telecommunications services is a commercial activity that substantially affects, and is in the flow of, interstate trade and commerce. The defendants purchase substantial quantities of handsets and equipment from sources outside of Minnesota. They also have entered into roaming and other service agreements with companies located outside of Minnesota. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to 15 U.S.C. §§ 22, 25, and 26, and 28 U.S.C. §§ 1331, 1337.

5. Venue in the District is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

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II. THE DEFENDANTS AND THE TRANSACTION

6. ALLTEL, with headquarters in Little Rock, Arkansas, is a corporation organized and existing under the laws of the state of Delaware. ALLTEL is the fifth largest provider of mobile wireless voice and data services in the United States by number of subscribers; it serves approximately 11 million customers. It provides mobile wireless telecommunications services in 233 Rural Service Areas and 116 Metropolitan Statistical Areas located within 35 states and roaming services to other mobile wireless providers who use CDMA, TDMA and GSM technology in these areas. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

7. Midwest Wireless, with headquarters in Mankato, Minnesota, is a privately-held Delaware limited-liability company. Midwest Wireless provides wireless service in 14 Rural Service Areas and one Metropolitan Statistical Area located in Minnesota, Iowa, and Wisconsin and has approximately 440,000 customers. In 2005, Midwest Wireless earned approximately $264 million in revenues.

8. Pursuant to the Transaction Agreement dated November 17, 2005, ALLTEL will acquire Midwest Wireless for approximately $1.075 billion in cash. If this transaction is consummated, ALLTEL and Midwest Wireless combined would have approximately 11.5 million subscribers in the United States, with $7.8 billion in revenues and operations in 35 states.

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III. TRADE AND COMMERCE

A. Nature of Trade and Commerce

9. Mobile wireless telecommunications services allow customers to make and receive telephone calls and use data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. Mobility is highly prized by customers, as demonstrated by the more than 180 million people in the United States who own mobile wireless telephones. In 2005, revenues from the sale of mobile wireless services in the United States were over $113 billion. To meet this desire for mobility, mobile wireless telecommunications services providers must deploy an extensive network of switches and radio transmitters and receivers, and interconnect this network with the networks of wireline carriers and with other wireless providers.

10. The first wireless voice systems were based on analog technology, now referred to as first-generation or "1G" technology. These analog systems were launched after the Federal Communications Commission ("FCC") issued the first licenses for mobile wireless telephone service: two cellular licenses (A-block and B-block) in each geographic area in the early to mid-1980s. The licenses are in the 800 MHz range of the radio spectrum, each license consists of 25 MHz of spectrum, and they are issued for each Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") (collectively, "Cellular Marketing Areas" or "CMAs"), with a total of 734 CMAs covering the entire

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United States. In 1982, one of the licenses was issued to the incumbent local exchange carrier in the market, and the other was issued by lottery to someone other than the incumbent. In the relevant geographic markets, ALLTEL and Midwest Wireless each own one of the cellular licenses.

11. In 1995, the FCC allocated and subsequently issued licenses for additional spectrum for the provision of Personal Communications Services ("PCS"), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1.9 GHz range of the radio spectrum and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, E, and F, which consist of 10 MHz each. Geographically, the A and B-block 30 MHz licenses are issued by Major Trading Areas ("MTAs"), and C, D, E, and F-block licenses are issued by Basic Trading Areas ("BTAs"), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital services, thereby increasing capacity, shrinking handsets, and extending battery life. In 1996, one provider, a specialized mobile radio ("SMR" or "dispatch") spectrum licensee, began to use its SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or "push-to-talk," service. Although there are a number of providers holding spectrum licenses in each area of the country, not all

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providers have fully built out their networks throughout each license area. In particular, because of the characteristics of PCS spectrum, providers holding this type of spectrum have found it less attractive to build out in rural areas.

12. Today, more than 99% of the total U.S. population lives in counties where mobile wireless telecommunications services operators offer digital service, and nearly all mobile wireless voice service has migrated to second-generation or "2G" digital technologies: TDMA (time division multiple access), GSM (global standard for mobile, a type of TDMA standard used by all carriers in Europe), and CDMA (code division multiple access). Mobile wireless telecommunications services providers have chosen to build their networks on these incompatible technologies and most have chosen CDMA or GSM, with TDMA having been orphaned by equipment vendors. (The SMR providers use a fourth incompatible technological standard better suited to the spectrum they own, and, as SMR licensees, they have no obligation to support a specific technology standard.) Even more advanced technologies ("2.5G" and "3G") have begun to be deployed for voice and data.

B. Relevant Product Market

13. Mobile wireless telecommunications services is a relevant product market. Mobile wireless telecommunications services include both voice and data services provided over a radio network and allows customers to maintain their telephone calls or data sessions without wires, such as when traveling. There are no cost-effective

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alternatives to mobile wireless telecommunications services. Fixed wireless services are not mobile (e.g., Wi-Fi), and therefore are not a viable alternative to mobile wireless telecommunications service. It is unlikely that a sufficient number of customers would switch away from mobile wireless telecommunications services to make a small but significant price increase in those services unprofitable. Mobile wireless telecommunications services is a relevant product market under Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Relevant Geographic Markets

14. The large majority of customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they are located and travel on a regular basis: home, work, other areas they commonly visit, and areas in between. The number and identity of mobile wireless telecommunications services providers varies among geographic areas, along with the quality of their services and the breadth of their geographic coverage, all of which are significant factors in customers' purchasing decisions. Mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, effectively varying the price for customers by geographic area.

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15. The United States comprises numerous local geographic markets for mobile wireless telecommunications services. The FCC has licensed a limited number of mobile wireless telecommunications services providers in each local area based upon the availability of radio spectrum. These FCC spectrum licensing areas often represent the core of the business and social sphere where customers face the same competitive choices for mobile wireless telecommunications services. The relevant geographic markets in which this transaction will substantially lessen competition in mobile wireless telecommunications services are effectively represented, but not defined, by FCC spectrum licensing areas.

16. The relevant geographic markets, under Section 7 of the Clayton Act, 15 U.S.C. § 18, where the transaction will substantially lessen competition for mobile wireless telecommunications services are represented by the following FCC spectrum licensing areas which are all RSAs located in southern Minnesota: Minnesota RSA-7 (CMA 488), Minnesota RSA-8 (CMA 489), Minnesota RSA-9 (CMA 490), and Minnesota RSA-10 (CMA 491). It is unlikely that a sufficient number of customers would switch to mobile wireless telecommunications services providers in a different geographic market to make a small but significant price increase in the relevant geographic markets unprofitable for mobile wireless telecommunications services.

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D. Anticompetitive Effects

1. Mobile Wireless Telecommunications Services

17. The companies' combined market shares for mobile wireless telecommunications services in the relevant markets described above, as measured in terms of subscribers, range from over 60% to nearly 95%. In each relevant geographic market, Midwest Wireless has the largest market share and, in all but one RSA, ALLTEL is the second-largest mobile wireless telecommunications services provider. In all of the relevant geographic markets, ALLTEL and Midwest Wireless own the only 800 MHz band cellular spectrum licenses, which are more efficient in serving rural areas than 1900 MHz band PCS spectrum. As a result of holding the cellular spectrum licenses and being early entrants into these markets, ALLTEL's and Midwest Wireless's networks provide greater depth and breadth of coverage than their competitors, which are operating on PCS spectrum in the relevant geographic markets, and thus are more attractive to consumers.

In addition, mobile wireless telecommunications services providers with partial coverage in a geographic area do not aggressively market their services in these markets because potential customers would use their wireless telephones primarily in areas where these providers have no network. In theory, these less-built-out providers could serve residents of the rural areas through roaming agreements but, as a practical matter, when service is provided on another carrier's network, the providers have to pay roaming charges to, and rely on, that provider to maintain the quality of the network. Because of

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these constraints, carriers with limited network coverage in an area are reluctant to market their services to residents of that area. Therefore, ALLTEL and Midwest Wireless are likely closer substitutes for each other than the other mobile wireless telecommunications services providers who own only PCS spectrum in the relevant geographic markets.

18. The relevant geographic markets for mobile wireless services are highly concentrated. As measured by the Herfindahl-Hirschman Index ("HHI"), which is commonly employed in merger analysis and is defined and explained in Appendix A to this Complaint, concentration in these markets ranges from over 3600 to more than 5600, which is well above the 1800 threshold at which the Department considers a market to be highly concentrated. After ALLTEL's proposed acquisition of Midwest Wireless is consummated, the HHIs in the relevant geographic markets will range from over 4700 to over 9100, with increases in the HHI as a result of the merger ranging from over 1000 to over 4100, significantly beyond the thresholds at which the Department considers a transaction likely to cause competitive harm.

19. Competition between ALLTEL and Midwest Wireless in the relevant geographic markets has resulted in lower prices and higher quality in mobile wireless telecommunications services, than would otherwise have existed in these geographic markets. In these areas, consumers consider ALLTEL and Midwest Wireless to be the most attractive competitors because other providers' networks lack coverage or provide lower-quality service. If ALLTEL's proposed acquisition of Midwest Wireless is

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consummated, the relevant geographic markets for mobile wireless telecommunications services will become substantially more concentrated, and the competition between ALLTEL and Midwest Wireless in mobile wireless telecommunications services will be eliminated in these markets. As a result, the loss of competition between ALLTEL and Midwest Wireless increases the likelihood of unilateral actions by the merged firm in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements. Therefore, ALLTEL's proposed acquisition of Midwest Wireless will likely result in substantially less competition in mobile wireless telecommunications services in the relevant geographic markets.

2. Entry

20. Entry by a new mobile wireless telecommunications services provider in the relevant geographic markets would be difficult, time-consuming, and expensive, requiring the acquisition of spectrum licenses and the build-out of a network. Expansion by providers who hold spectrum in these areas is also unlikely as the relevant geographic markets are rural service areas where the combined firm would own all of the available 800 MHz cellular spectrum. Due to propagation characteristics of 800 MHz cellular spectrum and 1900 MHz PCS spectrum, the 800 MHz signals can cover a substantially broader area than the 1900 MHz signals. The estimated coverage advantage of the 800 MHz cellular spectrum in rural areas ranges from two to as much as five times greater

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than PCS. In rural markets, this difference results in higher build-out costs for PCS networks than for cellular networks. The high costs of constructing PCS networks in rural markets combined with the relatively low population density makes it less likely that carriers that own PCS spectrum would build out in the relevant geographic markets. Therefore, new entry in response to a small but significant price increase for mobile wireless services by the merged firm in the relevant geographic markets would not be timely, likely, or sufficient to thwart the competitive harm resulting from ALLTEL's proposed acquisition of Midwest Wireless, if it were to be consummated.

IV. VIOLATION ALLEGED

21. The effect of ALLTEL's proposed acquisition of Midwest Wireless, if it were to be consummated, may be substantially to lessen competition in interstate trade and commerce in the relevant geographic markets for mobile wireless telecommunications services, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

22. Unless restrained, the transaction will likely have the following effects in mobile wireless telecommunications services in the relevant geographic markets, among others:

a. actual and potential competition between ALLTEL and Midwest Wireless will be eliminated;

b. competition in general will be lessened substantially;

c. prices are likely to increase;

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d. the quality and quantity of services are likely to decrease; and

e. incentives to improve wireless networks will be reduced.

V. REQUESTED RELIEF

The plaintiffs request:

23. That ALLTEL's proposed acquisition of Midwest Wireless be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

24. That defendants be permanently enjoined from and restrained from carrying out the Transaction Agreement, dated November 17, 2005, or from entering into or carrying out any agreement, understanding, or plan, the effect of which would be to bring the wireless services businesses of ALLTEL and Midwest Wireless under common ownership or control;

25. That plaintiffs be awarded their costs of this action; and

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26. That plaintiffs have such other relief as the Court may deem just and proper.

Dated: Respectfully Submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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APPENDIX A

Herfindahl-Hirschman Index

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). (Note: Throughout the Complaint, market share percentages have been rounded to the nearest whole number, but HHIs have been estimated using unrounded percentages in order to accurately reflect the concentration of the various markets.) The HHI takes into account the relative size distribution of the firms in a market and approaches zero when a market consists of a large number of small firms. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. *See Horizontal Merger Guidelines* ¶ 1.51 (revised Apr. 8, 1997). Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the guidelines issued by the U.S. Department of Justice and Federal Trade Commission. *See id.*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants.*	**FINAL JUDGMENT** **Case No.**

WHEREAS, plaintiffs, United States of America and the State of Minnesota, filed their Complaint on September 7, 2006, plaintiffs and defendants, ALLTEL Corporation ("ALLTEL") and Midwest Wireless Holdings L.L.C. ("Midwest Wireless"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by defendants to assure that competition is not substantially lessened;

AND WHEREAS, plaintiffs require defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to plaintiffs that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets.

B. "ALLTEL" means defendant ALLTEL Corporation, a Delaware corporation with headquarters in Little Rock, Arkansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

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C. "CMA" means cellular market area which is used by the Federal Communications Commission ("FCC") to define cellular license areas and which consists of Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs").

D. "Divestiture Assets" means each mobile wireless telecommunications services business to be divested under this Final Judgment, including all types of assets, tangible and intangible, used by defendants in the operation of the mobile wireless telecommunications services businesses to be divested. "Divestiture Assets" shall be construed broadly to accomplish the complete divestiture of the entire business of ALLTEL in each of the following RSA license areas as required by this Final Judgment and to ensure that the divested mobile wireless telecommunications services businesses remain viable, ongoing businesses:

(1) Minnesota RSA-7 (CMA 488);

(2) Minnesota RSA-8 (CMA 489);

(3) Minnesota RSA-9 (CMA 490); and

(4) Minnesota RSA-10 (CMA 491)

provided that ALLTEL may retain all of the PCS spectrum it currently holds in each of these RSAs and equipment that is used only for wireless transmissions over this PCS spectrum, and provided that ALLTEL need not divest the assets used solely to operate ALLTEL's GSM roaming business in these RSAs, including GSM roaming contracts and equipment.

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The Divestiture Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements, leases, commitments, spectrum licenses issued by the FCC and all other licenses, permits and authorizations, operational support systems, cell sites, network infrastructure, switches, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer contracts, customer lists, credit records, accounts, and historic and current business plans which relate primarily to the wireless businesses being divested, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendant ALLTEL supplies to its own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks or other intellectual property, including all intellectual property rights under third-party licenses that are capable of being transferred to an Acquirer either in their entirety, for assets described in (1) below, or through a license obtained through or from ALLTEL, for assets described in (2) below; provided that defendants shall only be required to divest Multi-line Business Customer contracts, if the primary business address for that customer is located within any of the four license areas described herein, and further, any subscriber who obtains mobile wireless telecommunications services through any such contract retained by

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defendants and who are located within the four geographic areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, at any time within one year of the closing of the Transaction. Defendants shall provide written notice to these subscribers within 45 days after the closing of the Transaction of the option to terminate.

The divestiture of the Divestiture Assets shall be accomplished by:

(1) transferring to the Acquirer the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of ALLTEL's overall wireless telecommunications services business which must be retained to continue the existing operations of the wireless properties that defendants are not required to divest, and that either are not capable of being divided between the divested wireless telecommunications services businesses and those not divested, or are assets that the defendants and the Acquirer agree, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, shall not be divided); and

(2) granting to the Acquirer an option to obtain a nonexclusive, transferable license from defendants for a reasonable period, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, at the election of an Acquirer to use any of ALLTEL's retained assets under

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paragraph (1) above, used in the operation of the mobile wireless telecommunications services businesses being divested, so as to enable the Acquirer to continue to operate the divested mobile wireless telecommunications services businesses without impairment. Defendants shall identify in a schedule submitted to plaintiffs and filed with the Court, as expeditiously as possible following the filing of the Complaint and in any event prior to any divestiture and before the approval by the Court of this Final Judgment, any intellectual property rights under third-party licenses that are used by the mobile wireless telecommunications services businesses being divested but that defendants could not transfer to an Acquirer entirely or by license without third-party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

E. "GSM" means global system for mobile communications which is one of the standards used for the infrastructure of digital cellular service.

F. "Midwest Wireless" means defendant Midwest Wireless Holdings L.L.C., a Delaware Limited Liability Company, with headquarters in Mankato, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

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G. "Multi-line Business Customer" means a corporate or business customer that contracts with ALLTEL for mobile wireless services to provide multiple telephones to its employees or members whose services are provided pursuant to a contract with the corporate or business customer.

H. "Transaction" means the Transaction Agreement between ALLTEL and Midwest Wireless, dated November 17, 2005.

III. Applicability

A. This Final Judgment applies to defendants ALLTEL and Midwest Wireless, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, that the purchaser agrees to be bound by the provisions of this Final Judgment, provided that defendants need not obtain such an agreement from the Acquirer.

IV. Divestitures

A. Defendants are ordered and directed, within 120 days after consummation of the Transaction, or five days after notice of entry of this Final Judgment, whichever is later, to divest the Divestiture Assets to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, or, if applicable, to a Divestiture Trustee designated pursuant to Section V of this Final Judgment. Plaintiff

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United States, in its sole discretion upon consultation with plaintiff Minnesota, may agree to one or more extensions of this time period not to exceed 60 days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by defendants or the Divestiture Trustee, if applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirer of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of those Divestiture Assets for which FCC approval has not been issued until five days after such approval is received. Defendants agree to use their best efforts to accomplish the divestitures set forth in this Final Judgment and to seek all necessary regulatory approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this decree.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants shall promptly make known, if they have not already done so, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final

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Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work product privileges. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person.

C. Defendants shall provide to the Acquirer and plaintiffs information relating to the personnel involved in the operation, development, and sale of mobile wireless telecommunications services in the relevant RSAs to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the operation, development, or sale of mobile wireless services in the relevant RSAs.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, and other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer that (1) the Divestiture Assets will be operational on the date of sale, and (2) every wireless spectrum license is in full force and effect on the date of sale.

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F. Defendants shall not take any action that will impede in any way the permitting, licensing, operation, or divestiture of the Divestiture Assets.

G. Defendants shall warrant to the Acquirer of the Divestiture Assets that there are no defects in the environmental, zoning, licensing or other permits pertaining to the operation of each asset that will have a material adverse effect on the operator of the mobile wireless telecommunications services business in which the asset is primarily used, and that following the sale of the Divested Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, licensing or other permits relating to the operation of the Divestiture Assets.

H. Unless plaintiff United States upon consultation with plaintiff Minnesota otherwise consents in writing, the divestitures pursuant to Section IV, or by a Divestiture Trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota that these assets can and will be used by the Acquirer as part of a viable, ongoing business engaged in the provision of mobile wireless telecommunications services. The Divestiture Assets shall all be divested to a single Acquirer. The divestiture of the Divestiture Assets, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in plaintiff United States's sole judgment upon consultation with plaintiff Minnesota, has the intent

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and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the provision of mobile wireless telecommunications services; and

(2) shall be accomplished so as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, that none of the terms of any agreement between the Acquirer and any defendant shall give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere with the ability of the Acquirer to compete effectively.

I. At the option of the Acquirer of the Divestiture Assets, defendants shall enter into a contract for transition services customarily provided in connection with the sale of a business providing mobile wireless telecommunications services sufficient to meet all or part of the needs of the Acquirer for a period of up to one year. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market conditions.

J. To the extent that the Divestiture Assets use intellectual property, as required to be identified by Section II.D, that cannot be transferred or assigned without the consent of the licensor or other third parties, defendants shall use their best efforts to obtain those consents.

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V. Appointment of Divestiture Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV.A, defendants shall notify plaintiffs of that fact in writing, specifically identifying the Divestiture Assets that have not been divested. Then, upon application of plaintiff United States upon consultation with plaintiff Minnesota, the Court shall appoint a Divestiture Trustee selected by plaintiff United States and approved by the Court to effect the divestiture of the Divestiture Assets. The Divestiture Trustee will have all the rights and responsibilities of the Management Trustee appointed pursuant to the Preservation of Assets Order, and will be responsible for:

(1) accomplishing divestiture of all Divestiture Assets transferred to the Divestiture Trustee from defendants, in accordance with the terms of this Final Judgment, to an Acquirer approved by plaintiff United States upon consultation with plaintiff Minnesota, under Section IV.A of this Final Judgment; and

(2) exercising the responsibilities of the licensee of any transferred Divestiture Assets and controlling and operating any transferred Divestiture Assets, to ensure that the businesses remain ongoing, economically viable competitors in the provision of mobile wireless telecommunications services in the four license areas specified in

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Section II.D, until they are divested to an Acquirer, and the Divestiture Trustee shall agree to be bound by this Final Judgment.

B. Defendants shall submit a proposed trust agreement ("Trust Agreement") to plaintiffs, which must be consistent with the terms of this Final Judgment and which must receive approval by plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, who shall communicate to defendants within 10 business days its approval or disapproval of the proposed Trust Agreement, and which must be executed by the defendants and the Divestiture Trustee within five business days after approval by plaintiff United States.

C. After obtaining any necessary approvals from the FCC for the assignment of the licenses of the Divestiture Assets to the Divestiture Trustee, defendants shall irrevocably divest the Divestiture Assets to the Divestiture Trustee, who will own such assets (or own the stock of the entity owning such assets, if divestiture is to be effected by the creation of such an entity for sale to Acquirer) and control such assets, subject to the terms of the approved Trust Agreement.

D. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to plaintiff United States, in its sole judgment upon consultation with plaintiff Minnesota, at such price and on such terms as are then obtainable upon reasonable effort

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by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V.G of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants the Management Trustee appointed pursuant to the Preservation of Assets Order, and any investment bankers, attorneys or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture.

E. In addition, notwithstanding any provision to the contrary, plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, may require defendants to include additional assets, or allow, with the written approval of plaintiff United States upon consultation with plaintiff Minnesota, defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the Divestiture Trustee to facilitate prompt divestiture to an acceptable Acquirer.

F. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiffs and the Divestiture Trustee within 10 calendar days after the Divestiture Trustee has provided the notice required under Section VI.

G. The Divestiture Trustee shall serve at the cost and expense of defendants, on such terms and conditions as plaintiff United States approves, and shall account for all

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monies derived from the sale of the assets sold and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished, but timeliness is paramount.

H. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestitures including their best efforts to effect all necessary regulatory approvals and will provide any necessary representations or warranties as appropriate related to sale of the Divestiture Assets. The Divestiture Trustee and any consultants, accountants, attorneys, and other persons retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial and other information relevant to the assets to be divested as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestitures.

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I. After its appointment, the Divestiture Trustee shall file monthly reports with plaintiffs and the Court setting forth the Divestiture Trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. If the Divestiture Trustee designates any information as "confidential" in any report or notice he submits pursuant to this Final Judgment, within five business days after the submission of such report, any plaintiff that objects to the designation of information as "confidential" will notify the Divestiture Trustee. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

J. If the Divestiture Trustee has not accomplished such divestitures within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestitures, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestitures have not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contain information that the Divestiture

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Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the plaintiffs, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by plaintiff United States upon consultation with plaintiff Minnesota.

K. After defendants transfer the Divestiture Assets to the Divestiture Trustee, and until those Divestiture Assets have been divested to an Acquirer approved by plaintiff United States pursuant to Sections IV.A and IV.H, the Divestiture Trustee shall have sole and complete authority to manage and operate the Divestiture Assets and to exercise the responsibilities of the licensee, and shall not be subject to any control or direction by defendants. Defendants shall not use or retain any economic interest in the Divestiture Assets transferred to the Divestiture Trustee, apart from the right to receive the proceeds of the sale or other disposition of the Divestiture Assets.

L. The Divestiture Trustee shall operate the Divestiture Assets consistent with the Preservation of Assets Order and this Final Judgment, with control over operations, marketing, and sales. Defendants shall not attempt to influence the business decisions of the Divestiture Trustee concerning the operation and management of the Divestiture Assets, and shall not communicate with the Divestiture Trustee concerning divestiture of

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the Divestiture Assets or take any action to influence, interfere with, or impede the Divestiture Trustee's accomplishment of the divestitures required by this Final Judgment, except that defendants may communicate with the Divestiture Trustee to the extent necessary for defendants to comply with this Final Judgment and to provide the Divestiture Trustee, if requested to do so, with whatever resources or cooperation may be required to complete divestiture of the Divestiture Assets and to carry out the requirements of the Preservation of Assets Order and this Final Judgment. Except as provided in this Final Judgment and the Preservation of Assets Order, in no event shall defendants provide to, or receive from, the Divestiture Trustee or the mobile wireless telecommunications services businesses to be divested any non-public or competitively sensitive marketing, sales, pricing or other information relating to their respective mobile wireless telecommunications services businesses.

VI. Notice of Proposed Divestitures

A. Within two business days following execution of a definitive divestiture agreement, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestitures required herein, shall notify plaintiffs in writing of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person

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not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within 15 calendar days of receipt by plaintiffs of such notice, plaintiffs may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee if applicable additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within 15 calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within 30 calendar days after receipt of the notice or within 20 calendar days after plaintiffs have been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, plaintiff United States upon consultation with plaintiff Minnesota, shall provide written notice to defendants and the Divestiture Trustee, if there is one, stating whether it objects to the proposed divestiture. If plaintiff United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.F of this Final Judgment. Absent written notice that plaintiff United States does not object to the proposed Acquirer or upon objection by plaintiff United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V.F, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

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VII. Financing

Defendants shall not finance all or any part of any divestiture made pursuant to Section IV or V of this Final Judgment.

VIII. Preservation of Assets

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Preservation of Assets Order entered by this Court and cease use of the Divestiture Assets during the period that the Divestiture Assets are managed by the Management Trustee, except to the extent use of such assets is permitted under Section XI. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestitures have been completed under Section IV or V of this Final Judgment, defendants shall deliver to plaintiffs an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who during the preceding 30 days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the

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efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by plaintiff United States upon consultation with plaintiff Minnesota, to information provided by defendants, including limitation on information, shall be made within 14 calendar days of receipt of such affidavit.

B. Within 20 calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiffs an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to plaintiffs an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits provided pursuant to this section within 15 calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and

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other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at plaintiff United States' option, to require defendants provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by plaintiff United States to any person other than an authorized representative of the executive branch of the United States or, pursuant to a customary

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protective order or waiver of confidentiality by defendants, the FCC, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff United States shall give defendants 10 calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire or lease any part of the Divestiture Assets during the term of this Final Judgment provided however that defendants shall not be precluded from entering commercially reasonable agreements, for a period not to exceed two years from the date of the closing of the Transaction, with the Acquirer to obtain the right to use equipment that defendant ALLTEL used to support both its GSM roaming business and the provision of wireless services using other technological formats, and provided however that defendants may lease, for a period not to exceed 30 days, from the

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Management Trustee appointed by this Court pursuant to the Preservation of Assets Order, 2.5 MHz of spectrum in each RSA included in the Divestiture Assets.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire 10 years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

_____

United States District Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA, *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants*.	)	**PRESERVATION OF ASSETS STIPULATION** **Case No.**

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Preservation of Assets Stipulation:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets.

B. "ALLTEL" means defendant ALLTEL Corporation, a Delaware corporation with headquarters in Little Rock, Arkansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "CMA" means cellular market area which is used by the Federal Communications Commission ("FCC") to define cellular license areas and which consists of Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs").

D. "Divestiture Assets" means the mobile wireless telecommunications services businesses to be divested under the Final Judgment, including all types of assets, tangible and intangible, used by defendants in the operation of the mobile wireless telecommunications services businesses to be divested. "Divestiture Assets" shall be construed broadly to accomplish the complete divestiture of the entire business of ALLTEL in each of the following RSA license areas as required by the Final Judgment and to ensure that the divested mobile wireless telecommunications services businesses remain viable, ongoing businesses:

(1) Minnesota RSA-7 (CMA 488);

(2) Minnesota RSA-8 (CMA 489);

(3) Minnesota RSA-9 (CMA 490); and

(4) Minnesota RSA-10 (CMA 491)

provided that ALLTEL may retain all of the PCS spectrum it currently holds in each of these RSAs and equipment that is used only for wireless transmissions over this PCS spectrum, and provided that ALLTEL need not divest the assets used solely to operate ALLTEL's GSM roaming business in these RSAs, including GSM roaming contracts and equipment.

The Divestiture Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements,

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leases, commitments, spectrum licenses issued by the FCC and all other licenses, permits and authorizations, operational support systems, cell sites, network infrastructure, switches, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer contracts, customer lists, credit records, accounts, and historic and current business plans which relate primarily to the wireless businesses being divested, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendant ALLTEL supplies to its own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks or other intellectual property, including all intellectual property rights under third-party licenses that are capable of being transferred to an Acquirer either in their entirety, for assets described in (1) below, or through a license obtained through or from ALLTEL, for assets described in (2) below; provided that defendants shall only be required to divest Multi-line Business Customer contracts, if the primary business address for that customer is located within any of the four license areas described herein, and further, any subscriber who obtains mobile wireless telecommunications services through any such contract retained by defendants and who are located within the four geographic areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, at any time within one year of the closing of the Transaction. Defendants shall provide

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written notice to these subscribers within 45 days after the closing of the Transaction of the option to terminate.

The divestiture of the Divestiture Assets shall be accomplished by:

(1) transferring to the Acquirer the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of ALLTEL's overall wireless telecommunications services business which must be retained to continue the existing operations of the wireless properties that defendants are not required to divest, and that either are not capable of being divided between the divested wireless telecommunications services businesses and those not divested, or are assets that the defendants and the Acquirer agree, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, shall not be divided); and

(2) granting to the Acquirer an option to obtain a nonexclusive, transferable license from defendants for a reasonable period, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, at the election of an Acquirer to use any of ALLTEL's retained assets under paragraph (1) above, used in the operation of the mobile wireless telecommunications services businesses being divested, so as to enable the Acquirer to continue to operate the divested mobile wireless

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telecommunications services businesses without impairment. Defendants shall identify in a schedule submitted to plaintiffs and filed with the Court, as expeditiously as possible following the filing of the Complaint and in any event prior to any divestiture and before the approval by the Court of the Final Judgment, any intellectual property rights under third-party licenses that are used by the mobile wireless telecommunications services businesses being divested but that defendants could not transfer to an Acquirer entirely or by license without third-party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

E. "GSM" means global system for mobile communications which is one of the standards used for the infrastructure of digital cellular service.

F. "Midwest Wireless" means defendant Midwest Wireless Holdings L.L.C., a Delaware Limited Liability Company, with headquarters in Mankato, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

G. "Multi-line Business Customer" means a corporate or business customer that contracts with ALLTEL for mobile wireless services to provide multiple telephones to its employees or members whose services are provided pursuant to a contract with the corporate or business customer.

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H. "Transaction" means the Transaction Agreement between ALLTEL and Midwest Wireless, dated November 17, 2005.

II. Objectives

The proposed Final Judgment lodged by plaintiff United States in this case is meant to ensure defendants' prompt divestiture of the Divestiture Assets for the purpose of preserving viable competitors in the provision of mobile wireless telecommunications services in order to remedy the effects that plaintiffs allege would otherwise result from ALLTEL's acquisition of Midwest Wireless. This Preservation of Assets Stipulation and the Preservation of Assets Order ensure, prior to such divestitures, that competition is maintained during the pendency of the ordered divestitures, and that the Divestiture Assets remain ongoing business concerns and the Divestiture Assets remain economically viable. The Divestiture Assets will remain, as provided herein, preserved, independent and uninfluenced by defendants.

III. Jurisdiction and Venue

This Court has jurisdiction over the subject matter of this action and each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Minnesota. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

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IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a proposed Final Judgment in the form lodged with this Court by plaintiff United States may be entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on all other parties and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of this Stipulation and the proposed Final Judgment, pending entry by the Court of the Preservation of Assets Order and the proposed Final Judgment, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment and this Stipulation as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed the Preservation of Assets Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

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E. In the event (1) plaintiff United States has withdrawn its consent, as provided in Section IV.A above, or (2) the proposed Final Judgment is not entered, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment or the Preservation of Assets Order, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Management Trustee

A. Plaintiff United States, having consulted with plaintiff Minnesota, nominates David S. Turetsky as Management Trustee in this case, and defendants have no objection to his immediate appointment by the Court as Management Trustee to serve as manager of the Divestiture Assets until the Divestiture Assets are sold or transferred to a Divestiture Trustee pursuant to Section V of the proposed Final Judgment. Nothing in this Stipulation shall be interpreted to prevent the Management Trustee from becoming the Divestiture Trustee pursuant to Section V of the proposed Final Judgment.

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B. Prior to the closing of the Transaction, defendants shall enter into a trust agreement with David S. Turetsky, subject to the approval of plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, that will grant the rights, powers, and authorities necessary to permit him to perform the duties and responsibilities of the Management Trustee pursuant to this Stipulation and the Preservation of Assets Order. The trust agreement shall enable him, on or before the date of the closing of the Transaction, to assume all rights, powers, and authorities necessary to perform his duties and responsibilities, pursuant to this Stipulation, the Preservation of Assets Order and the proposed Final Judgment and consistent with their purposes. David S. Turetsky or any other subsequently appointed Management Trustee shall serve at the cost and expense of defendants, on such terms and conditions as plaintiff United States approves upon consultation with plaintiff Minnesota, with a fee arrangement that is reasonable in light of the person's experience and responsibilities.

C. The Management Trustee will have the following powers and responsibilities with respect to the Divestiture Assets:

(1) the Management Trustee will have the power to manage the Divestiture Assets in the ordinary course of business consistent with this Stipulation and the Preservation of Assets Order. Only with the prior written approval of plaintiff United States upon consultation with plaintiff Minnesota, may the Management Trustee make any

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decision, take any action, or enter any transaction that is outside the ordinary course of business;

(2) the Management Trustee shall have a duty, consistent with the terms of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, to monitor the organization of the Divestiture Assets; manage the Divestiture Assets in order to maximize their value so as to permit expeditious divestitures in a manner consistent with the proposed Final Judgment; maintain the independence of the Divestiture Assets from defendants; control and operate the Divestiture Assets to ensure that the Divestiture Assets remain an independent, ongoing, economically viable competitor to the other mobile wireless telecommunications services providers; and assure defendants' compliance with their obligations pursuant to this Stipulation, the Preservation of Assets Order and the proposed Final Judgment;

(3) the Management Trustee shall have the authority to retain, at the cost and expense of defendants, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Management Trustee's duties and responsibilities;

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(4) the Management Trustee and any consultants, accountants, attorneys, and any other persons retained by the Management Trustee, shall have full and complete access to all personnel, books, records, documents, and facilities of the Divestiture Assets or to any other information relevant to the Divestiture Assets as the Management Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the Divestiture Assets. Defendants shall develop such financial or other information as the Management Trustee may request and shall cooperate with the Management Trustee. Defendants shall take no action to interfere with or impede the Management Trustee's ability to monitor defendants' compliance with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment or otherwise to perform his duties and responsibilities consistent with the terms of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment;

(5) the Management Trustee will ensure that the Divestiture Assets shall be staffed with sufficient employees to maintain their viability and competitiveness. To the extent that any employee whose principal responsibilities relate to the Divestiture Assets leaves or has left the

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Divestiture Assets prior to divestiture of the Divestiture Assets, the Management Trustee may replace departing or departed employees with persons who have similar experience and expertise or determine not to replace such departing or departed employees; and

(6) 30 days after the Management Trustee has been appointed by the Court, and thereafter on the 25th day of each month until the Divestiture Assets are either transferred to an Acquirer or to the Divestiture Trustee, the Management Trustee shall report in writing to the plaintiffs concerning the efforts to accomplish the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment. Included within that report shall be the Management Trustee's assessment of the extent to which the Divestiture Assets are meeting (or exceeding) their projected goals as those are reflected in existing or revised operating plans, budgets, projections or any other regularly prepared financial statements and the extent to which defendants are fulfilling their responsibilities under this Stipulation, the Preservation of Assets Order and the proposed Final Judgment. If the Management Trustee designates any information as "confidential" in any report he submits pursuant to the Preservation of Assets Order, any plaintiff that objects to the

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designation of information as "confidential" will notify the Management Trustee within five business days after the submission of such report.

D. The following limitations shall apply to the Management Trustee:

(1) the Management Trustee shall not be involved, in any way, in the operations of the other businesses of defendants;

(2) the Management Trustee shall have no financial interests affected by defendants' revenues, profits or profit margins, except that the Management Trustee's compensation for managing the Divestiture Assets may include economic incentives dependent on the financial performance of the Divestiture Assets provided that those incentives are consistent with the objectives of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment and are approved by plaintiff United States in consultation with plaintiff Minnesota; and

(3) the Management Trustee shall be prohibited from performing any further work for defendants for two years after the close of the divestiture transactions.

E. Defendants and the Management Trustee will take all reasonable efforts to preserve the confidentiality of information that is material to the operation of either the

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Divestiture Assets or defendants' businesses. Defendants' personnel supplying services to the Divestiture Assets pursuant to the Preservation of Assets Order must retain and maintain the confidentiality of any and all confidential information material to the Divestiture Assets. Except as permitted by this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, such persons shall be prohibited from providing, discussing, exchanging, circulating or otherwise furnishing the confidential information of the Divestiture Assets to or with any person whose employment involves any of defendants' businesses, except as necessary to fulfill the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment.

F. If in the judgment of the Management Trustee, defendants fail to provide the services listed in Section VI of this Stipulation and the Preservation of Assets Order to the satisfaction of the Management Trustee, upon notification to defendants and approval by plaintiff United States upon consultation with plaintiff Minnesota, the Management Trustee may engage third parties unaffiliated with the defendants to provide those services for the Divestiture Assets, at the cost and expense of defendants, provided that defendants may have reasonable access to information to satisfy themselves that after the services have been provided, the Divestiture Assets are in compliance with all applicable laws, rules, and regulations.

G. At the option of the Management Trustee, defendants may also provide other products and services, on an arms-length basis provided that the Management Trustee is

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not obligated to obtain any other product or service from defendants and may acquire any such products or services from third parties unaffiliated with defendants.

H. If the Management Trustee ceases to act or fails to act diligently and consistently with the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, if the Management Trustee proposed by plaintiff United States is not approved by this Court, resigns, or if for any other reason the Management Trustee ceases to serve in his or her capacity as Management Trustee, plaintiff United States upon consultation with plaintiff Minnesota, may select a substitute Management Trustee. In this event, plaintiff United States will identify to defendants the individual or entity it proposes to select as Management Trustee. Defendants must make any objection to this selection within five business days after plaintiff notifies defendants of the Management Trustee's selection. Upon application of the United States, the Court shall approve and appoint a substitute Management Trustee. Within five business days of such appointment, defendants shall enter into a trust agreement with the Management Trustee subject to the approval of plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota as described in Section V.B of this Stipulation and the Preservation of Assets Order.

VI. Preservation of Assets

Until the divestitures required by the proposed Final Judgment have been accomplished, except as otherwise approved in advance in writing by plaintiff United States:

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A. Defendants and the Management Trustee shall preserve, maintain, and continue to support the Divestiture Assets, take all steps necessary to manage the Divestiture Assets in order to maximize their revenue, profitability and viability and permit expeditious divestitures in a manner consistent with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment.

B. The Divestiture Assets shall be operated by the Management Trustee as part of an independent, ongoing, economically viable business that competes with other mobile wireless telecommunications services providers operating in the same license area. Defendants and the Management Trustee shall take all steps necessary to ensure that:

(1) the management, sales, and operations of the Divestiture Assets are independent from defendants' other operations; provided, however, that at the request of the Management Trustee, defendants shall include the marketing, pricing and sales of the mobile wireless telecommunications services generated by the Divestiture Assets in the license areas served by the Divestiture Assets within its marketing, promotional, and service offerings, in the ordinary course of business, in any national, regional, and local marketing programs. The defendants shall not display advertising announcing or describing benefits of the Transaction in the four divestiture markets. Nothing in this Section shall prohibit the Management Trustee from developing

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his own reasonable marketing, sales, pricing or promotional offers, which shall be funded and supported by defendants;

(2) the Divestiture Assets are maintained by adhering to normal and planned repair, capital improvement, upgrade and maintenance schedules, or at a greater level if necessary to insure that the Divestiture Assets remain competitive;

(3) the management of the Divestiture Assets will not be influenced by defendants;

(4) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning marketing, pricing or sales of mobile wireless telecommunications services generated by the Divestiture Assets will be maintained in such a manner as to not disclose confidential information to defendants' employees except as provided in Section VI.K herein; and

(5) the management of the Divestiture Assets acts to maintain and increase the sales and revenues of the Divestiture Assets, and maintain, at a minimum, at previously approved levels for 2006 and 2007, whichever are higher, all promotional, advertising, sales, marketing, and technical support for the Divestiture Assets.

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C. Defendants shall provide sufficient working capital and lines and sources of credit as deemed necessary by the Management Trustee to continue to maintain the Divestiture Assets consistent with this Stipulation and the Preservation of Assets Order.

D. Defendants shall resolve all outstanding obligations related to the Divestiture Assets including agent and employee compensation within 30 days of closing the Transaction.

E. Except (1) as recommended by the Management Trustee and approved by plaintiff United States upon consultation with plaintiff Minnesota, (2) as part of a divestiture approved by plaintiff United States upon consultation with plaintiff Minnesota, in accordance with the terms of the proposed Final Judgment, or (3) as specifically provided for in the proposed Final Judgment, defendants shall not remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets outside the ordinary course of business.

F. The Management Trustee, with defendants' cooperation consistent with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, shall maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Divestiture Assets. As part of the defendants' cooperation, at least five days prior to the closing of the Transaction, defendants will provide to the Management Trustee and plaintiffs financial reports for the divestiture

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markets in Minnesota, and for the four divested RSAs, detailed management reports describing existing and future plans for human resources, marketing, and network upgrades and capital expenditures, and the extent to which each plan or project has been completed. Defendants will produce these reports in a form and with content that is acceptable to the Management Trustee and plaintiff United States upon consultation with plaintiff Minnesota.

G. As part of the defendants' cooperation, at least five days prior to the closing of the Transaction, defendants will provide all reports regularly prepared by defendant ALLTEL that measure sales activity in each of the four divestiture markets that are in a form and with content acceptable to the Management Trustee and plaintiffs. If these reports cannot be produced for each of the four divestiture markets, these reports should cover the smallest geographic area that includes the divestiture markets as is technically feasible. If the Transaction has not closed within seven days after the filing of the Complaint, on that day defendants will submit to plaintiffs and the Management Trustee current copies of these reports.

H. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets nor shall defendants take any action that would interfere with the ability of any Divestiture Trustee appointed pursuant to the proposed Final Judgment to operate and manage the Divestiture Assets or to complete the divestitures pursuant to the

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proposed Final Judgment to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota.

I. Within seven days of the filing of the Complaint or prior to the closing of the Transaction, whichever is sooner, defendants shall appoint (and notify plaintiffs and the Management Trustee of their names and titles) sufficient employees for the Divestiture Assets, who are familiar with and have had responsibility for the management, operation, marketing, and sales of the Divestiture Assets, to assist the Management Trustee with his duties and responsibilities hereunder.

J. Except for employees (1) whose primary employment responsibilities relate to the Divestiture Assets, or (2) who are involved in providing support services to the Divestiture Assets pursuant to Sections V and VI of this Stipulation and Section V of the proposed Final Judgment, defendants shall not permit any other of their employees, officers, or directors to be involved in the operations of the Divestiture Assets.

K. Except as required by law in the course of (1) complying with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment; (2) overseeing compliance with policies and standards concerning the safety, health, and environmental aspects of the operations of the Divestiture Assets and the integrity of their financial controls; (3) defending legal claims, investigations or enforcement actions threatened or brought against the Divestiture Assets; or (4) obtaining legal advice, defendants' employees (excluding employees (a) whose primary employment responsibilities relate to

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the Divestiture Assets, or (b) who are involved in providing support services to the Divestiture Assets pursuant to Sections V and VI of this Stipulation and the Preservation of Assets Order and Section V of the proposed Final Judgment) shall not receive, or access, or use any material confidential information, not in the public domain, of the Divestiture Assets. Defendants may receive or access aggregate financial information relating to the Divestiture Assets to the extent necessary to allow defendants to prepare the defendants' consolidated financial reports, tax returns, reports required by securities laws, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.

L. Defendants may offer a bonus or severance to employees whose primary employment responsibilities relate to the Divestiture Assets, that continue their employment until divestiture (in addition to any other bonus or severance to which the employees would otherwise be entitled).

M. Until the Divestiture Assets are divested to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, defendants shall provide to the Divestiture Assets, at no cost, support services needed to maintain the Divestiture Assets in the ordinary course of business, including, but not limited to:

(1) federal and state regulatory policy development and compliance;

(2) human resources administrative services;

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(3) environmental, health and safety services, and developing corporate policies and insuring compliance with federal and state regulations and corporate policies;

(4) preparation of tax returns;

(5) financial accounting and reporting services;

(6) audit services;

(7) legal services;

(8) routine network maintenance, repair, improvements, and upgrades;

(9) switching, call completion, and other services necessary to allow subscribers to use mobile wireless telecommunications services and complete calls;

(10) billing, customer care and customer service related functions necessary to maintain the subscriber account and relationship;

(11) for each retail and indirect sales outlet, a 60 day supply of inventory, including both handsets and accessories, branded as directed by the Management Trustee, based on each outlet's average sales for the prior two months, and if the Management Trustee requests, ALLTEL shall make available in sufficient quantities, branded as directed by the Management Trustee, handsets and accessories, introduced by ALLTEL

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in similar markets that are compatible with the network in the four divestiture markets;

(12) the financial reports described in Section VI.F shall be provided on a monthly basis; and

(13) the sales reports described in Section VI.G shall be provided on a daily basis.

N. Prior to the closing of the Transaction, defendants will notify plaintiffs in writing of the steps defendants have taken to comply with this Section. If the Transaction has not closed within seven days after the filing of the Complaint, on that day defendants will submit to plaintiffs and the Management Trustee a detailed statement of how defendants will comply with Section VI.A prior to the closing of the Transaction, including but not limited to: (1) marketing plans for the sale of mobile wireless telecommunications services by the mobile wireless businesses to be divested, including customer retention plans and promotions; (2) the designation of a management team who will have responsibility for and manage the Divestiture Assets prior to the closing of the Transaction, identifying any changes from prefiling staffing; (3) plans for retention of employees and payment of retention bonuses to employees whose primary duties related to the mobile wireless telecommunications businesses to be divested; and (4) plans for network maintenance, repair improvements, and upgrades of the Divestiture Assets.

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O. This Preservation of Assets Stipulation and the Preservation of Assets Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of the Court.

Dated: September 7, 2006 Respectfully submitted,

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To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF TELECONFERENCE WITH SENIOR OFFICIALS REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

Department of Justice

FOR IMMEDIATE RELEASE — AG
THURSDAY, SEPTEMBER 7, 2006 — (202) 514-2007
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TRANSCRIPT OF TELECONFERENCE WITH SENIOR OFFICIALS REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON, D.C.

MR. ROEHRKASSE: All right. Thank you for joining us, and we apologize for the delay. One of our briefers was actually up on the Hill testifying. So let me just very briefly walk you through the ground rules before I turn it over to our first briefer.

The individuals on this call could either be referred to as senior administration officials, or respectively Department of Justice or Department of Defense senior officials.

Thanks.

SENIOR JUSTICE OFFICIAL: Thanks, Brian. Today the President, as he has announced, sent up to Congress proposed legislation addressing the need for military commissions and issues raised by the Supreme Court's decision in the Hamden case on Common Article 3.

As the President has indicated, and as we've made clear in testimony to Congress, the President does want to work with Congress on legislation coming off the Supreme Court's decision in Hamden that would authorize by statute military commissions to try terrorist detainees who have committed war crimes.

And the legislation that the President is proposing would create a new chapter within Title 10 of the U.S. Code, following right after the Uniform Code of Military Justice, and it would create a new code of military commissions. And this new code, which would be Chapter 47 of Title 10, would track many of the provisions of the UCMJ and would be modeled on the UCMJ.

It includes dozens of provisions that are taken from the UCMJ and adapted for purposes of military commissions trials, with some important differences, as we've focused on and noted in prior testimony.

Most importantly, the hearsay rule would be relaxed, and also there's a provision with respect to the use of

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classified evidence, which is critically important when you're talking about trials of enemy combatants detained in the war on terror and the use of classified information leading to the detention and the potential for prosecution of these detainees.

In addition, however, the proposed legislation would make some key changes in the procedures that were initially laid for military commissions under the military order of the President and the orders issued by the Secretary of Defense.

In particular, the legislation would provide for a military judge who would preside over military commissions, and that judge would be a fully certified military judge. And the military judge would decide questions of law and admissibility of evidence. He would not be a voting member of the commission that would decide issues of fact. The commission would have at least five members. So that would track courts martial procedures under the UCMJ.

The legislation would also provide for an appeal structure that's somewhat similar to that for courts martials under the UCMJ, but then with an appeal as a right to the D.C. Circuit using the appeal provisions or the scope of review provisions already provided for by Congress in the Detainee Treatment Act.

In addition, the legislation would define a list of offenses that would we triable as war crimes by military commissions.

Finally, the legislation would includes some other key provisions. Number one, it would include a provision that would put limitations, restrictions on judicial review of enemy combatant claims, including habeas petitions, some of the habeas petitions that are pending, and other claims, and would in effect, we believe, achieve what was originally intended in the Detainee Treatment Act passed by Congress back in December, but would allow for judicial review in prescribed circumstances of determinations of enemy combatant status by combatant status review tribunals and also the appeals of final judgments of military commissions, orders of conviction of military commissions, again, to the D.C. Circuit.

And then the legislation also includes some provisions responding to the Supreme Court's decision in the Hamden case that Common Article 3 of the Geneva Conventions applies to our conflict with al-Qaida. And that raises some significant issues.

And this legislation attempts not to reverse the Court's decision on the applicability of Common Article 3, but to work with that decision and to give it clarity, definition and certainty for the military, for intelligence officers and others in the U.S. government involved in the front lines in the war on terror.

And it would do that in three ways. It would define U.S. obligations under Common Article 3 by reference to the McCain amendment standard in the Detainee Treatment Act. Second, it would provide that enemy combatants and others cannot invoke the Geneva Conventions as a source of individual rights that can be enforceable by courts against the United States. And then finally, it would define a list of the serious offenses or serious violations of Common Article 3 that appropriately should constitute war crimes under the War Crimes statute. The War Crimes Statute 18 USC Section 2441 makes it a war crime to violate Common Article 3. That's not a provision that's ever been applied. It's not one that's been of relevance until the Hamden decision made it of relevance.

And what this legislation would do is define a specified list of serious violations of Common Article 3 that are appropriate for prosecution under the War Crimes Act, because Common Article 3 as it currently stands has some provisions in it that are capacious, very difficult to define, and they're also subject to evolving definitions from overseas tribunals and courts.

So that's basically the package. It is, as we have laid it out in testimony to Congress previously, so there really

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should be few surprises in the package that the President sent up today. And I understand now that that legislation is going to be introduced by leadership in the Senate as a Senate bill.

So I think that's my summary, and if the Department of Defense has anything to add to that, please go ahead.

SENIOR DEFENSE OFFICIAL: The DOD has nothing to add.

MR. ROEHRKASSE: Okay. We can just go ahead and open it up to questions, and again, please state your name and the media organization that you're calling from before you ask the question.

MODERATOR: At this time if you would like to ask a question, please press star then one on your touch tone phone. You will hear a tone to confirm that you have entered the list. If you decide you want to withdraw your question, please press star then two to remove yourself from this list. Again, pressing star then one will allow you to ask a question.

Our first question comes from Sean Waterman with United Press International. Please go ahead.

QUESTION: Yes. Can I ask a question about the other announcement that was made today about the transfer of 14 high value detainees to Guantanamo?

MODERATOR: Go ahead.

QUESTION: I mean, could you say what the sort of, you know, what the kind of long-term objective of this is? This sort of brings them into the system. I mean, they've been in these black sites outside of, you know, anything basically except the guidelines I guess issued by CIA general counsel. And now they're at Guantanamo. What is their status going to be at Guantanamo?

MODERATOR: Before we begin, I just want to clarify, I mean, this call is primarily to discussion the legislation associated with military commissions. This is not to discuss the intelligence gathering program that the President had alluded to in his speech, and there's obviously a lot that's been put out now by the White House and others on that. If you want to go ahead and at least answer a portion of the question, we can.

SENIOR JUSTICE OFFICIAL: Yeah, sure. I think as the President probably indicated in his speech, and I have the disadvantage of having been on the Hill testifying while the speech was given, but as I understand it, these 14 detainees have been transferred to Guantanamo Bay, and the idea is that their cases will be reviewed, as are cases of other detainees at Gitmo and elsewhere, for possible prosecution -- excuse me, at Gitmo. I shouldn't say "and elsewhere" -- for possible by military commission.

So those reviews will be occurring by prosecution teams. Then in addition, they will be detained as -- like other enemy combatant detainees at Gitmo, pursuant to all of the same Department of Defense policies, procedures, et cetera, that apply to other detainees at Gitmo. So they will be held in a separate special facility.

QUESTION: Hello?

SENIOR JUSTICE OFFICIAL: Yes?

QUESTION: Yes. I'm sorry. You said a special separate facility?

SENIOR JUSTICE OFFICIAL: I believe they will be held in a separate facility at Gitmo.

QUESTION: So is that under construction now, or what's the deal with that, do we know?

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MODERATOR: DOD?

SENIOR DEFENSE OFFICIAL: Yeah, this is DOD. They're being held at a secure facility at Guantanamo and that's as far as we're going to go in terms of talking about it.

QUESTION: Okay. Does this -- just one further follow-up, if I may -- does this -- I mean, why has this happened? Like is this because -- I mean, is this in response to kind of criticism or unease about the black sites, or? I mean, how would you characterize the kind of impetus behind this decision?

SENIOR JUSTICE OFFICIAL: I think what I would say is that the President, I believe, touched on that in his speech, and I guess I'll just refer you to the President's speech on that.

QUESTION: Okay. Sorry. I didn't get a chance to listen.

MODERATOR: Our next question comes from Pete Williams with NBC News. Please go ahead.

QUESTION: Thank you. The provision that allows for appeal to the D.C. Circuit of the Supreme Court, are you saying that while that is in your legislation you sent to the Hill today, that's already provided by the Detainee Treatment Act?

SENIOR JUSTICE OFFICIAL: Yes. The Detainee Treatment Act provides for review by the D.C. Circuit of final judgments of conviction by military commissions.

Now we make an important change in our legislation. Under the Detainee Treatment Act as it currently exists, it's an appeal as a right for detainees who are convicted by military commissions and sentenced to more than ten years in prison or sentences of death, and for detainees who are sentenced to less than ten years, it's a petition for discretionary review.

Under the legislation the President has sent up, it would be an appeal as of right from any conviction of military commissions to the D.C. Circuit. But the scope of review would be the same as currently provided for in the Detainee Treatment Act.

QUESTION: Okay. And secondly, a technical question on Kahlid Sheikh Mohammed's legal status now. Given that he has already been indicted in the Bajinka plot, and you are now -- the government is now fessing up that we have him in custody, will you seek, as you have in these previous cases, to declare him an enemy combatant? And will you have to get that indictment dismissed, or where does that stand?

SENIOR JUSTICE OFFICIAL: Well, I'm not in a position to comment on the indictment that you reference, but I think as I indicated, each of these cases will be reviewed for possible prosecution by military commission. In addition, pursuant to DOD procedures, each of these detainees will be subject to -- and DOD can add any points or correct me if I'm wrong -- but each of these detainees would be subject to review by a combatant status review tribunal for enemy combatant status pursuant to the CCERT procedures.

QUESTION: Yeah. I'm hip to the military side of it, but if -- let me put it this way. If any of these folks had been indicted previously, would you have to deal with that before to get that off the table to go forward on the military side?

SENIOR JUSTICE OFFICIAL: I don't believe so, but I'm not familiar with the indictment you referenced.

QUESTION: Okay.

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SENIOR JUSTICE OFFICIAL: So, I'm sorry. I'm not in the best position to answer that. But I think the answer to that is no.

QUESTION: Okay. Thank you.

MODERATOR: Our next question comes from Ari Shapiro with National Public Radio.

QUESTION: Hi. The President said that he would like to try Kahlid Sheikh Mohammed and the other high level detainees under this proposed military commission described in the legislation.

My question is, does the Administration plan to try KSM and others under any version of military commission legislation that is passed, or is it only committed to trying them under the version the President has proposed today?

SENIOR JUSTICE OFFICIAL: Well, let me say, and the folks at DOD can chime in on this I'm sure. The cases will be carefully reviewed and are being reviewed for possible prosecution. The idea would be prosecution by military commissions.

The President has sent up the legislation that he thinks will achieve the kind of military commission process, procedures that we think would be most appropriate for these and other cases. Obviously, it's up to Congress to make the final decision on the legislation, and we'll be working with Congress on the legislation.

We think we got it just about right. We've done an extraordinary amount of consultation, both within and across the executive branch, but also inter-branch consultation with members and staff on the Hill. We're very optimistic that Congress will agree with the proposals that the President has sent forward for the proper procedures in the military commissions. We think those are workable procedures that will make for full and fair trials, but also effective procedures for the kinds of prosecutions we're talking about of enemy combatants in this kind of armed conflict.

QUESTION: But if the version that Congress passes differs substantially from the version that the President has proposed, is the Administration still devoted to -- still planning on trying KSM and others?

SENIOR JUSTICE OFFICIAL: Well, that's obviously a hypothetical question, but we will -- we are certainly dedicated to reviewing these cases for possible prosecution. I think the President indicated that he feels that now is the time to bring these folks to justice and to review their cases for the possibility of prosecution.

QUESTION: Okay. Thank you.

MODERATOR: Our next question comes from Jim Raleigh with Bloomberg News.

QUESTION: Yes. One of the complaints I've heard from lawmakers up here on Capitol Hill is that the Administration's proposal would allow the use of evidence that was coerced, that they see -- their proposal would flatly ban it. I wonder if you could outline in what circumstances coerced evidence could be used.

SENIOR JUSTICE OFFICIAL: Well, our legislation does not attempt to create some blanket or black-and-white rule, except for evidence that's determined to have been obtained through the use of torture. Through our treaty obligations, any statements that are determined to have been obtained through the use of torture would be banned -- would be barred from admissibility.

As to any other statements short of that, that detainees or the accused may alleged were obtained through some form of coercion, and that could be a whole spectrum of things that an accused might claim, it would be up to the

experienced professional military judge, the certified military judge, in each case, in each military commission prosecution, to review that evidence, to review all the circumstances under which the statements at issue were obtained, to hear the arguments from counsel on both sides, and to make a determination about the reliability and probative value, if any, of the statements.

And the legislation would provide that if the military judge determines that the statement, for whatever reason, was not reliable or lacking in probative value -- or lacking in probative value -- the military judge would not admit that statement.

So, we think it's best handled on a case-by-case basis, item-by-item of evidence by military judges, just as admissibility decisions are made in courts every day. We think it's very difficult and a very perilous enterprise to try to define with specificity what those statements might be, what coercion might mean, when statements should or should not be admissible.

We think the military judge in each case should make those determinations based on all of the circumstances looking at the reliability of the statements or lack of reliability, and their probative value, if any.

QUESTION: And the other differences that they are concerned about the barring of access to classified information, or at least some summary of evidence based on classified information, barring the accused from knowing what that is. I mean, how would you?

SENIOR JUSTICE OFFICIAL: Yeah. The legislation that the President sent up today has very elaborate provisions, if you take a look at it, limiting those extraordinary circumstances when we would expect that there may be a need to use -- to admit classified evidence that would be considered by the military commission but not made available to the terrorist accused, to the detainee himself, though it would be made available to his counsel.

And these provisions require that in all cases where possible, substitutes be used, summaries of the evidence in lieu of the actual classified evidence, also requires that the agency head responsible for the classified evidence certify that it's been declassified to the extent possible. The military judge has to make certain specific findings that it's consistent with and full trial, that it is the limited -- that it is the minimum necessary in terms of the use of classified evidence that's not being exposed to the accused.

But the bottom line is, we think that the prosecutions in these military commissions proceedings during an ongoing armed conflict with a terrorist enemy, have to have the flexibility, or at least the possibility of using classified evidence in certain circumstances where we're not exposing those classified sources, methods or other sensitive information to a terrorist who may be able to share them with al-Qaida in this ongoing war.

Now the accused would get a summary of, to the extent possible, of the evidence in an unclassified form. But there has to be that opportunity, we think, for the effectiveness of these prosecutions, at least in certain cases, when we think classified evidence is going to be important in certain cases.

Now that's not, if you think about it, entirely different from what happens, for example, in international criminal tribunals like the International Criminal Tribunal for the former Yugoslavia or Rwanda, where in certain circumstances, witnesses have been allowed to give anonymous testimony, or the witness's face, voice or identity has been screened or excluded from the accused, and even the accused's counsel. Usually the reason is because of the safety of the witness.

But the principal is really no different from the principal we're talking about here where what we're trying to protect is not just the safety of the witness, but sensitive sources and methods of intelligence gathering that we must keep secret in an ongoing war.

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QUESTION: Do you have any sense of the percentage of cases that are outstanding where classified information would have to be introduced in a raw firm, of the universe of cases that you know about now?

SENIOR JUSTICE OFFICIAL: No, we really don't. And I think that's very difficult to predict in advance. And that's why we think it's important not to close the door on that possibility or try to come up with some hard and fast prohibition on it, because we need to have that flexibility.

QUESTION: Thanks.

MODERATOR: Our next question comes from Jake McClure with Legal Times.

QUESTION: Yeah. I wanted to follow up on the previous question about coercive testimony, particularly given what the President had to say about the importance of these alternative interrogation techniques in obtaining information from Abu Zubeda and Kahlid Sheikh Mohammed and Ramzi bin al-Shibh.

How much difficulty will the government have in prosecuting these guys if Congress passes a bill that prevents the government from using evidence gathered through coercive interrogations? Because a number of senators from the President's own party have been very clear on this point.

SENIOR JUSTICE OFFICIAL: Well, first of all, the prosecution teams will be reviewing all of the evidence, all of the intelligence from all sources that may be available about these individuals in terms of putting together a case. So I don't want to prejudge whether any particular types of statements would necessarily be offered as evidence or might be critical to prosecutions here.

As with anything, any intelligence-gathering effort, when you gather intelligence, what you do is then take that intelligence and go out and use it to try to find corroborating information from other sources. And so in many cases, there may be corroborating information from lots of other sources that are gathered that may make it possible to do a prosecution without using particular statements.

But I wouldn't again foreclose the use of any evidence or any statements. Again, we think it should be looked at on a case-by-case, item-by-item basis by experienced military judges who can judge the reliability and probative value of particular pieces of evidence. And that -- we think it's that flexible framework that we need to preserve and that will be important for these prosecutions.

QUESTION: Thanks.

MODERATOR: Our next question comes from Jeff Stern with Congressional Quarterly.

QUESTION: Hi. I'm wondering under the legislation being introduced, CIA interrogators still be subject to the Army Field Manual, that the only -- the separate operation laid out by the President -- that would be only be subject to the internal legal review within the CIA or DOJ?

SENIOR JUSTICE OFFICIAL: Well, I guess I would say two things. Number one, with respect to any questioning of these 14 detainees who have now been moved to the custody at DOD at Gitmo, any and all questioning of these detainees will be done subject to the Army Field Manual. They'll be all done subject to policies and procedures in place by DOD.

In terms of any CIA activities or any such program going forward, I think all the President has made clear is that it's important to have that capability going forward for the protection of the country. And I guess I'll leave it there.

QUESTION: Except that you didn't answer the question. Are they subject -- will they abide by the Field Manual,

the CIA interrogators?

SENIOR JUSTICE OFFICIAL: Well, the provisions of the Detainee Treatment Act regarding the Army Field Manual apply to the military.

QUESTION: Right.

SENIOR JUSTICE OFFICIAL: And so the requirement that all interrogation practices be laid out in the Army Field Manual applies only to the military.

QUESTION: But for the purposes of the War Crime Act Amendment in the bill, that would also apply to the CIA?

SENIOR JUSTICE OFFICIAL: The War Crime Act applies with respect to any war crime committed by or against a U.S. national. It's not limited to armed services.

QUESTION: Okay. Thank you.

MODERATOR: Our next question is from Richard Sisk with New York Daily News.

QUESTION: Will the legislation apply to individuals that might come into the custody of the CIA in the future? Because it seems like we're setting up some kind of double standard here, the set of rules by which the CIA will operate in which the President would not define special procedures, and the defined rules of the Army Field Manual. How do you reconcile that?

SENIOR JUSTICE OFFICIAL: Well, I guess there's very little I can say about classified activities, nothing I can really say about classified activities. I think -- I think the President indicated that he felt it was important to have a capability going forward for some kind of CIA program and that the Administration would be working with those members of the intelligence committees and other leaders in Congress with respect to the outlines of that.

So beyond that, I'm not sure I can comment. I would say that what this indicates is that the President views it as appropriate for detainees who have been questioned by intelligence services in the war on terror where the intelligence value of the detainee has been obtained, that in any cases where it's appropriate, those detainees be transitioned to circumstances like these 14 detainees at Gitmo where their cases can be reviewed for possible prosecution by military commissions for war crimes that they may have committed.

QUESTION: Who decides that this is appropriate? Who makes the determination that someone should go into CIA custody where there -- where different rules apply?

SENIOR JUSTICE OFFICIAL: I really can't talk about the operational details or specifics of the classified program.

MODERATOR: All right. Our next question comes from Jason Rhine from ABC News.

QUESTION: Hi. My question on coercion was already answered, but I was wondering what was the status of the leak investigations which were opened by the Department regarding the black sites reporting by the Washington Post. Will those still continue at this time now that the President has discussed and disclosed this program?

SENIOR JUSTICE OFFICIAL: We do not comment on ongoing investigations, and I personally am not in a position to comment and really have any knowledge of that.

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MR. ROEHRKASSE: I'm unaware of an official in the Department, at least that I've seen in a press report, confirming such an investigation.

QUESTION: Okay.

MODERATOR: Our next question comes from Ben Winograd from the Wall Street Journal.

QUESTION: Yes. Does the legislation address whether a simple conspiracy is an offense triable by a military commission?

SENIOR JUSTICE OFFICIAL: Yes. It does make it clear -- it does clarify that conspiracy can be a separate offense triable by military commission. As the government made clear in its briefing in the Hamden case, we believe that is an already existing offense under the laws of war and it's something that could be -- could be charged. And this clarifies that. The legislation would enumerate a long list of potential crimes or crimes that could be triable by military commission, and conspiracy is separately identified as one.

QUESTION: And also, does the due process clause of the Fifth Amendment apply to foreign detainees held at Guantanamo Bay?

SENIOR JUSTICE OFFICIAL: It's the position of the United States that it does not. And that position has been articulated in briefing and is actually an issue in some of the cases that are currently pending in the D.C. Circuit.

QUESTION: Okay.

SENIOR JUSTICE OFFICIAL: So I would refer you to the briefs in the Aloda and Bumadeen cases currently pending in the D.C. Circuit.

QUESTION: Thanks.

MODERATOR: Our next question comes from Doreen Haglund with National Journal.

QUESTION: Yes. When you indicated that the legislation preserved the limited scope of review of the Detainee Treatment Act, can you talk a little bit more about what that means? Part of the Detainee Treatment Act limits review to the appeals court to procedural grounds only. What exactly is going to be available for appeal?

SENIOR JUSTICE OFFICIAL: Well, the Detainee Treatment Act says that the D.C. Circuit can review military commission judgments for whether the commission applied the standards and procedures that it was supposed to apply in the military commission proceedings. And, moreover, whether the judgment of the military commission is consistent with the laws and Constitution of the United States.

So it's not yet determined what the precise scope of that review will be because there haven't been any appeals yet from final judgments of military commissions. In fact, right now as a result of the Hamden case, we're dead in the water on military commission proceedings. We can't proceed with any military commission trials separate from full UCMJ court martial proceedings without legislation from Congress.

So until we get the legislation and proceed with a trial and a conviction, we won't get to the point of testing precisely what that means in terms of that scope of review in the D.C. Circuit.

QUESTION: Okay. And then secondly, you indicated that the hearsay rules would be relaxed within the legislation. What exactly are you relaxing there?

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SENIOR JUSTICE OFFICIAL: Well, we're -- we actually would not include a prohibition on hearsay evidence. The prohibition on hearsay evidence is one that's grown up under the common law for regular or routine or ordinary criminal proceedings and other court proceedings under the common law. For example, criminal prosecutions of U.S. citizens in the United States. It also is a prohibition on hearsay evidence that applies with lots and lots of exceptions, I should say. There are many exceptions, traditional exceptions to the hearsay rule.

QUESTION: And I guess that's actually my question. What are you trying to -- what exceptions are you expanding in this case?

SENIOR JUSTICE OFFICIAL: Well, we are applying in these -- we would apply in these military commission proceedings the kind of approach that's taken in traditional civil law and international war crimes tribunals more generally, which is not a prohibition at all on hearsay evidence, but a recognition that the fact finder should be able to consider any evidence that is probative to a reasonable person.

And there shouldn't be some blanket prohibition on the use of hearsay. Instead, hearsay evidence should be admissible, again, if it's reliable and has probative value. So, those threshold determinations about admissibility would be made by military judges.

But what that would give you is greater flexibility in using a range of types of evidence, which is as a practical matter, critically important when you're talking about prosecutions of war crimes that may have been committed on or off battlefields, locations all over the world, where the evidence is not going to have the same kind of chain of custody and authentication that you see in regular Article 3 court prosecutions or court martial proceedings.

MODERATOR: And our next question comes from Tom Brun from Newsday.

QUESTION: The session -- I'm curious. You say you're going to review these cases for possible prosecution. Does that mean there's a distinct possibility that many or some of the 14 will not actually receive trials? And the second thing is, are these going to be held publicly or are they going to be held secretly?

SENIOR JUSTICE OFFICIAL: I actually am going to let the -- I'm going to let the Department of Defense chime in on those questions.

SENIOR DEFENSE OFFICIAL: From the standpoint of the Department, what will happen is once we get the legislation and it's signed, then these cases will be reviewed.

No one has -- any particular person be prosecuted for any particular offense. That rationally should await an analysis of all the evidence and -- of review that the prosecutors will make with recommendations to what we believe would be -- what would be under this legislation proposal, the convening authority who would make the determination as to what charges should be -- should move forward at trial and whether a trial should then take place.

So none of that is preordained. This accounts for the normal prosecutorial discretion that would exist in any particular in the setting that we have post-legislation.

QUESTION: Well, what does the President mean when he says we will also seek to prosecute those believed to be responsible for the attack on USS Cole, et cetera? And these guys can face justice. I mean --

SENIOR DEFENSE OFFICIAL: It means that the President has with respect to these individuals, in particular the 14 he named today, has made a determination that they are subject to the jurisdiction of the military commission process.

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And then he leaves for the prosecutors and the appointing authority or the convening authority, the responsibility for assessing the quality of the evidence and making a determination as to the appropriate charges, if any, to be brought, and then ultimately to conduct a full and fair trial for any individual charged.

QUESTION: So is the issue of how the evidence was obtained an issue that you'll have to take on?

SENIOR DEFENSE OFFICIAL: I think as in any case, the prosecutor will have to assess the evidence, how it was obtained, how probative, how reliable it would be when presented to the finder of fact, and he'll have to make that call as to what evidence he believes will be ultimately admissible at a trial, much as any prosecutor does in any Article 3 or state court criminal proceeding.

QUESTION: What about the public aspect? Will these be public trials?

SENIOR DEFENSE OFFICIAL: Yes.

QUESTION: Behind closed doors, what?

SENIOR DEFENSE OFFICIAL: They are public trials insofar as the evidence being presented is not classified. Again, as with either courts martial or even Article 3 trials, if we get to the point where there is classified information that has to be presented, then the public would be excused from the trial, and that portion of the trial would be closed when the classified evidence is actually on the table for review either by the judge or for the purposes of argument.

But at all other times, you have an open hearing to the public where the evidence, the nonclassified evidence, is under consideration or being presented.

SENIOR JUSTICE OFFICIAL: This is back to DOJ. I would just add that I would suggest you look at the proposed legislation that the President sent up. Because again, there are very specific provisions in there about when trial proceedings would be closed to the public.

QUESTION: I haven't actually seen the legislation. Could you send a copy to me? I haven't been able to get a copy.

MR. ROEHRKASSE: Tom, there have been multiple e-mails that have been sent out from the White House distribution list, so if you still don't have --

QUESTION: Well, but that's actually just a factsheet that says myth and fact. I mean, the actual legislation I haven't seen.

MR. ROEHRKASSE: I've seen it come through a variety of e-mails. We'll make sure you get it, Tom.

QUESTION: Thank you very much.

SENIOR JUSTICE OFFICIAL: It was formally transmitted just today. And I believe it's probably available on websites, because I think it's going to be, if it hasn't been already, introduced by Senator Frist and Senator McConnell.

QUESTION: Someone from Senator Frist's office told me it won't be introduced until tonight, and they don't have a copy of it yet.

SENIOR JUSTICE OFFICIAL: Okay. Well, I'm sure it's available.

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MR. ROEHRKASSE: I've seen it sent out.

QUESTION: Okay.

MR. ROEHRKASSE: Why don't we do three more questions.

MODERATOR: Our next question comes from Rick Schmidt from the Los Angeles Times.

QUESTION: Hi. Following up off Tom's questions, when will the 14 have access to lawyers? Will they be entitled to be present at their trial? And when do you imagine, assuming Congress acts, you know, by the election, when are you going to start making decisions on whether to charge or to have them subject to the combatant status review board and potential enemy combatant status?

SENIOR JUSTICE OFFICIAL: DOD?

SENIOR DEFENSE OFFICIAL: I'll try to take them in some order of -- that makes sense. I think with respect to access to attorneys, for the purposes of any possible prosecution, the rules contemplate that he would not have access to an attorney until charged. So for the purposes of any criminal prosecution, the right to an attorney does not attach until such time as he's been charged and then anticipates going forward to a criminal proceeding.

The CCERT process, the administrative determination as to the combatant status review tribunal review, will take place soon but don't have a precise date laid on quite yet, but probably on the order of 60 days or so.

As far as when they might be charged, if at all, for any potential prosecution, I think that's going to be a function of how quickly the prosecutors can look at all the evidence that might be available to them and make an assessment, as I mentioned earlier, as to the volume of evidence, the quality of the evidence and how they want to put together the proposed charges and assess how they want to scope out the possible trial.

So I wouldn't venture a guess on how quickly that would happen. I would tell you there has been and will continue to be a great sense of urgency about moving this process forward, but, again, doing it consistent with the need to have a thorough analysis of the potential charges, and again, a full and fair trial with both sides having an opportunity to wrestle with the evidence.

QUESTION: Do you think there will -- sorry. Go ahead.

SENIOR JUSTICE OFFICIAL: And to answer the other question you raised, pursuant to the procedures in the legislation that the President sent up, the accused, the defendant would be present for the trial, the military commission trial.

QUESTION: Do you -- can you say whether or not you think there will be at least some trials of these 14?

SENIOR JUSTICE OFFICIAL: I think we anticipate that there will. But again, the President said they're being transferred to seek prosecution, and again, that means that a team of prosecutors will thoroughly review the cases and assess the cases for prosecution.

SENIOR DEFENSE OFFICIAL: I would say it's probably a fair bet if you've just looked at the type of information all of you have been reporting through the years that there's probably a pretty good case to be made against many if not all of these people who were transferred to DOD control.

QUESTION: The Common Article 3 amendments related to war crimes, are those -- would those be made

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retroactive, I presume?

SENIOR JUSTICE OFFICIAL: Yeah. It is our view, and it's reflected in the legislation, that if you're going to set definite and clear rules of the road for those offenses that should be considered violations of Common Article 3 that rise to the level of war crimes for all U.S. personnel in the war on terror going forward, that by fairness, the same rules should apply looking backward as well.

QUESTION: What is their status going into Gitmo and how could it change with the status review board? I mean, could some of them be declared enemy combatants at this late date?

SENIOR JUSTICE OFFICIAL: Well, of course they could. The President has determined that they are appropriate for being subject to his military order, and I think there's no doubt that these folks, as you can tell from the descriptions of them, are enemy combatants of the United States. I mean, they are enemy combatants.

There will be a formal DOD review by CCERT and determination by CCERT of enemy combatant status. And that's something that by policy DOD applies and provides to all of the detainees held at Gitmo.

MR. ROEHRKASSE: Okay. We'll take one more question.

MODERATOR: The next question comes from Ed Goldman from Legal Times.

QUESTION: How would you -- what do you think in the end is going to be the one or two areas of your bill that Congress is going to take the most issue with, that the Armed Services Committee, the Senate Armed Services, is going to take the most issue with that will differ most from their version?

SENIOR JUSTICE OFFICIAL: Well, I think there's no secret that the most contentious issue is the use of classified evidence that will not be provided to the accused.

I mean, I think that that's -- frankly, everybody's recognized that that is the one area that's gotten a lot of scrutiny.

QUESTION: And you deny -- I mean, you just sort of reject their argument, or at least --

SENIOR JUSTICE OFFICIAL: Whose argument?

QUESTION: The argument of certain JAG lawyers, defense JAG lawyers, who say, look. You've got three choices. You can give them a redacted version. You can have a substitute of classified information, or you can just stipulate to the facts.

They say they deal with classified information all the time, and under the UCMJ, there's no problem. But you guys reject that argument.

SENIOR JUSTICE OFFICIAL: Well, that's for trials of our own troops, and a lot of those cases involve cases involving alleged misuse of classified information, for example, and --

QUESTION: How is this different? How are the people at Guantanamo, what --

SENIOR JUSTICE OFFICIAL: It's very different. this is very different, because what we know about terrorist -- the terrorists who are fighting against is largely because of intelligence. It is largely because of intelligence. So that the dossiers on these people have been developed from various intelligence sources, and it is critically important that we maintain the secrecy of sensitive intelligence sources and methods in the war on terror. It's an ongoing conflict.

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Now you might say, well, you could just avoid the problem by not prosecuting them until the end of the conflict. But I think the President has indicated, and certainly the view of the Administration, that we want to proceed forward with military commissions, and we don't think America can wait or should wait much longer for prosecutions of some of these very significant war criminals.

QUESTION: How would you know when the conflict ended?

SENIOR JUSTICE OFFICIAL: Well, that's a difficult question with the war on terror, and I think everybody recognizes that. And that's why we don't think it's a viable option to wait until al-Qaida has been defeated or is no longer waging war against the United States or its affiliates or its allies, but rather to proceed forward in the middle of the conflict, as we currently are, with prosecutions of some of these folks.

QUESTION: But again, those three ways to deal with classified information now are not sufficient?

SENIOR JUSTICE OFFICIAL: Well, we'll see in a given prosecution. But we need to have the tool available, because we do think it's going to be important in some of these cases to let the fact finder, the military commission understand the context of the evidence, but not to disclose to our enemy sensitive sources and methods.

So it's going to be a balance, and it's going to have -- these military commissions will have to work through the process, and military judges will need to make some difficult decisions, and the legislation would allow for that possibility, which we think is absolutely essential to have that possibility. Because if we shut off that possibility, then we are -- we're going to make these prosecutions much more difficult in some of the most important cases.

MR. ROEHRKASSE: Okay. Thank you very much. If there are any other questions, please feel free to call our office or DOD Public Affairs.

Thank you.

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Department of Justice

United States Attorney McGregor W. Scott
Eastern District of California

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
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THREE MEN INDICTED FOR DEALING IN DEFENSE SECRETS AND EXPORTING MILITARY EQUIPMENT

FRESNO, Calif. – Amen Ahmed Ali, 56, of Bakersfield and two associates were indicted by a federal grand jury in Fresno on charges relating to the acquisition and transmission of secret defense information and the export of stolen and sensitive military equipment U. S. Attorney McGregor W. Scott, Special Agent in Charge (SAC) Drew S. Parenti of the Sacramento Field Division of the FBI, Bakersfield Police Chief William Rector, Kern County Sheriff Mack Wimbish, and SAC Charles DeMore of the U. S. Immigration and Customs Enforcement (ICE), Office of Investigations in San Francisco, announced today. Amen was also known as Ali Amin Alrowhani, Amin Al Rohany or Ameen Alrohany.

In announcing the indictment, Scott said, "We will use all appropriate legal means at our disposal to detect, disrupt, and hold accountable those who seek to do us harm, whether they act within or outside our borders. This investigation is a sterling example of effective cooperation between federal and local law enforcement agencies to protect our national security and promote public safety."

The indictment alleges that on multiple occasions, between June 25, 2005 and Aug. 31, 2006, Ali received secret defense documents from a government undercover agent. He then transmitted them to the Republic of Yemen, both by fax transmission and by courier.

In addition, Ali, (aka Ali Amin Alrowhani, Amin Al Rohany, or Ameen Alrohany) is charged with conspiring with Ibrahim A. Omer, 40, who currently resides in Fort Worth, Texas, to ship military items to Yemen, the export of which is restricted under federal law. The indictment alleges that between Jan. 13, 2003 and Feb. 14, 2004, Ali and Omer conspired to violate the Arms Export Control Act and the International Traffic in Arms Regulations by shipping several military articles, including body armor and chemical protective suits. These items cannot be legally exported from the Untied States without authorization from the Department of State. In addition, they are both charged with attempting to avoid the export restrictions.

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Ali is also charged with conspiring with Mohamed Al-Rahimi, 62, of Bakersfield, to receive stolen government property which was also sent to Yemen. The indictment alleges that Ali purchased military equipment which he believed to have been stolen from the United States Army, and then directed it to be shipped to Yemen. It is alleged that Al-Rahimi traveled to Yemen to broker the sale of the items.

The indictment is the result of a long term, and ongoing investigation by the Joint Terrorism Task Force, which involved members of the FBI, Bakersfield Police Department, the Kern County Sheriff's Office, and the U. S. Immigration and Customs Enforcement.

During the course of today's operation, which included the execution of search warrants and the arrests of Ali and Omer, assistance was provided by Bureau of Alcohol, Tobacco, Firearms, and Explosives and the U. S. Probation Office.

"ICE is firmly committed to working with federal, state, and local law enforcement agencies in our nation's joint terrorism task forces to protect our country from those who potentially pose a threat," said Charles DeMore, special agent in charge of ICE's office of investigations in San Francisco.

According to Assistant U. S. Attorney Carl M. Faller, who is prosecuting the case, the defendants face the following maximum penalties as to each count:

– Count One (Ali) - Conspiracy to Possess and Transmit Defense Information - 10 years in prison and a $250,000 fine.

– Count Two (Ali and Omer) - Conspiracy to Unlawfully Export Defense Articles - five years in prison and a $250,000 fine.

– Count Three (Ali and Omer) - Attempted Unlawful Export of Defense Articles - 10 years in prison and a $1,000,000 fine.

– Count Four (Ali and Al-Rahimi) - Conspiracy to Possess Stolen Government Property - five years in prison and a $250,000 fine.

Ali was arrested in Bakersfield earlier today and will appear before U. S. Magistrate Theresa A. Goldner in Bakersfield tomorrow afternoon at 1:30 p.m. Omer was taken into custody in Bossier City, La., and will make his first court appearance tomorrow in Shreveport, La. Al-Rahimi remains at large; anyone having information regarding his whereabouts is urged to call the Bakersfield Resident Office of the FBI at 661-323-9665.

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Department of Justice

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LONG ISLAND TITANIUM MANUFACTURER AND ITS OWNER/OPERATOR INDICTED FOR ENVIRONMENTAL CRIMES

United States Also Files Civil Suit Under the Superfund Statute to Recover Over $8 Million in Clean-Up Costs

NEW YORK – Lawrence Aviation Industries Inc. (LAI), and its owner and operator, Gerald Cohen, were indicted on federal criminal charges for illegally storing 11,690 kilograms -- over 11 tons -- of corrosive hazardous waste in violation of the Resource Conservation and Recovery Act (RCRA), and illegally operating two diesel generators in violation of the Clean Air Act, at LAI's principal place of business in Port Jefferson Station, N.Y. In a separate action, the United States filed a civil lawsuit against LAI, Cohen, and six parcels of land, under the federal Superfund statute to recover over $8 million in clean-up costs previously incurred by the U.S. Environmental Protection Agency (EPA) at LAI's manufacturing facility and a judgment of liability for future clean-up costs to be incurred at the LAI site.

Cohen was arrested this morning and is scheduled to be arraigned later today before U.S. Magistrate Judge E. Thomas Boyle, at the U.S. Courthouse, Federal Plaza, Central Islip, N.Y.

The indictment was announced by Roslynn R. Mauskopf, U.S. Attorney for the Eastern District of New York; Alan J. Steinberg, EPA Regional Administrator; and Mark J. Mershon, Assistant Director-in-Charge, Federal Bureau of Investigation, New York Field Office. The civil complaint was announced by Ms. Mauskopf and Mr. Steinberg.

As alleged in the indictment unsealed this morning, LAI began operating at the Port Jefferson Station site in 1959 and manufactured titanium sheets used primarily in the aeronautics industry. Cohen became the sole owner and operator of LAI in 1982. Part of the manufacturing process required the use of large tanks containing corrosive acid and base liquids. The indictment charges that several years prior to April 2003, LAI

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stopped using two of the tanks in the manufacturing operations, and instead used them to store liquids and sludge. In 2003, personnel from EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation (DEC) tested the contents of the two tanks and determined that they contained corrosive hazardous waste. The indictment alleges that LAI and Cohen violated RCRA because the contents of the two tanks had not been disposed of in a timely manner and had been stored without a permit from EPA or DEC.

The indictment also charges that between June 2001 and July 17, 2003, LAI and Cohen operated two diesel generators to provide electricity at the site without obtaining a permit from EPA or DEC, in violation of the federal Clean Air Act. A permit was required because the generators were capable of emitting 444 tons of nitrogen oxide per year, well in excess of the statutorily permissible emission of 25 tons per year in Suffolk County. The indictment alleges that nitrogen oxide contributes to the formation of dangerous ground-level ozone, commonly known as smog.

The civil complaint filed yesterday seeks reimbursement to EPA for funds it has spent, and will continue to spend, to dispose of hazardous substances at LAI's manufacturing facility and to clean up the site and the surrounding areas. The complaint was brought under the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the Superfund statute, which was passed by Congress to help clean up toxic waste sites across the country. EPA added the LAI site to the National Priorities List of the most contaminated sites in the country in March 2000. The complaint alleges that soils, sediments, surface water, and groundwater at and around LAI's facility are contaminated.

Significantly, the groundwater at the site is allegedly contaminated by a plume of trichloroethylene – a solvent used in manufacturing processes and characterized as a hazardous substance by EPA – that extends from the facility almost a mile towards Port Jefferson Harbor. EPA has secured and disposed of tanks and drums of hazardous substances at the site and developed options for remediation of the contamination of the soil and water at and around the site. To date, EPA has expended over $8 million, and will continue to spend funds as the clean up of the site progresses.

"We are committed to protecting the public and our environment from the dangers of hazardous wastes, and soil and groundwater contamination," stated U.S. Attorney Mauskopf. "We will use every tool at our disposal, including criminal prosecutions and civil cost-recovery lawsuits, to ensure that those who pollute our environment are held accountable." Ms. Mauskopf thanked the DEC for its assistance.

"For too long, this manufacturer's activities have contaminated the surrounding area," said EPA Regional Administrator Steinberg. "We are committed to making sure that polluters pay to clean up the messes they have made."

"Vigorous enforcement of our environmental laws is how the FBI protects the region's ecology and natural resources," stated FBI Assistant Director-in-Charge Mershon. "Commerce and the economy can co-exist with conservation and the ecology, provided people conduct themselves and their businesses lawfully. When they don't, there are consequences, both for the environment and for the wrongdoer."

If convicted of the criminal charges, Gerald Cohen faces a maximum sentence of 15 years of imprisonment, and Cohen and Lawrence Aviation Industries Inc. each faces a fine of up to $50,000 for each day of the RCRA violations, and a $250,000 fine for the Clean Air Act violation.

The criminal case is being prosecuted by Assistant U.S. Attorney Mark J. Lesko. The civil case is being handled by Assistant U.S. Attorney Denise McGinn and EPA Assistant Regional Counsel Elizabeth Leilani Davis.

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Image not available for this document, ID: 0.7.10316.33782-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 7:28 PM
To: USDOJ- Office of Public Affairs
Subject: Marriage and Immigration Fraud Scheme Busted in Northern Virginia

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
WWW.USDOJ.GOV/USAO/VAE

CONTACT: JIM RYBICKI
PHONE: (703) 842-4050
FAX: (703) 549-5202

Marriage and Immigration Fraud Scheme Busted in Northern Virginia

Alexandria, Va. – Nineteen of 22 charged individuals involved in a marriage and immigration fraud scheme operating in Northern Virginia, Md., and the District of Columbia were arrested today as part of a three-year law enforcement task force operation. U. S. Attorney Chuck Rosenberg of the Eastern District of Virginia; William Reid, Assistant Director of Investigations, U.S. Immigration and Customs Enforcement (ICE); Chief M. Douglas Scott, Arlington County Police Department; Richard Trodden, Arlington County Commonwealth's Attorney; Colonel David Rohrer, Fairfax County Police Department; Greg Sebben, Special Agent-in-Charge, Office of the Inspector General, Department of Commerce; Charles Pine, Special Agent-in-Charge, Internal Revenue Service; Stephen Brunette, Special Agent-in-Charge, Diplomatic Security Service, Department of State; and Phyllis Howard, Washington District Director, Bureau of Citizenship and Immigration Services, U.S. Department of Homeland Security, made the announcement at a press conference at the Arlington County Courthouse following the arrests.

As described in the government's affidavit, nine defendants are alleged to have arranged marriages between aliens seeking immigration benefits and U. S. citizens willing to enter into a sham marriage for money. The next 10 defendants are aliens who are alleged to have entered into a sham marriage to gain immigration benefits and avoid potential removal from the United States. The final three defendants are U. S. citizens who married aliens and are alleged to have signed false documents to assist the alien in obtaining immigration benefits through fraud.

"U.S. Citizenship is precious, and, for those who come to our country from abroad, must be earned and not purchased" said U.S. Attorney Rosenberg.

Aliens who participated in the fraud generally paid large fees, between $2,500 and $6,000, to the defendants who facilitated sham marriages. In exchange, the aliens were introduced to U. S. citizens, generally on the day of the marriage. The aliens also then had assistance in filing materially false immigration

DOJ_NMG_ 0167626

paperwork. The U. S. citizens involved in the scheme generally were paid approximately $500 on the day of the marriage, and an additional $300 per month from the alien for approximately one year.

As alleged in the affidavit, the defendants who facilitated the sham marriages also coached the sham "couples" about how to answer questions during interviews conducted by the Department of Homeland Security, Citizenship and Immigration Services (DHS-CIS).

"Immigration and benefit fraud is not simply a nuisance crime, it poses a serious security vulnerability and contributes to a host of other types of crimes, including identity theft and financial fraud," said Assistant Director of Investigations William Reid, of ICE. "The goal of the task force is to identify, and dismantle the criminal organizations behind these highly lucrative schemes, and to let the perpetrators know that U.S. citizenship is not for sale."

The investigation was conducted by a task force of federal and local law enforcement agencies including: the U.S. Immigration and Customs Enforcement; the Arlington County Police Department; the Fairfax County Police Department; the Diplomatic Security Service, Department of State; the Internal Revenue Service; and the Office of the Inspector General, Department of Commerce. The task force received important assistance from several other agencies including the Fraud Detection and National Security Unit within DHS-CIS and the Federal Bureau of Investigation. Assistant U. S. Attorneys Beth Gibson and Jeanine Linehan are prosecuting the case for the United States.

Defendants are presumed to be innocent until and unless proven guilty.

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Image not available for this document, ID: 0.7.10316.33778-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 7:51 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GUATEMALAN SENIOR ANTI-NARCOTICS OFFICERS PLEAD GUILTY TO CONSPIRACY TO MANUFACTURE AND DISTRIBUTE COCAINE

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER GUATEMALAN SENIOR ANTI-NARCOTICS OFFICERS PLEAD GUILTY TO CONSPIRACY TO MANUFACTURE AND DISTRIBUTE COCAINE

WASHINGTON C Two former senior Guatemalan anti-narcotics law enforcement officers pleaded guilty in the U.S. District Court for the District of Columbia to a charge of conspiracy to manufacture and distribute cocaine, Assistant Attorney General Alice S. Fisher announced, today.

Adan Castillo Aguilar and Jorge Aguilar Garcia, pleaded guilty to a charge of conspiracy to manufacture and distribute five kilograms or more of cocaine, knowing and intending that the cocaine would be imported into the United States.

The defendants are former senior officials of the *Servicio de Analisis e Informacion Anti-narcoticos (SAIA)*, the lead anti-narcotics police agency in Guatemala. Castillo Aguilar was the chief of that agency and Aguilar Garcia was the second in command.

ANo one is above the law. When police officers accept money to help drug traffickers, they abuse their special trust and poison the society they are sworn to protect. We will pursue and prosecute these criminals to the full extent of the law. This case demonstrates international team work at its best, and I want to thank the Attorney General and the other Guatemalan officials who cooperated with this prosecution@ said Assistant Attorney General Alice S. Fisher for the Criminal Division.

During late 2005, the defendants met with undercover informants working for the U.S. Drug Enforcement Administration (DEA), and accepted $25,000 as a down payment to protect a shipment of cocaine through Guatemala for shipment to the United States. Following their agreement to protect the shipment, the DEA invited the defendants to attend anti-narcotics training in the United States. Upon their arrival to Virginia, and unaware they had been indicted by a federal grand jury, the defendants were arrested on Nov. 15, 2005.

Sentencing for Castillo Aguilar and Aguilar Garcia is scheduled for Nov. 17, 2006.

The case was prosecuted by trial attorneys Michael Mota and Paul Laymon from the Justice Department=s Criminal Division, Narcotic and Dangerous Drug Section.

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Image not available for this document, ID: 0.7.10316.33779-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 8:17 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 7, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Travels to New York City (OPA)
Today, Attorney General Alberto R. Gonzales delivered remarks regarding the war on terror at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror* in New York City. While there, he also met with the editorial board of *The Wall Street Journal* and participated in a radio interview with Sean Hannity.

Acting Assistant Attorney General Bradbury Testified Before House Armed Services Committee (OPA)
Today, Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury testified before the House Armed Services Committee regarding Military Commissions and Tribunals.

Department Issued Statement Regarding Ruling in Al-Haramain State Secrets Case (OPA)
The Department issued the following statement regarding the ruling against in the Al-Haramain Islamic Foundation, Inc. et al v. Bush et al state secrets case today:

- "As we made clear in our court papers, we believe this case should be dismissed as a result of the state secrets implicated by plaintiffs' claims. We are disappointed that the court did not dismiss the case, and we are reviewing the opinion and considering our options."

FBI Director Mueller Participated in Media Interviews (FBI)
Today, FBI Director Robert Mueller participated in interviews with NBC, CNN, ABC, Fox News and NPR on the state of the FBI five years after Sept. 11. These interviews will appear today through next Tuesday.

Miami-Dade Police Force Shoots Convicted Felons (ATF)
Today, two convicted felons were shot and wounded during a drug bust carried out by the Miami Dade Special Response Team in conjunction with the ATF. Two men were shot and four others were arrested when the six suspects, dressed as law enforcement officers, attempted to assault a tractor-trailer they believed contained 80 kilograms of cocaine. The suspects were confronted

by the Miami Dade Police Special Response Team and instructed to drop their weapons. Instead, the suspects pointed their firearms toward the Special Response Team, at which point the team took necessary defensive action. All six of the men have extensive violent criminal histories, including multiple arrests and convictions for armed robberies, kidnapping, burglaries, and armed trafficking.

Foreign Operator of Obscene Web Sites Arrested on Federal Obscenity Charges (Criminal)
Danilo Simoes Croce, of Sao Paulo, Brazil, was arrested in Orlando, Fla. on charges of conspiracy to distribute obscene matters, the Department of Justice and the U.S. Postal Inspection Service announced today. If convicted, Croce faces up to five years in prison and a $150,000 fine. According to documents filed in the District Court in Orlando, Croce and his corporation, Lex Multimedia, operated web sites offering obscene videos for download or delivery in the U.S.

Former Guatemalan Senior Anti-Narcotics Officers Pleads Guilty to Conspiracy to Manufacture and Distribute Cocaine (Criminal)
Two former senior Guatemalan anti-narcotics law enforcement officers pleaded guilty in the U.S. District Court for the District of Columbia to a charge of conspiracy to manufacture and distribute cocaine, Assistant Attorney General Alice S. Fisher announced today. Adan Castillo Aguilar and Jorge Aguilar Garcia, pleaded guilty to a charge of conspiracy to manufacture and distribute five kilograms or more of cocaine, knowing and intending that the cocaine would be imported into the United States.

Talking Points

- No one is above the law. When police officers accept money to help drug traffickers, they abuse their special trust and poison the society they are sworn to protect.

Justice Department Requires Divestitures in Alltel's Acquisition of Midwest Wireless (Antitrust)
ALLTEL Corporation has agreed to divest assets in rural areas of Minnesota in order to proceed with its $1.075 billion acquisition of Midwest Wireless Holdings LLC, the Justice Department announced today. The Department said that the deal as originally proposed would have resulted in higher prices, lower quality, and diminished investment in network improvements for consumers of mobile wireless telecommunications services in four areas where both ALLTEL and Midwest Wireless currently operate.

Talking Points

- The Department's action ensures that wireless telephone consumers will continue to obtain the benefits of competition--lower prices and higher quality

- The required divestitures preserve competition in rural areas where consumers often have fewer choices for wireless telephone services.

Violent Crime Rate Unchanged During 2005 (Bureau of Justice Statistics)
The Department of Justice issued a copy of the 2005 Crime Victimization Report, embargoed until Sunday. The report indicates that the violent crime rate in 2005 was unchanged from the previous year. However, the property crime rate declined from 2004 to 2005 because of a decrease in theft. Last year's criminal victimizations included an estimated 18 million property crimes (burglaries, motor vehicle thefts and household thefts); 5.2 million violent crimes (rapes or sexual assaults, robberies, aggravated assaults and simple assaults); and 227,000 personal thefts (picked pockets and snatched purses). Measured offenses include those reported to police as well as those that go unreported. With the exception of theft, victimization rates for every type of crime measured were unchanged from their 2004 levels. Violent crime and property crime rates in 2005, as estimated by BJS's National Crime Victimization Survey, are at the lowest levels recorded since 1973 — the first year that such data were available. The Department will issue the statement on the report tomorrow, also embargoed until Sunday.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Radio Interviews (OPA)
Tomorrow, the Attorney General will participate in radio interviews regarding the military commission legislation with *Brian and the Judge, The Laura Ingraham Show* and *Hot Talk with Scott Hennen*.

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

JCON Broadcast (JMD\SMO JCON)

From: JCON Broadcast (JMD\SMO JCON)
Sent: Thursday, September 7, 2006 9:15 PM
Subject: Events to Honor the Victims & Heroes of the September 11, 2001 Attacks

Events To Honor the Victims & Heroes of the September 11, 2001 Attacks

This year, as we mark the fifth anniversary of the terrorist attacks carried out against our Nation on September 11, 2001, the Department is offering a few opportunities for you to remember the lives lost, and to honor the heroism of the police officers, firefighters, rescue personnel, members of the military, and private citizens who responded selflessly in the face of terror.

On Monday, September 11, Attorney General Gonzales and other Department leaders will host a remembrance ceremony in the DOJ Courtyard at 11:30 A.M. We encourage you to attend and join in a moment of silence to honor all those we lost five years ago.

Also on Monday, September 11, the Attorney General invites all DOJ employees to take a few minutes to visit a memorial exhibit that will be set up in his conference room. Located on the fifth floor of the RFK building, the exhibit will be open from 9:00 to 11:15 A.M. and then from noon to 5:00 P.M. (It will close during the time of the remembrance ceremony.)

Last, our colleagues at the Department of Defense invite you to join in the *America Supports You Freedom Walk* at 6:30 P.M. on Sunday, September 10. The walk is an opportunity to reflect on the lives lost on September 11th, to renew our commitment to freedom and the values of our country, and to honor our veterans. The walk will begin at the National Mall, adjacent to the Washington Monument, and will end at the Pentagon South Parking area near the crash site. A musical tribute by Denyce Graves follows. The concert should last until approximately 8:00 P.M. More information about the Freedom Walk is available at: <http://www.americasupportsyou.com/freedomwalk> . Those interested in attending are asked to register at that website by noon on Saturday, September 9.

Additional Information for the America Supports You Freedom Walk:

Parking: Walk participants are encouraged to take Metro. The closest Metro stations to the Washington Monument are: Smithsonian (1200 Independence Ave. SW), Foggy Bottom (2301 I St. NW), Federal Triangle (302 12th St NW), and Farragut West (900 18th St NW). There is also a Metro station at the Pentagon. (There is no parking available onsite.)

Prohibited Items: For visitor safety, the following items are prohibited during the walk: real or simulated weapons/ammunition, animals, mace/pepper spray, alcoholic beverages, coolers, glass bottles, fireworks/firecrackers, signs, banners, and laser lights/laser pointers.

Note: Baby strollers are allowed for the walk. Backpacks, duffels and bags are allowed but will be subject to security screening.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 9:51 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 8, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 8, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.33745-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 1:37 PM
To: USDOJ- Office of Public Affairs
Subject: WORCESTER MAN CAUGHT IN UNDERCOVER FBI STING SENTENCED FOR ATTEMPTED ENTICEMENT OF A MINOR AND CHILD PORNOGRAPHY

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
www.usdoj.gov/usao/ma

CONTACT: SAMANTHA MARTIN
PHONE: (617) 748-3139
FAX: (617) 748-3992

WORCESTER MAN CAUGHT IN UNDERCOVER FBI STING SENTENCED FOR ATTEMPTED ENTICEMENT OF A MINOR AND CHILD PORNOGRAPHY

BOSTON – Robert A. Fafard, 62, was sentenced to nine years in federal prison for attempted enticement of a minor and distributing sexually explicit images of a minor, U.S. Attorney Michael Sullivan of the District of Massachusetts announced today. Fafard was caught in an FBI undercover sting in which he believed he was communicating over the Internet with a 12-year-old girl.

On May 25, 2006, Fafard pleaded guilty to a four-count indictment charging him with attempted coercion and enticement of a minor, transportation of child pornography, and possession of child pornography.

At the earlier plea hearing, the U.S. Attorney's Office advised the court that if the case had gone to trial, the government would have proved that in April 2004, an FBI agent trained in child enticement cases, posed as a 12-year-old girl and in that role, posted a profile on the Internet that included a photograph and the Internet name "OhioLisa13." Fafard contacted the undercover agent, believing that he had contacted the 12-year-old girl. In a series of Internet chats, Fafard sent her child pornography to entice her to agree to be photographed in sexually suggestive ways and to engage in sexual conduct with him. Fafard also participated in recorded telephone calls with an undercover police officer posing as "OhioLisa13." In the recorded calls, Fafard spoke about wanting to engage in sexual conduct with her and to photograph her naked. In September 2004, "OhioLisa13" told Fafard she was relocating to Rhode Island. Fafard pressed the undercover agent for the address in Rhode Island, and used the Internet to print out directions to travel from his Worcester residence to the Rhode Island address. FBI agents arrested Fafard and searched his residence on Nov. 10, 2004. Agents seized two computers with several hundred images of child pornography, a 50- state atlas opened to Rhode Island and a MapQuest print out of directions. Fafard confessed to downloading pictures over the Internet and conceded he may have sent "OhioLisa13" child pornography.

The investigation was conducted by the Cleveland, Ohio, and Hudson field offices of the FBI, with assistance from the Mentor-on-the-Lake, Ohio Police Department. Members of the Department of Justice's Child Exploitation and Obscenity Section's High Technology Investigative Unit assisted the FBI with the

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forensic examinations of Fafard 's computer. The case was prosecuted by Assistant U.S. Attorney David Hennessy in the District of Massachusetts and DOJ Trial Attorney Jennifer Toritto Leonardo in the Child Exploitation and Obscenity Section.

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Image not available for this document, ID: 0.7.10316.33710-000002

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Friday, September 8, 2006 2:26 PM
Subject: Fire Alarm Testing at 20 Massachusetts Avenue

Fire Alarm Testing at 20 Massachusetts Avenue

Justice Management Division customers located at 20 Massachusetts Ave will experience an interruption in SMO/JMD JCON computer services due to Fire Alarm Testing. **Please be advised, these customers will be unavailable via normal SMO/JMD JCON email services.**

When:	Tuesday, September 12, 2006, 7:00 p.m. through 6:00 a.m.
Event:	Scheduled Power Outage and Fire System Testing
Affected Customers:	All JCON Customers located at 20 Massachusetts
Unavailable Services:	BlackBerry *(PIN to PIN messaging is available)* Email Services H:\ Drive Resources Building Wide Interruption in computer services during this service window.
Available Services:	BlackBerry PIN to PIN Messaging

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to Shut Down and click the right button.
4. Choose the Shutdown and Power off option. This will log your workstation out of the JMD/SMO JCON network and power off the desktop.

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Friday, September 08, 2006 4:15 PM
Subject: Update on MAIN Justice Building

Update on MAIN Justice Building
September 8, 2006

Since the flood damage that occurred on June 25, 2006, significant progress has been made to restore the building to normal operations. Below is an updated status of building operations:

MAIN reentry: All personnel have returned to their regular work spaces in the building.

Entrances: All four entrances to the building have been opened.

Environmental Issues: The entire building was sampled and tested for mold including floors that received water damage as well as floors that did not. All test results were determined to be within acceptable limits.

Elevators: At least one passenger car is operational in each of elevator banks 1, 4, 5, 7, 8, 9 and 10.

Bathroom Service: Bathrooms on all floors are available for regular use. Hot water will be available beginning the week of September 25.

Drinking Water: Bottled water will continue to be provided for occupants until the drinking water system is restored and tested. This process is expected to take another three to four months.

Services:

- The MAIN mail room was reconstructed and returned to normal operations on Monday, August 14.
- The Coffee Shop portion of the cafeteria is expected to open for business early October. The full Justice Café is expected to be open for business the first week of January.
- The gym is expected to be open by mid-November.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 4:47 PM
To: USDOJ- Office of Public Affairs
Subject: FOR-PROFIT SOFTWARE PIRACY WEB SITE OPERATOR SENTENCED TO 87 MONTHS IN PRISON

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FOR-PROFIT SOFTWARE PIRACY WEB SITE OPERATOR SENTENCED TO 87 MONTHS IN PRISON

Defendant Made More Than $5.4 Million in Illegal Revenue

WASHINGTON — The owner of a massive for-profit software piracy Web site was sentenced today in federal court to 87 months in prison, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced.

Nathan L. Peterson, 27, of Antelope Acres, Calif. was also ordered by Judge T.S. Ellis, III of the Eastern District of Virginia to forfeit the proceeds of his illegal conduct and pay restitution of more than $5.4 million. The forfeiture involves a wide array of assets, including homes, numerous cars, and a boat, which Peterson had purchased with the profits from his illegal enterprise. Today's sentence is the second recent major prison sentence received for software piracy. In August 2006, Danny Ferrer, 37, the operator of www.BuysUSA.com, received a six- year prison sentence.

Peterson is believed to be the most prolific online commercial distributor of pirated software ever convicted in the United States, the Department said.

"This defendant lined his pockets by stealing the hard work of others," said Fisher. "Today's sentence sends a clear message that those who sell pirated software will be convicted and punished."

Beginning in 2003, and continuing until its shutdown by the Federal Bureau of Investigation (FBI) in February 2005, Peterson operated the www.ibackups.net website which sold copies of software products that were copyrighted by companies such as Adobe Systems, Inc., Macromedia Inc., Microsoft Corporation, Sonic Solutions, and Symantec Corporation at prices substantially below the suggested retail price. The software products purchased on Peterson's website were reproduced and distributed either by instantaneous computer download of an electronic copy and/or by shipment through the mail on CDs. Peterson often included a serial number that allowed the purchaser to activate and use the product.

"Stealing the intellectual property of others is always a bad idea in any context. It's theft. And, so, a sentence of seven plus years in prison and restitution of $5.4 million is richly deserved," said Rosenberg.

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The investigation was conducted by agents of the FBI's Washington Field Office. After receiving complaints from copyright holders about Peterson's website, an undercover FBI agent made a number of purchases of business and utility software from the site, which were delivered over the Internet and by mail to addresses in northern Virginia.

As a result of the FBI's investigation, Peterson's website was taken down in February 2005. Further investigation established that, during the time of its operation, www.ibackups.net illegally sold more than $5.4 million of copyrighted software. These sales resulted in losses to the owners of the underlying copyrighted products of nearly $20 million.

Peterson used the proceeds of his illegal conduct to fund an extravagant lifestyle, including the purchases of multiple homes, cars, and a boat. The government seized numerous assets from Peterson including: a number of bank and trading accounts, a fully restored 1949 Mercury Coupe purchased originally for $44,000, a 2005 Dodge Ram, a 2003 Chevrolet Corvette, a 2004 Toyota Camry, a 2005 Toyota Corolla, and a 2006 Mercedes-Benz S-Class purchased for $125,000.

Peterson pleaded guilty before Judge Ellis on Dec. 13, 2005, to two counts of criminal copyright infringement for selling pirated software. While awaiting sentencing in this case, Peterson was arrested, convicted, and sentenced in California on state gun charges resulting from an investigation by the Los Angeles Police Department. He was sentenced on June 1, 2006, to 16 months of incarceration on those charges. Federal prosecutors then sought his return to the Eastern District of Virginia for sentencing on the federal charges.

Trial Attorneys Jay V. Prabhu and Lily Chinn of the Criminal Division's Computer Crime and Intellectual Property Section, and Assistant U.S. Attorney Stephanie B. Hammerstrom for the Eastern District of Virginia, prosecuted the case. The Business Software Alliance, a trade association which represents leading computer software companies, provided significant assistance to the investigation.

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06-601

DOJ_NMG_ 0167650

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Image not available for this document, ID: 0.7.10316.33716-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 4:55 PM
To: USDOJ- Office of Public Affairs
Subject: THREE MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

THREE MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

JACKSON, Miss. - Three more individuals have entered guilty pleas in U.S. District Court for FEMA fraud, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today

Stephanie Fontan, of Morton, Miss., pleaded guilty to making a false statement to theFederal Emergency Management Agency (FEMA) for Hurricane Katrina disaster assistance funds. Fontan received $6,000 from FEMA by claiming hurricane damage at a false address in Pascagoula, Miss. At the time Hurricane Katrina hit the Mississippi Gulf Coast, Fontan was living in Scott County, Miss.

Stephen Fontan, of Morton, Miss, pleaded guilty to submitting a false claim to FEMA for Hurricane Katrina disaster assistance funds. Fontan received $2,000 from FEMA by claiming hurricane damage at a false address in Moss Point, Miss. At the time Hurricane Katrina hit the Mississippi Gulf Coast, Fontan was living in Scott County.

The husband and wife are scheduled to be sentenced before U.S. District Judge Tom S. Lee on Dec.15, 2006. The maximum sentence for the defendants is five years and a $250,000 fine.

Lawrence Creed of Gulfport, Miss. pleaded guilty today to submitting a false claim to FEMA for Hurricane Katrina disaster assistance funds and rental housing benefits using an address in Gulfport, Miss. where he had not lived for over a year. Creed received a total of $4,358 as a result of his false claim. Creed produced documents to FEMA, such as his driver's license and power bill, listing the former address to support his claim. After confessing to FEMA investigators that he did not live at the address, he continued to pursue his claim for benefits by writing a letter stating that he lived at that address at the time of Hurricane Katrina.

Creed faces a maximum sentence of five years of in prison and a $250,000 fine. A sentencing date has not been set for Creed.

In September 2005, Attorney General Alberto R. Gonzales created the national Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud,

DOJ_NMG_ 0167653

identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, includes members from the FBI, the Federal Trade Commission, the Department of Labor's Office of Inspector General, the Office of the Postal Inspector and the Executive Office of U.S. Attorneys, among others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who engage in fraud associated with the hurricanes.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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DOJ_NMG_ 0167654

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Image not available for this document, ID: 0.7.10316.33691-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 5:08 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ON THE BUREAU OF JUSTICE STATISTICS 2005 NATIONAL CRIME VICTIMIZATION SURVEY

EMBARGOED UNTIL 4:30 P.M. EDT, SUNDAY, SEPTEMBER 10, 2006

Department of Justice

ADVANCE FOR RELEASE AT 4:30 P.M. EDT
SUNDAY, SEPTEMBER 10, 2006
WWW.USDOJ.GOV

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

STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ON THE BUREAU OF JUSTICE STATISTICS 2005 NATIONAL CRIME VICTIMIZATION SURVEY

WASHINGTON, D.C.

In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime. The newly-released National Crime Victimization Survey, the first of two Department of Justice reports on the level of crime to be released this month, shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

The Survey shows that the long-term trend of declining crime rates continued in 2005. However, the Survey also reflects an increase in the rate of violent crimes committed with a firearm when compared with 2004's record-low rate. While we are concerned about this increase, the rate of firearms victimization in 2005 remains lower than in 2001 and every prior year, and is consistent with the data recorded in 2002 and 2003. Whether the increase from 2004 to 2005 marks a change in the trend towards reduced firearms victimization rates cannot be determined from one year's data.

In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime, reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

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DOJ_NMG_ 0167657

06-604

DOJ_NMG_ 0167658

Image not available for this document, ID: 0.7.10316.33705-000001

Image not available for this document, ID: 0.7.10316.33705-000002

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, September 11, 2006 4:00 PM
End:	Monday, September 11, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C
Optional Attendees:	Reyes, Luis (SMO)

When: Monday, September 11, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 6:05 PM
To: USDOJ- Office of Public Affairs
Subject: REGISTERED SEX OFFENDER INDICTED IN FEDERAL COURT ON CHILD PORNOGRAPHY CHARGES

Department of Justice

United States Attorney Rachel K. Paulose
District of Minnesota

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV/USAO/MN

CONTACT: JEANNE F. COONEY
PHONE: (612) 664-5600
FAX: (612) 664-5784

REGISTERED SEX OFFENDER INDICTED IN FEDERAL COURT ON CHILD PORNOGRAPHY CHARGES

MINNEAPOLIS – A registered sex offender from Minneapolis was indicted by a federal grand jury today on child pornography charges. Lyle Robert Paton, 58, was charged with five counts of producing child pornography and one count of possession of child pornography. According to the indictment, between June of 2005 and July of 2006, Paton enticed five minors to engage in sexually explicit conduct for the purpose of having that conduct photographed. The indictment also indicates that in July of 2006, Paton was found in possession of child pornography.

A complaint filed recently in a related state court case indicates that on July 7, 2006, a St. Paul police officer responded to a call about a man seen walking into an urban woods with five young boys and a camera. The officer located the children and the man, who was identified as Lyle Paton. After questioning Paton, the officer returned to her squad car to run a criminal history check and learned that he was a sex offender with two prior convictions. The complaint states that at that point, Paton and the children approached the police car. Paton, however, no longer possessed his digital camera. He allegedly told an officer he had gotten scared and had thrown it into the woods. It was ultimately recovered, although the memory card, found in Paton's wallet, was broken.

The complaint also states that the boys were referred to Midwest Children's Resource Center for evaluation. During the course of that evaluation, one of the boys allegedly reported that Paton had been taking nude photographs of them for a period of time. In return for the boys' cooperation, Paton had allegedly given them money, food, clothing and toys.

Based on this information, the police executed a state court search warrant on Paton's Minneapolis residence. That search yielded, among other items, two desk-top computers, a laptop computer, and several digital camera memory cards. On one of those computers, an investigator allegedly uncovered four images of child pornography. The investigator also allegedly found 114 images of child pornography on the memory cards

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Because Paton has a prior conviction for a sex crime involving a child, he faces a mandatory minimum sentence of 25 years in prison on each count of producing child pornography and a mandatory minimum sentence of 10 years for possession of child pornography.

This case is part of Project Safe Childhood (PSC), a national initiative announced by U.S. Attorney General Alberto Gonzales earlier this year. PSC encourages the use of multi-jurisdictional task forces to investigate and prosecute cases that involve the sexual exploitation of children over the Internet. Moreover, PSC urges that law enforcement efforts be complemented by community-wide campaigns to assist victims of exploitation and to educate parents, other adults, and children about Internet safety. According to the U.S. Department of Justice, one in every 33 children receives an unwanted sexual solicitation online each year. One in four children experiences unwanted exposure to sexually explicit material on the Internet each year. In addition, more than 20,000 images of child pornography are posted on the Internet every week.

In Minnesota, investigative assistance in these matters is provided by the Minnesota Internet Crimes Against Children Task Force (MICAC). The MICAC Task Force was created in 2000 through a grant from the Justice Department's Internet Crimes Against Children program. The MICAC Task Force is one of almost 50 federally funded task forces in the country dedicated to this issue. The number of law enforcement agencies participating in the MICAC Task Force reflects the strong commitment Minnesota has made to its children and their safety. Members of the MICAC Task Force include the Sheriff's Office in the counties of Hennepin, Ramsey, Anoka, Cass, Clearwater, Crow Wing, Dakota, Murray, Polk, Rice, and Washington; the police department in the cities of Minneapolis, Baxter, Burnsville, Fergus Falls, Hutchinson, Mankato, Moorhead, White Bear Lake, and Woodbury; the North Dakota Bureau of Criminal Investigation; and the South Dakota Department of Criminal Investigation. Additionally, a number of federal law enforcement agencies have cooperated with the MICAC Task Force, including the FBI, Immigration and Customs Enforcement, the U.S. Secret Service, and the U.S. Postal Service.

This case is the result of an investigation conducted by the St. Paul Police Department, the Predatory Offender Task Unit, the FBI and its Violent Crimes Fugitive Task Force, the U.S. Secret Service, and the Sheriff's Office in Collier County, Fla., with the assistance of the MICAC Task Force. The case is being prosecuted by Assistant United States Attorney Tracy T. Braun.

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Image not available for this document, ID: 0.7.10316.33688-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 6:18 PM
To: USDOJ- Office of Public Affairs
Subject: LOUISVILLE BUSINESSMAN SENTENCED TO 87 MONTHS IN PRISON FOR BRIBING CONGRESSMAN

Department of Justice

FOR IMMEDIATE RELEASE — CRM
FRIDAY, SEPTEMBER 8, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

LOUISVILLE BUSINESSMAN SENTENCED TO 87 MONTHS IN PRISON FOR BRIBING CONGRESSMAN

ALEXANDRIA, Va. — A businessman who paid bribes to a member of the U.S. House of Representatives was sentenced to 87 months in prison by Judge T.S. Ellis, III in U.S. District Court in Alexandria, Virginia today, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced.

Vernon L. Jackson, 53, of Louisville, Ky., pleaded guilty on May 3, 2006 to a two-count criminal information charging him with conspiracy to commit bribery and the payment of bribes to a public official. Jackson was also ordered to serve two years of supervised release once he has completed his sentence. As part of his plea, Jackson has agreed to cooperate with law enforcement officials in an ongoing probe of public corruption related to business deals in Africa and elsewhere.

According to the information, from 1998 through the present, Jackson has been the Chairman and CEO of iGate Incorporated, a Kentucky firm focused on developing technology designed to transmit data, audio, and video communications over copper wire. The information charged that in approximately 2000, Jackson was introduced to a member of the U.S. House of Representatives (Representative A), who was active in promoting U.S. trade and business in Africa. Representative A then provided official assistance to Jackson in persuading the U.S. Army to test iGate's broadband two-way technology and other products of iGate. Representative A's official assistance led to the placement of iGate on the U.S. General Services Administration (GSA) schedule, making iGate products eligible for use in various federal contracts.

The information also charged that in early 2001, Representative A told Jackson that Representative A would not continue to provide official assistance to Jackson's company iGate, unless Jackson agreed to pay a nominee company ostensibly maintained in the names of Representative A's spouse and children. Jackson agreed and signed a consulting services agreement committing iGate to pay the nominee company various things of value in return for Representative A's performance of official acts in furtherance of iGate's business in Africa and elsewhere. This includes, but is not limited to monthly payments of $7,500; a percentage of iGate's gross sales; a percentage of capital investments raised for iGate; options for iGate stock; and payment to a member of Representative A's family to perform legal work for various iGate business ventures.

DOJ_NMG_ 0167666

Jackson pleaded guilty to causing more than $400,000 to be paid to Representative A's nominee company and that the consulting services agreement was designed to conceal the illegal nature of the payments demanded by Representative A. In return for the agreement to pay things of value, Representative A agreed to perform numerous official acts in furtherance of iGate's business, including, but not limited to efforts to influence high-ranking officials in Nigeria, Ghana, Cameroon and elsewhere through official correspondence and in-person meetings; travel to those countries to facilitate these meetings; and meetings with personnel of the Export-Import Bank of the United States, the official export credit agency of the United States, in order to facilitate potential financing for iGate business deals in those countries.

"Public corruption degrades severely our institutions of government and undermines public confidence in the many thousands of honorable men and women who serve with distinction at all levels. We will do all we can to put an end to this corruption, wherever and whenever we find it," said Rosenberg.

The case is being prosecuted by Mark D. Lytle and Rebeca Bellows, Assistant United States Attorneys, Eastern District of Virginia and Trial Attorney Michael K. Atkinson of the Fraud Section of the Criminal Division at the U.S. Department of Justice, Washington. The case is being investigated by the Federal Bureau of Investigation.

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06-603

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Image not available for this document, ID: 0.7.10316.33687-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 8, 2006 8:50 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 8, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participated in Radio Interviews (OPA)

Today, Attorney General Alberto R. Gonzales participated in radio interviews with *Brian and the Judge* and *The Laura Ingraham Show*, both nationally syndicated, and *Hot Talk with Scott Hennen* of WDAY, Fargo, N.D. The interviews regarded the President's announcement on the High Value Terrorist Detainee Program and the Military Commission Act of 2006.

Deputy Attorney General McNulty Issues Statement Regarding Crime Victimization Survey (OPA)

Today, Deputy Attorney General McNulty issued the following statement in response to the Bureau of Justice Statistics Crime Victimization Survey, embargoed until Sunday.

- "In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime. The newly-released National Crime Victimization Survey, the first of two Department of Justice reports on the level of crime to be released this month, shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

  "The Survey shows that the long-term trend of declining crime rates continued in 2005. However, the Survey also reflects an increase in the rate of violent crimes committed with a firearm when compared with 2004's record-low rate. While we are concerned about this increase, the rate of firearms victimization in 2005 remains lower than in 2001 and every prior year, and is consistent with the data recorded in 2002 and 2003. Whether the increase from 2004 to 2005 marks a change in the trend towards reduced firearms victimization rates cannot be determined from one year's data.

  "In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and

anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

"At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime, reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

Media Inquires Regarding Release of Mohdar Abdullah (FBI)
The FBI received multiple media inquiries today related to Mohdar Abdullah, a former Yemeni who overstayed his Visa and was deported by Immigrations and Customs Enforcement and later identified as having possible connections to the September 11 hijackers. FBI Assistant Director John Miller issued the following response to the media:

- "At the time of his release, the FBI did not have sufficient evidence to charge Mohdar Abdullah with a crime. ICE did not have a legal basis to hold him indefinitely in the United States. Rather than release him on the streets of the United States at that time, however, ICE deported him to Yemen given his illegal status in this country. Since his deportation the FBI has uncovered some additional information but not enough to bring any formal charge. The investigation into the 9/11 attacks continue. The FBI is examining potential contact between the 19 hijackers and a number of persons."

Assistant FBI Director to Appear on CNN's *Late Edition* (FBI)
On Sunday, FBI Assistant Director John Miller will be interviewed on CNN's *Late Edition with Wolf Blitzer* regarding the fifth anniversary of September 11.

***New York Times* Inquires Regarding FBI/DHS Identification Programs (FBI)**
New York Times reporter Eric Lipton requested information status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System. The story is expected to run tomorrow.

FBI SAC to Appear on Fox News (FBI)
This weekend, FBI SAC Laurie J. Bennett of Buffalo, N.Y. will appear on Fox News Channel's *The Lineup,* hosted by Kimberly Guilfoyle. He will speak about the hunt for FBI Most Wanted Fugitive Bucky Phillips. If Phillips is captured before the taping, the show may opt for an interview with Paul Daymond, an FBI Media Representative in Birmingham, Ala., regarding escaped convict Dedrick Griham.

For-Profit Software Piracy Web Site Operator Sentenced to 87 Months in Prison (Criminal)
The owner of a massive for-profit software piracy Web site was sentenced today in federal court to 87 months in prison. Nathan L. Peterson of Antelope Acres, Calif. was also ordered by Judge T.S. Ellis, III of the Eastern District of Virginia to forfeit the proceeds of his illegal conduct and pay restitution of more than $5.4 million. Today's sentence is the second recent major prison sentence received for software piracy. In August 2006, Danny Ferrer, the operator of www.BuysUSA.com, received a six- year prison sentence.

Talking Point

- Today's sentence sends a clear message that those who sell pirated software will be convicted and punished.

Louisville Businessman Sentenced to 87 Months in Prison for Bribing Congressman (CRM)
A businessman who paid bribes to a member of the U.S. House of Representatives was sentenced to 87 months in prison by Judge T.S. Ellis, III in U.S. District Court in Alexandria, Virginia today. Vernon L. Jackson, of Louisville, Ky., pleaded guilty on May 3, 2006 to a two-count criminal information charging him with conspiracy to commit bribery and the payment of bribes to a public official. Jackson was also ordered to serve two years of supervised release once he has completed his sentence. As part of his plea, Jackson has agreed to cooperate with law enforcement officials in an ongoing probe of public corruption related to business deals in Africa and elsewhere.

Federal Court Bars Los Angeles Man from Promoting Tax Scams and Preparing Tax Returns for Others (Tax)
The Justice Department announced today that a federal court has barred James L. Tolbert of Los Angeles, also known as James Tolbert Bey, from preparing federal income tax returns for others. Judge R. Gary Klausner of the U.S. District Court for the Central District of California permanently enjoined Tolbert and anyone acting in concert with him on Sept. 6, 2006, from promoting a tax scheme by representing, among other things, that residents of California or other states are not liable for federal income tax because they are "citizens of California (or another state. . .) and not of the United States." Federal courts across the country have rejected such claims repeatedly.

MONDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Events Commemorating Fifth Anniversary of September 11
On Monday, the Attorney General will participate in a moment of silence with President Bush at the White House commemorating the fifth anniversary of September 11, 2001, and a commemorative event at the Department of Justice with Department employees. He will also eat lunch with selected family members of those who lost their lives on September 11. Later in the day, he will participate in television interviews with CNN, Fox News, and MSNBC regarding the anniversary. He will also attend Radio Day at the Pentagon, where he will participate in interviews with *The Rusty Humphries Show* and *The Jim Bohannon Show*, both nationally syndicated, and *The Jim Villanucci Show* of KKOB, Albuquerque, N.M. and *The Matt Gerson Show* of KXAM, Scottsdale, Ariz.

Deputy Attorney General to Participate in Live Town Hall Meeting
Deputy Attorney General Paul McNulty will participate in a live town hall meeting Sunday at 9:30 p.m. EDT hosted by Ted Koppel, which will air on the Discovery Channel. The town hall discussion will feature past and present government officials, privacy and civil liberties advocates, legal experts, members of 9/11 families and others concerned about the balances of national security and civil liberties. The town hall meeting will focus on how the country should

best address those competing interests, and will follow a documentary produced by the Discovery Channel on the same subject.

FBI Deputy Director to Speak at Commonwealth Club

On Monday, FBI Deputy Director Pistole will speak at the Commonwealth Club in San Francisco, Calif. regarding the state of the FBI five years after Sept. 11, 2001.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 9:47 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 11-15, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR September 11 – September 15, 2006

Monday, September 11

Events TBD

Tuesday, September 12

DOJ_NMG_ 0167674

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will present testimony before the Senate Judiciary Committee at a hearing titled *The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations*
Dirksen Senate Office Building
Room 226
Washington D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

2:00 P.M. EDT Attorney General Alberto R. Gonzales will participate in the Department of Justice's 54th Annual Awards Ceremony
DAR Constitution Hall
18th Street, N.W. between C and D Streets
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Ames of the Department of Justice at 202-305-5938.

4:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding H.R. 5825, the "Electronic Surveillance Modernization Act."
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Wednesday, September 13

2:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice post- Hurricane Katrina law enforcement efforts at the Hurricane Katrina One-year Anniversary Symposium.
Sheraton New Orleans Hotel
500 Canal Street
New Orleans, Louisiana
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

2:30 P.M. EDT Mike Battle, Director, Executive Office of United States' Attorneys; and Susan Brooks, U.S. Attorney for the Southern District of Indiana, will testify before the Senate Judiciary Subcommittee on Crime and Drugs regarding *Challenges Facing Today's Federal Prosecutors*
Dirksen Senate Office Building
Room 226
Washington, D.C.

DOJ_NMG_ 0167675

OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

Thursday, September 14

12:15 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice efforts to fight child exploitation at the Protect Our Children Conference.

Hilton Kansas City Airport Hotel
Shawnee Ballroom
8801 N.W. 112th Street
Kansas City, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

TIME TBD Federal Bureau of Investigation Director Robert Mueller and Inspector General Glenn Fine will testify before the House Appropriations Subcommittee on Science, the Departments of State, Justice, and Commerce and Related Agencies regarding FBI Oversight.

TBD Location
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Appropriations Committee at 202-225-2771.

2:30 P.M. EDT Lee Lofthus, Acting Assistant Attorney General for the Justic Management Division, will testify before the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, and International Security regarding Department of Justice Policies on Conference Attendance and Support, Budget Ceilings, and Overall Trends in Conference Spending.
Dirksen Senate Office Building
Room 342
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Homeland Security and Government Affairs Committee at 202-224-4751.

Friday, September 15

Events TBD

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DOJ_NMG_ 0167676

Image not available for this document, ID: 0.7.10316.33658-000001

Image not available for this document, ID: 0.7.10316.33658-000002

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Tucson, AZ

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 12:35:21 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Tucson, AZ
Auto forwarded by a Rule

AMBER ALERT:Tucson,AZ VEH:'95 Blue 4 dr Nissan Alt TAG:AZ LKR394 CHILD:16 White F 5'4" 120 lbs Hr:Blonde SUSP:16 Black M 5'7" 150 lbs Hr:Black CALL 520-791-5060
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2082

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 9:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Joplin, MO

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 9:01:13 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Joplin, MO
Auto forwarded by a Rule

AMBER ALERT:Joplin,MO VEH:'92 Red SUV Dodge Ram Charger TAG:MO 016XVW CHILD:9 mos White F 26 lbs Hair:Brn SUSP:29 White M 6'2" 240lbs Hair:Brn CALL 417-623-3131
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2083

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 11:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Joplin, MO

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 11:01:10 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Joplin, MO
Auto forwarded by a Rule

UPDATE AMBER ALERT:Joplin,MO VEH:'92 Red Dodge Ram Charger TAG:MO 016XVW CHILD:9 mos White F 26 lbs Hr:Brn SUSP:29 White M 6'3" 210lbs Hr:Brn CALL 417-623-3131
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2083

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Sunday, September 10, 2006 6:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Detriod, MI

From: AmberAlert-DOJ
Sent: Sunday, September 10, 2006 6:01:11 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Detriod, MI
Auto forwarded by a Rule

AMBER ALERT:Detriod,MI CAR:Bla or Blu Lincoln Continental CHLD:4 B/F 3' Eye:Bro Hair:Bla SUSPECT:23 B/F 5'5" Eye:Haz Hair:Bla w/ blonde braids CALL 313-596-5301
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2084

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 9:18 AM
Subject: Message To Department of Justice Employees From the Attorney General

Message To Department of Justice Employees From the Attorney General

Five years ago today, the top priority of this Department, and of law enforcement nationwide, changed forever.

Our daily objective is to prevent terrorist attacks, and I know that you approach the job with a dedication and professionalism that is second-to-none. It is very clear that the thousands of people of this Department who investigate and prosecute terrorists – and the thousands more on the team who make their work possible – are a significant part of the reason the United States has not been attacked again in five years. Your efforts are invaluable.

For this, I want to thank you on behalf of the President and on behalf of the American people who you protect through your fine work.

To many Americans, the horrific images and vivid memories make September 11th seem as if it were yesterday. For those of us at the Department of Justice, charged with preventing acts of terrorism, every day is September 12th. Each day is filled with hard work and the purpose of prevention.

We are joined together, today, by a common purpose and remembrance of the brothers and sisters we lost on September 11th, 2001. It is an honor to recognize this anniversary with you, and to work side-by-side toward our common goals.

Thank you again for your tireless efforts.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gunn, Currie (SMO)

Subject:	Canceled: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, September 11, 2006 2:00 PM
End:	Monday, September 11, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); 'Coleman, Tim (ODAG)'; Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory; McDonald, Esther S
Importance:	High

When: Monday, September 11, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting for today canceled per EOUST

Attendees: Lily Fu Swenson, Tim Coleman-ODAG, Luis Reyes, Neil Gorsuch, Cliff White, Esther McDonald

POC: Currie Gunn x49500

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 9:34 AM
Subject: 9/11 Remembrance Events at DOJ

9/11 Remembrance Events at DOJ

All DOJ employees are encouraged to join Attorney General Gonzales at 11:30 a.m. in the courtyard of the RFK Building for a short service to honor all those we lost five years ago. He will be joined by former Attorney General Ashcroft, Deputy Attorney General McNulty, former Solicitor General Olson, Director Mueller, and other special guests.

Also today, the Attorney General invites all DOJ employees to take a few minutes to visit a memorial exhibit that is set up in his conference room to remember the lives lost, and to honor the heroism of those who responded selflessly in the face of terror. Located on the fifth floor of the RFK Building, the display will be open from 9:00 to 11:15 a.m. and then from noon to 5:00 p.m. (It will close during the time of the remembrance service.)

Thank you.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 10:34 AM
To: USDOJ- Office of Public Affairs
Subject: UNITED STATES JOINS SUIT AGAINST DEY

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

UNITED STATES JOINS SUIT AGAINST DEY

Firm Allegedly Overcharged Medicare, Medicaid

WASHINGTON – The United States has intervened in a whistleblower suit filed in the District of Massachusetts against Dey, Inc. alleging that the company violated the False Claims Act, the Justice Department announced today. In its complaint, the government alleges that Dey engaged in a scheme to report fraudulent and inflated prices for several pharmaceutical products, knowing that federal healthcare programs established reimbursement rates based on those reported prices.

The government's complaint alleges that the pharmaceutical manufacturer from at least on or before January 1, 1993 reported prices that were more than five times (500 percent) the actual sales prices on many of the drugs it manufactures. The United States alleges that Medicare and Medicaid have reimbursed Dey's customers in excess of $500 million for the drugs which are the subject of the complaint. Dey sells generic drugs that are reimbursed by the two federal health care programs.

The difference between the inflated government reimbursement rates and the actual price paid by healthcare providers for a drug is referred to as the "spread." The larger the spread on a drug, the larger the profit or return on investment for the provider. The government alleges that Dey used artificially inflated spreads to market, promote and sell the drugs to existing and potential customers. Because reimbursement from federal programs was based on the fraudulent inflated prices, the United States contends that Dey caused false and fraudulent claims to be submitted to federal healthcare programs.

DOJ_NMG_ 0167686

The investigation began after the filing of a civil False Claims Act suit by a Florida home-infusion company, Ven-A-Care of the Florida Keys Inc. and its principals. The False Claims Act allows for private persons to file whistleblower suits to provide the government information about wrongdoing. Under the statute, if it is established that a person has submitted or caused others to submit false or fraudulent claims to the United States, the government can recover treble damages and $5,500 to $11,000 for each false or fraudulent claim filed. If the government is successful in resolving or litigating its claims, the whistleblower who initiated the action can receive a share of between 15 percent to 25 percent of the amount recovered.

The law suit, called a *qui tam* action, was filed in the U.S. District Court for the District of Massachusetts, and includes additional claims originally filed in the Southern District of Florida and transferred to the District of Massachusetts. The consolidated matter was assigned to U.S. District Court Judge Morris E. Lasker in Boston. This investigation was conducted by the U.S. Department of Justice, the U.S. Attorney's Offices for the District of Massachusetts and the Southern District of Florida and the Office of Inspector General of the Department of Health and Human Services.

# # #

06-605

DOJ_NMG_ 0167687

Image not available for this document, ID: 0.7.10316.33382-000001

Image not available for this document, ID: 0.7.10316.33382-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 10:41 AM
Subject: 9/11 Remembrance Event at DOJ Due to Inclement Weather, Event at 11:30 a.m. Moved to Great Hall

9/11 Remembrance Event at DOJ
Due to Inclement Weather, Event at 11:30 a.m. Moved to Great Hall

All DOJ employees are encouraged to join Attorney General Gonzales at 11:30 a.m. in the Great Hall of the RFK Building for a short service to honor all those we lost five years ago. He will be joined by former Attorney General Ashcroft, Deputy Attorney General McNulty, former Solicitor General Olson, Director Mueller, and other special guests.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 501202 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 11:11 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ISSUES GUIDANCE FOR THE USE OF DNA IDENTIFICATION IN MASS DISASTERS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006

Office of Justice Programs
Contact: Catherine Sanders
202-307-0703
www.ojp.usdoj.gov

DEPARTMENT OF JUSTICE ISSUES GUIDANCE FOR THE USE OF DNA IDENTIFICATION IN MASS DISASTERS

Work of 9/11 Panel Provides Valuable Lessons

WASHINGTON — The Department of Justice today issued the report, *Lessons Learned from 9/11: DNA Identification in Mass Fatality Incidents*. The report is the result of the Kinship Data Analysis Panel (KADAP), which the Department convened immediately after the terrorist attacks in 2001 to help the Office of the Chief Medical Examiner (OCME) in New York identify victims' remains so they could be returned to their families. The panel was assembled by the National Institute of Justice (NIJ), the research, development and evaluation arm of the Justice Department. The number of victims from the World Trade Center attacks, the condition of their remains, and the duration of the recovery effort made the identification the most difficult ever undertaken by the forensic science community. *Lessons Learned from 9/11: DNA Identification in Mass Fatality Incidents* offers guidance on the myriad issues the forensic community must face in a mass disaster to ensure that all victims can be accounted for, and identified.

"Valuable lessons have come out of the tragedy of 9/11 that will serve as an important guide in other mass disasters," said Assistant Attorney General Regina B Schofield of the Office of Justice Programs. "Victim assistance is a high priority for the Department of Justice and after the terrorist attacks on the World Trade Center, we assembled the best minds to help identify victims' remains. The lessons learned contained in this report will provide invaluable advice to those involved in mass fatality identification efforts in the future, to be prepared and ready to handle similar situations."

The identification process following the attacks of September 11 was the largest effort of its kind in the United States to date and this report, published as part of The President's DNA Initiative, will serve as a valuable guide for localities that may be involved in similar identifications in the future. Drafts of the report have been requested and already sent to officials who responded to Hurricane Katrina and the southeast Asian tsunami.

DOJ_NMG_ 0167692

Throughout the entire World Trade Center identification process, the KADAP identified, analyzed, and created new approaches in the collection and organization of victim and reference samples and DNA analysis software to assist the OCME. The result of that effort is the report, which contains policy recommendations to public officials to prepare for such disasters, guides for laboratory officials for collection and analysis of DNA, sample laboratory worksheets and other reference guides.

Some of the KADAP's recommendations will have a profound impact on human identification testing far into the future. Due to the degraded nature of some of the remains, the typical DNA identification methods were not sufficient in identifying many of the remains and other methods allowed identifications to be made on some very compromised samples that would have been impossible to identify otherwise.

NIJ assembled the KADAP from federal and state government agencies, including the National Institutes of Health, the Federal Bureau of Investigation, the National Institutes of Standards and Technology, the Armed Forces Institute of Pathology DNA Identification Laboratory, and the New York State Department of Health; the private sector, including the Brigham & Women's Hospital and Myriad Genetics Laboratories; and from some of the nation's most respected universities, including Johns Hopkins University, the University of Central Florida, Carleton University, Yale University School of Medicine, Indiana University School of Medicine, University of California at Berkeley, the University of Albany, and the University of North Texas Health Science Center.

The report is posted on the Web site of The President's DNA Initiative, www.dna.gov and at www.massfatality.dna.gov. The President's DNA Initiative is a five year more than $1 billion effort to eliminate casework and convicted offender backlogs; to improve crime lab capacity; to provide training for all stakeholders in the criminal justice system; and to conduct testing to identify missing persons. Hard copies and compact discs of the report can be ordered from the National Criminal Justice Reference Service by visiting their Web site: www.ncjrs.gov.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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06-606

DOJ_NMG_ 0167693

Image not available for this document, ID: 0.7.10316.33351-000001

Miller, Charles S

From: Miller, Charles S
Sent: Monday, September 11, 2006 11:17 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul; Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/11/06 Civil Division News

Whistle-Blower Slams Iraq Contractor

GW Hospital accused of overcharging federal government

Lawsuit filed against DPUC

AP

September 9, 2006

Whistle-Blower Slams Iraq Contractor

By DEBORAH HASTINGS

AP National Writer

Halliburton subsidiary Kellogg, Brown & Root charged millions to the government for recreational services never provided to U.S. troops in Iraq, including giant tubs of chicken wings and tacos, a widescreen TV, and cheese sticks meant for a military Super Bowl party, according to a federal whistle-blower suit unsealed Friday.

Instead, the suit alleges, KBR used the military's supplies for its own football party.

Filed last year in U.S. District Court in Washington, D.C., by former KBR employee Julie McBride, the lawsuit claims the giant defense contractor billed the government for thousands of meals it never served, inflated the number of soldiers using its fitness and Internet centers, and regularly siphoned off great quantities of supplies destined for American soldiers.

McBride was hired by KBR in 2004 as a ``morale, welfare and recreation'' coordinator at Camp Fallujah, a Marine installation about 35 miles west of Baghdad. She was fired the next year after making several complaints about KBR's accounting practices, the suit says, and was kept under guard until she was escorted to an airplane and flown out of the country.

Halliburton denied McBride's allegations.

``The claims included in this lawsuit clearly demonstrate a complete misinterpretation of facts as well as a lack of understanding of KBR's contractual agreements with its customer,'' said company spokeswoman Melissa Norcross in an e-mail to The Associated Press.

The Super Bowl incident occurred in January 2005, the suit said. ``McBride witnessed a large amount of food that was ordered specifically for a Super Bowl party for the military'' taken instead to the company's lodgings. ``About 10 large metal tubs full of tacos, chicken wings, (and) cheese sticks were taken from the military party site to a KBR camp for a KBR Super Bowl Party for KBR employees,'' according to the complaint. A widescreen TV was also removed.

McBride worked 12-hour shifts, seven days a week, at Camp Fallujah's recreation center, where the government was billed according to the number of soldiers using the contractor's facilities, which included a weight room, video games, Internet cafe, a library and phone bank, the suit says. She alleges that KBR deliberately overstated the number of military personnel using its services by counting the same person several times. For example, a person who used a computer was counted as one. If that person went on the weight room, another count was added to the list of patrons.

``It wasn't double-dipping, but triple dipping or even quadruple billing,'' the suit claims.

Attorney Alan Grayson, who represents McBride, said ``millions of dollars have been submitted by Halliburton for recreational services'' not provided.

The ``qui tam'' suit, filed under the federal False Claims Act, allows citizens to sue on behalf of the government against contractors who make false claims for payment. The plaintiffs are eligible to receive a percentage of awarded damages, which are tripled in this type of suit.

Such suits are usually sealed for 60 days while the Justice Department investigates the claims and decides whether the U.S. Attorney's office will sign on as a co-plaintiff.

The Justice Department declined comment Friday on why it chose not to participate in McBride's suit.

McBride is not the first Halliburton employee to allege fraudulent billing practices. The company has steadfastly denied wrongdoing.

Rory Mayberry, who worked for KBR in 2004, testified from Iraq via videotape to a group of Democratic members of Congress investigating contractor fraud.

As food manager at another military camp in Iraq, Mayberry said he witnessed KBR employees serving spoiled food to American troops, including food from trucks that had been bombed and shot at. Workers were told to pick out the shrapnel, and then serve the food, Mayberry testified.

He also claimed KBR charged the government for meals it never served.

In July 2004, former KBR planner Marie DeYoung testified before the House Committee on Government Reform. She said she witnessed ``significant waste and overpricing'' while working for the contractor in Kuwait, including paying a subcontractor $100 per 15 pounds of laundry, costs which were passed on to the government.

Halliburton, which holds more than 50 percent of rebuilding contracts in Iraq, was headed by Dick Cheney before he took office as vice president. He has denied any government favoritism toward his former company.

END

Daily Colonial
September 11, 2006

GW Hospital accused of overcharging federal government

By Brittany Levine
Campus News Editor

The George Washington University overcharged the federal government $100 million when Medicare was charged physician rates for services actually performed by nurses and residents in training, according to four former GW Hospital nurses who filed a False Claims Act lawsuit against the University.

On Friday, Sept. 1, the nurses' lawyers asked a federal judge to incur penalty against the University for not turning over almost 10,000 Medicare documents in connection with the False Claims Act lawsuit.

The nurses first filed the lawsuit against GW in 1996, but on Sept. 1, their lawyers filed an amended compliant, which said that from 1989 to 1995 the University billed the Medicare program as if physicians were performing anesthesiology services when nurses or residents in training were left to perform the procedures on their own.

The University has challenged the nurses' claims and in court records the University said doctors followed Medicare rules and guidelines, never committing any misconduct.

GW officials cannot comment on active lawsuits, but Linda Dent, a media relations official from the GW Medical Center told The Washington Times that, "we do believe George Washington and its physicians acted appropriately."

According to court filings, GW attorneys denied that nurses or residents in training were left to perform all seven steps of anesthesiology procedures on their own. GW attorneys did say, however, that GW hospital physicians did use reasonable assistance from nurses and residents in training.

The nurses suing are Sheila El-Amin, Katherine Linden, Joyce B. Lasley, and Robert Roubik.

The nurses' attorneys have reviewed 7 million documents connected to the False Claims Act lawsuit, according to The Washington Times, which reported that Alan Grayson, an attorney for the nurses, said "many records are still missing" and that the plaintiffs needed records from GW to prove their case.

In court filings, GW officials said copies of records were not kept because such procedure is not required. No evidence was thrown out, according to GW officials, who said that the nurses' attorneys have also not shared records with them related to the case.

END

Hartford Courant

September 9, 2006

Lawsuit filed against DPUC

Janice Podsada

The Hartford Courant, Conn.

Sep. 9--The U.S. Department of Justice has filed suit against the state Department of Public Utility Control, saying the department's efforts to find out information about a federal telephone surveillance program violate federal law.

As part of a nationwide campaign by the American Civil Liberties Union begun in May against what it called illegal government spying, the group's Connecticut chapter persuaded the DPUC to investigate whether AT&T and Verizon had improperly disclosed customer calling information without a warrant, court order or subpoena from Sept. 11, 2001, to the present.

As part of its effort, the ACLU\l "l" submitted a series of questions to AT&T and Verizon on Aug. 10 related to the disclosure of customer information and privacy. When the telecommunications companies declined to answer those questions, the DPUC issued a ruling Aug. 23 ordering them to respond by this past Thursday. A public hearing before the DPUC to discuss their answers had been set for Sept. 21.

But the federal government filed its lawsuit Wednesday, within 24 hours of the DPUC's deadline, charging that the agency does not have the authority to require the phone companies to answer the ACLU's \l "l" questions. It also claims a response by the companies could cause "exceptionally grave harm to national security."

The ACLU of Connecticut asked the telecoms to provide information about specific instances in which they released customer information to any government or private agencies, the names of company officials who are empowered to authorize such disclosures and other issues related to privacy.

In a letter Thursday from Verizon to the DPUC, phone company officials said that until the federal lawsuit is resolved they could not respond to the questions.

Walt Sharp, an AT&T spokesman, said in an e-mail Friday that the company is "fully committed to protecting our customers' privacy. We do not comment on matters of national security." Officials from Verizon and AT&T refused to comment further. Department of Justice officials could not be reached for comment.

In May, USA Today reported that AT&T, Verizon and BellSouth were providing the National Security Agency with domestic phone records as part of a large-scale surveillance initiative. USA Today acknowledged in June that it could not prove several key elements of the story. However, the newspaper reported that members of the House and Senate intelligence committees confirmed that the NSA had compiled a database of phone call records.

The DPUC, which regulates telecommunication companies in the state, agreed to cooperate with the ACLU to find out if it has the authority to order the telecoms to release information, said Beryl Lyons, the department's spokeswoman.

"It's never come up before," she said. "Before 9/11, you wouldn't have had this. We got a petition from the ACLU to conduct this investigation. Do we have jurisdiction to make this ruling? We don't know. We decided to open the case and see what information came forth."

END

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 12:46 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE CEREMONY COMMEMORATING 9/11

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE CEREMONY COMMEMORATING 9/11

WASHINGTON, D.C.

Good morning.

As Department of Justice employees, we are part of a network of civil servants and uniformed soldiers who defend and protect American life and liberty – and I am very proud of the work we do to prevent attacks like those on September 11th, 2001.

But on this anniversary, this morning, we are also, simply, Americans. We are patriots who are remembering our brothers and sisters who died on that terrible morning.

Henry James wrote that "sorrow comes in great waves… but it rolls over us, and though it may almost smother us it leaves us on the spot and we know that if it is strong we are stronger, in as much as it passes and we remain."

We realize today that we are, in fact, stronger than the sorrow, and we are unquestionably stronger than our enemies who brought that sorrow upon us.

While we will never forget, we will not be afraid… and we will never give up the fight for our country, the defense of our cherished freedom.

I am reminded, today, of what the President said on the first anniversary of the attacks. He said that we, as a country, owe the families of September 11th "the most enduring monument we can build: a world of liberty and security made possible by the way America leads, and by the way Americans lead our lives."

DOJ_NMG_ 0167699

I believe that each and every employee here at Justice is part of building that monument – and you should be proud of your efforts, especially on this day of remembrance.

We seek to prevent further attacks and to ultimately win the war on terror. We do it so that "these dead shall not have died in vain, that this nation shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth."

Please join me in a moment of silence.

###

DOJ_NMG_ 0167700

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, August 22, 2006 10:38 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/22/06 Civil Division News

U.S. prosecutors sue to block release of details of domestic surveillance

D.C. Federal Judge Slams Lawyers for Role in Hiding Tobacco Risks

Former Beverly, U.S. settle for $20 million

Judge Overturns $10M Verdict Against Iraq War Contractor in Fraud Case

Man who sued port gets lawyer

Report offers look at drug firm's marketing strategy

ACLU contends DEA violated Armenian couple's civil rights

AP

August 22, 2006

U.S. prosecutors sue to block release of details of domestic surveillance

PORTLAND, Maine_Federal prosecutors sued state utility regulators and Verizon Communications Inc. to block the release of information related to the government's domestic surveillance program.

The Public Utilities Commission on Aug. 9 ordered Verizon to provide a sworn statement about the National Security Agency's warrantless eavesdropping program. The PUC was reacting to alleged privacy law violations.

Complying with the order would "place Verizon in a position of having to confirm or deny the existence of information that cannot be confirmed or denied without causing exceptionally grave harm to national security," according to the suit filed Monday.

Commission spokesman Phil Lindley did not return a message Monday.

In May, Verizon said it would not discuss any relationship with the NSA program, but denied reports that it had provided customer call data or records.

The Justice Department has also sued to prevent disclosure of similar confidential information in New Jersey and Missouri.

END

Legal Times
August 22, 2006

D.C. Federal Judge Slams Lawyers for Role in Hiding Tobacco Risks

Emma Schwartz

Judge Gladys Kessler's scorn for the tobacco industry was evident in her 1,742-page opinion last week, which found that nine cigarette manufacturers and two trade groups had conspired to hide the truth about smoking's adverse health consequences for more than 50 years.

Her wrath, though, was directed not only at company executives at the forefront of the multibillion-dollar tobacco industry but also at the lawyers she said aided the decades-long project to illegally shade the industry from scrutiny.

"At every stage, lawyers played an absolutely central role in the creation and perpetuation of the Enterprise and the implementation of its fraudulent schemes," the D.C. federal judge wrote. She pointed to how both in-house counsel and outside law firms "devised" and "coordinated" strategy, directed scientists' research in favor of the industry, destroyed documents and "took shelter behind baseless assertions of attorney client privilege."

Although the majority of the incidents of lawyers' malfeasance took place decades ago, some of the wrongdoing appeared to continue into the most recent case, which was brought by the Justice Department in 1999. As recently as 2004, Kessler disqualified Neil Koslowe of Shearman & Sterling from representing British American Tobacco Services because he had been involved in the government's case as a lawyer for the Justice Department.

While the tobacco industry will have to funnel millions into reworking its marketing schemes, lawyers may find themselves under further scrutiny if people injured by the companies decide to file suit. "Any time you see such a strongly worded opinion, that tends to capture the attention of the plaintiffs bar," says Kevin Rosen, head of the legal malpractice group at Gibson, Dunn & Crutcher. But, Rosen added, in the same way that some law firms were immediately dismissed from liability in the Enron litigation while others faced steep penalties, the outcome of any subsequent suits could vary widely.

Numerous lawyers and firms aided the tobacco industry over the years, but Kessler's opinion highlighted three firms in particular: Covington & Burling; Jacob, Medinger & Finnegan; and Shook, Hardy & Bacon.

One of the law firms' key roles was running the Tobacco Institute, a trade association that sought to cast doubt on the scientific relationship between smoking and disease. Shook Hardy and "particularly Covington & Burling became the guiding strategist for the Enterprise and were deeply involved in

implementation of those strategies once adopted," Kessler wrote. Covington, led by partner John Rupp (now the managing partner of the firm's London office), reviewed agenda proposals before they were sent to the institute's member companies, and Covington "cleared press releases issued by the Tobacco Institute," Kessler wrote.

Kessler specifically noted the misconduct of Robert Northrip of Shook Hardy, who would "normally bill either three or four tobacco companies" for his time at one meeting for the institute.

Both firms denied any wrongdoing. "We believe that our firm acted appropriately and played a legitimate role as advocates for our clients," Covington said in a statement.

John Murphy, chairman of Shook Hardy, declined to give any specific comment on Kessler's ruling but said his firm "represents each and every one of our clients in an ethical manner."

Attorneys also played a key role in the Council for Tobacco Research, where they pushed funding for projects hoping "to obtain and develop witnesses favorable to Defendants for testimony before Congress and other regulatory bodies, for use in litigation and for support of industry public statements," wrote Kessler.

In the 1960s this effort included input from major firms, including Chadbourne & Parke; White & Case; Davis, Polk & Wardell; and Shook Hardy.

Lawyers also were involved in suppressing scientific research and destroying documents that were adverse to the companies' public and litigation positions.

In 1983, for instance, R.J. Reynolds decided to "remove Council for Tobacco Research and related smoking and health materials from our premises for legal reason," Kessler quoted from a company document. The materials were sent to Jacob Medinger. Similarly, in 1985, British American Tobacco Co. sent "contentious" research reports to Robert Maddox, an attorney in Louisville, Ky.

In short, Kessler saw the lawyers' involvement as "a sad and disquieting chapter in the history of an honorable and often courageous profession."

END

Arkansas Democrat Gazette

August 22, 2006

Former Beverly, U.S. settle for $20 million

Legal officials at Golden Ventures, the Fort Smith-based support services division of the former Beverly Enterprises Inc., last week agreed to a $ 20 million, out-of-court settlement with the U. S. Department of Justice.

The Justice Department on Friday announced the agreement after it alleged MK Medical, the nursing home operator's wholly-owned medical equipment subsidiary, cheated Medicare and Medi-Cal, a health care program jointly funded by the state of California and federal government.

"We are committed to pursuing allegations of fraud against federal health care programs, and to safeguarding federal funds against false claims," said Kevin V. Ryan, U. S. Attorney for the Northern District of California.

Under the False Claims Act, the government alleged the defunct operating unit failed to obtain proper

claims and medical documentation during a four-year period ending in 2002.

Beverly agreed to pay $ 14. 5 million to the U. S. government and $ 5. 5 million to California. Beverly has until Sept. 1 to finalize the settlement payment, according to terms in the Justice Department's press release.

In an e-mailed statement, the privately-held nursing home operator said it initiated the settlement with federal investigators.

"Our company conducted a thorough review and audit, and we proactively notified the government so we could resolve the issue and repay the money owed," Blair Jackson, a Golden Ventures spokesman, wrote. "We are glad to put this situation behind us."

The durable medical equipment wholesaler delivered items, such as oxygen tanks and wheelchairs, to primarily California residents at their home, Jackson said. MK Medical was based in Fresno, Calif.

Beverly became Golden Gate National Senior Care Holdings LLC in March after a $ 2. 29 billion acquisition by a subsidiary of San Franciso-based Fillmore Capital Partners.

This month, the company that bought the former Beverly Enterprises Inc. announced a name change that will affect 283 its nursing homes and assisted living centers nationwide. However, 82 leased facilities will retain the Beverly name. Golden Gate National Senior Care Holdings LLC became Golden Horizons which oversees Golden Ventures — the name of the Fort Smith-based support service division employing about 600 people.

END

The Associated Press
08-22-2006

Judge Overturns $10M Verdict Against Iraq War Contractor in Fraud Case

Matthew Barakat

A federal judge has overturned on a technicality a $10 million jury verdict against a military contractor accused of defrauding the U.S. government in the first months of the Iraq war.

The award, levied in March against Virginia-based Custer Battles LLC, had been the first civil fraud verdict arising from the Iraq war.

A former Custer Battles employee had sued under a whistleblower statute, alleging that the company used shell companies and false invoices to vastly overstate its expenses on a $3 million contract to assist in establishing a currency to replace the Iraqi dinar used during Saddam Hussein's regime.

The verdict reached $10 million because the law calls for triple damages, plus penalties, fines and legal costs.

But U.S. District Judge T.S. Ellis III, in a ruling made public Friday, ruled that Custer Battles' accusers failed to prove that the U.S. government was ever defrauded. Any fraud that occurred was perpetrated instead against the Coalition Provisional Authority, formed to run Iraq until a government was established.

Ellis ruled that the trial evidence failed to show that the U.S. government was the victim, even though U. S. taxpayers ultimately footed the bill.

Alan Grayson, lawyer for whistleblowers Robert Isakson and William Baldwin, said he would appeal. He faulted the Bush administration for creating the CPA in a manner that essentially allowed it to act as a money launderer for unscrupulous military contractors.

"The Bush administration incompetently created this Frankenstein monster called Coalition Provisional Authority. They did it without thinking about it. They blundered into it," Grayson said.

In pretrial motions, Custer Battles' lawyers had advanced a similar argument about CPA's status. Ellis allowed the trial to go forward and said a case could be made to show that defrauding the CPA was tantamount to defrauding the United States.

Ellis had prodded the Justice Department to weigh in on the CPA's status. Government lawyers argued that the CPA should be considered a U.S. entity, but only for the purpose of the whistleblower law.

The judge said in his ruling that the plaintiffs failed to establish the CPA as a U.S. entity during the three-week trial this year.

Custer Battles' attorneys portrayed Ellis' ruling as a broad vindication of their clients' actions.

"The fact of the matter is that (Custer Battles founders) Scott Custer and Mike Battles did what they were contracted to do under unimaginably difficult circumstances," defense lawyer Robert Rhoad said in a statement.

Ellis left intact the jury's $165,000 wrongful termination verdict in favor of Baldwin, one of the whistleblowers.

A lawsuit involving an even larger Custer Battles contract to provide security at the Baghdad airport has not yet gone to trial. That lawsuit will face similar obstacles, Grayson said.

END

Daily Breeze

8/22/06

Man who sued port gets lawyer

Stanley Mosler, whose case was dismissed because he had no legal counsel, expects motion asking judge to reconsider to be filed this week.By Matt Krasnowski
Copley News Service

Longtime port critic Stanley Mosler has retained a lawyer and will ask a judge this week to reconsider a decision throwing out a lawsuit alleging more than $100 million in federal funds were improperly used to support a container terminal on Pier 400.

Mosler, a Rancho Palos Verdes accountant who had been acting as his own lawyer in the false-claims lawsuit since February 2005, and Beverly Hills lawyer Alan Gutman filed paperwork Friday asking that Gutman be deemed Mosler's new lawyer.

Obtaining a lawyer could be key to reviving Mosler's 2002 lawsuit, which he filed under a federal whistle-blower statute and in which he named the United States as a plaintiff.

In a decision released last week, U.S. District Judge S. James Otero sided with lawyers for the port and dismissed the suit, saying under the federal False Claims Act a layperson has no legal authority to pursue

the complaint and represent the interests of the United States. Otero wrote that nonlawyers "lack the necessary skills to prosecute complicated" false-claims lawsuits.

Mosler and Gutman said Monday that they expect a motion will be filed later this week asking Otero to reconsider his dismissal.

"We expect that the motion that will be brought will provide the court with a sufficient legal basis to reinstate the case," Gutman said.

"We trust the court will grant the motion," Mosler said. "There is a presumption in federal courts that cases be decided on the merits, not on whether a party can afford to engage legal counsel."

Besides the port, the lawsuit names the city of Los Angeles, the harbor department, former port Executive Director Larry Keller and Danish shipping giant Maersk Inc. as defendants.

Nick Velasquez, a spokesman for the City Attorney's Office, said his office had no comment about the new developments.

Mosler's lawsuit alleges the port engaged in a bait-and-switch scheme and misused $108 million in federal funds to construct Pier 400, a 484-acre container terminal.

The pier was originally supposed to be a liquid bulk terminal called "energy island" that would keep terminals handling hazardous materials away from residential neighborhoods.

But port officials said they could not force companies to move so they instead negotiated with Maersk to move into Pier 400.

Lawyers for the U.S. Department of Justice and the state attorney general refused to join in Mosler's complaint. Still, officials have said the city could lose as much as $3.6 billion if Mosler's lawsuit succeeds.

END

Charleston, WV, Gazette

August 22, 2006

Report offers look at drug firm's marketing strategy

By Phil Kabler
Staff writer

An analysis in this week's issue of the Annals of Internal Medicine provides unprecedented insight into one pharmaceutical company's multimillion-dollar campaign to promote a new drug — two-thirds of which went to payments to physicians for "professional education" programs.

The article outlines a $40 million annual marketing campaign by Parke-Davis to promote the drug gabapentin — a campaign that emphasized payments to doctors who gave lectures, published research or otherwise encouraged colleagues to prescribe the drug.

From 1993 to 1997, documents showed that doctors the drug company identified as "thought leaders" and "key influencers" — including department chairmen at major medical schools — each received honoraria and grants totaling between $10,250 and $158,250 from Parke-Davis.

"It's not that people are selling their souls directly ... but it's a whole series of conflicts of interest that add

up," Dr. Michael Steinman, lead author of the report, said Monday.

Published by the American College of Physicians, the article analyzes more than 8,000 pages of documents obtained from a federal whistleblower suit against Parke-Davis by Dr. David Franklin, an employee of the company.

The company, which has since become a division of Pfizer, settled the suit for $430 million in 2004.

The case involved promoting off-label uses of the drug, approved by the Food and Drug Administration as an anti-seizure medicine. In settling the suit, the company admitted it promoted the prescribing of gabapentin for pain, psychiatric conditions, migraines and other unapproved uses.

However, the suit provided a wealth of company documents and depositions outlining the marketing strategy for the drug — a strategy involving payments to physicians that Steinman, a staff physician with the San Francisco Veterans' Administration Medical Center, described as "very disturbing."

According to the 1998 marketing plan, the company budgeted $40 million to promote gabapentin, with $19.1 million directed to professional education, including speakers' bureaus, advisory boards and dinner meetings, and $3.16 million for physician honoraria and travel expenses.

By comparison, advertising in medical journals and distribution of samples of gabapentin each accounted for $1.2 million of the budget.

"Doctors have been doing this for decades," Steinman said Monday of direct-to-physician marketing.

Steinman said he believes most patients are aware that doctors receive meals and gifts from drug manufacturers, but would be appalled by the scale of direct-to-physician marketing.

"It's the same way that we disapprove of our congressmen taking large gifts from lobbyists," he said.

In West Virginia, physician groups recently successfully lobbied the state Pharmaceutical Cost Management Council to water down new drug company disclosure forms for "gifts, grants, or payments" to doctors.

While he wasn't directly familiar with issues in West Virginia, Steinman said he understands why doctors would oppose detailed disclosures of direct-to-physician spending by drug companies.

"These payments are not explicit bribes, but I do view them as being intended to curry favor with doctors for their products," he said.

Amy Tolliver, with the West Virginia State Medical Association, said Monday that no one with the WVSMA has had an opportunity to read the article.

Wanda Moebius, spokeswoman for national drug industry lobby PhRMA, directed questions about the article to Pfizer.

"It's a product-specific issue," she said. "That story was about one product."

END

AP

August 22, 2006

ACLU contends DEA violated Armenian couple's civil rights

ALBUQUERQUE_The American Civil Liberties Union of New Mexico has sued\l "l" the U.S\l "l". Drug Enforcement Administration and two law enforcement officers, contending an Armenian couple whose Amtrak train stopped here last year were illegally searched and roughed up.

The ACLU filed the lawsuit Monday in U.S. District Court in Albuquerque on behalf of Diana Arutinova and her partner, Edgar Manukian. The Burbank, Calif., residents are seeking unspecified compensatory and punitive damages.

Special Agent Steve Robertson, a spokesman for the DEA, said the agency does not comment on pending litigation.

"Obviously if there's an ongoing judicial process, it's unfair to any of the parties involved to make a comment right now," he said.

Arutinova and Manukian were traveling last August when their train stopped for about 40 minutes. During that time, the two were told by an officer that they were "suspicious," according to the lawsuit.

The two were ordered to the luggage area of the train car, and their bags were searched. At one point, an officer pulled bras and underwear from Arutinova's personal bag and examined them with an exaggerated smile, while the other two officers laughed, made coarse jokes and called the couple inappropriate names, the lawsuit says.

The lawsuit contends that things went from bad to worse after the illegal search. The couple asked the officers for their names, badge numbers and the names of their watch commanders. DEA Agent Jay Perry then pushed Manukian toward the train door and said, 'You want my name? What are you going to do about it, (expletive)?'" the lawsuit says. Perry then threw his business card at the couple.

Arutinova stepped between the men, and Perry grabbed her right arm, "pushed her against the wall and shook her so hard that her head struck the wall," the lawsuit says.

Perry then dragged Arutinova by the arm back down the hall toward the couple's room, striking her head against the wall two or three more times, the lawsuit says. He stopped only when Arutinova began to scream, the ACLU contends.

Manukian later was grabbed by the arm when he failed to comply with the officers' demand that he turn over a camera, which he used to take pictures of Arutinova's discolored arm, the lawsuit says.

"Clearly the officers were trying to cover their tracks by seizing the camera," said Peter Simonson, executive director of the ACLU. "The act was as cowardly as it was illegal."

The ACLU claims Arutinova, who was employed as a phlebologist, was forced to quit due to her injuries.

"This was a gross abuse of power," Simonson said. "The agents had Arutinova and Manukian at their mercy and they used the opportunity to entertain themselves and to terrorize the couple."

END

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, August 22, 2006 10:41 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Emailing: weekly 8-22-06.wpd
Attachments:	weekly 8-22-06.wpd

Attached is the weekly report for week ending 8.22.06.

The message is ready to be sent with the following file or link attachments:

weekly 8-22-06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

August 22, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report[1] for the Week ending August 25, 2006

NEXT WEEK

· No entries this period.

THIS WEEK

· ***Sentencing in Case on Violation of the Civil Rights of an Arab-American Family:*** On August 22, sentencing is scheduled to occur in United States v. Nix (Northern District of Illinois). On March 6, defendant Eric Nix entered a guilty plea to violating one count of 42 U.S.C. §3631 (housing interference with the use of fire) for igniting an explosive device inside a van owned by a Palestinian family while the van was parked in front of their home.

· ***Hartford Men Plead Guilty for Involvement in Trafficking and Prostitution Ring:*** On August 22, Ronald Martinez of West Hartford, Connecticut pleaded guilty to transporting women across state lines for the purpose of engaging in prostitution, money laundering, conspiracy, and use of a facility in interstate commerce to promote prostitution. Co-defendant Jerome Hargrove pleaded guilty to one count of conspiracy in the same ten co-defendant case on August 21. Martinez and Hargrove were charged in a sixty four-count superceding indictment, along with eight other co-defendants, on August 8, 2006. Three of the co-defendants in that indictment were charged with the sex

[1]This report is an internal document that is not intended for distribution outside of the Department of Justice.

trafficking of minors and sex trafficking by force, fraud, and coercion. As a condition of the plea, Martinez admitted to running his own prostitution business in Hartford, Connecticut, driving prostitutes to and from Massachusetts to engage in commercial sex acts, using the telephone to promote his prostitution business, and conspiring with others to use the telephone to promote their respective prostitution businesses.

LAST WEEK

- ***Court Found Former Rental Manager Guilty of Housing Discrimination:***
On August 16, Milburn Long, a former apartment manager in Boaz, Ala., was found guilty by a federal judge in Alabama, of engaging in race discrimination due to his refusal to rent apartments to African-Americans. He was ordered to pay a civil penalty of $10,000 to the government. U.S. District Judge Lynwood Smith ruled that in 2003, Long repeatedly violated the federal Fair Housing Act by refusing to rent apartments to African-Americans at the Park Place Apartments complex and telling others that he would not rent to African-Americans. Judge Smith declared that district courts "should not tolerate the loathsome act of discriminating among citizens on the basis of race," and that the civil penalty sends "a message to other apartment owners and leasing agents that violation of the Fair Housing Act entails serious consequences."

- ***Division Reached Settlement with PONY Baseball on Accessibility:***
On August 17, the Division reached a settlement agreement with PONY Baseball Inc., a youth baseball and softball organization, to resolve a complaint by a PONY player who is deaf. The Division investigated allegations that PONY violated the ADA by refusing to allow the father of a player who is deaf to provide sign language interpreting for his son during tournament games. PONY's rules limited the number of coaches in the game and the league ruled that the father, who was only providing sign language interpreting, had to be included in the total number of coaches for his son's team. In the settlement, PONY agreed to: modify its rules to specifically allow players to use sign language interpreters during games; provide, in conjunction with PONY's local leagues, sign language interpreters for players who are deaf or hard of hearing; make reasonable modifications to PONY's rules and practices to allow players with disabilities an equal opportunity to participate in PONY's baseball and softball games; appoint an ADA Coordinator who will be responsible for ensuring that PONY responds properly to requests for auxiliary aids, including sign language interpreters, and requests for reasonable modifications; have PONY's ADA Coordinator and Board of Directors trained on the requirements of title III of the ADA; and pay Justin Tokioka $30,000 in damages.

- ***Division Secures Guilty Plea in a Florida Cross Burning Case:***
On August 16, Neal Coombs pleaded guilty to violating 42 U.S.C. §3631 (interference with housing rights) in United States v. Coombs (Middle District of Florida). On January 15, defendant Coombs burned a cross on property adjacent to a house an African American family was planning to purchase in Hastings. As defendant Coombs lit the

cross with a flammable liquid, he threatened an African American youth, who was in the front yard at the time.

· ***Division Reached Settlement in Housing Discrimination Case:***
On August 17, the Division filed a Consent Decree in United States v. Kreisler, Jr., a/k/a Bob Peterson, et al. (District Minneapolis). The United States' complaint in this pattern or practice case alleges that Kreisler violated the Fair Housing Act when he discriminated against black tenants at two apartment complexes that he owns and manages. Under the terms of the Consent Decree, the Defendants would be required to pay $525,000, hire an independent management company to operate the rental properties, post and publish a nondiscrimination policy, and correct the rental records of several former tenants against whom Defendants filed unlawful detainer actions. Defendants will also pay a $50,000 civil penalty.

LONG RANGE EVENTS

· No entries this period.

Division Contact: Tobi Longwitz – (202) 514-3846

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 11:31 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. DEPARTMENT OF JUSTICE AWARDS $400,000 TO KENTUCKY TO COMBAT INTERNET CRIMES AGAINST CHILDREN

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 22, 2006
WWW.USDOJ.GOV

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

U.S. DEPARTMENT OF JUSTICE AWARDS $400,000 TO KENTUCKY TO COMBAT INTERNET CRIMES AGAINST CHILDREN

WASHINGTON – Attorney General Alberto R. Gonzales today announced an award from the Department of Justice's Office of Justice Programs (OJP) of $400,000 to the Kentucky State Police to continue funding of the Kentucky Internet Crimes Against Children (ICAC) task force. The ICAC program encourages communities to develop regional, state or multi-state, jurisdictional, and agency responses to technology-facilitated sexual crimes against children. The Kentucky task force began in 2003 and combines the skills of law enforcement officers, prosecutors, and computer specialists throughout the region in effective enforcement efforts against Internet crime.

"The ICAC task forces are critical to our Nation's effort to safeguard young people from online victimization and abuse," said Attorney General Alberto R. Gonzales of the new funding announced today. "As a father and as the chief law enforcement officer, I care deeply about these issues, and I've made protecting our children a priority for the Justice Department. We're proud to partner with and continue supporting the ICAC task forces."

In 2005, the Kentucky State Police ICAC task force investigated 313 complaints of child enticement, resulting in 22 arrests of individuals intent on meeting children for sexual encounters or who manufactured, traded, or possessed child pornography.

"As long as our children use the Internet, there will unfortunately be predators who seek to exploit them," said Regina B. Schofield, Assistant Attorney General for the Office of Justice Programs. "Since their inception just eight years ago, our Internet Crimes Against Children task forces have made over 7,000 arrests. This grant shows that the Department of Justice is committed to supporting the ICAC task forces and our state and local law enforcement as they seek to make their communities safe from Internet predators."

Nationwide, between October 1, 2005, and June 30, 2006, the Justice Department-funded ICAC task forces have received over 13,800 complaints of technology-facilitated child sexual exploitation, which includes the possession, distribution, and creation of child pornography, as well as attempts by individuals to lure and travel to meet children for sexual encounters. Investigations initiated from complaints have led to over 1,400 arrests, forensic examinations of more than 6,600 computers, over 2,500 case referrals to non-ICAC law

DOJ_NMG_ 0167014

enforcement agencies, and the provision of training for more than 8,000 law enforcement officers and prosecutors.

ICAC task force members have been asked to help train law enforcement worldwide in methods to combat Internet crimes against children. ICAC task force presentations, publications, and public service announcements have reached hundreds of thousands of teenagers, parents, educators, and others interested in safe Internet practices for young people.

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an assistant attorney general and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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06-568

DOJ_NMG_ 0167015

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Image not available for this document, ID: 0.7.10316.36783-000002

Diegor, Melody L. (CRS)

From:	Diegor, Melody L. (CRS)
Sent:	Tuesday, August 22, 2006 11:34 AM
To:	CRS AG Weekly Report Recipients
Subject:	CRS AG Weekly 8.22.06
Attachments:	CRS AG Weekly 8-22-06.doc

Attached please find CRS' Weekly Report to the Attorney General for August 22, 2006.

Melody L. Diegor
Confidential Assistant to the Deputy Director
US Department of Justice
Community Relations Service
(202) 353-1806

August 22, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

- ***CRS to Monitor Klu Klux Klan Rally in Gettysburg, PA***
  On September 2, 2006, CRS will be in Gettysburg, PA to provide technical assistance and contingency planning for a planned rally to be held at the Gettysburg National Park by the Klu Klux Klan. CRS has been in communication with local law enforcement and National Park Service Police officials prior to the event and will be onsite to monitor the event to ensure community safety.

- ***CRS to Provide Assistance for Protest March in Pensacola, FL***
  On September 1, 2006, CRS will be in Pensacola, FL to provide contingency planning and self-marshalling training for local community leaders and members in anticipation of an upcoming demonstration held to reportedly protest allegations of police use of force, following the deaths of several African American males while in the custody of the Escambia County Sheriff's Department.

B. This Week

- ***CRS Hosts National Staff Conference in Minneapolis, MN***
  On August 21-25, 2006, CRS is hosting its 2006 National Staff Conference in Minneapolis, MN. Highlights of the conference include management-related and CRS programmatic trainings for staff.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0167019

- ***CRS Monitored Protest March in Riverside, NJ***
  On August 20, 2006, CRS was onsite in Riverside, NJ to provide technical assistance and contingency planning for a planned demonstration held by Hispanic community members to reportedly protest illegal immigration-related legislation. CRS was in communication with event organizers and Riverside Police Department officials to ensure a safe event. The event proceeded without incident.

C. Last Week

- ***CRS Convened Mediation in Dos Palos, CA***
  On August 15, 2006, CRS was in Dos Palos, CA to convene mediation among Dos Palos Unified School District administrators and local Latino community leaders. The mediation is being held in response to community racial tensions surrounding allegations of disparate treatment and racial discrimination directed towards Latino students. CRS will continue to provide mediation services as necessary.

- ***CRS Convened Pre-Mediation in Irving, TX***
  On August 12, 2006, CRS was in Irving, TX to conduct pre-mediation services among Irving Independent School District administrators and local minority community leaders. The mediation is being conducted in response to community racial tensions surrounding allegations of inadequate minority representation among school staff and racial insensitivity directed towards minority parents and students.

- ***CRS Conducted Law Enforcement Mediation Program in Keene, NH***
  On August 16, 2006, CRS was onsite in Keene, NH to conduct its Law Enforcement Mediation (LEM) Program for Keene State College security officers. The program was conducted in response to reports of racial tensions on the campus following several alleged hate incidents. The LEM program is designed to enhance dispute resolution skills among law enforcement officials in working with multi-cultural and racial communities.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0167020

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 12:14 PM
To: USDOJ- Office of Public Affairs
Subject: MICHIGAN COUPLE PLEADS GUILTY TO OBSCENITY VIOLATIONS

Department of Justice

FOR IMMEDIATE RELEASE CRM
TUESDAY, AUGUST 22, 2006 (202)514-2088
WWW.USDOJ.GOV TDD (202) 514-1888

MICHIGAN COUPLE PLEADS GUILTY TO OBSCENITY VIOLATIONS

WASHINGTON – A Brutus, Mich. couple pleaded guilty to charges stemming from a business they operated for the purpose of selling obscene videos, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Margaret Chiara of the Western District of Michigan announced today.

John Mart Messer entered guilty pleas in U.S. District Court in Grand Rapids, Mich. on Monday to one count of engaging in the business of selling or distributing obscene matter and one count of receiving child pornography. His wife, Deborah Messer, pleaded guilty to one count of aiding and abetting the operation of a business of selling or distributing obscene matter. Mr. Messer faces a mandatory minimum penalty of five years in prison on the child pornography charge. The maximum penalty for Mrs. Messer's offense is five years in prison. Sentencing is scheduled for Nov. 27, 2006.

Mr. Messer began selling sexually explicit videotapes in 1996 through JMM Products, Inc., a company he founded for that purpose, and continued to do so until his arrest earlier this year. The videotapes included graphic depictions of hardcore sex acts between humans and between humans and animals. The videotapes were advertised through a mail order catalog prepared with the assistance of Mrs. Messer, who also aided and abetted her husband by depositing some of the company's products in the mail and by typing customer lists and helping to keep the company's books.

U.S. Attorney Margaret Chiara said the convictions in this case would be helpful in demonstrating the commitment of the Department of Justice to the enforcement of federal obscenity and child pornography laws. "The distribution of obscene materials such as these threatens the well-being of American families and must not be tolerated," she said.

The case was prosecuted by Trial Attorney Sheila Phillips of the Obscenity Prosecution Task Force and Assistant U.S. Attorney Brian Delaney, Chief of the Criminal Division of the U.S. Attorney's Office for the Western District of Michigan. The case was investigated by the FBI. The Obscenity Prosecution Task Force, part of the Criminal Division of the Justice Department, investigates and prosecutes the producers and distributors of hardcore pornography that meets the test for obscenity as defined by the U.S. Supreme Court.

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06-569

DOJ_NMG_ 0167022

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Image not available for this document, ID: 0.7.10316.36690-000002

Term_Membership@cfr.org

From: Term_Membership@cfr.org
Sent: Tuesday, August 22, 2006 4:50 PM
To: Term_Membership@cfr.org
Subject: Term Member Advisor Program

Dear DC Term Member,

As we head into the fall, we are once again looking for Term Members who might be willing to serve as Advisors to one of our 25 DC-area new first-year members. This year's Advisor program is being coordinated by Alisa Newman Hood and Maren Leed, and includes a few modifications from the program in the past. Although Advisors will still be paired with a new member, they will also be part of a 6-person (or in one case 8-person) "team." The intent of the Team concept is to allow new members to develop a connection with 2-3 of their peers, as well as 3-4 current term members, giving them a slightly larger group to help integrate them as quickly as possible into the program.

Term Member Advisory Committee members have been asked to serve as Team Leaders, but we still need 17 other Term Members who are willing to serve as Advisors. We are trying to avoid making the Advisor role too structured - it is mostly designed to allow new members to see at least one friendly face when the come to their first few Council events. However, we do ask that Advisors be responsible for a few small tasks:

- introduce yourself to your Advisee by email or phone prior to the initial orientation meeting on September 14

- attend the September 14 orientation meeting, and introduce yourself to your Advisee (and ideally the rest of your Team)

- do your best to attend at least one outside get-together with your Team (your Team Leader will be responsible for setting this up within 3 weeks of the orientation meeting)

Any additional arrangements between Advisors and Advisees are up to you and your Advisee.

If you're willing to take part, please respond to this email no later than Wednesday, August 30.

Thanks in advance for your help,

[redacted]

Assistant Director, Term Member Program
Council on Foreign Relations
58 East 68th Street
New York, NY 10021
Phone [redacted] Fax (212) 434-9801

Term_Membership@cfr.org

From: Term_Membership@cfr.org
Sent: Tuesday, August 22, 2006 5:24 PM
To: Term_Membership@cfr.org
Subject: Fw: TM Advisor Program--Orientation Meeting Date Correction!

Dear DC Term Member,
My apologies for sending an additional email.
The Orientation Meeting will be Monday, September 18 (not September 14).
Thanks,
[redacted]
----- Forwarded by Term_Membership/NY/CFR on 08/22/2006 05:19 PM -----

Term_Membership/NY/CFR
08/22/2006 04:49 PM

To
Term_Membership/NY/CFR
cc

Subject
Term Member Advisor Program

Dear DC Term Member,

As we head into the fall, we are once again looking for Term Members who might be willing to serve as Advisors to one of our 25 DC-area new first-year members. This year's Advisor program is being coordinated by Alisa Newman Hood and Maren Leed, and includes a few modifications from the program in the past. Although Advisors will still be paired with a new member, they will also be part of a 6-person (or in one case 8-person) "team." The intent of the Team concept is to allow new members to develop a connection with 2-3 of their peers, as well as 3-4 current term members, giving them a slightly larger group to help integrate them as quickly as possible into the program.

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Thanks in advance for your help,

[redacted]

Assistant Director, Term Member Program
Council on Foreign Relations
58 East 68th Street
New York, NY 10021
Phone [redacted] Fax (212) 434-9801

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 5:58 PM
To: USDOJ- Office of Public Affairs
Subject: GREENVILLE WOMAN INDICTED AND DETAINED ON HURRICANE KATRINA FRAUD

Department of Justice

United States Attorney Leura G. Canary
Middle District of Alabama

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 22, 2006
www.usdoj.gov/usao/alm

CONTACT: RETTA GOSS
PHONE: (334) 223-7280
FAX: (334) 223-7560

GREENVILLE WOMAN INDICTED AND DETAINED ON HURRICANE KATRINA FRAUD

MONTGOMERY, Ala. — Alethia Adrianne Scott, 39, of Greenville, Ala., was detained today in relation to a federal indictment charging her with fraudulently obtaining disaster assistance from the Federal Emergency Management Agency (FEMA) in the wake of Hurricane Katrina, U.S. Attorney Leura G. Canary announced. The indictment, returned on Aug. 15, 2006, alleges that Scottby submitted an application for benefits to FEMA claiming that she had suffered damage to a trailer she owned as her primary residence in Stockton, Ala. In fact, Scott did not reside in Stockton, did not own a trailer, and did not suffer the losses claimed.

As a result of the claims, Scott received four checks totaling $26,200. Scott has been charged with four counts of theft of government property. If convicted of all four counts, the statutory maximum penalty is 40 years in prison.

Scott was arrested by the U.S. Marshals Service on Aug. 18, 2006, and her detention hearing was held today before Chief U.S. Magistrate Judge Charles Coody. Scott was detained after Judge Coody determined there were no conditions or combination of conditions that could ensure her appearance at trial. Trial has been set for Oct. 30, 2006, before the Honorable Judge Myron Thompson.

The U.S. Attorney's Office of the Middle District of Alabama is a member of the Department of Justice's Hurricane Katrina Fraud Task Force, created by Attorney General Alberto R. Gonzales in September 2005 to deter, detect, investigate and prosecute disaster-related federal crimes. The Task Force, chaired by Assistant Attorney General Alice S. Fisher of Department's Criminal Division, is comprised of federal, state and local law enforcement agencies, the Executive Office for U.S. Attorneys, and U.S. Attorneys Offices from the Gulf Coast region and nationwide. This matter was investigated by the Department of Homeland Security's Office of Inspector General and is being prosecuted by Assistant U.S. Attorney Christopher A. Snyder. Thus far, the Middle District of Alabama has charged a total of 14 Hurricane Katrina and Rita fraud-related cases.

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DOJ_NMG_ 0167030

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Image not available for this document, ID: 0.7.10316.36692-000002

From:
Sent: Tuesday, August 22, 2006 7:03 PM
To:
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

Office of Political Affairs

The White House

Washington, DC 20502

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks

Office of Political Affairs
The White House
Washington, DC 20502

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 22, 2006 7:19 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 22, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Visits Lexington, Kentucky (OPA)
Today, the Attorney General visited Lexington, Ky., where he met with the local Project Safe Childhood Task Force and participated in a media availability regarding DOJ efforts to keep children safe through Project Safe Childhood, an anti-child porn initiative. He also announced an award from the Department of Justice's Office of Justice Programs of $400,000 to the Kentucky State Police to continue funding of the Kentucky Internet Crimes Against Children task force

FBI's Infragard Conference Begins (FBI)
The Infragard Conference began today in Washington, DC lasting through 08/24/2006. Cyber Assistant Director James Finch spoke as well as other FBI representatives.

Michigan Couple Pleads Guilty to Obscenity Violations (Criminal)
Today, a Brutus, Mich. couple pleaded guilty to charges stemming from a business they operated for the purpose of selling obscene videos. John Mart Messer entered guilty pleas in U.S. District Court in Grand Rapids, Mich. on Monday to one count of engaging in the business of selling or distributing obscene matter and one count of receiving child pornography. His wife, Deborah Messer, pleaded guilty to one count of aiding and abetting the operation of a business of selling or distributing obscene matter. Mr. Messer faces a mandatory minimum penalty of five years in prison on the child pornography charge. The maximum penalty for Mrs. Messer's offense is five years in prison. Sentencing is scheduled for Nov. 27, 2006.

Illinois Man sentenced for Bias-Motivated Crime (Civil Rights)
Eric K. Nix, of Burbank, Illinois, was sentenced today to 15 months in prison for violating the housing rights of an Arab-American family. Nix had earlier pleaded guilty to a bias-motivated incident that occurred in March 2003, when Nix detonated an explosive in a van belonging to the Arab-American family. The explosive caused extensive damage to the van, which was parked in front of the family's home in Burbank. The sentence was a downward departure; however, the judge took into account the previous six months that the defendant served in prison - which combined with today's sentence, is 21 months - what the guidelines suggest. Since September 11, 2001, the Department of Justice has investigated more than 700 bias-motivated incidents

involving allegations of violence or threats against individuals perceived to be Muslim, or of Arab, Middle Eastern, or South Asian origin.

Federal Court Bars Arizona Tax Preparer from Preparing Tax Returns (Tax)
Today, a federal judge in Phoenix has permanently barred Jeffrey R. Hunn, of Snowflake, Ariz. from preparing federal tax returns for others. U.S. District Court Judge Frederick J. Martone found that Hunn's fraudulent tax return preparation had resulted in approximately $1.5 million in harm and potential harm to the federal Treasury.

Judge Rules Against the Government in Giant Sequoia Monument Case (Environmental and Natural Resources)
A judge in the Northern District of CA ruled against the government on National Environmental Policy Act grounds in the Giant Sequoia Monument case. This case involves the Forest Service's environmental plan for the Sequoia National Forest. The decision is under review and we have not yet made any decision regarding appeal.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Interviews Regarding First Anniversary of Hurricane Katrina (OPA)
Tomorrow, the Attorney General will participate in round-robin television interviews with CNN, Fox, ABC, CBS, and NBC regarding the first anniversary of Hurricane Katrina. He will specifically discuss DOJ efforts to combat violent crime in New Orleans and the Hurricane Katrina Fraud Task Force.

Shaw, Aloma A

Subject:	Canceled: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, August 23, 2006 10:00 AM
End:	Wednesday, August 23, 2006 11:00 AM
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Shaw, Aloma A
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Todd, Gordon (SMO); Keisler, Peter D (CIV); Bucholtz, Jeffrey (CIV); Cohn, Jonathan (CIV); Schiffer, Stuart (CIV); Katsas, Gregory (CIV); Senger, Jeffrey M; Nichols, Carl (CIV); Pacold, Martha M; Oldham, Jeffrey L; Katsas, Gregory
Optional Attendees:	McKenzie, Peggy (CIV); Williams, Angela (CIV); Washington, Juanita (CIV); Williams, Toni (CIV); Hudson, Lewis (CIV); Calvert, Chris (CIV)
Importance:	High

When: Wednesday, August 23, 2006 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Meeting for 8/23/06 is cancelled.

Please delete old series. New mtg w/addition of Gordon Todd and removal of Dan Meron

Attendees: ASG Robert McCallum, Peter Keisler-AAG Civil, Neil Gorsuch-OASG, Lily Swenson-OASG, Jeff Senger-OASG, Gordon Todd-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil

POC: Currie Gunn

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 9:30 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 23, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 23, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167038

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Image not available for this document, ID: 0.7.10316.36668-000002

Williamson, Angela

From: Williamson, Angela
Sent: Wednesday, August 23, 2006 10:11 AM
To: Williamson, Angela
Subject: The Daily Update: 8/23/06

<http://www.whitehouse.gov/>
AUGUST 23, 2006

This morning, President Bush will meet with Rockey Vaccarella, whose home in St. Bernard Parish was destroyed by Katrina. Mr. Vaccarella has traveled through the South to spread a message of hope and dedication to rebuilding. In the evening, the President will attend a Friends of George Allen reception.

9:55 am:
EDT THE PRESIDENT participates in a meeting with Rockey Vaccarella
The White House | Washington, DC

5:35 pm:
EDT THE PRESIDENT attends Friends of George Allen Reception
Private Residence | Alexandria, Virginia

Rockey Vaccarella To Meet With President Bush. "But Rockey Vaccarella, who clung to the rooftop of his flooded Meraux home for more than four hours after Hurricane Katrina hit before swimming to safety, said he felt compelled to come to the nation's capital with a mock but realistic-looking FEMA trailer to pass on a message to President Bush. And even though almost everyone told him it was a lost cause, Vaccarella will get his meeting with Bush - not for dinner but a private session at the White House this morning <http://www.nola.com/news/t-p/washington/index.ssf?/base/news-1/1156316874183270.xml&coll=1> . ...'I know some people think I'm an oddball who stood on his roof for 4½ hours, but I really wanted to thank the president for the FEMA trailers and all that he has done, but to remind him that while you have the whole world on your plate, just don't forget about us down south,' Vaccarella said." (Bruce Alpert, "St. Bernard Man To Meet With Bush," The New Orleans Times-Picayune, 8/23/06)

President Bush Signs Executive Order To Increase Transparency In The Health Care System. "President Bush signed a measure Tuesday ordering federal agencies to do more to inform beneficiaries about the cost and quality of their health-care services, which federal officials hailed as a major step toward bringing greater efficiency to the nation's medical system. The executive order requires four federal agencies that oversee large health-care programs to gather information about the quality and price of care, and to share that information with one another and with program beneficiaries. ... 'The fact is, if you have excellent information about quality, about service and about price, people make good decisions,' Bush said during a roundtable here to discuss the initiative. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/22/AR2006082200330.html> " (Michael Fletcher, "Bush Signs Order On Health Care," The Washington Post, 8/23/06)

President Bush Congratulates Afghan President Hamid Karzai On Afghanistan's

Independence Day. "US President George W. Bush telephoned Afghan President Hamid Karzai to discuss issues like security in post-Taliban Afghanistan, the White House said. Bush 'called President Karzai to congratulate him on Afghanistan's Independence Day. They discussed security, education and regional cooperation,' spokeswoman Dana Perino told reporters on Tuesday. <http://news.yahoo.com/s/afp/20060823/wl_sthasia_afp/usafghanistanbushkarzai&printer=1> The conversation lasted about 10 minutes, according to Perino, who said nothing about the statement from Karzai's office that the Afghan leader had accepted Bush's invitation to visit the United States." ("Bush, Karzai, Discuss Afghan Security," Agence France Press, 8/22/06)

Conflict Of Interest Raised In Court Ruling On Surveillance Program. "The federal judge who ruled last week that President Bush's eavesdropping program was unconstitutional is a trustee and an officer of a group that has given at least $125,000 to the American Civil Liberties Union in Michigan, a watchdog group said Tuesday <http://www.nytimes.com/2006/08/23/washington/23judge.html?hp&ex=1156305600&en=655f19d78b0e7342&ei=5094&partner=homepage> . ... 'The system relies on judges to exercise good judgment, and we need more information and more explanation about what the court's involvement was in support of the A.C.L.U.,' said Tom Fitton, president of Judicial Watch, which gained attention in the 1990's for ethics accusations against President Bill Clinton." (Eric Lichtblau, "Conflict Of Interest Is Raised In N.S.A. Ruling," The New York Times, 8/23/06)

Top U.S. Commander In Iraq "Encouraged" By Progress Of Operation Together Forward In Baghdad. "'We are cautiously optimistic and encouraged by all the indicators that we are seeing,' Army Maj. Gen. William Caldwell told reporters in the Iraqi capital in an assessment of Operation Together Forward. ... 'There in fact has been a downturn in the level of violence within Baghdad over the last three weeks,' he said. 'The prime minister and his government has formulated a plan that is in fact proven at this point to have been very effective. <http://www.washingtontimes.com/national/20060822-102259-4847r.htm> And time will tell - months will tell how effective it really is, but the initial indicators are very positive.'" (Rowan Scarborough, "General Sees 'Some Normalcy' Of Life In Baghdad," The Washington Times, 8/23/06)

U.S. Ambassador To Iraq Zalmay Khalilzad Says America Must Stand By The Iraqi Government's Efforts To Secure Baghdad. "To combat this complex problem, Iraq's national unity government, led by Prime Minister Nouri al-Maliki, has made securing Baghdad its top priority. ... These programs are already beginning to show positive results. The Iraqi Ministry of Defense reports that the crime rate in Doura has been reduced by 80%. In the Rashid district, Sunni and Shiite political leaders, tribal leaders and imams met and signed an agreement forswearing violence. ... Although much difficult work still remains to be done, it is imperative that we give the Iraqis the time and material support necessary to see this plan through, and to win the Battle of Baghdad <http://online.wsj.com/article/SB115628769204442748.html?mod=opinion_main_commentaries> ." (Zalmay Khalilzad, Op-Ed, "The Battle Of Baghdad," The Wall Street Journal, 8/23/06)

Coalition Forces Capture More Than 100 Known And Suspected Terrorists In Iraq. "U.S. and Iraqi forces captured more than 100 known and suspected terrorists, including one linked to the February bombing of a Shiite shrine that triggered a wave of sectarian bloodshed, a U.S. spokesman said Tuesday. Raids by Iraqi and coalition forces this past week led to the captures, said Maj. Gen. William Caldwell, a U.S. military spokesman. ... Among those arrested was a Saudi al-Qaeda member preparing men for suicide operations, a U.S. statement said. Also arrested,

Caldwell said, was a suspect directly linked to the Feb. 22 bombing of the Shiite shrine in Samarra, which set off a cycle of reprisal attacks by Shiites and Sunnis. <http://www.usatoday.com/printedition/news/20060823/a_iraqnews23.art.htm> " ("Coalition Raids Yield 100-Plus Arrests," The Associated Press, 8/23/06)

Administration Officials Discuss Progress In Hurricane Recovery Efforts. FEDERAL COORDINATOR OF GULF COAST REBUILDING DON POWELL: "The President ... is fulfilling his commitment to rebuild the Gulf Coast better and stronger. And this commitment is demonstrated by several areas. Stronger levees: For 98 percent of the New Orleans metropolitan area population, the levees are at pre-Katrina levels or better, and they're on their way to becoming better than ever before. Housing: Under the leadership of the President, the Congress has provided almost $17 billion to rebuild damaged housing and other critical infrastructure across the Gulf Coast. This money, up to $150,000 per household, is beginning to flow in the area. ... As I mentioned, it won't happen overnight, but I'm convinced that the groundwork is being laid for a vibrant Gulf Coast area <http://www.whitehouse.gov/news/releases/2006/08/20060822-5.html> ." (Press Briefing On Gulf Coast Rebuilding, Washington, DC, 8/23/06)

Federal Coordinator Of Gulf Coast Rebuilding Discusses Hurricane Recovery Efforts. "The scope of the rebuilding effort is massive and the people who saw their homes and businesses destroyed by the disaster are naturally impatient. The area affected by Katrina 'is seven times larger than Manhattan,' Powell reminded reporters at a Monitor-sponsored luncheon on Tuesday. <http://www.csmonitor.com/2006/0823/p25s01-usmb.html> 'More than 1.5 million people were affected ... 800,000 citizens were forced to live outside their homes. This was the largest displacement of people since the great Dust Bowl.' ... While there is an ongoing debate about the adequacy of the government's efforts to rebuild the levees in New Orleans, Powell contends the city is safe. 'I would move my family to New Orleans - better still, most important, my grandchildren.'" (David Cook, "Donald Powell," The Christian Science Monitor, 8/23/06)

President Bush Awards Presidential Service Award To Hurricane Recovery Volunteer. "University of Minnesota medical student David Jewison, who spent several weeks last year helping evacuees from Gulf Coast hurricanes, will receive accolades today from President Bush during the president's Minnesota visit. <http://www.twincities.com/mld/pioneerpress/news/local/15328877.htm> Jewison, 27, will receive a presidential service award when Bush arrives in Minnesota around 2 p.m. today. 'I'm not going to receive this award just for me. I am definitely receiving this award for all the people that responded,' said Jewison, who lives in Minneapolis." (Rachel Stassen-Berger, Bush To Honor Minnesota Volunteer During Visit," St. Paul Pioneer Press, 8/22/06)

Former Presidents Bush And Clinton Describe Compassion Displayed In Response To Hurricane Katrina. "It was typical of the American spirit that, after the skies opened up, so did the hearts of our people. ... To help channel this outpouring of goodwill, President Bush asked us to join together to raise funds to assist the recovery effort. America's response to this collaborative effort - the Bush-Clinton Katrina Fund - has been overwhelming. Some 60,000 donors have given more than $129 million to The Fund. ... That compassion, coupled with the courage and determination of the people at the center of the storm, is why we are confident the Gulf Coast will not only survive in the years ahead, but also thrive in the decades to come. <http://www.usatoday.com/news/opinion/editorials/2006-08-22-bush-clinton-katrina_x.htm> " (George H.W. Bush and Bill Clinton, Op-Ed, "In Katrina, Compassion Met Adversity," USA Today, 8/22/06)

U.S. Ambassador To The UN John Bolton Discusses Response To Iran's Proposal. "The U.S. and its European allies plan today to weigh whether to move ahead on Iran sanctions within the United Nations Security Council, after Tehran said it was willing to open 'serious talks' on its nuclear program but wouldn't freeze uranium enrichment. ... John Bolton, the U.S. ambassador to the U.N., said the Bush administration is ready to begin formulating a Security Council resolution to impose economic sanctions if Tehran's response is deemed unsatisfactory. 'We will obviously study the Iranian response carefully,' he said, 'but we are also prepared if it does not meet the terms set by the permanent five foreign ministers to proceed here in the Security Council, as ministers have agreed, with economic sanctions <http://online.wsj.com/article/SB115624874388242131.html?mod=home_whats_news_us> .'" (Neil King, "U.S. Allies To Discuss Sanctions After Iran Offers Nuclear Talks," The Wall Street Journal, 8/23/06)

Wisconsin Law Professor Ann Althouse Criticizes Judge Taylor's Ruling On The Terrorist Surveillance Program. "Immensely difficult matters of First and Fourth Amendment law, separation of powers, and the relationship between the Foreign Intelligence Surveillance Act and the Authorization for Use of Military Force are disposed of in short sections that jump from assorted quotations of old cases to conclusory assertions of illegality <http://www.nytimes.com/2006/08/23/opinion/23althouse.html?_r=2&hp=&oref=slogin&pagewanted=print&oref=sloginhttp://www.nytimes.com/2006/08/23/opinion/23althouse.html?_r=2&hp=&oref=slogin&pagewanted=print&oref=slogin> . ... And, indeed, the president is not claiming he has powers outside of the Constitution. He isn't arguing that he's above the law. He's making an aggressive argument about the scope of his power under the law. It is a serious argument, and judges need to take it seriously." (Ann Althouse, Op-Ed, "A Law Unto Herself," The New York Times, 8/23/06)

The Wall Street Journal Says His Second Trial Should Remind The World That Saddam Hussein's Brutality Should Not Have Been Tolerated. "In the case of Saddam, the U.S. and its allies finally did act to rid the Middle East of a megalomaniac <http://online.wsj.com/article/SB115629108807442825.html?mod=opinion_main_review_and_outlooks> who had invaded Kuwait, attacked Iran, gassed his own people, tossed out U.N. weapons inspectors, harbored terrorists including Abu Musab al-Zarqawi, retained the infrastructure for making WMD even if he lacked stockpiles (see the Duelfer report), plotted to kill a former American President, and harbored a grudge against the U.S. that could have played out in many ways to harm Americans." (Editorial, "Saddam's WMD," The Wall Street Journal, 8/23/06)

Partnership Between FDA And MIT Will Develop System To Detect Prescription Drug Problems. "The Food and Drug Administration and the Massachusetts Institute of Technology have agreed to develop an automated system to detect unanticipated problems with prescription drugs and medical devices. The system would scour federal and private health-care databases in real time for unusual and emerging patterns that could indicate potential safety concerns. ... A more automated system capable of mining on the fly multiple databases, including those compiled by health insurance providers and agencies such as the Department of Veterans Affairs, would be better at recognizing patterns that suggest problems, Gottlieb said. <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/22/AR2006082201036_pf.html> " ("Preventive Care For Medical Databases," The Associated Press, 8/23/06)

President Bush Discusses Health Transparency in Minnesota <http://www.whitehouse.gov/news/releases/2006/08/20060822-4.html>

* Fact Sheet: Health Care Transparency: Empowering Consumers to Save on Quality Care <http://www.whitehouse.gov/news/releases/2006/08/20060822.html>

* Executive Order: Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs <http://www.whitehouse.gov/news/releases/2006/08/20060822-2.html>

* In Focus: Health Care <http://www.whitehouse.gov/infocus/healthcare/>

Personnel Announcement
<http://www.whitehouse.gov/news/releases/2006/08/20060822-3.html>

Press Gaggle by Dana Perino and Health and Human Services Secretary Leavitt
<http://www.whitehouse.gov/news/releases/2006/08/20060822-1.html>

Press Briefing on Gulf Coast Rebuilding
<http://www.whitehouse.gov/news/releases/2006/08/20060822-5.html>

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 1:37 PM
To: USDOJ- Office of Public Affairs
Subject: TWO MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

TWO MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Ronald A. Guidry, 43, and Debbie A. Foster, 34, were sentenced in federal court today by U.S. District Court Judge Frank J. Polozola on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced.

Guidry, of Baton Rouge, pleaded guilty to count one of an indictment charging him with making a false claim for Hurricane Katrina disaster assistance benefits. He was sentenced to three years probation, a $1,000 fine, $2,000 in restitution, and 100 hours of community service.

Foster, of Baton Rouge, pleaded guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. She was sentenced to three years probation, $2,000 in restitution, and 50 hours of community service.

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The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigations of these matters. The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney of the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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DOJ_NMG_ 0167047

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Image not available for this document, ID: 0.7.10316.36660-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 2:37 PM
To: USDOJ- Office of Public Affairs
Subject: COLOMBIAN KINGPIN EXTRADITED FOR SMUGGLING MORE THAN $100 MILLION WORTH OF COCAINE INTO THE UNITED STATES

Department of Justice

United States Attorney Michael J. Garcia
Southern District of New York

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/nys

CONTACT: SDNY PRESS OFFICE
PHONE: (212) 637-2600
FAX: (212) 637-0053

COLOMBIAN KINGPIN EXTRADITED FOR SMUGGLING MORE THAN $100 MILLION WORTH OF COCAINE INTO THE UNITED STATES

NEW YORK – Manuel Felipe Salazar-Espinosa, a/k/a "Hoover," has been extradited from Columbia to the United States, U.S. Attorney Michael J. Garcia of the Southern District of New York, Special Agent in Charge John P. Gilbride of the U.S. Drug Enforcement Agency in New York, New York City Police Commissioner Raymond W. Kelly and New York State Police Superintendent Wayne E. Bennet announced today. Salazar-Espinosa, an international drug kingpin who allegedly smuggled more than $100 million worth of cocaine into the United States, faces narcotics-trafficking and money-laundering charges in the Southern District of New York. Salazar-Espinosa landed yesterday evening at White Plains Airport, and will be arraigned today in Manhattan federal court.

According to a previously unsealed indictment, from 2002 to July 2005 Salazar-Espinosa led an international narcotics-trafficking enterprise that transported ton-quantity shipments of cocaine by sea onboard speedboats from Colombia to Panama. After the cocaine arrived in Panama, Salazar-Espinosa's organization secreted the drugs inside heavy machinery which was then transported by special cargo vessels from Panama to Mexico, it was charged. In Mexico, according to the indictment, the cocaine was removed from inside the machinery and turned over to a Mexican drug transportation organization which smuggled the narcotics into the United States to New York and other cities. Between 2002 and July 2005, Salazar-Espinosa's criminal organization allegedly transported more than 5,000 kilograms of cocaine, worth more than $100 million, from Colombia to Panama to Mexico for ultimate importation into the United States and New York City.

Colombian authorities, pursuant to a request for a provisional arrest from the United States, arrested Salazar-Espinosa in Cali, Colombia on May 23, 2005. Two months later, in July 2005, Panamanian law enforcement officers seized more than 1,300 kilograms of cocaine, worth more than $25 million, that Salazar-Espinosa's organization had hidden in the arm of a large crane in a warehouse outside of Panama City. The cocaine seized in Panama was allegedly destined for Mexico and ultimately the United States.

"The extradition of yet another international cocaine kingpin reaffirms our commitment to prosecuting the world's most powerful drug lords," stated U.S. Attorney Michael J. Garcia. "We will continue to work with our law

DOJ_NMG_ 0167050

enforcement partners here and in Colombia to ensure that cartel leaders who target the United States ultimately face justice in an American courtroom."

"Salazar-Espinosa is responsible for the shipment of thousands of pounds of cocaine into American neighborhoods," stated Special Agent in Charge John P. Gilbride of the U.S. Drug Enforcement Agency in New York. "Today he faces the consequence of his criminal activity: extradition to the United States. The DEA stands firmly with our local and international law enforcement partners in this battle against the world's drug kingpins, and we will continue to identify those individuals who make millions of dollars from illegal narcotic shipments into the United States and put them out of business."

If convicted, Salazar-Espinosa faces a maximum sentence of life in prison and a mandatory minimum sentence of 10 years in prison, although the United States has provided assurances to Colombia that it will not seek a life sentence for Salazar-Espinosa or any other defendant extradited from Colombia.

U.S. Attorney Garcia praised the investigative efforts of the Drug Enforcement Administration, the New York City Police Department and the New York State Police, as well as the New York Drug Enforcement Task Force.

The prosecution is being conducted by the Office's International Narcotics Trafficking Unit. Assistant U.S. Attorneys Eric Snyder and Anirudh Bansal are in charge of the prosecution.

The charges contained in these indictment are merely accusations, and Salazar-Espinosa is presumed innocent unless and until proven guilty.

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DOJ_NMG_ 0167051

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Image not available for this document, ID: 0.7.10316.36658-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 4:57 PM
To: USDOJ- Office of Public Affairs
Subject: ARREST IN BATON ROUGE, LOUISIANA, ON CHARGES OF CONSPIRACY, RECEIPT AND POSSESSION OF STOLEN TRADE SECRETS, WIRE FRAUD, ILLEGAL MONETARY TRANSACTIONS, AND PERJURY

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ARREST IN BATON ROUGE, LOUISIANA, ON CHARGES OF CONSPIRACY, RECEIPT AND POSSESSION OF STOLEN TRADE SECRETS, WIRE FRAUD, ILLEGAL MONETARY TRANSACTIONS, AND PERJURY

BATON ROUGE, La. – Wen Shyu Liu (also known as David W. Liou), 69, formerly of Baton Rouge, La., was arrested yesterday in Seattle, Wash., on charges of conspiracy, receipt and possession of stolen trade secrets, wire fraud, illegal monetary transactions, perjury, and asset forfeiture by FBI and Immigration and Customs Enforcement agents, U.S. Attorney David R. Dugas announced today. All charges are associated with stolen trade secrets of Dow Chemical Company which Liou is alleged to have attempted to market to companies in the People's Republic of China. A 15-count indictment had been returned by a federal grand jury on March 24, 2005. Liou was arrested on an intercontinental flight, inbound to Seattle from Taipei, Taiwan.

The indictment alleges that Liou had worked for Dow from 1965 until he retired in March 1992. During his career at Dow, it is alleged that Liou worked in research and development and had signed employment and retirement agreements with Dow prohibiting his ability to disclose Dow's trade secrets and other confidential information without written permission of Dow.

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The indictment alleges that beginning on an unknown date and continuing until at least Oct. 31, 2001, Liou knowingly conspired with others to: (1) steal, appropriate without authorization, and obtain by fraud, trade secrets related to Tyrin® CPE (an elastomeric brand of chlorinated polyethylene polymer), which had been developed by Dow; (2) copy and convey Dow's Tyrin® CPE trade secrets; and (3) receive and possess Dow's Tyrin® CPE trade secrets, knowing such information to have been stolen without authorization. The indictment further alleges that Liou hired employees and former employees of Dow who had worked for Dow in producing Tyrin® CPE to prepare a detailed engineering package to sell to prospective Chinese companies.

Liou was charged in the March 2005 indictment with the following: one count of conspiracy to steal, appropriate and obtain by fraud trade secrets, to copy, transmit and convey those trade secrets, and to receive and possess those stolen trade secrets, a conviction for which has a maximum term of in prison of 10 years and a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $250,000; one count of receipt and possession of stolen trade secrets, with the same maximum penalties as the conspiracy count; eight counts of wire fraud, a conviction for which offense has a maximum term of imprisonment of thirty years in prison per count if the offense is found to have affected a financial institution, plus a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $1,000,000; three counts of illegal monetary transaction, a conviction for which offense has a maximum term of imprisonment of ten years per count and a fine, the greatest of twice the gross gain to the defendant, twice the gross loss caused, or $250,000; and two counts of perjury, a conviction for which has a maximum term of imprisonment of five years per count and a $250,000 fine.

Thus, if convicted of all counts, Liou faces up to a 300 year term in prison, and a fine, the greatest of $9,750,000, or twice the gross gain he received or twice the gross loss he caused.

This case was investigated by the FBI and the U.S. Attorney's Office for the Middle District of Louisiana, and is being prosecuted by Assistant U.S. Attorney Ian F. Hipwell. U.S. Attorney Dugas thanked FBI Special Agent Joe Quinn and ICE Special Agent Andrew Henrickson, both of Seattle, for their diligence in finding and arresting Liou. U.S. Attorney David R. Dugas said that protection of the trade secrets of American companies is a high priority of this Administration.

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Liou is scheduled to appear before a United States magistrate judge in Seattle at approximately 2:30 p.m. PDT today.

Note: An indictment is a determination by a grand jury that there is probable cause to believe that offenses have been committed by the defendant. The defendant, of course, is presumed innocent until and unless he is proven guilty at trial.

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Image not available for this document, ID: 0.7.10316.36639-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 5:10 PM
To: USDOJ- Office of Public Affairs
Subject: LAWTON WOMAN SENTENCED TO SERVE TWO YEARS IN PRISON FOR THEFT OF FEMA HURRICANE KATRINA RELIEF FUNDS

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 23, 2006
WWW.USDOJ.GOV

CONTACT: BOB TROESTER
PHONE: (405) 553-8999
FAX: (405) 553-8742

LAWTON WOMAN SENTENCED TO SERVE TWO YEARS IN PRISON FOR THEFT OF FEMA HURRICANE KATRINA RELIEF FUNDS

Five Lawton Residents Now Convicted for FEMA Related Fraud

OKLAHOMA CITY – Shelia Ann Perry, 38, of Lawton, Okla. was sentenced today by U.S. District Judge Vicki Miles-LaGrange to serve 24 months in prison for theft of Federal Emergency Management (FEMA) Hurricane Katrina disaster relief funds, U.S. Attorney John C. Richter of the Western District of Oklahoma announced. Ms. Perry was also ordered to pay restitution to FEMA in the amount of $18,000.

According to a superseding indictment filed on Feb. 22, 2006, Perry cashed a Hurricane Katrina disaster relief check made out in her name on Sept. 16, 2005. When she entered a guilty plea on May 4 of this year, she admitted that she knew when she cashed the check that she was not entitled to any disaster relief money because she lived in Lawton at the time of Hurricane Katrina and did not live at the Louisiana address on her application for FEMA assistance. Ms. Perry has also

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admitted that she played a leadership role in the activities of others who received money from FEMA through fraud.

"Those seeking to defraud FEMA following the devastation of Hurricane Katrina do not just live in the states hit by the hurricane," stated U.S. Attorney Richter. "This case, as well as many others pursued by the Department of Justice Katrina Fraud Task Force, demonstrates that individuals throughout the country have greedily sought to exploit the suffering of others for their personal benefit. We have zero tolerance for FEMA fraud which seeks to steal taxpayer money intended to help those harmed by the hurricane disaster."

Within the last five months, there have been five individuals who have been sentenced and/or convicted of FEMA fraud related offenses in the Western District of Oklahoma. The following two were charged with Perry:

- On March 24, 2006, Sean Donnell Williams, 27, of Lawton, was sentenced to serve five years probation and pay $2,000 in restitution after pleading guilty to theft of FEMA funds. Williams had been detained on FEMA fraud-related charges since Nov. 1, 2005. Williams is scheduled to appear before a federal judge for a probation violation hearing on Sept. 6, 2006.

- On Aug. 11, 2006, Atari Finley, 26, of Lawton, was sentenced to serve five months in prison followed by 150 days home confinement and three years supervised release. Finley pled guilty to cashing a Hurricane Katrina disaster relief check and admitted that he knew when he cashed the check that he was not entitled to any disaster relief money because he had never lived at the Louisiana address on his application for FEMA assistance. He was also ordered to pay $2,000 in restitution.

The following were separate cases:

- On May 16, 2006, Jacqueline Marie Sutton, 37, of Lawton, was sentenced to five years probation and ordered to pay $2,000 in restitution after pleading guilty to filing a false claim for FEMA funds.

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- On Aug. 11, 2006, Ebony Pandora Majors, 28, of Lawton, plead guilty to filing a false claim for FEMA rental assistance. Majors is awaiting sentencing and faces up to one year in prison and a $250,000 fine.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate and prosecute disaster-related federal crimes, such as charity fraud and insurance fraud. This task force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes members from the FBI, the Federal Trade Commission, the Postal Inspection Service and the Executive Office of United States Attorneys, among others.

This case is the result of an investigation conducted by the Oklahoma Economic Crime and Identity Theft Task Force, the Department of Homeland Security's Office of Inspector General, the U.S. Secret Service, and the U.S. Postal Inspection Service, and the Hurricane Katrina Fraud Task Force. It was prosecuted by Assistant U.S. Attorney Scott E. Williams and Assistant U.S. Attorney Vicki Zemp Behenna.

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DOJ_NMG_ 0167061

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Image not available for this document, ID: 0.7.10316.36488-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 6:25 PM
To: USDOJ- Office of Public Affairs
Subject: SIXTEEN DEFENDANTS INDICTED FOR IDENTITY THEFT

Department of Justice

United States Attorney Bradley J. Schlozman
Western District of Missouri

FOR IMMEDIATE RELEASE
WEDNESDAY, AUG. 23, 2006
www.usdoj.gov/usao/mow

CONTACT: DON LEDFORD
PHONE: (816) 426-4220
FAX: (816) 426-4176

SIXTEEN DEFENDANTS INDICTED FOR IDENTITY THEFT

KANSAS CITY, Mo. — Sixteen defendants have been indicted by a federal grand jury for participating in an identity theft conspiracy, U.S. Attorney Bradley J. Schlozman of the Western District of Missouri announced today.

Carlton Strother, 38, Arlester E. Scott, Jr., 41, Michelle Williams, 39, Cedric Anson, 36, Henry Durham, Jr., 37, Charles W. Vann, 32, Miles W. Thomas, 34, Kolet Boudreaux, 28, Sheri L. Zuber, 38, and Curtis Ray Brown, 50, all of Kansas City, Mo.; Barbara Deluce, 59, Stephen T. Edenfield, 33, and Stacy R. Neal, 32, all of Lee's Summit, Mo.; Hope G. Madewell, 28, of Overland Park, Kan.; Tarik I. Liwaru, 34, of Kansas City, Kan., and Chandra L. Jenkins, 27, of Plano, Texas, were charged in a 37-count superseding indictment returned under seal by a federal grand jury in Kansas City on Aug. 10, 2006. That indictment, which replaces an indictment that was returned under seal on March 15, 2006, was unsealed and made public upon the arrest and initial court appearances of several defendants.

"Two separate conspiracies, both using stolen identity information and counterfeit Kansas driver's licenses, resulted in significant losses for a number of victims," U.S. Attorney Schlozman explained. "Conspirators used stolen identity information to open credit accounts and make purchases at stores like Sam's Club, Target, Old Navy, Home Depot and others. They also used the stolen identity information to finance an automobile purchase and to apply for cellular telephone service. A second conspiracy involved the use of stolen identity information to obtain more than $1 million in mortgages. Conspirators obtained three separate mortgages to purchase homes in Lee's Summit and Kansas City, as well as lines of credit and credit cards at a bank in Texas."

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According to Special Agent in Charge Charles Green of the U.S. Secret Service, the indictment is the result of a long-term investigation that involved local, state and federal agencies.

The federal indictment alleges that, between March 3, 2005, and Sept. 26, 2005, Strother, Williams, Anson, Brown, Liwaru, Deluce, Durham, Madewell, Scott and Vann participated in a conspiracy to commit identity theft by obtaining personal identification information of persons together with their personal credit information, then using a personal computer to create counterfeit driver's licenses in the names of the identity theft victims for the purpose of making unauthorized applications for credit. Personal identity information of the identity theft victims was allegedly stolen from two Kansas City-area businesses – Jeremy Franklin Suzuki and Hearthside Lending, a real estate loan brokerage – that kept large volumes of credit information of their customers, including credit bureau reports that reflected the creditworthiness of each identity theft victim. Scott, a former employee of Jeremy Franklin Suzuki, allegedly agreed to participate in the conspiracy by stealing credit bureau reports obtained by the car dealership in connection with the financing of automobile sales, then sold them to Strother.

According to the indictment, the conspirators who managed the scheme recruited others to the conspiracy by promising them a share of the proceeds. The identity theft victims' financial information was used by the conspirators to make computer-generated counterfeit Kansas driver's licenses, containing the information of the identity theft victims but with the photo of one of the recruited conspirators. The conspirators allegedly used the stolen identities and counterfeit driver's licenses to make instant credit applications at retail stores while posing as the identity theft victims. Once the instant credit applications were approved, they made credit purchases of goods at the stores.

The federal indictment further charges Strother with aggravated identity theft. Those counts allege 17 specific instances from March 9, 2005, through Sept. 25, 2005, in which Strother used stolen identity information in order to defraud retail stores (and credit card companies that serviced the credit accounts of those stores) by opening credit accounts using the identity and credit information of identity theft victims and then using the credit accounts to effect transactions of at least $1,000 within a one-year period.

The federal indictment alleges that, from January 2006 to March 24, 2006, Strother, Thomas, Edenfield, Neal, Boudreaux, Jenkins and Zuber, together with unindicted co-conspirators who are not identified by name, conspired to defraud financial institutions and mortgage companies by making applications for real estate mortgages and other forms of credit using the identities and credit worthiness of identity theft victims. They allegedly obtained means of identification consisting of names, dates of birth, and Social Security numbers of others without their authority or knowledge and used that identity information to apply for mortgage loans to purchase real estate. According to the indictment, the proceeds of the mortgage loans were applied to fraudulent accounts of non-existent business entities in order for the conspirators to take cash out of each transaction.

The federal indictment alleges that conspirators agreed to acquire stolen identification and personal financial information from area mortgage companies, including from Boudreaux, a former employee of Hartley Mortgage Company. The conspirators allegedly found a source to provide counterfeit Kansas driver's licenses through an unindicted co-conspirator, who purchased them from Strother. The conspirators who managed the scheme allegedly recruited others by promising to share of the proceeds derived from the mortgage transactions.

According to the indictment, conspirators used stolen identity information to obtain three separate mortgages for two residential properties in Lee's Summit and one property in Kansas City, totaling $1,166,000. Conspirators allegedly opened bank accounts in the names of identity theft victims and non-existent businesses,

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then had a portion of the loan proceeds wired to those accounts. Conspirators allegedly withdrew funds from those accounts and shared the proceeds.

Co-defendants Thomas and Zuber also traveled to Dallas, according to the indictment, where they opened a private mailbox account at a UPS store then proceeded to a Wells Fargo Bank branch to open two business accounts, all using the same stolen identity information. Jenkins, who at the time was an employee of the Wells Fargo branch, allegedly opened the business accounts and used the stolen identity information to make four applications for business lines of credit and credit cards at Wells Fargo Bank.

The charges contained in the indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

This case is being prosecuted by Assistant U.S. Attorney John E. Cowles. It was investigated by the U.S. Secret Service Financial Crimes Task Force, including officers from the Independence, Mo., Police Department, the Kansas City, Mo., Police Department, the Kansas City, Kan., Police Department, the Overland Park, Kan., Police Department, the Johnson County, Kan., Sheriff's Department, the U. S. Postal Inspection Service, and IRS-Criminal Investigation.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 23, 2006 7:46 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 23, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Attorney General Participated in Interviews Regarding First Anniversary of Hurricane Katrina (OPA)
Today, the Attorney General participated in round-robin television interviews with ABC, CBS, CNN, Fox, and NBC regarding the first anniversary of Hurricane Katrina. He specifically focused on DOJ efforts to combat violent crime in New Orleans and the Hurricane Katrina Fraud Task Force. David Dugas, U.S. Attorney for the Middle District of Louisiana, also participated in a television interview with ABC News on the same topic.

Colombian Kingpin Extradited for Smuggling more than $100 Million Worth of Cocaine into the United States (OPA)
Today, Manuel Felipe Salazar-Espinosa, a/k/a "Hoover," was extradited from Columbia to the United States. Salazar-Espinosa, an international drug kingpin who allegedly smuggled more than $100 million worth of cocaine into the United States, faces narcotics-trafficking and money-laundering charges in the Southern District of New York. Salazar-Espinosa landed yesterday evening at White Plains Airport and will be arraigned today in Manhattan federal court.

Suspicious Behavior Grounds Northwest Airlines Jet (FBI)
Today, the pilot of a Northwest Airlines passenger jet en route from Amsterdam Schiphol Airport to Mumbai turned the aircraft around shortly after takeoff when it was reported that several passengers were acting in a suspicious manner. After the aircraft returned safely to the airport, Dutch authorities detained 12 passengers and questioned them. There was no immediate word on the results of their questioning or whether the incident was in any way related to terrorism. No additional security measures have been announced at the airport and other passengers aboard the Northwest flight were allowed to disembark freely and reschedule their onward travel.

***Chicago Tribune* Inquires Regarding Operation Hard Cell Arrests (FBI)**
Today, *Chicago Tribune* reporter Andy Zajac inquired about the recent arrests in Operation Hard Cell, the Tamil Tigers, and the alleged connection to a named U.S. Congressman. FBI declined to comment and referred the reporter to the EDNY.

Media Inquires into Virgin Island Hate Crimes Investigation (Civil Rights)
Media have inquired about whether DOJ will issue a report on a hate crimes investigation in the Virgin Islands. The matter is still under review.

Talking Point

- The Civil Rights investigation of this matter is still pending.

THURSDAY'S EXPECTED EVENTS/RELEASES:

11:00 A.M. CDT	Assistant Attorney General Alice Fisher of the Criminal Division will participate in a news conference at the U.S. Attorney's Office in Gulfport, Miss. with U.S. Attorney Dunn Lampton and others to announce developments in a Katrina fraud criminal case. U.S. Attorney's Office 1575 20th Avenue 2nd Floor Gulfport, Miss. **OPEN PRESS**

fhcsDJ@opm.gov

From:	fhcsDJ@opm.gov
Sent:	Thursday, August 24, 2006 11:26 AM
To:	Gorsuch, Neil M
Subject:	Reminder Notification--Governmentwide Survey on Human Capital
Attachments:	msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/DJ/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 11:28 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. ARRESTS PROVIDER OF HIZBALLAH TV IN NEW YORK AREA

Department of Justice

United States Attorney Michael J. Garcia
Southern District of New York

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/nys

CONTACT: HEATHER TASKER
PHONE: (212) 637-2600
FAX: (212) 637-0053

U.S. ARRESTS PROVIDER OF HIZBALLAH TV IN NEW YORK AREA

NEW YORK – Javed Iqbal, a.k.a. "John Iqbal," 42, of Staten Island, N.Y., has been arrested and charged with conspiring to violate the International Emergency Economic Powers Act (IEEPA), U.S. Attorney Michael J. Garcia of the Southern District of New York and Assistant Director in Charge Mark Mershon of the New York Office of the FBI announced today. Specifically, the complaint alleges that through a company called HDTV Ltd. located in Brooklyn, Iqbal and others provided customers in the New York area with satellite broadcasts of al Manar, which is a television station owned and/or operated by Hizballah.

The Department of Treasury named al Manar as a Specially Designated Global Terrorist entity in March 2006, thereby making it a crime to, among other things, engage in business transactions with al Manar. In conjunction with the arrest, agents executed search warrants at both HDTV's Brooklyn office and Iqbal's Staten Island residence where, it is alleged, Iqbal maintained several satellite dishes.

Iqbal was arrested Wednesday and will be presented today in Manhattan federal court before U.S. Magistrate Judge Gabriel W. Gorenstein, who will decide whether Iqbal is detained or released on bail pending further proceedings.

U.S. Attorney Garcia praised the efforts of the FBI's Joint Terrorist Task Force in conducting the investigation.

The charges contained in the complaint are merely accusations, and the defendant is presumed innocent unless and until proven guilty.

Assistant U.S. Attorney Stephen Miller is in charge of the prosecution.

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Image not available for this document, ID: 0.7.10316.36435-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 1:26 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR INDIVIDUALS INDICTED FOR $700,000 DEBRIS REMOVAL FRAUD IN RELATION TO HURRICANE KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/mss

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

FOUR INDIVIDUALS INDICTED FOR $700,000 DEBRIS REMOVAL FRAUD IN RELATION TO HURRICANE KATRINA FRAUD

JACKSON, Miss.– Four individuals have been indicted for conspiracy to defraud the United States involving the creation and submission of fraudulent debris removal load slips in the amount of $716,677, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today. Those charged in the indictment include Allen Kitto, 24, of Dundee, Fla., Clinton K. Miller, 28, of Carriere, Miss., Devin Chuter, 23, of Picayune, Miss., and Lauren Robertson, 23, of Picayune, Miss.

The indictment charges that Kitto owned and operated J.A.K. DC&ER Inc., a debris removal contracting company working as a sub-contractor in Pearl River County, Miss., and that Miller, Chuter and Robertson worked for a debris removal monitoring company operating in Pearl River County, Miss. Chuter and Robertson allegedly signed false debris load slips misrepresenting that debris was loaded onto trucks on the roadway when Chuter and Robertson were not present at the loading site and, in most instances, created and signed the false load slips at their residences.

The false debris load slips misrepresented that certain trucks, belonging to and under the control of Kitto, were hauling loads of debris at a time when the trucks identified on the debris load slips were not in operation on the roadway or at the dump site listed on the load slips. The false debris load slips also misrepresented that loads of debris were delivered to a designated dump site in Pearl River County, Miss. when in truth and fact no debris was delivered to the dump site. Miller allegedly collected the false load slips from his co-conspirators and submitted them to the debris monitoring company who would, in turn, submit the false load slips to the prime contractor for payment to Kitto. The indictment also charges that Kitto, in an effort to conceal the conspiracy, would deposit the funds obtained through the conspiracy into a bank account opened in the name of one of his employees and then write a check to an unindicted co-conspirator who would then pay Kitto and Miller. Miller would then pay Chuter and Robertson for completing and signing the false load slips along with an extra amount of money for "hush money."

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This indictment comes as a result of a joint investigation conducted by the FBI and the U.S. Department of Homeland Security (DHS). The maximum penalty for conspiracy to defraud the United States is five years in prison and a $250,000 fine.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division - includes the FBI, the U. S. Inspectors General community, the U. S. Secret Service, the U. S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who file false and fraudulent claims.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-Office of the Inspector General Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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Image not available for this document, ID: 0.7.10316.36423-000002

[redacted]@state.co.us

From: [redacted]@state.co.us
Sent: Thursday, August 24, 2006 2:58 PM
To: Gorsuch, Neil M; [redacted]@hotmail.com
Subject: RE: Contact Information
Attachments: tmp.htm

Neil,

Are you all in town yet? I have tickets to Sunday's Bronco game. It is only pre-season but if you are free and interested, I would love for you to join me.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 8/3/2006 4:50 PM
>>>

[redacted] - Thanks for the kind note; would love to get together when I hit town! All the best, Neil

-----Original Message-----
From: [redacted]@state.co.us [mailto: [redacted]@state.co.us]
Sent: Thursday, August 03, 2006 1:45 PM
To: Gorsuch, Neil M
Subject: Re: Contact Information

Neil, Congratulations! Your appointment is great news. Especially that you will be reurning to the fold here in Denver. I look forward to your arrival and hope that we can get together soon.

You can contact me at work below or home:

[redacted]

mobile [redacted]

****

[redacted]
Assistant Attorney General
Natural Resources & Environment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
303-866-5040
Fax: 303-866-3558
[redacted]@state.co.us

PRIVILEGED / CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION This message and its attachments are confidential and intended for the use of the addressee. Any unauthorized

dissemination, copying or distribution of this communication is strictly prohibited. If you have received this e-mail in error, please delete the original message and notify me at the above-listed e-mail address.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 08/03/06 7:32 AM

>>>

Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ.
Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning [redacted] and I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

For the balance of the month, I am perhaps best reachable by cell [redacted] My DOJ email will also remain operational until the end of August (neil.gorsuch@usdoj.gov)
.

My new contact information at the court house will be:

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]@hotmail.com

[redacted]nd I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

Neil,

Are you all in town yet? I have tickets to Sunday's Bronco game. It is only pre-season but if you are free and interested, I would love for you to join me.

>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 8/3/2006 4:50 PM >>>
[redacted] - Thanks for the kind note; would love to get together when I hit town! All the best, Neil

-----Original Message-----
From: [redacted]@state.co.us [mailto:[redacted]@state.co.us]
Sent: Thursday, August 03, 2006 1:45 PM
To: Gorsuch, Neil M
Subject: Re: Contact Information

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You can contact me at work below or home:

[redacted]

mobile: [redacted]

****
[redacted]
Assistant Attorney General
Natural Resources & Environment Section
1525 Sherman Street, 5th Floor
Denver, CO 80203
303-866-5040
Fax: 303-866-3558
[redacted]@state.co.us

PRIVILEGED / CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION
This message and its attachments are confidential and intended for the use of the addressee. Any unauthorized dissemination, copying or distribution of this communication is strictly prohibited. If you have received this e-mail in error, please delete the original message and notify me at the above-listed e-mail address.
>>> "Neil.Gorsuch@usdoj.gov" <Neil.Gorsuch@usdoj.gov> 08/03/06 7:32 AM
>>>
Dear Friends,

As many of you know, tomorrow is my last day in the office at DOJ. Though I expect to visit DC from time to time in coming weeks to facilitate The Move, I am headed to Colorado Saturday morning. [redacted] and I will miss those of you here and very much hope you will keep in touch. Please do be sure to look us up whenever you're headed to God's Country. You are always welcome in our home. My contact information follows --

For the balance of the month, I am perhaps best reachable by cell [redacted] My DOJ email will also remain operational until the end of August (neil.gorsuch@usdoj.gov).

My new contact information at the court house will be:

U.S. Court of Appeals for the Tenth Circuit

U.S. Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

chambers phone: [redacted]
chambers email: [redacted]@ca10.uscourts.gov
Home email: [redacted]@hotmail.com

[redacted] and I thank each of you for your continuing friendship and support.

Warm wishes,

Neil Gorsuch

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, August 24, 2006 2:58 PM
Subject: JCON Scheduled System Maintenance (PRAO & WMO)

JCON Scheduled System Maintenance

When: Sunday, August 27, 2006, 12:01 AM to 1:00 AM

Event: Scheduled System Maintenance

Customers Affected: Professional Responsibility Advisory Office and Wireless Management Office SMO/JMD JCON Customers

Actions Required: Log off, then power off your computer before you leave work for the weekend
and prior to Sunday, August 27, 2006, 12:01 AM

Unavailable Services: BlackBerry
Dial in / (JSRA) Citrix customers
Email Services into and out of DOJ (messages will be queued until service is restored)
G:\ Drive
H:\Drive
Internet Access
KVS Email Archiving
Logging on to JCON Network
M:\ Drive
Network Printers

Available Services: Pin to Pin BlackBerry Messaging

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to Shut Down and click the right button.
4. Choose the Shutdown and Power off option. This will log your workstation out of the JMD/SMO JCON network and power off the desktop.

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

McNulty, Paul J

Subject:	Canceled: DAG Component Budget Hearings Recap
Location:	RFK Bldg, Room 4111
Start:	Thursday, August 10, 2006 2:30 PM
End:	Thursday, August 10, 2006 3:30 PM
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	McNulty, Paul J
Required Attendees:	Elston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, MikkiElston, Michael (ODAG); Sampson, Kyle; Goodling, Monica; Epley, Mark D; Hertling, Richard; Lofthus, Lee J; Lauria-Sullens, Jolene; Schultz, Walter H; O'Leary, Karin; Atsatt, Mikki
Optional Attendees:	Parameswaran, ShaliniParameswaran, Shalini
Importance:	High

Attendees: Mike Elston, Kyle Sampson, Monica Goodling, Mark Epley, Richard Hertling, Lee Lofthus, Jolene Lauria-Sullens, Walt Schultz, Karin O'Leary, Mikki Atsatt
JMD POC: Shalini Parameswaran/JMD 4-3056

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Thursday, August 24, 2006 3:48 PM
To: [redacted]@cfr.org
Subject: Term Member Trip to the NY Fed
Attachments: TMFedTripRevised.DOC

Dear Term Member--

Several spots have opened up for the term member trip to the New York Federal Reserve on September 7, 2006.

If you are interested in attending the trip, please RSVP to this email as soon as possible. **Please only respond if you know for certain you can attend.**

I have attached the trip agenda and additional information regarding the trip is below.

Please contact me with any questions.

Sincerely,

[redacted]

(See attached file: TMFedTripRevised.DOC) _____

Getting to the Federal Reserve Bank of New York

Directions for traveling to the Fed by subway can be found online at http://www.newyorkfed.org/aboutthefed/ny_directions.html

When you arrive, please enter the main building at 33 Liberty Street. Term members must be pre-registered through the Council to gain access to the building and upon arrival must present a government-issued identification card that includes a photograph, such as a driver's license or passport.

The Federal Reserve strongly recommends that Term Members arrive early, as we expect a large group and security screening will take several minutes.

Background information

You can read more about the Federal Reserve System and the New York Fed at http://www.newyorkfed.org/aboutthefed/introtothefed.html.

Council on Foreign Relations
Term Member Day Trip to the
Federal Reserve Bank of New York

Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
Thursday, September 7, 2006

Meetings to be held in the Board Room, 10th Floor

8:00 a.m. – 8:30 a.m.	Arrivals, Security Clearance, Coffee Reception *Please access the building through the 33 Liberty Street entrance*
8:30 a.m. - 9:00 a.m.	"Welcome: the Role of the 'Fed' in the U.S. Economy" Speaker: [redacted], *First Vice President**
9:00 a.m. - 10:00 a.m.	"Financial Services: Being the (Central) Banker's Bank" Speakers: • [redacted] *Executive Vice President*, Financial Services; • [redacted], *Senior Vice President,* Central Bank and International Account Services, Markets Group, • [redacted], *Senior Vice President and Chief of Staff*, Executive Office
10:00 a.m. – 10:15 a.m.	Break
10:15 a.m. – 11:00 a.m.	"Promoting Sound Risk Management in the Banking Sector" Speakers: • [redacted], *Executive Vice President*, Bank Supervision • [redacted], *Senior Vice President,* Bank Supervision

* Life Member, Council on Foreign Relations

DRAFT

11:00 a.m. - 11:45 p.m.	"Maintaining Sound Payments Systems: the Fed's Reaction During September 11th" Speakers: • [redacted], *Assistant Vice President,* Electronic Payments, and • [redacted], *Vice President*, Markets Group
11:45 a.m.-12:00 p.m.	Break
12:00 p.m. - 1:30 p.m.	Lunch with Bank staff and discussion: "Financial Stability, Monetary Policy, and International Considerations (China)" Speakers: • [redacted], *Executive Vice President,* Research and Statistics; • [redacted], *Vice President*, Markets Group; and • [redacted], *International Officer*, Emerging Markets and International Affairs • Moderator: [redacted], *Assistant Vice President*, Public Information Location: Executive Dining Room, 10th Floor, 33 Liberty Street
1:40 p.m. – 2:15	"The Fed In Transition: Thoughts and Observations" Speaker: Timothy Geithner, *President* and Vice Chairman of the Federal Open Market Committee* Location: Board Room, 10th Floor, 33 Liberty Street
2:15 p.m. -2:20	Break
2:30 p.m. – 3:15 p.m.	Tour of the Gold Vault
3:15 p.m.	Conclusion of the Term Member Visit *Term Members are free to visit two exhibits in the Fed's museum space on their own: "Drachmas, Doubloons and Dollars: The History of Money," co-sponsored by the American Numismatic Society, and the interactive "FedWorks" exhibit.*

DRAFT

* Life Member, Council on Foreign Relations

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From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 5:20 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 24, 2006
www.usdoj.gov/usao/lam

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Bobby Joe Weatherton, 49, of Prairieville, La., pled guilty to count one of an indictment charging him with making a false claim for Hurricane Katrina disaster assistance benefits, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today. He was sentenced to three years probation and a fine of $500 by U.S. District Court Judge James J. Brady. Weatherton had already paid $2,000 in restitution.

The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such

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as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact U.S. Attorney David R. Dugas or First Assistant U.S. Attorney Lyman Thornton at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721 24-hours a day, seven days a week until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 24, 2006 7:34 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 24, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:
Assistant Attorney General Fisher Participates in Press Conference in Gulfport, Miss. (OPA)
Assistant Attorney General Alice Fisher of the Criminal Division traveled to Gulfport, Miss. today to meet with local members of the Hurricane Katrina Fraud Task Force, which she chairs. While there, Fisher attended a news conference at the U.S. Attorney's Office in Gulfport with U.S. Attorney Dunn Lampton and others to announce developments in a Katrina fraud criminal case.

Four Individuals Indicted for $700,000 Debris Removal Fraud in Relation to Hurricane Katrina Fraud (OPA)
Today, four individuals were indicted for conspiracy to defraud the United States involving the creation and submission of fraudulent debris removal load slips in the amount of $716,677. Those charged in the indictment include Allen Kitto of Dundee, Fla., Clinton K. Miller of Carriere, Miss., Devin Chuter of Picayune, Miss., and Lauren Robertson of Picayune, Miss. The indictment charges that Kitto owned and operated J.A.K. DC&ER Inc., a debris removal contracting company working as a sub-contractor in Pearl River County, Miss., and that Miller, Chuter and Robertson worked for a debris removal monitoring company operating in Pearl River County, Miss. Chuter and Robertson allegedly signed false debris load slips misrepresenting that debris was loaded onto trucks on the roadway when Chuter and Robertson were not present at the loading site and, in most instances, created and signed the false load slips at their residences.

Media Expresses Interest in Fugitive Sighting (FBI)
Today, the FBI received several calls related to a citing in Sri Lanka of fugitive Kobi Alexander, a Comverse executive. The FBI is referring calls to FBI NY and EDNY, but is requesting the public's assistance in locating Mr. Alexander.

Assistant Director Miller Participates in Infragard Conference (FBI)
Today, FBI Assistant Director John Miller was a panelist at the Infragard Conference on Information Sharing and Interoperability in Washington.

Explosions at Ammunition Factory in Louisiana (ATF)

Today, there was a series of explosions at Camp Minden, formerly known as the Louisiana Army Ammunition Depot. A private company known as Explo was disarming 750-pound bombs when a bomb exploded, causing a fire and setting off other bombs. Two truck loads of at least 50 bombs are still in danger of exploding. A two mile area has been cleared due to the danger. Only one minor injury has been reported. The company, located in Minden, LA, recycles the explosives for use in the mining industry. The ATF anticipates it will be approximately two days before they will be able to enter the facility to further investigate the matter.

FRIDAY'S EXPECTED EVENTS/RELEASES:

The Civil Rights Division will tentatively issue a release on a criminal matter.

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 9:56 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 25, 2006

Department of Justice

PRESS GUIDANCE
Friday, August 25, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division will issue a release on a computer crime and intellectual property matter. (Sierra)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 12:13 PM
To: USDOJ- Office of Public Affairs
Subject: OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE SENTENCED TO SIX YEARS IN PRISON

Department of Justice

FOR IMMEDIATE RELEASE — CRM
FRIDAY, AUGUST 25, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

OPERATOR OF MASSIVE FOR-PROFIT SOFTWARE PIRACY WEBSITE SENTENCED TO SIX YEARS IN PRISON

Defendant Made More Than $4.1 Million in Illegal Revenue

WASHINGTON— The owner of a massive for-profit software piracy website was sentenced in federal court to six years in prison, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today.

In addition to the prison term, Danny Ferrer, 37, of Lakeland, Fla., was also ordered by U.S. District Judge T.S. Ellis III to forfeit the proceeds of his illegal conduct, pay restitution of more than $4.1 million, and perform 50 hours of community service. The ordered forfeiture involves a wide array of assets, including numerous airplanes, a helicopter, boats, and cars, which Ferrer had purchased with the profits from his illegal enterprise. In particular, Ferrer forfeited a Cessna 152; a Cessna 172RG; a Model TS-11 ISKRA aircraft; a RotorWay International helicopter; a 1992 Lamborghini; a 2005 Hummer; a 2002 Chevrolet Corvette; two 2005 Chevrolet Corvettes; a 2005 Lincoln Navigator; an IGATE G500 LE Flight Simulator; a 1984 twenty-eight foot Marinette hardtop express boat; and an ambulance. Ferrer has also agreed to surrender the proceeds of sales of two fire trucks that were also bought with his illegal proceeds.

"Danny Ferrer obtained millions of dollars worth of luxury items by stealing and pirating the works of others. But now, the cars and planes and boats he paid for with the proceeds of his crime are being taken by the government, and he will spend six years in jail," said Assistant Attorney General Fisher. "The Department of Justice is committed to vigorous enforcement of the law and protection of intellectual property rights."

"Modern day pirates ought to expect modern day penalties," said U.S. Attorney Rosenberg. "We are very pleased with the sentence imposed today – one of the longest ever imposed for software piracy – and trust that it sends a strong message to those who pilfer the intellectual property of others."

Beginning in late 2002 and continuing until its shutdown by the FBI on Oct. 19, 2005, Ferrer and his co-conspirators operated the www.BUYSUSA.com website, which sold copies of software products that were copyrighted by companies such as Adobe Systems Inc., Autodesk, and Macromedia Inc. at prices substantially below the suggested retail price. The software products purchased on the website were reproduced on CDs and

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distributed through the mail. The operation included a serial number that allowed the purchaser to activate and use the product. Further investigation established that, during the time of its operation, www.BUYSUSA.com illegally sold more than $4.1 million of copyrighted software. These sales resulted in losses to the owners of the underlying copyrighted products of nearly $20 million.

After receiving complaints from copyright holders about Ferrer's website, an undercover FBI agent made a number of purchases of business and utility software from the site, which were delivered by mail to addresses in the Eastern District of Virginia.

Ferrer pleaded guilty before Judge Ellis on June 15, 2006, to one count of conspiracy and one count of criminal copyright infringement for selling pirated software through the mail.

This investigation was conducted by agents of the Federal Bureau of Investigation's Washington Field Office. The Business Software Alliance, a trade association which represents leading computer software companies, provided significant assistance to the investigation. Jay V. Prabhu, Trial Attorney for the Criminal Division's Computer Crime and Intellectual Property Section, and Edmund P. Power, Assistant U.S. Attorney for the Eastern District of Virginia, prosecuted the case on behalf of the government.

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06-570

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From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 1:38 PM
To: USDOJ- Office of Public Affairs
Subject: ARMY RESERVE OFFICER PLEADS GUILTY TO MONEY LAUNDERING CONSPIRACY INVOLVING STOLEN CURRENCY AND FRAUD IN IRAQ

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

ARMY RESERVE OFFICER PLEADS GUILTY TO MONEY LAUNDERING CONSPIRACY INVOLVING STOLEN CURRENCY AND FRAUD IN IRAQ

WASHINGTON – Bruce D. Hopfengardner, a lieutenant colonel in the U.S. Army Reserve, pleaded guilty to two conspiracy charges in a scheme to defraud the Coalition Provisional Authority - South Central Region (CPA-SC) in Al-Hillah, Iraq, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

At today's hearing before the Honorable Colleen Kollar-Kotelly, U.S. District Judge for the U.S. District Court for the District of Columbia, Hopfengardner, 46, of Frederick, Va., admitted conspiring to commit wire fraud and to launder funds in connection with a scheme to steal currency designated for the reconstruction of Iraq and to steer contracts to a contractor in exchange for money and property. Hopfengardner also admitted to smuggling stolen currency into the United States in March 2004 when he returned from Iraq on leave.

According to the court documents filed in connection with the plea, beginning in about November 2003, Hopfengardner was assigned as an advisor to the CPA-SC region in Al-Hillah, Iraq, where he was responsible for managing various construction projects. A criminal information alleges that, in connection with those projects, he, Robert Stein and others steered contracts to Philip Bloom, a U.S. citizen operating construction services and security companies in Iraq, in exchange for cars (including a Yukon Denali), expensive jewelry, computers and other items of value. The information alleges that Bloom caused wire transfers originating in Iraq to bank accounts in the United States controlled by Hopfengardner during the period of February 2004 to July 2004. According to the information, Bloom sent approximately $175,000 in laundered funds to Hopfengardner, and purchased a Yukon Denali in June 2004.

"A Lieutenant Colonel in the U.S. Army today admits to a disturbing abuse of his position, in scheming with others to defraud the government for their own personal and financial gain," said Assistant Attorney General Fisher. "The Department of Justice remains committed to prosecuting all cases that undermine the reconstruction of Iraq."

Hopfengardner has agreed to forfeit all property involved in the money laundering conspiracy including a 2004 Yukon Denali, a Harley Davidson motorcycle, camera equipment, a Breitling watch valued at

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approximately $5,700, and a computer. Hopfengardner has also agreed to entry of a judgment of forfeiture of $144,500.

Hopfengardner faces up to 20 years in prison, a five-year term of supervised release, and a fine of $500,000.

On April 18, 2006, Bloom pleaded guilty to conspiracy, bribery and money laundering before Judge Colleen Kollar-Kotelly, U.S. District Judge for the District of Columbia. Stein pleaded guilty before Judge Kollar-Kotelly on Feb. 2, 2006, to five charges – conspiracy, bribery, money laundering and two weapons charges. Both are in custody awaiting sentencing.

Hopfengardner is the first military officer to plead guilty to charges related to the conspiracy. On Nov. 30, 2005, Michael Wheeler of Amherst Junction, Wis., a lieutenant colonel in the U.S. Army Reserve, was arrested in connection with the investigation. On Dec. 15, 2005, Debra Harrison, 47, of Trenton, N.J., also a lieutenant colonel in the U.S. Army Reserve, was arrested in connection with the investigation. She is presently released on bond.

This case was prosecuted by Trial Attorneys Mark Yost and Patrick Murphy of the Asset Forfeiture and Money Laundering Section of the Criminal Division; and Trial Attorneys James A. Crowell IV and Ann C. Brickley of the Public Integrity Section. The case is being investigated by the Special Inspector General for Iraq Reconstruction, IRS Criminal Investigations, U.S. Immigration and Customs Enforcement at the Department of Homeland Security, U.S. Department of State Office of Inspector General, and the Federal Bureau of Investigation-Washington Field Office.

# # #

06-571

DOJ_NMG_ 0167104

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Image not available for this document, ID: 0.7.10316.36376-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 3:50 PM
To: USDOJ- Office of Public Affairs
Subject: MARYLAND MAN SENTENCED TO 15 YEARS FOR PROVIDING MATERIAL SUPPORT TO TERROR GROUP

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
www.usdoj.gov/usao/vae

CONTACT: JIM RYBICKI
PHONE: (703) 842-4050
FAX: (703) 549-5202

MARYLAND MAN SENTENCD TO 15 YEARS FOR PROVIDING MATERIAL SUPPORT TO TERROR GROUP

ALEXANDRIA, Va. – Ali Asad Chandia was sentenced today to 15 years in prison for conspiring to and providing material support to the terrorist organization Lashkar-e-Taiba, U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today. He was also sentenced to three years of supervised release at the completion of his incarceration.

On June 6, 2006, a jury unanimously found Chandia, 29, of College Park, Md., guilty of conspiracy to provide material support and resources to terrorists, conspiracy to provide material support and resources to a designated foreign terrorist organization, Lashkar-e-Taiba, and providing material support and resources to a designated foreign terrorist organization.

The evidence at trial established that during a three-month trip to Pakistan in 2001-2002, Chandia met and allied himself with Mohammed Ajmal Khan, a British citizen of Pakistani descent. Khan, who is currently serving a nine-year sentence in the United Kingdom for directing a terrorist organization, served as a military procurement official for Lashkar-e-Taiba.

DOJ_NMG_ 0167107

Chandia assisted Khan in procuring military-purpose equipment for Lashkar-e-Taiba for use in its violent jihad against India. He gave safe harbor to Khan during Khan's visits to the United States in 2002 and 2003, and allowed Khan to use his home computer to pursue the acquisition of equipment such as unmanned aerial vehicles, night-vision equipment and wireless video cameras. Khan also used the defendant's computer to confirm the purchase of $17,000 of Kevlar anti-ballistic material that Khan had purchased for Lashkar-e-Taiba.

In a search of Chandia's home conducted on May 8, 2003, the FBI found audiotapes and other materials manifesting his commitment to violent jihad. On the front seat of Chandia's car, the FBI also found a CD-ROM containing videos glorifying the Sept. 11, 2001, terrorist attacks, Osama bin Laden and the 19 hijackers who carried out the attacks. They also found a CD-ROM containing still photographs of persons jumping to their deaths from the World Trade Center towers.

"Terrorist organizations like Lashkar-e-Taiba rely on a network of individuals to carry out their deadly operations," U.S. Attorney Rosenberg stated today. "Ali Asad Chandia was a member of that network for Lashkar-e-Taiba, and he will now spend a very long period of time in prison for providing material support in furtherance of its violent agenda."

The Washington, D.C. and Baltimore field offices of the FBI investigated the case, led by Special Agent Christopher Mamula. The Anti-Terrorist Branch of New Scotland Yard in the United Kingdom also provided substantial assistance in the investigation.

The case was prosecuted by Assistant U.S. Attorney David H. Laufman and Department of Justice Trial Attorney John T. Gibbs.

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DOJ_NMG_ 0167108

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Image not available for this document, ID: 0.7.10316.36352-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 5:06 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTIONAL OFFICER INDICTED FOR FEMA FRAUD

Department of Justice

United States Attorney Donald W. Washington
Western District of Louisiana

FOR IMMEDIATE RELEASE
FRIDAY, AUGUST 25, 2006
www.usdoj.gov/usao/law

CONTACT: DONALD W. WASHINGTON
PHONE: (337) 262-6618
FAX: (337) 262-6680

CORRECTIONAL OFFICER INDICTED FOR FEMA FRAUD

SHREVEPORT, La. – Cicero Patterson, 45, of Alexandria, La., has been indicted by a federal grand jury for claiming to be a hurricane victim in order to fraudulently obtain FEMA relief funds, U.S. Attorney Donald W. Washington of the Western District of Louisiana announced today.

The indictment charges Patterson, a correctional officer at the U.S. Penitentiary in Pollock, La., with three counts of wire fraud and one count of theft of public funds. The indictment alleges that in September 2005, Patterson applied for federal disaster relief, falsely claiming that due to Hurricane Katrina, his primary residence which he was purportedly renting in New Orleans, had been damaged and that his automobile had been damaged and could not be driven. Patterson also falsely claimed in his application for federal disaster relief that he had lost work due to Hurricane Katrina. Based on the information provided to FEMA, Patterson allegedly received a wire transfer in the amount of $10,391.

The indictment further alleges that in December 2005, Patterson falsely informed FEMA that he had spent all or part of the rental assistance which had been provided by FEMA on essential needs and he lacked sufficient additional funding to address those needs. Based on Patterson's

DOJ_NMG_ 0167111

request for additional funds from FEMA, he allegedly received a wire transfer of funds from FEMA in the amount of $2,028.

Patterson is scheduled to be arraigned before U.S. Magistrate Judge James Kirk in U.S. District Court in Alexandria, La. on Aug. 30, 2006 at 10:30 a.m.

If convicted, Patterson faces a maximum of 20 years on the charge of wire fraud, 10 years in prison on the charge of theft, and a $250,000 fine.

An indictment is merely an accusation and a defendant is presumed innocent unless and until proven guilty. Defendants are entitled to a presumption of innocence under the law, and the government has the burden of proving every element of the charges beyond a reasonable doubt.

The charges resulted from an investigation conducted by the U.S. Department of Justice's Office of Inspector General and the U.S. Department of Homeland Security's Office of the Inspector General. This individual brings the total to 32 defendants who have been charged in the Western District of Louisiana with violations related to FEMA relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division - includes members from the FBI, the Federal Trade Commission, the Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

This case was investigated by the U.S. Department of Justice's Office of Inspector General and the U.S. Department of Homeland Security's Office of the Inspector General, and is being prosecuted by Assistant U.S. Attorneys Allison D. Bushnell and Alexander C. Van Hook.

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DOJ_NMG_ 0167112

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Image not available for this document, ID: 0.7.10316.36349-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 6:54 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR AUGUST 28-SEPTEMBER 1, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, AUGUST 25, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR August 28 – September 1, 2006

Monday, August 28

Events TBD

Tuesday, August 29

11:45 A.M. MDT John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

Wednesday, August 30

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

DOJ_NMG_ 0167115

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Thursday, August 31

Events TBD

Friday, September 1

Events TBD

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DOJ_NMG_ 0167116

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Image not available for this document, ID: 0.7.10316.36345-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, August 25, 2006 7:38 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 25, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

ABC News to Air Story on Katrina Fraud (OPA)
On Monday, ABC News will air a story on Good Morning America and World News Tonight regarding those who defrauded the government in the wake of Hurricane Katrina. U.S. Attorney David Dugas of the Middle District of Louisiana was interviewed for the story. It is expected to feature the Department's anti-fraud enforcement efforts in a positive light.

FBI Responds to Media Inquiries Regarding Security Incidents Aboard Flights (FBI)
Today, the FBI responded to multiple media inquiries related to several recent security incidents involving US flights, including the flight from England to Chicago that was re-routed to Bangor, Maine because of security concerns.

***New York Times* Working on Story Regarding London Plot (FBI)**
New York Times reporter Don Vanatta, based in London, is working on a story for Sunday on the investigation into the disrupted terror plot in England. The FBI referred him to British authorities.

Fox News Programs to Feature Four Fugitives Wanted by FBI (FBI)
On August 26, the Fox News program "The Lineup" will feature Section Chief John Gillies of the Violent Crimes Section. He will discuss Anthony Dewater, Gary Lee St. John, Patty Ann & Phillip Kenley, and Frantz Dieudonne, all wanted for crimes against children.

On August 26, the Fox News program "America's Most Wanted" will highlight a number of cases of interest to the FBI, including two sex predators and a suspected murderer.

***Wall Street Journal* interviews Assistant Director Burrus Regarding Gangs (FBI)**
Today, *Wall Street Journal* reporter Gary Fields interviewed Assistant Director Chip Burrus on MS-13 and Central American Gangs. The story is expected to run next week.

Operator of Massive For-Profit Software Piracy Website Sentenced (Criminal)
The owner of a massive for-profit software piracy website was sentenced in federal court to six years in prison. In addition to the prison term, Danny Ferrer, of Lakeland, Fla., was also

ordered by U.S. District Judge T.S. Ellis III to forfeit the proceeds of his illegal conduct, pay restitution of more than $4.1 million, and perform 50 hours of community service. The ordered forfeiture involves a wide array of assets, including airplanes, a helicopter, boats and cars, all of which Ferrer had purchased with the profits from his illegal enterprise.

Talking Point

- The Department of Justice is committed to vigorous enforcement of the law and protection of intellectual property rights.

Army Reserve Officer Pleads Guilty to Money Laundering Conspiracy Involving Stolen Currency and Fraud in Iraq (Criminal)

Bruce D. Hopfengardner, a lieutenant colonel in the U.S. Army Reserve, pleaded guilty to two conspiracy charges in a scheme to defraud the Coalition Provisional Authority - South Central Region (CPA-SC) in Al-Hillah, Iraq. At today's hearing before the Honorable Colleen Kollar-Kotelly, U.S. District Judge for the U.S. District Court for the District of Columbia, Hopfengardner, of Frederick, Va., admitted conspiring to commit wire fraud and to launder funds in connection with a scheme to steal currency designated for the reconstruction of Iraq and to steer contracts to a contractor in exchange for money and property. Hopfengardner also admitted to smuggling stolen currency into the United States in March 2004 when he returned from Iraq on leave.

Talking Point

- The Department of Justice remains committed to prosecuting all cases that undermine the reconstruction of Iraq.

FRIDAY'S EXPECTED EVENTS/RELEASES:

1:30 P.M. EDT	Deputy Attorney General Paul J. McNulty will hold a press conference regarding a corporate fraud matter with U.S. Attorney Michael Sullivan of the District of Massachusetts and officials from the SEC and the U.S. Postal Inspection Service. Department of Justice Robert F. Kennedy Building 950 Constitution Avenue, NW Washington, DC

All press inquiries regarding logistics should be directed to the Department of Justice Office of Public Affairs at 202-514-2007.

Amber.JMD

From: Amber.JMD
Sent: Monday, August 28, 2006 2:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Leesburg, FL

From: AmberAlert-DOJ
Sent: Monday, August 28, 2006 2:01:02 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Leesburg, FL
Auto forwarded by a Rule

AMBER ALERT:Leesburg,FL CHILD:2 Asian M 3'0 35 Eyes:Bro Hair:Bro LAST SEEN IN BLUE & GREEN STRIPPED SHIRT, OR NO SHIRT, DENIM SHORTS & DIAPER CALL 352-787-2121
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2002

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Monday, August 28, 2006 5:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Scottsdale, AZ

From: AmberAlert-DOJ
Sent: Monday, August 28, 2006 5:01:11 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Scottsdale, AZ
Auto forwarded by a Rule

AMBER ALERT:Scottsdale,AZ CAR:1999 White 4dr Chrysler TAG:AZ 850-NVR CHLD:5 W/F 4'0 Eye:Blu Hair:Lt bro SUSPECT:33 W/M 6'0 Eye:Blu Hair:Blo CALL 480-312-5000
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2003

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 9:03 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

Department of Justice

FOR PLANNING PURPOSE ONLY
MONDAY, AUGUST 28, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PRESS CONFERENCE REGARDING A CORPORATE FRAUD MATTER

WASHINGTON – Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice, Securities and Exchange Commission (SEC) and U.S. Postal Inspection Service will hold a press conference regarding a corporate fraud matter **TODAY, AUGUST 28, 2006, at 1:30 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Linda Thomsen, Director of the Division of Enforcement, SEC
Michael J. Sullivan, U.S. Attorney, District of Massachusetts
Peter Zegarac, Inspector in Charge of the U.S. Postal Inspection Service, Boston District

WHAT: Press Conference

WHEN: **TODAY, AUGUST 28, 2006**
1:30 P.M. EDT

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for open press coverage of the remarks followed by question and answer session will be at **12:30 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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DOJ_NMG_ 0167124

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Image not available for this document, ID: 0.7.10316.36073-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 10:02 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 28, 2006

Department of Justice

PRESS GUIDANCE
Monday, August 28, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Department of Justice will issue a release on a corporate fraud matter. (Sierra)

The Tax Division will issue a release on a tax fraud matter. (Miller)

EVENTS/HEARINGS

1:30 P.M. EDT	Deputy Attorney General Paul J. McNulty and other officials from the Department of Justice, Securities and Exchange Commission (SEC) and U.S. Postal Inspection Service will hold a press conference regarding a corporate fraud matter. Seventh Floor Conference Room Department of Justice 950 Constitution Avenue, N.W. Washington, D.C. **OPEN PRESS**

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167127

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Image not available for this document, ID: 0.7.10316.36091-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, August 28, 2006 11:12 AM
Subject: JCON BROADCAST, WEEK OF AUGUST 28, 2006

JCON BROADCAST, WEEK OF AUGUST 28, 2006

1. **Fire Alarm Testing in the RFK MAIN Justice Building**
2. **Temporary Closure of the 10th Street Entrance**
3. **Research Classes Offered by Library Staff**

Fire Alarm Testing in the RFK MAIN Justice Building

On Thursday, August 31, 2006, the Justice Building Services (JBS) and GSA's Life Safety and Fire Alarm Shop will be performing a fire alarm test of the audible and visual devices throughout the Main Justice Building. This test is required because of the damage that was done to the building's fire alarm system during the flood. The audio and visual devices will be activated, and the test will run for about one hour. There are some preliminary tests (silent tests) that will need to be completed prior to the actual alarm test. This is being done in order to reduce the time needed for the actual alarm test. Prior to the start of the test, an announcement will be made giving instructions to building occupants while the test is being conducted. If there are any questions or concerns, please call JBS on 514-2186 or 514-1611.

Temporary Closure of the 10th Street Entrance

The 10th Street vehicle and pedestrian turnstile entrance at the Main Justice Building will be closed from 7:00 p.m., Friday , September 8, 2006, until 6:00 a.m., Sunday, September 10, 2006. During this time, all vehicle and pedestrian traffic must enter through the 9th Street gate.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

fhcsDJ@opm.gov

From: fhcsDJ@opm.gov
Sent: Monday, August 28, 2006 12:30 PM
To: Gorsuch, Neil M
Subject: Final Reminder Notification--Governmentwide Survey on Human Capital
Attachments: msg.txt

Recently, we sent you an email invitation to participate in the 2006 Federal Human Capital Survey. If you have already completed the survey, please accept our sincere thanks. If you have not yet completed it, we encourage you to do so, as your responses are very important.

The 2006 Federal Human Capital Survey is an opportunity to express your opinions. Just click on the link below to access your survey. PLEASE DON'T FORWARD THIS EMAIL WITH THE LINK AND YOUR USERID AND PASSWORD TO OTHER EMPLOYEES.

https://fhcs2.opm.gov/DJ/?id=0913622&pw=1289960

If the link does not take you directly to the survey, copy and paste the link into a browser window. You may also go to: https://fhcs2.opm.gov/DJ/ and use the survey ID and password below:

Your survey ID and password are:

Survey ID: 0913622
Password: 1289960

Please reply to this message if you have any questions or difficulties accessing the survey.

Thank you.

P.S. The survey should only take about 20 minutes to complete.

-- Even though this E-Mail has been scanned and found clean of
-- known viruses, OPM can not guarantee this message is virus free.

-- This message was automatically generated.
----------mo

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 28, 2006 12:31 PM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: Term Member Trip to the NY Fed
Attachments: TMFedTripRevised.DOC

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Aug 24 15:48:08 2006
Subject: Term Member Trip to the NY Fed

Dear Term Member--

Several spots have opened up for the term member trip to the New York Federal Reserve on September 7, 2006.

If you are interested in attending the trip, please RSVP to this email as soon as possible. **Please only respond if you know for certain you can attend.**

I have attached the trip agenda and additional information regarding the trip is below.

Please contact me with any questions.

Sincerely,

[redacted]

(See attached file: TMFedTripRevised.DOC) _____

Getting to the Federal Reserve Bank of New York

Directions for traveling to the Fed by subway can be found online at http://www.newyorkfed.org/aboutthefed/ny_directions.html

When you arrive, please enter the main building at 33 Liberty Street. Term members must be pre-registered through the Council to gain access to the building and upon arrival must present a government-issued identification card that includes a photograph, such as a driver's license or passport.

The Federal Reserve strongly recommends that Term Members arrive early, as we expect a large group and security screening will take several minutes.

Background information

You can read more about the Federal Reserve System and the New York Fed at http://www.newyorkfed.org/aboutthefed/introtothefed.html.

Council on Foreign Relations
Term Member Day Trip to the
Federal Reserve Bank of New York

Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
Thursday, September 7, 2006

Meetings to be held in the Board Room, 10th Floor

8:00 a.m. – 8:30 a.m.	Arrivals, Security Clearance, Coffee Reception *Please access the building through the 33 Liberty Street entrance*
8:30 a.m. - 9:00 a.m.	"Welcome: the Role of the 'Fed' in the U.S. Economy" Speaker: [redacted], *First Vice President**
9:00 a.m. - 10:00 a.m.	"Financial Services: Being the (Central) Banker's Bank" Speakers: • [redacted], *Executive Vice President*, Financial Services; • [redacted], *Senior Vice President,* Central Bank and International Account Services, Markets Group, • [redacted], *Senior Vice President and Chief of Staff*, Executive Office
10:00 a.m. – 10:15 a.m.	Break
10:15 a.m. – 11:00 a.m.	"Promoting Sound Risk Management in the Banking Sector" Speakers: • [redacted], *Executive Vice President*, Bank Supervision • [redacted], *Senior Vice President,* Bank Supervision

* Life Member, Council on Foreign Relations

DRAFT

11:00 a.m. - 11:45 p.m.	"Maintaining Sound Payments Systems: the Fed's Reaction During September 11th" Speakers: • [redacted], *Assistant Vice President,* Electronic Payments, and • [redacted], *Vice President*, Markets Group
11:45 a.m.-12:00 p.m.	Break
12:00 p.m. - 1:30 p.m.	Lunch with Bank staff and discussion: "Financial Stability, Monetary Policy, and International Considerations (China)" Speakers: • [redacted], *Executive Vice President,* Research and Statistics; • [redacted], *Vice President*, Markets Group; and • [redacted], *International Officer*, Emerging Markets and International Affairs • Moderator: [redacted], *Assistant Vice President*, Public Information Location: Executive Dining Room, 10th Floor, 33 Liberty Street
1:40 p.m. – 2:15	"The Fed In Transition: Thoughts and Observations" Speaker: Timothy Geithner, *President* and Vice Chairman of the Federal Open Market Committee* Location: Board Room, 10th Floor, 33 Liberty Street
2:15 p.m. -2:20	Break
2:30 p.m. – 3:15 p.m.	Tour of the Gold Vault
3:15 p.m.	Conclusion of the Term Member Visit *Term Members are free to visit two exhibits in the Fed's museum space on their own: "Drachmas, Doubloons and Dollars: The History of Money," co-sponsored by the American Numismatic Society, and the interactive "FedWorks" exhibit.*

DRAFT

* Life Member, Council on Foreign Relations

DOJ_NMG_ 0167137

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 1:00 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER DEPUTY OF HARRISON COUNTY SHERIFF'S DEPARTMENT CHARGED IN DEATH OF INMATE

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 28, 2006
WWW.USDOJ.GOV

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

FORMER DEPUTY OF HARRISON COUNTY SHERIFF'S DEPARTMENT CHARGED IN DEATH OF INMATE

WASHINGTON – Ryan Michael Teel, a former Deputy of the Harrison County, Miss. Sheriff's Department, was indicted on charges relating to the circumstances surrounding the death of an inmate, Jessie Lee Williams Jr., who died as a result of injuries sustained at the Harrison County Adult Detention Center on February 4, 2006. The two-count criminal indictment was announced today by Wan J. Kim, Assistant Attorney General of the Civil Rights Division and Dunn Lampton, U.S. Attorney for the Southern District of Mississippi.

Count one of the indictment alleges that Teel assaulted Williams, thereby depriving him of his constitutionally-protected civil rights. It is further alleged that Teel's conduct involved an attempt to kill Williams, resulting in his bodily injury and death.

The second count alleges that Teel obstructed justice by falsifying an official report with intent to obstruct an investigation into the assault on Williams.

If convicted, Teel faces a maximum penalty of life in prison on count one of the indictment, and a maximum penalty of 20 years in prison and a fine of $250,000 on count two.

A criminal indictment represents an accusation only, and that all criminal defendants in every criminal case are entitled to the presumption of innocence unless or until otherwise proven guilty.

Assistant Attorney General Kim and U.S. Attorney Lampton commended the Federal Bureau of Investigation and the Mississippi Bureau of Investigation for spearheading and devoting significant resources to this investigation.

Assistant U.S. Attorney Jack Lacey, and Special Litigation Counsel Lisa Krigsten and Trial Attorney John Richmond from the Civil Rights Division are prosecuting this case for the government.

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06-573

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From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 1:43 PM
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Subject: PRUDENTIAL FINANCIAL SUBSIDIARY AGREES TO PAY $600 MILLION TO SETTLE SECURITIES FRAUD ALLEGATIONS

Department of Justice

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MONDAY, AUGUST 28, 2006
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PRUDENTIAL FINANCIAL SUBSIDIARY AGREES TO PAY $600 MILLION TO SETTLE SECURITIES FRAUD ALLEGATIONS

Agreement is Largest Resolution of "Market Timing" Case

WASHINGTON -- Prudential Equity Group LLC (PEG), a broker-dealer subsidiary of Prudential Financial Inc. (Prudential), has entered into a deferred prosecution agreement in which PEG has admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual fund shares dating back to 1999 and agreed to a payment of $600 million in fines, restitution and penalties.

The agreement was announced today by Deputy Attorney General Paul J. McNulty, chairman of the President's Corporate Fraud Task Force, who was joined by Director of the Division of Enforcement Linda Thomsen of the Securities and Exchange Commission (SEC), U.S. Attorney Michael J. Sullivan of the District of Massachusetts, and Peter Zegarac, Inspector in Charge of the U.S. Postal Inspection Service's (USPIS) Boston District.

The Justice Department has also entered into a separate compliance agreement with PEG's parent company, Prudential. Under the terms of that compliance agreement, Prudential will also cooperate with the Justice Department in its ongoing investigation and will maintain policies and procedures relating to the integrity of the compliance functions across its various affiliated entities. The compliance agreement provides that the General Counsel of Prudential shall make periodic reports to the Prudential Board of Directors Audit Committee as to the appropriateness and effectiveness of the compliance plan. It also requires the General Counsel to provide the reports to the U.S. Attorney in the District of Massachusetts, along with a certification that the reports include all material information bearing on the effectiveness of the compliance plan.

According to a statement of facts accompanying the agreement, from 1999 through June 2003, a number of brokers at PEG's predecessor entity, Prudential Securities Inc. (PSI), engaged in a scheme to defraud mutual funds and their shareholders by using deceptive practices to place thousands of prohibited market timing trades on behalf of the brokers' clients, which were typically sophisticated hedge funds. The brokers were able to place these trades, thereby generating commissions for themselves and illicit profits for their clients, by manipulating trade information sent over the automated mutual fund trading system PSI used to communicate trades to mutual funds. Through the automated system, brokers were able to defeat efforts by the mutual funds

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to block their abusive market timing trading, by placing their trades in multiple accounts, often with multiple identities, to make it appear that the trades were coming from many different, unrelated brokers representing many different, unrelated clients.

"This is a great victory for the investing public," said Deputy Attorney General McNulty. "The deceptive trading practices at Prudential were compromising the integrity of many mutual funds. Investors were dealt a bad hand by corporate con-men who stacked the deck against them. This resolution sends a strong message to predatory traders who dupe the system to reap millions in illegal profits."

U.S. Attorney Sullivan stated, "It is critically important for the public to have confidence in the integrity of our financial systems. The conduct at issue here was particularly troublesome, because it undermined the integrity and utility of the automated, standardized mutual fund trading system, a system that was created to bring greater efficiency to the trading of mutual funds."

According to the statement of facts, on multiple occasions, the brokers' deceptive conduct came to the attention of senior management at PSI, who failed to stop the activity. Mutual fund companies repeatedly sent letters and e-mail to PSI imposing blocks on further market timing activity by the brokers. Some of these communications notified PSI that the brokers were engaged in deceptive practices to continue placing market timing trades.

Despite the communications by the mutual fund companies, PSI continued to issue brokers additional accounts for the clients engaged in timing; continued to issue additional broker identification or "FA" numbers to brokers that were used with the market timing clients; failed to utilize controls that could limit the brokers' ability to engage in the deceptive practices; failed to comply with mutual fund companies' requests that the market timing conduct of the brokers cease; misled some mutual fund companies by representing to them that PSI could and would stop the brokers from trading in their funds, and then failing to do so; failed to implement appropriate policies designed to prevent the brokers from engaging in the deceptive practices; and failed to impose any discipline upon any of the brokers even under circumstances where senior PSI managers were actually aware of the brokers' deceptive conduct.

As part of the settlement, $270 million will be paid into the SEC Fair Fund, a fund set up to compensate victims of the fraudulent conduct. The $300 million criminal penalty will be paid directly to the U.S. Treasury and $25 million is being paid to the USPIS Consumer Fraud Fund to assist in future fraud detection and deterrence efforts. There is also a $5 million civil penalty being paid to the Secretary of the Commonwealth of Massachusetts.

In addition to the payment, PEG has also agreed to abide by a variety of terms and conditions for a period of five years, including cooperation with the Justice Department in its ongoing investigation of abusive and fraudulent trading in mutual fund shares.

To date, three individuals associated with the fraudulent trading at PEG's Boston branch office – Martin Druffner, Skifter Ajro and Robert Shannon – have pleaded guilty to wire and securities fraud charges. Druffner and Ajro are awaiting sentencing. Shannon was sentenced in July 2006.

This is an ongoing investigation, and the Justice Department and the U.S. Attorney's Office in the District of Massachusetts are continuing their investigation of other individuals and entities for fraudulent trading in mutual funds.

The case was investigated by the U.S. Attorney's Office in the District of Massachusetts, the USPIS, the SEC, and the Secretary of the Commonwealth of Massachusetts' Securities Division. It is being prosecuted by Assistant U.S. Attorney Jack Pirozzolo of the Economic Crimes Unit.

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Since its creation by Executive Order in July 2002, the Corporate Fraud Task Force (CFTF) has spearheaded the administration's effort to prosecute corporate malfeasance, protect the jobs of hard-working Americans, and restore confidence to the marketplace. Through the coordinated efforts of several federal agencies, the CFTF is sending a clear message that criminal activities in the corporate world will be swiftly and decisively prosecuted. By acting to deter fraud, the Task Force is also helping to restore shareholder and employee trust and demonstrating to the American people that the vast majority of corporate leaders are still honest and hardworking.

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Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Monday, October 2, 2006 8:30 AM
End:	Monday, October 2, 2006 9:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Oldham, Jeffrey L; Pacold, Martha M; Gorsuch, Neil M; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Occurs every weekday effective 10/2/2006 until 10/31/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Tasia Scolinos, Evan Young, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

Otus2005, Ag

Subject:	Canceled: Senior Management Meeting
Start:	Wednesday, November 1, 2006 9:30 AM
End:	Wednesday, November 1, 2006 10:00 AM
Recurrence:	Daily
Recurrence Pattern:	every weekday from 8:30 AM to 9:00 AM
Meeting Status:	Not yet responded
Organizer:	Otus2005, Ag
Required Attendees:	Oldham, Jeffrey L; Pacold, Martha M; Gorsuch, Neil M; Gorsuch, Neil M; Mercer, Bill (ODAG)
Importance:	High

When: Occurs every weekday effective 11/1/2006 until 11/30/2006 from 8:30 AM to 9:00 AM (GMT-05:00) Eastern Time (US & Canada).

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AG's Conference Room
DOJ: Paul McNulty, Kyle Sampson, Courtney Elwood, Jeff Taylor, Monica Goodling, Evan Young, Tasia Scolinos, Rachel Brand, Will Moschella, Crystal Jezierski, Mike Elston

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 6:12 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT PRESS CONFERENCE REGARDING PRUDENTIAL EQUITY GROUP SECURITIES FRAUD ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 28, 2006
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TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT PRESS CONFERENCE REGARDING PRUDENTIAL EQUITY GROUP SECURITIES FRAUD ALLEGATIONS

DEPUTY ATTORNEY GENERAL McNULTY: Good afternoon. The crackdown on corporate fraud continues. Today we are announcing a major victory in our continuing efforts to combat corporate fraud, and this time it is directed at fraudulent trading in mutual funds.

Joining me in this afternoon's announcement are Michael Sullivan, the United States Attorney for Massachusetts, Peter Zegarac, who is the Inspector in Charge of the Boston Office at the United States Postal Inspection Service, and Linda Thomsen, Director of the Division of Enforcement of the Securities and Exchange Commission, and Susan Merrill, Chief of Enforcement of the New York Stock Exchange.

Today we are announcing that Prudential Equity Group, a broker-dealer subsidiary of Prudential Financial, Inc., has entered a deferred prosecution agreement with the Department of Justice. They have admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual funds and have agreed to pay $600 million in fines, restitution and penalties. This is the largest resolution of a market timing case to date.

Prudential Equity has also agreed to comply with a number of conditions, including the cooperation with the Department of Justice in its ongoing investigation of abusive and fraudulent trading in mutual fund shares.

Assuming they fully comply with the terms of the agreement, which will last for five years, the Department will not prosecute Prudential Equity for securities fraud.

The Department has also entered a separate compliance agreement with Prudential Equity's parent company, Prudential Financial. Under this agreement, Prudential Financial will also cooperate with our ongoing investigation and will maintain policies and procedures relating to the integrity of the compliance functions across its affiliated entities.

The compliance agreement requires Prudential to make periodic reports to the Prudential Board of Directors' Audit

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Committee as to the appropriateness and effectiveness of the compliance plan. These reports will also go to the U.S. Attorney in Massachusetts, along with a certification that the reports include all material information bearing on the effectiveness of the compliance plan.

Today's announcement is a victory for law enforcement agencies committed to stopping abusive mutual fund practices. But more importantly, it's a victory for investors in mutual funds. And I have more to say about that in a moment.

Not only does this agreement hold accountable corporate executives, but through it, we ensure that millions of dollars will be available to compensate innocent investors harmed by the fraudulent practices.

A significant portion of Prudential Equity's payment, $270 million, will be paid into the SEC's Fair Fund to compensate victims of the fraudulent conduct.

This settlement also requires payment of substantial criminal penalty, $300 million, to be paid directly to the United States Treasury, and $25 million to be paid to the Postal Inspection Services Consumer Fraud Fund.

Finally, the company will pay a $5 million civil penalty to the Secretary of the Commonwealth of Massachusetts.

Let me explain briefly how this fraud worked and give some details of the scheme that was used in this case. From 1999 through June of 2003, a number of brokers at Prudential Securities -- that's Prudential Equity's predecessor entity -- committed securities fraud by engaging in prohibited market timing trades on behalf of their clients. Now market timing trades is basically taking advantage of time zone trading and fluctuations on the share values between the late afternoon calculations of net share value by mutual funds, doing so in very large number, very large way, buying and dumping these shares.

These brokers defeated safeguards designed to protect against such illegal market timing trades by using false accounts and false identities to give the impression that the trades were coming from many different unrelated brokers representing many different clients. One group of brokers in Boston repeatedly used these deceptive practices to circumvent mutual fund restrictions.

Efforts by the mutual funds to stop this practice were foiled. Many of the affected funds screened for market timing trades by broker identification number, also known as the FA number, and customer account numbers.

When irregularities were found, these fund companies complained to Prudential Securities that the Boston-based brokers had violated trading limitations. Some mutual funds even announced steps they had taken to preclude the Boston brokers from further trading, while others asked Prudential Securities to block further trades by the group in the fund.

Now to circumvent these efforts, the brokers used at least 14 FA numbers and 183 customer accounts for what were, in reality, only 7 clients. And by using these deceptive practices, the brokers were able to create the impression that the trading originated from many brokers and represented many different customers.

In fact, what appeared to be thousands of separate transactions submitted by many brokers for many unrelated customers was actually a systematic pattern of market timing by a small number of brokers on behalf of their hedge fund clients. At least two dozen brokers throughout the Prudential Securities system were involved in deceptive mutual fund market timing.

From 2001 through 2003, these brokers generated in excess of $50 million in commissions and in excess of $100 million in profits for their hedge fund clients. Some of these brokers were among the highest fee producers for the company.

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Prudential Equity Group admits that on multiple occasions, the brokers' deceptive conduct came to the attention of senior management at Prudential Securities, who failed to stop the activity. Prudential Securities' repeated unambiguous and clear requests from mutual fund companies informing it that the market trading timing from Prudential brokers must be stopped.

Despite these communications, Prudential Securities continued to issue brokers additional accounts and FA numbers and failed to institute controls to stop these deceptive practices and protect mutual funds. The company also failed to impose any discipline upon any of the brokers even where certain senior managers were actually aware of the brokers' deceptive conduct.

To date, three individuals associated with the fraudulent trading at Prudential Equity Group's Boston, Massachusetts branch office -- Martin Druffner, Skifter Arjo and Robert Shannon -- have pled guilty to wire and securities fraud charges. Our investigation continues of other individuals and entities for fraudulent trading in mutual funds.

With today's announcement, the small investor logs in another victory in our fight against corporate fraud.

Mutual fund investing has become a necessity for many Americans. More and more Americans rely on mutual funds as a primary investment. Mutual fund investments can substitute for pension plans and standard bank accounts. Mutual fund shares now represent a large portion of the life savings of the average American.

Unfortunately, there are some in the securities business, predators motivated solely by greed, who continually find new schemes to exploit our financial markets and to line their pockets with illegal profits. When uncovered, their criminal conduct erodes trust, breeds cynicism and casts doubts on the public's ability to choose safe investment vehicles for its hard-earned dollars.

This resolution goes a long way in restoring the public's trust. It could not have been accomplished without the hard work of our nation's prosecutors and law enforcement agencies.

The Justice Department thanks the United States Postal Inspection Service, the Securities and Exchange Commission, the Secretary of the Commonwealth of Massachusetts Securities Division, and other civil regulators for their help in reaching this resolution, including the New York Stock Exchange.

This team put forth an extraordinary effort, and will continue to do so to root out abusive and fraudulent trading practices in the mutual fund industry.

I am pleased now to recognize the United States Attorney for the District of Massachusetts, Michael Sullivan, for a brief statement. Michael?

U.S. ATTORNEY SULLIVAN: Thank you. Thank you, Mr. McNulty. It's a pleasure for me to be here. Let me begin by just thanking and recognizing the Deputy Attorney General in the Department of Justice for their leadership in the effort to combat corporate fraud.

I'd also like to acknowledge the extraordinary commitment and hard work of the agents, investigators and prosecutors assigned to this investigation, the United States Postal Inspection Services, the Securities and Exchange Commission, and the United States Attorney's Office.

Our investigation into abusive trading in mutual funds is ongoing. We will continue to aggressively investigate, and if appropriate, prosecute individuals and entities involved in deceptive and fraudulent conduct in the mutual fund marketplace.

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The conduct at issue here was particularly troublesome, because it was the conduct that undermined the integrity and utility of the automated standardized mutual fund trading system, a system that was created to bring greater efficiency for the trading of mutual funds. Indeed, by 2003, some funds had withdrawn from the system because of the abusive trading which these brokers were engaged. This prosecution is, at least in part, of our restoring confidence in the way that mutual funds are bought and sold.

The conduct in this case not only undermined the integrity of the automated mutual fund trading system, but it ultimately came at the expense of the majority of mutual fund investors who followed the rules and used mutual funds as they were intended to be used; as long-term investment vehicles.

The deceptive conduct here allowed brokers and their hedge fund clients to reap millions of dollars in commissions and trading profits while harming the investment return of the average, long-term mutual fund shareholders.

The repeated and deceptive conduct in an industry which has become for many Americans the place where they invest most of their retirement savings, is what made this case a priority for the Department of Justice and one that justified a commitment of the extensive criminal investigative resources used.

The Department and U.S. Attorney's Offices around the country are committed to vigorously investigating, and if appropriate, prosecuting individuals and entities that threaten the integrity of the mutual fund marketplace.

Though we were faced with many important challenges, addressing corporate fraud and white collar crime continues to be a top priority. And I am hopeful that today's agreement with Prudential will send a clear message to corporate American that the Department of Justice aggressively investigates and prosecutes those who jeopardize the integrity of our nation's financial systems.

Thank you.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Mike. This is by far not the first time and certainly won't be the last time that I have the privilege of sharing the stage with Linda Thomsen, who directs enforcement at the Securities and Exchange Commission.

The partnership between the Department of Justice and the Securities and Exchange Commission has never been stronger. And I appreciate once again Linda being here to represent the SEC and its role in this case. Linda?

DIRECTOR THOMSEN: Thank you, Paul. Thank you, and good afternoon. Today's actions reflect the latest step in a sustained effort at the federal, state and self-regulatory levels to address harm to mutual fund investors. The actions just described by the Deputy Attorney General and the United States Attorney for the District of Massachusetts reflect the seriousness of the misconduct here.

In addition to these actions, the Massachusetts Securities Division, the NASD, the New Jersey Bureau of Securities, the New York Attorney General, the New York Stock Exchange, and the Securities and Exchange Commission, have initiated proceedings relating to the illegal behavior by Prudential Securities Inc. and its registered representatives.

I'd like to commend all of the individuals at the Department of Justice, especially those in the District of Massachusetts, at the United States Postal Service, and those in the state offices in Massachusetts, New Jersey and New York, at the NASD and the New York Stock Exchange, and of course my colleagues at the SEC, for all of the diligence and hard work today's actions reflect.

Today the Securities and Exchange Commission has filed two actions. The first is a settled administrative action

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against Prudential in connection with the active and aggressive acts of deception by its brokers. These practices were designed to hide the brokers' identities and the identities of their hedge fund customers to place market timing trades in mutual funds when those mutual funds were attempting to block market timing, which was harming their investors.

Mutual fund companies sent more than a thousand letters and e-mails to Prudential, many of them notifying the company that its representatives were using deceptive trading practices, and asking Prudential to stop the activity. High level officers of Prudential were aware of the complaints, but the company failed to take action to stop the fraud.

As a result of this settled action, $270 million will be distributed to harmed mutual funds and their shareholders.

Today's second SEC action is an unsettled civil action against four former brokers of Prudential, whom we allege engaged in this fraud; Frederick O'Meally, Brian Corbett, Michael Silver, and Jason Ginder. I should note that previously, in November of 2003, we filed suit against six other individuals, five other former Prudential brokers and their branch manager, for similar activity.

In today's action against the individual brokers, we allege that each of the defendants engaged in an array of deceptive conduct, all designed to allow hedge fund customers to engage in market timing in mutual funds when those funds were actively attempting to prevent harm to their investors by halting such trading.

Among other things, we allege that the defendants used more than 750 different customer accounts to process transactions, using dozens, and in one instance hundreds, of different account numbers for the same customer. In this action, which has been filed in federal court in New York, we seek the full panoply of available remedies, including injunctions, disgorgement and penalties.

As I mentioned at the outset, today's actions are part of a sustained effort by many in law enforcement to address mutual fund abuse. To date, the SEC has brought dozens of actions and collected over $3 billion for distribution to harmed funds and investors. Many, many dedicated individuals have contributed to this effort.

Today's SEC actions are the result of the work of an intrepid team in our Boston office; David Bergers, John Dugan, Beth Lehman, Stuart Feldman, Frank Huntington, Maureen Harrington, and Cara Ramos.

And I thank you very much.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Linda. I also think a significant component of this case is the role of the United States Postal Inspection Service. We have a lot of discussion about the resources of the FBI in the area of white collar crime post-9/11, and I think this case illustrates how part of the answer to that demand upon the FBI are the other agencies that are more than ready to step up and invest enormous resources. And the Postal Inspectors did just that.

This is a huge case. The commitment they made to it and the resources they put out to make it possible are really extraordinary, and it should send a message to the entire enforcement community that a key partner in this effort has been and will continue to be the Postal Inspector. So I'm glad that Peter Zegarac is here to say a brief word. Peter?

INSPECTOR ZEGARAC: Thank you, Mr. McNulty. My name is Peter Zegarac, and I am the Postal Inspector in charge of our Boston Division. The United States Postal Inspection Service is very proud of its long history of protecting the American consumer from fraudulent and deceptive practices through the use of the United States mail. This significant settlement is the culmination of more than two years of dedicated Postal Inspectors conducting more than 100 interviews and reviewing millions of electronic and physical documents to protect the

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American public and the integrity of the United States mail.

We wish to recognize the outstanding cooperative efforts of all of our regulatory and law enforcement partners, and especially those of the United States Attorney's Office for the District of Massachusetts.

DEPUTY ATTORNEY GENERAL McNULTY: And again, thank you, Susan, for the New York Stock Exchange role in this case. I'm happy to answer any questions you might have. Yes?

QUESTION: I have a question, a two-part question regarding part of the settlements. First, I notice there is a waiver involved in the -- attorney-client privilege waiver. And secondly, this line that Prudential is to make best efforts to make available for interviews its employees and former employees.

In light of Judge Kaplan's recent ruling on KPMG, I'm just wondering if you could speak to your decision or the U.S. Attorney on implementing this and whether you have concerns about how a court would view this in light of Judge Kaplan's ruling. And as a second part to that, whether you've given Prudential any guidance on how to get their employees to cooperate, and whether attorney fees played a part in that.

DEPUTY ATTORNEY GENERAL McNULTY: Okay. Well, you've referenced the judge's -- in the Southern District of New York's ruling about the issue of attorney's fees. And this agreement addresses the question of attorney-client waiver.

The waiving of attorney-client privileged information is a standard piece of the settlements that the Department of Justice has reached in the past. And as you know, there are many agreements that we've reached in our effort to combat corporate fraud.

This agreement contains a provision of a similar nature. However, I'd note that in this waiver provision, there are some distinctions made. And it represents the kind of distinctions that the Department of Justice has been prepared and has made and is willing to continue to make as we try to work these out on a case-by-case basis.

Here we have an agreement that makes a distinction between providing information that the company has that preceded the date on which the discovery and the discontinuance of -- I shouldn't say discovery, necessarily, but the discontinuance of the practices.

It doesn't include information that the company received after that date from attorneys that might involve strategic planning or other defense-related things, things that to go what might be seen as more of a core of attorney-client communications.

So this agreement represents an effort to try to make some distinctions in the area of the waiver, not that we have to always make those distinctions, because there may be circumstances where that's not appropriate. But certainly it requires a waiver where that information is a part of the overall cooperation environment.

And that's the key here. There is every reason for Prudential to be cooperative. This is an agreement involving a different corporate structure really from then until now, which by the way, is why this deferred prosecution agreement is being reached as opposed to a criminal prosecution, because there are some real differences in terms of structure from past to present.

And, therefore, with that cooperation in mind and their willingness to work with the government to get to the bottom of it, to figure out what occurred, providing information that's relevant to our investigation is expected and is consistent with cooperating. So it has a waiver provision of that sort, of that nature.

As to providing the cooperation or providing access to individuals, that, too, is a common piece of a corporate fraud

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settlement, to provide information, to provide access. This doesn't address, at least I'll -- to the best of my knowledge; I'll check with Mike -- the issue of fees. This just deals with access. And so that, too, is different from the issue going on in the Southern District of New York case.

Yes?

QUESTION: Why did the settlement take three years to reach?

DEPUTY ATTORNEY GENERAL McNULTY: Well, in terms of the settlement reached in three years, I think what we're dealing with is a process that follows a common pattern of beginning with an investigation that involves individuals and their conduct. This case involves multiple jurisdictions and multiple investigations of conduct, and as those things go, they build step-by-step from individuals to the larger interests.

I mentioned a moment ago the evolving nature of the corporate structure. You have Prudential Financial, Wachovia entered into a joint venture to create PEG, this Prudential Equity Group, which was the -- basically the legacy of Prudential, of PSI. And that adds a layer of complexity to the settlement and discussions as to how the agreement is going to affect these other entities.

But I'd say that this one moved along in pretty much the standard pace, because of the movement from individuals, their prosecutions. Remember, here we have three individuals who have already been convicted, and I think two have been sentenced. One awaits sentencing. Is that? Two await sentencing. So I see it as basically following a typical timeline as you work your way towards a deferred prosecution agreement.

Yes?

QUESTION: I think you at one point mentioned there were as many as two dozen people involved in Prudential alone. Doing the math between civil and criminal charges, ten people have been charged so far. What about the other 14?

DEPUTY ATTORNEY GENERAL McNULTY: Well, there is an ongoing investigation. I think that's probably the simplest way to put that, rather than try to sort out who is in what category, let's just say that the criminal investigation will continue.

QUESTION: Have all the investigations and the lawsuits put an end to this practice on a widespread scale?

DEPUTY ATTORNEY GENERAL McNULTY: At least as it relates to PEG and its practices. But -- and so this represents a global settlement with regard to these brokers and this corporate entity. Does your question go to the larger?

QUESTION: The industry as a whole.

DEPUTY ATTORNEY GENERAL McNULTY: I think that the SEC would say that they have multiple investigations in the area. Do you want to speak to any of that?

MS. THOMSEN: As I said earlier, we've already brought dozens of cases. Our number is I think nearing or around 90 or so. We have had many recoveries, and there are still some matters in the hopper, but on an ongoing basis, I think the industry has noticed what we're doing. I don't think the industry wants to be in a position where its investors don't have confidence in the industry. So my hope and expectation is that we will see far fewer of this kind of -- far less of this kind of conduct on a going forward basis.

DEPUTY ATTORNEY GENERAL McNULTY: This case reveals how the mutual fund -- mutual funds

themselves are working very hard at trying to protect themselves from this kind of more predatory activity, and despite those efforts, were being foiled and frustrated. So it reveals a lot of that policing effort that they do themselves.

Yes?

QUESTION: I don't see this in the paper, or maybe I skipped over it, but let me go over it, because I want to make sure I have it right. One of you all said that this activity generated more than $50 million in commissions for Prudential and more than $100 million in profits for the hedge fund clients. Is that right?

DEPUTY ATTORNEY GENERAL McNULTY: Yeah. Right. I said that in my statement. And we have, yeah, 50 million in commissions, in excess of 50 million in commissions, and in excess of 100 million in profits for their hedge fund clients.

QUESTION: Okay. I just wanted to make sure I had that right. And also the -- this being the largest resolution of a market timing case, is that in dollar terms? You're referring to the $600 million figure there?

DEPUTY ATTORNEY GENERAL McNULTY: I am. Mike?

MR. SULLIVAN: Six hundred and fifty-seven million dollar settlement earlier.

DEPUTY ATTORNEY GENERAL McNULTY: There was a case out of New York that involved two companies, and the combined, or the sum of the two equals more. So this is the largest single company payment.

Yes?

QUESTION: Yes. You mentioned periodic reporting. And I'm sorry, could you list again who is reporting and who they're reporting to?

DEPUTY ATTORNEY GENERAL McNULTY: Okay. Do you want to take a crack at that, Mike?

MR. SULLIVAN: Sure.

DEPUTY ATTORNEY GENERAL McNULTY: All right.

MR. SULLIVAN: I'll be very brief. I think it's actually laid out in the compliance memo with Prudential. But, yes, the agreement is that counsel for Prudential is going to be reporting on a regular basis to the board at Prudential, and then reporting to the U.S. Attorney's Office concerning ongoing compliance efforts.

QUESTION: I'm just curious about how you came to this dollar amount. One of the things that some people might say is notable here is that late trading wasn't involved, which is sort of another egregious element.

DEPUTY ATTORNEY GENERAL McNULTY: Well, that's certainly been a matter given careful consideration, and I think it was the opinion of the enforcement agencies involved in this case that this was the conduct that fit all of the facts and the law in the area.

The SEC has its own way of trying to calculate the loss in the context of an investigation like this and came to that amount. The criminal penalty is something that is the sort of result of an extensive negotiation and so forth. But I think the SEC's figure here connects with its best efforts to calculate actual losses. Does that?

Okay, yes.

QUESTION: Of the seven clients you mentioned aware of what was going on here, are they facing penalties?

DEPUTY ATTORNEY GENERAL McNULTY: I think I'll not answer that question directly, because there is an ongoing investigation. I'll stop there. Thank you.

QUESTION: You talked a little bit about the company's changing corporate structure as one reason you decided not to bring charges against them. Any other reasons for entering into this deferred prosection?

DEPUTY ATTORNEY GENERAL McNULTY: Well, there are a lot of factors that go into a decision to have a deferred prosecution agreement, and I've touched on a few of them in terms of the cooperation generally speaking, the nature of the company leadership or structure in relation to where the conduct has occurred. That would be the issue of the restructuring that has taken place here.

The compliance efforts that were made at different times preceding what would be the need or requirement to do it under the agreement. I think that's a factor. General knowledge of senior officials of a company to the specific information, although that is not necessarily something that's going to spare a company of a prosecution versus a deferred agreement, because that knowledge is imputed to the leadership if it's occurring in certain ways.

But I think it's a variety of factors, as I've mentioned here, that create a solid case for a deferred prosecution agreement as opposed to the prosecution of the company itself. We look at those on a case-by-case basis, and one of the issues that affects the question of waiver is that the companies have to realize that they face the real possibility of prosecution, and those companies have to do things to demonstrate their good will when it comes to an agreement to not prosecute.

QUESTION: A question.

DEPUTY ATTORNEY GENERAL McNULTY: Yes?

QUESTION: Maybe this is in the release, but what's the timeframe for the deferred prosecution? At what point did Prudential say, okay, whatever lingering cloud is there is off of us?

DEPUTY ATTORNEY GENERAL McNULTY: Five years.

QUESTION: Five years?

DEPUTY ATTORNEY GENERAL McNULTY: Yes. Thank you all very much.

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DOJ_NMG_ 0167156

Image not available for this document, ID: 0.7.10316.36042-000001

Image not available for this document, ID: 0.7.10316.36042-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, August 28, 2006 7:16 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 28, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Deputy Attorney General McNulty Held Press Conference Regarding Settlement with Prudential Equity Group (OPA)
Today, Deputy Attorney General Paul J. McNulty held a press conference announcing that Prudential Equity Group LLC (PEG) has entered into a deferred prosecution agreement in which it admitted to criminal wrongdoing in connection with deceptive market timing trading in mutual fund shares and has agreed to pay $600 million in fines, restitution and penalties. This fine is the largest resolution of a "Market Timing" case to date. The Deputy Attorney General was joined by U.S. Attorney Michael Sullivan from the District of Massachusetts and officials from the SEC and the U.S. Postal Inspection Service.

NBC Nightly News to Air Story Hurricane Katrina Fraud (OPA)
Tomorrow, NBC Nightly News will air a story regarding Department of Justice efforts to combat Hurricane Katrina Fraud. The story will feature an interview with U.S. Attorney David Dugas, of the Middle District of Louisiana.

FBI Assistant Director Interviewed Regarding FBI Efforts after Katrina (FBI)
Today, *USA Today* reporter Kevin Johnson interviewed Assistant Director Chip Burrus regarding FBI efforts in the gulf region one year after the landfall of Hurricane Katrina It is unclear when the story will run.

FBI Deputy Director Interviewed Regarding FBI Efforts to Combat Terror (FBI)
Today, *McClatchy* reporters Greg Gordon and Marisa Taylor interviewed FBI Deputy Director John Pistole to discuss progress and challenges in combating terrorism in the five years since 9/11. This story is expected to run this week.

Former Deputy of Harrison County Sheriff's Department Charged in Death of Inmate (Civil Rights)
Ryan Michael Teel, a former Deputy of the Harrison County, Miss. Sheriff's Department, was indicted on charges relating to the circumstances surrounding the death of an inmate, Jessie Lee Williams Jr., who died as a result of injuries sustained at the Harrison County Adult Detention Center on February 4, 2006. Teel was indicted on two counts: one alleges that Teel assaulted

Williams, thereby depriving him of his constitutionally-protected civil rights. It is further alleged that Teel's conduct involved an attempt to kill Williams, resulting in his bodily injury and death. The second count alleges that Teel obstructed justice by falsifying an official report with intent to obstruct an investigation into the assault on Williams. If convicted, Teel faces a maximum penalty of life in prison on count one of the indictment, and a maximum penalty of 20 years in prison and a fine of $250,000 on count two.

TUESDAY'S EXPECTED EVENTS/RELEASES:

11:00 A.M. EDT

The FBI will host a press availability regarding *FBI Technology and Connecting the Dots*. Participants will include FBI Executive Assistant Director Willie Hulon, Executive Assistant Director Kerry Haynes, Chief Information Officer Zal Azmi, Deputy Assistant Director Tom Harrington and Supervisory Special Agent Gurvis Grigg.

11:45 A.M. MDT

John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

Owens, Angela (ENRD)

From:	Owens, Angela (ENRD)
Sent:	Tuesday, August 29, 2006 9:54 AM
To:	Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Ferguson, Russ (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Lesch, Jaclyn; Magnuson, Cynthia; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Randall, Gary (ENRD); Rogers, Cherie (ENRD); Rubin, Jim; Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Stoller, Stacy (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)
Subject:	Attached is ENRD's Weekly Report to the AG...
Attachments:	#103940-v1-AG_Weekly_-_Aug__29.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

- ***Submission of Demand Letter Under Consent Decree in Exxon Valdez Oil Spill Case***

On Thursday, August 31, 2006, ENRD plans to submit a letter to Exxon Mobil in United States v. Exxon Corp. (D. Alaska), demanding payment of the $92 million estimated cost of a habitat restoration project for which we presented plans to Exxon on June 1. The demand letter is the necessary next step in asserting a claim under the Reopener for Unknown Conditions provision in the 1991 Consent Decree that resolved claims for natural resource damages arising from the Exxon VALDEZ oil spill. The letter will be co-signed by the Assistant Attorney General and the Alaska Attorney General.

LAST WEEK

- ***Favorable Decision in Northwest Environmental Advocates v. National Marine Fisheries Service (9th Cir.)***

On August 23, 2006, a divided panel of the Ninth Circuit affirmed the district court's grant of summary judgment for the Army Corps of Engineers ("the Corps"). The majority's decision

allows the Corps' Columbia River Channel Improvement Project, which will deepen 103 miles of the Columbia River by three feet to allow easier passage by cargo ships, to proceed. Over a lengthy dissent, the majority rejected plaintiff Northwest Environmental Advocates' argument that the Corps had violated the National Environmental Protection Act by failing to take a "hard look" at the environmental and economic impacts of the project.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0167163

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 10:22 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE

Department of Justice

PRESS GUIDANCE
Tuesday, August 29, 2006

ATTORNEY GENERAL

The Attorney General arrived in Baghdad on Tuesday to meet with and thank Department of Justice officials working in Iraq to rebuild the country's legal and law enforcement infrastructure. The Attorney General also met with high-ranking Iraqi officials, including Deputy Prime Minister Barham Salih and Chief Justice of the Higher Juridical Council Medhat Al-Mahmoud, as well as U.S. military personnel.

PRESS RELEASES

The Criminal Division will issue a release on a public corruption matter in Alabama (Sierra).

The Civil Division will issue a release on a health care settlement. (Miller)

The Tax Division will issue a release. (Miller)

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at 202-514-2007. You may also visit our website at www.usdoj.gov

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167164

Image not available for this document, ID: 0.7.10316.35849-000001

Image not available for this document, ID: 0.7.10316.35849-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 10:37 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 29, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, August 29, 2006

ATTORNEY GENERAL

The Attorney General will visit Department of Justice officials and high-ranking Iraqi officials in Baghdad.

PRESS RELEASES

The Civil Division will issue a release on a settlement matter. (Miller)

EVENTS/HEARINGS

11:00 A.M. EDT

The FBI will host a press availability regarding *FBI Technology and Connecting the Dots*. Participants will include FBI Executive Assistant Director Willie Hulon, Executive Assistant Director Kerry Haynes, Chief Information Officer Zal Azmi, Deputy Assistant Director Tom Harrington and Supervisory Special Agent Gurvis Grigg.
SIOC Executive Briefing Room
FBI Building
935 Pennsylvania Ave. NW
Washington, DC
OPEN PRESS

Press inquiries regarding logistics should be directed to Cathy Milhoan of the FBI at 202-324-3691.

11:45 A.M. MDT

John L. Clark, Director of the United States Marshals Service, will address the Western States Fugitive Conference.
Hotel Albuquerque at Old Town
800 Rio Grande Blvd., N.W.
Albuquerque, New Mexico
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Eden of the U.S. Marshals Service at 505-346-6418.

DOJ_NMG_ 0167167

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167168

Image not available for this document, ID: 0.7.10316.35844-000001

Image not available for this document, ID: 0.7.10316.35844-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 11:24 AM
To: USDOJ- Office of Public Affairs
Subject: SCHERING TO PAY $435 MILLION FOR THE IMPROPER MARKETING OF DRUGS AND MEDICAID FRAUD

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/MA

CONTACT: CHRISTINA STERLING
PHONE: (617) 748-3100
FAX: (617) 748-3992

SCHERING TO PAY $435 MILLION FOR THE IMPROPER MARKETING OF DRUGS AND MEDICAID FRAUD

BOSTON – Schering-Plough Corporation, together with its subsidiary, Schering Sales Corporation, have agreed to pay a total of $435 million to resolve criminal charges and civil liabilities in connection with illegal sales and marketing programs for its drugs Temodar, for use in the treatment of brain tumors and metastases, and Intron A, for use in treatment of superficial bladder cancer and hepatitis C. The resolution also pertains to Medicaid fraud involving Schering's drugs Claritin RediTabs, a non-sedating antihistamine and K-Dur, used in treating stomach conditions.

Schering Sales Corporation will pay a $180 million criminal fine and, together with Schering-Plough Corporation, another $255 million to settle civil liabilities, U.S. Attorney Michael J. Sullivan of the District of Massachusetts, Regional Inspector General Joseph Moraski of the Department of Health and Human Services, Special Agent in Charge Mark Dragonetti of the U.S. Food and Drug Administration (FDA), Special Agent in Charge Edward Bradley of the Defense Department's Criminal Investigation Service, and Special Agent in Charge Jeffrey Hughes of the Department of Veteran's Affairs announced today. Today's global resolution ensures that the federal Medicaid program and each of the State Medicaid agencies, which paid for prescriptions of Claritin RediTabs and K-Dur, will obtain the benefit of the best price offered by Schering to commercial purchasers of those drugs, and will ensure that Schering pays appropriate damages for improperly promoting its drugs for uses not approved by the FDA and from offering or paying kickbacks to physicians to prescribe those drugs.

"The Justice Department is committed to rooting out and prosecuting health care fraud," said Deputy Attorney General Paul J. McNulty. "It is vital to public health and safety that pharmaceutical companies are deterred from improperly marketing their drugs to doctors and patients to treat illnesses that these drugs are not approved to treat. This settlement sends a clear message to the pharmaceutical industry that the Justice Department will not tolerate these deceptive and illegal marketing practices."

DOJ_NMG_ 0167171

"The American people, as both taxpayers and consumers, expect our health care system to be free from fraud and corruption," stated U.S. Attorney Sullivan. "The pharmaceutical industry has an obligation to ensure that all rules, regulations and laws are complied with. To do less erodes public confidence, compromises the patient physician relationship and adds costs to important government programs. We will not tolerate attempts to profit at the expense of the ill and needy in our society."

To resolve the criminal charges, Schering Sales Corporation has agreed to plead guilty to a one count criminal conspiracy to make false statements to both the FDA regarding its improper drug promotional activity and to the Health Care Financing Administration regarding its best price for certain drugs, and to pay a $180 million criminal fine. As a result of its criminal conviction, Schering Sales will be excluded permanently from participation in all federal health care programs.

Schering Plough Corporation also agreed to settle its civil False Claims Act liabilities and liabilities under the Food Drug and Cosmetic Act for a total of $255 million. Specifically, Schering will pay approximately $159 million, plus interest, to the United States in civil damages for losses suffered by the Medicare program, the federal portion of the Medicaid program, the Veteran's Administration, the Department of Defense and the Federal Employees Health Benefits program as a result of Schering's improper drug promotion and marketing misconduct, and Medicaid rebate fraud. Schering will also pay a total of $91,602,000, plus interest, to settle its civil liabilities to the fifty states and the District of Columbia for losses the state Medicaid programs suffered. In addition, Schering will refund $3,921,090 to the Public Health Service (PHS) programs that also were entitled to a lower price on certain drugs.

The first object of the conspiracy, to which Schering Sales will plead guilty, charges that it conspired with others to give free Claritin Redi-Tabs to a major health maintenance organization to disguise a new lower price being offered to the HMO to obtain its business. Drug manufacturers are required to report their best price on drugs provided to certain commercial customers, including HMOs, to the Health Care Financing Administration ("HCFA"), and to pay quarterly rebates to the Medicaid program, the nation's taxpayer funded health insurance program for the poor and disabled, to be sure the Medicaid program obtains the benefit of that low price. From April 1998 through 1999, Schering Sales reported a false best price to HCFA, which failed to include the new low price of Claritin Redi-Tabs provided to the HMO, to avoid paying millions of dollars in additional rebates to the Medicaid program.

"Investigation of prescription drug fraud is a priority of the Office of Inspector General (OIG) and resolution of this case stems from OIG's strong relationship with our law-enforcement partners," said Daniel R. Levinson, Inspector General of the U.S. Department of Health and Human Services. "In addition to enforcement, OIG strongly supports implementation of compliance measures by pharmaceutical companies that are designed to address all risk areas of their business - whether they be pricing, marketing or promotional practices. The expanded
Corporate Integrity Agreement with Schering-Plough incorporates additional ways for OIG and the Company to monitor these issues and minimize the risk of off-label promotion."

"The Centers for Medicare & Medicaid Services is committed to protect the Medicare program for beneficiaries and taxpayers, and with the implementation of the prescription drug benefit, it is even more important for the Government to fully investigate health care fraud relating to prescription drugs," said CMS Administrator Mark B. McClellan, M.D., Ph.D. "At the same time, drug manufacturers have a duty to implement strong compliance measures that will address all risk areas of their business including pricing, marketing or promotions. "

The second object of the conspiracy, to which Schering Sales will plead guilty, charges that it conspired with others to make false statements to the FDA in response to the FDA's inquiry regarding certain illegal

DOJ_NMG_ 0167172

promotional activities by the Company's sales representatives at a national medical conference for oncologists. Those false statements were designed to reassure the FDA that the promotional activities were isolated and not directed by home office, when in fact, the activities were widespread and part of the national marketing plan. In addition, the Company sought to falsely lull the FDA into believing that it had taken appropriate steps to reinforce the message with its sales representatives that such promotional activities were prohibited, when in fact, the Company knew and expected that those activities would continue.

"The FDA takes seriously its responsibilities to protect consumers from products that are promoted for unapproved uses," says Margaret Glavin, the FDA's Associate Commissioner for regulatory affairs. "Pharmaceutical manufacturers who mislead FDA place consumers at risk."

The civil settlement resolves allegations that Schering-Plough Corporation and Schering Sales knowingly caused the submission of false and/or fraudulent claims for Schering's drugs that were not eligible for reimbursement. These included the government's claims that (1) Schering misreported its best price to HCFA on Claritin ReidTabs to evade Medicaid rebate liability, (2) Schering misreported its best price on private-labeled K-Dur to HCFA to evade Medicaid rebate liability, (3) Schering overcharged the PHS entities because of its misreporting of best price to HCFA, (4) Schering induced physicians to start patients on Intron A for Hepatitis C by paying them remuneration through three marketing programs, (5) Schering induced physicians to use Temodar for certain patients with brain tumors and brain metastases and to use Intron A for certain patients with superficial bladder cancer through improper preceptorships, sham advisory boards, lavish entertainment, and improper placement of clinical trials; and (6) Schering knowingly promoted off label uses of Temodar for certain brain tumors and brain metastases and Intron A for superficial bladder cancer despite not having FDA approval.

Schering-Plough Corporation will be subject to an amendment to its existing Corporate Integrity Agreement. That amendment requires Schering to continue extensive work that the Company has undertaken in the last two years to monitor and correct the shortcomings in Schering's drug sales, marketing and pricing activities. After the activities were uncovered by the government, Schering-Plough cooperated with the investigation and actively worked on compliance issues through a significantly expanded compliance department.

The investigation was conducted by the Food and Drug Administration's Regional Office of Criminal Investigations in both Boston and Miami; the Department of Health and Human Services' Office of Inspector General, Office of Investigations; the Defense Criminal Investigative Service of the Department of Defense; and the United States Office of Veteran's Affairs' Office of the Inspector General.

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DOJ_NMG_ 0167173

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Image not available for this document, ID: 0.7.10316.35842-000002

Harrison, Mia (CRT)

From:	Harrison, Mia (CRT)
Sent:	Tuesday, August 29, 2006 11:53 AM
To:	Davis, Deborah J; Fowler, Liane; Gorsuch, Neil M; Henderson, George; Jorge Martinez; Longwitz, Tobi (CRT); Scott-Finan, Nancy; Shaw, Aloma A
Subject:	Weekly
Attachments:	Final Weekly 8.29.06.wpd

The message is ready to be sent with the following file or link attachments:

Final Weekly 8.29.06.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Wan J. Kim
Assistant Attorney General

SUBJECT: Weekly Report for the Week ending September 1, 2006

NEXT WEEK

· ***Trial Begins in Human Trafficking Case Involving Saudi Princess:***
On September 5, trial is scheduled to begin in United States v. Al Jader (District of Massachusetts). On March 29, 2005, defendant Hana F. Al Jader was charged with violating two counts each of forced labor and attempted forced labor, document servitude, falsification of records, visa fraud, and harboring an alien in the United States. Defendant Al Jader, a Saudi Princess, is charged with unlawfully harboring two Indonesian women and forcing them to work as domestic servants in her suburban Boston home. The women had their passports and immigration documents confiscated in order to maintain their services as domestic laborers.

THIS WEEK

· No entries this period.

LAST WEEK

· ***Sentencing in Case on Violation of the Civil Rights of an Arab-American Family:***
On August 22, in United States v. Nix (Northern District of Illinois), defendant Eric Nix was sentenced to 15 months in prison. On March 6, defendant Eric Nix entered a guilty plea to violating one count of housing interference with the use of fire for igniting an explosive device inside a van owned by a Palestinian family while the van was parked in front of their home. Previously, in a separate but related case, defendant Daniel Alba

· ***Hartford Men Plead Guilty for Involvement in Trafficking and Prostitution Ring:***

On August 22, Ronald Martinez of West Hartford, Connecticut pleaded guilty to transporting women across state lines for the purpose of engaging in prostitution, money laundering, conspiracy, and use of a facility in interstate commerce to promote prostitution. Co-defendant Jerome Hargrove pleaded guilty to one count of conspiracy in the same ten co-defendant case on August 21. Martinez and Hargrove were charged in a sixty four-count superceding indictment, along with eight other co-defendants, on August 8, 2006. Three of the co-defendants in that indictment were charged with the sex trafficking of minors and sex trafficking by force, fraud, and coercion. As a condition of the plea, Martinez admitted to running his own prostitution business in Hartford, Connecticut, driving prostitutes to and from Massachusetts to engage in commercial sex acts, using the telephone to promote his prostitution business, and conspiring with others to use the telephone to promote their respective prostitution businesses.

LONG RANGE EVENTS

· No entries this period.

Division Contact: Kimani S. Little, (202) 305-4441

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, August 29, 2006 12:21 PM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 8.29.2006
Attachments: CRS AG Weekly 8-29-06.doc

Attached, please find CRS' Weekly Report to the Attorney General for August 29, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

August 29, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

B. This Week

- ***CRS to Monitor Klu Klux Klan Rally in Gettysburg, PA***
  On September 2, 2006, CRS will be in Gettysburg, PA to provide technical assistance and contingency planning for a planned rally to be held by the Klu Klux Klan at the Gettysburg National Park. CRS has been in communication with Gettysburg law enforcement officials, U.S. National Park Service officials, and local community leaders to provide contingency planning in an effort to ensure community safety.

- ***CRS to Monitor Demonstration in Farmington, NM***
  On September 2, 2006, CRS will be onsite in Farmington, NM to provide technical assistance and conciliation services as needed for a planned memorial demonstration to be held by local community members to express concerns and protest recent reports of an alleged hate-related incident and police use of force incident directed towards Native American community members. Racial tensions among the local city and police department and Native American community are heightened. This continues previous CRS case work in Farmington, following community tensions surrounding the recent shooting death of a Native American male by a Farmington police officer during an altercation. CRS will be in communication with Farmington Police Department officials and local community members and leaders to ensure community safety for the planned event.

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0167180

C. Last Week

- ***CRS Monitored White Supremacist March in Jaffrey, NH***
  On August 26, 2006, CRS was onsite in Jaffrey, NH to monitor and provide technical assistance to ensure community safety for a planned white supremacist march and rally and counter-protests. CRS was in communication with Jaffrey law enforcement officials and community members to provide contingency planning prior to the event. The event proceeded without incident.

- ***CRS Monitored Protest March in Farmers Branch, TX***
  On August 26, 2006, CRS was in Farmers Branch, TX to provide technical assistance and contingency planning for a demonstration held by local civil rights and minority community leaders at the Farmers Branch City Hall to protest proposed illegal immigration-related legislation. CRS was in communication with city officials and community leaders and members prior to the event to ensure community safety. The event was attended by approximately 300 protestors and 25 counter-demonstrators and proceeded without incident.

- ***CRS Monitored Protest March in Maywood, CA***
  On August 26, 2006, CRS was onsite in Maywood, CA to provide technical assistance and conciliation services as necessary for a planned demonstration to protest illegal immigration and potential counter-demonstrations. CRS was in communication with Maywood and Los Angeles County law enforcement officials, Los Angeles County Human Relations Commission representatives, and local community leaders to provide contingency planning prior to the event to ensure community safety. The event proceeded without incident.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0167181

From: [redacted]
Sent: Tuesday, August 29, 2006 1:52 PM
To: [redacted]
Subject: PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments: tmp.htm

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

[redacted]

Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 2:45 PM
To: USDOJ- Office of Public Affairs
Subject: FIFTEEN INDIVIDUALS INDICTED FOR FEMA FRAUD IN ALABAMA

Department of Justice

United States Attorney Alice H. Martin
Northern District of Alabama

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/ALN

CONTACT: JILL ELLIS
PHONE: (205) 244-2015
FAX: (205) 244-2171

FIFTEEN INDIVIDUALS INDICTED FOR FEMA FRAUD IN ALABAMA

BIRMINGHAM, Ala.– Fifteen individuals have been indicted by a federal grand jury in Alabama on allegations of fraud and theft resulting from claims filed with the Federal Emergency Management Agency (FEMA), U.S. Attorney Alice H. Martin, Special Agent in Charge J. Christopher Murphy and Assistant Special Agent in Charge Roy Sexton, both of the U.S. Secret Service, announced today. The indictments filed allege fraud and theft of federal disaster relief funds from Hurricanes Katrina and Rita which devastated parts of the south in 2005.

"The defendants are charged today with consciously setting out to steal money meant for Hurricane victims," U.S. Attorney Martin stated during a press conference today. "They will now face the consequences of the federal justice system."

Special Agents from the U.S. Secret Service led the investigations that resulted in indictments filed against the following individuals:

- Wyshondra Latricia Coleman, 22; Angenica Michelle Jackson, 24; Emily Jackson Bibbs, 41; Shannon Yvonne Bibbs, 23; Jaquetta Shuna Jackson, 23; and Tequica Piketa Jackson, 24, all of Bessemer, Ala., have been charged with false claims against the government and theft of government money or property. The defendants filed with FEMA, claiming to be residents of Texas during the landfall of Hurricane Rita. They reported property damage on their claims for emergency relief funds. A $2,000 U.S. Treasury check was issued to each individual based on the fraudulent information provided. The defendants allegedly cashed the checks knowing the information they provided was false.

- Larry Williams, 36; Pearlie Mae Jefferson, 48; and Talonya Laquese Jackson, 27, all of Bessemer, Ala., have been charged with making false claims against the government and theft of government property or money. As alleged in the indictment, the defendants submitted requests for FEMA funds and each received a $2,000 U.S. Treasury check. The defendants allegedly cashed the checks knowing the information provided was false and untrue.

DOJ_NMG_ 0167184

- Derrick D. Pettus, 27, of Birmingham, Ala., has been charged with making false claims against the government and theft of government money or property. Pettus filed a claim with FEMA and claimed to be a resident of New Orleans during the land fall of Hurricane Katrina. As a result of the FEMA claim, a U.S. Treasury Check in the amount of $2,000 was mailed to Pettus at his address in Birmingham, Ala.. Pettus cashed the Treasury check knowing the information he provided was false.

- Lakeysha L. Wyatt, 29, of Birmingham, Ala., has been charged with making false claims against the government and theft of government money or property. Wyatt made a claim for immediate assistance claiming to be a resident of Galveston, Texas, during the landfall of Hurricane Rita. As a result FEMA issued a U.S. Treasury check in the amount of $2,000, and mailed the check to Wyatt at her address in Ensley, Ala.. Wyatt then cashed the check knowing the information submitted was false and untrue.

- Steve Small, 30, of Birmingham, Ala., has been charged with making false claims against the government and theft of government property. A claim was filed with FEMA for immediate assistance on behalf of Small. In the request for emergency relief funds, Small claimed to be a resident of New Orleans during the landfall of Hurricane Katrina. FEMA mailed an emergency relief check to Small at his Birmingham address. Small then cashed the check knowing the information submitted was false and untrue.

- Nanette Williams, 39; Terkesha Linette Smith, 31; and Ashley Shatara Johnson, 20, each of Birmingham, Ala., have been charged with making false claims against the government and theft of government money or property. It is alleged that the defendants submitted a request for FEMA funds and received a $2,000 U.S. Treasury check. Williams, Smith, and Johnson each allegedly cashed the check knowing the information provided was false and untrue.

"These indictments are just the tip of the spear regarding the investigations of fraud and theft of disaster relief funds provided by FEMA," states Special Agent in Charge J. Christopher Murphy of the U.S. Secret Service. "We follow a zero tolerance policy regarding theft of taxpayer dollars, therefore we intend to fully investigate and present the evidence of fraud and theft for prosecution of the person or persons who perpetrated it."

The maximum penalty for making false claims against the government is five years in prison and a fine of $250,000 or both. The maximum penalty for theft of government property or money is ten years in prison and a fine of up to $250,000 or both.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate and prosecute disaster-related federal crime, such as charity fraud and insurance fraud. This task force, chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, U.S. Department of Justice, includes members from the Department of Homeland Security, Federal Bureau of Investigation, Federal Trade Commission, and U.S. Postal Inspection Service. The U.S. Attorney's Office for the Northern District of Alabama as well as law enforcement in the Northern District are members of the Task Force.

These cases were investigated by the U.S. Department of Homeland Security, U.S. Secret Service. Assistant U.S. Attorneys John H. England, III, and E. Vincent Carroll are prosecuting these matters on behalf of the U.S. Government.

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DOJ_NMG_ 0167185

Image not available for this document, ID: 0.7.10316.35810-000001

Image not available for this document, ID: 0.7.10316.35810-000002

Image not available for this document, ID: 0.7.10316.35810-000003

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 4:20 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GADSDEN, ALABAMA PUBLIC OFFICIAL PLEADS GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER GADSDEN, ALABAMA PUBLIC OFFICIAL PLEADS GUILTY TO PARTICIPATING IN BRIBERY AND WIRE FRAUD CONSPIRACY

WASHINGTON – The former director of the Gadsden Commercial Development Authority pleaded guilty to participating in a bribery and wire fraud conspiracy that operated from August 2005 through February 2006, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Cathy Back, 53, entered a guilty plea this afternoon in U.S. District Court in Birmingham, Ala., before the Honorable L. Scott Coogler. She was charged with one count of conspiring to commit federal programs bribery and honest services wire fraud. The charge relates to a bribery scheme in which Back worked with Larry R. Thompson, a private political consultant, to make cash payments to influence and reward members of the Gadsden City Council for their votes in connection with a real estate development. Thompson, along with City Council Members Jimmy L. Armstrong and Fred L. Huff, have already pleaded guilty to a similar charge. The charges arise from Operation Costly Influence, a covert investigation conducted by the FBI.

As part of her plea agreement, Back admitted that she conspired with Thompson to offer cash payments to four members of the Gadsden City Council with the intent of influencing and rewarding them in connection with their votes that aided a mixed-use real estate development along the banks of the Coosa River in Gadsden. Back agreed to assist Thompson in advancing the interest of the real estate development through corrupt means, and that the conspirators tried to disguise the nature of the cash payments by calling them "campaign contributions." Back also admitted that she allowed a witness, who was cooperating with the FBI, to leave cash intended for Thompson in her office.

The conspiracy charge carries a maximum penalty of five years in prison and a $250,000 fine. Back has agreed to cooperate in this ongoing investigation.

These cases are being investigated by the FBI. They are being prosecuted by Trial Attorney John P. Pearson and Senior Trial Attorney John W. Scott of the Public Integrity Section of the Criminal Division, headed by Acting Section Chief Edward C. Nucci.

# # #

DOJ_NMG_ 0167189

06-577

DOJ_NMG_ 0167190

Image not available for this document, ID: 0.7.10316.35805-000001

Image not available for this document, ID: 0.7.10316.35805-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 5:46 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: LYMAN THORNTON
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Dana L. Joseph, 23, of Donaldsonville, La., pled guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today. She was sentenced to five years probation, 60 days of home detention and $2,000 in restitution by U.S. District Court Judge James J. Brady.

The U.S. Department of Homeland Security's Office of Inspector General conducted the investigation of this matter. The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be e-mailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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DOJ_NMG_ 0167193

Image not available for this document, ID: 0.7.10316.35796-000001

Image not available for this document, ID: 0.7.10316.35796-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:06 PM
To: USDOJ- Office of Public Affairs
Subject: WICHITA MAN SENTENCED TO MORE THAN 19 YEARS IN PRISON ON CHILD PORN CHARGES

Department of Justice

United States Attorney Eric Melgren
District of Kansas

FOR IMMEDIATE RELEASE
TUESDAY, AUGUST 29, 2006
WWW.USDOJ.GOV/USAO/KS

CONTACT: JIM CROSS
PHONE: (316) 269-6481
FAX: (316) 269-6420

WICHITA MAN SENTENCED TO MORE THAN 19 YEARS IN PRISON ON CHILD PORN CHARGES

WICHITA, Kan. – Steven C. Perrine, 53, was sentenced to more than 19 years in federal prison for receiving and distributing child pornography, U.S. Attorney Eric Melgren of the District of Kansas announced today.

Perrine was convicted in June 2006 on four counts including one count of distributing child pornography, one count of receiving child pornography, one count of possessing child pornography and one count of unlawfully possessing a firearm after a felony conviction.

"Mr. Perrine was on probation from a prior conviction for the sexual exploitation of a minor when he was arrested in this case," said U.S. Attorney Eric Melgren. "He had seven computer hard drives containing thousands of images of child pornography."

Evidence presented at trial showed that Perrine used the name "stevedragonslayer" in a Yahoo chat room on Sept. 2, 2005, when he played videos containing child pornography for another Yahoo user who was in contact with him from Pennsylvania via computer. The other Yahoo user alerted police in Pennsylvania. Investigators followed an electronic trail to Perrine, who was a subscriber to Internet service provided by Cox Communications.

Investigators determined that Perrine had pleaded guilty on Oct. 14, 2003, in Sedgwick County District Court to one count of sexual exploitation of a child. On Dec. 22, 2005, investigators served a search warrant at Perrine's home in Wichita where they seized firearms as well as two computers containing images of child pornography.

DOJ_NMG_ 0167196

Melgren commended the Federal Bureau of Investigation, the Wichita Police Department and the Exploited and Missing Child Unit (EMCU), as well as the Moon Township Police Department and the Leetsdale Police Department in Pennsylvania, all of which investigated the case.

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Image not available for this document, ID: 0.7.10316.35790-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:37 PM
To: USDOJ- Office of Public Affairs
Subject: GANG TASK FORCE SWEEP NETS 17 GANG MEMBERS AND ASSOCIATES ON DRUG AND GUN CHARGES

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE CONTACT: BOB TROESTER
TUESDAY, AUGUST 29, 2006 PHONE: (405) 553-8999
www.usdoj.gov FAX: (405) 553-8742

GANG TASK FORCE SWEEP NETS 17 GANG MEMBERS AND ASSOCIATES ON DRUG AND GUN CHARGES

OKLAHOMA CITY – Approximately 100 federal and local law enforcement officers fanned out across the Oklahoma City area today to execute 17 sealed federal arrest warrants relating to drug and gun charges brought against various gang members and their associates. State search warrants were also executed.

A joint investigation by the Oklahoma City Metropolitan Gang Task Force used an Oklahoma City Police Department undercover officer and a confidential informant to make controlled purchases of firearms and cocaine powder and crack cocaine from known street gang members and their associates. This effort was the product of the Project GRIND which seeks to have Gangs, Removed, Isolated Neutralized, and Dismantled from our streets and neighborhoods.

As of today, federal complaints have been unsealed charging the following 17 individuals from Oklahoma City with gun charges, drug charges, or both: Rayne Alisa Osborn, 23; DeWayne Antwon Thompson, 19; Roy Lee Wilson, Jr., 32; Hubert H. House, III, 31; Traci L. Johnson, 22 ; Allen Lamar Carson, 28; Dedric Steven Marshall, 29; and Kenisha Marna Kees, 18.

The following individuals are currently in state custody on other charges: Derlon Bray, 21 and Remington R. Leathers, 21.

The following individuals are currently fugitives: Kendric Raymond Marshall, 29; Vicki L. Wilson, 51; Rochelle Lashawn Hopkins, 27; DeJuan Martez Covington, 23; Colin Dewone Bruner, 22; Clarence Demotric Williams, 30; and Raquinda Reynesia Walker, 23. Anyone with information about the location of the fugitives is asked to contact law enforcement authorities.

In February 2006, Attorney General Alberto R. Gonzales unveiled the Department of Justice's plan to combat gang violence across America. This strategy is two-fold. First, prioritize prevention programs to provide America's youth and offenders returning to the community with opportunities that help them resist gang involvement. Second, ensure robust enforcement policies when gang-related violence does occur. The

DOJ_NMG_ 0167200

Attorney General's program expands the successful Project Safe Neighborhoods program to include new and enhanced anti-gang efforts.

On May 23, 2006, U.S. Attorney John C. Richter, Oklahoma County District Attorney Wes Lane, FBI Special Agent in Charge Sal Hernandez, ATF Special Agent in Charge Ronnie Carter, and Oklahoma City Police Department Chief Bill Citty publicly announced the formation of the Oklahoma City Metropolitan Gang Task Force. The task force goal is simple: "All for one, one for all" in the fight against violent street gangs. The local strategy implements the Attorney General's two priorities: Prosecution and Prevention.

Under the prosecution prong, federal, state and local law enforcement partner agencies in the Oklahoma City metropolitan area will conduct joint strategic and priority targeting of violent street gangs such as today's operation. By operating in a task force made up of federal and state agents, officers and prosecutors working closely together each day on gang issues, traditional barriers that often exist between investigating agencies and prosecuting offices will be broken down. This approach will yield a greater continuity and coordination of investigations and prosecutions to strategically eradicate illegal gang activity.

Under the prevention prong, the task force will work to implement community prevention and outreach programs to address the personal, family, and community factors that cause young people to choose gangs over better, safer, and more productive alternatives.

Law enforcement agencies involved in this Oklahoma City Metropolitan Gang Task Force investigation and today's initiative are the Oklahoma City Police Department, Warr Acres Police Department, ATF, FBI, U.S. Marshal's Service, and Oklahoma County Sheriff. The federal cases are being prosecuted by Assistant U.S. Attorneys Mark Yancey, Sandy Coats, Lee Borden, Jeb Boatman, and Ed Kumiega.

The public is reminded that the criminal complaints are merely an accusations and that the defendants are presumed innocent unless and until proven guilty. Reference is made to the criminal complaints and supporting affidavits for further information.

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Image not available for this document, ID: 0.7.10316.35792-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, August 29, 2006 6:58 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 29, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Travels to Baghdad (OPA)
Today, Attorney General Alberto R. Gonzales visited Baghdad, where he met with and thanked Department of Justice officials working in Iraq. He also met with U.S. military personnel and high-ranking Iraqi officials, including Deputy Prime Minister Barham Salih and Chief Justice of the Higher Juridical Council Medhat Al-Mahmoud.

FBI Holds Press Availability Regarding the Use of Technology to Prevent Terrorism (FBI)
Today, the FBI hosted a press availability on *FBI Technology and Connecting the Dots*. Participants included FBI Executive Assistant Director Willie Hulon, Chief Information Officer Zal Azmi and Supervisory Special Agent Gurvais Grigg. Approximately 30 reporters attended and a number of them asked follow-up questions both on and off-camera.

FBI Fugitive Captured in Nevada (FBI)
Today, Warren Steed Jeffs, a fugitive on the FBI's Ten Most Wanted list, was apprehended by the Nevada Highway Patrol after a routine traffic stop near Las Vegas. This evening, FBI Assistant Director Chip Burrus will appear on Catherine Crier Live (Court TV) and Anderson Cooper 360 (CNN) regarding the capture.

Former Gadsden, Alabama Public Official Pleads Guilty to Participating in Bribery and Wire Fraud Conspiracy (Criminal)
Today, the former director of the Gadsden Commercial Development Authority pleaded guilty to participating in a bribery and wire fraud conspiracy that operated from August 2005 through February 2006. Cathy Back entered a guilty plea in U.S. District Court in Birmingham, Ala., before the Honorable L. Scott Coogler. She was charged with one count of conspiring to commit federal programs bribery and honest services wire fraud. The charge relates to a bribery scheme in which Back worked with Larry R. Thompson, a private political consultant, to make cash payments to influence and reward members of the Gadsden City Council for their votes in connection with a real estate development. Thompson, along with City Council Members Jimmy L. Armstrong and Fred L. Huff, have already pleaded guilty to a similar charge. The charges arise from Operation Costly Influence, a covert investigation conducted by the FBI.

Pharmaceutical Giant Reaches Settlement with Justice Department (Civil)
Today, Schering-Plough Corp. agreed to pay $435 million and plead guilty to conspiracy to settle a federal investigation into marketing of its drugs for unapproved uses and overcharging Medicaid for certain drugs. Investigators found evidence that Schering-Plough marketed drugs for so-called "off-label" uses for which they were not approved by government regulators, even though doctors can individually choose to prescribe drugs for those purposes. The company agreed to pay $255 million to resolve civil aspects of the previously disclosed investigation. A subsidiary, Schering Sales Corp., will pay a criminal fine of $180 million and plead guilty to one count of conspiracy to make false statements to the government. As part of the settlement, the drug maker also said it would add a section to an existing corporate integrity agreement it has with the Office of Inspector General of the U.S. Department of Health and Human Services. The agreement requires the company to monitor its sales, marketing and drug pricing, and correct past abuses.

Talking Points

- The Justice Department is committed to rooting out and prosecuting health care fraud.
- It is vital to public health and safety that pharmaceutical companies are deterred from improperly marketing their drugs to doctors and patients to treat illnesses that these drugs are not approved to treat.
- This settlement sends a clear message to the pharmaceutical industry that the Justice Department will not tolerate these deceptive and illegal marketing practices.

Justice Department Seeks to Bar Former Jackson Hewitt Franchise Manager from Preparing Tax Returns (Tax)
Today, the United States asked a federal court in Fresno, Calif. to bar David Meals from preparing federal income tax returns for others. During last year's tax filing season, Meals managed Jackson Hewitt's tax preparation franchise in Hanford, Calif. Jackson Hewitt, a franchise operation headquartered in Parsipanny, N.J., is the nation's second largest tax preparation service company. The government's complaint alleges that during that time, Meals, a former IRS employee, personally prepared or supervised other Jackson Hewitt employees who prepared 105 federal income tax returns falsely claiming tax exemption for casino-gaming proceeds paid to members of the Tachi Yokut Indian Tribe. The complaint states that the returns improperly sought more than $826,000 in tax refunds.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, August 29, 2006 10:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Decatur, GA

From: AmberAlert-DOJ
Sent: Tuesday, August 29, 2006 10:35:18 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Decatur, GA
Auto forwarded by a Rule

AMBER ALERT:Decatur,GA VEH:06 Silv Dodge Charger GA ADY0659 CHILD:7Mos B/M 2FT3 20LB Eye:Bro Hair:Bla SUSP:16 B/M 5FT11 140LB Eye:Bro Hair:Bla CALL 404-294-2554
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2022

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 9:49 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

WASHINGTON – Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum **TODAY, AUGUST 30, 2006, at 11:45 A.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Remarks at the National Violent Crime Summit

WHEN: **TODAY, AUGUST 30, 2006**
11:45 A.M. EDT

WHERE: Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

NOTE: Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-578

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Image not available for this document, ID: 0.7.10316.35318-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 9:51 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 30, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, August 30, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

11:45 A.M. EDT Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum.
Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167211

Image not available for this document, ID: 0.7.10316.35311-000001

Image not available for this document, ID: 0.7.10316.35311-000002

Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, August 30, 2006 10:40 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/30/06 Civil Division News

Judge says he will rule soon on charity's wiretapping suit; government says security at risk

Lawyers Seeking White House Records

US judge passes on government request for Guantanamo documents

Schering-Plough to Pay $435 Million, Plead Guilty to Settle Probe

Federal whistleblower case loses steam

Beverly Manor owner to pay settlement

After a 19-Year Battle, Judge Rules L.A. 8's Aiad Barakat Deserves U.S. Citizenship

AP

August 30, 2006

Judge says he will rule soon on charity's wiretapping suit; government says security at risk

By TIM FOUGHT

Associated Press Writer

PORTLAND, Ore._A federal judge suggested Tuesday that he would try to keep alive a lawsuit that challenges President Bush's domestic wiretapping program, while taking steps not to disclose classified information.

U.S. District Judge Garr King said he expected to render his decision next week in a case involving an Oregon-based Islamic charity that the government said had links to al-Qaida leader Osama bin Laden. The charity believes it was illegally wiretapped and says a document the government accidentally gave to its lawyers in 2004 bolsters its case.

The government said the document must be kept secret and any further court action involving it would lead to security breaches. The government has asked King to dismiss the charity's lawsuit.

In a hearing, King and the charity's lawyers talked about ways to keep the lawsuit alive without disclosing information about the classified document. Government lawyers resisted the idea.

King said federal judges handling similar cases in which national security concerns and the rights of plaintiffs clashed had tried to find ways around the problem, such as editing sensitive documents.

"It seems to me the cases have instructed the courts to be original," King told lawyers from the Justice Department. "I don't hear that from you at all."

Justice Department lawyer Andrew Tannenbaum said that U.S. National Intelligence Director John Negroponte had reviewed the case and determined that the government cannot confirm or deny information about intelligence-gathering without tipping its hand to terrorists.

"That very fact _ whether they were subject to surveillance _ is a privileged fact," Tannenbaum said.

Lawyers for the Al-Haramain Islamic Foundation said that the domestic wiretap program has been made public, disclosed by journalists and then confirmed by President Bush.

The foundation, once based in Ashland, closed after the government identified its parent organization as a terrorist group. The organization denied wrongdoing, saying that it collected money for a prayer house and for distributing religious pamphlets to prisoners.

END

AP

Aug. 29, 2006, 3:18PM

Lawyers Seeking White House Records

By DAVID B. CARUSO Associated Press Writer

NEW YORK — A pair of public interest lawyers said Tuesday they plan to subpoena the White House for any documents showing whether the Bush administration approved a secret program to examine the phone records of millions of Americans.

New Jersey attorneys Carl Mayer and Bruce Afran represent more than two dozen people who have sued Verizon Communications Inc., AT&T Inc. and BellSouth Corp., claiming the telecommunications companies violated privacy laws by turning over phone records to the National Security Agency.

The lawyers said they suspected the administration had begun obtaining the records even before the Sept. 11 attacks, which, if true, would raise questions about whether the program was initiated to combat terrorism.

"We want to find out when they started going after these records. We want to find out who authorized it.

Was it Dick Cheney? Was it someone else? And, frankly, we want to find out if they were using it improperly," Mayer said.

Justice Department lawyers representing the administration have argued that disclosing detailed information about the government's counterterrorism efforts, or even acknowledging whether the NSA phone records program exists, would be damaging to national interests.

The attorneys said they also planned to subpoena Verizon for documents.

Similar lawsuits have been filed nationwide, some of which have now been consolidated before a federal judge in San Francisco.

A Justice Department spokesman declined to comment Tuesday on the prospect of a subpoena. A Verizon spokesman also declined to comment.

Verizon has consistently denied that it provided the NSA with customer phone records, but has declined to discuss whether such an action was taken by its newly acquired long-distance subsidiary, MCI.

BellSouth has denied participating in the NSA program. AT&T has declined to comment on whether it turned over call information to the NSA.

END

AGENCE FRANCE PRESSE ENGLISH WIRE

August 30, 2006

US judge passes on government request for Guantanamo documents

WASHINGTON, Aug 29, 2006 (AFP) - A federal judge has refused to rule on a US government request to review documents seized from prisoners at the Guantanamo, Cuba prison camp, including confidential attorney-client exchanges.

US District Judge Richard Leon decided Monday that his Washington court did not have the jurisdiction to authorize or forbid the Justice Department review, part of an investigation of Guantanamo prisoner suicides.

After the suicide of three Guantanamo prisoners on June 10, the US Army launched an investigation to determine whether their suicides had been aided. Investigators seized all of the prisoners' documents -- amounting to a half tonne of personal notes, mail, photographs and legal documents.

According to the army, an analysis of certain of these documents had revealed that some prisoners had used paper reserved for their communications with their lawyers to communicate among themselves.

Citing this discovery, the government asked the federal court in early July for authorization to study all the documents, and filed the same request in each of dozens of prisoners' appeals of their detention currently under review by the federal court.

Leon said he was refraining from ruling on these matters, "under circumstances where the Court of Appeals could shortly determine that these matters are not the province of this Court."

But the judge warned the Justice Department that the merits of its review system will ultimately be overseen by a court that will be held responsible for these issues.

The Center for Constitutional Rights hailed Tuesday the judge's decision.

CCR attorney Gitanjali Gutierrez, who coordinates CCR's defense of the Guantanamo detainees, said in a statement: "With its ruling, the Court has thoroughly rejected the (President George W. Bush) administration's attempt to confiscate all of the papers of those detained at Guantanamo without judicial authorization.

"The court turned back an unprecedented invasion of attorney-client privilege."

END

The Associated Press
08-30-2006

Schering-Plough to Pay $435 Million, Plead Guilty to Settle Probe

Schering-Plough Corp. said Tuesday it has agreed to pay $435 million and will plead guilty to conspiracy to settle a federal investigation into its drug sales and marketing practices and its clinical trial programs.

Kenilworth, N.J.-based Schering-Plough said it will pay $255 million to resolve civil aspects of the previously disclosed investigation. A subsidiary, Schering Sales Corp., will pay a criminal fine of $180 million and plead guilty to one count of conspiracy under the agreement, which is subject to court approval.

Schering-Plough said the settlement resolves an investigation by the U.S. Department of Justice and the U.S. Attorney's Office in Boston that began before a new management team took over at the company in April 2003.

Schering-Plough said it had adequate cash in a litigation reserve to cover the settlement costs.

As part of the settlement, the drugmaker also said it would add a section to an existing corporate integrity agreement it has with the Office of Inspector General of the U.S. Department of Health and Human Services.

END

Falquier Times-Democrat

August 29, 2006

Federal whistleblower case loses steam

By: Cheryl K. Chumley

It may be a federal civil case, but recent actions are boding well for a local man who has spent the past weeks battling a behind-the-scenes accuser who charges fraud and corruption on overseas contracts.

Douglas Combs, a former Warrenton resident who now lives in Amissville and holds chief executive officer and director titles for the financial services firm Windmill International, Ltd., has been indirectly tied

in various news accounts to a company that was found guilty of fraud and conspiracy.

That company, Custer Battles LLC, was part of a 2003 civil whistleblower case that wrapped up with a jury finding in favor of the plaintiffs, Robert Isakson and William Baldwin, represented by attorney Alan Grayson.

The immediate outcome of this finding was that Custer Battles, owned by Scott Custer and Mike Battles, was banned from contracting in Iraq with the government.

A $10 million judgment was also awarded the plaintiffs, but that portion of the ruling became subject to appeal and further court scrutiny.

Fast-forward to 2006, and a second whistle-blower case emerged - reportedly brought by at least one person from the 2003 whistleblowers' case, only this time reportedly naming Combs and his company as possible defendants with possible ties to Custer Battles.

Whistleblower, or qui tam, cases are filed largely as sealed charges, and it's up to the Department of Justice to determine whether the paperwork listing the allegations are ever released for public viewing. That Combs and his business are formally under investigation for ties to Custer Battles, then, cannot be independently verified. His name enters the picture by way only of an Associated Press story, carried forth by other media outlets, in which the reporter claims personal receipt of a copy of the whistle-blower documents.

Combs, however, maintains his innocence and in a Times-Democrat story a couple of weeks ago, characterized his company, his fellow colleagues and his own plight as those of "victims," wrongfully accused by a press that has "bad information."

But now, from his perspective at least, relief could be on the horizon.

Earlier this month, a federal judge threw out the $10 million judgment against Custer Battles - and in so doing, opened the doors to hope for Combs, Windmill's director and chief operating officer, Peter Majeranowski, and other business colleagues facing the threat of current whistleblower pursuits.

The reason for the overturning was more technicality than any finding of innocence. The judge, according to an Aug. 19 Washington Post story, found that while facts did seem to show Custer Battles had illegally overpriced bills to the government, the fraud had occurred against the Coalition Provisional Authority - the interim international entity that was in charge of forging Iraq's new government - rather than against the United States itself.

Therefore, the judge found, terms of the whistleblower actions are not applicable.

Still, technicality or not, the reversal seems to put a new light on the current whistleblower effort, Majeranowski said.

"(Since) qui tam actions are allowed in cases involving fraud against the U.S. Government, and since the Court of Appeals has now held that the Coalition Provisional Authority is not the U.S. Government" when it comes to whistleblower cases, he wrote, in e-mailed answer to a couple of questions, "all qui tam cases ... against Custer Battles must be dismissed by the district courts."

The significance, he summed, is this: "Without having a copy of the sealed suit like the AP, we have to conclude that other (whistleblower) cases involving the CPA, including ours, may be thrown out."

Regardless, even had the 2003 whistleblower case culminated with an actual awarding of $10 million, Combs has said that a clearing of his name from this current qui tam action was forthcoming - it was just a matter of time.

"The only thing they have on us," the attorney for Windmill said during an earlier interview, "is the mistaken belief" that a link, either direct or indirect, exists with Custer Battles.

END

Petaluma Argus Courier

August 30, 2006

Beverly Manor owner to pay settlement

The company that operates 82 nursing homes and one assisted living center in the U.S., including Beverly Manor in Petaluma, has agreed to pay the state of California and the U.S. $20 million to settle allegations that it submitted false reimbursements claims to Medicare and Medi-Cal programs, U.S. attorney Kevin Ryan announced this month.

Beverly Manor officials said they are unaware if any of the false claims involved their center.

In March, Golden Horizons, based in Fort Smith, Ark., completed a $2.29 billion acquisition of Beverly Enterprises, which the attorney accused of defrauding California's federally funded Medi-Cal health program for indigent people and the federal Medicare health plan for elderly and disabled people.

The attorney's office alleges that from 1998 to 2002, a Beverly Enterprises subsidiary, the now-defunct MK Medical, violate the civil False Claims Act by billing Medicare and Medi-Cal for durable medical equipment without obtaining proper documentation and altering files in several instances.

Golden Horizons, which was not charged in court, has agreed to pay $5.5 million to the state and $14.5 million to the federal government to settle the claims.

In two earnings releases in 2002, Beverly Enterprises stated that it discovered over-billing of government payers during a third-party audit of MK, and notified them of possible overpayments.

The investigation was conducted by the Justice Department's Civil Division, U.S. Attorney General's Office for the Northern District of California in San Francisco, Federal Bureau of Investigation and Office of Inspector General for the Department of Health and Human Services.

END

Washington Report on Middle East Affairs

August 2006

After a 19-Year Battle, Judge Rules L.A. 8's Aiad Barakat Deserves U.S. Citizenship

By Pat McDonnell Twair

"I'M READY TO RULE," U.S. District Judge Stephen V. Wilson announced June 23, after three and a half days of tedious and sometimes contentious litigation.

Observers in his Los Angeles courtroom sat upright, leaning forward to hear the decision that would make

or break the life of Aiad Barakat, one of the L.A. 8, who was suing the U.S. government for denying him citizenship.

It took courage for Barakat, a legal U.S. resident since 1997, to take on the government, which in January 1987 arrested him, six other Palestinians and the Kenyan wife of one of the men for their alleged association with the Palestinian Front for the Liberation of Palestine. Shackled in irons, they were held in federal prison for six weeks.

None of the eight was accused of terrorism, but the government has been relentless in its efforts to deport them. They have remained in the U.S. because of a 1989 ruling by Judge Wilson which found portions of federal law granting deportation for political advocacy or affiliation unconstitutional.

Judge Wilson displayed a sense of timing worthy of a great stage director. Each day, he closed proceedings with a cliff-hanger as he stated to the government or petitioner's attorneys that he might rule for them if their evidence could convince him.

The suspense and tension were palpable as the Reagan-appointed judge said he had read more than 60 cases dealing with the issue. In each of the three government charges, the jurist declared, he viewed the evidence with the burden of proof on Barakat. Barakat and his legal team overcame that burden, however, and Judge Wilson granted his petition for citizenship.

Outside the courtroom, Barakat was hugged by friends and relatives. "Justice is served after waiting 20 years," he exclaimed.

Then the 6' 4" Palestinian phoned his mother in Jenin, in the Israeli-occupied West Bank, to tell her the good news.

Barakat's battle is not entirely over, however. The government has 60 days to appeal Judge Wilson's ruling.

Commented ACLU attorney Ahilan Arulanatham, who represented Barakat along with three other nationally known lawyers: "It was a very fact-intensive testimony that would be very difficult to reverse on appeal."

"Even if the government attempted to retroactively deport Aiad with a provision in the PATRIOT Act," noted immigration specialist and National Lawyers Guild attorney Marc Van Der Hout, "it would violate Judge Wilson's orders. I don't think they're going to do that."

On the first day of the trial Georgetown University Law Center professor David Cole, Barakat's lead attorney, summarized the government's reasons for denying Barakat U.S. citizenship.

"The government charged that Barakat lied in U.S. immigration interviews when he said he was not a member of the PFLP. In fact," Cole pointed out, "the petitioner said he only belonged to the CDP (Coalition for a Democratic Palestine), USOMEN (U.S. Organization for Medical and Educational Needs) and GUPS (General Union of Palestinian Students)."

At this point in the proceedings, an unrecognizable name came up: Ali Kased. Many hours were devoted to Kased, whom the government contended was a member of the PFLP because in the May 2005 issue of the PFLP magazine it ran an obituary for Kased describing him as a PFLP member.

Barakat and his attorneys insisted that Aiad only knew Kased as a spokesman for the CDP who made speeches at events in Southern California.

Much time was devoted to the definition of *hafles,* some of which were attended by both Kased and Barakat. Are they large fund-raising parties, or small gatherings for speeches, singing and dancing? It would have been helpful to have an academic expert on Arabic—but, as became apparent the next day, the government translator was no expert.

On the second day of testimony, a grainy, nearly inaudible tape of a three-day CDP retreat in 1986 was presented to the judge. At the close of the event, the secretly filmed FBI tape showed Kased talking to Barakat and seven other men. The government translation of a statement by Kased was: "We are all leaders [in the PFLP]."

Cole argued that his team of Arabic translators could not identify the statement on the flawed tape. Nor, added Arulanantham, was there any record that the government translator, Harold Cubert, had any basis or certification for understanding Arabic.

This reporter queried Phyllis Bennis, a fellow of the Institute for Policy Studies, who sat with the petitioner's attorneys. According to Bennis, the government translator studied conversational Arabic for one year at Hebrew University and took another course at Princeton University.

The *Washington Report* sought to confirm this information with Cubert, who sat in the courtroom throughout the trial, but he said he was forbidden to speak to the press.

The government then withdrew Cubert as a witness, obliging Barakat's attorneys to withdraw their witnesses as well.

Cole addressed the bench: "Today, the petitioner is a middle-aged man, as opposed to 1987, when he was a young activist. He is the father of a 17-year-old son and a 10-year-old daughter. He is the supervisor of as many as 100 workers on construction sites. He helped renovate a church and build a mosque. He wants to be a citizen so he can vote, and be protected by the First Amendment and visit his mother, who is not well. He couldn't be with his father on his deathbed, because it was unlikely he would be allowed to re-enter the U.S."

The government's third charge was that Barakat was untruthful when he said he didn't remember a four-page note handwritten by someone else about the distribution of the PFLP magazine. The notes were recovered during the 1987 raid of Barakat's apartment; his fingerprints were on them.

The judge told the government attorney on the third day of testimony: "You're shooting blanks. Zero plus zero equals zero."

While this was encouraging for Barakat's case, the proceedings seemed to favor the government when prosecutors recalled that when an immigration investigator asked Aiad about banners and emblems of Palestinian organizations, he replied, "These are front organzations."

Barakat's attorneys then showed the actual interview in which he stated in his heavily accented English: "These are different organizations."

In addressing the issue of Barakat's fingerprints on the distribution notes, Judge Wilson noted that others lived in Barakat's apartment and the notes could have been addressed to any of them.

Providing the government does not challenge his forthcoming petition for naturalization, Barakat could become the first of the L.A. 8 to obtain U.S. citizenship.

The senior members of the eight, Khader Hamidi and Michel Shehadeh, hold green cards but face deportation. Last summer, with no explanation, their scheduled cases were abruptly called off by the government. Hamidi's Kenyan wife, Julie, has a green card, as does Amjad Obeid. Naim Sharif says he still is living in immigration limbo with a worker's permit, as is Obeid's brother Ayman, who is a bank manager. The eighth, Bashar Amer, returned to the West Bank.

Barakat's formidable team of attorneys represented him *pro bono.* How much, we wonder, did the government's legal team cost U.S. taxpayers?

END

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 11:18 AM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

CORRECTION: PEN AND PAD ONLY (NO CAMERAS)

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, AUGUST 30, 2006
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(202) 514-2007
TDD (202) 514-1888

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO DELIVER REMARKS AT THE NATIONAL VIOLENT CRIME SUMMIT

WASHINGTON – Deputy Attorney General Paul J. McNulty will deliver remarks at the National Violent Crime Summit hosted by the Police Executive Research Forum **TODAY, AUGUST 30, 2006, at 11:45 A.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Remarks at the National Violent Crime Summit

WHEN: **TODAY, AUGUST 30, 2006**
11:45 A.M. EDT

WHERE: Mayflower Hotel
1127 Connecticut Avenue N.W.
Washington, D.C.
PEN AND PAD ONLY (NO CAMERAS)

NOTE: This event is pen and pad only (no cameras). Press inquiries regarding logistics should be directed to Joshua Ederheimer of the Police Executive Research Forum at 202-557-4858 or the Department of Justice Office of Public Affairs at 202-514-2007.

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Gunn, Currie (SMO)

Subject:	Canceled: Civil Division Weekly Meeting
Location:	Main Room 5710
Start:	Wednesday, March 15, 2006 11:00 AM
End:	Wednesday, March 15, 2006 12:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Wednesday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Gorsuch, Neil M; Todd, Gordon (SMO)
Importance:	High

When: Occurs every Wednesday effective 3/15/2006 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: Main Room 5710

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

Addition of Evan Young-OAG

Attendees: (A) ASG Greg Katsas, Peter Keisler-AAG Civil, Lily Swenson-OASG, Jeff Senger-OASG, Jeff Bucholtz-Civil, Greg Katsas-Civil, Stuart Schiffer-Civil, Carl Nichols-Civil, Jonathan Cohn-Civil, Evan Young-OAG

POC: Currie Gunn

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 1:14 PM
To: USDOJ- Office of Public Affairs
Subject: NEW YORK MAN ENTERS GUILTY PLEA FOR HIS ROLE IN AN INTERSTATE CHILD PROSTITUTION RING

Department of Justice

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WEDNESDAY, AUGUST 30, 2006
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NEW YORK MAN ENTERS GUILTY PLEA FOR HIS ROLE IN AN INTERSTATE CHILD PROSTITUTION RING

WASHINGTON – A pimp from New York City who recruited and prostituted minor girls in several U.S. cities pleaded guilty in federal court, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Christopher J. Christie of the District of New Jersey announced today.

Demetrius Lemus, 37, of New York City entered a plea of guilty today before U.S. District Judge Freda L. Wolfson to conspiracy to transport minors to engage in prostitution.

According to the plea agreement, Lemus was part of a prostitution ring operating from 1999 through 2005 in various U.S. cities, including Atlantic City, N.J.; New York City (including Manhattan and Hunts Point in the Bronx); Las Vegas; Boston; and Miami. Other members of the conspiracy, including Melissa Ramlakhan, Anna Argyroudis, Emily Collins-Koslosky, Jacqueline Collins-Koslosky and Kemyra Jemerson, allegedly recruited and transported young girls to and from various cities in order to have them work as prostitutes for pimp Matthew D. Thompkins. Members of the conspiracy would also hide the proceeds of the illegal prostitution enterprise by converting the proceeds into U.S. postal and Western Union money orders in amounts under the legal reporting requirement of $3,000. To date, over $800,000 in U.S. postal and Western Union money orders have been identified as having been purchased and used by members of the conspiracy. Ramlakhan, Argyroudis, Emily and Jacqueline Collins-Koslosky, and Jemerson have all pleaded guilty and are awaiting sentencing. Thompkins is scheduled for trial in January 2007.

Lemus faces a mandatory minimum of five years in prison to a maximum of 30 years and a $250,000 fine. Sentencing is scheduled for Dec. 8, 2006.

The case is part of the "Innocence Lost" initiative, a cooperative effort to prevent and prosecute cases involving child prostitution between the FBI, the Criminal Division's Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children. To date, the Innocence Lost Initiative has resulted in 228 open investigations, 543 arrests, 86 complaints, 121 informations or indictments, and 94 convictions in both the federal and state systems.

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The case is being investigated by Special Agent Daniel Garrabrant of the FBI and Special Agent Tara Nevrincean of the U.S. Postal Service, Office of Inspector General and is being prosecuted by Trial Attorney Sherri A. Stephan of the Child Exploitation and Obscenity Section and Assistant U.S. Attorney Jason Richardson of the District of New Jersey in Camden.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 1:40 PM
To: USDOJ- Office of Public Affairs
Subject: MARYLAND MAN SENTENCED TO 15 YEARS IN PRISON FOR PRODUCING AND POSSESSING MORE THAN ONE MILLION IMAGES OF CHILD PORNOGRAPHY

Department of Justice

United States Attorney Rod J. Rosenstein
District of Maryland

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WEDNESDAY, AUGUST 30, 2006
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CONTACT: VICKIE LEDUC
PHONE (410) 209-4885
FAX (410) 962-3091

MARYLAND MAN SENTENCED TO 15 YEARS IN PRISON FOR PRODUCING AND POSSESSING MORE THAN ONE MILLION IMAGES OF CHILD PORNOGRAPHY

Defendant Who Downloaded and Created Child Pornography at His Government Office was Arrested in Italy After His Case was Featured on "America's Most Wanted"

GREENBELT, Md. — Robert M. Carey, 52, of Bowie, Md. was sentenced today to 15 years in prison, followed by three years of supervised release for producing and possessing child pornography, announced U. S. Attorney Rod J. Rosenstein, of the District of Maryland. U.S. District Judge Roger W. Titus also ordered Carey to pay more than $50,000 in restitution to a family victim.

"Every photograph of child pornography is evidence of a crime," stated U.S. Attorney Rosenstein. "This case demonstrates both the scope and the severity of the harm caused by online child pornography. The defendant not only downloaded more than one million pictures of abused children, he also sexually abused a child and took his own pictures. I am grateful to 'America's Most Wanted' for helping to bring so many fugitives to justice and protect other people from becoming victims."

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Carey is the third federal fugitive and the second child molester brought to justice in Maryland this year after being featured on the television program "America's Most Wanted." Thomas Evered was sentenced on Jan. 27, 2006, to serve 10 years in prison for producing child pornography. Kendall Charles Alexander was sentenced on April 21, 2006, to serve 27 years in prison for armed bank robbery.

According to the statement of facts presented to the court at Carey's guilty plea on May 19, 2006, Carey was employed at the National Oceanographic and Atmospheric Administration (NOAA) since 1974. Carey used government computers at his office and home to access child pornography over the Internet. In Aug. 2005, federal law enforcement agents searched Carey's NOAA office and residence, and recovered more than one million images of prepubescent girls and girls in their early teens in erotic or sexually graphic poses contained in photo albums, DVDs, CD ROMs and on the computers. Carey admitted to downloading child pornography for approximately 10 years at work.

Among the images recovered during the execution of the search warrant at his residence were images of a family member taken when the minor female was between eight and 13 years old. Many of these images were sexually explicit, and included photographs taken at Carey's NOAA office. These images also included photographs of sexual acts between Carey and the minor.

Carey fled the United States after his Dec. 21, 2005 indictment. He was featured on the television show "America's Most Wanted" on Jan. 21, 2006. Carey was arrested on Jan. 24, 2006, after turning himself in to U.S. officials in Rome, Italy. He has remained in custody since that time.

U. S. Attorney Rod J. Rosenstein thanked the U.S. Department of Commerce's Office of Inspector General for its investigative work. Mr. Rosenstein also praised Assistant U. S. Attorney David I. Salem, who prosecuted the case.

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Image not available for this document, ID: 0.7.10316.35287-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 3:41 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH SPRINGFIELD, MASSACHUSETTS

Department of Justice

FOR IMMEDIATE RELEASE CRT
WEDNESDAY, AUGUST 30, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES VOTING RIGHTS LAWSUIT WITH SPRINGFIELD, MASSACHUSETTS

WASHINGTON – The Justice Department today reached a successful resolution of a lawsuit against the city of Springfield, Mass., regarding allegations that the city violated the rights of minority voters under two key provisions of the Voting Rights Act. Under today's settlement, the city has agreed to a court order providing full relief.

"The right to vote is fundamental for all American citizens," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "This enforcement action under the Voting Rights Act opens the door to equal voting rights for all the citizen voters of Springfield."

The Voting Rights Act requires that certain jurisdictions with a substantial minority-language voter population must provide all voting materials and assistance in the minority language as well as in English. The complaint, filed in the U.S. District Court for the District of Massachusetts, charged that Springfield failed to do so.

The Voting Rights Act also assures voters who need assistance in voting, such as those unable to see or read the ballot, the right to receive that assistance from a person of their choice, other than the voter's employer or union representative. The complaint charged the city with preventing limited English proficient Hispanic voters from securing such assistance.

The consent agreement, which still must be approved by a federal court, requires Springfield to take the necessary steps to comply with federal law. It also permits the Justice Department to monitor future elections in the city.

The agreement was reached following a Monday hearing in which the Department presented evidence from 40 Springfield citizens establishing a violation of the Voting Rights Act. At the close of the hearing, the

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court advised the parties of its inclination to order temporary relief requested by the Civil Rights Division unless the city agreed to a permanent plan by noon today. Today's agreement followed.

The Civil Rights Division has launched a major initiative to ensure compliance with all of the provisions of the Voting Rights Act with respect to all citizens of all racial groups in all areas of the United States. Since 2002, the Civil Rights Division has filed three-fourths of all cases to protect the right of voters needing assistance in the history of the Act, and 60 percent of all minority language cases it has filed in the entire previous history of the Voting Rights Act. As a result of this work and other lawsuits brought since 2002, the Department has brought a majority of all cases it ever has filed under the substantive provisions of the Voting Rights Act to protect Hispanic and Asian voters, and the first cases ever filed to protect the voting rights of Filipino and Vietnamese voters. This is the second recent case the Division has filed in Massachusetts, and follows a successful lawsuit on behalf of Hispanic, Chinese and Vietnamese voters in Boston. The Division has filed additional successful Voting Rights Act lawsuits across the country, with cases in Arizona, California, Florida, Georgia, New York, Pennsylvania, Tennessee, Texas and Washington. There are also active complaints in Ohio & Mississippi.

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931. More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice website at http://www.usdoj.gov/crt/voting/index.htm.

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Image not available for this document, ID: 0.7.10316.35268-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 4:13 PM
To: USDOJ- Office of Public Affairs
Subject: THE NATION'S FEDERAL CRIMINAL JUSTICE CASELOAD GREW SUBSTANTIALLY DURING TEN-YEAR PERIOD

REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT Bureau of Justice Statistics

WEDNESDAY, AUGUST 30, 2006 Contact: Stu Smith: 202-307-0784

www.ojp.usdoj.gov/bjs After hours: 301-983-9354

THE NATION'S FEDERAL CRIMINAL JUSTICE CASELOAD GREW SUBSTANTIALLY DURING TEN-YEAR PERIOD

WASHINGTON — The number of suspects and defendants processed in the federal criminal justice system grew substantially during the 10-year period of 1994 to 2003, the Justice Department's Bureau of Justice Statistics (BJS) announced today. U.S. federal prosecutors investigated more than 130,000 suspects during 2003 (a new record), up from 99,000 men and women in 1994.

Immigration offenses drove the growing case load, BJS noted, increasing by an average annual 14 percent in immigration arrests and 25 percent in prison sentences for immigration convictions.

Drug offenses were the felonies most frequently disposed of in federal district courts during the decade. There were 20,219 such cases during 1994 (with a 86 percent conviction rate) and 28,597 cases in 2003 (with a 92 percent conviction rate). There were 3,673 felony weapons cases disposed of in 1994 (85 percent conviction rate) and 8,147 cases concluded during 2003 (90 percent conviction rate).

The number of weapons offenders in federal prison grew by an average annual 10 percent during the 1994 to 2003 period, and the number of federal drug law offenders in prison grew by an average annual 6 percent.

The number of non-citizens in the federal criminal justice system increased steadily from 1994 through 2003. The U.S. Marshals Service arrested and booked 131,064 suspects during 2003, of which 38 percent were non-citizens, compared to 27 percent in 1994.

A substantial share of the case load was born by federal officials in the southwest's five federal judicial districts (Southern California, Arizona, New Mexico and Southern and Western Texas.) The region processed 31 percent of all federal suspects arrested and booked during the 1994-2003 period, 19 percent of all

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investigated suspects, 23 percent of the cases filed in U.S. District Courts and 28 percent of offenders sentenced to federal prison.

During 2003 federal prisons released 40,780 inmates, who had served an average 33 months for all crimes, compared to an average of 25 months for those released during 1994.

The report, "Federal Criminal Justice Trends, 2003" (NCJ- 205331), is the first in a new series to track changes in the federal criminal justice system. It employed data from eight federal agencies to describe the enforcement of several thousand statutes in the U.S. Criminal Code. The report was written by BJS statistician Mark Motivans. Following publication, the report can be found at: www.ojp.usdoj.gov/bjs/abstract/fcjt03.htm

For additional information about the Bureau of Justice Statistics statistical reports programs, please visit the BJS website at: www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

# # #

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U.S. Department of Justice
Office of Justice Programs

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Bureau of Justice Statistics

Federal Criminal Justice Trends, 2003

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U.S. Department of Justice
Office of Justice Programs
810 Seventh Street, N.W.
Washington, D.C. 20531

Alberto R. Gonzales
Attorney General

Office of Justice Programs
Partnerships for Safer Communities

Regina B. Schofield
Assistant Attorney General

World Wide Web site:
http//www.ojp.usdoj.gov

Bureau of Justice Statistics

Jeffrey L. Sedgwick
Director

World Wide Web site:
http://www.ojp.usdoj.gov/bjs

For information contact
National Criminal Justice Reference Service
1-800-851-3420

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics

Federal Criminal Justice Trends, 2003

Federal Justice Statistics Program

Mark Motivans

August 2006, NCJ 205331

DOJ_NMG_ 0167243

U.S. Department of Justice
Bureau of Justice Statistics

Jeffrey L. Sedgwick
Director

This Bureau of Justice Statistics Report was prepared using data from the Federal Justice Statistics Program (FJSP). The FJSP is managed by the Bureau of Justice Statistics (BJS) and the Urban Institute under BJS grant number 2005-BJ-CX-K004. Principal staff at BJS are Mark Motivans and Steven K. Smith. Principal staff at the Urban Institute are William Adams, Christine Arriola, Avi Bhati, Kamala Mallik Kane, Barbara Parthasarathy, Laura Winterfield, and Yan Yuan. Thomas H. Cohen provided statistical review. Carolyn C. Williams, Tom Hester, Marianne Zawitz, Joanna Bradford, and Rhonda Keith of BJS provided editorial review.

This report is made possible through the cooperation of the following Federal agencies and their staffs: The United States Marshals Service (USMS), the Administrative Office of the United States Courts (AOUSC), the Executive Office for U.S. Attorneys (EOUSA), and the Federal Bureau of Prisons (BOP). The staff who provided expert advice about the source records include: Joe Briggs (USMS); James Tauber (DEA); Steven Schlesinger, Catherine Whitaker, and Pragati Patrick (AOUSC); Siobhan Sperin and Barbara Tone (EOUSA); and Christine Kitchens (USSC).

BJS authorizes any person to reproduce, publish, translate, or otherwise use all or any part of the material in this publication; citation to source, however, is appreciated.
An electronic version of this report and the data underlying graphics may be found on the BJS Internet Home Page (http://www.ojp.usdoj.gov/bjs/). The BJS-sponsored Federal Justice Statistics Resource Center (FJSRC) Internet Home Page (http://fjsrc.urban.org) provides online access to the Federal Justice database. Users may download data from the Federal Justice database for independent analysis or use the online query system to quickly obtain customized statistics.

To order additional copies of this report or CD-ROMs containing the Federal Justice database, call the National Criminal Justice Reference Service at 1-800-851-3420.

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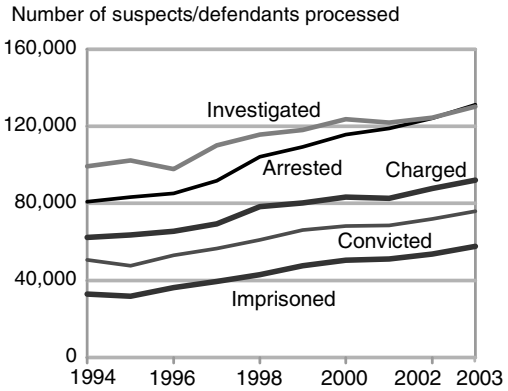
Federal criminal justice trends, 1994-2003

Number of suspects/defendants increased steadily across all stages of the Federal criminal justice system

Stage	Number of suspects/ defendants processed 1994	2003
Suspects investigated	99,251	130,078
Suspects arrested and booked	80,730	131,064
Defendants charged	62,327	92,085
Defendants convicted	50,701	75,805
Defendants sentenced to prison	33,022	57,629



Sources: Executive Office for U.S. Attorneys, central system file, U.S. Marshals Service Prisoner Tracking System, Administrative Office of the U.S. Courts, criminal master file, fiscal year.

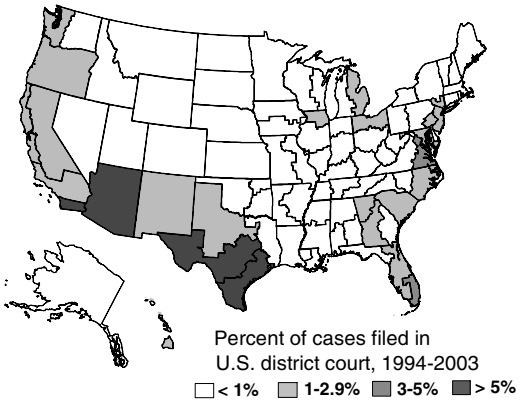
Drug offenders most prevalent; immigration and weapon offenders increased most rapidly

• The 10-year average annual increase was greatest for immigration (ranging from 14% for arrests to 25% for prison sentences imposed) and weapon offenses (ranging from 10% for prosecution to 11% for matters investigated by U.S. attorneys).

• Drug offenses remained the most prevalent offense across stages over 10-year period.

Southwest United States produced a disproportionate share of suspects and defendants processed

• Five of 94 Federal judicial districts (Southern District of California, District of Arizona, District of New Mexico and Southern and Western Districts of Texas) comprised 31% of all suspects arrested and booked, 19% of suspects investigated, 23% of defendants in cases filed in U.S. district court, and 28% of offenders sentenced to prison (1994-2003).



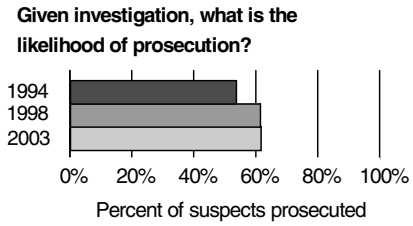
Source: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

Likelihood of prosecution, conviction, and imprisonment sentence increased

• The percent of suspects prosecuted (of matters concluded by U.S. attorneys) increased from 54% in 1994 to 62% in 2003.

• Eighty-nine percent of defendants were convicted in 2003 (of those charged) compared with 83% in 1994. The conviction rate for drug defendants increased from 86% in 1994 to 92% in 2003.

• The percent of offenders sentenced to prison (of those convicted) increased from 65% in 1994 to 76% in 2003. Eighty-three percent of defendants convicted of a felony were sentenced to prison in 2003 compared with 78% in 1994.



Source: Executive Office for U.S. Attorneys, central system file, fiscal year.

Rate of pretrial detention increased

• Seventy-six percent of defendants terminating pretrial services in 2003 were detained compared with 58% in 1994.

• Fifty-nine percent of defendants in 2003 had a prior conviction at initial hearing compared with 48% in 1994.

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Criminal trials declined

• Jury trials decreased from 8% of cases concluded in 1994 to 4% in 2003.

• Ninety-six percent of convictions in U.S. district court in 2003 were the result of guilty pleas compared with 91% in 1994.

Number of Federal prison inmates increased

• The Federal prison population increased an average of 7% each year from 1994-2003. The largest average annual increases over this period were for immigration (24%) and weapon offenses (10%). Drug offenders comprised 57% of prisoners in 2003 compared to 61% in 1994.

• The average prison term imposed decreased from 63 months in 1994 to 59 months in 2003. The average prison term imposed declined for drug offenders from 84 months in 1994 to 82 months in 2003 and increased for violent offenders from 92 months in 1994 to 98 months in 2003.

• Offenders released for the first time from Federal prison served an average of 33 months in prison in 2003 compared to 25 months in 1994.

• 26% of inmates in Federal prison at fiscal yearend 2003 had served 5 years in prison up from 9% in 1994. Of those who had served 5 or more years at yearend 2003, 22% were over the age of 50.

Federal sentencing guidelines applied in most cases

• Sixty-nine percent of offenders sentenced in 2003 received sentences within ranges set forth under the Federal sentencing guidelines (compared with 72% in 1994).

• Sixty-nine percent of immigration offenders were sentenced within the Federal sentencing guidelines in 2003 (compared with 91% in 1994).

• Just over half of offenders (54%) sentenced under the Federal sentencing guidelines from 1994-2003 were assigned the lowest criminal history score level as determined by the guidelines at sentencing.

• The percent of drug offenders receiving a 5-year or greater statutory minimum sentence under the Federal sentencing guidelines decreased from 66% in 1996 to 60% in 2003.

Supervised release most common form of Federal community supervision

• Offenders on Federal supervised release surpassed the number of offenders on probation from 1994 to 2003. Offenders on supervised release comprised 70% of offenders on community supervision in 2003 compared with 39% in 1994.

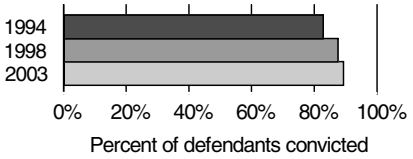
• Offenders on Federal parole comprised 3% of offenders under supervision in 2003 compared with 15% in 1994.

Drug offenders on Federal supervision increased

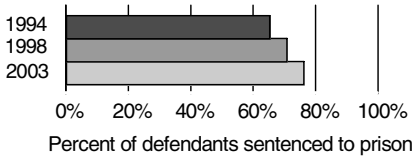
• Drug offenders surpassed property offenders as most common offense under Federal supervision in 1999. Drug offenders increased from 32% of those on supervision in 1994 to 42% in 2003.

• Forty percent of offenders under Federal supervision in 2003 reported a drug abuse history compared with 31% in 1994.

Given prosecution, what is the likelihood of conviction?



Given conviction, what is the likelihood of imprisonment?

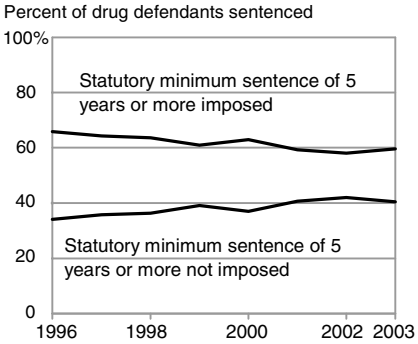


Sources: Administrative Office of the U.S. Courts, criminal master file, fiscal year.

Percent of defendants receiving within range sentences underFederal sentencing guidelines

Most serious offense	1994	2003
All offenses	71.7%	69.4%
Violent offenses	75.0	75.7
Property offenses	81.1	78.2
Drug offenses	60.8	62.4
Public-order offenses	75.3	72.3
Weapon offenses	77.3	76.8
Immigration offenses	90.7	68.5

Source: U.S. Sentencing Commission monitoring file, fiscal year.



Source: U.S. Sentencing Commission monitoring file, fiscal year.

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Arrests and bookings by the U.S. Marshals Service

Drug offenses were the most prevalent offense among suspects arrested and booked by U.S. Marshals.

- Immigration offenses had the greatest net increase (18,843 more arrests in 2003 than 1994).

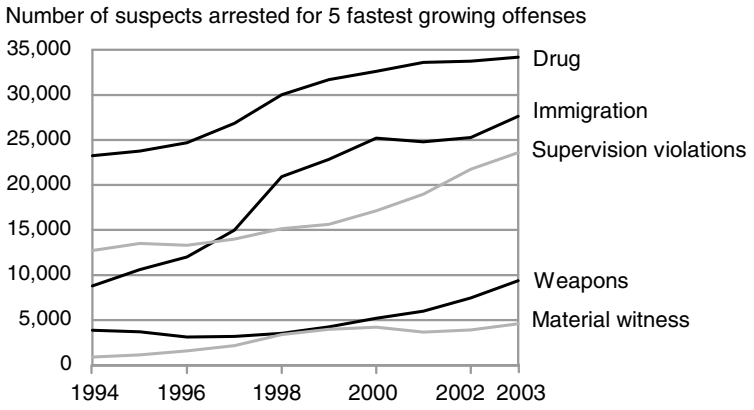

Figure 1

Suspects arrested and booked by the U.S. Marshals Service increased an average of 6% annually from 1994-2003.

Table 1. Suspects arrested for Federal offenses and booked by the U.S. Marshals Service, by type of offense, 1994-2003

Most serious offense	Number arrested and booked 1994	1999	2002	2003	Average annual change 1994-2003	Profile percent 1994	2003
All arrests	80,730	109,340	124,074	131,064	5.6%	100.0%	100.0%
Violent	3,905	4,254	4,723	4,484	2.0	4.8	3.5
Property	15,540	16,569	17,268	17,258	1.2	19.3	13.3
Drug	23,268	31,867	33,730	34,217	4.4	28.9	26.4
Weapon	3,885	4,268	7,488	9,416	11.9	4.8	7.3
Immigration	8,777	22,849	25,270	27,620	14.2	10.9	21.3
Material witness	886	4,016	3,918	4,615	21.9	1.1	3.6
Supervision violations	12,719	15,603	21,777	23,605	7.3	15.8	18.2
Public-order	11,596	9,841	8,772	8,591	-3.1	14.4	6.6

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Four Federal judicial districts along the Southwest border comprised 54% of the growth in arrests and bookings between 1994 and 2003.

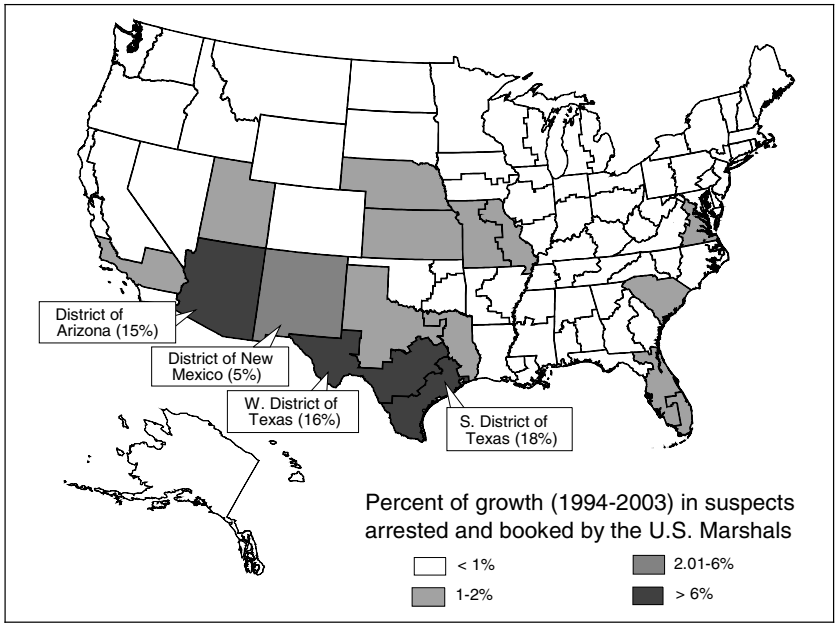

Figure 2

Table 2. Characteristics of suspects arrested and booked by the U.S. Marshals Service, 1994-2003

Suspect characteristics	Number and percent arrested and booked 1994	2003	In 2003 suspects were most likely to be —
Number arrested	80,730	131,064	
Gender			
Male	85.3%	86.1%	◗ Male (86%)
Female	14.7	13.9	
Race			
White	66.5%	70.5%	◗ White (71%)
Black or African American	29.8	25.8	
American Indian or Alaska Native	1.4	1.8	
Asian/Native Hawaiian or Other Pacific Islander	2.3	1.8	
Age at arrest			
Under 19 years	1.8%	1.6%	
19-20 years	5.0	5.1	
21-30 years	37.3	39.7	◗ 21-30 years (40%)
31-40 years	31.3	30.4	
Over 40 years	24.7	23.3	
Citizenship			
U.S. citizen	73.0%	62.1%	◗ U.S. citizen (62%)
Non-U.S. citizen	27.0	37.9	

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Illegal entry/reentry offenses comprised the bulk of U.S. Marshals Service arrests for immigration offenses.

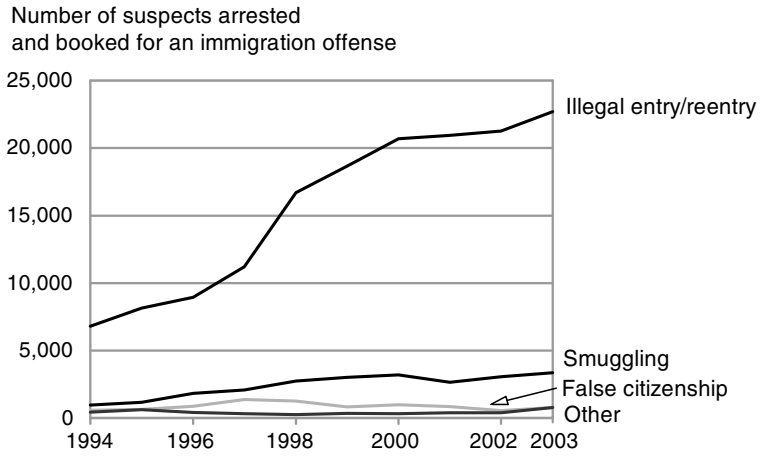

Figure 3

Table 3. Characteristics of immigration suspects arrested and booked by the U.S. Marshals Service, 1994-2003

Suspect characteristics	Number and percent 1994	Number and percent 2003	In 2003 suspects were most likely to be —
All arrestees	8,777	27,620	
Gender			
Male	91.7%	93.0%	◗ Male (93%)
Female	8.3	7.0	
Race			
White	91.3%	96.5%	◗ White (97%)
Black or African American	6.4	2.5	
American Indian or Alaska Native	0.2	0.2	
Asian/Native Hawaiian or Other Pacific Islander	2.1	0.8	
Age at arrest			
Under 19 years	2.9%	1.8%	
19-20 years	8.1	5.3	
21-30 years	52.2	45.2	◗ 21-30 years (45%)
31-40 years	28.1	32.8	
Over 40 years	8.8	15.0	
Citizenship			
U.S. citizen	3.6%	6.6%	
Non-U.S. citizen	96.4	93.4	◗ Non-U.S. citizen (93%)

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Non-U.S. citizens comprised a growing share of suspects arrested and booked by the U.S. Marshals.

- In 2003 non-U.S. citizens made up 38% of suspects arrested compared to 27% in 1994.

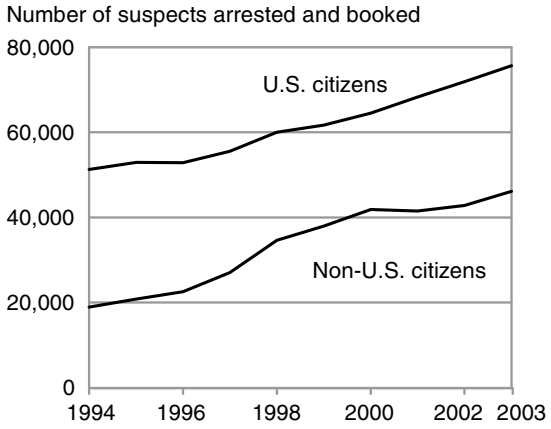

Figure 4

Citizens of Mexico comprised the largest share of non-U.S. citizen suspects arrested and booked by the U.S. Marshals Service from 1994 to 2003.

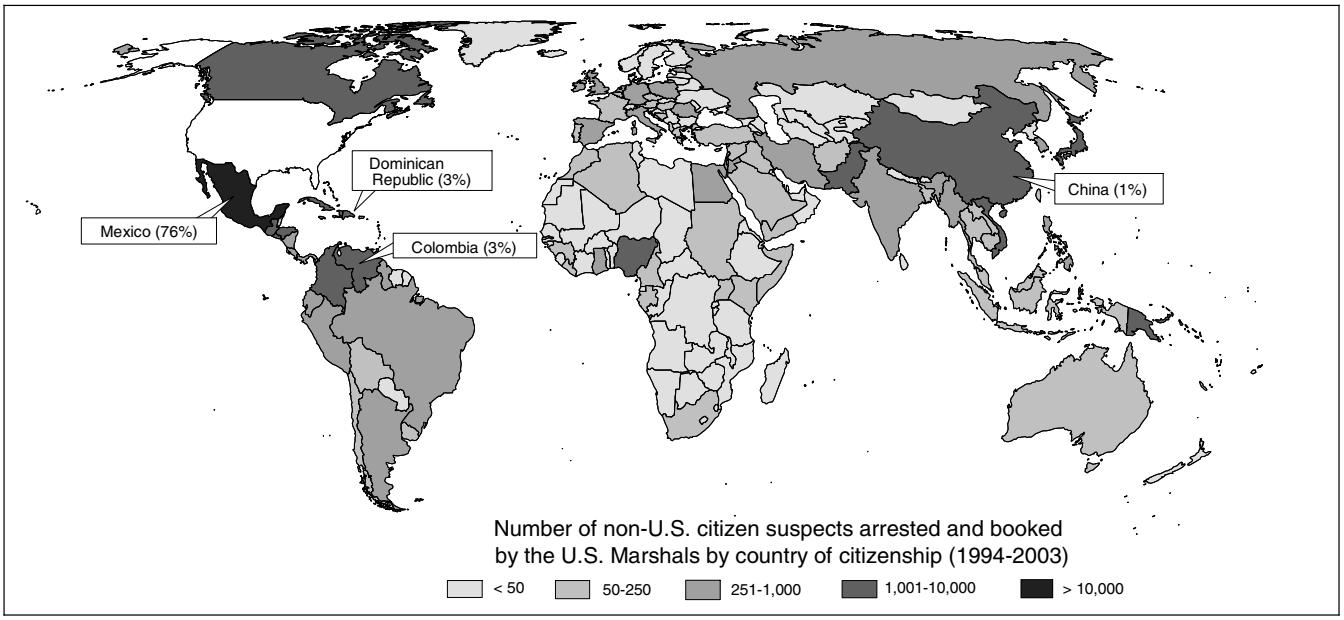

Figure 5

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Drug arrests by the Drug Enforcement Administration

The number of drug arrests by the Drug Enforcement Administration reached a peak in 1999.

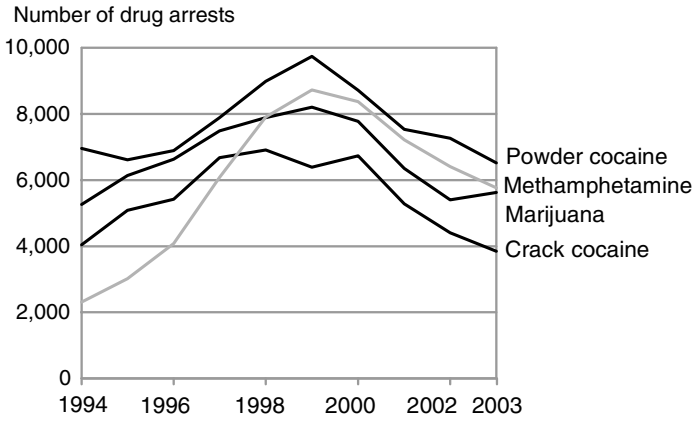

Figure 6

Methamphetamine arrests comprised 22% of Drug Enforcement Administration arrests in 2003 compared with 11% of arrests in 1994.

Table 4. Suspects arrested by the Drug Enforcement Administration, by type of drug at arrest, 1994-2003

Most serious offense at arrest	Number of drug suspects arrested by the Drug Enforcement Administration				Average annual change 1994-2003	Profile percent	
	1994	1999	2002	2003		1994	2003
All arrests	21,693	38,886	29,145	26,850	3.1%	100.0%	100.0%
Cocaine powder	6,967	9,745	7,261	6,522	-0.2	32.1	24.3
Crack cocaine	4,048	6,387	4,400	3,842	0.6	18.7	14.3
Marijuana	5,260	8,204	5,402	5,633	1.4	24.3	21.0
Methamphetamine	2,311	8,727	6,406	5,766	12.9	10.7	21.5
Opiates	1,966	3,394	2,387	2,280	2.6	9.1	8.5
Other or non-drug	1,141	2,429	3,289	2,807	11.7	5.3	10.5

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From 1994 to 2003 the Drug Enforcement Administration made more than 26,000 methamphetamine arrests, 44% of all domestic methamphetamine arrests, in 4 States: California, Texas, Arizona, and Missouri.

- Twenty-five percent of DEA arrests for methamphetamine were in California.

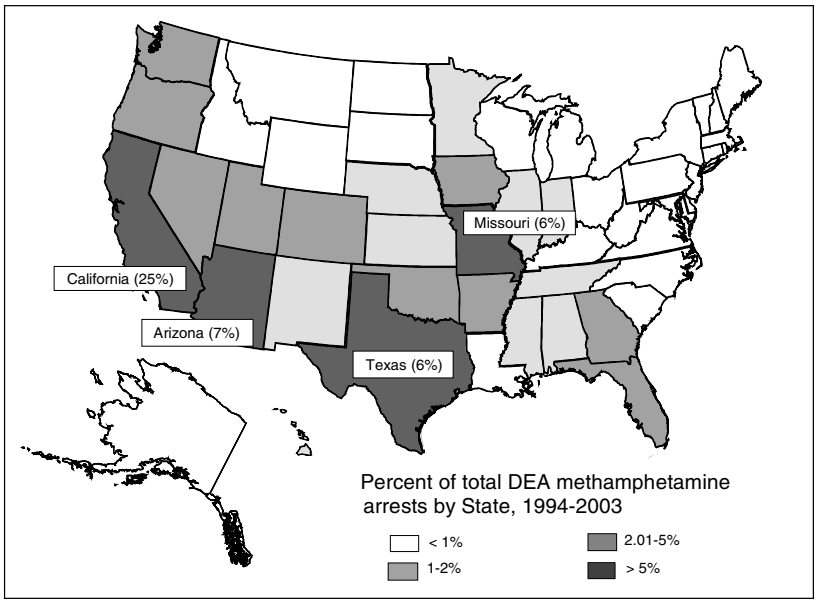

Figure 7

Demographic characteristics of suspects arrested for methamphetamine remained mostly the same between 1995 and 2003.

Table 5. Characteristics of suspects arrested by the Drug Enforcement Administration, 1995-2003

Suspect characteristics	All arrests: Number and percent of arrested 1995	All arrests: Number and percent of arrested 2003	Methamphetamine: Number and percent of arrested 1995	Methamphetamine: Number and percent of arrested 2003	In 2003 methamphetamine suspects were most likely to be —
All arrestees	24,486	26,850	3,020	5,766	
Gender					
Male	84.1%	84.2%	81.9%	80.2%	➧ Male (80%)
Female	15.9	15.8	18.1	19.8	
Race					
White	64.5%	70.0%	93.8%	93.5%	➧ White (94%)
Black or African American	33.9	27.5	1.6	2.5	
American Indian or Alaska Native	0.2	0.5	0.2	0.7	
Asian/Native Hawaiian or Other Pacific Islander	1.4	2.0	4.5	3.3	
Ethnicity					
Hispanic or Latino	41.2%	43.0%	32.3%	40.2%	
Not Hispanic or Latino	58.8	57.0	67.7	59.8	➧ Not Hispanic or Latino (60%)
Age at arrest					
Under 19 years	3.4%	2.0%	1.5%	1.7%	
19-20 years	5.8	5.7	3.9	5.3	
21-30 years	41.7	43.9	38.6	40.9	➧ 21-30 years (41%)
31-40 years	30.1	29.3	36.4	31.1	
Over 40 years	18.9	19.1	19.6	20.9	
Citizenship					
U.S. citizen	74.4%	77.0%	76.4%	77.9%	➧ U.S. citizen (78%)
Non-U.S. citizen	25.6	23.0	23.6	22.1	

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The number of suspects referred for immigration and weapons matters increased steadily from 1994-2003.

- Suspects referred for drug offenses also increased and remained the most prevalent offense of referral.

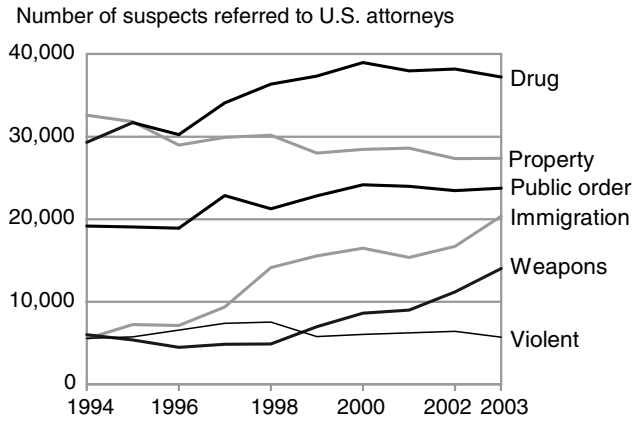

Figure 8

The number of suspects in matters referred to U.S. attorneys increased an average of 3% each year from 1994-2003.

- Suspects referred for property offenses declined an annual average of 2%.

Table 6. Suspects in matters referred to U.S. attorneys by type of offense, 1994-2003

Most serious offense investigated	Number of suspects referred to U.S. attorneys				Average annual change	Profile percent	
	1994	1999	2002	2003	1994-2003	1994	2003
All matters referred	99,251	117,994	124,335	130,078	3.1%	100.0%	100.0%
Violent	5,570	5,768	6,392	5,688	0.9	5.7	4.4
Property	32,579	28,011	27,321	27,375	-1.8	33.2	21.3
Fraudulent	28,491	24,200	24,019	24,261	-1.7	29.0	18.9
Other	4,088	3,811	3,302	3,114	-2.8	4.2	2.4
Drug offenses	29,311	37,313	38,150	37,416	2.9	29.9	29.1
Weapons	5,996	6,982	11,200	14,022	11.4	6.1	10.9
Immigration	5,526	15,539	16,699	20,341	16.8	5.6	15.8
Public order	19,143	22,816	23,472	23,717	2.7	19.5	18.4
Regulatory	5,059	6,332	4,738	5,366	1.2	5.2	4.2
Other	14,084	16,484	18,734	18,351	3.6	14.4	14.3

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Immigration suspects referred to U.S. attorneys

The number of suspects investigated for illegal reentry increased more than other types of immigration offenses.

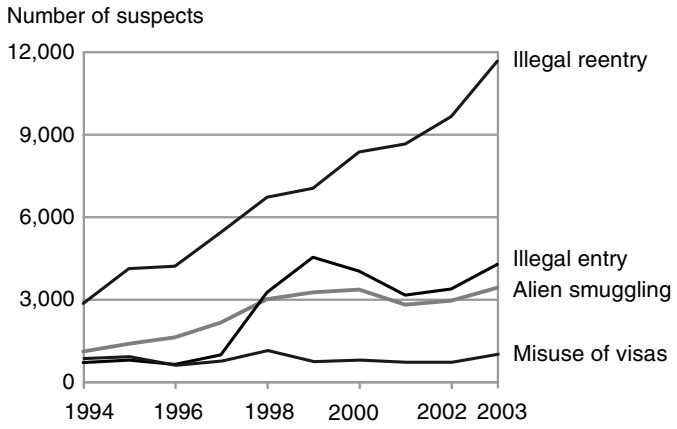

Figure 9

Sixty-three percent of immigration matters referred to U.S. attorneys from 1994-2003 were from the five Federal judicial districts along the U.S.-Mexico border.

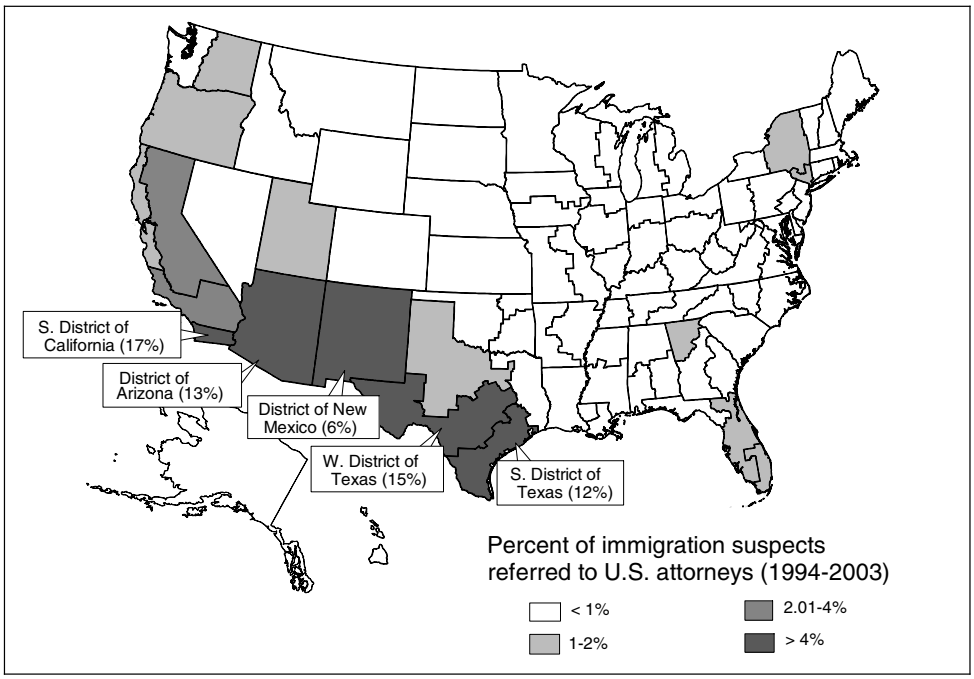

Figure 10

DOJ_NMG_ 0167258

Drug suspects referred to U.S. attorneys

The number of suspects investigated for trafficking increased more than conspiracy and other drug offenses.

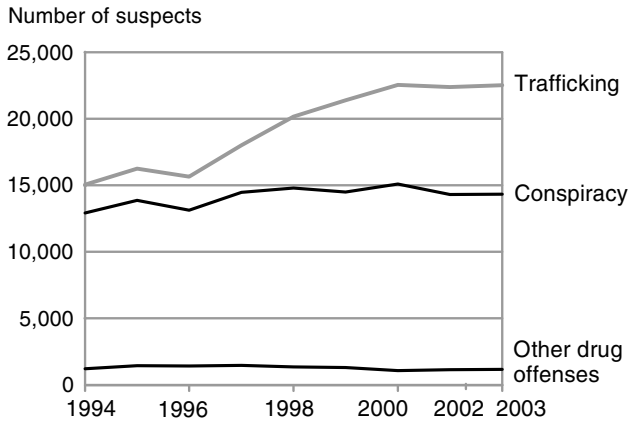

Figure 11

Five Federal judicial districts comprised 26% of all drug suspects referred to U.S. attorneys from 1994 to 2003.

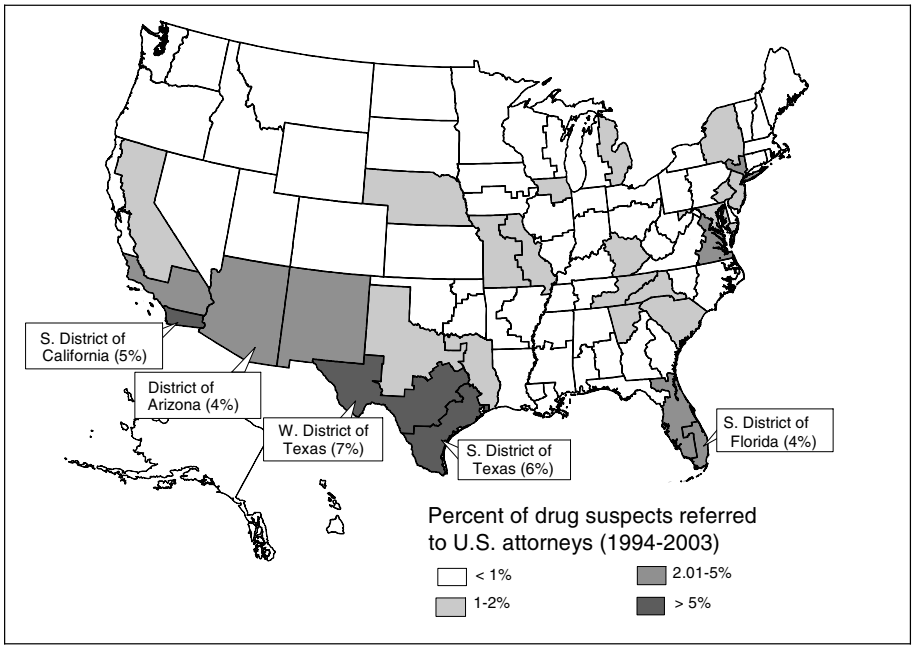

Figure 12

DOJ_NMG_ 0167259

Firearm suspects referred to U.S. attorneys

Investigations of firearm suspects increased an annual average of 11% from 1994-2003.

- Suspects referred for firearm possession comprised 90% of firearm referrals in 2003 compared with 64% in 1994.

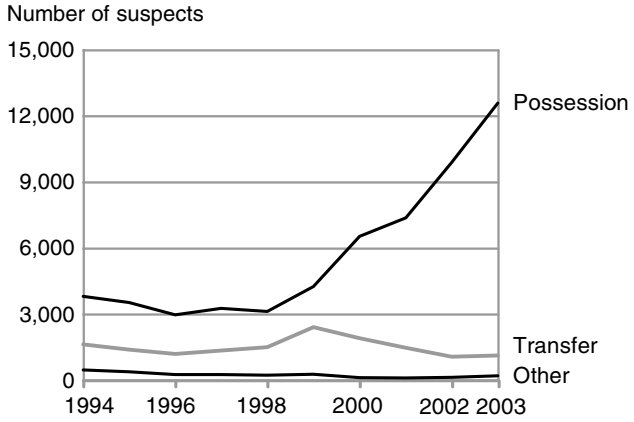

Figure 13

Six Federal judicial districts each comprised 3% or more of all suspects investigated for firearm matters from 1994 to 2003.

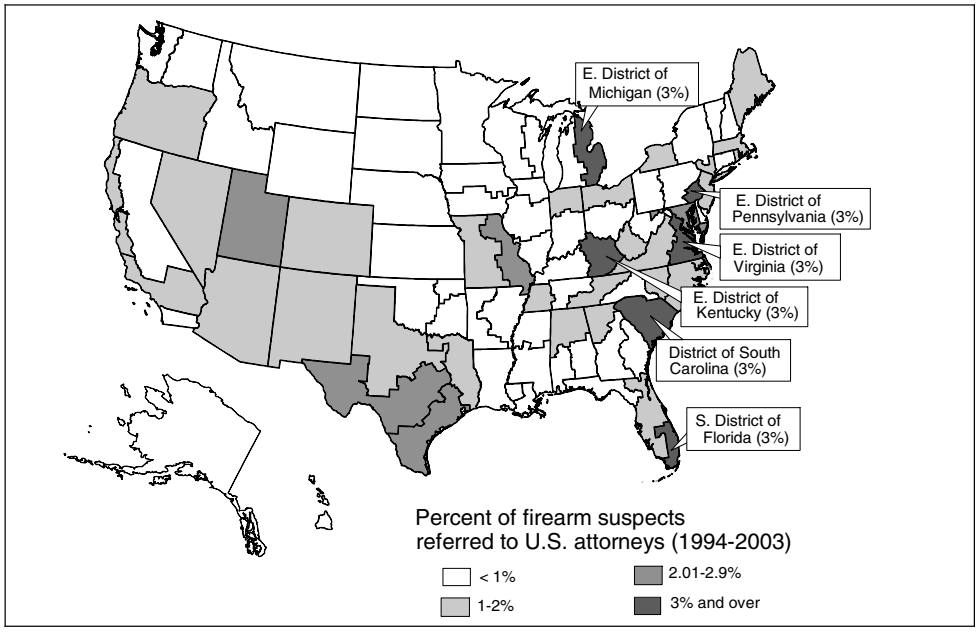

Figure 14

DOJ_NMG_ 0167260

U.S. attorneys prosecuted 80,106 suspects in 2003 compared to 50,802 in 1994.

- Matters concluded by U.S. magistrate increased by a yearly average of 6% from 1994-2003.

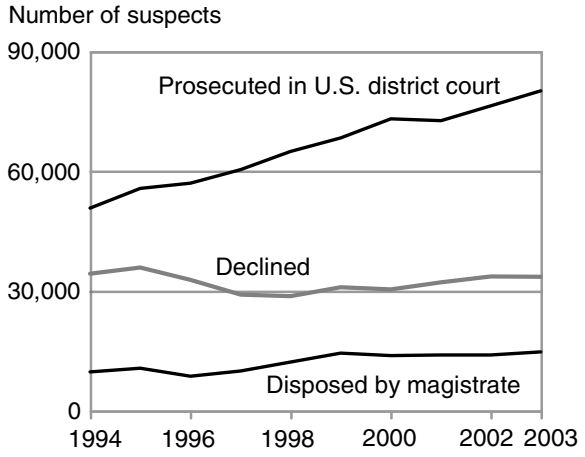

Figure 15

Sixty-two percent of suspects were prosecuted by U.S. attorneys in 2003, up from 54% in 1994.

- The median time from receipt of a matter to its disposition (prosecution, declination, disposal by U.S. magistrate) decreased from just over 3 months in 1994 to less than 2 months in 2003.

- The number of suspects in matters declined decreased from 36% of matters concluded in 1994 to 26% in 2003.

Table 7. Suspects in matters concluded by U.S. attorneys by disposition and median case processing time, 1994-2003

	Percent of all matters concluded		Number		Average annual change	Median case processing time	
	1994	2003	1994	2003	1994-2003	1994	2003
All suspects	100.0%	100.0%	94,980	128,518	3.5%	3.3 mo	1.7 mo
Prosecuted before U.S. district court judge	53.5	62.3	50,802	80,106	5.2	0.9	0.9
Declined prosecution	36.2	26.2	34,424	33,602	-0.1	12.7	13.7
Concluded by U.S. magistrate	10.3	11.5	9,754	14,810	5.5	1.0	2.1

DOJ_NMG_ 0167261

I. Initial hearing/Pretrial release

The number of defendants terminating pretrial services increased by an average of 6% each year from 1994 to 2003.

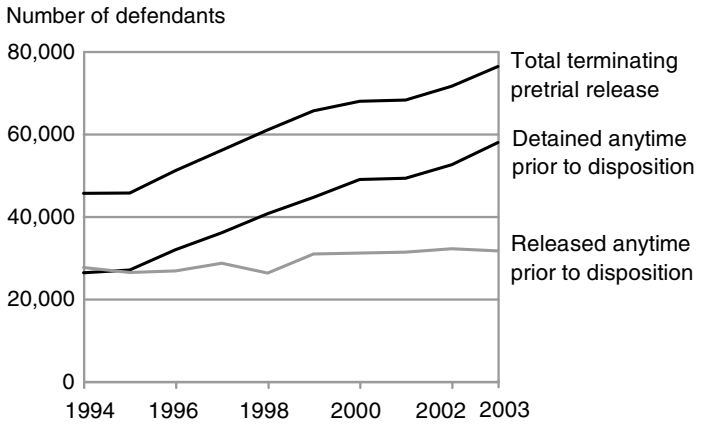

Figure 16

The number of defendants detained at anytime prior to trial increased by an annual average of 9%.

- Nearly a third of detained defendants terminating pretrial services were charged with a drug offense.
- Defendants charged with immigration offenses had the largest increase of those receiving pretrial detention.
- The percent of defendants detained prior to case termination increased from 58% in 1994 to 76% by 2003.

Table 8. Number of pretrial defendants detained at any time prior to case termination, by offense

Most serious offense charged	Number of defendants terminating pretrial services				Average annual change 1994-2003	Profile percent	
	1994	1999	2002	2003		1994	2003
All cases terminated	45,584	65,559	71,572	76,305	6.0%	100.0%	100.0%
All defendants detained	26,299	44,626	52,515	57,856	9.3	57.7	75.8
Violent	2,478	2,778	2,549	2,611	1.1	5.4	3.4
Property	3,138	4,301	5,531	5,930	7.5	6.9	7.8
Drug offenses	14,292	21,221	23,346	23,578	5.9	31.4	30.9
Weapons	1,747	1,900	3,670	4,763	12.7	3.8	6.2
Immigration	3,225	11,440	13,966	17,232	21.5	7.1	22.6
Public order	1,419	2,986	3,407	3,655	11.5	3.1	4.8

DOJ_NMG_ 0167262

Five Federal judicial districts along the Southwest U.S. border comprised 48% of the growth in persons detained at any time prior to trial from 1994 to 2003.

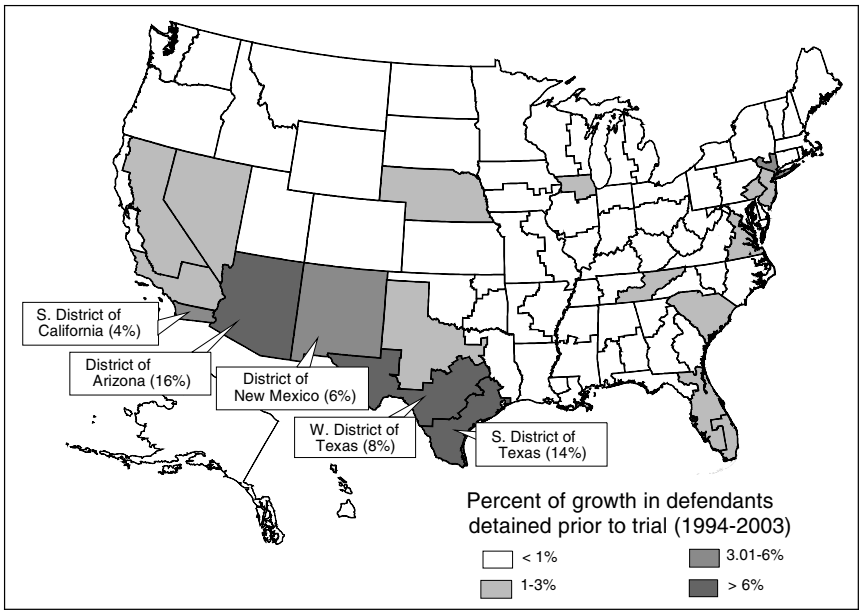

Figure 17

Unsecured bond remained the primary method of release for defendants released any time prior to case disposition during the 1994-2003 period.

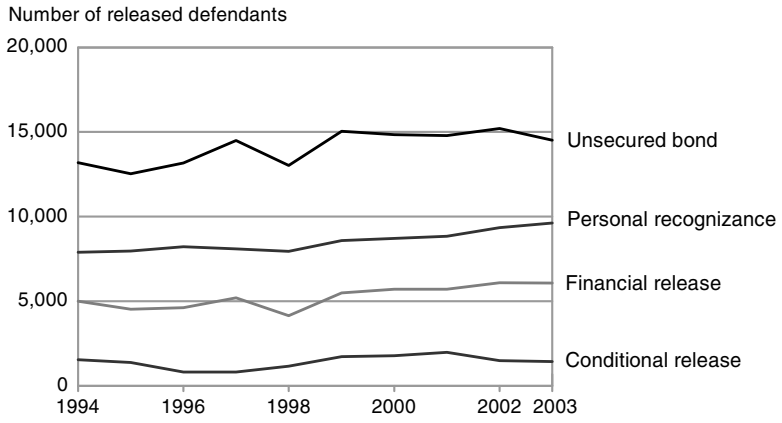

Figure 18

DOJ_NMG_ 0167263

A greater percentage of defendants released prior to trial violated a condition of their release (technical violation, new crime, failure to appear) in 2003 (20%) compared with 1994 (15%).

Table 9. Behavior of defendants released prior to trial by offense, 1994 and 2003

	1994					2003				
	Total	Behavior of defendants released prior to trial —				Total	Behavior of defendants released prior to trial —			
Most serious offense	defendants released	No violations	Technical violations	New crime	Failure to appear	defendants released	No violations	Technical violations	New crime	Failure to appear
All offenses	27,607	84.8%	10.9%	3.2%	2.3%	31,613	80.2%	18.2%	3.4%	2.2%
Violent	1,174	79.2	15.8	4.5	2.2	1,156	77.7	20.9	3.0	2.8
Property	9,748	89.8	6.9	2.7	1.5	10,349	87.7	11.2	2.3	1.4
Drug	9,814	76.3	17.7	4.2	3.8	10,776	70.2	27.8	4.9	3.1
Weapons	1,478	79.5	14.1	5.9	2.2	2,562	68.5	28.7	6.9	2.7
Immigration	1,357	96.0	1.5	1.0	1.7	1,463	81.7	16.5	2.3	4.3
Public-order	3,959	93.4	4.9	1.2	1.1	5,240	91.9	7.3	1.3	1.0

DOJ_NMG_ 0167264

Most defendants in pretrial cases commenced from 1994-2003 had a prior conviction.

- The proportion of pretrial defendants with a prior conviction at initial hearing has been increasing.

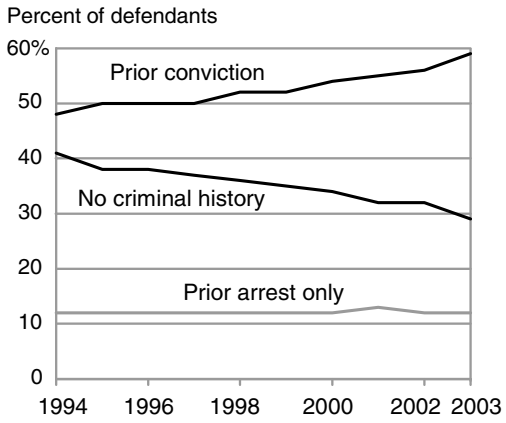

Figure 19

The characteristics of defendants with a prior conviction varied modestly from all offenders.

Table 10. Characteristics of defendants at initial hearing in Federal district court, 1994-2003

Defendant characteristics	All defendants at initial hearing 1994	All defendants at initial hearing 2003	Defendants with a prior conviction 1994	Defendants with a prior conviction 2003	In 2003 defendants with a prior conviction were most likely to be —
All defendants	49,853	83,419	23,690	48,919	
Gender					
Male	83.8%	85.2%	90.7%	90.7%	◗ Male (91%)
Female	16.2	14.8	9.3	9.3	
Race					
White	65.6%	71.0%	60.6%	67.3%	◗ White (67%)
Black or African American	30.2	24.6	36.4	29.2	
American Indian or Alaska Native	1.5	2.0	1.7	2.1	
Asian/Native Hawaiian or Other Pacific Islander	2.7	2.5	1.3	1.4	
Ethnicity					
Hispanic or Latino	31.1%	44.1%	26.7 %	42.0%	
Not Hispanic or Latino	68.9	55.9	73.3	58.0	◗ Not Hispanic or Latino (58%)
Age at arrest					
Under 19 years	4.3%	3.8%	2.6%	2.0%	
19-20 years	3.0	2.9	2.5	2.2	
21-30 years	37.9	39.6	39.3	40.3	◗ 21-30 years (40%)
31-40 years	29.9	30.0	33.0	32.8	
Over 40 years	25.0	23.7	22.5	22.7	
Citizenship					
U.S. citizen	74.7%	63.4%	81.1%	67.1%	◗ U.S. citizen (67%)
Non-U.S. citizen	25.3	36.6	18.9	32.9	

DOJ_NMG_ 0167265

II. Cases filed and terminated in U.S. district court

From 1994 to 2003, 23% of criminal cases were filed in Federal judicial districts along the Southwest U.S. border.

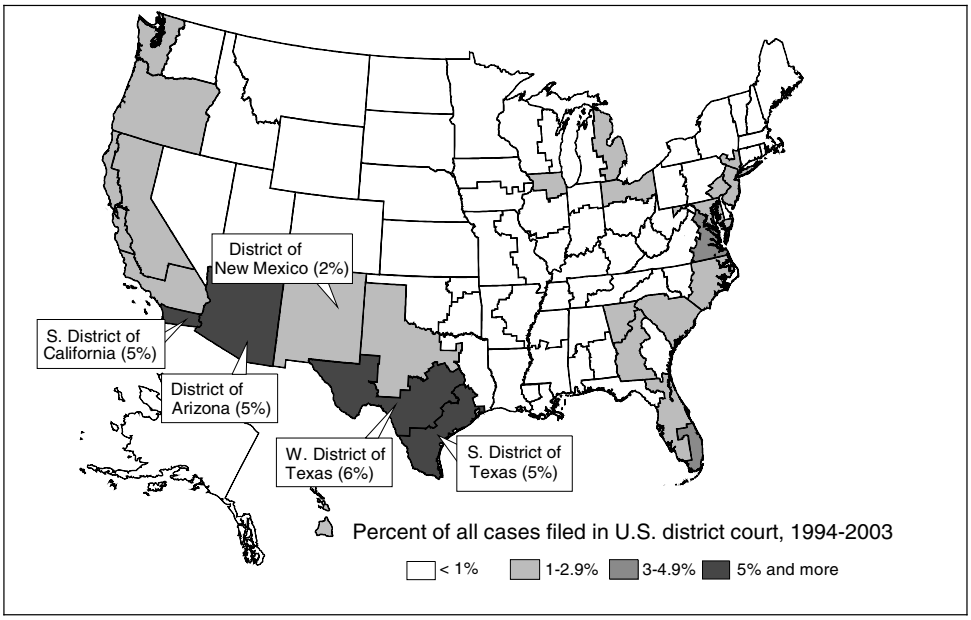

Figure 20

Defendants in criminal cases concluded in U.S. district court increased at a yearly average of 4% from 1994 to 2003 with immigration offenses increasing at the greatest rate.

- The percent of defendants convicted increased for all types of felonies.

Table 11. Number of defendants in cases concluded in U.S. district court and percent convicted, 1994-2003

	Defendants in cases concluded						
	Percent		Number		Average annual change	Percent of defendants convicted	
Most serious offense charged	1994	2003	1994	2003	1994-2003	1994	2003
All offenses	100.0%	100.0%	61,404	85,106	3.8%	82.6%	89.1%
Felonies	77.0	87.4	47,292	74,370	5.3	86.2	92.1
Violent offenses	5.3	3.6	3,227	3,040	-0.4	87.9	90.5
Property offenses	21.5	17.6	13,182	14,965	1.5	87.3	91.2
Drug offenses	32.9	33.6	20,219	28,597	4.2	85.9	91.9
Weapon offenses	6.0	9.6	3,673	8,147	9.7	85.2	89.8
Immigration offenses	3.9	17.8	2,371	15,149	24.0	92.2	96.6
Public-order offenses	7.5	5.3	4,620	4,472	0.0	81.0	86.4
Misdemeanors	23.0	12.6	14,111	10,736	-2.7	70.4	68.1

DOJ_NMG_ 0167266

Three Federal judicial districts had a trial rate (percent of bench or jury trials of all concluded cases) that was more than double the national average of 6% from 1994-2003. Three districts had a trial rate that was less than half the national average.

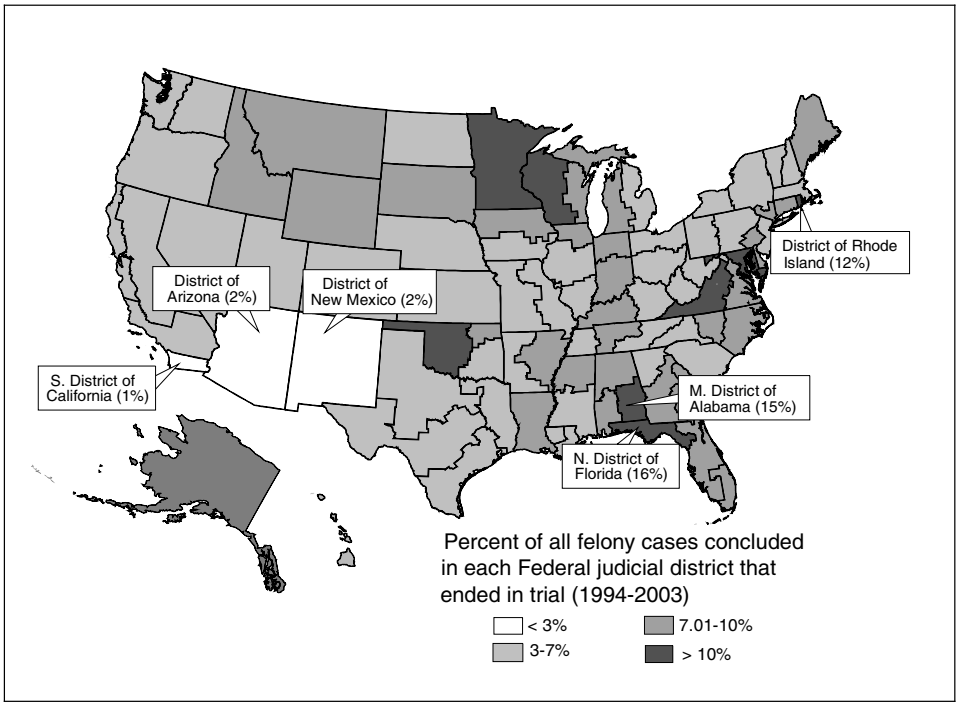

Figure 21

The proportion of all defendants convicted in the Federal courts increased from 83% during 1994 to 89% in 2003.

- The median case processing time from case filing to disposition increased from 5 months in 1994 to 6 months in 2003.
- Cases concluded before a jury declined from 4,639 in 1994 to 2,909 in 2003.

Table 12. Adjudication outcomes of defendants in cases concluded in U.S. district courts and median case processing time, 1994-2003

Adjudication outcomes	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Median case processing time 1994	Median case processing time 2003
All defendants in cases concluded	100.0%	100.0%	61,404	85,106	3.8%	5.4 mo	6.1 mo
Convicted	82.6%	89.1%	50,701	75,805	4.7%	5.4 mo	6.1 mo
Guilty plea	74.8	85.3	45,958	72,589	5.3	5.2	6.0
Jury trial	6.3	2.9	3,857	2,431	-4.6	9.6	13.2
Bench trial	0.8	0.4	495	333	1.7	0.3	4.4
No contest	0.6	0.5	391	452	4.0	0.0	0.0
Not convicted	17.4%	10.9%	10,703	9,301	-1.2%	5.1 mo	6.0 mo
Dismissed	15.3	10.0	9,366	8,541	-0.6	5.4	6.2
Acquitted by jury	1.3	0.6	782	478	-5.1	6.0	6.5
Acquitted by court	0.9	0.3	555	282	-4.0	0.0	0.0

DOJ_NMG_ 0167267

In 2003 the most common types of counsel at case termination were public defender and Criminal Justice Act appointed counsel.

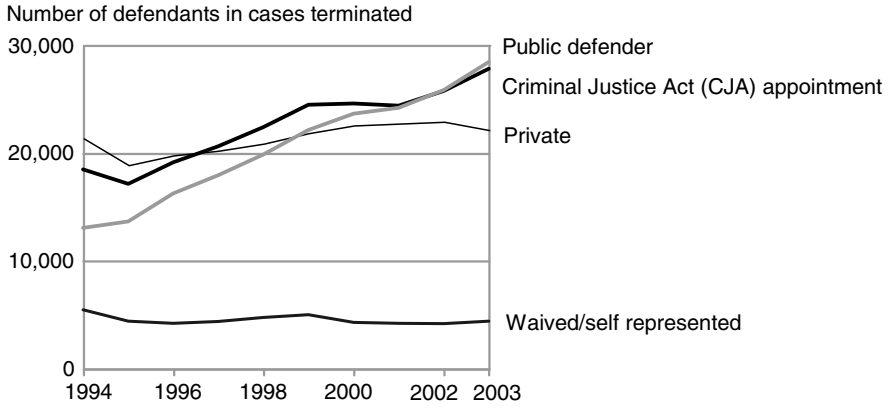

Figure 22

Type of counsel at case termination varied by type of offense:

- In 2003 more than 40% of the caseload for Criminal Justice Act-appointed and private counsel was made up of drug offenses.

- Immigration offenses comprised almost one-third of the caseload for public defenders in 2003.

Table 13. Type of counsel of defendants in cases terminated by offense, adjudication outcome, and median case processing time, 1994-2003

	CJA appointment		Private counsel		Public defender		Waived/self representation	
	1994	2003	1994	2003	1994	2003	1994	2003
Total cases concluded	18,503	27,828	21,408	22,198	13,073	28,481	5,470	4,437
All offenses	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Felonies	90.7	95.2	85.1	92.8	80.8	90.5	4.4	2.0
Violent offenses	6.8	4.0	2.5	2.0	10.3	5.0	0.1	0.1
Property offenses	21.1	16.2	27.7	24.8	22.3	16.4	1.4	0.5
Drug offenses	44.6	43.3	36.9	42.4	25.1	22.3	1.4	0.7
Weapon offenses	7.8	9.1	4.4	8.2	8.8	12.8	0.5	0.2
Immigration offenses	4.1	18.7	1.3	5.7	9.9	30.1	0.2	0.2
Public-order offenses	6.2	3.9	12.3	9.7	4.4	3.9	0.8	0.2
Misdemeanors	9.3	4.8	14.9	7.2	19.2	9.5	95.6	98.0
All outcomes	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Convicted	88.4	93.6	88.2	92.0	89.5	93.2	65.3	62.1
Guilty plea	78.7	89.6	79.5	87.5	84.6	91.1	57.2	51.3
Jury trial	9.1	3.8	7.3	3.9	4.4	1.7	0.5	0.4
Bench trial	0.4	0.2	0.6	0.4	0.3	0.3	4.8	2.2
No contest	0.3	0.1	0.7	0.2	0.2	0.1	2.8	8.3
Not convicted	11.6	6.4	11.8	8.0	10.5	6.8	34.7	37.9
Dismissed	9.7	5.7	9.5	6.9	9.3	6.3	28.7	33.9
Acquitted by jury	1.5	0.6	1.7	0.9	0.9	0.4	0.0	0.0
Acquitted by court	0.3	0.1	0.6	0.2	0.3	0.1	6.1	4.0
Median case processing time	6.3mo.	6.7mo.	6.1mo.	7.7mo.	4.7mo.	5.2mo.	0.1 mo.	1.0 mo.

DOJ_NMG_ 0167268

Defendants convicted in U.S. District courts in 1996 differed from those convicted in 2003.

Table 14. Characteristics of defendants convicted in U.S. district courts, 1996 and 2003

Suspect characteristics	Number and percent of defendants convicted 1996	2003	In 2003 compared to 1996, there was an increase in the share of —
All defendants	53,076	75,805	
Gender			
Male	84.3%	86.8%	◗ Male defendants
Female	15.7	13.2	
Race			
White	65.0%	71.2%	◗ White defendants
Black or African American	30.0	24.8	
Other*	5.0	4.0	
Ethnicity			
Hispanic or Latino	31.3%	42.6%	◗ Hispanic or Latino defendants
Not Hispanic or Latino	68.7	57.4	
Age at arrest			
Under 19 years	0.7%	0.7%	
19-20 years	4.0	4.2	
21-30 years	37.1	39.2	◗ Defendants ages 21-30 years
31-40 years	31.4	31.0	
Over 40 years	26.7	24.9	
Citizenship			
U.S. citizen	72.1%	64.1%	
Non-U.S. citizen	27.9	35.9	◗ Non-U.S. citizen defendants
Criminal record			
No convictions	47.3%	37.4%	
Prior adult convictions	52.7	62.6	◗ Defendants with a prior conviction
Education			
Less than high school graduate	40.5%	47.6%	◗ Defendants with less than a high school education
High school graduate	29.7	29.7	
Some college	21.9	17.0	
College graduate	7.9	5.7	

*Includes "American Indian or Alaska Native," "Asian," and "Native Hawaiian or Other Pacific Islander."

DOJ_NMG_ 0167269

III. Defendants sentenced

Seventy-six percent of sentenced defendants received some imprisonment in 2003 compared with 65% in 1994.

- The percent of sentenced defendants receiving a prison sentence increased across all felony offenses for the 10-year period.

Table 15. Number of defendants convicted in U.S. district courts and percent receiving prison sentence, by offense

Most serious offense of conviction	Number of defendants convicted				Average annual change	Percent of convicted defendants sentenced to prison	
	1994	1999	2002	2003	1994-2003	1994	2003
All offenses	50,701	66,055	71,798	75,805	4.7%	65.1%	76.0%
Felonies	39,624	55,864	63,238	67,036	6.1	78.4	83.3
Violent offenses	2,704	2,715	2,578	2,643	0.0	93.1	93.2
Property offenses	11,113	12,232	13,101	13,311	2.1	57.7	59.7
Drug offenses	16,400	23,476	26,234	25,582	5.4	91.3	92.0
Weapon offenses	3,232	3,423	5,563	6,970	9.4	89.8	92.3
Immigration offenses	2,152	9,357	11,132	14,199	24.7	86.3	87.3
Public-order offenses	4,023	4,661	4,630	4,331	1.1	59.9	70.1
Misdemeanors	11,072	10,118	8,499	8,767	-2.4	17.6	20.7

During 2003 the average prison sentence was greatest for violent (98 months), weapons (84 months), and drug offenders (82 months).

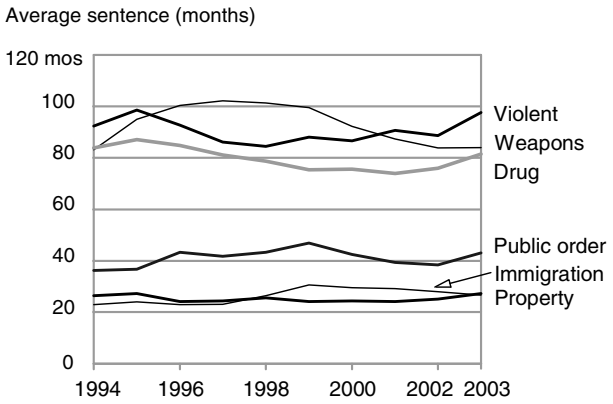

Figure 23

DOJ_NMG_ 0167270

The average prison sentence imposed decreased from 63 months in 1994 to 59 months in 2003.

- The number of defendants sentenced to prison increased at a yearly average of 7% over the 10-year period.

Table 16. Defendants receiving a prison sentence and mean sentence imposed in months, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Mean prison sentence imposed (in months) 1994	Mean prison sentence imposed (in months) 2003
All offenses	100.0%	100.0%	33,022	57,629	6.5%	62.6 mo	58.9 mo
Felonies	94.1	96.8	31,070	55,811	6.9	65.6	60.4
Violent	7.6	4.3	2,518	2,462	0.0	92.3	97.6
Property	19.4	13.8	6,411	7,948	2.5	26.4	27.4
Drug	45.3	40.9	14,973	23,544	5.5	83.9	81.5
Weapons	8.8	11.2	2,901	6,431	9.7	83.2	84.0
Immigration	5.6	21.5	1,857	12,390	24.8	22.9	26.7
Public order	7.3	5.3	2,410	3,036	3.1	36.3	43.1
Misdemeanors	5.9	3.2	1,948	1,818	0.0	12.3	9.1

Probation-only sentences imposed decreased at an annual average of 1% across the 10-year period.

Table 17. Defendants receiving a probation-only sentence, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003
All offenses	100.0%	100.0%	12,781	11,322	-1.3%
Felonies	60.1	65.4	7,677	7,406	-0.3
Violent	1.3	1.1	164	130	-1.2
Property	33.9	36.6	4,327	4,143	-0.2
Drug	9.4	10.6	1,204	1,204	0.4
Weapons	2.3	3.9	296	436	6.9
Immigration	1.7	3.6	217	406	18.4
Public order	11.5	9.6	1,469	1,087	-0.4
Misdemeanors	39.9	34.6	5,103	3,914	-2.8

DOJ_NMG_ 0167271

Most Federal judicial districts (81 out of 94) sentenced defendants within the ranges determined by the U.S. Sentencing Guidelines at least 60% of the time from 1994-2003.

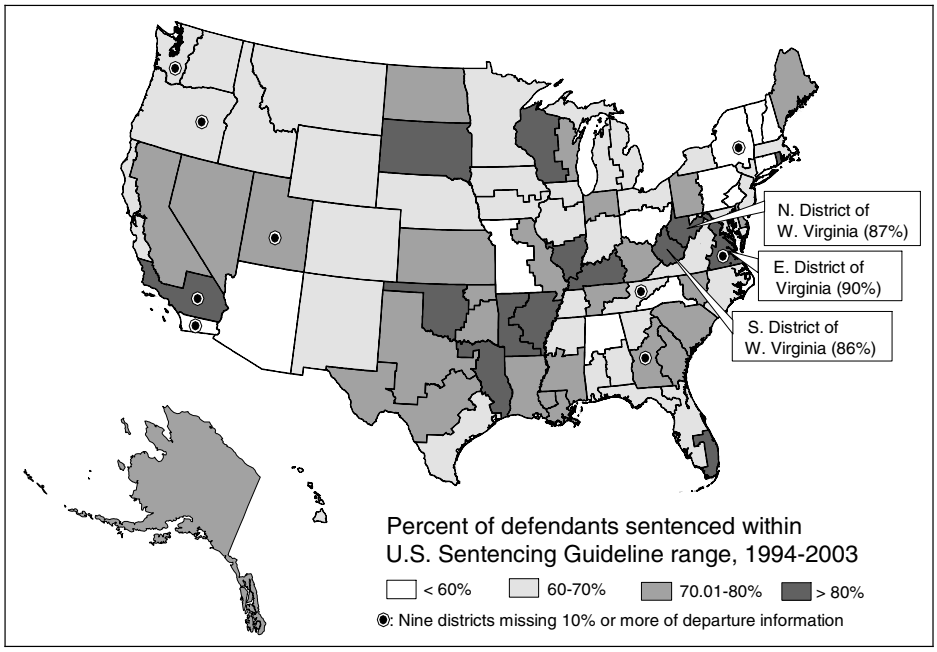

Figure 24

Defendants convicted and sentenced for property and violent offenses were more likely to be sentenced within the ranges determined by the U.S. Sentencing Guidelines than defendants convicted of drug or immigration offenses from 1994-2003.

- The percent of immigration offenders sentenced within the guidelines decreased from 91% in 1994 to 69% in 2003.

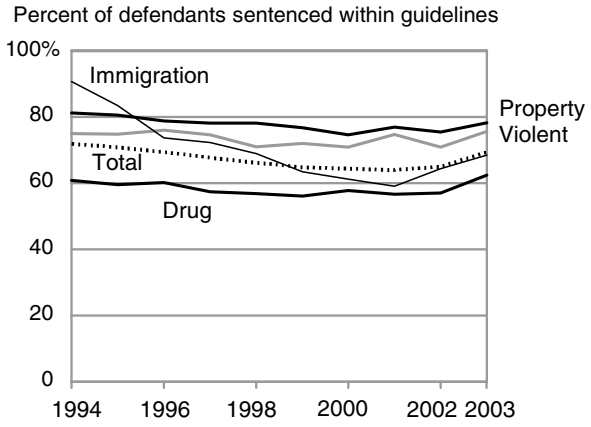

Figure 25

DOJ_NMG_ 0167272

Sixty-nine percent of defendants sentenced in 2003 received sentences within ranges set forth under the Federal sentencing guidelines (compared with 72% in 1994).

- Substantial assistance departures (where a defendant receives a reduction in the guideline sentence for assisting the Government) comprised 16% of sentences in 2003 compared with 20% in 1994.

- One percent or less of defendants sentenced between 1994 and 2003 received an upward departure (where a defendant receives a more severe sentence due to aggravating factors).

Table 18. Defendants sentenced under the U.S. Sentencing Guidelines, 1994 and 2003

	1994					2003				
Most serious offense	Total defendants sentenced	Within guidelines	Downward departure	Substantial assistance	Upward departure	Total defendants sentenced	Within guidelines	Downward departure	Substantial assistance	Upward departure
All offenses	39,971	71.7%	7.6%	19.6%	1.2%	70,258	69.4%	13.8%	15.9%	0.8%
Violent offenses	2,724	75.0	10.7	10.7	3.6	2,555	75.7	11.7	9.4	3.2
Property offenses	10,544	81.1	7.0	10.7	1.1	14,192	78.2	7.7	13.2	0.9
Drug offenses	16,753	60.8	7.2	31.5	0.6	26,640	62.4	10.9	26.1	0.6
Public-order offenses	4,840	75.3	7.9	15.3	1.6	5,533	72.3	13.8	12.5	1.4
Weapon offenses	2,720	77.3	9.4	11.5	1.9	6,947	76.8	9.2	12.5	1.4
Immigration offenses	2,338	90.7	7.2	1.1	1.1	14,051	68.5	28.7	2.6	0.3

The percent of drug offenders sentenced who received a statutory minimum sentence of 5 years or more under the Federal sentencing guidelines decreased from 66% in 1996 to 60% in 2003.

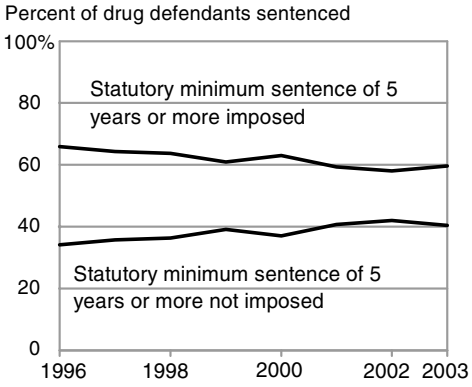

Figure 26

DOJ_NMG_ 0167273

Just over half (54%) of defendants sentenced under the Federal sentencing guidelines from 1994-2003 were assigned the lowest criminal history score level as determined by the guidelines at sentencing.

Percent distribution of defendants sentenced under U.S. Sentencing Guidelines, by the final cell used to determine sentence

	Offense severity score	Criminal history score: Least severe I	II	III	IV	V	Most severe VI	Row total Percent	Row total Number
Least Zone A	1	--%	--%	--%	--%	--%	--%	--%	105
severe	2	1	--	--	--	--	--	1%	5,913
	3	--	--	--	--	--	--	--%	1,925
	4	2	--	--	--	--	--	3%	14,532
	5	--	--	--	--	--	--	1%	3,076
	6	3	1	1	--	--	--	5%	23,667
	7	1	--	--	--	--	--	2%	11,117
	8	2	--	--	--	--	--	3%	16,774
Zone B	9	2	--	--	--	--	--	3%	12,262
	10	4	1	1	1	--	1	6%	31,548
Zone C	11	1	--	--	--	--	--	2%	11,492
	12	3	--	1	--	--	--	4%	21,378
Zone D	13	4	1	1	--	--	--	7%	34,549
	14	1	--	--	--	--	--	2%	9,069
	15	3	--	--	--	--	--	4%	20,129
	16	1	--	--	--	--	--	2%	7,462
	17	2	--	1	--	--	--	4%	20,487
	18	1	--	--	--	--	--	1%	7,103
	19	2	--	--	--	--	--	4%	17,754
	20	1	--	--	--	--	--	1%	6,540
	21	3	1	2	2	1	2	10%	51,345
	22	1	--	--	--	--	--	1%	6,547
	23	2	1	1	--	--	--	5%	25,295
	24	1	--	--	--	--	--	1%	6,509
	25	2	--	1	--	--	--	4%	18,326
	26	1	--	--	--	--	--	1%	6,205
	27	2	--	--	--	--	--	3%	16,157
	28	1	--	--	--	--	--	1%	4,694
	29	2	1	1	--	--	1	4%	20,275
	30	--	--	--	--	--	--	1%	5,464
	31	1	--	1	--	--	1	3%	16,932
	32	--	--	--	--	--	--	1%	5,057
	33	1	--	--	--	--	--	2%	9,080
	34	--	--	--	--	--	1	1%	7,314
	35	--	--	--	--	--	--	1%	6,215
	36	--	--	--	--	--	--	1%	2,825
	37	--	--	--	--	--	--	1%	3,543
	38	--	--	--	--	--	--	1%	2,677
	39	--	--	--	--	--	--	--%	1,404
	40	--	--	--	--	--	--	--%	1,959
	41	--	--	--	--	--	--	--%	816
Most	42	--	--	--	--	--	--	--%	983
severe	43	--	--	--	--	--	--	--%	2,202
Column total		54% 266,745	11% 55,060	14% 69,162	8% 39,111	5% 23,074	9% 45,554	100% --	-- 498,706

Note: Offense severity score is the final offense level as determined by the court and ranges from 1 to 43. Criminal history category (1–6) is the final criminal history category as determined by the court.
--Less than 1 percent. Detail percentages may not sum to totals due to rounding.

Figure 27

DOJ_NMG_ 0167274

The safety valve provision permits the court to impose a sentence without regard to the statutory drug minimum taking into account the defendant's criminal history, role in offense and cooperation with authorities as well as whether offense involved death/injury, weapons or violence (see: 18 U.S.C. § 3553(f)).

Drug defendants in 3 Federal judicial districts received the safety valve provision at nearly double the national rate of 30%.

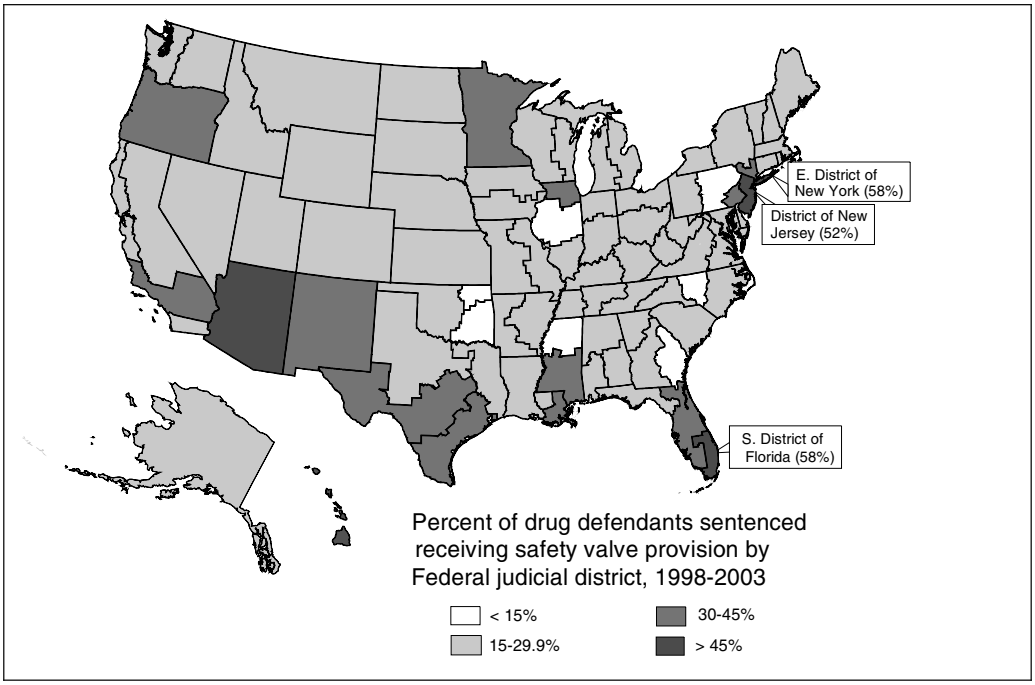

Figure 28

The safety valve provision was increasingly used for drug offenders over this period: 38% of drug defendants received the safety valve provision in 2003 compared with 25% in 1998.

Table 19. Federal drug offenders sentenced under the Federal Sentencing Guidelines and receiving safety valve, 1998-2003

	Drug defendants sentenced	Drug defendants receiving safety valve	
Year	Number	Number	Percent
1998	20,267	4,814	25.3%
1999	22,566	5,053	24.9
2000	23,424	5,547	26.1
2001	24,349	5,566	25.4
2002	25,692	8,470	37.4
2003	26,047	8,802	38.3

DOJ_NMG_ 0167275

Some offenders assisting the Government in investigations and prosecution of others met the criteria for a reduction in sentence under Rule 35(b) of the Federal Rules of Criminal Procedure.

- Twenty-nine percent of Rule 35(b) defendant resentencings from 1992 to 2001 occurred in four Federal judicial districts.

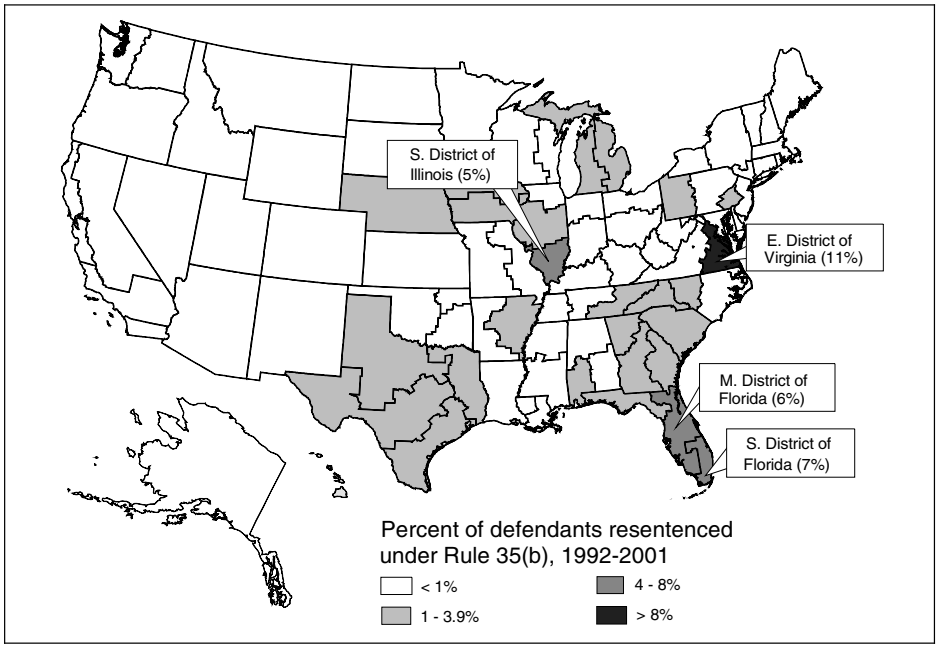

Figure 29

Between 1992 and 2001, average sentence length reductions for prisoners resentenced under Rule 35(b) ranged from 36% to 43%.

Table 20. Federal offenders resentenced pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure after providing substantial assistance to the Government, 1992-2001

Year entering prison	Number of offenders	Average sentence imposed		Average percent reduction
		Original	New	
1992	1,210	138.0 mo.	80.3 mo.	42%
1993	1,761	136.6	77.8	43
1994	1,676	132.8	80.0	40
1995	1,517	126.1	73.2	42
1996	1,650	125.3	73.7	41
1997	1,700	119.6	71.2	40
1998	1,839	117.1	72.2	38
1999	1,838	114.3	73.0	36
2000	1,940	111.5	69.6	38
2001	1,769	104.4	65.5	37

DOJ_NMG_ 0167276

IV. Cases appealed

Guideline-based appeals comprised 85% of appeals terminated from 1994-2003.

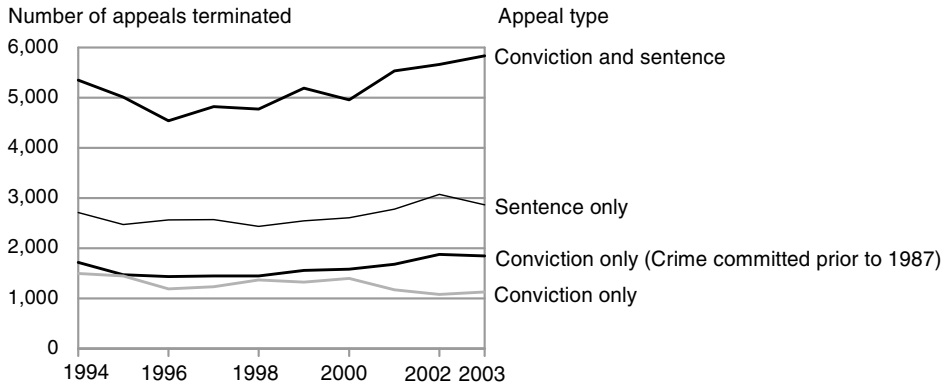

Figure 30

Criminal appeals increased an annual average of 2% from 1994-2003 with the bulk of this growth occurring among appellants with an immigration offense as the most serious offense of conviction.

- The rate of appeals per 100 convictions decreased from 21 appeals per 100 convictions in 1994 to 16 appeals per 100 convictions in 2003.
- The rate of appeals for drug offenses decreased the most over this period.

Table 21. Number of criminal appeals filed in U.S. district court, 1994-2003

Offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003	Number of convictions 1994	Number of convictions 2003	Appeals per 100 convictions 1994	Appeals per 100 convictions 2003
All offenses	100.0%	100.0%	10,674	11,968	1.7%	50,701	75,805	21	16
Violent offenses	8.3	5.3	856	601	-3.0	2,704	2,643	32	23
Property offenses	18.8	16.2	1,949	1,842	-0.1	11,113	13,311	18	14
Drug offenses	49.3	40.0	5,102	4,565	-0.7	16,400	25,582	31	18
Public-order offenses	10.0	7.8	1,037	894	-0.7	4,023	4,331	26	21
Weapon offenses	11.0	14.7	1,141	1,681	6.0	3,232	6,970	35	24
Immigration offenses	2.5	16.0	261	1,821	25.5	2,152	14,199	12	13

DOJ_NMG_ 0167277

Most criminal appeals terminated from 1994 to 2003 (77%) were terminated on the merits of the case; and, of these, the majority (85%) affirmed the decision of the lower court in whole or in part.

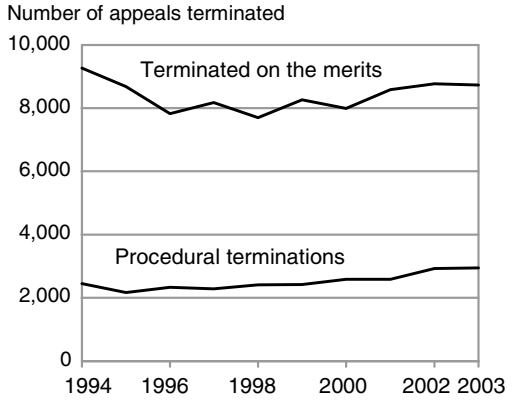

Figure 31

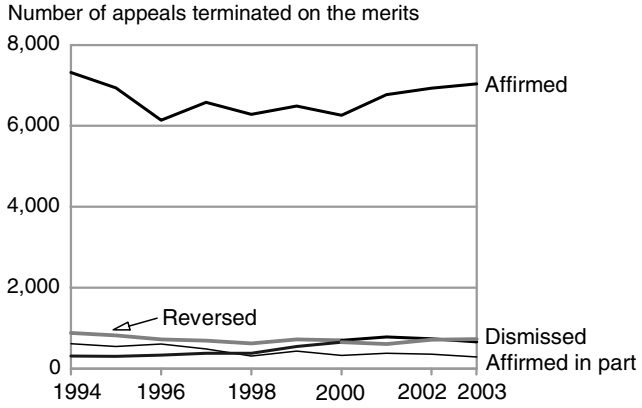

Figure 32

DOJ_NMG_ 0167278

I. Offenders in the custody and under the jurisdiction of the Federal Bureau of Prisons

Most offenders under the jurisdiction of the Federal Bureau of Prisons were classified as medium or low custody from 1995-2003.

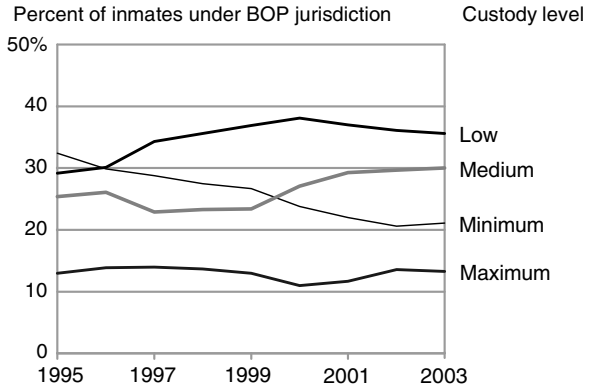

Figure 33

Offenders under the jurisdiction and in custody of the Federal Bureau of Prisons increased at similar rates from 1994 to 2003 — an average annual rate of 7%.

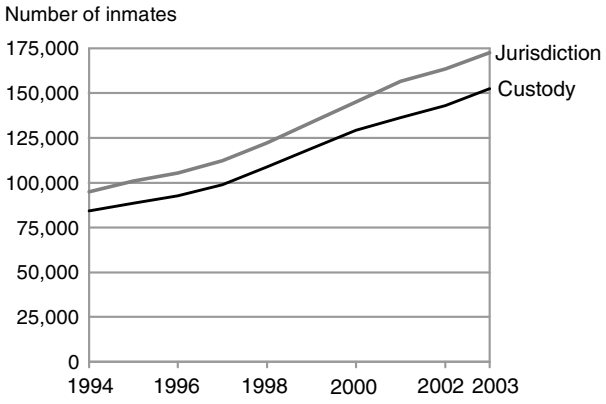

Figure 34

DOJ_NMG_ 0167279

II. Offenders in the custody of the Federal Bureau of Prisons

Drug offenders comprised 57% of the Federal prison population in 2003 compared with 61% in 1994. Immigration (24%) and weapon offenders (10%) increased at the greatest rate from 1994 to 2003.

Table 22. Offenders in the custody of the Federal Bureau of Prisons at fiscal yearend by major offense category, 1994-2003

Commitment offense	Number				Average annual change	Percent	
	1994	1999	2002	2003	1994-2003	1994	2003
All offenses	84,253	118,265	143,031	152,459	6.8%	100.0%	100.0%
Violent	11,111	13,121	13,549	13,525	2.2	13.3	8.9
Property	7,880	8,581	10,100	10,634	3.5	9.5	7.0
Drug	50,555	67,925	81,052	85,789	6.1	60.7	56.7
Weapons	6,769	9,439	13,725	16,014	10.1	8.1	10.6
Immigration	2,486	10,156	15,571	16,903	24.4	3.0	11.2
Public-order	4,512	6,711	7,951	8,438	7.3	5.4	5.6

DOJ_NMG_ 0167280

Characteristics of the Federal prison population changed moderately from 1994 to 2003.

Table 23. Characteristics of offenders in the custody of the Federal Bureau of Prisons, 1994-2003

Offender characteristics	All offenses: Number and percent 1994	All offenses: Number and percent 2003	Drug offenses: Number and percent 1994	Drug offenses: Number and percent 2003	In 2003 offenders in Federal prison for a drug offense were most likely to be —
All inmates	84,253	152,459	50,555	85,789	
Gender					
Male	92.1%	93.1%	91.2%	92.0%	◗ Male (92%)
Female	7.9	6.9	8.8	8.0	
Race					
White	62.1%	58.1%	61.9%	53.9%	◗ White (54%)
Black or African American	35.3	39.0	36.8	44.5	
American Indian or Alaska Native	1.5	1.6	0.3	0.4	
Asian/Native Hawaiian or Other Pacific Islander	1.1	1.3	1.1	1.2	
Ethnicity					
Hispanic or Latino	25.1%	32.1%	31.3%	33.0%	
Not Hispanic or Latino	74.9	67.9	68.7	67.0	◗ Not Hispanic or Latino (67%)
Age at fiscal yearend					
Under 19 years	0.1%	0.4%	0.1%	0.2%	
19-20 years	1.3	3.3	1.0	3.2	
21-30 years	30.1	41.3	31.6	44.2	◗ 21-30 years old (44%)
31-40 years	35.9	33.0	36.4	32.3	
Over 40 years	32.6	22.1	30.9	20.2	
Citizenship					
U.S. citizen	77.5%	72.2%	71.8%	74.1%	◗ U.S. citizen (74%)
Non-U.S. citizen	22.5	27.8	28.2	25.9	

Male offenders comprised 93% of inmates in the custody of the Federal Bureau of Prisons in 2003 and increased an annual average of 7% from 1994 to 2003; females comprised 7% of inmates in 2003 and increased by an annual average of 6% from 1994 to 2003.

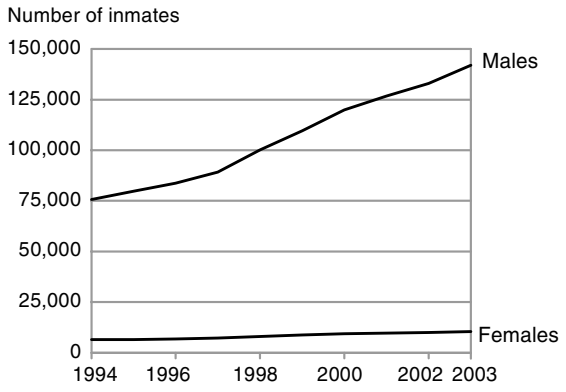

Figure 35

DOJ_NMG_ 0167281

Twenty-six percent of offenders in the custody of the Federal Bureau of Prisons in 2003 had been incarcerated more than 5 years compared with 9% of offenders in 1994.

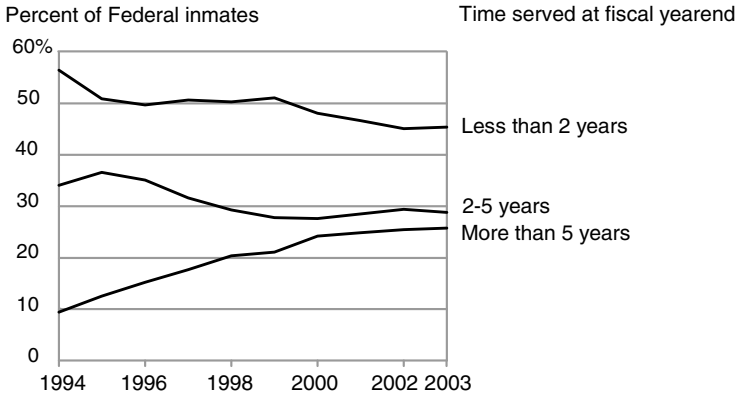

Figure 36

Inmates 50 years and older comprised 13% of the population in the custody of the Federal Bureau of Prisons and 22% of the inmates who had served 5 years or more at fiscal yearend 2003.

Table 24. Characteristics of inmates in the custody of the Bureau of Prisons, by age at fiscal yearend, 1994 and 2003

	Age of inmate					
	60 and older		50-59 years		Under 50 years	
Suspect characteristics	1994	2003	1994	2003	1994	2003
All inmates	2,370	4,908	7,535	14,641	72,313	132,882
Gender						
Male	2.9%	3.2%	9.2%	9.5%	87.8%	87.2%
Female	2.3	3.1	8.3	10.5	89.4	86.4
Race						
White	3.8%	4.4%	11.6%	11.6%	84.6%	84.0%
Black or African American	1.4	1.5	5.0	6.7	93.6	91.8
Native American or Alaska Native	2.5	3.0	5.6	7.6	91.8	89.3
Asian/Native Hawaiian or Other Pacific Islander	2.2	3.9	9.2	10.6	88.6	85.5
Ethnicity						
Hispanic or Latino	2.0%	2.2%	8.2%	7.8%	89.8%	90.0%
Not Hispanic or Latino	3.2	3.7	9.5	10.5	87.3	85.9
Time served						
Less than 2 years	2.4%	2.3 %	7.9%	7.1%	89.7%	90.6%
2-5 years	2.8	2.2	9.5	7.6	87.7	90.2
More than 5 years	5.8	6.0	15.7	16.3	78.5	77.7
Commitment offense						
Violent	2.4%	3.7 %	8.0%	13.0%	89.6%	83.3%
Property	5.5	7.1	15.5	15.9	79.0	77.0
Drug	2.4	2.8	8.4	8.9	89.2	88.3
Weapon	1.7	2.0	6.5	7.6	91.8	90.5
Immigration	0.4	0.7	2.2	4.7	97.3	94.6
Public order	7.9	9.0	17.4	16.7	74.6	74.3

DOJ_NMG_ 0167282

Expected time to be served in Federal prison increased an average of 5% each year (1987-2003) from 23 months in 1987 to 48 months in 2003.

- Actual time served also increased an average of 5% each year over the same period from 15 months in 1987 to 33 months in 2003.

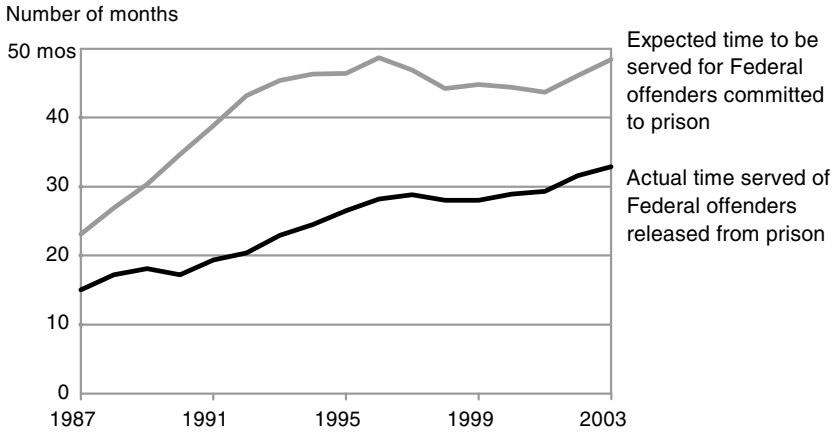

Figure 37

Of offenders who had been released from Federal prison for the first time, the average prison time served was 33 months in 2003 compared with 25 months in 1994.

- Increases in average time served were greatest for weapon offenders followed by immigration, and drug offenders.

Table 25. Number of first releases from Federal prison, by offense, and mean time to first release, 1994-2003

	Percent		Number		Average annual change	Mean time served	
Commitment offense	1994	2003	1994	2003	1994-2003	1994	2003
All offenses	100.0%	100.0%	28,409	40,780	4.2%	24.5 mo	32.9 mo
Violent offenses	5.9	4.9	1,667	1,971	1.9	53.0	63.5
Property offenses	22.0	16.2	6,202	6,533	0.6	15.4	16.4
Drug offenses	41.2	37.4	11,650	15,052	3.0	33.9	44.3
Weapon offenses	4.9	7.9	1,397	3,184	10.0	26.5	42.7
Immigration offenses	16.9	26.0	4,777	10,479	9.6	5.9	21.1
Public-order offenses	9.0	7.5	2,553	3,013	2.0	19.8	25.4

DOJ_NMG_ 0167283

III. Offenders on Federal supervision

The number of offenders on supervision (probation, supervised release, and parole) increased an average of 3% per year from 1994 to 2003.

- More than two of three offenders on Federal supervision in 2003 were on supervised release.

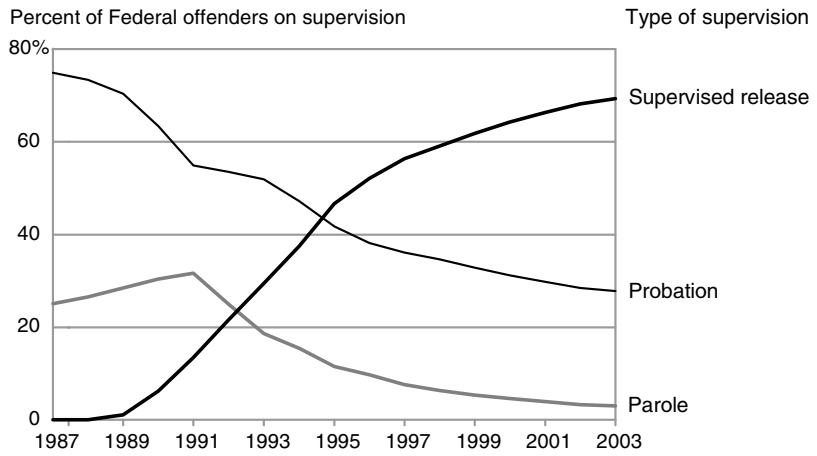

Figure 38

Drug offenses surpassed property offenses as most common offense of offenders under Federal supervision.

- Forty-two percent of defendants under supervision were convicted of drug offenses in 2003 compared with 32% in 1994.

Table 26. Offenders under Federal supervision at fiscal yearend, by offense 1994-2003

Commitment offense	Number of offenders 1994	1999	2002	2003	Average annual change 1994-2003	Percent of offenders 1994	2003
All offenses	86,904	96,044	107,367	108,976	2.6%	100.0%	100.0%
Felonies	73,978	85,372	97,518	99,172	3.3	85.1	91.0
Violent offenses	4,504	5,468	6,281	6,328	3.9	5.2	5.8
Property offenses	28,276	28,128	29,268	29,011	0.3	32.5	26.6
Drug offenses	28,039	37,688	44,980	45,981	5.7	32.3	42.2
Weapon offenses	3,883	4,121	5,662	6,648	6.4	4.5	6.1
Immigration offenses	1,075	1,323	2,095	2,180	8.9	1.2	2.0
Public-order offenses	8,162	8,355	9,039	8,838	1.1	9.4	8.3
Misdemeanors	12,296	10,672	9,849	9,804	-2.9	14.9	9.0

DOJ_NMG_ 0167284

Offenders under supervised release increased at an average annual rate of 9% between 1994 and 2003.

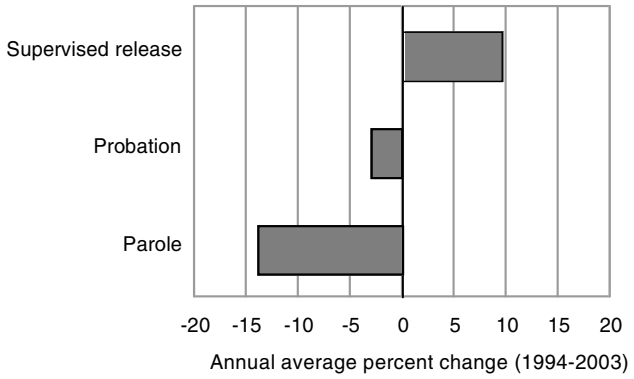

Figure 39

Characteristics of offenders under Federal supervision from 1994-2003 varied by type of supervision. For example, 23% of offenders on probation at yearend 2003 had a known drug history compared to 47% of offenders on supervised release and 44% of offenders on parole.

Table 27. Characteristics of Federal offenders under supervision at fiscal yearend, by type of supervision, 1994-2003

	Total offenders under supervision		Type of supervision					
			Probation		Supervised release		Parole	
Offender characteristic	1994	2003	1994	2003	1994	2003	1994	2003
All offenders	86,904	108,976	40,058	29,971	34,091	75,766	12,755	3,239
Gender								
Male	79.5	78.2%	72.5	66.1%	82.2	82.2%	94.4	96.9%
Female	20.5	21.8	27.5	33.9	17.8	17.8	5.6	3.1
Race								
White	70.3	61.7%	70.7	67.1%	70.1	60.0%	69.3	51.4%
Black or African American	26.1	33.5	24.8	26.7	26.6	35.7	28.7	46.2
Native American or Alaska Native	1.5	2.1	1.4	2.8	1.6	1.8	1.2	1.9
Asian/Native Hawaiian or Other Pacific Islander	2.2	2.7	3.0	3.4	1.8	2.4	0.8	0.6
Age								
16-18 years	0.5	0.4%	1.1	1.5%	0.0	0.0%	0.0	0.0%
19-20 years	2.0	2.1	3.2	4.5	1.4	1.2	0.0	0.0
21-30 years	26.7	29.6	28.0	30.2	31.7	30.4	8.8	5.4
31-40 years	33.3	30.7	30.2	26.6	35.7	32.9	36.3	16.6
Over 40 years	37.5	37.2	37.4	37.2	31.1	35.5	54.9	78.0
Education								
Less than high school graduate	32.2	32.6%	26.1	24.8%	36.2	35.1%	41.2	43.8%
High school graduate	35.1	36.8	36.0	35.4	34.8	37.4	33.5	36.0
Some college	22.5	22.1	25.1	26.7	21.1	20.6	17.9	16.1
College graduate	10.1	8.5	12.8	13.2	8.0	6.9	7.5	4.1
Drug abuse								
Drug history	31.0	40.1%	18.3	23.0%	40.8	46.7%	44.6	44.4%
No known abuse	69.0	59.9	81.7	77.0	59.2	53.3	55.4	55.6

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Drug offenders under Federal supervision increased from 30,198 in 1994 to 47,826 in 2003.

Table 28. Characteristics of offenders under Federal supervision at fiscal yearend, 1994-2003

Offender characteristics	All offenses Percent 1994	All offenses Percent 2003	Drug offenses Percent 1994	Drug offenses Percent 2003	In 2003 offenders under Federal supervision for a *drug* offense were most likely to be —
All offenders	86,904	108,976	30,198	47,826	
Gender					
Male	79.5%	78.2%	83.9%	82.2%	◗ Male (82%)
Female	20.5	21.8	16.1	17.8	
Race					
White	70.3%	61.7%	73.4%	60.9%	◗ White (61%)
Black or African American	26.1	33.5	24.7	36.7	
Native American or Alaska Native	1.5	2.1	0.7	0.8	
Asian/Native Hawaiian or Other Pacific Islander	2.2	2.7	1.2	1.6	
Ethnicity					
Hispanic or Latino	17.2%	19.4%	27.2%	26.9%	
Not Hispanic or Latino	82.8	80.6	72.8	73.1	◗ Not Hispanic or Latino (73%)
Age					
16-18 years	0.5%	0.4%	0.5%	0.3%	
19-20 years	2.0	2.1	1.8	1.9	
21-30 years	26.7	29.6	28.5	32.4	
31-40 years	33.3	30.7	36.7	33.0	◗ 31-40 years old (33%)
Over 40 years	37.5	37.2	32.5	32.4	
Education					
Less than high school graduate	32.2%	32.6%	40.2%	39.9%	◗ Less than high school education (40%)
High school graduate	35.1	36.8	34.8	38.5	
Some college	22.5	22.1	19.2	18.0	
College graduate	10.1	8.5	5.8	3.5	
Drug abuse					
Drug history	31.0%	40.1%	53.6%	56.4%	◗ Have drug abuse history (56%)
No known abuse	69.0	59.9	46.4	43.6	

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Five Federal judicial districts along the Southwest U.S. border and the Central district of California comprised 32% of the growth in offenders under Federal supervision from 1994 to 2003.

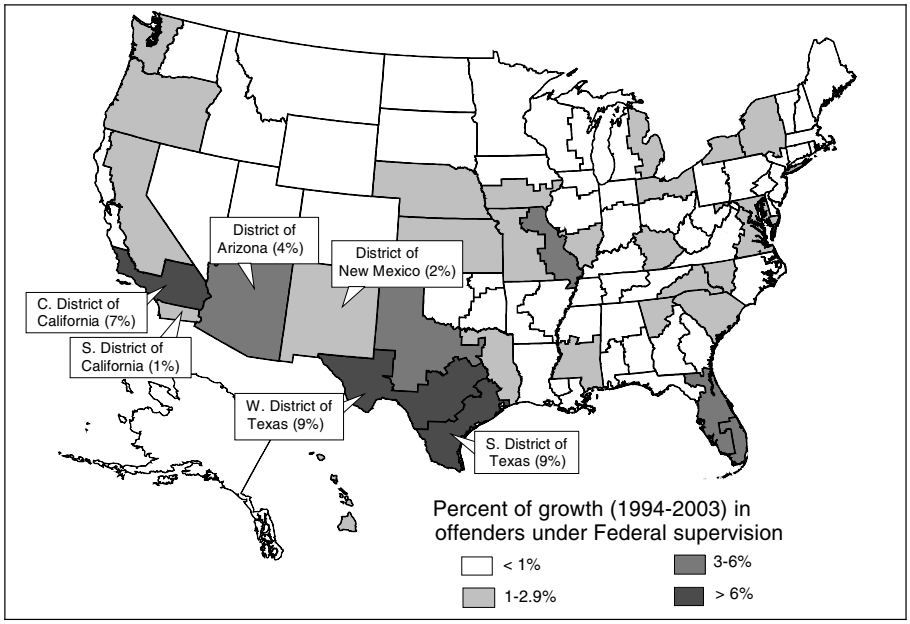

Figure 40

Parolees were more likely to violate conditions of supervision (technical violation, new crime) than offenders on supervised release or probation in 2003.

Table 29. Offenders terminating Federal supervision at fiscal yearend, by type of supervision and outcome, 1994-2003

Most serious offense of conviction	Percent 1994	Percent 2003	Number 1994	Number 2003	Average annual change 1994-2003
Probation					
All terminations	100.0%	100.0%	18,989	15,489	-2.2%
No violation/no new crime	83.8	80.3	15,899	12,433	
Technical violations	10.1	11.5	1,918	1,775	
New crime	3.9	6.3	740	981	
Administrative case closure/other	2.2	1.9	426	300	
Supervised release					
All terminations	100.0%	100.0%	10,490	30,585	12.8%
No violation/no new crime	58.2	61.9	6,102	18,917	
Technical violations	25.7	23.2	2,691	7,085	
New crime	12.3	12.8	1,288	3,922	
Administrative case closure/other	3.8	2.2	398	661	
Parole					
All terminations	100.0%	100.0%	5,681	1,504	-13.1%
No violation/no new crime	63.6	51.9	3,615	781	
Technical violations	17.9	27.6	1,015	415	
New crime	12.9	14.7	734	221	
Administrative case closure/other	5.6	5.8	316	87	

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Figure notes

Figure 1, p. 1. Shows the top five offenses in terms of net and percent growth in suspects arrested and booked by the U.S. Marshals Service from 1994-2003. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 2, p. 2. The following districts are not shown on map: District of Columbia (2-6%); Puerto Rico (<1%); Guam (<1%); Virgin Islands (<1%); Northern Mariana Islands (<1%). The Western District of North Carolina did not report arrests in 1994. The map shows the percent distribution of the net increase in arrests between 1994 and 2003 (50,334) by Federal judicial district. Percentages shown are rounded. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 3, p. 3. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 4, p. 4. Citizenship status was missing in 13% of cases in 1994, 9% in 1998, and 7% in 2003. Yearly average of 9% missing citizenship status (1994-2003). Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 5, p. 4. A total of 1,044,078 suspects were arrested and booked by U.S. Marshals from 1994-2003. Of these, 9% were missing country of citizenship (948,077). Of cases with country of citizenship, 35% were non-U.S. Citizens. These 327,825 arrests are displayed by country of citizenship in map. Percentages based on non-missing cases. Source: U.S. Marshals Service, Prisoner Tracking System, fiscal year.

Figure 6, p. 5. Source: Drug Enforcement Administration Defendant Statistical System, fiscal year.

Figure 7, p. 6. Percent distribution based on total number of methamphetamine arrests by the Drug Enforcement Administration (N=59,903) by State. Not shown on map: Alaska (0.2%); Guam (0.4%); Hawaii (1.3%); Virgin Islands, and Puerto Rico (each < 0.1%). Source: Drug Enforcement Administration Defendant Statistical System, fiscal year.

Figure 8, p. 7. Matters referred to U.S. attorneys by selected offenses. A matter is a referral that an assistant U.S. attorney spends more than 1 hour investigating. The most serious offense investigated is based on the criminal lead charge as determined by the assistant U.S. attorney for the criminal matter. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 9, p. 8. Illegal reentry includes: 8 U.S.C. § 1326; Illegal entry 8 U.S.C. § 1325; alien smuggling 8 U.S.C. §§ 1322-1324, 8 U.S.C. § 1327; and misuse of visas 18 U.S.C. § 1546, 8 U.S.C. §§ 1252-1253, 8 U.S.C. §§ 1321 (lead charge). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 10, p. 8. Percent distribution based on total number of immigration (as lead charge) matters referred to U.S. attorneys from 1994-2003 (N=127,550) by Federal judicial district. Not shown on map: District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands (each representing less than 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 11, p. 9. Drug trafficking includes: 21 U.S.C. § 841 and 21 U.S.C § 960; Conspiracy includes: 21 U.S.C. § 846 & 21 U.S.C § 963; "Other drug offenses" include: drug possession, protected location offenses, manufacturing offenses, continuing criminal enterprise offenses, sale/importation of drug paraphernalia, and transhipment of controlled substances (lead charge). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 12, p. 9. Percent distribution based on number of drug matters referred to U.S. attorneys (as lead charge) from 1994-2003 with non-missing data (350,215) by Federal judicial district. Not shown on map: Puerto Rico (1.4%); District of Columbia (1.1%); Virgin Islands and Northern Mariana Islands (each < 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 13, p. 10. The following statutes were used to classify firearms into three categories: 18 U.S.C. §§ 922-924; 18 U.S.C §§ 929-930, 26 U.S.C § 5812, 26 U.S.C § 5822, 26 U.S.C § 5841, 26 U.S.C § 5842, 26 U.S.C § 5861 (lead charge). See Appendix Table 3 in Federal Firearm Offenders, 1992-98 (BJS Special Report, NCJ 180795, 2000). Note: Firearms matters are a subset of weapon referrals shown in Table 6. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 14 , p. 10. Percent distribution based on number of firearm (as lead charge) matters referred to U.S. attorneys from 1994 to 2003 with non-missing data (75,135) by Federal judicial district. Not shown on map: District of Columbia (2%); Guam, Virgin Islands, Puerto Rico, Northern Mariana Islands (each < 1%). Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 15, p. 11. Excludes matters which were declined immediately. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Figure 16, p. 12. Includes defendants who terminated pretrial services during fiscal years 1994-2003. Includes only those defendants whose cases were filed by complaint, indictment, or information. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 17, p. 13. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands (each <1%). Based on net increase in pretrial detention between 1994 and 2003 (31,557). The percent

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distribution of this net difference is shown by Federal judicial district. Source: Pretrial Services Agency, Pretrial Services Act Information System data base, fiscal year.

Figure 18, p. 13. Includes defendants released prior to trial during the fiscal year. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 19, p. 15. Includes defendants who had an initial hearing in U.S. district court from 1994-2003. Prior criminal history is determined only for those defendants whose PSA records explicitly showed no prior conviction. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Figure 20, p. 16. Shows the percent distribution of cases filed calculated by summing the number of cases filed in each district and displaying the percent contribution to the overall total by Federal judicial district. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, Northern Mariana Islands, and the District of Columbia (comprising 3% of all cases filed). Percents are rounded. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 21, p. 17. The trial rate is computed for each district by dividing the number of cases concluded in which a bench or jury trial occurred into the total number of cases concluded in that district. The following districts are not shown: Puerto Rico, Guam, Virgin Islands, Northern Mariana Islands, and the District of Columbia (trial rates range from 6% to 12%). The displayed percent is rounded. The District of Columbia had a trial rate of 12%. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 22, p. 18. Type of counsel at the time of case termination. A total of 4% of cases concluded from 1994-2003 were missing type of counsel. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 23, p 20. Average prison sentence imposed on defendants convicted and sentenced to any prison term during the fiscal year. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Figure 24, p. 22. Map shows the rate at which a Federal judicial district imposed sentences within ranges as determined by the U.S. Sentencing Guidelines. The rate is computed by dividing the number of sentences that were within guideline range by the total number of sentences imposed during fiscal years 1994-2003 (based on non-missing data). The following districts were missing 5% or more of departure information: C. District of CA (38%); E. District of VA (25%); S. District of CA (18%); E. District of NY (15%); W. District of WA (16%); District of UT (15%): District of OR (11%); M. District of TN (10%); M. District of GA (10%); District of GU (9%); W. District of NC (9%); M. District of AL (8%); W. District of KY (8%); S. District of NY (7%); N. District of CA (8%); District of CO (7%); N. District of NY (7%); S. District of FL (7%); District of PR (7%); S. District of GA (6%); N. District of IN 6%); and, N. District of IL (5%). Overall, 6% of cases from 1994-2003 were missing departure information. The displayed percent is rounded. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 25, p. 22. Percent of defendants sentenced within ranges determined by the U.S. Sentencing Guidelines based on non-missing data. A maximum of 9% of cases were missing departure information for a particular year. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 26, p. 23. Includes defendants sentenced under Chapter 2, Part D of the U.S. Sentencing Guidelines: Trafficking, protected locations, continuing criminal enterprise, communications facility, rent/manage drug establishment, and simple possession. Percentages based on non-missing cases. Less than 1% of cases missing information on mandatory-minimum sentence. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 27, p. 24. Figure depicts the sentencing grid used to determine sentence imposed. Along the vertical axis are 43 offense levels which are ranked in terms of severity of offense from least (1) to most (43). Each Federal offense is associated with an offense severity score. The offense level is subject to modification depending upon aggravating and mitigating factors. The horizontal axis shows the defendant's criminal history score. A criminal history score of 1 corresponds to the mildest criminal history (including no prior convictions/arrests). The criminal history score increases with the magnitude and/or seriousness of the defendant's prior criminal history. The sentencing grid (shown in figure) is used to locate the cell corresponding to the defendant's final offense severity score and criminal history score. A frequency of the final cell used to determine the defendant's sentence was generated for all defendants sentenced under the Federal guidelines from 1994 to 2003. This distribution is shown in figure. For example, 3% of all defendants sentenced under the guidelines from 1994 to 2003 were sentenced in the cell corresponding to an offense severity score of 6 and a criminal history score of 1. Darker shading refers to cells with a relatively greater share of the total percent of sentences imposed across this 10-year period. Lighter shading refers to cells with a relatively lesser share of the total sentences imposed. Of 530,433 defendants sentenced, 31,727 were missing information on offense severity/criminal history score. A small share of defendants were sentenced under more than one guideline and are not displayed. There were a total of 498,706 cases with complete information on final

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criminal history score and offense severity score. Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 28, p. 25. Map shows the rate for each Federal judicial district of sentenced drug offenders who received a safety valve provision. For example Title 18 §3553(f), provides for relief from statutory minimum sentences with 1) Government's recommendation and 2) if the defendant meets the following criteria: no more than 1 criminal history point, no use of violence or credible threats of violence or possess a firearm or other dangerous weapon in connection with offense; offense did not result in death or serious bodily injury to any person; defendant was not an organizer, leader, manager, or supervisor of others in the offense and was not engaged in continuing criminal enterprise; defendant has truthfully provided to the Government. Percents based on non-missing data. Missing ranged from 6% of cases in 1994 to 12% in 2003 (missing safety valve and/or complete guideline application information). Source: U.S. Sentencing Commission, Monitoring Data Base.

Figure 29, p. 26. The map shows the distribution of resentencing under Rule 35(b) by Federal judicial district. Rule 35(b) of the Federal Rules of Criminal Procedure permits the reduction of sentence for substantial assistance to the Government. Upon the Government's motion within 1 year of sentencing, the court may reduce the offender's sentence if the offender provided substantial assistance in the investigation or prosecution of another person and that the reduction in sentence complies with the Federal sentencing guidelines and policy statement by the U.S. Sentencing Commission. The Government may make a motion more than 1 year after sentencing to reduce the sentence of an offender if the information wasn't known to the defendant 1 year or more after sentencing or the information provided to the Government within 1 year of sentencing did not become useful to the Government until more than 1 year after sentencing. Source: Federal Bureau of Prisons (BOP), online Sentry System.

Figure 30, p.27. Figure excludes other guideline based appeals. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 31, p. 28. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 32, p. 28. Figure excludes other dispositions. Source: Administrative Office of the U.S. Courts, Appeals database.

Figure 33, p. 29. The number of offenders under BOP jurisdiction in 1994 is for period ending Dec. 31st. Source: Federal Bureau of Prisons as reported in Prisoners in 1994, BJS Bulletin <www.ojp.usdoj.gov/bjs>. The number of offenders under BOP jurisdiction from 1995-2003 is for period ending Sept. 30th. Source: Federal Bureau of Prisons, State of the Bureau, <www.bop.gov>. The number of offenders under BOP custody from 1994-2003 is for period ending Sept. 30th. Source: Federal Bureau of Prisons as reported in the Compendium of Federal Justice Statistics, <www.ojp.usdoj.gov/bjs>.

Figure 34, p. 29. Source: Federal Bureau of Prisons, online Sentry System.

Figure 35, p. 31. Data include offenders sentenced in Federal courts (excludes persons committed by the D.C. Superior Court). Source: Federal Bureau of Prisons, online Sentry System.

Figure 36, p. 32. Percentages based on non-missing cases. Data include offenders sentenced in Federal courts (excludes persons committed by the D.C. Superior Court). Source: Federal Bureau of Prisons, online Sentry System.

Figure 37, p. 33. Time served calculated from prisoner's arrival into BOP jurisdiction until first release from prison, plus any jail time served and credited. Note: Beginning in 2000, average time served is calculated for offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Figure 38, p. 34. Note: Data for 1987 through 1994 are based on a count of the supervised population as of June 30. Beginning in 1995 data are based on a count as of September 30. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System (FPSIS), fiscal year.

Figure 39, p. 35. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System, fiscal year.

Figure 40, p. 37. The difference was taken between the number of inmates under Federal supervision at fiscal yearend 1994 and in 2003. This difference provides the net growth for offenders under Federal supervision between 1994 and 2003 and the percent distribution of the net growth is displayed by Federal judicial district on the map. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System, fiscal year.

Table notes

Table 1, p. 1. Percentages based on non-missing cases. Missing comprised less than 1% for each year. Source: U.S. Marshals Service (USMS) Prisoner Tracking System (PTS), fiscal year.

Table 2, p. 2. Percentages based on non-missing cases. In 1994 the following were missing: citizenship (13%), and gender, age, and race (each <2%). In 2003 missing included citizenship

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(7%) and gender, age, and race (each <2%). Source: U.S. Marshals Service (USMS), Prisoner Tracking System.

Table 3, p. 3. Percentages based on non-missing cases. In 1994 missing included citizenship (6%), and gender, age and race (each <1%). In 2003 missing included citizenship (5%), and gender, age, and race (<1%). Information on suspect ethnicity not available. Source: U.S. Marshals Service (USMS), Prisoner Tracking System.

Table 4, p. 5. Other or non-drug includes paraphernalia and other items. Source: Drug Enforcement Administration (DEA), Defendant Statistical System.

Table 5, p. 6. Percentages based on non-missing cases. The following describes the maximum missing data for each variable across offense categories: sex (<1%), race (< 4%), ethnic (< 9%), age (<2%), and citizenship (<6%). 1995 is the base year due to missing demographic data for 1994. Source: Drug Enforcement Administration (DEA), Defendant Statistical System.

Table 6, p. 7. Percentages based on non-missing cases. About 1% of cases each year are missing offense information. Source: Executive Office for the U.S. Attorney, Central System File.

Table 7, p. 11. Only records which show a matter terminated by reason of declination, disposition by a U.S. Magistrate, or filed as a case in U.S. district court were selected. Matters "declined immediately" — those cases in which the U.S. attorney spent less than 1 hour investigating — were excluded. Source: Executive Office for U.S. Attorneys, Central System File, fiscal year.

Table 8, p. 12. Detained defendants included defendants who were detained at any time prior to case termination. Totals include defendants whose offense category could not be determined. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 9, p. 14. Total includes defendants whose offense category could not be determined. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 10, p. 15. Source: Pretrial Services Agency, Pretrial Services Act Information System, fiscal year.

Table 11, p. 16. Most serious offense is based on the offense carrying the maximum statutory penalty. Includes defendants whose offense category could not be determined. See *Methodology* for a listing of detailed offense categories within each major offense category. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 12, p. 17. Case processing time is computed from case filing to disposition. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 13, p. 18. Note: Most serious offense is based on the disposition offense with the most severe sentence. Includes offenders whose offense category could not be determined or whose sentence was unknown. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 14, p. 19. Percentages based on non-missing cases. Offender characteristics could not be determined for 16%-20% of defendants across characteristics in 1996. In 2003 missing information comprised less than 1% across characteristics. Table was created by matching the AOUSC master data files with the U.S. Sentencing Commission (USSC) monitoring system files and the Pretrial Services Agency (PSA) data files. Source: Compendium of Federal Justice Statistics, <www.ojp.usdoj.gov/bjs>.

Table 15, p. 20. Percentages based on non-missing cases. Missing data comprised less than 1% for each year. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 16, p. 21. Note: Most serious offense is based on the disposition offense with the most severe sentence. Includes offenders whose offense category could not be determined or whose sentence was unknown. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 17, p. 21. Source: Administrative Office of the U.S. Courts, Criminal Master File, fiscal year.

Table 18, p. 23. Percentages based on non-missing cases. Four percent of cases sentenced in 1994 were missing departure information and/or offenses information. In 2003, 8% of cases were missing departure and/or offense information. Downward departure category includes Government-initiated departures. Source: U.S. Sentencing Commission, Monitoring Data Base.

Table 19, p. 25. Percents are based on non-missing data. Includes defendants sentenced under Chapter 2, Part D of the U.S. Sentencing Guidelines: Trafficking, protected locations, continuing criminal enterprise, communications facility, rent/manage drug establishment, and simple possession. Six percent of cases in 1994 were missing safety valve and/or complete guideline application information. In 2003 12% of cases were missing safety valve and/or guideline application information. Source: U.S. Sentencing Commission, Monitoring Data Base.

Table 20, p. 26. Source: Database with special data set covering all prisoner admissions 1986-1997 and subsequently updated with annual Federal Bureau of Prisons, online Sentry System to capture resentencing.

Table 21, p. 27. Offenses represent the statutory offense of conviction against a defendant in a criminal appeal. Includes offenders whose offense category could not be determined. Number of defendants

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convicted derived from 1994 and 2003 defendants in cases terminated. Source: Administrative Office of the U.S. Courts, Court of Appeals File and Criminal Master File, fiscal year.

Table 22, p. 30. Data includes only offenders sentenced in Federal court. Total includes prisoners whose offense category could not be determined. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 23, p. 31. Percentages based on non-missing cases. Data includes only offenders sentenced in Federal court. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 24, p. 32. Percentages based on non-missing cases. Data includes only offenders sentenced in Federal court. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 25, p. 33. Note: Most serious offense is based on the offense having the longest sentence. Starting in 2000 the universe for this table includes offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. Includes prisoners whose offense category could not be determined. Source: Federal Bureau of Prisons, online Sentry System, fiscal year.

Table 26, p. 34. Most serious offense of conviction is based on the offense with the longest sentence imposed. Includes offenders under the three major forms of supervision: probation, supervised release, and parole. Includes offenders whose offense category could not be determined. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 27, p. 35. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 28, p. 36. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

Table 29, p. 37. Percentages based on non-missing cases. Excludes organizational defendants. Source: Administrative Office of the U.S. Courts, Federal Probation and Supervision Information System.

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The Federal justice database

The source of data for all tables in *Federal Criminal Justice Trends* is the Bureau of Justice Statistics (BJS) Federal justice database. The database is constructed from source files provided by the U.S. Marshals Service (USMS), the Drug Enforcement Administration (DEA), the Executive Office for U.S. Attorneys (EOUSA), the Administrative Office of the U.S. Courts (AOUSC), the United States Sentencing Commission (USSC), and the Federal Bureau of Prisons (BOP). AOUSC also maintains the data collected by the U.S. Court of Appeals and the Federal Probation and Supervision Information System (FPSIS).

The universe of the BJS Federal justice database includes criminal suspects investigated for violations of Federal criminal law, criminal suspects arrested for violations of Federal criminal law, defendants in Federal pretrial cases opened, defendants in cases filed in U.S. district courts, and offenders entering Federal corrections and correctional supervision.

Wherever possible matters or cases were selected based on an event that occurred during each fiscal year (October 1 through September 30) from 1994 through 2003.

The offense classification procedure used in this report is based on the classification system followed by the AOUSC. Specific offenses in the AOUSC classification are combined to form the BJS categories shown in this report's tables (see Compendium of Federal Justice Statistics, 2003 (NCJ 210299) available on-line from the Bureau of Justice Statistics website.

Felony and misdemeanor distinctions are provided where possible. Felony offenses are those with a maximum penalty of more than 1 year in prison. Misdemeanor offenses have a maximum penalty of 1 year or less.

Offenses in the tables are classified, at the most general level, into felony and misdemeanor categories. Felonies are divided into six main level offense classifications: violent, property, drug, public-order, weapon and immigration offenses. Property and public-order offenses have two sub-levels. The main-level and sub-group categories are composed of individual offense types. When possible drug offenses are divided into the individual offense level.

"Other public-order offenses" include detail at the individual offense type level. Table M.1 shows a list of specific offenses under each offense category.

Table M.1. Breakout of main category offenses

Felonies								
Violent offenses	Property offenses		Drug offenses	Public-order offenses		Weapon offenses	Immigration offenses	Misdemeanors
	Fraudulent	Other		Regulatory	Other			
Murder	Embezzlement	Burglary	Trafficking	Agriculture	Tax law violations	Weapons violations	Immigration offenses	Larceny
Negligent manslaughter	Fraud	Larceny	Possession	Antitrust	Bribery			Drug possession
Assault	Forgery	Motor vehicle theft	Other drug offenses	Food and drug	Perjury, contempt, and intimidation			Immigration
Robbery	Counterfeiting	Arson and explosives		Transportation	National defense			Traffic offense
Sexual abuse		Transportation of stolen property		Civil rights	Racketeering/ extortion			Other misdemeanors
Kidnaping		Other property offenses		Communications	Gambling			Fraudulent property
Threats against the President				Custom laws	Nonviolent sex offenses			
				Postal laws	Obscene material			
				Other regulatory offenses	Wildlife offenses			
					Environmental			
					All other felonies			

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Source agencies for Criminal Justice Trends data tables

Data source agency — data files	Description of data files contents
United States Marshals Service (USMS) — Prisoner Tracking System (PTS)	Contains data on suspects arrested for violations of Federal law, by Federal enforcement agencies and data on characteristics of Federal arrestees.
Drug Enforcement Administration (DEA) — Defendant Statistical System	Contains data on suspects arrested by DEA agents and includes information on characteristics of arrestees and type of drug for which arrested.
Executive Office for U.S. Attorneys (EOUSA) — Central System Files	Contains information on the investigation and prosecution of suspects in criminal matters received and concluded, and criminal cases filed and terminated. The central system files contain defendant-level records about the processing of matters and cases.
AOUSC: Pretrial Services Agency (PSA) — Pretrial Services Act Information System	Contains data on defendants interviewed, investigated, or supervised by pretrial services. The information covers defendants' pretrial hearings, detentions, and releases from the time they are interviewed through the disposition of their cases in district court. The data describe pretrial defendants processed by Federal pretrial service agencies within each district.
Administrative Office of the U.S. Courts (AOUSC) — Criminal Master File	Contains information about the criminal proceedings against defendants whose cases were filed in U.S. district courts. Includes information on felony defendants, Class A misdemeanants — whether handled by U.S. district court judges or U.S. magistrates — and other misdemeanants provided they were handled by U.S. district court judges. The information in the data files cover criminal proceedings from case filing through disposition and sentencing.
United States Sentencing Commission (USSC) — Monitoring Data Base	Contains information on criminal defendants sentenced pursuant to the provisions of the Sentencing Reform Act of 1984. It is estimated that more than 90% of felony defendants in the Federal criminal justice system are sentenced pursuant to the SRA of 1984. Data files are limited to those defendants whose records have been obtained by the U.S. Sentencing Commission.
AOUSC: Court of Appeals	Contains information on criminal appeals filed and terminated in U.S. Courts of Appeals. Includes information on the nature of the criminal appeal, the underlying offense, and the disposition of the appeal.
AOUSC — Federal Probation and Supervision Information System (FPSIS)	Contains information about supervision provided by probation officers for persons placed on probation or supervised release from prison. The files contain records of individuals entering, or currently on supervision, as well as records of offenders terminating supervision.
Bureau of Prisons (BOP): Extract from BOP's online Sentry System	The data extracts contain information on all offenders released from prison over a specific period of time plus information about the offenders in prison when the data extracts are made. The information covers the time that offenders enter prison until their release from the jurisdiction of the Bureau of Prisons. Excludes prisoners sentenced by a District of Columbia Superior Court judge for violations of the DC Criminal Code.

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Table A.1. Suspects arrested for Federal offenses and booked by USMS, by offense, 1994-2003

Most serious offense	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	80,730	83,324	85,195	91,747	104,119	109,340	115,589	118,896	124,074	131,064
Violent offenses[c]	3,905	3,873	4,519	4,801	4,989	4,254	4,250	4,843	4,723	4,484
Property offenses	15,540	16,245	16,191	16,288	16,786	16,569	16,842	16,824	17,268	17,258
Fraudulent[c]	11,919	12,804	12,729	12,912	13,219	13,116	13,432	13,397	13,976	14,169
Other[c]	3,621	3,441	3,462	3,376	3,567	3,453	3,410	3,427	3,292	3,089
Drug offenses	23,268	23,768	24,682	26,843	30,012	31,867	32,630	33,589	33,730	34,217
Public-order offenses	11,596	10,336	9,578	9,324	9,234	9,841	10,063	9,156	8,772	8,591
Regulatory	530	697	656	749	775	752	621	687	524	425
Other	11,066	9,639	8,922	8,575	8,459	9,089	9,442	8,469	8,248	8,166
Weapon offenses[d]	3,885	3,724	3,131	3,235	3,539	4,268	5,203	6,007	7,488	9,416
Immigration offenses[d]	8,777	10,600	12,026	14,994	20,942	22,849	25,205	24,794	25,270	27,620
Supervision violations	12,719	13,498	13,304	13,995	15,157	15,603	17,133	18,978	21,777	23,605
Material witness	886	1,143	1,617	2,169	3,398	4,016	4,203	3,679	3,918	4,615
Unknown or indeterminable offenses	154	137	147	163	62	73	60	1,026	1,128	1,258

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.2. Suspects in criminal matters investigated by U.S. attorneys, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	99,251	102,220	97,776	110,034	115,692	117,994	123,559	121,818	124,335	130,078
Violent offenses[c]	5,570	5,720	6,570	7,354	7,527	5,768	6,036	6,225	6,392	5,688
Property offenses	32,579	31,759	28,962	29,916	30,125	28,011	28,423	28,608	27,321	27,375
Fraudulent[c]	28,491	27,836	25,245	25,854	26,328	24,200	24,679	25,275	24,019	24,261
Other[c]	4,088	3,923	3,717	4,062	3,797	3,811	3,744	3,333	3,302	3,114
Drug offenses	29,311	31,686	30,227	34,027	36,355	37,313	38,959	37,944	38,150	37,416
Public-order offenses	19,143	19,036	18,918	22,857	21,244	22,816	24,180	23,980	23,472	23,717
Regulatory	5,059	5,371	5,154	5,423	6,541	6,332	5,737	5,411	4,738	5,366
Other	14,084	13,665	13,764	17,434	14,703	16,484	18,443	18,569	18,734	18,351
Weapon offenses[d]	5,996	5,376	4,462	4,870	4,907	6,982	8,589	8,989	11,200	14,022
Immigration offenses[d]	5,526	7,256	7,122	9,366	14,114	15,539	16,495	15,378	16,699	20,341
Unknown or indeterminable offenses	1,126	1,387	1,515	1,644	1,420	1,565	877	694	1,101	1,519

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.3. Suspects in criminal matters concluded by U.S. attorneys, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	94,980	102,309	98,454	99,459	106,022	113,933	117,450	118,978	124,081	128,518
Violent offenses[c]	5,339	5,399	6,107	6,570	6,865	5,631	5,641	5,845	6,330	5,765
Property offenses	31,752	33,888	31,038	28,633	27,461	28,314	27,713	28,120	29,083	28,270
Fraudulent[c]	28,038	29,861	27,294	25,157	23,712	24,575	24,186	24,786	25,543	25,020
Other[c]	3,714	4,027	3,744	3,476	3,749	3,739	3,527	3,334	3,540	3,250
Drug offenses	27,697	31,261	30,708	32,072	33,991	36,765	37,009	37,543	38,424	38,537
Public-order offenses	18,313	18,469	17,960	17,462	18,659	20,906	22,375	22,784	23,139	22,023
Regulatory	4,990	5,264	4,843	4,582	5,427	5,698	5,840	5,484	4,947	4,902
Other	13,323	13,205	13,117	12,880	13,232	15,208	16,535	17,300	18,192	17,121
Weapon offenses[d]	5,992	5,732	4,673	4,646	4,742	5,919	7,753	8,715	10,126	12,954
Immigration offenses[d]	5,299	6,660	6,929	8,774	13,249	15,201	16,110	15,350	16,197	20,378
Unknown or indeterminable offenses	588	900	1,039	1,302	1,055	1,197	849	621	782	591

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.4. Suspects in criminal matters concluded by U.S. attorneys: Number prosecuted before U.S. district court judge, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	50,802	55,703	56,938	60,383	64,993	68,384	73,090	72,648	76,314	80,106
Violent offenses[c]	3,256	3,223	3,784	4,153	4,294	3,327	3,403	3,493	3,402	3,218
Property offenses	14,680	15,918	15,270	14,544	14,353	14,032	14,675	14,733	15,634	15,046
Fraudulent[c]	12,683	13,858	13,337	12,663	12,408	12,319	12,988	13,044	13,919	13,525
Other[c]	1,997	2,060	1,933	1,881	1,945	1,713	1,687	1,689	1,715	1,521
Drug offenses	19,427	21,445	21,548	24,400	26,266	28,372	28,917	29,583	29,411	29,259
Public-order offenses	6,585	6,746	7,209	6,309	5,930	6,476	7,401	6,502	6,816	6,640
Regulatory	1,297	1,509	1,396	1,332	1,571	1,648	1,862	1,557	1,240	1,305
Other	5,288	5,237	5,813	4,977	4,359	4,828	5,539	4,945	5,576	5,335
Weapon offenses[d]	3,821	3,758	2,935	3,192	3,347	4,149	5,026	5,599	7,105	9,202
Immigration offenses[d]	2,789	4,305	5,830	7,243	10,505	11,794	13,414	12,488	13,693	16,529
Unknown or indeterminable offenses	244	308	362	542	298	234	254	250	253	212

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes suspects whose cases were filed in U.S. district court before a district court judge.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.5. Suspects in criminal matters concluded by U.S. magistrates, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	9,754	10,710	8,684	10,007	12,243	14,545	13,916	14,080	14,093	14,810
Violent offenses[c]	264	295	295	352	305	308	329	306	351	316
Property offenses	1,781	2,043	1,771	1,919	2,171	2,321	1,978	1,667	1,771	1,917
Fraudulent[c]	1,536	1,743	1,511	1,635	1,651	1,678	1,368	1,185	1,194	1,299
Other[c]	245	300	260	284	520	643	610	482	577	618
Drug offenses	1,821	2,456	2,262	1,903	1,561	2,132	1,966	1,736	1,937	2,426
Public-order offenses	3,432	3,514	3,216	4,167	5,205	6,074	6,915	7,653	7,624	7,077
Regulatory	198	224	275	266	386	445	637	560	618	781
Other	3,234	3,290	2,941	3,901	4,819	5,629	6,278	7,093	7,006	6,296
Weapon offenses[d]	189	190	137	153	116	110	161	178	173	214
Immigration offenses[d]	2,217	1,989	775	1,229	2,374	2,935	2,199	2,339	1,959	2,712
Unknown or indeterminable offenses	50	223	228	284	511	665	368	201	278	148

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes defendants in misdemeanor cases which were terminated in U.S. district court before a U.S. magistrate.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.6. Suspects in criminal matters concluded by U.S. attorneys: Number declined prosecution, by offense, 1994-2003

Most serious offense investigated	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	34,424	35,896	32,832	29,069	28,786	31,004	30,444	32,250	33,674	33,602
Violent offenses[c]	1,819	1,881	2,028	2,065	2,266	1,996	1,909	2,046	2,577	2,231
Property offenses	15,291	15,927	13,997	12,170	10,937	11,961	11,060	11,720	11,678	11,307
Fraudulent[c]	13,819	14,260	12,446	10,859	9,653	10,578	9,830	10,557	10,430	10,196
Other[c]	1,472	1,667	1,551	1,311	1,284	1,383	1,230	1,163	1,248	1,111
Drug offenses	6,449	7,360	6,898	5,769	6,164	6,261	6,126	6,224	7,076	6,852
Public-order offenses	8,296	8,209	7,535	6,986	7,524	8,356	8,059	8,629	8,699	8,306
Regulatory	3,495	3,531	3,172	2,984	3,470	3,605	3,341	3,367	3,089	2,816
Other	4,801	4,678	4,363	4,002	4,054	4,751	4,718	5,262	5,610	5,490
Weapon offenses[d]	1,982	1,784	1,601	1,301	1,279	1,660	2,566	2,938	2,848	3,538
Immigration offenses[d]	293	366	324	302	370	472	497	523	545	1,137
Unknown or indeterminable offenses	294	369	449	476	246	298	227	170	251	231

Note: Most serious offense investigated is based on the decision of the assistant U.S. attorney responsible for the matter. Number of suspects includes suspects whose matters were declined for prosecution by U.S. attorneys upon review.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes suspects whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.7. Defendants in cases proceeded against in U.S. district courts, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	62,327	63,547	65,480	69,351	78,172	80,031	83,251	82,614	87,727	92,085
Felonies	47,341	50,483	52,656	57,022	64,769	67,442	71,072	70,837	76,163	80,354
Violent offenses[c]	3,222	2,838	3,457	3,603	3,763	2,976	3,135	3,178	3,308	3,167
Property offenses	13,155	13,837	14,130	13,890	14,955	14,779	15,237	14,764	16,126	15,732
Fraudulent[c]	10,301	10,909	11,525	11,371	12,401	12,028	12,659	12,293	13,511	13,142
Other[c]	2,854	2,928	2,605	2,519	2,554	2,751	2,578	2,471	2,615	2,590
Drug offenses	20,275	20,983	21,677	24,693	28,021	29,306	29,455	30,301	30,673	30,668
Trafficking	20,052	20,191	20,522	23,403	26,318	27,296	27,734	28,315	28,406	28,532
Possession / other	223	792	1,155	1,290	1,703	2,010	1,721	1,986	2,267	2,136
Public-order offenses	4,679	4,747	4,351	4,273	4,489	4,907	5,136	4,595	4,851	4,829
Regulatory	1,256	1,265	1,123	1,117	1,359	1,245	1,264	1,218	1,021	1,006
Other	3,423	3,482	3,228	3,156	3,130	3,662	3,872	3,377	3,830	3,823
Weapon offenses[d]	3,557	4,212	3,651	3,837	4,287	4,924	6,073	6,495	8,104	9,961
Immigration offenses[d]	2,453	3,866	5,390	6,726	9,254	10,550	12,036	11,504	13,101	15,997
Misdemeanors[c]	14,980	13,036	12,774	12,267	13,254	12,474	12,104	11,703	11,493	11,651
Unknown or indeterminable offenses	6	28	50	62	149	115	75	74	71	80

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.8. Defendants in cases terminating in U.S. district courts, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	61,404	56,480	61,434	64,956	69,769	75,723	76,952	77,145	80,424	85,106
Felonies	47,292	44,462	49,283	53,097	57,054	62,839	65,656	66,112	70,225	74,370
Violent offenses[c]	3,227	2,864	3,091	3,241	3,470	3,093	2,964	2,977	2,927	3,040
Property offenses	13,182	12,426	12,816	13,725	13,493	14,055	14,080	13,950	14,767	14,965
Fraudulent[c]	10,193	9,817	10,260	11,152	10,965	11,587	11,590	11,563	12,324	12,468
Other[c]	2,989	2,609	2,556	2,573	2,528	2,468	2,490	2,387	2,443	2,497
Drug offenses	20,219	18,189	20,305	22,374	24,317	27,008	27,274	28,227	29,300	28,597
Trafficking	20,056	17,823	19,486	21,379	22,952	25,334	25,579	26,501	27,254	26,495
Possession / other	163	366	819	995	1,365	1,674	1,695	1,726	2,046	2,102
Public-order offenses	4,620	4,098	4,117	4,107	4,010	4,837	4,690	4,402	4,645	4,472
Regulatory	1,383	1,181	1,151	1,069	1,104	1,306	1,229	1,166	1,129	906
Other	3,237	2,917	2,966	3,038	2,906	3,531	3,461	3,236	3,516	3,566
Weapon offenses[d]	3,673	3,674	3,843	3,485	3,901	4,087	5,049	5,814	6,556	8,147
Immigration offenses[d]	2,371	3,211	5,111	6,165	7,863	9,759	11,599	10,742	12,030	15,149
Misdemeanors[c]	14,111	11,989	12,115	11,795	12,611	12,793	11,214	10,952	10,131	10,736
Unknown or indeterminable offenses	1	29	36	64	104	91	82	81	68	0

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.9. Defendants in cases terminating in U.S. district courts: Percent convicted, by offense, 1994-2003

Most serious offense charged	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	82.6%	84.2%	86.4%	87.1%	87.4%	87.2%	88.6%	88.8%	89.3%	89.1%
Felonies	86.2	86.6	89.0	89.8	90.1	90.5	91.5	91.5	91.9	92.1
Violent offenses[c]	87.9	88.7	88.1	89.9	90.3	89.9	90.3	90.3	92.1	90.5
Property offenses	87.3	87.5	89.5	89.7	90.0	90.4	91.0	90.6	90.8	91.2
Fraudulent[c]	87.7	88.0	89.6	89.8	90.0	90.6	91.0	90.8	90.9	91.2
Other[c]	85.9	85.6	89.5	89.3	90.1	89.9	90.9	89.7	90.1	91.1
Drug offenses	85.9	85.6	88.3	89.3	89.5	89.9	91.2	91.6	92.4	91.9
Trafficking	86.0	85.5	88.3	89.3	89.4	89.8	91.3	91.5	92.4	91.9
Possession / other	78.5	88.3	88.2	89.0	91.3	91.2	90.7	92.8	92.4	91.9
Public-order offenses	81.0	83.3	84.5	85.9	87.2	86.2	87.3	87.1	87.7	86.4
Regulatory	81.3	79.8	82.5	85.7	84.9	83.7	86.6	84.8	87.3	82.9
Other	80.8	84.7	85.2	85.9	88.1	87.1	87.6	88.0	87.8	87.4
Weapon offenses[d]	85.2	84.8	87.5	87.6	87.5	88.6	88.4	90.0	89.0	89.8
Immigration offenses[d]	92.2	93.6	96.1	95.9	94.7	95.4	95.9	95.1	95.3	96.6
Misdemeanors[c]	70.4	75.2	75.6	74.8	75.2	71.2	71.6	73.0	71.0	68.1

Note: Most serious offense charged is based on the offense carrying the most severe statutory maximum penalty.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes defendants whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.10. Offenders convicted and sentenced in U.S. district courts, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	50,701	47,556	53,076	56,570	60,958	66,055	68,156	68,533	71,798	75,805
Felonies	39,624	37,713	42,992	46,878	50,494	55,864	59,123	59,363	63,238	67,036
Violent offenses[c]	2,704	2,423	2,660	2,876	3,078	2,715	2,557	2,604	2,578	2,643
Property offenses	11,113	10,569	11,125	12,010	11,862	12,232	12,454	12,349	13,101	13,311
Fraudulent[c]	8,671	8,484	9,055	9,919	9,752	10,203	10,396	10,359	11,107	11,323
Other[c]	2,442	2,085	2,070	2,091	2,110	2,029	2,058	1,990	1,994	1,988
Drug offenses	16,400	14,778	17,365	19,115	20,867	23,476	24,206	25,088	26,234	25,582
Trafficking	16,197	14,322	16,485	18,057	19,417	21,698	22,275	23,248	24,174	23,521
Possession / other	203	456	880	1,058	1,450	1,778	1,931	1,840	2,060	2,061
Public-order offenses	4,023	3,836	3,880	3,962	3,958	4,661	4,585	4,347	4,630	4,331
Regulatory	1,309	1,177	1,169	1,211	1,187	1,410	1,376	1,410	1,403	1,136
Other	2,714	2,659	2,711	2,751	2,771	3,251	3,209	2,937	3,227	3,195
Weapon offenses[d]	3,232	3,062	3,033	2,871	3,160	3,423	4,196	4,925	5,563	6,970
Immigration offenses[d]	2,152	3,045	4,929	6,044	7,569	9,357	11,125	10,050	11,132	14,199
Misdemeanors[c]	11,072	9,818	10,054	9,636	10,375	10,118	8,961	9,100	8,499	8,767
Unknown or indeterminable offenses	5	25	30	56	89	73	72	70	61	2

Note: Most serious offense is based on the disposition offense with the most severe sentence.
[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."
[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.
[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.
[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.11. Offenders convicted and sentenced in U.S. district courts: Number sentenced to prison, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	33,022	31,805	36,373	39,431	43,041	47,659	50,451	51,057	53,682	57,629
Felonies	31,070	29,759	34,345	37,747	41,420	46,070	49,070	49,509	52,246	55,811
Violent offenses[c]	2,518	2,209	2,419	2,619	2,808	2,489	2,360	2,399	2,408	2,462
Property offenses	6,411	6,215	6,559	7,110	7,114	7,204	7,462	7,744	7,746	7,948
Fraudulent[c]	4,868	4,928	5,322	5,871	5,860	6,067	6,272	6,537	6,654	6,737
Other[c]	1,543	1,287	1,237	1,239	1,254	1,137	1,190	1,207	1,092	1,211
Drug offenses	14,973	13,502	15,984	17,637	19,280	21,694	22,352	23,074	23,951	23,544
Trafficking	14,841	13,133	15,248	16,718	18,013	20,117	20,633	21,422	22,107	21,704
Possession / other	132	369	736	919	1,267	1,577	1,719	1,652	1,844	1,840
Public-order offenses[d]	2,410	2,279	2,427	2,456	2,424	3,065	2,989	2,686	3,053	3,036
Regulatory	644	572	540	603	506	627	647	597	641	542
Other	1,766	1,707	1,887	1,853	1,918	2,438	2,342	2,089	2,412	2,494
Weapon offenses[d]	2,901	2,803	2,773	2,663	2,914	3,191	3,834	4,541	5,134	6,431
Immigration offenses[d]	1,857	2,751	4,183	5,262	6,880	8,427	10,073	9,065	9,954	12,390
Misdemeanors[c]	1,948	2,039	2,020	1,679	1,590	1,556	1,356	1,515	1,408	1,818
Unknown or indeterminable offenses	4	7	8	5	31	33	25	33	28	0

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Number of offenders includes offenders given life and death sentences, and includes new law offenders given prison-community split sentences (prison and conditions of alternative community confinement). Number of offenders also includes offenders given mixed sentences of prison plus probation, applicable only to offenders sentenced pursuant to laws applicable prior to the Sentencing Reform Act of 1984.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.12. Criminal appeals filed, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	10,674	10,162	10,889	10,521	10,535	10,251	9,162	11,281	11,569	11,968
Violent offenses[c]	856	700	685	739	742	559	490	591	606	601
Property offenses	1,949	1,767	2,093	1,972	1,947	1,739	1,482	1,681	1,726	1,842
Fraudulent[c]	1,410	1,323	1,581	1,519	1,439	1,338	1,164	1,299	1,389	1,478
Other[c]	539	444	512	453	508	401	318	382	337	364
Drug offenses	5,102	4,499	5,099	4,750	4,845	4,513	3,843	4,529	4,689	4,565
Public-order offenses[d]	1,037	886	985	1,050	878	954	827	1,024	876	894
Regulatory	288	220	196	224	178	162	150	144	128	137
Other	749	666	789	826	700	792	677	880	642	757
Weapon offenses[d]	1,141	1,034	1,183	1,135	982	1,070	872	1,266	1,386	1,681
Immigration offenses[d]	261	277	353	417	693	934	1,179	1,654	1,679	1,821
Unknown or indeterminable offenses	328	999	491	458	448	482	469	536	607	564

Note: Appeals were classified into the offense category that represents the offense of conviction. Offenses represent the statutory offense charged against a defendant in a criminal appeal.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; and "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.13. Offenders convicted and sentenced in U.S. district courts: Number sentenced to probation only, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	12,781	11,602	11,789	12,046	12,108	12,408	11,937	11,473	11,774	11,322
Felonies	7,677	7,030	7,138	7,387	7,208	7,491	7,477	7,386	7,818	7,406
Violent offenses[c]	164	198	209	223	235	182	149	160	118	130
Property offenses	4,327	3,987	4,035	4,275	4,044	4,171	4,166	3,805	4,349	4,143
Fraudulent[c]	3,477	3,217	3,238	3,475	3,249	3,340	3,372	3,102	3,542	3,434
Other[c]	850	770	797	800	795	831	794	703	807	709
Drug offenses	1,204	992	1,011	1,054	1,092	1,134	1,130	1,249	1,345	1,204
Trafficking	1,139	926	888	940	952	981	971	1,105	1,175	1,043
Possession / other	65	66	123	114	140	153	159	144	170	161
Public-order offenses	1,469	1,428	1,278	1,343	860	1,405	1,373	1,481	1,343	1,087
Regulatory	575	531	542	522	582	665	619	712	630	474
Other	894	897	736	821	278	740	754	769	713	613
Weapon offenses[d]	296	221	229	182	208	190	297	326	340	436
Immigration offenses[d]	217	204	376	310	769	409	362	365	323	406
Misdemeanors[c]	5,103	4,556	4,631	4,612	4,844	4,879	4,416	4,051	3,925	3,914
Unknown or indeterminable offenses	1	16	20	47	56	38	44	36	31	2

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Number of offenders includes offenders given probation plus conditions of confinement, such as home confinement or intermittent confinement.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

Table A.14. Offenders convicted and sentenced in U.S. district courts: Mean number of months of imprisonment imposed, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	62.6 mo	63.3 mo	61.7 mo	59.3 mo	58.9 mo	58.1 mo	56.8 mo	56.7 mo	57.1 mo	58.9 mo
Felonies	65.6	66.8	64.6	61.5	60.6	59.6	58.0	58.0	58.4	60.4
Violent offenses[c]	92.3	98.5	92.7	86.1	84.4	88.1	86.6	90.7	88.6	97.6
Property offenses	26.4	27.3	24.1	24.4	25.6	24.1	24.3	24.2	25.1	27.4
Fraudulent[c]	20.0	21.9	21.1	22.1	22.4	22.4	22.5	22.3	23.5	24.9
Other[c]	46.2	47.5	37.0	35.2	40.4	33.0	33.4	34.9	34.8	41.1
Drug offenses	83.9	87.1	84.8	81.1	78.7	75.4	75.6	73.9	76.0	81.5
Trafficking	84.2	87.7	85.1	81.3	78.3	74.8	75.2	73.6	75.7	81.4
Possession / other	45.6	66.4	77.1	77.7	84.3	83.4	81.1	78.9	79.6	82.9
Public-order offenses	36.3	36.7	43.2	41.8	43.3	47.0	42.5	39.4	38.4	43.1
Regulatory	32.2	27.8	26.7	26.5	27.8	26.3	28.0	23.6	25.9	33.5
Other	37.9	39.7	48.0	46.8	47.4	52.4	46.5	43.9	41.8	45.2
Weapon offenses[d]	83.2	95.0	100.3	102.1	101.3	99.5	92.2	87.3	83.8	84.0
Immigration offenses[d]	22.9	24.0	22.9	23.0	26.4	30.7	29.5	29.2	27.9	26.7
Misdemeanors[c]	12.3	9.8	11.1	10.1	11.6	10.8	10.3	10.0	9.6	9.1

Note: Most serious offense of conviction is based on the disposition offense with the most severe sentence. Calculations exclude offenders given life or death sentences, and old law offenders given mixed sentences of prison plus probation. For new law offenders given prison-community split sentences, only the prison portion of the sentence is included in calculations.

[a]Starting in 1999 nonviolent sex offenses were reclassified from "Violent offenses" to "Public-order offenses."

[b]Includes offenders whose offense category could not be determined or whose sentence was unknown. See Methodology for a listing of detailed offense categories within each major offense category.

[c]In this table "Violent offenses" may include nonnegligent manslaughter; "Fraudulent property" excludes tax fraud; "Other nonfraudulent property" excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[d]Beginning in 2001 "Weapon" and "Immigration" offenses became major offense categories. Previously, these offenses were classified within "Public-order offenses."

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Table A.15. Offenders under Federal supervision at the end of the fiscal year, by offense, 1994-2003

Most serious offense of conviction	1994	1995	1996	1997	1998	1999[a]	2000[a]	2001[a]	2002[a]	2003[a]
All offenses[b]	86,904	84,848	88,165	90,471	92,270	96,044	99,264	103,348	107,367	108,976
Felonies[c]	73,978	73,626	76,834	79,575	81,324	85,372	88,847	93,113	97,518	99,172
Violent offenses[d]	4,504	4,463	4,791	4,945	5,554	5,468	5,795	6,163	6,281	6,328
Property offenses	28,276	27,287	27,240	27,540	27,346	28,128	28,697	28,851	29,268	29,011
Fraudulent[d]	22,411	21,832	22,066	22,586	22,532	23,252	23,846	23,947	24,439	24,300
Other[d]	5,865	5,455	5,174	4,954	4,814	4,876	4,851	4,904	4,829	4,711
Drug offenses	28,039	29,106	31,843	33,662	35,184	37,688	39,616	42,333	44,980	45,981
Trafficking	26,665	26,648	28,505	29,870	31,228	33,559	35,362	38,001	40,414	41,380
Possession / other	1,374	2,458	3,338	3,792	3,956	4,129	4,254	4,332	4,566	4,601
Public-order offenses	8,162	8,059	7,846	7,961	7,681	8,355	8,475	8,773	9,039	8,838
Regulatory	2,252	2,176	2,097	2,168	2,162	2,323	2,410	2,604	2,570	2,484
Other	5,910	5,883	5,749	5,793	5,519	6,032	6,065	6,169	6,469	6,354
Weapon offenses[e]	3,883	3,704	3,840	3,908	4,026	4,121	4,517	4,977	5,662	6,648
Immigration offenses[e]	1,075	939	1,174	1,396	1,270	1,323	1,535	1,807	2,095	2,180
Misdemeanors[d]	12,926	11,222	11,331	10,896	10,946	10,672	10,417	10,235	9,849	9,804

Note: Most serious offense of conviction is based on the offense with the longest sentence imposed. Number of offenders includes offenders under active supervision at the close of the fiscal year. This population includes offenders under the three major forms of supervision: probation, supervised release, and parole. Included under parole are two less common types of old law release: mandatory release and special parole. Excluded from the number of offenders under active supervision reported in the table are offenders released to military parole and offenders under community supervision prior to sentencing (such as during pretrial release or pretrial investigation).

[a]Starting in 1999 nonviolent sex offenses were reclassified from “Violent offenses” to “Public-order offenses.”

[b]Includes offenders whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[c]Includes offenders whose felony offense category could not be determined. A felony offense category could not be determined for 70 offenders during 1994, 118 during 1995, 158 during 1996, 264 during 1997, 264 during 1998, 289 during 1999, 212 during 2000, 208 during 2001, 193 during 2002, and 180 during 2003.

[d]In this table “Violent offenses” may include nonnegligent manslaughter; “Fraudulent property” excludes tax fraud; “Other nonfraudulent property” excludes fraudulent property and includes destruction of property and trespassing; and "Misdemeanors" include misdemeanors, petty offenses, and unknown offense levels.

[e]Beginning in 2001 “Weapon” and “Immigration” offenses became major offense categories. Previously, these offenses were classified within “Public-order offenses.”

Table A.16. Population at the end of the fiscal year in Federal prisons, by offense, 1994-2003

Most serious original offense of conviction	1994	1995	1996	1997	1998[a]	1999[b]	2000[b,c]	2001[b,c]	2002[b,c]	2003[b,c]
All offenses[d]	84,253	88,323	92,346	98,601	108,279	118,265	129,329	136,395	143,031	152,459
Violent offenses[e]	11,111	11,281	11,392	11,537	12,451	13,121	12,973	13,385	13,549	13,525
Property offenses	7,880	7,819	7,766	8,128	8,560	8,581	9,849	9,988	10,100	10,634
Fraudulent[e]	5,725	5,822	5,807	6,147	6,463	6,551	7,497	7,605	7,798	8,227
Other[e]	2,155	1,997	1,959	1,981	2,097	2,030	2,352	2,383	2,302	2,407
Drug offenses	50,555	52,634	55,049	58,456	62,712	67,925	73,389	77,210	81,052	85,789
Trafficking	50,175	52,254	54,726	58,048	62,266	67,404	72,775	76,695	80,596	85,289
Possession / other	380	380	323	408	446	521	614	515	456	500
Public-order offenses	4,512	4,779	5,047	5,649	6,071	6,711	7,527	7,609	7,951	8,438
Regulatory	878	894	919	1,013	1,058	1,048	1,205	1,148	1,217	1,249
Other	3,634	3,885	4,128	4,636	5,013	5,663	6,322	6,461	6,734	7,189
Weapon offenses[f]	6,769	7,420	7,669	8,049	8,697	9,439	10,652	12,150	13,725	16,014
Immigration offenses[f]	2,486	3,420	4,476	5,454	7,430	10,156	13,676	15,012	15,571	16,903
Unknown or indeterminable offenses	940	970	947	1,328	2,358	2,332	1,263	1,041	1,083	1,156

Note: Most serious offense is based on the offense having the longest sentence.

[a]The yearend population for 1998 was adjusted to reflect an additional 1,013 prisoners reported in the Compendium of Federal Justice Statistics, 1998.

[b]Starting in 1999 nonviolent sex offenses were reclassified from “Violent offenses” to “Public-order offenses.”

[c]Starting in 2000 the universe for this table includes offenders in BOP custody and offenders in contract and private facilities, but not those committed for violations of the District of Columbia criminal code. See Methodology for more information.

[d]Includes prisoners whose offense category could not be determined. See Methodology for a listing of detailed offense categories within each major offense category.

[e]In this table “Violent offenses” may include nonnegligent manslaughter; “Fraudulent property” excludes tax fraud; and “Other nonfraudulent property” excludes fraudulent property and includes destruction of property and trespassing.

[f]Beginning in 2001 “Weapon” and “Immigration” offenses became major offense categories. Previously, these offenses were classified within “Public-order offenses.”

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jcherry@gwb43.com

From:	jcherry@gwb43.com
Sent:	Wednesday, August 30, 2006 5:50 PM
To:	jcherry@gwb43.com
Subject:	PERSONNEL QUESTION: CONFIDENTIAL AND TIMELY
Attachments:	tmp.htm

Howard Schweitzer of Bethesda, MD (Currently Acting General Counsel and Corporate Secretary, Export-Import Bank; Former Deputy General Counsel and Corporate Secretary, Export-Import Bank) is one of many candidates being considered for a position in the Bush Administration. Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,

Jane

Howard Schweitzer of Bethesda, MD (Currently Acting General Counsel and Corporate Secretary, Export-Import Bank; Former Deputy General Counsel and Corporate Secretary, Export-Import Bank) is one of many candidates being considered for a position in the Bush Administration. Please let me know if you know him, and if so, whether you would recommend him for a Presidential appointment.

Thanks,
Jane

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 6:24 PM
To: USDOJ- Office of Public Affairs
Subject: WICHITA EMPLOYER ADMITS TO KNOWINGLY HIRING ILLEGAL ALIENS

Department of Justice

United States Attorney Eric F. Melgren
District of Kansas

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WICHITA EMPLOYER ADMITS TO KNOWINGLY HIRING ILLEGAL ALIENS

WICHITA, Ka. – A Wichita company, its owner, and a manager pleaded guilty Wednesday to knowingly hiring illegal aliens and agreed to pay a total of $210,000 in fines. Bob Eisel Powder Coatings Inc., Owner and President Bob Eisel, and General Manager Kenric "Butch" Steinert, all of Wichita, pleaded guilty during a hearing before U.S. District Judge Wesley E. Brown. The remaining co-defendant in the case, company foreman Troy Hook, of Clearwater, was arraigned Wednesday and pleaded not guilty.

The defendants each pleaded guilty to one count of making a false statement on an I-9 Employment Eligibility Verification Form that fraudulently certified employee Francisco Javier Avila-Garcia had provided genuine documents qualifying him to be employed. A 28-count indictment filed earlier this month charged that since 1997 the company routinely employed undocumented foreign nationals, primarily from Mexico, knowing they were providing false identification documents to be employed.

"There is a message here for law abiding employers," said U.S. Attorney Eric Melgren, of the District of Kansas. "Knowingly assisting illegal aliens to appear qualified for employment in this country is a crime." The Bob Eisel company singled itself out for criminal prosecution, Melgren said, by deliberately trying to get around federal laws requiring workers to submit documents verifying their right to work in the United States.

According to the pleas, in 2002, the company began receiving letters from the Social Security Administration warning that employees were working under Social Security numbers that had not been assigned to them or were being used by more than one person. In response, Eisel, Steinert and Hook notified employees of the problem and directed them to obtain different numbers if they wanted to remain employed.

A Bob Eisel employee named Francisco Javier Avila-Garcia helped employees whose identities Social Security questioned to obtain false documents. Poncho periodically received $100 cash for each employee, which Stein obtained from the office safe. Once the false documents were obtained, the company created

DOJ_NMG_ 0167306

paperwork terminating the employees under the old names and then rehired the same employees under new names. The employees filled out new paperwork including employment applications, I-9 Employment Eligibility Verifications, and W-4 Employee's Withholding Allowance Certificates. With Eisel's knowledge, Steinert completed and signed employer certification documents stating "the above listed documents appear to be genuine and related to the employee named...and that to the best of my knowledge the employee is eligible to work in the United States."

The count to which the defendants pleaded guilty carries a maximum penalty of five years in federal prison and a $250,000 fine. Judge Brown will determine the sentence at a hearing Nov. 15. The plea agreement outlines the following proposed sentence: a $175,000 fine for the company; a $25,000 fine for Bob Eisel; a $10,000 fine for Kenric Steinert, and a sentence at the low end of the guidelines.

Immigration and Customs Enforcement and the Social Security Administration investigated the case. Assistant U.S. Attorney Brent Anderson is prosecuting.

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DOJ_NMG_ 0167307

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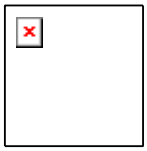
Image not available for this document, ID: 0.7.10316.34973-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 6:26 PM
To: USDOJ- Office of Public Affairs
Subject: SUSPENDED SAN ANTONIO POLICE OFFICER CONVICTED OF SEXUAL ASSAULT

Department of Justice



FOR IMMEDIATE RELEASE CRT
WEDNESDAY, AUGUST 30, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

SUSPENDED SAN ANTONIO POLICE OFFICER CONVICTED OF SEXUAL ASSAULT

WASHINGTON – San Antonio Police Department Officer, Dean Gutierrez, was convicted in federal court for violating the civil rights of a private citizen following a traffic stop, the Justice Department announced today.

The jury found Gutierrez guilty of willfully violating the civil rights of the victim, who is transgendered, through aggravated sexual assault. Evidence at trial showed that on June 10, 2005, the defendant stopped the victim and asked whether the victim wanted to go to jail or get in the car with the defendant. The defendant then drove the victim to a remote location, removed the victim from the car, and forced the victim to engage in sexual activity. During this sexual assault, the defendant also physically assaulted the victim. The jury found that the defendant's conduct amounted to aggravated sexual assault, a felony, that carries a sentence of up to life in prison and up to $250,000 in fines. A sentencing hearing is scheduled on Dec. 1, 2006, at 10:00 a.m. CST before District Court Judge Xavier Rodriguez.

"Law enforcement officers are responsible for protecting citizens. Using one's official authority to forcibly violate another individual, as the defendant did in this case, is disturbing and abhorrent," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division.

In announcing the conviction, Assistant Attorney General Kim commended the U.S. Attorney's Office, the Criminal Section of the Civil Rights Division, the Federal Bureau of Investigation, and the San Antonio Police Department for their work on this investigation and prosecution.

Assistant U.S. Attorney Bill Baumann and Civil Rights Division attorney Jim Felte prosecuted this case for the government.

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DOJ_NMG_ 0167310

06-583

DOJ_NMG_ 0167311

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Image not available for this document, ID: 0.7.10316.34967-000002

Image not available for this document, ID: 0.7.10316.34967-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 7:17 PM
To: USDOJ- Office of Public Affairs
Subject: TWO FEMA EMPLOYEES SENTENCED TO PRISON TERMS FOLLOWING FEDERAL BRIBERY CONVICTIONS IN NEW ORLEANS

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, AUGUST 30, 2006
WWW.USDOJ.GOV/USAO/LAE

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4978

TWO FEMA EMPLOYEES SENTENCED TO PRISON TERMS FOLLOWING FEDERAL BRIBERY CONVICTIONS IN NEW ORLEANS

NEW ORLEANS – Two Federal Emergency Management Administration (FEMA) officials working in the New Orleans region following Hurricane Katrina were sentenced in federal court to 21 months imprisonment and fined $20,000 each, U.S. Attorney Jim Letten of the Eastern District of Louisiana announced today. Andrew Rose and Loyd Holliman, both residents of Colorado, were FEMA Disaster Assistance employees who were charged with managing the FEMA LB Landry base camp located in New Orleans, La., and were public officials in their capacity as employees of FEMA.

Both defendants were arrested by special agents of the FBI and Department of Homeland Security's Office of Inspector General in January of 2006 following an undercover investigation which began after both Rose and Holliman approached a Louisiana businessman under contract for $1 million in food services, demanding that the businessman illegally kick back to them an initial payment of $20,000 and weekly payments of $5,000 as payment for the contract. After the Louisiana businessman reported the matter to federal authorities, an intensive two-month undercover investigation utilizing electronic surveillance captured both Rose and Holliman demanding bribes and receiving $20,000 in cash from the cooperating businessman. The two defendants were placed under arrest by FBI and Department of Homeland Security's Office of the Inspector General special agents.

"I want to recognize and thank the courageous Louisiana businessman who wasted no time in reporting the illegal and corrupt conduct of these two government representatives to federal authorities, which resulted in the successful conclusion of this important corruption case," stated U.S. Attorney Letten. "We in federal enforcement, as the guardians of the public trust, will continue to remain vigilant, focused, aggressive and committed to punishing those unscrupulous individuals who seek to illegally enrich themselves at the expense of our needy citizens, and to further deter any such corrupt conduct by citizens or public servants alike."

DOJ_NMG_ 0167315

This matter was investigated by special agents of the FBI and agents of the Department of Homeland Security's Office of the Inspector General. This case was prosecuted by Assistant U.S. Attorneys James R. Mann and Salvador Perricone.

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Image not available for this document, ID: 0.7.10316.34964-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, August 30, 2006 7:22 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 30, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

Attorney General Travels to Qatar (OPA)
Today, Attorney General Alberto R. Gonzales traveled to Doha, Qatar. There, he met with Justice Department employees who work in the Department's attaché at the US Embassy in Doha, met with a number of high level Qatari officials to discuss cooperation on terrorism and law enforcement, and participated in a roundtable with print media.

Deputy Attorney General Delivers Remarks before National Violent Crime Summit (OPA)
Today, Deputy Attorney General Paul J. McNulty delivered remarks to state and local law enforcement leaders at the National Violent Crime Summit in Washington. He discussed the ways the Justice Department can help combat violent crime on the state and local level. The event was open to print media only.

Associated Press Interviews FBI Assistant Director Regarding New Orleans after Hurricane Katrina (FBI)
Today, Associated Press reporter Mike Sniffen conducted an interview with FBI Assistant Director Chip Burrus regarding the state of New Orleans one year after Hurricane Katrina.

ABC News Inquires Regarding Security Breach at AT&T (FBI)
Today, Jason Ryan of ABC News inquired about a security breach at AT&T involving unauthorized access to the personal information of customers who purchased Internet products from the AT&T online store.

Meth Seizure Shatters Georgia Record Set Just Two Weeks Ago (ATF)
Today, federal, state and local law enforcement authorities in North Georgia announced the record seizure of approximately 341 pounds of suspected crystal methamphetamine ("ice") in Gainesville, Georgia. A federal criminal complaint has been filed against three brothers, Alejandro Martinez-Menera, Socorro Martinez-Menera, and Sacarias Martinez-Menera, charging them with possession with intent to distribute methamphetamine. A fourth defendant, Arnulfo Pineda-Rivera, is also charged with growing a large number of marijuana plants and with illegally re-entering the United States after deportation.

New York Man Pleads Guilty For Participation in Child Prostitution Ring (Criminal)
A pimp from New York City who recruited and prostituted minor girls in several U.S. cities pleaded guilty in federal court in New Jersey today. Demetrius Lemus of New York City entered a plea of guilty today before U.S. District Judge Freda L. Wolfson to conspiracy to transport minors to engage in prostitution. According to the plea agreement, Lemus was part of a prostitution ring operating from 1999 through 2005 in various U.S. cities, including Atlantic City, N.J.; New York City; Las Vegas; Boston; and Miami.

Justice Department Settles Voting Rights Lawsuit with Springfield, Massachusetts (Civil Rights)
Today, the Justice Department today reached a successful resolution of a lawsuit against the city of Springfield, Mass., regarding allegations that the city violated the rights of minority voters under two key provisions of the Voting Rights Act. Under today's settlement, the city has agreed to a court order providing full relief.

Talking Points

- The Civil Rights Division has launched a major initiative to ensure compliance with all of the provisions of the Voting Rights Act with respect to all citizens of all racial groups in all areas of the United States.

- Since 2002, the Civil Rights Division has filed three-fourths of all cases to protect the right of voters needing assistance in the history of the Act, and 60 percent of all minority language cases it has filed in the entire previous history of the Voting Rights Act.

- As a result of this work and other lawsuits brought since 2002, the Department has brought a majority of all cases it ever has filed under the substantive provisions of the Voting Rights Act to protect Hispanic and Asian voters, and the first cases ever filed to protect the voting rights of Filipino and Vietnamese voters.

- This is the second recent case the Division has filed in Massachusetts, and follows a successful lawsuit on behalf of Hispanic, Chinese and Vietnamese voters in Boston.

- The Division has filed additional successful Voting Rights Act lawsuits across the country, with cases in Arizona, California, Florida, Georgia, New York, Pennsylvania, Tennessee, Texas and Washington. There are also active complaints in Ohio & Mississippi.

Suspended San Antonio Police Officer Convicted Of Sexual Assault (Civil Rights)
Today, San Antonio Police Department Officer, Dean Gutierrez, was convicted in federal court for violating the civil rights of a private citizen following a traffic stop. The jury found Gutierrez guilty of willfully violating the civil rights of the victim, who is transgendered, through aggravated sexual assault. The conviction, a felony, carries a sentence of up to life in prison and up to $250,000 in fines.

Talking Points

- Law enforcement officers are responsible for protecting citizens.

- Using one's official authority to forcibly violate another individual, as the defendant did in this case, is disturbing and abhorrent.

The Nation's Federal Criminal Justice Caseload Grew Substantially During Ten-Year Period (OJP)

Today, the Office of Justice Programs Bureau of Justice Statistics announced that the number of suspects and defendants processed in the federal criminal justice system grew substantially during the 10-year period of 1994 to 2003. U.S. federal prosecutors investigated more than 130,000 suspects during 2003 (a new record), up from 99,000 men and women in 1994. Immigration offenses drove the growing case load increasing by an average annual 14 percent in immigration arrests and 25 percent in prison sentences for immigration convictions.

THURSDAY'S EXPECTED EVENTS/RELEASES:

The Civil Rights Division will issue two separate press releases regarding housing matters.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, August 30, 2006 8:45 PM
Subject: Internet Browser and email problem

Internet Browser and email problem

The Department of Justice is currently expericing an Internet browser and email problem. Please be advised, email to and from the internet is being delayed sporadically. Mail will be held and delivered as soon as services are restored.

BlackBerry services are also interrupted due to the Internet connection problem. Only PIN to PIN is available for all BlackBerry users.

Unavailable Services: BlackBerry (PIN to PIN messaging is available)
Internet Email Services

Available Services: BlackBerry PIN to PIN Messaging

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 5:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Tucson, AZ

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 5:01:10 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Tucson, AZ
Auto forwarded by a Rule

AMBER ALERT:Tucson,AZ CHILD:11 White F 5'4" 90 lbs Eyes:Blue Hair:Dirty blonde CALL 520-741-4900
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2042

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 9:40 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR AUGUST 31, 2006

Department of Justice

PRESS GUIDANCE
Thursday, August 31, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

EVENTS/HEARINGS

No public events scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167324

Image not available for this document, ID: 0.7.10316.34957-000001

Image not available for this document, ID: 0.7.10316.34957-000002

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, August 31, 2006 11:06 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 8/31/06 Civil Division News

Force Protection settles with $1.8 million payment

Press Release: False Claims Scheme Charged on Big Dig Contract, Reports U.S. Attorney

State to get $10.4M from Medicaid settlement

Jury convicts business owner in Medicare fraud scheme

EDITORIAL: A Judge Clears The Smoke

AP

August 30, 2006

Lloyd: Force Protection settles with $1.8 million payment

Associated Press

COLUMBIA, S.C. - A South Carolina defense contractor that makes armored vehicles for the Pentagon has agreed to pay the government $1.8 million to resolve allegations brought in a whistleblower lawsuit, U.S. Attorney Reginald I. Lloyd said Wednesday.

The suit claimed Force Protection Inc. of Ladson "failed to advance payments to expedite production of armored vehicles for the U.S. military," Lloyd said in a news release.

The company, whose vehicles are used Afghanistan and Iraq to find and remove bombs, denied any wrongdoing.

The case was filed in U.S. District Court in South Carolina by Justin Lucey, a Mount Pleasant attorney, on behalf of two former employees of Force Protection, Lloyd said. He identified the two as Perry Chomyn and Robin Swain.

"The settlement resolves Force's potential liability under the False Claims Act arising from the whistleblower's complaint," Lloyd's release said.

The two former employees "will receive $315,000 as their share of the proceeds of the settlement" and got "and additional $105,000 in attorney fees and settlement of their employment-related claims," the statement said.

Company vice president Mike Aldrich told The (Charleston) Post and Courier that the company agreed to the settlement over an accounting technicality.

"We're pleased with the settlement and are especially happy with the investigation, which was extensive and which found that none of the criminal allegations, and especially that none of the safety allegations, were substantiated," Aldrich told the paper.

The company said it took a charge of $1.93 million in the second quarter to cover the settlement and interest charges, plus legal fees for the former employees who filed the lawsuit.

Lucey said his clients also were satisfied with the settlement.

"We believe we contributed to making these vehicles safer for our soldiers by bringing this suit, and we are happy to have reached this settlement," he said.

In a recent filing with the Securities and Exchange Commission, the company said it agreed to settle over an issue involving an advance payment as part of its work for the Joint Explosive Ordnance Disposal Rapid Response Vehicle.

The lawsuit claimed the company used the payment "for purposes other than that to which the United States government had intended."

The company said the error essentially amounted to depositing the payment into the wrong bank account.

Force Protection employs 550 workers at its Ladson plant - up from just 12 employees two and a half years ago.

END

PRNewswire

Wednesday August 30, 5:41 pm ET

Press Release: False Claims Scheme Charged on Big Dig Contract, Reports U.S. Attorney

BOSTON, Aug. 30 /PRNewswire/ -- A Fairhaven man was charged today in federal court with submitting false time and materials slips on a Big Dig contract. The scheme involved the systematic, fraudulent billing of apprentice electricians at the higher rate of pay for journeymen, resulting in continuing overpayments by the Central Artery/Tunnel project to the subcontractor.

United States Attorney Michael J. Sullivan, Theodore L. Doherty III, Special Agent in Charge of the Department of Transportation Inspector General's Office in New England, and Gordon S. Heddell,

Inspector General for the U.S. Department of Labor/Office of Labor Racketeering announced today that STEVEN M. BOWERS, age 54, of 6 Silver Shell Beach, Fairhaven, MA, was charged in a multi-count Indictment with conspiracy to defraud the United States with respect to claims, submitting false claims, conspiracy to commit fraud on a federal highway project and submitting false statements with respect to work performed on a federal highway project.

Additionally, two former co-workers of Bowers at Mass. Electric Construction Company ("MECC"), BRIAN DI RE, of Winchester, MA and RICHARD JOYCE, of Norwood, MA have entered into plea agreements with the U.S. Attorney's Office as a result of their roles in the scheme. Both DI RE and JOYCE have agreed to plead guilty to an Information alleging one count of conspiracy to submit false claims.

The Indictment alleges that beginning in or about January 2003 through June of 2005, BOWERS, the Senior Project Manager for MECC on the I-93 tunnel finishes contract, along with DI RE, the Project Manager, and JOYCE, the General Foreman, engaged in a scheme of over-billing the Central Artery/Tunnel Project by falsely categorizing apprentice electricians as journeyman on work MECC performed. The work was performed on a time and materials basis, which meant the contractor, MECC, was paid for the time spent by each employee, as opposed to a fixed price for the work under contract. MECC was also paid 10% of its total time and materials billings to cover overhead, plus an additional 10% of that total for a profit margin. The scheme involved more than 500 instances of over-billing during the course of the conspiracy and resulted in false claims for more than $80,000.

United States Attorney Michael Sullivan said, "Today's indictment demonstrates our commitment to intensively investigate the Big Dig and prosecute illegal conduct when we find it. The submission of false claims to defraud the United States, as alleged in the indictment, is unacceptable in any context. No amount of fraud or corruption will be tolerated. The Big Dig Task Force, comprised of agents from the U.S. Department of Transportation, Massachusetts State Police, U.S. Department of Labor and Federal Bureau of Investigation, will continue its investigation and I would encourage anyone with relevant information to contact federal authorities."

If convicted on these charges, BOWERS faces up to ten years imprisonment, to be followed by three years of supervised release, and a $250,000 fine.

The case was investigated by the Department of Transportation, Inspector General's Office and the Department of Labor/Office of Labor Racketeering. It is being prosecuted by Assistant U.S. Attorneys Fred M. Wyshak, Jr., Anthony E. Fuller and Jeffrey M. Cohen of Sullivan's Public Corruption Unit.

The details contained in the indictment are allegations. The defendant is presumed to be innocent unless and until proven guilty beyond a reasonable doubt in a court of law.

END

The Business Journal of Jacksonville

August 30, 2006

State to get $10.4M from Medicaid settlement

A multi-million dollar settlement with pharmaceutical giant Schering-Plough Corp. will inject more than $10.4 million into Florida's Medicaid program.

The state's share is part of a $435-million nationwide settlement with the drug manufacturer, in which a Schering-Plough subsidiary pled guilty to conspiracy.

The Florida Attorney General's office disclosed the plea.

It explained a federal investigation revealed Schering Sales Corp., a unit of Schering-Plough, engaged in misconduct including misreporting the "best price" for several of its drugs, including popular allergy drug Claritin.

"By inflating the best prices, Schering-Plough undercut the value of rebates the state Medicaid programs were supposed to receive for the drugs," the attorney general's office explained.

The office said the investigation also revealed Schering-Plough engaged in improper marketing of a drug intended to treat brain tumors.

The attorney general's office said the company pushed the drug for other purposes not approved by the Food and Drug Administration.

"Schering-Plough was also accused of paying improper kickbacks to doctors to encourage them to use Schering-Plough's products when they treated patients," the office added.

The settlement resolves allegations surrounding Schering-Plough's best price reporting practices as well as off-label marketing practices and kickbacks, the attorney general's office said. The settlement was negotiated by the U.S. Justice Department and the National Association of Medicaid Fraud Control units.

END

Business Journal (KANSAS CITY)

August 30, 2006

Jury convicts business owner in Medicare fraud scheme

A federal jury on Wednesday convicted the owner of a medical supply business for his role in a scheme to defraud Medicare of millions of dollars through a program that provides motorized wheelchairs to patients.

Kennedy Igbokwe, 28, a citizen of Nigeria, was found guilty of health care fraud and multiple counts of illegally structuring currency transactions and money laundering, said Bradley Schlozman, U.S. Attorney for the Western District of Missouri.

Igbokwe owns and operates Cardinal Healthcare in Kansas City.

The jury in U.S. District Court in Kansas City deliberated less than an hour before returning the guilty verdicts to U.S. District Judge Gary Fenner, ending a trial that began Monday, Schlozman said in a release.

Under the scheme, Igbokwe bribed two physicians to falsely verify that Medicare beneficiaries were so physically disabled that they needed motorized wheelchairs. Igbokwe then submitted numerous fraudulent claims to Medicare for power wheelchairs.

But after receiving about $4,000 from Medicare for each of the false claims, Igbokwe would either provide the beneficiary with a less expensive power scooter or no power scooter at all, Schlozman said.

"This collusion of crooked business owners and bribed physicians resulted in a massive fraud that involved millions of dollars and nearly 1,000 Medicare recipients," Schlozman said.

As part of the scheme, which took place between January 2002 and September 2005, Igbokwe and his co-defendants submitted more than $5 million worth of false claims to Medicare. They actually received about $2 million, Schlozman said.

Igbokwe also was found guilty of:

19 counts of structuring currency transactions to evade the federal reporting requirements Four counts of money laundering One forfeiture count that requires forfeiture of $500,000 and all the funds in a bank account

Under federal statutes, Igbokwe faces a sentence of as much as 145 years in federal prison without parole, plus a fine of as much as $6 million and an order of restitution.

Four others pleaded guilty to their roles in the health care fraud scheme, Schlozman said:

Kenneth Agugua, 47, a permanent resident alien from Nigeria with addresses in both Kansas City and Houston, pleaded guilty Aug. 23 to health care fraud. Agugua owns and operates Primecare Management Inc., a durable medical equipment company in Kansas City. Godwin Iloka, 38, a naturalized U.S. citizen from Nigeria residing in Lee's Summit, pleaded guilty July 12. Iloka owns and operates Xcellent Medical Service in Raytown and Xcellent Medical Services in Kansas City. Amazair McAllister, 48, of Blue Springs, pleaded guilty July 10 to health care fraud. A physician at the time of the scheme, McAllister agreed to surrender his medical licenses and cease practicing medicine. McAllister also will forfeit $100,000 to the government, which represents the proceeds of his criminal activities. Ambrose Wotorson, 70, a naturalized U.S. citizen from Liberia residing in Kansas City, pleaded guilty Feb. 24 to health care fraud. Wotorson was a licensed osteopathic physician and surgeon during the time of the fraud scheme but has surrendered his medical license and no longer practices medicine.

Each of the four other defendants face as much as 10 years in federal prison plus a fine of as much as $250,000 and orders of restitution.

Sentencing hearings for all five defendants will be set pending the completion of presentence investigations by the U.S. Probation Office.

END

Hartford Courant

August 31, 2006

EDITORIAL: A Judge Clears The Smoke

Aug. 31--Leave it to Wall Street to view a recent federal ruling against tobacco companies as a victory.

In a powerfully worded statement, U.S. District Court Judge Gladys Kessler ruled this month that tobacco companies lied and illegally conspired for more than five decades to profit from addiction, illness and suffering among Americans. The companies "suppressed research, they destroyed documents, they manipulated the use of nicotine so as to increase and perpetuate addiction ... and they abused the legal system in order to achieve their goal."

Judge Kessler, who sits in Washington, D.C., ordered the companies to stop using "low tar" "light" and "mild" to describe their cigarettes. She also ordered them to undertake a multibillion-dollar media campaign to set the record straight. In terms of penalties, however, the judge reluctantly concluded that

the federal civil racketeering law prevented her from seizing the companies' profits from its past practices. And so a $130 billion penalty sought by the Justice Department to pay for anti-smoking efforts was rejected.

Wall Street analysts hailed the ruling as a victory, saying it kept the companies' profitability intact.

It's a frustrating conclusion. A sizable penalty would have hit the tobacco companies where it hurts the worst. But the judge's ruling exposed these companies as merchants of death and misery and characterized their lawyers as seedy enablers. Calling this ruling a victory is like a guy claiming he foiled a mugging because, although he lost his teeth and his clothes are in tatters, his wallet is still intact.

Tobacco companies may still be profitable, but the judge's ruling exposes the extent of their moral bankruptcy more clearly than ever.

END

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 12:11 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT AND COMMONWEALTH OF KENTUCKY REACH SETTLEMENT REGARDING CONDITIONS AT THE COMMUNITIES AT OAKWOOD DEVELOPMENTAL CENTER

Department of Justice

FOR IMMEDIATE RELEASE CRT
THURSDAY, AUGUST 31, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT AND COMMONWEALTH OF KENTUCKY REACH SETTLEMENT REGARDING CONDITIONS AT THE COMMUNITIES AT OAKWOOD DEVELOPMENTAL CENTER

WASHINGTON – The Justice Department today reached a court-enforceable settlement agreement with the Commonwealth of Kentucky regarding civil rights violations at the Communities at Oakwood (Oakwood), a center for persons with developmental disabilities, in Somerset, Ken. The five-year agreement requires the Commonwealth to implement reforms to ensure that individual residents at the facility are adequately protected from harm and provided adequate supports and services. The agreement replaces and strengthens a 2004 out-of-court settlement between the Department and the Commonwealth.

"It is a Justice Department priority to protect the civil rights of all Americans, including these vulnerable institutionalized persons," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "People in the care of the Commonwealth are entitled to be safe and provided with adequate treatment."

"We are constantly striving to protect our most vulnerable citizens," said Amul R. Thapar, U.S. Attorney for the Eastern District of Kentucky. "This agreement is a very positive step in that direction."

The Department reviewed the facility after reaching the 2004 settlement and found that numerous ongoing civil rights violations continued at Oakwood. Specifically, the Department found that the facility fails to protect individuals from harm; fails to provide adequate supports and services to individuals, including behavioral, psychology and psychiatric services, general medical and nursing care, and physical and nutritional therapy; and fails to ensure adequate discharge planning and placement in the most appropriate, integrated setting. The facility also received 22 citations in 2005 and 2006 from the Commonwealth's own Office of Inspector General for the Cabinet for Health and Family Services, including preventable deaths, sexual abuse, and failure to adequately address residents' maladaptive behaviors. Furthermore, Commonwealth prosecutors have criminally charged numerous Oakwood staff for abuse of residents.

DOJ_NMG_ 0167333

Two serious incidents occurred in recent months: one in which four staff were charged with beating a resident with a broom handle on several occasions, and another other incident in which four staff were charged with beating a resident and fracturing his nose. In addition, a former Oakwood female staff member was sentenced earlier this month to serve two years for dragging a resident by her shirt collar, hitting her with a shoe, and slamming her head into a wall.

Under the terms of the agreement filed in court today, the Commonwealth will implement a remedial plan to correct all of the violations identified by the Department and will submit to court supervision of its efforts.

The Civil Rights Division conducted its investigation pursuant to the Civil Rights of Institutionalized Persons Act of 1980 (CRIPA). The statute allows the federal government to identify and root out systemic abuses such as those identified in this case, rather than focus on individual civil rights violations.

The Civil Rights Division has successfully resolved similar investigations of other facilities for persons with developmental disabilities in states including Connecticut, Indiana, Iowa, Louisiana, New Jersey, and Tennessee, and in the District of Columbia and the Commonwealth of Puerto Rico. The Division has pending investigations of facilities for persons with developmental disabilities in Arkansas, California, Missouri, Texas, and Washington.

The Department of Justice's CRIPA enforcement effort reaches beyond facilities for persons with developmental disabilities. Since 2001, the Department of Justice has opened 64 investigations into the terms and conditions of confinement at nursing homes, mental health facilities, residences for persons with developmental disabilities, juvenile justice facilities, jails and prisons.

More information about the Special Litigation Section of the Justice Department's Civil Rights Division can be found at http://www.usdoj.gov/crt/split/index.html.

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06-582

DOJ_NMG_ 0167334

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Image not available for this document, ID: 0.7.10316.34945-000002

Image not available for this document, ID: 0.7.10316.34945-000003

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 1:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Bensalem, PA

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 1:35:19 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Bensalem, PA
Auto forwarded by a Rule

AMBER ALERT:Bensalem,PA VEH:97 Red 4D Buick Regal TAG:PA FXY9677, CHILD:Blk/Hisp 3yo,39",35 lb Hai:Blk,COMPANION:B/F,SUSP:B/M, 19 yo,6'5,170lb Hai:Blk CALL 911
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2062

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, August 31, 2006 2:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Bensalem, PA

From: AmberAlert-DOJ
Sent: Thursday, August 31, 2006 2:35:18 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Bensalem, PA
Auto forwarded by a Rule

UPDATE AMBER ALERT:Bensalem,PA VEH:97 Red 4D Buick Regal TAG:PA FXY9677,CHILD:Blk/Hisp 3yo,35 lb Hai:Blk,COMPANION:B/F,SUSP:B/M,19 yo,6'5,170lb Hai:Blk CALL 911
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2062

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 3:47 PM
To: USDOJ- Office of Public Affairs
Subject: WORKFORCE CENTRAL FLORIDA & WORKFORCE CENTRAL FLORIDA FOUNDATION TO PAY $3.4 MILLION TO SETTLE GRANT FRAUD ALLEGATIONS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 31, 2006
WWW.USDOJ.GOV

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

WORKFORCE CENTRAL FLORIDA & WORKFORCE CENTRAL FLORIDA FOUNDATION TO PAY $3.4 MILLION TO SETTLE GRANT FRAUD ALLEGATIONS

WASHINGTON – Workforce Central Florida and Workforce Central Florida Foundation Inc. have agreed to pay the United States $3,483,664.19 to settle claims that they defrauded the U.S. Department of Labor, and U.S. Department of Health and Human Services, the Justice Department announced today.

Workforce Central Florida (WCF) receives federal grants to provide such services as job placement and training, temporary cash assistance, and special support services such as subsidized child care and transportation. The civil settlement resolves allegations that WCF and the Workforce Central Florida Foundation, both located in Lake Mary, Fla., violated the False Claims Act by misusing federal grant funds to make improvements to their privately-owned administrative office and One-Stop Center and by then charging excessive lease costs to federal grants.

"Today's settlement illustrates the importance that the United States places on ensuring that organizations make proper use of federal grants," said Assistant Attorney General Peter D. Keisler of the Department's Civil Division.

The allegations arose from a lawsuit filed by Educational Career Development Inc., under the whistleblower provisions of the False Claims Act, a federal law that allows private individuals, called relators,

DOJ_NMG_ 0167340

to sue on behalf of the United States. The lawsuit was unsealed on June 26, 2006 in Orlando. The relator in this case will receive $627,059.55 as its share of the proceeds.

The civil investigation and settlement was handled by the Civil Division of the Justice Department.

The action is entitled *United States ex rel. Educational Career Development Inc. v. Central Florida Regional Workforce Development Board, Inc. and Workforce Central Florida, Inc., (Fawsett, J.)*, 6:04-cv-93-Orl-19DAB (M.D. Fl.).

# # #

06-586

DOJ_NMG_ 0167341

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Image not available for this document, ID: 0.7.10316.34934-000002

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, August 31, 2006 4:04 PM
Subject: Service Interruption: All of SMO/JMD JCON

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. This upgrade will be performed on resources located in the Rockville Date Center. Be advised that there is no risk of data loss.

When: Saturday, Sept. 2, 2006, 10:00pm to Sunday, Sept. 3, 2006, 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: **All SMO/JMD Customers**

Unavailable Services, All Customers *(except Rockville & RFK Main)*:
Email Services
Internet Resources
G:\ Drive Resources
M:\Drive Resources
Citrix remote access
Enterprise Applications
BlackBerry *(PIN to PIN messaging is available)*

Unavailable Services, Rockville and RFK Main Customers:
All of the items listed above
H:\ Drive
Network Printers

Available Services, All Customers *(except Rockville & RFK Main)*:
H:\ Drive
Network Printers
BlackBerry PIN to PIN Messaging

Available Services, Rockville and RFK Main Customers:
BlackBerry PIN to PIN Messaging

Suggested Action: Please leave your workstation logged off and powered off during this service period.
To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.

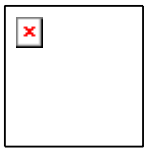
3. Click “Shut Down”.
4. Choose the “Shutdown and Power off” option.
5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 4:25 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF SEX DISCRIMINATION AGAINST MINNEAPOLIS LANDLORDS

Department of Justice



FOR IMMEDIATE RELEASE CRT
THURSDAY, AUGUST 31, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF SEX DISCRIMINATION AGAINST MINNEAPOLIS LANDLORDS

WASHINGTON — The Justice Department today announced an agreement with the owners and managers of several rental properties in and around Minneapolis, Minnesota to settle the federal government's allegations of systemic discrimination against female tenants. Under the settlement, which be approved by the U.S. District Court in Minn., the defendants must pay $352,500 to affected households and pay a civil penalty of $35,000.

"No woman seeking housing for herself or her family should be subjected to such disgusting, degrading and discriminatory treatment," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department will remain vigilant in fighting housing discrimination and prosecuting landlords who prey on female tenants."

"Minnesota is a wonderful place to live and raise a family," said Rachel K. Paulose, U.S. Attorney for the District of Minnesota. "We will not allow a few bad rental property owners and managers to tarnish the reputations of the many good people who provide affordable housing to women and their families across the state."

The lawsuit alleged that Robert Wones, as an owner and as a management employee of S& R Property Management; Howard Melin; Welty Properties Inc.; and Shumel Management (the corporate defendants), violated the Fair Housing Act when Wones subjected female tenants to severe, pervasive and unwelcome sexual harassment at eight separate apartment complexes located in and around Minneapolis. Specifically, the complaint alleged that Wones engaged in unwelcome sexual touching of female tenants, made unwelcome sexual advances, conditioned the terms of women's tenancy on the granting of sexual favors, and took adverse actions against female tenants who refused or objected to his sexual advances.

DOJ_NMG_ 0167346

Under the settlement, the corporate defendants who employed Wones are prohibited from future discrimination based on sex. The agreement also provides that Wones, who does not currently own or manage rental properties, must hire an independent management company to operate any rental property that he acquires in the future.

Fighting illegal housing discrimination is a top priority of the Justice Department. In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live. Operation Home Sweet Home is not limited to the areas hit by Hurricane Katrina, and targets housing discrimination all over the country.

More information about Operation Home Sweet Home, can be found at http://www.usdoj.gov/fairhousing. Individuals who believe that they may have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email fairhousing@usdoj.gov, or contact the Department of Housing and Urban Development at 1-800-669-9777.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since January 21, 2001, the Justice Department's Civil Rights Division has almost doubled the number of pattern or practice of sexual harassment cases filed under the Fair Housing Act, as compared to the preceding five and a half years. For more information about the Civil Rights Division and the laws it enforces, go to http://www.usdoj.gov/crt.

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Image not available for this document, ID: 0.7.10316.34936-000003

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Thursday, August 31, 2006 4:33 PM
To: Gorsuch, Neil M
Subject: 9/15 CFR Meeting: Liberals and the War on Terror

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email [redacted]@cfr.org
Meetings Response Line Te[redacted]
Fax [redacted]

DC MEETING

VOICES OF THE NEXT GENERATION:
LIBERALS AND THE WAR ON TERROR

WITH

[redacted]

With the new "Voices of the Next Generation" series, the Council seeks to identify and feature fresh, young voices in the nation's foreign policy discourse. At the first meeting of the series, Peter Beinart will discuss liberalism, the war on terror, and America's role in the world.

Friday, September 15, 2006

8:00-8:30 AM Breakfast Reception
8:30-9:30 AM Meeting

at

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

If any of the information below is incorrect please update it by clicking on the link below:
http://www.cfr.org/member/contact_edit.html

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: [redacted]
Fax: [redacted]
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 6:53 PM
To: USDOJ- Office of Public Affairs
Subject: THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE

THURSDAY, AUGUST 31, 2006

WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
(225) 389-0443
FAX: (225) 389-0561

THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Three Louisiana residents were sentenced in federal court on fraud charges related to hurricane disaster relief programs, announced U. S. Attorney David R. Dugas, of the Middle District of Louisiana.

Josette Williams, 29, of Baton Rouge, La., pled guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. She was sentenced by U.S. District Court Judge John V. Parker to five years probation, 50 hours of community service, and $14,749.51 in restitution. The U.S. Secret Service and the U.S. Department of Homeland Security, Office of Inspector General, conducted the investigation of this matter.

Antonio D. Shelton, 21, Takeisha D. Hinton, 21, both of Baton Rouge, La., each pled guilty to count one of an indictment charging them with making a false claim for Hurricane Katrina disaster

DOJ_NMG_ 0167353

assistance benefits. Shelton and Hinton were each sentenced by U.S. District Court Chief Judge Ralph E. Tyson to three years probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of Inspector General and the Federal Bureau of Investigation conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to Hurricane Katrina relief funds stands at 68.

In Sept. 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225 389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24-hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.34886-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, August 31, 2006 7:37 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
August 31, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney to Visit with British Counterparts (OPA)

Today, Attorney General Alberto R. Gonzales traveled to the United Kingdom where he will participate in closed press meetings with his British counterparts and receive an update on the investigation into the thwarted airline terror plot.

Talking Points

- The Attorney General led a full and productive trip to the Middle East where he visited multiple countries, including Iraq, and met with numerous Justice Department officials and his foreign counterparts to discuss cooperative efforts in law enforcement and combating terrorism.

- The Department of Justice is committed to establishing the rule of law in Iraq, Afghanistan and numerous countries throughout the Middle East as evidenced by the significant amount of Department personnel stationed in these countries. Because of the importance to this commitment, this is the Attorney General's third trip to region in the last year.

Media Continues to Cover the Capture of Fugitive Warren Jeffs (FBI)

Today, FBI Special Agent in Charge Steve Martinez appeared on MSNBC's "Rita Cosby" and Fox's "John Gibson Show" to discuss the arrest of FBI fugitive Warren Jeffs. Tomorrow, CNN's "Anderson Cooper 360" is expected to air a one-hour special on Warren Jeffs. The FBI did not provide comment for this program.

FBI Assistant Director Participated in Interview with BBC (FBI)

FBI Assistant Director John Miller conducted on-camera interview today with BBC News regarding the fifth anniversary of Sept. 11.

CNN to Air Interview with FBI Special Agent (FBI)

This evening, CNN's "Paula Zahn Show" will air an interview with FBI Special Agent Brad Garrett regarding his investigation of the CIA shooting which resulted in the arrest of Top Ten Most Wanted fugitive Amil Khan Kasi.

Media Inquiries Regarding TRAC Report on Terrorism Prosecutions (OPA)
The Department received numerous media inquiries today requesting comment regarding the TRAC report on terrorism prosecutions since Sept. 11. The TRAC report has been released on an embargoed basis for Monday, Sept. 4, 2006. The Department of Justice is preparing a response.

Media Inquires Regarding Reports of Search in Alaska Legislative Offices (Criminal)
Today, the Justice Department received several requests from Alaskan media regarding reports of federal investigators executing search warrants in various cities in Alaska including several legislative offices in the Capitol building. The Department is not commenting or confirming any details at this time.

Workforce Central Florida & Workforce Central Florida Foundation to Pay $3.4 Million to Settle Grant Fraud Allegations (Civil)
Today, Workforce Central Florida (WCF) and Workforce Central Florida Foundation Inc. have agreed to pay the United States $3,483,664.19 to settle claims that they defrauded the U.S. Department of Labor, and U.S. Department of Health and Human Services. The civil settlement resolves allegations that WCF and the Workforce Central Florida Foundation violated the False Claims Act by misusing federal grant funds to make improvements to their privately-owned administrative office and One-Stop Center and by then charging excessive lease costs to federal grants.

Talking Points

- Today's settlement illustrates the importance that the United States places on ensuring that organizations make proper use of federal grants.

Justice Department and Commonwealth of Kentucky Reach Settlement Regarding Conditions at the Communities at Oakwood Developmental Center (Civil Rights)
Today, the Justice Department reached a court-enforceable settlement agreement with the Commonwealth of Kentucky regarding civil rights violations at the Communities at Oakwood (Oakwood), a center for persons with developmental disabilities, in Somerset, Ken. The five-year agreement requires the Commonwealth to implement reforms to ensure that individual residents at the facility are adequately protected from harm and provided adequate supports and services. The agreement replaces and strengthens a 2004 out-of-court settlement between the Department and the Commonwealth.

Talking Points

- The Civil Rights Division has successfully resolved similar investigations of other facilities for persons with developmental disabilities in states including Connecticut, Indiana, Iowa, Louisiana, New Jersey, and Tennessee, and in the District of Columbia and the Commonwealth of Puerto Rico.

- The Division has pending investigations of facilities for persons with developmental disabilities in Arkansas, California, Missouri, Texas, and Washington.

- The Department of Justice's CRIPA enforcement effort reaches beyond facilities for persons with developmental disabilities.

- Since 2001, the Department of Justice has opened 64 investigations into the terms and conditions of confinement at nursing homes, mental health facilities, residences for persons with developmental disabilities, juvenile justice facilities, jails and prisons.

Justice Department Settles Allegations of Sex Discrimination against Minneapolis Landlords (Civil Rights)

The Justice Department today announced an agreement with the owners and managers of several rental properties in and around Minneapolis, Minnesota to settle the federal government's allegations of systemic discrimination against female tenants. Under the settlement, which be approved by the U.S. District Court in Minn., the defendants must pay $352,500 to affected households and pay a civil penalty of $35,000.

Talking Points

- Fighting illegal housing discrimination is a top priority of the Justice Department.

- In February, Attorney General Alberto R. Gonzales announced Operation Home Sweet Home to expose and eliminate housing discrimination in America. This initiative was inspired by the plight of displaced victims of Hurricane Katrina who were suddenly forced to find new places to live.

THURSDAY'S EXPECTED EVENTS/RELEASES:

Tomorrow, the Environmental and Natural Resources Division will send its demand letter to Exxon Mobil, regarding the 1991 Exxon Valdez oil spill on Prince William Sound in Alaska. When asked for comment, the Department will issue the following statement:

"The Justice Department, together with the state of Alaska, has delivered to Exxon a demand letter regarding the Reopener provision of the 1991 consent decree. The letter is a step required under the settlement to maintain our right to assert a claim. The letter does not signal the commencement of litigation, however, the governments retain the option to initiate litigation if and when we choose to do so."

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 10:04 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 1, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 01, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Civil Rights Division will tentatively issue a release. (Magnuson)

EVENTS/HEARINGS

No public events scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.34889-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 12:28 PM
To: USDOJ- Office of Public Affairs
Subject: Justice Department and Equal Employment Opportunity Commission Settle Ohio Religious Discrimination Lawsuits

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV
WWW.EEOC.GOV

For Department of Justice
(202) 514-2007, TTY (202) 514-1888
For EEOC
(202) 663-4900, TTY (202) 663-4494

JUSTICE DEPARTMENT AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION SETTLE OHIO RELIGIOUS DISCRIMINATION LAWSUITS

WASHINGTON – The Justice Department and the U.S. Equal Employment Opportunity Commission (EEOC) today announced a consent decree to resolve religious discrimination lawsuits filed against the state of Ohio; the Ohio Environmental Protection Agency; the Ohio Department of Administrative Services; and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO. The lawsuits alleged that the state defendants and the union violated federal employment discrimination laws by failing to respect the rights of employees with religious objections to supporting the union.

The union and the state defendants permit employees who are members of churches that historically have opposed unionization to pay an amount equivalent to their dues to charity. However, they refuse to allow employees who do not belong to such churches, but nonetheless have sincere religious objections to supporting the union, to make a charitable donation instead of paying dues or fees. The suit was prompted by the case of a man who objected to associating with or supporting the union on religious grounds because of its support of abortion and same-sex marriage.

The Justice Department's lawsuit under Title VII of the Civil Rights Act of 1964 against the state defendants, and a Title VII suit by the EEOC against the union, were consolidated by the U.S. District Court for the Southern District of Ohio. If approved by the court, the proposed consent decree would require religious accommodations of state employees with sincere religious objections to associating with or financially supporting unions, whether or not they are members and adherents of a particular religion.

"The law protects the religious observances, practices, and beliefs of all Americans," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "I applaud the Ohio state officials for working with the Department to resolve this case."

The vigorous enforcement of Title VII against public employers is a priority of the Justice Department's Civil Rights Division. Additional information about the Civil Rights Division is available at http://www.usdoj.gov/crt.

DOJ_NMG_ 0167363

EEOC Regional Attorney Jacqueline H. McNair said, "The resolution of this litigation will protect approximately 37,000 public employees covered by the State of Ohio's collective bargaining agreement with the Ohio Civil Service Employees Association."

Public employees in Ohio who are not covered by this consent decree may contact the EEOC's Cleveland Field Office at (216) 522-2001 for information about their rights regarding substituting charitable contributions for dues and fees as a religious accommodation.

In addition to enforcing Title VII, which prohibits discrimination based on race, color, sex, religion, and national origin, the EEOC enforces the Age Discrimination in Employment Act, the Equal Pay Act, the Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act, and sections of the Civil Rights Act of 1991. The EEOC does not have statutory authority to sue state or local governments under Title VII or the ADA. Further information about the EEOC is available on its web site at http://www.eeoc.gov.

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Image not available for this document, ID: 0.7.10316.34861-000003

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 5:05 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 4-8, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
September 4 – September 8, 2006

Monday, September 4

Labor Day Holiday

Tuesday, September 5

5:00 P.M. CDT Solicitor General Paul Clement will address the Baylor University Law School and campus community.
Jones Concert Hall
1114 S. University Drive
One Bear Place
Waco, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Scott-Fogleman of the Baylor Law School at 254-710-6275, or to the Office of Public Affairs at 202-514-2007.

Wednesday, September 6

10:00 A.M. EDT Deputy Attorney General McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*
Dirksen Senate Office Building
Room 215
Washington, D.C.

DOJ_NMG_ 0167368

OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Thursday, September 7

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

1:05 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the Manhattan Institute regarding the Government's International and Domestic Contributions to the War on Terror.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

Friday, September 8

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

DOJ_NMG_ 0167369

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DOJ_NMG_ 0167370

Image not available for this document, ID: 0.7.10316.34856-000001

Image not available for this document, ID: 0.7.10316.34856-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 5:40 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 1, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

4 MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

JACKSON, Miss. – Four individuals have entered guilty pleas in U. S. District Court for Federal Emergency Management Agency (FEMA) fraud in the wake of Hurricane Katrina, announced U.S. Attorney Dunn Lampton, of the Southern District of Mississippi.

Marion Griffin, of Morton, Miss, pleaded guilty to theft and conversion of Hurricane Katrina disaster assistance funds. Griffin fraudulently received and spent $2,000 in FEMA disaster assistance funds which were obtained after Griffin claimed a false address in Moss Point. Griffin lived in Scott County, and not at the address claimed at the time Hurricane Katrina hit the Mississippi Gulf Coast.

Glenda Spangler, of Morton, Miss, pleaded guilty to making a false and fraudulent claim to FEMA for Hurricane Katrina disaster assistance by providing a false address in Pascagoula, and claiming hurricane damage at that address. Spangler lived in Scott County, and not at the address claimed at the time Hurricane Katrina hit the Mississippi Gulf Coast.

Charles Lyles, of Brookhaven, Miss, pleaded guilty to a mail fraud scheme which resulted in Lyles fraudulently obtaining FEMA hurricane relief benefits and hotel accommodations paid for by FEMA. Lyles admitted that he lied about his primary residence in his FEMA application by using an address in Brookhaven.

Karynette Arnold, of Jackson, Miss, pleaded guilty to making a false statement to FEMA by using a fictitious address in Jackson as her primary residence and claiming damage to that residence. The address claimed by Arnold was an abandoned home.

DOJ_NMG_ 0167373

All defendants are scheduled to be sentenced before U.S. District Judge Tom S. Lee on Dec. 1, 2006 at 9:00 a.m.

The maximum sentence for the Spangler and Arnold is five years and a $250,000 fine. The maximum sentence for Griffin is 10 years in prison and a $250,000 fine. The maximum sentence for Lyles is 20 years and a $250,000 fine.

In September 2005, Attorney General Alberto R. Gonzales created the national Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force, chaired by Assistant Attorney General for the Criminal Division, Alice S. Fisher, includes members from the FBI, the Federal Trade Commission, the Department of Labor Office of Inspector General, the Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who engage in fraud associated with the hurricanes.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

U. S. Attorney Lampton stressed that these charges represent accusations only and all defendants are entitled to a presumption of innocence.

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DOJ_NMG_ 0167374

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Image not available for this document, ID: 0.7.10316.34859-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 01, 2006 8:08 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 1, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Attorney General to Participate in Media Interviews (OPA)
On Tuesday, Attorney General Alberto R. Gonzales will be interviewed by Patty Reinert of *The Houston Chronicle* as part of a profile piece she is writing on the Attorney General's role within the Administration. He will also participate in television interviews with ABC, BBC, CBS, CNN, Fox, NBC, Telemundo and Univision regarding the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe. The Attorney General will also participate in a roundtable with Justice Department beat reporters on same topic.

Department Issues Embargoed Statement on TRAC Report (OPA)
On Sunday evening, the Transactional Records Access Clearinghouse (TRAC) at Syracuse University will release a report from embargo which is critical of Department of Justice terrorism prosecutions. The thrust of the report is to shed doubt on the effectiveness of the Administration's overall counterterrorism efforts and, specifically, its record in prosecuting terrorism cases. The Department responded with a statement pointing out the report's flaws, also embargoed until Sunday evening.

Talking Points

- The most recent report from Transactional Records Access Clearinghouse (TRAC) once again ignores the reality of how the war on terrorism is prosecuted in federal courts across the country and the value of early disruption of potential terrorist acts by proactive prosecution.

- The report presents misleading analysis of Department of Justice statistics to suggest that the threat of terrorism may be inaccurate or exaggerated. The Department of Justice disagrees with this suggestion completely.

- This report does not take into account the significance of the Justice Department's successful strategy of prevention through prosecution, which has helped protect this country from terrorists since the attacks of Sept. 11th. The Department will continue to employ this strategy and work tirelessly to prevent another attack on U.S. soil.

FBI Receives Media Inquiries Regarding Project Strikeback (FBI)
Today, the FBI received numerous media inquiries regarding Project Strikeback, a joint FBI/Department of Education Office of Inspector General initiative that examined student records of individuals being investigated as part of the Pentbom investigation. FBI Assistant Director John Miller issued the following statement:

- "During the 911 investigation and continually since, much of the intelligence has indicated terrorists have exploited programs involving student visas and financial aid. In some student loan frauds identity theft has been a factor. When we asked for the cooperation of the Department of Education's Office of The Inspector General it was to run names of subjects already material to counter-terrorism investigations against the databases to look for evidence of either student loan fraud or identity theft. No records of people other than those already under investigation were called for. This was not a sweeping program, in that it involved only a few hundred names. This is part of our mission, which is to take the leads we have and investigate them. There was no attempt to conceal these efforts, in that they were referenced in publicly available briefings to Congress and to the General Accountability Office (GAO)."

Justice Department and EEOC Settle Religious Discrimination Suits in Ohio (Civil Rights)
The Justice Department and the U.S. Equal Employment Opportunity Commission (EEOC) today reached a settlement to resolve religious discrimination lawsuits filed against the state of Ohio; the Ohio Environmental Protection Agency; the Ohio Department of Administrative Services; and the Ohio Civil Service Employees Association, AFSCME, Local 11, AFL-CIO. The lawsuits alleged that the state defendants and the union violated federal employment discrimination laws by failing to respect the rights of employees with religious objections to supporting the union. The union and the state defendants permit employees who are members of churches that historically have opposed unionization to pay an amount equivalent to their dues to charity. However, they refuse to allow employees who do not belong to such churches, but nonetheless have sincere religious objections to supporting the union, to make a charitable donation instead of paying dues or fees. The suit was prompted by the case of a man who objected to associating with or supporting the union on religious grounds because of its support of abortion and same-sex marriage.

Talking Points

- The vigorous enforcement of Title VII against public employers is a priority of the Justice Department's Civil Rights Division.

Justice Department Sues to Stop Alleged Tax Fraud Scheme Involving Bogus Tax Exempt Organizations (Tax)
The Justice Department announced today that it has sued to block William J. Kennedy of Livermore, Calif., from selling an alleged tax fraud scheme. The complaint, filed in U.S. District Court in San Francisco, alleges that Kennedy falsely advised customers that they can use an entity known as a "corporation sole" to avoid paying federal income taxes. Kennedy conducted his business through an entity he calls the "Ear of Malchus," which is referenced in

the New Testament. According to the complaint, the IRS estimates that Kennedy's tax-fraud scheme results in an annual loss to the federal Treasury of $500,000.

TUESDAY'S EXPECTED EVENTS/RELEASES:

5:00 P.M. CDT Solicitor General Paul Clement will address the Baylor University Law School and campus community.
Jones Concert Hall
1114 S. University Drive
One Bear Place
Waco, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Scott-Fogleman of the Baylor Law School at 254-710-6275, or to the Office of Public Affairs at 202-514-2007.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 05, 2006 8:15 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 5, 2006
WWW.USDOJ.GOV

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

********Media Advisory********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

WASHINGTON – Attorney General Alberto R. Gonzales will hold a pen-and-pad briefing with Department of Justice beat reporters focusing on the progress made by the Justice Department to prevent terrorism and keep America safe before the fifth anniversary of Sept. 11 on **TUESDAY, SEPTEMBER 5, 2006 at 11:45 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Pen-and-Pad briefing with Department of Justice beat reporters
(No cameras)

WHEN: **TUESDAY, SEPTEMBER 5, 2006 at 11:45 A.M. EDT**

WHERE: Attorney General's Conference Room (Room 5111)
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.

NOTE: Pen-and-Pad briefing for Department of Justice beat reporters only (no cameras). All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-589

DOJ_NMG_ 0167380

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Image not available for this document, ID: 0.7.10316.34837-000002

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Tuesday, September 5, 2006 4:30 PM
End:	Tuesday, September 5, 2006 5:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C; Katsas, Gregory
Optional Attendees:	'Reyes, Luis (SMO)'

When: Tuesday, September 05, 2006 4:30 PM-5:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, September 05, 2006 10:20 AM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 5, 2006

JCON BROADCAST, WEEK OF SEPTEMBER 5, 2006

1. **Immigration Reform Demonstration, Thursday, September 7, 2006**
2. **Temporary Closure of the 10th Street Entrance**
3. **Research Classes Offered by Library Staff**

Immigration Reform Demonstration, Thursday, September 7, 2006

Local and Federal law enforcement authorities are expecting approximately 300,000 demonstrators to gather from 2:30 p.m. to 6:30 p.m., Thursday, September 7, 2006, on the National Mall, between 3rd & 17th Streets NW, to rally for immigration reform. At approximately 6:30 p.m., the demonstrators will leave the National Mall via 3rd Street NW and will march west on Pennsylvania Avenue NW, south on 15th Street NW, and west on Constitution Avenue NW entering the Washington Monument grounds at 16th Street NW. It is anticipated that street closures for this march will impact traffic flow around the Main Justice Building, as well as Pennsylvania Avenue NW, Constitution Avenue NW, and cross streets between 3rd Street NW and the Washington Monument grounds. If you have any questions regarding this matter, please contact Reid Hilliard, Assistant Director, SEPS, on (202) 514-1441.

Temporary Closure of the 10th Street Entrance

The 10th Street vehicle and pedestrian turnstile entrance at the Main Justice Building will be closed from 7:00 p.m., Friday, September 8, 2006, until 6:00 a.m., Sunday, September 10, 2006. During this time, all vehicle and pedestrian traffic must enter through the 9th Street gate.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are

open to all DOJ staff. Please see the current class list at:
http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 05, 2006 5:34 PM
To: USDOJ- Office of Public Affairs
Subject: SAUDI NATIONAL CONVICTED OF VISA FRAUD AND HARBORING ILLEGAL ALIENS

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 5, 2006
WWW.USDOJ.GOV/MA

CONTACT: SAMANTHA MARTIN
PHONE: (617) 748-3139
FAX: (617) 748-3992

SAUDI NATIONAL CONVICTED OF VISA FRAUD AND HARBORING ILLEGAL ALIENS

BOSTON – A Saudi national living in Winchester, Mass. pleaded guilty today in federal court to charges of visa fraud and harboring of illegal aliens relating to her employment of two domestic servants.

Hana F. Al Jader, 40, of Winchester, pleaded guilty before U.S. District Judge Reginald J. Lindsay to two counts of visa fraud and two counts of harboring illegal aliens for private financial gain in connection with her employment of two women from Indonesia as domestic servants, Assistant Attorney General Wan J. Kim of the Civil Rights Division; U. S. Attorney Michael J. Sullivan of the District of Massachusetts, Special Agent in Charge Bruce M. Foucart of Immigration and Customs Enforcement, and Special Agent in Charge Kenneth W. Kaiser of the FBI, announced today.

At today's plea hearing, the prosecutor told the Court that Al Jader, who has resided in Winchester and Arlington since the mid-1990's with her invalid husband, Prince Mohamed Al Saud, brought the two Indonesian women to the United States in 2003 to work as domestic servants. In order to obtain visas for the women, Al Jader was required to submit to the U.S. Embassy in Saudi Arabia a copy of a work contract guaranteeing that the women would be paid $1,500 a month and would work no more than eight hours daily. However, when the women arrived in the United States, they were required to work – cooking, cleaning, serving meals, caring for the severely disabled Prince, and serving at frequent parties – routinely in excess of eight hours per day. Al Jader paid them only $300 a month which, at their request, was wired to their families in Indonesia.

In July 2003, Al Jader, through an attorney, filed applications with the Bureau of Citizenship and Immigration Services for a six-month extension of the visas for her domestic servants. In connection with the extension application, Al Jader submitted another employment contract, which again represented falsely that the servants were each being paid $1,500 per month and working only eight hours per day. Based on the false information provided in the contracts, the servants' visas were extended, however, when those extensions expired, Al Jader failed to apply for or obtain any additional extensions. Despite the fact that the servants' legal status had expired, Al Jader continued to employ them for the next 11 months at the same pay rate of $300 per month.

DOJ_NMG_ 0167386

In exchange for Al Jader's plea of guilty to these charges, her agreement to pay restitution of approximately $98,000 to each of the servants, and her acceptance of a stipulated order of deportation to her native Saudi Arabia, the government agreed to dismiss pending charges of forced labor and document servitude against Al Jader.

Judge Lindsay scheduled sentencing for Dec. 12, 2006, at 2:30 p.m. Al Jader faces a maximum punishment of 10 years in prison, to be followed by three years supervised release, and a fine of $250,000 on each of the four counts.

The case was investigated by agents from Immigration and Customs Enforcement and the FBI. It is being prosecuted by Assistant U.S. Attorney S. Theodore Merritt and Special Litigation Counsel Lou DeBaca and Trial Attorney Barbara Kay Bosserman, both of the Department of Justice's Civil Rights Division.

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DOJ_NMG_ 0167387

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Image not available for this document, ID: 0.7.10316.34758-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 5, 2006 7:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 5, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participates in Media Interviews and Roundtable
Today, Attorney General Alberto R. Gonzales led a roundtable with Justice Department beat reporters and participated in television interviews with ABC, BBC, CBS, CNN, Fox, NBC, Telemundo and Univision regarding the 5th anniversary of Sept. 11, 2001 and Justice Department efforts to prevent terrorism and keep America safe. The Attorney General also participated in an interview with Patty Reinert of *The Houston Chronicle,* who is writing a profile piece on the Attorney General's role within the Administration.

48 Hours Airs Special Regarding Terrorism (FBI)
Tonight, 48 Hours will air a one-hour special on terrorism hosted by Katie Couric. In preparation for the special, 48 Hours requested statistics regarding the FBI's budget, personnel data and investigations both before and after Sept. 11.

FBI Director Mueller to Host Pen and Pad Briefing with Print Reporters (FBI)
Tomorrow, FBI Director Robert Mueller will host a pen and pad press briefing with select print reporters at FBI Headquarters regarding the state of the FBI five years after Sept. 11.

FBI and DHS to Issue Joint Press Release Regarding Fingerprint Identification Systems (FBI)
Tomorrow, the Department of Homeland Security (DHS) and the FBI are expected to issue a joint press release with updated information regarding the status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

The Environmental and Natural Resources Division will tentatively issue a release on a vessel pollution matter.

The Bureau of Justice Statistics will issue a release.

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*

Dirksen Senate Office Building
Room 215
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.

Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Cruden, John (ENRD)

From: Cruden, John (ENRD)
Sent: Wednesday, September 06, 2006 9:26 AM
Subject: Not read: Contact Information

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 10:44 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 6, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, September 6, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division will issue a release on a fraud matter. (Lesch)

The Antitrust Division will issue a release on a criminal matter. (Talamona)

The Environmental and Natural Resources Division will issue a release on a vessel pollution matter. (Magnuson)

The Bureau of Justice Statistics will issue a release. (Peterson)

EVENTS/HEARINGS

10:00 A.M. EDT Deputy Attorney General McNulty will testify before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*
Dirksen Senate Office Building
Room 215
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Finance Committee at 202-224-4515.

11:00 A.M. EDT J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, will testify before the Senate Judiciary Committee regarding examining competition in group healthcare.
Dirksen Senate Office Building

DOJ_NMG_ 0167393

Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

1:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding statutory advisories for the Terrorist Surveillance Program.
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167394

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Image not available for this document, ID: 0.7.10316.34713-000002

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, September 6, 2006 10:56 AM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: 9/15 CFR Meeting: Liberals and the War on Terror

-----Original Message-----
From: dcmeetings@cfr.org <dcmeetings@cfr.org>
To: Gorsuch, Neil M
Sent: Thu Aug 31 16:33:19 2006
Subject: 9/15 CFR Meeting: Liberals and the War on Terror

COUNCIL ON FOREIGN RELATIONS

WASHINGTON OFFICE
1779 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036-2109
Email dcmeetings@cfr.org
Meetings Response Line Tel [redacted]
Fax [redacted]

DC MEETING

VOICES OF THE NEXT GENERATION:
LIBERALS AND THE WAR ON TERROR

WITH

[redacted]

With the new "Voices of the Next Generation" series, the Council seeks to identify and feature fresh, young voices in the nation's foreign policy discourse. At the first meeting of the series, Peter Beinart will discuss liberalism, the war on terror, and America's role in the world.

Friday, September 15, 2006

8:00-8:30 AM Breakfast Reception
8:30-9:30 AM Meeting

8:30-9:30 AM Meeting

at

Council on Foreign Relations
1779 Massachusetts Avenue, N.W.
Washington, D.C. 20036

This invitation is not transferable.
CFR meetings are open to Council members only unless otherwise noted.

If any of the information below is incorrect please update it by clicking on the link below:
http://www.cfr.org/member/contact_edit.html

Member Name: Neil M. Gorsuch 00355063
Company/Affiliation: U.S. Department of Justice
Telephone: [redacted]
Fax: [redacted]
E-mail: neil.gorsuch@usdoj.gov
I prefer to receive invitations and meeting updates via: email fax

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 11:01 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 6, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks focusing on the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror* on **THURSDAY, SEPTEMBER 7, 2006 at 1:00 P.M. EDT**.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks regarding the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe.

WHEN: **THURSDAY, SEPTEMBER 7, 2006**
1:00 P.M. EDT.

WHERE: **Roosevelt Hotel**
East 45th Street at Madison Avenue
New York City
OPEN PRESS

NOTE: Pre-set for television camera crews is **12:00 P.M. EDT**. Print journalists should arrive **no later than 12:30 P.M. EDT.** All press inquiries regarding logistics should be directed to William Zeiser of the Manhattan Institute at 516-448-5489 or Theresa Pagliocca of the Department of Justice at 202-532-3486.

# # #

06-592

DOJ_NMG_ 0167399

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Image not available for this document, ID: 0.7.10316.34708-000002

From: Gorsuch, Neil M
Sent: Wednesday, September 06, 2006 11:02 AM
To: [redacted]@ca10.uscourts.gov'
Subject: Fw: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE
Attachments: Picture (Metafile); Picture (Metafile)

-----Original Message-----
From: USDOJ- Office of Public Affairs
To: USDOJ- Office of Public Affairs
Sent: Wed Sep 06 11:01:05 2006
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

FOR PLANNING PURPOSES ONLY AG
WEDNESDAY, SEPTEMBER 6, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

*******MEDIA ADVISORY*******

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE THE MANHATTAN INSTITUTE

WASHINGTON - Attorney General Alberto R. Gonzales will deliver remarks focusing on the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe at the Manhattan Institute's conference on First Preventers: The Role of Law Enforcement in the War on Terror on THURSDAY, SEPTEMBER 7, 2006 at 1:00 P.M. EDT.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks regarding the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe.

WHEN: THURSDAY, SEPTEMBER 7, 2006
1:00 P.M. EDT.

WHERE: Roosevelt Hotel
East 45th Street at Madison Avenue
New York City
OPEN PRESS

NOTE: Pre-set for television camera crews is 12:00 P.M. EDT. Print journalists should arrive no later than 12:30 P.M. EDT. All press inquiries regarding logistics should be directed to [redacted] of the Manhattan Institute at [redacted] or Theresa Pagliocca of the Department of Justice at 202-532-3486.

# # #
06-592

DOJ_NMG_ 0167403

Image not available for this document, ID: 0.7.10316.34671-000001

Image not available for this document, ID: 0.7.10316.34671-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 12:07 PM
To: USDOJ- Office of Public Affairs
Subject: STUDY FINDS MORE THAN HALF OF ALL PRISON AND JAIL INMATES HAVE MENTAL HEALTH PROBLEMS

THE REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT Bureau of Justice Statistics
WEDNESDAY, SEPTEMBER 6, 2006 Contact: Stu Smith: 202-307-0784
www.ojp.usdoj.gov/bjs After hours: 301-983-9354

STUDY FINDS MORE THAN HALF OF ALL PRISON AND JAIL INMATES HAVE MENTAL HEALTH PROBLEMS

WASHINGTON — More than half of all prison and jail inmates, including 56 percent of state prisoners, 45 percent of federal prisoners and 64 percent of local jail inmates, were found to have a mental health problem, according to a new study published today by the Justice Department's Bureau of Justice Statistics (BJS).

The findings represent inmates' reporting symptoms rather than an official diagnosis of a mental illness. The study determined the presence of mental health problems among prison and jail inmates by asking them about a recent history or symptoms of mental disorders that occurred in the last year.

Among the inmates who reported symptoms of a mental disorder:

- 54 percent of local jail inmates had symptoms of mania, 30 percent major depression and 24 percent psychotic disorder, such as delusions or hallucinations.
- 43 percent of state prisoners had symptoms of mania, 23 percent major depression and 15 percent psychotic disorder.
- 35 percent of federal prisoners had symptoms of mania, 16 percent major depression and 10 percent psychotic disorder.

Female inmates had higher rates of mental health problems than male inmates — in state prisons, 73 percent of females and 55 percent of males; in federal prisons, 61 percent of females and 44 percent of males; and in local jails, 75 percent of females and 63 percent of males.

Mental health problems were primarily associated with violence and past criminal activity. An estimated percent of state prisoners and 44 percent of jail inmates who had a mental health problem had a current or past violent offense. About a quarter of both state prisoners (25 percent) and jail inmates (26 percent) had served thre or more prior sentences to incarceration.

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Inmates with a mental health problem also had high rates of substance dependence or abuse in the year before their admission:

- 74 percent of state prisoners and 76 percent of local jail inmates were dependent on or abusing drugs or alcohol.
- 37 percent of state prisoners and 34 percent of jail inmates said they had used drugs at the tim of their offense.
- 13 percent of state prisoners and 12 percent of jail inmates had used methamphetamines in the month before their offense.

Among inmates who had mental health problems, 13 percent of state prisoners and 17 percent of jail inmates said they were homeless in the year before their incarceration. About a quarter of both state prisoners (2 percent) and jail inmates (24 percent) who had a mental health problem reported past physical or sexual abuse.

About one in three state prisoners with mental health problems, one in four federal prisoners and one in six jail inmates had received mental health treatment since admission. Taking a prescribed medication was the most common type of treatment — 27 percent in state prisons, 19 percent in federal prisons, and 15 percent in local jails.

The findings in this report were based on a nationally representative sample of prisoners (in 2004) and jail inmates (in 2002). Approximately 14,500 state prisoners, 3,700 federal prisoners and 7,000 jail inmates completed face-to-face interviews.

The report, "Mental Health Problems of Prison and Jail Inmates" (NCJ-213600) was written by BJS statisticians Doris J. James and Lauren E. Glaze. Following publication, the report can be found at: www.ojp.usdoj.gov/bjs/abstract/mhppji.htm

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Special Report

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Mental Health Problems of Prison and Jail Inmates

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BJS Statisticians

At midyear 2005 more than half of all prison and jail inmates had a mental health problem, including 705,600 inmates in State prisons, 70,200 in Federal prisons, and 479,900 in local jails. These estimates represented 56% of State prisoners, 45% of Federal prisoners, and 64% of jail inmates. The findings in this report were based on data from personal interviews with State and Federal prisoners in 2004 and local jail inmates in 2002.

Mental health problems were defined by two measures: a recent history or symptoms of a mental health problem. They must have occurred in the 12 months prior to the interview. A recent history of mental health problems included a clinical diagnosis or treatment by a mental health professional. Symptoms of a mental disorder were based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

	Percent of inmates in —		
Mental health problem	State prison	Federal prison	Local jail
Any mental problem	56%	45%	64%
Recent history	24	14	21
Symptoms	49	40	60

More than two-fifths of State prisoners (43%) and more than half of jail inmates (54%) reported symptoms that met the criteria for mania. About 23% of State prisoners and 30% of jail inmates reported symptoms of major depression. An estimated 15% of State prisoners and 24% of jail inmates reported symptoms that met the criteria for a psychotic disorder.

Highlights

High prevalence of mental health problems among prison and jail inmates

	Percent of inmates in —			
	State prison		Local jail	
Selected characteristics	With mental problem	Without	With mental problem	Without
Criminal record				
Current or past violent offense	61%	56%	44%	36%
3 or more prior incarcerations	25	19	26	20
Substance dependence or abuse	74%	56%	76%	53%
Drug use in month before arrest	63%	49%	62%	42%
Family background				
Homelessness in year before arrest	13%	6%	17%	9%
Past physical or sexual abuse	27	10	24	8
Parents abused alcohol or drugs	39	25	37	19
Charged with violating facility rules*	58%	43%	19%	9%
Physical or verbal assault	24	14	8	2
Injured in a fight since admission	20%	10%	9%	3%

*Includes items not shown.

- Nearly a quarter of both State prisoners and jail inmates who had a mental health problem, compared to a fifth of those without, had served 3 or more prior incarcerations.
- Female inmates had higher rates of mental health problems than male inmates (State prisons: 73% of females and 55% of males; local jails: 75% of females and 63% of males).
- About 74% of State prisoners and 76% of local jail inmates who had a mental health problem met criteria for substance dependence or abuse.
- Nearly 63% of State prisoners who had a mental health problem had used drugs in the month before their arrest, compared to 49% of those without a mental health problem.
- State prisoners who had a mental health problem were twice as likely as those without to have been homeless in the year before their arrest (13% compared to 6%).
- Jail inmates who had a mental health problem (24%) were three times as likely as jail inmates without (8%) to report being physically or sexually abused in the past.
- Over 1 in 3 State prisoners and 1 in 6 jail inmates who had a mental health problem had received treatment since admission.
- State prisoners who had a mental health problem were twice as likely as State prisoners without to have been injured in a fight since admission (20% compared to 10%).

A quarter of State prisoners had a history of mental health problems

Among all inmates, State prisoners were most likely to report a recent history of a mental health problem (table 1). About 24% of State prisoners had a recent history of a mental health problem, followed by 21% of jail inmates, and 14% of Federal prisoners.

A recent history of mental health problems was measured by several questions in the BJS' inmate surveys. Offenders were asked about whether in the past 12 months they had been told by a mental health professional that they had a mental disorder or because of a mental health problem had stayed overnight in a hospital, used prescribed medication, or received professional mental health therapy. These items were classified as indicating a recent history of a mental health problem.

State prisoners (18%), Federal prisoners (10%), and jail inmates (14%) most commonly reported that they had used prescribed medication for a mental problem in the year before arrest or since admission. They were least likely to report an overnight stay in a hospital for a mental health problem. Approximately, 5% of inmates in State prisons, 2% in Federal prisons, and 5% in local jails reported an overnight stay in a hospital for a mental health problem.

Prevalence of symptoms of mental disorders among prison and jail inmates

The Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002, included a modified structured clinical interview for the DSM-IV. The surveys collected information on experiences of inmates in the past 12 months that would indicate symptoms of major depression, mania, or psychotic disorders. The surveys did not assess the severity or duration of the symptoms, and no exclusions were made for symptoms due to medical illness, bereavement, or substance use. Inmates in mental hospitals or otherwise physically or mentally unable to complete the surveys were excluded from the sample.

Estimates of DSM-IV symptoms of mental disorder provide a baseline indication of mental health problems among inmates rather than a clinical diagnosis of mental illness. Major depression or mania symptoms covered a range of feelings and behaviors, such as persistent sadness, loss of interest in activities, insomnia or hypersomnia, psychomotor agitation, and persistent anger or irritability.

Insomnia or hypersomnia and persistent anger were the most frequently reported major depression or mania episodes with nearly half of jail inmates (49%) reporting these symptoms. Attempted suicide was the least reported symptom by State prisoners (13%), Federal prisoners (6%) and local jail inmates (13%).

A psychotic disorder was indicated by any signs of delusions or hallucinations during the 12-month period. Delusions were characterized by the offenders' belief that other people were controlling their brain or thoughts, could read their mind, or were spying on them. Hallucinations included reports of seeing things others said they did not see or hearing voices others did not hear. Approximately, 24% of jail inmates, 15% of State prisoners, and 10% of Federal prisoners reported at least one symptom of psychotic disorder (table 1).

Symptoms in past 12 months or since admission	Percent of inmates in — State prison	Federal prison	Local jail
Major depressive or mania symptoms			
Persistent sad, numb or empty mood	32.9%	23.7%	39.6%
Loss of interest or pleasure in activities	35.4	30.8	36.4
Increased or decreased appetite	32.4	25.1	42.8
Insomnia or hypersomnia	39.8	32.8	49.2
Psychomotor agitation or retardation	39.6	31.4	46.2
Feelings of worthlessness or excessive guilt	35.0	25.3	43.0
Diminished ability to concentrate or think	28.4	21.3	34.1
Ever attempted suicide	13.0	6.0	12.9
Persistent anger or irritability	37.8	30.5	49.4
Increased/decreased interest in sexual activities	34.4	29.0	29.5
Thoughts of revenge	28.4	21.3	34.1
Psychotic disorder symptoms			
Delusions	11.8%	7.8%	17.5%
Hallucinations	7.9	4.8	13.7

Note: Data are based on inmate self-report in the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. See *References* for sources on measuring symptoms of mental disorders based on a modified Structured Clinical Interview for the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

Number of positive responses	Percent of inmates in — State prison	Federal prison	Local jail
Major depressive disorder symptoms			
0	29.5%	38.8%	22.8%
1-2	26.1	27.9	23.8
3-4	20.5	17.1	23.0
5 or more	23.9	16.2	30.4
Mania disorder symptoms			
0	27.3%	35.6%	22.5%
1	21.5	23.3	17.0
2	20.5	17.7	20.1
3	17.7	14.0	22.0
4	13.1	9.4	18.4
Psychotic disorder symptoms			
0	84.6%	89.8%	76.0%
1	11.1	7.8	16.8
2	4.2	2.4	7.2

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Symptoms of mental disorder highest among jail inmates

Jail inmates had the highest rate of symptoms of a mental health disorder (60%), followed by State (49%), and Federal prisoners (40%). Symptoms of a mental health disorder were measured by a series of questions adopted from a structured clinical interview for diagnosing mental disorders based on the DSM-IV (see box on page 2 and *References* for sources on DSM-IV measures). The questions addressed behaviors or symptoms related to major depression, mania, or psychotic disorders that occurred in the 12 months before the interview.

To meet the criteria for major depression, inmates had to report a depressed mood and decreased interest or pleasure in activities, along with 3 additional symptoms of depression. In order to meet the criteria for mania, inmates had to report 3 symptoms during the 12-month period. For a psychotic disorder, 1 symptom of delusions or hallucinations met the criteria.

The high rate of symptoms of mental health disorder among jail inmates may reflect the role of local jails in the criminal justice system. Jails are locally operated correctional facilities that receive offenders after an arrest and hold them for a short period of time, pending arraignment, trial, conviction, or sentencing. Among other functions, local jails hold mentally ill persons pending their movement to appropriate mental health facilities.

While jails hold inmates sentenced to short terms (usually less than 1 year), State and Federal prisons hold offenders who typically are convicted and sentenced to serve more than 1 year. In general, because of the longer period of incarceration, prisons provide a greater opportunity for inmates to receive a clinical mental health assessment, diagnosis, and treatment by a mental health professional.[1]

[1]Persons who have been judged by a court to be *mentally incompetent to stand trial* or *not guilty by reason of insanity* are not held in these correctional facilities and are not covered by this report.

Table 1. Recent history and symptoms of mental health problems among prison and jail inmates

Mental health problem	Percent of inmates in — State prison	Federal prison	Local jail
Any mental health problem	56.2%	44.8%	64.2%
Recent history of mental health problem[a]	24.3%	13.8%	20.6%
Told had disorder by mental health professional	9.4	5.4	10.9
Had overnight hospital stay	5.4	2.1	4.9
Used prescribed medications	18.0	10.3	14.4
Had professional mental health therapy	15.1	8.3	10.3
Symptoms of mental health disorders[b]	49.2%	39.8%	60.5%
Major depressive disorder	23.5	16.0	29.7
Mania disorder	43.2	35.1	54.5
Psychotic disorder	15.4	10.2	23.9

Note: Includes inmates who reported an impairment due to a mental problem. Data are based on the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. See *Methodology* for details on survey sample. See *References* for sources on measuring symptoms of mental disorder based on a Structured Clinical Interview for the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV).

[a]In year before arrest or since admission.

[b]In the 12 months prior to the interview.

Table 2. Prevalence of mental health problems among prison and jail inmates

Mental health problem	State prison inmates Number	State prison inmates Percent	Federal prison inmates Number	Federal prison inmates Percent	Local jail inmates Number	Local jail inmates Percent
Any mental health problem*	705,600	56.2%	70,200	44.8%	479,900	64.2%
History and symptoms	219,700	17.5	13,900	8.9	127,800	17.1
History only	85,400	6.8	7,500	4.8	26,200	3.5
Symptoms only	396,700	31.6	48,100	30.7	322,900	43.2
No mental health problem	549,900	43.8%	86,500	55.2%	267,600	35.8%

Note: Number of inmates was estimated based on the June 30, 2005 custody population in State prisons (1,255,514), Federal prisons (156,643, excluding 19,311 inmates held in private facilities), and local jails (747,529).

*Details do not add to totals due to rounding. Includes State prisoners, Federal prisoners, and local jail inmates who reported an impairment due to a mental problem.

High proportion of inmates had symptoms of a mental health disorder without a history

Around 4 in 10 local jail inmates and 3 in 10 State and Federal prisoners were found to have symptoms of a mental disorder without a recent history (table 2). A smaller proportion of inmates had both a recent history and symptoms of mental disorder: 17% in State prisons, 9% in Federal prisons, and 17% in local jails.

An estimated 7% of State prisoners, 5% of Federal prisoners, and 3% of local jail inmates were found to have a recent history of a mental health problem and no symptoms.

About 1 in 10 persons age 18 or older in the U.S. general population met DSM-IV criteria for symptoms of a mental health disorder

• An estimated 11% of the U.S. population age 18 or older met criteria for mental health disorders, based on data in the National Epidemiologic Survey on Alcohol and Related Conditions, 2001-2002 (NESARC).

• Similar to the prison and jail inmate populations, females in the general population had higher rates of mental disorders than males (12% compared to 9%).

	Percent of U.S. population age 18 or older with symptoms of a mental disorder Total	Male	Female
Any symptom	10.6%	8.7%	12.4%
Major depression[a]	7.9	5.5	10.1
Mania disorder[a]	1.8	1.6	2.0
Psychotic disorder[b]	3.1	3.2	3.1

Note: See *Methodology* for sources on mental health disorders in the general population.

[a]In the last 12 months, not excluding symptoms due to bereavement, substance use, or a medical condition.

[b]Based on life-time occurrence.

Source: National Institute on Alcohol Abuse and Alcoholism, NESARC, 2001-2002.

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Table 3. Prison and jail inmates who had a mental health problem, by selected characteristics

Characteristic	Percent of inmates in — State prison	Federal prison	Local jail
All inmates	56.2%	44.8%	64.2%
Gender			
Male	55.0%	43.6%	62.8%
Female	73.1	61.2	75.4
Race			
White[a]	62.2%	49.6%	71.2%
Black[a]	54.7	45.9	63.4
Hispanic	46.3	36.8	50.7
Other[a,b]	61.9	50.3	69.5
Age			
24 or younger	62.6%	57.8%	70.3%
25-34	57.9	48.2	64.8
35-44	55.9	40.1	62.0
45-54	51.3	41.6	52.5
55 or older	39.6	36.1	52.4

[a]Excludes persons of Hispanic origin.
[b]Includes American Indians, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, and inmates who specified more than one race.

Mental health problems more common among female, white, and young inmates

Female inmates had much higher rates of mental health problems than male inmates. An estimated 73% of females in State prisons, compared to 55% of male inmates, had a mental health problem (table 3). In Federal prisons, the rate was 61% of females compared to 44% of males; and in local jails, 75% of females compared to 63% of male inmates.

The same percentage of females in State prisons or local jails (23%) said that in the past 12 months they had been diagnosed with a mental disorder by a mental health professional. This was almost three times the rate of male inmates (around 8%) who had been told they had a mental health problem.

Mental problem*	Percent of inmates in — State prison Male	State prison Female	Local jail Male	Local jail Female
Recent history	22%	48%	18%	40%
Diagnosed	8	23	9	23
Overnight stay	5	9	4	9
Medication	16	39	12	30
Therapy	14	32	9	23
Symptoms	48%	62%	59%	70%

*See table 1 for detailed description of categories.

Table 4. Homelessness, employment before arrest, and family background of prison and jail inmates, by mental health status

Characteristic	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Homelessness in past year	13.2%	6.3%	6.6%	2.6%	17.2%	8.8%
Employed in month before arrest[a]	70.1%	75.6%	67.7%	76.2%	68.7%	75.9%
Ever physically or sexually abused before admission	27.0%	10.5%	17.0%	6.4%	24.2%	7.6%
Physically abused	22.4	8.3	13.7	5.4	20.4	5.7
Sexually abused	12.5	3.8	7.3	1.7	10.2	3.2
While growing up —						
Ever received public assistance[b]	42.5%	30.6%	33.3%	24.9%	42.6%	30.3%
Ever lived in foster home, agency or institution	18.5	9.5	9.8	6.3	14.5	6.0
Lived most of the time with —						
Both parents	41.9%	47.7%	45.4%	50.5%	40.5%	49.1%
One parent	43.8	40.8	39.8	38.8	45.4	40.4
Someone else	11.6	10.2	13.5	10.3	12.0	9.4
Parents or guardians ever abused —	39.3	25.1	33.3	20.0	37.3	18.7
Alcohol	23.6	16.9	21.7	15.4	23.2	14.1
Drugs	3.1	1.9	2.2	1.4	2.7	1.1
Both alcohol and drugs	12.7	6.2	9.4	3.2	11.5	3.4
Neither	60.7	74.9	66.7	80.0	62.7	81.3
Family member ever incarcerated —	51.7%	41.3%	44.6%	38.9%	52.1%	36.2%
Mother	7.2	4.0	5.0	3.2	9.4	3.4
Father	20.1	13.4	15.3	9.9	22.1	12.6
Brother	35.5	29.4	29.4	27.0	34.8	25.8
Sister	7.0	5.1	5.5	4.2	11.3	5.1
Child	2.7	2.3	3.4	2.8	4.0	2.6
Spouse	1.7	0.9	2.6	1.8	2.4	0.9

[a]The reference period for jail inmates was in the month before admission.
[b]Public assistance includes public housing, AFDC, food stamps, Medicaid, WIC, and other welfare programs.

The prevalence of mental health problems varied by racial or ethnic group. Among State prisoners, 62% of white inmates, compared to 55% of blacks and 46% of Hispanics, were found to have a mental health problem. Among jail inmates, whites (71%) were also more likely than blacks (63%) or Hispanics (51%) to have a mental health problem.

The rate of mental health problems also varied by the age of inmates. Inmates age 24 or younger had the highest rate of mental health problems and those age 55 or older had the lowest rate. Among State prisoners, an estimated 63% of those age 24 or younger had a mental health problem, compared to 40% of those age 55 or older. An estimated 70% of local jail inmates age 24 or younger had a mental health problem, compared to 52% of those age 55 or older.

Homelessness, foster care more common among inmates who had mental health problems

State prisoners (13%) and local jail inmates (17%) who had a mental health problem were twice as likely as inmates without a mental health problem (6% in State prisons; 9% in local jails) to have been homeless in the year before their incarceration (table 4).

About 18% of State prisoners who had a mental health problem, compared to 9% of State prisoners who did not have a mental problem, said that they had lived in a foster home, agency, or institution while growing up.

Among jail inmates, about 14% of those who had a mental health problem had lived in a foster home, agency, or institution while growing up, compared to 6% of jail inmates who did not have a mental health problem.

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Low rates of employment, high rates of illegal income among inmates who had mental problems

An estimated 70% of State prisoners who had a mental health problem, compared to 76% of those without, said they were employed in the month before their arrest. Among Federal prisoners, 68% of those who had a mental health problem were employed, compared to 76% of those who did not have a mental problem.

Among jail inmates, 69% of those who had a mental health problem reported that they were employed, while 76% of those without were employed in the month before their arrest.

Of State prisoners who had a mental health problem, 65% had received income from wages or salary in the month before their arrest. This percentage was larger for inmates without a mental health problem (71%). Over a quarter (28%) of State prisoners who had a mental health problem reported income from illegal sources, compared to around a fifth (21%) of State prisoners without a mental problem.

Sources of income[a]	Percent of State prison inmates: With mental problem	Without
Wages, salary	65%	71%
Welfare	6	4
Assistance from family or friends	14	8
Illegal income	28	21
Compensation payments[b]	9	6

[a]Includes personal income in month before arrest, except for compensation which was in the month before admission.
[b]Includes Supplemental Security Income (SSI) payments and pension.

Table 5. Substance dependence or abuse among prison and jail inmates, by mental health status

Substance dependence or abuse	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Any alcohol or drugs	74.1%	55.6%	63.6%	49.5%	76.4%	53.2%
Dependence	53.9	34.5	45.1	27.3	56.3	25.4
Abuse only	20.2	21.1	18.5	22.2	20.1	27.8
Alcohol	50.8%	36.0%	43.7%	30.3%	53.4%	34.6%
Dependence	30.4	17.9	25.1	12.7	29.0	11.8
Abuse only	20.4	18.0	18.6	17.7	24.4	22.8
Drugs	61.9%	42.6%	53.2%	39.2%	63.3%	36.0%
Dependence	43.8	26.1	37.1	22.0	46.0	17.6
Abuse only	18.0	16.5	16.1	17.2	17.3	18.4
No dependence or abuse	25.9%	44.4%	36.4%	50.5%	23.6%	46.8%

Note: Substance dependence or abuse was based on criteria specified in the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV). For details, see *Substance Dependence, Abuse and Treatment of Jail Inmates, 2002*, <http://www.ojp.usdoj.gov/bjs/abstract/sdatji02.htm>.

Past physical or sexual abuse more prevalent among inmates who had mental health problems

State prisoners who had a mental health problem (27%) were over two times more likely than those without (10%) to report being physically or sexually abused in the past.

Jail inmates who had a mental health problem were three times more likely than jail inmates without to have been physically or sexually abused in the past (24% compared to 8%).

Family members of inmates with mental problems had high rates of substance use and incarceration

Inmates who had a mental health problem were more likely than inmates without to have family members who abused drugs or alcohol or both. Among State prisoners, 39% of those who had a mental health problem reported that a parent or guardian had abused alcohol, drugs, or both while they were growing up. In comparison, 25% of State prisoners without a mental problem reported parental abuse of alcohol, drugs, or both.

A third (33%) of Federal prisoners who had a mental health problem, compared to a fifth (20%) of those without, reported that a parent or guardian had abused alcohol, drugs, or both while they were growing up.

An estimated 37% of jail inmates who had a mental health problem said a parent had abused alcohol, drugs, or both while they were growing up. This was almost twice the rate for jail inmates without a mental health problem (19%).

The majority of prison and jail inmates who had a mental health problem (52%) reported that they had a family member who had been incarcerated in the past. Among those without a mental health problem, about 41% of State inmates and 36% of jails inmates reported that a family member had served time.

Over a third of both State prisoners and local jail inmates who had a mental health problem (35%) had a brother who had served time in prison or jail. The rate for inmates without a mental health problem was 29% in State prisons and 26% in local jails.

High rates of both mental health problems and substance dependence or abuse among State prison and local jail inmates

- An estimated 42% of inmates in State prisons and 49% in local jails were found to have both a mental health problem and substance dependence or abuse.
- Slightly less than a quarter (24%) of State prisoners and a fifth (19%) of local jail inmates met the criteria for substance dependence or abuse only.

Mental health problems and substance dependence or abuse	Percent of inmates in — State prison	Federal prison	Local jail
Both	41.7%	28.5%	48.7%
Dependence or abuse only	24.4	27.3	18.9
Mental problems only	14.5	16.3	15.0
None	19.5	27.8	17.3

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Inmates who had mental health problems had high rates of substance dependence or abuse

Among inmates who had a mental health problem, local jail inmates had the highest rate of dependence or abuse of alcohol or drugs (76%), followed by State prisoners (74%), and Federal prisoners (64%) (table 5). Substance dependence or abuse was measured as defined in the DSM-IV.[2]

Among inmates without a mental health problem, 56% in State prisons, 49% in Federal prisons, and 53% in local jails were dependent on or abused alcohol or drugs.

[2]For a detailed description of the DSM-IV measures, see *Substance Dependence, Abuse and Treatment of Jail inmates, 2002,* <http://www.ojp.usdoj.gov/bjs/abstract/sdatji02.htm.>

By specific type of substance, inmates who had a mental health problem had higher rates of dependence or abuse of drugs than alcohol. Among State prisoners who had a mental problem, 62% were dependent on or abused drugs and 51% alcohol. An estimated 63% of local jail inmates who had a mental problem were dependent on or abused drugs, while about 53% were dependent on or abused alcohol.

When dependence was estimated separately from abuse only, local jail inmates who had a mental health problem had the highest rate of drug dependence (46%). They were two and a half times more likely to be dependent on drugs than jail inmates without a mental problem (18%).

Table 6. Substance use among prison inmates and convicted jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Type of substance	With mental problem	Without	With mental problem	Without	With mental problem	Without
Alcohol or drugs						
Regular use[a]	87.1%	77.2%	82.3%	75.4%	89.9%	78.7%
In month before offense	80.3	70.4	75.8	68.1	81.6	69.6
At time of offense	53.2	42.5	41.1	30.6	53.8	42.8
Drugs						
Regular use[a]	75.5%	61.2%	71.0%	59.2%	78.1%	57.5%
In month before offense	62.8	49.1	57.1	45.2	62.1	41.7
At time of offense	37.5	25.8	31.1	23.0	34.0	19.8
Alcohol						
Regular use[a]	67.9%	58.3%	66.0%	58.2%	72.6%	61.8%
In month before offense	61.7	52.5	59.5	53.6	80.7	74.1
At time of offense	34.0	27.5	21.7	15.1	35.0	30.4
Binge drinking[b]	43.5	29.5	37.8	25.7	48.2	29.9

[a]Regular alcohol use is defined as daily or almost daily or more than once a week for more than a month. Regular drug use is defined as once a week or more for at least one month.
[b]Binge drinking is defined as having consumed a fifth of liquor in a single day, or the equivalent of 20 drinks, 3 bottles of wine, or 3 six-packs of beer.

Table 7. Drug use in the month before the offense among convicted prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Types of drug used in month before offense	With mental problem	Without	With mental problem	Without	With mental problem	Without
Any drug	62.8%	49.1%	57.1%	45.2%	62.1%	41.7%
Marijuana or hashish	45.7%	33.3%	41.2%	32.0%	43.4%	27.1%
Cocaine or crack	24.4	17.9	21.1	15.5	24.2	14.7
Heroin/opiates	8.9	7.2	7.2	4.7	9.6	4.6
Depressants[a]	7.3	3.0	6.7	2.7	8.5	2.0
Methamphetamines	12.6	8.8	10.9	9.6	11.7	6.2
Other stimulants[b]	5.8	2.8	4.5	2.5	5.2	2.4
Hallucinogens[c]	8.0	3.4	9.3	3.0	7.5	2.9

[a]Include barbiturates, tranquilizers, and quaaludes.
[b]Include amphetamines.
[c]Include LSD, PCP, and ecstasy.

A larger percentage of State prisoners who had a mental health problem than those without were found to be dependent on drugs (44% compared to 26%). Among Federal prisoners, 37% who had a mental health problem were found to be dependent on drugs, compared to 22% of those without.

State prisoners (30%) and local jail inmates (29%) who had a mental health problem had about the same rate of alcohol dependence. A quarter of Federal prisoners (25%) who had a mental problem were dependent on alcohol.

Over a third of inmates who had mental health problems had used drugs at the time of the offense

Over a third (37%) of State prisoners who had a mental health problem said they had used drugs at the time of the offense, compared to over a quarter (26%) of State prisoners without a mental problem (table 6). Also, over a third (34%) of local jail inmates who had a mental health problem said they had used drugs at the time of the offense, compared to a fifth (20%) of jail inmates who did not have a mental problem.

Marijuana or hashish was the most common drug inmates said they had used in the month before the offense (table 7). Among inmates who had a mental health problem, more than two-fifths of those in State prisons (46%), Federal prisons (41%), or local jails (43%) reported they had used marijuana or hashish in the month before the offense.

Almost a quarter of inmates in State prisons or local jails who had a mental health problem (24%) reported they had used cocaine or crack in the month before the offense. A smaller percentage of inmates who had a mental health problem had used methamphetamines in the month before the offense — 13% of State prisoners, 11% of Federal prisoners, and 12% of jail inmates.

Binge drinking prevalent among inmates who had mental problems

Inmates who had a mental health problem were more likely than inmates without a mental problem to report a

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binge drinking experience. Among State prisoners who had a mental health problem, 43% said they had participated in binge drinking in the past, compared to 29% of State prisoners without mental problems.

Similarly, jail inmates who had mental problems (48%) had a much higher rate of binge drinking than jail inmates without mental problems (30%).

Inmates who had a mental problem were more likely than inmates without to have been using alcohol at the time of the offense (State prisoners, 34% compared to 27%; Federal prisoners, 22% compared to 15%; and jail inmates, 35% compared to 30%.)

Violent offenses common among State prisoners who had a mental health problem

Among State prisoners who had a mental health problem, nearly half (49%) had a violent offense as their most serious offense, followed by property (20%) and drug offenses (19%) (table 8). Among all types of offenses, robbery was the most common offense (14%), followed by drug trafficking (13%) and homicide (12%).

An estimated 46% of State prisoners without a mental health problem were held for a violent offense, including 13% for homicide and 11% for robbery.

About 24% of State prisoners without a mental problem were held for drug offenses, particularly drug trafficking (17%).

Almost an equal percentage of jail inmates who had a mental health problem were held for violent (26%) and property (27%) offenses. About 12% were held for aggravated assault. Jail inmates who had a mental health problem were two times more likely than jail inmates without a mental problem to be held for burglary (8% compared to 4%).

Table 8. Most serious offense among prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Most serious offense	With mental problem	Without	With mental problem	Without	With mental problem	Without
Total	100%	100%	100%	100%	100%	100%
Violent offenses	49.0%	46.5%	16.0%	13.2%	26.5%	23.7%
Homicide	11.6	12.9	2.5	2.3	2.6	2.5
Sexual assault*	11.0	10.4	1.1	0.7	3.4	3.6
Robbery	13.6	11.3	9.6	7.6	5.7	5.1
Assault	10.5	9.7	2.0	1.9	12.5	10.5
Property offenses	19.6%	17.7%	7.2%	6.1%	26.9%	19.7%
Burglary	8.6	7.7	0.7	0.3	7.9	4.2
Larceny/theft	4.2	3.5	0.5	0.4	7.7	5.6
Fraud	3.0	2.7	4.9	4.5	5.3	4.2
Drug offenses	19.3%	23.8%	51.3%	58.3%	23.4%	27.0%
Possession	5.7	6.3	2.0	3.8	10.1	12.3
Trafficking	12.9	17.0	47.7	52.6	11.6	12.9
Public-order offenses	11.9%	11.9%	22.3%	19.0%	22.6%	29.3%
Weapons	2.6	2.4	14.0	8.5	2.3	1.4
DWI/DUI	2.2	3.2	0.2	0.2	5.5	8.1

Note: Summary categories include offenses not shown.
*Includes rape and other sexual assault.

Table 9. Use of weapon, by mental health status of convicted violent State prison and local jail inmates

	Percent of inmates in —			
	State prison		Local jail	
Use of weapons	With mental problem	Without	With mental problem	Without
Any weapon	37.2%	36.9%	20.6%	21.2%
Firearm	24.4	27.5	12.3	13.1
Knife or sharp object	10.2	7.4	6.1	5.1
Other weapons*	3.7	2.7	2.8	4.0
No weapon	62.8%	63.1%	79.4%	78.8%
Number of violent inmates	328,670	242,524	60,787	34,305

Note: Details do not add to total because inmates may have used more than one weapon.
*Other weapons include blunt objects, stun guns, toy guns, or other specified weapons.

Use of a weapon did not vary by mental health status

Convicted violent offenders who had a mental health problem were as likely as those without to have used a weapon during the offense (table 9). An estimated 37% of both State prisoners who had a mental problem and those without said they had used a weapon during the offense.

By specific type of weapon, among convicted violent offenders in State prisons who had a mental health problem, slightly less than a quarter (24%) had used a firearm, while a tenth (10%) had used a knife or sharp object.

Violent criminal record more prevalent among inmates who had a mental health problem

State prisoners who had a mental health problem (61%) were more likely than State prisoners without (56%) to have a current or past violent offense.

	Percent of State prison inmates with violent criminal record	
Violent criminal record	With mental problem	Without
Any violent offense	61%	56%
Current violent offense, no prior	13	17
Violent recidivist	47	39

Note: Details may not add to total due to rounding.

Among repeat offenders, an estimated 47% of State prisoners who had a mental health problem were violent recidivists, compared to 39% of State prisoners without a mental problem (table 10).

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Nearly a third (32%) of local jail inmates who had a mental health problem were repeat violent offenders, while about a quarter (22%) of jail inmates without a mental problem were violent recidivists.

A larger proportion of inmates who had a mental health problem had served more prior sentences than inmates without a mental problem (table 11). An estimated 47% of State prisoners who had a mental health problem, compared to 39% of those without, had served 3 or more prior sentences to probation or incarceration. Among jail inmates, 42% of those with a mental health problem had served served 3 or more prior sentences to probation or incarceration, compared to 33% of jail inmates without a mental problem.

State prisoners who had mental health problems had longer sentences than prisoners without

Overall, State prisoners who had a mental health problem reported a mean maximum sentence that was 5 months longer than State prisoners without a mental problem (146 months compared to 141 months) (table 12). Among jail inmates, the mean sentence for those who had a mental problem was 5 months shorter than that for jail inmates without a mental problem (40 months compared to 45 months).

By most serious offense, excluding offenders sentenced to life or death, both violent State prisoners who had a mental health problem and those without had about the same mean sentence length. Violent State prisoners who had a mental health problem were sentenced to serve a mean maximum sentence length of 212 months and those without, 211 months.

Among prisoners sentenced to life or death, there was little variation in sentence length by mental health status (not shown in table). About 8% of State prisoners who had a mental health problem and 9% of those without were sentenced to life or death. Among Federal prisoners, 3% of both those who had a mental health problem and those without were sentenced to life or death.

Table 10. Criminal record of prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Criminal record	With mental problem	Without	With mental problem	Without	With mental problem	Without
No prior sentence	20.5%	27.0%	32.2%	36.9%	34.9%	43.3%
Current violent offense	13.4	16.9	5.1	4.9	12.1	13.8
Current drug offense	3.1	5.1	15.2	21.6	8.8	12.6
Current other offense	4.1	5.0	11.9	10.4	14.0	16.8
Violent recidivist	47.4%	39.2%	27.5%	23.8%	31.9%	22.4%
Current and prior violent	17.2	13.4	7.4	4.4	9.9	6.8
Current violent only	17.7	15.3	4.9	4.4	11.4	6.9
Prior violent only	12.5	10.4	15.3	15.0	10.5	8.7
Nonviolent recidivist	32.0%	33.8%	40.3%	39.2%	33.2%	34.3%
Prior drugs only	3.0	4.0	7.1	9.5	3.0	3.4
Other prior offenses	29.0	29.8	33.2	29.8	30.2	30.9

Note: Excludes inmates for whom offense and prior probation or incarceration sentences were unknown.

Table 11. Number of prior probation or incarceration sentences among prison and jail inmates, by mental health status

	Percent of inmates in —					
	State prison		Federal prison		Local jail	
Number of prior sentences	With mental problem	Without	With mental problem	Without	With mental problem	Without
0	22.1%	28.5%	34.1%	38.3%	24.5%	30.6%
1	15.3	16.1	14.9	16.5	16.8	18.9
2	15.5	16.8	15.6	14.9	16.7	17.2
3-5	26.3	24.0	21.3	20.1	22.8	20.3
6-10	13.9	10.6	10.0	7.1	12.4	8.6
11 or more	6.9	4.0	4.0	3.1	6.7	4.4

Note: Excludes inmates for whom prior probation or incarceration sentences were unknown.

Table 12. Mean maximum sentence length and mean total time expected to serve, by mental health status and offense

	Mean maximum sentence length[a]		Mean total time expected to serve until release[b]	
Most serious offense	With mental problem	Without	With mental problem	Without
State prison inmates				
All offenses[c]	146 mos	141 mos	93 mos	89 mos
Violent	212	211	139	138
Property	103	96	60	58
Drug	84	94	48	50
Public-order	81	66	51	40
Federal prison inmates				
All offenses[c]	128 mos	135 mos	99 mos	106 mos
Violent	174	202	119	131
Property	70	53	63	58
Drug	131	139	103	112
Public-order	102	100	87	83
Local jail inmates				
All offenses[c]	40 mos	45 mos	14 mos	18 mos
Violent	67	73	18	31
Property	41	36	16	14
Drug	40	59	18	25
Public-order	16	16	7	8

[a]Based on the total maximum sentence for all consecutive sentences. Excludes inmates for whom offense was unknown.
[b]Based on time served when interviewed and time to be served until the expected date of release. Excludes inmates for whom admission date or expected release date were unknown.
[c]Includes other offenses not shown.

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State prisoners who had a mental health problem expected to serve 4 months longer than those without

Overall, the mean time State prisoners who had a mental health problem expected to serve was 4 months longer than State prisoners without a mental problem (93 months compared to 89 months). Among convicted jail inmates who expected to serve their time in a local jail, there was little variation by mental health status in the amount of time expected to be served. About 55% of those who had a mental problem, and 54% of those without, expected to serve 6 months or less (table 13).

Table 13. Mean time expected to be served by convicted local jail inmates sentenced to jail

Mean time expected to be served	Percent of convicted local jail inmates: With mental problem	Without
Less than 3 months	27.4%	26.8%
3 to 6 months	27.9	27.3
7 to 12 months	24.0	22.4
13 to 24 months	9.7	8.7
25 to 36 months	3.7	3.4
37 to 60 months	3.2	5.0
More than 5 years	4.0	6.4
Number of inmates	115,290	72,356

Note: Excludes inmates for whom admission date or expected release date were unknown.

A third of State prisoners who had mental health problems had received treatment since admission

State prisoners who had a mental health problem (34%) had the highest rate of mental health treatment since admission, followed by Federal prisoners (24%) and local jail inmates (17%) (table 14).

All Federal prisons and most State prisons and jail jurisdictions, as a matter of policy, provide mental health services to inmates, including screening inmates at intake for mental health problems, providing therapy or counseling by trained mental health professionals, and distributing psychotropic medication.[3]

[3]See *Mental Health Treatment in State Prisons, 2000,* <http://www.ojp.usdoj.gov/bjs/abstract/mhtsp00.htm> and *Census of Jails, 1999,* <http://www.ojp.usdoj.gov/bjs/abstract/cj99.htm>.

Table 14. Mental health treatment received by inmates who had a mental health problem

Type of mental health treatment	Percent of inmates who had a mental problem in — State prison	Federal prison	Local jails
Ever received mental health treatment	49.3%	35.3%	42.7%
Had overnight hospital stay	20.0	9.5	18.0
Used prescribed medications	39.5	28.0	32.7
Had professional mental health therapy	35.4	25.6	31.1
Received treatment during year before arrest	22.3%	14.9%	22.6%
Had overnight hospital stay	5.8	3.2	6.6
Used prescribed medications	15.8	10.1	16.9
On prescribed medication at time of arrest	11.3	7.3	12.3
Had professional mental health therapy	11.5	8.0	12.3
Received treatment after admission	33.8%	24.0%	17.5%
Had overnight hospital stay	5.4	2.7	2.2
Used prescribed medications	26.8	19.5	14.8
Had professional mental health therapy	22.6	15.1	7.3

Note: Excludes other mental health treatment.

Table 15. Mental health treatment received by all State prison inmates, 2004 and 1997

Type of mental health treatment	Percent of State prison inmates: 2004	1997
Ever any mental health treatment	31.2%	28.3%
Had overnight hospital stay	12.2	10.7
Used prescribed medications	23.9	18.9
Had professional mental health therapy	21.6	21.8
Had other mental health treatment	3.6	3.3
Received treatment after admission	19.3%	17.4%
Had overnight hospital stay	3.1	3.8
Used prescribed medications	15.1	12.3
Had professional mental health therapy	12.7	12.3
Had other mental health treatment	1.9	1.9
Number of inmates	1,226,171	1,059,607

More than a fifth of inmates (22%) in State prison who had a mental health problem had received mental health treatment during the year before their arrest, including 16% who had used prescribed medications, 11% who had professional therapy, and 6% who had stayed overnight in a hospital because of a mental or emotional problem.

Among jail inmates who had a mental health problem, an estimated 23% had received treatment during the year before their arrest: 17% had used medication, 12% had received professional therapy, and 7% had stayed overnight in a hospital because of a mental or emotional problem.

Taking a prescribed medication for a mental health problem was the most common type of treatment inmates who had a mental health problem had received since admission to prison or jail. About 27% of State prisoners, 19% of Federal prisoners, and 15% of jail inmates who had a mental problem had used prescribed medication for a mental problem since admission.

An overnight stay in a hospital was the least likely method of treatment inmates had received since admission. Among inmates who had a mental problem, about 5% of those in State prisons, 3% in Federal prisons, and 2% in local jails had stayed overnight in a hospital for a mental problem.

Use of medication for a mental health problem by State prisoners rose between 1997 and 2004

The proportion of State prisoners who had used prescribed medication for a mental health problem since admission to prison rose to 15% in 2004, up from 12% in 1997 (table 15). There was little change in the percentage of inmates who reported an overnight stay in a hospital since admission (around 3%), or in the percentage who had received professional mental health therapy (around 12%).

State prisoners who said they had ever used prescribed medication for a mental or emotional problem in the past rose to 24% in 2004, up from 19% in 1997. Overall, 31% of State prisoners said they had ever received mental health treatment in the past, up from 28% in 1997.

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Among jail inmates, in 2002 around 30% said they had received treatment for a mental health problem in the past, up from 25% in 1996. The proportion who had received treatment since admission (11%) was unchanged.

Mental health treatment	Percent of jail inmates 2002	1996
Ever any treatment	30%	25%
Overnight stay	12	10
Medication	22	17
Therapy	22	18
Other treatment	3	3
Since admission	11%	11%
Overnight stay	1	1
Medication	9	9
Therapy	5	4
Other treatment	1	--

--Less than 0.5%.

Rule violations and injuries from a fight more common among inmates who had a mental health problem

Prison or jail inmates who had a mental health problem were more likely than those without to have been charged with breaking facility rules since admission (table 16). Among State prisoners, 58% of those who had a mental health problem, compared to 43% of those without, had been charged with rule violations.

An estimated 24% of State prisoners who had a mental health problem, compared to 14% of those without, had been charged with a physical or verbal assault on correctional staff or another inmate. Among Federal prisoners who had a mental health problem, 15% had been charged with a physical or verbal assault on correctional staff or another inmate compared to 7% of those without a mental problem.

Jail inmates who had a mental health problem were twice as likely as those without to have been charged with facility rule violations (19% compared to 9%).

Inmates in local jails who had a mental health problem were also four times as likely as those without to have been charged with a physical or verbal assault on correctional staff or another inmate (8% compared to 2%).

A larger percentage of inmates who had a mental health problem had been injured in a fight since admission than those without a mental problem (State prisoners, 20% compared to 10%; Federal prisoners, 11% compared to 6%; jail inmates, 9% compared to 3%).

Three-quarters of female inmates in State prisons who had a mental health problem met criteria for substance dependence or abuse

Female State prisoners who had a mental health problem were more likely than those without to —

- meet criteria for substance dependence or abuse (74% compared to 54%),
- have a current or past violent offense (40% compared to 32%),
- have used cocaine or crack in the month before arrest (34% compared to 24%),
- have been homeless in the year before arrest (17% compared to 9%).

They were also more likely to report —

- 3 or more prior sentences to probation or incarceration (36% compared to 29%),
- past physical or sexual abuse (68% compared to 44%),
- parental abuse of alcohol or drugs (47% compared to 29%),
- a physical or verbal assault charge since admission (17% compared to 6%).

Characteristics of females in State prison, by mental health status

Selected characteristics	Percent of female inmates: With mental problem	Without
Criminal record		
Current or past violent offense	40.4%	32.2%
3 or more prior probations or incarcerations	35.9	28.7
Substance dependence or abuse	74.5%	53.6%
Alcohol	41.7	25.8
Drugs	65.5	45.6
Drug use in month before arrest*	63.7%	49.5%
Cocaine or crack	33.9	24.2
Methamphetamines	17.1	16.3
Family background		
Homeless in year before arrest	16.6%	9.5%
Past physical or sexual abuse	68.4	44.0
Parent abused alcohol or drugs	46.9	29.1
Charged with violating facility rules*	50.4%	30.6%
Physical or verbal assault	16.9	5.7
Injured in a fight since admission	10.3%	3.8%

*Includes items not shown.

Table 16. Disciplinary problems among prison and jail inmates since admission, by mental health status

Type of disciplinary problem since admission	Percent of inmates in — State prison: With mental problem	State prison: Without	Federal prison: With mental problem	Federal prison: Without	Local jail: With mental problem	Local jail: Without
Charged with rule violations*	57.7%	43.2%	40.0%	27.7%	19.0%	9.1%
Assault	24.1	13.8	15.4	6.9	8.2	2.4
Physical assault	17.6	10.4	11.0	5.4	4.7	1.6
Verbal assault	15.2	6.7	7.9	2.4	5.2	0.9
Injured in a fight	20.4%	10.1%	11.4%	5.8%	9.3%	2.9%

*Includes violations not shown (for example: possession of a weapon, stolen property or contraband, drug law violations, work slowdowns, food strikes, setting fires or rioting, being out of place, disobeying orders, abusive language, horseplay, or failing to follow sanitary regulations).

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Methodology

The findings in this report are based on data in the Survey of Inmates in State and Federal Correctional Facilities, 2004, and the Survey of Inmates in Local Jails, 2002. Conducted every 5 to 6 years since 1972, the BJS' inmate surveys are the only national source of detailed information on criminal offenders, particularly special populations such as drug and alcohol users and offenders who have mental health problems.

The survey design included a stratified two-stage sample where facilities were selected in the first stage and inmates to be interviewed in the second stage. In the second sampling stage, interviewers from the Census Bureau visited each selected facility and systematically selected a sample of inmates. Computer-assisted personal interviewing (CAPI) was used to conduct the interviews.

Survey of Inmates in State and Federal Correctional Facilities, 2004

The State prison sample was selected from a universe of 1,585 facilities. A total of 287 State prisons participated in the survey; 2 refused, 11 were closed or had no inmates to survey, and 1 was erroneously included in the universe. A total of 14,499 inmates in the State facilities were interviewed; 1,653 inmates refused to participate, resulting in a second-stage nonresponse rate of 10.2%.

The Federal prison sample was selected from 148 Federal prisons and satellite facilities. Thirty-nine of the 40 prisons selected participated in the survey. After the initial sample of inmates was drawn, a secondary sample of 1 in 3 drug offenders was selected. A total of 3,686 inmates in Federal facilities were interviewed and 567 refused to participate, resulting in a second-stage nonresponse rate of 13.3%.

Survey of Inmates in Local Jails, 2002

The local jail sample was selected from a universe of 3,365. Overall, 465 jails were selected, and interviews were held in 417 jails; 39 jails refused or were excluded for administrative reasons; and 9 were closed or had no inmates. A total of 6,982 inmates were interviewed; 768 inmates refused to participate, resulting in a second-stage nonresponse rate of 9.9%.

Accuracy of survey estimates

The accuracy of the survey estimates depends on sampling and measurement errors. Sampling errors occur by chance because a sample of inmates rather than all inmates were interviewed. Measurement error can be attributed to many sources, such as nonresponse, recall difficulties, differences in the interpretation of questions among inmates, and processing errors.

The sampling error, as measured by an estimated standard error, varies by the size of the estimate and the size of the base population. These standard errors may be used to construct confidence intervals around percentages. For example, the 95% confidence interval around the percentage of jail inmates in 2002 who had a mental health problem is approximately 64.2% plus or minus 1.96 times .83% (or 62.6% to 65.8%). Standard error tables for data in this report are provided in the Appendix which is available in the electronic version of the report at <http://www.ojp.usdoj.gov/bjs/abstract/mhppji.htm>.

A detailed description of the methodology for the State and Federal Prison survey, including standard error tables and links to other reports or findings, is available on the BJS Website <http://www.ojp.usdoj.gov/bjs/abstract/sicf04.htm>. A detailed description of the methodology for the Survey of Inmates in Local Jails is available at <http://webapp.icpsr.umich.edu/cocoon/NACJD-STUDY/04359.xml>.

Measures of mental health problems in the general population

Caution should be used when making comparisons between prison and jail inmates and the general population based on the a 12-month DSM-IV structured interview. There are significant variations in the questionnaire design and data analysis. For example, questions on the severity or duration of symptoms and questions about whether symptoms are due to breavement, substance use, or a medical condition may vary from survey to survey.

For details on the methodology used in the National Epidemiologic Survey on Alcohol and Related Conditions, sponsored by the National Institute on Alcohol Abuse and Alcoholism, see the Data Reference Manual, <http://niaa.census.gov/>. For additional information on the prevalence of mental disorders in the general population, see the National Survey on Drug Use and Health, sponsored by the Substance Abuse and Mental Health Services Administration, <http://www.oas.samhsa.gpv/nsduh.htm>. Also, see the National Comorbidity Survey Replication Study, sponsored primarily by the National Institute of Mental Health, <http://www.nimh.nih.gov/healthinformation/ncs-r.cfm>.

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Doris J. James and Lauren E. Glaze wrote this report, under the supervision of Allen J. Beck. Laura M. Maruschak, Todd D. Minton, and Tracy L. Snell verified the report. Rebecca L. Medway provided programming assistance. Tina Dorsey edited the report and Jayne Robinson prepared it for final printing, under the supervision of Marianne Zawitz.

Tracy L. Snell, under the supervision of Allen J. Beck, was project manager for the Survey of Inmates in State and Federal Correctional Facilities.

For the State and Federal prisoners survey, at the U.S. Census Bureau Steven M. Bittner, Colette Heiston, and Kenneth Mayo carried out questionnaire design, data collection and processing, under the supervision of Marilyn M. Monahan, Demographic Surveys Division. Renee Arion programmed the questionnaire and Dave Keating programmed the listing instrument, under the supervision of Rob Wallace, Technologies Management Office. Programming assistance in the Demographic Surveys Division was provided by Chris Alaura, Mildred Ballenger, Bach-Loan Nguyen, and Scott Raudabaugh, under the supervision of David Watt.

Dave Hornick and Danielle N. Castelo, Demographic Surveys Methods Division, under the supervision of Thomas F. Moore, designed the sample and weighting specifications. Sydnee Chattin-Reynolds and Luis Padilla, Field Division, under the supervision of Richard Ning, coordinated the field operations. The affiliations for the Census Bureau date to the time of the survey.

Contributors to the Survey of Inmates in Local Jails are listed in *Profile of Jail Inmates, 2002*, at <http://www.ojp.usdoj.gov/bjs/abstract/pji02.htm>.

September 2006, NCJ 213600

This report in portable document format and in ASCII and its related statistical data and tables— including appendix tables— are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/mhppji.htm>

Office of Justice Programs

Partnerships for Safer Communities
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To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF DIANE M. STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE RESIGNATION OF DIANE M. STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN

WASHINGTON – Attorney General Alberto R. Gonzales today issued the following statement on the resignation of Diane M. Stuart, Director of the Office on Violence Against Women:

"Since 2001, Diane Stuart has been a strong advocate for, and defender of, women and families throughout the Nation," said Attorney General Gonzales. "Her leadership in implementing President Bush's Family Justice Center Initiative is a tremendous achievement that will have an ongoing, positive impact on the lives of women, men and children hurt by domestic violence. Diane's service to women and families has made a tremendous difference in countless lives across America."

Diane M. Stuart was appointed as Director of the Office on Violence Against Women by President George W. Bush in 2001 and was confirmed by the U.S. Senate in 2003. During her tenure with the Justice Department, Stuart was responsible for implementing the President's Family Justice Center Initiative, through which $20 million was awarded to 15 sites to develop co-located services for victims of domestic violence. Currently, 11 family justice centers around the country are in operation, and all 15 centers will be open by the close of 2006. An important focus of Stuart's work has been promoting a coordinated community response, facilitating the collaboration of law enforcement, advocacy groups and members of the community in addressing the problem of domestic violence.

As Director, Stuart also succeeded, among other things, in establishing training "institutes" for judges, prosecutors, and law enforcement; developing the Safety for Indian Women Initiative; leading the office in the development and implementation of the Judicial Demonstration Oversight Initiative, the "Greenbook" Initiative, and the Supervised Visitation Demonstration Program; and increasing the number of grant and cooperative agreement awards by 50 percent.

Stuart will resign from the Department of Justice in October, and plans to return to her home state of Utah.

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Sent: Wednesday, September 06, 2006 2:38 PM
To: USDOJ- Office of Public Affairs
Subject: SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 6, 2006
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(202) 514-2007
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********Media Advisory********

SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON – Senior officials from the Departments of Justice and Defense will hold a background briefing regarding proposed legislation establishing military commissions today, **WEDNESDAY, SEPTEMBER 6, 2006 at 4:00 PM. EDT.**

WHO: Senior Officials from the Departments of Justice and Defense

WHAT: Background briefing on proposed legislation for military commissions

WHEN: **WEDNESDAY, SEPTEMBER 6, 2006 at 4:00 P.M. EDT**

WHERE: **Teleconference**
Call-in Number: 800-860-2442
Request "DOJ–DOD Conference Call"

NOTE: All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-594

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To: USDOJ- Office of Public Affairs
Subject: SHIPPING COMPANY PLEADS GUILTY TO VESSEL POLLUTION

Department of Justice

FOR IMMEDIATE RELEASE ENRD
WEDNESDAY, SEPTEMBER 6, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

SHIPPING COMPANY PLEADS GUILTY TO VESSEL POLLUTION

Korean Vessel Used Hoses to Bypass Pollution Prevention Equipment

WASHINGTON – The Sun Ace Shipping Company, based in Seoul, South Korea, has pleaded guilty to a one-count information for violating the Act to Prevent Pollution from Ships, in relation to the operation of a bulk carrier vessel the *M/V Sun New*, the Justice Department announced today.

Specifically, the defendant, which was the operator and manager of a fleet of five ships, is charged with knowingly failing to maintain an accurate Oil Record Book that fully recorded the disposal of oil residue and bilge into the ocean and then falsifying records to conceal illegal discharges. A joint factual statement filed in District Court in New Jersey stated that, on the night of Jan. 3, 2006, U.S. Coast Guard inspectors boarded the *Sun New* and discovered that members of the engine room crew has used bypass hoses to discharge oily wastes overboard into the ocean without using the vessel's oil-water separator. Upon further investigation, inspectors discovered that the crew of the *Sun New* had disposed of oil waste into the ocean at least twice during the voyage from South Korea to New Jersey.

Engine room operations on board large oceangoing vessels such as the *Sun New* generate large amounts of waste oil. International and U.S. law prohibit the discharge of waste oil without treatment by an Oily Water Separator. The law also requires that all overboard discharges be recorded in an Oil Record Book, a required log which is regularly inspected by the Coast Guard.

Per the terms of the plea agreement, the Sun Ace Shipping Company will pay a $400,000 penalty and a $100,000 community service payment to the National Fish and Wildlife Program, Delaware Estuary Grants Program, which will be used to protect and restore the natural resources of the Delaware Estuary and its watershed. The Sun Ace Shipping Company will also be subject to a three year term of probation, during which its vessels will be banned from U.S. ports and waters.

Earlier this month, a grand jury in Newark, N.J., returned a three-count indictment charging the Chief Engineer and the Second Engineer of *M/V Sun New* with conspiracy, obstruction of justice, and a violation of the Act to Prevent Pollution from Ships in connection with the use of two bypass hoses used to discharge sludge and oil contaminated bilge waste overboard into the ocean.

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Today's case was investigated by marine inspectors from Coast Guard Sector Delaware Bay, and special agents from the Coast Guard Investigative Service and the Environmental Protection Agency Criminal Investigation Division. The case is being prosecuted by Trial Attorney David Kehoe in the Environmental Crimes Section in the Justice Department's Environment and Natural Resources Division.

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To: USDOJ- Office of Public Affairs
Subject: FORMER REGIONAL DIRECTOR OF ITXC CORP PLEADS GUILTY IN FOREIGN BRIBERY SCHEME

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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(202) 514-2008
TDD (202) 514-1888

FORMER REGIONAL DIRECTOR OF ITXC CORP PLEADS GUILTY IN FOREIGN BRIBERY SCHEME

WASHINGTON – A former regional manager of ITXC Corporation pleaded guilty to a one-count criminal information in U.S. District Court in Trenton, N.J., Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Yaw Osei Amoako, 55, of Hillsborough, N.J., pleaded guilty to conspiring to violate the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA) and to violate the Travel Act in connection with the payment of approximately $266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers and employees of foreign-owned carriers in various African countries. The Honorable Garrett E. Brown scheduled a sentencing date for Dec. 11, 2006 at 1 p.m. Amoako faces up to five years in prison and a $250,000 fine.

From 1999 through 2004, Amoako was employed as a regional manager for Africa by former ITXC Corporation, which was a publicly-traded corporation that provided telecommunication services, primarily Voice Over Internet Protocol services, to carriers across the globe. Amoako was responsible for negotiating and obtaining contracts with foreign telecommunications companies in Africa on ITXC's behalf. Amoako was also responsible for hiring third-party sales agents in African countries to assist ITXC in negotiating its contracts.

According to the information, Amoako conspired with other former ITXC employees and officers to make payments to employees of foreign-state owned telecommunications carriers and employees of foreign-owned carriers so that those employees would use their influence to assist ITXC in obtaining and retaining contracts with the foreign carriers. Amoako and his co-conspirators offered to pay the employees commissions based on the amount of traffic that ITXC received from the contract the employee helped award to ITXC. The employees of the state-owned telecommunications companies were foreign officials as defined by the FCPA. The commissions totaled approximately $266,000 from 2001 until May 2004.

Specifically, the information charges that Amoako and his co-conspirators caused ITXC to pay approximately $166,000 in commissions to a foreign official at Nitel, which was a telecommunications company wholly-owned by the Nigerian government; approximately $26,000 in commissions to a foreign

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official at Rwandatel, which was wholly-owned by the Rwandan government; and approximately $74,000 in commissions to an employee of Sonatel, which was partly-owned by the Senegalese government.

The case is being prosecuted by Deputy Chiefs James McMahon and Mark F. Mendelsohn, and Trial Attorney Mary K. Dimke of the Criminal Division's Fraud Section. The case is being investigated by the Federal Bureau of Investigation.

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Image not available for this document, ID: 0.7.10316.34454-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 3:10 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 12

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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AT
(202) 514-2007
TDD (202) 514-1888

DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 12

Session to be Held in Washington, D.C. to Focus on International Issues

WASHINGTON - The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the fourth in a series of planned joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on September 12, 2006, in Washington, D.C. As previously announced, these public hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months.

The first panel on September 12 will focus on how foreign antitrust enforcers apply their laws to allegations of anticompetitive single-firm conduct. The second panel on September 12 will focus on international antitrust practice in the single-firm conduct area. Both panels will be held at the FTC's Satellite Building at 601 New Jersey Ave., N.W., Washington, D.C., Conference Room C.

Further information is provided below:

Morning Session (9:30 AM - 12:00 PM): International Enforcement Perspectives

Philip Lowe is the Director General for Competition of the European Commission.

Hideo Nakajima is the Deputy Secretary General, General Secretariat, of the Japan Fair Trade Commission.

Eduardo Pérez Motta is the President of the Mexican Federal Competition Commission.

Sheridan Scott is the Commissioner of Competition of the Canadian Competition Bureau.

Afternoon Session (1:30 PM - 4:00 PM): Practitioner and Academic Perspectives

DOJ_NMG_ 0167441

George Addy is a partner at Davies Ward Phillips & Vineberg LLP and former head of the Canadian Competition Bureau.

Margaret Bloom is a senior consultant at Freshfields Bruckhaus Deringer and a Visiting Professor at the School of Law, King's College London.

Paul Lugard is the Head of Antitrust for Royal Philips Electronics N.V.

James F. Rill is a partner at Howrey LLP and former Assistant Attorney General, Antitrust Division, Department of Justice.

The public and press are invited to attend the hearings. Seating will be on a first-come, first-served basis. Interested parties may submit written comments to the Antitrust Division and the FTC.

Further information about the hearings will be posted on the Antitrust Division's Web site at http://www.usdoj.gov/atr/public/hearings/single_firm/sfchearing.htm and on the FTC's Web site at http://www.ftc.gov/os/sectiontwohearings/index.htm. Individuals seeking more information on the hearings should contact Gail Kursh, Deputy Chief, Legal Policy Section, Antitrust Division, at singlefirmconduct@usdoj.gov, or Patricia Schultheiss, FTC, at section2hearings2@ftc.gov.

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Image not available for this document, ID: 0.7.10316.34580-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 3:57 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATED: SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

UPDATE: CONFERENCE CALL MOVED TO 4:30 P.M. EDT.

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 6, 2006
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********MEDIA ADVISORY********

SENIOR OFFICIALS FROM DEPARTMENTS OF JUSTICE AND DEFENSE TO HOLD CONFERENCE CALL REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON – Senior officials from the Departments of Justice and Defense will hold a background briefing regarding proposed legislation establishing military commissions today, **WEDNESDAY, SEPTEMBER 6, 2006 at 4:30 PM. EDT.**

WHO: Senior Officials from the Departments of Justice and Defense

WHAT: Background briefing on proposed legislation for military commissions

WHEN: **TODAY, SEPTEMBER 6, 2006 at 4:30 P.M. EDT**

WHERE: **Teleconference**
Call-in Number: 800-860-2442
Request "DOJ–DOD Conference Call"

NOTE: All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.34433-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, September 6, 2006 4:12 PM
Subject: ATTORNEY GENERAL'S ANNUAL AWARDS RECIPIENTS ANNOUNCED

ATTORNEY GENERAL'S ANNUAL AWARDS RECIPIENTS ANNOUNCED

Attorney General Alberto R. Gonzales has selected the recipients of the Attorney General's 54th Annual Awards. You may view a list of awards recipients at http://www.usdoj.gov/jmd/ps/guiawards.htm. Congratulations are extended to the awards recipients!

DOJ employees in the Washington Metropolitan Area are invited to attend the awards ceremony, which will be held on at *2:00 p.m., Tuesday, September 12, 2006 at Constitution Hall*. Departmental identification is required for entry. Shuttle service will be provided from the Robert F. Kennedy Main Justice Building.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 5:00 PM
To: USDOJ- Office of Public Affairs
Subject: STOLT-NIELSEN S.A. INDICTED ON CUSTOMER ALLOCATION, PRICE FIXING, AND BID RIGGING CHARGES FOR ITS ROLE IN AN INTERNATIONAL PARCEL TANKER SHIPPING CARTEL

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
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AT
(202) 514-2007
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STOLT-NIELSEN S.A. INDICTED ON CUSTOMER ALLOCATION, PRICE FIXING, AND BID RIGGING CHARGES FOR ITS ROLE IN AN INTERNATIONAL PARCEL TANKER SHIPPING CARTEL

Two Subsidiaries and Two Executives also Indicted

WASHINGTON — A federal grand jury in Philadelphia today returned an indictment against London-based Stolt-Nielsen S.A., two of its subsidiaries, and two executives for participating in a conspiracy to allocate customers, fix prices, and rig bids on contracts of affreightment for parcel tanker shipping of products to and from the United States and elsewhere, the Department of Justice announced. Including today's charges, five companies and five individuals have been charged and fines totaling more than $62.3 million have resulted from the Department's ongoing antitrust investigation of the parcel tanker shipping industry.

Stolt-Nielsen S.A., its subsidiaries--Stolt-Nielsen Transportation Group Ltd. of Liberia and Stolt-Nielsen Transportation Group Ltd. of Bermuda (collectively SNTG)--and U.S. citizen Samuel A. Cooperman and New Zealand citizen Richard B. Wingfield, were charged with the parcel tanker conspiracy today in U.S. District Court in Philadelphia. Cooperman is the former chairman, president and chief executive officer of SNTG. Wingfield is the former executive vice president and managing director of tanker trading for SNTG. Both of the subsidiaries have had offices in Greenwich, Conn.

"The indictment charges Stolt-Nielsen and its executives with serious antitrust crimes-- price fixing, customer allocation, and bid rigging," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Cracking down on international cartels is the Antitrust Division's top priority and the Division will continue its efforts to aggressively pursue such illegal activity."

Parcel tanker shipping is the transportation of bulk chemicals, edible oils, acids, and other specialty liquids by compartmentalized deep sea vessels. A contract of affreightment is a contract between a customer and a parcel tanker shipping company for the transportation of bulk liquids from port to port.

The alleged conspiracy began at least as early as August 1998 and continued until as late as November 2002. The indictment charges that representatives of Stolt-Nielsen entities and two competitor companies met

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and agreed not to compete for one another's customers for contracts of affreightment. The defendants are charged with carrying out the secret agreement in a variety of ways, including:

- Refraining from seeking business from one another's customers, or alternatively, when asked to bid by such customers, declining to bid or submitting fraudulent bids with intentionally high prices;

- Discussing customers and prices for contracts of affreightment to avoid competition;

- Preparing, updating, and exchanging customer lists to facilitate implementation of the agreement; and

- Continuing to carry out the conspiracy through meetings and discussions and assuring competitors that the conspiracy remained in effect, even after discovery of certain evidence of the conspiracy by Stolt-Nielsen's then-general counsel.

In March 2004, the Antitrust Division revoked the conditional leniency that had previously been granted to the Stolt-Nielsen entities under the Division's Corporate Leniency Program. Stolt-Nielsen's conditional leniency was predicated on a number of representations made by the company, including a promise that the company "took prompt and effective action to terminate its part in the anticompetitive activity being reported upon discovery of the activity." The Division revoked the conditional leniency after it learned from other sources that top Stolt-Nielsen executives, including its managing director Wingfield, had continued to meet with competitors and participate in the conspiracy for months after the scheme's discovery by Stolt-Nielsen's then-general counsel, and that Stolt had both withheld and provided false and misleading information about the true extent of the conspiracy.

In February 2004, Stolt-Nielsen S.A., Stolt-Nielsen Transportation Group Ltd. of Bermuda, and Wingfield filed lawsuits seeking an injunction to prevent the Antitrust Division from indicting them. The U.S. District Court for the Eastern District of Pennsylvania granted the injunction in January 2005. In March 2006, the Court of Appeals for the Third Circuit reversed the District Court decision and, in June 2006, denied petitions for rehearing. Attempts by SNTG and Wingfield to recall and stay the mandate of the Third Circuit failed, and on Aug. 24, 2006, the District Court dissolved the injunction against the Antitrust Division.

"Stolt-Nielsen is the first company to have its conditional leniency revoked since the current program was announced in 1993," said Barnett. "Removing a company from the Corporate Leniency Program is not something the Division takes lightly but regrettably was necessary in this case to maintain the integrity of the program, which requires that those in the program provide full and truthful cooperation."

Each of the defendants is charged with participating in the conspiracy to suppress competition in violation of the Sherman Act. The maximum penalty for the conviction of a Sherman Act violation occurring before June 22, 2004, is three years imprisonment and a fine of $350,000 for individuals and a fine of $10 million for companies. The maximum fines may be increased, however, to twice the gain derived from the crime or twice the loss suffered by the victims if either of those amounts is greater than the Sherman Act maximum fines.

Today's charges result from the Division's ongoing investigation of the parcel tanker shipping industry being conducted by the Philadelphia Field Office, in conjunction with the Philadelphia Office of the Federal Bureau of Investigation.

In the fall of 2003, shipping company Odfjell Seachem AS pleaded guilty to participating in a conspiracy to allocate customers, rig bids, and fix prices in the parcel tanker shipping industry and was sentenced to pay a $42.5 million fine. Two Odfjell executives, Bjorn Sjaastad and Erik Nilsen, also pleaded

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guilty for their roles in the same conspiracy. Sjaastad was sentenced to four months in prison and a $250,000 fine, and Nilsen was sentenced to three months in prison and a $25,000 fine.

In early 2004, a second company, Jo Tankers B.V., also pleaded guilty to conspiring to eliminate competition on contracts of affreightment in the parcel tanker shipping industry. Jo Tankers was sentenced to pay a fine of $19.5 million, and its former co-managing director, Hendrikus van Westenbrugge, pleaded guilty and was sentenced to pay a fine of $75,000 and to serve three months in prison.

Anyone with information concerning price fixing or other anticompetitive conduct in the parcel tanker shipping industry should contact the Philadelphia Field Office of the Antitrust Division at 215-597-7405.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 5:39 PM
To: USDOJ- Office of Public Affairs
Subject: FOUR OKLAHOMA RESIDENTS CHARGED WITH CONSPIRACY TO FRAUDULENTLY OBTAIN FEMA HURRICANE KATRINA RELIEF FUNDS

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
WWW.USDOJ.GOV

CONTACT: BOB TROESTER
PHONE: (405) 553-8999
FAX: (405) 553-8888

FOUR OKLAHOMA RESIDENTS CHARGED WITH CONSPIRACY TO FRAUDULENTLY OBTAIN FEMA HURRICANE KATRINA RELIEF FUNDS

OKLAHOMA CITY – A federal grand jury in Oklahoma has indicted four residents for conspiracy to commit wire fraud and theft of public funds related to Federal Emergency Management Agency (FEMA) Hurricane Katrina disaster relief funds announced U.S. Attorney John C. Richter of the Western District of Oklahoma. Those indicted include Kimiesha K. Hill, 24; Laniecia L. Hooper, 40; Doris J. McDaniels, 61; and Thomas Gene Perry, 44; all of Lawton, Okla.

According to the indictment, from September to October of 2005, the defendants, who had suffered no damage from Hurricane Katrina, conspired between themselves and others to submit false and fraudulent on-line applications for Hurricane Katrina relief funds to be sent through the internet from Lawton, Okla., to FEMA's national registration center for disaster assistance located in Denton, Texas. The indictment alleges that based on the false and fraudulent applications, FEMA either electronically wire-transferred $2,000 to the conspirators' bank accounts or mailed $2,000 disaster relief checks to the defendants who either cashed them or deposited them into bank accounts.

According to the indictment, Hill and Hooper solicited and recruited additional conspirators to participate in the fraudulent scheme and provide a portion of the proceeds to previously convicted individuals, Shelia Ann Perry and Jacqueline Marie Sutton, in exchange for the opportunity to participate in the scheme. Two weeks ago, Perry was sentenced to serve 24 months in prison and ordered to pay restitution of $18,000 after pleading guilty to theft of Hurricane Katrina funds. In May, Sutton was sentenced to five years probation and ordered to pay $2000 in restitution after pleading guilty to filing a false claim for FEMA funds.

If convicted, Hill, Hooper, McDaniels and Perry each face up to 10 years in prison and a $250,000 fine.

In September 2005, Attorney General Alberto Gonzales created the Hurricane Katrina Fraud Task Force to deter, investigate, and prosecute disaster-related federal crimes, such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant

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Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office of United States Attorneys, and others.

This case is prosecuted by Assistant U.S. Attorney Jim Robinson.

The public is reminded that the indictment is merely an accusation and that the defendants are presumed innocent unless and until proven guilty. Reference is made to the indictment for further information.

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Image not available for this document, ID: 0.7.10316.34302-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 6:30 PM
To: USDOJ- Office of Public Affairs
Subject: SIX MORE INDICTED IN BATON ROUGE ON FRAUD CHARGES RELATED TO HURRICANE DISASTER RELIEF PROGRAMS

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 6, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

SIX MORE INDICTED IN BATON ROUGE ON FRAUD CHARGES RELATED TO HURRICANE DISASTER RELIEF PROGRAMS

BATON ROUGE, La. – A federal grand jury returned indictments against six more Louisiana residents on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today.

Timothy E. DeClouet, 38, of New Iberia, La., was charged in a one-count indictment with wire fraud in obtaining disaster unemployment benefits for alleged losses resulting from Hurricane Rita. DeClouet is charged with defrauding the Louisiana Department of Labor (LDOL) and the Federal Emergency Management Administration (FEMA) by applying for benefits under the disaster unemployment assistance program from on or about Sept. 29, 2005, to on or about June 27, 2006, while allegedly failing to notify LDOL of his employment after the storm. These funds were intended for persons who had become unemployed as a result of the disaster. The charges resulted from an investigation by the Department of Labor's Office of the Inspector General. If convicted, DeClouet faces a maximum sentence of 20 years in prison, a $250,000 fine, or both.

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Wanda Turner, 28, of New Iberia, La., was charged in a one-count indictment with wire fraud in obtaining disaster unemployment benefits for alleged losses resulting from Hurricane Rita. Turner is charged with defrauding LDOL and FEMA by applying for benefits under the Unemployment Insurance program (administered by LDOL and funded from both private employment contributions and the federal government), the Extended Benefits program (also funded from private employment contributions and the federal government), and the disaster unemployment assistance program (administered by the LDOL and funded by FEMA), from on or about Oct. 31, 2005, to on or about May 19, 2006, while allegedly failing to notify LDOL of her employment after the storm. The charges resulted from an investigation by the Department of Labor's Office of the Inspector General. If convicted, Turner faces a maximum sentence of 20 years in prison, a $250,000 fine, or both.

Koieasha Jones, 26, of Baton Rouge, La., was charged in a two-count indictment with making a false and fraudulent claim for disaster assistance benefits and with illegal conversion of a check from FEMA for expedited disaster assistance. The charges resulted from an investigation conducted by the U.S. Secret Service and the U.S. Department of Homeland Security's Office of Inspector General. If convicted on the first count, Jones faces a maximum sentence of five years in prison, a $250,000 fine, or both. If convicted on the second count, Jones faces a maximum sentence of 10 years in prison, a $250,000 fine, or both.

Robin Becnel, 44, of Baton Rouge, La., was charged in a one-count indictment with illegal conversion of a check from FEMA for expedited disaster assistance. The charge resulted from an investigation conducted by the U.S. Secret Service and the U.S. Department of Homeland Security's Office of Inspector General. If convicted, Becnel faces a maximum sentence of 10 years in prison, a $250,000 fine, or both.

Bridgette N. Toney, 24, of Baton Rouge, La., was charged in a two-count indictment with making a false and fraudulent claim for disaster assistance benefits and with making false and fraudulent statements to FEMA The charges resulted from an investigation conducted by the U.S. Department of Homeland Security's Office of Inspector General. If convicted, Toney faces a maximum sentence of five years in prison, a $250,000 fine, or both.

Edwin L. Franklin, 24, of Port Allen, La., was charged in a two-count indictment with making false and fraudulent claims for disaster assistance benefits and with making false and fraudulent

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statements to FEMA. The charges resulted from an investigation conducted by the FBI. If convicted, Franklin faces a maximum sentence of five years in prison, a $250,000 fine, or both.

These six individuals bring to 74 the total number of defendants who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 06, 2006 8:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 6, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Justice Department Officials Support President's Announcement (OPA)
Department of Justice officials today participated in interviews supporting the President's announcement on the High Value Terrorist Detainee Program and the Military Commission Act of 2006. Attorney General Alberto R. Gonzales participated in a teleconference with the editorial board of *USA Today* and Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, participated in a background conference call with reporters and a conference call with legal and academic experts.

Deputy Attorney General Testifies before Senate Finance Committee (OPA)
Deputy Attorney General Paul J. McNulty testified today before the Senate Finance Committee at a hearing titled *Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.*

Acting Assistant Attorney General Testifies Before House Judiciary Subcommittee (OPA)
Steve Bradbury, Acting Assistant Attorney General for the Office of Legal Counsel, testified before the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security today regarding statutory advisories for the Terrorist Surveillance Program.

Letter from Former DOJ Officials on Thompson Memo (OPA)
Today, former senior DOJ officials sent a letter to Attorney General Gonzales criticizing several of the Department's policies in the Thompson Memorandum for investigating and prosecuting corporate fraud.

Talking Points

- The Department received the letter and appreciates the views of former Justice Department leadership who are now members of the private bar; however, we must disagree with their criticisms of the Thompson Memorandum.

- The Memorandum's guidance is triggered only after prosecutors have determined that a company can be indicted for criminal activity. Rather than "demand" or "require" a corporation's waiver of attorney-client privilege, a corporation may decide to waive its privilege in the course of cooperating with the government's investigation to avoid being criminally charged.

- This is why corporations, in many instances, waive this privilege without the government's request. This guidance does not promote a 'culture of waiver'; it promotes good corporate governance.

FBI Director Mueller Hosted Pen and Pad Briefing with Print Reporters (FBI)
Today, FBI Director Robert Mueller hosted a pen and pad press briefing with select print reporters at FBI Headquarters regarding the state of the FBI five years after Sept. 11.

FBI and DHS Issue Joint Press Release Regarding Fingerprint Identification Systems (FBI)
Today, the Department of Homeland Security (DHS) and the FBI issued a joint press release with updated information regarding the status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System.

DEA Administrator Participates in Pen and Pad Briefing (DEA)
Today, DEA Administrator Karen P. Tandy led a pen and pad briefing with several members of the media including *USA Today*, CNN, NBC, CBS, ABC, *Topics in Pain Management, Pain Medicine News,* and *Government Executive* to discuss a proposed rule that will make it easier for patients with chronic pain or other chronic conditions, to avoid multiple trips to a physician. It will allow a physician to prescribe up to a 90-day supply of Schedule II controlled substances during a single office visit, where medically appropriate.

Former Regional Director of ITXC Corp Pleads Guilty In Foreign Bribery Scheme (Criminal)
A former regional manager of ITXC Corporation pleaded guilty to a one-count criminal information in U.S. District Court in Trenton, N.J. Yaw Osei Amoako, of Hillsborough, N.J., pleaded guilty to conspiring to violate the anti-bribery provisions of the Foreign Corrupt Practices Act and to violate the Travel Act in connection with the payment of approximately $266,000 in bribes in the form of illegal "commissions" to employees of foreign state-owned telecommunications carriers and employees of foreign-owned carriers in various African countries. Amoako faces up to five years in prison and a $250,000 fine.

Filing in U.S. v. Jeffrey Skilling and Kenneth Lay (Criminal)
Today the Government filed a motion in the Southern District of Texas in opposition to the Lay estate's motion to vacate his conviction and dismiss the indictment. The Department also sent to Capitol Hill proposed legislation to ensure restitution and other victims' rights by reversing the judicially created "abatement" doctrine that wipes clean a criminal conviction if the convicted defendant dies between conviction and the conclusion of his direct appeal.

Talking Points

- The proposed legislation does away with the harmful and unwarranted effects of the abatement doctrine. It preserves duly obtained criminal convictions, and protects the rights of crime victims to restitution and the government to forfeiture, while also ensuring fair access to appellate review, which was the primary concern that gave birth to the doctrine.

- Under current law, the abatement doctrine holds that the death of a convicted criminal defendant while his direct appeal is pending negates the entire criminal proceeding, including the effect of the defendant's conviction.

- While common sense requires that punishments such as imprisonment, probationary supervision and fines terminate when a convicted defendant dies, no valid rationale supports abating a remedial measure like restitution to crime victims pursuant to a duly entered restitution order. Similarly, there is no good reason why forfeiture of a convicted defendant's criminal proceeds should not be carried out as a remedial civil action.

Deputy Assistant Attorney General Testifies Before Senate Judiciary Committee (Antitrust)
Today, J. Bruce McDonald, Deputy Assistant Attorney General for the Antitrust Division, testified today before the Senate Judiciary Committee. He discussed the Division's efforts to protect competition in the health care marketplace.

Stolt-Nielsen S.A. Indicted on Customer Allocation, Price Fixing, and Bid Rigging Charges for its Role in an International Parcel Tanker Shipping Cartel (Antitrust)
A federal grand jury in Philadelphia today returned an indictment against London-based Stolt-Nielsen S.A., two of its subsidiaries, and two executives for participating in a conspiracy to allocate customers, fix prices, and rig bids on contracts of affreightment for parcel tanker shipping of products to and from the United States and elsewhere. Including today's charges, five companies and five individuals have been charged and fines totaling more than $62.3 million have resulted from the Department's ongoing antitrust investigation of the parcel tanker shipping industry.

Shipping Company Pleads Guilty to Vessel Pollution (Environmental and Natural Resources Division)
The Sun Ace Shipping Company, based in Seoul, South Korea, pleaded guilty today to a one-count information for violating the Act to Prevent Pollution from Ships, in relation to the operation of a bulk carrier vessel the *M/V Sun New*. The defendant, which was the operator and manager of a fleet of five ships, is charged with knowingly failing to maintain an accurate Oil Record Book that fully recorded the disposal of oil residue and bilge into the ocean and then falsifying records to conceal illegal discharges. A joint factual statement filed in District Court in New Jersey stated that, on the night of Jan. 3, 2006, U.S. Coast Guard inspectors boarded the *Sun New* and discovered that members of the engine room crew has used bypass hoses to discharge oily wastes overboard into the ocean without using the vessel's oil-water separator.

Statement of Attorney General Alberto R. Gonzales on the Resignation of Diane M. Stuart, Director of the Office on Violence Against Women (OVW)
Attorney General Alberto R. Gonzales today issued the following statement on the resignation of Diane M. Stuart, Director of the Office on Violence Against Women:

- "Since 2001, Diane Stuart has been a strong advocate for, and defender of, women and families throughout the Nation," said Attorney General Gonzales. "Her leadership in implementing President Bush's Family Justice Center Initiative is a tremendous achievement that will have an ongoing, positive impact on the lives of women, men and children hurt by domestic violence. Diane's service to women and families has made a tremendous difference in countless lives across America."

THURSDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Meet with Editorial Board of *The Wall Street Journal*
Tomorrow, while in New York City, Attorney General Alberto R. Gonzales will meet with the editorial board of *The Wall Street Journal.*

FBI Director Mueller to Participate in Television Interviews
Tomorrow, FBI Director Robert Mueller will participate in one-on-one television interviews with NBC, CNN, ABC, and Fox News regarding the state of the FBI five years after Sept. 11.

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

1:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the Manhattan Institute regarding the Government's International and Domestic Contributions to the War on Terror.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 10:00 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 7, 2006

Department of Justice

PRESS GUIDANCE
Thursday, September 07, 2006

ATTORNEY GENERAL

1:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks focusing on the fifth anniversary of Sept. 11 and Justice Department efforts to prevent terrorism and keep America safe at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror*.
Roosevelt Hotel
East 45th Street and Madison Avenue
New York, New York
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Press inquiries regarding logistics should be directed to Theresa Pagliocca of the Department of Justice at 202-532-3486.

PRESS RELEASES

The Antitrust Division will issue a release on a merger related matter. (Talamona)

The Bureau of Justice Statistics will issue a release. (Peterson)

EVENTS/HEARINGS

10:00 A.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before the House Armed Services Committee regarding Military Commissions and Tribunals.
Rayburn House Office Building
Room 2118
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Armed Services Committee at 202-225-4151.

10:00 A.M. EDT Microsoft Status Conference Hearing

DOJ_NMG_ 0167467

The Honorable Colleen Kollar-Kotelly
U.S. District Court for the District of Columbia
333 Constitution Ave., NW
Washington, D.C.

Press inquiries regarding logistics should be directed to the U.S. District Court of the District of Columbia at 202-354-3000.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.34256-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 1:19 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE MANHATTAN INSTITUTE: LAW ENFORCEMENT AND THE PREVENTION OF TERRORISM FIVE YEARS AFTER 9/11

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
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PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE MANHATTAN INSTITUTE:
LAW ENFORCEMENT AND THE PREVENTION OF TERRORISM FIVE YEARS AFTER 9/11

NEW YORK, NEW YORK

Good morning.

I am honored to be here in New York, to talk with you about our shared efforts to protect American neighborhoods and communities.

As we approach the fifth anniversary of the attacks on September 11, it is natural that Americans look back and take stock of where we are and what we have accomplished together as a nation. The President and others in his administration have spoken often, and will continue to speak, to the American people about the current threat of terrorism. I intend to talk about it today in the context of law enforcement cooperation.

But before I do, let me assure you that I have not forgotten about the need to address traditional, non- terrorism crime on the streets of our cities, towns and neighborhoods. I know all of you are well aware of the ongoing battle against traditional criminals in our country because you are the on the front line, day in and day out. We have not and will not lose sight of the need to assist you in the fight against the sexual predators, the drug dealers, and the gangs that terrorize law-abiding citizens in our communities.

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I intend to continue to pursue more resources to help you, and I hope to be able to provide additional training, investigators and prosecutors to address traditional crimes. We must remember, however, that while there are more than 800,000 state and local law enforcement officials in this country, there are only 12,000 federal law enforcement officials. In a post 9/11 world, the number one priority of federal law enforcement agencies must be the prevention of another terrorist attack…a mission that I know you understand we all share.

No one can truly be free to pursue the American dream—even in neighborhoods free of drugs, gangs and violent crime—if they live in fear of a terrorist attack. All of us in government – in law enforcement , in intelligence and in the military – have accomplished a great deal to protect our neighborhoods over the past five years because we didn't wait to act. We began thinking through our response on the very day of the attacks.

Five years ago on September 11th, just before 7:00 that night, I was waiting for the return of Marine One to the South Lawn of the White House. I stood outside the Oval Office with former Counselor to the President Karen Hughes, ready to meet the President and begin the work of defending America.

The President was purposeful when he arrived. His face was serious as he approached me and Karen. As he met us and then entered the White House he didn't say a word – he just nodded his head slightly. We followed him into the Oval Office – which was being set up for his 8:30 address to the nation – and then into his private dining room.

There, the three of us sat down with Condi Rice, Andy Card and Ari Fleischer, rolled up our sleeves and we started to work.

***

This battle against terrorism is fought on a clock that never stops and our partnership is one that must never have gaps. You know this all too well. So I'm glad to have this chance to talk with all of you about what we are doing, <u>together</u>, to prevent terrorist attacks… what <u>our</u> network is doing to stop and ultimately defeat <u>their</u> network.

If there is one thing that all Americans will be thinking and saying when we mark a terrible anniversary on Monday, it will be the simple phrase "never again." And the goal of "never again" cannot be achieved by the federal government alone, by any state government alone, or by any local police force alone. Our network of prevention is instead the key to protecting the American people.

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When Vice President Cheney spoke to the Manhattan Institute in January, he pointed out that terrorists were at war with our country long before September 11th. They had killed American soldiers in Beirut in 1983 and in Mogadishu in 1993. They had bombed our embassies in Kenya and Tanzania in 1998. They had attacked the USS Cole in 2000. They had even struck our homeland once before, attempting to destroy the World Trade Center in 1993.

But it was on September 11th, 2001, that the United States of America said "enough," "no more," and "never again."

Since then we have been on the offensive and we have made significant progress.

We've taken away the "home base" for al Qaeda in Afghanistan. We've destroyed training camps, cut off funding channels, and disrupted means of communication.

Architects of the September 11th attacks have been captured and interrogated… and we have learned vital information from them which has enabled us to prevent further attacks. As you heard the President announce yesterday, Khalid Sheikh Mohammed, Abu Zubaydah, and Ramzi bin al Shibh today await justice at Guantanamo Bay.

We have disrupted plots and put homegrown radicals behind bars. As we all know, in early August, British authorities disrupted what would have been a major terrorist attack with massive casualties.

In that case, and in plot disruptions on our own soil involving homegrown radicals, we have seen the evolution of the threat since the destruction of al Qaeda's home base.

Today, al Qaeda stays organized and active in cyberspace, where their ideology recruits, inspires and radicalizes others. Their virtual outreach – as you well know – is finding disaffected souls in neighborhoods, mosques, prisons and universities all over the world, including our own backyards.

No two terror cells or plots are alike. Some are directly linked to al Qaeda, some are inspired by the ideology and seek actual ties with the group after they begin plotting, and some are simply inspired by the hatred without the ability to organize internationally. But there is a clear trend in al Qaeda's efforts to recruit terrorists who already live in the countries targeted for attack.

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Recently, we've seen would-be terrorists who were – at the very least – inspired by al Qaeda's ideology in London and Madrid, in Los Angeles, Toledo, Miami and Atlanta.

Some homegrown terrorists have stronger ties to al Qaeda than others, but they all appear to be part of a well-organized and flexible global network of terror bound by fanaticism, by a terrible common cause of murder and destruction.

It takes a network to defeat a network. Our network, bound by the common cause of stopping the terrorists, is a formidable force, one that will ultimately prevail in this war.

A successful network must have three primary characteristics:

First, outstanding coordination of partners and resources. Second, constant flexibility. And third, perhaps most important, an infinite passion to prevail.

We take the terrorist threat so seriously because we recognize that their network possesses those characteristics.

Fortunately, our network has them, too.

Coordination

First, let's talk about coordination – theirs and ours.

As I mentioned before, the Internet has enabled our enemy to reach out to a global audience of potential terrorists. With a reduced ability to recruit and train on a home base, radical websites and the periodic release of key messages from al Qaeda leadership seek to find and encourage network membership all over the world.

They've put other modern technologies to use as well: Cell phones keep the terrorist network in touch, an inexpensive and universally available form of information-sharing and collaboration that knows no borders.

They use digital cameras to document potential targets – creating surveillance files that can be easily and widely shared. Their research, contained on something as small as a thumb-drive or CD, is easily slipped in a pocket or an envelope – for travel or shipping and eventual sharing with partners all over the globe.

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As Commissioner Andy Hayman knows, technology has been integral to terrorist communications. Information shared about target locations, such as New York or Washington, can be sent over the internet in a matter of moments to cities in the United States, the United Kingdom or around the globe. In a recent case, our network disrupted theirs. We must imagine, however, that digital research is traveling from city to city every single day as terrorist partners help one another pursue their horrific goals.

Coordination within our network is both national and international, aided by advanced technology as well. And since terrorists only have to succeed once and our efforts have to succeed every time, our coordination has to be even better than theirs.

Last month's disruption of the UK bomb plot highlights the success of international cooperation. Our prosecutors train one another and share and protect one another's sensitive intelligence. The level of cooperation between the United States and our foreign counterparts is outstanding and is truly the untold story of the war on terror.

At home, as you know, we have dramatically improved collaboration among federal, state and local intelligence and law enforcement agencies. The Patriot Act officially brought down the wall between intelligence and law enforcement investigations, but our respect for one another and our shared purpose of protecting American citizens has been just as important in bringing down the wall in practice – in establishing a new mentality of constant sharing and communicating.

I'm extremely proud of our teamwork and mutual respect; I hope everyone in this room today who works in law enforcement is as well.

Joint Terrorism Task Forces are perhaps the best example of how the walls that used to divide us are simply gone, how law enforcement and intelligence are woven together like one continuous piece of fabric.

In JTTFs, federal, state and local officials work side-by-side, as one seamless team, sharing access to data and working together on analysis – because it is easier to connect the dots when all of those dots are shared on common ground.

JTTFs are the "eyes and ears" of communities around the country, and since September 11th we have increased the number of JTTFs from 35 to 103.

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Chief Bratton, from Los Angeles, can attest to how well the JTTF structure works. Because it was a local officer in your area who worked in a JTTF who connected the dots that led to the eventual arrest of radicals plotting to attack government buildings and synagogues in Los Angeles last August. Chief Timoney, you also saw the effectiveness of the JTTF structure because of the work done to disrupt the cell targeting Miami in Liberty City.

These cases are good examples of what happens when resources are pooled and partners with specific skill-sets work together. A local cop is uniquely equipped to notice when something just isn't right in their own communities, and to aggressively follow-up -- when robberies are really the means to accomplish something else ... as was done in the case of those gas station hold-ups in LA. or as was done in Charlotte, North Carolina when local law enforcement observed vans being loaded with cigarettes which led to uncovering a Hizballah cell; or in Western Washington when local law enforcement observed individuals in remote locations shooting guns which led to uncovering the planning of a terrorist training camp.

The federal government offers the best, most comprehensive databases where local cops can find out if their gut instincts are correct. When a good "nose" for foul play is working side-by-side with a comprehensive source of intelligence, dots are connected and our network is performing at its best. Coordination leads to victory, one plot disruption at a time.

Flexibility

Next, flexibility.

In the terrorist network, this means changing, quickly, the location and coordination of training when the home base is dismantled. It means recognizing that shoe bombs don't work, so liquid explosives need to be developed.

Five years ago it meant using boxcutters and the element of surprise.

Our enemy is creative and sharp. They learn from their mistakes and literally brainstorm, every day, about new ways to surprise us, new ways to destroy us. Their imaginations are evil, but also nimble – which is a deadly combination.

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This flexible approach is embraced by all terrorist followers. So dedicated are they to their cause that they will adjust to whatever environment and circumstance they face to continue forth with their goals.

Our network is nimble as well. We brainstorm, too, about what the enemy might do next and how we can stop them. We employ experts who strive to forecast the terrorists' depraved creativity.

We watch, closely, how their network is evolving and we make adjustments to our tactics and focus accordingly. For example, right now, we know that local police departments are in the best position to identify homegrown radicals, so our network will be led by you on that front; we are flexible enough to shift leads as needed.

When necessary, we have developed tools to increase our flexibility. The Terrorist Surveillance Program helped us to quickly adapt to a situation in which we needed to collect intelligence quickly, from sources and technologies that we had never mined before.

We also quickly changed the way we looked at the traditional equation of criminal justice, which used to be:

- A crime is committed.
- An investigation ensues.
- An arrest is made.
- Prosecution finishes the story.

We had to change this storyline for terrorists because we cannot, we will not, wait for terrorist acts to be committed before apprehending and prosecuting these criminals.

We seek to arrest them for the crime of plotting to commit terrorist acts against our country or for other crimes that they are committing as part of their plot development.

Flexibility even within this new equation is crucial because no two cases are the same and decisions about when to arrest are difficult ones that must be made on a case-by-case basis by career professionals using their best judgment – keeping in mind that we need to protect sensitive intelligence sources and methods and sometimes rely upon foreign evidence in making a case.

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I think that our network's flexibility when it comes to investigation and prosecution has been successful, but I will note that there is one thing that we won't be flexible on, and that's adherence to civil liberties and the rule of law. We can be adaptable in our fight, but our Constitution is always the stable ground from which we spring.

Passion

I want to conclude my remarks with a discussion of passion: theirs and ours. Because it is this element of our networks that will be a test of wills… and our will to save lives and freedom simply must prevail over their will to destroy them.

Their network is bound by ideological fanaticism… by hate and a desire to destroy our way of life so that their beliefs can prevail over the world's people.

Our network is bound by what may be more simply described as the love of justice and a desire to protect what we know is good.

We are motivated by our love of freedom. Our love for our children. And by a deeply-held belief that our beloved country is the beacon of hope for the world because of its embrace of liberty. We have an inherent sense that what our Founding Fathers established here is something very much worth protecting

Their network does not tire. Their passion is an infinite fuel that we have seen burning for decades.

And our network, as the President has often said, will not tire, will not falter, and will not fail. Because our passion is actually deeper than theirs, and our defense of freedom will be eternal.

I had a chance, last week, to visit for the second time the front-lines of the war on terror in Iraq. And the steadfast resolve of our men and women in uniform, as well as our civil servants who are there to help the Iraqi people stand up their new government, was inspirational.

These men and women work in a dangerous environment, with daily temperatures well over 100 degrees. They are away from their families. But everyone I met was energetic and proud…so proud to serve a country that has given us all so much. The Americans on the front lines believe what they are doing is important, so important

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that they are willing to risk their lives for the mission. Just being in their presence made this grandson of immigrants so incredibly proud to be an American.

To have seen these men and women at work in Iraq, and every day here at home in the ranks of law enforcement, is to know that we will prevail in this decisive ideological struggle.

During a previous, world-wide ideological struggle, Winston Churchill's passion and dedication in the midst of a war was evident in these words:

"Never give in--never, never, never, never, in nothing great or small, large or petty, never give in except to convictions of honour and good sense. Never yield to force; never yield to the apparently overwhelming might of the enemy."

In our jobs, in our network, never giving in means we steadfastly pursue the goal, every day, of preventing terrorism, of protecting free and innocent souls.

Our network will prevail. And I'm proud to serve in it, side-by-side with all of you.

Thank you. May God bless you and may he continue to bless this great nation.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 1:43 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: VIOLENT CRIME RATE UNCHANGED DURING 2005, THEFT RATE DECLINED

EMBARGOED FOR RELEASE UNTIL SUNDAY, SEPTEMBER 10, 2006 AT 4:30 P.M. EDT
THE REPORT IS ATTACHED

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT
SUNDAY, SEPTEMBER 10, 2006
www.ojp.usdoj.gov/bjs

Bureau of Justice Statistics
Contact: Stu Smith: 202-307-0784
After hours: 301-983-9354

VIOLENT CRIME RATE UNCHANGED DURING 2005, THEFT RATE DECLINED

WASHINGTON — The violent crime rate in 2005 was unchanged from the previous year, the Justice Department's Bureau of Justice Statistics (BJS) announced today. However, the property crime rate declined from 2004 to 2005 because of a decrease in theft.

Last year's criminal victimizations included an estimated 18 million property crimes (burglaries, motor vehicle thefts and household thefts); 5.2 million violent crimes (rapes or sexual assaults, robberies, aggravated assaults and simple assaults); and 227,000 personal thefts (picked pockets and snatched purses). Measured offenses include those reported to police as well as those that go unreported. With the exception of theft, victimization rates for every type of crime measured were unchanged from their 2004 levels.

Violent crime and property crime rates in 2005, as estimated by BJS's National Crime Victimization Survey, are at the lowest levels recorded since 1973 — the first year that such data were available. The rate of every major violent and property crime measured by the survey fell significantly between 1993 and 2005. The violent crime rate fell 58 percent during that period, and the property crime rate declined by 52 percent. The number of violent crimes decreased from an estimated 11 million in 1993 to 5.2 million in 2005.

The survey compared two-year average crime rates, 2002-03 vs. 2004-05, and found no changes in the rates for the major types of violent and property crime. However, there was some indication that the average annual rates of attempted or threatened violence, completed robbery with injury, and simple assault without injury declined from 2002-03 to 2004-05. Annual data on criminal victimization for 2005 are available on the BJS Web site at: www.ojp.usdoj.gov/bjs/pubalp2.htm

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Most demographic groups examined did not experience a change in violent or property crime rates from 2002-03 to 2004-05. Among the groups that experienced declines in violent crime rates were females, persons who have never been married, 16-19 year olds, persons residing in households earning less than $7,500 per year, and those residing in suburban areas. Households in the Northeast experienced a decline in property crime. No demographic group that was examined experienced an increase in violent or property crime during this time period.

Between 1993 and 2005 the overall rate of firearm violence declined from 5.9 per 1,000 persons age 12 or older to two per 1,000. In 2004 the rate was 1.4 per 1,000 and in 2003 it was 1.9 per 1,000. During 2005 offenders armed with a firearm accounted for nine percent of all non-lethal violent crimes.

The percentage of violent and property crimes reported to the police remained unchanged between 2004 and 2005. In 2005, 47 percent of violent crimes and 40 percent of property crimes were reported to police. Thirty-eight percent of rapes and sexual assaults were reported to the authorities, as were 42 percent of simple assaults, 52 percent of robberies and 62 percent of aggravated assaults. About 83 percent of motor vehicle thefts were reported.

The report, "Criminal Victimization, 2005" (NCJ-214644) was written by BJS statistician Shannan M. Catalano. Following publication, the report can be found at www.ojp.usdoj.gov/bjs/abstract/cv05.htm.

For additional information about the Bureau of Justice Statistics statistical reports programs, please visit the BJS Web site at: www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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U.S. Department of Justice
Office of Justice Programs

Embargoed for release to the public until Sunday, September 10, 2006, 4:30 pm EDT

Bureau of Justice Statistics Bulletin

September 2006, NCJ 214644

National Crime Victimization Survey

Criminal Victimization, 2005

by Shannan M. Catalano, Ph.D.
BJS Statistician

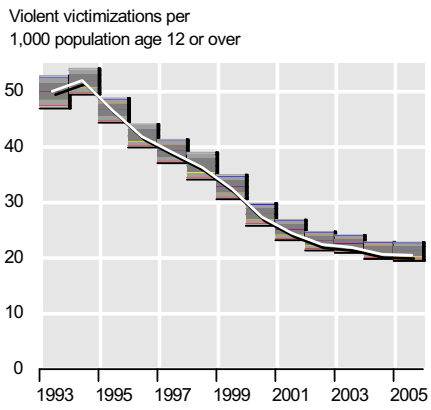
In 2005 U.S. residents age 12 or older experienced an estimated 23 million violent and property victimizations, according to the National Crime Victimization Survey (NCVS). These criminal victimizations included an estimated 18 million property crimes (burglary, motor vehicle theft, and theft), 5.2 million violent crimes (rape or sexual assault, robbery, aggravated assault, and simple assault), and 227,000 personal thefts (pocket picking and purse snatching).

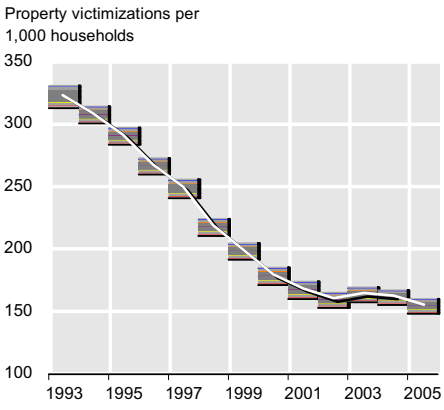
Because of a decline in the rate of theft, the overall property crime rate declined between 2004 and 2005. Victimization rates for every other major type of crime measured by the survey were unchanged. For completed robbery with injury and simple assault without minor injury, aggregate rates for the period 2004-05 were somewhat lower than those for 2002-03. The 1-year (2004-2005) and 2-year (2002-03 to 2004-05) change estimates indicate that at the national level crime rates remain stabilized at the lowest overall levels experienced since 1973.

Between 1993 (when the NCVS was redesigned) and 2005, the violent crime rate decreased 58%, from 50 to 21 victimizations per 1,000 persons age 12 or older. Property crime declined 52%, from 319 to 154 per 1,000 households.

Highlights

The overall violent crime rate remained unchanged between 2004 and 2005, while the property crime rate declined





Each vertical bar shows the range within which the true victimization rate was likely to fall.
For discussion of displaying estimates, see <http://www.ojp.usdoj.gov/bjs/abstract/dvctue.htm>.

- For most crimes, aggregated rates for the two-year period 2004-05 were unchanged from 2002-03, while minor declines were seen for some forms of robbery and simple assault without injury.
- From 1993 to 2005, the violent crime rate was down 58%, from 50 to 21 victimizations per 1,000 persons age 12 or older.
- During 2005, 24% of all violent crime incidents were committed by an armed offender, including 9% by an offender with a firearm.
- The rate of firearm violence increased between 2004 and 2005, from 1.4 to 2.0 victimizations per 1,000 persons age 12 or older.
- Males were most vulnerable to violence by strangers (54% of the violence against males), while females were most often victimized by nonstrangers (64%).
- Males, blacks, and persons age 24 or younger continued to be victimized at higher rates than females, whites, and persons age 25 or older in 2005.
- During 2005, 47% of all violent victimizations and 40% of all property crimes were reported to the police.

In 2005, according to victims, 47% of violent crimes were reported to the police, up from 43% in 1993. The proportion of property crimes reported to the police also increased to 40% in 2005, from 33% in 1993.

Criminal victimization, 2004-05

The NCVS collects data on nonfatal crimes against persons age 12 or older, reported and not reported to the police, from a nationally representative sample of U.S. households. (See *Methodology*, page 11.) Information on homicide is obtained from the Uniform Crime Reporting (UCR) program of the FBI.

Crimes measured by the NCVS

Violent crimes include rape or sexual assault, robbery, aggravated assault, and simple assault. Property crimes include household burglary, motor vehicle theft, and theft.

The overall violent crime rate remained stable between 2004 and 2005, while the overall property crime rate declined due to a drop in household theft from 123 to 116 victimizations per 1,000 households.

Murder/nonnegligent manslaughter

Based on preliminary 2005 data from the FBI, the number of persons murdered in the United States increased 4.8% between 2004 and 2005. In 2004, 16,140 persons were murdered; the estimate for 2005 is about 16,910 victims of murder. Based on these preliminary data, the homicide rate for 2005 is an estimated 5.7 per 100,000 individuals.

Preliminary data suggest that while increases in the number of murders occurred in all regions of the country, the greatest increases were in the Midwest (5.8%) and South (5.3%).

Table 1. Criminal victimization, numbers and rates, 2004 and 2005

	Number of victimizations		Victimization rate (per 1,000 persons age 12 or older or per 1,000 households)	
Type of crime	2004	2005	2004	2005
All crimes	24,061,140	23,440,720	~	~
Violent crimes[a]	5,182,670	5,173,720	21.4	21.2
Rape/sexual assault	209,880	191,670	0.9	0.8
Robbery	501,820	624,850	2.1	2.6
Assault	4,470,960	4,357,190	18.5	17.8
Aggravated	1,030,080	1,052,260	4.3	4.3
Simple	3,440,880	3,304,930	14.2	13.5
Personal theft	224,070	227,070	0.9	0.9
Property crimes	18,654,400	18,039,930	161.1	154.0*
Household burglary	3,427,690	3,456,220	29.6	29.5
Motor vehicle theft	1,014,770	978,120	8.8	8.4
Theft	14,211,940	13,605,590	122.8	116.2*

Note: The total population age 12 or older was an estimated 241,703,710 in 2004 and 244,493,430 in 2005.
The total number of households was 115,775,570 in 2004 and 117,110,800 in 2005.
~Not applicable.
*The difference from 2004 to 2005 is significant at the 95%-confidence level.
[a]The NCVS is based on interviews with victims and therefore cannot measure murder. See *Methodology,* pages 11 and 12.

Murder and victim characteristics, 2004

In 2004, the year in which the most recent comprehensive data are available, the FBI reported a total of 16,140 murders or nonnegligent manslaughters. The total represented a 2.4% decrease from the 16,530 murders recorded in 2003. The FBI defines murder in its annual *Crime in the United States* as the willful (nonnegligent) killing of one human being by another. Justifiable homicides, attempted murder, and deaths caused by negligence, suicide, or accident are not included. The FBI's UCR program collects data on murder from over 17,000 city, county, and State law enforcement agencies.

Though the rate and level of homicide change from year to year, the relationship between victim characteristics and homicide tends to remain the same. For example, as in previous years, in 2004 —

- Most murder victims were male (78%).
- When the race of the murder victim was known, about half were white (49.8%), almost half were black (47.6%), and about 2.6% were of another race.
- When information on the victim-offender relationship was available, 77% of the offenders were known to the victim, while 23% were a stranger to the victim.
- Firearms were used in the majority of murders (70%).
- Offenders were most often male (90%) and age 18 or older (92%).
- Homicide is generally intraracial.
- Arguments were the most often cited circumstance leading to murder (44%).
- Homicides occurred in connection with another felony (such as rape, robbery, or arson) in 23% of incidents.

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Criminal victimization, 2002-03 and 2004-05

Comparing the 2-year average annual rates, criminal victimization changed somewhat in three sub-categories of crime rates from 2002-03 to 2004-05 (text box, table 2).

During this period there were indications that the average annual rates of attempted or threatened violence, completed robbery with injury, and simple assault without injury declined somewhat from 2002-03 to 2004-05.

Estimating change in crime victimization rates

Since 1995 the NCVS has undergone sample reductions because of the escalating costs of data collection. At the same time, the rate of crime remains at the lowest levels in the past thirty years. The combination of the two — fewer survey respondents and less crime — has resulted in a diminished ability to detect statistically significant year-to-year changes in rates.

Comparing 2-year average rates provides a picture of the continuing decline in some categories of crime. Annual detailed tables of victimization counts and per capita rates are located on the BJS website at <www.ojp.usdoj.gov/bjs/abstract/cv05.htm>.

Table 2. Criminal victimization, average annual number and rates, 2002-2003 and 2004-05

	Average annual number of victimizations		Average annual victimization rate (per 1,000 persons age 12 or older or per 1,000 households)		
Type of crime	2002-03	2004-05	2002-03	2004-05	Percent change[a]
All crimes	23,624,420	23,750,930	~	~	
Personal crimes[b]	5,541,620	5,403,770	23.5	22.2	-5.6%
Crimes of violence	5,371,570	5,178,200	22.8	21.3	-6.6
Completed violence[c]	1,704,040	1,697,830	7.2	7.0	-3.5
Attempted/threatened violence	3,667,530	3,480,370	15.6	14.3	-8.1‡
Rape/Sexual assault	223,290	200,780	0.9	0.8	-12.9
Rape/Attempted rape	142,380	115,570	0.6	0.5	-21.4
Rape	81,320	64,080	0.3	0.3	-23.7
Attempted rape	61,060	51,500	0.3	0.2	-18.3
Sexual assault	80,910	85,210	0.3	0.4	2.0
Robbery	554,310	563,340	2.4	2.3	-1.6
Completed/property taken	381,880	357,280	1.6	1.5	-9.4
With injury	165,090	126,520	0.7	0.5	-25.8‡
Without injury	216,780	230,770	0.9	0.9	3.1
Attempted to take property	172,440	206,060	0.7	0.8	15.7
With injury	48,160	67,550	0.2	0.3	35.9
Without injury	124,290	138,520	0.5	0.6	7.9
Assault	4,593,970	4,414,080	19.5	18.2	-6.9
Aggravated	1,045,610	1,041,170	4.4	4.3	-3.6
With injury	338,930	354,050	1.4	1.5	1.2
Threatened with weapon	706,680	686,890	3.0	2.8	-5.9
Simple	3,548,360	3,372,910	15.1	13.9	-7.9
With minor injury	837,770	846,680	3.6	3.5	-2.1
Without injury	2,710,590	2,526,230	11.5	10.4	-9.7‡
Personal theft[d]	170,050	225,570	0.7	0.9	28.5
Property crimes	18,082,800	18,347,170	161.1	157.6	-2.2%
Household burglary	3,225,670	3,441,960	28.7	29.6	2.8
Completed	2,703,910	2,904,810	24.1	24.9	3.5
Forcible entry	1,016,990	1,082,000	9.1	9.3	2.5
Unlawful entry without force	1,686,920	1,822,820	15.0	15.7	4.1
Attempted forcible entry	521,770	537,150	4.6	4.6	-0.8
Motor vehicle theft	1,010,620	996,450	9.0	8.6	-5.0
Completed	772,070	776,940	6.9	6.7	-3.0
Attempted	238,550	219,520	2.1	1.9	-11.3
Theft	13,846,520	13,908,770	123.4	119.4	-3.2
Completed[e]	13,379,380	13,350,110	119.2	114.6	-3.8
Less than $50	4,188,450	4,096,570	37.3	35.2	-5.7
$50-$249	4,603,610	4,751,350	41.0	40.8	-0.5
$250 or more	3,323,300	3,245,710	29.6	27.9	-5.9
Attempted	467,140	558,660	4.2	4.8	15.3

Note: The total population age 12 or older was 231,589,260 in 2002; 239,305,990 in 2003; 241,703,710 in 2004; and 244,493,430 in 2005. The total number of households was 110,323,840 in 2002; 114,136,930 in 2003; 115,775,570 in 2004; and 117,110,800 in 2005.
~Not applicable.
‡The difference from 2002-2003 to 2004-05 is significant at the 90%-confidence level.
[a]Percent change was calculated using unrounded rates.
[b]The NCVS is based on interviews with victims and therefore cannot measure murder.
[c]Completed violent crimes include rape, sexual assault, robbery with or without injury, aggravated assault with injury, and simple assault with minor injury.
[d]Includes pocket picking, completed purse snatching, and attempted purse snatching.
[e]Includes thefts with unknown losses.

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Comparing victim characteristics, 2002-03 and 2004-05

Violent victimization rates remained unchanged from 2002-03 to 2004-05 for most demographic categories of victims examined.

Gender

Violent crime rates for females declined somewhat from 2002-03 to 2004-05.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Male	25.9	25.2	-2.6%
Female	19.9	17.6	-11.7‡

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Marital status

Rates of violence against persons who were never married declined somewhat from 2002-03 to 2004-05, from 42 to 38 victimizations per 1,000 persons age 12 or older.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Never married	42.4	38.4	-9.5%‡
Married	10.4	10.0	-3.9
Widowed	5.3	5.0	-4.5
Divorced/separated	33.0	32.3	-2.0

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Age

For persons 16 to19 years old, violent crime rates fell from 56 to 45 victimizations per 1,000 persons. Despite apparent differences, there was no detectable change for persons in other age groups.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
12-15 years	48.1	46.9	-2.5%
16-19 years	55.6	45.0	-19.0*
20-24 years	45.4	45.0	-0.9
25-34 years	26.3	23.7	-10.0
35-49 years	18.3	17.7	-3.5
50-64 years	10.5	11.2	6.8
65+ years	2.7	2.3	-15.1

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

Annual household income

There are indications that the rate of violent victimization declined for persons in households earning less than $7,500 per year. There was no detectable change for persons in other income categories.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Less than $7,500	47.7	38.1	-20.2%‡
$7,500-$14,999	31.1	32.9	5.6
$15,000-$24,999	28.1	27.1	-3.5
$25,000-$34,999	26.0	24.1	-7.4
$35,000-$49,999	23.5	22.0	-6.1
$50,000-$74,999	20.8	21.6	3.8
$75,000 or more	18.2	16.7	-8.2

‡The 2002-03 and 2004-05 difference is significant at the 90%-confidence level.

Region and location of residence

Crime rates remained stable for persons residing in all regions of the country (Northeast, Midwest, South, and West). Between 2002-03 and 2004-05, violent crime decreased 12% for persons residing in suburban areas but remained unchanged in urban and rural areas.

	Average annual rate of violent crimes per 1,000 persons age 12 or older		
	2002-03	2004-05	Percent change
Northeast	19.9	17.7	-11.4%
Midwest	24.7	23.4	-5.3
South	20.4	19.1	-6.5
West	27.3	25.7	-5.8
Urban	30.6	29.4	-3.9%
Suburban	20.7	18.3	-11.7*
Rural	18.0	18.1	0.7

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

Comparing household characteristics, 2002-03 and 2004-05

Annual household income

Property crime rates were unchanged for households in all income categories between 2002-03 and 2004-05.

	Average annual rate of property crimes per 1,000 households		
	2002-03	2004-05	Percent change
Less than $7,500	196.8	198.8	1.0%
$7,500-$14,999	167.2	177.9	6.4
$15,000-$24,999	175.7	169.0	-3.8
$25,000-$34,999	171.3	171.5	0.1
$35,000-$49,999	176.3	168.1	-4.7
$50,000-$74,999	163.3	161.4	-1.2
$75,000 or more	173.3	173.7	0.2

Region, location, and homeownership

A decline of 12% in property crime rates was measured in the Northeast, 2002-03 to 2004-05. No difference in rates was observed in other regions of the country.

Despite apparent changes, rates of property crime remained stable for households in urban (207), suburban (142), and rural (130) areas.

From 2002-03 to 2004-05, average annual property crime rates remained stable for residential renters and homeowners.

	Average annual rate of property crimes per 1,000 households		
	2002-03	2004-05	Percent change
Northeast	119.5	105.5	-11.7%*
Midwest	158.0	162.2	2.7
South	154.3	152.5	-1.1
West	213.5	205.3	-3.8
Urban	215.8	207.3	-3.9%
Suburban	145.1	142.3	-1.9
Rural	127.6	129.8	1.7
Owned	140.0	139.6	-0.3%
Rented	206.7	196.8	-4.8

*The 2002-03 and 2004-05 difference is significant at the 95%-confidence level.

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Table 3. Rates of criminal victimization and percent change, 1993 and 2005

Type of crime	Victimization rates (per 1,000 persons age 12 or older or per 1,000 households) 1993	2005	Percent change[a] 1993-2005
Personal crimes[b]	52.2	22.1	-57.7%*
Crimes of violence	49.9	21.2	-57.6*
Completed violence[c]	15.0	6.8	-54.8*
Attempted/threatened violence	34.9	14.4	-58.8*
Rape/Sexual assault	2.5	0.8	-68.6*
Rape/Attempted rape	1.6	0.5	-66.7*
Rape	1.0	0.3	-71.6*
Attempted rape	0.7	0.2	-64.5*
Sexual assault	0.8	0.3	-68.5*
Robbery	6.0	2.6	-57.4*
Completed/property taken	3.8	1.7	-55.3*
With injury	1.3	0.6	-55.1*
Without injury	2.5	1.1	-55.4*
Attempted to take property	2.2	0.9	-61.0*
With injury	0.4	0.3	-34.1
Without injury	1.8	0.6	-67.0*
Assault	41.4	17.8	-57.0*
Aggravated	12.0	4.3	-64.1*
With injury	3.4	1.4	-60.3*
Threatened with weapon	8.6	3.0	-65.7*
Simple	29.4	13.5	-54.0*
With minor injury	6.1	3.3	-46.7*
Without injury	23.3	10.3	-55.9*
Personal theft[d]	2.3	0.9	-59.6*
Property crimes	318.9	154.0	-51.7%*
Household burglary	58.2	29.5	-49.3*
Completed	47.2	24.8	-47.5*
Forcible entry	18.1	9.1	-49.6*
Unlawful entry without force	29.1	15.6	-46.2*
Attempted forcible entry	10.9	4.7	-56.5*
Motor vehicle theft	19.0	8.4	-56.0*
Completed	12.4	6.6	-46.7*
Attempted	6.6	1.7	-73.7*
Theft	241.7	116.2	-51.9*
Completed[e]	230.1	112.0	-51.3*
Less than $50	98.7	34.8	-64.7*
$50-$249	76.1	39.8	-47.8*
$250 or more	41.6	27.6	-33.7*
Attempted	11.6	4.2	-64.0*

Note: In 1993 the total population age 12 or older was 211,524,770; and 244,493,430 in 2005.
The total number of households in 1993 was 99,927,410; and 117,110,800 in 2005.
*The difference is significant at the 95%-confidence level.
[a]Differences between the annual rates shown do not take into account changes that may have occurred during interim years.
[b]The NCVS is based on interviews with victims and therefore cannot measure murder.
[c]Completed violent crimes include rape, sexual assault, robbery with or without injury, aggravated assault with injury, and simple assault with minor injury.
[d]Includes pocket picking, completed purse snatching, and attempted purse snatching.
[e]Includes theft with unknown losses.

Victimization trends, 1993-2005

The rate of every major violent and property crime measured in the NCVS — rape or sexual assault, robbery, aggravated assault, simple assault, burglary, theft, and motor vehicle theft — fell significantly between 1993 and 2005 (table 3).

Violent crime

The overall violent crime rate fell 58% from 50 to 21 violent victimizations per 1,000 persons age 12 or older between 1993 to 2005 (figure 1). Other significant declines were measured in the rates of rape or sexual assault (down 69%), robbery (down 57%), aggravated assault (down 64%), and simple assault (down 54%).

Property crime

From 1993 through 2005, the rate of overall property crime declined significantly, as did the rate for all major types of property crime (figure 2). The household burglary rate fell 49%; the motor vehicle theft rate fell 56%; and the theft rate fell 52%. The declines in motor vehicle theft and theft were greater for attempted crimes than for completed crimes.

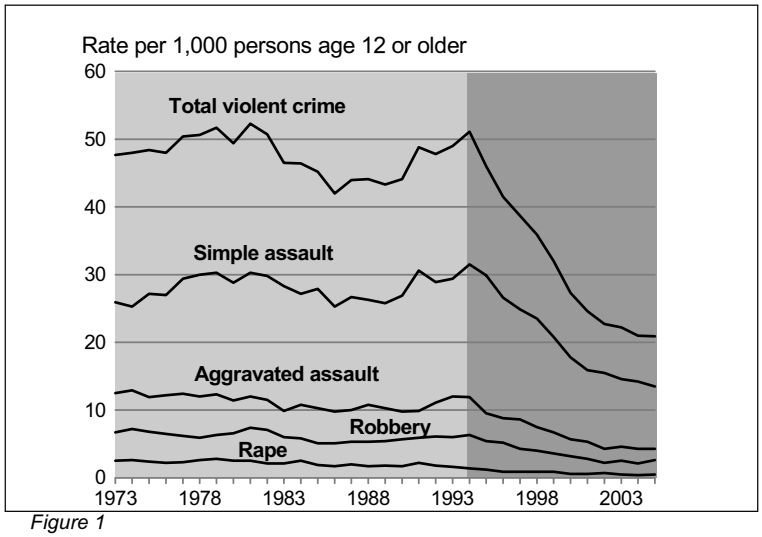

Figure 1

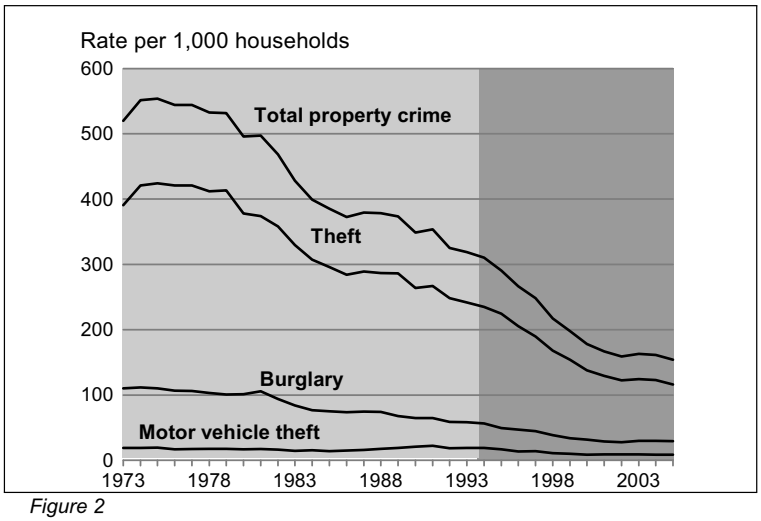

Figure 2

Note: Data collected before the NCVS redesign during 1992 (the lightly shaded areas) have been made comparable to the post-redesign data. All data was re-estimated to account for the effects of the redesign. Rape excludes sexual assault for this trend analysis.

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Characteristics of victims, 1993-2005

Violent victimization declined in every demographic group between 1993 and 2005 (table 4). For males, the rate of violence declined 57%, from 60 to 26 victimizations per 1,000 males. The rate of violence against females declined by 58%, from 41 to 17 victimizations per 1,000 females.

In 2003 new definitions for race and ethnicity were implemented in the NCVS survey that prevent long term comparisons (See *Methodology* on page 11 for further details). Using these new definitions, in 2005 the rate of violence for whites was 20.1 per 1,000; for blacks, 27.0 per 1,000; and for other races (American Indian, Alaska Native, Asian, Native Hawaiian and Pacific Islander), 13.9 per 1,000.

Violent crime rates declined 39% for victims residing in households earning $15,000 to $24,999 per year, from 49 to 30 victimizations per 1,000 persons age 12 or older. Violent crime rates for individuals living in households in all other income categories declined by nearly 50% or more.

Property crime rates fell for every demographic group considered between 1993 and 2005 (figures 4, 5, and 6 and table 5). Households in every region of the country experienced declines in property crime

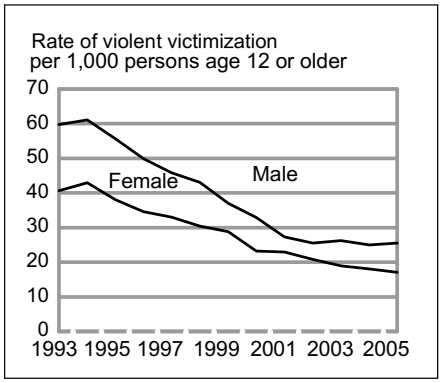

Figure 3 - Violent crime and gender

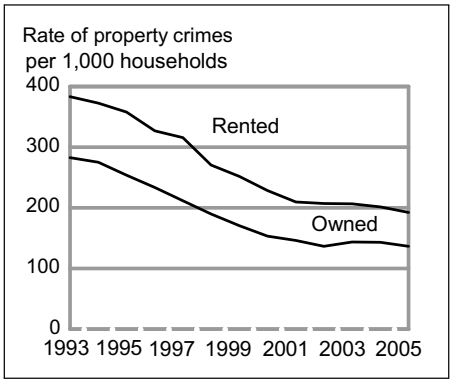

Figure 4 - Property crime and homeownership

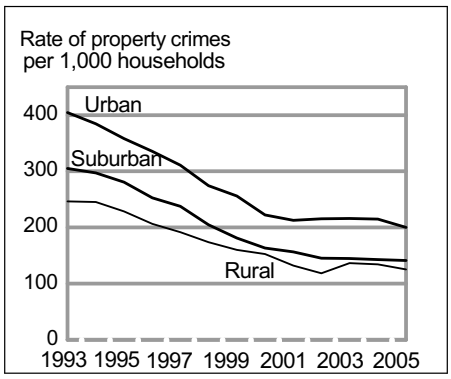

Figure 5 - Property crime and location of residence

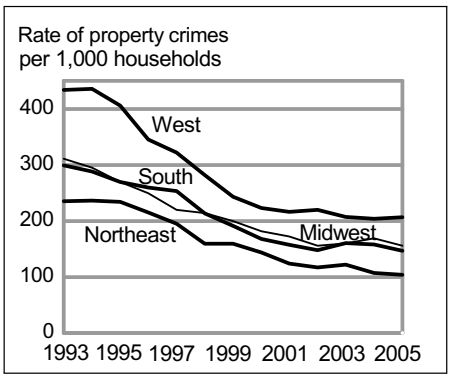

Figure 6 - Property crime and region

Table 4. Violent victimization rates for selected demographic groups, 1993-2005

Demographic characteristic of victim	Number of violent crimes per 1,000 persons age 12 or older													Percent change, 1993-2005
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
Gender														
Male	59.8	61.1	55.7	49.9	45.8	43.1	37.0	32.9	27.3	25.5	26.3	25.0	25.5	-57.4%*
Female	40.7	43.0	38.1	34.6	33.0	30.4	28.8	23.2	23.0	20.8	19.0	18.1	17.1	-58.0*
Race														
White	47.9	50.5	44.7	40.9	38.3	36.3	31.9	27.1	24.5	22.8	21.5	21.0	20.1	-58.0%*
Black	67.4	61.3	61.1	52.3	49.0	41.7	41.6	35.3	31.2	27.9	29.1	26.0	27.0	-59.9*
Other race	39.8	49.9	41.9	33.2	28.0	27.6	24.5	20.7	18.2	14.7	16.0	12.7	13.9	-65.1*
Two or more races	--	--	--	--	--	--	--	--	--	--	67.7	51.6	83.6	--
Hispanic origin														
Hispanic	55.2	61.6	57.3	44.0	43.1	32.8	33.8	28.4	29.5	23.6	24.2	18.2	25.0	-54.7%*
Non-Hispanic	49.5	50.7	45.2	41.6	38.3	36.8	32.4	27.7	24.5	23.0	22.3	21.9	20.6	-58.4*
Annual household income														
Less than $7,500	84.7	86.0	77.8	65.3	71.0	63.8	57.5	60.3	46.6	45.5	49.9	38.4	37.7	-55.5%*
$7,500-$14,999	56.4	60.7	49.8	52.1	51.2	49.3	44.5	37.8	36.9	31.5	30.8	39.0	26.5	-53.0*
$15,000-$24,999	49.0	50.7	48.9	44.1	40.1	39.4	35.3	31.8	31.8	30.0	26.3	24.4	30.1	-38.6*
$25,000-$34,999	51.0	47.3	47.1	43.0	40.2	42.0	37.9	29.8	29.1	27.0	24.9	22.1	26.1	-48.8*
$35,000-$49,999	45.6	47.0	45.8	43.0	38.7	31.7	30.3	28.5	26.3	25.6	21.4	21.6	22.4	-50.9*
$50,000-$74,999	44.0	48.0	44.6	37.5	33.9	32.0	33.3	23.7	21.0	18.7	22.9	22.1	21.1	-52.0*
$75,000 or more	41.3	39.5	37.3	30.5	30.7	33.1	22.9	22.3	18.5	19.0	17.5	17.0	16.4	-60.3*

Note: Annual rates are based on interviews conducted during the calendar year. Following guidelines from the Office of Management and Budget, beginning in 2003 NCVS collected race separately for persons identifying with one race and those identifying with two or more races. Because about 0.9% of survey respondents identified two or more races, the impact on victimization rates for each race is small. See *Methodology*, page 11.
--Not available.
*1993-2005 difference is significant at the 95%-confidence level.

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Table 5. Property crime rates by selected household characteristics, 1993-2005

Demographic characteristic of household	Number of property crimes per 1,000 households													Percent change, 1993-2005
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	
Region														
Northeast	235.6	236.6	234.1	215.2	195.6	159.3	159.5	143.7	123.9	117.0	122.1	107.1	103.9	-55.9%*
Midwest	311.2	295.2	269.6	249.6	219.9	214.0	199.9	181.9	172.3	155.8	160.2	168.8	155.8	-49.9*
South	299.4	288.6	269.9	259.9	253.8	213.5	191.4	167.8	157.5	147.8	160.5	158.3	146.8	-51.0*
West	434.5	436.1	406.0	345.6	322.2	282.3	243.1	223.4	216.4	219.9	207.4	204.0	206.5	-52.5*
Ownership														
Owned	282.5	275.2	253.7	233.7	211.7	189.6	170.4	153.4	146.3	136.4	143.5	142.8	136.5	-51.7%*
Rented	383.5	372.7	357.7	327.1	316.0	270.6	251.9	228.3	209.6	207.0	206.4	201.4	192.3	-49.9*
Location of residence														
Urban	404.8	384.7	358.3	335.8	311.1	274.2	256.3	222.1	212.8	215.3	216.3	214.7	200.0	-50.6%*
Suburban	305.1	297.2	280.6	252.6	238.0	204.5	181.4	163.7	156.7	145.3	144.8	143.2	141.4	-53.7*
Rural	246.4	245.2	228.4	206.4	191.7	173.5	159.8	152.6	131.9	118.3	136.6	134.4	125.1	-49.2*
Annual household income														
Less than $7,500	305.9	299.6	304.3	282.7	258.8	209.0	220.8	220.9	184.6	188.9	204.6	197.1	200.6	-34.4%*
$7,500-$14,999	285.9	299.1	267.1	247.5	236.3	229.8	200.1	167.1	181.6	166.7	167.7	181.5	174.3	-39.0*
$15,000-$24,999	307.0	308.1	289.8	273.1	242.4	211.0	214.9	193.1	179.2	172.1	179.2	167.8	170.4	-44.5*
$25,000-$34,999	336.7	305.2	294.8	285.1	260.3	233.8	199.1	192.2	170.4	161.7	180.7	169.3	173.9	-48.4*
$35,000-$49,999	342.7	326.9	301.5	287.6	271.7	221.7	207.6	192.9	176.4	175.4	177.1	176.2	159.9	-53.3*
$50,000-$74,999	374.4	364.1	333.2	284.0	270.9	248.6	213.6	181.9	178.8	158.3	168.1	167.0	155.9	-58.4*
$75,000 or more	400.3	356.0	350.4	304.6	292.8	248.6	220.4	197.2	180.0	169.8	176.4	176.5	171.0	-57.3*

Note: Annual rates are based on interviews conducted during the calendar year.
See the *Methodology* in <http://www.ojp.usdoj.gov/bjs/pub/pdf/cvusmeth.pdf>.
*1993-2005 difference is significant at the 95%-confidence level.

Table 6. Rates of violent crime and personal theft, by gender, race, Hispanic origin, and age, 2005

Demographic characteristic of victim	Population	Victimizations per 1,000 persons age 12 or older						
		Violent crimes						Personal theft
		All	Rape/ sexual assault	Robbery	Assault			
					Total	Aggra-vated	Simple	
Gender								
Male	118,937,730	25.5	0.1*	3.8	21.5	5.6	15.9	0.8
Female	125,555,710	17.1	1.4	1.4	14.3	3.1	11.2	1.0
Race								
White	200,263,410	20.1	0.6	2.2	17.2	3.8	13.4	0.9
Black	29,477,880	27.0	1.8	4.6	20.6	7.6	13.0	1.7
Other race	12,522,090	13.9	0.5*	3.0	10.4	2.5*	7.9	0.2*
Two or more races	2,230,050	83.6	3.8*	1.8*	78.0	16.6	61.5	0.0*
Hispanic origin								
Hispanic	31,812,270	25.0	1.1*	4.0	19.9	5.9	14.0	1.0*
Non-Hispanic	211,629,880	20.6	0.7	2.4	17.5	4.1	13.4	0.9
Age								
12-15	17,061,940	44.0	1.2*	3.5	39.3	8.7	30.6	1.3*
16-19	16,524,940	44.2	3.2	7.0	33.9	9.7	24.2	1.6*
20-24	20,363,570	46.9	1.1*	5.5	40.3	10.0	30.3	1.5*
25-34	39,607,310	23.6	0.7*	3.1	19.9	4.7	15.2	1.0
35-49	65,707,720	17.5	0.6*	1.9	15.0	3.2	11.8	1.0
50-64	50,164,650	11.4	0.6*	1.4	9.3	2.4	7.0	0.6*
65 or older	35,063,310	2.4	0.0*	0.6*	1.9	0.8*	1.1	0.4*

Note: The National Crime Victimization Survey includes as violent crime rape, sexual assault, robbery, and assault. Because the NCVS interviews persons about their victimizations, murder and manslaughter cannot be included. Racial and ethnic categories in 2005 are not comparable to categories used prior to 2003.
See *Methodology* on page 11 for a discussion.
*Based on 10 or fewer sample cases.

rates of 50% or more. Property crime rates for households that owned or rented their homes also showed a decline of at least 50%.

Households in urban areas (down 51%), suburban areas (down 54%), and rural areas (down 49%) experienced similar declines in property crime rates from 1993 to 2005.

Households with annual incomes of less than $15,000 experienced smaller declines in property crime rates than households with annual incomes of $25,000 or more between 1993 and 2005.

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Table 7. Rates of violent crime and personal theft, by household income, marital status, region, and location of residence of victims, 2005

Demographic characteristic of victim	Population	Victimizations per 1,000 persons age 12 or older: Violent crimes: All	Rape/ sexual assault	Robbery	Assault: Total	Aggravated	Simple	Personal theft
Household income								
Less than $7,500	8,367,490	37.7	2.2*	5.6	29.9	9.7	20.1	3.2*
$7,500-$14,999	14,798,200	26.5	0.6*	4.9	21.0	6.8	14.2	1.6*
$15,000-$24,999	22,414,530	30.1	1.4*	3.5	25.2	6.4	18.8	1.1*
$25,000-$34,999	22,504,200	26.1	1.7	2.8	21.6	5.2	16.4	1.0*
$35,000-$49,999	30,575,740	22.4	0.9*	2.5	19.0	4.3	14.7	1.1*
$50,000-$74,999	35,692,930	21.1	0.5*	1.8	18.8	4.3	14.5	0.6*
$75,000 or more	52,979,190	16.4	0.6*	2.1	13.7	2.6	11.1	1.0
Marital status								
Never married	79,664,210	37.4	1.4	4.8	31.2	7.7	23.5	1.5
Married	122,198,090	10.3	0.2*	1.0	9.0	2.4	6.6	0.5
Divorced/separated	26,079,910	31.7	1.5	3.8	26.4	5.2	21.2	1.1*
Widowed	14,312,360	6.1	0.8*	1.4*	4.0	0.5*	3.6	0.8*
Region								
Northeast	43,951,390	19.3	0.6*	2.4	16.3	3.6	12.7	0.9
Midwest	57,895,360	22.8	0.7	3.2	18.9	4.7	14.2	0.9
South	88,262,190	18.5	0.9	2.1	15.5	3.8	11.7	1.1
West	54,384,500	25.2	0.9	2.7	21.6	5.2	16.4	0.7
Location of residence								
Urban	67,384,160	29.8	1.5	4.7	23.6	6.0	17.6	1.6
Suburban	120,424,060	18.6	0.7	1.9	16.0	3.6	12.4	0.6
Rural	56,685,220	16.4	0.1*	1.4	14.9	3.8	11.0	0.9

Note: The National Crime Victimization Survey includes as violent crime rape, sexual assault, robbery, and assault. Because the NCVS interviews persons about their victimizations, murder and manslaughter cannot be included.
*Based on 10 or fewer sample cases.

Characteristics of violent crime victims, 2005

Males, blacks, and persons age 24 or younger continued to be victimized at higher rates than females, whites, and persons age 25 or older in 2005 (table 6).

Gender of victim

Males were victims of overall violent crime, robbery, total assault, aggravated assaults and simple assault at rates higher than females. Females were more likely than males to be victims of rape or sexual assault.

Race of victim

Blacks were victims of overall violence, rape, robbery, and aggravated assault at rates higher than those for whites in 2005. Blacks were also more likely than persons of other races to be victims of violence.

Beginning in 2003 survey respondents were able to self-identify with more than one race. In 2005, persons of two or more races were victims of overall violence at significantly higher rates than whites, blacks, and persons of other races.

Hispanic origin of victim

Hispanics were victims of overall violence, robbery, and aggravated assault at rates somewhat higher than those of non-Hispanics in 2005. Hispanics and non-Hispanics were equally likely to experience rape or sexual assault, simple assault, and theft.

Age of victim

As in previous years, there was a general pattern of decreasing crime rates for persons of older age groups. Persons age 25 or older experienced lower victimization rates than younger individuals. Persons age 16-19 experienced robbery at rates higher than persons in other age groups, except ages 20-24.

Household income

There was a general pattern of decreasing victimization rates for persons residing in households with higher incomes. Persons in households with an annual income under $7,500 were more likely to be victims of robbery and assault than members of households with incomes of $35,000 or more. Persons of all income categories were equally likely to experience rape or sexual assault (table 7).

Differences in robbery rates among persons in income categories below $35,000 were not statistically significant.

Marital status of victims

Persons who were never married experienced somewhat higher rates of overall violence than did persons of other marital status categories. Persons who were married and widowed were equally likely to experience rape or sexual assault. Persons who were married were more likely than persons who were divorced or separated to experience assault. Married and divorced or separated persons were equally likely to experience robbery.

Region

Despite apparent differences, persons residing in the Midwest (3.2 per 1,000), Northeast (2.4 per 1,000), and West (2.7 per 1,000) were equally likely to experience robbery victimizations. There was some indication that the rate of robbery was lower in the South than in the Midwest.

Location of residence

Urban residents experienced overall crimes of violence, robbery, and assault at rates higher than those for suburban and rural residents. Except for the crime of rape or sexual assault, suburban and rural residents had statistically similar rates of violence.

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Characteristics of households experiencing property crime, 2005

Annual household income

Households earning less than $7,500 per year were more likely to experience burglary than households earning more than $15,000 per year. While theft rates varied across income levels, no patterns emerged (table 8).

Region, locality, and homeownership

Rates of overall property crime were lowest for households in the Northeast (104 per 1,000). Households in the West experienced higher overall property victimization rates (206 per 1,000) than those in other regions. For households located in the South and Midwest, the rates of overall property crime were statistically similar.

Northeastern households were less likely to experience burglary than were households in other regions of the country.

Western households continued to experience the highest rates of motor vehicle theft in 2005. Northeastern and Midwestern households were equally likely to experience motor vehicle theft.

Table 8. Property crime rates, by household income, region, residence, and homeownership of households victimized, 2005

Characteristic of household	Number of households	Victimizations per 1,000 households: Total	Burglary	Motor vehicle theft	Theft
Household income					
Less than $7,500	5,099,390	200.6	55.1	9.4	136.0
$7,500-$14,999	8,611,570	174.3	46.7	9.8	117.8
$15,000-$24,999	11,648,340	170.4	41.7	12.4	116.3
$25,000-$34,999	11,100,360	173.9	33.4	9.9	130.6
$35,000-$49,999	14,111,900	159.9	30.2	6.6	123.0
$50,000-$74,999	15,538,130	155.9	23.2	7.2	125.5
$75,000 or more	21,484,030	171.0	23.9	7.1	140.0
Region					
Northeast	21,191,890	103.9	18.1	5.9	79.9
Midwest	27,836,820	155.8	34.8	6.8	114.1
South	42,851,180	146.8	31.3	7.2	108.4
West	25,230,910	206.5	30.3	14.1	162.2
Location of residence					
Urban	33,045,250	200.0	37.7	12.7	149.6
Suburban	56,101,350	141.4	24.7	7.7	109.0
Rural	27,964,200	125.1	29.4	4.6	91.1
Homeownership					
Owned	80,293,070	136.5	25.3	6.1	105.1
Rented	36,817,730	192.3	38.6	13.3	140.3

Rates of burglary, motor vehicle theft, and household theft were highest for households located in urban areas. Suburban households were victims of motor vehicle theft and theft at rates higher than those of rural households. Rates of burglary were somewhat higher for rural households than for suburban households but lower than rates of burglary in urban areas.

In 2005 households that owned their home (137 per 1,000) were less likely to experience all types of property crime than households that rented their home (192 per 1,000).

Table 9. Victim and offender relationship, 2005

Relationship with victim	Violent crime: Number	Violent crime: Percent	Rape/sexual assault: Number	Rape/sexual assault: Percent	Robbery: Number	Robbery: Percent	Aggravated assault: Number	Aggravated assault: Percent	Simple assault: Number	Simple assault: Percent
Male victims										
Total	3,028,370	100%	15,130	100%*	452,760	100%	665,600	100%	1,894,880	100%
Nonstranger	1,295,870	43%	0	0%*	104,900	23%	282,240	42%	908,740	48%
Intimate	78,180	3	0	0*	14,520	3*	7,460	1*	56,200	3
Other relative	138,390	5	0	0*	9,560	2*	36,920	6	91,910	5
Friend/acquaintance	1,079,310	36	0	0*	80,830	18	237,860	36	760,620	40
Stranger	1,637,700	54%	15,130	100%*	333,390	74%	356,750	54%	932,430	49%
Relationship unknown	94,810	3%	0	0%*	14,470	3%*	26,620	4%*	53,720	3%
Female victims										
Total	2,145,340	100%	176,540	100%	172,090	100%	386,660	100%	1,410,050	100%
Nonstranger	1,382,640	64%	128,440	73%	85,150	50%	240,580	62%	928,470	66%
Intimate	389,100	18	49,980	28	15,480	9*	47,980	12	275,660	20
Other relative	162,760	8	11,880	7*	2,560	2*	35,240	9*	113,070	8
Friend/acquaintance	830,790	39	66,580	38	67,100	39	157,370	41	539,740	38
Stranger	731,450	34%	45,050	26%	81,860	48%	141,080	37%	463,460	33%
Relationship unknown	31,240	2%*	3,050	2%*	5,080	3%*	5,000	1%*	18,120	1%*

Note: Percentages may not total to 100% because of rounding.
*Based on 10 or fewer sample cases.

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Table 10. Presence of weapons in violent incidents, 2005

Presence of offender's weapon	Violent crime		Rape/sexual assault		Robbery		Simple and aggravated assault	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Total	4,718,330	100%	188,960	100%	569,470	100%	3,959,900	100%
No weapon	3,181,460	67%	159,860	85%	219,090	39%	2,802,510	71%
Weapon	1,146,870	24%	12,310*	7%*	275,210	48%	859,350	22%
Firearm	419,640	9	5,940*	3*	149,820	26	263,880	7
Knife	286,810	6	6,360*	3*	65,290	12	215,150	5
Other	386,440	8	0*	0*	53,670	9	332,770	8
Type not ascertained	53,990	1	0*	0*	6,440*	1*	47,550	1
Don't know	390,000	8%	16,790*	9%*	75,170	13%	298,030	8%

Note: Percentages may not total to 100% because of rounding. If the offender was armed with more than one weapon, the crime is classified based on the most serious weapon present.
*Based on 10 or fewer sample cases.

Characteristics of the violent crime incident

Victim-offender relationship

Historically, females have been most often victimized by someone they knew, while males were more likely to be victimized by a stranger. This finding continued during 2005 (table 9).

Of those offenders victimizing females, 18% were described as intimates and 34% as strangers. In contrast, of those offenders victimizing males, 3% were described as intimates and 54% as strangers. Women reported being raped or sexually assaulted by a friend or acquaintance in 38% of such victimizations.

Presence of weapons

An estimated 24% of all violent crime incidents were committed by an armed offender (table 10). As in previous years, the presence of a firearm during a violent crime was related to the type of crime. Three percent of rape or sexual assault victimizations, 7% of assault victimizations, and 26% of robberies were committed by an offender with a firearm.

Between 1993 and 2005, the overall rate of firearm violence declined significantly from 5.9 to 2.0 victimizations per 1,000 persons age 12 or older.

The rate of firearm violence increased between 2004 and 2005, from 1.4 to 2.0 victimizations per 1,000 individuals. In 2003 the rate was 1.9 per 1,000 (not shown in table).

Firearm	1993	2005
Incidents	1,054,820	419,640
Victimizations	1,248,250	477,040
Firearm crime		
Rate per 1,000 persons 12 or older	5.9	2.0*
Percent of all violent incidents	11.0%	8.9%

*The 1993-2005 difference is significant at the 95%-confidence level.

Reporting to the police

During 2005, 47% of all violent victimizations and 40% of all property crimes were reported to the police. The percentage of aggravated assault reported to the police (62%) was higher than the percentage for rape or sexual assault (38%) and simple assault (42%). It was also somewhat higher than that for robbery (52%).

Fifty-six percent of burglaries and 32% of household thefts were reported to the police in 2005. Motor vehicle theft was the property crime most frequently reported to the police (83%).

	Percent of crime reported to the police, 2005
Violent crime	47.4%
Rape/sexual assault	38.3
Robbery	52.4
Aggravated assault	62.4
Simple assault	42.3
Personal theft	35.2%
Property crime	39.6%
Burglary	56.3
Motor vehicle theft	83.2
Theft	32.3

Reporting and victim characteristics

In 2005, violent crimes against females (55%) were more likely to be reported to police than crimes against males (42%). Rates of reporting for violent victimizations did not differ for males or females across racial and ethnic categories.

Victim gender, race, and Hispanic origin	Percent of crime reported to the police, 2005	
	Violent	Property
Total	47.4%	39.6%
Male	42.4%	40.0%
White	42.8	39.6
Black	41.5	44.0
Other	49.0	37.2
Hispanic	43.5%	37.8%
Non-Hispanic	42.3	40.3
Female	54.6%	39.2%
White	53.9	38.8
Black	58.3	44.7
Other	58.1	30.2
Hispanic	60.3%	36.8%
Non-Hispanic	53.5	39.6

Note: Total includes estimates for persons identifying with two or more races, not shown separately. Racial categories displayed are for persons who identified one race only.

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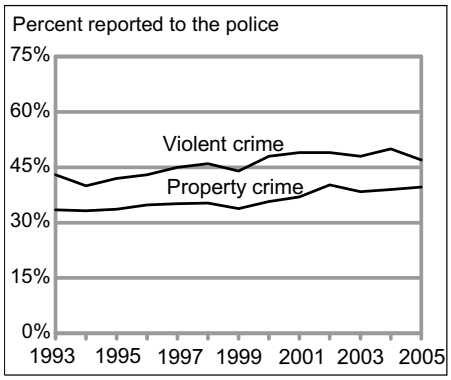
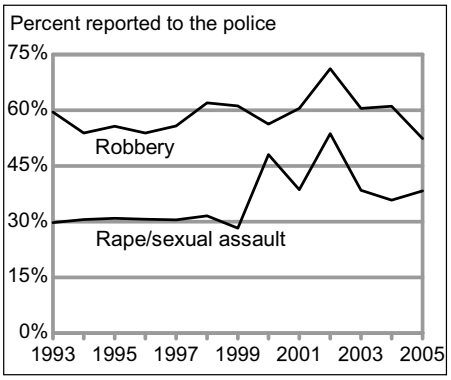


Figure 7



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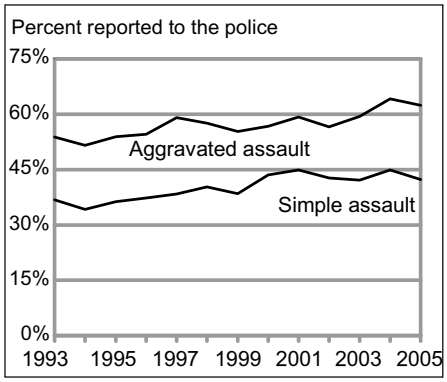

Figure 9

Reporting crime to the police, 1993-2005

The percentage of violent and property crime reported to the police remained unchanged between 2004 and 2005 (figures 7, 8, and 9).

With the exception of rape or sexual assault and robbery, reporting to the police of violent and property crime increased between 1993 and 2005.

Aggravated assault reported to the police increased from 54% to 62%, and simple assault reported to the police increased from 37% to 42% between 1993 and 2005. During the same period, burglary reported to the police increased from 50% to 56%; motor vehicle theft increased from 75% to 83%; and theft increased from 26% to 32% (figures 10, 11, and 12).

Methodology

This Bulletin presents data on nonlethal violence and property crimes from the National Crime Victimization Survey (NCVS). It also presents data on homicide from the FBI's Uniform Crime Reporting program.

Victimization rates are based on data collected during the calendar year. In 2005, about 77,200 households and 134,000 individuals age 12 or older were interviewed for the NCVS. The response rate was 90.7% of eligible households and 84.3% of eligible individuals.

Since 2003 the Office of Management and Budget's (OMB) guidelines mandate that individuals in household surveys be allowed to choose more than one racial category. In prior years they were asked to select a single primary race.

Racial categories presented in this report consist of the following: white only, black only, other race only (American Indian, Alaska Native, Asian, Native Hawaiian and Pacific Islander if only one of these races is given), and two or more races (all persons of any race indicating two or more races).

Individuals are asked whether they are of Hispanic origin before being asked about their race, and are asked directly if they are of Spanish, Hispanic, or Latino origin.

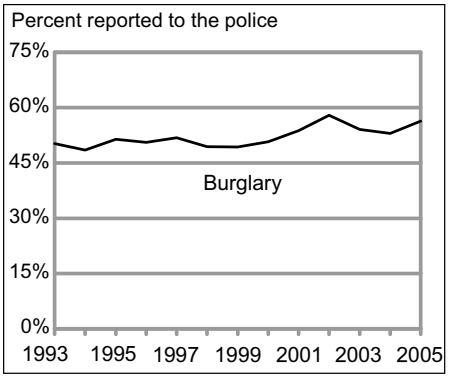

Figure 10

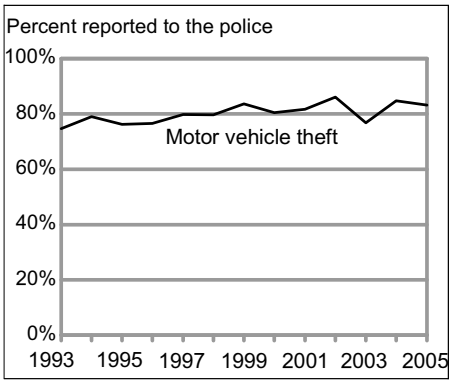

Figure 11

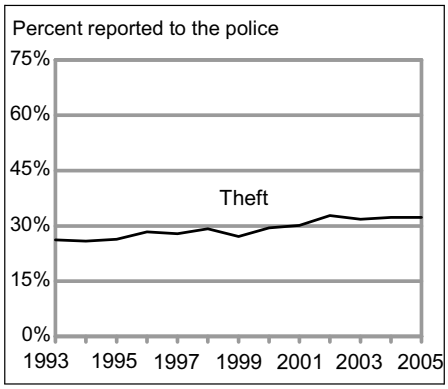

Figure 12

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Standard error computations

Comparisons of percentages and rates made in this report were tested to determine if observed differences were statistically significant. Differences described as higher, lower, or different passed a test at the 0.05 level of statistical significance (95% confidence level). Differences described as somewhat, slightly, marginally, or some indication passed a test at the 0.10 level of statistical significance (90% confidence level). Caution is required when comparing estimates not explicitly discussed in this Bulletin.

This report in portable document format and in ASCII and its related statistical data and tables — are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/>.

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The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice. Jeffrey Sedgwick is the director.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 3:22 PM
To: USDOJ- Office of Public Affairs
Subject: FOREIGN OPERATOR OF OBSCENE WEB SITES ARRESTED ON FEDERAL OBSCENITY CHARGES

Department of Justice

FOR IMMEDIATE RELEASE — CRM
THURSDAY, SEPTEMBER 7, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

FOREIGN OPERATOR OF OBSCENE WEB SITES ARRESTED ON FEDERAL OBSCENITY CHARGES

WASHINGTON – Danilo Simoes Croce, 42, of Sao Paulo, Brazil, was arrested in Orlando, Fla. on charges of conspiracy to distribute obscene matters, the Department of Justice and the U.S. Postal Inspection Service announced today. If convicted, Croce faces up to five years in prison and a $150,000 fine.

According to documents filed in the District Court in Orlando, Croce and his corporation, Lex Multimedia, operated web sites offering obscene videos for download or delivery in the U.S. The videos depicted bukkake, fisting, and depictions of defecation, urination, and vomiting in conjunction with sex acts. These web sites are being hosted on web servers in Texas. Croce's videos are delivered to his U.S. customers by mail and common carriers from a location in Orlando, Fla.

"The investigative efforts in this case not only fully endorse the Postal Inspection Service's commitment to the Attorney General's initiative against hard core pornography, it sends a loud message to those involved that they operate at enormous risk of apprehension," said Henry Gutierrez, Inspector-in-Charge, U.S. Postal Inspection Service in Miami.

An arrest is not proof of guilt. The defendant is presumed innocent until and unless he is found guilty.

The case is being prosecuted by Trial Attorneys Richard D. Green and Matthew Buzzelli of the Obscenity Prosecution Task Force within the Criminal Division's Child Exploitation and Obscenity Section and Assistant U.S. Attorney Roger Handberg of the U.S. Attorneys' Office for the Middle District of Florida.

The obscenity investigation is being led the U.S. Postal Inspection Service. Investigative assistance was also provided by agents from the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security from Orlando, Fla.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 4:26 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT REQUIRES DIVESTITURES IN ALLTEL'S ACQUISITION OF MIDWEST WIRELESS

Department of Justice

FOR IMMEDIATE RELEASE AT
THURSDAY, SEPTEMBER 7, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT REQUIRES DIVESTITURES IN ALLTEL'S ACQUISITION OF MIDWEST WIRELESS

Sale of Assets in Minnesota Will Preserve Competition for Rural Consumers of Mobile Wireless Services

WASHINGTON — ALLTEL Corporation has agreed to divest assets in rural areas of Minnesota in order to proceed with its $1.075 billion acquisition of Midwest Wireless Holdings LLC, the Justice Department announced today. The Department said that the deal as originally proposed would have resulted in higher prices, lower quality, and diminished investment in network improvements for consumers of mobile wireless telecommunications services in four areas where both ALLTEL and Midwest Wireless currently operate.

The Department's Antitrust Division filed a civil lawsuit today in U.S. District Court in Minneapolis to block the proposed transaction. At the same time, the Department filed a proposed consent decree that, if approved by the court, would resolve the lawsuit and the Department's anticompetitive concerns.

ALLTEL and Midwest Wireless are regional mobile wireless telecommunications service providers and serve many rural markets. Although a combination of these two regional providers gives the merged firm the benefit of having a larger service area footprint, the divestitures are required to assure continued competition in specific markets where ALLTEL and Midwest Wireless are each other's most significant competitors, the Department said.

"The Department's action ensures that wireless telephone consumers will continue to obtain the benefits of competition--lower prices and higher quality," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "The required divestitures preserve competition in rural areas where consumers often have fewer choices for wireless telephone services."

Under the terms of the proposed consent decree, the merged firm must divest ALLTEL's mobile wireless telecommunications services business, including cellular spectrum and customers, in four Minnesota

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areas that are comprised of 28 counties. ALLTEL is not required to divest assets used solely to provide roaming services in these four areas to carriers who use GSM technology; Midwest Wireless does not currently offer this service in these areas and therefore the proposed acquisition will not lessen competition in providing the service.

ALLTEL must make the divestitures in the following counties: Blue Earth, Brown, Chippewa, Cottonwood, Fairbault, Freeborn, Jackson, Kandiyohi, Lac qui Parle, Le Sueuer, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Waseca, Watowan and Yellow Medicine.

ALLTEL, headquartered in Little Rock, Arkansas, is the fifth-largest provider of mobile wireless voice and data services in the United States, serving approximately 11 million customers. ALLTEL also provides roaming and other wireless services in 35 states to other mobile wireless providers who use the CDMA, TDMA and GSM technologies. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

Midwest Wireless, with headquarters in Mankato, Minnesota, serves approximately 440,000 wireless customers in three states. Midwest Wireless also provides roaming and other wireless services to other mobile wireless providers who use CDMA technology. In 2005, Midwest Wireless earned approximately $264 million in revenues.

The Department has coordinated with the Federal Communications Commission (FCC) throughout its investigation, and the transaction is also subject to review by the FCC. The State of Minnesota joined the Department's lawsuit and proposed decree.

As required by the Tunney Act, the proposed settlement, along with the Department's Competitive Impact Statement, will be published in *The Federal Register*. Any person may submit written comments concerning the proposed settlement during a 60-day comment period to Nancy M. Goodman, Chief, Telecommunications and Media Enforcement Section, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530 (202-514-5621).

At the conclusion of the 60-day comment period, the U.S. District Court for the District of Minnesota may enter the proposed consent decree upon finding that it is in the public interest.

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06-598

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA, *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants*.	**COMPETITIVE IMPACT STATEMENT** **Case No.**

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants entered into a Transaction Agreement dated November 17, 2005, pursuant to which ALLTEL Corporation ("ALLTEL") will acquire Midwest Wireless Holdings L.L.C. ("Midwest Wireless"). Plaintiffs filed a civil antitrust Complaint on September 7, 2006 seeking to enjoin the proposed acquisition. The Complaint alleges that the likely effect of this acquisition would be to lessen competition substantially for mobile wireless telecommunications services in four geographic areas in the state of Minnesota in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of

competition would result in consumers facing higher prices and lower quality or quantity of mobile wireless telecommunications services.

At the same time the Complaint was filed, the parties moved this Court to enter a Preservation of Assets Order and plaintiff United States lodged a proposed Final Judgment, which are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, defendants are required to divest ALLTEL's mobile wireless telecommunications services businesses and related assets in four markets ("Divestiture Assets"). Under the terms of the Preservation of Assets Order, defendants will take certain steps to ensure that (a) these assets are preserved and that the Divestiture Assets are operated as competitively independent, economically viable and ongoing businesses; (b) they will remain independent and uninfluenced by defendants or the consummation of the transaction; and (c) competition is maintained during the pendency of the ordered divestiture.

Plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof. Defendants have also stipulated that they will comply with the terms of the Preservation of Assets Order and the proposed Final Judgment from the date of signing of the Preservation of Assets Stipulation, pending entry of the proposed Final Judgment by the

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Court and the required divestiture. Should the Court decline to enter the proposed Final Judgment, defendants have also committed to continue to abide by its requirements and those of the Preservation of Assets Order until the expiration of time for appeal.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

ALLTEL, with headquarters in Little Rock, Arkansas, is a corporation organized and existing under the laws of the state of Delaware. ALLTEL is the fifth largest provider of mobile wireless voice and data services in the United States by number of subscribers; it serves approximately 11 million customers. It provides mobile wireless telecommunications services in 233 rural service areas and 116 metropolitan statistical areas located within 35 states and roaming services to other mobile wireless providers who use CDMA, TDMA and GSM technology in these areas. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

Midwest Wireless, with headquarters in Mankato, Minnesota, is a privately held Delaware limited liability company. Midwest Wireless provides wireless service in 14 rural service areas and one metropolitan statistical area located in Minnesota, Iowa and Wisconsin and has approximately 440,000 customers. In 2004, Midwest Wireless earned approximately $264 million in revenues.

Pursuant to a Transaction Agreement dated November 17, 2005, ALLTEL will acquire Midwest Wireless for $1.075 billion in cash. If this transaction is consummated,

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ALLTEL and Midwest Wireless combined would have approximately 11.5 million subscribers, with $7.8 billion in revenues and operations in 35 states.

The proposed transaction, as initially agreed to by defendants, would lessen competition substantially for mobile wireless telecommunications services in four markets. This acquisition is the subject of the Complaint and proposed Final Judgment filed by plaintiffs.

B. Mobile Wireless Telecommunications Services Industry

Mobile wireless telecommunications services allow customers to make and receive telephone calls and use data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. This mobility is highly prized by customers, as demonstrated by the more than 180 million people in the United States who own mobile wireless telephones. In 2005, revenues for the sale of mobile wireless telecommunications services in the United States were over $113 billion. To provide these services, mobile wireless telecommunications services providers must acquire adequate and appropriate spectrum, deploy an extensive network of switches, radio transmitters, and receivers, and interconnect this network with those of local and long-distance wireline telecommunications providers and other mobile wireless telecommunications services providers.

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The first wireless voice systems were based on analog technology, now referred to as first-generation or "1G" technology. These analog systems were launched after the FCC issued the first licenses for mobile wireless telephone service: two cellular licenses (A-block and B-block) in each geographic area in the early to mid-1980s. The licenses are in the 800 MHz range of the radio spectrum, each license consists of 25 MHz of spectrum, and they are issued for each Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") (collectively, "Cellular Marketing Areas" or "CMAs"), with a total of 734 CMAs covering the entire United States. In 1982, one of the licenses was issued to the incumbent local exchange carrier in the market, and the other was issued by lottery to someone other than the incumbent.

In 1995, the FCC allocated and subsequently issued licenses for additional spectrum for the provision of Personal Communications Services ("PCS"), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1.9 GHz range of the radio spectrum and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, E, and F, which consist of 10 MHz each. Geographically, the A and B-block 30 MHz licenses are issued by Major Trading Areas ("MTAs"), and C, D, E, and F-block licenses are issued by Basic Trading Areas ("BTAs"), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital

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services, thereby increasing capacity, shrinking handsets, and extending battery life. In 1996, one provider, a specialized mobile radio ("SMR" or "dispatch") spectrum licensee, began to use its SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or "push-to-talk," service.

Today, more than 99% of the U.S. population lives in counties where mobile wireless telecommunications services operators offer digital service, and nearly all mobile wireless voice service has migrated to second-generation or "2G" digital technologies: TDMA (time division multiple access), GSM (global standard for mobile, a type of TDMA standard used by all carriers in Europe), and CDMA (code division multiple access). Mobile wireless telecommunications services providers have chosen to build their networks on these incompatible technologies and most have chosen CDMA or GSM, with TDMA having been orphaned by equipment vendors. (The SMR providers use a fourth incompatible technological standard better suited to the spectrum they own, and, as SMR licensees, they have no obligation to support a specific technology standard.) Even more advanced technologies ("3G") have begun to be deployed for voice and data. In all of the geographic areas alleged in the complaint, ALLTEL and Midwest Wireless own the 25 MHz cellular licenses and each own some additional PCS licenses. Cellular spectrum, because of its propagation characteristics, is more efficient to use in serving rural areas.

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C. The Competitive Effects of the Transaction on Mobile Wireless Telecommunications Services

ALLTEL's proposed acquisition of Midwest Wireless will substantially lessen competition in mobile wireless telecommunications services in four relevant geographic areas. Mobile wireless telecommunications services include both voice and data services provided over a radio network and allow customers to maintain their telephone calls or data sessions without wires, such as when traveling. Fixed wireless services and other wireless services that have a limited range (e.g., Wi-Fi) do not offer a viable alternative to mobile wireless telecommunications services primarily because customers using these services cannot maintain a call or data session while moving from one location to another.

Most customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they are located and travel on a regular basis: home, work, other areas they commonly visit, and areas in between. The number and identity of mobile wireless telecommunications services providers varies from geographic area to geographic area, along with the quality of their services and the breadth of their geographic coverage, all of which are significant factors in customers' purchasing decisions. Mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, effectively varying the actual price for customers by geographic area.

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The relevant geographic markets for mobile wireless telecommunications services are, therefore, local in nature. The FCC has licensed a limited number of mobile wireless telecommunications services providers in these and other geographic areas based upon the availability of radio spectrum. These FCC spectrum licensing areas often represent the core of the business and social sphere where customers face the same competitive choices for mobile wireless telecommunications services. Although not all FCC spectrum licensing areas are relevant geographic areas for the purpose of analyzing the antitrust impact of this transaction, the FCC spectrum licensing areas that encompass the four geographic areas of concern in this transaction are where consumers in these communities principally use their mobile wireless telecommunications services. As described in the Complaint, the relevant geographic markets where the transaction will substantially lessen competition for mobile wireless telecommunications services are represented by the following FCC spectrum licensing areas which are all RSAs in southern Minnesota: Minnesota RSA-7 (CMA 488), Minnesota RSA-8 (CMA 489), Minnesota RSA-9 (CMA 490), and Minnesota RSA-10 (CMA 491). These four RSAs include the counties of Blue Earth, Brown, Chippewa, Cottonwood, Fairbault, Freeborn, Jackson, Kandiyohi, Lac qui Parle, Le Sueuer, Lincoln, Lyon, Martin, McLeod, Meeker, Murray, Nicollet, Nobles, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Waseca, Watowan and Yellow Medicine.

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The four geographic markets of concern for mobile wireless telecommunications services were identified by a fact-specific, market-by-market analysis that included consideration of, but was not limited to, the following factors: the number of mobile wireless telecommunications services providers and their competitive strengths and weaknesses; ALLTEL's and Midwest Wireless's market shares along with those of the other providers; whether additional spectrum is or is likely soon to be available; whether any providers are limited by insufficient spectrum or other factors in their ability to add new customers; the concentration of the market, and the breadth and depth of coverage by different providers in each market; and the likelihood that any provider would expand its existing coverage.

ALLTEL and Midwest Wireless both own businesses that offer mobile wireless telecommunications services in the four relevant geographic areas. The companies' combined market shares for mobile wireless telecommunications services in the relevant markets as measured in terms of subscribers range from over 60% to nearly 95%. In each relevant geographic market, Midwest Wireless has the largest market share, and, in all but one RSA, ALLTEL is the second-largest mobile wireless telecommunications services provider. In all of the relevant geographic markets, ALLTEL and Midwest Wireless own the only 800 MHz band cellular spectrum licenses which are more efficient in serving rural areas than 1900 MHz band PCS spectrum. As a result of holding the cellular spectrum licenses and being early entrants into these markets, ALLTEL's and Midwest

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Wireless's networks provide greater depth and breadth of coverage than their competitors, which are operating on PCS spectrum in the relevant geographic markets, and thus are more attractive to consumers.

In addition, mobile wireless telecommunications services providers with partial coverage in a geographic area do not aggressively market their services in this location because potential customers would use their wireless telephones primarily in places where these providers have no network. In theory, these less built-out providers could service residents of these rural areas through roaming agreements but, as a practical matter, when service is provided on another carrier's network, the providers would have to pay roaming charges to, and rely on, that carrier to maintain the quality of the network. Because of these constraints, the other providers who own partially built-out networks in the four geographic areas are reluctant to market their services to rural residents of these areas. Therefore, ALLTEL and Midwest Wireless are likely closer substitutes for each other than the other mobile wireless telecommunications services providers in the relevant geographic markets. Additionally, postmerger in these markets, there will be insufficient remaining competitors, with the type of coverage desired by customers, and the ability to compete effectively to defeat a small, but significant price increase by the merged firm.

The relevant geographic markets for mobile wireless telecommunications services are highly concentrated. As measured by the Herfindahl-Hirschman Index ("HHI"), which is commonly employed in merger analysis and is defined and explained in Appendix A to

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the Complaint, concentration in these markets ranges from over 3600 to more than 5600, which is well above the 1800 threshold at which the Department considers a market to be highly concentrated. After ALLTEL's proposed acquisition of Midwest Wireless is consummated, the HHIs in the relevant geographic markets will range from over 4700 to over 9100, with increases in the HHI as a result of the merger ranging from over 1000 to over 4100.

Competition between ALLTEL and Midwest Wireless in the relevant geographic markets has resulted in lower prices and higher quality in mobile wireless telecommunications services than would otherwise have existed in these geographic markets. If ALLTEL's proposed acquisition of Midwest Wireless is consummated, the competition between ALLTEL and Midwest Wireless in mobile wireless telecommunications services will be eliminated in these markets and the relevant geographic markets for mobile wireless telecommunications services will become substantially more concentrated. As a result, the loss of competition between ALLTEL and Midwest Wireless increases the likelihood of unilateral actions by the merged firm in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements.

Entry by a new mobile wireless telecommunications services provider in the relevant geographic markets would be difficult, time-consuming, and expensive, requiring

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the acquisition of spectrum licenses and the build-out of a network. Expansion by providers who hold spectrum in these areas and are only partially built-out is also unlikely as the relevant geographic markets are rural service areas where the combined firm would own all of the available 800 MHz spectrum. Due to propagation characteristics of 800 MHz cellular spectrum and 1900 MHz PCS spectrum, the 800 MHz signals can cover a substantially broader area than the 1900 MHz signals. The estimated coverage advantage of the 800 MHz spectrum in rural areas ranges from two to as much as five times greater than PCS. In rural markets, this difference results in higher build-out costs for PCS networks than for cellular networks. The high costs of constructing PCS networks in rural markets combined with the relatively low population density makes it less likely that carriers that own PCS spectrum would build out in the relevant geographic markets. Therefore, new entry in response to a small but significant price increase for mobile wireless telecommunications services by the merged firm in the relevant geographic markets would not be timely, likely, or sufficient to thwart the competitive harm that would result from ALLTEL's proposed acquisition of Midwest Wireless.

For these reasons, plaintiffs concluded that ALLTEL's proposed acquisition of Midwest Wireless will likely substantially lessen competition, in violation of Section 7 of the Clayton Act, in the provision of mobile wireless telecommunications services in the relevant geographic markets.

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III. Explanation of the Proposed Final Judgment

The divestiture requirements of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in mobile wireless telecommunications services in the four geographic markets of concern. The proposed Final Judgment requires defendants, within 120 days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest the Divestiture Assets. The Divestiture Assets are essentially ALLTEL's entire mobile wireless telecommunications services business and 800 MHz cellular spectrum in the four markets where ALLTEL and Midwest Wireless are each other's closest competitors for mobile wireless telecommunications services. These assets must be divested in such a way as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, that they will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant market. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

The merged firm may retain ALLTEL's PCS wireless spectrum in the four geographic areas and ALLTEL's GSM roaming business, including GSM roaming contracts and equipment. ALLTEL's PCS spectrum is used primarily to provide roaming services to other providers who use GSM technology. Midwest Wireless does not currently provide GSM roaming and therefore the proposed acquisition will not lessen competition in providing these services. In requiring divestitures, plaintiffs seek to make certain that the

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potential buyer acquires all the assets it may need to be a viable competitor and replace the competition lost by the merger. The 25 MHz of cellular spectrum that must be divested will support the operation and expansion of the mobile wireless telecommunications services businesses being divested, allowing the buyer to be a viable competitor to the merged entity.

The proposed Final Judgment requires that the Divestiture Assets be divested to a single acquirer who, as a result, will be able to supply service to customers that require mobile wireless telecommunications service throughout southern rural Minnesota in the same way that ALLTEL is currently able to provide that service. This provision resolves concerns about the loss of competition for customers that demand coverage over a combination of Minnesota FCC licensing areas, in addition to the concerns due to eliminating competition within each licensing area.

A. Timing of Divestitures

In antitrust cases involving mergers or joint ventures in which plaintiff United States seeks a divestiture remedy, it requires completion of the divestitures within the shortest time period reasonable under the circumstances. In this case, Section IV.A of the proposed Final Judgment requires the divestiture of the Divestiture Assets, within 120 days after the filing of the Complaint, or five days after notice of the entry of the Final Judgment by the Court, whichever is later. Plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota may extend the date for divestiture of the Divestiture Assets by up to 60

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days. Because the FCC's approval is required for the transfer of the wireless licenses to a purchaser, Section IV.A provides that if applications for transfer of a wireless license have been filed with the FCC, but the FCC has not acted dispositively before the end of the required divestiture period, the period for divestiture of those assets shall be extended until five days after the FCC has acted.

The divestiture timing provisions of the proposed Final Judgment will ensure that the divestitures are carried out in a timely manner, and at the same time will permit defendants an adequate opportunity to accomplish the divestitures through a fair and orderly process. Even if all Divestiture Assets have not been divested upon consummation of the transaction, there should be no adverse impact on competition given the limited duration of the period of common ownership and the detailed requirements of the Preservation of Assets Order.

B. Use of a Management Trustee

The Preservation of Assets Stipulation and the Preservation of Assets Order, submitted simultaneously with this Competitive Impact Statement, ensures that, prior to divestiture, the Divestiture Assets are maintained and remain an economically viable ongoing business concern. The Divestiture Assets will remain preserved, independent and uninfluenced by defendants, so that competition is maintained during the pendency of the ordered divestiture.

The Preservation of Assets Order appoints a management trustee selected by plaintiff United States upon consultation with plaintiff Minnesota to oversee the Divestiture Assets in

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the relevant geographic markets. The appointment of a management trustee in this unique situation is required because the Divestiture Assets are not independent facilities that can be held separate and operated as standalone units by the merged firm. Rather, the Divestiture Assets are an integral part of a larger network, and to maintain their competitive viability and economic value, they should remain part of that network during the divestiture period. To insure that these assets are preserved and supported by defendants during this period, yet run independently, a management trustee is necessary to oversee the continuing relationship between defendants and these assets. The management trustee will have the power to operate the Divestiture Assets in the ordinary course of business, so that they will remain preserved, independent, and uninfluenced by defendants, and so that the Divestiture Assets remain an ongoing and economically viable competitor to defendants and to other mobile wireless telecommunications services providers. The management trustee will preserve the confidentiality of competitively sensitive marketing, pricing, and sales information; insure defendants' compliance with the Preservation of Assets Order and the proposed Final Judgment; and maximize the value of the Divestiture Assets so as to permit expeditious divestiture in a manner consistent with the proposed Final Judgment.

The Preservation of Assets Order provides that defendants will pay all costs and expenses of the management trustee, including the cost of consultants, accountants, attorneys, and other representatives and assistants hired by the management trustee as are reasonably necessary to carry out his or her duties and responsibilities. After his or her appointment

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becomes effective, the management trustee will file monthly reports with plaintiffs setting forth the efforts to accomplish the goals of the Preservation of Assets Order and the proposed Final Judgment and the extent to which defendants are fulfilling their responsibilities. Finally, the management trustee may become the divestiture trustee, pursuant to the provisions of Section V of the proposed Final Judgment.

C. Use of a Divestiture Trustee

In the event that defendants do not accomplish the divestiture within the periods prescribed in the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by plaintiff United States upon consultation with plaintiff Minnesota to effect the divestitures. As part of this divestiture, defendants must relinquish any direct or indirect financial ownership interests and any direct or indirect role in management or participation in control. Pursuant to Section V of the proposed Final Judgment, the divestiture trustee will own and control the Divestiture Assets until they are sold to a final purchaser, subject to safeguards to prevent defendants from influencing their operation.

Section V details the requirements for the establishment of the divestiture trust, the selection and compensation of the divestiture trustee, the responsibilities of the divestiture trustee in connection with the divestiture and operation of the Divestiture Assets, and the termination of the divestiture trust. The divestiture trustee will have the obligation and the sole responsibility, under Section V.D, for the divestiture of any transferred Divestiture Assets. The divestiture trustee has the authority to accomplish divestitures at the earliest

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possible time and "at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee." In addition, to insure that the divestiture trustee can promptly locate and divest to an acceptable purchaser, plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, may require defendants to include additional assets, or allow defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the divestiture trustee.

The divestiture trustee will not only have responsibility for sale of the Divestiture Assets, but will also be the authorized holder of the wireless licenses, with full responsibility for the operations, marketing, and sales of the wireless businesses to be divested, and will not be subject to any control or direction by defendants. Defendants will no longer have any role in the ownership, operation, or management of the Divestiture Assets following consummation of the transaction, as provided by Section V, other than the right to receive the proceeds of the sale, and certain obligations to provide support to the Divestiture Assets, and cooperate with the divestiture trustee in order to complete the divestiture, as indicated in Section V.L and in the Preservation of Assets Order.

The proposed Final Judgment provides that defendants will pay all costs and expenses of the divestiture trustee. The divestiture trustee's commission will be structured, under Section V.G of the proposed Final Judgment, so as to provide an incentive for the divestiture trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the divestiture trustee will file

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monthly reports with the Court and plaintiffs setting forth his or her efforts to accomplish the divestitures. Section V.J requires the divestiture trustee to divest the Divestiture Assets to an acceptable purchaser no later than six months after the assets are transferred to the divestiture trustee. At the end of six months, if all divestitures have not been accomplished, the trustee and plaintiff United States upon consultation with plaintiff Minnesota, will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the transaction in the provision of mobile wireless telecommunications services. The divestitures of the Divestiture Assets will preserve competition in mobile wireless telecommunications services by maintaining an independent and economically viable competitor in the relevant geographic markets.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

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V. Procedures Available for Modification of the Proposed Final Judgment

Plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that plaintiff United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to plaintiff United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of plaintiff United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to:

Nancy M. Goodman
Chief, Telecommunications and Media Enforcement Section
Antitrust Division, U.S. Department of Justice
1401 H Street, N.W., Suite 8000
Washington, DC 20530

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The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

Plaintiff United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. Plaintiff United States could have continued the litigation and sought preliminary and permanent injunctions against ALLTEL's acquisition of Midwest Wireless. Plaintiff United States is satisfied, however, that the divestiture of assets and other relief described in the proposed Final Judgment will preserve competition for the provision of mobile wireless telecommunications services in the relevant markets and, thus, would achieve all or substantially all of the relief the government would have obtained through litigation, but without the time and expense of a trial.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60 day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(1). In making that determination, the Court shall consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a

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determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B).[1] As the United States Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the consent judgment is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the consent judgment may positively harm third parties. *See United States v. Microsoft Corp.*, 56 F.3d 1448, 1458-62 (D.C. Cir. 1995).

With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460-62. Courts have held that

[1] In 2004, Congress amended the APPA to ensure that courts take into account the above-quoted list of relevant factors when making a public interest determination. *Compare* 15 U.S.C.§ 16(e) (2004), *with* 15 U.S.C. § 16 (e)(1) (2006) (substituting "shall" for "may" in directing relevant factors for courts to consider and amending list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms). On the points discussed herein, the 2004 amendments did not alter the substance of the Tunney Act, and the pre-2004 precedents cited below remain applicable.

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> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest*." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In making its public interest determination, a district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case. *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. AT&T Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette Co.*, 406 F. Supp. at 716), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

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[2] *Cf. BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"); *see generally Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

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Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Id*. at 1459-60.

In its 2004 amendments to the Tunney Act, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16 (e)(2). This language codified the intent of the original 1974 statute, expressed by Senator Tunney in the legislative history: "The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

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United States v. Mid-Am. Dairymen, Inc., 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by plaintiff United States in formulating the proposed Final Judgment.

Dated: September 7, 2006

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA Department of Justice, Antitrust Division 1401 H Street, N.W., Suite 8000 Washington, D.C. 20530, and STATE OF MINNESOTA Minnesota Attorney General's Office 445 Minnesota Street, Suite 1200 St. Paul, Minnesota 55101 *Plaintiffs*, v. ALLTEL CORPORATION One Allied Drive Little Rock, Arkansas 72202 and MIDWEST WIRELESS HOLDINGS L.L.C. 2000 Technology Drive Mankato, Minnesota 56002 *Defendants*.	**COMPLAINT** **Case No.**

The United States of America, acting under the direction of the Attorney General of the United States, and the State of Minnesota, by its Attorney General Mike Hatch, bring this civil action to enjoin the merger of two mobile wireless telecommunications

service providers, ALLTEL Corporation ("ALLTEL") and Midwest Wireless Holdings L.L.C. ("Midwest Wireless"), and to obtain other relief as appropriate. Plaintiffs allege as follows:

1. ALLTEL entered into an agreement to acquire Midwest Wireless, dated November 17, 2005, under which the two companies would combine their mobile wireless telecommunications services businesses ("Transaction Agreement"). Plaintiffs seek to enjoin this transaction because it will substantially lessen competition for mobile wireless telecommunications services in several geographic markets where ALLTEL and Midwest Wireless are each other's most significant competitor.

2. ALLTEL provides mobile wireless telecommunications services in 35 states serving approximately 11 million subscribers. Midwest Wireless provides mobile wireless telecommunications services in three Midwestern states serving approximately 440,000 subscribers. The combination of ALLTEL and Midwest Wireless will substantially lessen competition for mobile wireless telecommunications services in four geographic areas in southern Minnesota where currently both ALLTEL and Midwest Wireless operate. As a result of the proposed acquisition, residents of these mostly rural areas will face the likelihood of increased prices, diminished quality or quantity of services provided, and less investment in network improvements for these services.

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I. JURISDICTION AND VENUE

3. This Complaint is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18. Plaintiff Minnesota, by and through its Attorney General, brings this action in its sovereign capacity and as parens patriae on behalf of the citizens, general welfare, and economy of the State of Minnesota under Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

4. ALLTEL and Midwest Wireless both provide mobile wireless telecommunications services in the State of Minnesota, as well as other states. The provision of mobile wireless telecommunications services is a commercial activity that substantially affects, and is in the flow of, interstate trade and commerce. The defendants purchase substantial quantities of handsets and equipment from sources outside of Minnesota. They also have entered into roaming and other service agreements with companies located outside of Minnesota. The Court has jurisdiction over the subject matter of this action and jurisdiction over the parties pursuant to 15 U.S.C. §§ 22, 25, and 26, and 28 U.S.C. §§ 1331, 1337.

5. Venue in the District is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

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II. THE DEFENDANTS AND THE TRANSACTION

6. ALLTEL, with headquarters in Little Rock, Arkansas, is a corporation organized and existing under the laws of the state of Delaware. ALLTEL is the fifth largest provider of mobile wireless voice and data services in the United States by number of subscribers; it serves approximately 11 million customers. It provides mobile wireless telecommunications services in 233 Rural Service Areas and 116 Metropolitan Statistical Areas located within 35 states and roaming services to other mobile wireless providers who use CDMA, TDMA and GSM technology in these areas. In 2005, ALLTEL earned wireless revenues of approximately $6.572 billion.

7. Midwest Wireless, with headquarters in Mankato, Minnesota, is a privately-held Delaware limited-liability company. Midwest Wireless provides wireless service in 14 Rural Service Areas and one Metropolitan Statistical Area located in Minnesota, Iowa, and Wisconsin and has approximately 440,000 customers. In 2005, Midwest Wireless earned approximately $264 million in revenues.

8. Pursuant to the Transaction Agreement dated November 17, 2005, ALLTEL will acquire Midwest Wireless for approximately $1.075 billion in cash. If this transaction is consummated, ALLTEL and Midwest Wireless combined would have approximately 11.5 million subscribers in the United States, with $7.8 billion in revenues and operations in 35 states.

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III. TRADE AND COMMERCE

A. Nature of Trade and Commerce

9. Mobile wireless telecommunications services allow customers to make and receive telephone calls and use data services using radio transmissions without being confined to a small area during the call or data session, and without the need for unobstructed line-of-sight to the radio tower. Mobility is highly prized by customers, as demonstrated by the more than 180 million people in the United States who own mobile wireless telephones. In 2005, revenues from the sale of mobile wireless services in the United States were over $113 billion. To meet this desire for mobility, mobile wireless telecommunications services providers must deploy an extensive network of switches and radio transmitters and receivers, and interconnect this network with the networks of wireline carriers and with other wireless providers.

10. The first wireless voice systems were based on analog technology, now referred to as first-generation or "1G" technology. These analog systems were launched after the Federal Communications Commission ("FCC") issued the first licenses for mobile wireless telephone service: two cellular licenses (A-block and B-block) in each geographic area in the early to mid-1980s. The licenses are in the 800 MHz range of the radio spectrum, each license consists of 25 MHz of spectrum, and they are issued for each Metropolitan Statistical Area ("MSA") and Rural Service Area ("RSA") (collectively, "Cellular Marketing Areas" or "CMAs"), with a total of 734 CMAs covering the entire

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United States. In 1982, one of the licenses was issued to the incumbent local exchange carrier in the market, and the other was issued by lottery to someone other than the incumbent. In the relevant geographic markets, ALLTEL and Midwest Wireless each own one of the cellular licenses.

11. In 1995, the FCC allocated and subsequently issued licenses for additional spectrum for the provision of Personal Communications Services ("PCS"), a category of services that includes mobile wireless telecommunications services comparable to those offered by cellular licensees. These licenses are in the 1.9 GHz range of the radio spectrum and are divided into six blocks: A, B, and C, which consist of 30 MHz each; and D, E, and F, which consist of 10 MHz each. Geographically, the A and B-block 30 MHz licenses are issued by Major Trading Areas ("MTAs"), and C, D, E, and F-block licenses are issued by Basic Trading Areas ("BTAs"), several of which comprise each MTA. MTAs and BTAs do not generally correspond to MSAs and RSAs. With the introduction of the PCS licenses, both cellular and PCS licensees began offering digital services, thereby increasing capacity, shrinking handsets, and extending battery life. In 1996, one provider, a specialized mobile radio ("SMR" or "dispatch") spectrum licensee, began to use its SMR spectrum to offer mobile wireless telecommunications services comparable to those offered by other mobile wireless telecommunications services providers, in conjunction with its dispatch, or "push-to-talk," service. Although there are a number of providers holding spectrum licenses in each area of the country, not all

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providers have fully built out their networks throughout each license area. In particular, because of the characteristics of PCS spectrum, providers holding this type of spectrum have found it less attractive to build out in rural areas.

12. Today, more than 99% of the total U.S. population lives in counties where mobile wireless telecommunications services operators offer digital service, and nearly all mobile wireless voice service has migrated to second-generation or "2G" digital technologies: TDMA (time division multiple access), GSM (global standard for mobile, a type of TDMA standard used by all carriers in Europe), and CDMA (code division multiple access). Mobile wireless telecommunications services providers have chosen to build their networks on these incompatible technologies and most have chosen CDMA or GSM, with TDMA having been orphaned by equipment vendors. (The SMR providers use a fourth incompatible technological standard better suited to the spectrum they own, and, as SMR licensees, they have no obligation to support a specific technology standard.) Even more advanced technologies ("2.5G" and "3G") have begun to be deployed for voice and data.

B. Relevant Product Market

13. Mobile wireless telecommunications services is a relevant product market. Mobile wireless telecommunications services include both voice and data services provided over a radio network and allows customers to maintain their telephone calls or data sessions without wires, such as when traveling. There are no cost-effective

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alternatives to mobile wireless telecommunications services. Fixed wireless services are not mobile (e.g., Wi-Fi), and therefore are not a viable alternative to mobile wireless telecommunications service. It is unlikely that a sufficient number of customers would switch away from mobile wireless telecommunications services to make a small but significant price increase in those services unprofitable. Mobile wireless telecommunications services is a relevant product market under Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Relevant Geographic Markets

14. The large majority of customers use mobile wireless telecommunications services in close proximity to their workplaces and homes. Thus, customers purchasing mobile wireless telecommunications services choose among mobile wireless telecommunications services providers that offer services where they are located and travel on a regular basis: home, work, other areas they commonly visit, and areas in between. The number and identity of mobile wireless telecommunications services providers varies among geographic areas, along with the quality of their services and the breadth of their geographic coverage, all of which are significant factors in customers' purchasing decisions. Mobile wireless telecommunications services providers can and do offer different promotions, discounts, calling plans, and equipment subsidies in different geographic areas, effectively varying the price for customers by geographic area.

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15. The United States comprises numerous local geographic markets for mobile wireless telecommunications services. The FCC has licensed a limited number of mobile wireless telecommunications services providers in each local area based upon the availability of radio spectrum. These FCC spectrum licensing areas often represent the core of the business and social sphere where customers face the same competitive choices for mobile wireless telecommunications services. The relevant geographic markets in which this transaction will substantially lessen competition in mobile wireless telecommunications services are effectively represented, but not defined, by FCC spectrum licensing areas.

16. The relevant geographic markets, under Section 7 of the Clayton Act, 15 U.S.C. § 18, where the transaction will substantially lessen competition for mobile wireless telecommunications services are represented by the following FCC spectrum licensing areas which are all RSAs located in southern Minnesota: Minnesota RSA-7 (CMA 488), Minnesota RSA-8 (CMA 489), Minnesota RSA-9 (CMA 490), and Minnesota RSA-10 (CMA 491). It is unlikely that a sufficient number of customers would switch to mobile wireless telecommunications services providers in a different geographic market to make a small but significant price increase in the relevant geographic markets unprofitable for mobile wireless telecommunications services.

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D. Anticompetitive Effects

1. Mobile Wireless Telecommunications Services

17. The companies' combined market shares for mobile wireless telecommunications services in the relevant markets described above, as measured in terms of subscribers, range from over 60% to nearly 95%. In each relevant geographic market, Midwest Wireless has the largest market share and, in all but one RSA, ALLTEL is the second-largest mobile wireless telecommunications services provider. In all of the relevant geographic markets, ALLTEL and Midwest Wireless own the only 800 MHz band cellular spectrum licenses, which are more efficient in serving rural areas than 1900 MHz band PCS spectrum. As a result of holding the cellular spectrum licenses and being early entrants into these markets, ALLTEL's and Midwest Wireless's networks provide greater depth and breadth of coverage than their competitors, which are operating on PCS spectrum in the relevant geographic markets, and thus are more attractive to consumers.

In addition, mobile wireless telecommunications services providers with partial coverage in a geographic area do not aggressively market their services in these markets because potential customers would use their wireless telephones primarily in areas where these providers have no network. In theory, these less-built-out providers could serve residents of the rural areas through roaming agreements but, as a practical matter, when service is provided on another carrier's network, the providers have to pay roaming charges to, and rely on, that provider to maintain the quality of the network. Because of

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these constraints, carriers with limited network coverage in an area are reluctant to market their services to residents of that area. Therefore, ALLTEL and Midwest Wireless are likely closer substitutes for each other than the other mobile wireless telecommunications services providers who own only PCS spectrum in the relevant geographic markets.

18. The relevant geographic markets for mobile wireless services are highly concentrated. As measured by the Herfindahl-Hirschman Index ("HHI"), which is commonly employed in merger analysis and is defined and explained in Appendix A to this Complaint, concentration in these markets ranges from over 3600 to more than 5600, which is well above the 1800 threshold at which the Department considers a market to be highly concentrated. After ALLTEL's proposed acquisition of Midwest Wireless is consummated, the HHIs in the relevant geographic markets will range from over 4700 to over 9100, with increases in the HHI as a result of the merger ranging from over 1000 to over 4100, significantly beyond the thresholds at which the Department considers a transaction likely to cause competitive harm.

19. Competition between ALLTEL and Midwest Wireless in the relevant geographic markets has resulted in lower prices and higher quality in mobile wireless telecommunications services, than would otherwise have existed in these geographic markets. In these areas, consumers consider ALLTEL and Midwest Wireless to be the most attractive competitors because other providers' networks lack coverage or provide lower-quality service. If ALLTEL's proposed acquisition of Midwest Wireless is

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consummated, the relevant geographic markets for mobile wireless telecommunications services will become substantially more concentrated, and the competition between ALLTEL and Midwest Wireless in mobile wireless telecommunications services will be eliminated in these markets. As a result, the loss of competition between ALLTEL and Midwest Wireless increases the likelihood of unilateral actions by the merged firm in the relevant geographic markets to increase prices, diminish the quality or quantity of services provided, and refrain from or delay making investments in network improvements. Therefore, ALLTEL's proposed acquisition of Midwest Wireless will likely result in substantially less competition in mobile wireless telecommunications services in the relevant geographic markets.

2. Entry

20. Entry by a new mobile wireless telecommunications services provider in the relevant geographic markets would be difficult, time-consuming, and expensive, requiring the acquisition of spectrum licenses and the build-out of a network. Expansion by providers who hold spectrum in these areas is also unlikely as the relevant geographic markets are rural service areas where the combined firm would own all of the available 800 MHz cellular spectrum. Due to propagation characteristics of 800 MHz cellular spectrum and 1900 MHz PCS spectrum, the 800 MHz signals can cover a substantially broader area than the 1900 MHz signals. The estimated coverage advantage of the 800 MHz cellular spectrum in rural areas ranges from two to as much as five times greater

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than PCS. In rural markets, this difference results in higher build-out costs for PCS networks than for cellular networks. The high costs of constructing PCS networks in rural markets combined with the relatively low population density makes it less likely that carriers that own PCS spectrum would build out in the relevant geographic markets. Therefore, new entry in response to a small but significant price increase for mobile wireless services by the merged firm in the relevant geographic markets would not be timely, likely, or sufficient to thwart the competitive harm resulting from ALLTEL's proposed acquisition of Midwest Wireless, if it were to be consummated.

IV. VIOLATION ALLEGED

21. The effect of ALLTEL's proposed acquisition of Midwest Wireless, if it were to be consummated, may be substantially to lessen competition in interstate trade and commerce in the relevant geographic markets for mobile wireless telecommunications services, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

22. Unless restrained, the transaction will likely have the following effects in mobile wireless telecommunications services in the relevant geographic markets, among others:

a. actual and potential competition between ALLTEL and Midwest Wireless will be eliminated;

b. competition in general will be lessened substantially;

c. prices are likely to increase;

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d. the quality and quantity of services are likely to decrease; and

e. incentives to improve wireless networks will be reduced.

V. REQUESTED RELIEF

The plaintiffs request:

23. That ALLTEL's proposed acquisition of Midwest Wireless be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

24. That defendants be permanently enjoined from and restrained from carrying out the Transaction Agreement, dated November 17, 2005, or from entering into or carrying out any agreement, understanding, or plan, the effect of which would be to bring the wireless services businesses of ALLTEL and Midwest Wireless under common ownership or control;

25. That plaintiffs be awarded their costs of this action; and

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26. That plaintiffs have such other relief as the Court may deem just and proper.

Dated: Respectfully Submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

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Assistant Attorney General
Antitrust Division

s/ J. Bruce McDonald
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APPENDIX A

Herfindahl-Hirschman Index

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). (Note: Throughout the Complaint, market share percentages have been rounded to the nearest whole number, but HHIs have been estimated using unrounded percentages in order to accurately reflect the concentration of the various markets.) The HHI takes into account the relative size distribution of the firms in a market and approaches zero when a market consists of a large number of small firms. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. *See Horizontal Merger Guidelines* ¶ 1.51 (revised Apr. 8, 1997). Transactions that increase the HHI by more than 100 points in concentrated markets presumptively raise antitrust concerns under the guidelines issued by the U.S. Department of Justice and Federal Trade Commission. *See id.*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants*.	**FINAL JUDGMENT** **Case No.**

WHEREAS, plaintiffs, United States of America and the State of Minnesota, filed their Complaint on September 7, 2006, plaintiffs and defendants, ALLTEL Corporation ("ALLTEL") and Midwest Wireless Holdings L.L.C. ("Midwest Wireless"), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by defendants to assure that competition is not substantially lessened;

AND WHEREAS, plaintiffs require defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to plaintiffs that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets.

B. "ALLTEL" means defendant ALLTEL Corporation, a Delaware corporation with headquarters in Little Rock, Arkansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

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C. "CMA" means cellular market area which is used by the Federal Communications Commission ("FCC") to define cellular license areas and which consists of Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs").

D. "Divestiture Assets" means each mobile wireless telecommunications services business to be divested under this Final Judgment, including all types of assets, tangible and intangible, used by defendants in the operation of the mobile wireless telecommunications services businesses to be divested. "Divestiture Assets" shall be construed broadly to accomplish the complete divestiture of the entire business of ALLTEL in each of the following RSA license areas as required by this Final Judgment and to ensure that the divested mobile wireless telecommunications services businesses remain viable, ongoing businesses:

(1) Minnesota RSA-7 (CMA 488);

(2) Minnesota RSA-8 (CMA 489);

(3) Minnesota RSA-9 (CMA 490); and

(4) Minnesota RSA-10 (CMA 491)

provided that ALLTEL may retain all of the PCS spectrum it currently holds in each of these RSAs and equipment that is used only for wireless transmissions over this PCS spectrum, and provided that ALLTEL need not divest the assets used solely to operate ALLTEL's GSM roaming business in these RSAs, including GSM roaming contracts and equipment.

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The Divestiture Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements, leases, commitments, spectrum licenses issued by the FCC and all other licenses, permits and authorizations, operational support systems, cell sites, network infrastructure, switches, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer contracts, customer lists, credit records, accounts, and historic and current business plans which relate primarily to the wireless businesses being divested, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendant ALLTEL supplies to its own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks or other intellectual property, including all intellectual property rights under third-party licenses that are capable of being transferred to an Acquirer either in their entirety, for assets described in (1) below, or through a license obtained through or from ALLTEL, for assets described in (2) below; provided that defendants shall only be required to divest Multi-line Business Customer contracts, if the primary business address for that customer is located within any of the four license areas described herein, and further, any subscriber who obtains mobile wireless telecommunications services through any such contract retained by

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defendants and who are located within the four geographic areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, at any time within one year of the closing of the Transaction. Defendants shall provide written notice to these subscribers within 45 days after the closing of the Transaction of the option to terminate.

The divestiture of the Divestiture Assets shall be accomplished by:

(1) transferring to the Acquirer the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of ALLTEL's overall wireless telecommunications services business which must be retained to continue the existing operations of the wireless properties that defendants are not required to divest, and that either are not capable of being divided between the divested wireless telecommunications services businesses and those not divested, or are assets that the defendants and the Acquirer agree, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, shall not be divided); and

(2) granting to the Acquirer an option to obtain a nonexclusive, transferable license from defendants for a reasonable period, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, at the election of an Acquirer to use any of ALLTEL's retained assets under

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paragraph (1) above, used in the operation of the mobile wireless telecommunications services businesses being divested, so as to enable the Acquirer to continue to operate the divested mobile wireless telecommunications services businesses without impairment. Defendants shall identify in a schedule submitted to plaintiffs and filed with the Court, as expeditiously as possible following the filing of the Complaint and in any event prior to any divestiture and before the approval by the Court of this Final Judgment, any intellectual property rights under third-party licenses that are used by the mobile wireless telecommunications services businesses being divested but that defendants could not transfer to an Acquirer entirely or by license without third-party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

E. "GSM" means global system for mobile communications which is one of the standards used for the infrastructure of digital cellular service.

F. "Midwest Wireless" means defendant Midwest Wireless Holdings L.L.C., a Delaware Limited Liability Company, with headquarters in Mankato, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

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G. "Multi-line Business Customer" means a corporate or business customer that contracts with ALLTEL for mobile wireless services to provide multiple telephones to its employees or members whose services are provided pursuant to a contract with the corporate or business customer.

H. "Transaction" means the Transaction Agreement between ALLTEL and Midwest Wireless, dated November 17, 2005.

III. Applicability

A. This Final Judgment applies to defendants ALLTEL and Midwest Wireless, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, that the purchaser agrees to be bound by the provisions of this Final Judgment, provided that defendants need not obtain such an agreement from the Acquirer.

IV. Divestitures

A. Defendants are ordered and directed, within 120 days after consummation of the Transaction, or five days after notice of entry of this Final Judgment, whichever is later, to divest the Divestiture Assets to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, or, if applicable, to a Divestiture Trustee designated pursuant to Section V of this Final Judgment. Plaintiff

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United States, in its sole discretion upon consultation with plaintiff Minnesota, may agree to one or more extensions of this time period not to exceed 60 days in total, and shall notify the Court in such circumstances. With respect to divestiture of the Divestiture Assets by defendants or the Divestiture Trustee, if applications have been filed with the FCC within the period permitted for divestiture seeking approval to assign or transfer licenses to the Acquirer of the Divestiture Assets, but an order or other dispositive action by the FCC on such applications has not been issued before the end of the period permitted for divestiture, the period shall be extended with respect to divestiture of those Divestiture Assets for which FCC approval has not been issued until five days after such approval is received. Defendants agree to use their best efforts to accomplish the divestitures set forth in this Final Judgment and to seek all necessary regulatory approvals as expeditiously as possible. This Final Judgment does not limit the FCC's exercise of its regulatory powers and process with respect to the Divestiture Assets. Authorization by the FCC to conduct the divestiture of a Divestiture Asset in a particular manner will not modify any of the requirements of this decree.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants shall promptly make known, if they have not already done so, by usual and customary means, the availability of the Divestiture Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final

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Judgment. Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work product privileges. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person.

C. Defendants shall provide to the Acquirer and plaintiffs information relating to the personnel involved in the operation, development, and sale of mobile wireless telecommunications services in the relevant RSAs to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer to employ any defendant employee whose primary responsibility is the operation, development, or sale of mobile wireless services in the relevant RSAs.

D. Defendants shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, and other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer that (1) the Divestiture Assets will be operational on the date of sale, and (2) every wireless spectrum license is in full force and effect on the date of sale.

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F. Defendants shall not take any action that will impede in any way the permitting, licensing, operation, or divestiture of the Divestiture Assets.

G. Defendants shall warrant to the Acquirer of the Divestiture Assets that there are no defects in the environmental, zoning, licensing or other permits pertaining to the operation of each asset that will have a material adverse effect on the operator of the mobile wireless telecommunications services business in which the asset is primarily used, and that following the sale of the Divested Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, licensing or other permits relating to the operation of the Divestiture Assets.

H. Unless plaintiff United States upon consultation with plaintiff Minnesota otherwise consents in writing, the divestitures pursuant to Section IV, or by a Divestiture Trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota that these assets can and will be used by the Acquirer as part of a viable, ongoing business engaged in the provision of mobile wireless telecommunications services. The Divestiture Assets shall all be divested to a single Acquirer. The divestiture of the Divestiture Assets, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in plaintiff United States's sole judgment upon consultation with plaintiff Minnesota, has the intent

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and capability (including the necessary managerial, operational, technical, and financial capability) of competing effectively in the provision of mobile wireless telecommunications services; and

(2) shall be accomplished so as to satisfy plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, that none of the terms of any agreement between the Acquirer and any defendant shall give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere with the ability of the Acquirer to compete effectively.

I. At the option of the Acquirer of the Divestiture Assets, defendants shall enter into a contract for transition services customarily provided in connection with the sale of a business providing mobile wireless telecommunications services sufficient to meet all or part of the needs of the Acquirer for a period of up to one year. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market conditions.

J. To the extent that the Divestiture Assets use intellectual property, as required to be identified by Section II.D, that cannot be transferred or assigned without the consent of the licensor or other third parties, defendants shall use their best efforts to obtain those consents.

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V. Appointment of Divestiture Trustee

A. If defendants have not divested the Divestiture Assets within the time period specified in Section IV.A, defendants shall notify plaintiffs of that fact in writing, specifically identifying the Divestiture Assets that have not been divested. Then, upon application of plaintiff United States upon consultation with plaintiff Minnesota, the Court shall appoint a Divestiture Trustee selected by plaintiff United States and approved by the Court to effect the divestiture of the Divestiture Assets. The Divestiture Trustee will have all the rights and responsibilities of the Management Trustee appointed pursuant to the Preservation of Assets Order, and will be responsible for:

(1) accomplishing divestiture of all Divestiture Assets transferred to the Divestiture Trustee from defendants, in accordance with the terms of this Final Judgment, to an Acquirer approved by plaintiff United States upon consultation with plaintiff Minnesota, under Section IV.A of this Final Judgment; and

(2) exercising the responsibilities of the licensee of any transferred Divestiture Assets and controlling and operating any transferred Divestiture Assets, to ensure that the businesses remain ongoing, economically viable competitors in the provision of mobile wireless telecommunications services in the four license areas specified in

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Section II.D, until they are divested to an Acquirer, and the Divestiture Trustee shall agree to be bound by this Final Judgment.

B. Defendants shall submit a proposed trust agreement ("Trust Agreement") to plaintiffs, which must be consistent with the terms of this Final Judgment and which must receive approval by plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, who shall communicate to defendants within 10 business days its approval or disapproval of the proposed Trust Agreement, and which must be executed by the defendants and the Divestiture Trustee within five business days after approval by plaintiff United States.

C. After obtaining any necessary approvals from the FCC for the assignment of the licenses of the Divestiture Assets to the Divestiture Trustee, defendants shall irrevocably divest the Divestiture Assets to the Divestiture Trustee, who will own such assets (or own the stock of the entity owning such assets, if divestiture is to be effected by the creation of such an entity for sale to Acquirer) and control such assets, subject to the terms of the approved Trust Agreement.

D. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to plaintiff United States, in its sole judgment upon consultation with plaintiff Minnesota, at such price and on such terms as are then obtainable upon reasonable effort

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by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V.G of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of defendants the Management Trustee appointed pursuant to the Preservation of Assets Order, and any investment bankers, attorneys or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture.

E. In addition, notwithstanding any provision to the contrary, plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, may require defendants to include additional assets, or allow, with the written approval of plaintiff United States upon consultation with plaintiff Minnesota, defendants to substitute substantially similar assets, which substantially relate to the Divestiture Assets to be divested by the Divestiture Trustee to facilitate prompt divestiture to an acceptable Acquirer.

F. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by defendants must be conveyed in writing to plaintiffs and the Divestiture Trustee within 10 calendar days after the Divestiture Trustee has provided the notice required under Section VI.

G. The Divestiture Trustee shall serve at the cost and expense of defendants, on such terms and conditions as plaintiff United States approves, and shall account for all

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monies derived from the sale of the assets sold and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture, and the speed with which it is accomplished, but timeliness is paramount.

H. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestitures including their best efforts to effect all necessary regulatory approvals and will provide any necessary representations or warranties as appropriate related to sale of the Divestiture Assets. The Divestiture Trustee and any consultants, accountants, attorneys, and other persons retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial and other information relevant to the assets to be divested as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestitures.

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I. After its appointment, the Divestiture Trustee shall file monthly reports with plaintiffs and the Court setting forth the Divestiture Trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. If the Divestiture Trustee designates any information as "confidential" in any report or notice he submits pursuant to this Final Judgment, within five business days after the submission of such report, any plaintiff that objects to the designation of information as "confidential" will notify the Divestiture Trustee. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

J. If the Divestiture Trustee has not accomplished such divestitures within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestitures, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestitures have not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contain information that the Divestiture

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Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the plaintiffs, who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by plaintiff United States upon consultation with plaintiff Minnesota.

K. After defendants transfer the Divestiture Assets to the Divestiture Trustee, and until those Divestiture Assets have been divested to an Acquirer approved by plaintiff United States pursuant to Sections IV.A and IV.H, the Divestiture Trustee shall have sole and complete authority to manage and operate the Divestiture Assets and to exercise the responsibilities of the licensee, and shall not be subject to any control or direction by defendants. Defendants shall not use or retain any economic interest in the Divestiture Assets transferred to the Divestiture Trustee, apart from the right to receive the proceeds of the sale or other disposition of the Divestiture Assets.

L. The Divestiture Trustee shall operate the Divestiture Assets consistent with the Preservation of Assets Order and this Final Judgment, with control over operations, marketing, and sales. Defendants shall not attempt to influence the business decisions of the Divestiture Trustee concerning the operation and management of the Divestiture Assets, and shall not communicate with the Divestiture Trustee concerning divestiture of

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the Divestiture Assets or take any action to influence, interfere with, or impede the Divestiture Trustee's accomplishment of the divestitures required by this Final Judgment, except that defendants may communicate with the Divestiture Trustee to the extent necessary for defendants to comply with this Final Judgment and to provide the Divestiture Trustee, if requested to do so, with whatever resources or cooperation may be required to complete divestiture of the Divestiture Assets and to carry out the requirements of the Preservation of Assets Order and this Final Judgment. Except as provided in this Final Judgment and the Preservation of Assets Order, in no event shall defendants provide to, or receive from, the Divestiture Trustee or the mobile wireless telecommunications services businesses to be divested any non-public or competitively sensitive marketing, sales, pricing or other information relating to their respective mobile wireless telecommunications services businesses.

VI. Notice of Proposed Divestitures

A. Within two business days following execution of a definitive divestiture agreement, defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestitures required herein, shall notify plaintiffs in writing of any proposed divestiture required by Section IV or V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person

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not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within 15 calendar days of receipt by plaintiffs of such notice, plaintiffs may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee if applicable additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within 15 calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within 30 calendar days after receipt of the notice or within 20 calendar days after plaintiffs have been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee, whichever is later, plaintiff United States upon consultation with plaintiff Minnesota, shall provide written notice to defendants and the Divestiture Trustee, if there is one, stating whether it objects to the proposed divestiture. If plaintiff United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.F of this Final Judgment. Absent written notice that plaintiff United States does not object to the proposed Acquirer or upon objection by plaintiff United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V.F, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

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VII. Financing

Defendants shall not finance all or any part of any divestiture made pursuant to Section IV or V of this Final Judgment.

VIII. Preservation of Assets

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Preservation of Assets Order entered by this Court and cease use of the Divestiture Assets during the period that the Divestiture Assets are managed by the Management Trustee, except to the extent use of such assets is permitted under Section XI. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestitures have been completed under Section IV or V of this Final Judgment, defendants shall deliver to plaintiffs an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who during the preceding 30 days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the

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efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by plaintiff United States upon consultation with plaintiff Minnesota, to information provided by defendants, including limitation on information, shall be made within 14 calendar days of receipt of such affidavit.

B. Within 20 calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiffs an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to plaintiffs an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits provided pursuant to this section within 15 calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and

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other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at plaintiff United States' option, to require defendants provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by plaintiff United States to any person other than an authorized representative of the executive branch of the United States or, pursuant to a customary

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protective order or waiver of confidentiality by defendants, the FCC, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff United States shall give defendants 10 calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire or lease any part of the Divestiture Assets during the term of this Final Judgment provided however that defendants shall not be precluded from entering commercially reasonable agreements, for a period not to exceed two years from the date of the closing of the Transaction, with the Acquirer to obtain the right to use equipment that defendant ALLTEL used to support both its GSM roaming business and the provision of wireless services using other technological formats, and provided however that defendants may lease, for a period not to exceed 30 days, from the

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Management Trustee appointed by this Court pursuant to the Preservation of Assets Order, 2.5 MHz of spectrum in each RSA included in the Divestiture Assets.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire 10 years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date: _____

_____

United States District Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA and STATE OF MINNESOTA, *Plaintiffs*, v. ALLTEL CORPORATION and MIDWEST WIRELESS HOLDINGS L.L.C., *Defendants*.	**PRESERVATION OF ASSETS STIPULATION** **Case No.**

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Preservation of Assets Stipulation:

A. "Acquirer" means the entity to whom defendants divest the Divestiture Assets.

B. "ALLTEL" means defendant ALLTEL Corporation, a Delaware corporation with headquarters in Little Rock, Arkansas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "CMA" means cellular market area which is used by the Federal Communications Commission ("FCC") to define cellular license areas and which consists of Metropolitan Statistical Areas ("MSAs") and Rural Service Areas ("RSAs").

D. "Divestiture Assets" means the mobile wireless telecommunications services businesses to be divested under the Final Judgment, including all types of assets, tangible and intangible, used by defendants in the operation of the mobile wireless telecommunications services businesses to be divested. "Divestiture Assets" shall be construed broadly to accomplish the complete divestiture of the entire business of ALLTEL in each of the following RSA license areas as required by the Final Judgment and to ensure that the divested mobile wireless telecommunications services businesses remain viable, ongoing businesses:

(1) Minnesota RSA-7 (CMA 488);

(2) Minnesota RSA-8 (CMA 489);

(3) Minnesota RSA-9 (CMA 490); and

(4) Minnesota RSA-10 (CMA 491)

provided that ALLTEL may retain all of the PCS spectrum it currently holds in each of these RSAs and equipment that is used only for wireless transmissions over this PCS spectrum, and provided that ALLTEL need not divest the assets used solely to operate ALLTEL's GSM roaming business in these RSAs, including GSM roaming contracts and equipment.

The Divestiture Assets shall include, without limitation, all types of real and personal property, monies and financial instruments, equipment, inventory, office furniture, fixed assets and furnishings, supplies and materials, contracts, agreements,

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leases, commitments, spectrum licenses issued by the FCC and all other licenses, permits and authorizations, operational support systems, cell sites, network infrastructure, switches, customer support and billing systems, interfaces with other service providers, business and customer records and information, customer contracts, customer lists, credit records, accounts, and historic and current business plans which relate primarily to the wireless businesses being divested, as well as any patents, licenses, sub-licenses, trade secrets, know-how, drawings, blueprints, designs, technical and quality specifications and protocols, quality assurance and control procedures, manuals and other technical information defendant ALLTEL supplies to its own employees, customers, suppliers, agents, or licensees, and trademarks, trade names and service marks or other intellectual property, including all intellectual property rights under third-party licenses that are capable of being transferred to an Acquirer either in their entirety, for assets described in (1) below, or through a license obtained through or from ALLTEL, for assets described in (2) below; provided that defendants shall only be required to divest Multi-line Business Customer contracts, if the primary business address for that customer is located within any of the four license areas described herein, and further, any subscriber who obtains mobile wireless telecommunications services through any such contract retained by defendants and who are located within the four geographic areas identified above, shall be given the option to terminate their relationship with defendants, without financial cost, at any time within one year of the closing of the Transaction. Defendants shall provide

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written notice to these subscribers within 45 days after the closing of the Transaction of the option to terminate.

The divestiture of the Divestiture Assets shall be accomplished by:

(1) transferring to the Acquirer the complete ownership and/or other rights to the assets (other than those assets used substantially in the operations of ALLTEL's overall wireless telecommunications services business which must be retained to continue the existing operations of the wireless properties that defendants are not required to divest, and that either are not capable of being divided between the divested wireless telecommunications services businesses and those not divested, or are assets that the defendants and the Acquirer agree, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, shall not be divided); and

(2) granting to the Acquirer an option to obtain a nonexclusive, transferable license from defendants for a reasonable period, subject to approval of plaintiff United States upon consultation with plaintiff Minnesota, at the election of an Acquirer to use any of ALLTEL's retained assets under paragraph (1) above, used in the operation of the mobile wireless telecommunications services businesses being divested, so as to enable the Acquirer to continue to operate the divested mobile wireless

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telecommunications services businesses without impairment. Defendants shall identify in a schedule submitted to plaintiffs and filed with the Court, as expeditiously as possible following the filing of the Complaint and in any event prior to any divestiture and before the approval by the Court of the Final Judgment, any intellectual property rights under third-party licenses that are used by the mobile wireless telecommunications services businesses being divested but that defendants could not transfer to an Acquirer entirely or by license without third-party consent, and the specific reasons why such consent is necessary and how such consent would be obtained for each asset.

E. "GSM" means global system for mobile communications which is one of the standards used for the infrastructure of digital cellular service.

F. "Midwest Wireless" means defendant Midwest Wireless Holdings L.L.C., a Delaware Limited Liability Company, with headquarters in Mankato, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

G. "Multi-line Business Customer" means a corporate or business customer that contracts with ALLTEL for mobile wireless services to provide multiple telephones to its employees or members whose services are provided pursuant to a contract with the corporate or business customer.

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H. "Transaction" means the Transaction Agreement between ALLTEL and Midwest Wireless, dated November 17, 2005.

II. Objectives

The proposed Final Judgment lodged by plaintiff United States in this case is meant to ensure defendants' prompt divestiture of the Divestiture Assets for the purpose of preserving viable competitors in the provision of mobile wireless telecommunications services in order to remedy the effects that plaintiffs allege would otherwise result from ALLTEL's acquisition of Midwest Wireless. This Preservation of Assets Stipulation and the Preservation of Assets Order ensure, prior to such divestitures, that competition is maintained during the pendency of the ordered divestitures, and that the Divestiture Assets remain ongoing business concerns and the Divestiture Assets remain economically viable. The Divestiture Assets will remain, as provided herein, preserved, independent and uninfluenced by defendants.

III. Jurisdiction and Venue

This Court has jurisdiction over the subject matter of this action and each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Minnesota. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. § 18.

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IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a proposed Final Judgment in the form lodged with this Court by plaintiff United States may be entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that plaintiff United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on all other parties and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of this Stipulation and the proposed Final Judgment, pending entry by the Court of the Preservation of Assets Order and the proposed Final Judgment, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment and this Stipulation as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed the Preservation of Assets Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

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E. In the event (1) plaintiff United States has withdrawn its consent, as provided in Section IV.A above, or (2) the proposed Final Judgment is not entered, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment or the Preservation of Assets Order, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Management Trustee

A. Plaintiff United States, having consulted with plaintiff Minnesota, nominates David S. Turetsky as Management Trustee in this case, and defendants have no objection to his immediate appointment by the Court as Management Trustee to serve as manager of the Divestiture Assets until the Divestiture Assets are sold or transferred to a Divestiture Trustee pursuant to Section V of the proposed Final Judgment. Nothing in this Stipulation shall be interpreted to prevent the Management Trustee from becoming the Divestiture Trustee pursuant to Section V of the proposed Final Judgment.

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B. Prior to the closing of the Transaction, defendants shall enter into a trust agreement with David S. Turetsky, subject to the approval of plaintiff United States, in its sole discretion upon consultation with plaintiff Minnesota, that will grant the rights, powers, and authorities necessary to permit him to perform the duties and responsibilities of the Management Trustee pursuant to this Stipulation and the Preservation of Assets Order. The trust agreement shall enable him, on or before the date of the closing of the Transaction, to assume all rights, powers, and authorities necessary to perform his duties and responsibilities, pursuant to this Stipulation, the Preservation of Assets Order and the proposed Final Judgment and consistent with their purposes. David S. Turetsky or any other subsequently appointed Management Trustee shall serve at the cost and expense of defendants, on such terms and conditions as plaintiff United States approves upon consultation with plaintiff Minnesota, with a fee arrangement that is reasonable in light of the person's experience and responsibilities.

C. The Management Trustee will have the following powers and responsibilities with respect to the Divestiture Assets:

(1) the Management Trustee will have the power to manage the Divestiture Assets in the ordinary course of business consistent with this Stipulation and the Preservation of Assets Order. Only with the prior written approval of plaintiff United States upon consultation with plaintiff Minnesota, may the Management Trustee make any

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decision, take any action, or enter any transaction that is outside the ordinary course of business;

(2) the Management Trustee shall have a duty, consistent with the terms of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, to monitor the organization of the Divestiture Assets; manage the Divestiture Assets in order to maximize their value so as to permit expeditious divestitures in a manner consistent with the proposed Final Judgment; maintain the independence of the Divestiture Assets from defendants; control and operate the Divestiture Assets to ensure that the Divestiture Assets remain an independent, ongoing, economically viable competitor to the other mobile wireless telecommunications services providers; and assure defendants' compliance with their obligations pursuant to this Stipulation, the Preservation of Assets Order and the proposed Final Judgment;

(3) the Management Trustee shall have the authority to retain, at the cost and expense of defendants, such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Management Trustee's duties and responsibilities;

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(4) the Management Trustee and any consultants, accountants, attorneys, and any other persons retained by the Management Trustee, shall have full and complete access to all personnel, books, records, documents, and facilities of the Divestiture Assets or to any other information relevant to the Divestiture Assets as the Management Trustee may reasonably request, including, but not limited to, all documents and records kept in the normal course of business that relate to the Divestiture Assets. Defendants shall develop such financial or other information as the Management Trustee may request and shall cooperate with the Management Trustee. Defendants shall take no action to interfere with or impede the Management Trustee's ability to monitor defendants' compliance with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment or otherwise to perform his duties and responsibilities consistent with the terms of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment;

(5) the Management Trustee will ensure that the Divestiture Assets shall be staffed with sufficient employees to maintain their viability and competitiveness. To the extent that any employee whose principal responsibilities relate to the Divestiture Assets leaves or has left the

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Divestiture Assets prior to divestiture of the Divestiture Assets, the Management Trustee may replace departing or departed employees with persons who have similar experience and expertise or determine not to replace such departing or departed employees; and

(6) 30 days after the Management Trustee has been appointed by the Court, and thereafter on the 25th day of each month until the Divestiture Assets are either transferred to an Acquirer or to the Divestiture Trustee, the Management Trustee shall report in writing to the plaintiffs concerning the efforts to accomplish the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment. Included within that report shall be the Management Trustee's assessment of the extent to which the Divestiture Assets are meeting (or exceeding) their projected goals as those are reflected in existing or revised operating plans, budgets, projections or any other regularly prepared financial statements and the extent to which defendants are fulfilling their responsibilities under this Stipulation, the Preservation of Assets Order and the proposed Final Judgment. If the Management Trustee designates any information as "confidential" in any report he submits pursuant to the Preservation of Assets Order, any plaintiff that objects to the

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designation of information as "confidential" will notify the Management Trustee within five business days after the submission of such report.

D. The following limitations shall apply to the Management Trustee:

(1) the Management Trustee shall not be involved, in any way, in the operations of the other businesses of defendants;

(2) the Management Trustee shall have no financial interests affected by defendants' revenues, profits or profit margins, except that the Management Trustee's compensation for managing the Divestiture Assets may include economic incentives dependent on the financial performance of the Divestiture Assets provided that those incentives are consistent with the objectives of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment and are approved by plaintiff United States in consultation with plaintiff Minnesota; and

(3) the Management Trustee shall be prohibited from performing any further work for defendants for two years after the close of the divestiture transactions.

E. Defendants and the Management Trustee will take all reasonable efforts to preserve the confidentiality of information that is material to the operation of either the

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Divestiture Assets or defendants' businesses. Defendants' personnel supplying services to the Divestiture Assets pursuant to the Preservation of Assets Order must retain and maintain the confidentiality of any and all confidential information material to the Divestiture Assets. Except as permitted by this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, such persons shall be prohibited from providing, discussing, exchanging, circulating or otherwise furnishing the confidential information of the Divestiture Assets to or with any person whose employment involves any of defendants' businesses, except as necessary to fulfill the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment.

F. If in the judgment of the Management Trustee, defendants fail to provide the services listed in Section VI of this Stipulation and the Preservation of Assets Order to the satisfaction of the Management Trustee, upon notification to defendants and approval by plaintiff United States upon consultation with plaintiff Minnesota, the Management Trustee may engage third parties unaffiliated with the defendants to provide those services for the Divestiture Assets, at the cost and expense of defendants, provided that defendants may have reasonable access to information to satisfy themselves that after the services have been provided, the Divestiture Assets are in compliance with all applicable laws, rules, and regulations.

G. At the option of the Management Trustee, defendants may also provide other products and services, on an arms-length basis provided that the Management Trustee is

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not obligated to obtain any other product or service from defendants and may acquire any such products or services from third parties unaffiliated with defendants.

H. If the Management Trustee ceases to act or fails to act diligently and consistently with the purposes of this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, if the Management Trustee proposed by plaintiff United States is not approved by this Court, resigns, or if for any other reason the Management Trustee ceases to serve in his or her capacity as Management Trustee, plaintiff United States upon consultation with plaintiff Minnesota, may select a substitute Management Trustee. In this event, plaintiff United States will identify to defendants the individual or entity it proposes to select as Management Trustee. Defendants must make any objection to this selection within five business days after plaintiff notifies defendants of the Management Trustee's selection. Upon application of the United States, the Court shall approve and appoint a substitute Management Trustee. Within five business days of such appointment, defendants shall enter into a trust agreement with the Management Trustee subject to the approval of plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota as described in Section V.B of this Stipulation and the Preservation of Assets Order.

VI. Preservation of Assets

Until the divestitures required by the proposed Final Judgment have been accomplished, except as otherwise approved in advance in writing by plaintiff United States:

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A. Defendants and the Management Trustee shall preserve, maintain, and continue to support the Divestiture Assets, take all steps necessary to manage the Divestiture Assets in order to maximize their revenue, profitability and viability and permit expeditious divestitures in a manner consistent with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment.

B. The Divestiture Assets shall be operated by the Management Trustee as part of an independent, ongoing, economically viable business that competes with other mobile wireless telecommunications services providers operating in the same license area. Defendants and the Management Trustee shall take all steps necessary to ensure that:

(1) the management, sales, and operations of the Divestiture Assets are independent from defendants' other operations; provided, however, that at the request of the Management Trustee, defendants shall include the marketing, pricing and sales of the mobile wireless telecommunications services generated by the Divestiture Assets in the license areas served by the Divestiture Assets within its marketing, promotional, and service offerings, in the ordinary course of business, in any national, regional, and local marketing programs. The defendants shall not display advertising announcing or describing benefits of the Transaction in the four divestiture markets. Nothing in this Section shall prohibit the Management Trustee from developing

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his own reasonable marketing, sales, pricing or promotional offers, which shall be funded and supported by defendants;

(2) the Divestiture Assets are maintained by adhering to normal and planned repair, capital improvement, upgrade and maintenance schedules, or at a greater level if necessary to insure that the Divestiture Assets remain competitive;

(3) the management of the Divestiture Assets will not be influenced by defendants;

(4) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning marketing, pricing or sales of mobile wireless telecommunications services generated by the Divestiture Assets will be maintained in such a manner as to not disclose confidential information to defendants' employees except as provided in Section VI.K herein; and

(5) the management of the Divestiture Assets acts to maintain and increase the sales and revenues of the Divestiture Assets, and maintain, at a minimum, at previously approved levels for 2006 and 2007, whichever are higher, all promotional, advertising, sales, marketing, and technical support for the Divestiture Assets.

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C. Defendants shall provide sufficient working capital and lines and sources of credit as deemed necessary by the Management Trustee to continue to maintain the Divestiture Assets consistent with this Stipulation and the Preservation of Assets Order.

D. Defendants shall resolve all outstanding obligations related to the Divestiture Assets including agent and employee compensation within 30 days of closing the Transaction.

E. Except (1) as recommended by the Management Trustee and approved by plaintiff United States upon consultation with plaintiff Minnesota, (2) as part of a divestiture approved by plaintiff United States upon consultation with plaintiff Minnesota, in accordance with the terms of the proposed Final Judgment, or (3) as specifically provided for in the proposed Final Judgment, defendants shall not remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Divestiture Assets outside the ordinary course of business.

F. The Management Trustee, with defendants' cooperation consistent with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment, shall maintain, in accordance with sound accounting principles, separate, accurate, and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Divestiture Assets. As part of the defendants' cooperation, at least five days prior to the closing of the Transaction, defendants will provide to the Management Trustee and plaintiffs financial reports for the divestiture

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markets in Minnesota, and for the four divested RSAs, detailed management reports describing existing and future plans for human resources, marketing, and network upgrades and capital expenditures, and the extent to which each plan or project has been completed. Defendants will produce these reports in a form and with content that is acceptable to the Management Trustee and plaintiff United States upon consultation with plaintiff Minnesota.

G. As part of the defendants' cooperation, at least five days prior to the closing of the Transaction, defendants will provide all reports regularly prepared by defendant ALLTEL that measure sales activity in each of the four divestiture markets that are in a form and with content acceptable to the Management Trustee and plaintiffs. If these reports cannot be produced for each of the four divestiture markets, these reports should cover the smallest geographic area that includes the divestiture markets as is technically feasible. If the Transaction has not closed within seven days after the filing of the Complaint, on that day defendants will submit to plaintiffs and the Management Trustee current copies of these reports.

H. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets nor shall defendants take any action that would interfere with the ability of any Divestiture Trustee appointed pursuant to the proposed Final Judgment to operate and manage the Divestiture Assets or to complete the divestitures pursuant to the

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proposed Final Judgment to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota.

I. Within seven days of the filing of the Complaint or prior to the closing of the Transaction, whichever is sooner, defendants shall appoint (and notify plaintiffs and the Management Trustee of their names and titles) sufficient employees for the Divestiture Assets, who are familiar with and have had responsibility for the management, operation, marketing, and sales of the Divestiture Assets, to assist the Management Trustee with his duties and responsibilities hereunder.

J. Except for employees (1) whose primary employment responsibilities relate to the Divestiture Assets, or (2) who are involved in providing support services to the Divestiture Assets pursuant to Sections V and VI of this Stipulation and Section V of the proposed Final Judgment, defendants shall not permit any other of their employees, officers, or directors to be involved in the operations of the Divestiture Assets.

K. Except as required by law in the course of (1) complying with this Stipulation, the Preservation of Assets Order and the proposed Final Judgment; (2) overseeing compliance with policies and standards concerning the safety, health, and environmental aspects of the operations of the Divestiture Assets and the integrity of their financial controls; (3) defending legal claims, investigations or enforcement actions threatened or brought against the Divestiture Assets; or (4) obtaining legal advice, defendants' employees (excluding employees (a) whose primary employment responsibilities relate to

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the Divestiture Assets, or (b) who are involved in providing support services to the Divestiture Assets pursuant to Sections V and VI of this Stipulation and the Preservation of Assets Order and Section V of the proposed Final Judgment) shall not receive, or access, or use any material confidential information, not in the public domain, of the Divestiture Assets. Defendants may receive or access aggregate financial information relating to the Divestiture Assets to the extent necessary to allow defendants to prepare the defendants' consolidated financial reports, tax returns, reports required by securities laws, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph.

L. Defendants may offer a bonus or severance to employees whose primary employment responsibilities relate to the Divestiture Assets, that continue their employment until divestiture (in addition to any other bonus or severance to which the employees would otherwise be entitled).

M. Until the Divestiture Assets are divested to an Acquirer acceptable to plaintiff United States in its sole discretion upon consultation with plaintiff Minnesota, defendants shall provide to the Divestiture Assets, at no cost, support services needed to maintain the Divestiture Assets in the ordinary course of business, including, but not limited to:

(1) federal and state regulatory policy development and compliance;

(2) human resources administrative services;

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(3) environmental, health and safety services, and developing corporate policies and insuring compliance with federal and state regulations and corporate policies;

(4) preparation of tax returns;

(5) financial accounting and reporting services;

(6) audit services;

(7) legal services;

(8) routine network maintenance, repair, improvements, and upgrades;

(9) switching, call completion, and other services necessary to allow subscribers to use mobile wireless telecommunications services and complete calls;

(10) billing, customer care and customer service related functions necessary to maintain the subscriber account and relationship;

(11) for each retail and indirect sales outlet, a 60 day supply of inventory, including both handsets and accessories, branded as directed by the Management Trustee, based on each outlet's average sales for the prior two months, and if the Management Trustee requests, ALLTEL shall make available in sufficient quantities, branded as directed by the Management Trustee, handsets and accessories, introduced by ALLTEL

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in similar markets that are compatible with the network in the four divestiture markets;

(12) the financial reports described in Section VI.F shall be provided on a monthly basis; and

(13) the sales reports described in Section VI.G shall be provided on a daily basis.

N. Prior to the closing of the Transaction, defendants will notify plaintiffs in writing of the steps defendants have taken to comply with this Section. If the Transaction has not closed within seven days after the filing of the Complaint, on that day defendants will submit to plaintiffs and the Management Trustee a detailed statement of how defendants will comply with Section VI.A prior to the closing of the Transaction, including but not limited to: (1) marketing plans for the sale of mobile wireless telecommunications services by the mobile wireless businesses to be divested, including customer retention plans and promotions; (2) the designation of a management team who will have responsibility for and manage the Divestiture Assets prior to the closing of the Transaction, identifying any changes from prefiling staffing; (3) plans for retention of employees and payment of retention bonuses to employees whose primary duties related to the mobile wireless telecommunications businesses to be divested; and (4) plans for network maintenance, repair improvements, and upgrades of the Divestiture Assets.

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O. This Preservation of Assets Stipulation and the Preservation of Assets Order shall remain in effect until consummation of the divestitures required by the proposed Final Judgment or until further order of the Court.

Dated: September 7, 2006 Respectfully submitted,

FOR PLAINTIFF UNITED STATES

RACHEL K. PAULOSE
United States Attorney

s/ Perry Sekus
By: Perry F. Sekus
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Department of Justice

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TRANSCRIPT OF TELECONFERENCE WITH SENIOR OFFICIALS REGARDING PROPOSED LEGISLATION ON MILITARY COMMISSIONS

WASHINGTON, D.C.

MR. ROEHRKASSE: All right. Thank you for joining us, and we apologize for the delay. One of our briefers was actually up on the Hill testifying. So let me just very briefly walk you through the ground rules before I turn it over to our first briefer.

The individuals on this call could either be referred to as senior administration officials, or respectively Department of Justice or Department of Defense senior officials.

Thanks.

SENIOR JUSTICE OFFICIAL: Thanks, Brian. Today the President, as he has announced, sent up to Congress proposed legislation addressing the need for military commissions and issues raised by the Supreme Court's decision in the Hamden case on Common Article 3.

As the President has indicated, and as we've made clear in testimony to Congress, the President does want to work with Congress on legislation coming off the Supreme Court's decision in Hamden that would authorize by statute military commissions to try terrorist detainees who have committed war crimes.

And the legislation that the President is proposing would create a new chapter within Title 10 of the U.S. Code, following right after the Uniform Code of Military Justice, and it would create a new code of military commissions. And this new code, which would be Chapter 47 of Title 10, would track many of the provisions of the UCMJ and would be modeled on the UCMJ.

It includes dozens of provisions that are taken from the UCMJ and adapted for purposes of military commissions trials, with some important differences, as we've focused on and noted in prior testimony.

Most importantly, the hearsay rule would be relaxed, and also there's a provision with respect to the use of

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classified evidence, which is critically important when you're talking about trials of enemy combatants detained in the war on terror and the use of classified information leading to the detention and the potential for prosecution of these detainees.

In addition, however, the proposed legislation would make some key changes in the procedures that were initially laid for military commissions under the military order of the President and the orders issued by the Secretary of Defense.

In particular, the legislation would provide for a military judge who would preside over military commissions, and that judge would be a fully certified military judge. And the military judge would decide questions of law and admissibility of evidence. He would not be a voting member of the commission that would decide issues of fact. The commission would have at least five members. So that would track courts martial procedures under the UCMJ.

The legislation would also provide for an appeal structure that's somewhat similar to that for courts martials under the UCMJ, but then with an appeal as a right to the D.C. Circuit using the appeal provisions or the scope of review provisions already provided for by Congress in the Detainee Treatment Act.

In addition, the legislation would define a list of offenses that would we triable as war crimes by military commissions.

Finally, the legislation would includes some other key provisions. Number one, it would include a provision that would put limitations, restrictions on judicial review of enemy combatant claims, including habeas petitions, some of the habeas petitions that are pending, and other claims, and would in effect, we believe, achieve what was originally intended in the Detainee Treatment Act passed by Congress back in December, but would allow for judicial review in prescribed circumstances of determinations of enemy combatant status by combatant status review tribunals and also the appeals of final judgments of military commissions, orders of conviction of military commissions, again, to the D.C. Circuit.

And then the legislation also includes some provisions responding to the Supreme Court's decision in the Hamden case that Common Article 3 of the Geneva Conventions applies to our conflict with al-Qaida. And that raises some significant issues.

And this legislation attempts not to reverse the Court's decision on the applicability of Common Article 3, but to work with that decision and to give it clarity, definition and certainty for the military, for intelligence officers and others in the U.S. government involved in the front lines in the war on terror.

And it would do that in three ways. It would define U.S. obligations under Common Article 3 by reference to the McCain amendment standard in the Detainee Treatment Act. Second, it would provide that enemy combatants and others cannot invoke the Geneva Conventions as a source of individual rights that can be enforceable by courts against the United States. And then finally, it would define a list of the serious offenses or serious violations of Common Article 3 that appropriately should constitute war crimes under the War Crimes statute. The War Crimes Statute 18 USC Section 2441 makes it a war crime to violate Common Article 3. That's not a provision that's ever been applied. It's not one that's been of relevance until the Hamden decision made it of relevance.

And what this legislation would do is define a specified list of serious violations of Common Article 3 that are appropriate for prosecution under the War Crimes Act, because Common Article 3 as it currently stands has some provisions in it that are capacious, very difficult to define, and they're also subject to evolving definitions from overseas tribunals and courts.

So that's basically the package. It is, as we have laid it out in testimony to Congress previously, so there really

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should be few surprises in the package that the President sent up today. And I understand now that that legislation is going to be introduced by leadership in the Senate as a Senate bill.

So I think that's my summary, and if the Department of Defense has anything to add to that, please go ahead.

SENIOR DEFENSE OFFICIAL: The DOD has nothing to add.

MR. ROEHRKASSE: Okay. We can just go ahead and open it up to questions, and again, please state your name and the media organization that you're calling from before you ask the question.

MODERATOR: At this time if you would like to ask a question, please press star then one on your touch tone phone. You will hear a tone to confirm that you have entered the list. If you decide you want to withdraw your question, please press star then two to remove yourself from this list. Again, pressing star then one will allow you to ask a question.

Our first question comes from Sean Waterman with United Press International. Please go ahead.

QUESTION: Yes. Can I ask a question about the other announcement that was made today about the transfer of 14 high value detainees to Guantanamo?

MODERATOR: Go ahead.

QUESTION: I mean, could you say what the sort of, you know, what the kind of long-term objective of this is? This sort of brings them into the system. I mean, they've been in these black sites outside of, you know, anything basically except the guidelines I guess issued by CIA general counsel. And now they're at Guantanamo. What is their status going to be at Guantanamo?

MODERATOR: Before we begin, I just want to clarify, I mean, this call is primarily to discussion the legislation associated with military commissions. This is not to discuss the intelligence gathering program that the President had alluded to in his speech, and there's obviously a lot that's been put out now by the White House and others on that. If you want to go ahead and at least answer a portion of the question, we can.

SENIOR JUSTICE OFFICIAL: Yeah, sure. I think as the President probably indicated in his speech, and I have the disadvantage of having been on the Hill testifying while the speech was given, but as I understand it, these 14 detainees have been transferred to Guantanamo Bay, and the idea is that their cases will be reviewed, as are cases of other detainees at Gitmo and elsewhere, for possible prosecution -- excuse me, at Gitmo. I shouldn't say "and elsewhere" -- for possible by military commission.

So those reviews will be occurring by prosecution teams. Then in addition, they will be detained as -- like other enemy combatant detainees at Gitmo, pursuant to all of the same Department of Defense policies, procedures, et cetera, that apply to other detainees at Gitmo. So they will be held in a separate special facility.

QUESTION: Hello?

SENIOR JUSTICE OFFICIAL: Yes?

QUESTION: Yes. I'm sorry. You said a special separate facility?

SENIOR JUSTICE OFFICIAL: I believe they will be held in a separate facility at Gitmo.

QUESTION: So is that under construction now, or what's the deal with that, do we know?

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MODERATOR: DOD?

SENIOR DEFENSE OFFICIAL: Yeah, this is DOD. They're being held at a secure facility at Guantanamo and that's as far as we're going to go in terms of talking about it.

QUESTION: Okay. Does this -- just one further follow-up, if I may -- does this -- I mean, why has this happened? Like is this because -- I mean, is this in response to kind of criticism or unease about the black sites, or? I mean, how would you characterize the kind of impetus behind this decision?

SENIOR JUSTICE OFFICIAL: I think what I would say is that the President, I believe, touched on that in his speech, and I guess I'll just refer you to the President's speech on that.

QUESTION: Okay. Sorry. I didn't get a chance to listen.

MODERATOR: Our next question comes from Pete Williams with NBC News. Please go ahead.

QUESTION: Thank you. The provision that allows for appeal to the D.C. Circuit of the Supreme Court, are you saying that while that is in your legislation you sent to the Hill today, that's already provided by the Detainee Treatment Act?

SENIOR JUSTICE OFFICIAL: Yes. The Detainee Treatment Act provides for review by the D.C. Circuit of final judgments of conviction by military commissions.

Now we make an important change in our legislation. Under the Detainee Treatment Act as it currently exists, it's an appeal as a right for detainees who are convicted by military commissions and sentenced to more than ten years in prison or sentences of death, and for detainees who are sentenced to less than ten years, it's a petition for discretionary review.

Under the legislation the President has sent up, it would be an appeal as of right from any conviction of military commissions to the D.C. Circuit. But the scope of review would be the same as currently provided for in the Detainee Treatment Act.

QUESTION: Okay. And secondly, a technical question on Kahlid Sheikh Mohammed's legal status now. Given that he has already been indicted in the Bajinka plot, and you are now -- the government is now fessing up that we have him in custody, will you seek, as you have in these previous cases, to declare him an enemy combatant? And will you have to get that indictment dismissed, or where does that stand?

SENIOR JUSTICE OFFICIAL: Well, I'm not in a position to comment on the indictment that you reference, but I think as I indicated, each of these cases will be reviewed for possible prosecution by military commission. In addition, pursuant to DOD procedures, each of these detainees will be subject to -- and DOD can add any points or correct me if I'm wrong -- but each of these detainees would be subject to review by a combatant status review tribunal for enemy combatant status pursuant to the CCERT procedures.

QUESTION: Yeah. I'm hip to the military side of it, but if -- let me put it this way. If any of these folks had been indicted previously, would you have to deal with that before to get that off the table to go forward on the military side?

SENIOR JUSTICE OFFICIAL: I don't believe so, but I'm not familiar with the indictment you referenced.

QUESTION: Okay.

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SENIOR JUSTICE OFFICIAL: So, I'm sorry. I'm not in the best position to answer that. But I think the answer to that is no.

QUESTION: Okay. Thank you.

MODERATOR: Our next question comes from Ari Shapiro with National Public Radio.

QUESTION: Hi. The President said that he would like to try Kahlid Sheikh Mohammed and the other high level detainees under this proposed military commission described in the legislation.

My question is, does the Administration plan to try KSM and others under any version of military commission legislation that is passed, or is it only committed to trying them under the version the President has proposed today?

SENIOR JUSTICE OFFICIAL: Well, let me say, and the folks at DOD can chime in on this I'm sure. The cases will be carefully reviewed and are being reviewed for possible prosecution. The idea would be prosecution by military commissions.

The President has sent up the legislation that he thinks will achieve the kind of military commission process, procedures that we think would be most appropriate for these and other cases. Obviously, it's up to Congress to make the final decision on the legislation, and we'll be working with Congress on the legislation.

We think we got it just about right. We've done an extraordinary amount of consultation, both within and across the executive branch, but also inter-branch consultation with members and staff on the Hill. We're very optimistic that Congress will agree with the proposals that the President has sent forward for the proper procedures in the military commissions. We think those are workable procedures that will make for full and fair trials, but also effective procedures for the kinds of prosecutions we're talking about of enemy combatants in this kind of armed conflict.

QUESTION: But if the version that Congress passes differs substantially from the version that the President has proposed, is the Administration still devoted to -- still planning on trying KSM and others?

SENIOR JUSTICE OFFICIAL: Well, that's obviously a hypothetical question, but we will -- we are certainly dedicated to reviewing these cases for possible prosecution. I think the President indicated that he feels that now is the time to bring these folks to justice and to review their cases for the possibility of prosecution.

QUESTION: Okay. Thank you.

MODERATOR: Our next question comes from Jim Raleigh with Bloomberg News.

QUESTION: Yes. One of the complaints I've heard from lawmakers up here on Capitol Hill is that the Administration's proposal would allow the use of evidence that was coerced, that they see -- their proposal would flatly ban it. I wonder if you could outline in what circumstances coerced evidence could be used.

SENIOR JUSTICE OFFICIAL: Well, our legislation does not attempt to create some blanket or black-and-white rule, except for evidence that's determined to have been obtained through the use of torture. Through our treaty obligations, any statements that are determined to have been obtained through the use of torture would be banned -- would be barred from admissibility.

As to any other statements short of that, that detainees or the accused may alleged were obtained through some form of coercion, and that could be a whole spectrum of things that an accused might claim, it would be up to the

experienced professional military judge, the certified military judge, in each case, in each military commission prosecution, to review that evidence, to review all the circumstances under which the statements at issue were obtained, to hear the arguments from counsel on both sides, and to make a determination about the reliability and probative value, if any, of the statements.

And the legislation would provide that if the military judge determines that the statement, for whatever reason, was not reliable or lacking in probative value -- or lacking in probative value -- the military judge would not admit that statement.

So, we think it's best handled on a case-by-case basis, item-by-item of evidence by military judges, just as admissibility decisions are made in courts every day. We think it's very difficult and a very perilous enterprise to try to define with specificity what those statements might be, what coercion might mean, when statements should or should not be admissible.

We think the military judge in each case should make those determinations based on all of the circumstances looking at the reliability of the statements or lack of reliability, and their probative value, if any.

QUESTION: And the other differences that they are concerned about the barring of access to classified information, or at least some summary of evidence based on classified information, barring the accused from knowing what that is. I mean, how would you?

SENIOR JUSTICE OFFICIAL: Yeah. The legislation that the President sent up today has very elaborate provisions, if you take a look at it, limiting those extraordinary circumstances when we would expect that there may be a need to use -- to admit classified evidence that would be considered by the military commission but not made available to the terrorist accused, to the detainee himself, though it would be made available to his counsel.

And these provisions require that in all cases where possible, substitutes be used, summaries of the evidence in lieu of the actual classified evidence, also requires that the agency head responsible for the classified evidence certify that it's been declassified to the extent possible. The military judge has to make certain specific findings that it's consistent with and full trial, that it is the limited -- that it is the minimum necessary in terms of the use of classified evidence that's not being exposed to the accused.

But the bottom line is, we think that the prosecutions in these military commissions proceedings during an ongoing armed conflict with a terrorist enemy, have to have the flexibility, or at least the possibility of using classified evidence in certain circumstances where we're not exposing those classified sources, methods or other sensitive information to a terrorist who may be able to share them with al-Qaida in this ongoing war.

Now the accused would get a summary of, to the extent possible, of the evidence in an unclassified form. But there has to be that opportunity, we think, for the effectiveness of these prosecutions, at least in certain cases, when we think classified evidence is going to be important in certain cases.

Now that's not, if you think about it, entirely different from what happens, for example, in international criminal tribunals like the International Criminal Tribunal for the former Yugoslavia or Rwanda, where in certain circumstances, witnesses have been allowed to give anonymous testimony, or the witness's face, voice or identity has been screened or excluded from the accused, and even the accused's counsel. Usually the reason is because of the safety of the witness.

But the principal is really no different from the principal we're talking about here where what we're trying to protect is not just the safety of the witness, but sensitive sources and methods of intelligence gathering that we must keep secret in an ongoing war.

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QUESTION: Do you have any sense of the percentage of cases that are outstanding where classified information would have to be introduced in a raw firm, of the universe of cases that you know about now?

SENIOR JUSTICE OFFICIAL: No, we really don't. And I think that's very difficult to predict in advance. And that's why we think it's important not to close the door on that possibility or try to come up with some hard and fast prohibition on it, because we need to have that flexibility.

QUESTION: Thanks.

MODERATOR: Our next question comes from Jake McClure with Legal Times.

QUESTION: Yeah. I wanted to follow up on the previous question about coercive testimony, particularly given what the President had to say about the importance of these alternative interrogation techniques in obtaining information from Abu Zubeda and Kahlid Sheikh Mohammed and Ramzi bin al-Shibh.

How much difficulty will the government have in prosecuting these guys if Congress passes a bill that prevents the government from using evidence gathered through coercive interrogations? Because a number of senators from the President's own party have been very clear on this point.

SENIOR JUSTICE OFFICIAL: Well, first of all, the prosecution teams will be reviewing all of the evidence, all of the intelligence from all sources that may be available about these individuals in terms of putting together a case. So I don't want to prejudge whether any particular types of statements would necessarily be offered as evidence or might be critical to prosecutions here.

As with anything, any intelligence-gathering effort, when you gather intelligence, what you do is then take that intelligence and go out and use it to try to find corroborating information from other sources. And so in many cases, there may be corroborating information from lots of other sources that are gathered that may make it possible to do a prosecution without using particular statements.

But I wouldn't again foreclose the use of any evidence or any statements. Again, we think it should be looked at on a case-by-case, item-by-item basis by experienced military judges who can judge the reliability and probative value of particular pieces of evidence. And that -- we think it's that flexible framework that we need to preserve and that will be important for these prosecutions.

QUESTION: Thanks.

MODERATOR: Our next question comes from Jeff Stern with Congressional Quarterly.

QUESTION: Hi. I'm wondering under the legislation being introduced, CIA interrogators still be subject to the Army Field Manual, that the only -- the separate operation laid out by the President -- that would be only be subject to the internal legal review within the CIA or DOJ?

SENIOR JUSTICE OFFICIAL: Well, I guess I would say two things. Number one, with respect to any questioning of these 14 detainees who have now been moved to the custody at DOD at Gitmo, any and all questioning of these detainees will be done subject to the Army Field Manual. They'll be all done subject to policies and procedures in place by DOD.

In terms of any CIA activities or any such program going forward, I think all the President has made clear is that it's important to have that capability going forward for the protection of the country. And I guess I'll leave it there.

QUESTION: Except that you didn't answer the question. Are they subject -- will they abide by the Field Manual,

the CIA interrogators?

SENIOR JUSTICE OFFICIAL: Well, the provisions of the Detainee Treatment Act regarding the Army Field Manual apply to the military.

QUESTION: Right.

SENIOR JUSTICE OFFICIAL: And so the requirement that all interrogation practices be laid out in the Army Field Manual applies only to the military.

QUESTION: But for the purposes of the War Crime Act Amendment in the bill, that would also apply to the CIA?

SENIOR JUSTICE OFFICIAL: The War Crime Act applies with respect to any war crime committed by or against a U.S. national. It's not limited to armed services.

QUESTION: Okay. Thank you.

MODERATOR: Our next question is from Richard Sisk with New York Daily News.

QUESTION: Will the legislation apply to individuals that might come into the custody of the CIA in the future? Because it seems like we're setting up some kind of double standard here, the set of rules by which the CIA will operate in which the President would not define special procedures, and the defined rules of the Army Field Manual. How do you reconcile that?

SENIOR JUSTICE OFFICIAL: Well, I guess there's very little I can say about classified activities, nothing I can really say about classified activities. I think -- I think the President indicated that he felt it was important to have a capability going forward for some kind of CIA program and that the Administration would be working with those members of the intelligence committees and other leaders in Congress with respect to the outlines of that.

So beyond that, I'm not sure I can comment. I would say that what this indicates is that the President views it as appropriate for detainees who have been questioned by intelligence services in the war on terror where the intelligence value of the detainee has been obtained, that in any cases where it's appropriate, those detainees be transitioned to circumstances like these 14 detainees at Gitmo where their cases can be reviewed for possible prosecution by military commissions for war crimes that they may have committed.

QUESTION: Who decides that this is appropriate? Who makes the determination that someone should go into CIA custody where there -- where different rules apply?

SENIOR JUSTICE OFFICIAL: I really can't talk about the operational details or specifics of the classified program.

MODERATOR: All right. Our next question comes from Jason Rhine from ABC News.

QUESTION: Hi. My question on coercion was already answered, but I was wondering what was the status of the leak investigations which were opened by the Department regarding the black sites reporting by the Washington Post. Will those still continue at this time now that the President has discussed and disclosed this program?

SENIOR JUSTICE OFFICIAL: We do not comment on ongoing investigations, and I personally am not in a position to comment and really have any knowledge of that.

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MR. ROEHRKASSE: I'm unaware of an official in the Department, at least that I've seen in a press report, confirming such an investigation.

QUESTION: Okay.

MODERATOR: Our next question comes from Ben Winograd from the Wall Street Journal.

QUESTION: Yes. Does the legislation address whether a simple conspiracy is an offense triable by a military commission?

SENIOR JUSTICE OFFICIAL: Yes. It does make it clear -- it does clarify that conspiracy can be a separate offense triable by military commission. As the government made clear in its briefing in the Hamden case, we believe that is an already existing offense under the laws of war and it's something that could be -- could be charged. And this clarifies that. The legislation would enumerate a long list of potential crimes or crimes that could be triable by military commission, and conspiracy is separately identified as one.

QUESTION: And also, does the due process clause of the Fifth Amendment apply to foreign detainees held at Guantanamo Bay?

SENIOR JUSTICE OFFICIAL: It's the position of the United States that it does not. And that position has been articulated in briefing and is actually an issue in some of the cases that are currently pending in the D.C. Circuit.

QUESTION: Okay.

SENIOR JUSTICE OFFICIAL: So I would refer you to the briefs in the Aloda and Bumadeen cases currently pending in the D.C. Circuit.

QUESTION: Thanks.

MODERATOR: Our next question comes from Doreen Haglund with National Journal.

QUESTION: Yes. When you indicated that the legislation preserved the limited scope of review of the Detainee Treatment Act, can you talk a little bit more about what that means? Part of the Detainee Treatment Act limits review to the appeals court to procedural grounds only. What exactly is going to be available for appeal?

SENIOR JUSTICE OFFICIAL: Well, the Detainee Treatment Act says that the D.C. Circuit can review military commission judgments for whether the commission applied the standards and procedures that it was supposed to apply in the military commission proceedings. And, moreover, whether the judgment of the military commission is consistent with the laws and Constitution of the United States.

So it's not yet determined what the precise scope of that review will be because there haven't been any appeals yet from final judgments of military commissions. In fact, right now as a result of the Hamden case, we're dead in the water on military commission proceedings. We can't proceed with any military commission trials separate from full UCMJ court martial proceedings without legislation from Congress.

So until we get the legislation and proceed with a trial and a conviction, we won't get to the point of testing precisely what that means in terms of that scope of review in the D.C. Circuit.

QUESTION: Okay. And then secondly, you indicated that the hearsay rules would be relaxed within the legislation. What exactly are you relaxing there?

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SENIOR JUSTICE OFFICIAL: Well, we're -- we actually would not include a prohibition on hearsay evidence. The prohibition on hearsay evidence is one that's grown up under the common law for regular or routine or ordinary criminal proceedings and other court proceedings under the common law. For example, criminal prosecutions of U.S. citizens in the United States. It also is a prohibition on hearsay evidence that applies with lots and lots of exceptions, I should say. There are many exceptions, traditional exceptions to the hearsay rule.

QUESTION: And I guess that's actually my question. What are you trying to -- what exceptions are you expanding in this case?

SENIOR JUSTICE OFFICIAL: Well, we are applying in these -- we would apply in these military commission proceedings the kind of approach that's taken in traditional civil law and international war crimes tribunals more generally, which is not a prohibition at all on hearsay evidence, but a recognition that the fact finder should be able to consider any evidence that is probative to a reasonable person.

And there shouldn't be some blanket prohibition on the use of hearsay. Instead, hearsay evidence should be admissible, again, if it's reliable and has probative value. So, those threshold determinations about admissibility would be made by military judges.

But what that would give you is greater flexibility in using a range of types of evidence, which is as a practical matter, critically important when you're talking about prosecutions of war crimes that may have been committed on or off battlefields, locations all over the world, where the evidence is not going to have the same kind of chain of custody and authentication that you see in regular Article 3 court prosecutions or court martial proceedings.

MODERATOR: And our next question comes from Tom Brun from Newsday.

QUESTION: The session -- I'm curious. You say you're going to review these cases for possible prosecution. Does that mean there's a distinct possibility that many or some of the 14 will not actually receive trials? And the second thing is, are these going to be held publicly or are they going to be held secretly?

SENIOR JUSTICE OFFICIAL: I actually am going to let the -- I'm going to let the Department of Defense chime in on those questions.

SENIOR DEFENSE OFFICIAL: From the standpoint of the Department, what will happen is once we get the legislation and it's signed, then these cases will be reviewed.

No one has -- any particular person be prosecuted for any particular offense. That rationally should await an analysis of all the evidence and -- of review that the prosecutors will make with recommendations to what we believe would be -- what would be under this legislation proposal, the convening authority who would make the determination as to what charges should be -- should move forward at trial and whether a trial should then take place.

So none of that is preordained. This accounts for the normal prosecutorial discretion that would exist in any particular in the setting that we have post-legislation.

QUESTION: Well, what does the President mean when he says we will also seek to prosecute those believed to be responsible for the attack on USS Cole, et cetera? And these guys can face justice. I mean --

SENIOR DEFENSE OFFICIAL: It means that the President has with respect to these individuals, in particular the 14 he named today, has made a determination that they are subject to the jurisdiction of the military commission process.

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And then he leaves for the prosecutors and the appointing authority or the convening authority, the responsibility for assessing the quality of the evidence and making a determination as to the appropriate charges, if any, to be brought, and then ultimately to conduct a full and fair trial for any individual charged.

QUESTION: So is the issue of how the evidence was obtained an issue that you'll have to take on?

SENIOR DEFENSE OFFICIAL: I think as in any case, the prosecutor will have to assess the evidence, how it was obtained, how probative, how reliable it would be when presented to the finder of fact, and he'll have to make that call as to what evidence he believes will be ultimately admissible at a trial, much as any prosecutor does in any Article 3 or state court criminal proceeding.

QUESTION: What about the public aspect? Will these be public trials?

SENIOR DEFENSE OFFICIAL: Yes.

QUESTION: Behind closed doors, what?

SENIOR DEFENSE OFFICIAL: They are public trials insofar as the evidence being presented is not classified. Again, as with either courts martial or even Article 3 trials, if we get to the point where there is classified information that has to be presented, then the public would be excused from the trial, and that portion of the trial would be closed when the classified evidence is actually on the table for review either by the judge or for the purposes of argument.

But at all other times, you have an open hearing to the public where the evidence, the nonclassified evidence, is under consideration or being presented.

SENIOR JUSTICE OFFICIAL: This is back to DOJ. I would just add that I would suggest you look at the proposed legislation that the President sent up. Because again, there are very specific provisions in there about when trial proceedings would be closed to the public.

QUESTION: I haven't actually seen the legislation. Could you send a copy to me? I haven't been able to get a copy.

MR. ROEHRKASSE: Tom, there have been multiple e-mails that have been sent out from the White House distribution list, so if you still don't have --

QUESTION: Well, but that's actually just a factsheet that says myth and fact. I mean, the actual legislation I haven't seen.

MR. ROEHRKASSE: I've seen it come through a variety of e-mails. We'll make sure you get it, Tom.

QUESTION: Thank you very much.

SENIOR JUSTICE OFFICIAL: It was formally transmitted just today. And I believe it's probably available on websites, because I think it's going to be, if it hasn't been already, introduced by Senator Frist and Senator McConnell.

QUESTION: Someone from Senator Frist's office told me it won't be introduced until tonight, and they don't have a copy of it yet.

SENIOR JUSTICE OFFICIAL: Okay. Well, I'm sure it's available.

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MR. ROEHRKASSE: I've seen it sent out.

QUESTION: Okay.

MR. ROEHRKASSE: Why don't we do three more questions.

MODERATOR: Our next question comes from Rick Schmidt from the Los Angeles Times.

QUESTION: Hi. Following up off Tom's questions, when will the 14 have access to lawyers? Will they be entitled to be present at their trial? And when do you imagine, assuming Congress acts, you know, by the election, when are you going to start making decisions on whether to charge or to have them subject to the combatant status review board and potential enemy combatant status?

SENIOR JUSTICE OFFICIAL: DOD?

SENIOR DEFENSE OFFICIAL: I'll try to take them in some order of -- that makes sense. I think with respect to access to attorneys, for the purposes of any possible prosecution, the rules contemplate that he would not have access to an attorney until charged. So for the purposes of any criminal prosecution, the right to an attorney does not attach until such time as he's been charged and then anticipates going forward to a criminal proceeding.

The CCERT process, the administrative determination as to the combatant status review tribunal review, will take place soon but don't have a precise date laid on quite yet, but probably on the order of 60 days or so.

As far as when they might be charged, if at all, for any potential prosecution, I think that's going to be a function of how quickly the prosecutors can look at all the evidence that might be available to them and make an assessment, as I mentioned earlier, as to the volume of evidence, the quality of the evidence and how they want to put together the proposed charges and assess how they want to scope out the possible trial.

So I wouldn't venture a guess on how quickly that would happen. I would tell you there has been and will continue to be a great sense of urgency about moving this process forward, but, again, doing it consistent with the need to have a thorough analysis of the potential charges, and again, a full and fair trial with both sides having an opportunity to wrestle with the evidence.

QUESTION: Do you think there will -- sorry. Go ahead.

SENIOR JUSTICE OFFICIAL: And to answer the other question you raised, pursuant to the procedures in the legislation that the President sent up, the accused, the defendant would be present for the trial, the military commission trial.

QUESTION: Do you -- can you say whether or not you think there will be at least some trials of these 14?

SENIOR JUSTICE OFFICIAL: I think we anticipate that there will. But again, the President said they're being transferred to seek prosecution, and again, that means that a team of prosecutors will thoroughly review the cases and assess the cases for prosecution.

SENIOR DEFENSE OFFICIAL: I would say it's probably a fair bet if you've just looked at the type of information all of you have been reporting through the years that there's probably a pretty good case to be made against many if not all of these people who were transferred to DOD control.

QUESTION: The Common Article 3 amendments related to war crimes, are those -- would those be made

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retroactive, I presume?

SENIOR JUSTICE OFFICIAL: Yeah. It is our view, and it's reflected in the legislation, that if you're going to set definite and clear rules of the road for those offenses that should be considered violations of Common Article 3 that rise to the level of war crimes for all U.S. personnel in the war on terror going forward, that by fairness, the same rules should apply looking backward as well.

QUESTION: What is their status going into Gitmo and how could it change with the status review board? I mean, could some of them be declared enemy combatants at this late date?

SENIOR JUSTICE OFFICIAL: Well, of course they could. The President has determined that they are appropriate for being subject to his military order, and I think there's no doubt that these folks, as you can tell from the descriptions of them, are enemy combatants of the United States. I mean, they are enemy combatants.

There will be a formal DOD review by CCERT and determination by CCERT of enemy combatant status. And that's something that by policy DOD applies and provides to all of the detainees held at Gitmo.

MR. ROEHRKASSE: Okay. We'll take one more question.

MODERATOR: The next question comes from Ed Goldman from Legal Times.

QUESTION: How would you -- what do you think in the end is going to be the one or two areas of your bill that Congress is going to take the most issue with, that the Armed Services Committee, the Senate Armed Services, is going to take the most issue with that will differ most from their version?

SENIOR JUSTICE OFFICIAL: Well, I think there's no secret that the most contentious issue is the use of classified evidence that will not be provided to the accused.

I mean, I think that that's -- frankly, everybody's recognized that that is the one area that's gotten a lot of scrutiny.

QUESTION: And you deny -- I mean, you just sort of reject their argument, or at least --

SENIOR JUSTICE OFFICIAL: Whose argument?

QUESTION: The argument of certain JAG lawyers, defense JAG lawyers, who say, look. You've got three choices. You can give them a redacted version. You can have a substitute of classified information, or you can just stipulate to the facts.

They say they deal with classified information all the time, and under the UCMJ, there's no problem. But you guys reject that argument.

SENIOR JUSTICE OFFICIAL: Well, that's for trials of our own troops, and a lot of those cases involve cases involving alleged misuse of classified information, for example, and --

QUESTION: How is this different? How are the people at Guantanamo, what --

SENIOR JUSTICE OFFICIAL: It's very different. this is very different, because what we know about terrorist -- the terrorists who are fighting against is largely because of intelligence. It is largely because of intelligence. So that the dossiers on these people have been developed from various intelligence sources, and it is critically important that we maintain the secrecy of sensitive intelligence sources and methods in the war on terror. It's an ongoing conflict.

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Now you might say, well, you could just avoid the problem by not prosecuting them until the end of the conflict. But I think the President has indicated, and certainly the view of the Administration, that we want to proceed forward with military commissions, and we don't think America can wait or should wait much longer for prosecutions of some of these very significant war criminals.

QUESTION: How would you know when the conflict ended?

SENIOR JUSTICE OFFICIAL: Well, that's a difficult question with the war on terror, and I think everybody recognizes that. And that's why we don't think it's a viable option to wait until al-Qaida has been defeated or is no longer waging war against the United States or its affiliates or its allies, but rather to proceed forward in the middle of the conflict, as we currently are, with prosecutions of some of these folks.

QUESTION: But again, those three ways to deal with classified information now are not sufficient?

SENIOR JUSTICE OFFICIAL: Well, we'll see in a given prosecution. But we need to have the tool available, because we do think it's going to be important in some of these cases to let the fact finder, the military commission understand the context of the evidence, but not to disclose to our enemy sensitive sources and methods.

So it's going to be a balance, and it's going to have -- these military commissions will have to work through the process, and military judges will need to make some difficult decisions, and the legislation would allow for that possibility, which we think is absolutely essential to have that possibility. Because if we shut off that possibility, then we are -- we're going to make these prosecutions much more difficult in some of the most important cases.

MR. ROEHRKASSE: Okay. Thank you very much. If there are any other questions, please feel free to call our office or DOD Public Affairs.

Thank you.

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Image not available for this document, ID: 0.7.10316.33810-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 6:50 PM
To: USDOJ- Office of Public Affairs
Subject: THREE MEN INDICTED FOR DEALING IN DEFENSE SECRETS

Department of Justice

United States Attorney McGregor W. Scott
Eastern District of California

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
WWW.USDOJ.GOV/USAO/CAE

CONTACT: PATTY PONTELLO
PHONE: (916) 554-2706
FAX: (916) 554-2874

THREE MEN INDICTED FOR DEALING IN DEFENSE SECRETS AND EXPORTING MILITARY EQUIPMENT

FRESNO, Calif. – Amen Ahmed Ali, 56, of Bakersfield and two associates were indicted by a federal grand jury in Fresno on charges relating to the acquisition and transmission of secret defense information and the export of stolen and sensitive military equipment U. S. Attorney McGregor W. Scott, Special Agent in Charge (SAC) Drew S. Parenti of the Sacramento Field Division of the FBI, Bakersfield Police Chief William Rector, Kern County Sheriff Mack Wimbish, and SAC Charles DeMore of the U. S. Immigration and Customs Enforcement (ICE), Office of Investigations in San Francisco, announced today. Amen was also known as Ali Amin Alrowhani, Amin Al Rohany or Ameen Alrohany.

In announcing the indictment, Scott said, "We will use all appropriate legal means at our disposal to detect, disrupt, and hold accountable those who seek to do us harm, whether they act within or outside our borders. This investigation is a sterling example of effective cooperation between federal and local law enforcement agencies to protect our national security and promote public safety."

The indictment alleges that on multiple occasions, between June 25, 2005 and Aug. 31, 2006, Ali received secret defense documents from a government undercover agent. He then transmitted them to the Republic of Yemen, both by fax transmission and by courier.

In addition, Ali, (aka Ali Amin Alrowhani, Amin Al Rohany, or Ameen Alrohany) is charged with conspiring with Ibrahim A. Omer, 40, who currently resides in Fort Worth, Texas, to ship military items to Yemen, the export of which is restricted under federal law. The indictment alleges that between Jan. 13, 2003 and Feb. 14, 2004, Ali and Omer conspired to violate the Arms Export Control Act and the International Traffic in Arms Regulations by shipping several military articles, including body armor and chemical protective suits. These items cannot be legally exported from the Untied States without authorization from the Department of State. In addition, they are both charged with attempting to avoid the export restrictions.

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Ali is also charged with conspiring with Mohamed Al-Rahimi, 62, of Bakersfield, to receive stolen government property which was also sent to Yemen. The indictment alleges that Ali purchased military equipment which he believed to have been stolen from the United States Army, and then directed it to be shipped to Yemen. It is alleged that Al-Rahimi traveled to Yemen to broker the sale of the items.

The indictment is the result of a long term, and ongoing investigation by the Joint Terrorism Task Force, which involved members of the FBI, Bakersfield Police Department, the Kern County Sheriff's Office, and the U. S. Immigration and Customs Enforcement.

During the course of today's operation, which included the execution of search warrants and the arrests of Ali and Omer, assistance was provided by Bureau of Alcohol, Tobacco, Firearms, and Explosives and the U. S. Probation Office.

"ICE is firmly committed to working with federal, state, and local law enforcement agencies in our nation's joint terrorism task forces to protect our country from those who potentially pose a threat," said Charles DeMore, special agent in charge of ICE's office of investigations in San Francisco.

According to Assistant U. S. Attorney Carl M. Faller, who is prosecuting the case, the defendants face the following maximum penalties as to each count:

– Count One (Ali) - Conspiracy to Possess and Transmit Defense Information - 10 years in prison and a $250,000 fine.

– Count Two (Ali and Omer) - Conspiracy to Unlawfully Export Defense Articles - five years in prison and a $250,000 fine.

– Count Three (Ali and Omer) - Attempted Unlawful Export of Defense Articles - 10 years in prison and a $1,000,000 fine.

– Count Four (Ali and Al-Rahimi) - Conspiracy to Possess Stolen Government Property - five years in prison and a $250,000 fine.

Ali was arrested in Bakersfield earlier today and will appear before U. S. Magistrate Theresa A. Goldner in Bakersfield tomorrow afternoon at 1:30 p.m. Omer was taken into custody in Bossier City, La., and will make his first court appearance tomorrow in Shreveport, La. Al-Rahimi remains at large; anyone having information regarding his whereabouts is urged to call the Bakersfield Resident Office of the FBI at 661-323-9665.

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Image not available for this document, ID: 0.7.10316.33798-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 7:23 PM
To: USDOJ- Office of Public Affairs
Subject: LONG ISLAND TITANIUM MANUFACTURER AND ITS OWNER/OPERATOR INDICTED FOR ENVIRONMENTAL CRIMES

Department of Justice

United States Attorney Roslynn R. Mauskopf
Eastern District of New York

FOR IMMEDIATE RELEASE
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LONG ISLAND TITANIUM MANUFACTURER AND ITS OWNER/OPERATOR INDICTED FOR ENVIRONMENTAL CRIMES

United States Also Files Civil Suit Under the Superfund Statute to Recover Over $8 Million in Clean-Up Costs

NEW YORK – Lawrence Aviation Industries Inc. (LAI), and its owner and operator, Gerald Cohen, were indicted on federal criminal charges for illegally storing 11,690 kilograms -- over 11 tons -- of corrosive hazardous waste in violation of the Resource Conservation and Recovery Act (RCRA), and illegally operating two diesel generators in violation of the Clean Air Act, at LAI's principal place of business in Port Jefferson Station, N.Y. In a separate action, the United States filed a civil lawsuit against LAI, Cohen, and six parcels of land, under the federal Superfund statute to recover over $8 million in clean-up costs previously incurred by the U.S. Environmental Protection Agency (EPA) at LAI's manufacturing facility and a judgment of liability for future clean-up costs to be incurred at the LAI site.

Cohen was arrested this morning and is scheduled to be arraigned later today before U.S. Magistrate Judge E. Thomas Boyle, at the U.S. Courthouse, Federal Plaza, Central Islip, N.Y.

The indictment was announced by Roslynn R. Mauskopf, U.S. Attorney for the Eastern District of New York; Alan J. Steinberg, EPA Regional Administrator; and Mark J. Mershon, Assistant Director-in-Charge, Federal Bureau of Investigation, New York Field Office. The civil complaint was announced by Ms. Mauskopf and Mr. Steinberg.

As alleged in the indictment unsealed this morning, LAI began operating at the Port Jefferson Station site in 1959 and manufactured titanium sheets used primarily in the aeronautics industry. Cohen became the sole owner and operator of LAI in 1982. Part of the manufacturing process required the use of large tanks containing corrosive acid and base liquids. The indictment charges that several years prior to April 2003, LAI

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stopped using two of the tanks in the manufacturing operations, and instead used them to store liquids and sludge. In 2003, personnel from EPA's Criminal Investigation Division and the New York State Department of Environmental Conservation (DEC) tested the contents of the two tanks and determined that they contained corrosive hazardous waste. The indictment alleges that LAI and Cohen violated RCRA because the contents of the two tanks had not been disposed of in a timely manner and had been stored without a permit from EPA or DEC.

The indictment also charges that between June 2001 and July 17, 2003, LAI and Cohen operated two diesel generators to provide electricity at the site without obtaining a permit from EPA or DEC, in violation of the federal Clean Air Act. A permit was required because the generators were capable of emitting 444 tons of nitrogen oxide per year, well in excess of the statutorily permissible emission of 25 tons per year in Suffolk County. The indictment alleges that nitrogen oxide contributes to the formation of dangerous ground-level ozone, commonly known as smog.

The civil complaint filed yesterday seeks reimbursement to EPA for funds it has spent, and will continue to spend, to dispose of hazardous substances at LAI's manufacturing facility and to clean up the site and the surrounding areas. The complaint was brought under the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the Superfund statute, which was passed by Congress to help clean up toxic waste sites across the country. EPA added the LAI site to the National Priorities List of the most contaminated sites in the country in March 2000. The complaint alleges that soils, sediments, surface water, and groundwater at and around LAI's facility are contaminated.

Significantly, the groundwater at the site is allegedly contaminated by a plume of trichloroethylene – a solvent used in manufacturing processes and characterized as a hazardous substance by EPA – that extends from the facility almost a mile towards Port Jefferson Harbor. EPA has secured and disposed of tanks and drums of hazardous substances at the site and developed options for remediation of the contamination of the soil and water at and around the site. To date, EPA has expended over $8 million, and will continue to spend funds as the clean up of the site progresses.

"We are committed to protecting the public and our environment from the dangers of hazardous wastes, and soil and groundwater contamination," stated U.S. Attorney Mauskopf. "We will use every tool at our disposal, including criminal prosecutions and civil cost-recovery lawsuits, to ensure that those who pollute our environment are held accountable." Ms. Mauskopf thanked the DEC for its assistance.

"For too long, this manufacturer's activities have contaminated the surrounding area," said EPA Regional Administrator Steinberg. "We are committed to making sure that polluters pay to clean up the messes they have made."

"Vigorous enforcement of our environmental laws is how the FBI protects the region's ecology and natural resources," stated FBI Assistant Director-in-Charge Mershon. "Commerce and the economy can co-exist with conservation and the ecology, provided people conduct themselves and their businesses lawfully. When they don't, there are consequences, both for the environment and for the wrongdoer."

If convicted of the criminal charges, Gerald Cohen faces a maximum sentence of 15 years of imprisonment, and Cohen and Lawrence Aviation Industries Inc. each faces a fine of up to $50,000 for each day of the RCRA violations, and a $250,000 fine for the Clean Air Act violation.

The criminal case is being prosecuted by Assistant U.S. Attorney Mark J. Lesko. The civil case is being handled by Assistant U.S. Attorney Denise McGinn and EPA Assistant Regional Counsel Elizabeth Leilani Davis.

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Image not available for this document, ID: 0.7.10316.33782-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 7:28 PM
To: USDOJ- Office of Public Affairs
Subject: Marriage and Immigration Fraud Scheme Busted in Northern Virginia

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
WWW.USDOJ.GOV/USAO/VAE

CONTACT: JIM RYBICKI
PHONE: (703) 842-4050
FAX: (703) 549-5202

Marriage and Immigration Fraud Scheme Busted in Northern Virginia

Alexandria, Va. – Nineteen of 22 charged individuals involved in a marriage and immigration fraud scheme operating in Northern Virginia, Md., and the District of Columbia were arrested today as part of a three-year law enforcement task force operation. U. S. Attorney Chuck Rosenberg of the Eastern District of Virginia; William Reid, Assistant Director of Investigations, U.S. Immigration and Customs Enforcement (ICE); Chief M. Douglas Scott, Arlington County Police Department; Richard Trodden, Arlington County Commonwealth's Attorney; Colonel David Rohrer, Fairfax County Police Department; Greg Sebben, Special Agent-in-Charge, Office of the Inspector General, Department of Commerce; Charles Pine, Special Agent-in-Charge, Internal Revenue Service; Stephen Brunette, Special Agent-in-Charge, Diplomatic Security Service, Department of State; and Phyllis Howard, Washington District Director, Bureau of Citizenship and Immigration Services, U.S. Department of Homeland Security, made the announcement at a press conference at the Arlington County Courthouse following the arrests.

As described in the government's affidavit, nine defendants are alleged to have arranged marriages between aliens seeking immigration benefits and U. S. citizens willing to enter into a sham marriage for money. The next 10 defendants are aliens who are alleged to have entered into a sham marriage to gain immigration benefits and avoid potential removal from the United States. The final three defendants are U. S. citizens who married aliens and are alleged to have signed false documents to assist the alien in obtaining immigration benefits through fraud.

"U.S. Citizenship is precious, and, for those who come to our country from abroad, must be earned and not purchased" said U.S. Attorney Rosenberg.

Aliens who participated in the fraud generally paid large fees, between $2,500 and $6,000, to the defendants who facilitated sham marriages. In exchange, the aliens were introduced to U. S. citizens, generally on the day of the marriage. The aliens also then had assistance in filing materially false immigration

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paperwork. The U. S. citizens involved in the scheme generally were paid approximately $500 on the day of the marriage, and an additional $300 per month from the alien for approximately one year.

As alleged in the affidavit, the defendants who facilitated the sham marriages also coached the sham "couples" about how to answer questions during interviews conducted by the Department of Homeland Security, Citizenship and Immigration Services (DHS-CIS).

"Immigration and benefit fraud is not simply a nuisance crime, it poses a serious security vulnerability and contributes to a host of other types of crimes, including identity theft and financial fraud," said Assistant Director of Investigations William Reid, of ICE. "The goal of the task force is to identify, and dismantle the criminal organizations behind these highly lucrative schemes, and to let the perpetrators know that U.S. citizenship is not for sale."

The investigation was conducted by a task force of federal and local law enforcement agencies including: the U.S. Immigration and Customs Enforcement; the Arlington County Police Department; the Fairfax County Police Department; the Diplomatic Security Service, Department of State; the Internal Revenue Service; and the Office of the Inspector General, Department of Commerce. The task force received important assistance from several other agencies including the Fraud Detection and National Security Unit within DHS-CIS and the Federal Bureau of Investigation. Assistant U. S. Attorneys Beth Gibson and Jeanine Linehan are prosecuting the case for the United States.

Defendants are presumed to be innocent until and unless proven guilty.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 7:51 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GUATEMALAN SENIOR ANTI-NARCOTICS OFFICERS PLEAD GUILTY TO CONSPIRACY TO MANUFACTURE AND DISTRIBUTE COCAINE

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 7, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER GUATEMALAN SENIOR ANTI-NARCOTICS OFFICERS PLEAD GUILTY TO CONSPIRACY TO MANUFACTURE AND DISTRIBUTE COCAINE

WASHINGTON C Two former senior Guatemalan anti-narcotics law enforcement officers pleaded guilty in the U.S. District Court for the District of Columbia to a charge of conspiracy to manufacture and distribute cocaine, Assistant Attorney General Alice S. Fisher announced, today.

Adan Castillo Aguilar and Jorge Aguilar Garcia, pleaded guilty to a charge of conspiracy to manufacture and distribute five kilograms or more of cocaine, knowing and intending that the cocaine would be imported into the United States.

The defendants are former senior officials of the *Servicio de Analisis e Informacion Anti-narcoticos (SAIA)*, the lead anti-narcotics police agency in Guatemala. Castillo Aguilar was the chief of that agency and Aguilar Garcia was the second in command.

ANo one is above the law. When police officers accept money to help drug traffickers, they abuse their special trust and poison the society they are sworn to protect. We will pursue and prosecute these criminals to the full extent of the law. This case demonstrates international team work at its best, and I want to thank the Attorney General and the other Guatemalan officials who cooperated with this prosecution@ said Assistant Attorney General Alice S. Fisher for the Criminal Division.

During late 2005, the defendants met with undercover informants working for the U.S. Drug Enforcement Administration (DEA), and accepted $25,000 as a down payment to protect a shipment of cocaine through Guatemala for shipment to the United States. Following their agreement to protect the shipment, the DEA invited the defendants to attend anti-narcotics training in the United States. Upon their arrival to Virginia, and unaware they had been indicted by a federal grand jury, the defendants were arrested on Nov. 15, 2005.

Sentencing for Castillo Aguilar and Aguilar Garcia is scheduled for Nov. 17, 2006.

The case was prosecuted by trial attorneys Michael Mota and Paul Laymon from the Justice Department=s Criminal Division, Narcotic and Dangerous Drug Section.

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Image not available for this document, ID: 0.7.10316.33779-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 07, 2006 8:17 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 7, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Travels to New York City (OPA)
Today, Attorney General Alberto R. Gonzales delivered remarks regarding the war on terror at the Manhattan Institute's conference on *First Preventers: The Role of Law Enforcement in the War on Terror* in New York City. While there, he also met with the editorial board of *The Wall Street Journal* and participated in a radio interview with Sean Hannity.

Acting Assistant Attorney General Bradbury Testified Before House Armed Services Committee (OPA)
Today, Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury testified before the House Armed Services Committee regarding Military Commissions and Tribunals.

Department Issued Statement Regarding Ruling in Al-Haramain State Secrets Case (OPA)
The Department issued the following statement regarding the ruling against in the Al-Haramain Islamic Foundation, Inc. et al v. Bush et al state secrets case today:

- "As we made clear in our court papers, we believe this case should be dismissed as a result of the state secrets implicated by plaintiffs' claims. We are disappointed that the court did not dismiss the case, and we are reviewing the opinion and considering our options."

FBI Director Mueller Participated in Media Interviews (FBI)
Today, FBI Director Robert Mueller participated in interviews with NBC, CNN, ABC, Fox News and NPR on the state of the FBI five years after Sept. 11. These interviews will appear today through next Tuesday.

Miami-Dade Police Force Shoots Convicted Felons (ATF)
Today, two convicted felons were shot and wounded during a drug bust carried out by the Miami Dade Special Response Team in conjunction with the ATF. Two men were shot and four others were arrested when the six suspects, dressed as law enforcement officers, attempted to assault a tractor-trailer they believed contained 80 kilograms of cocaine. The suspects were confronted

by the Miami Dade Police Special Response Team and instructed to drop their weapons. Instead, the suspects pointed their firearms toward the Special Response Team, at which point the team took necessary defensive action. All six of the men have extensive violent criminal histories, including multiple arrests and convictions for armed robberies, kidnapping, burglaries, and armed trafficking.

Foreign Operator of Obscene Web Sites Arrested on Federal Obscenity Charges (Criminal)
Danilo Simoes Croce, of Sao Paulo, Brazil, was arrested in Orlando, Fla. on charges of conspiracy to distribute obscene matters, the Department of Justice and the U.S. Postal Inspection Service announced today. If convicted, Croce faces up to five years in prison and a $150,000 fine. According to documents filed in the District Court in Orlando, Croce and his corporation, Lex Multimedia, operated web sites offering obscene videos for download or delivery in the U.S.

Former Guatemalan Senior Anti-Narcotics Officers Pleads Guilty to Conspiracy to Manufacture and Distribute Cocaine (Criminal)
Two former senior Guatemalan anti-narcotics law enforcement officers pleaded guilty in the U.S. District Court for the District of Columbia to a charge of conspiracy to manufacture and distribute cocaine, Assistant Attorney General Alice S. Fisher announced today. Adan Castillo Aguilar and Jorge Aguilar Garcia, pleaded guilty to a charge of conspiracy to manufacture and distribute five kilograms or more of cocaine, knowing and intending that the cocaine would be imported into the United States.

Talking Points

- No one is above the law. When police officers accept money to help drug traffickers, they abuse their special trust and poison the society they are sworn to protect.

Justice Department Requires Divestitures in Alltel's Acquisition of Midwest Wireless (Antitrust)
ALLTEL Corporation has agreed to divest assets in rural areas of Minnesota in order to proceed with its $1.075 billion acquisition of Midwest Wireless Holdings LLC, the Justice Department announced today. The Department said that the deal as originally proposed would have resulted in higher prices, lower quality, and diminished investment in network improvements for consumers of mobile wireless telecommunications services in four areas where both ALLTEL and Midwest Wireless currently operate.

Talking Points

- The Department's action ensures that wireless telephone consumers will continue to obtain the benefits of competition--lower prices and higher quality

- The required divestitures preserve competition in rural areas where consumers often have fewer choices for wireless telephone services.

Violent Crime Rate Unchanged During 2005 (Bureau of Justice Statistics)
The Department of Justice issued a copy of the 2005 Crime Victimization Report, embargoed until Sunday. The report indicates that the violent crime rate in 2005 was unchanged from the previous year. However, the property crime rate declined from 2004 to 2005 because of a decrease in theft. Last year's criminal victimizations included an estimated 18 million property crimes (burglaries, motor vehicle thefts and household thefts); 5.2 million violent crimes (rapes or sexual assaults, robberies, aggravated assaults and simple assaults); and 227,000 personal thefts (picked pockets and snatched purses). Measured offenses include those reported to police as well as those that go unreported. With the exception of theft, victimization rates for every type of crime measured were unchanged from their 2004 levels. Violent crime and property crime rates in 2005, as estimated by BJS's National Crime Victimization Survey, are at the lowest levels recorded since 1973 — the first year that such data were available. The Department will issue the statement on the report tomorrow, also embargoed until Sunday.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Radio Interviews (OPA)
Tomorrow, the Attorney General will participate in radio interviews regarding the military commission legislation with *Brian and the Judge, The Laura Ingraham Show* and *Hot Talk with Scott Hennen*.

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

JCON Broadcast (JMD\SMO JCON)

From: JCON Broadcast (JMD\SMO JCON)
Sent: Thursday, September 7, 2006 9:15 PM
Subject: Events to Honor the Victims & Heroes of the September 11, 2001 Attacks

Events To Honor the Victims & Heroes of the September 11, 2001 Attacks

This year, as we mark the fifth anniversary of the terrorist attacks carried out against our Nation on September 11, 2001, the Department is offering a few opportunities for you to remember the lives lost, and to honor the heroism of the police officers, firefighters, rescue personnel, members of the military, and private citizens who responded selflessly in the face of terror.

On Monday, September 11, Attorney General Gonzales and other Department leaders will host a remembrance ceremony in the DOJ Courtyard at 11:30 A.M. We encourage you to attend and join in a moment of silence to honor all those we lost five years ago.

Also on Monday, September 11, the Attorney General invites all DOJ employees to take a few minutes to visit a memorial exhibit that will be set up in his conference room. Located on the fifth floor of the RFK building, the exhibit will be open from 9:00 to 11:15 A.M. and then from noon to 5:00 P.M. (It will close during the time of the remembrance ceremony.)

Last, our colleagues at the Department of Defense invite you to join in the *America Supports You Freedom Walk* at 6:30 P.M. on Sunday, September 10. The walk is an opportunity to reflect on the lives lost on September 11th, to renew our commitment to freedom and the values of our country, and to honor our veterans. The walk will begin at the National Mall, adjacent to the Washington Monument, and will end at the Pentagon South Parking area near the crash site. A musical tribute by Denyce Graves follows. The concert should last until approximately 8:00 P.M. More information about the Freedom Walk is available at: <http://www.americasupportsyou.com/freedomwalk> . Those interested in attending are asked to register at that website by noon on Saturday, September 9.

Additional Information for the America Supports You Freedom Walk:

Parking: Walk participants are encouraged to take Metro. The closest Metro stations to the Washington Monument are: Smithsonian (1200 Independence Ave. SW), Foggy Bottom (2301 I St. NW), Federal Triangle (302 12th St NW), and Farragut West (900 18th St NW). There is also a Metro station at the Pentagon. (There is no parking available onsite.)

Prohibited Items: For visitor safety, the following items are prohibited during the walk: real or simulated weapons/ammunition, animals, mace/pepper spray, alcoholic beverages, coolers, glass bottles, fireworks/firecrackers, signs, banners, and laser lights/laser pointers.

Note: Baby strollers are allowed for the walk. Backpacks, duffels and bags are allowed but will be subject to security screening.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 9:51 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 8, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 8, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

9:50 A.M. MDT Solicitor General Paul Clement will be a panelist at the Tenth Circuit Judicial Conference Panel entitled *The Roberts' Court - Year One.*
Broadmoor Hotel
Rocky Mountain Ballroom A-B
1 Lake Avenue
Colorado Springs, Colorado
PRINT MEDIA ONLY (NO CAMERAS OR STILLS)

Press inquiries regarding logistics should be directed to David Tighe of the Tenth Circuit Judicial Conference at 303-335-2829, or to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Kathleen Blomquist

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167639

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Image not available for this document, ID: 0.7.10316.33745-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 1:37 PM
To: USDOJ- Office of Public Affairs
Subject: WORCESTER MAN CAUGHT IN UNDERCOVER FBI STING SENTENCED FOR ATTEMPTED ENTICEMENT OF A MINOR AND CHILD PORNOGRAPHY

Department of Justice

United States Attorney Michael J. Sullivan
District of Massachusetts

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
www.usdoj.gov/usao/ma

CONTACT: SAMANTHA MARTIN
PHONE: (617) 748-3139
FAX: (617) 748-3992

WORCESTER MAN CAUGHT IN UNDERCOVER FBI STING SENTENCED FOR ATTEMPTED ENTICEMENT OF A MINOR AND CHILD PORNOGRAPHY

BOSTON – Robert A. Fafard, 62, was sentenced to nine years in federal prison for attempted enticement of a minor and distributing sexually explicit images of a minor, U.S. Attorney Michael Sullivan of the District of Massachusetts announced today. Fafard was caught in an FBI undercover sting in which he believed he was communicating over the Internet with a 12-year-old girl.

On May 25, 2006, Fafard pleaded guilty to a four-count indictment charging him with attempted coercion and enticement of a minor, transportation of child pornography, and possession of child pornography.

At the earlier plea hearing, the U.S. Attorney's Office advised the court that if the case had gone to trial, the government would have proved that in April 2004, an FBI agent trained in child enticement cases, posed as a 12-year-old girl and in that role, posted a profile on the Internet that included a photograph and the Internet name "OhioLisa13." Fafard contacted the undercover agent, believing that he had contacted the 12-year-old girl. In a series of Internet chats, Fafard sent her child pornography to entice her to agree to be photographed in sexually suggestive ways and to engage in sexual conduct with him. Fafard also participated in recorded telephone calls with an undercover police officer posing as "OhioLisa13." In the recorded calls, Fafard spoke about wanting to engage in sexual conduct with her and to photograph her naked. In September 2004, "OhioLisa13" told Fafard she was relocating to Rhode Island. Fafard pressed the undercover agent for the address in Rhode Island, and used the Internet to print out directions to travel from his Worcester residence to the Rhode Island address. FBI agents arrested Fafard and searched his residence on Nov. 10, 2004. Agents seized two computers with several hundred images of child pornography, a 50- state atlas opened to Rhode Island and a MapQuest print out of directions. Fafard confessed to downloading pictures over the Internet and conceded he may have sent "OhioLisa13" child pornography.

The investigation was conducted by the Cleveland, Ohio, and Hudson field offices of the FBI, with assistance from the Mentor-on-the-Lake, Ohio Police Department. Members of the Department of Justice's Child Exploitation and Obscenity Section's High Technology Investigative Unit assisted the FBI with the

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forensic examinations of Fafard 's computer. The case was prosecuted by Assistant U.S. Attorney David Hennessy in the District of Massachusetts and DOJ Trial Attorney Jennifer Toritto Leonardo in the Child Exploitation and Obscenity Section.

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JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Friday, September 8, 2006 2:26 PM
Subject: Fire Alarm Testing at 20 Massachusetts Avenue

Fire Alarm Testing at 20 Massachusetts Avenue

Justice Management Division customers located at 20 Massachusetts Ave will experience an interruption in SMO/JMD JCON computer services due to Fire Alarm Testing. **Please be advised, these customers will be unavailable via normal SMO/JMD JCON email services.**

When:	Tuesday, September 12, 2006, 7:00 p.m. through 6:00 a.m.
Event:	Scheduled Power Outage and Fire System Testing
Affected Customers:	All JCON Customers located at 20 Massachusetts
Unavailable Services:	BlackBerry *(PIN to PIN messaging is available)* Email Services H:\ Drive Resources Building Wide Interruption in computer services during this service window.
Available Services:	BlackBerry PIN to PIN Messaging

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Point your cursor to Shut Down and click the right button.
4. Choose the Shutdown and Power off option. This will log your workstation out of the JMD/SMO JCON network and power off the desktop.

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Friday, September 08, 2006 4:15 PM
Subject: Update on MAIN Justice Building

Update on MAIN Justice Building
September 8, 2006

Since the flood damage that occurred on June 25, 2006, significant progress has been made to restore the building to normal operations. Below is an updated status of building operations:

MAIN reentry: All personnel have returned to their regular work spaces in the building.

Entrances: All four entrances to the building have been opened.

Environmental Issues: The entire building was sampled and tested for mold including floors that received water damage as well as floors that did not. All test results were determined to be within acceptable limits.

Elevators: At least one passenger car is operational in each of elevator banks 1, 4, 5, 7, 8, 9 and 10.

Bathroom Service: Bathrooms on all floors are available for regular use. Hot water will be available beginning the week of September 25.

Drinking Water: Bottled water will continue to be provided for occupants until the drinking water system is restored and tested. This process is expected to take another three to four months.

Services:

- The MAIN mail room was reconstructed and returned to normal operations on Monday, August 14.
- The Coffee Shop portion of the cafeteria is expected to open for business early October. The full Justice Café is expected to be open for business the first week of January.
- The gym is expected to be open by mid-November.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 4:47 PM
To: USDOJ- Office of Public Affairs
Subject: FOR-PROFIT SOFTWARE PIRACY WEB SITE OPERATOR SENTENCED TO 87 MONTHS IN PRISON

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FOR-PROFIT SOFTWARE PIRACY WEB SITE OPERATOR SENTENCED TO 87 MONTHS IN PRISON

Defendant Made More Than $5.4 Million in Illegal Revenue

WASHINGTON — The owner of a massive for-profit software piracy Web site was sentenced today in federal court to 87 months in prison, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced.

Nathan L. Peterson, 27, of Antelope Acres, Calif. was also ordered by Judge T.S. Ellis, III of the Eastern District of Virginia to forfeit the proceeds of his illegal conduct and pay restitution of more than $5.4 million. The forfeiture involves a wide array of assets, including homes, numerous cars, and a boat, which Peterson had purchased with the profits from his illegal enterprise. Today's sentence is the second recent major prison sentence received for software piracy. In August 2006, Danny Ferrer, 37, the operator of www.BuysUSA.com, received a six- year prison sentence.

Peterson is believed to be the most prolific online commercial distributor of pirated software ever convicted in the United States, the Department said.

"This defendant lined his pockets by stealing the hard work of others," said Fisher. "Today's sentence sends a clear message that those who sell pirated software will be convicted and punished."

Beginning in 2003, and continuing until its shutdown by the Federal Bureau of Investigation (FBI) in February 2005, Peterson operated the www.ibackups.net website which sold copies of software products that were copyrighted by companies such as Adobe Systems, Inc., Macromedia Inc., Microsoft Corporation, Sonic Solutions, and Symantec Corporation at prices substantially below the suggested retail price. The software products purchased on Peterson's website were reproduced and distributed either by instantaneous computer download of an electronic copy and/or by shipment through the mail on CDs. Peterson often included a serial number that allowed the purchaser to activate and use the product.

"Stealing the intellectual property of others is always a bad idea in any context. It's theft. And, so, a sentence of seven plus years in prison and restitution of $5.4 million is richly deserved," said Rosenberg.

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The investigation was conducted by agents of the FBI's Washington Field Office. After receiving complaints from copyright holders about Peterson's website, an undercover FBI agent made a number of purchases of business and utility software from the site, which were delivered over the Internet and by mail to addresses in northern Virginia.

As a result of the FBI's investigation, Peterson's website was taken down in February 2005. Further investigation established that, during the time of its operation, www.ibackups.net illegally sold more than $5.4 million of copyrighted software. These sales resulted in losses to the owners of the underlying copyrighted products of nearly $20 million.

Peterson used the proceeds of his illegal conduct to fund an extravagant lifestyle, including the purchases of multiple homes, cars, and a boat. The government seized numerous assets from Peterson including: a number of bank and trading accounts, a fully restored 1949 Mercury Coupe purchased originally for $44,000, a 2005 Dodge Ram, a 2003 Chevrolet Corvette, a 2004 Toyota Camry, a 2005 Toyota Corolla, and a 2006 Mercedes-Benz S-Class purchased for $125,000.

Peterson pleaded guilty before Judge Ellis on Dec. 13, 2005, to two counts of criminal copyright infringement for selling pirated software. While awaiting sentencing in this case, Peterson was arrested, convicted, and sentenced in California on state gun charges resulting from an investigation by the Los Angeles Police Department. He was sentenced on June 1, 2006, to 16 months of incarceration on those charges. Federal prosecutors then sought his return to the Eastern District of Virginia for sentencing on the federal charges.

Trial Attorneys Jay V. Prabhu and Lily Chinn of the Criminal Division's Computer Crime and Intellectual Property Section, and Assistant U.S. Attorney Stephanie B. Hammerstrom for the Eastern District of Virginia, prosecuted the case. The Business Software Alliance, a trade association which represents leading computer software companies, provided significant assistance to the investigation.

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 4:55 PM
To: USDOJ- Office of Public Affairs
Subject: THREE MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

THREE MORE PEOPLE PLEAD GUILTY TO KATRINA FRAUD

JACKSON, Miss. - Three more individuals have entered guilty pleas in U.S. District Court for FEMA fraud, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today

Stephanie Fontan, of Morton, Miss., pleaded guilty to making a false statement to theFederal Emergency Management Agency (FEMA) for Hurricane Katrina disaster assistance funds. Fontan received $6,000 from FEMA by claiming hurricane damage at a false address in Pascagoula, Miss. At the time Hurricane Katrina hit the Mississippi Gulf Coast, Fontan was living in Scott County, Miss.

Stephen Fontan, of Morton, Miss, pleaded guilty to submitting a false claim to FEMA for Hurricane Katrina disaster assistance funds. Fontan received $2,000 from FEMA by claiming hurricane damage at a false address in Moss Point, Miss. At the time Hurricane Katrina hit the Mississippi Gulf Coast, Fontan was living in Scott County.

The husband and wife are scheduled to be sentenced before U.S. District Judge Tom S. Lee on Dec.15, 2006. The maximum sentence for the defendants is five years and a $250,000 fine.

Lawrence Creed of Gulfport, Miss. pleaded guilty today to submitting a false claim to FEMA for Hurricane Katrina disaster assistance funds and rental housing benefits using an address in Gulfport, Miss. where he had not lived for over a year. Creed received a total of $4,358 as a result of his false claim. Creed produced documents to FEMA, such as his driver's license and power bill, listing the former address to support his claim. After confessing to FEMA investigators that he did not live at the address, he continued to pursue his claim for benefits by writing a letter stating that he lived at that address at the time of Hurricane Katrina.

Creed faces a maximum sentence of five years of in prison and a $250,000 fine. A sentencing date has not been set for Creed.

In September 2005, Attorney General Alberto R. Gonzales created the national Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud,

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identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force - chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, includes members from the FBI, the Federal Trade Commission, the Department of Labor's Office of Inspector General, the Office of the Postal Inspector and the Executive Office of U.S. Attorneys, among others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 Federal and State law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who engage in fraud associated with the hurricanes.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 5:08 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ON THE BUREAU OF JUSTICE STATISTICS 2005 NATIONAL CRIME VICTIMIZATION SURVEY

EMBARGOED UNTIL 4:30 P.M. EDT, SUNDAY, SEPTEMBER 10, 2006

Department of Justice

ADVANCE FOR RELEASE AT 4:30 P.M. EDT
SUNDAY, SEPTEMBER 10, 2006
WWW.USDOJ.GOV

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

STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ON THE BUREAU OF JUSTICE STATISTICS 2005 NATIONAL CRIME VICTIMIZATION SURVEY

WASHINGTON, D.C.

In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime. The newly-released National Crime Victimization Survey, the first of two Department of Justice reports on the level of crime to be released this month, shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

The Survey shows that the long-term trend of declining crime rates continued in 2005. However, the Survey also reflects an increase in the rate of violent crimes committed with a firearm when compared with 2004's record-low rate. While we are concerned about this increase, the rate of firearms victimization in 2005 remains lower than in 2001 and every prior year, and is consistent with the data recorded in 2002 and 2003. Whether the increase from 2004 to 2005 marks a change in the trend towards reduced firearms victimization rates cannot be determined from one year's data.

In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime, reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

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Image not available for this document, ID: 0.7.10316.33705-000002

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, September 11, 2006 4:00 PM
End:	Monday, September 11, 2006 4:30 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C
Optional Attendees:	Reyes, Luis (SMO)

When: Monday, September 11, 2006 4:00 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 6:05 PM
To: USDOJ- Office of Public Affairs
Subject: REGISTERED SEX OFFENDER INDICTED IN FEDERAL COURT ON CHILD PORNOGRAPHY CHARGES

Department of Justice

United States Attorney Rachel K. Paulose
District of Minnesota

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV/USAO/MN

CONTACT: JEANNE F. COONEY
PHONE: (612) 664-5600
FAX: (612) 664-5784

REGISTERED SEX OFFENDER INDICTED IN FEDERAL COURT ON CHILD PORNOGRAPHY CHARGES

MINNEAPOLIS – A registered sex offender from Minneapolis was indicted by a federal grand jury today on child pornography charges. Lyle Robert Paton, 58, was charged with five counts of producing child pornography and one count of possession of child pornography. According to the indictment, between June of 2005 and July of 2006, Paton enticed five minors to engage in sexually explicit conduct for the purpose of having that conduct photographed. The indictment also indicates that in July of 2006, Paton was found in possession of child pornography.

A complaint filed recently in a related state court case indicates that on July 7, 2006, a St. Paul police officer responded to a call about a man seen walking into an urban woods with five young boys and a camera. The officer located the children and the man, who was identified as Lyle Paton. After questioning Paton, the officer returned to her squad car to run a criminal history check and learned that he was a sex offender with two prior convictions. The complaint states that at that point, Paton and the children approached the police car. Paton, however, no longer possessed his digital camera. He allegedly told an officer he had gotten scared and had thrown it into the woods. It was ultimately recovered, although the memory card, found in Paton's wallet, was broken.

The complaint also states that the boys were referred to Midwest Children's Resource Center for evaluation. During the course of that evaluation, one of the boys allegedly reported that Paton had been taking nude photographs of them for a period of time. In return for the boys' cooperation, Paton had allegedly given them money, food, clothing and toys.

Based on this information, the police executed a state court search warrant on Paton's Minneapolis residence. That search yielded, among other items, two desk-top computers, a laptop computer, and several digital camera memory cards. On one of those computers, an investigator allegedly uncovered four images of child pornography. The investigator also allegedly found 114 images of child pornography on the memory cards

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Because Paton has a prior conviction for a sex crime involving a child, he faces a mandatory minimum sentence of 25 years in prison on each count of producing child pornography and a mandatory minimum sentence of 10 years for possession of child pornography.

This case is part of Project Safe Childhood (PSC), a national initiative announced by U.S. Attorney General Alberto Gonzales earlier this year. PSC encourages the use of multi-jurisdictional task forces to investigate and prosecute cases that involve the sexual exploitation of children over the Internet. Moreover, PSC urges that law enforcement efforts be complemented by community-wide campaigns to assist victims of exploitation and to educate parents, other adults, and children about Internet safety. According to the U.S. Department of Justice, one in every 33 children receives an unwanted sexual solicitation online each year. One in four children experiences unwanted exposure to sexually explicit material on the Internet each year. In addition, more than 20,000 images of child pornography are posted on the Internet every week.

In Minnesota, investigative assistance in these matters is provided by the Minnesota Internet Crimes Against Children Task Force (MICAC). The MICAC Task Force was created in 2000 through a grant from the Justice Department's Internet Crimes Against Children program. The MICAC Task Force is one of almost 50 federally funded task forces in the country dedicated to this issue. The number of law enforcement agencies participating in the MICAC Task Force reflects the strong commitment Minnesota has made to its children and their safety. Members of the MICAC Task Force include the Sheriff's Office in the counties of Hennepin, Ramsey, Anoka, Cass, Clearwater, Crow Wing, Dakota, Murray, Polk, Rice, and Washington; the police department in the cities of Minneapolis, Baxter, Burnsville, Fergus Falls, Hutchinson, Mankato, Moorhead, White Bear Lake, and Woodbury; the North Dakota Bureau of Criminal Investigation; and the South Dakota Department of Criminal Investigation. Additionally, a number of federal law enforcement agencies have cooperated with the MICAC Task Force, including the FBI, Immigration and Customs Enforcement, the U.S. Secret Service, and the U.S. Postal Service.

This case is the result of an investigation conducted by the St. Paul Police Department, the Predatory Offender Task Unit, the FBI and its Violent Crimes Fugitive Task Force, the U.S. Secret Service, and the Sheriff's Office in Collier County, Fla., with the assistance of the MICAC Task Force. The case is being prosecuted by Assistant United States Attorney Tracy T. Braun.

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 6:18 PM
To: USDOJ- Office of Public Affairs
Subject: LOUISVILLE BUSINESSMAN SENTENCED TO 87 MONTHS IN PRISON FOR BRIBING CONGRESSMAN

Department of Justice

FOR IMMEDIATE RELEASE — CRM
FRIDAY, SEPTEMBER 8, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

LOUISVILLE BUSINESSMAN SENTENCED TO 87 MONTHS IN PRISON FOR BRIBING CONGRESSMAN

ALEXANDRIA, Va. — A businessman who paid bribes to a member of the U.S. House of Representatives was sentenced to 87 months in prison by Judge T.S. Ellis, III in U.S. District Court in Alexandria, Virginia today, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced.

Vernon L. Jackson, 53, of Louisville, Ky., pleaded guilty on May 3, 2006 to a two-count criminal information charging him with conspiracy to commit bribery and the payment of bribes to a public official. Jackson was also ordered to serve two years of supervised release once he has completed his sentence. As part of his plea, Jackson has agreed to cooperate with law enforcement officials in an ongoing probe of public corruption related to business deals in Africa and elsewhere.

According to the information, from 1998 through the present, Jackson has been the Chairman and CEO of iGate Incorporated, a Kentucky firm focused on developing technology designed to transmit data, audio, and video communications over copper wire. The information charged that in approximately 2000, Jackson was introduced to a member of the U.S. House of Representatives (Representative A), who was active in promoting U.S. trade and business in Africa. Representative A then provided official assistance to Jackson in persuading the U.S. Army to test iGate's broadband two-way technology and other products of iGate. Representative A's official assistance led to the placement of iGate on the U.S. General Services Administration (GSA) schedule, making iGate products eligible for use in various federal contracts.

The information also charged that in early 2001, Representative A told Jackson that Representative A would not continue to provide official assistance to Jackson's company iGate, unless Jackson agreed to pay a nominee company ostensibly maintained in the names of Representative A's spouse and children. Jackson agreed and signed a consulting services agreement committing iGate to pay the nominee company various things of value in return for Representative A's performance of official acts in furtherance of iGate's business in Africa and elsewhere. This includes, but is not limited to monthly payments of $7,500; a percentage of iGate's gross sales; a percentage of capital investments raised for iGate; options for iGate stock; and payment to a member of Representative A's family to perform legal work for various iGate business ventures.

DOJ_NMG_ 0167666

Jackson pleaded guilty to causing more than $400,000 to be paid to Representative A's nominee company and that the consulting services agreement was designed to conceal the illegal nature of the payments demanded by Representative A. In return for the agreement to pay things of value, Representative A agreed to perform numerous official acts in furtherance of iGate's business, including, but not limited to efforts to influence high-ranking officials in Nigeria, Ghana, Cameroon and elsewhere through official correspondence and in-person meetings; travel to those countries to facilitate these meetings; and meetings with personnel of the Export-Import Bank of the United States, the official export credit agency of the United States, in order to facilitate potential financing for iGate business deals in those countries.

"Public corruption degrades severely our institutions of government and undermines public confidence in the many thousands of honorable men and women who serve with distinction at all levels. We will do all we can to put an end to this corruption, wherever and whenever we find it," said Rosenberg.

The case is being prosecuted by Mark D. Lytle and Rebeca Bellows, Assistant United States Attorneys, Eastern District of Virginia and Trial Attorney Michael K. Atkinson of the Fraud Section of the Criminal Division at the U.S. Department of Justice, Washington. The case is being investigated by the Federal Bureau of Investigation.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 8, 2006 8:50 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 8, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participated in Radio Interviews (OPA)
Today, Attorney General Alberto R. Gonzales participated in radio interviews with *Brian and the Judge* and *The Laura Ingraham Show*, both nationally syndicated, and *Hot Talk with Scott Hennen* of WDAY, Fargo, N.D. The interviews regarded the President's announcement on the High Value Terrorist Detainee Program and the Military Commission Act of 2006.

Deputy Attorney General McNulty Issues Statement Regarding Crime Victimization Survey (OPA)
Today, Deputy Attorney General McNulty issued the following statement in response to the Bureau of Justice Statistics Crime Victimization Survey, embargoed until Sunday.

- "In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime. The newly-released National Crime Victimization Survey, the first of two Department of Justice reports on the level of crime to be released this month, shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

  "The Survey shows that the long-term trend of declining crime rates continued in 2005. However, the Survey also reflects an increase in the rate of violent crimes committed with a firearm when compared with 2004's record-low rate. While we are concerned about this increase, the rate of firearms victimization in 2005 remains lower than in 2001 and every prior year, and is consistent with the data recorded in 2002 and 2003. Whether the increase from 2004 to 2005 marks a change in the trend towards reduced firearms victimization rates cannot be determined from one year's data.

  "In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and

anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

"At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime, reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

Media Inquires Regarding Release of Mohdar Abdullah (FBI)
The FBI received multiple media inquiries today related to Mohdar Abdullah, a former Yemeni who overstayed his Visa and was deported by Immigrations and Customs Enforcement and later identified as having possible connections to the September 11 hijackers. FBI Assistant Director John Miller issued the following response to the media:

- "At the time of his release, the FBI did not have sufficient evidence to charge Mohdar Abdullah with a crime. ICE did not have a legal basis to hold him indefinitely in the United States. Rather than release him on the streets of the United States at that time, however, ICE deported him to Yemen given his illegal status in this country. Since his deportation the FBI has uncovered some additional information but not enough to bring any formal charge. The investigation into the 9/11 attacks continue. The FBI is examining potential contact between the 19 hijackers and a number of persons."

Assistant FBI Director to Appear on CNN's *Late Edition* (FBI)
On Sunday, FBI Assistant Director John Miller will be interviewed on CNN's *Late Edition with Wolf Blitzer* regarding the fifth anniversary of September 11.

***New York Times* Inquires Regarding FBI/DHS Identification Programs (FBI)**
New York Times reporter Eric Lipton requested information status of a project which establishes interoperability between the FBI's Integrated Automated Fingerprint Identification System and DHS's Automated Biometric Identification System. The story is expected to run tomorrow.

FBI SAC to Appear on Fox News (FBI)
This weekend, FBI SAC Laurie J. Bennett of Buffalo, N.Y. will appear on Fox News Channel's *The Lineup,* hosted by Kimberly Guilfoyle. He will speak about the hunt for FBI Most Wanted Fugitive Bucky Phillips. If Phillips is captured before the taping, the show may opt for an interview with Paul Daymond, an FBI Media Representative in Birmingham, Ala., regarding escaped convict Dedrick Griham.

For-Profit Software Piracy Web Site Operator Sentenced to 87 Months in Prison (Criminal)
The owner of a massive for-profit software piracy Web site was sentenced today in federal court to 87 months in prison. Nathan L. Peterson of Antelope Acres, Calif. was also ordered by Judge T.S. Ellis, III of the Eastern District of Virginia to forfeit the proceeds of his illegal conduct and pay restitution of more than $5.4 million. Today's sentence is the second recent major prison sentence received for software piracy. In August 2006, Danny Ferrer, the operator of www.BuysUSA.com, received a six- year prison sentence.

Talking Point

- Today's sentence sends a clear message that those who sell pirated software will be convicted and punished.

Louisville Businessman Sentenced to 87 Months in Prison for Bribing Congressman (CRM)
A businessman who paid bribes to a member of the U.S. House of Representatives was sentenced to 87 months in prison by Judge T.S. Ellis, III in U.S. District Court in Alexandria, Virginia today. Vernon L. Jackson, of Louisville, Ky., pleaded guilty on May 3, 2006 to a two-count criminal information charging him with conspiracy to commit bribery and the payment of bribes to a public official. Jackson was also ordered to serve two years of supervised release once he has completed his sentence. As part of his plea, Jackson has agreed to cooperate with law enforcement officials in an ongoing probe of public corruption related to business deals in Africa and elsewhere.

Federal Court Bars Los Angeles Man from Promoting Tax Scams and Preparing Tax Returns for Others (Tax)
The Justice Department announced today that a federal court has barred James L. Tolbert of Los Angeles, also known as James Tolbert Bey, from preparing federal income tax returns for others. Judge R. Gary Klausner of the U.S. District Court for the Central District of California permanently enjoined Tolbert and anyone acting in concert with him on Sept. 6, 2006, from promoting a tax scheme by representing, among other things, that residents of California or other states are not liable for federal income tax because they are "citizens of California (or another state. . .) and not of the United States." Federal courts across the country have rejected such claims repeatedly.

MONDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Events Commemorating Fifth Anniversary of September 11
On Monday, the Attorney General will participate in a moment of silence with President Bush at the White House commemorating the fifth anniversary of September 11, 2001, and a commemorative event at the Department of Justice with Department employees. He will also eat lunch with selected family members of those who lost their lives on September 11. Later in the day, he will participate in television interviews with CNN, Fox News, and MSNBC regarding the anniversary. He will also attend Radio Day at the Pentagon, where he will participate in interviews with *The Rusty Humphries Show* and *The Jim Bohannon Show*, both nationally syndicated, and *The Jim Villanucci Show* of KKOB, Albuquerque, N.M. and *The Matt Gerson Show* of KXAM, Scottsdale, Ariz.

Deputy Attorney General to Participate in Live Town Hall Meeting
Deputy Attorney General Paul McNulty will participate in a live town hall meeting Sunday at 9:30 p.m. EDT hosted by Ted Koppel, which will air on the Discovery Channel. The town hall discussion will feature past and present government officials, privacy and civil liberties advocates, legal experts, members of 9/11 families and others concerned about the balances of national security and civil liberties. The town hall meeting will focus on how the country should

best address those competing interests, and will follow a documentary produced by the Discovery Channel on the same subject.

FBI Deputy Director to Speak at Commonwealth Club

On Monday, FBI Deputy Director Pistole will speak at the Commonwealth Club in San Francisco, Calif. regarding the state of the FBI five years after Sept. 11, 2001.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 08, 2006 9:47 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 11-15, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 8, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR September 11 – September 15, 2006

Monday, September 11

Events TBD

Tuesday, September 12

DOJ_NMG_ 0167674

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will present testimony before the Senate Judiciary Committee at a hearing titled *The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations*
Dirksen Senate Office Building
Room 226
Washington D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

2:00 P.M. EDT Attorney General Alberto R. Gonzales will participate in the Department of Justice's 54th Annual Awards Ceremony
DAR Constitution Hall
18th Street, N.W. between C and D Streets
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Ames of the Department of Justice at 202-305-5938.

4:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding H.R. 5825, the "Electronic Surveillance Modernization Act."
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

Wednesday, September 13

2:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice post- Hurricane Katrina law enforcement efforts at the Hurricane Katrina One-year Anniversary Symposium.
Sheraton New Orleans Hotel
500 Canal Street
New Orleans, Louisiana
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

2:30 P.M. EDT Mike Battle, Director, Executive Office of United States' Attorneys; and Susan Brooks, U.S. Attorney for the Southern District of Indiana, will testify before the Senate Judiciary Subcommittee on Crime and Drugs regarding *Challenges Facing Today's Federal Prosecutors*
Dirksen Senate Office Building
Room 226
Washington, D.C.

DOJ_NMG_ 0167675

OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

Thursday, September 14

12:15 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice efforts to fight child exploitation at the Protect Our Children Conference.

Hilton Kansas City Airport Hotel
Shawnee Ballroom
8801 N.W. 112th Street
Kansas City, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

TIME TBD Federal Bureau of Investigation Director Robert Mueller and Inspector General Glenn Fine will testify before the House Appropriations Subcommittee on Science, the Departments of State, Justice, and Commerce and Related Agencies regarding FBI Oversight.

TBD Location
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Appropriations Committee at 202-225-2771.

2:30 P.M. EDT Lee Lofthus, Acting Assistant Attorney General for the Justic Management Division, will testify before the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, and International Security regarding Department of Justice Policies on Conference Attendance and Support, Budget Ceilings, and Overall Trends in Conference Spending.
Dirksen Senate Office Building
Room 342
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Homeland Security and Government Affairs Committee at 202-224-4751.

Friday, September 15

Events TBD

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DOJ_NMG_ 0167676

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Image not available for this document, ID: 0.7.10316.33658-000002

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Tucson, AZ

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 12:35:21 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Tucson, AZ
Auto forwarded by a Rule

AMBER ALERT:Tucson,AZ VEH:'95 Blue 4 dr Nissan Alt TAG:AZ LKR394 CHILD:16 White F 5'4" 120 lbs Hr:Blonde SUSP:16 Black M 5'7" 150 lbs Hr:Black CALL 520-791-5060
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2082

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 9:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Joplin, MO

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 9:01:13 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Joplin, MO
Auto forwarded by a Rule

AMBER ALERT:Joplin,MO VEH:'92 Red SUV Dodge Ram Charger TAG:MO 016XVW CHILD:9 mos White F 26 lbs Hair:Brn SUSP:29 White M 6'2" 240lbs Hair:Brn CALL 417-623-3131
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2083

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 09, 2006 11:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Joplin, MO

From: AmberAlert-DOJ
Sent: Saturday, September 09, 2006 11:01:10 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Joplin, MO
Auto forwarded by a Rule

UPDATE AMBER ALERT:Joplin,MO VEH:'92 Red Dodge Ram Charger TAG:MO 016XVW CHILD:9 mos White F 26 lbs Hr:Brn SUSP:29 White M 6'3" 210lbs Hr:Brn CALL 417-623-3131
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2083

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Sunday, September 10, 2006 6:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Detriod, MI

From: AmberAlert-DOJ
Sent: Sunday, September 10, 2006 6:01:11 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Detriod, MI
Auto forwarded by a Rule

AMBER ALERT:Detriod,MI CAR:Bla or Blu Lincoln Continental CHLD:4 B/F 3' Eye:Bro Hair:Bla SUSPECT:23 B/F 5'5" Eye:Haz Hair:Bla w/ blonde braids CALL 313-596-5301
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2084

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 9:18 AM
Subject: Message To Department of Justice Employees From the Attorney General

Message To Department of Justice Employees From the Attorney General

Five years ago today, the top priority of this Department, and of law enforcement nationwide, changed forever.

Our daily objective is to prevent terrorist attacks, and I know that you approach the job with a dedication and professionalism that is second-to-none. It is very clear that the thousands of people of this Department who investigate and prosecute terrorists – and the thousands more on the team who make their work possible – are a significant part of the reason the United States has not been attacked again in five years. Your efforts are invaluable.

For this, I want to thank you on behalf of the President and on behalf of the American people who you protect through your fine work.

To many Americans, the horrific images and vivid memories make September 11th seem as if it were yesterday. For those of us at the Department of Justice, charged with preventing acts of terrorism, every day is September 12th. Each day is filled with hard work and the purpose of prevention.

We are joined together, today, by a common purpose and remembrance of the brothers and sisters we lost on September 11th, 2001. It is an honor to recognize this anniversary with you, and to work side-by-side toward our common goals.

Thank you again for your tireless efforts.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Gunn, Currie (SMO)

Subject:	Canceled: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, September 11, 2006 2:00 PM
End:	Monday, September 11, 2006 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 week(s) on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); 'Coleman, Tim (ODAG)'; Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory; McDonald, Esther S
Importance:	High

When: Monday, September 11, 2006 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting for today canceled per EOUST

Attendees: Lily Fu Swenson, Tim Coleman-ODAG, Luis Reyes, Neil Gorsuch, Cliff White, Esther McDonald

POC: Currie Gunn x49500

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 9:34 AM
Subject: 9/11 Remembrance Events at DOJ

9/11 Remembrance Events at DOJ

All DOJ employees are encouraged to join Attorney General Gonzales at 11:30 a.m. in the courtyard of the RFK Building for a short service to honor all those we lost five years ago. He will be joined by former Attorney General Ashcroft, Deputy Attorney General McNulty, former Solicitor General Olson, Director Mueller, and other special guests.

Also today, the Attorney General invites all DOJ employees to take a few minutes to visit a memorial exhibit that is set up in his conference room to remember the lives lost, and to honor the heroism of those who responded selflessly in the face of terror. Located on the fifth floor of the RFK Building, the display will be open from 9:00 to 11:15 a.m. and then from noon to 5:00 p.m. (It will close during the time of the remembrance service.)

Thank you.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 10:34 AM
To: USDOJ- Office of Public Affairs
Subject: UNITED STATES JOINS SUIT AGAINST DEY

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

UNITED STATES JOINS SUIT AGAINST DEY

Firm Allegedly Overcharged Medicare, Medicaid

WASHINGTON – The United States has intervened in a whistleblower suit filed in the District of Massachusetts against Dey, Inc. alleging that the company violated the False Claims Act, the Justice Department announced today. In its complaint, the government alleges that Dey engaged in a scheme to report fraudulent and inflated prices for several pharmaceutical products, knowing that federal healthcare programs established reimbursement rates based on those reported prices.

The government's complaint alleges that the pharmaceutical manufacturer from at least on or before January 1, 1993 reported prices that were more than five times (500 percent) the actual sales prices on many of the drugs it manufactures. The United States alleges that Medicare and Medicaid have reimbursed Dey's customers in excess of $500 million for the drugs which are the subject of the complaint. Dey sells generic drugs that are reimbursed by the two federal health care programs.

The difference between the inflated government reimbursement rates and the actual price paid by healthcare providers for a drug is referred to as the "spread." The larger the spread on a drug, the larger the profit or return on investment for the provider. The government alleges that Dey used artificially inflated spreads to market, promote and sell the drugs to existing and potential customers. Because reimbursement from federal programs was based on the fraudulent inflated prices, the United States contends that Dey caused false and fraudulent claims to be submitted to federal healthcare programs.

DOJ_NMG_ 0167686

The investigation began after the filing of a civil False Claims Act suit by a Florida home-infusion company, Ven-A-Care of the Florida Keys Inc. and its principals. The False Claims Act allows for private persons to file whistleblower suits to provide the government information about wrongdoing. Under the statute, if it is established that a person has submitted or caused others to submit false or fraudulent claims to the United States, the government can recover treble damages and $5,500 to $11,000 for each false or fraudulent claim filed. If the government is successful in resolving or litigating its claims, the whistleblower who initiated the action can receive a share of between 15 percent to 25 percent of the amount recovered.

The law suit, called a *qui tam* action, was filed in the U.S. District Court for the District of Massachusetts, and includes additional claims originally filed in the Southern District of Florida and transferred to the District of Massachusetts. The consolidated matter was assigned to U.S. District Court Judge Morris E. Lasker in Boston. This investigation was conducted by the U.S. Department of Justice, the U.S. Attorney's Offices for the District of Massachusetts and the Southern District of Florida and the Office of Inspector General of the Department of Health and Human Services.

# # #

06-605

DOJ_NMG_ 0167687

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Image not available for this document, ID: 0.7.10316.33382-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 10:41 AM
Subject: 9/11 Remembrance Event at DOJ Due to Inclement Weather, Event at 11:30 a.m. Moved to Great Hall

9/11 Remembrance Event at DOJ
Due to Inclement Weather, Event at 11:30 a.m. Moved to Great Hall

All DOJ employees are encouraged to join Attorney General Gonzales at 11:30 a.m. in the Great Hall of the RFK Building for a short service to honor all those we lost five years ago. He will be joined by former Attorney General Ashcroft, Deputy Attorney General McNulty, former Solicitor General Olson, Director Mueller, and other special guests.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 501202 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 11:11 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ISSUES GUIDANCE FOR THE USE OF DNA IDENTIFICATION IN MASS DISASTERS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006

Office of Justice Programs
Contact: Catherine Sanders
202-307-0703
www.ojp.usdoj.gov

DEPARTMENT OF JUSTICE ISSUES GUIDANCE FOR THE USE OF DNA IDENTIFICATION IN MASS DISASTERS

Work of 9/11 Panel Provides Valuable Lessons

WASHINGTON — The Department of Justice today issued the report, *Lessons Learned from 9/11: DNA Identification in Mass Fatality Incidents*. The report is the result of the Kinship Data Analysis Panel (KADAP), which the Department convened immediately after the terrorist attacks in 2001 to help the Office of the Chief Medical Examiner (OCME) in New York identify victims' remains so they could be returned to their families. The panel was assembled by the National Institute of Justice (NIJ), the research, development and evaluation arm of the Justice Department. The number of victims from the World Trade Center attacks, the condition of their remains, and the duration of the recovery effort made the identification the most difficult ever undertaken by the forensic science community. *Lessons Learned from 9/11: DNA Identification in Mass Fatality Incidents* offers guidance on the myriad issues the forensic community must face in a mass disaster to ensure that all victims can be accounted for, and identified.

"Valuable lessons have come out of the tragedy of 9/11 that will serve as an important guide in other mass disasters," said Assistant Attorney General Regina B Schofield of the Office of Justice Programs. "Victim assistance is a high priority for the Department of Justice and after the terrorist attacks on the World Trade Center, we assembled the best minds to help identify victims' remains. The lessons learned contained in this report will provide invaluable advice to those involved in mass fatality identification efforts in the future, to be prepared and ready to handle similar situations."

The identification process following the attacks of September 11 was the largest effort of its kind in the United States to date and this report, published as part of The President's DNA Initiative, will serve as a valuable guide for localities that may be involved in similar identifications in the future. Drafts of the report have been requested and already sent to officials who responded to Hurricane Katrina and the southeast Asian tsunami.

DOJ_NMG_ 0167692

Throughout the entire World Trade Center identification process, the KADAP identified, analyzed, and created new approaches in the collection and organization of victim and reference samples and DNA analysis software to assist the OCME. The result of that effort is the report, which contains policy recommendations to public officials to prepare for such disasters, guides for laboratory officials for collection and analysis of DNA, sample laboratory worksheets and other reference guides.

Some of the KADAP's recommendations will have a profound impact on human identification testing far into the future. Due to the degraded nature of some of the remains, the typical DNA identification methods were not sufficient in identifying many of the remains and other methods allowed identifications to be made on some very compromised samples that would have been impossible to identify otherwise.

NIJ assembled the KADAP from federal and state government agencies, including the National Institutes of Health, the Federal Bureau of Investigation, the National Institutes of Standards and Technology, the Armed Forces Institute of Pathology DNA Identification Laboratory, and the New York State Department of Health; the private sector, including the Brigham & Women's Hospital and Myriad Genetics Laboratories; and from some of the nation's most respected universities, including Johns Hopkins University, the University of Central Florida, Carleton University, Yale University School of Medicine, Indiana University School of Medicine, University of California at Berkeley, the University of Albany, and the University of North Texas Health Science Center.

The report is posted on the Web site of The President's DNA Initiative, www.dna.gov and at www.massfatality.dna.gov. The President's DNA Initiative is a five year more than $1 billion effort to eliminate casework and convicted offender backlogs; to improve crime lab capacity; to provide training for all stakeholders in the criminal justice system; and to conduct testing to identify missing persons. Hard copies and compact discs of the report can be ordered from the National Criminal Justice Reference Service by visiting their Web site: www.ncjrs.gov.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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06-606

DOJ_NMG_ 0167693

Image not available for this document, ID: 0.7.10316.33351-000001

Miller, Charles S

From: Miller, Charles S
Sent: Monday, September 11, 2006 11:17 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul; Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/11/06 Civil Division News

Whistle-Blower Slams Iraq Contractor

GW Hospital accused of overcharging federal government

Lawsuit filed against DPUC

AP

September 9, 2006

Whistle-Blower Slams Iraq Contractor

By DEBORAH HASTINGS

AP National Writer

Halliburton subsidiary Kellogg, Brown & Root charged millions to the government for recreational services never provided to U.S. troops in Iraq, including giant tubs of chicken wings and tacos, a widescreen TV, and cheese sticks meant for a military Super Bowl party, according to a federal whistle-blower suit unsealed Friday.

Instead, the suit alleges, KBR used the military's supplies for its own football party.

Filed last year in U.S. District Court in Washington, D.C., by former KBR employee Julie McBride, the lawsuit claims the giant defense contractor billed the government for thousands of meals it never served, inflated the number of soldiers using its fitness and Internet centers, and regularly siphoned off great quantities of supplies destined for American soldiers.

McBride was hired by KBR in 2004 as a ``morale, welfare and recreation'' coordinator at Camp Fallujah, a Marine installation about 35 miles west of Baghdad. She was fired the next year after making several complaints about KBR's accounting practices, the suit says, and was kept under guard until she was escorted to an airplane and flown out of the country.

Halliburton denied McBride's allegations.

``The claims included in this lawsuit clearly demonstrate a complete misinterpretation of facts as well as a lack of understanding of KBR's contractual agreements with its customer,'' said company spokeswoman Melissa Norcross in an e-mail to The Associated Press.

The Super Bowl incident occurred in January 2005, the suit said. ``McBride witnessed a large amount of food that was ordered specifically for a Super Bowl party for the military'' taken instead to the company's lodgings. ``About 10 large metal tubs full of tacos, chicken wings, (and) cheese sticks were taken from the military party site to a KBR camp for a KBR Super Bowl Party for KBR employees,'' according to the complaint. A widescreen TV was also removed.

McBride worked 12-hour shifts, seven days a week, at Camp Fallujah's recreation center, where the government was billed according to the number of soldiers using the contractor's facilities, which included a weight room, video games, Internet cafe, a library and phone bank, the suit says. She alleges that KBR deliberately overstated the number of military personnel using its services by counting the same person several times. For example, a person who used a computer was counted as one. If that person went on the weight room, another count was added to the list of patrons.

``It wasn't double-dipping, but triple dipping or even quadruple billing,'' the suit claims.

Attorney Alan Grayson, who represents McBride, said ``millions of dollars have been submitted by Halliburton for recreational services'' not provided.

The ``qui tam'' suit, filed under the federal False Claims Act, allows citizens to sue on behalf of the government against contractors who make false claims for payment. The plaintiffs are eligible to receive a percentage of awarded damages, which are tripled in this type of suit.

Such suits are usually sealed for 60 days while the Justice Department investigates the claims and decides whether the U.S. Attorney's office will sign on as a co-plaintiff.

The Justice Department declined comment Friday on why it chose not to participate in McBride's suit.

McBride is not the first Halliburton employee to allege fraudulent billing practices. The company has steadfastly denied wrongdoing.

Rory Mayberry, who worked for KBR in 2004, testified from Iraq via videotape to a group of Democratic members of Congress investigating contractor fraud.

As food manager at another military camp in Iraq, Mayberry said he witnessed KBR employees serving spoiled food to American troops, including food from trucks that had been bombed and shot at. Workers were told to pick out the shrapnel, and then serve the food, Mayberry testified.

He also claimed KBR charged the government for meals it never served.

In July 2004, former KBR planner Marie DeYoung testified before the House Committee on Government Reform. She said she witnessed ``significant waste and overpricing'' while working for the contractor in Kuwait, including paying a subcontractor $100 per 15 pounds of laundry, costs which were passed on to the government.

Halliburton, which holds more than 50 percent of rebuilding contracts in Iraq, was headed by Dick Cheney before he took office as vice president. He has denied any government favoritism toward his former company.

END

Daily Colonial
September 11, 2006

GW Hospital accused of overcharging federal government

By Brittany Levine
Campus News Editor

The George Washington University overcharged the federal government $100 million when Medicare was charged physician rates for services actually performed by nurses and residents in training, according to four former GW Hospital nurses who filed a False Claims Act lawsuit against the University.

On Friday, Sept. 1, the nurses' lawyers asked a federal judge to incur penalty against the University for not turning over almost 10,000 Medicare documents in connection with the False Claims Act lawsuit.

The nurses first filed the lawsuit against GW in 1996, but on Sept. 1, their lawyers filed an amended compliant, which said that from 1989 to 1995 the University billed the Medicare program as if physicians were performing anesthesiology services when nurses or residents in training were left to perform the procedures on their own.

The University has challenged the nurses' claims and in court records the University said doctors followed Medicare rules and guidelines, never committing any misconduct.

GW officials cannot comment on active lawsuits, but Linda Dent, a media relations official from the GW Medical Center told The Washington Times that, "we do believe George Washington and its physicians acted appropriately."

According to court filings, GW attorneys denied that nurses or residents in training were left to perform all seven steps of anesthesiology procedures on their own. GW attorneys did say, however, that GW hospital physicians did use reasonable assistance from nurses and residents in training.

The nurses suing are Sheila El-Amin, Katherine Linden, Joyce B. Lasley, and Robert Roubik.

The nurses' attorneys have reviewed 7 million documents connected to the False Claims Act lawsuit, according to The Washington Times, which reported that Alan Grayson, an attorney for the nurses, said "many records are still missing" and that the plaintiffs needed records from GW to prove their case.

In court filings, GW officials said copies of records were not kept because such procedure is not required. No evidence was thrown out, according to GW officials, who said that the nurses' attorneys have also not shared records with them related to the case.

END

Hartford Courant

September 9, 2006

Lawsuit filed against DPUC

Janice Podsada

The Hartford Courant, Conn.

Sep. 9--The U.S. Department of Justice has filed suit against the state Department of Public Utility Control, saying the department's efforts to find out information about a federal telephone surveillance program violate federal law.

As part of a nationwide campaign by the American Civil Liberties Union begun in May against what it called illegal government spying, the group's Connecticut chapter persuaded the DPUC to investigate whether AT&T and Verizon had improperly disclosed customer calling information without a warrant, court order or subpoena from Sept. 11, 2001, to the present.

As part of its effort, the ACLU\l "l" submitted a series of questions to AT&T and Verizon on Aug. 10 related to the disclosure of customer information and privacy. When the telecommunications companies declined to answer those questions, the DPUC issued a ruling Aug. 23 ordering them to respond by this past Thursday. A public hearing before the DPUC to discuss their answers had been set for Sept. 21.

But the federal government filed its lawsuit Wednesday, within 24 hours of the DPUC's deadline, charging that the agency does not have the authority to require the phone companies to answer the ACLU's \l "l" questions. It also claims a response by the companies could cause "exceptionally grave harm to national security."

The ACLU of Connecticut asked the telecoms to provide information about specific instances in which they released customer information to any government or private agencies, the names of company officials who are empowered to authorize such disclosures and other issues related to privacy.

In a letter Thursday from Verizon to the DPUC, phone company officials said that until the federal lawsuit is resolved they could not respond to the questions.

Walt Sharp, an AT&T spokesman, said in an e-mail Friday that the company is "fully committed to protecting our customers' privacy. We do not comment on matters of national security." Officials from Verizon and AT&T refused to comment further. Department of Justice officials could not be reached for comment.

In May, USA Today reported that AT&T, Verizon and BellSouth were providing the National Security Agency with domestic phone records as part of a large-scale surveillance initiative. USA Today acknowledged in June that it could not prove several key elements of the story. However, the newspaper reported that members of the House and Senate intelligence committees confirmed that the NSA had compiled a database of phone call records.

The DPUC, which regulates telecommunication companies in the state, agreed to cooperate with the ACLU to find out if it has the authority to order the telecoms to release information, said Beryl Lyons, the department's spokeswoman.

"It's never come up before," she said. "Before 9/11, you wouldn't have had this. We got a petition from the ACLU to conduct this investigation. Do we have jurisdiction to make this ruling? We don't know. We decided to open the case and see what information came forth."

END

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 12:46 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE CEREMONY COMMEMORATING 9/11

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE CEREMONY COMMEMORATING 9/11

WASHINGTON, D.C.

Good morning.

As Department of Justice employees, we are part of a network of civil servants and uniformed soldiers who defend and protect American life and liberty – and I am very proud of the work we do to prevent attacks like those on September 11th, 2001.

But on this anniversary, this morning, we are also, simply, Americans. We are patriots who are remembering our brothers and sisters who died on that terrible morning.

Henry James wrote that "sorrow comes in great waves… but it rolls over us, and though it may almost smother us it leaves us on the spot and we know that if it is strong we are stronger, in as much as it passes and we remain."

We realize today that we are, in fact, stronger than the sorrow, and we are unquestionably stronger than our enemies who brought that sorrow upon us.

While we will never forget, we will not be afraid… and we will never give up the fight for our country, the defense of our cherished freedom.

I am reminded, today, of what the President said on the first anniversary of the attacks. He said that we, as a country, owe the families of September 11th "the most enduring monument we can build: a world of liberty and security made possible by the way America leads, and by the way Americans lead our lives."

DOJ_NMG_ 0167699

I believe that each and every employee here at Justice is part of building that monument – and you should be proud of your efforts, especially on this day of remembrance.

We seek to prevent further attacks and to ultimately win the war on terror. We do it so that "these dead shall not have died in vain, that this nation shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the earth."

Please join me in a moment of silence.

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DOJ_NMG_ 0167700

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Image not available for this document, ID: 0.7.10316.33335-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 12:55 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT TO MONITOR ELECTIONS IN ARIZONA AND NEW YORK

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT TO MONITOR ELECTIONS IN ARIZONA AND NEW YORK

WASHINGTON - The Justice Department today announced that on Sept. 12, 2006, the federal government will monitor primary elections in Cochise County, Ariz. and in Kings, Queens, and Westchester Counties, N.Y., to ensure compliance with the Voting Rights Act.

Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specifically covered by the Act, itself, or by a federal court order. Federal observers will be assigned to monitor polling place activities in Kings County based on the special coverage provisions and in Westchester County pursuant to a federal court order entered in 2005.

The observers will watch and record activities during voting hours at polling locations in these counties. Civil Rights Division attorneys will coordinate the federal activities and maintain contact with local election officials.

In addition, Justice Department personnel will monitor the primary elections in Cochise County, Ariz. and Queens County, N.Y.

Each of the monitored counties has an obligation to provide all election information, ballots, and voting assistance information in one or more minority languages pursuant to Section 203 of the Voting Rights Act. The observers and monitors will gather information concerning compliance.

Each year, the Justice Department deploys hundreds of federal observers from the Office of Personnel Management, as well as department staff, to monitor elections across the country. In 2004, a record 1,463 federal observers and 533 Department personnel were sent to monitor 163 elections in 105 jurisdictions in 29 states. This compares to the 640 federal observers and 103 Department personnel deployed in 2000.

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

DOJ_NMG_ 0167703

More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice Web site at http://www.usdoj.gov/crt/voting/index.htm.

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06-607

DOJ_NMG_ 0167704

Image not available for this document, ID: 0.7.10316.33305-000001

Image not available for this document, ID: 0.7.10316.33305-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 1:20 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN JUSTICE DEPARTMENT'S 54TH ANNUAL ATTORNEY GENERAL AWARDS CEREMONY

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, SEPTEMBER 11, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN JUSTICE DEPARTMENT'S
54th ANNUAL ATTORNEY GENERAL AWARDS CEREMONY

WASHINGTON – Attorney General Alberto R. Gonzales will participate in the Justice Department's 54th Annual Attorney General's Awards Ceremony tomorrow, **TUESDAY, SEPTEMBER 12, 2006 at 2:00 PM. EDT.**

WHO: Attorney General Alberto R. Gonzales and other Justice Department officials

WHAT: 54th Annual Attorney General's Award Ceremony

WHEN: **TUESDAY, SEPTEMBER 12, 2006 at 2:00 P.M. EDT**

WHERE: DAR Constitution Hall
1776 D. Street NW
Washington, D.C. 20006

NOTE: Pre-set for the ceremony is **1:30 P.M. EDT.** All media must present valid photo ID and media credentials and must enter through the 18th street entrance. All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-608

DOJ_NMG_ 0167707

Image not available for this document, ID: 0.7.10316.33304-000001

Image not available for this document, ID: 0.7.10316.33304-000002

autoreply@cod.uscourts.gov

From: autoreply@cod.uscourts.gov
Sent: Monday, September 11, 2006 1:30 PM
To: Gorsuch, Neil M
Subject: ECF Version 3.0 Installed

Good Morning,

Thank you for registering for the District of Colorado's Electronic Case Filing (ECF) system. As an ECF User, you will be sent periodic e-mail updates from the court regarding ECF issues we consider important.

The United States District Court for the District of Colorado began allowing electronic filing of civil documents on June 20, 2005, and criminal documents on December 5, 2005. To date, the court has registered 6139 attorneys for electronic filing. Since our live date, 3956 attorneys have filed 59,975 documents electronically. The court installed Version 3.0 of the ECF software this weekend. Certain enhancements to the system have been added. Listed below are some of the major changes:

(1) Court Information is now available to the public from the PACER opening screen. This information includes the court's ECF Live Date, maximum file size, and Help Desk contact phone numbers.

(2) The Notices of Electronic Filing have been altered. Beginning today, the encryption sequence for the documents will be shown after the notice list on the document.

(3) The way Electronic Notice is maintained on an account has changed. Attorneys now have more options regarding who receives what notices on which cases. Please review the new version of the ECF User Manual available here: http://www.co.uscourts.gov/forms/cm_user_man.pdf

ECF Users are strongly encouraged to review the changes mentioned above. Please contact the court's ECF Help Desk toll free at 1-866-365-6381 or 303-335-2050 with any questions or concerns. You may also e-mail the court at cod_cmecf@cod.uscourts.gov.

Thanks,

ECF Project Manager
United States District Court
District of Colorado

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 1:36 PM
To:	c=US;a= ;p=USDOJ-JCON;o=COAR;dda:SMTP=autoreply@cod.uscourts.gov;
Subject:	Undeliverable: Out of Office AutoReply: ECF Version 3.0 Installed
Attachments:	Out of Office AutoReply: ECF Version 3.0 Installed.msg

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, September 11, 2006 1:32 PM
To: autoreply@cod.uscourts.gov
Subject: Out of Office AutoReply: ECF Version 3.0 Installed

After August 4, I will be residing in Colorado. My successor as PDASG is [redacted]

I will continue checking this e-mail account periodically until the end of August. If you need to reach me promptly, please call my cell: [redacted]

My contact information in Colorado is:

U.S. Court of Appeals for the Tenth Circuit Byron White Court House 1823 Stout Street Denver, CO 80257 [redacted] Office email: [redacted] @ca10.uscourts.gov Home email: [redacted] @hotmail.com

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 503014 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Bennett, Catherine T

Subject:	Updated: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, September 11, 2006 3:45 PM
End:	Monday, September 11, 2006 4:15 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV); Gorsuch, Neil M; Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C
Optional Attendees:	'Reyes, Luis (SMO)'

When: Monday, September 11, 2006 3:45 PM-4:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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

TODAY's meeting will take place at 3:45pm until 4:15pm, due to an AG appointment on Courtney's calendar.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 11, 2006 2:37 PM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 11, 2006

JCON BROADCAST, WEEK OF SEPTEMBER 11, 2006

1. **Attorney General's 54th Annual Awards Ceremony, September 12**
2. **Celebrate Constitution Day, September 18**
3. **Research Classes Offered by Library Staff**

Attorney General's 54th Annual Awards Ceremony, September 12

DOJ employees in the Washington Metropolitan Area are invited to attend the Attorney General's 54th Annual Awards Ceremony which will be held at 2:00 p.m., Tuesday, September 12, 2006, at Constitution Hall. Departmental identification is required for entry. Shuttle service will be provided from the Constitution Avenue entrance of the Robert F. Kennedy Main Justice Building, beginning at 1:00 p.m. and returning following the ceremony. You may view a list of awards recipients at http://www.usdoj.gov/jmd/ps/guiawards.htm.

Celebrate Constitution Day, September 18

The Main Library will host a celebration of Constitution Day at 10:30 a.m., Monday, September 18, in the Main Library (5400 corridor). A speaker from the National Archives, Stacy Bredhoff, Senior Curator, will offer an armchair tour of "Charters of Freedom, A New World is at Hand". You may stop by the Main Library all day for book displays, a slide show, handouts, and materials containing facts and history on the Constitution. Also, you may view some related websites, online texts, and other resources on our website at http://10.173.2.12/jmd/lib/constitution.htm. For more details, contact Jan Oberla at 202-514-7767.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Bennett, Catherine T

Subject:	Canceled: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, September 11, 2006 3:45 PM
End:	Monday, September 11, 2006 4:15 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Gorsuch, Neil M; Meron, Daniel (CIV); Bucholtz, Jeffrey (CIV)
Importance:	High

When: Monday, September 11, 2006 3:45 PM-4:15 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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

TODAY's meeting will take place at 3:45pm until 4:15pm, due to an AG appointment on Courtney's calendar.

Bennett, Catherine T

Subject:	Canceled: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, February 20, 2006 4:00 PM
End:	Monday, February 20, 2006 5:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Bennett, Catherine T
Required Attendees:	Bucholtz, Jeffrey (CIV); Katsas, Gregory (CIV); Gorsuch, Neil M; Meron, Daniel (CIV)
Optional Attendees:	Reyes, Luis (SMO)
Importance:	High

When: Occurs every Monday effective 2/20/2006 from 4:00 PM to 5:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 5228

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

Elwood, Courtney

Subject:	Canceled: Terrorism Litigation Meeting
Location:	Room 5228
Start:	Monday, September 11, 2006 3:45 PM
End:	Monday, September 11, 2006 4:15 PM
Recurrence:	Weekly
Recurrence Pattern:	every Monday from 4:00 PM to 5:00 PM
Meeting Status:	Not yet responded
Organizer:	Elwood, Courtney
Required Attendees:	Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Nichols, Carl (CIV); Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C; Katsas, Gregory; Beckner, Rick (CIV)Elwood, Courtney; Marshall, C. Kevin; Cohn, Jonathan (CIV); Brown, Angela; Nichols, Carl (CIV); Monheim, Thomas; Letter, Douglas (CIV); Calvert, Chris (CIV); Garre, Gregory G; Taylor, Jeffrey (OAG); Purpura, Michael M (ODAG); Toscas, George; Rowan, Patrick (ODAG); Cook, Elisebeth C; Katsas, Gregory; Beckner, Rick (CIV)
Optional Attendees:	Reyes, Luis (SMO)Reyes, Luis (SMO)
Importance:	High

TODAY's meeting will take place at 3:45pm until 4:15pm, due to an AG appointment on Courtney's calendar.

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 502959 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
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See client Help for more information.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, September 11, 2006 7:07 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 11, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participated in Events Commemorating Fifth Anniversary of September 11 (OPA)
Today, the Attorney General participated in an event commemorating the fifth anniversary of September 11 at the Department of Justice with Department employees. B-roll footage was released to the media. He also participated in television interviews with CNN, Fox News, and MSNBC regarding the anniversary, and attended Radio Day at the Pentagon, where he participated in regional interviews.

FBI Assistant Director to Appear on *Nightline (FBI)*
Today, FBI Assistant Director John Miller will appear on ABC's *Nightline* regarding the FBI after Sept. 11, 2001.

United States Joins Suit Against Dey (Civil)
The United States has intervened in a whistleblower suit filed in the District of Massachusetts against Dey, Inc. alleging that the company violated the False Claims Act, the Justice Department announced today. In its complaint, the government alleges that Dey engaged in a scheme to report fraudulent and inflated prices for several pharmaceutical products, knowing that federal healthcare programs established reimbursement rates based on those reported prices.

Justice Department to Monitor Elections in Arizona and New York (Civil Rights)
The Justice Department today announced that on Sept. 12, 2006, the federal government will monitor primary elections in Cochise County, Ariz. and in Kings, Queens, and Westchester Counties, N.Y., to ensure compliance with the Voting Rights Act. Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specifically covered by the Act, itself, or by a federal court order. Federal observers will be assigned to monitor polling place activities in Kings County based on the special coverage provisions and in Westchester County pursuant to a federal court order entered in 2005.

National Institute of Justice Issues DNA Identification Report (OJP)
The Department of Justice today issued the report, *Lessons Learned from 9/11: DNA Identification in Mass Fatality Incidents*. The report is the result of the Kinship Data Analysis

Panel (KADAP), which the Department convened immediately after the terrorist attacks in 2001 to help the Office of the Chief Medical Examiner (OCME) in New York identify victims' remains so they could be returned to their families. The panel was assembled by the National Institute of Justice (NIJ), the research, development and evaluation arm of the Justice Department. The identification process following the attacks of September 11 was the largest effort of its kind in the United States to date and this report, published as part of The President's DNA Initiative, will serve as a valuable guide for localities that may be involved in similar identifications in the future. Drafts of the report have been requested and already sent to officials who responded to Hurricane Katrina and the southeast Asian tsunami.

TUESDAY'S EXPECTED EVENTS/RELEASES:

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty will present testimony before the Senate Judiciary Committee at a hearing titled *The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations*
Dirksen Senate Office Building
Room 226
Washington D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

2:00 P.M. EDT Attorney General Alberto R. Gonzales will participate in the Department of Justice's 54th Annual Awards Ceremony
DAR Constitution Hall
18th Street, N.W. between C and D Streets
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Ames of the Department of Justice at 202-305-5938.

4:00 P.M. EDT Acting Assistant Attorney General for the Office of Legal Counsel Steve Bradbury will testify before House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security regarding H.R. 5825, the "Electronic Surveillance Modernization Act."
Rayburn House Office Building
Room 2141
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Judiciary Committee at 202-225-3951.

System Administrator

From:	System Administrator
Sent:	Monday, September 11, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 503395 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Monday, September 11, 2006 8:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lake Los Angeles, CA

From: AmberAlert-DOJ
Sent: Monday, September 11, 2006 8:35:17 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lake Los Angeles, CA
Auto forwarded by a Rule

AMBER ALERT:Lake Los Angeles,CA VEH:89 Red Buick Regal CA 2MFC968 CHILD:5mos W/F 1FT 12LB Eye:Bla Hair:Bla SUSP:Hisp/M 5FT11 200LB Hair:Bla CALL661-272-2527
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2102

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 503398 KB.

Mailbox size limits:

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See client Help for more information.

[redacted]@tibco.com

From: [redacted]@tibco.com
Sent: Tuesday, September 12, 2006 8:01 AM
To: Gorsuch, Neil M
Subject: BPM on SOA Webcast
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe821279766c0d7474-fdee17797463037d73127877-fef8177574610d

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: bpmplus

Teleconference: dia[redacted]

Passcode: 485288 for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

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Reminder

Business Process Management on a SOA Foundation Webcast: TIBCO's Solutions for the Department of Justice

Agencies seeking to deliver business process management (BPM) on a service-oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Wednesday, September 13th, 2006

Time: 12:00 p.m EDT

To attend this meeting, you must first register for it. Please click this link to see more information, and register for this meeting.
https://tibcomc.webex.com/tibcomc/j.php?ED=86837607&RG=1

Once you have registered for the meeting, you will receive an email message confirming your registration. This message will provide the information that you need to join the meeting.

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Go to https://tibcomc.webex.com/tibcomc/mc click Assistance, then Click Help or click Support.

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System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 506850 KB.

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See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 12:43 PM
To: USDOJ- Office of Public Affairs
Subject: 'GIRLS GONE WILD' PLEADS GUILTY IN SEXUAL EXPLOITATION CASE

A copy of the criminal informations and deferred prosecution agreement are attached.

Department of Justice

FOR IMMEDIATE RELEASE — CRM
TUESDAY, SEPTEMBER 12, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

'GIRLS GONE WILD' PLEADS GUILTY IN SEXUAL EXPLOITATION CASE

Companies, Founder to Pay $2.1 Million in Fines and Restitution

WASHINGTON – A California company doing business under the name "Girls Gone Wild" has pleaded guilty to charges that it failed to create and maintain age and identity documents for performers in sexually explicit films that it produced and distributed, and that it failed to label its DVDs and videotapes as required by federal law, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Gregory R. Miller of the Northern District of Florida announced today.

Santa Monica-based Mantra Films, Inc. entered its plea agreement today before U.S. District Judge Richard Smoak at U.S. District Court in Panama City, Fla. A second related company, MRA Holdings, LLC, also entered into a deferred prosecution agreement.

Under the agreements, Joseph Francis, the founder of the two companies, agreed to plead guilty to offenses to be filed later in U.S. District Court in Los Angeles, and the companies and Francis agreed to pay fines and restitution totaling $2.1 million.

The charges in this case are believed to be the first to be filed under a law – often referred to as Section 2257 – passed by Congress to prevent the sexual exploitation of children. The law protects against the use of minors in the production of sexually explicit material by requiring producers to create and maintain age and identity records for every performer in sexually explicit movies and other media. Producers and distributors must also label their products with the name of the custodian of the records and their location.

"This case sends an important message about the Justice Department's commitment to protecting children from all forms of sexual exploitation," said Assistant Attorney General Alice S. Fisher. "Today's agreements ensure that Girls Gone Wild will comply with an important law designed to prevent the sexual exploitation of minors and puts other producers on notice that they must be in compliance as well."

DOJ_NMG_ 0167732

U.S. Attorney Gregory R. Miller noted, "This prosecution makes clear that those who seek to enrich themselves at the expense of our children's innocence in violation of the laws intended to protect them will be held to answer in federal court."

In statements filed in court today, Girls Gone Wild admitted filming performers and producing and distributing sexually explicit video materials during all of 2002 and part of 2003 while violating the record keeping and labeling laws.

Mantra Films, Inc. pleaded guilty to three counts of failing to keep the required records and seven labeling violations. Each count refers to a different film produced or distributed by Mantra. MRA Holding, LLC, entered into a deferred prosecution agreement concerning the information filed in court charging the company with 10 labeling violations. As part of that agreement, the government will dismiss the charges at the end of a three-year period if MRA Holding abides by all of its obligations under the agreement. MRA Holding's obligations include a public acknowledgment of criminal wrongdoing, cooperating with the government in future investigations, fully complying with the record keeping laws, and payment of fines and restitution.

MRA Holding also agreed that during the three-year deferral period it would employ an independent, outside monitor selected by the government and provide the monitor complete access to the books and records, production facilities and other locations required to ensure the company's compliance with federal law relating to the production of visual materials under the name Girls Gone Wild, or any other name.

Of the $2.1 million in fines and restitution, $1.6 million are to be paid by Mantra and MRA and $500,000 are to be paid by Francis.

In May 2006, Attorney General Alberto R. Gonzales – pursuant to "Project Safe Childhood" – asked the Federal Bureau of Investigation to begin conducting regular inspections of records kept by producers of sexually explicit materials pursuant to Title 18, United States Code, Section 2257. Producers are required to keep records on performers to include true name and date of birth and produce these records on demand. These regulations and resulting inspections are designed to prevent producers from hiring minors as performers, and carry criminal penalties for violations.

The cases are being prosecuted by Trial Attorney Sheila Phillips of the Obscenity Prosecution Task Force of the Department of Justice, U.S. Attorney Gregory Miller, and Assistant U.S. Attorney Dixie Morrow of the Northern District of Florida. The Justice Department's Obscenity Prosecution Task Force was formed to focus on the prosecution of adult obscenity nationwide. The Task Force is directed by Brent D. Ward. Investigation of the cases was conducted by the Adult Obscenity Squad of the Federal Bureau of Investigation, which is based in Washington, D.C.

###

06-610

DOJ_NMG_ 0167733

FILED IN OPEN COURT THIS
9/12/06
CLERK, U.S. DISTRICT
COURT, NORTH. DIST. FLA.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

UNITED STATES OF AMERICA

vs. CASE NO. 5:06CR79/RS

MRA HOLDINGS, LLC

DEFERRED PROSECUTION AGREEMENT

Defendant **MRA HOLDING, LLC**, by its undersigned attorney, pursuant to authority granted by its Board of Directors, and the United States Attorneys Office for the Northern District of Florida and the Obscenity Prosecution Task Force of the Criminal Division of the Department of Justice (collectively the "Government"), enter into this Deferred Prosecution Agreement (hereinafter "the Agreement").

1. **MRA HOLDING, LLC** shall waive indictment and agree to the filing of a ten count Information (hereinafter "the Information") in the United States District Court for the Northern District of Florida charging it with ten counts of failing to label sexually explicit material as required by 18 U.S.C. § 2257(f)(4).

2. **MRA HOLDING, LLC** accepts and acknowledges responsibility for its behavior as set forth in the Statement of Facts attached hereto and incorporated by reference herein as **APPENDIX A** (hereinafter "Statement of Facts").

3. **MRA HOLDING, LLC** expressly agrees not to make, cause others to make, or acknowledge as true any factual statements inconsistent with the Statement

of Facts, provided, however, that nothing in this paragraph precludes **MRA HOLDING, LLC** from taking good faith positions in litigation with a private party. Any such contradictory statement by **MRA HOLDING, LLC,** its attorneys, board of directors, agents, officers, employees, or any other representative shall constitute a breach pursuant to paragraph 14 of this Agreement, and **MRA HOLDING, LLC** would thereafter be subject to prosecution pursuant to the terms of this Agreement. The decision whether **MRA HOLDING, LLC** has breached this Agreement based upon any statement by any person described in this paragraph which contradicts any information contained in the Statement of Facts shall be in the sole discretion of the Criminal Division of the United States Department of Justice. If and when the Criminal Division of the United States Department of Justice notifies **MRA HOLDING, LLC** of a public statement by any such person that in whole or in part contradicts any part of the Statement of Facts, **MRA HOLDING, LLC** may avoid breach of this Agreement by publicly repudiating such statement within 48 hours after notification by the Criminal Division of the United States Department of Justice. Paragraph 14 sets forth the terms and conditions applicable to any breach of this Agreement by **MRA HOLDING, LLC.**

4. **MRA HOLDING, LLC** agrees that it will ensure complete, full and timely compliance with all federal laws, including but not limited to record keeping and reporting requirements imposed upon it by 18 U.S.C. § 2257 and 28 C.F.R § 75 with respect to materials that are produced and/or distributed under the name "Girls Gone Wild", or any other name, and which contain one or more depictions of actual sexually explicit conduct (as defined by 18 U.S.C. § 2256(2)). **MRA HOLDING, LLC** further agrees that it shall provide to the United States Department of Justice, on request, any

document, electronic data, or other object concerning the record keeping requirements of 18 U.S.C. § 2257 and the regulations found at 28 C.F.R. § 75 and concerning any matter charged in the Information, subject to the Right to Financial Privacy Act and any other applicable laws and regulations.

5. **MRA HOLDING, LLC** shall pay the sum of $ 2.1 million minus any fines or restitution imposed by the Courts against defendants in the related cases of *United States v. MANTRA FILMS, INC.,* Case No. 5:06CR78/RS (N.D. Fl.), and *United States v. Joseph R. Francis* (C.D. Cal.) as a fine within 60 days of the last sentencing in those two cases.

6. **MRA HOLDING, LLC** shall issue a public statement within 48 hours after this Agreement is effected, in the form attached hereto as **APPENDIX B,** acknowledging that it failed to comply with 18 U.S.C. § 2257 and that its failure resulted in footage of at least two minors engaged in sexually explicit conduct being distributed. Neither **MRA HOLDING, LLC** nor any of its employees or principals shall disclose the name or identity of any such minors.

7. Neither **MRA HOLDING, LLC** nor any related entity shall sell, market or distribute any of the films contained in the accompanying information or in **APPENDIX C**. Moreover, **MRA HOLDING, LLC** agrees that it will not transfer the copyrights to another person or entity to sell, market or distribute the films listed in the information or **APPENDIX C**.

8. Based on **MRA HOLDING, LLC's** agreement to (a) acknowledge responsibility for its actions as set forth in the Statement of Facts; (b) cooperate with the United States Department of Justice, including timely and voluntarily making available

all current employees for interview; to provide in a timely way all documents and other materials requested; and to provide in a timely way truthful, complete and accurate information as requested; (c) demonstrate its future good conduct and full compliance with 18 U.S.C. § 2257 and all of its implementing regulations; (d) demonstrate full compliance with any and all grand jury subpoenas issued to it by any state or federal grand jury; and (e) pay the sum set forth in paragraph 5 of this Agreement, to make the public statement set forth in paragraph 6 of this Agreement, and to refrain from selling, marketing or distributing the films contained in the information and **APPENDIX C** as set forth in paragraph 7 of this Agreement; the United States shall recommend to the Court, pursuant to 18 U.S.C. § 3161(h)(2), that prosecution of **MRA HOLDING, LLC** on the Information filed pursuant to paragraph 1 of this Agreement be deferred for a period of thirty-six (36) months (the "Deferral Period"). **MRA HOLDING, LLC** shall consent to a motion, the contents to be agreed by the parties, to be filed by the Government with the Court pursuant to 18 U.S.C. § 3161(h)(2), in which the Government will present this Agreement to the Court and move for a continuance of all further criminal proceedings, including trial, for a period of thirty-six (36) months, for speedy trial exclusion of all time covered by such a continuance, and for approval by the Court of this deferred prosecution. **MRA HOLDING, LLC** further agrees to waive and does hereby expressly waive any and all rights to a speedy trial pursuant to the Sixth Amendment of the United States Constitution, 18 U.S.C. § 3161, Federal Rule of Criminal Procedure 48(b), and any applicable Local Rules of the United States District Court for the Northern District of Florida for the time period that this Agreement is in effect.

9. **MRA HOLDING, LLC** hereby further expressly agrees that any violations of 18 U.S.C. § 2257 by MRA HOLDING, LLC that are not time-barred by the applicable statute of limitations on the date of this Agreement may, in the sole discretion of the Government, be charged against **MRA HOLDING, LLC**, notwithstanding the expiration of any applicable statute of limitations, if the Government determines that **MRA HOLDING, LLC** is in material breach of this Agreement subject to the cure provisions herein.

10. The Government agrees that if **MRA HOLDING, LLC** is in compliance with all of its obligations under this Agreement in all material respects throughout the Deferral Period, within thirty (30) days of the expiration of the Deferral Period the Government will seek dismissal with prejudice of the Information filed against **MRA HOLDING, LLC** pursuant to paragraph 1 of this Agreement. Upon such dismissal of the Information, this Agreement shall expire. The expiration of this Agreement does not relieve **MRA HOLDING, LLC** of the responsibility of complying with all applicable laws and regulations. The expiration of this Agreement does not alter or affect **MRA HOLDING, LLC** responsibility to any regulators who may have jurisdiction over **MRA HOLDING, LLC.**

11. **MRA HOLDING, LLC** and the United States understand that the Agreement to defer prosecution of **MRA HOLDING, LLC** must be approved by the Court, in accordance with 18 U.S.C. § 3161(h)(2). Should the Court decline to approve a deferred prosecution for any reason, or decline to follow the agreement of the parties in the plea agreement of Mantra Films, Inc., or should the District Court for the Central District of California decline to follow the agreement of the parties in the plea agreement

of Joseph R. Francis, both the Government and **MRA HOLDING, LLC** shall be released from any obligations imposed upon them by this Agreement, and this Agreement shall be null and void.

12. **MRA HOLDING, LLC** acknowledges that this Agreement is part of a negotiated arrangement in which the disposition of the charges against **MRA HOLDING, LLC** is tied to the disposition of charges against Mantra Films, Inc. in the Northern District of Florida and Joseph R. Francis in the Central District of California. **MRA HOLDING, LLC** acknowledges that it has directed its attorneys to negotiate this Agreement as part of that consolidated negotiation; has discussed with its attorneys, and carefully considered, the possible advantages and disadvantages of entering into this Agreement as part of such a consolidated negotiation; is entering into this Agreement as part of such a consolidated negotiation freely and voluntarily because it believes this Agreement and the consolidated negotiation to be in its best interests; and is not entering into this Agreement as part of the consolidated negotiation because of any threats, coercion, or undue influence by the Government or any of the parties to the consolidated negotiation or their counsel.

13. Should the Criminal Division of the United States Department of Justice, in its sole discretion, determine during the term of this Agreement that **MRA HOLDING, LLC** has committed any federal crime commenced subsequent to the date of this Agreement or given false and misleading information under this Agreement, **MRA HOLDING, LLC** shall thereafter be subject to prosecution for any federal crimes of which the Government has knowledge. It is the intention of the parties to this Agreement that, based on information currently available to it and except in the event of

a breach of this Agreement by **MRA HOLDING, LLC,** the Government will not prosecute MRA HOLDING, LLC related to any violations of 18 U.S.C. § 2257(f)(1) or (f)(4) related to films that are no longer sold or distributed by **MRA HOLDING, LLC** and relating to which Mantra Films, Inc. was not in compliance with 18 U.S.C. § 2257(f)(1) or (f)(4), which films are listed in **APPENDIX C**, or for any violation of 18 U.S.C. §§ 1461-1466 related to the distribution of the films "Totally Exposed Uncensored and Beyond, Volumes 1-12," or other charges related to the production, distribution or labeling of "Ultimate Spring Break Vol. 3 and Vol. 4." Nothing in this Agreement shall protect **MRA HOLDING, LLC** from prosecution related to any other offense.

14. Should the Criminal Division of the United States Department of Justice, in its sole discretion, determine that **MRA HOLDING, LLC** has committed a breach of any provision of this Agreement, the Government shall provide written notice to **MRA HOLDING, LLC** of the alleged breach and provide **MRA HOLDING, LLC** with a two-week period in which to make a presentation to the Assistant Attorney General over the Criminal Division of the United States, or his or her designee, to demonstrate that no breach has occurred or, to the extent applicable, that the breach has been cured. The parties hereto expressly understand and agree that should **MRA HOLDING, LLC** fail to make a presentation within the said two-week period, it shall be conclusively presumed that **MRA HOLDING, LLC** is in willful and material breach of this Agreement. The parties further understand and agree that the Criminal Division's exercise of its discretion under this paragraph is not subject to review in any court or tribunal. In the event of a breach of this Agreement that results in a prosecution, such prosecution may be premised upon any information provided by or on behalf of **MRA HOLDING, LLC** to

the Government at any time. Further, in the event of a breach, the payment by **MRA HOLDING, LLC** pursuant to paragraph 5 will not be returned to **MRA HOLDING, LLC.**

15. **MRA HOLDING, LLC** agrees that if it sells or merges all or substantially all of its business operations as they exist as of the date of this Agreement, it shall include in any contract for sale or merger a provision binding the purchaser/successor to the obligations described in this Agreement.

16. It is further understood that this Agreement is binding on **MRA HOLDING, LLC** and the Government, but specifically does not bind any other federal agencies, or any state or local authorities, although the United States will bring the cooperation of **MRA HOLDING, LLC** and its compliance with its other obligations under this Agreement to the attention of state or local prosecuting offices or any state or federal regulatory agencies, if requested by **MRA HOLDING, LLC** or its attorneys.

17. It is further understood that this Agreement does not relate to or cover any civil or criminal conduct by **MRA HOLDING, LLC** other than the conduct described in, or arising from the facts contained in or involving the persons and/or accounts described in, the Agreement and its exhibits, including the Statement of Facts.

18. **MRA HOLDING, LLC** and the United States agree that, upon acceptance by the Court, this Agreement and a proposed Order deferring prosecution shall be filed in the United States District Court for the Northern District of Florida.

19. **MRA HOLDING, LLC** agrees that for a period of three years it will retain and pay for an outside, independent monitor selected by the United States (the "Monitor"), to which **MRA HOLDING, LLC** may object on reasonable grounds. With respect to communications between **MRA HOLDING, LLC** and the Monitor, **MRA**

HOLDING, LLC shall waive, as to the Department of Justice only, any applicable privilege pertaining to communications between **MRA HOLDING, LLC** and the Monitor. **MRA HOLDING, LLC** shall provide the monitor complete access to the books and records, production facilities for "Girls Gone Wild" products, and any other locations required to ensure **MRA HOLDING, LLC's** compliance with federal law and this Agreement. The Monitor shall monitor **MRA HOLDING, LLC's** compliance with this Agreement and with the requirements of 18 U.S.C. § 2257 and 28 C.F.R. § 75 relating to the production of all visual materials which contain depictions of actual sexually explicit conduct and which are produced under the name "Girls Gone Wild", or any other name, and report to the Department of Justice on at least a semi-annual basis as to **MRA HOLDING, LLC's** compliance with this Agreement and with such statutes and regulations.

20. This Agreement sets forth all the terms of the Deferred Prosecution Agreement between **MRA HOLDING, LLC** and the Government. No promises, agreements or conditions have been entered into other than those expressly set forth in this Agreement, and none shall be entered into and/or be binding upon **MRA HOLDING, LLC** or the Government unless expressly set forth in writing, signed by the Government, **MRA HOLDING, LLC's** attorneys, and a duly authorized representative of **MRA HOLDING, LLC** and physically attached to this Agreement. This Agreement

supersedes any prior promises, agreements or conditions between **MRA HOLDING, LLC,** and the Government.

RESPECTFULLY SUBMITTED this 12TH day of September, 2006.

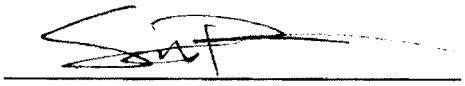
GREGORY R. MILLER
United States Attorney
Northern District of Florida
Florida Bar No. 0284777

DIXIE A. MORROW
Assistant U.S. Attorney
Northern District of Florida
Florida Bar No. 354589
Georgia 525543
Texas 24034796
21 East Garden Street, Suite 400
Pensacola, Florida 32502
850-444-4000

BRENT D. WARD
Director
Obscenity Prosecution Task Force

I, Scott Barbour, the duly authorized representative of **MRA HOLDING, LLC,** hereby expressly acknowledge the following: (1) that I have read this entire Deferred Prosecution Agreement and all attachments hereto and the other documents filed in the United States District Court for the Northern District of Florida in conjunction with this Agreement, including the Information; (2) that I have had an opportunity to discuss this Agreement with **MRA HOLDING, LLC** attorneys; (3) that **MRA HOLDING, LLC** fully and completely understands each and every one of the terms of this Agreement; (4) that **MRA HOLDING, LLC** is fully satisfied with the advice and representation provided to it by its attorneys; and (5) that **MRA HOLDING, LLC** has signed this Agreement voluntarily. In addition, **MRA HOLDING, LLC,** after an opportunity to consult with counsel, with respect to any actual or potential conflict between its interests and the interests of Mantra Films, Inc., and Scott Barbour, hereby waives any such actual or apparent conflicts.

THIS the 12TH day of September, 2006.



SCOTT BARBOUR
President
Defendant MRA HOLDING, LLC

I, Aaron Dyer, the duly authorized counsel for **MRA HOLDING, LLC** hereby expressly acknowledge the following: (1) that I have read this entire Deferred Prosecution Agreement and all attachments hereto and the other documents filed in the United States District Court for the Northern District of Florida in conjunction with this Agreement, including the Information; (2) that I have had an opportunity to discuss this Agreement with **MRA HOLDING, LLC** representatives and outside defense counsel; (3) that **MRA HOLDING, LLC** fully and completely understands each and every one of its terms; (4) that **MRA HOLDING, LLC** is fully satisfied with the advice and representation provided to it by me and by its outside defense counsel; and (5) that **MRA HOLDING, LLC** has signed this Agreement voluntarily.

THIS the 12th day of September, 2006.

AARON DYER
Attorney for MRA HOLDING, LLC

APPENDIX A

STIPULATION OF FACT

1. Joseph R. Francis was the founder, CEO and sole shareholder of Mantra Films, Inc., and **MRA HOLDING, LLC** ("the companies"). The companies produce, market and distribute "Girls Gone Wild" videos and DVDs. In the process of creating these videos, agents of the companies often film individuals engaged in actual sexually explicit conduct as defined in 18 U.S.C. § 2256(2). **MRA HOLDING, LLC** was located in Santa Monica, California.

2. As the CEO and sole shareholder of the companies, Francis was, during the relevant time period, involved in the day-to-day operations of the companies. As such, Francis (1) established the policies of the companies, (2) established budgets for productions, including monetary incentives to cameramen who film footage for the companies,(3) sometimes directed cameramen and other production staff acting on the companies' behalf in what type of footage they should obtain, (4) decided what venues camera operators would visit to obtain footage to include in the videos, and (5) made most major decisions on behalf of the companies. Francis was also personally involved in persuading performers to engage in sexually explicit conduct, reviewing footage obtained by cameramen, deciding which footage would be used in commercially marketed and released films and deciding how the companies' products would be packaged and marketed. As a result, Francis and the companies were producing, as that term is defined in 18 U.S.C. § 2256(3), material covered by 18 U.S.C. § 2257.

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3. **MRA HOLDING, LLC** produced for commercial sale "Girls Gone Wild" digital versatile disks ("DVDs"). Because the DVDs contained visual depictions of actual sexually explicit conduct, **MRA HOLDING, LLC** was required to create and to maintain documentation that the performers engaging in such conduct in the DVDs were at least eighteen (18) years of age, and to label the DVDs with a statement describing where the records required by 18 U.S.C. § 2257 may be located.

4. From on or about March 31, 2003 to on or about June 21, 2003, in the Northern District of Florida and elsewhere, **MRA HOLDING, LLC** knowingly sold and otherwise transferred and offered for sale and transfer, videos and other matter, that is, DVDs (as outlined below), which contained one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct and which were produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce, which did not have affixed thereto a statement describing where the required age documentation records portrayed for all performers portrayed each visual depiction may be located.

5. These violations included but were not limited to:

"Totally Exposed Uncensored and Beyond"
"Totally Exposed Uncensored and Beyond, Volume 6"
"Totally Exposed Uncensored and Beyond, Volume 7"
"Totally Exposed Uncensored and Beyond, Volume 8"
"Totally Exposed Uncensored and Beyond, Volume 9"
"Totally Exposed Uncensored and Beyond, Volume 10"
"Totally Exposed Uncensored and Beyond, Volume 11"
"Totally Exposed Uncensored and Beyond, Volume 12"
"Girls Gone Wild On Campus Uncensored"
"Girls Gone Wild College Girls Exposed/Sexy Sorority Sweethearts"

6. Each of these videos was mailed or caused to be mailed into the Northern

District of Florida. For purposes of this Agreement, **MRA HOLDING, LLC** is waiving any challenge to venue that it may have; however, nothing in this Agreement is to be construed as an admission that venue exists in the Northern District of Florida.

7. Since that time, **MRA HOLDING, LLC** has represented that it has implemented procedures intended to ensure that the records required by 18 U.S.C. § 2257 or 28 C.F.R. § 75 are obtained whenever agents of Francis or the companies obtain footage of individuals engaged in actual sexually explicit conduct and that all products containing actual sexually explicit conduct are labeled in compliance with 18 U.S.C. 2257(f)(4).

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APPENDIX B

PUBLIC STATEMENT

My name is Joseph Francis and I am CEO of MANTRA FILMS, INC, and MRA HOLDING, LLC, both of which are based in Santa Monica, California. MANTRA FILMS, INC and MRA HOLDING, LLC, under my direction, produce, sell and distribute sexually explicit films under the name Girls Gone Wild.

Producers of sexually explicit films, such as MANTRA FILMS, INC, MRA HOLDING, LLC and me, are required by federal law to keep records of the identity and the age of the performers used in their films and to attach labels to their videotapes and DVDs identifying a custodian for these records. These laws are intended to prevent the filming of minors performing sexually explicit conduct. A violation of this law is a felony punishable by imprisonment for up to five years.

MANTRA FILMS, INC, MRA HOLDING, INC and I admit that during 2002 and at times in 2003, we produced and distributed videos and DVDs without obtaining the required records or attaching appropriate labeling. On September 12, 2006, MRA HOLDING, LLC and MANTRA FILMS, INC were charged with violations of the record keeping and labeling laws by the U.S. Justice Department and the U.S. Attorney for the Northern District of Florida in Pensacola. On September ___, 2006, I was charged with similar violations in federal court in Central District of California. MANTRA FILMS, INC, Inc., and I have entered guilty pleas to the charges against us and agreed to certain penalties. MRA HOLDING, LLC and the Justice Department have agreed to defer further action on the charges against MRA HOLDING, LLC for three years. As part of this agreement, MRA HOLDING, LLC has agreed to certain conditions, including hiring an independent monitor at our expense to ensure future compliance with the record keeping and labeling laws. The penalties and conditions to which MRA HOLDING, LLC, MANTRA FILMS, INC and I have agreed also include payment of $2.1 million in fines and to pay restitution.

My companies and I acknowledge that what we did was wrong and violated federal laws. We also acknowledge that as a result of these violations footage of minors engaged in actual sexually explicit conduct appeared in at least two DVDs that were commercially released for sale to the public by MANTRA FILMS, INC, MRA HOLDING, LLC and me. We regret that this occurred and will make sure that no other minors are used in "Girls Gone Wild" films.

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APPENDIX C

FILMS SUBJECT TO PARAGRAPH THIRTEEN OF DEFERRED PROSECUTION AGREEMENT

MANTRA FILMS, INC/MRA HOLDING, LLC PRODUCED FOOTAGE

PLAYBOY'S CASTING CALLS DVD VOLUME 1-12
CAUGHT ON TAPE VOLUME 1-4
COLLEGE GIRLS EXPOSED VOL 1-2
SEXY SORORITY SWEETHEARTS VOL 1-2
TOTALLY EXPOSED UNCENSORED AND BEYOND Vol 1-12
GIRLS GONE WILD ENDLESS SPRING Vol 1-14
GIRLS GONE WILD DORM ROOM FANTASIES Vol 1-9
GIRLS GONE WILD ON TOUR VOL 1-8
GIRLS GONE WILD ULTIMATE SPRING BREAK Vol 1-12
GGW BEST OF ENDLESS SPRING BREAK Vol 1-3
GGW BEST OF ULTIMATE SPRING BREAK Vol 1-2
GIRLS GONE WILD: BEST ON TOUR Vol 1-4
GGW EXTREME UNCENSORED
GIRLS GONE WILD ON CAMPUS
GGW PARTY EXTREME
PRISON FILES Vol 1-2

MANTRA FILMS, INC/MRA HOLDING, LLC LICENSED AND CONSIGNMENT FOOTAGE

Playboy's Casting Calls (vol. 1-13)
Playboy Mansion Parties' Hottest Moments/Behind the Scenes Uncensored
Playboy Mansion Parties Uncensored
Caught on Tape (vol. 1-4)
Co-Ed Tryouts

Sex Around the House
Prison Files (vol. 1-2)
Party Extreme
Blind Date Uncensored
Blind Date Uncensored Deluxe
Blind Date Dates From Hell Uncensored
Blind Date Freaks and Weirdos
Erotic Seduction
Fantasy Fest 99 (vol. 1-4)
Mardi Gras 99 (vol. 1-3)
Memorial Weekend T&A 99 (vol. 1-3)
Naked in Daytona 99 (vol. 1-2)
Labor Day Wet T&A (vol. 1-3)
Flashing in Public
Girls of the Kentucky Derby
Just Add Water Spring Break Lake Havasu
Key to Bush Fantasy Fest
Naked Mile Run
Lesbian Lovers Caught on Tape
Lovers Caught on Tape (vol. 1-3)
More Lovers Caught on Tape
Charlie's Guide to Lovemaking
Playboy Celebrities
Playboy Girlfriends
Playboy Girls Next Door Naughty and Nice
Playboy Girls of Hedonism
Playboy Playmate Erotic Adventures
Toys for Sex
Undercover Strippers
What Women Want
The Complete Anna Nicole Smith (vol. 1-2)

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

FILED IN OPEN COURT THIS
9/12/06
CLERK, U.S. DISTRICT
COURT, NORTH. DIST. FLA.

UNITED STATES OF AMERICA

v.

MANTRA FILMS, INC.
_____/

INFORMATION
CASE NO. 5:06CR78/RS

THE UNITED STATES ATTORNEY CHARGES:

A. INTRODUCTION

At all times material to this Information:

1. **MANTRA FILMS, INC.** was a business located in Santa Monica, California.

2. Joseph R. Francis was the Owner, President and Chief Executive Officer of **MANTRA FILMS, INC.**

3. **MANTRA FILMS, INC.** produced for commercial sale "Girls Gone Wild" digital versatile disks ("DVDs"). Because the DVDs contained visual depictions of actual sexually explicit conduct, **MANTRA FILMS, INC.** was required to create and to maintain documentation that performers in the DVDs were at least eighteen (18) years of age, and to label the DVDs with language identifying the location of information documenting the fact that all performers were eighteen (18) years of age or older.

B. CHARGES

COUNTS ONE THROUGH THREE

That from on or about March 31, 2002 to on or about January 9, 2004, in the Northern District of Florida and elsewhere, the defendant,

MANTRA FILMS, INC.,

aided, abetted, counseled and induced by others, known and unknown to the United States Attorney, did produce a film, videotape and other matter, that is, a DVD (as outlined below), which contained one or more visual depictions of actual sexually explicit conduct made after November 1, 1990 and which was produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce and which was intended for shipment in interstate and foreign commerce, without maintaining individually identifiable records pertaining to every performer portrayed in such visual depiction.

All in violation of Title 18, United States Code, Section 2257(f)(1) and Section 2.

COUNT ONE	"Ultimate Spring Break, Volume 3"
COUNT TWO	"Ultimate Spring Break, Volume 4"
COUNT THREE	"Girls Gone Wild On Campus Uncensored"

COUNTS FOUR THROUGH TEN

That from on or about March 31, 2003 to on or about June 21, 2003, in the Northern District of Florida and elsewhere, the defendant,

MANTRA FILMS, INC.,

aided, abetted, counseled and induced by others, known and unknown to the United States Attorney, did knowingly sell and otherwise transfer and offer for sale and transfer, any video and other matter, that is, a DVD (as outlined below), which contained one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct and which was produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce, which did not have affixed thereto a statement describing where the required age documentation records portrayed for all performers portrayed each visual depiction may be

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located.

All in violation of Title 18, United States Code, Section 2257(f)(4) and Section 2.

COUNT FOUR	"Totally Exposed Uncensored and Beyond"
COUNT FIVE	"Totally Exposed Uncensored and Beyond, Volume 2"
COUNT SIX	"Totally Exposed Uncensored and Beyond, Volume 3"
COUNT SEVEN	"Totally Exposed Uncensored and Beyond, Volume 4"
COUNT EIGHT	"Totally Exposed Uncensored and Beyond, Volume 5"
COUNT NINE	"Girls Gone Wild On Campus Uncensored"
COUNT TEN	"Girls Gone Wild College Girls Exposed/Sexy Sorority Sweethearts"

THIS 12TH day of September, 2006.

GREGORY R. MILLER
United States Attorney

for DIXIE A. MORROW
Assistant United States Attorney

BRENT D. WARD
Director, Obscenity Prosecution Task Force

FILED IN OPEN COURT THIS
9/12/06
CLERK, U.S. DISTRICT
COURT, NORTH. DIST. FLA.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

UNITED STATES OF AMERICA

v.

MRA HOLDINGS, LLC.

INFORMATION
CASE NO. 5:06CR79/RS

THE UNITED STATES ATTORNEY CHARGES:

A. INTRODUCTION

At all times material to this Information:

1. **MRA HOLDING, LLC.**, was a business located in Santa Monica, California.

2. Joseph R. Francis was the Owner, President and Chief Executive Officer of **MRA HOLDING, LLC.**

3. **MRA HOLDING, LLC.**, produced for commercial sale "Girls Gone Wild" digital versatile disks ("DVDs"). Because the DVDs contained visual depictions of actual sexually explicit conduct, **MRA HOLDING, LLC.**, was required to create and to maintain documentation that performers in the DVDs were at least eighteen (18) years of age, and to label the DVDs with language identifying the location of information documenting the fact that all performers were eighteen (18) years of age or older.

B. CHARGES

COUNTS ONE THROUGH TEN

That from on or about March 31, 2003 to on or about June 21, 2003, in the Northern District of Florida and elsewhere, the defendant,

MRA HOLDING, LLC.,

aided, abetted, counseled and induced by others, known and unknown to the United States Attorney, did knowingly sell and otherwise transfer and offer for sale and transfer, any video and other matter, that is, a DVD (as outlined below), which contained one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct and which was produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce, which failed to have affixed thereto a statement describing where the required age documentation records portrayed for all performers portrayed each visual depiction may be located.

COUNT ONE	"Totally Exposed Uncensored and Beyond"
COUNT TWO	"Totally Exposed Uncensored and Beyond, Volume 6"
COUNT THREE	"Totally Exposed Uncensored and Beyond, Volume 7"
COUNT FOUR	"Totally Exposed Uncensored and Beyond, Volume 8"
COUNT FIVE	"Totally Exposed Uncensored and Beyond, Volume 9"

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COUNT SIX	"Totally Exposed Uncensored and Beyond, Volume 10"
COUNT SEVEN	"Totally Exposed Uncensored and Beyond, Volume 11"
COUNT EIGHT	"Totally Exposed Uncensored and Beyond, Volume 12"
COUNT NINE	"Girls Gone Wild On Campus Uncensored"
COUNT TEN	"Girls Gone Wild College Girls Exposed/Sexy Sorority Sweethearts"

All in violation of Title 18, United States Code, Section 2257(f)(4) and Section 2.

This 12TH day of September, 2006.

GREGORY R. MILLER
United States Attorney

DIXIE A. MORROW
Assistant United States Attorney

BRENT D. WARD
Director, Obscenity Prosecution Task Force

DOJ_NMG_ 0167757

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Image not available for this document, ID: 0.7.10316.33106-000005

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 1:23 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ANNOUNCES GUILTY PLEA IN PEER-TO-PEER PIRACY CRACKDOWN

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 12, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

JUSTICE DEPARTMENT ANNOUNCES GUILTY PLEA IN PEER-TO-PEER PIRACY CRACKDOWN

WASHINGTON – An Erie, Pa. man pleaded guilty to copyright infringement in U.S. District Court in Erie, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Mary Beth Buchanan of the Western District of Pennsylvania announced today.

Scott R. McCausland, 24, pleaded guilty to one count of conspiracy to commit copyright infringement and one count of criminal copyright infringement in violation of the Family Entertainment Copyright Act. His guilty plea stems from his involvement in the BitTorrent peer-to-peer (P2P) network previously known as Elite Torrents. The plea was entered before U.S. District Court Judge Sean J. McLaughlin for the Western District of Pennsylvania. McCausland, who is scheduled to be sentenced on Dec.12, 2006, faces up to five years in prison, a fine of $250,000, and three years of supervised release.

"This groundbreaking case demonstrates the commitment of the Department of Justice to prosecute individuals who use new technologies to undermine the copyright laws," said U.S. Attorney Buchanan. "It also serves as an example to those who believe that there is anonymity in cyberspace."

This is the first criminal enforcement action against copyright infringement on a P2P network using BitTorrent technology. McCausland's conviction is the third in a series of convictions arising from Operation D-Elite, a federal crackdown against the first providers (or suppliers) of pirated works to the technologically-sophisticated P2P network known as Elite Torrents. At its prime, the Elite Torrents network attracted more than 133,000 members and facilitated the illegal distribution of more than 2 million copies of movies, software, music, and games. On May 25, 2005, federal agents shut down the Elite Torrents network by seizing its main server and replacing its log-in web page with the following notice: "This Site Has Been Permanently Shut Down by the FBI and U.S. Immigration and Customs Enforcement (ICE)." Within the first week alone, this message was viewed over half a million times.

The Elite Torrents P2P network offered a virtually unlimited content selection, including illegal copies of copyrighted works before their availability in retail stores or movie theatres. For example, the defendant supplied the network with the final entry in the Star Wars series, "*Episode III: Revenge of the Sith*," more than

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six hours before it was first shown in theatres. In the next 24 hours, it was downloaded from the Elite Torrents network more than 10,000 times.

Operation D-Elite is a joint investigation by ICE and the FBI as part of the Computer and Technology Crime High-Tech Response Team (CATCH), a San Diego task force of specially trained prosecutors and law enforcement officers focused on high-tech crime. Federal and state member agencies of CATCH include ICE, the FBI, the Department of Justice, the San Diego District Attorney's Office, San Diego Police Department, the San Diego Sheriff's Department, and San Diego County Probation.

Andrea Sharrin, Senior Counsel for the Criminal Division's Computer Crime and Intellectual Property Section and Christian A. Trabold, Assistant U.S. Attorney for the Western District of Pennsylvania, prosecuted this case on behalf of the government. The Motion Picture Association of America also provided substantial assistance to this investigation.

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06-611

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Image not available for this document, ID: 0.7.10316.33064-000002

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 12, 2006 1:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lake Los Angeles, CA

From: AmberAlert-DOJ
Sent: Tuesday, September 12, 2006 1:35:19 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lake Los Angeles, CA
Auto forwarded by a Rule

UPDATE AMBER ALERT:LakeLosAngeles,CA-VEH:'00Blk Chev pickup,CA 7D92423-VEH:'95Blu Merc Grand Marquis,CA 5RSK813-CHILD:W/F,5 mo SUSP:H/F,5'5,150-CALL661-272-2527
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2102

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 508329 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 12, 2006 2:02 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Avondale, AZ

From: AmberAlert-DOJ
Sent: Tuesday, September 12, 2006 2:01:31 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Avondale, AZ
Auto forwarded by a Rule

AMBER ALERT:Avondale,AZ VEH:'01 Wh Chev Malibu TAG:AZ 723TRY CHILD:2yo,Blk/As F,2'6,36 Hr:Brn SUSP:W/F,27yo,5'6,120 SUSP:30yo Blk/As M 5'6,175 CALL 623-478-3660
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2122

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 2:35 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE ATTORNEY GENERAL'S ANNUAL AWARDS CEREMONY

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 12, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE ATTORNEY GENERAL'S ANNUAL AWARDS CEREMONY

WASHINGTON, D.C.

Good afternoon. This is one of my favorite events of the year. It's a pleasure to be gathered here for this recognition, for this celebration of some of the Department's finest employees.

I want to thank Deputy Attorney General Paul McNulty and the Incentive Awards Board for their work to make this event possible. Recognition of outstanding service is an important and worthy mission, and I appreciate the fact that the awards panel goes the extra mile to make this day truly special for the recipients and their families.

We have a number of special guests sharing in this celebration, thank you all for taking the time to be here.

Today's award recipients make me proud to be their colleague. They make me proud to be an American. Their dedication and achievements remind me why it is an honor to serve at the Department of Justice.

Because this is not "just a job" – not for any of us.

Helping hurricane victims is not "just a job." Putting drug traffickers, terrorists, and would-be terrorists behind bars is not "just a job." Saving a child from a sexual predator is not "just a job."

What we do at the Department of Justice is answer a call of duty.

People who will be honored here today have gone far above and beyond that honorable call of duty – some have even put their lives at risk while enforcing our Nation's laws… while delivering justice.

And I imagine that each one of them would say that their accomplishments wouldn't have been possible without their colleagues and their families.

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So I want to acknowledge the colleagues and the families as well as the award recipients. Because these honors belong to them as well.

Yesterday's five year anniversary was a reminder of many things – one of which was the fact that so many of the victims of the September 11th attacks perished – or survived – alongside their co-workers.

In New York, co-workers joined together to carry colleagues in wheelchairs down countless flights of stairs.

At the Pentagon, military and civilian personnel alike helped each other out of the smoke, to safety.

And public servants – firefighters, police officers and emergency medical personnel – ran into the flames together to do their jobs.

These stories remind us: Our work as public servants at the Department of Justice isn't "just a job" and our colleagues aren't "just" co-workers.

We are a family at work. And sometimes it's our dedication to each other that leads to our success.

Like families, we care about each other. Like families, mutual respect helps us rise above any petty differences.

Sometimes our jobs require us to spend more waking hours with our professional families than our actual families, at home. And so it is with many of today's award recipients. That sacrifice is a two-way street: Justice employees are sacrificing time with loved ones for service to their country, and those loved ones are making a sacrifice for the public good as well.

So to the husbands and wives, children and parents and other loved ones in the audience today – thank you for your sacrifices. Thank you for understanding that what your husband, your wife, your mommy, your daddy was doing was worth the sacrifice.

We all need to remember that there remains nothing more important for a professional than the reward of going home at the end of the day, and nothing more fulfilling than the smile of a child or the embrace of a loving partner. Our goal is to create a better environment, a safer neighborhood for all our children. We risk all to maintain a country where the dreams of a little boy or girl can still come true.

We are better at work because of the love and encouragement that we receive at home. It is with that knowledge that I thank the friends and family who have gathered today, and with that knowledge that I remind all Department of Justice employees to take the time to be re-fueled and rewarded by relationships at home.

When you come to work in the morning, there are people who care about you, too. In fact, some of them are the ones who nominated you for your awards. Which makes this a day of family celebration all around.

There are so many wonderful stories to be told and heard today, so I won't take any more time. I am looking forward to the ceremony ahead, and I hope that everyone here is inspired by their colleagues, their family, their friends.

I know I am.

Thank you all for your outstanding service to this wonderful and blessed United States of America.

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Image not available for this document, ID: 0.7.10316.33059-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 509199 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 3:47 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE HURRICANE KATRINA ONE-YEAR ANNIVERSARY SYMPOSIUM

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 12, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES
TO DELIVER REMARKS
BEFORE HURRICANE KATRINA ONE-YEAR ANNIVERSARY SYMPOSIUM

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks before the Hurricane Katrina One-year Anniversary Symposium regarding Department of Justice efforts to combat fraud in the aftermath of Hurricane Katrina on **WEDNESDAY, SEPTEMBER 13, 2006**.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the Hurricane Katrina One-year Anniversary Symposium regarding Department of Justice efforts to combat fraud in the aftermath of Hurricane Katrina

WHEN: 1:15 P.M. CDT
Grand Ballroom
Sheraton New Orleans Hotel
500 Canal Street
New Orleans, La.
OPEN PRESS

Note: Pre-set for camera crews is **no later than 12:15 P.M. CDT**. Pre-set for print journalists is **no later than 12:45 P.M. EDT**. Press inquiries regarding logistics should be directed to Theresa Pagliocca at the Department of Justice at 202-532-3486.

# # #

06-613

DOJ_NMG_ 0167772

Image not available for this document, ID: 0.7.10316.32875-000001

Image not available for this document, ID: 0.7.10316.32875-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 4:46 PM
To: USDOJ- Office of Public Affairs
Subject: ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT TO ADDRESS GEORGE MASON UNIVERSITY SCHOOL OF LAW SYMPOSIUM

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 12, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT TO ADDRESS GEORGE MASON UNIVERSITY SCHOOL OF LAW SYMPOSIUM

WASHINGTON – Assistant Attorney General Thomas O. Barnett will address the George Mason University School of Law Symposium, "Managing Antitrust Issues in a Global Marketplace," tomorrow, **WEDNESDAY, SEPT. 13, 2006, at 12:30 P.M. EDT**. His speech is entitled, "Interoperability Between Antitrust and Intellectual Property."

WHO: Assistant Attorney General Thomas O. Barnett

WHAT: George Mason University School of Law Symposium, "Managing Antitrust Issues in a Global Marketplace"

WHEN: **WEDNESDAY, SEPT. 13, 2006, at 12:30 P.M. EDT**

WHERE: J.W. Marriott Hotel
Capitol Ballroom E
1331 Pennsylvania Ave NW
Washington, D.C. 20004

NOTE: This event is open to the media. A text of the speech will be available. All questions regarding logistics should be directed to Chris Pruitt at 703-993-8161. All other press inquiries should be directed to the Office of Public Affairs at 202-514-2007.

DOJ_NMG_ 0167775

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06-614

DOJ_NMG_ 0167776

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Image not available for this document, ID: 0.7.10316.32888-000002

Gunn, Currie (SMO)

Subject:	Updated: ENRD Bi-Weekly Meeting
Location:	5710
Start:	Wednesday, November 26, 2003 11:00 AM
End:	Wednesday, November 26, 2003 12:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Wednesday from 11:00 AM to 12:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Sobeck, Eileen (ENRD); Cruden, John (ENRD); Gorsuch, Neil M; Pacold, Martha M; Wooldridge, Sue Ellen (ENRD); McKeown, Matt (ENRD); Senger, Jeffrey M; McCallum, Robert (SMO); Nelson, Ryan (ENRD); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, Evan
Optional Attendees:	'Newton, Cullen (ENRD)'; Owens, Angela (ENRD); Miranda, Gail (ENRD); 'Bogan, Shanedda (JMD)'; Gunn, Currie (SMO)

When: Occurs every 2 weeks on Wednesday effective 11/26/2003 until 8/30/2006 from 11:00 AM to 12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Addition of Gerald Masoudi

We have been experiencing problems with the Outlook calendar. While hoping to correct the problems we will be doing updates to the recurring meetings.

Attendees: Associate AG Robert McCallum, Neil Gorsuch, Sue Ellen Wooldridge AAG ENRD, Matt McKeown, Eileen Sobeck, John Cruden, Jeff Senger, Martha Pacold-OAG

POC: Currie Gunn [redacted]

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 5:12 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER POLITICAL FUNDRAISER THOMAS NOE SENTENCED TO 27 MONTHS IN PRISON FOR ILLEGAL CAMPAIGN CONTRIBUTIONS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 12, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER POLITICAL FUNDRAISER THOMAS NOE SENTENCED TO 27 MONTHS IN PRISON FOR ILLEGAL CAMPAIGN CONTRIBUTIONS

WASHINGTON – Former political fundraiser Thomas W. Noe was sentenced to 27 months in prison for conspiring to make illegal campaign contributions, causing a false statement to the Federal Election Commission (FEC), and knowingly and willfully making $45,400 in illegal campaign contributions to President George W. Bush's 2004 re-election campaign, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Gregory A. White of the Northern District of Ohio announced today.

Noe, who pleaded guilty on May 31, 2006, was sentenced by the Hon. David A. Katz of the U.S. District Court for the Northern District of Ohio, Western Division, in Toledo. Judge Katz also imposed a fine of $136,200 and two years of supervised release.

At his plea hearing, Noe admitted that in October 2003, he made contributions to Bush-Cheney '04 Inc. over and above the limit established by the Federal Election Campaign Act (FECA). Noe admitted disguising these contributions by recruiting and providing money to friends and associates who then used Noe's money to make contributions in their own names. Noe contributed $45,400 of his own money through 24 such conduits. To avoid suspicion, he gave several conduits checks in amounts slightly less than the maximum allowable amount and instructed several conduits to falsely characterize his payments to them as loans.

Noe pleaded guilty to each of the three counts in an indictment. The first count charged Noe with conspiring to violate the FECA's anti-conduit provision by making contributions in the names of others, and with conspiring to fraudulently disrupt and impede the public disclosure and enforcement responsibilities of the FEC. The second count charged Noe with a substantive violation of the FECA's anti-conduit provision, and the third count charged him with causing the submission of a false statement to the FEC. The false statement occurred when Noe caused Bush-Cheney '04 Inc. to unknowingly submit a campaign finance report listing the conduit donors as contributors when the contributions actually came from Noe.

"Today marks an important step in bringing Thomas Noe to justice. Noe flagrantly violated our nation's campaign finance laws to further his personal ambitions and seriously undermined the public's right to know how much money he was injecting into the political process. For these actions, he has been vigorously

DOJ_NMG_ 0167780

investigated, aggressively prosecuted, and sentenced to a 27-month term of imprisonment that reflects the seriousness of his conduct," stated U.S. Attorney Gregory A. White.

This case was prosecuted by Assistant U.S. Attorneys Seth D. Uram and David O. Bauer of the U.S. Attorney's Office for the Northern District of Ohio, which is headed by U.S. Attorney Gregory A. White, and Trial Attorney John P. Pearson of the Criminal Division's Public Integrity Section, which is headed by Acting Section Chief Edward C. Nucci. The case was investigated by the Federal Bureau of Investigation.

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06-615

DOJ_NMG_ 0167781

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Image not available for this document, ID: 0.7.10316.32873-000002

Gunn, Currie (SMO)

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 28, 2004 10:00 AM
End:	Thursday, October 28, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Shaw, Aloma A; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Katsas, Gregory (CIV); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, Evan

When: Occurs every 2 weeks on Thursday effective 10/28/2004 until 8/31/2006 from 10:00 AM to 11:00 AM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting series ended, new e-calendar will be sent updating meeting. 9/12/2006

Addition & Introduction of John DiCicco, Deputy Assistant AG

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Fred Murray, Tax

POC: Currie Gunn [redacted]

Gunn, Currie (SMO)

Subject:	Updated: Tax Bi-Weekly Meeting
Location:	5710
Start:	Thursday, October 28, 2004 10:00 AM
End:	Thursday, October 28, 2004 11:00 AM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Thursday from 10:00 AM to 11:00 AM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Shaw, Aloma A; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Katsas, Gregory (CIV); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, EvanMcCallum, Robert (SMO); O'Connor, Eileen J. (AAG/TAX); Fallon, Claire (TAX); Morrison, Richard T. (TAX); 'Hofer, Patrick F. (TAX)'; Gorsuch, Neil M; Boente, Dana J. (TAX); Oldham, Jeffrey L; Peabody, Payson R. (TAX); Senger, Jeffrey M; Shaw, Aloma A; Murray, Fred F. (TAX); Todd, Gordon (SMO); DiCicco, John A. (TAX); Katsas, Gregory (CIV); Katsas, Gregory; Masoudi, Gerald; Masoudi, Gerald F; Young, Evan

Meeting series ended, new e-calendar will be sent updating meeting. 9/12/2006

Addition & Introduction of John DiCicco, Deputy Assistant AG

Attendees: ASG Robert McCallum, Neil Gorsuch-OASG, Eileen O'Connor-AAG Tax, Claire Fallon-Tax, Dana Boente-Tax, Fred Murray, Tax

POC: Currie Gunn [redacted]

System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 510492 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Immergut, Karin (USAOR)

From: Immergut, Karin (USAOR)
Sent: Tuesday, September 12, 2006 6:20 PM
Subject: Not read: A/C Survey
Attachments: ATTACHMENT.TXT

Your message

To: Meehan, Patrick (USAPAE); Immergut, Karin (USAOR)
Cc: Tenpas, Ronald J (ODAG)
Subject: RE: A/C Survey
Sent: Tue, 13 Dec 2005 12:53:13 -0700

was deleted without being read on Tue, 12 Sep 2006 15:20:22 -0700

Final-Recipient: RFC822; KImmergut@usa.doj.gov
Disposition: automatic-action/MDN-sent-automatically; deleted
X-MSExch-Correlation-Key: vEPJJoUm1EmXpSESdHFNWQ==

Immergut, Karin (USAOR)

From: Immergut, Karin (USAOR)
Sent: Tuesday, September 12, 2006 6:22 PM
Subject: Not read: [redacted] s Paper
Attachments: ATTACHMENT.TXT

Your message

To: Immergut, Karin (USAOR)
Cc:
Subject: RE: [redacted] s Paper
Sent: Wed, 30 Nov 2005 15:34:48 -0700

was deleted without being read on Tue, 12 Sep 2006 15:21:35 -0700

Final-Recipient: RFC822; KImmergut@usa.doj.gov
Disposition: automatic-action/MDN-sent-automatically; deleted
X-MSExch-Correlation-Key: u16qVwwJzkujZSXieGi7og==

System Administrator

From:	System Administrator
Sent:	Tuesday, September 12, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 510495 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 12, 2006 7:57 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 12, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Participates in Annual Awards Ceremony (OPA)
Today, the Attorney General participated in the Attorney General's 54th Annual Awards Ceremony, which was open to the press.

Twenty-eight People Indicted in Virginia on Cocaine Charges After Year-Long Investigation into Drug Activity on the "Block" (ATF)
Today, U.S. Attorney John L. Brownlee announced that 28 people have been indicted on charges related to an intricate web of cocaine distribution rings in the northern section of Winchester, Va. called the "Block." Twenty-eight people are charged in four separate indictments returned by a federal Grand Jury sitting in Charlottesville, Virginia. The investigation involved an eight-block area of Northern Winchester and focused on a group of Florida-based drug dealers who were importing cheap cocaine to Florida and bringing it to the Winchester area. The focal point of the "Block" was Cartwright's Recreation Center, where over two dozen conspirators actively sold crack cocaine.

Talking Points

- One of the Department's goals is to make the streets of our communities safer for our citizens and children and today's actions have helped us draw closer to that goal.

'Girls Gone Wild' Pleads Guilty In Sexual Exploitation Case (Criminal)
A California company doing business under the name "Girls Gone Wild" has pleaded guilty to charges that it failed to create and maintain age and identity documents for performers in sexually explicit films that it produced and distributed, and that it failed to label its DVDs and videotapes as required by federal law. Santa Monica-based Mantra Films, Inc. entered its plea agreement today before U.S. District Judge Richard Smoak at U.S. District Court in Panama City, Fla. A second related company, MRA Holdings, LLC, also entered into a deferred prosecution agreement. Under the agreements, Joseph Francis, the founder of the two companies, agreed to plead guilty to offenses to be filed later in U.S. District Court in Los Angeles, and the companies and Francis agreed to pay fines and restitution totaling $2.1 million.

Former Political Fundraiser Thomas Noe Sentenced to 27 Months in Prison For Illegal Campaign Contribution (Criminal)
Former political fundraiser Thomas W. Noe was sentenced to 27 months in prison for conspiring to make illegal campaign contributions, causing a false statement to the Federal Election Commission (FEC), and knowingly and willfully making $45,400 in illegal campaign contributions to President George W. Bush's 2004 re-election campaign. Noe, who pleaded guilty on May 31, 2006, was sentenced by the Hon. David A. Katz of the U.S. District Court for the Northern District of Ohio, Western Division, in Toledo. Judge Katz also imposed a fine of $136,200 and two years of supervised release.

Guilty Plea in Peer-to-Peer Piracy Crackdown (Criminal)
An Erie, Pa. man pleaded guilty to copyright infringement in U.S. District Court in Erie. Scott R. McCausland, 24, pleaded guilty to one count of conspiracy to commit copyright infringement and one count of criminal copyright infringement in violation of the Family Entertainment Copyright Act. His guilty plea stems from his involvement in the BitTorrent peer-to-peer (P2P) network previously known as Elite Torrents. The plea was entered before U.S. District Court Judge Sean J. McLaughlin for the Western District of Pennsylvania. McCausland, who is scheduled to be sentenced on Dec.12, 2006, faces up to five years in prison, a fine of $250,000, and three years of supervised release.

Magistrate Rules Cuban Exile Should Be Released After No Country Willing To Take Him (Civil)
Today, a U.S. Magistrate ruled that Cuban exile militant Luis Posada Carriles should be released from immigration custody because the Attorney General has not classified him as a terrorist and his continued detention runs counter to a 2001 Supreme Court ruling barring indefinite detention for foreign nationals who cannot be deported. Magistrate Norbert Garney wrote that U.S. Immigration and Customs Enforcement should put Posada under supervised release because the federal government had failed to find a country willing to take the 78-year-old exile, who has Venezuelan citizenship.
Posada has been in ICE custody since May 17, 2005, when federal immigration agents detained him in Miami-Dade County hours after appearing at an invitation-only news conference near Hialeah. Before his detention, Posada had been hiding in Miami-Dade after sneaking into the United States in March 2005. He arrived from Honduras where he had been hiding since being freed from jail in Panama where he had been convicted in connection with an alleged plot to kill Fidel Castro in 2000. The Cuban government has accused Posada of playing a role in bombings in tourist spots on the island, and in 1976 he was arrested and charged in Venezuela with the bombing of a Cuban jetliner.

Judge Rules CIA Must Turn Over Documents Related to Crash of TWA 800 (Civil)
A judge recently ruled that documents related to the explosion and crash into the Atlantic of TWA flight 800 must be turned over to H. Ray Lahr in his suit against the NTSB. Lahr has alleged that the plane was shot down by missiles, an assertion dismissed by the United States after an investigation conducted by the FBI and anaylsis by the CIA. TWA Flight 800 disintegrated over the Atlantic off Long Island, NY, while flying from John F. Kennedy International Airport (New York) to Charles de Gaulle International Airport (Paris) in 1996, killing all 230 aboard. A four-year investigation by the U.S. National Transportation Safety

Board concluded that fumes inside the center wing tank ignited, causing the explosion. The NTSB concluded that the spark was created by faulty wire insulation and an electrical arc. The theory was solidified upon investigating the poor condition of wiring on other Boeing 747 aircraft of the approximate age.

Talking Point:

- The court's decision is currently under review. The government has made no determination as to what its next step will be in this matter.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

12:30 P.M. EDT Assistant Attorney General Thomas O. Barnett will address the George Mason University School of Law Symposium, "Managing Antitrust Issues in a Global Marketplace." His speech is entitled, "Interoperability Between Antitrust and Intellectual Property."

J.W. Marriott Hotel
Capitol Ballroom E
1331 Pennsylvania Ave NW
Washington, D.C. 20004
OPEN PRESS

All questions regarding logistics should be directed to Chris Pruitt at 703-993-8161. All other press inquiries should be directed to the Office of Public Affairs at 202-514-2007.

1:15 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice post-Hurricane Katrina law enforcement efforts at the Hurricane Katrina One-year Anniversary Symposium.

Sheraton New Orleans Hotel
500 Canal Street
New Orleans, Louisiana
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

2:30 P.M. EDT Mike Battle, Director, Executive Office of United States' Attorneys; and Susan Brooks, U.S. Attorney for the Southern District of Indiana, will testify before the Senate Judiciary Subcommittee on Crime and Drugs regarding *Challenges Facing Today's Federal Prosecutors*

Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-225-3951.

System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 510666 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

[redacted]@tibco.com

From: [redacted]@tibco.com
Sent: Wednesday, September 13, 2006 9:00 AM
To: Gorsuch, Neil M
Subject: BPM on SOA Webcast
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe8a127972640c7877-fdee17797463037d73127877-fef8177574610d

Business Process Management on a SOA Foundation Webcast

Agencies seeking to deliver business process management (BPM) on a service- oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Date: Tuesday, August 8, 2006

Time: 11:00a.m EDT

Meeting Number: [redacted]

Password: bpmplus

Teleconference: dial [redacted]

Passcode: 485288 for audio

To Join the webcast:

1. At the meetings start time, either click the link or copy and paste it into your web browser.

2. Enter your name, your email address and the meeting password (if required), and then click to join.

3. If the meeting includes a teleconference, follow the instructions that automatically appears on your screen.

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Visit the following URL to update your profile.
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Visit the following URL to unsubscribe.
(http://cl.exct.net/unsub_center.aspx?s=fe0616707665077b70167177&j=fe8a127972640c7877&mid=fef8177574610d)

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Reminder

Business Process Management on a SOA Foundation Webcast: TIBCO's Solutions for the Department of Justice

Agencies seeking to deliver business process management (BPM) on a service-oriented architecture (SOA) have traditionally been faced with one of two compromise solutions: a workflow approach with limited connectivity or an integration approach with limited BPM functionality.

Join this webcast to learn how TIBCO overcomes these limitations with a unified architecture for BPM in an SOA environment.

Wednesday, September 13th, 2006

Time: 12:00 p.m EDT

To attend this meeting, you must first register for it. Please click this link to see more information, and register for this meeting.
https://tibcomc.webex.com/tibcomc/j.php?ED=86837607&RG=1

Once you have registered for the meeting, you will receive an email message confirming your registration. This message will provide the information that you need to join the meeting.

For Help or Support:
Go to https://tibcomc.webex.com/tibcomc/mc click Assistance, then Click Help or click Support.

TIBCO contact [redacted], email [redacted]@tibco.com

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 10:06 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 13, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, September 13, 2006

ATTORNEY GENERAL

1:15 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks before the Hurricane Katrina One-Year Anniversary Symposium regarding Department of Justice efforts to combat fraud in the aftermath of Hurricane Katrina.

Sheraton New Orleans Hotel
500 Canal Street
New Orleans, Louisiana
OPEN PRESS

PRESS RELEASES

The Criminal Division will issue a press release on the first year report of the Hurricane Katrina Fraud Task Force. (Sierra)

EVENTS/HEARINGS

12:30 P.M. EDT Assistant Attorney General Thomas O. Barnett will address the George Mason University School of Law Symposium, "Managing Antitrust Issues in a Global Marketplace." His speech is entitled, "Interoperability Between Antitrust and Intellectual Property."

J.W. Marriott Hotel
Capitol Ballroom E
1331 Pennsylvania Ave NW
Washington, D.C. 20004
OPEN PRESS

A text of the speech will be available. All questions regarding logistics should be directed to Chris Pruitt at (703) 993-8161.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

DOJ_NMG_ 0167800

NIGHT DUTY OFFICER

Charles Miller

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167801

Image not available for this document, ID: 0.7.10316.32780-000001

Image not available for this document, ID: 0.7.10316.32780-000002

Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, September 13, 2006 10:30 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul; Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/13/06 Civil Division News

Lawsuit Challenges Use of Federal Aid for Bible-Based Counseling

Rowe seeking dismissal of lawsuit

Lawyer: Posada wants nothing to do with violence against Cuba

Judge orders Haitian with U.S. citizenship to be deported

Physician's fraud suit against drug maker fails

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New York Times

September 13, 2006

Lawsuit Challenges Use of Federal Aid for Bible-Based Counseling

By NEELA BANERJEE

A group called Americans United for Separation of Church and State filed suit yesterday to block federal financing for an organization that provides marriage counseling based on the Bible.

The lawsuit is another challenge to the Bush administration's efforts to channel money for social services to religious organizations. While religious groups are not barred from getting public money, such financing

can only be used for secular purposes, not "worship, religious instruction or proselytization," according to government guidelines.

Americans United, a watchdog group based in Washington, D.C., filed the lawsuit in Federal District Court in Tacoma, Wash., on behalf of 13 state residents. They object to federal funds being used to support the Northwest Marriage Institute, which states in its newsletter that it offers "Bible-based premarital and marriage counseling." The institute, in Vancouver, Wash., received $97,750 in federal grants in 2005 from the Department of Health and Human Services.

The lawsuit argued that the institute uses federal funds for religious purposes, including developing materials with religious content, buying equipment for use in religiously based programming and paying part of the salaries of employees who do Bible-based counseling.

"This program trains people in how to make their marriages conform to one narrow interpretation of faith," said the Rev. Barry W. Lynn, executive director of Americans United, in a written statement. "The federal government has no business forcing the taxpayer to subsidize that."

A spokesman for the Health and Human Services Department declined to comment on the suit, saying that the agency generally does not comment on pending lawsuits.

Bob Whiddon Jr., director of the Northwest Marriage Institute, said he had not yet seen the lawsuit.

But he said the grants were meant to strengthen his organization by paying for consultants to improve its business practices and to buy equipment, not for programs.

"The grants say that I'm allowed to do things that will allow me to increase the capacity of my organization to serve the community," Dr. Whiddon said in a telephone interview. "None of what we do with the money is for religious purposes."

The administration has failed to provide clear guidelines about what federal funds can be used for, said Robert W. Tuttle, a law professor at George Washington University who is an expert on religion-based initiatives.

The government instructs organizations broadly that they are prohibited from using funds for religious purposes. But, he said, it does not answer the seemingly small, yet sometimes critical, questions that could occur in daily practice.

For example, could software bought with federal money be used for religious purposes? Or is it acceptable to give federal money to improve the management practices of an obviously religious organization like the Northwest Marriage Institute, when those changes would affect both its secular work and religious mission?

"The government studiously avoids clearing up these questions because it doesn't want to discourage people from applying and look hostile to faith groups," Professor Tuttle said. "I honestly don't think it would discourage people. Instead, it would give them a good sense of how to avoid being sued."

END

Portland, ME Press-Herald

Wednesday, September 13, 2006

Rowe seeking dismissal of lawsuit

By GREGORY D. KESICH, Staff Writer A Department of Justice lawsuit that seeks to stop a Maine Public Utilities Commission inquiry into Verizon Communications' role in warrantless surveillance programs should be dismissed, according to Maine's attorney general.

In a document filed Tuesday in U.S. District Court in Bangor, Attorney General Steven Rowe argued that the federal government's lawsuit is barred by the U.S. Constitution, and doesn't belong in court.

Rowe and Assistant Attorney General Linda Conti also denied the government's allegation that a PUC order, requiring a responsible Verizon executive to swear to the truth of assertions the company had previously made, would reveal state secrets and interfere with the government's war on terror.

Rowe's office would not elaborate on the document Tuesday.

"We're going to let it speak for itself," said Chuck Dow, Rowe's spokesman. "We hit the ball back. We are just proceeding by the rules."

But a leading proponent of an investigation of Verizon's activities in Maine praised the response for its thoroughness.

"The most important thing is that the state is going to take this fight seriously," said Zach Heiden, staff attorney for the Maine Civil Liberties Union.

"The state isn't simply going to roll over and let the federal government tell it what to do," he said. "It is going to stand up for the state's prerogative to investigate Verizon."

In May, 22 Verizon customers filed a complaint with the Maine PUC, requesting an investigation into whether the communications company had cooperated with the federal government in warrantless eavesdropping and data mining operations that were described in a series of national news stories.

The company filed a response in which it claimed it could not confirm or deny participation in the programs without revealing state secrets.

In its paperwork filed with the PUC, however, Verizon included two anonymous press releases in which it denied participation in any illegal activity.

On Aug. 7, the PUC declined to order an investigation, but issued an order requiring Verizon officials to swear to the truth of the statements. On the day Verizon's response was due at the PUC, the U.S. Department of Justice filed its lawsuit that seeks to block the inquiry.

Maine was the third state to be sued to prevent an investigation into the surveillance programs by public utility regulators, following New Jersey and Missouri. Last week, Connecticut became the fourth state to be sued by the U.S. Department of Justice. The state's Department of Public Utility Control had ordered Verizon to answer questions posed by Connecticut's American Civil Liberties Union chapter.

Verizon was also named as a defendant in the Maine suit, but has not yet filed a response.

Heiden said the MCLU would file a motion on behalf of the 22 Verizon customers, requesting to enter the lawsuit as intervenors.

END

AP

September 12, 2006

Lawyer: Posada wants nothing to do with violence against Cuba

MIAMI_The lawyer for Cuban militant Luis Posada Carriles says his client wants nothing more to do with violence against President Fidel Castro's communist government.

Posada has been in U-S immigration custody since May 2005 after surfacing in Miami, where he hopes to return to be with his family.

The 78-year-old Cuba native and naturalized Venezuelan citizen is wanted in Venezuela on charges that he plotted the deadly 1976 bombing of a Cuban jetliner from Caracas.

Although he was ordered deported because he entered the U-S illegally, an immigration judge also found that Posada could not be sent to either Cuba or Venezuela because he would likely be tortured there. U-S officials haven't found a country willing to take him. So a federal magistrate judge in El Paso, Texas, concluded that Posada should be released.

The recommendation will be reviewed by a federal district judge.

His lawyer says Posada would agree to virtually any conditions, including a prohibition against contact with Cuban exiles in Miami who still seek Castro's violent overthrow.

END

AP**Error! Hyperlink reference not valid.**September 13, 2006

Judge orders Haitian with U.S. citizenship to be deported

MIAMI_A Haitian-American restaurant owner, convicted of drug trafficking after his naturalization, was ordered to be deported today, but his attorney says it's not clear whether he will be sent back to Haiti.

Attorney Andre Pierre says Immigration Judge Kenneth Hurewitz told his client Lionel Jean-Baptiste that he may be able to stay in the U-S if the Haitian government refuses to take him back.

Pierre says the government of Haiti has informed U-S officials they would not provide travel documents for Jean-Baptiste because -- according to the Caribbean country's constitution -- Haitians who become citizens in another country are no longer considered to be citizens of Haiti.

Jean-Baptiste's case marked the first time federal officials sought to strip the citizenship of a naturalized person who was indicted, arrested and convicted after becoming a citizen.

He arrived in South Florida in 1980 and became a U-S citizen in April 1996. He was convicted in January 1997 of participating in a crack cocaine-distribution conspiracy and served seven years in prison.

END

CCH® Medicare

9/13/06

Physician's fraud suit against drug maker fails

A physician's *qui tam* action against a pharmaceutical company under the False Claims Act (FCA) was not prohibited by the FCA's public disclosure provision because the pharmaceutical company's prior disclosure to the government was not a public disclosure, and the physician qualified as an original source of the information on which the suit is based. The case was dismissed, however, because the physician failed to present a specific example of a violation of the federal and state fraud laws.

The physician alleged that the pharmaceutical company violated the FCA by engaging in illegal, off-label marketing of a drug and subsequently submitted those claims to federal and state health insurance programs. The pharmaceutical company claimed the court did not have jurisdiction to hear the case because the company voluntarily disclosed certain information to various government officials. A disclosure to a government official alone, however, did not constitute a public disclosure. A public disclosure is one that was made accessible to the general public.

Furthermore, the physician's action was was derived from his own independent investigation of the pharmaceutical company's activities. Finally, the complaint was not barred on jurisdictional grounds because the physician was an original source of the information on which the claim was based. Although there was no jurisdictional bar to the physician's claim, he failed to meet the heightened requirements for filing a FCA action. The FCA requires the filing of a false claim for reimbursement before a fraud can occur. The physician's complaint failed to identify even one false claim. The physician's suit was, therefore, dismissed.

END

Financial Times

Sept 13, 2006

Philip Morris faces key ruling on 'lights'

By Lauren Foster in New York

Philip Morris USA, the cigarette maker owned by Altria Group, faces a key hearing on Wednesday in a case that seeks class-action status for all US smokers who bought "light" cigarettes.

The Schwab case, filed in 2004, alleges the major US tobacco companies violated federal racketeering laws by falsely claiming "light" cigarettes were safer than regular ones. It is seeking damages in the tens of billions of dollars.

Investors are closely watching the case as it is one of the industry's more important remaining legal risks. Most analysts, however, do not believe the case will delay Altria's plans to spin off its 88.1 per cent stake in Kraft Foods.

"The lawsuit presents a risk principally because of its potential scale, and perhaps more importantly, because it is proceeding before Judge [Jack] Weinstein, who in the past – and in contrast to the overwhelming majority of other US judges – has allowed novel, large-scale aggregated tobacco claims to

proceed," said David Adelman, analyst at Morgan Stanley, in a report.

Judge Weinstein, who crafted class settlements in litigation over asbestos and Agent Orange, will on Wednesday hear arguments on class certification; the statute of limitations; and the effect, if any, of US District Judge Gladys Kessler's findings in the government's civil racketeering case against the industry, Mr Adelman added.

Because the Schwab case is being brought under the Racketeer Influenced Corrupt Organizations Act, or RICO, there is a four-year statute of limitations. That means the plaintiffs' lawyers have to show the class members were not aware "light" cigarettes were not safer than regular cigarettes until after 2000.

The federal RICO statute also requires the plaintiffs' attorney to prove "reliance" – that the class of smokers relied on the same false statements made by the cigarette companies when buying "light" cigarettes, and did so to their detriment.

"Reliance and statute of limitations are excellent examples of why class actions cannot work in tobacco cases," said William S. Ohlemeyer, Altria vice president and associate general counsel. "These issues can be resolved only by examining the particular and unique facts of each individual smoker – what they knew, when they knew it and how they made their decisions about smoking."

Judge Weinstein is not expected to rule on Wednesday on class certification but may give an indication of his likely decision. Even if the case is ultimately certified, the industry has the right to appeal against the decision to the US Court of Appeals for the Second Circuit before the start of the trial.

END

Canada Newswire English

September 13, 2006

U.S. Lumber Company Execs Appeal to Congress to Block Administration Plan Giving Preferential, Off-budget $500 Million Payments to Competitors

WASHINGTON, Sept. 13 /CNW/ -- Lumber manufacturers representing firms with operations in more than 16 states are in Washington, D.C. today to appeal to Members of Congress to intervene in the Administration's plans to provide preferential financial benefits of $500 million to a small portion of the U.S. industry. This cash in the hands of a few selected companies will destabilize the domestic lumber industry and circumvents the Congress through an off-budget escrow account.

"We have more than 30 companies that are petitioning the government to abandon its plan to refund duties collected on softwood lumber imports into an off-budget U.S. escrow account to be given to the U.S. Coalition for Fair Lumber Imports," said David Slaughter, spokesperson for Lumber Manufacturers for Ethics and Equality (LMEE). "This is wrong, creative accounting and mis- handling of Treasury funds, with no budget oversight from Congress."

Slaughter said that the LMEE is investigating possible legal action to block the total $500 million from being distributed or used without Congressional action and oversight. He said that, if the money can be legally handed back by Canada, it should be kept in the Treasury and used for construction of affordable homes throughout the country.

Canada and the U.S. have been in a decades-long dispute over softwood lumber imports. This summer, negotiators for the two countries reached an agreement that is designed to end the dispute for up to nine

years. Part of the deal, however, hands back to the U.S. lumber companies that brought the trade actions against Canada one-half billion of the five billion in duties collected since 2001.

"Giving the petitioners this money will allow them to undercut other competitor lumber companies and even buy out smaller companies, cutting jobs and raising home costs," Slaughter said. "It also appears to circumvent a U.S. Court of International Trade ruling that giving money to trade case petitioners under the Byrd Amendment would be a violation of the North American Free Trade Agreement (NAFTA). The Administration wants to give cash to a select group of U.S. companies, harming their competitors."

Slaughter also said that USTR failed to follow U.S. law requiring it to consider the public interest, and to consult with potentially affected domestic producers and workers. No effort was taken to communicate with or involve non-petitioner companies over the past five years.

END

System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 515009 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 12:19 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: PREPARED REMARKS OF ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT AT GEORGE MASON UNIVERSITY SCHOOL OF LAW SYMPOSIUM ON INTEROPERABILITY BETWEEN ANTITRUST AND INTELLECTUAL PROPERTY

EMBARGOED FOR RELEASE UNTIL 1:00 P.M EDT, WEDNESDAY, SEPTEMBER 13, 2006

Department of Justice

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WEDNESDAY, SEPTEMBER 13, 2006 (202) 514-2007
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PREPARED REMARKS OF ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT AT GEORGE MASON UNIVERSITY SCHOOL OF LAW SYMPOSIUM ON INTEROPERABILITY BETWEEN ANTITRUST AND INTELLECTUAL PROPERTY

WASHINGTON, D.C.

Note: Footnotes in speech can be found in PDF attached below.

Good afternoon and thank you for inviting me today. I also extend a special thanks to our foreign guests for taking the time to come to today's event. Their presence does more to illustrate the importance of this conference's topic, antitrust issues in the global marketplace, than anything I might say this afternoon.

My remarks today focus on intellectual property in the global antitrust arena and certain difficulties with applying the concept of "dominance" to the market power that successful companies sometimes gain by creating new technologies and IP rights. In particular, regulatory second-guessing of private firms' solutions to technological problems, which I perceive to be on the increase, threatens to harm the very consumers it claims to help. To address this topic, I will start with some first principles on innovation and consumer welfare and then expand on the issues in the context of a specific example. Next, I will offer some general principles to guide the antitrust analysis of dominance and single-firm conduct. Finally, I will address what I consider to be a related topic: process integrity and the importance of carefully designing, and complying with, legal orders.

I. Intellectual Property and Dynamic Efficiency

Let me begin, briefly, with first principles and some basic innovation economics. Antitrust and intellectual property policy are complements in that both seek to create a set of incentives to encourage an innovative, vigorously competitive marketplace that enhances efficiency and improves consumer welfare.[1] This concept of efficiency is crucial to understanding how IP law interacts with the world of antitrust.[2] To some, "efficiency" can mean static efficiency, which occurs when firms compete within an existing technology to streamline their methods, cut costs, and drive the price of a product embodying that technology down to

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something close to the cost of unit production. Static efficiency is a powerful force for increasing consumer welfare, but economists tell us that an even greater driver of consumer welfare is dynamic efficiency. Dynamic efficiency refers to gains that result from entirely new ways of doing business. The Austrian economist Joseph Schumpeter explained dynamic efficiency as:

> . . . competition from the new commodity, the new technology, the new source of supply, the new organization . . . competition which commands a decisive cost or quality advantage and which strikes not at the margins of the profits and the outputs of the existing firms but at their foundations and their very lives.[3]

A more colloquial term for dynamic efficiency, but a helpful one, is leapfrog competition – competition that does not merely improve upon old methods, but leaps ahead into something new.

It follows from the Schumpeterian view that antitrust law, with its focus on improving consumer welfare, has a keen interest in protecting innovation. Fostering innovation requires recognition of the benefits of dynamic efficiency and the dangers of focusing myopically on static efficiency. The same forces that yield the benefits of static efficiency – conditions that encourage rivals quickly to adopt a new business method and drive their production toward marginal cost – can discourage innovation (and thus dynamic efficiency) if the drive toward marginal costs occurs at such an early stage that it makes innovation uneconomical. Where innovation requires substantial up-front research and development (R&D) costs, a rational firm will elect not to innovate if it anticipates a selling environment that too quickly resolves to marginal cost of production. This problem is sometimes described as the need to recoup R&D costs and an expected profit sufficient to induce firms to direct their capital to risky R&D ventures.

Seen in this light, strong intellectual property protection is not separate from competition principles, but rather, is an integral part of antitrust policy as a whole. Intellectual property rights should not be viewed as protecting their owners *from* competition; rather, IP rights should be seen as encouraging firms to engage *in* competition, particularly competition that involves risk and long-term investment. Properly applied, strong intellectual property protection creates the competitive environment necessary to permit firms to profit from their inventions, which encourages innovation effort and improves dynamic efficiency.

Such a competitive environment is, to use an old cliché, the goose that lays golden eggs. Nurturing such an environment has created innumerable golden eggs in the U.S.: the telephone, the phonograph, light bulbs, lasers, computers, television, and countless new drugs and medical devices. Once these breakthrough inventions exist, however, it can be tempting to carve up the benefits and spread them around the economy. When Christmas dinner approaches, it is tempting to think, why not carve up the goose itself? We can find fault with the goose: she ought to be laying more eggs, and she might even be keeping an egg or two for herself. But we all know the moral lesson to this story. When you kill the goose, you end up without the eggs, and you quickly learn that the one big meal was not worth the long term cost.

Even in a competitive economy with sound antitrust laws, we cannot take capital-intensive innovation for granted. In a speech called "Competition and the End of Geography,"[4] which I commend to you, my predecessor as Assistant Attorney General, Hew Pate, described a view that threatens to kill the proverbial goose. He explained that the traditional view of intellectual property as property, which he called the "asset faction," is under attack from the "access" and "redistribution" factions, which seek to limit or abolish copyrights and patents in order to make it easier to copy music, computer programs, drugs, and medical technology. Increasingly, these access and redistribution factions see "dominance" by successful innovators, meaning large market share, as a problem to be solved, and antitrust and consumer protection law as the solution.

II. A Cautionary Tale for Applying "Dominance" to IP Rights

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Access and redistribution can be a tempting "Christmas dinner" under a short term, static view, but this is ultimately misguided. The temptation persists even where the innovation has solved a vexing problem that everyone admits used to exist, and even where consumers flock to the innovation despite the availability of alternatives. I would like to illustrate this problem today with a discussion of Apple's iPod and iTunes, based on my general understanding without purporting to be an expert in the field.

A. Napster, Grokster, and the Rise of iTunes

Apple's iTunes music service has (for the moment) solved a problem that some observers, less than five years ago, predicted might never be solved: how to create a consumer-friendly, yet legal and profitable, system for downloading music and other entertainment from the Internet. It is instructive to review the history of the problem. The technical capability to offer digital music over the Internet has existed at least since the early 1990s; nevertheless, digital music first moved online in a significant way only in 1999 with the launch of the Napster centralized file-sharing service. There were major flaws with the early attempts to offer downloadable music: Napster[5] and Grokster[6] were based principally on piracy, while recording industry efforts such as "MusicNet" and "pressplay" never achieved wide use and, in addition, were attacked as risking a recording industry monopoly over not just the songs, but technological development as well.[7] While it battled the music pirates, the music industry suffered huge losses, including a 25% drop in sales from 2001 to 2002, which could be measured in the billions of dollars. Reviewing that bleak picture, the head of the Recording Industry Association of America said in 2002, "I wish I could tell you that there is a silver bullet that could resolve this very serious problem. There is not."[8]

There was no silver bullet – there was, however, a little white box called the Apple iPod. The iPod was not an immediate success. When Apple announced the iTunes music service in January 2001, it was a software service without a device to match, and it worked only with Apple's computers. It took Apple almost a year to ship the first iPods, in late fall 2001, and again, iPods worked only with Apple's products. Sales were small. Apple did not offer the first PC-compatible iPod until July 2002, and even then the devices worked only with Apple's preferred FireWire port, not the USB 2.0 ports that are far more common on PCs, and the PC-compatible iPods connected only to the MusicMatch music service, not Apple's iTunes. Compatibility problems plagued the PC-iPod and hurt its sales. So by early 2003 – four years after the launch of Napster – there still was no clear legal, consumer-friendly solution. Many were trying, including Microsoft, which announced in March 2003 that it was entering the market with its "Media2Go" portable video and audio players, but no one had achieved real success.

The real revolution began in April and May 2003 when Apple unveiled the "third generation" iPods, which were directly compatible to USB 2.0 ports, and provided software to offer the same capability to older models. Apple also made all the iPods work with iTunes. These changes were a reaction to the discipline of the market – customer complaints and unsatisfactory sales – and once they were implemented, the reward was swift: suddenly, iTunes passed the mark of one million songs downloaded. In June 2003, Apple sold its one-millionth iPod, and in September 2003, iTunes downloads passed the 10 million song mark. In January 2004, Apple introduced the iPod mini, and several variants followed; online music had truly arrived. But Apple was not the only game in town. Apple's success was a rising tide that lifted many boats, creating what one commentator has called "the iPod effect," meaning that it proved a concept that others quickly imitated:

> With the proven success of Apple, the digital download gold rush began. The Big Five [record labels] began licensing their content to a wide number of entities in the United States and abroad, removing many restrictive music licensing terms . . . . A vast array of companies including Amazon, BuyMusic.com, MTV, Wal-Mart, Coke, Dell, Microsoft, Musicmatch, Woolworth's, Virgin Music, Yahoo, Starbucks, and even Oxfam now boast digital music download services for PCs.[9]

So there you have it. There was a history of an intractable problem, characterized by rampant piracy and declining legal sales. After some missteps, Apple's iTunes solved these problems: legal sales boomed;

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competition against the largest players – the recording industry and Microsoft – increased; the recording industry dropped many restrictive licensing terms; and consumers can now choose from a number of music services and music playing devices, not just the iPod (devices from Dell, iRiver, SanDisk, Sony, and others already exist, and Microsoft recently announced another push for a rival to the iPod, the "Zune"[10]). Apple nonetheless enjoys the lion's share of sales. You might think that by creating a product to which consumers have flocked of their own free will and by mitigating the piracy problem, Apple would be cheered for pioneering greater access to music. But you would be wrong. Apple is cheered by many, but by no means all.

B. The "Dominance" and "Interoperability" Attack on Apple iTunes

Apple is now under assault in a number of jurisdictions on the grounds that iTunes is too dominant and does not "interoperate" with devices other than iPods.[11] One recent law, for example, may require sales of music or video to operate across a wide range of devices and creates a government body that can require a digital music provider to turn over information relating to its "technological measures" to the extent needed for interoperability with other devices. Some consumer protection agencies have announced that they are considering imposing similar measures through lawsuits.[12] Interestingly, the interoperable song format that is advocated – MP3 – is a compressed format of generally lower fidelity than iTunes files. So what consumer harm do these regulatory bodies seek to address?

One theory is that consumers are locked into buying songs only from the iTunes service and that they will have to pay too high a price for iTunes songs. But there are two problems with this theory. First, consumers can upload other formats (CD-ROMs and MP3 files) to Apple's devices, so they do not have to buy from iTunes. And while it is true that Apple's digital rights management (DRM) software ensures that the first recording of a song downloaded from iTunes can only play on an Apple device, consumers can re-record an iTunes song in an MP3 format and play it on other devices; in sum, it is hardly clear that they are locked in. Second, it appears that Apple has been depressing per-song prices, not raising them. A senior attorney from the Electronic Frontier Foundation, a proponent of the access faction who served as Grokster's lawyer before the Supreme Court, made the following claim:

> The [record] labels are pretty much locked into a system developed by Apple . . . They can't even raise prices beyond 99 cents per song – Steve Jobs simply said 'No.' [13]

That sounds like a benefit to consumers.

Another theory is that Apple is selling songs on the cheap but devices on the dear, and consumers are hurt because they are locked into buying the same expensive devices in the future. The cheap songs/expensive device model may indeed be Apple's strategy. But this type of business model has been criticized in the past because the cheap product was the one that was sold first – think cheap razors and expensive replacement blades or cheap printers and expensive replacement ink.[14] Apple's model is the opposite: consumers buy the expensive iPod device first, then have the option – not the obligation – to use the free iTunes software and buy the cheap iTunes songs.

A third theory is that, darn it, "information just wants to be free." That quote is so much in use on the Internet that I could not pin down its original source. Wikipedia attributes it first to a participant at a computer hacker's conference in 1984.[15] In any event, this argument is not based on competitive effects and consumer welfare. Information may want to be free, but information creators want to be paid – they will not create without rewards. Indeed, the difficulty of protecting digital information against easy, unlawful misappropriation underscores the need for measures to protect one's investments.

The fourth theory is that Apple may not be hurting consumers, but it is hurting competitors. Apple's products are so successful that competitors want in on the party and see Apple's property as the easiest way to get a piece of the pie. Let's examine this one in a little more detail.

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Antitrust law protects competition, not competitors.[16] There are real costs to using antitrust law to protect competitors rather than competition. There is the problem of deterring innovation by the target of the "dominance" attack: if a firm knows it will have to share its intellectual property or be managed by a committee of government regulators, it may not innovate in the first instance. Or, just as likely, it will reduce its further innovation once the product has arrived on the market – either because its returns are diminishing, or because its personnel are forced to spend their time playing defense against the regulators, rather than playing innovation offense in the marketplace.

And there is another problem, perhaps a larger and more pernicious one: if the government is too willing to step in as a regulator, rivals will devote their resources to legal challenges rather than business innovation. This is entirely rational from an individual rival's perspective: seeking government help to grab a share of your competitor's profit is likely to be low cost and low risk, whereas innovating on your own is a risky, expensive proposition. But it is entirely irrational as a matter of antitrust policy to encourage such efforts. Rather, rivals should be encouraged to innovate on their own – to engage in leapfrog or Schumpeterian competition. New innovation expands the pie for rivals and consumers alike. We would do well to heed Justice Scalia's observation in *Trinko*, that creating a legal avenue for such challenges can "distort investment" of both the dominant and the rival firms:

> Compelling such firms to share the source of their advantage is in some tension with the underlying purpose of antitrust law, since it may lessen the incentive for the monopolist, the rival, or both to invest in . . . economically beneficial facilities.[17]

Importantly, letting competition in the market drive technological development does not necessarily mean less "access." The market has already disciplined Apple: remember, the iPod and iTunes originally worked only with Apple machines and FireWire ports, but Apple responded to consumer demand and opened up its technology to work on PCs and USB 2.0. The videotape standards struggle between VHS and Sony's Betamax provides another example: when Sony tried to keep tight control over its proprietary Betamax technology, the marketplace swiftly declared VHS the winner. Market discipline can be a powerful force.

My purpose today is not to benefit Apple Corporation. Apple can defend itself. Indeed, I have not undertaken an investigation of Apple's activities. But Apple provides a useful illustration of how an attack on intellectual property rights can threaten dynamic innovation.

C. Dominance and Single Firm Conduct: Some General Principles

I said that I would suggest some general principles for applying antitrust analysis in dominance investigations. I start by acknowledging that the analysis of unilateral conduct is one of the most difficult issues under debate in the antitrust community today; so much so, in fact, that the Department of Justice and the Federal Trade Commission are holding a series of hearings this year with a view toward improving the state of our knowledge in this area.[18] In my remarks to open that conference, I set forth six general principles to keep in mind:

> First, individual firms with monopoly power can act anticompetitively and harm consumer welfare, and we should seek to identify and prosecute such conduct;
>
> Second, mere size does not demonstrate harm to competition or a violation of the antitrust laws; the proper focus of antitrust law is on anticompetitive conduct and effect, not just size or market share;
>
> Third, mere injury to a firm does not itself show that competition has suffered; indeed, a firm's inability to garner sales may indicate no more than the superiority of its competitors' products;

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Fourth, both consumers and the business community benefit from clear, administrable, and objective rules; ambiguous rules or rules depending on future unknown events can chill businesses from undertaking procompetitive conduct, such as cutting prices, investing, and innovating;

Fifth, we should construe Section 2 of the Sherman Act to avoid chilling procompetitive conduct because efficiencies are hard to measure and false positives easy to find, and every time a firm is kept from engaging in aggressive conduct because it fears an unnecessarily expansive interpretation of the antitrust laws, competition is harmed; and

Sixth, we should not act unless we can describe a clearly procompetitive, administrable remedy.[19]

To these I would add, in the context of a dominance claim against a firm that obtains high market share through superior technology and innovation, a few more specific points:

- We should apply greater skepticism when the complaint about a dominant firm comes almost exclusively from rivals, not consumers, and where the remedy would deprive consumers of a choice.

- We should increase that skepticism when the complaining parties engage in forum shopping, failing to make their case before the first, most obvious jurisdiction or government body before taking their case elsewhere.

- We should avoid involving the government in the detailed re-engineering of products produced by private firms, under the guise of antitrust policy; we should question any claim that government regulators are more competent than private firms and consumers to choose the "best" design for a product, particularly when the "best" design must evolve rapidly to meet changing consumer demands.

As a final consideration in this regard, in a globalized economy, antitrust authorities must be careful to consider the geographic scope of their actions. As the Antitrust Division advocated and the Supreme Court recognized in its 2004 *Empagran* decision, antitrust enforcement that reaches alleged harm outside a country's own borders "creates a serious risk of interference with a foreign nation's ability independently to regulate its own commercial affairs."[20] That risk is sometimes manageable, but it would be inappropriate for enforcement efforts against a global firm in one jurisdiction to effectively foreclose a choice of technology in another. To take a specific example, one jurisdiction might have the right to require Apple to strip its iPods of certain functionality, say, the higher fidelity of Apple's proprietary iTunes format. It is one thing for a jurisdiction to deny the benefits of innovation to its own consumers, but it is entirely another thing to seek to deny those benefits to consumers elsewhere.

III. The Importance of Process Integrity and Compliance

I have spent the last few minutes inveighing against certain kinds of government orders that would damage competition and harm consumer welfare. I turn now to a topic that at first blush might seem unrelated: process integrity. The topic is broader than I have time to cover, so I will focus on compliance issues. I will discuss four guiding principles and their application in three situations this past year.

The compliance process should be guided by four principles:

First, antitrust authorities should ensure that any order is procompetitive, administrable, and clear enough to put the defendant on fair notice of what is required;

Second, persons subject to the order must comply, even during an appeal;

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Third, all parties should periodically review the order and, where appropriate, request that it be updated to ensure that the order continues to serve the interests of competition and consumer welfare; and

Fourth, if violations occur, there should be a penalty, but one that is reasonable in light of the particular circumstances.

The Department of Justice has put these principles into practice at least three times just this year. The first example is a consent decree involving Rolex Watch U.S.A. Under a 1960 civil decree, Rolex had agreed to restrictions on its policies regarding the use, resale, and pricing of watch parts purchased from Rolex. The Department found that, despite this order, Rolex had created a written policy of refusing to sell watch parts to independent watch repair facilities or watchmakers unless the watchmakers agreed that they would not use the parts in any watch that had non-Rolex parts or accessories. Rolex's policy also prohibited watchmakers from reselling spare watch parts and from certain types of pricing. When this policy came to the Department's attention, the Department concluded that the policies violated the terms of the 1960 decree. Rolex agreed to a settlement that included a $750,000 payment. The Department also determined, however, that market conditions and antitrust law had changed so that the consent decree was no longer warranted. Rather than continue with an outdated decree, and notwithstanding the recent violations by Rolex, the Department recommended that the Court terminate the original 1960 decree.[21]

The second example is a gun-jumping matter. Qualcomm and Flarion announced a merger in July 2005 and closed in early 2006 after the Department of Justice declined to challenge the merger. As many of you know, the Hart-Scott-Rodino Act requires companies planning certain transactions to observe a mandatory waiting period before the parties merge. The Department learned that Qualcomm obtained operational control over Flarion without observing the waiting period. The companies' merger agreement required Flarion to seek Qualcomm's consent before undertaking certain basic business activities, such as making new proposals to customers, and Flarion also sought and followed Qualcomm's guidance before making routine decisions, such as hiring consultants and employees. In April, the Department announced a settlement under which the parties agreed to pay a $1.8 million dollar fine. This was a significant fine, reflecting the important principle that merging parties must continue to operate independently until the end of the premerger waiting period regardless of whether there is harm to competition. The penalty nevertheless represented a substantial reduction from the statutory maximum because the companies voluntarily reported the existence of gun jumping problems to the Department and took some measures to change their contract and their conduct.[22]

The third example is another consent decree violation, this time by the American Bar Association. In June 1995, the Department filed an antitrust lawsuit against the ABA, alleging that the ABA had allowed its law school accreditation process to be misused by law school personnel with a direct economic interest in the outcome of accreditation reviews. In 1996, the court entered an agreed-upon final judgment prohibiting the ABA from fixing faculty salaries and compensation, boycotting state-accredited law schools by restricting the ability of their students and graduates to enroll in ABA-approved schools, and boycotting for-profit law schools. The final judgment also required structural reforms and imposed compliance obligations. In Spring 2006, the Department concluded after an investigation that the ABA violated six structural and compliance provisions in the 1996 consent decree over an extended period of time. In a stipulation, the ABA acknowledged the violations and agreed to reimburse the United States $185,000 in fees and costs incurred in the Department's investigation.[23] At the same time, notwithstanding the violations, the Department did not seek to extend the term of the decree, which expired earlier this year.

Defendants certainly are entitled to defend themselves zealously and pursue all legal avenues to challenge or appeal an order. While the order is in force, however, the integrity of the process demands compliance. That said, reasonableness is important. An unduly severe penalty – whether in the form of an excessive fine or the extension of a decree that has outlived its purpose – can chill other procompetitive conduct and undermine the public confidence and support that is so vital to effective antitrust enforcement.

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IV. Conclusion

In closing, let me return to my theme of the complementarity of intellectual property and antitrust. Intellectual property is a true property right, and as the Supreme Court has observed, "like any property right, its boundaries should be clear. This clarity is essential to promote progress, because it enables efficient investment in innovation."[24] Profit is the reward that encourages firms to invest, innovate, and compete through the mechanism of dynamic efficiency, and in the words of an eminent American jurist, Learned Hand, "[t]he successful competitor, having been urged to compete, must not be turned upon when he wins."[25] To antitrust lawyers, an *ex post facto* tinkering with a firm's product designs may be an interesting intellectual exercise, but "[b]usiness does not run this way"[26]: firms making investment decisions seek clear, predictable rules as to how the intellectual property and antitrust regimes will function together – or interoperate. If a successful firm's rivals believe that a different product would create more consumer welfare, antitrust policy should encourage them to create that product – they should not find government regulators willing to eliminate the need to design it at all.

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Thomas Barnett at GMU 9-13-06....

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DEPARTMENT OF JUSTICE

INTEROPERABILITY BETWEEN ANTITRUST AND INTELLECTUAL PROPERTY

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Presentation to the

George Mason University School of Law Symposium
Managing Antitrust Issues in a Global Marketplace
Washington, DC

September 13, 2006

Good afternoon and thank you for inviting me today. I also extend a special thanks to our foreign guests for taking the time to come to today's event. Their presence does more to illustrate the importance of this conference's topic, antitrust issues in the global marketplace, than anything I might say this afternoon.

My remarks today focus on intellectual property in the global antitrust arena and certain difficulties with applying the concept of "dominance" to the market power that successful companies sometimes gain by creating new technologies and IP rights. In particular, regulatory second-guessing of private firms' solutions to technological problems, which I perceive to be on the increase, threatens to harm the very consumers it claims to help. To address this topic, I will start with some first principles on innovation and consumer welfare and then expand on the issues in the context of a specific example. Next, I will offer some general principles to guide the antitrust analysis of dominance and single-firm conduct. Finally, I will address what I consider to be a related topic: process integrity and the importance of carefully designing, and complying with, legal orders.

I. Intellectual Property and Dynamic Efficiency

Let me begin, briefly, with first principles and some basic innovation economics. Antitrust and intellectual property policy are complements in that both seek to create a set of incentives to encourage an innovative, vigorously competitive

marketplace that enhances efficiency and improves consumer welfare.[1] This concept of efficiency is crucial to understanding how IP law interacts with the world of antitrust.[2] To some, "efficiency" can mean static efficiency, which occurs when firms compete within an existing technology to streamline their methods, cut costs, and drive the price of a product embodying that technology down to something close to the cost of unit production. Static efficiency is a powerful force for increasing consumer welfare, but economists tell us that an even greater driver of consumer welfare is dynamic efficiency. Dynamic efficiency refers to gains that result from entirely new ways of doing business. The Austrian economist Joseph Schumpeter explained dynamic efficiency as:

> . . . competition from the new commodity, the new technology, the new source of supply, the new organization . . . competition which commands a decisive cost or quality advantage and which strikes not at the margins of the profits and the outputs of the existing firms but at their foundations and their very lives.[3]

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[1] *See* U.S. DEP'T OF JUSTICE & FED. TRADE COMM'N, ANTITRUST GUIDELINES FOR THE LICENSING OF INTELLECTUAL PROPERTY § 1.0 (1995) ("The intellectual property laws and the antitrust laws share the common purpose of promoting innovation and enhancing consumer welfare."), *at* http://www.usdoj.gov/atr/public/guidelines/ipguide.pdf.

[2] *See generally* Gerald F. Masoudi, Intellectual Property and Competition: Four Principles for Encouraging Innovation, address at the Digital Americas 2006 meeting (Sao Paolo, Brazil, April 2006) 13-15, *at* http://www.usdoj.gov/atr/public/speeches/215645.pdf.

[3] JOSEPH SCHUMPETER, CAPITALISM, SOCIALISM AND DEMOCRACY 84 (Harper Perennial 1976) (1942).

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A more colloquial term for dynamic efficiency, but a helpful one, is leapfrog competition – competition that does not merely improve upon old methods, but leaps ahead into something new.

It follows from the Schumpeterian view that antitrust law, with its focus on improving consumer welfare, has a keen interest in protecting innovation. Fostering innovation requires recognition of the benefits of dynamic efficiency and the dangers of focusing myopically on static efficiency. The same forces that yield the benefits of static efficiency – conditions that encourage rivals quickly to adopt a new business method and drive their production toward marginal cost – can discourage innovation (and thus dynamic efficiency) if the drive toward marginal costs occurs at such an early stage that it makes innovation uneconomical. Where innovation requires substantial up-front research and development (R&D) costs, a rational firm will elect not to innovate if it anticipates a selling environment that too quickly resolves to marginal cost of production. This problem is sometimes described as the need to recoup R&D costs and an expected profit sufficient to induce firms to direct their capital to risky R&D ventures.

Seen in this light, strong intellectual property protection is not separate from competition principles, but rather, is an integral part of antitrust policy as a whole. Intellectual property rights should not be viewed as protecting their owners *from*

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competition; rather, IP rights should be seen as encouraging firms to engage *in* competition, particularly competition that involves risk and long-term investment. Properly applied, strong intellectual property protection creates the competitive environment necessary to permit firms to profit from their inventions, which encourages innovation effort and improves dynamic efficiency.

Such a competitive environment is, to use an old cliché, the goose that lays golden eggs. Nurturing such an environment has created innumerable golden eggs in the U.S.: the telephone, the phonograph, light bulbs, lasers, computers, television, and countless new drugs and medical devices. Once these breakthrough inventions exist, however, it can be tempting to carve up the benefits and spread them around the economy. When Christmas dinner approaches, it is tempting to think, why not carve up the goose itself? We can find fault with the goose: she ought to be laying more eggs, and she might even be keeping an egg or two for herself. But we all know the moral lesson to this story. When you kill the goose, you end up without the eggs, and you quickly learn that the one big meal was not worth the long term cost.

Even in a competitive economy with sound antitrust laws, we cannot take capital-intensive innovation for granted. In a speech called "Competition and the

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End of Geography,"[4] which I commend to you, my predecessor as Assistant Attorney General, Hew Pate, described a view that threatens to kill the proverbial goose. He explained that the traditional view of intellectual property as property, which he called the "asset faction," is under attack from the "access" and "redistribution" factions, which seek to limit or abolish copyrights and patents in order to make it easier to copy music, computer programs, drugs, and medical technology. Increasingly, these access and redistribution factions see "dominance" by successful innovators, meaning large market share, as a problem to be solved, and antitrust and consumer protection law as the solution.

II. A Cautionary Tale for Applying "Dominance" to IP Rights

Access and redistribution can be a tempting "Christmas dinner" under a short term, static view, but this is ultimately misguided. The temptation persists even where the innovation has solved a vexing problem that everyone admits used to exist, and even where consumers flock to the innovation despite the availability of alternatives. I would like to illustrate this problem today with a discussion of Apple's iPod and iTunes, based on my general understanding without purporting to be an expert in the field.

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[4]R. Hewitt Pate, Competition and the End of Geography, address before the Progress & Freedom Foundation (Aspen, Colorado, August 2005) 17-19, *at* http://www.usdoj.gov/atr/public/speeches/205153.pdf.

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A. Napster, Grokster, and the Rise of iTunes

Apple's iTunes music service has (for the moment) solved a problem that some observers, less than five years ago, predicted might never be solved: how to create a consumer-friendly, yet legal and profitable, system for downloading music and other entertainment from the Internet. It is instructive to review the history of the problem. The technical capability to offer digital music over the Internet has existed at least since the early 1990s; nevertheless, digital music first moved online in a significant way only in 1999 with the launch of the Napster centralized file-sharing service. There were major flaws with the early attempts to offer downloadable music: Napster[5] and Grokster[6] were based principally on piracy, while recording industry efforts such as "MusicNet" and "pressplay" never achieved wide use and, in addition, were attacked as risking a recording industry monopoly over not just the songs, but technological development as well.[7] While it battled the

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[5] *A&M Records, Inc. v. Napster, Inc.*, 284 F.3d 1091 (9th Cir. 2002).

[6] *Metro-Goldwyn-Mayer Studios Inc. v. Grokster Ltd.*, 545 U.S. 913, 125 S. Ct. 2764 (2005).

[7] A typical complaint was that the ventures were "[a] blatant monopoly . . . . allowing them to control the price, the technology, and the use of the music being downloaded." Kelly Donohoe, *MusicNet & PressPlay: To Trust or Antitrust?*, 2001 DUKE L. & TECH. REV. 39 (2001), *at* http://www.law.duke.edu/journals/dltr/articles/2001dltr0039.pdf. A federal district judge reviewing these ventures at an early stage said, "[e]ven if it passes antitrust analysis, it looks bad, sounds bad, smells bad." John Borland, Jim Hu & Rachel Konrad, *Music Industry's Plans Spark Concern*, C/NET NEWS.COM (Oct. 19, 2001), *at* http://news.com.com/2100-1023-274676.html. The Department of Justice opened an investigation but, after the rise of Apple iTunes and other

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music pirates, the music industry suffered huge losses, including a 25% drop in sales from 2001 to 2002, which could be measured in the billions of dollars. Reviewing that bleak picture, the head of the Recording Industry Association of America said in 2002, "I wish I could tell you that there is a silver bullet that could resolve this very serious problem. There is not."[8]

There was no silver bullet – there was, however, a little white box called the Apple iPod. The iPod was not an immediate success. When Apple announced the iTunes music service in January 2001, it was a software service without a device to match, and it worked only with Apple's computers. It took Apple almost a year to ship the first iPods, in late fall 2001, and again, iPods worked only with Apple's products. Sales were small. Apple did not offer the first PC-compatible iPod until July 2002, and even then the devices worked only with Apple's preferred FireWire port, not the USB 2.0 ports that are far more common on PCs, and the PC-compatible iPods connected only to the MusicMatch music service, not Apple's iTunes. Compatibility problems plagued the PC-iPod and hurt its sales. So by

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competing services, ultimately took no action and closed the investigation. *See* Press Release, U.S. Dept. of Justice, Statement by Assistant Attorney General R. Hewitt Pate Regarding the Closing of the Digital Music Investigation (Dec. 23, 2003), *at* http://www.atrnet.gov/subdocs/201946.pdf.

[8]CBS News, Online Music Sales Hit Sour Note (Nov. 2, 2002), *at* http://www.cbsnews.com/stories/2002/10/03/tech/main524304.shtml.

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early 2003 – four years after the launch of Napster – there still was no clear legal, consumer-friendly solution. Many were trying, including Microsoft, which announced in March 2003 that it was entering the market with its "Media2Go" portable video and audio players, but no one had achieved real success.

The real revolution began in April and May 2003 when Apple unveiled the "third generation" iPods, which were directly compatible to USB 2.0 ports, and provided software to offer the same capability to older models. Apple also made all the iPods work with iTunes. These changes were a reaction to the discipline of the market – customer complaints and unsatisfactory sales – and once they were implemented, the reward was swift: suddenly, iTunes passed the mark of one million songs downloaded. In June 2003, Apple sold its one-millionth iPod, and in September 2003, iTunes downloads passed the 10 million song mark. In January 2004, Apple introduced the iPod mini, and several variants followed; online music had truly arrived. But Apple was not the only game in town. Apple's success was a rising tide that lifted many boats, creating what one commentator has called "the iPod effect," meaning that it proved a concept that others quickly imitated:

> With the proven success of Apple, the digital download gold rush began. The Big Five [record labels] began licensing their content to a wide number of entities in the United States and abroad, removing many restrictive music licensing terms . . . . A vast array of companies including Amazon, BuyMusic.com, MTV, Wal-Mart, Coke, Dell, Microsoft, Musicmatch,

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Woolworth's, Virgin Music, Yahoo, Starbucks, and even Oxfam now boast digital music download services for PCs.[9]

So there you have it. There was a history of an intractable problem, characterized by rampant piracy and declining legal sales. After some missteps, Apple's iTunes solved these problems: legal sales boomed; competition against the largest players – the recording industry and Microsoft – increased; the recording industry dropped many restrictive licensing terms; and consumers can now choose from a number of music services and music playing devices, not just the iPod (devices from Dell, iRiver, SanDisk, Sony, and others already exist, and Microsoft recently announced another push for a rival to the iPod, the "Zune"[10]). Apple nonetheless enjoys the lion's share of sales. You might think that by creating a product to which consumers have flocked of their own free will and by mitigating the piracy problem, Apple would be cheered for pioneering greater access to music. But you would be wrong. Apple is cheered by many, but by no means all.

B. The "Dominance" and "Interoperability" Attack on Apple iTunes

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[9]Cyrus Wadia, The Department of Justice's Investigation into Online Music (Jan. 1, 2005), *at* http://www.cwclaw.com/publications/articleDetail.aspx?id=56.

[10]Ina Fried & Daniel Terdiman, *Microsoft's Zune to Rival Apple's iPod*, C/NET NEWS.COM (July 21, 2006), *at* http://news.com.com/2100-1041_3-6097196.html.

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Apple is now under assault in a number of jurisdictions on the grounds that iTunes is too dominant and does not "interoperate" with devices other than iPods.[11] One recent law, for example, may require sales of music or video to operate across a wide range of devices and creates a government body that can require a digital music provider to turn over information relating to its "technological measures" to the extent needed for interoperability with other devices. Some consumer protection agencies have announced that they are considering imposing similar measures through lawsuits.[12] Interestingly, the interoperable song format that is advocated – MP3 – is a compressed format of generally lower fidelity than iTunes files. So what consumer harm do these regulatory bodies seek to address?

One theory is that consumers are locked into buying songs only from the iTunes service and that they will have to pay too high a price for iTunes songs. But there are two problems with this theory. First, consumers can upload other formats (CD-ROMs and MP3 files) to Apple's devices, so they do not have to buy from iTunes. And while it is true that Apple's digital rights management (DRM) software ensures that the first recording of a song downloaded from iTunes can only play on an Apple device, consumers can re-record an iTunes song in an MP3 format and

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[11] *See* Thomas Crampton, *For Apple, Europe Becoming a Tougher Customer*, INT'L HERALD TRIB., July 17, 2006, at 8.

[12] *Id.*

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play it on other devices; in sum, it is hardly clear that they are locked in. Second, it appears that Apple has been depressing per-song prices, not raising them. A senior attorney from the Electronic Frontier Foundation, a proponent of the access faction who served as Grokster's lawyer before the Supreme Court, made the following claim:

> The [record] labels are pretty much locked into a system developed by Apple . . . They can't even raise prices beyond 99 cents per song – Steve Jobs simply said 'No.' [13]

That sounds like a benefit to consumers.

Another theory is that Apple is selling songs on the cheap but devices on the dear, and consumers are hurt because they are locked into buying the same expensive devices in the future. The cheap songs/expensive device model may indeed be Apple's strategy. But this type of business model has been criticized in the past because the cheap product was the one that was sold first – think cheap razors and expensive replacement blades or cheap printers and expensive replacement ink.[14] Apple's model is the opposite: consumers buy the expensive iPod device first, then have the option – not the obligation – to use the free iTunes software and buy the cheap iTunes songs.

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[13]Wade Roush, *DRM Under Siege: the Yahoo Music Experiment*, TECHNOLOGY REVIEW, July 27, 2006, *at* http://www.technologyreview.com/read_article.aspx?id=17212&ch=infotech.

[14]*E.g.*, *Ill. Tool Works Inc. v. Indep. Ink, Inc.*, 126 S. Ct. 1281 (2006).

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A third theory is that, darn it, "information just wants to be free." That quote is so much in use on the Internet that I could not pin down its original source. Wikipedia attributes it first to a participant at a computer hacker's conference in 1984.[15] In any event, this argument is not based on competitive effects and consumer welfare. Information may want to be free, but information creators want to be paid – they will not create without rewards. Indeed, the difficulty of protecting digital information against easy, unlawful misappropriation underscores the need for measures to protect one's investments.

The fourth theory is that Apple may not be hurting consumers, but it is hurting competitors. Apple's products are so successful that competitors want in on the party and see Apple's property as the easiest way to get a piece of the pie. Let's examine this one in a little more detail.

Antitrust law protects competition, not competitors.[16] There are real costs to using antitrust law to protect competitors rather than competition. There is the problem of deterring innovation by the target of the "dominance" attack: if a firm knows it will have to share its intellectual property or be managed by a committee

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[15]WIKIPEDIA, *Information Wants to be Free*, *at* http://en.wikipedia.org/wiki/Information_wants_to_be_free (visited September 6, 2006).

[16]*Brooke Group Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 224 (1993) ("It is axiomatic that the antitrust laws were passed for 'the protection of competition, not competitors.'" (quoting *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962))).

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of government regulators, it may not innovate in the first instance. Or, just as likely, it will reduce its further innovation once the product has arrived on the market – either because its returns are diminishing, or because its personnel are forced to spend their time playing defense against the regulators, rather than playing innovation offense in the marketplace.

And there is another problem, perhaps a larger and more pernicious one: if the government is too willing to step in as a regulator, rivals will devote their resources to legal challenges rather than business innovation. This is entirely rational from an individual rival's perspective: seeking government help to grab a share of your competitor's profit is likely to be low cost and low risk, whereas innovating on your own is a risky, expensive proposition. But it is entirely irrational as a matter of antitrust policy to encourage such efforts. Rather, rivals should be encouraged to innovate on their own – to engage in leapfrog or Schumpeterian competition. New innovation expands the pie for rivals and consumers alike. We would do well to heed Justice Scalia's observation in *Trinko*, that creating a legal avenue for such challenges can "distort investment" of both the dominant and the rival firms:

> Compelling such firms to share the source of their advantage is in some tension with the underlying purpose of antitrust law, since it may lessen the

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> incentive for the monopolist, the rival, or both to invest in . . . economically beneficial facilities.[17]

Importantly, letting competition in the market drive technological development does not necessarily mean less "access." The market has already disciplined Apple: remember, the iPod and iTunes originally worked only with Apple machines and FireWire ports, but Apple responded to consumer demand and opened up its technology to work on PCs and USB 2.0. The videotape standards struggle between VHS and Sony's Betamax provides another example: when Sony tried to keep tight control over its proprietary Betamax technology, the marketplace swiftly declared VHS the winner. Market discipline can be a powerful force.

My purpose today is not to benefit Apple Corporation. Apple can defend itself. Indeed, I have not undertaken an investigation of Apple's activities. But Apple provides a useful illustration of how an attack on intellectual property rights can threaten dynamic innovation.

C. Dominance and Single Firm Conduct: Some General Principles

I said that I would suggest some general principles for applying antitrust analysis in dominance investigations. I start by acknowledging that the analysis of unilateral conduct is one of the most difficult issues under debate in the antitrust

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[17] *Verizon Commc'ns Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 407-08 (2004).

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community today; so much so, in fact, that the Department of Justice and the Federal Trade Commission are holding a series of hearings this year with a view toward improving the state of our knowledge in this area.[18] In my remarks to open that conference, I set forth six general principles to keep in mind:

> First, individual firms with monopoly power can act anticompetitively and harm consumer welfare, and we should seek to identify and prosecute such conduct;
>
> Second, mere size does not demonstrate harm to competition or a violation of the antitrust laws; the proper focus of antitrust law is on anticompetitive conduct and effect, not just size or market share;
>
> Third, mere injury to a firm does not itself show that competition has suffered; indeed, a firm's inability to garner sales may indicate no more than the superiority of its competitors' products;
>
> Fourth, both consumers and the business community benefit from clear, administrable, and objective rules; ambiguous rules or rules depending on future unknown events can chill businesses from undertaking procompetitive conduct, such as cutting prices, investing, and innovating;
>
> Fifth, we should construe Section 2 of the Sherman Act to avoid chilling procompetitive conduct because efficiencies are hard to measure and false positives easy to find, and every time a firm is kept from engaging in aggressive conduct because it fears an unnecessarily expansive interpretation of the antitrust laws, competition is harmed; and

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[18] *See generally* Hearings on Section 2 of the Sherman Act: Single Firm Conduct as Related to Competition, *at* http://www.ftc.gov/os/sectiontwohearings/index.htm.

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> Sixth, we should not act unless we can describe a clearly procompetitive, administrable remedy.[19]

To these I would add, in the context of a dominance claim against a firm that obtains high market share through superior technology and innovation, a few more specific points:

- We should apply greater skepticism when the complaint about a dominant firm comes almost exclusively from rivals, not consumers, and where the remedy would deprive consumers of a choice.

- We should increase that skepticism when the complaining parties engage in forum shopping, failing to make their case before the first, most obvious jurisdiction or government body before taking their case elsewhere.

- We should avoid involving the government in the detailed re-engineering of products produced by private firms, under the guise of antitrust policy; we should question any claim that government regulators are more competent than private firms and consumers to choose the "best" design for a product, particularly when the "best" design must evolve rapidly to meet changing consumer demands.

As a final consideration in this regard, in a globalized economy, antitrust authorities must be careful to consider the geographic scope of their actions. As the Antitrust Division advocated and the Supreme Court recognized in its 2004 *Empagran* decision, antitrust enforcement that reaches alleged harm outside a

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[19]Thomas O. Barnett, The Gales of Creative Destruction: the Need for Clear and Objective Standards for Enforcing Section 2 of the Sherman Act, address before the Hearings on Section 2 of the Sherman Act 16-17 (Washington, D.C., June 20, 2006), *at* http://www.usdoj.gov/atr/public/speeches/216738.pdf.

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country's own borders "creates a serious risk of interference with a foreign nation's ability independently to regulate its own commercial affairs."[20] That risk is sometimes manageable, but it would be inappropriate for enforcement efforts against a global firm in one jurisdiction to effectively foreclose a choice of technology in another. To take a specific example, one jurisdiction might have the right to require Apple to strip its iPods of certain functionality, say, the higher fidelity of Apple's proprietary iTunes format. It is one thing for a jurisdiction to deny the benefits of innovation to its own consumers, but it is entirely another thing to seek to deny those benefits to consumers elsewhere.

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The compliance process should be guided by four principles:

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[20] *F. Hoffmann-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155, 165 (2004).

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First, antitrust authorities should ensure that any order is procompetitive, administrable, and clear enough to put the defendant on fair notice of what is required;

Second, persons subject to the order must comply, even during an appeal;

Third, all parties should periodically review the order and, where appropriate, request that it be updated to ensure that the order continues to serve the interests of competition and consumer welfare; and

Fourth, if violations occur, there should be a penalty, but one that is reasonable in light of the particular circumstances.

The Department of Justice has put these principles into practice at least three times just this year. The first example is a consent decree involving Rolex Watch U.S.A. Under a 1960 civil decree, Rolex had agreed to restrictions on its policies regarding the use, resale, and pricing of watch parts purchased from Rolex. The Department found that, despite this order, Rolex had created a written policy of refusing to sell watch parts to independent watch repair facilities or watchmakers unless the watchmakers agreed that they would not use the parts in any watch that had non-Rolex parts or accessories. Rolex's policy also prohibited watchmakers from reselling spare watch parts and from certain types of pricing. When this policy came to the Department's attention, the Department concluded that the policies violated the terms of the 1960 decree. Rolex agreed to a settlement that included a $750,000 payment. The Department also determined, however, that market conditions and antitrust law had changed so that the consent decree was no

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longer warranted. Rather than continue with an outdated decree, and notwithstanding the recent violations by Rolex, the Department recommended that the Court terminate the original 1960 decree.[21]

The second example is a gun-jumping matter. Qualcomm and Flarion announced a merger in July 2005 and closed in early 2006 after the Department of Justice declined to challenge the merger. As many of you know, the Hart-Scott-Rodino Act requires companies planning certain transactions to observe a mandatory waiting period before the parties merge. The Department learned that Qualcomm obtained operational control over Flarion without observing the waiting period. The companies' merger agreement required Flarion to seek Qualcomm's consent before undertaking certain basic business activities, such as making new proposals to customers, and Flarion also sought and followed Qualcomm's guidance before making routine decisions, such as hiring consultants and employees. In April, the Department announced a settlement under which the parties agreed to pay a $1.8 million dollar fine. This was a significant fine, reflecting the important principle that merging parties must continue to operate independently until the end of the premerger waiting period regardless of whether

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[21] *See* Press Release, U.S. Dep't of Justice, Justice Department Settles Civil Contempt Claim Against Rolex Watch U.S.A. Inc. (February 28, 2006), *at* http://www.usdoj.gov/atr/public/press_releases/2006/214821.pdf.

DOJ_NMG_ 0167841

there is harm to competition. The penalty nevertheless represented a substantial reduction from the statutory maximum because the companies voluntarily reported the existence of gun jumping problems to the Department and took some measures to change their contract and their conduct.[22]

The third example is another consent decree violation, this time by the American Bar Association. In June 1995, the Department filed an antitrust lawsuit against the ABA, alleging that the ABA had allowed its law school accreditation process to be misused by law school personnel with a direct economic interest in the outcome of accreditation reviews. In 1996, the court entered an agreed-upon final judgment prohibiting the ABA from fixing faculty salaries and compensation, boycotting state-accredited law schools by restricting the ability of their students and graduates to enroll in ABA-approved schools, and boycotting for-profit law schools. The final judgment also required structural reforms and imposed compliance obligations. In Spring 2006, the Department concluded after an investigation that the ABA violated six structural and compliance provisions in the 1996 consent decree over an extended period of time. In a stipulation, the ABA acknowledged the violations and agreed to reimburse the United States $185,000 in

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[22] *See* Press Release, U.S. Dep't of Justice, Qualcomm and Flarion Charged with Illegal Premerger Coordination (April 13, 2006), *at* http://www.usdoj.gov/atr/public/press_releases/2006/215617.pdf.

DOJ_NMG_ 0167842

fees and costs incurred in the Department's investigation.[23] At the same time, notwithstanding the violations, the Department did not seek to extend the term of the decree, which expired earlier this year.

Defendants certainly are entitled to defend themselves zealously and pursue all legal avenues to challenge or appeal an order. While the order is in force, however, the integrity of the process demands compliance. That said, reasonableness is important. An unduly severe penalty – whether in the form of an excessive fine or the extension of a decree that has outlived its purpose – can chill other procompetitive conduct and undermine the public confidence and support that is so vital to effective antitrust enforcement.

IV. Conclusion

In closing, let me return to my theme of the complementarity of intellectual property and antitrust. Intellectual property is a true property right, and as the Supreme Court has observed, "like any property right, its boundaries should be clear. This clarity is essential to promote progress, because it enables efficient investment in innovation."[24] Profit is the reward that encourages firms to invest,

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[23] *See* Press Release, U.S. Dep't of Justice, Justice Department Asks Court to Hold American Bar Association in Civil Contempt (June 23, 2006), *at* http://www.usdoj.gov/atr/public/press_releases/2006/216804.pdf.

[24] *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722, 730-31 (2002).

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innovate, and compete through the mechanism of dynamic efficiency, and in the words of an eminent American jurist, Learned Hand, "[t]he successful competitor, having been urged to compete, must not be turned upon when he wins."[25] To antitrust lawyers, an *ex post facto* tinkering with a firm's product designs may be an interesting intellectual exercise, but "[b]usiness does not run this way"[26]: firms making investment decisions seek clear, predictable rules as to how the intellectual property and antitrust regimes will function together – or interoperate. If a successful firm's rivals believe that a different product would create more consumer welfare, antitrust policy should encourage them to create that product – they should not find government regulators willing to eliminate the need to design it at all.

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[25] *United States v. Aluminum Co. of Am.*, 148 F.2d 416, 430 (2d Cir. 1945).

[26] Masoudi, *supra* note 2, at 3.

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System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 515908 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 2:20 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS BEFORE PROTECT OUR CHILDREN CONFERENCE

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 13, 2006
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AG
(202) 514-2007
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES
TO DELIVER REMARKS
BEFORE PROTECT OUR CHILDREN CONFERENCE

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks before the Protect our Children conference regarding Department of Justice efforts to combat online child predators through Project Safe Childhood on **THURSDAY, SEPTEMBER 14, 2006**.

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the Protect our Children conference regarding Department of Justice efforts to combat online sex predators through Project Safe Childhood

WHEN: 12:45 P.M. CDT
Hilton Kansas City Airport Hotel
Shawnee Ballroom
8801 N.W. 112th Street
Kansas City, Mo.
OPEN PRESS

Note: Pre-set for the Attorney General's remarks is **12:00 P.M. CDT**. Press inquiries regarding logistics should be directed to Angela Williamson at the Department of Justice at 202-532-5349.

# # #

06-617

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 2:31 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE HURRICANE KATRINA ONE-YEAR ANNIVERSARY SYMPOSIUM

Department of Justice

FOR IMMEDIATE RELEASE — AG
WEDNESDAY, SEPTEMBER 13, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE HURRICANE KATRINA ONE-YEAR ANNIVERSARY SYMPOSIUM

NEW ORLEANS, LOUISIANA

Good afternoon. It's good to be back in New Orleans. I was here a few weeks ago to talk with many of you about a regional, multi-disciplinary approach to rebuilding the greater New Orleans criminal justice system, because this great city cannot return to its former glory if its neighborhoods are being held hostage by criminals.

So I want to begin today by commending law enforcement officials here in New Orleans and all across the gulf region for their tireless efforts to take back the region's cities. Much has been done but there is much more left to do.

I know it angers all of us that devastating natural disasters have been followed by hundreds of smaller, man-made ones. From violent crime to fraud, this region has been taken advantage of by criminal elements.

After Hurricanes left this region in ruins, with thousands of lives lost and dismantled, the vast majority of the nation responded with compassion. Government, private sector and individual efforts to help the people of the region were as unprecedented as Hurricane Katrina herself.

Yet while most Americans were sending donations and prayers, some chose to plot their own corrupt enrichment instead. And the problem became a national one – requiring a national response including this integrated task force.

The actions of those committing disaster-related fraud are shameful as well as illegal – and I know they aren't tolerated by anyone in this room today.

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In the past year, the Hurricane Katrina Fraud Task Force has proven that point, charging more than 400 defendants in 30 separate judicial districts around the country.

These cases have involved millions of dollars – and in fact, since the establishment of the Task Force, FEMA and the Red Cross report that more than $18.2 million has been returned by recipients of individual-assistance benefits. I see this as a sign that your efforts are making a difference in terms of deterrence as well, and that's extremely important. People need to know that they won't get away with these crimes, and that message is getting out there.

The people in this room today have cracked down criminal on activity ranging from charity and assistance fraud to identity theft, Internet fraud and public corruption involving federal or state contracts.

You've caught scores of people who, unaffected by the storms, tried to claim FEMA funds. One woman was living in Belleville, Illinois at the time of Hurricane Katrina. She defrauded FEMA by claiming she was displaced by the storm and even went so far as to tell FEMA that her two daughters had died during the flooding in New Orleans… and that she had watched their bodies float away.

This woman had no daughters. It was all an elaborate fabrication which resulted in her indictment by the Justice Department this summer.

Another defendant allegedly made and presented to FEMA a false claim for funds for individuals displaced by Hurricane Katrina, claiming home damage and essential need for food, clothing and shelter. With those funds, the defendant allegedly obtained rooms at seven different hotels in Las Vegas… and re-rented them to other individuals for the believed purposes of narcotics sales and prostitution.

Some fraudsters had the audacity to set up websites to collect charitable donations… but truly the money was for personal profit. Your investigations and indictments in those cases have put other would-be Internet thieves on notice.

The examples seem endless, and it is disturbing to see not only the volume of fraud but the lengths to which people would go to take advantage of others' suffering.

Through your work, you have protected private, taxpayer and charitable dollars and discouraged would-be criminals from taking advantage of the situation in the Gulf Coast.

In short: I applaud your outstanding efforts to stop hurricane-related fraud, an especially dishonorable form of theft.

Today we've gathered to look at the past year – and to share what we've learned with one another. Because the work of the Task Force is not yet done. Billions of dollars are headed to the Gulf Coast region for the rebuilding effort – and we know that fraud, sadly, follows dollars. The criminally-minded are watching that money with a scheming eye, so our continued vigilance is more important than ever

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We need to watch for those who may be creating fraudulent websites to solicit charitable donation or to phish for identity theft purposes.

We'll continue to crack down on "insiders" who are using their positions with disaster relief programs to commit fraud for themselves or others.

And our eyes will be sharp for future cases of bribery or extortion of public officials involved in the disaster relief or recovery efforts.

Because of the work we have done, we are smarter now and I predict that our efforts going forward will be even better than our success to date.

The report released today details the trends and patterns the Task Force has identified, and that is one of the things that will assist you in the considerable work that lies ahead.

Your report identifies the cycles of fraud after disasters – beginning with charity-fraud schemes, then moving into emergency-assistance schemes and later procurement and insurance fraud.

The Task Force has also identified, and detailed in its report, how systemic weaknesses are exploited by criminals. In short, when these criminals find a weak spot, an easy route to the money, they tend to return for more – giving law enforcement an opportunity to stop them.

I think that you will all find the "best practices" section of the report useful as well. It lays out steps like planning, training, outreach and coordination that have worked for you already, but I believe everyone will find good tips and ideas to keep in mind as this enormous job continues to unfold.

As you go forward with your work, remember that you play a key role in making the most of the money that is allocated to help this region. I know that you and I agree that every dollar that is directed for Hurricane relief and rebuilding of the Gulf Coast should be used in the affected communities - not to pad the bank accounts of criminals.

Together, we must ensure that the criminals who have exploited this time of human suffering are brought to justice, and that their crimes do not undermine the programs intended to rebuild the homes, businesses, and communities destroyed by Hurricanes Katrina, Rita and Wilma. The Department of Justice is absolutely dedicated to vigorously investigating and prosecuting fraud, in whatever form it may take, and we are proud to work with you – our partners – to prevent fraud in the future.

I am reassured to know that you are safeguarding the integrity of this rebuilding and recovery process.

Thank you again for your efforts and your service; may God bless you and the critical work ahead.

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Davis, Deborah J

From: Davis, Deborah J
Sent: Wednesday, September 13, 2006 3:01 PM
To: Gorsuch, Neil M
Subject: Read: Contact Information

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 3:17 PM
To: USDOJ- Office of Public Affairs
Subject: HURRICANE KATRINA FRAUD TASK FORCE RELEASES REPORT ON FIRST YEAR OF ACTIVITIES

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 13, 2006
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HURRICANE KATRINA FRAUD TASK FORCE RELEASES REPORT ON FIRST YEAR OF ACTIVITIES

WASHINGTON – Over 170 members of federal, state and local law enforcement met today in New Orleans for the first annual conference of the Hurricane Katrina Fraud Task Force, a multi-agency national task force led by the Department of Justice to deter, detect and prosecute cases of fraud in the aftermath of Hurricanes Katrina, Rita and Wilma.

In its first-year report given to Attorney General Alberto R. Gonzales at the conference today, the Hurricane Katrina Fraud Task Force reported that more than 400 people have been federally charged with hurricane-related fraud since the Attorney General created the Task Force on Sept. 8, 2005. Those federal charges were filed in 30 federal districts in all regions of the United States. State and local prosecutors' offices have also continued to bring criminal cases involving hurricane-related fraud.

The Task Force is chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division. In addition to prosecutors from the Department's Criminal Division, U.S. Attorney's Offices in the Gulf Coast region and throughout the country, and the Antitrust and Civil Divisions, members of the Task Force include the Federal Bureau of Investigation (FBI), the Internal Revenue Service Criminal Investigation Division, the U.S. Postal Inspection Service, the U.S. Secret Service, the U.S. Inspector General community (under the leadership of the Homeland Security Roundtable of the President's Council on Integrity and Efficiency), the Federal Trade Commission, and representatives of state and local law enforcement, such as the National Association of Attorneys General and the National District Attorneys Association.

"To take advantage of the devastation and recovery efforts in the Gulf Coast is both shameful and illegal," said Attorney General Gonzales. "We must ensure that the criminals who have exploited this time of human suffering are brought to justice, and that their crimes do not undermine the programs intended to rebuild the homes, businesses, and communities destroyed by Hurricanes Katrina, Rita and Wilma. The Department of Justice will continue to vigorously investigate and prosecute fraud, in whatever form it may take, and work with our partners to prevent fraud in the future."

The Task Force reported that as of Aug. 17, 2006, the Federal Emergency Management Agency (FEMA) had received more than 2.5 million applications for disaster assistance relating to Hurricanes Katrina

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and Rita. While the vast majority of those applicants had legitimate need for the assistance they sought, the Task Force found that numerous people committed fraud in seeking benefits to which they were not entitled, and that "fraud follows the money" – meaning that criminals tended to exploit any situation with the prospect of personal financial gain. That included, in the first cycles immediately following the hurricane – charity fraud schemes,
emergency assistance schemes such as the false applications for FEMA benefits, and procurement and insurance fraud.

The Task Force is looking at several types of fraud in order to protect the billions of dollars going into the effort to rebuild the hurricane-ravaged region. That focus includes investigations into government-contract and procurement fraud, public corruption, government and private-sector benefit fraud, identity theft and false charities.

The Task Force's Joint Command Center, established in Baton Rouge, La., following Hurricanes Katrina and Rita and headed by U.S. Attorney David R. Dugas of the Middle District of Louisiana, has reviewed and analyzed more than 6,000 fraud-related tips and complaints in the one year since Katrina. Thirty-three agencies and DOJ components have representatives assigned to the Joint Command Center or designated as points of contact to fully integrate and coordinate the national law enforcement response to fraud and corruption. The Task Force reported indications that the prosecution of Katrina fraud cases was having a deterrent impact, with FEMA and the American Red Cross reporting the return of more than $18.2 million in funds by receptions of individual-assistance benefits.

The Task Force's First Year Report also included recommendations for suggested best practices for law enforcement after future disasters. These recommendations included pre-disaster preparation such as standardized training in disaster relief programs and the fraud typically associated with those programs, public outreach to prevent and deter fraud in the event of a natural disaster, the creation of district and multi-district working groups, protocols for data sharing and data management, and the establishment of Joint Command Centers to gather data, share information and coordinate fraud investigations.

Members of the public are encouraged to continue reporting instances of possible hurricane-related fraud. Reports can be sent to the FBI through a tipline at 1-800-CALL–FBI (800-225-5324), the Hurricane Fraud Hotline by phone at 1-866-720-5721 or by fax at 225-334-4704, by mail to the Hurricane Fraud Task Force, Baton Rouge, La., 70821-4909, or by email to HKFTF@leo.gov. Charity, benefit and other types of consumer fraud can be reported to the Federal Trade Commission at 1-877-FTC-HELP (1-877-382-4357), or by e-mail to the Internet Crime Complaint Center at http://ic3.gov. The FTC has an Identity Theft Hotline at 1-877-ID-THEFT (1-877-438-4338).

The Hurricane Katrina Fraud Task Force's First Year Report to the Attorney General is available online at http://www.usdoj.gov/katrina/Katrina_Fraud/docs/09-12-06AGprogressrpt.pdf.

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06-616

Department of Justice

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U.S. Department of Justice

Hurricane Katrina Fraud Task Force

First Year Report to the Attorney General

September 2006

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LETTER FROM ASSISTANT ATTORNEY GENERAL ALICE S. FISHER TO THE ATTORNEY GENERAL

The Honorable Alberto R. Gonzales
Attorney General

Dear Attorney General Gonzales:

I am pleased to submit the First Year Report of the Hurricane Katrina Fraud Task Force. Having recently passed the first year anniversary of your creation of the Task Force, the Task Force's mission remains the detection, deterrence, prevention and punishment of fraud related to the devastation caused by Hurricanes Katrina, and later Rita and Wilma. Although we have realized great success this year, after recently visiting the affected areas again I know that there is still considerable work to be done. I pledge that the Task Force will continue to investigate and prosecute fraud wherever we find it.

The dedication of all the Task Force members and United States Attorney's Offices across the country to the mission of the Task Force is demonstrated by the Task Force's prosecutions. Since the establishment of the Task Force in September 2005, 30 United States Attorneys across the country have charged more than 400 people with various hurricane fraud-related crimes involving millions of dollars. These prosecutions have sent a powerful message of deterrence to those who might otherwise seek to benefit from these disasters. Indeed, since your formation of the Task Force, the Federal Emergency Management Agency (FEMA) and the Red Cross report that more than $18.2 million has been returned by recipients of individual-assistance benefits, a sign that our prosecutions are deterring fraud.

These prosecutions are made possible by the exemplary investigation and cooperation among federal law enforcement, Inspectors General from impacted agencies, and state and local law enforcement. Working through the Task Force's Joint Command Center, which is led by David Dugas, the United States Attorney for the Middle District of Louisiana, the Department of Justice, investigative agencies, and Inspectors General are coordinating and cooperating in a wide range of operational and investigative matters. In particular, I want to recognize the contributions of the FBI, under the direction of Chip Burrus, Assistant Director of the Criminal Investigative Division, and the Department of Homeland Security Inspector General's office, under the direction of Inspector General Richard Skinner, both of which have been instrumental in establishing the Command Center. The Command Center has reviewed and analyzed more than 6,800 fraud-related tips and complaints, and investigative agencies working through the Command Center are tracking the disbursement of disaster-related funds in the affected areas in an attempt to identify and disrupt fraudulent schemes as quickly as possible.

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The Task Force is also working hard to ensure that disaster resources will flow only to those who are entitled to receive them. Although considerable amounts of individual assistance have already been disbursed, significant funds – to repair homes and neighborhoods, foster small businesses, and rebuild infrastructure – will be disbursed in the months ahead. The Task Force, in partnership with state and local officials, is encouraging the implementation of fraud-prevention measures in connection with these programs.

The Task Force has also prepared a list of Best Practices to guide the law enforcement responses to future natural disasters. These Best Practices, which are included in this report, set out the most important lessons learned by law enforcement in responding to Hurricanes Katrina, Rita, and Wilma, and should be an invaluable tool to prevent fraud in the wake of future natural disasters.

Thank you for your leadership in forming and then setting clear objectives for the Task Force. It is my privilege to work with you and so many dedicated and resourceful law enforcement representatives, at all levels of government, in this important endeavor. On behalf of all of our law enforcement partners, I assure you that we will continue to carry out the vital mission you have entrusted to us.

Sincerely,

Alice S. Fisher
Chairman
Hurricane Katrina Fraud Task Force

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TASK FORCE MEMBERS

The Hurricane Katrina Fraud Task Force includes the following members:

- The Federal Bureau of Investigation (FBI);
- The Criminal Division of the Department of Justice;
- The Executive Office for United States Attorneys;
- United States Attorney's Offices in the Gulf Coast region and throughout the country;
- The Antitrust Division of the Department of Justice;
- The Civil Division of the Department of Justice;
- The Internal Revenue Service Criminal Investigation Division;
- The United States Postal Inspection Service;
- The United States Secret Service;
- The Department of Homeland Security (DHS);
- The Federal Trade Commission (FTC);
- The Securities and Exchange Commission (SEC);
- The President's Council on Integrity and Efficiency, the Executive Council on Integrity and Efficiency, and numerous Inspectors General, including –

  - the Department of Agriculture;
  - the Department of Commerce;
  - the Department of Defense;
  - the Department of Education;
  - the Department of Energy;
  - the Department of Health and Human Services;
  - the Department of Homeland Security;
  - the Department of Housing and Urban Development;
  - the Department of Justice;
  - the Department of Labor;
  - the Department of Transportation;
  - the Department of the Treasury (for Tax Administration);

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- the Environmental Protection Agency;
- the Federal Deposit Insurance Corporation (FDIC);
- the General Services Administration;
- the National Aeronautics and Space Administration;
- the Small Business Administration;
- the Social Security Administration;
- the United States Postal Service;
- the Veterans Administration; and

- Representatives of state and local law enforcement, including –

  - the National Association of Attorneys General; and
  - the National District Attorneys Association.

The Task Force also operates in close partnership with the American Red Cross and a variety of private-sector organizations that have been assisting law enforcement in identifying new hurricane-related fraud schemes.

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I. TASK FORCE BACKGROUND AND MISSION STATEMENT

"To take advantage of the devastation and recovery efforts in the Gulf Coast is both shameful and illegal. We must ensure that the criminals who have exploited this time of human suffering are brought to justice, and that their crimes do not undermine the programs intended to rebuild the homes, businesses, and communities destroyed by Hurricanes Katrina, Rita and Wilma. The Department of Justice will continue to vigorously investigate and prosecute fraud, in whatever form it may take, and work with our partners to prevent fraud in the future."

Attorney General Alberto R. Gonzales

On September 8, 2005, in the immediate aftermath of Hurricane Katrina, United States Attorney General Alberto R. Gonzales established the Hurricane Katrina Fraud Task Force. The Task Force is charged with deterring, detecting, and prosecuting unscrupulous individuals who try to take advantage of the Katrina, Rita, and Wilma disasters. The overall goal is to stop people who seek to illegally take for themselves the money that is intended for the victims of the hurricanes and the rebuilding of the Gulf Coast region.

The Task Force has mobilized to send a strong message of deterrence by bringing prosecutions as quickly as possible. The Task Force tracks referrals of potential cases and complaints, coordinates with law enforcement agencies to initiate investigations, and works with the appropriate United States Attorney's Offices to ensure timely and effective prosecution of fraud cases related to Hurricanes Katrina, Rita, and Wilma. By casting a broad net and using the investigative assets of federal law enforcement agencies, federal Inspectors General, and state and local law enforcement – together with the prosecution resources of the 93 United States Attorney's Offices – the Task Force is positioned to act quickly and aggressively to bring to justice those who would further victimize the victims of these natural disasters.

Since Hurricane Katrina made landfall on August 29, 2005, vast numbers of people have needed help from government and private-sector entities. Throughout the Gulf Coast region, hundreds of thousands of people were displaced, hundreds of thousands of homes and other housing units were destroyed or damaged, and residents suffered tens of billions of dollars in

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losses because of storm damage.[1] As of August 17, 2006, FEMA had received more than 2.5 million applications for disaster assistance relating to Hurricanes Katrina and Rita.

The vast majority of these applicants have legitimate need for the assistance they are seeking. The Task Force's work to date, however, has shown that numerous people have committed fraud in seeking benefits to which they are not entitled. Disaster-relief organizations have reported to law enforcement that they have identified thousands of questionable or possibly fraudulent payments to purported hurricane victims. In addition, the Task Force is already prosecuting instances of contract fraud and public corruption.

The Task Force is combating all types of fraud relating to private-sector and government efforts to help victims of Hurricanes Katrina, Rita, and Wilma to rebuild their lives and their communities. The Task Force will adapt to combat whatever fraudulent schemes criminals may create to exploit the hurricanes' effects on the Gulf Coast region. The principal types of fraud on which the Task Force is now concentrating include:

- *Government-Contract and Procurement Fraud*: Cases in which individuals and companies engage in fraud relating to federal funds for the repair and restoration of infrastructure, businesses, and government agencies in the affected region;

- *Public Corruption*: Cases in which public officials participate in bribery, extortion, or fraud schemes involving federal funds for the repair and restoration of infrastructure, businesses, and government agencies in the affected region;

- *Government and Private-Sector Benefit Fraud*: Cases in which individuals file false applications seeking benefits to which they are not entitled, and file fraudulent claims for insurance;

- *Identity Theft*: Cases in which the identities of innocent victims are "stolen" and assumed by criminals who convert the funds of, or otherwise defraud, the victims; and

- *Fraudulent Charities*: Cases in which individuals falsely hold themselves out as agents of a legitimate charity or create a "charity" that is, in fact, a sham.

The Task Force has ongoing investigations and prosecutions in each of these areas.

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[1] *See* FEMA, Press Release, By the Numbers - One Year Later, August 2, 2006, *available at* http://www.fema.gov/news/newsrelease.fema?id=29109.

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The Task Force is committed to ensuring the integrity of relief and reconstruction efforts and guarding against the unlawful diversion of federal and charitable funds intended to rebuild the region and help its residents. Task Force members are working to keep the public informed about fraudulent schemes, and to give them the information they need to avoid becoming victims of fraud. Similarly, the Task Force is widely publicizing its criminal prosecutions, so that would-be fraudsters think twice about engaging in this type of criminal activity.

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II. TRENDS AND PATTERNS IN HURRICANE-RELATED FRAUD

In the year since Hurricane Katrina made landfall, the Task Force's Joint Command Center has reviewed and analyzed more than 6,000 fraud-related tips and complaints. Federal authorities have charged more than 400 individuals in fraud cases related to Hurricanes Katrina, Rita, and Wilma. State and local authorities have prosecuted additional cases throughout the country. Based on the Task Force's investigative and prosecutive experience to date, certain trends and recurring patterns of disaster-related criminal activity appear evident.

A. Cycles of Fraud After Disasters

It is a truism among fraud investigators that "fraud follows the money." Criminals tend to pursue opportunities for fraud in any situation where they observe that there is a prospect of significant personal gain, particularly where they believe that the risk of successful prosecution is low. In the case of disaster-related fraud, recent experience has shown that there are several distinct cycles of fraud after any major disaster.

The first cycle of fraud – charity-fraud schemes – begins at (or even shortly before) the time that a disaster strikes. With Katrina and Rita, for example, criminals exploited the outpouring of private and public support for hurricane victims by obtaining domain names for websites and then establishing fraudulent websites to which they tried to persuade the public to send their charitable donations for hurricane victims. The lifecycle for these charity-fraud schemes extends from the onset of the disasters for four to six weeks thereafter.

The second cycle of fraud – emergency-assistance schemes – begins as soon as the public is informed that the federal government and private entities are providing emergency-assistance funds for disaster victims, as well as funds for damage to their homes and businesses. This period may extend from the first day or two after the disaster subsides for a period of several months or more, depending on the eligibility criteria that public and private agencies establish and the deadlines they select for applications. FEMA, for example, disbursed more than $6 billion directly to Hurricane Katrina victims for housing and other needs assistance through the Individuals and Households Assistance Program, approved nearly $975 million in Community Disaster Loans for municipalities in Louisiana and Mississippi to help local authorities maintain essential services, and paid $650 million for hotel and motel rooms to provide hotel and motel rooms to tens of thousands of families affected by Hurricanes Katrina and Rita who were in need of short-term sheltering.[2]

The third cycle of fraud – procurement and insurance fraud – begins as soon as the public

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[2] *See* FEMA, Press Release, By the Numbers - One Year Later, August 2, 2006, *available at* http://www.fema.gov/news/newsrelease.fema?id=29109.

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is informed that funds are being made available for recovery and reconstruction of the affected areas. Even in the initial phases of recovery, such as debris removal (see Figure 1 below), criminals seek to develop opportunities for fraud. Just last month, for example, four individuals were indicted in the Southern District of Mississippi for conspiracy to defraud the United States in connection with the creation and submission of fraudulent debris removal load slips in the amount of $716,677. In this case, the load tickets were submitted even though the trucks at issue were not being used on the roadways or at the dumps indicated. In another case, the Task Force saw similar conduct when another debris hauler submitted falsified load tickets for trucks that were actually in another state at the time. Public corruption is often associated with procurement fraud, as schemes by contractors to submit false or fraudulent invoices or documentation often succeed only because they bribe or compromise the public employees and officials whose oversight is essential for the conduct of the program.

Figure 1 - Hydraulic Excavator Filling Debris-Removal Truck in Pass Christian, Mississippi

[Source: Mark Wolfe/FEMA]

B. Exploitation of Systemic Weaknesses

The Task Force prosecutions have shown that with disaster-related fraud, as with other types of fraud, criminals often seek out and exploit any perceived systemic weaknesses in oversight or internal controls associated with disaster relief programs. In a number of cases throughout the country, initial prosecutions of individuals who filed a single fraudulent claim for disaster relief soon led to evidence that individuals were filing multiple fraudulent claims for benefits, and in some cases even recruited neighbors, friends, and family members to participate

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in the scheme. This trend has held true in federally funded disaster relief programs, as well as private charitable relief programs. The experience gained by the Task Force member agencies over the past year, and the unprecedented information-sharing among those agencies, have enabled investigators to better identify and investigate these fraud rings.

C. Exploitation by Insiders

A particularly distressing pattern of criminal activity has involved individuals who use their positions with governmental agencies and charitable organizations to exploit the disaster relief programs that they are supposed to protect. The Task Force is prosecuting employees or contractors of FEMA, the Army Corps of Engineers, the Louisiana Department of Labor, and the American Red Cross for fraud committed by those individuals against the very programs that they were entrusted to administer.

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III. Suggested Best Practices for Law Enforcement After Future Disasters

The past year has provided Task Force members with numerous challenges in their efforts to combat disaster related fraud arising from Hurricanes Katrina, Rita, and Wilma. The Task Force has overcome those challenges through the implementation of innovative practices and techniques, through unprecedented inter-agency cooperation and through the sheer hard work and dedication of the members of the Task Force. This section is intended to memorialize some of the lessons learned by the Hurricane Katrina Fraud Task Force. It is not intended as an exhaustive statement of all potential anti-fraud measures that should be taken following a disaster.

Depending on the size and scope of the disaster, federal law enforcement and relief agencies will be faced with some or all of the following challenges. First, numerous federal agencies and private charities will respond with an outpouring of disaster relief aid. Fraudsters will exploit any weaknesses in disaster relief programs. Relief agencies will be faced with the challenge of providing assistance in a timely manner while adequately verifying eligibility and entitlement.

Second, the relief response will involve programs and procedures with which most United States Attorney's Offices (USAOs) and federal law enforcement agency field offices (Field Offices) have little or no experience. In order to deal with the fraud that will likely accompany the relief efforts, it will be necessary for supervisory and line personnel to quickly gain an understanding of how these relief programs work, the eligibility requirements for the programs, the legal and regulatory framework of the programs, the types of fraud typically associated with the programs, the evidence that will be needed to investigate and prosecute that fraud, and how that evidence can best be located and collected.

Third, the USAOs and the Field Offices impacted by the disaster will be the front line of the anti-fraud effort. Experience teaches that disaster related fraud begins even before the effects of the disaster itself begin to subside. The affected federal law enforcement offices will be faced with responding to that fraud while still recovering from the effect of the disaster on their offices and districts.

Fourth, auditors and investigators from various Inspectors General offices (OIG) will flood into the area and begin conducting audits and investigations. Most will be unfamiliar with the affected area and will not previously have dealt with the USAOs, the federal law enforcement field offices or the state and local law enforcement authorities in the area. They will be unaware of pending public corruption or other white collar crime investigations and will have little knowledge of how federal, state and local law enforcement historically interacts in the affected area. Their activities must be integrated into the pre-existing law enforcement structure in the affected area to avoid conflicting or redundant investigations.

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Finally, if the disaster is large enough, it will attract the attention and interest of criminals across the nation and even around the world. Information sharing, data gathering and coordination at the national level may be required.

To deal with these challenges, the following best practices should be considered:

A. Pre-Disaster Preparation

Assistance Pre-planning

- Best Practice: Disaster relief agencies should establish clear standards for assistance eligibility with verification procedures, including certification, where possible.

- Best Practice: Disaster relief agencies should establish protocols for coordination to avoid duplication of benefits.

Standardized Training

- Best Practice: The Department of Justice and other agencies with expertise in disaster-related fraud investigation should participate in training at the new OIG Institute.

- Best Practice: The Office of Legal Education should present disaster fraud training for Assistant United States Attorneys (AUSAs) at the National Advocacy Center. The training should be designed in coordination with the Criminal Division Fraud Section and the President's Counsel on Integrity and Efficiency (PCIE) Homeland Security Roundtable.

Pre-Packaged Training Modules

- Best Practice: The Office of Legal Education and the Criminal Division should work with the PCIE Homeland Security Roundtable to design pre-packaged training modules (both hard-copy and digital) that can be delivered to federal law enforcement in the affected areas to familiarize USAOs and federal agents with disaster relief programs.

B. Post-Disaster District Level Response

Public Outreach to Prevent and Deter Fraud

- Best Practice: The U.S. Attorney, Field Office supervisors, and OIG representatives should immediately conduct press conferences and press interviews to caution the public about post-disaster fraud and to establish a visible law enforcement response to potential fraudulent activity.

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Creation of District Anti-Fraud Working Group

- Best Practice: The U.S. Attorney should immediately establish a district anti-fraud working group. At a minimum, the working group should include representatives from any of the following federal agencies present in the district:

  - Federal Bureau of Investigation;
  - Department of Homeland Security, Office of Inspector General (DHS-OIG);
  - United States Secret Service;
  - Social Security Administration, OIG;
  - Department of Housing and Urban Development, OIG;
  - Department of Labor, OIG;
  - U.S. Postal Inspection Service;
  - U.S. Postal Inspection Service, OIG;
  - Internal Revenue Service, Criminal Investigative Division;
  - Treasury Inspector General for Tax Administration;
  - Department of Health and Human Services, OIG;
  - Environmental Protection Agency, OIG;
  - Environmental Protection Agency, Criminal Investigative Division;
  - Department of Agriculture, OIG;
  - Department of Commerce, OIG;
  - Department of Defense (OIG and Defense Criminal Investigative Service);
  - Department of Energy, OIG;
  - Department of Transportation, OIG;
  - General Services Administration, OIG; and
  - Small Business Administration, OIG.

The working group, once established, should consider the inclusion of representatives from state and local law enforcement agencies (and major charitable organizations such as the American Red Cross), and determine how best to coordinate activities with those agencies and organizations in order to ensure a cooperative and coordinated attack on disaster related fraud at all levels.

Establishment of Protocol for Data Access by the Working Group

- Best Practice: The District Working Group should, through the OIG representatives on the Working Group, contact all federal agencies providing relief services in the affected area and agree on protocols for the Working Group to obtain information on disaster relief programs and other information that will be useful in the investigation and prosecution of disaster related fraud. Similar outreach should be conducted by the USAO or FBI with charitable organizations and other non-governmental organizations operating in the affected area.

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Devising of Data Management System

- Best Practice: The District Working Group should devise a data management system that will hold and manage all disaster fraud information gathered by the Working Group and make that information available to members of the Working Group. Such a data management system will be particularly important to manage tips and leads provided by the public or gathered by investigative agencies and will also be needed to de-conflict law enforcement anti-fraud efforts.

C. Post-Disaster Multi-District or National Response

National Task Force

- Best Practice: If the post-disaster fraud is likely to be national in scope, the Attorney General may decide to establish a national task force similar to the Hurricane Katrina Fraud Task Force. If the disaster affects more than one district, but does not warrant the creation of a national task force, then the U.S. Attorneys in the affected districts should confer to decide whether a multi-district task force is warranted.

- Best Practice: Because local conditions in the affected areas may vary following a disaster, the U.S. Attorney and the local working group is best situated to determine how state and local law enforcement authorities should be integrated into the disaster fraud working group. If a national task force is established, then the Attorney General for each state affected by the disaster, the National Association of Attorneys General, the National District Attorneys Association, and other national and state level law enforcement associations should be asked to participate in those activities of the Task Force that will affect state and local law enforcement authorities.

Hotlines and Complaint Referral Procedure

- Best Practice: The public can be an excellent source of tips and leads about fraudulent activity, particularly if fraud is widespread following a disaster. Hotlines, if properly managed, can be useful in gathering information from the public. However, because fraud following a disaster will likely involve multiple disaster relief programs, a single hotline will not be effective unless the agency operating the hotline has the ability to refer hotline complaints to all agencies with jurisdiction over disaster related fraud. If referrals are made to multiple agencies, then the agency operating the hotline should maintain a record of the nature of each complaint and the agency to which the complaint has been referred.

- Best Practice: The Department of Justice should conduct outreach with the nonprofit sector, especially headquarters of charitable organizations most likely to be providing emergency assistance on a continuing basis in the affected region, to facilitate coordination and establish protocols for referral of possible criminal violations to law

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enforcement.

Referral and Deconfliction Database

- Best Practice: To properly log hotline complaints and track their referral, a standard complaint referral form should be used by hotline operators and the information recorded in the complaint referral form should be entered into a single database that can be used to de-conflict complaint referrals and maintain a record of complaint referrals for tracking purposes. This database should be accessible by law enforcement officers nationwide.

Command Center

- Best Practice: The Hurricane Katrina Fraud Task Force Joint Command Center has provided a centralized data-gathering, information-sharing, deconfliction, and coordination mechanism for the Task Force. Because of the number of agencies and programs involved in disaster relief, future national disaster fraud task forces should establish a joint command center with the ability to receive, screen, de-conflict and refer all complaints and leads related to disaster fraud.

Analytical Resources

- Best Practice: If a joint command center is established, then the command center can serve as a central collection point for information on disaster relief programs and data on potential fraudulent activity. If the command center is used for that purpose, then those agencies with primary jurisdiction over significant disaster related crimes should assign analysts or auditors to the command center in order to analyze the data to detect patterns or trends that may point investigators to evidence of fraudulent conduct.

- Best Practice: Because local conditions in the affected areas may vary following a disaster, the U.S. Attorney and the local working group is best situated to determine how state and local law enforcement authorities should be integrated into the disaster fraud working group. If a national task force is established, then the Attorney General for each state affected by the disaster, the National District Attorneys Association and other national and state level law enforcement associations should be asked to participate in those activities of the Task Force that will affect state and local law enforcement authorities.

D. Prosecution

Information-Sharing

- Best Practice: Access to disaster relief agencies files and databases is critical to investigation of disaster related fraud offenses. FEMA has provided law enforcement access to the National Emergency Management Information System database which has

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proven vital. Disaster relief agencies should provide a standard protocol for law enforcement to obtain information from the agencies and their files/databases.

Preservation of Evidence

- Best Practice: Disaster relief computer programs should be saved and protected. This is particularly important if the programs are upgraded or otherwise changed.

Standardization of Practices

- Best Practice: The Department of Justice should establish a comprehensive brief bank of indictments and other legal documents pertaining to all types of disaster fraud.

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IV. Accomplishments of the Task Force

A. Summary of Accomplishments

1. Prosecution and Enforcement

As of September 1, 2006, the Task Force has prosecuted more than 400 individuals in 30 districts throughout the country, and additional state and local prosecutions for disaster-related fraud have been brought.

2. Deterrence and Returned Funds

In the past year, FEMA and the American Red Cross (ARC) have had a total of more than $18.2 million in funds returned by recipients of individual-assistance benefits. FEMA received a total of $15.82 million, and ARC more than $2.4 million, in returned funds.

3. Increased Coordination

Investigative agencies and federal Inspectors General have expanded their cooperation and coordination on hurricane-related investigations. A vital component of coordination has been the Task Force's Joint Command Center, which has been in full operation in Baton Rouge, Louisiana for a number of months. The Command Center, to which the FBI has provided personnel and logistical support, has proved to be a major source of support for hurricane-related investigative efforts throughout the country. The Department of Justice and investigative agencies are making sound use of the Command Center for receipt, deconfliction, and referral of complaints; review and analysis of potentially fraudulent applications for disaster-related benefits; and timely information-sharing with relevant law enforcement agencies. The Department is also working closely with federal Offices of Inspectors General to advise them of systemic weaknesses and vulnerabilities that agents are identifying through their criminal investigations.

4. Training and Proactive Detection

The Command Center has continued to host training by Department of Justice prosecutors for federal agencies, and has conducted more extensive training for Gulf Coast-based Assistant United States Attorneys and other agencies at the Command Center. It continues to play a significant role in proactively identifying patterns of potentially fraudulent activity in applications for disaster-related benefits. The Department of Justice is also planning to publish a disaster-fraud manual for federal prosecutors.

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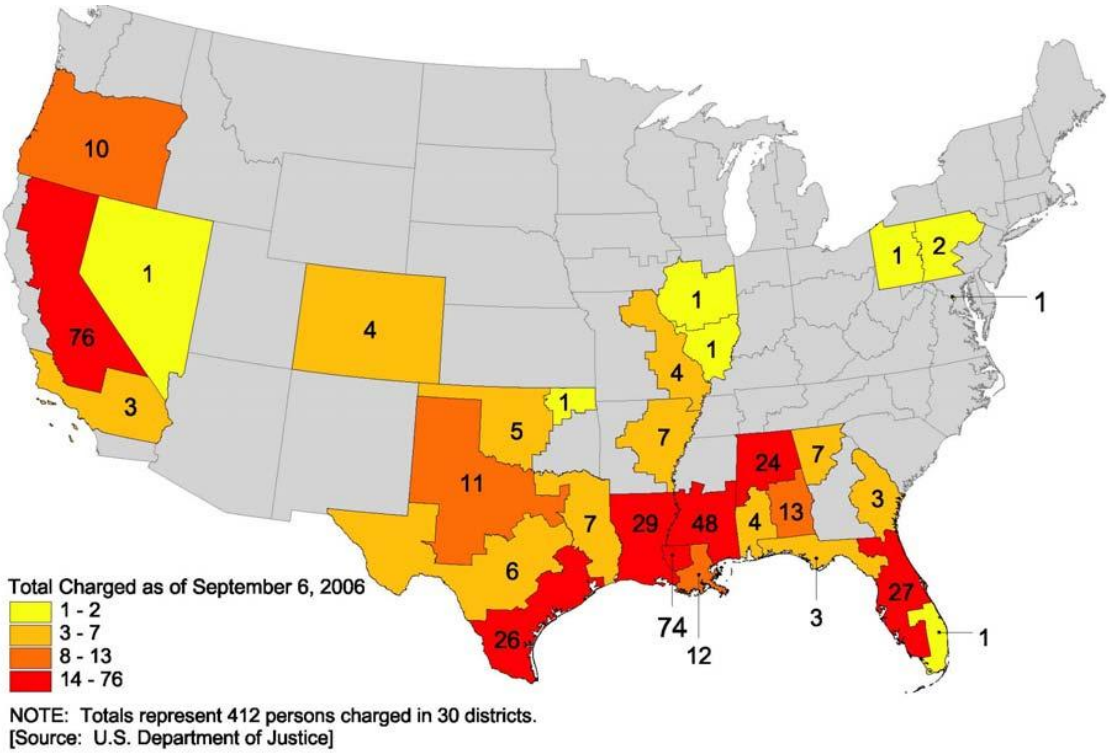
B. Prosecution and Enforcement

The most tangible proof of their commitment is the dramatic increase in the number of prosecutions stemming from Hurricanes Katrina and Rita. As of October 17, 2005, the date of the first progress report, the Task Force had charged 36 people in 17 separate cases with hurricane-related fraud. As of September 6, 2006, more than 400 people have been federally charged with hurricane-related fraud. (See Figure 2 below.)

Figure 2 - Federal Criminal Prosecutions, September 1, 2005 - September 6, 2006



These prosecutions span 30 federal districts in all regions of the United States. State and local prosecutors' offices have also continued to bring criminal cases involving hurricane-related fraud.

While the majority of Task Force prosecutions in the past year still involve fraud to obtain individual assistance benefits from FEMA and the American Red Cross, the Task Force is seeing more cases involving identity theft, procurement fraud, and public corruption. The following summaries of recent disaster fraud-related cases from a variety of United States Attorney's Offices are offered as a sample of the fraudulent schemes being successfully

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investigated and prosecuted.

Alabama - Middle District (United States Attorney Leura Garrett Canary)
[13 Persons Charged]

- On March 1, 2006, a federal grand jury indicted a woman for fraudulently obtaining disaster assistance from FEMA in the wake of Hurricane Katrina and then threatening a witness who was to testify against her about her FEMA claims. The defendant is also charged with using a gun while threatening the witness.[3]

Alabama - Northern District (United States Attorney Alice H. Martin)
[24 Persons Charged]

- On August 28, 2006, a federal grand jury indicted 15 individuals on charges relating to filing false claims with FEMA. Six of the defendants, for example, filed with FEMA, claiming to be residents of Texas during the landfall of Hurricane Rita. They reported property damage on their claims for emergency relief funds. A $2,000 U.S. Treasury check was issued to each individual based on the fraudulent information provided. The defendants allegedly cashed the checks knowing the information they provided was false.[4]

- On August 17, 2006, a defendant was sentenced to 19 months imprisonment for defrauding FEMA, after posing as a Hurricane Katrina evacuee, stealing another woman's identity, and forging that woman's name to obtain $2,000 in disaster relief funds.[5]

Alabama - Southern District (United States Attorney Deborah J. Rhodes)
[4 Persons Charged]

- On July 27, 2006, a federal grand jury indicted a woman in an 66-count indictment alleging mail fraud, wire fraud and aggravated identity theft. The indictment alleges that from September 8, 2005 through May 11, 2006, the defendant applied for disaster

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[3] *See* United States Attorney's Office, Middle District of Alabama, Press Release, March 6, 2006, *available at* http://www.usdoj.gov/usao/alm/Press/willis_indictment.html.

[4] *See* United States Attorney's Office, Northern District of Alabama, Press Release, August 29, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-29-06USAO_ALN.pdf.

[5] *See* United States Attorney's Office, Northern District of Alabama, Press Release, August 17, 2006, *available at* http://www.usdoj.gov/usao/aln/Docs/August%202006/AUGUST%2017,%202006%20IMPRISONMENT%20GIVEN%20IN%20FEMA%20FRAUD%20CASE.html.

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benefits from FEMA using false Social Security numbers and variations of her name and address. As a result of the fraudulent claims, the defendant allegedly received from FEMA a total of $277,377, which she used to purchase real estate, a mobile home, automobiles, electronics and other personal property. The defendant allegedly lived in Jackson, Mississippi at the time of Hurricane Katrina. DHS-OIG, the FBI, and the U.S. Postal Inspection Service investigated the case.[6]

Arkansas - Eastern District (United States Attorney Bud Cummins)
[7 Persons Charged]

- On May 2, 2006, a federal grand jury returned a seventeen-count indictment against a defendant, alleging that the defendant, while entitled to lodging for himself, rented 17 hotel rooms and sublet them to other individuals. The defendant then allegedly caused 17 false claims to be submitted to FEMA. The FBI investigated the case.[7]

California - Eastern District (United States Attorney McGregor W. Scott)
[76 Persons Charged]

- The United States Attorney's Office for the Eastern District of California and the FBI have aggressively continued their ongoing investigation into a scheme to defraud the American Red Cross of funds intended for Hurricane Katrina victims by submitting or causing others to submit a fraudulent claim through the American Red Cross call center located in Bakersfield. To date, 72 persons have been federally charged in this investigation, 64 of those defendants have pleaded guilty (all to felonies), and 54 have been sentenced. According to the indictments, when a person contacted the call center to request assistance, call-center employees allegedly verified their personal information, including an address within the area affected by the hurricane. Once that information was verified, the caller was given instructions on how to obtain financial assistance from the American Red Cross and, on approval of financial assistance, how to obtain that assistance at the closest Western Union branch. The indictments further allege that a number of temporary contract employees at the Bakersfield call center, and some close associates of those temporary contract employees, obtained false claim information and, using that information, obtained payment from Western Union.[8] In a separate case, one

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[6] *See* United States Attorney's Office, Southern District of Alabama, Press Release, July 27, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jul/07-27-06_ALS.pdf.

[7] *See* United States Attorney's Office, Eastern District of Arkansas, Press Release, May 2, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/may/05-02-06andersonindicted.pdf.

[8] *See, e.g.,* United States Attorney's Office, Eastern District of California, Press Release, October 27, 2005, *available at* http://www.usdoj.gov/usao/cae/PRESS/pdf_2005/

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defendant was charged with fraudulently applying for and receiving thousands of dollars in hurricane assistance from the American Red Cross and other organizations. The FBI investigated the cases.

District of Columbia (United States Attorney Kenneth Wainstein)
[1 Person Charged]

- On August 28, 2006, a man pleaded guilty to charges of bank fraud, mail fraud, and money laundering from September to December of 2005, relating to a scheme to defraud FEMA of more than $100,000 in relief funds intended for victims of Hurricanes Katrina and Rita. According to the government's evidence, between about September 13, 2005, and about December 31, 2005, the defendant applied for emergency FEMA funds using the names, birth dates, and Social Security numbers of other individuals, none of whom had given him permission to apply for such benefits on their behalf. He obtained most of this information through the Martindale-Hubbell legal directory and various other public databases, as well as through his previous job at a construction company. The defendant admitted that on the portion of the application that asked for the address of a property damaged by Hurricane Katrina or Hurricane Rita, he would fill in addresses that he found on the Internet or that he made up.

  As a result of this scheme, FEMA mailed 38 United States Treasury checks, made out to the individuals the defendant specified, to motels where he was staying or private mailboxes that he had rented in the names of other individuals, using false identification in the names of those individuals, but bearing his own photograph. He then forged the signatures of the payees and deposited the checks into bank accounts that he had opened in the names of other people without their permission, but that he controlled. In particular, the defendant opened an account at an E*Trade Financial Corporation Branch in Northwest Washington, D.C., into which he deposited five of the fraudulently obtained checks, intending to withdraw the money and convert it to his own use at a later date. The U.S. Secret Service, the Postal Inspection Service, the Treasury Office of Inspector General, FEMA, and DHS-OIG investigated the case.[9]

10-27-05katrinarelease.pdf, Press Release, February 2, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/HKFTF_PressRoom/2-2-06USAOEDCA.pdf.

[9] *See* United States Attorney's Office, District of Columbia, Press Release, August 28, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-28-06Rothschild.pdf.

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Florida - Middle District (United States Attorney Paul I. Perez)
[27 Persons Charged]

- In May 2006, a total of 26 individuals were charged in 23 separate indictments and one information in connection with fraudulent claims for hurricane assistance. The 26 individuals charged allegedly submitted fraudulent claims to FEMA totaling more than $170,000. Of that amount, they were successful in obtaining more than $150,000 in FEMA funds. The U.S. Secret Service, the Postal Inspection Service, and DHS-OIG (with assistance from the U.S. Marshals Service) investigated the cases.[10]

Florida - Southern District (United States Attorney R. Alexander Acosta)
[1 Person Charged]

- On May 7, 2006, a defendant who had pleaded guilty to wire fraud in connection with his fraudulent solicitation of charitable donations supposedly intended for Hurricane Katrina relief was sentenced to 21 months imprisonment. According to the indictment, the defendant falsely claimed in conversations on the Internet, and ultimately via the website www.AirKatrina.com, that he was piloting flights to Louisiana to provide medical supplies to the areas affected by Hurricane Katrina and to evacuate children and others in critical medical condition. He further claimed that he had organized a group of Florida pilots to assist him in his supposed relief efforts. In just two days, the defendant received almost $40,000 in donations from 48 different victims from around the world. The FBI investigated the case.[11]

Illinois - Southern District (United States Attorney Randy Massey)
[1 Person Charged]

- On June 22, 2006, an indictment was unsealed against a defendant charged with various fraud offenses and aggravated identity theft. The indictment alleges that the defendant defrauded FEMA by claiming that she was displaced, even though she was residing in Belleville, Illinois at the time of Hurricane Katrina. The indictment further alleges that the defendant sent correspondence to FEMA representing that her two daughters, who did not exist, had died during the flooding in New Orleans and that she had seen them float away. The defendant allegedly represented that she would need burial money upon

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[10] *See* United States Attorney's Office, Middle District of Florida, Press Release, May 25, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/may/05-25-06FEMAOrlandopressrelease.pdf.

[11] *See* United States Attorney's Office, Southern District of Florida, Press Release, May 8, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/may/USAO_FLS_05082006.pdf, and Press Release, January 30, 2006, *available at* http://www.usdoj.gov/usao/fls/060130-01.html.

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finding her daughters and needed to be reimbursed for counseling, due to the loss of her daughters. The Postal Inspection Service, the U.S. Department of Labor Office of Inspector General, the Social Security Administration Office of Inspector General, the U.S. Department of Agriculture Office of Inspector General, the U.S. Department of Housing and Urban Development Office of Inspector General, the U.S. Department of Health and Human Services Office of Inspector General, the State of Illinois Healthcare and Family Services Office of Inspector General – Bureau of Investigations, DHS-OIG, and the Illinois State Police Medicaid Fraud Bureau investigated the case.[12]

Louisiana - Eastern District (United States Attorney Jim Letten)
[12 Persons Charged]

- On August 30, 2006, two FEMA officials working in New Orleans were sentenced to 21 months imprisonment and fined $20,000 for their roles in soliciting bribes as public officials. According to the criminal complaint by which they were first charged on January 27, 2006, the two officials approached a local contractor and solicited a bribe from the contractor in exchange for inflating the headcount for a $1 million meal service contract at the Algiers, Louisiana base camp. During this meeting, the two officials allegedly told the contractor that they could inflate the "headcount" for meals served and that they would require the contractor to kick back to them (the two FEMA officials) $20,000. During a subsequent meeting on January 19, 2006, one of the FEMA officials demanded $20,000 from the contractor to be split evenly between him and the other FEMA official, and indicated that the other official would continue to intentionally inflate the occupancy number at the base camp falsely.

  During a subsequent meeting on January 24, 2006, the $20,000 bribe that had been demanded was further discussed, and during the same meeting, the two officials allegedly discussed various ways and means that the contractor could use to inflate the meal service count. During the same meeting and a subsequent one on the same day, both charged defendants allegedly continued to discuss various ways and means to inflate the invoices for meal service counts, and made a further bribery demand for $2,500 per week for each of them. Finally, on the morning of January 27, 2006, the officials each took one envelope containing $10,000 from the contractor, after confirming that these two payments were for the inflated meal service count from December 3, 2005 through January 15, 2006. Thereafter, according to the complaint, both defendants and the contractor continued to discuss the mechanics of how to continue to fraudulently inflate

[12] *See* United States Attorney's Office, Southern District of Illinois, Press Release, June 22, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jun/06-22-06-WinstonCharged.pdf.

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the meal service count numbers. Federal agents arrested both immediately thereafter on the scene. The FBI and the DHS-OIG investigated the case.[13]

Louisiana - Middle District (United States Attorney David R. Dugas)
[74 Persons Charged]

- On July 17, 2006, an employee of a contractor pleaded guilty to a bill of information charging him with extortion under color of official right. The bill of information alleges that the defendant, at all times relevant, was working as an employee of IIF Data Solutions, Inc., a company contracted by the Louisiana National Guard to service the needs of the Guard, Reserve, and active duty personnel, and to screen people applying with the Louisiana Department of Labor (LDOL) for financial assistance for potential recruits to the National Guard. In this capacity, the defendant was assigned to assist people who came into the LDOL office in Baton Rouge seeking employment and unemployment assistance. According to the bill of information, the defendant allegedly facilitated numerous fraudulent claims for Disaster Unemployment Assistance (DUA) benefits, which are intended to provide financial assistance to individuals whose employment has been lost or interrupted as a result of a major disaster declared by the President of the United States. The bill of information alleges that the defendant unlawfully obtained money not due him from people whose false and fraudulent DUA claims were presented. This money was obtained with the person's consent, which was induced under color of official right.[14] To date, a total of 74 persons have been charged in the Middle District of Louisiana on charges relating to Hurricane Katrina relief funds.

Louisiana - Western District (United States Attorney Donald W. Washington)
[29 Persons Charged]

- On August 25, 2006, a federal grand jury indicted a federal correctional officer on charges of wire fraud and theft of public funds for claiming to be a hurricane victim in order to fraudulently obtain FEMA relief funds. The indictment alleges that in September 2005, the defendant applied for federal disaster relief, falsely claiming that due to Hurricane Katrina, his primary residence which he was purportedly renting in New Orleans, had been damaged and that his automobile had been damaged and could not be driven. He allegedly also falsely claimed in his application for federal disaster relief that

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[13] *See* United States Attorney's Office, Eastern District of Louisiana, Press Release, August 30, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-30-06twosent.pdf, and Press Release, January 27, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/HKFTF_PressRoom/1-27-06USAOEDLA.pdf.

[14] *See* United States Attorney's Office, Middle District of Louisiana, Press Release, July 17, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jul/07-17-06FEMAFraud-GuiltyPlea-Lawless.pdf

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he had lost work due to Hurricane Katrina. Based on the information provided to FEMA, the defendant allegedly received a wire transfer in the amount of $10,391. The indictment further alleges that in December 2005, the defendant falsely informed FEMA that he had spent all or part of the rental assistance which had been provided by FEMA on essential needs and he lacked sufficient additional funding to address those needs. Based on his request for additional funds from FEMA, he allegedly received a wire transfer of funds from FEMA in the amount of $2,028. The U.S. Department of Justice's Office of Inspector General and DHS-OIG investigated the case.[15]

- On April 26, 2006, a woman was sentenced to spend 3 months in prison and fined $1,000 and was ordered to pay restitution in the amount of $4,358. The defendant met an evacuee at a rescue shelter following Hurricane Katrina and gave that individual permission to use her address to receive mail. The defendant signed for a package to the evacuee using a fake name and then opened the mail, which contained two FEMA relief checks totaling $4,358. The defendant cashed one check and used the other one to purchase a car. The FBI and the U.S. Department of Homeland Security jointly investigated the case.

Mississippi - Southern District (United States Attorney Dunn Lampton)
[48 Persons Charged]

- On August 24, 2006, a federal grand jury indicted four individuals for conspiracy to defraud the United States involving the creation and submission of fraudulent debris removal load slips in the amount of $716,677. One of the defendants allegedly owned and operated a debris removal contracting company working as a sub-contractor in Pearl River County, Mississippi, and the other three defendants worked for a debris removal monitoring company operating in Pearl River County. Two of the defendants who were debris removal monitors allegedly signed false debris load slips misrepresenting that debris was loaded onto trucks on the roadway when they were not present at the loading site and, in most instances, created and signed the false load slips at their residences. The false debris load slips misrepresented that certain trucks, belonging to and under the control of the contractor defendant, were hauling loads of debris at a time when the trucks identified on the debris load slips were not in operation on the roadway or at the dump site listed on the load slips. The false debris load slips also misrepresented that loads of debris were delivered to a designated dump site in Pearl River County, Mississippi when in fact no debris was delivered to the dump site. The third debris-removal monitor defendant allegedly collected the false load slips from his co-conspirators and submitted them to the debris monitoring company who would, in turn, submit the false load slips to the prime contractor for payment to the contractor.

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[15] *See* United States Attorney's Office, Western District of Louisiana, Press Release, August 25, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-25-06pattersonindict.pdf.

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The indictment also charges that the contractor, in an effort to conceal the conspiracy, would deposit the funds obtained through the conspiracy into a bank account opened in the name of one of his employees and then write a check to an unindicted coconspirator who would then pay the contractor and one of the monitor defendants, who would then pay the other two defendants who were monitors for completing and signing the false load slips along with an extra amount of money for "hush money." The FBI and the U.S. Department of Homeland Security investigated this case.[16]

- On June 28, 2006, a U.S. Army Corps of Engineers (USACE) employee and a subcontractor were each sentenced to serve twelve months in prison and pay a $5,000 fine, followed by a two-year term of supervised release. Both defendants previously pleaded guilty to Conspiracy to Commit Bribery involving debris removal in Perry County, Mississippi. The USACE employee was a Quality Assurance Representative for the USACE, and the contractor was responsible for debris removal in Mississippi following Hurricane Katrina. The USACE employee accepted cash bribes in exchange for creating false loads that the contractor did not haul or dump.[17]

Missouri - Eastern District (United States Attorney Catherine L. Hanaway)
[4 Persons Charged]

- On May 22, 2006, a defendant pleaded guilty to filing a false claim with FEMA for hurricane relief funds. In September 2005, the defendant applied for and received two checks for $2,000 and $2,358 from FEMA for Katrina disaster relief, claiming an address in New Orleans. The defendant lives in St. Louis and never resided in New Orleans. In November 2005, the defendant assisted another defendant in the application which resulted in the receipt of $10,391 from FEMA. Neither of these defendants were victims of Katrina and were not entitled to any disaster assistance. The FBI investigated the case.[18]

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[16] *See* United States Attorney's Office, Southern District of Mississippi, Press Release, August 24, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-24-06-4indictjacksonmiss.pdf.

[17] *See* United States Attorney's Office, Southern District of Mississippi, Press Release, June 28, 2006.

[18] *See* United States Attorney's Office, Eastern District of Missouri, Press Release, May 22, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/may/05-22-06WomanPleadsGuilty.pdf.

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District of Nevada (United States Attorney Daniel G. Bogden)
[1 Person Charged]

- On April 26, 2006, a federal grand jury indicted an individual for making a false claim to FEMA in order to receive disaster assistance benefits. The defendant allegedly made and presented to FEMA a claim for funds for individuals displaced by Hurricane Katrina, claiming home damage and essential need for food, clothing and shelter, knowing that the claim was false. As a result, the defendant allegedly obtained rooms at seven different hotels in Las Vegas. The defendant did not stay in the rooms and instead, re-rented them to other individuals for the believed purposes of narcotics sales and prostitution. The DHS-OIG investigated the case.[19]

Oklahoma - Western District (United States Attorney John C. Richter)
[5 Persons Charged]

- On August 23, 2006, a defendant was sentenced to serve 24 months in prison, and to pay $18,000 in restitution to FEMA, for theft of FEMA Hurricane Katrina disaster relief funds. According to a superseding indictment filed on February 22, 2006, the defendant cashed a Hurricane Katrina disaster relief check made out in her name on September 16, 2005. When she entered a guilty plea on May 4, 2006, she admitted that she knew when she cashed the check that she was not entitled to any disaster relief money because she lived in Lawton at the time of Hurricane Katrina and did not live at the Louisiana address on her application for FEMA assistance. She has also admitted that she played a leadership role in the activities of others who received money from FEMA through fraud. The Oklahoma Economic Crime and Identity Theft Task Force, DHS-OIG, the U.S. Secret Service, and the U.S. Postal Inspection Service investigated the case.[20]

Oregon (United States Attorney Karin Immergut)
[10 Persons Charged]

- Between March 27, 2006 and April 6, 2006, eight Portland residents pleaded guilty in connection with the fraudulent receipt of Hurricane Katrina disaster relief funds. At his plea hearing, one of the defendants admitted that he recruited other people to allow their names to be used by himself and his girlfriend to apply for FEMA Katrina disaster relief checks, and that he would share in the proceeds of the FEMA checks. The girlfriend,

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[19] *See* United States Attorney's Office, District of Nevada, Press Release, April 26, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/apr/04-26-06hawkindict.pdf.

[20] *See* United States Attorney's Office, Western District of Oklahoma, Press Release, August 23, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-23-06perrysent.pdf.

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who also pleaded guilty, made similar admissions at her plea hearing. The other defendants each admitted to participating in the scheme and receiving the proceeds of at least one FEMA check knowing it was stolen.[21]

Texas - Eastern District (United States Attorney Matthew D. Orwig)
[7 Persons Charged]

- On August 7, 2006, a 64-year-old Texarkana hotel manager pleaded guilty to hurricane related fraud charges. According to the information in the case, the Red Cross entered into an agreement with the Ramada Inn in Texarkana and agreed to pay $54 per night for rooms provided to evacuees or their families. The defendant instructed employees to maintain evacuees for 14 days, whether they stayed that long or not. The Federal Bureau of Investigation investigated the case.[22]

- On June 16, 2006, a federal grand jury indicted a 68-year-old woman on charges relating to a false application to FEMA for disaster assistance related to Hurricanes Katrina and Rita. The defendant allegedly stated that she maintained her primary residence in Diberville, Mississippi, when Hurricane Katrina hit that area on August 29, 2005, when her primary residence on August 29, 2005 was in Gainsville, Texas, and not in any area affected by a hurricane.[23]

Texas - Northern District (United States Attorney Richard Roper)
[11 Persons Charged]

- On July 18, 2006, a federal jury in Fort Worth, Texas convicted a defendant for theft of government property and bank burglary, after only 90 minutes of deliberation. The government presented evidence at trial that the defendant opened a letter addressed to a hurricane evacuee that contained a check in the amount of $21,242.00. The defendant cashed the check without permission, depositing $10,000 into her daughter's account and

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[21] *See* United States Attorney's Office, District of Oregon, Press Release, April 7, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/apr/USAO_OR_04072006.pdf.

[22] *See* United States Attorney's Office, Eastern District of Texas, Press Release, August 7, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/aug/08-07-06fuselier_bryant_plea.pdf.

[23] *See* United States Attorney's Office, Eastern District of Texas, Press Release, June 16, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jun/06-16-06orangeindict.pdf.

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the remainder into her own account. The U.S. Secret Service and the Fort Worth Police Department investigated the case.[24]

- On July 26, 2006, two defendants (a brother and sister), who had pleaded guilty to fraudulent use of an access device after stealing and using at least 80 Red Cross debit cards intended for hurricane evacuees, were sentenced. The brother was sentenced to 30 months imprisonment and was ordered to pay $202,984.12 in restitution. The sister was sentenced to 26 months in this case (and 15 months in an unrelated federal case) and was ordered to pay $23,240.00 in restitution. The U.S. Secret Service and the Postal Inspection Service investigated the case.[25]

Texas - Southern District (United States Attorney Donald J. DeGabrielle, Jr.)
[26 Persons Charged]

- On June 5, 2006, a federal grand jury returned a 22-count indictment charging a 25-year old Houston man with fraudulently obtaining thousands of dollars in Hurricane Katrina and Hurricane Rita disaster assistance. The defendant allegedly filed 18 separate fraudulent applications for disaster assistance, using 18 difference social security numbers and 18 unique "damaged addresses" in various areas. Based upon alleged misrepresentations, the defendant received 18 different checks in the amount of $2,000. The General Accounting Office, DHS-OIG, and the U.S. Postal Inspection Service, with assistance from the Social Security Administration Office of Inspector General and the Small Business Administration Office of Inspector General, jointly investigated the case.[26]

- On July 17, 2006, two Houston residents were charged with operating a fraudulent website to accept donations for Hurricane Katrina relief. The two were charged in an nine-count indictment that alleged that they had established the fraudulent website

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[24] *See* United States Attorney's Office, Northern District of Texas, Press Release, July 18, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jul/07-18-06sharrisconvict.pdf.

[25] *See* United States Attorney's Office, Northern District of Texas, Press Release, July 27, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jul/07-27-06hinesredcrossfraudKatrina.pdf.

[26] *See* United States Attorney's Office, Southern District of Texas, Press Release, June 5, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jun/06-05-06greenindict.pdf.

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www.salvationarmyonline@yahoo.com. The defendants are accused of transferring more than $48,000 into their individual bank accounts. The FBI investigated the case.[27]

Other United States Attorney's Offices that have brought hurricane-related criminal prosecutions include: Central District of California (3); District of Colorado (4); Northern District of Florida (3); Northern District of Georgia (7); Central District of Illinois (1); Northern District of Oklahoma (1); Middle District of Pennsylvania (2); Western District of Pennsylvania (1); and Western District of Texas (6).

Examples of state and local prosecutions reported to the Task Force include the following:

Alabama

- On September 2, 2006, a contractor was reportedly arrested by the Baldwin County Sheriff's Office for allegedly bilking county residents out of about $500,000 in a series of construction-related frauds targeting the elderly, Hurricane Katrina victims, and others. The defendant allegedly made fraudulent construction deals and promised to do work, but never finished the jobs. He is charged with three counts of first-degree theft of property and two counts of second-degree theft of property.[28]

Florida

- The Florida Attorney General sued a company and its owner and president for increasing prices by as much as 300 percent after hurricanes; using high-pressured sales tactics and intimidation; not showing price lists or informing customers of costs; pressuring consumers into signing contracts without cancellation policies; bringing in extra equipment and leaving it in homes and billing customers for the devices; assuring consumers that costs would be covered by insurance when only a fraction of the inflated prices were covered; and placing liens on consumers' homes when consumers or the insurance companies did not pay the fees.[29]

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[27] *See* United States Attorney's Office, Southern District of Texas, Press Release, July 17, 2006, *available at* http://www.usdoj.gov/katrina/Katrina_Fraud/pr/press_releases/2006/jul/07-17-06SDTX_FEMAFraud_Stephens.pdf.

[28] *See* Josh Bean, *Contractor charged with fraud*, Mobile Press-Register, September 6, 2006, *available at* http://www.al.com/news/mobileregister/index.ssf?/base/news/1157534532221720.xml&coll=3.

[29] *See* Florida Attorney General, Press Release, June 23, 2006, *available at* http://myfloridalegal.com/newsrel.nsf/newsreleases/ED4C5CFA4CE25AF8852571960064456A.

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Louisiana

- The Insurance Fraud Unit of the Louisiana State Police (LSP) reports that it is continuing its efforts to vigorously investigate and prosecute insurance fraud relating to Hurricanes Katrina and Rita. For example, on March 16, 2006, the Unit arrested a New Orleans couple on felony insurance fraud warrants. The couple is believed to have intentionally attempted to defraud their insurer by claiming Hurricane Katrina caused damage to their roof. The investigation revealed, however, that the couple purposely created damage to their roof to activate the mold endorsement of their homeowner's insurance policy. The couple was arrested and charged with one count of insurance fraud each and booked into a parish jail.[30]

Mississippi

- The Mississippi Attorney General announced the arrest of an individual on charges that he accepted payments from Hurricane Katrina victims for home repairs, but failed to either begin the work or complete the work as promised.[31]

Texas

- The Texas Attorney General settled with an individual and a company, resolving allegations that they promoted a Web-based scheme through seminars during which they fraudulently promised victims of last year's hurricanes and others that they could eliminate their debt in exchange for a $5,000 up-front deposit.[32]

C. Deterrence and Returned Funds

According to FEMA and the American Red Cross, a total of more than $18.2 million in disaster-assistance funds has been voluntarily returned to those organizations. As of August 24, 2006, FEMA had $15.82 million in disaster-assistance checks and money orders returned to it. As of September 1, 2006, the American Red Cross had received $2,471,350 in returned disaster-assistance funds, including $2,401,787 in checks, $50,021 in client-assistance cards, and $19,542 in gift cards. While some of these returns may be due to mistaken overpayments by these organizations rather than fraud by the applicants, there are continuing indications that many of

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[30] *See* Louisiana State Police Insurance Fraud Unit, http://www.lsp.org/ifu.html#news.

[31] *See* Mississippi Attorney General, Press Release, April 5, 2006, *available at* http://www.ago.state.ms.us/pressreleases/contractorarrest.pdf.

[32] *See* Texas Attorney General, News Release, July 20, 2006, *available at* http://www.oag.state.tx.us/oagnews/release.php?id=1660.

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the recipients recognized that they were not entitled to the funds and wanted to avoid possible prosecution.

D. Increased Coordination

1. The 2006 New Orleans Conference

After a full year of vigorous activity, the Task Force has organized and scheduled its first annual conference to be held in New Orleans on September 13, 2006. The purpose of this conference will be to take stock of the year's activity, establish and review important lessons learned and discuss the future work of the Task Force. This conference will bring together close to 150 senior level and operational representatives of federal, state, and local law enforcement agencies including those represented last October and adding the offices of the Mississippi and Louisiana State Attorneys General, the Mississippi State Auditor's Office, the Louisiana Inspector General and other key state and local partners. The cross-cutting participation demonstrates the effectiveness of the Task Force's national response and its unprecedented effort in the fight against disaster-related assistance fraud.

2. The Joint Command Center

Since its creation in October 2005, the goal of the Joint Command Center has been to facilitate a fully integrated and coordinated nationwide law enforcement response to fraud and corruption associated with the unprecedented destruction of Hurricanes Katrina, Rita, and Wilma. The Joint Command Center operations, located at Louisiana State University in Baton Rouge, have steadily grown in scope and effectiveness, as federal law enforcement agencies and Inspectors General have dedicated investigative and analytical resources to the mission of the Task Force. [See Figure 3 below.] In this regard, the FBI, the DHS-OIG, the Department of Housing Office of Inspector General and the U.S. Postal Inspection Service deserve particular mention for their consistent provision of personnel and logistical support to the Command Center.

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Figure 3 - Federal Agents Confer at Joint Command Center, Baton Rouge

[Source: Lyman Thornton]

The following 33 agencies and Department of Justice components currently have representatives assigned to the Joint Command Center or designated as Points of Contact for the Joint Command Center:

- Department of Justice, Criminal Division;
- Department of Justice, Civil Division;
- Department of Justice, Antitrust Division;
- Department of Justice, Office of Inspector General;
- Federal Bureau of Investigation;
- DHS-OIG;
- United States Secret Service;
- Social Security Administration, Office of Inspector General;
- Department of Housing and Urban Development, Office of Inspector General;
- Department of Labor, Office of Inspector General;
- U.S. Postal Inspection Service;
- U.S. Postal Service, Office of Inspector General;

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- Internal Revenue Service, Criminal Investigation
- Treasury Inspector General for Tax Administration;
- Department of Health and Human Services, Office of Inspector General;
- Environmental Protection Agency, Office of Inspector General;
- Environmental Protection Agency, Criminal Investigative Division;
- Department of Agriculture, Office of Inspector General;
- Department of Commerce, Office of Inspector General;
- Department of Defense, Office of Inspector General (DoD-OIG) and Defense Criminal Investigative Service (DCIS);
- Department of Energy, Office of Inspector General;
- Department of Transportation, Office of Inspector General;
- National Aeronautics and Space Administration, Office of Inspector General;
- General Services Administration, Office of Inspector General;
- Small Business Administration, Office of Inspector General;
- Department of Veterans Affairs, Office of Inspector General;
- United States Attorney's Office for the Eastern District of Louisiana;
- United States Attorney's Office for the Middle District of Louisiana;
- United States Attorney's Office for the Western District of Louisiana;
- United States Attorney's Office for the Eastern District of Texas;
- United States Attorney's Office for the Southern District of Texas;
- United States Attorney's Office for the Southern District of Mississippi; and
- United States Attorney's Office for the Southern District of Alabama.

Significant Joint Command Center operational developments during the first eleven months of operation include:

- United States Attorney David R. Dugas continues to serve as the Executive Director of the Joint Command Center. In addition, through a cooperative agreement between the Department of Justice and Louisiana State University, Ms. Kathleen Wylie, the Director of the FBI's LEO National Support Center, now serves as the Deputy Director of the Joint Command Center.

- The Command Center has consolidated two national hotlines, an e-mail address, a fax number and a Post Office Box used by the Task Force to receive complaints and allegations of fraud from across the nation. The Command Center is currently receiving approximately 200 calls per week on the national hotlines.

- There has been a significant increase in the operational capacity of the Command Center through full-time staffing of 17 agents, analysts, and other staff from the FBI, DHS-OIG, HUD-OIG, the Postal Inspection Service, and the Department of Transportation Office of Inspector General, and two data entry personnel.

- A Hurricane Katrina Fraud Task Force Special Interest Group (SIG) was established on the Law Enforcement Online (LEO) website. The Task Force SIG allows the Joint

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Command Center to collect information from, and disseminate information to, Task Force members around the country in a secure electronic environment. The Task Force SIG currently has 287 participating members from 43 federal, state, and local agencies and Inspectors General offices.

- A standard Task Force Complaint Referral Form was developed and is used to transmit fraud complaints and investigative leads to the Joint Command Center for screening, deconfliction, and referral to appropriate law enforcement agencies and Task Force working groups for investigation. The Complaint Referral form is accessible from the general membership section of LEO and may be used by any law enforcement officer in the country with access to LEO.

- An interagency complaint index has been deployed to collect, screen, deconflict, and refer the Task Force Complaint Referral forms received by the Joint Command Center. The information contained on the Complaint Referral forms is posted on the LEO HKFTF SIG and is accessible to designated agency representatives.

- More than 6,800 complaints and allegations of fraud have been received, screened, and referred by the Command Center to federal law enforcement agency field offices across the nation.

- An innovative Referral and Deconfliction Database (RADD) has been developed, in conjunction with Department of Justice Criminal Division and FBI technical personnel. RADD now allows automatic deconfliction of complaints and leads, merger of duplicate complaints, referral of complaints to appropriate agencies and working groups, and tracking of complaints and referrals.

- Command Center staff have done preliminary analysis of fraud trends revealed by the information contained in the complaints received by the Joint Command Center, and Task Force members have developed investigative information and shared it through their Joint Command Center representatives. This analysis has resulted in the independent generation of investigative leads by the Command Center analysts for referral to investigative agencies.

- Points of Contact have been established between the United States Attorney's Offices in the affected areas and the Joint Command Center to facilitate coordination of Joint Command Center operations with the Task Force working groups in the affected districts, as well as ongoing relationships with all 93 United States Attorney's Offices.

- Regular Joint Command Center meetings and day-to-day interaction of the Joint Command Center staff and agency representatives have produced the onsite interagency exchange of information and trends. This interaction has been particularly valuable in alerting participating agencies to fraud indicia revealed by ongoing investigations. In addition, agency representatives share information on the programs used by their

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departments to disburse disaster relief assistance and discuss appropriate investigative methods to detect criminal activity related to those programs.

The LEO Support Center, located in the same building as the Joint Command Center, provides invaluable support and technical assistance to the Joint Command Center operations. For example, on August 24, 2006, the Chairman of the Task Force, Assistant Attorney General Alice S. Fisher, met with federal, state, and local members of the Southern Mississippi Working Group in Gulfport, Mississippi, to discuss ongoing enforcement activities and future plans for oversight of the disbursement of Community Development Block Grant (CDBG) funds in that state. [See Figure 4 below.]

Figure 4 - Southern Mississippi Working Group Meeting, August 24, 2006 [Left to Right: United States Attorney for the Southern District of Mississippi Dunn Lampton; Assistant Attorney General Alice S. Fisher; Criminal Division Chief for the Southern District of Mississippi John Dowdy; and Mississippi Attorney General Jim Hood]

3. Other Investigative Coordination and Assistance

a. Investigative Agencies

- **Federal Bureau of Investigation**

The FBI reports that to date, its field divisions have conducted more than 300 investigations involving fraud against the government and 24 public corruption investigations relating to Hurricanes Katrina, Rita, and Wilma. These investigations have resulted in more than 120 indictments and 30 convictions.

The FBI has played a leading role in the establishment and operation of the Hurricane Katrina Fraud Task Force's Joint Command Center in Baton Rouge, Louisiana. It has set aside more than $230,000 in support of the Command Center's Referral and Deconfliction Database and related systems. It has also provided additional funding to field offices for equipment and

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other operating costs associated with hurricane fraud investigations. Since Hurricane Katrina, the FBI has continued to supplement Public Corruption and Governmental Fraud squads in the Jackson and New Orleans Divisions with Special Agents and support personnel to address the fraud and public-corruption matters associated with the hurricanes.

The New Orleans and Jackson field divisions have also developed working relationships with numerous federal and state agencies to conduct hurricane-related public corruption and fraud investigations. The Jackson Division initiated a Memorandum of Understanding with the Mississippi State Auditor's Office, which is using a $5 million appropriation from the Mississippi State Legislature to combat fraud associated with Community Development Block Grants.

In the past year, the FBI Cyber Division reviewed more than 5,000 website referrals from a variety of sources, including the American Red Cross, Internet Crime Complaint Center (IC3) complaints and listserv postings, Name Protect, the National Cyber Forensic and Training Alliance, and PayPal. Of these 5,000, IC3 sent out 95 referrals to FBI field offices and FBI Legal Attaches abroad. Sixty-four of these 95 referrals have been closed out to date. These 64 referrals resulted in the shutdown of 13 websites, reports by two websites that they were complying with a case-and-desist letter that the American Red Cross sent to them, and two prosecutions that resulted in guilty pleas.

- **Postal Inspection Service**

As a member of the Department of Justice's Hurricane Katrina Fraud Task Force, the U.S. Postal Inspection Service initiated a consumer education campaign, in conjunction with the Task Force, to inform the public of fraud schemes related to Hurricane Katrina relief efforts. During September and October 2005, full page advertisements were placed in 13 newspapers and five magazines nationwide, with a combined readership of more than 21 million.

The Houston Division opened a National Coordination Case due to the scope, complexity, and long-term commitment of the Postal Inspection Service to Hurricane Katrina fraud-related investigations. National coordination of these investigations has facilitated the tracking of cases and the resolution of any conflicting issues between the numerous agencies involved. This also provides a focal point for coordination with the Katrina task forces around the country and creates an effective process to interact with the Task Force in Baton Rouge.

The Postal Inspection Service has conducted 100 criminal investigations of individuals who submitted false claims to FEMA and state government agencies. The results to date include 98 indictments, 103 arrests, 73 convictions, and 13 defendants sentenced.

- **United States Secret Service**

The Secret Service continues to participate as a member of the Task Force. To date, Secret Service investigations throughout the country have contributed to more than 60 federal

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arrests, with a potential fraud loss exceeding more than $2.5 million. Its New Orleans Field Office has contributed significantly to these accomplishments. The majority of Secret Service cases involve fraud to obtain emergency benefits from FEMA and the American Red Cross. To date, the Secret Service's accomplishments in the Task Force include 22 open investigative cases and 67 arrests.

The Secret Service has continued to work in conjunction with the private sector to shut down numerous fictitious websites. With private sector assistance, the Secret Service was able to detect and effectively shut down websites that were victimizing Hurricane Katrina victims, the American Red Cross, and various donors. These shutdowns included 16 "phishing" websites (i.e., websites that purport to be operated by legitimate corporate or non-profit entities, but that are created to harvest personal data from individuals for identity theft and fraud).

- **Internal Revenue Service-Criminal Investigation (IRS-CI)**

IRS-CI continues to be an active participant in the Task Force, with agents assigned to the Baton Rouge, Louisiana, Covington, Louisiana, and Hattiesburg, Mississippi task forces. IRS-CI agents are working closely with representatives from local, state, and federal agencies and lending their expertise in analyzing suspicious financial transactions related to the recovery efforts. In addition, the agency has expedited the clean up efforts in the New Orleans Field Office and has returned to full staffing and operations.

b. Inspectors General

The federal Inspectors General community continues to make vital contributions to the work of the Task Force. Department of Justice representatives of the Task Force continue to attend the regular meetings of the PCIE Homeland Security Roundtable and the Roundtable's Contract Audit Task Force and Individual Assistance Subgroup, as well as special meetings with Inspectors General on specific issues, and to participate in review of the PCIE reports to Congress on the response to Hurricanes Katrina, Rita, and Wilma.

Various Inspectors General have reported the following fraud-related activities to the Task Force:

- **Department of Homeland Security Office of Inspector General (DHS-OIG)**

The DHS-OIG Office of Investigations reports that it has opened offices in Baton Rouge, Louisiana, Biloxi and Hattiesburg, Mississippi and Mobile, Alabama, to exclusively investigate Katrina-related cases. It is working cases involving Hurricanes Katrina, Rita, and Wilma in virtually all of its offices nationwide. Its joint partners include the FBI, the Postal Inspection Service, TIGTA, SSA OIG, HUD OIG, DCIS, Army CID and others, in addition to state and local law enforcement entities.

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Figure 5 - DHS-OIG Office of Investigations Accomplishments Concerning Hurricanes Katrina, Rita, and Wilma

Disaster	*Arrests*	*Indictments*	*Open Investigations*	*Closed Investigations*
Hurricane Katrina	206	229	1,690	2,869
Hurricane Rita	42	37	599	3
Hurricane Wilma	0	0	35	594

[Source: DHS-OIG]

As summarized above in Figure 5, DHS-OIG currently has a total of 2,324 open investigations relating to Hurricanes Katrina, Rita, and Wilma. It also has 206 arrests and 229 indictments relating to Katrina and 42 arrests and 37 indictments relating to Rita.

- **Department of Defense - Office of Inspector General (DoD-OIG)/Defense Criminal Investigative Service (DCIS)**

The Defense Criminal Investigative Service (DCIS), the criminal investigative arm of the Inspector General of the Department of Defense (DoD-OIG), reports that as of August 11, 2006, it has received 17 criminal allegations related to Hurricane Katrina. DCIS agents reviewed the allegations, and have opened seven cases dealing with bribery, kickbacks, and possible product substitution. One of the open cases has resulted in a successful judicial action.

As part of its mission to combat fraud and corruption, DCIS has conducted 40 mission and fraud awareness briefings at the U.S. Army Corps of Engineers (USACE) debris collection and Blue Roof distribution sites. DCIS briefed Corps and contractor employees on the deterrence of potential fraud, bribery, and kickback schemes by informing them that law enforcement officials would be monitoring illegal activity and giving them a point of contact to report suspected fraud.

In regard to the Hurricane Katrina Fraud Task Force, DCIS reports that it attends bi-weekly meetings at the Command Center to brief the other task force members on investigative efforts. DCIS also serves as the liaison between law enforcement and the USACE. DCIS is currently conducting proactive data mining with a FBI intelligence analyst assigned to the Task Force using the USACE debris mission database. The data mining will try to identify indicators of fraud and other criminal activity. DCIS has one agent assigned to the Hurricane Katrina Fraud Working Group at the FBI New Orleans office; another agent participates in a working group in Hattiesburg, Mississippi.

- **Environmental Protection Agency Office of Inspector General (EPA-OIG)**

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The EPA-OIG reports that since September 2005, it has deployed six Special Agents on several missions to the affected Gulf States to participate in Hurricane Katrina Fraud Task Force efforts, meet with EPA officials, government contractors, federal prosecutors, local and state law enforcement officials, and conduct a variety of investigative steps in addressing allegations of fraud. EPA-OIG Agents are participants at the Hurricane Katrina Fraud Task Force Joint Command Center. Special Agents have access to Task Force databases, intelligence, and staff for operational support during investigations conducted in the affected Gulf States, and are engaged in periodic meetings with Task Force members to discuss investigative operations.

The EPA-OIG Financial Fraud Directorate and EPA-OIG Agents met with EPA Region 4 Response Team members to observe clean up activities, brief on-site EPA and contractor staff regarding investigative objectives and priorities, and discussed lessons learned from this response, so that future investigative efforts involving response contracts can be efficiently focused. Information was also gathered from several team members about tracking contract costs, contractor clean-up methods and billing procedures, and other areas susceptible to contract fraud. EPA-OIG Agents from EPA Region 6 have continued in the pursuit of several ongoing investigations.

To date, investigative efforts by the EPA-OIG have addressed several allegations of labor and equipment cost mischarging and the impersonation of EPA officials in furtherance of a scheme or artifice to defraud. While some allegations have been disproven or are currently pending prosecution, others have successfully resulted in administrative suspensions (pending debarment), cease and desist letters for wrongful activity, and recommendations for financial adjustments. EPA-OIG continues to aggressively pursue tips and leads concerning allegations of fraud, and is actively supported by the Task Force.

- **Department of Housing and Urban Development Office of Inspector General (HUD-OIG)**

HUD-OIG Office of Investigation reports that it established two new divisions as a result of its responsibilities to combating waste, fraud, and abuse in the Gulf Coast States - the Disaster Relief Oversight Division (DROD) in Washington, DC and the Hurricane Katrina Fraud Task Force in New Orleans, Louisiana. DROD is primarily responsible for liaison; research, analysis, and recommendations; monitoring, reporting, and dissemination; and strategic planning and implementation of HUD-OIG Office of Investigation directives and initiatives associated with disaster assistance and recovery. The Task Force has personnel assigned in Baton Rouge, Louisiana, Arlington and Houston, Texas, and Hattiesburg, Mississippi to support all HUD program fraud investigations relating to the hurricane disasters.

The Office of Investigation has developed and currently participates in a far-reaching fraud prevention program in the affected states of the Gulf Coast Region sponsoring training courses and workshops in Louisiana, Mississippi, Alabama, Florida, and Texas. These presentations and workshops are designed to educate their state agencies, as well as federal,

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state, and local law enforcement to identify fraud in Community Development Block Grant (CDBG) programs as well as other affected HUD-related programs.

To date, the Office of Investigation has opened 46 hurricane-related cases, which have resulted in 9 arrests, 9 indictments, and 3 convictions. In addition, the HUD-OIG Hotline has processed approximately 90 complaints related to the hurricanes. OIG forensic auditors have been assigned to review temporary housing programs and FEMA payments made to HUD-assisted housing residents. The Office of Investigation uses its forensic auditors to inspect and evaluate programs that have not been audited by the OIG Office of Audit.

The Office of Investigation created a "Suspicious Activity Report (SAR)" that will be given to HUD grantees, subgrantees, and others associated with the disbursement CDBG disaster recovery funding. The SAR was also used effectively early on in our efforts to detect fraud in the Katrina Housing Assistance Program with the dissemination to the FEMA and HUD Disaster Relief Centers. The SAR is a useful investigative tool to help notify HUD-OIG of suspected irregularities in the delivery of HUD program money.

The Office of Investigation sponsors meetings and training sessions with industry groups such as the Mortgage Bankers Association, the Public Housing Authorities Directors Association, the National Association of Housing and Redevelopment Officials, private insurance companies, multifamily owners, public housing executive directors, state governments, and economics development agencies. To date, the Office of Investigation has performed numerous significant outreach and liaison activities designed to detect and prevent waste, fraud, and abuse of HUD CDBG disaster recovery funding.

- **Department of Justice Office of Inspector General (DOJ-OIG)**

Since August 29, 2005, the Department of Justice Office of the Inspector General (DOJ-OIG) has opened seven cases concerning hurricane-related benefit fraud. Four of the cases have been referred to the appropriate United States Attorney's Offices and are pending a prosecution disposition. In the remaining three cases, either prosecution was declined or the case was closed because the allegations were not substantiated.

In addition, the DOJ-OIG has conducted oversight of the Department of Justice's expenditures related to hurricane recovery through three separate audits. In one case, involving a sole-source contract awarded by the Federal Bureau of Prisons to a construction company to repair or replace roofing damaged by Hurricane Rita, the DOJ-OIG found that the decision to use a sole-source contract was appropriate and that the BOP took adequate steps to ensure that the contract was fairly negotiated and reasonably priced. The DOJ-OIG also completed an audit concerning actions of the Bureau of Justice Assistance (BJA) in following internal control procedures in awarding disaster relief grants to state and local governments. The DOJ-OIG found that while BJA was proactive in providing additional grant funding to grantees in the Hurricane Katrina affected areas, it had no assurance that funding was going to the areas of greatest need. The DOJ-OIG is currently is performing an audit of the DOJ's purchase card

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expenditures related to hurricane relief and recovery efforts, to examine whether internal controls guard against improper and wasteful purchases.

- **Social Security Administration Office of Inspector General (SSA-OIG)**

The SSA-OIG Office of Audit (OA) reports that it has initiated a review to report on the status of SSA service delivery to individuals affected by Hurricanes Katrina and Rita. As part of this review, it will assess SSA's plans to ensure that payments made under emergency procedures were appropriate and properly safeguarded. As part of its immediate response to the disaster, SSA temporarily changed or eliminated several existing control procedures to ensure continued benefit payments in the affected area. SSA-OIG will assess SSA's plans to ensure that payments made are proper and that controls are sufficient to safeguard against fraud, waste, and mismanagement.

Since the establishment of the Katrina Task Force on August 29, 2005, the SSA-OIG Office of Investigations has opened 45 cases. There have been 16 indictments, 11 arrests, and 3 pleas/convictions. The pleas/convictions resulted in 3 sentencings. From August 29, 2005 to August 7, 2006, the SSA-OIG Office of Investigations Fraud Hotline has received 88 allegations of potential fraud related to Hurricanes Katrina and Rita.

Special agents from the Office of Investigations worked with local law enforcement in several additional capacities. For example, the agents, in preparation for setting up a temporary SSA office, accompanied SSA employees to the Houston Astrodome; escorted SSA employees to restricted areas to assess damage to SSA facilities; and, upon request from SSA, ascertained the status of SSA employees being temporarily housed after the hurricane. The Office of Investigations is actively pursuing allegations of fraud involving SSA's programs and operations, including allegations of Social Security number misuse.

- **Department of Transportation OIG (DoT-OIG)**

DoT-OIG addressed post-storm debris removal by developing pro-active complaints resulting in the arrested of a debris removal monitor contracted with the Department of Transportation and Development (DoTD). This person stopped work, demanded payments to approve work by signing load tickets, and was paid bribes by several truck drivers. His activities were discovered by his employer and he was removed from his position, only to return to the job site with the remaining load ticket books in his possession and then attempted to sell these books for $300. The books were given to a truck driver with the promise of payment and the driver turned the books over to another debris removal monitor. Had the ticket books been used to make claims for work, they could have been worth up to $22,000. Prosecution is pending in state court on state charges of theft and public bribery.

DoT-OIG and the Federal Highway Administration (FHWA) in Baton Rouge visited the Twin-Spans Bridge which crosses over Lake Pontchartrain from Slidell to New Orleans. It was heavily damaged during Hurricane Katrina and temporarily repaired pending a new bridge being

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built. During the visit the contracted maintenance crew reported the steel bolts securing the temporary spans were breaking faster than they could be replaced and they feared a serious traffic accident would soon occur. Some of the questioned bolts were recovered and it was arranged to have these bolts tested by Louisiana DoTD labs. Subsequent testing revealed the sample bolts were found not to be defective. DoT then coordinated with FHWA and the Federal Motor Carrier Safety Administration to have the Louisiana State Highway Patrol enforce speed and weight restrictions on the bridge. FHWA also agreed to pay the Highway Patrol overtime in support of their efforts. Subsequent maintenance efforts have revealed a substantial reduction in breakage of bolts, thus preventing failure of the temporary spans, and a potentially serious traffic accident. The bridge is scheduled to be replaced in three years at a cost of $800 million.

In its efforts to assure the integrity of its Disaster Relief efforts, DoT-OIG cross-checked its list of DoT contractors against the FBI database of complaints and found no criminal complaints had been received against the contractors on its list. It also provided its list to Department of Labor to review for indicators of organized crime activities. Results of their review are pending.

DoT-OIG conducted liaison with dozens of local, state, and federal agencies involved in the Disaster Relief Efforts to monitor appropriate usage of DoT emergency funding. It conducted fraud awareness briefings to make the contracting community alert to some of the criminal schemes DoT-OIG traditionally investigates and in particular, criminal activities the Hurricane Katrina Fraud Task Force was observing as ongoing trends.

- **General Services Administration Office of Inspector General (GSA-OIG)**

The GSA-OIG has participated in the Hurricane Katrina Fraud Task Force since November 2005. The GSA-OIG has provided the task force with information regarding contracts that were facilitated by GSA, via GSA contracting officers on behalf of FEMA and on GSA contracts. The GSA-OIG special agents began their assignment on-site at the Task Force command center to ensure effective liaison with the task force, and since then have attended most task force meetings.

The GSA-OIG has received four allegations of contract fraud related to Hurricane Katrina and Rita. Based on these allegations, the GSA-OIG has opened three investigations, which have been conducted with other agencies of the Task Force. The contracts being investigated involved procurements made by GSA contracting officials for FEMA. The first investigation resulted in administrative recoveries by FEMA of approximately $1.5 million in billing errors by the contractor. The second investigation resulted in the filing of a civil compliant and the garnishment of approximately $1.4 million from the contractor. The third investigation is still being actively worked.

c. Other Agencies and Organizations

- **Department of Labor Wage & Hour Division**

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The Department of Labor's Employment Standards Administration's Wage & Hour Division (WHD) has been a member of the Department of Justice Hurricane Katrina Fraud Task Force since April 3, 2006. The WHD's mission is to "promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation's workforce." WHD enforces the labor standards contained in some of the most comprehensive and basic laws governing the employment relationship, including the minimum wage, overtime, and child labor provisions of the Fair Labor Standards Act (FLSA) and the prevailing wage requirements of the Davis-Bacon Act (DBA) and the Service Contract Act (SCA).

Immediately after the Gulf Coast hurricanes, WHD became concerned about the opportunity for violations of federal wage payment laws. WHD anticipated an influx of new workers in the region due to the many debris removal and reconstruction projects. The potential for exploitation of these workers is high, particularly due to the fact that many of them are recent immigrants and/or do not speak English; they are easily susceptible to non-payment of wages. In addition, due to the fact that the cleanup and rebuilding efforts currently underway in the Gulf Coast are, in large part, being completed pursuant to federally-funded contracts, WHD expected a high degree of DBA and SCA coverage of employees. Moreover, many of the contractors employ multiple tiers of subcontractors, some of whom are inexperienced with and/or unknowledgeable about the wage payment requirements under federally-funded contracts and may want to seize upon the post-hurricane conditions to exploit the situation.

As a result, WHD set up an internal Gulf Coast Task Force to deal with the anticipated problems of non-payment and underpayment of wages to workers in the Gulf Coast. WHD provided assistance to its existing staff in the Gulf Coast region by detailing additional investigators to WHD's New Orleans, Louisiana, and Gulfport, Mississippi, offices on a rotating basis. Since January 2006, WHD has deployed up to 11 additional investigators and managers in the Gulf Coast area to supplement the approximately twenty-six (26) staff members assigned on a permanent basis to its Gulf Coast offices in Mobile, Alabama; New Orleans, Baton Rouge, and Lafayette, Louisiana; and Gulfport, Jackson, and Hattiesburg, Mississippi.

As a result of the efforts of WHD's Gulf Coast team, since August 29, 2005, WHD has investigated nearly 300 employers in hurricane-related investigations, potentially impacting over 8,600 employees. WHD has concluded 111 of these cases and has recovered nearly $1.4 million in back wages. WHD's efforts include the following.

In January 2006, WHD recovered $141,887 in back wages for 106 employees of a debris removal subcontractor at the Naval Construction Battalion Center in Gulfport, Mississippi, following an investigation under the SCA and the Contract Work Hours Safety Standards Act. In June 2006, WHD collected $362,673 in back wages for 680 employees of three companies involved in the clean-up and reconstruction of casinos along the Mississippi Gulf Coast. In July 2006, WHD recovered a total of $181,689 in back wages for 164 employees who performed debris removal for three different companies in the Gulf Coast region. These three lower-tiered

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government subcontractors agreed to pay their workers back wages following investigations under the McNamara-O'Hara Service Contract Act.

In addition, WHD has requested that federal contracting agencies (e.g., FEMA, Army Corps of Engineers, Department of the Navy) withhold in excess of $2 million from federally-funded contracts, allowing WHD to ensure that employees of contractors and sub-contractors will be paid the wages they are due under the law. Finally, WHD has worked extensively to provide outreach and education about the laws it enforces to employers and employees of the Gulf Coast region to ensure employers are aware of their wage payment obligations and employees are aware of their rights.

- **Federal Trade Commission (FTC)**

As a member of the Task Force, the Federal Trade Commission reports that it continues to commit its expertise and resources to assist hurricane victims regain control of their financial lives and avoid scams, and to ensure that Americans' generous charitable donations are not siphoned off by bogus fundraisers. Since August 29, 2005, the Commission's principal contributions to the Task Force efforts have been: (1) to use its existing capabilities to provide a central repository for hurricane-related fraud and identity theft complaints, and making them available to state and federal criminal law enforcement agencies; and (2) to educate consumers on ways to avoid fraud and identity theft.

The Commission receives complaints through its toll-free hotline and online complaint forms, as well as from external database contributors. FTC staff has developed a code for hurricane-related complaints in Consumer Sentinel, its online fraud complaint database, to make it easy for FTC staff, Task Force members, and more than 1,400 other law enforcement agencies to identify these post-hurricane scam complaints. Between August 29, 2005 and July 20, 2006, the FTC has received 524 hurricane-related complaints. It also has received 777 identity theft complaints during this time period, the most common complaint relating to imposters applying for government benefits in the victim's name. To provide law enforcement with better access to the hurricane-related complaints, the FTC developed specialized data reports based on complaints related to post-hurricane scams and identity theft. It posted links to these custom reports on Consumer Sentinel, thus facilitating law enforcement access to these case leads. The FTC further reviews all complaints received to identify trends and possible targets for investigation or referral to criminal authorities.

When Hurricane Katrina hit, the FTC quickly drafted new education materials to address the many financial challenges faced by those affected by the storm, the heightened risk of identity theft, and the need for consumers to be on alert for scams involving, among other things: contractor and home repair, deceptive spam, job offers, rental listings, auto repair, and water treatment devices. Additionally, the FTC set up a Hurricane Recovery website. The website (in English and Spanish), created to provide important information to families and businesses affected by the hurricanes, has received more than 112,000 accesses since its launch in September. Agencies and organizations linking to the site include: MyMoney.gov; the Federal

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Reserve Board; the Federal Deposit Insurance Corporation; Consumers Union; and the JumpStart Coalition for Personal Financial Literacy.

The FTC also distributed a series of live-read public service announcements ("PSAs") to radio stations across the country. These PSAs use the DOJ Hurricane Fraud Task Force name. Two sets of PSAs were distributed: one, e-mailed to 584 radio stations in the states affected by Hurricanes Katrina and Rita, included three messages in 30-second and 15-second formats, in both English and Spanish: 1) Beware of charity fraud; 2) Beware of home repair fraud; and 3) Protect yourself against identity theft. The second set of PSAs was mailed to 5,712 stations in the states that were not directly impacted by either Hurricane. This package contained 30-second and 15-second PSAs in English and Spanish cautioning consumers to beware of charity fraud.

Based on responses from radio stations as of January 5, 2006, there were more than 17,900 reported airings of the English-language spots. The average number of airings per station was 89; the total audience impressions exceeded 38 million. The Spanish-language spots saw more than 6,270 reported airings; the average number of airings per station was 118; the total audience impressions exceeded 11 million.

Finally, the University of Houston Law School's Center for Consumer Law sponsored a workshop for hurricane evacuees and the FTC sent 850 pre-stuffed bags of materials (hurricane-related fraud alerts) which were distributed to the evacuees.

- **American Red Cross**

As part of concerted efforts to address system weaknesses discovered during the hurricanes of 2005, the American Red Cross reports that it continues to implement vigorous internal controls that will assist it in the detection and prevention of fraud, waste and abuse. Key examples of these controls are:

- Requiring background checks for all staff and volunteers to better protect Red Cross assets and the safety of disaster shelter residents;
- Encouraging whistleblowers to bring forward allegations of potential fraud, waste, abuse and wrong-doing by enhancing awareness of the features of the Concern Connection hotline and by standardizing the training module that new volunteers and staff receive regarding how to access and use the hotline;
- Creating and deploying a new staff unit dedicated to ensure that on-site controls are properly established at the beginning of large operations and that compliance with these controls is monitored throughout the disaster response;
- Clarifying and disseminating eligibility standards for financial assistance;
- Requiring supervisors, using analytical tools, to liberally review and sample caseworkers' files to audit the casework;
- Increasing controls training for staff in charge of all Red Cross service centers and disaster operations centers of a certain size; and

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· Providing training to all chapters on the use of Client Assistance Cards and the appropriate controls.

The Office of Investigations, Compliance and Ethics reports that it currently is investigating 8,440 allegations of wrongdoing (95 percent of which are allegations of client financial assistance fraud). Of the 8,440 total allegations, 2,937 are under investigation by law enforcement agencies, 1,609 are in the process of being turned over to law enforcement, and 3,894 are currently under review and investigation by the Office of Investigation, Compliance and Ethics. To date, the fraud allegations constitute less than one half of one percent of the financial assistance provided to hurricane victims.

E. Training and Proactive Detection

The Task Force's first New Orleans Conference, in October 2005 (see Figure 6), provided the Task Force with its first opportunity to provide training to federal prosecutors and agents on investigating and prosecuting disaster fraud-related cases. Since then, the Task Force has provided additional training at the Command Center for federal agents, prosecutors, and auditors on legal and practical issues stemming from disaster-related fraud. Experienced Department of Justice prosecutors from the Criminal and Antitrust Divisions highlighted key criminal offenses that could be applied in various fraud schemes, and Postal Inspectors from the Postal Inspection Service and Special Agents from the FBI and the U.S. Secret Service offered practical guidance on how to investigate these offenses. In addition, the Command Center has conducted more extensive training for Gulf Coast-based Assistant United States Attorneys and

Figure 6 - Attorney General Alberto R. Gonzales Addresses Hurricane Katrina Fraud Task Force Conference, New Orleans, October 20, 2005 [Right: Assistant Attorney General Alice S. Fisher, Chairman of the Task Force]

other agencies at the Command Center. It continues to play a significant role in proactively identifying patterns of potentially fraudulent activity in applications for disaster-related benefits.

Recently, the Department of Justice's Office of Legal Education decided to issue a manual for federal prosecutors on disaster-related fraud. This manual will have chapters written

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by experienced federal prosecutors on all significant aspects of disaster-related fraud. The manual is expected to be published in late 2007.

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V. Future Plans and Responses

Figure 7 - Road in the Ninth Ward of New Orleans, Cleared of Debris After Hurricane Katrina

[Source: David Dugas]

Based on the Task Force's experience to date, it is clear that fraud will exist wherever significant funds are being distributed. Although considerable individual assistance funds have already been distributed, billions of dollars remain to be disbursed designed to repair damaged homes and rebuild infrastructure. When these amounts are disbursed, it is likely that many will attempt to obtain funds to which they are not entitled. Therefore, the Task Force has been working closely with administering agencies to ensure that adequate fraud-prevention measures are in place.

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A. CDBG Grants

In response to the devastation that last year's hurricanes caused for homeowners throughout the Gulf Coast Region (see Figure 8 below), Congress has authorized more than $15 billion in CDBG grants for the states affected by Hurricanes Katrina and Rita. The bulk of that money will go to Louisiana and Mississippi.

Figure 8 - Home in Waveland, Mississippi Destroyed by Hurricane Katrina

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The Hurricane Katrina Fraud Task Force, led by HUD-OIG and the U.S. Attorney's Offices in Louisiana and Mississippi, has used the experience gained through its investigations and prosecutions during the past year to provide advice to the Louisiana Recovery Authority and the Mississippi Development Authority to help design fraud prevention measures for the Community Development Block Grant (CDBG) programs that each state is implementing.

Both Louisiana and Mississippi have elected to spend approximately three-fourths of their CDBG grants to assist homeowners whose homes were destroyed or substantially damaged by the hurricanes. In each state, homeowners will be eligible for grants of up to $150,000. It is estimated that there are more than 130,000 eligible recipients in the two states. The potential for fraud in those programs is massive. However, each state has agreed to adopt anti-fraud measures recommended by the Task Force that should greatly reduce the fraud associated with those

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programs. In addition, each state has agreed to form anti-fraud task forces consisting of federal, state, and local prosecutors and investigators who will work together in conjunction with the Hurricane Katrina Fraud Task Force to investigate and prosecute any fraud that occurs.

The Task Force recognizes that, since fraud follows the money, successful anti-fraud measures that prevent theft or diversion of CDBG funds during the application and grant disbursement phases of the program will likely cause criminals to target the money after it is received by the individual grantees. To combat this, the Task Force is working with state authorities on public outreach and fraud awareness programs to educate grant recipients on how to protect themselves from these schemes. In addition, the Joint Command Center will track fraud complaints related to the CDBG programs and look for signs of consumer fraud related to the program.

B. Infrastructure Rebuilding and Public Assistance Grants

The Criminal Division of the Department of Justice is working closely with the FBI and with auditors and investigators of key Inspectors General offices to gather and analyze information on Infrastructure Rebuilding programs in order to detect, investigate and prosecute fraud and corruption related to those programs. The close collaboration of the member agencies of the Task Force will enable the Task Force to use the resources and expertise of each agency in a coordinated and effective manner for this purpose. In addition, the fraud exposed by Task Force investigations and prosecutions to date has led to closer scrutiny of grant applications and claims for reimbursement by both federal and state auditors and Inspectors General. In some cases, audits of invoices and claims for reimbursement are being conducted before payment is issued, rather than after payment has been made as has been the practice following previous disasters. The information gathered through these processes is being analyzed for indicia of fraud or corruption and any leads are referred for investigation by the appropriate agency field office and U.S. Attorney's Office.

C. SBA Loans

The SBA has approved more than $10 billion in disaster assistance loans to businesses and individuals affected by Hurricanes Katrina and Rita. SBA-OIG has actively participated in the Task Force work to date and will continue to work with the Task Force to investigate and prosecute fraud related to its disaster loans.

* * *

As each of these programs moves forward, the Task Force will continue its vigorous pursuit of procurement fraud, benefit fraud, and the other forms of disaster-related fraud that have consistently been the focus of its efforts.

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Reporting Hurricane-Related Fraud

- Government Fraud and Public Corruption:

  - Call the FBI's tipline at 1-800-CALL FBI (1-800-225-5324)
  - Call the Hurricane Fraud Hotline at 1-866-720-5721
  - Email HKFTF@leo.gov
  - Fax the Hurricane Fraud Hotline at 225-334-4707
  - Write to Hurricane Fraud Task Force, Baton Rouge, LA 70821-4909

- Charity Fraud, Emergency-Benefit Fraud, and Other Types of Consumer Fraud:

  - Call the FTC's Consumer Response Center, toll-free, at 1-877-FTC-HELP (1-877-382-4357), or
  - File an online complaint with the Internet Crime Complaint Center (a joint project of the FBI and the National White Collar Crime Center) at http://ic3.gov

- Identity Theft:

  - Call the FTC's Identity Theft Hotline, toll-free, at 1-877-ID-THEFT (1-877-438-4338), or
  - File an online complaint with the FTC at http://www.consumer.gov/idtheft/

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Image not available for this document, ID: 0.7.10316.32805-000003

System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 518885 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 5:45 PM
To: USDOJ- Office of Public Affairs
Subject: LEADERS OF NATIONWIDE ILLEGAL ALIEN EMPLOYEE-LEASING CONSPIRACY PLEAD GUILTY, ONE DEFENDANT SENTENCED

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 13, 2006
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(202) 514-2008
TDD (202) 514-1888

LEADERS OF NATIONWIDE ILLEGAL ALIEN EMPLOYEE-LEASING CONSPIRACY PLEAD GUILTY, ONE DEFENDANT SENTENCED

WASHINGTON – Two leaders of a nationwide employee-leasing conspiracy that used hundreds of illegal aliens throughout the United States pleaded guilty before U.S. District Judge Kenneth Marra in the Southern District of Florida, and a third defendant was sentenced, the Justice Department announced today.

Jaroslaw Sawczuk, 39, a Polish citizen formerly of Coral Springs, Fla. and Jozef Bronislaw Bogacki, 43, a native of Poland and naturalized U.S. citizen residing in Clearwater, Fla. pleaded guilty to charges of conspiracy to transport, house and otherwise encourage illegal aliens to remain in the United States, and to commit visa, wire, mail, and tax fraud, and money laundering.

Judge Marra sentenced a third defendant, Pavel Preus, 39, a Polish citizen residing in Pompano Beach, Fla., who pleaded guilty to similar charges on September 13, 2005. Preus was sentenced to 37 months in prison, 36 months of supervised release, and ordered to pay $950,000 for unpaid payroll taxes.

Remaining defendants Lucia Kanis, 31, a Slovak citizen; Ivan Kanis, 39, a Slovak citizen residing in the Slovak Republic; and Andor Pikali, 37, a Slovak citizen who resided in Coral Springs, are federal fugitives, at large, and believed to be overseas.

"The Department of Justice will not allow our immigration system to be exploited by those who violate our laws to simply generate profit for themselves," said Assistant Attorney General Alice S. Fisher of the Criminal Division. "We will work vigorously with our law enforcement partners to identify and shut down illegal employee-leasing operations such as this to preserve the integrity of our immigration system and the security of our nation."

Bogacki pleaded guilty to all six counts in which he was named and Sawczuk pleaded to three major counts of a 26-count indictment. The indictment alleges that from 1995 to the present, the defendants conspired to provide unauthorized workers, mostly East Europeans who had entered the United States on tourist visas, to American companies with whom the defendants had contracted to provide legally authorized foreign workers. The indictment alleges that more than 550 illegal aliens were brought into the United States by the defendants. According to the indictment, the alien workers obtained tourist visas to enter the United States and were

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employed illegally in the midwest and southeastern United States on farms, in dairies and in factories. The defendants contracted with American employers to provide workers, for whom the defendants were to pay payroll taxes and workers' compensation deductions. During the course of the conspiracy, the defendants failed to pay $6 million in payroll taxes and laundered in excess of $20 million.

The remaining defendants face maximum penalties of up to 20 years in prison and fines of up to $500,000. In addition, the government is seeking forfeiture of defendant Bogacki's assets. A forfeiture hearing is scheduled for Tuesday, Nov. 28, 2006 at 9 a.m. Bogacki and Sawczuk's sentencing is scheduled for Friday, Dec. 15, 2006.

"The defendants, as charged, chose profits over compliance with our country's immigration and employment laws," said U.S. Attorney Alex Acosta of the Southern District of Florida. "In using illegal aliens to generate their profits, the defendants not only took advantage of these individuals, but also potentially compromised the safety of our citizens. I commend the hard work and dedication of the prosecutors and our law enforcement partners in piercing this criminal enterprise."

"We will not allow criminal organizations to exploit America's immigration system for profit. In this case, the defendants laundered roughly $20 million and failed to pay $6 million in taxes as part of this illegal employee leasing scheme," said Julie Myers, Department of Homeland Assistant Secretary for Immigration and Customs Enforcement (ICE). "ICE is working to restore integrity to the nation's immigration system by targeting violators and working to promote lawful hiring practices."

The joint investigation, known as Operation Pisces, started in 2002. The investigation was led by the Kansas City Office of U.S. Immigration and Customs Enforcement, Group Supervisor Doug Bemiss; the Department of Labor, Office of the Inspector General; Labor Racketeering and Fraud Investigations, Special Agent Sean Kilcoyne; and the Miami IRS field office, Special Agent Kenneth Murphy. The Miami Office of the U.S. Postal Inspection Service also provided support for the investigation. The case was prosecuted by Senior Trial Attorneys Michael E. Barr and Judith O'Sullivan of the Criminal Division's Domestic Security Section, and by Assistant U.S. Attorney Jeffrey H. Kay of the U.S. Attorney's Office for the Southern District of Florida, Ft. Lauderdale office.

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Image not available for this document, ID: 0.7.10316.32674-000002

System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 13, 2006 6:58 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 13, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

Attorney General Delivers Remarks Before Hurricane Katrina One-Year Anniversary Symposium (OPA)
Today, the Attorney General delivered remarks before the Hurricane Katrina One-Year Anniversary Symposium in New Orleans regarding Justice Department efforts to combat fraud in the aftermath of Hurricane Katrina.

FBI Assistant Director to Appear on CNN Tonight (FBI)
FBI Assistant Director John Miller is scheduled to appear on CNN's *Paula Zahn Live* this evening to discuss home-grown terrorism.

FBI Issued Release Announcing Sentencing of Two Individuals Responsible for Zotob Computer Work (FBI)
Today, the FBI issued a press release announcing the sentencing of two individuals in Morocco who were responsible for authoring the Zotob computer worm in 2005.

Leaders of Nationwide Illegal Alien Employee-Leasing Conspiracy Plead Guilty, One Defendant Sentenced (Criminal)
Two leaders of a nationwide employee-leasing conspiracy that used hundreds of illegal aliens throughout the United States pleaded guilty before U.S. District Judge Kenneth Marra in the Southern District of Florida, and a third defendant was sentenced. Jaroslaw Sawczuk, 39, a Polish citizen formerly of Coral Springs, Fla. and Jozef Bronislaw Bogacki, 43, a native of Poland and naturalized U.S. citizen residing in Clearwater, Fla. pleaded guilty to charges of conspiracy to transport, house and otherwise encourage illegal aliens to remain in the United States, and to commit visa, wire, mail, and tax fraud, and money laundering. Judge Marra sentenced a third defendant, Pavel Preus, 39, a Polish citizen residing in Pompano Beach, Fla., who pleaded guilty to similar charges on September 13, 2005. Preus was sentenced to 37 months in prison, 36 months of supervised release, and ordered to pay $950,000 for unpaid payroll taxes.

Talking Points

- The Department of Justice will not allow our immigration system to be exploited by those who violate our laws to simply generate profit for themselves.

- We will work vigorously with our law enforcement partners to identify and shut down illegal employee-leasing operations such as this to preserve the integrity of our immigration system and the security of our nation.

Hurricane Katrina Fraud Task Force Releases Report on First Year of Activities (Criminal)

Over 170 members of federal, state and local law enforcement met today in New Orleans for the first annual conference of the Hurricane Katrina Fraud Task Force, a multi-agency national task force led by the Department of Justice to deter, detect and prosecute cases of fraud in the aftermath of Hurricanes Katrina, Rita and Wilma. In its first-year report given to Attorney General Alberto R. Gonzales at the conference today, the Hurricane Katrina Fraud Task Force reported that more than 400 people have been federally charged with hurricane-related fraud since the Attorney General created the Task Force on Sept. 8, 2005. Those federal charges were filed in 30 federal districts in all regions of the United States. State and local prosecutors' offices have also continued to bring criminal cases involving hurricane-related fraud.

Talking Points

- We must ensure that the criminals who have exploited this time of human suffering are brought to justice, and that their crimes do not undermine the programs intended to rebuild the homes, businesses, and communities destroyed by Hurricanes Katrina, Rita and Wilma.

- The Department of Justice will continue to vigorously investigate and prosecute fraud, in whatever form it may take, and work with our partners to prevent fraud in the future."

THURSDAY'S EXPECTED EVENTS/RELEASES:

12:45 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks regarding Department of Justice efforts to fight child exploitation at the Protect Our Children Conference.
Hilton Kansas City Airport Hotel
Shawnee Ballroom
8801 N.W. 112th Street
Kansas City, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to Angela Williamson at the Department of Justice at 202-532-5349.

1:30 P.M. CDT Federal Bureau of Investigation Director Robert Mueller and Inspector General Glenn Fine will testify before the House Appropriations Subcommittee on Science, the Departments of State,

Justice, and Commerce and Related Agencies regarding FBI Oversight.
Rayburn House Office Building
Room 2359
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the House Appropriations Committee at 202-225-2771.

2:30 P.M. EDT

Lee Lofthus, Acting Assistant Attorney General for the Justice Management Division, will testify before the Senate Homeland Security and Governmental Affairs Subcommittee on Federal Financial Management, Government Information, and International Security regarding Department of Justice policies on conference attendance and support, budget ceilings, and overall trends in conference spending.
Dirksen Senate Office Building
Room 342
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Homeland Security and Government Affairs Committee at 202-224-4751.

System Administrator

From:	System Administrator
Sent:	Wednesday, September 13, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 9:57 AM
To: USDOJ- Office of Public Affairs
Subject: AAG THOMAS O. BARNETT ADDRESSES FORDHAM COMPETITION LAW INSTITUTE'S 33RD ANNUAL CONFERENCE ON INTERNATIONAL ANTITRUST LAW & POLICY

(PDF version is attached.)

DEPARTMENT OF JUSTICE

Criminal Enforcement Of
Antitrust Laws: The U.S. Model

Address by

Thomas O. Barnett
Assistant Attorney General
Antitrust Division
U.S. Department of Justice

Presented at the
Fordham Competition Law Institute's
Annual Conference on International Antitrust Law and Policy
New York, New York

September 14, 2006

Introduction

I am greatly honored to participate today in the Fordham Competition Law Institute's thirty-third annual Conference on International Antitrust Law and Policy. It is a great tribute to Barry Hawk's vision and energy that this conference has thrived for so long, and that it continues to prove its usefulness year after year.

In my time with you today I will talk about the United States' experience in criminal antitrust prosecutions and highlight the characteristics of the U.S. model that I believe have led to our successes. I will also explain why I believe that the expansion of criminal antitrust enforcement in other jurisdictions, when done

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well, benefits United States consumers, and I will highlight some of the excellent work that antitrust prosecutors are doing in other jurisdictions.

I. The U.S. Experience in Cartel Enforcement

Our Supreme Court has accurately labeled cartels "the supreme evil of antitrust." *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 408 (2004). The fixing of prices, bids, output, and markets by cartels has no plausible efficiency justification; therefore, antitrust authorities properly regard cartel behavior as *per se* illegal and a "hard core" violation of the competition laws.

The United States has long experience prosecuting cartels, and its efforts have yielded solid results. Some of those results are quantifiable: in fiscal years 2004 and 2005, and so far in 2006, the Antitrust Division of the Department of Justice has obtained fines of $360 million, $338 million, and $473 million, respectively, and has brought criminal cases against 69 firms. Some of the results are less tangible, but no less real: the Division has uncovered evidence that some cartelists choose to compete in the United States, even while continuing cartel behavior in other nations, due to the fear of U.S. prosecution.

The Antitrust Division's anti-cartel enforcement program has been built over many years of dedicated effort. Based on our experience, I will discuss seven practices that have contributed to the success of the program: (i) focus prosecutors on "hard core" collusive activity; (ii) treat cartels as serious crimes; (iii) provide an amnesty program and "amnesty plus"; (iv) vigorously prosecute obstruction of justice; (v) charge cartels in conjunction with other offenses; (vi) provide transparency and predictability; and (vii) publicize these enforcement efforts. Together these practices serve to emphasize the importance of cartel enforcement, change the cost-benefit calculation to cause firms to avoid or withdraw from cartel activity, and draw public attention to the harm that cartels cause and the public benefits from stopping them.

I will briefly discuss each of these practices to show why we think they are so critical.

First, prosecutors should focus on "hard core" collusive activity. The most important step in prosecuting cartels, and particularly in deterring them, is to make clear to all that anti-cartel enforcement should be and is a priority. One way we have done this in the United States is by separating criminal from civil enforcement. Creating a specialized criminal enforcement team has allowed us to attract, train, and retain people whose passion is criminal enforcement.

At the same time, the Division focuses its criminal enforcement only on hard core violations. By focusing narrowly on price fixing, bid-rigging, and market allocations, as opposed to the "rule of reason" or monopolization analyses used in civil antitrust law, we have established clear, predictable boundaries for businesses. This narrow focus also helps conserve prosecution and judicial resources by reducing the number of potential cases and also by reducing the complexity of proof: proving the existence of an agreement establishes the violation without the need for the detailed economic testimony common in civil antitrust actions.

Second, the penalty for cartel violations should fit the crime. Penalties should reflect the fact that cartels inflict enormous consumer harm with no corresponding efficiency gains. Because cartelists are capable of making a cost/benefit decision that discounts a possible fine as merely a cost of doing business illegally, cartel penalties not only should be large enough to negate financial incentives to conspire, but also should include substantial jail time for responsible individuals. Nothing is a greater deterrent and nothing is a greater incentive for a cartelist, once exposed, to cooperate in the investigation of his co-conspirators than the threat of substantial incarceration in a U.S. prison. Keeping our criminal cases focused on hard core conduct that has no plausible business justification – and that usually occurs in secret, accompanied by coverups and lies – also makes judges and juries feel more comfortable in sending these defendants to jail.

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Third, a criminal antitrust program should provide for an amnesty or leniency option and for "amnesty plus." Amnesty programs are invaluable in detecting cartels and in collecting the evidence necessary to obtain a conviction. It is notoriously difficult to discover cartel behavior or, once discovered, to compile sufficient evidence to successfully prosecute cartel members in court. To penetrate the elaborate concealment strategies cartels use, prosecutors must have a tool to convert cartel members into cooperative witnesses, so that prosecutors can gain access to background information, testimony, and the documents that otherwise might be destroyed. Amnesty programs are such a tool.

Amnesty programs work by changing the cost/benefit calculation of cartelization. To do this properly, an amnesty program requires three elements.

- There must be severe sanctions for firms and individuals that do not obtain amnesty — not only severe as a general matter, but also severe as a relative matter, in terms of what is lost by not cooperating. An amnesty program must provide significant benefits as compared with the alternative strategies of staying in a cartel or withdrawing but remaining silent.

- There must also be a genuine fear of detection. Antitrust authorities must have a credible threat to discover cartel behavior. If firms perceive that the risk of being caught by antitrust authorities is very small, stiff maximum penalties will not be sufficient to deter cartel activity or to cause firms to report their wrongdoing to authorities in exchange for amnesty. Once that credible threat exists, the threat of being turned in by one's fellow corporate cartelists will increase. It is also very helpful to have an individual leniency policy, which creates the potential for an amnesty race between a corporation and its own culpable employees.

- There must be predictability and transparency to the amnesty program. The United States program is set forth in two documents — the Corporate Leniency Policy and the Individual Leniency Policy — that give potential applicants a high degree of assurance that, if they take the risk of coming forward, they will get the reward. Transparency in the amnesty program thus makes it more likely that applicants will come in, and that the cartel will be broken up.

The Division's "Amnesty Plus" program serves the same purpose. "Amnesty Plus" refers to benefits that prosecutors can offer to a cartel member who discloses previously undetected antitrust offenses involving a cartel *different* from the one that first brought that cartelist to the prosecutors' attention. Amnesty Plus induces firms that are already under investigation to clean house and report violations in which it may be involved in other markets. Roughly half of the Division's current international cartel investigations were initiated by evidence obtained as a result of an investigation of a completely separate market. Most of the corporate defendants in international cartel cases are multinational companies selling hundreds of different products. The Division's experience is that if a company is fixing prices in one market, the chances are good that it is doing so in other markets, and that the executives involved in one cartel have likely been involved in others, or have worked with other executives who taught them the tricks of the collusion trade. The Division has had great success pursuing a strategy of "cartel profiling," in which one investigation eventually gives root to prosecutions in a half-dozen or more different markets. Through Amnesty Plus, exposure of a single member of a single cartel has the potential to bring a series of cartels tumbling down like a house of cards.

While I am on the topic of amnesty, I want to address the issue of revocation. The Division does not lightly reach the decision to revoke conditional amnesty once it has been granted. Indeed, we strongly prefer that conditional amnesty recipients successfully comply with their obligations and obtain unconditional amnesty. Since 1993, the Division has withdrawn amnesty in only one instance, a record which underscores the

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Division's commitment to the program. At the same time, however, the importance of our amnesty program requires that we protect the integrity of the process. If, for example, amnesty applicants misrepresent facts to us, fail to stop their cartel activities promptly once they are discovered, or fail to cooperate, then the Division must protect the integrity of the program.

Fourth, to protect the integrity of their investigations prosecutors should vigorously prosecute obstruction of justice. Cartelists are frequently adept at concealment, which can include actively obstructing a prosecutor's investigation. To address this concern, the Cartels Working Group of the International Competition Network recommended in May 2006 that the punishment imposed for impeding a cartel investigation should be on par with punishment for the original offense. I endorse that view and commend the ICN's report as important reading.

Fifth, enforcers should charge antitrust crimes in conjunction with other offenses. Just as punishing obstruction of antitrust investigations emphasizes the importance of the antitrust offense being investigated, prosecutors should not hesitate to combine antitrust charges with charges of other crimes. Prosecutors frequently combine embezzlement charges with claims for illegal wire transfers or evidence destruction, for example, and the same approach is appropriate for cartel offenses. The Division has uncovered cartel activity in conjunction with crimes such as mail and wire fraud, bribery, money laundering, and tax offenses, to name just a few. Antitrust prosecutors should have the power and the inclination to pursue a cartelist for each and every criminal violation, both to vindicate such proscriptions on their own merits and to induce cooperation against other members of the cartel.

Sixth, the success thus far of the U.S. model suggests that jurisdictions should provide transparency and predictability in cartel enforcement. Informing market participants of the rules and likely consequences provides a critical foundation for effective deterrence. Businesses need to know where the line has been drawn so that they have an opportunity to conform their behavior to the law. Further, as discussed above, the success of an amnesty program depends on potential applicants having confidence that they will obtain the benefits of amnesty if they comply with a set of clear requirements. In the United States' experience, cooperating parties come forward in direct proportion to the predictability and certainty of their treatment following cooperation. Moreover, establishing transparent standards for other aspects of the criminal enforcement process, such as the decision to open a cartel investigation or the decision to bring charges makes prosecutors' jobs easier: they have a clear procedure to follow internally and a basis for explaining the fairness of their actions.

Finally, antitrust enforcers should publicize their anti-cartel efforts in order to maximize deterrence. Deterrence is preferable to prosecution, both in terms of preventing competitive harm in the first place, and in terms of conserving enforcement resources. Companies who have been invited to join a cartel will think long and hard about whether it is worth it if they know they will face harsh penalties and if they know that their co-conspirators have strong incentives to turn them in. And if publicity is particularly effective, it can lead both to more complaints and to complaints that are more actionable, as cartel victims and amnesty applicants learn to give enforcers the specific information necessary to make a case.

II. The Mutual Benefits of Vigorous Cartel Enforcement in Other Jurisdictions

Although I have focused on how we do things in the United States, in a moment I will take a few minutes to draw attention to the efforts and successes of cartel prosecutions in other jurisdictions. It is important for all of us here to take note of this good work being done elsewhere because the benefits of vigorous, principled cartel enforcement flow across borders. In a number of ways, cartel enforcement in one country benefits citizens of another.

One benefit of increased international cartel enforcement is simply that cartels run a greater risk of detection with more investigators on the beat. Having colleagues in other jurisdictions focused on criminal

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enforcement also leads to greater success in our own prosecutions here at home, with easier access to evidence and witnesses.

Adding more jurisdictions to the list of countries with criminal enforcement also increases deterrence since it raises the cost of entering or continuing in cartels. For example, it makes it harder for cartels to coordinate where they can cartelize and where they cannot. We know that executives actively engaged in cartels in other countries have specifically decided not to fix prices in the United States, in order to reduce the risk of going to jail here. Increasing the number of jurisdictions that need to be avoided makes cartels harder to manage and less profitable.

Moreover, increasing cartel enforcement abroad reduces the number of safe harbors for executives who have engaged in cartel offenses and provides stronger incentives for those executives to accept responsibility and cooperate with Division investigations. Even if a fugitive resides in a country that would not extradite the defendant to the United States for an antitrust offense, a fugitive still runs the risk of being extradited if he or she travels outside his or her home country. If a defendant on an Interpol Red Notice list travels to a third country, that country may choose to detain the defendant and honor an extradition request from the United States. Thus, a fugitive is not only restricted from traveling to the United States, but also must avoid traveling to any other country that might initiate its own prosecution or extradition proceeding.

Of course, these benefits will flow only if cartels know they will face vigorous prosecution. Such prosecutions are increasing, and I am pleased to observe the criminal enforcement accomplishments of a number of other jurisdictions.

Japan: In May 2005, the Japanese Fair Trade Commission (JFTC) cracked what many have described as the highest profile cartel case in the last 30 years in Japan, involving bid rigging on billions of dollars of steel bridge construction projects ordered by the government. The JFTC initiated a record number of criminal prosecutions against 26 companies, as well as 13 corporate officials, for their involvement in the cartel. On the heels of this high-profile prosecution, a number of major revisions to Japan's Antimonopoly Act became effective in January 2006. The amendments include a substantial increase in the administrative fine that the JFTC can impose on cartel participants, authority for the JFTC to obtain compulsory search warrants in investigations of cartel conduct that is likely to be prosecuted criminally, and the introduction of a Corporate Leniency Program. On May 31, 2006, the JFTC reported that it received twenty-six leniency applications between January 4, 2006 and March 31, 2006, evidencing the early success of Japan's new leniency program. On May 23, 2006, the JFTC again demonstrated its determination to use criminal process in cartel enforcement when it filed criminal accusations with the Prosecutor General against eleven companies for bid-rigging in connection with municipal disposal facility construction projects. These prosecutions and amendments, combined with the creation of a new Criminal Investigation Department within the JFTC's Investigation Bureau, signal a new era of increased accountability for companies and executives that engage in hard-core cartel violations in Japan.

Ireland: In March 2006, Ireland became the first country in Europe to obtain a criminal conviction after a jury trial for a competition offense. This conviction was the most recent successful criminal prosecution stemming from a series of criminal price fixing charges brought by the Irish Director of Public Prosecutions against 24 defendants across the west of Ireland in the home heating oil industry, following an investigation by the Irish Competition Agency that included multiple raids. The charges were brought under Ireland's 1996 Competition Act, which carries a maximum jail sentence of two years in prison and fines of up to the greater of 3.8 million Euros or 10% of turnover. The Competition Act was revised in 2002, and prosecutions brought under the new Act carry more substantial penalties, including a maximum jail sentence of five years. On April 19, 2006, following an investigation by the Irish Competition Authority, the Irish Director of Public Prosecutions brought its first case charging a violation under the amended Competition Act against a Cork businessman for aiding Ford dealers to fix their car prices.

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Israel: The Israel Antitrust Authority is a strong advocate of jail sanctions for individuals. Jail sentences were imposed and served, for example, in the IAA's prosecution of a sophisticated fourteen-year cartel among virtually all Israeli manufacturers of floor tiles, which fixed prices and divided the market for floor tiles. An executive of the leading company in the cartel received a nine month jail sentence, the economic advisor who coordinated and enforced the cartel received an eight month jail sentence, the executive of the second largest company in the cartel received a seven month jail sentence, and two other executives received five and three month jail sentences. In denying an appeal of the alleged severity of the nine month sentence, the Israeli Supreme Court established that jail time is the proper sentence for economic felonies, given that cartelists do not engage in cartels because of economic or social duress but rather to pursue easy profits at the public's expense.

United Kingdom: I am pleased to observe that, over the last six years, our colleagues in the United Kingdom have become among the strongest advocates in the international fight against cartels. In 2000, the British government implemented a new competition law that prohibited cartels and other anti-competitive behavior, giving the Office of Fair Trading new investigative powers and expanding resources for detecting cartel activity. The new powers included the creation of a corporate leniency program modeled after the Division's Leniency Program. The Competition Act also imposed stiff fines for companies involved in cartels. In 2001, the United Kingdom removed a side letter provision that had excluded antitrust assistance from the U.S.-U.K. Mutual Legal Assistance Treaty. Then, in 2002, the U.K. Enterprise Act was passed, introducing criminal sanctions of up to five years in prison and an unlimited fine, effective in June 2003, for individuals who engage in hard-core cartels.

Canada: Our colleagues in Canada offer an example for jurisdictions around the world for how a competition authority can work effectively with a separate prosecuting office. While there can be challenges to effective cooperation between prosecutors and competition enforcers, the Bureau of Competition and Department of Justice attorneys do work well together in Canada. This is particularly important in the leniency context, where leniency programs will wither where there is the potential for criminal exposure for cartel offenses and prosecutors do not commit to the program. Canada can thus serve as a good example for others with this kind of system.

European Commission: Finally, I am happy to note that cartel investigators in the Division have never worked as closely and as effectively with our colleagues in the European Commission as they do today. A prime example is the convergence in our corporate leniency programs, which has led to a substantial increase in the number of firms reporting international cartel activity to both authorities. Simultaneous reporting has, in turn, provided our investigators with the opportunity to coordinate surprise raids on subjects in multiple jurisdictions. As a result, we are able to preserve and gain access to valuable information that in the past would likely have been lost or out of our reach.

Conclusion

Thank you for your attention. I look forward to the remarks of my fellow panelists and the discussion to follow.

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Barnett Fordham Speech 2006.pd...

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DEPARTMENT OF JUSTICE

Criminal Enforcement Of Antitrust Laws: The U.S. Model

Address by

Thomas O. Barnett
Assistant Attorney General
Antitrust Division
U.S. Department of Justice

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Our Supreme Court has accurately labeled cartels "the supreme evil of antitrust." *Verizon Communications Inc. v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 408 (2004). The fixing of prices, bids, output, and markets by cartels has no plausible efficiency justification; therefore, antitrust authorities properly regard cartel behavior as *per se* illegal and a "hard core" violation of the competition laws.

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At the same time, the Division focuses its criminal enforcement only on hard core violations. By focusing narrowly on price fixing, bid-rigging, and market allocations, as opposed to the "rule of reason" or monopolization analyses used in civil antitrust law, we have established clear, predictable boundaries for businesses. This narrow focus also helps conserve prosecution and judicial resources by reducing the number of potential cases and also by reducing the complexity of proof: proving the existence of an agreement establishes the violation without the need for the detailed economic testimony common in civil antitrust actions.

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Second, the penalty for cartel violations should fit the crime. Penalties should reflect the fact that cartels inflict enormous consumer harm with no corresponding efficiency gains. Because cartelists are capable of making a cost/benefit decision that discounts a possible fine as merely a cost of doing business illegally, cartel penalties not only should be large enough to negate financial incentives to conspire, but also should include substantial jail time for responsible individuals. Nothing is a greater deterrent and nothing is a greater incentive for a cartelist, once exposed, to cooperate in the investigation of his co-conspirators than the threat of substantial incarceration in a U.S. prison. Keeping our criminal cases focused on hard core conduct that has no plausible business justification – and that usually occurs in secret, accompanied by coverups and lies – also makes judges and juries feel more comfortable in sending these defendants to jail.

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- There must be severe sanctions for firms and individuals that do not obtain

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- There must also be a genuine fear of detection. Antitrust authorities must have a credible threat to discover cartel behavior. If firms perceive that the risk of being caught by antitrust authorities is very small, stiff maximum penalties will not be sufficient to deter cartel activity or to cause firms to report their wrongdoing to authorities in exchange for amnesty. Once that credible threat exists, the threat of being turned in by one's fellow corporate cartelists will increase. It is also very helpful to have an individual leniency policy, which creates the potential for an amnesty race between a corporation and its own culpable employees.
- There must be predictability and transparency to the amnesty program. The United States program is set forth in two documents — the Corporate Leniency Policy and the Individual Leniency Policy — that give potential applicants a high degree of assurance that, if they take the risk of coming forward, they will get the reward. Transparency in the amnesty program thus makes it more likely that applicants will come in, and that the cartel will be broken up.

The Division's "Amnesty Plus" program serves the same purpose. "Amnesty Plus" refers to benefits that prosecutors can offer to a cartel member who discloses previously undetected

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antitrust offenses involving a cartel *different* from the one that first brought that cartelist to the prosecutors' attention. Amnesty Plus induces firms that are already under investigation to clean house and report violations in which it may be involved in other markets. Roughly half of the Division's current international cartel investigations were initiated by evidence obtained as a result of an investigation of a completely separate market. Most of the corporate defendants in international cartel cases are multinational companies selling hundreds of different products. The Division's experience is that if a company is fixing prices in one market, the chances are good that it is doing so in other markets, and that the executives involved in one cartel have likely been involved in others, or have worked with other executives who taught them the tricks of the collusion trade. The Division has had great success pursuing a strategy of "cartel profiling," in which one investigation eventually gives root to prosecutions in a half-dozen or more different markets. Through Amnesty Plus, exposure of a single member of a single cartel has the potential to bring a series of cartels tumbling down like a house of cards.

While I am on the topic of amnesty, I want to address the issue of revocation. The Division does not lightly reach the decision to revoke conditional amnesty once it has been granted. Indeed, we strongly prefer that conditional amnesty recipients successfully comply with their obligations and obtain unconditional amnesty. Since 1993, the Division has withdrawn amnesty in only one instance, a record which underscores the Division's commitment to the program. At the same time, however, the importance of our amnesty program requires that we protect the integrity of the process. If, for example, amnesty applicants misrepresent facts to us, fail to stop their cartel activities promptly once they are discovered, or fail to cooperate, then the Division must protect the integrity of the program.

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Fourth, to protect the integrity of their investigations prosecutors should vigorously prosecute obstruction of justice. Cartelists are frequently adept at concealment, which can include actively obstructing a prosecutor's investigation. To address this concern, the Cartels Working Group of the International Competition Network recommended in May 2006 that the punishment imposed for impeding a cartel investigation should be on par with punishment for the original offense. I endorse that view and commend the ICN's report as important reading.

Fifth, enforcers should charge antitrust crimes in conjunction with other offenses. Just as punishing obstruction of antitrust investigations emphasizes the importance of the antitrust offense being investigated, prosecutors should not hesitate to combine antitrust charges with charges of other crimes. Prosecutors frequently combine embezzlement charges with claims for illegal wire transfers or evidence destruction, for example, and the same approach is appropriate for cartel offenses. The Division has uncovered cartel activity in conjunction with crimes such as mail and wire fraud, bribery, money laundering, and tax offenses, to name just a few. Antitrust prosecutors should have the power and the inclination to pursue a cartelist for each and every criminal violation, both to vindicate such proscriptions on their own merits and to induce cooperation against other members of the cartel.

Sixth, the success thus far of the U.S. model suggests that jurisdictions should provide transparency and predictability in cartel enforcement. Informing market participants of the rules and likely consequences provides a critical foundation for effective deterrence. Businesses need to know where the line has been drawn so that they have an opportunity to conform their behavior to the law. Further, as discussed above, the success of an amnesty program depends on potential applicants having confidence that they will obtain the benefits of amnesty if they

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comply with a set of clear requirements. In the United States' experience, cooperating parties come forward in direct proportion to the predictability and certainty of their treatment following cooperation. Moreover, establishing transparent standards for other aspects of the criminal enforcement process, such as the decision to open a cartel investigation or the decision to bring charges makes prosecutors' jobs easier: they have a clear procedure to follow internally and a basis for explaining the fairness of their actions.

Finally, antitrust enforcers should publicize their anti-cartel efforts in order to maximize deterrence. Deterrence is preferable to prosecution, both in terms of preventing competitive harm in the first place, and in terms of conserving enforcement resources. Companies who have been invited to join a cartel will think long and hard about whether it is worth it if they know they will face harsh penalties and if they know that their co-conspirators have strong incentives to turn them in. And if publicity is particularly effective, it can lead both to more complaints and to complaints that are more actionable, as cartel victims and amnesty applicants learn to give enforcers the specific information necessary to make a case.

II. The Mutual Benefits of Vigorous Cartel Enforcement in Other Jurisdictions

Although I have focused on how we do things in the United States, in a moment I will take a few minutes to draw attention to the efforts and successes of cartel prosecutions in other jurisdictions. It is important for all of us here to take note of this good work being done elsewhere because the benefits of vigorous, principled cartel enforcement flow across borders. In a number of ways, cartel enforcement in one country benefits citizens of another.

One benefit of increased international cartel enforcement is simply that cartels run a greater risk of detection with more investigators on the beat. Having colleagues in other

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jurisdictions focused on criminal enforcement also leads to greater success in our own prosecutions here at home, with easier access to evidence and witnesses.

Adding more jurisdictions to the list of countries with criminal enforcement also increases deterrence since it raises the cost of entering or continuing in cartels. For example, it makes it harder for cartels to coordinate where they can cartelize and where they cannot. We know that executives actively engaged in cartels in other countries have specifically decided not to fix prices in the United States, in order to reduce the risk of going to jail here. Increasing the number of jurisdictions that need to be avoided makes cartels harder to manage and less profitable.

Moreover, increasing cartel enforcement abroad reduces the number of safe harbors for executives who have engaged in cartel offenses and provides stronger incentives for those executives to accept responsibility and cooperate with Division investigations. Even if a fugitive resides in a country that would not extradite the defendant to the United States for an antitrust offense, a fugitive still runs the risk of being extradited if he or she travels outside his or her home country. If a defendant on an Interpol Red Notice list travels to a third country, that country may choose to detain the defendant and honor an extradition request from the United States. Thus, a fugitive is not only restricted from traveling to the United States, but also must avoid traveling to any other country that might initiate its own prosecution or extradition proceeding.

Of course, these benefits will flow only if cartels know they will face vigorous prosecution. Such prosecutions are increasing, and I am pleased to observe the criminal enforcement accomplishments of a number of other jurisdictions.

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Japan: In May 2005, the Japanese Fair Trade Commission (JFTC) cracked what many have described as the highest profile cartel case in the last 30 years in Japan, involving bid rigging on billions of dollars of steel bridge construction projects ordered by the government. The JFTC initiated a record number of criminal prosecutions against 26 companies, as well as 13 corporate officials, for their involvement in the cartel. On the heels of this high-profile prosecution, a number of major revisions to Japan's Antimonopoly Act became effective in January 2006. The amendments include a substantial increase in the administrative fine that the JFTC can impose on cartel participants, authority for the JFTC to obtain compulsory search warrants in investigations of cartel conduct that is likely to be prosecuted criminally, and the introduction of a Corporate Leniency Program. On May 31, 2006, the JFTC reported that it received twenty-six leniency applications between January 4, 2006 and March 31, 2006, evidencing the early success of Japan's new leniency program. On May 23, 2006, the JFTC again demonstrated its determination to use criminal process in cartel enforcement when it filed criminal accusations with the Prosecutor General against eleven companies for bid-rigging in connection with municipal disposal facility construction projects. These prosecutions and amendments, combined with the creation of a new Criminal Investigation Department within the JFTC's Investigation Bureau, signal a new era of increased accountability for companies and executives that engage in hard-core cartel violations in Japan.

Ireland: In March 2006, Ireland became the first country in Europe to obtain a criminal conviction after a jury trial for a competition offense. This conviction was the most recent successful criminal prosecution stemming from a series of criminal price fixing charges brought by the Irish Director of Public Prosecutions against 24 defendants across the west of Ireland in

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the home heating oil industry, following an investigation by the Irish Competition Agency that included multiple raids. The charges were brought under Ireland's 1996 Competition Act, which carries a maximum jail sentence of two years in prison and fines of up to the greater of 3.8 million Euros or 10% of turnover. The Competition Act was revised in 2002, and prosecutions brought under the new Act carry more substantial penalties, including a maximum jail sentence of five years. On April 19, 2006, following an investigation by the Irish Competition Authority, the Irish Director of Public Prosecutions brought its first case charging a violation under the amended Competition Act against a Cork businessman for aiding Ford dealers to fix their car prices.

Israel: The Israel Antitrust Authority is a strong advocate of jail sanctions for individuals. Jail sentences were imposed and served, for example, in the IAA's prosecution of a sophisticated fourteen-year cartel among virtually all Israeli manufacturers of floor tiles, which fixed prices and divided the market for floor tiles. An executive of the leading company in the cartel received a nine month jail sentence, the economic advisor who coordinated and enforced the cartel received an eight month jail sentence, the executive of the second largest company in the cartel received a seven month jail sentence, and two other executives received five and three month jail sentences. In denying an appeal of the alleged severity of the nine month sentence, the Israeli Supreme Court established that jail time is the proper sentence for economic felonies, given that cartelists do not engage in cartels because of economic or social duress but rather to pursue easy profits at the public's expense.

United Kingdom: I am pleased to observe that, over the last six years, our colleagues in the United Kingdom have become among the strongest advocates in the international fight

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against cartels. In 2000, the British government implemented a new competition law that prohibited cartels and other anti-competitive behavior, giving the Office of Fair Trading new investigative powers and expanding resources for detecting cartel activity. The new powers included the creation of a corporate leniency program modeled after the Division's Leniency Program. The Competition Act also imposed stiff fines for companies involved in cartels. In 2001, the United Kingdom removed a side letter provision that had excluded antitrust assistance from the U.S.-U.K. Mutual Legal Assistance Treaty. Then, in 2002, the U.K. Enterprise Act was passed, introducing criminal sanctions of up to five years in prison and an unlimited fine, effective in June 2003, for individuals who engage in hard-core cartels.

Canada: Our colleagues in Canada offer an example for jurisdictions around the world for how a competition authority can work effectively with a separate prosecuting office. While there can be challenges to effective cooperation between prosecutors and competition enforcers, the Bureau of Competition and Department of Justice attorneys do work well together in Canada. This is particularly important in the leniency context, where leniency programs will wither where there is the potential for criminal exposure for cartel offenses and prosecutors do not commit to the program. Canada can thus serve as a good example for others with this kind of system.

European Commission: Finally, I am happy to note that cartel investigators in the Division have never worked as closely and as effectively with our colleagues in the European Commission as they do today. A prime example is the convergence in our corporate leniency programs, which has led to a substantial increase in the number of firms reporting international cartel activity to both authorities. Simultaneous reporting has, in turn, provided our investigators with the opportunity to coordinate surprise raids on subjects in multiple jurisdictions. As a

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result, we are able to preserve and gain access to valuable information that in the past would likely have been lost or out of our reach.

Conclusion

Thank you for your attention. I look forward to the remarks of my fellow panelists and the discussion to follow.

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Image not available for this document, ID: 0.7.10316.32667-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 10:03 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 14, 2006

Department of Justice

PRESS GUIDANCE
Thursday, September 14, 2006

ATTORNEY GENERAL

12:45 P.M. CDT Attorney General Alberto R. Gonzales will deliver remarks before the Protect our Children conference regarding Department of Justice efforts to combat online child predators through Project Safe Childhood.
Hilton Kansas City Airport Hotel
Shawnee Ballroom
8801 N.W. 112th Street
Kansas City, Missouri
OPEN PRESS

PRESS RELEASES

The Antitrust Division will release the prepared remarks of Assistant Attorney General Thomas O. Barnett delivered before the Fordham Competition Law Institute's Annual Conference on International Antitrust Law and Policy.

EVENTS/HEARINGS

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Charles Miller

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167944

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System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 523743 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, September 14, 2006 10:50 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/14/2006 Civil Division News

Plame sues Armitage over CIA leak

Anthrax victim's widow says government may know who killed husband

Nurses sue hospital for overbilling Medicare

Opinion: How can U.S. let this terrorist go?

AP

September 14, 2006

Plame sues Armitage over CIA leak

By MATT APUZZO, Associated Press Writer

WASHINGTON - One-time covert CIA officer Valerie Plame sued the former No. 2 official at the State Department on Wednesday, accusing him of violating her privacy rights.

Plame added Armitage's name to a civil suit in U.S. District Court against Vice President Dick Cheney , his former chief of staff I. Lewis "Scooter" Libby and White House adviser Karl Rove.

Plame and her husband, former Ambassador Joseph Wilson, say the White House leaked Plame's identity as retribution for Wilson's criticisms of prewar intelligence on Iraq .

Armitage said he knew of no plan to leak Plame's identity.

Armitage is accused of violating Plame's privacy rights. He is not accused of violating the Wilsons'

constitutional rights to equal protection and freedom of speech — allegations that remain against the White House officials.

Wilson discounted reports that then-Iraqi leader Saddam Hussein had tried to buy yellowcake uranium from Niger to make a nuclear weapon. Such a claim wound up in President Bush ‘s 2003 State of the Union address.

Still, Novak said Armitage‘s comments didn‘t fit into "the left-wing fantasy of a well-crafted White House conspiracy."

Special Prosecutor Patrick Fitzgerald has investigated the leak for years and has not charged anyone with intentionally leaking Plame‘s identity. Libby is under indictment, charged with lying to authorities about his conversations with reporters.

END

Palm Beach Post

Sept. 13. 2006

Anthrax victim's widow says government may know who killed husband

By Eliot Kleinberg

Palm Beach Post Staff Writer

WEST PALM BEACH — Maureen Stevens says the federal government probably knows who killed her husband.

She believes they're not telling because that might reveal things the government doesn't want revealed.

Nearly five years after Bob Stevens' death, the first in the anthrax attacks that terrified a nation, "I want to know what happened," his widow, who's sued the government, said Wednesday from her lawyer's office. "I want to go into court and find out what happened. What information's obviously there. The truth is there."

Bob Stevens of Lantana, a photo editor for Boca Raton-based tabloid *The Sun*, died in October 2001, after he apparently opened mail laced with the deadly substance.

The government said in February of 2002 that it had a "short list" of 18 to 20 people who had the knowledge, equipment, access, and motive to obtain and "weaponize" anthrax. Richard Schuler, Stevens' attorney, said Wednesday it might be fewer than a dozen.

Stevens filed suit in December 2003, alleging security lapses at the U.S. Army Medical Research Institute for Infectious Diseases in Fort Detrick, Md., led to her husband's death. A federal judge refused to dismiss the case and it has been in front of a federal appeals court for nearly a year. The government has argued proceeding with the suit would jeopardize the ongoing search for the killer.

In Washington, Justice Department spokesman Charles Miller said he could not comment because the suit is still active.

Stevens said she's had only two contacts with the FBI since shortly after her husband's death. Agents talked with her in West Palm Beach in July 2003.

And she and families of the other four people confirmed killed by anthrax met with the agency in Washington in November of last year.

Stevens said the agents told the families they were getting close to solving the case and that she felt positive after that meeting. But, she said Wednesday, "it was just lip service. I don't want to say things like this, but I do feel that."

And Schuler said, "To only get with families once in five years, and to give what's only window dressing, I believe is a disgrace."

Stevens said she still believes the case will be solved.

"I have to be patient," Stevens said.

But, she said of her suit, "What else do I have?" she said. "Do I stand on a street corner and ask everybody to ask the government for answers? It's not going to happen."

END

The GW Hatchet

9/14/06

Nurses sue hospital for overbilling Medicare

David Ceasar
Senior News Editor

A group of four former anesthesiology nurses at GW Hospital sued the University for overbilling the federal government in Medicare charges.

The nurses alleged that the hospital overcharged at least $100 million by assessing physician rates for procedures performed by nurses or residents in training, said Alan Grayson, the group's attorney. They initially filed a False Claims Act lawsuit in federal court over a decade ago on behalf on the U.S. government, but the most recent complaint was filed earlier this month.

Linda Dent, a spokesperson for GW Hospital, said the University has acted legally in its billing process.

"We believe GW and its physicians acted appropriately, and the matter is being challenged," Dent said in an interview Tuesday.

A lawsuit can be filed under the False Claims Act when a person "knowingly presents ... to an officer or employee of the United States Government ... a false or fraudulent claim for payment or approval," according to U.S. Code 31.

Grayson said he's currently investigating five issues in the suit's amended complaint, which was filed earlier this month. He requested from the hospital about 10,000 Medicare documents, which he said have not yet been turned over.

The attorney said the University threw away the documents.

"GW destroyed all of their records of billing to the government while the hearing was pending," Grayson said in a phone interview Friday.

Dent refused comment on the allegation of destroyed evidence and on other specifics of the case because of a hospital policy prohibiting speaking about pending litigation.

In several examples cited in the suit, physicians were playing computer games, resting in the hospital's lounge and studying for exams instead of performing procedures that were billed to Medicare, according to The Washington Times. GW attorneys called the allegations that the anesthesiologists were not involved in billed treatment as "bald-faced distortions" in court records.

The next hearing in the case is scheduled for Nov. 2 in the U.S. District Court for D.C.

The GW Hospital is jointly owned and operated by the University and a subsidiary of Universal Health Services, Inc., one of the country's largest hospital managements companies. The partnership began in July 1997, according to the hospital's Web site.

END

New York Daily News

Sept. 14, 2006

Opinion: How can U.S. let this terrorist go?

Forget the war on terror. According to a federal judge, a man with a lengthy rap sheet that includes terrorist acts in several countries, Luis Posada Carriles, should be set free on the streets of America.

As if to add insult to injury, Judge Norbert Garney recommended releasing him on Monday, Sept. 11, the fifth anniversary of the attack on New York.

No matter that Posada Carriles - born in Cuba and a naturalized Venezuelan - is accused of, among other crimes, planning the bombing in 1976 of a Cuban passenger jetliner over Barbados that killed 73 civilians.

Posada Carriles has been in an immigration jail in Texas since he entered the U.S. illegally last year. Also, last year, an immigration judge decided that he should be deported - but not to Venezuela or Cuba, where, the judge said, he could be tortured.

Yet Garney wants to free him.

"The court recommends that petitioner's request for habeas corpus be granted and that petitioner be released subject to terms and conditions of supervised release," he wrote.

If Garney's recommendation is approved by the Justice Department, Posada Carriles could be free in about 30 days. It would be a slap on the faces of the families of the Cuban airliner victims. And it would make a mockery of President Bush's war on terror.

Even more so considering that on March 22, U.S. Immigration and Customs Enforcement (ICE) denied his release for very specific reasons: Posada Carriles, ICE said then, was a "danger to the community" and "a risk to the national security of the U.S."

It wasn't the first time. The former Immigration and Naturalization Service also had deemed him a danger to the U.S., but President George H.W. Bush granted him resident status anyway.

Posada Carriles is 78, but he is no kindly grandfather. Actually, blowing up an airliner was only one of many terrorist acts in which the former CIA operative is said to have participated. His denial is not surprising.

In Aug. 26, 2004, he was released from a Panama jail after Mireya Moscoso, that country's outgoing president, pardoned him. He had been in prison, accused of plotting to assassinate Cuban dictator Fidel Castro at a summit of Latin American leaders in 2000.

He wanted to use 33 pounds of explosives - enough to destroy an armored car and damage everything within 220 yards. He was sentenced to eight years for endangering public safety.

From Panama, he went into hiding in Central America. He's also still a fugitive from Venezuela, where in 1985 he escaped from jail. He is wanted there for his role in the bombing of the Cuban jetliner.

The South American country has an extradition treaty with the U.S., but with the tense relations between Washington and Caracas, no one expects the suspected terrorist to be sent back.

Posada Carriles also has boasted of having planned six Havana hotel bombings in 1997 in which an Italian tourist died and 11 people were wounded.

Yet Garney is recommending his release. Hard as they try, federal authorities cannot find any country willing to take in such an unsavory character, including Canada, Mexico, Guatemala, Costa Rica and El Salvador.

President Bush has said, "If you harbor a terrorist, you are a terrorist." And if the war on terror is real and not a political ploy, all terrorists, even the ones who agree with U.S. foreign policy, must be prosecuted.

The case of Posada Carriles is one more argument for freeing the Cuban Five, who are serving long sentences for trying to stop terror attacks to their homeland.

"The outrage of five Cuban anti-terrorists being imprisoned while the notorious terrorist Luis Posada Carriles is recommended for release makes an absolute mockery of justice," said Gloria La Riva, national coordinator of the Committee to Free the Cuban Five.

A recommendation issued, as if to add insult to injury, on the fifth anniversary of the worst terrorist attack in U.S. history.

END

[redacted]@globalsp.org

From: [redacted]@globalsp.org
Sent: Thursday, September 14, 2006 11:24 AM
Subject: Post-Reception TM Happy Hour- Monday, Sept 18, 8:30 pm
Attachments: tmp.htm

POST-RECEPTION Term Member Happy Hour Monday, September 18th, 8:30 at CLOUD (1 Dupont Circle) I hope youre well. I will be hosting a term member happy hour that begins at 8:30 pm, on Monday, September 18th, immediately after the conclusion of the new term-member reception on Monday. The gathering will take place at CLOUD (1 Dupont Circle corner of the circle and New Hamsphire Ave). Feel free to bring along any friends or guests For all those term members (or former term members) not attending the new term member reception on Monday, please join us at CLOUD starting from 8:30 pm. Please note that this is NOT an official CFR event.

I look forward to seeing you there. Best regards, [redacted]

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Best regards,

[redacted]

System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 523753 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 1:57 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE PROTECT OUR CHILDREN CONFERENCE

Department of Justice

FOR IMMEDIATE RELEASE — AG
THURSDAY, SEPTEMBER 14, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE PROTECT OUR CHILDREN CONFERENCE

KANSAS CITY, MISSOURI

Good morning.

It's good to be in Kansas City, and I'm especially glad to have the opportunity to discuss the protection of our kids.

When President Bush talks about the strength of America, he sometimes refers to Armies of Compassion rising up to fight the evils of society. The rise in the number of sexual predators should be heard as a call to arms.

This is a topic close to my heart and I know that all of you feel as strongly as I do on this matter. To us, the battle lines are clear and we know why we fight.

We fight for our children, that they may enjoy the promise of America. We fight for their innocence and their dreams. It is a fight for our future.

I think for everyone here today it's true that we have a calling and are on a mission to protect children. This is our responsibility . . . our motivation . . . our daily objective.

Unfortunately, the daily objective of others is dark and sinister. Harming our children, preying upon their innocence, is the aim of sexual predators.

Make no mistake, sexual predators are a determined and desperate brand of criminal.

It is a wrenching reality that, every day, children are sexually solicited online.

Every day.

DOJ_NMG_ 0167958

Every day, these criminals are looking for children to hurt. Every day, they are visiting chat rooms where our children think they are safe. Every day, they look at child pornography with hopes of performing those sick acts themselves, and perhaps documenting their crimes for bragging rights with other depraved individuals.

The only response to their horrific ambitions is to respond with greater perseverance:

Every day, we must re-dedicate ourselves to investigating, catching and prosecuting these sick individuals.

Every day, we must educate children and parents about the threat.

And every day, we must talk to our own kids about what they are seeing, what they are hearing, and who they are communicating with on the Internet.

The Internet has made the global responsibility of protecting our kids even more challenging. While being perhaps the greatest invention of our generation, this tool has also, unfortunately, provided elements that criminals love: a cloak of anonymity, speed of communication, and global access to potential victims. The Internet has provided pedophiles with limitless back rooms, dark shadows, and escape routes. It has made it hard to find the criminal but terribly easy to see the crime.

The internet also allows them to brag about their crimes, creating a sick field of competition to see who can produce the most unthinkable photos or videos of rape and molestation. In their perverse eyes, this means the younger, the better.

Most images today of child pornography depict actual sexual abuse of real children. Each image literally documents a crime scene. These are not just "pornographic" pictures or videos. They are images of graphic sexual and physical abuse of innocent children, sometimes even babies. We need to get the public—as well as government officials—to start thinking about it in the right terms. It is brutal, it is heinous, and it is criminal.

The challenge we face in cyberspace was underscored by a new national survey, released a few weeks ago, conducted by University of New Hampshire researchers for the National Center for Missing and Exploited Children. The study revealed that a full third of all kids aged 10 to 17 who used the Internet were exposed to unwanted sexual material. Much of it was extremely graphic.

There was some good news in the survey. It found that there has been some reduction in the number of children who have received an online sexual solicitation. One in seven children surveyed this time had received an online sexual solicitation, which is a six percent improvement over the one in five children who received such solicitations in the last survey, conducted five years ago. This likely means that parents and kids are becoming more aware of the dangers online, and more responsible in the way they use the Internet.

That said, we still have a lot of work to do. One in seven kids getting solicited is one in seven too many.

And this most recent survey showed that there has been no letting up of aggressive online sexual solicitations, where many pedophiles actually try to make in-person contact with a child.

Which leads me back to my first point: every day. Every day they try to hurt our kids, and every day we work to stop them.

The haunting message that these criminal acts against children occur every day in America has been echoed effectively in the Ad Council's Public Service Announcements on the subject.

DOJ_NMG_ 0167959

I'm very proud that the Department of Justice is partnering with the National Center for Missing and Exploited Children and the Ad Council on a new series of PSAs.

This new campaign of PSAs will build on the great work already done by NCMEC and the Ad Council to raise awareness about the dangers of online sexual exploitation of kids, and to help parents and kids protect against online sexual predators.

With advertising campaigns like these, we will continue to raise the profile of these issues, while sending the message to teens and parents about online dangers. The new series of PSAs will be distributed in early 2007, and we are proud to partner with NCMEC and the Ad Council on this important effort.

I also want to talk about what we are doing at the Justice Department, and in partnership with all of you, to protect our children, but I think it's important to mention, first, some of the victims who we are fighting for. Because ultimately we fight to prevent future crimes, but we do so in the name of those who have already suffered so much.

We fight for the nine-year-old girl who was molested by a hotel camp counselor on a family vacation. In the state of shock, hurt and confusion over what had happened to her, she actually feared that her parents might love her less because of what had happened.

We fight in honor of Jessica Lunsford, who was raped, wrapped in plastic bags and buried alive, left holding a stuffed dolphin, alone, to die by asphyxiation when she was just nine years old.

We fight for Jetseta Gage, who was 10 years old when a family friend abducted her, took her to an abandoned mobile home southwest of Iowa City, and raped and killed her.

We know that we can't bring back Jessica or Jetseta, but we can do everything in our power to protect every innocent child … today and every day going forward.

Our ultimate goal, again, is prevention.

Because a child who has been abused sexually bears a scar so deep, all the justice in the world can never heal it completely. We can never make things quite right, ever again. There is no moment when we can say, "It's all better."

As a law-enforcement official, and as a parent, I am dedicated to preventing these horrific crimes. I know that all of you feel the same way. We want to be able to tell America's children, our children, "you're safe."

***

The Adam Walsh Child Protection and Safety Act of 2006, signed by the President in July, will help us keep our children safe by preventing these crimes. It requires sex offender registrations and those requirements have teeth. It enhances penalties and helps us keep sex offenders away from our kids after they've been released from prison.

I also want to specifically mention two things that this historic legislation did to bolster our efforts at the Department of Justice to protect children:

First, the new law establishes the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office, and it assigns the Office numerous important functions relating to the sex offender registry.

DOJ_NMG_ 0167960

The SMART Office will be led by a Presidentially-appointed Director. We are working now to establish this Office, and it will be critical to our ongoing efforts to protect kids.

Second, the Justice Department's "Project Safe Childhood," launched earlier this year, was also given statutory authority by the Adam Walsh bill. As all of you know, it is the centerpiece of the Department's efforts to protect America's children.

I see the campaign to protect our children as a strong, three-legged stool: one leg is the federal contribution led by U.S. Attorneys; another is state and local law enforcement, including the outstanding work of the Internet Crimes Against Children task forces funded by the Department's Office of Justice Programs; and the third is non-governmental organizations, like the National Center for Missing and Exploited Children -- without which we wouldn't have the Cybertipline and victim advocates.

None of our efforts can stand alone. All must involve high levels of sharing and coordination. And that's what Project Safe Childhood is all about.

This important initiative promises more federal resources, but my hope is that its greatest achievement will be that of increased collaboration and cooperation.

I know that you all are the experts, so I want to thank you for your hard work and dedication. But I also ask for your partnership, because Project Safe Childhood is all about bringing together a blend of expertise, joined by a shared solidarity of commitment to protecting kids.

Project Safe Childhood aims to be comprehensive – covering all the things you do, from investigations to prosecutions, to prevention, to the treatment of abused or exploited children. But it won't work without you.

Already, the project has helped us identify some trends and needs, and that's good. For example, we've heard from people like you, working at the state and local level, that a greater federal presence was needed in some states and localities because of insufficient criminal laws, weak sentencing structures, or inadequate resources to provide meaningful punishment to child exploiters and abusers.

So while we will do all we can at the federal level, and utilize partnerships to their fullest, we also strongly encourage state legislatures to look at the laws they have on the books and make them stronger if need be. The vast majority of states have done this, and legislators are to be commended, but adequate protections are not universal and they need to be.

I encourage legislatures to look at whether officers and prosecutors in their jurisdiction have sufficient subpoena powers for child exploitation cases.

In states where it is not already the law, the possession of child pornography – even without the intent to distribute – should be made a felony.

And some states need to increase the sentences available for certain kinds of abuse and exploitation.

When it comes to strengthening state law, we must, once again, work together. Our united efforts can bring about positive change in state laws governing child exploitation offenses. This will allow us to attack sexual predators in a comprehensive fashion, maximizing punishment and deterrence at both the federal and state levels throughout the entire Nation.

DOJ_NMG_ 0167961

Our fight against the proliferation of child pornography and abuse doesn't stop at our borders, either. It demands a global strategy. This makes it imperative that we pay attention to the laws governing child sexual exploitation in other nations.

Many countries have astonishingly lenient punishments for child pornography offenses. For instance, in several nations the production of child pornography is punished with only a fine or imprisonment of less than six months or a year. Simple possession is punishable merely by a fine. Just as we need some states to strengthen their laws to punish child sex offenders, we must encourage some foreign lawmakers to strengthen their laws as well.

On a law enforcement level, the Justice Department is already actively involved in fighting child pornography worldwide. We participate in international law enforcement groups such as Interpol, we station federal law enforcement agents from the FBI and other agencies abroad, and we work closely with foreign law enforcement officers to investigate and prosecute cases. With many of you, we are committed to waging this battle against child predators in every corner of the world.

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I know that everyone in this room today is working on tough, innovative approaches to protecting children, and I want to thank all of you again for your efforts and your partnership. The more we work together, the more children we will protect from the crimes that cause wounds that never heal.

There is a vast and frightening network of criminals or would-be criminals who seek to hurt our children. But we have a network, too. And it, too, is vast. It stretches from coast to coast, from city to city, and includes every parent, every school, every police station, every courthouse, every victim's advocate and every volunteer. Our network, when used to its greatest potential, can defeat these predators who crush the very souls of their victims.

Together, we can get the dangerous pedophiles off of our streets, out of our neighborhoods, and off of the Internet.

I thank you for your dedication to this cause and I look forward to continuing this fight, together. I am but one soldier in the armies of compassion I mentioned earlier. But you can count on me to be by your side, fighting shoulder to shoulder—our voices united as one.

May God bless and guide your important work, and may he continue to bless this great nation. Thank you.

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DOJ_NMG_ 0167962

Image not available for this document, ID: 0.7.10316.32504-000001

Image not available for this document, ID: 0.7.10316.32504-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 1:58 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE PROTECT OUR CHILDREN CONFERENCE

Department of Justice

FOR IMMEDIATE RELEASE — AG
THURSDAY, SEPTEMBER 14, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE PROTECT OUR CHILDREN CONFERENCE

KANSAS CITY, MISSOURI

Good morning.

It's good to be in Kansas City, and I'm especially glad to have the opportunity to discuss the protection of our kids.

When President Bush talks about the strength of America, he sometimes refers to Armies of Compassion rising up to fight the evils of society. The rise in the number of sexual predators should be heard as a call to arms.

This is a topic close to my heart and I know that all of you feel as strongly as I do on this matter. To us, the battle lines are clear and we know why we fight.

We fight for our children, that they may enjoy the promise of America. We fight for their innocence and their dreams. It is a fight for our future.

I think for everyone here today it's true that we have a calling and are on a mission to protect children. This is our responsibility . . . our motivation . . . our daily objective.

Unfortunately, the daily objective of others is dark and sinister. Harming our children, preying upon their innocence, is the aim of sexual predators.

Make no mistake, sexual predators are a determined and desperate brand of criminal.

It is a wrenching reality that, every day, children are sexually solicited online.

Every day.

DOJ_NMG_ 0167965

Every day, these criminals are looking for children to hurt. Every day, they are visiting chat rooms where our children think they are safe. Every day, they look at child pornography with hopes of performing those sick acts themselves, and perhaps documenting their crimes for bragging rights with other depraved individuals.

The only response to their horrific ambitions is to respond with greater perseverance:

Every day, we must re-dedicate ourselves to investigating, catching and prosecuting these sick individuals.

Every day, we must educate children and parents about the threat.

And every day, we must talk to our own kids about what they are seeing, what they are hearing, and who they are communicating with on the Internet.

The Internet has made the global responsibility of protecting our kids even more challenging. While being perhaps the greatest invention of our generation, this tool has also, unfortunately, provided elements that criminals love: a cloak of anonymity, speed of communication, and global access to potential victims. The Internet has provided pedophiles with limitless back rooms, dark shadows, and escape routes. It has made it hard to find the criminal but terribly easy to see the crime.

The internet also allows them to brag about their crimes, creating a sick field of competition to see who can produce the most unthinkable photos or videos of rape and molestation. In their perverse eyes, this means the younger, the better.

Most images today of child pornography depict actual sexual abuse of real children. Each image literally documents a crime scene. These are not just "pornographic" pictures or videos. They are images of graphic sexual and physical abuse of innocent children, sometimes even babies. We need to get the public—as well as government officials—to start thinking about it in the right terms. It is brutal, it is heinous, and it is criminal.

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There was some good news in the survey. It found that there has been some reduction in the number of children who have received an online sexual solicitation. One in seven children surveyed this time had received an online sexual solicitation, which is a six percent improvement over the one in five children who received such solicitations in the last survey, conducted five years ago. This likely means that parents and kids are becoming more aware of the dangers online, and more responsible in the way they use the Internet.

That said, we still have a lot of work to do. One in seven kids getting solicited is one in seven too many.

And this most recent survey showed that there has been no letting up of aggressive online sexual solicitations, where many pedophiles actually try to make in-person contact with a child.

Which leads me back to my first point: every day. Every day they try to hurt our kids, and every day we work to stop them.

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DOJ_NMG_ 0167966

I'm very proud that the Department of Justice is partnering with the National Center for Missing and Exploited Children and the Ad Council on a new series of PSAs.

This new campaign of PSAs will build on the great work already done by NCMEC and the Ad Council to raise awareness about the dangers of online sexual exploitation of kids, and to help parents and kids protect against online sexual predators.

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We fight for the nine-year-old girl who was molested by a hotel camp counselor on a family vacation. In the state of shock, hurt and confusion over what had happened to her, she actually feared that her parents might love her less because of what had happened.

We fight in honor of Jessica Lunsford, who was raped, wrapped in plastic bags and buried alive, left holding a stuffed dolphin, alone, to die by asphyxiation when she was just nine years old.

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DOJ_NMG_ 0167967

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So while we will do all we can at the federal level, and utilize partnerships to their fullest, we also strongly encourage state legislatures to look at the laws they have on the books and make them stronger if need be. The vast majority of states have done this, and legislators are to be commended, but adequate protections are not universal and they need to be.

I encourage legislatures to look at whether officers and prosecutors in their jurisdiction have sufficient subpoena powers for child exploitation cases.

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When it comes to strengthening state law, we must, once again, work together. Our united efforts can bring about positive change in state laws governing child exploitation offenses. This will allow us to attack sexual predators in a comprehensive fashion, maximizing punishment and deterrence at both the federal and state levels throughout the entire Nation.

DOJ_NMG_ 0167968

Our fight against the proliferation of child pornography and abuse doesn't stop at our borders, either. It demands a global strategy. This makes it imperative that we pay attention to the laws governing child sexual exploitation in other nations.

Many countries have astonishingly lenient punishments for child pornography offenses. For instance, in several nations the production of child pornography is punished with only a fine or imprisonment of less than six months or a year. Simple possession is punishable merely by a fine. Just as we need some states to strengthen their laws to punish child sex offenders, we must encourage some foreign lawmakers to strengthen their laws as well.

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Together, we can get the dangerous pedophiles off of our streets, out of our neighborhoods, and off of the Internet.

I thank you for your dedication to this cause and I look forward to continuing this fight, together. I am but one soldier in the armies of compassion I mentioned earlier. But you can count on me to be by your side, fighting shoulder to shoulder—our voices united as one.

May God bless and guide your important work, and may he continue to bless this great nation. Thank you.

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DOJ_NMG_ 0167969

Image not available for this document, ID: 0.7.10316.32496-000001

Image not available for this document, ID: 0.7.10316.32496-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 525052 KB.

Mailbox size limits:

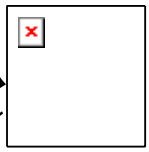
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 3:46 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT CLOSES INVESTIGATION INTO DEATH OF NOAH JAMAHL JONES

Department of Justice



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THURSDAY, SEPTEMBER 14, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

JUSTICE DEPARTMENT CLOSES INVESTIGATION INTO DEATH OF NOAH JAMAHL JONES

WASHINGTON – The Civil Rights Division of the U.S. Department of Justice, the U.S. Attorney's Office for the District of Maryland, and the Federal Bureau of Investigation (FBI) announced today that there is insufficient evidence to pursue federal criminal civil rights charges against six white men involved in a July 24, 2004, altercation which resulted in the death of Noah Jamahl Jones, an African-American teenager.

The Criminal Section of the Civil Rights Division, in conjunction with the FBI, opened this investigation based on allegations that Mr. Jones' death may have resulted from a racially-motivated attack. The U.S. Attorney's Office assisted in the investigation.

During the federal investigation, the FBI interviewed witnesses and reviewed investigative reports, an autopsy report, and records from a state investigation and prosecution. In May 2005, the state of Maryland tried Jacob Fortney, one of the six white men involved in the incident, for voluntary manslaughter. After a four-day trial, a jury acquitted Fortney of that charge.

Experienced civil rights prosecutors reviewed the voluminous transcripts from the state investigation and criminal trial. Based on careful review and analysis of all of the evidence related to Mr. Jones' death, the Civil Rights Division and the U.S. Attorney's Office determined that the evidence was insufficient to support a federal criminal civil rights prosecution.

In order to prove a violation of federal criminal civil rights law, the United States would have to meet a high burden of proof that cannot be met in this case. The two relevant civil rights statutes require the government to prove, beyond a reasonable doubt, that Mr. Jones was killed both because of his race and because he was exercising a specific federally-protected right, such as the right to enjoy a home, a public education, or a public facility.

The available testimonial and physical evidence in this case is insufficient to prove beyond a reasonable doubt that the subjects' actions were motivated by the victim's race. Moreover, the evidence is insufficient to prove beyond a reasonable doubt that the violence was intended to interfere with any of Mr. Jones' federally-protected rights. The evidence is insufficient to prove that it involved a willful violation of federal criminal civil rights laws. Accordingly, the Department of Justice has no choice but to close this matter without prosecution.

DOJ_NMG_ 0167973

The U.S. Attorney's Office, the Civil Rights Division of the Department of Justice, and the FBI devoted many hours and significant resources to a complete and careful review of the events surrounding Mr. Jones' tragic death. The decision not to pursue criminal charges is based on painstaking analysis of the facts developed during a lengthy and thorough investigation. The Department of Justice remains committed to investigations of this kind and stands ready to devote the resources required to ensure that all allegations of serious civil rights violations are fully and completely investigated. The Department of Justice aggressively prosecutes criminal civil rights violations whenever the evidence developed in these investigations warrants doing so.

Officials from the U.S. Attorney's Office, the Civil Rights Division, and the FBI met earlier today with representatives of Mr. Jones' family to advise them of this decision.

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06-619

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Image not available for this document, ID: 0.7.10316.32471-000002

Image not available for this document, ID: 0.7.10316.32471-000003

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 5:17 PM
To: USDOJ- Office of Public Affairs
Subject: TACOMA COUPLE INDICTED ON FORCED LABOR CHARGES

Department of Justice

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THURSDAY, SEPTEMBER 14, 2006
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TACOMA COUPLE INDICTED ON FORCED LABOR CHARGES

WASHINGTON – A Tacoma, Wash., couple was charged today with forcing a Filipino woman into servitude for over a year at their former residence in Culver City, Calif., the Justice Department announced.

According to the seven-count indictment, Elizabeth Jackson and James Jackson, who currently reside in Tacoma, violated federal law in 2001 and 2002 by compelling a Filipino woman to work as their domestic servant under inhumane conditions and with grossly inadequate compensation. The couple used physical force, threats of deportation, and unfairly imputed debts to extract the victim's labor. The indictment, announced by Wan J. Kim, Assistant Attorney General of the Civil Rights Division, further states that the couple repeatedly lied to federal investigators in order to conceal their crimes.

The Jacksons each face charges of conspiracy to engage in human trafficking, peonage, forced labor, withholding identification documents for the purpose of human trafficking, alien harboring for commercial advantage and private financial gain, and two charges of making false statements to federal investigators. If convicted of all charges, the Jacksons each face up to 65 years in prison. Additionally, each charge carries a maximum fine of $250,000 and a maximum sentence of post-release supervision of three years.

An indictment is an accusation, and a defendant is presumed innocent unless and until proven guilty.

The prosecution of individuals involved in human trafficking is a top priority of the Justice Department. Since 2001, the Justice Department has charged more than 300 human traffickers and secured more than 200 convictions. From 2001 through 2005, the Justice Department convicted over twice as many persons for trafficking compared to the previous five years.

The case was investigated by Special Agents of the United States Bureau of Immigration and Customs Enforcement, the Department of Labor, and the Federal Bureau of Investigation. The case is being prosecuted by attorneys from the Civil Rights Division of the United States Department of Justice.

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06-620

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DOJ_NMG_ 0167979

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Image not available for this document, ID: 0.7.10316.32457-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 5:45 PM
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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 5:46 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER EXECUTIVE OF WILLBROS SUBSIDIARY PLEADS GUILTY TO CONSPIRING TO BRIBE FOREIGN OFFICIALS IN NIGERIA AND ECUADOR

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 14, 2006
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(202) 514-2008
TDD (202) 514-1888

FORMER EXECUTIVE OF WILLBROS SUBSIDIARY PLEADS GUILTY TO CONSPIRING TO BRIBE FOREIGN OFFICIALS IN NIGERIA AND ECUADOR

WASHINGTON – Jim Bob Brown, a former executive of a subsidiary of Houston-based Willbros Group Inc. who worked in Nigeria and South America, has pleaded guilty to violating the Foreign Corrupt Practices Act (FCPA) by conspiring with others to bribe officials of the governments of Nigeria and Ecuador, the Department of Justice announced today.

The plea was accepted this afternoon at the federal courthouse in Houston by Judge Sim Lake of the U.S. District Court for the Southern District of Texas. The court set a sentencing date of November 30, 2006.

Willbros, a publicly traded company that provides construction, engineering and other services in the oil and gas industry, conducts international operations through a subsidiary known as Willbros International Inc. (WII). During his guilty plea hearing, Brown, 45, admitted that in February 2005, he and another Nigeria-based WII executive arranged for the payment of approximately $1.5 million in cash in Nigeria as part of a conspiracy to make corrupt payments to, among others, officials of Nigerian National Petroleum Corporation (the Nigerian government-owned oil company) and a joint venture effectively controlled by that company, in order to obtain and retain gas pipeline construction business in Nigeria. The payment was part of a larger, multi-million dollar foreign bribery scheme involving, among others, a former senior Willbros executive officer, a U.S. national acting as a purported "consultant" to Willbros, and Nigeria-based employees of a major German engineering, and construction company. Brown also admitted that, from at least 1996 to early 2005, he and other mid and senior-level WII executives approved of a scheme in which WII's Nigerian operations submitted fictitious invoices for payment by Willbros. These funds were used, in part, to make corrupt payments to officials of the Nigerian revenue agencies and courts in order to lower taxes that would otherwise have been assessed, and to influence favorably litigation in Nigeria affecting the business of Willbros.

Brown further admitted that, in June 2004, he conspired with the former senior Willbros executive officer and the "consultant," in addition to local WII Ecuador employees, to pay at least $300,000 to officials of PetroEcuador, the Ecuadorian government oil company, to obtain a gas pipeline rehabilitation contract and potential future business.

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Brown is cooperating with the government's ongoing investigation as part of his plea agreement. The maximum sentence for a charge of conspiring to violate the FCPA is not more than five years in prison and a fine of not more than the greater of $250,000, or twice the gross gain or twice the gross loss.

The case is being prosecuted by Fraud Section Deputy Chief Mark F. Mendelsohn and Trial Attorney Thomas E. Stevens of the Criminal Division, Department of Justice. The case continues to be investigated by the Washington Field Office of the Federal Bureau of Investigation.

# # #

06-621

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Image not available for this document, ID: 0.7.10316.32308-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 14, 2006 6:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 14, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney General Travels to Kansas City to Highlight Project Safe Childhood (OPA)
Today, the Attorney General delivered remarks in Kansas City, Mo. to highlight Department of Justice efforts to combat online child predators through Project Safe Childhood. He also participated in an editorial board meeting with *The Kansas City Star* and interviews with local television affiliates.

Former Executive of Willbros Subsidiary Pleads Guilty to Conspiring to Bribe Foreign Officials in Nigeria and Ecuador (Criminal)
Jim Bob Brown, a former executive of a subsidiary of Houston-based Willbros Group Inc. who worked in Nigeria and South America, has pleaded guilty to violating the Foreign Corrupt Practices Act (FCPA) by conspiring with others to bribe officials of the governments of Nigeria and Ecuador, the Department of Justice announced today.

Justice Department Closes Investigation Into Death Of Noah Jamahl Jones (Civil Rights)
The Civil Rights Division of the U.S. Department of Justice, the U.S. Attorney's Office for the District of Maryland, and the Federal Bureau of Investigation (FBI) announced today that there is insufficient evidence to pursue federal criminal civil rights charges against six white men involved in a July 24, 2004, altercation which resulted in the death of Noah Jamahl Jones, an African-American teenager. The Criminal Section of the Civil Rights Division, in conjunction with the FBI, opened this investigation based on allegations that Mr. Jones' death may have resulted from a racially-motivated attack. The U.S. Attorney's Office assisted in the investigation. During the federal investigation, the FBI interviewed witnesses and reviewed investigative reports, an autopsy report, and records from a state investigation and prosecution. In May 2005, the state of Maryland tried Jacob Fortney, one of the six white men involved in the incident, for voluntary manslaughter. After a four-day trial, a jury acquitted Fortney of that charge.

Tacoma Couple Indicted on Forced Labor Charges (Civil Rights)
A Tacoma, Wash., couple was charged today with forcing a Filipino woman into servitude for over a year at their former residence in Culver City, Calif. According to the seven-count indictment, Elizabeth Jackson and James Jackson, who currently reside in Tacoma, violated

federal law in 2001 and 2002 by compelling a Filipino woman to work as their domestic servant under inhumane conditions and with grossly inadequate compensation. The couple used physical force, threats of deportation, and unfairly imputed debts to extract the victim's labor. The indictment, announced by Wan J. Kim, Assistant Attorney General of the Civil Rights Division, further states that the couple repeatedly lied to federal investigators in order to conceal their crimes.

Assistant Attorney General Addresses Fordham University School of Law (Antitrust)
Thomas O. Barnett, Assistant Attorney General for Antitrust, spoke today at the Fordham Competition Law Institute's Annual Conference on International Antitrust Law and Policy. His address, "Criminal Enforcement of Antitrust Laws: The U.S. Model," focused on criminal antitrust prosecutions in the United States.

***Los Angeles Times* Interviews FBI Chief Information Officer (FBI)**
Today, *Los Angeles Times* reporter Rick Schmitt interviewed Chief Information Officer Zal Azmi on the transformation of the FBI as it relates to information technology.

***Scripps Howard News* Interviews FBI Assistant Director Miller (FBI)**
Today, Brian Duggan of *Scripps Howard News* interviewed FBI Assistant Director John Miller regarding the transformation of the FBI following September 11.

TSA Contract Employee Arrested for Traveling Across State Lines to Have Sex with Minor (FBI)
Today, FBI officials arrested William Wesley Franse, 25, a Transportation Security Administration (TSA) contract employee for allegedly traveling across state lines to have sex with a minor. He was arrested yesterday, September 13, and is currently being processed on state charges. Franse advised arresting authorities that he possessed a government laptop on which was stored sensitive government information at his Atlanta hotel. The computer was secured by FBI personnel.

FRIDAY'S EXPECTED EVENTS/RELEASES:

No events/releases scheduled.

System Administrator

From:	System Administrator
Sent:	Thursday, September 14, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 525898 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 525899 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 9:10 AM
To: USDOJ- Office of Public Affairs
Subject: ASSISTANT ATTORNEY GENERAL ALICE S. FISHER TO MAKE STATEMENT ON PUBLIC CORRUPTION CASE

Department of Justice

FOR PLANNING PURPOSE ONLY
FRIDAY, SEPTEMBER 15, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ASSISTANT ATTORNEY GENERAL ALICE S. FISHER TO MAKE STATEMENT ON PUBLIC CORRUPTION CASE

WASHINGTON – Assistant Attorney General Alice S. Fisher will make a statement on a public corruption case on **FRIDAY, SEPTEMBER 15, 2006 at 10:30 A.M. EDT.** A background briefing will immediately follow the statement.

WHO: Assistant Attorney General Alice S. Fisher

WHAT: Statement followed by a background briefing

WHEN: **FRIDAY, SEPTEMBER 15, 2006**
10:30 A.M. EDT

WHERE: Robert F. Kennedy (Main Justice) Building Courtyard
950 Constitution Avenue
Washington, DC 20530

NOTE: Pre-set for the statement is **10:00 A.M. EDT**. A background only, off-camera media availability with Justice Department officials will immediately follow Assistant Attorney General Fisher's statement. The background briefing will be held in the Criminal Division's Conference Room, 2107, inside the Main Justice building. Press inquiries regarding logistics should be directed to Jaclyn Lesch at (202) 514-2007.

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Image not available for this document, ID: 0.7.10316.32262-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 10:10 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 15, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 15, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Environmental and Natural Resources Division will issue release on a civil matter. (Magnuson)

EVENTS/HEARINGS

10:00 A.M. EDT Assistant Attorney General Wan Kim will deliver remarks at a National Press Club event on *Enhancing America's Security: American Arab, Muslim and South Asian Communities and Law Enforcement Since 9/11*.
National Press Club
Broadcast Operations Center
Fourth Floor
529 14th Street, N.W.
Washington, D.C.
OPEN PRESS

10:30 A.M. EDT Assistant Attorney General Alice S. Fisher will make a statement on a public corruption case.
Center Courtyard
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

A background only, off-camera media availability with Justice Department officials will immediately follow Assistant Attorney General Fisher's statement in room 2107 of the Main Justice building.

DOJ_NMG_ 0167994

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Charles Miller

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0167995

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Image not available for this document, ID: 0.7.10316.32270-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 529458 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 10:45 AM
To: USDOJ- Office of Public Affairs
Subject: CONGRESSMAN ROBERT W. NEY AGREES TO PLEAD GUILTY TO CHARGES INVOLVING CORRUPTION AND FALSE STATEMENTS

A copy of the plea agreement, criminal information, and statement of facts can be found below.

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 15, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

CONGRESSMAN ROBERT W. NEY AGREES TO PLEAD GUILTY TO CHARGES INVOLVING CORRUPTION AND FALSE STATEMENTS

WASHINGTON – Congressman Robert W. Ney has agreed to plead guilty to a two-count criminal information charging him with conspiracy to commit multiple offenses—including honest services fraud, making false statements, and violations of his former chief of staff's one-year lobbying ban—and with making false statements to the U.S. House of Representatives, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

The government filed the information today in U.S. District Court for the District of Columbia, along with an agreement signed by Ney to plead guilty to the two charges. Ney, 52, will appear before Judge Ellen Segal Huvelle on Oct. 13, 2006 at 10 a.m. to enter his plea. Based on the filed charges, Ney faces a maximum sentence of ten years in prison, a fine of $500,000, and supervised release following his incarceration. The plea agreement with the government includes a recommendation of a sentencing guidelines sentence of 27 months in prison.

Ney's named co-conspirators in the information include former lobbyist Jack Abramoff, former public relations specialist Michael Scanlon, former lobbyist Tony Rudy, and Ney's former chief of staff, Neil Volz. All have previously pleaded guilty in this investigation and are cooperating with law enforcement officials.

"Congressman Ney and his co-conspirators engaged in a long-term pattern of defrauding the public of his unbiased, honest services as an elected official. Congressman Ney admits that he corruptly solicited and accepted a stream of benefits, valued at tens of thousands of dollars, in exchange for agreeing to perform, and performing, a series of official acts. He also admitted deceiving the public and the U.S. House of Representatives about his actions. In doing so, the Congressman was acting in his own best interests, and not in the best interests of his constituents," said Assistant Attorney General Fisher. "People must have faith in their elected representatives. The Department of Justice will enforce the laws that protect the integrity of our government."

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According to the information, Ney was a Congressman representing the 18th District of Ohio from 1995 through the present. In 2001, Ney became chairman of the House Committee on Administration, a position he held until January 2006. According to the information, Ney engaged in a conspiracy beginning in approximately 2000 and continuing through April 2004, wherein he corruptly solicited and accepted a stream of things of value from Abramoff, his lobbyists, and a foreign businessman in exchange for repeatedly agreeing to take and taking official action to benefit Abramoff, his clients, and the businessman.

Ney admitted in his signed agreement that he corruptly solicited and accepted the following things of value among others from Abramoff and his lobbyists, all with the intent to be influenced and induced to take official action:

- international and domestic trips including a trip to play golf in Scotland in August 2002, with total trip costs exceeding $160,000, paid for by Abramoff and his clients; a trip to gamble and vacation in New Orleans in May 2003, with total trip costs of approximately $7,200, paid for by Abramoff and his clients; and a trip to vacation at Lake George, N.Y., in August 2003, with costs paid by lobbyists exceeding $3,500;

- frequent meals and drinks with total costs exceeding many thousands of dollars, primarily at Abramoff's restaurant, Signatures, in Washington;

- tickets to concerts and sporting events using Abramoff's box suites at venues in the Washington and Baltimore areas, such as the MCI Center (now known as the Verizon Center), FedEx Field, and Camden Yards;

- tens of thousands of dollars of campaign contributions; and

- in-kind campaign contributions in the form of free fundraisers.

Ney admitted that during the same time period, and in exchange for the stream of things of value he received from Abramoff and his lobbyists, Ney agreed to take and took the following actions:

- supporting and/or opposing legislation at Abramoff's request, including attempting to insert four separate, non election-related amendments sought by Abramoff and his clients into election reform legislation known as the Help America Vote Act;

- inserting two statements into the Congressional Record at Scanlon's request;

- supporting the application of and issuing a license to one of Abramoff's clients involving a multi-million-dollar contract to install wireless telephone infrastructure in the House of Representatives; and

- contacting personnel in federal agencies in an effort to influence the decisions of those agencies, including telling the Secretary of Housing and Urban Development that Ney's number one priority was Native American Indian Tribal housing because that was an issue important to Abramoff's clients.

In his plea agreement, Ney also admitted to charges that he had accepted thousands of dollars worth of gambling chips from a foreign businessman. According to the documents filed today in court, in February 2003 and again in August 2003, Ney made two trips to London, during each of which he and members of his staff met with a foreign businessman who was hoping to sell U.S.-made airplanes and airplane parts in a foreign country. Ney agreed to help the businessman with obtaining an exemption to the U.S. laws prohibiting the sale of these goods to the foreign country, and Ney also agreed to help the businessman obtain a visa to travel to the

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United States. On February 21 and 22 and again on August 29, Ney and the staff members accompanying him each received thousands of dollars worth of gambling chips from the businessman for use at private casinos in London. As a result, Ney eventually pocketed more than $50,000. Ney admitted that he never returned any of the free chips to the businessman and never shared with the businessman any of the money he had won as a result of the free chips.

Ney also admitted in the plea documents that he intentionally concealed his receipt of the things of value from Abramoff and the foreign businessman, which was in excess of the limits established by the House of Representatives. Ney's concealment involved, among other things, filing a false U.S. Customs disclosure form, false Travel Disclosure Forms, and false Annual Financial Disclosure Statements. As part of his efforts to conceal the full amount of money he received from the businessman, Ney admitted that on his return to the United States from London in August 2003, he gave a staff member approximately $5,000 worth of British pounds so that the staffer could carry that amount through the U.S. Customs Service checkpoint and Ney could carry and report a lower dollar amount to Customs officials. Ney admitted to the second count of the criminal information, which charges that he intentionally omitted from his 2002 and 2003 Annual Financial Disclosure Statements gifts from Abramoff and the foreign businessman, including trips from Abramoff and thousands of dollars from the businessman. Ney also admitted that he mischaracterized the Scotland golf trip in his 2002 Annual Financial Disclosure Statement because he underreported the costs and mischaracterized the trip's purpose.

Ney also admitted that he conspired to aid and abet violations of the federal one-year lobbying ban by Volz, his former chief of staff, in that he allowed and encouraged Volz to lobby Ney, the staff in Ney's personal office, and the staff on the House Administration Committee. Ney admitted to knowing that Volz was prohibited from doing so for a period of one year following Volz's resignation from Ney's office.

This case is being prosecuted by Trial Attorneys Mary K. Butler, M. Kendall Day, and James A. Crowell IV of the Public Integrity Section. The prosecution has received substantial assistance from the Fraud Section, as well as the U.S. Attorney's Office for the Southern District of Florida. The case is being investigated by a task force of federal agents including Special Agents of the Federal Bureau of Investigation, the Department of the Interior Office of the Inspector General, the General Services Administration Office of the Inspector General, the Criminal Investigation branch of the Internal Revenue Service, and prosecutors in the Public Integrity, Fraud, and Criminal Tax Sections of the Department of Justice.

# # #

06-622

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Criminal Number:**
	:	
	:	**VIOLATION:**
	:	
v.	:	**Count One**
	:	**18 U.S.C. § 371**
	:	**(Conspiracy)**
ROBERT W. NEY,	:	
	:	**Count Two**
Defendant.	:	**18 U.S.C. §§ 1001 and 2**
	:	**(False Statement)**

INFORMATION

The United States charges that:

COUNT ONE
18 U.S.C. § 371 - Conspiracy

GENERAL ALLEGATIONS

Congressman Robert W. Ney

1. From January 1995 to the present, Defendant ROBERT W. NEY served as an elected member of the U.S. House of Representatives for the 18th Congressional District in Ohio. From January 2001 until mid-January 2006, NEY served as the appointed Chairman of the House Committee on Administration ("House Administration Committee"). Beginning in or about January 2003, NEY also served as Chairman of the Housing and Community Opportunity Subcommittee of the House Financial Services Committee ("Housing Subcommittee") and the Chairman of the Joint Committee on Printing.

Ney's Staff

2. From in or about January 1995 through in or about February 2002, Neil Volz was employed as Communications Director and then Chief of Staff to NEY. From January

2001 until February 2002, Volz was also the Staff Director for the House Administration Committee. In February 2002, Volz left the public sector and went to work with Jack Abramoff as a lobbyist.

3. From in or about September 2001 until in or about February 2002, a Congressional staffer ("Staffer C") worked as NEY's Executive Assistant on the House Administration Committee. Beginning in or about February 2002, Staffer C succeeded Volz as NEY's Chief of Staff.

The Lobbyists and Their Clients

4. Beginning in or about 1994 and continuing until March 2004, Jack Abramoff was a lobbyist in Washington, D.C. Abramoff represented Native American Indian Tribes, Commonwealths, foreign governments, businesses, and individuals, primarily in matters involving the United States Congress and federal departments and agencies. A significant portion of his work involved lobbying Members of Congress on behalf of Native American Indian Tribes operating or interested in operating gambling casinos throughout the United States. At various times from 2000 to approximately 2005, Abramoff owned or controlled a number of business interests, including a boat-based casino business in Florida and a Washington, D.C. restaurant, Signatures. During the same time, Abramoff controlled luxury box suites in the MCI Center Arena in Washington, D.C. (now known as the Verizon Center), FedEx Field in Maryland, and Camden Yards Stadium in Maryland.

5. In 1998, Michael Scanlon left his job as the Communications Director for a Member of the House of Representatives and began working for a company providing grass roots

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and public relations services. In or about March 2000, Scanlon joined Abramoff working for the Washington D.C. office of a law and lobbying firm. In or about March 2001, Scanlon formed his own company, Capital Campaign Strategies, through which he and Abramoff sought clients for both lobbying and grass roots services.

6. From 1998 until December 2000, Tony Rudy worked as the Deputy Chief of Staff in the leadership office of a Member of the House of Representatives. In or about January 2001, Rudy left the public sector to work as a lobbyist with Abramoff, a position he held through July 2002.

The Foreign Businessman

7. Beginning at least as early as January 2003, a foreign businessman (the "Foreign Businessman") owned and operated a business with offices in London, England, and through which the Foreign Businessman sought to sell U.S.-made airplanes and airplane parts to a certain foreign country. U.S. laws prohibited, at all times relevant to this Information, the exportation or sale of U.S.-made airplanes and airplane parts to this foreign country. The Foreign Businessman sought an exemption to or modification of these laws as well as a visa for travel to the United States.

Rules of the House of Representatives

8. At all relevant times, the Rules of the House of Representatives:

   a. prohibited gifts to Members of Congress and staff members of more than $50 at one time, and a total of $100 per year from one source, except under limited circumstances;

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b. required that an exemption be sought from the Ethics Committee to receive more than $250 worth of gifts annually from a person the member considered a personal friend. NEY neither sought nor received such an exemption for gifts from Abramoff, his lobbyists, or the Foreign Businessman;

c. required that Members of the House and staff members at or above a certain salary threshold publicly file and certify as true and accurate Annual Financial Disclosure Statements with the Clerk of the House reporting detailed financial information;

d. prohibited trips paid for by private sources, unless the trip had an official purpose, and prohibited all trips paid for by lobbyists regardless of the purpose; and

e. required that Travel Disclosure Forms containing detailed information about the purpose, cost and sponsor of any trip paid for by private sources be publicly filed with the Clerk of the House within 30 days after any trips taken by Members of Congress or their staff and paid for by private entities or persons. The Rules also required that each Travel Disclosure Form be signed by the Member for Member travel or by the staffer and Member for staff travel, with a certification that the trip was in connection with official duties and that it "would not create the appearance ... of using public office for private gain."

Federal Election Commission Filings

9. From at least in or about January 2000 through at least in or about August 2006, NEY controlled an election committee known as "Bob Ney for Congress."

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10. From on or about April 13, 2001 through at least in or about August 2006, NEY controlled a political action committee known as "American Liberty PAC."

11. The Federal Election Campaign Act of 1971 as amended (the "FECA") requires that federal candidates and political action committees file periodic reports of their financial and fundraising activity with the Federal Election Commission ("FEC"). Specifically, the FECA requires committees to report both monetary and in-kind contributions. "In-kind" contributions are payments by third parties for things of value that benefit a committee, such as the facility rental and catering costs paid for by a third party hosting a fundraiser for a committee. The FECA establishes limits on the value of contributions, both monetary and in-kind, that a committee may receive from any one source.

12. Both Bob Ney for Congress and American Liberty PAC filed periodic reports of their financial and fundraising activity. NEY exercised final control and authority over the FEC filings for both entities by, among other things, requiring that his staff provide draft filings for his review and obtain his approval before filing FEC reports.

THE CONSPIRACY AND ITS OBJECTS

13. From in or about January 2000 through at least in or about April 2004, in the District of Columbia and elsewhere, the Defendant,

ROBERT W. NEY,

did knowingly conspire, confederate and agree with Abramoff, Staffer C, Rudy, Scanlon, Volz, the Foreign Businessman, and other persons known and unknown to the United States to commit offenses against the United States, that is, to:

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a. devise a scheme and artifice to defraud and deprive the House of Representatives, the citizens of the 18th Congressional District of Ohio, and the people of the United States of their right to the honest services of Representative NEY, as well as the honest services of Staffer C and Volz while they worked for NEY, performed free from deceit, fraud, concealment, bias, conflict of interest, self-enrichment and self-dealing, and to use the mails and interstate wires in furtherance, in that NEY and his staff accepted from Abramoff and lobbyists working with Abramoff (collectively referred to as "his lobbyists"), and the Foreign Businessman a stream of things of value intending to be influenced to take and to be rewarded for taking a stream of favorable official action by NEY and his staff, in violation of 18 U.S.C. §§ 1341, 1343, 1346 and 2;

b. knowingly and willfully make false statements to the U.S. House of Representatives regarding the things of value NEY received from Abramoff, his lobbyists, and the Foreign Businessman in violation of 18 U.S.C. §§ 1001 and 2; and

c. knowingly and willfully cause Volz to violate the one-year ban against lobbying by former Congressional employees by encouraging, soliciting and permitting him to lobby NEY and his staff, and staff members of the House Administration Committee of which NEY was chairman, within one year of having been employed by the House Administration Committee and the Office of Representative NEY, knowing that Volz intended to influence them to take official action on behalf of other persons, in violation of 18 U.S.C. §§ 207 and 2.

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PURPOSE OF THE CONSPIRACY

14. It was a purpose of the conspiracy for NEY, Staffer C, and Volz to enrich themselves and NEY's staff by using and agreeing to use their official positions and by performing and agreeing to perform official acts in return for a stream of things of value flowing to NEY and his staff by Abramoff, his lobbyists, and the Foreign Businessman.

15. It was a further purpose of the conspiracy for NEY and his staff to enrich Abramoff, his lobbyists, and the Foreign Businessman by providing favorable action to them and their clients.

16. It was a further purpose of the conspiracy to conceal from the House of Representatives, the citizens of the 18th Congressional District of Ohio, and the people of the United States the things of value NEY and his staff received from Abramoff, his lobbyists and the Foreign Businessman, to conceal the manner and the degree to which NEY and his staff were enriched by Abramoff, his lobbyists, and the Foreign Businessman, and to conceal the ways in which NEY and his staff had used and offered to use their official positions to benefit Abramoff, his lobbyists, and the Foreign Businessman.

MANNER AND MEANS

17. The conspiracy was carried out through the following manner and means:

    a. NEY, Staffer C, and Volz when he worked for NEY, solicited and accepted a stream of things of value from Abramoff and his lobbyists, including overseas and domestic trips, meals and drinks, golf, tickets to professional sporting events and concerts, a job for Volz as a lobbyist, and monetary and in-kind campaign contributions from Abramoff, his lobbyists, and their clients. After joining

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Abramoff's law and lobbying firm, Volz provided things of value to NEY and Staffer C. NEY controlled the receipt of things of value by his personal office staff and the House Administration Committee staff as a way to reward and punish staff by approving their receipt of things of value or by taking things of value and redistributing them to others.

b. In exchange for this stream of things of value, NEY and his staff provided and agreed to provide a stream of favorable official action to, and to use their influence on behalf of, Abramoff, his lobbyists, and their clients, none of whom were Ohio-based.

c. NEY, intending to be influenced to perform official acts, solicited and accepted things of value from the Foreign Businessman, including thousands of dollars worth of gambling chips.

d. NEY and his staff concealed the things of value they received from Abramoff, his lobbyists, and the Foreign Businessman by failing to report them or by misrepresenting their nature and value, in contravention of the disclosure requirements contained in federal statutes and the Rules of the House of Representatives, and by NEY's failure to report fully and accurately the in-kind campaign contributions Abramoff and his lobbyists gave.

e. Within one year of having served as NEY's chief of staff and the staff director to the House Administration Committee, Volz joined Abramoff's lobbying practice and provided things of value to NEY and Staffer C, and asked them and other members of the staff in NEY's personal office as well as the House

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Administration Committee to provide official support and influence to aid the clients of Volz, Rudy, and Abramoff.

OVERT ACTS

In furtherance of the conspiracy and to achieve its purposes, NEY and the co-conspirators committed the following overt acts, among others, in the District of Columbia and elsewhere:

NEY Solicited and Accepted a Stream of Things of Value from Abramoff and His Lobbyist Associates with the Intent to be Influenced

18. From in or about January 2000 until March 2004, NEY and his staff regularly accepted meals and drinks paid for by Abramoff and his lobbyists. For example, from March 2002 through October 2002, which is the time during which NEY repeatedly agreed to take official action to insert various amendments into election reform legislation at Abramoff's request, Volz treated NEY and his staff to more than $6,400 worth of meals and drinks at Signatures. Volz sought and received reimbursement from Abramoff's lobbying firm for his expenses.

19. From in or about January 2000 until March 2004, NEY and his staff received numerous expensive tickets to sports and entertainment events in the Washington, D.C., area. For example, from March 2002 through October 2002, which is the time during which NEY repeatedly agreed to take official action to insert various amendments into election reform legislation at Abramoff's request, NEY received two tickets to a classical music concert and NEY and his staff received tickets to a sought-after rock music concert, with the total costs for the tickets on those two occasions exceeding $1,100. NEY controlled the receipt and use of the rock concert tickets by his staff.

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20. From in or about June 2000 until March 2004, NEY and the election committees he controlled received tens of thousands of dollars in campaign contributions from Abramoff and his clients, for whom NEY had agreed to or would agree to perform official acts. For example, in exchange for NEY's agreement to insert language into legislation that would allow a Native American Indian Tribal client of Abramoff's ("Texas Tribe #1") to open a casino in Texas, Abramoff caused Texas Tribe #1 to contribute $32,000 in campaign contributions to NEY, including a $25,000 contribution to the soft money account of the American Liberty PAC, a $5,000 contribution to the hard money account of the American Liberty PAC, and a $2,000 contribution to Bob Ney for Congress.

21. From approximately January 2001 until March 2004, NEY and the election committees he controlled received in-kind campaign contributions in the form of free use of and catering for Abramoff's luxury box suites at the MCI Center Arena and Camden Yards Stadium or Signatures restaurant on at least eight occasions for political fundraisers, which use was not properly reported to the FEC as required by law. For example, on or about April 10, 2002, which is during the time when NEY repeatedly agreed to take official action to insert various amendments into election reform legislation at Abramoff's request, NEY and his American Liberty PAC received free use of a private room at Signatures for a fundraiser, the $2,000 cost for which was paid by Volz, reimbursed through Abramoff's firm, and not reported to the FEC.

22. From on or about August 3 through on or about August 9, 2002, NEY, Staffer C and another NEY staff member joined Abramoff, Volz and four others on an all-expense-paid

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trip to Scotland to play golf on world famous courses. As NEY knew, the all-expense-paid trip was a golf vacation paid for in part by funds raised by Texas Tribe #1. The trip included a private jet from Maryland to Scotland and from Scotland to London, commercial airline tickets to return to Washington, D.C., from London, luxury accommodations in Scotland and London, daily golf at St. Andrews and other famous courses in Scotland, meals, drinks, and local transportation. The trip costs for the entire group exceeded $160,000, without including the airline tickets NEY purchased with government funds to fly from near his home in Ohio to the Washington, D.C. area, where NEY boarded the private jet for Scotland.

23. From on or about May 9, 2003 through on or about May 12, 2003, NEY and Staffer C traveled with Volz and another lobbyist to New Orleans for an all-expense-paid, three-night stay, which included a visit on the final day to the reservation of one of Abramoff's Native American Tribal clients in Louisiana. The trip costs for the group exceeded $7,200, the cost of which was reimbursed through Abramoff's lobbying firm.

24. From on or about August 24, 2003 through on or about August 27, 2003, NEY, Staffer C, and another NEY staff member spent a two-night vacation at the Sagamore Resort in Lake George, New York, with Volz and another lobbyist paying for more than $3,500 in expenses incurred for lodging, a boat rental, a chartered town car, meals, drinks, and golf. Volz's share of the costs was reimbursed through Abramoff's lobbying firm.

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NEY Took a Series of Official Acts, In Exchange for the Stream of Things of Value, to Assist Abramoff, His Lobbyists, and Their Clients

25. In or about March 2000 and in or about October 2000, NEY agreed to insert statements into the Congressional Record at Scanlon's request, which supported Abramoff's business interests.

26. From in or about April 2001 through in or about November 2002, NEY supported the application of and ultimately issued a license to one of Abramoff's lobbying clients, allowing that client to win a multi-million dollar contract with wireless telephone companies to install wireless telephone infrastructure in the House of Representatives. NEY took a variety of official action to aid Abramoff's wireless services client, including meeting with representatives of the client on or about May 10, 2001, leaking to Abramoff a copy of a letter from the client's competitor complaining about the selection process in or about September 2002, and issuing a licence to Abramoff's client on or about November 26, 2002.

27. On repeated occasions in 2002 and 2003, NEY contacted personnel in United States Executive Branch agencies and offices in an effort to influence decisions of those agencies and offices at the request of Abramoff and his lobbyists, including advancing the interests of Abramoff's Native American Indian Tribal clients to the Secretary of Housing and Urban Development ("HUD") in a meeting in or about January 2003, wherein NEY told the HUD Secretary that NEY's number one priority as the newly installed Chairman of the Housing Subcommittee was Native American Indian Tribal housing.

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28. From on or about March 20, 2002, through at least on or about October 4, 2002, NEY agreed that, as the Co-Chairman of a Conference Committee of House and Senate Members of Congress involving election reform legislation known as the Help America Vote Act ("HAVA"), he would insert a variety of amendments into the HAVA at Abramoff's request as follows:

a. on or about March 20, 2002, NEY agreed to insert an amendment to lift an existing federal ban against commercial gaming by a Texas Native American Tribal client of Abramoff ("Texas Tribe #1");

b. in or about July 2002, NEY agreed to insert an amendment to lift an existing federal ban against commercial gaming by another Texas Native American Tribe ("Texas Tribe #2");

c. in or about June 2002, NEY agreed to insert an amendment to allow a foreign-beverage-distiller client of Abramoff's lobbying firm to label its product as "Made in Russia" when that client's product was to be distilled in a former Soviet Republic; and

d. in or about July 2002, NEY agreed to insert an amendment causing the General Services Administration to transfer property in its inventory to a religious school founded by Abramoff.

29. As part of his agreement to insert an amendment into the HAVA on behalf of Texas Tribe #1, NEY agreed to take and took a variety of official action to aid Texas Tribe #1, including on or about August 14, 2002, returning to Washington, D.C., from Ohio during the August Congressional recess and at tax-payer expense in order to meet with

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representatives of Texas Tribe #1 and assure them that he was continuing to work to insert their amendment into the HAVA; on or about October 8, 2002, participating in an interstate telephone conference call with representatives of Texas Tribe #1 in order to assure them that he would continue to support their pursuit of an amendment to another piece of legislation; and in or about February 2003, agreeing to ask the chairman of another committee of the House of Representatives to insert into different legislation the amendment lifting the gaming ban for Texas Tribe #1.

NEY Solicited and Accepted Things of Value from the Foreign Businessman Intending to be Influenced and Took Official Action In Return

30. From in or about February 20, 2003, through in or about February 23, 2003, NEY and one of his staff members traveled to London to meet with the Foreign Businessman and others to discuss their need for official assistance to obtain an exemption from or an amendment to the United States laws making it illegal to do business with a foreign country, which thwarted the Foreign Businessman's ability to engage in lucrative sales of U.S.-made airplanes and airplane parts. NEY and his staff member were treated by the Foreign Businessman to free luxury accommodations, airfare, and entertainment.

31. On or about February 21, 2003, NEY met with the Foreign Businessman and others and discussed obtaining an exemption to the laws prohibiting the sale of U.S.-made airplanes and airplane parts to a foreign country as well as the Foreign Businessman's need for a visa to enter the United States. NEY agreed to help the Foreign Businessman with both the exemption and the visa.

32. On or about February 21, 2003, and again on or about February 22, 2003, the Foreign Businessman provided to NEY, his staff member, and others on multiple occasions

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thousands of dollars worth of gambling chips for use at various private casinos of which the Foreign Businessman was a member and to which the Foreign Businessman accompanied NEY and his staff member. NEY never returned any of the free chips to the Foreign Businessman and never shared with the Foreign Businessman any of the money NEY had won as a result of the thousands of dollars worth of chips that the Foreign Businessman had given to NEY. NEY carried into the United States at least $3,250 worth of British pounds he had obtained during the February trip.

33. During the February trip, the Foreign Businessman also gave NEY and his staff member a free membership to one of the private casinos.

34. Following the February 2003 trip, at the request of the Foreign Businessman, NEY contacted the State Department to inquire about obtaining a visa for travel to the United States on behalf of the Foreign Businessman.

35. Following the February 2003 trip, at the request of the Foreign Businessman, NEY contacted the State Department to inquire about an exemption to the United States embargo against doing business with a foreign country.

36. In or about July or August 2003, NEY arranged for himself, the same staff member from the February 2003 London trip, and Staffer C to meet with the Foreign Businessman during a stopover in London so that they could gamble with the Foreign Businessman and receive chips from him.

37. On or about August 29, 2003, NEY traveled to London with Staffer C and the other staff member and the Foreign Businessman again provided to both NEY and his staff thousands of dollars worth of gambling chips for use at various private casinos. NEY

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never returned any of the free chips to the Foreign Businessman and never shared with the Foreign Businessman any of the money NEY had won as a result of the thousands of dollars worth of chips that the Foreign Businessman had given to NEY. NEY imported into the United States approximately $47,000 worth of British pounds he had obtained from gambling with the Foreign Businessman on August 29, 2003.

NEY Intentionally Concealed his Relationship with Abramoff and the Foreign Businessman from the U.S. House of Representatives and the Public

38. On or about September 9, 2002, NEY caused to be prepared and signed his Member Travel Disclosure Form for the August 2002 Scotland golf trip, substantially under reporting the costs paid by a private source for transportation, lodging and meals, and failing to report any costs paid for by a third party for golf expenses. Even though the trip was a golfing vacation, NEY reported that the purpose of the trip was a "speech to Scottish parliamentarians; attend Edinburgh Military Tattoo; visit British Parliament." NEY never gave a speech to Scottish Parliamentarians, did not visit British Parliament, and attended the Edinburgh Military Tattoo only as a tourist with no official duties or responsibilities.

39. On or about March 11, 2003, NEY signed and caused to be filed a Member Travel Disclosure Form for the February 2003 London trip in which he falsely reported that no other expenses had been paid by private sources, notwithstanding his receipt of thousands of dollars worth of gambling chips from the Foreign Businessman.

40. On or about May 15, 2003, NEY caused to be filed his Annual Financial Disclosure Statement for calendar year 2002 in which he misrepresented the Scotland golf trip as

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being for an official purpose. NEY also failed to disclose as gifts the golf expenses from the Scotland trip as well as the tickets, meals and entertainment provided by Abramoff, Volz, and other lobbyists working with Abramoff.

41. On or about August 30, 2003, to conceal the true amount of money obtained by NEY during his August 2003 trip to gamble with the Foreign Businessman in London, NEY gave approximately $5,000 worth of British pounds to a staff member to carry through customs so that NEY could carry and report a lower dollar amount to U.S. Customs Officials upon reentry into the United States.

42. On or about August 30, 2003, NEY completed a Customs Service Form 4790, Report of International Transportation of Currency or Monetary Instruments, in which he reported importing $32,000, failing to include thousands of additional dollars he had received and was carrying as well as approximately $5,000 in British pounds that NEY had given to his staff member to carry through U.S. Customs.

43. On or about May 15, 2004, NEY caused to be filed his Annual Financial Disclosure Statement for 2003 in which he failed to disclose the tickets, meals and entertainment provided by Abramoff, Volz, and other lobbyists working with Abramoff, including the gifts of free travel, accommodations, and other expenses associated with the trip that NEY took to Lake George, New York, and the trip to New Orleans, Louisiana. The Statement also understated and misrepresented his receipt of gifts from the Foreign Businessman by reporting that he won $34,000 from a "Game of Chance[,] Casino[,] Ambassador's Club," but failed to disclose thousands of dollars worth of gambling chips among other gifts from the Foreign Businessman as well as the approximately $5,000 that he had given to his staff member to carry through customs on August 30, 2003.

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NEY Knowingly and Willfully Aided and Abetted Volz's One-Year Ban Violation

44. In or about November 2001, NEY reviewed with Volz the clients Volz told Abramoff that Volz could bring to Abramoff's lobbying firm. NEY encouraged Volz to add as a potential client a company with business before the Joint Committee on Printing, which NEY chaired.

45. Beginning in or about mid-August 2002 and continuing at various times throughout his one-year ban, Volz contacted NEY and senior staff members of the House Administration Committee to seek support for transferring property held by the General Services Administration to a private school Abramoff operated. NEY agreed to help Abramoff with that effort, including by agreeing to insert an amendment into the HAVA and later by offering to call a senior official at GSA.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO
18 U.S.C. § 1001
False Statements on 2002 and 2003 Annual Financial Disclosure Forms

46. Paragraphs 1 through 12, and 18 through 45 of Count One are realleged as though fully stated herein.

47. On or about May 15, 2003, and on or about May 17, 2004, in the District of Columbia and elsewhere, in a matter within the administrative jurisdiction of the legislative branch of the United States, including the jurisdiction of the United States House of Representatives, the Defendant,

ROBERT W. NEY,

aided and abetted by Abramoff, Staffer C, Volz, and others, knowingly and willfully made materially false, fictitious and fraudulent statements and representations to the House of Representatives in NEY's Annual Financial Disclosure Statement for calendar years 2002 and 2003 regarding the things of value he had received from Abramoff, his lobbyists, and the Foreign Businessman in that:

a. Annual Financial Disclosure Statement for 2002: (1) NEY wrote that the source of travel payments and reimbursements for his August 2002 golf trip to Scotland was the "National Center for Public Policy" when, as NEY then and there well knew and believed, Abramoff and his clients had paid for NEY's expenses; and (2) NEY omitted the reporting of gifts totaling $285 or more from any source, including gifts from Abramoff and his lobbyists, writing that NEY had received "-NONE-" when, as NEY then and there well knew and believed, Abramoff and Volz had each given to NEY gifts valued at well more than $285 in 2002; and

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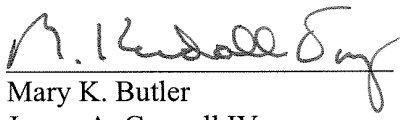
b. Annual Financial Disclosure Statement for 2003: (1) NEY failed to report gifts totaling $285 or more from Abramoff and Volz when, as NEY knew and believed, Abramoff and Volz had each given to NEY gifts valued at well more than $285 in 2003; and (2) NEY wrote that he had received $34,000 as a gift from "Game of Chance[,] Casino[,] Ambassador's Club" when, as NEY knew and believed, NEY had received more than $34,000 in gambling chips and winnings and the true source of the money NEY received was the Foreign Businessman.

All in violation of Title 18, U.S.C. §§ 1001(a)(2), (c)(1) and 2.

EDWARD C. NUCCI
Acting Chief, Public Integrity Section

PAUL E. PELLETIER
Acting Chief, Fraud Section



Date: September 15, 2005

Mary K. Butler
James A. Crowell IV
M. Kendall Day
Trial Attorneys

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**Criminal Number:**
	:	
	:	**VIOLATIONS:**
	:	
v.	:	**Count One**
	:	**18 U.S.C. § 371**
	:	**(Conspiracy)**
	:	
ROBERT W. NEY,	:	**Count Two**
	:	**18 U.S.C. § 1001**
Defendant.	:	**(False Statements)**

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, Robert W. Ney, agree as follows:

1. The defendant is competent to enter into this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.

2. The defendant knowingly, voluntarily and truthfully admits the facts contained in the attached Factual Basis for Plea.

3. The defendant agrees to waive indictment and plead guilty to the charges contained in the Information which are:

   a. one count of conspiracy to violate the following federal laws in violation of 18 U.S.C. § 371:

      i. honest services wire and mail fraud, in violation of Title 18 U.S.C. §§ 1341, 1343 and 1346,

ii. making false statements in violation of 18 U.S.C. § 1001, and

iii. post-employment restrictions for former Congressional staff members, in violation of 18 U.S.C. § 207(e).

b. one count of making false statements in violation of 18 U.S.C. § 1001.

The defendant admits that he is guilty of these crimes, and the defendant understands that he will be adjudicated guilty of these offenses if the Court accepts his guilty pleas.

4. The defendant understands the nature of the offenses to which he is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalty for violating the law specified in the Information is:

a. Count 1 (Conspiracy): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100; and

b. Count 2 (Making False Statements): five years of imprisonment, a fine of $250,000 or not more than the greater of twice the gross gain or twice the gross loss, and a mandatory special assessment of $100.

The parties understand that the statutory maximum term of imprisonment for the two offenses charged in the Information is 10 years. The defendant understands that the Court may impose a term of supervised release to follow any incarceration, in accordance with 18 U.S.C. § 3583, and that if the Court imposes a term of supervised release and the defendant violates the terms of his release, then the defendant may be sentenced to not more than an additional three years of incarceration. The authorized term of supervised release for each

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of the counts is not more than three years. The defendant also understands that the Court may impose restitution as well as costs of incarceration, supervision and prosecution.

5. If the Court accepts the defendant's pleas of guilty and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for any crimes described in the factual basis attached as Exhibit A. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

6. The defendant understands and agrees that federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory U.S. Sentencing Guidelines in effect at the time of the sentencing in determining a reasonable sentence. Defendant also understands that sentencing is within the discretion of the Court and that the Court is not bound by this agreement. Defendant understands that facts that determine the offense level will be found by the Court at sentencing and that in making those determinations the Court may consider any reliable evidence, including hearsay, as well as provisions or stipulations in this plea agreement. Both parties agree to recommend that the sentencing guidelines should apply pursuant to United States v. Booker and the final Sentencing Guidelines term of imprisonment as calculated herein provides for a reasonable sentence. Defendant further understands the obligation of the United States to provide all relevant information regarding the defendant, including charged and uncharged criminal offenses, to the United States Probation Office.

7. Except to the extent it would be inconsistent with other provisions of this agreement, the United States and the defendant reserve, at the time of sentencing, the right of allocution,

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that is the right to describe fully, both orally and in writing, to the Court the nature, seriousness and impact of the defendant's misconduct related to the charges against him or to any factor lawfully pertinent to the sentence in this case. The United States will also advise the Court of the nature, extent and timing of the defendant's acceptance of responsibility. The defendant further understands and agrees that in exercising this right, the United States may solicit and make known the views of the law enforcement agencies which investigated this matter.

8. The defendant and the United States agree that the United States Sentencing Guidelines ("U.S.S.G.") apply based upon the facts of this case. Specifically, the parties agree as follows:

a. The parties agree that the 2003 Sentencing Guidelines Manual governs the guideline calculations in this case. The parties disagree about whether §§ 3B1.1(b) or (c) applies, and each party reserves the right to argue at the time of sentencing that either §§ 3B1.1(b) or (c) applies. Accordingly, the parties agree that the defendant's sentence shall be determined as follows:

i.	Combined Offense Level (after grouping under § 3D1.4)	
	Base Offense Level § 2C1.7(a)	10
	§ 2C1.7(b)(2)(B) involving a high level public official	+8
		18
ii.	Enhancement for Role in the Offense	
	Parties disagree whether §§ 3B1.1(b) or (c) applies.	
	Parties agree that Role Enhancement is either 2 or 3.	+2 or +3
		20 or 21
iii.	Expected Adjustment under § 3E1.1	-3
iv.	Final Offense Level	Either 17 or 18

b. The parties further understand that, provided the defendant qualifies for a reduction in his combined total offense level under U.S.S.G. § 3E1.1, the final sentence of imprisonment the United States will recommend to the Court is 27 months incarceration regardless of what enhancement the Court may apply under § 3B1.1.

c. The United States, however, will not be required to recommend a reduction in the defendant's combined offense level under § 3E1.1 if any of the following occurs: (1) defendant fails or refuses to make a full, accurate and complete disclosure to this office or the probation office of the circumstances surrounding the relevant offense conduct and his present financial condition; (2) defendant is found to have misrepresented facts to the United States prior to entering this plea agreement; (3) defendant commits any misconduct after entering into this plea agreement, including but not limited to, committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official; or (4) defendant fails to comply with any terms of this plea agreement. If the United States does not recommend a reduction under § 3E1.1, then the United States may recommend any sentence within the range specified by the Guidelines for the defendant's combined offense level as determined by the Court.

d. The defendant understands that his Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the U.S. Probation Office. The defendant acknowledges that the United States has not promised or agreed that the defendant will or will not fall within any particular criminal history

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category and that such determinations could affect his guideline range and/or offense level as well as his final sentence.

9. The defendant and the United States agree that neither party will seek or advocate for or suggest in any way an adjustment to or a departure or variance from the sentencing guidelines other than those explicitly set forth in this agreement or for a sentence outside of the range determined to be applicable under the advisory Sentencing Guidelines, provided that those guidelines are calculated as set forth above. In the event that the defendant breaches any term of the plea agreement, the United States may move for enhancements or upward departures based on any grounds the United States deems appropriate.

10. The parties agree that U.S.S.G. § 5E1.2 provides that the Court shall impose a fine, unless the Court finds that the defendant is unable to pay a fine.

11. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fines or restitution the defendant may be ordered to pay. The defendant understands that the sentence in this case will be determined solely by the Court, with the assistance of the United States Probation Office and that the Court may impose the maximum sentence permitted by the law. The Court is not obligated to follow the recommendations of either party at the time of sentencing. The defendant will not be permitted to withdraw his pleas regardless of the sentence recommended by the Probation Office or the sentence imposed by the Court.

12. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding his right to appeal the sentence as provided in 18 U.S.C. § 3742, hereby expressly waives the right to

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appeal any sentence within the maximum provided in the statutes of conviction or the manner in which that sentence was determined and imposed, including on the grounds set forth in 18 U.S.C. § 3742, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

13. The defendant hereby expressly waives the right to contest the admissibility at sentencing of any material privileged by the Speech or Debate Clause of the U. S. Constitution, art. I, § 6, cl. 1, in exchange for the concessions made by the United States in this plea agreement.

14. If the defendant fails to enter pleas of guilty or otherwise comply with any of the terms and conditions set forth in this agreement, the United States may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

    a. The defendant shall assert no claim under the United States Constitution, including under the Speech or Debate Clause, art. I, § 6, cl. 1, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule, that the defendant's statements pursuant to this agreement, including the attached factual basis, or any leads derived therefrom should be suppressed or are inadmissible;

    b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

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c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

15. If a dispute arises as to whether defendant has knowingly committed any material breach of this agreement, and the United States chooses to exercise its rights under Paragraph 14, at the defendant's request, the matter shall be submitted to the Court for its determination in an appropriate proceeding. At such proceeding, the defendant's disclosures and documents shall be admissible and the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

16. The parties agree that if the Court does not accept the defendant's pleas of guilty, then this agreement shall be null and void.

17. The defendant understands that this agreement is binding only upon the Criminal Division of the United States Department of Justice. This agreement does not bind any other prosecutor's office or agency. It does not bar or compromise any civil claim that has been or may be made against the defendant.

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18. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

FOR THE DEFENDANT

Dated: September 13, 2006

ROBERT W. NEY
Defendant

MARK H. TUOHEY, ESQ.
WILLIAM E. LAWLER, III, ESQ.
CRAIG D. MARGOLIS, ESQ.
DAVID HAWKINS, ESQ.
Counsel for Defendant

FOR THE UNITED STATES

Dated: September 15, 2006

EDWARD C. NUCCI
Acting Chief, Public Integrity Section

PAUL E. PELLETIER
Acting Chief, Fraud Section

Mary K. Butler
James A. Crowell IV
M. Kendall Day
Trial Attorneys

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ATTACHMENT A

FACTUAL BASIS FOR THE PLEA
OF ROBERT W. NEY

This statement is submitted to provide a factual basis for my plea of guilty to the conspiracy and false statement charges filed against me.

Congressman Robert W. Ney

1. From January 1995 to the present, ROBERT W. NEY, served as an elected member of the U.S. House of Representatives for the 18th Congressional District in Ohio. From January 2001 until he resigned as Chairman in mid-January 2006, NEY served as the appointed Chairman of the House Committee on Administration ("House Administration Committee"). Beginning in January 2003, NEY also served as Chairman of the Housing and Community Opportunity Subcommittee of the House Financial Services Committee and the Chairman of the Joint Committee on Printing. On repeated occasions from in or about 2000 through at least April 2004, NEY communicated with his coconspirators in furtherance of their conspiracy using interstate electronic email, interstate telephone calls, and government and commercial mail carriers.

NEY's Staff

2. From January 1995 through February 2002, Neil Volz was employed as Communications Director and then Chief of Staff for NEY. From January 2001 until February 2002, Volz was also the Staff Director for the House Administration Committee. In February 2002, Volz left the public sector and went to work with Jack Abramoff as a lobbyist.

3. From September 2001 until February 2002, a Congressional staffer worked as NEY's Executive Assistant on the House Administration Committee ("Staffer C"). Beginning in February 2002, Staffer C succeeded Volz as NEY's Chief of Staff.

The Lobbyists and Their Clients

4. Beginning in 1994 and continuing until March 2004, Jack Abramoff was a lobbyist in Washington, D.C. Abramoff represented Native American Indian Tribes, Commonwealths, foreign governments, businesses, and individuals, primarily in matters involving the United States Congress and federal departments and agencies. A significant portion of Abramoff's work involved lobbying Members of Congress on behalf of Native American Indian Tribes operating or interested in operating gambling casinos throughout the United States. At various times from 2000 until approximately 2005, Abramoff owned or controlled a number of other business interests, including a boat-based casino business in Florida and a Washington, D.C. restaurant, Signatures. Abramoff also controlled luxury box suites at the MCI Center Arena in Washington, D.C. (now known as the Verizon Center), FedEx Field in Maryland, and Camden Yards Stadium in Maryland.

5. In 1998, Michael P.S. Scanlon left his job as the Communications Director for a Member of the House of Representatives and began working for a company providing grass roots and public relations services. In March 2000, Scanlon joined Abramoff at the Washington, D.C., office of a law and lobbying firm. In or about March 2001, Scanlon formed his own company, Capital Campaign Services, through which he and Abramoff sought clients for both lobbying and grass roots services.

6. From 1998 until December 2000, Tony C. Rudy worked as the Deputy Chief of Staff in the leadership office of a Member of the House of Representatives. In January 2001, Rudy began working with Abramoff as a lobbyist, a position he held through July 2002.

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The Foreign Businessman

7. Beginning at least as early as January 2003, a foreign businessman (the "Foreign Businessman") owned and operated a business with offices in London, England, and through which the Foreign Businessman sought to sell U.S.-made airplanes and airplane parts abroad. The Foreign Businessman hired Washington, D.C., based lobbyists to pursue an exemption to or modification of United States laws prohibiting the sale of these planes and parts to businesses in a foreign country. He also sought a visa to enter the United States.

NEY's Scheme to Defraud the House of Representatives
and the Public of His Honest Services

8. Beginning in or about 2000 and continuing through April 2004, NEY and his coconspirators, using mail and interstate wire communications, engaged in a conspiracy to deprive the public of the honest services of NEY and members of his staff, to commit false statements, and to aid and abet Volz's violation of his one-year lobbying ban. That is, NEY and members of his staff corruptly solicited and accepted a stream of things of value from Abramoff, Scanlon, Volz, Rudy, and other lobbyists working for Abramoff (collectively referred to as "Abramoff and his lobbyists") and the Foreign Businessman with the intent to be influenced and induced to take a series of official actions and to agree to perform a series of official actions. Abramoff and his lobbyists, the Foreign Businessman, and others provided the stream of things of value knowing that it was received by NEY and members of his staff with the intent to be influenced and induced to take official action.

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9. As part of the conspiracy described in paragraph 8, the stream of things of value solicited and accepted by NEY and paid for by Abramoff and his lobbyists and their clients in exchange for the stream of official action, included, but was not limited to, the following:

a. all-expense-paid and reduced-price trips to play golf with seven others in Scotland in August 2002, with total trip costs exceeding $160,000; to gamble and vacation with three others in New Orleans in May 2003, with total trip costs of approximately $7,200; and to vacation with four others at Lake George, New York in August 2003, with trip costs paid by the lobbyists exceeding $3,500;

b. numerous meals and drinks at Washington, D.C., area restaurants, primarily at Signatures;

c. numerous tickets for NEY and his staff to use Abramoff's box suites to attend sporting events and concerts in the Washington, D.C., area. NEY controlled the receipt and use of tickets by his staff;

d. substantial campaign contributions from Abramoff's clients for whom NEY had agreed to perform official acts; and

e. in-kind campaign contributions in the form of the free use of, catering for, and tickets to Abramoff's luxury box suites at the MCI Center Arena and Camden Yards Stadium or Signatures restaurant on at least eight occasions for political fundraisers, which use was not properly reported to the Federal Election Commission as required by law.

10. As part of the conspiracy described in paragraph 8 and in exchange for the stream of things of value, NEY took and agreed to take a stream of official action benefitting

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Abramoff and his lobbyists and their clients, none of whom were Ohio-based. The stream of official action taken or agreed to be taken by NEY included, but was not limited to, the following:

a. NEY agreed to and did garner support for, support, and oppose legislation at Abramoff's request, including agreeing to insert amendments at Abramoff's request into the election reform legislation known as the Help America Vote Act ("HAVA"), specifically the following:

   i. on March 20, 2002, an amendment to lift an existing federal ban against commercial gaming by a Texas Native American Tribal client of Abramoff ("Texas Tribe #1");

   ii. in July 2002, an amendment to lift an existing federal ban against commercial gaming by another Texas Native American Tribe ("Texas Tribe #2");

   iii. in June 2002, an amendment to allow a foreign-beverage-distiller client of Abramoff's lobbying firm to label its product as "Made in Russia" when that client's product was to be distilled in a former Soviet Republic; and

   iv. in July 2002, an amendment causing the General Services Administration to transfer property in its inventory to a religious school founded by Abramoff; and

b. In March 2000 and again in October 2000, NEY agreed to and did insert statements into the Congressional Record at Scanlon's request;

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c. From April 2001 through November 2002, NEY supported the application of and ultimately issued a license to one of Abramoff's lobbying clients, allowing that client to win a multi-million dollar contract with wireless telephone companies to install wireless telephone infrastructure in the House of Representatives;

d. At various times from 2001 through 2003, NEY contacted personnel in United States Executive Branch agencies and offices in an effort to influence decisions of those agencies and offices at the request of Abramoff and his lobbyists, including meeting with the Secretary of Housing and Urban Development and identifying as NEY's number one priority Native American Indian Tribal housing; and

e. From 2001 through 2003, NEY met with and praised Abramoff and his lobbyists to clients, both actual and potential, in an effort to maintain and enhance Abramoff's lobbying practice.

11. As part of the conspiracy described in paragraph 8, the things of value solicited and accepted by NEY from the Foreign Businessman and the official action agreed to and taken by NEY on behalf of the Foreign Businessman included, but were not limited to, the following:

a. From February 20, 2003, through February 23, 2003, NEY and one of his staff members traveled to London to meet with the Foreign Businessman, his partner, and others. The round-trip airfare, luxury accommodations, meals and entertainment for NEY and his staff member was paid for by the Foreign Businessman's company.

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b. On February 21, 2003, NEY and his staff member met with the Foreign Businessman and discussed various strategies to alter the United States laws prohibiting the Foreign Businessman from selling airplanes and parts in a foreign country. NEY also discussed with the Foreign Businessman his need for a visa to enter the United States.

c. On February 21 and again on February 22, 2003, NEY and his staff member each received from the Foreign Businessman thousands of dollars worth of gambling chips for use at various private casinos of which the Foreign Businessman was a member and to which the Foreign Businessman accompanied NEY and his staff member. NEY and his staff member also received free membership to one of the private casinos. NEY never returned any of the free chips to the Foreign Businessman and never shared with the Foreign Businessman any of the money NEY had won as a result of the thousands of dollars worth of chips that the Foreign Businessman had given to NEY. NEY received at least $3,250 worth of British pounds during the February trip.

d. Following the February 2003 trip, on behalf of the Foreign Businessman, NEY contacted the State Department to inquire about obtaining a visa for travel to the United States on behalf of the Foreign Businessman.

e. Following the February 2003 trip, on behalf of the Foreign Businessman, NEY contacted the State Department to inquire about the status of U.S. laws prohibiting the sale of U.S.-made airplanes and airplane parts to a foreign country.

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f. In July or August 2003, NEY arranged for himself, the same staff member from the February 2003 London trip, and Staffer C to meet with the Foreign Businessman during a stopover in London so that they could gamble with him and receive free chips from him.

g. On August 29, 2003, NEY, Staffer C, and the other staff member traveled to London for a one-night stopover and the Foreign Businessman again furnished NEY and each of his staff members with thousands of dollars worth of gambling chips for use at various private casinos. NEY never returned any of the free chips to the Foreign Businessman and never shared with the Foreign Businessman any of the money NEY won as a result of the thousands of dollars worth of chips that the Foreign Businessman had given to NEY. At the end of the evening, NEY received approximately $47,000 worth of British pounds.

h. On August 30, 2003, to conceal the true amount of money NEY had received, NEY gave approximately $5,000 worth of British pounds to a staff member to carry through the U.S. Customs Service checkpoint so that NEY could carry and report a lower dollar amount to Customs Service officials upon reentry into the United States.

i. On August 30, 2003, NEY completed a Customs Service Form 4790, Report of International Transportation of Currency or Monetary Instruments, on which NEY reported importing $32,000, which failed to include thousands of additional dollars that NEY had received in London, including approximately $5,000 worth of British pounds that NEY had given to his staff member to carry through Customs.

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NEY's Concealment of His Corrupt Scheme
from the House of Representatives and the Public

12. As part of the conspiracy described in paragraphs 8 through 11 and the substantive false statement violations set forth in counts 2 and 3 of the Information, NEY knowingly concealed and misrepresented his receipt of the stream of things of value from Abramoff, Volz, Rudy, Scanlon, the Foreign Businessman, and others by, among other things, falsifying the following forms:

a. Travel Disclosure Forms

i. NEY's August 2002 trip to Scotland: On September 9, 2002, NEY signed and eventually caused to be filed his Member Travel Disclosure Form for the August 2002 Scotland golf trip. On that form, NEY substantially under reported the costs paid by Abramoff and his clients and mischaracterized the purpose of the trip.

ii. NEY's February 2003 trip to London: On March 11, 2003, NEY signed and caused to be filed a Member Travel Disclosure Form for the February 2003 London trip in which NEY falsely reported that no other expenses had been paid by private sources, notwithstanding NEY's receipt of thousands of dollars worth of gambling chips from the Foreign Businessman.

b. Annual Financial Disclosure Forms

i. NEY's 2002 Financial Disclosure Form: On May 15, 2003, NEY signed and caused to be filed his Annual Financial Disclosure Statement for calendar year 2002 in which NEY mischaracterized the purpose of the

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trip, and failed to disclose as gifts the golf expenses from the Scotland trip as well as the tickets, meals and entertainment provided by Abramoff, Volz, and other lobbyists working with Abramoff. On June 2, 2003, and again on June 18, 2004, NEY filed amended financial disclosure forms for calendar year 2002, in which NEY made the same material false statements and omissions as with the original filing.

ii. NEY's 2003 Financial Disclosure Form: On May 15, 2004, NEY signed and caused to be filed an Annual Financial Disclosure Statement for 2003 in which NEY failed to disclose the trips, tickets, meals and entertainment provided by Abramoff, Volz, and other lobbyists working with Abramoff, including the gifts of free travel, accommodations, and other expenses associated with the trips that NEY took to Lake George, New York; and New Orleans, Louisiana. NEY also understated his receipt of gifts and omitted as the source of those gifts the Foreign Businessman by reporting that he won $34,000 from "Game of Chance[,] Casino[,] Ambassador's Club." NEY intentionally failed to include thousands of additional dollars he received, including an additional $3,250 he received in February 2003 and $5,000 worth of British pounds carried through the U.S. Customs Service checkpoint by his staff member.

NEY's Aiding and Abetting Volz's One-Year Lobbying Ban Violation

13. As part of the conspiracy described in paragraphs 8 through 11, NEY allowed and encouraged Volz to lobby NEY, the staff in NEY's personal office, and the staff on the

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House Administration Committee on a variety of issues from February 2002 through February 2003, knowing that Volz was barred by law from lobbying NEY, NEY's personal office staff, and the staff of the House Administration Committee for one year following Volz's resignation from Congress in February 2002. The actions that NEY encouraged Volz to take in violation of Volz's one-year lobbying ban included but are not limited to the following:

a. In approximately November 2001, NEY reviewed with Volz the clients Volz had told Abramoff that Volz could bring to Abramoff's lobbying firm. NEY encouraged Volz to add as a potential client a company with business before the Joint Committee on Printing, which NEY chaired.

b. Beginning in or about July 2002 and continuing at various times throughout his one-year lobbying ban, Volz contacted NEY and senior staff members of the House Administration Committee to seek support for transferring property held by the General Services Administration to a private school Abramoff operated. NEY agreed to help Abramoff with that effort, including by inserting an amendment into the HAVA and later by offering to call a senior official at GSA.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charges against me. It does not include all of the facts known to me concerning criminal activity in which I and others engaged. I am competent to make this statement and I do so knowingly and voluntarily and because I am in fact guilty of the crimes charged. I have discussed this factual basis with my attorneys, and I understand that

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under the terms of the plea agreement this statement is admissible as evidence against me if my plea of guilty is not entered or if I otherwise fail to comply with the plea agreement.

DATE: September 13, 2006

Robert W. Ney

Mark H. Tuohey, Esq.
William E. Lawler III, Esq.
Craig D. Margolis, Esq.
David Hawkins, Esq.
Attorneys for Defendant

DOJ_NMG_ 0168044

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 11:36 AM
To: USDOJ- Office of Public Affairs
Subject: GOVERNMENT REACHES SETTLEMENTS WITH SEABOARD FOODS AND PIC USA

Department of Justice

ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMEBER 15, 2006
WWW.USDOJ.GOV

DOJ (202) 514-2007
EPA (202) 564-4355
TDD (202) 514-1888

GOVERNMENT REACHES SETTLEMENTS WITH SEABOARD FOODS AND PIC USA

WASHINGTON — Under two related settlements, Seaboard Foods LP and PIC USA Inc., will take significant steps at many of their facilities to ensure future compliance with environmental laws and to resolve allegations that the companies contaminated groundwater and surface waters near several of their facilities, the Justice Department and the Environmental Protection Agency (EPA) announced today. Seaboard Foods LP, one of the nation's largest vertically integrated pork producers, is the current owner of more than 200 farms in Oklahoma, Kansas, Texas, and Colorado, and PIC USA, Inc. is the former owner and operator of several of the farms located in Oklahoma now operated by Seaboard.

Under the first consent decree, Seaboard Foods and PIC USA, Inc will pay a civil penalty of $240,000 for violations of the Resource Conservation and Recovery Act (RCRA), the federal hazardous waste statute, dating back to 2001. In the second settlement, Seaboard will pay a civil penalty of $205,000 for failure to comply with the Clean Water Act (CWA) and the Clean Air Act (CAA), and for failure to comply with the continuous release reporting requirements of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA). Payment of a $100,000 civil penalty by Seaboard in a separate Air Compliance Agreement with the EPA will be credited toward this amount.

"Today's settlements represent an excellent result for the people of Oklahoma and a significant commitment by the companies to address the impacts of their operations and to remedy their impacts on ground water and surface waters, said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. In securing an extensive program of injunctive relief, we are confident that today's settlement will help to ensure the protection of drinking water sources in Oklahoma."

"This settlement represents a significant effort to address the impacts of animal waste handling practices and to bring operations into compliance with all applicable environmental regulations," said Granta Y. Nakayama, the EPA's Assistant Administrator for Enforcement and Compliance Assurance.

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"People know the value of clean water and air. This settlement represents a significant effort by two major companies to bring their waste handling operations into compliance," EPA Regional Administrator Richard E. Greene said. "We are pleased with these efforts, which will ensure better air and water near the farms."

The government's complaints, filed in conjunction with the settlements, allege that Seaboard Foods LP and PIC USA Inc., an international swine producer, contaminated the ground water near five farms in Oklahoma, and failed to properly investigate or remediate the source of the contamination, in violation of an EPA Order issued under RCRA. As part of this settlement, the companies have agreed to clean and close leaking lagoons, implement measures to ensure any future leaking pipes or lagoons are identified and addressed promptly, and take steps to ensure that the area ground water is cleaned up. In addition, Seaboard Foods LP and PIC USA Inc., have agreed that when manure is used for crop fertilization purposes, it will be applied at appropriate rates, so to prevent future soil or ground water contamination.

As part of a separate settlement, Seaboard Foods will be required to implement various erosion control measures at 16 farms to prevent any future runoff of soils and sediments to nearby rivers or streams, and to establish protective buffer zones around sensitive wetland areas at 17 of its farms. Seaboard Foods further certified its compliance with the continuous release reporting requirements of CERCLA and EPCRA at all of its 239 farms.

The Department of Justice lodged both consent decrees today in the U.S. District Court for the Western District of Oklahoma. The consent decrees will be subject to a 30-day public comment period and subsequent judicial approval and are available on the Justice Department website at http://www.usdoj.gov/enrd/Consent_Decrees.html.

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Image not available for this document, ID: 0.7.10316.32247-000002

Image not available for this document, ID: 0.7.10316.32247-000003

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 1:03 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ASSISTANT ATTORNEY GENERAL ALICE S. FISHER OF THE CRIMINAL DIVISION REGARDING CONGRESSMAN ROBERT W. NEY

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 15, 2006
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CRM
(202) 514-2008
TDD (202) 514-1888

STATEMENT OF ASSISTANT ATTORNEY GENERAL ALICE S. FISHER OF THE CRIMINAL DIVISION REGARDING CONGRESSMAN ROBERT W. NEY

WASHINGTON, D.C.

Good morning. I am joined this morning by Michael Mason, Executive Assistant Director of the Federal Bureau of Investigation, and Earl Devaney, Inspector General of the Department of Interior.

This morning, federal prosecutors filed a two-count information and signed plea documents in the U.S. District Court for the District of Columbia. Ohio Congressman Robert W. Ney has agreed to plead guilty to one count of conspiracy to commit honest services fraud, violating the one-year lobbying ban on congressional officials and making material false statements, and to one count of making false statements.

As he admits in the plea documents, Congressman Ney and his co-conspirators engaged in a long-term pattern of defrauding the public of his unbiased, honest services as an elected official. Congressman Ney admits that he corruptly solicited and accepted a stream of benefits, valued in the tens of thousands of dollars, in exchange for agreeing to perform, and performing, a series of official acts. He also illegally deceived the public and the House of Representatives about his actions. In doing so, the Congressman was acting in his own best interests, and not in the best interests of his constituents.

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Specifically, Congressman Ney admits that he corruptly solicited and accepted a stream of benefits from Jack Abramoff and other lobbyists, including:

- international and domestic trips, such as a trip Scotland with others costing $160,000; a $7000 trip to New Orleans and a $3500 vacation at Lake George, New York all paid for by lobbyists and their clients; and

- Thousands of dollars worth of meals, drinks, tickets to concerts and sporting events and free use of box suites to conduct fundraisers.

In exchange, as Congressman Ney admits, he agreed to take and he took a series of official actions. For example, he

- Agreed to insert four separate unrelated amendments to an election reform legislation at Abramoff's request;

- Agreed to insert statements into the Congressional Record ; and

- supported Abramoff's efforts to get a multi million dollar contract for his client

Then, to conceal this illegal conduct from the public, he failed to accurately report these benefits and lied on his Annual Financial Disclosure Statements filed with the House of Representatives.

In addition, as part of the conspiracy to deprive the public of his honest services, and with the intent to be influenced, Congressman Ney took thousands of dollars in free gambling chips from a foreign businessman. This foreign businessman was seeking an exemption to the U.S. export laws prohibiting the sale of his goods to a foreign country, and a visa to the United States. Congressman Ney traveled to London, took free gambling money and, then, Congressman Ney agreed to help, and indeed made efforts to help when he returned home to the United States.

Congressman Ney admits that he intentionally concealed the amount of gambling proceeds by filing a false U.S. Customs disclosure form and false annual financial disclosure statements. And Congressman Ney had a staff member carry approximately $5,000 through Customs so the Congressman could falsely report a smaller amount to Customs officials.

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People must have faith and confidence in their elected representatives. We will enforce the laws that protect the integrity of our government.

* * *

The parties will present the plea to the Court on October 13, 2006.

I would like to acknowledge the hard work and dedication of the attorneys prosecuting this case, Mary Butler, Kendall Day and Jim Crowell from the Public Integrity Section of the Criminal Division; Ed Nucci, Acting Chief of Public Integrity, Paul Pelletier, Acting Chief of the Fraud Section; Lee O'Connor, Assistant Attorney General of the Tax Division; Alex Acosta, U.S. Attorney for the Southern District of Florida and prosecutors from his office; The Federal Bureau of Investigation, including Michael Mason, Executive Assistant Director of the FBI, Chip Burrus, Assistant Director, and agents Maria Borsuk, Jeff Reising, Lonna Johnson, Ron Miller; Inspector General of Interior Earl Devaney and agents Pat Murphy and Michelle Pinkerton; Inspector General of the GSA Brian Miller and the Criminal Investigative Division of the I.R.S.

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06-626

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From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 1:32 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL CIVIL RIGHTS INVESTIGATION CLOSED

Department of Justice

United States Attorney Anthony J. Jenkins
District of the Virgin Islands

FOR IMMEDIATE RELEASE — CRT
FRIDAY, SEPTEMBER 15, 2006 — (202) 514-2007
WWW.USDOJ.GOV/USAO/VI — TDD (202) 514-1888

FEDERAL CIVIL RIGHTS INVESTIGATION CLOSED

ST. THOMAS, Virgin Islands – The Department of Justice and the Federal Bureau of Investigation (FBI) announced today that there was insufficient evidence to support additional criminal civil rights charges with respect to allegations that a Saint John resident was the subject of federal civil rights violations during June-August 2005.

The Civil Rights Division of the U.S. Department of Justice, the U.S. Attorney's Office for the District of the Virgin Islands, and the FBI conducted a vigorous and comprehensive independent investigation and carefully considered all the evidence. A thorough investigation revealed that this matter does not involve a prosecutable violation of federal criminal civil rights statutes.

Substantial federal resources were devoted to this investigative effort, including eight Special Agents of the FBI; agents of the Bureau of Alcohol, Tobacco and Firearms; and resources of the National Park Service. As part of the investigation, the FBI obtained the investigative files of the U.S. Virgin Islands Police Department and the U.S. Virgin Islands Attorney General, which included the incident reports, witness statements, photographs, evidence records, and forensic evidence analysis. The FBI also conducted numerous witness interviews, evidence collection, and extensive forensic analysis of the available physical evidence.

In order to prove a violation of the potentially applicable federal criminal civil rights laws, prosecutors must establish beyond a reasonable doubt that a person acted with the intent to violate a federally protected right on the basis of race, gender or some other form of bias that is prohibited by federal law. One individual has been convicted and sentenced in the Virgin Islands courts for engaging in a bias-motivated assault of the victim, and federal policy precludes the re-prosecution of individuals who have been the subject of a successful local prosecution that substantially vindicates the federal interest in the underlying matter. The available testimonial and physical evidence was insufficient to prove, beyond a reasonable doubt, other potential violations of the applicable federal criminal civil rights statutes by this individual or any other person. Accordingly, the Department is closing this matter.

The U.S. Attorney's Office, the Civil Rights Division of the Department of Justice, and the FBI devoted many hours and significant resources to conduct a complete and thorough investigation of these allegations.

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The decision not to pursue criminal charges is based on the facts developed by that lengthy and thorough investigation.

Federal privacy law, the Code of Federal Regulations, and Department of Justice policy limit the ability of federal employees to disclose the details of information they obtain in the course of an investigation. These limitations are intended as a protection of the privacy of all citizens who are involved in the matter, whether as a victim, subject or witness.

The Justice Department is committed to the vigorous enforcement of every federal criminal civil rights statute. The Civil Rights Division has compiled a significant record on criminal civil rights prosecutions in the last five years. The Division has filed a record number of criminal civil rights cases in FY 2004, and charged a record number of such defendants since FY 2001. The total number of civil rights cases filed over the past five years is comparable to the total number filed during the previous five years. Likewise, the total number of defendants charged with civil rights offenses from FY 2001 through FY 2005 is greater than the total number charged from FY 1996 through FY 2000.

The Justice Department is committed to the vigorous enforcement of every federal criminal civil rights statute. The Civil Rights Division has compiled a significant record on criminal civil rights prosecutions in the last five years. The Division has filed a record number of criminal civil rights cases in FY 2004, and charged a record number of such defendants since FY 2001. The total number of defendants charged with civil rights offenses from FY 2001 through FY 2005 is greater than the total number charged from FY 1996 through FY 2000.

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DOJ_NMG_ 0168056

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Image not available for this document, ID: 0.7.10316.32242-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 532680 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 532685 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Friday, September 15, 2006 4:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lonedell, MO

From: AmberAlert-DOJ
Sent: Friday, September 15, 2006 4:35:25 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lonedell, MO
Auto forwarded by a Rule

UPDATE AMBER ALERT:Lonedell,MO CHILD:7 Days White F 19 Inches 6LBS Eyes:Blue Hair:Black SUSPECT:White F 5FT8 200LBS Hair:Dark CALL 636-583-2567
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2142

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 532688 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 6:01 PM
To: USDOJ- Office of Public Affairs
Subject: COORDINATED EFFORTS IN UTAH, ILLINOIS LEAD TO ARREST OF REGISTERED SEX OFFENDER IN UTAH

Department of Justice

United States Attorney Brett L. Tolman
District of Utah

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 15, 2006
WWW.USDOJ.GOV

CONTACT: MELODIE RYDALCH
PHONE: (801) 325-3206
CELL: (801) 243-6475

COORDINATED EFFORTS IN UTAH, ILLINOIS LEAD TO ARREST OF REGISTERED SEX OFFENDER IN UTAH

Federal Charges Filed Alleging Production of Child Pornography

SALT LAKE CITY – A complaint unsealed Friday in federal court charges a registered sex offender in Salt Lake City with enticing and coercing a minor child in Illinois to engage in sexually explicit conduct for the purpose of producing visual depictions of the conduct. The defendant allegedly told the child he needed the pictures for "modeling" and on another occasion offered the child a modeling contract.

U.S. Attorney Brett L. Tolman of the District of Utah, FBI Special Agent in Charge Timothy J. Fuhrman of the Salt Lake Field Office and Utah Attorney General Mark Shurtleff today announced the arrest of Gerald Wheeler, 40, of Salt Lake City.

"Unfortunately, this case is a graphic example of the kinds of computer-facilitated sexual exploitation crimes against children we are seeing in Utah and across the nation," said U.S. Attorney

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Tolman. "Investigating and prosecuting Internet predators who target children is a priority for all of us. We will use the significant federal tools we have to aggressively prosecute these cases and see that convicted offenders get the maximum amount of jail time possible."

Wheeler was arrested Wednesday afternoon in Salt Lake City. He had an initial appearance in federal court Friday morning. He will remain in custody. Wheeler, who has a previous conviction for attempted forcible sexual abuse of a minor child, faces a mandatory-minimum sentence of 25 years in federal prison if he is convicted of the charge in the complaint. The sentence could go as high as 50 years.

According to the federal complaint, in July 2006 an individual identified in the complaint as "Parent A" contacted law enforcement authorities in Naperville, Ill. Parent A said that his 13-year-old daughter, "Child H," had been receiving obscene, lewd, and sexual messages on her "My Space" computer site and her Tagged.com account from individuals known as "Mike" and "Brian." The messages included requests for the child to engage in various sexual acts. In addition, Child H was asked to fly to New York to engage in sexual conduct in exchange for a modeling contract.

Continuing the investigation with the help of Parent A, law enforcement officers discovered several photographs of Child H in sexual poses. Parent A also told law enforcement officers that "Mike" had contacted Child H from a cell phone. The Naperville Police Department was able to determine the phone subscriber's name in Salt Lake City.

Using My Space records, detectives were able to trace an IP address to an Internet café and gaming facility in Salt Lake City. According to the complaint, the owner of the café compared the log-in times to possible users at the café at 3:16 A.M. on Aug. 15, 2006. Because the café is not a 24-hour facility, the owner confirmed the only individual with access to the IP address at 3:15 A.M. would be the facility manager, Jerry. The owner also confirmed that he knew that the cell number "Brian" had used to call Child H belonged to a former employee of the facility, who was close to Jerry.

Jerry was identified as Gerald Wheeler. The owner of the café confirmed that a computer recovered from the basement of the internet café was used primarily by Wheeler prior to August 2006.

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The FBI and Utah Internet Crimes Against Children Task Force participated in the investigation. Investigative agencies in Illinois included the Naperville Police Department, the Illinois Attorney General's Office, the Illinois Internet Crimes Against Children Task Force, and the FBI.

Defendants charged in complaints are presumed innocent unless or until proven guilty in court.

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DOJ_NMG_ 0168065

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Image not available for this document, ID: 0.7.10316.32206-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 6:07 PM
To: USDOJ- Office of Public Affairs
Subject: ONE PLEADS GUILTY, THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 15, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ONE PLEADS GUILTY, THREE MORE SENTENCED IN BATON ROUGE, LOUISIANA, ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – One Louisiana resident pleaded guilty and three Louisiana residents were sentenced in federal court on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas announced today.

Kim M. Cummings, 38, of Baton Rouge, La., pleaded guilty today before U.S. District Court Judge John V. Parker to count one of an indictment charging her with making a false and fraudulent claim for Hurricane Katrina disaster assistance benefits. The case was investigated by U.S. Department of Homeland Security's Office of the Inspector General. As a result of her guilty plea, Cummings faces a maximum sentence of five years in prison, a $250,000 fine, or both. As part of the plea agreement, the U.S. Attorney's Office will dismiss count two of the indictment when Cummings is sentenced.

Vinita S. Lane, 28, of Baton Rouge, La., pleaded guilty on June 14, 2006, to count one of an indictment charging her with making a false and fraudulent claim for Hurricane Katrina disaster

DOJ_NMG_ 0168068

assistance benefits. She was sentenced by U.S. District Court Judge Frank J. Polozola today to three years probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of the Inspector General and the U.S. Postal Inspection Service conducted the investigation of this matter.

Jenny L. Lowery, 22, of Baton Rouge, La., pleaded guilty on May 23, 2006, to count one of an indictment charging her with making a false and fraudulent claim for Hurricane Katrina disaster assistance benefits. She was sentenced by U.S. District Court Judge Frank J. Polozola today to three years probation and $1,916 in restitution. The U.S. Department of Homeland Security's Office of the Inspector General, and the FBI conducted the investigation of this matter.

Whitney R. Paul, of Donaldsonville, La., pleaded guilty on May 25, 2006, to count one of an indictment charging her with making a false and fraudulent claim for Hurricane Katrina disaster assistance benefits. She was sentenced by U.S. District Court Judge Frank J. Polozola today to five years probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of the Inspector General, and the FBI conducted the investigation of this matter.

Seventy-four individuals in total have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for U.S. Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at (225) 389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at

DOJ_NMG_ 0168069

HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.32199-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 7:03 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 15, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Attorney General Gonzales Participates in Media Events Regarding Proposed Military Commission Legislation (OPA)
Today, the Attorney General participated in a pen-and-pad briefing with Justice Department beat reporters regarding the President's proposed legislation on military commissions. He also participated in an interview with WFLA-AM, a Florida radio station, on the same topic.

Public Affairs Director Interviewed by *Frontline* (OPA)
Today, Tasia Scolinos, Director of Public Affairs, was interviewed by Lowell Bergman of PBS's *Frontline* program. The interview will be included in a four part series on the state of the news media.

Congressman Robert W. Ney Agrees to Plead Guilty to Charges Involving Corruption and False Statements (Criminal)
Congressman Robert W. Ney has agreed to plead guilty to a two-count criminal information charging him with conspiracy to commit multiple offenses—including honest services fraud, making false statements, and violations of his former chief of staff's one-year lobbying ban—and with making false statements to the U.S. House of Representatives, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. The government filed the information today in U.S. District Court for the District of Columbia, along with an agreement signed by Ney to plead guilty to the two charges. Ney, 52, will appear before Judge Ellen Segal Huvelle on Oct. 13, 2006 at 10 a.m. to enter his plea. Based on the filed charges, Ney faces a maximum sentence of ten years in prison, a fine of $500,000, and supervised release following his incarceration. The plea agreement with the government includes a recommendation of a sentencing guidelines sentence of 27 months in prison. Ney's named co-conspirators in the information include former lobbyist Jack Abramoff, former public relations specialist Michael Scanlon, former lobbyist Tony Rudy, and Ney's former chief of staff, Neil Volz. All have previously pleaded guilty in this investigation and are cooperating with law enforcement officials.

Talking Points

- Congressman Ney and his co-conspirators engaged in a long-term pattern of defrauding the public of his unbiased, honest services as an elected official.

- Congressman Ney admits that he corruptly solicited and accepted a stream of benefits, valued at tens of thousands of dollars, in exchange for agreeing to perform, and performing, a series of official acts. He also admitted deceiving the public and the U.S. House of Representatives about his actions.

- In doing so, the Congressman was acting in his own best interests, and not in the best interests of his constituents.

- People must have faith in their elected representatives. The Department of Justice will enforce the laws that protect the integrity of our government.

Federal Civil Rights Investigation Closed (Civil Rights)
The Department of Justice and the Federal Bureau of Investigation (FBI) announced today that there was insufficient evidence to support additional criminal civil rights charges with respect to allegations that a Saint John resident was the subject of federal civil rights violations during June-August 2005. The Civil Rights Division of the U.S. Department of Justice, the U.S. Attorney's Office for the District of the Virgin Islands, and the FBI conducted a vigorous and comprehensive independent investigation and carefully considered all the evidence. A thorough investigation revealed that this matter does not involve a prosecutable violation of federal criminal civil rights statutes.
Substantial federal resources were devoted to this investigative effort, including eight Special Agents of the FBI; agents of the Bureau of Alcohol, Tobacco and Firearms; and resources of the National Park Service.

Government Reaches Settlements with Seaboard Foods and PIC USA (Environmental and Natural Resources Division)
Under two related settlements, Seaboard Foods LP and PIC USA Inc., will take significant steps at many of their facilities to ensure future compliance with environmental laws and to resolve allegations that the companies contaminated groundwater and surface waters near several of their facilities, the Justice Department and the Environmental Protection Agency (EPA) announced today. Seaboard Foods LP, one of the nation's largest vertically integrated pork producers, is the current owner of more than 200 farms in Oklahoma, Kansas, Texas, and Colorado, and PIC USA, Inc. is the former owner and operator of several of the farms located in Oklahoma now operated by Seaboard.

Public Affairs Director Interviewed by *Frontline* (FBI)
Today, FBI Assistant Director John Miller was interviewed by Lowell Bergman of PBS's *Frontline* program. The interview will be included in a four part series on the state of the news media.

FBI 2005 Uniform Crime Report to be Released on Monday (FBI)
The FBI's Uniform Crime Report will be released at 9:00 A.M. on Monday, September 18. The report will only be available on the Internet.

***Time Magazine* Provided with Information Regarding Organized Retail Theft Rings (FBI)**
Today, *Time Magazine* reporter Chris Maag was provided with information from the Terrorist Financing Operations Section regarding organized retail theft rings which fund terror groups. An article on this topic is expected to run in next issue of *Time*.

MONDAY'S EXPECTED EVENTS/RELEASES:

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the National Conference on Citizenship.
Marriott at Metro Center
The Ballroom
775 12th Street N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to David Sandak of the National Conference on Citizenship at (202) 467-8833.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 15, 2006 7:20 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 18-22, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 15, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR
September 18 – September 22, 2006

Monday, September 18

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the National Conference on Citizenship.
Marriott at Metro Center
Ballroom
775 12th Street N.W.
Washington D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

Tuesday, September 19

10:00 A.M. EDT Attorney General Alberto R. Gonzales will testify before the Senate Committee on Banking, Housing and Urban Affairs at a hearing entitled *Combating Child Pornography by Eliminating Pornographers' Access to the Financial Payment System.*
Dirksen Senate Office Building
Room 538
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Committee on Banking, Housing and Urban Affairs at 202-224-7391.

10:30 A.M. EDT Harley Lappin, Director, Bureau of Prisons and Jeff Sedgwick, Director, Bureau of Justice Statistics will testify before the Senate Judiciary Committee at a hearing

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entitled *The Cost of Crime: Understanding the Financial and Human Impact of Criminal Activity.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

2:30 P.M. EDT Alice Fisher, Assistant Attorney General for the Criminal Division will testify before the Senate Committee on Commerce, Science, and Transportation on sexual exploitation of children via the Internet.
Russell Senate Office Building
Room 253
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Committee on Commerce, Science, and Transportation at 202-224-5115.

Wednesday, September 20

9:30 A.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Judiciary Committee at a hearing on Senate Bill 2831, the Free Flow of Information Act of 2006.
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the Library of Congress' 2006 Observance of National Hispanic Heritage Month.
James Madison Building
Mumford Room, 6th Floor
101 Independence Avenue
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

2:00 P.M. EDT Rachel Brand, Assistant Attorney General for Office of Legal Policy will testify before the Senate Judiciary Committee at a hearing entitled *Examining the Proposal to Restructure the Ninth Circuit.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

DOJ_NMG_ 0168077

Thursday, September 21

2:30 P.M. EDT Regina Schofield, Assistant Attorney General for Office of Justice Programs will testify before the Senate Subcommittee on Corrections and Rehabilitation at a hearing entitled *Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

Friday, September 22

Events TBD

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Image not available for this document, ID: 0.7.10316.32203-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 15, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533113 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533114 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533115 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 16, 2006 11:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Parsons, KS

From: AmberAlert-DOJ
Sent: Saturday, September 16, 2006 11:35:36 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Parsons, KS
Auto forwarded by a Rule

AMBER ALERT:Parsons,KS VEHICLE:White 4D car CHILD:W/M, 8 months, Eyes:Brn Hair:Brn
SUSPECT:W/M, 23 years, 6'1 165lbs Eyes:Haz Hair:Brn CALL 620-421-7060
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2162

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533118 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533118 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533119 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 16, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533120 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533121 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Sunday, September 17, 2006 9:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Deer River, MN

From: AmberAlert-DOJ
Sent: Sunday, September 17, 2006 9:35:35 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Deer River, MN
Auto forwarded by a Rule

AMBER ALERT:Deer River,MN VEH:'02 Blu Ford Windstar TAG:MN HSF-487 CHILD:W/M,4yrs,3'3,32lb Hair:Shaved blnd SUSP:B/M,44yrs,5'11,179lb Hair:Blk CALL 218-326-3477
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2182

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533123 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533124 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

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System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533125 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533126 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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System Administrator

From:	System Administrator
Sent:	Sunday, September 17, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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Amber.JMD

From: Amber.JMD
Sent: Monday, September 18, 2006 1:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Cairo, GA

From: AmberAlert-DOJ
Sent: Monday, September 18, 2006 1:35:33 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Cairo, GA
Auto forwarded by a Rule

AMBER ALERT:Cairo,GA VEHICLE:Green Sedan Toyota Camry TAG:FL CHILD:4 months SUSPECT:30 Hispanic M 5'3" 140 lbs Eyes:Brown Hair:Black CALL (229) 378-3096
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2183

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

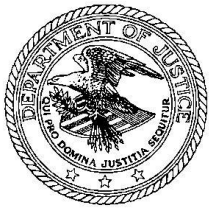
Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 533129 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 26



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 26

Session to be Held in Washington, D.C. to Focus on Empirical Perspectives

WASHINGTON — The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the fifth in a series of joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on September 26, 2006, in Washington, D.C. As previously announced, these hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months.

The panel on September 26 will examine existing empirical work regarding single-firm conduct and address areas where future work would be helpful. The session will be held at the FTC's Conference Center at 601 New Jersey Ave., N.W., Washington, D.C., Conference Room C.

Further information is provided below:

Understanding Single-Firm Behavior: Empirical Perspectives Session (9:00 AM - 12:30 PM):

F. Michael Scherer is Professor Emeritus of Public Policy and Corporate Management in the Aetna Chair, John F. Kennedy School of Government, Harvard University, and former Director of the FTC's Bureau of Economics.

Luke M. Froeb is the William C. and Margaret W. Oehmig Associate Professor in Entrepreneurship and Free Enterprise, Owen Graduate School of Management, Vanderbilt University, and former Director of the FTC's Bureau of Economics.

Wally Mullin is an Associate Professor of Economics, George Washington University.

DOJ_NMG_ 0168098

Jonathan B. Baker is a Professor of Law, Washington College of Law, American University, and former Director of the FTC's Bureau of Economics.

Clifford Winston is a Senior Fellow in Economic Studies, The Brookings Institution.

David Reitman is a Principal at CRA International Inc.

Robert C. Marshall is Head of the Department of Economics and Co-Director of the Center for the Study of Auctions, Procurements, and Competition Policy, Pennsylvania State University (currently on leave), and Partner, Bates White LLC.

The public and press are invited to attend all of the hearings. Seating will be on a first-come, first-served basis. Interested parties may submit written comments to the Antitrust Division and the FTC.

Further information about these hearings will be posted on the Antitrust Division's Web site at http://www.usdoj.gov/atr/public/hearings/single_firm/sfchearing.htm and on the FTC's Web site at http://www.ftc.gov/os/sectiontwohearings/index.htm. Individuals seeking more information on the hearings should contact Gail Kursh, Deputy Chief, Legal Policy Section, Antitrust Division, at singlefirmconduct@usdoj.gov, or Patricia Schultheiss, FTC, at section2hearings2@ftc.gov.

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06-627

DOJ_NMG_ 0168099

Department of Justice

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FRIDAY, SEPTEMBER 18, 2006
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06-627

Image not available for this document, ID: 0.7.10316.31848-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 18, 2006 10:02 AM
Subject: Service Interruption: Email

Outlook Outage

Some customers in the Senior Management Offices and Justice Management Division are currently experiencing an Outlook outage. Mail will be held and delivered as soon as services are restored.

We will notify you as soon as services are restored.

Check the Intranet, DOJNet, at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 10:12 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 18, 2006

Department of Justice

PRESS GUIDANCE
Monday, September 18, 2006

ATTORNEY GENERAL

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the National Conference on Citizenship.
Marriott at Metro Center
Ballroom
775 12th Street N.W.
Washington D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

PRESS RELEASES

The Antitrust Division will issue a release on a merger-related matter. (Talamona)

The Antitrust Division will issue a release regarding the upcoming Section Two hearings held jointly with the Federal Trade Commission. (Talamona)

The Tax Division will issue a release on a sentencing matter. (Miller)

EVENTS/HEARINGS

No public events scheduled.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice

DOJ_NMG_ 0168104

Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0168105

Image not available for this document, ID: 0.7.10316.31807-000001

Image not available for this document, ID: 0.7.10316.31807-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 10:26 AM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION (DATE CHANGE): DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON SEPTEMBER 26

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

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Luke M. Froeb is the William C. and Margaret W. Oehmig Associate Professor in Entrepreneurship and Free Enterprise, Owen Graduate School of Management, Vanderbilt University, and former Director of the FTC's Bureau of Economics.

DOJ_NMG_ 0168108

Wally Mullin is an Associate Professor of Economics, George Washington University.

Jonathan B. Baker is a Professor of Law, Washington College of Law, American University, and former Director of the FTC's Bureau of Economics.

Clifford Winston is a Senior Fellow in Economic Studies, The Brookings Institution.

David Reitman is a Principal at CRA International Inc.

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Department of Justice

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FRIDAY, SEPTEMBER 18, 2006
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06-627

Image not available for this document, ID: 0.7.10316.31805-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 10:32 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO HOLD PEN-AND-PAD BRIEFING WITH DEPARTMENT OF JUSTICE BEAT REPORTERS

WASHINGTON – Deputy Attorney General Paul J. McNulty will hold a pen-and-pad briefing with Department of Justice beat reporters regarding the FBI's Uniform Crime Report **TODAY, SEPTEMBER 18, 2006 at 1:30 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty

WHAT: Pen-and-Pad briefing with Department of Justice beat reporters
(No cameras)

WHEN: **TODAY, SEPTEMBER 18, 2006**
1:30 P.M. EDT

WHERE: Deputy Attorney General's Conference Room (Room 4111)
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.

NOTE: Pen-and-Pad briefing only (no cameras). All questions regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-628

DOJ_NMG_ 0168113

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Image not available for this document, ID: 0.7.10316.31798-000002

System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 545830 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Monday, September 18, 2006 11:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lonedell, MO

From: AmberAlert-DOJ
Sent: Monday, September 18, 2006 11:35:01 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lonedell, MO
Auto forwarded by a Rule

UPDATE AMBER ALERT:Lonedell,MO CHILD:7 Days White F 19 Inches 6LBS Eyes:Blue Hair:Black SUSPECT:White F 5FT8 200LBS Hair:Dark CALL 888-265-8639
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2142

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 18, 2006 11:57 AM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 18, 2006

JCON BROADCAST, WEEK OF SEPTEMBER 18, 2006

1. **2006 Federal Human Capital Survey**
2. **Research Classes Offered by Library Staff**

2006 Federal Human Capital Survey

A special thanks to those DOJ employees who participated in the 2006 Federal Human Capital Survey. Your confidential responses will provide valuable information on how well we are doing to support all DOJ employees.

The Office of Personnel Management is expected to release DOJ-wide Survey results in December 2006. Upon receiving results, the Department will carefully review and communicate plans for sharing the survey results and address those issues of most concern to DOJ employees.

Thank you again for taking the time to share your opinions on important workforce issues!

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 12:56 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT TO MONITOR ELECTIONS IN CALIFORNIA AND MASSACHUSETTS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT TO MONITOR ELECTIONS IN CALIFORNIA AND MASSACHUSETTS

WASHINGTON - The Justice Department today announced that on Tuesday, Sept. 19, 2006, the federal government will monitor a special recall election in Rosemead, Calif., and primary elections in Boston and Springfield, Mass., to ensure compliance with the Voting Rights Act.

Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act itself or by a federal court order. Federal observers will be assigned to monitor polling place activities pursuant to federal court orders entered in 2005 for Rosemead and Boston and pursuant to a federal court order entered last month for Springfield.

The observers will watch and record activities during voting hours at polling locations in these counties. Civil Rights Division attorneys will coordinate the federal activities and maintain contact with local election officials.

Each of the monitored cities has an obligation to provide all election information, ballots and voting assistance information in one or more minority languages pursuant to Section 203 of the Voting Rights Act. The observers and monitors will gather information concerning compliance.

Each year, the Justice Department deploys hundreds of federal observers from the Office of Personnel Management, as well as departmental staff, to monitor elections across the country. In 2004, a record 1,463 federal observers and 533 Department personnel were sent to monitor 163 elections in 105 jurisdictions in 29 states. This compares to the 640 federal observers and 103 Department personnel deployed in 2000.

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice Web site at http://www.usdoj.gov/crt/voting/index.htm.

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06-630

DOJ_NMG_ 0168121

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Image not available for this document, ID: 0.7.10316.31559-000002

System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 545982 KB.

Mailbox size limits:
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You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 2:02 PM
To: USDOJ- Office of Public Affairs
Subject: FIVE INDICTED FOR $14 MILLION FRAUDULENT TAX PREPARATION SCHEME

Department of Justice

FOR IMMEDIATE RELEASE TAX
MONDAY, SEPTEMBER 18, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

FIVE INDICTED FOR $14 MILLION FRAUDULENT TAX PREPARATION SCHEME

Four Individuals Prepared Over 11,000 False Returns Since 1999

WASHINGTON — A federal grand jury in Los Angeles, Wednesday, indicted five individuals for orchestrating a $14 million tax fraud scheme, the Department of Justice and Internal Revenue Service (IRS) announced today. The defendants are Matthew Berry, Karen Berry, Carla Berry, Ivan Johnson and Valerie Dixon, all from San Bernardino County, Calif. The indictment charges all five defendants with conspiracy to defraud the United States and four defendants with aiding and assisting the filing of false tax returns. In addition, all of the defendants are charged with either failure to file an income tax return or filing a false income tax return as to their personal taxes during the years of the conspiracy.

The indictment alleges that the scheme to defraud operated simultaneously on three tracks: preparing thousands of fraudulent income tax returns, creating false documentation to use in IRS audits, and failing to report to the IRS the more than $1.5 million earned from the conspiracy. The indictment alleges that all of the defendants except, for Matthew Berry, prepared income tax returns that contained false "Schedule A" deductions for mortgage interest, real estate taxes, or un-reimbursed expenses. Further, the indictment alleges the defendants prepared more than 6,000 fraudulent income tax returns in 2003. The indictment also alleges that the entire scheme resulted in a tax loss that exceeds $14.4 million. Documents filed in a civil case against the defendants estimate a total tax loss in excess of $25 million.

Karen Berry, Carla Berry, and Ivan Johnson are also charged with making false statements to a financial institution for submitting mortgage applications that contained false statements about income. The defendants also filed false tax returns or Forms W-2 in support of the mortgage applications. Johnson is charged with submitting false documents to the IRS in 2005 during an audit of his 2003 taxes.

Earlier this year, the United States obtained a stipulated preliminary injunction against defendants Karen Berry, Carla Berry and Ivan Johnson, which barred them from continuing to prepare tax returns. Defendant Valerie Dixon also consented to an injunction and a final order barring her from continuing to prepare tax returns for ten years.

If convicted, the defendants face maximum potential sentences of five years' imprisonment and a fine of $250,000 for the conspiracy, and three years' imprisonment and a fine of $100,000 for each false preparation

DOJ_NMG_ 0168125

and false filing charge. Each of the failure-to-file counts and submitting-false-documents to IRS counts carries a maximum penalty of one year in prison and fines of $25,000 and $10,000, respectively. Each of the false statement to financial institution counts carries a maximum penalty of 30 years in prison and a fine of $1 million.

The charges contained in the indictment are only allegations. A defendant is entitled to a fair trial in which it will be the government's burden to prove the defendants guilty beyond a reasonable doubt.

The stipulated preliminary injunction obtained against the defendants can be found at http://www.usdoj.gov/tax/txdv06146.htm. More information about the Justice Department's efforts against tax scheme promoters can be found at http://www.usdoj.gov/tax/taxpress2006.htm. Information about the Justice Department's Tax Division can be found at http://www.usdoj.gov/tax.

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System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
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From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 4:06 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT DISMISSES ANTITRUST LAWSUIT AGAINST INCO LTD. AND FALCONBRIDGE LTD.

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT DISMISSES ANTITRUST LAWSUIT AGAINST INCO LTD. AND FALCONBRIDGE LTD.

Inco Abandons Efforts to Acquire Falconbridge

WASHINGTON — The Department of Justice today announced that it filed a notice with the U.S. District Court for the District of Columbia to dismiss its antitrust complaint regarding the potential acquisition of Falconbridge Limited by Inco Limited since Inco has formally abandoned its effort to acquire Falconbridge. The Department said that the lawsuit and proposed consent decree are no longer necessary since Falconbridge was instead acquired by Xstrata plc, a Swiss mining company, in August 2006. The Department said that Xstrata's acquisition of Falconbridge does not pose any competitive problems.

Background

On June 23, 2006, the Department filed an antitrust lawsuit in U.S. District Court for the District of Columbia alleging that the acquisition would harm competition in the market for high-purity nickel. At the same time, the Department filed a proposed settlement of the lawsuit that would preserve competition by requiring Inco to divest a Norway nickel refinery and other related assets owned by Falconbridge in order to proceed with its more than $15 billion acquisition of Falconbridge.

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06-632

DOJ_NMG_ 0168130

Image not available for this document, ID: 0.7.10316.31542-000001

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 5:27 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE WITH FTC CHAIRMAN DEBORAH PLATT MAJORAS

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, SEPTEMBER 18, 2006
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AG
(202) 514-2007
TDD (202) 514-1888

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE WITH FTC CHAIRMAN DEBORAH PLATT MAJORAS

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at a press conference with Federal Trade Commission (FTC) Chairman Deborah Platt Majoras following a meeting of the President's Task Force on Identity Theft on **TUESDAY, SEPTEMBER 19, 2006 at 3:00 P.M. EDT.**

WHO: Attorney General Alberto R. Gonzales
Deborah Platt Majoras, Chairman, Federal Trade Commission

WHAT: Press Conference following meeting of the President's Task Force on Identity Theft

WHEN: **TUESDAY, SEPTEMBER 19, 2006**
3:00 P.M. EDT

WHERE: Seventh Floor Conference Center
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.

NOTE: Pre-set for open press coverage of the press conference will be at **2:30 P.M. EDT**. **All media should arrive no later than 2:45 P.M. EDT.** All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-634

DOJ_NMG_ 0168132

DOJ_NMG_ 0168133

Image not available for this document, ID: 0.7.10316.31549-000001

Image not available for this document, ID: 0.7.10316.31549-000002

System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 546946 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

[redacted] (DHS)

Subject: National Pandemic Plan Action Items
Location: GSA bldg., 7th & D Streets, Room 3915

Start: Friday, September 22, 2006 11:00 AM
End: Friday, September 22, 2006 12:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: [redacted] (DHS)
Required Attendees: [redacted] Gorsuch, Neil (DOJ) [redacted]

[redacted]

Importance: High

When: Friday, September 22, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: GSA bldg., 7th & D Streets, Room 3915

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

All-

This is a preliminary meeting to discuss several Action Items from the National Pandemic Plan that have economic/modeling issues. I know that I have reached out to several of you over the past few weeks asking similar questions. This is a follow-up to those discussions. Please see the attached document that lists the eight Action Items to be discussed at this meeting. Again, this is just a preliminary meeting with everyone at the table to discuss and potentially outline other stakeholders and/or path forward for the items.

For those without DHS badges, we will be down at the main entrance across from L'Enfant Plaza signing people in. Please utilize this center entrance with the wheelchair access ramp and weather overhang as it is the best point of entry for visitors.

I am waiting on conference call information at this time for those who are unable to attend. I will disseminate as soon as I receive it.

If there are any questions about this meeting, please do not hesitate to call/email me. We look forward to seeing you at the meeting.

Regards,
[redacted]

[redacted] (DHS)

Subject: Updated: National Pandemic Plan Action Items
Location: GSA bldg., 7th & D Streets, Room 3915

Start: Friday, September 22, 2006 11:00 AM
End: Friday, September 22, 2006 12:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: [redacted] (DHS)
Required Attendees: '[redacted]
Gorsuch, Neil (DOJ);[redacted]

[redacted]

[redacted]

Attachments: PANFLU Action Items.xls

Importance: High

When: Friday, September 22, 2006 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: GSA bldg., 7th & D Streets, Room 3915

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

FILE ATTACHED NOW.

All-

This is a preliminary meeting to discuss several Action Items from the National Pandemic Plan that have economic/modeling issues. I know that I have reached out to several of you over the past few weeks asking similar questions. This is a follow-up to those discussions. Please see the attached document that lists the eight Action Items to be discussed at this meeting. Again, this is just a preliminary meeting with everyone at the table to discuss and potentially outline other stakeholders and/or path forward for the items.

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Regards,
[redacted]

Action Item	Action Item Description	Primary Agency	POC
5.1.1.2	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: Interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	HHS DHS	
5.1.3.2	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g., food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: The private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	DHS	
5.3.4.4	DHS and DOT, in coordination with USDA, DOI, DOC and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: Initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	DHS DOT	

5.3.5.6	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: Economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	DOT DHS
6.1.10.2	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	HHS DHS
6.2.5.1	HHS, in coordination with DOD and DHS, shall develop and maintain a real-time epidemic analysis and modeling hub that will explore and characterize response options as a support to policy and decision makers within 6 months. Measure of performance: modeling center with real-time epidemic analysis capabilities established.	HHS DHS DOD
6.3.2.3	HHS, in coordination with DHS and DOD and in collaboration with mathematical modelers, shall complete research identifying optimal strategies for using voluntary home quarantine, school closure, snow day restrictions, and other community infection control measures, within 12 months. Measure of performance: guidance developed and disseminated on the use of community control.	HHS DHS DOD
7.1.5.6	USDA, in coordination with DHS, DOI and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	USDA DHS DOI

Status

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 6:24 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY BRIEFING REPORTERS REGARDING THE UNIFORM CRIME REPORTS

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, SEPTEMBER 18, 2006
WWW.USDOJ.GOV

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

TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY BRIEFING REPORTERS REGARDING THE UNIFORM CRIME REPORTS

WASHINGTON, D.C.

1:35 P.M. EDT

MR. McNULTY: Thank you all for coming here. We want to talk to you about today's numbers on the UCR data, talk a little bit about the Crime Victimization Survey from a couple of weeks ago and how that relates to the UCR data and anything else you want to talk about in this area.

I have four main points I'll make right up front before we go to your questions and concerns about all this.

The first point I'd say is that today's numbers with the UCR data overall is good news. If you look at the rate of crime, and that's a very important way of understanding what's happening in our country concerning public safety, the amount of crime per 100,000 people. The overall rate of crime is at its lowest since UCR, in the UCR study, in more than 30 years. That's the overall crime rate.

And we see that number, the overall crime rate as having two pieces to it, the property crime rate; the property crime rate decreased 2.4 percent. But the violent crime rate increased 1.3 percent. So overall, when you look at just the crime rate, it's 3,899 offenses per 100,000. And that's the lowest crime rate measured by UCR in more than 30 years.

Now the UCR numbers are generally talked about in FBI's materials in relation to volume of crime. And there, the volume of crime is up. The volume of crime is up in the area of violent crime by 2.3 percent, but it is down in the area of property crime by 1.5 percent. So you have the volume of violent crime, 2.3 percent, the rate of violent crime 1.3 percent.

With regard to that volume, that volume, is less than what it was in '01. It's about 3.4 percent less than what it was in '01. It's about equal to, almost equal to what it was in '03. And other than last year, that volume is lower than every year since 1985.

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So even when you look at the volume, it is not a substantial increase in comparison to the past 20 years. It remains one of the lower volumes, but it is up in relation to violent crime, as I said, 2.3 percent.

Now looking at the violent crime rate more closely, secondly, the violent crime rate was 469.2 per 100,000, and that's slightly more than last year. That's up 1.3 from last year. But that violent crime rate is lower than 2002, 2001 -- excuse me, 2003, 2002, 2001, 2000, and every year since 1977.

So the violent crime rate, slight uptick from last year, but among the lowest two over the past 30 years.

It was quite high, for example, in the 1990s. It rose to 523 per 100,000 by 1999.

QUESTION: I'm sorry. What tape -- where are you?

MR. McNULTY: Well, I'm kind of all over the place, Terry.

QUESTION: All right. I'm sorry.

MR. McNULTY: This is stuff taken from the report, so I'm not sure if it corresponds to anything you might have from the website. But hopefully you'll be able to find the crime rates pretty well listed.

QUESTION: I'm sorry.

MR. McNULTY: Okay. All right. That's the second point. Third point, let me talk about how it compares to the Crime Victimization Survey that we saw a couple of weeks ago. It's largely consistent with the data reported last week or two weeks ago by BJS in the Crime Victimization Survey. That Crime Victimization Survey indicated that violent and property crime rates were at the lowest levels since the survey began in 1973.

And overall, the violent crime rate, according to the Victimization survey, was basically unchanged from '04 to '05, though we noted a significant rise in gun crime within that overall statistical equality with the previous year. So the pie didn't get any bigger, but the slice relating to gun crime did.

And that Victimization Survey showed the same kind of significant drops in violent crime. From 2000 to 2005, according to that Victimization Survey, violent crime decreased from 24 percent. And the -- from 1993 to 2005, even if you look at that rate of firearm violence, it decreased very significantly from 5.9 victimizations per 1,000. That's a little confusing there. The Victimization Survey looks at it per 1,000 versus per 100,000 in terms of some of these numbers, but 5.9 per 1,000 to 2 victimizations per 1,000 from '93 to 2005 on the gun violence side. So even though we had an increase in that number from '04 to '05, overall that gun violence is down from what it was a decade ago.

So that's the third point. The relationship between UCR data and NCVS. Generally the same report, though historically, again, they've had their differences and they always will, because of just a different way of measuring the crime problem, there is real consistency there.

Finally, I'd say this, that it's too soon to whether or not this slight increase of 1.3 percent crime rate -- excuse me, of violent crime rate -- is -- what that trend would tell or what that would tell us, but it certainly causes us to remain vigilant, especially when we take into consideration that anecdotal information and preliminary information about what's happening this year in 2006, indicates that there may be a rise in violent crime in several jurisdictions.

And so, when we look at 2004, we see that was an extraordinarily good year. 2005, a slight uptick from that, still among the all time low numbers.

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But that slight uptick and the information we're getting about what is happening in '06, compels us to be all the more vigilant about what we're doing and to maintain our close communication with state and local law enforcement so we understand what they're seeing and what they're experiencing and that we can be as responsive to that as possible.

So those are some observations generally that I wanted to make about today's numbers, and I'm happy to answer any questions you might have about that.

QUESTION: The numbers, just in terms of individual cities, many individual cities, I think they would take issue with the fact that they see this as sort of a -- as good news. I think that they're, at least some of the ones we've been talking to over a period of, you know, a few months now, are seeing individual categories of crime -- murder, robbery -- increasing in dramatic ways in their cities.

And I'm wondering whether or not you see this -- I mean, while the rate may still be at an all time low, do you see this as sort of indicative, emblematic of anything that we haven't seen in, say, the past ten years? I mean, many people lay it off on a resurgence of gang activity, reentry from prison and so on. Where do you see the sources of this or their concern?

MR. McNULTY: Well, first of all, let me repeat what I said and make sure there's no misunderstanding. When I refer to good news, I'm referring to 2005 information, which by the way, is overall information, national data, so I don't have -- the report provides city-by-city information.

QUESTION: Right.

MR. McNULTY: And so for a city looking at its 2005 data, there might not be good news for that particular locality. So I'm talking about 2005 overall numbers. And I'm not talking about 2006 experience. So I assume what you just said was in reference to what you're hearing them say about what they're experiencing right now.

QUESTION: This is 2005 to 2006, yeah.

MR. McNULTY: In that transition, right. So, I just want to make it clear that I understand that there is some significant concern out there about what's happening right now and whether or not it's going to, a year from now when we talk about the 2006 numbers, whether or not there's even a more significant increase than what we saw from '04 to '05.

But with regard to where we are now and what may be happening, there are a number of ideas circulating as to what's going on. And it's hard to say whether or not one idea or a couple ideas would explain it from a national perspective, or if there are different things happening in different places.

I think gangs and the increase in gangs and the increase in the membership of gangs -- membership in gangs -- would have to be cited as one thing that could be causing an increase in violent crime right now.

Certainly anecdotally, I am hearing that gang membership is up in many different places, and that gangs have made their way to jurisdictions that didn't have gang problems before, that there's a more national movement among gangs. And if that's true, then it's not surprising that jurisdictions a year or two ago or maybe ten years ago, which didn't have a substantial presence of gangs and do now, would be experiencing more crime from that activity.

So that's one thing. Methamphetamine is another thing that seems to be spreading geographically in areas where it wasn't present five to ten years ago or even more recently. As the U.S. Attorney in Virginia, I saw methamphetamine coming into Eastern Virginia where it historically hadn't been. And so that was a new challenge we are facing. But that's going to bring a lot of different types of crime with it.

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Demographically, we may have an increase in the crime -- the largest crime cohort, which would be males 18 to 24. That's generally speaking the age group that is most -- that commits the most crime. And I haven't seen those numbers myself, but I've heard that that population has increased over the last several years substantially. And it makes sense when you look at the baby boomers and the children of baby boomers and why that population may be growing.

So, they were just some of the factors I've heard cited as to why in 2006 and perhaps even an uptick in 2005 from 2004, violent crime is growing. We're going to have to learn much more about that and understand more about that, and I'm anxious to spend more time with the police chiefs and hear what it gets down to in terms of our '06 numbers, if there was an increase in homicides, where was that, why was that the case?

QUESTION: You recently got a chance to hear quite a bit from police chiefs and a sprinkling of mayors at that so-called crime summit. And while you were a great diplomat, there were a lot of pretty unhappy people in that room, of course. And it's always easy to blame the federal government, but I do have a couple of specific questions relating to that.

One memorable comment was that terrorism and homeland security has become the monster that ate traditional crime or helped for traditional crime. And I don't know if it's related to that directly, but the second question is that the police chiefs who are concerned by an apparent spike in violent crime want more flexibility on the part of the federal government, and I think it's a Justice Department program specifically, or maybe it's DHS, programs which provide help in the way of equipment, technology, resources, but prohibit the police from using the funds as they see fit for overtime and more police and human resources. Is that true? And can you do anything to help them on that front?

MR. McNULTY: Yeah, I think those two things are related. The first point is that there has been a significant increase in domestic preparedness money being allocated to the federal government to state and local jurisdictions in relationship to the threat of terrorism. And that reflects a priority of the battle against terrorism that is also a reflection of the overall limitation or strain to provide assistance to state and local law enforcement.

So you have, or we have a problem of limited resources because of the strains to meet the challenges that we face internationally and domestically in relationship to national security, and the difficulty to have enough funding to provide traditional law enforcement grants the way that the Office of Justice programs here at DOJ had funded them a few years back. And you have an increase in the money that's going to out to state and locals for domestic preparedness.

And there's a concern among the police chiefs that that money isn't as flexible and available to deal with some of their traditional law enforcement needs. And I definitely have heard it that day, and I heard it in addition to that day.

Now some jurisdictions are large enough and receive a lot of that domestic preparedness money and can make multiple use of the money. So if, for example, money is received to build a fusion center for receiving law enforcement information and an analyzing it, that fusion center can also help fight gangs, and so they get more than one purpose served by a grant that provides infrastructure and so forth for fighting terrorism.

Other jurisdictions don't have that kind of benefit, and some of those police chiefs have voiced their concerns very clearly recently about that. You know, I think that that mission to be prepared is very important. I'm not sure if we can be prepared enough when it comes to having what's necessary to combat terrorism at home. So, it's an important priority as far as domestic preparedness goes. But it has come at a time when they received less funding for their other law enforcement activity, and that's a big a concern to them.

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So, we tried to make up for that a bit by looking at ways of providing funding for specific priority areas, like fighting methamphetamine or gangs, and by really increasing our relationship on a practical, day-to-day and strategic level with police chiefs.

And that morning, Terry, when I was there, I made reference to that a couple times, that as I looked around the room, I saw a number of police chiefs who I knew personally, and I knew that in the jurisdictions of those chiefs, we had a very active program identifying gun violators and gang members, and we were actively working together to prosecute them and get them off the street.

And that kind of strategic partnership doesn't come in the form of grant money, which is very well appreciated by locals, and I understand that. But it also has a benefit in itself, and I was trying to make the point that morning that we have accomplished a lot in many places together, and we at the very least have to continue to try and do that well.

QUESTION: How much of a problem, though, is that these local agencies may have been feeding at the federal trough for too long? I mean, what's your sense of that? I mean, they certainly got a stream of money since the COPS program started. Did they get too dependent on that?

MR. McNULTY: I don't know if they got too dependent on that. Those programs have been up and down over the years, and I've tracked them very closely professionally since about the mid-eighties when I got involved in the first days of the Byrne grant. But you have going back into the seventies even. LACC money, hit a high point then tailed off. There was a period of decline where there was virtually no funding. Then the Byrne grant got started in the -- really the late eighties. By the time Byrne grant going, it's '88, '89. That money came along, stayed pretty steady throughout the nineties and at the start of this decade, but that local law enforcement block grant only came into existence in about '96.

For those years that it got up to the count of over 100,000 police officers, the way in which that was calculated. So I don't know if there was a dependence on it at all.

There was great appreciation for it, and I can understand that because with local law-enforcement block grant, for example, police chiefs in particular got direct funds not through the state capital, which was something they really appreciated, and it allowed them to use the money get technology, things like computers for police cars and so forth. And it just really helped them, and it would be great if those kinds of things can keep on going if there's the funding for them. It's just very difficult, in tight fiscal times, to do it.

QUESTION: One of the things you specifically had been targeting this Administration has been gun crime with Project Safe Neighborhoods and the experience from Richmond and other places was -- Boston -- I think was used different places, but the bad news is -- I think it's bad news -- is that murders this year, last year, 2005, were -- murders were up four-point-something percent, and arrests of juveniles for murder was up, according to this report, almost 20 percent. Now that's really bad news.

Why is gun crime -- why did gun crime escalate so much last year, and murder?

MR. McNULTY: It's hard, very hard, to say why gun crime continues or has at least recently gone up. You're right in the first instance that the number of gun prosecutions, federal gun prosecutions in the past four or five years has increased dramatically. I was looking for that number, Rob, and it was like 60,000 or 58,000. What was that number?

DOJ OFFICIAL: It's increased 73 percent since 2000.

MR. McNULTY: Yes, since 2000. The overall number is just really kind of amazing, the number --

DOJ OFFICIAL: The overall number from 2000 to 2005 is 48,039 cases against 58,540 defendants.

MR. McNULTY: Yes, 58,540 defendants from 2001 to 2005 -- 58,000 defendants, I mean that's --

DOJ OFFICIAL: Hundred percent increase.

MR. McNULTY: What's that?

DOJ OFFICIAL: Hundred percent increase.

MR. McNULTY: Hundred percent increase, yes. I mean that's an amazing number, so I would certainly strongly suggest that it's not for lack of effort in terms of making this a priority. It has been the top domestic priority for the Department of Justice.

Now it continues to rise. What's going on? Well, I guess with the growth of gang violence comes perhaps the growth of gun violence. Those two are probably connected.

I can answer it perhaps in my own experience, as U.S. Attorney in a place like Richmond, Virginia, which has struggled with gun violence for a long time, that we saw gun violence going back up again in 2004 and our guess was that some of the offenders who had been prosecuted previously under project exile were cycling back through -- they had been released, they did their three to five years or whatever their sentence might have been; they were returned to the streets again, and unfortunately our recidivism numbers are such that they continue to commit violence crime.

As an aside, our gang-violence effort involves a prisoner-reentry effort to try to do something about that. But returning gun criminals, gang violence, juvenile violence, generally speaking -- beyond that, it's hard to say.

It just shows how much we have to keep up that effort because for every one of those gun offenders that we prosecute, we are undoubtedly averting some amount of violent crime. It's just common sense, and it's statistically valid. We avert violent crime by prosecuting these violent criminals and incapacitating them. And that's one of the things we just have to keep up.

DOJ OFFICIAL: One or two more. Anything else?

QUESTION: Do you worry though that the resources for terrorism, the international effort that you all have going, will overwhelm or have overwhelmed sort of that local connection that you talked about earlier that the federal government needs to establish with -- I mean on local crime issues. I mean do you worry that the other interests of the Department have outpaced that?

MR. McNULTY: No, I don't. I really don't, and I hope this doesn't sound like spin because it's as sincere as I can say it. I really think that since 9/11, the relationships that we have with local law enforcement have been strengthened because they're forced to deal together in ways that we didn't necessarily have to do before.

Now PSN, Project Safe Neighborhoods, did require active outreach to local law enforcement, but 9/11 just threw U.S. Attorneys into a connection with the law enforcement community for purposes of knowing who's out there and what they're up to in a way that we didn't have before, we didn't have quite bearing down on us the same way.

And I believe, in talking to chiefs and talking to district attorneys, that the relationship between federal law enforcement and local law enforcement is much stronger today than what it was before. The FBI, for example, always had a Safe Streets Task Force program, but didn't -- historically, it had limited and up-and-down

relationships. But since 9/11, because they're -- task forces and -- has really worked hard at strengthening local law-enforcement relationships. And that's just one agency.

So I think that the terrorism mission has not cost us anything when it comes to our relationships but has given us an opportunity to be more closely connected.

QUESTION: Over the weekend, there was some conversation about the possibility of compromise in the military commission's legislation. Can you give any sense for where there might be room for conversation or for compromise in the Administration's position?

MR. McNULTY: I don't want to comment on it right now because those discussions are going on and I'll just let that process continue to work itself out. But there's still a lot of discussion going on at this time.

QUESTION: Do you feel there is room for the possibility of compromise?

MR. McNULTY: I'd just defer to Steve Hadley's comments about that yesterday.

DOJ OFFICIAL: Any other questions? Okay.

MR. McNULTY: Thank you.

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Image not available for this document, ID: 0.7.10316.31551-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, September 18, 2006 7:08 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 18, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Attorney General Delivers Remarks before National Conference on Citizenship (OPA)
Today, the Attorney General delivered remarks before the National Conference on Citizenship in Washington regarding the importance of American citizenship. During his remarks, he also mentioned the President's military commission legislation, which generated news coverage.

Deputy Attorney General Participated in Pen-and-Pad Briefing with Justice Department Beat Reporters (OPA)
Today, Deputy Attorney General Paul J. McNulty participated in a pen-and-pad briefing with Justice Department beat reporters regarding the FBI's Uniform Crime Report.

Canadian Commission Investigating Arar Affairs Releases Report (Civil)
The official Canadian inquiry into the September 2002 arrest of Maher Arar, a Canadian citizen who was deported to Syria by U.S. officials, was released today. The report states that Canadian police wrongly identified Arar as an Islamic extremist, prompting U.S. agents to deport him to Syria, where he says he was tortured.

Talking Point:

- We have not seen the commission's report and have no comment at this time.

Justice Department to Monitor Elections in California and Massachusetts (Civil Rights)
The Justice Department today announced that on Tuesday, Sept. 19, 2006, the federal government will monitor a special recall election in Rosemead, Calif., and primary elections in Boston and Springfield, Mass., to ensure compliance with the Voting Rights Act. Under the Voting Rights Act, the Justice Department is authorized to ask the Office of Personnel Management to send federal observers to areas that are specially covered in the Act itself or by a federal court order. Federal observers will be assigned to monitor polling place activities pursuant to federal court orders entered in 2005 for Rosemead and Boston and pursuant to a federal court order entered last month for Springfield.

***Washington Post* Expected to Publish Story on Hate Crimes against Muslims and Arabs (Civil Rights)**

The Washington Post is expected to publish a story regarding the 2006 annual report issued by the Council on American-Islamic Relations regarding hate crimes against Muslims and Arabs after Sept. 11, 2001. It is unclear when the story will run.

Talking Points:

- The Department of Justice is working hard to protect the rights of all Americans.
- After the terrorist attacks of September 11, we saw an increase in bias crimes and discrimination against Muslim and Arab Americans.
- The Justice Department quickly responded by condemning the violence, and we have subsequently worked closely with the FBI and local officials to bring the criminals to justice.
- The Justice Department has investigated every complaint it has received regarding bias and discrimination crimes against Arabs and Muslims after Sept. 11, 2001.
- We do not tolerate such violence or threats of violence and will continue to vigorously pursue this criminal conduct.

Justice Department Dismisses Antitrust Lawsuit against Inco Ltd. and Falconbridge Ltd. (Antitrust)

The Department of Justice today announced that it filed a notice with the U.S. District Court for the District of Columbia to dismiss its antitrust complaint regarding the potential acquisition of Falconbridge Limited by Inco Limited since Inco has formally abandoned its effort to acquire Falconbridge. The Department said that the lawsuit and proposed consent decree are no longer necessary since Falconbridge was instead acquired by Xstrata plc, a Swiss mining company, in August 2006. The Department said that Xstrata's acquisition of Falconbridge does not pose any competitive problems.

Department of Justice/Federal Trade Commission Hearings on Single-Firm Conduct to Continue on September 26 (Antitrust)

The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the fifth in a series of joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on September 26, 2006, in Washington, D.C. As previously announced, these hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months. The panel on September 26 will examine existing empirical work regarding single-firm conduct and address areas where future work would be helpful. The session will be held at the FTC's Conference Center at 601 New Jersey Ave., N.W., Washington, D.C., Conference Room C.

Five Indicted for $14 Million Fraudulent Tax Preparation Scheme (Tax)
A federal grand jury in Los Angeles, Wednesday, indicted five individuals for orchestrating a $14 million tax fraud scheme, the Department of Justice and Internal Revenue Service (IRS) announced today. The defendants are Matthew Berry, Karen Berry, Carla Berry, Ivan Johnson and Valerie Dixon, all from San Bernardino County, Calif. The indictment charges all five defendants with conspiracy to defraud the United States and four defendants with aiding and assisting the filing of false tax returns. In addition, all of the defendants are charged with either failure to file an income tax return or filing a false income tax return as to their personal taxes during the years of the conspiracy. The indictment alleges that the scheme to defraud operated simultaneously on three tracks: preparing thousands of fraudulent income tax returns, creating false documentation to use in IRS audits, and failing to report to the IRS the more than $1.5 million earned from the conspiracy. The indictment alleges that all of the defendants, except for Matthew Berry, prepared income tax returns that contained false "Schedule A" deductions for mortgage interest, real estate taxes, or un-reimbursed expenses. Further, the indictment alleges the defendants prepared more than 6,000 fraudulent income tax returns in 2003. The indictment also alleges that the entire scheme resulted in a tax loss that exceeds $14.4 million. Documents filed in a civil case against the defendants estimate a total tax loss in excess of $25 million.

***USA Today* interviews FBI Assistant Director (FBI)**
Today, *USA Today* reporter Donna Leinwand interviewed FBI Assistant Director Chip Burrus on bank robbery trends and statistics. It is unclear when the story will run.

***New York Daily News* interviews FBI Assistant Director (FBI)**
Today, *New York Daily News* reporter James Meek interviewed FBI Assistant Director Chip Burrus regarding public corruption trends and statistics. It is unclear when the story will run.

***Associated Press* Interviews FBI Official (FBI)**
Today, *Associated Press* reporter Ann Sanner interviewed Supervisory Special Agent Ann Todd regarding the FBI laboratory discontinuing latent fingerprint examinations for state and local law enforcement. It is unclear when the story will run.

ABC News Inquires Regarding FBI Involvement in Missouri Kidnapping Case (FBI)
Today, ABC News producer Jason Ryan inquired regarding the Behavioral Analysis Unit's (BAU) involvement in the investigation into the kidnapping of Abigail Woods, a 10 day old infant who was taken from her home in Missouri. The BAU is assisting the local police department and the FBI field office in this case. They are providing crime scene analysis and other behaviorally-based investigative assistance.

TUESDAY'S EXPECTED EVENTS/RELEASES:

10:00 A.M. EDT Attorney General Alberto R. Gonzales will testify before the Senate Committee on Banking, Housing and Urban Affairs at a hearing entitled *Combating Child Pornography by Eliminating Pornographers' Access to the Financial Payment System*.
Dirksen Senate Office Building
Room 538

Washington, D.C.
OPEN PRESS

10:30 A.M. EDT Harley Lappin, Director, Bureau of Prisons and Jeff Sedgwick, Director, Bureau of Justice Statistics will testify before the Senate Judiciary Committee at a hearing entitled *The Cost of Crime: Understanding the Financial and Human Impact of Criminal Activity.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

2:30 P.M. EDT Alice Fisher, Assistant Attorney General for the Criminal Division, will testify before the Senate Committee on Commerce, Science, and Transportation on sexual exploitation of children via the Internet.
Russell Senate Office Building
Room 253
Washington, D.C.
OPEN PRESS

3:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at a press conference with Federal Trade Commission (FTC) Chairman Deborah Platt Majoras following a meeting of the President's Task Force on Identity Theft.
Seventh Floor Conference Center
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

System Administrator

From:	System Administrator
Sent:	Monday, September 18, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 547726 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 19, 2006 3:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Lonedell, MO

From: AmberAlert-DOJ
Sent: Tuesday, September 19, 2006 3:35:01 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Lonedell, MO
Auto forwarded by a Rule

UPDATE AMBER ALERT:Lonedell,MO CHILD:7 Days White F 19 Inches 6LBS Eyes:Blue Hair:Black
SUSPECT:30-40 White F 5FT8 200LBS Hair:Dark CALL 888-265-8639
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2142

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Tuesday, September 19, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 547728 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 19, 2006 9:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Cairo, GA

From: AmberAlert-DOJ
Sent: Tuesday, September 19, 2006 9:01:15 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; AmberAlert OPA; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Cairo, GA
Auto forwarded by a Rule

UPDATE AMBER ALERT:Cairo,GA VEHICLE:Green Sedan Toyota Camry TAG:FL CHILD:4 months SUSPECT:30 Hispanic M 5'3" 140 lbs Eyes:Brown Hair:Black CALL (229) 378-3096
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2183

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 10:14 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 19, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, September 19, 2006

ATTORNEY GENERAL

10:00 A.M. EDT Attorney General Alberto R. Gonzales will testify before the Senate Committee on Banking, Housing and Urban Affairs at a hearing entitled *Combating Child Pornography by Eliminating Pornographers' Access to the Financial Payment System.*
Dirksen Senate Office Building
Room 538
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Committee on Banking, Housing and Urban Affairs at 202-224-7391.

2:00 P.M. EDT Attorney General Alberto R. Gonzales will host a meeting of the President's Identity Theft Task Force.
Attorney General's Conference Room (Fifth Floor)
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
POOL COVERAGE AT TOP

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

3:00 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at a press conference with Federal Trade Commission (FTC) Chairman Deborah Platt Majoras following a meeting of the President's Identity Theft Task Force.
Seventh Floor Conference Center
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

DOJ_NMG_ 0168161

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

PRESS RELEASES

The Criminal Division will issue a release from the Office of Special Investigations. (Sierra)

EVENTS/HEARINGS

10:30 A.M. EDT Harley Lappin, Director, Bureau of Prisons and Jeff Sedgwick, Director, Bureau of Justice Statistics will testify before the Senate Judiciary Committee at a hearing entitled *The Cost of Crime: Understanding the Financial and Human Impact of Criminal Activity.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

2:30 P.M. EDT Alice Fisher, Assistant Attorney General for the Criminal Division, will testify before the Senate Committee on Commerce, Science, and Transportation on sexual exploitation of children via the Internet.
Russell Senate Office Building
Room 253
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Committee on Commerce, Science, and Transportation at 202-224-5115..

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0168162

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Image not available for this document, ID: 0.7.10316.31502-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 10:36 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS CONCERNING SEXUAL EXPLOITATION OF CHILDREN ON THE INTERNET

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 19, 2006
WWW.USDOJ.GOV

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

PREPARED STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS CONCERNING SEXUAL EXPLOITATION OF CHILDREN ON THE INTERNET

WASHINGTON, D.C.

Mr. Chairman, Senator Sarbanes, and distinguished Members of the Committee, thank you for having me here today to discuss this vital issue of protecting our children from exploitation on the Internet.

As all of you know, none of us can under-estimate the importance, or the urgency, of this threat against our kids.

Every day, pedophiles troll the Internet to see and sell images of child abuse. They also look for ways to contact our children over the Internet. They are hoping to make contact with the very young, the very innocent, to commit unthinkable acts and potentially sell images of those crimes to other pedophiles.

It is unfortunate that one of the greatest inventions of our generation – the Internet – is providing a building ground for these heinous crimes. That is why parents, volunteers and law enforcement must make the Internet a battleground. We must fight every day because predators seek to hurt our kids every day.

As the father of two young boys, this issue is one that I take extremely seriously on both personal and professional levels. I know the same is true for members of this committee. We are all aware that a society's ability to protect its children is a critical marker of that society. That is why protecting our children from sexual exploitation on the Internet is a high priority of the Department of Justice.

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I know that the issue of child molestation, rape and pornography can be difficult for people to focus on because it is, simply, so terrible. But we cannot turn away to preserve our comfort level. We must confront the brutal facts. For example:

- Virtually all images of child pornography depict the actual sexual abuse of real children. In other words, each image literally documents a crime scene.
- These are not just "pornographic" pictures or videos. They are images of graphic sexual and physical abuse – rape, sodomy and forced oral sex – of innocent children, sometimes even babies.
- The Internet has created a shocking field of competition to see who can produce the most unthinkable photos or videos of rape and molestation. In the perverse eyes of pedophiles and predators, this means the younger, the better.

Working with federal investigators and advocacy groups, I have seen just how horrific these images can be. I have seen a young toddler tied up with towels, desperately crying in pain, while she is being brutally raped and sodomized by an adult man. I have seen videos of very young daughters forced to have intercourse and oral sex with their fathers and pictures of older men forcing naked young girls to have anal sex. These are shocking images that cry out for the strongest law enforcement response possible.

Moreover, these disturbing images are only the beginning of a cycle of abuse. Once created, they become permanent records of the abuse they depict, and can haunt the victims literally forever once they are posted on the Internet. Unfortunately, advances in technology have also made it easier and easier for offenders both to profit from these images and to distribute them to each other. Once images are posted on the Internet, it becomes very difficult to remove them from circulation. Even more disturbing is the fact offenders rely on these images to develop a plan of action for targeting their next victims, and then use the images to groom victims into submission.

The challenge we face in cyberspace was illustrated by a new national survey, released in August 2006, conducted by University of New Hampshire researchers for the National Center for Missing & Exploited Children. The study revealed that a full third of all kids aged 10 to 17 who used the Internet were exposed to unwanted sexual material. Much of it was extremely graphic.

As I mentioned, this battle against child exploitation is a top priority. Earlier this year we launched a program called "Project Safe Childhood" that is helping to coordinate the good efforts of U.S. Attorneys offices, law enforcement and advocacy groups. Through Project Safe Childhood we are constantly expanding our efforts to address the sexual exploitation of children on the Internet and the financial underpinnings of this exploitation. The program is helping law enforcement and community leaders develop a coordinated strategy to prevent, investigate, and prosecute sexual predators, abusers, and pornographers who target our children.

As we've looked at ways to improve the law enforcement response to the problem of online exploitation and abuse of children, one thing we've continuously heard from state and local investigators and prosecutors is that many Internet Service Providers don't retain records for a sufficient period of time. Several months ago, I asked

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a working group within the Department to look at this issue, and we're working hard on ways to remedy this problem.

I see the initiative to protect our children as a strong, three-legged stool: one leg is the federal contribution led by United States Attorneys around the country; another is state and local law enforcement, including the outstanding work of the Internet Crimes Against Children task forces funded by the Department's Office of Justice Programs; and the third is non-governmental organizations, like the Financial Coalition Against Child Pornography and the National Center for Missing and Exploited Children -- without which we would not have the Cybertipline.

I want to note that the Financial Coalition would not exist without the leadership and vision of the Chairman of this Committee, Senator Shelby, who was the catalyst in bringing industry leaders together to address this serious problem.

Congress has also provided invaluable support for our efforts by passing the Adam Walsh Child Protection and Safety Act of 2006. The Adam Walsh Act, signed by the President in July, will help us keep our children safe by preventing these crimes and by enhancing penalties for these crimes across the board.

None of our efforts can stand alone. All must involve high levels of sharing and coordination. That is what Project Safe Childhood is all about.

One final note that I'd like to share with the Committee today is that our fight against the proliferation of child sexual exploitation on the Internet does not stop at our borders. It demands a global strategy. This makes it imperative that we pay attention to the laws governing child sexual exploitation in other nations. Many countries have astonishingly lenient punishments for child pornography offenses. For instance, in several nations the production of child pornography is punished with only a fine or imprisonment of less than six months or a year. Simple possession is punishable merely by a fine. Just as we need some states to strengthen their laws to punish child sex offenders, we must encourage some foreign lawmakers to strengthen their laws as well, including those concerning the financial components of these crimes.

I am grateful that the Committee shares the Department's commitment to protecting our children. Again, I want to thank Chairman Shelby for establishing the Financial Coalition Against Child Pornography. I also want to thank Senator Santorum for authoring the provision in the Adam Walsh Act that authorized the Department's Project Safe Childhood initiative. Senators, your exemplary actions have truly shown the depth of your commitment to protecting our children from abuse that no human being should have to endure.

Mr. Chairman, thank you and the Committee for the opportunity to speak to you today, and I would be pleased to answer any questions the Committee might have.

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Image not available for this document, ID: 0.7.10316.31519-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 19, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 554069 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, September 19, 2006 11:01 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/19/06 Civil Division News

How Canada failed citizen Maher Arar

Panel Exonerates Terror Suspect

Lawyers go to court for Guantanamo detainee, saying he is being mistreated

Senators hear claims against Halliburton; An Orlando attorney pushes Democrats for a probe of reports of misused funds in Iraq.

Anthrax Investigation A 'Cold Case?'

Press Release: Pfizer Goes to Court to Stop 'The Whistleblower - Confessions of a Healthcare Hitman'

Globe and Mail

POSTED AT 3:30 AM EDT ON 19/09/06

How Canada failed citizen Maher Arar

JEFF SALLOT

From Tuesday's Globe and Mail

OTTAWA — Maher Arar is an innocent victim of inaccurate RCMP intelligence reports and deliberate smears by Canadian officials, a commission of inquiry says in a report that also recommends the federal government pay him compensation.

Mr. Arar, a Canadian citizen who was deported from the United States to Syria -- where he was tortured as a terrorist

suspect -- has suffered "devastating" mental and economic consequences as a result of his ordeal, Mr. Justice Dennis O'Connor says in a report released yesterday.

"I am able to say categorically that there is no evidence to indicate that Mr. Arar has committed any offence or that his activities constitute a threat to the security of Canada," the judge says.

Mr. Arar, 36, said he had tears in his eyes when he first saw those words jumping out from the report.

Maher Arar, house husband and torture survivor, has moved from Ottawa to Kamloops seen here near his new home in Kamloops September 15, 2006. (John Lehmann/Globe and Mail)

The judge, he said, "has cleared my name and restored my reputation."

The report says there is no doubt Mr. Arar was tortured in a Syrian military intelligence prison soon after his deportation from the United States in 2002.

Judge O'Connor said he wants to personally thank Mr. Arar for his patience and co-operation during the long inquiry process. "I take my hat off to him."

The 822-page report, which has been censored because of government concerns about national security, also calls for the further independent investigation of the cases of three other Canadian Muslim men -- Abdullah Almalki, Ahmad El Maati and Muyyed Nurredin -- who were imprisoned in the Middle East under similar circumstances.

They also say they were tortured.

The RCMP should never share intelligence reports with other countries without written conditions about how that information is used, Judge O'Connor writes.

He also says Canadian government information should never be provided to a foreign country if there is a risk of it being used to torture people.

The report, the result of more than two years of hearings, some of them secret, clears federal officials of any direct involvement in the U.S. government's decision to deport Mr. Arar to the Middle East. Mr. Arar was arrested at Kennedy Airport in New York while travelling on his Canadian passport.

Judge O'Connor blasts the RCMP for providing U.S. authorities with inaccurate intelligence that resulted in Mr. Arar, and his wife Monia Mazigh, being put on a border watch list as dangerous al-Qaeda terrorist suspects.

RCMP antiterrorism investigators violated the force's existing policy when they gave U.S. officials three CD-ROM discs with raw intelligence that had not been analyzed for accuracy.

The Mounties, the report continues, should have flagged the material as being from unproven sources and should have taken precautions to make sure it was not used in U.S. deportation proceedings.

Senior RCMP officers failed to properly supervise the newly created antiterrorism unit to make sure policies were being enforced.

Even after Mr. Arar's return to Canada, the RCMP was causing problems for Mr. Arar. The Mounties, the report says, misled the Privy Council Office at an important meeting, by failing to disclose "certain key facts that could have reflected adversely on the force."

The details of the meeting and who specifically from the RCMP was responsible are not included in the public version of the O'Connor report.

Paul Cavalluzzo, the commission's chief lawyer, declined to say how much material was cut from the public version of the report. But, he said, the commission disagrees with the government on some of its national-security claims and may have to fight it out in the federal courts for the eventual release of evidence that Judge O'Connor believes should be known by the public.

Some of that censored information could be relevant to the cases of the three other Muslim men.

Mr. Cavalluzzo said the commission is not recommending another full-blown inquiry. But the other cases should be examined by an independent fact-finder.

The minority Conservative government, which inherited the Arar file from the Liberals, was cautious and non-committal in its first reaction to Judge O'Connor's report.

What happened to Mr. Arar was "very regrettable," Public Safety Minister Stockwell Day said.

The government will study the report before responding in detail, Mr. Day said, delaying further discussion of compensation or possible disciplinary action against the Mounties.

Prime Minister Stephen Harper said later in the day that he will bring in new measures within weeks to respond to the recommendations.

The Canadian Security Intelligence Service, which reports to Mr. Day, escapes relatively unscathed. CSIS did not share intelligence about Mr. Arar with the Americans.

U.S. officials refused to testify at the Canadian inquiry. But the report says it "is very likely" they relied on the faulty RCMP intelligence when they decided to send Mr. Arar to Syria, the country of his birth, rather than home to Canada.

"The RCMP provided American authorities with information about Mr. Arar which was inaccurate, portrayed him in an unfair fashion and overstated his importance to the investigation," the report says, referring to the Mountie probe of possible al-Qaeda terrorist activities in Ottawa after the Sept. 11, 2001, terrorist attacks.

The RCMP asked the Americans to put Mr. Arar and Dr. Mazigh on a watch list as "Islamic extremist individuals suspected of being linked to the al-Qaeda terrorist movement," the report says.

"The RCMP had no basis for this description, which had the potential to create serious consequences for Mr. Arar in light of American attitudes and practices" at that time, the report says.

The Mounties also erroneously told the Americans Mr. Arar was in the Washington area on Sept. 11, 2001, when, in fact, he was in San Diego.

Mr. Arar was the victim of a smear by Canadian government sources even after his return to Canada after a year in Damascus prisons.

"Canadian officials leaked confidential and sometimes inaccurate information about the case to the media for the purpose of damaging Mr. Arar's reputation or protecting their self-interest or government interests," the report says.

Judge O'Connor referred to "leaks" to the Ottawa Citizen newspaper and CTV News that Mr. Arar had admitted training at an al-Qaeda terrorist camp in Afghanistan, a country he's never seen.

The "confession" was obtained by Syrian torturers.

Judge O'Connor says that the Mounties went to extraordinary lengths to investigate Mr. Arar, even after his return to Canada. "They found nothing."

The Arar case cast a shadow over diplomatic relations with Washington until former prime minister Paul Martin obtained assurances from the White House that this would never happen again. The Liberals also set up the Arar inquiry.

Judge O'Connor, the Associate Chief Justice of Ontario, does not recommend a specific dollar sum for compensation. Mr. Arar is suing Ottawa.

Judge O'Connor suggests that the Canadian government and Mr. Arar try to negotiate compensation and Ottawa should take into consideration the Arar family's suffering.

"Psychologically, Mr. Arar's experiences in Syria were devastating," the report says. Economically, "Mr. Arar went from being a middle-class engineer to having to rely on social assistance to help feed, clothe and house his family."

Mr. Arar said that after his return to Canada there were several times when he was ready to throw in the towel.

But the strength of his wife kept him going in a search for justice.

"My life has been ruined," he said of the smears by government officials and other parts of his ordeal.

"I wanted the people responsible for what happened to me to be held accountable. Justice requires no less. I call on the government of Canada to accept the findings of this report and hold people accountable," Mr. Arar told reporters. He declined to name names, but said the government has the report and can see who in the RCMP needs to be disciplined.

Asked if Canadians should have confidence in the Mounties, Mr. Arar paused for several seconds then said he's looking forward to the second part of Judge O'Connor's report -- this winter -- dealing with recommendations for civilian oversight of the federal police force.

The Arar family recently moved from Ottawa to Kamloops, B.C., where Dr. Mazigh received a university teaching appointment.

THE FINDINGS OF THE COMMISSION OF INQUIRY BY MR. JUSTICE DENNIS O'CONNOR

1. RCMP GAVE THE U.S. WRONG INFORMATION ABOUT TERRORIST LEANINGS

'One aspect of the Canadian and American lookout requests that is highly alarming is the most unfair way in which Project A-O Canada described Mr. Arar . . . The requests indicated [he was] part of a group of Islamic extremist individuals suspected of being linked to the Al Qaeda terrorist movement, a description that was inaccurate, without any basis and potentially extremely inflammatory in the United States in the fall of 2001. The provision of this inaccurate information, particularly without a caveat, at what turned out to be a critically important time in Mr. Arar's ordeal was unfortunate, to put it mildly, and totally unacceptable.'

2. SENIOR RCMP OFFICIALS FAILED TO MONITOR INEXPERIENCED OFFICERS

'It was incumbent upon the RCMP and its senior officers to ensure that Project A-O Canada received clear and accurate direction with regard to how information was to be shared and to exercise sufficient oversight to rectify any unacceptable practices. I observe that, given that Project A-O Canada had few officers with experience or training in national security investigations, I would have expected CID [Criminal Investigations Division] to exercise more, rather than less oversight. That did not happen.'

3. OFFICIALS SHOULD HAVE KNOWN ARAR WAS BEING TORTURED

'Leo Martel, the Canadian consul in Damascus, visited Mr. Arar the next day in an office at the Palestine Branch. He did not observe any physical signs of torture on Mr. Arar and indicated in his report of the meeting that Mr. Arar had appeared healthy but added, "of course it is difficult to assess." 'There were actually many indications that all was not well. . . . I am satisfied that the October 23 consular visit should have alerted Canadian officials to the likelihood that Mr. Arar had been tortured when interrogated while held incommunicado by the SMI [Syrian Military Intelligence]. Some Canadian officials did operate under the working assumption that Mr. Arar had been tortured. Others, including the Ambassador, were not prepared to go that far based on the information available. In my view, after the first consular visit, all Canadian officials dealing with Mr. Arar in any way should have proceeded on the assumption that he had been tortured during the initial stages of his imprisonment and, equally of importance, that the "statement" he had made to the SMI had been the product of that torture.'

4. DEPARTMENTS FAILED TO CO-OPERATE TO SECURE ARAR'S EARLY RELEASE

'I conclude that the RCMP and CSIS should have supported DFAIT's [department of foreign affairs] efforts to obtain a "one voice" letter, because of a number of factors. Had the RCMP and CSIS put their minds to the task and approached it with a view to offering real support, they could have done so. In the end, proposing a letter that inaccurately said that Mr. Arar was a subject of a national security investigation was not helpful.'

5. OFFICIALS SHOULD HAVE BELIEVED ARAR HAD BEEN TORTURED

'After Mr. Arar's return, some officials in the Canadian government did not believe Mr. Arar's public statements that he had been beaten or tortured. As it turns out, their conclusions were wrong. Mr. Arar had indeed been beaten and physically tortured during the first two weeks of his imprisonment in Syria. Inaccurate memoranda and other written communications such as those I refer to above can contribute

to and support false conclusions.'

6. OFFICIALS LEAKED DAMAGING INFORMATION TO THE MEDIA

'When Mr. Arar returned to Canada, his torment did not end, as some government officials took it upon themselves to leak information to the media, much of which was unfair to Mr. Arar and damaging to his reputation. . . . At least one leak sought to downplay the mistreatment and torture Mr. Arar had suffered in Syria. Quite predictably, the leaks had a devastating effect on Mr. Arar's reputation and on him personally. . . . Mr. Arar, an educated, hard-working engineer,has had great difficulty finding employment. It seems likely that the smear of his reputation by the leakors has taken its toll.'

7. RCMP FAILED TO INFORM THE GOVERNMENT PROPERLY

'On November 14, the RCMP produced a timeline that omitted several significant facts . . . These omissions were serious and the effect of the timeline was to downplay the potential problems with the RCMP investigation. In the circumstances that existed in November, 2003, it was very important that the RCMP accurately brief the government on what had occurred, to enable the government to make an informed decision on how to proceed.'

END

New York Times

Sept. 19, 2006

Panel Exonerates Terror Suspect

By IAN AUSTEN The New York Times

OTTAWA - A government commission on Monday exonerated a Canadian computer engineer of any ties to terrorism and issued a scathing report that faulted Canada and the United States for his deportation four years ago to Syria, where he was imprisoned and tortured.

The report on the engineer, Maher Arar, said American officials had apparently acted on inaccurate information from Canadian investigators and then misled Canadian authorities before sending Arar to Syria.

"I am able to say categorically that there is no evidence to indicate that Mr. Arar has committed any offense or that his activities constituted a threat to the security of Canada," Justice Dennis R. O'Connor, head of the commission, said.

The report's findings could reverberate heavily through the leadership of the Royal Canadian Mounted Police, which handled the initial intelligence on Arar that led security officials in Canada and the United States to assume he was a suspected al-Qaida terrorist.

The report is aimed primarily at Canada's own government and activities, rather than the U.S. government, which refused to cooperate in the inquiry. Its conclusions draw more attention to the Bush administration's handling of terrorism suspects at a time that the White House and Congress are contesting legislation that would set standards for the treatment and interrogation of prisoners.

"The American authorities who handled Mr. Arar's case treated Mr. Arar in a most regrettable fashion," O'Connor wrote in a three-volume report, not all of which was made public. "They removed him to Syria against his wishes and in the face of his statements that he would be tortured if sent there. Moreover, they dealt with Canadian officials involved with Mr. Arar's case in a less than forthcoming manner."

A spokesman for the U.S. Justice Department, Charles Miller, said officials had not seen the report and could not comment.The Syrian-born Arar was seized on Sept. 26, 2002, after he landed at Kennedy Airport in New York on his way home from a vacation in Tunisia. On Oct. 8, he was flown to Jordan and taken overland to Syria, where he says he was held for 10 months in a tiny cell and beaten repeatedly

with a metal cable. He was freed in October 2003 after Syrian officials concluded that he had no connection to terrorism and returned him to Canada.

The commission supports that view, describing a mounted police force that was ill-prepared to assume the intelligence duties assigned to it after the Sept. 11 attacks.

Arar, speaking at a news conference with tears in his eyes, praised the findings.

"Today Justice O'Connor has cleared my name and restored my reputation," said Arar, who has been unemployed since his return to Canada in 2003. "I call on the government of Canada to accept the findings of this report and hold these people responsible."

END

AP

September 18, 2006

Lawyers go to court for Guantanamo detainee, saying he is being mistreated

By ANDREW SELSKY

Associated Press Writer

GUANTANAMO BAY NAVAL BASE, Cuba_A Saudi has been held in solitary confinement for a year at the Guantanamo Bay prison and is now so mentally unbalanced he considers insects his friends, lawyers said in a motion filed Monday seeking the man's removal from isolation.

Shaker Aamer, a 37-year-old resident of Britain, was placed in isolated confinement Sept. 24, 2005, and has been beaten by guards, deprived of sleep and subjected to temperature extremes, according to the motion filed in U.S. District Court for the District of Columbia.

Aamer, however, has said he had contact with fellow prisoners as recently as early June, one of his lawyers, Zachary Katznelson, said in a declaration to the court. Aamer's attorneys could not be immediately contacted to elaborate.

The treatment violates Geneva Conventions protections, Aamer's lawyers argued. The U.S. military denied he is being mistreated.

The allegations surfaced as President Bush and Congress wrestle over legislation to set rules for interrogating and trying terror suspects. Bush officials argue they need to establish ground rules so suspects can be interrogated to prevent horrors like the Sept. 11 attacks.

In the 16-page filing, Aamer's lawyers said that since he was put into isolation 360 days ago, except for infrequent meetings with his attorneys, he has had contact only with the Americans running the prison on this U.S. Navy base in southeastern Cuba.

"His only consistent contact with living beings beside his captors is with the ants in his cell. He feeds them and considers them his friends," Katznelson said in a statement filed with the court.

"There is no question in my mind that he is mentally unstable," he added.

The motion, a copy of which was provided to The Associated Press, said Aamer lives in a 6-by-8-foot cell

containing a steel bunk, steel toilet, steel sink, a Quran and a thin mattress. The cell is contained entirely within a wooden shack.

Katznelson said that on June 9 _ the day before three Guantanamo detainees committed suicide by hanging themselves in their cells _ military police beat Aamer because he resisted providing a retina scan and fingerprints.

"They choked him," the lawyer said. "They bent his nose repeatedly so hard to the side he thought it would break. ... They gouged his eyes. They held his eyes open and shined a mag-lite in them for minutes on end, generating intense heat. They bent his fingers until he screamed. When he screamed, they cut off his airway, then put a mask on him so he could not cry out."

The motion said the treatment of Aamer, who is fluent in English and is known to military guards as "the Professor," violates Article Three of the Geneva Conventions, which states prisoners "shall in all circumstances be treated humanely."

Army Capt. Dan Byer, a Guantanamo spokesman, denied any of the roughly 450 Guantanamo detainees are subjected to such treatment. He said regulations prevent him from speaking about individual detainees, but that detainees are treated in conformance with the Geneva Conventions.

He discounted the allegation that Aamer was kept in solitary confinement.

"No detainee is in a situation where they do not have available human contact 24 hours a day," Byer said, but he declined to discuss whether Aamer has been kept apart from other detainees\l "l" for a year.

Aamer told his lawyer the air conditioner in his cell is often turned off, leaving him sweltering in the tropical heat, or turned up full blast "so the cell is freezing cold."

Aamer claims he was working for a charity organization when he was captured in Afghanistan after the Sept. 11 attacks.

The detainee won a measure of fame at the prison last year when he met with Army Col. Mike Bumgarner, who was then the warden, to end a hunger strike by detainees.

Aamer brought together a six-man prisoners council that attempted to negotiate improved conditions and advocated that detainees be tried or sent home, his lawyers said, but the talks failed and Aamer was put in solitary confinement.

END

Orlando Sentinel

Sept. 19, 2006

Senators hear claims against Halliburton; An Orlando attorney pushes Democrats for a probe of reports of misused funds in Iraq.

Mark K. Matthews
Washington Bureau

WASHINGTON -- An Orlando attorney urged Senate Democrats on Monday to investigate claims that energy giant Halliburton misused government funds in Iraq, including an overseas Super Bowl party for its employees.

"There have been countless reports of government contractors in Iraq undermining the mission, wasting money and stealing money," said Alan Grayson, who represents a whistle-blower in a civil suit against the Houston-based company.

Grayson was among several witnesses who told top Democrats, including Senate Minority Leader Harry Reid, D-Nevada, that Halliburton had cheated the government out of money or unnecessarily put its own employees in danger.

They also accused the Bush administration of stalling investigations into these claims. A spokesman for the Department of Justice said investigators "are committed to bringing criminals to justice who have engaged in contract fraud." Halliburton did not return calls seeking comment.

The testimonies came during a hearing of the Democratic Policy Committee, an official arm of the party. No Republican senators attended.

Grayson recently lost a bid to become the Democratic challenger to Rep. Ric Keller, R-Orlando.

He also is the attorney for Julie McBride, who worked in Iraq for a Halliburton subsidiary as a self-described "Camp Mom." McBride helped run a recreation station for troops near Fallujah, Iraq, and accused the company of inflating the cost of this service.

She also alleged in the lawsuit that Halliburton employees used taxpayer money to hold a Super Bowl party in Iraq last year. On the menu were "10 large metal tubs full of tacos, chicken wings (and) cheese sticks," according to court records.

The suit was filed under an arcane law called the False Claims Act, in which citizens can sue businesses or people they suspect of defrauding the U.S. government. If successful, these whistle-blowers receive a share of the damages.

This is not the first time Grayson has taken aim at war profiteers.

Earlier this year, he won a $10 million civil suit against another military contractor on claims it inflated invoices to the government.

END

CBS News

Sept. 18, 2006

Anthrax Investigation A 'Cold Case?'

(CBS) Three years ago, FBI agents slogged through the woods to a fishing pond in suburban Maryland, where they hoped to find the hidden lab equipment used in the 2001 anthrax attacks. But, as CBS News correspondent Jim Stewart reports, they pumped the pond dry and even sifted through the mud at the bottom ... and found nothing

Five years, 53,000 leads, and 6,000 subpoenas after those attacks, they *still* have no arrests.

Things are so cold, law enforcement officials tell CBS News, that barring the discovery of new evidence,

the anthrax investigation could be declared a "Cold Case" and put in the inactive files.

So who did it? Former Attorney General John Ashcroft once singled out Dr. Steven Hatfill, a bioweapons specialist, as a "person of interest." But there have been no charges.

Former FBI counter-terrorism executive and now CBS News consultant Mike Rolince says no case has frustrated the FBI more.

"We now know that someone, or ones, can conduct an attack like this and for least the first five years, get away with it," Rolince says.

The FBI says it remains committed to solving the crime. In a written statement, Joseph Persichini, Jr., acting assistant director of the FBI's Washington field office said: "Today, the FBI's commitment to solving this case is undiminished ... While no arrests have been made, the dedicated investigators who have worked tirelessly on this case, day-in and day-out, continue to go the extra mile in pursuit of every lead."

The bureau never had more than scant physical evidence, like the envelopes the anthrax was mailed in, and the terse letters inside - "Death to America" read one - and the spores themselves. But they were never able to trace the anthrax back to the attacker.

"It's true that a vast majority of the investigation early on was figuring out the science," Rolince says.

Nor did the administration ever entirely figure out what to do in case of another such attack. Despite a $5.6 billion effort to stockpile vaccines, just a small amount is available. Only the Pentagon has enough on hand for the troops.

Homeland Security Secretary Michael Chertoff hints no one may ever be indicted.

"There are times that we may know a lot about a crime or an event that occurred, but we may not have the admissible evidence that we need to prove it in court," Chertoff says.

But the thinking among investigators is more stark: If we can't agree among ourselves who did it, they reason, how could we ever convince a jury?

END

PRNewswire

Sept. 19, 2006

Press Release: Pfizer Goes to Court to Stop 'The Whistleblower - Confessions of a Healthcare Hitman'

NEW YORK, September 19, 2006 /PRNewswire/ -- Dr. Peter Rost, author of "The Whistleblower -- Confessions of a Healthcare Hitman," today revealed that Pfizer has asked the U.S. District Court, NY, to advise on relief and for sanctions against Dr. Rost for writing "The Whistleblower," per recently released court records, case no. 05-CV-10384.

In a separate legal communique, Pfizer's lawyer writes, "Be advised that we are in the process of evaluating the extent to which this book likewise violates the Protective Order." Pfizer has also requested "Confidential" designation of virtually all documents used to write "The Whistleblower."

"Pfizer's attempt to stop 'The Whistleblower' and deny the public the right to view associated documents

may not be surprising considering the explosive content and Pfizer's infamous history as the only drug company forced by the government to sign not just one, but two separate Corporate Integrity Agreements," said Dr. Rost.

The New York Post wrote the following review, "A drug company executive is about to blow the lid off the pharmaceutical industry...revealing everything from sex in the corner office to private investigators spying on employees, company phone surveillance, FBI investigations and financial shenanigans resulting in million-dollar payouts."

And L Magazine stated, "In this Enron-esque expose of the healthcare industry, an...executive reveals everything you should already be assuming about most multinational corporations. You know, greed, spying, million-dollar payouts, and sex in the corner office."

Medical Marketing & Media, a drug industry publication, concluded that "The Whistleblower" is "a scathing account of the allegedly 'insidious' practices of the industry that once paid [Dr. Rost's] salary and of the U.S. healthcare system. The media is sure to lap it up."

END

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Tuesday, September 19, 2006 12:15 PM
Subject: E-mail Interruption
Importance: High

E-mail Interruption

Outbound and Inter-Component e-mail is backlogged for several hours at this time for some SMO/JMD JCON customers. We will notify you when the situation is resolved.

Check **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 1:35 PM
To: USDOJ- Office of Public Affairs
Subject: SAN FRANCISCO WOMAN WHO SERVED AS NAZI CONCENTRATION CAMP GUARD IS DEPORTED TO GERMANY

Department of Justice

FOR IMMEDIATE RELEASE — CRM
TUESDAY, SEPTEMBER 19, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

SAN FRANCISCO WOMAN WHO SERVED AS NAZI CONCENTRATION CAMP GUARD IS DEPORTED TO GERMANY

WASHINGTON – A San Francisco woman has been removed to Germany based on her participation in Nazi-sponsored acts of persecution while serving during World War II as a guard of female prisoners at the infamous Nazi-operated Ravensbrück Concentration Camp in Germany, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

A charging document filed in U.S. immigration court in San Francisco by the Justice Department's Office of Special Investigations (OSI), which investigated the case, and the Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE) alleges that Elfriede Lina Rinkel, 83, a native and citizen of Germany, served as a guard at Ravensbrück from June 1944 until the camp was abandoned in the closing weeks of the war.

"Concentration camp guards such as Elfriede Rinkel played a vital role in the Nazi regime's horrific mistreatment of innocent victims," said Assistant Attorney General Fisher. "This case reflects the Government's unwavering commitment to remove Nazi persecutors from this country."

In a settlement agreement reached with the Government, Rinkel admitted that she served as a guard at Ravensbrück, admitted that she was deportable from the United States under a federal law that mandates the removal of aliens who participated in acts of Nazi-sponsored persecution, and agreed to the entry of an immigration court order directing her removal to Germany by September 30, 2006. Rinkel returned to Germany earlier this month pursuant to that order.

When it was established in 1939, Ravensbrück was the only Nazi concentration camp operated exclusively for the internment of female prisoners. The charging document states that while serving at Ravensbrück, Rinkel used a trained attack dog to carry out her guard duties. At Ravensbrück, SS female guards armed with attack dogs forced malnourished women inmates to march to slave labor sites each day, guarded them while they performed manual labor, and then force-marched them back to the concentration camp, where they were held under notoriously inhumane conditions. The charging document alleges that Rinkel's activities

DOJ_NMG_ 0168182

at Ravensbrück assisted the Nazis in persecuting civilians on the basis of their race, religion, national origin, or political opinion, and that her removal from the United States is required by federal law.

Rinkel immigrated to the United States from Germany in 1959. The charging document alleges that she concealed her concentration camp service from U.S. immigration authorities when she applied for her entry visa. Rinkel never applied for U.S. citizenship.

"Thousands of innocent women were brutalized and murdered at Ravensbrück through the active participation of Elfriede Rinkel and other guards, whose principal function was to prevent prisoners from escaping the abominable conditions inside the camp," said OSI Director Eli M. Rosenbaum. "Her presence in the United States was an affront to surviving Holocaust victims who have made new homes in this country."

The case is a result of OSI's ongoing efforts to identify, investigate and take legal action against former participants in Nazi persecution who reside in the United States. Since OSI began operations in 1979, it has won cases against 102 individuals who assisted in Nazi persecution. In addition, more than 175 individuals who sought to enter the United States in recent years have been blocked from doing so as a result of OSI's "Watchlist" program, which is enforced in cooperation with the Department of Homeland Security.

# # #

06-633

DOJ_NMG_ 0168183

Image not available for this document, ID: 0.7.10316.31461-000001

Image not available for this document, ID: 0.7.10316.31461-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 19, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 554422 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Tuesday, September 19, 2006 1:51 PM
Subject: Resolved: E-mail Traffic Flowing Normally
Importance: High

E-mail Flowing Normally

Outbound and Inter-Component e-mail is now flowing normally.

Check **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100

[redacted](DHS)

Subject: Updated: National Pandemic Plan Action Items
Location: GSA bldg., 7th & D Streets, Room 3915

Start: Friday, September 22, 2006 11:00 AM
End: Friday, September 22, 2006 12:00 PM
Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: [redacted](DHS)
Required Attendees: '[redacted]
Gorsuch, Neil (DOJ);[redacted]

[redacted]

Attachments: PANFLU Action Items.xls

Importance: High

FILE ATTACHED NOW.

All-

This is a preliminary meeting to discuss several Action Items from the National Pandemic Plan that have economic/modeling issues. I know that I have reached out to several of you over the past few weeks asking similar questions. This is a follow-up to those discussions. Please see the attached document that lists the eight Action Items to be discussed at this meeting. Again, this is just a preliminary meeting with everyone at the table to discuss and potentially outline other stakeholders and/or path forward for the items.

For those without DHS badges, we will be down at the main entrance across from L'Enfant Plaza signing people in. Please utilize this center entrance with the wheelchair access ramp and weather overhang as it is the best point of entry for visitors.

I am waiting on conference call information at this time for those who are unable to attend. I will disseminate as soon as I receive it.

If there are any questions about this meeting, please do not hesitate to call/email me. We look forward to seeing you at the meeting.

Regards,
[redacted]

Action Item	Action Item Description	Primary Agency	POC
5.1.1.2	HHS and DHS, in coordination with the National Economic Council (NEC), DOD, DOC, U.S. Trade Representative (USTR), DOT, DOS, USDA, Treasury, and key transportation and border stakeholders, shall establish an interagency modeling group to examine the effects of transportation and border decisions on delaying spread of a pandemic, and the associated health benefits, the societal and economic consequences, and the international implications, within 6 months. Measure of performance: Interagency working group established, planning assumptions developed, priorities established, and recommendations made on which models are best suited to address priorities.	HHS DHS	
5.1.3.2	DHS, in coordination with DOT, HHS, DOC, Treasury, and USDA, shall work with the private sector to identify strategies to minimize the economic consequences and potential shortages of essential goods (e.g., food, fuel, medical supplies) and services during a pandemic, within 12 months. Measure of performance: The private sector has strategies that can be incorporated into contingency plans to mitigate consequences of potential shortages of essential goods and services.	DHS	
5.3.4.4	DHS and DOT, in coordination with USDA, DOI, DOC and DOS, shall consult with the domestic and international travel industry (e.g., carriers, hospitality industry, and travel agents) and freight transportation partners to discuss travel and border options under consideration and assess potential economic and international ramifications prior to implementation. Measure of performance: Initial stakeholder contacts and solicitation for inputs conducted within 48 hours of an outbreak and re-established if additional countries affected.	DHS DOT	

5.3.5.6	DOT and DHS, in coordination with NEC, Treasury, DOC, HHS, DOS, and the interagency modeling group, shall assess the economic, safety, and security related effects of the pandemic on the transportation sector, including movement restrictions, closures and quarantine, and develop strategies to support long-term recovery of the sector, within 6 months of the end of a pandemic. Measure of performance: Economic and other assessments completed and strategies implemented to support long-term recovery of the sector.	DOT DHS
6.1.10.2	HHS, in coordination with DHS, DOD, VA, DOC, DOJ, and Treasury, shall assess within whether use of the Defense Production Act or other authorities would provide sustained advantages in procuring medical countermeasures, within 6 months. Measure of performance: analytical report completed on the advantages/disadvantages of invoking the Defense Production Act to facilitate medical countermeasure production and procurement.	HHS DHS
6.2.5.1	HHS, in coordination with DOD and DHS, shall develop and maintain a real-time epidemic analysis and modeling hub that will explore and characterize response options as a support to policy and decision makers within 6 months. Measure of performance: modeling center with real-time epidemic analysis capabilities established.	HHS DHS DOD
6.3.2.3	HHS, in coordination with DHS and DOD and in collaboration with mathematical modelers, shall complete research identifying optimal strategies for using voluntary home quarantine, school closure, snow day restrictions, and other community infection control measures, within 12 months. Measure of performance: guidance developed and disseminated on the use of community control.	HHS DHS DOD
7.1.5.6	USDA, in coordination with DHS, DOI and DOD, shall partner with State and tribal authorities to refine disease mitigation strategies for avian influenza in poultry or other animals through outbreak simulation modeling, within 6 months. Measure of performance: simulation models produced and reports issued on the results of influenza outbreak scenario modeling.	USDA DHS DOI

Status

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 3:06 PM
To: USDOJ- Office of Public Affairs
Subject: IDENTITY THEFT TASK FORCE ANNOUNCES INTERIM RECOMMENDATIONS

RECOMMENDATIONS CAN BE FOUND IN ATTACHMENT BELOW

Department of Justice

Federal Trade Commission

FOR IMMEDIATE RELEASE — AG
TUESDAY, SEPTEMBER 19, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

IDENTITY THEFT TASK FORCE ANNOUNCES INTERIM RECOMMENDATIONS

Recommendations Come in Advance of Final Report Set for November

WASHINGTON – The President's Identity Theft Task Force has adopted interim recommendations on measures that can be implemented immediately to help address the problem of identity theft, Attorney General Alberto R. Gonzales and Federal Trade Commission Chairman Deborah Platt Majoras announced today. The Identity Theft Task Force, which was established by Executive Order of the President on May 10, 2006, and is now comprised of 17 federal agencies and departments, will deliver a final strategic plan to the President in November.

The interim recommendations of the Identity Theft Task Force were announced following a meeting of the Task Force today at the Justice Department.

"As with any crime, victims of identity theft suffer feelings of violation and stress, but in these cases, victims have the added burden of cleaning up the mess that the identity thieves leave behind," said Attorney General Gonzales. "The President created the Identity Theft Task Force to oversee the implementation of real and practical solutions at the federal level to defeat this ongoing intrusion into the lives of law-abiding Americans. Today's recommendations move that process forward."

"Conquering identity theft demands that we work as a team to develop tools that strengthen law enforcement, practices that enhance data security, and programs that help consumers in prevention and recovery," said FTC Chairman Majoras. "Through these initiatives, we are taking solid steps toward eradicating this persistent consumer problem."

The Identity Theft Task Force's interim recommendations to the Administration include the following:

DOJ_NMG_ 0168195

Data Breach Guidance to Agencies

In light of several, large data breaches suffered in recent months by government agencies, the Task Force recommends that the Office of Management and Budget (OMB) issue to all federal agencies a Task Force memorandum, which covers the factors that should govern whether and how to give notice to affected individuals in the event of a government agency data breach, and the factors that should be considered in deciding whether to offer services such as free credit monitoring. Such guidance is the first comprehensive road map of the steps that agencies should take to respond to a breach and to mitigate the risk of identity theft.

Development of Universal Police Report for Identity Theft Victims

To ensure that identity theft victims have easy access to police reports documenting the misuse of their personal information – which are necessary in order for the victims to, for example, request that fraudulent information on their credit report be blocked, or to obtain a seven-year fraud alert on their credit file – the Task Force recommends the development of a "universal police report" that an identity theft victim can complete online, print and take to a local law enforcement agency for verification and incorporation into the police department's report system. The use of universal police reports will also ensure that identity theft complaints will flow into the FTC's ID Theft Data Clearinghouse, and thereby will assist law enforcement officers in responding to such complaints.

Extending Restitution for Victims of Identity Theft

To allow identity theft victims to recover for the value of the time that they spend attempting to make themselves whole – for example, the hours spent disputing fraudulent accounts with creditors that may be compromised or spent correcting credit reports – the Task Force recommends that Congress amend the criminal restitution statutes, 18 U.S.C. 3663(b) and 3663A(b), to require that defendants pay identity theft victims for the value of their lost time.

Reducing Access of Identity Thieves to Social Security Numbers

In order to limit the unnecessary use in the public sector of Social Security Numbers (SSNs) – which are the most valuable pieces of consumer information for identity thieves – the Task Force recommends the following:

$ The Office of Personnel Management (OPM) should accelerate its review of the use of SSNs, and take steps to eliminate, restrict or conceal their use, including assignment of employee identification numbers where practicable.

$ OPM should develop and issue policy guidance to the federal human capital management community on the appropriate and inappropriate use of an employee's SSN in employee records, including the appropriate way to restrict, conceal and/or mask SSNs in employee records and human resource management information systems.

$ OMB should require all federal agencies to review their use of SSNs to determine where such use can be eliminated, restricted or concealed in agency business processes, systems and paper and electronic forms.

Developing Alternative Methods of "Authenticating" Identities

Developing reliable methods of authenticating the identities of individuals, such as "biometrics," would make it more difficult for identity thieves to misuse existing accounts or open new accounts using other individuals' information. The Task Force recommends that agencies gather together academics, industry experts and entrepreneurs who are exploring ways to encourage greater development and use of authentication systems, and hold a workshop or workshops focused on developing and promoting improved means of authenticating the identities of individuals.

Improving Data Security in the Government

To ensure that government agencies improve their data security programs, the Task Force recommends

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that OMB and the Department of Homeland Security (DHS), through the interagency effort already underway to identify ways to strengthen the ability of all agencies to identify and defend against threats, correct vulnerabilities, and manage risks: (a) outline best practices in the areas of automated tools, training, processes, and standards that would enable agencies to improve their security and privacy programs, and (b) develop a list of the top 10 or 20 "mistakes" to avoid in order to protect government information.

Improving Agencies' Ability to Respond to Data Breaches in the Government

In order to allow agencies to quickly respond to any data breaches, including by sharing information about those who may be affected with other agencies and entities that can assist in the response to the breach, all federal agencies should publish a "routine use" for their systems of records under the Privacy Act that would allow for the disclosure of such information in the course of responding to a breach of federal data.

Anyone wishing to ask a question about identity theft or to report identity theft may call 1-877-ID-THEFT, or visit the FTC's Web site, http://www.ftc.gov/idtheft, or the Department of Justice's Web site, http://www.usdoj.gov/criminal/fraud/idtheft.html.

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PRESIDENT'S IDENTITY THEFT TASK FORCE
SUMMARY OF INTERIM RECOMMENDATIONS

PREVENTION

Improving Government Handling of Sensitive Personal Data

Recommendation 1: The Task Force recommends that the Office of Management and Budget (OMB) issue to all federal agencies the attached Task Force guidance that covers (a) the factors that should govern whether and how to give notice to affected individuals in the event of a government agency data breach that poses a risk of identity theft, and (b) the factors that should be considered in deciding whether to offer services such as free credit monitoring.

Recommendation 2: To ensure that government agencies improve their data security programs, the Task Force recommends that OMB and the Department of Homeland Security (DHS), through the interagency effort already underway to identify ways to strengthen the ability of all agencies to identify and defend against threats, correct vulnerabilities, and manage risks: (a) outline best practices in the areas of automated tools, training, processes, and standards that would enable agencies to improve their security and privacy programs, and (b) develop a list of the top 10 or 20 "mistakes" to avoid in order to protect government information.

Recommendation 3: To limit the unnecessary use in the public sector of Social Security numbers (SSNs), the most valuable consumer information for identity thieves, the Task Force recommends the following:

- The Office of Personnel Management (OPM), in conjunction with other agencies, should accelerate its review of the use of SSNs in its collection of human resource data from agencies and on OPM-issued papers and electronic forms, and take steps to eliminate, restrict, or conceal their use (including the assignment of employee identification numbers, where practicable).

- OPM should develop and issue policy guidance to the federal human capital management community on the appropriate and inappropriate use of an employee's SSN in employee records, including the proper way to restrict, conceal, or mask SSNs in employee records and human resource management information systems.

- OMB should require all federal agencies to review their use of SSNs to determine where such use can be eliminated, restricted, or concealed in agency business processes, systems, and paper and electronic forms.

Recommendation 4: To allow agencies to respond quickly to data breaches, including by sharing information about potentially affected individuals with other agencies and entities that can assist in the response, the Task Force recommends that all federal agencies, to the extent consistent with applicable law, publish a new "routine use" for their systems of records under the Privacy Act,

modeled after the attached "routine use" recently drafted by the Department of Justice, that would facilitate the disclosure of information in the course of responding to a breach of federal data.

Improved Authentication Methods

Recommendation 5: Because developing reliable methods of authenticating the identities of individuals would make it harder for identity thieves to access existing accounts and open new accounts using other individuals' information, the Task Force should hold a workshop or series of workshops, involving academics, industry, and entrepreneurs, focused on developing and promoting improved means of authenticating the identities of individuals.

VICTIM ASSISTANCE

Recommendation 6: To allow identity theft victims to recover for the value of time they spend in attempting to remediate the harms suffered, the Task Force recommends that Congress amend the criminal restitution statutes to allow for restitution from a criminal defendant to an identity theft victim, in an amount equal to the value of time reasonably spent by the victim attempting to remediate the intended or actual harm incurred from the identity theft offense.

LAW ENFORCEMENT

Recommendation 7: To ensure that victims can readily obtain the police reports that they need to take steps to prevent the misuse of their personal information by identity thieves, and to ensure that their complaint data is entered in a standardized format that will allow complaints to flow into a central complaint database and that thereby would assist law enforcement officers in responding to such complaints, the FTC, with support from the Task Force, will develop a universal police report, which an identity theft victim can complete, print, and take to any local law enforcement agency for verification and incorporation into the police department's report system.

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PRESIDENT'S IDENTITY THEFT TASK FORCE
INTERIM RECOMMENDATIONS

PREVENTION

Improving Government Handling of Sensitive Personal Data

1. Establishing a Data Breach Policy for the Public Sector

Identity theft and related harms are a consequence of sensitive information about consumers that criminals obtain through theft or other improper means. In many cases, providing notice to the affected individuals can help prevent or mitigate the harms to consumers. Notice permits consumers to take protective actions, while also allowing relevant private sector entities to assist the consumers. Appropriate notice can also enable law enforcement to investigate, punish, and deter crime. At the same time, however, unnecessary or excessive breach notification can overwhelm the public and impose undue burdens and costs on consumers, as well as on government agencies.

Several federal government agencies have suffered high-profile security breaches involving sensitive consumer data over the past several months. These and other agencies have faced difficult decisions about when and how to notify the public of such incidents, and whether the agencies should offer free credit monitoring or other services to those who may be affected. Federal agencies need guidance in how to make these important decisions.

Recommendation 1: The Task Force recommends that the Office of Management and Budget (OMB) issue the attached guidance memorandum, advising federal agencies on steps to take in the event of a compromise of data. The Task Force has developed and formally approved a set of guidelines, produced in Attachment A, that provides the factors that should be considered in deciding whether, how, and when to inform affected individuals of the loss of personal data that can contribute to identity theft, and whether to offer services such as free credit monitoring to the persons affected.

2. Improving Data Security in the Public Sector

The high-profile data breaches suffered by several federal agencies have focused attention on whether the government is doing enough to secure the massive amounts of data held by federal agencies as part of their core missions. The President's Management Agenda (PMA) Scorecard, OMB reports to Congress, Congress' annual security report card, Government Accountability Office reports, and many agency Inspector General (IG) reports show that agency performance in both information privacy and security is uneven. Common findings are that agencies would benefit from increased sharing of best practices, group purchases of automated tools and training courses, and development of a more effective common curriculum for training. OMB and the Department of Homeland Security (DHS) are already leading an interagency Information Systems Security Line of Business (ISS LOB) effort to explore ways to address these issues, including to identify and defend against threats, correct vulnerabilities, and manage risks. The ISS LOB can be a useful forum for

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developing best practices and a list of practices that should be avoided in order to protect government information.

Recommendation 2: To ensure that government agencies improve their data security programs, the Task Force recommends that OMB and DHS enhance the activities of the ISS LOB. Specifically, the Task Force recommends that the ISS LOB should (a) outline best practices in the area of automated tools, training, processes, and standards that would enable agencies to improve their security and privacy programs, and (b) develop a list of the top 10 or 20 "mistakes" to avoid in order to protect information held by the government.

3. Decreasing the Use of Social Security Numbers by the Public Sector

One way to reduce the incidence of identity theft is to make it more difficult for criminals to obtain consumer information. Currently, the most valuable consumer information identity thieves can find is the Social Security Number (SSN). SSNs are key to assuming another's identity because they are used to match consumers with their credit histories and many government benefits. Consequently, if federal agencies were to eliminate unnecessary uses of SSNs, they could reduce the opportunities for unauthorized use by identity thieves. The Office of Personnel Management (OPM), which issues or approves many of the federal forms and procedures using the SSN, and OMB, which oversees the management and administrative practices of federal agencies, can play pivotal roles in restricting the unnecessary use of SSNs, offering guidance on potential substitutes that would be of equal use to the agencies but of no use to identity thieves, and establishing greater consistency when the use of SSNs is unavoidable.

Recommendation 3: To limit the unnecessary use in the public sector of SSNs, the most valuable consumer information for identity thieves, the Task Force recommends the following:

Recommendation 3a: OPM should accelerate its review of the use of SSNs in its collection of human resource data from agencies and on OPM-based papers and electronic forms, and take steps to eliminate, restrict, or conceal their use (including the assignment of employee identification numbers, where practicable). If necessary to implement this recommendation, Executive Order 9397, effective 11/23/1943, which requires federal agencies to use SSNs in "any system of permanent account numbers pertaining to individuals," should be partially rescinded.

It should also be noted that steps are already being taken to facilitate implementation of this recommendation. This month, each OPM program office designated staff to review the use of SSNs in that office, and OPM is prepared to complete its inventory of forms, procedures, and systems that currently display SSNs by October 13, 2006. This new inventory will be the basis for OPM's actions to change, eliminate, or mask the use of SSNs on OPM approved/authorized forms.

Recommendation 3b: OPM should develop and issue policy guidance to the federal human capital management community on the appropriate and inappropriate use of an employee's SSN in

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employee records, including the appropriate way to restrict, conceal, or mask SSNs in employee records and human resource management information systems.

OPM already has begun work to implement this recommendation, such as by working to establish a unique employee identifier that can be used in human resource and payroll systems rather than SSNs. Pursuant to the Task Force's recommendation, OPM is also prepared in September 2006 to begin consulting with a working group of agencies to develop a new OPM policy regarding the use of a unique employee identifier and limitations on the use of SSNs. The policy would include instructions on when SSNs can be displayed, when SSNs must be masked in employee records, and when SSNs must be masked on human resource and payroll system computer screens. The policy could be drafted by November 1, 2006 and would be issued by May 2007, following internal coordination and comment by agencies. OPM would then be prepared to work with the various human resource and payroll systems to implement the changes required by any new policy, with a phased-in implementation expected to take up to 18 months to complete.

Recommendation 3c: OMB should require all federal agencies to review their use of SSNs to determine the circumstances under which such use can be eliminated, restricted, or concealed in agency business processes, systems, and paper and electronic forms, other than those authorized or approved by OPM.

Already, OMB has developed a survey instrument to be in a position to implement this recommendation, which OMB could issue to all agencies this year. To add to this effort, and to ensure consistency, the Task Force will identify factors that agencies should take into consideration in determining whether the use of the SSN is essential to the agency's mission and necessary to ensure program integrity or to maintain national security. The Task Force will also evaluate the availability of practical alternatives to use of the SSN.

4. Publication of a "Routine Use" for Disclosure of Information Following a Breach

A federal agency's ability to respond quickly and effectively in the event of a breach of sensitive personal data is critical to its efforts to prevent or minimize any consequent harms. An effective response may include disclosure of information regarding the breach to those individuals affected by it. Similarly, expeditiously notifying persons and entities in a position to cooperate (either by assisting in informing affected individuals or by actively preventing or minimizing harms from the breach) will help mitigate consequences of a breach. However, the very information that may be most necessary to disclose to such persons and entities will often be information maintained by federal agencies that is subject to the Privacy Act of 1974, 5 U.S.C. § 552a. Critically, the Privacy Act prohibits the disclosure of any record in a system of records, by any means of communication to any person or agency, unless the subject individual has given written consent or unless the disclosure falls within one of twelve statutory exceptions. See 5 U.S.C. §§ 552a(b)(1)-(12).

To address this issue, federal agencies could, in accordance with the Privacy Act exception set forth in subsection § 552a(b)(3), publish a "routine use" that specifically permits the disclosure of information in connection with response and remedial efforts in the event of a data breach. Such

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a "routine use" would serve to protect the interests of the people whose information is at risk by allowing agencies to take appropriate steps to facilitate a timely and effective response, thereby improving their ability to prevent, minimize, or remedy any harms that may result from a compromise of data maintained in their systems of records. For example, such a routine use would permit an agency that has lost data such as bank account numbers to quickly share that information with the appropriate financial institutions, which could assist in monitoring for bank fraud and in identifying the account holders, thereby facilitating the agency's ability promptly to notify the affected individuals. The Department of Justice recently drafted such a "routine use," which is reproduced in Attachment B, and which the Task Force offers as a model for other federal agencies to use in developing and publishing their own "routine uses" as soon as practicable.

Recommendation 4: To allow agencies to respond quickly to data breaches, including by sharing information about potentially affected individuals with other agencies and entities that can assist in the response, the Task Force recommends that all federal agencies, to the extent consistent with applicable law, publish a new "routine use" for their systems of records under the Privacy Act, modeled after the attached "routine use" recently drafted by the Department of Justice, that would facilitate the disclosure of information to other agencies, entities, and persons in the course of responding to a breach of federal data.[1]

Improved Authentication Methods

5. Developing Alternate Means of Authenticating Identities

In addition to its widespread use by government, the SSN is used throughout the private sector. In particular, the SSN often is used for the dual purposes of identification (to match individuals to records of their information) and authentication (to prove that individuals are who they say they are).[2] Two factors combine to heighten the risk of identity theft: the ready availability of SSNs to identity thieves as a result of their ubiquitous use, and the SSN's use as a sole or primary means of authenticating individuals to open new accounts or obtain other benefits.

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[1]The Task Force is aware that for a limited number of agencies, the publication of this routine use will not eliminate all barriers to information sharing. For example, some of the information maintained by the federal banking agencies is bank customer information from financial records. Federal agencies and departments are subject to the Right to Financial Privacy Act, 12 U.S.C. § 3401 et seq., which imposes additional requirements on any federal agency or department wishing to share financial records with another agency or department.

[2] Identification or verification is the process of determining the identity of an individual at the onset of the relationship between the individual and the verifying entity. Authentication is the process of ensuring that the individual is the same as the individual whose identity was initially verified. Thus, verification occurs once with respect to the verifying entity, but authentication can be recurrent, depending on the nature of the relationship between the individual and the authenticating entity.

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Both the private and public sectors have made strides in developing improved means of verification and authentication. For example, the Customer Identification Program already requires financial institutions regulated by the federal banking agencies and the SEC to develop and implement procedures for verifying customers' identities when opening new accounts. Technology also can substantially improve the authentication process by, for example, the use of biometrics to authenticate the consumer's identity, making it less likely that a criminal can gain access to another's account. However, many questions remain about emerging technologies, consumer acceptance, and system implementation.

One way to sharpen the focus on improving the means for authenticating the identities of individuals would be to hold public workshops that bring together academics, industry, and entrepreneurs who are developing better authentication systems. These experts can discuss the existing problem, examine the limitations of current processes of authentication, and probe viable solutions that will reduce identity fraud. As an initial step, the FTC and other Task Force member agencies are prepared to announce in the fall of 2006 that they will host such a workshop in the early part of 2007.

Recommendation 5: Because developing reliable methods of authenticating the identities of individuals would make it harder for identity thieves to open new accounts or access existing accounts using other individuals' information, the Task Force should hold a workshop or series of workshops, involving academics, industry, and entrepreneurs, focused on developing and promoting improved means of authenticating the identities of individuals.

VICTIM ASSISTANCE

6. Restitution for Identity Theft Victims

One reason that identity theft can be so destructive to its victims is the sheer amount of time and energy often required to remediate the consequences of the offense. This may be time spent clearing credit reports with credit-reporting agencies, disputing charges with individual creditors, or monitoring credit reports for additional impacts of the theft. The FTC estimated in 2003, based on the results of its Identity Theft Survey Report, that the average identity theft victim spends 30 hours resolving the problems created by identity theft. Those individuals who were victimized most seriously (from both the false opening of new accounts in their names *and* the unauthorized use of their validly-issued credit cards) spent an average of 60 hours resolving the problems. Overall, according to the survey, approximately 297 million hours were expended in one year by consumers attempting to resolve identity theft-related problems.[3]

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[3] The FTC recently commissioned a new national survey. Although the analysis of the results has not yet been completed and there were some methodological differences from the 2003 survey, it appears that both the number of hours that individual victims spent in recovering from identity theft, and the aggregate hours across the population, have decreased. We note that, in the intervening years, Congress passed the Fair and Accurate Credit Transactions Act,

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While restitution is available for direct pecuniary costs of identity theft offenses, the federal restitution statutes, 18 U.S.C. § § 3663(b) and 3663A(b), do not provide for compensation for this time spent by consumers rectifying accounts and avoiding more harm. Moreover, courts have interpreted the restitution statutes in such a way that would likely preclude the recovery of such amounts from criminal defendants, absent explicit statutory authorization.

In order to better remediate the harm caused by identity theft, the Department of Justice has drafted amendments to the restitution statutes, reproduced in Attachment C, that would allow a victim to obtain restitution from a criminal defendant for the time reasonably spent trying to rectify the consequences of the offense. Under these proposed amendments, the district court judge would determine the amount of time reasonably spent and the value of the victim's time. The Department of Justice can propose that Congress adopt these amendments immediately.

Recommendation 6: The Task Force recommends that Congress amend the criminal restitution statutes, 18 U.S.C. §§ 3663(b) and 3663A(b), based on the attached proposal developed by the Department of Justice, to allow for restitution from a criminal defendant to an identity theft victim, in an amount equal to the value of time reasonably spent by the victim attempting to remediate the intended or actual harm incurred from the identity theft offense.

LAW ENFORCEMENT

7. Development of a Universal Police Report

Victims of identity theft often need police reports documenting the misuse of their information in order to recover fully from the effects of the crime. For example, identity theft victims can use a detailed police report as an "identity theft report" under the Fair and Accurate Credit Transactions Act to request that fraudulent information on their credit report be blocked, or to obtain a seven-year fraud alert on their credit file. Further, identity theft victims also must have a police report to obtain documents relating to fraudulent applications and transactions, and creditors may require a police report before establishing the victim's *bona fides* in challenging a fraudulent account or purchase. Filing a police report also makes it more likely that law enforcement will pursue an investigation of the identity theft.

Some victims report, however, that they are unable to get a police report. FTC complaint data show that during the last three years, about 25% of victims of new-account fraud who sought police reports were not able to obtain them, in part because of overtaxed local police departments and the time involved in preparing what often can be a highly detailed document. Simplifying the process of writing and receiving a police report would both relieve the burden on local law enforcement and allow victims to more easily repair the damage to their credit from the crime. A universal law enforcement report that the victim could complete online and take to the local police department would help achieve this goal. Additionally, the data from such standardized reports would be in a

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granting consumers new rights and tools for remediating the consequences of identity theft.

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format that is used by the FTC's Identity Theft Data Clearinghouse, increasing the ability of law enforcement to effectively spot significant patterns of criminal activity.

At present, the FTC has an online complaint form that is used to enter data into its Identity Theft Data Clearinghouse, which is in turn made available to law enforcement nationwide through Consumer Sentinel. The FTC is also prepared to develop a revised online complaint form at www.ftc.gov/idtheft that victims can complete, print, and take to a local law enforcement agency for verification and incorporation into the police department's report system. The victim will then have a valid, detailed police report; the police department will have a record of the crime; and the victim's complaint information will have been entered into the FTC's Identity Theft Data Clearinghouse. The Public Sector Liaison Committee of the International Association of Chiefs of Police supports and has been involved in this effort.

Recommendation 7: To ensure that victims can readily file the police reports necessary to allow them to prevent the continued misuse of their personal information, and to assist law enforcement in analyzing significant patterns of criminal activity in investigating identity theft complaints, the FTC, with support from Task Force members, should develop a universal police report, which an identity theft victim can complete, print, and take to any local law enforcement agency for verification and incorporation into the police department's report system.

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ATTACHMENT A

MEMORANDUM FROM THE IDENTITY THEFT TASK FORCE

Chair, Attorney General Alberto R. Gonzales
Co-Chair, Federal Trade Commission Chairman Deborah Platt Majoras

SUBJECT: Identity Theft Related Data Security Breach Notification Guidance

The Identity Theft Task Force ("Task Force") has considered the steps that a Department or agency should take in responding to a theft, loss, or unauthorized acquisition of personal information that poses a risk of subsequent identity theft. This memorandum reports the Task Force's recommended approach to such situations, without addressing other notification issues that may arise under the Privacy Act or other federal statutes when the data loss involves sensitive information that does not pose an identity theft risk.

I. Background

Identity theft, a pernicious crime that harms consumers and our economy, occurs when individuals' identifying information is used without authorization in an attempt to commit fraud or other crimes.[1] There are two primary forms of identity theft. First, identity thieves can use financial account identifiers, such as credit card or bank account numbers, to commandeer an individual's existing accounts to make unauthorized charges or withdraw money. Second, thieves can use accepted identifiers like social security numbers ("SSNs") to open new financial accounts and incur charges and credit in an individual's name, but without that person's knowledge.

This memorandum describes three related recommendations: (1) Agencies should immediately identify a core response group that can be convened in the event of a breach; (2) If an incident occurs, the core response group should engage in a risk analysis to determine whether the incident poses problems related to identity theft; (3) If it is determined that an identity theft risk is present, the agency should tailor its response (which may include advice to those potentially affected, services the agency may provide to those affected, and public notice) to the nature and scope of the risk presented. The memorandum provides a menu of steps for an agency to consider, so that it may pursue such a risk-based, tailored response. Ultimately, the precise steps to take must be decided in light of the particular facts presented, as there is no single response for all breaches. This memorandum is intended simply to assist those confronting such issues in developing an appropriate response.

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[1]Federal laws define "identifying information" broadly. *See, e.g.,* The 1998 Identity Theft Assumption and Deterrence Act (Pub. L. No. 105-318, 112 Stat. 3007 (1998) (codified at 18 U.S.C. § 1028)) and the Fair and Accurate Credit Transactions Act (15 U.S.C. §§ 1681-1681x, as amended). This memorandum focuses on the type of identifying information generally used to commit identity theft.

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II. Data Breach Planning

Given the volume of personal information appropriately collected to carry out myriad government functions, it is almost inevitable that some agencies will, on occasion, lose control of such information. Thus, an important first step in responding to a breach is for agencies to engage in advance planning for this contingency. We therefore recommend that each agency identify in advance a core management group that will be convened upon the identification of a potential loss of personal information. This core group would initially evaluate the situation to help guide any further response. Our experience suggests that such a core group should include, at minimum, an agency's chief information officer, chief legal officer, chief privacy officer (or their designees), a senior management official from the agency, and the agency's inspector general (or equivalent or designee). Such a group should ensure that the agency has brought together many of the basic competencies needed to respond, including expertise in information technology, legal authorities, the Privacy Act, and law enforcement. We recommend that this core group convene at least annually to review this memorandum and discuss likely actions should an incident occur.

III. Identifying an Incident That Presents Identity Theft Risk and the Level of Risk Involved

A loss of control over personal information, may, but need not necessarily, present a risk of identity theft. For example, a data report showing the name "John Smith," with little or no further identifying information related to John Smith, presents little or no risk of identity theft. Thus, the first steps in considering whether there is a risk of identity theft, and hence whether an "identity theft response" is necessary, are understanding the kind of information most typically used to commit identity theft and then determining whether that kind of information has been potentially compromised in the incident being examined. Because circumstances will differ from case to case, agencies should draw upon law enforcement expertise, including that of the agency Inspector General, in assessing the risk of identity theft from a data compromise and the likelihood that the incident is the result of or could lead to criminal activity.

An SSN standing alone can generate identity theft. Combinations of information can have the same effect. With a name, address, or telephone number, identity theft becomes possible, for instance, with any of the following: (1) any government-issued identification number (such as a driver's license number if the thief cannot obtain the SSN); (2) a biometric record; (3) a financial account number, together with a PIN or security code, if a PIN or security code is necessary to access the account; or (4) any additional, specific factor that adds to the personally identifying profile of a specific individual, such as a relationship with a specific financial institution or membership in a club. For further purposes of this memorandum, information posing a risk of identity theft will be described as "covered information." If a particular data loss or breach does not involve this type of

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information, the identity theft risk is minimal, and it is unlikely that further steps designed to address identity theft risks are necessary.[2]

Even where covered information has been compromised, various other factors should be considered in determining whether the information accessed could result in identity theft. Our experience suggests that in determining the level of risk of identity theft, the agency should consider not simply the data that was compromised, but all of the circumstances of the data loss, including

- how easy or difficult it would be for an unauthorized person to access the covered information in light of the manner in which the covered information was protected;[3]
- the means by which the loss occurred, including whether the incident might be the result of a criminal act or is likely to result in criminal activity;[4]
- the ability of the agency to mitigate the identity theft;[5] and
- evidence that the compromised information is actually being used to commit identity theft.

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[2]OMB has promulgated guidance requiring certain notifications within the government, most notably to the United States Computer Emergency Readiness Team (US-CERT), whenever personal information is compromised, and which applies even where there is no identity theft risk. That reporting guidance remains in full effect.

[3]For example, information on a computer laptop that is adequately protected by encryption is less likely to be accessed, while "hard copies" of printed-out data are essentially unprotected.

[4]For example, as a general matter, the risk of identity theft is greater if the covered information was stolen by a thief who was targeting the data (such as a computer hacker) than if the information was inadvertently left unprotected in a public location, such as in a briefcase in a hotel lobby. Similarly, in some cases of theft, the circumstances might indicate that the data-storage device, such as a computer left in a car, rather than the information itself, was the target of the theft. An opportunistic criminal, of course, may exploit information once it comes into his possession, and this possibility must be considered when fashioning an agency response, along with the recognition that risks vary with the circumstances under which incidents occur. In making this assessment, it is crucial that federal law enforcement (which may include the agency's Inspector General) be consulted.

[5]The ability of an agency or other affected entities to monitor for and prevent attempts to misuse the covered information can be a factor in determining the risk of identity theft. For example, if the compromised information relates to disability beneficiaries, the agency can monitor its beneficiary database for requests for change of address, which may signal attempts to misuse the information, and take steps to prevent the fraud. Likewise, alerting financial institutions in cases of a data breach involving financial account information can allow them to monitor for fraud or close the compromised accounts.

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Considering these factors together should permit the agency to develop an overall sense of where along the continuum of identity-theft risk the risk created by the particular incident falls. That assessment, in turn, should guide the agency's further actions.

IV. Reducing Risk After Disclosure

While assessing the level of risk in a given situation, the agency should simultaneously consider options for attenuating that risk. It is important in this regard for the agency to understand certain standard options available to agencies and individuals to help protect potential victims:

A. Actions that Individuals Can Routinely Take

The steps that individuals can take to protect themselves will depend on the type of information that is compromised. In notifying the potentially affected individuals about steps they can take following a data breach, agencies should focus on the steps that are relevant to those individuals' particular circumstances, which may include the following:

- Contact their financial institution to determine whether their account(s) should be closed. This option is relevant only when financial account information is part of the breach.
- Monitor their financial account statements and immediately report any suspicious or unusual activity to their financial institution.
- Request a free credit report at www.AnnualCreditReport.com or by calling 1-877-322-8228. It might take a few months for most signs of fraudulent accounts to appear on the credit report, and this option is most useful when the data breach involves information that can be used to open new accounts. Consumers are entitled by law to obtain one free credit report per year from each of the three major credit bureaus – Equifax, Experian, and TransUnion – for a total of three reports every year. The annual free credit report can be used by individuals, along with the free report provided when placing a fraud alert (which is discussed below), to self-monitor for identity theft. The annual report also can be used as an alternative for those individuals who want to check their credit report, but do not want to place a fraud alert. Contact information for the credit bureaus should be provided, which can be found on the FTC's website.
- Place an initial fraud alert[6] on credit reports maintained by the three major credit bureaus noted above. This option is most useful when the breach includes information that can be used to open a new account, such as SSNs. After placing an

[6]A fraud alert is a mechanism that signals to credit issuers who obtain credit reports on a consumer that they must take reasonable steps to verify the consumer's identity before issuing credit, making it harder for identity thieves to secure new credit lines. It should be noted that, although fraud alerts can help prevent fraudulent credit accounts from being opened in an individual's name, they also can delay that individual's own legitimate attempts to secure credit.

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initial fraud alert, individuals are entitled to a free credit report, which they should obtain beginning a few months after the breach and review for signs of suspicious activity.

- For residents of states in which state law authorizes a credit freeze, consider placing a credit freeze on their credit file.[7] This option is most useful when the breach includes information that can be used to open a new account, such as SSNs. A credit freeze cuts off third party access to a consumer's credit report, thereby effectively preventing the issuance of new credit in the consumer's name.
- For deployed members of the military, consider placing an active duty alert on their credit file.[8] This option is most useful when the breach includes information that can be used to open a new account, such as SSNs. Such active duty alerts serve a similar function as initial fraud alerts, causing creditors to be more cautious in extending new credit. However, unlike initial fraud alerts, they last for one year instead of 90 days. In addition, active duty alerts do not entitle the individual to a free credit report. Therefore, those placing an active duty alert should combine this option with a request for obtaining the annual free credit reports to which all individuals are entitled.
- Review resources provided on the FTC identity theft website, www.ftc.gov/idtheft. The FTC maintains a variety of consumer publications providing comprehensive information on breaches and identity theft.
- Be aware that the public announcement of the breach could itself cause criminals engaged in fraud, under the guise of providing legitimate assistance, to use various techniques, including email or the telephone, to deceive individuals affected by the breach into disclosing their credit card numbers, bank account information, SSNs, passwords, or other sensitive personal information. One common such technique is "phishing," a scam involving an email that appears to come from a bank or other organization that asks the individual to verify account information, and then directs him to a fake website whose only purpose is to trick the victim into divulging his personal information. Advice on avoiding such frauds is available on the FTC's web site http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt166.htm.

B. Actions that Agencies Can Take

If the breach involves government-authorized credit cards, the agency should notify the issuing bank promptly. If the breach involves individuals' bank account numbers to be used for the direct deposit of credit card reimbursements, government employee salaries, or any benefit payment,

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[7]State laws vary with respect to usability and cost issues, which individuals will need to consider before deciding to place a credit freeze.

[8]A variety of factors may influence a service member's decision to place an active duty alert–for example, if there are stateside family members who need easy credit access, the alert would likely be counterproductive.

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the agency should notify the bank or other entity that handles that particular transaction for the agency.

Agencies may take two other significant steps that can offer additional measures of protection – especially for incidents where the compromised information presents a risk of new accounts being opened – but which will involve additional agency expense. First, in recent years, some companies have developed technologies to analyze whether a particular data loss appears to be resulting in identity theft. This data breach analysis may be a useful intermediate protective action, especially where the agency is uncertain about whether the identity-theft risk warrants implementing more costly additional steps such as credit monitoring (see below) or where the risk is such that agencies wish to do more than rely on the individual action(s) identified above.

For two reasons, such technology may be useful for incidents involving data for large numbers of individuals. First, the cost of implementing credit monitoring (and the potential to have spent large sums unnecessarily if no identity theft materializes) can be substantial for large incidents because the cost of credit monitoring generally is a function of the number of individuals for whom credit monitoring is being provided. Second, subsequent to any large data breach that is reported publicly, it is likely that an agency will get reports of identity theft directly from individuals in the affected class. Yet, agencies should be aware that approximately 3.6% of the adult population reports itself annually as the victim of some form of identity theft. Thus, for any large breach, it is statistically predictable that a certain number of the potential victim class will be victims of identity theft through events *other than* the data security breach in question. Data-breach monitoring of the type described here can assist an agency in determining whether the particular incident it has suffered is truly a source of identity theft, or whether, instead, any such reports are the normal by-product of the routine incidence of identity theft.

Second, and typically at great expense, agencies may wish to provide credit-monitoring services. Credit monitoring is a commercial service that can assist individuals in early detection of instances of identity theft, thereby allowing them to take steps to minimize the harm (although credit monitoring cannot guarantee that identity theft will not occur). A credit-monitoring service typically notifies individuals of changes that appear in their credit report, such as creation of a new account or new inquiries to the file.[9]

In deciding whether to offer credit monitoring services and of what type and length, agencies should consider the seriousness of the risk of identity theft arising from the data breach. Particularly important are whether incidents have already been detected and the cost of providing the service. Such costs can be substantial, although rates are often subject to negotiation; bulk purchase discounts

[9]Various credit-monitoring services provide different features and their offerings are constantly evolving. Therefore, agencies may wish to consult with OMB or the FTC concerning the most current, available options.

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have been offered in many cases of large data breaches.[10] The length of time for which the service is provided may have an impact on cost as well. In addition, the agency should consider the characteristics of the affected individuals. Some affected populations may have more difficulty in taking the self-protective steps described earlier. For example, there may be groups who, because of their duties or their location, may warrant special protection from the distraction or effort of self-monitoring for identity theft.

Agencies should also be aware that, to assist the timely implementation of either data breach analysis or credit monitoring, the General Services Administration (GSA) is putting in place several government-wide contracting methods to provide these services if needed. Thus, an agency's contract officer, working with GSA, should be able promptly to secure such services and to develop cost estimates associated with such services.

Finally, it is important to note that notification to law enforcement is an important way for an agency to mitigate the risks faced by the potentially affected individuals. Because an agency data breach may be related to other breaches or other criminal activity, the agency's Inspector General should coordinate with appropriate federal law enforcement agencies to enable the government to look for potential links and to effectively investigate and punish criminal activity that may result from, or be connected to, the breach.

V. Implementing a Response Plan: Notice to Those Affected

Having identified the level of risk and bearing in mind the steps that can be taken by the agency or individual to limit that risk, the agency should then move to implement a response plan that incorporates elements of the above. Agencies should bear in mind that notice and the response it can generate from individuals is not "costless," a consideration that can be especially important where the risk of identity theft is low. The costs can include the financial expense and inconvenience that can arise from canceling credit cards, closing bank accounts, placing fraud alerts on credit files, and/or obtaining new identity documents. The private sector and other government agencies also incur costs in servicing these consumer actions. Moreover, frequent public notices of such incidents may be counterproductive, running the risk of injuring the public and, by making it more difficult to distinguish between serious and minor threats, causing citizens to ignore all notices, even of incidents that truly warrant heightened vigilance. Thus, weighing all the facts available, the risks to consumers caused by the data security breach warrant notice when notice would facilitate appropriate remedial action that is likely to be justified given the risk.

Assuming that an agency has made the decision to provide notice to those put at risk, agencies should incorporate the following elements into that notification process:

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[10]In some instances, monitoring services may even be provided at no cost. Agencies should check the GSA contract schedule.

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1. ***Timing***: The notice should be provided in a timely manner, but without compounding the harm from the initial incident through premature announcement based on incomplete facts or in a manner likely to make identity theft more likely to occur as a result of the announcement. While it is important to notify promptly those who may be affected so that they can take protective steps quickly, false alarms or inaccurate alarms are counterproductive. In addition, sometimes an investigation of the incident (such as a theft) can be impeded if information is made public prematurely. For example, an individual who has stolen a password-protected laptop in order to resell it may be completely unaware of the nature and value of the information the laptop contains. In such a case, public announcement may actually alert the thief to what he possesses, increasing risk that the information will be misused. Thus, officials should consult with those law enforcement officials investigating the incident (which could include the agency's Inspector General) regarding the timing and content of any announcement, before making any public disclosures about the incident. Indeed, even when the decision has been made to notify affected individuals, under certain circumstances, law enforcement may need a temporary delay before such notice is given to ensure that a criminal investigation can be conducted effectively or for national security reasons. Similarly, if the data breach resulted from a failure in a security or information system, that system should be repaired and tested before disclosing details related to the incident.[11]

2. ***Source***: Given the serious security and privacy concerns raised by data breaches, notification to individuals affected by the data loss should be issued by a responsible official of the agency, or, in those instances in which the breach involves a publicly known component of an agency, a responsible official of the component.

There may be some instances in which notice of a breach may appropriately come from an entity other than the actual agency that suffered the loss. For example, when the data security breach involves a federal contractor operating a system of records on behalf of the agency or a public-private partnership (for example, a federal agency/private-sector agreement to operate a program that requires the collection of covered information on members of the public), the responsibility for complying with these notification procedures should be established with the contractor or partner prior to entering the business relationship. Additionally, a federal agency that suffers a breach involving personal information may wish to determine, in conjunction with the regulated entity from which it obtained the information, whether notice is more appropriately given by the agency or by the regulated entity. Whenever possible, to avoid creating confusion and anxiety, the actual notice should come from the entity which the affected individuals are reasonably likely to perceive as the entity with which they have a relationship. In all instances, the agency is responsible for ensuring that its contractor or partner promptly notifies the agency of any data loss it suffers.

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[11] There may be other reasons related to law enforcement or national security that dictate that notice not be given to those who are affected. For example, if an agency suffers a breach of a database containing law enforcement sensitive data, immediate notification to potentially affected individuals may be inappropriate – even if the risk of identity theft resulting from that breach is significant – as such notification may result in the disclosure of law enforcement-sensitive or counter-terrorism data.

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3. ***Contents***: The substance of the notice should be reduced to a stand-alone document and written in clear, concise, and easy-to-understand language, capable of individual distribution and/or posting on the agency's website and other information sites. The notice should include the following elements:

- a brief description of what happened;
- to the extent possible, a description of the types of personal information that were involved in the data security breach (e.g., full name, SSN, date of birth, home address, account number, disability code, etc.);
- a brief description of what the agency is doing to investigate the breach, to mitigate losses, and to protect against any further breaches;
- contact procedures for those wishing to ask questions or learn additional information, including a toll-free telephone number, website, and/or postal address;
- steps individuals should take to protect themselves from the risk of identity theft (see above for the steps available), including steps to take advantage of any credit monitoring or other service the agency intends to offer and contact information for the FTC website, including specific publications.

Given the amount of information needed to give meaningful notice, an agency may want to consider providing the most important information up front, with the additional details in a Frequently Asked Questions (FAQ) format or on its website. If an agency has knowledge that the affected individuals are not English speaking, notice should also be provided in the appropriate language(s).

4. ***Method of Notification***: Notification should occur in a manner calibrated to ensure that the individuals affected receive actual notice of the incident and the steps they should take. First-class mail notification to the last known mailing address of the individual should be the primary means by which the agency provides notification. Even when an agency has reason to doubt the continued accuracy of such an address or lacks an address, mailed notice may still be effective. The United States Postal Service (USPS) will forward mail to a new address for up to one year, or will provide an updated address via established processes.[12] Moreover, certain agencies, such as the Social Security Administration and the Internal Revenue Service, may sometimes possess address information that can be used to facilitate effective mailing. The notice should be sent separately from any other mailing so that it stands out to the recipient. If using another agency to facilitate mailing as referenced above, agencies should take care that the agency that suffered the loss is identified as the sender, not the facilitating agency.

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[12]Agencies may receive updated addresses as a mailer by becoming a direct licensee of the Postal Service or by using a USPS licensed NCOA Link service provider. A current list of service providers is available at http://ribbs.usps.gov/files/ncoalink/CERTIFIED%5FLICENSEES/. For information on address-update and delivery-validation services, contact the USPS at 1-800-589-5766.

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Substitute means of notice such as broad public announcement through the media, website announcements, and distribution to public service and other membership organizations likely to have access to the affected individual class, should be employed to supplement direct mail notification or if the agency cannot obtain a valid mailing address. Email notification is discouraged, as the affected individuals could encounter difficulties in distinguishing the agency's email from a "phishing" email.

The agency also should give special consideration in providing notice to individuals who are visually or hearing impaired consistent with Section 504 of the Rehabilitation Act of 1973. Accommodations may include establishing a Telecommunications Device for the Deaf (TDD) or posting a large-type notice on the agency's web site.

5. ***Preparing for follow-on inquiries***: Those notified can experience considerable frustration if, in the wake of an initial public announcement, they are unable to find sources of additional accurate information. Agencies should be aware that the GSA has a stand-by capability through its "USA Services" operation to quickly put in place a 1-800-FedInfo call center staffed by trained personnel and capable of handling individual inquiries for circumstances in which the number of inquiries is likely to exceed the agency's native capacity. Thus, agencies may wish to consider briefly delaying a public announcement to allow them to implement a consolidated announcement strategy, as opposed to a hasty public announcement without any detailed guidance on steps to take. Such a strategy will permit public statements, website postings, and a call center staffed with individuals prepared to answer the most frequently asked questions all to be made simultaneously available.

6. ***Prepare counterpart entities that may receive a surge in inquiries***: Depending on the nature of the incident, certain entities, such as the credit-reporting agencies or the FTC, may experience a surge in inquiries also. For example, in incidents involving a substantial number of SSNs (e.g., more than 10,000), notifying the three major credit bureaus allows them to prepare to respond to requests from the affected individuals for fraud alerts and/or their credit reports. Thus, especially for large incidents, an agency should inform the credit bureaus and the FTC of the timing and distribution of any notices, as well as the number of affected individuals, in order to prepare.

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ATTACHMENT B

Proposed Routine Use Language

Subsection (b)(3) of the Privacy Act provides that information from an agency's system of records may be disclosed without a subject individual's consent if the disclosure is "for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section." 5 U.S.C. § 552a(b)(3). Subsection (a)(7) of the Act states that "the term 'routine use' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected." 5 U.S.C. § 552a(a)(7). A routine use to provide for disclosure in connection with response and remedial efforts in the event of a breach of federal data would certainly qualify as such a necessary and proper use of information – a use that is in the best interest of both the individual and the public.

Subsection (e)(4)(D) of the Privacy Act requires that agencies publish notification in the Federal Register of "each routine use of the records contained in the system, including the categories of users and the purpose of such use." 5 U.S.C. § 552a(e)(4)(D). The Department of Justice has developed the following routine use that it plans to apply to its Privacy Act systems of records, and which allows for disclosure to appropriate agencies, entities, and persons under the following circumstances:[13]

> when (1) it is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Agencies should already have a published system of records notice for each of their Privacy Act systems of records. To add a new routine use to an agency's existing systems of records, an agency must simply publish a notice in the Federal Register amending its existing systems of records to include the new routine use.

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[13] As this Task Force has been charged with considering the federal response to identity theft, this routine use notice does not include all possible triggers, particularly those associated with the Privacy Act, such as embarrassment or harm to reputation. However, after consideration of the Strategic Plan and the work of other groups charged with assessing Privacy Act considerations, OMB may determine that a combined identity theft/Privacy Act routine use may be preferable.

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Subsection (e)(11) of the Privacy Act requires that agencies publish a Federal Register notice of any new routine use at least 30 days prior to its use and "provide an opportunity for interested persons to submit written data, views, or arguments to the agency." 5 U.S.C. § 552a(e)(11). Additionally, subsection (r) of the Act requires that an agency provide Congress and OMB with "adequate advance notice" of any proposal to make a "significant change in a system of records." 5 U.S.C. § 552a(r). OMB has stated that the addition of a routine use qualifies as a significant change that must be reported to Congress and OMB and that such notice is to be provided at least 40 days prior to the alteration. See Appendix I to OMB Circular No. A-130 – Federal Agency Responsibilities for Maintaining Records About Individuals, 61 Fed. Reg. 6435, 6437 (Feb. 20, 1996). Once a notice is prepared for publication, the agency would send it to the Federal Register, OMB, and Congress, usually simultaneously, and the proposed change to the system (i.e., the new routine use) would become effective 40 days thereafter. See id. at 6438 (regarding timing of systems of records reports and noting that notice and comment period for routine uses and period for OMB and congressional review may run concurrently). Recognizing that each agency likely will receive different types of comments in response to its notice, the Task Force recommends that OMB work to ensure accuracy and consistency across the range of agency responses to public comments.

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ATTACHMENT C

Text of Amendments to 18 U.S.C. §§ 3663(b) and 3663A(b)

(a) Section 3663 of Title 18, United States Code, is amended by:

(1) Deleting "and" at the end of paragraph (4) of subsection (b);

(2) Deleting the period at the end of paragraph (5) of subsection (b) and inserting in lieu thereof "; and"; and

(3) Adding the following after paragraph (5) of subsection (b):

> "(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an amount equal to the value of the victim's time reasonably spent in an attempt to remediate intended or actual harm incurred from the offense.".

Make conforming changes to the following:

(b) Section 3663A of Title 18, United States Code, is amended by:

(1) Adding the following after Section 3663A(b)(4)

> "(5) in the case of an offense under this title, section 1028(a)(7) or 1028A(a), pay an amount equal to the value of the victim's time reasonably spent in an attempt to remediate intended or actual harm incurred from the offense.".

DOJ_NMG_ 0168222

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 3:07 PM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: THE WORK OF THE PRESIDENT'S IDENTITY THEFT TASK FORCE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 19, 2006
WWW.USDOJ.GOV

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

FACT SHEET: THE WORK OF THE PRESIDENT'S IDENTITY THEFT TASK FORCE

Identity theft is a crime that victimizes people and businesses in every community from major cities to small towns, and robs victims of their individual freedoms. The President's Identity Theft Task Force, co-chaired by Attorney General Alberto R. Gonzales and Federal Trade Commission Chairman Deborah Platt Majoras, has been working diligently since its inception in May 2006 to develop a comprehensive national strategy to combat identity theft. Beginning with today's interim recommendations, the Identity Theft Task Force will improve the ability of the government and the private sector to bring identity thieves to justice, to mitigate the risks of identity theft for individuals and companies, and to assist identity-theft victims in recovering from the effects of this pernicious crime.

Bringing Identity Thieves to Justice

The 17 federal agencies and departments that comprise the Task Force each has a particular expertise in substantive areas that impact and can contribute to the federal government's response to the problem of identity theft. Of these, the FBI, the United States Secret Service (USSS), the United States Postal Inspection Service (USPIS), and the Social Security Administration Office of the Inspector General (SSA OIG) are all empowered to investigate identity theft, and the Department of Justice brings substantial numbers of prosecutions against identity thieves. The results of these efforts include:

- In fiscal year 2005, the Justice Department charged 226 defendants with aggravated identity theft.
- In fiscal year 2006 (through the end of July 2006), the Justice Department charged 432 defendants with aggravated identity theft.
- The FBI reports that it has 1,587 pending identity theft-related cases. It opened 662 identity theft-related cases in 2005, and has opened 272 identity theft-related cases to date in 2006.
- The USPIS reports that it opened 1,530 identity theft-related cases and made 2,277 arrests in Fiscal Year 2005, and opened 1,012 identity theft-related cases and made 1,294 arrests in Fiscal Year 2006 (through June 30, 2006).

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- The SSA OIG Office of Investigations reports that it opened 1,566 cases involving SSN misuse in Fiscal Year 2005, and 812 cases involving SSN misuse in the first half of Fiscal Year 2006.

Some recent examples of identity theft prosecutions by the Department of Justice include the following:

FEMA fraud. On September 5, 2006, a defendant was sentenced to more than 10 years imprisonment for running a scheme to defraud the Federal Emergency Management Agency (FEMA), by using false identities to support his claims that he was a victim of Hurricanes Katrina and Rita. The defendant's scheme involved telephoning the FEMA emergency assistance hotline, providing a false name and address, and claiming to have suffered property damage as a result of the hurricanes.

- *Skimmers*. On June 19, 2006, federal authorities in the Central District of California arrested eight defendants accused of being part of an identity theft ring that "skimmed" account information from debit cards used by more than 100 diners at area restaurants and used the information to steal money from the victims' bank accounts. A ninth defendant was declared a fugitive.

- *Counterfeit Immigration Documents*. On February 13, 2006, a defendant was sentenced in the District of Colorado to 133 months in prison for aggravated identity theft, conspiracy to commit money laundering, and other crimes related to the manufacturing and distribution of counterfeit identity documents, including resident alien cards, social security cards, and various drivers licenses in Denver, Los Angeles, and Chicago.
- *Stolen Identifications to Open New Accounts*. On June 23, 2006, in the U.S. District Court for the Eastern District of Missouri, the leader and organizer of an identity theft ring and her two daughters were sentenced, respectively, to 70 months imprisonment; 2 years and 1 day imprisonment; and 4 years probation with home confinement on aggravated identity theft, identity theft and related fraud charges, in a scheme to use stolen identities to open credit accounts and purchase merchandise.*Counterfeit Checks*. On March 8, 2006, a defendant convicted after trial on counterfeiting and identity theft charges was sentenced to 132 months imprisonment and ordered to pay $292,400.00 in restitution, as well as forfeit an automobile and various equipment, including computer equipment, which he used in the scheme. The government presented evidence during that trial that the defendant was the organizer of a conspiracy to manufacture, possess and utter counterfeit securities, specifically counterfeit $100 VISA travelers' checks, counterfeit bank cashier's checks, and counterfeit U.S. Treasury checks.

Working Across Agencies to Disrupt Identity Theft

Federal authorities lead or co-lead a total of 96 task forces and working groups devoted to identity theft. These include:

- *Federal Trade Commission*: The FTC provides support for criminal law enforcement through its Identity Theft Clearinghouse, the national repository of consumer complaint data. Law enforcers across the country use this secure online resource of more than 1 million complaints to identify trends and targets. This resource encourages greater coordination and data sharing among the more than 1,300 criminal enforcement agencies that have access to this system.

- *U.S. Attorneys' Offices*. U.S. Attorneys lead 17 identity-theft task forces and working groups, in cities such as Philadelphia, St. Louis, and Eugene, Oregon. Twenty-seven U.S. Attorneys' Offices participate in identity theft task forces or working groups.

- *FBI*. The FBI leads four identity theft task forces, and participates in 21 identity theft/financial crimes task forces or working groups in most of the major metropolitan areas. In addition, the FBI's Cyber Division has more than 90 task forces and more than 80 working groups, consisting of federal, state and local law enforcement personnel, which investigate all cybercrime violations, including identity theft

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and Internet fraud.

- *Secret Service*. The Secret Service has 27 Financial Crimes Task Forces and 24 Electronic Crimes Task Forces that focus on identity theft-related crimes.

- *Postal Inspection Service*: The Postal Inspection Service actively leads 13 Financial Crimes Task Forces/Working Groups in cities across the country.

- *ICE*: Immigration and Customs Enforcement (ICE) has established Document and Benefit Fraud Task Forces (DBFTFs) in 11 cities across the country to enhance interagency communication and improve each agency's effectiveness in fraud investigations.

Providing Essential Resources

The Office of Justice Programs (OJP) at the Justice Department provides funding and training for victim service programs and victim service providers at the federal, state, local and tribal levels; funding for law enforcement's, prosecutors' and crime prevention experts' efforts to address identity theft; research and program evaluation concerning identity theft through the National Institute of Justice; and data collection for policymakers on identity theft.

Anyone wishing to ask a question about identity theft or to report identity theft may call 1-877-ID-THEFT, or visit http://www.ftc.gov/idtheft. Other resources are available on the Office for Victims of Crime identity-theft resource Web page at http://www.ojp.usdoj.gov/ovc/publications/infores/focuson2005/identitytheft/welcome.html, and on the Department's identity-theft Web site at http://www.usdoj.gov/criminal/fraud/idtheft.html.

Improving the Federal Government's Ability to Fight Identity Theft Now

The Task Force will present its final strategic plan to the President in November. In advance of that plan, the Task Force announced today interim recommendations to be implemented immediately to assist in the federal government's efforts to combat identity theft. These include the formulation of a step-by-step guidance to federal agencies on the actions they should take should they suffer a data breach; the development of a uniform police report that can be used by identity theft victims; an amendment to the criminal restitution statutes that would allow identity theft victims to recover for the value of the time that they spend attempting to make themselves whole; and several "good government" measures that can be taken to reduce the amount of paper currently in circulation that contain Social Security Numbers, which can be an identity thief's most valuable piece of consumer information.

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Image not available for this document, ID: 0.7.10316.31431-000002

Moschella, William

From: Moschella, William
Sent: Tuesday, September 19, 2006 3:20 PM
To: Gorsuch, Neil M
Subject: Not read: Uighur Court filings

Moschella, William

From: Moschella, William
Sent: Tuesday, September 19, 2006 3:20 PM
To: Gorsuch, Neil M
Subject: Not read: Compiled Warrantless Surveillance Complaints Against AT&T

Moschella, William

From: Moschella, William
Sent: Tuesday, September 19, 2006 3:20 PM
To: Gorsuch, Neil M
Subject: Not read:

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 3:23 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING IDENTITY THEFT TASK FORCE INTERIM RECOMMENDATIONS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 19, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT PRESS CONFERENCE ANNOUNCING IDENTITY THEFT TASK FORCE INTERIM RECOMMENDATIONS

WASHINGTON, D.C.

Good afternoon; thank you all for coming.

I'm pleased to be here with FTC Chairman Deborah Platt Majoras to talk about federal efforts to combat identity theft.

The prevalence of this crime – studies indicate that about four percent of Americans are identity theft victims each year – combined with the lingering burdens and effects on victims, are the reasons why the President established the Identity Theft Task Force in May of this year.

The Task Force will present final recommendations to the President in November – this will be a comprehensive and fully coordinated federal strategy to combat identity theft. The recommendations will build on and ensure effective coordination of robust efforts already underway to prevent identity theft, to assist victims of identity theft, and to investigate and prosecute the identity thieves.

We look forward to sharing those final recommendations with all of you in November, but we have some interim recommendations today that we believe can be implemented right away.

When we look at the problem of identity theft, we are reminded that the same technological advances that have improved our lives have also given new and broad opportunities to criminals, including identity thieves.

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These criminals are clever and sophisticated, and leave their victims with more than financial loss. As with any crime, victims suffer feelings of violation and stress, but in these cases, victims have the added burden of essentially cleaning up the mess that the identity thieves leave behind.

One of the interim recommendations adopted today by the Task Force squarely addresses that particular problem. We are recommending that the criminal restitution statutes be expanded to allow victims to recover for the countless hours lost while they try to make themselves whole again.

We are also recommending, today, the development of a universal police report for identity theft victims – this will ensure that victims have easy access to police reports documenting the misuse of their personal information, thereby assisting them with the work they need to do to protect their credit ratings and so on.

We are recommending that the public sector look seriously at ways to reduce access to Social Security Numbers. Social Security Numbers are ubiquitous in government, and as the most valuable piece of consumer information to identity thieves, we must identify ways to keep them more confidential. Furthermore, by reducing unnecessary use of Social Security Numbers in the public sector, we can serve as an example for the private sector.

The Task Force also has developed concrete guidance on how agencies should respond to data breaches. This step-by-step roadmap for the agencies, which the Task Force recommends be immediately issued to all federal agencies and departments, is the first guidance of this type, and it will allow agencies to more quickly, effectively, and intelligently respond to the types of data breaches that have become more and more common in recent years. A quick and effective response by agencies to data breaches is good government – and also has the important effect of allowing the individuals affected by the breach to protect themselves before they become victims.

I'm proud of the work of this Task Force and believe, based on today's meeting, that we are on track to produce a strong set of final recommendations to the President in November.

I'm going to turn it over to Deborah, and then we'll be happy to take your questions.

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System Administrator

From:	System Administrator
Sent:	Tuesday, September 19, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 556686 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 5:17 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE BOYS & GIRLS CLUBS OF AMERICA ANNUAL CONGRESSIONAL BREAKFAST

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 19, 2006
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********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE BOYS & GIRLS CLUBS OF AMERICA ANNUAL CONGRESSIONAL BREAKFAST

WASHINGTON –Attorney General Alberto R. Gonzales will deliver remarks at the Boys & Girls Clubs of America Annual Congressional Breakfast **WEDNESDAY, SEPTEMBER 20, 2006 at 9:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the Boys & Girls Club of America Annual Congressional Breakfast

WHEN: **WEDNESDAY, SEPTEMBER 20, 2006**
9:00 A.M. EDT

WHERE: Dirksen Senate Office Building
Room 50 G
Washington, D.C. 20150
OPEN PRESS

NOTE: Pre-set for television camera crews is **8:30 A.M. EDT**. Final escort for all media is **8:45 A.M. EDT.** All media must present valid photo ID and media credentials. All questions regarding logistics should be directed to Evan Peterson at 202-353-5748 and Jan Still Lindeman of the Boys and Girls Club of America at 678-656-6252.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 5:20 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE LIBRARY OF CONGRESS' 2006 OBSERVANCE OF NATIONAL HISPANIC HERITAGE MONTH

Department of Justice

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********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE LIBRARY OF CONGRESS' 2006 OBSERVANCE OF NATIONAL HISPANIC HERITAGE MONTH

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the Library of Congress' 2006 Observance of National Hispanic Heritage Month, **WEDNESDAY, SEPTEMBER 20, 2006 at 10:00 A.M EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks at the Library of Congress' 2006 Observance of National Hispanic Heritage Month

WHEN: **WEDNESDAY, SEPTEMBER 20, 2006**
10:00 A.M. EDT

WHERE: James Madison Building
Mumford Room, 6th Floor
101 Independence Avenue
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for television camera crews is **9:30 A.M. EDT.** All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486 or Erin Allen of the Library of Congress at 202-707-7302.

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System Administrator

From:	System Administrator
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To:	Gorsuch, Neil M
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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 5:57 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF ATTORNEY GENERAL ALBERTO R. GONZALES AND FEDERAL TRADE COMMISSION CHAIRMAN DEBORAH PLATT MAJORAS AT PRESS CONFERENCE ANNOUNCING IDENTITY THEFT TASK FORCE INTERIM RECOMMENDATIONS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 19, 2006
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TRANSCRIPT OF ATTORNEY GENERAL ALBERTO R. GONZALES AND FEDERAL TRADE COMMISSION CHAIRMAN DEBORAH PLATT MAJORAS AT PRESS CONFERENCE ANNOUNCING IDENTITY THEFT TASK FORCE INTERIM RECOMMENDATIONS

WASHINGTON, D.C.

ATTORNEY GENERAL GONZALES: Good afternoon; thank you all for coming.

I'm pleased to be here with FTC Chairman Deborah Platt Majoras to talk about federal efforts to combat identity theft.

The prevalence of this crime – studies indicate that about four percent of Americans are identity theft victims each year – combined with the lingering burdens and effects on victims, are the reasons why the President established the Identity Theft Task Force in May of this year.

The Task Force will present final recommendations to the President in November – this will be a comprehensive and fully coordinated federal strategy to combat identity theft.

The recommendations will build on and ensure effective coordination of robust efforts already under way to prevent identity theft to assist victims of identity theft and to investigate and prosecute the identity thieves. We look forward to sharing those final recommendations with all of you in November, but we have some interim recommendations today that we believe is going to implemented right away.

When we look at the problem of identity theft, we are reminded that the same technological advances that have improved our lives have also given new and broad opportunities to criminals including identity thieves. These criminals are clever and sophisticated, and they leave their victims with more than financial loss. As with any crime, victims suffer feelings of violation and stress, but in these cases victims have the added burden of essentially clean up the mess that the identity thieves leave behind.

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So one of the interim recommendations adopted today by the task force squarely addresses that particular problem. We are recommending that the criminal restitution statutes be expanded to allow victims to recover the countless hours lost involving trying to make themselves whole again.

We are also recommending today the development of a universal police report for identity theft victims. This will ensure that victims have easy access to police reports documenting the misuse of their personal information thereby assisting them with the work they need to do to protect their credit rating and so on.

We are recommending that the public sector look seriously at ways to reduce access to social security numbers. Social security numbers are ubiquitous in government and as the valuable piece of consumer information to identity thieves, we must identify ways to keep them more confidential.

Furthermore, by reducing unnecessary use of social security numbers in the public sector, we can serve as an example for the private sector. The task force has also developed concrete guidance on how agencies should respond to data breaches. This step-by-step roadmap with agencies, which the task force recommends be immediately issued to all federal agencies and departments, is the first guidance of this kind, and it will allow agencies to more quickly, effectively, and it will allow agencies to more quickly, effectively, and intelligently respond to the types of data breaches that have become more and more common in recent years.

A quick and effective response by agencies to data breaches is good government, and also has the important effect of allowing the individuals affected by the breach to protect themselves before they become victims. I'm proud of the work of the task force to date, and I believe that based on today's meeting, that we are on track to produce a strong set of final recommendations to the President in November.

I'm now going to turn the podium over to Deborah Majoras, and then we'll be happy to take your questions. Deborah?

MS. MAJORAS: Thank you, Attorney General Gonzales. Good afternoon, everyone.

Identity theft truly is a direct assault on our citizens, and it attacks the very foundations of the information economy. And while we believe as a nation that we're making strides in this battle against this pernicious crime, it still remains a grave concern to our consumers. It's a huge violation and burden for them when it occurs, not to mention a significant drain on our economy.

The work of the task force builds on important actions that many agencies with particular expertise are already undertaking and will continue to undertake. But our goal here at the President's direction is to pool our resources and expertise and to coordinate an even more effective response, and then to extend that coordination to the state and local government level and also in the private sector, and naturally reaching out to consumers.

The interim recommendations are all directed at exercising federal leadership in this area. First and foremost, we have looked at the government handling of data and at the government response to data breaches, which we recognize is critical to our credibility and to our citizens' trust in their government.

We're looking, as you'll see in the interim recommendations, at that critical identifier, the Social Security number, to determine whether it's being used within government in ways that are unnecessary and could be potentially eliminated or replaced.

We want to show initiative with the private sector by looking at new forms of authentication tools, which the private sector already has well underway and are being used. And naturally, we are doing all that we can to assist victims.

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So these and other recommendations we think not only will improve the federal government's response to identity theft, but the capabilities of our nation as a whole, consumers, business, and all levels of government, in ultimately eradicating this crime. Thank you very much.

ATTORNEY GENERAL GONZALES: Any questions? I know one of you had a question earlier. Yes, sir.

QUESTION: Yes, sir. In the light of so much ID theft being a direct result of pretexting, will you be urging Congress to take any action, pass any bills, that would prohibit pretexting for various things like telephone records?

ATTORNEY GENERAL GONZALES: That is something that did come up today in the meeting, and it's something that I think the committee is going to look at. As to whether or not we'll have any recommendations or requests to Congress, it's too early to tell. But it is something that the committee will look at.

Yes, sir.

QUESTION: In terms of data security in the public sector, it discusses the agency performance of both information privacy and security as uneven, according to these recommendations. Do you still find certain agencies are much more vulnerable to the problems we've seen over the last year than others?

ATTORNEY GENERAL GONZALES: Well, I think it is true that agencies have different procedures in place. And that's one of the reasons why one of the recommendations is that we provide guidance so that agencies can respond to a possible theft.

But also one of the things we'll be looking at is to whether or not are there certain things, perhaps, say, through the OMB process, and direct certain procedures be implemented at all the agencies so that there is a baseline level of protection to sensitive information.

MS. MAJORAS: And in addition, I would just add that many efforts are already underway at government agencies at the direction of OMB to improve data security practices. So this has already -- this has already begun. The unevenness that's cited there comes from report cards that were issued previously.
But at least anecdotally, I can tell you that there have been -- vast improvements are being made at agencies, even in the last few months, because just like in the business community, we are responding to the breaches, to the methods that hackers and thieves use, as we should respond, and we're trying to get ahead of that curve.

QUESTION: With regard to the private sector which you referenced earlier, is it possible in the final report that you guys will address the use of Social Security numbers in the private sector? Do you think it's possible that the numbers are over-used in the private sector also or could be used less?

ATTORNEY GENERAL GONZALES: One of the things that we talked about is what kind of guidance, perhaps even legislation, might be appropriate to deal with protection of identity information in the private sector. And I'm not here saying that that's something that the committee is going to ultimately recommend. It is something that we discussed today.

As we continue to move forward to the final strategic plan to present to the President in November, I think it's something that, you know, we'll continue to look at. But dealing with the private sector of course presents its own unique set of challenges. And that's just something we'll have to evaluate.

QUESTION: On the issue of military commissions, could you elaborate --

ATTORNEY GENERAL GONZALES: Military commissions, yeah.

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QUESTION: Could you elaborate a little bit on the status of the negotiations and help us a little bit on this alternate language that the administration has offered up?

ATTORNEY GENERAL GONZALES: Well, we continue to try to work with Congress to try to find some compromise language. We think it's important. We think a compromise can be found which would allow the President to continue to gather information that would protect this country from another attack, but to do so in a way that would make it clear to everyone that of course we still believe very much in the Geneva Conventions and are advocates of the principles of the Geneva Conventions.

And I think that people have the misunderstanding, the misperception, that somehow what the President has proposed signifies a retreat. And nothing could be further from the truth. The Geneva Conventions are something that we have been a proud signatory for half a century. We believe that they're important. We continue to have some concerns about certain provisions of particularly Common Article 3, which is what the Court only held in terms of the application of the Geneva Convention to this conflict with al-Qaeda.

So we continue to have some concerns about that, and we're trying to work with Congress to see whether or not we can achieve both objectives of, again, allowing the Commander in Chief to gain information from the enemy to protect America, and to do it in a way that makes it quite clear that of course we are not retreating in any way from our obligations under the Geneva Convention.

Yes, ma'am.

QUESTION: Canada, as you know, released a long-awaited report yesterday on the treatment of Maher Arar. Since the Department was the agency that allowed his removal to Syria in which he was then tortured, doesn't the Department owe him an apology?

ATTORNEY GENERAL GONZALES: Well, we were not responsible for his removal to Syria, I'm not aware that he was tortured, and I haven't read the Commission report. Mr. Arar was deported under our immigration laws. He was initially detained because his name appeared on terrorist lists, and he was deported according to our laws.

Some people have characterized his removal as a rendition. That is not what happened here. It was a deportation. And even if it were a rendition, we understand as a government what our obligations are with respect to anyone who is rendered by this government to another country, and that is that we seek to satisfy ourselves that they will not be tortured. And we do that in every case. And if in fact he had been rendered to Syria, we would have sought those same kind of assurances, as we do in every case.

QUESTION: From the report, he had no connections with any terrorist groups, and he has sought an apology from the U.S. government.

ATTORNEY GENERAL GONZALES: Again, I haven't read the report.

Okay. Thank you all.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 6:11 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ASSISTANT ATTORNEY GENERAL ALICE S. FISHER BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Attachments: ceos.fisher.childporn.09-19-06.pdf

Attached please find the testimony of Assistant Attorney General Alice S. Fisher before the Senate Committee on Commerce, Science, and Transportation concerning sexual exploitation of children on the Internet.

Department of Justice

STATEMENT

OF

ALICE S. FISHER

ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

CONCERNING

"ONLINE CHILD PORNOGRAPHY"

PRESENTED ON

SEPTEMBER 19, 2006

Statement of

ALICE S. FISHER
ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

"ONLINE CHILD PORNOGRAPHY"

September 19, 2006

Mr. Chairman, Senator Inouye, and distinguished Members of the Committee, thank you for inviting me to testify before you today about the sexual exploitation of children on the Internet and the efforts of the Department of Justice and others to protect our children from this horrific abuse. As the Attorney General has made clear, protecting our children from sexual exploitation on the Internet is one of the highest priorities of the Department of Justice. The Department is committed to using every available means to identify, investigate, and prosecute those who use the Internet to sexually exploit our children. The Criminal Division, alongside the U.S. Attorneys' Offices, has taken a leading role in this effort.

Of course, the Department of Justice is not alone in this fight. Congress has played an absolutely indispensable role, most recently with the passage of the landmark Adam Walsh Child Protection and Safety Act of 2006. Let me take this opportunity to thank you for passing this important piece of legislation. In addition, federal law enforcement agencies such as the Federal Bureau of Investigation (FBI), the Department of Homeland Security's Immigration and Customs Enforcement (ICE), and the United States Postal Inspection Service (USPIS), as well as state and local law enforcement agencies nationwide, have made invaluable contributions to protecting our children. Finally, non-governmental organizations such as the National Center for Missing & Exploited Children, have played a critical role, not only contributing greatly to public awareness of the threats of sexual

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exploitation on the Internet, but also in assisting law enforcement by facilitating reporting of these crimes and identifying and locating children so that they can be rescued.

The Problem

While the Internet is one of the greatest inventions of the last century, unfortunately, it has also largely contributed to the exacerbation of the child pornography epidemic. As if the creation of shocking images of child sexual abuse were not awful enough, it is only the beginning of a cycle of abuse. Once created and then posted on the Internet, images of child pornography become permanent records of the abuse they depict and can haunt the victims literally forever. Notably, advances in technology have made it both easier for offenders to distribute these images to each other, and more difficult to remove these images from the Internet. Worse still, pedophiles rely on these images to develop plans of action for targeting their next victims, and then use the images to entice them. What is more, because these offenders often compete to see who can produce the most unthinkable photos or videos of raping and molesting children, the Internet has led to the victimization of younger and younger children.

It is critical to recognize that virtually all images of child pornography depict the actual sexual abuse of real children. In other words, each image literally documents a crime scene. Most Americans, of course, innately understand that child pornography is a heinous crime. Even so, I believe very few realize just how graphic, sadistic, and horrible these images have become and the dangerous environment the market for child pornography has created for children.

These images make your stomach turn. Images have been produced, for example, of young toddlers, including one in which a baby is tied up with towels, desperately crying in pain, while she is being brutally raped and sodomized by an adult man. Likewise, videos are being circulated of very young daughters forced to have intercourse and oral sex with their fathers.

With the market for child pornography becoming increasingly prolific and characterized by an

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escalating level of abuse, children face greater danger from sexual predators than ever before. Before the Internet, pedophiles were isolated. Now, with large communities on the Internet dedicated to pedophilia and the exchange of child pornography, the illicit sexual desires and conduct of these individuals are validated and encouraged. This emboldens offenders to produce, receive, and distribute more shocking, graphic images, which increasingly involve younger children and even infants. The compulsion to collect child pornography images coupled with the validation and encouragement found on the Internet may lead to a compulsion to molest children or may be indicative of a propensity to molest them. Indeed, constant exposure to child pornography can break down the natural barriers to contact offenses.

The scope of the danger facing our children via the Internet is immense. By all accounts, at any given time, thousands of predators are on the Internet prowling for children. The explosive increase in child pornography fueled by the Internet is evidenced by the fact that from 1998 to 2004, the National Center for Missing & Exploited Children's CyberTipline experienced a thirty-fold increase in the number of child pornography reports.

The challenge we face in cyberspace was recently underscored by a new national survey, released in August 2006, conducted by University of New Hampshire researchers for the National Center for Missing & Exploited Children. The study revealed that a fully one third of all children aged 10 to 17 who used the Internet were exposed to unwanted sexual material. Much of it was extremely graphic.

The survey also revealed, however, that we are making progress. It found that there has been some reduction in the number of children who have received an online sexual solicitation. One in seven children surveyed this time had received an online sexual solicitation, which is an improvement over the one in five children who received such solicitations in the last survey, conducted five years ago. We are hopeful that this means that parents and kids are becoming more aware of the dangers online, and more

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responsible in the way they use the Internet. That said, we have a lot of work to do. One in seven kids receiving solicitations is one in seven too many. And this most recent survey showed that there has been no letting up of aggressive online sexual solicitations, where the most depraved of the pedophiles actually try to make in-person contact with a child.

In short, the opportunities for predators that have been created by the Internet demand an overwhelming response from law enforcement.

The Department of Justice Response

At the Department of Justice, we take the responsibility of attacking the problems resulting from predators' increased abuse of the Internet very seriously. The Department is constantly seeking to improve the quality and impact of its cases by taking a systematic approach. Indeed, over the last decade, the Department has significantly increased its efforts by dramatically increasing the number of prosecutions of child exploitation crimes. I would like to highlight four different approaches the Department has taken to ensure that our children are protected from the predators who seek to victimize them. First, the Department has launched a series of initiatives and partnerships – including the Attorney General's Project Safe Childhood initiative – designed to ensure that we have an army of people equipped to combat this epidemic. Second, we are striving to ensure that our investigative techniques adapt to the ever-changing methods by which the predators seek to purvey these images and evade detection by law enforcement. Third, working with our partners at the federal, state, and local levels, we have launched high-profile nationwide investigations that not only have resulted in a large number of convictions but also have the potential for maximum deterrent effect. Fourth, we continue to aggressively prosecute individual offenders, with a special emphasis on those who have a history of sexually exploiting children.

Project Safe Childhood and Strategic Partnerships

The Attorney General significantly expanded our efforts to address the sexual exploitation of

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children on the Internet this year by launching the Project Safe Childhood initiative. Project Safe Childhood will help law enforcement and community leaders develop a coordinated strategy to deter, investigate, and prosecute sexual predators, abusers, and pornographers who target our children. It will do so by creating, on a national platform, locally-designed partnerships to investigate and prosecute Internet-based crimes against children.

The Attorney General has said that he sees this initiative as a strong, three-legged stool. One leg is the federal contribution led by U.S. Attorneys; another is state and local law enforcement, including the outstanding work of the Internet Crimes Against Children task forces funded by the Department's Office of Justice Programs; and the third is non-governmental organizations, like the National Center for Missing & Exploited Children – without which we would not have the CyberTipline and victim advocates.

No leg of this stool can stand alone. Indeed, one of Project Safe Childhood's key benefits will be in raising the level of coordination among all state, local, and federal law enforcement as well as non-governmental organizations, and the sharing of knowledge and information that coordination will foster.

The Attorney General has asked that each Project Safe Childhood task force begin with three major steps to put this important program into action. The first step is to build partnerships and capitalize on the experience of our existing partners. U.S. Attorneys will engage everyone with a stake in the future of our children. Together, they will inventory the unique nature of the challenge and the resources available in the community. Second, these partners will work together as U.S. Attorneys develop a strategic plan for Project Safe Childhood in their area. Third, we will be ensuring accountability by requiring semi-annual progress reports. The Attorney General wants to know that Project Safe Childhood is having a measurable impact in terms of locking away criminals and identifying and rescuing child victims.

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In the Department's Criminal Division, we are working in tandem with our Project Safe Childhood partners around the country in order to effectively protect children from these crimes in every neighborhood nationwide. The Criminal Division's Child Exploitation and Obscenity Section (CEOS), for example, is contributing its specialized expertise, participating in training programs and prosecuting cases jointly with the U.S. Attorneys' Offices. One of the main benefits of Project Safe Childhood is the coordination of scarce law enforcement resources so that when leads from nationwide operations are sent out to the field, state and local law enforcement in the area where the target is located will be able effectively to investigate and prosecute those leads. CEOS is helping to develop and coordinate these local programs and national operations, and then working with the U.S. Attorneys' Offices and with federal, state, and local law enforcement across the country to ensure that these operations have maximum impact.

In addition to Project Safe Childhood, the Department has launched a number of other initiatives to protect children from exploitation. The first of these is the Innocence Lost Initiative, which combats domestic child prostitution. The Innocence Lost Initiative is a partnership between the Criminal Division's CEOS, the Violent Crimes and Major Offenders Section of FBI Headquarters and the National Center for Missing & Exploited Children. As of July 26, 2006, the Innocence Lost Initiative has resulted in 228 open investigations, 543 arrests, 86 complaints, 121 informations or indictments, and 94 convictions in both the federal and state systems. As part of this initiative, the Department has developed an intensive week-long training program on the investigation and prosecution of child prostitution cases, held for members of multi-disciplinary teams from cities across the United States. The Department is also playing a leading role in the prosecution of Innocence Lost Initiative cases, either by helping to stand-up Innocence Lost task forces around the country, directly prosecuting the cases with the local United States Attorneys' Offices, or providing coordination, advice, and assistance to prosecutors in cases where it is not directly involved.

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Another important part of our efforts is our initiative to protect children from child sex tourism, undertaken by the Department in conjunction with Immigration and Customs Enforcement (ICE). Child sex tourism occurs when offenders travel to foreign countries and sexually exploit children, and is another form of sex trafficking of children. As with our efforts to increase the prosecution of child prostitution cases through the Innocence Lost Initiative, we have been working to increase the number of child sex tourism cases investigated and prosecuted in order to address the serious offense of Americans sexually exploiting children in foreign countries. Since the passage of the PROTECT Act in April 2003, which facilitated the prosecution of these cases, there have been approximately 55 indictments and 36 convictions, with more than 60 additional investigations currently underway. We also provide training and advice to foreign governments regarding their domestic trafficking laws and prosecution efforts in order to combat trafficking on a global level.

The Department of Justice is also actively enforcing record-keeping and labeling requirements designed to ensure that minors are not filmed engaging in sexually explicit activity. These requirements are contained in Section 2257 and the new 2257A of Title 18 and were enacted to prevent the sexual exploitation of minors by requiring producers of sexually explicit conduct to obtain written identification showing that the performers are adults and also to label materials identifying a custodian of those records. The FBI, at the direction of the Attorney General, has begun to conduct random administrative inspections of producers to ensure that they are obtaining and maintaining the necessary documents. In addition, we are prosecuting offenders criminally. The Department's Obscenity Prosecution Task Force recently obtained a guilty plea from Mantra Films, doing business as Girls Gone Wild, in which the company admitted that it failed to maintain appropriate records and agreed to pay considerable fines and restitution. A related company agreed to the appointment of a corporate monitor to ensure future compliance by Girls Gone Wild. Producers of sexually explicit materials know that they will be prosecuted if they do not comply with this important law that protects our children

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from sexual exploitation.

Sophisticated Investigative Techniques

Child pornography is distributed over the Internet in a variety of ways, including: online groups or communities, file servers, Internet Relay Chat, e-mail, peer-to-peer networks, and commercial web sites. The Department of Justice investigates and prosecutes offenses involving each of these technologies.

Sophisticated investigative techniques, often involving undercover operations, are required to hold these offenders accountable for their crimes. For example, an investigation of a commercial child pornography web site is launched on multiple fronts. We must first determine where the servers hosting the web site are located, which can change from day to day to locations virtually anywhere in the world. Then, in order to find the persons responsible for operating the web site, we must follow the long and complex path of the financial transactions the offenders use to profit from the sale of child pornography, whether by credit card or other means. Finally, we must address the thousands of customers of the web site, because research tells us that many will pose a dangerous threat to children. This requires detailed information about all aspects of the transaction in order to determine the identity and location of these offenders. As many of these cases require coordination with law enforcement from other countries, involve complex technical issues, and can touch virtually every federal district in the United States, it is essential that these complex cases be handled by law enforcement agents and prosecutors with a broad reach and the necessary specialized expertise.

To defeat the misuse of these various technologies, the Department of Justice must match, or even exceed, the innovation being shown by the online offenders. Along with our critical law enforcement partners, the Department has greatly enhanced its ability to respond to – and indeed anticipate – the misuse of technological advances by these offenders. The Department's Child Exploitation and Obscenity Section, for example, has created a group of computer forensic specialists,

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called the High Tech Investigative Unit (HTIU), who team up with expert prosecutors to ensure the Department of Justice's capacity and capability to prosecute the most technologically complex and advanced offenses committed against children online. The HTIU's computer forensic specialists provide expert forensic assistance and testimony in districts across the country in the most complex child pornography prosecutions conducted by the Department of Justice. They also conduct numerous training seminars to disseminate their specialized knowledge around the country.

Among its technological advances, the HTIU has developed a file server investigative protocol and software programs designed to quickly identify and locate individuals distributing pornography using automated file-server technology and Internet Relay Chat. Because file servers, or "f-serves," provide a highly effective means to obtain and distribute enormous amounts of child pornography files, 24 hours a day and 365 days a year, with complete automation and no human interaction, this trafficking mechanism is a premier tool for the most egregious child pornography offenders. The protocol recommends standards for identifying targets, gathering forensic evidence, drafting search warrants, and making charging decisions. It is designed for both agents and prosecutors to ensure that all aspects of these relatively complex investigations are understood by all members of the law enforcement team. The software program automates the process of stripping from the computers used as file-servers all of the information necessary to make prosecutions against all of the individuals sharing child pornography with the file-server computer.

These advances in investigative technologies are achieving success. For example, the HTIU's file server initiative contributed to the successful prosecution by the U.S. Attorney's Office for the District of Columbia and the Criminal Division in the case of *United States v. Schiffer*. In this case, which was investigated by the FBI, the defendant pled guilty in October 2005 to one count each of using his computer to advertise, transport, receive, and possess child pornography. By operating his personal computer as a file server, the defendant allowed selected files to be downloaded and uploaded

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by the public to and from his computer. He even published on the Internet an advertisement aimed at young boys that enticed them to photograph themselves or other boys, so that he could collect and disseminate more sexually explicit images. Among the items seized from the defendant's bedroom, pursuant to a search warrant, were two boxes of catalogued correspondence between the defendant and roughly 160 prison inmates, the vast majority of whom had either sexually assaulted or murdered children. In his letters, he discussed his "desire to rape children," preferably boys between 6 and 16. Schiffer also wrote in detail about taking in runaways and "making use of them." Investigators also found a clown suit and a printout of a Mapquest route from his place of work to a boys' shelter.

On August 30, 2006, the defendant was sentenced to 25 years in prison for the high tech advertising and distribution of more than 11,000 images of child pornography. In addition, upon his release, the defendant will be required to abide by strict conditions, including no computer use except in the context of authorized employment, no possession of pornographic images, and supervision by a probation officer for life. In sentencing this defendant, the Honorable Paul L. Friedman captured the devastating impact of the defendant's crimes in words that I would like to read to you today: "by advertising and exchanging these images, the defendant was expanding the market for child pornography, and that market is made up of kids who are being exploited, and thus it is damaging to the whole community of children." We could not agree more with Judge Friedman.

United States v. Mitchel, investigated by the FBI and prosecuted by the Criminal Division in conjunction with the United States Attorney's Office for the Western District of Virginia, is another recent success story. This case involved child pornography websites that sold membership subscriptions to offenders looking to obtain videos of minor boys engaging in sexually explicit conduct. The defendant was sentenced on July 14, 2006 to 150 years in prison based on his guilty plea to offenses involving the production, distribution, sale, and possession of child pornography.

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Large Scale Investigations

In order to crack down on the pervasive problem associated with online child pornography, it is critical that we focus on major investigations. For that reason, we are currently coordinating 18 multi-district operations involving child pornography offenders and the Internet. These national investigations have the potential for maximum deterrent effect on offenders. Nearly each one of the eighteen investigations involves hundreds or thousands, and in a few cases tens of thousands, of offenders. The coordination of these operations is complex, but their results can be tremendous.

For example, several of our nationwide operations have resulted from FBI investigations into the distribution of child pornography on various eGroups, which are "members-only" online bulletin boards. Notably, as of January 2006, the FBI's investigation has yielded over 180 search warrants, 89 arrests, 162 indictments, and over 100 convictions. Another example of a high-impact national operation targeting Peer-to-Peer technology is the FBI's Operation Peer Pressure, which, as of January 2006, has resulted in over 300 searches, 69 indictments, 63 arrests, and over 40 convictions.

The Department has had substantial success in destroying several major child pornography operations. In one such case, announced by the Attorney General on March 15, 2006, law enforcement – as part of an undercover investigation – infiltrated a private Internet chat room used by offenders worldwide to facilitate the trading of thousands of images of child pornography, including streaming videos of live molestations. The chat room was known as "Kiddypics & Kiddyvids," and was hosted on the Internet through the WinMX software program that also allowed users to engage in peer-to-peer file sharing. The case has resulted in charges against 27 individuals to date in the United States, Canada, Australia, and Great Britain (13 of these 27 have been charged in the United States). One of the 27 charged defendants is a fugitive. Seven child victims of sexual molestation have been identified as a result of the investigation, and four alleged molesters are among the 27 defendants charged to date in the continuing investigation. This investigation is international in scope and results from the

DOJ_NMG_ 0168261

Department's partnerships with Immigration and Customs Enforcement, state and local authorities, and international law enforcement agencies.

In *United States v. Mariscal*, investigated by the United States Postal Inspection Service and prosecuted by CEOS and the United States Attorney's Office for the Southern District of Florida, the defendant received a 100-year prison sentence on September 30, 2004, after being convicted on seven charges, including conspiracy to produce, importation of, distribution of, advertising of, and possession with intent to sell child pornography. The defendant traveled repeatedly over a seven-year period to Cuba and Ecuador, where he produced and manufactured child pornography, including videotapes of him sexually abusing minors, some under the age of 12. As a result of his arrest, his customers across the country were targeted by the U.S. Postal Inspection Service in Operation Lost Innocence. As of August 2006, Lost Innocence has resulted in 107 searches, 64 arrests and/or indictments, and 51 convictions.

An excellent example of how one child pornography investigation into the activities of individuals involved in a commercial website operation can lead to the apprehension of hundreds of other offenders is the *Regpay* case. This case was prosecuted by the United States Attorney's Office for the District of New Jersey working together with CEOS, and led to Immigration and Customs Enforcement's (ICE) *Operation Falcon*. Regpay was a Belarus-based company that provided credit card processing services to hundreds of commercial child pornography websites. Regpay contracted with a Florida company, Connections USA, to access a merchant bank in the United States. In February 2005, several Regpay defendants pled guilty to various conspiracy, child pornography, and money laundering offenses. Connections USA and several of its employees also pled guilty in connection with this case. After exploiting customer information associated with the Regpay websites, ICE launched *Operation Falcon*, an international child pornography trafficking investigation. As a result, ICE was able to generate numerous additional leads identifying offenders who had purchased child pornography

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from the Regpay websites.

As I noted at the outset, the images these predators create, collect, and disseminate depict actual sexual abuse of real children. The Department's nationwide efforts thus extend beyond the challenge of tracking down the perpetrators: we are also taking steps to identify and rescue the victims depicted in the images of child pornography. One method for achieving this goal is already underway. The FBI Endangered Child Alert Program (ECAP) was launched on February 21, 2004, by the FBI's Innocent Images Unit, and is conducted in partnership with the Department's Criminal Division. The purpose of ECAP is to identify unknown offenders depicted in images of child pornography engaging in the sexual exploitation of children. Since ECAP's inception, seven of these "John Doe" subjects have been profiled by ***America's Most Wanted***, and with the assistance of tips from viewers, six have been identified. More importantly, 35 victims (so far) in Indiana, Montana, Texas, Colorado, and Canada have been identified as a result of this initiative. All of the victims had been sexually abused over a period of years, some since infancy. The Department will continue to ensure that this program is utilized to its maximum potential.

Prosecutions of Individuals

In addition to contributing to the success of major operations, the expertise and assistance that the Criminal Division provides in child exploitation cases – whether from experienced prosecutors or from specialized computer forensic specialists – is absolutely critical to the successful prosecution of individual defendants who pose real threats to children. In short, our involvement in individual cases makes a real difference in protecting children. The offenders we incarcerate often have a history of sexually exploiting children. Keeping them off the street has undoubtedly prevented untold numbers of children from becoming victims.

The following are just a few examples of some of our cases against these repeat offenders:

- In *United States v. Wilder*, the Criminal Division worked with the United States Attorney's Office for the District of Massachusetts to prosecute a repeat child

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pornography offender. After this defendant had been released from prison for a prior child pornography offense, he violated the terms of his supervised release by committing additional child pornography offenses. Not only was he re-incarcerated for violating the terms of his supervised release, but we prosecuted him for those new offenses. He was convicted on March 21, 2006, following a jury trial. As a repeat offender, he faced a mandatory minimum sentence of 15 years in prison, which he received when he was sentenced on June 28, 2006.

- In *United States v. Wilson*, the Criminal Division and the United States Attorney's Office for the Southern District of Indiana prosecuted a defendant who was caught with a 14-year-old runaway girl and who was convicted in state court for molesting her. Using metadata, link file analysis, chat logs, e-mail, and other forensic evidence, the HTIU was able to pin the child pornography specifically to the defendant, which precluded a possible defense argument that the child pornography did not belong to him. On December 8, 2005, the defendant was sentenced to 99 months' federal incarceration and supervised release for life.

- In *United States v. Whorley*, the Criminal Division worked with the United States Attorney's Office for the Eastern District of Virginia to secure the conviction, on December 1, 2005, of a convicted sex offender on 74 counts of receiving obscene material and child pornography. Among his other offenses, the defendant downloaded 20 images of Japanese anime cartoons from the Internet depicting prepubescent minors engaged in sexually explicit behavior. We believe this case was the first charged under 18 U.S.C. § 1466A, which criminalizes obscene visual representations of the sexual abuse of children of any sort, including drawings and cartoons such as the anime cartoons the defendant downloaded. On March 10, 2006, the defendant was sentenced to 240 months' imprisonment, to be followed by 10 years' supervised release.

- Finally, in *United States v. LaFortune*, the United States Attorney's Office for the District of Massachusetts and the Criminal Division prosecuted an offender who had previous convictions for raping his own children and for advertising child pornography. He was convicted of advertising, transporting, receiving, and possessing child pornography and, on March 10, 2006, was sentenced to thirty five years' imprisonment.

The Adam Walsh Child Protection and Safety Act of 2006

As I noted at the outset of my remarks, Congress has demonstrated both exemplary leadership and invaluable support for the Department's efforts generally, and for Project Safe Childhood in particular, by passing the Adam Walsh Child Protection and Safety Act of 2006. The Adam Walsh Act, signed by the President in July, will help us keep our children safe by preventing the sexual exploitation of children and by enhancing penalties for such crimes across the board. Let me highlight three areas in which this historic legislation bolsters our efforts at the Department of Justice to protect children:

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First, the new law establishes the Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking Office, and it assigns the Office numerous important functions relating to the sex offender registry. The SMART Office will be led by a Presidentially-appointed Director. The Department of Justice is working now to establish this Office, and it will be immensely valuable to our ongoing efforts to protect children from these offenders.

Second, the new law provides additional statutory authority for Project Safe Childhood initiative that I described a few minutes ago. We at the Department of Justice very much appreciate Congress's expression of support for this key initiative.

Third, the new law provides that in child pornography prosecutions, the child pornography must remain in the control of the government or the court. In passing this law, and by enacting findings explaining that child pornography constitutes prima facie contraband, and that each instance of viewing an image of child pornography is a renewed violation of the victim's privacy and a repetition of the victim's abuse, Congress has taken a great leap forward in protecting the children depicted in these images. While this law is currently being challenged by defendants in child pornography cases, we are optimistic that the courts will agree that it does not detract from defendants' ability to prepare for trial and should thus be upheld.

* * * *

In conclusion, protecting children from sexual exploitation over the Internet is one of the Department of Justice's highest priorities. The Department of Justice is unequivocally committed to investigating and prosecuting offenders who seek to sexually exploit our children. We thank you for your invaluable support for our efforts and look forward to working with you as we continue to hold those who would harm our children accountable to the fullest extent of the law.

Mr. Chairman, I again thank you and the Committee for the opportunity to speak to you today, and I would be pleased to answer any questions the Committee might have.

DOJ_NMG_ 0168265

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 6:53 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE CONFIRMATION OF ALICE S. FISHER AS ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, SEPTEMBER 19, 2006

AG
(202) 514-2007
WWW.USDOJ.GOV
TDD (202) 514-1888

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE CONFIRMATION OF ALICE S. FISHER AS ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION

"The confirmation of Alice Fisher as Assistant Attorney General for the Department's Criminal Division is very good news for law enforcement throughout the entire criminal justice system. Since taking over as the head of the Criminal Division last year, Alice has proven herself to be an effective and inspiring leader. I commend the Senate for confirming this dedicated public servant. Under Mrs. Fisher's leadership, the Department's Criminal Division will continue to aggressively investigate and prosecute critically important cases across the board of criminal justice, including violent crime, crimes against children, public integrity, and corporate fraud.

"I also urge the Senate to confirm Ken Wainstein as Assistant Attorney General, so that we can move forward in establishing the Department's new National Security Division."

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06-639

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Image not available for this document, ID: 0.7.10316.30999-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 19, 2006 7:13 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 19, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General and FTC Chairman Announce Interim Recommendations by the President's Identity Theft Task Force (OPA)
The Attorney General and Federal Trade Commission Chairman Deborah Platt Majoras announced at a press conference today interim recommendations by the President's Identity Theft Task Force that are expected to be implemented immediately at the federal level. The announcement came following a meeting of the Task Force at the Department of Justice. The Task Force is expected to submit its final recommendations to the President in November.

Talking Points

- As with any crime, victims of identity theft suffer feelings of violation and stress, but in these cases, victims have the added burden of cleaning up the mess that the identity thieves leave behind.

- The President created the Identity Theft Task Force to oversee the implementation of real and practical solutions at the federal level to defeat this ongoing intrusion into the lives of law-abiding Americans. Today's recommendations move that process forward.

Attorney General and Assistant Attorney General Fisher Testify on Child Pornography (OPA)
Today, Attorney General Gonzales testified before the Senate Committee on Banking, Housing and Urban Affairs at a hearing entitled *Combating Child Pornography by Eliminating Pornographers' Access to the Financial Payment System*. Assistant Attorney General Fisher testified before the Senate Committee on Commerce, Science, and Transportation on *Online Child Pornography*.

Alice Fisher Confirmed as Assistant Attorney General for Criminal Division (OPA)
Today, Alice Fisher was confirmed as Assistant Attorney General for the Criminal Division. The Attorney General issued the following statement:

"The confirmation of Alice Fisher as Assistant Attorney General for the Department's Criminal Division is very good news for law enforcement throughout the entire criminal justice system. Since taking over as the head of the Criminal Division last year, Alice has proven herself to be an effective and inspiring leader. I commend the Senate for confirming this dedicated public servant. Under Mrs. Fisher's leadership, the Department's Criminal Division will continue to aggressively investigate and prosecute critically important cases across the board of criminal justice, including violent crime, crimes against children, public integrity, and corporate fraud.

"I also urge the Senate to confirm Ken Wainstein as Assistant Attorney General, so that we can move forward in establishing the Department's new National Security Division.

Canadian Commission Investigating Arar Affairs Releases Report (Civil)
The official Canadian inquiry into the September 2002 arrest of Maher Arar, a Canadian citizen who was deported to Syria by U.S. officials, was released yesterday. The report states that Canadian police wrongly identified Arar as an Islamic extremist, prompting U.S. agents to deport him to Syria, where he says he was tortured.

Talking Points

- Mr. Arar was deported under U.S. immigration laws. He was initially detained because his name appeared on terrorist watch lists.

- His removal was not rendition. It was a deportation. Even if it were a rendition, the U.S. government understands what our obligations are with respect to anyone who is rendered by this government to another country, and that is that we seek to ensure that they will not be tortured.

San Francisco Woman Who Served as Nazi Concentration Camp Guard is Deported to Germany (Criminal)
A San Francisco woman has been removed to Germany based on her participation in Nazi-sponsored acts of persecution while serving during World War II as a guard of female prisoners at the infamous Nazi-operated Ravensbrück Concentration Camp in Germany, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. A charging document filed in U.S. immigration court in San Francisco by the Justice Department's Office of Special Investigations, which investigated the case, and the Department of Homeland Security's Bureau of Immigration and Customs Enforcement alleges that Elfriede Lina Rinkel, 83, a native and citizen of Germany, served as a guard at Ravensbrück from June 1944 until the camp was abandoned in the closing weeks of the war.

Talking Points

- Concentration camp guards such as Elfriede Rinkel played a vital role in the Nazi regime's horrific mistreatment of innocent victims.

- This case reflects the Government's unwavering commitment to remove Nazi persecutors from this country.

FBI Releases Statement on Fifth Anniversary of Anthrax Attacks (FBI)
Today, the FBI released the following statement on the status of the investigation into the 2001 anthrax attacks:

> "The investigation into the deadly 2001 anthrax attack is one of the largest and most complex investigations ever conducted by law enforcement. Today, the FBI's commitment to solving this case is undiminished. The men and women of the FBI and the U.S. Postal Inspection Service assigned to the case remain fully committed to bringing the perpetrator(s) of these murderous attacks to justice. While no arrests have been made, the dedicated investigators who have worked tirelessly on this case, day - in and day - out, continue to go the extra mile in pursuit of every lead. From the Director to the investigating agents and inspectors, there is confidence the case will be solved.
>
> "Second, while not well known to the public, the scientific advances gained from this investigation are unprecedented and have greatly strengthened the government's ability to prepare for - and prevent - biological attacks in the future. Since the first anthrax mailing, investigators have worked hand in hand with the scientific community to both solve this case and to be best positioned in the event of a future attack.
>
> "Despite the frustrations that come with any complex investigation, no one in the FBI has, for a moment, stopped thinking about the innocent victims of these attacks – nor has the effort to solve this case in any way been slowed.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

9:00 A.M. EDT
Attorney General Alberto R. Gonzales will deliver remarks at the Boys & Girls Clubs of America Annual Congressional Breakfast.
Dirksen Senate Office Building
Room 50 G
Washington, D.C. 20150
OPEN PRESS

9:30 A.M. EDT
Deputy Attorney General Paul J. McNulty will testify before the Senate Judiciary Committee at a hearing on Senate Bill 2831, the Free Flow of Information Act of 2006.
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

10:00 A.M. EDT
Attorney General Alberto R. Gonzales will deliver remarks at the Library of Congress' 2006 Observance of National Hispanic Heritage Month.

James Madison Building
Mumford Room, 6th Floor
101 Independence Avenue
Washington, D.C.
OPEN PRESS

2:00 P.M. EDT Rachel Brand, Assistant Attorney General for Office of Legal Policy, will testify before the Senate Judiciary Committee at a hearing titled *Examining the Proposal to Restructure the Ninth Circuit.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

System Administrator

From:	System Administrator
Sent:	Tuesday, September 19, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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Your mailbox size is 557960 KB.

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See client Help for more information.

info@londonjunto.com

From:	info@londonjunto.com
Sent:	Wednesday, September 20, 2006 6:40 AM
To:	Gorsuch, Neil M
Subject:	The London Junto Presents: "'Use Your Eyes and Plagiarise': Lessons From a 50 Year Career in Investment Management."
Attachments:	tmp.htm

The London Junto Newsletter: September 2006 The London Junto and The Harvard Business Forum Present:

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on October 10th for an evening with Nils Taube, the doyen of London Fund Managers.

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Nils Taube was born in Estonia in 1928 but has lived in England since 1946. He joined Kitcat & Aitken (stockbrokers) in 1948, became a Partner in 1957 and Senior Partner in 1975. He was a member of the Council of the Stock Exchange from 1977 to 1982. He co-founded The Society of Investment Analysts in 1955 and The Institute for Fiscal Studies, now a leading UK think tank (in 1969) and of which he is still a Member of the Executive Committee. In 1982, he left Kitcat & Aitken to join Lord Rothschild?s group of companies as Principal Investment Adviser until 1996 when, with two colleagues, he formed Taube Hodson Stonex Partners, a firm of Investment Managers in London, of which he is Chairman.

DATE: October10, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD

The London Junto - http://rs6.net/tn.jsp?t=vwmfpybab.0.t9zzwubab.vri5uubab.190&ts=S0207&p=http%3A%2F%2Fwww.londonjunto.com

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* A welcome glass of wine or other beverage

* An opportunity to win a copy of James Morton's 1997
classic (which includes a profile of Nils Taube) Investing with the Grand
Masters (http://rs6.net/tn.jsp?t=vwmfpybab.0.ndtkpybab.vri5uubab.190&ts=S0207&p=http%3A%2F%2
Fbooks.global-investor.com%2Fbooks%2F10377.htm%3FginPtrCode%3D00000%26identifier%3D)

Please pay on PAYPAL (link below-takes VISA etc.) You DO NOT need a PayPal account. Alternatively, drop me an e-mail with the following details:

Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)

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THE DEADLINE FOR REGISTRATION AND PAYMENT IS October 6, 2006 **********
****

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The London Junto Newsletter: September 2006

The London Junto and The Harvard Business Forum Present:

Event Sponsors

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Relevant links

- Taube Hodson Stonex
- Investing with the Grand Masters

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on October 10th for an evening with Nils Taube, the doyen of London Fund Managers.

"'Use Your Eyes and Plagiarise': Lessons From a 50 Year Career in Investment Management."

When once asked, to what he attributed exceptional track record as an investor, quick as a flash, and with a characteristic deep chuckle, Nils Taube came back the answer: "Plagiarism, of course!" Mr Taube's particular metier, as he tells it, has been "international plagiarism", the concept that a good idea from one market will often "travel well" and work equally successfully in another region or time zone. Now 78 years young, he has been running his first fund continuously since 1969, a record of service that no other London fund manager comes close to matching. All of the funds he and his colleagues have launched have outperformed their benchmarks by between 5 per cent and 8 per cent a year compound over periods of more than 15 years. Accumulation units in his original European fund have grown in value 200 fold, or just under 16 per cent a year, since 1969. Join him as he shares his wit, wisdom and wealth of experience with the Junto and Harvard alumni.

About Nils Taube

Nils Taube was born in Estonia in 1928 but has lived in England since 1946. He joined Kitcat & Aitken (stockbrokers) in 1948, became a Partner in 1957 and Senior Partner in 1975. He was a member of the Council of the Stock Exchange from 1977 to 1982. He co-founded The Society of Investment Analysts in 1955 and The Institute for Fiscal Studies, now a leading UK think tank (in 1969) and of which he is still a Member of the Executive Committee. In 1982, he left Kitcat & Aitken to join Lord Rothschild's group of companies as Principal Investment Adviser until 1996 when, with two colleagues, he formed Taube Hodson Stonex Partners, a firm of Investment Managers in London, of which he is Chairman.

DATE: October10, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD
The London Junto

Tickets for the event are £20.00. This includes:

- A welcome glass of wine or other beverage
- An opportunity to win a copy of James Morton's 1997 classic (which includes a profile of Nils Taube) Investing with the Grand Masters

Please pay on PAYPAL (link below-takes VISA etc.) You **DO NOT** need a PayPal account. Alternatively, drop me an e-mail with the following details: **Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)**

Nicholas Vardy
The London Junto

email: info@londonjunto.com
phone: +44(0)7780 677360
web: http://www.londonjunto.com

Please register and pay for this event by clicking on the button here:

THE DEADLINE FOR REGISTRATION AND PAYMENT IS October 6, 2006

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System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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Your mailbox size is 557987 KB.

Mailbox size limits:

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[redacted]@tibco.com

From: [redacted]@tibco.com
Sent: Wednesday, September 20, 2006 8:01 AM
To: Gorsuch, Neil M
Subject: Service-Oriented Architecture Seminar
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
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Government agencies are under increasing pressure to increase operational efficiency and provide constituents with real-time access to information and services that cross organizational silos.

M-bM-^@M-"To what extent are you able to share information between agencies and departments?

M-bM-^@M-"Does your IT infrastructure enable you to respond quickly to changing requirements?

Learn how government agencies are using the principles and technologies of service-oriented architecture (SOA) to reduce IT costs, increase operational efficiency, and respond quickly to threats and opportunities in the environment.

Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: November 2, 2006

Time: 8 a.m. to 1 p.m.

Location:Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am Registration/Breakfast
8:00 am - 8:15 am Welcome
8:15 am - 9:00 am Keynote Address - [redacted] Gartner
9:00 am - 9:45 am Service-Oriented Architecture- [redacted] TIBCO Software
9:45 am - 10:00 am Break
10:00 am - 11:00 am SOA Executive Panel Discussion 11:00 am - 12:00 pm Event Driven Architecture- [redacted] TIBCO Software 12:00 pm - 1:00 pm Lunch/Closing

SOA Executive Panel:
Moderator
[redacted] Former CIO - USAF

Panelist
[redacted] Deputy Chief Architect HPMO - Office of Information, Veteran Affairs [redacted]
Chief Scientist-Object-Oriented Technologies, RABA [redacted] ODNI [redacted] Senior Consultant, EDS

To register go to:

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We hope to see you on November 2nd

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Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: November 2, 2006

Time: 8 a.m. to 1 p.m.

Location: Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am	Registration/Breakfast
8:00 am - 8:15 am	Welcome
8:15 am - 9:00 am	Keynote Address - [redacted] Gartner
9:00 am - 9:45 am	Service-Oriented Architecture- [redacted] TIBCO Software
9:45 am - 10:00 am	Break
10:00 am - 11:00 am	SOA Executive Panel Discussion
11:00 am - 12:00 pm	Event Driven Architecture- [redacted] TIBCO Software
12:00 pm - 1:00 pm	Lunch/Closing

SOA Executive Panel:

Moderator
[redacted] former CIO - USAF

Panelist
[redacted] Deputy Chief Architect HPMO - Office of Information, Veteran Affairs
[redacted] Chief Scientist-Object-Oriented Technologies, RABA
[redacted] ODNI
[redacted] Senior Consultant, EDS

To register go to:
http://www.tibco.com/mk/2006/info_sharing_gov.jsp

We hope to see you on November 2nd

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 9:11 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE BOYS AND GIRLS CLUB OF AMERICA ANNUAL CONGRESSIONAL BREAKFAST

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 20, 2006
WWW.USDOJ.GOV

AG
(202) 514-2007
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PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE BOYS AND GIRLS CLUB OF AMERICA ANNUAL CONGRESSIONAL BREAKFAST

WASHINGTON, D.C.

Good morning; thank you, Rick.

I was raised in a small two bedroom home in a blue collar neighborhood just north of Houston. We were a poor family from a poor community. There were no private schools, no summer camps or after school programs.

But I was fortunate in that I had loving parents who kept a watchful eye on me and my seven brothers and sisters. The boys set up a baseball field in our backyard with a makeshift backstop made of 2X4s and chicken wire. And during the summers, we played in the morning, took a break for a lunch of tortillas and beans and a short nap. Then we played again all afternoon. We did this everyday.

When I was a young boy, I don't think my parents ever had serious worries about where we were and what we were doing. There were no trouble-making friends, no drugs or alcohol. There was just a strong family connection and there was baseball.

Too many of our children today are not so fortunate. There are too many broken homes, too many missing parents, and too many wasted lives. How does a child from disadvantageous circumstances find their way?

They do it with the guidance of organizations like the Boys & Girls Clubs that inspire kids to dream big dreams. They do it with mentors like the five outstanding young people who are being recognized today: Montrelle Lee, Alyse Eady, David Shelly, Stacey Walker, and Kelly Barefield.

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Each and every one of you is deserving of the national award that will be presented today – and I want you know that it's been my privilege to be with you this morning. I look forward to following your careers as you grow up to lead your generation.

These young men and women exemplify the purpose of the Boys and Girls Club: the pursuit of a better future for America's youth.

We share that purpose at the Justice Department, and that's why I'm so pleased to be able to have this conversation with all of you today.

From preventing terrorist attacks, to cracking down on gangs and violent crime, to tracking down pedophiles and internet predators, we fight for our children, that they may enjoy the promise of America. We fight for their innocence and their dreams. It is a fight for our future.

None of these goals can be achieved without cohesive, coordinated efforts among all levels of government as well as the private and non-profit sectors.

It strikes me that when prevention is the goal, partnerships are most critical.

At the Department, criminal prosecution is an important part of what we do, but it is a hollow victory when compared to prevention.

We seek to prevent kids from joining gangs or doing drugs in the first place.

Prosecuting young criminals is not a success. Seeing young people graduate from high school and pursue dreams of career, education, family… that's success.

The Boys and Girls Club understands the goal of prevention as well as any group in America today. You have a proud history of offering an alternative to kids who might otherwise get involved with drugs, gangs or other crimes.

At the Department, we appreciate the partnership of the Boys and Girls Club, and we challenge you to take your mission even further.

We will, of course, be by your side. We need your expertise to make Departmental initiatives, like Project Safe Neighborhood and Project Safe Childhood, a success.

We also want to go with you to the communities that others will not serve. We're proud to be partnering with you in New Orleans, for example, where violent crime is threatening neighborhoods struggling to recover from unprecedented disaster. The Department is proud to be providing funding to help establish a Boys and Girls Club and Police Athletic League in New Orleans right now.

DOJ_NMG_ 0168286

Let's continue to challenge ourselves to find those neighborhoods where kids really don't have enough options—where they cannot play baseball because the sandlot is patrolled by gangs. In areas both urban and rural, there are too many kids who leave a bad school in the afternoon to return to an empty or even dangerous home. That's where we need the Boys and Girls Club the most, and I want to support you in seeking those neighborhoods out.

I particularly want to commend the volunteers who support Boys and Girls Clubs because I know the good work of this organization would not be possible without them.

I hope that your volunteerism inspires the children you work with to someday become volunteers and mentors themselves. Service and volunteerism are a key part of citizenship and help us to appreciate the blessings of this great nation.

In giving to others we rekindle and refine ourselves. It feels good to help others… to know that you have made a difference in someone's life.

There can be no question that volunteerism is good for society and good for the soul. I'm also interested in what it can do for a nation that is so blessed, so prosperous, that we may have lost a bit of perspective on our own fortune.

While I believe strongly that the best "hand-up" ever given is freedom itself, we cannot take pride in ourselves or in our nation if we are not taking care of our neighbors when they need us.

The volunteers of the Boys and Girls Club are a shining example of the American heart and a unique dedication to giving back.

Everyone involved in the Boys and Girls Club gives a gift to the next generation. Your time and financial resources are well-spent and they do make a difference.

There is one more gift that I hope the Club will consider giving to their girls and boys… and that's the gift of American history.

Consider posting the Declaration of Independence, the Constitution and the Bill of Rights on your facility walls. We can't bring every child here to Washington to visit the National Archives, but we can bring the charters of freedom to every child.

Because, regardless of the neighbourhood they are growing up in, every American child has an advantage in life because they are American citizens. They are born to a freedom that other children, in other countries, can only dream of.

I hope to see more children learning that their country was built to be a place of opportunity, a golden door to step through and grasp a dream.

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I believe that our country's founding documents are one of the best illustrations of American hope… and surely hope and opportunity is what the Boys and Girls Club is really all about.

Thank you for giving me the time to share these thoughts, and for having me here today for this Centennial Celebration. We are here on this earth but for a short time and in my mind for a definite purpose. Each of us are given specific gifts and talents to be shared to affect the lives of others. I pray that God watches over you and your family, may he guide your all of your decisions and may he continue to bless the United States of America.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 10:09 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 20, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, September 20, 2006

ATTORNEY GENERAL

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the Library of Congress' 2006 Observance of National Hispanic Heritage Month.
James Madison Building
Mumford Room, 6th Floor
101 Independence Avenue
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

PRESS RELEASES

The Civil Rights Division will issue a release on Fair Housing Act matter. (Magnuson)

The Office of Justice Programs will issue a release from the Bureau of Justice Assistance. (Peterson)

EVENTS/HEARINGS

9:30 A.M. EDT Deputy Attorney General Paul J. McNulty will testify before the Senate Judiciary Committee at a hearing on Senate Bill 2831, the Free Flow of Information Act of 2006.
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

DOJ_NMG_ 0168291

2:00 P.M. EDT Rachel Brand, Assistant Attorney General for Office of Legal Policy will testify before the Senate Judiciary Committee at a hearing entitled *Examining the Proposal to Restructure the Ninth Circuit.*
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

5:30 P.M. EDT Wan Kim, Assistant Attorney General for the Civil Rights Division, will deliver keynote remarks at The American-Arab Anti-Discrimination Committee's Fifth Annual Judges Night.
Bint Jebail Cultural Center
6220 Miller Road
Dearborn, Mich.
OPEN PRESS

Press inquiries regarding logistics should be directed to The American-Arab Anti-Discrimination Committee at (313) 581-1201.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice
Public Affairs Office (202) 514-2007
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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 10:13 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE AWARDS OVER $12 MILLION TO STATES TO REDUCE INMATE RECIDIVISM

A copy of the 2006 Prisoner Reentry Initiative Awards is attached.

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 21, 2006

Office of Justice Programs
Contact: Sheila Jerusalem
www.ojp.usdoj.gov
(202) 307-0703

DEPARTMENT OF JUSTICE AWARDS OVER $12 MILLION TO STATES TO REDUCE INMATE RECIDIVISM

WASHINGTON – The Department of Justice today announced that $12 million will be awarded to 20 states through the Department of Justice's Prisoner Re-entry Initiative (PRI). Awards of up to $450,000 are being provided to state agencies to evaluate inmates prior to release from incarceration and develop transition plans in collaboration with community-based and justice agencies for their return to their communities.

Administered through the Department's Office of Justice Programs (OJP) and with the support of additional federal agencies, PRI is designed to reduce recidivism by helping returning inmates find work and access other critical services in their communities. A list of the recipients of the 2006 PRI awards is available at: http://www.ojp.usdoj.gov/BJA/grant/06PRIawards.pdf.

"Fewer than half of all released offenders stay out of trouble for at least three years after their release from prison, and many of these offenders commit serious or violent offenses while under parole supervision," said OJP Assistant Attorney General Regina B. Schofield. "The Prisoner Re-entry Initiative involves an unprecedented collaborative approach -- at the federal, state and local levels -- by addressing this problem through supervision and providing a wide range of services offenders need to help them successfully transition to law-abiding behavior."

Last November, the U.S. Department of Labor (DOL) awarded grants to faith- and community-based organizations to develop an employment-centered program that incorporates mentoring, job training and other transitional services to the offenders. Today's awards to state agencies will provide pre-release assessment, programming and services, transition planning, and post-release supervision for prisoners returning to communities served by DOL grants. The U.S. Department of Health and Human Services assists the design and implementation of the initiative regarding substance abuse and mental health treatment. The DOL awards are available at: www.dol.gov/opa/media/press/eta/eta20052123list.htm.

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The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and is comprised of five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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2006 Prisoner Reentry Initiative Awards

State	Agency	Amount
Michigan	MI Dept. of Corrections	450,000
Iowa	IA Dept. of Corrections	450,000
Missouri	MO Dept. of Corrections	900,000
Washington	WA Dept. of Corrections	450,000
Massachusetts	MA Dept. of Corrections	421,875
Wisconsin	WI Dept. of Corrections	450,000
Ohio	OH Dept. of Rehabilitation and Corrections	428,726
New York	NY Division of Criminal Justice Services	815,538
Arizona	AZ Dept. of Corrections	900,000
Florida	FL Dept. of Corrections	450,000
Oregon	OR Dept. of Corrections	450,000
California	CA Youth and Adult Correctional Agency	1,800,000
Louisiana	LA Dept. of Public Safety and Corrections	900,000
Colorado	CO Dept. of Corrections	449,704
Pennsylvania	PA Dept. of Corrections	449,000
New Jersey	NJ Dept. of Corrections	900,000
Illinois	IL Dept. of Corrections	450,000
Texas	TX Dept. of Criminal Justice	1,350,000
Connecticut	CT Dept. of Corrections	450,000
Maryland	MD Dept. of Public Safety and Correctional Services	450,000
	Total	**12,914,843**

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 10:13 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE NATIONAL HISPANIC HERITAGE MONTH PROGRAM AT THE LIBRARY OF CONGRESS

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 20, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE NATIONAL HISPANIC HERITAGE MONTH PROGRAM AT THE LIBRARY OF CONGRESS

WASHINGTON, D.C.

Good morning; buenos dias!

I want to thank Dr. Billington and the Library of Congress staff for inviting me here today, and for having this wonderful celebration for Hispanic Heritage Month. As the nation's oldest federal cultural institution and as the largest library in the world, there is no more fitting a place than here to display highlights of the contributions of Hispanic Americans to the nation.

Last year during a Hispanic Heritage Month celebration, I participated in a tribute to the many Hispanic men and women who have served our Nation in the armed forces.

At the tribute, Congressman John Salazar spoke about his father who served proudly in combat and had instructed his family to bury him in his uniform. Sadly, Mr. Salazar suffered a heart attack recently and passed away. Before his father died, Congressman Salazar was called to the house by his mom. And with his last breath, Mr. Salazar said to his son, "I love you" and "uniform". In those few words, Mr. Salazar captured the essence of our culture: duty to family and duty to country.

This story causes me to reflect on the honor many Hispanics have brought not only to our great country, but also to the proud heritage of Hispanic leaders in our Nation.

Hispanic Americans have a vibrant culture and a community spirit that has made tremendous contributions to this country… and it strikes me that a celebration of our heritage is a celebration of America.

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Throughout my career, I have not forgotten where I came from or the obstacles that I had to overcome to stand before you today. The values of my Hispanic heritage have played a role in getting me to this point.

This month our Nation recognizes what many of us in this room know from personal experience: The values of America's Hispanic community are the same values that sustain our Nation's greatness: Sacrifice. Hard work. Trust. Personal initiative. And perseverance in the face of adversity.

Growing up in Texas, I saw these values everyday in the life of my parents.

My father, Pablo, was not an educated man. But he worked hard, every day, to give his eight children the American dream.

As a young man, my father picked crops in the fields of South Texas where he met another migrant worker—a young woman named Maria who became my mother.

Later on, my dad and two of my uncles built the house that I grew up in Houston. I still remember when I was a small boy playing in the field as they laid the cinder blocks for the foundation. Then they nailed together the 2x4s, put up the sheet rock that would form the walls, and skillfully hammered the composition shingles onto the roof. From that sweat and toil and vision arose the small two-bedroom house that became our home … and my mother still lives there, proudly, today.

That home is my past, but it also represents our heritage, as Americans who always dream and work for a better tomorrow. Humble beginnings are not something that hold you back in this country, because we all have the foundation of freedom to build on.

Watching my parents build on this foundation always inspired me. As a young boy, I always asked that my mother wake me before dawn so I could eat scrambled eggs and tortillas with my father before he left for work. As my father and I ate breakfast together, my mother would dutifully prepare a modest lunch of beans and tortillas. She would then carefully place them in a brown lunch sack. After breakfast, my mother and I would wave goodbye to my father as he left to catch his ride for work. The memories of this daily ritual burn strong in my chest as I recall this simple time, that simple food, and those deep, enduring American values of family, hard work, and sacrifice.

This is the heritage of our community. These are the values our Nation reaffirms during Hispanic Heritage Month.

Just a few years ago, my mother came to stay with my family as she visited Washington for the first time. We walked the monuments and the museums like other curious tourists, but I also took her into the Oval Office, this little woman who once picked cotton, to see the President of the United States.

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It was important for me to be able to do that for her. I wanted to thank her for her guidance and to show her what I had accomplished because of her sacrifices and those of my father.

At dawn on the last day of her visit, she was up early to say goodbye as I left for work—just as she had been there for my father on so many mornings. Only I wasn't going to labor at a construction site, I was reporting to the White House to advise the most powerful person in the world.

I don't think she ever dreamed – when she was working in the cotton fields – that her son would one day take her, on his arm, to the Oval Office.

But she and my father did know that the proud heritage that they passed on to their children—and that I pass to my sons—a heritage of hard work and sacrifice, faith and family, hope and perseverance, could open untold doors in this land of opportunity.

The story of America is a story of constant renewal and reaffirmation of our founding ideas and our enduring values of faith, family, and freedom.

These are values that demand the best from every American: Whether you are a new citizen who has just taken the oath to protect and defend the Constitution or you are a citizen who traces his roots back to the first wave of refugees to come to this New World, we must all treasure the opportunities that abound in this promised land.

There are many Hispanic Americans around the nation today who are striving for the American dream. Many of these men and women come from backgrounds not unlike my own.

National Hispanic Heritage Month provides the American people, and particularly Hispanic children, with the opportunity to see as well as to hear that no matter their background or heritage, the possibilities for the future are limitless. They, too, can one day be Members of Congress, Attorney General or corporate leaders. One day there will be a Hispanic American deciding cases on the U.S. Supreme Court. And one day, there will be a Hispanic man or woman leading our country as President.

The future of Hispanic American culture is as exciting as our past. That is why we are here to today, to honor and remember this heritage that continues to give every American – Hispanics and our non-Hispanic neighbors all over this great country – so very much to learn from and be proud of.

While National Hispanic Heritage Month is limited to the month of September, our heritage, history, and impact on this nation is limitless. As Americans, we are a people dedicated to justice, opportunity, and equality. As Hispanics, we cherish our heritage of hard work, perseverance, faith and family.

With our heritage rooted deeply in these values and our hope in the future of America, we will continue to strive towards excellence in all that we do, leaving a strong legacy for our children and future generations.

Muchas gracias y que Dios los bendiga… and may God continue to bless this great nation.

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System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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Your mailbox size is 565910 KB.

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You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 11:56 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT THE SENATE JUDICIARY COMMITTEE CONCERNING "REPORTERS' PRIVILEGE LEGISLATION: PRESERVING EFFECTIVE FEDERAL LAW ENFORCEMENT"

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 20, 2006
WWW.USDOJ.GOV

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(202) 514-2007
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PREPARED STATEMENT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT THE SENATE JUDICIARY COMMITTEE CONCERNING "REPORTERS' PRIVILEGE LEGISLATION: PRESERVING EFFECTIVE FEDERAL LAW ENFORCEMENT"

WASHINGTON, D.C.

Chairman Specter, Senator Leahy, and Members of the Committee, thank you for the opportunity to appear today to discuss S. 2831, the "Free Flow of Information Act of 2006," and unauthorized disclosures of classified information by the media. While others at the Department of Justice previously have testified on these matters, this is my first opportunity to talk with you about them. The issues are weighty, and I commend the careful attention you are giving them.

Let me begin with these facts and observations, upon which we should all agree. The Department of Justice shoulders the important obligation of enforcing the law and ensuring the public safety against foreign and domestic threats. We also are duty bound to administer justice with fairness. Our work requires a constant balancing of interests.

A determination to commence prosecution requires a careful assessment of all facts and circumstances. Our guidepost, as stated in the United States Attorneys' Manual, is whether the "fundamental interests of society require the application of the criminal laws to a particular set of circumstances," recognizing that any decision to bring charges "entails profound consequences" for all affected persons. U.S. Attorneys' Manual § 9.27.001. In all instances, the Department's attorneys represent and must protect the public's interest in the fair and balanced administration of justice.

How we conduct investigations is no less important. We owe crime victims, those suspected of committing crimes, and the public the duty of conducting diligent and thorough investigations. Our search is for the truth, and our record shows that our approach has reflected measured and careful judgments. Overreaching does not serve justice, and the Department's men and women understand and respect that principle.

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Our measured approach manifests itself in the daily administration of justice around the country. Our attorneys, for example, take great care to ensure that grand jury investigations are both full and fair. Indeed, the very institution of the grand jury—consisting as it does of ordinary citizens—provides an added layer of balance to our investigations. To be sure, though, a grand jury operates with a broad and time-honored mandate: to search broadly for the truth and enlist everyone with potentially useful information in that search. As the Supreme Court has explained, the "investigative power of the grand jury is necessarily broad if its public responsibility is to be adequately discharged." Branzburg v. Hayes, 408 U.S. 665, 700 (1972).

In our investigations and prosecutions we always respect civil liberties, including the First Amendment rights of citizens and the media. Since the Founding era, journalists have contributed invaluably to our public discourse. Every schoolchild learns of the importance of Thomas Paine's contention, penned as it was in a revolutionary-era pamphlet, that "common sense" compelled a separation from England and the establishment of a new nation. More modern examples abound. Indeed, it is difficult, if not impossible, to read any newspaper or Internet news site and not find commentary on issues of enormous importance to our communities and nation. The Department of Justice fully respects and is committed to protecting the media's right to comment, however favorably or critically, upon the course of government and the actions of public officials.

Striking the right balance today between vigorously investigating and prosecuting crime and protecting civil liberties presents unique challenges. Our nation is engaged in a war on terror, and the Department's highest priority is to prevent another attack. Our prevention efforts must be tailored to the nature of the enemy we face—extremists constantly searching for ways to penetrate our communities and inflict death and destruction upon our people. Secrecy and surprise are cornerstones of our enemy's approach. Our response must follow suit. Our counterterrorism arsenal must include secrecy among its weapons. To publish the full contours of our prevention efforts would provide our enemy with unacceptable opportunities. Certain information must be kept classified and outside the public domain.

In making this point, the Department fully appreciates that there is not unity of opinion as to how America should conduct its war on terror. We are fighting a new kind of war that regularly presents new kinds of challenges, and Americans rightly are asking new kinds of questions. This debate is healthy and welcomed.

But our public dialogue, in which journalists play an essential role, cannot be permitted to itself breach our nation's security. In this regard, the media bears the important responsibility of striking the proper balance in its reporting—to keep Americans informed and to comment broadly without arming our enemy or risking danger to our troops, communities, or nation. The Department appreciates the care with which the media has undertaken this responsibility.

My larger point is that our Constitution permits the proper balance to be struck. As a nation, we are fully capable of both protecting our security and preserving the media's right to engage in robust reporting on controversial issues. Security and free speech are not mutually exclusive. Or, as Justice Goldberg famously observed, the Constitution is "not a suicide pact." Kennedy v. Mendoza-Martinez, 372 U.S. 144, 160 (1963).

The Department of Justice has developed a strong record in striking the right balance. I want to describe that record by explaining how we investigate leaks of classified information. Let me emphasize at the outset the seriousness of the problem posed by the unauthorized disclosure of classified information. An individual who leaks classified national defense information commits a crime. To talk about such leaks, then, is to talk about criminal conduct. There is no virtue in leaking; it reflects a profound breach of public trust and is wrong and criminal.

The consequences of leaking are extraordinarily grave. Leaks lay bare aspects of our national defense; they provide a window into steps we are taking to secure our country; they risk arming terrorists with precisely

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the information needed to avoid detection in plotting an attack upon our troops or communities; in short, they expose and damage our nation. These concerns and realities have been echoed by the President and Members of Congress in both the House and the Senate, including Members of this Committee.

Some skeptics have tried to paint those who unlawfully leak classified information to the press as whistleblowers caught in an intractable dilemma between, on the one hand, allowing what they believe may be unlawful activity to continue within the Government and, on the other hand, unlawfully disseminating information to someone with no authority to receive it. These so-called whistleblowers, the argument runs, escape the dilemma by conditioning a disclosure of classified information upon a journalist's promise of confidentiality.

This dilemma is a false one. It incorrectly assumes that the media is an individual's only outlet. Not so. Congress took care to ensure that no Government employee faces such a dilemma by enacting the Intelligence Community Whistleblower Act of 1998. That statute established mechanisms through which members of the intelligence community could voice concerns while ensuring that classified information would remain secure. In the first instance, the statute directs individuals to relay their concerns to their agency's Inspector General. Employees who are dissatisfied with their Inspector General's response are then authorized to bring their concerns to an appropriate committee of Congress in its oversight capacity.

With these mechanisms in place, it is a mistake to dub an individual who leaks classified information a whistleblower. A leaker commits a crime; a whistleblower, by contrast, follows the legal course of disclosure enacted into law by Congress. The difference is significant and should not be not be lost on the Committee.

Upon learning of a leak of classified information to the media, our primary focus is on identifying and prosecuting the leaker, not the reporter or media organization who received the leaked information. This focus is reflected in the Department's guidelines for the issuance of subpoenas and other compulsory process to the media. Codified at 28 C.F.R. § 50.10, the guidelines demonstrate how seriously the Department takes any investigative or prosecutorial decision that implicates members of the news media. This policy, by its terms, seeks to "balanc[e] the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice." 28 C.F.R. § 50.10.

The details are important. The guidelines provide that "[a]ll reasonable attempts should be made to obtain information from alternative sources before considering issuing a subpoena to a member of the news media." Id. § 50.10(b). They also call for undertaking negotiations with the media before resorting to a subpoena. Even then the prosecutor should do so only if there are "reasonable grounds to believe, based on information obtained from nonmedia sources, that a crime has occurred, and that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence." Id. § 50.10(f)(1).

This process ordinarily plays out across multiple levels within the Department of Justice. A prosecutor seeking confidential source information from a journalist must justify the request in writing. If the request receives approval from a United States Attorney, it then comes to Washington for careful vetting within our Criminal Division, Office of Public Affairs, the Office of the Deputy Attorney General, and, ultimately, the Office of the Attorney General. The Attorney General's approval is mandatory in all cases in which cooperation fails with a particular journalist.

This exhaustive and rigorous process is undertaken for a reason—to enable close scrutiny by career prosecutors and to ensure that subpoenas seeking confidential source information from journalists are issued only as a matter of last resort. In the past 15 years, the Attorney General has approved only approximately 13 requests for media subpoenas that implicated source information. This record reflects restraint: we have recognized the media's right and obligation to report broadly on issues of public controversy and, absent

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extraordinary circumstances, have committed to shielding the media from all forms of compulsory process. The Department of Justice will steadfastly continue to strike this same balanced approach in our investigations.

Our approach fully complies with the law. While the Supreme Court repeatedly has stressed the importance of the media's role in our society, it also has decisively declared that the media is not exempt from the general obligation—shared by all citizens—to provide evidence to grand juries investigating crimes. The seminal case is Branzburg v. Hayes, 408 U.S. 665 (1972). The Supreme Court in Branzburg held that journalists had no First Amendment right to refuse to comply with a subpoena and provide testimony to a grand jury regarding information received from a confidential source. See id. at 690-91. The Court's message was plain: "[W]e cannot accept the argument that the public interest in possible future news about crime from undisclosed, unverified sources must take precedence over the public interest in pursuing and prosecuting those crimes reported to the press by informants and in thus deterring the commission of such crimes in the future." Id. at 695. Other courts have reinforced this conclusion. See, e.g., In re Grand Jury Subpoena, Judith Miller, 438 F.3d 1141, 1146-48 (D.C. Cir. 2006); New York Times v. Gonzales, No. 05-2639, 2006 WL 2130645, at *11-12 (2d Cir. Aug. 1, 2006).

No aspect of the legal landscape or the Department's guidelines has inhibited the media from robustly reporting and commenting on controversial issues. To the contrary, journalists have time and again proven themselves more than able to gather information and disseminate news and commentary on the most controversial matters of the day. Only in extraordinarily rare circumstances—approximately 13 cases in 15 years—has the Department determined that the interests of justice warranted compelling information implicating sources from a journalist. We have struck the right balance and will continue to do so in the future.

I want to turn now to S. 2831, the "Free Flow of Information Act of 2006." The Department of Justice firmly opposes the bill. In recent months, at least three Department officials have provided statements or offered testimony on the proposed legislation, and on June 20 of this year we detailed our objections in a views letter. I do not intend to rehash all of the points made in our letter or prior testimony. Allow me instead to focus on the bill's most serious deficiencies and to address the practical consequences that would befall the administration of justice and criminal defendants if the bill became law.

As an initial matter, proponents of the bill contend that it is a necessary response to certain recent high-profile cases in which the Department's actions have purportedly signaled a newfound eagerness to stop journalists from reporting of leaks. The contention is misguided. The Department has not changed its policy or approach to investigating leaks. We continue to follow the same guidelines and processes that have resulted in the issuance of subpoenas implicating source information in only approximately 13 cases in the last 15 years. We continue to regard journalists as a source of last resort. There is not one shred of evidence supporting the notion that the Department of Justice is out to get the media.

Nor is there anything but conjecture to support the contention that journalists are writing in fear. Indeed, the argument parallels the same ones presented to, and rejected by, the Supreme Court in Branzburg in 1972. The Supreme Court dismissed as "speculative" the assertion that reporting would be chilled by requiring journalists to provide confidential source information to a grand jury. Branzburg, 408 U.S. at 694. If the critics in Branzburg were to be believed, we would have seen a marked decline in press freedoms in the ensuing years. Of course, the opposite has occurred. We live in an age in which news and critical commentary is everywhere––in print, over airwaves, and throughout the Internet. The proponents of the bill have not proven their case; they have failed to demonstrate that the Department of Justice has sought to compel confidential source information from journalists more aggressively or in greater numbers than it has in the past. The proposed bill is a solution in search of a problem.

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Let there also be no doubt about the ramifications the bill would have on the administration of justice. The bill would work a dramatic change in current practice and severely hamper our ability to investigate and prosecute serious crimes, including acts of terrorism.

Under Section 9 of S. 2831, a court must determine "by a preponderance of the evidence" that "an unauthorized disclosure has significantly harmed the national security in a way that is clear and articulable" and that such harm "outweighs the value to the public of the disclosed information." By its terms, then, the bill not only transfers to the judiciary the authority to second-guess the Executive's determinations regarding what does and does not harm the national security, it also licenses courts to find that a reporter's promise to conceal a source's identity can override national security interests, even when harm to national security is conceded. The only necessary finding is that the public interest was sufficiently strong to justify disclosure of the classified information.

The Department of Justice is particularly concerned about Section 9 and its transfer of authority to make national security determinations to the federal judiciary. The bill would force federal judges into making extremely difficult decisions about the national security implications of a particular leak—decisions that would require extensive and nuanced knowledge about our larger national security strategy, the details of classified programs, and the ground-level impact of certain information being disseminated to the public. The process would require the submission of ample evidence and consume inordinate amounts of time, which we rarely can afford to lose when confronted with the dynamics that define national security challenges today. Perhaps Judge Wilkinson put these concerns best in his concurring opinion in United States v. Morison, 844 F.2d 1057 (4th Cir. 1988):

> Evaluation of the government's [national security] interest . . . would require the judiciary to draw conclusions about the operation of the most sophisticated electronic systems and the potential effects of their disclosure. An intelligent inquiry of this sort would require access to the most sensitive technical information, and background knowledge of the range of intelligence operations that cannot easily be presented in the single 'case or controversy' to which courts are confined. Even with sufficient information, courts obviously lack the expertise needed for its evaluation. Judges can understand the operation of a subpoena more readily than that of a satellite. In short, questions of national security and foreign affairs are of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry.

Id. at 1082-83 (Wilkinson, J., concurring).

Section 9 of the bill would thrust the judiciary into law enforcement matters reserved by the Constitution to the Executive branch. Within the context of confidential investigations and secret grand jury proceedings, determinations regarding the national security interests are best made by members of the Executive branch—officials with broad access to the full scope of information necessary to protect our national security. As Justice Stewart explained in his concurring opinion in the Pentagon Papers case, "it is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense." New York Times Co. v. United States, 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring).

Let me be clear about what is at stake in Section 9. Under existing law, an individual wishing to challenge a subpoena bears the burden of proving that the request for particular evidence is unreasonable or oppressive. The proposed bill, by contrast, saddles the Government with the obligation of going into a federal court and producing evidence of a quantity sufficient to prove clear and articulable harm to our nation's security. In addition to infringing upon constitutionally-conferred executive authority, the bill goes a step

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further and makes matters all the worse: it places a thumb on the scale in favor of the reporter's privilege. The Government cannot obtain confidential source information unless it first proves that the harm to our national security would outweigh the public's interest in maintaining the free flow of leaked information. Our national security is too important to be subjected to these standards and burdens.

Section 9, in short, would reflect bad policy and make bad law. The practical impact, moreover, could be enormous. To provide a simple example, consider a journalist who publishes a detailed story about covert classified efforts to track the movements of international terrorists. The story also contends that aspects of the covert program have encroached on privacy interests of certain individuals by mistakenly identifying them as terrorists. The journalist attributes the information to a confidential source and describes the source as a government insider who is so concerned about the program that he intends to resign and relocate outside the United States, taking with him documents detailing the program's operation.

Despite their best efforts, the Department of Justice and the intelligence community are unable to identity the confidential source through independent means, and the journalist refuses to cooperate voluntarily with the Department. To prevent further harm to national security, the Attorney General quickly approves a narrowly-tailored subpoena that seeks only the identity of the journalist's source. The journalist believes the public has a right to know about the covert program and the potential privacy problems and thus challenges the subpoena in court.

Under current law, to prevail on a motion to quash, the journalist would be required to prove the subpoena request was unreasonable and oppressive. Given the circumstances, it is unlikely the journalist could make such a showing and thus the Department would learn the leaker's identity and apprehend him in time to prevent additional harm to our national security. Under the proposed bill, however, the Department would first be required to provide affirmative proof that the leak damaged our national security. While it is possible that such a showing could be made in this scenario, it is equally likely that a court could find that the harm was not yet realized or capable of specification. That finding would be enough to defeat the subpoena, even though the journalist would have done nothing other than file the motion to quash, thereby shifting the burden of proof to the Government. Moreover, even if a court credited the Department's showing of harm, the court nevertheless could find that public's interest in learning about the alleged privacy violations outweighed the Government's interests. That finding would defeat the subpoena.

This example is both realistic and revealing. It proves that the proposed legislation would impose significant and potentially crippling burdens on federal law enforcement in cases directly affecting our national security. Given the Department's record of restraint in compelling confidential source information from journalists, the bill would inflict unjustifiable harm upon a proven approach to effective law enforcement.

Section 9 is by no means the only provision of S. 2831 with serious deficiencies. The bill is deficient in the simplest of dimensions. Take, for example, the definition of "journalist" in Section 3. It includes only journalists who work for financial gain and thereby discriminates against individuals who, for no money, contribute a story to a local newspaper. This deficiency leaves the bill wide open to serious constitutional challenge on the ground that it unjustifiably discriminates against categories of speakers.

Section 5 of the bill raises grave constitutional concerns of an altogether different variety. The Sixth Amendment entitles defendants to compel witnesses to appear in court and testify. Section 5, however, would permit defendants to access such a witness only if, "based on an alternative source," they are able to show that the witness had information relevant to a successful trial defense. The Sixth Amendment imposes no such "alternative source" requirement. Section 5 is egregiously defective in a more basic way. It requires a court to balance criminal defendant's "constitutional rights" against the "public interest in newsgathering and in maintaining the free flow of information." Such a balancing requirement is indefensible; individuals facing

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grave criminal penalties, say, for example, a life sentence, should not have their "constitutional rights"—indeed, their liberty—thwarted by the interest of "newsgathering."

Other points warrant emphasis. Some supporters of S. 2831 have suggested that the bill is no more than a codification of the Department's own guidelines. That view is badly mistaken. The Department's guidelines preserve the constitutional prerogatives of the Executive branch with respect to key decisions regarding, for example, the kind of evidence that is presented in grand jury investigations and what constitutes harm to the national security. The proposed legislation, by contrast, would shift ultimate authority over these and other quintessentially prosecutorial decisions to the judiciary. Furthermore, the proposed legislation would replace the inherent flexibility of the Department's guidelines, which can be adapted as circumstances require—an especially valuable attribute in a time of war—with a framework that is at once more rigid (by virtue of being codified by statute) and less predictable (by virtue of being subject to the interpretations of many different judges, as opposed to a single Department with a clear track record of carefully balancing the competing interests).

I have also heard it suggested that the Department's concerns are overblown because many states have enacted workable media shield laws. Such analogies are entirely misplaced. An individual state's decision to provide a reporter with protection against a subpoena from a prosecutor investigating crimes under state law, serious though those crimes may be, says little about the virtues of providing journalists with such protections at the federal level. The Federal Government, unlike state and local governments, is uniquely responsible for providing for the national defense, working with our international partners to prevent acts of terrorism, and investigating crimes with expansive national and international ramifications, such as terrorism, espionage, and leaks of classified information.

In closing, I wish to end where I began. The issues before the Committee are of enormous significance. They require each of us to acknowledge the necessity of balancing important interests and then to focus on the Department of Justice's record in striking that balance. That record, as I have explained, is one of success and restraint. We seek to work cooperatively with the media, and only rarely has the Department determined that the interests of justice warranted seeking to compel a journalist to reveal information obtained from a confidential source. The rarity of those occasions reflects the Department's commitment to respecting the media's important role within our society. The media has been and will remain a source of last resort in our investigations.

Against the backdrop of the Department's record and the lack of any evidence showing that our approach has meaningfully chilled robust reporting by the media, I respectfully urge the Committee not to support S. 2831. The bill would significantly weaken the Department of Justice's ability to obtain information of critical importance to protecting our nation's security, inject the federal judiciary to an extraordinary degree into affairs reserved by the Constitution for decision within the Executive branch, and, at bottom, encourage the leaking of classified information.

Thank you again for the opportunity to testify, and I look forward to answering the Committee's questions.

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Image not available for this document, ID: 0.7.10316.30388-000002

Wulf, David M.

From: Wulf, David M.

Sent: Wednesday, September 20, 2006 12:08 PM

Subject: Not read: Not read: Accepted: Katrina "Lessons Learned" Recommendations--Meeting on ESF-13/SFLEO Recommendations

Wulf, David M.

From: Wulf, David M.

Sent: Wednesday, September 20, 2006 12:08 PM

Subject: Not read: Not read: Accepted: Updated: Katrina "Lessons Learned" Recommendations--Meeting on ESF-13/SFLEO Recommendations

Wulf, David M.

From: Wulf, David M.

Sent: Wednesday, September 20, 2006 12:08 PM

Subject: Not read: Not read: Declined: Updated: Katrina "Lessons Learned" Recommendations--Meeting on ESF-13/SFLEO Recommendations

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 1:31 PM
To: USDOJ- Office of Public Affairs
Subject: HI-TECH PHARMACEUTICALS & 11 INDIVIDUALS INDICTED FOR "GENERIC" PILL FRAUD SCHEME

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 20, 2006
WWW.USDOJ.GOV/USAO/GAN

CONTACT: PATRICK CROSBY
PHONE: (404) 581-6016
FAX: (404) 581-6160

HI-TECH PHARMACEUTICALS & 11 INDIVIDUALS INDICTED FOR "GENERIC" PILL FRAUD SCHEME

Defendants Allegedly Sold Millions Of Pills Over The Internet

ATLANTA – Eleven individuals and an Atlanta-based company have been indicted by a federal grand jury on multiple felony charges relating to a scheme to sell adulterated and unapproved new drugs over the Internet. Four of the defendants are scheduled to appear at a bond hearing before U.S. Magistrate Linda Walker at 1:45 P.M. EDT.

"The indictment's allegations are disturbing because customers thought they were getting legitimate and safe prescription drugs over the Internet from Canada at cheaper prices, when in reality they received adulterated fakes that were crudely made in an unsanitary house in Belize," said U.S. Attorney David E. Nahmias.

The defendants named in the indictment are Jared Robert Wheat, 34, of Alpharetta, Ga.; David Dalton Johnson, 37, of Pinehurst, N.C.; David Alan Brady, 40, of Pinehurst, N.C.; Stephen Douglas Smith, 38, of Duluth, Ga.; Thomas Holda, 43, of Duluth, Ga.; Sergio Ronaldo Oliveira, 46, of Hoschton, Ga.; Brad Neal Watkins, 38, of Birmingham, Ala.; David Watkins, 40, of Norcross, Ga.; Steven Blinder, 42, of Aberdeen, S.D.; Michelle Young, 38, a citizen of Belize; Guillermo Pech, 28, also a citizen of Belize; and Hi-Tech Pharmaceuticals, a company based in Norcross, Ga.

All of the defendants are charged with two different conspiracies: (1) conspiring to import controlled substances into the U.S.; and (2) conspiring to violate the wire and mail fraud statute and to introduce into interstate commerce adulterated and misbranded prescription drugs. The indictment charges each of the defendants, except David Watkins, Brad Watkins and Steven Blinder, with different substantive violations including mail fraud, distribution of controlled substances and introducing adulterated and misbranded new drugs. The indictment also charges the lead defendant, Jared Wheat, with engaging in a continuing criminal

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enterprise. The indictment seeks to forfeit numerous properties, automobiles and bank accounts, and seeks a money judgment of not less than $19.8 million.

According to the indictment, Jared Wheat, the principal owner of Hi-Tech Pharmaceuticals, and the other defendants opened a drug manufacturing facility in Belize in approximately 2002. The defendants allegedly used Hi-Tech funds and Jared Wheat's own funds to cover the costs of operating the Hi-Tech facility in Belize, and would travel to Belize to manufacture various prescription and controlled substances. The defendants allegedly made approximately 24 different drugs that they marketed through so-called "spam" advertisements over the Internet as authentic generic versions of those drugs being imported from Canada. The drugs included steroids such as "Oxymethelone" and "Stanazolol," along with unapproved versions of controlled drugs such as "Ambien," "Valium," and "Xanax." The defendants also manufactured versions of prescription drugs such as "Viagra," "Cialis," "Lipitor" and "Vioxx." From 2002 through 2004, the defendants allegedly ordered enough active ingredients to manufacture millions of pills, many of which were then shipped into the United States to individuals who purchased the drugs after receiving Internet "spam" and also to various wholesalers of drugs.

Members of the public are reminded that the indictment only contains charges. The defendants are presumed innocent of the charges and it will be the government's burden to prove each defendant's guilt beyond a reasonable doubt at trial.

This case is being investigated by Special Agents of the DEA and the Food and Drug Administration's Office of Criminal Investigations, with the Henry County Police Department. Valuable assistance has been provided by the Bureau of Alcohol, Tobacco and Firearms (ATF), the Customs and Border Protection Foreign Mail Facility in Miami, the Postal Inspection Service, Doraville Police Department, Roswell Police Department, City of Atlanta Police Department, Spalding County Sheriff's Office, Cobb County Sheriff's Office, Clarkston Police Department, East Point Police Department and the Duluth Police Department.

Assistant U.S. Attorneys Aaron M. Danzig, Randy S. Chartash and J. Russell Phillips are prosecuting the case.

Members of the public are reminded that the indictment only contains charges. The defendants are presumed innocent of the charges and it will be the government's burden to prove each defendant's guilt beyond a reasonable doubt at trial.

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Image not available for this document, ID: 0.7.10316.30336-000002

System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 566759 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 2:15 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUES FLORIDA CITY CHALLENGING ORDINANCE THAT DISCRIMINATES AGAINST PERSONS WITH DISABILITIES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 20, 2006
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CRT
(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SUES FLORIDA CITY CHALLENGING ORDINANCE THAT DISCRIMINATES AGAINST PERSONS WITH DISABILITIES

WASHINGTON – The Justice Department today filed a lawsuit against the City of Boca Raton, Fla., alleging that a city zoning ordinance discriminates against individuals with disabilities.

The complaint, filed in the U.S. District Court for the Southern District of Florida, alleges that a zoning ordinance passed by the city in 2002 and amended in 2003, excludes housing for persons recovering from alcohol or drug dependency from residential areas of the city and unreasonably restricts their operation in commercial zones in violation of the Fair Housing Act. The only zones in the city in which "substance abuse treatment facilities" (SATFs) may operate as of right under the ordinance are "medical center" districts. The complaint alleges that the ordinance intentionally and on its face targets housing for persons in recovery and subjects it to different and substantially more onerous requirements than other types of housing.

"No citizen should be refused an equal opportunity for housing in their community," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Justice Department is committed to preventing such housing discrimination against people with disabilities."

"The Fair Housing Act protects all Americans from housing discrimination, including those persons recovering from substance abuse problems," said R. Alexander Acosta, U.S. Attorney for the Southern District of Florida. "My office, in conjunction with the Civil Rights Division, is deeply committed to enforcing the laws that provide equal protection to all Americans."

The suit seeks to prevent the city from enforcing the ordinance, monetary damages to compensate victims, civil penalties, and a court order barring future discrimination.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 208 cases to enforce the Fair Housing Act, including 97 based on disability discrimination. For more information about the Civil Rights Division and the laws it enforces, visit http://www.usdoj.gov/crt.

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06-640

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Image not available for this document, ID: 0.7.10316.30322-000002

Gunn, Currie (SMO)

Subject:	Updated: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, May 24, 2004 2:00 PM
End:	Monday, May 24, 2004 3:00 PM
Show Time As:	Tentative
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Not yet responded
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); 'Coleman, Tim (ODAG)'; Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory; McDonald, Esther S

When: Occurs every 2 weeks on Monday effective 5/24/2004 until 9/11/2006 from 2:00 PM to 3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 5710

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

Meeting series ended. New meeting invite coming on behalf of Acting Associate Bill Mercer, please accept new series.

Attendees: Lily Fu Swenson, Tim Coleman-ODAG, Luis Reyes, Neil Gorsuch, Cliff White, Esther McDonald

POC: Currie Gunn [redacted]

Gunn, Currie (SMO)

Subject:	Updated: Bi-Weekly UST Meetings
Location:	5710
Start:	Monday, May 24, 2004 2:00 PM
End:	Monday, May 24, 2004 3:00 PM
Recurrence:	Weekly
Recurrence Pattern:	every 2 weeks on Monday from 2:00 PM to 3:00 PM
Meeting Status:	Accepted
Organizer:	Gunn, Currie (SMO)
Required Attendees:	McCallum, Robert (SMO); Coleman, Tim (ODAG); Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory; McDonald, Esther SMcCallum, Robert (SMO); 'Coleman, Tim (ODAG)'; Swenson, Lily F; Gorsuch, Neil M; White, Clifford; Catapano, Debbie; McCallum, Robert (SMO); Katsas, Gregory; McDonald, Esther S

Meeting series ended. New meeting invite coming on behalf of Acting Associate Bill Mercer, please accept new series.

Attendees: Lily Fu Swenson, Tim Coleman-ODAG, Luis Reyes, Neil Gorsuch, Cliff White, Esther McDonald

POC: Currie Gunn x[redacted]

System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 566867 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 566868 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 20, 2006 6:55 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 20, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

Attorney General Delivers Remarks before Boys and Girls Clubs of America and Library of Congress (OPA)
Today, Attorney General Alberto R. Gonzales delivered remarks on the importance of public/private partnerships at the Boys & Girls Clubs of America Annual Congressional Breakfast and on the importance of Hispanic heritage at the Library of Congress' 2006 Observance of National Hispanic Heritage Month.

Deputy Attorney General Testifies Before Senate Judiciary Committee (OPA)
Today, Deputy Attorney General Paul J. McNulty testified before the Senate Judiciary Committee on the Free Flow of Information Act of 2006 and stated the Department's opposition to the bill.

Justice Department Sues Florida City Challenging Ordinance that Discriminates against Persons with Disabilities (Civil Rights)
The Justice Department today filed a lawsuit against the City of Boca Raton, Fla., alleging that a city zoning ordinance discriminates against individuals with disabilities. The complaint, filed in the U.S. District Court for the Southern District of Florida, alleges that a zoning ordinance passed by the city in 2002 and amended in 2003, excludes housing for persons recovering from alcohol or drug dependency from residential areas of the city and unreasonably restricts their operation in commercial zones in violation of the Fair Housing Act. The only zones in the city in which "substance abuse treatment facilities" (SATFs) may operate as of right under the ordinance are "medical center" districts. The complaint alleges that the ordinance intentionally and on its face targets housing for persons in recovery and subjects it to different and substantially more onerous requirements than other types of housing.

Talking Points

- No citizen should be refused an equal opportunity for housing in their community.

- The Justice Department is committed to preventing such housing discrimination against people with disabilities.

Court Bars Promotion Of "Corporation Sole" Tax Fraud Scheme (Tax Division)
Eric Messier of Providence, Rhode Island has consented to a federal court order permanently barring him from marketing a tax fraud scheme, the Justice Department announced today. According to the complaint filed by the Department's Tax Division, Messier falsely advised customers that, by using a so-called "corporation sole," they could avoid paying federal income taxes. Messier was conducting business through the Liberty Fellowship and the Liberty Holdings Trust. According to the government's complaint filed in U.S. District Court in Rhode Island, customers paid Messier between $2,500 and $10,000 to participate in the corporation sole scheme. Some states authorize religious leaders to hold property and conduct their activities in what is known as a corporation sole, but tax benefits are available only for organizations that qualify as religious or charitable organizations under the Internal Revenue Code. The complaint alleges that Messier falsely tells customers that they can treat their corporations sole as a "church" with no tax-return filing requirement, and yet control and use its assets and income for their own personal benefit.

Department of Justice Awards over $12 Million to States to Reduce Inmate Recidivism (Office of Justice Programs)
The Department of Justice today announced that $12 million will be awarded to 20 states through the Department of Justice's Prisoner Re-entry Initiative (PRI). Awards of up to $450,000 are being provided to state agencies to evaluate inmates prior to release from incarceration and develop transition plans in collaboration with community-based and justice agencies for their return to their communities. Administered through the Department's Office of Justice Programs (OJP) and with the support of additional federal agencies, PRI is designed to reduce recidivism by helping returning inmates find work and access other critical services in their communities. A list of the recipients of the 2006 PRI awards is available at: http://www.ojp.usdoj.gov/BJA/grant/06PRIawards.pdf.

Hi-tech Pharmaceuticals and 11 Individuals Indicted for "Generic" Pill Fraud Scheme (USAO-Northern District of Georgia)
Today, eleven individuals and Hi-tech Pharmaceuticals, an Atlanta-based company, were indicted by a federal grand jury on multiple felony charges relating to a scheme to sell adulterated and unapproved new drugs over the Internet. Four of the defendants appeared at a bond hearing before U.S. Magistrate Linda Walker on Wednesday, Sept. 20. All defendants are charged with two different conspiracies: conspiring to import controlled substances to the U.S. and conspiring to violate the wire and mail fraud statue to introduce misbranded new drugs. The indictment seeks to forfeit numerous properties, automobiles and bank accounts, and seeks a money judgment of not less than $19.8 million.

Talking Points:

- The indictment's allegations are disturbing because customers thought they were getting legitimate and safe prescription drugs over the Internet from Canada at cheaper prices, when in reality they received adulterated fakes that were crudely made in an unsanitary house in Belize.

***Wall Street Journal* Interviews FBI Officials (FBI)**
Today, *Wall Street Journal* Reporter Ann Zimmerman conducted an interview with Eric Ives, Chief of the Criminal Investigative Division and Major Theft Unit, and Raul Roldan, Cyber Division Section Chief, regarding cyber crimes and organized retail theft. It is unclear when the story will run.

Bloomberg Interviews FBI Assistant Director Burrus (FBI)
Today, Bloomberg Newswire Reporter Rob Schmidt interviewed Chip Burrus, Assistant Director for the Criminal Investigative Division, regarding corporate fraud. It is unclear when the story will run.

Fox News Interviews FBI Acting Deputy Assistant Director Cummings (FBI)
Ollie North of Fox News' *War Stories* interviewed Art Cummings, Acting Deputy Assistant Director for Counter Terrorism, regarding homegrown terrorism. It is unclear when the story will run.

THURSDAY'S EXPECTED EVENTS/RELEASES:

2:30 P.M. EDT Regina Schofield, Assistant Attorney General for Office of Justice Programs will testify before the Senate Subcommittee on Corrections and Rehabilitation at a hearing entitled *Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States*.
Dirksen Senate Office Building
Room 226
Washington, D.C.
OPEN PRESS

System Administrator

From:	System Administrator
Sent:	Wednesday, September 20, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 566896 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 566898 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 9:37 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 21, 2006

Department of Justice

PRESS GUIDANCE
Thursday, September 21, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Antitrust Division will issue a release on a price fixing matter. (Talamona)

EVENTS/HEARINGS

2:30 P.M. EDT Regina Schofield, Assistant Attorney General for Office of Justice Programs, will testify before the Senate Subcommittee on Corrections and Rehabilitation at a hearing entitled *Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States.*
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OPEN PRESS

Press inquiries regarding logistics should be directed to the Senate Judiciary Committee at 202-224-5225.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.30253-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 573059 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 10:58 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ASSISTANT ATTORNEY GENERAL WAN J. KIM AT THE AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE'S FIFTH ANNUAL JUDGES NIGHT

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
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PREPARED REMARKS OF ASSISTANT ATTORNEY GENERAL WAN J. KIM AT THE AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE'S FIFTH ANNUAL JUDGES NIGHT

DEARBORN, MICHIGAN

Thank you for inviting me to address ADC during your Judges Night Dinner. It is a privilege to be here. I very much value the relationship that the Department of Justice and the ADC have built together. My staff is in touch with ADC's staff on almost a daily basis, gathering and exchanging information about discrimination against Arab-Americans in a wide range of areas. This close relationship – and trust – that we have built over several years have enabled us to solve many problems together quickly and effectively.

I would like to begin by offering a hearty acknowledgment of tonight's honorees, Judge Tarnow, Judge Dingell, and Judge McCarthy. Many congratulations to you all. Thank you for your distinguished contributions to the law and to our system of justice, the finest in all of the world.

I am humbled and honored to be part of the Civil Rights Division, with its long and proud history of protecting some of our nation's highest collective ideals and aspirations. Next year the Civil Rights Division will celebrate its 50th anniversary. For nearly half a century now, the Division has been instrumental in enforcing the promise carved into stone over the entrance to the United States Supreme Court: "Equal Justice Under Law."

The Division was created by the Civil Rights Act of 1957, the first civil rights law passed since Reconstruction. We were formed to aid in the momentous task of ensuring voting rights for all Americans, and to speed the ending of government-sponsored discrimination. But the Division was only one of many actors that helped to close the shameful chapter of *de jure* discrimination in this country, and only one of many institutions that helped to move this country closer to our goal of ensuring equal opportunity for every person. It was the judiciary that led the way – in the cases leading up to *Brown v. Board of Education* in 1954, in the *Brown* decision itself, and in the years afterward implementing that decision. Judge's Night is a very appropriate time to recognize the critical role that a strong and independent judiciary has played in securing our civil rights in this country.

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I recently represented the United States in Geneva before the International Covenant on Civil and Political Rights. One of the things I repeatedly stressed in my remarks was the effectiveness of our independent judiciary in securing civil and political rights in America. History proves the truth of my words. At perhaps no other time in our history was the leadership of the judiciary as critical as during the 1950's. The Supreme Court sent a powerful message to our nation and the world in unanimously deciding that our Constitutional order would not tolerate treating some people as inferior to others based on the color of their skin. And the implementation of the *Brown* decision demonstrated great acts of courage by jurists throughout the South, many of whom were ostracized by their friends and communities for their steadfast adherence to principle and the rule of law.

Courage, of course, was displayed by members in all three branches of government. Some of our most senior attorneys in the Civil Rights Division tell stories of how, as young DOJ attorneys litigating in the south, they were required to call back to their supervisor in Washington DC each day – just to let them know that they were still alive. The Department of Justice held a program three years ago on the 40th anniversary of the integration of the University of Mississippi, honoring the 127 United States Marshals who risked their lives to protect James Meredith as he went to school. Thirty of these brave Marshals suffered gunshot wounds. John Doar, my predecessor and the fourth Assistant Attorney General for the Civil Rights Division, literally lived with James Meredith during that dangerous time.

Members of Congress showed political courage in enacting the Civil Rights Act of 1964, which to this day serves as the bread and butter of our work at the Civil Rights Division. While our work has evolved and broadened considerably over the years – from enforcing just a few statutes to just a few dozen statutes – our fundamental mission has remained constant. We enforce the laws that represent some of our nation's highest collective ideals, and in doing so, protect some of the most vulnerable members of our society.

The Division's proud history, tradition and experience made it the obvious choice to spearhead the Justice Department's response to the shameful spike in bias-motivated crimes that followed the terrorist attacks of September 11, 2001. Immediately after the attacks, we witnessed an outburst of attacks, based on mindless and misplaced anger, against Arab Americans, Muslim-Americans, South Asian Americans, and Sikh-Americans. There were over 300 such incidents in the months after the attacks, ranging from threatening graffiti and emailed bomb threats, to violent assaults and even murder.

The United States government mobilized quickly to quell this rash of attacks. The President denounced the violence, saying "Those who feel like they can intimidate our fellow citizens to take out their anger don't represent the best of America, they represent the worst of humankind." The Attorney General likewise publicly denounced the violence, and ordered the FBI and the Civil Rights Division to make investigation and prosecution of these crimes a priority. Then-attorney General John Ashcroft said, "We must not descend to the level of those who perpetrated Tuesday's violence by targeting individuals based on their race, their religion, or their national origin. Such . . . violence and threats are in direct opposition to the very principles and laws of the United States and will not be tolerated."

Working closely with state and local prosecutors and police, the FBI and the Civil Rights Division did everything possible to bring the perpetrators of these crimes to justice. For example, we successfully prosecuted a man in Salt Lake City who tried to burn down a Pakistani restaurant on September 13 under federal hate crime charges. The man who shot and killed Sikh gas station owner Balbir Singh Sodhi in Mesa, Arizona during a drive-by shooting was caught, prosecuted, and sentenced to death. We also worked closely with members of the affected communities, arranging meetings with key leaders to identify problem areas, open lines of communication, and work toward stemming the wave of hate.

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Thankfully that wave of violence subsided after three months. Yet the problem did not go away. While levels of violence were much lower, there developed a persistent pattern of hate crimes at rates higher than those prior to 9/11.

This persistent problem called for a more systematic and institutionalized response. The Justice Department responded quickly by forming relationships with Middle Eastern and South Asian leaders. These relationships have evolved into enduring partnerships and friendships. Senior Justice Department officials have held more than 75 meetings with leaders of Muslim, Arab, and South-Asian American organizations around the country since 9/11. Further, the Justice Department's Community Relations Service has held more than 250 town and community meetings throughout the country since September 11, 2001.

I host a meeting every two months that brings together community leaders with officials from a wide variety of federal agencies, including the FBI, DHS, the State Department, Treasury, and others, to address not only hate crimes, but all issues of discrimination, profiling, and other civil rights issues facing these communities. Attorney General Gonzales has attended two of these meetings, and has himself held a meeting with these community leaders. I have dedicated substantial resources within the Civil Rights Division to ensuring that prosecuting these hate crimes, bringing discrimination suits, and engaging in outreach to the community, continues to remain a priority.

Since 9/11, we have now investigated more than 700 cases, and brought federal charges against 35 defendants, and obtained 32 convictions to date. We also have assisted state and local law enforcement in bringing more than 150 of these prosecutions.

Our prosecutions of hate crimes and our enforcement of anti-discrimination laws send a powerful message that in our country we will not tolerate angry individuals lashing out at innocents because of deeds done by those of a particular ethnic group, race or religion. We are all Americans, and we were all injured by the attacks of 9/11. And we are equally at risk from the danger of future terrorist attacks. We are all in this together.

We also have been active on the civil side of the litigation ledger. 9/11 backlash has included not only hate crimes, but ~~in~~ increased levels of discrimination against Muslims, Arabs, and South Asians.

For example, on the afternoon of September 11, a Marriot hotel in Iowa sent a fax canceling its agreement to host the Midwest Federation of American Syrian-Lebanese Club's annual convention, claiming it had double-booked. We investigated, and reached a settlement agreement with the hotel to provide an apology and $100,000 to the Syrian-Lebanese Club, and requiring training for all employees.

Similarly, on September 23, 2001, a Sikh man at a restaurant was told by a manager that he would have to remove his turban, due to a policy that barred hats – other than baseball caps and cowboy hats. Prior to September 11, he had worn his turban at the restaurant without objection. We reached a settlement requiring posting of nondiscrimination signs, training for employees, monitoring, and compensation

Protecting our civil Rights is the specialty of the lawyers and staff at the Civil Rights Division, as it is for their counterparts at ADC. I have had the great honor of working with the people of ADC toward a more just society, and think this relationship has yielded great fruit. But working together toward civil rights is not just for specialists; it is the obligation of all Americans. Civil rights ultimately are about how we live together as human beings, and respecting each others' inherent dignity, despite coming from a range of backgrounds with diverse faiths and traditions.

As President Bush said in his first inaugural address, the American story is "a story of flawed and fallible people, united across the generations by grand and enduring ideals. The grandest of these ideals is an unfolding American promise that everyone belongs, that everyone deserves a chance that no insignificant person was ever

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born. . . . America has never been united by blood or birth or soil. We are bound by ideals that move us beyond our backgrounds, lift us above our interests and teach us what it means to be citizens. Every child must be taught these principles. Every citizen must uphold them. And every immigrant, by embracing these ideals, makes our country more, not less, American." As an immigrant to this country myself, I am always profoundly moved when I think back upon these remarks.

We are a nation at war. We are currently engaged in struggle against those who are willing to commit large-scale acts of violence against civilians. They commit these atrocious acts as part of a forcible effort to turn their totalitarian, theocratic vision into chilling reality. As a nation, we rightly and uniformly condemn this militant extremism. But as a nation, we just as vigorously condemn any resultant backlash against innocents.

The challenges for our civil rights that this tension has brought about will require the same dedication and moral clarity of judges, legislators, government officials and citizens that was needed during the height of the Civil Rights movement. It is a challenge that we as Americans have no choice but to rise and to meet with the same vigor and dedication as those who went before us. This great nation and its founding principles deserve no less from each and every one of us. We at the Department of Justice look forward to working closely with you and all Americans to achieve our common goals.

Thank you.

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Image not available for this document, ID: 0.7.10316.30241-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 12:33 PM
To: USDOJ- Office of Public Affairs
Subject: SAMSUNG EXECUTIVE AGREES TO PLEAD GUILTY, SERVE JAIL TIME FOR PARTICIPATING IN DRAM PRICE-FIXING CONSPIRACY

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
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AT
(202) 514-2007
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SAMSUNG EXECUTIVE AGREES TO PLEAD GUILTY, SERVE JAIL TIME FOR PARTICIPATING IN DRAM PRICE-FIXING CONSPIRACY

U.S. Executive Admits Role in Global Cartel, Agrees to Prison Term

WASHINGTON — A San Jose, Calif., executive of Samsung Semiconductor Inc. – the world's largest manufacturer of a common computer component called dynamic random access memory or DRAM – has agreed to plead guilty and to serve jail time for participating in a global conspiracy to fix DRAM prices, the Department of Justice announced.

The charged executive, Thomas Quinn, participated in the price-fixing conspiracy in his capacity as vice president of marketing for memory products at Samsung Semiconductor Inc., a United States subsidiary of Korean memory maker Samsung Electronics Company Ltd. Quinn was charged with violating the Sherman Act in a one-count information alleging participation in an agreement to fix prices of DRAM and to coordinate bids in an auction held by a DRAM purchaser.

Under the plea agreement, which must be approved by the court, Quinn has agreed to serve eight months in prison and to pay a criminal fine of $250,000. In addition, Quinn has agreed to assist the Department in its ongoing investigation.

"Prison time for price-fixers remains the most potent deterrent to illegal cartel activity," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Today's action sends a clear message–those who engage in price-fixing schemes will be held accountable for their illegal conduct."

Including today's charge, four companies and 13 individuals have been charged and fines totaling more than $731 million have resulted from the Department's DRAM investigation. The $731 million in criminal fines is the second highest total obtained by the Department of Justice in a criminal antitrust investigation into a specific industry.

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DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication, and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants (PDAs), modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders and TVs, digital set top boxes, game consoles, and digital music players. There were approximately $7.7 billion in DRAM sales in the United States in 2004.

According to the one-count felony charge filed today in federal court in San Francisco, Quinn conspired with unnamed employees from other memory makers to fix the prices of DRAM sold to certain original equipment manufacturers from on or about April 1, 2001 to on or about June 15, 2002, and to coordinate bids on a Dec. 5, 2001 Sun Microsystems Inc., auction. The price-fixing scheme directly affected sales to U.S. computer makers Dell Inc., Hewlett-Packard Company, Compaq Computer Corporation, International Business Machines Corporation, Apple Computer Inc., Gateway Inc., and Sun Microsystems Inc., the Department said.

Quinn is charged with carrying out the price-fixing conspiracy by:

- Participating in meetings, conversations, and communications with competitors to discuss the prices of DRAM to be sold to certain customers; and

- Agreeing with competitors to coordinate bids submitted to Sun Microsystems Inc.

"This is the most recent charge in our continuing efforts to bring to justice both domestic and foreign-based executives who were involved with fixing DRAM prices," said Scott D. Hammond, the Antitrust Division's Director of Criminal Enforcement. "We are still very actively investigating antitrust violations in the DRAM industry."

Quinn is the fourth Samsung executive to agree to a prison sentence in the DRAM investigation. Three foreign-based Samsung executives, Sun Woo Lee, Young Woo Lee, and Yeongho Kang, have already pleaded guilty and agreed to serve prison terms ranging from seven to eight months and to pay fines of $250,000 each. In addition, four Hynix Semiconductor Inc., executives, Dae Soo Kim, Chae Kyun Chung, Kun Chul Suh, and Choon Yub Choi, were charged with participating in the DRAM price-fixing conspiracy and agreed to plead guilty and serve jail terms ranging from five to eight months and to each pay a $250,000 fine. In December 2004, four Infineon executives, T. Rudd Corwin, Peter Schaefer, Gunter Hefner, and Heinrich Florian, pleaded guilty to the DRAM price-fixing conspiracy. The Infineon employees served jail terms ranging from four to six months and each paid a $250,000 fine.

Also, in December 2003 the Department charged Alfred Censullo, a Regional Sales Manager for Micron Technology Inc., with obstruction of justice. Censullo pleaded guilty and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron. Censullo was sentenced to serve six months of home detention.

In total, four companies have been charged with price fixing in the DRAM investigation. Samsung pleaded guilty to the price-fixing conspiracy and was sentenced to pay a $300 million criminal fine in November 2005. Hynix, the world's second-largest DRAM manufacturer, pleaded guilty and was sentenced to pay a $185 million criminal fine in May 2005. In January 2006, Japanese manufacturer Elpida Memory agreed to plead guilty and pay an $84 million fine. In October 2004, German manufacturer Infineon pleaded guilty and was sentenced to pay a $160 million criminal fine.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Office and the Federal Bureau of Investigation (FBI) in San Francisco.

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Anyone with information concerning price-fixing or bid rigging in the DRAM industry should contact the San Francisco Office of the Antitrust Division at 415-436-6660 or the San Francisco Division of the FBI at (415) 553-7400. Case filings can be viewed on the Antitrust Division's Web site, http://www.usdoj.gov/atr/.

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Image not available for this document, ID: 0.7.10316.30248-000002

NIALL E. LYNCH (State Bar No. 157959)
NATHANAEL M. COUSINS (State Bar No. 177944)
MAY Y. LEE (State Bar No. 209366)
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CHARLES P. REICHMANN (State Bar No. 206699)
Antitrust Division
U.S. Department of Justice
450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, CA 94102
Telephone: (415) 436-6660

Attorneys for the United States

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA v. THOMAS QUINN, Defendant.	No. CR **INFORMATION** VIOLATION: Title 15, United States Code, Section 1 - Price Fixing and Bid Rigging San Francisco Venue

The United States of America, acting through its attorneys, charges:

I.

DESCRIPTION OF THE OFFENSE

1. THOMAS QUINN is made a defendant on the charge stated below.

2. From on or about April 1, 1999 until on or about June 15, 2002, the defendant's corporate employer, Samsung Semiconductor, Inc. ("Samsung Semiconductor"), and coconspirators entered into and engaged in a combination and conspiracy in the United States and elsewhere to suppress and eliminate competition by fixing the prices of Dynamic Random Access Memory

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("DRAM") to be sold to certain original equipment manufacturers of personal computers and servers ("OEMs"). The combination and conspiracy engaged in by the defendant's corporate employer and coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The defendant joined and participated in the charged conspiracy at various periods of time from as early as April 1, 2001, until on or about June 15, 2002.

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant, his corporate employers, and coconspirators, the substantial terms of which were to agree to fix the prices for DRAM to be sold to certain OEMs and to coordinate bids offered by Sun Microsystems, Inc. ("Sun") on a lot of 1 Gigabyte Next-Generation Dual In-Line Memory Modules ("1 Gigabyte Next-Generation Modules") during a Sun auction on December 5, 2001.

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant, his corporate employer, and coconspirators did those things that they combined and conspired to do, including, among other things:

(a) participating in meetings, conversations, and communications in the United States and elsewhere to discuss the prices of DRAM to be sold to certain OEMs;

(b) agreeing, during those meetings, conversations, and communications, to charge prices of DRAM at certain levels to certain OEMs;

(c) issuing price quotations in accordance with the agreements reached;

(d) exchanging information on sales of DRAM to certain OEM customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices;

(e) authorizing, ordering, and consenting to the participation of subordinate employees in the conspiracy;

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(f) participating in meetings, conversations, and communications in the United States and elsewhere to discuss coordinating (*i.e.*, dividing up) a bid offered by Sun among themselves;

(g) agreeing, during those meetings, conversations, and communications, to coordinate a bid offered by Sun;

(h) coordinating, in accordance with the agreements reached, a bid offered by Sun among themselves, denying Sun a competitive price;

(i) participating in meetings, conversations, and communications to discuss the submission of prospective bids on one lot of 1 Gigabyte Next-Generation Modules offered by Sun;

(j) agreeing, during those meetings, conversations, and communications, to submit complementary bids to ensure the success of their agreement; and

(k) submitting complementary bids for one lot of 1 Gigabyte Next-Generation Modules, denying Sun a competitive price.

II.

DEFENDANTS AND COCONSPIRATORS

5. During the time period covered by this Information:

(a) Samsung was a corporation organized and existing under the laws of the Republic of Korea; its wholly owned subsidiary Samsung Semiconductor was a corporation organized and existing under the laws of California. Samsung and Samsung Semiconductor were engaged in the business of producing and selling DRAM to customers in the United States and elsewhere.

(b) Thomas Quinn was employed as V.P. of Marketing for Memory Products for Samsung Semiconductor.

6. Various corporations and individuals, not made defendants in this Information, participated as coconspirators in the offense charged in this Information and performed acts and made

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statements in furtherance of it.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III.

TRADE AND COMMERCE

8. DRAM is the most commonly used semiconductor memory product. DRAM provides high-speed storage and retrieval of electronic information in personal computers, servers and other devices. All references to DRAM in this Information include semiconductor memory devices and modules.

9. During the period covered by this Information, the defendant, his corporate employer, and coconspirators sold and distributed DRAM in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than the states or countries in which the defendant, his corporate employer, and coconspirators produced DRAM. The OEMs that were affected by the conspiracy to suppress and eliminate competition were: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer, Inc., International Business Machines Corporation, and Gateway, Inc.

10. The business activities of the defendant, his corporate employer, and coconspirators that are the subject of this Information were within the flow of, and substantially affected, interstate and foreign trade and commerce.

IV.

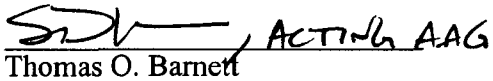
JURISDICTION AND VENUE

11. The combination and conspiracy charged in this Information was carried out, in part, in the Northern District of California, within the five years preceding the filing of this

DOJ_NMG_ 0168354

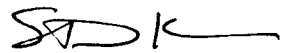
Information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.



Thomas O. Barnett
Assistant Attorney General

Phillip H. Warren
Chief, San Francisco Office



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Marc Siegel
Director of Criminal Enforcement

United States Department of Justice
Antitrust Division

Kevin V. Ryan
United States Attorney
Northern District of California

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System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 574627 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 574628 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 4:13 PM
To: USDOJ- Office of Public Affairs
Subject: PEDIATRIX AGREES TO PAY OVER $25 MILLION TO SETTLE CLAIM OF FALSE BILLINGS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
www.usdoj.gov/usao/md
www.usdoj.gov/usao/co

CONTACT: VICKIE LEDUC (Md.) or
JEFF DORSCHNER (Co.)
(410) 209-4800
(303) 454-0100

PEDIATRIX AGREES TO PAY OVER $25 MILLION TO SETTLE CLAIM OF FALSE BILLINGS

Health Care Provider Billed for Neonatal Critical Care Services When Patients Were Not Critically Ill

BALTIMORE – Pediatrix Medical Group Inc., whose network of affiliated physician groups provides medical services in various hospital neonatal intensive care units in 32 states and Puerto Rico, has agreed to pay the government over $25 million to settle government claims under the False Claims Act that Pediatrix improperly billed Medicaid, TRICARE and the Federal Employees Health Benefits Program for neonatal care provided by their doctors, announced U.S. Attorney Rod J. Rosenstein of the District of Maryland and U.S. Attorney Troy Eid of the District of Colorado. The investigation was conducted jointly by the U.S. Attorney's Offices for the Districts of Maryland and Colorado and a team from the Medicaid Fraud Control Units for the states of North Carolina, South Carolina, New Jersey and Maryland.

"Some health care providers 'upcode' their reimbursement claims and falsely represent that they are entitled to reimbursement for more expensive treatment than they actually provided," stated U.S. Attorney Rosenstein. "In this case, Pediatrix billed the government for critical care services when in fact the infants were not critically ill. Substantial recoveries such as this one protect the integrity of federal health care programs."

"This was a complex case that required the combined efforts of our offices and several state Medicaid Fraud Control Units to resolve," added U.S. Attorney Eid. "I congratulate the state and federal agents. Their investigation brought this case to a successful resolution. Pediatrix must now pay back money it never should have been paid."

According to the Settlement Agreement, from January 1996 through December 1999, Pediatrix improperly applied CPT billing codes to neonatal services that did not accurately correspond to the medical condition of the infant or the services provided. Specifically, Pediatrix admitted infants to hospital neonatal intensive care units using a CPT code for admission of critically ill infants, when as many as one-third or more

DOJ_NMG_ 0168358

of those infants were not in fact critically ill. Pediatrix used critical/unstable and critical/stable CPT codes for subsequent days of treatment, when as many as 50 percent or more of those infants were not in fact critically ill. Pediatrix also used critical/unstable and critical/stable CPT codes on discharge days, when as many as 85 percent or more of those infants were not in fact critically ill.

Pediatrix cooperated fully during the investigation. The company has agreed to abide by the terms of a Corporate Integrity Agreement (CIA) for five years. A CIA requires a health care provider to adhere to compliance measures that seek to ensure the integrity of claims submitted to a federal health care program by the provider. Pediatrix's CIA requires, in part, written standards and policies, a comprehensive employee training program, review of claims submitted to federal health care programs and the submission of various reports to the Department of Heath and Human Services' Office of the Inspector General.

The settlement also resolves a lawsuit originally filed on behalf of the United States by Daniel M. Hall, M.D., a board certified neonatologist, under the qui tam provisions of the False Claims Act. Enacted during the Civil War, the False Claims Act is the government's primary civil tool to combat fraud and abuse in federal programs and procurement. The Act allows the government to recover triple the amount of its actual damages, plus a civil penalty of $5,500 to $11,000 for each false claim. The qui tam provisions of the Act allow private parties to sue individuals and entities that have submitted false claims to the federal government and to receive a portion of the settlement if the government takes over the case and reaches a monetary agreement with the defendant. As a result of the settlement, Dr. Hall will receive $1,557,588 from the total federal recovery.

Inspector General Dan Levinson of the U.S. Department of Health and Human Services stated, "OIG is committed to working with our law enforcement partners to ensure that Medicaid's scarce resources are spent appropriately."

U.S. Attorneys Rod J. Rosenstein and Troy Eid commended the investigative work performed by the Offices of the Inspector General for the Department of Health and Human Services and the Office of Personnel Management and by the Defense Criminal Investigative Service. Mr. Rosenstein and Mr. Eid also thanked Assistant U.S. Attorneys Roann Nichols and Tarra DeShields, who handled the case in Maryland and Assistant U.S. Attorney Edwin Winstead, who handled the case in the District of Colorado.

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DOJ_NMG_ 0168359

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Image not available for this document, ID: 0.7.10316.29677-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 574771 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 6:20 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER SCHOOL PRINCIPAL STEVE THOMAS PLEADS GUILTY TO POSSESSING AND DISTRIBUTING CHILD PORNOGRAPHY

Department of Justice

United States Attorney Deborah J. Rhodes
Southern District of Alabama

FOR IMMEDIATE RELEASE
THURSDAY SEPTEMBER 21, 2006
WWW.USDOJ.GOV/USAO/ALS

CONTACT: CHARLIE McNICHOL
PHONE: (251) 415-7131
FAX: (251) 441-5277

FORMER SCHOOL PRINCIPAL STEVE THOMAS PLEADS GUILTY TO POSSESSING AND DISTRIBUTING CHILD PORNOGRAPHY

Prosecution is Part of Project Safe Childhood

MOBILE, Ala. – Former Stapleton School Principal Steve Thomas entered a guilty plea today to a two-count indictment charging him with distribution and possession of child pornography, U.S. Attorney Deborah J. Rhodes of the Southern District of Alabama announced.

This case is the result of a cooperative effort between federal and local law enforcement. Thomas came to the attention of law enforcement while Lt. Renee Graham of the Mobile Police Department was investigating another related case against Ben Boone. Boone admitted that he had been trading images of child pornography and that he had Internet "chats" with an individual who was identified as Steve Thomas. These "chats" included not only trading images of children, but also discussions about kidnaping and raping children. Lt. Graham provided this information to Special Agent Paul Roche with the FBI, who worked with Graham to identify Steve Thomas. Both cases were referred for federal prosecution. Boone was subsequently sentenced to 210 months in prison and a lifetime of supervised release following his incarceration.

"Unfortunately, the Internet has become a tool for predators to trade child pornography and to hunt for new victims," stated U.S. Attorney Rhodes. "Those who possess and trade these images further victimize these children and increase the market for this horrendous material. We will aggressively enforce the federal laws to protect the youngest and most vulnerable members of our society."

Based upon these charges, Thomas faces a maximum sentence of 20 years in prison, a fine of $250,000, and a lifetime of supervised release following his incarceration.

This case is part of Project Safe Childhood, a nationwide Department of Justice initiative which is based upon partnership among federal, state and local law enforcement, child advocacy groups and community organizations to prevent child exploitation and to prosecute offenders.

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DOJ_NMG_ 0168364

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Image not available for this document, ID: 0.7.10316.29674-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 6:32 PM
To: USDOJ- Office of Public Affairs
Subject: COVINGTON, LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
WWW.USDOJ.GOV/USAO/EDLA

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4859

COVINGTON, LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

NEW ORLEANS — Rene Monroe Lasalle, 32, of Covington, La., pled guilty to making false statements regarding his application to the Federal Emergency Management Agency (FEMA) for disaster assistance benefits, announced U. S. Attorney Jim Letten, of the Eastern District of Louisiana. Lasalle pled guilty before U. S. District Judge Martin L. C. Feldman to a violation of Title 18, U. S. Code, Section 1001, Material False Statements to the United States.

According to the factual basis, Lasalle was incarcerated in the work release program of the St. Tammany Parish Sheriff's Office in Slidell, La. at the time Hurricane Katrina struck. On Sept. 18, 2005, Lasalle applied for Expedited Assistance (EA) funds from FEMA, the $2,000 many evacuees received from FEMA. Lasalle indicated in his application that he had essential needs for "food, clothing or shelter," and that he had "disaster related moving and storage expenses," when in truth he had none because he was in the custody of the State of Louisiana. Further, Lasalle indicated in his application that he lived in Covington, La., when he was really in state custody. The maximum sentence Lasalle could receive is five years imprisonment and/or a fine of $250,000; or the greater of twice the gross gain to the defendant or twice the gross loss to any person under Title 18, U. S. Code, Section 3571. As in any federal criminal case, the U. S. Sentencing Guidelines will be taken into consideration by the court. Sentencing is set for December.

This case was investigated by Special Agents of the FBI assigned to the Katrina Fraud Task Force. This case was prosecuted by Assistant U. S. Attorneys Carter K. D. Guice, Jr. and Jon Maestri.

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Image not available for this document, ID: 0.7.10316.29673-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 6:43 PM
To: USDOJ- Office of Public Affairs
Subject: BERKELEY PREMIUM NUTRACEUTICALS, SIX INDIVIDUALS INDICTED FOR FRAUDULENT BUSINESS PRACTICES IN CONNECTION WITH SALES OF DIETARY SUPPLEMENTS

Department of Justice

United States Attorney Gregory G. Lockhart
Southern District of Ohio

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
http://www.usdoj.gov/usao/ohs

CONTACT: FRED ALVERSON
PHONE: 614-469-5715
FAX: 614-469-5503

BERKELEY PREMIUM NUTRACEUTICALS, SIX INDIVIDUALS INDICTED FOR FRAUDULENT BUSINESS PRACTICES IN CONNECTION WITH SALES OF DIETARY SUPPLEMENTS

112-count indictment alleges $100 million loss caused by fraud scheme

CINCINNATI -- A federal grand jury today indicted Cincinnati-based Berkeley Premium Nutraceuticals and six individuals connected with the company, alleging that Berkeley and the individuals made millions of dollars over a five-year period through a fraud scheme that sent thousands of customers dietary supplements they did not order, charged customers' credit cards without authorization, misrepresented their business activities to their customers and the merchant banks they worked with, and laundered the money through personal bank and investment accounts. The indictment alleges that the loss to victims is at least $100 million.

U.S. Attorney Gregory G. Lockhart of the Southern District of Ohio, Assistant Inspector in Charge Gerald A. O'Farrell of the U.S. Postal Inspection Service, Special Agent in Charge Timothy P. Murphy of the FBI's Cincinnati Field Division, Special Agent in Charge Cromwell A. Handy of the Internal Revenue Service Criminal Investigation, and Special Agent in Charge Kim Rice of the U.S. Food and Drug Administration Office of Criminal Investigations (FDA) announced the indictment. Lockhart also acknowledged the involvement of the Federal Trade Commission in uncovering Berkeley's business practices.

The indictment charges Steven E. Warshak, 40, president and owner of Berkely; Harriet Warshak, 72, of West Chester, Ohio; Paul J. Kellogg, 39, also of West Chester, Ohio; Charles W. "Chip" Clarke, Jr., 51, of Lakeside Park, Ky.; Steven P. Pugh, 36, of West Chester, Ohio; and Amar D. Chavan, 29, of Cincinnati. The indictment also charges TCI Media Inc, another company owned by Steven Warshak, with 21 counts of money laundering, and Berkeley Premium Nutraceuticals, with a total of 15 counts.

The indictment alleges that Berkeley, Steven Warshak, Harriet Warshak, Clarke and Chavan conspired beginning in 2001 to commit mail, wire and bank fraud.

DOJ_NMG_ 0168370

The alleged scheme involved false advertising which contained representations about money-back guarantees that the company, as a matter of practice, would not honor. As part of the scheme, the conspirators placed many consumers who responded to free-trial solicitations on an automatic shipment program without the customer's authorization, knowledge or consent. Berkeley would then send the product to the consumer and bill the consumer's credit card regularly. The program accounted for 60 to 80 percent of Berkeley's weekly revenue. When customers called to cancel, the conspirators employed various means to delay or hinder any returns or cancellations from occurring.

The indictment also alleges that the company gave customers who complained the name of a fictitious director of customer care, "Michael Johnson," and instructed the customers to write to him.

According to the indictment the conspirators used several tactics, including splitting sales into multiple charges, as a way to falsely inflate the number of sales transactions and reduce the company's ratio of "chargebacks" from disputed credit card charges. This allowed Berkeley to stay within the maximum chargeback percentage allowed by its merchant bank accounts and to continue the unauthorized charging of consumers' credit cards.

"The victims include thousands of consumers who purchased or agreed to a free trial of Berkeley's various products based upon false representations and promises, and whose credit cards were charged by Berkeley for products shipped to them without their authorization, knowledge, or consent," said U.S. Attorney Lockhart. "The victims also included various merchant banks who handled customer payments for Berkeley."

The indictment contains 12 counts of mail fraud against Steven Warshak and Berkeley stemming from the shipment of products to customers who did not order them and letters sent to customers from "Mr. Johnson," the fictitious Director of Customer Care. It also contains four counts of bank fraud and 12 counts of making false statements to banks in connection with Berkeley's use of merchant bank accounts. The indictment contains 77 counts of money laundering alleging that the defendants moved millions of dollars through multiple accounts to conceal the source of the money acquired through fraud, and also charges Steven Warshak, Kellogg and Pugh with three counts related to re-labeling one of the company's 13 core products, a prostate health product called Rovicid, which was re-packaged as a heart-healthy dietary supplement for both men and women

"The intentional mislabeling of supplements is not only fraudulent but presents a potential public safety threat," FDA Special Agent in Charge Rice said. "The FDA will aggresively pursue those who deliberately circumvent the laws in place to protect the consuming public."

Warshak and Kellogg are also charged with conspiring to transfer company money into a fraudulent trust fund in order to keep the assets hidden from the Federal Trade Commission (FTC) which was conducting an investigation in 2004 into fraudulent business practices. In January 2006, the FTC filed a complaint against Warshak, Berkeley, and several related companies.

The indictment contains a forfeiture allegation in which, if the defendants are convicted of crimes alleged, they could face a monetary judgment of $100 million representing the amount of loss caused by the fraud, as well as forfeiture of six pieces of real estate, two vehicles, the contents of 23 bank and investment accounts, contents of an insurance policy, and any other proceeds from the criminal acts.

U.S. Attorney Lockhart commended the cooperative investigation by inspectors and agents from the U.S. Postal Inspection Service, FBI, IRS, and FDA, as well as Assistant U.S. Attorney Anne L. Porter who is prosecuting the case and Assistant U.S. Attorney Nettie Wiethe who is handling the forfeiture aspects of the case.

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Anyone who believes they are a victim of the alleged criminal actions by Berkeley and wishes to receive information regarding case updates or to submit a victim impact statement can refer to the U.S. Attorney's Website, http://www.usdoj.gov/usao/ohs/VW.html, and click on case update to view the most recent updates.

An indictment is merely an accusation. The burden of proof is on the government to show in a court of law that the defendants named in the indictment actually committed the crimes.

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Image not available for this document, ID: 0.7.10316.29666-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 21, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 575182 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 8:41 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE CONFIRMATION OF KENNETH WAINSTEIN AS ASSISTANT ATTORNEY GENERAL FOR THE NATIONAL SECURITY DIVISION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 21, 2006
WWW.USDOJ.GOV

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

STATEMENT OF ATTORNEY GENERAL ALBERTO R. GONZALES ON THE CONFIRMATION OF KENNETH WAINSTEIN AS ASSISTANT ATTORNEY GENERAL FOR THE NATIONAL SECURITY DIVISION

"The confirmation of Ken Wainstein as Assistant Attorney General for the Department's National Security Division is an important step in the Department of Justice's strategy to combat terrorism. The new division will further improve coordination within the law enforcement community and will bring the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections under one authority, allowing the Department to fight threats to our national security more effectively and with less bureaucratic red tape."

"Since becoming U.S. Attorney for the District of Columbia in 2005, Ken has proven himself to be an effective and aggressive prosecutor and a strong manager. I want to thank the Senate for confirming this dedicated public servant. Under Ken's leadership, I am confident that the National Security Division will play an instrumental role in protecting all Americans."

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06-643

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 21, 2006 8:42 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 21, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Agreement on Military Commission Legislation Reported Reached (OPA)
The Administration and Congress today reportedly reached an agreement on legislation concerning military commissions in the War on Terror. Details of the agreement were not released to the public.

Samsung Executive Agrees to Plead Guilty, Serve Jail Time for Participating in Dram Price-Fixing Conspiracy (Antitrust)
A San Jose, Calif., executive of Samsung Semiconductor Inc. – the world's largest manufacturer of a common computer component called dynamic random access memory or DRAM – has agreed to plead guilty and to serve jail time for participating in a global conspiracy to fix DRAM prices, the Department of Justice announced today. The charged executive, Thomas Quinn, participated in the price-fixing conspiracy in his capacity as vice president of marketing for memory products at Samsung Semiconductor Inc., a United States subsidiary of Korean memory maker Samsung Electronics Company Ltd. Quinn was charged with violating the Sherman Act in a one-count information alleging participation in an agreement to fix prices of DRAM and to coordinate bids in an auction held by a DRAM purchaser.

Assistant Attorney General Schofield Testifies before Senate Subcommittee on Corrections and Rehabilitation
Today, Regina Schofield, Assistant Attorney General for Office of Justice Programs, testified before the Senate Subcommittee on Corrections and Rehabilitation at a hearing entitled *Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States*.

Pediatrix Agrees to Pay Over $25 Million to Settle Claim of False Billings (USAO-District of Maryland and District of Colorado)
Pediatrix Medical Group Inc., whose network of affiliated physician groups provides medical services in various hospital neonatal intensive care units in 32 states and Puerto Rico, has agreed to pay the government over $25 million to settle government claims under the False Claims Act that Pediatrix improperly billed Medicaid, TRICARE and the Federal Employees Health Benefits Program for neonatal care provided by their doctors, announced U.S. Attorney Rod J. Rosenstein of the District of Maryland and U.S. Attorney Troy Eid of the District of Colorado. The

investigation was conducted jointly by the U.S. Attorney's Offices for the Districts of Maryland and Colorado and a team from the Medicaid Fraud Control Units for the states of North Carolina, South Carolina, New Jersey and Maryland.

Covington, Louisiana Man Pleads Guilty To Fema Fraud (USAO-Eastern District of Louisiana)

Today, Rene Monroe Lasalle, of Covington, La., pled guilty to making false statements regarding his application to the Federal Emergency Management Agency (FEMA) for disaster assistance benefits, announced U. S. Attorney Jim Letten, of the Eastern District of Louisiana. According to the factual basis, Lasalle was incarcerated in the work release program of the St. Tammany Parish Sheriff's Office in Slidell, La. at the time Hurricane Katrina struck. On Sept. 18, 2005, Lasalle applied for Expedited Assistance (EA) funds from FEMA, the $2,000 many evacuees received from FEMA. Lasalle indicated in his application that he had essential needs for "food, clothing or shelter," and that he had "disaster related moving and storage expenses," when in truth he had none because he was in the custody of the State of Louisiana. Further, Lasalle indicated in his application that he lived in Covington, La., when he was really in state custody.

FBI and U.S. Attorney to hold Joint Press Conference (FBI)

Today, the United States Attorney for the Western District of Missouri and the FBI held a joint press conference regarding the arrests of 15 individuals in a case involving the fraudulent procurement of commercial driver's licenses by Somali nationals. The case drew significant media attention earlier this year when search warrants were executed. CNN and Fox News have continued to monitor the case.

FRIDAY'S EXPECTED EVENTS/RELEASES:

No public events scheduled.

System Administrator

From:	System Administrator
Sent:	Friday, September 22, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 575884 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

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See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 9:35 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 22, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 22, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

No public events scheduled.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.29644-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 22, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 579815 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Miller, Charles S

From: Miller, Charles S
Sent: Friday, September 22, 2006 10:56 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/22/06 Civil Division News

Court asked to drop eavesdropping case

State asks court to toss phone suit

U.S. talks 'urgent' after Arar case

Government defends Whitman's Sept. 11 environmental reassurances

Feds charge WTC painter with ripping off more than $1 million from Sept. 11 compensation fund

Baby-care firm settles Medicaid claims

Halliburton Employees, Subcontractors Allege More Abuses

Press Release: CREW Reveals What White House Has Not Released About Abramoff Secret Service Records; Many More Abramoff-Related Visits Took Place Than Have Been Disclosed

US May Release Terrorist Posada Carriles

Inmate sues U.S . marshals

AP

September 22, 2006

Court asked to drop eavesdropping case

By HOPE YEN

The Associated Press

WASHINGTON — The Bush administration asked an appeals court Thursday to step in immediately and dismiss a lawsuit over the government's warrantless eavesdropping program, calling a lower judge's ruling dangerous and wrong.

The Justice Department asked the 9th U.S. Circuit Court of Appeals to overturn the decision earlier this month by U.S. District Judge Garr King in Portland that kept the suit alive. Government attorneys argued that continuing the case would risk the disclosure of "highly sensitive foreign intelligence information."

The lawsuit was filed by the Al-Haramain Islamic Foundation, which had a chapter in Ashland, that went out of business after the U.S. government labeled it a terrorist organization.

The foundation alleged that two of its lawyers and at least one official were under electronic surveillance in March and April 2004. The foundation is asking King to rule the surveillance a violation of a federal law that requires a special court to approve intelligence-related wiretapping.

Typically, appeals are filed at the conclusion of a case in trial court; however, in this case, Justice Department attorneys are asking the 9th Circuit to step in now given the sensitivity and urgency of national security.

In the Sept. 7 order, King declined to dismiss the case, saying he believed there may be a way for the lawsuit filed by a now-defunct Islamic charity to proceed without releasing information that could harm U.S. security.

The decision, the latest of several rulings on the controversial program, drew a stern rebuke this week from Vice President Dick Cheney. He called it "just plain wrong."

In Thursday's filing, Justice Department attorneys argued that King's decision is flawed because classified facts needed to evaluate the case are protected under the so-called "state secrets" privilege.

END

AP

September 22, 2006

State asks court to toss phone suit

AUGUSTA (AP) - Maine's attorney general asked a federal court Thursday to throw out the government's lawsuit against Maine officials over whether a phone company should release information about its handling of confidential records.

Attorney General G. Steven Rowe said the state's request, filed on behalf of the Public Utilities Commission, asserts the federal government has no jurisdiction in the case. The state also contends that the government is wrong to invoke "state secrets" arguments.

"There are no state secrets at issue here," Rowe said at a news briefing after the motion to dismiss was filed in U.S. District Court in Bangor.

The litigation stems from a press release issued by Verizon and information it provided to the PUC, in which the telecommunications company claims it did not provide phone records to the government for its domestic surveillance program. The company also said in a May news release that it would not discuss any relationship with the National Security Agency program.

The PUC, prompted by a complaint by 22 Mainers, ordered Verizon to provide a sworn affirmation that Verizon's statement about the phone records is true. In response, the federal government sued, saying that the PUC's attempt to force Verizon to answer raised national security concerns.

Rowe was joined by PUC commissioners Thursday in rejecting the government's national security claims in the case.

"It's not about state secrets. It's about the integrity of the Public Utilities Commission process," said Sharon Reishus, one of the regulatory agency's commissioners and a defendant in the government's suit.

PUC Chairman Kurt Adams said the commission took the complaint over the handling of phone records "very seriously," adding that the PUC's ability to carry out its administrative duties was at issue in the case.

A legislator who is deeply involved in utility issues, Rep. John Brautigam, dismissed the federal government's secrecy claim as "the kind of legalistic mumbo-jumbo that gives the administration in Washington a bad name."

"The public has a right to know that their confidential information has been safeguarded in compliance with Maine law...," said Brautigam, D-Falmouth.

A spokesman for the U.S. Justice Department's public affairs office, Charles Miller, said there would be no comment on the motion because the case is in litigation.

Legal disputes have surfaced in other states over reports of phone company cooperation with government surveillance efforts.

In Vermont, Verizon and AT&T customers, Gov. Jim Douglas and the state's chapter of the American Civil Liberties Union are urging state utility regulators to determine whether the two phone companies violated state statutes by turning records over to the NSA.

The American Civil Liberties Union last spring filed complaints in more than 20 states over allegations that phone companies shared customer records with the NSA.

The Maine Civil Liberties Union is supporting the phone records complaint of the 22 Mainers.

END

CNEWS

September 21, 2006

U.S. talks 'urgent' after Arar case

By KATHLEEN HARRIS -- Sun Media

NEW YORK — Canada will seek "urgent" talks with the U.S. on information-sharing protocol in the wake of Monday's scathing report on the deportation of Maher Arar, while the RCMP commissioner's job may be in question.

Foreign Affairs Minister Peter MacKay said it is too early to say if Canada will make a formal protest to the United States over its mistreatment of Arar, but said he has already had discussions with Secretary of

State Condoleezza Rice.

"There is an urgent need, I would suggest, for us to look into protocols in the future, the ways in which information is shared between countries," he said. "The important aspect here is the prevention of any other similar deportations that put people like Mr. Arar in harm's way."

Arar was arrested during a stopover at New York's John F. Kennedy airport in 2002, and was deported to his native Syria, where he was tortured.

MacKay said he did not want to jeopardize a lawsuit filed by Arar, but did not rule out future government intervention to help get retribution for Arar from the U.S. "As far as any formal discussions that might take place in the future between Canada and the U.S., that door is open," he said.

MacKay also cast doubt on RCMP Commissioner Giuliano Zaccardelli's future at the helm. Asked if the Conservative government still has confidence in the top Mountie, MacKay said: "That will be a decision that is taken in the future."

A scathing report from Justice Dennis O'Connor released this week details coverups, police bumbling and a deliberate smear campaign orchestrated by authorities to destroy Arar's credibility. Most of its 23 recommendations are aimed at the RCMP, calling for better training and oversight.

The report found that Canadian authorities had no knowledge of the U.S. decision to deport Arar to Syria. But the U.S. acted on flawed information from the RCMP that claimed that Arar and his wife had ties to al-Qaida.

Grilled in the House of Commons in Ottawa Thursday, Public Safety Minister Stockwell Day said he met with Zaccardelli this week but did not confirm a suggestion the top Mountie had offered his resignation.

"I met with the commissioner yesterday and received assurances that a number of the recommendations of the Arar report were already being implemented," Day said. "He very clearly agreed that all of the recommendations would be followed through."

END

AP

Sept. 21, 2006

Government defends Whitman's Sept. 11 environmental reassurances

By LARRY NEUMEISTER The Associated Press

NEW YORK (AP) — The U.S. government asked a federal appeals court Thursday to find that former Environmental Protection Agency chief Christine Todd Whitman cannot be blamed for telling residents near the World Trade Center site that the environment was safe after the 2001 terrorist attacks.

The government told the 2nd U.S. Circuit Court of Appeals that a judge was wrong to force Whitman to face a 2004 lawsuit by residents, students and workers in lower Manhattan and Brooklyn who said they were exposed to hazardous dust and debris from the fallen twin towers.

"It is difficult to fathom a pull as strong as the need to calm public fears in the wake of the worst terrorist attack in our nation's history," government lawyers wrote in papers submitted to the court.

The government lawyers rejected claims that Whitman should be held personally liable for the

environmental consequences of the Sept. 11 attacks and made to pay damages to properly clean homes, schools and businesses and forced to create a fund for medical monitoring of victims.

"No decision of any court remotely suggests that a public statement, even a misleading public statement, could violate the substantive due process rights of thousands of individuals," the papers filed by Department of Justice lawyers in Washington said.

Earlier this year, U.S. District Judge Deborah A. Batts in Manhattan refused to dismiss Whitman as a defendant, calling her actions "conscience-shocking."

"No reasonable person would have thought that telling thousands of people that it was safe to return to lower Manhattan, while knowing that such return could pose long-term health risks and other dire consequences, was conduct sanctioned by our laws," Batts wrote.

The government then asked for permission to immediately appeal the decision before a trial could take place. The appeals court in Manhattan has not yet heard arguments.

In its submission Thursday, the government noted that the plaintiffs did not allege that the public statements by Whitman were intended to cause harm.

"In essence, plaintiffs invite the court to second-guess ... the policy judgments made by federal officials in the wake of the September 11 attacks," the government said. "That is exactly the type of inquiry that Congress has foreclosed."

The government said qualified immunity given to public officials was not a defense to liability but was meant "to afford protection to federal officials from the entirety of the litigation process."

The EPA's Office of the Inspector General eventually criticized the agency's response, saying it did not have available data and information to support statements in the days after the attacks that the air was safe to breathe.

The EPA's internal watchdog found the agency, at the urging of White House officials, gave misleading assurances there was no health risk from the dust in the air after the towers' collapse.

A telephone message left with lawyers for the plaintiffs was not immediately returned Thursday.

END

AP

September 22, 2006

Feds charge WTC painter with ripping off more than $1 million from Sept. 11 compensation fund

By LARRY NEUMEISTER

Associated Press Writer

NEW YORK_A New Jersey painter was arrested Thursday on charges he pulled off what prosecutors say is the biggest fraud yet from a Sept. 11 compensation fund _ more than $1 million.

The government said Mario Mastellone, 39, ripped off the September 11 Victim Compensation Fund of 2001 by claiming he was permanently disabled by injuries he suffered on Sept. 11 and had not worked

since the terrorist attacks.

Prosecutors said he lied to a Department of Justice agent investigating his case and lied to a hearing officer evaluating his claim for compensation. An indictment in U.S. District Court in Manhattan said he fraudulently obtained $1.07 million.

His lawyer, Andrew Karpf, maintained that his client was injured. He said he was being "victimized twice," first by the terrorist attack that downed the twin towers of the World Trade Center and second by federal\l "l" prosecutors relying on the word of a government witness with a grudge against him.

"He was in the buildings when they were hit and suffered disabilities," Karpf said. "He hasn't worked since then. Since then, he's been on medication."

Mastellone was quoted in the Asbury Park Press in April 2003 as saying he was treated for smoke inhalation on Sept. 11 but did not know that he hurt his back, his left arm and his shoulder until he visited a doctor days later. He also told the newspaper that his emotional pain was far worse than his physical pain.

U.S. Attorney Michael Garcia said in a statement that any attempt to rip off the fund was an effort "to profit from a monumental tragedy" and does a "grave disservice to the thousands of genuine victims of the September 11 attacks."

The government has asked the court to order Mastellone, of East Windsor, N.J., to forfeit more than $1 million. He was released on $600,000 bail.

Besides the Sept. 11 fund, which Congress established to compensate survivors or families of victims of the attacks on the condition they forgo lawsuits against airlines, Mastellone applied for funding from other entities including the state Workers' Compensation Board, according to his indictment.

END

Baltimore Sun

Sept. 22, 2006

Baby-care firm settles Medicaid claims

By Douglas Birch
Sun reporter

September 22, 2006

A Florida corporation that provides pediatric physician and nursing services to 32 states, including Maryland, agreed yesterday to pay $25 million to settle claims the company billed the federal government for critical care for infants who were not critically ill.

Rod J. Rosenstein, U.S. attorney for Maryland, said in a statement that Pediatrix Medical Group Inc. of Sunrise, Fla., had "upcoded" reimbursement claims to the government under the Medicaid program for services rendered by pediatricians, nurses and other specialists from January 1996 to December 1999.

During that period, the statement said, as many as a third of the infants Pediatrix employees labeled as

critically ill on admission to neonatal intensive-care units were not critically ill.

Pediatrix denied any wrongdoing yesterday. "There was no concerted effort to do anything outside the rules and regulations," said Bob Kneeley, a spokesman for the company.

Pediatrix, founded in 1979, provides services through 860 physicians and 350 advanced nurse practitioners. The case was filed against the company in 2002.

The investigation was led by Rosenstein and Troy Eid, U.S. attorney for Colorado, and conducted by Medicaid fraud control units in Maryland, Colorado and three other states.

END

The New Standard

Sept. 22, 2006

Halliburton Employees, Subcontractors Allege More Abuses

by Catherine Komp

Sept. 22 – One of the most notorious government contractors in Iraq, Halliburton subsidiary Kellogg Brown & Root, was under scrutiny again this week for allegedly overcharging US taxpayers and risking the lives of civilians.

Before a Democratic Senate committee hearing on Monday examining contracts in Iraq, former Kellogg Brown & Root (KBR) employees said the company failed to protect truck drivers, sent them into dangerous conflict zones to deliver supplies and put profit over human safety.

“I was reassured by KBR/Halliburton that I was not going to be a soldier but that I was a civilian – a 'non-combatant,'" New Mexico resident Edward Sanchez wrote in testimony to the Democratic Policy Committee. “I was told that we would not be sent into battles or areas of known attack. Unfortunately, KBR/Halliburton broke that promise.”

Sanchez alleged that the company "never" provided the drivers with maps and asked people with no experience driving in a fuel truck convoy to do just that. In April 2004, Sanchez was with three of those inexperienced drivers when his convoy was attacked on the way to Baghdad International Airport.

“I heard one of the drivers crying on the radio, ‘I’m hit, I’m hit!’” Sanchez recounted. “I heard another driver screaming, ‘I’m burning!’ Then the radio went silent.”

Sanchez himself was also shot. Six other employees were reportedly killed that day; another went missing and is presumed dead.

Calling Halliburton’s actions “criminal,” former KBR Civilian Convoy Commander Sean Larvenz testified that before Sanchez’s convoy departed, he had warned company officials of the insurgent attacks on the road to the airport.

Halliburton spokesperson Melissa Norcross told The NewStandard that 91 KBR employees and subcontractors have died in Iraq, Kuwait and Afghanistan since 2003.

Scott Allen, an attorney representing truck drivers and their families in a pending lawsuit, provided the committee with evidence that Halliburton tried to convince at least one of its drivers to sign a waiver releasing Halliburton of liability.

Language releasing the company of liability, reviewed by TNS, was included at the bottom of a “Medical Records Release Form.” The document, and a letter accompanying it, promised that Halliburton would provide the information to the Pentagon “for the purposes of awarding the Secretary of Defense Medal for the Defense of Freedom.”

Nevertheless, in a statement submitted to TNS by Norcross, the company stated, "It was never KBR's intention to utilize any such release to preclude claims by current or former employees against the company, and we have no intention of doing so in the future."

Norcross would not answer a question posed by TNS about why the company put the liability language in the medical-records release form.

A third employee, Julie McBride, told lawmakers that her job as KBR’s "morale, welfare and recreation coordinator" at Camp Fallujah entailed helping the company exaggerate its costs by over-counting the number of soldiers who used recreational facilities, like an Internet café and fitness center. "Under the contract, the more facilities, equipment, staff and administrators Halliburton can show a need for, the more profit Halliburton makes," McBride testified.

She also said Halliburton employees took supplies for their personal use and threw a Super Bowl party for themselves.

“It’s not easy to stand up to Halliburton,” McBride told the committee. “After I voiced my concerns about what I believed to be accounting fraud, Halliburton placed me under guard and kept me in seclusion. My property was searched, and I was specifically told that I was not allowed to speak to any member of the US military. I remained under guard until I was flown out of the country.”

McBride filed a whistleblower lawsuit against Halliburton last year under the False Claims Act, which allows citizens to sue on behalf of the government for contractors engaging in fraudulent billing practices. The Justice Department announced this month that it would not join as a co-plaintiff in the lawsuit, which was just recently unsealed.

Democratic Policy Committee (DPC) spokesperson Barry Piatt told TNS that a Halliburton representative was invited to the hearing, but did not attend.

Senator Byron Dorgan (D–North Dakota), who chairs the DPC, said this is the tenth hearing on contracting practices in Iraq. Though the committee is more than 60 years old, created under the Truman administration to conduct research and publish reports on Democratic policy issues, Dorgan and Senator Harry Reid (D–Nevada) recently expanded its mission to include oversight investigations and public hearings.

The Kuwait-based Aljadaan International General Trading Company also announced this week it was filing a lawsuit against Halliburton and KBR in a US district court in Texas.

Aljadaan alleges that several of its employees were killed or injured while doing work for KBR in Iraq during 2005. The company alleged that contracts with KBR resulted in more than $6 million in unpaid invoices and is suing KBR for breach of contract, unjust enrichment and intentionally interfering with contractual relations.

The suit also claims that corruption within KBR prevented Aljadaan from what it was contracted to do: deliver water, fuel and other supplies to US troops.

Halliburton, of which Vice President Dick Cheney was formerly CEO, has denied allegations of wrongdoing and states it fully intends to "vigorously defend" itself. The company, which has received billions of dollars in taxpayer funds, including many no-bid contracts, continues to receive contracts from the federal government, despite mounting allegations of abuses.

END

Citizens for Repsonsibility and Ethics in Government (CREW)

Sept. 21, 2006

Press Release: CREW Reveals What White House Has Not Released About Abramoff Secret Service Records; Many More Abramoff-Related Visits Took Place Than Have Been Disclosed

Washington, DC – It was reported yesterday that the White House had released White House visitor records of certain Republican operatives, including Grover Norquist and Ralph Reed, to settle Freedom of Information Act (FOIA) lawsuits brought by Citizens for Responsibility and Ethics in Washington (CREW) and Democratic National Committee (DNC). It was actually the Secret Service, a component of DHS, and not the White House that released the records.

CREW sued the Secret Service on May 9, 2006 for its failure to respond to a CREW FOIA request for Worker And Visitor Entrance System (WAVE), Access Control Records (ACR) and other visitor records for a number of prominent conservative activists, including Jack Abramoff, to the White House, executive office buildings and the Vice President's house. The DNC sued for a smaller scope of documents.

Once in litigation, the Secret Service took the remarkable position that all records were off-limits. When pressed in similar lawsuit brought by Judicial Watch, the Secret Service acknowledged that the agency had, in fact, destroyed records after making copies for the White House – a practice it discontinued only after the National Archives and Records Administration, the agency charged with ensuring that agencies properly preserve records, intervened in October 2004.

In settlement discussions with the Secret Service, CREW learned that the full body of visitor records shows that Norquist visited the White House far more than the 97 visits disclosed yesterday. The full complement of Secret Service records, including those the Secret Service destroyed (but which are still with the White House), shows that Norquist visited the White House a minimum of 155 times, Similarly, rather than the mere 18 meetings revealed yesterday, Reed visited the White House on at least 49 separate occasions.

The Secret Service is now arguing that the records are not the agency's to provide. This flatly contradicts the position taken by the agency during the Clinton administration, when the Secret Service provided such records to Judicial Watch in litigation over Filegate. CREW will continue to litigate until the Secret Service explains what records have been destroyed as well as why and at whose direction they were destroyed.

CREW's executive director Melanie Sloan stated, "Why is the White House stonewalling? What are they trying to hide? The American people deserve to know the truth about who has been peddling influence at the White House."

END

Prensa Latina (Cuba)

Sept. 21, 2006

US May Release Terrorist Posada Carriles

Washington, Sep 21 (Prensa Latina) Notorious international terrorist Luis Posada Carriles could be released in the US if the government of President George W. Bush refuses to present the evidence necessary to try him, attorney Jose Pertierra denounced on Thursday.

The White House has not presented evidence, witnesses, or certified him as terrorist, and so he can walk, affirmed Pertierra, who is representing Venezuela in its extradition request for the terrorist who planned the 1976 bombing of a Cuban passenger plane from Venezuelan territory.

In a news conference in Washington, the attorney referred to the possibility that the notorious terrorist could be released, and recalled that the term to issue the evidence against him expires Thursday.

This international terrorist remains in a penitentiary center in Texas where he was taken in May 2005 after appearing in public in Miami and thus revealing his illegal entrance into the US.

So far, he the only charge against him has been that migration crime, despite the extradition request issued by the Venezuelan government which accuses him of terrorism.

His criminal antecedents also include the organization of a series of terrorist attacks against Cuban tourist installations in 1997.

END

Pueblo Chieftain

September 21, 2006

Inmate sues U.S . marshals

Robert Boczkiewicz

The Pueblo Chieftain, Colo.

Sep. 21--DENVER - A former Canon City inmate who sustained a bloody beating at a Denver courthouse filed a lawsuit Tuesday against the U.S. Marshals Service for alleged negligence in failing to protect him.

The inmate had been brought to the federal courthouse in May 2005 as a prosecution witness in a trial against two other Colorado prison inmates.

U.S. marshals put him in a courthouse holding cell with inmates who were friends of the two inmates who were on trial. A recording from a video camera aimed at the cell shows two inmates who were friends of the defendants severely beating and kicking the Canon City inmate.

The marshal's service operates the courthouse cells for inmates due in court. In an internal report, a supervisory deputy marshal said his staff did not know about the beating until about 45 minutes afterwards, although the cells are monitored in a control room by cameras.

The inmate is seeking unspecified monetary damages. He contends he sustained "a permanent impairment of bodily function which may result in a permanent impairment of earning capacity."

His attorney was not available immediately to say what the impairment is or when the inmate may be free to earn income. He is now serving time at a prison outside Colorado.

END

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Friday, September 22, 2006 1:07 PM
Subject: Service Interruption: Upgrade to Equipment Located Rockville Data Center

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. The outage will occur during the posted service window below. This upgrade will be performed on resources located in the Rockville Data Center. Be advised that there is no risk of data loss.

When: Sunday, Sept. 24, 2006, 12:01 am to 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: SMO/JMD Customers Located in **RFK Main Justice** and **Rockville Data Center**

Unavailable Services:
Email Services
Internet Resources
G:\ Drive Resources
H:\ Drive Resources
M:\Drive Resources
Network Printers
BlackBerry *(PIN to PIN messaging is available)*

Una**vailable Services, All Customers** *(except those located in RFK Main Justice and Rockville Data Center):*
M:\ Drive
Sending Email to affected users found above

A**vailable Services, All Customers** *(except those located in RFK Main Justice and Rockville Data Center):*
All Network resources except the M:\Drive

Suggested Action: Please leave your workstation logged off and powered off during this service period.

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Click "Shut Down".
4. Choose the "Shutdown and Power off" option.

5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

System Administrator

From:	System Administrator
Sent:	Friday, September 22, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 579847 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 3:17 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER NEW ORLEANS DEPUTY CITY ATTORNEY SENTENCED TO LIFE IMPRISONMENT

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 22, 2006
WWW.USDOJ.GOV/USAO/EDLA

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4859

FORMER NEW ORLEANS DEPUTY CITY ATTORNEY SENTENCED TO LIFE IMPRISONMENT

NEW ORLEANS – Former Deputy City Attorney Henry A. Dillon III, 48, of New Orleans, has been sentenced to life imprisonment, U.S. Attorney Jim Letten of the Eastern District of Louisiana announced today.

On May 4, 2006, Dillon was found guilty by a federal jury of two counts of deprivation of rights under color of law against two separate victims. In addition, the jury made special findings that the offenses involved aggravated sexual abuse. Federal law defines aggravated sexual abuse as knowingly causing a person to engage in a sexual act by using force against that person.

According to the indictment, Dillon violated the civil rights of both victims while he was a Deputy City Attorney for the City of New Orleans by sexually assaulting each victim. Dillon lured each of the victims to his private law office in New Orleans after meeting them at Municipal Court by asserting that their presence was necessary to complete some court business. Once inside his office, he then forcibly raped each victim.

"Today, a ruthless and dangerous predator is beginning a lifelong federal prison sentence because he committed unspeakable acts of violence against innocent women while disguising himself as a public servant," stated U.S. Attorney Letten. "We in federal enforcement will continue to use all means at our disposal to protect all of our citizens, however young, disadvantaged or vulnerable, from corrupt and dangerous individuals such as Dillon."

U.S. Attorney Letten praised the courage of the victims identified in the indictment as well as those who testified or agreed to testify at trial for their courage in coming forward and providing critical testimony.

This matter was investigated by Special Agents of the FBI and the New Orleans Police Department. This case was prosecuted by Assistant U.S. Attorneys Michael McMahon and Mark Miller, as well as Julie Cullen, a Louisiana Deputy Attorney General who has been appointed Special Assistant U.S. Attorney.

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Image not available for this document, ID: 0.7.10316.29621-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 3:25 PM
To: USDOJ- Office of Public Affairs
Subject: CAPE GIRARDEAU MAN SENTENCED TO MORE THAN 26 YEARS FEDERAL PRISON ON CHILD PORNOGRAPHY CHARGES

Department of Justice

United States Attorney Catherine L. Hanaway
Eastern District of Missouri

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 22, 2006
www.usdoj.gov/usao/moe

CONTACT: JAN DILTZ
PHONE: (314) 539-2200
FAX: (314) 539-2309

CAPE GIRARDEAU MAN SENTENCED TO MORE THAN 26 YEARS FEDERAL PRISON ON CHILD PORNOGRAPHY CHARGES

ST. LOUIS – A Cape Girardeau County man has been sentenced to 26 years in federal prison on felony child pornography charges, U.S. Attorney Catherine L. Hanaway of the Eastern District of Missouri announced today.

Terry Corbin, 57, of Cape Girardeau, Mo., was sentenced to 320 months in prison for transportation of child pornography and for possession of child pornography. Upon release from prison, Corbin will be placed on supervised release for the remainder of his life.

As a result of the investigation, Corbin admitted that on March 3, 2005, he transported one video file containing child pornography to another individual via e-mail, using his Sony VAIO computer. On the same day, a federal search warrant was executed at Corbin's residence in Cape Girardeau. FBI agents seized Corbin's computer, which contained child pornography. Analysis of the saved files revealed that Corbin possessed more than 600 images of child pornography. Corbin estimated he had more than 20,000 images and stated that he collected images of child pornography like some people collect baseball cards.

U.S. Attorney Hanaway commended the Federal Bureau of Investigation, the Regional Computer Crimes Education and Enforcement Group, and the National Center for Missing and Exploited Children's, Child Victim Identification Program for their combined efforts to prosecute this case. Assistant U.S. Attorney Abbie Crites-Leoni handled the prosecution for the government.

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DOJ_NMG_ 0168402

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Image not available for this document, ID: 0.7.10316.29620-000002

System Administrator

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Sent:	Friday, September 22, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 4:47 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ANNOUNCES APPOINTMENT OF JEFFREY A. TAYLOR AS UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 22, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT ANNOUNCES APPOINTMENT OF JEFFREY A. TAYLOR AS UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA

WASHINGTON — The Justice Department today announced the appointment of Jeffrey A. Taylor to serve as the United States Attorney for the District of Columbia. Mr. Taylor will serve under an Attorney General appointment. He will succeed Kenneth Wainstein, who was confirmed Thursday to serve as the first Assistant Attorney General for the Department's new National Security Division.

Mr. Taylor currently serves as Counselor to Attorney General Alberto R. Gonzales. In this capacity, Mr. Taylor handles a broad array of matters, including oversight of the Department's national security, terrorism, and criminal litigation and policy, as well as the operations of the Department's law enforcement components. Mr. Taylor served as an Assistant United States Attorney for the Southern District of California from 1995–1999, where he prosecuted a variety of criminal matters, including international drug trafficking organizations. From 1999-2002, Mr. Taylor served as Counsel to the United States Senate's Committee on the Judiciary, working on issues including criminal law, terrorism, and national security.

"Jeff is a dedicated public servant and a valued advisor. He will continue to be an asset to the Department of Justice in his new capacity as U.S. Attorney for the District of Colombia. I know that his legal skills, leadership ability, and personable approach to doing business will make this time of transition for the U.S. Attorney's Office very smooth and productive," said Attorney General Gonzales.

Mr. Taylor began his legal career as a law clerk to the Honorable John C. Mowbray, Chief Justice of the Supreme Court of Nevada, from 1991–1992, and then worked for three years in private practice. He obtained his J.D. from Harvard Law School and his B.A. from Stanford University.

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06-644

DOJ_NMG_ 0168406

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Image not available for this document, ID: 0.7.10316.29618-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 5:22 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTED: JUSTICE DEPARTMENT ANNOUNCES APPOINTMENT OF JEFFREY A. TAYLOR AS UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 22, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT ANNOUNCES APPOINTMENT OF JEFFREY A. TAYLOR AS UNITED STATES ATTORNEY FOR THE DISTRICT OF COLUMBIA

WASHINGTON — The Justice Department today announced the appointment of Jeffrey A. Taylor to serve as the United States Attorney for the District of Columbia. Mr. Taylor will serve under an Attorney General appointment. He will succeed Kenneth Wainstein, who was confirmed Thursday to serve as the first Assistant Attorney General for the Department's new National Security Division.

Mr. Taylor currently serves as Counselor to Attorney General Alberto R. Gonzales. In this capacity, Mr. Taylor handles a broad array of matters, including oversight of the Department's national security, terrorism, and criminal litigation and policy, as well as the operations of the Department's law enforcement components. Mr. Taylor served as an Assistant United States Attorney for the Southern District of California from 1995–1999, where he prosecuted a variety of criminal matters, including international drug trafficking organizations. From 1999-2002, Mr. Taylor served as Counsel to the United States Senate's Committee on the Judiciary, working on issues including criminal law, terrorism, and national security.

"Jeff is a dedicated public servant and a valued advisor. He will continue to be an asset to the Department of Justice in his new capacity as U.S. Attorney for the District of Columbia. I know that his legal skills, leadership ability, and personable approach to doing business will make this time of transition for the U.S. Attorney's Office very smooth and productive," said Attorney General Gonzales.

Mr. Taylor began his legal career as a law clerk to the Honorable John C. Mowbray, Chief Justice of the Supreme Court of Nevada, from 1991–1992, and then worked for three years in private practice. He obtained his J.D. from Harvard Law School and his B.A. from Stanford University.

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06-644

DOJ_NMG_ 0168409

DOJ_NMG_ 0168410

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Image not available for this document, ID: 0.7.10316.29616-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 5:37 PM
To: USDOJ- Office of Public Affairs
Subject: HOUSTON RESIDENT PLEADS GUILTY TO HURRICANES RELIEF FRAUD

Department of Justice

United States Attorney Donald J. DeGabrielle, Jr.
Southern District of Texas

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 22, 2006
WWW.USDOJ.GOV/USAO/TXS

CONTACT: JOHN YEMBRICK
PHONE: (713) 567-9388
FAX: (713) 718-3389

HOUSTON RESIDENT PLEADS GUILTY TO HURRICANES RELIEF FRAUD

HOUSTON – Gregory Parks, also known as Paige Mahogany, 33, of Houston, Texas, has been convicted of mail fraud and aggravated identity theft for filing numerous fraudulent applications with FEMA for Hurricane Katrina and Hurricane Rita disaster assistance, U.S. Attorney Donald DeGabrielle of the Southern District of Texas announced today.

At a hearing held before U.S. District Judge Lee Rosenthal, Parks pleaded guilty to the federal felony charges of mail fraud and aggravated identity theft. Parks' sentencing is set for Jan. 28, 2007, where he faces a mandatory two years in prison for the aggravated identity theft charge and up to 20 years in prison for the mail fraud conviction. The conviction also carries a maximum fine of $250,000.

Investigation revealed that between Sept. 12, 2005, and Oct. 27, 2005, Parks submitted at least 15 separate applications to FEMA for Hurricane Katrina and Hurricane Rita disaster assistance, using 15 distinct and assigned Social Security numbers and 15 different "damaged addresses" in New Orleans and Lake Charles, La.; and Orange, Port Arthur and Port Neches, Texas. Investigation further revealed that Parks was residing in Houston, prior to and during both storms and that he was not entitled to disaster assistance. Parks received funds from the U.S. Department of Treasury for 10 of his applications for a total of $35,548 prior to the discovery of his fraudulent conduct.

The U.S. Attorney's Office for the Southern District of Texas is a member of the Department of Justice's Hurricane Katrina Fraud Task Force, created by Attorney General Alberto R. Gonzales to deter, detect and prosecute unscrupulous individuals who try to take advantage of the Hurricane Katrina and Hurricane Rita disasters. Headed by Assistant Attorney General Alice S. Fisher of the Justice Department's Criminal Division, the Task Force is comprised of federal, state and local law enforcement investigating agencies and the United States Attorney's Offices in the Gulf Coast region and nationwide.

DOJ_NMG_ 0168413

This case was investigated by the Department of Homeland Security's Office of Inspector General and by the U.S. Postal Inspection Service, and is being prosecuted by Special Assistant U.S. Attorney Jason Varnado.

Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours per day, seven days per week until further notice. Information can also be emailed to the DHS Office of Inspector General at dhsoighotline@dhs.gov or sent by surface mail, with as many details as possible, to:

Department of Homeland Security
Washington, DC. 20528
Attn: Office of Inspector General, Hotline

The Department of Justice Hurricane Katrina Fraud Task Force and Federal Trade Commission Consumer Response Center will also accept disaster fraud information. To provide information to the Justice Department, access the FBI's Internet Crime Complaint Center at www.ic3.gov. The Federal Trade Commission accepts disaster fraud information on its toll-free line, 1-877-382-4357, or TTY 202-326-2502 for persons with speech or hearing impairment.

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DOJ_NMG_ 0168414

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Image not available for this document, ID: 0.7.10316.29615-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 22, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580582 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 6:28 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 25 – SEPTEMBER 29, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 22, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR SEPTEMBER 25 – SEPTEMBER 29, 2006

Monday, September 25

12:15 P.M. CDT

Solicitor General Paul Clement will deliver remarks before the Milwaukee chapter of The Federalist Society regarding the upcoming term for the United States Supreme Court.
Milwaukee Athletic Club
Superior Room
758 N. Broadway
Milwaukee, Wisconsin
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Giampietro of The Federalist Society at 414-297-1083, or to the Office of Public Affairs at 202-514-2007.

Tuesday, September 26

5:30 P.M. EDT

Solicitor General Paul Clement will deliver the Torrey Armstrong Memorial Lecture to the Alexandria Bar Association regarding the role of the Office of the Solicitor General.
George Washington Masonic Temple
101 Callahan Drive
Alexandria, Virginia
OPEN PRESS

Press inquiries regarding logistics should be directed to John Anderson at 703-734-4356, or to the Office of Public Affairs at 202-514-2007.

DOJ_NMG_ 0168418

Wednesday, September 27

Events TBD

Thursday, September 28

Events TBD

Friday, September 29

9:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the Georgetown University Law Center Conference on the Judiciary regarding judicial independence.
McDonough Building
Hart Auditorium
600 New Jersey Avenue N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

9:45 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks before the United States Chamber of Commerce Intellectual Property Summit regarding the Department's efforts to protect intellectual property rights.
U.S. Chamber of Commerce
Hall of Flags
1615 H Street N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486.

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DOJ_NMG_ 0168419

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Image not available for this document, ID: 0.7.10316.29613-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 22, 2006 7:13 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 22, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Attorney General Discusses Military Commission Legislation (OPA)
Today, the Attorney General met via teleconference with select members of *The Washington Post* Editorial Board to discuss military commission legislation. He also participated in radio interviews on the same topic with *The Lars Larson Show* and *The Mitch Albom Show*. On Sunday, he will discuss the issue with members of the *USA Today* Editorial Board.

***Palm Beach Post* story on the Everglades (ENRD)**
The Florida Natural Resources Conservation Service released a letter to the *Palm Beach Post* today addressed to the Justice Department's Environment & Natural Resources Division outlining their intention to cease negotiations to modify the consent decree which governs the Everglades. Media attention is expected this weekend.

Justice Department Announces Appointment of Jeffrey A. Taylor as United States Attorney for the District of Columbia (Executive Office for United States Attorneys)
The Justice Department today announced the appointment of Jeffrey A. Taylor to serve as the United States Attorney for the District of Columbia. Mr. Taylor will serve under an Attorney General appointment. He will succeed Kenneth Wainstein, who was confirmed Thursday to serve as the first Assistant Attorney General for the Department's new National Security Division.

***ABC News* Interviews FBI Assistant Director (FBI)**
ABC News reporter Pierre Thomas conducted an interview today with Dr. Vahid Majidi, FBI Assistant Director Assistant Director for the Weapons of Mass Destruction Directorate, regarding FBI efforts to combat agro-terrorism. The story is expected to air on Sunday evening.

MONDAY'S EXPECTED EVENTS/RELEASES:

12:15 P.M. CDT Solicitor General Paul Clement will deliver remarks before the Milwaukee chapter of The Federalist Society regarding the upcoming term for the United States Supreme Court.
Milwaukee Athletic Club
Superior Room
758 N. Broadway
Milwaukee, Wisconsin
OPEN PRESS

Press inquiries regarding logistics should be directed to Gordon Giampietro of The Federalist Society at 414-297-1083, or to the Office of Public Affairs at 202-514-2007.

System Administrator

From:	System Administrator
Sent:	Friday, September 22, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580739 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 23, 2006 4:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Detroit, MI

From: AmberAlert-DOJ
Sent: Saturday, September 23, 2006 4:01:15 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Detroit, MI
Auto forwarded by a Rule

AMBER ALERT:Detroit,MI VEHICLE:1997 Blue Chevy Sport Van TAG:MI ACB6646 CHILD:11 B/F 5'2" CHILD:9 B/F 4'11" SUSPECT:54 B/M 5'8" 210 lbs CALL 313-877-7810
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2222

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580742 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580743 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580743 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580744 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580745 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 23, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580746 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Sunday, September 24, 2006 12:01 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Pittston Township, PA

From: AmberAlert-DOJ
Sent: Sunday, September 24, 2006 12:01:16 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Pittston Township, PA
Auto forwarded by a Rule

AMBER ALERT:Pittston Township,PA CAR:1999 Black Kia Sophia TAG:PA EDD-1922 CHILD:5 W/F 3' 40lbs Eye:Bro Hair:Bro SUSPECT:45 W/M 5'7" Eye:Bro Hair:Bla CALL 911
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2242

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580748 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580749 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580750 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580751 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580751 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, September 24, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580752 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 580758 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 590203 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, September 25, 2006 11:06 AM
Subject: JCON BROADCAST, WEEK OF SEPTEMBER 25, 2006

JCON BROADCAST, WEEK OF SEPTEMBER 25, 2006

1. **National Hispanic Heritage Month 2006 Program**
2. **Financial Education Seminar: Financial Planning**
3. **Research Classes Offered by Library Staff**

National Hispanic Heritage Month 2006 Program

The Department of Justice will present its commemorative program in observance of **National Hispanic Heritage Month, 11:30 a.m. to 12:30 p.m., Wednesday, October 4, 2006**, in the Great Hall of the Robert F. Kennedy, Main Building. Featured speakers include Attorney General Alberto R. Gonzales and Treasurer of the United States Anna Escobedo Cabral. There will be performances by Mezzo-Soprano, Anamer Castrello and Juan Zavala, piano, and an ethnic food sampling will follow the program.

Sign language interpreters and assistive listening devices will be available. Managers are encouraged to grant employees in the Washington Metropolitan Area reasonable official time to participate.

Financial Education Seminar: Financial Planning

The Justice Management Division, Personnel Staff is hosting a Financial Education Seminar **11:30 a.m. to 12:30 p.m., Wednesday, October 18, 2006, in Room 1160 of the National Place Building**. The "Financial Planning" seminar is open to Department employees and is a wonderful opportunity to learn more about financial planning. Learn from an expert! Mr. Michael Schiano, from InCharge Education Foundation, Inc., will discuss personal finance and financial planning.

Please join us on Wednesday, October 18, 2006, for a lively discussion on personal financial planning. Space is limited to the first 50 registrants. Supervisors are encouraged to grant official time to employees to attend this training program. Sign language interpreter available upon request. To register for the seminar, please send your name, component, and phone number to Jamie.A.Higgins@usdoj.gov .

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 590211 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 590224 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 590225 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, September 25, 2006 7:29 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 25, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

***Bloomberg* May Publish Article on FBI Efforts to Combat Public Corruption (FBI)**
Tomorrow, *Bloomberg* may publish an article by reporter Rob Schmidt regarding FBI efforts to combat public corruption. In preparation for the article, Schmidt interviewed Chip Burrus, FBI Assistant Director for the Criminal Investigative Division, and Karen Spangenberg, Financial Crimes Section Chief.

TUESDAY'S EXPECTED EVENTS/RELEASES:

Attorney General to Participate in Press Conference Regarding Drug-Related Plea Deal (OPA)
Tomorrow, the Attorney General will participate in a press conference with a number of Administration officials announcing a drug-related plea deal.

11:00 A.M. CDT U.S. District Judge Kenneth Hoyt will hear victim testimony and sentence Andrew Fastow, former Enron Chief Financial Officer.
Courtroom 11-A
United States Courthouse
515 Rusk Avenue
Houston, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to the United States District Court for the Southern District of Texas at 713-250-5500.

5:30 P.M. EDT Solicitor General Paul Clement will deliver the Torrey Armstrong Memorial Lecture to the Alexandria Bar Association regarding the role of the Office of the Solicitor General.
George Washington Masonic Temple
101 Callahan Drive
Alexandria, Virginia

OPEN PRESS

Press inquiries regarding logistics should be directed to John Anderson at 703-734-4356, or to the Office of Public Affairs at 202-514-2007.

System Administrator

From:	System Administrator
Sent:	Monday, September 25, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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Your mailbox size is 590250 KB.

Mailbox size limits:

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See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 590250 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

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See client Help for more information.

[redacted]@tibco.com

From: [redacted]@tibco.com
Sent: Tuesday, September 26, 2006 7:59 AM
To: Gorsuch, Neil M
Subject: Service-Oriented Architecture Seminar
Attachments: tmp.htm

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Government agencies are under increasing pressure to increase operational efficiency and provide constituents with real-time access to information and services that cross organizational silos.

â?¢To what extent are you able to share information between agencies and departments?

â?¢Does your IT infrastructure enable you to respond quickly to changing requirements?

Learn how government agencies are using the principles and technologies of service-oriented architecture (SOA) to reduce IT costs, increase operational efficiency, and respond quickly to threats and opportunities in the environment.

Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: Thursday, November 2, 2006

Time: 7 a.m. to 1 p.m.

Location: Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am Registration/Breakfast
8:00 am - 8:15 am Welcome
8:15 am - 9:00 am Featured Keynote Address - [redacted] Gartner
9:00 am - 9:45 am Service-Oriented Architecture - [redacted] TIBCO Software
9:45 am - 10:00 am Break
10:00 am - 11:00 am SOA Executive Panel Discussion 11:00 am - 12:00 pm Event Driven Architecture - [redacted] TIBCO Software 12:00 pm - 1:00 pm Lunch/Closing

SOA Executive Panel:
Moderator
[redacted] USAF

Panelists
Joaquin Martinez, Deputy Chief Architect HPMO, Office of Information, Veteran Affairs [redacted] RABA [redacted] DDNI [redacted] Principal Consultant, EDS

To register go to:

http://www.tibco.com/mk/2006/info_sharing_gov.jsp
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We hope to see you on November 2nd

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SOA Executive Panel:
Moderator
[redacted] Former CIO - USAF

Panelists
Joaquin Martinez, Deputy Chief Architect HPMO, Office of Information, Veteran Affairs
[redacted] Chief Scientist, Object-Oriented Technologies, RABA
[redacted] ODNI
[redacted] Principal Consultant, EDS

To register go to:
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We hope to see you on November 2nd

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 9:41 AM
To: USDOJ- Office of Public Affairs
Subject: "GIRLS GONE WILD" FOUNDER JOSEPH FRANCIS PLEADS GUILTY IN SEXUAL EXPLOITATION CASE

Please find a PDF copy of the plea agreement and information attached.

FOR IMMEDIATE RELEASE — CRM
TUESDAY, SEPTEMBER 26, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

"GIRLS GONE WILD" FOUNDER JOSEPH FRANCIS PLEADS GUILTY IN SEXUAL EXPLOITATION CASE

Joseph Francis Agrees to Pay $500,000 Fine

WASHINGTON – Joseph Francis, founder, CEO and sole shareholder of two California companies doing business under the name "Girls Gone Wild," has pleaded guilty to charges that he failed to create and maintain age and identity documents for performers in sexually explicit films produced and distributed by Girls Gone Wild, as required by federal law, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Francis entered the guilty plea yesterday before U.S. District Judge Margaret Morrow at U.S. District Court in Los Angeles. Santa Monica-based Mantra Films, Inc., which is owned and operated by Francis, entered a plea agreement on Sept. 12, 2006, at U.S. District Court in Panama City, Fla. A second related company, MRA Holdings, Inc., also entered a deferred prosecution agreement the same day.

Sentencing is scheduled for Dec. 18, 2006, at 1:15 p.m.

Francis pleaded guilty to two counts filed under a law—often referred to as Section 2257—passed by Congress to prevent the sexual exploitation of children. The law protects against the use of minors in the production of sexually explicit material by requiring producers to create and maintain age and identity records for every performer. Producers and distributors must then label their products with the name of the custodian of the records and their location.

Under the agreements, Francis agreed to pay the maximum fine of $500,000, and his two companies agreed to pay an additional sum of $1.6 million in fines and restitution. Francis, Mantra, and MRA Holdings will make a public acknowledgment of criminal wrongdoing and agreed to fully comply with the record-keeping laws going forward. MRA Holdings also agreed that for three years it will employ an independent, outside monitor selected by the government and provide the monitor complete access to the books and records, production facilities and other locations required to ensure the company's compliance with federal law relating

to the production of visual materials under the name Girls Gone Wild, or any other name. In statements filed in court yesterday, Francis admitted that Girls Gone Wild, acting under his direction, filmed performers engaging in sexually explicit conduct and produced and distributed sexually explicit video materials during all of 2002 and part of 2003 while violating the record keeping and labeling laws.

In May 2006, Attorney General Alberto R. Gonzales, pursuant to "Project Safe Childhood," asked the Federal Bureau of Investigation (FBI) to begin conducting regular inspections of records kept by producers of sexually explicit materials pursuant to Title 18, U.S.C., Section 2257. Producers are required to keep records on performers to include true name and date of birth and to produce these records on demand. These regulations and resulting inspections are designed to prevent producers from hiring minors as performers, and carry criminal penalties for violations.

The Los Angeles case is being prosecuted by Brent D. Ward, Director of the Justice Department's Obscenity Prosecution Task Force, with assistance from the U.S. Attorney's Office in the Northern District of Florida. The Obscenity Prosecution Task Force was formed to focus on the prosecution of adult obscenity nationwide. Investigation of the cases was conducted by the Adult Obscenity Squad of the FBI, which is based in Washington, D.C..

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06-644

Department of Justice

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2006 SEP 14 AM 11:00

LOS ANGELES CALIF.

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JOSEPH R. FRANCIS, Defendant.	No. CR 06-696 **INFORMATION** [18 U.S.C. § 2257(f)(1): Failure to Make and Maintain Required Records; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done]

The United States Attorney charges:

COUNTS ONE AND TWO

[18 U.S.C. § 2257(f)(1); 18 U.S.C. § 2]

1. Mantra Films, Inc., is, and at all times relevant to this Information was, a business located in Santa Monica, California.

2. Defendant JOSEPH R. FRANCIS is, and at all times relevant to this Information was, the founder, primary or sole owner, and Chief Executive Officer of Mantra Films, Inc.

3. At all times relevant to this Information, defendant JOSEPH R. FRANCIS and Mantra Films, Inc., produced for commercial sale "Girls Gone Wild" digital versatile disks ("DVDs"). Because the DVDs contained visual depictions made after November 1, 1990 of actual sexually explicit conduct and were produced in whole or in part with materials mailed or shipped in interstate or foreign commerce and intended for shipment or transportation in interstate or foreign commerce, defendant JOSEPH R. FRANCIS and Mantra Films, Inc., were required to create and to maintain individually identifiable records pertaining to each performer portrayed in such visual depictions, which records were required to include each performer's legal name and verification that each performer was eighteen (18) years of age or older.

4. Beginning on or about March 31, 2002, and continuing to on or about January 9, 2004, in the Central District of California and elsewhere, defendant JOSEPH R. FRANCIS, aided, abetted, counseled and induced by others, known and unknown to the United States Attorney, produced and caused to be produced films, videotapes, and other matters, that is, DVDs bearing the following titles, which DVDs contained one or more visual depictions of actual sexually explicit conduct made after November 1, 1990, and were produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce and were intended for shipment in interstate and foreign commerce, without maintaining individually identifiable

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records pertaining to every performer portrayed in such visual depictions:

COUNT	DVD TITLE
ONE	"Ultimate Spring Break, Volume 3"
TWO	"Ultimate Spring Break, Volume 4"

Lorna G. Cadora, Chief Assistant U.S. Attorney

DEBRA WONG YANG
United States Attorney

BRENT D. WARD
Director
Obscenity Prosecution Task Force
Department of Justice

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Attorneys for Plaintiff
UNITED STATES OF AMERICA

FILED - WESTERN DIVISION
CLERK, U.S. DISTRICT COURT
SEP 25 2006
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JOSEPH R. FRANCIS, Defendant.	CR No. 06-696-MMM PLEA AGREEMENT FOR DEFENDANT JOSEPH R. FRANCIS Hearing: Date: 9/25/2006 Time: 3:00 pm Place: Roybal Courtroom 780

1. This constitutes the binding plea agreement between JOSEPH R. FRANCIS ("defendant" or "FRANCIS") and the Obscenity Prosecution Task Force of the Criminal Division of the United States Department of Justice ("OPTF") and the United States Attorney's Office for the Central District of California ("USAO") (collectively the "Government") in the above-captioned case. This Agreement is limited to the OPTF and the USAO and cannot

bind any other federal, state, or local prosecuting, administrative, or regulatory authorities except as expressly set forth herein.

PACKAGE AGREEMENT

2. FRANCIS acknowledges that this Agreement is part of a package agreement in which the disposition of the charges against FRANCIS is contingent on the disposition of charges against Mantra Films, Inc., and the execution and entry of a deferred prosecution agreement against MRA Holdings, LLC, two companies of which FRANCIS is the founder, CEO, and sole shareholder, in the Northern District of Florida. It is a condition of this Agreement, the failure to satisfy which condition shall constitute a breach of this Agreement, that Mantra Films, Inc., must enter a guilty plea and MRA Holdings, LLC, a deferred prosecution agreement in the Northern District of Florida. FRANCIS acknowledges that he has directed his attorneys to negotiate this Agreement as part of such a package agreement; has discussed with his attorneys, and carefully considered, the possible advantages and disadvantages of entering into this Agreement as part of such a package agreement; is entering into this Agreement as part of such a package agreement freely and voluntarily because he believes this Agreement and the package agreement to be in his best interests; and is not entering into this Agreement as part of the package agreement because of any threats, coercion, or undue influence by the Government or any of the parties to the package agreement or their counsel.

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PLEA

3. FRANCIS agrees to waive indictment and plead guilty to a two-count Information to be filed in the United States District Court for the Central District of California in substantially the form attached as Attachment B (the "Information"), charging that FRANCIS produced, manufactured or published any film, videotape, digital image or picture after November 1, 1990 which contains one or more visual depictions of actual sexually explicit conduct, which was shipped or intended to be shipped in interstate commerce, and for which FRANCIS failed to create or maintain individually identifiable records required by 18 U.S.C. § 2257 and 28 C.F.R. § 75 pertaining to every performer portrayed in such visual depiction, including a legible copy of an identification document.

NATURE OF THE OFFENSE

4. In order for defendant to be guilty of the crimes charged in Counts One and Two of the Information, which charge violations of Title 18, United States Code, Section 2257(f)(1), the following must be true: FRANCIS produced a film, videotape, or other matter that contained one or more visual depictions made after November 1, 1990, of actual sexually explicit conduct, that is, sexual intercourse, bestiality, masturbation, sadistic or masochistic abuse, or lascivious exhibition of the genitals or pubic area of any person, and failed to create or maintain an identification document for one or more of the performers who appeared in such visual depiction. Defendant admits that

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defendant is, in fact, guilty of these offenses as described in counts One and Two of the Information.

PENALTIES

5. The statutory maximum sentence that the Court can impose for each violation of Title 18, United States Code, Section 2257(f)(1) is: 5 years imprisonment; a 3-year period of supervised release; alternatively, a term of probation of no less than 1 year nor more than 5 years; a fine of $250,000; and a mandatory special assessment of $ 100. Therefore, the total maximum sentence for all offenses to which defendant is pleading guilty is: 10 years imprisonment; a 3-year period of supervised release; alternatively, a term of probation of no less than 1 year nor more than 5 years; a fine of $500,000; and a mandatory special assessment of $200.

6. Supervised release is a period of time following imprisonment during which defendant will be subject to various restrictions and requirements. Defendant understands that if defendant violates one or more of the conditions of any supervised release imposed, defendant may be returned to prison for up to 2 years, which could result in defendant serving a total term of imprisonment greater than the statutory maximum stated above.

7. Defendant also understands that, by pleading guilty, defendant may be giving up valuable government benefits and valuable civic rights, such as the right to vote, the right to possess a firearm, the right to hold office, and the right to

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serve on a jury.

8. Defendant further understands that the conviction in this case may subject defendant to various collateral consequences, including but not limited to, deportation, revocation of probation, parole, or supervised release in another case, and suspension or revocation of a professional license. Defendant understands that unanticipated collateral consequences will not serve as grounds to withdraw defendant's plea of guilty.

FACTUAL BASIS

9. Defendant and the Government agree and stipulate to the statement of facts provided below. This statement of facts includes facts sufficient to support a plea of guilty to the charges described in this Agreement. It is not meant to be a complete recitation of all facts relevant to the underlying criminal conduct or all facts known to defendant that relate to that conduct. Defendant and the Government agree and stipulate to the following statement of facts which provide the factual basis underlying this Agreement:

a) FRANCIS is the founder, CEO and sole shareholder of Mantra Films, Inc., and MRA Holdings, LLC. ("the companies"). The companies produce, market and distribute "Girls Gone Wild" videos and DVDs. In the process of creating these videos, agents of the companies often film individuals engaged in sexually explicit conduct as defined in 18 U.S.C. § 2256(2)(A).

b) As the CEO and/or primary or sole shareholder of the companies, FRANCIS was during the relevant time period involved

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in the day-to-day operations of the companies. As such, FRANCIS (1) established the policies of the companies, (2) established budgets for productions, including monetary incentives to cameramen who film footage for the companies,(3) sometimes directed cameramen and other production staff acting on the companies' behalf in what type of footage they should obtain, (4) decided what venues camera operators would visit to obtain footage to include in the videos, and (5) made most major decisions on behalf of the companies. FRANCIS was also personally involved in persuading performers to engage in sexually explicit conduct, reviewing footage obtained by cameramen, deciding which footage would be used in commercially marketed and released films and deciding how the companies' products would be packaged and marketed. As a result, FRANCIS was producing, as that term is defined in 18 U.S.C. § 2256(3), the material that is included in the videos addressed in Counts One and Two.

c) On or about March 31, 2002, a cameraman acting on behalf of the companies and FRANCIS obtained footage of two female performers engaging in actual sexually explicit conduct. The cameraman failed to obtain for either of the performers a legible copy of an identification document as required by 18 U.S.C. § 2257 or 28 C.F.R. § 75 and no such documentation relating to this footage was provided by the cameraman or anyone else to the companies or to FRANCIS. This footage ultimately was included in two different videos commercially marketed for sale

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to the public by FRANCIS and the companies, namely, videos contained on DVDs entitled "Ultimate Spring Break, Volume 3" and "Ultimate Spring Break, Volume 4" ("the videos").

d) FRANCIS was personally involved in selecting the footage to be included in the videos.

e) FRANCIS knowingly decided to include the footage referenced above even though neither he nor anyone at the companies obtained a legible copy of an identification document or created or maintained the records required pursuant to 18 U.S.C. § 2257 or 28 C.F.R. § 75 for the footage or videos referenced above or attempted to verify that such records had been obtained.

WAIVER OF CONSTITUTIONAL RIGHTS

10. By pleading guilty, defendant gives up the following rights:

a) The right to persist in a plea of not guilty.

b) The right to a speedy and public trial by jury.

c) The right to the assistance of legal counsel at trial, including the right to have the Court appoint counsel for defendant for the purpose of representation at trial. (In this regard, defendant understands that, despite his or her plea of guilty, he or she retains the right to be represented by counsel - and, if necessary, to have the court appoint counsel if defendant cannot afford counsel - at every other stage of the proceedings.)

d) The right to be presumed innocent and to have the

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Acceptance of Responsibility	:	-2	[U.S.S.G. § 3E1.1(a)]
Total Offense Level	:	4	
Criminal History Category	:	I	
Guideline Range	:	0 - 6 months imprisonment	

Defendant and the Government agree not to seek, argue, or suggest that any other specific offense characteristics, adjustments, or departures be imposed.

13. In light of the sentencing calculation included above, the fact that FRANCIS has represented that he is a first time offender and has no prior criminal convictions, the fact that the companies have instituted procedures to ensure that no further violations occur, the deferred prosecution agreement with MRA Holdings, LLC, and Mantra Films, Inc.'s guilty plea and payments of considerable fines, penalties and restitution in the related cases in the Northern District of Florida, the Government and FRANCIS agree that the appropriate disposition of this case is (1) a probationary sentence, with the length and terms of probation to be determined by the Court, (2) the payment of the maximum fine for each count, resulting in a total fine for both counts of $500,000, (3) no order for any amount of restitution, and (4) the payment of the mandatory special assessment for each count, resulting in a total special assessment for both counts of $200. The Government agrees to recommend that the fine be

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payable within 40 days after sentencing but the failure of the Court to grant this request shall not be a basis for FRANCIS to withdraw his guilty pleas.

14. The Government and FRANCIS agree that any fine in this case shall be in addition to, and shall not be offset by, any fines paid by MRA Holdings, LLC, or Mantra Films, Inc., in related cases filed in the United States District Court for the Northern District of Florida, except that the combined total amount of the fines and restitution imposed on FRANCIS, MRA Holdings, LLC, and Mantra Films, Inc., shall not exceed $2.1 million.

15. The Government agrees that it will not seek restitution in this case in light of the fact that the companies have agreed to pay restitution in an amount to be determined by the United States District Court for the Northern District of Florida in the cases pending against MRA Holdings, LLC, and Mantra Films, Inc.

16. If the Court rejects the agreed-upon disposition in paragraph 13, this entire Agreement shall be null and void, and FRANCIS will be free to withdraw his pleas of guilty pursuant to Fed. R. Crim. P. 11(d)(2)(A). In accordance with Fed. R. Crim. P. 11(f), evidence of a withdrawn guilty plea or any statements made in the course of plea negotiations shall not be admissible against FRANCIS to the extent provided by Federal Rule of Evidence 410.

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DEFENDANT'S OBLIGATIONS

17. Defendant agrees that he will:

a) Plead guilty as set forth in this Agreement.

b) Not knowingly and willfully fail to abide by all sentencing stipulations contained in this Agreement.

c) Not knowingly and willfully fail to: (i) appear as ordered for all court appearances, (ii) surrender as ordered for service of sentence, (iii) obey all conditions of any bond, and (iv) obey any other ongoing court order in this matter.

d) Not commit any crime; however, offenses which would be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are not within the scope of this agreement.

e) Not knowingly and willfully fail to be truthful at all times with Pretrial Services, the U.S. Probation Office, and the Court.

f) Pay the applicable special assessments at or before the time of sentencing, and the fine to be imposed on the schedule ordered by the Court.

THE GOVERNMENT'S OBLIGATIONS

18. If defendant complies fully with all defendant's obligations under this agreement, and Mantra Films, Inc., and MRA Holdings, LLC, comply fully with their obligations under their respective plea and deferred prosecution agreements, the Government agrees:

a) to abide by all sentencing stipulations contained in this agreement; and

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b) based on information currently available to it, not to prosecute FRANCIS, Mantra Films, Inc., or MRA Holdings, LLC, for any violations of 18 U.S.C. § 2257(f)(1) or (f)(4) related to films that are no longer sold or distributed by Mantra Films, Inc., or MRA Holdings, LLC, and relating to which Mantra Films, Inc., and/or MRA Holdings, LLC, were not in compliance with 18 U.S.C. § 2257(f)(1) or (f)(4), which films are listed in Attachment A, or for any violation of 18 U.S.C. §§ 1461-1466 related to the distribution of the films "Totally Exposed Uncensored and Beyond, Volumes 1-12," or other charges related to the production, distribution or labeling of "Ultimate Spring Break Vol. 3" and "Ultimate Spring Break Vol. 4."

19. Except as explicitly provided in paragraph 18(b) above, nothing in this Agreement shall protect FRANCIS, Mantra Films, Inc., or MRA Holdings, LLC, from prosecution related to any offense. In addition, FRANCIS acknowledges that this Agreement does not prohibit either the United States or any of its agencies, including in particular OPTF and the USAO, or any third party, from initiating or prosecuting any civil proceedings directly or indirectly involving FRANCIS, Mantra Films, Inc., or MRA Holdings, LLC.

20. FRANCIS understands that he may be subject to administrative action by federal, state, or local agencies as a result of the guilty pleas entered pursuant to this Agreement, and that this Agreement in no way controls whatever action, if any, such agencies take.

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BREACH OF AGREEMENT

21. If defendant, at any time between the execution of this Agreement and defendant's sentencing on a non-custodial sentence or surrender for service on a custodial sentence, knowingly violates or fails to perform any of defendant's obligations under this Agreement, it shall be a breach of this Agreement and the Government may declare this Agreement breached. Because FRANCIS' guilty pleas and this Agreement are part of a package agreement as specified in Paragraph 2 above, it shall also be a breach of this Agreement, and the Government may declare a breach of this Agreement, if Mantra Films, Inc., fails to enter guilty pleas as outlined in and otherwise comply with the terms of the plea agreement with Mantra Films, Inc., entered into in the Northern District of Florida, or if MRA Holdings, LLC, fails to enter into and comply with the terms of its deferred prosecution agreement in the Northern District of Florida. If the Government declares this Agreement breached, and the Court finds such a breach to have occurred, defendant will not be able to withdraw defendant's guilty pleas, and the Government will be relieved of all of its obligations under this Agreement.

22. Following a knowing and willful breach of this Agreement by defendant, should the Government elect to pursue any charge that was not filed as a result of this Agreement, including but not limited to offenses related to the films listed in Attachment A, then:

DOJ_NMG_ 0168472

a) Defendant agrees that the applicable statute of limitations is tolled between the date of defendant's signing of this Agreement and the commencement of any such prosecution or action.

b) Defendant gives up all defenses based on the statute of limitations, any claim of preindictment delay, or any speedy trial claim with respect to any such prosecution, except to the extent that such defenses existed as of the date of defendant's signing of this Agreement. Defendant also waives any challenge that it may have to venue in this district.

c) Defendant agrees that: (i) any statements made by defendant, under oath, at the guilty plea hearing; ii) the stipulated factual basis statement in this Agreement; and iii) any evidence derived from such statements, are admissible against defendant in any future prosecution of defendant, and defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other federal rule, that the statements or any evidence derived from any statements should be suppressed or are inadmissible in such prosecution.

LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

23. Defendant gives up the right to appeal any sentence imposed by the Court, and the manner in which the sentence is determined, provided that the sentence is that agreed to in paragraph 13 above. Defendant also gives up any right to bring a

DOJ_NMG_ 0168473

post-conviction collateral attack on the convictions or sentence, except a post-conviction collateral attack based on a claim of ineffective assistance of counsel, a claim of newly discovered evidence, or an explicitly retroactive change in the applicable Sentencing Guidelines, sentencing statutes, or statutes of conviction. Notwithstanding the foregoing, defendant retains the ability to appeal the conditions of probation imposed by the court, with the exception of the following: mandatory conditions of probation specified in 18 U.S.C. § 3563(a); standard conditions of probation set forth in district court General Orders 318 and 01-05; and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

24. The Government gives up its right to appeal any sentence imposed by the Court, provided that the sentence is that agreed to in paragraph 13 above.

RESULT OF VACATUR, REVERSAL OR SET-ASIDE

25. Defendant agrees that if any count of conviction is vacated, reversed, or set aside the Government may: (a) ask the Court to resentence defendant on any remaining counts of conviction, with both the Government and defendant being released from any stipulations regarding sentencing contained in this Agreement, (b) ask the Court to void the entire plea agreement and vacate defendant's guilty pleas on any remaining counts of conviction, with both the Government and defendant being released from all of their obligations under this Agreement, or (c) leave defendant's remaining convictions, sentence, and plea agreement

DOJ_NMG_ 0168474

intact. Defendant agrees that the choice among these three options rests in the exclusive discretion of the Government.

COURT NOT A PARTY

26. The Court is not a party to this Agreement and need not accept any of the Government's sentencing recommendations or the parties' stipulations.

NO ADDITIONAL AGREEMENTS

27. Except as set forth herein, there are no promises, understandings or agreements between the Government and defendant or defendant's counsel. Nor may any additional agreement, understanding or condition be entered into unless in a writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

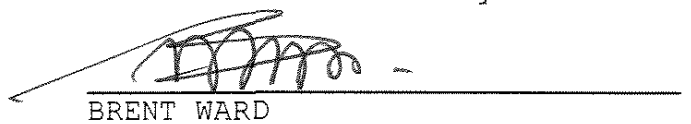
28. The parties agree and stipulate that this Agreement will be considered part of the record of defendant's guilty plea hearing as if the entire Agreement had been read into the record of the proceeding.

This Agreement is effective upon signature by defendant and an attorney from the OPTF.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF CALIFORNIA

DEBRA WONG YANG
United States Attorney



9-25-06

BRENT WARD
Director
Obscenity Prosecution Task Force
Department of Justice

Date

DOJ_NMG_ 0168475

I have read this Agreement and carefully discussed every part of it with my attorney. I understand the terms of this Agreement, and I voluntarily agree to those terms. My attorney has advised me of my rights, of possible defenses, of the Sentencing Guideline provisions, and of the consequences of entering into this Agreement. I also understand that this Agreement is part of a package agreement involving dispositions of charges against two of my companies in related cases in the Northern District of Florida, have discussed with my counsel the advantages and disadvantages of entering into this Agreement as part of the package agreement, and have voluntarily agreed to enter into this Agreement as part of the package agreement. No promises or inducements have been made to me other than those contained in this Agreement. No one has threatened or forced me in any way to enter into this Agreement. In addition, after an opportunity to consult with counsel, with respect to any actual or potential conflict between my interests and the interests of MRA Holdings, LLC and Mantra Films, Inc., I hereby waive any such actual or potential conflicts. Finally, I am satisfied with the representation of my attorney in this matter.

JOSEPH R. FRANCIS
Defendant

9/25/06
Date

DOJ_NMG_ 0168476

I am JOSEPH R. FRANCIS' attorney. I have carefully discussed every part of this Agreement with my client. Further, I have fully advised my client of his rights, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement. I have also explained to my client that this Agreement is part of a package agreement involving dispositions of charges against two of his companies in related cases in the Northern District of Florida and have discussed with him the advantages and disadvantages of entering into this Agreement as part of the package agreement. To my knowledge, my client's decision to enter into this Agreement as part of the package agreement is an informed and voluntary one and is not the result of any coercion or threats by anyone.

AARON DYER
Counsel for Defendant
JOSEPH R. FRANCIS

9/25/06
Date

DOJ_NMG_ 0168477

Attachment A

Mantra Films/MRA Holding Produced Footage

PLAYBOY'S CASTING CALLS DVD VOLUME 1-12
CAUGHT ON TAPE VOLUME 1-4
COLLEGE GIRLS EXPOSED VOL 1-2
SEXY SORORITY SWEETHEARTS VOL 1-2
TOTALLY EXPOSED UNCENSORED AND BEYOND Vol 1-12
GIRLS GONE WILD ENDLESS SPRING Vol 1-14
GIRLS GONE WILD DORM ROOM FANTASIES Vol 1-9
GIRLS GONE WILD ON TOUR VOL 1-8
GIRLS GONE WILD ULTIMATE SPRING BREAK Vol 1-12
GGW BEST OF ENDLESS SPRING BREAK Vol 1-3
GGW BEST OF ULTIMATE SPRING BREAK Vol 1-2
GIRLS GONE WILD: BEST ON TOUR Vol 1-4
GGW EXTREME UNCENSORED
GIRLS GONE WILD ON CAMPUS
GGW PARTY EXTREME
PRISON FILES Vol 1-2

Mantra Films/MRA Holding Licensed And Consignment Footage

Playboy's Casting Calls (vol. 1-13)
Playboy Mansion Parties' Hottest Moments/Behind the Scenes Uncensored
Playboy Mansion Parties Uncensored
Caught on Tape (vol. 1-4)
Co-Ed Tryouts
Sex Around the House
Prison Files (vol. 1-2)
Party Extreme
Blind Date Uncensored
Blind Date Uncensored Deluxe
Blind Date Dates From Hell Uncensored
Blind Date Freaks and Weirdos
Erotic Seduction
Fantasy Fest 99 (vol. 1-4)
Mardi Gras 99 (vol. 1-3)
Memorial Weekend T&A 99 (vol. 1-3)
Naked in Daytona 99 (vol. 1-2)
Labor Day Wet T&A (vol. 1-3)
Flashing in Public
Girls of the Kentucky Derby
Just Add Water Spring Break Lake Havasu
Key to Bush Fantasy Fest
Naked Mile Run
Lesbian Lovers Caught on Tape
Lovers Caught on Tape (vol. 1-3)
More Lovers Caught on Tape
Charlie's Guide to Lovemaking

DOJ_NMG_ 0168478

Playboy Celebrities
Playboy Girlfriends
Playboy Girls Next Door Naughty and Nice
Playboy Girls of Hedonism
Playboy Playmate Erotic Adventures
Toys for Sex
Undercover Strippers
What Women Want
The Complete Anna Nicole Smith (vol. 1-2)

DOJ_NMG_ 0168479

Attachment B

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. JOSEPH R. FRANCIS, Defendant.	No. CR 06-_____ **I N F O R M A T I O N** [18 U.S.C. § 2257(f)(1): Failure to Make and Maintain Required Records; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done]

The United States Attorney charges:

COUNTS ONE AND TWO

[18 U.S.C. § 2257(f)(1); 18 U.S.C. § 2]

1. Mantra Films, Inc., is, and at all times relevant to this Information was, a business located in Santa Monica, California.

2. Defendant JOSEPH R. FRANCIS is, and at all times relevant to this Information was, the founder, primary or sole owner, and Chief Executive Officer of Mantra Films, Inc.

3. At all times relevant to this Information, defendant JOSEPH R. FRANCIS and Mantra Films, Inc., produced for commercial sale "Girls Gone Wild" digital versatile disks ("DVDs"). Because the DVDs contained visual depictions made after November 1, 1990 of actual sexually explicit conduct and were produced in whole or in part with materials mailed or shipped in interstate or foreign commerce and intended for shipment or transportation in interstate or foreign commerce, defendant JOSEPH R. FRANCIS and Mantra Films, Inc., were required to create and to maintain individually identifiable records pertaining to each performer portrayed in such visual depictions, which records were required to include each performer's legal name and verification that each performer was eighteen (18) years of age or older.

4. Beginning on or about March 31, 2002, and continuing to on or about January 9, 2004, in the Central District of California and elsewhere, defendant JOSEPH R. FRANCIS, aided, abetted, counseled and induced by others, known and unknown to the United States Attorney, produced and caused to be produced films, videotapes, and other matters, that is, DVDs bearing the following titles, which DVDs contained one or more visual depictions of actual sexually explicit conduct made after November 1, 1990, and were produced in whole or in part with materials which had been mailed or shipped in interstate and foreign commerce and were intended for shipment in interstate and foreign commerce, without maintaining individually identifiable

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records pertaining to every performer portrayed in such visual depictions:

COUNT	DVD TITLE
ONE	"Ultimate Spring Break, Volume 3"
TWO	"Ultimate Spring Break, Volume 4"

DEBRA WONG YANG
United States Attorney

BRENT D. WARD
Director
Obscenity Prosecution Task Force
Department of Justice

DOJ_NMG_ 0168482

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 26, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, September 26, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division issued a release on an obscenity matter. (Sierra)

The Criminal Division is scheduled to issue a release on a sentencing matter. (Sierra)

The Criminal Division is scheduled to issue a release on a drug-related matter. (Sierra)

The Antitrust Division is scheduled to issue a release on a bid rigging matter. (Talamona)

The Antitrust Division is scheduled to issue a release on a bid rigging matter. (Talamona)

The Tax Division is scheduled to issue a release on a sentencing matter. (Miller)

EVENTS/HEARINGS

11:00 A.M. CDT U.S. District Judge Kenneth Hoyt will hear victim testimony and sentence Andrew Fastow, former Enron Chief Financial Officer.
Courtroom 11-A
United States Courthouse
515 Rusk Avenue
Houston, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to the United States District Court for the Southern District of Texas at 713-250-5500.

DOJ_NMG_ 0168483

5:30 P.M. EDT Solicitor General Paul Clement will deliver the Torrey Armstrong Memorial Lecture to the Alexandria Bar Association regarding the role of the Office of the Solicitor General.
George Washington Masonic Temple
101 Callahan Drive
Alexandria, Virginia
OPEN PRESS

Press inquiries regarding logistics should be directed to John Anderson at 703-734-4356, or to the Office of Public Affairs at 202-514-2007.

For press inquiries, please contact the Office of Public Affairs at (202) 514-2007. You may also visit our website at www.usdoj.gov.

NIGHT DUTY OFFICER

Donna Sellers

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0168484

Image not available for this document, ID: 0.7.10316.28695-000001

Image not available for this document, ID: 0.7.10316.28695-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 595279 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 10:55 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE WITH THE DEPARTMENT OF HOMELAND SECURITY, THE DEPARTMENT OF TREASURY AND OTHER SENIOR OFFICIALS

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO HOLD PRESS CONFERENCE WITH THE DEPARTMENT OF HOMELAND SECURITY, THE DEPARTMENT OF TREASURY, AND OTHER SENIOR OFFICIALS

WASHINGTON – Attorney General Alberto R. Gonzales and other senior officials will hold a press conference on a drug-related matter.

WHO: Attorney General Alberto R. Gonzales
Julie L. Myers, Assistant Secretary of Homeland Security, Immigration and Customs Enforcement
Karen P. Tandy, Administrator, Drug Enforcement Administration
Adam J. Szubin, Director of the Office of Foreign Assets Control, U.S. Department of Treasury
John P. Walters, Director, White House Office of National Drug Control Policy
Carolina Barco, Ambassador to the United States, Republic of Colombia
Alice S. Fisher, Assistant Attorney General, Criminal Division
R. Alexander Acosta, U.S. Attorney, Southern District of Florida
Cathy Seibel, Deputy U.S. Attorney, Southern District of New York

WHAT: Press Conference

WHEN: **TUESDAY, SEPT. 26, 2006**
2:00 P.M. EDT (or following the conclusion of the plea hearing)

WHERE: Seventh Floor Conference Room
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

DOJ_NMG_ 0168488

NOTE: Pre-set for open press coverage of the remarks will be at **1:30 P.M. EDT**. All media should enter through the Visitor's Center at Constitution Avenue and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-645

DOJ_NMG_ 0168489

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Image not available for this document, ID: 0.7.10316.28682-000002

Lyon, Jaime

From: Lyon, Jaime
Sent: Tuesday, September 26, 2006 11:02 AM
To: CRS AG Weekly Report Recipients
Subject: CRS Weekly Report to the Attorney General 9.26.2006
Attachments: CRS AG Weekly 9-26-06.doc

Attached, please find CRS' Weekly Report to the Attorney General for September 26, 2006.

Jaime Lyon
Confidential Assistant to the Director
Community Relations Service
United States Department of Justice
(202) 305-2934

September 26, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sharee M. Freeman
Director, Community Relations Service

SUBJECT: Weekly Report[1]

A. Next Week

No activities to report.

B. This Week

- ***CRS to Monitor March and Civil Disobedience Demonstration in Los Angeles, CA****
  On September 28, 2006, CRS will be onsite in Los Angeles, CA to provide technical assistance and contingency planning for a large march and civil disobedience demonstration that is being held by the Clergy and Laity for United for Economic Justice, UNITE HERE and other community-based organizations and unions. The event is expected to draw over 3,000 persons, and it is reported that over 350 participants plan to be arrested. The event will take place at three different venues—the Radisson, Westin, and Hilton Hotels, all immediately adjacent to the Los Angeles International Airport. The event will begin at the Radisson Hotel located near the Los Angeles International Airport, with the intent of impacting rush-hour traffic. It is expected that there will be a large number of counter-protestors at this event, namely the Minutemen group and similar groups. CRS has been in contact with Los Angeles Police Department officials and march/demonstration organizers to provide contingency planning in an effort to ensure a safe event.

- ***CRS to Witness Signing of Memorandum of Understanding in Little Rock, AR****
  On September 27, 2006, CRS will be in Little Rock, AR to witness the signing of a Memorandum of Understanding (MOU) between the Pulaski County Special School District and the Joshua Interveners. The agreement was reached in response to a historic

[1] This report is an internal document that is not intended for distribution outside of the Department of Justice.

DOJ_NMG_ 0168493

school desegregation case between the two parties, following tensions and allegations that the school district was not in compliance with the implementation of desegregation Plan 2000. Highlights of the agreement include provisions to address discipline, multicultural education, and monitoring and staffing issues.

C. Last Week

- ***CRS Monitored American Socialist Rally in Columbus, OH***
  On September 23, 2006, CRS was in Columbus, OH to provide contingency planning and technical assistance for an American Socialist Rally held to reportedly protest the growing Hispanic and Somali populations in the local area. The rally was attended by approximately 40 demonstrators, primarily American Socialists and Klu Klux Klan members, dressed in their white robes, and approximately 70 counter-protestors. The event proceeded without major incident, although there were reports of heated verbal exchanges between demonstrators and counter-demonstrators.

- ***CRS Provided Conciliation Services in Coushatta, LA****
  On September 15-16, 2006, CRS was in Coushatta, LA to facilitate a mass community forum held by local African American community leaders and members. The forum was held in response to racial tensions surrounding a recent widely publicized incident in which nine African American children were reportedly directed to sit in the back of the school bus by a White bus driver, who designated front seats on the bus to White children. Over 200 persons were in attendance at the community forum. On September 18, 2006, CRS met with Red River Parish School District representatives and administrators. Racial tensions in the Coushatta area are also heightened, following reports of a resurgence of racially-motivated incidents throughout the Claiborne Parish School District. CRS will conduct pre-mediation activities with the parties on October 13 and 14, 2006, as both parties have indicated an interest in mediation. CRS has been coordinating its activity with the Civil Rights Division.

COMMUNITY RELATIONS SERVICE CONTACT:
JAIME LYON AT (202) 305-2934

DOJ_NMG_ 0168494

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, September 26, 2006 11:16 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/26/06 Civil Division News

Court Grants Nine Cases

Censored Affidavit Issued in National Security Case

RCMP chief to answer questions about Arar affair

Justice appeals court order to release NRO documents

DOCTOR'S CALL-UP BY ARMY IS HALTED

VA Executive Takes on the Agency

Scotusblog

Tuesday, September 26, 2006

Court Grants Nine Cases

Lyle Denniston

The Supreme Court agreed on Tuesday to decide whether states may bar a labor union from using non-union workers' dues for political activities if those workers have not explicitly consented. The issue arises in two cases that will be heard together: *Davenport v. Washington Education Association* (05-1589) and *Washington v. Washington Education Association* (04-1657). A Washington state law forbade unions to use "agency shop: fees paid by non-members to influence elections "unless affirmatively authorized by the individual." The state Supreme Court struck down the law as a violation of union's First Amendment rights in a case filed by a teachers union.

The Court, setting the stage to open its new Term next Monday, added a total of nine new cases to its docket for decision in coming months. Those cases were selected from the 1,900 that had stacked up since the Court's last Conference in June. Indications are that, later today, some of these will be put on expedited briefing schedules, for argument in December; the Court has four slots still open in its December calendar.

In an important business case, the Court agreed to decide what proof is required to show that a violation of the federal truth-in-lending law was willful. Under the Fair Credit Reporting Act, a finding of a willful violation entitles a consumer either to actual damages or statutory damages of $100 to $1,000 per violation, plus punitive damages. A mere negligent violation, by contrast, results only in actual damages. The issue before the Court is whether a violation is willful if it resulted from reckless disregard of consumer rights under the Act, or whether there must be proof the credit entity actually knew it was acting illegally. The Court consolidated two cases for review on the issue: *Safeco Insurance v. Burr* (06-84) and *Geico General Insurance v. Edo* (06-100).

Among the cases granted was one filed by the federal government, testing whether an alien living in the U.S. can be deported after being found guilty of a crime that could include a verdict of aiding and abetting *(Gonzales v. Duenas-Alvarez* (05-1629).

In a death penalty case with significant potential for affecting the relationship between criminal defendants and their defense lawyers, the Court will hear an Arizona appeal testing whether defense counsel has a duty to develop and offer evidence favorable to the client, when the client actively opposes any such maneuver. (*Schriro v. Landrigan*, 05-1575)

The Court also took on an important case on the right of individuals to recover, on behalf of the federal government, federal funds that were misspent by a private firm or contractor of public employee -- the "qui tam" provision of the False Claims Act. The order granted review to spell out the meaning of the phrase "original source" in the Act. A person bringing a qui tam claim must be the original source of the information about the misspent funds. In granting review of the case, however, the Supreme Court chose not to address a claim that the qui tam provision itself is unconstitutional. The case is *Rockwell International v. U.S. ex rel. Stone* (05-1272).

Stepping into governmental spat on the island of Guam, the Court agreed to decide a dispute between the territory's governor and its attorney general over staying within a borrowing limit. The Court, however, added a procedural issue that may prevent it from reaching the substance of the officials' dispute. (*Moylan v. Camacho*, 06-116).

The Court granted review of the federal Education Secretary's authority to write a formula on subsidizing local school districts that serve a nearby military base on Indian reservation. The case tests whether the Secretary is bound by a formula enacted by Congress (*Zuni Public School District v. U.S. Department of Education*, 05-1508).

In an environmental dispute, the Court said it would return to the question of local governments' authority to control the disposal of solid wastes. The case tests whether it violates the Commerce Clause for a local "flow-control" ordinance to require delivery of all solid wastes to a publicly owned local facility. (*United Haulers Associationi v. Oneida-Herkimer Solid Waste Management Authority*, 05-1345).

In a jurisdictional case, the Court will review whether a U.S. District Court must first find that it has jurisdiction over a lawsuit, before it may dismiss a lawsuit because it was filed in an inconvenient forum. (*Sinochem International v. Malaysia International Shipping Corp.*, 06-102).

END

New York Times

September 26, 2006

Censored Affidavit Issued in National Security Case

By ANEMONA HARTOCOLLIS

Federal District Court in Manhattan has made public an affidavit from a plaintiff whose identity cannot be revealed. In the affidavit, he says he has to lie to those close to him to preserve the secrecy of a national security investigation that he believes is morally questionable.

The affidavit, which has been heavily censored, provides vivid details of an upside-down life. The plaintiff, identified only as John Doe, is a businessman who filed a lawsuit in 2004 challenging the constitutionality of federal demands for Internet and telephone records. He describes himself as the former president of an Internet access and consulting business.

Some time ago (the government will not allow him to say when), he received a so-called national security letter from the F.B.I., asking him to provide information about one of his clients in connection with "international terrorism or clandestine intelligence activities." The letter also said he was prohibited from talking with anyone about the investigation.

"Since that time," the John Doe affidavit says, "I have been subject to a gag order that has prevented me from disclosing, among many other things, that I initiated this lawsuit."

Mr. Doe said he resisted the government's demand because he did not want to violate the privacy of his clients. In April 2004, represented by the American Civil Liberties Union, he filed a lawsuit against the attorney general, John Ashcroft, and Robert S. Mueller, the director of the F.B.I. The government gained the right to demand customer information without a court order under a 1986 law, which was expanded by the U.S.A. Patriot Act of 2001 and amended further in March of this year.

In his affidavit, he described a world in which he has been "compelled to systematically deceive" his friends, his family and his girlfriend in order to preserve the secrecy of the investigation.

"The gag put me in a very compromising position, as I did not want to be dishonest in my communications," yet at the same time, he said, he did not want to violate the order. He added: "I do not like the feeling of being conscripted to be a secret informer for the government, especially because I have doubts about the legitimacy of the underlying investigation."

Jameel Jaffer, lead counsel for the civil liberties union, said yesterday that the affidavit was filed on Sept. 8, but was sealed until the government censored a copy, allowing the court to release it on Friday afternoon.

In September 2004, Judge Victor Marrero of Federal District Court ruled in this case that national security letters, which force businesses to turn over customer information without a judge's order or a grand jury subpoena, violated the constitutional prohibition against unreasonable search and seizure.

But earlier this year, as the case was being appealed, Congress amended the law, and the case was sent back to the lower court, where the same plaintiff has filed a new challenge, Mr. Jaffer said.

Mr. Jaffer said the amended law had made the national security letter provision "even more oppressive than it was before," because in the past, courts could hear challenges to such restraints. Now, he said, if the F.B.I. certifies that an order forbidding disclosure is necessary to national security, "the court is required to defer to the F.B.I."

Jeffrey Oestreicher, the assistant United States attorney handling the case, could not be reached for comment last night.

END

CBC

September 26, 2006

RCMP chief to answer questions about Arar affair

RCMP Commissioner Giuliano Zaccardelli will appear before a Commons committee this week to answer questions regarding the Maher Arar affair, Prime Minister Stephen Harper said Monday.

Harper made the announcement during question period after being accused by interim Liberal leader Bill Graham of deliberately muzzling Zaccardelli.

"The government is obviously doing no such thing," Harper responded, adding that the agency chief will appear before a public security hearings committee later this week to answer questions.

Justice Dennis O'Connor's report was sharply critical of the RCMP's role in Arar's detention in the U.S. and his subsequent deportation to Syria.

The embattled commissioner refused to talk about the report when he made his first public appearance on Sunday since its release.

"Today is to honour those who have died in the line of duty," Zaccardelli told reporters following a police memorial service on Parliament Hill. "That's what I'm here for. I will be giving my testimony at the appropriate time."

Arar was travelling back to his home in Ottawa from a family vacation in Tunisia in September 2002 when he was detained during a stopover in New York. Within days, he was sent to Syria, where he says government officials held him, systematically tortured him and kept him in jail for a year. U.S. authorities had accused Arar of having links to al-Qaeda.

O'Connor's report, which cleared Arar of any links to the militant group and was highly critical of the RCMP, said:

- The RCMP gave erroneous information to the U.S. about Arar.
- Senior officers should have monitored less experienced officers more closely.
- The force should have supported efforts by the Department of Foreign Affairs to secure Arar's release from Syria.
- The RCMP failed to provide accurate information to the federal government about its national security investigation into Arar.

END

Federal Times

Sept. 26, 2006

Justice appeals court order to release NRO documents

By DANIEL FRIEDMAN

The Justice Department is appealing a federal court order requiring the National Reconnaissance Office to release unclassified budget documents.

The Federation of American Scientists filed a Freedom of Information Act request last year for parts of the fiscal 2006 budget justification sent to Congress by NRO, which builds and operates intelligence satellites. NRO rejected the request, claiming that the relevant documents are "operational files," which document scientific and technical means for collecting information. Intelligence agencies can exempt operational files from FOIA.

But a federal judge ruled in July that the exemption did not apply to the NRO budget documents. According to Steven Aftergood, director of the FAS Project on Government Secrecy, NRO initially said it would comply with the decision.

On Sept. 20, however, the Justice Department filed a notice of appeal in U.S. Court of Appeals for the District of Columbia Circuit.

In *Secrecy News*, an FAS newsletter, Aftergood said the claim that unclassified budget documents represent operational files is new.

"If the operational file exemption were permitted to cover routine administrative documents such as budget records, then an enormous swath of unclassified government records could be unilaterally removed from the reach of the FOIA simply by designating them operational," he wrote.

Citing a 2001 memo from then Attorney General John Ashcroft that states Justice will defend agency decisions to resist FOIA requests, Aftergood argued the appeal is consistent with wider Bush administration policy to limit disclosure.

Justice spokesman Charles Miller confirmed the notice of appeal was filed, but declined to comment on its substance or on FOIA policy.

NRO had no immediate comment.

END

Boston Globe

September 26, 2006

DOCTOR'S CALL-UP BY ARMY IS HALTED

Shelley Murphy, Globe Staff

The US Army paid $184,000 for Mary Hanna to go to Tufts University School of Medicine for four years, and in exchange she agreed to serve four years of active duty and another four in the reserve after becoming a doctor.

But just before Christmas, as she was nearing the end of her anesthesiology residency at Beth Israel Deaconess Medical Center in Boston, Hanna, 30, of Somerville notified the Army that her religious beliefs were now "incompatible with military service."

Describing herself as a devout Coptic Orthodox Christian, Hanna, an Army Reserve captain, urged the Army on Dec. 23 to grant her discharge as a conscientious objector, writing, "I cannot participate in war in any form."

This month, the Army refused Hanna's request after considering conflicting opinions from priests, a psychiatrist, and military brass about whether Hanna was opposed to war or trying to evade service.

But yesterday, the day before Hanna was scheduled to report for duty at Fort Bliss, Texas, a federal judge stepped in and prohibited the Army from forcing Hanna into service, at least until Oct. 10.

US District Judge Nancy Gertner scheduled an Oct. 5 hearing on Hanna's assertion that the Army violated her constitutional rights by denying her conscientious objector status. Hanna is urging the judge to order her release from the Army.

It's at least the second conscientious objector case to be filed in US District Court in Boston in the past year and one of a handful pending around the country. Under military regulations, conscientious objectors may seek release from duty or ask to serve in noncombatant situations if they are sincerely opposed to war.

Hanna, who attended yesterday's hearing, refused to discuss her case.

"She will pay back the money," said Hanna's lawyer, Louis Font, who argued that Hanna's beliefs prevent her from even treating soldiers on American soil.

In her application for conscientious objector status, Hanna said she had a strong religious upbringing, but had no convictions about war when she enlisted in the Army in 1997. After her father, a former Egyptian military officer, died in 2003, Hanna said she was again drawn to God and rekindled her faith.

She wrote, "I knew that to live the rest of my life with integrity, in harmony with God's nature of love and compassion, I could not participate in military service."

An Army hearing officer and several high-ranking officers concluded she was a conscientious objector. A brigadier general wrote, "The solemnity of her convictions is clear . . . and they do not appear to have been born of a desire to avoid service," according to reports filed in court.

But an Army review board voted 2-1 to reject Hanna's discharge, and the board's president wrote that her statements "lack passion and sincerity" and "appear as repetitions rather than personally held beliefs."

The Army was also skeptical of the timing of Hanna's request, according to documents. She was one of two anesthesiologists who filed conscientious objector applications in December, shortly after another anesthesiologist was granted a discharge on the same grounds.

Assistant US Attorney Anita Johnson, who represents the Army, argued that Hanna failed to prove she was sincere and that releasing her from service would cause an immediate hardship, because the Army has only 75 of the 95 required anesthesiologists it needs.

Still, Johnson said the Army "can guarantee she will not be deployed to Iraq or Afghanistan or any other combat situation."

Hanna was assigned to Beaumont Army Medical Center, a major teaching hospital and regional trauma center at Fort Bliss, Texas, that treats military members, their families, and retirees, according to Johnson.

But Font argued that Hanna could be deployed anywhere, including Iraq, once she's activated.

END

FedSmith
Sept. 26, 2006

VA Executive Takes on the Agency

By Susan Smith

An appeals court has sent a federal executive's privacy act challenge against the Department of Veterans Affairs back to the district court after determining that the lower court improperly granted summary judgment to the government on several counts. (McCready v. Nicholson, C.A.D.C. No. 04-5425, 9/19/06) Here's a summary as taken from the court's decision.

McCready headed the VA Office of Congressional Affairs. The agency Inspector General's office opened an audit of the office after receiving confidential complaints against McCready and her organization for fiscal mismanagement and operational abuse. The IG audit led to first a "Draft Audit Report," which was released to just a few officials within VA; next, a final report that was released within the agency, OMB and Congress; and finally an "Addendum Audit Report," released to the same offices that received the final report. (opinion, pp. 2-3)

Following receipt of the final audit report, the VA Assistant Secretary for Personnel Management sent a memo to the VA Secretary discussing McCready's financial management within her office. The AP published a report that same day that was highly critical of McCready. Several days later, the AP issued a second report that quoted from the above private internal agency memo. (p. 3)

McCready formally responded to both the final audit and the addendum audit reports. The reports and McCready's responses were considered and the agency concluded that no discipline was warranted against McCready. (p. 4)

McCready then launched efforts under the Privacy Act to get the agency reports about her either corrected and/or deleted. Not satisfied with the agency's response, she filed suit in the U.S. District Court for the District of Columbia, asserting 12 claims of violations of the Privacy Act. That court granted summary judgment to the government on all 12. McCready appealed.

The appeals court in its recently issued decision sustained the district court in part, reversed in part, and remanded for further handling. One issue was whether a Privacy Act challenge could be considered where the records were not retained in a Privacy Act system of records. The appeals court did not agree with the district court on this point, stating in pertinent part: "Where an aggrieved person can identify a specific document, prove its inaccuracy, and demonstrate that the document was used against her, all the values of the Act are vindicated. As a subsection (g)(1)(C) claim is predicated upon an individual simply challenging the accuracy of a particular document used against her, there was no need for subsection (g)(1)(C) to incorporate a system of records requirement and thereby prevent a fishing expedition. The fish has already been caught at no expense to the agency." (p. 17)

If the government believes that there must be a system of records identified before a challenge such as McCready's should be considered, then it needs to take that up with Congress.

END

Miranda, Gail (ENRD)

From: Miranda, Gail (ENRD)

Sent: Tuesday, September 26, 2006 12:19 PM

To: Alexander, Craig (ENRD); Barsky, Seth (ENRD); Baylor, Lewis (ENRD); Bogan, Shanedda L. (ENRD); Brighton, William (ENRD); Brook, Bob (ENRD); Brookshire, James (ENRD); Bruffy, Robert (ENRD); Burgess, Wells (ENRD); Butler, Virginia (ENRD); Clark, Tom (ENRD); Clinger, James H; Cruden, John (ENRD); Davis, Deborah J; Disheroon, Fred (ENRD); Dworkin, Karen (ENRD); Edgar, Mary (ENRD); Elston, Michael (ODAG); Ferguson, Russ (ENRD); Findlay, Charles (ENRD); Fisherow, Benjamin (ENRD); Fowler, Liane (SMO); Gelber, Bruce (ENRD); Giordano, John (ENRD); Gluck, Ronald (ENRD); Goldman, Greer (ENRD); Gorsuch, Neil M; Grishaw, Letitia (ENRD); Gunn, Currie (SMO); Gustafson, Kristen (ENRD); Haugrud, Jack (ENRD); Henderson, Charles V; Hoang, Anthony (ENRD); Katz, Maureen (ENRD); Keeney, John; Kilbourne, Jim (ENRD); Lazarus, William (ENRD); Magnuson, Cynthia; Mahan, Ellen (ENRD); Maher, Robert (ENRD); Mariani, Tom (ENRD); McCallum, Robert (SMO); McKeown, Matt (ENRD); Mergen, Andy (ENRD); Milius, Pauline (ENRD); Miller, Charles S; Miranda, Gail (ENRD); Monson, Peter C (ENRD); Nelson, Ryan (ENRD); Newton, Cullen (ENRD); O'Connor, Eileen J. (AAG/TAX); Randall, Gary (ENRD); Ranger, Steven (ENRD); Rogers, Cherie (ENRD); Samuels, Stephen (ENRD); Saxe, Keith (ENRD); Schachter, Scott (ENRD); Schiffer, Stuart (CIV); Senger, Jeffrey M; Shaw, Aloma A; Shockey, Charles (ENRD); Sither, John (ENRD); Smith, Justin (ENRD-LPS Attorney); Smith, Marc (ENRD); Sobeck, Eileen (ENRD); Stoller, Stacy (ENRD); Turner, John (ENRD); Uhlmann, David (ENRD); Vaden, Christopher (ENRD); Wardzinski, Karen (ENRD); Webb, John T. (ENRD); Williams, Jean (ENRD); Wooldridge, Sue Ellen (ENRD); Young, Russell (ENRD); Zwick, Ken (CIV)

Subject: Attached is ENRD's Weekly Report to the AG...

Attachments: #104418-v1-AG_Weekly_-_Sept__26__2006.DOC

U.S. Department of Justice

Environment and Natural Resources Division

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

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

September 26, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Sue Ellen Wooldridge
Assistant Attorney General
Environment and Natural Resources Division

NEXT WEEK

Nothing to report.

THIS WEEK

Nothing to report.

LAST WEEK

- ***Largely Unfavorable Decision in Osage Nation v. United States (Fed. Cl.)***

On September 21, the Court issued a ruling in the Tranche One trial, which concerned two main trust fund claims for particular oil leases and months in the 1976 to 1989 time period. Plaintiff essentially claimed that the government failed to: (a) collect all royalties due for particular oil leases; and (b) timely deposit and earn the appropriate investment returns on the income. Regarding the Tribe's oil royalty claims, although the court approved certain government practices with respect to these leases, it also found that the government breached its fiduciary duties by failing to collect royalties based on highest offered prices and by failing to collect full royalties during price controls. Regarding the Tribe's investment claims, the Court found that the government breached its fiduciary duties by failing to maintain appropriate cash balances and failing to obtain appropriate investment yields in accordance with the law. The Court then

directed the parties to jointly calculate and present to the court the amount of damages to which Plaintiff is entitled in accordance with the Court's opinion on or before November 2.

- ***Adverse Decision in California v. USDA/Wilderness Society v. USFS (N.D. Cal.) / Renewed Challenge to Roadless Rule in Wyoming v. USDA (D. Wyo.)***

The States of California, New Mexico, Washington and Oregon and a group of environmental organizations challenged the USDA's State Petition Rule, which replaced the 2001 Roadless Rule. On Wednesday, September 20, 2006, the court granted plaintiffs' motion for summary judgment, holding that, through the State Petition Rule, USDA substantively repealed protections in place under the 2001 Roadless Rule without completing the necessary procedures and thus violated the National Environmental Policy Act (NEPA) and the Endangered Species Act. The Court enjoined the State Petition Rule and reinstated the 2001 Roadless Rule (except with respect to the Tongass National Forest in Alaska), directing the defendants not to take any action inconsistent with the 2001 Roadless Rule until the requisite NEPA analysis is conducted. The Forest Service Chief issued a letter on September 22, stating that no further activities in inventoried roadless areas that would be inconsistent with the 2001 Roadless Rule are to be approved. In response to plaintiffs' motion for clarification of the impact of the court's order on previously authorized projects, the court held a hearing on September 25 at which it tentatively indicated that certain projects would not be enjoined. Further briefing will be filed on this issue. Purchaser-intervenors appealed the court's decision on September 21.

In response to this ruling, the State of Wyoming asked the district court in Wyoming to reopen Wyoming v. USDA. In that case, the district court in 2003 had held that the 2001 Roadless Rule violated NEPA and the Wilderness Act, and issued a nationwide injunction barring implementation of the Rule. However, after the Forest Service issued the State Petition Rule, the Tenth Circuit dismissed an appeal of the district court's decision as moot and directed the district court to vacate its injunction and dismiss the case as moot. The district court did that in 2005.

- ***Adverse Decision in Northwest Environmental Advocates v. EPA (N.D. Cal.)***

On Monday, September 18, 2006, the district court, having previously granted plaintiffs' summary judgment motion in this challenge to an EPA regulation that exempts discharges of ballast water from Clean Water Act permitting requirements, granted plaintiffs' request for a permanent injunction. The court ordered that the regulatory exemption for discharges incidental to the normal operations of a vessel shall be vacated as of September 30, 2008. Several bills have been introduced in Congress to address invasive species and regulate ballast water in some respect. One of these, S. 363, the Ballast Water Management Act of 2005, has been reported out of committee to the full Senate; the Department has submitted a views letter on this bill.

DIVISION CONTACT

Sue Ellen Wooldridge
Assistant Attorney General
(202) 514-2701

DOJ_NMG_ 0168504

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 1:19 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER NEW YORK HOSPITAL EMPLOYEE PLEADS GUILTY TO BID RIGGING

(A PDF of the information is attached below.)

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV

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

FORMER NEW YORK HOSPITAL EMPLOYEE PLEADS GUILTY TO BID RIGGING

WASHINGTON — A former New York hospital employee pleaded guilty for his role in a conspiracy involving bid rigging and contract allocation for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced.

Stephen Cogliano of Staten Island, N.Y., a former information technology network employee at Mount Sinai, pleaded guilty today in U.S. District Court in Manhattan to one count of conspiracy to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai from approximately January 2001 through October 2004.

"The Department of Justice remains vigilant in its efforts to protect competition for American businesses and consumers by prosecuting those who defraud their employers and deprive the public of the benefits afforded by a truly competitive bidding process," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division.

The Mount Sinai Hospital is a 1,171-bed tertiary care teaching hospital that serves the New York metropolitan area with a medical staff of nearly 1,800. In addition to its medical education efforts, Mount Sinai's School of Medicine performs clinical and basic-science research. Both the hospital and the school jointly operate an information technology department, located within the Mount Sinai Medical Center in Manhattan, that assists various departments and facilities in creating and maintaining their telecommunications infrastructures. This assistance includes selecting and contracting with third party telecommunications vendors in order to install equipment such as voice and data cables in Mount Sinai facilities.

Cogliano and another Mount Sinai employee were responsible for obtaining bids from vendors of telecommunications equipment and services on behalf of Mount Sinai. They were also responsible for supervising these vendors and reviewing and authorizing their invoices for payment. According to the Department, Cogliano received payments from individuals associated with two telecommunications vendors in exchange for helping steer contracts to those companies. Cogliano opened a bank account under the name of a consulting company in May 2003 that was primarily used to conceal illegal payments received from the vendors.

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The bid-rigging charge, a violation of the Sherman Act, carries a maximum penalty of 10 years in prison, three years of supervised release, and a $1 million fine for an individual. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. In addition, the defendant could be ordered to pay restitution to the victim for the full amount of that victim's loss.

This charge arose from an ongoing federal antitrust investigation of bid rigging, bribery, fraud, and tax-related offenses in the telecommunications equipment and services industry. The investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation (FBI) and the Internal Revenue Service Criminal Investigation.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the telecommunications equipment and services industry should contact the New York Field Office of the Antitrust Division at 212-264-9308 or the New York Division of the FBI at 212-384-3252.

###

06-648

Department of Justice

DOJ_NMG_ 0168506

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.	:	Violation: 15 U.S.C. § 1
STEPHEN COGLIANO,	:	
Defendant.	:	

- x

INFORMATION

The United States of America, acting through its attorneys, charges:

1. Stephen Cogliano ("Cogliano") is hereby made a defendant on the charge stated below.

SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. Cogliano resided in Staten Island, New York

3. Cogliano was employed by Mount Sinai School of Medicine and The Mount Sinai Hospital (collectively, "Mount Sinai"), a teaching hospital located in New York, New York, as a Network Management Professional in Mount Sinai's Information Technology department from October 2000 until July 2003. In July 2003, Cogliano became an employee of International Business Machines, Corp. ("IBM") but maintained

the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. His job title changed to Technical Services Professional in October 2004. In May 2003, Cogliano opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from vendors to Mount Sinai.

4. "CC-1" was a co-conspirator who was employed by Mount Sinai as a Information Technology Manager in Mount Sinai's Information Technology department from August 2000 until July 2003. In July 2003, CC-1 became an employee of IBM but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. CC-1 directly supervised Cogliano. In April 2001, CC-1 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from vendors to Mount Sinai.

5. "CC-2" was a co-conspirator who was a vice president of a company located in Manhattan, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 1"). CC-2's wife was the President and owner of Vendor 1, although CC-2 was primarily responsible for the management of the company.

6. "CC-3" and "CC-4" were co-conspirators who jointly owned a company located in Great Neck, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 2").

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7. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. BACKGROUND

8. The Mount Sinai Hospital is a 1,171-bed tertiary-care teaching hospital with a medical staff of nearly 1,800, serving the New York metropolitan area. Mount Sinai School of Medicine performs clinical and basic-science research, in addition to its medical education function. Jointly, both entities operate an Information Technology department located within the Mount Sinai Medical Center on Madison Avenue.

9. Mount Sinai's Information Technology department served the various departments and facilities within Mount Sinai by assisting them in creating and maintaining their telecommunications infrastructures. This included selecting and contracting with third parties that were vendors of telecommunications equipment and services in order to install equipment such as voice and data cables in Mount Sinai facilities.

10. Mount Sinai had a competitive bidding policy that required the Information Technology department to obtain at least three competitive bids before entering into any single contract for goods or services in excess of $10,000, and then award those contracts to the lowest responsible bidder. The purpose of the bidding policy was to ensure that the Information Technology department obtained products and services at competitive, fair market prices.

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11. As the Information Technology Manager, CC-1 was responsible for obtaining bids from vendors of telecommunications equipment and services before contracts were awarded in accordance with Mount Sinai's policies and procedures, including adhering to Mount Sinai's competitive bidding policy. In addition, CC-1 was responsible for supervising these vendors and reviewing and authorizing their invoices for payment. As a manager, CC-1 sometimes delegated these tasks to individuals he supervised, including Cogliano. As a Network Management Professional, and later as a Technical Services Professional, Cogliano carried out some of these tasks under CC-1's direction and was also separately responsible for ensuring that contracts were awarded in accordance with Mount Sinai's policies and procedures and reviewing and authorizing invoices for payment.

12. Cogliano and his co-conspirators attempted to create the appearance that the Information Technology department was awarding contracts in compliance with Mount Sinai's competitive bidding policy when, in fact, it frequently was not. In actuality, CC-1 determined in advance which contracts to allocate to Vendor 1 or Vendor 2, and then, in order to make it appear that contracts had been awarded based on competitive bids, Cogliano and CC-1 at times arranged to receive bids with intentionally high prices (i.e., cover bids) from either Vendor 1 or Vendor 2. Cogliano and CC-1 sometimes specified what prices should be quoted on these cover bids, and that the bids be backdated. On other occasions, Cogliano and CC-1 allocated contracts without obtaining multiple bids or irrespective of whether the vendor to which the contract was allocated was the lowest

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responsible bidder. At the time, Cogliano and CC-1 were receiving payments from Vendor 1 and Vendor 2.

13. Mount Sinai maintained a written "conflict of interest" policy prohibiting employees and contractors, including Cogliano and CC-1, from accepting gifts (other than of token value) from vendors or from entering into business arrangements with vendors. In the fall of 2000, when he was hired by Mount Sinai, Cogliano signed an acknowledgment that he had reviewed this "conflict of interest" policy.

14. At no time did Cogliano or his co-conspirators disclose to Mount Sinai Cogliano's receipt of the payments from Vendors 1 or Vendor 2. All such payments were made without the knowledge or approval of Mount Sinai, and in violation of Cogliano's duty of loyalty to Mount Sinai.

III. TRADE AND COMMERCE

15. From approximately January 2001 through October 2004, pursuant to contracts that are the subject of this Information, Mount Sinai purchased approximately $2,089,000 in telecommunications equipment and services from Vendor 1 and Vendor 2.

16. During the period covered by this Information, Vendor 1 and Vendor 2 supplied telecommunications equipment and services to Mount Sinai, including materials produced pursuant to contracts that are the subject of this Information, which were shipped across state lines, in a continuous and uninterrupted flow of interstate commerce, in the form of voice and data cables and other equipment obtained from distributors located outside the State of New York.

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17. The activities of the defendant and co-conspirators with respect to the sale of telecommunications equipment and services to Mount Sinai, including the sale of voice and data cables and other equipment pursuant to contracts that are the subject of this Information, were within the flow of, and substantially affected, interstate trade and commerce.

IV. DESCRIPTION OF THE OFFENSE

18. From approximately January 2001 through October 2004, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

19. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai.

20. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

(a) CC-1 designated in advance whether Vendor 1 or Vendor 2 would be the low bidder on certain contracts to supply telecommunications equipment and services to Mount Sinai;

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(b) Cogliano and co-conspirators discussed and agreed on the prices that would be bid on contracts to supply telecommunications equipment and services to Mount Sinai;

(c) Cogliano and co-conspirators submitted, or caused Vendor 1 and Vendor 2 to submit, intentionally high, noncompetitive bids (i.e., cover bids) on certain contracts to supply telecommunications equipment and services to Mount Sinai, with the understanding that each vendor would be allowed to submit bids for, and under certain circumstances allocated other contracts with Mount Sinai to supply telecommunications equipment and services. The intentionally high bids were submitted in order to make it appear that there had been competition for Mount Sinai contracts when, in fact, there had not; and

(d) Cogliano and CC-1 allocated other contracts between Vendor 1 and Vendor 2 in violation of Mount Sinai's competitive bidding policy by either failing to obtain competitive bids or awarding contracts to either Vendor 1 or Vendor 2 regardless of whether that vendor was in fact the lowest qualified bidder, or otherwise manipulating bids so as to justify an allocation to either Vendor 1 or Vendor 2 while making it appear that there had been competition for Mount Sinai contracts when, in fact, there had not;

(e) Cogliano and CC-1 allocated other, smaller contracts between Vendor 1 and Vendor 2 and did not seek alternative vendors; and

(f) Cogliano received payments from CC-1, CC-2, CC-3, CC-4, or the

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companies they represented, in part, for his role in allocating contracts between Vendor 1 and Vendor 2.

21. During all or some of the period from approximately January 2001 until September 2003, Cogliano received a payment totaling $15,000 from Vendor 1. Vendor 1 made this payment to Cogliano, in part, to ensure that Cogliano and CC-1 would allocate to it a portion of Mount Sinai's total purchases of telecommunications equipment and services, and that they would not seek alternative vendors of telecommunications equipment and services for these contracts. As a result, Vendor 1 was able to maintain non-competitive prices because it did not face open and honest competition from other vendors. Also, Cogilano and CC-2 fraudulently inflated some of Vendor 1's invoices and caused Mount Sinai to pay Vendor 1 for those fraudulently inflated invoices, which the $15,000 check was also partially in payment of. As a result, Mount Sinai paid higher prices for the telecommunications equipment and services it purchased than it would have if Cogliano had aggressively and honestly solicited competitive prices from other vendors, and had not approved fraudulently inflated invoices for payment.

22. In approximately June 2002, Cogliano and CC-1 allocated to Vendor 1 a contract to install telecommunications equipment in a Mount Sinai emergency room facility called the "ED Project." CC-1 discussed and agreed in advance with a representative of Vendor 1 that Vendor 1 would be allocated the "ED Project" contract for a specified inflated price. CC-1 instructed Vendor 1 to submit a bid with the inflated price and instructed Cogliano to get other vendors to submit bids with higher, non-competitive

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prices (i.e., cover bids), which Cogliano did. As a result, Vendor 1 was awarded the "ED project" contract for $295,000.

23. Cogliano also received payment for his role in rigging bids and allocating contracts to Vendor 2. For example, in approximately March 2002, Cogliano and CC-1 allocated a contract to install telecommunications equipment for Mount Sinai's Radiation Oncology department to Vendor 2. Defendant and co-conspirators rigged the bids for the job by causing Vendor 1 to submit an inflated cover bid. Additionally, defendant and co-conspirators instructed Vendor 2 to fraudulently inflate invoices related to the Radiation Oncology job by $10,000, and then caused Mount Sinai to pay Vendor 2 for the fraudulently inflated invoices. Mount Sinai completed payment to Vendor 2 for performing Radiation Oncology job in December 2002 and, shortly thereafter, Vendor 2 wrote two checks totaling $10,000 to CC-1's company. In January 2003, CC-1 issued a $5,000 check from his company to Cogliano for his assistance in rigging the bids, allocating the contract, and arranging for the inflated invoices to be paid by Mount Sinai for the Radiation Oncology job.

24. As a result of the aforementioned conspiracy, Mount Sinai paid more for the telecommunications equipment and services it purchased pursuant to the contracts that are the subject of this Information than it would have had the contracts instead been awarded pursuant to truly competitive bidding, or an otherwise competitive process, where free and open competition among vendors existed, and had there been no payments to Cogliano from CC-1, CC-2, CC-3, CC-4, or the companies they represented. In addition, other

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legitimate vendors of telecommunications equipment and services were foreclosed from selling to Mount Sinai.

V. JURISDICTION AND VENUE

25. The aforesaid combination and conspiracy was formed and carried out, in part, within the Southern District of New York within the five years preceding the filing of this Information.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated:

THOMAS O. BARNETT
Assistant Attorney General

RALPH T. GIORDANO
Chief, New York Office

SCOTT D. HAMMOND
Deputy Assistant Attorney General

REBECCA MEIKLEJOHN

MARC SIEGEL
Director of Criminal Enforcement

ELIZABETH B. PREWITT

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MICHAEL J. GARCIA
United States Attorney
Southern District of New York

DOJ_NMG_ 0168516

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Image not available for this document, ID: 0.7.10316.28690-000003

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 596618 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

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See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 2:05 PM
To: USDOJ- Office of Public Affairs
Subject: UNITED STATES FILES CIVIL RIGHTS LAWSUIT AGAINST THE VILLAGE OF SUFFERN, NY

Department of Justice

United States Attorney Michael J. Garcia
Southern District of New York

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV/USAO/NYS

CONTACT: HERBERT HADAD
PHONE: (914) 993-1900
FAX: (212) 637-2600

UNITED STATES FILES CIVIL RIGHTS LAWSUIT AGAINST THE VILLAGE OF SUFFERN, NY

NEW YORK – The United States filed a civil rights lawsuit in White Plains federal court today against the Village of Suffern, which is located in Rockland County, N.Y., alleging that Suffern unlawfully discriminated on the basis of religion, in violation of the Religious Land Use and Institutionalized Persons Act of 2000, when it refused to allow a private religious organization to operate a Shabbos House near Good Samaritan Hospital in Suffern, U.S. Attorney Michael J. Garcia of the Southern District of New York, announced today.

Bikur Cholim Inc. has been operating a Shabbos House directly across the street from Good Samaritan Hospital in Suffern. A Shabbos House provides meals and lodging to Orthodox Jews on the Sabbath and other holy days to allow them to observe their religious beliefs and practices on those days such as engaging in prayer and refraining from driving and other activities. Bikur Cholim's Shabbos House in Suffern provides meals and lodging to Orthodox Jews who take patients to and from Good Samaritan Hospital, visit patients at the hospital, or are patients released from the hospital. The complaint further alleges that there are no other locations within a reasonable and safe walking distance of Good Samaritan Hospital that could accommodate Orthodox Jews on the Sabbath or other holy days and afford these Orthodox Jews the opportunity to exercise their religious beliefs by visiting the sick and observing the laws of the Sabbath.

"This lawsuit enforces Congress's determination that local zoning regulations must give way when they unlawfully burden religious exercise," U.S. Attorney Garcia stated.

Suffern's zoning code does not permit Bikur Cholim to operate a Shabbos House anywhere within walking distance of the hospital, and Suffern has denied Bikur Cholim's application for a variance from the zoning code, ordering Bikur Cholim to stop operating the Shabbos House.

DOJ_NMG_ 0168520

The government alleges that Suffern's denial of Bikur Cholim's variance application substantially burdens the religious exercise of the Orthodox Jews who need to visit the sick in Suffern while observing the religious proscription against driving on the Sabbath and other holy days. The government's lawsuit seeks, among other things, an order preventing Suffern from applying its zoning laws in a manner that substantially burdens the religious exercise of the Orthodox Jews served by Bikur Cholim.

The government filed its lawsuit as related to a private lawsuit filed last year by Bikur Cholim and certain private plaintiffs, entitled Bikur Cholim, Inc. v. Village of Suffern, No. 05 Civ. 10759 (S.D.N.Y.). That lawsuit remains pending before U.S. District Judge Stephen C. Robinson.

Assistant U.S. Attorney Russell M. Yankwitt is in charge of this case.

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DOJ_NMG_ 0168521

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Image not available for this document, ID: 0.7.10316.28655-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 2:13 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCING GUILTY PLEAS BY THE CALI CARTEL

Department of Justice

FOR IMMEDIATE RELEASE — AG
TUESDAY, SEPTEMBER 26, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCING GUILTY PLEAS BY THE CALI CARTEL

WASHINGTON, D.C.

Good afternoon; thank you all for coming.

This morning, Miguel and Gilberto Rodriguez-Orejuela– brothers who ran the infamous Cali drug cartel in Colombia for more than 20 years – pleaded guilty in a federal court in Miami to a charge of conspiracy to import cocaine into the United States. They each were immediately sentenced to 30 years in prison.

The brothers also agreed to plead guilty to a charge of conspiracy to commit money laundering by hiding the proceeds of narcotics trafficking.

These two men were responsible for importing more than 200 tons of cocaine into this country over the course of many years. While at the height of their power, the intimidation and violence of their cartel held the people of the Colombian countryside hostage to fear.

Thanks to truly historic, cooperative efforts by U.S. law enforcement agencies and the Colombian government, these men today faced U.S. Justice. In court this morning, the two brothers agreed to a $2.1 billion forfeiture.

In addition, in a separate agreement, 28 of the Rodriguez-Orejuela family members agreed to forfeit all their assets, anywhere in the world, that were obtained directly or indirectly with narcotics proceeds. We anticipate that these assets will be found to be in the form of everything from bank and investment accounts to businesses, luxury residences and more.

The brothers' guilty pleas effectively signals the final, fatal blow to the powerful Cali Cartel. There are always

DOJ_NMG_ 0168524

other traffickers and thus continuing challenges for law enforcement, but this is a day of pride for the people of Colombia and for international law enforcement.

The arrest, extradition to the United States, and now the convictions of these criminals, were all made possible by extraordinary cooperation between the United States and Colombia – our valued partner in the war to eradicate narcotics trafficking and the violence and corruption that accompanies it.

I am pleased to be joined at the podium by Ambassador Carolina Barco and wish to extend my deepest thanks, on behalf of our country, for the partnership and the bravery of President Uribe and the Colombian government.

Together, we have proven that the proud country of Colombia will not be held hostage by drug lords… and that those who seek to flood the neighborhoods of the United States with the poison of illegal drugs cannot get away with their crimes forever. They will be discovered, and they will be brought to justice.

I want to add that I believe our fight against illegal drugs has benefited from some of the reforms to our government that came after the terrorist attacks of September 11, 2001.

During that time, law enforcement agencies took important steps to ensure information-sharing and efficient use of resources. One of the tools developed was a unified, national law-enforcement list of the most significant drug and money laundering targets.

The Cali Cartel was on that list – the Consolidated Priority Organization Target, or CPOT list. CPOT has enabled drug enforcement officers at all levels, to assemble the resources necessary to zero in on the worst of the drug trafficking organizations… like the Cali Cartel. Of the 46 current CPOTs, 37 are under indictment in the U.S. In the last three years, law enforcement has completely dismantled 24 CPOT organizations and significantly disrupted one additional CPOT organization.

As with all matters of law enforcement, organization, cooperation and partnerships are what counted most in this case. In that spirit, I want to thank and congratulate the investigators and prosecutors who were involved, including:

- U.S. Immigration and Customs Enforcement at the Department of Homeland Security, represented here by Julie Myers, Assistant Secretary of Homeland Security

- the Drug Enforcement Administration, represented by Karen Tandy, the DEA Administrator

- the Office of Foreign Asset Control at the Treasury Department, represented by Adam Szubin the Director

- the U.S. Attorney's Office in the Southern District of Florida, represented by U.S. Attorney Alex Acosta

- the U.S. Attorney's Office in the Southern District of New York, represented by Deputy U.S. Attorney Cathy Seibel

DOJ_NMG_ 0168525

- and the Narcotic and Dangerous Drug Section of the Criminal Division and the Organized Crime and Drug Enforcement Task Forces (OCEDTF) at the Department of Justice, represented by Assistant Attorney General Alice Fisher.

I would also like to acknowledge the terrific partnership of the White House Office of National Drug Control Policy represented here by Director John Walters.

Now, some of the stage participants will be making a statement, beginning with Assistant Secretary Julie Myers and afterwards we'll take any questions.

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DOJ_NMG_ 0168526

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Image not available for this document, ID: 0.7.10316.28662-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 3:16 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER ENRON CHIEF FINANCIAL OFFICER ANDREW FASTOW SENTENCED TO SIX YEARS IN PRISON FOR CONSPIRACY TO COMMIT SECURITIES AND WIRE FRAUD

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV

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(202) 514-2008
TDD (202) 514-1888

FORMER ENRON CHIEF FINANCIAL OFFICER ANDREW FASTOW SENTENCED TO SIX YEARS IN PRISON FOR CONSPIRACY TO COMMIT SECURITIES AND WIRE FRAUD

WASHINGTON – Andrew S. Fastow, the former chief financial officer (CFO) of Enron Corp., was sente to six years in prison for his role in the conspiracy that led to the collapse of Enron Corp. in 2002, Assistant Atto General Alice S. Fisher announced today. Fastow was sentenced on two counts of conspiracy to commit securiti wire fraud before Judge Kenneth Hoyt at U.S. District Court in Houston, Texas.

Fastow pleaded guilty to two counts of conspiracy on Jan. 14, 2004. Under the terms of his plea agreeme Fastow agreed to cooperate fully with the government's investigation and forfeit more than $20 million.

Fastow admitted that he and other members of Enron's senior management conspired in wide-ranging scl to fraudulently manipulate Enron's publicly reported financial results. Fastow also admitted participating in sche enrich himself at the expense of the company and its shareholders. Specifically, Fastow admitted that he conspir with senior management to cause Enron to enter into improper transactions with the LJM entities, which were ur Fastow's control. He also admitted to engaging in self-dealing transactions to enrich himself and others in conne with the so-called "Southampton transaction," which involved the $30 million buyout by Enron of an entity calle Swap Sub LP, which Fastow controlled. In engaging in these transactions, Mr. Fastow admitted that he violated duty of loyalty and honest services to Enron's shareholders.

Enron, once the nation's seventh largest company with stock trading as high as $80 per share in August 1 filed for bankruptcy protection on Dec. 2, 2001, and its stock became virtually worthless.

Former Enron Corp. executives Timothy Despain and David Delainey were sentenced earlier this month. Despain was sentenced on Sept. 15, 2006, to four years of probation and fined $10,000 on one count of conspira commit securities fraud. Delainey was sentenced on Sept. 18, 2006, to 30 months in prison on one count of insic trading.

The ongoing investigation is being conducted by the Enron Task Force, a team of federal prosecutors supervised by the Justice Department's Criminal Division and Special Agents from the FBI and Internal Revenu Service, Criminal Investigation. The Task Force also has coordinated with and received considerable assistance the Securities and Exchange Commission. The Enron Task Force is part of President Bush's Corporate Fraud Ta Force, created in July 2002 to investigate allegations of fraud and corruption at U.S. corporations. To date, the e

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of the Corporate Fraud Task Force have resulted in 1,063 convictions, including the convictions of 167 corporate presidents and chief executive officers, and 36 chief financial officers.

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06-647

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Image not available for this document, ID: 0.7.10316.28647-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 3:24 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GOVERNMENT OFFICIAL IS THIRD TO PLEAD GUILTY IN $1.4 MILLION VIRGIN ISLANDS BRIBERY SCANDAL

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FORMER GOVERNMENT OFFICIAL IS THIRD TO PLEAD GUILTY IN $1.4 MILLION VIRGIN ISLANDS BRIBERY SCANDAL

WASHINGTON – The former Director of the U.S. Virgin Islands Department of Planning and Natural Resources (DPNR) Division of Environmental Protection pleaded guilty to conspiring to defraud the Virgin Islands government of approximately $1.4 million, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Anthony J. Jenkins of the District of the Virgin Islands announced today.

Hollis L. Griffin, 43, entered his guilty plea before U.S. District Judge Clarence Cooper in Atlanta, Ga. He faces a maximum sentence of five years in prison, a $250,000 fine, and $1.4 million in forfeiture. Sentencing has been scheduled for Dec. 19, 2006 at 8:30 a.m.

Griffin was previously charged in the District of the Virgin Islands on June 21, 2006, along with former Virgin Islands Fire Service employee Earl E. Brewley and Esmond J. Modeste, the purported Project Manager of a fictitious company by the name of Elite Technical Services (Elite), with engaging in an elaborate bribery and kickback scheme to defraud the territorial government of approximately $1.4 million in federal and local funds. Brewley and Modeste pleaded guilty to the charges before U.S. District Judge Curtis V. Gomez on July 12, 2006. They are scheduled to be sentenced on Nov. 15, 2006. At Griffin's request, the case against him was transferred to the U.S. District Court for the Northern District of Georgia in Atlanta for purposes of entering a guilty plea and sentencing.

According to court documents, in early 2000, Griffin, Brewley, Modeste, and others formed Elite and then used the fictitious company, as well as other companies, to seek and be awarded at least seven government contracts valued at approximately $1.4 million. Although little or no actual work was performed on the contracts—which were awarded by DPNR and the Virgin Islands Department of Property and Procurement (DP&P) on behalf of DPNR and the Virgin Islands Fire Service—payments totaling over $1.1 million were made to Elite and the other companies. Once the contract proceeds were paid to Elite and the other companies, Brewley, Modeste, and others paid bribes and kickbacks totaling between $300,000 and $350,000 to at least four territorial government officials including Griffin.

Griffin, like Brewley and Modeste, pleaded guilty to engaging in a five-year conspiracy to commit bribery concerning programs receiving federal funds, honest services mail fraud, and structuring currency

DOJ_NMG_ 0168533

transactions, all in violation of federal law. Many of the contracts in issue were funded with federal monies and both the DPNR and the Fire Service received annual appropriations of federal funds with which to fund such programs and contract awards. A series of $9,900 cash withdrawals—totaling over $350,000—were allegedly made by Brewley, Modeste, and others after depositing certain contract proceeds into FirstBank, Wachovia, and Banco Popular. Like Brewley and Modeste, Griffin admitted that these cash withdrawals were made in order to pay the bribes and kickbacks in cash while avoiding the filing of Currency Transaction Reports by the local banks.

This case is being jointly prosecuted by Armando O. Bonilla of the Criminal Division's Public Integrity Section and Executive Assistant U.S. Attorney Major R. Coleman of the Virgin Islands. The task force investigating this case comprises agents from the Federal Bureau of Investigation, the U.S. Treasury Department/Internal Revenue Service, the U.S. Postal Inspection Service, and the U.S. Environmental Protection Agency Office of the Inspector General. The Virgin Islands Office of the Inspector General also assisted in this investigation.

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06-649

DOJ_NMG_ 0168534

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Image not available for this document, ID: 0.7.10316.28629-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 598823 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 26, 2006 4:36 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Flint, MI

From: AmberAlert-DOJ
Sent: Tuesday, September 26, 2006 4:35:33 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Flint, MI
Auto forwarded by a Rule

AMBER ALERT:Flint,MI VEH:92 White Van Chevrolet Lumina TAG:ABN7745 CHILD:7 B/M 4FT 50LBS Eyes:Bro Hair:Bla SUSP:22 B/F Eyes:Bro Hair:Bla CALL 810-237-6821
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2262

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 5:05 PM
To: USDOJ- Office of Public Affairs
Subject: SEVEN INDIVIDUALS CHARGED WITH FEMA FRAUD IN CONNECTION WITH HURRICANE KATRINA

Department of Justice

United States Attorney Stephen J. Murphy
Eastern District of Michigan

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV/USAO/MIE/

CONTACT: GINA BALAYA
PHONE: (313) 226-9758
FAX: (313)-226-4609

SEVEN INDIVIDUALS CHARGED WITH FEMA FRAUD IN CONNECTION WITH HURRICANE KATRINA

DETROIT – Seven individuals appeared before a U.S. Magistrate Judge in Detroit today on three criminal complaints charging them with various fraud offenses for their participation in filing for and receiving assistance from the Federal Emergency Management Agency (FEMA) in connection to Hurricane Katrina, U.S. Attorney Stephen J. Murphy announced today. U.S. Attorney Murphy was joined in the announcement by U.S. Postal Inspector in Charge Gregory Campbell.

The supporting affidavit alleges that the defendants conspired to obtain benefits from FEMA totaling over $13,000 based upon applications that contained false and fraudulent representations for assistance in connection to Hurricane Katrina.

The following individuals were named in the complaint: Patricia A. Hubbard of Bude, Miss.; Andrea J. Johnson Reason of Bloomington, Ind.; Pamela L. Reason of Detroit; Krystal P. Hubbard of Southfield, Mich.; Dwight V. Reason of Bloomington, Ind.; Curtistine Ingram of Detroit; and Krystal J. Young of Detroit.

The affidavit also alleged that defendants Patricia Hubbard and Andrea Reason conspired to provide addresses for the areas affected by Hurricane Katrina to the other co-defendants None of the defendants lived in the Gulf Coast area nor had suffered any loss due to the hurricane and were therefore not eligible for FEMA benefits. The defendants allegedly used the money they received to purchase items such as clothes, cars and in some instances drugs.

Krystal J. Young was also charged in a complaint of mail fraud due to an application submitted to FEMA for assistance. Like the other defendants, Young never lived in the New Orleans or Louisiana area and had not suffered any loss due to the hurricane. Young received two checks totaling approximately $12,700 which she used to purchase a car and for living expenses.

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"The Department of Justice has signaled that those who fraudulently benefit from the tragedy of Hurricane Katrina -- be it in New Orleans, Louisiana or Detroit, Michigan -- will be prosecuted to the full extent of the law," stated U.S. Attorney Murphy. "Today's charges evidence my office's full support of that prosecution effort. Scam artists who steal federal Katrina relief funds to satisfy their greed not only defraud the American taxpayer, they also re-injure the real victims of the hurricane's tragic devastation by unlawfully taking money intended to help those in need. I applaud the excellent work of the Postal Inspection Service which led to this case and the strong efforts of the Assistant U.S. Attorneys who prosecuted it."

A conviction for the offense of conspiracy carries a maximum penalty of five years in prison, a $250,000 fine, or both. A conviction for the offenses of wire fraud and mail fraud each carry a maximum penalty of 20 years in prison and/or a $250,000 fine.

A complaint is only a charge and is not evidence of guilt. When the investigation is completed a determination will be made whether to seek a felony indictment.

This case is being investigated by the U. S. Postal Inspection Service.

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DOJ_NMG_ 0168540

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Image not available for this document, ID: 0.7.10316.28595-000002

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 5:52 PM
To: USDOJ- Office of Public Affairs
Subject: HORIZON WEST INC. & HORIZON WEST HEALTHCARE INC. TO PAY U.S.$14.7 MILLION FOR FALSE CLAIMS TO MEDICARE

Importance: High

Department of Justice

FOR IMMEDIATE RELEASE — CIV
TUESDAY, SEPTEMBER 26, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

HORIZON WEST INC. & HORIZON WEST HEALTHCARE INC. TO PAY U.S.$14.7 MILLION FOR FALSE CLAIMS TO MEDICARE

WASHINGTON – Horizon West Inc. and its wholly owned subsidiary, Horizon West Healthcare Inc., have agreed to pay the United States $14.7 million to settle allegations that the companies violated the civil False Claims Act, the Justice Department announced today. Rocklin, Calif.-based Horizon runs a nursing home chain with approximately 30 facilities in California and Utah.

The government alleged that the companies falsely inflated the number of nursing hours spent on Medicare patients when reporting their costs to Medicare from 1991 to 1998. The $14.7 million settlement by the defendants will end the case. "The Department of Justice is committed to investigating cases that threaten the integrity of the Medicare program," said Assistant Attorney General Peter D. Keisler. "We will protect the public from these kinds of inappropriate billings to the Medicare program."

The settlement resolves the civil case *United States ex rel. Lee v. Horizon West, Inc., et al.,* which was filed in 2000 by a former Horizon West employee. Julia Lee filed the case under the *qui tam* or whistleblower provisions of the False Claims Act, which authorize private parties to file lawsuits on behalf of the United States. The government intervened in the case on June 24, 2005, and the U.S. District Court in Oakland unsealed the case on July 11, 2005. The United States filed its complaint in the case on Oct. 21, 2005.

The case was investigated by the U.S. Department of Health and Human Services, Office of Inspector General; and the Federal Bureau of Investigation. The matter was handled by the Justice Department's Civil Division and the U.S. Attorney's Office for the Northern District of California in San Francisco.

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06-650

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Image not available for this document, ID: 0.7.10316.28572-000002

Amber.JMD

From: Amber.JMD
Sent: Tuesday, September 26, 2006 6:36 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Flint, MI

From: AmberAlert-DOJ
Sent: Tuesday, September 26, 2006 6:35:31 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Flint, MI
Auto forwarded by a Rule

UPDATE AMBER ALERT:Flint,MI VEH:92 White Van Chevrolet Lumina TAG:ABN7745 CHILD:7 B/M 4FT 50LBS Eyes:Bro Hair:Bla SUSP:22 B/F Eye:Bro Hair:Bla CALL 810-237-6821
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2262

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 6:48 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF PRESS CONFERENCE ANNOUNCING GUILTY PLEAS BY CALI CARTEL

Department of Justice

FOR IMMEDIATE RELEASE — OPA
TUESDAY, SEPTEMBER 26, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

TRANSCRIPT OF PRESS CONFERENCE ANNOUNCING GUILTY PLEAS BY CALI CARTEL WITH ATTORNEY GENERAL ALBERTO R. GONZALES, JULIE L. MYERS, ASSISTANT SECRETARY OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT, KAREN P. TANDY, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, ADAM J. SZUBIN, DIRECTOR OF THE OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF TREASURY, JOHN P. WALTERS, DIRECTOR, WHITE HOUSE OFFICE OF NATIONAL DRUG CONTROL POLICY, CAROLINA BARCO, AMBASSADOR TO THE UNITED STATES FROM THE REPUBLIC OF COLOMBIA

WASHINGTON, D.C.

2:10 P.M. EDT

ATTORNEY GENERAL GONZALES: Good afternoon. We've got an all-star lineup for all of you today. This morning Miguel and Alberto Rodriguez-Orejuela, brothers who ran the infamous Cali drug cartel in Colombia for more than 20 years, pleaded guilty in a federal court in Miami to a charge of conspiracy to import cocaine into the United States. They each were immediately sentenced to 30 years in prison. The brothers also agreed to plead guilty to a charge of conspiracy to commit money laundering by hiding the proceeds of narcotics trafficking.

These two men were responsible for importing more than 200 tons of cocaine into this country over the course of many years. While at the height of their power, the intimidation and violence of their cartel held the people of the Colombian countryside hostage to fear.

Thanks to truly historic cooperative efforts by U.S. law enforcement agencies and the Colombian government, these men today face U.S. justice. In court this morning, the two brothers agreed to pay a $2.1 billion forfeiture. In addition, in a separate agreement, 28 of the Rodriguez-Orejuela family members agreed to forfeit all of their assets anywhere in the world that were obtained directly or indirectly with narcotics proceeds.

We anticipate that these assets will be found to be in the form of everything from bank and investment accounts to businesses, luxury residences, and more.

DOJ_NMG_ 0168548

The brothers' guilty pleas effectively signal the final fatal blow to the powerful Cali cartel. There are always other traffickers, and thus continuing the challenges for law enforcement. But this is a day of pride for the people of Colombia and for international law enforcement.

The arrest, extradition to the United States, and now the conviction of these criminals were all made possible by extraordinary cooperation between the United States and Colombia, our valued partner in the war to eradicate narcotics trafficking, and the violence and corruption that accompanies it.

I am pleased to be joined at the podium by Ambassador Carolina Barco and wish to extend my deepest thanks on behalf of our country for the partnership and the bravery of President Uribe and the Colombian government. Together we have proven that Colombia will not be held hostage by drug lords, and that those who seek to flood the neighborhoods of the United States with the poison of illegal drugs will be held accountable. They will be discovered, and they will be brought to justice.

I want to add that I believe our fight against illegal drugs has benefited from some of the reforms to our government that came after the terrorist attacks of September 11th, 2001. During that time, law enforcement agencies took important steps to ensure information sharing and efficient use of resources. One of the tools developed was a unified national law enforcement list of the most significant drug and money laundering targets. The Cali cartel was on that list, the Consolidated Priority Organization Target or CPOT list.

CPOT has enabled drug enforcement officers at all levels to assemble the resources necessary to zero in on the worst of the drug trafficking organizations, like the Cali cartel. Of the 46 current CPOTs, 37 are under indictment in the U.S. In the last three years, law enforcement has completely dismantled 24 CPOT organizations and significantly disrupted one additional CPOT organization.

As with all matters of law enforcement, organization, cooperation and partnerships are what counted most in this case. In that spirit, I want to thank and congratulate the investigators and prosecutors who were involved, including U.S. Immigration and Customs Enforcement at the Department of Homeland Security, represented here by Julie Myers, Assistant Secretary of Homeland Security; the Drug Enforcement Administration represented by Karen Tandy, the DEA Administrator; the Office of Foreign Asset Control at the Treasury Department represented by Adam Szubin, the director; the U.S. Attorney's Office in the Southern District of Florida, represented by U.S. Attorney Alex Acosta; the U.S. Attorney's Office in the Southern District of New York, represented by Deputy U.S. Attorney Cathy Seibel; and the Narcotic and Dangerous Drug Section of the Criminal Division and the Organized Crime and Drug Enforcement Task Forces at the Department of Justice represented by Assistant Attorney General Alice Fisher.

I would also like to acknowledge the terrific partnership of the White House Office of National Drug Control Policy, represented here by Director John Walters.

Now some of the agencies' participants will be making a few statements, beginning with the Assistant Secretary, Julie Myers, and afterwards we'll take any questions.

MS. MYERS: Today's historic plea agreements are the culmination of 15 years of commitment, international teamwork and exceptional investigative efforts by many agencies. These guilty pleas also mark the end of one of the most powerful criminal organizations in the world.

In its heyday, the Cali cartel was responsible for roughly 80 percent of the cocaine supplied to the U.S. The organization was also behind a campaign of violence, murder and corruption that for more than 20 years impacted numerous governments and countless individuals around the globe.

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ICE agents in Miami first launched their probe into the Cali cartel in 1991, after a very alert Customs dog found cocaine hidden in some concrete posts. And over the next 15 years, ICE agents worked hand-in-hand with Colombian authorities, the DEA, and many other agencies to dismantle this organization from top to bottom.

With today's guilty plea and sentencing, the founders of this cartel are now outfitted in U.S. prison garb, and they will serve a 30-year prison sentence. These criminals rank as the highest level drug figures to ever occupy a U.S. jail cell. And this unprecedented accomplishment is a tribute to the ICE agents in Miami, New York and Colombia who worked tirelessly and fearlessly to take down this criminal organization.

And I'd like to single out ICE Special Agent Ed Cazarossci in particular for his incredible efforts on this case. He was on this case from day one. Fifteen years later, still working on this case, a key member.

We also owe a special debt of gratitude to the many Colombian law enforcement officers, specifically the Colombian vetted teams, who risked their lives to bring about these unprecedented results. For years, the Cali cartel leaders thought they could operate beyond the reach of law enforcement. But the tenacity and perseverance of this investigation sent a clear message that no degree of money, violence or corruption will protect kingpins from the rule of law.

Cross-border crime poses an ongoing threat to our homeland, and fighting this threat calls for courage, leadership, perseverance and partnership, and that's just what we've seen in this case. I can assure that ICE and the Department of Homeland Security remain as committed as ever to combating the global drug trade and the murderous groups behind it.

And now it's my pleasure to introduce the DEA Administrator, Karen Tandy.

MS. TANDY: Today will go down in history as the last nail in the coffin of the Cali cartel. Every year, DEA arrests thousands of significant drug traffickers, almost 30,000 alone last year. Some of them are among the world's most wanted traffickers, but it doesn't get any bigger than today: Bringing to justice the two remaining leaders, founding leaders of the notorious Cali cartel, Miguel and Alberto Rodriguez-Orejuela.

Today's guilty pleas and the sentencing that they received show that when law enforcement and countries band together like the United States and Colombia, drug dynasties topple. And it includes those which one thought themselves impervious to the rule of law, one after another, from the ruthless Medellin cartel to the once powerful now Cali cartel, and to their successors, the Norte Valle cartel, which tried to pick up where the Medellin and Cali cartels failed, and now are fragmented and splintered, with their key leaders facing U.S. charges.

And to conclude with the entire leadership of the FARC, which has been charged in the United States and is now trying to avoid the same inevitable fate as the Rodriguez-Orejuela brothers and their cartel today.

For decades, the Rodriguez-Orejuela brothers defined the label "kingpin." During little more than a decade, their Cali cartel sold, as you have heard, more than 30,000 kilograms of cocaine and amassed an illicit fortune that was worth in excess of one billion dollars.

There is no doubt that if these two brother drug lords were legitimate, they'd be in the top tier of the Forbes list of the richest people in this world. But their drug fortune became their Achilles heel. And it was the hundreds of pharmacies that concealed and sheltered their drug profits that paved their way to the ultimate American justice that they received today.

Gilberto Rodriguez-Orejuela was known as the chess player for his ability to stay ahead of his rivals and law enforcement. To the chess player today, we just have one last thing to say: Checkmate.

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And now I would like to introduce John Walters, the director of the White House Office of National Drug Control Policy.

Thank you.

MR. WALTERS: Thank you, Karen. I'd like to add my congratulations to those of the Attorney General's and those that came before me to the many people in Colombia and in the United States, U.S. Attorney's Offices and enforcement agencies who brought this case to the conclusion that we see today.

The credit also goes obviously to President Uribe and his courage in working aggressively with U.S. officials, extraditing key individuals, these two individuals being the largest in terms of their reach and responsibility for the drug problem in this hemisphere.

People in the past talked about the Cali cartel as the peaceful cartel, but their reign of terror and blood, their war with Pablo Escobar in the early nineties, still haunts the collective memory of many in Colombia and many in this country that worked against them. It was -- the Cali cartel was one of the most powerful criminal organizations ever, seeking to buy or kill anybody that got in their way. They sought to influence a president, a defense minister, an entire city and make it their own. They had a counterintelligence network. They monitored phones. They even targeted people calling the U.S. Embassy in Bogota.

One of them, Santacruz Londono, built an enormous mansion shaped like the United States to honor, as he said, his customers. When -- he was working on a 30,000 square foot replica of the White House when he died, in addition.

Ivan Urdinola and his brother were credited with the torture and murder of more than a hundred people, whose bodies they threw into the Colca River to float downstream and terrorize those who would stand against them. They were as bloody and as ruthless as it gets.

Today, most of the Cali cartel founders are dead; Pacho Herrera, Jose Santacruz Londono, Ivan Urdinola. What is left is here in the United States in Miami. And they have just been convicted, as you heard, two more felons who have lost their battle to the U.S. justice system and to the international effort to bring to justice those who would harm others.

Our strategy in Colombia is working. We are attacking traffickers across all fronts, as you've heard, by eradication, interdiction and organizational attack. By putting traffickers on the defensive, life is much better in Colombia. Violence and homicides, massacres have dropped to levels not seen in decades. Travel through Colombia has become safer, and Colombians have taken back their country. They're on the front lines.

By reducing cultivation in fields, we increase the financial risk to growers and take income away from illegal armed groups that control the production of the end cocaine cycle.

I would like to take a moment finally to remember those men and women in Colombia, our own citizens and those of our allies, who gave their lives in this fight. They made this day possible, and we are profoundly grateful to them and their families for the sacrifices they have made for freedom and justice.

The Rodriguez brothers' arrest is a testament to the men and women of the Columbian National Police, other Colombian officials, the dedicated efforts of ICE, DEA, personnel from the high intensity drug trafficking areas that involve state, federal and local law enforcement, and for all the prosecutors and enforcement personnel that made this case a reality.

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Finally, I'd like to take a moment and introduce a representative of Colombia, Ambassador Carolina Barco, who has been an ally in Colombia, and we're fortunate to have her here today as a representative and our ambassador from Colombia to Washington, D.C.

AMBASSADOR BARCO: I will be reading a statement sent by Mario Iguaran, who is the Attorney General of Colombia and who worked very closely with the Attorney General here in the United States. This is his statement:

The Prosecutor General of the Republic of Colombia endorses the agreement reached in the U.S. District Court, District of South Florida, between the United States of American and the members of the Rodriguez-Orejuela family, and considers it a historic judicial decision for both countries in their struggle against organized crime.

This agreement fulfills the objectives of fair administration of justice based on the principles of efficiency, procedural economy and effective and reciprocal cooperation, and does not violate any of the rights contained in the Colombian Constitution, and especially that of due process in Article 29 of the aforementioned charter, in accordance with international treaties entered into and ratified by Colombia.

As regards the action of extinction of ownership, the aforementioned agreement reflects the will of the Rodriguez-Orejuela family to surrender their illicit property in Colombia to the Colombian state, represented by the Prosecutor General, who in observance of the guidelines set out in Law 793 of 202, will define the pertinent procedure with the advent of the parties.

This procedure will result in the promptness, effectiveness and verity and of the extinction action so that the illegally acquired goods be definitely transferred to the Colombian state to the fund for rehabilitation, social investment and fight against organized crime, which is managed by the National Narcotics Directorate.

The Colombian prosecutor's office considers that this agreement concludes one of the most painful chapters of our recent history that brought grave harm to our society at the cost of the precious gift of life or many of our citizens, including prosecutors, judges and magistrates, and undermined the institutional organizations that vehemently confront organized crime on a daily basis, seeking to preserve the economic, social and legal balance in Colombia. Sincerely, Mario Herman Iguaran, Prosecutor General of Colombia.

ATTORNEY GENERAL GONZALES: Thank you, Ambassador.

Before taking your questions, let me just say that Columbia is our top extradition partner. Since 1997, when the Constitution was interpreted to allow for the extradition of Colombian nationals, there have been 453 -- I believe that's right, 453 Colombians who have been extradited to the United States, and so they really have been a tremendous partner is helping us fight and make great successes in this war against narcotics trafficking.

We've got a wealth of talent up here with a lot of experience and information, so we're happy to take your questions. It may be helpful, if you have specific individuals you would like to answer a question, to please identify that individual.

Questions. Yes.

QUESTION: What happens to the 28 relatives that have -- do they get off? Do they not -- is there anything that can -- can they be charged at all or with their -- are they just --

ATTORNEY GENERAL GONZALES: They are subject to a separate agreement, and this is separate from the plea agreement with respect to the two main brothers. They are subject to a separate agreement where they agree to forfeit assets around the world that are indirectly or directly related to narcotics trafficking, and they forfeit any assets they may have in the United States whether related in any way to narcotics trafficking.

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So we believe that that is a strong penalty, and I might add that if, going forward, there are any additional assets that become discovered, that those will be forfeited as well. So that will be the penalty suffered by the family members.

QUESTION: Does that mean they're not charged with anything, basically?

ATTORNEY GENERAL GONZALES: They're currently not charged with anything. Again, that doesn't preclude, I think, Alex, the possibility that if additional information became known that possible charges -- maybe I should defer to Alex.

MR. ACOSTA: None of the 28 family members are involved with narcotics trafficking. We have agreed to not pursue obstruction and money laundering charges against six of the children. That would be for activities that were not narcotics trafficking activities but simply obstruction.

In return for that, the 28 family members are agreeing to surrender all assets in the United States whether or not linked to narcotics proceeds, as well as all assets throughout the world that are linked to narcotics proceeds.

QUESTION: Mr. Attorney General, to whom will these assets be forfeited? I thought I understood the Ambassador to be saying that Colombia would be receiving some of this. How do you make that decision?

And can any of you say why -- and this sounds an odd thing to say, but why is only $2 billion, given the size of their fortune?

ATTORNEY GENERAL GONZALES: As to the second question, I'll ask Adam to respond to that. The simple answer to your first question is it depends where the assets or the proceeds are found. Most of it will probably be -- a substantial amount of it will probably be in Colombia, and so those assets will go to Colombia. Those assets found in the United States will go to the United States. We believe there are additional assets that will be found in the countries of Ecuador and Spain, and so those countries would receive those assets. So that would be a simple response.

QUESTION: And, I'm sorry, what's here? Money and bank accounts, mostly?

ATTORNEY GENERAL GONZALES: Again, that's still being assessed. I think it's probably going to be bank accounts, maybe life insurance policies. Looking at the -- and the reason, the reason why those assets may seem small in comparison to what you find in Colombia is because these criminals have learned that if you have assets in the United States, you're likely to lose them. And that's why those assets are small today.

MR. ACOSTA: To add to what the Attorney General said, as the Attorney General said, this is the final and fatal blow to the Cali Cartel. Prior to this, we have prosecuted 105 individuals associated with the Cali Cartel, and that included prior prosecutions, prior forfeitures.

The $2.1 billion forfeiture that was adjudicated this morning is the result of the Rodriguez-Orejuela brothers admitting to the trafficking of more than 200,000 kilos of cocaine in court this morning. We believe that a $2.1 billion forfeiture is more than sufficient to cover the remaining assets of the Cali Cartel, both those that are currently identified in the form of various financial assets that the Attorney General alluded to, as well as what other assets may be discovered whether in the United States or throughout the world.

QUESTION: This may be a question for the administrator. Obviously, this is a huge achievement for the agencies after such a long investigation, but as you dismantled this organization has the supply of cocaine in the U.S. gone up, down, or stayed the same from these successor organizations?

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MR. WALTERS: The effort we use from multiple agencies to assess the overall production and flow suggests that the effort to reduce the cultivation has been successful in Colombia, a significant drop in the overall output from the Andes in cultivation of cocaine.

We are still, obviously, victims, as Colombia is, of cocaine trafficking. It's been taken over by some smaller, less powerful trafficking groups, some of the armed, right-wing paramilitaries that have now been demobilized and are awaiting final adjudication, action, some of whom are subject to charges in the United States, and the left-wing FARC, as it was mentioned earlier, many of whose leaders have been indicted in the United States.

So we are continuing to press this. The amount of cocaine that was available -- this is subsequent to the Cali Cartel but before today, through the expansion of cultivation done by these successor groups in the mid-'90s is substantially lower today than it was at its peak, but we continue to do efforts at both interdiction, eradication on the supply side, as well as dismantling these organizations.

So there are signs of less availability, but the players have changed in the 15 years since this investigation has started. Against the new players, we are making progress.

ATTORNEY GENERAL GONZALES: Before we take any more questions, we'd like -- I'd like to give the representative from Treasury OFAC an opportunity to say a few words.

MR. SZUBIN: Thank you. I'm Adam Szubin, the director of the Office of Foreign Assets Control at the Treasury Department.

Today's agreements represent government at its best. By combining the financial sanctions powers of the Treasury Department with the law enforcement and criminal authorities of those on this stage and working closely with our partners in Colombia, we have crippled, as you have heard, what was one of the most notorious and dangerous drug cartels in the world.
Today's agreement also brings into sharp relief the power of financial sanctions. Since 1995, Treasury's Office of Foreign Assets Control or OFAC has relentlessly pursued Colombian drug cartels using Executive Order 12978 to designate and freeze the U.S.-controlled assets of over 100,200 companies and individuals. We have focused in particular on the notorious Cali Cartel, designating over 700 entities and people that were operating as fronts for Gilberto and Miguel Rodriguez-Orejuela.

The heart of this financial network was the Colombian drugstore chain Drogas La Rebaja as well as pharmaceutical laboratories like Pharmacoup, which allowed the Rodriguez-Orejeulas to launder their narcotics proceeds while also providing an ostensibly legitimate source of income for them and their families. For ten years, the OFAC investigators have pursued the Rodriguez-Orejeulas' dirty assets around the world, uncovering new front companies in Colombia, Ecuador, Spain, and six other countries, as the family attempted to mask its financial trails and circumvent our sanctions.

The impact of these sanctions has been dramatic. When OFAC designates a person or company, any assets held by a U.S. person or bank anywhere in the world must be frozen. Trade with or through the United States is cut off. And, even more importantly, Colombian businesses and banks have followed suit, severing all ties with entities that OFAC has listed. And Colombian authorities have frequently been able to act against designated companies and properties as well, as they did in the massive forfeiture action against Drogas La Rebaja. Indeed, in Colombia, being designated by OFAC is referred to as muerte civil or civil death. This unrelenting pressure was a key prompt of today's agreements. In a separate agreement, as you've heard, 28 designated family members of the Rodriguez-Orejuela family have agreed to forfeit their interests in all narcotics-related entities worldwide, including the hundreds of entities designated by OFAC since 1995.

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They have also committed to assist U.S. and Colombian authorities in any future forfeiture actions. If the 28 Rodriguez-Ore Eula family members fully comply with the terms of this agreement and meet all terms of removal, we will work to remove them from OFAC's list. Any future dealings with narcotics traffickers including on behalf of the two still designated Rodriguez-Ore Eula brothers will land them back on our list.

Today's outcome is a success. Two dangerous drug lords are headed to prison, and their once-powerful financial empire has been dismantled. This result is a team effort in every sense of the word, and we extend our deep appreciation to our dedicated colleagues in the U.S. Attorney's Offices in Miami and New York, the Drug Enforcement Administration, the Departments of Homeland Security and State, and in the Colombian government. I want to extend a special thanks to our exceptional narcotics team at OFAC.

Thank you.

QUESTION: Yes. First, would all those 28 relatives be allowed to travel back and forth to the United States?

Second question is what happens with all the companies that are currently on that list? Are they removed from the list? Will they have to go through a process? Are many companies in Colombia and abroad on that list?

And third, Administrator Tandy was saying that the FARC wanted to avoid running the to save face as the Rodriguez-Orejeulas. Are there are contacts with them? Is there any type of process going on with the FARC leadership?

ATTORNEY GENERAL GONZALES: I'll take the first one. We'll be working with the Department of Homeland Security and the State Department regarding the access of the 28 family members into the United States, so that's something that remains to be worked out.

MR. SZUBIN: In terms of de-listings, these assets will all remain on our list until they are forfeited or divested to the relevant authorities. So these will remain frozen until they are turned over.

MS. TANDY: The FARC, as I said, has been indicted. Its entire leadership has been indicted here in the United States. Two of its principal leaders, one commander as well as one of the financiers for the FARC are in the United States in court facing their own form of justice as the Cali Cartel received today.

QUESTION: But do you expect a similar agreement with them as you agreed with the Rodriguez-Orejeulas?

MS. TANDY: I expect that every cartel, whether it was Medellin, Cali, Norte de Valle, and the FARC will reach the same fate as the Ore Eula brothers.

QUESTION: No contacts with the leadership in Colombia?

MS. TANDY: That's all I have to say about that. We're following the system. They've been charged. We're going after them, and they'll be here one day, I am sure.

ATTORNEY GENERAL GONZALES: Other questions? Yes.

QUESTION: On the subject of the national intelligence estimate, will there be an investigation into how that was leaked? And what impact do you think this will have on your role with the jihadists that information about this has come to light?

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ATTORNEY GENERAL GONZALES: It's too early to tell with respect to the second part of your question. In terms of whether or not there will be an investigation, as you know, we normally don't confirm from the podium whether or not there is an investigation by the Department.

We have a standard procedure in place that is followed with respect to leaks of classified information, and I suspect that that standard procedure will be followed in this case as it is in virtually every other case. So we'll have to wait and see.

QUESTION: Can you estimate the total drug -- illegal drug profit by the cartel from 1991 until today?

ATTORNEY GENERAL GONZALES: John.

MR. WALTERS: You could create a crude estimate. We don't have a precise figure. Actually, for the -- we have more precision in some of the actions of the Cali members because they were -- some of them were -- some of them that are sentenced today were control freaks and insisted on accounting and being directly involved in that. So we have information from some of these investigations that was undoubtedly part of this trial as well as others about what they were actually moving.

But if you try to get an aggregate estimate of -- we know over that period of time how much was moved. We have a rough estimate of how much they were responsible for, but whether they got the wholesale or the retail price can radically change the rates of inflation.

At the time, they were -- various estimates are between half and 80 percent over the time when they were the strongest. But, again, those are estimates and -- so we do the best we can, but I want to warn you against high precision in this. They don't submit a tax return.

QUESTION: A crude estimate would be?

MR. WALTERS: Well, again, what was happening 15 years ago and subsequent, it would have been between 50 and 80 percent, as a crude estimate of the cocaine flowing between them and the -- largely the Medellin Cartel. There were some smaller players at the time, but -- and I don't remember what the aggregate estimate of total flow to the United States was at that time. We can try to get that for you.

There are reports that do those estimates. But, again, if you do how much they actually made at the wholesale level versus what was retailed into the United States, you get significantly different numbers because the price is higher at the smaller retail level.

QUESTION: What's -- I mean what's the range? What are we talking about as a range?

MR. WALTERS: Well, the estimates were, at that time, I think, between 500 and 700, 800 metric tons. That's 1,000 kilos a ton, and I think a kilo -- I don't know, at that time.

Are people here from DEA? Does anyone remember exactly what a kilo was going for about ten years ago? I don't remember.

ATTORNEY GENERAL GONZALES: Listen, we'll look into that. We'll try to give you -- we obviously don't have it. We're struggling with that, so we'll get that for you.

MODERATOR: Two more questions.

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QUESTION: Besides the $2.1 million that they decided to turn into the authorities, did they agree to cooperate with the Justice in other processes against other cartels?

ATTORNEY GENERAL GONZALES: The agreement does not require them to cooperate in other investigations. The level of cooperation extends to the identification of assets. That was the deal reached.

QUESTION: The history of breaking down big cartels like the Medellin Cartel is that you have then a hundred little cartels that are even more efficient. What is the plan to deal with those?

ATTORNEY GENERAL GONZALES: Julie, you want to --

MS. MYERS: Okay. Well, the plan to deal with the successors to the Cali Cartel is to use the same innovative techniques and partnerships that we've done in this case, to work with the DEA, with OFAC, to go after where we see the strong players in this area. Right now it's the Norte de Valle Cartel, the FARC.

Administrator Tandy has identified some of the steps we've taken there. I think we can see from this investigation how, even though it spanned 15 years, they changed techniques, you know, put it in frozen broccoli, put it in ceramic tiles, you know, operating from jail cells, but law enforcement continued. And that's what we'll do for smaller cartels or for big cartels is we'll work together as a group to dismantle these.

ATTORNEY GENERAL GONZALES: Okay. One more question.

QUESTION: General Gonzales, can you tell use when you're expecting this -- two big bills on Capitol Hill, the detainee legislation, are you going to give us a -- and can you clear up some confusion on the NSA from Senators Craig and Murkowski -- who put out a statement saying that the administration had agreed in a word to conduct electronic surveillance of U.S. persons, a court order of warrant is necessary. Has the administration agreed to that, and wouldn't that in effect put an end to the program that the President acknowledged?

ATTORNEY GENERAL GONZALES: Well, these are two very important programs, two important pieces of legislation. That is important as far as the President is concerned to continue to fight effectively the war on terror. And we certainly hope that we can get something -- both pieces of legislation passed this week, and we understand there are challenges given the legislative calendar, but they're very important, and we continue to hope that Congress will be able to pass the legislation this week.

The -- what the President has said with respect to TSP is that he wanted additional authorities granted by Congress to support that program, and I think that the compromise that has been reached achieves that objective with the option of looking at individual court orders, moving from approval of a program to specific court orders. I think that option is in there. And it also provides for an avenue for the President to submit a program to a court for adjudication of the constitutionality of the program.

And so I think that's the current state of play. But, you know, this is something that is changing, and so it changes hourly, daily, in terms of what legislation is actually going to look like. What the President has said -- what he wants to see with respect to TSP is additional authority granted by the Congress to support that program.

QUESTION: Is it then wrong to say, as the Republican Senator said yesterday that the administration has agreed that it will seek a warrant any time it wants to listen in on the conversations of a U.S. person?

ATTORNEY GENERAL GONZALES: Well, again, I think the legislation that's currently in play allows for a program, again, with the option of submitting the -- the option of looking to -- turning that program into individual requests for specific court orders. So I can't get any more specific than that.

QUESTION: Ambassador, you read that statement, but may I ask you, in your own words, to describe for us what kind of hold the Cali Cartel had on Colombia in the 1990s and what this -- the resolution of this means for Colombia?

AMBASSADOR BARCO: I spoke and I read a statement by our Attorney General because in Colombia the Attorney General's Office is independent from the Executive. It's part of the judicial system. So this is why I am here to represent the judicial system, and that's why I read this statement, because he wanted to express his agreement and satisfaction with the kind of collaboration that we had and the cooperation in which Colombia was involved throughout the process and was able to ensure that both our Constitutions, the terms of our extradition agreements were all taken into account so that Colombia's judicial system was represented in what was an American decision.

I'm not an expert then, as you can imagine, on the cartel. All I can say is that, for Colombia, the drug problem has been its major challenge, and we have been fighting this since the 1980s with great conviction and at great cost. As I said, we've lost many lives: presidential candidates, prosecutors, governors; and it has meant that the country has had to hold together to fight these cartels.

As a Colombian, I think we all need to continue to speak out to what drug trafficking means to any country because it is that terrible combination of incredible amounts of money, which breed corruption, and incredible amounts of violence that are entailed in this -- in the illegal drug trafficking, which puts great, great pressure on any democracy and on any institution.

So Colombia will continue to fight for its democracy. We will continue to fight for a right to a peaceful country because this money also helps to finance terrorism in my country. We will continue to fight for values that have to do with honest work and not values that are associated to fast money and drug trafficking. And so Colombia will continue to speak out and will continue to fight with zero tolerance for drugs, and will stay committed and continue in this kind of collaboration with the United States.

And we want to work also very closely with our neighbors. We've gotten very involved with the Caribbean, with Central America, sharing information, seeking to help them with security. We want to keep our region also away from this problem, and we feel that Colombia has to give an example, and speak out, and play a role. Thank you.

ATTORNEY GENERAL GONZALES: Thank you all.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 6:53 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 26, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Participates in Press Conference Announcing Drug-Related Plea Deal (OPA)

Today, the Attorney General participated in a press conference with Julie L. Myers, Assistant Secretary of Homeland Security, Immigration and Customs Enforcement; Karen P. Tandy, Administrator, Drug Enforcement Administration; Adam J. Szubin, Director of the Office of Foreign Assets Control, U.S. Department of Treasury; John P. Walters, Director, White House Office of National Drug Control Policy; Carolina Barco, Ambassador to the United States, Republic of Colombia; Alice S. Fisher, Assistant Attorney General, Criminal Division; R. Alexander Acosta, U.S. Attorney, Southern District of Florida; and Cathy Seibel, Deputy U.S. Attorney, Southern District of New York. The Attorney General announced that two Colombians who led the Cali cocaine cartel for decades have pleaded guilty to drug trafficking and money laundering charges. As part of their plea deal, the two agreed to forfeit billions of dollars in assets linked to their drug trade and to accept a jail sentence of 30 years each.

"Girls Gone Wild" Founder Joseph Francis Pleads Guilty In Sexual Exploitation Case (Criminal)

Joseph Francis, founder, CEO and sole shareholder of two California companies doing business under the name "Girls Gone Wild," has pleaded guilty to charges that he failed to create and maintain age and identity documents for performers in sexually explicit films produced and distributed by Girls Gone Wild, as required by federal law, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. Francis entered the guilty plea yesterday before U.S. District Judge Margaret Morrow at U.S. District Court in Los Angeles. Santa Monica-based Mantra Films, Inc., which is owned and operated by Francis, entered a plea agreement on Sept. 12, 2006, at U.S. District Court in Panama City, Fla. A second related company, MRA Holdings, Inc., also entered a deferred prosecution agreement the same day.

Former Enron Chief Financial Officer Andrew Fastow Sentenced to Six Years in Prison for Conspiracy to Commit Securities and Wire Fraud (Criminal)

Andrew S. Fastow, the former chief financial officer of Enron Corp., was sentenced to six years in prison for his role in the conspiracy that led to the collapse of Enron Corp. in 2002, Assistant Attorney General Alice S. Fisher announced today. Fastow was sentenced on two counts of conspiracy to commit securities and wire fraud before Judge Kenneth Hoyt at U.S. District Court

in Houston, Texas. Fastow pleaded guilty to two counts of conspiracy on Jan. 14, 2004. Under the terms of his plea agreement, Fastow agreed to cooperate fully with the government's investigation and forfeit more than $20 million.

Former Government Official Is Third To Plead Guilty In $1.4 Million Virgin Islands Bribery Scandal (Criminal)
The former Director of the U.S. Virgin Islands Department of Planning and Natural Resources Division of Environmental Protection pleaded guilty to conspiring to defraud the Virgin Islands government of approximately $1.4 million, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Anthony J. Jenkins of the District of the Virgin Islands announced today. Hollis L. Griffin entered his guilty plea before U.S. District Judge Clarence Cooper in Atlanta, Ga. He faces a maximum sentence of five years in prison, a $250,000 fine, and $1.4 million in forfeiture.

Horizon West Inc. & Horizon West Healthcare Inc. To Pay U.S. $14.7 Million For False Claims To Medicare (Civil)
Horizon West Inc. and its wholly owned subsidiary, Horizon West Healthcare Inc., have agreed to pay the United States $14.7 million to settle allegations that the companies violated the civil False Claims Act, the Justice Department announced today. Rocklin, Calif.-based Horizon runs a nursing home chain with approximately 30 facilities in California and Utah.

Talking Points

- The Department of Justice is committed to investigating cases that threaten the integrity of the Medicare program.

- We will protect the public from these kinds of inappropriate billings to the Medicare program.

Former New York Hospital Employee Pleads Guilty To Bid Rigging (Antitrust)
A former New York hospital employee pleaded guilty for his role in a conspiracy involving bid rigging and contract allocation for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced. Stephen Cogliano of Staten Island, N.Y., a former information technology network employee at Mount Sinai, pleaded guilty today in U.S. District Court in Manhattan to one count of conspiracy to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai from approximately January 2001 through October 2004.

Talking Points

- The Department of Justice remains vigilant in its efforts to protect competition for American businesses and consumers.

- As this case shows, the Department of Justice will prosecute those who defraud their employers and deprive the public of the benefits afforded by a truly competitive bidding process.

United States Files Civil Rights Lawsuit against the Village of Suffern, New York (OUSA – Southern District of New York)
The United States filed a civil rights lawsuit in White Plains federal court today against the Village of Suffern, which is located in Rockland County, N.Y., alleging that Suffern unlawfully discriminated on the basis of religion, in violation of the Religious Land Use and Institutionalized Persons Act of 2000, when it refused to allow a private religious organization to operate a Shabbos House near Good Samaritan Hospital in Suffern, U.S. Attorney Michael J. Garcia of the Southern District of New York, announced today.

Talking Points

- This lawsuit enforces Congress's determination that local zoning regulations must give way when they unlawfully burden religious exercise.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

No events/releases scheduled.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 26, 2006 7:44 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER COMMERCIAL REFRIGERATION COMPANY MANAGER INDICTED ON RIGGING BIDS ON CONTRACTS TO SAFEWAY GROCERY STORES IN ARIZONA

(A PDF of the indictment is attached below.)

Govostes Indictment.pdf

FOR IMMEDIATE RELEASE
TUESDAY, SEPTEMBER 26, 2006
WWW.USDOJ.GOV

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

FORMER COMMERCIAL REFRIGERATION COMPANY MANAGER INDICTED ON RIGGING BIDS ON CONTRACTS TO SAFEWAY GROCERY STORES IN ARIZONA

WASHINGTON — A federal grand jury in Phoenix returned an indictment charging a former commercial refrigeration company manager with participating in a conspiracy to rig bids on contracts for the installation of commercial refrigeration equipment in Safeway Inc. grocery stores in the Phoenix metropolitan area, the Department of Justice announced today.

The indictment, filed today in the United States District Court in Phoenix, charged that James Govostes participated with unnamed co-conspirators in the conspiracy which took place beginning in or around January 2005 and continuing until May 16, 2005. At the time of the conspiracy, Govostes served as a regional manager for an unnamed co-conspirator company engaged in the installation of commercial refrigeration in the Phoenix metropolitan area and elsewhere.

This is the first charge as a result of the Department's ongoing antitrust investigation into the commercial refrigeration industry.

"The Antitrust Division is committed to prosecuting those who damage the integrity of the free market by conspiring to rig bids," said Thomas O. Barnett, Assistant Attorney General in charge of the Department of Justice's Antitrust Division.

The indictment charges that Govostes and his co-conspirators engaged in the following actions involving commercial refrigeration installation projects at Safeway grocery stores:

- Discussed among themselves the submission of bids;
- Agreed to allocate bids among themselves according to which company had a maintenance agreement in place at a particular grocery store;
- Solicited other individuals to join and facilitate the conspiracy;

DOJ_NMG_ 0168564

- Designated which company would submit the low bid and submitted a rigged bid; and
- Accepted payment from Safeway for work done as a result of the conspiracy.

Govostes is charged with bid rigging in violation of the Sherman Act. The felony charge carries a maximum fine for an individual of $1 million and up to 10 years in prison. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime if either of those amounts is greater than the statutory maximum fine.

Today's charges resulted from the Antitrust Division's investigation of the commercial refrigeration industry being conducted by its Chicago Field Office in conjunction with the Phoenix office of the Federal Bureau of Investigation and the United States Attorney's Office located in Phoenix.

Anyone with information concerning bid-rigging or other anticompetitive conduct in the commercial refrigeration industry should contact the Antitrust Division's Chicago Field Office at 312-353-7530 or the FBI's Phoenix office at 602-279-5511.

###

06-651

Department of Justice

DOJ_NMG_ 0168565

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

United States of America, Plaintiff, v. James Govostes, Defendant.	**INDICTMENT** VIO: 15 U.S.C. § 1

THE GRAND JURY CHARGES:

I.

Description of the Offense

1. The following individual is hereby indicted and made a defendant on the charge stated below:

JAMES GOVOSTES.

2. Beginning in or around January 2005 and continuing until May 16, 2005, the exact dates being unknown to the Grand Jury, the defendant and co-conspirators entered into and engaged in a combination and conspiracy to suppress and eliminate competition by rigging bids on contracts for the installation of commercial refrigeration in the Phoenix, Arizona metropolitan area. The combination and conspiracy engaged in by the defendant and co-conspirators was in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and his co-conspirators, the substantial

terms of which were to submit rigged bids to Safeway, Inc. for the installation of commercial refrigeration equipment in grocery stores in the Phoenix, Arizona metropolitan area.

II.

Means and Methods of the Conspiracy

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendant and his co-conspirators took various actions, including, among other things:

a. discussing among themselves the submission of bids for commercial refrigeration installation projects at Safeway, Inc. grocery stores in the Phoenix, Arizona metropolitan area;

b. agreeing to allocate bids for commercial refrigeration installation projects at Safeway, Inc. grocery stores among themselves according to which co-conspirator company had a maintenance agreement in place at the particular Safeway, Inc. grocery stores for which bids were let;

c. agreeing to raise margins on bids for commercial refrigeration installation projects at Safeway, Inc. grocery stores;

d. soliciting other individuals to join and facilitate the conspiracy to rig bids for commercial refrigeration installation projects at Safeway, Inc. grocery stores;

e. designating which co-conspirator would submit the low bid for the commercial refrigeration installation project at Safeway Store #2088;

f. submitting a rigged bid for the commercial refrigeration installation project at Safeway Store #2088 to Safeway, Inc. as they had agreed upon; and

g. accepting payment from Safeway, Inc. for work done on the commercial refrigeration installation project at Safeway Store #2088 awarded as a result of a rigged bid submitted in furtherance of the conspiracy.

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III.

Defendant and Co-conspirators

5. During the period covered by this Indictment, defendant JAMES GOVOSTES was the regional manager of an unindicted co-conspirator corporation that was engaged in the installation of commercial refrigeration in the western United States, including in the Phoenix, Arizona metropolitan area. JAMES GOVOSTES' managerial territory included the Phoenix, Arizona metropolitan area.

6. Various corporations and individuals, who were not made defendants in this Indictment, participated, as co-conspirators, in the offense charged in this Indictment and performed acts and made statements in furtherance of the charged offense.

7. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

IV.

Trade and Commerce

8. Commercial refrigeration includes the refrigerated cases in grocery stores such as deli cases, dairy cases, and frozen food cases.

9. During the period covered by this Indictment, substantial quantities of refrigeration fixtures, materials, and equipment, necessary for the defendant's company and his co-conspirators to perform commercial refrigeration installation projects in the Phoenix, Arizona metropolitan area, were transported across state lines in a continuous and uninterrupted flow of interstate commerce and in a manner substantially affecting interstate commerce. Namely, a substantial portion of refrigeration equipment installed by the defendant's company and his co-conspirators in the provision of their commercial refrigeration services in Arizona was manufactured outside the State of Arizona.

DOJ_NMG_ 0168568

10. During the period covered by this Indictment, both the general business activities of the victim, Safeway, Inc., which is headquartered in California, and the commercial refrigeration installation activities of a co-conspirator, also headquartered in California, were conducted across state lines and had a not insubstantial effect on interstate commerce. The co-conspirator does refrigeration installation business throughout the western United States while Safeway does business throughout the United States.

11. During the period covered by this Indictment, the defendant and his co-conspirators communicated in furtherance of the conspiracy across state lines between Utah and Arizona, and both invoices and payments for the provision of the defendant's and his co-conspirators' commercial refrigeration services to Safeway, Inc. were transmitted across state lines.

12. During the period covered by this Indictment, the commercial refrigeration installation activities of the defendant and his co-conspirators that are the subject of this Indictment were within the flow of, and had a not insubstantial effect on, interstate trade and commerce.

V.

Jurisdiction and Venue

13. The combination and conspiracy charged in this Indictment was carried out, in part, within the District of Arizona within the five years preceding the return of this Indictment.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION I.

A TRUE BILL

FOREPERSON OF THE GRAND JURY
Date:

DOJ_NMG_ 0168569

A TRUE BILL

FOREPERSON OF THE GRAND JURY
Date:

THOMAS O. BARNETT
Assistant Attorney General

SCOTT D. HAMMOND
Deputy Assistant Attorney General

MARC SIEGEL
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

PAUL K. CHARLTON
United States Attorney
District of Arizona

_____
Assistant U.S. Attorney

MARVIN N. PRICE, Jr.
Chief, Midwest Field Office

KALINA M. TULLEY
BRIAN P. MCLAUGHLIN
Attorneys, Antitrust Division
U.S. Department of Justice
Midwest Field Office
209 S. LaSalle Street
Suite 600
Chicago, IL 60604
Tel.: (312) 353-7530
kalina.tulley@usdoj.gov
brian.mclaughlin@usdoj.gov

DOJ_NMG_ 0168570

Image not available for this document, ID: 0.7.10316.28587-000002

Image not available for this document, ID: 0.7.10316.28587-000003

System Administrator

From:	System Administrator
Sent:	Tuesday, September 26, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 601270 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

info@londonjunto.com

From:	info@londonjunto.com
Sent:	Wednesday, September 27, 2006 6:05 AM
To:	Gorsuch, Neil M
Subject:	"'Use Your Eyes and Plagiarise': Lessons From a 50 Year Career in Investment Management." London Junto/Harvard Business Forum
Attachments:	tmp.htm

The London Junto Newsletter: September 2006 The London Junto and The Harvard Business Forum Present:

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on October 10th for an evening with Nils Taube, the doyen of London Fund Managers.

~~~
~~~

Nils Taube was born in Estonia in 1928 but has lived in England since 1946. He joined Kitcat & Aitken (stockbrokers) in 1948, became a Partner in 1957 and Senior Partner in 1975. He was a member of the Council of the Stock Exchange from 1977 to 1982. He co-founded The Society of Investment Analysts in 1955 and The Institute for Fiscal Studies, now a leading UK think tank (in 1969) and of which he is still a Member of the Executive Committee. In 1982, he left Kitcat & Aitken to join Lord Rothschild?s group of companies as Principal Investment Adviser until 1996 when, with two colleagues, he formed Taube Hodson Stonex Partners, a firm of Investment Managers in London, of which he is Chairman.

DATE: October10, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD

The London Junto - http://rs6.net/tn.jsp?t=fly6uybab.0.t9zzwubab.vri5uubab.190&ts=S0207&p=http%3A%2F%2Fwww.londonjunto.com

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* A welcome glass of wine or other beverage

* An opportunity to win a copy of James Morton's 1997
classic (which includes a profile of Nils Taube) Investing with the Grand
Masters (http://rs6.net/tn.jsp?t=fly6uybab.0.ndtkpybab.vri5uubab.190&ts=S0207&p=http%3A%2F%2
Fbooks.global-investor.com%2Fbooks%2F10377.htm%3FginPtrCode%3D00000%26identifier%3D)

Please pay on PAYPAL (link below-takes VISA etc.) You DO NOT need a PayPal account. Alternatively, drop me an e-mail with the following details:

Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)

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THE DEADLINE FOR REGISTRATION AND PAYMENT IS October 6, 2006 **********
****

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London Junto | 16 Queensgate Place | London | SW7 5NY | United Kingdom

The London Junto Newsletter: September 2006

The London Junto and The Harvard Business Forum Present:

Event Sponsors

The London Junto

The Harvard Club of UK Business Forum

Hayek Capital Management

Relevant links

- Taube Hodson Stonex
- Investing with the Grand Masters

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on October 10th for an evening with Nils Taube, the doyen of London Fund Managers.

"'Use Your Eyes and Plagiarise': Lessons From a 50 Year Career in Investment Management."

When once asked, to what he attributed exceptional track record as an investor, quick as a flash, and with a characteristic deep chuckle, Nils Taube came back the answer: "Plagiarism, of course!" Mr Taube's particular metier, as he tells it, has been "international plagiarism", the concept that a good idea from one market will often "travel well" and work equally successfully in another region or time zone. Now 78 years young, he has been running his first fund continuously since 1969, a record of service that no other London fund manager comes close to matching. All of the funds he and his colleagues have launched have outperformed their benchmarks by between 5 per cent and 8 per cent a year compound over periods of more than 15 years. Accumulation units in his original European fund have grown in value 200 fold, or just under 16 per cent a year, since 1969. Join him as he shares his wit, wisdom and wealth of experience with the Junto and Harvard alumni.

About Nils Taube

Nils Taube was born in Estonia in 1928 but has lived in England since 1946. He joined Kitcat & Aitken (stockbrokers) in 1948, became a Partner in 1957 and Senior Partner in 1975. He was a member of the Council of the Stock Exchange from 1977 to 1982. He co-founded The Society of Investment Analysts in 1955 and The Institute for Fiscal Studies, now a leading UK think tank (in 1969) and of which he is still a Member of the Executive Committee. In 1982, he left Kitcat & Aitken to join Lord Rothschild's group of companies as Principal Investment Adviser until 1996 when, with two colleagues, he formed Taube Hodson Stonex Partners, a firm of Investment Managers in London, of which he is Chairman.

DATE: October10, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD
The London Junto

Tickets for the event are £20.00. This includes:

- A welcome glass of wine or other beverage
- An opportunity to win a copy of James Morton's 1997 classic (which includes a profile of Nils Taube) Investing with the Grand Masters

Please pay on PAYPAL (link below-takes VISA etc.) You **DO NOT** need a PayPal account. Alternatively, drop me an e-mail with the following details: **Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)**

Nicholas Vardy
The London Junto

email: info@londonjunto.com
phone: +44(0)7780 677360
web: http://www.londonjunto.com

Please register and pay for this event by clicking on the button here:

THE DEADLINE FOR REGISTRATION AND PAYMENT IS October 6, 2006

Forward email

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This email was sent to neil.gorsuch@usdoj.gov, by info@londonjunto.com
Update Profile/Email Address | Instant removal with SafeUnsubscribe™ | Privacy Policy.

London Junto | 16 Queensgate Place | London | SW7 5NY | United Kingdom

System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 601296 KB.

Mailbox size limits:

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See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 9:44 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 27, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, September 27, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Antitrust Division will issue a release on a criminal matter. (Talamona)

The Tax Division will issue a release on a tax fraud matter. (Miller)

The Tax Division will issue a release on a tax fraud matter. (Miller)

The Bureau of Justice Assistance will issue a release on a grant funding matter. (Peterson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Evan Peterson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0168581

Image not available for this document, ID: 0.7.10316.28548-000001

Image not available for this document, ID: 0.7.10316.28548-000002

System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
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See client Help for more information.

From: Miller, Charles S
Sent: Wednesday, September 27, 2006 11:21 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/27/06 Civil Division News

Officials forgo Supreme Court appeal in DHS labor case

S.J. nursing home guilty of defrauding Medicare; WHISTLE-BLOWER WINS RELATED SUIT

High court to hear Rocky Flats whistle-blower case

Whistleblower, Boeing off to high court By Greg Stohr

High Court Takes Deportation Case

U.S. judge OKs accord on trailers for disabled; Toll-free lines to help FEMA reach out

Judge agrees to delay in case of Cuban exile militant

Former Mountie defends embattled Arar investigation

Hicks will be tried by new US commission - Howard

Government Executive Magazine

September 26, 2006

Officials forgo Supreme Court appeal in DHS labor case

By Karen Rutzick

Government officials on Monday night passed up their last chance to seek reversal of a court decision blocking proposed labor relations reforms at the Homeland Security Department.

The solicitor general's office, which brings cases to the Supreme Court on behalf of government agencies, let a midnight deadline pass without filing an appeal at the high court.

"We're OK with that because it allows the department to move forward in implementing our labor relations flexibilities rather than spending additional time in the litigation process," said Larry Orluskie, a DHS spokesman.

In June, an appeals panel unanimously upheld, and even broadened, an earlier ruling that the proposed system would illegally curtail collective bargaining rights for employees by giving management the ability to cancel negotiated agreements. DHS and Justice Department officials in August decided against challenging that decision before the full appellate court, but left open the option for a Supreme Court appeal.

DOJ_NMG_ 0168585

A Justice Department spokesman declined to comment on why the solicitor general chose not to pursue the Supreme Court appeal.

Orluskie said DHS officials will begin talks soon on how to rework the system so it meets legal standards.

"What we're going to do moving forward is sit down with our component agencies, sit down with the unions, and discuss how we move forward and where we go from here," Orluskie said.

Representatives of the federal employee unions that brought the case were pleased at the government's decision.

"DHS has made the right decision," said Colleen Kelley, president of the National Treasury Employees Union. "It is now time for DHS to put this adversarial proceeding behind it and to join with NTEU in focusing solely on the agency's critical mission of protecting the American people."

"This is the smartest thing DHS has done in quite some time," said Mark Roth, a lawyer for the American Federation of Government Employees. "DHS management was in a battle they knew they couldn't win."

If DHS wants to rework its collective bargaining scheme, it must re-enter the meet-and-confer process with the unions representing its employees and resubmit the regulations to the *Federal Register*. The department is free, however, to move ahead with personnel changes that don't involve labor relations.

"We are working full-on with performance management," Orluskie said. He noted that DHS has trained 11,000 managers and supervisors on the new system, which focuses on job performance and will eventually link pay raises to performance ratings.

"It is my expectation that DHS will now engage in meaningful discussions with unions and management associations [on labor relations plans]," said Sen. Daniel Akaka, D-Hawaii, ranking member of a Senate federal workforce oversight subcommittee, in a statement Tuesday.

The law that created DHS, and allowed officials to rewrite personnel rules, gave the department five years for labor relations changes. As a result, department's authorization to modify the bargaining system ends in January 2009.

END

San Jose Mercury-News

Wed, Sep. 27, 2006

S.J. nursing home guilty of defrauding Medicare; WHISTLE-BLOWER WINS RELATED SUIT

By Rodney Foo
Mercury News

An East San Jose nursing home was convicted Tuesday of filing false Medicare claims, and its corporate owner also has agreed to pay $14.7 million to settle a related federal lawsuit instigated by a whistle-blower, prosecutors said.

Representatives for Parkview Nursing Center agreed to plead guilty in U.S. District Court in Oakland to two counts of submitting inflated nursing hours related to patients' reports to Medicare. No individuals were charged, U.S. Department of Justice spokesman Luke Macaulay said, only the business entities.

The crimes occurred in November 1997 and September 1998, prosecutors said. The complaint against Parkview was filed earlier this month.

Parkview also was ordered to pay a $500,000 fine. The 99-bed nursing home was closed in 1998 by its owner and operator, Horizon West Healthcare, a wholly owned subsidiary of Horizon West, based in Rocklin.

A Horizon West spokeswoman, Susan Bitar, said the reporting errors were the result of a ``complex and outdated system'' used to record nursing hours.

``These errors could not and would not be made today,'' she said.

The conviction follows an August agreement by Horizon West to pay $14.7 million to settle a 2000 lawsuit brought by a former employee, Julia Lee, and the Justice Department. The settlement will be paid out over five years, according to the agreement.

Lee originally filed the action under a federal law that permits whistle-blowers to sue on behalf of the government, alerting prosecutors to the inflated Medicare reports.

Lee and the government are in negotiations over her percentage of the settlement, Macaulay said.

Neither Lee nor her attorney could be reached for comment Tuesday.

END

Denver Post

Sept. 27, 2006

High court to hear Rocky Flats whistle-blower case

The U.S. Supreme Court will use a 17-year-old case involving Colorado's Rocky Flats to clarify the ability of whistle-blowers to sue and collect from private contractors for the misuse of federal funds.

The high court agreed Tuesday to hear an appeal of a $4.2 million award in a lawsuit brought in 1989 by James Stone, a former engineer for Rockwell International Corp. During the 1970s and '80s, Rockwell was a contractor at Rocky Flats, a nuclear weapons plant north of Golden that has since been demolished.

Stone's suit claimed Rockwell lied to the government about its performance during its tenure at Rocky Flats in order to qualify for more than $22 million in performance awards. The U.S. Energy Department later joined the suit.

The suit was filed under the federal False Claims Act, which allows a whistle-blower to sue over alleged fraud against the government and collect a percentage of any money awarded.

A federal jury in 1999 awarded Stone and the government $1.4 million, which under federal law was tripled to $4.2 million. The False Claims Act entitled Stone to claim roughly a third of the money.

The 10th U.S. Circuit Court of Appeals upheld the award in 2001.

The Boeing Co. - which now owns Rockwell - is seeking to overturn the $4.2 million award. It contends Stone does not qualify as a whistle-blower under federal law because he was not the "original source" of information about Rockwell's alleged misdeeds and therefore should not share in the award.

Stone's attorneys argue that the 10th Circuit concluded that he had direct and independent knowledge about a number of problems at Rocky Flats.

The Bush administration joined Stone in urging the Supreme Court not to hear the appeal.

In agreeing to review the case, the Supreme Court declined to address the larger issue raised by some business groups as to whether the False Claims Act is unconstitutional.

The court is expected to rule by July.

END

Bloomberg

9/26/2006 12:22 PM

Whistleblower, Boeing off to high court By Greg Stohr

DenverPost.com The U.S. Supreme Court will use a case involving Boeing Co. to clarify the rules governing lawsuits by whistleblowers who say they have evidence of fraud against the federal government.

Boeing's Rockwell unit wants to overturn a $4.2 million award won by James S. Stone, a retired engineer who accused the company of making false statements about environmental, health and safety activities at its Rocky Flats nuclear weapons facility outside Denver.

Boeing contends the Denver-based 10th U.S. Circuit Court of Appeals made it too easy to win suits under the U.S. False Claims Act, which lets whistleblowers sue on behalf of the federal government and then share in any recovery.

The dispute centers on the requirement that whistleblowers be the "original source" of information about wrongdoing. Boeing said in its appeal that Stone possessed only "background" information.

Stone says the 10th Circuit correctly concluded that he had direct and independent knowledge about a number of problems at the facility. He has the support of the Bush administration in the case.

Stone worked at Rocky Flats until 1986. Soon after his departure, he began giving information to the Federal Bureau of Investigation and the Environmental Protection Agency about various environmental, safety and health problems at the plant. The government's investigation culminated in 1992, when Rockwell pleaded guilty to 10 federal environmental violations.

In agreeing to hear Boeing's appeal, the high court opted not to consider a broader company argument that the False Claims Law is unconstitutional.

Both Stone and the Bush administration urged the Supreme Court not to hear the case. The justices will rule by July 2007.

The case is Rockwell v. United States, 05-1272.

END

Los Angeles Times

September 27, 2006

High Court Takes Deportation Case

David G. Savage

Times Staff Writer

WASHINGTON The Supreme Court agreed Tuesday to hear a California case to decide whether immigrants convicted of stealing a car must be deported from the United States.

A strict federal immigration law passed in 1996 says that immigrants, including permanent residents, who commit an "aggravated felony" in the U.S. must be sent to their native country, regardless of how long they have lived here or whether they have a family and a job.

But the Justice Department and some lower courts have disagreed on which crimes, including auto theft, are aggravated felonies.

Next week, the high court will take up a separate South Dakota case to determine whether immigrants who are convicted of drug possession can be deported as felons. The outcome is expected to affect tens of thousands of immigrants nationally.

This week, the justices met for the first time since late June, and they announced they had agreed to hear nine of about 1,900 pending appeals, including the government's claim that auto thieves and their accomplices are guilty of a deportable crime.

The case before the court involves a California law regarding auto thefts, but government lawyers said all 50 states have similar measures.

Four years ago, Luis Alexander Duenas-Alvarez, a native of Peru who became a legal U.S. resident, pleaded guilty to stealing a 2002 Honda Accord in Marin County and was sentenced to three years in prison. Federal authorities took him into custody for deportation.

The 1996 law has a list of aggravated felonies that lead to deportation, including any theft that carries a prison sentence of more than a year.

Government lawyers contend that any immigrant convicted of auto theft in California should be deported under that law.

But this year, the U.S. 9th Circuit Court of Appeals disagreed. The court ruled that the California law was too broad to fit the definition of theft in the federal law because it included accomplices to auto theft.

The government counters that all states have laws that allow accomplices to be charged with auto theft.

In their appeal, government lawyers said the 9th Circuit was wrong on two points. First, Duenas-Alvarez stole the car and therefore was a thief, not an accomplice. And second, Congress meant to include accomplices when it wrote the law.

The government said at least 8,000 deportation cases in the nine Western states in the 9th Circuit would be affected by the court's ruling. The oral argument in Gonzales vs. Duenas-Alvarez was set for Dec. 5.

END

DOJ_NMG_ 0168588

New Orleans Times Picayune

September 27, 2006

U.S. judge OKs accord on trailers for disabled; Toll-free lines to help FEMA reach out

Susan Finch Staff writer

A federal judge in New Orleans put his stamp of approval Tuesday on a settlement that aims to make sure FEMA provides specially equipped trailers to disabled evacuees left homeless by Hurricanes Katrina and Rita.

The agreement resolves a class-action lawsuit filed in February against the Federal Emergency Management Agency by 11 disabled storm evacuees who complained they had been given no trailers or that the trailers they received needed modifications, for which they were still waiting.

The settlement will affect what the plaintiffs' legal team estimates are thousands of other evacuees with disabilities who may have needed, but did not get, accessible trailers from FEMA.

FEMA already has taken steps to put the settlement into action by setting up toll-free phone lines for Louisiana and Mississippi evacuees to call if they need disabled-accessible trailers, the plaintiffs' team of public interest attorneys from around the nation said in announcing that U.S. District Judge Stanwood Duval had approved the agreement.

The toll-free lines will begin accepting calls Oct. 10 between 9 a.m. and 6 p.m. Monday through Saturday, except holidays. The number for Louisiana evacuees will be (866) 496-4297 and for those in Mississippi, (888) 294-2820.

FEMA will send a letter to the last-known address of evacuees who are eligible for temporary housing and have requested or received a FEMA trailer to tell them about the toll-free numbers. The agency also will make the information available through the media via press releases and public service announcements.

The settlement requires FEMA to do more than just answer the phones.

For example, it also provides that within five days after evacuees call the toll-free lines, FEMA will notify them how it intends to address their disability needs and when it plans to do so.

Depending on their needs, disabled evacuees may be entitled to a trailer with a ramp, wider doorways, more turn space for wheelchairs, accessible showers, shower chairs, grab bars near toilets, showers and tubs and lower appliances, sinks and cabinets.

Other aspects of the settlement are that:

-- Five percent of trailers at FEMA group trailer sites, as well as the common areas of such sites, must meet uniform federal accessibility standards.

-- FEMA must give an estimated time frame of up to 90 days to provide an accessible trailer or modify one that's not usable by the disabled.

-- FEMA must send evacuees it deems ineligible for accessible trailers written reasons for its decision.

Nell Hahn, a lawyer at the Advocacy Center in Lafayette who worked with other public interest law firm members from around the nation on the case, said the settlement responds to a real need.

"FEMA trailers are still the only housing available to thousands of people whose homes were damaged or destroyed by the hurricanes," she said. "Now, finally, people with disabilities will have equal access to this program."

END

DOJ_NMG_ 0168589

Miami Herald

Sep. 26, 2006

Judge agrees to delay in case of Cuban exile militant

BY ALFONSO CHARDY

A federal judge in Texas has agreed to give the U.S. government more time to file a formal objection to a magistrate's recommendation that Cuban exile militant Luis Posada Carriles be released from immigration custody.

U.S. District Judge Philip Martinez in El Paso agreed Monday to extend the deadline to Oct. 5. The original deadline expired Monday.

The government notified the judge last week that it intended to file the objection but requested more time to file written briefs.

On Sept. 11, El Paso federal Magistrate Norbert Garney issued a written opinion recommending that Posada, 78, be released.

Garney said the Attorney General has not classified Posada as a terrorist and that his continued detention ran counter to a 2001 Supreme Court ruling barring indefinite detention for foreign nationals who cannot be deported.

END

CanWest

September 27, 2006

Former Mountie defends embattled Arar investigation

Ian MacLeod, CanWest News Service

OTTAWA - The RCMP's Maher Arar investigation was a "necessary" piece of police work to prevent what was believed to be a credible terrorist plot, says a former Mountie who played a central role in the scandal.

In the first police statement since Justice Dennis O'Connor's stinging commission report last week, Garry Clement, the officer who supervised the Project A-O Canada task force, Tuesday defended his actions and those of the case's front-line investigators.

"I feel it is necessary to speak out and ensure the Canadian public what was undertaken during the A-O Canada investigation was necessary and met the expectations of the mandate given to law enforcement," the former RCMP inspector, now chief of the Cobourg, Ont. police service, said in a 1,300-word prepared statement.

"This investigation did not commence based on a fishing expedition,"' he said. "Information was passed to the RCMP by our sister agency (CSIS) that required us to embark on a criminal investigation in an expeditious manner. Our primary goal was one of prevention and the secondary goal was criminal prosecution."

At the time, Clement was the assistant criminal operations officer for the RCMP's National Capital Region 'A' Division. He helped select investigators for Project A-O Canada, as well as the officer, then-Insp. Mike Cabana.

Cabana reported to Clement, who reported on the project to his superiors. Project A-O Canada was instructed to use every legal tool possible to ensure that the Sept. 11, 2001, terrorist attacks in the U.S. was not repeated, including sharing information with other domestic and foreign agencies.

Clement's statement he declined to be interviewed is the first public defence of the RCMP by a case insider since O'Connor's report detailing the mis-steps of the RCMP and federal government officials that contributed to Arar's year-long imprisonment and torture in Syria.

Though Canadian authorities, including the RCMP, were not complicit in the decision by the U.S. to deport Arar to Syria in October 2002, O'Connor said it is "highly likely" U.S. authorities relied on the RCMP's information in making the deportation decision.

While it was appropriate for the RCMP to share information about Arar with the U.S. Federal Bureau of Investigation and other American agencies that were co-operating with the RCMP investigation, "when sharing information about Mr. Arar, it was vitally important that the project be accurate and precise, so as not to overstate its interest in Mr. Arar or his status in the investigation," O'Connor wrote.

Yet prior to his detention in New York on Sept. 26, 2002, Arar was, at best, a person of interest that the RCMP wanted to interview as a witness in connection with the main suspect in the Project A-O investigation, Abdullah Almalki.

But the Arar files given to U.S. authorities variously described Arar as an Islamic extremist, a suspect or target and a principal subject of the investigation, among other misleading and inaccurate descriptions.

O'Connor singled out Clement as the officer who authorized the unrestricted release of the information to the U.S. in violation of RCMP policy, and said that likely led to Arar's deportation and torture in Syria.

"He gave very clear direction as soon as the investigation began that there would be an open-book arrangement with Project A-O Canada's partners," O'Connor wrote. "Given the potential threat, Inspector Clement believed that the investigation could not progress unless all of the partners were well briefed on a day-to-day basis. Inspector Clement also stressed the open-book approach with each of the partner agencies, emphasizing the need for an open and frank sharing of information."

In his statement Tuesday, Clement said "I want to assure the public that at no time did the investigators mislead our American counterparts causing them to take action they would not have done on their own volition."

He said the term open book "means a full sharing of information to our task force members, inclusive of the FBI. Although some reports may have been characterized incorrectly, our American partners were well aware of the evidence available on each file person at all times. Therefore they had the exact information dealing with each suspect and were free at all times to draw their own conclusions based on the actual facts."

He believes the public outcry over the RCMP's handling of the case would be tempered if Canadians had all the facts.

"The real tragedy is that the Canadian public did not see everything that Justice O'Connor was privy to," he said in the statement.

"I respect very much the conclusions drawn by Justice O'Connor but I would caution that in the current climate and due to the fact we have very broad immigration policies, law enforcement will need to work with countries that do not necessarily subscribe to Canadian values and do not respect human rights.

"We have no choice but to work with our foreign counterparts throughout the world in order to stem the proliferation of organized crime and terrorist cells. This does not mean we condone any action of a foreign country.

"Notwithstanding this our world has become smaller and law enforcement now must look beyond local borders and ensure we continue to protect Canadians, regardless of where the trail leads."

He also responded to O'Connor's criticism that the many of the Project A-O's investigators and supervisors lacked experience and training in conducting national security investigations, as well as the human rights and cultural sensitivity issues that might arise.

"It is true that when this investigation was embarked on most investigators did not have experience in dealing with terrorist and al-Qaida matters. I would respectfully submit that prior to 9/11 few agencies in the Western world had a high degree of investigative expertise dealing with terrorism. Intelligence agencies clearly had knowledge but the fact 9/11 occurred suggests that they did not have a full understanding.

"The A-O Canada Task Force was comprised of investigators who had major case experience, court expertise and a dedication not often found within law enforcement ranks today. These members worked long and arduous hours endeavouring to piece together what was believed as a terrorist plot. In the interests of not compromising the Security of Information Act I cannot elaborate further.

"We must remember that 9/11 changed the world for everyone, including law enforcement. The Canadian government is signatories to the U.N. resolution on terrorism and the Financial Action Task Force dealing with the eight recommendations on terrorist financing, both of which require countries to openly share information and co-operate when investigating terrorist activities. The current role our Canadian soldiers are undertaking has demonstrated over and over again that it is the unknown enemy we must be concerned about.

"To quote Edmund Burke: The only way for evil to triumph over good is for good men to do nothing.

"I am proud of the investigative work undertaken by members of the A-O Canada team. It was a multi-jurisdictional team of professionals who only had the public interest at heart on both sides of the border."

RCMP Commissioner Giuliano Zaccardelli is expected to testify before a House of Commons public safety committee this week.

Meanwhile, the lawyer for Arar levelled criticism at former federal cabinet minister Anne McLellan on Tuesday for the hasty passage of anti-terrorism legislation he says led to his client's imprisonment and torture in Syria.

Speaking to a group of law students at the University of Alberta on Tuesday, Julian Falconer said Arar's experience came as a result of Ottawa's ill-advised decision in the fall of 2001 to hand extraordinary powers to police forces untrained in how to use them.

DOJ_NMG_ 0168591

Falconer suggested McLellan, who was justice minister at the time, likely pushed ahead with the controversial Anti-Terrorism Act because she got caught up in a tide of "dangerous momentum" following the 9-11 attacks on the United States.

"It was an attitude of, 'We have to do this to get the terrorists before they get to the planes,' " said Falconer, a Toronto-based human rights lawyer.

"(McLellan) is a good person. I know her. It's not that she had evil intentions, but I think she was wrong."

END

Australian Associated Press

September 27, 2006

Hicks will be tried by new US commission - Howard

CANBERRA, Sept 27 AAP - Prime Minister John Howard is confident Australian Guantanamo Bay detainee David Hicks will go on trial before a United States military commission once a new body is set up.

Hicks, who has been held at the US military prison in Cuba for nearly five years without trial, was captured with Taliban forces in Afghanistan in January 2002.

A previous military commission was found by the US Supreme Court to be unconstitutional.

New legal parameters to allow a trial by military commission are now being established.

Attorney-General Philip Ruddock is in the United States for talks with US Attorney-General Alberto Gonzales and other government representatives on Hicks, among other matters

"We at the moment have our attorney-general travelling to the United States to discuss with his counterpart Mr Gonzales the terms and conditions of the new military commission that will try Mr Hicks, consequent upon the passage of legislation, which we expect to occur very soon," Mr Howard told ABC radio today.

"Provided there is no additional appeal by Hicks - and if that happens there will be further delay - then he will be brought to trial before that commission."

Mr Howard said his government was satisfied that changes to allow a trial had been made because of the US Supreme Court decision.

"The problem we have ... is that (we have) somebody who has acknowledged (as) having trained with al-Qaeda and having rejoined it after September 11.

"If he returns to Australia, (he) cannot be charged with anything because it was not a crime under Australian law for him (David Hicks) to train with an organisation like that, when the training took place," Mr Howard said.

END

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Image not available for this document, ID: 0.7.10316.28555-000002

Image not available for this document, ID: 0.7.10316.28555-000003

Image not available for this document, ID: 0.7.10316.28555-000004

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 12:35 PM
To: USDOJ- Office of Public Affairs
Subject: JACOB "KOBI" ALEXANDER, FORMER CEO OF COMVERSE TECHNOLOGY INC., APPREHENDED IN THE REPUBLIC OF NAMIBIA

Department of Justice

United States Attorney Roslynn R. Mauskopf
Eastern District of New York

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 27, 2006
WWW.USDOJ.GOV/USAO/NYE

CONTACT: ROBERT NARDOZA
OFFICE: (718) 254-6323
CELL: (347) 236-9889

JACOB "KOBI" ALEXANDER, FORMER CEO OF COMVERSE TECHNOLOGY INC., APPREHENDED IN THE REPUBLIC OF NAMIBIA

Indictment Unsealed in the United States Charging Alexander in Stock Option Backdating and Slush Fund Schemes

BROOKLYN, N.Y. – The fugitive Jacob "Kobi" Alexander, former Chief Executive Officer of Comverse Technology Inc., was arrested in Windhoek, Namibia. The arrest was made pursuant to a provisional warrant issued by a Namibian court at the request of the U.S. government. Alexander will be brought before a court in Windhoek within 48 hours. The U.S. government intends to seek Alexander's extradition to the U.S. to stand trial on the charges set forth in an indictment, which was unsealed today at U.S. District Court in Brooklyn, N.Y., U.S. Attorney Roslynn R. Mauskopf of the Eastern District of New York and Assistant Director-in-Charge Mark J. Mershon of the FBI's New York Field Office announced today.

Alexander is charged with multiple criminal offenses stemming from the alleged stock options backdating and slush fund schemes, dating from as early as 1998 and extending into 2006. Specifically, Alexander is charged with conspiracy, two counts of securities fraud, eight counts of making false filings with the Securities and Exchange Commission, four counts of mail fraud, 14 counts of wire fraud, and three counts of money laundering. The indictment also seeks forfeiture of approximately $138 million in Alexander's assets.

"The apprehension of Alexander follows an international manhunt led by the FBI, and the cooperation of the Government of the Republic of Namibia," stated U.S. Attorney Mauskopf. "We are very grateful for the Namibians' swift action and commend them for their vigilance. We intend promptly to seek the return of the defendant to the United States to answer the serious charges now pending against him."

"Alexander's alleged role in options back-dating victimized Comverse shareholders and deceived prospective investors," stated Assistant Director-in-Charge Mershon. "The fraud affected the company's

DOJ_NMG_ 0168597

bottom line by misstating earnings. The alleged conduct is illegal, and Alexander's apprehension shows that the FBI will work internationally to bring perpetrators of corporate fraud to justice."

The charges in the indictment are merely allegations, and the defendant is presumed innocent unless and until proven guilty. If convicted of the most serious charge – securities fraud – Alexander faces a maximum sentence of 25 years in prison.

The government's case is being prosecuted by Assistant U.S. Attorneys Ilene Jaroslaw, Linda Lacewell, Sean Casey and Kathleen Nandan.

# # #

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Image not available for this document, ID: 0.7.10316.28529-000002

Amber.JMD

From: Amber.JMD
Sent: Wednesday, September 27, 2006 12:36 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Chandler, AZ

From: AmberAlert-DOJ
Sent: Wednesday, September 27, 2006 12:35:33 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Chandler, AZ
Auto forwarded by a Rule

AMBER ALERT:Chandler,AZ VEH:'95 Gold 4dr sed Honda Accord TAG:AZ 453VCL CHILD:14 Hisp F 4'11" 90 lbs Hr:Brn SUSP:21 Hisp M 5'1" 100 lbs Hr:Blk CALL 480-782-4130
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2282

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Wednesday, September 27, 2006 12:45 PM
Subject: Service Interruption: Upgrade to Equipment Located Rockville Data Center

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. The outage will occur during the posted service window below. This upgrade will be performed on resources located in the Rockville Data Center. Be advised that there is no risk of data loss.

When: Sunday, October 1, 2006, 12:01 am to 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: SMO/JMD Customers Located in **RFK Main Justice** and **Rockville Data Center**

Unavailable Services:
Email Services
Internet Resources
G:\ Drive Resources
H:\ Drive Resources
M:\Drive Resources
Network Printers
BlackBerry *(PIN to PIN messaging is available)*

Una**vailable Services, All Customers** *(except those located in RFK Main Justice and Rockville Data Center):*
M:\ Drive
Sending Email to affected users found above

A**vailable Services, All Customers** *(except those located in RFK Main Justice and Rockville Data Center):*
All Network resources except the M:\Drive

Suggested Action: Please leave your workstation logged off and powered off during this service period.

To power off your desktop:
1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Click "Shut Down".
4. Choose the "Shutdown and Power off" option.

5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 605998 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Wednesday, September 27, 2006 3:00 PM
Subject: Service Interruption: Public G:Drive, All of SMO/JMD JCON

Service Interruption - Public G:\ Drive

We are currently experiencing intermittent performance issues with the Public G:\ Drive. Server Engineers are currently working the issue, we will send an email when full services are restored.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 3:14 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE AWARDS $11 MILLION TO ENHANCE STATE CRIMINAL JUSTICE RECORDS

THE AWARDS DOCUMENT IS ATTACHED.

Department of Justice

Office of Justice Programs

ADVANCE FOR RELEASE AT 4:30 P.M. EDT Bureau of Justice Statistics
WEDNESDAY, SEPTEMBER 27, 2006

Contact: Stu Smith: 202-307-0784
www.ojp.usdoj.gov/bjs
After hours: 301-983-9354

DEPARTMENT OF JUSTICE AWARDS $11 MILLION TO ENHANCE STATE CRIMINAL JUSTICE RECORDS

WASHINGTON — The Justice Department's Bureau of Justice Statistics (BJS) today announced almost $11 million in awards to state agencies to improve the completeness, quality and accessibility of the nation's criminal record systems. Of this amount, more than $2.4 million was awarded to 15 jurisdictions to improve coordination and enhance the accuracy of data entered into local, state and national databases on stalking and domestic violence. Since 1995, awards of more than $506 million have gone to all 50 states, the District of Columbia and the territories of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands and Puerto Rico.

Funding is provided under the Department's National Criminal History Improvement Program (NCHIP). NCHIP helps the states automate and upgrade records that link to systems administered by the Federal Bureau of Investigation (FBI), including the National Sex Offender Registry, the National Protection Order File, the Integrated Automated Fingerprint Identification System, the National Crime Information Center and the National Instant Criminal Background Check System (NICS Index), which supports instant background checks on persons attempting to purchase firearms.

Complete, accurate and immediately accessible criminal records enable states to:

- Immediately identify individuals with prior criminal records in any state.
- More effectively identify felons and others prohibited from firearm purchase.
- Check backgrounds of persons responsible for child, elder and disabled care.
- Identify individuals who have a history of domestic violence or stalking.

DOJ_NMG_ 0168606

- Make informed decisions relating to pretrial release and detention of arrestees, prosecutions of career criminals and appropriate correctional confinement of convicted offenders.

Federal assistance has helped 48 states participate in the FBI's Interstate Identification Index, which is the national system through which name-based criminal background checks are conducted and which links to over 53 million criminal history records. More than 950,000 protection order records in the NCIC Protection Order File help to avert stalking and other crimes and are available for background checks. In addition, more than 442,000 convicted sex offenders have detailed records in the NCIC Convicted Sexual Offender Registry File.

"The states and territories have made tremendous progress in employing technology in this area, but data quality and completeness issues need continuing attention," said BJS Director Jeffrey Sedgwick. "Criminal history records frequently reflect information gaps because outcomes of criminal cases go unreported to state and national files, or cannot be linked to arrest fingerprint records. This grant program allows the jurisdictions to focus efforts on these problems."

NCHIP awards were made to the state agencies designated by the governor and by the District of Columbia's mayor. The FY 2006 awards, which were made on a competitive basis, were based on needs and priorities identified by BJS, the amount requested, the quality of the applying state's records, the anticipated impact the proposed improvements would have on availability of records throughout the national system, the extent to which the state had fulfilled goals of previous NCHIP awards, and the technical feasibility of the state's proposal.

Information about NCHIP is available on the BJS Web site at http://www.ojp.usdoj.gov/bjs/nchip.htm. For specific information about a state program, contact the individual listed at http://www.ojp.usdoj.gov/bjs/nchipadd.htm.

For additional information about the Bureau of Justice Statistics programs, please visit www.ojp.usdoj.gov/bjs.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

# # #

nchip-state-by-stat...

BJS06068

DOJ_NMG_ 0168607

FY 2006 NCHIP Grants

State/Territory and Award Amount

Alabama	$ 400,000	Montana	$ 130,000
Alaska	$ 259,944	Nebraska	$ 204,085
Arizona	$ 237,085	Nevada	$ 93,391
Arkansas	$ 117,000	New Hampshire	$ 84,691
California	$ 900,000	New York	$ 800,000
Colorado	$ 356,598	North Carolina	$ 200,000
Connecticut	$ 147,760	Ohio	$ 271,343
Delaware	$ 95,237	Oklahoma	$ 153,600
District of Columbia	$ 265,000	Pennsylvania	$ 534,880
Florida	$ 395,574	Puerto Rico	$ 300,000
Georgia	$ 355,750	Rhode Island	$ 130,000
Guam	$ 20,334	South Carolina	$ 65,262
Hawaii	$ 315,656	South Dakota	$ 137,066
Illinois	$ 408,182	Tennessee	$ 252,778
Indiana	$ 259,877	Utah	$ 207,610
Kansas	$ 407,220	Virginia	$ 365,496
Louisiana	$ 368,005	Wisconsin	$ 243,621
Massachusetts	$ 550,000	Wyoming	$ 76,901
Michigan	$ 475,590		
Missouri	$ 338,694	Total	$10,924,230

DOJ_NMG_ 0168608

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System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 606451 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 3:48 PM
To: USDOJ- Office of Public Affairs
Subject: TWO FEMA EMPLOYEES ARRESTED FOR FEMA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 27, 2006
WWW.USDOJ.GOV/USAO/MSS/

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

TWO FEMA EMPLOYEES ARRESTED FOR FEMA FRAUD

GULFPORT, Miss. – Duane Adams and Emily Fuqua, both Federal Emergency Management Agency (FEMA) employees, were arrested for making false statements to FEMA for Hurricane Katrina assistance, announced U.S. Attorney Dunn Lampton, of the Southern District of Mississippi.

According to the criminal complaint and affidavit filed in U.S. District Court, Duane Adams filed a disaster assistance application with FEMA claiming his primary residence was a houseboat in Moss Point, Miss., which had been destroyed by the hurricane. However, Adams was not the owner of the houseboat. Adams and Fuqua created and submitted to FEMA false documentation to portray Adams as the owner and when a FEMA representative sought to verify ownership of the houseboat, Fuqua falsely identified herself over the phone as the person who sold the houseboat to Adams. As a result of the fraudulent application and scheme, Adams received approximately $25,500 from FEMA in disaster assistance.

In September, 2005, Attorney General Alberto R. Gonzales created the national Hurricane Katrina Fraud Task Force, to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force, - chaired by Assistant Attorney General Alice Fisher of the Criminal Division, includes members from the FBI, the Federal Trade Commission, the Department of Labor Office of Inspector General, the U.S. Postal Inspection Service, and the Executive Office of U.S. Attorneys, among others.

Pursuant to the Justice Department initiative, a local Hurricane Katrina Fraud Task Force, consisting of over 20 federal and state law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who engage in fraud associated with the hurricanes.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the Department of Homeland Security-Office of the Inspector General Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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DOJ_NMG_ 0168612

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Image not available for this document, ID: 0.7.10316.28496-000002

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Wednesday, September 27, 2006 3:56 PM
Subject: Service Interruption: Public G:Drive Restored

Service Interruption - Public G:\ Drive Restored

The issue we experienced with the Public G:\ Drive has been resolved.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 4:46 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE SWEARING-IN CEREMONY OF KENNETH L. WAINSTEIN AS ASSISTANT ATTORNEY GENERAL FOR THE NEW NATIONAL SECURITY DIVISION

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, SEPTEMBER 27, 2006
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AG
(202) 514-2007
TDD (202) 514-1888

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE SWEARING-IN CEREMONY OF KENNETH L. WAINSTEIN AS ASSISTANT ATTORNEY GENERAL FOR THE NEW NATIONAL SECURITY DIVISION

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the swearing-in ceremony of Kenneth L. Wainstein as Assistant Attorney General for the new National Security Division, **THURSDAY, SEPTEMBER 28, 2006 at 10:00 A.M EDT.**

WHO: Attorney General Alberto R. Gonzales
The Honorable Laurence H. Silberman

WHAT: Remarks at the swearing-in ceremony of Kenneth L. Wainstein as Assistant Attorney General for the new National Security Division.

WHEN: **WEDNESDAY, SEPTEMBER 28, 2006**
10:00 A.M. EDT

WHERE: The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for television camera crews is **9:30 A.M. EDT.** All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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DOJ_NMG_ 0168617

Image not available for this document, ID: 0.7.10316.28487-000001

Image not available for this document, ID: 0.7.10316.28487-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 5:44 PM
To: USDOJ- Office of Public Affairs
Subject: SOUTHERN CALIFORNIA FREIGHT CO. PLEADS GUILTY TO MAKING FALSE STATEMENTS RELATED TO MILITARY MOVING PROGRAM

(A PDF of the information is attached.)

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, SEPTEMBER 27, 2006
WWW.USDOJ.GOV

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

SOUTHERN CALIFORNIA FREIGHT CO. PLEADS GUILTY TO MAKING FALSE STATEMENTS RELATED TO MILITARY MOVING PROGRAM

Company Sentenced to Pay $120,000 Criminal Fine

WASHINGTON — A southern California freight company today has pleaded guilty and was sentenced to pay a $120,000 criminal fine for making false statements related to the Department of Defense's (DOD) program to ship military household goods between Europe and the United States and between the United States mainland and Hawaii, the Department of Justice announced.

The Department charged that Ryan's World Inc., a Long Beach, Calif., freight forwarder, filed false documents with the DOD's Military Traffic Management Command (MTMC). The MTMC, which is based in Alexandria, Va., was reorganized in 2004, and is now known as the Military Surface Deployment and Distribution Command.

Ryan's World is the sixth company to be charged as a result of the Department's ongoing antitrust investigation of anticompetitive and fraudulent conduct in the movement of military household goods. Five companies have previously been charged with participating in conspiracies to restrain trade in the transportation of military household goods, and more than $10 million in criminal fines have been imposed.

According to the one-count felony information filed today in the U.S. District Court in Alexandria, Va., the false statements and representations included a certification that Ryan's World had no "common financial and/or administrative control" relationship "with any other household goods carrier or forwarder," when, in fact, it had such a relationship. Under MTMC rules, freight forwarders in a "common financial and/or administrative control relationship" are prohibited from competing with each other by filing rates to transport military household goods in the same traffic channels.

"Making false statements to the U.S. government is a serious crime and violators will be prosecuted," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division.

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"Today's charge demonstrates the Antitrust Division's ongoing commitment to ensure that the movement of military household goods are provided in a competitive marketplace."

In recent years, the DOD has spent more than $180 million annually to move the household goods of its military and civilian personnel from Europe to the United States, the Justice Department said.

The five companies previously charged are:

- Executive Relocation International Inc., headquartered in Woodbridge, Va., pleaded guilty in March 2006, and was sentenced to pay $72,600;
- Allied Freight Forwarding Inc., headquartered in Westmont, Ill., pleaded guilty and was sentenced in February 2006 to pay a $1.04 million fine;
- Cartwright International Van Lines Inc., headquartered in Grandview, Miss., pleaded guilty and was sentenced in April 2004 to pay a $250,000 fine;
- Gosselin World Moving N.V., headquartered in Belgium, pleaded guilty in September 2004 and was sentenced to pay a $6 million fine; and
- The Pasha Group, headquartered in Corte Madera, Calif., pleaded guilty in September 2004 and was sentenced to pay a $4.6 million fine.

The investigation is being conducted by the Antitrust Division's National Criminal Enforcement Section with the assistance of the DOD Office of Inspector General, Defense Criminal Investigative Service and the Army Criminal Investigation Division. Anyone with information concerning price fixing, bid rigging or fraud in the military moving and storage industry or concerning conspiratorial conduct for the purpose of reducing or eliminating competition on any government contract is urged to call the National Criminal Enforcement Section of the Antitrust Division at 202-307-6694 or the Mid-Atlantic Field Office of the Defense Criminal Investigative Service at 410-529-9054.

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06-653

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Image not available for this document, ID: 0.7.10316.28527-000002

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA	)	**Criminal No.** 1:06CR406
	)	
v.	)	**Violation:** 18 U.S.C. § 1001
	)	
RYAN'S WORLD, INC.,	)	
	)	
Defendant.	)	

CRIMINAL INFORMATION

Ryan's World, Inc. ("RYAN'S WORLD") is made the defendant on the charge herein. As used in this Criminal Information, the "relevant period" is that period beginning in February 1999 and continuing until at least April 30, 2001.

THE UNITED STATES CHARGES THAT:

Defendant

1. Defendant RYAN'S WORLD is, and was during the relevant period, a corporation organized and existing under the laws of the State of California, and based in Long Beach, California. During the relevant period, defendant was a freight forwarder and was in the business of providing services related to the transportation of household goods owned by U.S. military and civilian Department of Defense ("DOD") personnel and their families ("military household goods").

2. Whenever this Count refers to any act, deed, or transaction of any company, it means that the company engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, or control of its affairs.

Background

3. The Military Traffic Management Command ("MTMC"), recently renamed the Military Surface Deployment and Distribution Command ("SDDC"), is headquartered in Alexandria, Virginia, in the Eastern District of Virginia, and is responsible for administering the DOD's International Through Government Bill of Lading ("ITGBL") program. Freight forwarders, including the defendant, compete for the opportunity to be awarded military household goods shipments by the Army in a twice yearly rate-filing process.

4. In their filings, freight forwarders bid the lowest "through rates" at which they willing to offer through transportation services for military household goods between specific U.S. States, or portions of States, and foreign countries or destinations. "Through rates" are offers to provide door-to-door service for shipments of military household goods, from pick-up at the place of origin to delivery at the ultimate destination. "Through rates" are specific to particular transportation routes, called "channels," between specific U.S. States, or portions of States, and foreign countries or destinations in which military household goods move. Although technically entirely domestic, shipments of military household goods between Hawaii and the mainland United States are governed by ITGBL rules.

5. Under the ITGBL program, during the relevant period, each freight forwarder that filed a rate was required to identify, on a Tender of Service Signature Sheet ("TOSS") filed with MTMC, the name of each entity with which it

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had a "common financial and/or administrative control" ("CFAC") relationship. As defined by MTMC on the TOSS form, the term "CFAC" meant "the power, actual as well as legal, to influence the management, direction, or functioning of a business organization." Under MTMC rules, freight forwarders that were "in CFAC" with each other could not file rates in the same channels and were not eligible to service ITGBL or Hawaii military household goods traffic in such channels.

6. On or about December 14, 1994, March 17, 1999 and March 3, 2000, defendant filed TOSS forms with MTMC. The TOSS forms required defendant to attach a list of the names of the freight forwarders with which it had a CFAC relationship. Defendant checked the box indicating that it was not in CFAC with any other carrier or forwarder.

7. Defendant never amended or withdrew the representations contained in the TOSS forms described in paragraph 7 above and, under MTMC rules, these representations were in effect during the relevant period.

8. In a notarized Certificate of Carrier Responsibility dated September 21, 1994, signed by its president and filed with MTMC, defendant (as the filing "Carrier") made the following representations and acknowledgments:

> [1] As evidenced by the Statement of Common Financial and/or Administrative Control (CFAC), Carrier is not owned or controlled by any other person, firm, or corporation engaged in the movement of household goods for the Department of Defense (DOD). Additionally,

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Carrier is not affiliated with any other person, firm, or corporation engaged in the movement of personal property for DOD.

[2] If Carrier has not declared CFAC, [C]arrier will not share office space or telephone with any other carrier engaged in the movement of personal property for the DOD.

...

[5] Carrier remains directly and fully responsible to MTMC for the performance of all services and observance of all regulations relating to this procurement. By this document, I certify that the functions described in the appendix to this certificate are performed and will continue to be performed independent of any other person, firm, or corporation, in the offices of the carrier's business address, except as noted. If [C]arrier desires to subcontract for those services which MTMC allows to be subcontracted, such services must be available and readily accessible to the general public and such agreements must be in written form and made available to MTMC upon request.

[6] I acknowledge that any violation of the above cited rules, material misstatement, omission of fact, or failure to disclose any required financial or service agreements as required by the MTMC, and attached hereto, may subject the carrier that I represent to revocation of the carrier's DOD approval for a period of not less than 2 years and referral to the Department of Justice for prosecution.

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9. Defendant never amended or withdrew the representations described in paragraph 9 above and, under MTMC rules, those representations were in effect during the relevant period.

10. During the relevant period, defendant was in a CFAC relationship with another freight forwarder ("FF-1"), which was in the business of providing services related to the transportation of military household goods under the ITGBL program.

11. During the relevant period, defendant filed through rates for ITGBL and Hawaii traffic in the following cycles: IS-99, IW-99, IS-00, IW-00, IS-01 and IW-01. In those cycles, certain of the channels in which defendant filed through rates were the same as the channels in which FF-1 filed through rates. During the referenced cycles, defendant and FF-1 were awarded ITGBL and Hawaii traffic in certain of the same channels. In the referenced cycles, defendant received payments from MTMC for moving ITGBL and Hawaii traffic totaling $3,211,521.

12. The Certificates of Carrier Responsibility and the TOSS CFAC certifications described in paragraphs 7 and 9 above and filed by defendant were (a) material to a matter within the jurisdiction of the executive branch of the Government of the United States and (b) knowingly and willfully false, in that during the relevant period defendant was knowingly and intentionally in a CFAC relationship with FF-1.

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Violation – False Statements
(18 U.S.C. § 1001)

13. During the relevant period, in a matter within the jurisdiction of the DOD, a department of the United States, the defendant did knowingly and willfully make false, fraudulent, and fictitious material statements and representations on Certificates of Carrier Responsibility and TOSS forms filed with MTMC, and did knowingly conceal a material fact from MTMC: to wit, its eligibility to participate in the ITGBL program, through its statements and representations that:

(a) it was not "under common financial or administrative control ('CFAC') with any other household goods carrier or forwarder";

(b) it was not owned or controlled by any other person, firm, or corporation engaged in the movement of household goods for the Department of Defense;

(c) it was not affiliated with any other person, firm, or corporation engaged in the movement of personal property for the Department of Defense;

(d) it did not share office space or telephone with any other carrier engaged in the movement of personal property for the Department of Defense; and

(e) the functions described in the Appendix to the Certificate of Carrier Responsibility were performed and would continue to be performed independent of any other person, firm, or corporation, in the offices of the carrier's business address.

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Jurisdiction and Venue

14. During the relevant period, the activities of defendant, described above, including the submission of TOSS forms and Certificates of Carrier Responsibility to MTMC and receipt of payment from MTMC for ITGBL and Hawaii traffic transported as part of MTMC's military household goods program, were carried out, in part, within the Eastern District of Virginia.

15. The offense charged in this Criminal Information was formed and carried out, in part, within the Eastern District of Virginia.

(In violation of Title 18, United States Code, Section 1001).

THOMAS O. BARNETT
Assistant Attorney General

LISA M. PHELAN
Chief, National Criminal Enforcement Section

SCOTT D. HAMMOND
Deputy Assistant Attorney General

MARC SIEGEL
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

HAYS GOREY, JR.
MARK W. PLETCHER
Attorneys
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W., Suite 3700
Washington, D.C. 20530
(202) 307-0000

ROBERT C. ERICKSON
Assistant United States Attorney

DOJ_NMG_ 0168630

System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 607657 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, September 27, 2006 6:27 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 27, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

Southern California Freight Co. Pleads Guilty To Making False Statements Related To Military Moving Program (Antitrust)
A southern California freight company today has pleaded guilty and was sentenced to pay a $120,000 criminal fine for making false statements related to the Department of Defense's (DOD) program to ship military household goods between Europe and the United States and between the United States mainland and Hawaii, the Department of Justice announced. The Department charged that Ryan's World Inc., a Long Beach, Calif., freight forwarder, filed false documents with the DOD's Military Traffic Management Command (MTMC). The MTMC, which is based in Alexandria, Va., was reorganized in 2004, and is now known as the Military Surface Deployment and Distribution Command.

Talking Points

- Making false statements to the U.S. government is a serious crime and violators will be prosecuted.

- Today's charge demonstrates the Antitrust Division's ongoing commitment to ensure that the movements of military household goods are provided in a competitive marketplace.

Utah Business Owners Sentenced To Prison For Tax Fraud (Tax)
Steven Christensen and Diane C. Christensen of Sandy, Utah, were each sentenced Tuesday to prison for conspiring to defraud the United States by attempting to impede the Internal Revenue Service's collection of federal income and employment taxes, the Justice Department and the Internal Revenue Service (IRS) announced. Diane Christensen was sentenced to 41 months imprisonment and 36 months of supervised release. Steve Christensen received a sentence of 37 months imprisonment and also 36 months of supervised release. The husband and wife were sentenced by Salt Lake City federal judge, David Sam. Diane Christensen's conduct cost the federal Treasury between $2.5 million and $5 million, and Steven Christensen's conduct between $1.5 million and $2.5 million in lost tax revenue.

Department Of Justice Awards $11 Million To Enhance State Criminal Justice Records (Bureau of Justice Statistics)
The Justice Department's Bureau of Justice Statistics (BJS) today announced almost $11 million in awards to state agencies to improve the completeness, quality and accessibility of the nation's criminal record systems. Of this amount, more than $2.4 million was awarded to 15 jurisdictions to improve coordination and enhance the accuracy of data entered into local, state and national databases on stalking and domestic violence. Since 1995, awards of more than $506 million have gone to all 50 states, the District of Columbia and the territories of American Samoa, Guam, the Virgin Islands, the Northern Mariana Islands and Puerto Rico.

Jacob "Kobi" Alexander, Former CEO of Comverse Technology Inc Apprehended in the Republic of Namibia (USAO-Eastern District of New York)
The fugitive Jacob "Kobi" Alexander, former Chief Executive Officer of Comverse Technology Inc., was arrested in Windhoek, Namibia. The arrest was made pursuant to a provisional warrant issued by a Namibian court at the request of the U.S. government. The U.S. government intends to seek Alexander's extradition to the U.S. to stand trial on the charges set forth in an indictment, which was unsealed today at U.S. District Court in Brooklyn, N.Y., U.S. Attorney Roslynn R. Mauskopf of the Eastern District of New York announced today. Alexander is charged with multiple criminal offenses stemming from the alleged stock options backdating and slush fund schemes, dating from as early as 1998 and extending into 2006. Specifically, Alexander is charged with conspiracy, two counts of securities fraud, eight counts of making false filings with the Securities and Exchange Commission, four counts of mail fraud, 14 counts of wire fraud, and three counts of money laundering. The indictment also seeks forfeiture of approximately $138 million in Alexander's assets.

Talking Points

- Alexander's alleged role in options back-dating victimized Comverse shareholders and deceived prospective investors.

- The alleged conduct is illegal, and Alexander's apprehension shows that the FBI will work internationally to bring perpetrators of corporate fraud to justice.

Two FEMA Employees Arrested for FEMA Fraud (USAO-Southern District of Mississippi)
Duane Adams and Emily Fuqua, both Federal Emergency Management Agency (FEMA) employees, were arrested for making false statements to FEMA for Hurricane Katrina assistance, announced U.S. Attorney Dunn Lampton, of the Southern District of Mississippi. According to the criminal complaint and affidavit, Duane Adams filed a disaster assistance application with FEMA claiming his primary residence was a houseboat in Moss Point, Miss., which had been destroyed by the hurricane. However, Adams was not the owner of the houseboat. Adams and Fuqua created and submitted to FEMA false documentation to portray Adams as the owner and when a FEMA representative sought to verify ownership of the houseboat, Fuqua falsely identified herself over the phone as the person who sold the houseboat to Adams.

THURSDAY'S EXPECTED EVENTS/RELEASES:

Office of Justice Programs to Issue Release on Grant Funding for DNA Initiative
Tomorrow, the Office of Justice Programs is expected to issue a release on a $125 million grant for the President's DNA Initiative.

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the swearing-in ceremony of Kenneth L. Wainstein as Assistant Attorney General for the new National Security Division. The Department will also announce the members of the National Security Division's senior leadership team.
The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

System Administrator

From:	System Administrator
Sent:	Wednesday, September 27, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 607684 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 607685 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 9:58 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 28, 2006

Department of Justice

PRESS GUIDANCE
Thursday, September 28, 2006

ATTORNEY GENERAL

10:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the swearing-in ceremony of Kenneth L. Wainstein as Assistant Attorney General for the new National Security Division.
The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

NOTE: All media must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

PRESS RELEASES

The Department of Justice will issue a release announcing the members of the National Security Division's senior leadership team. (Sierra)

The Antitrust Division will issue a release on a merger-related matter. (Talamona)

The Civil Right Division will issue a release on a sentencing matter. (Magnuson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Donna Sellers

Department of Justice
Public Affairs Office (202) 514-2007

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After Hours (202) 514-2000

Image not available for this document, ID: 0.7.10316.28440-000001

Image not available for this document, ID: 0.7.10316.28440-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 10:26 AM
To: USDOJ- Office of Public Affairs
Subject: KENNETH L. WAINSTEIN SWORN IN AS FIRST ASSISTANT ATTORNEY GENERAL FOR THE NATIONAL SECURITY DIVISION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 28, 2006
WWW.USDOJ.GOV

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

KENNETH L. WAINSTEIN SWORN IN AS FIRST ASSISTANT ATTORNEY GENERAL FOR THE NATIONAL SECURITY DIVISION

Other Senior National Security Division Officials Announced

WASHINGTON — Attorney General Alberto R. Gonzales today swore in Kenneth L. Wainstein as the first Assistant Attorney General for the National Security Division. The Department also announced the senior members of the National Security Division leadership team including Chief of Staff Charles M. Steele, Deputy Assistant Attorneys General J. Patrick Rowan, Matthew G. Olsen, and Brett Gerry, Counsels George Z. Toscas, John C. Demers and Kathryn Haun, and Deputy Chief of Staff Jessie K. Liu.

Wainstein will lead the National Security Division as it carries out the Department's top priority of preventing and combating terrorism and protecting the nation's security. He leaves his position as U.S. Attorney for the District of Columbia, where he was responsible for the prosecution of all federal and serious local criminal offenses, including several important national security investigations and prosecutions. During his tenure as U.S. Attorney, he supervised the prosecution of a leading member of a Colombian terrorist organization and the prosecution of individuals who conspired to send triggering devices to Pakistan.

Prior to his service as U.S. Attorney, Wainstein served at the Federal Bureau of Investigation (FBI) as General Counsel as well as Chief of Staff to the Director. Before that he served as Director of the Executive Office of United States Attorneys. In earlier assignments at the U.S. Attorney's Office for the District of Columbia he served as Interim U.S. Attorney, Principal Assistant U.S. Attorney, Deputy Chief of the Superior Court Division, and Deputy Chief and line prosecutor in the Homicide Section.

Wainstein holds a Bachelor of Arts in Government and International Relations from the University of Virginia and holds a Juris Doctor from the University of California, Berkeley.

In addition to Wainstein, the Attorney General also announced key staff which will manage the new National Security Division.

"We are fortunate to have assembled a team of seasoned law enforcement and national security veterans to oversee operations of the National Security Division. These are people with proven judgment and broad

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experience and expertise in the mission of protecting our country against criminals, terrorists and spies. The nation will be well served by this exceptional group of public servants," said Assistant Attorney General Wainstein.

Charles M. Steele will serve as Chief of Staff to Assistant Attorney General Wainstein. He comes from the FBI where he most recently served as the Chief of Staff to the Director. He previously held the position of Deputy General Counsel, where he provided legal, policy and ethical advice to other FBI and Justice Department officials on law enforcement and national security investigations and prosecutions.

Steele previously held a number of positions in the Justice Department. He served as an Assistant U.S. Attorney and Deputy Chief of the Criminal Division for the U.S. Attorney's Office for the District of Arizona. As Deputy Chief, he headed the White Collar Crime Unit which handled fraud and corruption prosecutions. He also prosecuted violent crime and drug cases as an Assistant United State Attorney for the District of Columbia. Steele holds a Bachelor of Arts in Economics from the University of Virginia and received his Juris Doctor from Georgetown University Law Center.

J. Patrick Rowan has been appointed to the position of Deputy Assistant Attorney General for Counterterrorism and Counterespionage for the National Security Division. He formerly held the position of Associate Deputy Attorney General and assisted in the management of national security functions for the Justice Department. Before that he held a number of positions in the Justice Department including Senior Counsel to the Assistant Attorney General for the Criminal Division, Special Counsel for the Office of General Counsel of the FBI, and Counsel to the Director of the Executive Office for United States Attorneys. He also served as an Assistant U.S. Attorney for the District of Columbia. Rowan holds a Bachelor of Arts in Philosophy from Dartmouth College and received his Juris Doctor from the University of Virginia School of Law.

Matthew G. Olsen will serve as Acting Deputy Assistant Attorney General for Foreign Intelligence Surveillance Act (FISA) Operations and Intelligence Oversight. Olsen joins the National Security Division from the U.S. Attorney's Office for the District of Columbia, where he served as the Chief of the National Security Section. That section is responsible for the investigation and prosecution of international terrorism, espionage, and export enforcement violations. Before that he served as Special Counsel to the Director of the FBI, where he worked primarily on national security policy matters. His earlier assignments in the U.S. Attorney's Office included line prosecutor assignments and a supervisory position in the Organized Crime and Narcotics Trafficking Section. He also served as a trial attorney in the Civil Rights Division of the Justice Department. He holds a Bachelor of Arts from the University of Virginia and received a Juris Doctor from Harvard Law School.

Brett C. Gerry will serve as Deputy Assistant Attorney General for Law and Policy. Gerry formerly held the position of Associate Counsel in the Office of Counsel to the President at the White House. Prior to that, Gerry served as Deputy General Counsel and Assistant Director of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. Gerry served as a law clerk for U.S. Supreme Court Justice Anthony M. Kennedy and to Judge Laurence H. Silberman of the U.S. Court of Appeals for the District of Columbia Circuit, and he also worked in the private sector as an associate lawyer at Goodwin Procter LLP. He holds a Bachelor of Arts in political science and economics from Colgate University, a Master's degree in Political Science from Yale University and a Juris Doctor from Yale Law School.

George Z. Toscas will serve as Counsel to the Assistant Attorney General. Mr. Toscas has served in the Justice Department's Criminal Division since 1993 and since 1996 he has been assigned to the Counterterrorism Section. He has extensive experience investigating and prosecuting a number of significant international

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terrorism and violent crime cases. He holds a Bachelor of Science in Criminal Justice from Loyola University in Chicago and a Juris Doctor from the John Marshall Law School.

John C. Demers will serve as Counsel to the Assistant Attorney General. Mr. Demers served most recently as a law clerk to U.S. Supreme Court Justice Antonin Scalia. Before that, he served for two years as an Attorney-Advisor in the Justice Department's Office of Legal Counsel. Before that he served as a law clerk to Judge Diarmuid O'Scannlain of the U.S. Court of Appeals for the Ninth Circuit, and as an associate attorney at the law firm of Simpson Thacher & Bartlett. He holds a Bachelor of Arts Political Science and Italian Studies from the College of the Holy Cross, and a Juris Doctor from Harvard Law School.

Kathryn Haun will serve as Counsel to the Assistant Attorney General. She joins the Division from the U.S. Attorney's Office for the Eastern District of Virginia, where she was recently appointed an Assistant U.S. Attorney. Before that she was an associate attorney at the law firm of Sidley Austin. Before that she served as a law clerk to U.S. Supreme Court Justice Anthony M. Kennedy and to Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit. She holds a Bachelor of Arts in International Relations from Boston University and a Juris Doctor from Stanford Law School.

Jessie K. Liu will serve as Deputy Chief of Staff. She joins the National Security Division from the U.S. Attorney's Office for the District of Columbia, where she has served as an Assistant U.S. Attorney for the past four years, investigating and prosecuting criminal cases. Before that she was an associate attorney at the law firm of Jenner & Block, and served as a Law Clerk to Chief Judge Carolyn Dineen King on the U.S. Court of Appeals for the Fifth Circuit. Liu holds a Bachelor of Arts in English and American Literature and Language from Harvard University and a Juris Doctor from Yale Law School.

The new division will further improve coordination within the law enforcement community and will bring the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections under one authority, fulfilling a key recommendation of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. It is another step in eliminating the "wall" between the intelligence and law enforcement teams.

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Image not available for this document, ID: 0.7.10316.28439-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 10:29 AM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: STRUCTURE OF THE NATIONAL SECURITY DIVISION

AN ORGANIZATIONAL CHART FOR THE NEW NATIONAL SECURITY DIVISION CAN BE FOUND BELOW

Department of Justice

FOR IMMEDIATE RELEASE — OPA
THURSDAY, SEPTEMBER 28, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

FACT SHEET: STRUCTURE OF THE NATIONAL SECURITY DIVISION

WASHINGTON — Kenneth L. Wainstein was sworn in today as the first Assistant Attorney General for the National Security Division. He will oversee the creation of the new division and act as the Department's main liaison with the Office of the Director of National Intelligence, the Central Intelligence Agency, the Department of Defense, and other intelligence community agencies in order to improve coordination against terrorism and other threats to national security.

The National Security Division fulfils a key recommendation of the March 31, 2005, report of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission).

The new Division will consolidate the resources of the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections in order to strengthen the Department's core national security functions. These organizational changes reinforce the Department's efforts to prevent terrorism and other threats to national security.

Two Deputy Assistant Attorneys General and an Acting Deputy Assistant Attorney General were named today to oversee the work of the division's three branches: one for Counterterrorism and Counterespionage; one for Law and Policy; and one for Foreign Intelligence Surveillance Act (FISA) Operations and Intelligence Oversight.

- A Deputy Assistant Attorney will oversee the Counterterrorism and Counterespionage sections. These sections will assist in preventing and disrupting acts of terrorism through investigation and prosecution.

- A Deputy Assistant Attorney General will head the Law and Policy section. This section will be responsible for providing legal assistance on matters of national security law and policy, and for formulating legislative initiatives, policies, and strategies relating to national security matters.

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- A Deputy Assistant Attorney General will oversee the FISA Operations and Intelligence Oversight sections. These sections will prepare and file all applications for electronic surveillance and physical search under FISA and oversee the Department's foreign intelligence/counterintelligence investigations.

Initially, the majority of affected Department of Justice employees will remain in their present locations, but additional secure work space is being constructed in the Robert F. Kennedy (Main Justice) Building. The Division will initially encompass approximately 225 employees. The FY 2007 President's budget requests $66.9 million to fund the new division in its first year.

# # #

06-656

nsd org chart.pdf

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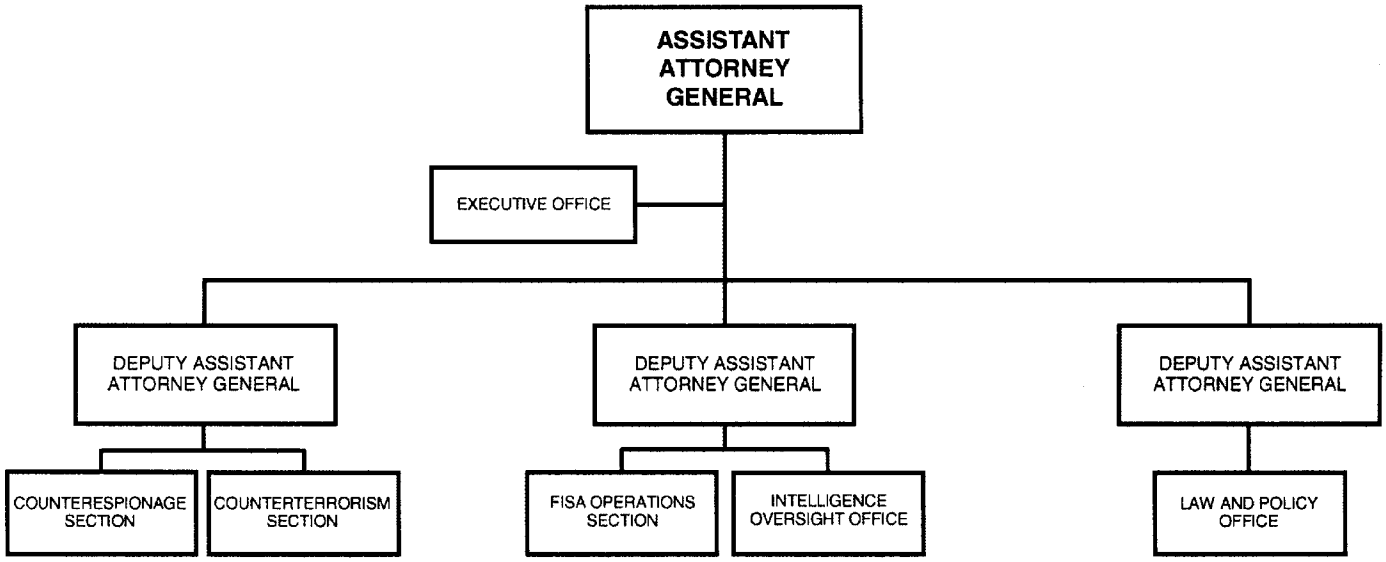
NATIONAL SECURITY DIVISION



Approved by: _____ Date: 3-13-06

ALBERTO R. GONZALES
Attorney General

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Image not available for this document, ID: 0.7.10316.28458-000003

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 613470 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 11:03 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE SWEARING-IN CEREMONY FOR KENNETH WAINSTEIN AND THE LAUNCH OF THE DEPARTMENT OF JUSTICE NATIONAL SECURITY DIVISION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 28, 2006
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AG
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TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE SWEARING-IN CEREMONY FOR KENNETH WAINSTEIN AND THE LAUNCH OF THE DEPARTMENT OF JUSTICE NATIONAL SECURITY DIVISION

Good morning.

Today is an historic occasion for the Department of Justice and I'm grateful for the opportunity to share it with members of the Justice family gathered here in the Great Hall.

In addition to our special guests, who Paul welcomed, Ken's family… is here, and I want to recognize them as well:

Ken's wife, Elizabeth, and her mother, Betty Joe Haynie. Also, Ken's daughters Mackie and Ellie, his brother Richard and his dad, Leonard.

The Wainstein family, like the families of so many in public service, sacrifices time with a husband, a father, a son and brother in service to our country. This sacrifice is an act of patriotism. Thank you for what you give.

In just a few minutes, Ken will take an oath of office that he has taken before, and one that all of us in the executive branch have taken as we embark on our jobs. The words in it are simple, yet profound, and considering the job to which Ken has been appointed, I believe they will take on special meaning for all of us today.

He will swear to support and defend our country and our Constitution "against all enemies, foreign and domestic."

Indeed, that is what the National Security Division is designed to do – to protect our country against its enemies.

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Ken, I speak on behalf of the Department and the President when I say that we are proud to have you taking this oath today. As the President said when he nominated him, "Ken is an effective leader, who will play an important role in our efforts to combat terrorism."

Ken has inspired the admiration and confidence of his colleagues in law enforcement at every stage of his career as a public servant. He is a career federal prosecutor who has shown equal skill in the gritty details of prosecution, as well as in the broader challenge of organizational management.

Ken's leadership of the National Security Division will take place on a foundation of success: that of the Department's Criminal Division and the Office of Intelligence Policy and Review.

In the days, weeks and now years following September 11th, the Criminal Division's prosecutors, working with FBI investigators, adapted quickly, worked tirelessly, and succeeded.
They brought charges in cases involving terrorist acts abroad against U.S. nationals; terrorist attacks against mass transportation systems; visa and document fraud; prohibitions against financing of terrorism; and participation in nuclear and weapons of mass destruction threats to the United States, among other charges.

Since the September 11 attacks, nearly 300 defendants have been convicted or have pleaded guilty in terrorism or terrorism-related cases arising from investigations conducted primarily after September 11, 2001.

Alice Fisher and her team have helped keep our country safe, and that accomplishment cannot be over-emphasized. We owe Alice and the Criminal Division a debt of gratitude and ongoing respect.

The Office of Intelligence Policy and Review, ably led by Jim Baker, also responded to the September 11th attacks with an increased workload and a terrific record of success.

For example, over the past five years, the Office of Intelligence Policy and Review has significantly increased the coverage obtained under FISA. This reflects both the increased focus on counterterrorism and counterintelligence investigations and the improvements that this office has made to the FISA process.

I appreciate Jim's leadership and the work of the Office of Intelligence Policy and Review, and am certain it will continue to flourish and deliver critical work under the new structure of the NSD.

Working side by side with other federal agencies, as well as state, local and international law enforcement, it is clear that the Justice Department has not rested in its efforts to safeguard America. For us, every day is September 12th. And to the credit of all who have stood watch, there has not been a terrorist attack on American soil in five years.

In our work, we seek to prevent terrorist attacks. And while prevention has always been one of the goals of law enforcement, it did take on a particular meaning and urgency after September 11th.

The establishment of the NSD recognizes your work of prevention and brings focus to the job of preventing terrorist attacks.

Establishment of the NSD was recommended by the WMD commission and made a reality by the USA PATRIOT Act Improvement and Reauthorization, signed by the President in March. Its creation serves as an example of how intelligent analysis can lead to compelling ideas and, ultimately, effective reforms.

The NSD will bring the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections under one authority, allowing the Department to fight threats to our national security more effectively.

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Under the National Security Division, the resources of the Department of Justice team will be more concentrated. The new division will lend a better structure for the creativity and energy I know you all put to use every day.

The NSD will also strengthen the network of law enforcement and intelligence that works closely together to defeat the terrorist network every day. In sum, it will help government to collect and connect the dots – and ultimately prevent attacks on our country.

In my daily security briefing, I see the relentless commitment of the terrorist network to strike the West, especially the United States. Al Qaeda-directed cells and homegrown terrorist networks are woven together by a common purpose. The added elements of creativity and commitment add up to a formidable, ongoing threat.

In response, our network must be stronger, and I believe that a successful network will excel in three key areas:

First, a successful network must have outstanding coordination of partners and resources.
Second, that network must possess constant flexibility.

And third, perhaps most important, a winning network must have an infinite passion to prevail.

Our side has these characteristics, both within the Department and in our relationships with other federal agencies and our partners at the state, local and international levels.

I believe that Ken and the new National Security Division will help bring our network of protection to its next level. This historic restructuring will help us stay one step ahead of the network that seeks to destroy us.

As we congratulate Ken today, we wish him and his NSD colleagues the strength, commitment and agility they will need in their day-to-day jobs.

As for the passion this group will need – I know that Ken and the team that will make up the NSD already have it.

And that is why we will prevail. We will prevail because our ideas of hope and freedom are stronger than their ideas of fear and intolerance. For the sake of our children, we will prevail because we must.

Ken, if you will step forward and if your family will join you on stage… Judge Silberman will administer your oath.

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JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, September 28, 2006 11:49 AM
Subject: Service Interruption: Public G:Drive, All of SMO/JMD JCON

Service Interruption - Public G:\ Drive

We are currently experiencing intermittent performance issues with the Public G:\ Drive. Server Engineers are currently working the issue, we will send an email when full services are restored.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 12:05 PM
To: USDOJ- Office of Public Affairs
Subject: BUSH ADMINISTRATION RELEASES REPORT ON INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

Attached Below Please Find the Full 2006 IP Report

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 28, 2006

Commerce: Dan Nelson, 202-482-4883
DHS: Jarrod Agen, 202-282-8010
Justice: Brian Roehrkasse, 202-616-2777
State: Tom Casey, 202-647-2492
USTR: Gretchen Hamel, 202-395-3230

BUSH ADMINISTRATION RELEASES REPORT ON INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

WASHINGTON – Today the Bush Administration released the 2006 *Report to the President and Congress on Coordination of Intellectual Property Enforcement and Protection.* The report sets forth the actions and initiatives that the U.S. government has taken over the past year to combat the rising tide of global counterfeiting and piracy, and notes the importance of these efforts because of the critical role intellectual property (IP) plays in the country's economic strength and the health and safety of consumers.

The report was produced by the National Intellectual Property Law Enforcement Coordination Council (NIPLECC). The Council brings together the leaders of the key federal government agencies responsible for intellectual property enforcement to support the Bush Administration's efforts. The Council is composed of representatives from the Departments of Commerce, Homeland Security, Justice and State, the Office of the U.S. Trade Representative, and the U.S. Coordinator for International Intellectual Property Enforcement.

"Protecting the ideas and technology of U.S. businesses is a critical task, and it is clearly on the front burner for the Bush Administration. We are devoting more time and resources to keep the pressure on the bad guys," said Commerce Secretary Carlos M. Gutierrez. "There is much we've achieved in the past year, but we cannot be satisfied. Complacency has no place in today's global economy. So I look forward to working with businesses to keep America competitive in the years ahead."

"This report verifies our significant and substantial efforts to stem the tide of intellectual property theft," said Attorney General Alberto Gonzales. "The Department of Justice is committed to working very closely with its partners as this Administration wages an unprecedented effort to crack down on the growing global trade in counterfeit and pirated goods."

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"Whether it is referred to as counterfeiting, or piracy, or willful infringement of trademarks and copyrights, it all comes under the less elegant heading of stealing – pure and simple – and we must continue our efforts to stop it," said U.S. Trade Representative Susan Schwab. "For the global trading system to work, producers and consumers in the United States and around the world must be confident the rules of the game are fair and evenly applied. This report underscores that the resources of the U.S. government are fully engaged in thwarting pirates, counterfeiters and thieves."

"Strong intellectual property protection and enforcement are essential for America's global competitiveness and the further growth of emerging knowledge economies in the developing world," said Assistant Secretary of State for Economic and Business Affairs Dan Sullivan. "This report highlights the robust commitment of agencies across government to combating piracy and counterfeiting and to safeguarding American ideas, brands and inventions. The State Department is making a critical contribution to this work through its Office of International Intellectual Property Enforcement and its network of Embassies and consulates, which are advocating for U.S. right holders around the world."

Highlights of the 2006 report include:

Working with U.S. Industry and Engaging our Trading Partners

- The Bush Administration is expanding STOP! (Strategy Targeting Organized Piracy) education outreach events for small and medium-sized businesses, including China-focused programs.
- The Administration is expanding the StopFakes.gov website and improving online resources for innovators and industry.
- Bush Administration leadership led to the development and announcement of a G8 Statement on Combating IPR Piracy and Counterfeiting.
- Leadership from the Administration led to the launch of the U.S.-EU Action Strategy for the Enforcement of Intellectual Property Rights.
- The Commerce Department is continuing to expand its IP attaché program in China and positioning new regional attachés in Brazil, Russia, India, Thailand and the Middle East.
- The Commerce Department and USTR are working to strengthen IP protection with Canada and Mexico as part of the Administration's Security and Prosperity Partnership (SPP).
- USTR is utilizing the Special 301 process and other trade tools, including World Trade organization (WTO) tools as appropriate, to seek resolution of U.S. concerns regarding IP protection and enforcement.
- USTR is continuing its work to strengthen IPR laws and enforcement and forge an international alliance against counterfeiting and piracy.
- The Commerce Department is expanding its education and capacity building programs through the Global IP Academy located at the USPTO.
- As part of STOP!, the Commerce Department is promoting IPR protection at trade fairs. These efforts include educating trade fair organizers, exhibitors, and attendees about IPR; helping U.S. businesses guard against infringement at trade fairs; and promoting IPR protection at trade fairs and pavilions that Commerce operates, certifies, or supports.
- The State Department has significantly expanded training of Embassy staffs in IPR issues to increase their effectiveness as first responders to U.S. industry.

Increasing Efforts to Seize Counterfeit Goods at Our Borders

- Since 2001, the Department of Homeland Security has initiated more than 31,000 seizures of counterfeit products with an estimated retail value in excess of $482 million. Seizures of fake and counterfeit goods at America's borders have doubled since 2001.
- The Department of Homeland Security deployed an online recordation tool for rights holders to record their trademarks and copyrights with CBP. Recordation provides a higher level of protection for trademarks and copyrights and makes it easier for DHS to identify fake goods at our borders.

Pursuing Criminal Enterprises

- The Bush Administration is working with Congress to strengthen laws and penalties related to intellectual property rights enforcement.
    - Passage of the *Stop Counterfeiting in Manufactured Goods Act, H.R. 32 (Enacted in March 2006)* - Prohibits the trafficking of counterfeit labels, emblems, containers or similar labeling components that may be used to facilitate counterfeiting; provides for forfeiture of articles bearing or consisting of a counterfeit mark and

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proceeds of any property derived from proceeds of, or used in the commission of, a violation; expands the definition of "trafficking" for certain counterfeiting crimes and clarifying that trafficking in counterfeit goods or labels includes possession with intent to traffic in such items.

- The Department of Justice is expanding its IP law enforcement attaché program to cover Asia and Eastern Europe.
- The Department of Justice created five new Computer Hacking and Intellectual Property (CHIP) units in the U.S. Attorney's Offices in Nashville, Orlando, Pittsburgh, Sacramento, and Washington D.C., bringing the total number of specialized units to 25. DOJ also increased the total number of CHIP prosecutors nationwide to 230.
    - In districts with CHIP units, the number of defendants charged with federal IP crimes climbed from 109 in FY2004 to 180 in FY2005 – a 65% increase.
    - Over the past 5 years, approximately half of all defendants convicted of federal intellectual property crimes in the United States received some amount of jail time.

Congressional Direction and Presidential Leadership

- Congress created the position of U.S. Coordinator for International Intellectual Property Enforcement to strengthen U.S. government coordination, revitalize the Council and provide renewed focus and leadership. In July 2005, President Bush appointed the first U.S. IPR Coordinator, Chris Israel, and created the Coordinator's office within the Commerce Department to help lead his Administration's ongoing commitment to IPR protection.
- The Bush Administration's Office of the U.S. Coordinator for International IP Enforcement works to leverage the capabilities and resources of the United States to promote effective, global enforcement of intellectual property rights. The Coordinator's office leads inter-agency initiatives such as STOP! and outreach with the private sector and our international partners.

Demonstrating the Impact of Coordination

- China: The U.S. government is working on many fronts to engage China on IPR concerns and, under President Bush's leadership, has developed a focused China IP strategy. The Bush Administration's China IP strategy is built on five pillars: (1) bilateral engagement; (2) effective use of trade tools; (3) expanding law enforcement cooperation; (4) education and capacity building; and (5) working with the private sector. We are utilizing all of our resources to effectively implement and coordinate our approach.
- El Salvador: The recent experience with CAFTA-DR is one example of different agencies working together to effect real change. U.S. free trade agreements, including CAFTA-DR, put in place cutting-edge protections for intellectual property rights with strong rules to combat counterfeiting and piracy. As part of El Salvador's commitments under CAFTA-DR, USTR and other agencies worked with El Salvador on implementing legislation to enact a provision that requires authorities to act ex officio (under the inherent authority of their office) against piracy and counterfeiting. The Commerce Department's Patent and Trademark Office conducted trainings in El Salvador on use of this new authority. El Salvadoran law enforcement, working with U.S. law enforcement officials (DHS), then used this new provision to conduct a series of raids that disrupted a major counterfeiting operation, resulting in the seizure of equipment, raw materials and DVDs.

Priorities for the Coming Year

- The Council is working to set objectives and establish priorities that will enable us to strengthen and better coordinate our education, training and capacity building activities around the world.
- The Council is redoubling its efforts to work with U.S. industry to provide better resources and assistance to small businesses. It will explore the utilization of technology to protect IP and assure that U.S. enforcement efforts and activities are well coordinated with industry enforcement activities and priorities.
- The Bush Administration is actively working with Congress to pass the Intellectual Property Protection Act of 2005. The Act is a comprehensive reform package that would toughen penalties for IP crimes, expand criminal IP protection, and add investigative tools for criminal and civil IPR enforcement.

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2006 IP report.pdf

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REPORT TO THE PRESIDENT AND CONGRESS ON COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

SEPTEMBER 2006

The National Intellectual Property Law Enforcement Coordination Council

REPORT TO THE PRESIDENT AND CONGRESS ON COORDINATION OF INTELLECTUAL PROPERTY ENFORCEMENT AND PROTECTION

THE NATIONAL INTELLECTUAL PROPERTY LAW ENFORCEMENT COORDINATION COUNCIL

SEPTEMBER 2006

UNITED STATES COORDINATOR FOR
INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

UNITED STATES COPYRIGHT OFFICE (ADVISOR TO THE COUNCIL)

National Intellectual Property Law Enforcement Coordination Council

Principals

Chris S. Israel
U.S. Coordinator for International Intellectual Property Enforcement

W. Ralph Basham
Commissioner of Customs, U.S. Customs and Border Protection
United States Department of Homeland Security

Karan K. Bhatia
Deputy United States Trade Representative
Office of the United States Trade Representative

Jon W. Dudas
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Alice S. Fisher
Assistant Attorney General for the Criminal Division
United States Department of Justice

Franklin L. Lavin
Under Secretary for International Trade
United States Department of Commerce

Julie L. Myers
Assistant Secretary, U.S. Immigration and Customs Enforcement
United States Department of Homeland Security

Josette S. Shiner
Under Secretary for Economic, Business and Agricultural Affairs
United States Department of State

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II. Letter of Transmittal

To the President of the United States and to the Committees on Appropriations and the Judiciary of the Senate and House of Representatives:

This is the fifth annual report on the activities of the National Intellectual Property Law Enforcement Coordination Council ("NIPLECC" or "Council") submitted pursuant to 15 U.S.C. 1128(e). Its format has been changed, and its contents expanded from prior reports, primarily as a result of Public Law 108-447 which established at the head of the Council a Coordinator for International Intellectual Property Enforcement ("Coordinator") and charged the Council with coordinating and overseeing the federal government's intellectual property protection and enforcement efforts.

The task of protecting intellectual property has never been more important to our country. As stated in the 2006 Economic Report of the President, today intellectual property protection plays an important role in many industries in which the United States has a comparative advantage and contributes to the size, growth, and exports of the American economy. Protecting intellectual property is vital to advances in science and industry and to creation of content enjoyed throughout the world. And the failure to protect intellectual property has potentially serious health and safety consequences.

At the same time, the task of protecting intellectual property has never been more challenging. Theft in foreign markets of intellectual property belonging to Americans is significant. Technology has made it easier to manufacture and distribute counterfeit and pirated products -- creating a global illicit market in competition with genuine products -- and has complicated the ability to detect and take action against violators. High profits and low risk have attracted organized criminal networks. And public awareness of the issues and consequences behind intellectual property theft often lags behind.

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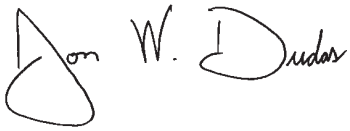
As the following pages describe in detail, the Bush Administration and the NIPLECC agencies in particular have made important strides in protecting intellectual property over the past year. Those accomplishments, as well as several promising new measures and initiatives, flow from and advance the objectives of the Strategy Targeting Organized Piracy (STOP!), announced in October 2004. These accomplishments and initiatives reflect the fact that intellectual property protection is receiving greater emphasis and attention throughout the federal government, aided in part by the efforts of the Coordinator's Office. These efforts serve to assure creators and consumers of intellectual property alike that the U.S. government is committed to preserving a future filled with the fruits of American innovation.

Submitted September, 2006.

CHRIS ISRAEL

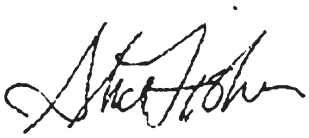
U.S. Coordinator for International Intellectual Property Enforcement

National Intellectual Property Law Enforcement Coordination Council



JON W. DUDAS

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office



ALICE S. FISHER

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III. Executive Summary

Why is Intellectual Property Important?

The reasons for the Administration's leadership on intellectual property (IP) enforcement and for its prioritization are clear. Few issues are as important to the current and future economic strength of the United States as our ability to create and protect intellectual property.

The theft of American intellectual property strikes at the heart of one of our greatest comparative advantages – our innovative capacity. Through the applied talents of American inventors, researchers, entrepreneurs, artists and workers, we have developed the most dynamic and sophisticated economy the world has ever seen.

The world is a much better place due to these efforts. We have delivered life-saving drugs and products that make people more productive. We have developed entirely new industries and set loose the imaginative power of entrepreneurs everywhere. And, we set trends and market best-of-class products to nearly every country in the world.

The enforcement of intellectual property rights (IPR) also carries great consequence for the health and safety of consumers around the world. The World Health Organization estimates that 10% of all pharmaceuticals available worldwide are counterfeit.

A thriving, diversified and competitive economy must protect its intellectual property rights. In the 2006 State of the Union, President Bush outlined the American Competitiveness Initiative (ACI). ACI strengthens the President's ongoing commitment to innovation. We are creating a business environment

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that encourages entrepreneurship and protection of intellectual property. And this Administration is doing everything that we can to open markets and level the playing field.

We value our heritage of innovation and exploration – it is not only part of our history; it is the key to our future. And this future – a future of innovation, exploration and growth that benefits the entire world -- rests on a basic, inherent respect for intellectual property rights and a system that protects them.

What is NIPLECC?

The National Intellectual Property Law Enforcement Coordination Council (NIPLECC), established in 1999, brings together the leaders of the key operational entities within the federal government that are responsible for IP enforcement, providing the infrastructure that supports the Administration's efforts. The Council includes the Office of the U.S. Trade Representative; the Department of Commerce – including the U.S. Patent and Trademark Office and the International Trade Administration; the Department of Homeland Security, which includes U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; the Department of Justice; and the State Department. The U.S. Copyright Office serves in an advisory capacity.

The Office of the U.S. Coordinator for International Intellectual Property Enforcement, established in 2005, works to leverage the capabilities and resources of the United States to promote effective, global enforcement of intellectual property rights. Under the leadership of the White House, the Coordinator's Office leads interagency initiatives such as STOP! (Strategy Targeting Organized Piracy) and outreach with the private sector and our international partners.

What have we done?

Through effective coordination U.S. government agencies are working more closely together, and we have made significant progress. We are achieving results, delivering on the commitments of senior Administration officials, institutionalizing an unprecedented level of coordination within the federal government and

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receiving attention around the world. The message that we are delivering is that the United States takes the issue of intellectual property enforcement very seriously, we are leveraging our resources to address it and we have high expectations of all of our global trading partners. Highlights of our efforts include:

1. We are working to implement the IP enforcement priorities established by President Bush and other leaders within the G8 and through the U.S.- European Union (EU) IPR Action Strategy.

2. The Department of Justice is working to implement the recommendations laid out by their Intellectual Property Task Force.

3. The Department of Homeland Security reports that seizures of fake and counterfeit goods at America's borders have doubled since 2001.

What are we planning to do?

This Report includes a number of IP enforcement priorities set for the upcoming year by the agencies and departments that comprise NIPLECC. Highlights include:

1. We are working to set objectives and establish priorities that will enable us to strengthen and better coordinate our education, training and capacity building activities around the world.

2. The Bush Administration is continuing to expand the presence of U.S. IP policy and law enforcement attachés around the world. Having IP attachés stationed at our embassies will enhance our ability to work with local government officials to improve IP laws and enforcement procedures in addition to assisting U.S. businesses to better understand the challenges of protecting and enforcing their IPR.

3. The Bush Administration is working with Congress to strengthen laws and penalties related to intellectual property rights enforcement.

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4. We are redoubling our efforts to work with U.S. industry to provide better resources and assistance to small businesses. We will explore the utilization of technology to protect IP and assure that U.S. enforcement efforts and activities are well coordinated with industry enforcement activities and priorities.

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IV. Introduction

Supporting American Business

American producers of intellectual property are independent by nature. Their creative contributions to science, the arts, business and industry reflect that American spirit of independence. Their esteemed brands, popular works and revolutionary inventions carry the mark of originality, resourcefulness and ingenuity.

But when it comes to protecting their creative output from infringement, American intellectual property owners sometimes need help. Indeed, they need help precisely because their works are so popular, so useful and so original that rather than compete with them, others seek to obtain, imitate and profit from them illegally.[1]

Today, however, the help and support that rightsholders need is available as never before. American businesses that discover that counterfeit copies of its products are being produced overseas and distributed for sale to foreign and domestic markets now have the following options for action:

- American businesses will find abundant, user-friendly means of educating themselves about their rights and options. For example, they can visit the U.S. government website ***www.StopFakes.gov*** to access information ranging from basic steps for protecting intellectual property to announcements of

[1]This introduction focuses on preserving the conditions essential to innovation. It is well-established, however, that the adverse economic impact of counterfeiting and piracy sweeps broadly, affecting downstream jobs, investment, growth and revenue collection. Counterfeiting and piracy also pose potentially serious health and safety risks to consumers. Government actions against IP violators generally address these other societal interests as well. See, for example, Chapter 10 of the 2006 Economic Report to the President, "The Role of Intellectual Property in the Economy."

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training seminars in their area to country-specific IPR toolkits to the email addresses of U.S. government contacts abroad.[2]

- They will find government specialists on intellectual property rights ready to assist them by phone. For example, they can call a toll-free hotline (1-866-999-HALT) to speak with experts at the U.S. Patent and Trademark Office (USPTO) or reach counselors at the Office of Intellectual Property Rights at the Department of Commerce who work with rightsholders to develop strategies for addressing problems overseas.[3]

- They will find that the government is using technology to simplify and facilitate the process of registering and protecting copyrights and trademarks. For example, they can go online to ***www.cbp.gov*** to record their registered copyright or trademark directly with the U.S. Customs and Border Protection (CBP), better enabling customs officers to identify and seize fake or counterfeit products at the border.[4]

- They will find accessible resources that explain their rights and facilitate the reporting of suspected violations. For example, they can consult the Justice Department's "Guide for Victims of Counterfeiting, Copyright Infringement and Theft of Trade Secrets" which provides practical tips and a checklist for reporting an offense. They can report suspected counterfeit imports or IP crime by completing an online referral form or by phoning the National Intellectual Property Rights Coordination Center at 1-866-IPR-2060.[5]

- They will find an increasing number of law enforcement resources deployed to fight IP crime at the federal level. For example, the FBI and Immigration and Customs Enforcement (ICE) have established special cyber crime operations centers to support IP investigations in field offices

[2]There have been over 1.8 million visits to the StopFakes website since its inception.

[3]The hotline is on pace to receive 1,400 calls in FY 2006, outpacing the FY 2005 total by over 50%.

[4]DHS seized 8,022 shipments under its IPR program in FY 2005, a 10.5% increase over FY 2004.

[5]Rightsholders can also email or call CBP's IPR Branch with legal questions or its Los Angeles Strategic Trade Center IPR Help Desk to obtain assistance developing product identification training materials.

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nationwide and in attaché offices overseas. On the prosecutorial side, the Justice Department has established 25 Computer Hacking and Intellectual Property (CHIP) Units and designated a CHIP Coordinator in every U.S. Attorneys' Office, bringing the number of specially-trained IP prosecutors to more than 230 nationwide.[6]

- Should the IP violations that a business identifies be criminally prosecuted or should the business decide to pursue civil action, it will benefit from ongoing efforts by government agencies and Congress to ensure that U.S. intellectual property laws keep current with ever-evolving means of infringing IP. For example, the Stop Counterfeiting in Manufactured Goods Act, which the President signed into law in March 2006, strengthens laws against trafficking in counterfeit labels and packaging.[7]

- Businesses will find that the federal government makes resources available to help business pursue actions to be taken overseas. The Office of Intellectual Property Rights at the Department of Commerce provides information to aid in navigating foreign legal systems -- including lists of local investigative firms and attorneys -- and shares experiences and expertise in particular countries. In some cases, U.S. government officials abroad can look into or raise questions based upon information the business provides.[8]

- Should the matter require the attention of foreign law enforcement or IP protection authorities, U.S. businesses will benefit from the extensive and sustained efforts by U.S. government agencies to educate, train and motivate their foreign counterparts to protect the interests of all IP rightsholders.[9]

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[6]Between FY 2003 and FY 2005, the number of open FBI IP investigations rose 22%. Between FY 2004 and FY 2005, the number of defendants charged with IP offenses increased 98%.

[7]On July 8, 2006, the Department of Justice announced the indictment of a Georgia man on charges of trafficking in illicit certificates of authenticity associated with copyrighted computer software. This is the first case charged under the Intellectual Property Protection and Courts Amendments Act of 2004 -- the immediate predecessor to H.R. 32.

[8]The number of IP experts stationed abroad by U.S. government agencies to assist rightsholders or work on their behalf is growing. Since 2004, PTO has had an intellectual property attaché in Beijing. This year it will add two more in China, along with regional IP attachés in Bangkok (Asia), Sao Paulo (Latin America), Cairo (the Middle East and Africa), Moscow (Russia/CIS) and New Delhi (India/Central Asia). The Justice Department has designated an Intellectual Property Law Enforcement Coordinator (IPLEC) for Asia in Bangkok and is working with the State Department to locate an IPLEC in Eastern Europe.

[9]Through June 30, 2006, PTO alone had conducted 82 IPR training and technical assistance programs in the U.S. and abroad – reaching participants from over 90 countries.

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Indeed, in certain circumstances, they can avail themselves of existing working relationships that have been developed with particular foreign agencies or officials.[10]

- If business encounters problems with the foreign government response, they will find that the U.S. government is very interested in their experiences. Their situation may inform ongoing efforts to evaluate and report on the adequacy and effectiveness of IP protection around the world, secure compliance with the commitments and obligations undertaken by our trading partners, and decide upon and pursue appropriate actions.[11]

- If business needs to rely upon protection for their intellectual property overseas, they will benefit from longstanding, persistent and ongoing efforts by U.S. government agencies to improve the legal landscape and functional infrastructure provided by our trading partners around the world. Such efforts include negotiation of trade agreements that require protection and enforcement of intellectual property rights: negotiation of agreements among members of the World Intellectual Property Organization, and participation in and/or sponsorship of a wide range of bilateral and multilateral initiatives.[12]

- If business seeks to partner with their industry counterparts in obtaining redress or otherwise pursuing concerns, they will find that the U.S. government is actively engaged with rightsholder

[10]By way of example, the Commerce Department's China "Case Referral Mechanism" brings individual U.S. companies' IPR complaints to the attention of China's Ministry of Commerce. The U.S.-EU Joint Action Strategy on IPR promises to increase cooperation between customs authorities to improve border enforcement. CBP actively participates in the World Customs Organization IPR Strategic Working Group.

[11]On April 28, 2006, USTR released its "Special 301" annual report on the adequacy and effectiveness of intellectual property rights protection provided by trading partners around the world. The report identifies governments that need to take stronger actions to combat piracy and counterfeiting, for example, by cracking down on illegal optical disc production and Internet piracy, or stepping up border enforcement against trade in fake goods. The report lists 48 countries: concerns regarding China and Russia feature prominently throughout.

As part of the private sector advisory committee system, an "Industry Trade Advisory Committee" focuses specifically on providing advice to the USTR and the Department of Commerce on issues related to IPR and trade policy. In addition, USTR and other agencies seek private sector input through formal notices in the Federal Register, at public hearings and through a variety of consultations with interested constituencies.

[12]Recently concluded trade agreements include the Bahrain Free Trade Agreement, the Oman Free Trade Agreement, the Peru Trade Promotion Agreement, the Colombia Trade Promotion Agreement, and the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) (with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic).

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groups on IP issues. For example, should they attend a meeting of the Coalition Against Counterfeiting and Piracy (CACP) -- a group led by the U.S. Chamber of Commerce and the National Association of Manufacturers -- they will find government IP officials regularly in attendance, reporting on pending matters, answering questions and seeking input from industry representatives.[13]

From the micro to the macro, American businesses will discover that the federal government is working hard on their behalf to remedy specific instances of infringement and to improve conditions for intellectual property protection globally. They will find new resources, tools, and a willingness which did not exist previously. They will find that government attention, action and expertise are more available and, importantly, more *coordinated*.

President George W. Bush signs H.R. 32, the Stop Counterfeiting in Manufactured Goods Act, during ceremonies, March 16, 2006, in the Eisenhower Executive Office Building. Looking on are, from left: Secretary Carlos Gutierrez, Department of Commerce; Secretary Elaine Chao, Department of Labor; Attorney General Alberto Gonzales; U.S. Rep. Jim Sensenbrenner (R-Wis.); U.S. Rep.Joe Knollenberg (R-Mich.), and U.S. Rep. Bobby Scott (D-Va.). (Source: The White House)

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The STOP! Initiative

The Bush Administration launched the Strategy Targeting Organized Piracy (STOP!) initiative in October 2004. STOP! represents the high priority that the Administration places on and the level of commitment it has made to intellectual property protection. STOP! calls upon government agencies to expand and make more effective the many and varied efforts underway to assist rightsholders -- and to seek out new approaches and solutions. STOP! brings direction and greater cohesion to those efforts.

STOP! focuses on five key objectives:

- Empowering American innovators to better protect their rights at home and abroad
- Increasing efforts to seize counterfeit goods at U.S. borders
- Pursuing criminal enterprises involved in piracy and counterfeiting
- Working closely and creatively with U.S. industry
- Aggressively engaging our trading partners to join U.S. efforts

A number of the government programs outlined in the preceding section -- and other initiatives described more fully below -- trace their origins to the STOP! initiative. STOP! charged executive branch agencies and officials with elevating their attention to IP protection and with being innovative in their approaches, and STOP! energized those efforts.

Thus, Customs and Border Protection (CBP) diversified its approaches to IPR enforcement to include new techniques that complement traditional enforcement methods. In the period since STOP! was announced, CBP tested and began implementing its IPR risk model, applying statistical analysis techniques and external information to the assessment of IPR risk. In FY 2005, CBP included IPR audits in its national

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audit plan for the first time and trained a new group of employees, its regulatory auditors, on IPR to enable them to apply their auditing skills to the enforcement of intellectual property rights.

Similarly, as part of STOP!, both the U.S. Trade Representative (USTR) and the State Department are actively promoting the adoption of best practices for enforcement internationally. As part of this effort, USTR and State, in coordination with other agencies, are introducing new initiatives in multilateral fora to improve the global intellectual property environment. Key initiatives have gained endorsement and are undergoing implementation in the G8, the U.S.-EU Summit, the Organization for Economic Cooperation and Development (OECD) and the Asia-Pacific Economic Cooperation (APEC) forum.

The June 2006 Progress Report of the Department of Justice's (DOJ) Task Force on Intellectual Property describes the Department of Justice's participation in the STOP! initiative. DOJ has made important contributions to the broad mission outlined by STOP!, through implementation of the detailed recommendations of the Task Force set forth in the 2004 Report. DOJ has coordinated closely with other agencies on numerous international and domestic policy issues and joined those agencies in visits abroad, that it has participated in business outreach efforts and that it has helped raise public awareness of legal protection for intellectual property.

As part of STOP!, the International Trade Administration (ITA) and USPTO are promoting protection of IPR at domestic and international trade fairs. Their efforts include educating trade fair organizers, exhibitors, and attendees about IPR and helping U.S. businesses guard against infringement at trade fairs. ITA will continue to explore opportunities to promote IPR protection at trade fairs and pavilions that Commerce operates, certifies, or supports.

The list of efforts stimulated and energized by STOP! includes the creation of the 1-866-999-HALT hotline and the establishment by USPTO of the Global Intellectual Property Academy. It includes recent actions by the Small Business Administration to make available through its website resources and information about U.S., foreign and international laws and procedures produced by other government

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agencies. And, as discussed later in this report, it includes the revitalization of the U.S. – EU IP relationship and the efforts behind the G8 IP initiative.

STOP! has raised the priority of, and set much of the agenda for, the Administration's IP protection programs. The sections that follow describe the framework and key mechanisms for leading that agenda forward.

The Role of NIPLECC

In all of their dealings with the federal government, the average business will probably never hear the name "NIPLECC," the acronym for the National Intellectual Property Law Enforcement Coordination Council. Nonetheless, NIPLECC has become an important part of the government's IP protection apparatus. As a behind-the-scenes organizational framework, NIPLECC is increasingly serving as an infrastructure for coordinating IP protection efforts across government agencies.

The 1999 law establishing NIPLECC charged it with coordinating domestic and international intellectual property enforcement among federal and foreign entities.[14] In 2005, Congress broadened NIPLECC's charter to include setting policies, objectives and strategies concerning international intellectual property protection and intellectual property enforcement; promulgating a strategy for protecting American intellectual property overseas; and coordinating and overseeing the implementation by government

[14]NIPLECC was established in 1999 by Section 653(a) of Public Law 106-58 (the Treasury and General Government Appropriations Act). Section 653(b) set out NIPLECC's duties: "The Council established in subsection (a) shall coordinate domestic and international intellectual property law enforcement among federal and foreign entities."

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agencies of those policies, objectives and priorities and the execution of that strategy.[15] To lead NIPLECC's efforts, Congress created the U.S. Coordinator for International Intellectual Property Enforcement ("the Coordinator").

The Bush Administration moved quickly to respond to Congress's action and to align the NIPLECC structure with the strategy outlined by STOP! The President appointed Chris Israel to serve as Coordinator and as the point person for the Administration's IP enforcement efforts. The Administration has made considerable progress in moving the STOP! initiative forward and in carrying out the Congressional mandate during its first year. The progress made promises to have long term benefits. NIPLECC itself gives permanence to the priority that the Administration and Congress have placed on increasing and coordinating IP protection efforts.[16] It is a statutory entity that, since 2005, receives funds and is subject to Congressional oversight. The existence of a reporting requirement and the creation of a NIPLECC Coordinator ensure accountability to Congress and greater transparency to the private sector and the general public.

These and other recent actions have brought about a series of positive changes:

- Congress' specification of NIPLECC's charter as set out in Public Law 108-447 has fused together NIPLECC's strategic and coordinating responsibilities. Installation of a U.S. Coordinator for International Intellectual Property Enforcement and associated staff has provided needed leadership and visibility.

[15]In the 2005 Consolidated Appropriations Act, Congress revisited NIPLECC's role. Public Law 108-447 provides that NIPLECC shall:

"(1) establish policies, objectives, and priorities concerning international intellectual property protection *and* intellectual property law enforcement,

(2) promulgate a strategy for protecting American intellectual property overseas

(3) coordinate and oversee implementation by agencies with responsibilities for intellectual property protection and intellectual property law enforcement of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities assigned to such agencies in the strategy described in paragraph (2)."

(Emphasis added.) Notably, the statutory language charges NIPLECC with coordinating and overseeing IP protection and enforcement activities conducted not only by NIPLECC agencies but by any agency with IP responsibilities. This change helps overcome any formal difficulties arising from the slightly differing memberships of NIPLECC and STOP!

[16]Whether subsequent administrations continue STOP! or set a different direction in response to changing circumstances affecting IP protection, NIPLECC will remain a Congressionally-mandated framework for coordinating executive branch activities.

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- Execution of the STOP! initiative has given NIPLECC a more clearly defined mission and charge.

- Increased interaction and communications among NIPLECC agencies has led to improved coordination.

- Elevation of intellectual property protection into a significant trade and economic issue regularly addressed by senior Administration officials in their contacts with trading partners has set the foundation for progress abroad.

- The formation of the DOJ's Task Force on Intellectual Property, the service by a senior Justice Department official as NIPLECC's Deputy Coordinator and the involvement of the FBI and ICE in NIPLECC have ensured active participation by the law enforcement community.

- The formation of the Coalition Against Counterfeiting and Piracy (CACP) and conscientious efforts by NIPLECC leadership to engage with CACP and its task forces has yielded higher levels of cooperation and coordination between government and industry.

As a result, NIPLECC has assumed a more central role and filled a gap that had inhibited coordination in the past. Even in the course of detailing NIPLECC's historical shortcomings, the 2004 GAO report on U.S. efforts to protect IP abroad included this observation from a State Department official, "NIPLECC is the only forum for bringing enforcement, policy and foreign affairs agencies together at a high level to discuss intellectual property issues."[17] Over time, that observation has become less of an aspiration and more of a reality.

[17]GAO Report GAO-04-912 (September 2004), p.38.

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Importantly, NIPLECC does not seek to assume the independent authority, mission and operation of its member agencies. Each NIPLECC agency is separately charged with carrying out its statutory responsibilities and brings to the performance of those tasks specialized knowledge, invaluable expertise and, in some cases, literally centuries of experience. This separateness has operational, practical and even legal dimensions, such as in the standards that govern the activities of law enforcement agencies and the need of law enforcement agencies to protect sensitive information from disclosure.[18]

National Intellectual Property Law Enforcement Coordination Council					
Department of Justice The Department of Justice is the lead U.S. law enforcement agency. It enforces a variety of federal IP statues and engages with law enforcement couterparts around the world.	**Department of Commerce** The Department of Commerce seeks to foster, promote, and develop foreign and domestic commerce through economic development, technological advancement and international trade.	**Department of State** The Department of State seeks to create a more secure, democratic, and prosperous world for the benefit of the American people and the international community.	**Department of Homeland Security** The Department of Homeland Security is responsible for securing our borders while also facilitating the flow of legitimate trade and travel. DHS is also responsible for the enforcement of federal immigration laws, customs laws, and air security laws.	**U.S. Trade Representative** USTR is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries.	**U.S. Coordinator for International Intellectual Property Enforcement** The Coordinator's office works to leverage the capabilities and resources of the Unites States Government to promote effective, global enforcement of intellectual property rights.
NIPLECC member: • Assistant Attorney General, Criminal Division	**NIPLECC member:** • Under Secretary for IP and Director of the PTO • Under Secretary for International Trade	**NIPLECC member:** • Under Secretary for Economic, Business, and Agricultural Affairs	**NIPLECC member:** • Commissioner, U.S. Customs and Border Protection • Assistant Secretary for Immigration and Customs Enforcement	**NIPLECC member:** • Deputy U.S. Trade Representative	**NIPLECC member:** • U.S. Coordinator for International Intellectual Property Enforcement

[18]Some industry groups have signaled the view that NIPLECC *should* eschew an operational role. For example, a 9.4.02 letter from the International Intellectual Property Alliance (IIPA) to NIPLECC states: "IIPA continues to view NIPLECC as a vehicle through which its interagency members can productively share information and promote common *non-operational* law enforcement interests without requiring authority or mandate to approve or disapprove of any single agency's ongoing activities." (Emphasis added).

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The U.S. Coordinator for International Intellectual Property Enforcement

The office of the U.S. Coordinator for International Intellectual Property Enforcement was createdby Congress to lead NIPLECC in carrying out its function. President Bush moved expeditiously to fill this post, appointing Chris Israel in July 2005. Arif Alikhan, Senior Counsel to the Deputy Attorney General at the Department of Justice, serves as NIPLECC's Deputy Coordinator. The staff of the Coordinator's office is composed of employees or detailees from a number of NIPLECC agencies.

In its first year of operation, the Coordinator's office has been very active -- interacting on a sustained and intensive basis with government agencies, industry representatives, trading partners, Congress and the general public. The office has contributed to progress on a number of fronts that are central to the STOP! initiative and long a part of the NIPLECC agenda.

As stated, the STOP! initiative has provided the direction and the strategic overlay for the Coordinator's office and for NIPLECC agencies generally. Indeed, almost all of the activities of the Coordinator's office execute on elements of the STOP! initiative.

- Leadership by the Coordinator's office in helping to revitalize the U.S. - EU IPR relationship has directly served the STOP! objective of "aggressively engaging our trading partners to join our efforts." Shortly after the November 2005 ministerial meeting that established the U.S. - EU IPR Working Group, an interagency team began working with their EU counterparts on a strategy for strengthening customs cooperation, focusing mutual efforts on IP protection issues in China, Russia, and elsewhere, and engaging their respective private sectors. The U.S. – EU Action Strategy for the Enforcement of Intellectual Property Rights was launched just prior to the recent U.S. – EU Leaders Summit in Vienna.

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President George W. Bush delivers a statement during the June 2006 U.S.-EU Summit with Chancellor Wolfgang Schuessel of Austria, center, and European Union President Jose Manuel Barroso at the Hofburg Palace in Vienna. At the Summit leaders announced the U.S.-EU Action Strategy for the Enforcement of Intellectual Property Rights. (Source: The White House)

- The Coordinator's office has worked to support the NIPLECC-wide focus on improving IP protection internationally and in particular regions and countries. The broad interagency composition of the U.S. delegations led by the Coordinator on official visits to China, Russia, Japan, the EU and India reflects the role played by the office in promoting and facilitating interagency coordination in the pursuit of greater cooperation with our trading partners in protecting IP.

- Overall, the Coordinator's office works to promote and support regular and consistent communications by senior Administration officials regarding IP protection in their contacts. For example, the Coordinator's office has assumed the task of preparing country-specific memoranda that provide at-a-glance information on the background of U.S. engagement on IP issues, the status of enforcement and policy issues, and key priorities and challenges. The memoranda also bring together prior statements by Administration officials regarding IP protection in particular countries.

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- From his senior position within the Department of Justice, NIPLECC's Deputy Coordinator, Arif Alikhan, has provided leadership in focusing and leveraging the efforts of law enforcement agencies to protect intellectual property. The Department of Justice Task Force Report, released in June 2006, contains accounts of coordination between a number of law enforcement agencies on particular investigations and prosecutions, as well as between federal law enforcement and non-law enforcement agencies on matters involving training, law reform and outreach. The NIPLECC Deputy Coordinator brings that inclusive perspective to the work of the Council.

- Continuous engagement by the Coordinator's office with rightsholder groups and representatives has helped to advance the STOP! objective of "working creatively with U.S. industry." The Coordinator and the Deputy Coordinator have exchanged views privately and publicly with representatives of industry groups in a wide range of settings. For example, they have participated in dozens of industry-sponsored events -- including several sponsored by U.S. trading partners -- and the Coordinator has provided updates on Administration IP initiatives at nearly all of the monthly meetings of the Coalition Against Counterfeiting and Piracy.

- Regular public appearances and presentations, aimed at sharing information about the federal government's IP enforcement and protection efforts have served to promote the STOP! objective of "empowering American innovators to better protect their rights at home and abroad" and helped to build greater public awareness regarding the government's efforts.

- The Coordinator's testimony before Congress, his meetings with Members and Congressional staff and his role as a spokesman for IP protection efforts generally have brought greater accountability, increased public understanding and a more coordinated perspective to the efforts of various governmental agencies. The Coordinator has, in essence, given a unified public voice to the Administration's IP protection efforts.

Many, if not all, of the activities of the Coordinator's office have been carried out in cooperation with representatives of one or more of the NIPLECC agencies. In some cases, the Coordinator's office has joined or supported pre-existing, agency-led initiatives. In others, the office has spearheaded the initiative

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and enlisted agency participation. The touchstone throughout has been to optimize results by engaging the most appropriate and complete combination of government IP enforcement and protection resources.

The Coordinator's office contributes to interagency coordination in more routine and often less visible ways. For example, the Coordinator holds quarterly NIPLECC meetings to discuss ongoing IP matters and -- in conjunction with the White House -- convenes regular STOP! meetings to discuss overall IP strategy. The Coordinator has worked to engage the FBI and the Food and Drug Administration -- two agencies with IP enforcement responsibilities which are not by statute formally part of NIPLECC. On a continuing basis, the Coordinator seeks out opportunities to use the office's resources to support agency activities.

In just one year, the Coordinator's office has built a foundation for enhanced and coordinated government-wide support for intellectual property protection. Going forward, the overarching task will be to secure and expand upon these gains. Effective, consistent leadership and the capacity to set priorities are essential to meeting the evolving challenge of IP protection. Delivering meaningful results calls for a long-term commitment of energy and resources. And achieving solutions will require a sustained effort working within the Federal government, with Congress and with American rightsholders.

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V. Looking ahead

The STOP! initiative has provided overall direction for the government's IP protection efforts. NIPLECC, principally through the Coordinator's office, has sought to leverage and support those efforts. Since the filing of the last NIPLECC report, the NIPLECC agencies, in their separate capacities, have recorded a number of significant accomplishments, as detailed in Section VII. Any satisfaction with this progress must be tempered by the recognition that the challenge of protecting IP is, in many ways, becoming larger and more complex, underscoring the need to continually expand and improve governmental efforts.

Many governmental sources detail the growing importance and difficulty of protecting intellectual property. U.S. IP industries account for over half of all U.S. exports. They represent 40% of U.S. economic growth and employ 18 million Americans -- who earn 40% more than the average U.S. wage. The 2006 Economic Report of the President states that IP accounts for over one third of the value of all publicly traded U.S. corporations, an amount equal to almost half of the U.S. Gross Domestic Product. The ability to ensure a secure and reliable environment for intellectual property around the world is critical to the strength and continued expansion of the U.S. economy.

But the challenges of IP protection are mounting. The 2006 Special 301 Report provides a daunting summary:

> Global IPR theft and trade in fakes and pirated materials have continued to grow, threatening innovative and creative economies around the world. Counterfeiting has developed from a localized industry concentrated on the copying of high-end designer goods into a massive, sophisticated global

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business involving the manufacture and sale of counterfeit versions of a vast array of products, including soaps, shampoos, razors, batteries, cigarettes, alcoholic beverages, golf clubs, automotive parts, motorcycles, medicines, and health care products, to name a few. Counterfeiting of such a broad range of products on a global scale affects more than just the companies that produce legitimate products. While it has a direct impact on the sales and profits of those companies, counterfeits also hurt the consumers who waste their money and sometimes put themselves at risk by purchasing fake goods.[19]

Secretary of Commerce Carlos Gutierrez discussing intellectual property enforcement on Capitol Hill with Sen. Orrin Hatch (R-UT) and U.S. Chamber of Commerce President and CEO Tom Donohue in April 2006. (Source: U.S. Chamber of Commerce)

The 2006 Economic Report to the President details the vital economic contribution that intellectual property makes to the U.S. economy and notes a number of the emerging and potentially worrisome

[19]2006 Special 301 Report, p. 5.

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trends. Its discussion of the role of technological change in facilitating counterfeiting and piracy is illustrative:

> Some peer-to-peer networks provided technology that enabled individuals to freely download copyrighted music from the computers of other individuals on these networks. Moreover, current technology can less expensively and more faithfully reproduce some intellectual property-related materials than previous technologies could. These illegal copies are difficult to detect. In the United States and internationally, this has resulted in a significant increase in the production and sale of counterfeit products. Those counterfeit copies may directly harm consumers through the sale of fake medicines and defective products, such as batteries, automotive parts, and airplane parts. Furthermore, in the long run, counterfeiting harms all consumers by reducing the profitability of and the incentive to produce new and interesting innovative products and creative works.[20]

And, as noted in the recent Progress Report of the Department of Justice's Task Force on Intellectual Property, the costs of piracy and counterfeiting are not limited to their adverse impact on the economy and on public health and safety.

> In addition . . . intellectual property theft is a concern because it can fund other criminal activities. Modern technology has . . . made intellectual property theft easier and more anonymous. Computer technology and the Internet generate inexpensive and far-flung opportunities for piracy and distribution. Such ease and profitability attract organized criminal enterprises to these offenses, and some of those enterprises may even have ties to terrorist organizations.[21]

What follows is a partial list of particular initiatives to which the Coordinator's office and the NIPLECC agencies will be directing special attention in the months to come.

[20]2006 Economic Report to the President, Chapter 10, "The Role of Intellectual Property in the Economy," p. 227.

[21]Progress Report of the Department of Justice's Task Force on Intellectual Property, June 2006 ("TFR"), p.13.

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The Coordinator's Office:

- Execute on key elements of the U.S.-EU and G8 intellectual property action strategies.
- Enhance coordination of U.S. IP training and capacity-building programs, building upon the work of the IPR Training Coordination Group.[22]
- Work with the private sector to maximize government support for industry-led IP enforcement activities and to build a better understanding of technological approaches being deployed to protect IP.
- Support development of an expanded repository of information on global IP enforcement actions.

Department of Commerce/U.S. Patent and Trademark Office:

- Pursue plans to post seven additional IP attachés abroad in late 2006: in Bangkok for the Asia region, in Sao Paolo for Latin America, in Cairo for the Middle East and Africa, in Moscow for Russia and the CIS, in New Delhi for India and Central Asia and two additional IP attachés in China.
- Extend ongoing Global Intellectual Property Academy Programs for foreign officials at the USPTO training academy in Alexandria and provide IPR training, trade capacity building, and technical assistance in the U.S. and abroad.
- Extend IP education outreach events for small and medium sized businesses, including China-focused programs; increasing the USPTO presence at trade shows.

[22]In its 11.25.03 submission to NIPLECC, the International Intellectual Property Alliance observed that NIPLECC might add value to training by working to enhance the IPR training database, secure greater transparency in USG technical assistance programs (particularly USAID), continue to consult with the private sector on prioritization, improve evaluation of and follow-up on training exercises and incorporate IP components into judicial reform projects.

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Department of Commerce/International Trade Administration:

- Build upon principles contained in IP cooperation agreements with Japan and the EU (developing best practices, sharing information, streamlining procedures and strengthen technical assistance efforts).

- Work with the Coalition Against Counterfeiting and Piracy to further develop the "No Trade in Fakes" program (voluntary guidelines for companies to protect their supply chains from counterfeit products).

- Create, in conjunction with the Small Business Administration, an IP chapter for the Globally Accessible Database for Small and Medium Enterprises to help educate and guide American businesses operating overseas on securing effective protection and enforcement of their IPRs.

- Promote protection of IPR at domestic and international trade fairs through educational campaigns and official relationships.

Department of Homeland Security/U.S. Customs and Border Protection:

- Continue improving CBP's Intellectual Property Rights e-Recordation (IPRR) system by adding an online recordation renewal feature.

- Create online infringement allegation forms for both rightsholders and CBP field personnel in order to streamline Headquarters' review and response process.

- Work towards full implementation by year's end of the IPR risk-assessment model to enhance the identification of counterfeit and pirated goods at U.S. borders.

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- Continue Post-entry Verifications ("IPR audits") to help rid supply chains of fakes and deprive counterfeiters and pirates of illicit profits.

- Establish a link from the U.S. Copyright Office website to the CBP's Intellectual Property Rights eRecordation system to make it easier for right owners to provide information on their rights to CBP.

- Enhance CBP's ability to detect counterfeit and pirated goods by promoting product identification training sessions with industry representatives.

Department of Homeland Security/U.S. Immigration and Customs Enforcement:

U.S. Customs Agents inspecting incoming goods. The Department of Homeland Security reports that seizures of fake and counterfeit goods at America's borders have doubled since 2001. (Source: Department of Homeland Security)

- Increase outreach efforts to industry and government partners to better identify vulnerabilities through which counterfeit goods can be trafficked.

- Continue to partner with foreign governments to enhance joint transnational IPR investigative and enforcement activities, particularly focusing on foreign manufacturers and distributors of counterfeits.

- Enhance the use of the National IPR Coordination Center to initiate industry outreach presentations and to refer investigative leads to field offices.

- Support enhanced efforts of the ICE/Cyber Crimes Center (C3) in targeting criminal organizations responsible for producing, smuggling and distributing counterfeit products via the Internet.

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Department of Justice:

- Support enactment of legislation and ratification of treaties protecting IP.[23]
- Increase the deployment of domestic and foreign-based resources focused on IP investigations and prosecutions.[24]
- Establish through the Asia IP Law Enforcement Coordinator an Intellectual Property Prosecution and Investigation Network.
- Launch the National Educational Prevention Teacher Training Initiative co-sponsored and co-funded by DOJ and USPTO.

Attorney General Alberto Gonzales speaking to students and faculty at an October 2005 CourtTV event on intellectual property enforcement, at the University of Texas-Austin. (Source: University of Texas)

[23]Specifically, the Intellectual Property Protection Act.

[24]For example, the FBI is scheduled to open four new Regional Computer Forensic Laboratories by the end of 2006 (TFR p. 45) and DOJ is working with the State Department to locate a new IPLEC in Eastern Europe in the next several months (TFR p. 54).

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Department of State:

- Support implementation of the G8 and U.S.-EU Action Plans on IP Enforcement.

- Build upon the significantly expanded training of Embassy staffs in IPR issues to increase their effectiveness as first responders to U.S. industry, as implementers of other agencies' IP agendas, as advocates for enforcement improvements and as outreach specialists in building support for IP protection abroad.

- In 2005, State staged two major IP training events for officers in Africa and Latin America, bringing them together with U.S. Government IP experts and U.S. industry representatives. New tactics were identified and enforcement partnerships formed. Recognizing the contribution these events have made to U.S. Government effectiveness on IP issues in the field, State has made this cycle of training events permanent and in 2006 will conduct its next training event for officers serving in the Middle East and Europe.

- Institutionalize and expand the new "Musical Ambassadors for IPR" international program, which employs an existing public-diplomacy funded program for U.S. musicians touring abroad to deliver "protect IP and protect your local culture" message to international musicians and audiences.

Office of the U.S. Trade Representative:

- Achieve the priorities of the new Intellectual Property office and the newly-created Chief Negotiator for Intellectual Property Enforcement; the new Chief Counsel for China Trade Enforcement and the newly-formed China Enforcement Task Force.

- Work closely with other U.S. government agencies to deepen intellectual property alliances worldwide by means of positive engagement through bilateral trade dialogues (such as with the EU,

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Japan, and India, among others), and through the G8, APEC, the Security and Prosperity Partnership (Canada and Mexico) and other multilateral fora.

- Use the Special 301 process and other trade tools, including World Trade Organization (WTO) tools, as appropriate to seek resolution of U.S. concerns regarding IP protection and enforcement. Key activities will include Special 301 reviews of U.S. trading partners, the unprecedented special provincial review of China, and continued engagement with Russia through both bilateral and multilateral avenues.

- Ensure that the intellectual property provisions of U.S. trade agreements under negotiation (for example, the recently announced FTA negotiations with the Republic of Korea and Malaysia) meet U.S. objectives in the field of intellectual property, such as reflecting a high standard of protection similar to U.S. law and providing for strong enforcement.

The Copyright Office:

- Continue its mission of providing useful education and training on copyright internationally by hosting semi-annual workshops in conjunction with WIPO. The workshops are attended by high-level officials from developing and newly-industrialized countries and are designed to encourage the development of effective intellectual property laws and enforcement overseas.

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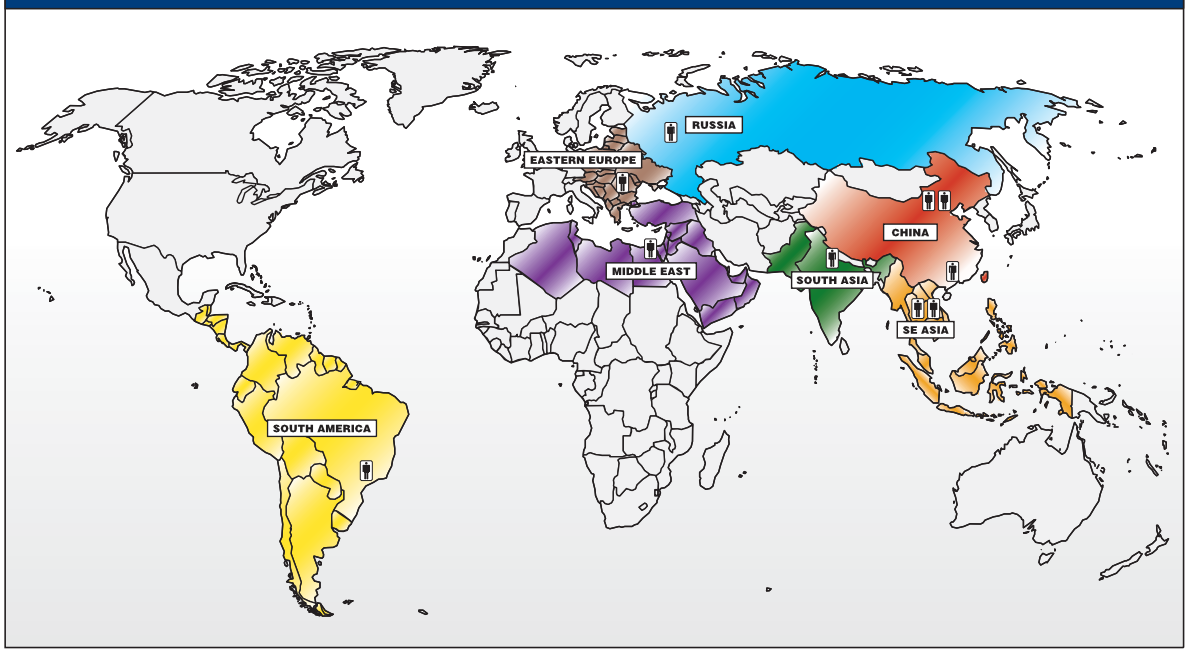
IPR Attaché Program Deployment



The Bush Administration is continuing to expand the presence of U.S. IP policy and law enforcement attachés around the world. Having IP attachés stationed at our embassies will enhance our ability to work with local government officials to improve IP laws and enforcement procedures in addition to assisting U.S. businesses to better understand the challenges of protecting and enforcing their IPR

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VI. Results of Coordination

China: Concerted action to address a top priority

A full account of the IP protection initiatives pursued by the NIPLECC agencies follows in Section VII. But nowhere is the degree of governmental focus and coordinated action more evident than in the effort to improve the protection of intellectual property in China, one of the Administration's top IP enforcement priorities. Here initiatives undertaken by the Bush Administration signify an approach to IP protection that brings the full array of government expertise to bear in a complementary and concentrated fashion.

The efforts of the U.S. government to promote stronger IP protection in China are built on five pillars: bilateral engagement; effective use of our trade tools; expanding law enforcement cooperation; education and capacity building; and working with the private sector.

Agency and interagency actions directed at supporting this strategy and improving conditions in China include the following:

- The April 2006 meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) had a significant focus on IPR and yielded some important results. The Chinese government agreed to ensure the widespread utilization of legal software at all levels of the government, indicated that it would increase pressure against retail markets that sell counterfeit goods and agreed to step up action against facilities that produce pirated optical discs. The JCCT meeting also saw the release of a comprehensive Chinese Action Plan for IP Protection.

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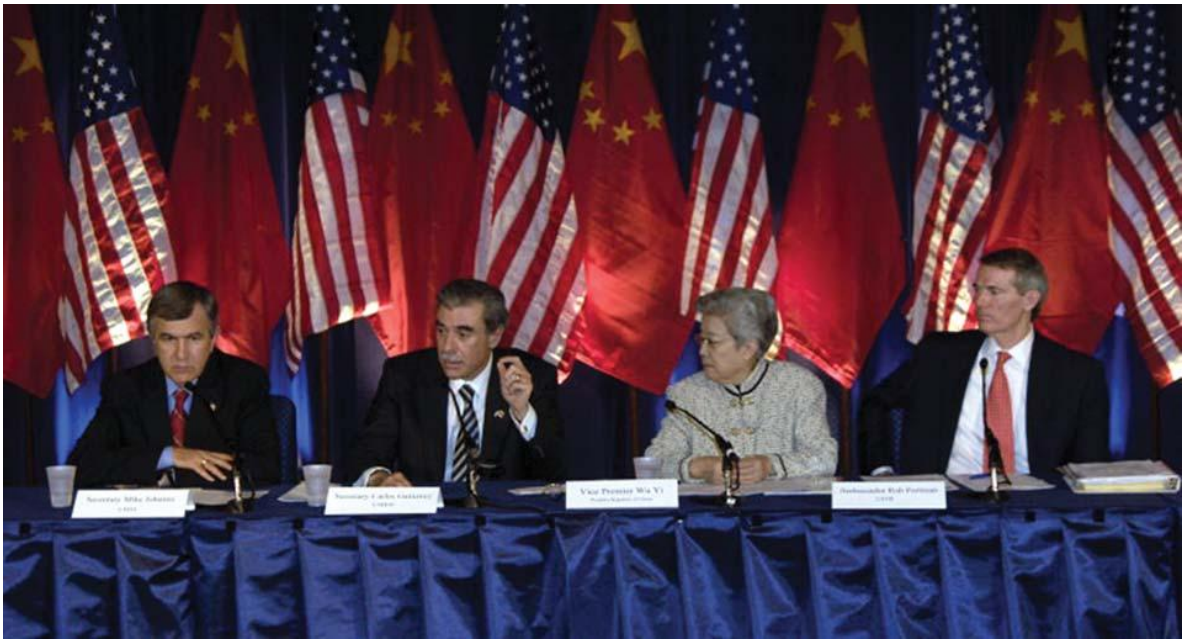
- This year's Special 301 Report – itself the result of extensive interagency input and deliberations -- maintains China on the Priority Watch List and continues Section 306 monitoring. It also announces an unprecedented special review of IPR enforcement and protection at China's provincial level, as well as stepped up consideration of WTO dispute settlement options.

- USTR appointed its first Chief Counsel for China Trade Enforcement to ensure China's compliance with international trade commitments, particularly its WTO and U.S.-China Joint Commission on Commerce and Trade obligations. The Chief Counsel will also co-chair USTR's newly formed China Enforcement Task Force.

- USTR followed up on its October 2005 WTO transparency request, made along with Japan and Switzerland, that China provide additional IPR enforcement data pursuant to Article 63.3 of the TRIPS Agreement. Although China still has not provided a full response to the October 2005 request, a dialogue opened in March 2006 has achieved some progress in improving transparency.



Secretary of Agriculture Mike Johanns, Secretary of Commerce Carlos Gutierrez, Chinese Vice-Premier Wu Yi, former U.S. Trade Representative Rob Portman participate in the April 2006 U.S.-China Joint Commission on Commerce and Trade (JCCT) meetings in Washington, DC. The JCCT meetings yielded a number of significant commitments to strengthen IP enforcement in China. (Source: Department of Commerce)

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- U.S. Ambassador to China Clark Randt holds an annual IPR Roundtable in Beijing which brings together senior U.S. and Chinese officials and U.S. business representatives. The Roundtable gives U.S. rightsholders the opportunity to raise and discuss the problems they are encountering and to work towards solutions.

- USPTO is moving ahead with plans to add two additional IP attachés in China before the end of the year in order to augment the work of the current attorney-advisor who has served since 2004 as resident intellectual property attaché to the U.S. Embassy in Beijing.

- USPTO sponsored or participated in twenty IP enforcement training and capacity building programs in China over the past year, reaching judges, prosecutors, trade groups, law firms, investigators and a range of government officials.

- USPTO sponsored or participated in many programs in the U.S. focused on IP protection in China -- often in conjunction with other agencies such as the International Trade Administration at the Commerce Department, the State Department's Foreign Service and the Justice Department's Computer Crime and Intellectual Property Section. Those programs included a conference for U.S. government personnel and seminars in many cities for companies ranging from small businesses contemplating entering the Chinese market to large corporations with an established presence in China.

- The Commerce Department established several programs designed to assist small and medium-sized businesses on IP issues in China, such as the free *China IPR Legal Advisory Program* (which operates in conjunction with the American Bar Association, the National Association of Manufacturers and the American Chamber of Commerce in China to provide legal counseling) and the "Case Referral Mechanism" (which brings individual U.S. companies' IPR complaints to the attention of China's Ministry of Commerce). In May 2006, Commerce launched a web-based seminar series on IPR issues in China for U.S. businesses.

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- The U.S. government conducts many training and capacity building programs with Chinese government officials. For example, through the Global IP Academy, the USPTO trains Chinese judges and IP specialists; and recently, the State Department sponsored five Chinese officials to come to the United States under State's International Visitor Program.

- In January 2006, the Department of Justice assigned an attaché to the U.S. Embassy in Bangkok to serve as an Intellectual Property Law Enforcement Coordinator (IPLEC) for the Asia region. The IPLEC is working, among other things, to increase criminal enforcement of IP laws in China and to build a network of key IP prosecutors and investigators from countries in the region.

- DOJ has worked with Chinese officials to establish a new IP law enforcement working group that will focus on building better operational relationships between U.S. and Chinese law enforcement officials. The group will aim to increase information sharing, mutual assistance and the number of actions against pirates.

- DOJ's recently issued "Progress Report of the Department of Justice's Task Force on Intellectual Property" cites several examples of IP prosecutions with a China nexus. Those prosecutions include cases involving counterfeit pharmaceuticals, organized crime and optical disk manufacturing.

- Several of those prosecutions arose from investigations in which ICE Special Agents used existing relationships to obtain cooperation from Chinese authorities. In "Operation Ocean Crossing," ICE agents conducted an investigation involving an Internet site owned and used by a U.S. citizen to distribute bulk quantities or counterfeit Viagra and Cialis manufactured in China. Chinese officials cooperated, arresting eleven individuals in China and seizing 600,000 counterfeit Viagra labels and packaging, 440,000 counterfeit Viagra and Cialis tablets and 260 kilograms of raw materials. In February 2006, the U.S. citizen was convicted of importing counterfeit pharmaceuticals.

- In "Operation Spring," ICE agents conducted a joint criminal law enforcement effort with Chinese law enforcement authorities involving the manufacture and global distribution of pirated DVDs. As a result of the investigation, a U.S. citizen -- along with two Chinese nationals and another U.S.

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national -- was convicted in Chinese court. The U.S. citizen was brought to the United States where he was recently convicted as well. In the course of the case, Chinese law enforcement authorities seized more than 210,000 pirated motion picture DVDs and located and destroyed three warehouses used to store counterfeit DVDs.

- The Coordinator's office has sought to support these initiatives and the ongoing effort to raise the issue of IP enforcement to a higher priority level with Chinese officials. Through multiple trips to China, regular communication with Congress and industry and establishment of an interagency China IP working group that meets monthly to discuss priorities, concerns and actions, the Coordinator's office is helping to keep a multitude of China efforts in focus and connected.

The G8 IP Initiative: Leadership supported by interagency coordination

At the 2005 G8 Summit in Gleneagles, Scotland, the U.S. led an effort to develop a strong statement on the importance of intellectual property and the need to improve global enforcement. The G8 nations represent the world's leading economies and account for 49% of global exports.

Under direction from the White House, the State Department, Department of Justice and DHS, with assistance from other agencies, worked on a proposal to enhance the cooperation and joint operations of customs agencies within the G8 and on a plan to establish a formal IP law enforcement infrastructure within the G8.

At the 2006 G8 Leaders Summit in St. Petersburg, a comprehensive IP enforcement strategy was announced that delivered upon the commitment made in 2005. The G8 Statement on Combating IPR Piracy and Counterfeiting has several key objectives:

- To keep the spotlight on trade in counterfeit and pirated goods and secure agreement on projects that promote greater cooperation among national law enforcement and customs officials

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- To link victims of IPR infringement to national enforcement authorities
- To build capacity in developing countries to combat trade in counterfeit and pirated goods
- To further research the economic impact of piracy and counterfeiting on national economies, brands, rightsholders and public health/safety
- To task relevant law enforcement work (including online piracy) to the Lyon-Roma Anti-Crime and Terrorism Group (LR/ACT)

The statement provides a clear framework for the ongoing work and collaboration of customs agencies from the G8 countries and creates a formal structure for the pursuit of joint law enforcement operations targeted at IP crimes.

Secretary of State Condoleezza Rice participates in the 2006 G8 Foreign Ministers meeting in Moscow, Russia. At the 2006 G8 leaders summit in St. Petersburg, a comprehensive IP enforcement strategy was announced. (Source: State Department)

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Brazil: Interagency and private sector efforts yield progress on copyright enforcement

Brazil has repeatedly appeared on the Special 301 Priority Watch List and that has been the subject of a petition to review its status under the Generalized System of Preferences (GSP) filed by the International Intellectual Property Alliance (IIPA). The 301 and GSP processes have involved extensive interagency analysis -- and consultation with rightsholders -- resulting in a focus on criminal enforcement in Brazil as a key to protecting U.S. rightsholders and capitalizing on Brazil's developing will to protect IP.

As part of that effort, USTR, along with the State Department, the Department of Justice and the Department of Homeland Security have worked extensively with the Brazilian National Council to Combat Piracy and Counterfeiting, providing U.S. input on law enforcement and border protection techniques and on drafting effective criminal IP laws. The work included meetings and extensive informal contacts to discuss specific enforcement questions and training by ICE, DOJ and the FBI.

U.S. Trade Representative Susan Schwab discussing trade issues in Brazil in July 2006. The U.S. government has worked extensively with Brazilian leaders to strengthen intellectual property enforcement. (Source: USTR)

The joint effort by the United States has already been successful in helping Brazil to increase the enforcement of IP rights. For example, during "Operation Site Down," an FBI investigation revealed that a Brazilian citizen was illegally copying and posting to the internet the software of a small American company. Utilizing Brazilian law enforcement contacts developed in the bilateral IP consultations, the Department of Justice and FBI were able to supply detailed investigative information which resulted in a raid, search and arrest of the Brazilian citizen responsible for the theft.

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IIPA's comments in January when the U.S. closed its GSP review of Brazil's copyright enforcement practices summarize the progress that has been made. While emphasizing that there is much more work to be done, IIPA observes that its members

> are heartened by developments in Brazil, including cooperation between the copyright private sectors and the National Council to Combat Piracy and Intellectual Property Crimes . . . . Seizures of infringing copyrighted materials at the borders have been high, public seminars on anti-piracy are numerous, training cooperation between Brazilian and U.S. law enforcement continues, and there is growing cooperation between Brazilian law enforcement authorities at the federal and state levels.

Credit for the progress so far in Brazil goes to the Brazilian leaders and officials who are working to bring it about. The work of improving foreign legal regimes, raising awareness, changing behaviors – effecting broad cultural and societal change – requires years of cooperation and perseverance. The support and attention of U.S. government agencies, working in coordination with one another, can help to establish a favorable international climate for this kind of institutional progress.

El Salvador: An example of how interagency coordination combines to produce results

Two years ago, El Salvador signed the U.S. - Central America – Dominican Republic Free Trade Agreement (CAFTA), committing to, among other things, high standards of protection for intellectual property rights. In the ensuing months, U.S. government agencies worked with Salvadoran officials to ensure that El Salvador's legislative and regulatory regimes lived up to the agreement, resulting in implementation earlier this year. The negotiations behind CAFTA's IP chapter and the consultations and assistance leading up to its implementation were multi-year processes, involving intensive interagency collaboration in which all of the NIPLECC agencies played a significant role.

One of CAFTA's provisions requires authorities to act *ex officio* (under the inherent authority of their office) against piracy and counterfeiting. In its report on CAFTA, the Industry Functional Advisory Committee on Intellectual Property Rights called the existing requirement that rightsholders first submit a

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formal complaint before action could be taken "a major enforcement impediment" and called for the treatment of piracy and counterfeiting as "public" crimes against which authorities have a standing mandate to act.

As part of El Salvador's implementing law reforms, the existence of such *ex officio* authority was made explicit. Moreover, as part of the U.S. government's program of capacity building and assistance, NIPLECC agencies worked to train Salvadoran judges, prosecutors and police on conducting IP investigations and law enforcement actions. Of particular note in this regard are recent training sessions led by the ICE attaché at the U.S. Embassy in San Salvador -- in which U.S. rightsholders and IP experts from other countries in the region have participated. Nearly 200 judges, prosecutors and investigators attended one such session.

U.S. and El Salvadoran law enforcement officials cooperated to dismantle a large-scale counterfeiting operation. (Source: Department of Homeland Security)

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In April 2006, police from the Salvadoran Division de Finanzas carried out the first raids conducted under the new *ex officio* authority. During "Operation Cyclone," the police confiscated 8,500 DVDs, a large stock of raw materials and numerous manufacturing devices. The ICE attaché, in consultation with U.S. rightsholders, has encouraged and supported the new focus on upstream manufacturing. He is presently working to expand actions to include pharmaceuticals and clothing and to create a task force with the Salvadoran customs authority.

There is no need to overstate the impact of the recent enforcement activity in El Salvador to recognize its significance. If, as has been said, FTAs merely mark the "end of the beginning," successful enforcement actions mark progress much further along the line. Moreover, such actions demonstrate the real-world benefits that flow from the IP commitments secured by FTAs and the complementary role that U.S. government agencies (here all of the NIPLECC agencies) play in pursuing associated objectives in the field of intellectual property, advancing both the Administration's trade agenda and the STOP! objectives -- many of which were present in this case.

Training programs empower rightsholders at home and abroad

All of the NIPLECC agencies participate in, if not sponsor, IP training programs for foreign officials, and one of the Coordinator's priorities in 2007 is to enhance coordination of those efforts. While systematic quantification is difficult to define, there is ample evidence of their impact and effectiveness.

The Philippines. For example, during the past eighteen months, Philippine customs officials have received enforcement training from USPTO and other agencies on half a dozen occasions, including at an ASEAN workshop in Bangkok co-sponsored by USPTO and the Justice Department. The head of the Intellectual Property Unit of the Philippines Customs Bureau attended the March 2006 Global Intellectual Property Academy program at the USPTO. The Department of Justice, the FBI, CBP and the Coordinator's Office participated in the program and made presentations.

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In a communication to senior USPTO officials, the Philippines Customs Bureau head reported that upon returning to the Philippines from that program, he used the enforcement knowledge he had acquired to teach fellow customs personnel in his country. The official reported that this year Philippines customs agents raided a mall and confiscated counterfeit goods (including bags, wallets, belts, perfumes, shoes, school supplies, DVD and CDs and caps) worth between U.S. $3-4 million. On a subsequent raid, customs agents raided a compound with at least 26 warehouses and seized truckloads of branded shoes and clothing and a large volume of branded school supplies, cellular phone housing, bags, toys and other goods.

Morocco. In 2006, following the January 1 entry into force of the U.S.-Morocco Free Trade Agreement, the USPTO with the help of DHS conducted a training program in Morocco for customs officials. The program was assisted by a major U.S. corporation which found that by working with the U.S. government, local officials better understood the problem the company faced from counterfeiters. Subsequent to the program, Moroccan authorities seized more than 5,500 cartons of counterfeit versions of the company's products, valued at more than U.S. $88,000. The company believes that collaboration with the U.S. government helped call attention to counterfeiting problems the company faced within the country.

USPTO's Small Business Outreach Campaign. Participant surveys taken during the USPTO's Small Business Outreach Campaign indicates that it is popular and effective. Findings include:

- Awareness that the best time to apply for IP protection is before the product is brought to market jumped from 19% before the campaign to 85% at the end;

- More than half (52%) of small businesses in target markets say they have taken steps to ensure protection overseas, compared to 18% nationally;

Among those attending the Small Business Outreach Conferences, USPTO received the following feedback:

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- "This is the best use of my taxes that I have ever seen." –*San Diego participant*

- "More government agencies should follow this model of bringing the government to the grassroots level." –*San Diego participant*

- "The whole program shattered the myth of lazy, apathetic federal government workers. Great program." –*Austin participant*

- "I would highly recommend this conference to all of my business partners." –*Miami participant*

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VII. Overview of U.S. Government Functions and Accomplishments

A. Working with U.S. Industry and Engaging our Trading Partners

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U.S. Department of Commerce

United States Patent and Trademark Office

I. SUMMARY OF AGENCY MISSION

The Department of Commerce's United States Patent and Trademark Office (USPTO) is responsible for promoting technological, scientific and industrial progress by administering the United States' patent and trademark systems and advocating strong intellectual property protection, not only in the United States, but around the world. The USPTO is focused on strengthening the U.S. economy by ensuring that innovators and entrepreneurs are rewarded for their creative efforts through free and fair markets, and that citizens of the U.S. and countries around the world have the opportunities and benefits provided by new technologies.

USPTO registers patents and trademarks; administers U.S. patent and trademark laws; advises the President of the United States, the Secretary of Commerce, and other U.S. Government agencies on intellectual property policy, protection and enforcement; and promotes stronger and more effective intellectual property protection around the world.

The USPTO promotes effective intellectual property protection for U.S. innovators and entrepreneurs worldwide by working with other agencies to secure strong intellectual property provisions in free trade and other international agreements. It also provides training, education and capacity building programs designed to foster respect for intellectual property and encourage the development of strong intellectual property enforcement regimes by U.S. trading partners.

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II. THE USPTO'S IPR ENFORCEMENT ACTIVITIES

Promoting Strong IPR Enforcement In and Through International Agreements

In support of the United States Trade Representative (USTR) and other U.S. Government agencies, the USPTO assists in the negotiation and drafting of intellectual property provisions of free trade and other international agreements. These provisions generally require U.S. trading partners to provide stronger, more effective protection for intellectual property than is required under the World Trade Organization's Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

Specific USPTO activities in 2005 and 2006 in support of international trade agreements and international trade generally include:

- Supporting USTR on numerous negotiating rounds and/or implementing legislation for free trade agreements (FTA's) with: the Andean region, Morocco, Thailand, United Arab Emirates, and Oman;
- Preparing for and supporting USTR negotiations of trade and investment framework agreements (TIFAs) with Malaysia, Brunei, Turkey, and Philippines;
- Providing comments, analysis, and questions in connection with WTO TRIPS Council or Trade Policy Reviews;
- Analyzing IPR enforcement components, provisions and ramifications in international documents, including position papers or proposed policy statements of the World Health Organization, World Intellectual Property Organization, Asian-Pacific Economic Cooperation, Association of Southeast Asian Nations, and Caribbean Community and Common Market; and
- Advising USTR in connection with decisions made pursuant to the "Special 301" provisions of U.S. trade law.

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Training and Capacity Building

The USPTO coordinates, organizes and participates in IPR training, IPR trade capacity building, and IPR technical assistance programs throughout the world, to aid the development of effective IP legal regimes. Activities towards this end include the following:

China

- Participated in the Ambassador's Roundtable Meeting and training in China in January 2005;
- Participated in a seminar on copyright protection and case strategies in China in January 2005;
- In March 2005, USPTO participated in a Seminar on Judicial Interpretation of IPR and IP Protection with officials in China;
- Participated in U.S. Chamber IP Enforcement seminars in Guangzhou and Nanjing, China in March 2005;
- In April 2005, participated in a meeting/training with local Chinese officials on IP Enforcement in Yiwu, China;
- Participated in a program with Temple University and Qinghua University on IP Enforcement for Chinese prosecutors in China in April 2005;
- Participated in training on trade secret protection for trade associations, law firms, and private investigators in Shanghai, China in June 2005;
- In June 2005, USPTO participated in a program on IP Criminal Law Training in Guangzhou, China;

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- USPTO participated in American Chamber of Commerce Programs on IP Enforcement in Shanghai and Guangzhou, China in June 2005;

- In June and July 2005, participated in regional IPR roundtable forums in Guangzhou and Shenzhen;

- In August 2005, participated in an IP seminar in China;

- Organized and conducted IPR training for Chinese officials in the Pearl River Delta region of China in September 2005;

- Monitored trade fairs in Guangzhou, China in October 2005;

- In November 2005, USPTO participated in industry roundtable programs focusing on legal services, high tech and R&D, and trade secret issues in Shanghai;

- In November 2005, USPTO participated in an automotive anti-counterfeiting seminar in Shanghai, China;

- Participated in the Ambassador's Roundtable Meeting and training in China in December 2005;

- In February 2006, Under Secretary Jon Dudas hosted the head of China's State Intellectual Property Office and agreed to a work plan on future collaboration between offices;

- USPTO participated in Trade Fair Enforcement and a Customs Training program in China in April 2006;

- Conducted a Geographical Indications training conferences in China in May 2006;

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- In June 2006, USPTO held a conference in China on Traditional Knowledge, Geographical Indicators, and Folklore; and

- Participated in meetings and training with IP judges from China in Alexandria, Virginia in May 2006.

The USPTO also continued to detail to China an attorney-advisor who is an expert in Chinese language, culture, and IPR law as a resident intellectual property attaché to the U.S. Embassy in Beijing, China. The official coordinates with Chinese Government officials and U.S. businesses in China to improve Chinese IPR laws, regulations, and enforcement procedures. In late 2006, there will be 2 additional IP attachés in China.

Asia (excluding China)

- Organized and conducted an Intellectual Property Enforcement Program for 28 judges from Vietnam in Ho Chi Minh City, Vietnam in February 2005;

- Participated in an Intellectual Property Education Program for 26 judges from Vietnam in Hanoi, Vietnam in February 2005;

- In March 2005, participated in an IP Judicial Education Program for 36 judges from four Asian countries in Bangkok, Thailand;

- Organized and participated in an Intellectual Property Seminar for 120 people from Thai industry in Bangkok, Thailand in March 2005;

- USPTO participated in a Digital Video Conference with Hong Kong regarding judicial interpretation on criminal IPR in March 2005;

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- USPTO/ASEAN and U.S. Department of Justice IP Enforcement Workshop for 56 customs and enforcement officials from 10 Asian countries in Bangkok, Thailand in April 2005;

- Meeting and training with Government of Vietnam officials regarding amending IP enforcement laws in Vietnam in April 2005;

- Met with a representative from the Taiwan prosecutor's office regarding enforcement at the USPTO in May, 2005;

- In June 2005, organized and participated in USPTO/ASEAN Seminar on IP Enforcement for 67 participants from SME's from 10 countries in Thailand;

- USPTO/IIPI Intellectual Property Enforcement program in Bangladesh in July 2005;

- In September 2005, USPTO conducted regional IPR Enforcement training in Hong Kong for officials from 10 Asian countries;

- Participated in WIPO Asia Pacific Regional Symposium on IP Enforcement in Kuala Lumpur for 120 officials from 22 countries in September 2005;

- In September 2005, USPTO officials met with IP enforcement officials in Thailand and Malaysia;

- Organized and participated in a USPTO/ASEAN workshop in Bangkok, Thailand in September 2005;

- In October 2005, USPTO/ASEAN Workshop on IP Office Administration and Enforcement for 88 government officials from the Asian region from 12 countries;

- Discussion with the Philippines Optical Media Board regarding optical media piracy issues in Alexandria in January, 2006;

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- USPTO conducted an IP training program for the Thai IP Court in Bangkok, Thailand in February 2006;
- Co-sponsored a USPTO/ASEAN IPR Enforcement Workshop in Bangkok in March 2006;
- In March 2006, conducted an IPR Enforcement program in Phnom Penh, Cambodia;
- Conducted an ASEAN +3 Training Seminar in March 2006 with the Japanese Copyright Office;
- Participated in an ASEAN Workshop on Optical Media Piracy for 85 regional government officials in Philippines in April 2006;
- In April 2006, participated in a U.S.-Government of Malaysia Roundtable event on IPR enforcement with government officials and business in Malaysia;
- Conducted lectures, meetings and training on IPR issues in China throughout Japan in April 2006;
- Participated in a Judicial Education Workshop on IP Law and Civil Procedures with U.S.AID for 70 judges in Vietnam;
- Conducted regional IPR Training for Law Enforcement Officials in Hong Kong in May 2006;
- In May 2006, USPTO conducted a training program on IPR Enforcement for 29 government officials in Jakarta, Indonesia; and
- Participated in an ASEAN Regional Workshop on IP Enforcement for prosecutors in Kuala Lumpur, Malaysia in May 2006.

In late 2006, the Department of Commerce/USPTO will post an IP attaché for the Asian region in the U.S. Embassy in Bangkok, Thailand.

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The Americas and Caribbean

- Conducted a digital video conference (DVC) with officials from Suriname on IP laws, protection, and the value of strong IP laws in March 2005;

- In October 2005, participated in a USPTO/SIECA IP training for judges and prosecutors from 7 regional countries in Guatemala; and

- USPTO organized and participated in a program on the Enforcement of Intellectual Property Rights at the border for customs officials in Lima, Peru in October 2005.

- In November 2005, participated in a North America Biotechnology Initiative workshop on IP and Technology Transfer in Mexico City;

- In June 2006, participated in conferences for police and prosecutors in San Pedro Sula, Honduras, and for Honduran diplomats in Tegucigalpa, Honduras, focusing on IP enforcement obligations under DR-CAFTA.

In late 2006, the Department of Commerce/USPTO will post an IP attaché for South and Central America in the U.S. Embassy in Sao Paolo, Brazil.

Africa and the Middle East

- Organized and conducted a MEPI regional customs enforcement program with 11 Middle Eastern countries in Jordan in February 2005;

- In April 2005, organized and conducted an IP Judicial Training program on IPR Enforcement for over 50 judges in Algiers, Algeria;

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- In April 2005, organized and conducted an IPR Enforcement seminar for over 245 graduating Magistrate students in Algiers, Algeria;

- USPTO-ASIP Symposium on Geographical Indications for 215 participants from 7 Middle Eastern countries in Abu Dhabi, UAE in April 2005;

- Organized and participated in an USPTO/MEPI IP Border Enforcement training for over 50 Algerian Customs officials in Algeria in June 2005;

- In June 2005, organized and participated in a USPTO/MEPI IP Enforcement training for over 70 Algerian judges in Oran, Algeria;

- Organized and participated in an IP Border Enforcement Program for 35 Moroccan Customs officials in Rabat, Morocco in July 2005;

- In September 2005, IPR Enforcement Seminar for Kuwaiti officials in Kuwait;

- Participated in a conference for 33 African officials regarding counterfeit medicines in Sub-Saharan Africa in Johannesburg, South Africa in September 2005;

- Co-sponsored a USPTO/MEPI regional judicial workshop for judges on IP Enforcement in Dubai, UAE in January, 2006;

- Co-sponsored a USPTO/MEPI regional workshop for prosecutors on IP Enforcement in Oman in January, 2006;

- In March 2006, co-sponsored a USPTO/MEPI IP Training Seminar on Pharmaceuticals for Drug, Regulatory, and Health Ministry officials in Tunisia;

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- Co-sponsored a USPTO/MEPI program on Pharmaceuticals and IP in Algeria in March, 2006;
- In April 2006, conducted a Workshop on IP Enforcement for 70 enforcement officials in Kuwait; and
- Participated in a MEPI regional customs program for 43 government officials in Bahrain in May, 2006;
- In June 2006, organized and conducted a USPTO/MEPI Border Enforcement seminar for over 20 Moroccan Customs officials in Casablanca; and
- In June 2006, organized and conducted a USPTO/MEPI IPR Enforcement program for copyright enforcement officials in Rabat, Morocco.

In late 2006, the Department of Commerce/USPTO will post an IP attaché for Africa/Middle East region in the U.S. Embassy in Cairo, Egypt.

Europe, Russia/CIS, Central South Asia

- Participated in an Intellectual Property Enforcement Conference for 51 Azerbaijan government officials in Azerbaijan in March 2005;
- In April 2005, participated in a digital video conference with Russian officials on IPR Enforcement;
- Organized and participated in a USPTO/IIPI Intellectual Property Border Enforcement Workshop for customs officials and judges in Russia in June 2005;
- Participated in a WIPO-UNECE-WCO Subregional Seminar on Enforcement of IP Rights for 95 custom, judiciary, and police officials from 5 countries in Kazakhstan in July 2005;

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- In June and September 2005, the USPTO organized and participated in a Russian Federation Border Enforcement Seminar for Russian customs officials on the protection of IP in St. Petersburg and Vladivostok, Russia;

- Participated in a digital video conference with Ukrainian IP Enforcement officials regarding IP enforcement in September 2005;

- In September 2005 participated in IPR roundtable in Madrid;

- In October 2005, participated in a CLDP Workshop on the Implementation and Coordination of IP Border Enforcement for 35 Customs officials from Russia and Ukraine;

- Met with Serbian judges at the USPTO regarding trademark protection in November 2005;

- In February 2006, USPTO participated in interagency IPR enforcement discussions with Russian government officials and industry in Moscow;

- Conducted an IP Enforcement program in Lithuania for government officials in April 2006;

- In April 2006, organized and conducted an IP Enforcement program for government officials from new EU member states on copyright infringement in the digital environment in Estonia;

- In April 2006, USPTO conducted an International IP Enforcement Training Event in Delhi, India; and

- In May 2006, USPTO participated in 4 IP Enforcement Training Seminars throughout India.

- In June 2006 organized and participated in a joint USPTO-UKPTO workshop on IPR border and market enforcement in Slovenia.

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In late 2006, the Department of Commerce will post an IP attaché for Russia/CIS region in the U.S. embassy in Moscow, Russia. In addition, an IP attaché will be posted in the U.S. Embassy in New Delhi, India for the India/Central Asia region.

International Programs in the U.S.

In 2005, USPTO created the Global Intellectual Property Academy (GIPA), which consolidates and greatly expands the USPTO's curriculum of training and capacity building programs on intellectual property rights protection and enforcement. Through GIPA, USPTO brings foreign government officials including judges, prosecutors, police, customs officials, patent, trademark, and copyright officials and policy makers to the U.S. to learn, discuss, and strategize about global IPR protection and enforcement. The GIPA programs are offered by the USPTO acting in close cooperation with other U.S. federal government agencies.

- Organized and conducted a USPTO Enforcement Academy for 32 government officials from six Central American countries in February 2005;
- Organized and conducted a USPTO Visiting Scholars program for 26 government officials from 18 countries in April 2005;
- In May 2005, organized and conducted a USPTO Enforcement Academy and study tour for 20 judges from 8 Middle Eastern countries in the U.S.;
- Participated in the State Department's International Visitors Program in June 2005;
- In July 2005, organized and participated in a USPTO/WIPO IP Enforcement Program for Supreme Court and Appellate Court Judges from 23 countries;

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- Participated in the State Department's International Visitors Program in July 2005;
- Organized and conducted a USPTO IP Enforcement Academy for 24 government officials from 18 countries from around the world in August 2005;
- In September 2005, organized and conducted an IP Enforcement Academy seminar for 21 government officials from 15 countries around the world;
- In October 2005, organized and conducted a Global Intellectual Property Academy Enforcement Seminar for 51 officials from CAFTA-DR countries plus Belize and Panama;
- In October 2005, organized and conducted an IP Visiting Scholars Program at the USPTO for 33 government officials from 21 countries;
- In December 2005, the USPTO organized and conducted the Global Intellectual Property Academy Enforcement Seminar for the MEPI region for 32 officials from 10 countries in Alexandria, VA;
- Conducted an IPR enforcement training session for 30 government participants as part of the Global Intellectual Property Academy in Alexandria in January 2006;
- In February 2006, USPTO conducted a Global Intellectual Property Academy Visiting Scholars Program in Alexandria for 29 foreign government officials;
- Conducted an enforcement training session for 31 foreign government officials as part of the Global Intellectual Property Academy in Alexandria in February, 2006;
- Participated in the State Department's International Visitors Program in March 2006;
- In March 2006, participated in CAFTA-DR training programs for Latin American officials in Florida;

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- Sponsored a GIPA program on IP Enforcement for 31 officials in Alexandria in March 2006;
- GIPA Program on patents for 28 foreign government officials in Alexandria in May 2006;
- Participated in the Department of Commerce's Conference "China: Risks, Rewards, and How to Win" in Houston in May 2006; and
- In May 2006, organized one day program on IPR at U.S. Court of Appeals for the Federal Circuit, in conjunction with CLDP program for Tunisian judges;
- In June 2006, organized and conducted week-long Enforcement seminar followed by a study tour of the U.S. for 21 judges and prosecutors from throughout the Middle East and North Africa.

Training for U.S. Government Personnel

The USPTO also participates in and coordinates training for U.S. Government officials on intellectual property and intellectual property enforcement. For example:

- In May 2005, participated in State Department IP and Telecom training for Foreign Service Officers based in Africa;
- In December 2005, USPTO participated in the State Department IP training for Foreign Service Officers in Latin America;
- In FY 2005, the USPTO briefed more than 350 offices of the U.S. Congress including authorizing and appropriating committees on intellectual property matters ranging from patent reform and trademark disputes to trade agreements and international IP enforcement; and

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- In June 2006, the USPTO held a two-day conference for U.S. government personnel on intellectual property protection in China.

STOP! Hotline for IP Assistance

As part of the Bush Administration's Strategy Targeting Organized Piracy (STOP!) initiative, the USPTO manages a hotline (1-866-999-HALT) that helps small-and medium-sized businesses leverage the resources of the U.S. Government to protect their intellectual property rights in the U.S. and abroad. Callers receive information from IP attorneys at the USPTO with regional expertise on how to secure patents, trademarks, and copyrights, and on enforcement of these rights.

Calls received on the STOP! Hotline:

- In FY 2005, the Hotline received 955 calls;
- In FY 2006, through June 14, the Hotline received 965 calls.

Training for U.S. Businesses and Industry

As part of the STOP! initiative, the USPTO began reaching out to Small and Medium-sized Enterprises ("SME's") through programs around the country on the basics of IP and IP protection entitled *Conference on Intellectual Property in the Global Marketplace*. The program provides presentations on the basics of patent, trademark, and copyright and in-depth information on enforcing and protecting IP both domestically and abroad. At each location, a local Department of Justice Attorney speaks about enforcement. These conferences were held:

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- In Salt Lake City in May 2005;
- In Phoenix in July 2005;
- In Austin in September 2005;
- In Miami in September 2005;
- In San Diego in February 2006;
- In Northern Virginia in March 2006;
- In Columbus, OH in May 2006; and
- In Nashville in July 2006.

In conjunction with these programs, the USPTO reaches out to media outlets in each city to reach as broad of an audience as possible. The USPTO also launched a website for small businesses at ***www.stopfakes.gov/smallbusiness***. The site is designed to answer common questions of small businesses so they can better identify and address their intellectual property protection needs.

Additionally, the USPTO also began a China focused program in several U.S. cities for companies ranging from small businesses contemplating entering the Chinese market to large corporations with an established presence in China. Topics covered include a review of recent laws and regulations promulgated by the Chinese Government that affect protection and enforcement of intellectual property. In 2005-2006, these conferences were held:

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- In Alexandria, Virginia in February 2005;
- In Baltimore in April 2005;
- In Detroit in June 2005;
- In Atlanta in March 2006;
- In Chicago in May, 2006; and
- In Seattle in July, 2006.

The USPTO also participated in conferences for industries that specifically were concerned with IP enforcement. Some of these conferences included:

- The Motor Equipment Manufacturing Association's Meeting in Detroit in January 2005;
- The IACC Anti-Counterfeiting Summit in New York City in February 2005;
- The AIPLA Conference in Philadelphia in May 2005;
- The U.S. Chamber of Commerce's Conference on Trade Roots in Seattle in September 2005;
- The American Apparel and Footwear Association Anti-Counterfeiting Conference in New York City in November 2005;
- In February 2006, the USPTO participated in the American Made Alliance's "The Buyer's Market of American Craft" trade show in Philadelphia;

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- The National Confectioners Association Annual Meeting in Orlando in March 2006;
- The National Association of Manufacturers Meeting in Chicago in March 2006;
- In May 2006, IACC Anti-Counterfeiting Conference in Toronto; and
- The International Trademark Association Conference in Toronto in May 2006.

III. ACCOMPLISHMENTS

In 2006, the head of the Intellectual Property Unit of the Philippines Bureau of Customs attended a USPTO Global Intellectual Property Academy Enforcement Seminar. Upon returning to the Philippines he shared all that he had learned with his fellow customs personnel, in order to develop new customs enforcement strategies. This led to an operation where Philippines Customs raided a mall and confiscated counterfeit goods worth between U.S. $3-4 million. On a subsequent raid, 26 warehouses were searched, and Customs seized goods estimated to be worth U.S. $1 million.

In 2006, the USPTO, with the help of the Department of Homeland Security, put on a program in Morocco for customs officials. The program was assisted by a major U.S. corporation who found that by working with the U.S. government, local officials better understood the problem the company faced from counterfeiters. Subsequent to the program, Moroccan authorities seized more than 5,000 cartons of the company's counterfeit goods valued at more than U.S. $88,000. The company believes that collaboration with the U.S. Government helped call attention to counterfeiting problems the company faced within the country.

The USPTO has worked with CAFTA-DR countries to implement strong IP laws and has provided enforcement training. As a result, in April 2006, El Salvador the first CAFTA-DR country to pass

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CAFTA-DR reforms to its IP laws reported their first raids ever conducted under the ex officio authority. As a result of "Operation Cyclone," Salvadoran police netted 8,500 confiscated DVDs.

The USPTO has received positive feedback regarding its Small Business Outreach Campaign. In 2005, research was conducted among the cities visited during the campaign. Among the findings of small businesses in these communities:

- Awareness that the best time to apply for IP protection is before the product is brought to market jumped from 19% before the campaign to 85% at the end;
- More than half (52%) of small businesses in target markets say they have taken steps to ensure protection overseas, compared to 18% nationally;
- Among small businesses that have patent, trademark, or copyright protection, only 18% of those in the national sample said they have taken steps to ensure protection overseas, compared to 52% among target markets.

IV. LOOKING FORWARD

In FY 2006, the USPTO will have conducted 15 Global Intellectual Property Academy Programs for foreign officials at its headquarters in Alexandria. The USPTO will continue to provide IPR training, trade capacity building, and technical assistance in the U.S. and abroad. In 2007, the USPTO plans to conduct 21 such programs domestically as well as countless other programs around the world.

In the coming year, the USPTO will continue to reach out to businesses and IP stakeholders. The office plans to hold more outreach events for Small Business Education as well as the China focused program for business. The USPTO will further educate business by increasing its presence at trade shows.

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U.S. DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

I. SUMMARY OF AGENCY MISSION

Intellectual Property Compliance and Monitoring

The U.S. Department of Commerce's International Trade Administration (ITA) helps American businesses and workers overcome difficulties they face when exporting their goods and services overseas because of foreign barriers to trade, including the lack of adequate and effective intellectual property rights protection. To ensure this objective, ITA monitors the compliance with and implementation of international trade agreements by foreign governments, especially those agreements pertaining to intellectual property rights (IPR) enforcement.

ITA addresses intellectual property rights issues through close coordination between its Market Access and Compliance (MAC) unit and the U.S. and Foreign Commercial Service (US&FCS) unit. In 2005, ITA consolidated its existing IPR policy and compliance staff and resources into an IPR Office (OIPR) to more intensively focus its efforts in light of the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. The OIPR works with U.S. exporters and interagency colleagues, here in the United States and through our Embassies abroad, to develop strategies for successful resolution of IPR issues. MAC, through the OIPR and country-specific specialists, has the coordinating role within ITA on multilateral and bilateral efforts to promote effective worldwide protection and enforcement of intellectual property rights. The US&FCS provides vital linkages through its domestic and overseas offices. ITA works closely with the Office of the U.S. Trade Representative (USTR), the United States Patent and Trademark Office (USPTO), the U.S. Department of State's Office of Intellectual Property Enforcement, the U.S. Copyright Office, and the private sector to ensure a consistent and effective approach to improving intellectual property rights among our trading partners.

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In conjunction with these agencies and industry, ITA helps to develop and implement bilateral and multilateral IP programs. Such programs include the annual Special 301 Review, which examines in detail the adequacy and effectiveness of intellectual property protection and enforcement by our trading partners. OIPR is responsible for coordinating the development of the Commerce Department's position concerning the status of countries under Special 301. ITA staff participate in developing IP "action plans" outlining key elements for foreign governments to implement in order to improve their IP regimes, and in 2005 USTR provided such action plans to Bulgaria, Canada, Indonesia, Korea, Paraguay, Philippines, Russia, Saudi Arabia, Slovak Republic, and Ukraine. Action plans are designed to identify specific benchmarks for improvement, such as increasing enforcement by closing down notorious pirate markets, creating and enforcing meaningful and deterrent penalties for IPR violators, or implementing certain types of legislation to cover inadequate areas of a country's IPR regime.

OIPR and MAC's country specialists monitor countries' implementation of various intellectual property agreements, including the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and bilateral IP agreements, such as those with Bulgaria, China, Croatia, Paraguay, and Ukraine. Additionally, country compliance teams monitor our Free Trade Agreement (FTA) partners' compliance with their FTA commitments and ensure that U.S. exporters receive fair treatment under these agreements, including enhanced protection of intellectual property rights. Further, OIPR monitors country implementation of the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), which update and improve protection for the rights of authors and performers within the digital environment. ITA staff and senior officials raise these and other IPR concerns during frequent bilateral consultations and ensure coordination among U.S. Government agencies.

OIPR also plays an important role in reviewing Generalized System of Preferences (GSP) petitions submitted by industry. OIPR is responsible for coordinating the development of the Commerce Department's position regarding whether to accept or reject an IP country practice petition and participates in the bilateral discussions with countries under review. In FY 2005, the U.S. Government reviewed IP country practice petitions for Brazil, Dominican Republic, India, Kazakhstan, Lebanon, Pakistan, Russia, Ukraine, and Uzbekistan.

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OIPR represents the Commerce Department on official government delegations at meetings of the World Trade Organization's TRIPS Council, which provides an opportunity to raise concerns with and obtain information on countries' efforts to comply with TRIPS obligations. In addition, ITA staff participate in and provide policy input for IP-related bilateral and regional negotiations and consultations, which include FTAs, bilateral investment treaties (BITs), and trade and investment framework agreements (TIFAs).

ITA officials and staff meet frequently with our trading partners to help advance our intellectual property interests overseas. For example, in FY 2005, ITA engaged the following countries:

- Brazil, to address the tremendous patent backlog and stress the importance of improving domestic and border enforcement for copyrighted materials and proper government use of copyrighted software;

- Canada, to stress the importance of effective border enforcement against pirated and counterfeit goods, to hasten the ratification and implementation of the WCT and WPPT, and to protect confidential test data;

- Canada and Mexico, to continue efforts under the intellectual property working group of the Security and Prosperity Partnership (SPP);

- Chile, to address significant concerns regarding the implementation of the pharmaceutical data protection and patent linkage provisions of the U.S.-Chile FTA;

- China, to improve its enforcement against pirated and counterfeit goods;

- Egypt, to engage a broad range of government and private sector institutions on the importance of IPR in both the media and pharmaceutical sectors;

- India, to promote innovation, creativity, and technological advancement by providing a vibrant IPR regime, including the provision of pharmaceutical data protection, and to cooperate in the

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field of IPR to include capacity building activities, human resource development and public awareness programs;

- Indonesia, to address the need for sustained IPR enforcement, especially in the area of optical disc piracy;

- Iraq, to encourage IP professionals to continue to attend USPTO's Global Intellectual Property Academy (GIPA) programs;

- Israel, to maintain national treatment for sound recordings, and to continue discussion of Israel's data protection regime for pharmaceuticals and patent term extension;

- Japan, to establish the "Joint Department of Commerce-Ministry of Economy, Trade and Investment Initiative for Enhanced Cooperation on IPR Protection and Enforcement and Other Global Issues";

- Latvia, to engage the Intellectual Property Council, established by the Latvian Cabinet of Ministers, in coordination with industry representatives and the development and implementation of an IPR activity plan;

- Lebanon, to improve domestic and border IPR enforcement, address optical media and cable piracy, and stop registration of unauthorized pharmaceutical copies;

- Malaysia, to take steps toward curtailing Malaysia's high piracy rates for optical media, and to address its role as an exporter of counterfeit and pirated products, especially entertainment software;

- Pakistan, to discuss implementation of a data protection regime and patent linkage system;

- Paraguay, to develop, monitor, and implement its IPR Memorandum of Understanding (MOU) with the United States;

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- Peru, to coordinate the first ever Latin America Customs IPR Training workshop provided by USPTO to 80 Government of Peru officials, to establish a mutually acceptable solution regarding levies on blank recording media, and to open communication regarding the legal environment for pharmaceuticals in Peru;

- Philippines, to address the need for sustained IPR enforcement, and to provide U.S. Government input regarding the potential impact a draft Senate Bill may have on pharmaceutical patentee rights;

- Russia, to repeatedly raise concerns with its Civil Code reforms, data protection for pharmaceuticals, weak border enforcement, and unauthorized production and export of pirated optical media;

- Saudi Arabia, to address pharmaceutical concerns with the implementation of their patent law and to increase transparency in the judicial process;

- Singapore, to pass amendments addressing U.S. concerns regarding conformity with certain IPR provisions of the U.S.-Singapore FTA;

- Slovakia, to promote the creation of a patent linkage regime and create a permanent secure storage facility for confidential test data;

- South Korea, to amend the Enforcement Regulations of the Copyright Act of Korea, in an effort to address the problem of unauthorized public performances of motion pictures in motels, computer game rooms, and public baths and saunas;

- Spain, to organize a conference focusing on the enforcement of copyrights, and to discuss concerns with IPR enforcement in Spain with Secretary Gutierrez's Spanish counterpart;

- Thailand, to address concerns regarding optical media legislation, draft copyright amendments, copyright and trademark enforcement, data protection, and legislation on geographical indications;

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- Tunisia, to discuss aspects of its data protection law for pharmaceuticals and agricultural chemicals;
- Turkey, to implement data protection for pharmaceuticals in compliance with TRIPS obligations;
- Ukraine, to pass amendments to its Optical Media Licensing Law, and to establish and operate a U.S. copyright industry - Government of Ukraine Enforcement Cooperation Group.

Additionally, intellectual property issues were raised bilaterally with Colombia, Dominican Republic, El Salvador, Guatemala, Morocco, Nicaragua, and Oman. ITA will continue to work with these and other countries to ensure that they provide adequate and effective IPR protection and enforcement for U.S. rightsholders.

II. COORDINATION WITH U.S. INDUSTRY

International Trade Administration's Compliance Initiative

International compliance and enforcement of U.S. trade agreements are the highest priorities of ITA. ITA works with both small and medium-sized enterprises (SMEs) and large U.S. companies and industry associations to ensure that trade problems related to IPR are promptly and aggressively addressed. Through its compliance program, ITA works with industry in a variety of ways, including:

- Actively researching and analyzing information supplied by companies to ascertain IP problems facing industry;
- Applying expertise to develop an implementation strategy to resolve problems;
- Working with industry associations to raise concerns with our trading partners regarding proposed and existing IPR legislation; and

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- In conjunction with USPTO and the Department of Commerce's Office of the Chief Counsel for International Commerce, counseling U.S. companies on the IP commitments undertaken by our trading partners under existing trade agreements to which the United States is a party.

The Department of Commerce, in collaboration with the U.S. Government agencies with IP policy oversight, published a brochure, "Protect Your Intellectual Property: Stop Trade in Fakes!" with key contact information to educate and assist U.S. firms in protecting and enforcing intellectual property both in the U.S. and overseas. Commerce also established a special telephone and web address where SMEs can contact DOC experts for assistance dealing with companies' international intellectual property concerns. These resources function in conjunction with Commerce's Compliance Program. During FY 2005, ITA staff has worked with companies with IPR problems in Canada, Australia, Bangladesh, Brazil, China, Colombia, Egypt, Germany, Guatemala, India, Lithuania, Malaysia, Mexico, Morocco, Peru, Russia, South Korea, Sweden, and Turkey. In addition to pressing our trading partners on a government-to-government basis to effectively implement and enforce their laws governing IPR protection, ITA also regularly provides information to assist private entities that choose litigation to enforce their rights under the IP laws of the countries where infringement occurs.

As part of ITA's compliance initiative, OIPR's sister office, the Trade Compliance Center (TCC) operates the Compliance Liaison Program, by which approximately 100 trade associations have appointed a representative to serve as a liaison between their members and the TCC. The liaison solicits complaints on market access barriers and agreement compliance problems including IPR-related issues, from members and notifies the TCC and OIPR for action. Such trade industry groups as the Motion Picture Association, Recording Industry Association of America, Business Software Alliance, American Film Marketing Association, Pharmaceutical Research Manufacturers Association, and the International Anti-Counterfeiting Coalition have appointed representatives to take part in the Compliance Liaison Program. Congressional and Senatorial offices and countrywide U.S. Export Assistance Centers (U.S.EACs) also actively participate in the Compliance Liaison Program.

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Industry Trade Advisory Committee on IPR

One of the ways the Department of Commerce seeks input on various intellectual property protection outreach activities is through the Industry Trade Advisory Committee on Intellectual Property Rights (ITAC-15). This committee is one of sixteen Industry Trade Advisory Committees (ITACs) jointly administered by the Department of Commerce and USTR. ITAC-15 plays an active role in advising the U.S. Government on intellectual property trade negotiating objectives and priorities. Most recently, advice was sought during FTA negotiations with Australia, Central America, Dominican Republic, and Morocco; the WTO Doha Round of trade negotiations; and, for other bilateral and multilateral negotiations. Industry representatives serving on ITAC-15 provide advice and identify IP concerns in countries that are eligible beneficiaries under the Generalized System of Preferences (GSP) program. Advising U.S. trade negotiators on WTO members' implementation of and compliance with the WTO TRIPS Agreement is a priority issue of the Committee. In particular, the committee provides advice on WTO TRIPS Council compliance reviews and WTO dispute settlement cases. ITAC-15 also plays an essential role in channeling private sector advice into the annual Special 301 Review.

III. INTERNATIONAL INTELLECTUAL PROPERTY REGIONAL PROGRAMS

China: Through the STOP! initiative and our related policy efforts, ITA assists U.S. companies, especially SMEs, with protecting and enforcing their IPR in China.

- ITA's China office participates in IPR-related domestic programs and conducts many one-on-one consultations with companies. Many of these programs are done in conjunction with the USPTO and the U.S. Foreign & Commercial Service's "Doing Business in China" outreach seminars. Past programs were organized in: Chicago, IL; Atlanta, GA; Washington, DC; Manchester, NH; Cincinnati, OH; Cleveland, OH; Kansas City, MO; Indianapolis, IN; Dallas, TX; Austin, TX; Houston, TX; Newark, NJ; Minneapolis, MN; Dallas, TX; Newport Beach, CA; Atlanta, GA; Manhattan, NY; and Tampa, FL. ITA also launched a web-based seminar series on IPR issues in

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China that any interested U.S. company can access online. In September 2004, an IPR videoconference was conducted between USPTO, MAC's China Office, USTR and 34 judges from Guangzhou to discuss IPR related topics.

- ITA offices will work closely with the Commerce Department's IP attachés to develop and implement IPR-related trade policies and to address IPR market access and compliance cases. In China these attachés will assist U.S. businesses with navigating China's IPR regime and ensure China lives up to its international commitments.

- ITA is working through a variety of channels to promote the *China IPR Legal Advisory Program*. Launched in November 2005 in partnership with several private sector organizations, the program provides one hour of free legal counseling for SMEs on IPR in China.

- ITA continues to utilize the "Case Referral Mechanism" (CRM) for bringing individual U.S. companies' IPR complaints to the attention of China's Ministry of Commerce. To date, five cases have been submitted that demonstrate long-standing, serious IP problems experienced by U.S. companies. The U.S. companies involved in this process have found the mechanism to be effective. The CRM has helped facilitate the communication of important guidance from Chinese IPR agencies to assist these U.S. companies with properly enforcing their IPR under Chinese laws and regulations. At the April 2006 Joint Commission on Commerce and Trade, China renewed its commitment to vigorously pursue cases raised through the CRM.

Africa: The Department of Commerce's Office of Africa and the U.S. Chamber of Commerce launched a Sub-Saharan Africa Intellectual Property Protection Initiative, which began with an introductory kick-off seminar on April 25, 2006. ITA's Office of Africa also organized a workshop at the annual African Growth and Opportunity Act Forum on June 6, 2006, which was attended by 37 African Trade Ministers. There are plans for a follow-up event to take place in Sub-Saharan Africa this fall to bring further attention to the importance of IP protection in the region.

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Additionally, the Office of Africa is working closely with the U.S. Agency for International Development (U.S.AID) to respond to several West African countries' requests for IPR capacity building. The U.S.AID-funded African Global Competitiveness Initiative will provide funding for selected proposals on capacity building in Sub-Saharan African nations. The Office of Africa is working closely with the Department's Commercial Law & Development Program (CLDP) and the USPTO to craft project proposals addressing these requests.

Russia: ITA continues to hold periodic discussions, both in Russia and the United States, with representatives of U.S. industry associations and individual U.S. companies to obtain information on the situation and trends in Russia's enforcement of its IPR-related laws and regulations. From these discussions, ITA shares relevant feedback with other U.S. Government agencies and U.S. Embassy Moscow in preparation for government-to-government discussions with Russian officials. In September 2005, ITA's Russia office traveled to Russia to meet with representatives from the Russian copyright and trademark industries, including independent Russian record labels that face great difficulty combating music piracy, and to meet with the head of the American Chamber of Commerce Committee on Customs. The Russia office returned to Moscow shortly thereafter to represent the Commerce Department in an IPR working group, chaired by AUSTR Sean Donnelly and the head of Rospatent. In April 2006, the IPR working group traveled to Washington, D.C. to continue discussions regarding how to improve IPR protection in Russia.

An IPR attaché will be placed in Embassy Moscow during 2007. USPTO, the Resident Legal Advisor at Embassy Moscow, and the Commercial Law Development Program, will work with the attaché to provide technical assistance in an effort to bolster domestic enforcement and protection of IPR, particularly targeting law enforcement and customs authorities.

U.S. and Foreign Commercial Service IPR Initiatives

The Department of Commerce's US&FCS, through its mandate to promote U.S. exports, represent businesses internationally, and help businesses find qualified partners, is committed to serving the U.S. business community.

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As part of the Strategy Targeting Organized Piracy (STOP!) Initiative, MAC is working with the US&FCS and USPTO to promote protection of IPR at domestic and international trade fairs. The program will include efforts to educate trade fair organizers, exhibitors, and attendees about IPR and to help U.S. businesses guard against infringement at trade fairs. ITA will continue to explore opportunities to promote IPR protection at trade fairs and pavilions that Commerce operates, certifies, or supports, and to demonstrate the U.S. commitment to protecting intellectual property and respecting the rule of law.

Commerce has assigned four US&FCS officers as IPR Specialists, posted across the country, to work with internal specialists in ITA and USPTO to help U.S. exporters understand both international and national IPR agreements. These specialists also coordinate and promote IPR-related training and education events for the tens of thousands of business clients served by US&FCS. For example, in May 2006, US&FCS hosted a presentation in Chicago at the "Protecting Your Intellectual Property in China & the Global Marketplace" seminar, and arranged for U.S. businesses to speak about their success in using US&FCS support in reclaiming a stolen trademark from a former Chinese distributor and in acquiring due diligence skills in international IPR protection. In March 2006, US&FCS facilitated an event at Disney's Contemporary Resort for Under Secretary Jon Dudas, attended by legal counsel for large and medium sized companies in the Greater Orlando Area. Under Secretary Dudas presented the President's economic agenda and discussed the importance of IPR to international competitiveness. He also reviewed the services available from the U.S. Patent and Trademark Office and US&FCS.

IV. COMMERCIAL LAW DEVELOPMENT PROGRAM

The Department of Commerce's Commercial Law Development Program (CLDP) provides training and consultative services through a variety of mechanisms, including conferences, workshops, and other activities that focus on laws, administrative practices, and enforcement of IPR. In particular, CLDP assists countries in their compliance efforts with the WTO TRIPS Agreement. In FY 2005, CLDP organized the following IPR activities:

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Tunisia: Technology Management and Transfer

CLDP supported technology management and technology transfer initiatives that resulted in the development of Tunisian intellectual property rights, which are now viewed as a necessary component in the establishment of technology-based SMEs, a priority for the country.

Russia and Ukraine: Border Enforcement Officials Workshop

As part of CLDP's ongoing support of Russia and Ukraine's efforts to make the protection of IPR under their Commercial Codes more compliant with the TRIPS Agreement, CLDP conducted a five-day workshop for Russian and Ukrainian border enforcement officials nominated by the Russian and Ukrainian State Customs Services. The workshop was designed to provide the delegations with an opportunity to consult with their U.S. counterparts on current customs and border protection policies, techniques, and initiatives that lead to more effective border protection. The delegates also were familiarized with border protection requirements under TRIPS, and opened dialogue between the two countries on how to effectively stem the flow of illegal products across their borders. Experts on IPR protection and enforcement from the United States Patent and Trademark Office and the U.S. Customs and Border Protection shared their expertise with the delegates.

Russia: IPR Manual

Enforcement of IPR is an area that continues to be a serious issue in Russia's accession. CLDP, working with Russia's Patent and Trademark office (Rospatent), completed a comprehensive training manual to improve the knowledge and technical skills of intellectual property lawyers, regulators, and judges who are responsible for managing and implementing Russia's IP laws. This manual will also increase the knowledge of the rightsholders who are dependent on the protection of those laws. CLDP is currently working with Rospatent on the final details to publish the manual in Russian.

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Ukraine: Rightsholders Negotiations

CLDP co-sponsored a one-day seminar in Brussels in May 2006, co-organized by Eversheds LLP and the Ukraine Embassy in Brussels. Senior Ukrainian IPR officials, rightsholders, representatives of rightsholders' organizations, and government officials based in Brussels attended the seminar. The seminar allowed an exchange of views between rightsholders and Ukrainian officials on the current state of IPR protection in Ukraine.

Ukraine: Appellate Proceedings Workshop

CLDP conducted a program for Ukrainian intellectual property officials. The program was designed to acquaint Ukrainian intellectual property officials with the substantive and administrative principles and processes of intellectual property appellate proceedings. Coordinating with USPTO, CLDP arranged presentations by USPTO staff and the visiting officials observed a Trademark Appellate Hearing and a Hearing at the U.S. Court of Appeals.

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UNITED STATES DEPARTMENT OF STATE

BUREAU OF ECONOMIC BUSINESS & AGRICULTURAL AFFAIRS

BUREAU OF INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS

I. SUMMARY OF AGENCY MISSION

The Department of State works closely with other U.S. Government agencies in Washington and abroad to develop and implement U.S. international intellectual property rights (IPR) policy. The Department of State contributes to the enforcement of intellectual property rights (IPR) and the fight against intellectual property (IP) theft overseas through our embassies, consulates, and missions.

The State Department:

- Plays an active role in shaping the international protection and enforcement policy of the U.S. government;
- Represents U.S. views in bilateral and multilateral settings;
- Builds international partnerships for IPR enforcement and helps develop new public-private partnerships;
- Implements the objectives and policies of our sister agencies overseas;
- Advocates IP interests on behalf of U.S. businesses and serves as first responder for U.S. businesses victimized by IP theft;

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- Monitors third-country IP enforcement records on the ground and shares that information with the interagency IP team;
- Lobbies for improved IP-protective legislative and regulatory frameworks in host countries;
- Tracks the implementation of U.S. free trade agreement (FTA) IP provisions;
- Develops, funds and delivers IP training to our embassy officers and foreign government officials.

II. GENERAL IPR ACTIVITIES

The Department of State works with other agencies to implement the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. On a daily basis, U.S. embassies and consulates work with host governments at the highest levels on IP priorities identified by the U.S. Government and U.S. industries. The issues range from lobbying government officials and parliamentarians to strengthen their nation's legal and regulatory IP regimes (including, at times, assistance in drafting new legislation); working with law enforcement officials and the judiciary to increase their commitment and capacity to enforce IPR laws; and advocating ratification and implementation of international agreements.

The Department of State draws upon its broad experience promoting U.S. foreign policy objectives, as well as its human resources in Washington (Desk Officers) and overseas (Ambassadors, Principal Officers, and economic, political/economic, educational and cultural affairs, and anti-crime officers and foreign service nationals at over 200 embassies, missions, and consulates). Ambassadors coordinate the work of all U.S. Government agencies and bring considerable persuasive force to bear to achieve U.S. objectives. For example, U.S. Ambassadors work to bring consistent pressure for IPR reform on trading partners on the Special 301 Priority Watch and Watch Lists. Within U.S. embassies and consulates, State Department Officers work with Department of Justice (DOJ) Resident Legal Advisers, Federal Bureau of Investigation (FBI) Legal Attachés, Department of Homeland Security (DHS) Customs Attachés, and Department of

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Commerce (DOC) Foreign Commercial Service Officers to leverage our effectiveness and ability to improve IP enforcement in the host country.

The State Department maintains an "open door" policy toward U.S. industries, and supports their efforts to protect and enforce their intellectual property rights abroad. In this respect, the State Department routinely interacts with foreign governments, raising U.S. industry concerns consistently and forcefully – both on a specific case level when violations occur, and more generally in addressing structural shortcomings.

The State Department is also an active "salesman" of the value of protecting IPR, showing other governments and industry why it is in their own self-interest to combat IP theft. State Department officials abroad work to build domestic coalitions to press for strong and sustainable IP enforcement. This includes programs to help developing country officials and citizens understand how the protection of innovation can contribute to long term economic development and the health and safety of consumers.

State developed and sponsors the International IPR Training Database website, coordinates training and technical assistance programs to priority nations/regions, leads the IPR Training Coordination Group (TCG), and funds targeted training and technical assistance programs for foreign law enforcement officers. Inside State, the Bureaus of International Narcotics and Law Enforcement Affairs (INL) and Economic and Business Affairs (EB) target crime funds that Congress has earmarked for comprehensive IPR training and technical assistance programs abroad. These funds are aimed at building the criminal enforcement capacity of foreign law enforcement partners. Initiatives range from providing legislative drafting assistance and working with executive and legislative officials to secure the passage of IP protective laws, to building strong enforcement regimes through the provision of government-to-government training for police, prosecutors, customs and border officials and judges to implement and enforce these laws. In addition to administering these criminal enforcement training funds, INL also works with major law enforcement entities in the U.S. and internationally, including INTERPOL and the G8 Anti-Crime and Terrorism Group, to address the protection and enforcement of IPR.

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As mandated by Congress in the FY2005 budget, the State Department established the Office of International Intellectual Property Enforcement (IPE), in the Bureau of Economic and Business Affairs (EB) to coordinate IP issues. The office was created to raise the profile of IP issues within the agency. With this change, IP issues are now placed on an equal organizational footing with multilateral, bilateral and agricultural trade issues in State Department deliberations.

EB IPR officers work with other bureaus in the State Department, and with the State Department's training institute, the National Foreign Affairs Training Center (NFATC), to ensure that Embassy officers receive the education and support necessary to effectively represent U.S. interests in this increasingly complex subject matter.

III. ACCOMPLISHMENTS

Building International Partnerships

The State Department has:

- Played a key role in negotiating concrete, results-oriented IP enforcement action plans for G8 and U.S.-EU coordination;
- Guided establishment of optimal parameters for an OECD study on the global economic impact of IP crime;
- Helped strengthen APEC IP enforcement guidelines; and
- Contributed significantly, through the intensive work of Embassy teams, to key IP enforcement framework improvements in Kazakhstan, Kuwait, Pakistan, Philippines, Slovakia, Ukraine, and Uruguay.

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Expanding Public Outreach and Awareness

In the area of public diplomacy, the State Department has:

- Created and launched the "Musical Ambassadors for IPR" international program, which employs an existing public-diplomacy funded program for U.S. musicians touring abroad to deliver "protect IP and protect your local culture" message to international musicians and audiences;
- Addressed several industry events, including domestic small and medium-sized business audiences
- Placed op-eds on IP's relevance to local interests in India and across Latin America, reaching well over a million readers;
- Increased the availability of country-specific, free, online Embassy IP "toolkits" for U.S. businesses to protect themselves in foreign markets; and
- Developed IP-awareness educational programs for children.

Building Embassy Effectiveness as First Responders and IP Advocates

The Department of State significantly expanded training of Embassy staffs in IPR issues in FY 2006 of the NIPLECC report. This training will increase their effectiveness as first responders to U.S. industry, as implementers of other agencies' IP agendas, as advocates for enforcement improvements, and as outreach specialists in building support for IP protection abroad.

In 2005, State staged two major IP training events for our officers in Africa and Latin America, bringing them together with U.S. Government IP experts and U.S. industry representatives. New tactics were identified and enforcement partnerships formed. Recognizing the contribution these events have made to

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U.S. Government effectiveness on IP issues in the field, State has made this cycle of training events permanent and in 2006 will conduct its next training event for officers serving in the Middle East and Europe.

State has also:

- Expanded the scope and accessibility of an internal webpage that helps field officers exchange best practices and lessons learned, learn about the latest developments in international IP advocacy, and reach other agency's IPR subject matter experts;

- Started a virtual newsletter to IP-responsible officers around the world to report on the latest developments in IP protection and introduce new models for coalition-building internationally;

- Launched an IP distance-learning course to enable at-post officers to improve their substantive knowledge of IP issues cost-effectively, and

- Facilitating placement of new IPR attachés in China, Brazil, Egypt, Thailand, India and Russia.

Strengthening International Law Enforcement Capacity

State's Bureaus of Economic and Business Affairs and International and Law Enforcement Affairs have in the last year:

- Expanded the membership and database of the public-private U.S. Training Coordination Group (TCG – see below);

- Identified and launched, in FY 2005, 15 new technical Global Intellectual Property Academy assistance projects, worth $2.5 million, to build foreign law enforcement capacity in the IP arena;

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- Identified in FY 2006 several additional technical assistance projects, worth $3 million, to build foreign law enforcement capacity in the IP arena; and

- Realigned project distribution to reflect evolving U.S. enforcement priorities.

IV. ADDITIONAL INITIATIVES

IPR Training Coordination Group (TCG)

The EB and INL Bureaus co-chair the IPR Training Coordination Group (IPR TCG). Founded in 1998, the IPR TCG is comprised of U.S. Government agencies and industry associations that provide IPR-related informational programs, training, and technical assistance to foreign officials and policy makers. The Departments of Justice and Commerce, the Office of the U.S. Trade Representative (USTR), the FBI, the DHS/Bureau of Customs and Border Protection (formerly U.S. Customs Service), the U.S. Patent and Trademark Office, the U.S. Agency for International Development, and the Copyright Office all participate in the IPR TCG. The International Intellectual Property Alliance, the U.S. Chambers of Commerce, the International Anti-Counterfeiting Coalition, and umbrella trade organizations like the Business Software Alliance and the Pharmaceutical Researchers and Manufacturers' Association, are some of the private sector participants.

The IPR TCG is an excellent forum for key training providers to exchange information on training and technical assistance activities in the context of priorities identified in the Special 301 and WTO TRIPS processes, for the State Department to share information from overseas posts, and for TCG members to contribute expertise in discussions of issues that all assistance providers confront. Although the IPR TCG has no funding of its own, members are free to consider information gathered during these informal TCG discussions when deciding where to target their own programs and activities to combat IPR crime. The IPR TCG process reflects a shared commitment by each of its members to maintaining a common knowledge base as we each leverage our own limited training resources, ensuring the least possible redundancy.

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International IPR Training Database (available at *www.training.ipr.gov*)

The State Department, after extensive consultation with NIPLECC members and other members of the IPR TCG, sponsored the design of a website to host a database of IPR training provided by the U.S. Government, private industry, and NGO partners to other countries. The State Department administers this database, which makes IPR training information immediately available to anybody with access to the Internet. U.S. Government and other registered U.S. IPR training providers may add and update information about their own programs. The database continues to expand, enabling NIPLECC and TCG members to plan better, share resources, and effectively respond to priority needs. This valuable tool fosters coordination among NIPLECC members, other U.S. Government providers of IPR training, and U.S. industry regarding their efforts to improve intellectual property protection worldwide. It also demonstrates that the U.S. is committed to providing significant resources to help other countries develop the capacity to protect both foreign and domestic IPR.

International Training and Technical Assistance to Law Enforcement

The State Department administers Congressionally-earmarked International Narcotics and Law Enforcement funds (INLE) targeted for training and technical assistance programs in non-OECD countries for investigators, law enforcement officers, prosecutors, judges, customs and border officials, and other foreign officials and policymakers, who investigate, prosecute, punish, and prevent violations of IPR. The amount of this "soft earmark" was $3 million in FY2005 and increased to $5 million in FY2006. Three million dollars in training projects for FY 2006 have been finalized. The State Department also conducts a number of outreach activities, such as meeting with members of industry groups and other U.S. Government agencies, to informally share information so as to ensure that government programs are effective.

In making funding decisions, State considers U.S. IP enforcement priorities as identified through the USTR's Special 301 Report, U.S. industry, U.S. Missions, and in light of any information from TCG meetings. The State Department selects the training and technical assistance programs through criteria

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designed to identify countries/regions with weak IPR laws or inadequate enforcement, as well as considering whether training and technical assistance programs will lead to actual reductions in intellectual property violations. Finally, State reports to Congress on the use of the appropriated funds and details the results achieved through these expenditures.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

I. SUMMARY OF AGENCY MISSION

The Office of the United States Trade Representative (USTR) uses a wide range of bilateral and multilateral trade tools to promote strong intellectual property laws and effective enforcement worldwide. Key tools include bilateral engagement with U.S. trading partners, the annual "Special 301" review, negotiation of intellectual property chapters of bilateral and regional trade agreements, and multilateral engagement through the World Trade Organization (WTO). USTR leads the Administration's efforts in these areas, working in close coordination with other agencies.

II. ENGAGEMENT WITH U.S. TRADING PARNTERS AND SPECIAL 301 REVIEW

USTR intercedes directly with trading partners around the world to raise and address intellectual property concerns. Among the most effective tools in this effort is the annual "Special 301" review. On April 28, 2006, U.S. Trade Representative Robert Portman released the 2006 "Special 301" annual review which examined in detail the adequacy and effectiveness of intellectual property rights (IPR) protection countries. This year, the IPR regimes of 87 countries were examined, and based on a lengthy process of information gathering and analysis, the United States Trade Representative (USTR) identified 48 countries to designate in the categories of Priority Watch List, Watch List, and Section 306 Monitoring. The designations and corresponding requisite actions were a result of close consultations with affected industry groups, other private sector representatives, Congressional leaders, foreign governments, and numerous agencies within the United States Government. The Special 301 Report reflects the Administration's resolve to take consistently strong actions under the Special 301 provisions of the Trade Act of 1974 (Trade Act).

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Addressing weak IPR protection and enforcement, particularly in China and Russia, continues to be one of the Administration's top priorities. With respect to China, this year's Special 301 Report described the United States' plan to continue heightened scrutiny of China by maintaining China on the Priority Watch List and continuing Section 306 monitoring, as well as stepping up consideration of World Trade Organization (WTO) dispute settlement options. In addition, the United States announced that it will scrutinize IPR protection and enforcement at China's provincial level through an unprecedented special provincial review to be conducted in the coming year. With respect to Russia, the Special 301 Report outlined the United States' efforts to bring Russia's IPR regime in line with international standards, noted some progress in Russia's recent efforts to combat IPR piracy and counterfeiting, and announced continued heightened scrutiny of Russia by maintaining Russia on the Priority Watch List. The United States will be monitoring closely China's and Russia's IPR activities throughout the coming year.

In addition to China and Russia, the Special 301 Report set out significant concerns with respect to such trading partners as Argentina, Belize, Brazil, Egypt, India, Indonesia, Israel, Lebanon, Paraguay, Turkey, Ukraine, and Venezuela. In addition, the report noted that the United States will consider all options, including, but not limited to, initiation of dispute settlement consultations in cases where countries do not appear to have implemented fully their obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

In this year's review, USTR devoted special attention to the need for significantly improved enforcement against counterfeiting and piracy. The United States placed particular emphasis on the ongoing campaign to reduce production of unauthorized copies of optical media products such as compact discs (CDs), video compact discs (VCDs), digital versatile discs (DVDs), and compact disc read-only memory (CD-ROMs), as well as reducing the counterfeiting of trademarked goods. There are high rates of piracy and counterfeiting in many countries, including in China, India, and Russia. In addition, USTR continued to focus on other critically important issues, including Internet piracy, counterfeit pharmaceuticals, transshipment of pirated and counterfeit goods, requiring authorized use of legal software by government ministries, proper implementation of the TRIPS Agreement by developed and developing country WTO members, and full implementation of TRIPS Agreement standards by new WTO members at the time of their accession.

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The report lauded the positive progress on IPR protection and enforcement in several countries over the past year. For example, Ukraine passed and implemented legislation to combat pirate production in optical media factories. Brazil made significant progress during the past year on copyright enforcement, specifically by adopting a National Action Plan to enforce copyrights and reduce piracy, drafting IPR legislation, increasing seizures and prosecutions, and developing strong public awareness campaigns to fight piracy. Pakistan also made significant progress by closing down numerous pirate optical disc production plants, establishing a Pakistan Intellectual Property Organization to centralize enforcement, and increasing border enforcement efforts, as well as increasing the number of raids, seizures, and arrests of IPR infringers. Several other countries in Asia also had made significant progress on IPR issues in the past year: Taiwan, Indonesia, Malaysia, the Philippines and the Republic of Korea. In addition, Azerbaijan, Kazakhstan, the Slovak Republic, and Uruguay were removed from the Watch List as a result of their progress. USTR is currently in the process of conducting special out-of-cycle reviews for Canada, Chile, Indonesia, Latvia and Saudi Arabia.

Another unprecedented addition to the review was the public naming of a list of "notorious markets." Global piracy and counterfeiting thrive in part due to large marketplaces that deal in infringing goods. Information reviewed in this year's Special 301 process pointed to a number of virtual and physical markets as examples of marketplaces that have been the subject of enforcement action, or merited further investigation for possible IPR infringements, or both. USTR will monitor closely these markets over this next year.

III. FREE TRADE AGREEMENTS AND IMPLEMENTATION

The United States is committed to a policy of promoting stronger protection of intellectual property rights. In this regard, the United States is advancing the protection of these rights through a variety of mechanisms, including the negotiation of free trade agreements (FTAs). The intellectual property chapters of U.S. FTAs establish high standards for intellectual property protection for copyright works, trademarks, and patents, and additionally provide strong rules for enforcement. USTR leads and coordinates the efforts.

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The United States recently concluded FTAs, including the Bahrain FTA, Oman FTA, the Peru Trade Promotion Agreement, the Colombia Trade Promotion Agreement, and the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) (with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic), which will strengthen the protection of IPR in those countries. The United States also is seeking high levels of IPR protection and enforcement in the FTAs that are currently under negotiation with Panama, Thailand, Ecuador, the United Arab Emirates, the Republic of Korea and Malaysia. Another opportunity the United States uses to strengthen the protection and enforcement of intellectual property is the increasing number of trade and investment framework agreement (TIFA) negotiations with several countries in regions such as the Middle East and Asia.

USTR works closely with trading partners to ensure that legislation is amended to comply with FTA obligations and IP protections are enforced. USTR has established a robust implementation process with input and support from other agencies and U.S. industry. In FY 2005, USTR worked with Singapore, Australia, Morocco and others to ensure compliance with their FTA obligations.

IV. STOP! Initiative

USTR is actively engaged in implementing the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. Announced in October 2004, STOP! brings together all the major players – the federal government, private sector and trading partners – to take concerted action in cracking down on piracy and counterfeiting. The initiative is part of an effort to enhance coordination among all relevant U.S. Government agencies and U.S. trading partners to tackle this global problem. As part of STOP!, USTR is advocating adoption of best practices guidelines for enforcement. In 2005, USTR led interagency teams to meet with a number of key trading partners, including Japan, Korea, Hong Kong, Singapore, UK, France, Germany, and the European Union, to establish greater cooperation on IPR enforcement. USTR will continue these efforts to strengthen IPR laws and enforcement and create an international alliance against counterfeiting and piracy.

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As part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters. Key initiatives have gained endorsement and are undergoing implementation in the G8, the U.S.-EU Summit, the Organization for Economic Cooperation and Development (OECD), and the Asia-Pacific Economic Cooperation (APEC) forum.

At the November APEC Ministerial, APEC Leaders adopted best practices guidelines to improve border enforcement, protect digital copies and combat internet piracy. USTR is spearheading an effort to have APEC leaders endorse additional IPR guidelines that would keep supply chains free of pirated and counterfeit goods and improve IPR public awareness campaigns throughout the Asia-Pacific region.

V. GENERALIZED SYSTEM OF PREFERENCES (GSP) REVIEWS

USTR will continue to use all statutory tools, as appropriate, to improve intellectual property protection in countries where it is inadequate. For example, USTR examines IPR practices in connection with its implementation of trade preference programs, such as the ongoing Generalized System of Preferences (GSP) reviews of countries. This year, because of significant progress in improving enforcement, USTR was pleased to announce the conclusion of the GSP reviews of Brazil, Kazakhstan and Pakistan. In addition, in January 2006, USTR restored GSP benefits to Ukraine because of progress in combating illegal optical disc production, including the passage of new legislation. USTR will continue to review the IPR practices of Russia, Lebanon and Uzbekistan under the ongoing GSP reviews of those countries.

VI. WTO DISPUTE SETTLEMENT AND OTHER TOOLS

In addition to the formal WTO dispute settlement process, other tools are available to resolve disputes with our trading partners. These include informal consultations that result in a settlement, which can be a more efficient way to – and therefore the preferred manner of – resolving disputes. However, where such

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tools prove unsuccessful, USTR has and will continue to utilize the WTO dispute settlement process as appropriate.

The United States, in cooperation with other WTO members, has also made innovative use of WTO tools other than the dispute settlement process. For instance, in October 2005, the United States, Japan, and Switzerland made simultaneous transparency requests to China under Article 63.3 of the TRIPS Agreement for purposes of obtaining detailed information regarding China's IPR enforcement record.

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UNITED STATES COPYRIGHT OFFICE

I. SUMMARY OF AGENCY MISSION

By statute (Public Law No. 106-58, Section 653(c)), the National Intellectual Property Law Enforcement Coordination Council (NIPLECC) is required to consult with the Register of Copyrights on law enforcement matters relating to copyrights and related matters.

General Responsibilities

The Copyright Office provides expert assistance and advice to Congress, federal departments and agencies, and the Judiciary on domestic and international copyright and related matters.

In this capacity, the Copyright Office is often responsible for analyzing and assisting in drafting copyright legislation and legislative reports, mediating discussion between interested private parties, testifying in Congressional hearings, and undertaking Congressionally requested studies on copyright and related questions. The Copyright Office also offers advice to Congress and other U.S. Government agencies on compliance with multilateral agreements, such as the Berne Convention for the Protection of Literary and Artistic works, and on the copyright and related rights obligations of bilateral free trade agreements.

Internationally, the Copyright Office works with the State Department, the U.S. Trade Representative's Office (USTR), and the U.S. Patent and Trademark Office (USPTO) in providing technical expertise in negotiations for international intellectual property agreements, and provides technical assistance to other countries in developing their own copyright laws. Through its International Copyright Institute, the

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Copyright Office promotes worldwide understanding and cooperation in providing protection for and enforcement of intellectual property.

The Copyright Office is also an office of record, as one of its primary and historical functions is to register claims to copyright, as well as documents relating to copyright such as assignments or transfers of rights. In addition, the Copyright Office provides information to the general public about copyright law, including the Office's procedures for making registration. Administratively, the Copyright Office sets copyright policy through rule making and the administration of compulsory licenses contained in the copyright statute.

Statutory Mandate

In addition to the various administrative functions and duties described in the Copyright Act, the Copyright Office has a statutory mandate to:

1. Advise Congress on national and international issues relating to copyright, other matters arising under title 17, United States Code, and related matters;

2. Provide information and assistance to Federal departments and agencies and the Judiciary on national and international issues relating to copyright, other matters arising under title 17, and related matters;

3. Participate in meetings of international intergovernmental organizations and meetings with foreign government officials relating to copyright, other matters arising under title 17, and related matters, including as a member of United States delegations as authorized by the appropriate Executive branch authority;

4. Conduct studies and programs regarding copyright, other matters arising under title 17, and related matters, the administration of the Copyright Office, or any function vested in the Copyright Office

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by law, including educational programs conducted cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

5. Perform such other functions as Congress may direct, or as may be appropriate in furtherance of the functions and duties specifically set forth in title 17.

II. DOMESTIC ENFORCEMENT ACTIVITIES

Advice to Congress

One of the Copyright Office's primary domestic functions is to advise Congress on matters of copyright policy and related issues. As such, the Copyright Office provides expert counsel to Congress on legislation that would affect copyright enforcement. In the past year, the Copyright Office has worked closely with committee staffs and the staffs of individual members on a range of measures related to copyright enforcement as follows:

- Advised House and Senate committee members and staff on the "Family Entertainment and Copyright Act of 2005," Pub. L. No. 109-9, enacted April 27, 2005, which authorized the Register of Copyrights to establish a new system for "preregistration" of works in order to facilitate enforcement against piracy of works being prepared for commercial exploitation, and amended title 17 to add an exemption from infringement for devices that allow the skipping of audio or video content in motion pictures;

- Advised House and Senate committee members and staff on the "Intellectual Property Protection and Courts Amendments Act of 2004," Pub. L. No. 108-482, enacted Dec. 23, 2004, which amended title 17 to add a new presumption of willful infringement for providing materially false contact information to a domain name registrar;

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- Testified before the Senate Committee on the Judiciary on "Piracy of Intellectual Property," May 25, 2005; and

- Testified before the Senate Committee on the Judiciary on "Protecting Copyright in a Post-*Grokster* World," September 28, 2005.

Liaison to Various Enforcement Agencies

The Copyright Office is not a law enforcement agency and has no direct role in law enforcement. However, many of the Office's obligations and responsibilities intersect with activities in the law enforcement arena, and the Office frequently provides counsel to the agencies charged directly with the enforcement of copyright law.

For instance, the Office works closely with the Federal Bureau of Investigation, the Department of Justice, and the Bureau of Customs and Border Protection when necessary to provide information and documentation pertaining to a specific copyright claim that is the subject of an investigation by those agencies. The Copyright Office also advises and assists the Bureau of Customs and Border Protection in resolving issues and in developing new procedures related to border enforcement.

In the past year the Office worked very closely with the Department of Justice and the Office of the Solicitor General to develop the United States Government's position in the *MGM v. Grokster* before the Supreme Court. The United States filed a brief *amicus curiae* urging the Court to reverse the Court of Appeals for the Ninth Circuit, which had held that Grokster was not liable for contributory copyright infringement. The Court did reverse, and held that any person that induces another to commit copyright infringement may be held liable as an infringer. This decision will likely facilitate more effective private enforcement in the online environment.

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III. INTERNATIONAL ENFORCEMENT ACTIVITIES

Assistance to USTR

Internationally, the Copyright Office actively participates in a number of activities related to the enforcement of copyright laws. The Office frequently provides USTR with assistance related to bilateral and multilateral trade agreements. In this role, during the past year the Office assisted and advised USTR in dozens of negotiations and discussions, including the following:

- Assisted and advised USTR on negotiation and implementation of the copyright and enforcement texts of bilateral Free Trade Agreements between the United States and Australia, Bahrain, Morocco, Oman, Panama, Singapore, Thailand, and United Arab Emirates, and several multilateral Free Trade Agreements, including the Central America Free Trade Agreement (DR-CAFTA), with a group of Andean nations, with the South African Customs Union;

- Engaged in bilateral discussions specifically regarding enforcement concerns and legislation with Canada, China, Egypt, India, Japan, Korea, Paraguay, Russia, and Saudi Arabia, among others; and

- Participated in discussions with a number of countries on Trade Investment Framework Agreements, including Khazakhstan and New Zealand.

The Copyright Office also assists USTR with various aspects of the United States' role in the World Trade Organization (WTO). In the last year the Office assisted USTR with the WTO Trade Policy Review process, developing question to be posed to other WTO members with respect to their copyright and enforcement regimes, and also answering questions posed by other WTO members to the U.S. about copyright law. The Office has also assisted USTR on WTO accessions by several countries, including Algeria, Cape Verde, Kazakhstan, Russia, and Serbia and Montenegro, among others.

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Further, the Copyright Office participated in the interagency Special 301 process led by USTR which considers whether countries throughout the world are providing adequate protection to intellectual property, including copyright.

Assistance to Other Agencies

The Copyright Office also provides assistance to other U.S. Government agencies involved in enforcement efforts around the globe. During the last year, the Copyright Office worked with the State Department and the Department of Justice to provide assistance to the Government of Sweden in their efforts to address "The Pirate Bay," a website notorious for facilitating Internet piracy.

Intergovernmental Organization Activities

During the past year, the Copyright Office participated in activities of the World Intellectual Property Organization (WIPO) related to enforcement, in particular as a member of the WIPO advisory committee on enforcement. The Copyright Office also participates in the enforcement related activities of the WTO's TRIPS Council.

Further, during the past year the Copyright Office also met informally with numerous visitors from numerous foreign governments regarding intellectual property enforcement issues.

Other activities related to intergovernmental organizations included the following:

- Participation in meetings of the second phase of the World Summit on the Information Society in Geneva;
- Participation in the WIPO Intergovernmental Committee on Protection for Traditional Knowledge and Folkore;

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- Participation in meetings of the UNESCO Intergovernmental Committee in Paris, France considering a Convention on Cultural Diversity in May 2005, and in Intergovernmental meetings on the Universal Copyright Convention and the Rome Convention in June 2005;

- Participation in WIPO Intersessional Intergovernmental Meetings on the Development Agenda in April 2005; and

- Participation in the U.S. delegation to the WIPO Standing Committee on Copyright and Related Rights in November 2005, and May 2006, which continued discussion of the proposed treaty on the protection of broadcasters.

IV. PROGRAMMATIC ACTIVITIES

Domestic Training and Education

Copyright Office staff routinely participates in domestic training and education programs about copyright law. Frequently, Copyright Office staff members attend and give presentations at seminars or other events organized by law enforcement agencies such as the Federal Bureau of Investigation, the Department of Justice, and the U.S. Customs Service. The Copyright Office also provides education on enforcement through seminars and events it organizes itself, and through participation in numerous events held by industry groups, educational institutions, and various bar associations. In the last year, these activities included the following:

- A presentation at the Big Ten Copyright and Printing Conference;

- Several presentations and seminars for "The Copyright Office Comes to New York," New York, New York, and "The Copyright Office Comes to California," Los Angeles and San Francisco, California;

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- An event for IP law students from George Washington University to visit and discuss the history and current activities of the Copyright Office;
- A presentation to the New York City Bar Association on recent Copyright Office activities;
- Panel discussions at the Annual Meeting of the Copyright Society of the U.S.A.;
- A presentation on recent copyright issues at a seminar during the meeting of the Association of Corporate Counsel in Chicago;
- A guest lecture in an Advanced Copyright Seminar at Duke University Law School;
- A guest lecture on copyright at the Columbia University School of Law;
- A guest lecture on copyright at the California Western School of Law;
- A panel at the George Washington University School of Law in Washington, D.C. on careers in copyright law;
- A panel discussion entitled "Technology of the Rescue? Whether DRM and Free Markets Can Tame Illicit File-Sharing, Without Compulsory Licensing or Other Legislation" sponsored by the New York Chapter of the Copyright Society of the U.S.A.;
- Two presentations at the Mid-Winter Meeting of the American Intellectual Property Law Association;
- A panel discussion on orphan works at the Future of Music Policy Summit;
- A panel discussion at the annual meeting of the American Bar Association IP Law Section;

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- A panel discussion entitled "What You Need to Know About the Digital Millennium Copyright Act and Its Application" sponsored by the District of Columbia Bar Association;

- A guest lecture entitled "Copyright in Crisis" at the Hamline University School of Law;

- A guest lecture on "Current Copyright Activities in Congress, the Courts, and the Copyright Office" sponsored by the Minnesota Intellectual Property Law Association;

- A panel discussion entitled "'Congress Shall Have the Power': Recent Constitutional Challenges to Copyrights" sponsored by the New York Chapter of the Copyright Society of the U.S.A.;

- An event entitled "Litigation Year in Review," sponsored by the New York State Bar Association Intellectual Property Section and the Cardozo Arts and Entertainment Law Journal;

- A presentation at National Geographic on copyright basics and digital issues;

- A panel discussion entitled "The Supreme Court Wrestles with *Grokster* and the Continuing Viability of the Sony Betamax Decision," at the spring meeting of the American Intellectual Property Law Association;

- A panel discussion on the *MGM v. Grokster* case hosted by the DVD Association at the National Institute of Standards & Technology;

- A panel discussion on orphan works at the Annual Meeting of the Copyright Society of the U.S.A.;

- Participation in the Library of Congress's *National Book Festival*;

- A presentation on intersection of oral history and copyright law for the Oral History Mid-Atlantic Region Association;

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- A presentation on orphan works to a group of scholarly publishers;
- A lecture on orphan works at Columbia University Law School;
- A panel discussion on orphan works sponsored by the Copyright Society of the U.S.A.;
- Guest lectures at George Washington University Law School and George Mason University Law School on copyright, developing countries and Internet;
- Participation in and co-sponsorship of Section 108 Study Group Roundtable Discussions in Los Angeles, California, and Washington, D.C.;
- A presentation on the "State of the Copyright Office" at the *2006 Spring Copyright Conference* in Carlsbad, California, organized by the Los Angeles Copyright Society; and
- A presentation on orphan works at the Annual Meeting of the Association of American Museums in Boston, Massachusetts.

International Training and Education

Copyright Office staff also participates extensively in international training organized by other U.S. agencies, such as USPTO and the State Department, and international organizations, such as WIPO, on intellectual property enforcement issues. In addition, the Copyright Office staff has developed and conducted training programs in connection with the negotiation of free trade agreements.

Unrelated to law enforcement training, the Copyright Office conducts and participates in a range of intellectual property training activities. In light of WTO member countries' obligations to comply with the TRIPS Agreement and the enforcement provisions therein, the Copyright Office has been actively engaged in training so that countries may meet their international obligations and U.S. interests are

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preserved. Specifically, the Copyright Office participates on training in the areas of (1) awareness of international standards and the U.S. legal and regulatory environment; (2) substantive legal training on both basic and complex areas of U.S. copyright law; and (3) legal reform and statutory drafting assistance.

The Copyright Office also hosts a well-regarded workshop semi-annually in conjunction with WIPO. The International Copyright Institute (ICI) was created within the Copyright Office by Congress in 1988 and provides training for high-level officials from developing and newly industrialized countries and encourages development of effective intellectual property laws and enforcement overseas.

Other international training and educational activities in the past year include the following:

- Participation in WIPO programs in New Delhi, India, a symposium on the protection of broadcasting organizations and an Asia-Pacific Regional Symposium on digital copyright issues and implementation of the WIPO Internet Treaties;

- A presentation in Ottawa, Canada for Canadian officials and professors on legislative efforts in the United States to address copyright infringement on peer-to-peer services;

- A presentation to State Department economic officers in the Asia-Pacific region in Hong Kong, China;

- Participation in a Congressional-staff delegation to China to discuss intellectual property enforcement;

- Participation in an African regional consultation on the proposed broadcasting organizations treaty in Nairobi, Kenya;

- A presentation at a WIPO seminar on Intermediary Liability Under Copyright Law in Geneva, Switzerland;

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- Participation in the Creative Economy Conference in London;
- A presentation at the 78th Annual Intellectual Property Institute of Canada Annual Meeting in Banff Springs, Alberta, Canada entitled "Developments before National Copyright Offices";
- A presentation at a conference on "Copyright Law-Current Developments in U.K., European U.S., and International" in London;
- Participation in the development of a new WIPO publication on copyright for small and medium-sized enterprises;
- Presentations at the International Intellectual Property Conference and Seminar on Asia-Pacific Intellectual Property Issues at Fordham University Law School; and
- A presentation on Librarians and Copyright Law for librarians and library science students in Costa Rica.

V. OPERATIONAL ACTIVITIES

Public and industry outreach on copyright and related matters takes place on both a formal and informal basis. The Copyright Office regularly conducts public hearings on different intellectual property subjects, and maintains ongoing informal relationships with most members of the intellectual property community. The Office also maintains an extensive web site, http://www.copyright.gov, that includes news-alert services, copies of intellectual property laws and regulations, and public information circulars.

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VI. LOOKING FORWARD

As noted earlier, the Copyright Office hosts a well-regarded workshop semi-annually in conjunction with WIPO, the International Copyright Institute (ICI). ICI was created within the Copyright Office by Congress in 1988 and provides training for high-level officials from developing and newly industrialized countries and encourages development of effective intellectual property laws and enforcement overseas. This Fall the Office anticipates holding another of these semi-annual workshops in order to continue to provide useful education and training on copyright internationally.

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B. Pursue Criminal Enterprises Involved in Piracy and Counterfeiting

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UNITED STATES DEPARTMENT OF JUSTICE

I. ENFORCING AND PROTECTING INTELLECTUAL PROPERTY RIGHTS

The Department of Justice comprehensively enforces and protects intellectual property rights through a number of divisions, sections, and agencies. Each of these important components has highly-trained attorneys, law enforcement agents, and staff who specifically address intellectual property issues, ranging from criminal prosecutions to antitrust concerns. In addition, the Bush Administration has developed a comprehensive, interagency initiative to combat intellectual property theft and address international enforcement issues. The Bush Administration's interagency campaigns and the Department of Justice's specific efforts are explained below.

A. Interagency Efforts – STOP! Initiative and NIPLECC

The Department of Justice has the lead criminal enforcement role in the United States Government's protection of intellectual property rights here and abroad. The Department of Justice also coordinates with other government agencies on numerous domestic and international policy matters relating to intellectual property protection. It does so through a variety of means, including daily contact with other government agencies responsible for the many facets of intellectual property protection in the United States, as well as formal mechanisms such as the Bush Administration's Strategy Targeting Organized Piracy ("STOP!") initiative and the National Intellectual Property Law Enforcement Coordination Council ("NIPLECC").

The Department of Justice has participated in the STOP! initiative since its inception in 2004. The Department of Justice has made important contributions to this broad mission through the work of the

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Task Force and, more specifically, through implementation of the Task Force's detailed recommendations set forth in 2004 Report. The Department of Justice also has coordinated closely with other STOP! agencies on numerous international and domestic policy issues; joined STOP! agencies in visits to the European Commission, France, Germany, Hong Kong, Korea, and the United Kingdom in April and June of 2005; participated in a series of round table discussions, seminars, and other business outreach efforts; and helped develop greater public awareness of how federal criminal laws protect the owners of intellectual property.

The Department of Justice has also co-chaired NIPLECC since its creation by Congress in 1999. NIPLECC details the Department of Justice's enforcement strategy and priorities and highlights many of its most significant intellectual property prosecutions for that year. In addition, the Department of Justice works through NIPLECC to coordinate its international training and outreach efforts with other federal agencies.

B. Criminal Enforcement Efforts

1. Computer Crime and Intellectual Property Section

The Department of Justice has developed an effective nationwide anti-piracy and anti-counterfeiting effort anchored by the Criminal Division's Computer Crime and Intellectual Property Section ("CCIPS"). CCIPS is a highly specialized team of 35 attorneys focused on computer crime and intellectual property offenses. With the support of Congress, CCIPS has nearly doubled in size over the past six years, and it now has 14 attorneys devoted exclusively to prosecuting intellectual property crimes and implementing the Department of Justice's intellectual property enforcement program. These attorneys prosecute intellectual property cases, assist prosecutors in the field, and help develop and implement the Department of Justice's overall anti-piracy strategy and legislative priorities. In addition to prosecuting their own cases, which have increased more than eight-fold in the last four years, CCIPS attorneys are available to agents and Assistant United States Attorneys ("AUSAs") on a 24-hour-a-day basis to provide advice and guidance.

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CCIPS also places a high priority on fostering international cooperation and coordination in its intellectual property enforcement efforts. Building relationships between American law enforcement and our counterparts overseas is the most effective method of ensuring success in multi-national cases. These relationships are built through international casework as well as through training and outreach. Last year, CCIPS attorneys met with more than 2,000 prosecutors, investigators, judges, and intellectual property experts from 94 countries to provide training and technical assistance on intellectual property enforcement.

2. Computer Hacking and Intellectual Property Program

As with all federal crime, primary responsibility for the prosecution of federal intellectual property offenses falls to the 94 United States Attorneys' Offices across America. Under the CHIP Program, created by then-Attorney General Ashcroft in 2001, experienced and highly-trained federal prosecutors in the field aggressively address computer crime and intellectual property matters.

a. CHIP Coordinators

Prior to the creation of the CHIP Program, the Department of Justice created the Computer & Telecommunications Coordinator ("CTC") program in 1995 to address concerns about the rising tide of computer crime. The United States Attorneys' Offices designated at least one AUSA in each district as a CTC; depending on the needs of the particular region, some districts designated more than one prosecutor. In addition, a number of components and divisions within the Department of Justice, such as the Tax Division, also designated CTCs for their respective organizations.

In October 2004, the Task Force recommended that the Department of Justice change the CTC designation to "CHIP Coordinator" to clarify that intellectual property offenses were included within the responsibilities of these AUSAs and to align all 94 United States Attorneys' Offices with the Attorney General's CHIP Program. Identifying a CHIP Coordinator in each United States Attorney's Office ensures that a prosecutor with training and experience in intellectual property crimes is available wherever and whenever an offense occurs.

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Under the CHIP Program, prosecutors are assigned four areas of responsibility: (1) prosecuting computer crime and intellectual property offenses; (2) serving as a technical advisor for other prosecutors and law enforcement agents; (3) assisting other CHIP Coordinators in multi-district investigations; and (4) providing training and community outreach regarding computer-related issues.

b. CHIP Units

In July 2001, the Department of Justice created ten CHIP Units to address the increasing threat of cyber crime and intellectual property offenses in specific regions of the country. CHIP Units are teams of specially-trained AUSAs concentrated in a particular region. The CHIP Program was created to augment the number of prosecutors designated as CHIP Coordinators. The Department of Justice provided districts with additional funding to hire prosecutors and support personnel to form CHIP Units and to focus on fighting intellectual property and cyber offenses. The program was expanded in 2002 and 2004, including the effort in 2004 to align the CTC program with the CHIP Program described above. There are currently more than 230 CHIP Coordinators and CHIP Unit AUSAs within the Department of Justice.

CHIP Unit AUSAs focus on prosecuting intellectual property offenses such as trademark violations, copyright infringement, and thefts of trade secrets. In addition, they prosecute high-technology offenses, including computer hacking, virus and worm proliferation, Internet fraud, and other attacks on computer systems.

In addition to prosecuting cases, CHIP Unit AUSAs are also involved actively in training other prosecutors and federal agents on high-tech investigations, and they work closely with potential victims of intellectual property theft and cyber crime on prevention efforts.

The first CHIP Unit was created in February 2000, in the United States Attorney's Office in San Jose, California, to address cyber crime and intellectual property cases in the Silicon Valley area. Based on

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the success of the CHIP Unit in San Jose, in 2001 and 2002, then-Attorney General Ashcroft expanded the program to include the following 11 additional cities:

Alexandria, Virginia

Atlanta, Georgia

Boston, Massachusetts

Chicago, Illinois

Dallas, Texas

Kansas City, Missouri

Los Angeles, California

Miami, Florida

New York, New York (Brooklyn and Manhattan)

San Diego, California

Seattle, Washington

In October 2004, the Task Force recommended that the Department of Justice create five more CHIP Units in:

Nashville, Tennessee

Orlando, Florida

Pittsburgh, Pennsylvania

Sacramento, California

Washington, D.C.

In response to the recommendation, the Department of Justice provided additional funding to the United States Attorneys' Offices in these cities to hire additional prosecutors to create the CHIP Units.

In January 2005, the Department of Justice provided additional, full-time funding for three AUSAs to serve as CHIP Unit AUSAs in San Jose and Los Angeles, California. The creation of these three additional CHIP positions, as well as the creation of five additional CHIP Units in October 2004, implemented two of the recommendations of the 2004 Report.

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c. Creation of Seven New CHIP Units in 2006

The Task Force has recognized the success of the CHIP Program and determined that the Department of Justice should increase the number of CHIP Units and place them in additional regions. Accordingly, the Task Force recommended to the Attorney General that the Department of Justice create seven new CHIP Units in the following cities where cyber crime and intellectual property offenses are significant problems:

Austin, Texas

Baltimore, Maryland

Denver, Colorado

Detroit, Michigan

Newark, New Jersey

New Haven, Connecticut

Philadelphia, Pennsylvania

The Attorney General has adopted this recommendation and initiated the creation of these seven new units. With the addition of these new CHIP Units the total number of CHIP Units will soon be 25.

3. Office of Consumer Litigation

The Civil Division's Office of Consumer Litigation ("OCL") is a team of specialized attorneys who handle criminal and civil cases involving intellectual property laws that protect public health and safety. For example, OCL attorneys enforce and defend the consumer protection programs of the Food and Drug Administration ("FDA"), the Federal Trade Commission, the Consumer Product Safety Commission, and the Department of Transportation's National Highway Traffic Safety Administration.

One particular area of concern to the protection of intellectual property rights and consumer safety is the regulation of drugs by the FDA. FDA officials have testified before Congress that the quality of drugs in this country is high and that the public can continue to have confidence that the drugs sold in the United States are authentic. To maintain this level of confidence, however, any allegations or information regarding the

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counterfeiting or adulteration of drug products must be taken very seriously. The use of counterfeit drugs can pose a direct threat to human health. Counterfeit drugs frequently contain less active material ingredient than claimed, wrong ingredients, or no active ingredient at all, making the counterfeits less effective and possibly toxic. Even when the product in question contains the represented amount of the drug's active ingredient, the situation can be dangerous because of factors such as quality control, distribution, and inventory control, all of which endanger the effectiveness of the drug. When the counterfeit product is relied upon to sustain life, a lack of effectiveness may result in deaths. In addition, increased drug resistance also can arise when counterfeit antibiotics lead doctors to increase dosages or otherwise misunderstand the nature of the drug they are administering. The potential dangers posed by counterfeit drugs may multiply in a health emergency; for example, in a flu pandemic, the opportunity for criminal counterfeiting may be significant. The demand for flu vaccine could vastly exceed legitimate supply and counterfeit flu vaccine could be sold over the Internet to unwary consumers in the United States.

For more than 30 years, OCL attorneys have been involved in prosecuting purveyors of counterfeit drugs and medical devices. The Department of Justice's recent efforts are reflected in prosecutions involving unlawful diversion of prescription drugs and the importation of counterfeit pharmaceuticals and drugs that are not manufactured according to approved standards. United States Attorneys' Offices that receive these counterfeit cases often contact OCL to obtain advice and assistance, and OCL serves valuable functions in such matters. First, OCL helps ensure that federal prosecutors do not overlook important policy or factual concerns that frequently affect litigation under federal statutes. Second, OCL ensures that those prosecutors do not have to "reinvent the wheel" in conducting litigation, because OCL has jury instructions, briefs, and other pleadings to share.

4. Federal Law Enforcement Agencies

A number of federal law enforcement agencies work to safeguard intellectual property rights in the United States. The Federal Bureau of Investigation's ("FBI") intellectual property enforcement program is implemented and overseen by the Cyber Crime Fraud Unit ("FBI-CCFU") in its Cyber Division in Washington, D.C. The FBI-CCFU focuses on intellectual property crimes having the most impact on

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national and economic security–including theft of trade secrets, Internet piracy, and trafficking in counterfeit goods. The FBI-CCFU's goals include:

- Increasing the number of intellectual property undercover operations and use of other sophisticated investigative techniques;
- Developing new investigations through relationships with industry contacts and foreign law enforcement agencies;
- Encouraging FBI field offices to utilize task forces with state and local law enforcement agencies to enhance cyber crime and intellectual property investigations; and
- Continuing to educate and train domestic and foreign law enforcement agencies on intellectual property enforcement.

In addition to overseeing implementation of the intellectual property program in the 56 FBI field offices nationwide, the FBI-CCFU also plays a central and coordinating role in intellectual property undercover operations that have multi-district and international targets. In these operations, FBI-CCFU provides administrative oversight and additional resources to ensure the coordination of international and domestic enforcement actions. Examples of such enforcement initiatives were Operations Fast Link and Site Down, referenced below. The FBI-CCFU also provides guidance and assistance to field agents and foreign legal attachés' offices on intellectual property investigations generally, especially those targeting organized groups engaged in the large-scale manufacture and distribution of pirated software and other copyrighted materials over the Internet.

Finally, in addition to the FBI, ICE, and CBP, a number of other federal agencies investigate intellectual property offenses, whether on their own or as part of task forces, including the United States Postal Service and the United States Secret Service. The FDA's Office of Criminal Investigations has primary responsibility for all criminal investigations conducted by the FDA, which include investigations of

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suspected tampering incidents and suspected counterfeit products. For instance, its agents investigate cases involving counterfeit, misbranded, and adulterated pharmaceuticals in violation of federal drug laws.

5. Victim-Industry Partnerships

The Department of Justice recognizes that a successful and comprehensive plan of attack against intellectual property theft requires the formation of partnerships with the victims and potential victims of intellectual property theft. Without the assistance of victims, it is difficult, if not impossible, for the Department of Justice to enforce the law and apprehend offenders. Consequently, the Department of Justice has formed important partnerships with various organizations that have joined the fight against intellectual property theft. The Chamber of Commerce has formed a broad-based "Coalition Against Counterfeiting and Piracy" ("CACP"), which works with Congress and the Bush Administration to raise awareness about the negative impact of counterfeiting. The Department of Justice has formed a constructive partnership with the CACP to address intellectual property concerns and sponsor awareness events.

The Department of Justice has also formed important partnerships with other groups that represent victims and potential victims of intellectual property theft, including the Motion Picture Association, the Recording Industry Association of America, the Business Software Alliance, the Entertainment Software Association, pharmaceutical industry associations, and many other organizations. In addition, the Department of Justice has formed a close partnership with Court TV, which has filmed and broadcast several Department of Justice events regarding intellectual property. These organizations provide important insight into the problems of intellectual property theft and have joined the Department of Justice in sponsoring prevention and awareness events throughout the nation.

To assist these victims and others in reporting intellectual property crimes, the Department of Justice developed "A Guide for Victims of Counterfeiting, Copyright Infringement, and Theft of Trade Secrets."

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6. Statistical Accomplishments

The impact of the increased efforts by the Department of Justice to protect intellectual property rights can be seen not only by the breadth of its programs and by the aggressive focus on this issue, but also by the impressive results in Department of Justice prosecutions. The Department of Justice has prosecuted significantly more defendants for intellectual property offenses since the issuance of the Task Force's Report in October 2004. During Fiscal Year 2005, 350 defendants were charged with intellectual property offenses, nearly double the 177 defendants charged in Fiscal Year 2004–representing a 98 percent increase. A similar increase occurred in districts with CHIP Units, where the number of charged defendants climbed from 109 in Fiscal Year 2004 to 180 in Fiscal Year 2005–a 65 percent increase. In addition, the number of cases filed and defendants charged in all districts between Fiscal Years 2001 and 2005 has steadily risen over time. These results reflect, in a meaningful way, that the Department of Justice is committed to protecting intellectual property rights.

7. Intellectual Property Prosecution Highlights

The Department of Justice has brought many significant prosecutions against intellectual property thieves since the Task Force issued its report in October 2004. The cases include prosecutions of defendants for trafficking in counterfeit pharmaceuticals, distributing copyrighted material without authorization, and for violating the federal trademark laws. Some of the more notable cases include:

Counterfeit Pharmaceuticals

Cholesterol Medication – The Department of Justice obtained convictions against eight people for selling counterfeit Lipitor tablets, a drug widely used to reduce cholesterol, and 13 people are awaiting trial in Kansas City, Missouri, for their alleged participation in a $42 million conspiracy to sell counterfeit, illegally imported, and misbranded Lipitor and other drugs. More than $2.2 million has been forfeited.

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Antibiotics – In May 2005, the Department of Justice obtained the conviction of a former president of an Italian drug firm for violating the Federal Food, Drug, and Cosmetic Act by introducing an unapproved copy of the antibiotic Cefaclor. The defendant was sentenced to a year in confinement, fined $16,481,000, and required to forfeit $300,000. The corporate defendant pleaded guilty and paid criminal and civil penalties of more than $33 million.

Viagra and Cialis – In February 2006, the Department of Justice obtained a conviction in Houston against a United States citizen for importing from China counterfeit pharmaceuticals bearing the Viagra and Cialis trademarks. ICE Special Agents conducted an undercover operation in Beijing, China, involving the Internet site *bestonlineviagra.com*. The Internet site was owned and used by the defendant to distribute bulk quantities of counterfeit Viagra and Cialis manufactured in China. Chinese officials cooperated in the investigation, and 11 additional individuals in China were arrested by Chinese authorities for manufacturing and distributing counterfeit drugs. Chinese officials seized 600,000 counterfeit Viagra labels and packaging, 440,000 counterfeit Viagra and Cialis tablets, and 260 kilograms of raw materials used to manufacture counterfeit pharmaceuticals.

Viagra – Based on an investigation by ICE, in January 2005, the Department of Justice obtained the conviction of a Los Angeles man for manufacturing, importing, and distributing over 700,000 counterfeit Viagra tablets, valued at more than $5.5 million, over a four-year period.

Terrorism and Organized Crime

Terrorist Financing – In March 2006, a federal indictment was unsealed in Detroit charging 19 individuals with operating a racketeering enterprise that supported the terrorist organization Hezbollah. The defendants are alleged to have financed their criminal enterprise by trafficking in counterfeit Viagra, by trafficking in counterfeit Zig-Zag papers and contraband cigarettes, and by producing counterfeit cigarette tax stamps.

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Organized Crime – Yi Ging Organization – In April 2006, the Department of Justice obtained convictions against two Chinese nationals as part of a crackdown against a violent criminal group in New York known as the Yi Ging Organization. These defendants had been included, along with 39 others, in a September 2005 indictment charging racketeering offenses, including extortion, witness tampering, trafficking in counterfeit DVDs and CDs, money laundering, operating a large-scale illegal gambling business, and drug trafficking. The Yi Ging Organization allegedly generated millions of dollars in profits from their counterfeit DVD and CD business. Gang members traveled to China to obtain illegal copies of American and Chinese DVDs, which they then smuggled into the United States, copied, and sold along with pirated music CDs at stores the gang controlled in Manhattan and other parts of New York City.

Organized Crime – Operation Smoking Dragon – In Los Angeles, based on an investigation by ICE, the Department of Justice obtained indictments against 30 defendants in August 2005 for allegedly, among other things, trafficking in counterfeit cigarettes and pharmaceuticals as part of Operation Smoking Dragon.

Software, Movie, and Music Piracy

International Enforcement Operations – The Department of Justice led the largest ever international enforcement efforts against organized online piracy in Operation FastLink and Operation Site Down. Each of these undercover operations by the FBI involved coordinated law enforcement action among 12 countries and targeted elite, criminal organizations, known as "warez release groups," which are the first to provide pirated works on the Internet. Law enforcement agents conducted more than 200 searches and arrested numerous people worldwide, seized hundreds of thousands of pirated works conservatively valued at more than $100 million, and eliminated more than 20 major online distribution centers. To date, the Department of Justice has obtained convictions against 60 people in the United States on criminal copyright infringement charges.

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Illegal Manufacturing of DVDs in China – In the first joint criminal intellectual property investigation by ICE and China, known as Operation Spring, the Department of Justice obtained a conviction against the ringleader in a conspiracy to import 2,000 counterfeit DVDs of motion pictures. The defendant was convicted in China, along with three other co-conspirators, for selling more than 133,000 pirated DVDs to customers in more than 20 countries. After returning to the United States, the defendant was convicted again in Mississippi, sentenced to 45 months in prison, and ordered to forfeit more than $800,000.

Optical Disc Piracy – Operation Remaster – On April 3, 2006, the Department of Justice obtained convictions against two California men who pleaded guilty to conspiracy to mass-produce pirated music and software CDs. The two men were among five arrested as part of an undercover investigation targeting large-scale suppliers of pirated music and software. Agents seized nearly half a million pirated CDs and 5,500 high-speed, high-quality stampers used to make bootleg products. The recording industry called Operation Remaster the largest music manufacturing piracy seizure in United States history.

Online Music Piracy – On May 19, 2006, the Department of Justice obtained sentences of up to 15 months for three members of pre-release music piracy groups. Two of the defendants belonged to the Internet piracy group Apocalypse Crew, also known as "APC," and the third to the group Chromance, also known as "CHR." Both groups sought to acquire digital copies of songs and albums before their commercial release in the United States, which they would then prepare for distribution to secure computer servers throughout the world. The stolen songs were then distributed globally and, within hours, filtered down to peer-to-peer and other public file-sharing networks.

Peer-to-Peer Piracy – Operation Digital Gridlock – In January 2005, the Department of Justice obtained the first-ever criminal convictions for piracy through peer-to-peer networks when two operators of Direct Connect distribution centers pleaded guilty in Washington, D.C., to charges of conspiracy to commit criminal copyright infringement. Four defendants were convicted as a result of this FBI undercover investigation, code-named Operation Digital Gridlock.

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Counterfeit Software – In December 2005, the Department of Justice obtained convictions against a California man in Alexandria, Virginia, for selling copies of copyrighted soft-ware through his website, *www.ibackups.net*, and through the United States mail. The man sold, at prices substantially below the suggested retail price, more than $25 million in software products that were manufactured by Adobe Systems Inc., Macro-media, Inc., Microsoft Corporation, Sonic Solutions, and Symantec Corporation. He is believed to be the most prolific online commercial distributor of pirated software ever convicted in the United States.

First Federal Camcording Conviction – In June 2005, a jury convicted a former Hollywood, California, resident of eight federal criminal charges, including three counts of copyright infringement, related to his use of a video camcorder to covertly film the motion pictures "The Core," "8 Mile," and "Anger Management" at private screenings for the purpose of making money. The defendant fled from the custody of his attorney on the evening of his last scheduled trial in 2003 and remained a fugitive for 16 months until the United States Marshals Service apprehended him in Florida.

Movie Piracy – Operation Copycat – On April 6, 2006, the Department of Justice obtained charges against five individuals who were "first-providers" of stolen movies on the Internet. Operation Copycat, a San Jose-based FBI undercover investigation, was one of three investigations contributing to Operation Site Down. The Department of Justice has obtained charges against 37 individuals and convicted 32, including the first convictions under the newly enacted Family Entertainment and Copyright Act for camcording movies and distributing pre-release works on the Internet.

Satellite Signal Theft

DMCA Prosecution – In June 2005, the Department of Justice obtained the conviction of a New York man who violated the Digital Millennium Copyright Act ("DMCA") and mail fraud statutes by reprogramming Smart Cards to steal satellite programming from DISH Network. DISH Network electronically "scrambles" its satellite transmissions to prevent unauthorized viewing of its programming and, in order to receive services, its customers must purchase or lease satellite equipment

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that include Smart Cards inserted into the satellite receiver. The defendant sold approximately $308,000 of reprogrammed Smart Cards to others across the United States.

Luxury Goods

Trafficking in Counterfeit Hard Goods – In November 2005, based on an investigation by ICE, the Department of Justice obtained indictments against four Massachusetts residents for laundering money and trafficking in more than 30,000 counterfeit luxury handbags and wallets, as well as the materials needed to make the counterfeits, worth more than $1.4 million. The defendants were alleged to have used 13 self-storage units in Massachusetts as the home base for one of New England's largest counterfeit goods operations, and they allegedly sold the counterfeit wallets and handbags at flea markets and to smaller gatherings at approximately 230 "purse parties" throughout the state.

Trade Secrets

Ohio Theft of Trade Secrets: The Department of Justice obtained convictions against an executive of an Ohio hydraulic pump manufacturer and a subsidiary of a South African competitor who stole the Ohio company's trade secrets. While still an employee of the Ohio company, the executive secretly assisted the South African subsidiary company by sharing financial and other confidential information in order to assist the competitor in establishing United States operations. The executive held clandestine meetings with representatives of the competitor in South Africa and elsewhere, and gave them surreptitious and unauthorized tours of the victim company's manufacturing facility.

Kentucky Theft of Trade Secrets: In April 2006, the Department of Justice obtained a 48-month prison sentence against a Kentucky man for conspiring to steal and sell trade secrets belonging to Corning, Inc. The defendant, while a Corning employee, stole drawings of Corning's Thin Filter Translator Liquid Crystal Display ("LCD") glass and sold the drawings to a corporation based in Taiwan that intended to compete with Corning in the production of LCD glass.

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C. Legislative Efforts

Since the Task Force issued its report in October 2004, the Department of Justice has worked diligently with the Congress to enact legislation to further protect intellectual property rights. The 2004 Report listed several principles regarding legislation and, in several instances, Congress adopted those principles in drafting legislation. In addition, the Department of Justice developed a legislative package that was sent by the Administration to the Congress to further enhance intellectual property enforcement and protection. Set forth below are the three new laws passed since October 2004, and details of the legislative package proposed by the Administration.

Intellectual Property Protection and Courts Amendments Act of 2004 (H.R. 3632)

The Department of Justice supported the passage of the Intellectual Property Protection and Courts Amendment Act (H.R. 3632), which advanced the goal, set forth in the 2004 Report, of thwarting the distribution of counterfeit products and authorizing the seizure of the materials and equipment used to make them. The legislation expanded a previous law, which prohibited trafficking in counterfeit labels for copyrighted works, to also prohibit the trafficking in genuine but unauthorized labels. In addition, the legislation allowed the government to seize the equipment used in producing the counterfeit and illicit labels. The Bush Administration supported the legislation and offered suggestions for its improvement. The President signed the legislation on December 23, 2004.

Family Entertainment and Copyright Act of 2005 (S. 167)

In 2005, Congress enacted the Family Entertainment and Copyright Act of 2005 (S. 167). This legislation amended the federal criminal code to prohibit the knowing or attempted use of a video camera, or other audio-visual recording device, to make or transmit a copy of a motion picture or other copyrighted audio-visual work from a performance of such work in a movie theater or similar venue without authorization. The law established a maximum sentence of three years in prison for a first offense. The legislation also required the court to order the forfeiture and destruction of all unauthorized copies of the motion picture

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and any equipment used to carry out the violation. With reasonable cause, the owner, lessee, or employee of a theater is authorized to detain, in a reasonable manner for a reasonable time, suspected violators for questioning or to contact law enforcement.

In addition, this legislation established criminal penalties for the act of willful copyright infringement through distribution of certain copyrighted works being prepared for commercial distribution–including movies, software, games, and music–by making them available on a computer network accessible to members of the public, if the person knew, or should have known, that the work was intended for commercial distribution. Finally, the legislation directed the United States Sentencing Commission to review and potentially amend its guidelines for intellectual property crimes.

This legislation, and the related amendments to the United States Sentencing Guidelines, furthered two key principles identified in the 2004 Report: (1) the passive sharing of copyrighted works for unlawful distribution should be treated as the distribution of those works and should, where appropriate, be subject to prosecution; and (2) copyright law should recognize the premium value of a copyrighted work before the work is released for sale to the general public. A copy of a copyrighted work is more valuable before it can be legitimately obtained by anyone else. In such situations, not only is the "pre-release" copy more valuable, but it can also permit the holder to distribute copies as early as–or before–the copyrighted work's legitimate owner. As a result, although pre-release copies of a copyrighted work may not have a quantifiable retail value, they can be the most valuable copies of all, and their distribution can severely damage the rightsholder.

The President signed the Family Entertainment and Copyright Act into law in April 2005. As a result, the United States Sentencing Commission amended the United States Sentencing Guidelines to provide for an added penalty in cases involving a pre-release copyrighted work. The Bush Administration supported the passage of this legislation and the Department of Justice provided technical assistance to the Congress and the United States Sentencing Commission.

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Stop Counterfeiting in Manufactured Goods Act (H.R. 32)

Based on the principles set forth in the 2004 Report, the Stop Counterfeiting in Manufactured Goods Act (H.R. 32) modified the federal criminal law relating to the trafficking in counterfeit goods and services by prohibiting trafficking in labels, documents, or packaging that bear counterfeit marks intended for goods or services. The legislation also expanded the definition of "trafficking" to include distribution of counterfeits for a wider variety of commercial purposes than was covered previously. Moreover, the legislation criminalized the possession of counterfeits with intent to distribute, as well as the importation and exportation of counterfeit goods. Finally, the statute subjected to forfeiture any article that bears or consists of a counterfeit mark, and any property derived from proceeds or used in the commission of the violation. The legislation was signed into law by President Bush on March 16, 2006.

Intellectual Property Protection Act

In addition to the three already-enacted legislative packages relating to intellectual property, the Department of Justice has developed draft legislation, known as the Intellectual Property Protection Act of 2005, to further the goals established in the 2004 Report. This proposed legislation is designed to advance three general objectives. First, it would toughen penalties for intellectual property crimes by:

- Strengthening the repeat-offender penalties against copyright criminals;
- Implementing broad forfeiture reforms that, among other things, ensure the ability to seize and obtain forfeiture of property derived from or used in the commission of intellectual property offenses; and
- Strengthening a victim's ability to recover losses for certain intellectual property crimes (*e.g.*, criminal copyright and Digital Millennium Copyright Act offenses).

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Second, the bill would expand the criminal laws to increase intellectual property protection by:

- Clarifying that registration of a copyright is not a prerequisite to criminal prosecution;
- Criminalizing the attempt to commit copyright infringement; and
- Clarifying that both the exportation and importation of infringing items is illegal, even if the export or import is not to a third party (*e.g.*, when the shipment is from one party to itself).

Third, the bill would add needed investigative tools for criminal and civil enforcement by:

- Amending civil copyright law to parallel civil trademark law by permitting civil litigants to obtain *ex parte* seizure orders for records or evidence in civil cases; and
- Amending 18 U.S.C. § 2516 to include, as predicate offenses necessary to obtain wire or oral intercepts, the crimes of economic espionage to benefit a foreign government, criminal copyright infringement, and trafficking in counterfeit goods or services.

The Intellectual Property Protection Act is an important legislative effort because it encourages the adoption of vital principles set forth in the 2004 Report, including the following:

- As with other laws involving intellectual property, an attempt to violate the criminal copyright statute should be a violation without regard to whether it is successful.
- Unlike the federal criminal trademark statute, the criminal copyright statute presently does not criminalize attempted violations. It is a general tenet of criminal law, however, that those who attempt to commit a crime are as morally culpable as those who succeed in doing so.
- Law enforcement officers should have access to the full range of accepted law enforcement tools when they investigate intellectual property crimes that pose a serious threat to public health or safety.

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- A federal court may issue an order authorizing the use of a wire or voice intercept, otherwise known as a "wiretap," in the investigation of many federal crimes, including the theft of interstate shipments, but not for intellectual property crimes. Although there are good reasons to restrict the use of wiretaps in deference to individual privacy rights, some intellectual property crimes present a serious danger to public health or safety. Trademark violations, for instance, may involve the distribution of counterfeit goods that are defective and prone to causing widespread consumer injuries.

The Department of Justice's Task Force recommended that the Congress enact the Intellectual Property Protection Act at its earliest opportunity.

International Treaties

With the globalization of the economy and the rise of digital commerce, intellectual property crimes have crossed international borders with increasing frequency. The United States has recently ratified two multilateral treaties that will help address this trend: The United Nations Convention Against Transnational Organized Crime, and the Council of Europe Convention on Cybercrime. These treaties will facilitate international cooperation in halting some of the most egregious crimes involving intellectual property, and further United States enforcement efforts.

D. Civil Enforcement Efforts – Civil Division

The Department of Justice combats intellectual property theft most visibly through enforcement of the Nation's criminal laws. The successful defense of intellectual property rights, however, also requires vigorous enforcement by the owners of intellectual property through the civil justice system.

The Department of Justice has filed numerous briefs, known as *"amicus"* or "friend-of-the-court" briefs, in the Supreme Court and lower courts supporting the maintenance and implementation of robust intellectual property rights. The Department of Justice also intervenes in appropriate cases to become a party in the litigation, thus promoting legal precedents that enforce intellectual property rights fairly and

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consistently. In these ways, the Department of Justice plays a vital role in promoting a legal environment that protects creativity and innovation. The Civil Division employs 14 lawyers devoted solely to intellectual property, as well as numerous appellate attorneys who assist with *amicus* filings as needed.

Through these components, the Department of Justice also monitors civil enforcement developments that may hamper the ability of victims of intellectual property theft to use the civil courts effectively to defend themselves. For example, the Department of Justice actively consults with the USPTO and the United States Copyright Office about intellectual property cases. The Department of Justice also regularly reviews intellectual property trade publications, such as the Bureau of National Affairs' *Patent, Trademark, and Copyright Journal*, and the *United States Patents Quarterly*'s advance sheets, to determine if any private lawsuits merit involvement by the Department of Justice.

Since October 2004, the Department of Justice has filed 13 *amicus* briefs in the Supreme Court in cases involving intellectual property rights, and more than a dozen *amicus* briefs and Statements of Interest in lower courts. These filings occurred in cases that affect numerous high-tech industries, including pharmaceuticals, biotechnology, and online commerce. In many of these cases, courts have adopted the arguments made by the Department of Justice and consequently expanded protections for owners of intellectual property rights. Detailed explanations of these cases are set forth below in the Civil Recommendation section of this Progress Report.

E. Antitrust Enforcement Efforts – Antitrust Division

The Antitrust Division of the Department of Justice, the component charged with enforcing the federal antitrust laws, does not directly enforce intellectual property rights. But intellectual property plays an increasingly important role in the Department of Justice's antitrust merger and non-merger civil investigations. Intellectual property is an asset that can be bought, sold, and leased or licensed in much the same fashion as any other property. The Department of Justice therefore applies antitrust principles that give the same respect to intellectual property as to other forms of tangible or intangible property, taking into account special characteristics of intellectual property, such as the ease with which it can be

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misappropriated. Using this approach, the Department of Justice avoids creating intellectual property-specific rules that could conflict with normal business expectations, lead to marketplace uncertainty, or erode the value of intellectual property rights over time.

The Department of Justice promotes respect for intellectual property rights in the administration of antitrust law through international competition advocacy, as explained later in this Progress Report. Domestically, the Department of Justice engages in competition advocacy through public hearings, workshops, speeches, research, and academic publishing by its attorneys and economists (in the Antitrust Division's Economic Analysis Group), and through participation in court cases as *amicus curiae*. Since the issuance of the 2004 Report, the United States has appeared as amicus in numerous antitrust cases involving intellectual property. The Supreme Court followed the recommendation of the United States in two such cases: *Illinois Tool Works, Inc. v. Independent Ink, Inc.*, 126 S. Ct. 1281 (2006), and *Monsanto Co. v. McFarling*, 125 S. Ct. 2956 (2005).

The Department of Justice continues to participate as amicus in cases where the interplay of intellectual property and antitrust law presents an opportunity to strengthen or clarify intellectual property rights. In addition, the Department of Justice routinely reviews and comments on proposed legislation that involves issues at the intersection of antitrust and intellectual property, or that may influence incentives to engage in competition or innovation.

The Antitrust Division also provides trade associations and other business organizations a business review procedure to receive guidance from the Department of Justice regarding the scope, interpretation, and application of the antitrust laws to proposed conduct, including activities involving intellectual property rights. Under that procedure, persons concerned, for example, about whether a particular proposed standard-setting activity is legal under the antitrust laws may ask the Department of Justice for a statement of its current enforcement intentions with respect to that conduct. When sufficient information and documents are submitted to the Department of Justice, it will make its best effort to resolve the business review request within 60 to 90 days. In this way, the Department of Justice can protect competition while at the same time facilitating efficient business arrangements that enable intellectual property owners to protect their rights.

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F. International Efforts — Free Trade Agreements

Since the 2004 Report was issued, the Department of Justice has worked closely with the United States Trade Representative (USTR) on interagency development of trade policy issues affecting competition and intellectual property rights and on participation in negotiations of Free Trade Agreements (FTAs) with foreign trading partners. To enhance the Department of Justice's involvement in the process, Department of Justice attorneys in the Antitrust, Civil, and Criminal Divisions have undertaken a comprehensive review of existing FTAs and proposed a series of recommendations to USTR to strengthen support for intellectual property rights enforcement in the intellectual property rights chapters of FTAs and other trade pacts. These recommendations have contributed to enhancing U.S. FTA proposals in several areas. The Department of Justice recognizes the importance of strengthening intellectual property rights through international agreements and it will continue to work closely with USTR on an ongoing basis.

II. IMPLEMENTING THE DOJ IP TASK FORCE'S RECOMMENDATIONS

Immediately after the Department of Justice's IP Task Force issued its initial Report in October 2004, the Department began implementing the 2004 Report's recommendations. In February 2005, Attorney General Alberto R. Gonzales renewed the Department of Justice's commitment to the Task Force by appointing new members. Importantly, he announced that the Department would implement all of the 2004 Report's recommendations and would continue to enforce aggressively federal intellectual property laws. As of this publication, the Department of Justice has implemented all 31 of the recommendations contained in the 2004 Report.

The Task Force formed an Executive Staff of experts from throughout the Department of Justice to implement the recommendations and draft the Progress Report. For a complete accounting on all the recommendations, please see the Progress Report of the Department of Justice's Task Force on Intellectual Property (June 2006).

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A. CRIMINAL ENFORCEMENT RECOMMENDATIONS

Enforcement of the criminal intellectual property laws is one of the Department of Justice's highest priorities. The Department prosecutes criminal cases involving the theft of copyrighted works, trademark counterfeiting, and thefts of trade secrets. Many divisions and offices of the Department of Justice participate in the enforcement of intellectual property laws, including federal prosecutors located throughout the Nation. These prosecutors work closely with local, State, and federal law enforcement agents to identify criminals and prosecute them in accordance with the law. While the Department of Justice has successfully prosecuted numerous intellectual property cases over the past several years, the Task Force concluded that additional success was possible. Accordingly, the Task Force made recommendations to further expand and strengthen the fight against intellectual property crime. The recommendations, each of which is now implemented or implemented and ongoing, are set forth below.

(1) Create five additional Computer Hacking and Intellectual Property ("CHIP") Units in regions of the country where intellectual property producers significantly contribute to the national economy. These areas are the District of Columbia; Sacramento, California; Pittsburgh, Pennsylvania; Nashville, Tennessee; and Orlando, Florida;

(2) Reinforce and expand existing CHIP Units located in key regions where intellectual property offenses have increased, and where the CHIP Units have effectively developed programs to prosecute CHIP-related cases, coordinate law enforcement activity, and promote public awareness programs;

(3) Designate CHIP Coordinators in every federal prosecutors' office and make the coordinators responsible for intellectual property enforcement in that region;

(4) Examine the need to increase resources for the Computer Crime and Intellectual Property Section of the Criminal Division in Washington, D.C., to address additional intellectual property concerns;

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(5) Recommend that the FBI increase the number of Special Agents assigned to intellectual property investigations, as the Department of Justice itself increases the number of prosecutors assigned to intellectual property enforcement concerns;

(6) Recommend that the FBI increase the number of personnel assigned to search for digital evidence in intellectual property cases;

(7) Dismantle and prosecute more nationwide and international criminal organizations that commit intellectual property crimes;

(8) Enhance programs to train prosecutors and law enforcement agents investigating intellectual property offenses;

(9) Prosecute aggressively intellectual property offenses that endanger the public's health or safety;

(10) Emphasize the importance of charging intellectual property offenses in every type of investigation where such charges are applicable, including organized crime, fraud, and illegal international smuggling;

(11) Enhance its program of educating and encouraging victims of intellectual property offenses and industry representatives to cooperate in criminal investigations. Recommended enhancements include:

(A) Encouraging victims to report intellectual property crime to law enforcement agencies;

(B) Distributing the new "Department of Justice Guide to Reporting Intellectual Property Crime" to victims and industry representatives regarding federal intellectual property offenses; and

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(C) Hosting a conference with victims and industry representatives to educate participants on how they can assist in law enforcement investigations; and

(12) Issue internal guidance to federal prosecutors regarding how victims can assist prosecutors in intellectual property cases.

B. INTERNATIONAL COOPERATION RECOMMENDATIONS

International cooperation is critical to stemming the tide of global intellectual property crime. Foreign governments must themselves prosecute intellectual property criminals and assist the United States in gathering evidence and prosecuting those who violate American intellectual property laws. Accordingly, in 2004, the Task Force recommended that the Department adopt the following recommendations regarding international cooperation.

(1) Deploy federal prosecutors to Hong Kong and Budapest, Hungary, and designate them as "Intellectual Property Law Enforcement Coordinators" ("IPLECs") to coordinate intellectual property enforcement efforts in those regions;

(2) Recommend that the FBI co-locate Legal Attachés with intellectual property expertise to Hong Kong and Budapest, Hungary, to assist the newly assigned IPLECs in investigative efforts;

(3) Direct prosecutors and agents to increase the use of alternative channels of communication, such as "law enforcement-to-law enforcement" contacts, to collect information and evidence quickly in foreign investigations;

(4) Enhance its intellectual property training programs for foreign prosecutors and law enforcement investigators in coordination with the Department of State;

(5) Prioritize treaty negotiations for legal assistance agreements with foreign governments where intellectual property enforcement is a significant problem;

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(6) Ensure that intellectual property crimes are included in all extradition treaties and prioritize negotiations with foreign countries according to intellectual property enforcement concerns; and

(7) Emphasize intellectual property enforcement issues during discussions with foreign governments.

C. CIVIL ENFORCEMENT

The Department of Justice fights against the theft of intellectual property most visibly through its enforcement of the Nation's criminal laws. The successful defense of intellectual property rights, however, also requires vigorous enforcement by the owners of intellectual property through the civil justice system. In 2004, the Task Force made the following recommendation regarding the Department of Justice's efforts to protect intellectual property rights in the civil courts.

(1) Support Civil Enforcement of Intellectual Property Laws by Owners of Intellectual Property Rights.

D. ANTITRUST RECOMMENDATIONS

The Antitrust Division's mission is to enforce federal antitrust laws. However, intellectual property plays an increasingly important role in the Antitrust Division's merger and civil non-merger investigations, and the Department of Justice bears in mind that the antitrust and intellectual property laws share the common purpose of promoting innovation and enhancing consumer welfare. The Department of Justice recognizes that enforcing antitrust laws in a way that condemns beneficial uses of intellectual property rights could undermine pro-competitive incentives. Accordingly, the Task Force made the recommendations listed below.

(1) Support the rights of intellectual property owners to decide independently whether to license their technology to others.

(2) Encourage trade associations and other business organizations seeking to establish industry

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standards for the prevention of intellectual property theft to use the Department of Justice's business review procedure for guidance regarding antitrust enforcement concerns.

(3) Continue to promote international cooperation and principled agreement between nations on the proper application of antitrust laws to intellectual property rights.

E. PREVENTION RECOMMENDATIONS

Education is a key tool in Department of Justice's mission to promote intellectual property protection. The Department is constantly exploring opportunities to educate the public about intellectual property laws and the role that the Department of Justice plays in enforcement of those laws. In addition, the Department of Justice continues to form partnerships with victims of intellectual property theft in common educational initiatives. Accordingly, the recommendations set forth below were designed to increase the Department of Justice's effectiveness in preventing intellectual property crimes from occurring and raising public awareness.

(1) Develop a national education program to prevent intellectual property crime.

(A) Developing materials for student educational programs;

(B) Creating partnerships with non-profit educational organizations to promote public awareness regarding intellectual property crimes;

(C) Developing a video to teach students about the negative consequences of intellectual property theft; and

(2) Educate the public regarding the Department of Justice's policy on peer-to-peer networks.

(3) Promote authorized use and awareness of the FBI's new anti-piracy seal and warning.

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C. Increase Efforts to Seize Counterfeit Goods at Our Borders

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UNITED STATES DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

I. SUMMARY OF AGENCY MISSION

CBP and ICE are the component agencies within the U.S. Department of Homeland Security (DHS) that are charged with executing intellectual property rights laws.

U.S. Customs and Border Protection (CBP)

CBP's primary mission is to detect and prevent terrorists and terrorist weapons from entering the United States, while facilitating the orderly and efficient flow of legitimate trade and travel at and through our Nation's borders. In addition, CBP is charged with carrying out all of the traditional missions of the unified border agencies, including interdicting illegal drugs and other contraband at and beyond the border (where possible); apprehending individuals who are attempting to illegally enter the United States; screening inbound and outbound people, vehicles and cargo; enforcing all laws of the U.S. at the border; protecting U.S. agricultural and economic interests from harmful pests and diseases; regulating and facilitating international trade; collecting import duties; and, ensuring that appropriate training, detection equipment, technology, and operational support is available to carry out the foregoing mission.

U.S. Immigration and Customs Enforcement (ICE)

ICE is an investigative agency, charged with the protection of the American people and the U.S. economy by combating those who seek to exploit U.S. borders for criminal or terrorist purposes. ICE special agents and officers use ICE's unified immigration and customs authorities to identify, investigate, apprehend and

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remove transnational criminal groups and others who seek violate our laws. ICE has a wide-ranging law enforcement mission, including money laundering and other financial crimes, customs fraud and IPR violations, alien smuggling and human trafficking, drug smuggling, weapons smuggling, export crimes, cyber crimes, immigration document and benefit fraud and criminal gang enforcement. Through these efforts, ICE makes a strong contribution to American economic, border, homeland and national security.

The roles of CBP and ICE in intellectual property rights enforcement are interrelated. When CBP interdicts and seizes counterfeit goods, the matter is referred to ICE for investigation. Conversely, information from ICE investigations and operations that is useful for targeting and interdicting shipments of counterfeit goods will be provided to CBP.

ROLES OF THE AGENCIES

CBP is an administrative agency with the legal authority – under the Tariff Act of 1930, the Lanham Act of 1946 and the Copyright Act of 1976 – to make infringement determinations regarding federally registered trademarks and copyrights. Although CBP has no legal authority to make patent infringement determinations, it does have the authority to exclude from entry into the United States goods that the U.S. International Trade Commission has determined to infringe a valid and enforceable U.S. patent.

Through its enforcement powers combined with its administrative authority to make trademark and copyright infringement determinations, CBP is able to combat the flow of counterfeit and piratical goods into the United States. CBP may, on its own accord, initiate enforcement actions to detain or seize infringing merchandise, or alternatively, it may proceed on the basis of information supplied by rights owners. Enforcement actions represent the combined efforts of many disciplines within CBP. In some instances, intellectual property rights (IPR) enforcement actions may also be undertaken in cooperation with other Government agencies.

Rights owners who so wish can record their trademarks and copyrights with CBP. CBP's IPR recordation system, as embodied in its electronic IPR database (IPR Module), was designed to make IPR information

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relating to imported merchandise readily available to CBP personnel. CBP enforces both recorded and non-recorded trademarks and copyrights; however, enforcement of recorded trademarks and copyrights takes precedence over those that are not recorded with CBP.

ICE is a law enforcement agency with the authority to investigate violations of U.S. law that have a nexus to the borders. For example, ICE investigates the importation and subsequent distribution of counterfeit goods, using a variety of investigative techniques, such as undercover operations, wiretaps, surveillances and controlled deliveries. ICE investigations are furthered through the execution of federal search, seizure and arrest warrants, and the evidence obtained is submitted to the U.S. Attorney's Office for federal prosecution. In addition to responding to investigative referrals and seizures by CBP, ICE also initiates IPR investigations through informants, undercover operations and outreach to industry partners.

II. CBP MAJOR PROGRAM ACTIVITIES

Strategy Targeting Organized Piracy (STOP!)

As the primary U.S. border enforcement agency, CBP is a key player in STOP!, working to stop trade in counterfeit and pirated goods at U.S. borders. Under STOP!, CBP diversified its approaches to IPR enforcement to include new techniques that complement traditional enforcement methods. CBP's STOP! initiatives focus on fighting the trade in fakes through improved risk analysis, identifying business practices linked to IPR theft, depriving counterfeiters and pirates of illicit profits, and making it easier for rightsholders to work with CBP to enforce their rights. To fulfill the goals of the STOP! Initiative CBP has developed and initiated the following programs:

- ***Risk Modeling.*** CBP's IPR risk model is designed to enhance current efforts by CBP officers to identify counterfeit and pirated goods at our borders. Through the use of innovative statistical analysis, CBP is using technology to improve its ability to detect and intercept fakes at our borders. Unlike traditional approaches to risk assessment and targeting of imports for inspection, the model

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applies statistical analysis techniques and external information to assess IPR risk. The risk model gives significant emphasis to CBP's IPR enforcement and import data while infusing other agency assessments on IPR risk, including information from the Office of the United States Trade Representative's (USTR) Special 301 Report on the adequacy of IPR protection in various countries throughout the world. Based on successful testing in 2005, CBP is now implementing the model.

- ***Post-entry Verification ("IPR audits").*** With post-entry verification or "IPR audits," CBP added a new IPR enforcement tool to complement traditional physical examination of goods at the border. In fiscal year 2005, CBP included IPR audits in its national audit plan for the first time, and trained a new group of employees, its regulatory auditors, on IPR to enable them to apply their auditing skills to the enforcement of intellectual property rights. In addition to receiving training from CBP's own staff, the auditors also attend training provided by trademark and copyright owners. IPR audits have been performed or in progress on more than 30 companies. CBP has issued penalties totaling over $4 million on imports of counterfeit goods uncovered during IPR audits and is working with companies to develop internal control systems to prevent imports of counterfeit and pirated goods. In IPR audits, CBP has found that most companies lack procedures to prevent imports of IPR infringing goods.

- ***Streamlining the CBP IPR recordation process.*** In December 2005, CBP announced the launch of an on-line recordation system for trademarks and copyrights and, in collaboration with the U.S. Patent and Trademark Office (USPTO), established a link between USPTO's website and CBP's website to help businesses protect their rights at the border. This new system allows businesses to electronically file IPR recordation applications with CBP, significantly reducing the amount of time required to process the applications. Some additional benefits of the new system include elimination of paper applications and supporting documents; ability to upload images of the protected work or trademark, thus making pictures of the protected right available to CBP Officers throughout the nation; and reduced time from filing of the application to enforcement action at our borders.

  - CBP is currently working with the U.S. Copyright Office to create a similar link from their website to the CBP Intellectual Property Rights e-Recordation webpage.

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- ***Copyright Regulations.*** CBP has issued proposed rules changing its copyright regulations to enhance protection of sound recordings, motion pictures, and other audio-visual works by allowing them to be recorded with CBP while pending copyright registration. The early recording will provide CBP with the information it needs to prevent importation of pirated works into the U.S.

- ***Outreach to Foreign Governments.*** CBP participated in the interagency STOP! World Tour in 2005, where its focus was promotion of risk modeling and post-entry verification. Asian and European partners were visited (Singapore, Hong Kong, Japan, Korea, United Kingdom, France, Germany, and the European Commission) to build international support for STOP! goals.

Additional CBP activities related to STOP! objectives include:

- ***International IPR Training.*** In collaboration with the U.S. Patent and Trademark Office, the U.S. Department of Commerce, and U.S. Immigration and Customs Enforcement, CBP participated in international IPR border enforcement training programs in Russia, Thailand, Mexico, and Peru.

- ***Industry Outreach.*** CBP works with Industry on an ongoing basis to combat IPR infringement. CBP participates in various IPR events and coordinates with Industry on IPR training.

  - Program Participation: CBP regularly participates in industry and bar association functions as well as meeting with rightsholders individually to educate rightsholders and their representatives on working with CBP to enforce their rights, to provide information on IPR enforcement efforts and to discuss new CBP initiatives. Following is a list of some industry outreach activities in which CBP participated this year: International Anti-Counterfeiting Coalition Conferences, Designer Goods and Sporting Goods IPR Industry Roundtables, Motor Equipment Manufacturers Association Conference, and U.S. Chamber of Commerce meetings.

  - Product Identification Training: CBP continued to coordinate with Industry to provide product identification training to CBP field officers. In this training, rightsholders educate CBP's officers and provide materials to help CBP detect and interdict counterfeit and pirated goods.

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- ***Raising Public Awareness.*** To help raise public awareness of counterfeiting and piracy, and inform the public of its IPR enforcement efforts, CBP gave numerous interviews, including several to a national television syndicate with more than 70 stations nationwide, to local television stations, to national print media such as the Wall Street Journal and PC World, and to local newspapers.

CBP National IPR Trade Strategy

CBP's National Trade Strategy directs actions and resources around priority trade issues. Intellectual property rights enforcement is a CBP Priority Trade Issue. As such, IPR enforcement is integrated into the work of offices throughout CBP, and CBP provides diverse training to its officers to enable them to respond to security, narcotics and trade issues, including IPR. CBP's National IPR Trade Strategy incorporates the STOP! initiative.

CBP's commitment to combating IPR violations is evidenced in its continued efforts to improve the efficacy of its IPR enforcement regime; this is reflected in the DHS's annual IPR seizure statistics. In fiscal year 2005, DHS seized 8,022 shipments with a domestic value of approximately $93.2 million, a 10.5 % increase in seizures over fiscal year 2004. In the last five fiscal years (Fiscal Years 2001-2005), the number of IPR seizures increased 125% and the domestic value increased 62%. During this period, DHS made 31,156 seizures with an estimated domestic value of over $482 million. At the midpoint of FY 2006, DHS has already seized almost 6,000 shipments, up 72% over the same period in FY 2005. More detailed enforcement statistics are available on the CBP website at ***www.cbp.gov***.

Additionally, CBP is actively enforcing a number of exclusion orders issued by the International Trade Commission (ITC) to exclude from entry into the commerce of the United States goods that the ITC determined to infringe valid and enforceable patents. Of note are exclusion orders against certain lens-fitted film packages also known as one-time use cameras or disposable cameras that infringe on one or more of fifteen patents owned by Fuji Photo Film Company, Ltd.; and against certain sildenafil, which is an active ingredient in Viagra®, or other pharmaceutically acceptable salts such as sildenafil citrate that infringe on one or more claims of a patent owned by Pfizer, Inc.

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Other CBP International Activities

World Customs Organization. CBP is a member of the World Customs Organization (WCO) IPR Strategic Working Group. The Group was developed as a joint venture with international business sponsors to help WCO Member Administrations improve the efficiency and effectiveness of their organizations in combating IPR violations. On behalf of the WCO Secretary General, the Group is exploring ideas for combating piracy and counterfeiting in four areas: free zones and transshipping, information exchange, destruction and recycling, and Internet piracy. CBP co-chairs the Customs IPR Expert Group, a subgroup of the WCO IPR Strategic Group consisting of the customs administration members only that provides a forum for customs-to-customs discussions on law enforcement topics inappropriate for business participation.

U.S.-E.U. IPR Working Group. At the 2005 U.S.-E.U. Summit, the U.S. and E.U. agreed to work together to fight global piracy and counterfeiting. Subsequently, the U.S. and E.U. agreed to develop an IPR Cooperation Strategy, and to establish an interagency U.S.-E.U. IPR Working Group to develop the strategy. As part of this strategy, CBP and its EU counterparts have developed and begun implementing an action plan to promote strong and effective border enforcement for IPR through customs cooperation.

Bilateral Trade Negotiations/Discussions and Monitoring. CBP supports USTR in the negotiation of free trade agreements and other bilateral discussions such as those with China and Japan by providing technical expertise on IPR border enforcement. CBP also actively participates in USTR's annual Special 301 review.

Group of 8 (G8) IPR Experts Discussions. As a member of two State Department led U.S. delegations to the G8 IPR Experts Meetings, CBP participated in successfully promoting U.S. objectives for improving IPR enforcement.

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III. ICE IPR Enforcement Efforts and Significant Investigations

ICE, through the National Intellectual Property Rights Coordination Center (IPR Center), works with rights owners and IP trade associations on an ongoing basis to identify, investigate and prosecute IPR violators, with an emphasis on large scale, complex transnational conspiracies. The IPR Center educates industry and the international law enforcement community through outreach and training initiatives on growing counterfeiting trends and investigative techniques critical to successful IPR enforcement. During FY 2005, the IPR Center initiated more than 27 outreach sessions. During that same period, the IPR Center initiated field referrals that led to the generation of more than 51 ICE IPR investigations. From FY 2001 - 2005, ICE recorded 786 arrests, 483 federal criminal indictments and 529 convictions for trafficking in counterfeit goods and related crimes.

ICE has observed the following trends in its IPR investigations:

- The growing use of the Internet to advertise, market, facilitate and distribute counterfeit merchandise, and to complete transactions via secure electronic payment.

- The increasing presence of Organized Crime groups involved in the production, illegal importation and distribution of counterfeit goods.

- The existence of sophisticated trade-based money laundering activities, including *hawala* money transfer systems, to foster and facilitate the sale of the counterfeit goods destined for U.S. commerce; and that,

- The proceeds of counterfeiting are being used to further other criminal activity, such as narcotics distribution, extortion, gambling and alien smuggling.

ICE has conducted a number of successful IPR investigations. These investigations demonstrate the variety and complexity of counterfeiting scenarios that ICE encounters, as well as the domestic and international cooperation often required to bring these matters to successful resolution.

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- In August 2003, ICE initiated "Operation Panda," an ongoing ICE-led task force investigation conducted jointly with the Federal Bureau of Investigation and the New York City Police Department. The operation targeted five Asian organized crime groups operating in New York City. Through a loose confederation, these groups and related criminal associates allegedly acted in concert to support criminal activities that included numerous acts of violence in New York's Chinatown areas. In November 2004, a federal grand jury returned indictments for racketeering offenses (RICO), attempted murder, extortion, alien smuggling, money laundering, trafficking in counterfeit goods and the operation of large-scale illegal gambling businesses. ICE collected approximately $200,000 in illegal proceeds from these groups and shut down an illegal money remitting operation that was sending upwards of $3,000,000 annually between China and the U.S. This case is currently active as the prosecution is continuing.

- In June 2004, the SAC New York initiated enforcement actions as part of "Operation Executive." The investigation resulted in the execution of five federal search warrants, the arrest of thirteen individuals, the seizure of the contents of eleven bank accounts totaling more than $650,000, as well as the contents of six containers valued in excess of $24 million. The investigation's undercover operation identified individuals and organizations responsible for the large-scale manufacturing and smuggling of counterfeit trademarked merchandise into the U.S. from the People's Republic of China (PRC). The U.S. distributors were of Middle-Eastern descent and were considered to be among the largest distributors of counterfeit merchandise in the New York area.

- In July 2004, a Chinese national and owner of XYZ Trading of Houston, Texas was convicted of trafficking in counterfeit goods and sentenced to 63 months incarceration. His conviction was associated with counterfeit goods that posed significant public health and safety concerns. In November 2003, ICE agents initiated federal search warrants that were based on an ICE and CBP examination of a container imported from the PRC by XYZ Trading. Numerous unmanifested counterfeit trademark items were discovered which included counterfeit Underwriters Laboratories certified electrical cords and batteries. These items were consistently found to contain substandard materials, to include mercury, that would short out and cause fires or damage connected equipment.

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The investigation, which included federal search warrants in Texas and New York, resulted in the seizure of counterfeit electrical cords, batteries and other counterfeit trademark merchandise, valued in excess of $6 million and the arrest and conviction of two subjects.

- In July 2004, "Operation Spring," the first transnational joint investigation by ICE and the PRC, resulted in the arrest of Randolph Guthrie and ten PRC nationals in Mainland China. The investigation was generated from information provided by the Motion Picture Association of America, who considered Guthrie to be the largest worldwide distributor of pirated DVD movies. PRC officials seized approximately 160,000 counterfeit DVDs valued at approximately $3.5 million and approximately $200,000 in U.S. and Chinese currency. Guthrie was convicted in a Shanghai court on criminal charges and sentenced to a jail term of 30 months in the PRC. In late September 2005, Chinese authorities expelled Guthrie and ICE agents arrested him upon his return to the U.S to face charges here. He pled guilty in January 2006 and forfeited more than $800,000. Guthrie was sentenced to 60 months in prison; 3 years supervised release, and was fined an additional $15,000.

- In December 2004, ICE and the FBI conducted a joint investigation into an organization of illegal Israeli nationals involved in the distribution at shopping mall kiosks in various cities in the United States of video consoles containing counterfeit Nintendo software and games. The investigation resulted in the seizure of approximately 4,000 pieces of counterfeit merchandise and the arrest of Yonathan Cohen, the owner of the company. Cohen was subsequently convicted of criminal copyright infringement and sentenced to 60 months in prison.

- In January 2005, ICE Jacksonville, FL, initiated Super Bowl IPR Operation "End Zone" in anticipation of Super Bowl XXXIX. ICE, in coordination with the NFL Fraud Division, and federal, state, and local law enforcement agencies, executed an IPR operation targeting fraudulent NFL properties, such as clothing, tickets and publications. ICE Jacksonville and the IPR Center produced literature to solicit the assistance of Super Bowl sponsors, licensees, manufacturers, importers and retailers of authorized Super Bowl XXXIX merchandise, as well as the general public.

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ICE also conducted an extensive distribution of the literature together with industry and law enforcement outreach in support of this initiative. Operation "End Zone" resulted in the seizure of counterfeit merchandise valued at approximately $650,000.

- In February 2005, ICE, the FBI and the San Diego County Computer and Technology Crime High-Tech Response Team conducted joint undercover operation, "Operation Elite Torrents." The operation resulted in the service of ten federal search warrants in three states. The Internet peer-to-peer (P2P) network, ELITE TORRENTS, provided its members with original material for the online trading of pirated media. BitTorrent software allowed for P2P file sharing among its approximately 134,000 members throughout the United States and the world. P2P networking enables individual users, utilizing a software client, to establish a direct connection between their computers, allowing users to transfer data files.

- In February 2005, ICE Detroit initiated Super Bowl IPR "Operation Grid Iron" in anticipation of the city of Detroit, Michigan, hosting Super Bowl XL. "Operation Grid Iron" was devised to identify and investigate individuals, businesses, and criminal organizations attempting to profit from the illegitimate sales of counterfeit Super Bowl merchandise. ICE Detroit, in consultation with the IPR Center, the National Football League, the ICE Headquarters Commercial Fraud & IPR Unit, and federal, state, and local law enforcement agencies, prepared an IPR program targeting counterfeit products. The operation resulted in seizures of counterfeit merchandise valued in excess of $530,000.

- In 2001, the former U.S. Customs Service, in conjunction with the Department of Justice, conducted an operation that involved more than 65 searches in the U.S. and five foreign countries related to the international copyright piracy investigation "Operation Buccaneer". As of October 2002, 16 defendants had been convicted in the U.S. of felony criminal copyright offenses, including conspiracy to commit those offenses, and 13 defendants were sentenced to federal prison terms of up to 46 months. In May 2005, three individuals in the United Kingdom who were part of the network of cyber-pirates and were responsible for cracking software protection codes received jail

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terms of between 18 and 30 months. These three were among eight Britons arrested by the U.K.'s National Hi-Tech Crime Unit following the U.S. led international copyright piracy investigation.

- In August 2005, "Operation Ocean Crossing," the second transnational joint investigation with the PRC, resulted in the arrests of Richard Cowley in the U.S., and eleven Chinese nationals in the PRC. Cowley subsequently pled guilty to importing counterfeit drugs. The investigation was developed after the ICE Attaché/Beijing office received separate information from Eli Lilly and Pfizer representatives, identifying Cowley, of Shelton, Washington, and a PRC based counterfeit pharmaceutical distribution group, as being involved in the sale of counterfeit pharmaceuticals in the U.S., the United Kingdom, and other locations throughout Europe. Three illicit pharmaceuticals facilities were shut down and authorities made the largest seizure of counterfeit pharmaceuticals in the PRC to date. PRC agents seized approximately 222,300 tablets, 55,500 blister packs and 75 kilograms of loose pills of counterfeit Viagra and Cialis, 260 kilograms of raw materials, 580,000 counterfeit Viagra trademark labels and packages and 13 pieces of equipment used to manufacture counterfeit pharmaceuticals.

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UNITED STATES COORDINATOR FOR
INTERNATIONAL INTELLECTUAL PROPERTY ENFORCEMENT

UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES DEPARTMENT OF HOMELAND SECURITY
UNITED STATES DEPARTMENT OF JUSTICE
UNITED STATES DEPARTMENT OF STATE
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

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JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Thursday, September 28, 2006 12:39 PM
Subject: Service Interruption Resolved: Availability to Public G:Drive Restored

Service Interruption - Public G:\ Drive Restored

The issue we experienced with the Public G:\ Drive has been resolved.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 12:48 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT DISMISSES ANTITRUST LAWSUIT AGAINST EXELON CORP. AND PUBLIC ENTERPRISE SERVICE GROUP INC.

(A PDF of the Notice of Dismissal is attached below.)

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 28, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT DISMISSES ANTITRUST LAWSUIT AGAINST EXELON CORP. AND PUBLIC ENTERPRISE SERVICE GROUP INC.

Exelon Abandons Efforts to Acquire PSEG

WASHINGTON — The Department of Justice today announced that it filed a notice with the U.S. District Court for the District of Columbia to dismiss its antitrust complaint challenging the potential acquisition of Public Service Enterprise Group Inc. (PSEG) by Exelon Corp. Exelon has formally abandoned its effort to acquire PSEG, and therefore the lawsuit and proposed consent decree are no longer necessary, the Department said.

Background

On June 22, 2006, the Department filed an antitrust lawsuit in U.S. District Court for the District of Columbia alleging that the acquisition would harm competition in markets for wholesale electricity in the Mid-Atlantic region. At the same time, the Department filed a proposed settlement of the lawsuit that would preserve competition by requiring Exelon to divest six electricity generating plants, with a total generating capacity of more than 5,600 megawatts, in order to proceed with its $16 billion acquisition of PSEG.

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06-657

Exelon-PSEG
Notice of Dismissa...

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA Plaintiff, v. EXELON CORPORATION and PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED Defendants.	CASE NUMBER 1:06CV01138 JUDGE: John D. Bates DATE STAMP:

PLAINTIFF'S NOTICE OF DISMISSAL OF COMPLAINT

Plaintiff United States of America, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, hereby dismisses all causes of action in the complaint against defendants Exelon Corporation ("Exelon") and Public Service Enterprise Group Incorporated ("PSEG") without prejudice.

The United States is dismissing this action because there is no longer a basis for the relief sought by the United States. This action was brought to prevent the acquisition of PSEG by Exelon. Since the complaint was filed, however, Exelon has formally abandoned its effort to acquire PSEG, and has withdrawn its Hart-Scott-Rodino Pre-Merger Notification filing for that proposed transaction.

Exelon and PSEG have filed neither an answer to the complaint nor a motion for summary judgment as to these claims. Dismissal under Rule 41(a)(1) is therefore appropriate.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

/s/

Mark J. Niefer (DC Bar #470370)
Department of Justice
Antitrust Division
325 Seventh Street, NW
Suite 500
Washington, DC 20530
Tel: (202) 307-6318
Fax: (202) 307-2784

Dated: September 27, 2006

DOJ_NMG_ 0168833

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2006, I caused a copy of the foregoing Plaintiff's Notice of Dismissal of Complaint to be served on counsel for Defendants in this matter in the manner set forth below:

By electronic mail and hand delivery:

Counsel for Defendant Exelon Corporation
John M. Nannes, Esq. (DC Bar #195966)
Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates
1440 New York Ave., NW
Washington, DC 20005-2111
Tel: (202) 371-7090
Fax: (202) 661-9191

Counsel for Defendant Public Service Enterprise Group, Inc.
Douglas G. Green, Esq. (DC Bar #183343)
Steptoe & Johnson, LLP
1330 Connecticut Ave., NW
Washington, DC 20036-1795
Tel: (202) 429-6264
Fax: (202) 429-3902

/s/
Mark J. Niefer
Counsel for Plaintiff

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Image not available for this document, ID: 0.7.10316.28414-000003

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 617658 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 617659 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, September 28, 2006 4:12 PM
Subject: Mail Delays up to One Hour

Mail Delays

Both inbound and outbound Internet e-mail flow is backlogged at this time. The delay began this afternoon at approximately 3:00 pm. In the last half hour there was a large influx of mail. The approximate delay is an hour. Another e-mail will be sent when normal mail flow resumes.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, September 28, 2006 4:31 PM
Subject: Mail Delay: Resolved

Mail Delay: Resolved

The inbound and outbound Internet e-mail delay has been resolved, email traffic flow is back to normal.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 5:30 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE GEORGETOWN UNIVERSITY LAW CENTER CONFERENCE ON THE JUDICIARY

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, SEPTEMBER 28, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE GEORGETOWN UNIVERSITY LAW CENTER CONFERENCE ON THE JUDICIARY

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the Georgetown University Law Center Conference on the Judiciary on **FRIDAY, SEPTEMBER 29, 2006 at 9:00 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks at the Georgetown University Law Center Conference on the Judiciary

WHEN: **FRIDAY, SEPTEMBER 29, 2006**
9:00 A.M. EDT

WHERE: McDonough Building
Hart Auditorium
600 New Jersey Avenue N.W.
Washington, D.C.
POOL COVERAGE ONLY

NOTE: Due to space limitations, all other media wishing to cover the event **must** contact Elissa Free of the Georgetown University Law Center at ebf4@law.georgetown.edu or (202) 662-9519.

# # #

06-660

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From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 5:32 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE U.S. CHAMBER OF COMMERCE INTELLECTUAL PROPERTY SUMMIT

Department of Justice

FOR PLANNING PURPOSES ONLY
THURSDAY, SEPTEMBER 28, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE U.S. CHAMBER OF COMMERCE INTELLECTUAL PROPERTY SUMMIT

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the U.S. Chamber of Commerce Intellectual Property Summit on **FRIDAY, SEPTEMBER 29, 2006 at 9:45 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks at the U.S. Chamber of Commerce Intellectual Property Summit

WHEN: **FRIDAY, SEPTEMBER 29, 2006**
9:45 A.M. EDT

WHERE: U.S. Chamber of Commerce
Hall of Flags
1615 H Street, N.W.
Washington, D.C.
OPEN PRESS

NOTE: Pre-set for all media wishing to cover the event is **9:15 A.M. EDT.** Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202) 532-3486 or Katie Wilson of the U.S. Chamber of Commerce at (202) 463-5375.

# # #

06-661

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Image not available for this document, ID: 0.7.10316.28296-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 5:45 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF DISABILITY DISCRIMINATION AGAINST TEXAS DEVELOPERS, ARCHITECTS, AND ENGINEERS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, SEPTEMBER 28, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF DISABILITY DISCRIMINATION AGAINST TEXAS DEVELOPERS, ARCHITECTS, AND ENGINEERS

WASHINGTON – The Justice Department today settled a lawsuit against 10 Austin, Texas developers, builders, architects, and engineers alleging disability discrimination in the design and construction of two housing developments in Austin. The suit, filed in U.S. District Court for the Western District of Texas, was brought to enforce provisions of the federal Fair Housing Act that require recently constructed dwellings to include features designed to make the dwellings more accessible to persons with physical disabilities.

"People with disabilities, like all Americans, deserve the opportunity to obtain fair housing in their communities," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "This lawsuit under the Fair Housing Act helps to ensure that we remain a welcoming society for all Americans."

Under the consent decree, which must be approved by the court, the following companies have all agreed to make accessibility retrofits at St. John's Village and Hunting Meadows Apartments.

– Legend Communities Inc., which does business as, SDC Austin, Communities
– Randall Jones Engineering, Inc.
– Alexander Consulting Engineers, Inc., which does business as, Professional Design Group
– Trugreen Landcare, L.L.C., which does business as, Land Design Studio
– Hatch Partnership, L.L.P., Architects
– Danze & Davis Architects, Inc.
– St. John's Housing Partnership, L.P.
– SMDC Development, Inc.
– Decker Lane Partners, L.P., and
– SDCW Development Corp.

St. John's Village is a complex of 156 rental apartments, including 52 ground-floor units, and Huntington Meadows has 200 rental apartments, including 110 ground-floor units. Under the Fair Housing Act, ground-floor units in non-elevator buildings must contain certain accessible features, such as: usable doors; accessible routes into and through the units; accessible light switches, electrical outlets, thermostats and other

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environmental controls, reinforced walls in bathrooms for installation of grab bars; and usable kitchens and bathrooms.

The defendants will retrofit parking areas, paths and walkways, public and common-use areas, as well as the interiors of ground-floor units, to enhance the accessibility of the complexes to disabled residents and their guests. The decree also requires the defendants to establish a $50,000 fund which will be used to compensate individuals harmed by the inaccessible housing, and to pay $10,000 in civil penalties to the government. The settlement also mandates the defendants to undergo training on the requirements of the Fair Housing Act and to make periodic reports to the government on the status of their facilities.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since January 1, 2001, the Justice Department's Civil Rights Division has filed 209 cases to enforce the Fair Housing Act, including 97 based on disability discrimination. For more information about the Civil Rights Division and the laws it enforces, visit www.usdoj.gov/crt.

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06-658

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Image not available for this document, ID: 0.7.10316.28288-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 618133 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Thursday, September 28, 2006 5:58 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL JURY CONVICTS TWO FOR CROSS BURNING

Department of Justice

FOR IMMEDIATE RELEASE — CRT
THURSDAY, SEPTEMBER 28, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

FEDERAL JURY CONVICTS TWO FOR CROSS BURNING

WASHINGTON – A federal jury today convicted Christopher Mitchell and James Bradley Weems of burning a cross in front of the home of an African-American man in Fouke, Ark. The jury convicted each defendant of one count of conspiracy to violate the victim's civil rights.

The evidence at trial established that on the night of August 5, 2005, Mitchell and Weems, attended a party where they discussed an African-American man who lived nearby, using racial slurs to describe him. The defendants, along with a third man, Christopher Baird, who had pleaded guilty to his role in the offense, used wooden boards to erect a cross. The defendants then planted the cross near the home of the African-American man and lit it on fire. Witnesses testified that as a result of the cross burning, the African-American victim and the family he lived with all moved from their home because they were too frightened to remain in the town.

"Few symbols of racial hatred are as grotesque as a cross burning," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "People have the right to live where they choose, free from such threats based on bigotry. The Department of Justice will continue to vigorously prosecute such offensive and criminal conduct."

The case was investigated by Special Agents from the Federal Bureau of Investigation. The case was prosecuted by Trial Attorneys Christine Dunn and John Richmond of the Civil Rights Division of the Department of Justice.

Prosecuting the perpetrators of bias-motivated crimes is a top priority of the Justice Department. Since 2001, the Civil Rights Division has charged 161 defendants in 102 cases of bias-motivated crimes.

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06-662

DOJ_NMG_ 0168852

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Image not available for this document, ID: 0.7.10316.28289-000002

System Administrator

From:	System Administrator
Sent:	Thursday, September 28, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 618306 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 618307 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

[redacted]@kochind.com

From: [redacted]@kochind.com
Sent: Friday, September 29, 2006 9:16 AM
Subject: Open Koch Industries DC Position
Attachments: tmp.htm

We are looking to hire someone for our DC office. A description of the job is copied below as well as the link. If you have any ideas or resumes please send them to me. The worst part of the job is I'm going to be this person's boss!

The job description is copied below. Also, here is the link:
http://koch.hrdpt.com/cgi-bin/c/highlightjob.cgi?jobID=333695

****

FEDERAL AFFAIRS REPRESENTATIVE
Position Summary
Working with Executive Director of office; this person will be responsible for managing corporate charitable requests and events, managing the corporate box at Verizon Center and other ticketed events, supporting Federal Affairs activities through research, drafting documents and letters, and representing Koch at meetings, fund raisers and other events.

Roles/Responsibilities

* Coordinate reporting process from federal team to corporate board * Handle donor proposals and requests * Assist or lead Miscellaneous/Special projects * Work with office Executive Director on outside Board fundraising * Coordinate relationships with selected charities * Participate with strategic planning Requirements

* Familiarity with political process
* Strong research skills
* 2+ years Legislative/Executive Branch experience
* Strong Internet research skills
* Organizational Skills
* Writing skills

Experience Preferred

Prior management of social/political events
Experience in a congressional office (state or fed)

Education Required

Bachelor's Degree

Position will require ability to attend events outside of normal working hours.

[redacted]
Executive Director Federal Affairs

Koch Industries, Inc.
655 15th Street, NW
Suite 445
Washington, DC 20005

We are looking to hire someone for our DC office. A description of the job is copied below as well as the link. If you have any ideas or resumes please send them to me. The worst part of the job is I'm going to be this person's boss!

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****

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Bachelor's Degree

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Koch Industries, Inc.
655 15th Street, NW
Suite 445
Washington, DC 20005

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Friday, September 29, 2006 9:27 AM
Subject: Scheduled SMO/JMD JCON Service: POSTPONED

JCON Service Work Cancelled

The previously announced Service Interruption scheduled for Sunday, October 1, 2006, 12:01 am to 6:00 am has been cancelled and will be rescheduled at a later date. The service interruption is being rescheduled due to the end of fiscal year budget activities.

Please disregard the service outage notice sent out on September 27th. All SMO/JMD JCON customers will be notified when the service is rescheduled.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 9:48 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR SEPTEMBER 29, 2006

Department of Justice

PRESS GUIDANCE
Friday, September 29, 2006

ATTORNEY GENERAL

9:00 A.M. EDT

Attorney General Alberto R. Gonzales delivered remarks before the Georgetown University Law Center Conference on the Judiciary regarding judicial independence.
McDonough Building
Hart Auditorium
600 New Jersey Avenue N.W.
Washington, D.C.
OPEN PRESS

9:45 A.M. EDT

Attorney General Alberto R. Gonzales will deliver remarks before the United States Chamber of Commerce Intellectual Property Summit regarding the Department's efforts to protect intellectual property rights.
U.S. Chamber of Commerce
Hall of Flags
1615 H Street N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202) 532-3486 or Katie Wilson of the U.S. Chamber of Commerce at (202) 463-5375.

PRESS RELEASES

DOJ_NMG_ 0168861

The Civil Right Division will issue a release. (Magnuson)

The Antitrust Division will issue a release on a bid rigging matter. (Talamona)

The Tax Division will issue a release on a tax fraud matter. (Miller)

The Environmental and Natural Resources Division will issue a release on a consent decree. (Magnuson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Donna Sellers

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0168862

Image not available for this document, ID: 0.7.10316.28254-000001

Image not available for this document, ID: 0.7.10316.28254-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 9:51 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE GEORGETOWN JUDICIARY CONFERENCE

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE GEORGETOWN JUDICIARY CONFERENCE

WASHINGTON, D.C.

Thank you, and good morning. It is an honor to be here and to share a few thoughts with you on the importance of judicial independence.

I want to begin by thanking all judges for their sacrifice to our country and their contribution to the rule of law. There is no question that my views on the importance of an independent judiciary were molded and defined while I served as a justice of the Texas Supreme Court. I must confess that I accepted the appointment to the court with some reluctance, since I was not an appellate law specialist at the time—I practiced corporate law—and I had never aspired to be a judge. I enjoyed my job as Texas Secretary of State. But I accepted the appointment as a judge because I could think of no better way to continue to serve both my profession and my beloved State of Texas.

While serving on the bench, I learned some lasting lessons pertaining to the topic of this conference.

First, the character of person who sits on the bench is fundamentally important.
Second, the process by which a judge renders a decision is crucial.

And third, it is essential that judges be courageous enough to do the right thing, motivated solely by a respect for the law, undeterred by criticism or the possible outcome of the next election.

I mention elections here because judges in Texas and several other states are required to run in partisan elections. Following my appointment to the court, for example, I – like all other judges on my court – had to raise enough money to run print ads and place television spots around the state in order to retain my seat.

As many of you know, there has been a great deal of debate in recent years about the wisdom of partisan judicial elections. A number of states have implemented other means of judicial selection, including merit selection and appointment with retention elections, in response to this debate.

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I remain concerned about the fact that judicial elections require judges to raise funds — because most contributions to judicial campaigns come from lawyers and law firms, many of whom have had, or will have, cases before the court. The appearance of a conflict of interest is difficult to dismiss.

While I am sure that the number of elected judges who are actually influenced by campaign contributions in deciding cases is very small, surveys in Texas and elsewhere indicate that a significant percentage of voters believe that judges are influenced by campaign funds.

Public perception may be as important as reality in this case. I believe that popular beliefs about the influence of campaign funds on judges' decisions tend to have a corrosive effect on public confidence in a state's judicial system. And if Americans come to believe that judges are simply politicians, or their decisions can be purchased for a price, state judicial systems will be undermined.

Of course, at the federal level, our judges are appointed and have lifetime tenure. Principles of judicial independence are woven tightly into the fabric of our nation's government. Alexander Hamilton championed the concept of life tenure for judges in Federalist 78, arguing that lifetime tenure would be the "best expedient [that] can be devised in any government, to secure a steady, upright, and impartial administration of the laws."

Our Constitution provides lifetime tenure to our federal judges and provides compensation that cannot be diminished because it affords judges the opportunity—and the duty—to make difficult, courageous and at times unpopular decisions.

Elected judges in the states, on the other hand, are not shielded by lifetime tenure from the public's perceptions of their opinions. Nevertheless, I regularly hear about the pressures of public criticism from federal judges.

Now I want to be candid here…respectful, but candid. Virtually every time a judge makes a decision in the pursuit of justice, he or she is going to make someone unhappy. The nature of the job guarantees criticism. I know its uncomfortable at times, tradition and canons of ethics make it more difficult for a judge to respond to criticism. But the concept of judicial independence has never meant, and should never mean, that judges or their decisions should be immune from public scrutiny. We live in a society of free speech and lively debate, and criticism has long been a part of judicial history. In fact, I received my fair share of it when I served on the Texas Supreme Court.

Some criticism is unquestionably inappropriate. For example, the suggestion that judicial decisions might somehow be an explanation or rational for violence is wrong. But most criticism should not be a source of legitimate serious concern for the federal judiciary because they enjoy constitutional protections against its consequences.

Recognizing that criticism will come, judges must resist the temptation to craft opinions to avoid it or to seek approval, whether from the public, from the press, from academia, from elected leaders in the halls of Congress, from other judges, or from a court of appeals.

As a consequence of the independence that the Constitution's Framers provided, federal judges are relatively unaccountable for their decisions. This is why it is so important that judges understand their role in our constitutional democracy and hold themselves accountable to it. When the Constitutional text demands an unpopular result, judges cannot shirk from their responsibilities. They might be criticized; but that's America. In addition, respectfully, when courts issue decisions that overturn longstanding traditions or policies without proper support in text or precedent, they cannot -- and should not -- be shielded from criticism. A proper sense of judicial humility requires judges to keep in mind the institutional limitations of the judiciary and the duties expressly assigned by the Constitution to the more politically accountable branches.

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The Constitution, for example, clearly makes the President the Commander in Chief of the armed forces, and assigns other important war powers to the Congress. The Supreme Court has long recognized, moreover, the Executive's pre-eminent role in foreign affairs. The Constitution, by contrast, provides the Courts with relatively few tools to superintend military and foreign policy decisions, especially during war time. Judges must resist the temptation to supplement those tools based on their own personal views about the wisdom of the policies under review. This is why President Bush has sought to appoint judges who will not carry out a personal agenda on the bench.

During the past five years, as I have had the privilege of advising President Bush on the selection of many of our nation's judges, I have come to appreciate these lessons more than ever.

From my experience, I can tell you that the selection and appointment of judges who are committed to upholding the law, and to serve our country to the best of their ability is extremely important to the President, as it is to me. I have often said that few presidential decisions are more important than lifetime appointments to the federal bench. Many of a president's policies and programs, no matter how popular or worthy, can be undone by the very next president or the next Congress. But a judicial appointment lasts a lifetime. Indeed, these judicial appointments often represent a president's most enduring legacy.

Of course, this legacy has not been limited to filling vacancies in the federal courts of appeals and the district courts. This past year, we saw the passing of a great Chief Justice of the United States, William Rehnquist, and the retirement of another distinguished justice, Sandra Day O'Connor. The President selected two of our country's most outstanding jurists, Chief Justice John Roberts and Justice Samuel Alito, to fill their seats and to carry on the mission entrusted to our nation's Supreme Court.

During their respective confirmation hearings, America's citizens came to know Chief Justice Roberts and Justice Alito as judges who are intelligent, principled, and committed to the rule of law and to the independence of our judiciary. Their testimony before the United States Senate served as a powerful civics lesson, reminding us of the role of judges and the judiciary in our democratic and constitutional systems.

Notably, both Chief Justice Roberts and Justice Alito emphasized the importance of an independent judiciary during their hearings. For example, Chief Justice Roberts succinctly stated: "An independent judiciary is one of the keys to safeguarding the rule of law."

Justice Alito said: "[T]he [federal courts] should be insulated from public opinion. They should do what the law requires in all instances. That's why the members of the judiciary are not elected. We have a basically democratic form of government, but the judiciary is not elected. And that's the reason: so that they don't do anything under fire. They do what the law requires."
I could not say it any better.

In closing, I can tell you that I am confident that the conference's distinguished and learned speakers and participants will provide you with thoughtful and well-informed examinations of the state and health of the nation's judiciary. Above all, I hope that you will leave this conference with a renewed faith in the rule of law and an independent judiciary as cornerstones of our system of government.

Thank you.

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Image not available for this document, ID: 0.7.10316.28249-000002

McKoy, Willie

From: McKoy, Willie
Sent: Friday, September 29, 2006 9:54 AM
To: Arcadi, Tony (USMS); Askew, Rita; ATFbackup; ATR-HelpDesk - Support Requests; Ayers, Louise (TAX); Barr, Bruce; Bracey, Glynnis A; Brown, Jacques; Casas, Edgar (TAX); CATS_ADMIN; Cechman, Matthew F.; Chandler, Jerrold; Clements, Rick (TAX); Clifford, Samuel W. (OIG); Crawford, Russell (CIV); Crowley, Neal R; Dalton, Dennis (CRT); Day, Greg; Debt Collection Mgmt; Durant, Luther M; Eade, Raymond; Eason, Joe (USMS); EMWS Technical Support; EOIR, HELPDESK (EOIR); Feldman, Mike (USAEO); Fisher, Karen (CRT); Ford, Ricky; Foster, Robert (NDIC); FPS Helpdesk (NDIC); Frye, Carlton; Gallmon, Rosalind Purvis (TAX); GSA Services; Hackley, Brennie (USMS); Haggerty, Michael; Henderson, Gary (CIV); ITS Helpdesk (USMS); JCON Broadcast (JMDJCON); JOIN Contractors; Kennison, Jeff (CIV); Knight, David (ENRD); Krutous, Boris (EOIR); Lomax, Joc B; Maclean, Donald; Maimer, Anthony (CRT); Marshall, Robert L; Martinez, Manuel; Miller, Todd (CIV); Monte, Joseph; Muse, Avery Q; NDIC Helpdesk; Neely, Darren; Nelson, David L (NDIC); Norman, Mike; NSC, TSS (Network Service Center); OSS/IS/EP/SOG/WOT All; Palombo, Bill; Passmore, Steve; Rauscher, John; Renninger, Don (NDIC); Reutemann, Michael J. (OIG); Roti, Randy (USAEO); Russell, James S. (CRM Security); SEDS-SDS; Sharp, Garland S; Stinchcomb, Brian; Strother, Michael; STS_OTS_BroadcastNotification; Taylor, Andy; Tayman, Richard (ENRD); Towson, Wayne; Tucker, Samuel; USMS HelpDesk; USPAROLE; Vasquez, Michael (USADC); Whatley, Tina T. (TAX); Woods, Edward; Yun, Jun B
Subject: JCON Accptance of Calls to 888-526-6750
Importance: High

Dear NSC Customer,

On October 1, 2006, the services provided by Department of Justice Network Service Center (NSC) will be consolidated with services provided by the JMD-SMO Justice Consolidated Office Network (JCON) help desk. Impact to your organization if any, should be minimal other than you may notice a difference in the way the initial phone call is answered.

The NSC's existing Toll-Free phone number (888)-526-6750 will remain unchanged. If you have any questions please call me, Victor Fuentes at 202 - 305 - 7112.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 9:57 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE UNITED STATES CHAMBER OF COMMERCE INTELLECTUAL PROPERTY SUMMIT

Department of Justice

FOR IMMEDIATE RELEASE — AG
FRIDAY, SEPTEMBER 29, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE UNITED STATES CHAMBER OF COMMERCE INTELLECTUAL PROPERTY SUMMIT

WASHINGTON, D.C.

Good morning, thank you for inviting me today. And thank you as well to the U.S. Chamber of Commerce for the great work being done through the Coalition Against Counterfeiting and Piracy.

In our 21st century economy, intellectual property is among the most valuable assets for manufacturing, communications and medicine. Whether it is the copyright of a blockbuster film, a trade secret for an innovative product, a patent on a life-saving drug, or a trademark of a valuable brand, intellectual property is a significant source of growth in the American economy and a key driver of global economic activity.

Through the talents of American scientists, entrepreneurs and artists, we have developed the most dynamic and sophisticated economy the world has ever seen…and the world is a better place due to their efforts. The ideas and inventions of our citizens provide our competitive advantage in the thriving global economy.

Our competitive advantage, however, is threatened by those who steal the ideas of others and produce inferior substitutes that damage the reputation and profitability of a sought-after, trademarked original, or steal the trade secrets of a productive company. Every time someone copies or steals the intellectual property of another, our economy suffers through lost jobs and lost revenues.

But as we know, this isn't just about our global competitiveness. Even more importantly, the safety of our people can be threatened by intellectual property theft. Our safety is threatened by those who manufacture counterfeit airplane or car parts that fail. Our safety is threatened by those who manufacture fraudulent electrical appliances that explode. And in the case of fake pharmaceuticals, the health of Americans is threatened by those who manufacture or sell counterfeit medication, such as cholesterol drugs or antibiotics.

Just last Wednesday, we announced the indictment of eleven individuals and an Atlanta-based company on charges related to a scheme to sell fake drugs over the internet. According to the indictment, the defendants in

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that case marketed approximately 24 different drugs, including versions of Ambien, Valium, Lipitor, and Vioxx, through spam advertisements. While customers expected to get safe and authentic generic versions of these vital drugs, imported from Canada at lower prices, the drugs were, in reality, adulterated fakes that were crudely made in an unsanitary house in Belize.

The theft of intellectual property is not just a cheap bootleg movie or an imitation Gucci bag sold on the street corner, what some might see as a harmless distraction. Stealing is stealing. It is a crime that threatens not only America's economic prosperity but the health, safety, and security of our citizens.

What is the key to addressing the threat of intellectual property theft? The key is cooperation.

It requires the cooperation of law enforcement authorities.

It requires the cooperation of government agencies.

It requires the cooperation of the Congress.

And combating intellectual property theft requires the cooperation of victims, and potential victims, like you and the companies you work for.

The Bush Administration has led an unprecedented effort to crack down on intellectual property theft. This has only been possible because we have made cooperation among government agencies the cornerstone of our efforts. That is what our ongoing "STOP" initiative is all about. The Strategy Targeting Organized Piracy is a comprehensive and coordinated strategy to crack down on the growing global trade in counterfeit and pirated goods. This initiative attacks the problem in a number of ways with nine federal agencies, including the Department of Justice, working together to raise awareness of and enforce intellectual property rights, as well as to prevent intellectual property theft from occurring.

I am proud of the work we've been able to accomplish as a team over the past two years of the Administration's STOP Initiative. The Department of Justice has worked closely with our partner agencies across the federal government and, through this cooperation, has brought a coordinated and aggressive strategy to fight the global problem of counterfeiting and piracy.

The success of this strategy is made clear in the 2006 Report to the President and Congress on Coordination of Intellectual Property Enforcement and Protection that was released yesterday during Commerce Secretary Gutierrez's remarks. This important document sets forth the Administration's significant and substantial efforts to stem the tide of intellectual property theft and the coordinated strategy and commitment to ensure that intellectual property rights are protected.

The Department of Justice's efforts are also set forth in the report of our Task Force on Intellectual Property, which I presented during a Chamber of Commerce event in June. As you may remember, in March 2004 we had established a task force of high-level Department of Justice officials who were given the task of reviewing how the Department enforced and protected intellectual property rights.

The Task Force made 31 substantive recommendations to improve the Department of Justice's efforts to protect and enforce intellectual property rights through criminal, civil, and antitrust enforcement; international cooperation; legislation; and prevention programs.

When I became Attorney General in 2005, I charged the Task Force with implementing all of the recommendations contained in the Report as soon as possible. And I was glad to be able to announce to you in June that the Department of Justice had exceeded its goals. Among our many achievements, the Department of Justice increased the number of defendants indicted for intellectual property offenses by 98% from fiscal year 2004 to 2005. We increased the number of prosecutors we have in the field by creating 12 new Computer Hacking and Intellectual Property, or CHIP, Units in U.S. Attorneys' offices around the country, including

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offices in Pittsburgh, Pennsylvania, Orlando, Florida, Detroit, Michigan, Sacramento, California, and Nashville, Tennessee.

In addition, the Department of Justice has deployed an intellectual property law enforcement coordinator in Asia and we are adding a coordinator in Eastern Europe.

While I am proud of our efforts and those of our partners, there is more we can do. We are seeking legislation that would, among other things, increase penalties for intellectual property crimes, clarify that registration of a copyright is not required for a criminal prosecution, make attempts to commit copyright infringement a crime, and increase the tools investigators have at their disposal to track potential intellectual property crimes. We urge the Congress to pass this important legislation to further support our efforts in this important area.

At the Department of Justice, we realize that we did not achieve the important milestones already reached--and will not continue to make progress--without the cooperation of other federal agencies, and most importantly, the cooperation of victims.

It is nearly impossible to bring a criminal intellectual property case without the cooperation of the victim. We often rely on the rights holder to refer the case for prosecution, to provide critical evidence, and, in many cases, to take the steps necessary to protect intellectual property from further theft.

The Chamber's Coalition Against Counterfeiting and Piracy understands well the key fact that preventing intellectual property theft is critical, and that victims have a responsibility both to take steps to protect their own intellectual property and to enforce their intellectual property rights. I applaud the work of the Coalition and its strategy to protect America's intellectual property through education, enforcement and international initiative. We will continue to work closely with the Coalition to address the protection of intellectual property rights.

At the Department of Justice, we are striving to protect those who create, innovate, and contribute—those who help to expand our economy—by catching and prosecuting those who would steal intellectual property and threaten the health and safety of our communities. We recognize that we are not in this fight alone and we appreciate the work that you do every day to help us in this endeavor.

Thank you for hosting this important summit and for your continued efforts in protecting intellectual property rights.

May God bless you and your families, and may he continue to bless the United States of America.

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Image not available for this document, ID: 0.7.10316.27901-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 624347 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: COD_ENotice@cod.uscourts.gov
Sent: Friday, September 29, 2006 12:57 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:01-cv-01472-REB-PAC Stanton Disc Pharm, et al v. Qwest Comm Intl Inc, et al Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 9/29/2006 at 10:56 AM MDT and filed on 9/29/2006
Case Name: Stanton Disc Pharm, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:01-cv-1472
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 14

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

1:01-cv-1472 Notice has been electronically mailed to:
Timothy Granger Atkeson Tim_Atkeson@aporter.com, elissa_preheim@aporter.com, eric_rillorta@aporter.com, jeffrey_lewis@aporter.com, jessica_brody@aporter.com, john_freedman@aporter.com, kwame_clement@aporter.com, scott_schreiber@aporter.com, shelby_hunt@aporter.com
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
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Case Number: 1:01-cv-1527
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 14

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:01-cv-1616
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Document Number: 11

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:01-cv-1799
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Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:01-cv-1930
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Document Number: 5

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:02-cv-333
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WARNING: CASE CLOSED on 09/29/2006
Document Number: 14

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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From: USDOJ- Office of Public Affairs
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To: USDOJ- Office of Public Affairs
Subject: SETTLEMENT BETWEEN UNITED STATES, DELAWARE, DUPONT AND CIBA RESTORES WETLANDS HABITAT IN DELAWARE'S MISPILLION RIVER ECOSYSTEM

Department of Justice

U.S. Fish and Wildlife Service
National Oceanic and Atmospheric Administration
State of Delaware

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SETTLEMENT BETWEEN UNITED STATES, DELAWARE, DUPONT AND CIBA RESTORES WETLANDS HABITAT IN DELAWARE'S MISPILLION RIVER ECOSYSTEM

WASHINGTON – The federal government and the Delaware Department of Natural Resources and Environmental Control reached an agreement today with chemical companies DuPont and Ciba to resolve claims relating to the release of hazardous substances from the DuPont Newport Superfund Site, which contaminated wetlands in and around the Christina River ecosystem. DuPont and Ciba will pay over $1.6 million for cleanup costs, natural resource damages and restoration projects to the federal and state trustees, which include the state of Delaware, the National Oceanic and Atmospheric Administration (NOAA), and the Fish and Wildlife Service.

Per today's agreement, lodged today in the U.S. District Court for the District of Delaware, DuPont and Ciba will purchase an "environmental covenant," allowing them to set aside for protection 56 acres of private land, known as the Pike Property, located along the Delaware Bay, for restoration projects identified in the federal and state agencies' Damage Assessment and Restoration Plan (DARP). Dupont and Ciba will pay costs associated with implementation of the restoration projects in the DARP; pay Damage Assessment Costs incurred by the Trustees; and pay a damage claim to Delaware for injury caused to groundwater.

"This settlement will result in significant habitat improvements in the Mispillion River ecosystem—home to many valuable natural resources, such as blue crab, Atlantic herring, spot, and striped bass," said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "The Justice Department will continue to work cooperatively with state and federal agencies to ensure our environmental laws are enforced and our resources protected."

"By working cooperatively, the agencies and DuPont quickly reached agreement on an innovative restoration strategy that will ensure protection of natural resources in perpetuity through the use of conservation easements," said John H. Dunnigan, assistant administrator for NOAA's National Ocean Service. "We are

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satisfied that a cooperative natural resource injury assessment and restoration approach benefits industry, the community, and most importantly, the environment."

"The highlight of this process was the cooperative nature of the negotiations," according to Marvin E. Moriarty, U.S. Fish and Wildlife Service Northeast regional director. "Both the Trustees and DuPont worked toward a common restoration goal, and Dupont deserves credit for going beyond the basic requirements to the benefit of our natural resources."

"Ecological restoration is a fundamental goal for our agency," said Delaware Department of Natural Resources and Environmental Control Secretary John A. Hughes. "Wetland habitats are particularly vulnerable to degradation by human activity. I'm pleased that in addition to the work already completed at the Newport site and wetlands, this settlement will protect and restore wetland habitat in the Mispillion and improve biodiversity in the entire ecosystem of the river."

For the past 100 years, the DuPont Newport Superfund Site has been used in various chemical manufacturing operations. The site is the location of a paint pigment plant and two inactive industrial landfills. In the late 1970s, DuPont built a second facility at the Newport Site in order to expand its chromium dioxide production, and in 1984, DuPont sold part of the Newport facility to Ciba, which continues to produce QA pigment at the Newport facility. As a result of its history of manufacturing operations, the site became heavily contaminated with various hazardous substances, including heavy metals (particularly arsenic, barium, cadmium, lead and zinc) and volatile organic compounds.

For several years starting in the late 1980s, DuPont worked under orders issued by the Environmental Protection Agency to clean up the Newport site by doing such things as excavating contaminated soils; capping landfills; restoring wetlands; recovering and treating ground water; excavating and consolidating contaminated soils, dredging and monitoring the Christina River; installing a groundwater barrier wall along the north bank of the Christina River; and paving sections within the contaminated plant areas.

Additionally, DuPont evaluated and incorporated additional restoration measures beyond the cleanup to restore wetlands at the Newport Site. Restoration of the Newport wetlands has vastly improved the functional capacity of this habitat to support fish communities in the Christina River. The installation of a water control structure has successfully created a tidal open water habitat that maintains a continuous pool of water within the North Wetland and allows for tidal flushing back into dense and diverse marsh vegetation. The removal of dense stands of *Phragmites* in the South Wetland, coupled with the restoration of drainage systems, has successfully created a tidally contiguous, open water habitat that regularly inundates the surrounding vegetation. Overall, post-remedial data demonstrates that the North and South Wetlands have been successfully restored to a level where the aquatic habitat now functions as an integral part of fisheries development and recruitment within the Christina River Watershed.

The consent decree will be subject to a 30-day public comment period and subsequent judicial approval. available on the Justice Department website at http://www.usdoj.gov/enrd/Consent_Decrees.html.

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06-664

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Case Name: Brody, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-374
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WARNING: CASE CLOSED on 09/29/2006
Document Number: 12

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:02-cv-507
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Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Case Number: 1:02-cv-658
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Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

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Document Number: 10

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

1:02-cv-755 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
Evan S. Lipstein evan@lipsteinlaw.com, evelyn@lipsteinlaw.com
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Neil McGill Gorsuch (Terminated) [redacted], neil.gorsuch@usdoj.gov
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Jesus Manuel Vazquez, Jr (Terminated) jvazquez@rothgerber.com, tclanahan@rothgerber.com
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1:02-cv-755 Notice has been mailed by the filer to:

Kimo S. Peluso (Terminated)
Stillman, Friedman & Shaw, PC
425 Park Avenue
New York, NY 10022

Jonathan D. Schiller (Terminated)
Boies, Schiller & Flexner, LLP-DC
5301 Wisconsin Avenue, North West
#800
Washington, DC 20015

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=9/29/2006] [FileNumber=763039-0] [62e9a68672c8d24ab5959bf1c84607da4b5f71d9e1b28e269dd5857cb8a069b44788 0c5a4b32d07f374a4db257fa4f9bf01b0e3d22629ffabed8c96733ce1a22]]

DOJ_NMG_ 0168908

From: COD_ENotice@cod.uscourts.gov
Sent: Friday, September 29, 2006 1:24 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:02-cv-00798-REB-PAC Tabacoff, et al v. Qwest Comm Intl Inc, et al Order

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.
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U.S. District Court

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 9/29/2006 at 11:24 AM MDT and filed on 9/29/2006
Case Name: Tabacoff, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-798
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 9

Docket Text:
ORDER: That the consolidation of 04-cv-00238 is TERMINATED. That the proceedings shall proceed independently of this consolidated action; this consolidated case is AMENDED by the removal of 04-cv-00238 from the caption; this consolidated action is STAYED pending resolution of the criminal charges against Nacchio in 05-cr-00545. This consolidated action is CLOSED ADMINISTRATIVELY pending resolution of the criminal charges against Nacchio. Any party may seek to lift the stay and administrative closure on a showing that the criminal charges against Nacchio have been resolved. Signed by Judge Robert E. Blackburn on 9/28/06. (dln,)

1:02-cv-798 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
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Marcy Marie Heronimus (Terminated) mheronim@sah.com, efiling@sah.com, peckman@sah.com
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1:02-cv-798 Notice has been mailed by the filer to:

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5301 Wisconsin Avenue, North West
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Washington, DC 20015

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=9/29/2006] [FileNumber=763045-0] [334825caca50f81515ab9e2e5881aa831d27d7809a85de8d32dd698e29cd7a283595 a76bb99348564e120fc0c66c0dd8eda904284488f6ba5a3801106f1896b1]]

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 625001 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 2:10 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER NEW YORK HOSPITAL EMPLOYEE AND A MANHATTAN TELECOMMUNICATIONS COMPANY PLEAD GUILTY TO BID RIGGING AND RELATED CHARGES

(Relevant PDFs are attached.)

Spadola Plea Agreement.pdf

Broadcom Information.pdf

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV

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

FORMER NEW YORK HOSPITAL EMPLOYEE AND A MANHATTAN TELECOMMUNICATIONS COMPANY PLEAD GUILTY TO BID RIGGING AND RELATED CHARGES

WASHINGTON — A former New York hospital employee and a telecommunications company pleaded guilty today to charges relating to their roles in a conspiracy involving kickbacks, bid rigging, bribery, contract allocation, and related charges for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced.

Anthony Spadola of Morganville, N.J., a former information technology manager at Mount Sinai, pleaded guilty today in U.S. District Court in Manhattan to a three-count information. Spadola pleaded guilty to one count of conspiracy to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai from approximately January 2001 through October 2004. Spadola also pleaded guilty to one count of conspiracy to commit commercial bribery, mail fraud, and to making false and fraudulent statements on corporate U.S. income tax returns from approximately January 2001 until September 2003. Additionally, he pleaded guilty to one count of income tax evasion for failing to report as income kickbacks that he received, and for improperly claiming business deductions on his U.S. individual income tax returns for the years 2001 through 2003.

Broadcom Voice & Data Inc. (Broadcom) of New York City, a telecommunications installation company, also pleaded guilty today in U.S. District Court in Manhattan. Broadcom pleaded guilty to one count of conspiracy to rig bids and allocate contracts for the sale of telecommunications equipment and services to Mount Sinai from approximately January 2001 through October 2004.

"The Antitrust Division will hold accountable those who attempt to undermine open and competitive bidding processes," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Today's sentences demonstrate that commitment."

The Mount Sinai Hospital is a 1,171-bed tertiary care teaching hospital that serves the New York metropolitan area with a medical staff of nearly 1,800. In addition to its medical education efforts, Mount Sinai's School of Medicine performs clinical and basic-science research. Both the hospital and the school

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jointly operate an information technology department, located within the Mount Sinai Medical Center in Manhattan, that assists various departments and facilities in creating and maintaining their telecommunications infrastructures. This assistance includes selecting and contracting with third party telecommunications vendors in order to install equipment such as voice and data cables in Mount Sinai facilities.

Spadola's co-conspirator, Stephen Cogliano, also a former Mount Sinai employee, pleaded guilty on Tuesday to one count of conspiracy to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai from January 2001 through October 2004.

Spadola and Cogliano were responsible for obtaining bids from vendors of telecommunications equipment and services on behalf of Mount Sinai. They were also responsible for supervising vendors and reviewing and authorizing their invoices for payment. According to the Department, Spadola and Cogliano received payments from individuals associated with Broadcom and another telecommunications vendor in exchange for steering contracts to those companies. Spadola and Cogliano opened bank accounts under the name of consulting companies in April 2001 and May 2003, respectively, that were primarily used to conceal illegal payments received from Broadcom. Court papers also state that Spadola failed to report his receipt of all of the kickbacks and that he took illegitimate business deductions on his income tax returns.

Between January 2001 and September 2003, Broadcom paid Spadola and Cogliano a total of approximately $154,000 in kickbacks in order to ensure that Broadcom would be allocated a portion of Mount Sinai's total contracts for purchasing telecommunications equipment and services and that no alternative vendors would be chosen for those contracts. The kickback money was paid through checks issued by Broadcom to the sham consulting companies created by Spadola and Cogliano.

Spadola is scheduled to be sentenced before Judge McKenna on Jan. 8, 2007, and Cogliano is scheduled to be sentenced before Judge Rakoff on Jan. 25, 2007. Broadcom is scheduled to be sentenced before Judge Swain on Dec. 28, 2006.

The bid rigging charge, a violation of the Sherman Act, carries a maximum penalty of 10 years in prison, three years of supervised release, and a $1 million fine for an individual, and a maximum penalty of a fine of $100 million and a term of probation of five years for a corporation. The conspiracy charge carries a maximum penalty of five years in prison, three years of supervised release, and a $250,000 fine for an individual. The count of income tax evasion carries a maximum penalty of five years in prison, three years of supervised release, and a $100,000 fine, together with the costs of prosecution. The maximum fine on each count may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. In addition, the defendants could be ordered to pay restitution to the victim for the full amount of that victim's loss.

These charges arose from an ongoing federal antitrust investigation of bid rigging, bribery, fraud, and tax-related offenses in the telecommunications equipment and services industry. The investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation (FBI) and the Internal Revenue Service Criminal Investigation.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the telecommunications equipment and services industry should contact the New York Field Office of the Antitrust Division at 212-264-9308 or the New York Division of the FBI at 212-384-3252.

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Broadcom Plea Agreement.pdf

Spadola Information.pdf

Department of Justice

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.	:	Violation: 15 U.S.C. § 1
BROADCOM VOICE & DATA, INC.,	:	
	:	
Defendant.	:	

- x

INFORMATION

The United States of America, acting through its attorneys, charges:

1. Broadcom Voice & Data, Inc. ("Broadcom") is hereby made a defendant on the charge stated below.

SHERMAN ACT CONSPIRACY
(15 U.S.C. § 1)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Broadcom Voice & Data, Inc. ("Broadcom") was a company located in Manhattan, New York that supplied telecommunications equipment and services to Mount Sinai School of Medicine and The Mount Sinai Hospital (collectively, "Mount Sinai"), a teaching hospital located in New York, New York.

3. "CC-1" was a co-conspirator who was employed by Mount Sinai as a Information Technology Manager in Mount Sinai's Information Technology department

from August 2000 until July 2003. In July 2003, CC-1 became an employee of International Business Machines, Corp. ("IBM") but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. In April 2001, CC-1 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from Broadcom and another vendor to Mount Sinai.

4. "CC-2" was a co-conspirator who was employed by Mount Sinai as a Network Management Professional in Mount Sinai's Information Technology department from October 2000 until July 2003. In July 2003, CC-2 became an employee of IBM but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. His job title changed to Technical Services Professional in October 2004. In May 2003, CC-2 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from Broadcom and another vendor to Mount Sinai. As a Network Management Professional, and later as a Technical Services Professional, CC-2 was supervised by CC-1 but was also separately responsible for ensuring that contracts were awarded in accordance with Mount Sinai's policies and procedures and reviewing and authorizing invoices for payment.

5. "CC-3" and "CC-4" were co-conspirators who jointly owned a company located in Great Neck, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 2").

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6. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

7. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

II. BACKGROUND

8. The Mount Sinai Hospital is a 1,171-bed tertiary-care teaching hospital with a medical staff of nearly 1,800, serving the New York metropolitan area. Mount Sinai School of Medicine performs clinical and basic-science research, in addition to its medical education function. Jointly, both entities operate an Information Technology department located within the Mount Sinai Medical Center on Madison Avenue.

9. Mount Sinai's Information Technology department served the various departments and facilities within Mount Sinai by assisting them in creating and maintaining their telecommunications infrastructures. This included selecting and contracting with third parties that were vendors of telecommunications equipment and services in order to install equipment such as voice and data cables in Mount Sinai facilities.

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10. Mount Sinai had a competitive bidding policy that required the Information Technology department to obtain at least three competitive bids before entering into any single contract for goods or services in excess of $10,000, and then award those contracts to the lowest responsible bidder. The purpose of the bidding policy was to ensure that the Information Technology department obtained products and services at competitive, fair market prices.

11. As the Information Technology Manager, CC-1 was responsible for obtaining bids from vendors of telecommunications equipment and services before contracts were awarded in accordance with Mount Sinai's policies and procedures, including adhering to Mount Sinai's competitive bidding policy. In addition, CC-1 was responsible for supervising these vendors and reviewing and authorizing their invoices for payment. As a manager, CC-1 sometimes delegated these tasks to individuals he supervised, including CC-2.

12. Broadcom, CC-1, CC-2 and co-conspirators attempted to create the appearance that the Information Technology department was awarding contracts in compliance with Mount Sinai's competitive bidding policy when, in fact, it frequently was not. In actuality, CC-1 determined in advance which contracts to allocate to Broadcom or Vendor 2, and then, in order to make it appear that contracts had been awarded based on competitive bids, CC-1 and CC-2 at times arranged to receive bids with intentionally high prices (i.e., cover bids) from either Broadcom or Vendor 2. CC-1 and CC-2 sometimes specified what prices should be quoted on these cover bids, and that the bids be backdated.

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On other occasions, CC-1 and CC-2 allocated contracts without obtaining multiple bids or irrespective of whether the vendor to which the contract was allocated was the lowest responsible bidder. At the time, CC-1 and CC-2 were receiving payments from Broadcom and Vendor 2.

13. Mount Sinai maintained a written "conflict of interest" policy prohibiting employees and contractors, including CC-1 and CC-2, from accepting gifts (other than of token value) from vendors or from entering into business arrangements with vendors.

14. At no time did any representative of Broadcom or CC-1 or CC-2 disclose to Mount Sinai that the company had paid money to CC-1 or CC-2. All such payments were made without the knowledge or approval of Mount Sinai, and in violation of CC-1's and CC-2's duty of loyalty to Mount Sinai.

III. TRADE AND COMMERCE

15. From approximately January 2001 through October 2004, pursuant to contracts that are the subject of this Information, Mount Sinai purchased approximately $2,089,000 in telecommunications equipment and services from Broadcom and Vendor 2.

16. During the period covered by this Information, Broadcom and Vendor 2 supplied telecommunications equipment and services to Mount Sinai, including materials produced pursuant to contracts that are the subject of this Information, which were shipped across state lines, in a continuous and uninterrupted flow of interstate commerce, in the form of voice and data cables and other equipment obtained from distributors located outside the State of New York.

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17. The activities of the defendant and co-conspirators with respect to the sale of telecommunications equipment and services to Mount Sinai, including the sale of voice and data cables and other equipment pursuant to contracts that are the subject of this Information, were within the flow of, and substantially affected, interstate trade and commerce.

IV. DESCRIPTION OF THE OFFENSE

18. From approximately January 2001 through October 2004, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act (Title 15, United States Code, Section 1).

19. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to rig bids and allocate contracts for the supply of telecommunications equipment and services to Mount Sinai.

20. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

(a) CC-1 designated in advance whether Broadcom or Vendor 2 would be the low bidder on certain contracts to supply telecommunications equipment and services to Mount Sinai;

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(b) Broadcom and co-conspirators discussed and agreed on the prices that would be bid on contracts to supply telecommunications equipment and services to Mount Sinai;

(c) Broadcom and co-conspirators submitted intentionally high, noncompetitive bids (i.e., cover bids) on certain contracts to supply telecommunications equipment and services to Mount Sinai, with the understanding they would be allowed to submit bids for, and under certain circumstances allocated other contracts with, Mount Sinai to supply telecommunications equipment and services. The intentionally high bids were submitted in order to make it appear that there had been competition for Mount Sinai contracts when, in fact, there had not; and

(d) CC-1 and CC-2 allocated other contracts between Broadcom and Vendor 2 in violation of Mount Sinai's competitive bidding policy by either failing to obtain competitive bids or awarding contracts to either Broadcom or Vendor 2 regardless of whether that vendor was in fact the lowest qualified bidder, or otherwise manipulating bids so as to justify an allocation to either Broadcom or Vendor 2 while making it appear that there had been competition for Mount Sinai contracts when, in fact, there had not;

(e) CC-1 and CC-2 allocated other, smaller contracts between Broadcom and Vendor 2 and did not seek alternative vendors;

(f) In approximately June 2002, CC-1 and CC-2 allocated to Broadcom a contract to install telecommunications equipment in a Mount Sinai emergency room facility called the "ED Project." A representative of Broadcom discussed and agreed in

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advance with CC-1 that Broadcom would be allocated the "ED Project" contract for a specified inflated price. CC-1 told Broadcom's representative to submit a bid with the inflated price and instructed CC-2 to get other vendors to submit bids with higher, non-competitive prices (i.e., cover bids). As a result, Broadcom was awarded the "ED project" contract for $295,000;

(g) In approximately March 2002, CC-1 and CC-2 allocated a contract to install telecommunications equipment for Mount Sinai's Radiation Oncology department to Vendor 2. Broadcom submitted an intentionally high cover bid for this contract. A Broadcom representative submitted the inflated bid on behalf of Broadcom; and

(h) Broadcom made substantial payments to companies controlled by CC-1 and CC-2 for their role in allocating contracts to Broadcom.

21. As a result of the aforementioned conspiracy, Mount Sinai paid more for the telecommunications equipment and services it purchased pursuant to the contracts that are the subject of this Information than it would have had the contracts instead been awarded pursuant to truly competitive bidding, or an otherwise competitive process, where free and open competition among vendors existed, and had there been no payments by Broadcom to CC-1 and CC-2. In addition, because of the corrupt relationships between the Broadcom and CC-1 and CC-2, other legitimate vendors of telecommunications equipment and services were foreclosed from selling to Mount Sinai.

V. JURISDICTION AND VENUE

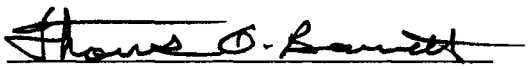
22. The aforesaid combination and conspiracy was formed and carried out, in

DOJ_NMG_ 0168922

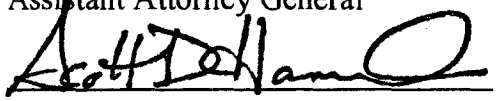
part, within the Southern District of New York within the five years preceding the filing of this Information.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

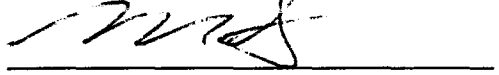
Dated:



THOMAS O. BARNETT
Assistant Attorney General



SCOTT D. HAMMOND
Deputy Assistant Attorney General



MARC SIEGEL
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

RALPH T. GIORDANO
Chief, New York Office

REBECCA MEIKLEJOHN

ELIZABETH B. PREWITT

Attorneys, Antitrust Division
U.S. Department of Justice
26 Federal Plaza, Room 3630
New York, New York 10278
(212) 264-0654

DOJ_NMG_ 0168923

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.	:	Violation: 15 U.S.C. § 1
BROADCOM VOICE & DATA, INC.,	:	
Defendant.	:	06CRIM 899
	:	

- x

PLEA AGREEMENT

The United States of America and the defendant, Broadcom Voice & Data, Inc., hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

AGREEMENT TO PLEAD GUILTY

1. Broadcom Voice & Data, Inc. ("Broadcom") will plead guilty in the United States District Court for the Southern District of New York to a one-count Information, in the form attached, in which it is charged with one count of violating 15 U.S.C. § 1 in connection with a conspiracy to rig bids and allocate contracts for the sale of telecommunications equipment and services to Mount Sinai School of Medicine and The Mount Sinai Hospital ("Mount Sinai"), from approximately January 2001 through October 2004.

2. If Broadcom fully complies with the understandings specified in this Agreement, it will not be further prosecuted criminally by the Antitrust Division of the Department of Justice for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information: (a) any agreement to rig bids or allocate contracts to supply Mount Sinai with telecommunication equipment and services; and (b) the payment of money to employees or agents of Mount Sinai. This Agreement does not provide any protection against prosecution for any crimes except as set forth above. This Paragraph does not apply to civil matters of any kind, any violations of federal securities or tax laws, or crimes of violence.

3. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than the Antitrust Division.

POSSIBLE MAXIMUM PENALTIES

4. Broadcom understands that, pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571, the maximum sentence provided by law to which it is subject for its violation of 15 U.S.C. § 1, a class C felony, is a fine of not more than the greatest of $100 million or the greater of twice its gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense. Broadcom also understands that, pursuant to 18 U.S.C. §§ 3551 and 3561 and USSG § 8D1.2, the Court may sentence it to a term of probation of between one and five years. Broadcom also understands that, pursuant to 18 U.S.C. § 3563(b)(2) and USSG § 8B1.1, the Court may impose an order of restitution. In addition,

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Broadcom understands that, pursuant to 18 U.S.C. § 3013(a)(2)(B), the Court must impose a special assessment of $400.

SENTENCING GUIDELINES

5. Broadcom understands that United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a reasonable sentence. Broadcom understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. Broadcom understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing Guidelines range, its sentence must be reasonable based upon considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

6. The United States and Broadcom agree and stipulate that, pursuant to USSG § 1B1.11(a), the November 2005 version of the Sentencing Guidelines, the version in effect at the time of sentencing, should be applied.

7. The United States and Broadcom agree and stipulate that the volume of commerce attributable to Broadcom under USSG § 2R1.1(b)(2) is $ 1,776,000.

8. The United States and Broadcom agree and stipulate that the fine range for Broadcom for the offense charged in the attached Information is from $355,200 to 710,400 (the "Stipulated Guidelines Range"), calculated as follows:

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(a) Pursuant to USSG § 8C2.4(a)(3) and § 2R1.1(d)(1), the base fine is $355,200 (20% of the $1,776,000 volume of commerce);

(b) Pursuant to USSG § 8C2.5, Broadcom has an organizational culpability score of 5, pursuant to USSG § 8C2.5(a), with a one-point increase pursuant to USSG § 8C2.5(b)(5) because the organization had 10 or more (but fewer than 50) employees and an individual within substantial authority personnel participated in the offense, and a one-point deduction pursuant to § 8C2.5(g) because the organization clearly demonstrated recognition and affirmative acceptance of responsibility for its criminal conduct;

(c) Pursuant to USSG § 8C2.6, a culpability score of 5 leads to a minimum multiplier of 1.0 and a maximum multiplier of 2.0; and

(d) Pursuant to USSG § 8C2.7(a) and (b), the fine range is $355,200 to $710,400.

9. Broadcom further agrees that a fine of $355,200 to $710,400 would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). However, either party may seek a sentence outside this range, suggest that the Probation Department consider a sentence outside of this range, or suggest that the Court sua sponte consider a sentence outside of this range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. §§ 3553(a) and 3572(a).

10. Except as provided in any written Proffer Agreement(s) that may have been entered into between the Antitrust Division and the defendant, nothing in this

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agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Range (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. Section 3553(a); (iii) to seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's organizational culpability score is other than 5. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see USSG § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see USSG § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw its guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the United States at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

11. It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Sentencing Guidelines stipulations, either as to questions of fact or as to the determination of the proper Sentencing Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Sentencing Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence

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outside of the Stipulated Guidelines Range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

12. It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. The defendant acknowledges that its entry of a guilty plea to the charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. The United States cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw its plea of guilty should the sentence imposed by the Court be outside the Stipulated Guidelines Range set forth above.

13. The United States and Broadcom agree that Broadcom will not appeal or otherwise litigate under 28 U.S.C. §§ 2241 and/or 2255, any sentence within or below the fine range set forth in this Agreement, and that the Government will not appeal any sentence within or above the fine range. It is further agreed that any sentence within the fine range is reasonable. This provision is binding on the parties even if the Court employs a Sentencing Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of Broadcom that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation.

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14. Broadcom understands that this Agreement does not in any way affect or limit the right of the United States to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

15. Broadcom understands and agrees that should its conviction following its plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against either defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

REPRESENTATION BY COUNSEL

16. Broadcom has been represented by counsel and is fully satisfied that its attorney has provided competent legal representation. Broadcom has thoroughly reviewed this Agreement and acknowledges that counsel has advised it of the nature of the charge, any possible defenses to the charge, and the nature and range of possible sentences.

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VOLUNTARY PLEA

17. The defendant hereby acknowledges that it has accepted this Agreement and decided to plead guilty because it is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw its plea or to attack its conviction, either on direct appeal or collaterally, on the ground that the United States has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that have not already been produced as of the date of the signing of this Agreement.

18. Broadcom's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to Broadcom as to whether the Court will accept or reject the recommendations contained within this Agreement.

ENTIRETY OF AGREEMENT

19. This Agreement constitutes the entire agreement between the United States and Broadcom concerning the disposition of the charge contained in the attached Information. The United States has made no other promises to or agreements

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with Broadcom. This Agreement cannot be modified other than in a writing signed by the parties Dated: 9/29/06

BROADCOM VOICE & DATA, INC.
By Rosaleen O'Leary, President

, ESQ.
Counsel for Broadcom Voice & Data, Inc.

REBECCA MEIKLEJOHN

ELIZABETH B. PREWITT

Attorneys
Department of Justice, Antitrust Division
26 Federal Plaza, Room 3630
New York, NY 10278
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SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.		
ANTHONY SPADOLA,	:	Violations: 15 U.S.C. § 1 18 U.S.C. § 371 26 U.S.C. § 7201
	:	
Defendant.	:	

----------x

PLEA AGREEMENT

The United States of America and the defendant, Anthony Spadola, hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

AGREEMENT TO PLEAD GUILTY

1. Anthony Spadola ("Spadola") will waive indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure and plead guilty in the United States District Court for the Southern District of New York to a three-count Information, in the form attached, in which he is charged with (a) one count of violating 15 U.S.C. § 1 in connection with a conspiracy to rig bids and allocate contracts for the sale of telecommunications equipment and services to Mount Sinai School of Medicine and The Mount Sinai Hospital ("Mount Sinai"), from approximately January 2001 through October 2004; (b) one count of violating 18 U.S.C. § 371 in connection with a conspiracy to commit commercial bribery, mail fraud, and to make false and fraudulent statements on

U.S. Income Tax Returns relating to the payment of kickbacks to himself and another individual by vendors of telecommunications equipment and services to Mount Sinai and Spadola issuing false and fraudulent invoices to those vendors so that they could falsely claim the kickback payments as legitimate business expenses on their corporate income tax returns, from approximately January 2001 until approximately September 2003; and (c) one count of violating 26 U.S.C. § 7201 in connection with his evading and defeating a substantial part of the income tax due and owing by him to the United Stated by failing to report as income, and pay the correct tax due and owing on, kickbacks that he received from those vendors, and by improperly claiming business deductions, on his U.S. Individual and Corporate Income Tax Returns for the years 2001 through 2003.

GOVERNMENT'S AGREEMENT

2. If Spadola fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by the Antitrust Division of the Department of Justice, and with respect to tax offenses, Spadola will not be further prosecuted criminally by the Tax Division of the Department of Justice, for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information: (a) any agreement to rig bids or allocate contracts at for telecommunication equipment and services at Mount Sinai; (b) the payment of kickbacks by vendors of telecommunications equipment and services to employees or agents of Mount Sinai; (c) any illegitimate deductions taken by Spadola or any vendor of

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telecommunications equipment and services to Mount Sinai on federal income tax returns for the tax years 2000 through 2004; and (d) the failure of any individual who received kickbacks from a vendor of telecommunications equipment and services to Mount Sinai to report those kickbacks as income on his federal tax returns. This Agreement does not provide any protection against prosecution for any crimes except as set forth above. This Paragraph does not apply to civil matters of any kind, any violations of federal securities laws, or crimes of violence.

3. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than the Antitrust Division and, to the extent set forth above, the Tax Division of the Department of Justice.

POSSIBLE MAXIMUM PENALTIES

4. Spadola understands and agrees that pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for a violation of 15 U.S.C. § 1, a class C felony, is (a) a term of imprisonment of not more than 10 years; (b) a fine of not more than the greater of $1 million, or the greater of twice the gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or (c) both such sentences. Spadola also understands that the Court may impose an order of restitution as a condition of probation or supervised release, pursuant to 18 U.S.C. §§ 3563(b)(2) or 3583(d) and USSG § 5E1.1. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(1) and

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USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A) and USSG § 5E1.3, the Court must impose a special assessment of $100.

5. Spadola understands and agrees that, pursuant to 18 U.S.C. § 371 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for his violation of 18 U.S.C. § 371, a class D felony, is (a) a term of imprisonment of not more than five years; (b) a fine of not more than the greater of $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense, together with the cost of prosecution; or (c) both such sentences. Spadola also understands that the Court shall impose an order of restitution, pursuant to 18 USC §§ 3663, 3663A, and 3664. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(2) and USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of $100.

6. Spadola understands and agrees that, pursuant to 26 U.S.C. § 7201 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for his violation of 26 U.S.C. § 7201(1), a class D felony, is (a) a term of imprisonment of not more than five years; (b) a fine of not more than the greater of $100,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or (c) both such sentences; together with (d) the costs of prosecution. Spadola understands that the Court may impose an order of restitution to the Internal

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Revenue Service as a condition of probation or supervised release, pursuant to 18 U.S.C. §§ 3563(b)(2) or 3583(d) and USSG § 5E1.1. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(2) and USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of $100.

SENTENCING GUIDELINES

7. Spadola understands that United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a reasonable sentence. Spadola understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. Spadola understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing Guidelines range, its sentence must be reasonable based upon considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

8. The United States and Spadola agree and stipulate that pursuant to USSG § 1B1.11(b)(1), the Sentencing Guidelines (Nov. 2003), the version in effect at the time of the offenses, should be applied because the application of a later version (now the Nov. 2005 edition) would lead to a higher adjusted offense level.

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9. The United States and Spadola acknowledge that they cannot agree on whether Spadola should receive an adjustment for his role in the offense, pursuant to USSG § 3B1.1. The United States contends that Spadola should receive a three-level adjustment, pursuant to USSG § 3B1.1(b), while Spadola contends that he should not receive any adjustment under USSG § 3B1.1. As a result, the parties cannot now agree on the offense level at which Spadola should be sentenced, but acknowledge that the combined adjusted offense level applicable to the offenses charged in the attached Information should be either level 23 (46-57 months) or level 20 (33-41 months), depending upon whether the Court applies an adjustment pursuant to USSG § 3B1.1(b). Furthermore, the parties can agree and hereby stipulate to the following:

(a) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the adjusted offense level for the conspiracy charged in Count One of the Information is level 15 (base level of 10 pursuant to USSG § 2R1.1, plus one level pursuant to USSG § 2R1.1(b)(1) (agreement to refrain from submitting competitive bids), plus 2 levels pursuant to USSG § 2R1.1(b)(2)(B) (volume of commerce between $1 million and $2.5 million), plus 2 levels pursuant to USSG § 3B1.3 (abuse of position of trust));

(b) In accord with the directives of the Second Circuit in United States v. Fitzgerald, 232 F.3d 315 (2d Cir. 2000), and United States v. Petrillo, 237 F.3d 119 (2d Cir. 2000), USSG §§ 3D1.2(d) and 3D1.3(b) require that the offenses charged in Counts

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Two and Three (fraud and tax offenses) be grouped and the losses aggregated, and that the offense level for the combined fraud/tax group is the higher of the offense level determined from the instructions in Chapter 2, Part B (Offenses Involving Theft, Fraud Or Deceit) or Chapter 2, Part T (Offenses Involving Taxation) and all appropriate adjustments;

(c) The combined loss from the fraud and tax offenses is approximately $242,966, the sum of the fraud offense (approximately $153,993 in kickback payments received) and the loss from the tax offense (approximately $88,973 in unpaid federal and state income taxes, all of which have been calculated in accordance with USSG § 2T1.1(c)(1)(A) and are based, when available, on Spadola's and his co-conspirator's actual marginal tax rates));

(d) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level for the fraud/tax group calculated according to the instructions in Part B is, level 22 (base level of 8, pursuant to USSG § 2B4.1(a); plus 12 levels, pursuant to § 2B1.1(b)(1)(G) (loss of more than $200,000 but less than $400,000); plus 2 levels, pursuant to USSG § 3B1.3 (abuse of a position of trust));

(e) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level for the fraud/tax group calculated according to the instructions in Part T is level 22 (offense level of 18, pursuant to USSG §§ 2T1.1(a)(1) and 2T4.1(G) (Tax Table) (loss of more than $200,000 but less than $400,000); plus 2 levels, pursuant to

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USSG § 2T1.1(b)(1) (failure to report more than $10,000 from criminal activity); plus 2 levels, pursuant to USSG § 3B1.3 (abuse of a position of trust));

(f) The antitrust offense does not involve substantially the same harm as the fraud and tax offenses, nor is it of the same general type as the fraud and tax offenses. Therefore, pursuant to USSG § 3D1.2, the antitrust offense is not grouped with the fraud and tax offenses charged in Counts Two and Three;

(g) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the fraud/tax group, with an offense level of 22 (under both Part B and Part T instructions), is 5 to 8 levels more serious than the antitrust offense, with an offense level of 15, and thus, pursuant to USSG § 3D1.4(b), counts as a ½ Unit. Because there are 1 ½ Units, 1 offense level is added to the fraud/tax group offense level, yielding a combined offense level of 23; and

(h) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, assuming Spadola clearly demonstrates acceptance of responsibility, to the satisfaction of the government, through his allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to USSG § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to USSG § 3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of

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guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

10. The United States and Spadola agree and stipulate that the volume of commerce attributable to Spadola under USSG § 2R1.1(b)(2) is $2,089,000.

11. The United States and Spadola agree and stipulate that the fine range for Spadola for the offenses charged in the Information is from $20,890 to $104,450, pursuant to USSG § 2R1.1(c)(1) and 5E1.2(b).

12. The United States further agrees that a sentence range of 46 to 57 months, based on an combined adjusted offense level of 23, (the Government's Stipulated Guidelines Range), would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). In addition, it will not seek a sentence above this range, suggest that the Probation Department consider a sentence above of this range, or suggest that the Court sua sponte consider a sentence above of this range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a).

13. Spadola further agrees that a sentence range of 33 to 41 months, based on an combined adjusted offense level of 20 (Spadola's Stipulated Guidelines Range), would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). In addition, he will not seek a sentence below this range, suggest that the Probation Department consider a sentence below of this range, or suggest that the Court

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sua sponte consider a sentence below of this range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a).

14. Except as provided in any written Proffer Agreement(s) that may have been entered into between the Antitrust Division and the defendant, nothing in this agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Ranges (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a); (iii) to seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's criminal history category is other than Category I. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Antitrust Division of the Department of Justice at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this agreement.

15. It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulations,

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either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Ranges, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

16. Spadola understands that the sentence to be imposed on him is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. Spadola acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. The United States cannot, and does not, make any promise or representation as to what sentence Spadola will receive. Moreover, Spadola understands he will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside either the Government's Stipulated Guidelines Range or Spadola's Stipulated Guidelines Range set forth above.

17. The United States and Spadola agree that (i) Spadola will not appeal or otherwise litigate under 28 U.S.C. § 2255 and/or 2241, any sentence within or below Spadola's Stipulated Guidelines Range as set forth in this Agreement, and (ii) that the United States will not appeal any sentence within or above the Government's Stipulated Guidelines Range as set forth above. This provision is binding on the parties even if the

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Court employs a Sentencing Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of Spadola that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulations.

18. Spadola understands that this Agreement does not in any way affect or limit the right of the United States to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

19. Spadola agrees to waive any objection or defense he may have based on the United States joining in a single count the three distinct and separate instances of tax evasion charged in Count Three of the Information. Spadola understands that this waiver is knowingly and voluntarily made after fully conferring with, and on the advice of, his counsel, and are made for his own benefit.

20. Spadola understands and agrees that should the conviction following defendant's plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the

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intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

REPRESENTATION BY COUNSEL

21. Spadola has been represented by counsel and is fully satisfied that his attorney has provided competent legal representation. Spadola has thoroughly reviewed this Agreement and acknowledges that counsel has advised him of the nature of the charges, any possible defenses to the charges, and the nature and range of possible sentences.

VOLUNTARY PLEA

22. The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the United States has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that have not already been produced as of the date of the signing of this Agreement.

23. Spadola's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances,

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promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to Spadola as to whether the Court will accept or reject the recommendations contained within this Agreement.

ENTIRETY OF AGREEMENT

24. This Agreement constitutes the entire agreement between the United States and Spadola concerning the disposition of the charges contained in the attached Information. The United States has made no other promises to or agreements with Spadola. This Agreement cannot be modified other than in a writing signed by the parties.

Dated:

_____
ANTHONY SPADOLA

_____
REBECCA MEIKLEJOHN

_____
WILLIAM SANDBACK, ESQ.
Counsel for Anthony Spadola

_____
ELIZABETH PREWITT

Attorneys, Department of Justice
Antitrust Division
26 Federal Plaza, Room 3630
New York, NY 10278
Phone: (212) 264-4886

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SOUTHERN DISTRICT OF NEW YORK

06CRIM. 898

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UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.	:	Violations: 15 U.S.C. § 1
ANTHONY SPADOLA,	:	18 U.S.C. § 371
	:	26 U.S.C. § 7201
Defendant.	:	

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PLEA AGREEMENT

The United States of America and the defendant, Anthony Spadola, hereby enter into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

AGREEMENT TO PLEAD GUILTY

1. Anthony Spadola ("Spadola") will waive indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure and plead guilty in the United States District Court for the Southern District of New York to a three-count Information, in the form attached, in which he is charged with (a) one count of violating 15 U.S.C. § 1 in connection with a conspiracy to rig bids and allocate contracts for the sale of telecommunications equipment and services to Mount Sinai School of Medicine and The Mount Sinai Hospital ("Mount Sinai"), from approximately January 2001 through October 2004; (b) one count of violating 18 U.S.C. § 371 in connection with a conspiracy to commit commercial bribery, mail fraud, and to make false and fraudulent statements on

U.S. Income Tax Returns relating to the payment of kickbacks to himself and another individual by vendors of telecommunications equipment and services to Mount Sinai and Spadola issuing false and fraudulent invoices to those vendors so that they could falsely claim the kickback payments as legitimate business expenses on their corporate income tax returns, from approximately January 2001 until approximately September 2003; and (c) one count of violating 26 U.S.C. § 7201 in connection with his evading and defeating a substantial part of the income tax due and owing by him to the United Stated by failing to report as income, and pay the correct tax due and owing on, kickbacks that he received from those vendors, and by improperly claiming business deductions, on his U.S. Individual and Corporate Income Tax Returns for the years 2001 through 2003.

GOVERNMENT'S AGREEMENT

2. If Spadola fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by the Antitrust Division of the Department of Justice, and with respect to tax offenses, Spadola will not be further prosecuted criminally by the Tax Division of the Department of Justice, for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information: (a) any agreement to rig bids or allocate contracts at for telecommunication equipment and services at Mount Sinai; (b) the payment of kickbacks by vendors of telecommunications equipment and services to employees or agents of Mount Sinai; (c) any illegitimate deductions taken by Spadola or any vendor of

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telecommunications equipment and services to Mount Sinai on federal income tax returns for the tax years 2000 through 2004; and (d) the failure of any individual who received kickbacks from a vendor of telecommunications equipment and services to Mount Sinai to report those kickbacks as income on his federal tax returns. This Agreement does not provide any protection against prosecution for any crimes except as set forth above. This Paragraph does not apply to civil matters of any kind, any violations of federal securities laws, or crimes of violence.

3. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than the Antitrust Division and, to the extent set forth above, the Tax Division of the Department of Justice.

POSSIBLE MAXIMUM PENALTIES

4. Spadola understands and agrees that pursuant to 15 U.S.C. § 1 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for a violation of 15 U.S.C. § 1, a class C felony, is (a) a term of imprisonment of not more than 10 years; (b) a fine of not more than the greater of $1 million, or the greater of twice the gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or (c) both such sentences. Spadola also understands that the Court may impose an order of restitution as a condition of probation or supervised release, pursuant to 18 U.S.C. §§ 3563(b)(2) or 3583(d) and USSG § 5E1.1. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(1) and

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USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A) and USSG § 5E1.3, the Court must impose a special assessment of $100.

5. Spadola understands and agrees that, pursuant to 18 U.S.C. § 371 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for his violation of 18 U.S.C. § 371, a class D felony, is (a) a term of imprisonment of not more than five years; (b) a fine of not more than the greater of $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense, together with the cost of prosecution; or (c) both such sentences. Spadola also understands that the Court shall impose an order of restitution, pursuant to 18 USC §§ 3663, 3663A, and 3664. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(2) and USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of $100.

6. Spadola understands and agrees that, pursuant to 26 U.S.C. § 7201 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for his violation of 26 U.S.C. § 7201(1), a class D felony, is (a) a term of imprisonment of not more than five years; (b) a fine of not more than the greater of $100,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense; or (c) both such sentences; together with (d) the costs of prosecution. Spadola understands that the Court may impose an order of restitution to the Internal

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Revenue Service as a condition of probation or supervised release, pursuant to 18 U.S.C. §§ 3563(b)(2) or 3583(d) and USSG § 5E1.1. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(2) and USSG § 5D1.2(a)(2). In addition, Spadola understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of $100.

SENTENCING GUIDELINES

7. Spadola understands that United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a reasonable sentence. Spadola understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. Spadola understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing Guidelines range, its sentence must be reasonable based upon considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

8. The United States and Spadola agree and stipulate that pursuant to USSG § 1B1.11(b)(1), the Sentencing Guidelines (Nov. 2003), the version in effect at the time of the offenses, should be applied because the application of a later version (now the Nov. 2005 edition) would lead to a higher adjusted offense level.

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9. The United States and Spadola acknowledge that they cannot agree on whether Spadola should receive an adjustment for his role in the offense, pursuant to USSG § 3B1.1. The United States contends that Spadola should receive a three-level adjustment, pursuant to USSG § 3B1.1(b), while Spadola contends that he should not receive any adjustment under USSG § 3B1.1. As a result, the parties cannot now agree on the offense level at which Spadola should be sentenced, but acknowledge that the combined adjusted offense level applicable to the offenses charged in the attached Information should be either level 23 (46-57 months) or level 20 (33-41 months), depending upon whether the Court applies an adjustment pursuant to USSG § 3B1.1(b). Furthermore, the parties can agree and hereby stipulate to the following:

(a) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the adjusted offense level for the conspiracy charged in Count One of the Information is level 15 (base level of 10 pursuant to USSG § 2R1.1, plus one level pursuant to USSG § 2R1.1(b)(1) (agreement to refrain from submitting competitive bids), plus 2 levels pursuant to USSG § 2R1.1(b)(2)(B) (volume of commerce between $1 million and $2.5 million), plus 2 levels pursuant to USSG § 3B1.3 (abuse of position of trust));

(b) In accord with the directives of the Second Circuit in United States v. Fitzgerald, 232 F.3d 315 (2d Cir. 2000), and United States v. Petrillo, 237 F.3d 119 (2d Cir. 2000), USSG §§ 3D1.2(d) and 3D1.3(b) require that the offenses charged in Counts

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Two and Three (fraud and tax offenses) be grouped and the losses aggregated, and that the offense level for the combined fraud/tax group is the higher of the offense level determined from the instructions in Chapter 2, Part B (Offenses Involving Theft, Fraud Or Deceit) or Chapter 2, Part T (Offenses Involving Taxation) and all appropriate adjustments;

(c) The combined loss from the fraud and tax offenses is approximately $242,966, the sum of the fraud offense (approximately $153,993 in kickback payments received) and the loss from the tax offense (approximately $88,973 in unpaid federal and state income taxes, all of which have been calculated in accordance with USSG § 2T1.1(c)(1)(A) and are based, when available, on Spadola's and his co-conspirator's actual marginal tax rates));

(d) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level for the fraud/tax group calculated according to the instructions in Part B is, level 22 (base level of 8, pursuant to USSG § 2B4.1(a); plus 12 levels, pursuant to § 2B1.1(b)(1)(G) (loss of more than $200,000 but less than $400,000); plus 2 levels, pursuant to USSG § 3B1.3 (abuse of a position of trust));

(e) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level for the fraud/tax group calculated according to the instructions in Part T is level 22 (offense level of 18, pursuant to USSG §§ 2T1.1(a)(1) and 2T4.1(G) (Tax Table) (loss of more than $200,000 but less than $400,000); plus 2 levels, pursuant to

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USSG § 2T1.1(b)(1) (failure to report more than $10,000 from criminal activity); plus 2 levels, pursuant to USSG § 3B1.3 (abuse of a position of trust));

(f) The antitrust offense does not involve substantially the same harm as the fraud and tax offenses, nor is it of the same general type as the fraud and tax offenses. Therefore, pursuant to USSG § 3D1.2, the antitrust offense is not grouped with the fraud and tax offenses charged in Counts Two and Three;

(g) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the fraud/tax group, with an offense level of 22 (under both Part B and Part T instructions), is 5 to 8 levels more serious than the antitrust offense, with an offense level of 15, and thus, pursuant to USSG § 3D1.4(b), counts as a ½ Unit. Because there are 1 ½ Units, 1 offense level is added to the fraud/tax group offense level, yielding a combined offense level of 23; and

(h) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, assuming Spadola clearly demonstrates acceptance of responsibility, to the satisfaction of the government, through his allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to USSG § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to USSG § 3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of

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guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

10. The United States and Spadola agree and stipulate that the volume of commerce attributable to Spadola under USSG § 2R1.1(b)(2) is $2,089,000.

11. The United States and Spadola agree and stipulate that the fine range for Spadola for the offenses charged in the Information is from $20,890 to $104,450, pursuant to USSG § 2R1.1(c)(1) and 5E1.2(b).

12. The United States further agrees that a sentence range of 46 to 57 months, based on an combined adjusted offense level of 23, (the Government's Stipulated Guidelines Range), would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). In addition, it will not seek a sentence above this range, suggest that the Probation Department consider a sentence above of this range, or suggest that the Court sua sponte consider a sentence above of this range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a).

13. Spadola further agrees that a sentence range of 33 to 41 months, based on an combined adjusted offense level of 20 (Spadola's Stipulated Guidelines Range), would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). In addition, he will not seek a sentence below this range, suggest that the Probation Department consider a sentence below of this range, or suggest that the Court

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sua sponte consider a sentence below of this range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a).

14. Except as provided in any written Proffer Agreement(s) that may have been entered into between the Antitrust Division and the defendant, nothing in this agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Ranges (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a); (iii) to seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's criminal history category is other than Category I. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Antitrust Division of the Department of Justice at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this agreement.

15. It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulations,

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either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Ranges, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

16. Spadola understands that the sentence to be imposed on him is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. Spadola acknowledges that his entry of a guilty plea to the charged offenses authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. The United States cannot, and does not, make any promise or representation as to what sentence Spadola will receive. Moreover, Spadola understands he will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside either the Government's Stipulated Guidelines Range or Spadola's Stipulated Guidelines Range set forth above.

17. The United States and Spadola agree that (i) Spadola will not appeal or otherwise litigate under 28 U.S.C. § 2255 and/or 2241, any sentence within or below Spadola's Stipulated Guidelines Range as set forth in this Agreement, and (ii) that the United States will not appeal any sentence within or above the Government's Stipulated Guidelines Range as set forth above. This provision is binding on the parties even if the

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Court employs a Sentencing Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of Spadola that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulations.

18. Spadola understands that this Agreement does not in any way affect or limit the right of the United States to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

19. Spadola agrees to waive any objection or defense he may have based on the United States joining in a single count the three distinct and separate instances of tax evasion charged in Count Three of the Information. Spadola understands that this waiver is knowingly and voluntarily made after fully conferring with, and on the advice of, his counsel, and are made for his own benefit.

20. Spadola understands and agrees that should the conviction following defendant's plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the

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intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

REPRESENTATION BY COUNSEL

21. Spadola has been represented by counsel and is fully satisfied that his attorney has provided competent legal representation. Spadola has thoroughly reviewed this Agreement and acknowledges that counsel has advised him of the nature of the charges, any possible defenses to the charges, and the nature and range of possible sentences.

VOLUNTARY PLEA

22. The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the United States has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that have not already been produced as of the date of the signing of this Agreement.

23. Spadola's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances,

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promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to Spadola as to whether the Court will accept or reject the recommendations contained within this Agreement.

ENTIRETY OF AGREEMENT

24. This Agreement constitutes the entire agreement between the United States and Spadola concerning the disposition of the charges contained in the attached Information. The United States has made no other promises to or agreements with Spadola. This Agreement cannot be modified other than in a writing signed by the parties.

Dated: 9/29/06

ANTHONY SPADOLA

REBECCA MEIKLEJOHN

WILLIAM SANDBACK, ESQ.
Counsel for Anthony Spadola

ELIZABETH PREWITT

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Antitrust Division
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USDC SDNY
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ELECTRONICALLY FILED
DOC #:
DATE FILED: SEP 29 2006

DOJ_NMG_ 0168962

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 2:58 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER U.S. ARMY CONTRACTING OFFICER SENTENCED TO TWO YEARS IN PRISON FOR WIRE FRAUD

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
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FORMER U.S. ARMY CONTRACTING OFFICER SENTENCED TO TWO YEARS IN PRISON FOR WIRE FRAUD

WASHINGTON – A former contracting officer for the U.S. Department of the Army Information Technology Agency has been sentenced to two years in prison on a wire fraud charge, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today.

Robert E. Johnson, Chief of Quality Assurance and Contracting Officer's Technical Representative for the U.S. Department of the Army Information Technology Agency in Rosslyn, Va., was sentenced today in U.S. District Court in Alexandria, Va., this morning by U.S. Judge James C. Cacheris. In addition to the two-year prison term, Johnson was also sentenced to three years of supervised release and ordered to pay more than $150,000 in restitution.

Johnson, 65, of Woodbridge, Va., pleaded guilty to the single count of wire fraud in June 2006. Johnson admitted that from 2000 to 2005, he used his official position to obtain more than $150,000 from the Army by directing two prime contractors to subcontract with two companies in which Johnson secretly held a financial interest. Johnson also admitted that he falsely certified that the prime contractors and their subcontractors had provided services to the government when, in fact, such services were not provided.

This case is being prosecuted by Assistant U.S. Attorney Steve A. Linick of the Eastern District of Virginia – now Deputy Chief of the Criminal Division's Fraud Section – and Trial Attorney Ann C. Brickley of the Public Integrity Section of the Criminal Division.

This case is being investigated by Army Criminal Investigation Division, the Defense Criminal Investigative Service, the General Services Administration and the Federal Bureau of Investigation.

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Image not available for this document, ID: 0.7.10316.27669-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 628019 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 3:52 PM
To: USDOJ- Office of Public Affairs
Subject: SIX DEFENDANTS CHARGED IN CONSPIRACIES TO EXPORT ARMS AND TO PROVIDE MATERIAL SUPPORT TO A FOREIGN TERRORIST ORGANIZATION

Indictment and complaints attached below.

Department of Justice

United States Attorney Rod J. Rosenstein
District of Maryland

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV/USAO/MD

CONTACT: VICKIE E. LEDUC
PHONE: (410) 209-4800
FAX: (410) 962-3091

SIX DEFENDANTS CHARGED IN CONSPIRACIES TO EXPORT ARMS AND TO PROVIDE MATERIAL SUPPORT TO A FOREIGN TERRORIST ORGANIZATION

Allegedly Acted as Brokers and Middlemen for Tamil Tiger Terrorists and/or Indonesian Customers in the Attempted Sale of Night Vision Devices, Grenade Launchers, Sniper Rifles and Machine Guns

BALTIMORE – Two complaints and an indictment were unsealed today charging six defendants with conspiracy to export arms and munitions, and three of those defendants with the additional crimes of conspiracy to provide material support to a designated foreign terrorist organization and money laundering. The defendants were arrested in Guam after traveling there to attempt to purchase night vision devices, sniper rifles, submachine guns with suppressors and grenade launchers to be used by the Liberation Tigers of Tamil Eelam (Tamil Tigers) or customers in Indonesia. Four of the defendants were acting at the direction of senior Tamil Tigers leadership in Sri Lanka, U.S. Attorney Rod J. Rosenstein of the District of Maryland announced today.

The three-count indictment returned on Sept.19, 2006, charges Haniffa Bin Osman, 55, of the Republic of Singapore and Erick Wotulo, 60, and Haji Subandi, 69, of the Republic of Indonesia, with conspiracy to export arms and munitions, conspiracy to provide material support to a foreign terrorist organization and money laundering. A complaint was also filed in the U.S. territory of Guam charging Thirunavukarasu Varatharasa, 36, a citizen of the Democratic Socialist Republic of Sri Lanka, with being a member of the alleged conspiracy to export of arms and munitions (Varatharasa complaint).

"The Tamil Tigers relies upon brokers and supporters throughout the world to acquire military weaponry and launder money in its attempt to violently overthrow the elected government of Sri Lanka," said U.S. Attorney Rod J. Rosenstein. "They have waged a civil war in Sri Lanka which has cost tens of thousands of lives, and often use suicide bombers. We will not allow any such terrorist organization and its middlemen to use the United States as a source of supply for weapons, technology and financial resources."

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"In today's world, keeping sophisticated U.S. weapons from falling into the hands of terrorists has never been more important," said Assistant Secretary Julie L. Myers of the U.S. Immigration and Customs Enforcement (ICE). "As this case demonstrates, ICE has no tolerance for international arms brokers looking to equip terrorist organizations with Stinger missiles and other advanced American weaponry. Arming a radical organization with more than 200 suicide bombings to its credit jeopardizes the security of the United States and nations around the globe."

Conspiracy to Export Arms and Provide Material Support to the Tamil Tiger Terrorists

The indictment and Varatharasa complaint allege that beginning in April 2006, the defendants conspired to export state-of-the-art firearms, machine guns and ammunition, surface to air missiles, night vision goggles and other items to the Tamil Tigers. The defendants acted as brokers between manufacturers of military technology and the Tamil Tigers, requesting price quotes and negotiating the purchases.

Founded in 1976, the Tamil Tigers has advocated the violent overthrow of the Sri Lankan government, employing acts of violence, including suicide bombings, against both civilian and military targets. Approximately 200 such attacks have been attributed to the Tamil Tigers to date. The Tamil Tigers relies heavily upon supporters throughout the world to raise and launder money, acquire intelligence and purchase military use technology. The U.S. Department of State designated the Tamil Tigers as a Foreign Terrorist Organization in 1997. As such, the Tamil Tigers cannot legally raise money or procure operational equipment in the United States.

According to the indictment, from March 2004 to April 2006, Subandi made numerous requests on behalf of Tamil Tigers representatives for price quotations and technical specifications of military items, including night vision goggles, special forces weaponry and equipment, communication devices, spare parts for helicopters and military aircraft, sonar technology and unmanned aerial vehicles. On May 3, 2006, Subandi sent undercover ICE agents a list of 53 military weapons, including sniper rifles, machine guns and grenade launchers, that he wished to acquire for the Tamil Tigers. A couple days later, Subandi advised undercover agents that the Tamil Tigers requested immediate pricing for numerous military equipment and that a high ranking Tamil Tigers representative requested that Subandi and an undercover agent travel to Malaysia to further discuss the arms purchases and arrange payment. On May 6, Subandi identified Osman and Wotulo as Tamil Tigers representatives who were willing to travel to a U.S. territory to meet with undercover agents. Subandi told undercover agents on May 18 that Tamil Tigers representatives in Malaysia sent Osman to Sri Lanka to report the details of the ongoing negotiations to superiors of the Tamil Tigers. On May 24, Subandi reported that Osman requested delivery of sniper rifles, submachine guns with suppressors and grenade launchers in international waters 200 km from Sri Lanka.

The indictment alleges that on May 26, 2006, Wotulo identified himself to undercover agents as a retired Indonesian Marine Corps General and discussed the proposed arms purchases. In June, Wotulo advised that he and his associates were preparing a purchase order and that the chief of the Tamil Tigers requested that he and Osman travel to Baltimore to meet with undercover agents. Wotulo submitted a purchase order for nine Munitions List items totaling approximately $3 million, including sniper rifles, submachine guns with suppressors and grenade launchers.

According to the indictment, on June 16, 2006, Osman advised undercover agents that he intended to meet Wotulo in Jakarta, Indonesia, to finalize arrangements for a meeting with undercover agents and to make an initial payment for the weaponry. The next day Subandi advised that the Tamil Tigers had accepted price quotes provided by undercover agents. During an initial meeting in Baltimore with undercover agents on July 26, Osman stated that the weapons were for the Tamil Tigers. The next day, Osman discussed the illegality of the arms transfer to the Tamil Tigers, provided navigational coordinates for a delivery in the Indian Ocean, and

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asked about serial numbers on the weapons in the event they fell into the hands of the Sri Lankan Army. Osman stated that if the first transfer of weapons was successful, the second order could be worth as much as $15 million. Osman also inquired about pricing for unmanned aerial vehicles.

The Varatharasa complaint alleges that Osman test-fired several of the weapons in Maryland on July 28, 2006. Osman advised that Varatharasa would inspect the weaponry before it would be accepted by the Tamil Tigers.

The indictment and Varatharasa complaint also allege that on August 2 an international wire transfer of $250,000 from a bank in Kuala Lumpur, Malaysia, was credited to an account maintained by an undercover business in Maryland as a down payment for the weapons purchase invoiced by undercover agents at approximately $900,000. According to Osman, the money was wired from a business controlled by a member of the Tamil Tigers. On August 5, Osman provided undercover agents with passports in the names of Osman and Varatharasa in preparation for their travel to the Northern Mariana Islands and/or Guam to accept delivery of the weapons.

In August 2006, Osman allegedly requested photos and technical specifications for surface to air missiles to be used against the Sri Lankan Air Force.

According to the Varatharasa complaint, Osman and Varatharasa met with undercover agents in Guam on Sept. 25, 2006, and discussed the weapons, as well as how the weapons would be shipped from Guam and then off-loaded by Tamil Tigers members at a destination in the Indian Ocean. The next day they inspected the machine guns, sniper rifles and ammunition. They agreed to take steps to have additional funds of $450,000 transferred to an undercover bank account as further payment for the weapons.

Conspiracy to Export Arms to Indonesia

According to the complaint filed against Reinhard Rusli, 34, and Helmi Soedirdja, 33, both citizens of Indonesia and Subandi, the defendants conspired to ship night vision goggles to customers in Indonesia. The defendants acted as brokers, making inquiries to an undercover business in the United States on behalf of individuals and/or entities in Indonesia to acquire military equipment. In August 2006 Subandi ordered a monocular night vision device and holographic weapons sight from the undercover business for $2,950. This purchase was intended as a sample for a larger order in the future for the same or similar devices. Subandi sent a wire transfer of $2,950 on Aug. 31, 2006, from an Indonesian bank to a bank in the United States.

According to the complaint, Subandi stated that an individual named "Reinhard" had contacts within the Indonesian military and would help in the transaction. On Sept. 22, 2006, Subandi met with undercover agents in Guam and discussed delivery of the night vision devices. Subandi described Rusli and Soedirdja as his financial partners who were providing the funds for the current transaction as well as future deals. The defendants met with the undercover agents the next day and discussed the delivery. They asked to examine the devices and other night vision equipment. The defendants acknowledged that the proposed transaction was illegal and discussed the safest method to smuggle the devices through the Guam airport. The defendants took possession of the night vision devices on Sept. 24, agreeing to wire transfer additional funds. Each of the defendants faces a maximum sentence of five years in prison and a $250,000 fine for the conspiracy to export arms. Subandi, Osman and Wotulo also face a maximum sentence of 15 years in prison and a $250,000 fine for the conspiracy to provide material support and 20 years in prison and a $500,000 fine for money laundering. The defendants had their initial appearances today in Guam and will be transferred to federal custody in Maryland.

An indictment is not a finding of guilt. An individual charged by indictment is presumed innocent unless and until proven guilty at some later criminal proceedings.

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OsmanEtAlInd.pdf

SubandiComplaint...

VaratharasaCompl...

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Image not available for this document, ID: 0.7.10316.27883-000002

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA	:	
	:	
V.	:	**CRIMINAL NO.**
	:	
HANIFFA BIN OSMAN	:	
ERICK WOTULO and	:	**Conspiracy to Export Arms**
HAJI SUBANDI	:	**and Munitions, 18 U.S.C.**
	:	**§371 and 22 U.S.C.**
	:	**§2778; Conspiracy to Provide**
	:	**Material Support to a**
	:	**Foreign Terrorist**
	:	**Organization, 18 U.S.C.**
	:	**§2339B(a)(1); Money**
	:	**Laundering 18**
	:	**U.S.C. §1956(a)(2)(A);**
	:	**Aiding and**
	:	**Abetting 18 U.S.C.§2)**

...oooOooo...

INDICTMENT

The Grand Jury for the District of Maryland charges that:

Preliminary Allegations

1. At all times relevant to this Indictment:

a) Heckler and Koch was an incorporated business having offices in the United States at Trussville, Alabama. Heckler and Koch and its associated businesses are engaged in the development, manufacture, sale and distribution of firearms and components for military, law enforcement and recreational applications. These firearms and components include the H&K Model 69 40mm grenade launcher and MP 7 machine gun.

b) FNH/USA LLC. was a business organized in the United States, with offices at McLean, Virginia. FNH/USA LLC. and its associated businesses are engaged in the development, manufacture, sale and distribution of firearms and components for

military and law enforcement applications. These firearms and components include the P90 5.7x28mm triple rail machine gun and Five-Seven 5.7x28mm pistol.

c) Colt Defense LLC. was a business organized in the United States, with offices at West Hartford, Connecticut. Colt Defense LLC. and its associated businesses are engaged in the development, manufacture, sale and distribution of firearms and components for military, law enforcement and recreational applications. These firearms and components include the M16A4 5.56mm machine gun.

d) The Raytheon Company was a business incorporated in the United States with offices at Waltham, Massachusetts. The Raytheon Company and its subsidiaries are engaged in the development, manufacture, sale and distribution of assorted weaponry for military applications. Among the weapons developed by Raytheon exclusively for military use is the Stinger, a shoulder fired surface to air missile, which is designed to destroy aircraft in flight.

e) The United States Marine Corps is a component of the United States Department of Defense. In addition to its obligations as part of the armed forces of the United States, it develops, manufactures and distributes specialty firearms for military and law enforcement use. One such specialty firearm is the M40A3 Sniper rifle.

f) ITT Corporation was a business incorporated in the United States with offices at White Plains, New York. ITT

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Corporation and its subsidiaries are engaged in the development, manufacture, sale and distribution of night vision technology for military applications. ITT Corporation develops and manufactures the F7201 PVS-14 Generation 3 night vision equipment.

g) **HAJI SUBANDI** and **ERICK WOTULO** are citizens of the Republic of Indonesia.

h) **HANIFFA BIN OSMAN** is a citizen of the Republic of Singapore.

i) United States Immigration and Customs Enforcement was operating an undercover business within the State of Maryland.

The Export and Import of Defense Articles

2. The export from, and import into, the United States of arms, munitions, equipment for military use, and related components, and the technology to build such items, is strictly controlled by statutes and regulations.

3. The Arms Export Control Act authorizes the President of the United States to control the import and export of defense articles and services in furtherance of world peace, security and foreign policy of the United States. It authorizes the Secretary of State to make decisions on whether license applications or other written requests for the import or export of defense articles and services should be permitted. (61 FR 48831, September 17, 1996)

4. The Arms Export Control Act, Title 22, United States Code, Section 2778, and the International Traffic in Arms Regulations

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(the ITAR), Title 22, Code of Federal Regulations, Part 120, authorize the United States Department of State's Directorate of Defense Trade Controls ("the DDTC") to establish the United States Munitions List ("the Munitions List") to regulate the import and export of defense articles and services.

5. The Munitions List is a catalog of designated "defense articles" which are subject to certain export and import restrictions. Any person who intends to export, or import temporarily, defense articles on the Munitions List from or into the United States is first required to obtain a license from the DDTC. An applicant for an export or temporary import license from the Department of State must identify in the required license application the ultimate and final destination of the goods, which in the trade is referred to as the "end user."

6. Included on the Munitions List are assorted classifications of conventional weapons, ammunition, missiles and night vision devices.

7. At all times material to the Indictment herein, the P90 5.7x28mm triple rail machine gun; Five-Seven 5.7x28 pistol; MP7 machine gun; H&K Model 69 40mm grenade launcher; M16A4 5.56mm machine gun; M40A3 7.62 Sniper rifle; Stinger shoulder fired surface to air missiles; and Model F7201, PVS-14 Generation 3 night vision goggles were all defense articles on the Munitions List, which required licenses from the United States Department of State's Directorate of Defense Trade Controls, before they

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could be temporarily imported into or exported from the United States.

8. The export of any Munitions List item to customers in the Democratic Socialist Republic of Sri Lanka requires a license from the DDTC.

International Emergency Economic Powers Act

9. On September 23, 2001 the President of the United States of America, acting by Executive Order pursuant to the International Emergency Economic Powers Act ("IEEPA"), Title 50, United States Code, Section 1701 et seq., declared a national emergency with respect to the threat of further terrorist attacks in the aftermath of September 11, 2001. Executive Order No. 13224, dated September 23, 2001 and published in the Federal Register, found that the continuing and immediate threat of further attacks on United States nationals or the United States constituted an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. Executive Order 13224 created a broad prohibition on transactions which assist, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of acts of terrorism and blocked all property and interests in property located in the United States of persons found to be in violation of the stated prohibitions.

The Liberation Tigers of Tamil Eelam and Its Designation as a Foreign Terrorist Organization

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10. The government of the Democratic Socialist Republic of Sri Lanka has been involved in an armed conflict with an organized group within its borders since approximately 1983. This organized group, the Liberation Tigers of Tamil Eelam (hereinafter "LTTE" or Tamil Tigers), was founded in 1976 and controls most of the northern and eastern coastal areas of Sri Lanka.

11. The LTTE has advocated the violent overthrow of the elected government of Sri Lanka as well as the creation of a separate state for the Tamil population in northern Sri Lanka. The LTTE has regularly engaged in acts of violence against the Sri Lankan government, including the use of 'suicide bombings' against both civilian and military targets. Approximately two hundred such attacks have been attributed to the LTTE to date.

12. The LTTE is highly organized and contains components responsible for political activities, intelligence, operations and procurement. The LTTE relies heavily upon supporters throughout the world to raise and launder money, acquire intelligence, purchase military use technology and equipment and otherwise support its activities.

13. The LTTE has been designated by the United States Department of State as a Foreign Terrorist Organization since 1997. As a result of said designation, the LTTE cannot legally raise money or procure operational equipment or other materials in the United States. Individuals involved in these activities or other forms of material support are subject to prosecution under 18 U.S.C. Section 2339B and related statutes.

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HAJI SUBANDI

14. **HAJI SUBANDI** is an Indonesian citizen who corresponded regularly with the undercover business in an effort to secure military use equipment and technology from businesses located within the United States. Between March 2004 and April 2006, **SUBANDI**, on numerous occasions, requested from the undercover business, via electronic mail and telephone facsimile, price quotations and technical specifications for items suitable for military use, including items listed on the United States Munitions List. These items included night vision goggles, special forces weaponry and equipment, communication devices, spare parts for helicopters and military aircraft, sonar technology, unmanned aerial vehicles as well as conventional arms and munitions. The "end users" of these items were located in such countries as the Republic of Indonesia and the Democratic Socialist Republic of Sri Lanka.

15. In communicating with the undercover business, **HAJI SUBANDI** expressed his willingness to dispense with and to subvert the licensing requirements of the United States Department of State for the export of items contained on the Munitions List. **SUBANDI** also expressed his desire to conduct arms transfers "by the back door" and that he was willing to assumes the risks of such conduct, even if it meant going to jail.

COUNT I

The Conspiracy to Violate the Arms Export Control Act

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16. From in or about April of 2006 through the date of this Indictment, in the District of Maryland, the Democratic Socialist Republic of Sri Lanka, the Republic of Indonesia and elsewhere,

HAJI SUBANDI, HANIFFA BIN OSMAN and ERICK WOTULO

the defendants herein, did knowingly and willfully combine, conspire, confederate and agree with each other, and with others, known and unknown to the Grand Jury, to willfully export and cause to be exported from the United States to the Democratic Socialist Republic of Sri Lanka, defense articles listed on the United States Munitions List, without having first obtained from the Department of State, Directorate of Defense Trade Controls, a license or other written authorization for such export, in violation of Title 22, United States Code, Sections 2778(b)(2) and (c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, 127.1(a), 127.1(d) and 127.3.

The Object of the Conspiracy

17. It was an object of the conspiracy to export from the United States state-of-the-art firearms, machine guns and ammunition, surface to air missiles, night vision goggles and other Munitions List items to customers located outside the United States, including the LTTE, a designated Foreign Terrorist Organization operating within the Democratic Socialist Republic of Sri Lanka, directly or through intermediary countries in violation of the International Emergency Economic Powers Act, and the shipment of the aforementioned items to customers without obtaining the appropriate license from the United States Department of State,

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Directorate of Defense Trade Controls, in violation of the Arms Export Control Act.

The Manner and Means of the Conspiracy

18. It was part of the conspiracy for the defendants to act as brokers and middlemen between manufacturers and distributors of technology produced for military use and to military specifications, and purchasers of such technology. The purchasers, or "end users," of this technology were individuals and/or entities located within the Democratic Socialist Republic of Sri Lanka, specifically the LTTE, and elsewhere.

19. It was further part of the conspiracy that **HAJI SUBANDI, HANIFFA BIN OSMAN** and **ERICK WOTULO**, and other unindicted co-conspirators, made extensive use of telephones, telephone facsimiles and electronic mail to seek price quotes for items parts and equipment suitable for military applications, including Munitions List items, and to negotiate for the acquisition of such items for eventual delivery to members of the LTTE, a designated Foreign Terrorist Organization, said organization being the "end user" operating within the Democratic Socialist Republic of Sri Lanka.

Overt Acts

20. In furtherance of the conspiracy and to effect its unlawful purpose, defendants **HAJI SUBANDI, HANIFFA BIN OSMAN** and **ERICK WOTULO**, and others committed and caused to be committed the following acts in the District of Maryland, and elsewhere, among others:

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a) On or about April 27, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and inquired about a sale of military use weapons to an organization that **SUBANDI** reported to be the Liberation Tigers of Tamil Eelam. (LTTE) Subsequently, **SUBANDI** referred to this organization as "TT".

b) On or about May 3, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and sent an itemized list of some fifty-three military use items, including sniper rifles, machine guns, and grenade launchers that he wished to acquire for the LTTE.

c) On or about May 5, 2006, **HAJI SUBANDI** contacted the undercover business via telephone facsimile and recounted the events of a recently concluded meeting with two LTTE rebels and an Indonesian liaison named Major General **ERICK WOTULO**. **SUBANDI** wrote that the LTTE requested immediate pricing for numerous military use equipment and weaponry. **SUBANDI** further noted the terms of payment for the requested items and noted that the LTTE insisted on delivery of the weapons to a location in international waters.

d) On or about May 5, 2006, **HAJI SUBANDI** contacted the undercover business via telephone facsimile and provided the identity of a Sri Lankan member of a team which would inspect the weapons prior to delivery.

e) On or about May 6, 2006, **HAJI SUBANDI** contacted the undercover business via telephone facsimile and represented the identity of second member of a team which would inspect the

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weapons for the LTTE to be an individual named **HANIFFA BIN OSMAN**. **SUBANDI** also stated that a high ranking LTTE representative had requested the undercover agent and **SUBANDI** to travel to Kuala Lumpur, Malaysia to further discuss the matter of the arms acquisitions and to arrange payment via cash or offshore bank account transfers.

f) On or about May 6, 2006, **HAJI SUBANDI** contacted the undercover business via telephone facsimile and identified **HANIFFA BIN OSMAN** and Major General **ERICK WOTULO** as representatives of the LTTE who were willing to travel to a United States Territory to meet with undercover agents.

g) On or about May 9, 2006, ICE undercover agents, at the request and direction of **HAJI SUBANDI**, sent via electronic mail pricing information for assorted military use technology and weaponry sought by the LTTE. The items included sniper rifles, submachine guns with suppressors and grenade launchers.

h) On or about May 15, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and sought guidance on how to include his profit in the proposed sale price tendered to the LTTE.

I) On or about May 18, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and reported that LTTE representatives in Kuala Lumpur, Malaysia sent **HANIFFA BIN OSMAN** to Colombo, Sri Lanka to report to LTTE superiors the details of the ongoing negotiations for the acquisition of the military items and weaponry.

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j) On or about May 24, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and reported that **HANIFFA BIN OSMAN** had requested delivery of the proposed weapons be conducted in international waters 200 km from Sri Lanka.

k) On or about May 26, 2006, **ERICK WOTULO** contacted the undercover business via electronic mail and identified himself as a retired Indonesian Marine Corps General. **WOTULO** discussed the proposed weaponry acquisitions by the LTTE and stated, in substance and in part, "I understood this business is dangerous, also extraordinary, high risk".

l) On or about June 5, 2006, **ERICK WOTULO** contacted the undercover business via telephone and electronic mail and stated that he and his associates were preparing a purchase order for the weapons. **WOTULO** stated that the chief of the LTTE had requested that he and **HANIFFA BIN OSMAN** travel to Baltimore, Maryland to meet with undercover agents.

m) On or about June 6, 2006, **ERICK WOTULO** contacted the undercover business via electronic mail and referenced a telephone call he had participated in with an undercover agent on June 5, 2006. **WOTULO** confirmed the content of the conversation and reaffirmed the need to provide the undercover agents with a 25% deposit before the weapons purchase could proceed.

n) On or about June 6, 2006, **ERICK WOTULO** contacted the undercover business via electronic mail and submitted a purchase order for nine Munitions List items totaling approximately

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$3,000,000 (USD). The items included M40A3 sniper rifles, FN P90 submachine guns with suppressors and M203 grenade launchers.

o) On or about June 7, 2006 undercover agents spoke to **HANIFFA BIN OSMAN** and discussed meeting in Baltimore, Maryland and payment terms for the proposed arms sale.

p) On or about June 7, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and informed undercover agents that the LTTE is a terrorist organization. **SUBANDI** further wrote, in substance and in part, "The LTTE is sealed off by the US Government and the EU 25 countries as terrorist".

q) On or about June 13, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and wrote that "in addition the TT should pay my round trip ticket. If I have to come to Baltimore, they have to pay my business class ticket. My preference is still G."(Guam)

r) On or about June 16, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and wrote that he intended to visit Jakarta, Indonesia to meet **ERICK WOTULO** for the purpose of finalizing arrangements for a meeting with undercover agents and to make an initial payment for the weaponry.

s) On or about June 27, 2006, **HAJI SUBANDI** contacted the undercover business via electronic mail and wrote that the LTTE had accepted price quotations provided by the undercover business for the purchase of the Munitions List weaponry.

t) On or about July 4, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and agreed to meet with

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undercover agents in Baltimore. **OSMAN** requested that undercover agents keep the fact of the meeting confidential for security reasons.

u) On or about July 26, 2006, **HANIFFA BIN OSMAN** traveled to Baltimore, Maryland to meet with undercover agents to further the purchase of the weaponry. During an initial meeting **OSMAN** stated that the weapons were for the LTTE from Sri Lanka. He further stated that he was not a member of the LTTE but assisted them in obtaining what they needed. **OSMAN** was shown a number of weapons, ammunition and night vision devices.

v) On July 27, 2006, **HANIFFA BIN OSMAN** met with undercover agents in Maryland and discussed the illegality of the transfer of the arms to the LTTE. **OSMAN** provided navigational coordinates for a delivery in the Indian Ocean. **OSMAN** asked about serial numbers on the weapons in the event they fell into the hands of the Sri Lankan Army. **OSMAN** stated that if the first transfer of the Munitions List items were successful, the second order could be worth as much as $15,000,000. **OSMAN** also inquired about pricing for Unmanned Aerial Vehicles that were displayed to him.

w) On July 28, 2006, **HANIFFA BIN OSMAN** test-fired in Maryland several of the weapons, including machine guns and sniper rifles, which he sought to secure for the LTTE.

x) On July 31, 2006, **HANIFFA BIN OSMAN** met with undercover agents and discussed the commission he would receive for the arms sale. **OSMAN** stated that his partner would inspect the weapons and travel on the boat to the delivery point. **OSMAN** also raised the

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possibility that members of the SEA TIGERS, the Marine Unit of the LTTE, would also escort the weapons to their final destination.

y) On or about August 1, 2006, **HANIFFA BIN OSMAN** informed the undercover agents that the LTTE sent a deposit of $250,000 via international wire transfer as a down payment for the purchase of the weapons, and that the value of the arms sale had increased to $900,000.

z) On or about August 2, 2006, **HANIFFA BIN OSMAN** informed undercover agents that the company that had wired the money was controlled by a member of the LTTE. This company was also reported to be utilized to provide a range of services to the LTTE.

aa) On or about August 2, 2006, an international wire transfer from Account Number 601-00000-61000012 maintained at the Eon Bank Berhad in Kuala Lumpur, Malaysia in the amount of $250,000.00, more or less, was credited to an account maintained by the undercover business in Maryland.

bb) On or about August 5, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and provided undercover agents with passports in the names of **HANIFFA BIN OSMAN** and his associate in preparation for their travel to the Northern Mariana Islands to accept delivery of the weapons destined for the LTTE.

cc) On or about August 18, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and inquired about the

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purchase of surface to air missiles for use by the LTTE against the Sri Lankan Air Force.

dd) On or about August 20, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and confirmed his willingness to travel to the Northern Mariana Islands to accept delivery of the weapons destined for the LTTE.

ee) On or about August 27, 2006, **HANIFFA BIN OSMAN** contacted the undercover business via electronic mail and requested, on behalf of "his headquarters," photographs and technical specifications for the surface to air missiles.

18 U.S.C. Section 371

22 U.S.C. Section 2778

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Count II

Conspiracy To Provide Material Support Or

Resources To A Foreign Terrorist Organization

The Grand Jury for the District of Maryland further charges that:

1. The Grand Jury for the District of Maryland incorporates repeats and re-alleges Paragraphs 1 through 15 as alleged in Count I as if fully set out herein.

2. From in or about April of 2006 through the date of this Indictment, in the District of Maryland, the Democratic Socialist Republic of Sri Lanka, the Republic of Indonesia and elsewhere,

HAJI SUBANDI, HANIFFA BIN OSMAN, and ERICK WOTULO

the defendants herein, did knowingly combine, conspire, confederate and agree with each other, and with others, known and unknown to the Grand Jury, to knowingly provide material support and resources, as said terms are defined in 18 U.S.C. Section 2339A(b)(1), including firearms, ammunition, missiles and other items suitable for military use, to a foreign terrorist organization, to wit the Liberation Tigers of Tamil Eelam (LTTE), which has been designated by the Secretary of State as a foreign terrorist organization since 1997, pursuant to Section 219 of the

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Immigration and Nationality Act, in violation of 18 U.S.C. Section 2339B.

The Object of the Conspiracy

It was a part and an object of the conspiracy to enrich the defendants by providing state of the art firearms, machine guns and ammunition, surface to air missiles, night vision goggles and other Munitions List items to the LTTE, and its members and associates operating within the Democratic Socialist Republic of Sri Lanka, to be used to fight against forces of the elected government of the Democratic Socialist Republic of Sri Lanka.

The Manner and Means of the Conspiracy

(a) It was part of the conspiracy for the defendants to act as brokers and middlemen between manufacturers and distributors of technology produced for military use and to military specifications, and purchasers of such technology. The purchasers, or "end users," of this technology was the LTTE, its members and associates, operating within the Democratic Socialist Republic of Sri Lanka.

(b) It was further part of the conspiracy that **HAJI SUBANDI, HANIFFA BIN OSMAN** and **ERICK WOTULO**, and other unindicted co-conspirators, made extensive use of telephones, telephone facsimiles and electronic mail to seek price quotes for items parts and equipment suitable for military applications, including

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Munitions List items, and to negotiate for the acquisition of such items for eventual delivery to members of the LTTE, a designated Foreign Terrorist Organization, said organization being the "end user" operating within the Democratic Socialist Republic of Sri Lanka.

Overt Acts

In furtherance of the conspiracy and to effect its unlawful purpose, defendants **HAJI SUBANDI, HANIFFA BIN OSMAN** and **ERICK WOTULO**, committed and caused to be committed the following acts in the District of Maryland, and elsewhere, among others:

The Grand Jury for the District of Maryland repeats and re-alleges each Overt Act set forth in Paragraph 20 as alleged in Count I of this Indictment as if fully set out herein.

18 U.S.C. § 2339B (a)(1)

18 U.S.C. § 2339A(b)(1)

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COUNT III

The Grand Jury for the District of Maryland further charges that:

1. The Grand Jury for the District of Maryland incorporates Paragraphs 1 through 15 as alleged in Count I as if fully set out herein.

2. On or about August 2, 2006, in the District of Maryland, Malaysia, the Democratic Socialist Republic of Sri Lanka and elsewhere, the defendants,

HAJI SUBANDI, HANIFFA BIN OSMAN, and ERICK WOTULO

did knowingly and willfully transmit and transfer funds, that is $250,000.00, more or less, from a place outside the United States, that is, Malaysia, to a place in the United States, that is Baltimore, Maryland, with the intent to promote the carrying on of specified unlawful activity, that is the unauthorized

acquisition of articles controlled on the United States Munitions List, established under Section 38 of the Arms Export Control

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Act, and to provide material support to a designated terrorist organization (22 U.S.C. § 2778 and 18 U.S.C. § 2339B).

18 U.S.C. Section 1956(a)(2)(A)
18 U.S.C. Section 2

TRUE BILL:

_____
Rod J. Rosenstein
United States Attorney

_____ _____
Foreperson Date

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FILED
DISTRICT COURT OF GUAM
SEP 28 2006
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA, Plaintiff, vs. HAJI SUBANDI, REINHARD RUSLI, and HELMI SOEDIRDJA, Defendants.	CRIMINAL CASE NO. 06-00044 **COMPLAINT** **CONSPIRACY TO EXPORT DEFENSE ARTICLES** [18 U.S.C. § 371 and 22 U.S.C. § 2778]

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND BELIEF THAT:

The Export and Import of Defense Articles

1. The export from, and import into, the United States of arms, munitions, military aircraft parts, and related components, and the technology to build such items, is strictly controlled by statutes and regulations.

2. The Arms Export Control Act, Title 22, United States Code, Section 2778, and the International Traffic in Arms Regulations (the "ITAR"), Title 22, Code of Federal Regulations,

Part 120, authorize the United States Department of State's Directorate of Defense Trade Controls ("the DDTC") to establish the United States Munitions List ("the Munitions List").

3. The Munitions List is a catalog of designated "defense articles" which are subject to export and certain import restrictions. Any person who intends to export, or import temporarily, defense articles on the Munitions List from or into the United States is required to first obtain a license from the DDTC. An applicant for an export or temporary import license from the Department of State must identify in the required license application the ultimate and final destination of the goods, which in the trade is referred to as the "end user."

4. Included on the Munitions List are assorted classifications of conventional weapons, ammunition as well as components designed and manufactured for use by the military, including night vision technology.

5. The export of any Munitions List item to the Republic of Indonesia requires a license from the DDTC.

6. ITT Industries, with offices at Roanoke, Virginia develops and manufactures night vision technology, including the Monocular Night Vision Device (MNVD), Model AN/PVS-14. EOTech designs, manufactures and markets electro-optics products and systems, including the EOTech Holographic Weapons Sight, Model M-522. It has headquarters in Ann Arbor, Michigan. These items are found on the Munitions List and cannot be legally exported from the United States without a license from the DDTC.

COMPLAINANT FURTHER STATES:

7. I, John C. Burgess, being a Special Agent with the U.S. Immigration and Customs Enforcement (ICE) of the Department of Homeland Security, state that ICE maintains an undercover business in the United States for the purpose of investigating possible violations of the Arms Export Control Act. I am assigned to the Baltimore, Maryland office, and acting in my official capacity, set forth the following:

The Conspiracy to Violate the Arms Export Control Act

8. From in or about August of 2006 through the date of this Complaint, in the United States Territory of Guam, the District of Maryland, the Republic of Indonesia and elsewhere, **HAJI SUBANDI, REINHARD RUSLI and HELMI SOEDIRDJA,** the defendants herein, did knowingly and willfully combine, conspire, confederate and agree with each other, and with others, to commit offenses against the United States, that is, to export, and temporarily import, defense articles listed on the Munitions List without the required license, contrary to Title 22, United States Code, § 2778 and 18 U.S.C. Section 371.

The Object of the Conspiracy

9. The object of the conspiracy was to enrich the defendants by shipping Munitions List items to customers in the Republic of Indonesia without obtaining the appropriate license from the United States Department of State, Directorate of Defense Trade Controls, in violation of the Arms Export Control Act.

The Manner and Means of the Conspiracy

10. It was part of the conspiracy for the defendants to act as brokers and middlemen between manufacturers and distributors of technology produced for military use and to military specifications, and purchasers of such technology. The purchasers, or "end users," of this technology were individuals and/or entities located within the Republic of Indonesia.

Overt Acts

11. Beginning in or about March of 2004 **Haji Subandi** made inquiries to an undercover business in the United States to acquire equipment adapted to United States military special forces use, including night vision goggles, for export from the United States to the Republic of Indonesia. As months passed, **Subandi** made numerous inquiries regarding the purchase of Munitions List technology. In August of 2006, **Subandi** placed an order with the undercover business to purchase a Monocular Night Vision Device (MNVD), Model AN/PVS-14 and a EOTech Holographic Weapons Sight, Model M-522 for a total of approximately $2,950. This

purchase was intended as a sample for a larger order for the same or similar devices to be consummated in the future. On or about August 31, 2006 **Subandi** sent a wire transfer in the amount of $2,950, more or less, to a bank account in the United States maintained by the undercover business from a bank in the Republic of Indonesia as payment for the aforementioned device.

12. In an electronic mail sent by **Subandi** to the undercover business, he stated that an individual named **'Reinhard'** had contacts within the Indonesian military and would be assisting in the transaction.

13. On September 21, 2006 **Haji Subandi, Reinhard Rusli and Helmi Soedirdja** arrived in the United States Territory of Guam to meet with an undercover officer for the purpose of taking delivery of certain aforementioned night vision devices and to discuss the acquisition of other Munitions List items, to be exported from the United States without a license as required by DDTC.

14. On September 22, 2006 **Subandi** met with undercover agents in Guam and discussed the delivery of the aforementioned night vision device and described to the undercover officers the roles of **Rusli** and **Soedirdja** in the transaction. **Subandi** described **Rusli** and **Soedirdja** as being his financial partners who were providing the monetary backing for both the current transaction as well as future deals.

15. On September 23, 2006 **Subandi, Rusli** and **Soedirdja** met with undercover officers in Guam and discussed the delivery of the sample Monocular Night Vision Device (MNVD), Model AN/PVS-14 and the EOTech Holographic Weapons Sight, Model M-522 . **Subandi, Rusli** and **Soedirdja** asked to examine the devices as well as other sample night vision equipment which are controlled by the Munitions List. During this meeting, the undercover officers made clear to **Subandi, Rusli** and **Soedirdja** that the transfer of these devices was illegal without licenses being first obtained from the DDTC. **Subandi, Rusli** and **Soedirdja** verbally acknowledged that each understood that the proposed transaction was illegal and re-affirmed

their intent to participate in this and future transactions by affirmatively stating, in substance and in part, that each 'was in.' **Subandi, Rusli** and **Soedirdja** discussed with the undercover officers the safest method of smuggling the devices out of the country through the international airport at Guam and spoke of additional illegal transfers of Munitions List items to be consummated in the future.

16. On September 24, 2006 **Subandi, Rusli** and **Soedirdja** again met with the undercover officers and took possession of a Monocular Night Vision Device (MNVD), Model AN/PVS-14, a Model PVS-7 night vision device and the EOTech Holographic Weapons Sight, Model M-522. Each of these devices is controlled by the Munitions List and requires an export license. **Subandi, Rusli** and **Soedirdja** also agreed to wire transfer into an undercover bank account additional funds as further payment for the devices. **Subandi, Rusli** and **Soedirdja** again discussed the safest method of smuggling the devices through the Guam airport and **Rusli** and **Soedirdja** stated they planned to depart the United States Territory of Guam with the devices on an evening flight to Indonesia on September 24, 2006.

17. Based on the foregoing, I believe that there exist probable cause to believe that **Haji Subandi, Reinhard Rusli and Helmi Soedirdja** have committed the offense of Conspiracy to Violate the Arms Export Control Act contrary to Title 22, United States Code, § 2778 and 18 U.S.C. § 371.

JOHN C. BURGESS
Special Agent
Bureau of Immigration &
Customs Enforcement

SUBSCRIBED AND SWORN to before me this 28th day of September, 2006.

JOAQUIN V.E. MANIBUSAN, JR.
U.S. Magistrate Judge
District of Guam

DOJ_NMG_ 0168998

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FILED
DISTRICT COURT OF GUAM
SEP 28 2006
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA, Plaintiff, vs. THIRUNAVUKARASU VARATHARASA, Defendant.	CRIMINAL CASE NO. 06-00043 **ORDER**

This matter having come before this Honorable Court based on the United State's Application to Seal the Complaint, and Warrant for Arrest, in the above-captioned matter; and the Court finding good cause for the issuance of the order;

IT IS HEREBY ORDERED that the documents be sealed, until otherwise Ordered by the Court.

DATE: 9/28/2006

JOAQUIN V.E. MANIBUSAN, JR.
Magistrate Judge
District Court of Guam

COPY

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FILED
DISTRICT COURT OF GUAM
SEP 28 2006
MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA, Plaintiff, vs. THIRUNAVUKARASU VARATHARASA, Defendant.	CRIMINAL CASE NO. 06-00043 **COMPLAINT** **CONSPIRACY TO EXPORT DEFENSE ARTICLES** [18 U.S.C. § 371 and 22 U.S.C. § 2778]

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND BELIEF THAT:

The Export and Import of Defense Articles

1. The export from, and import into, the United States of arms, munitions, and items manufactured for military use, and the technology to build such items, is strictly controlled by statutes and regulations.

2. The Arms Export Control Act, Title 22, United States Code, Section 2778, and the International Traffic in Arms Regulations (the "ITAR"), Title 22, Code of Federal Regulations, Part 120, authorize the United States Department of State's Directorate of Defense Trade Controls ("the DDTC") to establish the United States Munitions List ("the Munitions List").

3. The Munitions List is a catalog of designated "defense articles" which are subject to export and certain import restrictions. Any person who intends to export, or import temporarily, defense articles on the Munitions List from or into the United States is required to first obtain a license from the DDTC. An applicant for an export or temporary import license from the Department of State must identify in the required license application the ultimate and final destination of the goods, which in the trade is referred to as the "end user."

4. Included on the Munitions List are assorted classifications of conventional weapons, ammunition as well as components designed and manufactured for use by the military.

5. The export of any Munitions List item to the Democratic Socialist Republic of Sri Lanka requires a license from the DDTC.

6. At all times material to this Complaint, the P90 5.7x28mm triple rail machine gun; Five-Seven5.7x28 pistol; MP7 machine gun; H & K Model 69 40mm grenade launcher; M16A4 5.56mm machine gun; M40A3 7.62 Sniper rifle; Stinger shoulder fired surface to air missiles; and Model F7201 PVS-14 Generation 3 night vision goggles were all articles on the Munitions List and cannot be legally exported from the United States without a license from the DDTC.

COMPLAINANT FURTHER STATES:

7. I, John C. Burgess, being a Special Agent with the U.S. Immigration and Customs Enforcement (ICE) of the Department of Homeland Security, state that ICE maintains an undercover business in the United States for the purpose of investigating possible violations of the Arms Export Control Act. I am assigned to the Baltimore, Maryland office, and acting in my official capacity, set forth the following:

The Conspiracy to Violate the Arms Export Control Act

8. From in or about April of 2006 through the date of this Complaint, in the United States Territory of Guam, the District of Maryland, the Republic of Indonesia, the Democratic Socialist Republic of Sri Lanka and elsewhere, **THIRUNAVUKARASU VARATHARASA** the defendant herein, did knowingly and willfully combine, conspire, confederate and agree with

other persons, to commit offenses against the United States, that is, to export, and temporarily import, defense articles listed on the Munitions List without the required license, contrary to Title 22, United States Code, § 2778 and 18 U.S.C. Section 371.

The Object of the Conspiracy

9. The object of the conspiracy was to enrich the defendant and his co-conspirators by shipping Munitions List items to customers in the Democratic Socialist Republic of Sri Lanka without obtaining the appropriate license from the United States Department of State, Directorate of Defense Trade Controls, in violation of the Arms Export Control Act.

The Manner and Means of the Conspiracy

10. It was part of the conspiracy for the defendant and his co-conspirators to act as brokers and middlemen between manufacturers and distributors of technology produced for military use and to military specifications, and purchasers of such technology. The purchasers, or "end users," of this technology were individuals and/or entities located within the Democratic Socialist Republic of Sri Lanka.

Overt Acts

11. In April of 2006 **Haji Subandi**, who has been separately charged by Indictment from the District of Maryland[1], indicated to undercover officers that he had a customer in the Democratic Socialist Republic of Sri Lanka who wished to purchase large quantities of conventional arms and munitions. He identified this customer as the Liberation Tigers of Tamil Eelam (LTTE). **Subandi** understood that the transfer of these weapons and munitions was illegal without licenses being first obtained from the DDTC.

12. In May of 2006 **Haji Subandi** contacted the undercover business and identified **Haniffa Bin Osman** and **Erick Wotulo** as representatives of the LTTE who were willing to

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[1]Subandi, Haniffa Bin Osman and Erick Wotulo are charged under a sealed indictment with conspiracy to exports arms and munitions, conspiracy to provide material support to a designated foreign terrorist organization, and money laundering. **Thirunavukarasu Varatharasa** is charged herein with being a member of said conspiracy. A copy of the Maryland Indictment is available for inspection by this Court.

travel to the United States to meet with undercover agents in order to facilitate the proposed arms transaction. **Subandi** subsequently sought pricing information for assorted types of machine guns, automatic weapons and grenade launchers on behalf of the LTTE.

13. On or about July 26, 2006 **Haniffa Bin Osman** traveled to Maryland to meet with undercover officers to further the purchase of the weaponry. On July 28, 2006 **Osman** test-fired several of the weapons, including machine guns and sniper rifles, which he sought to secure for the LTTE. While in Maryland, **Osman** told undercover officers that **Thirunavukarasa Varatharasa** would inspect the weaponry before it would be accepted by the LTTE.

14. On or about August 2, 2006 an international wire transfer from a bank in Kuala Lumpur, Malaysia in the amount of $250,000.00, was credited to an account maintained by the undercover business in Maryland. This transfer was a down payment for an order of weaponry which was invoiced by the undercover business at approximately $900,000.00. **Haniffa Bin Osman** stated to undercover officers that the funds had been transferred by a business which had ties to the LTTE.

15. On or about August 5, 2006 **Haniffa Bin Osman** provided undercover officers with passports in his name and in the name of **Thirunavukarasa Varatharasa** in preparation for their travel to the Northern Mariana Islands and/or Guam to accept delivery of the weapons destined for the LTTE.

16. On September 25, 2006 **Haniffa Bin Osman** and **Thirunavukarasa Varatharasa** arrived in Saipan to accept delivery of the weapons. They were subsequently transported to the United States Territory of Guam to inspect the weapons. They met with undercover officers in Guam and discussed the weapons as well as the methods by which the weaponry would be shipped from Guam and then off-loaded by LTTE members at a destination in the Indian Ocean.

17. On September 26, 2006 **Haniffa Bin Osman** and **Thirunavukarasa Varatharasa** inspected at a location in Guam the various machine guns, sniper rifles and ammunition which had been ordered for the LTTE. **Thirunavukarasa Varatharasa** closely examined the weapons

and separated some weapons into their component parts. **Haniffa Bin Osman** and **Thirunavukarasa Varatharasa** then agreed to take steps to have additional funds in the amount of $450,000.00 transferred to an undercover bank account as further payment for the weapons.

18. Based on the foregoing, I believe that there exists probable cause to believe that **Thirunavukarasa Varatharasa** has committed the offense of Conspiracy to Violate the Arms Export Control Act contrary to Title 22, United States Code, Section 2778 and Title 18, United States Code, Section 371.

JOHN C. BURGESS
Special Agent
Bureau of Immigration &
Customs Enforcement

SUBSCRIBED AND SWORN to before me this 28th day of September, 2006.

JOAQUIN V.E. MANIBUSAN, JR.
U.S. Magistrate Judge
District of Guam

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 5:24 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL COURT REVOKES CITIZENSHIP OF PITTSBURGH-AREA MAN WHO SERVED AS NAZI CONCENTRATION CAMP GUARD

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

FEDERAL COURT REVOKES CITIZENSHIP OF PITTSBURGH-AREA MAN WHO SERVED AS NAZI CONCENTRATION CAMP GUARD

WASHINGTON – The U.S. District Court in Pittsburgh today revoked the U.S. citizenship of Anton Geiser of Sharon, Pa., because of his participation in Nazi-sponsored acts of persecution while serving during World War II as an armed SS guard at Sachsenhausen Concentration Camp and other places of persecution, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Mary Beth Buchanan of the Western District of Pennsylvania announced today.

Geiser admitted under oath that he served during most of 1943 as an armed SS guard at the Sachsenhausen Concentration Camp near Berlin, Germany; that his duties included escorting prisoners to slave labor sites and standing guard in the camp's guard towers; and that he was under standing orders to shoot any prisoner attempting escape. He also admitted serving as a guard at the Buchenwald Concentration Camp and its Arolsen subcamp. Prisoners held at Sachsenhausen and Buchenwald were forced to engage in hard physical labor under extraordinarily brutal conditions. Many prisoners died from exhaustion or disease. Many were shot or hanged. During the period when Geiser served at Sachsenhausen, more 3,000 prisoners were murdered or died from the brutal treatment.

"Anton Geiser's service as an armed SS guard at several Nazi concentration camps helped to ensure that thousands of men and women held prisoner could not escape the brutal conditions of their confinement," said Assistant Attorney General Fisher. "The court's ruling today confirms that the United States is not and never will be a haven for those who participated in Nazi genocide."

Geiser, 81, immigrated to the United States from Austria in October 1956, and was naturalized as a U.S. citizen in March 1962. The district court found that he was not eligible for citizenship because his service to Nazi Germany made him ineligible to immigrate to the United States. Geiser's service as an armed SS guard, the court concluded, "clearly assisted in the persecution of the prisoners" held by the Nazis at Sachsenhausen, Buchenwald and Arolsen.

"By standing guard with a loaded weapon under orders to shoot, Anton Geiser helped to ensure that thousands of innocent men and women were forced to endure slave labor, medical experiments, malnourishment and murder," said Eli M. Rosenbaum, Director of the Justice Department's Office of Special

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Investigations (OSI), which investigated the case. "Such individuals do not deserve the privilege of living in the United States. The Government will work to remove Geiser from this country as swiftly as possible."

U.S. Attorney Buchanan stated: "Individuals like Anton Geiser, who assisted the Nazis in their quest to extinguish the lives of millions of innocent men, women and children, do not deserve the benefits of U.S. citizenship."

The proceedings to denaturalize Geiser were instituted in 2004 by OSI and the U.S. Attorney's Office in Pittsburgh. The case is a result of OSI's ongoing efforts to identify, investigate and take legal action against former participants in Nazi persecution who reside in the United States. Since OSI began operations in 1979, it has won cases against 103 individuals who assisted in Nazi persecution. In addition, more than 175 individuals who sought to enter the United States in recent years have been blocked from doing so as a result of OSI's "Watchlist" program, which is enforced in cooperation with the Department of Homeland Security.

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06-668

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Image not available for this document, ID: 0.7.10316.27653-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 5:35 PM
To: USDOJ- Office of Public Affairs
Subject: LIBERIAN MAN PLEADS GUILTY TO SCHEME TO EXTORT RANSOM MONEY FOR KIDNAPPED CHRISTIAN SCIENCE MONITOR JOURNALIST

Department of Justice

United States Attorney Jeffrey A. Taylor
District of Columbia

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV/USAO/DC

CONTACT: CHANNING PHILLIPS
PHONE: (202) 514-6933
FAX: (202) 307-3569

LIBERIAN MAN PLEADS GUILTY TO SCHEME TO EXTORT RANSOM MONEY FOR KIDNAPPED CHRISTIAN SCIENCE MONITOR JOURNALIST

WASHINGTON – A Liberian man, Kelvin Kamara, has pleaded guilty to a scheme to extort $2 million in ransom money for kidnapped *Christian Science Monitor* journalist Jill Carroll, U.S. Attorney Jeffrey A. Taylor of the District of Columbia and Acting Assistant Director in Charge Joseph Persichini Jr. of the FBI's Washington Field Office announced today.

Kamara, 27, a Liberian national, pleaded guilty in the U.S. District Court for the District of Columbia earlier today to transmitting ransom demands in interstate and foreign commerce. Kamara will be sentenced on Dec. 8, 2006. He faces a maximum sentence of 20 years in prison and under the terms of his plea agreement, a likely sentence of 33 months of incarceration.

"The United States will not tolerate the actions of those who try to profit from the tragic circumstances of others," stated U.S. Attorney Taylor. "As a result of the extraordinary assistance from the German government, we were able to bring Mr. Kamara to justice, despite the fact that he was committing his crime from abroad."

"The crime committed by Mr. Kamara further victimized Jill Carroll, her family and associates," said FBI Acting Assistant Director in Charge Persichini. "Today's plea is the result of the efforts of law enforcement working together from opposite parts of the world to end that victimization."
http://www.usdoj.gov/usao/dc/press/pressrel.html

According to the government's proffer of evidence at today's plea hearing, on Jan. 7, 2006, armed gunmen in Iraq kidnapped Jill Carroll. At the time, Carroll was working as a freelance journalist for *The Christian Science Monitor*.

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On Feb. 12, 2006, Kamara, who was then residing in Germany, sent an e-mail to the Washington, D.C. Bureau of *The Christian Science Monitor*. Using the alias "Saidu Mohammed," Kamara wrote:

> I can give you informations (sic) to secure the release of jill carroll, i am mujaheeden and i can give every information that can lead to securing her release . . . . i am impatiently waiting to read from you for further directives and negotiations . . . . saidu mohammed

The e-mail was false. Kamara had no association with the real kidnappers, nor was he even in Iraq.

On Feb. 14, 2006, Kamara, continuing to pose as "Saidu Mohammed," sent the Washington Bureau Chief of *The Christian Science Monitor* an e-mail demanding $2 million in ransom money "or else Jill is likely to become history."

Over the next month, Kamara, by phone and e-mail, made repeated demands to *The Christian Science Monitor* for $2 million in ransom to secure the release of Jill Carroll. He also repeatedly claimed that Carroll would die if he did not receive the ransom money.

The German police, through electronic monitoring, were able to trace the phone that Kamara was using to call *The Christian Science Monitor*'s Washington Bureau Chief to an apartment in Muenster, Germany. By similar means, the German police were also able to determine that several of the ransom e-mails that Kamara sent emanated from a computer located in the same apartment.

On March 16, 2006, the German police searched the apartment in Muenster, Germany. Kamara was present when the police arrived. During the search, they discovered the telephone that Kamara was using to contact *The Christian Science Monitor*. A search of a computer seized in the apartment revealed that it contained several of the e-mails that Kamara had sent to *The Christian Science Monitor*'s Washington Bureau.

Pursuant to a request from the United States, the German authorities arrested Kamara on March 16, 2006. He was extradited to the United States on Aug. 25, 2006.

In announcing today's plea, U.S. Attorney Taylor and Acting Assistant Director Persichini praised the investigate work of FBI Special Agent Charles Price and Assistant Legal Attaché Kristen McClaren, as well as Assistant U.S. Attorney Jay I. Bratt, who is prosecuting the case. They also expressed their gratitude for the excellent assistance provided by Michael Heller of the Hessiisches Landeskriminalamt.

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Image not available for this document, ID: 0.7.10316.27651-000002

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 629554 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 6:17 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUES OWNER AND MANAGER OF LAKEWOOD, N.J. APARTMENT COMPLEX FOR DISCRIMINATION AGAINST NON-JEWISH BLACK AND HISPANIC TENANTS

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SUES OWNER AND MANAGER OF LAKEWOOD, N.J. APARTMENT COMPLEX FOR DISCRIMINATION AGAINST NON-JEWISH BLACK AND HISPANIC TENANTS

WASHINGTON — The Justice Department filed a lawsuit today against Triple H. Realty LLC and a current and former employee of the corporation, alleging that they discriminated against non-Jewish black and Hispanic tenants at the Cottage Manor Apartments in Lakewood, N.J.

The complaint, filed in federal district court in Newark, alleges that the defendants marketed the complex to Orthodox Jews in the local area beginning in 2002 by offering lower rents than current tenants paid for comparable apartments. Non-Jewish black and Hispanic residents were allegedly pressured to move out of buildings that management reserved for incoming Jewish tenants and that were better maintained than other buildings in the complex. The complaint also alleges that management provided Jewish residents more favorable living conditions, such as a fenced, landscaped yard.

"It is inexcusable and illegal to deny equal access to housing based on one's race or ethnicity," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Department of Justice will continue to vigorously protect the equal housing rights of all Americans."

The suit seeks monetary damages to compensate victims, civil penalties, and a court order barring future discrimination.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Departments' Civil Rights Division has filed 210 cases to enforce the Fair Housing Act. For more information about the Civil Rights Division and the laws it enforces, visit http://www.usdoj.gov/crt.

# # #

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Image not available for this document, ID: 0.7.10316.27642-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 7:28 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
September 29, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Attorney General Delivers Remarks on Judicial Independence and Department Efforts to Combat Intellectual Property Theft (OPA)
Today, the Attorney General delivered remarks before the Georgetown University Law Center Conference on the Judiciary regarding judicial independence. He also delivered remarks before the U.S. Chamber of Commerce Intellectual Property Summit in Washington.

Constitutional Lawfulness of the Military Commissions Act (OPA)
Reuters is working on a story about the military commissions act with the assertion that it is likely to be challenged in court, and will likely ultimately be decided by the Supreme Court. Reuters quotes critics who say certain key provisions, like habeas, could be struck down. The story is anticipated run this weekend.

Talking Points

- The military commission legislation is plainly constitutional.
- Far from foreclosing judicial review, this bill provides aliens detained as enemy combatants with the chance to challenge their detention before the United States Court of Appeals for the D.C. Circuit.
- The military commissions established under the act provide the accused with the fundamental rights that will ensure fair and effective trials that fully satisfy all applicable standards under the Geneva Convention and our Constitution.

Department Receives Inquiries Regarding Jeanine Pirro Investigation (OPA)
The Department today received inquiries from regional New York media regarding the Jeanine Pirro investigation. It is not expected that the Department's involvement will receive news coverage after tomorrow.

Talking Points

- When we receive these types of requests, they are reviewed by the appropriate people within the Department to determine what course of action to take, if any.

Media Inquires Regarding Congressman Foley (OPA)
A number of media inquiries were received today regarding whether the Department or the FBI is investigating Congressman Foley on accusations that he exploited young boys over the Internet. The Department has declined to comment.

Federal Court Revokes Citizenship of Pittsburgh-Area Man Who Served as Nazi Concentration Camp Guard (Criminal)
The U.S. District Court in Pittsburgh today revoked the U.S. citizenship of Anton Geiser of Sharon, Pa., because of his participation in Nazi-sponsored acts of persecution while serving during World War II as an armed SS guard at Sachsenhausen Concentration Camp and other places of persecution, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Mary Beth Buchanan of the Western District of Pennsylvania announced today.

Talking Points

- Anton Geiser's service as an armed SS guard at several Nazi concentration camps helped to ensure that thousands of men and women held prisoner could not escape the brutal conditions of their confinement.

- The court's ruling today confirms that the United States is not and never will be a haven for those who participated in Nazi genocide.

Former U.S. Army Contracting Officer Sentenced to Two Years in Prison for Wire Fraud (Criminal)
A former contracting officer for the U.S. Department of the Army Information Technology Agency has been sentenced to two years in prison on a wire fraud charge, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today. Robert E. Johnson, Chief of Quality Assurance and Contracting Officer's Technical Representative for the U.S. Department of the Army Information Technology Agency in Rosslyn, Va., was sentenced today in U.S. District Court in Alexandria, Va., this morning by U.S. Judge James C. Cacheris. In addition to the two-year prison term, Johnson was also sentenced to three years of supervised release and ordered to pay more than $150,000 in restitution.

Justice Department Sues Owner and Manager of Lakewood, N.J. Apartment Complex for Discrimination against Non-Jewish Black and Hispanic Tenants (Civil Rights)
The Justice Department filed a lawsuit today against Triple H. Realty LLC and a current and former employee of the corporation, alleging that they discriminated against non-Jewish black and Hispanic tenants at the Cottage Manor Apartments in Lakewood, N.J. The complaint, filed in federal district court in Newark, alleges that the defendants marketed the complex to Orthodox Jews in the local area beginning in 2002 by offering lower rents than current tenants paid for comparable apartments. Non-Jewish black and Hispanic residents were allegedly pressured to move out of buildings that management reserved for incoming Jewish tenants and that were

better maintained than other buildings in the complex. The complaint also alleges that management provided Jewish residents more favorable living conditions, such as a fenced, landscaped yard.

Talking Points

- It is inexcusable and illegal to deny equal access to housing based on one's race or ethnicity.

- The Department of Justice will continue to vigorously protect the equal housing rights of all Americans.

Former New York Hospital Employee and a Manhattan Telecommunications Company Plead Guilty To Bid Rigging and Related Charges (Antitrust)
A former New York hospital employee and a telecommunications company pleaded guilty today to charges relating to their roles in a conspiracy involving kickbacks, bid rigging, bribery, contract allocation, and related charges for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced.

Talking Points

- Today's sentences demonstrate that the Antitrust Division will hold accountable those who attempt to undermine open and competitive bidding processes.

Justice Department Asks Federal Court to Bar Brooklyn Man from Preparing Federal Tax Returns for Others (Tax)
The United States has filed suit in federal court in Brooklyn to permanently bar Garry P. Webb, also known as Garry P. Webb-Bey, from preparing federal income tax returns for others, the Justice Department announced today. The civil injunction suit alleges that Webb prepared federal income tax returns for customers improperly claiming that income his customers earned in the New York area was "foreign" income exempt from tax.

Settlement between United States, Delaware, Dupont and Ciba Restores Wetlands Habitat in Delaware's Mispillion River Ecosystem (Environmental and Natural Resources Division)
The federal government and the Delaware Department of Natural Resources and Environmental Control reached an agreement today with chemical companies DuPont and Ciba to resolve claims relating to the release of hazardous substances from the DuPont Newport Superfund Site, which contaminated wetlands in and around the Christina River ecosystem. DuPont and Ciba will pay over $1.6 million for cleanup costs, natural resource damages and restoration projects to the federal and state trustees, which include the state of Delaware, the National Oceanic and Atmospheric Administration (NOAA), and the Fish and Wildlife Service.

Talking Points

- This settlement will result in significant habitat improvements in the Mispillion River ecosystem—home to many valuable natural resources, such as blue crab, Atlantic herring, spot, and striped bass.

- The Justice Department will continue to work cooperatively with state and federal agencies to ensure our environmental laws are enforced and our resources protected.

Liberian Man Pleads Guilty to Scheme to Extort Ransom Money for Kidnapped *Christian Science Monitor* Journalist (USAO–District of Columbia)
A Liberian man, Kelvin Kamara, has pleaded guilty to a scheme to extort $2 million in ransom money for kidnapped *Christian Science Monitor* journalist Jill Carroll, U.S. Attorney Jeffrey A. Taylor of the District of Columbia and Acting Assistant Director in Charge Joseph Persichini Jr. of the FBI's Washington Field Office announced today. Kamara, 27, a Liberian national, pleaded guilty in the U.S. District Court for the District of Columbia earlier today to transmitting ransom demands in interstate and foreign commerce. Kamara will be sentenced on Dec. 8, 2006. He faces a maximum sentence of 20 years in prison and under the terms of his plea agreement, a likely sentence of 33 months of incarceration.

Talking Points

- The United States will not tolerate the actions of those who try to profit from the tragic circumstances of others

- As a result of the extraordinary assistance from the German government, we were able to bring Mr. Kamara to justice, despite the fact that he was committing his crime from abroad.

Six Defendants Charged In Conspiracies to Export Arms and to Provide Material Support to a Foreign Terrorist Organization (USAO–District of Maryland)
Two complaints and an indictment were unsealed today charging six defendants with conspiracy to export arms and munitions, and three of those defendants with the additional crimes of conspiracy to provide material support to a designated foreign terrorist organization and money laundering. The defendants were arrested in Guam after traveling there to attempt to purchase night vision devices, sniper rifles, submachine guns with suppressors and grenade launchers to be used by the Liberation Tigers of Tamil Eelam (Tamil Tigers) or customers in Indonesia. Four of the defendants were acting at the direction of senior Tamil Tigers leadership in Sri Lanka, U.S. Attorney Rod J. Rosenstein of the District of Maryland announced today.

Talking Points

- The Tamil Tigers relies upon brokers and supporters throughout the world to acquire military weaponry and launder money in its attempt to violently overthrow the elected government of Sri Lanka.

- They have waged a civil war in Sri Lanka which has cost tens of thousands of lives, and often use suicide bombers. We will not allow any such terrorist organization and its

middlemen to use the United States as a source of supply for weapons, technology and financial resources.

***Fox News Channel* to feature FBI Special Agent**

On Saturday, Sept. 30, the *Fox News Channel* program "The Lineup" will feature a live interview with Jim Dougal, a Special Agent from Jacksonville, Fla. The interview will regard the "Redneck Robber," who is believed to be responsible for a string of bank robberies throughout the Southeast.

MONDAY'S EXPECTED EVENTS/RELEASES:

11:00 A.M. EDT Regina Schofield, Assistant Attorney General for the Office of Justice Programs (OJP), will deliver opening remarks about Partnerships to Service Youth at the OJP Law Enforcement and Youth Partnerships for Crime Prevention Conference.
Hyatt Regency Washington on Capitol Hill
400 New Jersey Avenue, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Laura Keehner at (202) 616-9485.

From: USDOJ- Office of Public Affairs
Sent: Friday, September 29, 2006 7:37 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 2 – OCTOBER 6, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, SEPTEMBER 29, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 2 – OCTOBER 6, 2006

Monday, October 2

11:00 A.M. EDT Regina Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver opening remarks about Partnerships to Service Youth at the OJP Law Enforcement and Youth Partnerships for Crime Prevention Conference.
Hyatt Regency Washington on Capitol Hill
400 New Jersey Avenue, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Laura Keehner at (202) 616-9485.

Tuesday, October 3

10:00 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks at the National Human Trafficking Conference in New Orleans regarding Department efforts to combat human trafficking.
Marriot Hotel – New Orleans
Ballroom
555 Canal Street
New Orleans, La.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202)532-3486.

Wednesday, October 4

DOJ_NMG_ 0169022

11:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver brief remarks and introduce U.S. Treasurer Anna Cabral at the Justice Department's Hispanic Heritage Month commemorative event.
The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at (202) 514-2007.

Thursday, October 5

9:00 A.M. PDT Regina Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver keynote remarks regarding Department activities in Indian Country at the National Congress of American Indians Annual Conference.
Sheraton Grand Sacramento
1230 J Street
Sacramento, Calif.
OPEN PRESS

Press inquiries regarding logistics should be directed to Laura Keehner at (202) 616-9485.

9:15 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks at a conference of the U.S. Business Leadership Network in Minneapolis to highlight the Department's record in implementing the Americans with Disabilities Act.
Main Ballroom
Marriott City Center
30 South Seventh Street
Minneapolis, Minn.

Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202) 532-3486.

Friday, October 6

7:15 P.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the Dominican American National Roundtable in Atlantic City.
Sheraton Atlantic City Convention Center Hotel
Two Miss American Way
Atlantic City, N.J.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202) 532-3486.

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DOJ_NMG_ 0169023

Image not available for this document, ID: 0.7.10316.27629-000001

Image not available for this document, ID: 0.7.10316.27629-000002

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:42 PM
To: Gorsuch, Neil M
Subject: Not read: FYI - Bullet Points Version of Yesterday's Talking Points

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:42 PM
To: Gorsuch, Neil M
Subject: Not read: DoD Memo on Geneva

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: DoD Memo on Geneva

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: FT Article re Haynes

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: ICTY / ICTR

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: Your Nom was held over

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: CNN Breaking News

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: Not read: Tenet

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:44 PM
To: Gorsuch, Neil M
Subject: Not read: NYT Letter to the Editor

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:44 PM
To: Gorsuch, Neil M
Subject: Not read: Current draft of Cookeville letter to Sen. Frist

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: Ninth Circuit Split

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: LA Katrina Plan

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: Deficit Reduction Act

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: IG report on COPS meth funding

System Administrator

From:	System Administrator
Sent:	Friday, September 29, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630397 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: Action items from 3/6 Strategic Initiatives Mtg

Moschella, William

From:	Moschella, William
Sent:	Friday, September 29, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Not read: Final Talking Points and Letter-to-the-editor on today's Wash ington Post story

Moschella, William

From:	Moschella, William
Sent:	Friday, September 29, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Not read: Final Talking Points and Letter-to-the-editor on today's Wash ington Post story

Moschella, William

From: Moschella, William
Sent: Friday, September 29, 2006 7:45 PM
To: Gorsuch, Neil M
Subject: Not read: Rakoff Order

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630400 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630401 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630402 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630402 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630403 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Saturday, September 30, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630404 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Saturday, September 30, 2006 9:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Howell, OH

From: AmberAlert-DOJ
Sent: Saturday, September 30, 2006 9:01:27 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Howell, OH
Auto forwarded by a Rule

AMBER ALERT: [redacted]

http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2322

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 1, 2006 12:02 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Howell, OH

From: AmberAlert-DOJ
Sent: Sunday, October 01, 2006 12:01:32 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Howell, OH
Auto forwarded by a Rule

UPDATE AMBER ALERT [redacted]
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2322

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Sunday, October 01, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630409 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 1, 2006 7:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Siler City, NC

From: AmberAlert-DOJ
Sent: Sunday, October 01, 2006 7:35:43 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Siler City, NC
Auto forwarded by a Rule

AMBER ALERT: [redacted]
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2342

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 1, 2006 9:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Siler City, NC

From: AmberAlert-DOJ
Sent: Sunday, October 01, 2006 9:35:55 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Siler City, NC
Auto forwarded by a Rule

UPDATE AMBER ALERT: [redacted]
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2342

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Sunday, October 01, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630413 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, October 1, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630414 KB.

Mailbox size limits:

You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, October 01, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630415 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

System Administrator

From:	System Administrator
Sent:	Sunday, October 01, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630416 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 01, 2006 7:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Howell, MI

From: AmberAlert-DOJ
Sent: Sunday, October 01, 2006 7:01:26 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS;
AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM;
Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Howell, MI
Auto forwarded by a Rule

UPDATE AMBER ALERT: [redacted]
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2322

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Sunday, October 01, 2006 7:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630418 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 01, 2006 10:36 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Siler City, NC

From: AmberAlert-DOJ
Sent: Sunday, October 01, 2006 10:35:38 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Siler City, NC
Auto forwarded by a Rule

UPDATE AMBER ALERT [redacted]
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2342

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

System Administrator

From:	System Administrator
Sent:	Monday, October 02, 2006 6:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 630421 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

[redacted]@tibco.com

From: [redacted]@tibco.com
Sent: Monday, October 02, 2006 7:01 AM
To: Gorsuch, Neil M
Subject: Service-Oriented Architecture Seminar
Attachments: tmp.htm

To view this email as a web page, go to the link below, or copy and paste it into your browser's address window.
http://view.exacttarget.com/?ffcb10-fe9313737763067d72-fdee17797463037d73127877-fef8177574610d

Government agencies are under increasing pressure to increase operational efficiency and provide constituents with real-time access to information and services that cross organizational silos.

â?¢To what extent are you able to share information between agencies and departments?

â?¢Does your IT infrastructure enable you to respond quickly to changing requirements?

Learn how government agencies are using the principles and technologies of service-oriented architecture (SOA) to reduce IT costs, increase operational efficiency, and respond quickly to threats and opportunities in the environment.

Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: Thursday, November 2, 2006

Time: 7 a.m. to 1 p.m.

Location: Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am Registration/Breakfast
8:00 am - 8:15 am Welcome
8:15 am - 9:00 am Featured Keynote Address - [redacted]
9:00 am - 9:45 am Service-Oriented Architecture - [redacted] TIBCO Software
9:45 am - 10:00 am Break
10:00 am - 11:00 am SOA Executive Panel Discussion 11:00 am - 12:00 pm Event Driven Architecture - [redacted] TIBCO Software 12:00 pm - 1:00 pm Lunch/Closing

SOA Executive Panel:
Moderator
[redacted] Former CIO - USAF

Panelists
[redacted]

To register go to:

http://www.tibco.com/mk/2006/info_sharing_gov.jsp
http://www.tibco.com/mk/2006/info_sharing_gov.jsp

We hope to see you on November 2nd

http://view.exacttarget.com/ftaf.aspx?ffcb10-fe9313737763067d72-fdee17797463037d73127877-fef8177574610d

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Palo Alto, CA, 94304-1204, USA

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(http://email.exacttarget.com/company-anti-sp-policy.asp)

Visit the following URL to manage your subscriptions.
(http://cl.exct.net/subscription_center.aspx?s=fe0616707665077b70167177&j=fe9313737763067d72&mid=fef8177574610d)

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Government agencies are under increasing pressure to increase operational efficiency and provide constituents with real-time access to information and services that cross organizational silos.

â€¢To what extent are you able to share information between agencies and departments?

â€¢Does your IT infrastructure enable you to respond quickly to changing requirements?

Learn how government agencies are using the principles and technologies of service-oriented architecture (SOA) to reduce IT costs, increase operational efficiency, and respond quickly to threats and opportunities in the environment.

Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: Thursday, November 2, 2006

Time: 7 a.m. to 1 p.m.

Location: Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am	Registration/Breakfast
8:00 am - 8:15 am	Welcome
8:15 am - 9:00 am	Featured Keynote Address - [redacted]
9:00 am - 9:45 am	Service-Oriented Architecture - [redacted] TIBCO Software
9:45 am - 10:00 am	Break
10:00 am - 11:00 am	SOA Executive Panel Discussion
11:00 am - 12:00 pm	Event Driven Architecture - [redacted] TIBCO Software
12:00 pm - 1:00 pm	Lunch/Closing

SOA Executive Panel:

Moderator

[redacted] Former CIO - USAF

Panelists

[redacted]

To register go to:
http://www.tibco.com/mk/2006/info_sharing_gov.jsp

We hope to see you on November 2nd

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 02, 2006 8:29 AM
Subject: Justice Caféoffee Shop Reopens for Business

JUSTICE CAFÉ COFFEE SHOP REOPENS FOR BUSINESS

The Justice Café Coffee Shop will reopen for business on Monday, October 2nd after being closed for three months due to the flooding in the MAIN Justice Building. Even though the coffee shop did not sustain any water damage, essential services such as hot water have only recently been restored to the building.

The coffee shop, open from 7:30 a.m. until 3:00 p.m., will be serving various coffees in addition to light snacks, pastries and eventually packaged sandwiches. The coffee shop is located near elevator bank #7. *Please come down and enjoy your morning and afternoon coffee!*

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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JMD … Serving Justice - Securing Results

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 2, 2006 9:27 AM
Subject: Email Delivery Problems

Email Delivery Problems

We are currently experiencing problems with email delivery in the Senior Management Offices and Justice Management Offices located on the 5th and 7th floors of Main building. We will notify you as soon as email delivery returns to normal.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 2, 2006

Department of Justice

PRESS GUIDANCE
Monday, October 02, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Office of Justice Programs will tentatively issue a release on a grant funding matter. (Peterson)

EVENTS/HEARINGS

11:00 A.M. EDT Regina Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver opening remarks on *Partnerships to Service Youth* at the OJP Law Enforcement and Youth Partnerships for Crime Prevention Conference.
Hyatt Regency Washington on Capitol Hill
400 New Jersey Avenue, N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Laura Keehner at (202) 616-9485.

NIGHT DUTY OFFICER

Kimberly Smith

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169070

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Image not available for this document, ID: 0.7.10316.26871-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 10:17 AM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT ANNOUNCES WILLIAM E. MOSCHELLA AS NEW PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 2, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT ANNOUNCES WILLIAM E. MOSCHELLA AS NEW PRINCIPAL ASSOCIATE DEPUTY ATTORNEY GENERAL

WASHINGTON — The Justice Department today announced that William E. Moschella will serve as Principal Associate Deputy Attorney General effective immediately. Mr. Moschella succeeds William Mercer, who was nominated in early September to serve as Associate Attorney General.

Mr. Moschella currently serves as Assistant Attorney General for the Department's Office of Legislative Affairs. In this capacity, he acts as the legislative liaison between the Department and the U.S. Congress – representing the interests and opinions of the Department before members of the House and Senate.

As Assistant Attorney General, Mr. Moschella helped shepherd significant acts of legislation from inception to passage, including the Intelligence Reform and Terrorism Prevention Act of 2004, the USA PATRIOT Improvement and Reauthorization Act of 2005, and the Adam Walsh Child Protection and Safety Act of 2006.

"Will has been a valuable member of my team since day one," said Attorney General Alberto R. Gonzales. "Since his confirmation in 2003, Will has aided the passage of every single piece of significant anti-terror legislation. He has provided both Attorney General Ashcroft and me with expert guidance and unmatched negotiation skills in his role as Assistant Attorney General for Legislative Affairs."

"I've known Will for a decade. He has a vast knowledge of most of the complex matters facing the Department," said Deputy Attorney General Paul J. McNulty. "His extraordinary experience will be an asset to my office and a continued asset to the Department for as long as he chooses to stay with the Department."

From 1990 to 2003, Mr. Moschella worked on Capitol Hill, including serving as Counsel to the House Committee on Government Reform, General Counsel to the House Committee on Rules, Chief Investigative Counsel to the House Committee on the Judiciary, and Chief Legislative Counsel and Parliamentarian to the House Committee on the Judiciary. In 2003, he was nominated by President Bush to serve as Assistant Attorney General for Legislative Affairs. He was confirmed by the Senate on May 9, 2003. He received his

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law degree from George Mason University Law School and received a bachelor's degree from the University of Virginia.

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06-666

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System Administrator

From:	System Administrator
Sent:	Monday, October 02, 2006 10:45 AM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 641499 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

agarg@truman.gov

From: agarg@truman.gov
Sent: Monday, October 02, 2006 11:15 AM
To: Gorsuch, Neil M
Cc: fslabach@truman.gov
Subject: Truman Scholarship Regional Review Panels 2007

Dear Hon. Gorsuch,

On behalf of the Truman Foundation, I would like to welcome you to the 2007 Truman Competition! For those of you who I have not yet had the good fortune to meet, I am Fred Slabach, the new Executive Secretary of the Truman Foundation. I came to the Foundation from a career in politics, government, and, most recently, law school academia. I also had the honor of being named to the first class of Truman Scholars in 1977. While filling the shoes of Louis Blair is a daunting task, I am thrilled at the prospect of working closely with the staff, volunteers and applicants who make this process so inspiring.

I would like to invite you to serve once again on this year's Truman Scholarship Interview Panels. Your participation in the past has been invaluable, and we hope you can join us again on the Denver II Panel on March 15, 2007. You will notice very few changes for the 2007 competition. We hope to bring you the same well-organized and transparent process - along with another group of impressive Truman Scholar applicants.

I sincerely hope that you will be able to be a part of this process once again. If you have any questions please do not hesitate to contact me. Please let our new Program Manager Anjali Garg (agarg@truman.gov) know by Wednesday October 11, 2006 if you will be able to join us. Thank you again for your service to the Truman Scholarship Foundation.

Best,

Frederick G. Slabach
Executive Secretary

System Administrator

From:	System Administrator
Sent:	Monday, October 2, 2006 1:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 2, 2006 2:07 PM
Subject: JCON BROADCAST, WEEK OF OCTOBER 2, 2006

JCON BROADCAST, WEEK OF OCTOBER 2, 2006

1. **National Hispanic Heritage Month 2006 Program**
2. **Justice Café Coffee Shop Reopens for Business**
3. **DOJ Domestic Violence Awareness Month Event**
4. **Financial Education Seminar: Financial Planning**
5. **Voluntary Leave Bank Program Open Season**
6. **Tutoring Program – Make a Difference in a Child's Life**
7. **Office of Small and Disadvantaged Business Utilization Newsletter**
8. **Research Classes Offered by Library Staff**

National Hispanic Heritage Month 2006 Program

The Department of Justice will present its commemorative program in observance of **National Hispanic Heritage Month, 11:30 a.m. to 12:30 p.m.,Wednesday, October 4, 2006**, in the Great Hall of the Robert F. Kennedy, Main Building. Featured speakers include Attorney General Alberto R. Gonzales and Treasurer of the United States[redacted] There will be performances by Mezzo-Soprano, [redacted] and [redacted], piano, and an ethnic food sampling will follow the program.

Sign language interpreters and assistive listening devices will be available. Managers are encouraged to grant employees in the Washington Metropolitan Area reasonable official time to participate.

Justice Café Coffee Shop Reopens For Business

The Justice Café Coffee Shop has reopened for business today after being closed for three months due to the flooding in the MAIN Justice Building. Even though this area of the Café did not sustain any water damage, essential services such as hot water have only recently been restored to the building.

The Coffee Shop is **open from 7:30 a.m. until 3:00 p.m.**, will be serving various coffees in addition to light snacks, pastries and eventually packaged sandwiches. The coffee shop is

located near elevator bank #7. *Please come down and enjoy your morning and afternoon coffee!*

DOJ Domestic Violence Awareness Month Event

October is Domestic Violence Awareness Month. To raise awareness about this crime, the Office on Violence Against Women and Office of Justice Programs are sponsoring an event that is open to all DOJ employees, **11:00 a.m. to 12:00 noon, Thursday, October 5, 810 7th Street, NW, in the 3rd Floor Video Conference Room**. The event will feature [redacted], Executive Director of the National Domestic Violence Hotline. The Hotline is celebrating its 10th year in existence and has served well over 1,000,000 victims since it was established. [redacted] will discuss the history of the hotline, how it has evolved over time, and what she sees for the future. She will also discuss safety planning for domestic violence victims and the forthcoming Teen Dating Violence Hotline. Light refreshments will be served. For more information, contact Kris Rose (307-0466).

Financial Education Seminar: Financial Planning

The Justice Management Division, Personnel Staff is hosting a Financial Education Seminar **11:30 a.m. to 12:30 p.m., Wednesday, October 18, 2006, in Room 1160 of the National Place Building**. The "Financial Planning" seminar is open to Department employees and is a wonderful opportunity to learn more about financial planning. Learn from an expert! [redacted] from InCharge Education Foundation, Inc., will discuss personal finance and financial planning.

Please join us on Wednesday, October 18, 2006, for a lively discussion on personal financial planning. Space is limited to the first 50 registrants. Supervisors are encouraged to grant official time to employees to attend this training program. Sign language interpreter available upon request. To register for the seminar, please send your name, component, and phone number to Jamie.A.Higgins@usdoj.gov .

Voluntary Leave Bank Program Open Season

The Department's Voluntary Leave Bank Program (VLBP) is a special membership program for employees which allows members to pool and request donated leave for use during medical emergencies when all other leave has been exhausted. Annual membership in the VLPB is for a "leave year." You may only join the VLBP during the annual open season, which begins now and continues through December 8, 2006.

You may begin or renew your annual membership by contributing a minimum of one pay period of "accrued" annual leave (4, 6, or 8 hours). Your contribution will make you a member of the Leave Bank during leave year 2007, which begins on January 7, 2007.

Leave year 2006 open season yielded nearly 28,000 hours of donated leave. To date, those donations have enabled assistance for hundreds of employees who are Leave Bank members. Due to the generosity of Department employees, these employee members were provided a measure of financial support while they were burdened with significant health concerns.

Please contact your Leave Sharing Coordinator at http://www.usdoj.gov/jmd/ps/keybank.htm or local Human Resources Office if you wish to become a Leave Bank member, make a contribution, or have any questions regarding this program. You may also visit our website at http://www.usdoj.gov/jmd/ps/guibank.htm for additional information about this year's Leave Bank Open Season.

Tutoring Program -- Make a Difference in a Child's Life

The Department has a tradition of promoting employee volunteerism and community service. One of our most popular activities is the DOJ Partners in Education Program. Through this program, employees in components and offices are matched with a local school to provide tutoring and other assistance to students.

The Justice Management Division sponsors a special partnership with Ludlow-Taylor Elementary School. Through this partnership, employees assist students at Ludlow-Taylor with reading, writing, mathematics, and other subjects. Tutors are being recruited to assist with the 2006-2007 school year. Tutors meet with students for one hour per week. Transportation to and from the school will likely be provided. Up to eight hours of administrative leave per month may be granted to participating employees. Supervisors and managers are urged to support this worthwhile effort. Please carefully consider requests from previous tutors who wish to participate this year; continuity greatly improves the quality of the program and interaction with students. Tutoring will begin in November.

Those interested in participating in the Partners in Education Program should contact Lynn Sutton, of the Justice Management Division's Personnel Staff, on (202) 305-8986 or by email **no later than October 13**.

Office of Small and Disadvantaged Business Utilization Newsletter

The Office of Small and Disadvantaged Business Utilization (OSDBU) has issued its third quarterly newsletter. This edition features coverage of DOJ's August 29, 2006, Service Disabled Veteran-Owned Small Business Counseling Session. The Newsletter may be viewed at: http://www.usdoj.gov/jmd/osdbu/sbe_summer2006.pdf

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

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From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:40 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:01-cv-01472-REB-PAC Stanton Disc Pharm, et al v. Qwest Comm Intl Inc, et al Judgment

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U.S. District Court

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 10/2/2006 at 12:39 PM MDT and filed on 10/2/2006
Case Name: Stanton Disc Pharm, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:01-cv-1472
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 15

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:01-cv-1472 Notice has been electronically mailed to:
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Elissa J. Preheim Elissa.Preheim@aporter.com

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Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=10/2/2006] [FileNumber=765340-0]
[5484cb9434fcf403cfed302059fa76bbf29563a46b7a3403e2d1cb9558c6554e639a
b543ce685b8e33949de31ebd29b32012897716b05ce536148944befb0a72]]

From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:41 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:01-cv-01527-REB-PAC Urquhart, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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U.S. District Court

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 10/2/2006 at 12:40 PM MDT and filed on 10/2/2006
Case Name: Urquhart, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:01-cv-1527
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 15

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:01-cv-1527 Notice has been electronically mailed to:
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Case Number: 1:01-cv-1616
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 12

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

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Subject: Activity in Case 1:01-cv-01799-REB-PAC Cline, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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Case Number: 1:01-cv-1799
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 8

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

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Subject: Activity in Case 1:01-cv-01930-REB-PAC Tanner, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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Case Name: Tanner, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:01-cv-1930
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 6

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

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From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:46 PM
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Subject: Activity in Case 1:02-cv-00333-REB-PAC Herbert S Cohen Trus, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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Case Number: 1:02-cv-333
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 15

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

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Sent: Monday, October 02, 2006 2:47 PM
To: COD_NEF@cod.uscourts.gov
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Case Number: 1:02-cv-374
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 13

Docket Text:
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David W. Shapiro (Terminated) dshapiro@bsfllp.com, jcove@bsfllp.com

1:02-cv-374 Notice has been mailed by the filer to:

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Stillman, Friedman & Shaw, PC
425 Park Avenue
New York, NY 10022

Jonathan D. Schiller (Terminated)
Boies, Schiller & Flexner, LLP-DC
5301 Wisconsin Avenue, North West
#800
Washington, DC 20015

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Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=10/2/2006] [FileNumber=765375-0]
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fea38a8dc7da98387f22319178d3951055a2cbde77729513b97faa9f5572]]

DOJ_NMG_ 0169102

From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:49 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:02-cv-00507-REB-PAC Barry, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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U.S. District Court

District of Colorado

Notice of Electronic Filing

The following transaction was entered on 10/2/2006 at 12:48 PM MDT and filed on 10/2/2006
Case Name: Barry, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-507
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 6

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:02-cv-507 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
Randall M. Livingston Livingston@b-p-law.com, simmons@b-p-law.com
James S. Bailey, Jr bailey@b-p-law.com, simmons@b-p-law.com
James D. Kilroy (Terminated) jkilroy@swlaw.com, cswagerty@swlaw.com, lralph@swlaw.com
Neil McGill Gorsuch (Terminated) [redacted], neil.gorsuch@usdoj.gov
Michael J. Grudberg (Terminated) mgrudberg@stillmanfriedman.com
Jesus Manuel Vazquez, Jr (Terminated) jvazquez@rothgerber.com, tclanahan@rothgerber.com
Marcy Marie Heronimus (Terminated) mheronim@sah.com, efiling@sah.com, peckman@sah.com
David Robert Boyd (Terminated) dboyd@bsfllp.com, cwatson@bsfllp.com
Michael James Hofmann (Terminated) michael.hofmann@hro.com, jackie.delay@hro.com
Jennifer Lynn Coon (Terminated) jlc@birdmarella.com, lak@birdmarella.com
Alfred P. Levitt (Terminated) alevitt@bsfllp.com
Kenneth F. Rossman, IV (Terminated) kr! ossman@bsfllp.com
Terry W. Bird (Terminated) twb@birdmarella.com, dh@birdmarella.com
David Meister (Terminated) david.meister@cliffordchance.com
Charles A. Stillman (Terminated) cstillman@stillmanfriedman.com
John K. Carroll (Terminated) john.carroll@cliffordchance.com

Kirsten E. Gillibrand (Terminated) kgillibrand@bsfllp.com
Michael J. Dowd MikeD@lerachlaw.com, CHaney@lerachlaw.com
John Frederick Cove, Jr (Terminated) jcove@bsfllp.com, dscott@bsfllp.com
David W. Shapiro (Terminated) dshapiro@bsfllp.com, jcove@bsfllp.com
Barbara C. Moses (Terminated) bmoses@maglaw.com, jlaing@maglaw.com

1:02-cv-507 Notice has been mailed by the filer to:

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Stillman, Friedman & Shaw, PC
425 Park Avenue
New York, NY 10022

Amy M. Ross (Terminated)
Clifford Chance, US LLP-California
One Market Plaza
Steuart Tower
San Francisco, CA 94105

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Boies, Schiller & Flexner, LLP-DC
5301 Wisconsin Avenue, North West
#800
Washington, DC 20015

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Document description: Main Document
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d67f91db15fb027d618ba11efaa5d0a1a8905109ee02120fbda76bfd1024]]

From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:50 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:02-cv-00658-REB-PAC Abdelnour, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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The following transaction was entered on 10/2/2006 at 12:49 PM MDT and filed on 10/2/2006
Case Name: Abdelnour, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-658
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 10

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:02-cv-658 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
Charles Walter Lilley (Terminated) clilley@lilleylaw.com
James D. Kilroy (Terminated) jkilroy@swlaw.com, cswagerty@swlaw.com, lralph@swlaw.com
Neil McGill Gorsuch (Terminated) [redacted], neil.gorsuch@usdoj.gov
Michael J. Grudberg (Terminated) mgrudberg@stillmanfriedman.com
Jesus Manuel Vazquez, Jr (Terminated) jvazquez@rothgerber.com, tclanahan@rothgerber.com
Marcy Marie Heronimus (Terminated) mheronim@sah.com, efiling@sah.com, peckman@sah.com
David Robert Boyd (Terminated) dboyd@bsfllp.com, cwatson@bsfllp.com
Michael James Hofmann (Terminated) michael.hofmann@hro.com, jackie.delay@hro.com
Jennifer Lynn Coon (Terminated) jlc@birdmarella.com, lak@birdmarella.com
Alfred P. Levitt (Terminated) alevitt@bsfllp.com
Kenneth F. Rossman, IV (Terminated) krossman@bsfllp.com
Terry W. Bird (Terminated) twb@birdmarella.com,! dh@birdmarella.com
Charles A. Stillman (Terminated) cstillman@stillmanfriedman.com
Kirsten E. Gillibrand (Terminated) kgillibrand@bsfllp.com
Michael J. Dowd MikeD@lerachlaw.com, CHaney@lerachlaw.com
John Frederick Cove, Jr (Terminated) jcove@bsfllp.com, dscott@bsfllp.com

David W. Shapiro (Terminated) dshapiro@bsfllp.com, jcove@bsfllp.com

1:02-cv-658 Notice has been mailed by the filer to:

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Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=10/2/2006] [FileNumber=765387-0]
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3ec1e9d471226c76529f4e0174f216d18b9c829afea8936297c9ec8e6f53]]

DOJ_NMG_ 0169106

From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:51 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:02-cv-00755-REB-PAC Wollman, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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Case Name: Wollman, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-755
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 11

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:02-cv-755 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
Evan S. Lipstein evan@lipsteinlaw.com, evelyn@lipsteinlaw.com
James D. Kilroy (Terminated) jkilroy@swlaw.com, cswagerty@swlaw.com, lralph@swlaw.com
Neil McGill Gorsuch (Terminated) [redacted], neil.gorsuch@usdoj.gov
Michael J. Grudberg (Terminated) mgrudberg@stillmanfriedman.com
Jesus Manuel Vazquez, Jr (Terminated) jvazquez@rothgerber.com, tclanahan@rothgerber.com
Marcy Marie Heronimus (Terminated) mheronim@sah.com, efiling@sah.com, peckman@sah.com
David Robert Boyd (Terminated) dboyd@bsfllp.com, cwatson@bsfllp.com
Michael James Hofmann (Terminated) michael.hofmann@hro.com, jackie.delay@hro.com
Jennifer Lynn Coon (Terminated) jlc@birdmarella.com, lak@birdmarella.com
Alfred P. Levitt (Terminated) alevitt@bsfllp.com
Kenneth F. Rossman, IV (Terminated) krossman@bsfllp.com
Terry W. Bird (Terminated) twb@birdmarella.c! om, dh@birdmarella.com
Charles A. Stillman (Terminated) cstillman@stillmanfriedman.com
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Michael J. Dowd MikeD@lerachlaw.com, CHaney@lerachlaw.com
John Frederick Cove, Jr (Terminated) jcove@bsfllp.com, dscott@bsfllp.com

David W. Shapiro (Terminated) dshapiro@bsfllp.com, jcove@bsfllp.com

1:02-cv-755 Notice has been mailed by the filer to:

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425 Park Avenue
New York, NY 10022

Jonathan D. Schiller (Terminated)
Boies, Schiller & Flexner, LLP-DC
5301 Wisconsin Avenue, North West
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The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
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282feb21968e1d3c453301448b88681f14e7a74a9f8dd8f131c412fdd8f9]]

DOJ_NMG_ 0169108

From: COD_ENotice@cod.uscourts.gov
Sent: Monday, October 02, 2006 2:52 PM
To: COD_NEF@cod.uscourts.gov
Subject: Activity in Case 1:02-cv-00798-REB-PAC Tabacoff, et al v. Qwest Comm Intl Inc, et al Clerk's Judgment

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The following transaction was entered on 10/2/2006 at 12:51 PM MDT and filed on 10/2/2006
Case Name: Tabacoff, et al v. Qwest Comm Intl Inc, et al
Case Number: 1:02-cv-798
Filer:
WARNING: CASE CLOSED on 09/29/2006
Document Number: 10

Docket Text:
JUDGMENT by Clerk in favor of plaintiff class, as denied in that order against the Settling Defendants filed 9/29/06. Signed by Charlotte Hoard, Deputy Clerk on 10/2/06. (dln,)

1:02-cv-798 Notice has been electronically mailed to:
Frederick J. Baumann (Terminated) fbaumann@rothgerber.com, phenke@rothgerber.com
Charles Walter Lilley (Terminated) clilley@lilleylaw.com
James D. Kilroy (Terminated) jkilroy@swlaw.com, cswagerty@swlaw.com, lralph@swlaw.com
Neil McGill Gorsuch (Terminated) [redacted], neil.gorsuch@usdoj.gov
Michael J. Grudberg (Terminated) mgrudberg@stillmanfriedman.com
Jesus Manuel Vazquez, Jr (Terminated) jvazquez@rothgerber.com, tclanahan@rothgerber.com
Marcy Marie Heronimus (Terminated) mheronim@sah.com, efiling@sah.com, peckman@sah.com
David Robert Boyd (Terminated) dboyd@bsfllp.com, cwatson@bsfllp.com
Michael James Hofmann (Terminated) michael.hofmann@hro.com, jackie.delay@hro.com
Jennifer Lynn Coon (Terminated) jlc@birdmarella.com, lak@birdmarella.com
Alfred P. Levitt (Terminated) alevitt@bsfllp.com
Kenneth F. Rossman, IV (Terminated) krossman@bsfllp.com
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Charles A. Stillman (Terminated) cstillman@stillmanfriedman.com
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John Frederick Cove, Jr (Terminated) jcove@bsfllp.com, dscott@bsfllp.com

David W. Shapiro (Terminated) dshapiro@bsfllp.com, jcove@bsfllp.com

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New York, NY 10022

Jonathan D. Schiller (Terminated)
Boies, Schiller & Flexner, LLP-DC
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Washington, DC 20015

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Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1071006659 [Date=10/2/2006] [FileNumber=765393-0]
[35aefb2cc45cf1d917d907cb801f1919a44246ed00be28e3336533ec6cec7cba90fe
30346d33332dacdc0994d5cf30a47592c3aefc2d9064cbdc89bb98281c60]]

System Administrator

From:	System Administrator
Sent:	Monday, October 02, 2006 3:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

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You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

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mmorr@petrieschwartz.com

From: mmorr@petrieschwartz.com
Sent: Monday, October 2, 2006 3:50 PM
To: Gorsuch, Neil M
Subject: Clerkship
Attachments: tmp.htm; Matt Morr Resume.pdf

Dear Judge Gorsuch,

My name is Matt Morr. Mimi Wesson, a friend of Bruce Black, recommended I contact you regarding a clerkship position. I am just starting my third year of practice in the area of commercial litigation and am very interested in taking a hiatus from private practice to work as judicial law clerk.

I attach my resume. Please call me if you have any questions or if you would like me to provide you with a writing sample, transcript and/or references.

Thank you,

Matt Morr

<<Matt Morr Resume.pdf>>

Matthew A. Morr
Petrie Schwartz LLP
1775 Sherman Street, Suite 2500
Denver, CO 80203
303.226.7733 (phone)
303.226.7777 (fax)
mmorr@petrieschwartz.com

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Matthew Morr
4550 Cherry Creek South Drive #1904
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(303) 759-4141 (home)
(719) 310-7355 (cell)
MorrMatt@hotmail.com

Legal Education
University of Colorado School of Law, Boulder, CO
Juris Doctor, 2004
Class Standing: 24/ 156
G.P.A.: 3.47/88.7
Honors: Associate Editor, University of Colorado Law Review, 2003-2004
Staff member, University of Colorado Law Review, 2002-2003
Moot Court- Best Oralist, Saul Lefkowitz Competition, Western Region, San Francisco, 2004

Seattle University School of Law, Seattle, WA
Completed first year of law school, 2001-2002
Class Standing: Top 10%
G.P.A.: 3.45
Honors: *Moot Court*- 1st Place, Reasonable Doubts Competition
2nd Place, Administrative Law Competition
Negotiation- 1st Place, Negotiation Competition
2nd Place, ABA Regional Negotiation Competition, University of Calgary, 2001
Participant, ABA National Negotiation Competition, Philadelphia, 2002

Undergraduate Education
Colorado College, Colorado Springs, CO
Bachelor of Arts, American Political Economy, 1999

Legal Experience
Petrie Schwartz LLP — Denver, CO
Commercial Litigation Associate — September 2004-Present
Represented businesses and individuals. Argued summary judgment motion, defended deposition, attended status conferences and attended arbitration as second chair. Drafted a variety of litigation briefs and motions in state court, federal court, federal appellate court and arbitration proceedings involving breach of contract, copyright infringement, patent disputes, securities, torts, lending, RICO and bankruptcy matters. Drafted discovery requests and responses, as well as correspondence relating to discovery. Drafted mediation statement and attended mediation with clients. Prepared witnesses for trial. Researched many evidentiary and procedural issues relating to litigation.

Fourth Judicial District of Colorado — Colorado Springs, CO
Law Clerk — June 2002-August 2002
Worked under the direct supervision of The Honorable Kirk Samelson researching legal issues and writing legal orders and memoranda. In addition, wrote an appellate order for The Honorable Peter W. Booth, and a memorandum regarding a breach of contract issue for The Honorable Timothy Simmons.

Lexis Nexis — Seattle, WA
Lexis Associate — February 2002-May 2002
Promoted the use of Lexis legal research products among students, faculty, and staff through workshops and tutoring.

Lexis Nexis — Colorado Springs, CO
Shepard's Specialist — November 2000-August 2001
Responsible for $2.5 million in revenue. Achieved 123% of new sales goal. Helped develop new sales strategies and campaigns. Completed intensive one-week sales course and participated in continuous sales and negotiation training.

Professional Experience
Christy Sports — Colorado Springs/Avon, CO
Sales Associate/Assistant Hardgoods Buyer — September 1996-May 2000
Top grossing sales person. Promoted to assistant buyer and relocated to Avon office in December 1999. Assisted in all aspects of ski buy. Tested ski equipment. Attended trade shows. In charge of car rack and boot accessories buy.

Dear Judge Gorsuch,

My name is Matt Morr. Mimi Wesson, a friend of Bruce Black, recommended I contact you regarding a clerkship position. I am just starting my third year of practice in the area of commercial litigation and am very interested in taking a hiatus from private practice to work as judicial law clerk.

I attach my resume. Please call me if you have any questions or if you would like me to provide you with a writing sample, transcript and/or references.

Thank you,

Matt Morr

<<Matt Morr Resume.pdf>>

Matthew A. Morr
Petrie Schwartz LLP
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Denver, CO 80203
303.226.7733 (phone)
303.226.7777 (fax)
mmorr@petrieschwartz.com

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 4:28 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT OBTAINS DAIRY PROCESSOR DIVESTITURE IN SETTLEMENT WITH DAIRY FARMERS OF AMERICA

(PDFs of the court documents are attached below.)

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 2, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT OBTAINS DAIRY PROCESSOR DIVESTITURE IN SETTLEMENT WITH DAIRY FARMERS OF AMERICA

Divestiture of Southern Belle Dairy Restores Competition for School Milk in Kentucky and Tennessee

WASHINGTON — The Department of Justice today announced a settlement that resolves its antitrust concerns with the Dairy Farmers of America Inc. (DFA) acquisition of Southern Belle Dairy Co. LLC, by requiring DFA to divest its interest in Southern Belle. As a result of the settlement, DFA's partner, the Allen Family Limited Partnership (AFLP), will also sell its interest in Southern Belle. The Department said that the divestitures restore the benefits of competition—lower prices and better quality services—to schoolchildren and their families in Kentucky and Tennessee.

As a result of the settlement filed today in U.S. District Court in London, Ky., both DFA and AFLP will sell their interests in Southern Belle to Prairie Farms Dairy Inc. The Antitrust Division has approved Prairie Farms as the buyer. The Commonwealth of Kentucky joined the Department in its settlement.

"This settlement restores competition for school milk contracts essential to the nutrition programs that serve schoolchildren in 100 school districts in Kentucky and Tennessee," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "With the close cooperation of the Commonwealth of Kentucky's Office of the Attorney General, the United States has secured the relief that we expected to request from the court had we prevailed at trial."

In April 2003, the Department's Antitrust Division and the Commonwealth of Kentucky filed a lawsuit in U.S. District Court in London, challenging DFA's acquisition of its interest in the Southern Belle dairy. The Department's lawsuit charged that DFA's acquisition reduced competition because it gave DFA ownership interests in two dairies—the Southern Belle dairy and the nearby Flav-O-Rich dairy in London—that competed against each other for school milk contracts. As a result, the acquisition reduced the number of independent bidders for school milk contracts from two to one for 45 school districts in eastern Kentucky, and from three bidders to two for 55 school districts in eastern Kentucky and Tennessee.

DOJ_NMG_ 0169115

The federal district court initially dismissed the case, granting summary judgment for DFA. The Department successfully appealed the dismissal to the U.S. Court of Appeals for the Sixth Circuit, which reversed the district court and sent the case back for trial.

Before trial began, the Department and DFA reached an agreement that required DFA to divest its interest in the Southern Belle dairy. At the same time, DFA's joint venture partner, the AFLP, also agreed to sell its interest in the dairy. The Department filed its proposed settlement with the court today after approving the sale of DFA and AFLP's interests in Southern Belle to Prairie Farms.

Dairy Farmers of America is a national milk marketing cooperative headquartered in Kansas City, Miss. DFA is the largest dairy cooperative in the world. In 2005, DFA sold 60 billion pounds of raw milk to dairies and other processors and had almost $9 billion in revenue.

Southern Belle Dairy Co. LLC, headquartered in Somerset, Ky., was formed in 2003 by DFA and the AFLP to manage the Southern Belle dairy. DFA and AFLP each own 50 percent of Southern Belle Dairy Co. LLC.

As required by the Tunney Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the Federal Register. Any person may submit written comments concerning the proposed decree during a 60-day comment period to Mark J. Botti, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530. At the conclusion of the 60-day comment period, the court may enter the final judgment upon a finding that it serves the public interest.

###

06-672

DOJ_NMG_ 0169116

EXHIBIT A

LETTER AGREEMENT BETWEEN THE UNITED STATES, COMMONWEALTH OF KENTUCKY, AND DAIRY FARMERS OF AMERICA, INC.

U.S. Department of Justice

Antitrust Division

City Center Building
1401 H Street, NW
Suite 4000
Washington, DC 20530

Mark J. Botti
(202) 307-0001 (tel.)
(202) 307 5802 (fax)

May 15, 2006

VIA HAND DELIVERY

W. Todd Miller, Esq.
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW Suite 300
Washington, DC 20005

Re: *United States of America, et al. v. Dairy Farmers of America, et al.*

Dear Todd:

This letter sets forth the agreement among the Department of Justice ("the Department"), the Commonwealth of Kentucky ("the Commonwealth"), and Dairy Farmers of America, Inc. ("DFA") regarding the Stipulation and proposed Final Judgment in this matter. Except as discussed below, the Department and the Commonwealth agree not to file the Stipulation and proposed Final Judgment with the Court until the earlier of (1) 120 calendar days after DFA's signing of the Stipulation or (2) the day after DFA gives notice to the United States and the Commonwealth pursuant to Section VI.A of the proposed Final Judgment that DFA has executed a divestiture agreement with a proposed Acquirer of the Divestiture Assets. During this period, however, the Department and the Commonwealth reserve the right to file the Stipulation and proposed Final Judgment with the Court under seal should they, in their sole discretion, determine after giving 15 days written notice of its reasons to DFA that DFA is not complying with the terms of the Stipulation and proposed Final Judgment. The Department will exercise its sole discretion under this letter agreement and the Final Judgment in good faith in light of the relevant facts, law, and public policy.

Beginning immediately with DFA's signing of the Stipulation, DFA must comply with all obligations and prohibitions set forth in the Stipulation and proposed Final Judgment including keeping the Department and the Commonwealth informed as to DFA's actions in seeking an Acquirer.

If this accurately sets forth the agreement among the Department, the Commonwealth and DFA, please execute a copy of this letter on behalf of DFA and return the copy to me.

Sincerely,

Mark J. Botti
For the United States Department of Justice

Maryellen B. Mynear
For the Commonwealth of Kentucky

Agreed: _____
Counsel for Dairy Farmers of America, Inc.

Date: 5/15/06

cc: David A. Owen

DOJ_NMG_ 0169119

EXHIBIT B

**DETERMINATIVE DOCUMENT PURSUANT TO 15 U.S.C. § 16(b):
OPTION AGREEMENT BETWEEN DAIRY FARMERS OF AMERICA, INC.
AND ALLEN FAMILY LIMITED PARTNERSHIP**

REDACTED

PUBLIC VERSION

OPTION AGREEMENT

This OPTION AGREEMENT is dated and made effective as of the 15th day of May, 2006, among DAIRY FARMERS OF AMERICA, INC., a Kansas cooperative marketing association ("DFA"), and ALLEN FAMILY LIMITED PARTNERSHIP, a Pennsylvania limited partnership ("AFLP").

RECITALS

WHEREAS, AFLP is the owner of one hundred percent (100%) of the common member interests ("AFLP Interests") of Southern Belle Dairy Co., LLC, a Delaware limited liability company ("Southern Belle"); and

WHEREAS, DFA is or will become the owner of the [redacted] of Series A Preferred Capital Interest and the [redacted] of Series B Preferred Capital Interest in Southern Belle, plus all lines of credit or other loans from Mid-Am Capital, L.L.C., ("DFA Interests"); and

WHEREAS, DFA is a defendant in an action filed by the United States of America through its Department of Justice ("DOJ") and by the Commonwealth of Kentucky and pending in the United States District Court for the Eastern District of Kentucky originally titled *United States of America and the Commonwealth of Kentucky v. Dairy Farmers of America, Inc. and Southern Belle Dairy Co., LLC*, Civil Action No. 6:03-cv-206-KSF (the "DOJ Litigation");

WHEREAS, DFA and AFLP have been in discussions regarding the possibility of entering into a purchase agreement ("Purchase Agreement") relating to all of the AFLP Interests, subject to and conditioned on (i) full and final settlement of the DOJ Litigation and (ii) DFA's ability and the DOJ's acceptance and/or acquiescence to DFA concurrently entering into a definitive purchase agreement relating to the sale of the DFA and AFLP Interests and/or the sale of all or substantially all of the operational assets of Southern Belle Dairy ("Assets") with a third-party purchaser ("Acquirer"), pursuant to which an Acquirer would purchase both the DFA and the AFLP Interests and/or the Assets from DFA (the "Acquisition Agreement"); and

WHEREAS, in furtherance of the discussions and as a condition precedent to the DFA's obligation to purchase the AFLP Interests from AFLP, and for the additional consideration set forth herein, the AFLP desires to grant, and herein does grant, to DFA an option to purchase the AFLP Interests according to the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises herein and the representations, warranties, covenants and agreements contained herein, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Option. AFLP hereby grants to DFA an unconditional, irrevocable option (the "Option") to purchase, subject to the terms and conditions hereof, the AFLP Interests for the total sum of [redacted] ("Purchase Price") payable in cash at the time of closing. The Option shall terminate upon the earliest to occur of: (i) the written mutual agreement of DFA and AFLP to terminate the Option; or (ii) the delivery of at least ten (10) days prior written notice from DFA to AFLP that DFA has decided to terminate the Option. The

Option may only be exercised during the period from the date hereof through the first date to occur of clause (i) or (ii) of the immediately preceding sentence (the "Option Period").

2. Option Grant Payment. Upon the execution of this Option Agreement by the parties hereto, DFA shall remit to AFLP the amount of One Thousand Dollars ($1,000) and other good and valuable consideration, the receipt of which is hereby acknowledged by AFLP for the grant of the Option by AFLP pursuant to this Agreement.

3. Exercise of Option by DFA.

(a) DFA shall exercise the Option for the AFLP Interests, but only upon (i) full and final settlement of the DOJ Litigation and (ii) DFA's ability and DOJ's acceptance and/or acquiescence to DFA concurrently entering into a definitive Acquisition Agreement relating to the sale of the AFLP and DFA Interests and/or the sale of all or substantially all of the Assets with an Acquirer during the Option Period. The Option may not be exercised in part, but may only be exercised for all of the AFLP Interests subject to this Agreement and as set forth in the Purchase Agreement.

(b) At the closing ("Closing"), DFA shall pay to AFLP the Purchase Price by wire transfer of immediately available funds to an account designated by such AFLP or by delivery of a certified check to the AFLP address listed on the signature page to this Agreement.

(c) At the Closing, and upon confirmation of the satisfaction of the conditions set forth in Section 3(a)(i) and (ii) above, simultaneously with the payment of the Purchase Price as provided for hereinabove, (i) DFA will execute the Acquisition Agreement pursuant to terms and conditions mutually agreed between DFA and such Acquirer.

4. Conditions Precedent to Closing by DFA. AFLP, as manager of Southern Belle Dairy, LLC, hereby represents and warrants to DFA as follows:

(a) AFLP shall offer to furnish to all prospective Acquirers from DFA, subject to customary confidentiality assurances, all information and documents relating to the AFLP Interests or Assets of the Southern Belle Dairy provided in a due diligence process except such information or documents subject to the attorney-client privilege or attorney work-product doctrine. AFLP shall make available such information to the United States and the Commonwealth of Kentucky at the same time that such information is made available to any such prospective Acquirer.

(b) AFLP shall permit prospective Acquirers from DFA of the AFLP Interests and/or the Assets to have reasonable access to personnel and make inspections of the physical facilities of the Southern Belle Dairy; access to any and all environmental, zoning and other permit documents and information; and access to any and all financial, operational or other documents and information customarily provided as part of a due diligence process.

(c) AFLP shall provide the Acquirer from DFA and the United States information relating to the personnel involved in the operation of the Southern Belle Dairy to enable the Acquirer to make offers of employment. AFLP shall not interfere with any negotiations by the Acquirer to employ any employee whose primary responsibility is the production, sale, marketing or distribution of products from the Southern Belle Dairy.

[*]

(d) AFLP shall not take any action that will impede in any way the operation of the Southern Belle Dairy or the divestiture of the AFLP and DFA Interests and/or the Assets by DFA.

(e) AFLP shall not change the authorized or issued AFLP or DFA Interests or grant any option or right to purchase such Interests other than as set forth herein.

(f) AFLP shall not amend the organizational document of Southern Belle.

(g) AFLP shall not damage or cause the loss of any material customer, asset or property of Southern Belle Dairy

(h) AFLP shall not incur any indebtedness or borrow money in excess of Three Hundred Thousand Dollars ($300,000).

(i) AFLP shall not cause a material change in the accounting methods used by Southern Belle Dairy.

(j) AFLP shall not enter into a sale or transfer of any of the assets of Southern Belle Dairy except in the ordinary course of business.

(k) AFLP shall not enter into any contract or agreement to do any of the foregoing.

5. Representations, Warranties and Covenants of AFLP.

(a) AFLP hereby represents and warrants to DFA the following: (i) AFLP has sole and exclusive record title to and ownership of the AFLP Interests that are the subject of this Agreement; (ii) the AFLP Interests are free and clear of any liens, restrictions, claims, charges, options, rights of first refusal or encumbrances, with no defects of title whatsoever, except as provided in the Second Amended and Restated Limited Liability Company Agreement of Southern Belle Dairy Co., LLC; (iii) with respect to any AFLP Interests which were acquired by gift or inheritance, all federal and state estate or gift tax returns, as the case may be, required to be filed were duly and timely filed, and all taxes payable with respect thereto were paid; (iv) AFLP has the requisite power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby; (v) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by AFLP and authorized by the required governing body prior to the date hereof and no other proceedings on the part of AFLP or consents from or filings with any person or entity or regulatory body are necessary to authorize this Agreement, for AFLP to perform its obligations hereunder or to consummate the transactions contemplated hereby, except as provided in the Second Amended and Restated Limited Liability Company Agreement of Southern Belle Dairy Co., LLC; (vi) this Agreement has been duly and validly executed and delivered by AFLP; and (vii) this Agreement constitutes a legal, valid and binding obligation of AFLP, enforceable against AFLP in accordance with its terms.

(b) AFLP hereby covenants that, during the period described in the following sentence, it will maintain ownership interest in and to all of the AFLP Interests, and will not, directly or indirectly, offer for sale, sell, distribute, grant any option, right to purchase, suffer any lien or encumbrance upon, pledge, hypothecate or otherwise dispose of any of the AFLP Interests. The restrictions in the foregoing sentence shall apply from the date of this Agreement

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until the earlier to occur of (i) the purchase of all of the AFLP Interests pursuant to the exercise of the Option or (ii) the termination of the Option Period.

(c) AFLP hereby represents and warrants to DFA and covenants for the benefit of DFA that at Closing, AFLP shall deliver such executed instruments of assignment, as applicable, evidencing the sale and transfer of the AFLP Interests to DFA or a bill of sale and any other documents, instruments or certificates necessary to evidence the transfer of any of the Assets.

6. Representations, Warranties and Covenants of DFA. DFA hereby represents and warrants to AFLP as follows: (i) DFA has the requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder; (ii) contingent on and subject to full and final settlement of the DOJ Litigation and the simultaneous execution of an Acquisition Agreement with an Acquirer as described herein and subject to the conditions set forth herein, the execution and delivery of this Agreement by DFA and the performance of its obligations hereunder, have been duly and validly authorized by the Board of Directors of DFA and no other corporate proceedings on the part of the DFA or consents from or filings with any person or entity or regulatory body, other than the provisions of the Revised and Restated Limited Liability Company Agreement of Southern Belle, are necessary to authorize this Agreement, for DFA to perform its obligations hereunder; (iii) this Agreement has been duly and validly executed and delivered by DFA; and (iv) this Agreement constitutes a legal, valid and binding obligation of the DFA enforceable against DFA in accordance with its terms, subject to full and final settlement of the DOJ Litigation and ability of DFA to simultaneously execute of an Acquisition Agreement with an Acquirer of the Assets and/or the DFA and AFLP Interests from DFA, and subject to the conditions set forth herein.

7. Amendments; Entire Agreement. This Agreement may not be modified except by written instrument executed by the parties hereto. This Agreement contains the entire agreement among the parties hereto with respect to the transactions contemplated hereby and supersedes all prior understandings, representations, warranties, promises and undertakings between the parties hereto with respect to the transactions contemplated hereby.

8. Assignment. Neither of the parties hereto may assign any of its rights or obligations under this Agreement or the Option created hereunder to any other person without the express written consent of the other party.

9. Validity. If any term, provision, covenant or restriction contained in this Agreement is held by a court or a federal or state regulatory agency of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions and covenants and restrictions contained in this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated; provided that each party is able to receive substantially all of the rights and substantially all of the benefits it is to have had/or receive, as applicable, under this Agreement.

10. Notices. All notices, requests, claims, demands and other communications hereunder shall be deemed to have been duly given when delivered in person, by fax, telecopy, or by registered or certified mail (postage prepaid, return receipt requested) at the address set forth on the signature page hereto.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be

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performed entirely in that State and without regard to any of its conflicts of law principles which could result in the application of the laws of another jurisdiction.

12. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement. This Agreement may be executed by facsimile signature, which shall constitute a legal and valid signature for all purposes hereof. This Agreement shall not be effective until counterparts executed by AFLP and DFA have been delivered to each of them.

13. Costs. Except as otherwise expressly provided for herein, each of the parties hereto shall bear and pay all costs and expenses incurred by it or on its behalf in connection with the transactions contemplated hereunder, including fees and expenses of its accountants and counsel.

14. Additional Documents. In the event of the exercise of the Option by DFA, DFA and AFLP agree to execute and deliver all other documents and instruments and take all other action that may be reasonably requested in writing by the other party hereto in order to consummate the transactions provided for by such exercise and to effectuate the intents of this Agreement, but not including any indemnities, warranties, representations or similar covenants other than with respect to good title to the AFLP interests to be assigned and transferred.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed individually or on its behalf by its officers thereunto duly authorized, all as of the date first above written.

ALLEN FAMILY LIMITED PARTNERSHIP

By: _____
Name: Robert W. Allen
Title: General Partner
2400 Ballybunion Road
Center Valley, Pennsylvania 18034

DAIRY FARMERS OF AMERICA, INC.

By: _____
Name: DAVID A. GEISLER
Title: SENIOR VICE-PRESIDENT / LEGAL
10220 North Ambassador Drive
Kansas City, Missouri 64153

ACKNOWLEDGEMENT AND CONSENT

The undersigned specifically acknowledges and consents to the transactions as set forth in the Agreement and will cooperate to effectuate the consummation of said transactions insofar as legally necessary and reasonably appropriate.

MID-AM CAPITAL, L.L.C.

By: Dairy Farmers of America, Inc.,
as sole manager

By: _____
Name: DAVID G. MEYER
Title: SENIOR VICE PRESIDENT / FINANCE

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FILED ELECTRONICALLY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LONDON DIVISION

UNITED STATES OF AMERICA, et al. Plaintiffs, v. DAIRY FARMERS OF AMERICA, INC., et al. Defendants.	)	Civil Action No.: 6:03-206-KSF

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. § 16(b)-(h), plaintiff United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I.

NATURE AND PURPOSE OF THIS PROCEEDING

The United States and the Commonwealth of Kentucky (collectively, the "government") filed a civil antitrust Complaint under Section 15 of the Clayton Act, 15 U.S.C. § 25, on April 24, 2003, alleging that the acquisition by Dairy Farmers of America, Inc. ("DFA") of its interest

in Southern Belle Dairy Co., LLC ("Southern Belle") violated Section 7 of the Clayton Act ("Section 7"), 15 U.S.C. § 18.[1] An Amended Complaint was filed on May 6, 2004.

The Amended Complaint alleged that the acquisition may substantially lessen competition for the sale of milk sold to schools in one hundred school districts in eastern Kentucky and Tennessee. On August 31, 2004, the District Court granted summary judgment to DFA and Southern Belle. The government appealed, and on October 25, 2005, the Court of Appeals reversed the grant of summary judgment as to DFA and remanded the case for trial. The Court of Appeals affirmed the dismissal of Southern Belle, leaving DFA as the only defendant. *See United States v. Dairy Farmers of America*, 426 F.3d 850 (6th Cir. 2005).

On October 2, 2006, the United States filed a proposed Final Judgment that requires DFA to divest its interest in Southern Belle and use its best efforts to require its partner, the Allen Family Limited Partnership ("AFLP"), to also divest its interest in Southern Belle. DFA has proposed divesting its interest and AFLP's interest in Southern Belle to Prairie Farms Dairy, Inc. ("Prairie Farms"), and the government has approved Prairie Farms as a suitable buyer of DFA's and AFLP's interests in Southern Belle. The proposed Final Judgment is designed to eliminate the anticompetitive effects of the acquisition alleged in the Amended Complaint.

The government and DFA have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

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[1] The Commonwealth of Kentucky joined this lawsuit under 15 U.S.C. § 26, and also sought relief pursuant to the provisions of K.R.S. § 367.110, *et seq*.

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II.

THE ALLEGED VIOLATIONS

A. The Defendants

Dairy Farmers of America ("DFA") is a Kansas milk marketing cooperative with its headquarters and principal place of business in Kansas City, Missouri. DFA is the largest dairy cooperative in the world. DFA sells raw milk in interstate commerce. In 2005, DFA had 20,000 members in 49 states, marketed 59.7 billion pounds of raw milk in the United States, and had over $8.9 billion in revenues.

Southern Belle Dairy Co., LLC ("Southern Belle") owns the Southern Belle dairy processing plant. Southern Belle is a Delaware limited liability company with its headquarters and principal place of business in Somerset, Kentucky. Southern Belle processed approximately 25 million gallons of raw milk in 2001 and had annual revenues of approximately $65 million that year. Southern Belle sells fluid milk in interstate commerce, including milk to school districts in Kentucky and Tennessee.

B. The Acquisition

Southern Belle was formed by DFA on February 20, 2002. It acquired the assets of the Southern Belle dairy plant on February 25, 2002. On February 26, 2002, DFA's joint venture partner AFLP acquired 50 percent of Southern Belle. The purchase price of the Southern Belle dairy plant was approximately $18.7 million: $2 million in common equity; $4 million in preferred equity; and the rest paid through of a line of credit. DFA and AFLP each contributed $1 million in exchange for each receiving 50 percent of the common interests in Southern Belle.

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A subsidiary of DFA contributed $4 million in exchange for preferred equity interests and extended to Southern Belle the line of credit used to finance the remaining $12.7 million of the purchase price.

C. Anticompetitive Effects of the Acquisition

The Amended Complaint alleged that the manufacture, distribution, and sale of school milk constitutes a relevant product market. Milk is a product that has special nutritional characteristics and no practical substitutes. Dairies sell milk to schools with special services, including storage coolers, daily or every-other-day delivery to each school, constant rotation of old milk, and replacement of expired milk. Moreover, school districts must provide milk in order to receive substantial funds under federal school meal subsidy programs. There are no other products that school districts would substitute for school milk in the event of a small but significant price increase.

The Amended Complaint alleged that the relevant geographic markets in which to assess the competitive effects of the acquisition are the school districts in eastern Kentucky and Tennessee identified in Attachments A and B of the Amended Complaint, either as individual districts or, where applicable, as groups of districts that solicit school milk bids together.[2] As a practical matter, these school districts are unable to turn to additional school milk suppliers, who would not bid for their school milk contracts even if the price of school milk were to increase by a small but significant amount.

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[2] These groups of school districts require bidders to charge the same price to the entire group, require successful bidders to serve all of group's districts at the same price, and require the group's members to accept the group bid.

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The Amended Complaint alleged that DFA's acquisition of its interest in Southern Belle would lessen competition substantially in the sale of school milk in each of the school districts identified in the Amended Complaint. These districts receive school milk bids from Southern Belle and dairies operated by National Dairy Holdings, LP ("NDH"), a dairy holding company also 50 percent-owned by DFA. Some affected districts and groups of districts also receive bids from a third supplier. One of the NDH-operated dairies that serves the affected school districts is the Flav-O-Rich dairy, located in London, Kentucky, only 30 miles from the Southern Belle plant in Somerset, Kentucky. The transaction lessened competition for school districts receiving milk contract bids from both Southern Belle and NDH because, as a result of the transaction, both Southern Belle and NDH were 50 percent-owned by DFA. Since any contracts won by Southern Belle from NDH, or vice versa, through aggressive bidding would likely reduce DFA's profits, reduced competition between Southern Belle and NDH is in DFA's interest.

In 45 of the school districts listed in the Amended Complaint, the effect of the acquisition has been to establish a monopoly, with only Southern Belle and Flav-O-Rich (or another NDH dairy) as possible milk suppliers. In these districts, the acquisition would give DFA the incentive and ability to encourage, facilitate, or enforce cooperation between Southern Belle and NDH to raise prices or decrease the level or quality of service provided to these school districts. In 55 school districts listed in the Amended Complaint, the acquisition has reduced the number of independent competitors from three to two, making it likely that the remaining bidders will bid less aggressively against each other.

The Amended Complaint also alleged that entry into the affected markets by other dairies or distributors would not be timely, likely, or sufficient to deter the anticompetitive effects

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caused by the acquisition. Dairies or distributors not currently competing in the affected markets would be unlikely to start bidding as a result of a small but significant increase in school milk prices. This is supported by the lack of new entry into these markets when competition between Southern Belle and Flav-O-Rich has been reduced. First, in the 1980s, these two dairies rigged bids for school milk contracts for many of the school districts affected by the acquisition. Despite an increase in school milk prices, new entry did not occur in these markets to undermine the bid-rigging conspiracy, which lasted for over ten years. Second, competition between Southern Belle and Flav-O-Rich was eliminated in some districts when Southern Belle was suspended from bidding on certain school milk contracts from 1998 to 2000 by the U.S. Department of Agriculture for violating provisions of an antitrust compliance program. Again, for those districts affected by the loss of Southern Belle as a bidder for school milk contracts, relative prices for school milk rose and new entry did not occur to return prices to a competitive level.

For all of these reasons, the government concluded that the transaction would substantially lessen competition in the sale of school milk in the school districts in Kentucky and Tennessee identified in the Amended Complaint, by increasing prices and/or reducing quality, all in violation of Section 7 of the Clayton Act. Indeed, the government found evidence that, after the transaction, bids to districts where Southern Belle and Flav-O-Rich were the only bidders were higher than bids received by other districts with only two bidders, though this was not true before the transaction.

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III.

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects identified in the Amended Complaint by requiring DFA to divest its interest in Southern Belle. In addition, the proposed Final Judgment requires DFA to use commercially reasonable efforts to cause AFLP to divest its interest in Southern Belle. The proposed Final Judgment requires the United States, in consultation with the Commonwealth of Kentucky, to approve any buyer of DFA's and AFLP's interests in Southern Belle. The divestitures must be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, that Southern Belle will be a viable, ongoing dairy business capable of competing effectively in the sale of school and fluid milk in Kentucky and Tennessee. The effect of these divestitures would be to restore competition between Southern Belle and NDH, with the divestiture of AFLP's interest allowing a buyer of Southern Belle to acquire the entire dairy as a going concern, rather than as a 50 percent owner in conjunction with AFLP. During the divestiture process, DFA is prohibited from taking any steps to degrade the operations of Southern Belle, and the entire Southern Belle dairy business is to be sold through the divestiture, instead of piecemeal, so it can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the relevant markets. In addition, DFA is not permitted to finance any part of a purchaser's acquisition of the Southern Belle dairy and is prohibited from requiring the purchaser to enter into a raw milk supply contract with DFA as a condition of the divestiture.

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The government and DFA reached agreement on the terms of the proposed Final Judgment and signed the Stipulation on May 15, 2006. That same day, DFA and AFLP executed an option agreement giving DFA the ability to purchase AFLP's ownership interest in Southern Belle. This option agreement allows DFA to sell the dairy in its entirety rather than just DFA's partial ownership interest in the dairy. Not only would a complete transfer of Southern Belle to a new owner eliminate the government's concerns about DFA's ownership interests in both Southern Belle and Flav-O-Rich, the divestitures also eliminate the possibility of anticompetitive effects as a result of DFA's ability to influence AFLP, its long-time business partner.

In exchange for DFA's agreement to divest its interest in Southern Belle and use its best efforts to have AFLP do the same, and so that DFA could find a buyer for the dairy, the government agreed in a letter agreement with DFA dated May 15, 2006, not to file the Stipulation and proposed Final Judgment until the earlier of 120 days after signing the Stipulation, or DFA gave notice that it executed an agreement with a buyer. A copy of this letter agreement is provided as Exhibit A to this Competitive Impact Statement. If DFA was not able to find a buyer for Southern Belle after 120 days had elapsed, DFA agreed that the government could file the Stipulation and proposed Final Judgment.

If a buyer for Southern Belle were not found by five days after DFA receives notice of the entry of the proposed Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. The proposed Final Judgment allows the United States to delay the appointment of the trustee for thirty days. If a trustee is appointed, the proposed Final Judgment provides that DFA will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee

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based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The divestitures required by the proposed Final Judgment eliminate the harm to competition identified in the Amended Complaint by making Southern Belle completely independent from DFA and NDH, including the Flav-O-Rich dairy. Prairie Farms' purchase of Southern Belle accomplishes this goal of the proposed Final Judgment. Prairie Farms will be purchasing Southern Belle as a complete going concern, including the plant in Somerset, Kentucky, distribution facilities, equipment, and trademarks. The government believes that Prairie Farms can capably operate and manage Southern Belle, as it already owns and operates several dairy processing plants. The government believes that Southern Belle will continue to bid on school milk contracts under Prairie Farms' ownership, including against Flav-O-Rich and other NDH dairies. The divestiture of DFA's and AFLP's interests in Southern Belle to Prairie Farms has allowed the government to secure relief more quickly than if the matter had gone to trial. In addition, this relief is equal to, and probably exceeds, the relief that the government could have obtained after a victory at trial.

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IV.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against DFA or Southern Belle.

V.

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The parties have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement is published in the Federal Register, or the last date of publication in a newspaper of the summary

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of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to:

Mark J. Botti
Chief, Litigation I Section
Antitrust Division
U.S. Department of Justice
1401 H St. NW, Suite 4000
Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI.

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The government considered, as an alternative to the proposed Final Judgment, a full trial on the merits of the Amended Complaint against DFA, continuing the litigation and seeking the divestiture of DFA's interest in Southern Belle and other injunctive relief requested in the Amended Complaint. The government is satisfied, however, that the divestitures and other relief contained in the proposed Final Judgment will preserve competition in the relevant markets alleged in the Amended Complaint. The government believes that by requiring DFA to divest its

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interest in Southern Belle, as well as using its best efforts to have AFLP simultaneously divest its interest in the remaining 50 percent of the dairy, the relief obtained in the proposed Final Judgment has allowed the government to secure relief more quickly than if the matter had gone to trial. In addition, this relief is equal to, and probably exceeds, the relief that the government could have obtained after a victory at trial.

VII.

STANDARD OF REVIEW UNDER THE APPA FOR PROPOSED FINAL JUDGMENT

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60)-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. § 16(e)(1). In making that determination, the Court shall consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

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15 U.S.C. § 16(e)(1)(A) & (B).[3] As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States v. Microsoft Corp.*, 56 F.3d 1448, 1458-62 (D.C. Cir. 1995).

With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft*, 56 F.3d at 1460-62. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest*." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

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[3] In 2004, Congress amended the APPA to ensure that courts take into account the above-quoted list of relevant factors when making a public interest determination. *Compare* 15 U.S.C. § 16(e) (2004) *with* 15 U.S.C. § 16(e)(1) (2006) (substituting "shall" for "may" in directing relevant factors for court to consider and amending list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms). On the points discussed herein, the 2004 amendments did not alter the substance of the Tunney Act, and the pre-2004 precedents cited below remain applicable.

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Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In making its public interest determination, a district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case. *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003).

Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); *see also United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Amended Complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Because the "court's authority to review

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[4] *Cf. BNS*, 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"); *see generally Microsoft*, 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'").

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the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Id*. at 1459-60.

In its 2004 amendments to the Tunney Act, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. § 16 (e)(2). This language codified the intent of the original 1974 statute, expressed by Senator Tunney in the legislative history: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather:

> [a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. Mid-America Dairymen, Inc., 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

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VIII.

DETERMINATIVE DOCUMENTS

In formulating the proposed Final Judgment, the United States considered DFA's agreement with AFLP, dated May 15, 2006, giving DFA the option to purchase AFLP's interest in Southern Belle. This agreement, a determinative document as described in Section 2(b) of the APPA, 15 U.S.C. § 16(b), is available for public inspection at the office of the Department of Justice in Washington, D.C., Room 200, 325 Seventh Street, N.W. and at the office of the Clerk of the United States District Court for the Eastern District of Kentucky, London, Kentucky, as Exhibit B to this Competitive Impact Statement.

Dated: October 2, 2006

Respectfully Submitted,

/s/ Ihan Kim
JON B. JACOBS
RICHARD MARTIN
N. CHRISTOPHER HARDEE
RICHARD D. COOKE
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CERTIFICATE OF SERVICE

This certifies that I caused a true and correct copy of the foregoing Competitive Impact Statement to be served on October 2, 2006, in the manner indicated:

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/s/ Ihan Kim
Attorney for Plaintiff
United States of America

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LONDON DIVISION

UNITED STATES OF AMERICA, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No.: 6:03-206-KSF
DAIRY FARMERS OF AMERICA, INC.,	)	
Defendant.	)	

FINAL JUDGMENT

WHEREAS, plaintiffs, the United States of America and the Commonwealth of Kentucky, and defendant Dairy Farmers of America, Inc. ("DFA"), by their respective attorneys, have consented to the entry of this Final Judgment without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, the United States of America and the Commonwealth of Kentucky have concluded, after due investigation and careful consideration of the relevant circumstances, including the claims asserted in the Amended Complaint, and the legal and factual defenses thereto, that the public interest is served by entering into a Stipulation, to avoid the uncertainties of litigation and to assure that the benefits of this Final Judgment are obtained;

AND WHEREAS, DFA agrees that venue and jurisdiction are proper in this Court;

AND WHEREAS, DFA agrees to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of the Divestiture Assets by DFA;

AND WHEREAS, DFA, despite its belief that it has good defenses to the claims asserted against it in the Amended Complaint, has nevertheless agreed to enter into this Final Judgment to avoid further expense, inconvenience, the uncertainties of litigation, and the distraction of burdensome and protracted litigation, and thereby to put to rest this controversy with respect to the United States of America and the Commonwealth of Kentucky;

AND WHEREAS, DFA, the United States of America, and the Commonwealth of Kentucky desire to resolve disputes between them concerning DFA's acquisition of a partial interest in Southern Belle Dairy Co., LLC, without further Court proceedings except as set out below;

AND WHEREAS, DFA has entered into a written agreement with AFLP to facilitate the resolution of this matter;

AND WHEREAS, DFA has represented to the United States that the divestitures required below can and will be made and that DFA will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

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I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against DFA under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18), and under the provisions of K.R.S. § 367.110 et seq, but, by virtue of this Final Judgment, DFA has not and does not admit either the allegations set forth in the Complaint or any liability or wrongdoing.

II. DEFINITIONS

As used in this Final Judgment:

A. "Acquirer" means the entity or entities to whom DFA or the trustee divest the Divestiture Assets.

B. "AFLP" means the Allen Family Limited Partnership, managed by Robert Allen.

C. "DFA" means Dairy Farmers of America, Inc., a Kansas corporation with its headquarters in Kansas City, Missouri, its successors and assigns, its subsidiaries and divisions, and their directors, officers, managers, agents, and employees.

D. "Divestiture Assets" means any and all of DFA's interests in the Southern Belle Dairy including DFA's Series A Preferred Capital Interest and Series B Preferred Capital Interest, and any and all lines of credit or other loans that Mid-Am has extended to the Southern Belle Dairy, and any interest in the Southern Belle Dairy acquired from AFLP.

E. "Mid-Am" means Mid-Am Capital LLC, a subsidiary of DFA and a Delaware limited liability company with its headquarters in Kansas City, Missouri, its successors and assigns, its subsidiaries and divisions, and their directors, officers, managers, agents, and

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employees.

F. "Southern Belle Dairy" means the Southern Belle Dairy Co., LLC, a Delaware limited liability company that owns and operates a milk processing plant located in Pulaski County, Kentucky, and all related assets, including all rights and interests in it, including all property and contract rights, all existing inventory, accounts receivable, pertinent correspondence and files, customer lists, all related customer information, advertising materials, contracts or other relationships with suppliers, customers and distributors, any rights, contracts and licenses involving intellectual property, trademarks, tradenames or brands, computers and other physical assets and equipment used for production at, distribution from, or associated with, that plant or any of its distribution branches and locations.

G. "Stipulation" means the Stipulation signed by the United States, the Commonwealth of Kentucky, and DFA in this matter.

III. APPLICABILITY

A. This Final Judgment applies to DFA, as defined above, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. DFA shall require, as a condition of the sale or other disposition of all or substantially all of DFA's assets or of lesser business units that include the Divestiture Assets, that the purchaser agrees to be bound by the provisions of this Final Judgment. DFA need not, however, obtain such an agreement from the Acquirer of the Divestiture Assets.

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IV. DIVESTITURES

A. DFA is ordered and directed, within five days after notice of the entry of this Final Judgment by the Court, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States in its sole discretion, after consultation with the Commonwealth of Kentucky. The United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, may agree to an extension of this time period for any divestiture of up to thirty additional calendar days. DFA agrees to use its best efforts to divest the Divestiture Assets as expeditiously as possible.

B. DFA shall also use commercially reasonable efforts to cause AFLP to divest its interests in the Southern Belle Dairy to an acquirer acceptable to the United States in its sole discretion, after consultation with the Commonwealth of Kentucky.

C. In accomplishing the divestitures ordered by this Final Judgment, DFA promptly shall make known to one or more potential purchasers the availability of the Divestiture Assets. DFA shall inform any potentially qualified purchaser making inquiry regarding a possible purchase of the Divestiture Assets that such assets are being offered for sale.

D. DFA shall use commercially reasonable efforts to cause to be furnished to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets and the Southern Belle Dairy customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or attorney work-product doctrine. DFA shall make available such information to the United States and the Commonwealth of Kentucky at the same time that such information is

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made available to any other person.

E. DFA shall use commercially reasonable efforts to obtain permission for prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of the Southern Belle Dairy; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. DFA shall use commercially reasonable efforts to cause to be provided to the Acquirer and the United States information relating to the personnel involved in the operation of the Southern Belle Dairy to enable the Acquirer to make offers of employment. DFA shall not interfere with any negotiations by the Acquirer to employ any employee whose primary responsibility is the production, sale, marketing, or distribution of products from the Southern Belle Dairy.

G. DFA shall not take any action that will impede in any way the operation of the Southern Belle Dairy or the divestiture of the Divestiture Assets.

H. Unless the United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, that the Southern Belle Dairy will be a viable, ongoing dairy. The divestiture, whether pursuant to Section IV or Section

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V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, after consultation with the Commonwealth of Kentucky, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in school and fluid milk markets in Kentucky and Tennessee; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, that none of the terms of any agreement between an Acquirer and DFA give DFA the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. APPOINTMENT OF TRUSTEE

A. If DFA has not divested the Divestiture Assets within the time period specified in Section IV(A), DFA shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States (after consultation with the Commonwealth of Kentucky) at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of DFA any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably

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necessary in the trustee's judgment to assist in the divestiture.

C. DFA shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by DFA must be conveyed in writing to the United States and the trustee within ten calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of DFA, on such terms and conditions as the United States approves, after consultation with the Commonwealth of Kentucky, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to DFA and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. DFA shall use its best efforts to assist the trustee in accomplishing the required divestiture. While the trustee shall have the right to sell the Divestiture Assets, DFA shall use commercially reasonable efforts to cause AFLP to divest its interests in the Southern Belle Dairy to an acquirer acceptable to the United States in its sole discretion, after consultation with the Commonwealth of Kentucky. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books,

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records, and facilities of the business to be divested, and DFA shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. DFA shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States, the Commonwealth of Kentucky, DFA, and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court and DFA's copy of the reports shall have such confidential information redacted. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished such divestiture within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report

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to the United States and the Commonwealth of Kentucky who shall have the right to make additional recommendations consistent with the purpose of the trust. The trustee shall at the same time furnish the report to DFA, but with all confidential information redacted. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

H. If necessary in the trustee's judgment to divest the Divestiture Assets, DFA shall use its best efforts to assist the trustee in dissolving the Southern Belle Dairy under Delaware Statute 6 Del. C. § 18-802, or such other applicable statutes and laws.

VI. NOTICE OF PROPOSED DIVESTITURES

A. Within two business days following execution of a definitive divestiture agreement, DFA or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States and the Commonwealth of Kentucky of the proposed divestiture required by Sections IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify DFA. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen calendar days of receipt by the United States of such notice, the United States may request from DFA, the proposed Acquirer, any other third party, or the trustee if applicable additional information concerning the proposed divestiture, the proposed Acquirer,

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and any other potential Acquirer. DFA and the trustee shall furnish any additional information requested within fifteen calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty calendar days after receipt of the notice or within twenty calendar days after the United States has been provided the additional information requested from DFA, the proposed Acquirer, any third party, and the trustee, whichever is later, the United States shall provide written notice to DFA and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to DFA's limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, the divestiture proposed under Sections IV or Section V shall not be consummated. Upon objection by DFA under Section V(C), the divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. FINANCING

DFA shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. SUPPLY CONTRACTS

DFA shall not require the Acquirer to enter into a supply contract for raw milk with DFA as a condition for the sale of the Divestiture Assets.

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IX. AFFIDAVITS

A. Within twenty calendar days of DFA's signing the Stipulation, and every thirty calendar days thereafter until the divestiture has been completed under Sections IV or V, DFA shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts DFA has taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by DFA, including limitation on information, shall be made within fourteen calendar days of receipt of such affidavit.

B. Within twenty calendar days of DFA's signing the Stipulation, DFA shall deliver to the United States an affidavit that describes in reasonable detail all actions DFA has taken and all steps DFA has implemented on an ongoing basis to comply with the Stipulation. DFA shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in DFA's earlier affidavits filed pursuant to this section within fifteen calendar days after the change is implemented.

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C. DFA shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice or the Commonwealth of Kentucky, including consultants and other persons retained by either of them, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division or the Attorney General for Kentucky, and on reasonable notice to DFA, be permitted:

(1) access during DFA's office hours to inspect and copy, or at plaintiffs' option, to require DFA provide copies of, all books, ledgers, accounts, records and documents in the possession, custody, or control of DFA, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, DFA's officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by DFA.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division or the Attorney General for Kentucky, DFA shall submit written reports and interrogatory responses, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States or the Commonwealth of Kentucky to any person other than an

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authorized representative of the executive branch of the United States or the Commonwealth of Kentucky, except in the course of legal proceedings to which at least one of the plaintiffs is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by DFA to the plaintiffs, DFA represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and DFA marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the plaintiffs shall give DFA ten calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. REACQUISITION OF THE DIVESTITURE ASSETS

Other than acquiring AFLP's interests in the Southern Belle Dairy for resale to the Acquirer, DFA may not directly or indirectly reacquire in whole or in part the Divestiture Assets or any interest in the Southern Belle Dairy during the term of this Final Judgment without the prior written approval of the United States. Unless the United States otherwise agrees in writing, DFA will urge any partnership, joint venture, limited liability company, or other firm in which it has an equity interest, not to acquire the Divestiture Assets or any interest in Southern Belle Dairy during the term of this Final Judgment; such urging shall include, among other things, voting its interest, if applicable, against such an acquisition.

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XII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures
of Antitrust Procedures and Penalties
Act, 15 U.S.C. § 16

_____
United States District Judge

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ELECTRONICALLY FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LONDON DIVISION

UNITED STATES OF AMERICA, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No.: 6:03-206-KSF
DAIRY FARMERS OF AMERICA, INC.,	)	
Defendant.	)	

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. This Court has jurisdiction over the subject matter of this action and of the parties hereto, and venue of this action is proper in the Eastern District of Kentucky.

2. The parties stipulate that a proposed Final Judgment in the form attached as Exhibit A may be entered by this Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant Dairy Farmers of America, Inc. ("DFA") and by filing that notice with this Court. Terms used in this Stipulation have the meaning as defined in the proposed Final Judgment.

3. DFA shall abide by and comply with the provisions of the proposed Final Judgment, pending the Final Judgment's entry by this Court, or until expiration of time for all appeals of any Court ruling denying entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties.

5. In the event the United States has withdrawn its consent or the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Until DFA or a trustee appointed pursuant to the proposed Final Judgment has divested the Divestiture Assets as required by the Final Judgment

a. Within twenty calendar days after signing this Stipulation, DFA shall inform the United States of the steps taken to comply with the Stipulation and shall use commercially reasonable efforts to cause to be furnished to the United States and to the Commonwealth of Kentucky sufficient and periodic data and reports on an ongoing basis such that the plaintiffs are able to monitor the performance of the

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Southern Belle Dairy prior to divestiture. The United States, in its sole discretion, after consultation with the Commonwealth of Kentucky, shall determine the frequency and sufficiency of the data and reports.

b. DFA shall, except as is necessary to carry out its obligations under this Stipulation and the proposed Final Judgment, or to comply with other legal obligations, take commercially reasonable steps necessary to ensure that the Southern Belle Dairy will be maintained and operated as an ongoing and economically viable milk processing plant. DFA shall not cause the wasting or deterioration of the Southern Belle Dairy, nor cause the Southern Belle Dairy to be operated in a manner inconsistent with applicable laws, nor sell, transfer, encumber, or otherwise impair the viability or marketability of the Southern Belle Dairy. DFA shall use commercially reasonable efforts to preserve the Southern Belle Dairy's existing relationships with suppliers, customers, employees, and others having business relations with the Southern Belle Dairy. DFA shall use commercially reasonable efforts to keep the organization and properties of the Southern Belle Dairy intact, including current business operations, physical facilities, and working conditions.

c. DFA shall take commercially reasonable steps necessary to ensure that the Southern Belle Dairy is fully maintained in operable condition at no less than current capacity, and shall maintain and adhere to normal product and service improvement, upgrade, repair, and maintenance schedules for the Southern Belle

DOJ_NMG_ 0169160

Dairy.

d. DFA shall not, except as part of a divestiture approved by the United States after consultation with the Commonwealth of Kentucky, in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge, or otherwise dispose of any of the Divestiture Assets or any assets of the Southern Belle Dairy.

e. DFA shall use commercially reasonable efforts to cause to be maintained, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books, and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Southern Belle Dairy.

f. Except in the ordinary course of business or as is otherwise consistent with this Stipulation, DFA shall not hire and shall use commercially reasonable efforts to prevent the transfer, termination, or reduction of the salary agreements of any employee whose primary responsibilities relate to the Southern Belle Dairy.

g. DFA shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

h. DFA represents that the divestiture in the proposed Final Judgment can and will be made, and that DFA will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking this Court to modify any of the provisions contained therein.

DOJ_NMG_ 0169161

i. DFA shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture required by the Final Judgment to an Acquirer acceptable to the United States.

7. No part of the negotiation, execution, or performance of this Stipulation and the Final Judgment, including anything contained or incorporated therein, shall be deemed or constitute any type of admission or concession of liability or wrongdoing on the part of DFA.

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/ Jon B. Jacobs

Jon B. Jacobs
Litigation I Section
Antitrust Division
1401 H Street, NW - Suite 4000
Washington, DC 20530
(202) 514-5012
Facsimile: (202) 307-5802

FOR DEFENDANT DAIRY FARMERS OF AMERICA, INC.

/s/ W. Todd Miller

W. Todd Miller
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW - Suite 300
Washington, DC 20005
(202) 663-7822
Facsimile: (202) 663-7849

FOR PLAINTIFF COMMONWEALTH OF KENTUCKY
Gregory D. Stumbo, Attorney General

/s/ Maryellen B. Mynear

By: Maryellen B. Mynear
Consumer Protection Division
Office of the Kentucky Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601
(502) 696-5389
Facsimile: (502) 573-8317
maryellen.mynear@ag.ky.gov
Dated: May 15, 2006.

DOJ_NMG_ 0169162

CERTIFICATE OF SERVICE

This certifies that I caused a true and correct copy of the foregoing Stipulation to be served on October 2, 2006, in the manner indicated:

David A. Owen, Esq.
Greenebaum Doll & McDonald, PLLC
300 West Vine Street - Suite 1100
Lexington, KY 40507
Counsel for Dairy Farmers of America, Inc.
(via e-mail and first-class mail)

W. Todd Miller, Esq.
Baker & Miller, PLLC
2401 Pennsylvania Ave., Suite 300
Washington, DC 20037
Counsel for Dairy Farmers of America, Inc.
(via e-mail and hand delivery)

John M. Famularo, Esq.
Stites & Harbison PLLC
250 West Main Street, Suite 2300
Lexington, Kentucky 40507
Counsel for Dean Foods Company
(via e-mail and first-class mail)

John L. Fleischaker, Esq.
R. Kenyon Meyer, Esq.
Jeremy S. Rogers, Esq.
Dinsmore & Shohl LLP
1400 PNC Plaza
500 West Jefferson Street
Louisville, Kentucky 40202
Counsel for Chicago Tribune Company
(via e-mail and first-class mail)

Charles E. Shivel, Jr., Esq.
Stoll Keenon Ogden PLLC
300 West Vine Street - Suite 2100
Lexington, KY 40507
Counsel for Southern Belle Dairy Co., LLC
(via e-mail and first-class mail)

J. Jackson Eaton, III, Esq.
Gross, McGinley, LaBarre & Eaton, LLP
P.O. Box 4060 – 33 South Seventh Street
Allentown, PA 18105
Counsel for Southern Belle Dairy Co., LLC
(via e-mail and first-class mail)

Ihan Kim, Esq.
Antitrust Division, U.S. Department of Justice
1401 H Street, NW, Suite 4000
Washington, DC 20530
Counsel for United States of America
(via e-mail and hand delivery)

/s/ Maryellen B. Mynear
Counsel for Plaintiff
Commonwealth of Kentucky

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Image not available for this document, ID: 0.7.10316.26879-000007

From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 5:25 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES AND OTHER GOVERNMENT OFFICIALS TO DELIVER REMARKS AT THE 2006 NATIONAL CONFERENCE ON HUMAN TRAFFICKING

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, OCTOBER 2, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES AND OTHER GOVERNMENT OFFICIALS TO DELIVER REMARKS AT THE 2006 NATIONAL CONFERENCE ON HUMAN TRAFFICKING

NEW ORLEANS – Attorney General Alberto R. Gonzales and other government officials will deliver remarks at the Department of Justice's 2006 National Conference on Human Trafficking beginning **TUESDAY, OCTOBER 3, 2006 at 9:00 A.M. CDT.**

GENERAL SESSION I

WHO: Attorney General Alberto R. Gonzales
Regina B. Schofield, Assistant Attorney General, Office of Justice Programs, Department of Justice

WHEN: **9:00 A.M. CDT**
TUESDAY, OCTOBER 3, 2006

WHERE: New Orleans Marriott
Acadia Room
555 Canal Street
New Orleans, Louisiana
OPEN PRESS

NOTE: **For ALL sessions, media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** Cameras should pre-set no later than 8:45 A.M. CDT. Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or Joan LaRocca at 703-216-5435.

LUNCH SESSION

DOJ_NMG_ 0169166

WHO: Steven Law, Deputy Secretary, U.S. Department of Labor

WHEN: **12:00 P.M. CDT**
TUESDAY, OCTOBER 3, 2006

WHERE: New Orleans Marriott
Mardi Gras Room
555 Canal Street
New Orleans, Louisiana
OPEN PRESS

NOTE: Press inquiries regarding logistics should be directed to Joan LaRocca at 703-216-5435.

GENERAL SESSION II
WEDNESDAY, OCTOBER 4, 2006

WHO: Wan J. Kim, Assistant Attorney General, Civil Rights Division, Department of Justice
Grace C. Becker, Deputy Assistant Attorney General
Civil Rights Division, Department of Justice
Bradley Schlozman, U.S. Attorney, Western District of Missouri
Alice Fisher, Assistant Attorney General, Criminal Division, Department of Justice

WHEN: **8:30 A.M. CDT**
WEDNESDAY, OCTOBER 4, 2006

WHERE: New Orleans Marriott
Acadia Room
555 Canal Street
New Orleans, Louisiana
OPEN PRESS

NOTE: Cameras should be pre-set no later than 8:00 A.M. CDT. Press inquiries regarding logistics should be directed to Joan LaRocca at 703-216-5435.

GENERAL SESSION III
THURSDAY, OCTOBER 5, 2006

WHO: Martha Newton, Director, Office of Refugee Resettlement
U.S. Department of Health and Human Services
Don DeGabrielle, U.S. Attorney, Southern District of Texas
Ambassador John R. Miller, Ambassador At Large for International Slavery,
U.S. Department of State

WHEN: **9:00 A.M. CDT**
THURSDAY, OCTOBER 5, 2006

WHERE: New Orleans Marriott
Acadia Room
555 Canal Street
New Orleans, Louisiana

DOJ_NMG_ 0169167

OPEN PRESS

NOTE: Cameras should be pre-set no later than 8:45 A.M. CDT. Press inquiries regarding logistics should be directed to Joan LaRocca at 703-216-5435.

06-673 .

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DOJ_NMG_ 0169168

Image not available for this document, ID: 0.7.10316.26824-000001

Image not available for this document, ID: 0.7.10316.26824-000002

System Administrator

From:	System Administrator
Sent:	Monday, October 2, 2006 5:45 PM
To:	Gorsuch, Neil M
Subject:	Your mailbox is over its size limit
Importance:	High

Your mailbox has exceeded one or more size limits set by your administrator.
Your mailbox size is 643345 KB.

Mailbox size limits:
You will receive a warning when your mailbox reaches 500000 KB.

You may not be able to send or receive new mail until you reduce your mailbox size. To make more space available, delete any items that you are no longer using or move them to your personal folder file (.pst). Items in all of your mailbox folders including the Deleted Items and Sent Items folders count against your size limit. You must empty the Deleted Items folder after deleting items or the space will not be freed.

See client Help for more information.

From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 5:50 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 2, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

BATON ROUGE, La. – Another Louisiana resident was sentenced in federal court by U.S. District Court Judge Frank J. Polozola on a fraud charge related to a hurricane disaster relief program, U.S. Attorney David R. Dugas announced today.

Tarsha Johnson, 27, of Baton Rouge, La., pleaded guilty on May 8, 2006, to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. Johnson was sentenced to 18 months in prison followed by three years of supervised release with 50 hours of community service and $2,000 in restitution. The U.S. Secret Service, U.S. Department of Homeland Security's Office of Inspector General, and Social Security Administration's Office of Inspector General conducted the investigation of this matter. The case was prosecuted by Assistant U.S. Attorney Richard L. Bourgeois Jr.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds stands at 74.

DOJ_NMG_ 0169172

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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DOJ_NMG_ 0169173

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Image not available for this document, ID: 0.7.10316.26779-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 6:26 PM
To: USDOJ- Office of Public Affairs
Subject: TWO YEAR PRISON TERM FOR FEMA FRAUD IN MISSISSIPPI

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 2, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

TWO YEAR PRISON TERM FOR FEMA FRAUD IN MISSISSIPPI

JACKSON, Miss. – Bryan Michael Beets of Vicksburg, Miss., was sentenced to serve 24 months in prison followed by three years of supervised release. Beets was also ordered to pay $3,854 in restitution, which is payable to the Federal Emergency Management Agency (FEMA) and the American Red Cross, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today.

Beets was the first FEMA fraud trial in Mississippi. A jury found him guilty of making false claims to FEMA for hurricane relief funds. The evidence showed that Beets filed a false claim with FEMA using an address in Long Beach, Miss., which belonged to his ex-wife. At the time of Hurricane Katrina, Beets was living and working in Vicksburg. Additionally, the evidence showed that Beets received $360 and 12 nights of hotel accommodations in Texas from the American Red Cross utilizing his ex-wife's address in Long Beach.

"The prosecution and sentence today show the continuing commitment of the Katrina Fraud Task Force to uphold the U.S. Attorney General's mandate of zero tolerance of Katrina Fraud," U.S. Attorney Lampton said.

Beets was indicted on Oct. 25, 2005, as a result of a joint investigation conducted by the U.S. Department of Homeland Security, Office of Inspector General and the U.S. Postal Inspection Service with assistance provided by the U.S. Marshal.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division includes members from the FBI, the Federal Trade Commission, the U.S. Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

DOJ_NMG_ 0169176

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 federal and state law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who file false and fraudulent claims.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Monday, October 02, 2006 7:56 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 2, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Media Inquires Regarding Foley Investigation (OPA)
Numerous media inquiries were received today regarding a letter sent from Speaker Hastert to the Attorney General requesting an investigation into the conduct of former Representative Mark Foley. This evening, the Department replied to speaker Hastert, indicating that the FBI has initiated an investigation into Foley's conduct.

Justice Department Obtains Dairy Processor Divestiture in Settlement with Dairy Farmers of America (Antitrust)
The Department of Justice today announced a settlement that resolves its antitrust concerns with the Dairy Farmers of America Inc. (DFA) acquisition of Southern Belle Dairy Co. LLC, by requiring DFA to divest its interest in Southern Belle. As a result of the settlement, DFA's partner, the Allen Family Limited Partnership (AFLP), will also sell its interest in Southern Belle. The Department said that the divestitures restore the benefits of competition—lower prices and better quality services—to schoolchildren and their families in Kentucky and Tennessee. As a result of the settlement filed today in U.S. District Court in London, Ky., both DFA and AFLP will sell their interests in Southern Belle to Prairie Farms Dairy Inc. The Antitrust Division has approved Prairie Farms as the buyer. The Commonwealth of Kentucky joined the Department in its settlement.

Talking Points

- This settlement restores competition for school milk contracts essential to the nutrition programs that serve schoolchildren in 100 school districts in Kentucky and Tennessee.

- With the close cooperation of the Commonwealth of Kentucky's Office of the Attorney General, the United States has secured the relief that we expected to request from the court had we prevailed at trial.

Justice Department Sues to Bar California CPA from Promoting Alleged Tax Scam (Tax)
The Justice Department brought suit against a Bakersfield, Calif., CPA to stop him from promoting two alleged tax fraud schemes and to bar him from preparing federal tax returns for

others. The civil complaint, filed in U.S. District Court for the Eastern District of California, alleges that Lowell Baisden sold the scheme to several physicians in Nebraska, one of whom also helped to promote the scheme to others. The suit also alleges that Baisden has sold the scheme to customers in California. According to the suit, Baisden helps customers form sham corporations in Nevada and uses them to claim improper tax deductions for customers' non-deductible personal expenses such as utilities, medical bills, vacations, and personal vehicles. Baisden allegedly also prepares tax returns for customers that falsely report their employment income as royalties or rent in order to evade Social Security and self-employment taxes. Additionally, it is alleged that Baisden promotes a second tax scam in which customers divert income to a corporation that he operates.

Two Sentenced for FEMA Fraud Convictions (USAO–Southern District of Mississippi and USAO–Middle District of Louisiana)
Today, Bryan Michael Beets of Vicksburg, Miss., was sentenced to serve 24 months in prison followed by three years of supervised release. Beets was also ordered to pay $3,854 in restitution, which is payable to the Federal Emergency Management Agency (FEMA) and the American Red Cross, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced. A Louisiana resident was sentenced in federal court by U.S. District Court Judge Frank J. Polozola on a fraud charge related to a hurricane disaster relief program, U.S. Attorney David R. Dugas announced. Tarsha Johnson, of Baton Rouge, La., pleaded guilty on May 8, 2006, to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. Johnson was sentenced to 18 months in prison followed by three years of supervised release with 50 hours of community service and $2,000 in restitution.

TUESDAY'S EXPECTED EVENTS/RELEASES:

10:00 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks at the National Human Trafficking Conference in New Orleans regarding Department efforts to combat human trafficking.
Marriot Hotel – New Orleans
Acadia Room
555 Canal Street
New Orleans, La.
OPEN PRESS

Amber.JMD

From: Amber.JMD
Sent: Monday, October 02, 2006 10:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Howell, MI

From: AmberAlert-DOJ
Sent: Monday, October 02, 2006 10:35:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert (NDIC); USAEO-AmberAlert@usa.doj.gov; Amberalert USMS;
AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlertCRM;
Broadcast@atf.gov; ambertalert@dea.usdoj.gov; AmberAlert-DOJ
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Howell, MI
Auto forwarded by a Rule

UPDATE AMBER ALERT [redacted]
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2322

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 9:43 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 3, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, October 03, 2006

ATTORNEY GENERAL

10:00 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks at the National Human Trafficking Conference in New Orleans regarding Department efforts to combat human trafficking.
Marriot Hotel – New Orleans
Acadia Room
555 Canal Street
New Orleans, La.
OPEN PRESS

For ALL sessions, media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS. Cameras should pre-set no later than 8:45 A.M. CDT. Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or Joan LaRocca at 703-216-5435.

PRESS RELEASES

The Civil Rights Division will issue a release on Department efforts to combat human trafficking. (Magnuson)

EVENTS/HEARINGS

9:00 A.M. CDT Regina B. Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver remarks at the Department of Justice's 2006 National Conference on Human Trafficking.
Marriot Hotel – New Orleans
Acadia Room
555 Canal Street
New Orleans, La.
OPEN PRESS

NIGHT DUTY OFFICER

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Kimberly Smith

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169184

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Image not available for this document, ID: 0.7.10316.26752-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 11:01 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE 2006 NATIONAL CONFERENCE ON HUMAN TRAFFICKING

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 3, 2006
WWW.USDOJ.GOV

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

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE 2006 NATIONAL CONFERENCE ON HUMAN TRAFFICKING

NEW ORLEANS, LOUISIANA

Good morning. It is important to me to be here in New Orleans, with all of you, to discuss the fight against the crime of human trafficking.

Human trafficking is a violation of the human body, mind and spirit. For this vile practice to be taking place in a country that the world looks to as a beacon of freedom… is a terrible irony and an utter tragedy.

Every person in this room today, I know, shares that view. We also share a passion for protecting victims and eradicating the practice of enslaving human beings. We work and hope for a world in which there will be no more testimonials from victims like this one, where a young woman brought into this country on false promises eventually told prosecutors: "I was sold from L.A. to Dallas just like a cargo package… I wish there won't be any more slaves because of the money."

Those words should never need to be spoken or written in a modern society. And everyone here works for the day when they won't.

I want each of you to know how much the President and I appreciate your tireless devotion to the victims of this heinous international crime, and I'm pleased to announce that the Department of Justice will be providing almost $8 million in additional funding to create ten new Anti-Trafficking Task Forces. This funding, which will help cement partnerships between law enforcement agencies and victims'-services organizations, will enable the Task Forces' work of identifying and assisting victims of human trafficking as well as apprehending and prosecuting the perpetrators of these unconscionable crimes.

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For example, one of the grants will go to the Louisiana Commission on Law Enforcement to work with the state sheriffs' association in fighting trafficking along the I-10 corridor. That corridor has become a magnet for human traffickers looking to take advantage of the labor needs in hurricane-damaged areas of the state. The task force will use regional response teams to identify and rescue victims in targeted areas and put a stop to the exploitation and abuse of laborers.

In these task forces, service providers and law enforcement rescue victims and help restore their human dignity. Working together, we can help them re-enter a world that seems newly welcoming and dangerous at the same time. We can help cultivate the extraordinary courage these victims need to confront their traffickers face-to-face and re-open emotional memories during trials and hearings.

We must work together – we must intensify our efforts – because as we speak, a married couple could be bringing an unsuspecting young Filipino girl to America with the promise of schooling and safety – only to keep her locked away as a domestic servant.

As we speak, an American girl could be falling for the wiles of a pimp – only to be forced into inherently dehumanizing prostitution.

As we speak, 20, or 50, or 100 victims could be locked behind the walls of an otherwise nondescript building, working for pennies and hoping for freedom—any kind of relief from their hard, forced labor.

I'd like to commend this group, and everyone engaged in this struggle, for seeing both sides of the equation – help for victims and justice for criminals – as indispensible in the overall fight for human justice. I think you also acknowledge that the expertise in each area often comes from different groups.

So while each of us may have come to this conference from a variety of backgrounds and professions – law enforcement and victims' advocates, non-profit groups, academics and government employees – I am proud to note that we gather today, side by side, shoulder to shoulder and work for a common cause every day, as a unified team.

In fact, among those engaged in this cause, there can be only two teams, two sides – us, and the traffickers.

I encourage you all to use this conference as a time to make new connections and solidify ties with the other groups who fight for justice on this issue. Because partnerships, information-sharing and cooperation cannot be underestimated when it comes to fighting a crime like human trafficking – an act that is sinister to the point of feeling overwhelming at times.

If we stick together, back each other up and keep the lines of communication open, we won't be overwhelmed by these criminals and their selfish, inhumane intentions. Our partnership will instead prevail, and victims will be spared.

DOJ_NMG_ 0169188

It is, of course, a terrible shame that we even need to have a conference like this. After all, most Americans think that our country resolved the question of slavery with our Civil War. But freedom is guaranteed only with vigilance. And while ensuring freedom is the goal of our fight, that fight can never really end until we are sure that no one is denied freedom. So this conference and the work it represents are crucial. And I am delighted that we are meeting in New Orleans, a city which has suffered so greatly. Its music, art, and culture are the embodiment of what the human spirit can create when it is truly free. It heritage and its future brightness even amidst the struggles of the past year are an inspiration for us.

The victims of human trafficking are often lured to this country with the promise that they will enjoy the great gifts of liberty. This is an insult to our country, and it is personally disappointing because my own family came here from Mexico to find a better life. The thirst for freedom and opportunity is part of the human spirit and is very strong in this world – to offer it as a lure for purposes of a crime is unconscionable.

So those of us who fight on behalf of human trafficking's victims are determined to finally deliver that promise of freedom to brutalized victims… while also bringing their abusers to justice.

I believe that another critical part of our duty is to speak out about this criminal practice, to educate the world about these victims, to enlist soldiers in the "Armies of Compassion" that will rise up and defeat the practice of enslaving human beings. And we should let our words be blunt, let the stories of victims be vivid. Because while few people would dispute the fact that human trafficking is one of the world's most depraved criminal practices, what they might not know is how frequently it happens – including right here in America.

An estimated 17,500 people – most of whom are women and children – are forced into prostitution, sweatshops and domestic servitude every year.

It is shocking, and difficult for people to accept, but it happens, here in America, every day.

It was happening, in one case, in my home state of Texas, at a Dallas nightclub called "Club Wa," until a Good Samaritan's shelter and the power of law enforcement led to the eventual arrest and sentencing of the perpetrators.

In this case, a Korean businessman named Sung Bum Chang was essentially importing and collecting women from South Korea to be trapped in servitude at his club in Dallas.

Chang paid others to smuggle these women into the U.S. where they were then required to work at Club Wa under terrible conditions of fear and violence.

The victims came to the United States because of the promise of a better life and the opportunity to live the American dream. When they got here, however, their dreams were quickly turned into nightmares. The club owner forced them into labor and restricted their movement to the point where their home was more like a prison. The women were made to work six or seven days a week until they paid off their debt of passage into

DOJ_NMG_ 0169189

this country to Chang. Of course, he also charged the women for their food and lodging, adding to their amount of overall debt to him while they struggled to pay.

Chang used various forms of physical restraint and abuse to force the women to work for him. He held his victims' passports, restricted their movements and social contact, and monitored their every movement with surveillance cameras. The young women were fined for violating strict rules of behavior, and also endured physical beatings. The violence was conducted in the presence of other victims to ensure an environment of constant fear. At one point, Chang threatened to sell one of his victims to another bar owner with even harsher working conditions if the young woman did not work harder.

One of the victims came from a deeply religious upbringing as a member of a Korean Christian church. Her desire to leave her prison-like home to attend religious services – something which was forbidden by the rules of behavior – was her breaking point. She jumped from a second-story window, ran away and found help from the pastor of her church in March of last year.

Today, the man who enslaved her faces a maximum statutory sentence of 25 years imprisonment, a $500,000 fine and restitution. He will be sentenced on October 16th. Justice will be served.

It is hard to estimate accurately the number of trafficking victims worldwide, or even the number that are enslaved each year here in the United States. We do know that programs funded by the Justice Department have served more than 1,500 victims in the past three years. And, as Regina mentioned, through the Department's research and data-gathering functions, we're working to gain a fuller understanding of the extent of the problem. But one thing is clear – even one single victim is too many. As President Bush has said, "Human life is the gift of our Creator – and it should never be for sale."

Our progress in fighting the criminals is somewhat more easily measured. For example, since 2001 the Justice Department's Civil Rights Division and U.S. Attorneys' offices have prosecuted over 300 human trafficking defendants, secured over 200 convictions and guilty pleas and opened nearly 650 new investigations.

And our Innocence Lost Initiative, spearheaded by the Criminal Division, has resulted in 543 arrests and 94 convictions in both the federal and state systems of pimps who prey on children, often US Citizens who have succumbed to their charms. We have 16 Innocence Lost Initiative task forces around the country and are working to establish more. I encourage close cooperation between those working groups and our anti-trafficking task forces, to ensure that no victims fall between the cracks, and no traffickers escape justice.

In each of these areas, our numbers have doubled or even tripled over the record of the previous five years due to an increased focus on the issue and a truly effective partnership among government and non-profit groups.

As you know, we've also developed a model state law that has been endorsed by the U.S. Senate and sent to state governors and legislative leaders. In 2004, only four states had laws against trafficking. Today, more than two dozen have enacted tough anti-trafficking laws that reflect the principles of the Department's model criminal statute…and I encourage every state to follow suit.

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I am proud to be working with all of you in this historic effort, an aggressive, proactive, and victim-centered approach to prevention, investigations and prosecutions. Together, we've deployed a truly comprehensive strategy and it is working.

As you engage in the work of this conference and go back to your homes and jobs later in the week, I encourage you to remember that you and your work are the light of hope for every victim of human trafficking and slavery.

You rescue victims and help restore their human dignity. Your devotion is to cause of freedom itself. You hold up the Thirteenth Amendment of our constitution – a lasting promise of freedom for all innocent people within our borders. Your efforts make the dream of freedom a reality for these victims, not just a promise.

Your service is noble, and it is appreciated.

Thank you for having me here this morning; I hope you have a productive and rewarding conference.

May God bless you and your important work, and may he continue to bless the United States of America.

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Image not available for this document, ID: 0.7.10316.26750-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 11:07 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES ENHANCED PROGRAMS TO COMBAT HUMAN TRAFFICKING

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 3, 2006
WWW.USDOJ.GOV

CRT/OJP
(202) 514-2007
TDD (202) 514-1888

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES ENHANCED PROGRAMS TO COMBAT HUMAN TRAFFICKING

National Conference Focuses On Victim Issues And Law Enforcement Solutions

NEW ORLEANS – Attorney General Alberto R. Gonzales today announced additional funding, totaling nearly $8 million, for law enforcement agencies and service organizations for the purpose of identifying and assisting victims of human trafficking and apprehending and prosecuting those engaged in trafficking offenses. The funding announced today will be used to create new Trafficking Task Forces in 10 cities around the country, building on the current work of over 32 national task forces working as part of a collaborative effort among various Department of Justice components, the Departments of Health and Human Services, Homeland Security, Labor and State, and national and community-based organizations to combat human trafficking.

Today's announcement was made at the 2006 National Conference on Human Trafficking in New Orleans, where representatives from federal, state and local organizations have gathered to discuss methods of investigating human trafficking and servitude and how victim services are structured and defined.

"Human trafficking is a violation of the human body, mind and spirit. For this vile practice to be taking place in a country that the world looks to as a beacon of freedom is a terrible irony and an utter tragedy," said Attorney General Alberto R. Gonzales. "This funding will help cement partnerships between law enforcement agencies and victims' services organizations, and enable the Trafficking Task Forces' work of identifying and assisting victims of human trafficking as well as apprehending and prosecuting the perpetrators of these unconscionable crimes."

Increasing and prosecuting human trafficking has been a major priority of the Department of Justice. Under the direction of the Attorney General, the U.S. Attorneys and the Civil Rights Division have taken the lead in prosecuting human trafficking cases at the federal level. In fiscal year 2006, the Civil Rights Division, working with the various U.S. Attorneys' offices, initiated 167 investigations, charged 111 defendants in 32 cases and obtained 79 convictions involving human trafficking defendants which reflected more than a twofold increase in convictions over the previous year. In April 2006, the Department of Justice obtained two of the longest sentences ever imposed in a sex trafficking case—50 years each for two defendants in New Jersey.

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From fiscal years 2001 to 2005, as compared to fiscal years 1996 to 2000, the Justice Department's trafficking investigations have quadrupled, the number of defendants charged has tripled, and the number of defendants convicted has doubled.

Justice Department prosecutors are also supporting the President's Initiative Against Trafficking and Child Sex Tourism by performing assessments of anti-trafficking activities in targeted countries and making recommendations on program development. For example, prosecutors have worked with their Mexican counterparts to undertake joint investigations, to conduct training for police and prosecutors, and to assist Mexican policymakers in developing anti-trafficking legislation in that country.

Including the new funding announced this morning, the Department of Justice now supports 42 victim-centered law enforcement task forces located throughout the United States including Alaska, Hawaii, and in American Samoa and the Northern Marianas. These task forces are collaborations among U.S. Attorneys, law enforcement, and victim service agencies. Their activities focus on increasing the identification and rescue of trafficking victims through proactive law enforcement, which includes designing a protocol response to the identification of victim services, provision of services, investigation and prosecution of human trafficking cases.

Recipients of the 2006 law enforcement awards are:

- The City of Clearwater
  Clearwater, Fla. $450,000
- Louisiana Commission on Law Enforcement
  Baton Rouge, La. $450,000
- City of Independence
  Independence, Mo. $450,000
- Las Vegas Metropolitan Police Department
  Las Vegas, Nev. $369,572
- Erie County
  Buffalo, N.Y. $450,000
- Northern Mariana Department of Public Safety
  Saipan, Northern Marianas $448,083
- City of Fort Worth
  Fort Worth, Texas $450,000
- Dallas Police Department
  Dallas, Texas $450,000
- Bexar County Sheriff Office
  San Antonio, Texas $406,862
- Salt Lake City
  Salt Lake City, Utah $450,000

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Recipients of the 2006 Awards for victim services are:

- Tides Center
  San Francisco, Calif. $450,000
  (For work in Utah)

- World Relief Corporation
  Baltimore, Md. $450,000
  (For work in Clearwater, Fla.)

- Hope House Inc.
  Lee's Summit, Mo. $450,000

- The Salvation Army
  Las Vegas, Nev. $449,997

- International Institute of Buffalo, N.Y. Inc.
  Buffalo, N.Y. $449, 708

- Karidat Social Services
  Saipan, Northern Marianas $449, 793

- Mosaic Family Services Inc.
  Dallas, Texas
  (For work in Dallas/Ft.Worth, Texas) $449,996

- Catholic Charities, Archdiocese of San Antonio Inc.
  San Antonio, Texas $450,000

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. More information about OJP's work on human trafficking can be found at http://www.ojp.usdoj.gov. More information about the efforts of the Civil Rights Division to combat human trafficking can be found at http://www.usdoj.gov/whatwedo/whatwedo_ctip.html.

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Image not available for this document, ID: 0.7.10316.26741-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 3:10 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN DEPARTMENT OF JUSTICE HISPANIC HERITAGE MONTH COMMEMORATIVE CEREMONY

Department of Justice

FOR PLANNING PURPOSES ONLY
TUESDAY, OCTOBER 3, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN DEPARTMENT OF JUSTICE HISPANIC HERITAGE MONTH COMMEMORATIVE CEREMONY

WASHINGTON – Attorney General Alberto R. Gonzales will deliver brief remarks and introduce U.S. Treasurer Anna Cabral at the Justice Department's Hispanic Heritage Month commemorative ceremony on **WEDNESDAY, OCTOBER 4, 2006 at 11:30 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales
Anna Cabral, U.S. Treasurer

WHAT: Justice Department's Hispanic Heritage Month commemorative ceremony

WHEN: **WEDNESDAY, OCTOBER 4, 2006**
11:30 A.M. EDT

WHERE: Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.

NOTE: Pre-set for open press coverage of the press conference will be at **11:00 A.M. EDT**. **All media should arrive no later than 11:45 A.M. EDT.** All media should enter through the Visitor's Center at Constitution Avenue between 9th and 10th Streets and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.26722-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 3:12 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ANNOUNCES $125 MILLION IN GRANTS FOR PRESIDENT BUSH'S DNA INITIATIVE AND OTHER CRIME-SOLVING FORENSIC SERVICES

Department of Justice

FOR IMMEDIATE RELEASE AG
MONDAY, OCTOBER 3, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

DEPARTMENT OF JUSTICE ANNOUNCES $125 MILLION IN GRANTS FOR PRESIDENT BUSH'S DNA INITIATIVE AND OTHER CRIME-SOLVING FORENSIC SERVICES

WASHINGTON — The Department of Justice has awarded more than $125 million in grants nationwide as part of President Bush's DNA Initiative, *Advancing Justice Through DNA Technology,* and for other crime-solving forensic services. The DNA Initiative was launched in 2003 and is a five-year, $1 billion commitment to improve the nation's capacity to use DNA evidence by eliminating casework and convicted offender backlogs; funding research and development; improving crime lab capacity; providing training for all stakeholders in the criminal justice system; and conducting testing to identify the missing and protect the innocent. In addition to the funding provided through the DNA Initiative, $18.5 million has been awarded to improve criminal justice forensic services. The grants will be administered by the National Institute of Justice (NIJ), the research, development, and evaluation arm of the Department of Justice.

"DNA and other forensic evidence have proven to be valuable tools that have changed the landscape for law enforcement in solving crimes and removing criminals from our streets and communities," said Attorney General Alberto R. Gonzales. "Through the President's DNA Initiative, crime victims and their families can know that law enforcement in their community have the best forensic tools available on their side."

While DNA technology is helping to solve crimes and exonerate the innocent across the country, many public crime laboratories are not fully equipped to handle the increased demand for DNA testing. Some laboratories have large backlogs of unanalyzed DNA samples from convicted offenders and crime scenes, which can significantly delay criminal investigations and the administration of justice. However, progress has been made since the DNA Initiative began.

- In March 2003, the Department estimated that the backlog of rape and homicide cases was approximately 350,000. To date, NIJ has provided over $76 million to perform DNA analysis on samples in over 48,000 cases. Since 2003, the FBI's Combined DNA Index System (CODIS) database of DNA samples has increased from 52,000 to more than 144,000 unique DNA profiles from crimes.

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- In March 2003, the Department estimated that the number of backlogged DNA-convicted offender samples was between 200,000 and 300,000, and that another 500,000 to 1 million samples had yet to be collected from offenders who were required by law to give such a sample. To date, NIJ has paid for the analysis of over 1.2 million samples. In Fiscal Year 2006, NIJ will pay for the analysis of over 800,000 additional samples. Since 2003, the FBI's CODIS database has grown from 1.3 million DNA profiles of known offenders to over 3.4 million.

- Extensive training materials and programs have been developed for police, prosecutors, defense attorneys, and judges, forensic scientists, medical personnel, victim service providers, corrections officers, and probation and parole officers.

- NIJ has funded research on tools to analyze smaller pieces of evidence, highly-degraded evidence, and to make DNA analysis less costly. Since 2003, NIJ has made grants in excess of $14 million for new research on DNA tools and techniques. In fiscal year 2006 NIJ will make an additional $12.2 million in research, development and evaluation grants for DNA and other areas of forensic science.

Nationwide, in fiscal year 2006 NIJ has awarded over $73 million to help eliminate DNA sample backlogs. Of that $73 million, $19.2 million will be for DNA casework; $39.5 million for DNA laboratory capacity building; and $14.9 million for convicted offender testing. The Department is investing $3.7 million for DNA training; $12.2 million for DNA and forensics research, development and evaluation; $2 million for use of DNA in missing persons cases, and $4.9 million to the National Institute of Standards and Technology for development of forensic science tools and standards. In addition, $3.9 million soon will be made available for post conviction DNA testing assistance. More information about President Bush's DNA Initiative can be found at http://www.dna.gov. NIJ has also awarded $18.5 million for Paul Coverdell Forensic Science Improvement Grants that can be applied to improving non-DNA forensic services. This funding represents the largest amount of money provided by the Department to support state and local forensic efforts.

The Office of Justice Programs (OJP) provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 5:35 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER GUILTY PLEA TO KATRINA FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 3, 2006
WWW.USDOJ.GOV/USAO/MSS

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

ANOTHER GUILTY PLEA TO KATRINA FRAUD

JACKSON, Miss. – Dianne M. Dean of Picayune, Miss., pleaded guilty to making a false claim and a false statement to the Federal Emergency Management Agency (FEMA) to fraudulently obtain Hurricane Katrina disaster benefits, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today. Dean also pleaded guilty to making false statements to the Department of Agriculture's Rural Development Agency in order to fraudulently obtain rural housing service payment subsidies. Dean admitted in her guilty plea that on Sept. 11, 2005, she submitted a application for disaster assistance with FEMA using a false address in Picayune. Dean received $2,000 from FEMA. Her sentencing hearing is set before U.S. District Judge Walter J. Gex III in Gulfport, Miss. on Jan. 16, 2007. Dean faces a maximum sentence of 20 years in prison and a $1 million fine, plus restitution to both FEMA and the Department of Agriculture.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for U.S. Attorneys and others.

Pursuant to the Department of Justice initiative, a local Katrina Fraud Task Force, consisting of over 20 federal and state law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who file false and fraudulent claims.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the Department of Homeland Security-Office of the Inspector General Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 03, 2006 6:44 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 3, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

WEDNESDAY'S EXPECTED NEWS STORIES:

Attorney General Alberto R. Gonzales Announces Enhanced Programs to Combat Human Trafficking and Participates in Media Availability (OPA)
Today, at a speech at the Department of Justice's 2006 National Conference on Human Trafficking in New Orleans, the Attorney General announced additional funding, totaling nearly $8 million, for law enforcement agencies and service organizations for the purpose of identifying and assisting victims of human trafficking and apprehending and prosecuting those engaged in trafficking offenses. The funding announced will be used to create new Trafficking Task Forces in 10 cities around the country, building on the current work of over 32 national task forces working as part of a collaborative effort among various Department of Justice components, the Departments of Health and Human Services, Homeland Security, Labor and State, and national and community-based organizations to combat human trafficking.

The Attorney General also participated in a media availability, where he made his first public comments on the Foley matter.

Talking Points

- The FBI is conducting an assessment to determine if there has been a violation of federal law.

Department Announces Funding for President's DNA Initiative (Office of Justice Programs)
The Department today announced that it has awarded more than $125 million in grants nationwide this year as part of President Bush's DNA Initiative, *Advancing Justice Through DNA Technology,* and for other crime-solving forensic services. The DNA Initiative was launched in 2003 and is a five-year, $1 billion commitment to improve the nation's capacity to use DNA evidence by eliminating casework and convicted offender backlogs; funding research and development; improving crime lab capacity; providing training for all stakeholders in the criminal justice system; and conducting testing to identify the missing and protect the innocent.

Mississippi Resident Pleads Guilty To Katrina Fraud (USAO–Southern District of Mississippi)
Dianne M. Dean of Picayune, Miss., pleaded guilty to making a false claim and a false statement to the Federal Emergency Management Agency (FEMA) to fraudulently obtain Hurricane Katrina disaster benefits, U.S. Attorney Dunn Lampton of the Southern District of Mississippi announced today. Dean also pleaded guilty to making false statements to the Department of Agriculture's Rural Development Agency in order to fraudulently obtain rural housing service payment subsidies. Dean admitted in her guilty plea that on Sept. 11, 2005, she submitted a application for disaster assistance with FEMA using a false address in Picayune. Dean received $2,000 from FEMA. Her sentencing hearing is set before U.S. District Judge Walter J. Gex III in Gulfport, Miss. on Jan. 16, 2007. Dean faces a maximum sentence of 20 years in prison and a $1 million fine, plus restitution to both FEMA and the Department of Agriculture.

FBI Supervisory Special Agent Interviewed Regarding School Shootings (FBI)
Today, interviews with CBS, NBC, Fox News, ABC Radio, National Public Radio, *The Associated Press* and *USA Today* were arranged with FBI Supervisory Special Agent Mary Ellen O'Toole regarding the psychological threat assessment used in school shooting investigations.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

11:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver brief remarks and introduce U.S. Treasurer Anna Cabral at the Justice Department's Hispanic Heritage Month commemorative event.
The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 04, 2006 9:41 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 4, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, October 04, 2006

ATTORNEY GENERAL

11:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver brief remarks and introduce U.S. Treasurer Anna Cabral at the Justice Department's Hispanic Heritage Month commemorative event.
The Great Hall
Department of Justice
950 Constitution Avenue, N.W.
Washington, D.C.
OPEN PRESS

Pre-set for open press coverage of the press conference will be at **11:00 A.M. EDT**. **All media should arrive no later than 10:45 A.M. EDT.** All media should enter through the Visitor's Center at Constitution Avenue between 9th and 10th Streets and must present valid photo ID and media credentials. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

PRESS RELEASES

The Environmental and Natural Resources Division will issue a release on an enforcement matter. (Magnuson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Kimberly Smith

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 04, 2006 11:50 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE HISPANIC HERITAGE MONTH CEREMONY

Department of Justice

FOR IMMEDIATE RELEASE — AG
WEDNESDAY, OCTOBER 4, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE HISPANIC HERITAGE MONTH CEREMONY

WASHINGTON, D.C.

Good morning.

It is a pleasure for me to welcome you to the annual celebration of National Hispanic Heritage Month here at Department of Justice.

Every year during this time we reflect on the wonderful contributions that Hispanics have made to our country – as artists and entrepreneurs, athletes and teachers, parents and leaders and as Attorney General.

Hispanic culture is one of so many unique and strong cultures that have enriched the overall way of life in the United States, and today's celebration reminds us that diversity of this country is what makes the U.S. so special, and so strong. With that in mind, I am proud to honor the contributions of my family's heritage to what we consider to be the greatest nation on earth.

I am grateful to be serving the American people under the leadership of a President who values diversity. President Bush understands that the character of our country is stronger because of the different experiences of its people. He believes that ingenuity, talent, and excellence are not unique to any gender or race – they exist in every community in America.

I know that the President saw all those qualities in our next speaker, Anna Escobeda Cabral. Anna is the 42nd Treasurer of the United States – an impressive and important post, indeed – but her position in government is only a fraction of what this woman is, and what she means, to colleagues, family and friends.

Anna is a wonderful role-model for all Americans – and she is living proof that American dreams do come true if you are willing to reach for them, and work for them, every day.

Her professional accomplishments are an inspiration to all who know her, and her personal dedication to friends and family are unmatched. Every Christmas party at Anna's house is like Hispanic Heritage month, full of

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lively conversation, the embrace of friends and family, and some of the best tamales you'll ever eat. I know that Anna's commitment to our Heritage, our community and her country is a daily devotion.

I encourage you to read about Anna's professional experience in the event program… but it may not mention that she and her husband Victor have four wonderful children, two of whom are Department of Justice employees – Catalina and Raquel, who is my assistant. I'm grateful to have them here.

It is my pleasure to introduce my friend, a woman I deeply admire, Anna Escobedo Cabral.

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Image not available for this document, ID: 0.7.10316.26489-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 04, 2006 1:49 PM
To: USDOJ- Office of Public Affairs
Subject: CITY OF INDIANAPOLIS AGREES TO MAKE $1.86 BILLION IN IMPROVEMENTS TO SEWER SYSTEM

Department of Justice

U.S. ENVIRONMENTAL PROTECTION AGENCY

FOR IMMEDIATE RELEASE ENRD
WEDNESDAY, OCTOBER 4, 2006 (202) 514-2007
WWW.USDOJ.GOV TDD (202) 514-1888

CITY OF INDIANAPOLIS AGREES TO MAKE $1.86 BILLION IN IMPROVEMENTS TO SEWER SYSTEM

Settlement Expected to Reduce 7 Billion Gallons of Harmful Discharges Annually

WASHINGTON — The city of Indianapolis has agreed to make an estimated $1.86 billion worth of improvements to resolve longstanding problems with overflows from its sewer system, the Justice Department and Environmental Protection Agency (EPA) announced today. Indianapolis will make the improvements over 20 years to reduce the number of overflows—which currently occur approximately 60 times per year—to four or fewer times per year. The city will also pay a penalty of $1,117,800, which will be divided evenly between the United States and Indiana. The city also will spend $2 million on a supplemental environmental project to eliminate failing septic systems.

Under the consent decree, Indianapolis has specifically agreed to implement a Long Term Control Plan (LTCP) designed to greatly reduce overflows from its combined sewer system (CSOs), and will implement another plan designed to eliminate overflows from its sanitary sewer system (SSOs), and perform various other remedial measures. The consent decree also provides that the city can reduce the portion of the penalty to be paid to the state by undertaking further reductions in the number of failing septic systems. All of these improvements will provide major public health and environmental benefits. The injunctive relief provided under the settlement will be among the highest-cost municipal Clean Water Act settlements to date and will ultimately reduce the volume of Indianapolis' untreated discharges by 7.2 billion gallons in an average year.

"With today's consent decree, the city of Indianapolis is taking an important step toward complying with the Clean Water Act," said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "We are pleased that we have reached a resolution to these matters, and that the city has agreed to make the necessary improvements and committed funds to ensure significant improvements to reduce untreated sewer discharges."

"Through this agreement, Indianapolis has shown a real commitment to get rid of its long-standing sewage problems," said Granta Y. Nakayama, EPA's assistant administrator for Enforcement and Compliance

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Assurance. "The agreement will not only ensure compliance with the law, it will also benefit the citizens by significantly improving water quality in the White River and its tributaries, which are important natural resources and great assets to the city."

"When the city's combined sewer system was engineered about 100 years ago, it was state-of-the-art in wastewater management, but it is not acceptable by today's standards," said Thomas W. Easterly, commissioner of the Indiana Department of Environmental Management. "In moving forward with a plan to reduce untreated discharges to the White River and its tributaries, Indianapolis is meeting an important environmental obligation and ensuring cleaner, healthier streams locally, and for downstream communities."

Today's agreement is related to the city's operation of its municipal wastewater and sewer system, through which approximately 8 billion gallons of untreated sewage is discharged each year into the White River and its tributaries from approximately 133 CSOs, and a lesser number of SSO and bypass locations. The Justice Department has alleged that these discharges violate the Clean Water Act because they exceed limitations and conditions in the City's National Pollutant Discharge Elimination System (NPDES) permits or are otherwise unpermitted.

Indianapolis owns two large municipal advanced wastewater treatment plants (AWTP), the Belmont AWTP and the Southport AWTP, as well as nearly 246 square miles of sewers that feed into the treatment plants. The sewer system, which serves approximately 866,000 people, transports the city's sewage for treatment at the two plants prior to being discharged into area rivers and streams. Approximately 27 percent of the sewer system is a combined system located primarily in the central, older parts of the city. The remaining 73 percent of the sewer system is a sanitary sewer system. The city contracts with United Water, a private corporation, to operate both the treatment plants and the sewer system.

The Department of Justice lodged today's consent decree today in the U.S. District Court for the Southern District of Indiana. The consent decree will be subject to a 30-day public comment period and subsequent judicial approval and is available on the Justice Department website at http://www.usdoj.gov/enrd/Consent_Decrees.html.

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Image not available for this document, ID: 0.7.10316.26455-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 04, 2006 3:30 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 4, 2006
WWW.USDOJ.GOV/USAO/EDLA

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4859

ANOTHER LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

NEW ORLEANS — Jermaine White, 21, of Gray, La., pleaded guilty to making false statements regarding his application to the Federal Emergency Management Association (FEMA) for disaster assistance benefits, announced U.S. Attorney Jim Letten of the Eastern District of Louisiana.

According to the factual basis, after Hurricane Katrina struck Louisiana, White applied for expedited assistance funds from FEMA, the $2,000 which many evacuees received from FEMA. White indicated in his application that his primary address was a home located in Houma, La. that he had essential needs for "food, clothing or shelter," and that he had "disaster related moving and storage expenses," when in truth he never occupied or rented this rental property. According to the owner of the property, the home was vacant and was not leased to anyone during Hurricanes Katrina or Rita.

The maximum sentence White could receive is five years in prison and/or a fine of $250,000.

This case was investigated by special agents of the FBI assigned to the Katrina Fraud Task Force. This case was prosecuted by Assistant U.S. Attorneys Carter K. D. Guice Jr. and Carol Michel.

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Image not available for this document, ID: 0.7.10316.26347-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 04, 2006 4:27 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE ANNUAL CONFERENCE OF THE U.S. BUSINESS LEADERSHIP NETWORK

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, OCTOBER 4, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE ANNUAL CONFERENCE OF THE U.S. BUSINESS LEADERSHIP NETWORK

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the annual conference of the U.S. Business Leadership Network, immediately followed by a media availability on **THURSDAY, OCTOBER 5, 2006 at 9:00 A.M. CDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the U.S. Business Leadership Network
Media availability

WHEN: **THURSDAY, OCTOBER 5, 2006**
9:00 A.M. CDT

WHERE: **REMARKS**
Marriott City Center
The Ballroom
30 South Seventh Street
Minneapolis, Minn.
OPEN PRESS

MEDIA AVAILABILITY
Marriott City Center
St. Croix 2 – Sixth Floor
30 South Seventh Street
Minneapolis, Minn.
OPEN PRESS

DOJ_NMG_ 0169227

NOTE: Pre-set for television camera crews is **no later than 8:15 A.M. CDT.** All other media wishing to cover the Attorney General's remarks must arrive **no later than 8:30 A.M. CDT.** Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486 or Jeanne Cooney at 612-730-2251.

# # #

06-677

DOJ_NMG_ 0169228

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Image not available for this document, ID: 0.7.10316.26338-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, October 5, 2006 9:53 AM
Subject: SMO/JMD JCON Service Interruption
Importance: High

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. The outage will occur during the posted service window below. This upgrade will be performed on resources located in the Rockville Data Center. Be advised that there is no risk of data loss.

When: Sunday, October 9, 2006, 12:01 am to 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: All JCON Customers

Unavailable Services: Email Services
Internet Resources
G:\ Drive Resources
H:\ Drive Resources
M:\Drive Resources
Network Printers

Available Services: BlackBerry (PIN to PIN messaging is available)

Suggested Action: Please leave your workstation logged off and powered off during this service period.

To power off your desktop:

1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Click "Shut Down".
4. Choose the "Shutdown and Power off" option.
5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 10:21 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 5, 2006

Department of Justice

PRESS GUIDANCE
Thursday, October 05, 2006

ATTORNEY GENERAL

9:15 A.M. CDT Attorney General Alberto R. Gonzales will deliver remarks at the annual conference of the U.S. Business Leadership Network, immediately followed by a media availability.
Marriott City Center
The Ballroom
30 South Seventh Street
Minneapolis, Minn.
OPEN PRESS

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486 or Jeanne Cooney at 612-730-2251.

PRESS RELEASES

DOJ_NMG_ 0169233

The Civil Rights Division will issue a release on Department efforts to enforce the Americans with Disabilities Act. (Magnuson)

The Tax Division will issue a release on a sentencing matter. (Miller)

The Office of Justice Programs will issue a release. (Peterson)

EVENTS/HEARINGS

9:00 A.M. PDT Regina Schofield, Assistant Attorney General for the Office of Justice Programs, will deliver keynote remarks regarding Department activities in Indian Country at the National Congress of American Indians Annual Conference.
Sheraton Grand Sacramento
1230 J Street
Sacramento, Calif.
OPEN PRESS

NIGHT DUTY OFFICER

Kimberly Smith

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169234

Image not available for this document, ID: 0.7.10316.26196-000001

Image not available for this document, ID: 0.7.10316.26196-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 10:44 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE U.S. BUSINESS LEADERSHIP NETWORK NATIONAL CONFERENCE

Department of Justice

FOR IMMEDIATE RELEASE — AG
THURSDAY, OCTOBER 5, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE U.S. BUSINESS LEADERSHIP NETWORK NATIONAL CONFERENCE

MINNEAPOLIS, MINNESOTA

Thank you, Kevin, Good Morning ladies and gentlemen.

I am pleased to be here with the U.S. Business Leadership Network. I'd like to start by thanking you for your efforts to increase access for people with disabilities to goods, products, services, and employment opportunities. Your work is invaluable to members of the disability community, who are eager to take their place as consumers and economically productive and self-sufficient citizens.

I also wish to thank Katherine McCary, for her work as president of the organization. She has been a leader in bringing together businesses of all sizes to advance these efforts, not as a matter of charity, but because it simply makes good business sense.

We live in the greatest country on the face of the planet. America is great because of our diversity—diversity of culture, race and religion. We are a great country because not only do we tolerate our differences, we celebrate our diversity. America is also unique because of the opportunities offered to every citizen, no matter the circumstances of birth or the challenges of life. I believe that we at the Department of Justice have a responsibility to create an environment where it is possible to achieve the American dream if you have the courage and imagination to persue it.

Under the leadership of President Bush, we at the Department of Justice are working to change negative attitudes about people with disabilities based on old and outdated stereotypes. We, like you, aim to establish conditions in this country in which the hopes and dreams of these individuals can be realized.

As members and leaders of the business community, you have a unique role to play here. Your presence at this conference demonstrates to me a strong interest, if not an outright commitment, to maximizing the inclusion of individuals with all types of disabilities. You appreciate the business case for tapping into the disability market

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and bringing on board qualified men and women whose abilities and perspectives will help your businesses succeed.

Make no mistake about the amazing individual and collective ability that you have to spread this philosophy to others in the private sector. Undoubtedly, both by what you say and what you do, you are raising the bar of excellence, and you are setting a worthy example for so many others to follow.

I also wish briefly to acknowledge leaders of the disability community who are here with us today. Your presence illustrates your ongoing commitment to work in close partnership with private business, to come up with innovative solutions, and to help tear down the barriers that still remain.

Finally, if there are any young people who are with us today who attended yesterday's Disability Mentoring Day event, which I understand was a great success, I congratulate you. For your fortitude, for your commitment to excellence, and for your dedication to obtaining the kind of internship and employment experience that will help you to contribute to the economic lives of your communities.

I want to talk to you today about what we're doing at the Department of Justice to create opportunities for people with disabilities. But first I'd like to take a minute to tell you about who we're protecting, and why we work so hard on this cause. I'd like to tell you the story of ten year-old Justin Tokioka, who everybody calls Pono.

Pono was a star player for his community baseball team in Lihue, Hawaii, despite being profoundly deaf. For five years Pono had excelled at second base, with the assistance of a sign-language interpreter in the dugout.

But when he traveled to the state All-star tournament last summer, Pono was told that tournament rules prohibited the team from having an interpreter in the dugout. The failure of league officials to make reasonable modifications to those rules meant that a ten year-old boy who just wanted to play baseball was told he would not be allowed.

After the Department of Justice got involved, the league agreed to alter its rules to allow players the use of sign language interpreters during games, and to make other accommodations for disabled athletes. Pono had the opportunity to participate—just like his teammates—in the All-star tournament this summer, and he played well.

I can tell you, from my own experience playing baseball when I was young, that even something that might seem so small can make a tremendous difference in a young boy's life.

In August we reached a settlement with PONY Baseball Inc., a youth baseball and softball organization with 3500 leagues throughout the U.S. Under this agreement, thousands of other young athletes with disabilities will get the same opportunities as Pono.
As many of you know, on a beautiful summer day in 1990, President George H. W. Bush welcomed people with disabilities to the White House lawn and signed the Americans With Disabilities Act. Since that time, the Department of Justice has been at the forefront of implementing this revolutionary law, which is now in its seventeenth year.

Upon taking office, President George W. Bush noted how much our country had accomplished since it resolved in the ADA to eliminate barriers preventing people with disabilities from fully participating in all aspects of American life. The ADA has made employment, public accommodations, housing, schools, and polling places dramatically more accessible.

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The President also observed, however, that significant challenges remained. In 2001 he announced the New Freedom Initiative, a comprehensive plan of action to ensure that people with disabilities face no further obstacles to full participation in our free market economy and society.

As President Bush said at the time, "Wherever a door is closed to anyone because of a disability, we must work to open it. Wherever any job, or home, or means of transportation is unfairly denied because of a disability, we must work to change it. Wherever any barrier stands between you and the full rights and dignity of citizenship, we must work to remove it, in the name of simple decency and simple justice."

Today the Justice Department is issuing a report, Access for All, which celebrates the ADA achievements of this Administration over the past five years and looks forward to future accomplishments.

Since the start of the New Freedom Initiative, the Department of Justice has achieved results for people with disabilities in over 2,000 ADA actions including lawsuits, settlement agreements, and successful mediations. We have accomplished this through an aggressive program of enforcement and public education. In Fiscal Year 2006 alone, we resolved nearly 300 such actions.

Each of these actions represents a victory for individuals like Pono, but each also represents the fall of another barrier for Americans with disabilities.

In Detroit, Michigan, Willie Cochran needed dialysis three times a week, and he depended on the city's bus system for a ride home after treatment. The five mile trip would often take two, three, or even four hours. Bus after bus would pass him by until one would finally arrive with a working hydraulic lift that could handle his wheelchair. He was once stranded in midair for two hours when a lift broke as it was raising him on board.

Caroline Reed, who has spina bifida, lost her job because she could rarely find a bus with a working wheelchair lift to get her to work on time. She had to cut back even routine events such as socializing and going to the store, for fear that she would be left with no way to get home.
And Elbert Davis was unable to pursue further education and job opportunities because of the state of Detroit's bus system.

The Department of Justice stepped in and was able to reach a settlement with the City of Detroit that ensured the availability of accessible buses. That's real progress not just for these three individuals, but for thousands of others in Detroit who benefit from improved transportation.
And that's just one example in one city. During the past year we have obtained injunctive relief and compensatory damages in cases across the country, and set major ADA precedents in a number of important areas. Our victories have come in matters involving hospitals, gas stations, movie theaters, restaurants and universities. But much more needs to be done.

Beyond law enforcement, a Department of Justice program called ADA Business Connection is bringing together local business and disability leaders, helping them facilitate access of people with disabilities to products and services, which in turn expands business markets.
We have held 17 ADA Business Connection Leadership meetings in cities across the country with more than 600 participants from small and mid-sized businesses, large corporations, and organizations of people with disabilities.

These meetings have generated some valuable discussions and innovations. Following one meeting in Houston, Texas, three of the participants decided to collaborate and draw on their areas of expertise. The three -- a business technology consulting firm, a large technology corporation, and a disability assistance organization -- set up a design competition to encourage Houston businesses to create accessible websites.

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And after another meeting, one participant, who is an executive at a large hotel chain, developed a policy for all of the company's television ads to carry closed captioning. She also recommended to her employer that they include a representative of the disability community on the corporation's diversity advisory board. And she recommended to a university's new hotel management school that they include coursework on serving patrons with disabilities.

The main goal of the ADA Business Connection initiative was to help local businesses collaborate with people with disabilities. But at our meetings we began hearing a lot of talk about the difficulty businesses face with employee turnover, and how that affects their ability to maintain a staff that's well-trained on ADA issues.

The Department of Justice took these comments to heart. We created a short course for our ADA website, where employees can learn how to comply with the law and welcome a whole new group of customers.

We believe that people with disabilities are an underserved market for customers as well as a vast pool of potential employees, and that compliance with the ADA makes good business sense.
As you know, there are more than 50 million Americans with disabilities who are potential customers for businesses across the United States. These 50-million-plus people visit museums, restaurants, stores, and theaters with others -- their families and friends -- all of whom purchase additional goods and services, exponentially increasing the potential market.

It's not surprising to see restaurants, auto makers, neighborhood stores, and performing arts centers tailoring products and services to meet the needs of this audience.

The ADA is also bringing about significant changes in our home towns and communities. Thanks to the ADA, people with disabilities are participating in unprecedented numbers in civic life and are gaining equal access to the benefits and services that local government provides.
The Department of Justice's Project Civic Access, or PCA, is one of the President's top priorities under the New Freedom Initiative. This program is a wide-ranging effort to ensure that towns and cities comply with the ADA.

All across America, communities are taking steps to make their programs and services accessible. Town halls and courthouses are installing ramps and providing accessible parking and restrooms. The use of sign language interpreters and assistive listening devices is increasing at public meetings and in court proceedings. Our public safety officials are saving lives by making 911 systems directly accessible to those who use TTYs. Communities are reshaping recreation and social service programs to allow full access by people with disabilities.

On September 20th we reached a milestone with PCA—our 150th agreement. This agreement involves Kanawha County, West Virginia, which includes West Virginia's capital, Charleston. Twenty-two percent of the county's population are people with disabilities. Under the agreement, the county will, among other things, modify parking facilities and building entrances, and will ensure that polling places are accessible.

Today we have 151 agreements with 142 communities, making lives better for more than three million Americans with disabilities in those communities since 2001. In Davenport, Iowa, for example, PCA will make a real difference for John Sparks, who became disabled as a result of a motorcycle accident. Mr. Sparks has a daughter who loves to dance and sing, and her mother takes her to classes at Davenport's Junior Theater.

Under a PCA settlement agreement, the city arranged to make several modifications to the theater, including widening the main entrance to make it accessible, fixing the exterior ramp, and adding wheelchair seating in the auditorium. As a result of our agreement, Mr. Sparks will be able to take his daughter to classes and enjoy her performances.

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In Fiscal Year 2007, we will conduct PCA reviews in eleven additional jurisdictions around the country.

In addition, to build upon this success and broaden the impact of Project Civic Access, I have directed the Civil Rights Division at the Department of Justice to compile a PCA Best Practices Toolkit. The purpose of this toolkit is to help state and local governments to conduct their own evaluations of their facilities and programs, and to take the necessary steps to achieve ADA compliance.

Through a comprehensive program of law enforcement and technical assistance, we have helped provide people with disabilities greater access to health care, public facilities, education, employment, and other settings in communities across America. Every day, through our website ADA.gov and our toll-free ADA Information Line, we help thousands of businesses and governments comply with the ADA.

We at the Department of Justice are proud of these accomplishments, but we are not done. Every single one of us in this room has a role to play. The President is committed to this work, as is his Administration, through the New Freedom Initiative. This is demonstrated through the various endeavors currently under way throughout the federal sector.

In fact, Ollie Cantos, whom you know from his previous work in the Civil Rights Division, is with me today, representing the White House as Associate Director for Domestic Policy.

We stand ready to work in collaboration with all of you to advance equality and access for the millions of people with disabilities we serve. The protection and preservation of the civil rights of all Americans are among our highest priorities. I am proud to lead in the work of the Department of Justice, and I am honored to be with you here today and I am honored to stand with you, fighting shoulder to shoulder for the rights of the disabled.

Thank you. May God bless you and your families. May he guide all of your decisions and may he continue to bless the United States of America.

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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Thursday, October 5, 2006 11:00 AM
Subject: SMO/JMD JCON Service Interruption
Importance: High

SMO/JMD JCON Service Interruption

As a part of a JCON Switch Upgrade Project, an outage is required to bring a piece of new equipment online. The outage will occur during the posted service window below. This upgrade will be performed on resources located in the Rockville Data Center. Be advised that there is no risk of data loss.

When: Monday, October 9, 2006, 12:01 am to 6:00am

Event: JCON Cisco Catalyst Upgrade

Customers Affected: All JCON Customers

Unavailable Services: Email Services
Internet Resources
G:\ Drive Resources
H:\ Drive Resources
M:\Drive Resources
Network Printers

Available Services: BlackBerry (PIN to PIN messaging is available)

Suggested Action: Please leave your workstation logged off and powered off during this service period.

To power off your desktop:

1. Save documents you are currently working on and close those applications.
2. Press Ctrl/Alt/Del.
3. Click "Shut Down".
4. Choose the "Shutdown and Power off" option.
5. Click OK to log your workstation off the JMD/SMO JCON network and power off the computer.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 11:49 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ISSUES FIVE-YEAR REPORT HIGHLIGHTING SUCCESSES IN ENFORCING THE AMERICANS WITH DISABILITIES ACT

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

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

DEPARTMENT OF JUSTICE ISSUES FIVE-YEAR REPORT HIGHLIGHTING SUCCESSES IN ENFORCING THE AMERICANS WITH DISABILITIES ACT

MINNEAPOLIS – The Justice Department today released "Access for All: Five Years of Progress," a status report highlighting the Administration's successes over the last five years in enforcing the Americans with Disabilities Act (ADA). The report discusses the achievements of the Civil Rights Division during this Administration that are enhancing opportunities and improving access for millions of Americans with disabilities throughout the nation. The report also cites specific cases illustrating access and compliance successes in areas ranging from health care to employment to emergency services.

"At the Department of Justice, we are working to change negative attitudes about people with disabilities based on old and outdated stereotypes. We aim to establish conditions in this country in which the hopes and dreams of these individuals can be realized," said Attorney General Alberto R. Gonzales. "Through a comprehensive program of law enforcement and technical assistance, we have helped provide people with disabilities greater access to health care, public facilities, education, employment and other settings in communities across America."

The report features the progress of Project Civic Access (PCA), a comprehensive program focused on ensuring that towns and cities across America comply with the ADA. Under the leadership of the President through his New Freedom Initiative, PCA has significantly expanded efforts to assist communities all across America as they take steps to make their programs and services accessible. As part of PCA, Department investigators, attorneys, and architects survey state and local government facilities and programs across the country for the purpose of working with communities to identify modifications necessary to achieve ADA compliance.

On Sept. 20, 2006, the Civil Rights Division reached its milestone 150th agreement under Project Civic Access with Kanawha County, W.V. The county has agreed to take steps under the terms of the agreement, including making numerous modifications to its parking facilities and building entrances, and ensuring the accessibility of polling places. These agreements are helping to improve the lives of and broaden opportunities for more than 3 million Americans with disabilities in the communities involved since 2001.

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The Attorney General also identified a slate of 11 new PCA locations to be evaluated over the next two years. These include:

- Montgomery County, Md.
- Fayette County, Pa.
- Gregg County, Texas
- Port Saint Lucie, Fla.
- Atlanta, Ga.
- Fairfax County, Va.
- Chautauqua County, N.Y.
- Wyandotte County, Kan.
- Seattle, Wash.
- Fargo, N.D.
- Des Moines, Iowa

At the direction of Attorney General Gonzales, the Civil Rights Division is compiling a PCA Best Practices Toolkit to build upon this success and broaden the impact the program. The toolkit will help the 80,000 units of local government that are covered by Title II of the ADA conduct their own evaluations of their facilities and programs and take the necessary steps to achieve ADA compliance.

A copy of the "Access for All" report will be available this week on the Department of Justice Web site at www.doj.gov or can be obtained by calling the Disability Rights Section at 1-800-514-0301 (voice) or 1-800-514-0383 (TTY). More information about the work of the Civil Rights Division can be found at www.ada.gov and at http://www.usdoj.gov/crt/crs/drshome.htm.

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Image not available for this document, ID: 0.7.10316.26062-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 12:12 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE NATIONAL SEX OFFENDER PUBLIC WEB SITE MEMORIALIZES SEX OFFENDER VICTIM

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE Office of Justice Programs
Thursday, October 5, 2006
Contact: Sheila Jerusalem WWW.OJP.USDOJ.GOV
(202) 307-0703

DEPARTMENT OF JUSTICE NATIONAL SEX OFFENDER PUBLIC WEB SITE MEMORIALIZES SEX OFFENDER VICTIM

Puerto Rico's Sex Offender Information is Most Recent Addition to Web site

WASHINGTON – The Department of Justice today announced the designation of its National Sex Offender Public Web site as the Dru Sjodin National Sex Offender Public Web site, located at http://www.nsopr.gov. Dru Sjodin, a 22-year-old University of North Dakota student from Pequot Lakes, Minn., was kidnapped and murdered after disappearing from a Grand Forks, N.D., shopping mall parking lot in November 2003.

Today's announcement results from the recent passing and implementation of the Adam Walsh Child Protection and Safety Act of 2006. Signed into law on July 27, 2006, by President Bush, the Act strengthens federal laws to protect children from sexual and other violent crimes, prevent child pornography, and make the Internet safer for children. The Dru Sjodin National Sex Offender Public Web site provides real-time access to public sex offender data nationwide with a single Internet search. The Department of Justice-sponsored Web site allows parents and concerned citizens to search existing public state and territory sex offender registries beyond their own states.

"Protecting our citizens from dangerous predators is one of the top priorities of the Department of Justice," said Attorney General Alberto R. Gonzales. "I am proud that we can pay tribute to Dru Sjodin and put into action legislation that ensures critical resources will go into tracking the almost 600,000 sex offenders nationwide."

Today's announcement coincides with the addition of Puerto Rico to the Web site. The Department of Justice announced the activation of the Web site in July 2005, initially linking 22 states to the site. With today's announcement, the Web site connects all 50 states, the District of Columbia and two U.S. territories.

The Web site provides an opportunity for all states and territories to participate in an unprecedented

DOJ_NMG_ 0169250

public safety resource by sharing comprehensive, free-of-charge public sex offender data with citizens nationwide. With a single query, the Web site searches public state and territory sex offender registries to deliver matched results based on a name, state, county, city/town or zip code. Recent enhancements to the Web site allow for multiple zip code functions and regional searches. Users may search up to five zip codes from any state at one time and may search a multiple state area using the regional search mechanism.

The technology for the Web site is both time and cost-effective. Web services and the Department's Global Justice eXtensible Markup Language (XML) establishes a link between existing state and territory public sex offender registries. The link allows data from different hardware and software systems to be recognized and shown through the national search site.

States and territories linked to the Dru Sjodin National Sex Offender Web site are:

Alabama	Idaho	Missouri	Pennsylvania
Alaska	Iowa	Montana	Puerto Rico
Arkansas	Illinois	Nebraska	Rhode Island
Arizona	Indiana	Nevada	South Carolina
California	Kansas	New Hampshire	South Dakota
Colorado	Kentucky	New Jersey	Tennessee
Connecticut	Louisiana	New Mexico	Texas
Delaware	Maine	New York	Utah
District of Columbia	Maryland	North Carolina	Vermont
Florida	Massachusetts	North Dakota	Virginia
Georgia	Michigan	Ohio	Washington
Guam	Minnesota	Oklahoma	West Virginia
Hawaii	Mississippi	Oregon	Wisconsin
			Wyoming

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice, and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and two offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Office of the Police Corps and Law Enforcement Education and the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 2:48 PM
To: USDOJ- Office of Public Affairs
Subject: AMERICAN MEDICAL RESPONSE PAYS $9 MILLION TO SETTLE CIVIL FRAUD CASE

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

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

AMERICAN MEDICAL RESPONSE PAYS $9 MILLION TO SETTLE CIVIL FRAUD CASE

WASHINGTON – American Medical Response Inc. (AMR), one of the nation's largest ambulance providers, has paid the United States over $9 million to resolve allegations that the company violated the False Claims Act, the Justice Department announced today. The government alleged that the ambulance company provided illegal inducements to hospitals in Texas in exchange for referrals.

The settlement relates to allegations that the Greenwood, Colo.-based company provided or offered inducements to Texas hospitals in the form of contracts known as "swapping arrangements." Such contracts gave the medical facilities discounts on transports in exchange for the referral of all or some of the ambulance transports of patients being discharged from the hospitals, which were billed to Medicare.

"Illegal inducements corrupt the integrity of the Medicare program by freezing out competitors, masking the true costs of services, and misdirecting program funds, among other things," said Assistant Attorney General Peter D. Keisler of the Civil Division. "This settlement shows our ongoing commitment to pursue allegations of fraud and abuse in the Medicare system vigorously."

The settlement arose out of *qui tam* or whistleblower lawsuits filed in 2000 and 2001 by two former AMR employees, Daniel Block and Adam Wightman. Under the False Claims Act, private individuals or firms,

DOJ_NMG_ 0169253

known as relators, can file suit on behalf of the government and may share in the recovery. As a result of the settlement, the two men will receive $1,620,000.

The investigation was conducted by the Civil Division of the Justice Department, the U.S. Attorney's Office for the Southern District of Texas, the Office of Inspector General for the Department of Health and Human Services, and the Federal Bureau of Investigation.

The cases are *United States ex rel. Block v. Laidlaw Medical Transport, et al.* (S.D. Tex.); and *United States ex rel. Wightman v. Laidlaw, Inc., et al*. (S.D. Tex.).

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06-679

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Image not available for this document, ID: 0.7.10316.26045-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 3:24 PM
To: USDOJ- Office of Public Affairs
Subject: TRUST SCHEME PROMOTER SENTENCED TO 3 YEARS IN PRISON

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

TAX
(202) 514-2007
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TRUST SCHEME PROMOTER SENTENCED TO 3 YEARS IN PRISON

Tacoma Man Participated in $8.5 Million Tax Fraud Scam

WASHINGTON — Tax fraud promoter Michael Joseph Shanahan of Everett, Washington, was sentenced today in Tacoma, Wash., to 36 months in prison, the Justice Department and Internal Revenue Service (IRS) announced. Judge Ronald B. Leighton, finding that the tax loss to the federal Treasury was more than $8.5 million, ordered Shanahan to pay that sum in restitution to the IRS.

"People who promote and facilitate tax evasion can expect to be prosecuted, convicted, and sentenced to substantial time in federal prison," said Eileen J. O'Connor, Assistant Attorney General for the Justice Department's Tax Division. "The Department of Justice is working diligently with the Internal Revenue Service to shut down tax fraud programs that cheat all honest taxpayers."

Shanahan pleaded guilty to conspiring to defraud the United States in February 2006. He also pleaded guilty to failing to file an income tax return for 1999. Following a two-week trial, a jury convicted Shanahan's associate in the conspiracy, David Carroll Stephenson, of conspiring to defraud the United States and failing to file income tax returns for tax years 1998, 1999 and 2000. In May 2006, Stephenson was sentenced to 96 months in prison and ordered to pay $8.5 million in restitution to the IRS.

According to the indictment and evidence introduced during trial, between 1994 and 2000, Shanahan and his co-conspirator Stephenson assisted hundreds of taxpayers in forming and operating "pure equity trusts." Shanahan falsely advised customers that they could avoid paying income taxes if they placed their income and assets into the trusts, even though they continued to control the use of the income and assets placed in the trusts. According to evidence introduced at trial, Stephenson and Shanahan received more than $2 million in revenue from the sales of more than 400 of these trust packages.

"Promoting abusive trust arrangements for the purpose of committing tax evasion isn't tax planning; it's criminal activity," said Nancy Jardini, Chief, IRS Criminal Investigations. "We will continue to shut down fraudulent tax schemes and hold the promoters of these schemes accountable for their actions."

DOJ_NMG_ 0169257

Two months after his convictions, on April 26, 2006, Shanahan consented to a permanent injunction that forbids him from promoting the scheme. Information about the injunction can be found at http://www.usdoj.gov/tax/Shanahan_PermInj.pdf.

More information about the Justice Department's efforts against tax-scam promoters can be found at http://www.usdoj.gov/tax/taxpress2006.htm.

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06-680

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Image not available for this document, ID: 0.7.10316.26034-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 4:32 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

BATON ROUGE, La. – Another Louisiana resident was sentenced in federal court today by U.S. District Court Judge Frank J. Polozola on a fraud charge related to a hurricane disaster relief program, announced U.S. Attorney David R. Dugas of the Middle District of Louisiana.

Monique C. Preston, 25, of Baton Rouge, La., pleaded guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. Preston was sentenced to three years of probation, 50 hours of community service, and $2,000 in restitution. The U.S. Department of Homeland Security, Office of Inspector General and the Federal Bureau of Investigation (FBI) conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds stands at 74.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such

DOJ_NMG_ 0169261

as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for U.S. Attorneys and others.

For further information, contact U.S. Attorney David R. Dugas, or Lyman Thornton, First Assistant U.S. Attorney, at 225 389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24-hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, La. 70821-4909.

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DOJ_NMG_ 0169262

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Image not available for this document, ID: 0.7.10316.26033-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 4:55 PM
To: USDOJ- Office of Public Affairs
Subject: 85-COUNT INDICTMENT CHARGES 21 GANG MEMBERS AND ASSOCIATES WITH CONSPIRACY, DRUG AND GUN CHARGES

Department of Justice

United States Attorney John C. Richter
Western District of Oklahoma

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

CONTACT: BOB TROESTER
PHONE: (405) 553-8999
FAX: (405) 553-8888

85-COUNT INDICTMENT CHARGES 21 GANG MEMBERS AND ASSOCIATES WITH CONSPIRACY, DRUG AND GUN CHARGES

OKLAHOMA CITY – An indictment was unsealed today charging 21 gang members and associates with 85 counts involving conspiracy, gun and drug related charges, announced U.S. Attorney John C. Richter of the Western District of Oklahoma and the Oklahoma City Metropolitan Gang Task Force.

The indictment alleges that the 21 defendants were members or associates of the Walnut Gangster Crips street gang who conspired with each other and four unindicted co-conspirators to possess with intent to distribute more than 30 kilograms of cocaine, multiple kilograms of cocaine powder, and over 1,000 tablets of ecstasy. According to the indictment, one of the purposes of the membership and association with the Walnut Gangster Crips and other street gangs was to facilitate their drug trafficking activity by providing a network to distribute the drugs.

The indictment further alleges that the Walnut Gangster Crips associated themselves with several defendants who acquired the cocaine powder in Los Angeles to manufacture the crack for re-

DOJ_NMG_ 0169265

distribution in the Oklahoma City area. The indictment alleges that Jimm's Used Tires was used primarily as a front for the drug dealing activities of this organization and that cocaine powder and crack was stored, concealed or manufactured at 11 other locations identified in the indictment. The indictment seeks the forfeiture of various firearms, ammunition, over $15,000 in cash, and real property.

The 21 defendants named in the indictment are as follows: Arthur Cleon Draper; Marcus Basil Gilkey; Lavertise Antwion Cudjo; Lajuan Odell Carr; Esco Lajuan Thomas; Ronald Gene Owens; Donkawa Cantrell Larmouth; Erica Temisha Foy; Edwin Ellis Smith; Daquita Leeshon Knox; Deon Braxton; Trina Marie Brown; Chaz Deon Berry; Everett Lamont Carr; Deondre Shawn Cooper; Karen Denise Anderson; Konnie Fay Hester; and Elizabeth Ann Herndon, all of Oklahoma City; Edward J. Adair of Clinton, Okla.; Kristy Latrail Barker of Clinton, Okla.; and Everett Lloyd Owens of Boley, Okla. If convicted, each defendant faces no less than 10 years and up to life in federal prison.

In February of this year, Attorney General Alberto R. Gonzales unveiled his plan to combat gang violence across America expanding the successful Project Safe Neighborhoods program to include new and enhanced anti-gang efforts. Locally, on May 23 of this year, U.S. Attorney John C. Richter, Oklahoma County District Attorney Wes Lane, FBI Special Agent in Charge Sal Hernandez, ATF Special Agent in Charge Ronnie Carter, and Oklahoma City Police Department Chief Bill Citty, publicly announced the formation of the Oklahoma City Metropolitan Gang Task Force. The task force announced Project GRIND which seeks to have Gangs, Removed, Isolated Neutralized, and Dismantled from our streets and neighborhoods.

Today's indictment is the result of a joint investigation spearheaded by the FBI, Drug Enforcement Administration (DEA), and the Oklahoma City Police Department. Other key law enforcement partners in this investigation were the U.S. Marshal's Service; the Bureau of Alcohol, Tobacco, Firearms and Explosives; Oklahoma County Sheriff's Office; and the U.S. Secret Service. This case is being prosecuted by U.S. Attorney John C. Richter and Assistant U.S. Attorney Leslie Maye.

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Image not available for this document, ID: 0.7.10316.26036-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 6:21 PM
To: USDOJ- Office of Public Affairs
Subject: MILWAUKEE POLICE OFFICERS PLEAD GUILTY IN CONNECTION WITH CIVIL RIGHTS VIOLATIONS

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

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

MILWAUKEE POLICE OFFICERS PLEAD GUILTY IN CONNECTION WITH CIVIL RIGHTS VIOLATIONS

WASHINGTON – Two former Milwaukee police officers today pleaded guilty to civil rights violations in relation to an assault on two men in October 2004. Former police officer Jon Clausing pleaded guilty to conspiring to violate the civil rights of Frank Jude and Lovell Harris by assaulting them. Former police officer Joseph Schabel pleaded guilty to violating the civil rights of Frank Jude by assaulting him and to an obstruction of justice charge for lying about details of the assault.

Clausing faces up to 10 years in prison and a fine of $250,000. Schabel faces up to 20 years in prison and a fine of $500,000. A sentencing date had not yet been scheduled.

In documents filed today in federal court, Clausing admitted that he and other Milwaukee police officers conspired to deprive the victims of their civil rights by subjecting them to unreasonable seizure and unreasonable force. Clausing further admitted that he and other off-duty officers participated in an assault of Jude and Harris that included cutting Harris with a knife and repeatedly punching and kicking Jude because they believed Jude and Harris might have stolen a police badge.

In the plea agreement, Schabel admitted that while on duty as a Milwaukee police officer, and responding to the scene of the Frank Jude assault, Schabel kicked Jude in the head during the altercation involving the off-duty officers and the victims. Schabel also admitted that he subsequently lied about the assault in official reports and sworn testimony.

In announcing the guilty plea, Wan J. Kim, Assistant Attorney General for the Civil Rights Division, commended the U.S. Attorney's Office, the Criminal Section of the Civil Rights Division, and the Federal Bureau of Investigation for jointly spearheading this continuing federal investigation, which included the assistance of local authorities. Steven M. Biskupic, U.S. Attorney for the Eastern District of Wisconsin, noted the significant contribution of the Milwaukee County District Attorney's Office, investigators from the Milwaukee County District Attorney's Office and the Milwaukee Police Department.

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Assistant U.S. Attorneys Mel Johnson and Carol Kraft, and Trial Attorneys Stephen Curran and Edward Caspar of the Civil Rights Division are prosecuting this case.

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. Since fiscal year 2001, the Division has increased the number of official misconduct prosecutions and has convicted 30 percent more defendants for these violations than during the preceding six years.

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06-684

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Image not available for this document, ID: 0.7.10316.25846-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 6:26 PM
To: USDOJ- Office of Public Affairs
Subject: THREE ARRESTED FOR THEFT OF GOVERNMENT PROPERTY IN BATON ROUGE

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

THREE ARRESTED FOR THEFT OF GOVERNMENT PROPERTY IN BATON ROUGE

BATON ROUGE, La. – Byron T. Basil, 29, of Plaquemine, La.; Byron W. Hardesty, 37, of Baker, La.; and Leroy Thomas, Jr., 37, of Baton Rouge, La., were arrested by federal agents yesterday on charges of theft of government property, U.S. Attorney David R. Dugas announced. A criminal complaint was signed this afternoon by U.S. District Court Magistrate Judge Stephen C. Riedlinger.

The complaint alleges that Basil and Thomas were employees of the Federal Emergency Management Agency (FEMA), and that Hardesty was a former FEMA employee. Basil and Thomas allegedly worked at the staging area of a FEMA storage site in Baton Rouge. All three defendants allegedly had access to the site and travel trailers with crated air conditioning units that were stored there. The complaint alleges that Basil, Thomas, and Hardesty were involved in a scheme involving the unauthorized taking of air conditioning units from the FEMA storage site. The men were arrested after they attempted to sell several of the air conditioning units for a fraction of their value to a special agent with the Inspector General's Office of the U.S. Department of Homeland Security who was working in an undercover capacity.

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“The arrests last night were the result of an investigation that started last week and was handled quickly and efficiently by inspectors from the Department of Homeland Security Office of Inspector General and by the East Baton Rouge Parish Sheriff's Office,” said U.S. Attorney Dugas. “We will review all of the evidence and make charging decisions in accordance with the Attorney General's zero tolerance policy for disaster related fraud.”

A complaint is merely an accusation by a law enforcement official, and the defendant is presumed innocent until and unless proven guilty at trial.

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Image not available for this document, ID: 0.7.10316.25821-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 05, 2006 6:30 PM
To: USDOJ- Office of Public Affairs
Subject: THREE FORMER NEW YORK ARCHDIOCESE PURCHASING OFFICIALS SENTENCED FOR FRAUD, TAX AND OBSTRUCTION OF JUSTICE CHARGES

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 5, 2006
WWW.USDOJ.GOV

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

THREE FORMER NEW YORK ARCHDIOCESE PURCHASING OFFICIALS SENTENCED FOR FRAUD, TAX AND OBSTRUCTION OF JUSTICE CHARGES

WASHINGTON — Three former purchasing representatives for the Archdiocese of New York were sentenced today in U.S. District Court in Manhattan for participating in schemes that defrauded the archdiocese of more than $2 million, the Department of Justice announced. A fourth defendant, Joseph J. DeRusso, of Florham Park, N.J., is scheduled to be sentenced in November 2006. The three individuals received prison sentences ranging from 37 months to 80 months.

Vincent J. Heintz and Nanette B. Melera, both of Briarcliff Manor, N.Y., and Michael J. O'Shaughnessey of Queens, N.Y., were sentenced by Judge William H. Pauley III for using their positions as employees and consultants at institutional Commodity Services Inc. (ICS), the purchasing arm of the archdiocese, to defraud the archdiocese from 1996 until 2004.

Heintz was sentenced to 80 months in prison. As general manager of ICS, Heintz organized a scheme to defraud the archdiocese by requiring numerous vendors to the archdiocese to pay DeRusso more than $1.2 million, ostensibly as commissions, which DeRusso secretly shared with Heintz, O'Shaughnessy and Melera. The prices charged to ICS included the amount of the commissions, which resulted in the archdiocese paying artificially inflated prices.

In addition, as part of this scheme, Heintz, O'Shaughnessy, Melera and DeRusso embezzled an additional $1 million from the archdiocese by steering orders for food for the children enrolled in the archdiocese's schools to companies they secretly owned and controlled.

Heintz and DeRusso also conspired to defraud the Internal Revenue Service (IRS) by arranging for DeRusso to receive at least $250,000 in cash from a vendor of milk and juice, which DeRusso failed to report as income. Additionally, Heintz was charged with making false statements to federal investigators, when he falsely claimed that he was not aware that DeRusso had received cash payments from any vendor.

O'Shaughnessy, the former operations manager of ICS, was sentenced to 41 months in prison for his role in the schemes. Nanette B. Melera, the former food services director of ICS, received a 37 month prison

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sentence for her role. The three were also ordered to pay a total of $2.25 million in restitution to the archdiocese of New York.

Heintz, O'Shaughnessy, Melera and DeRusso were charged in a nine-count indictment filed in U.S. District Court in Manhattan in January 2006. They pleaded guilty to the pending charges on April 5, 2006.

Today's sentences resulted from an ongoing investigation of food distributors and suppliers of other goods and services to various not-for-profit entities in the New York metropolitan area. The investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation and the IRS. The Archdiocese of New York cooperated with the Department's investigation.

Anyone with information concerning antitrust or fraud crimes in the food distribution industry should contact the Federal Bureau of Investigation at 212-384-2219 or the New York Office of the Antitrust Division at 212-264-0679, and anyone with information concerning tax crimes should call the IRS Criminal Investigation at 1-800-829-0433.

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Image not available for this document, ID: 0.7.10316.25823-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 5, 2006 6:30 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 5, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney General Participates in Business Leadership Network Conference (OPA)
Today, the Attorney General announced the release of "Access for All: Five Years of Progress," a status report highlighting the Administration's successes over the last five years in enforcing the Americans with Disabilities Act (ADA), at the annual conference of the U.S. Business Leadership Network in Minneapolis. His remarks were immediately followed by a media availability.

Justice Department Files Brief in Posada Case (Civil)
The Civil Division today filed a brief in U.S. District Court in El Paso, Texas, objecting to the magistrate judge's recommendation that Luis Posada-Carriles be released from immigration custody, and requesting that the court dismiss Posada's petition for a writ of habeas corpus. Tasia Scolinos, Director of Public Affairs, issued the following statement on the filing of the brief:

- "Luis Posada-Carriles is an admitted mastermind of terrorist plots and attacks. The Department of Justice believes that Posada is a flight risk and that his release would be a danger to the community. The Department of Justice is committed to defending the Department of Homeland Security's decision to detain him under the Immigration and Nationality Act."

American Medical Response Pays $9 Million to Settle Civil Fraud Case (Civil)
American Medical Response Inc. (AMR), one of the nation's largest ambulance providers, has paid the United States over $9 million to resolve allegations that the company violated the False Claims Act, the Justice Department announced today. The government alleged that the ambulance company provided illegal inducements to hospitals in Texas in exchange for referrals.

The settlement relates to allegations that the Greenwood, Colo.-based company provided or offered inducements to Texas hospitals in the form of contracts known as "swapping arrangements." Such contracts gave the medical facilities discounts on transports in exchange for the referral of all or some of the ambulance transports of patients being discharged from the hospitals, which were billed to Medicare.

Talking Points:

- Illegal inducements corrupt the integrity of the Medicare program by freezing out competitors, masking the true costs of services, and misdirecting program funds, among other things.

- This settlement shows our ongoing commitment to pursue allegations of fraud and abuse in the Medicare system vigorously.

Milwaukee Police Officers Plead Guilty In Connection With Civil Rights Violations (Civil Rights)
Two former Milwaukee police officers today pleaded guilty to civil rights violations in relation to an assault on two men in October 2004. Former police officer Jon Clausing pleaded guilty to conspiring to violate the civil rights of Frank Jude and Lovell Harris by assaulting them. Former police officer Joseph Schabel pleaded guilty to violating the civil rights of Frank Jude by assaulting him and to an obstruction of justice charge for lying about details of the assault. Clausing faces up to 10 years in prison and a fine of $250,000. Schabel faces up to 20 years in prison and a fine of $500,000. A sentencing date had not yet been scheduled.

Federal Court Bars Louisiana Tax Preparers from Claiming Inflated Deductions on Income Tax Returns (Tax)
A federal court in New Orleans today barred Rodney G. Bourg and Cynthia M. Bourg of Houma, La, from preparing federal income tax returns claiming inflated deductions or asserting unrealistic positions, the Justice Department announced. The Bourgs consented to the injunctions. The government complaint in the case alleged that the Bourgs prepared federal income tax returns with improper deductions for customers who worked as mariners, fishermen, merchant seamen and ferry workers. The customers' returns allegedly claimed improper per diem expense deductions for meals and incidental expenses even though the customers' employers provided meals and any necessary lodging for free.

Trust Scheme Promoter Sentenced to 3 Years in Prison (Tax)
Tax fraud promoter Michael Joseph Shanahan of Everett, Washington, was sentenced today in Tacoma, Wash., to 36 months in prison, the Justice Department and Internal Revenue Service (IRS) announced. Judge Ronald B. Leighton, finding that the tax loss to the federal Treasury was more than $8.5 million, ordered Shanahan to pay that sum in restitution to the IRS.

Department Re-names Sex Offender Registry, Connects Puerto Rico to Web Site (Office of Justice Programs)
The Department of Justice today announced the designation of its National Sex Offender Public Web site as the Dru Sjodin National Sex Offender Public Web site, located at http://www.nsopr.gov. Dru Sjodin, a 22-year-old University of North Dakota student from Pequot Lakes, Minn., was kidnapped and murdered after disappearing from a Grand Forks, N.D., shopping mall parking lot in November 2003. Today's announcement results from the recent passing and implementation of the Adam Walsh Child Protection and Safety Act of 2006. It also coincides with the addition of Puerto Rico to the Web site. With today's announcement, the Web site connects all 50 states, the District of Columbia and two U.S. territories.

Three Arrested for Theft of Government Property in Baton Rouge (USAO–Middle District of Louisiana)
Byron T. Basil, of Plaquemine, La.; Byron W. Hardesty, of Baker, La.; and Leroy Thomas, Jr., of Baton Rouge, La., were arrested by federal agents yesterday on charges of theft of government property, U.S. Attorney David R. Dugas announced. A criminal complaint was signed this afternoon by U.S. District Court Magistrate Judge Stephen C. Riedlinger. The complaint alleges that Basil and Thomas were employees of the Federal Emergency Management Agency (FEMA), and that Hardesty was a former FEMA employee. Basil and Thomas allegedly worked at the staging area of a FEMA storage site in Baton Rouge. All three defendants allegedly had access to the site and travel trailers with crated air conditioning units that were stored there. The complaint alleges that Basil, Thomas, and Hardesty were involved in a scheme involving the unauthorized taking of air conditioning units from the FEMA storage site. The men were arrested after they attempted to sell several of the air conditioning units for a fraction of their value to a special agent with the Inspector General's Office of the U.S. Department of Homeland Security who was working in an undercover capacity.

Another Sentenced in Baton Rouge on Federal FEMA Fraud Charge (USAO–Middle District of Louisiana)
Another Louisiana resident was sentenced in federal court today by U.S. District Court Judge Frank J. Polozola on a fraud charge related to a hurricane disaster relief program, announced U.S. Attorney David R. Dugas of the Middle District of Louisiana. Monique C. Preston, of Baton Rouge, La., pleaded guilty to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. Preston was sentenced to three years of probation, 50 hours of community service, and $2,000 in restitution. The U.S. Department of Homeland Security, Office of Inspector General and the Federal Bureau of Investigation (FBI) conducted the investigation of this matter. The number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds stands at 74.

85-Count Indictment Charges 21 Gang Members and Associates with Conspiracy, Drug and Gun Charges (USAO–Western District of Oklahoma)
An indictment was unsealed today charging 21 gang members and associates with 85 counts involving conspiracy, gun and drug related charges, announced U.S. Attorney John C. Richter of the Western District of Oklahoma and the Oklahoma City Metropolitan Gang Task Force. The indictment alleges that the 21 defendants were members or associates of the Walnut Gangster Crips street gang who conspired with each other and four unindicted co-conspirators to possess with intent to distribute more than 30 kilograms of cocaine, multiple kilograms of cocaine powder, and over 1,000 tablets of ecstasy. According to the indictment, one of the purposes of the membership and association with the Walnut Gangster Crips and other street gangs was to facilitate their drug trafficking activity by providing a network to distribute the drugs.

NBC Nightly News to Report on Anthrax Investigation (FBI)
Tonight, Pete Williams, NBC Nightly News Reporter, will report on the progress of the AMERITHRAX investigation. This will coincide with the fifth Anniversary of the first death involving victim Robert Stevens. The story reportedly will focus on the scientific aspects of the investigation, including composition of the anthrax spores and advances in forensic analysis.

Media Inquires Regarding Inspector General Report (FBI)
The FBI today received numerous inquiries regarding a 2004 report issued by the DOJ Inspector General that highlight incidences during 2001-2003 where FBI agents entered Canada without documented country clearance requests. Many of the instances outlined in the report were administrative in nature.

Talking Points

- The FBI has policies in place that require prior country clearance request and approval for entry into Canada to conduct official FBI business and investigations.

FRIDAY'S EXPECTED EVENTS/RELEASES:

3:00 P.M. EDT Attorney General Alberto R. Gonzales will participate in a Hispanic Heritage Month Commemorative Event with President Bush.
The White House
East Room
Washington, D.C.
OPEN PRESS

From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 10:00 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 6, 2006

Department of Justice

PRESS GUIDANCE
Friday, October 06, 2006

ATTORNEY GENERAL

3:00 P.M. EDT Attorney General Alberto R. Gonzales will participate in a Hispanic Heritage Month Commemorative Event with President Bush.
The White House
East Room
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the White House at (202) 456-1414.

PRESS RELEASES

The Tax Division will issue a release. (Miller)

The Antitrust will issue a release on a bid-rigging matter. (Antitrust)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Kimberly Smith

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.25868-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: INTERNATIONAL TERRORISM VICTIM EXPENSE REIMBURSEMENT PROGRAM NOW ACCEPTING APPLICATIONS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE Office of Justice Programs

FRIDAY, OCTOBER 6, 2006

Contact: Joan LaRocca

WWW.OJP.USDOJ.GOV 202-307-0703

*********MEDIA ADVISORY*********

INTERNATIONAL TERRORISM VICTIM EXPENSE REIMBURSEMENT PROGRAM NOW ACCEPTING APPLICATIONS

WASHINGTON, D.C. – The Department of Justice's Office of Justice Programs (OJP) today will begin accepting applications for the International Terrorism Victim Expense Reimbursement Program (ITVERP). The ITVERP was created under the Victims of Trafficking and Violence Protection Act and is administered by OJP's Office for Victims of Crime. The ITVERP provides reimbursement to qualifying victims who are killed or suffer direct physical or emotional injury as a result of international terrorism occurring outside the United States on or after December 21, 1988. Eligible victims primarily include individuals who are U.S. citizens, or officers or employees, including contractors, of the U.S. Government on the date of the act of international terrorism. Categories of expenses for which victims may seek reimbursement are medical, mental health counseling, property loss, funeral and burial and miscellaneous.

WHAT: **International Terrorism Victim Expense Reimbursement Program (ITVERP)**

WHEN: **TODAY, OCTOBER 6, 2006**
Start Date for Receipt of Applications

REFERENCES: **Detailed information, including the application form and eligibility criteria, is available online at www.ovc.gov .**

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 4:31 PM
To: USDOJ- Office of Public Affairs
Subject: PROMOTERS SENTENCED TO PRISON FOR TAX FRAUD SCHEME

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 6, 2006
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TAX
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PROMOTERS SENTENCED TO PRISON FOR TAX FRAUD SCHEME

WASHINGTON — A federal judge in San Diego sentenced Susan E. O'Brien, a professional tax preparer who operated The O'Brien Group, to 10 years and five months in prison. As part of the sentence, she will also serve a three-year term of supervised release and pay restitution in the amount of $113,179.

Judge M. James Lorenz also sentenced co-defendants Robert Richard Evans and William Dean Cook to prison terms of 78 and 24 months, respectively. Both Evans and Cook will each serve a three-year term of supervised release.

"Dishonest tax professionals harm the good reputation of honest ones and cheat all honest taxpayers," said Eileen J. O'Connor, Assistant Attorney General for the Department of Justice's Tax Division. "People who prepare fraudulent returns or peddle tax scams can expect to be prosecuted, convicted and sent to prison."

In July 2003, O'Brien, Evans, Cook and five others were charged in a 78-count indictment with various tax crimes related to tax years 1996-2002. According to the indictment and trial evidence, O'Brien prepared numerous income tax returns that claimed false business deductions and Evans promoted, sold and managed domestic trusts that were used by clients to conceal income and assets from the IRS.

On May 2, 2006, after an eleven-week trial, the jury convicted O'Brien, Evans and Cook of attempting to evade the taxes of a former client, Dr. Kevin Marie Scoggin, for the years 1996 through 2000. Scoggin owned and operated Grand Animal Hospital, a veterinary clinic in the San Diego area, where Cook worked as a manager during the 1990s and early 2000s. Cook and Scoggin concealed Scoggin's income and assets by using one of Evans' trusts and by holding offshore bank accounts, maintaining bank accounts in nominee names and assigning income to nominee entities.

"Honest return preparers and tax professionals assist taxpayers in filing their correct tax information with the government. Blatant disregard for the law as well as for the standards of this profession must be addressed and halted," said Nancy Jardini, Internal Revenue Service Chief, Criminal Investigation. "These sentences clearly demonstrate the IRS and Department of Justice efforts to ensure tax professionals are abiding by the law."

The jury also convicted O'Brien and Evans of conspiracy to defraud the United States and aiding and assisting in the filing of fraudulent tax returns. O'Brien also was convicted of evading the payment of tax on

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her own income. U.S. District Judge Lorenz found that the tax-evasion scheme resulted in a tax loss of more than $1 million.

Three employees and four clients of The O'Brien Group were convicted of felony tax fraud charges as part of this prosecution. These defendants pleaded guilty to tax fraud charges prior to trial and cooperated in the prosecution of O'Brien, Evans and Cook.

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 5:07 PM
To: USDOJ- Office of Public Affairs
Subject: MANHATTAN TELECOMMUNICATIONS INSTALLATION COMPANY EXECUTIVE PLEADS GUILTY TO CONSPIRACY CHARGE

(PDFs of the Information and Plea Agreement are attached below.)

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 6, 2006
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AT
(202) 514-2007
TDD (202) 514-1888

MANHATTAN TELECOMMUNICATIONS INSTALLATION COMPANY EXECUTIVE PLEADS GUILTY TO CONSPIRACY CHARGE

WASHINGTON — A Manhattan telecommunications installation company executive pleaded guilty today to charges relating to his role in a conspiracy involving kickbacks, bribery, and false statements on income tax returns for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced.

Timothy O'Leary of Wantagh, N.Y., pleaded guilty today in U.S. District Court in Manhattan to conspiring to commit commercial bribery relating to his payment of a total of approximately $154,000 in kickbacks to two Mount Sinai employees. O'Leary gave the kickbacks to Anthony Spadola and Stephen Cogliano in exchange for Mount Sinai telecommunications installation contracts. The conspiracy took place from approximately January 2001 until September 2003. O'Leary, a vice president of Broadcom Voice & Data Inc. (Broadcom), also pleaded guilty to mail fraud and to making false and fraudulent statements on U.S. income tax returns.

Three other defendants have pleaded guilty in connection with this investigation. On Sept. 26, 2006, Stephen Cogliano pleaded guilty to one count of conspiracy to rig bids and allocate contracts for the sale of telecommunications equipment and services to Mount Sinai from approximately January 2001 through October 2004. On Sept. 29, 2006, Broadcom and Anthony Spadola also pleaded guilty to participating in the same bid-rigging conspiracy. Spadola additionally pleaded guilty to one count of conspiracy to commit commercial bribery, mail fraud, and to making false and fraudulent statements on corporate U.S. income tax returns from approximately January 2001 until September 2003. He also pleaded guilty to one count of income tax evasion for failing to report as income kickbacks that he received, and for improperly claiming business deductions on his U.S. individual income tax returns for the years 2001 through 2003.

"This type of scheme deprives companies of their right to the honest services of their employees and to competitive prices," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "Today's plea affirms the Department's commitment to protect competition for American businesses and consumers."

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The Mount Sinai Hospital is a 1,171-bed tertiary care teaching hospital that serves the New York metropolitan area with a medical staff of nearly 1,800. In addition to its medical education efforts, Mount Sinai's School of Medicine performs clinical and basic-science research. Both the hospital and the school jointly operate an information technology department, located within the Mount Sinai Medical Center in Manhattan, that assists various departments and facilities in creating and maintaining their telecommunications infrastructures. This assistance includes selecting and contracting with third party telecommunications vendors in order to install equipment such as voice and data cables in Mount Sinai facilities.

Spadola and Cogliano were responsible for obtaining bids from vendors of telecommunications equipment and services on behalf of Mount Sinai. They were also responsible for supervising vendors and reviewing and authorizing their invoices for payment. According to the Department, Spadola and Cogliano received payments from O'Leary and individuals associated with another telecommunications vendor in exchange for steering contracts to those companies. Spadola and Cogliano each opened a bank account under the name of a sham consulting company in April 2001 and May 2003, respectively, to conceal their receipt of illegal payments from Broadcom and the other vendor.

O'Leary's conspiracy charge carries a maximum penalty of five years in prison, three years of supervised release, and a $250,000 fine. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine. In addition, the defendant could be ordered to pay restitution to the victim for the full amount of that victim's loss.

This charge arose from an ongoing federal antitrust investigation of bid-rigging, bribery, fraud, and tax-related offenses in the telecommunications equipment and services industry. The investigation is being conducted by the Antitrust Division's New York Field Office, with the assistance of the Federal Bureau of Investigation (FBI) and the Internal Revenue Service Criminal Investigation.

Anyone with information concerning bid rigging, bribery, tax offenses, or fraud in the telecommunications equipment and services industry should contact the New York Field Office of the Antitrust Division at 212-264-9308 or the New York Division of the FBI at 212-384-3252, and anyone with information concerning tax crimes should call the Internal Revenue Service Criminal Investigation at 1-800-829-0433.

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OLeary Information.pdf

O'Leary Plea Agreement.pdf

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Court Exhibit #1
S.A.H. 10/6/06

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed 06 CRIM. 920
v.		
	:	Violation: 18 U.S.C. § 371
TIMOTHY O'LEARY		
	:	
Defendant.		
	:	

- x

PLEA AGREEMENT

The United States of America and the defendant, Timothy O'Leary, hereby enters into the following Plea Agreement ("Agreement") pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure.

AGREEMENT TO PLEAD GUILTY

1. Timothy O'Leary ("O'Leary") will plead guilty in the United States District Court for the Southern District of New York to a one-count Information, in the form attached, in which he is charged with one count of violating 18 U.S.C. § 371 in connection with a conspiracy to commit commercial bribery, mail fraud, and to make false and fraudulent statements in U.S. Income Tax Returns relating to the payment of money to employees or agents of Mount Sinai School of Medicine and The Mount Sinai Hospital ("Mount Sinai"), from approximately January 2001 until approximately September 2003.

2. If O'Leary fully complies with the understandings specified in this Agreement, he will not be further prosecuted criminally by the Antitrust Division of the Department of Justice, and with respect to tax offenses, he will not be further prosecuted criminally by the Tax Division of the Department of Justice, for crimes committed prior to the date of this Agreement arising from the following activity, as specified in the attached Information: (a) any agreement to rig bids or allocate contracts to supply Mount Sinai with telecommunication equipment and services; (b) the payment of money to employees or agents of Mount Sinai; and (c) any illegitimate business deductions taken by Broadcom on its federal income tax returns for the tax years 2001 through 2003 relating to such payments to employees or agents of Mount Sinai. This Agreement does not provide any protection against prosecution for any crimes except as set forth above. This Paragraph does not apply to civil matters of any kind, any violations of federal securities laws, or crimes of violence.

3. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than the Antitrust Division and, to the extent set forth above, the Tax Division of the Department of Justice.

POSSIBLE MAXIMUM PENALTIES

4. O'Leary understands and agrees that, pursuant to 18 U.S.C. § 371 and 18 U.S.C. § 3571, the maximum sentence provided by law to which he is subject for his violation of 18 U.S.C. § 371, a class D felony, is (a) a term of imprisonment of not more

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than five years; (b) a fine of not more than the greater of $250,000, or the greater of twice his gross pecuniary gain from the offense or twice the victim's gross pecuniary loss from the offense, together with the cost of prosecution; or (c) both such sentences. O'Leary also understands that the Court shall impose an order of restitution, pursuant to 18 USC §§ 3663, 3663A, and 3664. The Court may also impose a term of supervised release of no more than three years, pursuant to 18 U.S.C. § 3583(b)(2) and USSG § 5D1.2(a)(2). In addition, O'Leary understands that, pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court must impose a special assessment of $100.

SENTENCING GUIDELINES

5. O'Leary understands that United States Sentencing Guidelines ("Sentencing Guidelines") are advisory, not mandatory, but that the Court must consider the Sentencing Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining and imposing a reasonable sentence. O'Leary understands that the Sentencing Guidelines determinations will be made by the Court by a preponderance of the evidence standard. O'Leary understands that although the Court is not ultimately bound to impose a sentence within the applicable Sentencing Guidelines range, its sentence must be reasonable based upon considerations of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a).

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6. The United States and O'Leary agree and stipulate that, pursuant to USSG § 1B1.11(a), the November 2005 version of the Sentencing Guidelines, the version in effect at the time of sentencing, should be applied.

7. The United States and O'Leary acknowledge that they cannot agree on whether O'Leary should receive an adjustment for his role in the offense, pursuant to USSG § 3B1.1. The United States contends that O'Leary should receive a three-level adjustment, pursuant to USSG § 3B1.1(b), while O'Leary contends that he should not receive any adjustment under USSG § 3B1.1. As a result, the parties cannot now agree on the offense level at which O'Leary should be sentenced, but acknowledge that the combined adjusted offense level applicable to the offenses charged in the attached Information should be either level 18 (27-33 months) or level 15 (18-24 months), depending upon whether the Court applies an adjustment pursuant to USSG § 3B1.1(b). Furthermore, the parties can agree and hereby stipulate to the following:

(a) The base level is 8, pursuant to USSG § 2B4.1;

(b) In accord with the directives of the Second Circuit in United States v. Fitzgerald, 232 F.3d 315 (2d Cir. 2000), and United States v. Petrillo, 237 F.3d 119 (2d Cir. 2000), USSG §§ 3D1.2(d) and 3D1.3(b) require that the fraud and tax losses resulting from the single offense charged be aggregated, and that the offense level for the combined fraud/tax group is the higher of the offense level determined from the

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instructions in Chapter 2, Part B (Offenses Involving Theft, Fraud Or Deceit) or Chapter 2, Part T (Offenses Involving Taxation) and all appropriate adjustments;

(c) The combined fraud and tax loss is approximately $172,854, the sum of the fraud loss (approximately $152,993 in payments made) and the tax loss (approximately $19,861 in unpaid federal and state, and city income taxes, all of which have been calculated in accordance with USSG § 2T1.1(c)(1)(A) and are based, when available, on O'Leary's actual marginal tax rates));

(d) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level calculated according to the instructions in Part B is level 18 (base level of 8, pursuant to USSG § 2B4.1(a); plus 10 levels, pursuant to § 2B1.1(b)(1)(F) (loss of more than $120,000 but less than $200,000);

(e) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, the offense level calculated according to the instructions in Part T is level 16 (offense level of 16, pursuant to USSG §§ 2T1.1(a)(1) and 2T4.1(G) (Tax Table) (loss of more than $80,000 but less than $200,000); and

(f) Before any adjustment for role in the offense, pursuant to USSG § 3B1.1, assuming O'Leary clearly demonstrates acceptance of responsibility, to the satisfaction of the government, through his allocution and subsequent conduct prior to the imposition of sentence, a 2-level reduction will be warranted, pursuant to USSG § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described

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in the previous sentence, an additional 1-level reduction is warranted, pursuant to USSG § 3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

8. The United States and O'Leary agree and stipulate that the fine range for O'Leary for the offenses charged in the Information is from $5,000 to $50,000, pursuant to USSG § 5E1.2(c).

9. The United States further agrees that a sentence range of 27 to 33 months, based on a combined adjusted offense level of 18, (the Government's Stipulated Guidelines Range) would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). O'Leary further agrees that a sentence range of 18 to 24 months based on a combined adjusted offense level of 15, (O'Leary's Stipulated Guidelines Range) would constitute a reasonable sentence in light of all the factors set forth in Title 18, U.S.C. § 3553(a). However, either party may seek a sentence outside of the Stipulated Guidelines Range, suggest that the Probation Department consider a sentence outside of the Stipulated Guidelines Range, and suggest that the Court sua sponte consider a sentence outside of the Stipulated Guidelines Range, based on factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. § 3553(a). Further, the United States acknowledges that, pursuant to USSG § 5K2.0, O'Leary intends to move for a departure from the confinement portion of the sentence calculated in accordance

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with the above stipulations based on his family circumstances. The United States reserves the right to oppose this motion, should it decide that such a departure is not merited under the circumstances, and to respond to any factual inquiries by the Court or the Probation Office.

10. The United States and O'Leary agree that (i) O'Leary will not appeal or otherwise litigate under 28 U.S.C. § 2255 and/or 2241, any sentence within or below O'Leary's Stipulated Guidelines Range as set forth in this Agreement, and (ii) that the United States will not appeal any sentence within or above the Government's Stipulated Guidelines Range as set forth above. This provision is binding on the parties even if the Court employs a Sentencing Guidelines analysis different from that set forth in this Agreement. Furthermore, it is agreed that any appeal regarding the sentence of O'Leary that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulations.

11. Except as provided in any written Proffer Agreement(s) that may have been entered into between the Antitrust Division and the defendant, nothing in this agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Guidelines Range or stipulated fine range (or such other range as the Court may determine) the defendant should be sentenced and regarding the factors to be considered in imposing a sentence pursuant to Title 18, U.S.C. Section 3553(a); (iii) to

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seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's criminal history category is other than Category I. Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see USSG § 3E1.1, and/or imposition of an adjustment for obstruction of justice, see USSG § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the United States at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this Agreement.

12. It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Sentencing Guidelines stipulations, either as to questions of fact or as to the determination of the proper Sentencing Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Sentencing Guidelines adjustments, departures, or calculations different from those stipulated to above, or contemplates any sentence outside of the Stipulated Guidelines Range, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

13. It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. It is understood that the Sentencing Guidelines are not binding on the Court. The defendant acknowledges that his entry of a guilty plea to the

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charged offense authorizes the sentencing court to impose any sentence, up to and including the statutory maximum sentence. The United States cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Stipulated Guidelines Range set forth above.

14. O'Leary understands that this Agreement does not in any way affect or limit the right of the United States to respond to and take positions on post-sentencing motions or requests for information that relate to reduction or modification of sentence.

15. O'Leary agrees that 60 days prior to the date of sentencing, he shall file accurate amended tax returns for the tax years 2001, 2002, and 2003, and will pay, or will enter into an agreement to pay, past taxes due and owing by himself and his spouse to the Internal Revenue Service, including interest and applicable civil fraud penalties, on such terms and conditions as will be agreed on by the Internal Revenue Service and the company. O'Leary will cooperate fully, completely, and truthfully with the IRS in determining the accuracy and completeness of all such amended returns.

16. O'Leary understands and agrees that should his conviction following his plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at

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sentencing pursuant to this Agreement) may be commenced or reinstated against him notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

REPRESENTATION BY COUNSEL

17. O'Leary has been represented by counsel and is fully satisfied that his attorney has provided competent legal representation. O'Leary has thoroughly reviewed this Agreement and acknowledges that counsel has advised him of the nature of the charge, any possible defenses to the charge, and the nature and range of possible sentences.

VOLUNTARY PLEA

18. O'Leary hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack hisconviction, either on direct appeal or collaterally, on the ground that the United States has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S.

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150 (1972), that have not already been produced as of the date of the signing of this Agreement.

19. O'Leary 's decision to enter into this Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Agreement. The United States has made no promises or representations to O'Leary as to whether the Court will accept or reject the recommendations contained within this Agreement.

ENTIRETY OF AGREEMENT

20. This Agreement constitutes the entire agreement between the United States and O'Leary concerning the disposition of the charge contained in the attached Information. The United States has made no other promises to or agreements with O'Leary. This Agreement cannot be modified other than in a writing signed by the parties .

Dated: October 6, 2006

TIMOTHY O'LEARY

REBECCA MEIKLEJOHN

JOHN F. KALEY, ESQ.
Counsel for Timothy O'Leary

ELIZABETH B. PREWITT

Attorneys
Department of Justice, Antitrust Division
26 Federal Plaza, Room 3630
New York, NY 10278
Phone: (212) 264-6884

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	Criminal No.
	:	Filed:
v.	:	Violation: 18 U.S.C. § 371
TIMOTHY O'LEARY	:	
Defendant.	:	

INFORMATION

The United States of America, acting through its attorneys, charges:

1. Timothy O'Leary ("O'Leary") is hereby made a defendant on the charge stated below

CONSPIRACY
(18 U.S.C. § 371)

I. RELEVANT PARTIES AND ENTITIES

During the period covered by this Count:

2. O'Leary was a resident of Wantagh, New York. He was a vice president of Broadcom Voice & Data, Inc. ("Broadcom"), and was primarily responsible for the management of the company.

3. Broadcom was a company located in Manhattan, New York that supplied telecommunications equipment and services to Mount Sinai School of Medicine and The Mount Sinai Hospital (collectively, "Mount Sinai"), a teaching hospital located in New York, New York.

4. "CC-1" was a co-conspirator who was employed by Mount Sinai as a Information Technology Manager in Mount Sinai's Information Technology department from August 2000 until July 2003. In July 2003, CC-1 became an employee of International Business Machines, Corp. ("IBM") but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. In April 2001, CC-1 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from Broadcom and another vendor to Mount Sinai.

5. "CC-2" was a co-conspirator who was employed by Mount Sinai as a Network Management Professional in Mount Sinai's Information Technology department from October 2000 until July 2003. In July 2003, CC-2 became an employee of IBM but maintained the same job title and performed the same job within the same department at Mount Sinai, pursuant to a contract between IBM and Mount Sinai. His job title changed to Technical Services Professional in October 2004. In May 2003, CC-2 opened a bank account under the name of a consulting company that was primarily used to conceal his receipt of illegal payments from Broadcom and another vendor to Mount Sinai. As a Network Management Professional, and later as a Technical Services Professional, CC-2 was supervised by CC-1 but was also separately responsible for ensuring that contracts were awarded in accordance with Mount Sinai's policies and procedures and reviewing and authorizing invoices for payment.

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6. "CC-3" and "CC-4" were co-conspirators who jointly owned a company located in Great Neck, New York that supplied telecommunications equipment and services to Mount Sinai ("Vendor 2").

7. Various other persons, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

8. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

II. BACKGROUND

9. The Mount Sinai Hospital is a 1,171-bed tertiary-care teaching hospital with a medical staff of nearly 1,800, serving the New York metropolitan area. Mount Sinai School of Medicine performs clinical and basic-science research, in addition to its medical education function. Jointly, both entities operate an Information Technology department located within the Mount Sinai Medical Center on Madison Avenue.

10. Mount Sinai's Information Technology department served the various departments and facilities within Mount Sinai by assisting them in creating and maintaining their telecommunications infrastructures. This included selecting and contracting with third parties that were vendors of telecommunications equipment and

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services in order to install equipment such as voice and data cables in Mount Sinai facilities.

11. Mount Sinai maintained a written "conflict of interest" policy prohibiting employees and contractors, including CC-1 and CC-2, from accepting gifts (other than of token value) from vendors or from entering into business arrangements with vendors.

12. Mount Sinai also had a competitive bidding policy that required the Information Technology department to obtain at least three competitive bids before entering into any single contract for goods or services in excess of $10,000, and then award those contracts to the lowest responsible bidder. The purpose of the bidding policy was to ensure that the Information Technology department obtained products and services at competitive, fair market prices.

13. As the Information Technology Manager, CC-1 was responsible for obtaining bids from vendors of telecommunications equipment and services before contracts were awarded in accordance with Mount Sinai's policies and procedures. In addition, CC-1 was responsible for supervising these vendors and reviewing and authorizing their invoices for payment. As a manager, CC-1 sometimes delegated these tasks to individuals he supervised, including CC-2.

14. Broadcom, CC-1, CC-2 and co-conspirators attempted to create the appearance that the Information Technology department was awarding contracts in compliance with Mount Sinai's competitive bidding policy when, in fact, it frequently was not. In actuality, CC-1 determined in advance which contracts to allocate to Broadcom or

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Vendor 2, and then, in order to make it appear that contracts had been awarded based on competitive bids, CC-1 and CC-2 at times arranged to receive bids with intentionally high prices (i.e., cover bids) from either Broadcom or Vendor 2. CC-1 and CC-2 sometimes specified what prices should be quoted on these cover bids, and that the bids be backdated. On other occasions, CC-1 and CC-2 allocated contracts without obtaining multiple bids or irrespective of whether the vendor to which the contract was allocated was the lowest responsible bidder. At the time, CC-1 and CC-2 were receiving payments from Broadcom and Vendor 2.

15. At no time did O'Leary or his co-conspirators disclose to Mount Sinai CC-1's or CC-2's receipt of the payments that O'Leary caused Broadcom to make to these individuals. The payments were made to CC-1 and CC-2 without the knowledge or approval of Mount Sinai and were in violation of CC-1's and CC-2's duty of loyalty to Mount Sinai.

III. DESCRIPTION OF THE OFFENSE

16. From approximately January 2001 until approximately September 2003, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, O'Leary, CC-1, CC-2, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States or an agency thereof, namely the Internal Revenue Service, and to commit offenses against the United States of America, to wit, to violate Title 18,

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United States Code, Sections 1952(a)(3)(A), 1341, and 1346, and Title 26, United States Code, Section 7206(1), in violation of Title 18, United States Code, Section 371.

17. It was a part and object of the conspiracy that O'Leary, CC-1, CC-2, and others known and unknown, unlawfully, willfully, and knowingly would and did travel in interstate commerce and use the mails and facilities in interstate commerce, with intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, specifically, commercial bribery in violation of New York State Penal Law Sections 180.00, 180.03, 180.05, and 180.08, and, thereafter, would and did perform and attempt to perform an act to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A).

18. It was further a part and an object of the conspiracy that O'Leary CC-1, CC-2, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud Mount Sinai, including a scheme to deprive Mount Sinai of its intangible right of honest services of its employees and agents, and for obtaining money and property from Mount Sinai by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice to defraud, and attempting to do so, would and did place in post offices and authorized depositories for mail matter, and would and did deposit, and cause to be deposited, matters and things to be sent and delivered by the Postal Service and by

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private and commercial interstate carriers, and would and did take and receive such matters and things therefrom, and would and did cause such matters and things to be delivered by mail and by such carriers according to the directions thereon, and at the places at which they were directed to be delivered by the persons to whom they were addressed, in violation of Title 18, United States Code, Sections 1341 and 1346.

19. It was further a part and object of the conspiracy that O'Leary, CC-1, CC-2, and others known and unknown, did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree to defraud the United States of America and the Internal Revenue Service ("IRS") by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of federal income taxes, and to commit offenses against the United States, to wit, to make and subscribe U.S. Corporate Income Tax Returns, which income tax returns were not true and correct as to every material matter, in violation of Title 26, United States Code, Section 7206(1).

IV. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

20. During all or some of the period from approximately January 2001 until September 2003, O'Leary caused Broadcom to make payments totaling approximately $152,993 to CC-1 and CC-2. O'Leary caused Broadcom to make these payments in order

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to ensure that CC-1 and CC-2 would allocate to Broadcom a portion of Mount Sinai's total purchases of telecommunications equipment and services, and that they would not seek alternative vendors of telecommunications equipment and services for these contracts. By making the payments, Broadcom was able to maintain non-competitive prices because it did not face open and honest competition from other vendors. Also, O'Leary and CC-1 and CC-2 fraudulently inflated Broadcom invoices and caused Mount Sinai to pay Broadcom for those fraudulently inflated invoices. As a result, Mount Sinai was deprived of its right to the honest services of CC-1 and CC-2 and paid higher prices for the telecommunications equipment and services it purchased than it would have if CC-1 and CC-2 had aggressively and honestly solicited competitive prices from other vendors, and had not approved fraudulently inflated invoices for payment.

21. The amounts of the payments to CC-1 were typically calculated as a percentage of sales made by Broadcom to Mount Sinai. The Broadcom checks to CC-1 totaled $137,993 and were made payable to CC-1's consulting company.

22. On approximately October 6, 2003, O'Leary caused Broadcom to issue a $15,000 check to CC-2's consulting company. The $15,000 payment to CC-2 was for CC-2's efforts in allocating work to Broadcom and for CC-2's role in causing Mount Sinai to pay inflated Broadcom invoices.

23. O'Leary arranged for Broadcom to receive fraudulent invoices from CC-1's consulting company purporting to charge Broadcom for legitimate consulting services in the amounts of the kickback payments. O'Leary caused Broadcom to use those fraudulent

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invoices to justify deducting the amounts of the kickback payments as legitimate business expenses on its corporate income tax returns.

V. OVERT ACTS

24. In furtherance of the conspiracy and to effect the illegal objects thereof, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

(a) On numerous occasions between approximately January 2001 and September 2003, pursuant to the conspiracy charged, O'Leary and his co-conspirators caused Mount Sinai to issue purchase orders, and caused Broadcom to issue invoices, relating to the sale of telecommunications equipment and services to Mount Sinai. Some of these invoices and purchase orders were sent through the United States mails. Many of these invoices were sent from Broadcom to Mount Sinai's offices in Manhattan and many these purchase orders were sent from Mount Sinai's offices Manhattan to Broadcom;

(b) On numerous occasions between approximately January 2001 and September 2003, pursuant to the charged conspiracy, O'Leary and his co-conspirators caused Mount Sinai to issue checks in payment of these invoices to Broadcom. Some of these invoices and checks were sent through the United States mails; and

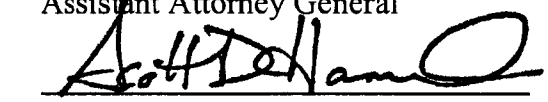
(c) On numerous occasions between approximately January 2001 and September 2003, pursuant to the conspiracy charged, CC-1 generated fraudulent invoices from his company

DOJ_NMG_ 0169316

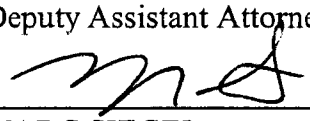
purporting to charge Broadcom for legitimate consulting services in the amounts of the kickback payments and gave those invoices to Broadcom.

Dated:

THOMAS O. BARNETT
Assistant Attorney General



SCOTT D. HAMMOND
Deputy Assistant Attorney General



MARC SIEGEL
Director of Criminal Enforcement

Antitrust Division
U.S. Department of Justice

MICHAEL J. GARCIA
United States Attorney
Southern District of New York

RALPH T. GIORDANO
Chief, New York Office

REBECCA MEIKLEJOHN

ELIZABETH B. PREWITT

Attorneys, Antitrust Division
U.S. Department of Justice
26 Federal Plaza, Room 3630
New York, New York 10278
(212) 264-0654

DOJ_NMG_ 0169317

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Image not available for this document, ID: 0.7.10316.26198-000004

From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 5:08 PM
To: USDOJ- Office of Public Affairs
Subject: BELLEVILLE WOMAN PLEADS GUILTY TO HURRICANE KATRINA FRAUD, AGGRAVATED IDENTITY THEFT AND PUBLIC BENEFIT FRAUDS

Department of Justice

United States Attorney Randy G. Massey
Southern District of Illinois

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 6, 2006
WWW.USDOJ.GOV/USAO/ILS

CONTACT: RANDY MASSEY
PHONE: (618) 628-3700
FAX: (618) 628-3730

BELLEVILLE WOMAN PLEADS GUILTY TO HURRICANE KATRINA FRAUD, AGGRAVATED IDENTITY THEFT AND PUBLIC BENEFIT FRAUDS

FAIRVIEW HEIGHTS, Ill. – Tina Marie Winston, a.k.a. Tina Marie Gilmore, 34, of Belleville, Ill., today entered a plea of guilty to four counts of mail fraud, three counts of making false statements, two counts of concealment of material information from the Social Security Administration, and single counts of misuse of a Social Security number and aggravated identity theft, announced Acting United States Attorney Randy G. Massey of the Southern District of Illinois. The convictions related to Winston's commission of Hurricane Katrina fraud and other public benefit frauds.

At the time of her plea, Winston admitted that in September 2005, she filed an Internet application for Hurricane Katrina disaster assistance using a false Social Security number. Winston falsely represented to the Federal Emergency Management Agency (FEMA) that her home in New Orleans was damaged, that she suffered loss of personal property, that she had lost two children in the disaster, and that she needed money to pay for the memorial service.

DOJ_NMG_ 0169320

FEMA sent Winston $4,358 as a result of the scheme, though Winston had asked FEMA for additional compensation for losses which she did not sustain, including personal property loss in the amount of $10,075 and dental expenses in the amount of $2,530.

In October 2005, Winston applied for Disaster Unemployment Assistance (DUA), a program funded by FEMA. In her application, Winston falsely stated that Hurricane Katrina had caused her to lose her job. She falsely stated that she had no other financial resources and that she was not receiving Social Security benefits. Winston's application was approved and she was sent an electronic debit card, which she used to obtain $1,321 worth of purchases. FEMA cut the card off when Winston exceeded the spending limit.

Winston also admitted to defrauding the Social Security Administration from May 1994 until June 2006, by failing to report her marriage and income, resulting in an overpayment in excess of $13,000. Additionally, Winston admitted to lying on an application for food stamps and Medicaid filed in July 2004 by failing to disclose her marriage, resulting in an overpayment of almost $5,000 and to making false statements in an attempt to obtain Section 8 housing valued at $6,758 by falsely identifying her husband as her cousin and lying about their income.

Sentencing is scheduled for Jan. 12, 2007. Winston has been held without bond since her arrest on June 22, 2006.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud, and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

Information for the Winston indictment was obtained in an investigation conducted by the U.S. Postal Inspection Service; the U.S. Department of Labor's Office of Inspector General; the Social Security Administration's Office of Inspector General; the U.S. Department of Agriculture's Office of Inspector General; the U.S. Department of Housing and Urban Development's Office of Inspector General; the U.S. Department of Health and Human Services' Office of Inspector General; the State

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of Illinois Healthcare and Family Services' Office of Inspector General – Bureau of Investigations; the U.S. Department of Homeland Security's Office of Inspector General; and the Illinois State Police Medicaid Fraud Bureau.

The case was prosecuted by Assistant U.S. Attorney Suzanne M. Garrison.

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the Department of Homeland Security-Office of the Inspector General Fraud Hotline at 1-866-720-5721, or the FBI Fraud Hotline at 1-800-225-5324.

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Image not available for this document, ID: 0.7.10316.25621-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 5:32 PM
To: USDOJ- Office of Public Affairs
Subject: ROMANIAN NATIONALS INDICTED FOR RUNNING INTERNET SCAM THAT PURPORTED TO BENEFIT HURRICANE KATRINA VICTIMS

Department of Justice

United States Attorney Debra W. Yang
Central District of California

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 6, 2006
WWW.USDOJ.GOV/USAO/CAC

CONTACT: THOM MROZEK
PHONE: (213) 894-6947
FAX: (213) 894-5377

ROMANIAN NATIONALS INDICTED FOR RUNNING INTERNET SCAM THAT PURPORTED TO BENEFIT HURRICANE KATRINA VICTIMS

LOS ANGELES — Two Romanian nationals were indicted today on charges of wire fraud and identity fraud related to a $150,000 Internet scheme that duped victims into believing they were providing assistance to Hurricane Katrina relief organizations.

Teodor Manolache, 29, and Leontin Salageanu, 26, of Northridge, Calif., were named in a 10-count indictment returned today by a federal grand jury in Los Angeles. Salageanu, who was arrested on a criminal complaint on Sept. 19, 2006 and subsequently released on bond, is scheduled to be arraigned on the indictment on Oct. 16, 2006. An arrest warrant has been issued for Manolache, who previously resided in Northridge and may now be in the Miami area.

The indictment alleges that Manolache, Salageanu and others were involved in an Internet scam that defrauded victims across the United States by holding bogus auctions on eBay, Yahoo! Auctions and Autotrader.com. The conspirators posted items for sale that were never intended to be sold, then collected money from the "successful" bidders. The victims were instructed by the online sellers to send their payment by Western Union to circumvent online payment systems. Manolache and Salageanu then went to Western Union locations in the Los Angeles area and, using false identification, collected the victims' money. None of the victims received the items they had purchased.

As part of the scheme, the online sellers often masqueraded as Hurricane Katrina relief organizations.

Between October 2005 and February 2006, the Internet Crime Complaint Center referred to the FBI 56 incidents of Internet fraud in which victim buyers were deceived and defrauded by sellers purporting to be collecting money for Hurricane Katrina victim relief. These fraudulent auctions resulted in losses of more than $150,000. One victim who bid on a motorcycle in an online auction received an email stating: "This is a charity auction in aid of people from New Orleans, which as you well know has been terribly devastated by hurricane

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Katrina. The auction is managed by AMRF Relief Foundation together with Yahoo! Auctions. Thanks to your outpouring of support, a greater humanitarian disaster will be averted."

The 10-count indictment charges Manolache and Salageanu with conspiracy to commit wire fraud and identity fraud. Manolache is also charged with four counts of wire fraud and one count of identity fraud, and Salageanu is charged with three counts of wire fraud and one count of identity fraud. Both defendants are charged with one count of social security fraud stemming from Manolache's use of Salageanu's Social Security number when Manolache applied for work at Prego Restaurant in Beverly Hills. If convicted, the statutory maximum sentences that can be imposed is five years for the conspiracy count, 20 years for each wire fraud count, 10 years for each identity fraud count, and five years for the social security fraud count.

An indictment contains allegations that a defendant has committed a crime. Every defendant is presumed innocent until and unless proven guilty in court.

This case is the result of an investigation by the Federal Bureau of Investigation.

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Image not available for this document, ID: 0.7.10316.25574-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 06, 2006 8:03 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 9 – OCTOBER 13, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, OCTOBER 6, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 9 – OCTOBER 13, 2006

Monday, October 9

Columbus Day Holiday

Tuesday, October 10

Attorney General Alberto R. Gonzales will participate in the following events as part of the President's Conference on School Safety.
National 4-H Youth Conference Center
7100 Connecticut Avenue
Chevy Chase, Maryland
OPEN PRESS

8:40 A.M. EDT The Attorney General will moderate *Panel I: Preventing Violence in Schools*

1:15 P.M. EDT The Attorney General will participate in the closing discussion with President George W. Bush and Secretary of Education Margaret Spellings titled *Working Together to Make Our Schools Safe*.

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or to the Office of Public Affairs at 202-514-2007.

Wednesday, October 11

TIME TBD Diane Stuart, Director of the Office of Violence Against Women, will participate in the opening of the Tampa Family Justice Center.

DOJ_NMG_ 0169329

9309 North Florida Avenue
Suite 109
Tampa, Florida
OPEN PRESS

Press inquiries regarding logistics should be directed to Cynthia Magnuson at 202-514-2007.

Thursday, October 12

12:00 P.M. EDT Solicitor General Paul Clement will deliver remarks before the Atlanta chapter of The Federalist Society regarding the Supreme Court Preview for the 2006 October Term.
Alston & Bird
1180 West Peachtree,
Dining Room (2nd Floor)
Atlanta, Georgia
OPEN PRESS

Press inquiries regarding logistics should be directed to [redacted] of the Federalist Society at [redacted], or to Janet Potter at 202-514-2201.

Friday, October 13

Events TBD

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Image not available for this document, ID: 0.7.10316.25570-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, October 6, 2006 9:04 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 6, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TUESDAY'S EXPECTED NEWS STORIES:

Media Continues to Inquire on Foley Matter (OPA)
The Office of Public Affairs continued to receive media inquiries today regarding the investigation of former Congressman Mark Foley.

Manhattan Telecommunications Installation Company Executive Pleads Guilty To Conspiracy Charge (Antitrust)
A Manhattan telecommunications installation company executive pleaded guilty today to charges relating to his role in a conspiracy involving kickbacks, bribery, and false statements on income tax returns for the supply of telecommunications equipment and services to Mount Sinai School of Medicine and the Mount Sinai Hospital (Mount Sinai), the Department of Justice announced. Timothy O'Leary of Wantagh, N.Y., pleaded guilty today in U.S. District Court in Manhattan to conspiring to commit commercial bribery relating to his payment of a total of approximately $154,000 in kickbacks to two Mount Sinai employees. O'Leary gave the kickbacks to Anthony Spadola and Stephen Cogliano in exchange for Mount Sinai telecommunications installation contracts. The conspiracy took place from approximately January 2001 until September 2003. O'Leary, a vice president of Broadcom Voice & Data Inc. (Broadcom), also pleaded guilty to mail fraud and to making false and fraudulent statements on U.S. income tax returns.

Talking Points:

- This type of scheme deprives companies of their right to the honest services of their employees and to competitive prices.

- Today's plea affirms the Department's commitment to protect competition for American businesses and consumers.

Promoters Sentenced to Prison for Tax Fraud Scheme (Tax)
A federal judge in San Diego sentenced Susan E. O'Brien, a professional tax preparer who operated The O'Brien Group, to 10 years and five months in prison. As part of the sentence, she will also serve a three-year term of supervised release and pay restitution in the amount of $113,179. Judge M. James Lorenz also sentenced co-defendants Robert Richard Evans and

William Dean Cook to prison terms of 78 and 24 months, respectively. Both Evans and Cook will each serve a three-year term of supervised release.

International Terrorism Victim Expense Reimbursement Program Now Accepting Applications (Office of Justice Programs)
The Department of Justice's Office of Justice Programs (OJP) today will begin accepting applications for the International Terrorism Victim Expense Reimbursement Program (ITVERP). The ITVERP was created under the Victims of Trafficking and Violence Protection Act and is administered by OJP's Office for Victims of Crime. The ITVERP provides reimbursement to qualifying victims who are killed or suffer direct physical or emotional injury as a result of international terrorism occurring outside the United States on or after December 21, 1988.

Illinois Woman Pleads Guilty To Hurricane Katrina Fraud, Aggravated Identity Theft and Public Benefit Frauds (USAO–Southern District of Illinois)
Tina Marie Winston, a.k.a. Tina Marie Gilmore, of Belleville, Ill., today entered a plea of guilty to four counts of mail fraud, three counts of making false statements, two counts of concealment of material information from the Social Security Administration, and single counts of misuse of a Social Security number and aggravated identity theft, announced Acting United States Attorney Randy G. Massey of the Southern District of Illinois. The convictions related to Winston's commission of Hurricane Katrina fraud and other public benefit frauds. At the time of her plea, Winston admitted that in September 2005, she filed an Internet application for Hurricane Katrina disaster assistance using a false Social Security number. Winston falsely represented to the Federal Emergency Management Agency (FEMA) that her home in New Orleans was damaged, that she suffered loss of personal property, that she had lost two children in the disaster, and that she needed money to pay for the memorial service.

ATF Investigation Results in 15-1/2-year Sentence for Armed Career Criminal (ATF)
Leighwyn McClendon, of West Palm Beach, was sentenced today to 188 months in federal prison followed by five years of supervised release by a U.S. District Judge in West Palm Beach, Fla. The sentence stems from the January 2006 arrest of McClendon by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and West Palm Beach Police for being a convicted felon in possession of a firearm, ammunition, and narcotics. McClendon, a local street gang member, received the lengthy sentence because his seven prior felony convictions qualified him for enhanced sentencing under the Federal Armed Career Criminal Statute. McClendon's prior felony convictions include one for aggravated assault with a firearm and possession of a firearm by a convicted felon; two for possession of cocaine with intent to sell; two for sale of cocaine; one for possession of cocaine; and one for sale of marijuana.

ATF Defendant Convicted on Federal Firearms Charges (ATF)
A U.S. District Court jury in Orlando, Fla., convicted Robert Tim Martin today on two counts of possession of a firearm by a convicted felon. Martin was arrested January 27 when he returned to an Orange County firearms dealer to repair a second handgun; he had brought in a semiautomatic handgun for repair two days earlier. Sales clerks at the gun dealer noticed he was wearing an electronic ankle monitor and called police. The case was investigated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Orange County Sheriff's Office, the U.S. Attorney for the Middle District of Florida and the State Attorney's Office for the Ninth Judicial Circuit as

part of Project Safe Neighborhoods. Martin, whose sentencing is scheduled for Jan. 3, faces a minimum mandatory prison term prison of 15 years up to life, a $250,000 fine, supervised release of not more than five years, and $100 special assessment.

Romanian Nationals Indicted for Running Internet Scam that Purported to Benefit Hurricane Katrina Victims (USAO–Middle District of California)
Two Romanian nationals were indicted today on charges of wire fraud and identity fraud related to a $150,000 Internet scheme that duped victims into believing they were providing assistance to Hurricane Katrina relief organizations. Teodor Manolache and Leontin Salageanu, of Northridge, Calif., were named in a 10-count indictment returned today by a federal grand jury in Los Angeles. Salageanu, who was arrested on a criminal complaint on Sept. 19, 2006 and subsequently released on bond, is scheduled to be arraigned on the indictment on Oct. 16, 2006. An arrest warrant has been issued for Manolache, who previously resided in Northridge and may now be in the Miami area.

FBI Supervisory Special Agent Interviewed on Federal News Radio (FBI)
Today, Mary Ellen O'Toole, a Supervisory Special Agent in Behavioral Analysis Unit, was interviewed on Federal News Radio during *Federal Drive* regarding school violence.

***60 Minutes* to Air Segment on the Terrorist Screening Center (FBI)**
On Sunday, October 8, the CBS news magazine *60 Minutes* will air a segment regarding the Terrorist Screening Center and the No-Fly List.

Media Publications to Public Stories on Five-Year Anniversary of 9/11 (FBI)
On Tuesday, October 10, *The New York Times* and the PBS news magazine *Frontline* are expected to run companion stories regarding whether America is safer five years after the attacks on Sept. 11, 2001. The pieces may include an analysis of terrorism cases such as Lodi, as well as an evaluation of the FBI's transformation. Deputy Attorney General Paul J. McNulty participated in an interview with *Frontline* in preparation for the piece.

TUESDAY'S EXPECTED EVENTS/RELEASES:

	Attorney General Alberto R. Gonzales will participate in the following events as part of the President's Conference on School Safety. National 4-H Youth Conference Center 7100 Connecticut Avenue Chevy Chase, Maryland **OPEN PRESS**
8:40 A.M. EDT	The Attorney General will moderate *Panel I: Preventing Violence in Schools*
1:15 P.M. EDT	The Attorney General will participate in the closing discussion with President George W. Bush and Secretary of Education Margaret Spellings titled *Working Together to Make Our Schools Safe*.

Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or to the Office of Public Affairs at 202-514-2007.

Amber.JMD

From: Amber.JMD
Sent: Saturday, October 7, 2006 10:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Dierks, AR

From: AmberAlert-DOJ
Sent: Saturday, October 07, 2006 10:01:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Dierks, AR
Auto forwarded by a Rule

AMBER ALERT: [redacted]
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2362

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Monday, October 09, 2006 12:00 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN THE PRESIDENT'S CONFERENCE ON SCHOOL SAFETY

Department of Justice

FOR PLANNING PURPOSE ONLY
MONDAY, OCTOBER 9, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO PARTICIPATE IN THE PRESIDENT'S CONFERENCE ON SCHOOL SAFETY

WASHINGTON – Attorney General Alberto R. Gonzales and other government officials will participate in the President's Conference on School Safety beginning **TUESDAY, OCTOBER 10, 2006 at 8:40 A.M. EDT.**

PANEL I: PREVENTING VIOLENCE IN SCHOOLS

WHO: Attorney General Alberto R. Gonzales

WHEN: **8:40 A.M. EDT**
TUESDAY, OCTOBER 10, 2006

WHERE: National 4-H Youth Conference Center
7100 Connecticut Avenue
Chevy Chase, Maryland
OPEN PRESS

NOTE: **For ALL sessions, media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or the Office of Public Affairs at 202-514-2007.

PANEL II: PREPARED SCHOOLS AND COMMUNITIES ARE SAFER

WHO: Secretary of Education Margaret Spellings

DOJ_NMG_ 0169338

WHEN: **9:50 A.M. EDT**
TUESDAY, OCTOBER 10, 2006

PANEL III: HELPING COMMUNITIES HEAL & RECOVER

WHO: Secretary of Education Margaret Spellings

WHEN: **12:00 P.M. EDT**
TUESDAY, OCTOBER 10, 2006

CLOSING DISCUSSION: WORKING TOGETHER TO MAKE OUR SCHOOLS SAFE

WHO: President George W. Bush
Attorney General Alberto R. Gonzales
Secretary of Education Margaret Spellings

WHEN: **1:15 P.M. EDT**
TUSDAY, OCTOBER 10, 2006

06-687 .

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Image not available for this document, ID: 0.7.10316.25546-000002

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, October 10, 2006 8:40 AM
To:	USDOJ- Office of Public Affairs
Subject:	SCHOOL SAFETY RESOURCES FOR PARENTS, SCHOOLS, LAW ENFORCEMENT OFFICIALS, AND COMMUNITIES
Importance:	Low

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release
October 10, 2006

School Safety Resources For Parents, Schools, Law Enforcement Officials, And Communities

To Further The Goals Of The Conference On School Safety, The Following Lists Some Existing Resources For Parents, Schools, Law Enforcement Officials, And Communities. These resources deal with helping schools and communities prepare for and prevent school violence, and cope with and respond to instances of violence. The list also includes statistics and research on school safety.

Prevention And Preparedness

Promising Practices In School Emergency Management. Examples of emergency response plans implemented by school districts and States can be accessed online:

* Fairfax County Public Schools (Fairfax, VA)

http://www.fcps.edu/emergencyplan/ <http://www.fcps.edu/emergencyplan/>

* Montgomery County Public Schools (Rockville, MD)

http://www.mcps.k12.md.us/info/emergency/
<http://www.mcps.k12.md.us/info/emergency/>

* North Carolina's Critical Incident Response Kit Project

http://www.ncdjjdp.org/cpsv/cirk/cirk.htm
<http://www.ncdjjdp.org/cpsv/cirk/cirk.htm>

U.S. Department Of Education's Office Of Safe And Drug-Free Schools (OSDFS) Emergency Planning Website. This site offers a list of crisis training resources, including information about the Emergency Response and Crisis Management Plan discretionary grant program and valuable resources for addressing all phases of crisis planning. It can be accessed at: http://www.ed.gov/emergencyplan.

U.S. Department Of Justice's Office Of Justice Programs (OJP) Safer Schools Website. This site offers a list of prevention and response programs and training resources, including information about discretionary grant programs and other valuable resources for addressing all aspects of school safety. It can be accessed at:
http://www.ojp.usdoj.gov/topics/saferschools.htm
<http://www.ojp.usdoj.gov/topics/saferschools.htm> .

The Final Report And Findings Of The Safe School Initiative:
Implications For The Prevention Of School Attacks In The United States.
Following the attack at Columbine High School, the U.S. Secret Service and the U.S. Department of Education launched the Safe School Initiative, an extensive examination of 37 incidents of targeted school shootings and school attacks that have occurred in the U.S. The Safe School Initiative's final report details how the two agencies studied school-based attacks and what they found. It is available at:
http://www.ed.gov/admins/lead/safety/emergencyplan/index.html.

Threat Assessment In Schools: A Guide To Managing Threatening Situations And To Creating Safe School Climates. The companion to the Safe School Initiative's final report, this guide sets forth a process for identifying, assessing, and managing students who may pose a threat of targeted violence in schools. It is intended for use by school personnel, law enforcement officials, and others with protective responsibilities in our Nation's schools. The guide is available at:
http://www.ed.gov/admins/lead/safety/emergencyplan/index.html.

Office Of Community Oriented Policing Services (COPS) School Safety Package. The COPS School Safety Package addresses issues such as developing a successful school safety program and emergency response plan; assessing and reducing gang activity in your community; effective responses to

reducing bullying in schools; responding to bomb threats against schools; community based approaches to reducing underage drinking; dealing with disorderly youth who congregate in public places; preventing school vandalism and break ins; and gun violence among youth.
More information is available at:
http://www.cops.usdoj.gov/Default.asp?Item=140.

Practical Information On Crisis Planning: A Guide For Communities And Schools. The U.S. Department of Education has developed this guide to provide schools and their communities with a general introduction to crisis management as it applies to schools and basic guidelines for developing school crisis management plans. The guide is available at:
http://www.ed.gov/admins/lead/safety/emergencyplan/crisisplanning.pdf.

Emergency Response And Crisis Management Grants. The purpose of the U.S. Department of Education's Emergency Response and Crisis Management discretionary grant program is to provide funds for Local Education Agencies (LEAs) to improve and strengthen their emergency response plans. Information is available at:
http://www.ed.gov/programs/dvpemergencyresponse/index.html.

Emergency Response And Crisis Management Technical Assistance (TA) Center Website. The ERCM TA Center's primary goal is to support schools and school districts in crisis management, including the development and implementation of comprehensive emergency and crisis response plans.
The website offers resources such as guidance documents, web-based training sessions, updated information on the Department of Education's ERCM discretionary grant program, and newsletters addressing key issues.
The site can be accessed at www.ercm.org <http://www.ercm.org/> .

Gang Resistance Education And Training (G.R.E.A.T.). The G.R.E.A.T.
Program, sponsored by DOJ's Bureau of Justice Assistance, is a school-based, law enforcement officer-instructed classroom curriculum.
The program's primary objective is prevention, and it is intended as an immunization against delinquency, youth violence, and gang membership.
Five regional training centers provide training to sworn law enforcement officers to teach the G.R.E.A.T. curriculum in elementary and middle schools across the country. More information is available at:
http://www.great-online.org/.

American Red Cross Masters Of Disaster Curriculum. The Masters of Disaster Curriculum Kit contains ready-to-go lesson plans, activities, and demonstrations on disaster-related topics that teachers can incorporate within core subject areas. While strengthening students' core academic skills in science, math, social studies, and language arts, the Masters of Disaster curriculum educates them about

hazards that cause injury, death, and damage in the United States. The kit is available at: http://www.redcross.org/disaster/masters/.

The School Shooter: A Threat Assessment Perspective. Published by the FBI, this resource presents a systematic procedure for threat assessment and intervention designed to be used by educators, mental health professionals, and law enforcement agencies. It is available at: http://www.fbi.gov/publications/school/school2.pdf.

Bomb Threat Response: An Interactive Planning Tool For Schools. The Bomb Threat CD-ROM is a free interactive planning tool for schools that includes staff training presentations and implementation resources. It focuses on providing a flexible process that will work for any school while ensuring that each school creates an effective plan tailored to its situation. The CD-ROM can be requested at: http://www.threatplan.org <http://www.threatplan.org/> .

Conflict Resolution For School Personnel: An Interactive School Training Tool. This interactive CD-ROM from the U.S. Department of Justice's National Institute of Justice is intended to aid school personnel in their responses to potentially violent situations. Five modules - anger, threats, attacks with weapons, suicide, and weapons on campus - are broken down into 12 didactic tutorials and 14 interactive scenarios.
The CD-ROM can be ordered at:
http://puborder.ncjrs.org/Content/search.asp.

School Crime Operations Package (School COP). The School Crime Operations Package (School COP) is a free software application for entering, analyzing, and mapping incidents that occur in and around schools. It enables a school or school district to enter, analyze, and map incidents, including school rule violations and crimes that occur in and around schools. School COP can include incident data from a single school or a school district. The software is available at:
http://www.schoolcopsoftware.com/.

COPS Secure Our Schools (SOS) Initiative. The Secure Our Schools (SOS) Initiative, administered by the Department of Justice's Community Oriented Policing Services (COPS), addresses a variety of existing and emerging problems relating to school security. SOS grants help cover the cost of security measures such as the placement and use of metal detectors, locks, lighting, and other deterrent measures; security assessments; security training for students and personnel; coordination with local law enforcement; and other measures that could significantly increase the school's security. More information may be accessed at:
http://www.ojp.usdoj.gov/topics/saferschools.htm.

COPS Safe Schools Initiative (SSI). SSI grants help State and local agencies with delinquency

prevention, community planning and development, school safety resources, and technology development.
Funding is aimed at preventing violence in public schools and supporting the assignment of officers to work in collaboration with schools and community-based organizations to address the threat of terrorism, crime, disorder, gangs, and drug activities. More information may be accessed at: http://www.ojp.usdoj.gov/topics/saferschools.htm.

National Institute Of Justice (NIJ) School Safety Technology Development. NIJ, an agency of the U.S. Department of Justice, develops technology to support school resource officers and critical incident response through its School Safety Technology portfolio. NIJ provides technology assistance and guide publications to schools to help them assess response plans, proactively improve security, and procure appropriate technologies. More information is available at:
http://www.ojp.usdoj.gov/nij/topics/schools/technology.htm#needsassessme
nt.

Advanced Law Enforcement Rapid Response Training. ALERRT is designed to teach patrol officers to safely and effectively respond to, address, and stop an active shooter. ALERRT was developed in response to situations such as the Columbine High School shooting and teaches officers in active shooter versus barricade/hostage situations, tactical team movements, low light techniques, building approaches, and related tactics. More information on this program is available at: http://www.alerrt.com/.

Helping America's Youth Initiative. Helping America's Youth is a nationwide effort to raise awareness about the challenges facing our youth, particularly at-risk boys, and to motivate caring adults to connect with youth in three key areas: family, school, and community.
The Community Guide to Helping America's Youth is an on-line resource to help communities assess their needs and resources and link them to effective programs to help youth in their neighborhoods and towns. The online tool helps determine what works best in order to make positive differences in children's lives. For more information on the online tool and how caring adults can get involved in helping young people, visit www.helpingamericasyouth.gov <outbind://27/www.helpingamericasyouth.gov> .

Hamilton Fish Institute (HFI). The Hamilton Fish Institute on School and Community Violence is a national resource for the research and development of school violence prevention strategies. HFI offers training and technical assistance to build resources and encourage program development and enhancement within the areas of school and community safety. More information is available at: http://hamfish.org/cms/ <http://hamfish.org/cms/> .

Youth Crime Stoppers. This prevention program involves students in a "Neighborhood Watch" capacity within the school setting where students act as the eyes and ears of law enforcement and school officials. This proactive strategy has a formal curriculum and training component and is being

officials. This proactive strategy has a formal curriculum and training component and is being implemented successfully in school districts around the country.
This initiative is part of the International Crime Stoppers. More information is available at: http://www.c-s-i.org/index.php.

Teens, Crime, And The Community Initiative. The Teens, Crime, and the Community (TCC) initiative has motivated more than one million young people to create safer schools and neighborhoods. The program helps teens understand how crime affects them and their families, friends, and communities, and it involves them in crime prevention projects to help make their communities safer and more vital. More information is available at: http://www.ncpc.org/programs/tcc/.

Montana Safe Schools Project. Operated under The University of Montana's Division of Educational Research and Service, the Montana Safe Schools project provides extensive outreach, training, research and professional development services to schools and communities across Montana and throughout the United States. More information on the project is available at: http://www.umders.org/projects.aspx?projectID=62&id=281.

National Clearinghouse For Educational Facilities. The National Clearinghouse for Educational Facilities (NCEF) provides information on planning, designing, funding, building, improving, and maintaining safe, healthy, high performance schools. NCEF's website is located at: http://www.edfacilities.org/an/index.cfm.

Council For Educational Facilities Planners (CEFPI). CEFPI is a professional association committed to facilitating creative and responsible planning, design, construction, and renovation of schools and colleges, which will provide the most effective learning environments for students of all ages. CEFPI provides a network of experts and specialists on topics critical to effective educational facility planning. More information is available at:
http://www.cefpi.org/.

Ready Kids Website. The Ready Kids website, sponsored by the U.S.
Department of Homeland Security, features age-appropriate, step-by-step instructions on what families can do to be better prepared for natural disasters and other emergencies and the role kids can play in this effort. The site can be accessed at:
http://www.ready.gov/kids/home.html.

The National Center For Disaster Preparedness. The National Center For Disaster Preparedness is an academically-based resource center based out of Columbia University's Mailman School of Public Health dedicated to the study, analysis, and enhancement of the Nation's ability to prepare for and respond to major disasters, including terrorism. The Center has posted school preparedness resources

on their website at:
http://www.ncdp.mailman.columbia.edu/program_school.htm.

School Violence Resource Center. The goal of the School Violence Resource Center is to help reduce violence and violence-related behavior in American schools. Resources available include fact sheets on school violence and prevention issues, training for School Resource Officers, and flip charts designed to serve as a quick reference for school administrators and teachers on how to react to school emergencies, including student violence, student injuries, child abduction, fire, and natural disasters. More information is available at:
http://www.svrc.net/.

Community Crisis Preparedness Workshop (CCPW). Developed in cooperation with the School Violence Resource Center, the CCPW is designed to assist rural communities/counties in preparing and implementing strategic crisis management plans that can address a crisis event in schools or communities based on a formal collaboration of service providers. More information is available at:
http://www.svrc.net/CCPW.htm.

Coping And Response

A Guide For Intermediate And Long-Term Mental Health Services After School-Related Violent Events. The Substance Abuse and Mental Health Services Agency at the U.S. Department of Health and Human Services offers this guide outlining the roles of school-based service providers - including teachers, school counselors, school psychologists, social workers, and school nurses - in responding to the mental health needs of students after school-related violent events. The guide is available at:
http://mentalhealth.samhsa.gov/publications/allpubs/NMH03-0151/

Project School Emergency Response To Violence (SERV) Grants. This program, administered by the U.S. Department of Education, funds short-term and long-term education-related services for Local Educational Agencies to help them recover from a violent or traumatic event that disrupts the learning environment. Immediate services assistance covers up to 60 days from the date of the incident. Extended services assistance covers up to one year from the incident.
Information is available at:
http://www.ed.gov/programs/dvppserv/index.html.

Tips For Helping Students Recovering From Traumatic Events. This brochure provides practical information for parents and students coping with the aftermath of a natural disaster or other school-related incident, as well as teachers, coaches, school administrators and others who are helping these

related incident, as well as teachers, coaches, school administrators and others who are helping those affected. It is available at:
http://www.ed.gov/parents/academic/help/recovering/index.html.

Reactions And Guidelines For Children Following Trauma/Disaster.
Compiled by the Department of Pediatrics at the

University of Oklahoma Health Sciences Center, this brief guide outlines what can be expected from students who have experienced a trauma and what teachers and parents can do to help children cope. It is available at: http://www.apa.org/practice/ptguidelines.html.

The Three R's For Dealing With Trauma In Schools: Readiness, Response, & Recovery. This comprehensive training package was produced by the U.S.
Department of Education's Office of Safe and Drug-Free Schools, Harvard Public School of Health, The Prevention Institute, and the Education Development Center's Health and Human Development Programs. It is available online, along with companion materials and tools at:
http://www.walcoff.com/prevention/.

National Center For Children Exposed to Violence. The National Center for Children Exposed to Violence at the Yale Child Study Center works to increase the capacity of individuals and communities to reduce the incidence of violence on children and families; to train and support the professionals who provide intervention and treatment to children and families affected by violence; and to increase professional and public awareness of the effects of violence on children, families, communities and society. More information is available at: http://www.nccev.org/.

School Crisis Response Initiative. This bulletin describes an organizational model for school preparedness and effective responses to crises. Developed by the National Center for Children Exposed to Violence at the Yale Child Study Center, the School Crisis Response Initiative promotes specific training for school personnel as well as interested community members so they can respond more effectively to the needs of children after a crisis. The bulletin is available at:
http://www.ovc.gov/publications/bulletins/schoolcrisis/welcome.html.

Research And Statistics

Youth Violence: A Report Of The Surgeon General. To address the troubling presence of violence in the lives of U.S. youths, the Surgeon General developed this report on youth violence, with a particular focus on the scope of the problem, its causes, and how to prevent it. The report is available at:
http://www.surgeongeneral.gov/library/youthviolence/.

Indicators Of School Crime And Safety, 2005. A joint effort by the Bureau of Justice Statistics and the National Center for Education Statistics, this annual report examines crime occurring in school as well as on the way to and from school. It also provides the most current detailed statistical information on the nature of crime in schools, school environments, and responses to violence and crime at school. It is available at:
http://nces.ed.gov/programs/crimeindicators/.

# # #

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, October 10, 2006 8:41 AM
To:	USDOJ- Office of Public Affairs
Subject:	FACT SHEET: CONFERENCE ON SCHOOL SAFETY
Importance:	Low

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release October 10, 2006

Conference On School Safety

"Our schoolchildren should never fear [for] their safety when they enter into a classroom."

â?? President George W. Bush, 10/3/06

Today's Conference On School Safety Will Help Empower Communities To Keep Our Children Safe. Recently, America experienced tragic school shootings in Colorado, Wisconsin, and Pennsylvania, and threats of violence that locked down or closed schools in many other States. In response, President Bush asked Attorney General Alberto Gonzales and Education Secretary Margaret Spellings to convene a meeting of leading experts and stakeholders to discuss how Federal, State, and local governments can work together with schools, communities, and families to help ensure our schools are safe places for students to learn. The conference is taking place at the National 4-H Youth Conference Center in Chevy Chase, Maryland.

The Conference Will Bring Together Experts, Law Enforcement Officials, Schools, Communities, And Families To:

A· Highlight best practices for making schools safe;

Â· Share lessons learned from prior incidents of school violence; and

Â· Bring together resources and experts on how to make schools safer and help communities and families recover from school tragedies.

Panel I: Preventing Violence In Schools

Moderated By Attorney General Gonzales, Panel I Will Focus On Examining The Scope Of The School Violence Problem And Discussing Concrete Steps To Prevent Crime And Violence. Law enforcement has already learned many lessons from prior instances of school violence, such as the tragic Columbine shootings. The goal of this "best practices" session is to share practical ideas and solutions from law enforcement and security experts to help safeguard our schools from external and internal threats. The panel discussion will focus specifically on facility security, threat assessments, specialized enforcement expertise, and law enforcement community outreach.

Ã? Panel I Participants: Attorney General Alberto Gonzales, Moderator

Â· Jeffery Dawsy, Sheriff, Citrus County Sheriffâ??s Office (Beverly Hills, FL)

Â· Delbert S. Elliott, Ph.D., Director of the Center for the Study and Prevention of Violence at the University of Colorado (Boulder, CO)

Â· Thomas Kube, Executive Director and CEO, Council of Educational Facility Planners (Scottsdale, AZ)

Â· Georgeann C. Rooney, Threat Assessment Specialist, U.S. Secret Service National Threat Assessment Center (Arlington, VA)

Â· Fred Wegener, Sherriff (Park County, CO)

Â· Gregory A. White, U.S. Attorney, Northern District of Ohio (North Ridgeville, OH)

Panel II: Prepared Schools And Communities Are Safer

Moderated By Secretary Spellings, Panel II Will Focus On Steps Schools And Communities Can Take To Help Prevent Future Tragedies. Schools are generally safe places, but they can be made safer. The panel will discuss how school administrators and teachers, parents, students, law enforcement, and community groups can best coordinate their efforts to ensure their schools are prepared and safe. The panel will highlight effective prevention and intervention practices, model programs, and crisis plans that could be adapted by communities and districts.

Ã? Panel II Participants: Education Secretary Margaret Spellings, Moderator

Â· Frederick Ellis, Director, Office of Safety & Security, Fairfax County Public Schools (Fairfax, VA)

Â· James Moore, Founder and President, WatchDOGS (Springhill, AR)

Â· The Honorable Jane Norton, Lieutenant Governor, CO (Denver, CO)

Â· Chiarasay E. â??Chiaraâ?? Perkins, Student, Walton Senior High School and President, Youth Crime Watch of Walton County (DeFuniak Springs, FL)

Â· Dr. George Sugai, Professor and Neag Endowed Chair, Neag School of Education University of Connecticut (Storrs, CT) Patrick D. Weil, Principal, Valparaiso High School (Valparaiso, IN)

Panel III: Helping Communities Heal And Recover

Moderated By Secretary Spellings, Panel III Will Focus On The Short- And Long-Term Needs Of Schools And Communities Following Traumatic Events. The immediate goal in helping schools and communities recover from trauma is returning to a normal routine, but schools must also focus on long-term planning, including addressing post-traumatic stress and preparing for high-stress events such as anniversaries. This panel will highlight effective strategies, organizations, and resources that schools and communities can use for additional help in recovering from traumatic events. Mrs. Laura Bush will deliver brief remarks prior to the start of this panel discussion.

Ã? Panel III Participants: Secretary Spellings, Moderator

Â· Jamie B. Baggett, Teacher, Stewart County High School (Dover, TN)

Â· Betty Alvarez Ham, Founder and President, City Impact (Ventura, CA)

Â· Dr. Larry Macaluso, Superintendent, Red Lion School District (Red Lion, PA)

Â· Cathy Paine, Special Programs Administrator, Springfield School District (Springfield, OR)

Â· Craig Scott, Columbine High School Survivor (Aurora, CO)

Â· Marleen Wong, Ph.D., Director of Crisis Counseling and Intervention Services, Los Angeles Unified School District and Director of the Trauma Services Adaptation Center for Schools and Communities (Los Angeles, CA)

Closing Discussion: Working Together To Make Our Schools Safe

Moderated By Attorney General Gonzales And Secretary Spellings, The Closing Discussion Will Be A Summary Discussion Between President Bush And A Representative Group Of Panel Participants Who Will Share Lessons Learned And Concrete Ways Schools And Communities Can Work Together After The Conference.

# # #

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 9:10 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO ANNOUNCE FORMATION OF PROCUREMENT FRAUD TASK FORCE

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, OCTOBER 10, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO ANNOUNCE FORMATION OF PROCUREMENT FRAUD TASK FORCE

WASHINGTON – Deputy Attorney General Paul J. McNulty and other government officials will hold a press conference announcing the formation of a national Procurement Fraud Task Force **TUESDAY, OCTOBER 10, 2006 at 12:00 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Other Officials TBD

WHEN: **12:00 P.M. EDT**
TUESDAY, OCTOBER 10, 2006

WHERE: Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

NOTE: **MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

06-690

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DOJ_NMG_ 0169356

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Image not available for this document, ID: 0.7.10316.25430-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 9:50 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 10, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, October 10, 2006

ATTORNEY GENERAL

1:15 P.M. EDT Attorney General Alberto R. Gonzales and other government officials will participate in a discussion with President Bush on *Working Together to Make Our Schools Safe* at the President's Conference on School Safety.
National 4-H Youth Conference Center
7100 Connecticut Avenue
Chevy Chase, Maryland
OPEN PRESS

Media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS. Press inquiries regarding logistics should be directed to Theresa Pagliocca at 202-532-3486, or the Office of Public Affairs at 202-514-2007.

PRESS RELEASES

The Office of Justice Programs will issue a release on a grant-funding matter. (Peterson)

EVENTS/HEARINGS

12:00 P.M. EDT Deputy Attorney General Paul J. McNulty and other government officials will hold a press conference announcing the formation of a national Procurement Fraud Task Force.
Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.

DOJ_NMG_ 0169359

OPEN PRESS

MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS. All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.25439-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, October 10, 2006 9:57 AM
Subject: JCON BROADCAST, WEEK OF OCTOBER 9, 2006

JCON BROADCAST, WEEK OF OCTOBER 9, 2006

1. **Blood Drive -- October 12, 2006**
2. **Research Classes Offered by Library Staff**

Blood Drive -- October 12, 2006

The American Red Cross will conduct a blood drive from **8:30 a.m. to 2:00 p.m., on Thursday, October 12, 2006, in the Great Hall of the Robert F. Kennedy Main Justice Building**. The American Red Cross is reporting that the local blood supply is well below normal and asks all eligible donors to help save a life by donating blood. Hospitals usually have a three- to five-day supply of blood; however, most hospitals have as little as a half-day supply. A healthy person 18 years or older who weighs more than 110 pounds may be considered for a blood donation.

Please contact your component's recruiter or call Lynn Sutton on 305-8986 to schedule your appointment. Volunteers who donate blood may be granted up to four hours of excused absence for recuperative purposes.

HAVE A HEART! DONATE THE GIFT OF LIFE!

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, October 10, 2006 11:05 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/10/2006 Civil Division News

Class-Action Suit Seeks Release of Detainees

Documents: CIA Warned of Plane Bomb Plot

Judge nixes request to revive L.A. port suit

Lawsuit claims hospital, doctor performed unnecessary heart procedures

Former employee alleges Medicare fraud : Dr. Comfort shoe inserts not approved, he says

Los Angeles Times

Sept. 10. 2006

Class-Action Suit Seeks Release of Detainees

ACLU says U.S. agency is ignoring a Supreme Court ruling against holding immigrants awaiting deportation for more than six months.By Joe Mozingo
Times Staff Writer

October 10, 2006

Years after he was stabbed in the back of the head on a bus, the mob violence and church burnings in his native Indonesia became too much for Raymond Soeoth.

So he and his wife, Cindy, flew to California in 1999 and applied for asylum in the United States, claiming

that as Chinese Christians they had been persecuted by their country's Muslim majority. As their case wended through the courts, Soeoth scraped together a new life in Riverside, working as a home nurse, gas station attendant and Super Shuttle driver.

Within five years, they owned a five-bedroom home in Colton and a cellphone business in a quiet strip mall near UC Riverside.

But that's all gone now. Soeoth's asylum claim was denied, and for two years he has been locked up at the San Pedro Detention Facility on Terminal Island while his appeal winds through the system.

Now, in a class-action lawsuit, the American Civil Liberties Union of Los Angeles charges that Immigration and Customs Enforcement routinely ignores a Supreme Court decision that immigrants cannot be held longer than six months without being given a chance to be freed on bond.

Last week, the civil liberties group asked U.S. District Judge Terry Hatter to order the immediate release of four plaintiffs named in the suit, including Soeoth, 38. Two others were recently released.

"These people have been kept away from their families, their communities and their lives for years … without even a hearing to determine if their prolonged detention is justified," said ACLU staff attorney Ahilan Arulanantham.

One of the plaintiffs, an Ecuadorean man whose 9-year-old daughter is a U.S. citizen, has been detained for nearly four years.

Arulanantham says immigration officials have purposely avoided defending their policy, releasing detainees whose attorneys file court challenges, while hanging on to those without petitions pending.

"We've had about 12 let go …" he said as he opened an e-mail. "Oh, my God, Rudolph Stepanian just got released…. Make that 13."

Stepanian, an Armenian Christian who came to the United States from his native Iran 30 years ago, was the second of the original six plaintiffs in the lawsuit to be released. He had been detained 10 months, even though the government conceded he could not be deported to Iran, according to the lawsuit.

Arulanantham suspects that dozens of immigrants are similarly in limbo in Southern California alone. The ACLU included as plaintiffs unknown detainees in the same circumstances to force the issue to a hearing and prevent the immigration agency from simply releasing named petitioners and moving to dismiss the case as moot.

In 2001, the Supreme Court ruled in Zadvydas vs. Davis that an immigrant awaiting deportation could not be held in detention longer than six months if "there is no significant likelihood of removal in the reasonably foreseeable future." Countries with poor diplomatic relations with the United States generally will not take back deported immigrants.

Virginia Kice, a spokeswoman for the immigration agency, said the ruling does not apply to immigrants who are fighting their deportation. The agency, by law, is required to detain immigrants convicted of certain felonies or considered to be flight risks or threats to public safety or national security, Kice said.

Arulanantham of the ACLU countered that Justice Stephen Breyer's majority opinion applies to a much broader group of immigrants and cited the statement that "indefinite detention of an alien would raise a serious constitutional problem."

As for his clients, he noted that two of them, Ebrahim Mussa and John Rasheed, were not fighting their deportation. The government is prolonging a legal fight by appealing judges' rulings, which ordered them set free because they might be tortured in their homelands, he said.

And two who were released, Mussa and Stepanian, were convicted of crimes, while two in detention, Soeoth and Amadou Lamine Diouf, were not, he said.

Niels Frenzen, director of the USC Law Immigration Clinic, said he doubted that the Supreme Court decision covered all detained immigrants. "I think the court was probably looking at people whose appeals were completed," he said.

However, if the immigration agency "is cutting people loose just because the case is filed," perhaps its lawyers might have concluded the ruling does apply to these immigrants, he added.

All of this might seem arcane. But for Diouf, a Senegalese immigrant, it has meant seeing his wife only through the glass partition of a visitor's booth on Terminal Island for 18 months.

Diouf overstayed a student visa. He was given a date by which he must depart, but got married in the interim to "his longtime American fiancee," according to the lawsuit. He asked his attorney to file a motion to reopen his case. The attorney did not. Diouf was arrested at his home in Hawthorne in March 2005 and has been detained ever since.

Diouf said if he is going to be in detention for 18 more months, he'd rather return to Senegal. "I don't want to be in these conditions for two more years," he said via phone from the facility.

"I was going to depart and come back with the consulate. But my lawyer said it was best to stay and go through the process here."

For the Soeoths, the Christians from Indonesia, the detention has shattered all the progress they made in California. They had to sell their business and house.

Cindy rarely visits Raymond because she is afraid she will be arrested. Raymond, who became a minister in California, works in the kitchen nine hours a day — for a dollar — just to pass the time between her phone calls. "Some people here get depressed, but I try to keep working."

Cindy Soeoth said she thought they were on their way before the arrest. They traveled the country, visiting the Statue of Liberty and the Lincoln Memorial.

"I am just surprised," she said. "We didn't do anything criminal here."

END

AP

October 10, 2006

Documents: CIA Warned of Plane Bomb Plot

By ANDREW O. SELSKY

Associated Press Writer

SAN JUAN, Puerto Rico_An anti-Castro militant now in a Texas jail warned the CIA months before the 1976 bombing of a Cuban airliner that fellow exiles were planning such an attack, according to a newly released U.S. government document.

The document shows that Luis Posada Carriles _ who had worked for the CIA but was cut off by the agency earlier that year _ was secretly telling the CIA that his fellow far-right Cuban exiles opposed to Fidel Castro's communist government were plotting to bring down a commercial jet.

The document does not say what the CIA did with Posada's tip. A CIA spokesman said he had no comment on Monday, a federal holiday.

The CIA had extensive contacts with anti-Castro militants and trained some of them, but has denied involvement in the bombing.

The documents were posted online Thursday by the National Security Archive, an independent research institute at George Washington University that seeks to declassify government files through the Freedom of Information Act.

The Cubana Airlines plane, on a flight from Venezuela to Cuba, blew up shortly after taking off from a stopover in Barbados on Oct. 6, 1976, killing all 73 aboard, including Cuba's Olympic fencing team.

The bombing remains an open wound in Cuba. Weeping relatives of the victims met in a Havana cemetery on Friday, the 30th anniversary of the bombing. They demanded that Posada _ who is now 78 and in a Texas detention center on an immigration violation _ be put on trial.

Venezuelan President Hugo Chavez is seeking the extradition of Posada, a naturalized Venezuelan who served as the country's counterintelligence chief. He accuses the U.S. government of protecting a terrorist.

The National Security Archive's Peter Kornbluh urged the U.S. government to tell everything it knows about Posada.

"Now is the time for the government to come clean on Posada's covert past and his involvement in international terrorism," Kornbluh said. "His victims, the public, and the courts have a right to know."

Separating deception from truth in the intelligence world is notoriously difficult, and the newly released documents contain mixed messages about Posada. Much remains murky.

In a report dated a month after the bombing, then FBI Director Clarence Kelly told Secretary of State Henry Kissinger that a confidential FBI source ascertained the bombing had been planned in Caracas by Posada, Venezuelan intelligence agency official Ricardo Morales Navarrete and Cuban exile Frank Castro, who is not related to the Cuban leader.

Two Venezuelan employees of Posada's private security agency were arrested in Trinidad the day after the bombing, and one of them _ who said he had worked for the CIA _ admitted the two had planted the bomb, documents posted by the National Security Archive show.

Posada trained with the CIA for the 1961 Bay of Pigs invasion and served in the U.S. Army in the early 1960s. In 1965, he allegedly plotted to overthrow the Guatemalan government and blow up a Soviet or Cuban freighter in Mexico, according to the FBI. In 1967, he moved to Venezuela, eventually leading its counterintelligence agency, and was running his own security firm in the mid-1970s.

In 1973, Posada was investigated by the CIA for allegedly smuggling cocaine, but was cleared after he convinced interrogators he was "guilty of only having the wrong kind of friends," a declassified document says. The same document says the CIA "formally terminated" its relationship with him on Feb. 13, 1976.

Yet Posada still contacted the agency.

"After 2/76 contacts with (deleted by censors) were at Posada's own initiative to volunteer information in exchange for assistance U.S. visa for self and family," said the document, an annotated list of still-secret

records on Posada's CIA career that was marked "sanitized."

It tells how Posada contacted the CIA in February 1976 to describe an assassination plot by Orlando Bosch and Frank Castro, two fellow right-wing Cuban exiles, against leftist Andres Pascal Allende, the nephew of slain Chilean President Salvador Allende. Posada worried that his allies would discover he was giving up their secrets.

"Posada concerned that Bosch will blame Posada for leak of plans," the report says. Andres Allende was not assassinated, and it is unclear whether the Cuban exiles ever made an attempt on his life.

Then, four months later, Posada came back to tell of a sinister plot to blow up an airliner.

On June 22, 1976, "Posada again contacts (deleted by censor) reptd info concerning possible exile plans to blow up Cubana Airliner leaving Panama and requested visa assistacne," read the document, filled with typographical errors.

Shortly after, a bomb aboard a Cubana Airlines plane leaving Panama failed to detonate, and the following month, a bomb in a suitcase exploded before being loaded onto a Cubana plane leaving Jamaica, according to a confidential State Department memo previously posted by the National Security Archive.

The day after the Cubana Airlines flight was bombed near Barbados, the CIA tried unsuccessfully to contact Posada, according to the annotated list. Five days later, Posada was arrested in Venezuela. He denied involvement in the bombing and escaped from prison in 1985 before a civilian trial was completed.

Allegations that he masterminded mass murder did not keep U.S. covert operatives from hiring Posada again. Within months, he was delivering weapons to Nicaraguan Contra rebels in an illegal Reagan administration operation. Posada also acknowledged, and then denied, a role in Havana hotel bombings in 1997 that killed a tourist.

And in 2000, Posada was arrested for allegedly plotting to assassinate Castro during a summit in Panama. He was pardoned in 2004 by then Panamanian President Mireya Moscoso.

Posada was detained in Florida in May 2005 for entering the United States illegally. A U.S. immigration judge has ruled that he cannot be sent to Cuba or Venezuela, citing fears that he would be tortured.

END

Daily Breeze (Torrance, CA)

10/10/2006

Judge nixes request to revive L.A. port suit

Case brought by Rancho Palos Verdes accountant alleged that federal funds were wrongly used to build a container terminal.By Matt Krasnowski
Copley News Service

A judge has rejected longtime Port of Los Angeles critic Stanley Mosler's efforts to revive his dismissed whistle-blower lawsuit that alleges that more than $100 million in federal funds were improperly used to support a container terminal on Pier 400.

U.S. District Judge S. James Otero threw out the suit in August, contending that Mosler, a Rancho Palos Verdes accountant, could not serve as his own lawyer in the false-claims act complaint against the city, the port and other parties.

Mosler responded by hiring Beverly Hills attorney Alan Gutman and having Gutman file papers asking Otero to reconsider the dismissal.

Mosler had been representing himself since February 2005, when his previous lawyer withdrew from the case.

In a written court order dated Friday, Otero rejected Mosler's "substitution of counsel" request, writing that Mosler failed to hire a lawyer for 18 months, and Gutman's addition would further delay the case. By rejecting the substitution request, Otero also ruled that he was nixing the request to reconsider his order dismissing the lawsuit.

Mosler "did not seek to add counsel until after the case had already been closed," Otero wrote. "Accordingly, the court determines that (Mosler) unduly delayed in seeking substitution of counsel in this matter."

Mosler said Monday that he plans to appeal the decision to the 9th U.S. Circuit Court of Appeals.

"We hope we can get back to the merits of the case once the 9th Circuit rules on the representation issue," he said. "It's unfortunate that the defendants can get away with fraud because the whistle-blower doesn't have the money to hire an attorney."

Jonathan Diamond, a spokesman for the City Attorney's Office, said that the ruling helps support port officials' arguments that Mosler's allegations had no merit.

"Hopefully, this will put an end to the process," he said.

The city has spent roughly $2 million defending the case, including hiring private law firms to handle the litigation. Port critics have said the price tag is higher.

Officials contended that if Mosler prevailed, the city stood to lose up to $3.6 billion

In his ruling, Otero also states that allowing Gutman to join the case would be unfair to the city and other defendants.

The judge wrote that the defense has worked on the case for a long time and "expended large amounts of public funds in attorneys' fees." But, the judge notes, Mosler "has failed to cooperate with the defendants."

Mosler has not responded to requests to share information with defense lawyers, refused to appear for a deposition and filed papers "that were irrelevant to the matter at hand," the ruling states.

Mosler filed the lawsuit against the port in 2002 under a federal whistle-blower statute and named the United States as a plaintiff. But lawyers for the U.S. Department of Justice and the state attorney general refused to join in the complaint.

The lawsuit alleged that the port misused $108 million to construct Pier 400, a 484-acre container terminal that was originally intended to keep hazardous materials away from residential neighborhoods.

But port officials said they could not force companies to move to the terminal, so they instead negotiated with Danish shipping company Maersk Inc. to use Pier 400.

Maersk and Larry Keller, a former port executive director, were also named as defendants.

END

AP

Sept. 9. 2006

Lawsuit claims hospital, doctor performed unnecessary heart procedures

(Hilton Head Island-AP) October 8, 2006 - A lawsuit filed in federal court against Hilton Head Regional Medical Center and a former cardiologist James D. Johnston alleges the hospital performed hundreds of medically unnecessary heart procedures from 1997 through 2000.

The hospital denies the claims and says the US Justice Department reviewed the case and decided against joining it as a plaintiff.

The suit was filed in September 2005 under federal whistleblower criteria by a former physician who was director of the hospital's vascular laboratory starting in 1997. That means the case is immediately sealed until the government can decide whether to join the suit.

In this case, the government decided against joining.

Hospital spokeswoman Kelly Presnell says that is evidence that the case has no merit.

END

Milwaukee Journal Sentinel

October 10, 2006

Former employee alleges Medicare fraud : Dr. Comfort shoe inserts not approved, he says

Tom Kertscher

Milwaukee Journal Sentinel

Oct. 10--A former executive of a Mequon company that makes shoes and shoe inserts for diabetics has told federal investigators that the company may have defrauded Medicare out of $18 million.

The allegations, contained in documents filed in federal court in Milwaukee, were made by David P. Schlageter, the former chief operating officer of Dr. Comfort. Schlageter made the statements to federal authorities under an agreement in which the information cannot be used against him, the documents show.

In the documents, Schlageter estimates that Medicare paid Dr. Comfort $18 million for shoe inserts that did not meet Medicare manufacturing specifications. Schlageter said the company sold inserts that did not meet the standards yet provided customers with information from Medicare indicating that the inserts had been approved, according to the documents.

Schlageter's statements are recorded in documents that were filed under seal in federal court in March after the FBI served a search warrant at the Dr. Comfort offices, 6314 W. Eastwood Court in Mequon. The documents were unsealed last week.

Patrick Knight, a Milwaukee attorney who represents Dr. Comfort and one of its owners, Rickey Kanter, said the case is being reviewed by the U.S. Attorney's Office but that no arrests have been made and no charges have been filed. He said Dr. Comfort and authorities are trying to determine how many sets of unapproved inserts were sold, and that the company has been cooperating with investigators.

Knight said Schlageter left Dr. Comfort "disgruntled" in January, two months before authorities seized company documents, shoe inserts and other items. He said Schlageter was unhappy with what he was to receive in a sale of a portion of Dr. Comfort and went to work for a competitor.

Schlageter could not be reached for comment.

The court documents said Kanter, 57, of Mequon asked three times during a meeting with federal officials in September 2005 what would happen to a manufacturer that sold unapproved inserts.

END

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 11:06 AM
To: USDOJ- Office of Public Affairs
Subject: UPDATE: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO ANNOUNCE FORMATION OF PROCUREMENT FRAUD TASK FORCE

PRESS CONFERENCE NOW SCHEDULED FOR TODAY, 3:30 P.M.

Department of Justice

FOR PLANNING PURPOSE ONLY
TUESDAY, OCTOBER 10, 2006
WWW.USDOJ.GOV

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

*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO ANNOUNCE FORMATION OF PROCUREMENT FRAUD TASK FORCE

WASHINGTON – Deputy Attorney General Paul J. McNulty and other government officials will hold a press conference announcing the formation of a national Procurement Fraud Task Force **TODAY, OCTOBER 10, 2006 at 3:30 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Other Officials TBD

WHEN: **3:30 P.M. EDT**
TODAY, OCTOBER 10, 2006

WHERE: Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

NOTE: **MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

06-690

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DOJ_NMG_ 0169374

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Image not available for this document, ID: 0.7.10316.25423-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 12:52 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ANNOUNCES OVER $1 MILLION IN AWARDS TO ENFORCE UNDERAGE DRINKING LAWS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE

TUESDAY, OCTOBER 10, 2006

WWW.OJP.USDOJ.GOV

Office of Justic Programs

Contact: Joan LaRocca

(202) 307-0703

DEPARTMENT OF JUSTICE ANNOUNCES OVER $1 MILLION IN AWARDS TO ENFORCE UNDERAGE DRINKING LAWS

WASHINGTON – The Department of Justice's Office of Justice Programs (OJP) today announced awards of more than $1 million to Arizona, California, Hawaii and Montana to enforce state and local underage drinking laws. The awards are made through the Enforcing Underage Drinking Laws Discretionary Program, "Initiative to Reduce Underage Drinking," and focuses on preventing alcohol consumption by underage military personnel.

"Law enforcement must work together with communities to stop the effects of underage drinking," said Regina B. Schofield, Assistant Attorney General for the Office of Justice Programs. "These discretionary awards will enable the communities and military installations affected to end the tragic and unintended consequences of alcohol related deaths, injuries and property damage."

Enforcing Underage Drinking Laws (EUDL) is the only federal initiative directed exclusively toward preventing underage drinking. The 2006 EUDL Discretionary Program focuses on reducing the availability and consumption of alcoholic beverages by underage service personnel on four U.S. Air Force (USAF) bases. Funding will be used to support the development and implementation of comprehensive plans to change base and community policies that support high risk drinking to develop alternative social activities and to involve all affected community groups on and off the base in a collaborative effort to reduce youth access to alcohol.

The 2006 EUDL Discretionary Program is a partnership between OJP's Office of Juvenile Justice and Delinquency Prevention, the USAF, and the National Institutes of Health's National Institute on Alcohol Abuse and Alcoholism (NIAAA), which will independently evaluate this initiative. The states and USAF installations receiving the funding are:

Arizona–Davis-Monthan Air Force Base and Luke Air Force Base	$221,884
California–Beale Air Force Base	$350,000

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Hawaii–Hickam Air Force Base	$350,000
Montana–Malmstrom Air Force Base	$350,000

The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and comprises five component bureaus and an office: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Community Capacity Development Office, which incorporates the Weed and Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at www.ojp.usdoj.gov.

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Image not available for this document, ID: 0.7.10316.25411-000001

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 3:47 PM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ANNOUNCES FORMATION OF NATIONAL PROCUREMENT FRAUD TASK FORCE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 10, 2006
WWW.USDOJ.GOV

DAG
(202) 514-2008
TDD (202) 514-1888

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY ANNOUNCES FORMATION OF NATIONAL PROCUREMENT FRAUD TASK FORCE

WASHINGTON – Deputy Attorney General Paul J. McNulty announced today a new national procurement fraud initiative established by the Justice Department's Criminal Division to promote the early detection, prevention and prosecution of procurement fraud associated with increased contracting activity for national security and other government programs. In partnership with U.S. Attorneys' Offices, the Justice Department's Civil Division, and other federal law enforcement agencies, the Department will form the National Procurement Fraud Task Force, chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division, to intensify the government's detection efforts and to continue prosecuting those who defraud taxpayers.

Among others, the federal agencies that will participate in the Task Force include the FBI, the Special Inspector General for Iraq Reconstruction and the Offices of Inspectors General (OIGs) for the Department of Defense, CIA, NASA, General Services Administration, the Civil and Criminal Divisions of the Department of Justice, Department of Homeland Security, Department of Energy, Department of Veterans Affairs, Nuclear Regulatory Commission, Small Business Administration, Social Security Administration, U.S. Postal Service, the Office of the Director of National Intelligence, National Reconnaissance Office, Department of State, Department of Transportation, Department of Treasury, Department of Housing and Urban Development, Department of Interior, and Department of Agriculture. In addition, all defense-related investigative agencies – Defense Criminal Investigative Service, Naval Criminal Investigative Service, U.S. Army- Criminal Investigative Command, and the Air Force Office of Special Investigations – will be full participants.

"Procurement fraud cheats American taxpayers and harms the government's efforts to obtain the goods and services needed for its mission. At a time of heightened concern for our nation's security, every tax dollar is precious," said Deputy Attorney General McNulty. We simply cannot tolerate fraud and abuse in government contracting. This task force is modeled after the Department's highly successful efforts in combating fraud in the aftermath of Hurricane Katrina and an effort I initiated in the U.S. Attorney's Office in the Eastern District of Virginia."

The Task Force will strengthen the government's efforts to fight procurement fraud, focusing resources at all levels of government to increase criminal enforcement in areas of procurement fraud to have the most

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substantial impact. These areas include defective pricing or other irregularities in the pricing and formation of contracts, product substitution, misuse of classified and procurement sensitive information, false claims, grant fraud, labor mischarging, accounting fraud, fraud involving foreign military sales, ethics and conflict of interest violations, and public corruption associated with procurement fraud.

"This initiative provides a structure for increased coordination among federal law enforcement to focus on its mission to detect and combat procurement fraud," said Assistant Attorney General Fisher. "The public needs to have faith in the integrity of the procurement system and know that anyone who is cheating the system the system will be held accountable."

The Task Force will focus its efforts on the following priorities:

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- Identification and prosecution of viable procurement fraud cases through coordination with U.S. Attorneys' Offices and OIG field offices;

- Ensuring adequate resources are available to successfully investigate and prosecute procurement fraud cases;

- Standardization of "best practices" (*e.g.*, recruitment of sources, consensual calls, and witness interviews);

- Better coordination between agency auditors and investigators to ensure that red flags and badges of fraud are promptly reported to criminal investigators for follow-up investigation;

- Better identification and resolution of investigative and coordination issues as they arise in joint cases (*e.g.*, audit support and expanded efforts to share information);

- Specialized training for OIG agents and auditors on the development and prosecution of procurement fraud cases;

- Examination of existing laws and policies to determine if they need to be strengthened or changed;

- Development of strategies encouraging agencies to refer more cases for civil and criminal prosecution; and

- Better coordination of targeted civil, regulatory and criminal enforcement actions.

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06-688

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Image not available for this document, ID: 0.7.10316.25390-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 3:48 PM
To: USDOJ- Office of Public Affairs
Subject: ORACLE AGREES TO PAY $98.5 MILLION FOR FALSE PRICING INFORMATION PROVIDED BY PEOPLESOFT TO OBTAIN GOVERNMENT CONTRACT

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 10, 2006
WWW.USDOJ.GOV

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(202) 514-2008
TDD (202) 514-1888

ORACLE AGREES TO PAY $98.5 MILLION FOR FALSE PRICING INFORMATION PROVIDED BY PEOPLESOFT TO OBTAIN GOVERNMENT CONTRACT

Firm Allegedly Misrepresented Its Discounting Practices

WASHINGTON – Oracle Corporation (Oracle) has agreed to pay the United States $98.5 million to settle its liability for defective pricing disclosures made by PeopleSoft Inc. (PeopleSoft) during the negotiation of a contract under the General Services Administration (GSA) Multiple Award Schedule (MAS) program, Deputy Attorney General Paul J. McNulty, Assistant Attorney General Peter D. Keisler of the Justice Department's Civil Division, United States Attorney Rod J. Rosenstein of the District of Maryland, and GSA Inspector General Brian D. Miller, announced today. The settlement resolves allegations that PeopleSoft made pricing disclosures to GSA that were not current, accurate and complete concerning the sale of software licenses and related maintenance services. As a result of the defective disclosures, most federal purchasers under PeopleSoft's MAS contract paid inflated prices for purchases of software and services between March 17, 1997, and Sept. 30, 2005. Due to Oracle's acquisition of PeopleSoft, it inherited PeopleSoft's liability under the GSA contract.

"GSA's Multiple Award Schedule program serves vendors and government purchasers by eliminating red tape while insuring that government agencies get a fair deal for the American taxpayer's procurement dollars," said Deputy Attorney General McNulty. "The program works well when vendors follow the disclosure rules and provide GSA with the information it needs to negotiate good prices for government purchasers. This agreement demonstrates the Department's determination to hold vendors accountable for abusing GSA's trust and damaging its programs."

The payment is the largest ever obtained by the United States in a civil settlement under the False Claims Act involving the GSA's MAS program.

Under the MAS Program, vendors agree to disclose their commercial pricing policies and practices in exchange for an opportunity to gain access to the broad federal marketplace and the ease of administration that comes from selling to hundreds of government purchasers under one central contract. GSA regulations require that vendors seeking an MAS contract disclose their "current, accurate and complete" commercial pricing policies and practices to GSA during negotiations.

DOJ_NMG_ 0169385

"I am proud of the collaborative efforts of the Commercial Litigation Branch, the U.S. Attorney's Office, the GSA Office of the Inspector General, and relator's counsel to protect the public fisc and strengthen the integrity of the federal procurement system," said Assistant Attorney General Keisler. "All companies that want to avoid their disclosure obligations while selling products to the United States government are on notice today that we will use the False Claims Act and all other civil legal tools at our disposal to fight fraud and abuse."

The lawsuit alleged that during PeopleSoft's negotiation of its initial contract and two extensions of the contract's term, PeopleSoft understated the discounts it provided to commercial customers. More specifically, the suit alleged that PeopleSoft failed to disclose the true nature of its multiple product discounting practice, a program that afforded buyers incrementally steeper discounts off list prices or software products based on the number of products purchased at one time. This, plus the use of non-standard discounts, caused at least one 1994 customer to obtain discounts of up to 74 percent off the listed price. GSA relied on the faulty disclosures and negotiated MAS Program discounts for federal customers that were much less favorable than the total discounts PeopleSoft's best commercial customers enjoyed. As a result, federal agencies overpaid for software and related maintenance.

"Because PeopleSoft did not give GSA accurate pricing information, it negotiated higher prices for its products and services than it would have obtained if GSA had known the truth," said U.S. Attorney Rosenstein. "The substantial recovery in this case will help to ensure that vendors provide truthful information and the government pays a fair price for products and services."

GSA Inspector General Miller said, "I want to commend the outstanding work of the Department of Justice, U.S. Attorney Rod Rosenstein and his office, and the GSA IG team for bringing this matter to a successful conclusion. GSA's MAS contracting program – with sales of well over $30 billion in the last fiscal year – depends on vendors' honesty in negotiations. PeopleSoft misled and overcharged the government for years. Without the auditors' specialized training and years of experience examining federal contracting arrangements, the wool would have remained over everyone's eyes and the taxpayers might have again taken a fleecing."

This case was filed under the *qui tam* or whistleblower provisions of the False Claims Act by James A. Hicks in the U. S. District Court for the District of Maryland. Mr. Hicks is a former employee of PeopleSoft and the conduct alleged in the *qui tam* suit predated Oracle's acquisition of PeopleSoft. Hicks will receive $17,730,000 of the total recovery as his statutory award. Under the whistleblower provisions of the False Claims Act, private citizens known as "relators" can sue on behalf of the government to recover federal funds that were obtained by false or fraudulent claims, and receive a portion of the proceeds of a settlement or judgment awarded against the defendant.

The settlement resulted from an investigation by the Civil Division of the Department of Justice, the U.S. Attorney's Office for the District of Maryland, and GSA's Office of Inspector General.

# # #

06-689

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Image not available for this document, ID: 0.7.10316.25374-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 10, 2006 5:04 PM
To: USDOJ- Office of Public Affairs
Subject: EMBARGOED: SURVEY FINDS METHAMPHETAMINE USE INCREASING AMONG STATE AND FEDERAL PRISONERS

THE REPORT IS ATTACHED.

Department of Justice

Office of Justice Programs

EMBARGOED UNTIL 9:00 A.M. EDT Bureau of Justice Statistics

WEDNESDAY, OCTOBER 11, 2006 Contact: Stu Smith: 202-307-0784

WWW.OJP.USDOJ.GOV/BJS After Hours: 301-983-9354

SURVEY FINDS METHAMPHETAMINE USE INCREASING AMONG STATE AND FEDERAL PRISONERS

WASHINGTON — Prior methamphetamine use among state and federal prisoners has increased since 1997, according to a new report by the Justice Department's Bureau of Justice Statistics (BJS). The use of methamphetamines in the month before an offense rose from 7 percent of state prisoners in 1997 to 11 percent in 2004. Methamphetamine use at the time of an offense rose from 4 percent to 6 percent during that period. Federal inmates reported similar increases in methamphetamine use.

Prisoner reports about drug use were collected as part of the BJS "Survey of Inmates in State and Federal Correctional Facilities." This survey has been conducted periodically since the 1970s, and in 2004 involved confidential personal interviews with a nationally representative sample of approximately 14,500 state and 3,700 federal prisoners.

Women (17 percent of state inmates, 15 percent of federal inmates) were more likely than men (10 percent of both) to have used methamphetamines in the month before their offense. At least 20 percent of white inmates in state and federal prison used methamphetamine in the month before their offense, compared to 1 percent of black inmates. Among Hispanics, 12 percent of state and 5 percent of federal inmates reported methamphetamine use.

A majority of state inmates (53 percent) and almost half of federal inmates (45 percent) were abusing or were dependent on drugs in the year before their admission to prison. Abuse included repeated drug use in hazardous situations or recurrent occupational, educational, legal or social problems caused by drug use. Dependence criteria included a range of behavioral, cognitive and physiological problems. A national survey conducted in 2002 found 2 percent of U.S. residents to be drug dependent or drug abusing.

Nearly half of violent offenders in state prison (47 percent) met the criteria for recent drug dependence

DOJ_NMG_ 0169389

or abuse; more than a quarter (28 percent) committed their current offense while under the influence of drugs, and 10 percent said that the need to get money for drugs was a motive in their crimes.

A majority (56 percent) of state inmates used drugs in the month before the offense in 2004, while a third (32 percent) committed their current offense under the influence of drugs. One in six state inmates committed their current offense to get money for drugs. Marijuana remained the most commonly used drug, with 40 percent reporting use in the month before the offense, followed by cocaine or crack (21 percent), stimulants (12 percent), and heroin and other opiates (8 percent). State prisoner reports of overall drug use in 2004 were almost unchanged since 1997.

Reports of prior drug use by federal prisoners rose on all measures between 1997 and 2004. Among federal inmates, drug use in the month before the offense rose from 45 percent to 50 percent and use at the time of the offense increased from 22 percent to 26 percent. These changes were the result of an increased use of marijuana, methamphetamines and ecstasy.

Participation in drug abuse programs increased among state and federal inmates with recent drug use histories. Among state inmates who used drugs in the month before the offense, 39 percent reported taking part in drug treatment or other drug programs since admission, up from 34 percent in 1997. Forty-five percent of federal inmates had participated in drug treatment or other drug programs in 2004, up from 39 percent in 1997.

Compared to 1997, 63,900 more state prisoners with recent drug use histories reported taking part in some type of drug abuse programs in 2004, an increase of one-third. In federal prisons, the corresponding increase of inmates participating in drug abuse programs was nearly 14,000 – a 90 percent increase over 1997.

The report, "Drug Use and Dependence, State and Federal Prisoners, 2004" (NCJ-213530) was written by BJS policy analyst Christopher J. Mumola and BJS statistician Jennifer C. Karberg. Following publication, the report can be found at http://www.ojp.usdoj.gov/bjs/abstract/dudsfp04.htm.

For additional information on the Bureau of Justice Statistics statistical reports programs, please visit the BJS Web site at http://www.ojp.usdoj.gov/bjs.

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Drug Use and Dependence, State and Federal Prisoners, 2004

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Prior drug use among State prisoners remained stable on all measures between 1997 and 2004, according to the most recent findings from the Survey of Inmates in State and Federal Correctional Facilities. Over the same period, the percentage of Federal inmates who reported prior drug use rose on all measures. For the first time, half (50%) of Federal inmates reported drug use in the month before their offense, up from 45% in 1997.

In the 2004 survey, BJS included measures of drug dependence and abuse for the first time. These estimates were based on criteria specified in the *Diagnostic and Statistical Manual of Mental Disorders*, fourth edition (DSM-IV). Fifty-three percent of State and 45% of Federal prisoners met the DSM-IV criteria for drug dependence or abuse.

Prisoners who met the criteria for recent drug dependence or abuse had extensive criminal records. Among State prisoners who were dependent on or abusing drugs, 53% had at least three prior sentences to probation or incarceration, compared to 32% of other inmates. At the time of their arrest, drug dependent or abusing State prisoners (48%) were also more likely than other inmates (37%) to have been on probation or parole supervision.

Highlights

In 2004 nearly a third of State and a quarter of Federal prisoners committed their offense under the influence of drugs, unchanged since 1997

Drug use	Percent of prisoners 2004	1997
In the month before the offense		
State	56%	57%
Federal	50	45
At the time of the offense		
State	32%	33%
Federal	26	22
Any dependence or abuse		
State	53%	--
Federal	45	--

-- Not reported.

- 17% of State and 18% of Federal prisoners committed their crime to obtain money for drugs.
- Violent offenders in State prison (50%) were less likely than drug (72%) and property (64%) offenders to have used drugs in the month prior to their offense.

Among drug dependent/abusing prisoners, 40% of State and 49% of Federal inmates took part in drug abuse treatment or programs since admission to prison

Type of treatment since admission	Percent of prisoners meeting drug dependence or abuse criteria — State	Federal
Any drug treatment or programs	40%	49%
Treatment	15	17
Other programs	35	41

- Among inmates who used drugs in the month before their offense, between 1997 and 2004 participation in drug abuse programs increased in both State (from 34% to 39%) and Federal prison (from 39% to 45%).

Among both State and Federal prisoners, white inmates were at least 20 times more likely than black inmates to report recent methamphetamine use

Characteristic	Percent of prisoners using methamphetamine in the month before the offense — State	Federal
All prisoners	11%	10%
Male	10	10
Female	17	15
White	20	29
Black	1	1
Hispanic	12	5

- State prisoner reports of methamphetamine use in the month before the offense rose from 7% in 1997 to 11% in 2004.
- Between 1997 and 2004, prior drug use by State prisoners was stable on all drug types except methamphetamine, which rose on all measures.

Overall drug use by State prisoners unchanged from 1997; methamphetamine use rose

A third of State inmates said they had committed their current offense while under the influence of drugs (table 1). Over half used drugs in the month before the offense, and more than two-thirds had used drugs regularly at some time in their lives. These figures were unchanged from 1997.

Marijuana remained the most common drug used by State prisoners. Forty percent of State prisoners reported using marijuana in the month before their offense, and 15% said they had used marijuana at the time of the offense. All measures of marijuana use were within 1% of 1997 estimates.

Reported use of cocaine or crack cocaine in the month before the offense fell from 25% of State prisoners in 1997 to 21% in 2004, while use at the time of offense fell from 15% to 12%.

Over the same period, the use of heroin and other opiates fell slightly on on all measures. Use of hallucinogens (including ecstasy) in the month before the offense rose slighty from 4% to 6%.

State prisoner reports of stimulant use went up on all measures. Stimulant use in the month before the offense increased from 9% in 1997 to 12% in 2004, and use at the time of offense rose from 4% to 7%.

The increases in the use of stimulants were attributable to the rising use of methamphetamines. Use of methamphetamines in the month before the offense increased from 7% to 11%, and use at the time of the offense rose from 4% to 6%.

Overall drug use by Federal prisoners rose; cocaine/crack use declined

Across all measures of use, Federal prisoners reported higher levels of prior drug use from 1997 to 2004 (table 2). An estimated 26% of Federal inmates reported using drugs at the time of the offense, up from 22% in 1997. Drug use in the month before the offense rose to 50% of Federal prisoners, up from 45% in 1997.

Table 1. Drug use by State prisoners, 1997 and 2004

	Percent of State prisoners who used drugs —							
	Ever		Regularly[a]		In the month before offense		At the time of offense	
Type of drug	2004	1997	2004	1997	2004	1997	2004	1997
Any drug/[b]	83.2%	83.0%	69.2%	69.6%	56.0%	56.5%	32.1%	32.6%
Marijuana/hashish	77.6	77.0	59.0	58.3	40.3	39.2	15.4	15.1
Cocaine/crack	46.8	49.2	30.0	33.6	21.4	25.0	11.8	14.8
Heroin/opiates	23.4	24.5	13.1	15.0	8.2	9.2	4.4	5.6
Depressants[c]	21.3	23.7	9.9	11.3	5.4	5.1	2.0	1.8
Stimulants[d]	28.6	28.3	17.9	16.3	12.2	9.0	6.7	4.2
Methamphetamine	23.5	19.4	14.9	11.2	10.8	6.9	6.1	3.5
Hallucinogens[e]	32.9	28.7	13.3	11.3	5.9	4.0	2.0	1.8
Inhalants	13.6	14.4	4.5	5.4	1.0	1.0	--	--

Note: Detail adds to more than total because prisoners may have used more than one type of drug.
-- Not reported.
[a]Used drugs at least once a week for at least a month.
[b]Other unspecified drugs are included in the totals.
[c]Includes barbiturates, tranquilizers, and Quaalude.
[d]Includes amphetamine and methamphetamine.
[e]Includes LSD, PCP, and ecstasy.

Table 2. Drug use by Federal prisoners, 1997 and 2004

	Percent of Federal prisoners who used drugs —							
	Ever		Regularly[a]		In the month before offense		At the time of offense	
Type of drug	2004	1997	2004	1997	2004	1997	2004	1997
Any drug[b]	78.7%	72.9%	64.3%	57.3%	50.2%	44.8%	26.4%	22.4%
Marijuana/hashish	71.2	65.2	53.0	46.6	36.2	30.4	14.0	10.8
Cocaine/crack	43.3	44.8	27.5	28.2	18.0	20.0	7.4	9.3
Heroin/opiates	17.9	16.1	9.2	8.9	5.8	5.4	3.2	3.0
Depressants[c]	16.9	16.5	8.6	8.0	4.4	3.2	1.4	1.0
Stimulants[d]	21.0	20.9	14.8	12.9	10.8	7.6	7.4	4.1
Methamphetamine	17.9	15.1	12.8	9.6	10.1	6.5	7.2	3.7
Hallucinogens[e]	25.9	19.0	11.9	6.4	5.8	1.7	1.9	0.8
Inhalants	7.5	7.7	3.0	2.6	0.8	0.5	--	--

Note: Detail adds to more than total because prisoners may have used more than one type of drug.
-- Not reported.
[a]Used drugs at least once a week for at least a month.
[b]Other unspecified drugs are included in the totals.
[c]Includes barbiturates, tranquilizers, and Quaalude.
[d]Includes amphetamine and methamphetamine.
[e]Includes LSD, PCP, and ecstasy.

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During the period, marijuana use among Federal prisoners in the month before the offense rose from 30% to 36%. Stimulant use in the month before the offense grew slightly, due to methamphetamines which rose from 7% to 10%. Use of hallucinogens in the month before the offense rose from 2% to 6%.

Heroin or other opiate use among Federal prisoners remained stable. In both years 3% of inmates committed their crimes while using heroin or other opiates. Depressant use was also unchanged.

The percentage of Federal prisoners who reported prior use of cocaine-based drugs dropped between 1997 and 2004. Use of cocaine or crack in the month before the offense fell slightly from 20% to 18%, and use at the time of the offense fell from 9% to 7%. No other drug types displayed a decline in prior use during this period.

Women in Federal prison report sharp increase in prior drug use

Among Federal inmates, men (50%) were slightly more likely than women (48%) to report drug use in the month before the offense in 2004 (table 3). Drug use in the month before among women held in Federal prisons increased by more than 11 percentage points, up from 37% in 1997. Use by men was up from 45%.

Women in State prisons in 2004 reported slightly lower levels of drug use in the month before the offense

Table 3. Drug use in the month before the offense, by selected characteristics of State and Federal prisoners, 1997 and 2004

	Percent of prisoners reporting drug use in the month before the offense —			
	State		Federal	
Characteristic	2004	1997	2004	1997
All prisoners	56.0%	56.5%	50.2%	44.8%
Gender				
Male	55.7%	56.1%	50.4%	45.4%
Female	59.3	62.4	47.6	36.7
Race/Hispanic origin				
White[a]	57.7%	55.2%	58.2%	49.4%
Black[a]	56.0	58.3	52.7	47.2
Hispanic	53.5	55.0	38.4	37.5
Other[a,b]	52.9	52.7	48.4	38.5
Age				
24 or younger	66.2%	63.2%	62.0%	57.2%
25-34	60.9	60.0	56.7	48.5
35-44	54.9	56.5	47.9	46.8
45-54	47.4	40.4	44.9	35.2
55 or older	19.2	18.4	20.9	24.3

[a]Excludes persons of Hispanic origin.
[b]Includes Asians, American Indians, Alaska Natives, Native Hawaiians, other Pacific Islanders, and inmates who specified more than one race.

Profile of methamphetamine users among State and Federal prisoners, 2004

Among State prisoners in 2004 —

• Female inmates (17%) were more likely than males (10%) to report use of methamphetamines in the month before their offense.

• White inmates (20%) were almost twice as likely as Hispanics (12%) to have used methamphetamines. Around 1% of black inmates reported using methamphetamines in the month before the offense.

• Violent offenders (6%) were half as likely to use methamphetamines as either drug (19%) or property (13%) offenders.

Similar patterns emerged among Federal inmates:

• Females (15%) were more likely than males (10%) to have used methamphetamine in the month before the offense.

• White inmates (29%) were 6 times more likely than Hispanics (5%) to report using methamphetamines. Black inmates (1%) reported low use of methamphetamines.

• The percentage of drug offenders who reported use of methamphetamines (14%) was 3 times higher than that of violent or property offenders (4% of each).

	Percent of prisoners reporting methamphetamine use in the month before the offense —	
Characteristic	State	Federal
All prisoners	10.8%	10.1%
Gender		
Male	10.4%	9.7%
Female	16.8	15.1
Race/Hispanic origin		
White[a]	20.3%	29.4%
Black[a]	1.1	0.7
Hispanic	12.1	5.1
Other[a,b]	17.1	14.4
Age		
24 or younger	11.0%	7.5%
25-34	12.6	8.4
35-44	11.5	13.2
45-54	7.7	12.9
55 or older	3.3	2.6
Most serious offense		
Violent	6.3%	3.6%
Property	12.9	4.1
Drugs	19.1	14.0
Public order	12.1	7.1

[a]Excludes persons of Hispanic origin.
[b]Includes Asians, American Indians, Alaska Natives, Native Hawaiians, other Pacific Islanders, and inmates who specified more than one race.

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In 2004 an estimated 333,000 prisoners were held for drug law violations; 21% of State, 55% of Federal inmates

Between the 1997 and 2004 prison inmate surveys, the number of drug offenders in State and Federal prisons grew by 57,000 inmates. Despite this numerical growth, drug offenders made up the same percentage of State prisoners in both 1997 and 2004 (21%). The percentage of Federal prisoners serving time for drug offenses declined from 63% in 1997 to 55% in 2004.

State drug offenders reported serious criminal records:

- 50% were on probation, parole, or escape at the time of their arrest;
- 78% had a prior sentence to incarceration or probation; 46% had three or more prior sentences;
- 22% had a prior violent offense; 16% reported that all prior sentences were for drug offenses.

Drug offenders in Federal prisons had less extensive criminal records:

- 24% were on a criminal justice status at the time of their arrest;
- 62% had a prior sentence; 30% had three or more prior sentences;
- 16% had a prior violent offense; 15% reported prior sentences only for drug offenses.

Drug offenders in State prisons (45%) were 3 times more likely than those in Federal prisons (17%) to report a maximum sentence of less than 5 years. State drug offenders (15%) were half as likely as Federal drug offenders (28%) to report a sentence of 15 years or more. In part, the longer sentences for Federal drug offenders reflect the higher proportion of trafficking offenders and the more serious drug distribution crimes that fall under Federal jurisdiction.

	Percent of prisoners held for drug offenses, 2004	
	State	Federal
Type of drug offense		
Possession	27.9%	5.3%
Trafficking[a]	69.4	91.4
Other	2.7	3.3
Criminal justice status at arrest		
None	50.1%	75.9%
Any status	49.9	24.1
On parole	22.2	9.8
On probation	27.4	14.1
Criminal history		
None	20.7%	37.5%
Priors	79.3	62.5
Violent recidivists	22.4	15.8
Drug recidivists only	16.3	15.3
Other recidivists[b]	40.6	31.4
Number of prior sentences		
0	22.4%	39.0%
1	15.9	15.5
2	16.1	15.2
3-5	26.4	20.1
6-10	13.2	7.3
11 or more	6.0	3.0
Total maximum sentence length		
Less than 36 months	23.6%	6.2%
36-59 months	21.1	10.9
60-119 months	29.9	29.3
120-179 months	10.3	26.0
180 months or more	13.5	25.4
Life	1.6	2.2

[a]Includes those reporting an intent to distribute.
[b]Includes recidivists with unknown prior offense types.

The percentage of drug offenders serving time for crimes involving stimulants nearly doubled between 1997 and 2004

Between 1997 and 2004, the percentage of drug offenders in State prisons serving time for drug law violations involving stimulants rose from 10% to 19%. These sentences covered possession, use, manufacture, and trafficking of stimulants. The percentage who reported the involvement of cocaine-based drugs in their offense dropped from 72% to 62%. The percentage of Federal drug offenders who reported sentences for crimes involving stimulants grew from 11% to 19%, while the percentage serving time for crimes involving marijuana fell from 19% to 12%.

Type of drug involved in most serious offense	Percent of drug offenders			
	State		Federal	
	2004	1997	2004	1997
Marijuana/hashish	12.7%	12.9%	12.4%	18.9%
Cocaine/crack	61.8	72.1	65.5	65.5
Heroin/other opiates	12.2	12.8	8.1	9.9
Depressants	2.2	1.2	1.4	0.6
Stimulants	18.6	9.9	18.7	11.0
Hallucinogens	1.7	1.1	2.3	1.7

Note: More than one type of drug may have been involved in the most serious offense.

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(60%) than in 1997 (62%). The percentage of male State prisoners who reported drug use in the month before their crimes remained unchanged (56% in both years).

Among Federal inmates in 2004, 58% of whites, 53% of blacks, and 38% of Hispanics reported using drugs in the month before the offense. With the exception of Hispanics, all racial/ethnic groups of Federal inmates reported higher levels of drug use than in 1997.

State prisoner reports of prior drug use showed little variation by race or Hispanic origin. In 2004, between 53% and 58% of all racial/ethnic groups reported using drugs in the month before the offense. In 1997 the same range was reported across all groups.

Prior drug use grew most quickly among middle-aged inmates

Drug use in the month before the offense was highest among the youngest inmates, and these percentages declined steadily with age. About two-thirds of State and Federal inmates age 24 or younger reported drug use in the month before their offense, compared to a fifth of the inmates aged 55 or older.

Despite the lower level of drug use among older offenders, the largest increase in prior drug use since 1997 was reported by middle-aged inmates. Among State prisoners aged 45 to 54, drug use in the month before the offense rose from 40% to 47% in 2004. The increase reported by middle-aged inmates in Federal prison was larger, rising from 35% to 45%.

1 in 4 violent offenders in prison committed their offenses under the influence of drugs

Nearly three-quarters (72%) of drug offenders in State prison reported drug use in the month before their offense (table 4). Property offenders (64%) were more likely than violent and public-order offenders (50% of each) to have used drugs in the month before the offense. Burglary (68%), robbery and larceny (67% of both) offenders reported the highest levels of drug use in the month of the offense.

Drug offenders (44%) were most likely to have committed their crimes while using drugs, followed by property offenders (39%). About a quarter of both violent (28%) and public-order (25%) offenders reported drug use at the time of their offense. Inmates serving time for sexual assault (17%) and aggravated assault (24%) were least likely to commit their crimes while under the influence of drugs.

An estimated 59% of Federal offenders held for drug trafficking reported using drugs in the month before their offense, followed by 57% of those held for robbery and 54% for weapons. About a quarter of Federal inmates (26%) committed their crimes while under the influence of drugs, led by trafficking (34%) and robbery (29%) offenders. Federal fraud offenders (9%) were the least likely to commit their crimes while under the influence of drugs.

For most types of offenders, these findings showed little change since 1997.

Table 4. Drug use of State and Federal prisoners, by type of offense, 2004

	Percent of prisoners who reported —			
	Use in the month before the offense		Use at the time of the offense	
Type of offense	State	Federal	State	Federal
Total[a]	56.0%	50.2%	32.1%	26.4%
Violent offenses	49.6%	49.1%	27.7%	24.0%
Homicide	48.9	44.9	27.3	16.8
Sexual assault[b]	32.3	17.0	17.4	13.8
Robbery	66.6	56.9	40.7	29.4
Assault	48.9	42.3	24.1	20.1
Property offenses	64.0%	27.7%	38.5%	13.6%
Burglary	67.7	:	41.1	:
Larceny/theft	66.6	:	40.1	:
Motor vehicle theft	65.4	:	38.7	:
Fraud	56.3	22.8	34.1	9.3
Drug offenses	71.9%	57.3%	43.6%	32.3%
Possession	76.4	46.4	46.0	20.9
Trafficking	70.0	58.8	42.3	33.8
Public-order offenses[c]	49.9%	41.2%	25.4%	18.7%
Weapons	53.3	53.8	27.6	27.8
Other public-order	48.7	26.5	24.6	8.0

:Not calculated; too few cases to permit calculation.

[a]Includes offenses not shown.

[b]Includes rape and other sexual assault.

[c]Excluding DWI/DUI.

	Percent of prisoners who reported drug use at the time of the offense —			
	State		Federal	
Most serious offense	2004	1997	2004	1997
Total	32.1%	32.6%	26.4%	22.4%
Violent	27.7	29.0	24.0	24.5
Property	38.5	36.6	13.6	10.8
Drug	43.6	41.9	32.3	25.0
Public-order	25.4	23.1	18.7	15.6

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1 in 3 property offenders in State prisons report drug money as a motive in their crimes

Fewer than a fifth (17%) of all State prisoners said they committed their crimes to get money for drugs. By the type of offense, drug money as a motive in the offense varied widely. About 1 in 3 property offenders reported drug money as a motive, followed by about 1 in 4 drug offenders. Violent offenders (10%) and public-order offenders (7%) were least likely to report that they committed the offense to get money for drugs.

Among Federal inmates the overall percentage who committed their offense to get money for drugs (18%) was similar to State prisoners. A quarter of Federal drug offenders, 15% of violent offenders, and 11% of property offenders said they committed their crimes for drug money.

Most serious offense	Percent of prisoners who committed offense to get money for drugs	
	State	Federal
Total*	16.6%	18.4%
Violent	9.8	14.8
Property	30.3	10.6
Drug	26.4	25.3
Public-order	6.9	6.8

*Includes offenses not shown.

53% of State and 45% of Federal prisoners met criteria for drug dependence or abuse

More than half of State prisoners (53%) said they experienced symptoms consistent with drug dependence or abuse in the 12 months prior to their admission to prison (table 5). Seventeen percent reported symptoms that met the criteria for drug abuse only. (See box below for abuse and dependence symptoms.)

Federal inmates (45%) were less likely to meet the drug dependence or abuse criteria than State inmates.

Prevalence of drug dependence or abuse symptoms among State and Federal prisoners, 2004

	Percent of prison inmates	
	State	Federal
Abuse symptoms		
Failure to fulfill major role obligations	26.3%	18.2%
Lose job; job/school problems, such as missing too much work/school, being demoted at work, dropping out of school; not taking care of children		
Continued use in hazardous situations	34.4	29.3
Get in situations that increased chances of getting hurt, like driving, swimming, using machinery or walking in unsafe area		
Drug-related legal problems	23.2	17.7
Arrested or held by police due to drug use		
Recurrent social or interpersonal problems	44.7	34.1
Arguments/problems with spouse, intimate, family or friends or get into physical fights		
Dependence symptoms		
Tolerance	33.7%	27.9%
Usual drugs had less effect; or used more drugs to get the wanted effect		
Withdrawal	28.6	21.5
Bad aftereffects from cutting down or stopping drugs, such as shaking, feeling nervous, anxious, sick to stomach, or taking drugs to get over any bad aftereffects		
Compulsive use	32.2	27.6
More drug use or using for longer periods than intended		
Impaired control	32.4	25.5
More than once wanted to cut down/tried to cut down but couldn't		
Time spent obtaining, using, recovering	29.7	23.5
Spent a lot of time using drugs or getting over the bad aftereffects		
Neglect of activities	26.5	19.9
Gave up on activities of interest/importance, like work, school, hobbies, or associating with family and friends		
Continued use despite problems	35.7	28.0
Continued to use drugs even though it was causing emotional or psychological problems.		

Note: See References for sources on measuring prevalence of substance dependence or abuse using the *Diagnostic and Statistical Manual of Mental Disorders*, fourth edition (DSM-IV).

The 2004 Survey of Inmates in State and Federal Correctional Facilities included questions to measure the prevalence of substance dependence or abuse as defined in the DSM-IV. These new estimates are not comparable to measures of prior drug use and related experiences in previous BJS surveys.

Abuse symptoms included repeated drug use in hazardous situations or recurrent occupational, educational, legal or social problems related to drug use. Inmates reporting any of these symptoms in the 12 months prior to their admission met the abuse criteria. Recurrent social problems due to drug use (45% of State and 34% of Federal inmates) was the most commonly reported abuse symptom.

Dependence criteria covered a range of symptoms, including behavioral, cognitive, and physiological problems. Inmates reporting three or more symptoms in the 12 months before admission met the dependence criteria. Continued use despite emotional or psychological problems was the most common symptom reported by both State (36%) and Federal (28%) inmates, followed by increasing tolerance (34% State and 28% Federal).

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State and Federal prisoners were more likely than other adults in the U.S. resident population to meet the criteria for drug dependence or abuse. Using the same criteria, the National Epidemiologic Survey of Alcohol and Related Conditions, 2002 (NESARC) measured the national prevalence of various substance abuse disorders. According to BJS's analysis of NESARC data, 2% of U.S. adult residents were dependent on or abusing drugs in the last 12 months.

Diagnostic criteria	Percent of adult U.S. residents, 2002
Any drug dependence or abuse	2.0%
Dependence and abuse	0.5
Dependence only	0.1
Abuse only	1.4
No dependence or abuse	98.0

Note: Findings from the *National Epidemiologic Survey on Alcohol and Related Conditions, 2002*, National Institute on Alcohol Abuse and Alcoholism. See *Methodology*.

Table 5. Prevalence of drug dependence or abuse among State and Federal prisoners, 2004

Diagnostic criteria	Percent of prison inmates — State	Federal
Any dependence or abuse	53.4%	45.5%
Dependence and abuse	34.9	27.5
Dependence only	1.2	1.2
Abuse only	17.3	16.8
No dependence or abuse*	46.6	54.5

Note: See Methodology for definition of dependence or abuse based on the *Diagnostic Statistical Manual of Mental Disorders*, Fourth Edition (DSM-IV).
*Includes inmates who did not use drugs.

Table 6. Drug dependence or abuse among State and Federal prisoners, by selected characteristics, 2004

Characteristic	Percent of prisoners meeting drug dependence or abuse criteria — State	Federal
All prisoners	53.4%	45.5%
Gender		
Male	53.0%	45.7%
Female	60.2	42.8
Race/Hispanic origin		
White[a]	59.1%	59.2%
Black[a]	50.1	43.8
Hispanic	51.0	33.6
Other[a,b]	50.7	47.2
Age		
24 or younger	59.8%	58.2%
25-34	56.5	51.1
35-44	55.1	40.8
45-54	47.2	43.5
55 or older	18.3	20.6
Most serious offense		
Violent	46.7%	41.6%
Property	63.2	27.3
Drug	63.1	51.9
Public-order	50.2	41.2

[a]Excludes persons of Hispanic origin.
[b]Includes Asians, American Indians, Alaska Natives, Native Hawaiians, other Pacific Islanders, and inmates who specified more than one race.

In State prisons, violent offenders were least likely to meet criteria for drug dependence or abuse

An estimated 60% of female and 53% of male State prisoners were dependent on or abusing drugs (table 6). White inmates in State prisons (59%) were most likely to meet the drug dependence or abuse criteria, followed by Hispanic (51%) and black (50%) inmates.

In Federal facilities 46% of male inmates and 43% of female inmates were dependent on or abusing drugs in the year prior to their admission. White inmates (59%) reported higher levels of drug dependence or abuse than black (44%) or Hispanic (34%) inmates.

State prisoners age 45 or older were less likely to report drug dependence or abuse than other inmates. Between 55% and 60% of the under-45 age groups met the dependence or abuse criteria, compared to 47% of inmates age 45-54, and 18% of those age 55 or older. Among Federal inmates, drug dependence or abuse declined steadily with age, from 58% of inmates 24 or younger to 21% of those age 55 or older.

Violent offenders (47%) were the only offender group in State prisons with less than half meeting the DSM-IV criteria for drug dependence or abuse. Property and drug offenders (63% of each) were the most likely to be drug dependent or abusing.

Drug offenders (52%) were the only group of Federal inmates with at least half meeting the drug dependence or abuse criteria. Property offenders (27%) reported the lowest percentage of drug dependence or abuse.

Table 7. Criminal history of State and Federal prisoners, by drug dependence or abuse, 2004

Characteristic	Percent of prisoners — State: Dependence or abuse	State: Other inmates	Federal: Dependence or abuse	Federal: Other inmates
Criminal justice status at arrest				
None	51.9%	62.8%	70.1%	75.4%
Any status	48.1	37.2	29.9	24.6
On parole	20.9	15.9	12.1	12.6
On probation	26.7	21.0	17.2	11.7
Criminal history				
None	15.6%	32.1%	25.2%	42.8%
Priors	84.4	67.9	74.8	57.2
Violent recidivists	46.8	40.6	28.1	23.5
Drug recidivists only	4.0	2.8	10.2	6.8
Other recidivists*	33.6	24.5	36.5	26.9
Number of prior probation/ incarceration sentences				
0	16.9%	34.0%	27.1%	44.2%
1	14.1	17.4	14.4	16.8
2	15.8	16.4	16.1	14.6
3-5	28.5	21.7	25.9	16.5
6-10	16.5	7.9	11.4	5.9
11 or more	8.2	2.7	5.2	2.0

*Includes recidivists with unknown prior offense types.

DOJ_NMG_ 0169397

Half of drug dependent or abusing inmates in State prisons reported three or more prior sentences

Nearly half (48%) of State prisoners meeting the DSM-IV criteria for drug dependence or abuse were on some form of criminal justice status (probation, parole, or escape) at the time of their arrest, compared to 37% of other State inmates (table 7). Federal inmates meeting the DSM-IV criteria (30%) were slightly more likely to have been on a criminal justice status at the time of arrest than other Federal inmates (25%).

Drug dependent or abusing inmates in State prisons were more likely than other prisoners to have a prior offense (84% compared to 68%). More than half (53%) of drug dependent or abusing State prisoners reported at least three prior sentences; a third (32%) of other State prisoners had three or more prior sentences.

1 in 7 drug dependent or abusing inmates in State prison were homeless in year before admission

Drug dependent or abusing inmates were more likely than other inmates to report troubled personal backgrounds, including experiences of physical or sexual abuse, homelessness, unemployment, parental substance abuse, and parental incarceration.

Drug dependent or abusing inmates in State prisons (14%) were twice as likely as other inmates (6%) to report being homeless during the year before admission to prison (table 8). They also reported lower levels of employment in the month prior to admission (68% compared to 78% of other inmates).

While growing up, 42% of drug dependent or abusing State prisoners received public assistance, 45% lived in single-parent homes, and 41% had a substance-abusing parent. By comparison, 31% of other inmates received public assistance, 39% lived in single-parent homes, and 24% had a substance-abusing parent.

Reports of prior physical or sexual abuse were also higher among drug dependent or abusing State prisoners (23%) than among other inmates (15%).

State prisoners who were drug dependent or abusing were about twice as likely as other inmates to report past incarceration of either a mother (8% compared to 4%) or father (21% compared to 13%). A majority of drug dependent or abusing inmates (53%) reported the prior incarceration of a member of their immediate family (parent, sibling, child, or spouse), compared to 40% of other inmates.

Table 8. Family background of State and Federal prison inmates, by drug dependence or abuse criteria, 2004

	Percent of prisoners —			
	State		Federal	
Characteristic	Dependence or abuse	Other inmates	Dependence or abuse	Other inmates
Homeless in past year	13.9%	5.7%	5.7%	3.3%
Employed in month before admission to jail	68.2%	77.6%	67.3%	76.8%
Full-time	56.4	67.0	55.6	67.0
Part-time	9.6	8.5	9.1	8.1
Ever abused	23.4%	15.4%	14.0%	8.8%
Physically abused	19.6	12.2	11.8	7.0
Sexually abused	10.1	7.0	5.0	3.5
While growing up —				
Ever received public assistance*	42.2%	31.5%	35.3%	23.4%
Ever lived in a foster home, agency, or institution	17.6	10.9	8.6	7.4
Lived most of the time with—				
Both parents	41.0%	48.5%	43.9%	51.1%
One parent	45.1	39.3	42.8	36.8
Someone else	11.4	10.5	12.4	11.6
Parents or guardians ever abused —				
Alcohol	24.1%	16.8%	23.8%	13.3%
Drugs	3.4	1.6	2.3	1.4
Both alcohol and drugs	13.9	5.3	10.0	2.6
Neither	58.6	76.3	63.9	82.7
Family member ever incarcerated —	53.4%	40.2%	49.7%	34.8%
Mother	7.5	3.9	4.9	3.4
Father	21.2	12.8	16.5	8.9
Brother	36.3	29.0	33.1	24.2
Sister	7.3	4.9	5.7	4.1
Child	2.5	2.6	2.9	3.3
Spouse	1.8	0.8	2.6	1.7

*Public assistance includes public housing, AFDC, food stamps, Medicaid, WIC, and other welfare programs.

Participation in drug abuse programs rose in both State and Federal prison since 1997

The percentage of recent drug users in State prison who reported participation in a variety of drug abuse programs rose from 34% in 1997 to 39% in 2004 (table 9). This increase was the result of the growing percentage of recent drug users who reported taking part in self-help groups, peer counseling and drug abuse education programs (up from 28% to 34%). Over the same period, the percentage of recent drug users taking part in drug treatment programs with a trained professional was almost unchanged (15% in 1997, 14% in 2004).

Participation in drug abuse programs also increased among Federal inmates who had used drugs in the month before their offense, from 39% in 1997 to 45% in 2004. While there was no change in percentage of these inmates who had undergone drug treatment with a trained professional (15% in both years), the percentage taking part in other drug abuse programs rose from 32% in 1997 to 39% in 2004.

DOJ_NMG_ 0169398

Number of Federal prisoners taking part in drug abuse programs up 90% between 1997 and 2004

With the continued growth in the State prisoner population, the estimated number of inmates reporting drug use in the month before the offense rose from 598,700 in 1997 to 686,700 in 2004. Among these users the number who took part in any drug abuse programs rose from 205,300 to 269,200.

More than 9,000 additional State inmates reported receiving professional drug treament. However, the largest increase was seen in the number of inmates taking part in self-help/peer counseling groups and drug abuse education classes, up 62,000 since 1997.

	Estimated number of prisoners who used drugs in the month before the offense —	
	2004	1997
Any drug treatment or programs since admission		
State	269,200	205,300
Federal	29,400	15,500
Treatment		
State	96,800	87,400
Federal	9,900	6,100
Other programs		
State	231,400	169,400
Federal	25,200	12,700

During the period, the estimated number of Federal inmates who reported drug use in the month before their offense rose by 25,000 inmates from 39,900 to 64,900. In 2004, an estimated 9,900 Federal prisoners with a recent drug use history had been in a drug treatment program with a trained professional, up from an estimated 6,100 in 1997.

The number of inmates taking part in self-help or peer counseling groups and drug abuse education classes increased by more than 12,000 inmates. The number of recent drug users receiving some type of drug abuse program in Federal prisons rose by 90% (from 15,500 to 29,400 prisoners).

Over 250,000 dependent/abusing State inmates took part in drug abuse programs since admission

In 2004, about 642,000 State prisoners were drug dependent or abusing in the year before their admission to prison. An estimated 258,900 of these inmates (or 40%) had taken part in some type of drug abuse program (table 10). These inmates were more than twice as likely to report participation in self-help or peer counseling groups and education programs (35%) than to receive drug treatment from a trained professional (15%).

In Federal prison, a higher percentage of drug dependent or abusing inmates (49%) reported taking part in some type of drug abuse programs. Nearly 1 in 3 took part in drug abuse education classes, and 1 in 5 had participated in self-help or peer counseling groups. Overall, 17% took part in drug treatment programs with a trained professional, and 41% had participated in other drug abuse programs.

Table 9. Drug treatment or program participation since admission among State and Federal prisoners who used drugs in the month before the offense, 1997 and 2004

Type of drug treatment or program since admission	Percent of prisoners who used drugs in the month before the offense — State 2004	State 1997	Federal 2004	Federal 1997
Any drug treatment or programs	39.2%	34.3%	45.3%	38.8%
Treatment	14.1%	14.6%	15.2%	15.4%
Residential facility or unit	9.2	8.8	8.7	10.9
Counseling by a professional	6.0	6.0	6.8	5.5
Detoxification unit	0.9	1.0	0.8	0.3
Maintenance drug	0.3	0.3	0.2	0.4
Other programs	33.7%	28.3%	38.8%	31.7%
Self-help group/peer counseling	26.9	23.1	20.8	15.8
Education program	17.0	14.1	28.1	23.8

Table 10. Drug treatment or program participation since admission among State and Federal prisoners who met drug dependence or abuse criteria, 2004

Type of drug treatment or program since admission	Percent of prisoners meeting criteria for drug dependence or abuse — State	Federal
Any drug treatment or programs	40.3%	48.6%
Treatment	14.8%	17.4%
Residential facility or unit	9.5	9.2
Counseling by a professional	6.5	8.7
Detoxification unit	0.8	0.9
Maintenance drug	0.3	0.4
Other programs	34.8%	41.0%
Self-help group/peer counseling	28.0	22.1
Education program	17.8	30.2

DOJ_NMG_ 0169399

Methodology

The findings in this report are based on the data in the Survey of Inmates in State and Federal Correctional Facilities, 2004. Conducted every 5 or 6 years since 1974 (Federal facilities were added for the first time in 1991), the inmate surveys are the only national source of detailed information on criminal offenders, particularly special populations such as drug and alcohol users and offenders who have mental health problems.

The survey design included a stratified two-stage sample where facilities were selected in the first stage and inmates to be interviewed in the second stage. In the second sampling stage, interviewers from the Census Bureau visited each selected facility and systematically selected a sample of inmates. Computer-assisted personal interviewing (CAPI) was used to conduct the interviews.

Survey of Inmates in State and Federal Correctional Facilities, 2004

The State prison sample was selected from a universe of 1,585 facilities. A total of 287 State prisons participated in the survey; 2 refused, 11 were closed or had no inmates to survey, and 1 was erroneously included in the universe. A total of 14,499 inmates in the State facilities were interviewed; 1,653 inmates refused to participate, resulting in a second-stage nonresponse rate of 10.2%.

The Federal prison sample was selected from 148 Federal prisons and satellite facilities. Thirty-nine of the 40 prisons selected participated in the survey. After the initial sample of inmates was drawn, a secondary sample of 1 in 3 drug offenders was selected. A total of 3,686 inmates in Federal facilities were interviewed and 567 refused to participate, resulting in a second-stage nonresponse rate of 13.3%.

Accuracy of survey estimates

The accuracy of the survey estimates depends on sampling and measurement errors. Sampling errors occur by chance because a sample of inmates rather than all inmates were interviewed. Measurement error can be attributed to many sources, such as nonresponse, recall difficulties, differences in the interpretation of questions among inmates, and processing errors.

The sampling error, as measured by an estimated standard error, varies by the size of the estimate and the size of the base population. These standard errors may be used to construct confidence intervals around percentages.

Appendix Table 1. Standard errors of the estimated percentages, State prison inmates, 2004

Base of the estimate	Estimated percentages					
	98 or 2	90 or 10	80 or 20	70 or 30	60 or 40	50
1,000	7.14	15.31	20.41	23.39	25.00	25.52
2,000	5.05	10.83	14.43	16.54	17.68	18.04
2,500	4.52	9.68	12.91	14.79	15.81	16.14
5,000	3.20	6.85	9.13	10.46	11.18	11.41
10,000	2.26	4.84	6.46	7.40	7.91	8.07
20,000	1.60	3.42	4.56	5.23	5.59	5.71
30,000	1.30	2.80	3.73	4.27	4.56	4.66
50,000	1.01	2.17	2.89	3.31	3.54	3.61
82,794[a]	0.79	1.68	2.24	2.57	2.75	2.80
100,000	0.71	1.53	2.04	2.34	2.50	2.55
200,000	0.51	1.08	1.44	1.65	1.77	1.80
400,000	0.36	0.77	1.02	1.17	1.25	1.28
600,000	0.29	0.63	0.83	0.95	1.02	1.04
800,000	0.25	0.54	0.72	0.83	0.88	0.90
1,143,400[b]	0.21	0.45	0.60	0.69	0.74	0.75
1,226,200	0.20	0.44	0.58	0.67	0.71	0.73

[a]The total weighted estimate of female State prisoners, 2004.
[b]The total weighted estimate of male State prisoners, 2004.

Appendix Table 2. Standard errors of the estimated percentages, Federal prison inmates, 2004

Base of the estimate	Estimated percentages					
	98 or 2	90 or 10	80 or 20	70 or 30	60 or 40	50
200	10.01	21.44	28.59	32.75	35.01	35.74
500	6.33	13.56	18.08	20.71	22.14	22.60
1,000	4.47	9.59	12.79	14.65	15.66	15.98
2,000	3.16	6.78	9.04	10.36	11.07	11.30
5,000	2.00	4.29	5.72	6.55	7.00	7.15
7,500	1.63	3.50	4.67	5.35	5.72	5.84
9,063[a]	1.49	3.19	4.25	4.87	5.20	5.31
12,500	1.27	2.71	3.62	4.14	4.43	4.52
15,000	1.16	2.48	3.30	3.78	4.04	4.13
25,000	0.89	1.92	2.56	2.93	3.13	3.20
40,000	0.71	1.52	2.02	2.32	2.48	2.53
50,000	0.63	1.36	1.81	2.07	2.21	2.26
75,000	0.52	1.11	1.48	1.69	1.81	1.85
100,000	0.45	0.96	1.28	1.46	1.57	1.60
120,237[b]	0.41	0.87	1.17	1.34	1.43	1.46
129,300	0.39	0.84	1.12	1.29	1.38	1.41

[a]The total weighted estimate of female Federal prisoners, 2004.
[b]The total weighted estimate of male Federal prisoners, 2004.

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Estimates of the standard errors have been calculated for the 2004 surveys (see appendix tables 1 and 2 for standard errors; see appendix table 3 for population base estimates). For example, the 95% confidence interval around the percentage of Federal inmates in 2004 who had used drugs in the month before their current offense is approximately 50.2% plus or minus 1.96 times 1.41% (or 47.4% to 53.0%).

A detailed description of the methodology for the State and Federal Prison survey, including standard error tables and links to other reports or findings, is available on the BJS Website <http://www.ojp.usdoj.gov/bjs/abstract/sicf04.htm>.

Measures of drug dependence and abuse in the general population

Caution should be used when making comparisons between prison inmates and the general population based on the 12-month DSM-IV structured interview. There are significant variations in questionnaire design and data analysis. For example, questions on the severity or duration of symptoms and questions about whether symptoms are due to bereavement, substance use, or a medical condition may vary from survey to survey.

For details on the methodology used in the National Epidemiologic Survey on Alcohol and Related Conditions, sponsored by the National Institute on Alcohol Abuse and Alcoholism, see the Data Reference Manual, <http://niaa.census.gov/>. For additional information on the prevalence of drug dependence and abuse in the general population, see the National Survey on Drug Use and Health, sponsored by the Substance Abuse and Mental Health Services Administration, <http://www.oas.samhsa.gpv/nsduh.htm>.

Appendix table 3. Base estimates for selected characteristics of State and Federal prisoners, 2004

	Base estimate, number of prisoners, 2004	
Characteristic	State	Federal
Gender		
Male	1,143,400	120,200
Female	82,800	9,100
Race/Hispanic origin		
White, non-Hispanic	431,500	33,600
Black, non-Hispanic	496,900	56,000
Hispanic	222,700	32,400
Age		
24 or younger	212,400	11,600
25-34	405,500	49,700
35-44	373,700	37,300
45-54	172,700	22,200
55 or older	61,900	8,500
Most serious offense		
Violent	579,100	18,600
Property	226,800	8,300
Drug	257,900	70,600
Public-order	143,500	26,200
Drug dependent/abusing in the 12 months prior to admission		
Yes	642,500	57,200
No	558,100	68,300

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Christopher J. Mumola and Jennifer C. Karberg wrote this report, under the supervision of Allen J. Beck. Todd D. Minton, Laura M. Maruschak, and Margaret E. Noonan verified the report. Tina Dorsey produced the report, Doris J. James edited the report, and Jayne Robinson prepared it for final printing.

Tracy L. Snell, under the supervision of Allen J. Beck, was project manager for the Survey of Inmates in State and Federal Correctional Facilities.

For the State and Federal prisoners survey, at the U.S. Census Bureau Steven M. Bittner, Colette Heiston, and Kenneth Mayo carried out questionnaire design, data collection and processing, under the supervision of Marilyn M. Monahan, Demographic Surveys Division. Renee Arion programmed the questionnaire and Dave Keating programmed the listing instrument, under the supervision of Rob Wallace, Technologies Management Office. Programming assistance in the Demographic Surveys Division was provided by Chris Alaura, Mildred Ballenger, Bach-Loan Nguyen, and Scott Raudabaugh, under the supervision of David Watt.

Dave Hornick and Danielle N. Castelo, Demographic Surveys Methods Division, under the supervision of Thomas F. Moore, designed the sample and weighting specifications. Sydnee Chattin-Reynolds and Luis Padilla, Field Division, under the supervision of Richard Ning, coordinated the field operations. The affiliations for the Census Bureau date to the time of the survey.

October 2006, NCJ 213530

This report in portable document format and in ASCII and its related statistical data and tables are available at the BJS World Wide Web Internet site: <http://www.ojp.usdoj.gov/bjs/>.

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PUBLIC AFFAIRS DAILY NEWS WRAP
October 10, 2006

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WEDNESDAY'S EXPECTED NEWS STORIES:
Attorney General Gonzales Participates in White House Conference on School Safety (OPA)
Today, the Attorney General participated in the White House Conference on School Safety with President and Mrs. Bush. In connection with the event, he appeared on the cable network morning shows, *Studio B with Shepard Smith* on Fox News and ABC Radio.

Deputy Attorney General Participates in Press Conference Announcing Procurement Fraud Task Force and Settlement with the Oracle Corporation (OPA)
Today, Deputy Attorney General Paul J. McNulty, the Assistant Attorney General for the Criminal Division and other DOJ officials announced the creation of a procurement fraud task force. The Deputy Attorney General also announced that Oracle Corporation has agreed to pay the United States $98.5 million to settle its liability for defective pricing disclosures made by PeopleSoft Inc. (PeopleSoft) during the negotiation of a contract under the General Services Administration (GSA) Multiple Award Schedule (MAS) program. The settlement resolves allegations that PeopleSoft made pricing disclosures to GSA that were not current, accurate and complete concerning the sale of software licenses and related maintenance services.

Talking Points

- GSA's Multiple Award Schedule program serves vendors and government purchasers by eliminating red tape while insuring that government agencies get a fair deal for the American taxpayer's procurement dollars.

- The program works well when vendors follow the disclosure rules and provide GSA with the information it needs to negotiate good prices for government purchasers.

- This agreement demonstrates the Department's determination to hold vendors accountable for abusing GSA's trust and damaging its programs.

Department Of Justice Announces Over $1 Million in Awards to Enforce Underage Drinking Laws (Office of Justice Programs)

The Department of Justice's Office of Justice Programs (OJP) today announced awards of more than $1 million to Arizona, California, Hawaii and Montana to enforce state and local underage drinking laws. The awards are made through the Enforcing Underage Drinking Laws Discretionary Program, "Initiative to Reduce Underage Drinking," and focuses on preventing alcohol consumption by underage military personnel.

ATF Sponsors Federal Deputization of Houston Police Bomb Squad (ATF)
The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) today deputized all full-time officers/bomb technicians of the Houston Police Department (HPD) Bomb Squad as federal agents. The action means ATF and the HPD Bomb Squad can now respond without the constraint of jurisdictional boundaries to answer the threat of improvised explosives devices and provide public security in the country's fourth largest city. This new level of cooperation was formalized in a memorandum of understanding (MOU) between ATF and HPD. By signing the MOU, the HPD Bomb Squad has formally joined the ATF Arson and Explosives Task Force.

***Frontline* to Air Story on War on Terror (FBI)**
Today, the PBS news magazine *Frontline* is expected to air a story on FBI efforts to fight terror over the past five years. It is expected that the story will include an analysis of terrorism cases such as Lodi, as well as an evaluation of the FBI's transformation since the attacks on September 11, 2001.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

TIME TBD

Diane Stuart, Director of the Office of Violence Against Women, will participate in the opening of the Tampa Family Justice Center.
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Agenda

7:00 am - 8:00 am Registration/Breakfast
8:00 am - 8:15 am Welcome
8:15 am - 9:00 am Featured Keynote Address - [redacted] Gartner
9:00 am - 9:45 am Service-Oriented Architecture - [redacted] TIBCO Software
9:45 am - 10:00 am Break
10:00 am - 11:00 am SOA Executive Panel Discussion 11:00 am - 12:00 pm Event Driven Architecture - [redacted] TIBCO Software 12:00 pm - 1:00 pm Lunch/Closing

SOA Executive Panel:
Moderator
[redacted] USAF

Panelists
Joaquin Martinez, Deputy Chief Architect HPMO, Office of Information, Veteran Affairs [redacted] RABA [redacted] ODNI [redacted] EDS

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Join us for "Leveraging the Principles and Technologies of SOA in Government," a seminar featuring an industry expert and panel discussion on best practices for SOA deployments in the government sector.

Date: Thursday, November 2, 2006

Time: 7 a.m. to 1 p.m.

Location: Crystal Gateway Marriott
1700 Jefferson Davis Highway
Arlington, VA 22202

Agenda

7:00 am - 8:00 am	Registration/Breakfast
8:00 am - 8:15 am	Welcome
8:15 am - 9:00 am	Featured Keynote Address - [redacted] Gartner
9:00 am - 9:45 am	Service-Oriented Architecture - [redacted] TIBCO Software
9:45 am - 10:00 am	Break
10:00 am - 11:00 am	SOA Executive Panel Discussion
11:00 am - 12:00 pm	Event Driven Architecture - [redacted] TIBCO Software
12:00 pm - 1:00 pm	Lunch/Closing

SOA Executive Panel:
Moderator
[redacted] USAF

Panelists
Joaquin Martinez, Deputy Chief Architect HPMO, Office of Information, Veteran Affairs
[redacted] Chief Scientist, Object-Oriented Technologies, RABA
[redacted] ODNI
[redacted] Principal Consultant, EDS

To register go to:
http://www.tibco.com/mk/2006/info_sharing_gov.jsp

We hope to see you on November 2nd

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 9:45 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 11, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, October 11, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Civil Division will issue a release on a False Claims Act matter. (Miller)

The Criminal Division will issue a release on a public integrity matter. (Sierra)

The Antitrust Division will issue a release on a merger-related matter. (Talamona)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169411

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Image not available for this document, ID: 0.7.10316.25323-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 10:09 AM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT BY ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT REGARDING THE CLOSING OF THE INVESTIGATION OF AT&T'S ACQUISITION OF BELLSOUTH

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
WWW.USDOJ.GOV

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

STATEMENT BY ASSISTANT ATTORNEY GENERAL THOMAS O. BARNETT REGARDING THE CLOSING OF THE INVESTIGATION OF AT&T'S ACQUISITION OF BELLSOUTH

Investigation Concludes That Combination Would Not Reduce Competition

WASHINGTON — Thomas O. Barnett, Assistant Attorney General in charge of the Department of Justice's Antitrust Division, issued the following statement today after the Department announced the closing of its investigation into the proposed acquisition of BellSouth Corporation by AT&T Inc.:

"After thoroughly investigating AT&T's proposed acquisition of BellSouth, the Antitrust Division determined that the proposed transaction is not likely to reduce competition substantially. The Division investigated all areas in which the two companies currently compete – including residential local and long distance service, telecommunications services provided to business customers, and Internet services – and the merger's impact on future competition for wireless broadband services.

"The presence of other competitors, changing regulatory requirements and the emergence of new technologies in markets for residential local and long distance service indicate that this transaction is not likely to harm consumer welfare. The proposed acquisition does not raise competition concerns with respect to Internet services markets or 'net neutrality'. The merged firm would continue to face competition from other facilities-based rivals in the provision of telecommunications services to business customers including local private line services. The combination would not significantly increase concentration in the ownership of spectrum in any geographic area or give AT&T control over a large enough share of all spectrum suitable for wireless broadband services to raise competitive concerns. Finally, the merger would likely result in cost savings and other efficiencies that should benefit consumers."

This transaction is subject to review by the Federal Communications Commission (FCC). The Antitrust Division coordinated with the FCC throughout its investigation.

(Background information is attached.)

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BACKGROUND TO CLOSING OF INVESTIGATION OF AT&T'S PROPOSED ACQUISITION OF BELLSOUTH

On March 5, 2006, AT&T Inc. and BellSouth Corporation announced their agreement to merge in an all-stock deal valued at $67 billion. AT&T, a Delaware corporation with headquarters in San Antonio, Texas, is the recently combined SBC Communications Inc. and the "legacy" AT&T. SBC is the incumbent local exchange carrier (ILEC) throughout much of the western, southwestern and mid-western United States. The legacy AT&T is a large provider of long distance and enterprise telecommunications services nationwide. BellSouth, a Georgia corporation with headquarters in Atlanta, is the ILEC throughout much of the southeastern United States.

After an extensive investigation, the Antitrust Division determined that the transaction is not likely to lessen competition substantially. The Division reviewed extensive information obtained from the merging parties and from industry participants and interviewed dozens of industry participants, including competitors and customers of the merging parties. The Division thoroughly examined all areas in which the two companies currently compete–including residential local and long distance service, telecommunications services provided to business customers, and Internet services–and also considered the merger's impact on future competition for wireless broadband services. The Division also evaluated the large cost savings and other efficiencies that AT&T has indicated it will achieve through the transaction. The parties provided documentation indicating that much of these efficiencies are likely to be realized, which would further reduce the likelihood that the transaction might harm consumer welfare.

Local Private Lines

The Division's investigation focused in significant part on the provision of local private line services to wholesale and retail business customers. Local private lines are used to supply voice and data telecommunications services to business customers at locations within a metropolitan area. Because of BellSouth's extensive network, the company can provide local private lines to virtually every building in its region, while AT&T can provide services over its own facilities to only a small minority of buildings. In each metropolitan area where the two firms have significant overlapping facilities, the Division found that, postmerger, AT&T would have several competitors with extensive local networks. The merged firm would continue to face existing or potential facilities-based competition at nearly all of the buildings served by AT&T before the merger. Although the Division required divestitures of certain local private line assets before SBC acquired the former AT&T, applying the same criteria to this transaction led the Division to conclude that divestitures were unnecessary to preserve competition.

Other Telecommunications Services Provided to Business Customers

For other retail business services, the Division concluded that the merger would not harm competition due to the presence of other competitors, the emergence of new technologies, and the fact that the merging parties' respective strengths are largely complementary. Within BellSouth's territory, AT&T's strength is in serving the complex, often nationwide needs of large businesses, while BellSouth focuses on serving smaller firms and providing traditional voice and data services to in-region businesses. BellSouth has very little business outside of its region.

Residential Local and Long Distance Service

In markets for residential local and long distance service in the BellSouth region, the Division found that AT&T was of limited and declining competitive significance. The presence of other competitors, changing

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regulatory requirements, and the emergence of new technologies, such as voice over IP, indicate that the merger is unlikely to harm consumers.

Internet Services

The Division also investigated whether the merger would create competitive problems in Internet services, including "net neutrality" concerns regarding the merged firm's ability or incentive to favor its own Internet content over that of its rivals. The Division found that the merger would neither significantly increase concentration in markets for the provision of broadband services to end users nor increase Internet backbone shares significantly. Although the merger would increase the number of subscribers on AT&T's broadband network, the large majority of the nation's residential and small business "eyeballs" remain with other large broadband Internet service providers (such as Verizon, Qwest, Comcast, and Time Warner).

Wireless Broadband Services

The merger is not likely substantially to lessen competition in the provision of wireless broadband services. The combination would not significantly increase concentration in the ownership of spectrum in any geographic area or give AT&T control over a large enough share of spectrum suitable for wireless broadband services to raise competitive concerns.

The Division provides this statement under its policy of issuing statements, in appropriate cases, concerning the closing of investigations. This statement is limited by the Division's obligation to protect the confidentiality of certain information obtained in its investigations. As in most of its investigations, the Division's evaluation has been highly fact-specific, and many of the relevant underlying facts are not public. Consequently, readers should not draw overly broad conclusions regarding how the Division is likely in the future to analyze other collaborations or activities, or transactions involving particular firms. Enforcement decisions are made on a case-by-case basis and the analysis and conclusions discussed in this statement do not bind the Division in any future enforcement actions. Guidance on the Division's policy regarding closing statements is available at: http://www.usdoj.gov/atr/public/guidelines/201888.htm.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 1:57 PM
To: USDOJ- Office of Public Affairs
Subject: CONTRACTOR SENTENCED FOR PAYING GRATUITIES TO FORMER U.S. ARMY DIRECTOR OF CONTRACTING

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
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CRM
(202) 514-2008
TDD (202) 514-1888

CONTRACTOR SENTENCED FOR PAYING GRATUITIES TO FORMER U.S. ARMY DIRECTOR OF CONTRACTING

WASHINGTON – A U.S. contractor has been sentenced to six months in prison and six months of monitored home confinement for paying illegal gratuities to a former U.S. Army Director of Contracting and violating the Travel Act in connection with U.S. Army contracts awarded from an Army recreational facility in Germany, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Ellis Aaron Abramson, 40, of Merrick, N.Y., was sentenced today by Judge Sandra J. Feurstein at the U.S. District Court in the Eastern District of New York, in Central Islip. Abramson, the president and former owner of Bramson House, Inc., admitted in his April 2006 guilty plea that he paid gratuities in connection with contracts awarded to Bramson House by the Edelweiss Lodge and Resort, Armed Forces Recreation Center (AFRC Europe), in Garmisch, Germany. The Department of the Army serves as the executive agent for the AFRC Europe, operating the AFRC Europe on behalf of the Department of Defense. Patrons at the AFRC Europe include active duty U.S. military personnel serving in Afghanistan and Iraq.

Abramson admitted that during the course of performing work under the contracts, he agreed to fraudulently inflate the invoices for certain line items and to submit the fraudulently inflated invoices to the Director of Contracting for approval. Abramson further admitted that he then gave $23,000 in cash and other benefits directly and indirectly to the former Director of Contracting. Abramson also admitted that he agreed to inflate certain line items in a proposed modification to one of contracts by $40,000 as part of a separate scheme to pay the former Director of Contracting a gratuity.

As part of his plea, Abramson agreed to provide $23,000 in restitution to the U.S. government for the fraudulently inflated amount of the line items in the contract between Bramson House and the AFRC Europe.

The case was investigated by the U.S. Army Criminal Investigation Division Command and the Internal Revenue Service-Criminal Investigations Division. It was prosecuted by Deputy Chief Mark F. Mendelsohn, Assistant Chief Deborah Gramiccioni, and Trial Attorney Suzanne R. Clement of the Criminal Division's Fraud Section.

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Image not available for this document, ID: 0.7.10316.25300-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 2:16 PM
To: USDOJ- Office of Public Affairs
Subject: ATLANTA-BASED INSURANCE SERVICES FIRM TO PAY $1.36 MILLION FOR ALLEGEDLY OVERBILLING THE GOVERNMENT

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
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CIV
(202) 514-2008
TDD (202) 514-1888

ATLANTA-BASED INSURANCE SERVICES FIRM TO PAY $1.36 MILLION FOR ALLEGEDLY OVERBILLING THE GOVERNMENT

WASHINGTON - Crawford and Company, an insurance services firm, has agreed to pay the United States $1,363,204 to resolve allegations that between 1992 and 2002 it violated the False Claims Act when it submitted invoices to the federal government that contained inflated charges, the Justice Department announced today. During the time period relevant to this investigation, the Atlanta-based company provided workers compensation-related services to the government, including services intended to streamline the delivery of medical care to injured federal employees, and to expedite the employee's reentry into the workforce.

According to the government, some of these alleged false claim practices included billing the government for services at rates set by Crawford managers, rather than billing the actual time spent performing that service. Additionally, the company allegedly billed the entire time spent on one activity to multiple client files, instead of dividing that time between the applicable files, and attempted to pass along overhead expenses to the government by invoicing them as incurred costs.

"This settlement illustrates the United States' determination to recover funds inappropriately billed on government contracts," said Peter D. Keisler, Assistant Attorney General for the Civil Division.

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In 2003, a Crawford subsidiary pleaded guilty to one count of mail fraud in connection with similar conduct that occurred in its Baltimore and Norfolk offices.

This investigation was a joint effort by the Offices of the Inspectors General of the Department of Labor, the United States Postal Service, the Department of Veterans Affairs, and the Defense Criminal Investigative Service. Attorneys from the Justice Department's Commercial Litigation Branch, Civil Division, negotiated the civil settlement.

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Image not available for this document, ID: 0.7.10316.25292-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 2:28 PM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO MAKE ANNOUNCEMENT ON A TERRORISM-RELATED MATTER

Department of Justice

FOR PLANNING PURPOSE ONLY
WEDNESDAY, OCTOBER 11, 2006
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*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO MAKE ANNOUNCEMENT ON A TERRORISM-RELATED MATTER

WASHINGTON – Deputy Attorney General Paul J. McNulty and other government officials will hold a press conference to make an announcement on a terrorism-related matter **TODAY, OCTOBER 11, 2006 at 4:00 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Willie T. Hulon, Executive Assistant Director, National Security Branch, FBI
Debra Wong Yang, U.S. Attorney for the Central District of California
Joe D. Morton, Director, Diplomatic Security Service, Department of State

WHEN: **TODAY, OCTOBER 11, 2006**
4:00 P.M. EDT

WHERE: Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

NOTE: **MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.25287-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 4:48 PM
To: USDOJ- Office of Public Affairs
Subject: U.S. CITIZEN INDICTED ON TREASON, MATERIAL SUPPORT CHARGES FOR PROVIDING AID AND COMFORT TO AL QAEDA

Attached please find a copy of the indictment.

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
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NSD
(202) 514-2008
TDD (202) 514-1888

U.S. CITIZEN INDICTED ON TREASON, MATERIAL SUPPORT CHARGES FOR PROVIDING AID AND COMFORT TO AL QAEDA

WASHINGTON – A former resident of Orange County, Calif., has been indicted in the Central District of California on charges of treason and providing material support to a foreign terrorist organization for making a series of propaganda videotapes for al Qaeda, the Department of Justice announced today.

Adam Gadahn, 28, also known as Azzam al-Amriki or Azzam the American, "gave al Qaeda aid and comfort ... with intent to betray the United States," according to the treason count in the indictment. The two-count superseding indictment returned by a federal grand jury in Santa Ana, Calif., today also charges Gadahn with providing material support to al Qaeda.

Gadahn is the first person to be charged with treason against the United States since the World War II era.

Al Qaeda, which has claimed responsibility for numerous terrorist attacks around the world, including the Sept. 11, 2001 attacks against the United States, has been designated a foreign terrorist organization by the U.S. Secretary of State since 1999.

Gadahn appeared in several videotapes that were broadcast between October 2004 and Sept. 11, 2006. In the first tape, Gadahn announced that he had joined al Qaeda, "a movement waging war on America and killing large numbers of Americans," and that "the streets of America shall run red with blood."

In another al Qaeda videotape made in September 2005, around the time of the fourth anniversary of the 9/11 attacks, Gadahn called the attacks "the blessed raids on New York and Washington." Discussing "jihad against America," Gadahn referenced terrorist attacks in London and Madrid and stated, "Tomorrow, Los Angeles and Melbourne, Allah willing."

Earlier this summer, Gadahn appeared in another videotape that also contained statements from al Qaeda leaders Usama bin Laden and Ayman al-Zawahiri. In another videotape that was broadcast around the world on

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Sept. 2, 2006, Gadahn encouraged American soldiers to "escape from the unbelieving Army and join the winning side." Recently, in a videotape released to coincide with the fifth anniversary of the September 11th attacks, Gadahn praised the pilots involved in the attacks and referred to the United States as "enemy soil."

"Adam Gadahn is a U.S. citizen who made a choice to join and act as a propagandist for al Qaeda, an enemy of this country responsible for the horrific deaths of thousands of innocent Americans on Sept. 11, 2001," said Deputy Attorney General Paul J. McNulty. "The War on Terror is a fight for hearts and minds, and Gadahn gave himself to our enemies in al Qaeda for the purpose of being a central part of their propaganda machine. By making this choice, we
believe Gadahn committed treason – perhaps the most serious offense for which any person can be tried under our Constitution."

"Adam Gadahn represents a new breed of home-grown extremist, who has chosen to betray the country of his birth, and align with the al Qaeda terrorist network," said FBI Executive Assistant Director Willie Hulon, National Security Branch. "Based on this indictment, Gadahn was added today to the FBI's Most Wanted Terrorists List."

"By aligning himself with al Qaeda, by moving overseas to be closer to al Qaeda's base and leadership, and by joining in advocating al Qaeda's terrorist agenda, an agenda that includes the overthrow of the United States government and the murder of American citizens, Adam Gadahn has committed treason against the United States of America," said U.S. Attorney Debra Wong Yang of the Central District of California. "The charges returned today by a federal grand jury demonstrate that the criminal justice system will not sit passively by while a United States citizen engages in such activities."

Gadhan, 28, is a fugitive who is believed to be overseas, and has been added to the FBI's list of Most Wanted Terrorists. Photographs, aliases and a full description of Gadahn can be found by visiting http://www.fbi.gov/wanted/terrorists/fugitives.htm. The Rewards for Justice Program, run by the U.S. Department of State, Diplomatic Security Service, is offering a reward of up to $1 million for information leading to Gadahn's arrest or conviction.

The charge of treason carries a range of penalties from a mandatory minimum sentence of five years in jail to a maximum sentence of the death penalty. The charge of providing material support to a designated foreign terrorist organization carries a potential sentence of 15 years in prison.

The Gadahn case was investigated by the FBI's Orange County Joint Terrorism Task Force in Santa Ana, California. The case is being prosecuted by the U.S. Attorney's Office for the Central District of California, with assistance from the Counterterrorism Section of the National Security Division – formerly part of the Criminal Division – at the Department of Justice.

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06-695

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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2005 Grand Jury

UNITED STATES OF AMERICA, Plaintiff, v. ADAM GADAHN, a.k.a. Azzam al-Amriki, Defendant.	)	SA CR 05-254(A) FIRST SUPERSEDING INDICTMENT [18 U.S.C. § 2381: Treason; 18 U.S.C. § 2339B: Providing Material Support to a Designated Foreign Terrorist Organization; 18 U.S.C. § 2(a): Aiding and Abetting]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 2381]

A. INTRODUCTION

1. Al-Qaeda is, and at all times relevant hereto was, a foreign terrorist organization designated by the Secretary of State, pursuant to Section 219 of the Immigration and Nationality Act.

2. Usama bin Laden and Ayman al-Zawahiri have proclaimed publicly that they are leaders of al-Qaeda. Prior to his death,

Abu Musab al-Zarqawi proclaimed in public that he was the leader of al-Qaeda in Iraq.

3. On or about September 11, 2001, the United States was attacked through the hijacking of commercial airliners. These commercial airliners were flown into the World Trade Center in New York and the Pentagon in Washington D.C. Another hijacked commercial airliner was flown into the ground in Pennsylvania. These attacks resulted in the loss of approximately 3,000 lives.

4. Usama bin Laden has acknowledged publicly that the September 11, 2001 attack on the United States was an al-Qaeda operation. Usama bin Laden and other al-Qaeda leaders have also proclaimed in public that al-Qaeda is at war with America.

5. On or about September 18, 2001, Congress passed a resolution authorizing the President of the United States to use all necessary and appropriate force against those responsible for the terrorist attacks of September 11, 2001.

6. On or about July 7, 2005, a series of bombs exploded on the London subway system resulting in the loss of numerous lives.

7. Ayman al-Zawahiri has acknowledged publicly that the July 7, 2005 attack on London was the work of al-Qaeda operatives. Ayman al-Zawahiri has publicly identified Shehzad Tanweer as one of the al-Qaeda operatives responsible for the London suicide bombings.

B. THE OFFENSE

8. Beginning on a date unknown and continuing to at least September 11, 2006, defendant ADAM GADAHN, also known as "Azzam al-Amriki" ("GADAHN"), a citizen of the United States, whose last

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known place of residence was in Orange County, within the Central District of California, owing allegiance to the United States, knowingly adhered to an enemy of the United States, namely, al-Qaeda, and gave al-Qaeda aid and comfort, within the United States and elsewhere, with intent to betray the United States. In so doing, GADAHN committed the following overt acts witnessed by two or more witnesses:

a. On or about October 27, 2004, GADAHN appeared in an al-Qaeda video ("the 2004 video") broadcast in the United States and elsewhere, giving aid and comfort to al-Qaeda. In the 2004 video, GADAHN acknowledged that he "has joined a movement waging war on America and killing large numbers of Americans." In the 2004 video, GADAHN made the following statements, among others:

1. "Fighting and defeating America is our first priority. . . ."
2. "September 11th . . . notified America that it's going to have to pay for its crimes and pay dearly."
3. "Jihad is our path and jihad is the answer."
4. "People of America . . . you too shall pay the price for the blood that has been spilled. . . ."
5. "People of America, I remind you of the weighty words of our leaders Sheik Usama bin Laden and Doctor Ayman al-Zawahiri that what took place on September 11th was but the opening salvo of the

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global war on America. . . . The magnitude and ferocity of what is coming your way will make you forget all about September 11th."

6. "The streets of America shall run red with blood . . . casualties will be too many to count and the next wave of attacks may come at any moment."

b. On or about September 11, 2005, GADAHN appeared in an al-Qaeda video ("the 2005 video") broadcast in the United States and elsewhere, giving aid and comfort to al-Qaeda. In the 2005 video, GADAHN described the terrorist attacks of September 11, 2001, as "the blessed raids on New York and Washington." In the 2005 video, GADAHN made the following statements, among others:

1. "These communiques have been released to explain and propound the nature and goals of the worldwide jihad against America and the crusaders and convey our legitimate demands to friend and foe alike, so that the former may join us on this honorable and blessed path, and so that the latter may acknowledge his crimes. . . ."

2. "The call has gone out and the era of jihad and resistance has dawned in all its glory. As Sheik Usama has told you repeatedly, your security is dependent on our security."

3. "Yesterday, London and Madrid. Tomorrow, Los Angeles and Melbourne, Allah willing. And this

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time, don't count on us demonstrating restraint or compassion."

4. "We love peace, but when the enemy violates that peace or prevents us from achieving it, then we love nothing better than the heat of battle, the echo of explosions, and slitting the throats of the infidels."

5. "When it comes to defending our religion, our freedom, and our brothers in faith, every one of us is Mohammed Atta, every one of us is Jamaal Lindsay, and every one of us is Mohammed Boyeri."

c. On or about July 7, 2006, GADAHN appeared in an al-Qaeda video ("the July 2006 video") broadcast in the United States and elsewhere, giving aid and comfort to al-Qaeda. The July 2006 video also contained statements by Usama bin Laden, Ayman al-Zawahiri, Abu Musab al-Zarqawi, and Shehzad Tanweer. In the July 2006 video, GADAHN referred to the recent capture and execution of two American servicemen in Iraq and made the following statements, among others:

1. "So after all the atrocities committed by America . . . why should we target their military only?"

2. "It's hard to imagine that any compassionate person could see pictures, just pictures, of what the Crusaders did to those children, and not want to go on a shooting spree at the Marines' housing facilities at Camp Pendleton."

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3. "When we bomb their cities and civilians like they bomb ours, or destroy their infrastructure and means of transportation like they destroy ours, or kidnap their non-combatants like they kidnap ours, no sane Muslim should shed tears for them. And they should blame no one but themselves."

d. On or about September 2, 2006, GADAHN appeared in an al-Qaeda video ("the September 2, 2006 video") broadcast in the United States and elsewhere, giving aid and comfort to al-Qaeda. Ayman al-Zawahiri also appeared in the September 2, 2006 video and addressed "the American people in particular and all Western peoples in general." Al-Zawahiri introduced GADAHN as "our brother Azzam the American" and explained that GADAHN "talks to you as one concerned about the fate which awaits his people." Al-Zawahiri urged Americans to listen to GADAHN "because what he is talking to you about is serious and significant. He is talking to you about the fate which awaits every human, an extremely grave issue in which there is no joking, procrastination, or backtracking." In the September 2, 2006 video, GADAHN made the following statements, among others:

1. "So if you want to be on the winning side in this life and the next, and if you want your resistance to Crusader tyranny to truly count, then take the simple step I have just outlined. . . . We send a

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special invitation to all of you fighting . . . in Afghanistan . . . . You know the war can't be won and that the condition of America's war machine is going from bad to worse."

2. "You know you're considered . . . as nothing more than expendable cannon fodder, a means to an end. . . . You know they couldn't care less about your safety and well being and that the only thing that upsets your leaders when American forces suffer casualties is the damage these casualties do to their popularity and the popularity of the wars they started."

3. "Escape from the unbelieving army and join the winning side. Time is running out, so make the right choice before it's too late and you meet the dismal fate of thousands before you."

e. On or about September 11, 2006, GADAHN appeared in an al-Qaeda video ("the September 11, 2006 video") broadcast in the United States and elsewhere, giving aid and comfort to al-Qaeda. The September 11, 2006 video also contained statements by Usama bin Laden and video footage of the World Trade Center attack in 2001. The pictures of the World Trade Center attack were accompanied by the written statement: "The word is the word of the sword until the wrongs are righted." In the September 11, 2006 video, GADAHN referred to the United States as "enemy soil" and made the following

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statements, among others:

1. "All the brothers who took part in the raids on America were dedicated, strong-willed, highly motivated individuals with a burning concern for Islam and Muslims."
2. "Look at the pilots, Mohammed Atta, Marwan Shehhi, Ziad Jarrah, Hani Hanjour. All of them had lived and studied in the West. All of them had the world within their reach, if they had wanted it. But how could they live with themselves, if they were to enjoy this worldly life while their Ummah burns."
3. "In hind sight, everything that al-Qaeda was doing was preparation for the Manhattan and Washington raids, and the expected crusader invasion."

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COUNT TWO

[18 U.S.C. § 2339B, § 2(a)]

Beginning on or about September 11, 2005, and continuing to at least September 11, 2006, defendant ADAM GADAHN, also known as "Azzam al-Amriki," a national of the United States whose last known place of residence was in Orange County, within the Central District of California, did knowingly provide, and aid and abet the provision of, material support and resources, as those terms are defined in 18 U.S.C. § 2339A(b), including personnel and services, to a foreign terrorist organization, al-Qaeda, which was designated by the Secretary of State as a foreign terrorist organization on October 8, 1999, pursuant to Section 219 of the Immigration and Nationality Act, and was redesignated as such on or about October 5, 2001, and October 2, 2003, which designation continues in effect.

A TRUE BILL

_____
Foreperson

DEBRA WONG YANG
United States Attorney

THOMAS P. O'BRIEN
Assistant United States Attorney
Chief, Criminal Division

WAYNE R. GROSS
Assistant United States Attorney
Chief, Santa Ana Branch Office

DEIRDRE Z. ELIOT
Assistant United States Attorney

GREGORY W. STAPLES
Assistant United States Attorney

DOJ_NMG_ 0169443

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Image not available for this document, ID: 0.7.10316.25278-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 5:25 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER DOD EMPLOYEE INDICTED FOR ACCEPTING ILLEGAL GRATUITY FROM IRAQI CONTRACTOR

A copy of the indictment is attached.

Department of Justice

FOR IMMEDIATE RELEASE — CRM
WEDNESDAY, OCTOBER 11, 2006 — (202) 514-2008
WWW.USDOJ.GOV — TDD (202) 514-1888

FORMER DOD EMPLOYEE INDICTED FOR ACCEPTING ILLEGAL GRATUITY FROM IRAQI CONTRACTOR

WASHINGTON – A former Department of Defense (DOD) employee has been indicted on charges of accepting an illegal gratuity while deployed in the Republic of Iraq. Bonnie Murphy, who was a civilian disposal officer at Camp Victory, Iraq, allegedly accepted jewelry from an Iraqi contracting firm for her role in helping it receive and maintain three U.S. Army service contracts.

Murphy, 59, of Indialantic, Fla., deployed to Iraq in December 2003 as part of a Defense Reutilization and Marketing Service (DRMS) team. Murphy and other DRMS employees were charged with managing and disposing of surplus DOD property, including hazardous waste.

A federal grand jury in Orlando, Fla., today returned a two-count indictment charging Murphy with one count of accepting an illegal gratuity and one count of accepting compensation to her federal salary. According to the indictment, Murphy was responsible for identifying the needs of and requesting service contracts for the collection, removal, storage, and disposal of property and materials from U.S. Army facilities. Murphy also had the authority to recommend specific contractors and act as the contracting officer's representative (COR) for the contracts. As a COR, she authorized contractors to perform work, monitored their performance, and certified their invoices—allowing them to receive payment.

From July through December 2004, the indictment alleges, Murphy accepted several pieces of jewelry. The items, worth approximately $9,000, came from the owners and employees of an Iraqi contracting company. Murphy allegedly accepted the items because of her numerous official acts that benefited the company, referred to in the indictment as Company A. Between July and October 2004, Company A received three service contracts from the U.S. Army: one for the disposal of hazardous waste, a second for the removal of contaminated soil, and a third for the removal and storage of used lithium batteries. Before each contract was awarded, Murphy wrote a Statement of Work requesting that the Army find and hire an outside contractor to perform the service. She orally recommended that Company A be hired for each contract, and she wrote a sole source justification letter recommending that it receive the lithium battery contract without undergoing a competitive bidding process.

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Accepting an illegal gratuity carries a maximum penalty of two years in prison and a $250,000 fine. Accepting supplementation to a federal salary carries a maximum penalty of five years in prison and a $250,000 fine. An indictment is merely an accusation. All defendants are presumed innocent until proven guilty at trial beyond a reasonable doubt.

The case was investigated by the Criminal Investigation Division and the Defense Criminal Investigative Service of the U.S. Army. The case is being prosecuted by John Pearson of the Criminal Division's Public Integrity Section, which is headed by Acting Section Chief Edward C. Nucci.

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

BONNIE MURPHY

Case No. 6:06-cr-189-ORL-28-JGG
18 U.S.C. § 201(c)
18 U.S.C. § 209

FILED
2006 OCT 11 AM 11:47
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

INDICTMENT

The Grand Jury charges:

COUNT ONE
Illegal Gratuity
(18 U.S.C. § 201(c))

At all times relevant to this indictment:

1. The defendant, BONNIE MURPHY, was employed as a public official by the Defense Reutilization and Marketing Service (DRMS), a component of the Department of Defense (DOD). The defendant's residence is in Indialantic, Florida, in the Middle District of Florida.

2. The DRMS was responsible for managing and disposing of surplus DOD property. In or about December 2003, the defendant deployed to the Republic of Iraq to support the United States Army forces stationed there. As part of a team of DRMS employees, she was responsible for receiving, managing, and disposing of surplus property, including hazardous materials.

3. The defendant was stationed at Camp Anaconda and Camp Victory, Iraq. While there, she was authorized to identify problem areas, request service contracts, and recommend specific contractors to perform such contracts. She was also authorized to act as a contracting officer's representative (COR). In this capacity, she

authorized work, monitored performance, and certified invoices submitted by contractors.

4. Company A was a construction and contracting service owned by two Iraqi nationals.

5. From in or about July 2004 through in or about October 2004, Company A was awarded three service contracts by the United States government. The first contract retained Company A to remove and dispose of hazardous waste. The second contract retained Company A to remove contaminated soil. The third contract retained Company A to remove and store used lithium batteries.

6. For each of the three contracts, the defendant wrote a Statement of Work requesting that the United States government hire someone to perform the service, and she orally recommended that the contracting officer hire Company A. The defendant also wrote a sole source justification letter recommending that Company A be awarded the battery storage contract without undergoing a competitive bidding process. Once awarded, the defendant acted as the COR for each contract. She authorized Company A to perform services, monitored their performance, and verified their invoices.

7. From in or about August 2004 through in or about January 2005, the defendant certified Company A invoices for payment on all three contracts totaling approximately $5,700,000.

8. From in or about July 2004 through in or about December 2004, the defendant accepted several pieces of gold jewelry from the owners and employees of Company A for and because of the above official acts she performed. The items had an appraised value of approximately $9,000.

9. From in or about July 2004 until in or about December 2004, in the Republic of Iraq, in the extraterritorial jurisdiction of the United States, the defendant BONNIE MURPHY, being a public official, otherwise than as provided by law for the proper discharge of official duty, directly and indirectly demanded, sought, received, accepted, and agreed to receive and accept things of value personally for and because of an official act performed and to be performed by her; that is, defendant BONNIE MURPHY did receive and accept several pieces of gold jewelry from the owners and employees of Company A for and because of official acts she performed, including, but not limited to, composing a Statement of Work for each of the contracts, orally recommending that Company A be hired for each of the contracts, writing a sole source justification letter recommending that Company A be awarded the lithium battery contract without a competitive bidding process, authorizing Company A to perform services, and certifying Company A invoices for payment.

All in violation of Title 18, United States Code, Section 201(c), and pursuant to Title 18, United States Code, Section 3238.

COUNT TWO
Conflict of Interest: Supplementation of Government Salary
(18 U.S.C. §§ 209(a), 216(a)(2))

10. All allegations made in paragraphs one through eight are re-alleged and incorporated herein.

11. From in or about July 2004 until in or about December 2004, in the Republic of Iraq, in the extraterritorial jurisdiction of the United States, defendant BONNIE MURPHY knowingly and willfully received several pieces of gold jewelry from

the owners and employees of Company A, which payments were contributions to and supplementation of her salary, for her services as an officer and employee of the executive branch of the United States Government.

All in violation of Title 18, United States Code, Sections 209(a) and 216(a)(2), and pursuant to Title 18, United States Code, Section 3238.

A TRUE BILL,

Foreperson

By: _____
EDWARD C. NUCCI
Acting Chief
Public Integrity Section

By: _____
JOHN P. PEARSON
Trial Attorney
Public Integrity Section
Criminal Division
United States Department of Justice
1400 New York Ave., NW
Washington, DC 20005
(202) 307-2281

FORM OBD-34
APR 1991 No.

UNITED STATES DISTRICT COURT

Middle District of Florida
Orlando Division

THE UNITED STATES OF AMERICA

vs.

BONNIE MURPHY

INDICTMENT

Violations:

18 U.S.C. § 201(c)
18 U.S.C. § 209

A true bill,

Foreperson

Filed in open court this 11th day

of October, A.D. 2006.

Clerk

Bail $

GPO 863 525

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 6:34 PM
To: USDOJ- Office of Public Affairs
Subject: U.K. AND U.S. CITIZENS PLEAD GUILTY TO RUNNING $30 MILLION PONZI SCHEME

Department of Justice

United States Attorney Chuck Rosenberg
Eastern District of Virginia

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
WWW.USDOJ.GOV/USAO/VAE

CONTACT: DEANNA WARREN
PHONE: (757) 441-6331
FAX: (757) 441-6689

U.K. AND U.S. CITIZENS PLEAD GUILTY TO RUNNING $30 MILLION PONZI SCHEME

NORFOLK, Va. – Howard Welsh, 62, of the United Kingdom and Lee Hope Thrasher, 51, of Virginia Beach, Va., pleaded guilty today to charges of conspiracy, mail fraud, and wire fraud U.S. Attorney Chuck Rosenberg of the Eastern District of Virginia announced today. Sentencing has been set for Feb. 21, 2007.

Welsh faces a maximum term of 20 years in prison, a fine, restitution, forfeiture of approximately $30 million, and up to three years of supervised release. Thrasher faces a maximum term of 15 years in prison, a fine, restitution, forfeiture of approximately $30 million and up to three years of supervised release.

According to court documents, Welsh and Thrasher formed a corporation and induced approximately 900 investors to invest approximately $30 million. The funds were wired to bank accounts controlled by Welsh in the United States, and then wired to other accounts in 13 foreign countries and the United States. In the summer of 2002, Welsh and Thrasher fled the United States. Welsh and Thrasher were arrested by the Metropolitan Police Service in the United Kingdom in November 2004. After an extradition process, they were returned to the United States in July 2006. The United States has recovered approximately $2 million of the proceeds of the Ponzi scheme.

"This was a massive fraud, stunning in both its length and its breadth, engineered by Mr. Welsh and Ms. Thrasher" stated U.S. Attorney Rosenberg. "Given that, we are very pleased with their convictions and with the lengthy prison sentences sure to follow."

The investigation was conducted by the FBI and the Internal Revenue Service, Criminal Investigation Division. The FBI Forfeiture Unit in Norfolk, Va; the FBI Forfeiture Support Group, Washington; and the Metropolitan Police Service, New Scotland Yard, London, England, also provided valuable assistance in the investigation and prosecution of this case. The case is being prosecuted jointly by Assistant U.S. Attorneys Robert J. Seidel Jr., Blair Smith Perez, Joseph DePadilla and Kevin M. Comstock.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 7:05 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF PRESS CONFERENCE ANNOUNCING INDICTMENT OF U.S. CITIZEN FOR TREASON AND MATERIAL SUPPORT CHARGES FOR PROVIDING AID AND COMFORT TO AL QAEDA

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 11, 2006
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TRANSCRIPT OF PRESS CONFERENCE ANNOUNCING INDICTMENT OF U.S. CITIZEN FOR TREASON AND MATERIAL SUPPORT CHARGES FOR PROVIDING AID AND COMFORT TO AL QAEDA

WASHINGTON, D.C.

4:10 P.M. EDT

DEPUTY ATTORNEY GENERAL McNULTY: Good afternoon. I'm Paul McNulty, Deputy Attorney General. With me on stage are Willie Hulon, Executive Assistant Director of the FBI for National Security; Debra Wong Yang, U.S. Attorney for the Central District of California; and Joe D. Morton, Director of Diplomatic Security Services for the U.S. Department of State.

Today in Santa Ana, California, a federal grand jury issued an indictment against Adam Gadahn, also known as Azzam al-Amriki, on charges of treason and providing material support to a foreign terrorist organization, namely, al Qaeda.

A charge of treason is exceptionally severe, and it is not one we bring lightly. In fact, Mr. Gadahn is the first person to be charged with treason against the United States since the World War II era. But this is the right case for this charge. I want to put his actions into context to be perfectly clear on why we have decided to make this extremely serious charge.

Adam Gadahn is an American citizen who made a choice. He chose to join our enemy and to provide it with aid and comfort by acting as a propagandist for al Qaeda. Terrorists create fear and intimidation through extreme violence. They want Americans to live and walk in fear. They want to demoralize us. That's why propaganda is so important to them, and why facilitating that propaganda is such an egregious crime.

According to the indictment, Mr. Gadahn appeared in a series of al Qaeda videos broadcast in the United States and elsewhere between October 2004 and September 2006, just last month. In these videos, Mr. Gadahn acknowledged that he had joined al Qaeda and declared that "the streets of America shall run red with blood. Casualties will be too many to count, and the next wave of attacks may come at any moment."

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The videotaped messages praised the terror attacks of September 11, threatened violence against the families of American soldiers and other civilians, and called on American soldiers to join al Qaeda. In one message, Mr. Gadahn described the September 11 attacks as "the blessed raids on New York and Washington." And he said of his terrorist confederates, "We love nothing better than the heart of battle, the echo of explosions, and the slitting of throats of the infidels."

Adam Gadahn is 28 years old, and his last known address was Orange County, California. He is now a fugitive, and is believed to be living overseas.

We are also announcing today that Mr. Gadahn is being added to the FBI Most Wanted Terrorist list, and a reward is being issued for information leading to his arrest. Joe Morton will have more information on that for you in just a moment.

Now, this investigation is a collaboration between the United States Attorney's Office in the Central District of California, led by Debra Yang, and the Justice Department's Criminal Division under the leadership of Assistant Attorney General Alice Fisher. Responsibility for the Criminal Division's work in this prosecution has now been transferred to the Department's newly created National Security Division. I'd like to acknowledge the outstanding work and deduction of the FBI in this case..

The crime of treason is perhaps the most serious offense for which any person can be tried under our constitution. It is not a crime only against the American people, but against America itself. Today's indictment should serve as notice that the United States will protect itself against all enemies, foreign and domestic. The Department of Justice will use every tool at our disposal in our mission to protect Americans. Betrayal of our country will bring severe consequences.

I'd now like to call on the individuals on this stage to make a brief statement, beginning with U.S. Attorney Debra Yang.

MS. YANG: Good afternoon. The charges returned by the federal grand jury in Santa Ana, California today reflect the seriousness of the crimes committed by Adam Gadahn and the commitment with which the United States of America will pursue any individual who actively endorses terrorism.

As demonstrated in the series of five videotapes that are described in the indictment, Gadahn has become the trusted ally and associate of al Qaeda's leaders, serving as the terrorist group's spokesperson and advocate. By aligning himself with al Qaeda, by moving overseas to be closer to al Qaeda's base and leadership, and by joining and advocating al Qaeda's terrorist agenda, an agenda that includes the overthrow of the United States government and the murder of American citizens, Adam Gadahn has committed treason against the United States of America.

The charges returned today by a federal grand jury demonstrate that the criminal justice system will not sit passively while a United States citizen engages in such activities. Thank you.

DEPUTY ATTORNEY GENERAL McNULTY: Thank you, Debra.

Will Hulon is the Executive Assistant Director of the FBI for National Security.

MR. HULON: Thank you, Paul. Good afternoon. Following Adam Gadahn's indictment for treason and material support to terrorism, he was added today to the FBI's Most Wanted Terrorists list. Gadahn is considered a high value target which puts him high on the FBI's radar screen. This intense exposure limits Gadahn's operational ability, but he still poses a different kind of threat as a communicator for al Qaeda.

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The FBI will continue to work with our law enforcement partners and intelligence partners, sharing information and coordinating investigations, as well as investigating all leads provided by the public, to locate Gadahn and to prevent future terrorist attacks.

DEPUTY ATTORNEY GENERAL McNULTY: And finally, Director Joe Morton from the Diplomatic Security Service.

MR. MORTON: Thank you, Paul. Today the State Department announces that our Rewards for Justice program will pay up to $1 million for information leading to the apprehension of Adam Gadahn, an American believed to be a prominent member of the al Qaeda organization.

Secretary Rice said recently, "We face an enemy that wantonly kills civilians, not as collateral damage but as target of their attacks. We as a civilized world have an obligation to work on how we are going to fight the war on terrorism and to come up with solutions." Rewards for Justice is part of that solution.

The Rewards program has been and will continue to be one of the most valuable U.S. government assets in the fight against international terrorism. Rewards for Justice has paid more than $62 million to over 40 individuals whose information led to the prevention of terrorist attacks against the United States or conviction of terrorists attempting to carry out such acts. The Rewards program has led directly to the capture of Ramsey Yousef, as well the location of Uday and Qusay Hussein in Iraq. It has also been an effective tool in combating drug traffickers in Colombia and terrorists in the Philippines.

Terrorism continues to threaten the security of all people, and our determination to fight it is greater than ever. We ask for your assistance. We encourage anyone with information that may lead to Gadahn's apprehension to contact the State Department's Rewards for Justice Program.

DEPUTY ATTORNEY GENERAL McNULTY: I'll now be happy to answer any questions you might have. Yes?

QUESTION: The indictment says that in a 2005 video, he makes some that L.A. and Melbourne will be next. How credible do you consider these threats?

DEPUTY ATTORNEY GENERAL McNULTY: I'm not in a position to assess the credibility of those threats. I don't have any information on that point.

QUESTION: Is there any evidence that Gadahn was involved in actual plotting or execution of attacks, or do you believe he was solely on the propaganda videos?

DEPUTY ATTORNEY GENERAL McNULTY: To the best of my knowledge, it's propaganda. I don't have any evidence, or information, I should say, regarding involvement in planning other attacks. If we did have that information, I probably would not be able to provide it in this way in this setting. But I'm not aware of that investigation.

QUESTION: The constitution has quite a high threshold of how to prove treason. It includes two witnesses against the person. Do you have such witnesses? And what other information do you have that these statements that were made on these videotapes were not coerced or were other people's words, or what other witnesses do you have?

DEPUTY ATTORNEY GENERAL McNULTY: Well, you're right. The charges of treason are very serious, and it is a significant bar to get over in terms of bringing those charges. We wouldn't be here announcing these

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charges today if we weren't confident that we had the evidence to support the elements of the offense that are associated with the charge of treason. And as you mentioned, the two-witness rule is one of the critical elements of that charge.

It is our practice not to discuss at great length our evidence at the time we announce charges. But I will say that we are very confident about the satisfaction of the standard of the two-witness rule, the least of which the fact that these messages have been broadcast into the United States on video repeatedly, and that a number of individuals would be in a position to be able to identify Adam Gadahn.

But again, we understand our burden. We have to meet a burden that includes a number of elements in addition to the two-witness rule to show that there has been aid and comfort given to the enemy and adherence to the enemy. And the elements will be met if and when we have the opportunity to present our case in court.

QUESTION: Previous indictments against him have remained sealed. This one obviously is not. I wonder if you could explain to us your thinking in keeping the previous indictments against him sealed and making this one public.

DEPUTY ATTORNEY GENERAL McNULTY: Well, this case involves a building of information and evidence against the defendant. We had a videotape in October of 2004; then one on September 11, 2005; then July 7, 2006, the anniversary of the London bombings; another one in September; and then another one in September. So there is a pattern here of more videos, and it has been building up. We've had three this year.

In addition to that, the evidence has been getting stronger. In the most recent videos, we have had unmasking of the defendant, revealing identity, strengthening the government's case. This has also strengthened our ability in considering the treason charge. In each video, we find ourselves in a position of going back to the indictment and having to essentially rewrite the indictment to add the additional evidence that supports the treason charge.

When you take all of that and the building case of the evidence coming in and the more recent videos, combined with now in the last 30 days the decision to have an up to $1 million award, and to put him on the Most Wanted list, it creates a circumstance where it's time now to get the message out in order to get this person in our custody, perhaps to find the assistance that we need, and also to send a message that this kind of conduct will be met with the toughest charges that we can bring to discourage anybody else who might be tempted to respond to his invitation to betray America and to join al Qaeda.

QUESTION: Do you believe every video leads you closer to finding him if there are all kinds of things you can look into background in his messages? And do you believe he's in Pakistan?

DEPUTY ATTORNEY GENERAL McNULTY: I didn't mean to suggest, if you heard anything in that way, that something about the video leads us to understanding more about him. I'm not in a position to say anything about that. And I'm not sure -- let me check -- we believe he's in Pakistan, but we're not positive of it.

QUESTION: When the Agency and the FBI analyze these videos, usually there's things that they see that maybe, you know, the general public doesn't see. Do you believe that every video may lead you a little closer to finding him?

MR. HULON: Yes. Actually, any time we have an opportunity to examine evidence or information, we're looking for clues there. And as we look at these, we do look for clues that would identify where this person might be or give us some indications of, you know, more evidence that would lead us to his location.

QUESTION: The sealing of the earlier indictments and the unsealing of the current indictment now is undoubtedly going to fuel suspicions that the announcement here was timed to influence an election less than

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four weeks away in which national security is going to be a big issue. I was wondering if you can address that.

DEPUTY ATTORNEY GENERAL McNULTY: Well, I'll go back to what I was saying to Terry, that the timing of this case fits the circumstances we face. There would be no good justification to delay this indictment when we have seen the building nature of these videos, and the fact that we have the award now. The award would not do us much good if this was kept secret.

We felt that once we had the most recent video and now a broader base of evidence, we had thoroughly analyzed the nature of the treason charge, applied all the facts in this case to the law in this area, we were in a position to go to the grand jury and seek an indictment. Once we went to the grand jury to seek that indictment, and again having some incentive for cooperation, that we wanted to get this word out as soon as possible. That's in the best interests of the American people to do that.

QUESTION: When exactly was the original indictment?

DEPUTY ATTORNEY GENERAL McNULTY: I'll come back to you in a second.

QUESTION: If you don't have any information that he's been involved in actual plots or actual attacks, what kind of threat does this person actually represent? I mean, you've had people who have actually been involved in attacks in the past but have not faced what he's facing now with this indictment. Can you explain what kind of threat he represents?

DEPUTY ATTORNEY GENERAL McNULTY: We have an American citizen here, and that's a distinction from other cases where you might talk about individuals who have been involved in attacks. We have an American citizen, and element of the offense for treason.

The significance of the propaganda part should not be underestimated. If you look at the cases in this area going back to the World War II era, the broadcast cases, which was a category of cases in itself, about five of them, this is a very significant piece of the way an enemy does business, to demoralize the troops, to encourage the spread of fear. And in fact, when you add terrorism to this equation, in contrast to the World War II enemy, where terrorism by its nature seeks to intimidate in order to affect government policy, the propaganda portion is especially significant. And the fact again we have a U.S. citizen who has betrayed the country, according to the charges, the allegations, and joined up with this enemy to communicate that fear, it brings a lot of different factors together and makes it suitable for treason.

Did you have a follow-up?

QUESTION: Can you just clarify, when was the original indictment? When was that first sealed indictment?

DEPUTY ATTORNEY GENERAL McNULTY: We're going to have to get that for you. I don't think I know that off the top of my head.

QUESTION: Do you believe he has no value for intelligence, and is that why you're not considering him an enemy combatant but instead a treasonous criminal?

DEPUTY ATTORNEY GENERAL McNULTY: Well, I can't comment on what value he might have in one setting or another. But from the Department of Justice perspective, we have enough evidence to bring the charges that we're bringing today, and that's the consideration that this represents. Yes?

QUESTION: When Attorney General Ashcroft and Director Mueller announced this, they said that he was involved in translations for al Qaeda. Is there information that this was propaganda work, or was this

documents that they were seeking to translate for an attack plan? Is there anything anybody can provide us?

DEPUTY ATTORNEY GENERAL McNULTY: I don't have any more information on that. Do you have something on that?

MR. HULON: Actually, the original reporting that was reported was that he was doing translations for al Qaeda, which were the translations that he did for the videos. And you could see that some of the text was in Arabic and then some of the language was English. So that's the explanation for the translations. It's actually for the communications network.

QUESTION: How? Were there documents recovered overseas in safe house or something?

MR. HULON: That was in regards to the videotapes that were broadcast.

QUESTION: Are the videotapes the only evidence that you have at this point?

DEPUTY ATTORNEY GENERAL McNULTY: Well, I will refer you to the indictment, which lays out essentially where we are on this. And it focuses on all the information in the videotapes, yes.

QUESTION: Right. There's nothing other?

DEPUTY ATTORNEY GENERAL McNULTY: Nothing other than those videotapes. That's right.

QUESTION: You mentioned this evidence as building over a period of time. What was the tipping point in your mind?

DEPUTY ATTORNEY GENERAL McNULTY: Well, right. I think the fact that we had two broadcasts in September, so within the past month, just over the past month. We're one month today from the last video. We had two of those videos. And the investigation took a real turn with that because we again had the unveiling. We had stronger support for the analysis that we were doing in this case. And we came to a point where we could make a final decision on whether or not we believe that treason would be an appropriate charge. So these last two videos combined, and in that frequency, led us to believe that we need to move on this at this point.

MODERATOR: We'll take one more question.

QUESTION: Paul, would you address the question of what's going on in New York City before you leave, you or Mr. Hulon? What evidence, if any, do you have that there's any possible connection to terrorism? How much deaths do you know about? What can you tell us about what's going on?

DEPUTY ATTORNEY GENERAL McNULTY: Well, based upon the information I received just before I walked into this room, we still have no evidence to suggest that this is connected to an act of terrorism. It appears to be at this point, again based upon the evidence that we're aware of, a very tragic aviation incident. And there are investigators, including the FBI's JTTF and the New York City police, on the scene gathering evidence. And we'll continue to monitor the situation.

Thank you.

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Image not available for this document, ID: 0.7.10316.25260-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 7:16 PM
To: USDOJ- Office of Public Affairs
Subject: News Wrap Due

PUBLIC AFFAIRS DAILY NEWS WRAP
October 11, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THURSDAY'S EXPECTED NEWS STORIES:

U.S. Citizen Indicted on Treason, Material Support Charges for Providing Aid and Comfort to Al Qaeda (National Security Division)
Today, a former resident of Orange County, Calif., was indicted in the Central District of California on charges of treason and providing material support to a foreign terrorist organization for making a series of propaganda videotapes for al Qaeda, the Department of Justice announced today. Adam Gadahn, also known as Azzam al-Amriki or Azzam the American, "gave al Qaeda aid and comfort ... with intent to betray the United States," according to the treason count in the indictment. The two-count superseding indictment returned by a federal grand jury in Santa Ana, Calif., today also charges Gadahn with providing material support to al Qaeda. Gadahn is the first person to be charged with treason against the United States since the World War II era.

Talking Points

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- The War on Terror is a fight for hearts and minds, and Gadahn gave himself to our enemies in al Qaeda for the purpose of being a central part of their propaganda machine.

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- The presence of other competitors, changing regulatory requirements and the emergence of new technologies in markets for residential local and long distance service indicate that this transaction is not likely to harm consumer welfare.

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- The merged firm would continue to face competition from other facilities-based rivals in the provision of telecommunications services to business customers including local private line services.

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- The Justice Department brought an enforcement action against ASARCO in 1999 and resolved it with a consent decree.

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- All available information was considered by EPA and the Department of Justice in reaching this settlement, including the documents obtained by the citizen groups.

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Atlanta, Georgia
OPEN PRESS

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 11, 2006 7:30 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 11, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

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Atlanta, Georgia
OPEN PRESS

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 10:08 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 12, 2006

Department of Justice

PRESS GUIDANCE
Thursday, October 12, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

No releases scheduled.

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Press inquiries regarding logistics should be directed to John Page of the Federalist Society at 404-815-6108, or to Janet Potter at 202-514-2201.

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169475

Image not available for this document, ID: 0.7.10316.25093-000001

Image not available for this document, ID: 0.7.10316.25093-000002

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, October 12, 2006 10:48 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/12/06 Civil Division News

Canada-U.S. softwood deal takes effect, B.C. minister sees years of stability

Arar wants CSIS watchdog to reopen probe

Suit aims to stop deportation of undocumented immigrant parents

Federal appeals court upholds lower fine for Jonesboro company

Fallout-thyroid link gets boost; New downwind study headed by U. professor

Editorial: Posada Case - ISSUE: CIA report points finger at militant.

Canadian Press

10/12/2006

Canada-U.S. softwood deal takes effect, B.C. minister sees years of stability

VICTORIA (CP) - B.C. Forests Minister Rich Coleman says the Canada-U.S. softwood lumber deal coming into effect Thursday should clear the air after years of instability.

He says the agreement brings to the forest industry an operating environment in which everyone knows the rules.

Coleman says systems to deal with a new border tax should be in place by the agreement's implementation but he admits there will likely be some growing pains in the first few months.

The seven-year accord replaces U.S. duties on Canadian softwood with a sliding export tax that adjusts for low lumber prices.

B.C. NDP forests critic Bob Simpson says the implementation couldn't come at a worse time in the market cycle and he predicts extended shutdowns or even mill closures in the province.

He says producers will be facing a 15-per-cent border tax at a time when lumber prices "are at rock bottom."

END

National Post
Oct. 12, 2006

Arar wants CSIS watchdog to reopen probe

Chris Lackner, CanWest News Service; Ottawa Citizen

OTTAWA - Maher Arar is calling on CSIS's watchdog to reopen its investigation into the intelligence agency's role in his detention at a Syrian prison.

The security intelligence review committee, an independent oversight panel, is being asked to review the agency's failure to recognize Arar was being tortured by his captors. The request was made in a letter Arar's lawyers sent to the committee Oct. 4.

"We rely on CSIS to give accurate security assessments, but they couldn't get it right in such a high-profile case," Lorne Waldman, Arar's lawyer, said Wednesday.

"I have serious concerns as to whether they know what they're doing."

Arar, a 36-year-old Syrian-Canadian, was arrested at New York's JFK airport in September 2002 and deported to his birth country. He spent a year in a Damascus jail before he was released without charges.

Waldman said the agency accepted at face value information about Arar gleaned from Syrian authorities without acknowledging it may have been garnered through torture.

"This goes to the heart of the reliability of CSIS as an institution," Waldman said.

"If an intelligence officer charged with the Arar file couldn't do a proper reliability assessment of information obtained from one of the most notorious regimes in the Middle East, I have grave concerns. Anyone doing the most elementary research would have known that torture was almost a certainty."

The CSIS watchdog investigated Arar's case and cleared CSIS of any wrongdoing in 2004, but those conclusions were reached before Justice Dennis O'Connor conducted his public inquiry.

His report, released last month, offered a detailed analysis of the RCMP's role in providing inaccurate intelligence to U.S. authorities that led to Arar's deportation. But the report also criticized CSIS for accepting Syria's reports on Arar at face value and for not supporting Foreign Affairs' efforts to secure his release.

Much of the testimony from CSIS officials was blocked out in the O'Connor report due to national security concerns.

"When we called for a public inquiry, we thought we'd have a public inquiry," Waldman said. "But instead

we got an inquiry in camera."

In his letter to the agency's watchdog, Waldman wrote that CSIS "failed to consider the possibility that the information was obtained under torture, and failed to advise other agencies that the information was likely obtained under torture."

Suzanne Beaubien, a spokeswoman for the the committee, said it will consider Arar's request at its next formal meeting later this month.

The agency's role in Arar's fate is also coming under scrutiny by a parliamentary committee. The House of Commons public safety committee is expected to soon call CSIS director Jim Judd as a witness to discuss the O'Connor report's revelations.

END

Soyth Florida Sun-Sentinel

October 12, 2006

Suit aims to stop deportation of undocumented immigrant parents

By Tal Abbady, SOUTH FLORIDA SUN-SENTINEL

A group of lawyers and immigrant advocates Wednesday sued the federal government, seeking to stop immigration officials from deporting undocumented parents of U.S .-born children.

The suit, filed in U.S . District Court in Miami, seeks class action status for 60 families in South Florida. Officials from Honduran Unity, Nicaraguan Fraternity and the Peruvian-American Coalition asked the court for an emergency injunction to halt deportations they say trample the civil rights of American children.

The lawsuit names as defendants President Bush, Attorney General Alberto R. Gonzalez, Homeland Security Secretary Michael Chertoff and federal immigration officials. Advocates say an injunction would protect children while Congress considers competing immigration proposals -- a debate that has been stalled in recent months.

"It's election time and members of Congress decided to save their seats and forget about immigration reform," said Nora Sandigo, head of the Nicaraguan Fraternity. "They chose to sacrifice children who were born here but are treated like second-class citizens because their parents are undocumented."

More than three million children born in the United States have parents who are undocumented immigrants, according to researchers at the Washington, D.C.-based Urban Institute. Often dubbed "anchor babies" by anti-immigrant groups, they form an emotional fault line in the debate over how to fix a frayed immigration system.

"Our children are not just branches you can just rip from a tree," said Julio Rosell, a Cuban-born Pembroke Pines, Fla., resident who faces deportation along with his Guyanese-born wife.

They don't know where their Florida-born children, Julio Rosell Jr., 9, and Jeannette Rosell, 10, will end up.

Rosell, 41, made his way from Cuba to Brazil and arrived in the United States as a stowaway on a mercantile ship. Immigration officials detained Rosell but eventually released him. He received a work permit, met his wife, had children and started a business.

Thirteen years after settling in South Florida, Rosell received a letter informing him that, as a stowaway, he did not after all qualify to stay in the United States, even though federal policy generally allows Cubans who reach U.S. soil to remain. He could be deported to Cuba. Carolina Rosell, 41, who applied for residency through her husband, could be deported to Guyana.

"I'm in limbo," Julio Rosell said. "Why didn't the government deport me when I arrived? They let me go. I made my life. Now I'm being forced to abandon my children."

The lawsuit claims U.S. immigration laws that force apart families violate the Universal Declaration of Human Rights. It also claims such separations violate the children's constitutional rights.

Advocates of stricter immigration enforcement laws, however, argue parenthood should not give undocumented immigrants special status.

"These parents have made breathtakingly bad decisions," said John Keeley of the Center for Immigration Studies. "Nobody forced them to come here illegally. This is their burden. If they have a duty to care for their children, they must do so in their home countries."

Contemplating a move to Cuba or Guyana gives 10-year-old Jeannette Rosell, a fifth-grader, a lot to worry about.

"I wouldn't know the language there. I wouldn't know anybody," she said. "Where would I live? What would I eat? It's much better here in the States."

END

AP

October 12, 2006

Federal appeals court upholds lower fine for Jonesboro company

LITTLE ROCK_A lower fine imposed on a now-defunct Jonesboro ambulance firm convicted of Medicare fraud was upheld Wednesday by a federal appeals court that had ordered reconsideration of the company's sentence.

Patient Transfer Service, which had earlier been fined $1,177,786, was ordered in March by U.S. District Judge James M. Moody to pay a fine of $500,000 instead, after Moody reviewed the fine at the direction of the 8th U.S. Circuit Court of Appeals at St. Louis.

On Wednesday, the 8th Circuit affirmed the lower fine.

Kevin Wise, the company's general manager, was sentenced by Moody in March to 37 months behind bars.

Prosecutors claimed Patient Transfer Service and owner Don Wise, Kevin Wise's brother, were engaged in a conspiracy to cheat government health-care programs out of hundreds of thousands of dollars by filing false claims for ambulance services in the 1990s. Don Wise was acquitted of conspiracy.

The company allegedly sought reimbursement for dialysis patients who didn't need an ambulance to take them back and forth for treatment. The government alleged the patients had not been confined to a bed

and had not been moved by stretcher, and that "some of them drove, cleaned house, gardened, bowled, and engaged in other active pursuits."

END

Deseret Morning News

Thursday, October 12, 2006

Fallout-thyroid link gets boost; New downwind study headed by U. professor

By Joe Bauman
Deseret Morning News

A new study by 15 scientists, statisticians and other experts concludes that more downwind residents suffered thyroid damage from nuclear testing than earlier believed. Also, it says damage was still showing up 30 years after the blasts.

The study's lead author is the University of Utah's Dr. Joseph L. Lyon, who has been pursuing the issue for many years.

In March 2005, the U.S. Centers for Disease Control and Prevention, based in Atlanta, abruptly canceled a study headed by Lyon that involved checking thyroid glands of downwind residents, looking for abnormities.

Thyroid glands accumulated radioactive iodine from milk from grazing cows. Children were most vulnerable.

Four studies have been launched: an examination in 1965-66 of schoolchildren exposed to fallout; an update 30 years after exposure and published in 1993; an attempted 50-year update canceled by the CDC after years of work and millions of dollars; and the new study, which is a re-evaluation of the 1993 report.

The latest is to be published in "Epidemiology," a peer-reviewed scientific journal that is the official publication of the International Society for Environmental

Epidemiology. The study is to be published in the Nov. 1 issue, but an abstract is already online at the journal's Web site, www.epidem.com/pt/re/epidemiology under "Epi Fast-Track."

The title of the article is "Thyroid Disease Associated With Exposure to the Nevada Nuclear Weapons Test Site Radiation: A Re-evaluation Based on Corrected Dosimetry and Examination Data."

The 1993 report concluded there was a connection between radiation from the Test Site and abnormal thyroid growth such as tumors.

In the latest effort, the team, which included radiobiologists, re-examined the data in the 1993 study, correcting mistakes that crept into the original effort. They found an even stronger connection between thyroid abnormalities and fallout.

Errors crept into the study published in 1993 because "there were a lot of uncertainties (about) what people were eating and where they lived and where they moved," Lyon said Wednesday.

Also, problems with the earlier computer system required reconstructing the system. Radiation doses were recalculated. Two computer programmers independently rewrote the algorithm, rechecking each

step, Lyon said.

"It took them months," he said.

The re-examination also reviewed all the diagnoses that were reported.

Some diagnoses were changed and others were dropped as not sufficiently documented. This step was more conservative than in the 1993 study.

"We set up very rigid criteria," he said. "What we came up with was a much stronger association with thyroid neoplasms (growths, including tumors). It more than doubled."

The risk ratio for people with the highest exposure to fallout, compared with those with the least exposure, jumped from 3.4 times as likely to develop neoplasms to the new study's 7.5 times as likely.

For thyroiditis, an inflammation that is the most common form of thyroid disorder, the figures also are compelling. Those from heavily hit areas had been thought to be 1.1 times as likely to have the disorder. The new study places the risk ratio at 2.7 times.

"We think that's fairly persuasive that thyroiditis is associated" with fallout exposure, Lyon said. The illness is "a very, very common disease," he added, and the disease is not one the government will make payments for under the Radiation Exposure Compensation Act.

Owen Hoffman, a Ph.D. researcher who heads the SENES Oak Ridge Inc. center for risk analysis at Oak Ridge, Tenn. — one of the report's authors — said that in the 1993 report, only neoplasms of the thyroid were found to be statistically related to fallout doses.

"All other diseases were found to be statistically insignificant" in the earlier study, he said in a telephone interview.

The re-evaluation, Hoffman said, "has found increasing risk with respect to exposure to fallout exposure."

It not only confirmed a link to neoplasms, but showed "a link between fallout exposure and thyroiditis."

This is among the first published reports "of a strong link between fallout exposure and an increased incidence of thyroiditis," Hoffman added.

J Truman, originally from southern Utah and now a resident of Malad, Idaho, was among the group of children first tested in the early 1960s and then retested.

"As a participant in that study since its beginning I can't say it's comforting to see the final verdict," he said in an e-mail. "Far from it. There's only anger."

He is angry about the endless government repetitions of "there is no danger" as fallout was coming down.

Truman also feels anger about the federal government pulling the funding on the next follow-up tests, "when the new links (between fallout and disease) started emerging."

END

South Florida Sun-Sentinel
October 12, 2006

Editorial: Posada Case - ISSUE: CIA report points finger at militant.

An act of terrorism that kills innocent people is an act of terrorism, criminal, deplorable.

The United States must tell what it knows of Luis Posada Carriles. The whole story.

Posada is a Cuban militant who has been accused by Cuban and Venezuelan authorities of bombing a Cuban airliner in October 1976. The attack was unwarranted and unjustifiable. Cuba, nor any other nation, will never become "free" or "democratic" by way of terrorism.

Posada is currently being held in a Texas detention center on an immigration-related violation. He has, for three decades, maintained his innocence, and was twice acquitted of the attack in Venezuela.

Now, a just released U.S. government report points yet another the finger at Posada and other right-wing Cuban militants as conspirators in the incident. The CIA document quotes Posada as telling the U.S. spy agency in June 1976 that exiles planned to blow up a Cuban airliner leaving Panama.

Like another document released in June of last year, it suggests Posada knew more than he's publicly admitted. That the CIA held on to this report for so long also suggests U.S. authorities, too, know more than they have let on.

Ideally, Posada would be sent back to Cuba for trial. Unfortunately, Cuba's legal system is not one to offer up fair trials, and extradition isn't an option.

However, that mustn't stop U.S. officials from declassifying all documents that shed light on this tragedy. In particular, Washington should investigate whether Posada's actions violated U.S. law, and bring charges if that turns out to be the case.

While it distrusts Cuba's legal system, the United States can't simply sit idly by, keeping Posada in detention on an immigration matter, hoping the whole issue will be forgotten. Washington must take a proactive role.

BOTTOM LINE: U.S. must tell all it knows.

END

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 2:22 PM
To: USDOJ- Office of Public Affairs
Subject: U.S. ARMY CORPS OF ENGINEERS CIVILIAN EMPLOYEE PLEADS GUILTY TO CORRUPTION CHARGES WHILE WORKING AT CAMP ARIFJAN IN KUWAIT

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 12, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

U.S. ARMY CORPS OF ENGINEERS CIVILIAN EMPLOYEE PLEADS GUILTY TO CORRUPTION CHARGES WHILE WORKING AT CAMP ARIFJAN IN KUWAIT

WASHINGTON – Gheevarghese Pappen, a retired U.S. Army Corps of Engineers employee pleaded guilty today in Savannah, Ga., to soliciting and accepting nearly $50,000 in illegal gratuities, announced Assistant Attorney General Alice S. Fisher of the Criminal Division.

Pappen, 62, of Savannah, Ga., pleaded guilty to soliciting gratuities while detailed to the U.S. Army Area Support Group, Host Nation Office at Camp Arifjan, Kuwait, which supports U.S. military operations in Iraq. His official duties at Camp Arifjan included working with local companies in order to secure housing for U.S. Army military and civilian personnel stationed in Kuwait and en route to Iraq. While working in Camp Arifjan securing apartments for U.S. Army employees, Pappen accepted money from a Kuwaiti realtor for assisting the realtor in obtaining contracts with the United States Army. Pappen, ordered by the U.S. Army Corps of Engineers to return to his domestic post in Georgia, was arrested on March 17, 2006, at the Atlanta Hartsfield Jackson International airport upon his return from Camp Arifjan.

Pappen faces a maximum penalty of two years in prison, a three-year term of supervised release, and a fine of $250,000. He is presently released on bond.

This case is being prosecuted by Trial Attorneys Ann C. Brickley and James A. Crowell IV of the Public Integrity Section, headed by Acting Section Chief Edward C. Nucci of the Criminal Division.

The case is being investigated by Army Criminal Investigation Division, Major Procurement Fraud Unit, the Defense Criminal Investigation Service and the Federal Bureau of Investigation.

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06-697

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Image not available for this document, ID: 0.7.10316.25067-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 3:58 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT AGREEMENT WILL HELP PROTECT VOTING RIGHTS OF NEW JERSEY CITIZENS IN 2006 FEDERAL ELECTION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 12, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT AGREEMENT WILL HELP PROTECT VOTING RIGHTS OF NEW JERSEY CITIZENS IN 2006 FEDERAL ELECTION

WASHINGTON - The Justice Department today announced that it has reached an agreement with the state of New Jersey that will help to ensure an orderly process for the implementation of New Jersey's statewide computer voter database, in accordance with federal law. This agreement, which was filed contemporaneously with a lawsuit filed by the Civil Rights Division and the U.S. Attorney's Office for the District of New Jersey, sets a schedule for the state's completion and implementation of a statewide computer voter database that includes all eligible voters and for the identification and removal of ineligible voters from the voter rolls, in a manner that brings the state into full compliance with the Help America Vote Act (HAVA) and the National Voter Registration Act of 1993 (NVRA).

"We commend New Jersey Attorney General Stuart Rabner and the Elections Division for their constructive approach to addressing the problems with the state's voter database and voter registration list," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The state's prompt cooperation in this matter will help ensure that every eligible voter in New Jersey will be able to cast his or her ballot in November consistent with federal law."

"We were very concerned that four years had passed without compliance with federal voting laws by the state Attorney General's Office," said U.S. Attorney Christopher J. Christie. "We are very pleased that Attorney General Rabner has taken this issue so seriously and has put the resources of his department behind fixing it as soon as possible."

"We are fully committed to protecting the rights of New Jersey voters and the integrity of the election on November 7," said Attorney General Rabner, who is the state's chief election official. "Free and fair elections are fundamental to the democratic process and full participation is key. This agreement furthers both goals. As always, we will be vigilant in guarding against the potential for fraud."

The agreement, which must be approved by the federal district court, sets an effective schedule for the state to comply with HAVA and the NVRA by implementing a statewide computer database that includes all registered voters and removes ineligible voters. The agreement also requires the state to maintain and

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continually update the database to avoid similar problems in future federal elections. The agreement also provides that voters whose names do not appear in the registration list be given an opportunity to vote by provisional ballot.

The Justice Department has brought a number of suits under the HAVA and the NVRA to ensure the proper implementation of the computer voter database and the accuracy and integrity of state voter registration lists. More information about the HAVA, the NVRA and other federal voting laws is available on the Department of Justice Web site at http://www.usdoj.gov. Complaints about discriminatory voting practices may be called in to the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

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Image not available for this document, ID: 0.7.10316.24907-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 6:04 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 12, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGE

BATON ROUGE, La. – Another Louisiana resident was sentenced in federal court by Chief U.S. District Court Judge Ralph E. Tyson on a fraud charge related to a hurricane disaster relief program, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today.

Betty Faye London, 53, of Baton Rouge, La., pleaded guilty on June 7, 2006, to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. London was sentenced to three years of probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigation of this matter.

The number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds stands at 78.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud

DOJ_NMG_ 0169492

Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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Image not available for this document, ID: 0.7.10316.24899-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 6:07 PM
To: USDOJ- Office of Public Affairs
Subject: OVERTON COUNTY JAIL ADMINISTRATOR CONVICTED OF VIOLATING INMATE'S RIGHTS; TWO OTHERS PLEAD GUILTY

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 12, 2006
WWW.USDOJ.GOV

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

OVERTON COUNTY JAIL ADMINISTRATOR CONVICTED OF VIOLATING INMATE'S RIGHTS; TWO OTHERS PLEAD GUILTY

WASHINGTON – Michael Gilpatrick, former Overton County Jail Administrator, was convicted today in federal court for violating the civil rights of an inmate detained in the Overton County Jail. Gilpatrick faces up to 10 years in prison for each of the two counts on which he was convicted, and was remanded for a psychiatric evaluation.

Two co-defendants, Overton County Sheriff's Deputy Gary Grigg and Lieutenant Johnny Gann, pleaded guilty to related charges last week, just prior to the commencement of the trial. A fourth defendant, Overton County Sheriff's Lieutenant James Loftis, also pleaded guilty in June 2005 to a related civil rights charge. In total, four Overton County law enforcement officers have been convicted in the course of this prosecution.

The jury found Gilpatrick guilty of willfully violating the civil rights of an inmate in the Overton County Jail by arranging for two other jail inmates to assault the victim. The jury also convicted Gilpatrick of conspiring with Grigg and Loftis to violate the victim's civil rights. Grigg and Loftis pleaded guilty to conspiring with Gilpatrick to have the victim assaulted. Gann further pleaded guilty to lying to federal investigators during the investigation of this incident. The inmates who assaulted the victim have agreed to plead guilty to state assault charges later this year.

"Those who abuse their position of trust are an affront to the vast majority of law enforcement officers who perform honorably under dangerous and difficult circumstances," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Department of Justice is committed to vigorously enforcing the criminal civil rights laws."

"I want to commend the FBI for its thorough investigation of this case," said Craig S. Morford, the U.S. Attorney for the Middle District of Tennessee in Nashville. "I pledge my office's support to investigating and prosecuting civil rights violations when they occur."

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by

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law enforcement officials. The Division has compiled a significant record on criminal civil rights prosecutions in the last six years. Since fiscal year 2001, the Division has convicted 50 percent more defendants in comparison to the previous six years.

Assistant U.S. Attorney William Cohen and Civil Rights Division attorneys Gerry Hogan and Jim Felte prosecuted this case for the government.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 12, 2006 6:50 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 12, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

FRIDAY'S EXPECTED NEWS STORIES:

Attorney General Hosts *Washington Times* Editorial Page Editor (OPA)
Today, the Attorney General hosted Tony Blankley for lunch.

Police Executive Research Forum Released Crime Data (OPA)
Today, the Police Executive Research Forum began leaking data they intend to release this weekend at the annual conference of the International Association of Chiefs of Police, that indicates the increases in the rates of murder and robbery that began last year have continued in 2006, and in many communities across the country, have gotten worse. *USA Today* and ABC News may run stories tonight or tomorrow on the matter.

Talking Points:

- In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime.

- The recently released National Crime Victimization Survey shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

- In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

- At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime, reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

U.S. Army Corps of Engineers Civilian Employee Pleads Guilty to Corruption Charges While Working at Camp Arifjan in Kuwait (Criminal)
Today, Gheevarghese Pappen, a retired U.S. Army Corps of Engineers employee pleaded guilty today in Savannah, Ga., to soliciting and accepting nearly $50,000 in illegal gratuities, announced Assistant Attorney General Alice S. Fisher of the Criminal Division. Pappen, of Savannah, Ga., pleaded guilty to soliciting gratuities while detailed to the U.S. Army Area Support Group, Host Nation Office at Camp Arifjan, Kuwait, which supports U.S. military operations in Iraq. His official duties at Camp Arifjan included working with local companies in order to secure housing for U.S. Army military and civilian personnel stationed in Kuwait and en route to Iraq. While working in Camp Arifjan securing apartments for U.S. Army employees, Pappen accepted money from a Kuwaiti realtor for assisting the realtor in obtaining contracts with the United States Army. Pappen, ordered by the U.S. Army Corps of Engineers to return to his domestic post in Georgia, was arrested on March 17, 2006, at the Atlanta Hartsfield Jackson International airport upon his return from Camp Arifjan.

Justice Department Agreement Will Help Protect Voting Rights of New Jersey Citizens In 2006 Federal Election (Civil Rights)
Today, the Justice Department announced that it has reached an agreement with the state of New Jersey that will help to ensure an orderly process for the implementation of New Jersey's statewide computer voter database, in accordance with federal law. This agreement, which was filed contemporaneously with a lawsuit filed by the Civil Rights Division and the U.S. Attorney's Office for the District of New Jersey, sets a schedule for the state's completion and implementation of a statewide computer voter database that includes all eligible voters and for the identification and removal of ineligible voters from the voter rolls, in a manner that brings the state into full compliance with the Help America Vote Act (HAVA) and the National Voter Registration Act of 1993 (NVRA).

Talking Points

- The Department commends New Jersey Attorney General Stuart Rabner and the Elections Division for their constructive approach to addressing the problems with the state's voter database and voter registration list.

- The state's prompt cooperation in this matter will help ensure that every eligible voter in New Jersey will be able to cast his or her ballot in November consistent with federal law.

Overton County Jail Administrator Convicted of Violating Inmate's Rights; Two Others Plead Guilty (Civil Rights)
Today, Michael Gilpatrick, former Overton County Jail Administrator, was convicted in federal court for violating the civil rights of an inmate detained in the Overton County Jail. Gilpatrick faces up to 10 years in prison for each of the two counts on which he was convicted, and was remanded for a psychiatric evaluation. Two co-defendants, Overton County Sheriff's Deputy Gary Grigg and Lieutenant Johnny Gann, pleaded guilty to related charges last week, just prior to the commencement of the trial. A fourth defendant, Overton County Sheriff's Lieutenant

James Loftis, also pleaded guilty in June 2005 to a related civil rights charge. In total, four Overton County law enforcement officers have been convicted in the course of this prosecution.

Talking Points

- Those who abuse their position of trust are an affront to the vast majority of law enforcement officers who perform honorably under dangerous and difficult circumstances.

- The Department of Justice is committed to vigorously enforcing the criminal civil rights laws.

Father Charged with Illegal Firearms Following Joplin School Shooting (USAO-Western District of Missouri)
The father of the student involved in a shooting at Joplin Middle School has been charged in federal court with illegally possessing several firearms in the Western District of Missouri. Gregory Lynn White of Joplin, Mo., was charged with possession of firearms in a federal criminal complaint filed under seal in U.S. District Court in Springfield on Oct. 11, 2006. The complaint was unsealed and made public today upon White's arrest and initial court appearance. White is the father of the Joplin Middle School student who was taken into custody after allegedly firing one shot into the school's ceiling and allegedly attempting to shoot school officials with a Norinco semi-automatic assault rifle on Oct. 9, 2006.

Another Sentenced In Baton Rouge on Federal FEMA Fraud Charge (USAO–Middle District of Louisiana)
Today, another Louisiana resident was sentenced in federal court by Chief U.S. District Court Judge Ralph E. Tyson on a fraud charge related to a hurricane disaster relief program. Betty Faye London, of Baton Rouge, La., pleaded guilty on June 7, 2006, to count one of an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. London was sentenced to three years of probation and $2,000 in restitution. The U.S. Department of Homeland Security's Office of Inspector General and the FBI conducted the investigation of this matter. The number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds stands at 78.

ATF Featured in National Geographic Program (ATF)
Tonight, the National Geographic Channel will broadcast a program called *"Naked Science: Forensics Under Fire,"* featuring interviews with several ATF employees. The show will take a close look at recent challenges to the reliability of forensic science and will examine how the field is responding to those challenges. Special Agent and Certified Fire Investigator Steven Avato, Fire Protection Engineer Stephen Hill and Special Agent and Toolmark Examiner Kristin Gerber were interviewed for the program.

FBI Director Mueller Names Joseph Billy as Assistant Director In Charge of the FBI's Counterterrorism Division (FBI)
Today, FBI Director Robert S. Mueller, III, named Joseph Billy, Jr., Assistant Director in charge of the FBI's Counterterrorism Division. Billy has been the Acting Assistant Director since June.

Billy has been with the Federal Bureau of Investigation (FBI) for 28 years. He holds a Masters Degree in Public Administration from the University of Southern California. During his career in the FBI, he has served in the Newark, New Haven and New York field offices.

FBI Receives Media Inquiries Regarding Most Wanted Suspect Adam Gadahn (FBI)
Today, the FBI continued to receive media inquiries regarding Adam Gadahn, who was placed on the FBI's "Most Wanted" List today and was indicted yesterday on charges of treason and providing aid and comfort to al-Q'aida.

FRIDAY'S EXPECTED EVENTS/RELEASES:

No events/releases scheduled.

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 9:52 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 13, 2006

Department of Justice

PRESS GUIDANCE
Friday, October 13, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Criminal Division will issue a release on a public integrity matter. (Sierra)

The Criminal Division will issue a release on a fraud-related matter. (Sierra)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Bryan Sierra

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.24854-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 10:36 AM
To: USDOJ- Office of Public Affairs
Subject: U.S. RESOLVES PROBE AGAINST OIL COMPANY THAT BRIBED IRANIAN OFFICIAL

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV

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(202) 514-2008
TDD (202) 514-1888

U.S. RESOLVES PROBE AGAINST OIL COMPANY THAT BRIBED IRANIAN OFFICIAL

WASHINGTON – An international oil company, Statoil ASA, headquartered in Norway and listed on the New York Stock Exchange, has acknowledged making bribe payments to an Iranian official in order to secure valuable oil and gas rights in Iran, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Michael J. Garcia for the Southern District of New York announced today. In order to resolve a pending criminal investigation, Statoil has acknowledged that its conduct violated the anti-bribery and accounting provisions of the Foreign Corrupt Practices Act (FCPA), agreed to pay a $10.5 million penalty, and has further agreed to enter into a three-year deferred prosecution agreement.

According to the criminal information filed today in Manhattan federal court, in 2001 and 2002, Statoil sought to expand its business internationally, and focused specifically on Iran as a country in which to secure oil and gas development rights. At the time, Iran was awarding contracts for the development of the South Pars field, one of the largest natural gas fields in the world. In 2001, Statoil developed contacts with an Iranian government official who was believed to have influence over the award of oil and gas contracts in Iran. Following a series of negotiations with the Iranian official in 2001 and 2002, Statoil entered into a "consulting contract" with an offshore intermediary company. The purpose of that consulting contract—which called for the payment of more than $15 million over 11 years—was to induce the Iranian official to use his influence to assist Statoil in obtaining a contract to develop portions of the South Pars field and to open doors to additional Iranian oil and gas projects in the future. Two bribe payments totaling more than $5 million were actually made by wire transfer through a New York bank account, and Statoil was awarded a South Pars development contract that was expected to yield millions of dollars in profit. The information charges that Statoil violated the FCPA by making the corrupt payments and by falsifying its books and records in characterizing the bribe payments as consulting fees.

Pursuant to the terms of the deferred prosecution agreement, Statoil acknowledged responsibility for the bribe payments and accepted a detailed statement of facts describing the circumstances surrounding those payments. In addition to the payment of $10.5 million, the company agreed to cooperate fully with the Department of Justice and the Securities and Exchange Commission (SEC) in connection with inquiries concerning corrupt payments, false books and records, and inadequate internal controls. Statoil agreed to the appointment of an independent compliance consultant, who will review and periodically report on the company's compliance during the three-year term of the agreement. If the company fulfills its obligations

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under the deferred prosecution agreement, after three years the two criminal charges contained in the information filed today will be dismissed.

In a related proceeding announced today by the SEC, Statoil consented to the entry of an administrative order requiring the company to cease and desist from committing any future violations of the FCPA, and to pay disgorgement of an additional $10.5 million.

"Although Statoil is a foreign issuer, the Foreign Corrupt Practices Act applies to foreign and domestic public companies alike, where the company's stock trades on American exchanges," said Assistant Attorney General Fisher. "This prosecution demonstrates the Justice Department's commitment vigorously to enforce the FCPA against all international businesses whose conduct falls within its scope." Ms. Fisher added, "The Department's willingness to resolve this particular investigation by a deferred prosecution agreement is in large part due to the exceptional assistance Statoil provided to U.S. authorities in connection with the investigation, the significant remedial efforts undertaken by the company, and the fact that the Norwegian authorities also investigated and sanctioned Statoil."

"Protection of U.S. capital markets from corrupt business practices is a fundamental underpinning of the Foreign Corrupt Practices Act, and it is an objective that we share with our civil enforcement partner, the SEC," U.S. Attorney Garcia stated. "I acknowledge and greatly appreciate the extraordinary leadership, assistance and cooperation provided by the SEC in this matter."

This investigation has been handled jointly by the Criminal Division's Fraud Section and by the U.S. Attorney's Office for the Southern District of New York. Deputy Chief Mark Mendelsohn and Trial Attorney Joe Capone of the Fraud Section and Assistant U.S. Attorney Deborah Landis and are in charge of the matter.

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 10:39 AM
To: USDOJ- Office of Public Affairs
Subject: ROME, GA., RESIDENT PLEADS GUILTY TO MATERIAL SUPPORT OF FOREIGN TERRORIST GROUP

Attached please find the guilty plea and plea agreement and criminal information.

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV/USAO/GAN

CONTACT: PATRICK CROSBY
PHONE: (404) 581-6016
FAX: (404) 581-6160

ROME, GA., RESIDENT PLEADS GUILTY TO MATERIAL SUPPORT OF FOREIGN TERRORIST GROUP

Local Businessman and Imam Provided Money to Hamas

ROME, Ga. – Mohamed Shorbagi, 42, of the Rome area pleaded guilty in federal district court to providing material support to Hamas, a designated foreign terrorist organization, U.S. Attorney David E. Nahumias of the Northern District of Georgia announced today. The criminal information and plea agreement, which were filed on Aug. 28, 2006, had been sealed until today, as was the plea hearing.

"There are two important points to make about this case," said U.S. Attorney Nahmias. "First, this case illustrates that people who illegally support foreign terrorist organizations may be found anywhere in the United States, even in quiet and pleasant places like Rome. Second, we will use every lawful tool to ferret out terrorism and those who provide material support to it, regardless of where they live or how they try to hide their criminal activities."

Nahmias noted that Hamas is a terrorist organization operating primarily in the West Bank and Gaza Strip, which has engaged in numerous terrorist attacks aimed at Israeli military personnel, police officers and civilians. Hamas attacks have killed numerous innocent people, including American citizens, and have undermined the Israeli-Palestinian peace process. Federal law makes it a serious felony to provide any material support or resources to a designated foreign terrorist organization.

"The FBI is committed to working with our partners here and abroad to investigate and disrupt the activities of those who provide funding and other support to terrorist groups," stated Special Agent in Charge Gregory Jones of the FBI. "It is very disturbing to see people in the United States who are so willing to offer

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their assistance to known terrorist organizations, and this case should remind us all of the continued need to be vigilant."

"This joint investigation has exemplified what can be accomplished through persistence and interagency cooperation," stated Special Agent in Charge Kenneth A. Smith of Immigration and Customs Enforcement. "The investigation highlights the Department of Homeland Security's goal to identify, investigate and disrupt national security threats and financial avenues being utilized in support of terrorist organizations. I believe that a strong message has been sent that we will not tolerate those individuals in the United States who provide funds for terrorist interests abroad."

According to U. S. Attorney Nahmias and the information presented in court: On Oct. 8, 1997, the United States formally designated Hamas as a foreign terrorist organization. After that date, and continuing until Dec. 4, 2001, Shorbagi provided financial support to Hamas and conspired with unnamed others to provide such material support. He did so knowing that Hamas had been designated as a foreign terrorist organization and that Hamas engaged in terrorist activity. Shorbagi provided the support through donations to the "Holy Land Foundation for Relief and Development (HLF)," knowing that some or all of the money was, in fact, destined for Hamas. Shorbagi knew that money provided to HLF was actually funneled to Hamas in part because he was a Georgia representative for HLF and he had attended HLF meetings at which high-level Hamas officials made presentations condemning Israel. Shorbagi also had hosted high-level Hamas officials at the Rome, Ga. mosque at which he served as Imam.

Shorbagi was charged in a Criminal Information on Aug. 28, 2006, with one count of providing material support to a foreign terrorist organization. That charge carries a maximum sentence of 15 years in prison and a fine of up to $250,000.

Shorbagi has entered a plea agreement in which he agrees that, under the federal sentencing guidelines, he would be sentenced to the statutory maximum of 15 years in prison. Pursuant to the plea agreement, Shorbagi has agreed to cooperate fully and truthfully with the Government. If the Government determines that such cooperation substantially assists in the investigation or prosecution of other persons, it will file a motion asking the court to reduce Shorbagi's sentence. Shorbagi also agreed to pay full restitution to the victims of fraud crimes he had committed, which the Government agreed not to charge in consideration of his cooperation.

Sentencing is scheduled for Nov. 3, 2006, at 1:30 p.m., before U.S. District Judge Harold L. Murphy.

This case is being investigated by Special Agents of the FBI and U.S. Immigration and Customs Enforcement (ICE), with assistance from the Internal Revenue Service – Criminal Investigation and the Floyd County Police Department. Assistant U.S. Attorney Kim Dammers is prosecuting the case.

Department of Justice

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FILED IN OPEN COURT
8-28-06
James N. Hatten, Clerk
By: Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

UNITED STATES OF AMERICA	:	
	:	CRIMINAL INFORMATION
v.	:	
	:	NO. 4:06-CR-062-HLM
MOHAMED SHORBAGI	:	

THE UNITED STATES ATTORNEY CHARGES THAT:

From a date unknown, but beginning no later than on or about October 8, 1997, and continuing until on or about December 4, 2001, the defendant, MOHAMED SHORBAGI, within the United States, unlawfully and knowingly did combine, conspire, confederate, and agree with other persons, known and unknown, to provide material support and resources, as that term is defined in 18 U.S.C. § 2339A(b), to a foreign terrorist organization, namely HAMAS, knowing that HAMAS was then designated a terrorist organization under 8 U.S.C. § 1189; all in violation of Title 18, United States Code, Section 2339B.

DAVID E. NAHMIAS
UNITED STATES ATTORNEY

KIM S. DAMMERS
ASSISTANT UNITED STATES ATTORNEY
600 U.S. Courthouse
75 Spring Street, S.W.
Atlanta, GA 30303
404/581-6187
Georgia Bar No. 325417

ORIGINAL

GUILTY PLEA and PLEA AGREEMENT

United States Attorney
Northern District of Georgia

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

CRIMINAL INFORMATION NO. 4:06-CR-062-HLM

MOHAMED SHORBAGI, defendant, having received a copy of the above-numbered Criminal Information and having waived arraignment, hereby pleads GUILTY thereto. The defendant, his counsel, and the United States Attorney for the Northern District of Georgia ("the Government"), as counsel for the United States, subject to approval by the Court, have agreed upon a negotiated plea in this case, the terms of which follow.

1. The defendant admits that he is pleading guilty because he is in fact guilty of the crimes charged in the Criminal Information.

2. The defendant understands that by pleading guilty, he is giving up the right to plead not guilty and the right to be tried by a jury. At a trial, the defendant would have the right to an attorney, and if the defendant could not afford an attorney, the Court would appoint one to represent the defendant. During the trial, the defendant would be presumed innocent and the Government would have the burden of proving him guilty beyond a reasonable doubt. The defendant would have the right to confront and cross-examine the witnesses against him. If the defendant wished, he could testify on his own behalf and present evidence in his defense, and he could subpoena witnesses to testify on his behalf. If, however, the defendant did not wish to testify, that fact could not be used against him. If the defendant were found guilty

after a trial, he would have the right to appeal the conviction. The defendant understands that by pleading guilty, he is giving up all of these rights and there will not be a trial of any kind. The defendant also understands that he ordinarily would have the right to appeal his sentence and, under some circumstances, to attack the sentence in post-conviction proceedings. By entering this Plea Agreement, the defendant may be waiving some or all of those rights to appeal or collaterally attack his sentence, as specified below. Finally, the defendant understands that, to plead guilty, he may have to answer questions posed to him by the Court concerning the rights that he is giving up and the facts of this case, and the defendant's answers, if untruthful, may later be used against him in a prosecution for perjury or false statements.

3. At trial, the defendant agrees that the government could prove beyond a reasonable doubt the following facts:

a. Beginning on a date unknown, but no later than October 8, 1997, and continuing until on or about December 4, 2001, the defendant entered into an agreement and understanding with others to provide monetary support to HAMAS.

b. As part of this agreement, the defendant made regular monetary contributions to the Holy Land Foundation for Relief and Development (HLF) on behalf of himself and others, knowing that HLF then supplied some or all of that money to HAMAS, including donations made after October 26, 2001.

b. At all times that the defendant provided monetary support to HAMAS, he knew that HAMAS engaged in terrorist activity and that HAMAS

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was a designated Foreign Terrorist Organization under the laws of the United States.

f. The defendant provided monetary support to HAMAS for the purpose, in part, of influencing or affecting the conduct of the government of Israel by intimidation or coercion, or to retaliate against the governmental actions of Israel.

4. **MAXIMUM PENALTY:** The defendant understands that, based on his plea of guilty, he will be subject to the following maximum and mandatory minimum penalties:

(a) Maximum term of imprisonment: 15 years

(b) Mandatory minimum term of imprisonment: none

(c) Term of supervised release: not more than 3 years

(d) Maximum fine: $250,000

(e) Mandatory special assessment: $100

5. The defendant understands that, before imposing sentence in this case, the Court will be required to consider, among other factors, the provisions of the United States Sentencing Guidelines. Ultimately, it is within the Court's discretion to impose a sentence up to and including the statutory maximum. The defendant also understands that no one can predict his exact sentence at this time.

6. Based upon the evidence currently known to the Government, the Government will recommend, and the defendant agrees, that Sections 2M5.3 and 3A1.4 of the

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United States Sentencing Guidelines apply in determining the defendant's applicable offense level:

U.S.S.G. § 2M5.3 (material support of terrorism): The parties agree that under U.S.S.G. § 2M5.3, the base offense level is 26.

U.S.S.G. § 3A1.4 (terrorism enhancement): The parties agree that under U.S.S.G. § 3A1.4, the base offense level is increased by 12 levels to level 38, and the Criminal History Category is increased to VI.

The parties understand, however, that regardless of the applicable guideline range the sentence cannot exceed the statutory maximum of 15 years.

7. The Government will recommend that the defendant receive the two-level adjustment for acceptance of responsibility pursuant to Section 3E1.1 of the Sentencing Guidelines, and the additional one-level adjustment if the offense level is 16 or higher. However, the Government will not be required to recommend acceptance of responsibility if, after entering this Plea Agreement, the defendant engages in conduct inconsistent with accepting responsibility. Thus, by way of example only, should the defendant falsely deny or falsely attempt to minimize his involvement in relevant offense conduct, give conflicting statements about his involvement, fail to pay the special assessment, or participate in additional criminal conduct, including unlawful personal use of a controlled substance, the Government will not be required to recommend acceptance of responsibility.

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8. The defendant agrees to cooperate truthfully and completely with the Government, including being debriefed and providing truthful testimony at any proceeding resulting from or related to his cooperation. The defendant also agrees to disclose the existence of and to produce to the Government any and all books, papers, documents, and other items of evidentiary value that are in his actual or constructive possession. The defendant understands that the Government alone will determine what forms of cooperation to request from the defendant, and the defendant agrees that he will not engage in any investigation that is not specifically authorized by the Government.

9. It is understood that defendant's truthful cooperation with the Government is likely to reveal activities of individuals who might use violence, force, and intimidation against the defendant, his family, and loved ones. Should Defendant's cooperation present a significant risk of physical harm to the defendant or his family, this Government, upon the written request of the defendant, will take steps that it determines to be reasonable and necessary to attempt to ensure his safety and that of his family and loved ones. These steps may include, but are not guaranteed to include, application for an S-Visa, whereby the defendant may be permitted to reside legally in the United States under certain guidelines and conditions and/or application to the Witness Security Program of the United States Marshal's Service, whereby the defendant, his family, and loved ones, if approved, could be relocated under a new identity. The defendant understands, however, that the neither the S-Visa program or the Witness Security Program is administered by the United States Attorney's Officer or is under the direction and control of the United States Attorney's Office.

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10. Pursuant to Section 1B1.8 of the Sentencing Guidelines, the Government agrees that any self-incriminating information that was previously unknown to the Government and is provided to the Government by the defendant in connection with cooperation and as a result of this Plea Agreement will not be used in determining the applicable sentencing guideline range, although such information may be disclosed to the Probation Office and the Court. The Government also agrees not to bring additional charges against the defendant, with the exception of charges resulting from or related to the defendant's direct participation in violent criminal activity, based on any information provided by the defendant in connection with his cooperation that was not known to the Government prior to the cooperation. However, if the Government determines that the defendant has not been completely truthful and candid in his cooperation with the Government, he may be subject to prosecution for perjury, false statements, obstruction of justice, and any other appropriate charge, and all information he has provided may be used against him in such a prosecution.

11. In exchange for the defendant's cooperation, the Government has agreed not to bring additional criminal charges against him, so that he is exposed to lower penalties than he otherwise would be. The Government agrees further to make the extent of the defendant's cooperation known to the sentencing Court. In addition, if the cooperation is completed before sentencing and the Government determines that such cooperation qualifies as "substantial assistance" pursuant to Title 18, United States Code, Section 3553(e) and/or Section 5K1.1 of the Sentencing Guidelines, the Government will consider whether to file a motion at sentencing recommending a downward departure from the applicable guideline range. If the cooperation is completed after sentencing and the Government determines that such cooperation

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qualifies as "substantial assistance" pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure, the Government will consider whether to file a motion for reduction of sentence. In either case, the defendant understands that the determination as to whether he has provided "substantial assistance" rests solely with the Government. Good faith efforts by the defendant that do not substantially assist in the investigation or prosecution of another person who has committed a crime will not result in either a motion for downward departure or a Rule 35 motion. The defendant also understands that, should the Government decide to file a motion pursuant to this paragraph, the Government may recommend any specific sentence, and the final decision as to what credit, if any, the defendant should receive for his cooperation will be determined by the Court. If the defendant fails to cooperate truthfully and completely, including testifying truthfully at any trial of his co-defendants or if the defendant engages in additional criminal conduct or other conduct inconsistent with cooperation, he will not be entitled to any consideration whatsoever pursuant to this paragraph.

12. As set forth in Paragraph 11, the Government has agreed, in consideration of the defendant's cooperation, not to bring additional criminal charges against him, including charges related to his fraudulent conduct. The defendant, however, agrees to pay full restitution to the victims of those fraud crimes that the Government as part of this plea agreement has agreed not to charge. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing, but agrees that the total of such restitution is at least $240,000. The defendant also agrees to cooperate fully in the investigation of the amount of restitution and the identification of victims.

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13. The defendant agrees to pay any fine and/or restitution imposed by the Court to the Clerk of Court for eventual disbursement to the appropriate account and/or victim(s). The defendant also agrees that the full fine and/or restitution amount shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and he is placed in custody or under the supervision of the Probation Office at any time, he agrees that the custodial agency and the Probation Office will have the authority to establish payment schedules to ensure payment of the fine and/or restitution. The defendant further agrees to cooperate fully in efforts to collect the fine and/or restitution obligation by set-off of program payments, execution on non-exempt property, and any other means the Government deems appropriate. Finally, the defendant and his counsel agree that Government officials may contact the defendant regarding the collection of any fine and/or restitution without notifying and outside the presence of his counsel.

14. The defendant knowingly, voluntarily, and expressly waives any statute of limitations defense that might exist regarding the charge to which he pleading guilty in the above-number Criminal Information.

15. The Government reserves the right to inform the Court and the Probation Office of all facts and circumstances regarding the defendant and this case, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Except as expressly stated elsewhere in this Plea Agreement, the Government also reserves the right to make recommendations regarding application of the Sentencing Guidelines.

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16. The defendant agrees that, before the date of sentencing, he will pay a special assessment in the amount of $100 by money order or certified check made payable to the Clerk of Court, U.S. District Court, 2211 U.S. Courthouse, 75 Spring Street, S.W., Atlanta, Georgia 30303. The defendant agrees to bring proof of such payment to the sentencing hearing.

17. **LIMITED WAIVER OF APPEAL:** To the maximum extent permitted by federal law, the defendant voluntarily and expressly waives the right to appeal his sentence and the right to collaterally attack his sentence in any post-conviction proceeding on any ground, except that the defendant may file a direct appeal of an upward departure from the otherwise applicable sentencing guideline range. The defendant understands that this Plea Agreement does not limit the Government's right to appeal, but if the Government appeals the sentence imposed, the defendant may also file a direct appeal of his sentence.

18. The parties agree that no biological evidence (as defined in 18 U.S.C. § 3600A) has been identified in this case; therefore, the defendant understands and agrees that no evidence will be preserved for DNA testing.

19. With regard to the Government's recommendation as to any specific application of the Sentencing Guidelines as set forth elsewhere in this Plea Agreement, the defendant understands and agrees that, should the Government obtain or receive additional evidence concerning the facts underlying any such recommendation, the Government will bring that evidence to the attention of the Court and the Probation Office. In addition, if the additional evidence is sufficient to support a finding of a

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different application of the Guidelines, the Government will not be bound to make the recommendation set forth elsewhere in this Plea Agreement, and the failure to do so will not constitute a violation of this Plea Agreement.

20. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the Government may elect to be released from its commitments under this Plea Agreement. The Government may then prosecute the defendant for any and all Federal crimes that he has committed related to this case, including any charges dismissed pursuant to this Plea Agreement, and may recommend to the Court any sentence for such crimes up to and including the maximum sentence. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. In addition, the defendant agrees that, in such a prosecution, all admissions and other information that he has provided at any time, including all statements he has made and all evidence he has produced during proffers, interviews, testimony, and otherwise, may be used against him, regardless of any constitutional provision, statute, rule, or agreement to the contrary. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea in this case.

[remainder of page intentionally left blank]

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21. There are no other agreements, promises, representations, or understandings between the defendant and the Government.

In Open Court this 28th day of August, 2006.

SIGNATURE (Attorney for Defendant)
MICHAEL TROST, ESQ.

SIGNATURE (Defendant)
MOHAMED SHORBAGI

SIGNATURE (Assistant U.S. Attorney)
KIM DAMMERS

SIGNATURE (Approving Official)
FOR DAVID E. NAHMIAS
UNITED STATES ATTORNEY

8-24-06
DATE

DOJ_NMG_ 0169526

CERTIFICATION OF DEFENDANT AND COUNSEL

I have read the Criminal Information against me and have discussed it with my attorney. I understand the charges and the elements of each charge that the Government would have to prove to convict me at a trial. I have read the foregoing Plea Agreement and have carefully reviewed every part of it with my attorney. I understand the terms and conditions contained in the Plea Agreement, and I voluntarily agree to them. I also have discussed with my attorney the rights I may have to appeal or challenge my sentence, and I understand that the appeal waiver contained in the Plea Agreement will prevent me, with the narrow exceptions stated, from appealing my sentence or challenging my sentence in any post-conviction proceeding. No one has threatened or forced me to plead guilty, and no promises or inducements have been made to me other than those discussed in the Plea Agreement. The discussions between my attorney and the Government toward reaching a negotiated plea in this case took place with my permission. I am fully satisfied with the representation provided to me by my attorney in this case.

M. Shorbagi — 8/28/2006

SIGNATURE (Defendant) — DATE

I am MOHAMED SHORBAGI's lawyer. I have carefully reviewed the charges and the Plea Agreement with my client. To my knowledge, my client is making an informed and voluntary decision to plead guilty and to enter into the Plea Agreement.

Michael Trost — 8/28/2006

Michael Trost, Esq. — DATE
Attorney for Mr. SHORBAGI

DOJ_NMG_ 0169527

INFORMATION BELOW MUST BE TYPED OR PRINTED

Michael Trost
NAME (Attorney for Defendant)

MOHAMED SHORBAGI
NAME (Defendant)

Suite 300
1800 Peachtree St., N. W.
Atlanta, GA 30309-2504

STREET

CITY & STATE ZIP CODE

PHONE NUMBER 404/352-9300

PHONE NUMBER

STATE BAR OF GEORGIA NUMBER 716681

Filed in Open Court

FILED IN OPEN COURT
8-28-06
James N. Hatten, Clerk
By: Deputy Clerk

By

DOJ_NMG_ 0169528

U. S. DEPARTMENT OF JUSTICE
Statement of Special Assessment Account

This statement reflects your special assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIMINAL ACTION NO.	
DEFENDANT'S NAME:	**MOHAMED SHORBAGI**
PAY THIS AMOUNT:	**$100**

INSTRUCTIONS:

1. *PAYMENT MUST BE MADE BY **CERTIFIED CHECK** OR **MONEY ORDER** PAYABLE TO:*

   CLERK OF COURT, U.S. DISTRICT COURT

   PERSONAL CHECKS WILL NOT BE ACCEPTED*

2. *PAYMENT MUST REACH THE CLERK'S OFFICE WITHIN 30 DAYS OF THE ENTRY OF YOUR GUILTY PLEA*

3. *PAYMENT SHOULD BE SENT OR HAND DELIVERED TO:*

   Clerk of Court, U.S. District Court
   600 East First Street
   Rome, Georgia 30161

   (Do not Send Cash)

4. *INCLUDE DEFENDANT'S NAME ON **CERTIFIED CHECK** OR **MONEY ORDER***

5. *ENCLOSE THIS COUPON TO INSURE PROPER AND PROMPT APPLICATION OF PAYMENT*

6. *PROVIDE PROOF OF PAYMENT TO THE ABOVE-SIGNED AUSA WITHIN 30 DAYS OF THE GUILTY PLEA*

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 11:36 AM
To: USDOJ- Office of Public Affairs
Subject: CONGRESSMAN ROBERT W. NEY PLEADS GUILTY TO CHARGES INVOLVING CORRUPTION AND FALSE STATEMENTS

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

CONGRESSMAN ROBERT W. NEY PLEADS GUILTY TO CHARGES INVOLVING CORRUPTION AND FALSE STATEMENTS

WASHINGTON – Congressman Robert W. Ney has pleaded guilty to a two-count information charging him with conspiracy to commit multiple offenses – including honest services fraud, making false statements, and violations of his former chief of staff's one-year lobbying ban – and with making false statements to the U.S. House of Representatives, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Ney, 52, entered his plea today in U.S. District Court for the District of Columbia, before Judge Ellen Segal Huvelle. Judge Huvelle set Ney's sentencing for January 19, 2007. Ney faces up to 10 years in prison, a fine of $500,000, and supervised release following his incarceration. The plea agreement Ney signed last month calls for the government to recommend a sentence of 27 months in prison.

The named co-conspirators in the charges Ney pleaded guilty to today include Jack Abramoff, Michael Scanlon, Tony Rudy, and Ney's former chief of staff Neil Volz. All have previously pleaded guilty in this investigation and are cooperating with law enforcement officials.

Ney was a Congressman representing the 18th District of Ohio from 1995 through the present. In 2001, Ney became chairman of the House Committee on Administration, a position Ney held until January 2006. Ney admitted that he engaged in a conspiracy beginning in approximately 2000 and continuing through April 2004, wherein he corruptly solicited and accepted a stream of things of value from Abramoff, his lobbyists, and a foreign businessman, in exchange for agreeing to take and taking official action to benefit Abramoff, his clients, and the foreign businessman.

"Congressman Ney betrayed the trust of the constituents he was elected to represent by trading the power and influence of his office for gambling chips, luxury travel, and thousands of dollars of meals, drinks and tickets," said Assistant Attorney General Fisher. "Congressman Ney's guilty plea demonstrates that our justice system will hold officials accountable for their illegal acts. We will continue our aggressive pursuit of public corruption crimes to ensure the integrity of our public officials and to help maintain the public's confidence in our government."

DOJ_NMG_ 0169530

"Congressional corruption outlined in Congressman Ney's plea agreement has real life consequences. It undermines the rule of law and erodes the confidence the community must have in our elected officials," said Assistant Director Chip Burrus, FBI Criminal Investigative Division. "The FBI and our partners at the Department of Interior-Office of the Inspector General (OIG), General Services Administration-OIG and the Internal Revenue Service, have dedicated our organizational lives to drawing a bright red line that crooks cloaked in government authority should not cross."

Specifically, Ney admitted that he corruptly solicited and accepted things of value from Abramoff and his lobbyists, with the intent to be influenced and induced to take official actions, including international and domestic trips, meals and drinks, concert and sporting tickets and tens of thousands of dollars of campaign contributions and in-kind contributions such as free fundraisers. Ney admitted that the actions he agreed to take, and took, to benefit Abramoff, his lobbyists and their clients included the support or opposition of legislation at Abramoff's request, the insertion of statements into the Congressional Record at Scanlon's request, and the support for an application of a license for a contract to install wireless telephone infrastructure in the House of Representatives.

Ney also admitted that he accepted tens of thousands of dollars worth of gambling chips from a foreign businessman who was hoping to sell U.S.-made airplanes and airplane parts in a foreign country. Ney agreed to help the businessman with obtaining an exemption to the U.S. laws prohibiting the sale of these goods to the foreign country, and with obtaining a visa to travel to the United States. Ney also admitted conspiring to aid and abet violations of the federal one-year lobbying ban by his former chief of staff, Neil Volz.

The Ney case is being prosecuted by Trial Attorneys Mary K. Butler, M. Kendall Day, and James A. Crowell IV of the Public Integrity Section. The case is being investigated by a task force of federal agents including Special Agents of the Federal Bureau of Investigation, the Department of the Interior Office of the Inspector General, the General Services Administration Office of the Inspector General, the Criminal Investigation branch of the Internal Revenue Service.

The broader investigation into the lobbying activities of Jack Abramoff is being conducted by federal agents from the above-named agencies as well as prosecutors in the Public Integrity and Fraud Sections of the Criminal Division and prosecutors in the Criminal Tax Section of the Tax Division. The investigation has received assistance from the U.S. Attorney's Office for the Southern District of Florida. To date, the investigation has yielded guilty pleas from six defendants, including public officials such as Ney, Volz, former Congressional deputy chief of staff Tony Rudy, and former Department of Interior employee Roger Stillwell. The investigation has also resulted in the conviction by jury trial of the former chief of staff for the General Services Administration, David Safavian. Sentencing for Safavian is scheduled for Oct. 27, 2006, before U.S. District Judge Paul Friedman in Washington, D.C.

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Image not available for this document, ID: 0.7.10316.24845-000002

Miller, Charles S

From: Miller, Charles S
Sent: Friday, October 13, 2006 4:21 PM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Battaglia, John T; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; O'Quinn, John C; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: Comair sues government, Lexington airport over crash

AP

10/13/06

Comair sues government, Lexington airport over crash

LOUISVILLE, Ky. (AP) — Comair is suing the federal government and the Lexington-Fayette Urban County Airport over the August crash of Comair Flight 5191.

The airline filed suit Friday in U.S. District Court in Lexington.

In a written statement, Comair said it intends to reach fair settlements with the families of the 49 people killed on board the plane on Aug. 27, but is suing to ensure the other parties that bear responsibility pay their fair share of the liabilities.

A week before the crash, an airport repaving project changed the taxi route leading to the 7,000-foot main runway that Comair Flight 5191 should have used. Instead, the plane turned onto the airport's 3,500-foot runway, a length too short for the regional jet to take off. It crashed in a field less than a mile away and quickly burned.

Comair, a subsidiary of Delta Air Lines Inc., operates 850 flights to 108 cities daily. Both airlines filed for bankruptcy protection last year.

END

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 4:30 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT REACHES SETTLEMENT WITH CENTIER BANK REGARDING ALLEGED DISCRIMINATION IN LENDING

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT REACHES SETTLEMENT WITH CENTIER BANK REGARDING ALLEGED DISCRIMINATION IN LENDING

WASHINGTON – The Justice Department today announced that Centier Bank of Whiting, Ind., will invest more than $4.3 million and open new branches in minority neighborhoods in the northwestern portion of the state, to resolve allegations that it engaged in a pattern of discrimination on the basis of race and national origin.

The Justice Department alleges that Centier violated the Fair Housing Act and the Equal Credit Opportunity Act by unlawfully failing to market and provide its lending products and services on an equal basis to predominately African American and Hispanic neighborhoods in the cities of Gary, East Chicago and Hammond—a practice known as redlining.

The Justice Department and Centier reached a consent order, which was filed in conjunction with the complaint in federal district court in Hammond, Ind. Under the agreement, which remains subject to court approval, Centier is prohibited from discriminating on the basis of race, color, or national origin in any aspect of a residential real estate-related or credit transaction.

"All Americans should be able to access the financial markets without fear of unlawful discrimination," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "We will continue to vigorously enforce the federal laws that prevent discrimination in credit and lending services. We commend Centier for working cooperatively with the Justice Department in reaching an appropriate resolution of this case."

Under the settlement, Centier will open new offices and expand existing operations in the previously excluded areas. The bank will also invest $3.5 million in a special financing program and spend at least $875,000 for consumer financial education, outreach to potential customers, and promotion of its products and services in these previously excluded areas.

Centier cooperated fully with the Department's investigation into its lending practices and agreed to settle this matter without contested litigation. Centier is an Indiana-chartered full service bank, and one of the largest residential and small business lenders in the Gary, Ind., metropolitan area.

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This case resulted from an investigation conducted by the Civil Rights Division of the Department of Justice. A copy of the consent decree as well as additional information about fair lending enforcement by the Department of Justice can be obtained from the Justice Department website at http://www.usdoj.gov/crt/housing.

Since Jan. 1, 2001, the Division has filed 213 cases under the Fair Housing Act and the Equal Credit Opportunity Act.

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06-702

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Image not available for this document, ID: 0.7.10316.24270-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 4:54 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

Department of Justice

United States Attorney Jim Letten
Eastern District of Louisiana

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV/USAO/LAE

CONTACT: KATHY ENGLISH
PHONE: (504) 680-3068
FAX: (504) 589-4859

ANOTHER LOUISIANA MAN PLEADS GUILTY TO FEMA FRAUD

NEW ORLEANS — Morris Singleton, 23, of Houma, La., pleaded guilty to making false statements regarding his application to Federal Emergency Management Agency (FEMA) for disaster assistance benefits, U.S. Attorney Jim Letten of the Eastern District of Louisiana announced today. Singleton pleaded guilty before U.S. District Judge Carl Barbier.

After Hurricane Rita struck Louisiana, Singleton applied for Expedited Assistance (EA) funds from FEMA, the $2,000 many evacuees received from FEMA. Singleton indicated in his application that his primary address was a home located in Houma, La., and that he had essential needs for "food, clothing or shelter," and that he had "disaster related moving and storage expenses," when in truth, he never occupied or rented this property. According to the owner of the property, the home was vacant and was not leased to anyone during Hurricanes Katrina or Rita.

The maximum sentence Singleton could receive is five years in prison and a fine of $250,000. Sentencing is set for Jan. 17, 2007.

"This case is yet another example of the U. S. Department of Justice's commitment to investigate and prosecute any and all fraudulent attempts - no matter how large or small - to steal by fraud monies destined to help the recovery of those citizens who were legitimately displaced and harmed by Hurricanes Katrina and Rita," stated U.S. Attorney Letten. "No abuse, fraud, theft or attempt to abuse the system will be tolerated."

This case was investigated by Special Agents of the FBI assigned to the Katrina Fraud Task Force. This matter was prosecuted by Assistant U.S. Attorney Carter K. D. Guice.

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Image not available for this document, ID: 0.7.10316.24277-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 4:54 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE ANNUAL CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, OCTOBER 13, 2006
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AG
(202) 514-2007
TDD (202) 514-1888

********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT THE ANNUAL CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

WASHINGTON – Attorney General Alberto R. Gonzales will deliver remarks at the annual conference of the International Association of Chiefs of Police on **MONDAY, OCTOBER 16, 2006 at 10:10 A.M. EDT.**

WHO: Attorney General Alberto R. Gonzales

WHAT: Remarks before the International Association of Chiefs of Police

WHEN: **MONDAY, OCTOBER 16, 2006**
10:10 A.M. EDT

WHERE: Boston Convention Center
415 Summer Street
Boston, Mass.
OPEN PRESS

NOTE: Pre-set for television camera crews is **no later than 9:00 A.M. EDT.** All other media wishing to cover the Attorney General's remarks must arrive **no later than 9:15 A.M. EDT.** Press inquiries regarding logistics should be directed to Angela Williamson at 202-532-5349 or Wendy Balazik at 917-681-3256.

# # #

06-703

DOJ_NMG_ 0169542

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Image not available for this document, ID: 0.7.10316.24272-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 6:09 PM
To: USDOJ- Office of Public Affairs
Subject: Justice Department Files Voting Rights Lawsuit Against Philadelphia

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 13, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT FILES VOTING RIGHTS LAWSUIT AGAINST PHILADELPHIA

WASHINGTON — The Justice Department announced today that it filed a lawsuit against the City of Philadelphia, alleging violations of the rights of Hispanic and Spanish-speaking voters under two key provisions of the Voting Rights Act.

"The right to vote is a fundamental guarantee for all American citizens," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "In light of the serious problems faced by minority language citizen voters in Philadelphia, we hope that city officials and the Justice Department can reach an agreement quickly to begin essential remedial measures in time for the 2006 federal elections."

The Voting Rights Act requires that certain jurisdictions with a substantial minority-language voter population provide all voting materials and assistance in the minority language as well as in English. The complaint, filed in the U.S. District Court for the Eastern District of Pennsylvania, charges that the city failed to provide Spanish-language assistance at the polls to the majority of its Spanish-speaking voters in recent elections.

The Voting Rights Act also assures voters who need assistance in voting, such as those unable to see or read the ballot, the right to receive that assistance from a person of their choice, other than the voter's employer or union representative. The complaint charges that the city prevented Spanish-speaking voters from receiving assistance from the persons of their choice, even in cases where bilingual assistance was otherwise unavailable.

The Civil Rights Division works to ensure compliance with all of the provisions of the Voting Rights Act with respect to all citizens of all racial groups in all areas of the United States. Since 2002, the Civil Rights Division has filed over three-fourths of all cases to protect the right of voters needing assistance in the history of the Act, and over 60 percent of all minority language cases than in the entire previous history of the Voting Rights Act. As a result of this work and other lawsuits brought, since 2002, the Department has brought a majority of all cases it ever has filed under the substantive provisions of the Voting Rights Act to protect

DOJ_NMG_ 0169545

Hispanic and Asian voters, and the first cases ever filed to protect the voting rights of Filipino and Vietnamese voters. During this time period, the Division has filed successful Voting Rights Act lawsuits across the country, with cases in Arizona, California, Florida, Georgia, Massachusetts, New York, Pennsylvania, Tennessee, Texas, and Washington.

To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931. More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice Web site at http://www.usdoj.gov/crt/voting/index.htm.

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06-704

DOJ_NMG_ 0169546

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Image not available for this document, ID: 0.7.10316.24269-000002

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 6:26 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
October 13, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

MONDAY'S EXPECTED NEWS STORIES:

Media Reports on Congressman Kolbe's Alleged Trips with Congressional Pages (OPA)
Today, the media has reported that the U.S. Attorney's Office in Arizona is conducting a preliminary investigation of trips Congressman Jim Kolbe allegedly took with Congressional pages. The Department of Justice is declining to comment.

Police Executive Research Forum to Release Crime Data (OPA)
On Sunday, the Police Executive Research Forum (PERF) will release data at the annual conference of the International Association of Chiefs of Police (IACP) indicating that the increases in the rates of murder and robbery that began last year have continued in 2006, and in many communities across the country, have gotten worse.

Talking Points:

- In 2005, law enforcement agencies around the country continued their effective work of keeping the peace and fighting crime.

- The recently released National Crime Victimization Survey shows that violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent.

- In our continuing partnership with local law enforcement, we recognize that some jurisdictions are experiencing a recent increase in certain types of violent crime. These reports are a concern to the Department and further underscore the importance of our commitment to work with our state and local partners to address violent crime through successful programs like Project Safe Neighborhoods, our new anti-gang and anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams -- all of which have helped convict criminals and reduce crime.

- At the Department of Justice, our goal is to do our part to make our Nation's neighborhoods safer places to live. We remain dedicated to reducing violent crime,

reducing the number of young people joining and staying in gangs, and protecting the American people from criminals through successful prosecution and incarceration.

Congressman Robert W. Ney Pleads Guilty to Charges Involving Corruption and False Statements (Criminal)

Congressman Robert W. Ney has pleaded guilty to a two-count information charging him with conspiracy to commit multiple offenses – including honest services fraud, making false statements, and violations of his former chief of staff's one-year lobbying ban – and with making false statements to the U.S. House of Representatives, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. Ney entered his plea today in U.S. District Court for the District of Columbia, before Judge Ellen Segal Huvelle. Judge Huvelle set Ney's sentencing for January 19, 2007. Ney faces up to 10 years in prison, a fine of $500,000, and supervised release following his incarceration. The plea agreement Ney signed last month calls for the government to recommend a sentence of 27 months in prison.

Talking Points

- Congressman Ney betrayed the trust of the constituents he was elected to represent by trading the power and influence of his office for gambling chips, luxury travel, and thousands of dollars of meals, drinks and tickets.

- Congressman Ney's guilty plea demonstrates that our justice system will hold officials accountable for their illegal acts.

- We will continue our aggressive pursuit of public corruption crimes to ensure the integrity of our public officials and to help maintain the public's confidence in our government.

U.S. Resolves Probe Against Oil Company that Bribed Iranian Official (Criminal)

An international oil company, Statoil ASA, headquartered in Norway and listed on the New York Stock Exchange, has acknowledged making bribe payments to an Iranian official in order to secure valuable oil and gas rights in Iran, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Michael J. Garcia for the Southern District of New York announced today. In order to resolve a pending criminal investigation, Statoil has acknowledged that its conduct violated the anti-bribery and accounting provisions of the Foreign Corrupt Practices Act (FCPA), agreed to pay a $10.5 million penalty, and has further agreed to enter into a three-year deferred prosecution agreement.

Talking Points:

- Although Statoil is a foreign issuer, the Foreign Corrupt Practices Act applies to foreign and domestic public companies alike, where the company's stock trades on American exchanges.

- This prosecution demonstrates the Justice Department's commitment vigorously to enforce the FCPA against all international businesses whose conduct falls within its scope.

- The Department's willingness to resolve this particular investigation by a deferred prosecution agreement is in large part due to the exceptional assistance Statoil provided to U.S. authorities in connection with the investigation, the significant remedial efforts undertaken by the company, and the fact that the Norwegian authorities also investigated and sanctioned Statoil.

Jake McLure of *Legal Times* Interviews Assistant Attorney General Kenneth L. Wainstein (National Security Division)
Today, Jake McLure of *Legal Times* interviewed Assistant Attorney General Kenneth L. Wainstein on standing up the new National Security Division. In the interview, McLure asked about the new Divisions' role, its organization, and the Department's efforts to combat terrorism. His article is expected to run in the upcoming issue.

Justice Department Reaches Settlement with Centier Bank Regarding Alleged Discrimination in Lending (Civil Rights)
The Justice Department today announced that Centier Bank of Whiting, Ind., will invest more than $4.3 million and open new branches in minority neighborhoods in the northwestern portion of the state, to resolve allegations that it engaged in a pattern of discrimination on the basis of race and national origin. The Justice Department alleges that Centier violated the Fair Housing Act and the Equal Credit Opportunity Act by unlawfully failing to market and provide its lending products and services on an equal basis to predominately African American and Hispanic neighborhoods in the cities of Gary, East Chicago and Hammond—a practice known as redlining.

Talking Points

- All Americans should be able to access the financial markets without fear of unlawful discrimination.

- The Department of Justice will continue to vigorously enforce the federal laws that prevent discrimination in credit and lending services.

- The Department of Justice commends Centier for working cooperatively with the Justice Department in reaching an appropriate resolution of this case.

Justice Department Files Voting Rights Lawsuit Against Philadelphia (Civil Rights)
The Justice Department announced today that it filed a lawsuit against the City of Philadelphia, alleging violations of the rights of Hispanic and Spanish-speaking voters under two key provisions of the Voting Rights Act.

Talking Points:

- The right to vote is a fundamental guarantee for all American citizens.

- In light of the serious problems faced by minority language citizen voters in Philadelphia, we hope that city officials and the Justice Department can reach an agreement quickly to begin essential remedial measures in time for the 2006 federal elections.

Rome, Ga., Resident Pleads Guilty to Material Support of Foreign Terrorist Group (USAO–Northern District of Georgia)
Mohamed Shorbagi of the Rome area pleaded guilty in federal district court to providing material support to Hamas, a designated foreign terrorist organization, U.S. Attorney David E. Nahumias of the Northern District of Georgia announced today. The criminal information and plea agreement, which were filed on Aug. 28, 2006, had been sealed until today, as was the plea hearing.

Talking Points:

- This case illustrates that people who illegally support foreign terrorist organizations may be found anywhere in the United States, even in quiet places like Rome, Ga.

- We will use every lawful tool to ferret out terrorism and those who provide material support to it, regardless of where they live or how they try to hide their criminal activities.

Another Louisiana Man Pleads Guilty To FEMA Fraud (USAO–Eastern District of Louisiana)
Morris Singleton, of Houma, La., pleaded guilty to making false statements regarding his application to Federal Emergency Management Agency (FEMA) for disaster assistance benefits, U.S. Attorney Jim Letten of the Eastern District of Louisiana announced today. Singleton pleaded guilty before U.S. District Judge Carl Barbier. After Hurricane Rita struck Louisiana, Singleton applied for Expedited Assistance (EA) funds from FEMA, the $2,000 many evacuees received from FEMA. Singleton indicated in his application that his primary address was a home located in Houma, La., and that he had essential needs for "food, clothing or shelter," and that he had "disaster related moving and storage expenses," when in truth, he never occupied or rented this property. According to the owner of the property, the home was vacant and was not leased to anyone during Hurricanes Katrina or Rita.

CNN's *Anderson Cooper 360* to Air Story on Numerous Unsolved FBI Criminal Cases (FBI)
Tonight, CNN's *Anderson Cooper 360* will be air a story featuring several of the FBI's unsolved criminal cases. John Walsh from America's Most Wanted will also appear on the CNN show. The cases to be featured include:

- Christina Williams, who was found dead six months after leaving her house to walk the family dog near San Francisco. No one has ever been charged with her murder.

- An unidentified homicide victim found wrapped in black plastic sheeting in Pascagoula, Miss.

- A series of jewelry store robberies up and down the East Coast (nicknamed the Gate Cutters Crew).

- Natalie Holloway, who went missing in Aruba after visiting the island on a trip with classmates from the Birmingham, Ala. area.

- The Collar Bomb case, which involved the murder of pizza delivery man Brian Wells, near Erie, Pa.

MONDAY'S EXPECTED EVENTS/RELEASES:

10:10 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the annual conference of the International Association of Chiefs of Police.
Boston Convention Center
415 Summer Street
Boston, Mass.
OPEN PRESS

From: USDOJ- Office of Public Affairs
Sent: Friday, October 13, 2006 7:41 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 16 - OCTOBER 20, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY

OPA

FRIDAY, OCTOBER 13, 2006

(202) 514-2008

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(202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 16 - OCTOBER 20, 2006

Monday, October 16

10:10 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the International Association of Police Chiefs Annual Conference highlighting the efforts of law enforcement to fight violent crime.
Grand Ballroom
Boston Convention Center
415 Summer Street
Boston, Massachusetts

Press inquiries regarding logistics should be directed to Angela Williamson 202-532-5349.

12:00 P.M. EDT Solicitor General Paul Clement will deliver remarks before the San Francisco chapter of The Federalist Society regarding the Supreme Court Preview for the 2006 October Term.
Bank of America Building
Banker's Club at the Carnelian Room
555 California Street
San Francisco, California
OPEN PRESS

Press inquiries regarding logistics should be directed to David DeGroot of the Federalist Society at 415-218-2360, or to Janet Potter at 202-514-2201.

DOJ_NMG_ 0169554

Tuesday, October 17

Events TBD

Wednesday, October 18

Events TBD

Thursday, October 19

Events TBD

Friday, October 20

10:00 A.M. EDT Attorney General Alberto R. Gonzales, Deputy Attorney General Paul J. McNulty, and Michael Battle, Director of the Executive Office of United States Attorneys (EOUSA), will participate in the EOUSA Director's Awards Ceremony.
Department of Justice
The Great Hall
950 Pennsylvania Ave., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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Image not available for this document, ID: 0.7.10316.24233-000002

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 15, 2006 9:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Sun Valley, CA

From: AmberAlert-DOJ
Sent: Sunday, October 15, 2006 9:35:01 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Sun Valley, CA
Auto forwarded by a Rule

AMBER ALERT:Sun Valley,CA VEH:98 Grn Toyota Corolla TAG:CA 5TXJ786 CHILD:7 Hsp M 4'60lbs Hr:Blk COMP:Hisp F SUSP:32yo Hsp M 5'5 180lbs Hr:Blk CALL 213-625-3311
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2422

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

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Subject: FW: [Amber Alert] AMBER Alert: Sun Valley, CA

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To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Sun Valley, CA
Auto forwarded by a Rule

UPDATE AMBER ALERT:Sun Valley,CA VEH:98 Grn Toy Cor TAG:CA 5TXJ786 CHILD:7 Hsp M 4'60lbs Hr:Blk COMP:Hisp F SUSP:32yo Hsp M 5'5 180lbs Hr:Blk CALL 818-623-4016
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2422

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 9:44 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 16, 2006

Department of Justice

PRESS GUIDANCE
Monday, October 16, 2006

ATTORNEY GENERAL

10:10 A.M. EDT Attorney General Alberto R. Gonzales will deliver remarks at the International Association of Police Chiefs Annual Conference highlighting the efforts of law enforcement to fight violent crime.
Grand Ballroom
Boston Convention Center
415 Summer Street
Boston, Massachusetts

Press inquiries regarding logistics should be directed to Angela Williamson 202-532-5349.

PRESS RELEASES

The Office of Justice Programs will tentatively issue a release on a grant funding matter. (Peterson)

EVENTS/HEARINGS

12:00 P.M. EDT Solicitor General Paul Clement will deliver remarks before the San Francisco chapter of The Federalist Society regarding the Supreme Court Preview for the 2006 October Term.
Bank of America Building
Banker's Club at the Carnelian Room
555 California Street
San Francisco, California
OPEN PRESS

Press inquiries regarding logistics should be directed to David DeGroot of the Federalist Society at 415-218-2360, or to Janet Potter at 202-514-2201.

NIGHT DUTY OFFICER

Brian Roehrkasse

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Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169561

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Image not available for this document, ID: 0.7.10316.23954-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 9:48 AM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES NEW INITIATIVE TO FIGHT CRIME IN TARGETED CITIES

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 16, 2006
WWW.USDOJ.GOV

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

ATTORNEY GENERAL ALBERTO R. GONZALES ANNOUNCES NEW INITIATIVE TO FIGHT CRIME IN TARGETED CITIES

BOSTON —Today, while addressing the International Association of Chiefs of Police, Attorney General Alberto R. Gonzales announced the launch of the Initiative for Safer Communities to target violent crime prevention efforts in selected communities across America that have shown unexplained increases in crime.

Though the national crime rate generally remained at record low levels across the nation in 2005, some cities experienced an increase in certain types of violent crimes, according to FBI and Department of Justice (DOJ) surveys. The first stage of the three-part Initiative, to begin over the next several weeks, will investigate the increase in crime experienced by representative cities. In this phase, DOJ will conduct a detailed survey and visit local law enforcement in impacted areas to identify possible factors contributing to the increase.

The second phase of the Initiative will focus on policy development by analyzing the findings of the investigative phase to identify the roots of the localized increases in crime. The third phase will focus on matching localized results with established federal programs that are proven to be effective in combating crime and, where necessary, creating new initiatives.

"The Department of Justice is committed to making sure that every American city and town can share in the success of low violent crime rates," said Attorney General Gonzales. "The Initiative for Safer Communities will help us find and use the tools that work most effectively to fight crime and keep our communities safe."

The cities to be examined in the investigative phase of the Initiative are still being finalized, but both cities which have experienced increases in crime and significant decreases in crime will be studied, in order to best ascertain which crime-prevention tactics have been most effective. Local law enforcement leaders will be asked questions regarding a variety of demographic, economic, and social matters which could affect the crime rate, including whether gang violence, drug trafficking, or prisoner re-entry have caused changes in criminal activity. They will also be asked about whether there are specific federal, state or local initiatives that have successfully cut the crime rate.

DOJ_NMG_ 0169564

Crime rates in 2005, as measured by the Bureau of Justice Statistics' National Crime Victimization Survey (NCVS) and the FBI's Uniform Crime Report (UCR), show crime rates at near-record low levels in 2005. The NCVS, based on household surveys, shows violent and property crime rates that are at the lowest levels recorded since the survey's inception in 1973. The UCR, based on police reports, indicates that property crime decreased 2.4 percent in 2005.

However, some cities experienced an increase in homicides in 2005 and there was a 1.3 percent increase in violent crime across the nation. Though this rate is lower than any year ever measured except for 2004, the Department of Justice is launching the Initiative for Safer Communities as a proactive measure to help thwart further increases in the rates of violent crime and homicide.

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Image not available for this document, ID: 0.7.10316.23952-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 10:55 AM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Department of Justice

FOR IMMEDIATE RELEASE — AG
MONDAY, OCTOBER 16, 2006 — (202) 514-2007
WWW.USDOJ.GOV — TDD (202) 514-1888

PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

BOSTON, MASSACHUSETTS

Good morning. It's good to be here in Boston. I began to learn the law as a young man a few miles from here across the Charles River. I want to thank Mary Ann Viverette, Joseph Carter and Dan Rosenblatt for inviting me to this important conference where our collective education in the law and in law enforcement continues.

As many of you know, my brother Tony is a veteran SWAT officer for the Houston Police Department. So, it is a privilege for me to spend time with the leaders of the men and women in uniform who are doing the work on the beat to protect the American people.

You are the ones who make the streets of America safe, on a daily basis. And you are also developing the ideas and tactics that will continue to make those streets safe tomorrow even in the face of an ever-changing set of challenges.

I appreciate the work that is being done at this conference, and I appreciate the level of dedication each and every one of you has committed to your honorable work. You embody what President Theodore Roosevelt said: "The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly … who, at the best, knows, in the end, the triumph of high achievement, and who, at the worst, if he fails, at least he fails while daring greatly … "

The credit, indeed, belongs to you. Whether it is responding to a terrorist attack or a domestic violence call, you are in the arena with your comrades striving valiantly to protect our neighborhoods. Your hard work, and our work together, must be well-thought-out in addition to being extremely hard-fought – and that's why we're here today.

DOJ_NMG_ 0169568

Chiefs of Police have some of the toughest jobs in the world – I know that and President Bush knows that.

It's tough to be the first-response in any situation your community faces.

It's tough to be the person in charge of protecting all of the kids in your city.

It's tough to have to fight for more officers and more squad cars in the face of shrinking city budgets.

And it's tough to know that no matter what you do, no matter how smart you are and how dedicated your team is … there's no way to keep every single child safe and every city block peaceful.

But that is your goal, your daily purpose and pursuit, and you do the very best you can.

And it's an honor to serve in this purpose with you.

Our shared responsibilities are vast. None of us can do it alone. So I hope that you look to the federal law enforcement community as we look to you: as teammates and as partners in guarding the American dream.

I know that the old perception of federal law enforcement, versus state and local law enforcement, may have been that of competitors. But our relationship today is different…it is better. We've learned to better share information and resources…we've learned to better share credit for our successes. I have observed that law enforcement officials are by nature proactive and aggressive. You see a problem and you want to solve it. That is part of what makes a good police officer. There will always be a healthy and understandable desire to be the best among your peers…to be first to solve a crime, to be the one to arrest the bad guy. But I think we have all learned that we are most effective working together.

Federal law enforcement knows that you have many thousands more feet on the street, and a critical proximity to the people we all protect. With 800,000 state and local law enforcement officials compared to fewer than 25,000 DOJ federal agents, for example, there can be no question that we learn from you, that we support you, and that we are a team.

We also know this: there is no more "us" versus "them" after September 11th. The only "us" and "them," forever after, are freedom-loving Americans versus the terrorists who seek to destroy us.

In Washington, DC, we are keenly aware that the war on terror is not only fought on international fronts. It is fought in every city and town, every day, by local, state and federal law enforcement. Because, as Chief Bratton's officers showed the world last August, sometimes a gas station hold-up isn't just a gas station hold-up. Sometimes it's a funding operation for homegrown terrorists.

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And our first line of defense is always going to be a local police officer working his beat. An officer who sees something that looks suspicious, and responds. Our success in defending our homeland will be measured, largely, by the strength, the sophistication, and the thoroughness of each response.

Of course, our efforts are not only defensive. We must be proactive in our counter terror efforts. Those who plot to murder Americans are, by definition, breaking our laws by developing those plots. Our job is to catch and prosecute them for breaking laws before their plots come to fruition.

And let's face it. When we in law enforcement re-prioritized our mission after 9-11, to place pre-eminent emphasis on counter terror efforts, it wasn't like we didn't have a pretty full plate already. That massive responsibility to find the terrorists among us was added to our existing responsibilities – to crack down on drugs, gangs, violent crime, and crimes against children. Sometimes you've had to do more with less.

I know this, and so does the President. We appreciate how difficult this has been – and we applaud how well you've done to make our neighborhoods safer.

We have not had a terrorist attack on American soil in five years, and that is a testament to you and to the police forces you lead.

But that is not the entire story. We have had no terrorist attacks against a backdrop of continued record-low crime rates, nationally – evidence of highly successful deterrence and overall prevention. You are protecting the people of your communities against terrorism and traditional crimes with great success.

Law enforcement in some of our largest cities – like Miami and New York – can take credit for an ongoing era of big-city safety, with violent crime rates on the decline and violent criminals behind bars.

As you know, the recently-released National Crime Victimization Survey showed that non-fatal violent and property crime rates in 2005 remained at their lowest levels since the Survey was initiated in 1973. Between 2000 and 2005, the violent crime victimization rate fell by 24 percent – which is good news, proof positive that your work is making a difference.

Likewise, according to the FBI's Uniform Crime Reporting Program, the <u>overall</u> crime rate of 3,899 offenses per 100,000 inhabitants is the lowest crime rate measured by the UCR in more than 30 years.

But even in light of good news on crime rates, we hear from you that gangs, juvenile crime, and gun violence are persistent problems.

And I know we are all concerned that the FBI's Uniform Crime Report shows a 2005 national violent crime rate that is slightly higher than the record-low rate in 2004.

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Although the 2005 rate was still significantly lower than it was in 2002, 2001, 2000 and every other year since 1977 … even a small up-tick in violent crime cannot be ignored, especially when we have made such great progress.

In addition we have recent anecdotal reports that even in this year there may be a rise in violent crime in some areas.

We need to find out why this is happening, and if there is an upward trend in violent crime, what we can do to reverse that trend in those cities. And we need to do it together, by pulling together, as a law-enforcement team, to get the job done. And I will come back to this effort in a moment.

But before I share with you some specific ideas on how this problem should be addressed, let me share with you first, my general philosophy on how we should go about tackling challenges like this. After all, our record of partnership parallels our records of success. When federal, state and local law enforcement works together, we see Joint Terrorism Task Forces preventing terror attacks. We see more information being shared, more dots being connected, and thus more crimes being prevented and prosecuted. We see successful programs like Project Safe Neighborhoods, our new anti-gang and anti-methamphetamine initiatives, and ATF's Violent Crime Impact Teams all helping convict criminals and reduce crime.

In short: when working together, we are able to keep our neighborhoods safer and our children protected. We are partners like never before, and it works.

I know that the funding for these task forces is a small part of your budgets – but it's an important part, and I am going to fight for you to have the resources you need to keep those task forces going.

Fiscally responsible budgets are extremely important – and the President is proud of the fact that his Administration has cut the federal budget deficit in half, three years ahead of schedule – but responsible budgets fund successful efforts, and our joint efforts to fight crime are very clearly successful.

From New York to El Paso and from New Orleans to Minneapolis, I have heard success stories from local and state law enforcement officials.

So our partnerships are working AND they are improving all the time.

It seems that sometimes tragedy helps us see things more clearly – like the fact that we're all in this together.

In a post-9/11-world, information sharing is, more and more, a truly two-way street. When I travel the country I hear this, first-hand, from state, local and federal law enforcement. Open lines of communication and trust puts us on solid footing, well positioned to overcome any law-enforcement challenge that comes our way.

Today's challenge is taking on violent crime in the places where we see increases, and we will take on that challenge together. We know that the violent crime story is not uniform across the country. We also know that

DOJ_NMG_ 0169571

the problem is a complicated one, and we need to figure out the WHY behind the numbers – whether the story is good or bad.

That's why I'm announcing, today, what the Justice Department will do to respond to this challenge: The Initiative for Safer Communities.

We will focus on three "I"s.

- Investigate: We'll examine the problems and dig deep to find their roots and what feeds them.
- Identify: We'll find and highlight what works, what keeps cities safer.
- Finally, Implement: With best practices and innovative answers having been gathered, localities will be able to learn from each other and choose from a basket of solutions to apply in their cities.

I've asked Deputy Attorney General Paul McNulty to lead this effort, and we look forward to working with this group and our other partners, like the Fraternal Order of Police, on these efforts.

Members of our national team will coordinate efforts to investigate the roots of the problem. We want to know what factors are contributing to a rise in crime in certain citites.

We will look at the cities that are achieving a decrease in rates to identify what is working for them.

We'll look at things like Superintendent Philip Cline's approach to drugs, guns, and gangs in Chicago. He's divided the city into zones and he's concentrating resources in the areas that have the most violence. He also has a separate gang intelligence unit.

We'll look at crime prevention efforts like those in Fairfax County, Virginia, and in New Orleans, where Chiefs David Rohrer [ROAR] and Warren Riley are engaging communities and teaching kids about alternatives to gangs.

And we'll look at whether other cities can replicate the success of Chief Heather Fong in San Francisco, whose force seized nearly 700 guns this year. Chief Fong ensured a continuous, visible presence in hotspot communities through extended shifts, special team members, traffic and motorcycle units, gang task force and narcotics officers … and it looks like those tactics are paying off.

Finally, we'll share these results with law enforcement across the country to help you implement the best practices and effective tactics that will make your cities safer.

We embark on this journey ready to ask the tough questions. We'll want to know what's behind the spread of gangs, the increase in gang membership. We'll look hard at how meth distribution networks are growing. We'll consider whether a culture of violence is developing among our young people. We'll seek honest answers about what works, what doesn't, and why.

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The message I want to leave you with today is simply this: The Department of Justice is committed to making sure that every American city and town can share in the success of low violent crime rates. And we know that teamwork is the only way to make that goal a reality.

The Initiative For Safer Communities will be complemented by the continuation of the Violent Crime Impact Teams Initiative and the resources of the National Gang Intelligence Center – where state and local law enforcement can access information on individual gang members, the relationship between gang members, gang structure and criminal activities.

Our commitment to our partnership with state and local law enforcement has only increased over the past several years. The Department's 2007 budget requests $1.2 billion in targeted investments, including: State and local Project Safe Neighborhood grants, task force funds to combat domestic human trafficking, the Regional Information Sharing System, body armor, and the President's DNA Initiative. Through these programs, the Department seeks to make a significant and positive impact in concert with you – our partners.

As the President said at his press conference last week, "the most solemn duty of the American President and government is to protect this country from harm."

Living up to that duty is foremost on my mind, and on the minds of everyone in this room, when we go to bed at night and when we wake up every morning. I think we're doing a very good job with the task, but more must be done. I look forward to continued work with all of you to make American neighborhoods safe for our children and grandchildren.

Thank you again for having me here today. May God bless you and your work, may He watch over you and your offices and may he continue to bless the United States of America.

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Image not available for this document, ID: 0.7.10316.23957-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 16, 2006 11:29 AM
Subject: JCON BROADCAST, WEEK OF OCTOBER 16, 2006

JCON BROADCAST, WEEK OF OCTOBER 16, 2006

1. **Government Pro Bono Week**
2. **Federal Employees Dental and Vision Insurance Program**
3. **Research Classes Offered by Library Staff**

Government *Pro Bono* Week

Government *Pro Bono* Week is October 23-27, 2006, and there will be several events to promote and celebrate work by Government attorneys and legal staff.

***Pro Bono* Volunteer Appreciation Luncheon, 12:00 noon – 1:00 p.m., Tuesday, October 24, 2006, at the Securities and Exchange Commission, 100 F Street NE, 4th Floor Conference Room**. Have you done *pro bono* work? Come enjoy a FREE lunch in recognition of your contribution to your community! Featuring remarks by [redacted] Washington Legal Clinic for the Homeless, and [redacted], DC Access to Justice Commission. Space is limited and pre-registration is required.

***Pro Bono* Fair, 12:00 noon – 2:00 p.m., Wednesday, October 25, 2006, at the Department of Commerce, 1401 Constitution Avenue NW, Main Lobby (14th Street entrance**. Find information about many legal service providers in our area -- The Legal Aid Society, Legal Counsel for the Elderly, Lawyers for Children America, Washington Legal Clinic for the Homeless, and more! Pre-registration is required.

***Pro Bono* Law Made Easy: Legal Briefings on Landlord-Tenant and Domestic Violence Law, 12:00 noon – 1:00 p.m., Thursday, October 26, at the National Labor Relations Board, 1099 14th Street NW, Board Hearing Room.** Learn the basics in two areas of law where *pro bono* help is needed! The briefings are designed to train attorneys and paralegals to volunteer at the DC Bar *Pro Bono* Program Advice & Referral Clinic, but the information will be useful for any *pro bono* project. Pre-registration is required.

Contact Laura Klein at [redacted] or by email to: Laura.F.Klein@usdoj.gov to register or for more information about any of these events.

Federal Employees Dental and Vision Insurance Program

The Federal Employees Dental and Vision Insurance Program (FEDVIP) is a new program for supplemental dental and vision benefits.

The new FEDVIP will be available to eligible Federal and Postal employees, retirees, and their eligible family members on an enrollee-pay-all basis. This new program allows dental and vision insurance to be purchased on a group basis which means competitive premiums and no pre-existing condition limitations. Premiums for enrolled Federal and Postal employees will be withheld from salary on a pre-tax basis. There is no Federal government contribution.

Eligible individuals can enroll in a dental plan and/or a vision plan. They may enroll in a plan for self-only, self plus one, or self and family coverage. Eligible family members include an enrollee's spouse and unmarried dependent children under the age of 22, or if age 22 or older, incapable of self-support. The rules for family members' eligibility are the same as they are for the FEHB Program.

Employees must be eligible for the FEHB Program in order to be eligible to enroll in FEDVIP. Employees do not have to be enrolled in FEHB--eligibility is the key. Annuitants are eligible to enroll in FEDVIP regardless of their FEHB status.

The following insurance carriers will offer supplemental dental and vision benefits under FEDVIP: Aetna Life Insurance Company; Government Employees Hospital Association, Inc. (GEHA); MetLife, Inc.; United Concordia Companies, Inc.; Group Health, Inc.; CompBenefits; and Triple-S, Inc. BlueCross BlueShield Association and Spectera, Inc., will offer dental benefits, and Vision Service Plan (VSP) will offer vision benefits.

Enrollment will take place during the upcoming Federal Employees Health Benefits (FEHB) open season Monday, November 13 through Monday, December 11, 2006. Coverage will be effective December 31, 2006. More information on how to apply will be forthcoming.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 3:46 PM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE ANNOUNCES FUNDING TO PUBLIC SAFETY OFFICERS FOR BULLETPROOF VESTS

Department of Justice

Office of Justice Programs

FOR IMMEDIATE RELEASE Office of Justice Programs
MONDAY, OCTOBER 16, 2006
Contact: Sheila Jerusalem
WWW.OJP.USDOJ.GOV (202) 307-0703

DEPARTMENT OF JUSTICE ANNOUNCES FUNDING TO PUBLIC SAFETY OFFICERS FOR BULLETPROOF VESTS

BOSTON – The Department of Justice today announced nearly $29 million in funding to over 4,500 law enforcement agencies across the nation for the purchase of bulletproof vests through the Department of Justice's Bulletp Vest Partnership Program. The grant awards are expected to fund the purchase of over 213,000 vests for public safety of nationwide.

"Law enforcement is a difficult and dangerous profession. The safety and well-being of our public safety officers is fundamental to effectively administering justice in the communities they serve," said Regina Schofield, Assis Attorney General for the Office of Justice Programs. "Providing this support to state and local agencies is essential to protecting those who are charged with confronting some of our country's most violent criminals."

Administered through the Bureau of Justice Assistance (BJA), a component of the Department's Office o Justice Programs (OJP), the Bulletproof Vest Partnership Program provides for up to half the cost of bulletproof vests to eligible units of local governments. Each jurisdiction may purchase one vest per officer per year, and all vests must mee exceed standards developed by OJP's National Institute of Justice (NIJ). Since 1999, over 12,000 jurisdictions have participated in the BVP Program, with $173 million in federal funds committed to support the purchase of an estimated 450,000 vests. A list of this year's funding recipients is available at http://www.ojp.usdoj.gov/BJA.

In 2003, the Department formed the Body Armor Safety Initiative following the failure of a body armor vest wor Forest Hills, Pa., police officer. The NIJ initiated an examination of bullet-resistant armor, and following ballistics and properties testing, determined that used body armor currently in use may not provide the intended level of ballistic resist As a result, NIJ recommended that new bullet-resistant body armor comply with the NIJ's 2005 interim requirements fo bullet-resistant body amor. As NIJ continues testing new models of body armor, vest models will be added to a list of m that comply with the requirements. The list of compliant vest models is available at http://www.justnet.org.

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The Office of Justice Programs provides federal leadership in developing the nation's capacity to prevent and co crime, administer justice and assist victims. OJP is headed by an Assistant Attorney General and comprises five compor bureaus and two offices: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Just Office of Juvenile Justice and Delinquency Prevention; and the Office for Victims of Crime, as well as the Office of the Corps and Law Enforcement Education and the Community Capacity Development Office, which incorporates the Wee Seed strategy and OJP's American Indian and Alaska Native Affairs Desk. More information can be found at http://www.ojp.usdoj.gov.

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DOJ_NMG_ 0169580

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 6:14 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ISSUES REPORT TO THE PRESIDENT REGARDING THE ADMINISTRATION OF THE FREEDOM OF INFORMATION ACT

A PDF of the report is attached below.

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 16, 2006
WWW.USDOJ.GOV

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

ATTORNEY GENERAL ISSUES REPORT TO THE PRESIDENT REGARDING THE ADMINISTRATION OF THE FREEDOM OF INFORMATION ACT

WASHINGTON — Attorney General Alberto R. Gonzales submitted to President Bush today the Department's report regarding the government-wide administration of the Freedom of Information Act (FOIA). Today's report is the result of the first of three Justice Department reviews required under Executive Order 13392 titled, "Improving Agency Disclosure of Information."

The executive order, signed by the President on Dec.14, 2005, directs agencies to ensure citizen-centered and results-oriented agency FOIA operations. The order directed federal agencies to develop and implement plans in order to improve the performance of their FOIA programs. The order also established, for the first time ever, a Chief FOIA Officer for every agency, FOIA requester service centers and FOIA public liaisons.

Today's report noted that all 91 federal agencies subject to the FOIA have prepared improvement plans, have refined them wherever necessary, and have posted them on their Web sites for public review. It found that the combined efforts of thousands of FOIA personnel to implement the executive order to date "already have yielded significant results."

The report also made several recommendations, including holding a follow-up meeting for all Chief FOIA Officers; having agencies review all of their standard forms and correspondence formats used for FOIA purposes; and enhancing the use of technology for FOIA administration through a new government-wide technology initiative.

The next report is due to the President by June 1, 2007, after agencies report the successes of the first stage of their improvement plan implementation by Feb.1, 2007.

A copy of today's report is attached.

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AG Report to President E O 13...

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report on their initial successes. This first implementation period is of course essential to their continued success, as well as to continued public confidence in the Executive Order's strong and effective implementation. Accordingly, as is recommended first and foremost above, the Department of Justice looks forward to the holding of a second formal gathering of agency Chief FOIA Officers at which the importance of the agency efforts that are now ongoing (to be reported as of this coming February 1) can be emphasized. And beyond this initial implementation and reporting period, the Department also looks forward to submitting two further such reports to the President, by June 1, 2007, and June 1, 2008, pertaining to the Executive Order's next two implementation periods.[53]

[53] See Exec. Order No. 13,392, Sec. 4(a) (calling for two further such reports "that provide the President with an update" on agency implementation of their FOIA Improvement Plans).

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Image not available for this document, ID: 0.7.10316.23935-000003

From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 6:42 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATED: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 17-OCTOBER 20, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
MONDAY, OCTOBER 16, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 17 – OCTOBER 20, 2006

Tuesday, October 17

5:30 P.M. EDT Diane Stuart, Director of the Office of Violence Against Women, will participate in the opening of the Family Justice Center of Northwest Ohio.
118 1/2 Clinton Street
Defiance, Ohio
OPEN PRESS

Press inquiries regarding logistics should be directed to Cynthia Magnuson at 202-514-2007.

Wednesday, October 18

2:00 P.M. EDT Attorney General Alberto R. Gonzales and Eileen O'Connor, Assistant Attorney General for the Tax Division, will participate in the Tax Division Awards Ceremony.
Department of Justice
The Great Hall
950 Pennsylvania Ave., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

Thursday, October 19

Events TBD

DOJ_NMG_ 0169603

Friday, October 20

10:00 A.M. EDT Attorney General Alberto R. Gonzales, Deputy Attorney General Paul J. McNulty, and Michael Battle, Director of the Executive Office of United States Attorneys (EOUSA), will participate in the EOUSA Director's Awards Ceremony.
Department of Justice
The Great Hall
950 Pennsylvania Ave., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

12:00 P.M. PDT Solicitor General Paul Clement will deliver remarks before the San Francisco chapter of The Federalist Society regarding the Supreme Court Preview for the 2006 October Term.
Bank of America Building
Banker's Club at the Carnelian Room
555 California Street
San Francisco, California
OPEN PRESS

Press inquiries regarding logistics should be directed to David DeGroot of the Federalist Society at 415-218-2360, or to Janet Potter at 202-514-2201.

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Image not available for this document, ID: 0.7.10316.23654-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 16, 2006 7:13 PM
To: USDOJ- Office of Public Affairs
Subject: SCHNITZER STEEL INDUSTRIES INC.'S SUBSIDIARY PLEADS GUILTY TO FOREIGN BRIBES AND AGREES TO PAY A $7.5 MILLION CRIMINAL FINE

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 16, 2006
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

SCHNITZER STEEL INDUSTRIES INC.'S SUBSIDIARY PLEADS GUILTY TO FOREIGN BRIBES AND AGREES TO PAY A $7.5 MILLION CRIMINAL FINE

Parent Company Enters Into A Deferred Prosecution Agreement Following Exceptional Cooperation With Justice Department

WASHINGTON – SSI International Far East Ltd. (SSI Korea), a wholly owned subsidiary of Schnitzer Steel Industries Inc., has entered a guilty plea before U.S. District Judge Garr King at U.S. District Court in Portland, Ore., Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. The company pleaded guilty to violations of the anti-bribery and books and records provisions of the Foreign Corrupt Practices Act (FCPA), as well as conspiracy and wire fraud. Additionally, Schnitzer Steel simultaneously entered into a deferred prosecution agreement with the Justice Department regarding the same underlying activity. As part of the plea and deferred prosecution agreements, it was agreed that SSI Korea would pay a $7.5 million criminal fine.

In the information and plea documents, SSI Korea admitted that it violated the FCPA and the conspiracy and wire fraud statutes in connection with more than $1.8 million in corrupt payments paid over a five-year period to officers and employees of nearly all of Schnitzer Steel's government-owned customers in China and private customers in China and South Korea to induce them to purchase scrap metal from Schnitzer Steel. Additionally, in the deferred prosecution agreement, Schnitzer Steel agreed to accept responsibility for the conduct of its employees, and the employees of its subsidiary, in making corrupt payments and aiding and abetting the making of false books and records entries; to adopt internal compliance measures; and to cooperate with ongoing criminal and Securities and Exchange Commission (SEC) civil investigations. The deferred prosecution agreement also provides that an independent compliance consultant will be appointed to review Schnitzer Steel's compliance program and monitor its implementation of and compliance with new internal policies and procedures related to the FCPA and private bribery.

According to the information and plea documents, SSI Korea was in the business of facilitating the sale of scrap metal by Schnitzer Steel from the United States and brokering the sale of scrap metal by Japanese suppliers to steel producers in China and South Korea. From at least 1995 to at least August 2004, SSI Korea and Schnitzer Steel, through their officers and employees, authorized and made corrupt payments to managers of private customers in South Korea and private and government-owned customers in China to induce them to

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purchase, and to secure an improper advantage with respect to the purchase of scrap metal from Schnitzer Steel. Over a five-year period, between September 1999 and August 2004, corrupt payments of approximately $1,683,672 were paid to managers of private customers in China and South Korea, and corrupt payments of approximately $204,537 were paid to managers of government-owned customers in China. As a result of these corrupt payments, during that same time period, Schnitzer Steel realized gross revenue of approximately $602,139,470 and profits of approximately $54,927,319 on scrap metal sold to private sector Chinese and South Korean customers, and gross revenue of approximately $96,396,740 and profits of approximately $6,259,104, on scrap metal sold to government instrumentalities in China.

According to all parties to the agreements, the resolution of the criminal investigation of Schnitzer Steel and its subsidiary resulted, in large part, from the actions of Schnitzer Steel and its Audit Committee in voluntarily disclosing the matter to the Justice Department; conducting a searching and extensive internal investigation; sharing the results of that investigation in a prompt fashion with the Department; cooperating extensively and authentically with the Department in its ongoing investigation; taking appropriate disciplinary action against individual wrongdoers, irrespective of rank; replacing senior management; and taking significant remedial steps, including the implementation of a robust compliance program.

"Today's announcement demonstrates that if a U.S. company does business using bribes, it will be held accountable," said Assistant Attorney General Fisher. "This announcement also shows that when companies voluntarily disclose FCPA violations and cooperate with Justice Department investigations, they will get a real, tangible benefit. In fact, Schnitzer Steel's cooperation in this case was excellent, and I believe that the disposition announced today reflects that fact. We appreciate the assistance and cooperation provided by the SEC, which was vital in reaching the result announced today."

Schnitzer Steel has also settled related civil enforcement proceedings by the SEC. Today, the SEC filed a federal court complaint charging Schnitzer Steel with violating the FCPA and issued an administrative order finding that Schnitzer Steel had violated the anti-bribery, books and records and internal controls provisions of the FCPA. Schnitzer Steel consented to the entry of a final judgment in the federal lawsuit requiring it to pay a $7.7 million civil penalty and consented to the Commission's issuance of its administrative order.

The criminal case is being prosecuted by Deputy Chief Mark F. Mendelsohn, Assistant Chief Deborah Gramiccioni, and Trial Attorney Kathleen McGovern, of the Fraud Section, with the investigative assistance of the Federal Bureau of Investigation.

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Image not available for this document, ID: 0.7.10316.23658-000002

Amber.JMD

From: Amber.JMD
Sent: Monday, October 16, 2006 10:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Henderson, KY

From: AmberAlert-DOJ
Sent: Monday, October 16, 2006 10:01:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Henderson, KY
Auto forwarded by a Rule

UPDATE AMBER ALERT:Henderson,KY VEH:00Whi KY Daewoo Nubia 675DRV CHL:9M W/M 2'3 19LB Br/Br SUS:33W/F 5'5 240LB Br/Br SUS:23W/M 6'2 150LB Eye:Blu CALL 877AMBER17
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2462

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 17, 2006 9:47 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 17, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, October 17, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

5:30 P.M. EDT Diane Stuart, Director of the Office of Violence Against Women, will participate in the opening of the Family Justice Center of Northwest Ohio.
118 1/2 Clinton Street
Defiance, Ohio
OPEN PRESS

Press inquiries regarding logistics should be directed to Cynthia Magnuson at 202-514-2007.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.23613-000002

Amber.JMD

From: Amber.JMD
Sent: Tuesday, October 17, 2006 10:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: North Charleston, SC

From: AmberAlert-DOJ
Sent: Tuesday, October 17, 2006 10:35:24 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS;
AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC);
AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: North Charleston, SC
Auto forwarded by a Rule

AMBER ALERT:North Charleston,SC VEH:Red 2dr Mitsubishi Eclipse CHILD:14 F 5'140lbs Eyes:Brown Hr:Brn SUSP:20 M 5'4" 145 lbs Eyes:Brown Hr:Brn CALL 843-873-5111
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2482

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 17, 2006 11:01 AM
To: USDOJ- Office of Public Affairs
Subject: WESLEY SNIPES AND TWO OTHERS INDICTED ON TAX FRAUD CHARGES

Department of Justice

United States Attorney Paul I. Perez
Middle District of Florida

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 17, 2006
www.usdoj.gov/usao/flm

CONTACT: STEVE COLE
PHONE: (813) 274-6352
FAX: (813) 274-6300

WESLEY SNIPES AND TWO OTHERS INDICTED ON TAX FRAUD CHARGES

TAMPA, Fla. – An eight-count indictment was unsealed today charging Wesley Trent Snipes, formerly of Windermere, Fla., Eddie Ray Kahn, of Sorrento, Fla., and Douglas P. Rosile, of Venice, Fla., with conspiracy to defraud the Internal Revenue Service (IRS) and presenting a fraudulent claim for payment to the IRS, Assistant Attorney General Eileen J. O'Connor of the Tax Division, U.S. Attorney Paul I. Perez of the Middle District of Florida, and Special Agent in Charge Michael E. Yasofsky, Jr. of the IRS Criminal Investigation today announced.

Snipes is also charged with six counts of failing to file income tax returns. Each of the conspiracy and false claim charges carry a maximum sentence of five years in prison. Snipes also faces up to one year in prison on each charge of failing to file income tax returns.

According to the indictment, Kahn was the founder and leader of American Rights Litigators (ARL) and its successor, Guiding Light of God Ministries (GLGM). ARL was formed in 1996 and conducted business from an office located in Mount Plymouth, Fla. In August 2003, ARL moved to an office located in Mount Dora, Fla., and began operating as GLGM. It is alleged that ARL and GLGM were for-profit, commercial businesses that promoted and sold fraudulent tax schemes designed to impede the administration of the internal revenue laws of the United States.

According to the indictment, Rosile was a CPA, who continued to work as an accountant after his CPA licenses in Ohio and Florida were revoked. He allegedly prepared fraudulent tax returns for ARL members. For each fraudulent tax return, ARL charged its members a fee, half of which it allegedly paid to Rosile. In addition, if any such fraudulent tax return generated a tax refund, ARL would collect 20 percent of the refund from the member and pay half of such amount to Rosile.

Kahn and Rosile, operating through ARL, allegedly promoted a fraudulent tax scheme based on the so-called "861 argument," asserting that United States citizens and residents could be taxed only on income derived from certain foreign-based activities and not on wages and other income earned within the United

DOJ_NMG_ 0169616

States. The indictment also alleges the defendants knew the argument was false. Also, the argument has been consistently rejected by courts.

The indictment alleges that Snipes, Kahn and Rosile attempted, through dishonest means, to make it appear as if Snipes had no liability for federal income taxes, when, in fact, Snipes had such tax liabilities. As part of the scheme, the defendants allegedly prepared and filed two amended federal income tax returns for Snipes, fraudulently claiming refunds of 1996 and 1997 income taxes previously paid, totaling almost $12 million. The indictment also alleges that Snipes did not file his 1999 through 2004 federal income tax returns, even though the law required him to do so.

"The Justice Department will vigorously investigate charges of counseling or committing tax fraud," said Assistant Attorney General O'Conner.

"Our system of government depends on citizens paying their fair share of taxes," stated U.S. Attorney Perez. "Those who intentionally and unlawfully harass the IRS through deceit, trickery and fraud undermine the collection of revenue that is vital to every aspect of the operation of our government, including defense, the war on terror, health care, law enforcement and education."

This case is investigated by the IRS Criminal Investigation. It is being handled by Assistant U.S. Attorneys James R. Klindt, Robert O'Neill, Scot Morris and Trial Attorney Jeffrey A. McLellan of the Tax Division.

An indictment is merely a formal charge that a defendant has committed a violation of the federal criminal laws. Every defendant is presumed innocent unless and until proven guilty.

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DOJ_NMG_ 0169617

Image not available for this document, ID: 0.7.10316.23593-000001

Image not available for this document, ID: 0.7.10316.23593-000002

Amber.JMD

From: Amber.JMD
Sent: Tuesday, October 17, 2006 11:35 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: North Charleston, SC

From: AmberAlert-DOJ
Sent: Tuesday, October 17, 2006 11:35:25 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: North Charleston, SC
Auto forwarded by a Rule

UPDATE AMBER ALERT:North Charleston,SC VEH:Red 2dr Mitsubishi Eclipse, FL tag CHILD:14 F 5'140lbs Eye:Brn Hr:Brn SUSP:20 M 5'4" 145lbs Hr:Brn CALL 843-873-5111
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2482

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, October 17, 2006 12:18 PM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Battaglia, John T; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Davis, Deborah J; Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Gunn, Currie (SMO); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; O'Quinn, John C; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Shaw, Aloma A; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/17/06 Civil Division News

$2.3 million federal settlement in Puget Sound oil spill

Pentagon to resume forced anthrax vaccine program

Labor department sues defunct co-op to reclaim pension fund money

2 doctors among 4 guilty of defrauding Medicare: Prescriptions for motorized wheelchairs were bogus, jury finds

Comment: The --Softwood Sellout Agreement' is not the final word

Opinion: A Transparent Need - The Committee on Professional Conduct needs to be fully utilized

Seattle Times

October 17, 2006

$2.3 million federal settlement in Puget Sound oil spill

By Warren Cornwall
Seattle Times staff reporter

ConocoPhillips will pay more than $2.3 million in federal fines and cleanup costs for the Oct. 2004 oil spill that soiled 21 miles of beach between Tacoma and Vashon Island, the U.S. Coast Guard announced today.

The federal settlement is on top of a $540,000 state fine announced last week for the spill, which

investigators have linked to the oil tanker Polar Texas. The ship, which has since been demolished, was owned by a ConocoPhillips subsidiary, Polar Tankers.

The oil giant has yet to publicly accept blame for the spill, though state and federal investigations found the spilled oil was a chemical match to crude oil found in the Polar Texas after the incident.

The spill of more than 1,000 gallons of crude oil in Dalco Passage is thought to have happened in the early evening of Oct. 13. But it went unreported until a tugboat operator noticed an oil slick around 1 a.m. Oct. 14 and alerted authorities.

The federal settlement announced today includes fines of roughly $80,000, which is close to the maximum allowed under the federal Clean Water Act, according to the Coast Guard press release. It also covers $2.23 million, the total cost of the cleanup.

"Today's settlement with ConocoPhillips sends a strong signal to the tank vessel industry that those who spill oil and pollute the pristine waters of Puget Sound will be held fully financially accountable," said Capt. Steve Metruck, Coast Guard Captain of the Port for Puget Sound.

Some, however, have questioned whether the much larger state fine would really have an impact on an oil company with second-quarter profits over $5 billion.

Federal prosecutors have decided not to pursue criminal charges in the case.

END

Reuters
Mon Oct 16, 4:43 PM ET

Pentagon to resume forced anthrax vaccine program

By Kristin Roberts

The Pentagon on Monday said it will force troops in Iraq, Afghanistan and South Korea to be vaccinated against anthrax, restarting a court-halted program after U.S. regulators declared the shots safe and effective.

But William Winkenwerder, assistant secretary of defense for health affairs, said the Pentagon has no plans to vaccinate troops serving elsewhere, including those in the United States -- site of the only major anthrax attack against Americans, which killed five people in 2001.

"There are terrorists operating in and around Iraq and in that part of the world," Winkenwerder said. "That's a higher threat area."

The move to reopen the mandatory vaccination program follows a final order from the U.S. Food and Drug Administration in 2005 that found the anthrax vaccine safe and effective in preventing anthrax disease.

But attorneys whose lawsuit previously shut down the mandatory anthrax vaccination program said they plan to file a new suit to challenge its resumption.

"The forthcoming mandatory program is just as senseless as before and the FDA's new determination remains legally and scientifically flawed," said Mark Zaid, one of the attorneys.

Winkenwerder, who has not taken the anthrax vaccine, said the FDA's final order settles legal questions and the Pentagon is prepared for a court challenge.

Anthrax spores can be used in germ warfare to give victims the deadly bacterial disease. The Pentagon argues the shots are needed to protect troops against bioterrorism.

A federal district court in 2005 allowed the Pentagon to give some troops the vaccinations on a voluntary basis after ordering a halt to the mandatory shots the year before.

The court's action came after a lawsuit filed by six unnamed military personnel and civilian workers who objected to the vaccinations. Some troops had refused to get the mandatory shots due to worries about side effects, and some had been thrown out of the military.

Under the voluntary program, only 50 percent of troops offered the shot accepted it.

Winkenwerder said those numbers were too low and left U.S. forces unprepared for bioterrorist attacks. He said service members expect a shot to be mandatory if it is important.

More than 1.4 million service members have been vaccinated since 1998, according to the Defense Department.

Winkenwerder could not say how many troops would be vaccinated under the mandatory program, which should start in 30 to 60 days. Troop levels total 143,000 in Iraq, 21,000 in Afghanistan and 28,000 in South Korea.

END

AP

October 16, 2006

Labor department sues defunct co-op to reclaim pension fund money

By WILLIAM KATES

Associated Press Writer

SYRACUSE, N.Y._The U.S . Department of Labor has sued the financial administrators of Agway Inc., claiming they mismanaged $50 million in assets in the now-defunct agricultural cooperative's pension plan.

In a lawsuit filed last week in U.S. District Court, Labor Secretary Elaine Chao accused administrators of imprudently investing $50 million of the company's 401(k) plan in the securities of the company, valuing company stock at prices higher than market value, and giving participants false information about the investment.

"The workers in this case were betrayed by those entrusted to administer and oversee their 401(k) plan," Chao said in a statement Monday.

"With this lawsuit, the Department of Labor seeks full restoration of the 401(k) plan so that the workers' retirement dreams are not destroyed by the gross mismanagement of their retirement funds," she said.

Agway was once the largest agricultural cooperative in the country, with 69,000 farmer-members in the Northeast, 2,700 employees and peak sales of $4.1 billion in 1984. Founded to help farmers sell their products, Agway developed into a business that mainly sold animal feed, fuel and other products. Its 401(k) plan covers 4,080 participants.

The DeWitt-based company was driven into bankruptcy court in October 2002 by spiraling debt. In 2004, the company began selling off all of its assets to pay creditors, who brought claims totaling more than $675 million against the co-op. A string of retail stores operating under the Agway name were separately

owned and were not included in the liquidation proceedings. They have since become part of Southern States Cooperative Inc.

The lawsuit named as defendants 47 individual members of the investment committee, administration committee and the Agway board or directors.

Federal regulators accused the investment committee of failing to investigate the prudence of investing in Agway securities, to determine the fair market value of securities acquired by the plan, and to monitor and divest the plan's holdings in the securities.

The lawsuit said the administration committee allowed Agway and the plan to provide false and misleading information to plan participants about the investments in Agway securities.

The board of directors failed to protect the interest of participants and beneficiaries by failing to oversee the activities of the two committees, the lawsuit said.

Jeffrey Dove, an attorney who is representing Agway through completion of its liquidation, said insurance will cover the claims against individual officials, who will not be held personally liable for repaying the money.

Another $65 million of employees' retirement funds were invested in other accounts that are not affected by the lawsuit, Dove said.

As part of the bankruptcy process, employees have already received approximately 50 cents on the dollar toward the $50 million allegedly mismanaged by Agway, he said.

"The intent of the lawsuit is to make up the difference," Dove said.

An independent administrator, Fiduciary Counselors Inc., was appointed in 2004 to manage the plan. They also have filed a lawsuit against Agway administrators seeking to recover the full amount of employees' pensions, Dove said.

END

Houston Chronicle

October 17, 2006

2 doctors among 4 guilty of defrauding Medicare: Prescriptions for motorized wheelchairs were bogus, jury finds

Harvey Rice

Houston Chronicle

Oct. 17--Four Houston-area men, including two physicians, face prison sentences and possibly heavy fines after being convicted of accepting kickbacks in a scheme that defrauded Medicare of more than $21 million.

A federal jury late Friday convicted the doctors, Charles Frank Skripka Jr., 65, and Jayshree Patel, 62, along with medical equipment supply owner James Ekiko, 43, and patient recruiter David Dennis Brown, 47.

U.S. District Judge Vanessa Gilmore set Jan. 17 as their sentencing date.

All four were found guilty of health fraud in connection with a scheme to prescribe motorized wheelchairs to people who didn't need them. Skripka, Ekiko and Brown also were convicted of wire fraud and conspiracy to defraud Medicare. Skripka and Ekiko also were convicted of money laundering.

At least four other Houston doctors have been convicted in a scam that prosecutors say was widespread here three years ago. Prosecutors said recruiters such as Brown would pay prospective patients $50 each, busing some here from as far away as Louisiana to see doctors. Many did not need motorized wheelchairs.

Assistant U.S. Attorney Albert Balboni accused the doctors of writing 30 to 80 prescriptions a day in return for $200 payments from medical equipment dealers.

Dealers used the prescriptions to bill Medicare for motorized wheelchairs costing about $4,200 each, then gave patients motorized scooters costing about $1,600 and pocketed the difference, Balboni said.

Prosecutors accused Skripka and Patel of working with Dr. Lewis Gottlieb, who pleaded guilty in April 2004 to receiving kickbacks in return for prescribing unneeded motorized wheelchairs.

Harold "Prince Yellowe" Iyalla, a medical equipment company owner indicted in August 2004 with the four men convicted Friday, pleaded guilty in May to paying kickbacks to doctors.

Health-care fraud carries a maximum sentence of 10 years in prison and a $250,000 fine; wire fraud, five years and a $250,000 fine; conspiracy, five years and $250,000; and money laundering, up to 20 years and $500,000.

END

Globe and Mail

October 17, 2006

Comment: The --Softwood Sellout Agreement' is not the final word

GORDON GIBSON

Eat a lot of crow, convince us we should walk away from a billion dollars, or face a dangerous election issue? These are the unattractive choices facing the Harper government after a huge lumber industry victory in the U.S. Court of International Trade (CIT) last Friday.

That court ruled we are entitled to the return of every penny of the $5.3-billion of illegally imposed duties on our softwood exports over the years, as well as free entry of our products. But in the recent 'Softwood Sellout Agreement,' Ottawa said it would forgo $1-billion of the total duties owed it and agreed to a new border charge as high as 22.5 per cent.

The vague public impression is that we had to do what amounts to a bad deal because the Yankee bully had us on the ropes and would simply keep changing the rules until we capitulated. That is what our government would like us to believe -- but it is not true.

The true story is one of duplicity on both sides of the border. The Americans, naturally, were conspiring against our industry. But in a weird twist, our government has been helping them. To understand this requires looking at two tracks.

There is the legal track, which our industry has been following for five years. As of this spring, we had won near-final victories under NAFTA and in the CIT. By last summer, the duties would have been gone with the money-return order soon to be achieved.

Alas, there is also the political track. Just after the Tories won the election, they had a chance to recruit Liberal David Emerson. How to justify this? He was the softwood expert; we need him.

U.S. President George Bush soon picked up the phone and asked Prime Minister Stephen Harper if he wouldn't like to settle softwood, fast. He called us. After five years as president, he suddenly wants to settle?

Mr. Bush had good reasons, of course. Our legal fight was going against him. We finally had the U.S. in one of their own courts -- and they were losing. In addition, a Montana senator's seat was hanging on softwood. So, let's see if we can't hornswoggle the Canucks.

No problem. The inexperienced Harper administration seized the chance to brag that in only a couple of months it had been able to fix an issue the Libs couldn't solve for five years. And it would validate Emerson's sleazy jump to the Tories. As a result, they bought a deal so loaded in favour of the Americans it was arguably worse than the one the Martin government had turned down earlier.

Export taxes were to be imposed even higher than the old tariffs, and this has now been done. We were to be capped at 30 per cent of the U.S. market when the Liberals had negotiated 34 per cent. Sawmills are now closing in Eastern Canada, jobs lost in the thousands. There will be lots more.

The U.S. protectionist lobby is to be handed $500-million of our money to pay their lawyers and refill their coffers to attack us again. We will pay for our own thrashing, in a fight we would have won had our government had the guts to stand up to the Americans.

Bad deal? Never mind. On April 27, Mr. Harper told an astonished House of Commons the issue had been settled. At that very hour, American lawyers were filing papers to restart the legal process. The U.S. lied, and we said nothing. Without that betrayal, the very next day the final NAFTA decision would have kicked in and countervail duties would have ended at once.

Continuing the political track, industry holdouts remained -- so many that in desperation last week the two governments jointly appealed to the U.S. court to dissolve everything on the basis it had never happened. We stipulated the U.S. had never done anything illegal, destroying five years' worth of legal victories and our shield against future harassment. And yet, immediately thereafter came the 'return the money' order from the CIT.

So now we have those ongoing duties and a gutted NAFTA, plus supervision of much of our forest law by Washington. Kind of makes you proud to be an allegedly sovereign Canadian, doesn't it?

But there are still potholes on this road of shame. The legal situation remains murky and our industry may yet manage to exploit it. And a guaranteed way out lies in the Canadian Senate.

The tax legislation required to implement the Sellout Agreement requires consent of the Liberal-dominated Senate. That body should hold the necessary hearings to reveal the whole rotten story. A Senate defeat of the agreement would force an election on the issue. Good idea. Forestry and sovereign self-respect are so basic it would be a fitting topic.

END

Harvard Crimson
October 17, 2006

Opinion: A Transparent Need - The Committee on Professional Conduct needs to be fully utilized

By THE CRIMSON STAFF

Former Whipple V.N. Jones Professor of Economics Andrei Shleifer '82 is one of the most prominent economists in the world, with the most citations of any economist, according to one measure. But his career was tainted when he and various acquaintances, as well as Harvard, were sued under the False Claims Act for buying Russian stocks and short-term state bonds in violation of Harvard's contract with the United States Agency for International Development. In 2005, a settlement was reached between the government and the defendant parties, with Harvard and Shleifer paying millions of dollars in damages. And up until last week, Harvard had allowed Shleifer to maintain his endowed title with the Faculty of Arts and Sciences (FAS).

Last Wednesday, FAS said it had concluded its ethics inquiry of Shleifer's defrauding of the U.S. government, but it was not revealed whether FAS had taken disciplinary action on the economist until last Friday, when he appeared to have been stripped of his endowed title as Jones Professor of Economics and demoted to the less prestigious title of "Professor of Economics." To this day, the only comment the public has heard from Interim Dean of the Faculty Jeremy R. Knowles on the case is that he has taken "appropriate action." Many have taken Knowles to task for the lack of transparency in handling this case. While we do not share the view that Knowles has an obligation to air the Shleifer affair publicly, we are concerned that Knowles did not adequately consult the Committee on Professional Conduct (CPC), which traditionally oversees matters such as these.

We do not find transparency to be an end in and of itself. When transparent measures work in the service of making a fair decision, they are justified. In this particular case, it is not clear what would be gained by having the details of Schleifer's misconduct broadcast openly other than satisfying curious spectators. Harvard, however, has much to lose by establishing a precedent of leaving its procedures dealing with professional misdeeds open to public scrutiny.

Nevertheless, the consolidation of decision-making powers by Knowles represents a process which lacks any serious checks on the discretion of a single individual. To that end, the CPC was not adequately consulted in this process, and its members are justified in expressing their frustrations in this regard. Both the seven-member CPC and the three-member subcommittee charged with investigating Shleifer deserved some level of oversight powers in this highly sensitive, and highly publicized, case. The nature of the report submitted to Knowles by the subcommittee should also have been available for review by the CPC.

Having some level of transparency in the FAS disciplinary process to accommodate the small, specialized group equipped to handle matters of this nature would be a confidence building measure and would help ensure fairness across disciplinary cases. When an individual, whoever he may be, has the authority to single-handedly levy judgments without conference or counsel, our systems are left open to abuse and erosion of morale.

END

Amber.JMD

From: Amber.JMD
Sent: Tuesday, October 17, 2006 1:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Dorchester County, SC

From: AmberAlert-DOJ
Sent: Tuesday, October 17, 2006 1:01:12 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Dorchester County, SC
Auto forwarded by a Rule

AMBER ALERT UPDATE:Dorchester County,SC VEHICLE Located CHILD:14 F 5'0 140 lbs Eyes:Brown Hair:Brown SUSPECT:20 M 5'4 145 lbs Eyes:Brown Hair:Brown CALL 843-873
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2482

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Amber.JMD

From: Amber.JMD
Sent: Tuesday, October 17, 2006 3:01 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Henderson, KY

From: AmberAlert-DOJ
Sent: Tuesday, October 17, 2006 3:01:01 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Henderson, KY
Auto forwarded by a Rule

AMBER ALERT UPDATE:Henderson,KY VEH:'00 Whi Daewoo Nubia,KY 675DRV,CHILD:W/M,9 mo,SUSP:W/F,33,240,SUSP:W/M,23,6'2,CALL877-AMBER-17;Possibl-Smithboro,IL(RuralBon
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2462

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, October 17, 2006 4:08 PM
Subject: RFK Main Building Power Outage

RFK Main Building Power Outage

Occupants of the RFK Main Building will experience a power outage from Friday, October 20, 11:00 pm to Monday October 23, 5:00 am. Temporary repairs made as a result of the flood this summer, will be made permanent.

The affected areas include the southeast corner of the building (corner of 9th and Constitution), including the upper ends of the 100 and 300 corridors, the lower end of the 600 corridor and the 400 corridor. This outage will affect the Office of the Solicitor General, Office of Legislative Affairs, Library Staff, Office of Intelligence Policy and Review, Budget Staff, Office of Intergovernmental and Public Liaison, Environment and Natural Resources Division, Civil Division, Antitrust Division, and Tax Division.

Check DOJNet, http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 17, 2006 4:59 PM
To: USDOJ- Office of Public Affairs
Subject: ANOTHER CHARGED, ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 17, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

ANOTHER CHARGED, ANOTHER SENTENCED IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Another Louisiana resident was sentenced and another charged in a bill of information in federal court on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today.

Juanita Wade, 34, of Baton Rouge, La., was charged yesterday in a bill of information with making a false claim for Hurricane Katrina disaster assistance benefits. The charges resulted from an investigation conducted by the FBI. If convicted, Wade faces a maximum sentence of five years in prison, a $250,000 fine, or both.

Lydia Jones, 23, of Donaldsonville, La., pled guilty on June 6, 2006, to an indictment charging her with making a false claim for Hurricane Katrina disaster assistance benefits. She was sentenced by U.S. District Court Judge John V. Parker today to three years of probation, 50 hours of community service and $2,000 in restitution. The U.S. Department of Homeland Security's Office of Inspector General conducted the investigation of this matter.

DOJ_NMG_ 0169631

Yesterday's filing brings the total number of individuals who have been charged in the Middle District of Louisiana with violations related to hurricane disaster relief funds to 79.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, LA 70821-4909.

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DOJ_NMG_ 0169632

Image not available for this document, ID: 0.7.10316.23560-000001

Image not available for this document, ID: 0.7.10316.23560-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 17, 2006 6:39 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER FDA COMMISSIONER PLEADS GUILTY TO CONFLICT OF INTEREST AND MAKING FALSE FINANCIAL DISCLOSURES TO THE U.S. SENATE AND EXECUTIVE BRANCH

Department of Justice

United States Attorney Jeffrey A. Taylor
District of Columbia

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 17, 2006
http://www.usdoj.gov/usao/dc

CONTACT: CHANNING PHILLIPS
PHONE: (202) 514-6933
FAX: (202) 353-0121

FORMER FDA COMMISSIONER PLEADS GUILTY TO CONFLICT OF INTEREST AND MAKING FALSE FINANCIAL DISCLOSURES TO THE U.S. SENATE AND EXECUTIVE BRANCH

WASHINGTON – Lester M. Crawford, a former Commissioner of the Food and Drug Administration (FDA), has pleaded guilty to a conflict of interest charge and making false financial disclosures to the U.S. Senate and the Executive Branch, announced U.S. Attorney Jeffrey A. Taylor of the District of Columbia and Inspector General Daniel Levinson of the U.S. Department of Health and Human Services.

Crawford entered his guilty plea to the two misdemeanor charges this afternoon in the U.S. District Court for the District of Columbia before U.S. Magistrate Judge Deborah Robinson. Crawford is scheduled to be sentenced on Jan. 22, 2007. He faces a sentence of up to one year in prison on each charge.

"One of the most important principles of our ethics laws is that public officials cannot have a financial interest in any decision that they make," stated U.S. Attorney Taylor. "Lester Crawford, who held one of the most important jobs in government, blatantly violated these principles. Today, he is being held accountable for his actions."

"Any Government official's disregard of the conflict of interest laws undermines the integrity of the rules of conduct established for all those in Government," stated Inspector General Levinson. "Taxpayers must have confidence that administrators of Government programs will be objective and free from improper influences in carrying out their official duties."

Crawford, 68, of Chevy Chase, Md., held some of the most senior positions in the FDA. He served as Deputy Commissioner between Feb. 25, 2002 and March 26, 2004, when he became Acting Commissioner. On Feb. 15, 2005, Crawford was nominated to become Commissioner. On July 18, 2005, the U.S. Senate confirmed Crawford, who remained Commissioner until Sept. 30, 2005.

DOJ_NMG_ 0169635

As a senior FDA employee, Crawford was required to file regular Public Financial Disclosure Reports, known as Standard Form (SF) 278s. Schedule A of the SF 278 required the filer to list all investment assets having a value exceeding $1,000 that were held by the filer or the filer's spouse, as well as sources of income exceeding $200 earned by the filer during the applicable reporting period.

Each year, ethics officials at the Department of Health and Human Services reviewed Crawford's SF 278s to ensure that he and his wife were not holding stocks or stock options of companies that were "significantly regulated organizations," which federal regulations defined as organizations for which the sales of products regulated by the FDA constitute 10 percent or more of annual gross sales in the organization's previous fiscal year. Any FDA employee who was required to file an SF 278 could not hold a "financial interest," such as stock or stock options, in a significantly regulated organization.

Crawford's nomination as Commissioner required confirmation by the U.S. Senate and was considered by the Senate Committee on Health, Education, Labor, and Pensions. As a nominee, Crawford was required to submit two financial disclosure documents to the Committee: an SF 278 and a Statement for Completion by Presidential Nominees. Crawford filed both forms in February 2005.

Crawford's plea to Making False Writings is based on his failure to disclose his and his wife's ownership of stock in "significantly regulated organizations" to the Senate Committee and to the Executive Branch.

During the relevant time periods, Crawford and/or his wife owned forbidden stocks in the following "significantly regulated organizations": Pepsico, Sysco, Kimberly-Clark and Embrex.

Crawford filed a number of disclosure forms and other false writings in which he did not declare his and his wife's ownership of forbidden stocks and stock options. Specifically:

- July 1, 2004: In this SF 278, Crawford disclosed ownership of Sysco and Kimberly-Clark stock. When an HHS ethics official inquired about Crawford's ownership of this stock, Crawford responded in a Dec. 28, 2004 email that the stocks in "Sysco and Kimberly-Clark have in fact been sold." That statement was false.

- Feb. 23, 2005: Crawford did not disclose on this SF 278 his income from a Nov. 17, 2004, exercise of Embrex stock options or the Crawfords' ownership of Kimberly-Clark or Sysco stock.

- Feb. 25, 2005: Crawford failed to disclose in his nominee Statement to the Senate Committee his income from the exercise of Embrex stock options in October 2003 and November 2004. Crawford also did not disclose his remaining Embrex stock options.

Crawford's ownership of Sysco and Pepsico stock and his role as Chairman of the FDA's Obesity Working Group (OWG) gave rise to the conflict of interest charge, to which he has also pleaded guilty. On Feb. 11, 2004, Crawford and the OWG's Vice Chairman submitted the OWG's final report and recommendations, entitled "Calories Count: Report of the Working Group on Obesity," to then-FDA Commissioner Mark McClellan. The report contained many recommendations, including encouraging manufacturers to re-label serving sizes, noting as an example that "a 20 oz bottle of soda that currently states 110 calories per serving and 2.5 servings per bottle could be labeled as 275 calories per bottle." The FDA publicly released "Calories Count" on March 12, 2004.

On June 3, 2004, Crawford testified before the House of Representatives Committee on Government Reform about the government's role in combating obesity. In his testimony, Crawford outlined the OWG's recommendations and again stressed the importance of re-labeling serving sizes for sodas.

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During the entire period from the formation of the OWG to the date of Crawford's congressional testimony, Crawford and his wife owned 1,400 shares of Pepsico stock, worth a minimum of about $62,000, and 2,500 shares of Sysco stock, worth a minimum of about $78,000. Pepsico, a leading manufacturer of soft drinks and snack foods, and its shareholders had a financial interest in the OWG's conclusions and recommendations. Sysco, a leading manufacturer of food products, and its shareholders had a financial interest in the OWG's conclusions and recommendations.

There is no evidence that the OWG's conclusions were altered because of the Crawfords' ownership of Pepsico or Sysco stock.

Following the announcement of Crawford's departure from office, Senators Mike Enzi and Edward Kennedy and Representatives Maurice Hinchey, Marcy Kaptur, Lynn Woolsey, Raúl Grijalva and Sam Farr asked that the Inspector General investigate this matter.

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Image not available for this document, ID: 0.7.10316.23556-000002

Amber.JMD

From: Amber.JMD
Sent: Tuesday, October 17, 2006 9:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Oakland, CA

From: AmberAlert-DOJ
Sent: Tuesday, October 17, 2006 9:35:23 PM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Oakland, CA
Auto forwarded by a Rule

AMBER ALERT:Oakland,CA VEH:04 BLU GMC Yukon CA 5RDU745 CHI:2 B/M 2FT5 50LB BRO/BLK COM:29 B/F 5FT9 220LB BRO/BLK SUS:27 B/M 5FT6 175LB BRO/BLK CALL 510-777-3211
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2502

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Wednesday, October 18, 2006 12:02 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Oakland, CA

From: AmberAlert-DOJ
Sent: Wednesday, October 18, 2006 12:01:43 AM
To: AmberAlert ATR; Amber AlertUSPC; Amber.JMD; CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert; COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole; Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Oakland, CA
Auto forwarded by a Rule

UPDATE AMBERALERT:Oakland,CA VEH:04 BLU GMC Yukon CA 5RDU745 CHI:2 B/M 2'5 50LB BR/BLK CMP:29 B/F 5FT9 220LB BR/BLK SUS:27 B/M 5'6 175LB BR/BLK CALL510-777-3211
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2502

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 9:13 AM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO MAKE AN ANNOUNCEMENT ON A FRAUD MATTER

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, OCTOBER 18, 2006
WWW.USDOJ.GOV

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

********MEDIA ADVISORY********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY TO MAKE AN ANNOUNCEMENT ON A FRAUD MATTER

WASHINGTON – Deputy Attorney General Paul J. McNulty will make an announcement on a bankruptcy-fraud matter on **WEDNESDAY, OCTOBER 18, 2006 at 1:15 P.M. EDT.**

WHO: Deputy Attorney General Paul J. McNulty
Clifford White, Acting Director, Executive Office of U.S. Trustees
Chip Burrus, Assistant Director, Criminal Investigative Division, FBI

WHAT: Press Conference

WHEN: **TODAY, OCTOBER 18, 2006**
1:15 P.M. EDT

WHERE: Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

NOTE: MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS. All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

# # #

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Image not available for this document, ID: 0.7.10316.23102-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, October 18, 2006 9:23 AM
Subject: CORRECTION TO ENTRY, JCON BROADCAST, WEEK OF OCTOBER 16, 2006

The Weekly JCON Broadcast for October 16 contained an error in one of the entries. Some insurance carriers were noted as offering the wrong benefits. Below is a corrected notice.

Correction
Federal Employees Dental and Vision Insurance Program

The Federal Employees Dental and Vision Insurance Program (FEDVIP) is a new program for supplemental dental and vision benefits.

The new FEDVIP will be available to eligible Federal and Postal employees, retirees, and their eligible family members on an enrollee-pay-all basis. This new program allows dental and vision insurance to be purchased on a group basis which means competitive premiums and no pre-existing condition limitations. Premiums for enrolled Federal and Postal employees will be withheld from salary on a pre-tax basis. There is no Federal government contribution.

Eligible individuals can enroll in a dental plan and/or a vision plan. They may enroll in a plan for self-only, self plus one, or self and family coverage. Eligible family members include an enrollee's spouse and unmarried dependent children under the age of 22, or if age 22 or older, incapable of self-support. The rules for family members' eligibility are the same as they are for the FEHB Program.

Employees must be eligible for the FEHB Program in order to be eligible to enroll in FEDVIP. Employees do not have to be enrolled in FEHB--eligibility is the key. Annuitants are eligible to enroll in FEDVIP regardless of their FEHB status.

The following insurance carriers will offer supplemental dental or vision benefits under FEDVIP: Aetna Life Insurance Company; Government Employees Hospital Association, Inc. (GEHA); MetLife, Inc.; United Concordia Companies, Inc.; Group Health, Inc.; CompBenefits; and Triple-S, Inc. will offer dental benefits. BlueCross BlueShield Association; Spectera, Inc.; and Vision Service Plan (VSP) will offer vision benefits.

Enrollment will take place during the upcoming Federal Employees Health Benefits (FEHB) open season Monday, November 13 through Monday, December 11, 2006. Coverage will be effective December 31, 2006. More information on how to apply will be forthcoming.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 18, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, October 18, 2006

ATTORNEY GENERAL

2:00 P.M. EDT Attorney General Alberto R. Gonzales and Eileen O'Connor, Assistant Attorney General for the Tax Division, will participate in the Tax Division Awards Ceremony.
Department of Justice
The Great Hall
950 Pennsylvania Ave., N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

PRESS RELEASES

The Antitrust Division will issue a release on a price-fixing matter. (Talamona)

The Civil Rights Division will issue a release on a sentencing matter. (Magnuson)

The Tax Division will issue a release on a fraud related matter. (Miller)

The Office of Public Affairs will issue a release on a bankruptcy fraud matter.

EVENTS/HEARINGS

1:15 P.M. EDT Deputy Attorney General Paul J. McNulty will make an announcement on a bankruptcy-fraud matter.
Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

DOJ_NMG_ 0169647

MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS. All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.23096-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 1:38 PM
To: USDOJ- Office of Public Affairs
Subject: OPERATION TRUTH OR CONSEQUENCES TARGETS BANKRUPTCY FRAUD ACROSS THE COUNTRY; U.S. TRUSTEES ANNOUNCE BANKRUPTCY FRAUD HOTLINE

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 18, 2006
WWW.USDOJ.GOV

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(202) 514-2008
TDD (202) 514-1888

OPERATION TRUTH OR CONSEQUENCES TARGETS BANKRUPTCY FRAUD ACROSS THE COUNTRY; U.S. TRUSTEES ANNOUNCE BANKRUPTCY FRAUD HOTLINE

WASHINGTON – United States Attorneys have filed criminal charges against 78 individuals in 69 separate prosecutions in 36 judicial districts on a variety of federal bankruptcy fraud and related counts, including 18 cases charged Tuesday, Deputy Attorney General Paul J. McNulty, announced today. The announcement is the culmination of "Operation Truth or Consequences," a nationwide sweep that demonstrates the breadth of enforcement actions taken by the Department of Justice to combat bankruptcy fraud and protect the integrity of the bankruptcy system.

Also announced was the creation of a new Internet hotline for reporting suspected bankruptcy fraud to the U.S. Trustee Program, the Department of Justice component that promotes and protects the integrity of the bankruptcy system. Members of the public can now report suspected bankruptcy fraud via email to USTP.Bankruptcy.Fraud@usdoj.gov.

"Today we send a clear message to those who abuse, for their own criminal financial gain, the bankruptcy system's promise of a fresh start to honest Americans." said Deputy Attorney General McNulty. "A bankruptcy filing is often the last step of a series of criminal acts, including mortgage fraud, bank fraud, mail fraud, money laundering, and government program fraud. Bankruptcy fraud is often the tip of the criminal iceberg, and that makes these prosecutions so important."

Collectively, the Operation Truth or Consequences bankruptcy fraud sweep includes charges filed against nine attorneys, two bankruptcy petition preparers, and one former law enforcement officer; alleged concealment of more than $3 million in assets; use of false Social Security numbers and false identities; submission of forged documents and use of false statements; defrauding of individuals whose homes were in foreclosure; fraudulent receipt of government loans and benefits; and various other unlawful acts.

"Bankruptcy fraud must not be tolerated, if our bankruptcy system is to serve its purpose of helping the honest debtor in need of financial relief," said Clifford White, Acting Director of the Executive Office of U.S. Trustees. "Operation Truth or Consequences highlights the commitment of the Department of Justice and our

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law enforcement partners to vigorously investigate and prosecute bankruptcy fraud wherever it occurs."

"Today's operation is a comprehensive, nationwide sweep that highlights the scope of bankruptcy fraud and the negative impact on the economy," said Chip Burrus, FBI Assistant Director for the Criminal Investigative Division. "Through our collaborative efforts with law enforcement, the FBI remains dedicated to pursuing those individuals who attempt to use our Nation's bankruptcy system to further their criminal intents."

Operation Truth or Consequences is a joint criminal enforcement effort by the U.S. Attorneys' Offices, U.S. Trustee Program, FBI, Department of Housing and Urban Development Office of Inspector General, Social Security Administration Office of Inspector General, U.S. Postal Inspection Service, Internal Revenue Service Criminal Investigation, and U.S. Secret Service.

The charges contained in an indictment, information or criminal complaint are merely allegations, and the defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt.

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Image not available for this document, ID: 0.7.10316.23087-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 2:47 PM
To: USDOJ- Office of Public Affairs
Subject: THREE EXECUTIVES INDICTED FOR THEIR ROLES IN THE DRAM PRICE-FIXING & BID-RIGGING CONSPIRACY

(A PDF of the indictment is attached below.)

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 18, 2006
WWW.USDOJ.GOV

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

THREE EXECUTIVES INDICTED FOR THEIR ROLES IN THE DRAM PRICE-FIXING & BID-RIGGING CONSPIRACY

Two Korean Executives and One U.S. Executive Charged in Global Price-Fixing & Bid-Rigging Scheme

WASHINGTON — A federal grand jury in San Francisco today returned an indictment against two executives from Samsung Electronics Ltd. (Samsung) and one executive from Hynix Semiconductor America Inc. (Hynix America) for their participation in a global conspiracy to fix DRAM prices, the Department of Justice announced.

Including today's charge, four companies and 16 individuals have been charged and fines totaling more that $731 million have resulted from the Department's ongoing antitrust investigation into the DRAM industry. The $731 million in criminal fines is the second highest total obtained by the Department of Justice in a criminal antitrust investigation into a specific industry.

The indictment, filed today in the U.S. District Court in San Francisco, charged that Il Ung Kim, Young Bae Rha, and Gary Swanson participated with co-conspirators in the conspiracy from on or about April 1, 2001, until on or about June 15, 2002. At the time of the conspiracy, Kim was vice president of marketing for the memory division at Samsung. Rha was vice president of sales and marketing for the memory division at Samsung. Both Kim and Rha are citizens and residents of Korea. At the time of the conspiracy, Swanson was senior vice president of memory sales and marketing for Hynix America, the U.S.-based subsidiary of Hynix Semiconductor Inc. (Hynix), which is headquartered in Korea. Swanson is a resident and citizen of the United States.

"The Antitrust Division will vigorously pursue individuals who engage in criminal cartel conspiracies," said Thomas O. Barnett, Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "Criminal cartel enforcement is the Division's top priority and
both companies and individuals must comply with the antitrust laws."

DOJ_NMG_ 0169655

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants (PDAs), modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders and TVs, digital set-top boxes, game consoles and digital music players. There were approximately $7.7 billion in DRAM sales in the United States alone in 2004.

The indictment charges that Kim, Rha, Swanson, and their co-conspirators carried out the conspiracy in a variety of ways, including:

- Attending meetings and participating in telephone conversations in the U.S. and elsewhere to discuss the prices of DRAM to be sold to certain original equipment manufacturers (OEMs);
- Agreeing during those meetings and telephone conversations to charge prices of DRAM at certain levels to be sold to certain OEMs;
- Exchanging information on sales of DRAM to certain OEM customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices;
- Agreeing during those meetings and telephone conversations to raise and maintain prices of DRAM to be sold to certain OEMs;
- Agreeing during those meetings and telephone discussions to rig the online auction, sponsored by Compaq Computer Corporation on Nov. 29, 2001, by not submitting a bid in the auction, or by submitting intentionally high prices on the bids in the auction;
- Authorizing, ordering, and consenting to the participation of subordinate employees in the conspiracy;
- Issuing price quotations in accordance with the agreements reached;
- Accepting payment for the supply of DRAM sold at collusive, noncompetitive prices to certain OEM customers in the United States and elsewhere; and
- Concealing the conspiracy and conspiratorial contacts through various means.

Kim, Rha, and Swanson are each charged with participating in the conspiracy to suppress competition in violation of the Sherman Act. The maximum penalty for the conviction of a Sherman Act violation occurring before June 22, 2004, is three years imprisonment and a fine of $350,000 for individuals. The maximum fines may be increased, however, to twice the gain derived from the crime or twice the loss suffered by the victims if either of those amounts is greater than the Sherman Act maximum fines.

Three foreign-based Samsung executives, Sun Woo Lee, Yeongho Kang, and Young Woo Lee, pleaded guilty to the DRAM price-fixing conspiracy in March and August 2006. The Samsung employees agreed to serve prison terms ranging from seven to eight months and to each pay a $250,000 fine. In September 2006, Thomas Quinn, the fourth Samsung executive charged, agreed to plead guilty to the DRAM price-fixing conspiracy, and charges have been filed. Under a plea agreement, which must be approved by the court, Quinn has agreed to serve eight months in prison and to pay a criminal fine of $250,000.

In addition, four Hynix Semiconductor Inc. executives, Dae Soo Kim, Chae Kyun Chung, Kun Chul Suh, and Choon Yub Choi, were charged with participating in the DRAM price-fixing conspiracy and agreed to plead guilty and serve jail terms ranging from five to eight months and to each pay a $250,000 fine. In December 2004, four executives of Infineon Technologies AG – T. Rudd Corwin, Peter Schaefer, Gunter Hefner, and Heinrich Florian – pleaded guilty to the DRAM price-fixing conspiracy. The Infineon employees served jail terms ranging from four to six months and each paid a $250,000 fine.

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Also, in December 2003, the Department charged Alfred Censullo, a regional sales manager for Micron Technology Inc., with obstruction of justice. Censullo pleaded guilty and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron. Censullo was sentenced to serve six months of home detention.

In total, four companies have been charged with price-fixing in the DRAM investigation. Samsung pleaded guilty to the price fixing conspiracy and was sentenced to pay a $300 million criminal fine in November 2005. Hynix, the world's second largest DRAM manufacturer, pleaded guilty and was sentenced to pay a $185 million criminal fine in May 2005. Japanese manufacturer Elpida Memory pleaded guilty and was sentenced to pay an $84 million fine in March 2006. German manufacturer Infineon pleaded guilty and was sentenced to pay a $160 million criminal fine in October 2004.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Office and the Federal Bureau of Investigation in San Francisco.

Anyone with information concerning price fixing in the DRAM industry should contact the San Francisco Office of the Antitrust Division at (415) 436-6660 or the San Francisco Division of the FBI at (415) 553-7400. Case filings can be viewed on the Antitrust Division's web site, http://www.usdoj.gov/atr/.

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06-710

Indictment
10-18-06.pdf

DOJ_NMG_ 0169657

NIALL E. LYNCH (State Bar No. 157959)
NATHANAEL M. COUSINS (State Bar No. 177944)
MAY Y. LEE (State Bar No. 209366)
BRIGID S. BIERMANN (State Bar No. 231705)
CHARLES P. REICHMANN (State Bar No. 206699)
Antitrust Division
U.S. Department of Justice
450 Golden Gate Avenue
Box 36046, Room 10-0101
San Francisco, CA 94102
Telephone: (415) 436-6660

Attorneys for the United States

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA	)	No.
	)	
v.	)	**INDICTMENT**
	)	
	)	
IL UNG KIM;	)	
YOUNG BAE RHA; and	)	VIOLATION:
GARY SWANSON,	)	Title 15, United States Code,
	)	Section 1 (Price Fixing)
Defendants.	)	
	)	San Francisco Venue

The Grand Jury charges that:

I.

DESCRIPTION OF THE OFFENSE

1. The following individuals are hereby indicted and made defendants on the charge stated below:

(a) IL UNG KIM;

(b) YOUNG BAE RHA; and

(c) GARY SWANSON.

2. From on or about April 1, 1999, until on or about June 15, 2002, the exact dates

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being unknown to the Grand Jury, the defendants and coconspirators, Elpida Memory, Inc., Hynix Semiconductor Inc., Infineon Technologies AG, Samsung Electronics Company, Ltd., Samsung Semiconductor Inc., and other corporations and individuals, entered into and engaged in a combination and conspiracy in the United States and elsewhere to suppress and eliminate competition by fixing the prices of Dynamic Random Access Memory ("DRAM") to be sold to certain original equipment manufacturers of personal computers and servers ("OEMs"). The defendants joined and participated in the conspiracy at various periods of time from on or about April 1, 2001, until on or about June 15, 2002 ("the period covered by this Indictment"), the exact dates being unknown to the Grand Jury. The combination and conspiracy engaged in by the defendants, their corporate employers, and other coconspirators was in unreasonable restraint of interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendants, their corporate employers, and other coconspirators, the substantial terms of which were to agree to fix the prices for DRAM to be sold to certain OEMs.

II.

MEANS AND METHODS OF THE CONSPIRACY

4. For the purpose of forming and carrying out the charged combination and conspiracy, the defendants, their corporate employers, and other coconspirators did those things that they combined and conspired to do, including, among other things:

(a) attended meetings and participated in telephone conversations in the United States and elsewhere to discuss the prices of DRAM to be sold to certain OEMs;

(b) agreed during those meetings and telephone conversations to charge prices of DRAM at certain levels to be sold to certain OEMs;

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(c) exchanged information on sales of DRAM to certain OEM customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices;

(d) agreed during those meetings and telephone conversations to raise and maintain prices of DRAM to be sold to certain OEMs;

(e) agreed during those meetings and telephone discussions to rig the online auction, sponsored by Compaq Computer Corporation on November 29, 2001, by not submitting a bid in the auction, or by submitting intentionally high prices on the bids in the auction;

(f) authorized, ordered and consented to the participation of subordinate employees in the conspiracy;

(g) issued price quotations in accordance with the agreements reached;

(h) accepted payment for the supply of DRAM sold at collusive, noncompetitive prices to certain OEM customers in the United States and elsewhere; and

(i) concealed the conspiracy and conspiratorial contacts through various means.

III.

DEFENDANTS AND COCONSPIRATORS

5. Defendant IL UNG KIM is a resident and citizen of the Republic of Korea. During the period covered by this Indictment, IL UNG KIM was Vice President, Marketing for the Memory Division of Samsung Electronics, Ltd. ("Samsung"). During the period covered by this Indictment, Samsung was a Korean company engaged in the business of producing and selling DRAM to customers in the United States and elsewhere.

6. Defendant YOUNG BAE RHA is a resident and citizen of the Republic of Korea. During certain portions of the period covered by this Indictment YOUNG BAE RHA was Vice

DOJ_NMG_ 0169660

President of Sales and Marketing for the Memory Division of Samsung.

7. Defendant GARY SWANSON is a resident and citizen of the United States. During the period covered by this Indictment GARY SWANSON was Senior Vice President, Memory Sales and Marketing for Hynix Semiconductor America Inc. ("Hynix America"), the United States' based subsidiary of Hynix Semiconductor, Inc. ("Hynix"). During the period covered by this Indictment, Hynix was a Korean company and Hynix America was a United States company engaged in the business of producing and selling DRAM to customers in the United States and elsewhere.

8. Various corporations and individuals, not made defendants in this Indictment, participated as coconspirators in the offense charged in this Indictment and performed acts and made statements in furtherance of it.

9. Whenever in this Indictment reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III.

TRADE AND COMMERCE

10. DRAM is the most commonly used semiconductor memory product. DRAM provides high-speed storage and retrieval of electronic information in personal computers, servers and other devices. All references to DRAM in this Indictment include Synchronous Dynamic Random Access Memory ("SDRAM") and Double Data Rate Dynamic Random Access Memory ("DDR") semiconductor memory devices and modules.

11. During the period covered by this Indictment, the defendants, their corporate employers, and coconspirators sold and distributed DRAM in a continuous and uninterrupted flow of interstate and foreign trade and commerce to customers located in states or countries other than the states or countries in which the defendants, their corporate employers, and coconspirators

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produced DRAM. The OEMs that were affected by the conspiracy to suppress and eliminate competition include: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer, Inc., International Business Machines Corporation, and Gateway, Inc.

12. The business activities of the defendants, their corporate employers, and coconspirators that are the subject of this Indictment were within the flow of, and substantially affected, interstate and foreign trade and commerce.

IV.

JURISDICTION AND VENUE

13. The combination and conspiracy charged in this Indictment was carried out, in part, in the Northern District of California, within the five years preceding the filing of this Indictment.

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ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

DATED:

A TRUE BILL

_____, ACTING
Thomas O. Barnett
Assistant Attorney General

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FOREPERSON

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Scott D. Hammond
Deputy Assistant Attorney General

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Chief, San Francisco Office

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Image not available for this document, ID: 0.7.10316.23077-000003

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 2:56 PM
To: USDOJ- Office of Public Affairs
Subject: PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE TAX DIVISION AWARDS CEREMONY

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 18, 2006
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PREPARED REMARKS OF ATTORNEY GENERAL ALBERTO R. GONZALES AT THE DEPARTMENT OF JUSTICE TAX DIVISION AWARDS CEREMONY

WASHINGTON, D.C.

Good afternoon.

I am delighted to join Assistant Attorney General Lee O'Connor and Acting Associate Attorney General Mercer in celebrating the great accomplishments of the Tax Division and its people.

The Department of Justice is well known for its work in protecting America from terrorist attacks, from those who attempt to rob our children of a safe childhood, and from those who plague our country with drugs.

None of these efforts immediately calls to mind the Tax Division. But these critical missions – and every mission of our Government – would be impossible without the funds that our citizens must contribute to guarantee a stable and functioning democracy.

But sadly, some people go to inordinate lengths to be free riders – to grasp the blessings of our democracy on the cheap. They expend incredible energy to shirk their basic civic duty. Some pretend that the Sixteenth Amendment is invalid. Others construct elaborate disguises to hide their income. And many more would do so absent the deterrent effect of this Division.

Since 2001, Assistant Attorney General O'Connor has made stopping the promotion of tax fraud a Division priority. And the Tax Division has delivered. Over 250 injunctions against tax-fraud promoters and fraudulent-return preparers have been entered since 2001. Over the last fiscal year, a record 52 tax-fraud promoters were enjoined – a 24% increase over the previous year.

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Countless more have been convicted. Last week, for example, one fraudulent-return preparer in California was sentenced to 10-½ years in prison.

And this past year, by winning two refund suits brought by large corporations, the Tax Division saved the American people about $2.5 billion dollars.

In both the civil and the criminal contexts, your work is an essential prerequisite to everything else that the government does.

So you should be—and I hope you are—proud to be working at the Department of Justice, and in the Tax Division. Our work here is not "just a job"—it is an answer to the call of duty.

Nor are our colleagues "just" our co-workers. We are a family at work. We care about each other, not just the results of our labor. And our dedication to each other is usually an ingredient in our own successes. I imagine that both colleagues and families have been crucial to the accomplishments of today's award recipients.

So I want to take the opportunity to acknowledge those colleagues and families along with the award recipients.

And I don't want this mention of our families at home to be just lip service. Any celebration of this Division's achievements would be unfair if it ignored the price families can pay to make those achievements possible.

Sometimes our jobs do require us to spend more waking hours with our professional families than with our actual families at home.

But we all need to remember that there remains nothing more important for a professional than the reward of going home at the end of the day, and nothing more fulfilling than the smile of a child or the embrace of a loving spouse.

After all, they are the reasons we work so hard. We want to protect America and make it stronger because we want the country we bequeath to our children to remain the greatest on the earth.

And we are better at work because of the love and encouragement that we receive at home. Families provide this energy and are therefore a vital part of this Department's ability to serve the American people. I hope all Department of Justice employees take the time to be re-fueled and rewarded by your relationships at home.

I want to thank all of you for your service to the United States of America, and I want especially to commend those award recipients who will be recognized this afternoon.

I am proud to work with you, and I appreciate your having me here today.

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 4:57 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT THE PRESS CONFERENCE ON BANKRUPTCY FRAUD

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 18, 2006
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TRANSCRIPT OF DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AT THE PRESS CONFERENCE ON BANKRUPTCY FRAUD

1:34 P.M. EDT

DEPUTY ATTORNEY GENERAL McNULTY: Good afternoon. I apologize for keeping you waiting and thank you for your patience. I'm Paul McNulty, the Deputy Attorney General, and with me is Cliff White, the Acting Director of the Executive Office for U.S. Trustees, and Chip Burrus, the Assistant Director for Criminal Investigations Division of the FBI.

We are here today to mark the anniversary of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and we're announcing the results of a major crackdown on bankruptcy fraud.

Over the past two months, the Department of Justice has charged more than 78 defendants in 36 districts with bankruptcy fraud and related counts, including 15 indictments and three criminal complaints just yesterday.

This initiative and these unprecedented enforcement results reflect the commitment and teamwork of the FBI, the United States Attorneys and the United States Trustees program. Together with our partners at the Postal Inspection Service, IRS, Criminal Investigation, the Offices of the Inspectors General for the Department of Housing and Urban Development, and the Social Security Administration, and the United States Secret Service.

We are calling this large interagency effort Operation Truth or Consequences, because that's the essence of what's at stake when the bankruptcy process is abused. Tell the truth, or face the consequences.

This enforcement effort is important because bankruptcy fraud hits at the heart of what the bankruptcy system was created for: to give honest people a fresh start. But criminals take advantage of the system by either defrauding the very debtors the system was designed to help, or by defrauding creditors by using the law to discharge debts they should not otherwise be able to discharge. In the end, we all wind up paying for fraud in the form of higher interest rates and fees from companies that offer credit and loans.

In addition, the bankruptcy filing is often the last step in a series of crimes that may include health care fraud, bank fraud, mail fraud, money laundering, government program fraud, embezzlement, mortgage fraud and perjury.

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That's why this enforcement effort required the hard work of all our interagency law enforcement partners. And that's why it's so important that we focus on catching those who abuse the system.

Bankruptcy fraud can be the mere tip of the criminal iceberg. Many of the cases included in Operation Truth or Consequences illustrate this link between bankruptcy fraud and other white collar crimes. Let me just give you a few examples of such cases.

In the Northern District of Illinois, two cases have been charged in which bankruptcy lawyers engaged in schemes promising to save the homes of victims facing foreclosure. In fact, in at least one case, the defendant simply stole the homeowner's equity before the homes were lost to foreclosure.

In the Southern District of California, an attorney who filed bankruptcy concealed a chateau in France and other property worth $1.5 million. And in a case in the District of Delaware, two sisters collected their deceased mother's Social Security and veterans' benefits, filed bankruptcy, and then failed to disclose the bank account where they had deposited the funds.

These crimes are shameful as well as illegal. Prosecution of these individuals sends a message to anyone who may consider breaking these laws. Our enforcement tools are powerful, and we do not hesitate to use them.

We are also proud to announce today a new bankruptcy fraud Internet hotline that will make it easier for the public to reporting bankruptcy crimes. Tips from the public are often an important source of information to help us identify bankruptcy fraud. And this hotline will provide the Department with a more efficient method for the public to work with us. Cliff White will tell you more about the opening of the hotline.

Today's announcements are the latest in a strong Administration record of commitment to criminal enforcement of the bankruptcy laws, including the 2003 establishment of a specialized criminal enforcement unit in the United States Trustee program. In the last year alone, this unit trained approximately 1,500 law enforcement officers, federal prosecutors, United States Trustee personnel and others in detecting, investigating and prosecuting bankruptcy crimes.

In addition, United States Attorneys now chair approximately 50 bankruptcy fraud working groups that include representatives from each of these law enforcement partners. Together, they are committed to a nationwide effort to identify, investigate and prosecute those who willfully misuse and undermine the integrity of the bankruptcy system.

So, to those who think they can get away with bankruptcy fraud, the message from the Justice Department and our law enforcement partners is clear: You won't. Today we are packaging together these cases in order to emphasize the fact that so much enforcement work is happening and that this is something that we are committed to stopping.

Those who commit this fraud, you will be identified, you will be investigated, you will be prosecuted, you will be brought to justice. We have stepped up audit efforts now underway in order to detect even more criminal conduct.

The key is we have to strive for integrity in this system. We have to have an honest reporting of debts. We have to have people serving those who are trying to get a fresh start acting honestly. Our bankruptcy system must operate with integrity.

I'd like now to recognize Chip Burrus from the FBI, our Assistant Director for Criminal Investigations, to say a few words. Chip?

MR. BURRUS: Thank you, Paul. A fresh start. That's what the bankruptcy system is designed to offer an individual or a company. Our bankruptcy system rests on good faith. It depends on the integrity of the debtor and

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the idea that there exists a reasonable notion that loaned money should be repaid. The abuse of this system by an individual debtor or a professional within the system undermines not only the rehabilitation aspect of the bankruptcy system, but the integrity of the system as a whole.

Monies defrauded from bankruptcy never reach the pockets of deserving creditors or investors. As these frauds occur, these creditors and investors lose faith that their interests will be protected. This can have a ripple effect in the economy as the costs are relayed to consumers like you and me through increased interest rates, reduction in services, and additional administrative fees.

The FBI is working hard to combat bankruptcy fraud problem with our partners at the United States Attorney's Office and with the United States Trustees Office to restore confidence in the system.

In the case of bankruptcy fraud, the FBI has primary investigative jurisdiction, and continues to work closely with the United States Trustees Office on these matters. Bankruptcy fraud is a violation that can further other criminal activity such as mortgage fraud, identity theft and bank fraud. Since August 1st, the FBI has charged 48 subjects through information, indictment or criminal complaint. As of today, 11 of those have been arrested.

The FBI's strategy for reducing the number of fraudulent filings concentrates on three areas. First, the targeting of individuals and businesses who conceal assets. Second, the targeting of serial filers who make fraudulent, multiple interstate bankruptcy filings, and third, bankruptcy fraud where it's associated with another criminal enterprise.

The FBI, in collaboration with our law enforcement partners, including the Postal Inspection Service, the United States Secret Service, the IRS, the Housing and Urban Development Office of Inspector General and the Social Security Administration Inspector General, will continue to aggressively pursue those individuals who attempt to use our nation's bankruptcy system as their own personal piggy bank and to further their criminal intents.

I'd like to turn it over to the United States Trustees office for a few remarks.

MR. WHITE: Thank you, Chip. The U.S. Trustee program is the component of the Department of Justice whose mission is to protect the integrity of the bankruptcy system. And central to that mission is the enforcement of the civil and criminal bankruptcy laws.

Bankruptcy fraud must not be tolerated if our bankruptcy system is to serve its purpose of helping the honest debtor in need of financial relief. Operation Truth or Consequences highlights the commitment of the Department of Justice and our law enforcement partners to vigorously investigate and prosecute bankruptcy fraud wherever it occurs.

We're pleased to announce the launch of a new bankruptcy fraud Internet hotline to augment our criminal enforcement efforts. This hotline provides a more central mechanism for the public to report instances of bankruptcy fraud and abuse. We believe it will be helpful in our efforts to police the integrity of the system.

The graphic here on my left on the stage depicts a new notice that appears on the U.S. Trustee program's Internet home page. By clicking on the box, an individual is directed to a page on the website that details the type of information that is important for us to know and provides an e-mail link to submit information related to a suspected bankruptcy fraud.

All tips received via the hotline will be reviewed by U.S. Trustee program staff. Enforcement actions will be taken as appropriate, including referrals to the FBI or United States Attorney's offices.

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I want to thank the United States Attorneys from the many districts represented in Operation Truth or Consequences, as well as our law enforcement partners for their support and assistance in ensuring the integrity of the bankruptcy system.

And now let me turn the podium back to the Deputy Attorney General.

DEPUTY ATTORNEY GENERAL McNULTY: Thanks, Cliff. And again, I want to emphasize that we are getting the word out on this, because we do want to achieve deterrence, and we that this is the kind of crime where deterrence can be achieved because of the recognition that there is a trail that will be discovered and can be investigated. So hopefully, we are going to see a decline in this area as an increase of law enforcement efforts are made.

I'm happy to answer any questions you might have.

QUESTION: I have one question on this, which is a big battle on Capitol Hill preceded passage of the bankruptcy law last year, and a lot of critics were concerned about its potential impact on honest debtors.

How many of these cases that you cite stem from the new provisions of the new law as opposed to fraud statutes that were already on the books prior to last year?

DEPUTY ATTORNEY GENERAL McNULTY: The vast majority of these cases relate to fraud statutes that already were on the books and were not created, a new criminal authority was not created in that legislation.

The legislation did a lot to change the civil system. The legislation, however, did a lot to push the priority of this enforcement or criminal side by, for example, requiring every U.S. Attorney's office to designate a coordinator for bankruptcy fraud investigations and prosecutions, which has raised the profile of this crime in U.S. Attorneys' offices.

So this fundamental criminal conduct was already proscribed prior to the passage of that legislation.

Do you want to add anything more to that?

MR. WHITE: No. That's fine.

DEPUTY ATTORNEY GENERAL McNULTY: Okay.

QUESTION: Can you provide us with an update on the Mark Foley investigation and also comment on the searches that were conducted against Congressman Weldon's daughter's house and relation to a Russian energy company down in Jacksonville, Florida in what is believed to be an influence peddling case?

DEPUTY ATTORNEY GENERAL McNULTY: I know this will come as a surprise, but I have no comment on either case.

QUESTION: Can you comment on the timing? Congressman Weldon called these searches three weeks before election time suspicious. And he's involved in a very close race in Pennsylvania. And when the FBI shows up at his daughter's house, that could seem as trying to influence an election at this point. Please comment at some angle on this.

DEPUTY ATTORNEY GENERAL McNULTY: I have heard those concerns expressed, but I don't have any comment about them. We are doing the job that we're required to do.

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QUESTION: This week the Attorney General announced a new initiative to study and try to combat the spike in violent crime in some of the nation's cities. He announced it without being skewered. And I'm curious, who's going to be doing this survey? Because it seems -- the announcement almost seemed rushed out. He didn't know which cities it was going to be in and he didn't say who was going to be conducting the survey to figure out which cities need to be studied the most. Can you answer -- I mean, is it BJS or is it professionals who will be doing the survey?

DEPUTY ATTORNEY GENERAL McNULTY: Well, it's going to be a number of components at the Department of Justice involved in the process. It wasn't rushed out, but it is something that is moving along rapidly in the sense that we have the release of new information that just came out in September.

And that information, specifically the Uniform Crime Reports information, revealed that there is some increase in violent crime in certain cities that's more significant or extensive than it is in other places.

So the 2005 reported crime -- on violent crime -- shows a 1.3 percent increase in the rate of violent crime, which, while being the second lowest violent crime rate since 1977, is still an increase over last year. And so that was an area of focus to determine what might be happening there.

But then as you dig deeper into the numbers, you see that some cities actually had slight reductions. Others had increases. And the -- so that occurred in September.

We had the IACP, the International Association of Chiefs of Police, meeting this week, and we thought it was a good opportunity to inform them as to what was going on.

In addition to that, we have the experiences of law enforcement concerning 2006 being expressed around the country in different ways. And so we know that there are some concerns about what's going on right now that aren't seen in data released on an annual basis that we have to wait for now for next year for 2006 numbers.

So, in order to address that sense of concern about what's happening and to let the law enforcement community know what we are trying to do, we wanted to take advantage of the opportunity that they were gathered, at least the police chiefs were gathered, in Boston. We also touched base with other law enforcement organizations as well.

We're looking at the data and selecting cities that will be reflective both geographically and statistically of the developments that we're noticing. So we'd want to see places that have increases in homicide and robbery and see that in different regions of the country where we can find it in different regions, so look for representative samples.

We are in the process of finalizing that list of cities. The Attorney General has directed me to oversee this project, and so we'll select those cities here or finalize the selection soon. We will look to have a blend of expertise in the Department involved.

You've mentioned Bureau of Justice Statistics, and we definitely want to include the statistics and analytical expertise of the Office of Justice programs. We also want to include policy types and enforcement types, prosecutors and others from within the Department, and we'll be reaching out to the law enforcement community in these cities and get their thoughts on what's going on.

And hopefully, by the end of the year, we'll be in a position to take that information, have a much better sense of what's happening right now and what are some of the trends that are affecting what's going on right now, and be in a much stronger position to look at the initiatives we have and the resources we have and how to address violent crime better.

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QUESTION: So if you have to have the answers back by the end of the year, you must be planning on sending people out pretty soon.

DEPUTY ATTORNEY GENERAL McNULTY: Oh, yes.

QUESTION: How soon --

DEPUTY ATTORNEY GENERAL McNULTY: Well, we don't have a specific date right now as far as have to go on a certain time. But we will look at schedules, and depending upon our final list of the locations, what kind of efficiencies that we can find to get that done. But I expect that the process will run from the end of this month through the end of December, maybe middle of December by the time we get it all done.

QUESTION: So you'll have this group of experts representing the various disciplines and abilities and talents from the Department. Will that one group go to each city?

DEPUTY ATTORNEY GENERAL McNULTY: Probably not. What we'll have to do is divide that up and try to train them together and give them a template to work with so that the information they're gathering can be brought together usefully, but it would be very difficult perhaps to have the same individuals do everything.

We'll try to stretch those involved as much as possible and see how much we can do. But I do think that we'll probably have to have a division of labor. I may want to check in on a few myself, because there are some communities that I know personally and I'm interested in knowing what's going on there, but we'll see how that goes.

QUESTION: So you plan on visiting some of these cities that have shown a spike as well as some that have shown a decrease as well as some that are maintaining the current level?

DEPUTY ATTORNEY GENERAL McNULTY: We'll have a variety, but we have to keep it limited to get the job done and to come away with a good understanding. Now this isn't scientifically perfect, but it will be I think a very strong effort to try to get a good feel as to what's happening.

And we'll look for the kind of mix you suggest, where we can get some of the cities that have perhaps not experienced the same rise, so that we might be well informed as to what they are doing there that might be contributing to a lack of growth in the violent crime. But our principal focus is on the places that have experienced the increase to find out what's going on there.

QUESTION: I know you can't talk about specific investigations, and particularly sensitive political investigations. You've made that clear. But can you give any kind of public assurance that the Justice Department is completely playing it straight and that if the -- and if there's a decision made to close an investigation which has been public exposed, that at least you can announce that so that honest people who may have been caught up in an investigation aren't left kind of hanging and twisting?

DEPUTY ATTORNEY GENERAL McNULTY: Well, I can certainly assure you that the Department of Justice is doing everything it can to conduct all of its investigations in a way which is -- adheres strictly to the rule of law, and to do them in the ways that are as efficient as possible and yet faithful to our responsibilities.

I know that sometimes investigations can take a long time, and those who are being investigated wish that we would have an announcement that we've come to a completion or whatever. And that's certainly understandable. And sometimes that's possible when the case does not involve in a charge being brought.

Other times, it takes a considerable amount of time to get to a point where it's safe to make that conclusion. And so it really is driven on a case-by-case basis.

But as a general principle, I think that's a very reasonable concern to say if something has run its course and is over that we would be able to say that. And in some instances, we have, and I see us continuing to do that when it's appropriate.

QUESTION: As sort of a follow-up, obviously the critics of the investigations are people who are being investigated or alleging that there's some kind of political motive here.

Aside from saying that there's no political motive, we're doing our job, do you have any thoughts on why all these things seem to be bubbling up now? Is this just where the investigation now has taken its course and it has reached that place where it's being exposed? Or is there any other reason why all these things might be coming up a month before an election?

DEPUTY ATTORNEY GENERAL McNULTY: I think I'm going to refrain from answering the question about speculating as to why things appear to be in the news now more than other times.

What I can say with great confidence is that the men and women in the Department of Justice and all of its investigative agencies do not take political considerations into play when it comes to discharging their duty. And that's the way we run this Department and the way we always will run the Department. But beyond that, I'm not going to talk about the timing of anything happening.

MR. ROEHRKASSE: We'll take one more question.

QUESTION: I'm sorry if I didn't phrase this very gracefully. I wasn't asking you to speculate as much as just in your capacity as somebody who knows the law, why all of these things would be coming -- I mean, have they reached a certain point in the investigation where this would be a natural exposure, or?

DEPUTY ATTORNEY GENERAL McNULTY: I think you stated it real well the first time, and I kind of got it. And now that I've been given a second chance, I still don't want to take an opportunity to answer that. So, I'm sorry, I'm going to decline doing that.

Thanks very much.

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USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 6:55 PM
To: USDOJ- Office of Public Affairs
Subject: STATEMENT OF WAN J. KIM, ASSISTANT ATTORNEY GENERAL FOR THE CIVIL RIGHTS DIVISION, ON OPINION IN UNITED STATES V. OSCEOLA COUNTY

STATEMENT OF WAN J. KIM, ASSISTANT ATTORNEY GENERAL FOR THE CIVIL RIGHTS DIVISION, ON OPINION IN UNITED STATES V. OSCEOLA COUNTY

"We are extremely pleased with today's Court ruling, which affirms that Osceola County must abandon its illegal election system," said Wan J. Kim, Assistant Attorney General for the Justice Department's Civil Rights Division. "It is an important victory for all the residents of Osceola County, and particularly for its Hispanic citizens who have been denied their right to full and equal participation in the democratic process in county government. We look forward to working with the County to achieve an election plan that provides Hispanic voters the opportunity the Voting Rights Act guarantees."

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06-713

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 18, 2006 7:02 PM
To: USDOJ- Office of Public Affairs
Subject: NIGHTCLUB OWNER SENTENCED TO 10 YEARS FOR FORCING WOMEN TO WORK AS HOSTESSES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, OCTOBER 18, 2006
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CRT
(202) 514-2007
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NIGHTCLUB OWNER SENTENCED TO 10 YEARS FOR FORCING WOMEN TO WORK AS HOSTESSES

WASHINGTON – The Justice Department today announced that Sung Bum Chang, a Korean American man who owned and operated the nightclub, "Club Wa," in Dallas was sentenced to 10 years in prison for forcing young Korean women to work as club hostesses. He was ordered to pay $37,000 in restitution to the victims. On June 12, 2006, Chang pleaded guilty to one count of forced labor and one count of conspiracy to commit forced labor.

"Sung Bum Chang imported innocent young women from South Korea and forced them to work at Club Wa under terrible conditions of fear and violence," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "Today's sentencings demonstrate the Justice Department's unprecedented commitment to aggressively prosecute these human trafficking cases."

"Today's sentences should resonate loud and clear throughout our immigrant community. We, in law enforcement, will continue to aggressively pursue those who exploit and prey on vulnerable immigrants who come to America's shores seeking a better life," said Richard B. Roper, U.S. Attorney for the Northern District of Texas. "I am grateful to the Attorney General for choosing the Dallas-For Worth area to receive $1.35 million in federal grant funding so that we may continue to enhance our human trafficking programs by identifying and assisting victims of human trafficking and apprehending and prosecuting those engaged in trafficking offenses."

"The Changs have demonstrated the depravity common in human smugglers and human traffickers," said John Chakwin, special agent-in-charge of the Immigration and Customs Enforcement (ICE) Office of Investigations in Dallas. "They have shown that human slavery is an ugly crime not just relegated to the pages of history. It exists in the 21st Century, and in the cities and suburbs of America. Our ICE agents are committed to bringing such criminals to justice. I hope Changs' victims receive some solace with today's sentencings, which end a long ICE and law enforcement cooperative investigation."

Chang utilized a smuggling network that recruited young women in South Korea with promises of good jobs in the United States. Chang paid the victims' smuggling debts, took the women's passports, and told them they could not leave until they had paid off their debts to him. Chang forced the victims to live in the upper

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floor of his home, where he restrained their freedom by monitoring them inside the home with interior surveillance cameras and by posting a Club Wa employee at the front door of the home as a guard. Chang required the women to work six nights a week drinking with customers, often until they became sick or passed out. Chang threatened to "sell" the women to other clubs if they disobeyed. One victim escaped the Chang home by leaping from a second-story bathroom window and fleeing with the help of a local pastor, who later reported the case to local authorities.

Human trafficking prosecutions are a top priority of the Department. In the last six fiscal years, the Civil Rights Division, in conjunction with U.S. Attorneys' Offices, has increased by six-fold the number of human trafficking cases filed in court, quadrupled the number of defendants charged, and tripled the number of defendants convicted. In 2006, the Department obtained a record number of convictions in human trafficking prosecutions.

This case was prosecuted by Assistant U.S. Attorney Sarah Saldana and Civil Rights Division Trial Attorney J. Evans Rice III. The case was investigated by the Dallas Office of United States Immigration and Customs Enforcement.

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Image not available for this document, ID: 0.7.10316.23036-000002

Amber.JMD

From: Amber.JMD
Sent: Thursday, October 19, 2006 12:03 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Ft. Lauderdale, FL

From: AmberAlert-DOJ
Sent: Thursday, October 19, 2006 12:02:41 AM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov;
ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Ft. Lauderdale, FL
Auto forwarded by a Rule

AMBER ALERT:Ft. Lauderdale,FL CHILD:4 months Black F 20" 14 lbs Eyes:Brown Hair:Black
SUSPECT:15 Black F 5'5" 180 lbs Eyes:Brown Hair:Black CALL 954-828-5700
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2522

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, October 19, 2006 1:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Arlington, WA

From: AmberAlert-DOJ
Sent: Thursday, October 19, 2006 1:35:43 AM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov;
ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Arlington, WA
Auto forwarded by a Rule

AMBER ALERT:Arlington,WA CAR:2001 Silver Chrysler Town & Country Van TAG:WA 135ugd 2CHLD:4 W/F & 2 W/M Hair:Blo SUSPECT:30's W/M 5'6"-5'10" Hair:Shaved CALL 911
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2542

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, October 19, 2006 3:02 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Arlington, WA

From: AmberAlert-DOJ
Sent: Thursday, October 19, 2006 3:01:31 AM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov;
ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Arlington, WA
Auto forwarded by a Rule

AMBER ALERT UPDATE:Arlington,WA CAR:'01 Silver Chrysler Town & Country Van TAG:WA 135UGD 2CHLD:4 W/F 3'7" & 2 W/M 3'4" Hair:Blo SUSPECT:30's W/M Hair:Shaved CAL
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2542

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

From: Amber.JMD
Sent: Thursday, October 19, 2006 5:36 AM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Arlington, WA

From: AmberAlert-DOJ
Sent: Thursday, October 19, 2006 5:35:45 AM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov;
ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Arlington, WA
Auto forwarded by a Rule

UPDATE AMBER ALERT:Arlington,WA CAR:'01 Silver Chrysler Town & Country Van TAG:WA 135UGD 2CHLD:4 W/F 3'7" & 2 W/M 3'4" SUSPECT:30's W/M Hair:Shaved CALL 911
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2542

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 11:03 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 19, 2006

Department of Justice

PRESS GUIDANCE
Thursday, October 19, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Tax Division will issue a release. (Miller)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169688

Image not available for this document, ID: 0.7.10316.22960-000001

Image not available for this document, ID: 0.7.10316.22960-000002

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, October 19, 2006 11:16 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Battaglia, John T; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Davis, Deborah J; Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Gunn, Currie (SMO); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; O'Quinn, John C; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Shaw, Aloma A; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/19/06 Civil Division News

Privacy group sues FBI over investigative database records

Lawyer rules out Hicks plea deal

U.S. bars Canadian victim of Syrian torture from coming to receive rights award

Psych Hospital Tries to Vacate $23 Million Judgment for Billing Fraud

Rapper Slick Rick battles federal officials for 11 years to stay in the United States

Critics Target Federal Circuit

AP

October 19, 2006

Privacy group sues FBI over investigative database records

WASHINGTON (AP) _ A San Francisco-based privacy-advocacy group is suing the U-S government for information about an F-B-I database of more than 700 (m) million personal records set up after the September eleventh terrorist\l "I" attacks.

The Electronic Frontier Foundation\l "I" says it sued the Justice Department because the F-B-I failed to respond to Freedom of Information Act requests on its "Investigative Data Warehouse."

The lawsuit also charges the F-B-I has not posted a public notice describing the criteria on personal information included in the database, as required by the Privacy Act of 1974.

The F-B-I has said the database provides F-B-I agents and analysts with instant access vital information about thousands of known and suspected terrorists.

END

PM (Australian Broadcasting Company)

October 19, 2006

Lawyer rules out Hicks plea deal

Leigh Sales

MARK COLVIN: The American military lawyer for the Australian Guantanamo Bay inmate, David Hicks, has ruled out striking a plea deal for his client.

Major Michael Mori says he sees no reason why Hicks would break at this point.

The Australian is expected to face a US Government Military Commission early next year and intends to plead not guilty.

His defence team is likely to challenge the commission in the US federal court. That could ensure Hicks spends at least two more years in limbo at Guantanamo Bay.

The Attorney-General Philip Ruddock has recommended a plea bargain as the fastest way to get David Hicks out.

But as National Security Correspondent Leigh Sales reports, the stakes in the case are now so high between the Bush administration and its opponents, that a plea deal is difficult.

LEIGH SALES: The Attorney-General Philip Ruddock believes a plea bargain would give David Hicks his best chance of an exit from Guantanamo Bay sooner rather than later.

PHILIP RUDDOCK: And that's a process by which parties are able to negotiate a lesser charge and negotiate what level of penalty might be appropriate and that agreed position can then either be confirmed or squashed by the military commission.

And if you wanted to resolve the issue quickly...

PRESENTER: Yes.

PHILIP RUDDOCK: That may be a way forward.

LEIGH SALES: If the Hicks legal team struck a plea deal, it's possible Hicks could be back in Australia within months, possibly even out on the streets, if US prosecutors agreed the five years he's already served at Guantanamo are enough.

But Defence counsel, Major Michael Mori, says a guilty plea is out of the question.

MICHAEL MORI: Absolutely, first we'd need the system to be set up and then we'd need some charges before we even got to that stage.

David pled not guilty back in November of 2004 and we we're going to fight his case, and we'll fight it tomorrow or in the next month and if they think that they're going to wear him down, I hope David doesn't break down and I don't see any reason why he would at this point.

LEIGH SALES: But in the past, when pressuring the Australian Government to bring his client home, Major Mori has argued that Hicks is close to a mental breakdown.

David Hicks made an extensive confession to the Australian Federal Police in a five-hour interview in 2002, and signed a statement for the US military admitting he trained in al-Qaeda camps.

Given that reality, once the new charges are in place, the defence team will have to deliberate about whether it's in their client's best interests to plead guilty and strike a deal, or to continue challenging the system, ensuring his five year stay at Guantanamo continues indefinitely.

Ultimately, the decision should be David Hicks'.

MICHAEL MORI: It, the reality is he's sitting down there in solitary confinement in Guantanamo. He's locked in a cement room, steel door, 24 hours a day, no human contact. I don't know how he's lasted this long.

All I can say is when I last saw him, he wanted to fight and obviously the problem is, we just won't be able to fight for him and give him a fair go and a fair trial.

LEIGH SALES: The Attorney-General says the Australian Government will play no role in any possible plea negotiations.

PHILIP RUDDOCK: We're not consulted on those matters and I think it would be quite inappropriate for us to be party to it. I mean, this is a process in which the Americans in their justice system are dealing with those people that they are detaining.

We've pushed ourselves into the game to say we want these issues dealt with as quickly as possible. And that's been the approach I have taken and in all my discussions with the Americans, I've not sought to form a judgment, to access the evidence or form a judgment on it.

LEIGH SALES: The stakes surrounding these military commissions are now incredibly high.

On one side stands the Bush administration, trying to justify the existence of Guantanamo and desperately needing this system to successfully try at least a couple of detainees to prove its legitimacy.

On the other side are the opponents of the White House, the lawyers, the human rights activists and the civil libertarians who vehemently want the American courts to strike the commissions down, rendering the legal arm of the President's war on terror invalid.

David Hicks is a just small figure in the middle of a huge ideological battle, and the external pressures on his case are tremendous.

MARK COLVIN: National Security Correspondent, Leigh Sales

END

AP

October 19, 2006

U.S. bars Canadian victim of Syrian torture from coming to receive rights award

By WILLIAM C. MANN

Associated Press Writer

WASHINGTON_Syrian torturers could find nothing to implicate Canadian Maher Arar in al-Qaida or any other terrorist ties. An official Canadian government report agreed with that finding and recommended that Arar be compensated for his 10 months in a Syrian prison.

Still, Arar remains on the U.S. government terror watch list. And the United States has not admitted fault for holding him incommunicado for a week, then, five days after his first telephone call, putting him on a private jet and flying him to the Syrian prison.

Arar and his American lawyer, Michael Ratner, president of the Center for Constitutional Rights, were invited to Washington on Wednesday to receive human rights awards from the rights advocates Institute for Policy Studies. Ratner came from his New York headquarters to accept for the center, a longtime campaigner against torture and other abuses.

Because the watch list will not let Arar enter the United States, he had to stay in Canada and participate by telephone in a discussion of his case and of the U.S. law signed Tuesday by President Bush on treatment and prosecution of detainees. At the awards presentation, he delivered a videotaped message of thanks in which he described his ordeal, which began on Sept. 26, 2002, at New York's John F. Kennedy International Airport and ended with his arrival in Canada in early October 2003.

The award "means that there are still Americans out there who value our struggle for justice," he said. "We now know that my story is not a unique one. Over the past two years we have heard from many other people who were, who have been kidnapped, unlawfully detained, tortured and eventually released without being charged with any crime in any country."

John Cavanagh, the institute's director, told Arar he had asked Attorney General Alberto Gonzales to clear Arar's name and let him come. Gonzales did not reply, Cavanagh said. At the Justice Department, a spokesman said he was unaware of the letter and could not comment.

Gonzales has said Arar was deported to the country where he was born. A representative of the Immigration and Naturalization Service was there when he was put on the plane, Arar said in his videotaped talk, and he said he told her the Syrians would torture him.

"She said something like: 'The INS is not the body or the agency that signed the Geneva Convention convention against torture.' For me what that really meant is, 'We will send you to torture, and we don't care.'"

Cavanagh told Arar over the telephone that he was selected for the Letelier-Moffitt Human Rights Award "partly for your courage in helping to catalyze the global movement against torture and this term of 'rendition': deportation for torture."

Last week, Canadian Justice Dennis O'Connor issued a three-volume report on the Arar case that made 23 recommendations for policy changes and reparations to Arar, a software engineer.

"I am able to say categorically that there is no evidence to indicate that Mr. Arar has committed any offense or that his activities constitute a threat to the security of Canada," O'Connor said. He said it was almost certain that the Royal Canadian Mounted Police had sent erroneous information on Arar to the Americans.

The official U.S. line on Arar, as related Sept. 29 by State Department spokesman Sean McCormack, is "the people who made the decisions at the time ... determined a couple of things: One, that this individual posed a threat to the United States based on the information that they had; and two, that they were able to assure themselves, they had the reasonable expectation that this individual was not going to be maltreated."

END

Andrews Publications

Oct. 18, 2006

Psych Hospital Tries to Vacate $23 Million Judgment for Billing Fraud

By ROBERT WOODMAN MCSHERRY, Andrews Publications Staff Writer

The owners of a California psychiatric hospital are asking a San Diego federal judge to vacate his $23 million Medicare fraud judgment or alternatively to reduce the amount to just $30,000.

The motion to vacate is before U.S. District Judge Roger T. Benitez, the trial judge who issued the contested multimillion-dollar treble damages award.

Defendants Robert I. Bourseau and Dr. Rudra Sabaratnam say in their post-trial motion that the judge failed to adjudicate key issues, including whether the evidence showed the government was damaged by the alleged fraud.

The defendants also maintain that the trebled amount violates their Eighth Amendment and due-process rights.

Finally, the defendants say the government will soon file its own motion to alter judgment and ask the judge to "substantially" reduce the award "because of an error in the calculation."

The case against Bourseau, Sabaratnam and their business, Bayview Hospital, dates to May 6, 2003, when the federal government sued them for Medicare fraud in the U.S. District Court for the Southern District of California.

According to the complaint, the defendants violated the False Claims Act by submitting bogus cost reports to Medicare for the Chula Vista, Calif., psychiatric hospital. Such reports are used by the government to calculate the rate of Medicare reimbursement to hospitals and other health care facilities.

The complaint accused Bourseau and Sabaratnam of fraudulently inflating three cost reports from 1997 to 1999, consequently causing Medicare to overpay Bayview by $8 million.

The False Claims Act authorizes treble damages and/or $10,000 per violation, and the government asked the court for both.

Ruling on pretrial motions in May Judge Benitez denied defense requests for dismissal on four now-disputed arguments, including that the allegedly bogus cost reports were either not actionable under the FCA or did not qualify as false claims and that the government failed to show the three cost-report-related false claims had damaged Medicare.

The fourth argument involved the constitutionality of the trebled damages award.

After considering testimony and evidence presented last summer during a five-day bench trial, Judge Benitez issued a $23 million judgment for the government Sept. 29.

The defendants followed with a motion to alter, amend or vacate the judgment based on the four disputed arguments, which they say were not discussed in the September ruling "notwithstanding the fact that each issue was expressly raised and preserved for trial."

The motion asks Judge Benitez to amend his decision, find that the government failed to prove False Claims Act liability and strike the $23 million award.

In the alternative, if the FCA violations are affirmed, the defendants say the judge should award the government a total of only $30,000, or the statutory penalty of $10,000 for each of the three allegedly false claims.

END

AP

October 19, 2006

Rapper Slick Rick battles federal officials for 11 years to stay in the United States

By LARRY McSHANE

Associated Press Writer

NEW YORK_Rapper Ricky "Slick Rick" Walters is a married man, a father of two, a taxpayer. Across the last decade, he's earned another distinction: the focus of a long-running legal fight with federal officials who want him deported for a crime committed 16 years ago.

Walters, the eye-patch wearing star behind the `80s rap classic "La-Di-Da-Di," thought he was headed for victory in his immigration case after a federal judge's 2003 ruling sprung him from a Florida detention facility after 17 months.

But Homeland Security officials, in a move that Walters' supporters said was overzealous, pressed forward with the case _ and a September federal appeals court ruling in the government's favor led the rapper to wonder how long his past will affect his future.

"The situation we're talking about happened in 1990," Walters said Wednesday. "This is 2006. I don't know if this is about politics, or the law, or what. I'm just leaving it in God's hands."

Walters' woes started when he shot his cousin and a bystander, claiming the cousin had extorted money and threatened his family. Chart-topping Slick Rick became Inmate No. 91A4968, doing time for attempted murder before returning to his family and Bronx home in 1993.

That same year, the Immigration and Naturalization Service moved to deport the London native and jailed him again. A December 1995 ruling by an immigration judge said keeping Walters in the United States was "in the best interest of the country," and he was quickly freed.

Walters, now 41, resumed his musical career and avoided trouble. But in June 2002, he was arrested by INS agents after returning to Miami from a weeklong Caribbean cruise where he was a featured performer.

The bust came on a 1997 INS warrant that was never previously enforced, although Walters had lived in the Bronx since before it was issued. A federal judge eventually ruled in October 2003 that the Bureau of Immigration Appeals had denied Walters due process in issuing the warrant _ the rapper's second victory in court, although the win cost him more jail time.

"With all of the real and present threats to American society from terrorism, why is the government chasing this rapper?" asked Benjamin Chavis, co-chairman of the Hip-Hop Summit Action Network.

Homeland Security does not comment on specific cases, but Walters' 1990 aggravated felony conviction was sufficient to make him eligible for deportation\l "l", said agency spokesman Mark Raimondi.

The latest ruling came Sept. 20, when the Second Circuit Court of Appeals in New York vacated the 2003 order freeing Walters and ordered the case switched to a Georgia appeals court considered far more conservative.

Attorneys for Walters may appeal for the New York court\l "l" to hear the case, rather than grant the change of venue. The Second Circuit, while ruling for the government, noted that Walters had a good chance of avoiding deportation.

Walters said he's just going on with his life, playing shows and paying bills. He doesn't see any other options.

"If you were in my shoes, how would you look at life?" he asked. "You'd ride life out, too. Anger would just make life not enjoyable, you know what I mean?"

END

The National Law Journal
10-19-2006

Critics Target Federal Circuit

By Marcia Coyle

In the often highly technical, cutting-edge world of inventions, the U.S. Court of Appeals for the Federal Circuit is the Mount Olympus of patent law. But are its 12 Olympians falling?

The U.S. Supreme Court is reviewing more of the circuit court's patent decisions and liking them less, which is a much-noted trend in the relatively small patent bar.

Some patent litigators are increasingly critical of a Federal Circuit that, in its desire to achieve certainty and harmony in patent law, they say, has become overly formalistic, expanding the power of patent holders at the expense of innovation.

And some scholars suggest that after 25 years as the only game in town for review of patent appeals, the Federal Circuit might benefit, both in terms of its overall workload and the development of patent law, from some outside input, not just from the Supreme Court but from a limited number of regional circuit courts getting back into the business of handling patent appeals.

Do the Supreme Court's heightened interest and increased reversals mean that the Federal Circuit has run amok?

"Some of the shriller commentators have suggested the Supreme Court may be concerned the Federal Circuit is a runaway court or a pro-patent court. I don't think there is the slightest substance to those observations by a couple of people," said Chief Judge Paul R. Michel.

His best guess as to why the high court has stepped up its interest, he explained, is that "the Federal Circuit has had a good amount of time to wrestle with fundamental issues of patent law and has developed a body of law on those fundamental issues. The time is ripe for the Supreme Court to review the way we have resolved those issues. It's neither surprising nor worrisome."

Echoing others' comments, litigator Kenneth R. Adamo in the Cleveland office of Jones Day, who has been involved in roughly 30 appeals in the Federal Circuit, said he believes the Supreme Court feels there was not enough supervision previously of the circuit court's work.

"What the justices read and hear from law clerks and others is there's something wrong with the U.S. patent system despite the fact the Federal Circuit was put in place, in large measure, to unify patent jurisprudence," he said.

"Does that mean they think the Federal Circuit is lost in space? No," he added. "They've looked at some of these decisions, the en banc, major decisions with pluralities and concurrences, and are wondering, why is all this still so roiled up?"

HIGH MARKS

The patent law community itself seems divided over whether the Federal Circuit has gone off track and what, if anything, should be done about it. But those who follow the court closely generally give it high marks for being a very hard-working court with very dedicated, smart judges.

Congress created the court in 1982 with the Federal Courts Improvement Act. The court was formed by the merger of the U.S. Court of Customs and Patent Appeals and the appellate division of the U.S. Court of Claims.

The Federal Circuit is unique in that it is the only Article III appellate court whose jurisdiction is based on subject matter, not geographic location. Although the primary motivation for its creation was to end forum-shopping in patent cases and to bring certainty to patent law, the court also was given nationwide jurisdiction over claims involving international trade, government contracts, trademarks, federal personnel and veterans' benefits, and certain money claims against the federal government.

With the recent Senate confirmation of Judge Kimberly Moore, the court now has a full complement of 12 active judges.

In a speech last summer to the Federal Circuit Bar Association, Michel, the chief judge, reported that the court's overall condition was "fine," but, he added, "We are now stressed, stressed both by the quantity and difficulty of our current cases."

Although the court is generally known as the nation's top patent court, it was just this year that patent appeals became the largest category of cases on the court's docket -- a change with significant impact on the judges' workload.

"Even more significant than the rise in numbers is the rise in complexity, size and difficulty of the technology in these cases," said Michel. "On average, the district court patent cases we receive are perhaps 10 times more difficult than the average patent case in the mid-1980s."

Patent cases represent about one-third of the court's total caseload, said the chief judge, but if time devoted to those cases is measured, instead of just number of cases, the judges spend 50 percent more time adjudicating the patent cases than others on the docket.

The court recently made mandatory its voluntary mediation program for all appeals, said Michel, adding that the change should help the court with its workload. Surprisingly, even when the program was

voluntary, a majority of cases that did settle were patent cases, he said.

The court just hired intellectual property litigator James Amend, of counsel to Chicago's Kirkland & Ellis, to run the mediation program.

"I think with this man in place, patent cases will settle at a considerably higher rate than when our program didn't have an ace litigator running it and when it was only voluntary," said Michel.

IS IT SUCCESSFUL?

As the Federal Circuit approaches its 25th birthday, the measure of its success generally depends on whom you talk to and what time period you're talking about, said patent scholar Lee Petherbridge of Loyola Law School, Los Angeles, who, with R. Polk Wagner of the University of Pennsylvania Law School, has done empirical research on the court's work.

"In terms of the pre-Federal Circuit days, the court did go in and take hold of patents and provide certainty," he said. "That much is true, and in that sense it represents success. Patents became stronger; a presumption of validity was more recognized. What that led to was a better ability of the patentee to concentrate capital for research and development."

The court has strengthened patents, which is what Congress intended it to do, said Petherbridge. But, he added, "The same things that bring us good effects from patents also open the system and the court to criticism."

RECORD ON APPEAL

Some of the doctrinal criticism is obviously embodied in the recent appeals to the Supreme Court. Jones Day's Adamo noted: From 1990 to 2001, the court granted certiorari eight times, heard eight cases and affirmed the Federal Circuit's decisions 50 percent of the time. But from 2002 to now, the court granted certiorari nine times, heard seven cases -- and did not affirm in any of the cases.

"I think the Supreme Court has started to pay attention to patent law for two reasons: disquiet with the Federal Circuit and also because patent law and patent reform are so on the radar screen," said patent scholar Timothy R. Holbrook of Chicago-Kent College of Law.

There have been two major recent studies of the patent system that noted problems, as well as patent reform proposals introduced in Congress, said Holbrook. On the "disquiet" reason, he said, "everyone thinks the Federal Circuit is pro-patent."

The court is pro-patent in terms of patent validity, he said. "Patents are supposed to reward significant advances in the state of the art. The obviousness doctrine governs that. But the test articulated by the court makes it very difficult to show the patent is obvious, so we get lots of patents on very simple inventions."

The court's test for obviousness is at the heart of *KSR International v. Teleflex Inc.,* No. 04-1350, to be decided by the Supreme Court this term. The issue is fundamental to patent validity, and the solicitor general of the United States and the U.S. Patent and Trademark Office (PTO) have told the justices that the Federal Circuit is wrong.

KSR and the high court's recent rulings involving the Federal Circuit's view of the doctrine of equivalents and the use of injunctions for patent infringement, said Holbrook, reflect the Supreme Court's concern that patent law is out of control and that the Federal Circuit's formalistic approach is inappropriate.

"The Federal Circuit has this mantra of certainty," he said. "It wants clarity and certainty in the law and draws that from its congressional mandate. The problem is they articulate very bright-line, formal rules. I think the Supreme Court recognizes the need for certainty but disagrees with way the Federal Circuit is doing it."

Much of what the Federal Circuit has done-both good and bad-can be ascribed to excessive formalism, agreed Jay Dratler Jr. of the University of Akron School of Law.

On the good side, he said, the court has narrowed the type of evidence that can be used to construe claims in patent cases, trying to ensure that the evidence used is in the public record, accessible to all.

Where it has gone badly astray, in his opinion, is its unwillingness to look beyond what is written on paper in informing its decisions.

"My complaint, and the complaint of a lot of people, is you can't really understand patents without understanding a little bit of the technology and a lot of the economics that go into the industry," he said. "To make decisions devoid of that background is, to me, nonsensical."

The court does that, Dratler said, not only because of excessive formalism but because most of its judges lack the technical and scientific backgrounds needed for these issues. Although patents are not its sole jurisdiction, patents were the primary motivation for creating the court, he said.

DE NOVO REVIEW

Another major area of concern or criticism is the Federal Circuit's de novo review of district court patent cases and its rather high reversal rate -- roughly 30 percent to 35 percent -- of those decisions. Most of those cases are appeals of summary judgment decisions.

The most important part of any patent dispute is the construction of claim terms in a given patent. After a Supreme Court decision removed claim construction from the province of juries and gave it to judges, the Federal Circuit held that it would review district judges' decisions de novo. Critics of de novo review and the reversal rate say that they increase uncertainty surrounding patents as well as the cost of litigation.

Last year, before she became a Federal Circuit judge, Moore, in an empirical study of district court reversals, reported the reversal rate, eight years after the Supreme Court ruling, was rising instead of declining as judges got more experience with claim construction.

The fault, she wrote, rests with the Federal Circuit, which was not providing sufficient guidance: "There have not evolved any clear canons of claim construction to aid district court judges, and in fact the Federal Circuit judges seem to disagree among themselves regarding the tools available for claim construction."

TIME FOR CHANGE?

So what does it all add up to, these criticisms and the Supreme Court's heightened interest in Federal Circuit rulings? Is it time for radical change?

No one seems to be advocating a return to the pre-Federal Circuit days when forum-shopping in patent cases among the 12 regional appellate courts was rampant and patent law was all over the map.

But some court scholars suggest it is time at least to discuss some change.

Craig A. Nard, director of the Center for Law, Technology and the Arts at Case Western Reserve University School of Law, and John F. Duffy of George Washington University Law School have suggested allowing two or perhaps three regional appellate courts to join the Federal Circuit in reviewing patent appeals.

"Our view is the problems are not with the judges, but by being the only game in town the Federal Circuit has no competition, does not enjoy a peer or the benefit of sister circuit jurisprudence," explained Nard. "Because of that, it doesn't have the type of engaged, thoughtful rationale other courts have."

Absent a peer, he said, the Federal Circuit has fallen into a kind of insularity and "path dependency." It gets locked into its own precedents, he explained.

"To the extent you have judges on panels disagreeing with another, it looks like the Federal Circuit is all over the place. It's a problem."

There are no intercircuit conflicts to trigger Supreme Court review, he added. The justices, in a disproportionate number of patent cases, ask the solicitor general for his opinion, and the solicitor general turns to the PTO.

"That's OK, but the best way is to have a couple of circuits weigh in and express themselves," said Nard.

And if you are the Federal Circuit with a monopoly on patent jurisprudence, he added, attorneys -- whom courts rely on generally for information about the law and facts in a case -- are somewhat reticent to challenge Federal Circuit precedents and make creative arguments, especially if they are repeat players at the court.

"Our goal is to generate discussion," he said.

No court achieves all expectations, said patent litigator Donald Dunner of Finnegan, Henderson, Farabow, Garrett & Dunner in Washington, D.C.

The Federal Circuit, he said, was originally formed in order to avoid forum-shopping, to bring uniformity and predictability to the process of deciding patent cases, and "largely, it has done that."

He gives the court "very good grades," sees nothing "broken" about it and believes it fares no worse in the Supreme Court than other circuits and better than some, such as the 9th Circuit.

CLAIMS CONSTRUCTION

Michel, the chief judge, is keenly aware of what is said and written about the Federal Circuit. He acknowledges concerns about the reversal rate of district court patent decisions, but notes that claim construction is very complicated with many opportunities to make mistakes.

Because his court does not give district court rulings the usual deference they receive in other cases, "that presses toward our disagreeing on some of the constructions."

But, he said, the average reversal rate in civil litigation is about 20 percent, so 30 percent is not shocking on de novo review of very complex cases.

He thinks that legislation proposing a pilot program in certain district courts designating judges to handle patent cases would help eventually to lower his court's reversal rate.

Michel prizes the diverse backgrounds of his judges and relishes the diversity of the court's caseload. Suggestions that the court is insular, he said, are inaccurate.

"I think the diversity of judges' background and caseload was a brilliant conception of the architects of this court," he said.

That diversity just about guarantees against insularity, he explained. Re-involving the regional appellate courts in patent law, particularly after 25 years of noninvolvement, would create the risk of conflicts in patent law that the Federal Circuit was created to eliminate, Michel said.

"I frankly don't think there is anything fundamentally undesirable about the makeup, caseloads or performance of the Federal Circuit," said Michel.

"At the margins, everyone can have his own personal theory of what little improvements could be made, but in terms of radical changes, I certainly don't see grounds for that," he said.

His court, Michel added, gets criticized about equally by patent holders and nonpatent holders. And, he said, it is "interesting" there is some resentment by a number of tenured patent professors that the court

doesn't cite their law review articles.

"We have an extensive body of case law, and that and Supreme Court precedent is what we would mainly be citing," he explained.

There are true dilemmas in patent law, added Michel. "You're balancing competing social interests, and it's not always clear what the right balance is. Congress has left it broadly defined in the statute, which has not changed greatly since 1952."

"A lot of patent law is judge-made law," Michel said. "It's quite natural and expected that the Supreme Court would, from time to time, dip into the major patent dilemmas and give them a look."

END

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 2:09 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT REACHES AGREEMENT REQUIRING DIVESTITURES IN MERGER OF REGIONS FINANCIAL CORP. AND AMSOUTH BANCORPORATION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 19, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT REACHES AGREEMENT REQUIRING DIVESTITURES IN MERGER OF REGIONS FINANCIAL CORP. AND AMSOUTH BANCORPORATION

52 AmSouth Bank Branches with $2.7 Billion in Deposits to be Divested in Alabama, Mississippi and Tennessee

WASHINGTON — The Department of Justice announced today that Regions Financial Corporation and AmSouth Bancorporation have agreed to sell 52 AmSouth branch offices with approximately $2.7 billion in deposits in Alabama, Mississippi and Tennessee in order to resolve competitive concerns raised by the companies' proposed merger. The Department said that without the divestitures the merger would adversely affect competition in local markets in the three states for small business lending, resulting in fewer choices for small business customers. The combination of Regions and AmSouth will create the largest bank in Alabama and Mississippi, the 2nd largest bank in Tennessee, and the15th largest bank in the United States.

Under the agreement, the companies will divest 39 branches with $2 billion in deposits in six Alabama markets, six branches with $304 million in deposits in four Mississippi markets, and seven branches with $408.2 million in deposits in seven Tennessee markets. The divestitures will include the consumer and commercial loans associated with the divested branches. The companies also have agreed that in selected areas where the merging firms overlap – in Alabama, Florida, Louisiana, Mississippi and Tennessee – if a branch office is closed within three years of the merger, they will sell or lease the office to a commercial bank-buyer so long as there is a bank-buyer offer that meets or exceeds the best offer from a non-bank buyer. The Department said that physical branches, absent deposits and loans, are valuable assets because the facility is already set up for the business of banking and may facilitate entry into or expansion within a market.

"These divestitures will ensure that consumers and businesses in Alabama, Mississippi and Tennessee will continue to have choices for small business lending and will continue to enjoy the benefits of competition," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division.

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The proposed merger is subject to the final approval of the Board of Governors of the Federal Reserve System. The Department said that it will advise the Federal Reserve Board that, subject to the firms' divestiture of the branch offices specified in the agreement and associated loans and deposits, the Antitrust Division will not challenge the merger.

Regions Financial Corporation, headquartered in Birmingham, Ala., has assets of $84.6 billion and consolidated total deposits of $60.5 billion. Regions operates about 1,300 branches and about 1,600 ATMs across 16 states in the South and Midwest.

AmSouth Bancorporation, also headquartered in Birmingham, Ala., has assets of $52.8 billion and deposits of $36.7 billion. AmSouth has 691 branch offices and 1,200 ATMs throughout the Southeastern United States.

A list of the branches to be divested is attached.

###

06-716

Attachment A

AmSouth Branches to Be Divested

State	Market	County	Branch Name	Address	City
AL	Dallas FRB	Dallas	Selma Main	9 Broad Street	Selma
AL	Decatur FRB	Morgan	Danville Road	2404 Danville Rd SW	Decatur
AL	Huntsville FRB	Madison	Lily Flag	107 Lily Flag Rd SE	Huntsville
AL	Huntsville FRB	Madison	North Madison	7930 Highway 72 W	Madison
AL	Huntsville FRB	Madison	Piedmont Point	4769 Whitesburg Drive S	Huntsville
AL	Huntsville FRB	Madison	University Dr	1470 Perimeter Pkwy NW	Huntsville
AL	Huntsville FRB	Madison	Whitesburg	2204 Whitesburg Dr	Huntsville

DOJ_NMG_ 0169704

AL	Mobile FRB	Mobile	Ambassador Plaza	7860 Airport Blvd	Mobile
AL	Mobile FRB	Baldwin	Baldwin Square	111 Baldwin Square	Fairhope
AL	Mobile FRB	Baldwin	Bay Minette	511 Dolive Street	Bay Minette
AL	Mobile FRB	Mobile	Bayou Le Batre	13825 South Wintzell Ave	Bayou Le Batre
AL	Mobile FRB	Mobile	Cottage Hill	5133 Cottage Hill Rd	Mobile
AL	Mobile FRB	Mobile	Chrichton	2820 Springhill Ave	Mobile
AL	Mobile FRB	Baldwin	Eastern Shore Centre	10010 Eastern Shore Blvd	Spanish Fort
AL	Mobile FRB	Baldwin	Fairhope	51 S Section Street	Fairhope
AL	Mobile FRB	Mobile	Government Street	1402 Government Street	Mobile
AL	Mobile FRB	Mobile	Hillcrest	720 Hillcrest Rd	Mobile
AL	Mobile FRB	Baldwin	Lake Forest	28770 US Highway 98	Daphne
AL	Mobile FRB	Mobile	Lloyds Lane	6241 Cottage Hill Road	Mobile
AL	Mobile FRB	Mobile	McGregor Sq	3920 Airport Blvd	Mobile
AL	Mobile FRB	Mobile	Oak Plaza	7800 Moffat Road	Semmes
AL	Mobile FRB	Mobile	Saraland	34 Shelton Beach Rd	Saraland
AL	Mobile FRB	Mobile	Schillinger Road	7849 Cottage Hill Rd	Mobile
AL	Mobile FRB	Mobile	Skyline	3942 Government Blvd	Mobile
AL	Mobile FRB	Mobile	Spring Hill-Mobile	4357 Old Shell Road	Mobile
AL	Mobile FRB	Mobile	Springdale Plaza	3250 Airport Blvd, Ste. 4F	Mobile

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AL	Mobile FRB	Mobile	Tillman's Corner	5351 Highway 90 W	Mobile
AL	Mobile FRB	Mobile	Toulminville	2326 St. Stephens Road	Mobile
AL	Mobile FRB	Baldwin	Westminster	500 Spanish Fort Blvd	Spanish Fort
AL	Montgomery FRB	Montgomery	Atlanta Hwy	5375 Atlanta Hwy	Montgomery
AL	Montgomery FRB	Montgomery	Eastern Bypass	1465 Eastern Blvd	Montgomery
AL	Montgomery FRB	Autauga	Prattville	1882 E. Main Street	Prattville
AL	Montgomery FRB	Elmore	Millbrook	3725 Highway 14	Millbrook
AL	Montgomery FRB	Montgomery	Taylor Road	2710 Taylor Road	Montgomery
AL	Montgomery FRB	Elmore	Wetumpka Main	743 S Main St	Wetumpka
AL	Tuscaloosa FRB	Tuscaloosa	Northport	3076 McFarland Blvd	Northport
AL	Tuscaloosa FRB	Tuscaloosa	Skyland	719 Skyland Blvd	Tuscaloosa
AL	Tuscaloosa FRB	Tuscaloosa	Tuscaloosa Main	2330 University Blvd	Tuscaloosa
AL	Tuscaloosa FRB	Tuscaloosa	University Campus	311 University Blvd	Tuscaloosa
MS	Clarksdale FRB	Coahoma	Clarksdale Main	301 John Lee Hooker Lane	Clarksdale
MS	Greenville FRB	Washington	Greenville Main	342 Washington Avenue	Greenville
MS	Greenwood FRB	Leflore	Greenwood	820 West Park Avenue	Greenwood
MS	Starkville FRB	Oktibbeha	12/25	303 Hwy 12 W	Starkville
MS	Starkville FRB	Webster	Europa	102 West Fox Avenue	Europa
MS	Starkville FRB	Oktibbeha	Sturgis	3869 Hwy 12 W	Sturgis

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'N	Bedford FRB	Bedford	Shelbyville	508 Madison Street	Shelbyville
'N	Cannon FRB	Cannon	Woodbury	101 W Main Street	Woodbury
'N	Cumberland FRB	Cumberland	Crossville	139 Elmore Rd	Crossville
'N	DeKalb FRB	DeKalb	Smithville	200 West Main Street	Smithville
'N	Fayetteville FRB	Lincoln	Fayetteville	310 College St. W	Fayetteville
'N	Paris FRB	Henry	Paris	101 W Wood St	Paris
'N	Rhea FRB	Rhea	Dayton	1525 Market Street	Dayton

DOJ_NMG_ 0169707

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From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 2:55 PM
To: USDOJ- Office of Public Affairs
Subject: FIVE FORMER AND CURRENT MILWAUKEE POLICE OFFICERS INDICTED ON CIVIL RIGHTS CHARGES; ADDITIONAL OFFICER PLEADS GUILTY TO OBSTRUCTION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 19, 2006
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FIVE FORMER AND CURRENT MILWAUKEE POLICE OFFICERS INDICTED ON CIVIL RIGHTS CHARGES; ADDITIONAL OFFICER PLEADS GUILTY TO OBSTRUCTION

WASHINGTON – A federal grand jury in Milwaukee, Wis., indicted former Milwaukee police officers Jon Bartlett, Andrew Spengler, Daniel Masarik, and Ryan Lemke, as well as current Milwaukee police officer Ryan Packard, with one count each of conspiring to violate the civil rights of Frank Jude and Lovell Harris and of violating the civil rights of Frank Jude by assaulting him in October 2004. Each count carries a sentence of up to 10 years in prison and a $250,000 fine. A trial date has not yet been scheduled.

The grand jury charged that the defendants conspired to forcefully detain Frank Jude and Lovell Harris and to assault both victims in an effort to obtain information from them. As part of the conspiracy, the indictment charges that the defendants and other persons surrounded a vehicle in which the victims were sitting, brandished knives, physically pulled Jude and Harris from the vehicle, and intimidated Jude and the other occupants of the vehicle into submitting to a search. The indictment also states that the defendants and others forced Harris to sit on a curb while being guarded at knife point, and then punched and kicked Jude in the head, body, and groin, and stuck a sharp object into his ears.

The grand jury also charged that all five defendants and other persons assaulted Frank Jude while acting in an official capacity as agents of the law. In so doing, the indictment says, the officers willfully deprived Frank Jude of the right to be free from the use of unreasonable force by a person acting as a law enforcement officer.

Former Milwaukee police officer Joseph Stromei has agreed to plead guilty to a federal obstruction of justice charge in connection with the incident involving the assault on victims Jude and Lovell. In documents filed in U.S. District Court in the Eastern District of Wisconsin, Stromei has agreed to plead guilty to one felony count of obstruction of justice for his role in covering up the assaults by making false statements in official reports and in his sworn testimony. Stromei faces up to 10 years in prison and a fine of $250,000. Stromei is the third officer to agree to plead guilty to federal charges related to the assault of Frank Jude and Lovell Harris. With today's indictment, a total of eight officers stand charged with federal crimes for assaulting Frank Jude and Lovell Harris.

DOJ_NMG_ 0169709

In papers filed in court on October 5, 2006, former police officer Jon Clausing agreed to plead guilty to conspiring to violate the civil rights of Frank Jude and Lovell Harris by assaulting them, and former police officer Joseph Schabel agreed to plead guilty to violating the civil rights of Frank Jude by assaulting him and to an obstruction of justice charge for lying about details of the assault.

An indictment is merely an accusation, and defendants are presumed innocent unless proven guilty.

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. The Department of Justice has compiled a significant record on criminal civil rights prosecutions in the last six years. Since fiscal year 2001, the Department has convicted 50 percent more defendants in comparison to the previous six years.

This case was investigated by the Federal Bureau of Investigation, with the assistance of the Milwaukee County District Attorney's Office, investigators from the Milwaukee County District Attorney's Office and the Milwaukee Police Department. Assistant U.S. Attorneys Mel Johnson and Carol Kraft of the U.S. Attorney's Office for the Eastern District of Wisconsin, and Trial Attorneys Stephen Curran and Edward Caspar of the Civil Rights Division are prosecuting this case along with U.S. Attorney Steven M. Biskupic.

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Image not available for this document, ID: 0.7.10316.22936-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 3:17 PM
To: USDOJ- Office of Public Affairs
Subject: DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AND DIRECTOR MICHAEL A. BATTLE TO HOLD ANNUAL AWARDS CEREMONY FOR THE EXECUTIVE OFFICE FOR U.S. ATTORNEYS

Department of Justice

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*********MEDIA ADVISORY*********

DEPUTY ATTORNEY GENERAL PAUL J. MCNULTY AND DIRECTOR MICHAEL A. BATTLE TO HOLD ANNUAL AWARDS CEREMONY FOR THE EXECUTIVE OFFICE FOR U.S. ATTORNEYS

WASHINGTON – Deputy Attorney General Paul J. McNulty and Director Michael A. Battle of the Executive Office for United States Attorneys (EOUSA) will host the annual EOUSA Director's Awards Ceremony **TOMORROW, OCTOBER 20, 2006, at 10:00 A.M. EDT**. Attorney General Alberto R. Gonzales will also deliver videotaped remarks during the ceremony.

WHO: Deputy Attorney General Paul J. McNulty
EOUSA Director Michael A. Battle

WHAT: Director's Awards Ceremony for the Executive Office for United States Attorneys

WHEN: **OCTOBER 20, 2006 at 10:00 A.M. EDT**

WHERE: The Great Hall
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530

NOTE: ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Media must enter the Department at the Constitution Avenue entrance, between Ninth and Tenth Streets. Pre-set for cameras will be at 9:30 A.M. EDT. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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DOJ_NMG_ 0169714

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Image not available for this document, ID: 0.7.10316.22933-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 3:20 PM
To: USDOJ- Office of Public Affairs
Subject: AUDITS OF BANKRUPTCY PAPERS BY INDEPENDENT PUBLIC ACCOUNTANTS START IN OCTOBER

U.S. Department of Justice

Executive Office for United States Trustees

For Immediate Release October 19, 2006

AUDITS OF BANKRUPTCY PAPERS BY INDEPENDENT PUBLIC ACCOUNTANTS START IN OCTOBER

WASHINGTON, D.C.–On October 20, 2006, independent public accountants will commence audits of papers filed in individual bankruptcy cases, the Executive Office for U.S. Trustees (EOUST) announced today. The debtor audit requirement was enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). It applies to chapter 7 and chapter 13 cases filed by individuals on or after October 20, 2006. The audits are to determine the accuracy, veracity, and completeness of petitions, schedules, and other information required to be filed or provided in a bankruptcy case.

At least one out of every 250 individual chapter 7 and chapter 13 cases filed in a judicial district will be randomly selected for audit. In addition, an individual debtor's chapter 7 or chapter 13 case will be selected for audit if the debtor's income or expenses reflect greater than average variance from the statistical norm of the district in which the case was filed.

To support the information disclosed under penalty of perjury in his or her bankruptcy documents, a debtor whose case is chosen for audit will be requested to provide information to an independent firm under contract with the U.S. Trustee Program. The audit will be performed by a certified public accountant or independent licensed public accountant selected through competitive bidding. The audit firm will ask the debtor to provide the firm with documents such as tax returns, account statements, and pay stubs, and the debtor is under a statutory duty to cooperate with the audit firm. This duty is in addition to the debtor's statutory duty to file these documents with the court, and to provide these documents to designated parties.

The audit is not the same as a tax audit or financial audit conducted in accordance with "generally accepted auditing standards," because bankruptcy documents are typically not prepared using generally accepted accounting principles. Therefore, as required under BAPCPA, the audit firm will follow auditing standards developed by the U.S. Trustee Program. These standards are published in the Federal Register at 71 Fed. Reg. 58005 (Oct. 2, 2006).

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The audit firm will review the debtor's information and file a report with the bankruptcy court specifying any material misstatement of income, expenditures, or assets. If a material misstatement is found and is not adequately explained, the debtor may be subject to civil enforcement actions by the U.S. Trustee and/or criminal prosecution by the U.S. Attorney. A civil enforcement action may also be brought against a debtor who does not satisfactorily explain a failure to provide papers requested by the auditor.

The U.S. Trustee Program is the Justice Department component that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. The Program has 95 offices in 21 regions. By law, Alabama and North Carolina are not part of the U.S. Trustee Program; in those states, bankruptcy court officials known as Bankruptcy Administrators will supervise debtor audits.

Contact: Jane Limprecht, Public Information Officer
Executive Office for U.S. Trustees
(202) 305-7411

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Image not available for this document, ID: 0.7.10316.22919-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 4:15 PM
To: USDOJ- Office of Public Affairs
Subject: UPDATED: FIVE FORMER AND CURRENT MILWAUKEE POLICE OFFICERS INDICTED ON CIVIL RIGHTS CHARGES; ADDITIONAL OFFICER PLEADS GUILTY TO OBSTRUCTION

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 19, 2006
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DOJ_NMG_ 0169721

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This case was investigated by the Federal Bureau of Investigation, with the assistance of the Milwaukee County District Attorney's Office, investigators from the Milwaukee County District Attorney's Office and the Milwaukee Police Department. Assistant U.S. Attorneys Mel Johnson and Carol Kraft of the U.S. Attorney's Office for the Eastern District of Wisconsin, and Trial Attorneys Stephen Curran and Edward Caspar of the Civil Rights Division are prosecuting this case along with U.S. Attorney Steven M. Biskupic.

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06-715

DOJ_NMG_ 0169722

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Image not available for this document, ID: 0.7.10316.22915-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 19, 2006 5:28 PM
To: USDOJ- Office of Public Affairs
Subject: DIANE STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN, TO HOST BRIEFING TO HIGHLIGHT SUCCESSES

Department of Justice

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THURSDAY, OCTOBER 19, 2006
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OVW
PHONE: (202) 307-6026
FAX: (202) 307-3911

******MEDIA ADVISORY******

DIANE STUART, DIRECTOR OF THE OFFICE ON VIOLENCE AGAINST WOMEN, TO HOST BRIEFING TO HIGHLIGHT SUCCESSES

WASHINGTON – Diane Stuart, Director of the Office on Violence Against Women, will hold a pen and pad briefing, **TOMORROW, FRIDAY OCT. 20**, on her final day with the Department of Justice. Director Stuart will discuss key initiatives and successful programs implemented by the office under the Bush Administration.

On FRIDAY, OCT. 20, 2006 at 10:30 A.M. EDT.

WHO: Diane Stuart
Director of the Office on Violence Against Women

WHAT: Pen and Pad Briefing

WHEN: TOMORROW, OCT. 20, 2006
10:30 A.M. EDT.

WHERE: Department of Justice
1st Floor Andretta Conference Room
950 Pennsylvania Ave. N.W.
Washington, D.C.

NOTE: MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's License) as well as VALID MEDIA CREDENTIALS. All attending should enter the Department on Constitution Ave. between Ninth and Tenth streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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06-718

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Image not available for this document, ID: 0.7.10316.22908-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 8:47 AM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: HIGHLIGHTS OF OFFICE ON VIOLENCE AGAINST WOMEN ACHIEVEMENTS FROM 2001-2006

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 20, 2006
WWW.USDOJ.GOV

OVW
(202) 514-2007
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FACT SHEET: HIGHLIGHTS OF OFFICE ON VIOLENCE AGAINST WOMEN ACHIEVEMENTS FROM 2001-2006

Since 2001, the Office on Violence Against Women (OVW) has successfully worked to provide federal leadership to reduce violence against women, and to administer justice and strengthen services for all victims of domestic violence, dating violence, sexual assault and stalking. OVW accomplishes its mission by developing and supporting the capacity of state, local, tribal and non-profit entities involved in responding to violence against women.

October is Domestic Violence Awareness Month, during which time the Department renews its commitment to educating all members of our communities about this serious crime and the frightening toll that it takes on American citizens. OVW has commemorated this month by opening Family Justice Centers in several communities around the nation as part of the President's Family Justice Center Initiative.

The President's Family Justice Center Initiative

- In October 2003, President George W. Bush announced the President's Family Justice Center Initiative (PFJCI), which is administered by OVW. The PFJCI is a pilot program that has awarded more than $20 million to 15 communities across the country for the planning, development and establishment of comprehensive domestic violence victim service and support centers. The goal of the PFJCI is to make a victim's search for help and justice more efficient and effective by bringing professionals who provide an array of services together under one roof. The 15 PFJCI sites bring together advocates from non-profit groups, victim services organizations, law enforcement officers, probation officers, governmental victim assistants, forensic medical professionals, attorneys, chaplains and representatives from community-based organizations into one centralized location. To date, PFJCI sites have opened in Brooklyn, N.Y.; San Antonio, Texas; Alameda County, Calif.; Oauchita Parish, La.; Nampa, Idaho; St. Louis, Mo.; Tulsa, Okla.; Buffalo, N.Y.; Knoxville, Tenn.; Boston, Mass.; Sitka, Alaska.; Tampa, Fla.; and Defiance, Ohio. Two additional centers in Las Vegas, N.M. and South Bend, Ind., will be opening

DOJ_NMG_ 0169729

in the coming months. OVW, the Attorney General, and the administration support this most critical initiative and continue to work toward the goal of eradicating violence against women.

The Reauthorization of the Violence Against Women Act

- The Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005) enacted on Jan. 5, 2006, improves and expands legal tools and grant programs addressing domestic violence, dating violence, sexual assault and stalking. VAWA 2005 reauthorizes critical grant programs created by the original Violence Against Women Act and subsequent legislation, establishes new programs, and strengthens federal laws.

Tribal Consultation

- VAWA 2005 includes many significant changes that are designed to strengthen the response to violence against women in communities throughout the country. Title IX of VAWA 2005 specifically addresses violence against American Indian and Alaska Native women. Title IX provides a tremendous array of new tools and resources that will improve the federal response to crimes of violence against Indian women and increase the level of federal grant funding available to tribal governments to combat violence against Indian women. One of the most important changes in Title IX of VAWA 2005 is the requirement for the U. S. Attorney General to host an annual consultation with tribal governments.

  Section 903 of VAWA 2005 directs the Attorney General and the Secretary of the U.S. Department of Health and Human Services to use the consultation as an opportunity to solicit recommendations from tribal governments on three topics:

  - Administering grant funds appropriated for tribal governments and programs created to benefit tribal governments by the original VAWA and subsequent legislation;
  - Enhancing the safety of Indian women from domestic violence, dating violence, sexual assault and stalking; and
  - Strengthening the federal response to crimes of domestic violence, dating violence, sexual assault and stalking.

  The Office of Violence Women led the Department of Justice's effort to plan and organize this momentous event, which occurred in Prior Lake, Minn. on Sept. 19, 2006. Approximately 60 tribal leaders representing roughly 50 different tribes were in attendance. A report on the consultation will be developed and released before the end of the year.

The Greenbook Initiative

- In 1999, the National Council of Juvenile and Family Court Judges (NCJFCJ) developed a comprehensive set of guidelines designed to help caseworkers, advocates and judges establish collaborative structures and develop policies and procedures that would enhance the safety and well-being of domestic violence victims and their children. Since the release, *The Greenbook*, which was formally titled "Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice," has assisted numerous domestic violence advocates, child welfare workers, and family court judges in building a collaborative approach to working with families experiencing domestic violence and child maltreatment.

  In December 2000, OVW entered into a partnership with other agencies of the U.S. Departments of Justice and Health and Human Services to fund six communities under an inter-departmental demonstration initiative, which required the communities to implement the guidelines published in *The Greenbook*. The six sites that were selected under this demonstration initiative are El Paso County,

DOJ_NMG_ 0169730

Colo.; Grafton County, N.H.; Lane County, Ore.; San Francisco, Calif.; Santa Clara County, Calif.; and St. Louis County, Miss.

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06-719

DOJ_NMG_ 0169731

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Image not available for this document, ID: 0.7.10316.22789-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 9:40 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 20, 2006

Department of Justice

PRESS GUIDANCE
Friday, October 20, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Antitrust Division will issue a release on a Section Two hearing.

EVENTS/HEARINGS

10:00 A.M. EDT Deputy Attorney General Paul J. McNulty and Michael Battle, Director of the Executive Office of United States Attorneys (EOUSA), will participate in the EOUSA Director's Awards Ceremony. Attorney General Alberto R. Gonzales will also deliver videotaped remarks during the ceremony.
Department of Justice
The Great Hall
950 Pennsylvania Ave., N.W.
Washington, D.C.
OPEN PRESS

ALL MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Media must enter the Department at the Constitution Avenue entrance, between Ninth and Tenth Streets. Pre-set for cameras will be at 9:30 A.M. EDT. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

10:30 A.M. EDT Diane Stuart, Director of the Office on Violence Against Women, will hold a pen and pad briefing on her final day with the Department of Justice. Director Stuart will discuss key initiatives and successful programs implemented by the office under the Bush Administration.
Department of Justice
1st Floor Andretta Conference Room
950 Pennsylvania Ave. N.W.
Washington, D.C.

DOJ_NMG_ 0169734

OPEN PRESS

ALL MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS. Media must enter the Department at the Constitution Avenue entrance, between Ninth and Tenth Streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

12:00 P.M. PDT Solicitor General Paul Clement will deliver remarks before the San Francisco chapter of The Federalist Society regarding the Supreme Court Preview for the 2006 October Term.
Bank of America Building
Banker's Club at the Carnelian Room
555 California Street
San Francisco, California
OPEN PRESS

Press inquiries regarding logistics should be directed to David DeGroot of the Federalist Society at 415-218-2360, or to Janet Potter at 202-514-2201.

NIGHT DUTY OFFICER

Brian Roehrkasse

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169735

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Image not available for this document, ID: 0.7.10316.22782-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 9:57 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION TO CONTINUE HEARINGS ON SINGLE-FIRM CONDUCT

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 20, 2006
WWW.USDOJ.GOV

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

DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION TO CONTINUE HEARINGS ON SINGLE-FIRM CONDUCT

Session on Business History and Business Strategy to be Held on Oct. 26,
November Sessions to Address Tying, Exclusive Dealing and Loyalty Discounts

WASHINGTON — The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the fifth in a series of joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on Oct. 26, 2006, in Washington, D.C. As previously announced, these hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months, with three days of hearings scheduled for November.

The morning panel on Oct. 26 will explore business history perspectives regarding single-firm conduct, and the afternoon panel will explore business strategy perspectives. Both panels will be held at the FTC Headquarters Building at 600 Pennsylvania Ave., N.W., Washington, D.C., Room 532.

Further information is provided below:

Understanding Single-Firm Behavior: Business History Session (9:30 A.M. - 12:00 P.M.):

Tony Allan Freyer is a university research professor of history and law at the University of Alabama School of Law.

Louis Galambos is a professor of history at Johns Hopkins University, president of the Business History Group, and co-director of the Institute for Applied Economics and the Study of Business Enterprise.

James P. May is a professor of law at the Washington College of Law, American University.

DOJ_NMG_ 0169738

George David Smith is a clinical professor of economics, entrepreneurship and innovation at the New York University Stern School of Business.

Understanding Single-Firm Behavior: Business Strategy Session (1:30 P.M. - 4:00 P.M.):

Jeffrey P. McCrea is vice president of the Sales and Marketing Group at Intel Corporation.

David J. Reibstein is the William S. Woodside professor and professor of marketing at the Wharton School, University of Pennsylvania.

David T. Scheffman is director of LECG LLC, an adjunct professor of business strategy and marketing at the Owen Graduate School of Management, Vanderbilt University, and former director of the Bureau of Economics at the FTC.

George David Smith is a clinical professor of economics, entrepreneurship and innovation at the New York University Stern School of Business.

In addition to the hearings scheduled for Oct. 26, further public hearings will be held regarding tying on Nov. 1, exclusive dealing on Nov. 15, and loyalty discounts on Nov. 29. Information about the times, locations and panelists for these hearings, as well as information about other future hearings, will be made available at a later date.

The public and press are invited to attend all of the hearings. Seating will be on a first-come, first-served basis. Interested parties may submit written comments to the Antitrust Division and the FTC.

Further information about these hearings will be posted on the Antitrust Division's Web site at http://www.usdoj.gov/atr/public/hearings/single_firm/sfchearing.htm and on the FTC's Web site at http://www.ftc.gov/os/sectiontwohearings/index.htm. Individuals seeking more information on the hearings should contact Gail Kursh, Deputy Chief, Legal Policy Section, Antitrust Division, at singlefirmconduct@usdoj.gov, or Patricia Schultheiss, FTC, at section2hearings2@ftc.gov.

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06-720

DOJ_NMG_ 0169739

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 2:12 PM
To: USDOJ- Office of Public Affairs
Subject: WISCONSIN MAN CHARGED IN INTERNET THREAT TO DETONATE"DIRTY BOMB" IN SEVEN FOOTBALL STADIUMS IN UNITED STATES

Attached please find the criminal complaint.

Department of Justice

United States Attorney Christopher J. Christie
District of New Jersey

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 20, 2006
WWW.USDOJ.GOV/USAO/NJ

CONTACT: MICHAEL DREWNIAK
PHONE: (973) 645-2888
FAX: (973) 645-2868

WISCONSIN MAN CHARGED IN INTERNET THREAT TO DETONATE "DIRTY BOMB" IN SEVEN FOOTBALL STADIUMS IN UNITED STATES

NEWARK, N.J. – Jake J. Brahm, 20, of Wauwatosa, Wis., has been charged for being the source of an Internet posting that threatened to detonate radioactive "dirty bombs" at football stadiums in seven states, including New Jersey, U.S. Attorney Christopher J. Christie of the District of New Jersey announced today.

Brahm was charged in a criminal complaint with willfully conveying false information or hoaxes threatening to damage buildings through the use of weapons of mass destruction and radiological dispersal devices. The charge carries a maximum penalty of five years in prison and a $250,000 fine.

DOJ_NMG_ 0169741

Brahm, a grocery store worker, turned himself in to the U.S. Marshal's Service in Milwaukee this morning on a criminal complaint filed under seal yesterday in Newark. Brahm was first taken into custody by local police in Wauwatosa Wis. on Wednesday, based on information police received that Brahm was the source of the Internet threat to bomb football stadiums. The FBI was immediately notified and Brahm was interviewed by Special Agents Wednesday evening.

Brahm is expected to make an initial appearance today at about 2:30 p.m. CST in federal court in Milwaukee before U.S. District Judge Patricia J. Gorence. He faces indictment in the District of New Jersey on the false information/hoax charge.

"These types of hoaxes scare innocent people, cost business resources and waste valuable homeland security resources," stated U.S. Attorney Christie. "We cannot tolerate this Internet version of yelling fire in a crowded theater in the post 9/11 era."

According to the criminal complaint, Brahm admitted during the FBI interview to posting the threatening message on the website www.4chan.org. Brahm admitted that between September and Wednesday, he had posted the same message approximately 40 times on various Internet websites.

In the message, Brahm said that on Oct. 22, seven "dirty explosive devices" would be detonated at stadiums in New York (the NFL Jets are scheduled to play on Sunday at Giants Stadium in East Rutherford, N.J.), Miami, Atlanta, Seattle, Houston, Oakland and Cleveland.

The message went on to say that the bombs would be delivered via truck. All of the stadiums but one (Atlanta) are open-air arenas. Brahm said that would allow for a maximum death toll, with the radioactive fallout spreading beyond the stadium to a wider public area.

"The death toll will approach 100,000 from the initial blasts and countless other fatalities will later occur as result from radioactive fallout," the Internet posting said.

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The explosions would be lauded by Osama bin Laden, Brahm said, and the aftermath of the near simultaneous blasts would be civil wars around the globe. "Global economies will screech to a halt. General chaos will rule."

A criminal complaint is merely an accusation. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt.

Christie credited Special Agents of the FBI in Newark, under the direction of Special Agent in Charge Leslie G. Wiser Jr., for their work in the investigation leading to the charges against Brahm. Christie also credited FBI Special Agents and the Joint Terrorism Task Force in Milwaukee, under the direction of Special Agent in Charge Richard K. Ruminski, for their work in the investigation, as well as the Wauwatosa, Wis., Police Department for its assistance in the case.

The case is being prosecuted by Assistant U.S. Attorney Michael A. Hammer Jr., chief of the U.S. Attorney's Office Terrorism Unit in Newark.

###

brahm complaint.pdf

DOJ_NMG_ 0169743

United States District Court
District of New Jersey

UNITED STATES OF AMERICA	**:**	**CRIMINAL COMPLAINT**
v.	**:**	
JAKE J. BRAHM	**:**	**Magistrate No. 06-8223 (MCA)**

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

From in or about September 2006 to on or about October 18, 2006, in the District of New Jersey, and elsewhere, defendant knowingly and willfully engaged in conduct with intent to convey false or misleading information under circumstances where such information may reasonably have been believed and where such information indicated that activity would take place that would constitute a violation of Chapter 40 of Title 18, United States Code (malicious damage of any building or vehicle in violation of 18 U.S.C. § 844(I)) and Chapter 113B of Title 18, United States Code (use of weapons of mass destruction against persons or property within the United States, in violation of 18 U.S.C. § 2332a(a)(1)(D), and use of radiological dispersal devices designed and intended to release radiation or radioactivity at a level dangerous to human life, in violation of 18 U.S.C. § 2332h(a)(1)(A)).

All in violation of Title 18, United States Code, Section 1038(a).

I further state that I am a Special Agent of the Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT A

Steven A. Kimball
Special Agent, Federal Bureau of Investigation

Sworn to and subscribed in my presence,

October 19, 2006 — Date
at
Newark, New Jersey — City and State

Hon. Madeline Cox Arleo
United States Magistrate Judge
Name and Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT A

I, Steven A. Kimball, a Special Agent of the Federal Bureau of Investigation, assigned to the Newark Field Office, having conducted an investigation, and having discussed this matter with other law-enforcement agents and reviewed documents and reports, have knowledge of the facts set forth below. All statements which I have attributed to others have been set forth in substance and in part.

1. In or about September 2006, defendant JAKE J. BRAHM posted on an Internet website, www.4chan.org, a public message that threatened the detonation of explosive devices at seven stadiums hosting National Football League games on Sunday, October 22, 2006. The reference to "New York City" connoted Giants Stadium in East Rutherford, New Jersey, which is the home of the New York Giants and the New York Jets, and which was scheduled to host a New York Jets home game on October 22, 2006. Additionally, the message threatened that the bombs would cause radiological fallout resulting in numerous fatalities. The message stated, in substance and in part:

> On Sunday, October 22nd, 2006, there will be seven "dirty" explosive devices detonated in seven different U.S. cities; Miami, New York City, Atlanta, Seattle, Houston, Oakland and Cleveland. The death toll will approach 100,000 from the initial blasts and countless other fatalities will later occur as result from radioactive fallout.
>
> The bombs themselves will be delivered via trucks. These trucks will pull up to stadiums hosting NFL games in each respective city. All stadiums to be targeted are open air arenas, excluding Atlanta's Georgia Dome, the only enclosed stadium to be hit. Due to the open air, the radiological fallout will destroy those not killed in the initial explosion. The explosions will be near simultaneous, with the cities specifically chosen in different time zones to allow for multiple attacks at the same time.
>
> The 22nd of October will mark the final day of Ramadan as it would fall in Mecca. Al-Qaida will automatically be blamed for the attacks. Later, through Al-Jazeera, Osama bin Laden will issue a video message claiming responsibility for what he dubs "America's Hiroshima".
>
> In the aftermath civil wars will erupt across the world, both in the Middle East and within the United States. Global economies will screech to a halt. General chaos will rule.

2. During an interview on October 18, 2006, during which defendant JAKE J. BRAHM was read his rights pursuant to *Miranda v. Arizona,* 386 U.S. 436 (1966), he admitted to posting the above-described message in the "random" posting section of www.4chan.org. Defendant JAKE J. BRAHM further admitted that before posting the message, he researched which National Football League teams were playing on October 22, 2006, and listed the cities to connote those stadiums hosting the games.

3. My investigation has determined that the www.4chan.org website and the "random" posting section of that website were available to all Internet users, and accordingly the above-described messages were communications in and affecting interstate commerce.

4. During the October 18, 2006, interview, defendant JAKE J. BRAHM also admitted that between September 2006 and October 18, 2006, he re-posted the above-described message, in whole or in part, approximately forty times on www.4chan.org. My investigation has determined that others subsequently re-posted the message, in whole or in part, on websites throughout the Internet.

5. During the October 18, 2006, interview, defendant JAKE J. BRAHM admitted that he knew the above-described message was false when he authored and posted it.

Image not available for this document, ID: 0.7.10316.22774-000002

Image not available for this document, ID: 0.7.10316.22774-000003

Amber.JMD

From: Amber.JMD
Sent: Friday, October 20, 2006 5:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Victorville, CA

From: AmberAlert-DOJ
Sent: Friday, October 20, 2006 5:35:02 PM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; Broadcast@atf.gov;
ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Victorville, CA
Auto forwarded by a Rule

AMBER ALERT:Victorville,CA VEH:96 Whi 4D Hon Civic CA 3NVH204 TWO CHILDREN:1 Hisp/F, 3 Hisp/M COMP:Adu Hisp/F SUSP:Adu Hisp/M 5FT6 170LB Br/Bla CALL760-245-4211
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2562

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 6:40 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL CORRECTIONS OFFICER PLEADS GUILTY TO SEXUAL MISCONDUCT VIOLATIONS

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 20, 2006
WWW.USDOJ.GOV

CRT
(202) 514-2008
TDD (202) 514-1888

FEDERAL CORRECTIONS OFFICER PLEADS GUILTY TO SEXUAL MISCONDUCT VIOLATIONS

WASHINGTON – Former Bureau of Prisons Officer Ricky Bernard pleaded guilty today to a five-count information charging him with sexual abuse of a ward and abusive sexual contact with a ward stemming from sexual misconduct with three inmates at the Federal Prison Camp Bryan in Bryan, Texas. Bernard also pleaded guilty to making a false statement to a federal agency about the details of the sexual misconduct. Bernard faces up to eight years imprisonment and a fine of $460,000.

In documents filed in federal court today, Bernard admitted that on numerous occasions he had sexual contact with inmates under his supervision while on duty as a Bureau of Prisons officer in 2003 and 2004. Bernard also admitted that he subsequently lied about the sexual misconduct with inmates to federal law enforcement officers and in a sworn affidavit.

In announcing the guilty plea, Wan J, Kim, Assistant Attorney General for the Civil Rights Division, applauded the Criminal Section of the Civil Rights Division, and the Office of Inspector General (OIG) for jointly spearheading the federal investigation, including the assistance of the U.S. Attorney's Office for the Southern District of Texas.

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. Since fiscal year 2001, the Division has convicted 50 percent more defendants for excessive force and official misconduct than in the preceding six years.

Civil Rights Division attorneys Karima Maloney and Jennifer Dominguez and OIG Special Agent Monte Cason handled this matter for the Department.

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06-721

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 20, 2006 6:52 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 23 - OCTOBER 27, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, OCTOBER 20, 2006
WWW.USDOJ.GOV

OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 23 - OCTOBER 27, 2006

Monday, October 23

Events TBD

Tuesday, October 24

7:20 A.M. EDT Attorney General Alberto R. Gonzales will hold a joint press conference with the Attorney General of Spain, Cándido Conde-Pumpido.
Ministry of Justice
Madrid, Spain
OPEN PRESS

Press inquiries regarding logistics should be directed to Angela Williamson at (202) 532-5349.

Wednesday, October 25

11:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver a speech entitled, "The Rule of Law in the War on Terror" to the German Marshall Fund.
Atrium
Deutsche Bank
Unter den Linden 13-15
Berlin, Germany
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Beach at (202) 353-5929.

DOJ_NMG_ 0169753

Thursday, October 26

7:30 A.M. EDT Attorney General Alberto R. Gonzales will deliver opening remarks at the Cyber Crime Conference with the Minister of Justice of the Netherlands Ernst Hirsch Ballin.
Crown Plaza Hotel
Hague, Netherlands
OPEN PRESS (Only for Attorney General's portion of the program)

Press inquiries regarding logistics should be directed to Theresa Pagliocca at (202) 532-3486.

11:15 A.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in St. Louis.
FBI Joint Operations Center
2222 Market Street
St. Louis, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to Pete Krusing at (314) 231-4324.

3:30 P.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Oklahoma City.
3301 West Memorial Road
Oklahoma City, Oklahoma
OPEN PRESS

Press inquiries regarding logistics should be directed to Gary Johnson at (405) 290-7770.

6:30 P.M. EDT Solicitor General Paul D. Clement will give the keynote speech at the American Bar Association Administrative Law Section Dinner.
Crystal Room
Willard Intercontinental Hotel
1401 Pennsylvania Ave.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Gail Alexander-Wise of the American Bar Association at (202) 662-1095.

Friday, October 27

10:00 A.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in San Antonio.
615 East Houston Street
San Antonio, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Eric Vasys at (210) 225-6741.

DOJ_NMG_ 0169754

3:35 P.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Dallas.
One Justice Way
Dallas, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Bailey at (972) 559-5000.

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DOJ_NMG_ 0169755

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Image not available for this document, ID: 0.7.10316.22766-000002

Goodling, Monica

From: Goodling, Monica
Sent: Friday, October 20, 2006 7:50 PM
To: Gorsuch, Neil M
Subject: Not read: RE: OVW

Goodling, Monica

From: Goodling, Monica
Sent: Friday, October 20, 2006 7:50 PM
To: Gorsuch, Neil M
Subject: Not read: RE: OVW

Goodling, Monica

From: Goodling, Monica
Sent: Friday, October 20, 2006 7:59 PM
To: Gorsuch, Neil M
Subject: Not read: RE: Steelers Fans Unite! (And the Morning Update: 5/25/06)

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 22, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Columbia, SC

From: AmberAlert-DOJ
Sent: Sunday, October 22, 2006 12:35:02 PM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert (NDIC); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov;
Amber AlertUSPC; Amberalert USMS; AmberAlert OPA; AmberAlert USTP;
AmberAlert USNCB; AmberAlertCRM; BROADCAST; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Columbia, SC
Auto forwarded by a Rule

UPDATE AMBER ALERT:Columbia,SC CHILD:7 Black F 4' 0" 50 lbs Eyes:Brown Hair:Black CHILD:8 Black M 4'3 55 lbs Eyes:Brown Hair:Black CALL 803-545-3500
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2582

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

Amber.JMD

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Sent: Sunday, October 22, 2006 12:35 PM
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To: AmberAlert-DOJ; AmberAlert (NDIC); EOIR, AmberAlert (EOIR);
Yun, Jun B; Civ-Amber; COPSAmberAlert; BOP Amber Alert;
OIG, AmberAlert (OIG); tax, amber-alerts (TAX); CRT, amber-alerts (CRT);
ENRD, Amber-Alerts (ENRD); CRS, AmberAlert (CRS); Amber.JMD;
AmberAlert ATR; USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC;
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlertCRM; BROADCAST; ambertalert@dea.usdoj.gov;
USAEO-AmberAlert@usa.doj.gov; AmberAlert ATR; Amber AlertUSPC; Amber.JMD;
CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD);
CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG);
BOP Amber Alert; COPSAmberAlert; Amberalert USMS; AmberAlert OPA;
Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP;
AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; BROADCAST;
ambertalert@dea.usdoj.gov
Cc: Whitten, John; Wahl, Nicole; Caffey, Tina D; Garcia, Linda S;
Goodwin, Paul A; Dewey, Christopher R.; Dewey, Christopher R.;
Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John
Subject: [Amber Alert] AMBER Alert: Columbia, SC
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UPDATE AMBER ALERT:Columbia,SC CHILD:7 Black F 4' 0" 50 lbs Eyes:Brown Hair:Black CHILD:8 Black M 4'3 55 lbs Eyes:Brown Hair:Black CALL 803-545-3500
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2582

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!
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To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Columbia, SC

From: AmberAlert-DOJ
Sent: Sunday, October 22, 2006 12:35:02 PM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
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tax, amber-alerts (TAX); OIG, AmberAlert (OIG); BOP Amber Alert;
COPSAmberAlert; Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR);
AmberAlert (NDIC); AmberAlert-DOJ; USAEO-AmberAlert@usa.doj.gov;
Amber AlertUSPC; Amberalert USMS; AmberAlert OPA; AmberAlert USTP;
AmberAlert USNCB; AmberAlertCRM; BROADCAST; ambertalert@dea.usdoj.gov;
USAEO-AmberAlert@usa.doj.gov; AmberAlert ATR; Amber AlertUSPC; Amber.JMD;
CRS, AmberAlert (CRS); ENRD, Amber-Alerts (ENRD);
CRT, amber-alerts (CRT); tax, amber-alerts (TAX); OIG, AmberAlert (OIG);
BOP Amber Alert; COPSAmberAlert; Amberalert USMS; AmberAlert OPA;
Civ-Amber; Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert USTP;
AmberAlert USNCB; AmberAlert (NDIC); AmberAlertCRM; BROADCAST;
ambertalert@dea.usdoj.gov; USAEO-AmberAlert@usa.doj.gov; AmberAlert ATR;
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Whitten, John; Dewey, Christopher R.; Dewey, Christopher R.;
Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.; Goodwin, Paul A; Garcia, Linda S;
Caffey, Tina D; Wahl, Nicole; Whitten, John
Subject: [Amber Alert] AMBER Alert: Columbia, SC
Auto forwarded by a Rule

UPDATE AMBER ALERT:Columbia,SC CHILD:7 Black F 4' 0" 50 lbs Eyes:Brown Hair:Black CHILD:8 Black M 4'3 55 lbs Eyes:Brown Hair:Black CALL 803-545-3500
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http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2582

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Amber.JMD

From: Amber.JMD
Sent: Sunday, October 22, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Columbia, SC

From: AmberAlert-DOJ
Sent: Sunday, October 22, 2006 12:35:02 PM
To: AmberAlert-DOJ; AmberAlert (NDIC); EOIR, AmberAlert (EOIR);
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From: USDOJ- Office of Public Affairs
Sent: Monday, October 23, 2006 10:00 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR MONDAY, OCTOBER 23, 2006

Department of Justice

PRESS GUIDANCE
Monday, October 23, 2006

ATTORNEY GENERAL

No public events.

PRESS RELEASES

The Civil Division will issue a release on a false claims matter. (Miller)

The Criminal Division will issue a release on the 1:00 P.M. CDT sentencing of Jeffrey K. Skilling in Houston. (Sierra)

EVENTS/HEARINGS

No scheduled events or hearings.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169766

Image not available for this document, ID: 0.7.10316.22407-000001

Image not available for this document, ID: 0.7.10316.22407-000002

Amber.JMD

From: Amber.JMD
Sent: Sunday, October 22, 2006 12:35 PM
To: All JMD Employees; All SMO Employees
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From: AmberAlert-DOJ
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JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 23, 2006 10:29 AM
Subject: JCON BROADCAST, WEEK OF OCTOBER 23, 2006

JCON BROADCAST, WEEK OF OCTOBER 23, 2006

1. **Flu Shots for 2006/2007 Flu Season**
2. **Federal Employees Health Benefits Open Season**
3. **Research Classes Offered by Library Staff**

Flu Shots for 2006/2007 Flu Season

Flu shots will be available ***free of charge*** to Department employees as scheduled in each of the health units listed at: http://10.173.2.12/your_health/flu2006.php.

The Centers for Disease Control (CDC) recommends that people in the priority (high-risk) groups listed below receive a flu shot:

- Persons 65 years of age and older.
- Persons aged 2-64 years with underlying chronic medical conditions.
- All women who will be pregnant during the influenza season.
- All children ages 6 months to 23 months.
- Health-care workers involved in direct patient care.
- Out-of-home caregivers and household contacts of children less than 6 months.
- Residents of nursing homes and long-term care facilities.

High Risk Individuals will be issued vaccines beginning Monday, October 23 through Friday, October 27, 2006. Flu shots will be open to all other DOJ employees beginning Monday, October 30, 2006.

Note: Women who are pregnant or breastfeeding must have a written statement from their Private Medical Physician to take the vaccine. A consent form can be obtained on line at the link above. If you are unsure if you are high-risk, contact your physician or the Registered Nurse in your designated health unit.

To receive a flu shot, employees MUST go to their designated health unit (see schedule) and MUST present their DOJ employee badge.

Additional information about the flu and vaccines are available at the link above and at: http://www.cdc.gov/flu/keyfacts.htm.

Federal Employees Health Benefits Open Season

The Federal Employees Health Benefits (FEHB) open season will run from November 13, 2006, through December 11, 2006. During this time period, you have the option to make changes to your current plan or switch to another plan. Changes to your FEHB should be made through Employee Self Service (ESS). If you do not have access to ESS or need assistance, please contact your servicing personnel office. All transactions must be completed by close of business, December 11, 2006. Changes that are made during this 2006 Open Season period are effective January 7, 2007 (the first day of the first full pay period of the new year).

The DOJ Federal Employees Health Fair will be held from 9:00 a.m. to 3:00 p.m., Wednesday, November 8, 2006, in Room 1160 of the National Place Building, 1331 Pennsylvania Avenue, NW, Washington, DC. Please plan to attend the fair to meet the carriers from the various health plans to discuss their benefits for 2007. You may locate the premium rates for 2007 on the Office of Personnel Management's website. To access the premium rates, please click on the following link: http://www.opm.gov/insure/health/07rates/2007non_postal.pdf.

Also, during the upcoming FEHB 2007 Open Season, eligible employees can enroll in the Flexible Spending Accounts (FSAFEDS) program. FSAFEDS allows you to set aside money before taxes to pay for a wide range of health care and dependent care expenses. By using these pre-tax dollars to pay for eligible expenses, you get a substantial discount on services that you would probably pay for any way – health plan deductibles and co-pays, vision and dental care including orthodontia, childcare, elder care and much more. You can save 20 – 40 percent on these expenses, depending upon your tax situation.

FSAFEDS elections must be made annually during the FEHB Open Season. Even if you enrolled during last year's open season, you must make a new election to continue participating in 2007. You can find useful information about FSAFEDS on its website, www.fsafeds.com. FSAFEDS representatives will be available during Open Season (November 13 – December 11, 2006) to answer your questions. They may be reached at 1-877-FSAFEDS (1-877-372-3337) Monday through Friday from 9:00 a.m. until 9:00 p.m., Eastern Time. (TTY line: 1-800-952-0450.)

Last but not least – during the upcoming FEHB 2007 Open Season, eligible employees can enroll in the new Federal Employees Dental and Vision Insurance Program (FEDVIP). FEDVIP will allow individuals to sign up for supplemental dental and vision benefits. There are no pre-existing condition limitations. Premiums for enrolled Federal and Postal employees will be withheld from salary on a pre-tax basis. There is no Federal government contribution. Coverage will be effective December 31, 2006.

The following insurance carriers will offer supplemental dental and vision benefits under FEDVIP: Aetna Life Insurance Company, Government Employees Hospital Association, Inc. (GEHA), MetLife Inc., United Concordia Companies, Inc., Group Health, Inc.,

CompBenefits, and Triple-S, Inc. will offer dental benefits. BlueCross BlueShield Association, Spectera, Inc., and Vision Service Plan (VSP) will offer vision benefits.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

Amber.JMD

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 23, 2006 2:57 PM
To: USDOJ- Office of Public Affairs
Subject: TWO DEFENDANTS PLEAD GUILTY IN COCA-COLA TRADE SECRETS CASE

Department of Justice

United States Attorney David E. Nahmias
Northern District of Georgia

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 23, 2006
WWW.USDOJ.GOV/USAO/GAN

CONTACT: PATRICK CROSBY
PHONE: (404) 581-6016
FAX: (404) 581-6160

TWO DEFENDANTS PLEAD GUILTY IN COCA-COLA TRADE SECRETS CASE

ATLANTA – Ibrahim Dimson, 30, of Bronx, N.Y., and Edmund Duhaney, 43, of Decatur, Ga., pleaded guilty today in federal district court to a charge of conspiring with each other and another defendant, Joya Williams, to steal and sell The Coca-Cola Company's trade secrets, U.S. Attorney David E. Nahmias of the Northern District of Georgia announced today.

"Economic espionage should be treated very seriously," stated U.S. Attorney Nahmias. "Maintaining the incentives to create new and innovative products and allowing the innovators to reap the benefits of their inventions are critical to the growth of our economy. Those who try to cheat by taking advantage of others' hard work and creativity will face prosecution and prison."

According to U.S. Attorney Nahmias and the information presented in court, on May 19, 2006, PepsiCo provided to The Coca-Cola Company's headquarters in Atlanta a copy of a letter mailed to PepsiCo in Purchase, N.Y., in an official Coca-Cola business envelope. The letter, postmarked from the Bronx, N.Y., was from an individual identifying himself as "Dirk," who claimed to be employed at a high level with Coca-Cola and offered "very detailed and confidential information." Coca-Cola immediately contacted the FBI and an undercover FBI investigation began. FBI investigation determined that "Dirk" was defendant Dimson.

Phone records and further investigation showed the alleged source of the information was Joya Williams, an Executive Administrative Assistant at Coca-Cola in Atlanta, who had access to some of the information and materials described by "Dirk." As the investigation progressed, "Dirk" provided to a FBI undercover agent 14 pages of Coca-Cola documents named "Classified - Confidential" and "CLASSIFIED - Highly Restricted," and the company confirmed that these documents were valid, highly confidential and considered highly classified proprietary information--trade secrets. Almost immediately, "Dirk" requested $10,000 for the documents sent as proof, emailing, in part, "I must see some type of seriousness on there [sic] part, if I'm to maintain the faith to

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continue with you guys, or if I need to look towards another entity that will be interested in a relationship with me. I have the capability of obtaining information per request. I have information that's all Classified and extremely confidential, that only a handful of the top execs at my company have seen. I can even provide actual products and packaging of certain products, that no eye has seen, outside of maybe 5 top execs. I need to know today, if I have a serious partner or not. If the good faith moneys is in my account by Monday, that will be an indication of your seriousness."

Later "Dirk" produced other documents that Coca-Cola confirmed were valid trade secrets of Coca-Cola and highly confidential, and he was to receive $5,000 for the documents as good faith money for additional purchases. "Dirk" also agreed to an amount of $75,000 for the purchase of a highly confidential product sample from a new Coca-Cola project.

On June 16, 2006, a FBI undercover agent met with Dimson ("Dirk") at Hartsfield-Jackson International Airport, with "Dirk" providing a brown Armani Exchange bag containing one manila envelope with documents marked "highly confidential" and one glass bottle with a white label containing a liquid product sample. The undercover agent paid "Dirk" $30,000 in $100 and $50 bills of U.S. currency contained within a yellow Girl Scout cookie box with the agreement that after successful testing of the product sample, an additional $45,000 would be paid. After leaving, Dimson met in a rental car with Duhaney and they drove to Duhaney's home in Decatur. Call records showed that Duhaney was in contact with Dimson and Williams on that day.

On June 27, 2006, an undercover FBI agent offered to buy the remaining trade secret items for $1.5 million from "Dirk." The same day a bank account was opened under the names of Duhaney and Dimson ("Dirk"), and the address used on the account was that of Duhaney's Decatur residence. The purpose of the account was to facilitate the transfer of the $1.5 million. Dimson, Duhaney and Williams were arrested in Atlanta on the day the $1.5 million deal was to take place.

The defendants were indicted in July of 2006 on one count of conspiring to steal and to sell trade secrets. Dimson and Duhaney pleaded guilty today to that charge. Each could receive a maximum sentence of 10 years in prison and a fine of up to $250,000.

Defendant Joya Williams has entered a plea of not guilty and is awaiting trial, which is currently set to begin on Nov. 13, 2006. She has filed a motion to continue the trial, but the court has yet to rule on that motion.

Sentencing for Dimson and Duhaney is scheduled for Jan. 29, 2007, before Senior U.S. District Judge J. Owen Forrester. This case is being investigated by special agents of the FBI. Assistant U.S. Attorneys BJay Pak and Randy S. Chartash are prosecuting the case.

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Image not available for this document, ID: 0.7.10316.22372-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 23, 2006 3:09 PM
To: USDOJ- Office of Public Affairs
Subject: MEDCO TO PAY U.S. $155 MILLION TO SETTLE FALSE CLAIMS ACT CASES

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 23, 2006
WWW.USDOJ.GOV

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

MEDCO TO PAY U.S. $155 MILLION TO SETTLE FALSE CLAIMS ACT CASES

WASHINGTON – Medco Health Solutions has agreed to pay the United States $155 million plus interest to settle allegations that the Parsippany, N.J.-based company submitted false claims to the government, solicited and accepted kickbacks from pharmaceutical manufacturers to favor their drugs, and paid kickbacks to health plans to obtain business, the Justice Department announced today. Medco, the nation's second largest pharmacy benefit management company, manages the prescription drug benefits of over 60 million Americans, including millions of Medicare beneficiaries.

The United States intervened in two *qui tam* or whistleblower cases filed by George Bradford Hunt and Walter W. Gauger in 1999, and by Joseph Piacentile, M.D. in 2000. Both cases were later consolidated.

The government's complaint alleged that Medco submitted false claims for mail order prescription drug services it was required by contract to provide to millions of federal employees, retirees and their families under the Federal Employee Health Benefits Program. Additionally, it is alleged that the company cancelled valid prescriptions it could not timely fill in order to avoid paying penalties under its contract; shorted pills from prescriptions it filled; failed to conduct concurrent drug utilization review for all prescriptions in order to identify potential adverse drug interactions; and, when filling prescriptions, used drugs other than those prescribed by the physician to earn undisclosed rebates from drug manufacturers.

The government complaint also alleged that the company violated the Anti-Kickback Act by soliciting and accepting payments from pharmaceutical companies to favor their products on Medco's published list of drugs, and by paying kickbacks to induce health plans to award contracts to provide the mail order pharmacy benefits for plan beneficiaries.

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The settlement also resolves the government's claims against former Medco Vice-President Diane Collins, who managed the Medco mail order pharmacy in Tampa, Fla. Thecomplaint alleged that Collins had cancelled, and had instructed others to cancel, valid patient prescriptions to cover up Medco's failure to fill patient prescriptions in the time required by the contract. As part of the settlement, the relators in the consolidated case will receive $23 million as their share of the government's recovery, plus payment by Medco for their attorneys' fees and costs.

Medco also agreed to settle a second *qui tam* action filed in 2003 by Karl S. Schumann, another former Medco employee, alleging kickbacks by pharmaceutical manufacturers to Medco. Mr. Schumann will receive $860,000 as his share of the government's recovery, plus payment by Medco for his attorneys' fees and costs. The United States and Medco also have settled a separate investigation by the United States Attorney's Office in Philadelphia, initiated in 2004, into false claims to the Medicare program.

"Millions of federal employees and Medicare beneficiaries rely on pharmacy benefit managers for their prescription drugs," said Peter D. Keisler, Assistant Attorney General for the Justice Department's Civil Division. "Hidden financial agreements with drug manufacturers and health plans can influence which drugs patients receive, the price we all pay for drugs, and whether pharmacists serve patients with their undivided professional judgment."

As a condition of continued participation in government health programs, the United States required that Medco enter into a corporate compliance agreement with the Office of Inspector General, Department of Health and Human Services; and with the Office of Inspector General of the Office of Personnel Management.

"Pharmacy benefit managers are ultimately accountable to their patients and these agreements increase that level of accountability," said U.S. Attorney for the Eastern District of Pennsylvania, Patrick Meehan. "Pressure by an employer to reduce costs and increase profits must never be allowed to coerce pharmacists into ignoring their duties to patients."

The case was handled by the Civil Division and U.S. Attorney's Office for the Eastern District of Pennsylvania within the Department of Justice, the Office of the Inspector General of the Department of Health and Human Services, the Office of Personnel Management, and the Defense Criminal Investigative Service.

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 23, 2006 5:08 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER ENRON CHIEF EXECUTIVE OFFICER JEFFREY SKILLING SENTENCED TO MORE THAN 24 YEARS IN PRISON ON FRAUD, CONSPIRACY CHARGES

A copy of the civil complaint and affidavit is attached.

Department of Justice

FOR IMMEDIATE RELEASE — CRM
MONDAY, OCTOBER 23, 2006 — (202) 514-2008
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FORMER ENRON CHIEF EXECUTIVE OFFICER JEFFREY SKILLING SENTENCED TO MORE THAN 24 YEARS IN PRISON ON FRAUD, CONSPIRACY CHARGES

WASHINGTON – Former Enron Chief Executive Officer Jeffrey K. Skilling has been sentenced to 24 years and four months in prison on conspiracy, securities fraud and other charges related to the collapse of the Enron Corporation, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

In addition to the prison sentence, Skilling, 52, was ordered to forfeit approximately $45 million to be applied towards restitution for the victims of the fraud at Enron. Skilling was sentenced today before U.S. District Judge Sim Lake, at the U.S. District Court in Houston. He was convicted by a federal jury in Houston on May 25, 2006 of 12 counts of securities fraud, one count of insider trading, conspiracy and five counts of making false statements to auditors. Lay's co-defendant at trial, former Enron CEO Kenneth Lay, was also convicted after 56 days of trial and jury deliberations on conspiracy, securities fraud and wire fraud charges.

The convictions stemmed from a wide-ranging scheme that Lay, Skilling and other Enron executives engaged in at various times between at least 1999 and 2001, to deceive the investing public, the U.S. Securities and Exchange Commission and others about the true performance of Enron's businesses. The scheme was designed to make it appear that Enron was growing at a healthy and predictable rate, consistent with analysts' published expectations, that Enron did not have significant write-offs or debt and was worthy of investment-grade credit rating, that Enron was comprised of a number of successful business units, and that the company had an appropriate cash flow. It had the effect of inflating artificially Enron's stock price, which increased from approximately $30 per share in early 1998 to over $80 per share in January 2001, and artificially stemming the decline of the stock during the first three quarters of 2001.

The fraud scheme eventually unraveled and Enron filed for bankruptcy in December 2001, making its stock virtually worthless. The company's collapse cost investors billions of dollars, and thousands of workers lost their jobs.

"Today's sentence is a measure of justice for the thousands of people who lost their jobs and millions of dollars in investments when Enron collapsed under the weight of the fraud perpetrated by the company's top

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executives," said Assistant Attorney General Fisher. "Jeffrey Skilling will now spend more than 24 years in prison for committing one of the largest frauds in the history of corporate America. His conviction is the result of nearly five years of hard work and dedication by the prosecutors and investigators on the Enron Task Force, whose tireless efforts demonstrate the finest qualities of public service."

"The sentencing of Jeffrey Skilling today puts an exclamation point on many years of hard work by the Enron Task Force and reiterates the FBI's commitment to address corporate fraud, no matter how long it takes," said FBI Assistant Director Chip Burrus. "Corporate crooks should beware, if you decide to use business coffers as your personal piggy bank at the expense of investors and employees, you risk loss of personal freedom."

Kenneth Lay died on July 5, 2006, and his conviction was voided by a federal judge earlier this month. The government announced today that it is filing a civil forfeiture action to recover property that constitutes proceeds of the fraud proven in the criminal case against Lay. The civil complaint seeks to forfeit Lay's condominium in Houston, property associated with a Lay family investment partnership, and a bank account with more than $22,000 – all proceeds obtained directly or indirectly as a result of various federal crimes, including securities fraud, wire fraud and conspiracy to commit securities fraud.

The investigation into Enron's collapse was conducted by the Enron Task Force, a team of federal prosecutors supervised by the Justice Department's Criminal Division and Special Agents from the FBI and IRS Criminal Investigation. The Task Force received considerable assistance from the Securities and Exchange Commission. Following today's sentencing, all outstanding matters being handled by the Enron Task Force will be referred to the Fraud Section of the Criminal Division at the U.S. Department of Justice.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
2121 KIRBY DRIVE, UNIT 33, HOUSTON, TX,	)	Civil Case No.
	)	
ASSETS OF KLL & LPL INVESTMENTS, LTD.,	)	
	)	
$22,680 located in BANK OF AMERICA ACCOUNT No. 0026-6253-0707	)	
	)	
Defendants.	)	

AFFIDAVIT IN SUPPORT OF VERIFIED COMPLAINT FOR FORFEITURE

I, Chad Nunez, being duly sworn, depose and say:

1. I am a Special Agent with the Federal Bureau of Investigation and have been so employed since March 1997. In January 2002, I was assigned to the Enron Task Force in Houston, Texas, and have participated since then in an investigation into the circumstances surrounding the financial collapse of the Enron Corp. ("Enron"). Prior to that, I was assigned to the El Paso Field Division of the Federal Bureau of Investigation, where I conducted numerous investigations into various types of fraud, including fraud against the government, mail fraud, wire fraud, and money laundering, with a particular emphasis on tracing assets derived from criminal activity for potential seizure and forfeiture purposes.

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2. The Superseding Indictment in United States v. Jeffrey K. Skilling and Richard A. Causey, Criminal Case No. H-04-25, which is contained herein as Attachment A to the Complaint, set forth probable cause to believe that officials at Enron, including, KENNETH L. LAY ("Lay") committed, inter alia, conspiracy to commit wire and securities fraud, in violation of Title 18, United States Code, Section 371, and wire fraud and securities fraud, in violation of Title 18, United State Code, Sections 1343, and Title 15, United States Code, Sections 78j(b), 78ff and 17 C.F.R. 240.10b-5. Following his trial and conviction in the criminal matter, Lay died, necessitating the filing of a civil action to effect forfeiture of traceable criminal proceeds to compensate the victims of the fraud at Enron.

3. This affidavit details the criminal activity at Enron, including certain money laundering activity of Lay not addressed in the criminal proceedings, setting forth probable cause to believe that Lay was involved in the criminal activity. As set forth below, there is probable cause to believe that the defendant Bank of America funds in account No. 0026-6253-0707, and investment partnership property are derived from proceeds traceable to fraud in the sale of securities in violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, and conspiracy to commit securities fraud under 18 U.S.C. § 371, and are therefore subject to forfeiture under 18 U.S.C. § 981(a)(1)(C). In addition, there is probable cause to believe that the defendant investment partnership property was involved in money laundering in violation of 18 U.S.C. § 1957, and is therefore subject to civil forfeiture under 18 U.S.C. § 981(a)(1)(A). So too, there is probable cause to believe that the defendant real property was involved in money laundering in violation of 18 U.S.C. § 1957, and is therefore subject to civil forfeiture under 18 U.S.C. § 981(a)(1)(A).

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I. THE CONSPIRACY AT ENRON

A. Background

4. Enron Corp. ("Enron") was an Oregon corporation with its headquarters in Houston, Texas. Among other businesses, Enron was engaged in the purchase and sale of natural gas and power, construction and ownership of pipelines, power facilities and energy-related businesses, provision of telecommunications services, and trading in contracts to buy and sell various commodities. Before it filed for bankruptcy on December 2, 2001, Enron was the seventh largest corporation in the United States.

5. Enron was a publicly traded company whose shares were listed on the New York Stock Exchange and were bought, held, and sold by individuals and entities throughout the United States and the world. Enron and its directors, officers, and employees were required to comply with regulations of the United States Securities and Exchange Commission ("SEC"). Those regulations protect members of the investing public by, among other things, requiring that a company's financial information is fully and accurately recorded and fairly presented to the public. The regulations require, among other things, that a company submit filings to the SEC in Washington, D.C. that include fair and accurate financial statements and management discussion and analysis of a company's business.

6. The price of Enron's stock was influenced by factors such as Enron's reported revenue, earnings, debt, cash flow, and credit rating, as well as its growth potential and consistent ability to meet revenue and earnings targets and forecasts. Enron executives provided guidance to the investing public regarding anticipated revenue, earnings for upcoming reporting periods, and other information regarding Enron's business activity. Such guidance was

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communicated in presentations and conference calls to securities analysts and in other public statements by Enron executives. Relying in part on the company's guidance, securities analysts disseminated to the public their own estimates of the company's expected performance. These earnings estimates, or analysts' expectations, were closely followed by investors. Typically, if a company announced earnings that failed to meet or exceed analysts' expectations, the price of the company's stock declined.

7. It was also critical to Enron's ongoing business operations that it maintain an investment grade rating for its debt, which was rated by national credit rating agencies. An investment grade rating was essential to Enron's ability to enter into trading contracts with its counterparties and to maintain sufficient lines of credit with major banks. In order to maintain an investment grade rating, Enron executives were required to demonstrate that its financial condition was stable and that the risk that Enron would not repay its debts and other financial obligations was low. The credit rating agencies relied on, among other things, Enron's public filings, including its financial statements filed with the SEC, in rating Enron's debt. In addition, members of Enron's senior management spoke regularly with, and provided financial and other information to, representatives of credit rating agencies. Two primary factors influencing Enron's credit rating and the willingness of banks to extend loans to Enron were Enron's total amount of debt and other obligations and its cash flow.

8. As detailed below and proven at trial in United States v. Causey, et al., 04-25 (S.D. Tex.), there was a wide-ranging scheme to deceive the investing public, including Enron's shareholders, the SEC, and others, about the true performance of Enron's businesses by: (a) manipulating Enron's publicly reported financial results; and (b) making public statements and

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representations about Enron's financial performance and results that were false and misleading in that they did not fairly and accurately reflect Enron's actual financial condition and performance, and they omitted to disclose facts necessary to make those statements and representations fair and accurate.

9. Lay was named Chief Executive Officer ("CEO") and Chairman of the Board of Directors (the "board") of Enron upon its formation in 1986. Lay held both of these positions until February 2001, when he stepped down as CEO and continued as Chairman, and Jeffrey Skilling ("Skilling") became the CEO. On August 14, 2001, Skilling abruptly resigned from Enron and Lay resumed his position as Enron's CEO while remaining Chairman.

10. Lay oversaw the operations of Enron's numerous business units. As CEO, Lay was responsible for supervising the activities of each of Enron's business units and the heads of those business units, as well as the activities of the senior Enron managers who conducted the company's financial and accounting activities. Lay and Skilling held weekly management meetings with the leaders of Enron's business units to review, among other things, the company's budget and operating performance.

11. Lay and Skilling also routinely provided guidance and information concerning the company's performance to securities analysts, as well as to Enron's employees and the public. Indeed, Lay and Skilling served as Enron's principal spokespersons with the investing public. Lay also reviewed and approved proposed press releases concerning Enron, and signed Enron's annual reports filed on Form 10-K with the SEC.

12. As Chairman, Lay was responsible for presiding over meetings of the Board and assisting in developing the agenda for Board meetings. Among other things, the Board

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periodically reviewed Enron's operations, financial results, proposed transactions and executive compensation. Lay and Skilling also attended meetings of the Board's committees, including the Finance Committee and the Audit and Compliance Committee. According to its charter, the Finance Committee served as a "monitor for the Company's financial activities" and reviewed and approved the company's significant financings, debt levels, and performance of portfolio assets, among other things.

13. Lay had numerous co-conspirators, including, but not limited to: Skilling, who, along with Lay as CEO was responsible for supervising the activities of each of Enron's business units and the heads of those business units, as well as the activities of the senior Enron managers who conducted the company's financial and accounting activities; Richard Causey, Enron's Chief Accounting Officer ("CAO"), and reported to Lay and Skilling; Andrew Fastow, Enron's Chief Financial Officer ("CFO"), who supervised such matters as Enron's structured finance, cash flow, and debt management activities; Ben Glisan, Enron's Treasurer, who also assisted in supervising Enron's structured finance, cash flow and debt management activities; David W. Delainey, the CEO of two Enron business units -- Enron North America ("ENA") and Enron Energy Services ("EES") -- who supervised large portions of Enron's wholesale energy business and, later, its retail energy business; Wesley Colwell, the CAO of ENA, who managed the accounting for Enron's wholesale energy business; Michael Kopper, a Managing Director in Enron's Global Finance group, who conducted structured finance activities for Enron and assisted in running important Enron off-balance sheet vehicles; as well as others.

B. <u>Lay's Proceeds from the Criminal Conspiracy</u>

14. The co-conspirators enriched themselves as a result of the scheme through salary,

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bonuses, grants of stock and stock options, other profits, and prestige within their professions and communities.

15. In addition, during the relevant time frame from the first quarter of 2001 until Enron filed for bankruptcy protection in December 2001, Lay enriched himself by selling Enron stock worth approximately $11.589 million; selling an additional $66.025 million in Enron stock to pay down his Enron line of credit (a line of credit on which he never paid down an additional $7.5 million in borrowings); and receiving a $10 million bonus for re-assuming the CEO position at Enron following the departure of Jeffrey Skilling. His family investment partnership, of which he was the managing partner, also sold stock during this time frame that yielded $3.957 million in gross proceeds.

C. <u>Overview of Scheme to Defraud</u>

16. In or about and between the first quarter 2001 and December 2001, both dates being approximate and inclusive, within the Southern District of Texas and elsewhere, Lay and others, did knowingly and intentionally conspire (1) to willfully and unlawfully use and employ manipulative and deceptive contrivances and directly and indirectly (i) to employ devices, schemes and artifices to defraud; (ii) to make untrue statements of material fact and omit to state facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) to engage in acts, practices, and courses of conduct which would and did operate as a fraud and deceit upon members of the investing public, in connection with the purchase and sale of Enron securities and by use of the instruments of communication in interstate commerce and the mails, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff and Rule 10b-5 of the SEC, Title 17, Code of Federal

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Regulations, Section 240.10b-5. The conspiratorial acts violated 18 U.S.C. § 371.

17. Skilling spearheaded the scheme until his sudden departure in August 2001, at which point Lay took over leadership of the conspiracy. Due to the efforts of the co-conspirators, the financial appearance of Enron presented to the investing public concealed the true state of Enron. Enron's publicly reported financial results and filings and its public descriptions of itself, including in public statements made by and with the knowledge of Lay and others, did not truthfully present Enron's financial position, results from operations, and cash flow of the company and omitted facts necessary to make the disclosures and statements that were made truthful and not misleading. The misleading portrayal of Enron's financial condition supported Enron's stock price and its credit rating.

18. The conspiracy's objectives included:

- reporting recurring earnings that falsely appeared to grow smoothly by approximately 15 to 20 percent annually and thus create the illusion that Enron met or exceeded the published expectations of securities analysts forecasting Enron's reported earnings-per-share and other results;
- touting falsely the success of Enron's business units;
- concealing large losses, "write-downs," and other negative information concerning its business units;
- masking the true magnitude of debt and other obligations required to keep the company's varied and often unsuccessful business ventures afloat;
- deceiving credit rating agencies in order to maintain an investment-grade credit rating; and
- artificially inflating the share price of Enron's stock, including attempting to stem the decline of Enron's share price in 2001.

19. For a significant time, the scheme to support artificially the share price of Enron's stock succeeded. In early 1998, Enron's stock traded at approximately $30 per share. By

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January 2001, even after a 1999 stock split, Enron's stock had risen to over $80 per share. Until the scheme unraveled in late 2001, Enron maintained an investment grade credit rating.

20. On August 14, 2001, Skilling resigned from Enron. Enron's stock price, which had been declining since January 2001, fell sharply. Lay resumed his position as CEO of the company, intensified his oversight of Enron's day-to-day operations, and took control of the conspiracy. For a time, the conspirators were able to forestall even greater declines in the price of Enron stock by various levers, until mid-October when the scheme started to unravel and Enron ultimately filed for bankruptcy in December 2001.

21. During the last two weeks of August 2001 and the first week of September 2001, Lay was briefed by numerous Enron employees on Enron's mounting and undisclosed financial and operational problems, including several billion dollars of losses embedded in Enron's assets and business units. As a result of these and other issues confronting Enron, Lay and others privately considered a range of potential solutions, including mergers, restructurings, and even divestiture of Enron's pipelines, assets that Lay considered to be the crown jewels of the company.

22. Throughout the remainder of September 2001, Lay and others engaged in a series of high-level meetings to discuss the growing financial crisis at Enron and the likely impact on Enron's credit rating. Among other things, as Lay knew, the total amount of losses embedded in Enron's assets and business units was, at a minimum, $7 billion. Lay also learned that Enron's auditors had changed their position concerning the accounting treatment of four off-balance sheet vehicles called the Raptors, which required Enron to determine in short order whether an acceptable alternative methodology existed or whether, instead, Enron would have to restate its

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earnings and admit the error.

23. In the weeks leading up to Enron's third quarter earnings release on October 16, 2001, the conspirators determined that Enron could not publicly report a loss in excess of $1 billion without triggering negative action by Enron's credit rating agencies. Lay thus artificially capped Enron's losses at that amount, by among other things, making false statements to Enron's auditors in order to avoid disclosure of additional write-downs. On October 16, 2001, when Enron announced losses of approximately $1 billion, Lay sought to minimize the import of the reported losses and continued to make false and misleading statements to the market about Enron's financial health.

24. From this juncture, the scheme rapidly unraveled. On October 22, 2001, Enron announced that it was the subject of an SEC investigation. By October 23, 2001, Lay had authorized Enron to enter into merger discussions with its far smaller rival, Dynegy Inc. ("Dynegy"). On October 25, 2001, Lay authorized Enron to use the remaining $3 billion from its corporate lines of credit. On October 29 and November 1, 2001, the two leading credit rating agencies downgraded Enron's credit rating. On November 8, 2001, Enron announced its intention to restate its publicly reported financial statements for 1997 through 2000 and the first and second quarters of 2001 to reduce previously reported net income by an aggregate of $586 million. The next day, Enron and Dynegy announced a merger agreement. On November 28, 2001, Enron's credit rating was further downgraded to "junk" status and Dynegy announced its withdrawal from the merger agreement. And on December 2, 2001, Enron filed for bankruptcy, making its stock, which less than a year earlier had been trading at over $80 per share, virtually worthless.

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D. Devices Employed in Furtherance of Scheme

25. At various times, the co-conspirators presented Enron's financial results, which had been engineered to appear far more successful than they actually were, in a false and misleading manner to the investing public through, among other things, conferences with securities analysts and rating agencies, press releases, media statements, and SEC filings.

26. The co-conspirators used and caused to be used secret oral side-deals, back-dated documents, disguised debt, material omissions, and outright false statements to further the scheme. The conspirators employed the following devices in furtherance of the fraudulent scheme:

- structuring financial transactions in a misleading manner in order to achieve earnings and cash flow objectives, avoid booking large losses in asset values, and conceal debt, including through the fraudulent use of purported third-party entities that in fact were not independent from Enron;
- manufacturing earnings and artificially improving Enron's balance sheet through fraudulent overvaluation of assets;
- fraudulently circumventing accounting standards applicable to the sale of financial assets in order to conceal the amount of Enron's debt and to create the false appearance of greater earnings and cash flow;
- concealing large losses and failures in Enron's two highly-touted new businesses, Enron Broadband Services ("EBS") and EES;
- manipulating earnings through fraudulent use of reserve accounts to mask volatility in Enron's wholesale energy trading earnings and use those reserves later in order to appear to achieve budget targets;
- fraudulently circumventing accounting standards applicable to the disclosure and recognition of impairments to goodwill; and
- making false and misleading statements, and omissions of facts necessary to make statements not misleading, about Enron's financial condition.

E. Concealing EES Failures

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27. In presentations to the investing public, the conspirators emphasized the performance and potential of EES as a major reason for past and projected increases in the value of Enron's stock. In order to enable EES to appear successful, the conspirators concealed EES' massive losses by fraudulently manipulating Enron's "business segment reporting," portraying EES as an unblemished success, and misrepresenting the performance of EES under various performance assessment measures.

28. EES was a struggling business unit with severe financial and structural problems. Enron executives nonetheless made materially misleading statements and failed to disclose material information about the true financial state of EES.

29. Enron executives furthermore manipulated EES's financial position through a reorganization designed to conceal the existence and magnitude of EES's business failure. Large portions of EES's business – which otherwise would have to report hundreds of millions of dollars in losses – were moved into another Enron business unit, Enron Wholesale. Enron Wholesale was capable of hiding these losses because it housed most of the company's wholesale energy trading profits. In spite of his knowledge of this action, at various times Lay claimed publicly that EES was continuing to perform successfully and failed to disclose that hundreds of millions in EES losses had been shifted to Enron Wholesale.

F. <u>Fraudulently Circumventing Goodwill Impairment Accounting Standards</u>

30. In the third quarter of 2001, the conspirators fraudulently circumvented the accounting standards with respect to "goodwill." The goodwill value of a company is generally the difference between the cost of an acquired entity and the recorded value of the entity's net assets. In or about June 2001, a new accounting rule, known as FAS 142, eliminated the ability

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to amortize goodwill impairments over a 40-year span, effective January 2002. Lay undertook to determine the impact of the new goodwill rule on Enron for the purpose of disclosing in Enron's third quarter 2001 results that the rule would not adversely effect Enron's financial results.

31. Enron owned direct and indirect interests in Wessex Water Services ("Wessex"), a United Kingdom-based water company that Enron had purchased in 1998 as part of a strategic initiative to establish a large international water business called Azurix. By October 2000, Enron executives, including Lay, recognized that Enron's water growth strategy had failed. In early 2001, Enron announced that the water business was not one of its "core businesses" and began the process of selling water-related assets. In the third quarter of 2001, as Lay knew, Enron's internal accountants had determined that the amount of goodwill attributable to Wessex was approximately $700 million. As Lay also knew, Enron's internal accountants also determined that Enron would have to disclose the impact on Enron of a Wessex goodwill impairment unless Enron was able to assert that Wessex would once again pursue a water growth strategy backed by Enron. Enron's internal accountants estimated that pursuing such a strategy would require Enron to expend between $1.5 and $28 billion.

32. Lay knew that Enron neither intended to pursue nor had the capital necessary to support a water growth strategy. Lay also knew that the credit rating agencies would view an announced impairment as a reason to reevaluate Enron's precarious credit rating. Nevertheless, in October 2001, in order to avoid disclosing the impact on Enron of any goodwill impairment associated with Wessex, Lay falsely claimed to Enron's auditors that Enron was committed to developing a water growth strategy. Lay then failed to disclose to the market the impact on Enron of an impairment of Wessex goodwill, when Lay purported to disclose the impact on

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Enron of all goodwill impairment that had been reviewed by Enron and its auditors.

G. False and Misleading Representations To Investing Public, SEC And Rating Agencies

33. At various times during the conspiracy, the conspirators made false and misleading statements as well as material omissions about Enron's financial results, the performance of its businesses, and the manner in which its stock should be valued. These statements and material omissions were disseminated to the investing public in conferences, telephone calls, press releases, interviews, statements to the media and rating agencies, and SEC filings.

34. August 20, 2001 Media Interview. On August 20, 2001, Lay conducted an interview with BusinessWeek. Lay stated, "There are no accounting issues, no trading issues, no reserve issues, no previously unknown problem issues. The company is probably in the strongest and best shape it has ever been in. There are no surprises." He added, "Investors don't like uncertainty. When there's uncertainty they always think there's another shoe to fall. There is no other shoe to fall." In fact, as Lay knew, the balance sheet reflected approximately $7 billion in embedded losses in business units and overvalued investments. Lay also knew that Enron faced the prospect of goodwill writedowns totaling in the billions of dollars. In addition, just days earlier, Lay had been placed on notice of accounting issues that threatened an "implosion" of Enron.

35. September 26, 2001 Employee On-Line Forum. On September 26, 2001, Lay held an on-line forum with Enron employees. Lay stated that "[t]he third quarter is looking great. We will hit our numbers. We are continuing to have strong growth in our businesses, and at this time I think we're positioned for a very strong fourth quarter." He added that "we have

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record operating and financial results" and that "the balance sheet is strong." In fact, as Lay knew, Enron was preparing to announce a significant overall quarterly loss for the first time since 1997, and had committed a $1.2 billion accounting error, among other problems facing the company. In addition, Lay knew that the balance sheet reflected approximately $7 billion in embedded losses in business units and overvalued investments and that Enron had been exploring such drastic solutions to Enron's financial problems as a merger with another company and the sale of Enron's pipelines.

36. Lay announced to the employees, "I have strongly encouraged our 16b [management] officers to buy additional Enron stock. Some, including myself, have done so over the last couple of months and others will probably do so in the future. . . . My personal belief is that Enron stock is an incredible bargain at current prices." Lay deliberately created the impression with Enron employees that his confidence in Enron's stock was such that he had increased his personal ownership of Enron stock in the past two months. In fact, during the prior "couple of months," Lay had publicly purchased approximately $4 million in Enron stock but sold $24 million in Enron stock back to Enron in sales that were concealed from Enron employees and the investing public.

37. October 12, 2001 Call with Credit Rating Agency. On or about October 12, 2001, Lay had a telephone call with a representative of a prominent credit rating agency. Lay stated that Enron and its auditors had "scrubbed" the company's books and that no additional write-downs would be forthcoming. In fact, as Lay knew, Enron's international assets were being carried on Enron's books for billions of dollars in excess of their fair value. Lay further knew that he made misrepresentations to Enron's auditors in order to conceal the Wessex $700

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million goodwill impairment, and falsely claimed that Enron would pursue a growth strategy in the water business. In addition, Enron's auditors had not been able to "scrub" the books due to misrepresentations to them regarding Wessex goodwill.

38. Third Quarter 2001 Analyst Call. On October 16, 2001, Enron held its quarterly conference call with securities analysts to discuss its third quarter 2001 earnings results. Lay participated in the call. For the first time during the duration of the scheme to manipulate its reported financial results, Enron conceded that it had suffered large losses, totaling approximately $1 billion, in certain segments of its business. These areas included many declining assets that had been concealed in the "Raptor" hedges, as well as EBS. However, Lay attempted to mislead the investing public and omit information about these losses in order to minimize the negative effect on Enron's stock price. Lay described the losses as "nonrecurring," that is, a one-time or unusual event. However, as Lay knew, the losses were not properly characterized as non-recurring.

39. In addition, Lay stated: "In connection with the early termination [of the Raptor structures], shareholders' equity will be reduced approximately $1.2 billion." In fact, as Lay knew, the reduction in equity resulted not from the termination of the "Raptor" structures, but principally from a huge accounting error by Enron. In a further effort to deflect attention from the equity reduction, Lay and others chose not to disclose the problem in Enron's third quarter press release.

40. Lay further stated that after review by its outside auditors, "we currently estimate, based upon this recent review, that up to $200 million goodwill adjustment may be necessary, and will be recorded as required by the accounting principles in the first quarter of 2002." In

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fact, as Lay knew, the adjustment did not account for the impact on Enron of the impaired Wessex goodwill of approximately $700 million, due to misrepresentations by Lay and others to Enron's auditors.

41. Third Quarter Investor and Analyst Roadshows. Immediately after the announcement of Enron's third quarter earnings results, Lay and other senior Enron executives held a series of meetings, or roadshows, with analysts and large institutional investors. Lay and the other senior executives touted EES as one of Enron's three primary businesses, and misleadingly portrayed EES as rapidly increasing in profitability, quarter to quarter and year to year. In fact, as Lay knew, Enron had shifted hundreds of millions of dollars in EES losses to Enron Wholesale in the first quarter of 2001, which gave EES the false appearance of profitability.

42. October 23, 2001 Analyst Call. Enron held a special conference call with securities analysts on October 23, 2001, in an effort to dispel growing public concerns about Enron's stock, which had lost 25% of its value in the week following the October 16, 2001, third quarter earnings announcement. Lay and others prepared for and participated in the call. Lay stated that "[w]e're not trying to conceal anything. We're not hiding anything." "We're really trying to make sure that the analysts and the shareholders and the debt holders really know what's going on here. So, we are not trying to hold anything back." In fact, while professing candor, Lay failed to disclose numerous dire facts about the state of Enron's business of which he was aware.

43. October 23, 2001 All Employees Meeting. Shortly after the October 23 analyst call, Lay attended another all-employee meeting, with live webcast and video teleconference

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communication to Enron's 28,000 employees. Lay stated "[o]ur liquidity is fine. As a matter of fact, it's better than fine, it's strong . . . ." In fact, Lay knew that in order to maintain liquidity, Enron had been forced to take the unusual step of offering its pipelines as collateral to obtain a needed $1 billion bank loan. Lay knew that Enron had failed to complete a $1 billion bond deal planned for execution since July, 2001. Lay also knew that the only readily available source of liquidity was the $3 billion corporate line of credit, which, if drawn, would signal the dire straits of Enron's finances. Indeed, three days later, Lay authorized the withdrawal of the entire $3 billion from the line of credit.

44. November 12, 2001 Analyst Call. Enron executives held a special conference call with securities analysts on November 12, 2001, in another effort to dampen public concerns about the decline of Enron's stock and the nature of Enron's finances. Lay falsely stated that "[w]e don't have anything we're trying to hide. Quite the contrary, I think we've been very forthcoming of disclosing everything that we've found." In fact, as Lay knew, he continued to withhold from investors key facts about the true economic performance of Enron, including the true profits and performance of EES, the fact that the Raptors were not true economic hedges and that Enron faced billions of dollars in additional writedowns.

45. During the conspiracy, the conspirators, including Lay received substantial criminal proceeds. During 2001 alone, Lay received a salary of over $1 million, a bonus of $7 million and $3.6 million in long term incentive payments. Additionally, during the period of August 21 through October 26, 2001, Lay sold approximately 918,104 shares of Enron stock to repay advances totaling $26,025,000 he had received from a line of credit extended to Lay by Enron. The total proceeds generated by Lay, and the assets to which certain of those proceeds

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are traceable are discussed below.

II. PROCEEDS OF THE CRIMINAL CONSPIRACY

46. As a result of the criminal conspiracy described above, hundreds of millions of dollas in proceeds were generated; Lay alone generated approximately $95,113,717 in criminal proceeds from trading Enron stock, manipulating his Enron line of credit, and receiving an incentive bonus. In addition, Lay generated $3,956,649 in proceeds through The KLL & LPL Investment Partnership. The breakdown for Lay's specific proceeds is as follows:

	$11,588,717	Lay Personal Planned Stock Sales
+	66,025,000	Manipulation of Line of Credit
+	7,500,000	Unpaid Advances from Line of Credit
+	10,000,000	Bonus

	$95,113,717	Subtotal Lay Personal Proceeds
+	3,956,649	KLL & LPL Investment Partnership Planned Stock Sales
	---	
	$99,070,366	Total criminal proceeds

47. The Personal Planned Sales of stock by Lay consist of pre-planned sales of Enron stock that took place during the course of the conspiracy. From April through August 2001, Lay sold 217,500 shares yielding gross proceeds of $11,588,717 in connection with this plan.

48. The dates and amounts of the relevant pay downs on Lay's Enron line of credit during 2001 are as follows:

Pay Down Date	Amount ($)
04/27/01	4,000,000
05/14/01	4,000,000
05/25/01	4,000,000
06/12/01	4,000,000
06/19/01	4,000,000

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06/22/01	4,000,000
06/26/01	4,000,000
06/27/01	4,000,000
06/28/01	4,000,000
07/26/01	4,000,000
08/20/01	4,000,000
08/23/01	4,000,000
08/24/01	4,000,000
08/30/01	4,000,000
09/04/01	4,000,000
10/23/01	1,500,000
10/24/01	1,700,000
10/25/01	550,000
10/26/01	2,275,000
Total	66,025,000

49. The paydowns on the line of credit consisted of Lay selling shares of Enron stock back to the company and applying those proceeds to pay down his Enron line of credit. Lay then would turn around and draw additional funds on that line of credit. For example, on August 20, 2001, Lay sold 110,700 shares to Enron that then allowed him to pay down $4,000,000 on his Enron line of credit, and the next day Lay drew on the line of credit another $4,000,000. Following this activity, Lay asserted in the September 26, 2001, on-line forum discussed in paragraph 36 above, that he had been purchasing stock "over the last couple of months," despite the fact that he surreptitiously sold six times as much stock as he purchased during that time frame.

50. Lay generated $7,500,000 in criminal proceeds from his Enron line of credit that

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he never repaid. The unpaid advances were from October 2001 through November 2001. Lay's unpaid balance on his line of credit was due to be paid in full no later than December 31, 2005. This amount was never repaid.

51. The proceeds of the conspiracy include a $10,000,000 bonus that Lay received in connection with his re-assumption of the CEO position at Enron during the criminal conspiracy is also subject to forfeiture as criminal proceeds. Lay re-assumed the CEO position and accepted this bonus money knowing that Enron's financial condition was being mis-represented to the public, and he continued to misrepresent matters to the public and his own employees following his return and during the period of the long-term incentive plan. As with his line of credit, Lay's bonus is wholly tainted by the criminal conspiracy in which he engaged at Enron.

52. Lay also used a family investment partnership as a vehicle through which he generated criminal proceeds during the course of the conspiracy through its own sale of Enron stock. KLL & LPL Investments, Ltd. ("Investment Partnership") is a Lay family investment vehicle through which Lay was able to distribute his earnings at Enron to various family members.

53. The Investment Partnership was established in 1994 and is held under the Texas Revised Limited Partnership Act, Tex. Rev. Civ. Stat. Ann. art 6132a-1, with its principal office located in Houston, Texas. Lay and his wife, Linda Lay, were designated as joint managing partners of the Investment Partnership, which effectively gave Lay the power to manage and control the assets of the Investment Partnership.

54. Because of Lay's insider status at Enron, the Investment Partnership that he controlled was eligible to and did engage in planned sales of 75,500 shares of Enron stock

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between April and August 2001 during the conspiracy. These sales, which represented approximately one half of the Investment Partnership's total planned sales, generated $3,956,649 in proceeds. These planned sales also constitute proceeds of the conspiracy to inflate and maintain Enron's stock price.

III. TRACING THE CRIMINAL PROCEEDS

A. The Condominium

55. The vast majority of Lay's criminal proceeds were used in connection with his various lines of credit, the proceeds of which have been dissipated and cannot be traced into any particular assets. Lay's condominium, however, located at 2121 Kirby Drive, Unit 33, Houston, TX, represents property involved in money laundering. During the conspiracy, approximately $2,502,320 in proceeds were used as payments in satisfaction of a mortgage on Lay's condominium.

56. On November 1, 2001, Lay received an advance of $1,000,000 from his Enron line of credit and deposited that amount in his Bank of America checking account No. 0026-6253-0707.

57. On November 9, 2001, Lay deposited $525,000.00 into Southwest Bank of Texas account No. 5569133. The funds for this deposit came from Lay's Enron line of credit. Lay deposited another $1,000,000.00 into this account from his Enron line of credit on November 27, 2001.

58. On December 6, 2001, Lay withdrew funds from his Bank of America account No. 0026-6253-0707 in the amount of $977,320.00 payable to Bank of America. This money was used to help pay off a mortgage on Lay's 2121 Kirby Drive condominium. The entirety of

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this mortgage payment represents criminal proceeds because it originated from unpaid advances on Lay's Enron line of credit.

59. On December 7, 2001, Lay withdrew funds from Southwest Bank of Texas Account No. 5569133, in the form of a cashier's check in the amount of $4.36 million payable to Bank of America. Lay used this cashier's check to pay off the remainder of his mortgage. Of that check, $1,525,000.00 represented criminal proceeds from unpaid advances from Lay's Enron line of credit.

B. <u>Lay Investment Partnership</u>

60. As a result of the criminal activities described above, the KLL & LPL Investment Partnership received $10,170,149 in criminal proceeds from trading Enron stock, transfers from Lay's manipulation of his Enron line of credit, and transfers from Lay's bonus. The breakdown of these proceeds is as follows:

	$3,956,649	KLL & LPL Investment Partnership Planned Stock Sales
+	4,463,500	Proceeds Transferred from Lay Line of Credit
+	1,750,000	Transfers from Lay Bonus

	$10,170,149	

61. Lay transferred criminal proceeds to the Investment Partnership from his Bank of America checking account No. 0026-6253-0707. The checking account was funded by his Enron line of credit, as well as lines of credit at Bank of America. Between January 18, 2001, and June 29, 2001, transfers totaling $4,463,500 in criminal proceeds were made to the Investment Partnership as follows:

Date	Amount ($)
01/18/01	1,700,000

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03/02/01	85,000
03/13/01	650,000
03/14/01	100,000
04/02/01	40,000
04/02/01	37,500
04/03/01	200,000
04/03/01	31,000
04/04/01	200,000
05/25/01	200,000
05/31/01	100,000
06/05/01	210,000
06/06/01	50,000
06/15/01	110,000
06/28/01	575,000
06/29/01	175,000
Total	4,463,500

62. The Bank of America line of credit withdrawals that funded the payments to the Investment Partnership were paid back with criminal proceeds from the Enron line of credit between April and December 2001.

63. An additional $1.75 million was transferred by Lay to the Investment Partnership on September 21, 2001. This amount was a portion of the $10 million bonus that Lay received in connection with his re-assuming the CEO position following the departure of Skilling, and thus represents criminal proceeds, as described in paragraph 52.

64. The $3,956,649 in Investment Partnership planned sales are described above in paragraph 55.

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65. As of November 30, 2001, the Investment Partnership had approximately $30,563,623 of assets, $7,618,964 of liabilities and $22,944,659 of equity.

C. Bank Of America Checking Account No. 0026-6253-0707

66. As of December 31, 2001, Bank of America checking account No. 0026-6253-0707 contained approximately $22,680 in criminal proceeds that remained from the November 1, 2001, advance on Lay's Enron line of credit, as explained in paragraph 57.

CONCLUSION

67. Based upon the information contained in this affidavit, I have probable cause to believe that the defendant Investment Partnership property, real property, and funds located within the Bank of America account No. 0026-6253-0707 identified herein are derived from proceeds traceable to fraud in the sale of securities in violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, and conspiracy to commit securities fraud under 18 U.S.C. § 371, and is therefore subject to forfeiture under 18 U.S.C. § 981(a)(1)(C). Further, I have probable cause to believe that the defendant real property represents property involved in money laundering, in violation of 18 U.S.C. § 1957, and therefore is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A).

Chad Nunez
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me this 23rd day of October, 2006

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Notary Public
State of
My commission expires:

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Civil Case No.
v.	)	
	)	
2121 KIRBY DRIVE, UNIT 33, HOUSTON, TX.,	)	
	)	
ASSETS OF KLL & LPL INVESTMENTS, LTD.,	)	
	)	
$22,680 in BANK OF AMERICA ACCOUNT No. 0026-6253-0707	)	
	)	
Defendants.	)	

VERIFIED COMPLAINT FOR FORFEITURE IN REM

Plaintiff, United States of America, by and through the United States Department of Justice and its undersigned counsel, brings this Complaint and alleges as follows:

NATURE OF THE ACTION

1. This is an action to forfeit and condemn to the use and benefit of the United States of America the following property:

(a) 2121 Kirby Drive, Unit 33, Houston, TX., known more particularly as: Real property, together with its appurtenances, improvements, fixtures, attachments and easements, located at 2121 Kirby Drive, Residential Unit 33, 33rd Floor, Houston, Texas 77019, more particularly described as a condominium apartment unit and an individual interest in the common elements located in and being a part of the Huntingdon, a Condominium regime in Harris County, Texas (Defendant Real Property); and

(b) The assets of KLL & LPL Investments, Ltd. (Defendant Investment Partnership

Property)

(c) $22,680.14 in Bank of America Account Number 0026-6253-0707 (Defendant Bank Account)

2. The defendant Real Property is located in the Southern District of Texas. Defendant Investment Partnership maintains its principal office in the Southern District of Texas and maintains assets in the Southern District of Texas. Defendant Bank Account is also located in the Southern District of Texas. This Court has jurisdiction to hear this matter pursuant to 28 U.S.C. §§ 1331, 1345 and 1355. Venue is properly in this district under 28 U.S.C. §§ 1391 and 1395 and 18 U.S.C. § 981(h).

3. This is a civil forfeiture action in rem brought pursuant to 18 U.S.C. § 983 to enforce 18 U.S.C. §§ 981(a)(1)(A) and (C). Title 18, United States Code, Section 981(a)(1)(C) provides that any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of any offense constituting a "specified unlawful activity" is subject to forfeiture to the United States. Pursuant to 18 U.S.C. §§ 1956(c)(7) and 1961(1), fraud in the sale of securities, wire fraud in violation of 18 U.S.C. § 1343 and conspiracy to violate these statutes in violation of 18 USC § 371 constitute "specified unlawful activity" for purposes of 18 U.S.C. § 981(a)(1)(C).

4. In addition, 18 U.S.C. § 981(a)(1)(A) provides that any property, real or personal, involved in a transaction or attempted transaction in violation of 18 U.S.C. § 1957, or any property traceable to such property, is subject to forfeiture to the United States.

5. In particular, the United States alleges that the defendant properties are subject to forfeiture because they were obtained, directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, or traceable thereto, namely fraud in the sale of securities in

violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, conspiracy to commit securities fraud under 18 U.S.C. § 371, and because the defendant real property constitutes property involved in money laundering in violation of 18 U.S.C. § 1957.

6A. The defendant Real Property constitutes property involved in money laundering offenses, namely a transaction or transactions, or attempted transactions, of proceeds derived from specified unlawful activity in excess of $10,000, or property traceable to such property involved in money laundering violations and is thus liable to condemnation and forfeiture to the United States for its use, in accordance with 18 U.S.C. § 1981(a)(1)(A).

6B. $2,502,320 of the value of defendant Real Property is subject to forfeiture because it constitutes proceeds obtained, directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, namely fraud in the sale of securities in violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, conspiracy to commit securities fraud under 18 U.S.C. § 371, or property traceable thereto.

7. $10,170,149 of the defendant partnership is property subjected to forfeiture because it constitutes proceeds obtained, directly or indirectly, as the result of the commission of the offense giving rise to forfeiture, namely fraud in the sale of securities in violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, and conspiracy to commit securities fraud under 18 U.S.C. § 371, or property traceable thereto. In addition, any return or earnings on the partnership assets subject to forfeiture is also forfeitable as property traceable to proceeds.

8. $22,680.14 in Bank of America Account No. 0026-6253-0707 is subject to forfeiture because it constitutes proceeds obtained, directly or indirectly, as the result of the

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commission of the offense giving rise to forfeiture, namely fraud in the sale of securities in violation of 15 U.S.C. §§ 78j(b) and 78ff, wire fraud in violation of 18 U.S.C. § 1343, and conspiracy to commit securities fraud under 18 U.S.C. § 371, or property traceable thereto. In addition, any return or earnings on the amount subject to forfeiture would also be subject to forfeiture as property traceable to proceeds.

9. As evidence in support of these allegations, the United States respectfully refers the Court to the Affidavit of Federal Bureau of Investigation Special Agent Chad Nunez (Attachment A), which is specifically incorporated herein and attached hereto.

10. The United States respectfully demands a trial by jury as to all questions of fact.

11. The United States does not request authority from the Court to seize the real property defendant at this time. The United States will, as provided by 18 U.S.C. § 985(b)(1) and (c)(1):

(a) Post notice of this action and a copy of the Complaint on the defendant real property, and

(b) Serve notice of this action on the defendant real property owner, and any other person or entity who may claim an interest in the defendant, along with a copy of this Complaint, and

(c) Execute a writ of entry for purposes of conducting an inspection and inventory of the property, and

(d) File a lis pendens in county records of the defendant real property's status as a defendant in this in rem action.

WHEREFORE, the plaintiff respectfully asserts that there is reasonable cause to believe

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that the United States will prove that the defendant real property is forfeitable to the United States under 18 U.S.C. § 981(a)(1)(A) and (C); and requests

(a) That, pursuant to 18 U.S.C. § 985(b)(2), and 18 U.S.C. § 983(j), which permits the Court to "take any action to . . . preserve the availability of the property subject to civil forfeiture," the Court issue the proposed Writ of Entry attached to this Complaint authorizing the United States Marshals Service, or its delegate, to enter the defendant real property, including any structures, on one or more occasions during the pendency of this in rem forfeiture action:

i. for the purpose of conducting an inspection and inventory and appraisal of the defendant real property, which inspection and inventory and appraisal may include still and video photography; and

ii. to be accompanied on any such occasion by any appraiser(s) selected by it to appraise the condition and value of the defendant real property pursuant to 19 U.S.C. § 1606; and

iii. to be accompanied on any such occasion by any government or contract personnel selected by it for the purpose of conducting an inventory of the defendant real property; and

iv. to be accompanied on any such occasion by any federal, state, and local law enforcement officers selected by it to ensure the safety of any person acting under the Writ of Entry;

(b) That the Court decree that the forfeiture of the defendant real property to the United States under 18 U.S.C. § 981(a)(1)(A) is confirmed, enforced, and ordered;

(c) That the Court thereafter order that the United States Marshal, or his delegate,

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dispose of the defendant as provided by law; and

WHEREFORE, the plaintiff, the United States, respectfully asserts that there is reasonable cause to believe that, pursuant to18 U.S.C. §§ 981(a)(1)(C), the United States will prove that $22,680 of the defendant Account No. 0026-6253-0707, and any earnings or return thereon, is subject to forfeiture; and requests:

(a) That, pursuant to 18 U.S.C. § 983(j)(1)(A), the Court enter a restraining order enjoining the withdrawal, distribution or other alienation of $22,680.14 located within Account No. 0026-6253-0707during the pendancy of this action;

(b) That a Judgment of Forfeiture be entered against the defendant in the amount of $22,680.14, and any earnings or return thereon;

(c) That, after entry of a Judgment of Forfeiture against the defendant Investment Partnership property, the Court issue an Order for the seizure and detention of the defendant property by the United States Marshal, or his delegate, and for the application of the proceeds to public use as provided by applicable laws and regulations; and

WHEREFORE, the plaintiff, the United States, respectfully asserts that there is reasonable cause to believe that, pursuant to18 U.S.C. §§ 981(a)(1)(C), the United States will prove that $10,170,149 of the defendant partnership property, and any earnings or return thereon, is subject to forfeiture; and requests:

(a) That, pursuant to 18 U.S.C. § 983(j)(1)(A), the Court enter a restraining order enjoining the withdrawal, distribution or other alienation of assets out of the partnership during the pendancy of this action;

(b) That a Judgment of Forfeiture be entered against the defendant Investment

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Partnership property in the amount of $10,170,149, and any earnings or return thereon;

(c) That, after entry of a Judgment of Forfeiture against the defendant Investment Partnership property, the Court issue an Order for the seizure and detention of the defendant property by the United States Marshal, or his delegate, and for the application of the proceeds from that sale to public use as provided by applicable laws and regulations;

(d) That the United States recover the costs of this action, including costs of seizure, detention, and sale of the defendant property; and

(e) That the United States be granted all other relief to which it is entitled.

Respectfully submitted,

SEAN M. BERKOWITZ
Director, Enron Task Force

By: _____

PATRICK. T. MURPHY
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Dated: October 23, 2006

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VERIFICATION

I, Chad Nunez, Special Agent, Federal Bureau of Investigation, Houston, Texas, declare under penalty of perjury as provided by Title 28, United States Code, Section 1746, that the foregoing Amended Complaint of Forfeiture in Rem is based upon reports and information furnished to me from Special Agents of the FBI and the Internal Revenue Service, federal grand jury subpoenas, and public records searches, and that everything contained therein is true and correct to the best of my knowledge and belief.

Executed on this ___ day of October, 2006.

Chad Nunez
Special Agent
Federal Bureau of Investigation

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October, 2006, I caused a true and correct copy of the foregoing PLAINTIFF'S FIRST SET OF INTERROGATORIES to be served by electronic mail upon the following counsel:

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From: USDOJ- Office of Public Affairs
Sent: Monday, October 23, 2006 6:43 PM
To: USDOJ- Office of Public Affairs
Subject: JUDGE ORDERS EGYPTIAN NATIONALS TO PRISON FOR HOLDING GIRL IN INVOLUNTARY SERVITUDE

Department of Justice

United States Attorney Debra Wong Yang
Central District of California

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 23, 2006
www.usdoj.gov/usao/cdc

CONTACT: THOM MROZEK
PHONE: (213) 894-6947
FAX: (213) 894-0141

JUDGE ORDERS EGYPTIAN NATIONALS TO PRISON FOR HOLDING GIRL IN INVOLUNTARY SERVITUDE

SANTA ANA, Calif. – Two Egyptian nationals who enslaved a 10-year-old girl and forced her to work as a domestic servant at their Orange County residence were both sentenced this morning.

Abdel Nasser Youssef Ibrahim was sentenced to 36 months in prison. His ex-wife, Amal Ahmec Ewis-abd El Motelib, was sentenced to 22 months. In addition to the prison terms, Ibrahim and Motelib were ordered to pay over $70,000 to the victim. This figure represents the money she should have received while working for two years without pay for a family of seven at their Irvine, Calif. residence.

The court ordered Ibrahim and Montelib to surrender into custody on Oct. 30, 2006 and Nov.13, 2006 respectively. Following the sentencing, Immigration and Customs Enforcement detained Ibrahim and Motelib, both foreign nationals, pending deportation proceedings. Upon completion of their sentences, Ibrahim and Motelib will face deportation from the United States.

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In June 2006, the defendants pleaded guilty to four counts of conspiracy, holding a person in involuntary servitude through force or coercion, obtaining labor through unlawful force and coercion, and harboring an illegal alien.

"The young victim in this case was subject to inhumane conditions that included both physical and verbal abuse," said U.S. Attorney Debra Wong Yang of the Central District of California. "As a result of recent changes in federal law, she has been granted a visa that will allow her to stay and, hopefully, prosper, in the United States. I hope this brings some recompense to a victim who was force to work every day for as long as 16 hours."

The victim began working for Ibrahim and Motelib as a domestic servant in Egypt in 1999. The couple then moved to the United States and arranged to have the victim brought to the country in 2000 with the expectation that she would work for them as a nanny and housekeeper. The victim's passport was confiscated by the defendants after her arrival. She received no compensation for her labor and served the couple and their family for 20 months.

Ibrahim and Motelib forced the victim to work through a number of unlawful means, including threats, and physical and verbal abuse. The defendants slapped the victim on at least one occasion, and told the girl that she would be arrested and taken away if she was caught by the police outside the family's home.

"This young victim was robbed of something intensely precious – her youth," said Assistant Attorney General Wan J. Kim of the Civil Rights Division. "The Civil Rights Division is strongly committed to ending the heinous crime of human trafficking. Innocent victims, such as the young girl in this case, deserve the freedom and opportunity that America offers. They deserve the right to seek the American Dream."

The case against Ibrahim and Motelib is the first case brought under the purview of the Orange County Human Trafficking Task Force. U.S. Immigration and Customs Enforcement and the Irvine Police Department conducted the investigation. The case was prosecuted by the United States Attorney's Office for the Central District of California and the Civil Rights Division of the Department of Justice.

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 24, 2006 9:55 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 24, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, October 24, 2006

ATTORNEY GENERAL

7:20 A.M. EDT Attorney General Alberto R. Gonzales held a joint press conference with the Attorney General of Spain, Cándido Conde-Pumpido.
Ministry of Justice
Madrid, Spain
OPEN PRESS

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

No scheduled events or hearings.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 24, 2006 3:12 PM
To: USDOJ- Office of Public Affairs
Subject: TWO OFFICERS ARE INDICTED, ONE OFFICER PLEADS GUILTY TO CIVIL RIGHTS CHARGES

Department of Justice

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TUESDAY, OCTOBER 24, 2006
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TDD (202) 514-1888

TWO OFFICERS ARE INDICTED, ONE OFFICER PLEADS GUILTY TO CIVIL RIGHTS CHARGES

WASHINGTON – In a federal indictment unsealed today, two former supervisors at the Winston-Choctaw County Regional Correctional Facility (WCCRCF) in Louisville, Miss., were charged with criminal civil rights and obstruction of justice violations. The indictment alleges that the officers assaulted two inmates and shocked one of them with an electric device referred to as a "shock stick" in October 2001. Former Deputy Warden Scotty L. Graham and former Captain David G. Mitchell are charged in the indictment with assaulting an inmate and violating his civil rights; with conspiring to obstruct justice; and with obstructing justice by providing false statements about the assault. The indictment also charges defendant Mitchell with a second civil rights violation for assaulting another inmate on the same date. If convicted, the defendants face maximum penalties of 10 years in prison on each of the civil rights and obstruction charges, and five years in prison on the conspiracy charge.

In a related case, former WCCRCF Officer Marcus Coleman pleaded guilty to a felony civil rights violation for assaulting and shocking an inmate in October 2001. During a hearing before U.S. District Judge Michael Mills on September 28, 2006, Coleman admitted that he and defendant Mitchell assaulted the inmate and that defendant Graham encouraged them to continue the assault in a location where there would not be any witnesses. Coleman has agreed to cooperate with the government's prosecution of the other defendants. Coleman faces a maximum penalty of 10 years in prison for the civil rights offence.

An indictment is merely an accusation, and defendants are presumed innocent unless proven guilty.

The Civil Rights Division is committed to the vigorous enforcement of every federal criminal civil rights statute, such as those laws that prohibit the willful use of excessive force or other acts of misconduct by law enforcement officials. Since fiscal year 2001, the Department of Justice has convicted 50 percent more defendants for excessive force and official misconduct than in the preceding six years.

This case was investigated by the Oxford Division of the Federal Bureau of Investigation, and is being prosecuted by Civil Rights Division Trial Attorneys Jeff Blumberg and Ed Caspar.

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DOJ_NMG_ 0169832

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Image not available for this document, ID: 0.7.10316.22185-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 24, 2006 3:56 PM
To: USDOJ- Office of Public Affairs
Subject: LOUISIANA MAN PLEADS GUILTY FOR FEMA HOTEL ASSISTANCE FRAUD

Department of Justice

United States Attorney Dunn Lampton
Southern District of Mississippi

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 24, 2006
WWW.USDOJ.GOV/USAO/MSS/

CONTACT: SHEILA WILBANKS
PHONE: (601) 965-4480
FAX: (601) 965-4409

LOUISIANA MAN PLEADS GUILTY FOR FEMA HOTEL ASSISTANCE FRAUD

JACKSON, Miss. – Derrick Shane Miller of New Orleans pleaded guilty to one count of mail fraud in connection with a scheme to defraud the Federal Emergency Management Agency (FEMA) in its Hotel Assistance program, U.S. Attorney Dunn Lampton of the Southern District of Mississippi and Special Agent in Charge John Raucci of the FBI announced today. Miller admitted using his FEMA registration number to obtain multiple hotel rooms at nine different hotels in Jackson, Miss. from Oct. 28, 2005, through March 31, 2006. As a part of his plea, Miller admitted he rented the rooms to others for cash as part of his scheme to defraud FEMA. In total, Miller defrauded FEMA of $27,811.

Miller was indicted on June 6, 2006, as a result of a joint investigation conducted by the FBI and Mississippi Bureau of Narcotics with assistance provided by the Hinds County Sheriff's Office. Miller was taken into custody by the FBI in New Orleans on June 8, 2006. Miller faces a maximum penalty of 20 years in prison and a $250,000 fine.

"The Katrina Fraud Task Force is an unprecedented law enforcement effort which is aggressively pursuing all complaints of fraud in the wake of Katrina," U.S. Attorney Lampton said. "This case represents another example of the cooperative law enforcement effort in place to detect and apprehend those who have committed fraud. If you commit fraud and are caught, you will be prosecuted."

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division includes members from the FBI, the Federal Trade Commission, the U.S. Postal Inspector's Office and the Executive Office of United States Attorneys, among others.

Pursuant to the Justice Department initiative, a local Katrina Fraud Task Force, consisting of over 20 federal and state law enforcement agencies, was formed in the Southern District of Mississippi to pursue and prosecute individuals who file false and fraudulent claims.

DOJ_NMG_ 0169835

If anyone has information concerning possible fraud being committed during the post-Katrina recovery effort, please call either the DHS-OIG Fraud Hotline at 1-866-720-5721 or the FBI Fraud Hotline at 1-800-225-5324.

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Image not available for this document, ID: 0.7.10316.22165-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 24, 2006 5:03 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER CFO OF COMVERSE TECHNOLOGY INC. PLEADS GUILTY TO SECURITIES FRAUD CHARGES

Department of Justice

United States Attorney Roslynn R. Mauskopf
Eastern District of New York

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 24, 2006
www.usdoj.gov/usao/nye

CONTACT: ROBERT NARDOZA
PHONE: (718) 254-6323
FAX: (718) 254-6479

FORMER CFO OF COMVERSE TECHNOLOGY INC. PLEADS GUILTY TO SECURITIES FRAUD CHARGES

BROOKLYN, N.Y. – David Kreinberg, former Chief Financial Officer of Comverse Technology Inc., waived indictment and pleaded guilty to a two-count felony information charging one count of conspiracy to commit securities fraud, mail fraud and wire fraud, and one count of securities fraud. The plea was announced by U.S. Attorney Roslynn R. Mauskopf of the Eastern District of New York, and Assistant Director-in-Charge Mark J. Mershon of the FBI's New York Field Office. The charges stem from the stock options backdating and slush fund schemes at Comverse from 1998 to 2006.

The conspiracy charge carries a maximum sentence of five years in prison and a fine of up to $250,000. The securities fraud charge carries a maximum sentence of 10 years in prison and a fine of up to $1 million. The charges also require restitution in an amount to be determined by the court at sentencing, currently estimated at $51 million.

Separately, the Securities and Exchange Commission settled its civil charges against Kreinberg under an agreement that provides for a permanent injunction enjoining him from violating

DOJ_NMG_ 0169839

or aiding and abetting violations of the antifraud, reporting, record-keeping, internal-controls, false-statements-to auditors, Sarbanes-Oxley certification, and ownership-reporting provisions of the federal securities laws; a permanent officer-and-director bar; the payment of over $2.3 million in disgorgement and prejudgment interest; and a permanent suspension from appearing or practicing before the Commission as an accountant.

The case is being prosecuted by Assistant U.S. Attorneys Ilene Jaroslaw, Linda Lacewell, Sean Casey and Kathleen Nandan of the Eastern District of New York.

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Image not available for this document, ID: 0.7.10316.22167-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 24, 2006 5:11 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF DISABILITY DISCRIMINATION AGAINST CITY OF SARALAND, ALABAMA

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 24, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SETTLES ALLEGATIONS OF DISABILITY DISCRIMINATION AGAINST CITY OF SARALAND, ALABAMA

WASHINGTON – The Justice Department today settled a lawsuit against the city of Saraland, Ala., alleging housing discrimination against individuals with disabilities.

The government's complaint alleged that the city violated the federal Fair Housing Act when it refused, for explicitly discriminatory reasons, to allow the Lewis Community Care Facility Inc. to open a home for ten mentally disabled adults in a residential neighborhood of the city. These residents were to be screened and referred by the Mobile Mental Health Center and were to share living space and common facilities in a home staffed 24 hours per day and regulated by the state of Alabama.

"Today's settlement sends a clear message that the rights of persons with disabilities will be vigorously protected in accordance with federal law," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "All Americans, regardless of disability, have a right to fair housing in their communities."

"It is important for the people of Alabama to know that the civil rights of all our citizens will be protected by the United States Department of Justice, particularly when, as in this case, those individuals are among our most vulnerable," said Deborah J. Rhodes, U.S. Attorney for the Southern District of Alabama.

The settlement order, which must be approved by the U.S. District Court for the Southern District of Alabama, resolves the government's case as well as a consolidated lawsuit filed by the Fair Housing Center of Alabama on behalf of Lewis Community Care and its owners, Shannon and Orin Lewis. Under the settlement, the city has agreed to allow the Lewises to operate their home as planned, and to pay $65,000 in damages and attorneys fees to the Lewises and a civil penalty of $7,000 to the government. The settlement also mandates that certain city employees undergo training on the requirements of the Fair Housing Act, and that the city maintain records relating to future proposals for housing for disabled persons and submit periodic reports to the Justice Department.

The case began when the Lewises filed a complaint with the Department of Housing and Urban Development (HUD). HUD referred the complaint to the Justice Department, which conducted an investigation and filed suit in May 2005.

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The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 212 cases to enforce the Fair Housing Act, including 97 based on disability discrimination. More information about the Civil Rights Division and the laws it enforces can be found at http://www.usdoj.gov/crt.

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Image not available for this document, ID: 0.7.10316.22169-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, October 25, 2006 9:45 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 25, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, October 25, 2006

ATTORNEY GENERAL

11:00 A.M. EDT Attorney General Alberto R. Gonzales will deliver a speech entitled, "*The Rule of Law in the War on Terror*" to the German Marshall Fund.
Atrium
Deutsche Bank
Unter den Linden 13-15
Berlin, Germany
OPEN PRESS

Press inquiries regarding logistics should be directed to Andrew Beach at (202) 353-5929.

PRESS RELEASES

The Tax Division will issue a release on a tax-fraud matter. (Miller)

EVENTS/HEARINGS

No scheduled events or hearings.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Thursday, October 26, 2006 9:48 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 26, 2006

Department of Justice

PRESS GUIDANCE
Thursday, October 26, 2006

ATTORNEY GENERAL

7:30 A.M. EDT Attorney General Alberto R. Gonzales delivered opening remarks at the Cyber Crime Conference with the Minister of Justice of the Netherlands Ernst Hirsch Ballin.
Crown Plaza Hotel
Hague, Netherlands
OPEN PRESS (Only for Attorney General's portion of the program)

PRESS RELEASES

The Civil Division will issue a release. (Miller)

The Environment and Natural Resources Division will issue a release on a settlement matter. (Magnuson)

EVENTS/HEARINGS

11:15 A.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in St. Louis.
FBI Joint Operations Center
2222 Market Street
St. Louis, Missouri
OPEN PRESS

Press inquiries regarding logistics should be directed to Pete Krusing at (314) 231-4324.

3:30 P.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Oklahoma City.
3301 West Memorial Road
Oklahoma City, Oklahoma
OPEN PRESS

Press inquiries regarding logistics should be directed to Gary Johnson at (405) 290-7770.

DOJ_NMG_ 0169850

6:30 P.M. EDT Solicitor General Paul D. Clement will give the keynote speech at the American Bar Association Administrative Law Section Dinner.
Crystal Room
Willard Intercontinental Hotel
1401 Pennsylvania Ave.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to Gail Alexander-Wise of the American Bar Association at (202) 662-1095.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.22118-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 26, 2006 1:57 PM
To: USDOJ- Office of Public Affairs
Subject: $13.9 MILLION CLEAN AIR ACT SETTLEMENT WITH MULTINATIONAL SOYBEAN AND CORN PROCESSOR SECURES MAJOR POLLUTION REDUCTIONS IN EIGHT STATES

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 26, 2006
WWW.USDOJ.GOV

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

$13.9 MILLION CLEAN AIR ACT SETTLEMENT WITH MULTINATIONAL SOYBEAN AND CORN PROCESSOR SECURES MAJOR POLLUTION REDUCTIONS IN EIGHT STATES

Settlement Expected to Eliminate More than 2,200 Tons of Harmful Emissions Annually

WASHINGTON – A multi-state Clean Air Act (CAA) settlement, reached today with oilseed processor Bunge North America Inc. and three of its subsidiaries, will eliminate more than 2,200 tons of harmful pollution emissions per year when fully implemented. The $13.9 million settlement covers 12 plants in eight states, each of which has joined the United States as a co-plaintiff.

The settlement covers eleven soybean processing plants – in Decatur, Ala.; Marks, Miss.; Destrehan, La.; Emporia, Kan.; Council Bluffs, Iowa; Delphos, Ohio; Marion, Ohio; Decatur, Ind.; Morristown, Ind.; Cairo, Ill.; and Danville, Ill. – as well as a corn dry mill extraction plant also located in Danville, Ill. The U.S. alleges that at some or all of these 12 plants, Bunge or a subsidiary violated the CAA by constructing major modifications that increased emissions without obtaining pre-construction permits and without complying with applicable standards of performance for new air pollution sources.

The settlement, which follows other settlements with oilseed processors, including Cargill Inc. and Archer Daniels Midland Co. (ADM), will continue the imposition of lower emission standards on soybean processing plants and will also require other pollution reduction projects, including piloting of a new technology to reduce harmful emissions from coal-burning boilers. When fully implemented, the settlement will eliminate more than 2,200 tons per year of harmful emissions of smog-forming volatile organic compounds (VOCs), nitrogen oxides (NO_x), sulfur dioxide (SO_2) and particulate matter (PM).

"This settlement will result in healthier air in the eleven airsheds where the plants are located. Eliminating over 1,000 tons of emissions of volatile organic compounds, for example, will reduce the formation of ground-level ozone, a pollutant that irritates the lungs and exacerbates diseases such as asthma," said Sue Ellen Wooldridge, Assistant Attorney General for the Justice Department's Environment and Natural Resources Division. "We remain committed to working with EPA and the states to bring companies and industries into compliance with the laws that protect public health and our environment."

"Agricultural processing facilities can be major sources of air pollution and this settlement secures permanent and substantial emission reductions for citizens in the affected states," said Granta Y. Nakayama,

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EPA's Assistant Administrator for the Office of Enforcement and Compliance Assurance. "This agreement is evidence of the Bush
Administration's continuing commitment to ensuring compliance with the Clean Air Act. EPA expects companies to act responsibly and within the law when it comes to protecting public health and the environment."

Bunge, a multi-state agribusiness based in St. Louis, is the North American operating arm of multinational corporation Bunge Limited, and a leading oilseed processor, corn dry miller, and U.S. exporter of soybeans and soybean-derived products. To extract oil from soybeans or corn, Bunge and its subsidiaries use volatile organic solvents. Emissions of VOCs result because some of the solvent escapes to the atmosphere. NO_x, SO_2 and PM are emitted when fuel is burned to provide heat for the process; additional PM is emitted by handling and preparation of the soybeans or corn.

Once fully implemented, the settlement will cause Bunge and its subsidiaries to reduce their emissions of harmful air pollutants as follows:

- Using engineering approaches appropriate for each plant, the twelve plants' emissions of VOCs, including n-hexane, which is a listed hazardous air pollutant, will be reduced by 1,122 tons per year (tpy).

- A host of pollution control projects at the plants, including the innovative technology pilot, will reduce emissions of SO_2 by 574 tpy, of NO_x by 278 tpy, and of PM by 258 tpy.

The emission reduction projects will cost an estimated $12 million. Bunge will also pay a $625,000 civil penalty, which will be divided among the federal government and the eight states. In addition, Bunge will spend more than $1.25 million to implement supplemental environmental projects which go beyond mere compliance to achieve additional environmental benefits. The supplemental projects, which were selected by and will be supervised by the eight states, include removal of mercury, lead or asbestos from schools in Louisiana, providing hazardous materials response equipment and training in Illinois and Mississippi, providing environmental education in Kansas, abatement of residential lead contamination in Illinois, and retrofitting diesel school buses or other diesel vehicles in Indiana, Ohio, Kansas, Iowa and Alabama.

The Department of Justice lodged the consent decree today in the U.S. District Court for the Central District of Illinois in Urbana in the judicial district and division where the Danville plants are located. The consent decree will be subject to a 30-day public comment period and subsequent judicial approval. It is available on the Justice Department website at http://www.usdoj.gov/enrd/Consent_Decrees.html.

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Image not available for this document, ID: 0.7.10316.22107-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 26, 2006 3:11 PM
To: USDOJ- Office of Public Affairs
Subject: BIOPHARMACEUTICAL FIRM INTERMUNE T0 PAY U.S. OVER $36 MILLION FOR ILLEGAL PROMOTION AND MARKETING OF DRUG ACTIMMUNE

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 26, 2006
WWW.USDOJ.GOV

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

BIOPHARMACEUTICAL FIRM INTERMUNE T0 PAY U.S. OVER $36 MILLION FOR ILLEGAL PROMOTION AND MARKETING OF DRUG ACTIMMUNE

WASHINGTON – InterMune, Inc, a Brisbane, Cal., biopharmaceutical company, has agreed to pay the United States more than $36.9 million to resolve criminal charges and civil liabilities in connection with its alleged illegal promotion and marketing of Actimmune, the Justice Department announced today.

Today's settlement resolves allegations that InterMune knowingly caused the submission of false and fraudulent claims for Actimmune that were not eligible for reimbursement because they were for unnecessary and/or off label uses. InterMune will pay $30.2 million for losses suffered by the federal portion of the Medicaid program, the Medicare Program, the Veteran's Administration, the Department of Defense and the Federal Employees Health Benefits program. Under separate civil settlement agreements with the states, the company will also pay nearly $6.7 million to state Medicaid programs.

"It is vital to public health and safety that pharmaceutical companies are deterred from improperly marketing their drugs to doctors and patients to treat illnesses that these drugs are not approved to treat," said Assistant Attorney General Peter D. Keisler. "Today's settlement sends a clear message to the pharmaceutical industry that the Justice Department will not tolerate these deceptive and illegal marketing practices."

The criminal investigation will be resolved by the filing of an information against InterMune and the company's entry into a deferred prosecution agreement (DPA) with the United States. InterMune is charged with one count of violating the Food, Drug, and Cosmetic Act (FDCA) by promoting, with intent to defraud or mislead, its drug Actimmune for the treatment of idiopathic pulmonary fibrosis (IPF) or lung scarring, a condition for which Actimmune has not been approved by the Food and Drug Administration (FDA). It is further alleged that InterMune acted with an intent to defraud or mislead, thereby elevating the charge to a felony violation of the FDCA. Under the terms of the DPA, the Justice Department agrees to recommend to the court that prosecution of InterMune be deferred for a period of two years, contingent upon the company's past

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and future cooperation in the investigation as well as on its continued efforts to implement comprehensive changes to its compliance policies.

"This office has zero tolerance for fraud against the Medicare program. Given the high concentration of health care and biotech in the Northern District, prosecuting fraud in this industry is one of my highest priorities and we must zealously protect the Medicare Trust Fund against fraud," said Kevin V. Ryan, United States Attorney for the Northern District of California.

Actimmune was approved by the FDA for the treatment of chronic granulomatous disease (disorders of the immune system that are caused by defects in the immune system cells) and severe, malignant osteopetrosis (disease resulting in increased susceptibility to infection and an overgrowth of bony structures that may lead to blindness and/or deafness). However, the vast majority of Actimmune sales during the period of August 2002 through January 2003 were attributable to prescriptions for the treatment of IPF for which there is no FDA-approved treatment.

As further stated in the DPA, from 2000 to 2002, InterMune, Inc. conducted a clinical trial of Actimmune for the treatment of IPF. The trial failed to establish statistically significant evidence of benefit for either the primary or any of the secondary endpoints. Nevertheless, a company press release distributed in August 2002 characterized the clinical trial results as indicating that "Actimmune may extend the lives of patients suffering from this debilitating disease" and further stated that "Actimmune is the only available treatment demonstrated to have clinical benefit in IPF, with improved survival data in two controlled clinical trials."

In addition to the other components of the settlement, InterMune agreed to enter a five-year Corporate Integrity Agreement with the Office of Inspector General for the Department of Health and Human Services.

The two-year investigation was conducted by the Federal Bureau of Investigation; the Food and Drug Administration's Office of Criminal Investigations; the Department of Health and Human Services' Office of Inspector General, Office of Investigations; the Veterans Administration's Office of Investigations; and the Office of Personnel Management's Office of Investigations. The investigation and resolution were handled by attorneys from the Justice Department's Civil Division and the U.S. Attorney's Office for the Northern District of California, as well as the FDA Office of General Counsel.

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Image not available for this document, ID: 0.7.10316.21937-000002

From: USDOJ- Office of Public Affairs
Sent: Thursday, October 26, 2006 6:18 PM
To: USDOJ- Office of Public Affairs
Subject: OHIO MAN PLEADS GUILTY TO CIVIL RIGHTS CHARGES

Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, OCTOBER 26, 2006
WWW.USDOJ.GOV

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

OHIO MAN PLEADS GUILTY TO CIVIL RIGHTS CHARGES

WASHINGTON – An Ohio man, David Fredericy, pleaded guilty today to conspiring to commit and for committing hate crimes targeting African-American residents of Cleveland. Specifically, Fredericy, who has been charged along with another individual, Cleveland resident, Joseph Kuzlik, pleaded guilty to conspiracy and interference with federally protected housing rights because of race. He also pleaded guilty to making false statements to federal investigators.

The indictment in this case alleges that Fredericy and Kuzlik engaged in a series of acts intended to threaten and intimidate African-American residents in their neighborhood. The indictment charges, among other acts, that the defendants placed a toxic substance, mercury, on the porch of an inter-racial family with children. As part of his guilty plea, Fredericy admitted that he did so for the purpose of intimidating them because they were an inter-racial family. Fredericy also admitted to lying to federal investigators from the Environmental Protection Agency (EPA), the federal agency that was initially charged with cleaning up the mercury and investigating the incident, for the purpose of keeping his unlawful actions secret.

"Exposing individuals, particularly vulnerable young children, to toxic chemicals because of their race is a despicable form of intolerance," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "This case demonstrates the depravity of racial prejudice. The Department of Justice is committed to preventing and vigorously prosecuting these types of crimes."

U.S. Attorney Gregory White said this of today's guilty plea, "Today's guilty plea is the result of a joint effort by the FBI, the Cleveland Police Department, and the EPA, and demonstrates the commitment of both state and federal law enforcement authorities to protecting every citizen's basic right to live in and enjoy his or her own home without fear of racial intimidation."

The maximum potential penalties for conviction on the conspiracy and civil rights charges are 10 years in prison, a $250,000 fine, and three years of supervised release following any period of incarceration, per count. The maximum term of imprisonment for the false statements charge is five years. A sentencing hearing has not yet been scheduled.

The case is being prosecuted by Assistant U.S. Attorney Ann C. Rowland and Trial Attorney Kristy L. Parker of the Civil Rights Division.

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An indictment is merely an accusation and the defendants are presumed innocent unless proven guilty. All defendants have the right to have their guilt or innocence determined by a jury of their peers following a trial. A guilty plea by one defendant in no way affects the ability of another defendant to exercise his right to a jury trial or the presumption of innocence.

Prosecuting the perpetrators of bias-motivated crimes is a top priority of the Justice Department. Since 2001, the Civil Rights Division has charged 161 defendants in 102 cases of bias-motivated crimes.

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 10:01 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON NOVEMBER 1

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 27, 2006
WWW.USDOJ.GOV

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

DEPARTMENT OF JUSTICE/FEDERAL TRADE COMMISSION HEARINGS ON SINGLE-FIRM CONDUCT TO CONTINUE ON NOVEMBER 1

Session to be Held in Washington to Focus on Tying

WASHINGTON — The Department of Justice's Antitrust Division and the Federal Trade Commission (FTC) today announced that the latest in a series of joint public hearings designed to examine the implications of single-firm conduct under the antitrust laws will take place on Nov. 1, 2006, in Washington. As previously announced, these hearings will examine whether and when specific types of single-firm conduct may violate Section 2 of the Sherman Act by harming competition and consumer welfare and when they are procompetitive and lawful. The hearings will continue during the coming months.

The panel on Nov. 1 will explore tying arrangements. The session will be held at the FTC Headquarters Building, 600 Pennsylvania Avenue, N.W., Washington, D.C., Room 432.

Further information is provided below:

Tying (9:30 A.M. to 1:00 P.M.):

David Evans is a visiting professor, faculty of laws, at University College London and vice chairman of LECG Europe.

Robin Cooper Feldman is an associate professor of law at Hastings College of the Law, University of California.

Mark Popofsky is an adjunct professor at Georgetown University Law Center and a partner at Kaye Scholer LLP.

Donald J. Russell is a partner at Robbins, Russell, Englert, Orseck, & Untereiner LLP.

DOJ_NMG_ 0169866

Michael Waldman is the Charles H. Dyson professor of management and a professor of economics at Cornell University.

Robert D. Willig is a professor of economics and public affairs at Princeton University's Woodrow Wilson School, a director of Competition Policy Associates Inc., and a former Deputy Assistant Attorney General at the Department of Justice's Antitrust Division.

The public and press are invited to attend all of the hearings. Seating will be on a first-come, first-served basis. Interested parties may submit written comments to the Antitrust Division and the FTC.

Further information about these hearings will be posted on the Antitrust Division's Web site at http://www.usdoj.gov/atr/public/hearings/single_firm/sfchearing.htm and on the FTC's Web site at http://www.ftc.gov/os/sectiontwohearings/index.htm. Individuals seeking more information on the hearings should contact Gail Kursh, Deputy Chief, Legal Policy Section, Antitrust Division, at singlefirmconduct@usdoj.gov, or Patricia Schultheiss, FTC, at section2hearings2@ftc.gov.

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06-730

DOJ_NMG_ 0169867

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 10:18 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 27, 2006

Department of Justice

PRESS GUIDANCE
Friday, October 27, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Criminal Division will issue a release on the sentencing of David Safavian. (Sierra)

The Antitrust Division will issue a release on Section II Hearings. (Talamona)

EVENTS/HEARINGS

10:00 A.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in San Antonio.
615 East Houston Street
San Antonio, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Eric Vasys at (210) 225-6741.

3:35 P.M. CDT FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Dallas.
One Justice Way
Dallas, Texas
OPEN PRESS

Press inquiries regarding logistics should be directed to Lori Bailey at (972) 559-5000.

NIGHT DUTY OFFICER

Cynthia Magnuson

Department of Justice
Public Affairs Office (202) 514-2007

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After Hours (202) 514-2000

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From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 3:18 PM
To: USDOJ- Office of Public Affairs
Subject: FEDERAL JURY CONVICTS NASHVILLE MAN ON CHILD PORNOGRAPHY OFFENSES INVOLVING MULTIPLE COMMERCIAL WEBSITES

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 27, 2006
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(202) 514-2008
TDD (202) 514-1888

FEDERAL JURY CONVICTS NASHVILLE MAN ON CHILD PORNOGRAPHY OFFENSES INVOLVING MULTIPLE COMMERCIAL WEBSITES

WASHINGTON – A Nashville, Tenn., man has been convicted by a federal jury of 11 child pornography-related offenses for the operation of several Web sites that depicted adolescent boys engaging in sexually explicit activity, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Craig S. Morford of the Middle District of Tennessee announced today.

The federal jury in Nashville returned the guilty verdicts late Thursday against Timothy Ryan Richards, 25, after a two-and-a-half week trial. He was convicted of offenses including distribution and conspiracy to distribute, advertising, production and possession of child pornography, as well as violating the record-keeping requirements associated with the distribution of sexually explicit material. Richards faces a mandatory minimum sentence of 15 years in prison on four of the convictions. Sentencing is scheduled for Jan. 26, 2007.

The investigation of Richards began in September 2005 when federal warrants were issued to search the content of computer servers in Freemont, Calif., and Los Angeles. Agents believed that these servers contained child pornography Web sites associated with then 19-year-old Justin Berry, who had come forward to cooperate with federal authorities in the investigation of the child pornography Web site Justinsfriends.com. Richards was identified as the operator of Justinsfriends as well as several other child pornography Web sites.

"We are pleased that the jury recognized the serious nature of Richards' crimes," said Assistant Attorney General Fisher. "The Department of Justice places a high priority on protecting our children from sexual predators and child pornographers. This verdict is a significant step in our efforts to combat the exploitation of our children."

"I have always believed that a society can have no greater priority than promoting the safety of its most vulnerable members, especially its children," said U.S. Attorney Morford. "That is why this case and this verdict was so significant."

Testimony at trial proved that up until the time of his arrest on Sept. 22, 2005, Richards ran several Web sites depicting adolescent boys engaged in sexually explicit activity. These Web sites included

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www.CaseyandKylesCondo.com, www.CaseysCondo.com, www.PenisClub.com, and www.JustinsFriends.net. The defendant himself created three of those Web sites and took over Justinsfriends in the summer of 2005.

To provide material for the various Web sites, Richards engaged in a sexual relationship with one of the victims when that boy was 14 years old. The defendant filmed and took pictures of himself engaged in sexually explicit conduct with that boy numerous times over four years. The defendant also traveled with that minor into foreign countries, including Australia and Iceland, where he again filmed and photographed sexually explicit activity.

As part of his operation of these commercial child pornography Web sites, the defendant advertised among his sites and others and set up elaborate affiliate marketing programs in which he rewarded others for generating new customers.

At the time of his arrest in September 2005, the defendant was living with a 13-year-old boy. Richards is also under indictment and awaiting trial on one count of distributing obscene materials to that minor.

This case was investigated by the Federal Bureau of Investigation, supported by the FBI's Innocent Images Unit and the Computer and Analysis Recovery Team, The Tennessee Bureau of Investigation, the Department of Justice Child Exploitation and Obscenity Section's High Tech Forensic Investigative Unit, and U.S. Immigration and Customs Enforcement. The case was prosecuted by Assistant U.S. Attorney S. Carran Daughtrey of the U.S. Attorney's Office of the Middle District of Tennessee and trial attorney Kayla Bakshi of the Child Exploitation and Obscenity Section.

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Image not available for this document, ID: 0.7.10316.21848-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 3:44 PM
To: USDOJ- Office of Public Affairs
Subject: NEW YORK MAN ENTERS GUILTY PLEA TO OPERATING AN INTERSTATE ORGANIZATION USING CHILDREN FOR PROSTITUTION

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 27, 2006
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(202) 514-2008
TDD (202) 514-1888

NEW YORK MAN ENTERS GUILTY PLEA TO OPERATING AN INTERSTATE ORGANIZATION USING CHILDREN FOR PROSTITUTION

WASHINGTON – A New York City man who led an interstate prostitution enterprise including recruiting and prostituting minor girls in several U.S. cites pleaded guilty today in federal court, Assistant Attorney General Alice S. Fisher of the Criminal Division and U.S. Attorney Christopher J. Christie of the District of New Jersey announced today.

Matthew D. Thompkins, a.k.a. "Knowledge," 38, of the Bronx, N.Y. entered his guilty plea today before U.S. District Judge Freda L. Wolfson in U.S. District Court in Trenton, N.J., to conspiracy to transport minors to engage in prostitution and conspiracy to engage in money laundering. In pleading guilty, Thompkins agreed to forfeit $748,243 in funds, three New York properties, one New Jersey property and eight vehicles all of which were derived from or used in the prostitution enterprise.

According to the plea agreement and hearing testimony, Thompkins organized and managed a prostitution ring operating from at least as early as 1999 and continuing until December of 2005 in various U.S. cities, including Atlantic City, N.J.; New York City (including Manhattan and Hunts Point in the Bronx); Las Vegas; Boston; and Miami. Other members of the conspiracy, including Melissa Ramlakhan, Anna Argyroudis, Emily Collins-Koslosky, Jacqueline Collins-Koslosky, and Kemyra Jemerson, would recruit and transport young girls to and from various cities in order to have them work as prostitutes for him. At Thompkins' direction, members of the conspiracy would also hide the proceeds of the illegal prostitution enterprise by converting the proceeds into U.S. postal and Western Union money orders in amounts under the legal reporting requirement of $3,000. To date, over $800,000 in U.S. postal and Western Union money orders have been identified as having been purchased and used by members of the conspiracy.

To date, Ramlakhan, Argyroudis, Emily and Jacqueline Collins-Koslosky, and Jemerson as well as another pimp involved in the conspiracy, Demetrius Lemus, have all pleaded guilty and are awaiting sentencing.

Thompkins faces a mandatory minimum of five years in prison to a maximum of 30 years and a $250,000 fine for conspiring to transport minors. He also faces up to 20 years in prison and the greater of a 250,000 fine or twice the gross amount of any pecuniary gain or twice the amount of any pecuniary loss

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suffered by the victims for conspiring to commit money laundering. Sentencing is currently scheduled for March 2, 2007.

The case is part of the "Innocence Lost" initiative, a cooperative effort to prevent and prosecute cases involving child prostitution between the Federal Bureau of Investigation, the Criminal Division's Child Exploitation and Obscenity Section and the National Center for Missing and Exploited Children. To date, the Innocence Lost Initiative has resulted in 252 open investigations, 614 arrests, 96 complaints, 142 informations or indictments, and 106 convictions in both the federal and state systems.

The case was investigated by Special Agent Daniel Garrabrant of the FBI and Special Agent Tara Nevrincean of the U.S. Postal Service, Office of Inspector General and is being prosecuted by Trial Attorney Sherri A. Stephan of the Child Exploitation and Obscenity Section and Assistant U.S. Attorney Jason Richardson of the District of New Jersey in Camden.

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Image not available for this document, ID: 0.7.10316.21830-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 4:48 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER GSA CHIEF OF STAFF DAVID SAFAVIAN SENTENCED TO 18 MONTHS IN PRISON ON CHARGES OF OBSTRUCTION, MAKING FALSE STATEMENTS

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 27, 2006
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FORMER GSA CHIEF OF STAFF DAVID SAFAVIAN SENTENCED TO 18 MONTHS IN PRISON ON CHARGES OF OBSTRUCTION, MAKING FALSE STATEMENTS

WASHINGTON – Former General Services Administration (GSA) Chief of Staff David H. Safavian was sentenced to 18 months in prison on charges of obstructing a GSA proceeding and making false statements, Assistant Attorney General Alice S. Fisher of the Criminal Division announced today.

Safavian was sentenced today by U.S. District Court Judge Paul Friedman of the District of Columbia. A jury convicted Safavian on June 20, 2006, of four charges stemming from an October 2005 indictment, finding that from May 16, 2002 until January 2004, Safavian made false statements and obstructed investigations into his relationship with former Washington lobbyist Jack Abramoff. The investigations focused on whether Safavian, the chief of staff at the GSA from May 2002 until January 2004, aided Abramoff in his attempts to acquire GSA-controlled property in and around Washington, D.C. In August 2002, Abramoff took Safavian and others on a golf trip to Scotland. From November 2004 until September 2005, Safavian had served as the administrator for the Office of Federal Procurement Policy at the Office of Management and Budget.

The jury heard evidence at trial that Safavian made a false statement to a GSA ethics officer claiming that Abramoff had no business with GSA at the time Safavian was planning to travel with the lobbyist to Scotland. He repeated similar statements to a GSA Office of Inspector General special agent and to investigators from the U.S. Senate Committee on Indian Affairs, again concealing the fact that Abramoff had business before the GSA prior to the August 2002 golf trip and that Safavian was aiding Abramoff in his attempts to do business with GSA.

The case was prosecuted by trial attorneys Peter R. Zeidenberg of the Public Integrity Section and Nathaniel B. Edmonds of the Fraud Section, both part of the Criminal Division at the Department of Justice. The case and the ongoing investigation are being led by special agents of the Federal Bureau of Investigation, the GSA Office of Inspector General, the Department of the Interior Office of Inspector General, and the Internal Revenue Service, Criminal Investigation Division.

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Image not available for this document, ID: 0.7.10316.21832-000002

From: USDOJ- Office of Public Affairs
Sent: Friday, October 27, 2006 6:14 PM
To: USDOJ- Office of Public Affairs
Subject: THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 30 – NOVEMBER 3, 2006

Department of Justice

FOR PLANNING PURPOSES ONLY
FRIDAY, OCTOBER 27, 2006
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OPA
(202) 514-2008
TDD (202) 514-1888

*********MEDIA ADVISORY*********

THE WEEK AHEAD FOR THE DEPARTMENT OF JUSTICE FOR OCTOBER 30 – NOVEMBER 3, 2006

Monday, October 30

Events TBD

Tuesday, October 31

Events TBD

Wednesday, November 1

Events TBD

Thursday, November 2

2:00 A.M. EST

Thomas O. Barnett, Assistant Attorney General for the Antitrust Division, will deliver remarks on the subject of *Spurring Innovation Through Efficient Antitrust Enforcement* at Yonsei University.
Yonsei University
Seoul, South Korea
OPEN PRESS

Press inquiries regarding logistics should be directed to Gina Talamona at 202-514-2007.

11:50 A.M. CST

FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Springfield, Ill.
900 East Linton Avenue

DOJ_NMG_ 0169885

Springfield, Illinois
OPEN PRESS

Press inquiries regarding logistics should be directed to Marshall Stone at 217-757-3528.

2:00 P.M. EST Attorney General Alberto R. Gonzales will deliver remarks at the Criminal Division Awards Ceremony.
Department of Justice
Great Hall
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

4:45 P.M. CST FBI Director Robert Mueller will hold a media availability at the FBI Field Office in Indianapolis.
575 North Pennsylvania Street
Indianapolis, Indiana
OPEN PRESS

Press inquiries regarding logistics should be directed to Wendy Osborne at 317-321-6170.

Friday, November 3

Events TBD

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Image not available for this document, ID: 0.7.10316.21825-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 30, 2006 9:44 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 30, 2006

Department of Justice

PRESS GUIDANCE
Monday, October 30, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

No releases scheduled.

EVENTS/HEARINGS

No events or hearings are scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169889

Image not available for this document, ID: 0.7.10316.21539-000001

Image not available for this document, ID: 0.7.10316.21539-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 30, 2006 11:01 AM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT WILL NOT OPPOSE PROPOSAL BY STANDARD-SETTING ORGANIZATION ON DISCLOSURE AND LICENSING OF PATENTS

A PDF of the letter is attached below.

Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, OCTOBER 30, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT WILL NOT OPPOSE PROPOSAL BY STANDARD-SETTING ORGANIZATION ON DISCLOSURE AND LICENSING OF PATENTS

WASHINGTON — The Department of Justice announced today that it will not oppose a proposal by the VMEbus International Trade Association (VITA) to implement a policy on the disclosure and licensing of patents. The policy requires the disclosure of essential patents, commitments to license essential patent claims on fair, reasonable, and non-discriminatory terms, and declarations of the most restrictive licensing terms that patent holders will require. The Department said that the proposed policy will enable VITA to make better informed decisions and thereby formulate standards that will benefit consumers.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division, to counsel for VITA and its standards development subcommittee, VITA Standards Organization (VSO). VSO is a non-profit organization that develops and promotes standards for VMEbus computer architecture, i.e., robust pathways through which information travels within a computer system. VMEbus systems are found in a wide range of products, including ultrasound and magnetic resonance imaging machines, semiconductor manufacturing equipment, industrial control equipment, and advanced avionics and radar systems.

VITA requested a business review letter from the Antitrust Division expressing its enforcement intentions regarding a proposed patent policy that will impose two requirements on holders of essential patents who participate in VSO standard-setting activities. First, the policy requires that patent holders make early disclosures of patents and patent applications that may be essential to implementing VITA standards once they are adopted. Second, the policy requires that patent holders declare the maximum royalty rate and most restrictive non-price licensing terms they will require from those who must take a patent license in order to implement the eventual VITA standard. These declarations are irrevocable, but patent holders may submit subsequent declarations with less restrictive licensing terms.

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Barnett said in the letter that the proposed licensing policy "should preserve, not restrict, competition among patent holders." Requiring the disclosure of a patent holder's most restrictive licensing terms increases competition by enabling VSO to choose between technologies based not only on technical terms, but also licensing terms.

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to Paragraph 10(c) of the Business Review Procedure, 28 C.F.R. § 50.6.

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DEPARTMENT OF JUSTICE
Antitrust Division

THOMAS O. BARNETT
Assistant Attorney General

Main Justice Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
(202) 514-2401 / (202) 616-2645 (Fax)
E mail: antitrust@usdoj.gov
Web site: http://www.usdoj.gov/atr

October 30, 2006

FACSIMILE TRANSMITTAL

Robert A. Skitol, Esq.
Drinker, Biddle & Reath, LLP
1500 K Street, N.W.
Suite 1100
Washington, D.C. 20005-1209

Dear Mr. Skitol:

This letter responds to your request on behalf of VITA, an international trade association, and its standards development subcommittee, VSO, for a business review letter from the Department of Justice pursuant to our Business Review Procedure, 28 C.F.R. § 50.6. You have requested a statement of the Department's antitrust enforcement intentions with respect to a proposed patent policy designed to ensure that participants in the VSO standard-setting process disclose patents that are essential to implement a new standard and declare the most restrictive licensing terms that will be required to license any such patents.

I. VITA and VSO

VITA is a non-profit standards development organization ("SDO") accredited by the American National Standards Institute ("ANSI"). VITA is comprised of developers, vendors, and users of real-time modular embedded computing systems originally based on the VMEbus computer architecture.[1] This architecture enables engineers to design application-specific

[1] A bus is generally defined as a data path within a computer system. VME stands for VERSAmodule Eurocard, a bus system first developed in 1981 that "would be microprocessor independent, easily upgraded from 16 to 32-bit data paths, implement a reliable mechanical standard and allow independent inventors to build compatible products." VITA, VME Technology FAQ,

computer systems that can be embedded in a wide range of high-performance and mission critical systems such as ultrasound and magnetic resonance imaging machines, semiconductor manufacturing equipment, and industrial control equipment. Since the mid 1990s, VME-based computers have also been increasingly embedded in the advanced avionics and radar systems of space exploration and weapons systems. In such applications, the components must be rugged enough to survive and operate under harsh environmental conditions.

The VME architecture is essentially a standard set of physical plugs that allow the various components of a computer to be physically connected together as well as logical protocols that allow the components to communicate with each other. The VME architecture is designed to allow computer engineers to mount a wide variety of components (processors, memory, and peripheral devices) on VME cards. Those cards can then be plugged into a VME backplane to form a VME computer system. Since its founding in 1981, VITA has promoted the development of standardized physical connectors and logical protocols that make such integration possible. It has finalized thirty-two standards and is currently developing twenty-six more. As the industry undergoes a major technology transition from parallel to serial data transport mechanisms, VITA management anticipates that VSO will actively develop many new standards for serial buses.

VITA standards developed by VSO enable competition in the VME industry. Many firms can and do produce VME hardware (cards, chips, backplanes) because the VME architecture is defined in a series of open VITA standards. Embedded systems developers value the flexibility of being able to integrate a variety of components into a single system and they benefit from competition among manufacturers of both the components and the connecting VME hardware. In addition, VITA's standards are backward compatible, meaning that VME systems can be upgraded with the next generation of technology. Without such industry standards, the developers and users of high-performance application-specific computer systems, such as defense contractors and the military, likely would be unable to purchase off-the-shelf products from an array of vendors and instead likely would be locked in to a proprietary system from one supplier, which may not develop upgrades.

The VSO standard-setting process generally begins when a member proposes work on a new standard. If at least two other members are interested, they can form a working group and begin to draft a specification in a series of face-to-face meetings, teleconferences, and electronic communications. When the working group members are satisfied with the draft specification, the draft is published. Then the draft specification can be formally accepted as a VITA specification or an International Electrochemical Commission Industry Technical Agreement (IEC ITA) by the full VITA membership, or it can be approved as an ANSI standard through a

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http://www.vita.com/vmefaq.html#anchor241615 (last visited Oct. 25, 2006). VITA's current standards development activities go beyond just VME technology.

slightly different process.[2] To simplify the terminology used in this discussion, this letter will refer to an adopted VSO draft specification as a VITA standard.

VSO develops standards in an open process and invites all interested parties to participate. VSO also seeks to encourage the success of its standards by ensuring that industry is able to implement the open VME architecture. To facilitate implementation, VITA makes the actual specifications of the VITA standards easily available to interested parties. Sometimes, however, VSO working groups knowingly incorporate patented technologies when drafting specifications even though the owner of such a patent could impose licensing terms that would significantly restrict the use of a standard. VITA believes that incorporating patented technologies into its standards is consistent with its goal of designing an open VME architecture only "if patent holders agree to license their patents on terms that permit the use of those patents in commercially viable products."[3] VSO has tried to achieve this goal by incorporating patented technology only when the patent holder commits to license on reasonable and non-discriminatory ("RAND") terms.[4] Recent experience, however, has led VITA to conclude that the RAND requirement is insufficient to ensure that its standards remain open.

You represent that several firms in the recent past have claimed to have patents that were essential to the implementation of a VITA standard and have demanded royalties that were significantly higher than expected. In two cases, the VITA member patent holders had previously committed to license on RAND terms. In these cases, developing new standards that did not infringe the asserted patent claims was not a viable option because of the significant cost and delays that would result. Instead, VITA persuaded the patent holders not to assert their patents by developing evidence of prior art that would invalidate the patent claims essential to implement the VITA standard. [5] These challenges were costly and delayed adoption of the standards. In another case, according to VITA, a standard was rendered commercially infeasible

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[2] To be approved as an IEC ITA or as a VITA specification, the draft specification is made available to all VSO members. Seventy-five percent of them must vote on the draft and seventy-five percent of the votes must be affirmative. VITA STANDARDS ORG., VSO POLICIES AND PROCEDURES § 7.2.1.1 (rev. 2.0 June 2005), *available at* http://www.vita.com/VOS-pp-draft2do.pdf. To become an ANSI-approved standard, the draft specification must be available for public comment and two-thirds of ANSI qualified votes must approve the draft. VITA STANDARDS ORG., PROCEDURES FOR THE DEVELOPMENT OF AMERICAN NATIONAL STANDARDS WITHIN THE VITA STANDARDS ORGANIZATION §§ 2-4 (drft. 0.4 2005), *available at* http://www.vita.com/VSO-ansi-process-0d4.pdf.

[3] Letter from Robert A. Skitol to Thomas O. Barnett, Assistant Attorney Gen., U.S. Dep't of Justice 2 (June 15, 2006) [hereinafter VITA-VSO Letter].

[4] *Id.*

[5] *Id.* at 2-3.

by the licensing terms demanded by the patent owner.[6]

VITA anticipates that future standards, such as those needed to facilitate the technology transition to serial buses, will likely incorporate more patented technologies. It has decided to revise its patent policy to enable its members to make better informed decisions in developing and adopting standards. VITA believes that this policy will reduce the likelihood of unexpected hold-up by patent owners that can threaten the openness and commercial viability of future VITA standards.

II. The Proposed VITA Patent Policy

To reduce the likelihood of unexpected licensing terms that threaten the success of future VITA standards and to expand the scope of competition between alternative technological solutions during the standard-setting process, VITA management plans to propose that its membership adopt a new patent policy (the "proposed policy"). The proposed policy is designed to elicit more information from those participating in VSO working groups about patented technologies essential to implementing the standard as well as more specific commitments regarding the fair, reasonable, and non-discriminatory ("FRAND") licensing terms that patent holders will charge once the standard has been set.

Under the proposed policy, each member of a working group must identify all patents or patent applications[7] that he knows about and that he believes may become essential[8] to the implementation of the future standard.[9] In addition, working group members must declare the maximum royalty rates and most restrictive non-royalty terms that the VITA member company he or she represents will request for any such patent claims that are essential to implement the eventual standard. These licensing commitments apply to the implementation of the particular draft VSO specification being developed, and any reaffirmations or revisions of that VITA standard, but they do not apply to other uses of the technology.[10] Although disclosure declarations are irrevocable, patent holders may submit subsequent declarations with less

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[6] *Id.*

[7] For the purposes of this letter, the word "patents" also includes "patent applications."

[8] The patent policy defines "essential" to mean "any claim the use of which is necessary to create a compliant implementation and for which there is no technically and commercially feasible non-infringing alternative." VITA PROPOSED POLICIES AND PROCEDURES § 10.2.1 (2006).

[9] The members of a working group are *individuals* who *represent* a VITA member company. For purposes of the proposed patent policy, VITA defines "working group members" to include "all three levels of membership described in Section 7.1.4 of the VSO Policies and Procedures: sponsors, participants, and observers." *Id.* § 10.2.1 n.1.

[10] *Id.* § 10.3.2.

restrictive licensing terms (including lower royalties). Working group members may consider the various declared licensing terms when deciding which technology to support during the standard-setting process, but the proposed policy forbids any negotiation or discussion of specific licensing terms among working group members or with third parties at all VSO and working group meetings.[11] Finally, the policy provides an arbitration procedure to resolve any disputes over compliance with the patent policy requirements.[12]

A. Disclosure of Patents

The proposed policy requires each working group member to make a "good faith and reasonable inquiry" into the patents owned, controlled, or licensed by the company she represents[13] and to disclose all patents or patent applications that the company owns, controls, or has a license to, that she believes may become essential to the VSO specification the working group is developing.[14] Each working group member also must disclose any known third-party patents or patent applications that he believes may become essential to a draft VSO specification unless doing so would violate a binding confidentiality agreement.[15]

Appendix 6 of the proposed policy contains the declaration form a working group member must use to disclose all essential patents and to declare the associated most restrictive licensing terms.[16] The working group member must disclose the patent number(s) and published patent application number(s), the existence of unpublished patent applications, and the country in which each patent has been granted or application has been made. When practical, for each disclosed patent or patent application, the working group member is to identify the relevant portions of the working group's draft VSO specification that infringes or would require infringing the patented technology.[17] The working group member must commit the VITA member company he or she

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[11] *Id.* § 10.3.4. The proposed policy does not expressly address communications outside the context of VSO and working group meetings. Accordingly, this business review letter also does not address such potential communications.

[12] *Id.* § 10.5

[13] The patent policy requires the working group member to search the member company and its affiliates, which the patent policy defines as "any entity that directly or indirectly controls, is controlled by, or is under common control with, another entity, so long as such control exists." *Id.* § 10.2.1 n.3.

[14] *Id.* § 10.2.1.

[15] *Id.* § 10.2.4. In disclosing a third party patent, a working group members does not take a position on the "essentiality or relevance of the third party claims." *Id.*

[16] *Id.* app. 6.

[17] *Id.* § 10.2.2.

represents to license essential patent claims on defined FRAND terms by specifying the maximum royalty rate (either in terms of dollars or as a percentage of the sale price) as well as the most restrictive non-price licensing terms the VITA member company he or she represents will request for patent claims that are essential to implement the draft VSO specification.[18]

B. Timing of Disclosures

Because the contents of a draft specification and the knowledge of working group members (of essential patents and patent applications) change over time, the proposed policy identifies three specific periods during the standard-setting process when working group members must identify any previously undisclosed essential patents, patent applications, and third-party patents.

First, a VITA member that proposes a new specification must make a patent declaration before a working group is formed to begin drafting the specification. Second, all working group members must make declarations within sixty days after the working group is formed. Third, all working group members must make declarations within fifteen days after the draft specification is published. In addition to these three specific periods, the proposed policy requires each working group member to disclose any previously undisclosed essential patents at the beginning of all face-to-face meetings of the working group. Any such disclosures made at face-to-face meetings must be followed by a declaration within thirty days.[19]

C. Consequences of Failing to Make Disclosures

If the working group member's declaration specifies a maximum royalty rate but does not include draft non-price licensing terms, the VITA member company he or she represents must accept specific limits on any grantback, reciprocal license, non-assert, covenant not to sue, or defensive suspension provisions in its licenses.[20] A working group member who fails to disclose a known essential patent, and/or fails to declare the associated most restrictive licensing terms according to the timing process described above, commits the VITA member company he or she represents to license the essential claims of the undisclosed patent for implementation of the VITA standard to all interested parties on a royalty-free basis and with the restricted non-price

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[18] *Id.* §§ 10.3.1, 10.3.2 & app. 6.E.2.

[19] *Id.* § 10.2.3.

[20] *Id.* § 10.3.2. Under the proposed patent policy a licensor may do no more than: (1) require a licensee to grant a FRAND license for any of the licensees current or future patents claims needed to implement the VITA-VSO standard; (2) require a licensee to grant a reciprocal license to such patent claims; (3) require a licensee not to assert or bring suit to enforce any such patent claims against the licensor; and (4) suspend the license if the licensee sues the licensor for infringement of any such patent claims. *Id.*

terms.[21]

D. Arbitration Procedures for Alleged Noncompliance

Section 10.5 of the proposed policy sets forth specific procedures which may be used if a VSO member believes that a working group member has breached any obligation under the proposed policy.[22] Complainants may file a claim with the chairperson of the applicable working group. If the working group is unable informally to resolve a claim within fifteen days, the chairperson must form an arbitration panel.[23] Once formed, the arbitration panel has forty-five days to gather information and submit a recommendation to the VITA Executive Director on how the dispute should be resolved. The Executive Director must consult with the VITA Board and render a decision on the claim within fifteen days of receiving the panel's recommendation. Finally, if a VSO member calls on the Executive Director to reconsider the decision, the Executive Director must render a final decision within thirty days. The Executive Director may require one or both parties to pay for the costs of the arbitration process.

III. Historical Background Regarding Licensing Discussions Within SDOs

Collaborative standard setting can produce many procompetitive benefits. Performance standards can improve the health and safety of consumers and improve consumers' confidence in a product's quality. Interoperability standards can enable consumers to share information with each other and to interconnect compatible products from different producers. In addition, the collaborative standard-setting process can enable industry participants to share knowledge and develop a "best-of-breed" product or process. Especially in industries with network effects, the collaborative standard-setting process can enlarge markets by overcoming coordination failures among those interested in developing and using the standard so that the products are available to, and used, by more consumers.

The collaborative standard-setting process can also result in exclusionary and collusive practices that have been found to harm competition and violate the antitrust laws. In *American Society of Mechanical Engineers v. Hydrolevel Corp.*, for example, antitrust liability arose when SDO members drafted, revised, and interpreted a safety code for water boilers in an exclusionary way. The members injured competition by conspiring to discourage customers from purchasing one competitor's water boiler safety device by stating that it did not comply with the safety code,

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[21] *Id.* § 10.4.

[22] *Id.* § 10.5.

[23] The arbitration panel must consist of three people: one chosen by the complainant, one chosen by the patent holder, and a panel chair chosen by the first two. The arbitrators chosen by the parties cannot be affiliated with any VITA member represented on the working group in question, and the chair cannot be affiliated with any VITA member or VITA. The VITA Technical Director will act as a non-voting administrator to monitor the panel's progress. *Id.* § 10.5.

even though, in fact, it did.[24] And in *Allied Tube & Conduit Corp. v. Indian Head, Inc.*, steel conduit producers were found to have violated the Sherman Act because they manipulated the standard-setting process by stacking a vote in order to prevent the use of equally viable plastic conduit in the building industry.[25]

In the wake of these cases, many SDOs implemented rules that strictly forbid all activities that could potentially result in antitrust liability, including restrictions on discussions about the terms and conditions of licenses to patents that are essential to a standard. VITA's proposed policy would relax these restrictions somewhat by requiring patent holders to declare the most restrictive terms they will require for licensing the essential claims of the patents they have been required to disclose as part of the VSO standard-setting process.[26] The proposed policy, however, maintains VSO's current prohibition on joint negotiation and discussion of patent licensing terms by working group members (or with third parties) at all VSO and working group meetings.

IV. Agency Analysis

Unless the standard-setting process is used as a sham to cloak naked price-fixing or bid rigging, the Department analyzes action during the standard-setting process under the rule of reason. The Department's analysis of VITA's proposed patent policy under the rule of reason examines both the policy's expected competitive benefits and its potential to restrain competition.

Early in the standard-setting process, VITA working group members often can choose among multiple substitute technological solutions, some of which may be patented. Once a particular technology is chosen and the standard is developed, however, it can be extremely expensive or even impossible to substitute one technology for another. In most cases, the entire standard-setting process would have to be repeated to develop an alternative standard around a different technology. Thus, those seeking to implement a given standard may be willing to license a patented technology included in the standard on more onerous terms than they would have been prior to the standard's adoption in order to avoid the expense and delay of developing a new standard around a different technology.

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[24] 456 U.S. 556, 571 (1982), *aff'g*, 817 F.2d 938 (2d Cir. 1987); *see also Radiant Burners, Inc. v. Peoples Gas Light & Coke Co.*, 364 U.S. 656, 659-60 (1961) (holding agreement by American Gas Association members to refuse to sell gas to customers using a non-Association certified product states a claim of a *per se* violation of section 1 of the Sherman Act).

[25] 486 U.S. 492, 509-10 (1988).

[26] The purpose of both these types of disclosure is to avoid inefficient outcomes and to foster competition between available substitute technologies. Requiring the disclosure of essential patents and patent applications is common among SDOs and raises no antitrust concern.

Requiring patent holders to disclose their most restrictive licensing terms in advance could help avoid this outcome by preserving the benefits of competition between alternative technologies that exist during the standard-setting process. Currently, VITA working group members choose between alternative technologies primarily based on technical merit. They generally have little information about how eventual licensing terms for alternative technologies are likely to differ. Under the proposed policy, each working group member also will be able to compare the most restrictive licensing terms associated with each alternative technology, including freely-available public domain technologies, when deciding which technology to support for inclusion in the draft VSO specification. Disclosure of this information, enforced by the requirement that nondisclosed patents be licensed royalty-free, permits the working group members to make more informed decisions when setting a standard. They might decide, for example, that a cheaper, less technologically elegant solution would be best or they might determine that it is worth including the proffered technological elegance even on the most restrictive terms declared by the patent holder. At a minimum, the disclosure of most restrictive licensing terms decreases the chances that the standard-setting efforts of the working group will be jeopardized by unexpectedly high licensing demands from the patent holder.

The disclosure of each patent holder's most restrictive licensing terms would allow working group members to evaluate substitute technologies on both technical merit and licensing terms. Working group members are likely to use this information when deciding which technologies to include in the standard. This use likely will create incentives for each patent holder to compete by submitting declarations that will increase the chances that its patented technology will be selected.

The proposed policy should not permit licensees to depress the price of licenses for patented technologies through joint action because it prohibits any joint negotiation or discussion of licensing terms among the working group members or with third parties at all VSO and working group meetings.[27] Moreover, working group members will not set actual licensing terms. The patent holder and each prospective licensee will negotiate separately, subject only to the restrictions imposed by the patent holder's unilateral declaration of its most restrictive terms.[28]

Any efforts to reduce competition by using the declaration process as a cover to fix

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[27] If the proposed policy did allow such negotiations and discussions, the Division likely would evaluate any antitrust concerns about them under the rule of reason because such actions could be procompetitive.

[28] When it agrees to license on nondiscriminatory terms as is usually required by SDOs, a patent owner relinquishes its right to restrict the number of licenses it will grant, and its right to require more restrictive terms in exchange for an exclusive license. Requiring patent holders to disclose the most restrictive limits to their FRAND commitment should not further reduce competition between licensees for patent licenses needed to implement the standard.

downstream prices of VME products would be a *per se* violation of section 1 of the Sherman Act, and the Department would not hesitate to condemn such activity. The same would be true of efforts by patent owners to rig their declarations of licensing terms. Thus, VITA, VSO, and its member companies vigilantly should continue to educate working group participants about the severe consequences of such activities.

V. Conclusion

The standards set by VSO are a critical element of the growth and continued innovation in the VME industry. VITA's proposed patent policy is an attempt to preserve competition and thereby to avoid unreasonable patent licensing terms that might threaten the success of future standards and to avoid disputes over licensing terms that can delay adoption and implementation after standards are set. The proposed policy does so by requiring working group members to disclose patents and patent applications that may become essential to implement a draft VSO standard, to commit to license on FRAND terms, and unilaterally to declare the most restrictive licensing terms that will be required. In addition, the proposed policy establishes an arbitration process which may be used to resolve compliance disputes. Adopting this policy is a sensible effort by VITA to address a problem that is created by the standard-setting process itself. Implementation of the proposed policy should preserve, not restrict, competition among patent holders. Any attempt by VITA or VSO members to use the declaration process as a cover for price-fixing of downstream goods or to rig bids among patent holders, however, would be summarily condemned.

The Department has no present intention to take antitrust enforcement action against the conduct you have described. This letter expresses the Department's current enforcement intention. In accordance with our normal practices, the Department reserves the right to bring an enforcement action in the future if the actual operation of the proposed conduct proves to be anticompetitive in purpose or effect.

This statement is made in accordance with the Department's Business Review Procedure, 28 C.F.R. § 50.6. Pursuant to its terms, your business review request and this letter will be made publicly available immediately, and any supporting data you submitted will be made publicly available within 30 days of the date of this letter, unless you request that part of the material be withheld in accordance with paragraph 10(c) of the Business Review Procedure.

Yours sincerely,

Thomas O. Barnett

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 30, 2006 12:48 PM
Subject: JCON BROADCAST, WEEK OF OCTOBER 30, 2006

JCON BROADCAST, WEEK OF OCTOBER 30, 2006

1. **Excused Absence for Voting**
2. **Research Classes Offered by Library Staff**

Excused Absence for Voting

The Federal Government has a longstanding policy of granting employees limited time off from work, i.e., excused absence, to vote in Federal, State, county, or municipal elections or in referendums on any civic matter in their community. Agencies have discretionary authority to grant excused absence to the extent that such time off does not seriously interfere with agency operations.

The Department offers the following guidelines when granting excused absence for voting:

- Generally, where the polls are not open at least three hours either before or after an employee's regular work hours, the employee may be granted a limited amount of excused absence that will permit the employee to report for work three hours after the polls open or leave from work three hours before the polls close, whichever requires the lesser amount of time off. Reference an employee's "regular work hours" in order to determine the time of day the employee normally arrives and departs from work.

- If an employee's voting place is beyond normal commuting distance and vote by absentee ballot is not permitted, the employee may be granted excused absence (not to exceed one day) to allow the employee to make the trip to the voting place to cast a ballot. If more than one day is needed, the employee may request annual leave or leave without pay for the additional period of absence.

Questions on the above guidance should be referred to your servicing human resources office.

Research Classes Offered By Library Staff

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Monday, October 30, 2006 4:38 PM
To: USDOJ- Office of Public Affairs
Subject: LORRAINE EDMO ANNOUNCED AS TRIBAL DEPUTY DIRECTOR OF OFFICE ON VIOLENCE AGAINST WOMEN

Department of Justice

FOR IMMEDIATE RELEASE — OVW
MONDAY, OCTOBER 30, 2006 — PHONE: (202) 307-6026
WWW.USDOJ.GOV/OVW — FAX: (202) 307-3911

LORRAINE EDMO ANNOUNCED AS TRIBAL DEPUTY DIRECTOR OF OFFICE ON VIOLENCE AGAINST WOMEN

WASHINGTON – The Department of Justice has announced the selection of Lorraine Edmo as Tribal Deputy Director of the Office on Violence Against Women. As Deputy Director, Edmo will guide the overall development and management of the tribal grant program as well as provide expert advice and guidance on grants administration, oversee policy and program development, supervise a staff of program specialists dedicated to tribal issues, and direct technical assistance and training initiatives to target the issue of violence against Native women.

Edmo has directed several national organizations that advocate for tribal and national education issues. These include the National Indian Education Association (NIEA), the American Indian Graduate Center (AIGC), and the federally chartered National Fund for Excellence in American Indian Education. Edmo has also served on advisory boards for the Committee for Education Funding as well as the AIGC and the NIEA. She currently serves as an advisory board member for the Washington Internship for Native Students program.

Prior to joining the Department of Justice, Edmo worked with the U.S. Department of the Interior as the Executive Director for the National Fund for Excellence in American Indian Education,

DOJ_NMG_ 0169907

created to raise private support for schools that are a part of the Bureau of Indian Affairs school system. She has also contributed to research and policy issues as a specialist with the Office of Indian Education (OIE) at the U.S. Department of Education.

As Tribal Deputy Director, Edmo will assist in the efforts to explore different innovations regarding violence against Native women and share knowledge that can be replicated nationwide. The position of Tribal Deputy Director is statutorily required and created under Title IX of the Violence Against Women Act of 2005.

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06-XXX

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Image not available for this document, ID: 0.7.10316.21529-000002

From: USDOJ- Office of Public Affairs
Sent: Monday, October 30, 2006 4:48 PM
To: USDOJ- Office of Public Affairs
Subject: RESEND: LORRAINE EDMO ANNOUNCED AS TRIBAL DEPUTY DIRECTOR OF OFFICE ON VIOLENCE AGAINST WOMEN

Department of Justice

FOR IMMEDIATE RELEASE — OVW
MONDAY, OCTOBER 30, 2006 — PHONE: (202) 307-6026
WWW.USDOJ.GOV/OVW — FAX: (202) 307-3911

LORRAINE EDMO ANNOUNCED AS TRIBAL DEPUTY DIRECTOR OF OFFICE ON VIOLENCE AGAINST WOMEN

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DOJ_NMG_ 0169911

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info@londonjunto.com

From:	info@londonjunto.com
Sent:	Tuesday, October 31, 2006 7:22 AM
To:	Gorsuch, Neil M
Subject:	Nov. 14th, The London Junto/Harvard Business Forum Presents: Global Macro Expert Phillippe Bonnefoy: "Per Ardua Ad Astra'...Through Adversity,to the Stars: Global Macro in 2007"
Attachments:	tmp.htm

The London Junto Newsletter: November 2006 The London Junto and The Harvard Business Forum Present:

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on November 14th for an evening with Phillippe Bonnefoy, Head of Cedar Partners, and one of the world's leading authorities on Global Macro Hedge Funds.

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Philippe began his career at Kidder, Peabody & Co., New York, in 1983, as an analyst in international corporate finance. There, he managed the international equity investments for Kidder, Peabody, later joining ex- colleagues, in 1988, to develop a risk arbitrage proprietary trading group pursuing a number of hedge fund strategies. In 1999, Philippe identified other opportunities in alternative investments. He founded Cedar Partners Investment Management Limited ("CPIM") to provide alternative investment advisory services to financial institutions. Between 1999 and 2001 Philippe was an external consultant to Commerzbank Securities, and from 2002 to 2006 CPIM was the external advisor for alternative investment strategies (which grew to $2bn assets under management) to Commerzbank Capital Markets Corporation. He established the Cedar Fund in 2002, which had been the bank?s proprietary hedge fund investment portfolio.

Philippe is also responsible for overall portfolio positioning, idea generation, strategy weightings and tactical investments for the Katana Fund, to be launched in December. Philippe is currently a member of the Sound Practices Committee of the Alternative Investment Management Association.

DATE: November 14th, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD

The London Junto - http://rs6.net/tn.jsp?t=xqhsszbab.0.t9zzwubab.vri5uubab.190&ts=S0211&p=http%3A%2F%2Fwww.londonjunto.com

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THE DEADLINE FOR REGISTRATION AND PAYMENT IS November 10, 2006 ********** **********

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The London Junto Newsletter: November 2006

The London Junto and The Harvard Business Forum Present:

Event Sponsors

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Relevant links

- Cedar Partners
- Inside The House of Money

Dear Neil.Gorsuch@usdoj.gov,

Join the London Junto and the Harvard Club of UK Business Forum on November 14th for an evening with Phillippe Bonnefoy, Head of Cedar Partners, and one of the world's leading authorities on Global Macro Hedge Funds.

"'Per Ardua Ad Astra'...Through Adversity, to the Stars: Global Macro in 2007 "

The granddaddy of all hedge fund strategies, "Global Macro" guaranteed fame and fortune for hedge fund greats George Soros, Louis Bacon, Paul Tudor Jones and Bruce Kovner. Yet in 2006, managers of global macro hedge funds have lagged behind market benchmarks such as the Standard & Poor's 500 Index after being caught off guard by this year's choppy stock, bond and commodity markets. With information travelling at light speed across the globe, is global macro yesterday's game? Can investors still make a fortune betting alongside managers who bet on big picture thematic views? Come listen to and debate the views of one of the world's leading experts in the global macro hedge fund space.

About Philippe Bonnefoy

Philippe Bonnefoy is Chairman, Tactical Asset Allocation Committee, Cedar Partners; Director, Cedar Fund; and Portfolio Manager of the Katana Fund.

Philippe began his career at Kidder, Peabody & Co., New York, in 1983, as an analyst in international corporate finance. There, he managed the international equity investments for Kidder, Peabody, later joining ex- colleagues, in 1988, to develop a risk arbitrage proprietary trading group pursuing a number of hedge fund strategies. In 1999, Philippe identified other opportunities in alternative investments. He founded Cedar Partners Investment Management Limited ("CPIM") to provide alternative investment advisory services to financial institutions. Between 1999 and 2001 Philippe was an external consultant to Commerzbank Securities, and from 2002 to 2006 CPIM was the external advisor for alternative investment strategies (which grew to $2bn assets under management) to Commerzbank Capital Markets Corporation. He established the Cedar Fund in 2002, which had been the bank's proprietary hedge fund investment portfolio.

Philippe is also responsible for overall portfolio positioning, idea generation, strategy weightings and tactical investments for the Katana Fund, to be launched in December. Philippe is currently a member of the Sound Practices Committee of the Alternative Investment Management Association

Investment Management Association.

DATE: November 14th, 2006
TIME: 6:30 PM for 7:00 PM
LOCATION: Lansdowne Club
9, Fitzmaurice Place, London. W1J 5JD
The London Junto

Tickets for the event are £20.00. This includes:

- A welcome glass of wine or other beverage
- An opportunity to win a copy of Steven Drobny's Inside the House of Money

Please pay on PAYPAL (link below-takes VISA etc.) You **DO NOT** need a PayPal account. Alternatively, drop me an e-mail with the following details: **Name, billing address, card type (VISA etc.), expiration date, card number, the CVN (Card Verification Number-the three digit number on the back of the card.)**

Nicholas Vardy
The London Junto

email: info@londonjunto.com
phone: +44(0)7780 677360
web: http://www.londonjunto.com

Please register and pay for this event by clicking on the button here:

THE DEADLINE FOR REGISTRATION AND PAYMENT IS November 10, 2006

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London Junto | 16 Queensgate Place | London | SW7 5NY | United Kingdom

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 9:47 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR OCTOBER 31, 2006

Department of Justice

PRESS GUIDANCE
Tuesday, October 31, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Antitrust Division will issue a release on a merger-related matter. (Clarke)

The Civil Rights Division will issue a release on a sentencing matter. (Magnuson)

The Civil Rights Division will issue a release on a housing discrimination matter. (Magnuson)

The Civil Rights Division will issue a release on voting rights matters. (Magnuson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

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Image not available for this document, ID: 0.7.10316.21508-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 10:33 AM
To: USDOJ- Office of Public Affairs
Subject: ORLANDO WOMAN PLEADS GUILTY TO HUMAN TRAFFICKING CHARGE

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
WWW.USDOJ.GOV

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

ORLANDO WOMAN PLEADS GUILTY TO HUMAN TRAFFICKING CHARGE

WASHINGTON — An Orlando, Fla., woman pleaded guilty to forcing a Russian woman to work against her will as a prostitute, the Justice Department announced today.

Yelena Telichenko faces a maximum sentence of up to 20 years in prison, a $250,000 fine, and restitution payments for human trafficking charges. The victim and Telichenko met in Philadelphia where Telichenko persuaded the victim to move to Orlando and engage in prostitution in order to earn money. Telichenko kept the victim in prostitution by repeatedly and brutally beating her whenever she objected.

"Never in America should a woman be forced to prostitute herself," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "All too often, the victims in these types of cases have limited resources and a limited understanding of our language and culture. Through these types of prosecutions, the Civil Rights Division continues its longstanding commitment to protecting some of the most vulnerable members of our society."

"The traffickers we prosecute are the most cynical of criminals; they profit from their countryman's hopes and dream of a better life in this country. They take that hope and twist it into something evil and ugly," said Paul I. Perez, U.S. Attorney for the Middle District of Florida.

The prosecution of individuals involved in human trafficking is a top priority of the Justice Department. In the last six fiscal years, the Civil Rights Division, in conjunction with U.S. Attorneys' Offices, has increased by six-fold the number of human trafficking cases filed in court, compared to the previous six years.

The case was investigated by special agents of the U.S. Bureau of Immigration and Customs Enforcement. The case is being jointly prosecuted by attorneys from the Civil Rights Division and the U.S. Attorney's Office for the Middle District of Florida.

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06-737

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Image not available for this document, ID: 0.7.10316.21500-000002

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, October 31, 2006 11:44 AM
To: Agarwal, Asheesh (CRT); Ames, Andrew; Battaglia, John T; Baxter, Felix (CIV); Beckner, Rick (CIV); Blomquist, Kathleen M; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Davis, Dan (CIV); Davis, Deborah J; Fargo, John (CIV); Fielding, Gabrielle (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Gunn, Currie (SMO); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory; Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); McDonald, Esther Slater; McMahon, Linda M (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John (USAEO); O'Quinn, John C; Osborn, Tara (CIV); Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Shaw, Aloma A; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 10/31/06 Civil Division News

Ex-air marshal fired over leak sues TSA

Lincoln hospital pays $4 million for overpayments

Amerigroup to Appeal Ill. Decision

Supreme Court hears arguments on legal immunity for feds

Arar apology will likely have to await outcome of court cases: MacKay

Press Release: Experts Warn of Potential Adverse Health Effects From AVA Anthrax Vaccine as DoD Plans to Resume Mandatory Vaccinations; Lawyers Discuss Legal Strategies to Stop Mandatory Program

Los Angeles Times

October 31, 2006

Ex-air marshal fired over leak sues TSA

Nicole Gaouette
Times Staff Writer

Washington — A former federal air marshal filed suit Monday against the Transportation Security Administration for firing him after he revealed an unclassified plan to remove marshals from long-distance flights.

The 2003 disclosure by Robert MacLean came just days after the agency had warned airlines of a hijacking threat to overseas flights. News of the plan to remove marshals from long-distance flights generated outrage in Congress and forced the TSA to reverse its decision.

This April, the agency fired MacLean for leaking information to reporters. In his lawsuit, filed with the U.S. 9th Circuit Court of Appeals, the former air marshal is challenging the agency's contention that the information was sensitive and should not have been disclosed.

Whistle-blower advocates say the case could reaffirm protections for federal employees who release information, as well as set limits on the administration's designation of some material as "sensitive but unclassified," which limits access to that information.

The TSA's plan to cut air marshal presence was at odds with federal law, which makes it a priority to place the marshals on long-distance flights such as the ones targeted by the Sept. 11 hijackers. The agency was trying to cut costs by keeping air marshals off flights that required a hotel stay.

On July 29, 2003, the TSA sent air marshals text messages on their cellphones ordering them to quickly cancel hotel reservations so as not to incur late cancellation fees, MacLean said.

Three days earlier, the agency had issued an "information circular" stemming from a foiled hijacking plot that outlined specific terrorist threats to U.S.-bound aircraft from Australia, Italy and Britain.

"It all comes down to money," MacLean, 36, said Monday. "They made a dangerous decision to save money."

MacLean, an Orange County resident, said the purpose of his suit is to regain his job.

TSA spokeswoman Amy Kudwa declined to comment.

END

AP

October 31, 2006

Lincoln hospital pays $4 million for overpayments

By NATE JENKINS / The Associated Press

A Lincoln hospital has paid $4 million to both the federal and state government to settle claims of erroneous Medicare and Medicaid reports that resulted in overpayments to the hospital in the 1990's.

St. Elizabeth Regional Medical Center paid $2.8 million to the federal government this month as part of a whistleblower lawsuit that has resulted in four other settlements across the country since 2002. The payment from St. Elizabeth to the federal government is the third-largest payment among the five hospitals involved thus far.

Another $1.2 million was paid to the state of Nebraska this month to settle the state component of the suit, according to Donell Martinez, director of health resources for the hospital.

"This was an error on our part and as soon as we became aware of it, we worked collaboratively with state and federal officials to resolve it immediately," Martinez said of the possible overpayments stemming

from the reports filed from 1993 to 1996.

The hospital mischaracterized some expenses related to its neonatal and burn units in reports filed with Medicare and Medicaid, resulting in possible overpayments to the hospital by both programs, according to a news release from the law firm that represents the whistleblower. A California man who used to work for Medicare reimbursement consultant Healthcare Financial Advisors filed the original whistleblower lawsuit in 1998. The whistleblower, Mark Razin, alleged that a number of hospitals that worked with HFA defrauded Medicare and Medicaid.

“A big warning light should have flashed when HFA offered to increase St. Elizabeth’s Medicare payments,” San Francisco attorney Michael P. Brown, an attorney with the firm that represents Razin, said in the news release. “Any time a company promises to increase a health care provider’s Medicare reimbursement, the provider has to closely examine the methods that are used to make sure they are legal.”

While HFA worked for the hospital as a consultant for preparing cost reports in the 1990’s, Martinez said the hospital, not HFA, committed the errors that resulted in possible overpayments. Martinez said the hospital wasn’t aware of the issue until February this year and worked quickly to resolve the issue.

“It was innocent accounting mistakes that resulted in overpayments,” Martinez said. “We now have a very robust compliance program in place.”

The four previous settlements stemming from the lawsuit include hospitals in New Mexico, Texas and California. The largest payment so far came from Lovelace Health System in New Mexico, which paid $24.5 million in 2002, according to the law firm.

END

Insruance Journal

October 30, 2006

Amerigroup to Appeal Ill. Decision

Amerigroup Corp. said that it will appeal a jury verdict that found against the company and its Illinois subsidiary in qui tam litigation tried in the U.S. District Court for the Northern District of Illinois.

The Company release said that a number of the Court's rulings constitute reversible error and impacted the jury's findings. Amerigroup intends to appeal the case to the 7th Circuit Court of Appeals. The Company asserts that it was acting with the knowledge of and in accordance with the direction of the Illinois Department of Public Aid.

"For more than 11 years, we have always worked hard to ensure that we provide our state partners with the highest standards of service and ethics," said Jeffrey L. McWaters, Amerigroup chairman and CEO. "The leadership of our Illinois health plan, including two physicians and two nurses, firmly believe that they did what the Illinois Department of Public Aid asked them to do.

The Company said it will ask the Court to stay the imposition of any damages pending the outcome of its appeal. If the verdict is upheld, AMERIGROUP and its Illinois subsidiary would be required to pay damages of $144 million, which is $48 million trebled. The jury also found that there were 18,130 false claims. Under the Federal False Claims Act, false claims carry a penalty of between $5,500 and $11,000 per claim. Under the Illinois Whistleblower and Reward and Protection Act, false claims carry a penalty of between $5,000 and $10,000 per claim. The Court instructed the jury that each enrollment form

completed by a prospective member during the applicable period constituted a claim for payment. The Company believes that the Court's ruling in that respect was improper and unprecedented.

The suit, which was unsealed in June 2003, alleged that Amerigroup Illinois inappropriately worked to avoid or discourage the enrollment of third-trimester pregnant women between 2000 and 2003. A seven-member jury found in favor of a former Amerigroup employee who brought the lawsuit, the State of Illinois and the U.S. Department of Justice, both of which joined in the suit two years later.

None of the allegations in the lawsuit involved Amergroup's active subsidiaries in its other states.

In some circumstances, the federal government may decide to exclude a company from future contracts as a result of civil verdicts. Amerigroup intends to immediately work to assure the government that exclusion is not warranted because the circumstances in the allegation were unique to Illinois and the Company has adequate controls to ensure prompt detection and reporting of any potential improper activities.

Amerigroup Corp., headquartered in Virginia Beach, Va. identifies itself as a healthcare access provider for low-income Americans through development of managed health care services for the public sector.

END

Government Executive Magazine

October 30, 2006

Supreme Court hears arguments on legal immunity for feds

By Karen Rutzick

The Supreme Court heard arguments Monday about the extent of federal employees' immunity from on-the-job lawsuits.

Under the 1988 Westfall Act, federal employees are immune from suits so long as the Attorney General certifies that they were doing their job when the incident in question occurred. The government then substitutes itself as the defendant.

In the case argued Monday, *Osborn v. Haley*, the high court must decide whether the Attorney General can certify an act as job-related simply by denying that the incident ever occurred. If an employee is sued for an act clearly not in his or her job description, can the government defend the employee anyway if they believe in the employee's innocence?

The nine justices peppered both sides with questions Monday morning in the case, which began in Kentucky in the spring of 2002. In *Osborn v. Haley*, government contractor Pat Osborn sued a Forest Service employee for allegedly convincing her employer, the Land Between the Lakes Association Inc., to fire her. Osborn claimed the employee, Barry Haley, did this after she confronted him for not hiring her for an open contracting officer position with the Forest Service.

"The reason he wasn't acting outside the scope of his employment [could be] that he didn't do what you said he did," Associate Justice David Souter told Osborn's attorney.

One difference between the employee themselves sitting as defendant and the government doing so involves jurisdiction. Employees' cases could be heard by a state court, but the government's involvement brings the case to the federal level.

Justice Antonin Scalia asked Osborn's attorney why "would it make any sense to give a federal employee the benefit of a trial in a federal court when he committed the act...and yet deprive him of the federal court" when the government believes him or her to be innocent.

Osborn's attorney, Eric Grant, argued that the "he-didn't-do-it defense" was not the same as certifying that the act was actually in the scope of employment.

In an analysis of the case, professor Mary Phelan D'Isa of the T.M. Cooley Law School in Lansing, Mich., said the decision will determine the federal government's ability to overcome state jurisdiction for actions against federal employees it wants to defend.

"Any decision of these issues will be of significant importance to the United States because it may dictate how it responds to and defends allegations of wrongdoing by government employees," D'Isa said.

END

The Canadian Press

October 31, 2006

Arar apology will likely have to await outcome of court cases: MacKay

By Murray Brewster

OTTAWA_(CP) _ Any formal U.S. apology to Canadian engineer Maher Arar for his detention, deportation and torture in Syria would have to await the outcome of litigation, Foreign Affairs Minister Peter MacKay said Monday.

A letter received last week from U.S. Secretary of State Condoleezza Rice contained no apology to Arar, a Syrian-born Canadian citizen who was wrongly accused of being a terrorist and sent to Syria from New York in 2002.

At least two court\l "l" cases over Arar's treatment are in legal limbo, limiting the response of both the U.S. and Canadian governments, said MacKay.

"I don't want to jeopardize or compromise the legal standing of Mr. Arar or any other government," he said following a speech to a foreign policy think-tank.

"To that extent the issues of apology will be dealt with in the future."

A lawsuit filed by Arar's Canadian lawyers was put on hold months ago, pending the results of Justice Dennis O'Connor's public inquiry.

In his findings, released Sept. 18, O'Connor concluded the RCMP passed misleading and inaccurate information about Arar to American authorities. Federal government\l lawyers have entered into mediation talks with his legal team.

A lawsuit filed in the U.S. was dismissed in February by a U.S. federal court\l "l" judge, who cited the need for national security but also suggested Canadian complicity in Arar's deportation. Lawyers for Arar say they're considering their next legal move in the U.S.

O'Connor found that no Canadian authorities participated in directly in the decision to send Arar overseas in a process called extraordinary rendition.

In launching a formal protest over Arar's treatment, Prime Minister Stephen Harper said Canada wants the United States to "come clean with its version of events."

Foreign Affairs officials say the letter from Rice, which has not been released publicly, indicates the United States is committed to informing and consulting Ottawa about any Canadian citizen who may be involuntarily sent to a third country.

MacKay said his "most direct and compelling concern is that this never happens again."

To that end, he says the U.S. response is good enough for the moment.

"They've come clean with their commitment not to let this happen again," MacKay said.

The House of Commons passed a unanimous motion at the end of September, apologizing to Arar. But a senior Conservative cabinet member tempered the result by saying MPs voted as individuals and weren't necessarily speaking for the government.

RCMP Commissioner Giuliano Zaccardelli, whose force inaccurately described Arar as an "Islamic extremist," has issued a carefully worded public apology to Arar and his family.

END

PR Newswire

October 31, 2006

Press Release: Experts Warn of Potential Adverse Health Effects From AVA Anthrax Vaccine as DoD Plans to Resume Mandatory Vaccinations; Lawyers Discuss Legal Strategies to Stop Mandatory Program

WASHINGTON, Oct. 30 WASHINGTON, Oct. 30 /PRNewswire/ -- As the Defense Department (DoD) prepares to resume mandatory AVA (Anthrax Vaccine Absorbed) vaccinations for military overseas, medical experts and military personnel warned of adverse health effects they claim were caused by the vaccine , while victims' attorneys strategized about stopping the vaccinations and discussed securing compensation for victims. The discussions occurred at an October 28 Continuing Legal Education (CLE) seminar organized by Byron Holcomb, a leading attorney for victims of the AVA anthrax vaccine and a retired Navy judge advocate general.

Various military personnel recounted how they believe the AVA anthrax vaccine harmed their health and hurt their careers. U.S. Air Force Judge Advocate Captain Kelli Donley developed Idiopathic Spinal Cerebellar Ataxia after receiving the AVA anthrax vaccine. The disease impaired her brain function and motor skills, a U.S. Air Force Medical Evaluation Board ("Board") found. She retired in April of 2006 after the Board granted her a 100 percent disability because she could not practice law or perform tasks requiring high cognitive function or demanding speech.

"Before receiving the anthrax vaccine, I was perfectly healthy and in good shape. Now, I talk with slurred speech, I have trouble walking, and I stopped seeing those seeking legal assistance because their legal issues paled in comparison to mine," said Donley.

Others who spoke of what they believe are the harmful health effects of receiving the AVA anthrax vaccine included Margaret McFann, an Air Force major diagnosed with lupus, and Frank Fisher, MD, a retired Air Force lieutenant colonel diagnosed with Still's disease, a rare illness marked by high, spiky

fevers, rash, and joint pain, which may lead to chronic arthritis.

A medical expert, who strongly believes in the use of safe and efficacious vaccines, warned of serious and significant concerns about the AVA vaccine's safety profile. Mark Geier, MD, PhD, analyzed the safety of millions of doses of the vaccine using the Vaccine Adverse Events Reporting System (VAERS), an epidemiological database maintained by the Centers for Disease Control. His analysis is published in peer-reviewed journals, including Hepato- Gastroenterology and the Journal of Clinical and Experimental Rheumatology. He writes in Hepato-Gastroenterology, "Anthrax vaccine, based upon our analysis of the VAERS, was one of the most reactogenic vaccines we have ever analyzed ... The data showed the use of AVA was frequently followed by a wide variety of reports of adverse reactions that generally occur within 12 days of vaccination."

Lawyers discussed efforts to reverse the government's decision to proceed with mandatory inoculations, as well as legal strategies to gain compensation\l "l" for victims. Attorney Holcomb said, "Our objective is not to stop vaccination of military personnel, it is to stop the mandatory injection of an experimental vaccine\l "l" that has failed the safety test time after time."

Holcomb added, "Military boards have already granted permanent military disability to fifteen victims I represented -- professionals in their early 20's and 30's, with bright futures ahead of them -- who became tragically disabled for life by the AVA anthrax vaccine. The military board decisions validate my firm belief that DoD should not resume mandatory inoculations with this vaccine."

Mark Zaid, Esq., whose lawsuit had until recently blocked the Pentagon's mandatory anthrax vaccination program, is committed to stopping its reinstatement. "The anthrax vaccine is unnecessary, unproven and potentially unsafe -- and should not be unlawfully imposed upon our military forces or contractors," he said.

END

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, October 31, 2006 12:43 PM
Subject: Combined Federal Campaign –e a Star in Someone' Life!

Combined Federal Campaign – Be a Star in Someone's Life!

The Department's Combined Federal Campaign (CFC) officially begins on November 1, 2006. Now is a perfect opportunity to contribute to your community through organizations of interest to you. Key workers are busy distributing materials and supplies, and you will soon receive your Pledge Card and Catalog of Caring.

You are invited to a very special **CFC Rally** to begin this year's campaign at **10:30 a.m. on Monday, November 6th, in The Great Hall** of the RFK Main Justice Building. Snacks will be provided, as well as fine entertainment and great door prizes. A **CFC Charity Fair** will be held in the **1300 and 1400 corridors** of the RFK Main Justice Building before and after the rally.

Be a Star in Someone's Life by contributing! For more information about the Combined Federal Campaign, visit the Department's CFC website at http://www.usdoj.gov/jmd/ps/empcfc.htm. The CFC gives you the power to help your neighbors in need, around the corner, across the Nation, and throughout the world.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 11:57 AM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SUSPENDS INVESTIGATION OF ENTERCOM COMMUNICATIONS PURCHASE OF N.Y. RADIO STATIONS FROM CBS CORPORATION

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT SUSPENDS INVESTIGATION OF ENTERCOM COMMUNICATIONS PURCHASE OF N.Y. RADIO STATIONS FROM CBS CORPORATION

Entercom Plans to Sell Three Rochester Radio Stations to Eliminate Need for Further Justice Department Investigation and to Comply with FCC Ownership Rules

WASHINGTON — The Department of Justice today announced that it has suspended its investigation of Entercom Communications Corporation's proposed acquisition of New York radio stations from CBS Corporation as long as the companies sell three Rochester radio stations as planned. Entercom informed the Department that it planned to divest the three Rochester stations in order to avoid the need for further investigation by the Justice Department and to comply with the Federal Communications Commission's (FCC) local ownership rules. The investigation arose from Entercom's proposed $262 acquisition of 15 radio stations from CBS in Austin, Texas; Cincinnati, Ohio; Memphis, Tenn.; and Rochester, N.Y.

The Department's Antitrust Division had focused its investigation on the Rochester area in which Entercom already owns four radio stations – one AM and three FM – and would acquire four additional FM stations from CBS. The Department was investigating whether Entercom's ownership of eight radio stations in the Rochester area, accounting for more than 57 percent of radio advertising revenue, would reduce competition and raise the price of radio advertising in that market.

The FCC's local ownership rules prohibit Entercom from owning more than five FM stations in one area and would require Entercom to sell two stations. Prior to the conclusion of the Department's antitrust investigation, Entercom advised the Department that it planned to sell CBS's WRMM-FM and WZNE-FM and Entercom's WFKL-FM to a third party. The Department determined that this sale would reduce Entercom's post-transaction share of Rochester radio advertising revenues to about 40 percent. Based on the reduced share of revenue and the characteristics of the radio stations being sold, the Department concluded that it would not have reason to continue its investigation if the proposed sale is completed.

DOJ_NMG_ 0169936

Entercom and CBS have agreed to complete the planned sale – or the sale of an alternative group of Rochester stations that would be subject to Department approval – within three months to a buyer approved by the Department. If the planned sales do not take place, the Department may renew its investigation and could file a complaint and a proposed consent decree in court that would require divestiture of the three Rochester, N.Y. stations.

Entercom, headquartered in Bala Cynwyd, Pa. owns radio stations in 20 markets nationwide. Its 2005 annual revenues were $432.5 million.

CBS is headquartered in New York, N.Y. Its radio segment owns and operates 179 radio stations in 40 markets nationwide. In 2005, it earned $14.5 billion in revenues, approximately 15 percent of which was generated by its radio segment.

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06-740

DOJ_NMG_ 0169937

Image not available for this document, ID: 0.7.10316.21484-000001

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 12:20 PM
To: USDOJ- Office of Public Affairs
Subject: CORRECTION: JUSTICE DEPARTMENT SUSPENDS INVESTIGATION OF ENTERCOM COMMUNICATIONS PURCHASE OF N.Y. RADIO STATIONS FROM CBS CORPORATION

Correction: Paragraph 1, $262 **million**.

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
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DOJ_NMG_ 0169939

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06-740

DOJ_NMG_ 0169940

Image not available for this document, ID: 0.7.10316.21485-000001

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 3:16 PM
To: USDOJ- Office of Public Affairs
Subject: FACT SHEET: PROTECTING VOTING RIGHTS AND PROSECUTING VOTER FRAUD

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
WWW.USDOJ.GOV

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

FACT SHEET: PROTECTING VOTING RIGHTS AND PROSECUTING VOTER FRAUD

The Department of Justice plays a limited, but important, role with respect to elections. The Justice Department's Criminal and Civil Rights Divisions enforce specific federal laws that help to ensure that all qualified voters have an opportunity to cast their ballots and have them counted. More specifically, the Department is responsible for enforcing federal laws that help prevent and punish fraud and other assaults on the integrity of the election process for federal elections; for ensuring compliance with the Voting Rights Act, including preventing discrimination and voter intimidation; and for protecting the voting rights of servicemembers and overseas citizens, as well as voters with disabilities.

"The right to vote, and to have that vote count, is absolutely central to the existence of freedom," said Attorney General Alberto R. Gonzales. "As the Supreme Court has characterized it, the right to vote is the 'preservative of every other right.' The Department of Justice is committed to both ballot access and ballot integrity and together these ensure that elections reflect the will of the people, which is the foundation of our great Nation."

The Justice Department has led a major enforcement effort to assure compliance with the Voting Rights Act and other federal laws that protect American voters. During this administration, the Voting Section has broken new ground, filing the majority of all cases ever filed under the minority language provisions of the Voting Rights Act, as well as the bulk of all cases ever filed under Section 208 of the Act, which guarantees voters the right to obtain assistance in voting.

Civil Rights Division Election Day Program:

For decades, the Justice Department has conducted an Election Day program to help protect the rights of eligible voters to cast their votes. On Election Day, the Civil Rights Division will implement a comprehensive program to help ensure ballot access.

- Since the passage of the Voting Rights Act of 1965, the Justice Department has regularly sent federal observers and monitors around the country to protect the rights of all voters, including minority voters and voters who need assistance at the polls. This year, the Civil Rights Division will coordinate the

DOJ_NMG_ 0169942

deployment of hundreds of federal government employees in counties, cities and towns across the country to ensure access to the polls as required by our nation's civil rights laws.

- On Nov. 7, 2006, the Department of Justice will send a record number of federal personnel for a midterm election, including hundreds of Justice Department employees, to over 65 cities or counties in approximately 20 states to monitor the elections.

- In identifying locations where federal monitors may be needed, the Civil Rights Division has sought out the views of many organizations, including advocacy groups for minority voters and voters with disabilities, as well as state and local officials.

- On Election Day, voters will be able to file complaints online on the Voting Section home page http://www.usdoj.gov/crt/voting/index.htm. Civil Rights Division personnel will be available at a specially staffed toll free number, 1-800-253-3931, to receive complaints, and on a dedicated TTY line, 1-888-305-3228, that will be operational beginning Nov. 1, 2006.

- The Civil Rights Division's efforts to ensure voter access in accordance with federal law included training a responsible official, the District Election Officials (DEOs), in every U.S. Attorney's Office across the country on ballot access laws. The process began in 2002 through the Attorney General's Ballot Access and Voting Integrity Initiative. The DEOs receive annual training on these issues in Washington, D.C., and are better prepared to recognize and remediate federal ballot access issues that they may receive on Election Day.

- The Civil Rights Division's commitment to ensuring voter access has resulted in an unprecedented scope of observer and monitor coverage during the past six years. Moreover, a majority of all federal court orders providing for federal observers were obtained or extended by this administration.

- The Civil Rights Division enforces the Voting Rights Act; the National Voter Registration Act; the Uniformed and Overseas Citizens Absentee Voting Act; and the Help America Vote Act. Among other things, these laws prohibit discrimination or intimidation based on race or language; mandate the availability of voter assistance; require minority language election materials in certain jurisdictions; provide for accessible election machines for voters with disabilities and absentee ballots for servicemembers and voters abroad; and require states to ensure that citizens can register at drivers license offices and other state agencies and also ensure that their voter rolls are accurate.

The Attorney General's Ballot Access and Voting Integrity Initiative:

The Attorney General's Ballot Access and Voting Integrity Initiative was created in October 2002 to increase the Department's ability to deter election fraud and discrimination at the polls, and to prosecute these offenses – to make voting easier and cheating harder. It is imperative that in pursuing voting integrity, ballot access is not in any way diminished or harmed.

- On Election Day, the Public Integrity Section of the Justice Department's Criminal Division will have federal prosecutors readily available to receive complaints and take any appropriate action. When the polls open, the Department of Justice – both in Washington, D.C. and in the states – will be available to handle complaints and open investigations.

- District Election Officers have been designated and will be available in each U.S. Attorneys' district to receive and handle any complaints received from the public.

DOJ_NMG_ 0169943

- The Criminal Division's Public Integrity Section has assigned attorneys to assist with potential election crimes. Lawyers with the section will be on duty from the time the polls open on the east coast until the time they close on the west coast to provide consultation and coordination with the DEOs.

- The Justice Department enforces laws that prohibit voter intimidation, voting by ineligible individuals, bribery, destruction of valid ballots or registrations, counting more votes than there are registered voters, altering vote tallies, voting in multiple counties, abuse of absentee ballots, malfeasance by election officials, the disappearance of ballot boxes, furnishing fraudulent voter registration forms to election registrars, and forging the names of voters on absentee ballot materials.

- Since the Attorney General's Ballot Access and Voting Integrity Initiative was launched in 2002, more than 120 individuals have been charged with election fraud offenses. Eighty-six people have been convicted of voter fraud in that time frame.

- Nearly 300 election fraud investigations have been started since the initiative began in 2002. There are now approximately 200 investigations ongoing throughout the country.

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06-738

DOJ_NMG_ 0169944

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Image not available for this document, ID: 0.7.10316.21503-000002

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Tuesday, October 31, 2006 4:29 PM
Subject: Memo on Restrictions on Political Activities from the Acting Assistant Attorney General for Administration
Attachments: Political Activities.pdf

Restrictions on Political Activities

Attached is a memo on Restrictions on Political Activities from the Acting Assistant Attorney General for Administration

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

U.S. Department of Justice

Washington, D.C. 20530

October 24, 2006

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE EMPLOYEES

FROM: Lee J. Lofthus
Acting Assistant Attorney General
for Administration

SUBJECT: Restrictions on Political Activities

The purpose of this memorandum is to remind you of long-standing rules governing participation in partisan political activities that apply to us as Department of Justice (DOJ) employees, and to ask that you take the time to be sure that you are familiar with the rules.

In 1994 Congress amended the Hatch Act, 5 U.S.C. 7321-7326, to remove certain restrictions on political participation by most government employees. Prior to these amendments, the Hatch Act had prohibited active participation in partisan political activities by virtually all Federal employees. Even with the greater freedom to participate in partisan political activity that many of us enjoy, all Department employees must continue to take care that their activities do not compromise the integrity of the Department in enforcing the law, or create conflict or apparent conflict of interest with the neutral and impartial administration of justice.

The rules that apply to each of us individually are based on our positions. Certain categories of employees are held to the stricter rules than were the norm prior to1994. In DOJ, these employees are career members of the Senior Executive Service (SES), employees of the Criminal Division (CRM), National Security Division (NSD), and the Federal Bureau of Investigation (FBI), all Criminal Investigators and Explosives Enforcement Officers in the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATF), and Administrative Law Judges (ALJ). In addition, as a matter of policy, the Attorney General previously determined that non-career appointees in DOJ would be held to the restrictions of the pre-1994 Hatch Act, which prohibits employees from active participation in political management or partisan political campaigns. Senate-confirmed Presidential appointees, non-career members of the SES and Schedule C appointees who seek approval to attend a partisan event should contact the Office of the Deputy Attorney General or the Office of the Associate Attorney General for approval. The full text of the memoranda containing the rules and DOJ policies are on the Department's website. Career employees should go to http://www.usdoj.gov/jmd/ethics/docs/agpolactcar1.html. Non-career appointees should go to http://www.usdoj.gov/jmd/ethics/docs/agpolactpol.html.

It is also important to understand how the rules on participation in political activity affect other rules. Over the past several years employee use of the Internet has increased dramatically. As you know, the Department's policy allows personal use of most office equipment, including the Internet, where there is negligible cost to the government and no interference with official business. However, I want to stress that partisan political activity in the workplace is treated differently than other personal activities. Since partisan political activity in the workplace is prohibited by the Hatch Act, 5 USC 7325, employees **may not use** the Internet or any other government equipment to engage in partisan political activities. Employees may access partisan political websites on the Internet using a government computer, since merely accessing a partisan site does not violate the Hatch Act. However, additional activities in the workplace directed toward the success or failure of a political party, a candidate for partisan political office, or partisan political group, would violate the Hatch Act and also would violate the Department's rules. For example, inviting individuals to attend a political event, recruiting campaign volunteers or dispersing campaign literature over the Internet or while using a government telephone are prohibited.

Finally, employees should understand that violations of the Hatch Act carry strict penalties, which are enforced by of the U.S. Office of Special Counsel, an independent agency. The presumptive penalty is removal from Federal service, although this may be mitigated to a 30-day suspension.

If you have questions concerning any of these rules or policies, please contact your Deputy Designated Agency Ethics Official (DDAEO), or the Departmental Ethics Office, at (202) 514-8196.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 4:15 PM
To: USDOJ- Office of Public Affairs
Subject: TWO MORE PLEAD GUILTY IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGES

Department of Justice

United States Attorney David R. Dugas
Middle District of Louisiana

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
WWW.USDOJ.GOV/USAO/LAM

CONTACT: DAVID R. DUGAS
PHONE: (225) 389-0443
FAX: (225) 389-0561

TWO MORE PLEAD GUILTY IN BATON ROUGE ON FEDERAL FEMA FRAUD CHARGES

BATON ROUGE, La. – Two more Louisiana residents pleaded guilty in federal court on fraud charges related to hurricane disaster relief programs, U.S. Attorney David R. Dugas of the Middle District of Louisiana announced today.

Edwin L. Franklin of Port Allen, La., pleaded guilty before Chief U.S. District Court Judge Ralph E. Tyson to a two-count indictment charging him with making a false and fraudulent claim for Hurricane Katrina disaster assistance benefits and for making false and fraudulent statements to the Federal Emergency Management Agency (FEMA) regarding damages incurred as a result of Hurricane Katrina. The indictment alleges that the fraudulent claim filed by Franklin resulted in a total disbursement of over $9,000 to Franklin by FEMA. As a result of his guilty plea to the first and second count of the indictment, Franklin faces a maximum sentence of 10 years in prison, a $500,000 fine, or both. The case was investigated by the FBI.

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Doretta V. Francis of Baton Rouge, La., pleaded guilty before U.S. District Court Judge James J. Brady to making a false and fraudulent claim for Hurricane Katrina disaster assistance benefits. As a result of her guilty plea, Francis faces a maximum sentence of five years in prison, a $250,000 fine, or both. The case was investigated by the U.S. Department of Homeland Security's Office of Inspector General.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

For further information, contact David R. Dugas, U.S. Attorney for the Middle District of Louisiana, or Lyman Thornton, First Assistant U.S. Attorney, at 225-389-0443. Anyone suspecting criminal activity involving disaster assistance programs can make an anonymous report by calling the toll-free Hurricane Relief Fraud Hotline, 1-866-720-5721, 24 hours a day, seven days a week, until further notice. Information can also be emailed to the Hurricane Katrina Fraud Task Force at HKFTF@leo.gov or sent by surface mail, with as many details as possible, to Hurricane Katrina Fraud Task Force, Baton Rouge, La. 70821-4909.

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Image not available for this document, ID: 0.7.10316.21356-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 4:45 PM
To: USDOJ- Office of Public Affairs
Subject: LONGVIEW WOMAN SENTENCED FOR HURRICANE RELATED FRAUD

Department of Justice

United States Attorney Matthew D. Orwig
Eastern District of Texas

FOR IMMEDIATE RELEASE

TUESDAY, OCTOBER 31, 2006

WWW.USDOJ.GOV/USAO/TXE

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LONGVIEW WOMAN SENTENCED FOR HURRICANE RELATED FRAUD

TYLER, Texas – A 29-year-old Longview, Texas, woman has been sentenced for posing as a Hurricane Katrina victim and attempting to defraud the federal government, U.S. Attorney Matthew D. Orwig of the Eastern District of Texas announced today.

Tomisha Embry was sentenced to three years probation and ordered to pay $2,000 in restitution to the federal government for mail fraud. Embry was sentenced by U.S. District Judge Leonard Davis.

"Last year's storms brought out the best and worst in people," said U.S. Attorney Orwig. "We will continue to seek out and aggressively prosecute those who attempted to take advantage of this situation."

According to information presented in court, on Sept. 8, 2005, Embry submitted an application to the Federal Emergency Management Agency (FEMA) seeking disaster assistance. Embry claimed to be a resident of New Orleans at the time of Hurricane Katrina, and reported that she had suffered damage to her property. In fact, Embry was a resident of Gregg County, Texas, and never experienced hurricane-related losses. As a result of this false claim, Embry received a check for $2,000 for disaster-related expenses and was subsequently charged with filing a false claim with FEMA.

In September 2005, Attorney General Alberto R. Gonzales created the Hurricane Katrina Fraud Task Force, designed to deter, investigate and prosecute disaster-related federal crimes such as charity fraud, identity theft, procurement fraud and insurance fraud. The Hurricane Katrina Fraud Task Force – chaired by Assistant Attorney General Alice S. Fisher of the Criminal Division – includes the FBI, the U.S. Inspectors General community, the U.S. Secret Service, the U.S. Postal Inspection Service, the Executive Office for United States Attorneys and others.

This case was investigated by the FBI and prosecuted by Assistant U.S. Attorney Alan Jackson of the Eastern District of Texas.

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Image not available for this document, ID: 0.7.10316.21374-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 5:51 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT SETTLES DISCRIMINATION LAWSUIT AGAINST MILWAUKEE NIGHTCLUB

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
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(202) 514-2007
TDD (202) 514-1888

JUSTICE DEPARTMENT SETTLES DISCRIMINATION LAWSUIT AGAINST MILWAUKEE NIGHTCLUB

WASHINGTON — The Department of Justice today reached a settlement resolving allegations of racial discrimination with the owner and operator of Eve, a nightclub in Milwaukee, Wis. The Justice Department alleged that the nightclub discriminated against African-American patrons by denying them admission into the nightclub for false reasons. The settlement requires the nightclub to implement changes to its policies and practices in order to prevent such discrimination.

"Barring African-Americans from entering a business is offensive and unlawful, and should be a sad relic of a bygone era," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Department of Justice will vigorously enforce federal laws prohibiting such discrimination."

"We will aggressively pursue claims of racial discrimination," said Steven M. Biscupick, U.S. Attorney for the Eastern District of Wisconsin.

The Justice Department's complaint, filed on Dec. 29, 2005, alleged that Eve nightclub, doing business as Eve, violated the Civil Rights Act of 1964 by engaging in a pattern or practice of discrimination against prospective African-American patrons because of their race. The suit further alleged that on numerous occasions the nightclub denied African-Americans entry to Eve for false pretextual reasons, such as inappropriate attire, exclusion due to a private party, or that Eve was already full, while similarly-situated white persons were admitted to Eve.

The consent decree submitted to the court today resolves the matter. The consent decree, pending court approval, requires that Eve comply with federal law by not discriminating against patrons on the basis of race; post and enforce a non-discriminatory dress code policy; implement a system for receiving and investigating complaints of discrimination; and conduct monitoring to ensure that Eve's employees are acting in a non-discriminatory manner consistent with federal law.

Title II of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, or national origin in places of public accommodation, such as nightclubs. Under Title II, the Civil Rights Division can obtain injunctive relief that changes policies and practices to remedy customer discrimination. Title II does

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not authorize the Division to obtain specific relief, such as monetary damages for individual customers who are victims of discrimination.

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Image not available for this document, ID: 0.7.10316.21336-000002

From: USDOJ- Office of Public Affairs
Sent: Tuesday, October 31, 2006 7:30 PM
To: USDOJ- Office of Public Affairs
Subject: TRANSCRIPT OF ROUNDTABLE WITH WAN KIM, ASSISTANT ATTORNEY GENERAL FOR THE CIVIL RIGHTS DIVISION AND SENIOR JUSTICE DEPARTMENT OFFICIALS ON PROTECTING VOTING RIGHTS

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 31, 2006
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(202) 514-2007
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TRANSCRIPT OF ROUNDTABLE WITH WAN KIM, ASSISTANT ATTORNEY GENERAL FOR THE CIVIL RIGHTS DIVISION AND SENIOR JUSTICE DEPARTMENT OFFICIALS ON PROTECTING VOTING RIGHTS AND PROSECUTING VOTER FRAUD

WASHINGTON, D.C.

2:10 PM EST

ASSISTANT ATTORNEY GENERAL KIM: Well, good afternoon and welcome to the Civil Rights Division's conference room. For those of you who have not been here before, this is actually J. Edgar Hoover's old office. And so you actually need to put the microphones down -- (laughter).

But welcome aboard. We've had a very, very busy year this year in the Voting Section. We have filed 17 lawsuits this year. And all of that was done, obviously, to protect the right to vote. And that will be culminated in next Tuesday's election across the country for midterm federal elections and for many localities and jurisdictions. Obviously, there are state and local election cycles as well.

When I mention that number, 17, I think that number is significant. Because it means that the voting section has been extremely busy. But it's also relevant because the average number of lawsuits filed by the voting section over the past 20 years or so is about eight to nine. So they've been extraordinarily productive and aggressive in ensuring that the voting rights of Americans have been preserved. And that commitment continues on to Election Day. Right now, the voting section and people in the sections have been working very, very hard to maintain and implement the monitoring program that will come into effect on election day.

One of the things that we have done in the past six years very aggressively is to work hard to ensure that, on Election Day, we dispatch large numbers of federal observers and monitors to the polls in areas where there may be federal voting rights issues, to try to resolve those issues before they become big problems. And for that reason, we have dispatched a record number, unprecedented numbers of federal observers and monitors to the polls over the past six years, and that commitment will continue on Tuesday. We expect to dispatch a record number of federal personnel for a midterm election cycle this Tuesday.

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Rough numbers, right now, we expect to have more than 800 people to be around the country in about 20 states and many political subdivisions within those states, to try to help voters who may need help very discretely, very much observing and trying to flag problems and resolve those problems with coordinators on the ground from the Civil Rights Division who communicate with the state and local election officials, who actually take charge and obviously an ownership of many of these elections.

That is a very brief overview of what we've done and what we intend to do on Tuesday. I'm happy to throw it out for questions and I think some of you at least have many. Sir.

QUESTION: Why did you feel the need to send a record number this year?

ASSISTANT ATTORNEY GENERAL KIM: Well, it's not just this year, and I think that's an important point. We have been sending out record numbers for the past three election cycles. I mean, 2002, 2004 and 2006. In 2004, for the Presidential election, which of course has even greater voter turnout, we sent out an all time record. In 2002, I believe that we hit a record then. And in 2006, we'll be surpassing the record that I believe we set in 2002. So it's been a commitment over six years to try to make sure that federal resources are brought to bear on Election Day to try to ameliorate problems before they become big problems. And at the end of the day, you know, that's what the goal of the Civil Rights Division Voting Section is, is to try to make sure that people have access to the polls in a manner consistent with federal law. And when we can help out, as we can help out on Election Day, that's what we try to do.

QUESTION: Where do you get these observers? And who are they and how are they trained?

ASSISTANT ATTORNEY GENERAL KIM: Yeah, that's a very good question because there are -- if you noticed, I keep using the terms "observers" and "monitors". Those are legally significant terms. Observers are people who have been certified -- I'm sorry. Observers are people who are supplied by the Office of Personnel Management and they are federal employees, and they may be drawn from any federal agency that you can think of across the scope of the federal government. They are dispatched to places that are certified for coverage under the Voting Rights Act, okay, and there are certain jurisdictions across the country, many of them in the deep South, that are certified for observer coverage. And that means that we have the legal authority to send people in there, despite what the local jurisdiction may wish us to do. Now I say that. As a legal matter, the jurisdictions are perfectly happy, by and large, to have us come in and help out. But we have the legal authority to do so, even if they don't want us there.

Now with respect to monitors, monitors are Department of Justice personnel. And the funding for them comes out of the Department of Justice's budget. And we send them to places where there was no observer coverage certified, but we worry that there may be some possible voting rights issues. And so we coordinate with the state and local jurisdiction and they almost always invariably welcome our assistance. And it is in that voluntary arrangement that we send out Department personnel to act as monitors. But once on the ground, they pretty much do the same thing. They're both there to try to be as discrete as possible, as nonconfrontational as possible, but to record, observe and notify federal officials and state officials if there are problems that they see.

QUESTION: And how are they trained?

ASSISTANT ATTORNEY GENERAL KIM: They are trained by Voting Section attorneys in the areas where they are dispatched, usually before the election, usually the day before the election. But many of these people have done this many times in the past, so often there is a great deal of experience that comes from previous election cycles. And don't forget, we also have been spending a lot of time monitoring primary elections, earlier elections, so it's not just that they only get to do this on Election Day.

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QUESTION: So the 800 number refers to observers and monitors?

ASSISTANT ATTORNEY GENERAL KIM: Yes, ma'am.

QUESTION: Okay.

ASSISTANT ATTORNEY GENERAL KIM: Yes.

QUESTION: And the 17 lawsuits, can you give us kind of a status check on where they are? I mean, are they --

ASSISTANT ATTORNEY GENERAL KIM: Many of them are resolved. In many of these cases, it is almost invariably the case that before we file a lawsuit in the Civil Rights Division and certainly in the Voting Section, we engage in extensive pre-suit negotiations. We notify the jurisdiction quietly that we have found a violation of federal law that we believe to exist, and then we negotiate with them. And so often it is the case that we will be able to file the lawsuit as well as a resolution of that lawsuit on the same day.

And so with many of the 17 lawsuits, they are already resolved, they are on the books, and we are into the compliance period. With some of the lawsuits, and I can tick a few off the top of my head, they're still in litigation and we'll be litigating them for a while. I mean, we have a Section 2 lawsuit in Euclid, Ohio, that we're still litigating. We have a lawsuit that we filed recently against the City of Philadelphia that we are litigating.

The bulk of them, if I'm not mistaken, we have settled.

DEPARTMENT OF JUSTICE OFFICIAL: Yes.

QUESTION: And what are they for?

ASSISTANT ATTORNEY GENERAL KIM: Oh, they're for violations of Section 2 of the Voting Rights Act, they're for violations of the NVRA --

QUESTION: Well, talk for human beings I'm writing for.

ASSISTANT ATTORNEY GENERAL KIM: Oh, sure. (Laughter.)

QUESTION: I mean, what would that mean in terms of problems with the machines, they disallowed someone to vote? I mean, what was the gist of some of these lawsuits?

ASSISTANT ATTORNEY GENERAL KIM: The gist of all the lawsuits are a violation of federal law. But the four federal laws that we enforce are the Voting Rights Act, which contains a number of provisions pertaining to freedom to be free from discrimination in voting, freedom to be free from voter intimidation, freedom to be free to have someone help you vote. It's actually a federal requirement that many people are not aware of that you have a federal right to bring an assister with you into the polling place to actually vote with you, in case you are uncomfortable voting alone, so long as that person is not your employer or your union official. Those are the carve outs.

And so the lawsuit that we brought in Long County, Georgia, for example, earlier this year, which we resolved on the same day that we filed it, alleged that county and local election officials were singling out Hispanic surnamed voters for challenges based on their citizenship and qualification to vote. So that was discrimination based on race and we brought that lawsuit and we were able to resolve it.

We have also filed lawsuits against certain states for not having the machines required by the Help America Vote

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Act that would allow people with disabilities to vote independently in the federal elections this year. We've also brought lawsuits challenging the states' maintenance of their voter registration lists, to make sure that those lists are being created according to the Help America Vote Act. We've brought additional lawsuits related to the ability of states to make sure that absentee ballots are being mailed for service members abroad, a highly significant issue in a time of war when many of our service members are abroad, as well as to our overseas citizens.

So within the statutes that we have jurisdiction, we have brought cases in almost every single one of them.

QUESTION: And the 20 states that you're going to be in, is that rotated every election or do you just go to the same 20 states all the time?

ASSISTANT ATTORNEY GENERAL KIM: We figure out where the problems are for every election. Every election is unique and so we determine that, you know, with respect to every single election, be it the primary season or the general election. We will be issuing a press release that details exactly where we will be going closer to the election date. And even though we have a pretty good idea of certain states that are definitely going to be covered and certain jurisdictions within those states that are definitely going to be covered, we hold that back until we make our final list together.

QUESTION: Can we get a sneak preview?

ASSISTANT ATTORNEY GENERAL KIM: You can ask to see it for a sneak preview. I just tell you what the official line is.

QUESTION: How close to Election Day? I mean, do you -- do you --

ASSISTANT ATTORNEY GENERAL KIM: I believe the release will go out on Monday, if I'm not mistaken, which is traditionally the case. We usually release it the day before the elections.

QUESTION: When are these people actually dispatched?

ASSISTANT ATTORNEY GENERAL KIM: Obviously, they have to travel there. And obviously, they have to know where they're traveling. But that's internal information at this point. And, you know, they're dispatched -- depending on where they're coming from and where they're going, travel schedules have to vary a little bit.

QUESTION: If you can't identify the places where they're going, can you give us an idea where the new problems and what kinds of new problems you come up with this time around?

ASSISTANT ATTORNEY GENERAL KIM: I've got to say, the new problems are really old problems. I mean, what we're doing in trying to select places to send federal personnel is identify possible violations of federal voting laws. And that could be the age-old issues of, you know, is there discrimination? Are we hearing from minority advocacy groups and groups for the disabled that there are real problems with the voting operation in their jurisdictions? That's a great source of information for us because, you know, we're obviously not everywhere. We're all located in Washington, D.C.

Then there are certain cases where we brought lawsuits recently. And as part of the lawsuit, we have provided that the court ordered that that jurisdiction be certified for observer coverage. Those are areas, because we've seen recent violations, we may want to make sure that those violations are being remedied consistent with the court orders and consistent with what the law requires.

So the only new wrinkle in this election year are the requirements of the Help America Vote Act with respect to the provision for voting machines that allow disabled voters to vote independently, and some of the other new

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requirements. But those are the only new federal requirements that come into play in determining what federal laws might be violated in what jurisdiction and therefore what lists are we compiling.

QUESTION: Is there any correlation between where you send monitors and the possible closeness of a specific race?

ASSISTANT ATTORNEY GENERAL KIM: The closeness of a specific race is an issue because, obviously, you know, we want to enforce the federal laws. We can't send people everywhere. So in terms of prioritizing, it is a factor how closely contested the race may be. Because, obviously, that may be a place where we can do some good. More good if a person is up by 40 points. Well, okay, there may be violations but they may be at the margins. Are our monitors better used elsewhere?

So there is no individual factor that really ranks the highest except for, do we see violations of federal voting laws being a real problem here or possibility here. But it is a consideration whether the race is expected to be a close one. Because if we can add some comfort that federal personnel were on the ground and helped monitor elections and helped to solve problems where they were seen, you know, maybe that will add ultimately to the confidence in the outcome of that election.

QUESTION: And if there is a specific site where you don't anticipate a problem but have reports of problems on Election Day, do you have the ability to move people to those sites?

ASSISTANT ATTORNEY GENERAL KIM: Not -- not on Election Day, no. No, I mean, clearly -- as I told you from the 17 lawsuits that we brought this year, our work on Election Day is significant. Another more significant, probably, chunk of our work is actually following up with investigations and litigation where we experience problems that amount to violations of federal law.

QUESTION: What's the split between observers and monitors?

ASSISTANT ATTORNEY GENERAL KIM: It depends on the course of the year, quite frankly. Generally speaking, we have slightly more observers than monitors --

QUESTION: In this case --

ASSISTANT ATTORNEY GENERAL KIM: You know, we won't be releasing those numbers right now, but I would say probably it's going to be roughly two to one, observers to monitors. In the past, it has been as high as I think 30 to one, observers to monitors. But we have been doing a great deal to try to get the Department personnel out to augment the observers we get.

QUESTION: In '04, you sent out 1,090 monitors and observers. When you say "record numbers," do you mean for a midterm?

ASSISTANT ATTORNEY GENERAL KIM: Yes, absolutely. Yes. I mean, I want to compare apples to apples. I mean, midterm elections are very different in scope and size than Presidential election years.

QUESTION: And your predecessor's focus was on voter fraud, which came under a lot of criticism from some traditional civil rights groups, who thought the focus should have been --

ASSISTANT ATTORNEY GENERAL KIM: I don't remember Alex's focus being on voter fraud. I mean, we do have a criminal division here --

QUESTION: A department head at the time (inaudible), and there was even a hotline established for people all

over the country to call in with allegations (inaudible) problems at the polls. (Inaudible.)

ASSISTANT ATTORNEY GENERAL KIM: Oh, absolutely. You're combining two things, which is why I'm looking a little bit confused. First of all, Alex Acosta was my predecessor. His nice picture is hanging up there, so you can refer to it.

His focus, I do not believe, was voter fraud. And I say that just because there has always been a divide in the Department as to the Criminal Division working on voter fraud issues and the Civil Rights Division working on voter access issues, and that distinction remains here today.

We do have a hotline. And that was a hotline that was set up by the Civil Rights Division, if I'm referring to the same one. I'm not sure if the Criminal Division ever had a hotline. No. And the hotline that we set up, and I'm happy to give you that number, you should publicize it, will be available, it will have numerous lines for rollovers so many people can call at the same time, and it will be well manned on election day. But that is a hotline that we will be using to make sure that calls across the country with respect to voter access issues can be reported.

DEPARTMENT OF JUSTICE OFFICIAL: We also have a website up now.

ASSISTANT ATTORNEY GENERAL KIM: Yes, and we also have a website up and that's something that's on -- we can give you that information with respect to a website that you can contact, people can contact across the country to report complaints, as well as a hotline, a toll-free number, a 1-800 number, that will be well staffed here in D.C. on Election Day.

QUESTION: Is the website new this year?

ASSISTANT ATTORNEY GENERAL KIM: I believe that's correct.

DEPARTMENT OF JUSTICE OFFICIAL: It's a new link on our website.

QUESTION: I know, but is it new? Did you do that during an election, having the ability to report complaints via the web?

DEPARTMENT OF JUSTICE OFFICIAL: We did that in 2004 as well.

QUESTION: Are you -- I understand the rationale for the growing number of monitors and observers. But to other -- some people, the notion that lots and lots more federal folks are going to be on the scene might be viewed as intimidation, regardless of whatever your motive may be. I wonder if you're concerned, as you talk about record numbers of folks that are going to be watching the polls, if it's going to have that kind of an effect --

ASSISTANT ATTORNEY GENERAL KIM: I sure hope not. And I sure hope not. I'll tell you why for two reasons. One, the provision for creating observers was created in the Voting Rights Act in 1965, and it was created because the assurance that federal personnel could provide in making sure that elections were conducted in a full and fair fashion consistent with federal law. That's the whole goal and the origin and the genesis of this observation, and we've augmented it over the years with the monitoring provision for sections of -- for parts of the country not certified under the observer coverage provisions of the Voting Rights Act. But I find it awfully sad if a provision created by the Voting Rights Act could be interpreted as somehow trying to suppress voter turnout.

Secondly, we coordinate very closely with many of the minority groups and the disabled groups across the country in getting people out there. And it has been uniformly the case that they encourage us to get people in these locations to make sure that voter access is preserved. I have not heard many allegations, if any, by the civil rights advocacy groups that we deal with that want us to slow it down or narrow or tamp down.

QUESTION: Couldn't the opposite argument be made? That, in fact, this is a -- while a larger effort numerically than in past elections, it's still very modest and, in fact, 800 monitors is one for every thousand precincts. I mean, you've got a very light sprinkling of people. And is that sufficient in order to guard against the things that you have to be careful of?

ASSISTANT ATTORNEY GENERAL KIM: It is always the case that there are two sides to every coin and that argument certainly can be made. I think that the important thing to recognize is, you know, obviously, state and local officials do a terrific job in running elections across the country. Obviously, there are about 4,000 political subdivisions where elections are held around the country. Those 4,000 subdivisions I understand use in excess of one million voting machines on Election Day.

The scope of federal resources brought to bear has to be commensurate with our role in the process. We have taken unprecedented steps to increase the number of federal observers and monitors and, of course, it's going to be push/pull. Are we doing too much? Are we doing too little? But we think we're striking the balance correctly by bringing an unprecedented number to the table.

QUESTION: Do these observers have freedom to go from precinct to precinct within a given jurisdiction? Or are they -- do they sit at the same polling station all day long and --

ASSISTANT ATTORNEY GENERAL KIM: They do both. They do both. I mean, they often will go from one to another. It depends on the jurisdiction, how far the polling places are apart. In some jurisdictions, the polling places are miles and miles apart; some jurisdictions, they're relatively close. And it depends on whether we think it may be more effective for them in a particular precinct to stay at one location all day or to circulate.

QUESTION: If you're sitting in East Los Angeles and you start to hear of problems in South Los Angeles, can you move people down there?

ASSISTANT ATTORNEY GENERAL KIM: Sure. That, of course, will happen. There is a command center that's manned by an experienced Civil Rights Division attorney in all of these locations. And to the extent that people need to be redispatched within a certain venue, as opposed to flown to another venue, that can happen and it does happen.

QUESTION: I have just two questions. One is, can you talk about what you might be doing now as far as monitoring early voting and absentee voting? And then the other question is, when people call in to this hotline, do you actually try and resolve the issues on Election Day or is it something at this point where you're just collecting information?

DEPARTMENT OF JUSTICE OFFICIAL: In the second one, the people who are answering the phones on the hotline, we have a big operation to organize that, will try and resolve problems that can be resolved on Election Day. And we do that typically by contacting the local election officials, bringing the matter to their attention, discussing it with them, and they tend to be very responsive. And there are some things that you just cannot address on Election Day.

And I've already forgotten your first question.

QUESTION: Oh, it was about what you might be doing now as far as monitoring for the early and absentee voting?

DEPARTMENT OF JUSTICE OFFICIAL: Oh, the early and absentee voting? We get -- where we get calls or reports of that, we respond. And we are in close touch, as Mr. Kim said, with the minority advocacy groups around

the country, and looking at newspapers and other sources of information to try and identify places where there are problems. And then we would, you know, again contact the local election officials.

QUESTION: And have things emerged yet?

DEPARTMENT OF JUSTICE OFFICIAL: Things are in a constant state of emergence.

QUESTION: There have been a lot of problems, I think, with some electronic voting machines cutting off candidates' names (inaudible)?

DEPARTMENT OF JUSTICE OFFICIAL: The operation, the mechanics of the election, typically are entirely within the responsibility of state and local officials. We have four statutes, we enforce those four statutes. And where a problem comes up that intersects with one of those four statutes, then we can go in and deal with it. But we do not have plenary authority over state and local elections.

ASSISTANT ATTORNEY GENERAL KIM: And one of the things that I think all of you recognize is that within any jurisdiction, this -- on November 7th, there will be scores of different types of voting machines used across the country to register votes by voters across the country. Even within a single polling place within a single political subdivision that holds elections, you may find more than one type of voting machine to be used in that polling place.

These decisions, what voting machines get used, how they get employed, how many poll workers there are, how long the polls are open, those are decisions for state and local election officials. And to the extent that federal laws are implicated -- I mean, obviously, if they're assigning a certain race of voters certain machines or treating people differently based upon categories, we will get involved.

But the issues of, for example, whether there even should be a manually auditable paper trail is one that really is highly decentralized at this point.

QUESTION: So to kind of follow up on that, it is federal law, right, that there has to be handicap-accessible machines at every polling place; is that accurate?

ASSISTANT ATTORNEY GENERAL KIM: Under the Help America Vote Act, every polling place should have at least one machine that is capable of being used independently by disabled voters.

QUESTION: So what do you do a week before the election when there are reports out of Massachusetts or in Connecticut where all these lever machines are being used and there are hundreds of jurisdictions that don't have accessible machines?

ASSISTANT ATTORNEY GENERAL KIM: I think it's fair to say that the voting section has been in contact with every state across the country over the past year to measure and ensure compliance with the Help America Vote Act. Now, the problem with the Help America Vote Act from a logistical standpoint is its requirements only came into effect in 2006 for the vast majority of states. So our enforcement efforts are geared towards enforcing the law but not making the problem worse. And obviously forcing -- if we find, for example, tomorrow that there are certain jurisdictions across the country that don't have machines for disabled voters in every single one of its polling places, the question is what can we do between now and Election Day to change that? If we think we can do something constructive, that is what we'll do. If we think that we cannot do something constructive and do something that will actually create confusion or a worse situation, then we'll probably try to figure out what better way to enforce the law might exist.

QUESTION: But what authority, if any, do these observers or monitors have? Say you have several polling

places that don't live up to that standard, what can they do?

ASSISTANT ATTORNEY GENERAL KIM: On Election Day, very little. I mean, if they don't have a machine on Election Day that they should have to help disabled voters cast their votes independently, there is not a whole heck of a lot we can do on Election Day. But they can certainly record problems, identify them. And in many instances, observers and monitors have collected information that helps us file affirmative lawsuits in the future. You know, that's not their primary role; their primary role is to try to help people on Election Day. But to the extent that they flag issues, that could be something that we follow up with. Is it a federal law violation? We'll do that.

QUESTION: Are they permitted to, say you've got voters here who don't have access to a machine, disabled voting machine, to move them to another precinct?

ASSISTANT ATTORNEY GENERAL KIM: No. No, it would not take place that way. What they would do is they would call back to the central command center and say, listen, I'm seeing a problem here because there are a lot of voters with disabilities who are showing up. And maybe it would make sense for the state and local election officials to try to get them moved to a locale where they could vote independently because a machine does exist.

That kind of communication takes place all the time. They identify problems on the ground. They are generally advised not to interfere in the problem but try to phone up to the experienced Civil Rights Division attorney, the Civil Rights Division attorney liaisons with the state and local election official. And that relationship usually, in our experience, works quite well. I mean, when we identify problems at that level to a responsible state and local election official, they usually take the corrective action. I mean, they've gone so far as to pull a poll worker from a location when a poll worker was acting inappropriately based upon an observation that one of our monitors made on the ground.

QUESTION: Do you think Congress was being too optimistic in trying to get the Help America Vote Act --

ASSISTANT ATTORNEY GENERAL KIM: See, my Legislative Affairs person back there is just laughing. She knows I'm not going to answer this question. (Laughter.)

QUESTION: I mean, between this and the statewide databases, I mean, did they ask for too much without enough time or money to get this in place?

ASSISTANT ATTORNEY GENERAL KIM: Well, I mean, to be fair to the Help America Vote Act in Congress, which passed it overwhelmingly -- I mean, the Help America Vote Act was passed in 2002. And then funds were appropriated -- I think over $3 billion in funds -- for the states to actually implement its requirements. And the states were given a deadline of I think it was 2004, but given basically a free pass. If you file a statement, you could postpone the requirements to 2006. So there have been several years for states to work to get to compliance.

Now, our review and our litigation under the Help America Vote Act has shown that some states are further along in the process than others. Some states made many good faith efforts to move forward and get into compliance. Some states took very few efforts to get along that way after all these years.

So I'm not sure that I would lay the blame anywhere. But I think it's fair to say that the litigation we brought reflects that many states were not compliant and were not on a real time table for compliance. And where we find those problems, you know, our job is law enforcement. We're going to bring the cases or the consent decrees or the memoranda of agreement or whatever it takes to ultimately get states into compliance.

QUESTION: Is it -- what percentage of the states have taken good faith efforts to come into compliance versus

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not --

ASSISTANT ATTORNEY GENERAL KIM: I don't want to disclose internal deliberations that may be relevant to future litigation decisions. I think it's fair to say, though, we filed four lawsuits under the Help America Vote Act.

DEPARTMENT OF JUSTICE OFFICIAL: Against four states.

ASSISTANT ATTORNEY GENERAL KIM: Yes, against four states thus far. And so, you know, that's where we are right now. And part of this election cycle, by the way, is let's find out how far states are in compliance with the requirements. And obviously, if states are not in compliance, we'll be not only continuing our campaign of talking to them and trying to provide some assistance technically but also, you know, bringing forth litigation if that's what it takes.

QUESTION: And what states were those? Since you've already filed.

ASSISTANT ATTORNEY GENERAL KIM: Oh, the lawsuits?

QUESTION: Yes.

ASSISTANT ATTORNEY GENERAL KIM: We filed against New York, Maine, Alabama and New Jersey.

QUESTION: The Criminal Division, I was just wondering. There have been a lot of allegations about fraudulent registrations, especially in Missouri. And I'm just curious, is that something that you are investigating at this point? What kind of investigations might you be conducting as far as fraudulent voter registrations?

DEPARTMENT OF JUSTICE OFFICIAL: We don't typically -- it's a general rule that we don't comment on ongoing investigations, particularly criminal investigations. I will say, as a general matter, that is precisely the area of jurisdiction of the Criminal Division, among other areas of jurisdiction, that it looks at it. So there are allegations about voter fraud, fraudulent registrations, fraudulent -- you know, intimidation of voters, other factors, ballot box stuffing and things like that, that falls within the purview of an investigation the Criminal Division would do.

QUESTION: So when you have this list of, you know, how many voter fraud cases have been filed, that includes -- that could be fraudulent intimidation as well as other things? Or are these all -- there's always this confusion about what's voter fraud versus intimidation. So do you consider some intimidation to fall under the category of voter fraud?

DEPARTMENT OF JUSTICE OFFICIAL: I don't know about those precise statistics. I mean, I can go back and check on whether or not that's focused purely on voter fraud as opposed to allegations of intimidation.

QUESTION: Because it says nearly 300 election fraud investigations have been started since the --

DEPARTMENT OF JUSTICE OFFICIAL: Right, that sort of category of election fraud within the Criminal Division focuses in on fraudulent registration, ballot box stuffing, things in that category. Intimidation is a slightly different category.

ASSISTANT ATTORNEY GENERAL KIM: Let me just make one point here, because it's been echoed in two questions that I've heard. And now that -- I just want to emphasize, one of the important things you can stress for your readers is that there is a divide within the Department of Justice between what the Civil Rights Division does with elections and what the Criminal Division does during elections. And that divide is intentional. It's been here for a long time. It's been intentional because we don't want to create the appearance that when we have people out

there that they are to collect information on voter fraud lawsuits. We don't want to create the very impression that some of you have been asking questions upon. And that's why we've taken that kind of pain to divide even within the Department of Justice what we do on the flip side, the balance.

And if I could just make it a little bit more colloquial, everyone agrees that we want to make voting easier and fraud harder. And we enforce the first side of that and the Criminal Division enforces the second side of that, in a little nutshell. And so, you know, you would do a lot of service -- I mean, people ask me, what are you worried most about the elections? And I tell them, what I worry about in every election, that people who are registered to vote get out and vote.

And so the Civil Rights Division really tries to encourage that and aid that process. And that's why we send the observers and monitors out there. And it would be a disservice if people believed that we did that for other reasons, unrelated to what the Civil Rights Division's role in this process really is.

QUESTION: (Inaudible) that special instruction went out to every U.S. Attorney's Office to be on the special lookout for voter fraud. And also said that every single FBI field office had an agent standing by. Maybe that's the traditional --

ASSISTANT ATTORNEY GENERAL KIM: Is that the Civil Rights Division's release?

QUESTION: Well, it was the Department's release --

DEPARTMENT OF JUSTICE OFFICIAL: It was a joint release.

QUESTION: -- that covers both Public Integrity and the Civil Rights Division. It seemed to be at the time, it was a very special emphasis on it that I'm not hearing this time.

ASSISTANT ATTORNEY GENERAL KIM: Well, you know, again --

QUESTION: -- trying to draw a distinction --

ASSISTANT ATTORNEY GENERAL KIM: That emphasis is not being placed by me, because it would not be my place to place it. I'm happy to defer to Criminal Division to see if they want to make a similar emphasis this year?

DEPARTMENT OF JUSTICE OFFICIAL: Perhaps a little bit of explanation of our process might be helpful in this context. Every election -- let me just step back for just a second. For every election, every United States Attorney's Office has a designated election officer. And those people are specially designated within the United States Attorney's Office. They are trained both by the Civil Rights Division and the Criminal Division on issues associated with, among other things, election fraud. Every year, for every Presidential and midterm election, the Public Integrity Section of the Criminal Division puts together an initiative so that for every midterm or Presidential election, there are the designated election officials in the United States Attorney's Offices are on duty that day, and there is a control -- central location. You know, folks within the Public Integrity Section are also on duty that day. So what you're making reference to is that particular program which is distinct from the Civil Rights Division's program.

Also, the FBI has a parallel, because all of our criminal investigations, if they're done, have an Agency involvement, classically any federal criminal investigation would have that, whether it's a drug investigation or a firearms investigation, or in this case a voting fraud allegation. The agency that investigates that is the FBI. And they have a parallel organization also in place with designated agents who are available to address problems that might arise during -- during an election.

It's different than observers and monitors. Agents are not observers and monitors. In fact, they don't play any role in that. Our -- if incidents arise during the course of they day, they may be consulted about those matters and they in turn then have to consult the Public Integrity Section. But it's a different -- it's sort of a more of a safety net, an opportunity for us to be available to address problems if they do arise. But it's separate and distinct from the Civil Rights Division's initiative.

QUESTION: (Inaudible) proactively before Election Day put out the word locally?

DEPARTMENT OF JUSTICE OFFICIAL: Yes, as part of this initiative, there are a couple of things that happen. First, the United States Attorney's Offices, the district election officials make contact with state and local election officials. And some of these relationships are long lasting and have already been present for some time.

In addition, the United States Attorney's Offices, one of the suggestions that the Public Integrity Section outlines basically when they put this initiative together every year, and there's a big training session in the summertime to get everybody geared up for this -- they put together a proposed press release that some United States Attorney's Offices issue in the run-up to the election, describing some of the procedures that are in place.

QUESTION: Not to put too fine a point on it, that is the first thing that this release says in terms of what the Department does, responsible for enforcing the federal laws that help prevent and punish fraud.

ASSISTANT ATTORNEY GENERAL KIM: Absolutely. That's an accurate statement. I guess the only thing I disagree with was that my predecessor was focused on preventing voter fraud. There is a division within the Department, is how that gets done. That's the only point I'm trying to make.

QUESTION: Could you talk a little bit about how serious a problem voter fraud is, particularly on Election Day, as opposed to the absentee voter fraud and (inaudible)?

ASSISTANT ATTORNEY GENERAL KIM: I will defer to the Criminal Division on that.

DEPARTMENT OF JUSTICE OFFICIAL: I'm not sure that I can speak to the whole sort of how systemic it is or how widespread it is or other issues like that. I can tell you that, since 2002, when we started I think it's called the Attorney General's Ballot Access and Voting Integrity Initiative, we've prosecuted about 120, in excess of about 120 -- I think it's referenced in the talking points -- election fraud cases, in which over 80 individuals -- 89 is it? -- 86 individuals have been convicted for voter fraud related offenses.

QUESTION: And that's out of how many million votes? I mean, I'm just trying to get a sense of the perspective. How big a problem is this? And are these -- how many of those cases are Election Day fraud cases as opposed to absentee?

DEPARTMENT OF JUSTICE OFFICIAL: I don't know the answer to those questions. I mean, we can -- see if we track that kind of information, because we may not be tracking what's an absentee as opposed to more than just anecdotal recollections of the individuals who are associated with the case.

In terms of, you know, comparing it to the millions of votes, you know, I'm not sure that that's a -- that's sort of an accurate comparison. Yes, there's lots of votes cast every year. But we've identified what we thought were appropriate cases to prosecute and have brought those cases.

QUESTION: There's been a substantial amount of attention to concern about voting machine problems, technical computer problems relating to vote counting and so forth. I would think that it's a heck of a lot tougher to -- for people in your division or the Civil Rights Division to recognize or to be able to identify electronic ballot stuffing

as opposed to the traditional paper ballot stuffing, as an example.

Do you have a legion of computer experts, people who understand the workings of those machines and so forth, who are able to determine and watch for instances of voter fraud with the new technologies?

ASSISTANT ATTORNEY GENERAL KIM: Well, I've got to say, I'm not sure what the Criminal Division has, how many legions they may have. With respect to the safeguards in place and the state and local election official level, I've talked a great deal with the National Association of Secretaries of State, the National Association of Attorneys General, the National Governors Association, as well as with the commissioners on the Election Assistance Commission that was established by the Help America Vote Act. And they are the experts on how elections are run and how machines are certified.

And I've got to tell you, they were all pretty firm in their conviction that, regardless of what machine a voter votes on election day, and there will be dozens and dozens of different type of machines across the country that are being used, they have confidence that once the results of those elections are certified, you can bet on those results as being correct, because of the safeguards in place. There are safeguards at the vendor level, national testing laboratories, at the state level and at the local level with respect to acceptance testing, logic accuracy testing, all these nomenclatures they threw at me, to assure that the voting machines tabulate correctly the results that voters put in on Election Day.

And so it is absolutely the case that the Federal Reserve Bank in New York could be robbed and all the gold bullion could be stolen. But they say that it's very difficult to do so. And once -- if it does happen, if there are allegations, you know, I'm sure that the Criminal Division will pick up with investigations as appropriate to determine whether -- whether the facts give rise to that inference.

DEPARTMENT OF JUSTICE OFFICIAL: Let me just follow up on that. You know, our cases focus specifically on the facts of those particular individual cases. So to follow on Wan's example of the Federal Reserve Bank being robbed, we may not know the details of how the Federal Reserve Bank operates. But to put that case together, we would go and talk to all of the people on the Federal Reserve, we would get the experts in that particular area to assist us in prosecuting the case.

Since we, in the Criminal Division, operate after the fact in terms of some -- there's an allegation of fraud, we then commence an investigation, we would bring together an appropriate team that would include, if it were an election -- an electronic voting machine, we would get the individuals that would be able to identify for us where the root of the problem was, whether it's software code, whether it's interaction with the machine, whether it's some problem with the personnel associated with the machine or something like that. And as the investigation developed, we would bring the required expertise to bear, like we do in any other investigation.

ASSISTANT ATTORNEY GENERAL KIM: I've got to say, I've been talking a lot to Paul DeGregorio, who is the chairman of the EAC, the Election Assistance Commission. He is very knowledgeable on this issue. He has basically brought me up to speed on what I know about this issue, because it has been one that's been publicized a lot this year. He wrote an op ed last week in the McClatchy Newspapers -- am I pronouncing that correctly? -- and it was widely circulated. I really commend it to you. It's a very, very nice and succinct and cogent analysis of why the concerns about electronic voting machines in general, or voting machines even more broadly, are really not one to give him a lot of alarm.

DEPARTMENT OF JUSTICE OFFICIAL: Let's just do two more questions.

QUESTION: I have just a couple, going back to some of the numbers. If you could just spit off a couple more for me? The certified jurisdictions are in how many states?

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ASSISTANT ATTORNEY GENERAL KIM: You mean for observer coverage? That's a tricky one, because I'm -- I can show you the map and we can actually get you a copy of the map, how's that? Because even within the states, it's not all the state; it's only certain counties in the states. But we have a nice color-coded map. We'll be happy to give it to you.

QUESTION: Okay. But will it be safe, you know, if I'm looking at the jurisdictions and it's one tiny little corner of Louisiana, for example, is it safe to assume that Louisiana is among those 20 states?

ASSISTANT ATTORNEY GENERAL KIM: Oh, sure -- oh, that we'll be sending people out to?

QUESTION: Yes.

ASSISTANT ATTORNEY GENERAL KIM: No, no. I mean, obviously, there are a lot more jurisdictions that are certified for observer coverage than we'll be sending people out to.

QUESTION: So there will be jurisdictions where it's certified that there needs to be an observer but there won't be?

ASSISTANT ATTORNEY GENERAL KIM: Certified that there can be an observer.

QUESTION: That there can be an observer?

ASSISTANT ATTORNEY GENERAL KIM: Yes. I mean, many of these jurisdictions were established a long time ago, for example. And again, we can give you a map and it's color coded. But we do not send out observers in every election cycle to every jurisdiction that is covered.

QUESTION: That's good to know. So these certified jurisdictions, do they get updated? I mean, you said 1965? They haven't been updated since 1965?

DEPARTMENT OF JUSTICIE OFFICIAL: No, there is no process in the Voting Rights Act, until the recent amendments, for decertification, where the Attorney General does the certification. There are other jurisdictions that are certified by federal court order. And those sunset, typically. In ours, they do so after two federal elections, typically.

QUESTION: Okay, but the map you're going to give us is just the Voting Rights Act?

DEPARTMENT OF JUSTICE OFFICIAL: It's the current. Well, it has the current court cases. It may be missing one county, Cochise County, Arizona, and color coded, if it's the map I'm thinking of. And then the Attorney General certifications.

QUESTION: So it will be everything that's certified for this election?

DEPARTMENT OF JUSTICE OFFICIAL: Except for Cochise County, Arizona.

QUESTION: Except for Arizona.

And then the four lawsuits, they're ongoing, correct? We don't have --

ASSISTANT ATTORNEY GENERAL KIM: No. Only -- they've all been resolved.

QUESTION: Has there been any kind of sanction against the states or any of the other lawsuits --l

DEPARTMENT OF JUSTICE OFFICIAL: Well, when you say "sanction," have we negotiated terms of a consent decree or agreement?

QUESTION: Well, I mean, there's settlement and then there's a carrot and then there's a stick, right? I mean, are any of these states getting the stick in terms of not having complied?

DEPARTMENT OF JUSTICE OFFICIAL: Well, some people would say that us suing them was the stick. I guess it depends on how you characterize the stick.

I mean, all the states are under an affirmative obligation to do things pursuant to certain benchmarks. You know, and if they miss a benchmark, then they may get the proverbial stick. But in the sense that all of these states have a very clearly drafted agreement in a consent decree form, I think all four of them, as to what they need to do going forward to comply with the requirements of HAVA.

Have we moved to have any of them held in contempt? Is that what you're asking?

QUESTION: I guess so.

DEPARTMENT OF JUSTICE OFFICIAL: Okay, the answer is, no. The earliest resolution we had for consent decree this year for the four states was probably spring, summer. Yeah, and so the requirements probably would not have sprung yet. If they miss a deadline or if they don't do something by a certain time, then obviously we would first go back to the table and try to figure out why and how we can fix the problem. And usually if that doesn't work after a while, then we will move for contempt. But that's something we don't like to do. It means the problem is broken and we can't fix it easily.

QUESTION: I don't pretend to know very much about this stuff, so pardon me for --

DEPARTMENT OF JUSTICE OFFICIAL: Neither do I --

QUESTION: Well, that's kind of scary.

DEPARTMENT OF JUSTICE OFFICIAL: I was smiling. I was smiling. (Laughter.)

QUESTION: In New York, it's my understanding that some of the compliance doesn't take effect for another year. Is that right?

ASSISTANT ATTORNEY GENERAL KIM: The time tables for many of the consent decrees that we've negotiated go past this election cycle. And that is true. And the time tables are based on what is logistically possible and feasible under the circumstances. I mean, there is a reason why congress gave states many years to try to implement these requirements. And for some of these states who have not jumped on early and tried to implement quickly, they're well behind the 8-ball time wise and there are only certain things logistically you can do.

I heard a great example about this a few weeks ago. Basically there was a case that we brought in San Diego that, when we reached the table with the local election officials, they convinced us that they could not obtain enough paper stock that would actually implement the change that we needed them to make in time for the elections. Just logistically impossible for them to do so. There just wasn't this kind of paper stock produced in sufficient numbers for them to do so.

It's one of the reasons why certain names can't be taken off ballots when it gets too close to an election. It's just

logistically impossible to do that. So at the end of the day, you know, we're trying to gain compliance but we have to do so in a manner that's practical. You know, we could have ordered, we could have demanded that every state agree to it by Election Day this year. But if that was not feasible, they would have never signed the agreement. No court probably would have ordered it, given that it was not practical.

So at the end of the day, we have to enter agreements that will work and that can be enforced.

QUESTION: And at what point do you bring sanctions or find a state to be incompliant, because if it just keeps -- if a state comes back and says, it's just not feasible, we just can't do it, and --

ASSISTANT ATTORNEY GENERAL KIM: Some of those will ring hollow after a while, because other states are doing it. And if you set a sufficient time table and you know, negotiating ex ante, what that time table will be and they agree to it, that is pretty good basis to believe that they can accomplish it if they work towards it.

DEPARTMENT OF JUSTICE OFFICIAL: Right. The Congress did give the states several billion dollars to come into compliance with HAVA. And there is a separate accounting mechanism that is not under our direct responsibility. Some of the states may have to write a check for -- have to return the funds. And there's a complicated formula in HAVA, in the act itself, and the EAC is responsible for that.

DEPARTMENT OF JUSTICE OFFICIAL: This is the last question.

QUESTION: Can you just help with an example or two of a state where you are going to be deploying more monitors because of the closeness of the race? The senate races in New Jersey, Virginia, Missouri --

ASSISTANT ATTORNEY GENERAL KIM: Well, I mean, there are going to be a lot of close races, or so I hear from you guys.

QUESTION: -- people are keying on --

ASSISTANT ATTORNEY GENERAL KIM: And we will release the complete list on Monday. And the bottom line, as you know, we're looking first and foremost for possible violations of federal voting law. It is a factor as to whether our monitors may help bring some assurance to a close race. And we will be releasing a complete list of those on Monday.

QUESTION: Do the jurisdictions already know that they are going to be monitored?

ASSISTANT ATTORNEY GENERAL KIM: With some jurisdictions, we've actually contacted them because, obviously, we want to negotiate whether we can send monitors there. With some jurisdictions, we have the ability to send observers, but we typically give them a call anyway, just out of courtesy, to let them know that a person will be on the ground --

QUESTION: So, in other words, they're not going to be surprised on Monday that someone is going to show up?

ASSISTANT ATTORNEY GENERAL KIM: They should not be surprised, no. I mean, you know, at the end of the day, we do try to work cooperatively with our state and local partners.

Happy Halloween.

2:55 P.M.

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Image not available for this document, ID: 0.7.10316.21377-000002

From: USDOJ- Office of Public Affairs
Sent: Wednesday, November 01, 2006 9:56 AM
To: USDOJ- Office of Public Affairs
Subject: DEPARTMENT OF JUSTICE PRESS GUIDANCE FOR NOVEMBER 1, 2006

Department of Justice

PRESS GUIDANCE
Wednesday, November 01, 2006

ATTORNEY GENERAL

No public events scheduled.

PRESS RELEASES

The Tax Division will issue a release on a sentencing-related matter. (Miller)

The Civil Rights Division will issue a release on a housing matter. (Magnuson)

EVENTS/HEARINGS

No events/hearings scheduled.

NIGHT DUTY OFFICER

Jaclyn Lesch

Department of Justice
Public Affairs Office (202) 514-2007
After Hours (202) 514-2000

DOJ_NMG_ 0169979

Image not available for this document, ID: 0.7.10316.21270-000001

Image not available for this document, ID: 0.7.10316.21270-000002

JCON System Maintenance (JMD/SMO JCON)

From: JCON System Maintenance (JMD/SMO JCON)
Sent: Wednesday, November 01, 2006 11:33 AM
Subject: Public G:Drive Permissions Issues
Importance: High

Public G:\ Drive Permissions Issues

We are currently experiencing permissions issues with the public G:\ drive. You may experience problems accessing files or folders on the G:\ drive. If you experience problems, please contact the SMO/JMD JCON Help Desk at 616-7100. Please be prepared to give the full path name to the file or folder you are having problems with.

Check DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, November 01, 2006 12:38 PM
Subject: E-mail Interruption of Service - Internet Incoming and Outgoing E-mail
Importance: High

JCON Internet E-mail Interruption of Service

The Department is currently experiencing a JCON e-mail interruption of service for incoming and outgoing Internet e-mail. A notification will be sent when e-mail flow resumes.

Check the Intranet, **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

Amber.JMD

From: Amber.JMD
Sent: Wednesday, November 01, 2006 1:35 PM
To: All JMD Employees; All SMO Employees
Subject: FW: [Amber Alert] AMBER Alert: Winamac, IN

From: AmberAlert-DOJ
Sent: Wednesday, November 01, 2006 12:35:01 PM
To: AmberAlert ATR; Amber.JMD; CRS, AmberAlert (CRS);
ENRD, Amber-Alerts (ENRD); CRT, amber-alerts (CRT);
tax, amber-alerts (TAX); BOP Amber Alert; COPSAmberAlert; Civ-Amber;
Yun, Jun B; EOIR, AmberAlert (EOIR); AmberAlert-DOJ;
USAEO-AmberAlert@usa.doj.gov; Amber AlertUSPC; OIG, AmberAlert (OIG);
Amberalert USMS; AmberAlert OPA; AmberAlert USTP; AmberAlert USNCB;
AmberAlert (NDIC); AmberAlertCRM; BROADCAST; ambertalert@dea.usdoj.gov
Cc: Goodwin, Paul A; Garcia, Linda S; Caffey, Tina D; Wahl, Nicole;
Whitten, John; Dewey, Christopher R.
Subject: [Amber Alert] AMBER Alert: Winamac, IN
Auto forwarded by a Rule

AMBER ALERT:Winamac,IN VEH:'87 Drk blu Ford F-250 TAG:IN 262060L,
CHILD:W/F,16,5'3,109,Eye:Blu Hai:Blon SUSP:W/M,51,5'10,210 Eyes/hair:Brn CALL 1-888-58AMBER
---
http://www.missingkids.com/missingkids/servlet/AmberExternalFCServlet?act=retAmberCase&amberId=2642

THIS IS AN AUTOMATED MESSAGE -- PLEASE DO NOT REPLY!

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Wednesday, November 01, 2006 2:16 PM
Subject: E-mail Interruption of Service - Internet Incoming and Outgoing E-mail Resolved

JCON Internet E-mail Interruption of Service Resolved

The Department's JCON e-mail interruption of service for incoming and outgoing Internet e-mail has been resolved. E-mail is flowing normally.

Check the Intranet, **DOJNet,** at http://10.173.2.12/ for additional information of Department wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

From: USDOJ- Office of Public Affairs
Sent: Wednesday, November 01, 2006 3:40 PM
To: USDOJ- Office of Public Affairs
Subject: JUSTICE DEPARTMENT REACHES FAIR HOUSING ACT SETTLEMENT WITH KANSAS APARTMENT COMPLEXES

Department of Justice

FOR IMMEDIATE RELEASE
WEDNESDAY, NOVEMBER 1, 2006
WWW.USDOJ.GOV

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

JUSTICE DEPARTMENT REACHES FAIR HOUSING ACT SETTLEMENT WITH KANSAS APARTMENT COMPLEXES

WASHINGTON – The Justice Department today settled a lawsuit against a group of developers, builders, architects and engineers who designed and constructed two apartment complexes in Olathe, Kan. The complaint, filed on April 15, 2002, in the U.S. District Court for the District of Kansas, alleged that the defendants violated federal civil rights laws by designing and constructing the Ridgeview and Indian Meadows apartment complexes without required features for persons with disabilities. The lawsuit arose as a result of a referral to the Department of Justice by the U.S. Department of Housing and Urban Development.

"Persons with disabilities should not be precluded from choosing where to live because of an unlawful lack of accessibility," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "The Civil Rights Division is committed to enforcing the federal fair housing laws."

The settlement, which must be approved by the court, requires the owners of the complexes to retrofit parking areas, paths and walkways, public and common-use areas, as well as the interiors of ground-floor units, to enhance the accessibility of the complexes to disabled residents and their guests for an estimated cost of about $1.2 million. In addition, the defendants are required to establish funds to pay for enhanced accessibility features upon request, for a total of $200,000, provide $200,000 in damages for unidentified victims, and pay $50,000 in civil penalties. The settlement also requires the defendants to obtain training on the requirements of the Fair Housing Act and the Americans with Disabilities Act.

The federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, familial status, national origin and disability. Since Jan. 1, 2001, the Justice Department's Civil Rights Division has filed 212 cases to enforce the Fair Housing Act, including 97 based on disability discrimination. More information about the Civil Rights Division and the laws it enforces can be found on the Justice Department Web site, http://www.usdoj.gov/crt.

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06-739

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, November 01, 2006 5:12 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT CRIMINAL DIVISION AWARDS CEREMONY

Department of Justice

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WEDNESDAY, NOVEMBER 1, 2006 — (202) 514-2007
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*********MEDIA ADVISORY*********

ATTORNEY GENERAL ALBERTO R. GONZALES TO DELIVER REMARKS AT CRIMINAL DIVISION AWARDS CEREMONY

WASHINGTON–Attorney General Gonzales will deliver remarks at the Criminal Division Awards Ceremony **TOMORROW, THURSDAY, NOVEMBER 2, 2006 at 2:00 P.M. EST.** Secretary of Homeland Security Michael Chertoff will also attend the ceremony to receive the Henry E. Petersen Memorial Award.

WHO: Attorney General Alberto R. Gonzales

WHAT: Criminal Division Awards Ceremony

WHEN: **THURSDAY, NOVEMBER 2, 2006**
2:00 P.M. EST

WHERE: Department of Justice
The Great Hall
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

NOTE: **ALL media MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as driver's license) as well as VALID MEDIA CREDENTIALS.** Media interested in attending should enter through the Visitor Center at the Constitution Avenue entrance, between Ninth and Tenth Streets. Due to this ongoing event, cameras must pre-set by 1:30 P.M. EST. Press inquiries regarding logistics should be directed to the Office of Public Affairs at (202) 514-2007.

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06-742

DOJ_NMG_ 0169989

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From: USDOJ- Office of Public Affairs
Sent: Wednesday, November 01, 2006 5:15 PM
To: USDOJ- Office of Public Affairs
Subject: ATTORNEY GENERAL ALBERTO R. GONZALES AND U.S. MARSHALS SERVICE DIRECTOR JOHN CLARK TO HOLD PRESS CONFERENCE ON LAW ENFORCEMENT INITIATIVE

Department of Justice

FOR PLANNING PURPOSES ONLY
WEDNESDAY, NOVEMBER 1, 2006
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********MEDIA ADVISORY********

ATTORNEY GENERAL ALBERTO R. GONZALES AND U.S. MARSHALS SERVICE DIRECTOR JOHN CLARK TO HOLD PRESS CONFERENCE ON LAW ENFORCEMENT INITIATIVE

WASHINGTON – Attorney General Alberto R. Gonzales and U.S. Marshals Service Director John Clark will deliver remarks at a press conference announcing the results of a law enforcement initiative on **THURSDAY, NOVEMBER 2, 2006 at 11:00 A.M. EST.**

WHO: Attorney General Alberto R. Gonzales
John Clark, Director of the U.S. Marshals Service

WHAT: Press Conference

WHEN: **THURSDAY, NOVEMBER 2, 2006**
11:00 A.M. EST

WHERE: Department of Justice
7th Floor Conference Center
950 Pennsylvania Ave. N.W.
Washington, D.C.
OPEN PRESS

NOTE: **MEDIA MUST PRESENT GOVERNMENT-ISSUED PHOTO ID (such as a Driver's license) as well as VALID MEDIA CREDENTIALS.** Final pre-set for cameras is 10:30 a.m. All media should arrive no later than 10:45 a.m. All attending should enter the Department on Constitution Ave. between 9th and 10th streets. Press inquiries regarding logistics should be directed to the Office of Public Affairs at 202-514-2007.

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DOJ_NMG_ 0169992

06-743

DOJ_NMG_ 0169993

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cwebster@carneylaw.com

From: cwebster@carneylaw.com
Sent: Wednesday, November 01, 2006 6:37 PM
To: cwebster@carneylaw.com
Subject: Iraqi troops send a message to failed presidential candidate Jon Carry
Attachments: tmp.htm; image001.jpg

I've received this four or five times today, but not from one of you.

Clifford A. Webster
(206) 622-8020
(360) 357-6500

HALP US JON CARRY -
WE R STUCK HEAR N IRAK

I've received this four or five times today, but not from one of you.

Clifford A. Webster
(206) 622-8020
(360) 357-6500

Picture (Device Independent Bitmap)

Goodling, Monica

From: Goodling, Monica
Sent: Wednesday, November 1, 2006 7:48 PM
To: Gorsuch, Neil M
Subject: Not read: FYI